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Monday
April 21, 1986
Book 1 of 2 Books

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federal register

Book 1 of 2 Books
Monday, April 21, 1986

Briefings on How To Use the Federal Register—
For information on briefings in Dallas, TX, and Washington, DC, see announcement on the inside cover of this issue.

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Air Pollution Control
Environmental Protection Agency
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Government Property Management
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Grant Programs—Legal Services
Legal Services Corporation
Loan Programs—Agriculture
Farmers Home Administration
Radio Broadcasting
Federal Communications Commission
Supplemental Security Income
Social Security Administration

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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

DALLAS, TX

WHEN: April 23; at 1:30 pm.

WHERE: Room 7A23,
Earl Cabell Federal Building,
1100 Commerce Street, Dallas, TX.

RESERVATIONS: local numbers:
Dallas 214-767-8585
Ft. Worth 817-334-3624
Austin 512-472-5494
Houston 713-229-2552
San Antonio 512-224-4471,
for reservations

WASHINGTON, DC

WHEN: May 15; at 9 am.

WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.

RESERVATIONS: Laurence Davey 202-523-3517

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Correction (Editorial note: For a document on this subject see entry under Labor Department)

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Presidential Documents

Title 3—

The President

Proclamation 5461 of April 17, 1986

National Mathematics Awareness Week, 1986

By the President of the United States of America

A Proclamation

Since the time of its beginnings in Egypt and Mesopotamia some 5,000 years ago, progress in mathematical understanding has been a key ingredient of progress in science, commerce, and the arts. We have made astounding strides since from the theorems of Pythagoras to the set theory of Georg Cantor. In the era of the computer, more than ever before, mathematical knowledge and reasoning are essential to our increasingly technological world.

Despite the increasing importance of mathematics to the progress of our economy and society, enrollment in mathematics programs has been declining at all levels of the American educational system. Yet the application of mathematics is indispensable in such diverse fields as medicine, computer sciences, space exploration, the skilled trades, business, defense, and government. To help encourage the study and utilization of mathematics, it is appropriate that all Americans be reminded of the importance of this basic branch of science to our daily lives.

The Congress, by Senate Joint Resolution 261, has designated the week of April 14 through April 20, 1986, as "National Mathematics Awareness Week" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of April 14 through April 20, 1986, as National Mathematics Awareness Week, and I urge all Americans to participate in appropriate ceremonies and activities that demonstrate the importance of mathematics and mathematical education to the United States.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of April, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Parts 1809, 1903, 1910, 1924, 1941, 1943, 1944, 1945, 1951, 1955, 1962 and 1965

Implementation of Additional Provisions of the Food Security Act of 1985, Emergency Loans, Farm Operating Loans, etc.

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations to: (1) Provide for insured loans to joint operations, (2) provide for the use of proceeds from income from mineral rights for loan payments and require mineral rights be appraised when taken for security, (3) provide for record keeping training for farm borrowers with emphasis on limited resource borrowers, (4) provide assurance that a portion of loan funds be made available for discretionary use by the borrower and release of proceeds of normal income security for family living and farm operating expenses, (5) provide for restricting Emergency (EM) loans to family farms and restrict the making of EM loans when Federal Crop Insurance is available, (6) provide for timely approval and closing of farmer program loans, (7) provide for loans to entities of larger than family farms provided each individual interest does not exceed a family farm and all the members are related blood or marriage. Provide for specific requirements for its handling and leasing of inventory farm property. These amendments are necessary to implement the applicable provisions of the "Food Security Act of 1985" (Pub. L. 99–198). The major effects will be to ensure that the agency provides prompt service to applicants and borrowers, reduce the need and size of the emergency loan program, assist borrowers with their family living and farm operating expenses, expand the size of operation an entity may have when the members are related by blood or marriage.

DATE: Interim rule effective April 21, 1986. Comments must be submitted on or before May 21, 1986.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives Management Branch, Farmers Home Administration USDA, Room 6348, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250. All written comments will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: William Krause, Director, Emergency Loan Division, Farmers Home Administration, USDA, Room 5420, Washington, DC 20250, Telephone: (202) 382–1632.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512–1, which implements Executive Order 12291, and has been determined to be nonmajor, because there will not be an annual effect on the economy of $100 million or more; a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Intergovernmental Consultation

1. For the reasons set forth in the final rule related to Notice 7 CFR 3015, Subpart V (48 FR 29115, June 24, 1983) and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), Emergency Loans, Farm Operating Loans, Farm Ownership Loans and Low Income Housing Loans are excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

2. The Soil and Water Loans Program is subject to the provisions of Executive Order 12372 and FmHA Instruction 1940–J.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.404—Emergency Loans
10.406—Farm Operating Loans
10.407—Farm Ownership Loans
10.410—Low Income Housing Loans (Section 502 Rural Housing Loans)
10.416—Soil and Water Loans

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Discussion of Interim Rule

FmHA is implementing this interim rule immediately with a 30 day comment period. It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. The "Food Security Act of 1985" (Pub. L. 99–198) amended FmHA's statutory loan making authorities, and these amendments must be implemented as soon as possible to provide immediate assistance to financially stressed farmers. Field offices are already receiving requests for those provisions that were effective upon enactment of the law. The Agency must provide immediate guidance by revising the regulations. It is urgent that these regulations become effective on publication so that Farmers can plan for spring planting. It is necessary to implement these regulations for those farmers that have suffered severe losses due to bad weather and other natural disasters. The Act requires changes in

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the emergency loan regulations related to the size of the farming operation. Certain applications for these loans are being held in abeyance until the regulations are issued. Any delay could make these farmers late with their spring planting. Other farmers have lost or are losing their farms and need the new regulations immediately to be able to lease back their farms for this year's season. Immediate implementation of these regulations will enhance existing regulations in assisting farmers to continue farming and assist in protecting the nation's food supply. It is the government's social responsibility to provide immediate assistance to farmers as provided in the Act. Other changes in the regulations are administrative management changes and some changes are due to court-imposed requirements. The court-imposed requirements must be implemented immediately to avoid being in contempt of the court order.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim rule action are impractical, and good cause is found for making this interim rule effective less than 30 days after publication in the **Federal Register.**

Background

The loan making, supervision, and servicing of FmHA farm borrowers is governed mainly by the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1921 et seq.). The major purpose for revising the FmHA regulations at this time is to implement various sections of the Food Security Act of 1985 (Pub. L. 99–198) as it applies to certain farmer program loans. The sections are as follows:

Section 1301—Joint operations.
Section 1303—Family Farm Restriction (Blood and Marriage).
Section 1305—Mineral rights as collateral.
Section 1306—Farm Recordkeeping Training for borrowers.
Section 1307—Non-supervised Accounts.
Section 1308—Eligibility for EM loans.
Section 1310—Oil and Gas Royalties.
Section 1312—Prompt Approval of loans.
Section 1314—Disposition and leasing of farm land.
Section 1315—Release of Normal Income Security.
Section 1325—Prohibiting Coordinated Financial Statement.

Due to the urgent need of the farmers for credit for spring-planting, FmHA has expedited the implementation of these changes.

Background—Recreation Loans

This is a minor program. Since 1969 only 460 insured loans and three guaranteed loans for a total of $20,527,880 were made. As of October 21, 1985, on 210 loans for a total of $13,325,000 remain outstanding. The program has not been funded since Fiscal Year 1981. Indications are that it will not receive funding in the foreseeable future. Therefore, the Agency is not amending the recreation loan regulations due to the expense.

Highlights

The Farmers Home Administration amends its farmer program insured loan making and servicing regulations to implement changes required by the "Food Security Act of 1985" and where applicable certain other program regulations to update certain references and forms, to correct certain inconsistencies, to delete obsolete material, and to clarify the wording in a few paragraphs in various regulations. Such changes are mainly for administrative purposes and are published at this time for convenience. The major changes are as follows:

1. Amend FmHA farmer program insured loan making and servicing regulations to provide for loans to joint operations as required by section 1301 of Pub. L. 99–198. The changes provide for an FmHA definition of a joint operation and deal with applicants/borrowers that farm as joint operations the same as other types of farming entities such as partnerships, corporations and cooperatives.

2. Amend FmHA farmer program insured loan making and servicing regulations to provide for loans to farm entities that are larger than a family farm when all of the members are related by blood or marriage, all the members operate the farm, and none of the individual member's interest exceed that of a family farm. The change also provides for an FmHA definition of related by blood or marriage. This change is required by section 1303 of Pub. L. 99–198.

3. Amend FmHA farmer program insured loan making, servicing and farm appraisal regulations to require that mineral rights must be included in the appraisal when mineral rights are taken for FmHA security for loans. The change also provides that regular payments may be made on FmHA loans from the proceeds from oil and gas royalties. These changes are required by sections 1305 and 1310 of Pub. L. 99–198. It is also necessary to amend the farm appraisal regulations to add a provision for a method for determining the value of mineral rights. The amendment will allow the FmHA State Director to contract for appraisals and appraisal training in accordance with the agency's contracting regulations. Several references and other changes are made to clarify and conform to other regulations which includes updating material for the Code of Federal Regulations.

4. Amend FmHA operating loan regulations to add a provision for providing loan funds to borrowers for farm recordkeeping training with emphasis on this training for limited resource loan borrowers. This provision is required by section 1306 of Pub. L. 99–198.

5. Amend FmHA farmer program insured loan making regulations to allow $5,000 or 10 percent of the loan whichever is less, to be released to the borrower for use at the borrower's discretion for purposes agreed upon in the farm operating plan. This change is required by section 1307 of Pub. L. 99–198.

6. Amend FmHA farmer program insured servicing regulations to require the release of FmHA chattel security for essential family living and/or farm operating expenses. A feasible plan of operation is not necessary for such releases if the only reason for developing the plan is for the use in determining the need for the release. This is provided for in section 1315 of Pub. L. 99–198.

7. Amend FmHA farmer program insured loan making regulations to require prompt approval of loans. Completed applications must be approved or disapproved within 60 days as required by section 1312 of Pub. L. 99–198.

8. Amend FmHA emergency (EM) loan insured regulations to repeal the authority to make EM loans to applicants for larger than family farm operations, repeal the authority to make EM annual production loans, repeal the authority to make EM loans to applicants able to obtain credit elsewhere, prohibit EM loans to applicants when Federal crop insurance is available, and to restrict the availability of EM Subtitle A funds to owner-operators. These changes are provided for in section 1308 of Pub. L. 99–198.

9. Amend FmHA insured servicing regulation to:

(1) Provide for assistance with the Agriculture Stabilization and Conservation Service (ASCS) for maintaining allotments, marketing quotas or acreage bases assigned to inventory property; (2) provide that the State Director consider subdividing surplus inventory property into family farms for resale to eligible applicants, (3) provide that the Soil Conservation Service (SCS) be requested to identify highly erodible land on inventory property and SCS recommend specific conservation practices for such land, and such practices be made a requirement of the lease or sale; (4) provide for the opportunity to small business to bid for management contracts for inventory property; (5) provide for leasing back and purchase to previous owner of farm inventory property at the capitalization value of the property and provide that the approval of a sale must not have a detrimental effect on the value of farms in the area; (6) provide for requirements for public notice of the availability of inventory property for lease; (7) provide the requirements for the County Committee to certify the eligibility of applicants for a credit sale of inventory property and select the applicant for the sale if more than one applicant is eligible; (8) provide for the authority to grant or sell easements, or the equivalent for conservation purposes and the authority to sell development rights for their market value; (9) remove references to the "Coordinated Financial Statement." These changes are provided for in section 1314 and section 1325 of Pub. L. 99–198.

10. In addition to the above amendments FmHA is amending the EM regulations as follows:

Several revisions to Subpart D of Part 1945 are not required by the Food Security Act of 1985 but are necessary to delete provisions no longer authorized by law, to provide continuity with other FmHA loan program regulations and to clarify provisions identified as misleading or inconsistent by FmHA Coordinated Assessment Reviews or Office of Inspector General (OIG) audits. This action is therefore necessary to strengthen FmHA's internal controls to minimize losses to the Government and to eliminate confusion regarding the types of FmHA emergency loans available.

It is urgent that FmHA have current regulations in place prior to the spring planting season to assist those farmers affected by late fall and winter disasters. The following sections of Subpart D of Part 1945 contain revisions or deletions in addition to those required by the Food Security Act of 1985.

Section 1945.154—Contains changes and clarifications to several definitions.
Section 1945.161—Deletes references to EM major adjustment loans. The authority to make these loans was repealed by Pub. L. 96–438. Minor clarifications are also included.
Section 1945.162—Deletes obsolete references to application deadlines for major adjustment and annual production loans that are no longer authorized by law.
Section 1945.163—Contains several clarifications regarding the calculation of losses. These changes are necessary as a result of OIG audit findings and FmHA field reviews, and changes in the law regarding Agricultural Stabilization and Conservation Service (ASCS) established yield definitions.
Section 1945.166—Contains several clarifications on the use of EM loan funds and also deletes references to EM major ajustment loans.
Section 1945.168—Contains clarifications on the rates and terms for EM loans. OIG audits have cited cases where loans were scheduled for longer periods of time than necessary and these changes are necessary to address those findings.
Section 1945.169—The security requirements for FmHA loans have been partially revised to remove obsolete references and to clarify provisions that were poorly worded and subject to different interpretations by the field offices. Changes are needed to clarify this section and to protect the interest of the Government.
Section 1945.175—Is revised to provide additional guidance for FmHA appraisal methods for EM loans. Guidelines for FmHA EM chattel appraisals have been temporarily implemented through the use of Agency Administrative Notices (AN), and it is necessary to incorporate these guidelines into the regulations.
Section 1945.183—Provides guidelines for avoiding duplication of benefits with the Small Business Administration (SBA). These changes are necessary due to previous amendments to the Small Business Act.

11. Additional changes in the regulations for Subpart B of Part 1924 and Subpart A of Part 1962 of this chapter are included for compliance with the court order filed March 3, 1986 in the United States District Court of North Dakota. These changes provide for giving the borrower the opportunity to appeal when the borrower and County Supervisor disagree on the release of sale proceeds from FmHA chattel security and to clarify the requirements for such releases.

List of Subjects

7 CFR Part 1809

Loan programs—Agriculture, Real property—Appraisals, Rural areas.

7 CFR Part 1903

Accounting, Loan programs—Agriculture, Rural areas.

7 CFR Part 1910

Applications, Credit, Loan programs—Agriculture.

7 CFR Part 1924

Agriculture, Construction and repair, Loan programs—Agriculture.

7 CFR Part 1941

Crops, Livestock, Loan programs—Agriculture.

7 CFR Part 1943

Credit, Loan programs—Agriculture, Recreation, Water resources.

7 CFR Part 1944

Home improvement, Low and moderate income housing—Rental, Mobile homes, Mortgages, Rural housing, Subsidies.

7 CFR Part 1945

Agriculture, Disaster assistance.

7 CFR Part 1951

Accounting servicing, Credit, Loan programs—Agriculture, Loan programs—Housing and community development, Mortgages.

7 CFR Part 1956

Foreclosure, Government acquired property, Government property management, Sale of government acquired property, Surplus government property.

7 CFR Part 1962

Crops, Government property, Livestock, Loan programs—Agriculture, Rural areas.

7 CFR Part 1965

Foreclosure, Loan programs—Agriculture, Rural areas.

Accordingly, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1809—APPRAISALS

1. The authority citation for Part 1809 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

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Subpart A—Appraisal of Farm and Leasehold Interests

2. Section 1809.1 is amended by revising the introductory paragraph and by revising paragraphs (b) and (c) to read as follows:

§ 1809.1 General.

This subpart prescribes the policies and procedures for appraisal of farms securing Farm Ownership (FO) loans, Operating (OL) loans, Soil and Water (SW) loans to individuals, Recreation (RL) loans, Land Conservation and Development (LCD) loans, Labor Housing (LH), And Rural Housing (RH) loans other than nonfarm tracts or small farms. All farms, except small farms appraised for RH loans, will be appraised for their market value under this subpart.

* * * * *

(b) *Appraisal reports.* Form FmHA 422–1, "Appraisal Report (Farm Tract)," Form FmHA 423–3, "Map of Property," and Form FmHA 1922–11, "Appraisal for Mineral Rights," will be used in recording appraisals except as modified by Subpart A of Part 1941, Subparts, A, B, and C of Part 1943 and Subpart D of Part 1945 for loans of $10,000 or less. The forms will be prepared in accordance with Exhibits A, B and G of this subpart (available in any FmHA office). When applicable, Form FHA 422–2, "Supplement Report (Irrigation, Drainage, Levee, and Minerals)," will be prepared in conjunction with an appraisal. In no case will Form FmHA 1922–8, "Residential Appraisal Report," be used to appraise a farm under this subpart.

(c) *Administrative responsibility.* The State Director will authorize qualified county employees to make appraisals under this subpart. Employees must be given intensive appraisal training to establish an acceptable level of competence before they are granted authorization to make appraisals. Job descriptions for these employees will include appraisal duties. Exceptions to this policy must have prior approval of the Administrator. The State Director will designate qualified members of the State Office staff only to provide appraisal training. State Directors are authorized to contract for appraisals and appraisal training in the manner prescribed by FmHA Instruction 2024–A (available in any FmHA office).

* * * * *

3. Section 1809.2 is revised to read as follows:

§ 1809.2 Definitions of values.

There are different kinds of values used in farm appraisals which may be considered in arriving at the Recommended Market Value for farm properties.

(a) *Agricultural value.* The agricultural value of a farm is the amount a typical purchaser would, under usual conditions, be willing to pay and be justified in paying for the farm, as improved, for customary agricultural uses, including farm-home advantages, with the expectation of receiving typical net earnings from the farm. This value is based upon agricultural assets only and assumes an informed typical purchaser.

(1) The amount the purchaser would be justified in paying for a farm for farming purposes depends in a large measure on the earning ability of the farm. In determining the ability of a farm, the appraiser will assume that:

(i) The farm will be operated by a typical operator for the area.

(ii) The cropping system used is typical for the farm under consideration and will maintain the anticipated productivity. In determining the proper cropping system, the appraiser will take into account acreage allotments for the basic crops.

(iii) Crop yields used for the farm under consideration are representative of yields generally being obtained in the area.

(iv) Approved commodity prices and farm expenses are employed in estimating net income.

(v) The property will be improved as shown in Form FHA 424–1, "Development Plan."

(vi) The share of farm operating expenses, the cost of necessary farm repairs and replacements customarily paid by the landowner will be deducted from the landowner's share of income in determining net rental farm income.

(2) The appraiser will also consider the value of the farm as a home and will take this into account along with the amount that could safely be invested in the farm, based on the capitalization of the net rental farm income in arriving at its agricultural value.

(b) *Market value.* The market value is the amount a typical purchaser would be willing to pay and justified in paying for the property considering agricultural uses and nonagricultural assets the property may have. It is assumed that the property would sell for this amount with a reasonable sales effort and that the purchaser would be a willing but not anxious buyer, and the seller would be a willing but not forced seller. A market value determination will be made for the acquisition of individual tracts of security servicing for the following:

(1) Security servicing actions required by Subpart A of Part 1965 of this chapter.

(2) Rural Renewal Loans.

(3) Emergency Loans.

(4) Resource Conservation and Development Loans.

(5) Community Services Loans and Grants.

(6) Cooperative Association Loans.

(7) Timber Development Loans. (Appalachian Region only.)

4. Section 1809.3 is amended by revising paragraphs (b)(1)(i), (b)(1)(vi), and (c) to read as follows:

§ 1809.3 Basic farm valuation principles.

* * * * *

(b) * * *

(1) * * *

(i) The distance to market and trading centers in which applicant will conduct business.

* * * * *

(vi) Location value is difficult to measure on the basis of a formula. It can be established by analysis of sales data. When location causes the property to have more value than justified on the basis of customary agricultural use, the appraiser should determine and include an estimate of what the better features will be worth to a typical buyer.

* * * * *

(c) *Home desirability.* This is an important factor in farm appraisals since the farm business provides an operator with an occupation and a home. An appraiser should consider those features which relate to family living and the satisfaction of a comfortable home. An appraiser's opinion should be based on the various home features of a farm and how they will appeal to a typical purchaser. Home use advantages have a bearing on the kind of typical buyer or operator attracted to the farm under consideration. This will affect the quality of management which will be assumed by the appraiser. The basic elements considered for home use value are the house and yard, location, all weather accessibility, water and other utilities, neighborhood, churches, schools, and recreational and scenic features. Properties with antiquated, poorly arranged and obsolete buildings will have less than improved properties.

* * * * *

5. Section 1809.4 is amended by revising the title, the introductory paragraph, by revising the introductory paragraph (a), by revising paragraph (b)(1)(i), by revising the introductory paragraph (c), and paragraphs (c)(1), (d), and (e) to read as follows:

§ 1809.4 The three-way approach to market value.

Farm appraisals made under this subpart will be based to the extent applicable on a three-way approach, using market data of prices of comparable properties, capitalization, and summation of all resources and facilities. This combination will provide a means of arriving at a market value for the full range of farm properties, which the Farmers Home Administration (FmHA) is now authorized to finance.

(a) *Market data approach.* Using sale prices of comparable properties sold during the most recent period is a sound and acceptable means of arriving at market value. The appraiser should observe, study, and record pertinent facts for as many sales of comparable property as possible. He should be certain the properties selected as comparable are so similar to the property being appraised that a prospective purchaser would likely pay an equivalent price for the farm. The objective is to deduce from sale data on comparable property the price which the property being appraised would attract on the market. If there is a lack of similarity between the property being appraised and the properties on which sales data is being used, appropriate compensating adjustments will have to be made. If the differences are numerous or pronounced, sales data on more nearly comparable property should include those in which the terms and conditions of the sale are representative of true sale transactions occurring in the community. Form FHA 422–8, "Real Estate Sales Data," will be used to record sales information.

* * * * *

(b) * * *

(1) * * *

(i) Determine the rate of return received on comparable or nearly comparable properties or investments. When the sale price of a comparable farm has been determined and confirmed, the rate of return can be established by working an earnings statement for that farm. The net income thereby obtainsd will reflect the rate of return to the investment in the farm. If the exact annual income can be ascertained from the owner, a more precise capitalization rate can be determined. Several determinations in this manner can provide a good indication of a reliable capitalization rate for an area. Exhibit F is an example of a technique for determining the capitalization rate for an area. The capitalization rate will be determined annually.

* * * * *

(c) *Summation approach.* An indication of value under this approach is obtained by adding the value of essential buildings to the market value of the land. Depreciation must recognize functional and economic obsolescence as well as physical deterioration in determining building value. This approach is used for checking purposes in making the appraisal.

(1) The market value of land will be the value of the land without buildings. It will include land development of a permanent nature. A value per acre for the land resources will be determined by analyzing the sale prices of comparable land.

* * * * *

(d) *Market value.* The appraiser will consider the results of these three approaches and make needed adjustments to these findings before reaching the final conclusion for the Recommended Market Value. The adjustments will usually be for unusual location and economic use features not otherwise recognized, and for home use features which contribute to family living satisfaction not previously reflected. After an indication of value reflected by each approach has been determined, the appraiser should re-examine the calculations and the adequacy of the data analyzed in each approach. The appraiser should give further consideration to the strong points and the weakness of each approach used. As a general rule the value indicated by the market data approach is the most reliable indicator of value. The final step is the correlation of the indications of value reflected by the three approaches. The appraiser will examine the spread between the minimum and maximum figures. The appraiser will determine which approach appears to be the most reliable answer to the appraisal problem. The appraiser will temper this determination of value by the degree of reliance to be placed on the other indication of value.

(e) *Recommended market value.* The appraiser's conclusion using the three approaches is the Recommended Market Value recorded in Part 7 of Form FmHA 422–1. The appraised value for mineral rights from Part VI of Form FmHA 1922–11, "Appraisal of Mineral Rights," will be added to Part 7 of Form FmHA 422–1 to arrive at the Recommended Market Value.

6. Section 1809.8 is revised to read as follows:

§ 1809.8 Preparation of Appraisal Report.

Directions for completing Form FmHA 422–1 are given on the attached Exhibits A and G (available in any FmHA office).

PART 1900—GENERAL

7. The authority citation for Part 1900 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Farmers Home Administration Appeal Procedure

8. Section 1900.55 is amended by revising paragraph (d) to read as follows:

§ 1900.55 FmHA actions to limit the need for appeals.

* * * * *

(d) Farmer program loan borrowers who are sent Form FmHA 1924–25 and who complete Part I, II A, II B, II C, or II D of Form FmHA 1924–26 are entitled to a conference with the decision maker before the appeals process begins. The conference cannot be waived by FmHA. If the borrower or the borrower's representative fails to schedule or attend the conference or if the borrower fails to bring the information requested, the borrower is still entitled to a hearing. If the borrower or the borrower's representative attends the conference but their request for servicing relief cannot be granted, Exhibit B–3 with attachment B–4 will be used to notify the borrower of their appeal rights. If the borrower or borrower's representative fails to attend the conference Exhibit B–2 with attachment B–4 will be used.

* * * * *

9. Section 1900.56 is amended by revising paragraph (a) to read as follows:

§ 1900.56 Appeal from an initial FmHA decision.

(a) Farmer program loan borrowers who are sent Forms FmHA 1924–25 and FmHA 1924–26 (in accordance with Subpart A of Part 1965, Subpart B of Part 1924, Subpart A of Part 1962, or Subpart C of Part 1950 of this chapter) are given an opportunity to appeal before the adverse action is taken unless Part II E or Part III or IV of Form FmHA 1924–26 was completed. If the borrower requested servicing relief and such relief cannot be granted, the borrower will be sent Exhibit B–3 with attachment Exhibit B–4. If an appeal is taken and the decision to take adverse action is upheld, the final letter upholding the initial decision will contain the following statement:

This review concludes the administrative appeal of your case. FmHA will proceed to take the adverse action noted on Form FmHA 1924–25, "Notice of Intent to Take Adverse

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Action." You are not entitled to any further appeal in connection with the adverse action.

* * * * *

10. Exhibit B–3 to Subpart B of Part 1900 is revised to read as follows:

Exhibit B–3 to Subpart B—Letter for Notifying Applicants and Borrowers of Unfavorable Decision Reached at the Pre-Hearing Meeting or Conference

UNITED STATES DEPARTMENT OF AGRICULTURE

Farmers Home Administration

(Insert address)

Date: ————————

Dear ————————: ————————

We appreciated the opportunity to review the facts relative to [your application/request for FmHA services] [the assistance you are presently receiving]. We regret that our [meeting] [conference] with you did not result in a satisfactory conclusion.

(Insert here the adverse decision and all the specific reasons for the adverse action).

See attachment for your appeal rights.

The hearing officer will be (name and title) ————————. A request for a hearing should be sent to the hearing officer in care of this office (address) ————————.

(The following paragraph for individual applicants only):

The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, handicap, or age (provided that the applicant has the capacity to enter into a binding contract), because all or part of the applicant's income derives from any public assistance program, or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with the law concerning this creditor is the Federal Trade Commission, Equal Credit Opportunity, Washington, D.C. 20580.

Sincerely,

(Decision Maker)————————

(County Supervisor for County Committee)

Title: ————————

PART 1903—VOLUNTARY DEBT ADJUSTMENT

11. The authority citation for Part 1903 is revised to read as follows:

Authority: 7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Voluntary Debt Adjustment

12. Section 1903.1 is revised to read follows:

§ 1903.1 General.

This subpart prescribes the policies, responsibilities, and procedures in the voluntary adjustment of debts of applicants for loans from the Farmers Home Administration (FmHA), borrowers, and other farmers, ranchers, farm cooperatives, private domestic corporations, partnerships, and joint operations that will manage and operate not larger than family farms, who request such services.

PART 1910—GENERAL

13. The authority citation for Part 1910 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; Sec. 10 Pub. L. 93–357, 88 Stat. 392; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Receiving and Processing Applications

14. Section 1910.1 is amended by revising the introductory paragraph to read as follows:

§ 1910.1 General.

This subpart prescribes the policies and procedures for receiving and processing Section 502 and 504 Rural Housing (RH), Farm Ownership (FO), Soil and Water (SW), Recreation (RL), Operating (OL), Emergency (EM), Rural Rental Housing (RRH), Rural Cooperative Housing (RCH), Rural Housing Site (RHS) and Labor Housing (LH) loan and grant applications except as modified by program regulations. It also prescribes policies for informing applicants and other interested individuals about the services of the Farmer Home Administration (FmHA).

* * * * *

15. Section 1910.3 is amended by revising paragraph (e) and the introductory paragraph (j) to read as follows:

§ 1910.3 Receiving applications.

* * * * *

(e) Signature requirements on the Promissory Note will be as needed to assure repayment of the indebtedness and as set out in the loan making regulations. Signature requirements on the Mortgage or Deed of Trust will be sufficient to obtain the required lien, and to make the property being offered as security available to satisfy the debt in the event of default. FmHA State Supplements will be issued to outline the requirements in accordance with State real property law. The State Director will obtain the advice of OGC prior to issuance of the State Supplement.

* * * * *

(j) For all loans and credit sales secured by a first mortgage and involving the purchase of an existing 1 to 4 family unit, or purchase of a building site and construction of 1 to 4 family residential units, or FO loans involving tracts of 25 acres or less, whether made to an individual, corporation, partnership, joint operation, cooperative, association, or other entity, the booklet entitled "Settlement Costs" will be hand-delivered to the applicant when the completed application is received, *or* mailed to the applicant within three (3) business days after receipt of the application in the County Office.

* * * * *

16. Section 1910.4 is revised to read as follows:

§ 1910.4 Processing applications.

When obtaining information concerning applicants and evaluating their qualifications, FmHA personnel will be covered by the provisions of ECOA and the established policies for the various types of assistance offered by FmHA. In the processing of applications for Farm Ownership, Farm Operating and Soil and Water loans received from family size operators, the County Supervisor may recommend the applicant for the additional services of the "New Full-Time Family Farmer and Rancher Development Committee." See Exhibit A of Subpart B of Part 1924 of this chapter for the policies governing those additional services. If a farm is situated in more than one State, County or parish, the loan will be processed in the State, County or parish where the applicant's principal residence on the farm is located. If the applicant's residence is not located on the farm or if the applicant is a corporation, cooperative, partnership or joint operation, the loan will be processed by the County Office serving the County in which the farm or a major portion of the farm is located, unless otherwise approved by the State Office.

(a) *Incomplete applications.* Applicants who submit incomplete applications for EM, FO, OL, and SW loans will be sent a letter within 20 working days after receipt of their applications. The letter will state clearly the additional information needed, and that the application cannot be processed until all required information is received in the FmHA County Office.

(b) *Completed applications.* Completed applications are those for which all information necessary to determine eligibility has been received, and they will be processed in the order received, except as modified by veteran's preference policies. The County Supervisor will verify the information furnished by the applicant and record and assemble additional information needed to properly evaluate the applicant's qualifications and credit needs. Information may be obtained and verified by:

(1) County Office records.

(2) Form FmHA 410–4.

(3) Credit reports as provided in Subparts B and C of Part 1910 of this chapter. (Subpart C available in any FmHA office.)

(4) Personal contacts.

(5) Visits of supervisory personnel to the applicant's residence or business.

(6) Form FmHA 410–8, "Applicant Reference Letter," to inform sources such as creditors, bankers, merchants, employers, and landlords. The information obtained as a result of personal inquiries and observations will be recorded in the running record. The information obtained by correspondence will be attached to the related application, Form FmHA 410–1 or Form FmHA 410–4, as appropriate.

(i) Form FmHA 410–6 includes printed notification to financial institutions that FmHA is in compliance with the Right to Financial Privacy Act of 1978, Title XI of P.L. 95–630. This notification must be given to any financial institution to which FmHA makes a direct request for financial records regarding an applicant who is an individual, a joint operation or a partnership of 5 or fewer members. When not using Form FmHA 410–6, the notification will read as follows:

I certify that the United States Department of Agriculture, acting through the Farmers Home Administration, has complied with the applicable provisions of Title XI, "The Right to Financial Privacy Act of 1978," Public Law 95–630 in seeking financial information regarding (applicant)

Date

County Supervisor

(ii) Under no circumstances may financial information obtained under this regulation be disseminated to any other department or agency of the Federal Government (other than the Office of the Inspector General (OIG) or the Department's Office of Advocacy and Enterprise (OAE)) without express approval of the Office of General Counsel (OGC).

(7) Form FmHA 1910–5, "Request for Verification of Employment." This form may be used to verify employment and income.

(c) *Notifying applicants (including presently indebted borrowers) about Limited Resource loans.* Immediately after a completed application for OL, FO, SW, or EM assistance is received, and prior to County Committee action, the County Supervisor will send a letter similar to FmHA Guide Letter No. 1924–B–1 to the applicant telling the applicant about Limited Resource loans.

(d) *Determining eligibility.* The County Committee will be used to determine eligibility of RH applicants who are also applying for a Farmer Program loan, or who are already indebted for a Farmer Program loan. The County Supervisor will determine eligibility for all other RH applicants. All farmer program applications are to be submitted to the County Committee for eligibility. The County Supervisor must obtain and present to the County Committee sufficient information concerning an applicant for the Committee to determine eligibility for the type of assistance requested.

(e) *County Committee actions.* All actions by the Committee regarding applicant eligibility will be taken in Committee meetings attended by at least two Committee members. If the County Committee is unable to reach a decision based on the information available, they may request the County Supervisor to obtain further information or may request a personal interview with the applicant. The County Committee will act on the application after considering all pertinent information. This action will be taken in the absence of the applicant. County Committee members are required to adhere to all applicable provisions of this regulation when determining eligibility of applicants. Applicants may not be interviewed for reasons unrelated to proper eligibility considerations.

(f) *Timeliness.* Written notice of eligibility or ineligibility will be sent to each applicant, not later than 30 days after receipt of a completed application; and for farmer program loan applications, each application must be approved or disapproved and the applicant notified, in writing, of the action taken, not later 60 days after receipt of a completed application. If an application is disapproved, the applicant will be given appeal rights for any decision that is appealable under Subpart B of Part 1900 of this chapter. If a determination of eligibility cannot be made within 30 days from the date of receipt of the completed application, the applicant will be notified, in writing, of the circumstances causing the delay, and the approximate time needed to make a decision. The letter will contain the ECOA paragraph set forth in § 1910.6(b)(1) of this subpart.

(g) *Recording action taken.* The County Committee minutes or the running case record (whichever is appropriate) will show what action was taken on each application. The specific reason for unfavorable decisions of eligibility on application will be shown on the Committee Certifications. In those cases not involving County Committee action, this information will be recorded in the running case record.

(h) *Active applications.* An applicant may voluntarily withdraw an application at any time. When an applicant has been determined eligible, but further processing is delayed due to an apparent lack of interest, the applicant will be advised by letter that the application will be considered withdrawn unless the County Office receives a notice within 30 days that further consideration is desired. The letter will contain the ECOA paragraph set forth in § 1910.6(b)(1) of this subpart. Applications for FO, SW, OL, RL, RH, RRH, RCH, RHS, and LH loans received during any fiscal year will remain active during the remainder of that fiscal year in which they were received, plus the subsequent fiscal year, unless withdrawn or disapproved, or unless the loan is closed. However, an expiring application for which a loan has been approved, but not closed, will be considered active until the loan is closed or canceled. All withdrawn or rejected applications will be retained in an inactive file for 25 months after the date of withdrawal or notice of adverse action. If notice has been received by FmHA that an adverse action is under investigation or in litigation, that application and all related material will be retained until final disposition of the matter.

17. Section 1910.5 is amended by revising paragraph (c)(1) and by adding paragraph (c)(5) to read as follows:

§ 1910.5 Evaluating applications.

* * * * *

(c) * * *

(1) Foreclosures, judgments, or delinquent payments of the applicant which occurred more than 36 months before the application, if no recent similar situations have occurred.

* * * * *

(5) Bankruptcies must never be used as an indication of unacceptable credit history. However, nonpayment of a debt may be used as an indication of unacceptable credit history, in accordance with § 1910.5(c)(1) of this section.

18. Section 1910.6 is amended by adding the introductory paragraph, adding paragraph (b)(3), redesignating paragraphs (c) through (e) to paragraphs (d) through (f), adding a new paragraph (c) and revising newly redesignated paragraph (d) to read as follows:

§ 1910.6 Notification of applicant.

The time frames established in § 1910.4(f) of this subpart must be met.

* * * * *

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(b) • • •

(3) If a decision to deny an EM, OL, FO or SW loan(s) is overturned or modified in the appeal process or by a court, the case will be returned to the local FmHA County Supervisor for further processing. The County Supervisor or the County Committee must take action within 15 days, as set out in § 1910.59(c) of Subpart B of Part 1900 of this chapter.

(c) *Available funds.* After EM, OL, FO and SW loans are approved, loan funds will be made available to the applicants within the time frames established in the loan making regulations.

(d) *Lack of funds.* Applications received when funds are not available will be processed and a decision on eligibility will be made. Applicants who are ineligible will be so advised, in accordance with § 1910.6(b)(1) of this subpart. If no funds are available within 15 days of loan approval, eligible applicants will be notified that their applications will be held until funds are available. When funds become available for the requested loan, eligible applicants will be notified immediately by letter. Funds must be provided to the applicant within 15 days of they when become available, unless the applicant agrees to a longer period. The letter should tell the applicant to notify the County Office immediately if the applicant is still interested in obtaining the assistance originally applied for. If the applicant does not respond within 10 days of the date of the first letter, a second notice will be sent requesting the applicant to contact the County Office within 15 days or the application will be considered withdrawn. The letter will contain the ECOA Notice set forth in § 1910.6(b)(1) of this subpart. If the applicant indicates a desire to obtain assistance, the County Supervisor will review the application with the applicant and, if there have been any significant changes that would affect eligibility, the County Supervisor will obtain necessary current information to determine eligibility, or when appropriate, present the application to the County Committee for reconsideration. If, after reconsideration, the application is rejected, adverse action has occurred, and the proper notification will be sent as outlined in § 1910.6(b)(1) of this subpart.

• • • • •

§ 1910.7 [Amended]

19. Section 1910.7(a) is amended by removing from the first sentence the words "Household Financial Statement and Budget" and inserting a period after the phrase "Form FmHA 431–3."

Subpart B—Credit Reports (Individuals)

20. Section 1910.52 is amended by revising paragraph (b) to read as follows:

§ 1910.52 General.

• • • • •

(b) Whenever Exhibit A does not list a contractor for a particular town or area, the local FmHA official should request, through the State Director, the address of other contractors from the Director, Directives and Administrative Services Division, National Office. If the Director, Directives and Administrative Services Division, informs the State Director that there are no other contractors for that particular area, the local FmHA official should follow the procedures outlined in Exhibit A, Credit Report Contracts, (a). In the meantime, § 1910.4(b) (1), (2), (4), (5), (6) and (7) of Subpart A of Part 1910 of this chapter will be followed in obtaining and verifying the applicant's qualifications and credit needs.

• • • • •

PART 1924—CONSTRUCTION AND REPAIR

21. The authority citation for Part 1924 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart B—Management Advice to Individual Borrowers and Applicants

22. Section 1924.51 is revised to read as follows:

§ 1924.51 General.

This subpart sets forth policies for providing management advice to farmer program loan individual applicants and borrowers. The term "individual" as used in this subpart applies to individuals and to farming partnerships, joint operations, corporations and cooperatives. The term "farmer program loan" as used in this subpart includes Farm Ownership (FO), Soil and Water (SW), Operating (OL), Emergency (EM), Economic Emergency (EE), Recreation (RL), Special Livestock (SL), and Economic Opportunity (EO) loans, and/or (RHF) Rural Housing loans for farm service buildings. This subpart applies to insured farmer program loan applicants/borrowers who depend on farm income for loan repayment. It also includes Rural Housing (RH) borrowers who are also indebted for a farmer program loan that is not collection-only or a judgment account, and those FO, SW and/or OL loan applicants and borrowers who use the services of a "New Full-Time Family Farmer and Rancher Development Committee." (See Exhibit A of this subpart.) This subpart does not apply to individuals who owe non-program loans (defined in § 1965.7(h) of Subpart A of Part 1965 of this chapter).

23. Section 1924.57 is amended by revising the introductory text of paragraph (b)(1), and revising paragraph (b)(1)(iv), adding a new paragraph (b)(1)(viii), revising paragraphs (b)(2), (b)(3), (c)(4), (c)(5) and (d)(2), and adding paragraph (c)(6) to read as follows:

§ 1924.57 Planning.

• • • • •

(b) • • •

(1) Form FmHA 1962–1 must be completed once each year and revised as needed in accordance with the Forms Manual Insert (FMI) for all borrowers with FmHA loans secured by chattels. There must always be a current Form FmHA 1962–1 in the file of a borrower with loans secured by chattels. Form FmHA 1962–1 should be filled out and signed at the same time as a Form FmHA 431–2 is signed if a Form FmHA 431–2 is required. The figures on the two forms must be consistent. For example, if the Form FmHA 431–2 shows the borrower plans to spend $10,000 on equipment and no FmHA loan funds are being advanced for that purpose and the borrower has no income except from the farm operation, the Form FmHA 1962–1 should show where the $10,000 will come from. (Example—Wheat, 3000 Bushels, Sold, August, $10,000, Purchase Equipment.) Form FmHA 431–2 will be required for those borrowers.

• • • • •

(iv) Who are requesting servicing options on Form FmHA 1924–26, "Borrower Acknowledgment of Notice of Intent to Take Adverse Action," while any appeal is pending. This may be an interim plan for determining the release of proceeds on Form FmHA 1962–1 for essential family living and farm operating expenses in accordance with § 1962.17 of Subpart A of Part 1962 of this chapter. Such a plan does not have to meet the requirements of a feasible plan in paragraph (c)(5) of this section.

• • • • •

(viii) Who have FmHA loans secured by crops, livestock, and livestock products marketed in the regular course of business.

(2) If the County Supervisor and the borrower cannot reach an agreement on the planned uses of proceeds on Forms FmHA 431–2 and 1962–1 when a new or subsequent loan is involved, the loan will not be made and any appeal will be handled in accordance with Supbart B of Part 1900 of this chapter. When a new or subsequent loan is not involved, the borrower will be given the opportunity to appeal in accordance with Subpart B of Part 1900 of this chapter. The notice to the borrower must identify the items on which the County Supervisor and the borrower cannot agree and must explain why the County Supervisor does not agree with the borrower's planned use of proceeds. While any appeal is pending, FmHA must make releases for essential family living and farm operating expenses. In addition, FmHA may make releases for other items on which the borrower and the County Supervisor agree. After the appeal is concluded, the County Supervisor and borrower will sign a Farm and Home Plan, when applicable, and a Form FmHA 1962–1 which complies with the hearing (or any review) officer's decision. If the borrower refuses, the County Supervisor will give the borrower a copy of the Farm and Home Plan, when applicable, and Form FmHA 1962–1 and will explain that those documents are considered binding by FmHA. Borrowers who do not abide by those documents will be handled under § 1962.18 of Subpart A of Part 1962 of this chapter. If the borrower does not appeal, the County Supervisor will mail the borrower a copy of the completed form along with a cover letter explaining that FmHA considers the form binding.

(3) In certain cases the borrower may not indicate any disagreement with the planned use of proceeds on the Form FmHA 1962–1 but may refuse to sign the form. For these cases the County Supervisor will sign the form and mail it to the borrower with a cover letter explaining that FmHA considers the document binding unless the borrower disagrees with the planned use of proceeds and wishes to appeal in accordance with Subpart B of Part 1900 of this chapter. Borrowers that do not abide by the document will be handled in accordance with § 1962.18 of Subpart A of Part 1962 of this chapter.

• • • • •

(c) • • •

(4) Plan for the appropriate use of income with the applicant in accordance with § 1962.17 of Subpart A of Part 1962 of this chapter. Form FmHA 1962–1 *must* provide for the release of sufficient income to pay essential farm operating and family living expenses.

(5) Determine the feasibility of the Farm and Home Plans. A feasible plan is necessary if a loan is being made or a servicing action is being taken. A feasible plan is not necessary if the only reason for developing the plan is to complete a Form FmHA 1962–1 in accordance with paragraph (b)(1)(iv) of this section. Feasible plans must show the borrower will be able to:

(i) Pay for operating expenses and taxes.

(ii) Meet necessary payments on debts.

(iii) Maintain necessary livestock, farm and home equipment, and buildings to the extent that such items have not been provided for in the operating expenses.

(iv) Have a reasonable standard of living for the borrower or the farm operator in the case of a corporation, partnership, joint operation or cooperative.

(v) Provide for any essential capital purchases or improvements.

(6) Will contact borrowers with loans secured by chattels 60 days prior to the expiration date for Form FmHA 1962–1 and obtain a new completed form for the upcoming year. A list will be maintained in the management systems box in the miscellaneous division in accordance with § 1905.5(d) of Subpart A of Part 1905 of this chapter (available in any FmHA office). The list will include the borrower's name, the expiration date of the form, and the date for follow-up by the County Supervisor.

• • • • •

(d) • • •

(2) Initial and subsequent plans and Form FmHA 1962–1 will be revised whenever changes in the borrower's operation occur during the year. It is the borrower's responsibility to notify FmHA of any changes which occur. The plan and Form FmHA 1962–1 will be marked "Revision" and changes noted by crossing out any original estimates and inserting new estimates immediately above. The borrower and the County Supervisor will initial and date revisions to the plan and Form FmHA 1962–1. If the borrower and the County Supervisor cannot agree on a revision, the borrower will be given the opportunity to appeal in accordance with Subpart B of Part 1900 of this chapter. The notice to the borrower must identify the items on which the County Supervisor and the borrower cannot agree and must explain why the County Supervisor does not agree with the borrower's planned use of proceeds. While any appeal is pending, FmHA must make releases for essential family living and farm operating expenses. In addition, FmHA may make releases for other items on which the borrower and the County Supervisor agree. After the appeal is concluded, the County Supervisor and borrower will sign a Form FmHA 1962–1 which complies with the hearing (or any review) officer's decision. If the borrower refuses, the County Supervisor will give the borrower a copy of the form and will explain that it is considered binding by FmHA. Borrowers who do not abide by the form will be handled under § 1962.18 of Subpart A of Part 1962 of this chapter. If the borrower does not appeal, the County Supervisor will mail the borrower a copy of the completed form along with a cover letter explaining that FmHA considers the form binding.

24. The introductory text of paragraph VIII of Exhibit A to Part 1924, Supbart B is revised to read as follows:

Exhibit A of Subpart B—New Full-Time Family Farmer and Rancher Development Projects

• • • • •

VIII. *Criteria for selection of Candidates.* A candidate may be an individual, family partnership, a family joint operation, or a family corporation conducting or proposing to conduct a full-time family size farming or ranching operation and having strong agricultural background, training and/or experience, and resources other than the availability of necessary capital on suitable terms.

• • • • •

PART 1941—OPERATING LOANS

25. The authority citation for Part 1941 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Operating Loan Policies, Procedures, and Authorizations

26. Section 1941.1 is revised to read as follows:

§ 1941.1 Introduction.

This subpart contains regulations for making initial and subsequent insured Operating (OL) and Youth (OL–Y) loans. OL loans may be made to eligible farmers and ranchers and farm cooperatives, private domestic corporations, partnerships, and joint operations that will manage and operate not larger than family farms. Youth loans may be made to rural youth to conduct modest projects in connection with their participation in 4–H, Future Farmers of America, and similar organizations. See Exhibit A of Subpart A of Part 1943 of this chapter for making OL loans to entrymen on unpatented public lands.

27. Section 1941.4 is amended by revising paragraphs (d)(3)(ii), (d)(4)(ii), redesignating paragraphs (m) through (o) as (o) through (q), redesignating paragraph (l) as (n), redesignating paragraphs (g) through (k) as (h) through (l), and adding new paragraphs (g) and (m) to read as follows:

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§ 1941.4 Definitions.

* * * * *

(d) * * *

(3) * * *

(ii) The members, stockholders, partners, or joint operators responsible for operating the farm when a loan is made to a cooperative, corporation, partnership, or joint operation.

(4) * * *

(ii) The members, stockholders, partners, or joint operators responsible for operating the farm, along with the families of these individuals, for a loan made to a cooperative, corporation, partnership, or joint operation.

* * * * *

(g) *Joint operation.* A farming entity in which two or more farmers work together sharing equally or unequally land, labor, equipment, expenses, and/or income. The joint ownership of land and/or equipment or the exchange of labor and equipment in separate farming operations does not constitute a joint operation. They are two separate individual operations.

* * * * *

(m) *Related by blood or marriage.* As used in this subpart, individuals who are connected to one another as husband, wife, parent, child, brother or sister.

* * * * *

28. Section 1941.11 is amended by revising paragraph (b) to read as follows:

§ 1941.11 Applications.

* * * * *

(b) If the applicant is a cooperative, corporation, partnership, or joint operation, the following information will be obtained and included in the loan docket:

(1) A complete list of all members, stockholders, partners, or joint operators showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership or stock held in the cooperative or corporation by each, or the percentage of interest held in the partnership or joint operation by each.

(2) A current personal financial statement from each of the principal members of a cooperative, partners of a partnership, joint operators of a joint operation, or stockholders of a corporation. For this purpose, a principal is one owning or controlling as much as 10 percent of the ownership, stock or interest of a farming entity. If no member, partner, joint operator or stockholder owns or controls as much as 10 percent, each member, partner, joint operator or stockholder will be considered as a principal. Any other member, partner, joint operator or stockholder having an ownership interest whose financial statement, in the judgment of the loan approval official, would be pertinent to a consideration of the financial strength of the applicant entity will also be required to provide personal financial statements.

(3) A current financial statement from the cooperative, corporation, partnership, or joint operation itself.

(4) A copy of the cooperative's or corporation's charter, or any partnership or joint operation agreement, any articles of incorporation and bylaws, any certificate or evidence of current registration (good standing) and a resolution(s) adopted by the Board of Directors or members or stockholders authorizing specified officers of the cooperative, corporation, partnership or joint operation to apply for and obtain the desired loan and execute required debt, security and other instruments and agreements.

(5) A copy of any written lease, contract, or agreement entered into by the cooperative, corporation, partnership, or joint operation which may be pertinent to consideration of its application.

29. Section 1941.12 is amended by revising paragraphs (a)(1), (a)(8), the introductory text of paragraph (b), (b)(1), and (b)(3), the introductory text of paragraph (b)(4), paragraphs (b)(4)(i), (b)(4)(v), (b)(5), and (b)(6), and by adding paragraph (b)(7) to read as follows:

§ 1941.12 Eligibility requirements.

(a) * * *

(1) Be a citizen of the United States (see § 1941.4(q) of this subpart for the definition of "United States") or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records," obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 of this chapter.) Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST."

* * * * *

(8) Be the owner-operator or tenant-operator of not larger than a family farm after the loan is closed (except for rural youths). In the case of a limited resource applicant see § 1941.4(h) of this subpart.

(b) A cooperative, corporation, partnership, or joint operation must:

(1) Be unable to obtain sufficient credit elsewhere to finance actual needs at reasonable rates and terms, taking into account prevailing private and cooperative rates and terms in or near the community for loans for similar purposes and periods of time. This applies to the entity and *all* of its members, stockholders, partners, or joint operators, as individuals.

* * * * *

(3) Consist of members, stockholders, partners, or joint operators who do not, as individuals, have an individual FO, SW, RL or OL loan; and are not members of another entity or have an interest in another entity that has an FO, SW, RL or OL loan.

(4) If the members, stockholders, partners, or joint operators holding a *majority interest* are related by blood or marriage, they must meet the following requirements:

(i) They must be citizens of the United States (see § 1941.4(q) of this subpart for the definition of "United States") or aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records," obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 of this chapter.) Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST."

* * * * *

(v) At least one member, stockholder, partner, or joint operator must operate the family farm.

* * * * *

(5) If the members, stockholders, partners, or joint operators holding a majority interest are not related by blood or marriage:

(i) The requirements of paragraphs (b)(4) (i) through (iv) and (vi) of this section must be met.

(ii) They and the entity itself must operate the family farm.

(6) If applying as a limited resource applicant, as defined in § 1941.4(h) of this subpart:

(i) The requirements of paragraphs (b)(4) (i) through (iv) and (vi) of this section must be met by the entity and all its members, stockholders, partners, or joint operators.

(ii) The entity and all the members, stockholders, partners or joint operators must own or operate a small or family farm and at least one member, stockholder, partner, or joint operator must operate the farm.

(7) If each member's, partner's stockholder's or joint operator's ownership interest does not exceed the family farm definition limits, their collective interests can exceed the family farm definition limits only if: (i) All of the members of the entity are related by blood or marriage;

(ii) All of the members are or will be operators of the entity, and

(iii) The majority interest holders of the entity meet the requirements of paragraphs (b)(4) (i) through (iv) and (vi) of this section.

30. Section 1941.16 is amended by revising the introductory paragraph and adding paragraph (l) to read as follows:

§ 1941.16 Loan purpose.

Except for entity borrowers, 10 percent or $5,000, whichever is less, of any OL loan will be placed in a non-supervised bank account of the borrower's choosing at loan closing. These funds will be used at the borrower's discretion for family living needs or other purposes agreed upon in the farm plan(s) of operation. Loans may be made for farm, forestry, recreation and nonfarm enterprises or modest rural youth projects for the following purposes, when such purposes are essential to the operation:

* * * * *

(l) Payment of costs for training farmer program borrowers, particularly limited resource borrowers, in recordkeeping for farming and ranching operations. The loan approval official must determine that the training will meet the objectives of the loan program, assist the borrower in his/her recordkeeping and management responsibilities, and that costs are reasonable.

31. Section 1941.19 is amended by revising the introductory paragraph and paragraph (b) to read as follows:

§ 1941.19 Security.

Ordinarily, the security must be adequate in the opinion of the loan approval official to assure repayment of the loan. If the security alone is inadequate, then the applicant's repayment ability will also be considered by the loan approval official in determining whether the loan should be made, except that the amount refinanced may not exceed the value of the security. Except as shown in paragraph (a) of this section, the loan must be secured by a first lien on all property or products acquired, produced, or refinanced with loan funds and by any additional security needed. Such additional security may consist of the best lien obtainable on chattels, real estate or other property. In unusual cases, the loan approval official may require a cosigner or a pledge of security from someone other than the borrower(s). Generally, a pledge of security is preferable to a cosigner.

* * * * *

(b) *Real estate.* The loan approval official may require a lien on all or part of the applicant's real estate as security. When the amount of the loan exceeds the equity in chattel security by more than $10,000, the best lien obtainable will be taken on real estate having sufficient collateral equity to fully secure the loan(s) being made. Real estate security may be taken for a portion of a loan when a separate advance and promissory note evidences such portion. Form FmHA 427–1 (State), "Real Estate Mortgage for _____," will be used to obtain such a lien, unless a State supplement requires a different form.

* * * * *

32. Section 1941.25 is amended by revising the introductory paragraph to read as follows:

§ 1941.25 Appraisals.

Real estate appraisals will be completed by an FmHA employee authorized to make farm appraisals. Chattel and real estate appraisals will be made on Forms FmHA 440–21, "Appraisal of Chattel Property," FmHA 422–1, "Appraisal Report (FARM TRACT)," and FmHA 1922–11, "Appraisal for Mineral Rights," respectively, to determine market value and borrower equity in the following instances:

* * * * *

33. Section 1941.29 is amended by revising the title and paragraphs (a) through (d) to read as follows:

§ 1941.29 Relationship between FmHA loans, insured and guaranteed.

(a) An eligible emergency loan (EM) applicant's total credit needs will be satisfied under the EM loan authorities, to the extent possible, before OL loan assistance is considered.

(b) An insured OL will not be made to a borrower with an outstanding guaranteed OL loan.

(c) An insured OL loan will not be made to refinance a guaranteed OL loan, except when the following conditions are met:

(1) The circumstances resulting in the need to refinance were beyond the borrower's control.

(2) Refinancing is in the best interest of the Government and the borrower.

(d) New applicants and borrowers indebted to FmHA and/or an FmHA guaranteed lender(s) for an EE loan may be considered for an OL loan(s) provided their total outstanding principal indebtedness to FmHA and/or the FmHA guaranteed lender(s) for the EE loan and any FO, SW, RL, and/or OL loans will not exceed $650,000.

* * * * *

34. Section 1941.30 is revised to read as follows:

§ 1941.30 Committee Certification.

The County Committee will certify an applicant's eligibility on Form FmHA 440–2 "County Committee Certification or Recommendation," before each loan is approved. In some instances the committee may want to interview the applicant or see the farm before making any recommendations.

35. Section 1941.33 is amended by revising the introductory paragraph of (b)(1), paragraph (b)(2)(i), (b)(2)(vi), (c), and (d) to read as follows:

§ 1941.33 Loan approval or disapproval.

* * * * *

(b) *Loan approval action.* (1) The loan approval official must approve or disapprove applications within the deadlines set out in § 1910.4 of Subpart A of Part 1910 of this chapter. The loan approval official is responsible for reviewing the docket to determine whether the proposed loan complies with established policies and all pertinent regulations. When reviewing the docket and before approving the loan, the loan approval official will determine that:

* * * * *

(2) * * *

(i) Indicate on all copies of Form FmHA 1940–1, "Request for Obligation of Funds," any conditions not required

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by FmHA regulations that must be met for loan closing.

* * * * *

(vi) Sign the original and one copy of Form FmHA 1940–1 and insert the title of the approval official.

(c) *Distribution of forms after loan approval.* The applicable docket forms will be distributed as outlined below by the loan approval official after a loan is approved.

(1) These forms will be sent to the Finance Office:

(i) Form FmHA 1940–1 (copy).

(ii) When funds have been obligated, the Finance Office will send to the County Office the original and one copy of Form FmHA 440–57, "Acknowledgement of Obligated Funds/Check Request."

(iii) Form FmHA 492–19, "Characteristics of Approved Applicants," (original) for initial loans only. If an initial FO or SW loan is approved at the same time, only one set of forms is required.

(2) The original of Form 1940–1 and the remainder of the loan docket will be sent to the County Office.

(3) These forms will be sent to the State Office:

(i) Form FmHA 1940–1 (copy).

(ii) Form FmHA 492–19 (copy) for initial loans only. If an initial FO or SW loan is approved at the same time, only one set of forms is required.

(4) A signed copy of Form FmHA 1940–1 will be sent to the borrower on the date of loan approval.

(d) *Loan disapproval.* The loan approval official must approve or disapprove applications within the deadlines set out in § 1910.4 of Subpart A of Part 1910 of this chapter. The following action will be taken when a loan is disapproved:

(1) The reasons for disapproval will be indicated on Form FmHA 1940–1 by the loan approval official. The reasons may be in a letter or the running record if this form has not been completed. Suggestions of how to remedy the disapproval should be included.

(2) The County Supervisor will notify the applicant in writing of the action taken and include any suggestions that could result in favorable action. The applicant will be advised of the opportunity to appeal (see Subpart B of Part 1900 of this chapter).

(3) Items furnished by the applicant during docket processing will be returned.

(4) The County Supervisor will notify any other interested parties of the disapproval.

36. Section 1941.35 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1941.35 Actions after loan approval.

(a) *Requesting check.* If the County Supervisor is reasonably certain that the loan can be closed within 20 working days from the date of the check, loan funds may be requested at the time of loan approval through the state office terminal system. If funds are not requested when the loan is approved, advances in the amount needed will be requested through the state office terminal system. Each advance will be limited to an amount which can be used promptly, usually within sixty days from the date of the check. Loan funds must be provided to the applicant(s) within 15 days after loan approval, unless the applicant(s) agrees to a longer period. If no funds are available within 15 days of loan approval, funds will be provided to the applicant as soon as possible and within 15 days after funds become available, unless the applicant agrees to a longer period. If a longer period is agreed upon by the applicant(s), the same will be documented in the case file by the County Supervisor.

(b) Cancellation of loan check and/or obligation. If, for any reason, a loan check or obligation will be cancelled, the County Supervisor will notify the State Office and the Finance Office of loan cancellation by using Form 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation." If a check received in the County Office is to be cancelled, the check will be returned to the Finance Office with an original and one copy of Form FmHA 1940–10. (See FmHA Instruction 102.1, a copy of which may be obtained in any FmHA office.)

* * * * *

Subpart B—Closing Loans Secured by Chattels

37. Section 1941.54 is amended by revising paragraph (b)(3) to read as follows:

§ 1941.54 Promissory note.

* * * * *

(b) * * *

(3) *Partnerships or joint operations.* The note will be executed by the partnership as well as by each of the partners or joint operators, as individuals.

38. Section 1941.57 is amended by revising paragraph (a)(2) to read as follows:

§ 1941.57 Security instruments.

* * * * *

(a) * * *

(2) Appropriate partners or joint operators on behalf of a partnership or joint operation; and the instruments will also be executed by all partners, or all joint operators, who will sign as individuals.

* * * * *

39. Section 1941.84 is revised to read as follows:

§ 1941.84 Title clearance and closing requirements.

(a) For loans over $10,000 (or EM loans over $25,000), title clearance is required when real estate is taken as security.

(b) For loans of $10,000 or less (or EM loans of $25,000 or less), and loans for which real estate is taken as security, a certification of ownership and verification of equity in real estate is required. Certification of ownership may be in the form of a notarized affidavit which is signed by applicant, names the record owner of the real estate in question and lists the balances due on all known debts against the real estate. Whenever the County Supervisor is uncertain of the record owner or debts against the estate security, a title search will be required.

(c) When real estate is taken as security, title clearance and loan closing requirements will be carried out in accordance with Part 1807 of this chapter (FmHA Instruction 427.1).

(d) If any prior liens against the real estate offered as security contain provisions (such as future advance clauses not limited to a specific amount) that could jeopardize either the security position of the Government or the applicant's ability to meet the obligations of the prior liens and FmHA loan, the prior lienholders involved must agree in writing, before the loan is closed, to modify, waive, or subordinate such objectionable provisions.

(e) If a lien is to be taken on real estate which is already subject to a lien, and if State law allows a prior lienholder to foreclose on a loan (under power of sale or otherwise) without notifying a junior lienholder of the foreclosure proceedings, the prior lienholders must agree, in writing, to give FmHA advance notice of all foreclosure proceedings and of any assignment of the mortgage.

(f) Each real estate lien will be taken on Form FmHA 427–1 (State), "Real Estate Mortgage for _____," unless a State supplement requires the use of another form.

(g) If the real estate offered as security is held under a purchase contract, the following conditions must exist:

(1) The applicant must be able to provide a mortgageable interest in the real estate.

(2) The applicant and the purchase contract holder must agree, in writing, that any insurance proceeds received to compensate for real estate losses will be used only to replace or repair the damaged real estate. If necessary, the applicant will negotiate with the purchase contract holder to arrive at a new contract without any provisions objectionable to either FmHA or the lender.

(3) If a satisfactory contract of sale cannot be negotiated or if the purchase contract holder refuses to agree to apply the insurance proceeds toward the repair or replacement of the real estate and wants to retain some of the proceeds as an extra payment on the balance owned, the applicant will make every effort to refinance the existing purchase contract.

(4) The purchase contract must not be subject to summary cancellation on default and must not contain any other provisions which might jeopardize either the Government's security position or the borrower's ability to repay the loan.

(5) The contract holder must agree, in writing, to give the Government notice of any breach by the purchaser, and must also agree to give the Government the option to rectify the conditions which amount to a breach within 30 days. The 30 days begin to run on the day the Government receives the written notice of the breach.

PART 1943—FARM OWNERSHIP, SOIL AND WATER AND RECREATION

40. The authority citation for Part 1943 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Insured Farm Ownership Loan Policies, Procedures and Authorizations

41. Section 1943.4 is amended by revising paragraphs (d)(3)(ii) and (d)(4)(ii), current paragraphs (g) through (l) and (m) and (n) are redesignated as (h) through (m) and (o) and (p), respectively, new paragraphs (g) and (n) are added, and redesignated paragraph (i) is revised to read as follows:

§ 1943.4 Definitions.

* * * * *

(d) * * *

(3) * * *

(ii) The members, stockholders, partners, or joint operators responsible for operating the farm when a loan is made to cooperative, corporation, partnership, or joint operation.

(4) * * *

(ii) The members, stockholders, partners, or joint operators responsible for operating the farm, along with the families of these individuals, for a loan made to a cooperative, corporation, partnership or joint operation.

* * * * *

(g) *Joint operation.* A farming entity in which two or more farmers work together sharing equally or unequally land, labor, equipment, expenses, and/or income. The joint ownership of land and/or equipment or the exchange of labor and equipment in separate farming operations does not constitute a joint operation. They are two separate individual operations.

* * * * *

(i) *Majority interest.* Any individual or a combination of individuals owning more than a 50 percent interest in a cooperative, corporation, joint operation or partnership.

* * * * *

(n) *Related by blood or marriage.* As used in this subpart, individuals who are connected to one another as husband, wife, parent, child, brother or sister.

* * * * *

42. Section 1943.6 is amended by revising paragraph (d) to read as follows:

§ 1943.6 Credit elsewhere.

* * * * *

(d) Property and interests in property owned and income received by an individual applicant, a cooperative and its members, as individuals; a corporation and its stockholders, as individuals; a partnership and its partners, as individuals; and a joint operation and its joint operators, as individuals; will be considered and used by an applicant in obtaining credit from other sources.

43. Section 1943.11 is amended by revising paragraph (b) to read as follows:

§ 1943.11 Receiving and processing applications.

* * * * *

(b) If the applicant is a cooperative, corporation, partnership, or joint operation, the following information will be obtained and included in the loan docket:

(1) A complete list of all members, stockholders, partners, or joint operators showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership or of the stock held in the cooperative or corporation, by each; or the percentage of interest held in the partnership or joint operation, by each.

(2) A current personal financial statement from each of the principal members of a cooperative, stockholders of a corporation, partners of a partnership, or joint operators of a joint operation. For this purpose, a principal is one owning or controlling as much as 10 percent of the ownership, stock or interest of a farming entity. If no member, stockholder, partner or joint operator owns or controls as much as 10 percent, each member, stockholder, partner, or joint operator will be considered a principal. Any other member, stockholder, partner or joint operator having an ownership interest, whose financial statement in the judgment of the loan approval official would be pertinent to a consideration of the financial strength of the applicant entity, will be required to provide a personal financial statement.

(3) A current financial statement from the cooperative, corporation, partnership, or joint operation itself.

(4) A copy of the cooperative's or corporation's charter, or any partnership or joint operation agreement, any articles of incorporation and bylaws, any certificate or evidence of current registration (good standing) and a resolution(s) adopted by the Board of Directors or members or stockholders authorizing specified officers of the cooperative, corporation, partnership, or joint operation to apply for and obtain the desired loan and execute required debt, security and other instruments and agreements.

(5) A copy of any written lease, contract, or agreement entered into by the cooperative, corporation, partnership, or joint operation which may be pertinent to a consideration of its application.

44. Section 1943.12 is amended by revising paragraph (a)(1), (a)(8), the title and the introductory paragraph (b), paragraphs (b)(1), (b)(2), (b)(3), the introductory paragraph (b)(4), and paragraphs (b)(4)(i), (b)(4)(v), (b)(5), (b)(6) and a new paragraph (b)(7) is added to read as follows:

§ 1943.12 Farm ownership loan eligibility requirements.

(a) * * *

(1) Be a citizen of the United States (see § 1943.4(p) of this subpart from the definition of "United States") or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite paroleer are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration Service (INS) to verify the information appearing on the alien's identification card by completing INS

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Form G-641, "Application for Verification of Information for Immigration and Naturalization Records," obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 of this chapter.) Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G-641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST."

* * * * *

(8) Be the owner-operator of not larger than a family farm after the loan is closed (in the case of a limited resource applicant see § 1943.4(h) of this subpart).

* * * * *

(b) A cooperative, corporation, partnership, or joint operation must:

(1) Be unable to obtain sufficient credit elsewhere to finance actual needs at reasonable rates and terms, taking into account prevailing private and cooperative rates and terms in or near the community for loans for similar purposes and periods of time. This applies to the entity and *all* of its members, stockholders, partners, or joint operators as individuals.

(2) Be controlled by farmers or ranchers engaged primarily and directly in farming or ranching in the United States, after the loan is made.

(3) Consist of members, stockholders, partners, or joint operators who do not, as individuals, have an individual FO, SW, RL or OL loan; and are not members of another entity or have an interest in another entity that has an FO, SW, RL or OL loan.

(4) If the members, stockholders, partners, or joint operators holding a majority interest are related by blood or marriage, they must meet the following requirements:

(i) They must be citizens of the United States (see § 1943.4(p) of this subpart for the definition of "United States") or aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I-151 or I-551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G-641, "Application for Verification of Information from Immigration and Naturalization Records," obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 of this chapter.) Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G-641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST."

* * * * *

(v) At least one member, stockholder, partner, or joint operator must operate the family farm.

* * * * *

(5) If the members, stockholders, partners, or joint operators holding a majority interest are not related by blood or marriage:

(i) The requirements of paragraphs (b)(4) (i) through (iv) and (vi) of this section must be met.

(ii) They and the entity itself must own and operate the family farm.

(6) If applying as a limited resources applicant, as defined in § 1943.4(h) of this subpart:

(i) The requirements of paragraph (b)(4) (i) through (iv) and (vi) of this section must be met by the entity and all its members, stockholders, partners, or joint operators.

(ii) The entity and all the members, stockholders, partners or joint operators must own or operate a small or family farm; and at least one member, stockholder, partner, or joint operator must operate the farm.

(7) If each member's, partner's, stockholder's or joint operator's ownership interest does not exceed the family farm definition limits, their collective interests can exceed the family farm definition limits only if:

(i) All of the members of the entity are related by blood or marriage;

(ii) All of the members are or will be operators of the entity; and

(iii) The majority interest holders of the entity meet the requirements of paragraphs (b)(4) (i) through (iv) and (vi) of this section.

45. Section 1943.25 is amended by revising paragraph (c)(2) to read as follows:

§ 1943.25 Options, planning and appraisals.

* * * * *

(c) * * *

(2) Real estate appraisals will be completed as provided in Subpart A of Part 1809 of this chapter (FmHA Instruction 422.1). The rights to mining products, gravel, oil, gas, coal or other minerals will be considered a portion of the security for farmer program loans and will be specifically included as a part of the appraised value of the real estate securing the loans.

* * * * *

46. Section 1943.28 is revised to read as follows:

§ 1943.28 Relationship with other FmHA loans, insured and guaranteed.

(a) Insured FO loans may be made simultaneously with other FmHA loans, and to borrowers presently indebted to FmHA, when the loan limits will not be exceeded and all requirements of the loans involved will be met.

(b) An insured FO loan will not be made to a borrower with an outstanding guaranteed FO, SW, or RL loan and paragraph (c) of this section is not intended to override this policy.

(c) New applicants and borrowers indebted to FmHA and/or an FmHA guaranteed lender(s) for an EE loan may be considered for an FO loan(s) provided their total outstanding principal indebtedness to FmHA and/or the FmHA guaranteed lender(s) for the EE and any SW, RL, OL and FO loans will not exceed $650,000.

47. Section 1943.32 is amended by adding at the end of the table: "1922-11" in the FmHA Form No. column, "Appraisal for Mineral Rights" in the Name of form column, "1" in the Total number of copies of columns, and "1-O" in the Loan docket column.

48. Section 1943.33 is amended by revising the introductory paragraph (b)(1), by revising paragraphs (b)(2)(ii), (b)(2)(iv), (b)(2)(vi), (c)(1), (c)(2), (c)(3), (c)(4), by revising the introductory paragraph (d) and by revising paragraphs (d)(1) and (d)(2) to read as follows:

§ 1943.33 Loan approval or disapproval.

* * * * *

(b) * * *

(1) The loan approval official must approve or disapprove applications within the deadlines set out in § 1910.4 of Subpart A of Part 1910 of this chapter. The loan approval official is responsible for reviewing the docket to determine whether the proposed loan complies with established policies and all pertinent regulations. When reviewing the docket, the loan approval official will determine that:

* * * * *

(2) * * *

(i) Indicate on all copies of Form FmHA 1940-1, "Request for Obligation of Funds," any conditions not required by FmHA regulations that must be met for loan closing;

* * * * *

(iv) Indicate that satisfactory title evidence has been obtained;

* * * * *

(vi) Sign the original and one copy of Form FmHA 1940-1 and insert the title of the approval official.

(c) * * *

(1) These forms will be sent to the Finance Office:

(i) Form FmHA 1940-1 (copy). When funds have been obligated, the Finance Office will send to the County Office the original and one copy of Form FmHA 440-57, "Acknowledgement of Obligated Funds/Check Request."

(ii) Form FmHA 443-12, "Farm Ownership Individual Soil and Water Fund Analysis," (original).

(iii) Form FmHA 492-19, "Characteristics of Approved Applicants," (original) for initial loans only. If an initial Operating (OL) or SW loan is approved at the same time, only one set of forms is required.

(2) The original of Form FmHA 1940-1 and the remainder of the loan docket will be sent to the County Office.

(3) These forms will be sent to the State Office:

(i) Form FmHA 1940-1 (copy).

(ii) Form FmHA 443-12 (copy).

(iii) Form FmHA 492-19 (copy) for initial loans only. If an initial OL or SW loan is approved at the same time only one set of forms is required.

(4) A signed copy of Form FmHA 1940-1 will be sent to the borrower on the date of loan approval.

(d) *Loan disapproval.* The loan approval official must approve or disapprove applications within the deadlines set out in § 1910.4 of Subpart A of Part 1910 of this chapter. The following action will be taken when a loan is disapproved:

(1) The reasons for disapproval will be indicated on Form FmHA 1940-1 by the loan approval official. The reasons may be in a letter or the running record if this form has not been completed. Suggestions of how to remedy the disapproval should be included.

(2) The County Supervisor will notify the applicant in writing of the action taken and include any suggestions that could result in favorable action. The applicant will be advised of the opportunity to appeal. (See Subpart B of Part 1900 of this chapter.)

* * * * *

49. Section 1943.35 is amended by revising the introductory paragraph (a), by revising paragraphs (a)(2) and (b)(2) and the introductory paragraph (c) to read as follows:

§ 1943.35 Action after loan approval.

(a) *Requesting check.* If the County Supervisor is reasonably certain that the loan can be closed within 20 working days from the date of the check, loan funds may be requested at the time of loan approval through the state office terminal system. If funds are not requested when the loan is approved, advances in the amount needed will be requested through the state office terminal system. Loan funds must be provided to the applicant(s) within 15 days after loan approval, unless the applicant(s) agrees to a longer period. If no funds are available within 15 days of loan approval, funds will be provided to the applicant as soon as possible and within 15 days after funds become available, unless the applicant agrees to a longer period. If a longer period is agreed upon by the applicant(s), the same will be documented in the case file by the County Supervisor.

* * * * *

(2) When loan funds cannot be disbursed as outlined in paragraph (a)(1) of this section, the amount needed to meet the immediate needs of the borrower will be requested through the state office terminal system. The amount of each advance should meet the needs of borrowers as much as possible, so that the amount in the supervised bank account will be kept at a minimum. The Finance Office will continue to supply Form FmHA 440-57 until the entire loan has been disbursed. The County Supervisor should tell the borrower to notify the County Office of amounts needed on a timely basis to avoid delays in receiving loan checks.

(b) * * *

(2) If a loan check is received and the loan cannot be closed within 20 working days from the date of the check, the County Supervisor will take appropriate action in accordance with FmHA Instruction 102.1, a copy of which may be obtained from any FmHA Office. The applicant must agree to a delayed loan closing and the same will be documented in the case file by the County Supervisor.

* * * * *

(c) *Cancellation of loan.* If, for any reason a loan check or obligation will be cancelled:

* * * * *

50. Section 1943.38 is amended by revising paragraph (g)(4)(iii) to read as follows:

§ 1943.38 Loan closing actions.

* * * * *

(g) * * *

(4) * * *

(iii) When a loan is made to a partnership or joint operation by all partners in the partnership of all joint operators in the joint operation.

* * * * *

Subpart B—Insured Soil and Water Loan Policies, Procedures and Authorizations

51. Section 1943.54 is amended by redesignating current paragraphs (g) through (l) to paragraphs (h) through (m), respectively, adding new paragraph (g) and by revising new paragraph (i) to read as follows:

§ 1943.54 Definitions.

* * * * *

(g) *Joint operation.* A farming entity in which two or more farmers work together sharing equally or unequally land, labor, equipment, expenses, and/or income. The joint ownership of land and/or equipment or the exchange of labor and equipment in separate farming operations does not constitute a joint operation. They are two separate individual operations.

* * * * *

(i) *Majority interest.* Any individual or a combination of individuals owning more than a 50 percent interest in a cooperative, corporation, partnership or joint operation.

* * * * *

52. Section 1943.56 is amended by revising paragraph (d) to read as follows:

§ 1943.56 Credit elsewhere.

* * * * *

(d) Property and interests in property owned and income received by an individual applicant; a cooperative and its members, as individuals; a corporation and its stockholders, as individuals; a partnership and its partners, as individuals; and a joint operation and its joint operators, as individuals, will be considered and used by an applicant in obtaining credit from other sources.

53. Section 1943.61 is amended by revising paragraph (b) to read as follows:

§ 1943.61 Receiving and processing applications.

* * * * *

(b) If the applicant is a cooperative, corporation, partnership, or joint operation, the following information will be obtained and included in the loan docket:

(1) A complete list of members, stockholders, partners, or joint operators showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership or of stock held in the cooperative or corporation by each, or the percentage of interest held in the partnership, or joint operation, by each.

(2) A current personal financial statement from each of the principal members of a cooperative, stockholders of a corporation, partners of a partnership, and joint operators of a joint operation. For this purpose, a principal is one owing or controlling as much as 10 percent of the ownership, stock or interest of a farming entity. If

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no member, stockholder, partner or joint operator owns or controls as much as 10 percent, each member, stockholder, partner, or joint operator will be considered a principal. Any other member, stockholder, partner or joint operator having an ownership interest, whose financial statement in the judgment of the loan approval official would be pertinent to a consideration of the financial strength of the applicant entity, will also be required to provide a personal financial statement.

(3) A current financial statement from the cooperative, corporation, partnership, or joint operation, itself.

(4) A copy of the cooperative or corporation's charter, or any partnership or joint operation agreement, any articles of incorporation and bylaws, any certificate or evidence of current registration (good standing) and a resolution(s) adopted by the Board of Directors, members of stockholders authorizing specified officers of the cooperative, corporation, partnership, or joint operation to apply for and obtain the desired loan and execute required debt, security and other instruments and agreements.

(5) A copy of any written lease, contract, or agreement entered into by the cooperative, corporation, partnership, or joint operation which may be pertinent to a consideration of its application.

54. Section 1943.62 is amended by revising paragraph (a)(1), the introductory paragraph (b), by revising paragraphs (b)(3), (b)(5), (b)(7), and (b)(9) to read as follows:

§ 1943.62 Soil and Water loan eligibility requirements.

(a) * * *

(1) Be a citizen of the United States (see § 1943.54(m) of this subpart for the definition of "United States") or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalizaion Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records," obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 of this chapter.) Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST."

* * * * *

(b) A cooperative, corporation, partnership or joint operation must:

* * * * *

(3) Consist of members, stockholders, partners, or joint operators holding a majority interest who are citizens of the United States (see § 1943.54(m) of this subpart for the definition of "United States"), or aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records," obtainable from the nearest INS District. (See Exhibit B of Subpart A of Part 1944 of this chapter.) Mail the completed form to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST."

* * * * *

(5) Be unable to obtain sufficient credit elsewhere, either as an entity or as individual members, stockholders, partners, or joint operators, to finance actual needs at reasonable rates and terms taking into account prevailing private and cooperative rates and terms in or near the community for loans for similar purposes and periods of time.

* * * * *

(7) Be the owner or operator of the farm, after the loan is made.

* * * * *

(9) Consist of members, stockholders, partners, or joint operators, who do not as individuals have an FO, SW, RL, or OL loan and are not members of another entity that has an FO, SW, RL, or OL loan.

55. Section 1943.74 is amended by removing paragraph (f) and redesignating current paragraphs (g) and (h) to (f) and (g).

56. Section 1943.75 is amended by revising paragraph (c)(2) to read as follows:

§ 1943.75 Options, planning and appraisals.

* * * * *

(c) * * *

(2) Real estate appraisals will be completed as provided in Subpart A of Part 1809 of this chapter (FmHA Instruction 422.1). The rights to mining products, gravel, oil, gas, coal or other minerals will be considered a portion of the security for farmer program loans and will be specifically included as a part of the appraised value of the real estate securing the loans.

* * * * *

57. Section 1943.76 is revised to read as follows:

§ 1943.76 Planning and performing development.

The development work will be planned and completed in accordance with Part 1924, Subpart A of this chapter.

58. Section 1943.79 is amended by revising the title and paragraph (b), removing paragraph (c), redesignating current paragraph (d) to (c) and by revising new paragraph (c) to read as follows:

§ 1943.79 Relationship with other FmHA loans, insured and guaranteed.

* * * * *

(b) New applicants and borrowers indebted to FmHA and/or an FmHA guaranteed lender(s) for an EE loan may be considered for an SW loan(s) provided their total outstanding principal indebtedness to FmHA and/or the FmHA guaranteed lender(s) for the EE and any FO, RL, OL and SW loans will not exceed $650,000.

(c) An insured SW loan will not be made to a borrower with an outstanding guaranteed FO, SW, or RL loan, and paragraph (b) of this section is not intended to override this policy.

§ 1943.82 [Amended]

59. Section 1943.82(a) is amended by adding to the table: "1922–11" in the FmHA Form No. column, "Appraisal for Mineral Rights" in the Name of form column, "1" in the Total number of copies column, and "1–O" in the Loan docket column.

60. Section 1943.83 is amended by revising the introductory paragraph (b)(1), by revising paragraphs (b)(2)(i), (b)(2)(iv), (b)(2)(vi), (a)(1)(i), (a)(1)(iv), (a)(2), (c)(3)(i), (c)(4), the introductory paragraph (d), (d)(1), and (d)(2) to read as follows:

§ 1943.83 Loan approval or disapproval.

* * * * *

(b) * * *

(1) The loan approval official must approve or disapprove applications within the deadlines set out in § 1910.4 of Subpart A of Part 1910 of this chapter. The loan approval official is responsible for reviewing the docket to determine whether the proposed loan complies with established policies and all

pertinent regulations. When reviewing the docket, the loan approval official will determine that:

* * * * *

(2) * * *

(i) Indicate on all copies of Form FmHA 1940–1, "Request for Obligation of Funds," any conditions not required by FmHA regulations that must be met for loan closing;

* * * * *

(iv) Indicate that satisfactory title evidence has been obtained;

* * * * *

(vi) Sign the original and one copy of Form FmHA 1940–1 and insert the title of the approval official.

(c) * * *

(1) * * *

(i) Form FmHA 1940–1 (copy).

* * * * *

(iv) Form FmHA 402–19, "Characteristics of Approved Applicants," (original) for initial loans only. If an initial Operating Loan (OL) or FO loan is approved at the same time, only one set of forms is required.

(2) The original of Form FmHA 1940–1 and the remainder of the loan docket will be sent to the County Office.

(3) * * *

(i) Form FmHA 1940–1 (copy).

* * * * *

(4) A signed copy of Form FmHA 1940–1 will be sent to the borrower on the date of loan approval.

(d) *Loan disapproval.* The loan approval official must approve or disapprove applications within the deadlines set out in § 1910.4 of Subpart A of Part 1910 of this chapter. The following action will be taken when a loan is disapproved:

(1) The reason(s) for disapproval will be indicated on Form FmHA 1940–1 by the loan approval official. The reason(s) may be in a letter or the running record if this form has not been completed. Suggestions which could remedy the reasons for disapproval should be included.

(2) The County Supervisor will notify the applicant in writing of the action taken and include any suggestions that could result in favorable action. The applicant will be advised of the opportunity to appeal (see Subpart B of Part 1900 of this chapter).

* * * * *

61. § 1943.85 is amended by revising the introductory paragraph (a), by revising paragraphs (a)(2), and (b)(2), and the introductory paragraph (c) to read as follows:

§ 1943.85 Action after loan approval.

(a) *Requesting check.* If the County Supervisor is reasonably certain that the loan can be closed within 20 working days from the date of the check, loan funds may be requested at the time of loan approval through the state office terminal system. If funds are not requested when the loan is approved, advances in the amount needed will be requested through the state office terminal system. Loan funds must be provided to the applicant(s) within 15 days after loan approval, unless the applicant(s) agrees to a longer period. If no funds are available within 15 days of loan approval, funds will be provided to the applicant as soon as possible and within 15 days after funds become available, unless the applicant agrees to a longer period. If a longer period is agreed upon by the applicant(s), the same will be documented in the case file by the County Supervisor.

* * * * *

(2) When loan funds cannot be disbursed as outlined in paragraph (a)(1) of this section, the amount needed to meet the immediate needs of the borrower will be requested through the state office terminal system. The amount of each advance should meet the needs of the borrower as much as is possible, so the amount in the supervised bank account will be kept to a minimum. The Finance Office will continue to supply Form FmHA 440–57 until the entire loan has been disbursed. The County Supervisor should tell the borrower to notify the County Office of amounts needed on a timely basis to avoid delays in receiving loan checks.

(b) * * *

(2) If a loan check is received and the loan cannot be closed within 20 working days from the date of the check, the County Supervisor will take appropriate action in accordance with FmHA Instruction 102.1 (available in any FmHA Office). The applicant must agree to a delayed loan closing and the same will be documented in the case file by the County Supervisor.

* * * * *

(c) *Cancellation of loan.* If, for any reason a loan check or obligation will be cancelled, the County Supervisor will take the following actions:

* * * * *

62. § 1943.86 is amended by revising paragraph (g)(4)(iii) to read as follows:

§ 1943.86 Loan closing actions.

* * * * *

(g) * * *

(4) * * *

(iii) When a loan is made to a partnership or a joint operation, the note will be executed by all partners in the partnership or all joint operators in the joint operation.

* * * * *

PART 1944—HOUSING

63. The authority citation for Part 1944 continues to read as follows:

Authority: 42 U.S.C. 1480; 7 CFR 2.23, 7 CFR 2.70.

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

64. § 1944.26 is amended by revising the introductory paragraph (b) to read as follows:

§ 1944.26 Application processing.

* * * * *

(b) *Processing priorities.* Applications for Section 502 RH loans will be processed in accordance with § 1910.4(b) of Subpart A of Part 1910 of this chapter with the following exceptions:

* * * * *

PART 1945—EMERGENCY

65. The authority citation for Part 1945 continues to read as follows:

Authority: 7 U.S.C. 1989; U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart D—Emergency Loan Policies, Procedures and Authorizations

66. Sections 1945.151 through 1945.200 of Subpart D are revised to read as follows: (a completely revised Table of Contents for Subpart D is included for the convenience of the user).

Sec.

1945.151 Introduction.
1945.152 Program objectives.
1945.153 Loans for citrus grove rehabilitation or reestablishment.
1945.154 Definitions and abbreviations.
1945.155 Relationship between FmHA and other federal agencies.
1945.156 The test for credit and certification requirements for availability of credit elsewhere.
1945.157–1945.160 [Reserved]
1945.161 Receiving and processing applications.
1945.162 Eligibility requirements.
1945.163 Determining qualifying losses, eligibility for EM loan(s) and the maximum amount of each.
1945.164–1945.165 [Reserved]
1945.166 Loan purposes.
1945.167 Loan limitations and special provisions.
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1945.180 County Committee certification.
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1945.182 Loan docket preparation.
1945.183 Loan approval or disapproval.
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1945.188 Chattel lien search.
1945.189 Loan closing.
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1945.200 OMB control numbers.
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Exhibit B—Memorandum of Understanding: SBA—FmHA
Exhibit B-1—Memorandum of Understanding: SBA—FmHA
Exhibit C—Memorandum of Understanding: ASCS—FmHA
Exhibit D—Emergency Loans for Citrus Grove Rehabilitation and/or Reestablishment

§ 1945.151 Introduction.

(a) *Policy.* This subpart prescribes the policies, procedures, and authorizations of the Farmers Home Administration (FmHA) for making insured Emergency (EM) loans to farmers, ranchers, and aquaculture operators (hereinafter referred to as farmers), as provided by law. FmHA's policy is to make loans to any otherwise qualified applicant without regard to race, color, religion, sex, national origin, marital status, age, or physical/mental handicap (provided the applicant can execute a legal contract). These regulations apply to applicants/borrowers and FmHA personnel involved in making EM loans.

(b) *Program administration.* The County Supervisor is the local contact person for application processing, loan making, and loan servicing activities.

§ 1945.152 Program objectives.

The objective of EM loans is to provide financial assistance to cover actual losses sustained by eligible farmers, so that they can return to normal farming operations after sustaining substantial losses as a result of a declared/designated disaster. EM loans are made to assist eligible disaster farm victims rehabilitate and resume their normal operations. This objective will be accomplished through the extension of credit and such supervisory assistance as is determined necessary to achieve the objectives of the loan and protect the Government's interest. Supervisory assistance will be given in accordance with the provisions of Subpart B of Part 1924 of this chapter. The borrowers has the responsibility of achieving the objectives of the loan. The borrower accomplishes this by repaying the loan according to the planned repayment schedule, maintaining FmHA security property, using loan funds for planned purposes only and following a plan of operation agreed upon with FmHA.

§ 1945.153 Loans for citrus grove rehabilitation or reestablishment.

Exhibit D of this subpart, which deals with loans made to operators of citrus groves, modifies some of the provisions contained in this subpart.

§ 1945.154 Definitions and abbreviations.

(a) *Definitions.* (1) *Applicant.* The person or entity conducting the farming operation at the time of the disaster and making a request for EM loan assistance from FmHA.

(2) *Approval official.* An FmHA official who has been delegated loan approval authorities within applicable loan programs, subject to the dollar limitations contained in tables available in any FmHA Office (see FmHA Instruction 1901–A, Exhibit C).

(3) *Aquaculture.* The husbandry of aquatic organisms in a controlled or selected environment. Aquatic organisms are fish (the term "fish" includes any aquatic gilled animal commonly known as "fish", as well as mollusks, crustaceans, or other invertebrates produced under controlled conditions—that is, feeding, tending, harvesting, and such other activities as are necessary to properly raise and market the products—in ponds, lakes, streams, or similar holding areas), amphibians, reptiles, or aquatic plants. An aquaculture operation is considered to be a farm only if it is conducted on grounds which the applicant owns, leases, or has an exclusive right to use. An exclusive right to use must be evidenced by a written permit or lease issued to the applicant and the permit or lease must specifically identify the waters to be used solely by the applicant.

(4) *Borrower.* Any party liable for the loan or any part thereof.

(5) *Calendar year.* The 12-month period beginning January 1 and ending December 31 of any given year.

(6) *Cooperative.* An entity which has farming as its purpose and whose members have agreed to share the profits of the farming enterprise. The entity must be recognized as a farm cooperative by the laws of the State(s) in which the entity will operate a farm(s).

(7) *Corporation.* For the purpose of this subpart, a private domestic corporation recognized as a corporation and authorized to carry on farming, ranching, or aquaculture operations under the laws of the State(s) in which the entity will operate a farm(s).

(8) *Eligible area.* A county or similar political subdivision in which EM loans are made available.

(9) *Established farmer.* A tenant-operator or owner-operator of a family farm who was actively participating in the operation and management of a farming operation at the time of the disaster, spends a substantial portion of time in carrying out the farming operation, and had planted a crop or had purchased livestock which were on the farm at the time of the disaster. If the applicant is a cooperative, a corporation, a partnership or a joint operation, it must be primarily engaged in farming, *i.e.*, the applicant entity must derive over fifty percent (50%) of its gross income from all sources from its farming operation.

(10) *Family farm.* A farm or ranch as defined in § 1941.4(d) of Subpart A of Part 1941 of this chapter.

(11) *Farm.* A tract or tracts of land, improvements, and other appurtenances considered to be farm property which are used or will be used in the production of crops or livestock. This includes aquaculture operations which meet the requirements set forth in paragraph (a)(3) of this section and includes nonfarm operations which meet the requirements set forth in paragraph (a)(21) of this section. It also includes a residence which, although physically separate from the farm acreage, is ordinarily treated as a part of the farm in the local community.

(12) *Farmer.* One who conducts a farming or ranching enterprise. One who actively manages an aquatic operation or performs such duties as are necessary to properly raise and market the products of an aquatic operation. A farmer can be an individual, a cooperative, a corporation, a joint operation or a partnership.

(13) *Farming enterprise.* The business of producing and marketing crops, livestock, livestock products, and aquatic organisms through the utilization and management of land, water, labor, capital, and basic raw materials. A livestock enterprise must be a basic part of the farming operation in order for feed crops to be considered as a basic enterprise in determining eligibility based on production losses to feed crops.

(i) *Single enterprise.* An enterprise which constitutes an integral part of an applicant's total farming operation. The

following are examples of single enterprises:

(A) All cash field crops;
(B) All cash vegetable crops;
(C) All cash fruit and nut crops;
(D) All feed crops fed to applicant's own livestock;
(E) Beef operations;
(F) Dairy operations;
(G) Hog operations;
(H) Poultry operations;
(I) Aquaculture operations; and
(J) All other operations (*i.e.*, trees grown for timber, etc.)

Note.—Some crops such as corn may be produced as a cash or feed crop. In such cases the actual acres produced for each purpose for the best 4 of the past 5 years will be used in determining losses for each single enterprise.

(ii) *Basic part of a farming operation.* Any single enterprise which normally generates sufficient income to be considered essential to the success of the total family farming operation.

(14) *Fixture.* Generally, an item attached to a building or other structure or to land in such a way that it cannot be removed without defacing or dismantling the structure, or substantially damaging the item itself.

(15) *Hazard insurance.* Includes coverage against losses due to fire, windstorm, lightning, hail, explosion, business interruption, riot, civil commotion, aircraft, land vehicles, marine vehicles, smoke, builder's risk, public liability, property damage, flood or mudslide, workmen's compensation, or any similar insurance that is available and needed to protect the security, or that which is required by law.

(16) *Incidence period.* The specific date(s) during which a disaster occurred.

(17) *Insured loan.* An EM loan made directly by FmHA as lender from the Agricultural Credit Insurance Fund, and serviced by FmHA personnel.

(18) *Joint Operation.* A farming entity in which two or more farmers work together sharing equally or unequally land, labor, equipment, expenses and/or income. The joint ownership of land and/or equipment or the exchange of labor and equipment in separate farming operations does not constitute a joint operation. They are two separate individual operations.

(19) *Majority or controlling interest.* Any individual or a combination of individuals owning more than a 50 percent interest in a cooperative, corporation, partnership, or joint farming operation.

(20) *Market value.* The amount which a willing buyer would pay a willing, but not forced, seller in a completely voluntary sale.

(21) *Nonfarm enterprise.* Any business enterprise, including a recreational enterprise, which provides less than 50 percent of the total net income from all sources (farm and nonfarm), which is needed to supplement farm income. It must provide goods or services for which there is a need and a reasonably reliable market.

(22) *Normal year's production.* The normal year's production is the average per acre yield or production per animal unit of the 4 better years out of the 5 years immediately preceding the disaster year.

(23) *Partnership.* An entity consisting of individuals and/or other entities who have agreed to operate a farm. The entity must be recognized as a partnership by the laws of the State(s) in which the entity will operate a farm, be authorized to own both real and personal property and to incur debts in its own name.

(24) *Physical loss.* Damages to or destruction of physical property including farmland (except sheet erosion); structures on the land such as buildings, fences, dams, etc.; machinery, equipment, and tools; livestock; livestock products; harvested crops; and supplies.

(25) *Principal Members, Stockholders, Partners and Joint Operators.* Any member, stockholder, partner or joint operator owning or controlling a 10 percent interest in a cooperative, corporation, partnership or joint operation is considered a principal principal stockholder, or member, principal partner or principal joint operator. If no member, stockholder, partner or joint operator owns or controls at least a 10 percent interest, all members, partners, stockholders or joint operators will be considered principal members, partners, stockholders or joint operators.

(26) *Production loss.* The reduction in normal production, directly attributable to the natural disaster of yield per acre and/or quality of crops produced, or quantity and/or quality of livestock products produced per animal unit, and of weight gain and/or natural increases in numbers of livestock units.

(27) *Qualifying disaster.* A major disaster, Presidential Emergency, or natural disaster as defined in Subpart A of Part 1945 of this chapter.

(28) *Qualifying physical loss.* A loss caused by damage to or destruction of physical property that is essential to the successful operation of the farm, and if it is not repaired or replaced, the farmer would be unable to continue operations on a reasonably sound basis.

(29) *Qualifying production loss.* The production loss an applicant sustained from the disaster that is equivalent to at least a 30 percent loss of normal per acre or per animal production in any single enterprise which is a basic part of the total farming operation. Losses of livestock increases, *e.g.*, calves, pigs, etc., are considered production losses, except when live animals are destroyed. When an animal is killed, lost or sold because of injury or reduced production potential caused by the disaster, it is considered a physical loss. Reductions in the production of livestock, livestock products or reductions in weight gains of animals, due to homegrown feed crop and/or pasture losses, will not be considered production losses when replacement feed is available to purchase, regardless of the cost of that feed (normally production losses to livestock enterprises will be based on feed crop and pasture losses). When the disaster has severely disrupted the usual feeding schedule of a livestock enterprise because of extended utility failure or inaccessability to the livestock, losses in production of milk, eggs, weight losses, etc., may be considered as production losses. Production losses will be calculated based on the reduction from normal which occurs during the disruption period and the period needed to bring production back up to the normal level.

(30) *Related by blood or marriage.* As used in this subpart, individuals who are connected to one another as husband, wife; parent, child, brother or sister.

(31) *Security.* Property of any kind subject to a real or personal property lien. Any reference to collateral or security property shall be considered a reference to the term "security."

(32) *State or United States.* The United States itself, each of the several States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(33) *Subsequent loans.* Any Em loans processed by the Finance Officer after it processed the first EM loan to a borrower. The disaster designation number is not considered in determining whether an EM loan is a subsequent loan.

(34) *Termination date.* The date specified in a disaster declaration/determination/notification which establishes the final date after which EM loan applications can no longer be accepted. For both physical and production losses, the termination date is 8 months from the date of the disaster declaration/determination/notification.

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(b) *Abbreviations.* The following abbreviations are used in this subpart.

(1) *ASCS*—Agricultural Stabilization and Conservation Service.

(2) *ECP*—Emergency Conservation Program.

(3) *EFP*—Emergency Feed Program.

(4) *EM*—Emergency Loans.

(5) *FCIC*—Federal Crop Insurance Corporation.

(6) *FEMA*—Federal Emergency Management Agency.

(7) *FIA*—Federal Insurance Administration.

(8) *FmHA*—Farmers Home Administration.

(9) *FMI*—Forms Manual Insert.

(10) *INS*—Immigration and Naturalization Service.

(11) *OGC*—Office of the General Counsel.

(12) *SBA*—Small Business Administration.

(13) *UCC*—Uniform Commerical Code.

(14) *USDA*—United States Department of Agriculture.

§ 1945.155 Relationship between FmHA and other federal agencies.

(a) *SBA and FmHA.* Two Memoranda of Understanding between the SBA and USDA-FmHA pertaining to Disaster Loan Assistance are attached as Exhibit B and Exhibit B-1.

(b) *ASCS and FmHA.* A Memorandum of Understanding between the ASCS and FmHA on Disaster Assistance is attached as Exhibit C.

(c) *FCIC and FmHA.* A Memorandum of Understanding between FCIC and FmHA pertaining to crop insurance and exchanging information essential to the elimination of duplication of disaster compensatory benefits is Exhibit A of FmHA Instruction 2000–N (available in any FmHA office).

§ 1945.156 The test for credit and certification requirements for availability of credit elsewhere.

(a) *Applicants who certify that other credit is available.* Applicants applying for EM loan assistance who certify they are able to obtain sufficient and suitable credit elsewhere to meet their actual farming and family living needs are not eligible for such assistance.

(b) *Applicants who certify that other credit is NOT available.* Applicants who certify they are not able to obtain sufficient credit elsewhere to meet their actual farming and family living needs must meet the requirements set out in this paragraph.

(1) *Test for credit for individuals and entities.* Applicants must be *unable* to obtain sufficient and suitable credit elsewhere to finance their actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. If the applicant has been getting credit away from the local community where the farming operation is located, such source(s) of credit must also be contacted and considered. The applicant's equity in all assets, including, but not limited to, real estate, chattels, stocks, bonds, and Certificates of Deposit will be considered in determining the applicant's ability to obtain such credit from other sources. Also, the applicant must offer to pledge all assets as security when requesting credit from other lenders. Cooperatives, corporations, partnerships and joint farming operations and the principal members, stockholders, joint operators and partners, both individually and collectively, must be unable to provide the required financing from their own resources or with credit obtained from pledging those resources to other lenders. Form FmHA 1940–38, "Request for Lender's Verification of Loan Application," must be completed (with particular attention that item 2A is completed) and filed in the applicant's County Office case folder, and any additional facts concerning the findings, in all cases, must be documented and recorded in the running case record.

(2) *Test for credit certification requirements.* Applicants will certify in writing on the application form, and the County Supervisor shall make the determination whether or not adequate and suitable credit is available elsewhere to finance the applicant's actual needs at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time. The County Supervisor will consider all such information obtained from other lenders in making the determination, but is required to make an independent decision concerning the applicant's ability to obtain the needed credit elsewhere. Should the County Supervisor determine that the applicant can obtain the necessary credit elsewhere to meet actual needs, the applicant will be notified, in writing, that the applicant is not eligible for an EM loan(s).

(i) For applicants whose total EM loan(s) request is for $300,000 or less, the following actions will be taken:

(A) Applicants will be required to apply for the credit need from their normal lender(s) and, if their normal lender(s) is located outside the local community, from at least one agricultural lender in the local community, to determine whether such lender(s) will provide the credit. Form(s) FmHA 1940–38 must be completed by all lending sources contacted, unless an exception is made under the provisions of paragraph (b)(2)(i)(C) of this section. Only when the applicant is not able to obtain a loan, from one or more of the lending sources contacted, will the applicant be considered for an EM loan. If the County Supervisor believes it necessary, the action required in paragraph (b)(2)(ii) of this section will be taken.

(B) When the County Supervisor receives letters or other written evidence, including Form FmHA 1940–38, from a lender(s) indicating that the applicant is unable to obtain satisfactory credit from that source(s), such correspondence will be included in the loan docket.

(C) If it appear from a review of the application that it would be unduly burdensome for the applicant to obtain written declinations of credit from other lenders, the County Supervisor may make an exception to this requirement, provided the County Supervisor is familiar enough with other lenders' farm loan programs to determine that no possibility exists for the applicant to obtain the credit needed from those lenders. When this conclusion is reached, the basis for it will be recorded in the running case record, and further checks will not be necessary. However, when this exception is used, the applicant's normal lender(s) must be contacted in all cases and the results of that contact(s) must be well documented in the running case record.

(ii) For applicants whose total EM loan(s) request is for more than $300,000, the following actions will be taken:

(A) Applicants will be required to apply at not fewer than three conventional lending sources, including the Production Credit Association or Federal Land Bank, as appropriate, in the local community. In addition, when an applicant has a net worth of $1 million or more and produces evidence that the necessary credit cannot be obtained in the local community, the applicant will be required to contact at least two other lending sources outside the local area. One or more of those lenders contacted must be the applicant's normal lender(s).

(B) Form FmHA 1940–38 must be completed by all lending sources contacted, returned to the county office and handled in accordance with paragraph (b)(2)(i)(B) of this section.

(C) When the County Supervisor receives Form FmHA 1940–38 indicating that the applicant is unable to obtain satisfactory credit, the forms will be placed in the loan docket. However, such evidence will not preclude the County Supervisor from contacting other farm lenders in the area and making an independent determination of the applicant's ability to obtain credit elsewhere.

(3) *Use of nonessential assets (both farm and nonfarm) when seeking other credit.* When an EM loan(s) will be made, after other lenders have declined to provide needed credit to the applicant, the County Supervisor will, as a condition of loan approval, require the applicant and the principal owner(s) of the applicant entity to list all assets (both essential and nonessential) setting forth: why those assets and any income derived from them are needed; and how such assets and the income derived from them will be used for essential family living expenses and for maintaining a sound family farming operation(s). The loan approval official must determine that the applicant's plan for use of all assets and the income derived therefrom is acceptable; and the loan approval official will require the applicant and the principal owner(s) to mortgage and/or assign their interest in all assets to FmHA. Any assets not contributing to essential family living expenses and maintenance of a sound family farming operation will be considered nonessential; and the applicant and the principal owner(s) must, as a condition of loan approval, agree to sell the nonessential assets. The proceeds from such sale(s) will be used to reduce the amount of EM loan(s) requested, provided the assets can be sold prior to the EM loan(s) closing. If the nonessential asset(s) cannot be sold before loan(s) closing, the ownership interest in those assets will be mortgaged and/or assigned to FmHA; and a written agreement prepared and executed, in a manner approved by the OGC, the sell those assets at their present market value, within a specified period not to exceed one year from the date of loan(s) closing.

§ 1945.157–1945.160 [Reserved]

§ 1945.161 *Receiving and processing applications.*

(a) *Applications.* Applications for EM loans will be received and processed as outlined in Subpart A of Part 1910 of this chapter. Form FmHA 410–1 will be used for this purpose.

(1) Applications for initial EM loans for each disaster will be received only in areas where EM loans are made available in accordance with Subpart A of Part 1945 of this chapter, and must be postmarked or received in the county office before the specified 8-month termination date has passed. These applications must be processed within twelve months after they are filed.

(2) An applicant conducting a farming operation in different counties or locations will be considered for only one application, and will file that application in the county in which the farm headquarters is located, unless determined otherwise by the State Director. When the operation is located in more than one State, the State Directors involved will consult and determine which State will process the application and service the loan(s).

(3) Applications may be received and processed from FmHA EM loan borrowers or SBA disaster loan borrowers for that portion of the maximum EM loan originally authorized, but not requested initially from FmHA or SBA, provided the application is received within 8 months of the disaster declaration/determination/notification date.

(4) Applicants who are determined to be ineligible for an EM loan may be considered for other types of FmHA farm loans, when appropriate.

(b) *Statement of losses.* Applicant's statements of loss or damage will be obtained in support of their applications by having them complete Form FmHA 1945–22, "Certification of Disaster Losses."

(c) *ASCS verification of farm acreages, production and benefits.* From information obtained on Form FmHA 1945–22, the County Supervisor will send a separate Form FmHA 1945–29 "ASCS Verification of Farm Acreages, Production and Benefits," to the appropriate ASCS county office for verification of each ASCS Farm number that the applicant has certified constituted part of the disaster year's operation. ASCS records of acres of crops planted/grown in the disaster year, actual (proven) yields in the disaster year, ASCS established yields for the disaster year, ASCS emergency payments and the other information requested on that form must be obtained. The use of Form FmHA 1945–29 is optional for EM loans made for physical losses. It is required for EM loans made for production losses.

(d) *Evidence of operation.* If the applicant is a cooperative, corporation, partnership, or joint operation, it will provide evidence that it was operating as a cooperative, corporation, joint operation or partnership at the time the disaster loss occurred, or has changed its form in accordance with § 1945.162(1) of this subpart, after the loss occurred. The following information will be obtained and included in the loan docket:

(1) A complete list of all members, stockholders, partners or joint operators showing the address, citizenship, principal occupation, and the number of shares and percentage of ownership, or stock held in the cooperative or corporation by each, or the percentage of interest held in the partnership or joint operation by each.

(2) A current personal financial statement from each of the principal members of a cooperative, stockholders of a corporation, partners of a partnership, and joint operators of a joint operation. For this purpose, a principal is one owning or controlling as much as 10 percent of the ownership, stock or interest of a farming entity. If no member, stockholder, partner or joint operator owns or controls as much as 10 percent, each member, stockholder, partner or joint operator will be considered a principal. Any other member, stockholder, partner or joint operator having an ownership interest, whose financial statement in the judgment of the loan approval official would be pertinent to a consideration of the financial strength of the applicant entity, will also be required to provide a personal financial statement.

(3) A current financial statement (not over 30 days old at the time of filing the application) from the cooperative, corporation, partnership, or joint operation itself.

(4) A copy of the cooperative's or corporation's charter, or any written partnership or joint operation agreement, any articles of incorporation and by-laws, any certificate or evidence of current registration (good standing), and a resolution(s) adopted by the board of directors, members or stockholders authorizing specified officers of the cooperative, corporation, partnership or joint operation to apply for and obtain the desired loan and execute required debt, security, and other instruments and agreements.

(5) A copy of any written lease, contract, or agreement entered into by the cooperative, corporation, joint operation or partnership which may be pertinent to a consideration of its application. When a written lease is not obtainable, a statement setting forth the terms and conditions of the agreement will be included in the loan docket.

§ 1945.162 Eligibility requirements.

(a) *Test for credit.* Applicants must be unable to obtain sufficient credit elsewhere to finance actual needs at reasonable rates and terms, taking into

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consideration prevailing private and cooperative rates and terms in the community in or near which the applicant resides for loans for similar purposes and periods of time.

(b) *Citizenship.* (1) An individual applicant must be a citizen of the United States (see section 1945.154(a)(32) of this subpart for the definition of "United States") or an alien lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act. Aliens must provide Forms I–151 or I–551, "Alien Registration Receipt Card." Indefinite parolees are not eligible. If the authenticity of the information shown on the alien's identification document is questioned, the County Supervisor may request the Immigration and Naturalization Service (INS) to verify the information appearing on the alien's identification card by completing INS Form G–641, "Application for Verification of Information from Immigration and Naturalization Records," obtainable from the nearest INS District Office. (See Exhibit B of Subpart A of Part 1944 of this chapter.) The completed form will be mailed to INS. The payment of a service fee by FmHA to INS is waived by inserting in the upper right hand corner of INS Form G–641, the following: "INTERAGENCY LAW ENFORCEMENT REQUEST".

(2) More than a 50 percent interest in the cooperative, corporation, partnership or joint operation must be owned by United States citizens (see section 1945.154(a)(32) of this subpart for the definition of "United States") or aliens lawfully admitted to the United States for permanent residence under the Immigration and Nationality Act.

(c) *Established farmer.* An applicant must be an established farmer (as defined in section 1945.154(a)(9) of this subpart) doing business either as an owner-operator or tenant-operator. An applicant who conducts the farming operation as an individual must manage the farming operation. If the applicant is a cooperative, corporation, joint operation or partnership, it must derive over fifty percent (50%) of its gross income from all sources from its farming operation, and at least one principal member, stockholder, joint operator or partner must manage the farming operation. Also, the entity must be authorized to conduct the farming operation(s) in the State(s) in which the farming operation is conducted. One who does not devote full time to the farming operation may be considered the manager provided that person, visits the farm at sufficiently frequent intervals to exercise control over the farming operation, makes decisions and gives directions on how the operation(s) should be run, and sees that the operation is being carried on properly. Any applicant that employs an outside full-time hired manager or management service does not qualify as an established farmer, regardless of the number of visits made by the individual applicant or the principal members, stockholders, partners or joint operators.

(1) An estate or trust; a corporation with over 50 percent of the ownership held by an estate, trust, another corporation, a partnership or a joint operation; a partnership or joint operation with over 50 percent of the ownership held by an estate, trust, corporation, another partnership or another joint operation is not considered to be an established farmer for EM loan purposes.

(2) Integrated livestock, poultry, and fish processors who operate primarily and directly as commercial businesses through contracts or business arrangements with farmers are not considered to be established farmers and are not eligible. However, a grower under contract with an integrator or processor is considered an established farmer even though the applicant operates through a contract arrangement with an integrated processor, provided the operation is not managed by an outside full-time hired manager or management service. Farmers operating through contract may be considered for EM loans for physical losses and production losses. However, eligibility for and the amount of their production losses will be determined from the applicant's share of the agricultural production as set forth in the contract.

(d) *Operate in a disaster area.* An applicant for an EM loan must have sustained qualifying losses in an area in which the availability of EM loans for actual losses has been determined in accordance with Subpart A of Part 1945 of this chapter; and must have filed an application before the expiration of the termination date. When an applicant's farming operation is located both in a designated county(ies) and a non-designated county(ies) refer to § 1945.163(a)(2)(xix) of this subpart.

(e) *Losses.* An applicant must have suffered qualifying production and/or physical losses to be eligible for an EM loan. Production losses must be to property in which the applicant has an ownership interest or an interest in which a security interest can be obtained. Physical losses must be to property in which the applicant has an ownership interest. See § 1945.163 of this subpart for the methods of determining qualifying losses.

(f) *Legal capacity.* An applicant must possess the legal capacity to contract for the loan.

(g) *Training and experience.* An applicant must possess the training and/or experience, character (emphasizing repayment ability and reliability), industry and ability necessary to carry out the proposed farming operations to assure a reasonable prospect of success with the assistance of the loan, and

(h) *Honestly endeavor.* The applicant will honestly endeavor to carry out the undertakings and obligations required of the applicant in connection with the loan.

(i) *Family farm.* The applicant's farm must be a family farm as defined in § 1945.163(a)(10) of this subpart. If the applicant was conducting larger than a family farm at the time of the disaster but will be conducting a family farm at the time an EM loan is closed, the applicant meets this eligibility requirement.

(j) *Intent to continue farming.* An applicant must show an intent to continue the operation after the disaster. Those applicants who were required to stop temporarily because of the disaster loss or damage to their operations but intend to continue farming with EM loan assistance meet this requirement.

(k) *EM loan(s) to cooperatives, corporations, joint operations or partnerships.* When an EM loan is made to a cooperative, corporation, partnership or joint operation, only one initial EM loan can be made to the entity constituting the farming operation to cover the losses per disaster. However, an individual member, stockholder, joint operator or partner may qualify for a separate EM loan to cover losses to a separate farming operation which the applicant conducts as an individual on a different farm tract.

(1) If the members, stockholders, partners or joint operators holding a majority interest are related by blood or marriage, at least one member, stockholder, partner or joint operator must operate the family farm.

(2) If the members, stockholders, partners or joint operators holding a majority interest are not related by blood or marriage, the majority interest holders must operate the family farm.

(3) If an entity applicant has an operator interest in any other family operation, that farming operation must be no larger than a family farm.

(l) *Change in the form of an applicant.* A change in the form of an applicant between the time of a qualifying loss and the time an EM loan is closed does not make the applicant ineligible for EM loan assistance. (Examples of changes in form are as follows: An entity may split into its individual members or into more than one entity. One or more individuals may leave an entity. An individual may incorporate. A partnership may become a joint operation, a corporation, a cooperative, or another partnership. A corporation may become a partnership, a joint operation, a cooperative, or another corporation. A cooperative may become a joint operation, a partnership, a corporation, or another cooperative. A joint operation may become a partnership, a corporation, or another cooperative. A joint operation may become a partnership, a corporation, a cooperative or may split into individual members.) Such an applicant is eligible for EM loan assistance subject to all of the following limitations and qualifications:

(1) The applicant must meet all FmHA eligibility requirements at the time of loan closing.

(2) The applicant must not conduct an operation larger than the operation that was being conducted at the time of the disaster.

(3) In the case of an entity applicant, all of the individuals who have an interest in the entity must have had an ownership interest (or an interest in which a security interest could be obtained) in the farming operation at the time of the disaster and/or must be heirs of those who had an ownership interest (or an interest in which a security interest could be obtained) in the farming operation at the time of the disaster. Heirs must have been participating in the operation at the time the disaster occurred and must be engaged in the farming operation at the time of loan approval.

(4) In the case of an individual applicant, that person must have had an ownership interest (or an interest in which a security interest could be obtained) in the operation at the time of the disaster and/or must be an heir of those who had an ownership interest (or an interest in which a security interest could be obtained) in the operation at the time of the disaster. An heir has to have been participating in the operation at the time the disaster occurred and has to be engaged in the farming operation at the time of loan approval.

(5) To determine the amount of an actual loss loan an applicant may receive, first calculate the actual loss suffered by the operation(s) as it existed at the time of the disaster, in accordance with section 1945.163 of this subpart. Then look at the individual applicant or the individual members, partners, joint operators or stockholders of an entity applicant and determine each person's percentage of ownership interest (or interest in which a security interest could be obtained) in the operation as it existed at the time of the disaster. For an entity applicant, add the percentages of all owners who had an interest in the entity that suffered the disaster losses. Multiply the actual loss suffered by the operation as it existed at the time of the disaster by this percentage figure; the result is the amount of actual loss loan the applicant may receive. For example, if one partner withdraws from a four-partner partnership (each person owning a 25% interest), the remaining three partners are eligible for 75 percent of the actual loss suffered by the operation as it existed at the time of the disaster.

§ 1945.163 Determining qualifying losses, eligibility for EM loan(s) and the maximum amount of each EM loan(s).

Disaster losses will be reported by applicants on Form FmHA 1945–22, "Certification of Disaster Losses," which states the physical and production losses suffered as a result of the declared/designated disaster. The applicant will report, on Form FmHA 1945–22, total acres and actual yields for all crops planted and/or grown in the disaster year, and the number of all animal units and production per animal unit being maintained at the time of the disaster. This information will come from the applicant's own records or from ASCS records of acres grown and proven actual yields in the disaster year. Applicants will also report their previous 5-year production levels as set forth in paragraph (a) of this section. This form will be completed and submitted to the county office with the application, as soon as the losses and/or damages can be accurately assessed. The information provided by applicants on Form FmHA 1945–22 will be the primary basis for FmHA's calculation of qualifying losses, eligibility for EM loan(s) based on production losses, and an applicant's maximum amount of EM loan eligibility. Therefore, applicants are required to certify, subject to penalties of law, that the accuracy and completeness of the information provided on Form FmHA 1945–22 can be supported by written records. Applicants will be asked to identify on that form any single farming enterprise they consider basic to the success of their total farming operation, and in which they have suffered a disaster loss. When an applicant's certified production loss claims seem unreasonable, they will be verified and the findings documented. Physical loss claims will be verified by requiring the applicant to furnish evidence of ownership and proof of the property loss or damage. Proof of ownership could be by deeds, mortgages, financial statements, insurance policies, and the like. Proof of the loss or damage could be by the applicant's own pictures, written certification by other persons or, when practical, by visual inspections by FmHA employees.

(a) *Production losses.* (1) The normal year's production will be established by eliminating the poorest year of the 5-year production history immediately preceding the disaster year and averaging the remaining 4 years' production. The applicant must select the year to be eliminated. The year selected to be eliminated must be the same year for all farm enterprises (i.e., all crops, livestock, and livestock products), which constituted a part of the applicant's farming operation during that year. A State Supplement will be issued which will be used in connection with paragraph (a)(1)(iii) of this section. The State Supplement will contain average production figures provided by the USDA State Crop and Livestock Reporting Service, when available. If those records are not available, the State Supplement will contain statistical data on production from similar State or Federal bodies. When this information is available by county, county averages will be used. If available only by State, the State averages will be used throughout the State. In those States where neither a County nor State average is available for an agricultural commodity(ies), the State Director, with the advice of representatives of other Federal and State agricultural agencies, will establish County or State averages and advise County Offices of these averages in the State Supplement. State Directors and Farmer Programs Chiefs in adjoining States will consult with each other before releasing these figures. An applicant must use data from the production record source(s) in the order of priority as listed in paragraphs (a)(1)(i), (i), (ii) and (iii) of this section. The applicant will identify, on Form FmHA 1945-22, the production record source(s) to be used in determining the normal year's production for each commodity that was produced on all farms operated by the applicant in the disaster year. The order of priority of production records that will be used is:

(i) The applicant's actual reliable farm records.

(ii) The Agriculture Stabilization and Conservation Service (ASCS) established yields. When this production record source is used, an applicant must obtain the information from ASCS and submit it with the

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application to FmHA. Therefore, when the disaster year established yield is provided by ASCS for any given crop the 5-year production history for such crop is not needed. This production record source will be used only for those commodities for which the applicant's reliable farm records were not maintained.

(iii) County or State averages. When this production record source is used, an applicant needs to provide production data for only the disaster year. The averages will be found in the State Supplement mentioned in paragraph (a)(1) of this section.

This production record source will be used only for those commodities for which neither the applicant's reliable farm records nor ASCS established yields are available.

(iv) When one source of records is not available for the full 5 years preceding the disaster year a combination of record sources in paragraphs (a) (i), (ii) and (iii) of this section will be used.

(v) When an applicant's production loss is on land being developed and maximum production capacity has not been attained, the State Director will establish normal yields on a case-by-case basis.

(2) FmHA loan official(s) will complete Form FmHA 1945–28, "Calculation of Actual Losses."

(i) In calculating production losses, the same established unit prices will be used for the disaster year and the normal year in computing the dollar value of each enterprise. Unit prices will be established in accordance with paragraph (a)(2)(iii) of this section. In the production loss calculation, those crop production yields and production per animal unit records authorized in paragraphs (a)(1) (i), (ii) and (iii) of this section will be used.

(ii) Information certified on Form FmHA 1945–22 for the disaster year for all single enterprises (as defined in § 1945.154(a)(13)(i)), which suffered a loss due to the disaster, will be transposed from Form FmHA 1945–22 to the appropriate places on Form FmHA 1945–28. The FmHA official completing Form FmHA 1945–28 is responsible for verifying loss information provided by the applicant. Information obtained from ASCS on Form FmHA 1945–29 will be cross checked with information provided by the applicant on Form FmHA 1945–22. Any discrepancies will be resolved, loss calculations adjusted if necessary, and the correct information recorded in the County Office case file. When the applicant's disaster loss is due to a reduction in quality, rather than due to a reduction in quantity, the applicant will be given credit for this by adjusting actual production yield downward. This will be accomplished by converting the dollar value of the quality loss to a yield reduction equal in value to the quality loss. When such an adjustment is necessary, the basis used in making the adjustment will be the applicant's accurate records of production and sales receipts showing the price received and the grade of the commodity in question. This information will be well documented by the County Supervisor.

(iii) The gross dollar value of production losses will be computed for all crops and all livestock enterprises, which were a part of any single enterprise that suffered losses due to the disaster, by calculating the value of the disaster year's production and subtracting that amount from the calculated value of the normal year's production. Unit prices for all agricultural commodities produced commercially in each State will be established on a Statewide basis by all FmHA State Directors each year, and published in a State Supplement to be issued not later than February 15 of each year. These commodity prices will be established by averaging the monthly market prices of each commodity for the 12-month period preceding the calendar year in which the disaster occurs. The monthly average market prices will be provided by the USDA State Crop and Livestock Reporting Service, or similar State or Federal agency or body. Once established, these prices will not be changed for any EM loan processed under any disaster occurring on or after February 1 of that calendar year and through January 31 of the next calendar year. If Statewide figures are not available, the State Director will consult with other agricultural agency representatives and agricultural lenders in the local area before establishing commodity prices. State Directors and Farmer Programs Chiefs in adjoining States will consult each other before releasing their established commodity price lists.

(iv) The amount of actual production loss will be calculated for the single enterprise which is a basic part of the farming operation (see § 1945.154(a)(13) of this subpart) by subtracting all compensatory disaster payments which are related to the disaster and which have been received or will be received; *i.e.*, crop insurance indemnity payments, ASCS disaster program payments, or any other disaster compensation for that enterprise, from the gross dollar amount of production losses for that enterprise as determined in paragraph (a)(2)(iii) of this section.

(v) Actual losses for tobacco, peanuts and other crops grown under acreage and/or poundage control will not be calculated differently than any other crop; i.e., the calculations must not include the dollar value of underproduced pounds to be sold or produced in future years. The value of underproduced poundage allotments and quotas must not be subtracted from the loss. All "controlled" crop acreages planted in the disaster year, including acreage above the producer's allotments and quotas, will be considered even though the carry-over crop is not eligible for price supports until the next marketing year.

(vi) Actual losses for spring and fall annual crops of the same species will be treated as two separate crop losses and listed separately on Forms FmHA 1945–22 and 1945–28. The crop(s) not affected by the disaster will be considered as having produced a normal year's yield.

(vii) The dollar value of the actual production loss for the single enterprise which is a basic part of the farming operation as designated by the applicant in item F, Form FmHA 1945–22, will be divided by the previously calculated normal year's gross income for that enterprise. The result should be rounded to the nearest whole number. To illustrate, if the calculation shows a 29.49 percent production loss, round it down to 29 percent. If the calculation shows a 20.50 percent loss round it up to 30 percent. This establishes the percentage reduction in production from normal for that enterprise. If the percentage loss in any single enterprise (see § 1945.154(a)(13)) which is a basic part of the farming operation equals or exceeds 30 percent, and the applicant is otherwise eligible, EM loan assistance will be considered.

(viii) Once eligibility is established based on production losses, the total production loss sustained by the applicant, directly attributable to the disaster, is computed by adding the gross dollar amount of production losses of all single enterprises, whether or not they constitute a basic part of the farming operation, and subtracting from this total all compensatory disaster payments received or to be received for those enterprises.

(ix) The maximum EM loan for production losses is limited to *80 percent* of the total calculated actual production loss sustained by the applicant.

(x) Production losses to hayland, pasture and rangeland used for grazing livestock owned by the applicant must be based on the production from only those acres which are utilized in the

disaster year. Losses may be calculated by one of three methods when approved by the State Director. The State Director will decide which one of the three methods will be used throughout the State to calculate losses to pasture and rangeland; and issue a State Supplement to this subpart, setting forth the method(s) to be used Statewide.

(A) *The price per acre method.* The price per acre method is used to calculate pasture losses in the following manner:

(*1*) Determine the normal year's gross dollar value. To calculate this, multiply the number of acres available to be grazed for the disaster year; by the established rental charge per acre per month (this figure is established by the State Director in accordance with paragraph (a)(2)(iii) of this section); by the average number of months grazed per year during the highest 4 out of the 5 preceding years.

(*2*) Determine the disaster year gross dollar value. To calculate this, multiply the number of acres grazed during the disaster year; by the established rental charge per acre per month (as determined in accordance with paragraph (a)(2)(x)(A)(*1*) of this section); by the number of months the livestock were able to be grazed during the disaster year.

(*3*) Subtract the disaster year gross doller value (see paragraph (a)(2)(x)(A)(*2*) of this section) from the normal year gross dollar value (see paragraph (a)(2)(x)(A)(*1*) of this section) to determine the value of pasture loss suffered during the disaster year.

(B) The charge per head or animal unit method. The charge per head or per animal unit method is used to calculate pasture losses in the following manner:

(*1*) Determine the normal year gross dollar value. To calculate this, multiply the number of animals or animal units grazed per month during the disaster year; by the established rental charge per animal or per animal unit per month (this figure is established by the State Director in accordance with paragraph (a)(2)(iii) of this section); by the average number of months grazed per year during the highest 4 out of the preceding 5 years.

(*2*) Determine the disaster year gross dollar value. To calculate this, multiply the number of animals or animal units grazed per month during the disaster year; by the established normal rental charge per animal or per animal unit per month (as determined in accordance with paragraph (a)(2)(x)(B)(*1*) of this section); by the number of months grazed during the disaster year.

(*3*) Subtract the disaster year gross dollar value (see paragraph (a)(2)(x)(B)(*2*) of this section) from the normal year gross dollar value (see paragraph (a)(2)(x)(B)(*1*) of this section) to determine the value of pasture loss suffered during the disaster year.

(C) The forage equivalent method. The forage equivalent method is used to calculate pasture losses in the following manner:

(*1*) Determine the normal year gross dollar value. To calculate this, multiply the number of acres grazed during the disaster year; by the established price per pound or ton (this figure is established by the State Director in accordance with paragraph (a)(2)(iii) of this section); by the average number of pounds or tons of forage equivalent produced per acre per year during the highest 4 out of the preceding 5 years for forage of the type being used in this calculation. (The State Office will set forth the forage equivalent values to be used or the methodology to be used to derive this value in a State Supplement. This information may be set forth on a countywide or statewide basis. The State Director may contact the State's Extension Service or other knowledgeable sources to assist in establishing the forage equivalent determination).

(*2*) Determine the disaster year gross dollar value. To calculate this, multiply the number of acres grazed during the disaster year; by the established price per pound or ton (this figure is established by the State Director in accordance with paragraph (a)(2)(x)(C)(*1*) of this section); by the number of pounds or tons of forage equivalent produced for forage of the type being used in this calculation produced in the disaster year. (See paragraph (a)(2)(x)(C)(*1*) of this section for further information.)

(*3*) Subtract the disaster year gross dollar value (see paragraph (a)(2)(x)(C)(*2*) of this section) from the normal year gross dollar value (see paragraph (a)(2)(x)(C)(*1*) of this section) to determine the value of pasture loss during the disaster year.

(xi) When a crop cannot be planted, an applicant may treat the loss either as a production loss or as a physical loss (see paragraph (b) of this section). When a crop cannot be planted and the applicant chooses to treat the loss as a production loss, the loss will be calculated as set out in this paragraph. Such loss will be calculated as follows: Add all income that is derived from the enterprise to the variable and fixed costs which are not incurred because of the disaster. (The cost figures will be derived from current crop enterprise budgets prepared by State Agricultural Extension Service economists, based on normal farming conditions in the area.) Subtract this figure from the value of the normal year's production. The resulting figure is the gross dollar amount of production loss.

(xii) When a crop can be only partially planted due to a disaster or when perennial crops (such as fruits or nuts) already growing cannot be produced or harvested due to a disaster, the loss will be considered a production loss. Such loss will be calculated as set out in paragraph (a)(2)(xi) of this section.

(xiii) When a crop is planted and completely destroyed by a disaster, a yield of "zero" may be shown on Form FmHA 1945–22 for the disaster year but only if no part of the crop could be harvested and no substitute crop could be planted and harvested. When figuring the actual dollar amount of production losses subtract the normal costs of harvesting and marketing which were not incurred for crops which were completely destroyed by a disaster. If a substitute crop is planted and harvested during the same crop year, a yield of "zero" should be shown for the original crop and the actual yield for the substitute crop on Form FmHA 1945–22. On Form FmHA 1945–28, the dollar value of the substitute crop must be subtracted from the dollar value of the normal year's production.

(xiv) Losses to feed crops will be established by determining the normal year's gross dollar value of those crops and subtracting the disaster year's gross dollar value of feed crops. The difference establishes the disaster year's gross dollar loss for feed crops. The gross dollar value of feed crops produced is derived by multiplying the number of feed crop acres by the yield per acre by the unit price.

(xv) When a applicant elects to sell feeder livestock at an earlier date than usual rather than purchase feed to replace that which was lost as a result of the disaster, the difference between what the sale price would have been if the livestock had been fed for the normal period and the disaster year's premature sale price may not be claimed as a loss.

(xvi) Eligibility for production losses to livestock enterprises may be based either on loss of production in feed crops, including pasture, to be fed to the applicant's own livestock; or on loss (from normal) of weight gain of the livestock or livestock products produced, but not both. The value of feed produced on native rangeland and pasture constitutes a small portion of the total input costs of maintaining a foundation herd of breeding animals and

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their offspring. Therefore, loan approval officials will calculate production losses to livestock operations based on reductions in animal unit weight gain and natural increase in numbers.

(xvii) Claims of production losses from the applicant will be verified by FmHA when the applicant's claims appear to be unreasonable.

(xviii) Production losses for orchard crops (fruit or nut) will be only for the crop loss due to the qualifying disaster and determined in accordance with paragraph (a)(2) of this section.

(xix) When an applicant's farming operation(s) is conducted in a designated county(ies) and a nondesignated county(ies), eligibility will be established based on losses to a single enterprise which constitutes a basic part of the farming operation, without regard to whether the single enterprise is located in the designated county. The disaster year's actual yields, both in the designated and nondesignated counties, will be used to determine losses. Compensatory payments will be subtracted as explained in paragraph (a)(2)(iv) of this section when determining eligibility. The amount of the production loss loan will be limited to the production loss sustained in the designated county, minus compensatory payments received or to be received for that portion of the farming operation located in the designated county.

(xx) The County Supervisor will assign normal yields to all unplanted acreage covered by a Payment in Kind (PIK) contract, when calculating crop production losses on Form FmHA 1945-26.

(b) *Physical losses.* (1) In order to qualify for an EM loan(s) for physical losses, the damaged or destroyed physical property must be essential to the successful operation of the farm and if not repaired or replaced, the farmer would be unable to continue operations on a reasonably sound basis. The financing necessary to recover from the physical loss must be actually needed to permit the applicant to continue the operation.

(2) The claimed value of all physical losses due to disaster damage or destruction must be supported by written estimates for the necessary repair or replacement requested.

(3) Physical loss loan funds can be used to pay for only contracted or hired labor and materials and supplies purchased. Labor, machinery, equipment, and materials contributed by the applicant or borrower will not be chargeable to the cost of necessary repair and replacement.

(4) Damage to or destruction of nonessential buildings, structures or other items will not be repaired or replaced with EM physical loss loan funds. Any insurance compensation received or to be received for such losses will be considered as compensation for losses to essential farm buildings, structures and other items which need to be repaired or replaced.

(5) The maximum physical loss loan(s) will be determined by subtracting all insurance claims and any other compensation received or to be received for physical disaster losses from the value of all actual physical losses caused by the disaster.

(6) The physical loss equals the market value at the time of the disaster for items lost, damaged or destroyed by or as a result of the disaster. Such items included:

(i) Livestock

(A) Death of an animal(s) caused by the disaster.

(B) Disaster related damage to an animal's(s') health, which has impaired or reduced its normal production capability and its market value. This includes forced reductions of foundation breeding stock caused by the disaster. Physical losses, under these conditions, would be calculated by establishing a dollar value per head, or unit, at the time the disaster occurred, and deducting the reduced dollar value received from the disaster caused sale of the animals. The difference in the two values would be considered a physical loss. (The animals sold must be over and above the numbers normally culled each year).

(ii) Livestock products on hand or stored.

(iii) Harvested crops on hand or stored.

(iv) Supplies on hand.

(7) The actual physical loss for farm dwellings to be used by the operator and existing labor is the lesser of:

(i) The market value of the property at the time it was damaged or destroyed; or

(ii) The amount required to repair the dwelling or replace it with one which will meet all applicable code requirements; and which will provide permanent, adequate, decent, safe, sanitary and modest living quarters.

(8) The actual physical loss for farm service buildings and farm real estate other than buildings is the amount required to repair the property or replace it with a building or property of like quality and capacity which will meet all applicable code requirements and which will adequately meet the needs of the farming operation. This amount cannot exceed the market value of the property at the time of the disaster.

(9) The actual physical loss for income-producing trees (fruit or nuts) is the cost of removing the damaged or destroyed trees, cleaning debris and preparing the land for replanting, plus the cost of suitable replacement trees and other expenses necessary to reestablish income-producing trees. Losses will not be determined by establishing a value for the trees destroyed or damaged. Any salvage value will be deducted from the loss. The applicant may choose to replace the damaged or destroyed trees with a different enterprise and may use actual loss loan funds for that purpose. (See Exhibit D of this subpart for physical loss loans to citrus growers.)

(10) The actual physical loss to trees (grown for timber) will be determined by establishing the value of trees less any salvage value. This estimate of value must be determined by a recognized forester who will cruise the timber and establish the value of the destroyed and damaged trees. The applicant may choose to replace the demaged tree enterprise with a different enterprise and use the actual loss loan funds for that purpose. Those applicants whose major farming enterprises are other than tree farming, but who have a wood lot that has been damaged, will have their tree losses considered as physical losses in the same manner as set forth for tree farms.

(11) The actual physical loss for crops growing or pasture is the cost of cleaning debris, preparing the land for replanting, seed, fertilizer, and other expenses necessary to reestablish the crops or pasture. These costs can exceed the market value of the crops or pasture at the time of the disaster.

(12) When a crop cannot be planted during the disaster year due to the disaster and the applicant chooses to treat the loss as a physical loss, the actual physical loss is limited to the cost of land preparation, other expenses incurred to the date of the disaster for crops that could not be planted, and a pro rata share of the total operation's fixed costs such as rent, taxes, and insurance. The applicant must provide an itemized list of all the claimed expenses incurred in the disaster year for those enterprises for which disaster losses are claimed. This list must be signed by the applicant. The amount of an EM loan cannot exceed the total itemized expenses listed by the applicant.

(13) EM loans will not be made to flood and mudslide victims to repair or replace damaged or destroyed farm dwellings or farm service buildings and their contents in areas where "National Flood Insurance" is available, except as authorized in Subpart B of Part 1806 of this chapter (FmHA Instruction 426.2).

(14) When an applicant has only housing losses and is eligible for an SBA physical loss loan in an area where SBA physical loss loans are available, only SBA will make the loans for restoration or replacement of farm housing.

(c) *Compensation for losses.* Compensation for losses from a disaster through insurance, government disaster program benefits or any other disaster program relief received by an EM loan applicant, which does not have to be repaid, will reduce the applicant's loss by the amount of such compensation, and thus will be considered in determining the applicant's eligibility for EM loan assistance and the maximum amount of loss loan entitlement. The amount of any disaster program benefits received from ASCS, including the Emergency Feed Assistance Program (EFAP), Emergency Conservation Program (ECP), and Disaster Program payments will be considered as compensation for losses (ASCS Deficiency Payments are not to be considered as compensation). The amount of any SBA physical disaster loan assistance received for the same disaster, based on physical and/or production losses to the same property will not be considered as compensation in determining the applicant's eligibility, but will be deducted from the applicant's actual disaster losses in determining the applicant's maximum actual loss loan entitlement.

(d) *Maximum EM loans.* This amount will be limited to the amount necessary to restore the farm to its pre-disaster condition; however, this will not exceed the sum of the maximum production loss (paragraph (a)(2)(ix) of this section) and the maximum physical loss (paragraph (b) of this section) or $500,000, whichever is the lesser. If the applicant has also received an SBA disaster loan for the same losses, the sum of the EM loan and the SBA disaster loan cannot exceed $500,000. Indebted EM loan borrowers could receive later EM loans not to exceed $500,000 for each additional qualifying disaster.

§ 1945.164-1945.165 [Reserved]

§ 1954.166 Loan purposes.

(a) *Policy on use of EM loan funds.* (1) The amount of the maximum EM loans(s) in addition to the limitations contained in § 1945.163 (a) (2)(ix) and (d) of this subpart, is further limited to the actual dollar loss, or the actual amount of essential family, farm, and nonfarm enterprise credit that the applicant needs to carry on normal operations, whichever is the lesser. EM loan funds will not be used to finance a nonfarm enterprise, unless the loan is made to an individual applicant and such enterprise is needed to support a reasonable standard of living for the family. The use of EM loan funds will be identified in the farm and home plan so that determination can be made as to whether such loan(s) were used for authorized purposes and covered all or a portion of the actual dollar loss.

(2) EM loan funds may be used for any Subtitle A, or Subtitle B, loan purpose as described in paragraphs (b) and (c) of this section.

(b) *EM loans for real estate (Subtitle A) purposes.* EM loans for real estate purposes may be made to owner-operators only. The following are authorized real estate purposes for which EM loan funds may be used:

(1) Purchase real estate necessary to:

(i) Replace land and/or water resources that cannot be restored due to the disaster;

(ii) Establish a new site for farm dwellings and service buildings so that the applicant can relocate outside of a flood or mudslide prone area;

(iii) Replace land necessary to restore an effective operation which was liquidated as a result of the disaster before an EM loan could be made.

(2) Construct, buy, or improve buildings and facilities essential to the applicant's farming operation, including:

(i) The construction of an essential farm dwelling and service buildings of modest design and cost, and facilities and structures for nonfarm enterprises.

(ii) The improvement, alteration, repair, replacement, relocation, or purchase and transfer of such essential dwellings and service buildings, facilities, structures and fixtures that become part of the real estate or customarily pass with the farm when it is sold. This includes pollution control and energy saving devices.

(iii) The purchase and/or installation of water and sewage systems and other equipment, including pollution control and energy saving devices necessary to operate a farm and/or a nonfarm enterprise, provided the items upon installation become part of the real estate, or customarily pass with the farm when it is sold.

(3) Provide land and water development; pollution control and energy saving measures; acquire water supplies and rights; and promote the use of conservation measures essential to the operation of the farm and any nonfarm enterprise facilities. This includes providing fencing, drainage and irrigation facilities, basic applications of lime and fertilizer, and facilities for land clearing. This also includes establishing approved forestry practices, fish ponds, trails and lakes, improving orchards, and establishing and improving permanent hay or pasture. Sources of water may be located outside the land owned provided appropriate rights or easements are obtained to ensure that the water and rights will pass with the farm when it is sold. The funds for land and water development may include the costs of machinery and equipment needed to do the development, only when the total cost of the development and machinery or equipment would not exceed the cost of contracting the work or hiring the labor and machinery needed to do it. Loan funds may be used to pay that part of the cost of facilities, improvements, and "practices" which will be paid for in connection with participation in programs such as the Agricultural Conservation or Great Plains programs, but only when such costs cannot be covered by purchase orders or assignments to material suppliers or contractors. If loan funds are advanced and the portion of the payment for which the funds were advanced is likely to exceed $1,000, the applicant will assign the payment to FmHA.

(i) Funds may be used to pay for development costs on land owned with defective title (see § 1943.19(b) of Subpart A of Part 1943 of this chapter) or on land in which the applicant owns an undivided interest, provided:

(A) The amount of loan funds used on such land is limited to $25,000;

(B) There is adequate security for the loan; and

(C) The tract with defective title or undivided interest is not to be included in the appraisal report.

(4) Refinance secured and unsecured debts, including FmHA debts suoject to all of the following:

(i) The applicant's present creditors will not furnish credit, even with a FmHA guaranteed operating or farm ownership loan, at rates and terms the applicant can meet.

(ii) When applicants request refinancing of loans owed normal lenders, such as banks, Production Credit Associations, Federal Land Banks or insurance companies, the County Supervisor will obtain, early in the loan processing, such lender's determination with respect to furnishing the applicant the additional credit necessary to accomplish the objectives of the EM loan and reestablish the applicant's operations on a sound basis within the applicant's ability to pay.

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(iii) Loans will not normally be made to refinance intermediate and long-term debts. Only existing delinquent installments, plus the next installment which the applicant cannot pay, can be refinanced. In unusual circumstances, when the above refinancing is essential to enable the applicant to conduct a sound farming operation the above provisions may be waived. Ordinarily, in the case of old unsecured debts or inadequately secured debts, applicants will be requested to contact their creditor(s) and make every effort to obtain a substantial compromise reduction of such debts before they are refinanced, pursuant to Subpart A of Part 1933 of this chapter.

(iv) The County Supervisor must contact the appropriate lender; verify and document, either in the running record or by letter from the lender, the need to refinance secured debts and major unsecured debts; and determine the reason(s) the lender will not carry the debt. The unpaid balance of the debts to be refinanced will also be verified.

(5) Pay reasonable expenses customarily paid when obtaining, planning, making and closing a loan made for real estate purposes, such as fees for legal, architectural and other technical services, which are required to be paid by the applicant, and which cannot be paid by the applicant from other resources. Loan funds may also be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with land and building development. It is not intended that this paragraph be interpreted to include fees charged applicants by agricultural management consultants and other professionals for preparation of EM loan dockets, including farm and home plans and other FmHA forms used in processing such loans.

(6) Finance a nonfarm enterprise when it will provide another source of necessary income even though the owned acreage for such enterprise is not physically located on the farmland.

(7) Pay the first year's premium for required insurance on buildings on the property which are to serve as security for the loan. Buildings will be insured in accordance with Subpart A of Part 1806 of this chapter (FmHA Instruction 426.1), except when the appraisal report shows that the land alone adequately secures the loan. However, the applicant will be encouraged to take property insurance on essential buildings to protect the applicant's own interest. Borrowers eligible for insurance under the National Flood Insurance Act of 1968 will be advised of its availability in accordance with Subpart B of Part 1806 of this chapter (FmHA Instruction 426.2).

(c) *EM loan for operating (Subtitle B purposes).* EM loans for operating purposes may be made to owner-operators or tenant-operators. The following are authorized operating purposes for which EM loan funds may be used.

(1) Purchase machinery and equipment, livestock, poultry, fur bearing and other farm animals, aquatic organisms, worms, birds, tools, bees, and supplies; or to purchase an individual's or entity's undivided interest in such items; and pay farm operating expenses and costs incidental to reorganizing the farming system which will provide for a sound operation.

(2) Purchase and repair essential home equipment and furnishings, and pay essential family living expenses required by the individual applicant's family to sustain itself in a reasonably satisfactory manner. Entity operations are not eligible for loan funds to be used for these purposes.

(3) Refinance secured and unsecured annual operating type debts in whole or in part, including existing FmHA debts, and/or pay current or delinquent installments owed on other unsecured debts.

(4) Purchase milk base, either with or without cows, when such action is necessary to assure the borrower a satisfactory market for dairy production.

(5) Purchase grazing licenses, permits, or rights which can be validly sold and transferred.

(6) Augment and improve existing water supplies to alleviate the adverse effects of drought and other natural disasters.

(7) Purchase membership and stock in farm purchasing, farm marketing, or farm service-type cooperative associations, including grazing associations.

(8) Pay a secured creditor an amount not to exceed 20 percent of the appraised market value of the essential farm and nonfarm equipment under prior lien to that creditor, or 20 percent of the amount owed to such creditor, whichever is the lesser.

(9) Purchase a franchise, contract, or privilege when essential to the operation of the planned enterprise.

(10) Make a partial payment on crop storage and drying facilities when the Commodity Credit Corporation (CCC), through the ASCS, is providing the rest of the credit under the CCC Farm Storage and Drying Equipment Loan Program.

(11) Pay reasonable expenses customarily paid when obtaining, planning and closing a loan made for operating purposes, *i.e.*, fees for legal, architectural and other technical services, which are required to be paid by the applicant, and which cannot be paid by the applicant from other resources. It is not intended that this paragraph be interpreted to include fees charged applicants by agricultural management consultants and other professionals for preparation of EM loan dockets including farm and home plans and other FmHA forms used in processing such loans.

(12) Pay the borrower's share of Social Security taxes for the labor hired by the borrower in connection with land and building development.

§ 1945.167 Loan limitations and special provisions.

(a) *EM loans prohibited on crops grown in areas where FCIC crop insurance or multi-peril crop insurance is available.* Applicants will *not* be eligible for EM loans to cover damages and losses to any crop(s) planted and harvested after December 31, 1986, which was not insured, but could have been insured with FCIC crop insurance or multi-peril crop insurance. In such instances, applicants will not qualify for EM loans on those crops which could have been insured against the losses, unless the crops were not planted due to the declared/designated/authorized disaster(s).

(b) *Use of EM loan funds is not authorized for expansion purpose(s) beyond a family size farm.* EM loan funds will not be used to expand an applicant's farming, ranching, or aquaculture operation beyond that which constitutes a family size farming/ranching operation(s). This limitation is not intended to prohibit minor changes in crop or livestock enterprises provided:

(1) Any new or changed crop or livestock system is proven for the area; and

(2) The applicant has the knowledge and ability to manage the changed operation; and

(3) Substantial new or additional capital investment is not required.

EM applicants who conduct family size farming operations (as defined in paragraph (a)(10) of section 1945.154 of this subpart) may, if eligible, receive regular FmHA farm ownership (FO), and/or operating (OL) loans simultaneously with their initial (EM) loan to help finance their farming operations. If a borrower expands the farming operation(s) beyond a family size farming operation(s), no further EM loan assistance will be given even

though the borrower may suffer qualifying losses under a new declared/designated/authorized disaster.

(c) *Applicants involved in more than one operation.* Loans to applicants involved in more than one farming operation will be considered as follows:

(1) If an applicant, in addition to the applicant's own farming operation, owns or controls 50 percent or more of another farming operation(s), and the applicant is actively engaged in both operations, both the applicant and the other farm operation(s) may be considered for separate loans provided the combined total does not exceed the loan limitations as set out in § 1945.163(d) of this subpart.

(2) If the applicant is a cooperative, corporation, joint operation or partnership and any principal member, stockholder, partner or joint operator, owns or controls 50 percent or more of another farming operation(s) and is actively engaged in both operations, both the applicant entity and the other farming operation(s) may be considered for separate loans provided the combined total does not exceed the loan limitations as set out in § 1945.163(d) of this subpart.

(3) If an applicant, including any principal member, stockholder, partner or joint operator who, in addition to the applicant's own farm operation, owns or controls less than 50 percent of another farm operation(s), and is actively engaged in a separate farm operation(s), the applicant and the other farm operation(s) will be considered as separate entities for application of the loan limitations.

(4) If the applicant described in paragraphs (c) (1), (2) and (3) of this section is deemed to be ineligible, such determination shall not preclude the other operation(s) in which the applicant holds an interest from being considered for an EM loan(s).

(d) *Refinancing guaranteed loans.* An EM loan will not be made to refinance a guaranteed loan, except when the following conditions are met:

(1) The circumstances causing the need to refinance were beyond the borrower's control.

(2) Refinancing is in the best interest of the Government.

(e) *New appraisals.* New "Appraisal of Real Estate Reports" are not required if the appraisal report in the file is not over two years old, unless the approval official requests a new appraisal report, or unless significant changes in the market value of real estate have occurred in an area within the two-year period. Any changes in the value of real estate or chattel security will be recorded, dated and initialed by the certified appraiser on the appropriate appraisal reports in the file.

(f) *Recordkeeping.* EM borrowers receiving or indebted for EM loans of $100,000 or more are required to keep hard farm records on an approved format or use an accountant or a farm management service computer system as long as they are indebted for EM loans. EM borrowers are required to retain these records for three years. (See Subpart B of Part 1924 of this chapter.)

(g) *Disbursement of loan funds.* Loan funds which will not be disbursed for specific purposes at loan closing will not be requested in the initial request for funds from the Finance Office. The "Loan Disbursement System" will be used to make funds available when they are actually needed. See § 1945.169(a)(8) of this subpart for instructions on the use of supervised bank accounts.

(h) *Prohibition on guaranteeing repayment of advances from other credit sources.* FmHA employees will not guarantee repayment of advances from other credit sources, either personally or on behalf of applicants, borrowers, or FmHA.

§ 1945.168 Rates and terms.

(a) *Interest rates.* Upon request of the applicant, the interest rate charged by FmHA will be the lower of the interest rates in effect at the time of loan approval or loan closing. If the applicant does not indicate a choice, the loan will be closed at the interest rate in effect at the time of loan approval. Interest rates are specified in Exhibit B of FmHA Instruction 440.1 (available in any FmHA office) for the type assistance involved. Interest on the initial advance will accrue from the date of the promissory note. Interest on other advances will accrue from the date of the loan check for each such advance.

(b) *Terms of loans.* Loans will be scheduled for repayment at such time as the FmHA approval official may determine, consistent with the purpose of and need for the loan. The approval official will also consider the useful life of the security and the repayment ability of the applicant, as reflected in the completed Farm and Home Plan, when setting the term of each loan. There must be some payment scheduled at least annually. Loans will not be scheduled for terms longer than are justified and supported by the Farm and Home Plan.

(1) *Operating purposes (Subtitle B).* EM loans made for operating purposes will be scheduled for repayment as follows:

(i) Normally, loans will be scheduled for payment in a period not to exceed 7 years. However, loans may be scheduled for a longer repayment period if the FmHA approval official determines that the needs of the applicant justify a longer term, and the loan(s) can be secured for the longer term. Such longer period may be approved as warranted, but cannot exceed 20 years. This longer repayment period will be used only when the Farm and Home Plan projections indicate the applicant would be unable to repay the loan in a shorter period, taking into consideration rescheduling possibilities. The reason(s) that a term longer than 7 years is given must be documented in the county office case file. Generally, real estate will be needed as security when a repayment period is longer than 7 years.

(ii) Loans made for production expenses under § 1945.166(c) of this subpart, or for payment of bills incurred for such purposes for the operating or crop year being financed, will be scheduled for repayment when the principal income from the year's operations is normally received.

(iii) Loans made to purchase or produce feed for productive livestock or livestock to be fed for the market, or to pay bills incurred for such purposes for the crop year being financed, will be scheduled for repayment when the principal income from the sale of such livestock or livestock products is planned to be received.

(iv) When conditions warrant, installments may vary in amount. However, there must be at least a partial interest payment scheduled annually. Also, the final installment will not be larger than the amount which can be expected to be refinanced by other agricultural lenders or be repaid within a rescheduled period of not to exceed 15 years. The applicant must be advised before the loan is closed that FmHA will review each case at the end of the initial loan term to determine if rescheduling is warranted, and that there is no obligation for FmHA to continue with the borrower after the expiration of the initial loan term.

(2) *Real estate purposes (Subtitle A).* EM loans made for real estate purposes under § 1945.166(b) of this subpart will normally be scheduled for repayment in not to exceed 30 years. Loans may be scheduled for a longer repayment period if the FmHA approval official determines that the needs of the applicant justify a longer repayment period. A longer term may be approved as warranted, but cannot exceed 40 years. The longer repayment period will be used only when it is evident the applicant will be unable to repay the loan in a shorter period. The reason(s) for giving the longer period must be well

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documented in the county office case file.

(3) *Repayment terms when debts are refinanced.* When secured or unsecured debts are refinanced with an EM loan, the type of security taken will determine the terms and the type of assistance code used on Form FmHA 1940-1, "Request for Obligation of Funds."

(i) When the primary security is other than real estate, the loan may be scheduled for repayment in accordance with paragraph (b)(1) of this section.

(ii) When real estate will serve as the primary security, the loan may be scheduled for repayment in accordance with paragraph (b)(2) of this section.

(c) *Consolidation, rescheduling and reamortization.* When the loan approval official determines that consolidation, rescheduling, or reamortization will assist in the orderly collection of an EM loan, the loan approval official may take such action in accordance with Subpart A of Part 1951 of this chapter.

(d) *Graduation.* Borrowers will be required to graduate when FmHA determines they are able to obtain their needed credit from conventional sources. All borrowers will be advised that they will be reviewed for graduation periodically in accordance with the graduation procedure in Subpart F of Part 1951 of this chapter. EM borrowers will be reviewed every two (2) years thereafter, until graduation is achieved or the EM indebtedness is paid in full. Applicants will be advised during loan processing and again at loan closing that they will be required to refinance at any time when other satisfactory credit is available to them, even though their loans have not fully matured.

§ 1945.169 Security requirements.

The County Supervisor is responsible for seeing that adequate and proper security is obtained and maintained and that the security instruments have been properly executed and recorded to protect the interest of the Government.

(a) *General Requirements.* (1) Except for the modifications contained in paragraph (d) of this section, security must be of such a nature and extent that repayment of the loan(s) is assured, considering the applicant's managerial ability; soundness of the operation, and projected earnings. Security for loans may include, but is not limited to the following: Land, buildings, structures, fixtures, furniture, machinery, equipment, livestock, livestock products, growing crops, stored crops, inventory, supplies, accounts receivable, cash or special cash collateral accounts, marketable securities, certificates of ownership of precious metals, and cash surrender value of life insurance. Security may also include assignments of leases or leasehold interests having a mortgageable value; revenues; royalties from mineral rights, patents and copyrights; and pledges of security by third parties.

(2) A lien will not be taken on property that cannot be made subject to a valid lien; nor will a lien be taken on subsistence livestock, household goods, small tools and small equipment such as handtools, power lawn mowers, and other items of like type not needed for security purposes. A lien on feed crops does not have to be taken if the crops produced by the borrower are used to feed livestock, other than livestock being fed for market, and the loan is otherwise well secured.

(3) When insured and guaranteed loans are involved with the same borrower, separate security must be clearly identified for each of the insured and guaranteed loans.

(b) *Personal liability.* The signatures of all principal partners of a partnership, principal members of a cooperative and principal stockholders of a corporation are required to evidence their full personal liabilities on the promissory note as individuals, except in unusual circumstances including legal disability or extended absence from the country.

(1) When the applicant is an unincorporated farm cooperative, the promissory note will be executed so as to evidence the liability of the cooperative as well as each member as an individual.

(2) When the applicant is a corporation or an incorporated cooperative, the promissory note will be executed by the corporation or cooperative acting through its authorized officials. To evidence the principal stockholders' or members' liability as individuals, each principal stockholder or member will sign the note.

(3) When the applicant is a partnership or joint operation, the promissory note will be executed so as to evidence the liability of the partnership or joint operation, as well as each partner or each joint operator, as an individual.

(c) *Personal and corporate guarantees.* (1) If a review of all credit factors indicates the need for additional security, the loan approval official may require additional personal and/or corporate guarantees, including guarantees from principals of parent, subsidiary or affiliated companies. The loan approval official will require that such guarantees be secured by security which has an equity value. Any security referred to in paragraph (a)(1) of this section may be used to secure the guarantees.

(2) Guarantors of applicants will:

(i) In the case of personal guarantees, provide current financial statements (not over 30 days old at time of filing), signed by the guarantors and disclosing community or homestead property.

(ii) In the case of corporate guarantees, provide current financial statements (not over 30 days old at time of filing), certified by an officer of the corporation.

(3) When security is taken under paragraph (c) of this section it will be serviced in accordance with Subpart A of Part 1962 of this chapter, if chattels; and in accordance with Subpart A of Part 1965 of this chapter, if real estate.

(d) *Applicant's repayment ability.* When adequate security is not available because of the disaster, the loan approval official will accept as security such collateral as is available, if the following conditions are met:

(1) A portion or all of the security has depreciated in value due to the disaster; and

(2) The available security, together with the approval official's confidence in the applicant's repayment ability, is adequate to secure the loan. When considering "repayment ability" as a form of security, the reserve or margin between the balance available for debt repayment shown on the Farm and Home Plan, and the principal and interest scheduled for payment is the "repayment ability" collateral which may be considered in loan making actions when this plan is developed for the typical year. The "typical year" plan must show that the portion of the loan secured by "repayment ability" will be paid back in a reasonable period of time, *i.e.*, the loan balance will be reduced to a fully secured loan within 3 years.

(e) *Life insurance.* If the loan approval official believes it is needed as additional security, life insurance may be required for the individual borrower or for the principals and key employees of an entity borrower listing FmHA as the beneficiary. This life insurance may be decreasing term insurance. A schedule of life insurance available as security for the loan will be included as part of the application.

(f) *Security for operating type purposes.* (1) EM loans made for Subtitle B (operating) purposes will be secured by a first lien on the crop(s) and/or livestock and livestock products being financed with EM loan funds. However, if the applicant does not have sufficient equity to secure the entire amount of the loan, additional security as prescribed in paragraph (a)(1) of this section will be taken to assure that the Government's financial interest will be protected. When the applicant can provide no security other than a first lien on the crop(s) and/or livestock and livestock products to be produced, the amount of the loan will be limited to 75 percent of the planned gross farm income as shown on the Farm and Home Plan based on normal production and prices authorized by the State Director for developing annual farm plans within the State.

(2) The advice of OGC will be obtained on how to perfect a security interest when milk base and grazing permits are taken as security.

(3) General intangibles, accounts receivable, and contract rights may be taken as security for production loss loans made to contract feeders, tenants with share-lease arrangements, or other farmers with similar arrangements.

(g) *Security for real estate type purposes.* EM loans made for Subtitle A (real estate purposes) will be secured by a lien on real estate. However, if the applicant does not have sufficient equity in the real estate to secure the entire amount of the loan, additional security as prescribed in paragraph (a)(1) of this section will be taken.

(h) *Combination of real estate and chattel security.* When chattels are primarily relied upon as security and real estate is taken only as additional security to better protect the Government's interest, only a certification of ownership and verification of equity in real estate is required, if the applicant is an individual. Certification of ownership may be accepted in the form of a notarized affidavit from the applicant stating who is the owner of record of the real estate in question and acknowledging all known debts, with balances owed, against the real estate. Whenever the County Supervisor is uncertain of the ownership of or debts against the real estate security, and for all loans to cooperatives, corporations, partnerships, or joint operations a title search is required.

(i) *Purchase contracts.* If the real estate offered as security is held under a purchase contract, the following conditions must exist:

(1) The applicant must be able to provide a mortgageable interest in the real estate.

(2) The applicant and the seller must agree in writing that any insurance proceeds received for real estate losses will be used only to replace or repair the damaged real estate improvements which are essential to the farming operation; or used for other essential real estate improvements; or paid on the EM loan or on any prior real estate indebtedness, including the purchase contract. If necessary, the applicant will negotiate with the seller to arrive at a new contract without any provisions objectionable to FmHA.

(3) If a satisfactory contract for sale cannot be negotiated or the seller refuses to enter into the agreement described in paragraph (i)(2) of this section, the applicant will make every effort to refinance the existing purchase contract. If the applicant cannot obtain refinancing from another source, EM loan funds may be considered to pay off the contract.

(4) If the conditions set out in paragraphs (i) (1), (2) and (3) of this section exist and an EM loan is approved, it can be closed provided the FmHA escrow agent or designated attorney certifies on Form FmHA 427-10, "Final Title Opinion", or in separate writing that:

(i) The purchase contract is not subject to summary cancellation on default and does not contain any other provisions which might jeopardize either the Government's security position or the borrower's ability to repay the loan.

(ii) The seller has agreed, in writing, to give FmHA notice of any breach by the purchaser, and has also agreed to give FmHA the option to rectify the condition(s) which amounts to a breach within thirty days. The thirty days begin to run on the day FmHA receives written notice of the breach.

(j) *Prior liens which may jeopardize the Government's security position.* If any prior liens against real estate offered as security contain future advance provisions or other provisions which might jeopardize the security position of the Government or the applicant's ability to meet the obligations of these prior liens and to pay the EM loan, the prior lienholders involved must agree in writing, before the loan is closed, to modify, waive, or subordinate such objectionable provisions to the interest of the Government. However, the Government's lien may be subject to the lien of another creditor for amounts advanced or to be advanced for annual operating and family living expenses for the operating or calendar year. The County Supervisor will determine if the creditor will be required to execute Form FmHA 441-13, "Division of Income and Nondisturbance Agreement," or a similar form approved by the OGC.

(k) *Circumstances under which advance notice of foreclosure or assignment is required.* When a junior lien on real estate is to be taken as security for a loan in States where a prior lienholder may foreclose the security instrument under power of sale, or otherwise, and extinguish junior liens of private parties without giving junior lienholders actual notice of the foreclosure proceedings, the prior lienholder must agree in writing to give FmHA advance notice of foreclosure or assignment of the mortgage.

(l) *Hazard insurance.* Hazard insurance with a standard mortgage clause naming FmHA as beneficiary may be required for every loan made. The minimum amount of insurance required is the lesser of the replacement cost of the property being insured or the amount of the loan. If essential insurable buildings are located on the property, or if new buildings are to be erected or major improvements are to be made to existing buildings, the applicant will provide adequate hazard insurance coverage at the time of loan closing, or as of the date materials are delivered to the property, whichever is appropriate. Notwithstanding the requirements of Subpart A of Part 1806 (FmHA Instruction 426.1) of this chapter, when the real estate appraisal report shows that the present market value of the land after deducting the value of buildings shown on the report exceeds the amount of the debt (including the EM loan) and the owner has equity equal to or exceeding the amount of the debt (including the EM loan), real estate property insurance may not be required. However, the applicant will be encouraged to obtain such insurance, if the applicant does not already have it, to protect the applicant's interest. If insurance claims for loss or damage to buildings to be replaced or repaired with loan funds are outstanding at the time the loan is approved, the applicant will be required to agree in writing that, when settlement is made, the proceeds of such claims will be used for replacement or repair of buildings, application on debt secured by prior liens, or applications on the EM loan.

(m) *Crop insurance.* Crop insurance is a good farm management tool. Loan approval officials will, therefore, encourage all borrowers, who grow crops, to obtain and maintain FCIC crop insurance or multi-peril crop insurance, if it is available.

(1) When EM loan funds are to be used as the primary source of financing for the ensuing year's crop production expenses, and those crops will serve as security for the loan, crop insurance will be required, if available, as a loan approval condition; and FmHA will require an "Assignment of Indemnity" on the borrower's crop insurance policy(ies).

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(2) Even if FmHA is *not* the primary lender for annual crop production expenses, but has or will have a security interest in the crop(s), FmHA will require the borrower to carry crop insurance, if available, even if the primary lender will be the beneficiary under the "Assignment of Indemnity".

(3) When EM loans are based on physical losses only, crop insurance will not be required unless the EM loan funds are to be used for annual crop production expenses.

(4) When payment of crop insurance premiums is not required until after harvest, the premiums will be paid by releasing insured crop(s) sale proceeds, not withstanding the limits in §§ 1962.17 and 1962.29(b) of Subpart of this chapter. If the borrower's crop losses are sufficient to warrant an indemnity payment, the premium due will be deducted by the insurance carrier from such payment. The FmHA County Office will maintain a record on Form FmHA 1905–12, "Monthly Expirations," of the dates which borrowers' crop insurance premiums must be paid. This is in accordance with FmHA Instruction 1905–A, a copy of which is available in any FmHA office, and will assure that crop insurance policies do not terminate while insured crop(s) serve as security for FmHA loans.

(n) *Indian trust lands.* EM loans which are secured by trust or restricted land will be handled as follows: USDA and the Department of the Interior have agreed that FmHA loans which are to be secured by real estate liens may be made to Indians holding land in severalty under trust patents or deeds containing restrictions against alienation, subject to statutes under which they may, with the approval of the Secretary of the Interior, give valid and enforceable mortgages on their land. These statutes include, but are not limited to, the Act of March 29, 1956 (70 Stat. 62). When a lien is to be taken on trust or restricted property in connection with a loan to be made or insured by FmHA, the local representatives of the Bureau of Indian Affairs (BIA) will furnish requested advice and information with respect to the property and each applicant. The FmHA State Director should arrange with the Area Director or other appropriate local offical of the BIA as to the manner in which the information will be requested and furnished. A State Supplement will be issued to prescribe the actions to be taken by FmHA personnel to implement the making of loans under these conditions.

(o) *Unpatented public lands.* See Exhibit A of Subpart A of Part 1943 of this chapter for making EM loans to entrymen on unpatented public lands.

(p) *Taking security instruments.* The taking and filing of security instruments will be in accordance with Subpart B of Part 1941 of this chapter (chattels and crops) and with §§ 1945.169 and 1945.189 of this subpart (real estate). The borrower must have marketable title to the property which secures the loan and FmHA must ascertain that, when the security instruments are filed, no suits are pending or threatened which would adversely affect the interest of the borrower and the Government.

(q) *Assignments and consents.* (1) The value of stock required to be purchased by Federal Land Bank (FLB) Association borrowers may be added to the recommended market value of real estate, provided:

(i) An assignment can be obtained on the stock; or

(ii) An agreement is obtained which provides that:

(A) The value of the stock at the time the FLB loan is satisfied will be applied on the FLB loan as long as any FmHA loan is outstanding, or

(B) The stock refund check is made payble to the borrower and FmHA.

(iii) The total of the stock value and the recommended market value of real estate are indicated in the comments section of Form FmHA 422–1.

(2) An assignment of all or part of the applicant's share of income is required when title to a livestock or crop enterprise is held by a contractor under a written contract or when the enterprise is to be managed by the applicant under a share lease or share agreement. The contract, share lease or share agreement will be described specifically as "Contract Rights" or "Contract Rights in Livestock or Crops," (or as "Accounts" or "Accounts in Livestock or Crops," if required by a State Supplement) and so forth, in paragraph (1)(b) of the financing statement. A form approved by OGC will be used to obtain the assignment.

(3) An assignment of income can also be taken when the County Supervisior determines it is necessary to protect FmHA's interests.

(i) Form FmHA 443–16, "Assignment of Income from Real Estate Security ," will be used for assignments of real estate security income unless that form is legally inadequate in a particular State, in which case it may be adapted with the approval of the OGC.

(ii) Form FmHA 441–8, "Assignment of Proceeds from the Sale of Products," will be used for products or income in which FmHA does not have a security interest under the UCC. Other forms approved by OGC may be used when this form is not adequate.

(iii) Form FmHA 441–25, "Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest," will be used for dairy products in which FmHA has a security interest under the UCC.

(iv) Form FmHA 441–18, "Consent to Payment of Proceeds from Sale of Farm Products," will be used for products or income, except dairy products, in which FmHA has a security interest under the UCC.

(v) Forms provided by ASCS will be used for assignments of disaster and regular agricultural program payments.

(4) In UCC states, an assignment of income constitutes a security agreement and should be treated accordingly.

§§ 1945.170–1945.172 [Reserved]

§ 1945.173 General provisions—compliance requirements.

(a) *Scope of operation to be financed.* Only family size farming operations may be financed with EM loans, subject to the eligibility requirements, loan amount ceilings, repayment ability, need, available security and other provisions of this subpart.

(b) *Flood or mudslide prone areas.* Flood or mudslide hazards will be evaluated whenever the farm to be financed is located in special flood or mudslide prone areas as designated by the Federal Emergency Management Agency (FEMA). Subpart B of Part 1806 of this chapter (FmHA Instruction 426.2) and Subpart G of Part 1940 of this chapter will be complied with when loan funds are used to construct or improve buildings located in such areas. This will not prevent making loans on farms where the farmstead is located in a flood or mudslide prone area and funds are not included for building improvements. The flood or mudslide hazard will be recognized in the appraisal report.

(1) In identified special flood or mudslide hazard areas as designated by FEMA, the following policies are applicable for EM loans being made to finance buildings or fixtures and furnishings contained therein.

(i) If flood or mudslide insurance is available and an applicant has not taken such insurance and has suffered flood or mudslide losses, an EM loan may be made, only if flood or mudslide insurance is purchased before the EM loan is closed.

(ii) If flood or mudslide insurance is available and an applicant previously received and still is indebted for an EM loan, Rural Housing Disaster (RHD), or SBA disaster loan; and a condition of the loan required the obtaining of flood insurance but the applicant allowed the insurance to lapse; and the applicant had new flood or mudslide losses, the applicant will be considered to be in default on the loan agreement and dealt with accordingly. If it is determined to continue with the borrower and that the EM actual loss loan should be made, flood or mudslide insurance will be obtained before the EM loan is closed.

(iii) If flood or mudslide insurance is available and an applicant had previously received an EM, RHD, or SBA disaster loan; and a condition of the loan required obtaining flood or mudslide insurance and the applicant paid the loan in full and let the insurance lapse; the applicant will be handled in accordance with paragraph (b)(1)(i) of this section.

(iv) In those areas that have been designated by FEMA as special flood or mudslide hazard areas and flood or mudslide insurance is not available or has been withdrawn by FEMA, an applicant can receive an EM loan provided the farm buildings, including the dwelling, are relocated outside the 100-year flood area.

(v) EM loans to repair or replace farm buildings, including dwellings, must meet the requirements of § 1806.25 (a) or (b) of Subpart B of Part 1806 of this chapter (paragraph V, A or B of FmHA Instruction 426.2) as applicable, or be relocated outside the 100-year flood area.

(2) When land development or improvements such as dikes, terraces, fences, and intake structures are planned to be located in special flood or mudslide prone areas, EM loan funds may be used subject to the following:

(i) The Corps of Engineers or the SCS will be consulted concerning:

(A) Likelihood of flooding.

(B) Probability of flood damage.

(C) Recommendations on special design and specifications needed to minimize flood and mudslide hazards.

(ii) FmHA representatives will evaluate the proposal and record the decision in the loan docket in accordance with the requirements of Subpart G of Part 1940 of this chapter.

(c) *Civil rights.* The provisions of Subpart E of Part 1901 of this chapter will be complied with on all loans made which involve:

(1) Funds used to finance nonfarm enterprises and recreation enterprises. Applicants will sign Form FmHA 400–4, "Assurance Agreement," in these cases.

(2) Any development financed by FmHA that will be performed by a contract or subcontract or more than $10,000.

(d) *Protection of historical and archaeological properties.* If there is any evidence to indicate the property to be financed has historical or archaeological value, the provisions of Subpart F of Part 1901 and Subpart G of 1940 of this chapter will apply.

(e) *Environmental requirements.* See Subpart G of Part 1940 of this chapter for applicable requirements.

(f) *Real Estate Settlement Procedures Act.* The provisions of the Real Estate Settlement Procedures Act outlined in § 1940.406 of Subpart I of Part 1940 of this chapter apply when EM funds are used involving tracts of less than 25 acres. If:

(1) Any part of the loan is used to purchase all or part of the land to be mortgaged, and

(2) The loan is secured by a first lien on the property where a dwelling is located.

(g) *Nondiscrimination requirements.* In accordance with Federal Law, the FmHA will not discriminate against any otherwise qualified applicant on the basis of race, religion, sex, national origin, marital status, age, or physical/mental handicap (provided the applicant can execute a legal contract), with respect to any aspect of a credit transaction. The policy statement set forth in § 1945.151(a) of this subpart will also apply to credit transactions.

(h) *Compliance with special laws and regulations.* (1) Applicants will be required to comply with Federal, State and local laws and regulations governing building construction; diverting, appropriating, and using water including its use for domestic or nonfarm enterprise purposes; initalling facilities for draining land; and making changes in the use of land affected by zoning regulations.

(2) State Directors and Farmer Program Staff members will consult with SCS, U.S. Geological Survey, State Geologist or Engineer, or any board having official functions relating to water use or farm drainage requirements and restrictions for water and drainage development. State Supplements will be issued to provide guidelines which:

(i) State all requirements to be met, including the acquisition of water rights.

(ii) Define areas where development of ground water for irrigation is not recommended.

(iii) Define areas where land drainage is restricted.

(3) Applicants will comply with all local laws and regulations, and obtain any special licenses or permits needed for nonfarm, recreation, specialized or aquaculture farming enterprises.

§ 1945.174 [Reserved]

§ 1945.175 Options, planning and appraisals.

(a) *Optioning land.* When purchasing real property an applicant is responsible for obtaining options in accordance with the provisions contained in § 1943.25(a) of Subpart A of Part 1943 of this chapter.

(b) *Planning.* (1) Form FmHA 431–2 and Form FmHA 431–4, "Business Analysis—Nonagricultural Enterprise," when appropriate, will be completed as provided in Subpart B of Part 1924 of this chapter and in accordance with the FMIs. This planning process with the applicant is essential to making sound loans and, therefore, must receive careful attention in development of the loan docket. However, when the EM loan will be for not more than $25,000, Tables A, D, and E of Form FmHA 431–2 may be left blank, and only the totals in Tables G and J should be shown, provided Form FmHA 410–1 is completed and accurately reflects the applicant's current circumstances, and no supervision is planned. The plan *will* show any major items of expenditure and the reason(s) these items are needed. When preparing a plan of operation, it is usually necessary to plan for a capital expenditure reserve during interim years and the typical year. Realistically, this will reflect the depreciating value of machinery, equipment or other essential capital expenditure items, which it is prudent to expect will need to be replaced or require major repair. Also, all recurring and carry-over debts should be considered in a typical year plan. In addition, when all of the loan funds are not to be disbursed at loan closing, a *Monthly Budget* will be prepared showing the specific amount to be disbursed for each associated loan purpose for each month. The funds will be disbursed through use of the loan disbursement system (future advances) or, when determined necessary, through a supervised bank account.

(2) Development work will be planned and completed in accordance with Subpart A of Part 1924 of this chapter. Also, the provisions of Subpart E of Part 1901 of this chapter will be met in connection with EM loans involving recreational enterprises and the construction of buildings.

(c) *Appraisals.* (1) Real estate appraisals will be completed, on Form FmHA 422–1, or Form FmHA 1922–8, "Residential Appraisal Report," for farm real estate or residential farm real estate, respectively, by an FmHA employee authorized to make farm appraisals, when real estate is taken as

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the primary security for the EM loan. The rights to mining products, gravel, oil, gas, coal or other minerals will be considered a portion of the security and will be specifically included as a part of the appraised value of the real estate securing the loans using Form FmHA 1922–11, "Appraisal Form for Mineral Rights." Appraisals are not required when:

(i) The amount of the EM loan(s) plus any existing FmHA principal indebtedness is $25,000 or less, and

(ii) The loan approval official determines the loan is adequately secured without an appraisal, and

(iii) The County Supervisor indicates in the loan docket an estimate of the market value of the real estate to be taken as security.

(iv) The provisions of paragraph (c)(4) of this section are applicable.

(2) Real estate appraisals will be completed as provided in Subpart A of Part 1809 of this chapter (FmHA Instruction 422.1). However, the value of assets that secure EM loans associated with a disaster having any portion of its incidence period occurring on or after May 31, 1983, must be based on the higher of two appraisals, all of which must be made a part of the file. These appraisals will show:

(i) The asset value on the day before a State Governor's, Indian Tribal Council's, or an FmHA State Director's first EM designation request, which is associated with the naming of one or more counties in a State as a disaster area where eligible farmers may qualify for EM loans; or

(ii) The asset value one year (365 days) before the date set in paragraph (c)(2)(i) of this section.

(A) The following types of real estate offered as collateral for securing EM loans will be appraised at the present market value only:

(*1*) Farm real estate the applicant/borrower did not own on the dates set forth in paragraph (c)(2) (i) and (ii) of this section.

(*2*) Real estate "not owned" by the applicant/borrower (for example, a relative if offering real estate as collateral for the proposed EM loan).

(*3*) A single family dwelling located on a nonfarm tract.

(*4*) Other types of real estate such as apartment houses and commercial buildings. The County Supervisor will request the assistance of the State Director in establishing the value of such real estate.

(B) Sales data utilized in the preparation of the necessary appraisals should conform to the dates set forth in paragraph (c)(2) (i) and (ii) of this section, to ensure a fair market value of the property is established. In addition, it should be confirmed that said sales resulted from reasonable sales efforts and that both the buyer and seller were willing, informed, and knowledgeable parties.

(3) When FLB stock is to be used in establishing the Recommended Market Value (RMV) of the real estate being appraised, see § 1945.169(q)(1) of this subpart.

(4) When real estate is taken as additional security (for loans in which the primary security is subject to rapid depreciation or is of a high risk nature, such as crops), no appraisal report will be required for the additional security, provided the County Supervisor determines the security is adequate, and records the estimated value in the running case record, shows the date the property was inspected and certifies that in his/her opinion the estimates are correct based on knowledge of the value of comparable assets in the area.

(5) Chattel appraisals will be completed on Form FmHA 1945–15, "Value Determination Worksheet," when chattels are taken as security. The property which will serve as security will be described in sufficient detail so it can be identified. Sources such as livestock market reports and publications reflecting values of farm machinery and equipment will be used as appropriate. The value of assets that secure EM loans associated with a disaster having any portion of the incidence period occurring on or after May 31, 1983, must be based on the higher of two appraisals, all of which must be made part of the file. These appraisals will be based on the same information contained in paragraphs (c)(2) (i) and (ii) of this section. Chattels not owned by the applicant, and nonfarm chattel property offered as security (such as planes, house trailers, boats, etc.) will be appraised at the present market value only. Chattels that the applicant/borrower did not own on the dates set forth in paragraph (c)(2) (i) and (ii) of this section will be appraised at the present market value only.

(6) Abbreviated appraisals may be used and loans approved when:

(i) The loan approval official determines that the applicant's equity in the collateral will adequately secure the EM loan(s).

(ii) The abbreviated appraisals are prepared as follows:

(A) For real estate—Form FmHA 422–1, "Appraisal Report-Farm Tract," complete the heading of the report; Part 1, item A; Part 2; Part 3; Part 6; Part 7 and Part 8. The report will be signed and dated by an FmHA authorized appraiser.

(B) for chattel property—Form FmHA 1945–15 will list, identify and show the value of each chattel item. This form will be completed, as applicable, on all EM loans.

§ 1945.178–1945.179 [Reserved].

§ 1945.180 County Committee certification.

The County Committee will certify an applicant's eligibility on Form FmHA 440–2, "County Committee Certification or Recommendation," before each loan is approved. In some instances the committee may want to interview the applicant or see the farm before making any recommendations.

(a) *Certification.* If the County Committee finds the applicant eligible, it will prepare Form FmHA 440–2, "County Committee Certification or Recommendation." This form will be retained in the County Office file. The County Committee will comply with Subpart A of Part 1910 of this chapter.

(b) *Rejection.* If the County Committee determines the applicant ineligible the County Supervisor will inform the applicant in writing of the reasons for ineligibility. Reasons for unfavorable action will be given in the space provided on Form FmHA 440–2 above the space for signatures. The County Committee will comply with Subpart A of Part 1910 of this chapter. Also, the County Supervisor will complete Part III of Form(s) FmHA 1945–29 to show the rejection of the application, sign, date and forward to the appropriate ASCS county office in accordance with the FMI.

§ 1945.181 [Reserved].

§ 1945.182 Loan docket preparation.

(a) *Processing guide.* See Exhibit A of this subpart for Insured Emergency Loan Processing Guide. When a packager has developed the loan docket the County Supervisor will fully analyze the docket to assure it is complete and conforms with this EM loan regulation. The County Supervisor will reverify calculations in accordance with § 1945.183(a) and insure that the provisions of § 1945.183 of this subpart are met before final action is taken on the loan request.

(b) *Form FmHA 1940–1, "Request for Obligation of Funds".* A separate Form FmHA 1940–1 will be prepared for each EM loan which has a different interest rate and/or a different repayment period, as determined in accordance with § 1945.166 (a) and (b) of this subpart. Also, on Form FmHA 1940–1, for EM loans approved for borrowers presently indebted for an EM loan, but

having new qualifying losses from a subsequent authorized disaster, the new appropriate disaster authorization number will be shown.

(c) *Promissory note.* A separate promissory note will be prepared for each Form FmHA 1940–1 used in approving and obligating each of the EM loans.

(d) *Lease agreement.* Generally, a copy of the lease agreement between tenant applicants and their landlords will be obtained and made a part of the loan docket. When a written lease is not obtainable, a statement setting forth the terms and conditions of the agreement, which are not clearly reflected in Form FmHA 431–2, will be prepared and made a part of the loan docket.

§ 1945.183 Loan approval or disapproval.

(a) *Reverification before approval.* Before an EM loan is approved the following actions must be taken:

(1) A County Office employee will verify information provided by ASCS on all Forms FmHA 1945–29 in accordance with the FMI. If there have been any changes from the information originally provided and used in the loan docket preparation, appropriate changes will be made.

(2) A County Office employee will verify information provided by the Federal Crop Insurance Corporation (FCIC) regarding any insurance benefits which have been paid or will be paid. If there have been any changes from the information originally provided and used in the loan docket preparation, appropriate changes will be made.

(3) All calculations on Form FmHA 1945–22 and Form FmHA 1945–28 will be checked by a County Office clerical employee (either regular or temporary), using a calculator with a paper tape, to assure that mathematical errors are detected. The County Supervisor or designee will make any corrections necessary in the loan docket, when errors are located. The paper tape will be attached to Form FmHA 1945–28 or Form FmHA 1940–28 as appropriate.

(4) To prevent the duplication of benefits, FmHA and SBA have agreed to coordinate their respective EM and disaster loan program activities as follows; pursuant to the Memorandums of Understanding between FmHA and SBA, Exhibits B and B–1 of this subpart:

(i) The FmHA County Offices will notify the appropriate SBA Disaster Area Office of all EM loan applications received each day, including those received for loss of household contents.

(ii) FmHA County Offices will send a copy of each action taken with EM loan applicants to the appropriate SBA Disaster Area Office. Those actions include: The letter confirming county committee eligibility determination; loan approval, Form FmHA 1940–1; notification of application withdrawal; notification of loan denial; confirmation of request for reconsideration or appeal of loan denial; and final determination on an appeal. Copies of all written communications from FmHA County Offices to the SBA Area Offices will be sent to the State Director, Attention: Chief, Farmer Program; and the District Director.

(iii) Applicants who receive SBA loans may file for FmHA EM loans. In those cases, FmHA will either (A) reject the application, (B) reduce the FmHA EM loan by the amount of the SBA loan, which may require SBA to subordinate its lien position(s), or (C) refinance the SBA loan by using EM loan funds to pay SBA directly. An EM loan will not be approved until it is determined that the requirements of § 1945.163(d) of this subpart will be met. If an EM is approved, the FmHA County Office will notify the SBA Disaster Area Office pursuant to paragraph (a)(4)(ii) of this section.

(b) *Administrative determination and responsibilities.* When the County Committee certification has been made and the reverification has been completed, and before approving the loan, the loan approval official will determine administratively whether:

(1) The County Committee has certified that the applicant is eligible, likely to be successful in the proposed operations, and likely to achieve the objectives of the EM loan.

(2) The applicant has satisfactory tenure arrangements on the farm(s) to be operated.

(3) The proposed farm and home operations of the applicant are reasonably sound.

(4) The loan(s) being processed is proper and can be repaid from projected farm and/or nonfarm income as scheduled, and that in the planned typical year the farming operation will be self sustaining.

(5) The security requirements can be met.

(6) The certification(s) required of the applicant and the County Committee have been made and are a part of the loan docket.

(7) The proposed changes to be financed with the EM loan(s) are needed, and that the county office case file reflects the need for those changes.

(8) The loan meets all other FmHA requirements.

(c) *Loan docket transmittal to the Administrator.* (1) Transmittal memoranda accompanying EM loan dockets requiring National Office advice must set forth, as a minimum, the following information:

(i) Proposed loan(s), amount(s), rate(s) of interest, and term(s) of each loan.

(ii) Outstanding FmHA loan(s) balance(s) and the total proposed EM loan(s) indebtedness.

(iii) Status of outstanding FmHA loan(s).

(iv) Brief statements regarding:

(A) Cause and type of disaster losses.

(B) Inability to obtain other suitable credit.

(C) Purposes for which loan funds are to be used.

(D) Overall feasibility and soundness of the planned operation.

(E) Property offered as security for the loan(s).

(v) The State Director's specific positive recommendation that the requested actions be approved.

(2) Loan dockets should not be forwarded to the National Office for approval of any action unless the State Director is able to make a positive recommendation.

(3) Memoranda transmitting problem cases, on which State Directors are only seeking National Office counsel, should also contain their thinking, their interpretation of the appropriate FmHA regulations and policies, and their recommendations on how they believe the case in question should be handled.

(d) *Loan approval.* (1) The loan approval official must approve or disapprove applications within the deadlines set out in § 1910.4 of Subpart A of Part 1910 of this chapter.

(2) The loan approval official will date, sign and distribute Form FmHA 1940–1 in accordance with the FMI and set forth any special conditions of approval, including any special security requirements, in the appropriate section on Form FmHA 1940–1.

(3) The County Supervisor will complete Part III of Form FmHA 1945–29 and forward the form to the appropriate ASCS county office(s).

(e) *Loan disapproval.* The loan approval official must approve or disapprove applications within the deadlines set out in § 1910.4 of Subpart A of Part 1910 of this chapter.

(1) If a loan is disapproved, the loan approval official will indicate the reasons for the rejection in the running case record and on Form FmHA 1940–1. Suggestions of how to remedy the disapproval should be included.

(2) The County Supervisor or loan approval official will notify the applicant by letter of the reason(s) for rejection and will advise the applicant in that letter of appeal rights as set out in Subpart B of Part 1900 of this chapter.

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The letter will also include any suggestions that could result in favorable action.

(3) The County Supervisor will complete Part III of Form FmHA 1945–39 and forward the form to the appropriate ASCS county office.

(4) In areas where EM loans are being made under a *major disaster declaration*, and where the FEMA has advised the State Director that Section 408 grants are available, a list of applicants with physical losses, who do not qualify for EM loans, will be prepared and sent to the FEMA by County Supervisors at the close of business each week. Those applicants who are not eligible for an EM loan because they are not farmers as defined in § 1945.154 of this subpart will be screened and referred to the SBA for disaster loan assistance. The State Director will be advised by the FEMA where to send the list and the State Director will so advise the County Supervisors. The list will be prepared in the following format:

United States Department of Agriculture

Farmers Home Administration

To: _____

_____

The following is a list of applicants not qualifying for Farmers Home Administration's Emergency loans in _____ County during the week ending _____, 19____.

Name _____
Address _____

_____

County Supervisor

§ 1945.184 [Reserved]

§ 1945.185 Actions after loan approval.

Loan funds must be provided to the applicant(s) within 15 days after loan approval, unless the applicant(s) agrees to a longer period. If no funds are available within 15 days of loan approval, funds will be provided to the applicant as soon as possible and within 15 days after funds become available, unless the applicant agrees to a longer period. If a longer period is agreed upon by the applicant(s), the same will be documented in the case file by the County Supervisor.

(a) *Cancellation of loan check and/or obligation.* If, for any reason, a loan check and obligation will be cancelled, the County Supervisor will notify the State Office and Finance Office of loan cancellation by using Form FmHA 1940–10, "Cancellation of U.S. Treasury Check and/or Obligation." If a check received in the County Office is to be cancelled, the check will be returned to the Finance Office with an original and one copy of Form FmHA 1940–10 (see FmHA Instruction 102.1, a copy of which is available in any FmHA office).

(b) *Cancellation of advances.* When an advance is to be cancelled, the County Supervisor must take the following actions:

(1) Complete and distribute Form FmHA 1940–10.

(2) When necessary, obtain a substitute promissory note reflecting the revised total of the loan and the revised repayment schedule. When it is not necessary to obtain a substitute promissory note, the County Supervisor will show on Form FmHA 440–57, "Acknowledgement of Obligated Funds/Check Request," the revised amount of the loan and the revised repayment schedule.

(c) *Increase or decrease in loan amount.* If it becomes necessary to increase or decrease the amount of the loan before closing, the County Supervisor will request that all distributed docket forms be returned to the County Office for reprocessing, unless the change is minor and replacement forms can be readily completed and submitted. In the latter case, a memorandum to that effect will be attached to the revised forms for referral to the Finance Office.

§ 1945.186–1945.187 [Reserved]

§ 1945.188 Chattel lien search.

See § 1941.63 of Subpart B of Part 1941 of this chapter for regulations concerning lien searches covering chattels.

§ 1945.189 Loan closing.

(a) *Closing loans secured by real estate.*—(1) *General.* Loans secured by real estate are considered closed on the date the mortgage is filed for record. Such loans will be closed in accordance with the applicable provisions of Part 1807 of this chapter (FmHA instruction 427.1).

(2) *Security instruments.* Security instruments referred to in paragraph (a) of this section are real estate mortgages or deeds of trust.

(i) FmHA real estate mortgage or deed of trust Form FmHA 427–1 (State), "Real Estate Mortgage for _____" will be used in all cases where real estate is taken as security.

(ii) Promissory note(s) will be prepared and completed at the time of loan closing in accordance with the FML. If insured Rural Housing (RH) funds are advanced simultaneously with EM funds the RH loan will be evidenced by a separate note on the proper form as provided in Subpart A of Part 1944 of this chapter. However, all notes will be described on the same security instrument(s). When a loan is closed between December 1 and January 1, the first installment will be collected at the time of loan closing.

(iii) When subsequent loans are made, a new security instrument is required only when the existing instruments do not cover all required security or do not secure the subsequent loan.

(iv) A subsequent loan for any authorized purpose may be made without taking new security instruments when the existing security instruments cover all the property required to serve as security for the subsequent loan, the State law and the language of the existing security instruments will permit the future loan advance to be secured by the existing security instruments, and the existing security instruments will provide the same lien priority for the subsequent loan as for the initial loan. A new security instrument will be taken if any one of these requirements is not met.

(3) *Leaseholds.* Security instruments for loans secured by leaseholds will describe security in accordance with Part 1807 of this chapter (FmHA Instruction 427.1), and the following provisions will also apply:

(i) The following language, or similar language which in the opinion of the OGC is legally adequate, will be inserted just before the legal description of the real estate:

All Borrower's rights, title, and interest in and to the leasehold estate for a term of ____ years beginning on _____, 19____, created and established by a certain lease dated _____, 19____, executed by _____, as lessor(s), recorded on _____, 19____, in Book _____, page ____ of the _____ Records of said County and State, and any renewals and extensions thereof, and all Borrower's right, title, and interest in and to said Lease, covering the following real estate:

(ii) An additional covenant will be inserted in the mortgage to read as follows:

Borrowers will pay when due all rents and any and all other charges required by said Lease, will comply with all other requirements of said Lease, and will not surrender or relinquish, without the Government's written consent, any of the Borrower's right, title, or interest in or to said leasehold estate or under said Lease while this instrument remains in effect.

(iii) A copy of the lease will be made part of the loan docket.

(4) *Filing or recording security instruments.* The following appropriate actions will be taken after loan closing:

(i) When the original security instrument is returned by the recording official, it will be retained in the borrower's case folder. When the original is retained by the recording official, a conformed copy, showing the date and place of recordation and the book and page number, will be prepared and filed in the borrower's case folder. A conformed copy of the security instrument will be sent to a prior lienholder if a substantial interest is held by that lienholder, or if it is required by a working agreement provision with that lienholder.

(ii) The original deed of conveyance, if any, and a copy of the security instrument will be delivered to the borrower.

(5) *Abstracts of Title.* Any abstract of title will be delivered to the borrower and Form FmHA 140–4, "Transmittal of Documents," will be prepared and a receipt obtained in accordance with the FML However, when an abstract is obtained from a third party with the understanding it will be returned, such abstract will be sent directly to the third party and a memorandum receipt will be obtained.

(6) *Requesting title service.* When the loan is approved, the County Supervisor will see that title service is requested in accordance with Part 1807 of this chapter (FmHA Instruction 427.1), if this has not already been done.

(7) *Fees.* The borrower will pay all filing, recording, notary and lien search fees incident to loan transactions from personal or loan funds. When FmHA employees accept cash for these purposes Form FmHA 440–12, "Acknowledgement of Payment for Recording, Lien Search, and Releasing Fees," will be executed. FmHA employees will make it clear to the borrower that any fee so accepted is only for paying fees on behalf of the borrower, and is not accepted as partial payment on a loan.

(8) *Supervised bank accounts.* If a supervised bank account is required, loan funds will be deposited following loan closing. Supervised bank accounts will be established in accordance with Subpart A of Part 1902 of this chapter. Loan funds not to be disbursed for specific purposes at loan closing and not needed within 30 days after closing, will not be requested until they are needed. The "Loan Disbursement System" will be used to request future advances at 30 day intervals or as needed. Only in unusual cases will loan funds be kept in supervised bank accounts for more than 60 days. When such funds are placed in an interest bearing supervised bank account, the interest earned will be applied on the EM loan immediately or used for an authorized EM loan purpose, if the planned EM funds are not sufficient to cover all of the planned items.

(b) *Closing loans secured by chattels and crops.* See Subpart B of Part 1941 of this chapter.

(c) *Loan closing review.* Immediately prior to loan closing, the FmHA official responsible for closing the loan(s) will review the file for compliance with Agency regulations.

§ 1945.190 Revision of the use of EM loan funds.

(a) *Requirements.* Loan approval officials or their delegates are authorized to approve changes in the purposes for which loan funds were planned to be used, provided:

(1) The loan, as changed, is within the respective loan approval official's authority.

(2) Such a change is for an authorized purpose and within applicable limitations.

(3) Such a change will not adversely affect either the feasibility of the operation or the Government's interest.

(4) Such a change is approved in advance of the loan funds being used for the new purpose(s).

(b) *Additional authority.* The State Director may delegate additional authority to approval officials to approve certain kinds of changes in the use of loan funds by issuing a State Supplement describing such changes, provided prior approval is obtained from the National Office.

(c) *Revisions.* When changes are made in the use of loan funds, no revision will be made in the repayment schedule on the promissory note. Appropriate changes with respect to the repayment will be made in Table K of Form FmHA 431–2 (and, if needed, on Form FmHA 1962–1) and will be initialed by the borrower. The County Supervisor will also make appropriate notations in the "Supervisory and Servicing Actions" section of Form FmHA 1905–1, "Management System Card—Individual."

§ 1945.191 [Reserved]

§ 1945.192 Loan servicing.

Loans will be serviced under Subpart A of Part 1962 and Subpart A of Part 1965 of this Chapter.

§ 1945.193–1945.199 [Reserved]

§ 1945.200 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575–0090.

67. Exhibit A of Subpart D of Part 1945 is revised to read as follows:

Exhibit A to Subpart D—Processing Guide—Insured Emergency (EM) Loans

I. Purpose

This Exhibit outlines the basic steps involved in processing a loan application including an application kit, and identifies the FmHA forms which should be considered for use at each step as appropriate for EM loans.

II. General

A. The forms listed in this Exhibit will be considered in development of the application. Forms designated with an "X" are required and those designated with a "•" are used when applicable.

B. Consult the appropriate Forms Manual Insert (FMI) for instructions for completion, distribution, and procedural reference for each form.

III. Application Processing

A. Application Filing. The following should be done at the time the applicants file their applications.

1. County Office Assistants (COA) normally will have the first contact with potential applicants. During these contacts the COA should:

a. Be sympathetic and sensitive to applicant's needs.

b. Set up appointments for applicants to meet with supervisory personnel.

c. Inform applicants of the last date for receiving applications.

d. Discuss credit needs and FmHA's services.

e. Advise applicants eligible for other credit that they are not eligible for an EM loan and advise applicants appearing eligible for other credit who certified they are unable to get other credit, that they will be referred to other lenders to obtain written evidence they are unable to obtain their needed credit from such other lenders.

f. Begin running case record.

g. Provide applicants with an application kit and any other instructions that are needed to help expedite processing of the application and FmHA forms to be completed.

2. The application kit should have a cover sheet with instructions to the applicant, as is appropriate for individuals, corporations, cooperatives, joint operations and partnerships. The cover sheet will include a notice to the applicant that the completed application must be returned by the termination date shown on the cover sheet in order to be accepted and considered for EM loan assistance. The following FmHA Forms should be included in the kit: 410–1, 410–9, "Statement Required by the Privacy Act," 431–1, "Long Time Farm and Home Plan," 431–2, and 1945–22.

3. The County Office Assistant (COA) will set up a list of names and addresses for all recipients of EM applications given out. This list will be monitored daily or weekly and if an applicant does not keep a scheduled appointment, follow up will be accomplished with a letter or telephone call and recorded in the county case file.

4. Applicants will be promptly notified in writing of their eligibility status, and if

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additional information is needed to make an eligibility determination, it will be requested in writing.

5. The following FmHA Forms will be used as appropriate:

Form No.	Name	Use
410-1	Application for FmHA Services	X
1910-5	Request for Verification of Employment.	•
410-7	Notification to Applicant on Use of Financial Information from Financial Institution.	X
410-9	Applicant Reference Letter	•
410-8	Statement Required by the Privacy Act.	•
410-10	Privacy Act Statement to Relatives.	X
431-1	Long-Time Farm and Home Plan	•
431-2	Farm and Home Plan	X
431-4	Business Analysis—Nonagricultural Enterprise.	•
440-32	Request for Statement of Debts and Collateral.	•
440-34	Option to Purchase Real Property	•
440-58	Estimate of Settlement Costs "Settlement Costs" Booklet.	•
443-2	Option for Purchase of Farm—Land to be Subdivided.	•
443-3	Assignment of Interest in Option (Land to be Subdivided).	•
1924-14	Farmer Program Borrower Servicing Options Including Deferrals and Borrower Responsibilities.	•
1940-30	Request for Lender's Verification of Loan Application.	•
1940-51	Crop-Share-Cash Farm Lease	•
1940-53	Cash Farm Lease	•
1940-55	Livestock-Share Farm Lease	•
1940-56	Annual Supplement to Farm Lease	•
1940-20	Applicant's Environmental Impact Evaluation.	•
1943-22	Certification of Disaster Losses	X
1945-29	ASCS Verification of Farm Acreages, Production and Benefits.	•

B. Field Visit. Notify applicant of planned visit and its purpose.

1. Verification of disaster losses.

2. Evaluate the resources available to the applicant and their adequacy in fulfilling the requirements of the proposed plan of operation, taking into consideration development work planned.

3. Obtain information needed to complete required appraisals (chattel and real estate).

4. If development is planned, discuss plans, specifications, and estimates.

5. Hold landlord-tenant meeting, if necessary, to reach an agreement on the terms of the lease, resolve any problems, etc.; record in running case record.

6. Determine security requirements and record in running case record.

7. The following FmHA forms will be used as appropriate.

Form No.	Name	Use
422-1	Appraisal Report—Farm Tract	•
422-2	Supplemental Report—Irrigation, Drainage, Levee and Minerals.	•
422-3	Map of Property	•
422-10	Appraiser's Worksheet—Farm Tracts for Study of Comparable Properties.	•
424-1	Development Plan	•
424-2	Description of Materials	•
440-13	Report of Loan Search	•
440-21	Appraisal of Chattel Property	•
1945-15	Value Determination Worksheet	•
1922-11	Appraisal Form for Mineral Rights	•
1922-8	Residential Appraisal Report	•
1945-36	Calculation of Actual Losses	X

C. Eligibility Determination.

1. Obtain all needed application forms and other information from the applicant. Assist the applicant in completing these forms and/or in obtaining needed information, as necessary.

2. Request deed or other evidence of title.

3. Schedule meeting for Community Committee, review application and determine eligibility.

4. Inform applicant of the results of Committee action.

5. The following FmHA forms will be used as appropriate:

Form No.	Name	Use
409-1	Debt Adjustment Agreement	•
440-2	County Committee Certification or Recommendation.	X

IV. Docket Preparation

A. Obtain all information from the applicant, prior lienholder(s), landlord(s), etc., needed for the loan docket to be prepared.

B. Check to assure all security requirements have been or will be met by loan closing.

C. Prepare a loan narrative and enter it into the running case record.

D. Use the following FmHA forms as appropriate.

Form No.	Name	Use
400-4	Assurance Agreement	X
427-9	Agreement with Prior Lienholder	•
440-4	Security Agreement (Chattels and Crops).	•
440-6	Severance Agreement	•
440-15	Security Agreement (Insured Loans to Individuals).	•
1940-20	Request for Environmental Information.	•
440-26	Financing Statement	•
440-A35	Financing Statement (Carbon-Interleaved).	•
440-28	Consent and Subordination Agreement.	•
1940-21, 1940-22, or Exhibit H, Subpart G of Part 1940.	Environmental Review	•
441-5	Subordination Agreement	•
441-9	Assignment of Proceeds from the Sale of Products.	•
441-10	Nondisturbance Agreement	•
441-12	Agreement for Disposition of Jointly-Owned Property.	•
441-13	Division of Income and Nondisturbance Agreement.	•
441-17	Certification of Obligation to Landlord.	•
441-18	Consent to Payment of Proceeds from Sale of Farm Products.	•
441-25	Assignment of Proceeds from the Sale of Dairy Products and Release of Security Interest.	•
443-16	Assignment of Income From Real Estate Security.	•
443-17	Agreement to Sell Nonessential Real Estate.	•
1940-1	Request for Obligation of Funds	X

V. Loan Approval and Closing

A. Loan Approval.

1. Establish loan closing conditions and enter them in the running case record.

2. Execute and distribute all forms necessary for loan approval.

3. For chattel loan—file financing statement or chattel mortgage, and obtained a lien search.

4. For real estate loan—request preliminary title opinion.

B. Loan Closing.

1. Arrange for loan closing by escrow agent, designated attorney, or other authorized loan closing agent; furnish loan closing agent with appropriate instructions, forms, and other needed information for loan closing.

2. The following FmHA forms will be provided to and used by the appropriate loan closing agent, in addition to those forms listed under docket preparation which must be executed by the borrower or other party:

Form No.	Name	Use
140-4	Transmittal of Documents	•
400-1	Equal Opportunity Agreement	•
400-3	Notice to Contractors and Applicants.	•
400-6	Compliance Statement	•
402-1	Deposit Agreement	•
402-2	Statement of Deposits and Withdrawals.	•
402-5	Deposit Agreement (Non FmHA Funds).	•
426-2	Property Insurance Mortgage Clause (Without Contribution).	•
427-1	Real Estate Mortgage or Deed of Trust for.	•
427-4	Transmittal of Title Information	•
427-5	Affidavit of Borrowers (or Transferees).	•
427-6	Affidavit of Sellers (or Transferors)	•
427-9	Preliminary Title Opinion	•
427-10	Real Title Opinion	•
427-11	Warranty Deed	•
440-46	Nondiscrimination Certificate (Individual Housing).	•
440-59	Settlement Statement	•
1924-14	Farmer Program Borrower Servicing Options Including Deferrals and Borrower Responsibilities.	X
1940-17	Promissory Note	X
1965-22	Information on Assumption on New Terms or Other Change of Terms.	•
1965-23	Supplemental Information on Assumption and/or Change of Terms.	•

68. Exhibit D of Subpart D of Part 1945 is amended by revising the introductory text of paragraph IV., the introductory text of paragraph VIII., and paragraph IX. B. to read as follows:

Exhibit D—Emergency Loans for Citrus Grove Rehabilitation and/or Reestablishment

* * * * *

IV. Eligibility

Sections 1945.163 and 1945.175 of this subpart are supplemented to the extent that EM loan may be made, under the provisions of this Exhibit, only to otherwise eligible applicants who are owner-operators of citrus groves. To be eligible, applicants must:

* * * * *

VIII. Rates and Terms

See § 1945.155(a) and FmHA Instruction 440.1, Exhibit B, (available in any FmHA office). Section 1945.169 of this subpart is hereby modified, authorizing future advances

of EM loans funds to be disbursed over a period of up to 5 years, when such loan funds are used to rehabilitate and/or reestablish a citrus grove(s). EM loans may have reduced annual installments scheduled, of at least partial interest, for up to 5 years. However, such reduced installments will not be scheduled longer than the amount of time projected as being needed to bring the citrus grove(s) back into profitable production. After the adjustment period, the promissory note may describe a graduated schedule of annual installments to coincide with projected increasing cash flow. A State Supplement will be issued setting forth several examples of a 5-year adjustment period showing scheduled annual installments.

* * * * *

IX. * * *

B. The best lien obtainable on real estate on which the citrus is to be grown, having sufficient collateral equity to fully secure the EM loan, based on the per acre appraised value of the citrus grove(s) as established on the day before the disaster occurred, or one year and one day before the disaster designation was requested by a State Governor or an FmHA State Director, whichever date has the higher value;

* * * * *

PART 1951—SERVICING AND COLLECTIONS

69. The authority citation for Part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; U.S.C. 1990; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Accounting Servicing Policies

70. Section 1951.44 is amended by revising paragraphs (a)(3) and (b)(1)(ii)(A) to read as follows:

§ 1951.44 Deferral of existing OL, FO, SW, RL, EM, EO, SL, RHF, and EE loans.

* * * * *

(a) * * *

(3) Unduly impaired standard of living: A condition whereby the borrower, due to circumstances beyond the borrower's control, is unable to pay essential family living expenses (partnerships, joint operators, corporations and cooperatives do not have family living expenses), pay normal farm operating expenses, including reasonable and customary hired labor and/or salary paid to the operator(s) of a partnership, a joint operation, a corporation or a cooperative, maintain essential chattels and real estate, and meet the scheduled payments of all debts.

(b) * * *

(1) * * *

(ii) * * *

(A) Accident, death, illness or injury to an individual borrower or dependent member of the borrower's family (stockholders, members, partners, or joint operators of an entity borrower are excluded, except when that stockholder, member, partner, or joint operator is the manager of the farming operation); or

* * * * *

PART 1955—PROPERTY MANAGEMENT

71. The authority citation for Part 1955 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property

72. Section 1955.18 is amended by revising paragraph (a) to read as follows:

§ 1955.18 Actions required after acquisition of property.

(a) *Reporting acquisition.* When real or chattel property is acquired by the Government, the servicing official will prepare and distribute Form FmHA 1955–3, "Advice of Property Acquired," or Form FmHA 1965–19, "Multiple Family Housing Advice of Mortgaged Real Estate Acquired," according to the FMI immediately after a voluntary conveyance is closed, a foreclosure sale is completed, or property is acquired by any other means. The date of acquisition will be the date the deed to the Government is recorded for a voluntary conveyance; the date of the foreclosure sale; or for chattels, the date the bill of sale (and title, if applicable) is executed transferring ownership to FmHA. Form FmHA 1955–3 or Form FmHA 1965–19 will be submitted promptly without waiting for the final report on sale from OGC where required. The State Director will assign an advice number to the property and complete distribution according to the FMI. For MFH loans, the State Director will forward a copy of Form FmHA 1965–19 to the National Office for monitoring purposes. For MFH projects with rental assistance, Form FmHA 1944–55, "Multiple Family Housing Transfer of Rental Assistance," must be attached to Form 1965–19 indicating the status of the rental assistance while the property is in inventory. The County Supervisor will report the acquisition of farm property to the local Agricultural Stabilization and Conservation Service (ASCS) office by memorandum so that any allotments, marketing quotas or acreage bases established for the property will not lapse, terminate, be reduced or otherwise be adversely affected while the property is in inventory. The State Director will report any adverse effects on allotments, marketing quotas or acreage based on any farm inventory property to the Administrator.

* * * * *

Subpart B—Management of Property

73. Section 1955.63 is amended by redesignating paragraph (b) as (c) and paragraph (c) as (d) respectively and adding a new paragraph (b) to read as follows:

§ 1955.63 Suitability determination.

* * * * *

(b) *Grouping and subdividing surplus farm properties.* The State Director will subdivide surplus property whenever possible into parcels for the purpose of creating one or more suitable farm properties. The State Director may also group two or more individuals' surplus properties into one or more suitable farm properties. The environmental effects will be considered pursuant to Subpart G of Part 1940 of this chapter. Also refer to § 1955.140 of Subpart C of this part. The State Director, with prior approval of OGC, may issue a State Supplement addressing any applicable State laws.

* * * * *

74. Section 1955.64 is amended by revising paragraph (a)(3) to read as follows:

§ 1955.64 Securing, maintaining, and repairing inventory property.

* * * * *

(a) * * *

(3) *Farm property.* Only the farm service buildings and facilities typically essential for the type of farming in the area will be repaired, renovated, and/or improved as necessary to place in saleable condition. Conservation of soil, water, and forest resources will be considered and actions will be taken to correct severe problems upon advice of the Soil Conservation Service (SCS). The County Supervisor will request that the SCS prepare a conservation plan for the property, identify within the plan the location of any highly erodible land and recommend specific conservation practices for such land. The County Supervisor will carry out those practices in the SCS plan that are essential to preserve and protect the property and to place it in saleable condition. Chattel property will be managed as outlined in § 1955.80 of this subpart.

* * * * *

75. Section 1955.65 is amended by revising paragraphs (b) and (c)(1) to read as follows:

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§ 1955.65 Management of inventory and/or custodial real property.

* * * * *

(b) *Management methods.* Management methods and requirements will vary depending on such things as the number of properties involved, their density of location, and market conditions. Management tools which may be used effectively range from contracts to secure an individual property, have the grass cut, or winterize a dwelling; a simple management contract to provide maintenance and other services on a group of properties (including but not limited to specification writing, inspection of repairs, and yard and directional signs and their installation), or manage an MFH project; blanket-purchase arrangement contracts to obtain services for more than one property; to a broad-scope management contract with a real estate broker or management agent which may include inspection and specification-writing services, making simple repairs, obtaining leasees, collecting rents, coordination with listing brokers in marketing the properties, and effecting eviction of tenants when necessary. A contractor may handle evictions only where State laws permit the contractor to do so in his/her own name; a contractor may not pursue eviction in the name of the Government (FmHA). Custodial property may be managed in the same manner as inventory property except that it may be leased only if it is habitable without repairs in excess of those authorized in § 1955.55(c) of this subpart. Farm or organization property, such as rental housing and community facilities, may be operated under a management contract if the State Director has determined it is appropriate to have the property in operation. In any case, the primary consideration in selecting the method of management to be used is to protect the Government's interest. If property is to be operated or leased under a management contract is located in an area identified by the Federal Insurance Administration as a special flood or mudslide hazard area, lessees or tenants must be notified to that effect in accordance with § 1955.66 (e) of this subpart. A management contract which covers property in such a hazard area may provide for the contractor to issue the required notices.

(c) * * *

(1) *Management contracts.* Management contracts are flexible instruments which may be tailored to meet the specific needs of almost any situation involving custodial or inventory property. This type of contract may be used to manage and maintain SFH properties, farms, and any other type of facility for which FmHA is responsible. Organization-type properties will be secured, maintained, repaired, and operated if authorized, in accordance with a management plan prepared by the District Director and approved by the State Director if the amount of total debt does not exceed the State Director's loan approval authority, or by the Administrator. For MFH, this plan should follow the guidance provided by Subpart C of Part 1930 of this chapter. An audit of the borrower's records may be required if recent financial information is not available. For MFH projects, tenant occupancy and selection will be in accordance with the occupancy standards set forth in Subpart C of Part 1930 of this chapter. Tenants will be required to sign a written lease if one does not exist when the property is acquired or taken into custody. If a contract involves management of an MFH project with 5 or more units, or 5 or more single-family dwellings located in the same subdivision, the contractor must furnish Form HUD 935.2, "Affirmative Fair Housing Marketing Plan," subject to FmHA's approval. Contracts for management of farm inventory property wil be offered on a competitive bid basis, giving preference to persons who live in, and own and operate qualified small businesses in the area where the property is located in accordance with the provisions in Exhibit J, paragraph II C, "Procurement Preference Program," of FmHA Instruction 2024–A (available in any FmHA office).

* * * * * *

76. Section 1955.66 is amended by revising paragraphs (a)(2)(iii) and (b) and redesignating paragraph e (c) to (d), (d) to (e), (e) to (g), (f) to (i), (g) to (j), (h) to (k), (i) to (l) and (j) to (m), adding new paragraphs (c), (f) and (h) and revising newly designated paragraph (g) to read as follows:

§ 1955.66 Lease of Real Property.

* * * * *

(a) * * *

(2) * * *

(iii) *Farm Property.* Any CONACT property with a dwelling (whether located on or off the farm) that is possessed and occupied as a principal residence by one who was personally liable for a Farmer Program loan must be considered for dwelling retention under § 1955.73 of this subpart prior to lease under this section. The County Supervisor may approve the lease of farm property. When a lease with an option to purchase is signed, the lesses should be told that FmHA cannot make a committment to finance the purchase of the property in the future. Except for leases with an option to purchase, special stipulations will be made a part of farm leases to provide that the Government may terminate the lease in order to sell the farm, but in that event the lessee will retain the right to harvest growing crops and rental payment will be prorated between the Government and the purchaser of the property. The County Supervisor shall report all leases of farms to the local Agricultural Stabilization and Conservation Service ASCS) office and all subsequent changes in leases or sale of the property. Leases for mineral exploration and/or development will be on a form approved by OGC. In approval of a lease for mineral purposes, consideration will be given to impact on the environment, preservation of land for agricultural purposes as required by Subpart G of Part 1940 of this chapter, as well as effect on sale of the property. The Administrator may issue directives (available in any affected FmHA office) restricting the leasing of property which could be used to produce agricultural products determined to be in surplus supply. Chattel property will not normally be leased unless it is attached to the real estate as a fixture or would normally pass with the land.

* * * * *

(b) *Selection of lessees for other than farm property.* When the property to be leased is residential, a special effort will be made to reach prospective lessees who might not otherwise apply because of existing community patterns. A lessee will be selected considering the potential as an eligible applicant for purchase of the property (if property is suitable for program purposes) and ability to preserve the property. The leasing official may require verification of income and/or a credit report (to be paid for by the prospective lessee) as he/she deems necessary to assure payment ability and creditworthiness of the prospective lessee.

(c) *Selection of lessees for farm property.*—(1) *Farm plans.* All prospective lessees will be required to submit a farm plan for the upcoming crop year and to submit evidence of their income. The County Supervisor must determine that the terms of the lease can be fulfilled. The County Supervisor may require verification of income and/or a credit report (to be paid for by the prospective lessee).

(2) *Leasing priority.* Farm property will be leased in the following order of priority:

(i) The previous owner or operator of the property will be given the first opportunity to lease, with or without an option to purchase. The County Supervisor will notify the previous owner or operator, by certified letter, return receipt requested, of the availability of the property for lease as soon as it becomes available for lease. The previous owner or operator will be given thirty days to contact the county office if interested in leasing, with or without an option to purchase. The County Supervisor must determine that the previous owner or operator has sufficient experience, management skills and financial resources to assure a reasonable prospect of success in the farming operation. In making this determination, the County Supervisor will evaluate the previous owner's or operator's financial and production records and determine whether or not the failure of the previous operation was caused by factors beyond the previous owner's or operator's control such as natural disasters, inflated farm prices, high interest rates and prices received that were below reasonable costs of production. If this determination is adverse to the previous owner or operator, the County Supervisor will notify, in writing, the previous owner or operator of the decision and will give the previous owner or operator the opportunity to appeal the determination in accordance with Subpart B of Part 1900 of this chapter. No lease will be signed with any prospective lessee until this appeal is concluded. If the appeal is concluded in FmHA's favor, the provisions of (h) of this section on advertising will be followed:

(ii) If the previous owner or operator is not interested in leasing the property, the County Supervisor will give performance to operators (as of the time immediately before a lease is entered into) of not larger than family-size farms who want to lease *with* an option to purchase. The County Supervisor must determine which of these prospective lessees can fulfill the terms of the lease, as required by paragraph (c)(1) of this section. If there is more than one prospective lessee in this category, the County Committee will select, by majority vote, the operator who has the best chance for success in operating the farm and exercising the option to purchase.

(iii) If the previous owner or opertor is not interested in leasing the property and no operator described in paragraph (c)(2)(ii) of this section wants to lease the property, the County Supervisor will give preference to operators (as to the time immediately before a lease is entered into) of not larger than family-size farms who want to lease *without* an option to purchase. The County Supervisor must determine which of these prospective lessees can fulfill the terms of the lease, as required by paragraph (c)(1) of this section. If there is more than one prospective lessee in this category, the County Supervisor will select the lessesse who made the first acceptable offer to lease the property.

(iv) If not prospective applicants fall into the categories in paragraphs (c)(2)(i), (ii), or (iii) of this section, the County Supervisor will select the lessee who can fulfill the terms of the lease, as required by paragraph (c)(1) of this section, and who made the first offer, which was in accordance with the conditions of the advertisement, to lease the property.

* * * * *

(f) *Highly erodible land.* Leases of farm inventory property land that is "highly erodible land" as determined by the SCS must contain, as requirements of the leases, conservation practices specified by the SCS and approved by the FmHA.

(g) *Lease with option to purchase.* For inventory property *only*, a lessee may be given the option to purchase. Terms of the option will be set forth as part of the lease as a special stipulation in accordance with the FMI for Form FmHA 1955–20. The purchase price (option price) will be the market value except for farm property. The purchase price (option price) for all farm property to be leased with option to purchase to eligible farm applicants will reflect the average annual income that may be reasonably anticipated to be generated from farming such property. Therefore, the option price will be the capitalization value of the farm as set forth in Subpart A of Part 1809 of this chapter (FmHA Instruction 422.1). The capitalization value will be supported by a current appraisal on Form FmHA 422–1, "Appraisal Report-Farm Tract." A lease with option to purchase farm property will normally not exceed 1 year, but may in justifiable cases be for a period not longer than 3 years. The lease payments will not be applied toward the purchase price.

(h) *Advertising farm property for lease.* Advertisement is not required when an existing lease will be renewed or renegotiated with the present lessee or when the previous owner or operator request to lease as outlined in paragraph (c)(2)(i) of this section. Otherwise, to assure fair and equitable treatment to all interested parties, public notice will be given of the availability of each inventory property for lease. Public notice means, as a minimum, advertisement in a newspaper or periodical that has a major circulation in the area where the inventory property is located. The public notice shall include as a minimum:

(1) All of the applicable qualifications, terms, conditions, restrictions, and stipulations associated with the lease, and how and when a lessee will be selected;

(2) A description of the property including its location and the presence of any natural hazards such as floodplains, wetlands and special mudslide hazard areas;

(3) The closing date and time for receiving written offers to lease;

(4) The terms of the lease;

(5) A statement that the Government reserves the right to reject all offers to lease;

(6) A statement that the property will be leased without regard to race, color, religion, sex, age, national origin or marital status.

* * * * *

Subpart C—Disposal of Inventory Property

77. Section 1955.103 is amended by revising paragraph (n) to read as follows:

§ 1955.103 Definitions

* * * * *

(n) *Regular FmHA sale.* Sale made by other than sealed bid, auction or negotiation by FmHA employees or real estate brokers. Except for farm property, regular FmHA sales are made at market value unless the price is administratively reduced. Farm property will be sold for a price that reflects the average income that may be reasonably anticipated to be generated from farming such property. Therefore, the price will be the capitalization value as determined by an appraisal made in accordance with Subpart A of Part 1809 of this chapter (FmHA Instruction 422.1).

* * * * *

78. Section 1955.106 is amended by revising the introductory text, and paragraphs (a) and (c), redesignating paragraph (d) as paragraph (e), and adding a new paragraph (d) and by revising newly designated paragraph (e)(1), by redesignating newly designated (e)(2) through (e)(5) as (e)(3) through (e)(6) respectively, and adding new (e)(2) to read as follows:

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§ 1955.109 Sale of suitable property (CONACT)

Except as provided in § 1955.109 of this subpart for farm property, CONACT real property which has been declared suitable for sale to eligible applicants will be offered for regular sale to eligible applicants in accordance with FmHA regulations that apply to the appropriate loan program. Real property will be managed in accordance with provisions of Subpart B of this part until sold under this section or reclassified as surplus and sold under § 1955.107 of this subpart.

(a) *Sale by FmHA.* When possible, the sale of suitable CONACT property should be handled by County Supervisors and District Directors. The date Form FmHA 1955–40, "Notice of Real Property for Sale," as posted is the date the property is offered for sale. As a minimum, farm property will be advertised for sale in at least one newspaper that is widely circulated in the county in which the farm is located and either Form FmHA 1955–40 or the "Notice of Sale," Form FmHA 1955–41, will be posted in a prominent place in the County Office. If an eligible applicant is not available locally, the official with responsibility for the property will advise other FmHA District and County Offices in the market area of the availability of the property. When requested by the County Supervisor, State Office Farmer Programs staff will assist in publicizing property for sale by informing other FmHA County, District, and/or State Offices. Maximum publicity should be given to the sale under guidance provided by § 1955.146 of this subpart and care should be taken to spell out eligibility criteria.

* * * * *

(c) *Price.* Except for farm property, property will be offered or listed for its market value, based on the condition of the property at the time it is made available for sale. Farm property will be sold for a price that reflects that average income that may be reasonably anticipated to be generated from farming such property. Therefore, the price will be the capitalization value as determined by an appraisal made in accordance with Subpart A of Part 1809 of this chapter (FmHA Instruction 422.1).

(d) *Selection of purchaser.* (1) Except for farm property, when more than one acceptable offer is received during business hours on the same day, the order in which they will be considered will be decided by lot. If otherwise acceptable, the contract should be signed and accepted subject to approval of credit. "Back-up" offers will be retained in case the first offer processed cannot be closed.

(2) If two or more eligible operators of not larger than family-size farms wish to purchase a suitable farm, the County Committee will select the operator who in their opinion has the best chance for success based upon an evaluation of their past farm records and proposed farm plans. This operator's offer will be accepted. The reasons explaining the County Committee's selection of the best qualified applicant will be fully documented on Form FmHA 440–2, "County Committee Certification or Recommendation." Some of the factors the committee will consider include but are not limited to:

(i) *Liquidity.* Consider working capital, cash flow, the ratios of current assets to current liabilities and current liabilities to total liabilities.

(ii) *Solvency.* Consider net worth and the ratio of total liabilities to net worth.

(iii) *Profitability.* Consider net farm income and the ratio of net farm income to net worth.

(iv) *Efficiency.* Consider the ratios of cash operating expenses to gross receipts and debt repayment to gross receipts.

(e) * * *

(1) Form FmHA 1955–45, "Standard Sales Contract-Sale of Real Property By the United States," will be used to document the offer and acceptance for regular FmHA sales.

(2) The County Committee will certify to the applicant's eligibility on Form FmHA 440–2, in accordance with program eligibility requirements when required by the FmHA regulation that applies to the appropriate loan program.

* * * * *

79. Section 1955.107 is amended by revising paragraph (b) to read as follows:

§ 1955.107 Sale of surplus property (CONACT).

* * * * * *

(b) *Sale by sealed bid or auction.* Surplus real property must first be offered for public sale by sealed bid or auction. The State Director will determine the method of sale, the minimum acceptable sale price and whether or not credit will be offered prior to the offering. The minimum acceptable sale price established may not be more than the market value. The minimum acceptable sales price established for farm property may not be more than the capitalization value as determined by an appraisal made in accordance with Subpart A of Part 1809 of this chapter (FmHA Instruction 422.1). For sealed bid sales, preference will be given to a cash offer which is at least *_____ percent of the highest offer requiring credit. [*Refer to Exhibit B of FmHA Instruction 440.1 (available in any FmHA office) for the current percentage.] Equally acceptable sealed bid offers will be decided by lot, except for the sale of farm property, where an acceptable sealed bid from an operator of not larger than a family farm will be given preference. If two or more operators of not larger than family-size farms wish to purchase a farm property, the County Committee will select the operator who in their opinion has the best chance for success based upon an evaluation of their past farm records and proposed farm plans. This operator's bid will be accepted. The reasons explaining the County Committee's selection of the best qualified applicant will be fully documented on Form FmHA 440–2. Some of the factors the committee will consider include but are not limited to:

(1) *Liquidity.* Consider working capital, cash flow, the ratios of current assets to current liabilities and current liabilities to total liabilities.

(2) *Solvency.* Consider net worth and the ratio of total liabilities to net worth.

(3) *Profitablility.* Consider the net farm income and the ratio of net farm income to net worth.

(4) *Efficiency.* Consider the ratios of cash operating expenses to gross receipts and debt repayment to gross receipts.

* * * * *

80. Section 1955.108 is amended by revising paragraph (a) to read as follows:

§ 1955.108 Processing and closing (CONACT).

(a) *Determining repayment ability and creditworthiness.* If a credit sale is involved, the applicant must furnish necessary financial information to assist in determining repayment ability and creditworthiness. Form FmHA: 431–2, "Farm and Home Plan," should be used for all eligible applicants unless the applicant has furnished all required information in another acceptable format. Information regarding eligibility, planned development and total operations will be provided the same as for the respective type of Farmer Program loan. Purchasers requesting credit on ineligible terms will be required to provide sufficient information to establish financial stability, creditworthiness and farm budgets to establish repayment ability. For organization property, information will be provided which is similar to an application including financial information required for the respective loan program.

* * * * *

81. Section 1955.109 is added to read as follows:

§ 1955.109 Disposition of farm property.

(a) *Effects of farm property on farm values.* State Directors will analyze farm real estate market conditions within the geographic areas of their jurisdiction and determine whether or not the sale of the FmHA farm inventory properties will have a detrimental effect on the value of farms within these areas. Such analysis will be carried out in January of each year and as often throughout the year as necessary to reflect changing farm real estate conditions. If the analyses of farm real estate conditions indicate that such sales would put downward pressure on farm real estate values in any area, all farm properties within the area affected will be withheld from the market and managed in accordance with the provisions of Subpart B of this part until such time that a subsequent analysis indicates otherwise. The State Director will notify in writing the County Supervisor(s) servicing those areas that are restricted from selling farm inventory property. State Directors in consultation with other lenders, real estate agents, auctioneers, and others in the community will analyze all available information such as:

(1) The number of farms and acres that FmHA expects to acquire in inventory.

(2) The number of farms and acres other lenders expect to acquire in inventory

(3) The number of farms and acres that FmHA currently has in inventory.

(4) The number of farms and acres other lenders currently have in inventory.

(5) The number of farms not included in paragraphs (a)(3) and (a)(4) of this section which are currently listed for sale.

(6) Published real estate values and trend reports such as those available from the Economic Research Service or professional appraisal organizations.

(b) *Highly erodible land.* Leases of farm inventory property land that is "highly erodible land" as determined by the SCS must continue, as requirements of the leases, conservation practices specified by the SCS and approved by the FmHA as a condition for sale. Refer to § 1955.137(c) of this subpart for implementation requirements.

(c) *Disposition of farm property available for sale.* Unless withheld from sale as required by § 1955.109(a) of this section, farm property will be disposed of in the following order of priority:

(1) The previous owner or operator of the property will be given the first opportunity to purchase. The County Supervisor will notify the previous owner or operator, by certified letter, return receipt requested, of the availability of the property for sale as soon as it becomes available for sale. The previous owner or operator will be given thirty days to contact the County Office if interested in purchasing the farm. The purchase price will be as determined in § 1955.106(c) of this subpart. The property will be offered on eligible terms (if the previous owner or operator is eligible) and a credit sale processed in accordance with § 1955.106(d), or for cash or on ineligible terms of not less than ten percent (10%) down payment with the remaining balance amortized over a period not to exceed 25 years. The interest rate will be the current rate set forth in Exhibit B of FmHA Instruction 440.1 (available in any FmHA office).

(2) If the previous owner or operator of the property is not interested in purchasing the property, the previous owner or operator will be given the opportunity to lease, with or without an option to purchase, in accordance with § 1955.66(c)(2)(i) of Subpart B of this part.

(3) If the previous owner or operator of the property is not interested in purchasing or leasing the property, the property will be sold in accordance with §§ 1955.106 or 1955.107 of this subpart, as applicable.

82. Section 1955.137 is amended by adding paragraph (c) to read as follows:

§ 1955.137 Real property located in special areas or having special characteristics.

* * * * *

(c) *Highly erodible farmland.* (1) The County Supervisor will determine if any farmland inventory property contains highly erodible land as defined by the SCS and, if so, what specific conservation practices will be made a condition of a sale of the property. This should be done by reviewing the conservation plan prepared for the inventory property. See § 1955.64(a)(3) of Subpart B of this part. If this review determines that sufficient information does not exist on the location(s) of highly erodible land or recommended conservation practices, the SCS shall be contacted and requested to provide the necessary information.

(2) If the County Supervisor does not concur in the need for a conservation practice(s) recommended by SCS, any differences shall be discussed with the recommending SCS office. Failure to reach an agreement at the level shall require the State Director to make a final decision after consultation with the SCS State Conservationist.

(3) Whenever SCS technical assistance is requested in implementing these requirements and SCS responds that it cannot provide such assistance within a timeframe compatible with the proposed sale, the County Supervisor will determine if the sale arrangements should go forward or be delayed. If the property either is known to contain highly erodible land or there is visible evidence of erosion problems, a sale of the property will be delayed until SCS can respond. Otherwise, the sale may proceed, conditioned on the requirement that a purchaser will immediately contact SCS and have a conservation plan developed. The County Supervisor will monitor the borrower's compliance with the recommendations in the conservation plan. If problems occur in obtaining SCS assistance, the State Director should consult with the SCS State Conservationist. The potential for response to problems arising can be diminished by ensuring that all farmland in inventory has a conservation plan developed in accordance with § 1955.64(a)(3) of Subpart B of this part and that SCA assistance is requested immediately after acquiring title.

(4) The steps taken and results achieved in order to comply with the provisions of this paragraph shall be documented in the environmental review conducted for the proposed sale. All prospective purchasers must be made aware at the time of first inquiry of the conservation practices to be required. Therefore, the environmental review must be completed as soon as possible after acquiring title to the property.

83. Section 1955.139 is amended by revising paragraphs (a) and (b)(1) to read as follows:

§ 1955.139 Disposition of real property rights.

(a) *Easements, rights-of-way, development rights, restrictions or the equivalent thereof.* The State Director is authorized to convey these rights for conservation purposes, roads, utilities, and other purposes as follows:

(1) Except as provided in paragraph (a)(3) of this seciton, easements or rights-of-way may be conveyed to public bodies or utilities if the conveyance is in the public interest and will not adversely affect the value of the real estate. The consideration must be adequate for the inventory property being released or for a purpose which

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will enhance the value of the real estate. If there is to be an assessment as a result of the conveyance, relative values must be considered, including any appropriate adjustment to the property's market value, and adequate consideration must be received for any reduction in value.

(2) Except as provided in paragraph (a)(3) of this section, easements or rights-of-way may be sold by negotiation for market value to any purchaser for cash without giving public notice if the conveyance would not make otherwise suitable property unsuitable or surplus, nor decrease the value by more than the price received. Sale proceeds will be handled in accordance with Subpart B of Part 1951 of this chapter.

(3) For farm properties only, easements, restrictions, or the equivalent thereof may be granted or sold separately from the underlying fee or sum of all other rights possessed by the Government if such conveyances are for conservation purposes and are transferred to a unit of local or State government or a private nonprofit organization.

(i) Conservation purposes include but are not limited to protecting or conserving the following environmental resources or land uses:

(A) Fish and wildlife habitats of local, regional or State importance,

(B) Floodplain and wetland areas,

(C) Highly erodible land as defined by SCS,

(D) Important farmland, prime forest land, or prime rangeland as defined in Departmental Regulation 9500-3, Land Use Policy,

(E) Aquifer recharge areas of local, regional or State importance,

(F) Areas of high water quality or scenic value, and

(G) Historic and cultural properties.

(ii) Development rights may be sold for conservation purposes for their market value directly to a unit of local or State governmental or a private nonprofit organization by negotiation.

(iii) An easement, restriction or the equivalent thereof may be granted or sold for less than market value to a unit of local or State government or a private nonprofit organization for conservation purposes providing the transaction will not adversely affect the financial interest of the FmHA. If such a conveyance will adversely affect the FmHA financial interest, the State Director will submit the proposal to the Administrator for approval, unless the State Director has been delegated approval authority in writing from the Administrator to approve such transactions based upon demonstrated capability and experience in processing such conveyances. Factors to be addressed in formulating such a request include the intended conservation purpose(s) and the environmental importance of the affected property, the impact to the Government's financial interest, the financial resources of the potential purchaser or grantee and its normal method of acquiring similar property rights, the likely impact to environment should the property interest not be sold or granted and any other relevant factors or concerns prompting the State Director's request.

(iv) Property interests under this paragraph may be conveyed by negotiation with any eligible recipient without giving public notice if the conveyance would not make otherwise suitable property unsuitable or surplus. Sales proceeds will be handled in accordance with Subpart B of Part 1951 of this chapter. Conveyances shall include terms and conditions which clearly specify the property interest(s) being conveyed as well as all appropriate restrictions and allowable uses. The conveyances shall also require the owner of such interest to permit the FmHA, and any person or government entity designated by the FmHA, to have access to the affected property for the purpose of monitoring compliance with terms and conditions of the conveyance. To the maximum extent possible, the conveyance should designate an organization or government entity for monitoring purposes. In developing the conveyance, the approval official shall consult with any State or Federal agency having special expertise regarding the environmental resource(s) or land uses to be protected.

(4) A copy of the conveyance instrument will be retained in the County or District Office inventory file. The grantee is responsible for recording the instrument.

(b) * * *

(1) Mineral and water rights, mineral lease interests, mineral royalty interests, air rights, and agricultural and other lease interests will be sold with the surface land and will not be sold separately, except as provided in paragrah (a) of this section and in § 1955.66(a)(2)(iii) of Subpart B of Part 1955 of this chapter. If the land is to be sold in separate parcels, any rights or interests that apply to each parcel will be included with the sale.

* * * * *

84. Section 1955.140 is amended by revising paragraph (a) to read as follows:

§ 1955.140 Sale in parcels.

(a) *Individual property subdivided.* An individual property may be offered for sale as a whole or subdivided into parcels as determined by the State Director. For MFH property guidance will be requested from the National Office for all properties other than RHB projects. When farm inventory property is classified surplus because it is larger than a family-size farm, the State Director will subdivide the property into one or more suitable farm tracts and sell the suitable tracts to eligible applicants in accordance with § 1955.106 of this subpart. Any remaining surplus property will be disposed of in accordance with § 1955.107 of this subpart. Division of the land or separate sales of portions of the property, such as timber, growing crops, inventory for small business enterprises, buildings, facilities, and similar items may be permitted if a better total price for the property can be obtained in this manner. The division of the property must not change its character from suitable to unsuitable or surplus unless authorized by the appropriate Assistant Administrator. Environmental effects should also be considered pursuant to Subpart G of Part 1940 of this chapter. Any applicable State laws will be set forth in a State Supplement and will be complied with in connection with the division of land. If property is to be subdivided, a plan will be provided by the State Director protecting the FmHA security interest when the subdivided portions are sold. The plan will provide for partial releases based upon 110 percent of the portion of the outstanding loan prorated to the property released.

* * * * *

PART 1962—PERSONAL PROPERTY

85. The authority citation for Part 1962 continues to read as follows:

Authority: 7 U.S.C. 1989; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Servicing and Liquidation of Chattel Security

86. § 1962.3 is amended by adding paragraph (d) as follows:

§ 1962.3 Authorities and responsibilities.

* * * * *

(d) *Farms in more than one jurisdiction.* If the farm is situated in more than one State, County, or Parish, the loan will be serviced by the County Office serving the County in which the borrower's residence is located. If the borrower is a corporation, cooperative, partnership or joint operation is the borrower's residence is not on the farm, the loan will be serviced by the County Office serving the County in which the farm or a major portion of the farm is located.

87. Section 1962.4 is amended by revising paragraph (c) to read as follows:

§ 1962.4 Definitions.

* * * * *

(c) *Borrower.* Individual(s), corporation, cooperative, partnership, or joint operation that is (are) liable for the loan(s) or any part thereof.

* * * * *

88. Section 1962.17 is amended by revising paragraphs (a), (b)(1), and (b)(2), by revising (b)(4), (b)(5) and (c)(5) and adding (c)(6) read as follow:

§ 1962.17 Disposal of chattel security, use of proceeds and release of lien.

(a) *General.* (1) The borrower must account for all security and will be instructed of this requirement by the County Supervisor when a loan is made and as often afterward as necessary. When the borrower sells security, the property and proceeds remain subject to the lien until the lien is released by the County Supervisor. Purchasers of security who inquire should be informed that the property is subject to FmHA's lien and will remain subject to it until they deliver any proceeds in cash to the County Supervisor or make checks payable jointly to the borrower and FmHA and the check has cleared. When the borrower fails to account properly for security, the County Supervisor will take the actions required in § 1962.18 of this subpart. Releases of sales proceeds will automatically be terminated when either Exhibit D or E to Subpart A of Part 1955 of this chapter is sent to the borrow. Termination of such release will not occur prior to that time.

(2) Section 1924.57 of Subpart B of Part 1924 of this chapter requires that there must always be a current Form FmHA 1962–1 in the file of a borrower with a loan secured by chattels. If a borrower asks FmHA to release proceeds from the sale of chattels and there is not a current Form FmHA 1962–1 in the file, the County Supervisor will immediately begin working with the borrower to develop one. If the borrower's request for a release is denied, the borrower must be given a Form FmHA 1924–14, written explanation of the reason for the denial, and the opportunity for an appeal in accordance with Subpart B of Part 1900 of this part. The appeal hearing must be held within 20 days of the denial unless the borrower requests a longer time.

(b) * * *

(1) County Supervisors are authorized to approve or disapprove dispositions of FmHA chattel security in accordance with this subpart. The County Supervisor with the assistance of the borrower, will complete Form FmHA 1962–1 in accordance with the Forms Manual Insert (available in any FmHA office) to show how, when and to whom the borrower will sell, exchange or consume security and use sales proceeds (including milk sales proceeds) and insurance proceeds derived from the loss of security. This includes, for example, sales proceeds on hand and crops in storage. The five conditions set out in the form must all be met. These conditions are: (i) The proceeds from the sale, if any, are used for purposes and in the amount set forth on the form; (ii) a current farm and home plan or other similar plan of operation acceptable to FmHA has been completed and signed by the borrower and FmHA for loans secured by crops, livestock, livestock products, or when otherwise required by the County Supervisor; (iii) the borrower's projected income and expenses are based on the borrower's proven record of production and financial management (if the borrower does not have records, the County Supervisor will use Agricultural Stabilization and Conservation (ASCS) records, ES data, County averages or other reliable sources of data to develop projections); (iv) the borrower is utilizing the key production and financial management practices required by FmHA; and (v) the property is sold or exchanged for its present market value. The conditions set out in paragraph (b) (2) of this section must also be met.

(2) Sales proceeds must be remitted to creditors with liens on the proceeds, in order of priority of these liens. Proceeds which are released by a prior lienholder or which are in excess of the amount due to a prior lienholder and which come to FmHA can be used as follows:

(i) If a borrower *has* been sent a Form FmHA 1924–25, "Notice of Intent to Take Adverse Action," and the existing Form FmHA 1962–1 expires, a new Form FmHA 1962–1 must be completed.

(A) The form *must* provide for releases of proceeds from the sale of crops, livestock, and livestock products planned to be marketed in the regular course of business so that the borrower can pay essential household and farm operating expenses. Essential expenses are those which are basic, crucial or indispensable. This will not include expenses for expansion of the operation. Excess proceeds must be applied to the FmHA debt or used to preserve existing security. If the sale of crops, livestock, and livestock products planned to be marketed in the regular course of business will not generate enough income to meet all essential household and farm operating expenses, the borrower may sell other chattel security (such as machinery, equipment or fountain livestock) to meet those expenses.

(B) Livestock can be used by the borrower's family for subsistence.

(C) Crops which serve as security may be marketed or fed to the borrower's livestock, provided FmHA obtains a lien on the livestock or livestock products.

(D) If the borrower responds to the Form FmHA 1924–25 and is granted a servicing action or prevails on appeal or makes restitution, the Form FmHA 1962–1 will be immediately revised in accordance with paragraphs (b)(2)(iii) of this section.

(E) If the borrower does not respond to the Form FmHA 1924–25, is not granted a servicing action, does not prevail on appeal or does not make restitution, releases will be made in accordance with paragraphs (b)(2)(i)(A)–(C) of this section until the borrower's account has been accelerated.

(ii) If the borrower *has not* been sent a Form FmHA 1924–25 *and cannot* complete a feasible farm plan, releases must be made in accordance with paragraph (b)(2)(i)(A)–(C) of this section.

(iii) If the borrower *has not* been sent a Form FmHA 1924–25 *and can* complete a feasible farm plan, proceeds can be used for any of the following purposes:

(A) Form FmHA 1962–1 must provide for releases of proceeds from the sale of crops, livestock, and livestock products planned to be marketed in the regular course of business so that the borrower can pay essential household and farm operating expenses. Essential expenses are those which are basic, crucial or indispensable.

(B) Proceeds can be applied to the FmHA debt.

(C) Proceeds can be used to purchase property better suited to the borrower's needs if FmHA will acquire a lien on the new property. The new property, together with any proceeds applied to the FmHA indebtedness, will have a value to FmHA at least equal to the value of the lien formerly held by FmHA on the old security.

(D) Proceeds can be used to preserve the security because of a natural disaster or other severe catastrophe, when the need for funds cannot be met by other means or with an FmHA loan or an FmHA loan cannot be made in time to prevent the borrower and FmHA from suffering a substantial loss.

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(E) Property can be exchanged for property which is better suited to the borrower's needs if FmHA will acquire a lien on the new property, at least equal in value to the lien held on the property exchanged.

(F) Property can be consumed by the borrower as follows:

(*1*) Livestock can be used by the borrower's family for subsistence.

(*2*) If crops serve as security and usually would be marketed, the County Supervisor can allow such crops to be fed to livestock, provided, this is preferable to direct marketing and also provided that FmHA obtains in lien (or assignment) on the livestock and livestock products at least equal in value to the lien on the crops.

* * * * *

(*4*) If, for any sale, the amount of proceeds actually received is above or below the amount of proceeds planned to be received, as shown on Form FmHA 1962–1, the borrower will immediately notify the County Supervisor. Such notification may be by telephone to the County Office, by letter, by visit to the County Office, or any other method the borrower chooses. Changes which materially affect the borrower's operation will almost always require a visit to the County Office so that the County Supervisor and the borrower can complete a new Farm and Home Plan and revise Form FmHA 1962–1.

(*5*) If a borrower wants to dispose of chattels at a different time or in a different manner or wants to sell more or less than the planned quantity, the borrower must obtain FmHA's consent in advance of the sale. FmHA *must* give consent if the conditions set out on this form and in paragraph (b) of this section are met. When revisions are agreed to over the telephone, the County Supervisor should revise the Form FmHA 1962–1 contained in the borrower's case file, initial and date the change and mark the form "Revised." The County Supervisor will then either write to the borrower and confirm the revision, or send a copy of the "Revised" form to the borrower and ask the borrower to date and initial the change and return the form to the County Office. Otherwise, the County Supervisor will ask the borrower to date and initial the change the next time the borrower is in the County Office. Major changes in a borrowar's operation will almost always require that the borrower visit the County Office so that a new Farm and Home Plan and a Form FmHA 1962–1 can be developed. If permission is not granted, see paragraph 1924.57(d)(2) of Subpart B of Part 1924 of this chapter.

(c) * * *

(5) Liens on separate items of chattels can be released to another creditor for purposes set out in paragraph (b)(2) of this section when it has been determined by a current appraisal that the value of the remaining security is substantially greater than the remaining FmHA debt.

(6) Liens on chattels for real estate type loans may be released when it has been determined by a current appraisal that the value of the remaining security is substantially greater than the remaining FmHA debt. Concurrence of the District Director must also be obtained for such a release and recorded in the running case record of the borrower's county office file.

* * * * *

89. Section 1962.34 is amended by revising paragraph (a)(3) to read as follows:

§ 1962.34 Transfer of chattel security and EO property and assumption of debts.

* * * * *

(a) * * *

(3) The transfer of EM actual loss loans, or EM loans made before September 12, 1975, will be made as provided under paragraph (b) of this section. However, when one or more of the borrowers or jointly obligated partners or joint operators withdraw from the operation and those remaining desire to assume the total indebtedness and continue the operation, a transfer to the remaining borrowers, partners, or joint operators may be made as an eligible transferee.

* * * * *

90. Section 1962.41 is amended by revising paragraph (e) to read as follows:

§ 1962.41 Sale of chattel security or EO property by borrowers.

* * * * *

(e)*Unpaid FmHA debt.* If the sale results in less than full payment of the FmHA debt, the borrower will be sent a letter similar to Exhibit F of Subpart A of Part 1955 of this chapter (available in any FmHA office). The account will be considered for debt settlement.

§ 1962.42 [Amended]

91. Section 1962.42 is amended by redesignating paragraph (c)(9) as paragraph (d).

PART 1965—REAL PROPERTY

92. The authority citation for Part 1965 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Servicing of Real Estate Security For Farmer Program Loans and Certain Note—Only Cases

93. Section 1965.2 is amended by designating the current paragraphs as paragraphs (a) and (b), respectively, and adding a new paragraph (c) to read as follows:

§ 1965.2 General policies.

(a) FmHA will service real estate security in a manner that best accomplishes the loan objectives and protects the Government's financial interest. To accomplish this, FmHA will service the real estate security in accordance with the security instruments and related agreements, including any authorized modifications and the provisions of this subpart.

(b) The Federal Equal Credit Opportunity Act prohibits creditors from discriminating against credit applicants on the basis of race, color, religion, national origin, sex, marital status, age (provided that the applicant has the capacity to enter into a binding contract); because all or part of the applicant's income is derived from any public assistance, program; or because the applicant has in good faith exercised any right under the Consumer Credit Protection Act. The Federal agency that administers compliance with this law is the Federal Trade Commission, Equal Credit Opportunity, Washington, DC 20580.

(c) If the farm is situated in more than one State, county or parish, the loan will be serviced by the County Office servicing the county in which the borrower's residence is located. If the borrower is a corporaton, cooperative, partnership or joint operation or if the borrower's residence is not on the farm, the loan will be serviced by the County Office servicing the county in which the farm or a major portion of the farm is located.

94. Section 1965.28 is amended by revising paragraph (f)(6) as follows:

§ 1965.28 Liquidation action.

* * * * *

(f) * * *

(6) If a release from liability cannot be granted, the borrower will be sent a letter similar to Exhibit F of Subpart A of Part 1955 of this chapter (available in any FmHA office). The case will then be settled under the provisions of Part 1964 of this chapter (FmHA Instruction 456.1).

95. Section 1965.27 is amended by revising paragraph (b)(5) to read as follows:

§ 1965.27 Transfer of real estate security.

* * * * *

(b) * * *

(5) *Assumption on same terms.* In the following situations only, the debt will be assumed on the same terms as in the original note. The interest rate, final due date, account status (current, delinquent ahead of schedule) and repayment schedule will not be changed at the time of the assumption. The interest rate and repayment schedule may be changed after the assumption, in accordance with FmHA loan servicing regulations. Except as noted below, Forms FmHA 450–10, "Advice of Borrower's Change of Address or Name," FmHA 465–5, and FmHA 1965–13 must be prepared and distributed in accordance with the FMI in each of the following situations.

(i) EM actual loss loans may be assumed on the same terms by those who were actually involved in the operation at time of the loss and meet one of the following requirements:

(A) If an individual received the actual loss loan, the transferee must be either an individual who is an immediate family member of the borrower or an entity which is made up of only immediate family members of the borrower. Such a transferee can assume the entire amount of the actual loss loan on the same terms.

(B) If a partnership on a joint operation received the actual loss loan, the transferee must be either a partner or a joint operator who was a partner or joint operator in the partnership or joint operation at the time the actual loss loan was made, or an entity which is made up of only those who were partners in the partnership or joint operators in the joint operation at the time the actual loss loan was made. Such transferees can assume the entire amount of the actual loss loan on the same terms.

(C) If a corporation/cooperative received the actual loss loan, the transferee must be either a stockholder/member who was a stockholder/member of the corporation/cooperative at the time the actual loss loan was made or an entity which is made up of only stockholders/members who were stockholders/members of the corporation/cooperative at the time the actual loss loan was made. Such transferees can assume on the same terms only that portion of the actual loss loan equal to the transferee's percentage of ownership in the corporation/cooperative (or, in the case of an entity transferee, the combined percentages of the individual stockholders/members).

(ii) A deceased borrower's spouse, other relative or joint tenant who did not sign the note but who acquires title to the property will be allowed to assume the loan on the same terms. Form FmHA 465–5 will not be completed.

(iii) When one of the jointly liable individual borrowers withdraws from the operation and conveys his/her interest in the security to the remaining borrower, who will repay the total indebtedness, and assumption agreement is not required. This paragraph does not apply to partners in a partnership, joint operators in a joint operation, stockholders in a corporation or members of a cooperative. The previous joint owner will be released from liability for the indebtedness by completing Parts 1 and 3 of Form FmHA 1965–8, "Release from Personal Liability," provided:

(A) A divorce decree or property settlement document did not make the withdrawing party responsible for loan payments;

(B) The value of the security is at least equal to the debt;

(C) The withdrawing party's interest in the security is conveyed to the person with whom the loan will be continued; and

(D) The person with whom the loan will be continued has adequate repayment ability.

(iv) A family member of a borrower who wants to assume a debt with the existing borrower(s) may do so on the same terms. After the transfer, the assuming family member may own the property jointly with the existing borrower(s) or subject to a life estate of the existing borrower.

(v) If there is only one stockholder/member/partner/joint operater of a corporation/cooperative/partnership/joint operation who is personally liable on the note, and that stockholder/member/partner/joint operator withdraws from the operation or dies, *all* of the remaining individuals will be required to assume personal liability on the loan(s) or else the transfer will not be approved. A Form FmHA 465–5 does not have to be processed unless title to the real estate is transferred.

(vi) If a stockholder/member/partner/joint operator or another corporation/cooperative/partnership/joint operation buy out the ownership interest of the other stockholders/members/partners/joint operators and continues to operate the farm; and if the remaining stockholder(s)/member(s)/partner(s)/joint operator(s) is not personally liable on the note(s), that stockholder(s)/member(s)/partner(s)/joint operator(s) will be required to assume personal liability on the loan(s) or else the transfer will not be approved. A Form FmHA 465–5 does not have to be processed unless title to the real estate is transferred.

(vii) New stockholders/members/partners/joint operators entering the corporation/cooperative/partnership/joint operation will be required to assume personal liability on the loan or else the transfer will not be approved. A Form FmHA 465–5 does not have to be processed unless title to the real estate is transferred.

* * * * *

Dated: April 15, 1986.

Frank W. Naylor, Jr.,

Under Secretary for Small Community and Rural Development.

[FR Doc. 86–8831 Filed 4–18–86; 8:45 am]

BILLING CODE 3410–07–M

Food Safety and Inspection Service

9 CFR Parts 303 and 381

[Docket No. 86–007N]

Meat and Poultry Inspection; Exemptions for Retail Stores; adjustment of Dollar Limitations

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Announcement of Adjustment of dollar limitations.

SUMMARY: This notice announces that the dollar limitations currently in effect for the annual sales of meat and poultry product by retail stores, exempt from Federal inspection requirements, to consumers other than household consumers, such as hotels, restaurants and similar institutions, remain at $28,800 for meat products and at $28,200 for poultry products per calendar year.

EFFECTIVE DATE: April 21, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. Irwin Dubinsky, Director, Policy Office, Policy and Planning Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6735.

SUPPLEMENTARY INFORMATION.

Background

Federal inspection of meat and poultry products prepared for sale and distribution in commerce and in States designated under section 301(c) of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 661(c)) and section 5(c) of the Poultry Products Inspection Act (PPIA) (21 U.S.C. 454(c)) is required by law and administered by the Food Safety and Inspection Service (FSIS). However, section 301(c)(2) of the Federal Meat Inspection Act (21 U.S.C. 661(c)(2)) and section 5(c)(2) of the Poultry Products Inspection Act (21 U.S.C. 454(c)(2)) state that the general requirement of routine

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Federal inspection ". . . shall not apply to operations of types traditionally and usually conducted at retail stores . . . when conducted at any retail store . . . for sale in normal retail quantities . . . to consumers. . . ."

FSIS regulations (9 CFR 303.1(d) and 381.10(d)) define retail stores that qualify for exemption from routine Federal inspection under the FMIA or PPIA. Whether or not FSIS deems an establishment to be an exempt retail establishment depends, upon the percentage and volume of its trade with consumers other than household consumers, such as hotels, restaurants and similar institutions. Accordingly, the Federal meat and poultry products inspection regulations state in terms of dollars the maximum amount of meat and poultry products which may be sold to nonhousehold consumers if the establishment is to remain an exempt retail establishment. For meat products, the maximum amount is currently $26,800 per calendar year; for poultry products, the amount is $28,200 per calendar year.

The Federal meat and poultry products inspection regulations (9 CFR 303.1(d)(2)(iii)(*b*) and 381.10(d)(2)(iii)(*b*)) further provide that the dollar limitation on product sales by retail stores to consumers other than household consumers will be automatically adjusted during the first quarter of each calendar year, whenever the Consumer Price Index, published by the Bureau of Labor Statistics (BLS), Department of Labor, indicates a change in the price of the same volume of product exceeding $500, upward or downward. The regulations also require that notice of the adjusted dollar limitation be published in the **Federal Register**.

The BLS Consumer Price Index for 1985 indicates a price decrease in meat products of 1.0 percent and a price decrease in poultry products of 1.0 percent. When rounded off to the nearest $100, this price decrease amounts to $300 for each product category.

Since a change in excess of $500 is not indicated for either meat or poultry products, FSIS in accordance with §§ 303.1(d)(2)(iii)(*b*) and 381.10(d)(23)(iii)(*b*), has not changed the dollar limitations on product sales to consumers other than household consumers by establishments operating as retail establishments exemption from Federal inspection requirements. Therefore, the dollar limitations for 1986 remain at $26,800 for meat products and $28,200 for poultry products.

Done at Washington, DC, on: April 15, 1986.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 86-8871 Filed 4-18-86; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL RESERVE SYSTEM

12 CFR Part 205

[Reg. E; EFT-2]

Electronic Fund Transfers; Official Staff Commentary Update

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final official staff interpretation.

SUMMARY: The Board is publishing revisions to the official staff commentary to Regulation E (Electronic Fund Transfers). The commentary applies and interprets the requirements of Regulation E and is a substitute for individual staff interpretations of the regulation. The revisions represent final action on proposed changes published for comment in December 1985.

EFFECTIVE DATE: April 16, 1986.

FOR FURTHER INFORMATION CONTACT: Gerald P. Hurst or John C. Wood, Senior Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-3667 or (202) 452-2412, or Earnestine Hill or Dorothea Thompson, Telecommunication Device for the Deaf (TDD) at (202) 452-3544.

SUPPLEMENTARY INFORMATION: (1) *General.* The Electronic Fund Transfer Act (15 U.S.C. 1693 *et seq.*) governs any transfer of funds that is electronically initiated and that debits or credits a consumer's account. This statute is implemented by the Board's Regulation E (12 CFR Part 205). Effective September 24, 1981, an official staff commentary (EFT-2, Supp. II to 12 CFR Part 205) was published to interpret the regulation. The commentary is designed to provide guidance to financial institutions in applying the regulation to specific situations. The commentary is updated periodically to address significant questions that arise. There have been three updates so far; these were published on April 6, 1983 (48 FR 14880), October 18, 1984 (49 FR 40794), and April 3, 1985 (50 FR 13180). A proposed fourth update was published for comment on December 11, 1985 (50 FR 50794); this notice contains the final version.

(2) *Explanation of revisions.* Question 3-7.5 deals with the issue of whether requiring payment by preauthorized electronic fund transfers (EFTs) as part of a biweekly mortgage program would violate the compulsory use prohibition in section 913(1) of the Electronic Fund Transfer Act (15 U.S.C. 1693k(1)). In response to comments on the proposed version, the final version emphasizes that the repayment plan in question would be optional, notes that the lower finance charge results from the frequency of the payments, and makes clear that the interpretation is not limited to mortgage loans.

Question 10-18.6 (designated question 10-81.75 in the proposal) clarifies the statutory and regulatory provisions requiring preauthorized EFTs to be "authorized by the consumer only in writing" (15 U.S.C. 1693e(a) and 12 CFR § 205.10(b)). The issue is whether this statutory and regulatory requirement is met by a payee signing a written authorization as the consumer's agent, based on the consumer's oral authorization of the preauthorized EFTs in a taped telephone conversation.

Existing question 10-18.5 addresses the question of telephone authorizations, and sanctions the procedure of sending the consumer a form to sign and return following a telephone conversation. Although this question can be viewed as already dealing with the issue at hand, a new question was proposed to make clear that the addition of a tape recording (with the payee signing a written authorization on behalf of the consumer) does not satisfy the requirement that preauthorized transfers be authorized "only in writing" by the consumer.

After careful consideration of all comments received and further analysis of the statutory and regulatory language, the interpretation is being adopted essentially as proposed. (A phrase in the question and the final sentence in the answer have been deleted as unnecessary to the resolution of the issue.) The Electronic Fund Transfer Act makes distinctions between written and oral requirements, and in the case of preauthorized EFTs the Board believes that the position taken in question 10-18.6 reflects the plain meaning of the statutory language that authorization may be made by "the consumer *only* in writing" (emphasis added). Allowing payees to satisfy the requirement for a written authorization by signing an authorization on behalf of the consumer based upon a telephone conversation—even a tape recorded one—would in effect permit oral authorizations for preauthorized EFTs in contradiction of the language of the statute and regulation.

Although the term "writing" may be viewed as including a tape recording under other laws for some purposes—for example, some evidence rules include tape recordings as writings—the Board believes that, in the absence of an indication to the contrary in the statute or the legislative history, the phrase "only in writing" in the preauthorization of EFTs does not encompass the tape recording of a consumer's oral authorization. The Board believes that such an interpretation of the word "writing" would render the statutory and regulatory provisions meaningless by, in effect, allowing oral authorizations for preauthorized EFTs.

Some commenters expressed concern that the proposed interpretation would bar all authorizations of preauthorized EFTs by agents (including, for example, authorizations under power of attorney for incapacitated persons). The interpretation does not address agency questions generally; rather, it is limited to the question of a payee or a payee's agent acting under an oral authorization from the consumer.

Numerous commenters from the telemarketing industry believed that, if adopted, the proposed answer could make it impossible for telemarketing programs to arrange for payment by preauthorized EFTs. While the Board's position may require a change in procedure because a payee will have to obtain a written authorization from the consumer, the requirement could be satisfied, for example, by the telemarketer's sending the consumer a form to be signed and returned, as outlined in existing question 10-18.5.

Other commenters pointed out that the requirement for a written authorization means that there is a difference in the rules for preauthorizing EFTs and for authorizing credit card transactions. The divergent rules are based directly on the underlying statutes: the Truth in Lending Act, which governs credit card transactions, contains no limitation similar to that established by § 907 of the Electronic Fund Transfer Act. One reason for the variance in treatment may be the different nature of the accounts accessed. Electronic fund transfers involve a consumer asset account, such as a checking or savings account, in which withdrawals could have an immediate adverse impact on the consumer, by depleting the account of funds needed for housing or other living expenses, for example. Credit card transactions, on the other hand, involve a credit account and charges will first show up on a billing statement, so that transactions do not have an immediate impact on the consumer.

List of Subjects in 12 CFR Part 205

Banks, banking; Consumer protection; Electronic fund transfers; Federal Reserve System; Penalties.

1. The authority citation for Part 205 continues to read as follows:

Authority: Pub. L. 95-630, 92 Stat. 3730 (15 U.S.C. 1693b).

2. *Text of revisions.* The revisions to the Official Staff Commentary on Regulation E (EFT-2, Supp. II to 12 CFR Part 205) read as follows:

* * * * *

Section 205.3—Exemptions

* * * * *

Q 3-7.5: *Compulsory use—biweekly loan programs.* A lender offers consumers the option of a mortgage or other loan involving biweekly payments. Use of this option results in a somewhat lower total finance charge than a plan involving monthly payments. An integral part of this option is a requirement that consumers make the biweekly payments by preauthorized electronic fund transfers. Does this requirement violate the act's prohibition against compulsory use of electronic fund transfers?

A: No, because the biweekly repayment plan is optional and because the lower finance charge resulting from the more frequent payments offers a cost-related incentive. (§ 205.3(d)(3), section 913)

* * * * *

Section 205.10—Preauthorized Transfers

* * * * *

Q 10-18.6: *Preauthorized debits—authorization by agent.* A telemarketing company (directly or through an agent) asks consumers to make the monthly payments for their purchases by preauthorized electronic fund transfers. If a consumer agrees, the company obtains the consumer's bank account number and completes a written authorization based on the telephone conversation (which the company records). The company signs the authorization as the consumer's agent and sends the consumer a written confirmation of the transaction. Does this procedure satisfy the requirement of the act and regulation that preauthorized EFTs may be authorized by the consumer only in writing?

A: No. The requirement that preauthorized EFTs may be authorized by the consumer only in writing cannot be met by a payee signing a written authorization on the consumer's behalf, with only an oral authorization from the consumer. The tape recording of the telephone conversation does not constitute an authorization by the consumer "in writing" for purposes of the requirement. [§ 205.10(b)]

* * * * *

Board of Governors of the Federal Reserve System, April 14, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-8713 Filed 4-18-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-ASW-31, Amdt. 39-5262]

Airworthiness Directives; McDonnell Douglas Helicopter Company (Hughes Helicopters, Inc.) Model 269 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) which requires repetitive inspections of certain tail rotor blades and use of corrosion protection procedures, as necessary, on McDonnell Douglas Helicopter Company (MDHC) Model 269A, 269A-1, 269B, and 269C helicopters including military Model TH-55A. MDHC now produces improved blades. This amendment is needed to limit the applicability of the AD to tail rotor blades which have not had the improved cadmium plating process applied.

DATES: Effective date: May 19, 1986.

Compliance: As indicated in the body of the AD.

ADDRESSES: The applicable service information may be obtained from MDHC, Centinela Avenue and Teal Street, Culver City, California 90230. A copy of each document is contained in the Rules Docket at the Office of the Regional Counsel, Federal Aviation Administration, Southwest Region, Room 158, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Sullivan, Aerospace Engineer, Airframe Section, ANM-172W, Western Aircraft Certification Office, Northwest Mountain Region, FAA, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007, telephone (213) 297-1166.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an amendment to an airworthiness directive which requires inspection of tail rotor blade spars for corrosion on certain MDHC Model 269 series

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helicopters was published in the Federal Register on December 9, 1985 (50 FR 50172). After issuing Amendment 39-3608 in 1979, the FAA has determined that the MDHC improved cadmium plating process used since 1983 in the manufacture of spars for tail rotor blades Part Number (P/N) 269A6035-21 and -23, has proven to be effective in controlling corrosion. Consequently, the tail rotor blades manufactured using this process shall no longer be included in the applicability paragraph of AD 79-23-03. As AD 79-23-03 is presently written, over -21 and -23 tail rotor blade being produced is subject to the repetitive inspections imposed by the AD since the manufacturer did not assign a new part number to the improved blade. Therefore, the FAA is amending Amendment 39-3608 to include the pertinent serial numbers to limit the applicability of AD 79-23-03 to tail rotor blades P/N 269A6035-21, Serial Numbers (S/N's) 0677 and prior as well as P/N 269A6035-23, S/N's 2710 and prior, on MDHC Model 269 series helicopters.

This amendment also revises paragraph (j) to reflect the FAA aircraft certification office currently responsible for the continued airworthiness of the MDHC Model 269 series helicopters.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received. Accordingly, the proposed regulation is adopted without change.

The FAA has determined that this regulation provides relief in the form of limiting repetitive inspections to tail rotor blades which have not had the improved cadmium plating process applied. It would, therefore, remove an unnecessary economic burden from the public, and impose no additional regulatory burden on any person. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because the anticipated impact is a minimal positive impact. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption "**FOR FURTHER INFORMATION CONTACT.**"

List of Subjects 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By amending Amendment 39-3608 (44 FR 65387), AD 79-23-03, by revising the applicability paragraph and paragraph (j) to read as follows:

McDonnell Douglas Helicopter Company (Hughes Helicopters, Inc.): Applies to Models 269A, 269A-1, 269B, and 269C, including military TH-55A, certificated in any category, equipped with tail rotor blades designated below:

Group I: * * *

Group II: P/N 269A6035-21, S/N's 0677 and prior, P/N 269A6035-23, S/N's 2710 and prior

* * * * *

(j) Alternative inspections, modifications or other actions which provide an equivalent level of safety may be used when approved by the Manager, Western Aircraft Certification Office, ANM-170W, FAA, Northwest Mountain Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007;

* * * * *

This amendment becomes effective May 19, 1986.

Issued in Fort Worth, Texas, on April 1, 1986.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 86-8805 Filed 4-16-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AWP-3]

Revised Description of the Palm Springs, CA, Control Zone

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: The revised description to the existing Palm Springs, California, Control Zone is necessary as a result of the upcoming name and identification change of the Palm Springs Very High Omni-directional Radio Range and Tactical Air Navigational Aid (VORTAC). This action does not change the actual dimensions of the existing control zone, but will only provide editorial changes to the description.

DATES: Effective Date: 0901 UTC, July 3, 1986. Comments must be received on or before June 16, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP-520, Docket No. 86-AWP-3, Air Traffic Division, P.O. Box 92007, WWPC, Los Angeles, California 90009.

The official docket may be examined in the Office of the Regional Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6W14, 15000 Aviation Boulevard, Lawndale, California.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division, at the above address.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace Specialist, Airspace Branch, AWP-520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90260; telephone (213) 297-1649.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves redefining the existing Palm Springs, California, Control Zone, and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 of Part 71 is to redefine the existing Palm Springs, California, Control Zone description. This action only provides editorial changes and does not alter the existing airspace. To preclude numerous editorial changes to control zone description, this amended

description refers to geographical coordinates which are permanent in nature and not subject to change as names or location of navigational aids. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to redefine the Palm Springs, California, Control Zone. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are impractical and contrary to the public interest. For the same reasons, I find that good cause exists for making this amendment effective coincident with the next charting date.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a); 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. § 71.171 is amended as follows:

Palm Springs, CA—[Revised]

"Beginning at lat. 33°53'42" N., long. 116°28'19" W.; to lat. 33°55'01" N., long. 116°27'24" W.; to lat. 33°52'11" N., long. 116°21'32" W.; to lat. 33°49'10" N., long. 116°23'37" W.; to lat. 33°49'53" N., long. 116°25'06" W.; thence clockwise via the 5-mile radius of the Palm Springs Municipal Airport (lat. 33°49'41" N., long. 116°30'19" W.); to lat. 33°48'53" N., long. 116°25'05" W.; to lat. 33°47'20" N., long. 116°22'27" W.; to lat. 33°44'29" N., long. 116°24'51" W.; to lat. 33°46'02" N., long. 116°27'29" W.; thence clockwise via the 5-mile radius of the Palm Springs Municipal Airport (lat. 33°49'41" N., long. 116°30'19" W.); to the point of beginning."

Issued in Los Angeles, California, on April 9, 1986.

Wayne C. Newcomb,

Manager, Air Traffic Division.

[FR Doc. 86-8806 Filed 4-16-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Reg. No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Subpart K—Income

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: Under the decision of the United States Court of Appeals for the Seventh Circuit in the case of *Jackson* v. *Schweiker*, 683 F.2d 1076 (7th Cir. 1982), and pursuant to the orders of the United States District Court for the Northern District of Indiana in *Jackson* v. *Heckler*, No. S79-213 (N.D. Ind. Jan. 6, 1984 and Oct. 10, 1985), the Department is publishing this change in the Supplemental Security Income (SSI) regulations to provide that, in determining the eligibility for and amount of SSI benefits in the States in the Seventh Circuit (Illinois, Indiana, and Wisconsin), a claimant will be considered not to be receiving in-kind support and maintenance in the form of a rental subsidy if the amount of rent that must be paid under a rental agreement is equal to or greater than the presumed maximum value derived under the presumed value rule described in § 416.1140. The presumed maximum value is equal to one-third of the applicable Federal benefit rate plus the general income exclusion of $20. Specifically, the change provides that a claimant will be considered not to be receiving a rental subsidy if the amount of monthly rent that must be paid is equal to or greater than the presumed maximum value. If the amount of required monthly rent is less than the presumed maximum value, we will determine the amount of the rental subsidy, if any, by subtracting the required payment from either the presumed maximum value or the current market value, whichever is less. *Jackson* is a Seventh Circuit decision. Thus, this rule change applies only to SSI claimants in States in the Seventh Circuit.

DATE: These rules are effective April 1, 1986. We will accept comments we receive by June 20, 1986. Although we cannot change the provisions of the rules which were prescribed by the court, at least with respect to Indiana, we will take these comments into consideration in possible future changes to our rental subsidy policy.

ADDRESSES: Comments may be submitted in writing to the Acting Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203 or delivered to 3-A-3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Dave Smith, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone 301-594-7457.

SUPPLEMENTARY INFORMATION: Under the SSI program we count as unearned income any in-kind support and maintenance received by an individual. The Social Security Administration (SSA) values unearned income received in the form of in-kind support and maintenance using the presumed value rule in 20 CFR 416.1140. Under that rule we presume that the actual value of any food, clothing, or shelter an individual receives is equal to no more than one-third of the applicable Federal benefit rate plus the general income exclusion of $20 per month under § 416.1124(c)(12).

In *Jackson*, the plaintiff's SSI benefits had been suspended after the SSA determined that her unearned income, including a rental subsidy from her sister, gave her a monthly income greater than her Federal benefit rate. Ms. Jackson's Federal benefit rate was $189.40. Because she received a monthly Veterans Administration (VA) pension of $133, her monthly SSI benefit was $56.40. She rented the house in which she lived for $145 a month. The current market rental value of the house was $250 a month. Ms. Jackson was, therefore, determined to be receiving a rental subsidy of $105 a month. Using the presumed value rule, as described above, SSA imputed to Ms. Jackson a rental subsidy in the amount of $83.13

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(one-third of $189.40 or $63.13, plus $20). The subsidy of $63.13 plus the VA pension of $133 caused Ms. Jackson's monthly countable income to exceed the Federal benefit rate of $189.40, and so her SSI benefit of $56.40 a month was suspended.

In *Jackson*, the Seventh Circuit decided that it was not enough that a claimant be provided "shelter or other basic necessities" below market value for those items to be counted as income for SSI purposes. Rather, the court held that, to be counted as income, the items provided must result in increased purchasing power to meet the claimant's basic needs.

The Seventh Circuit remanded the case to the district court with instructions to order the Secretary to amend either the regulations or procedures "to provide relief to affected class members consistent with this opinion." On January 6, 1984, the district court ordered the Secretary to amend the challenged regulations to reflect the holding of the court of appeals. We submitted a proposed regulation to the court on March 5, 1984. Plaintiff submitted proposed modifications, and the court approved the regulation as modified in an order dated October 10, 1985. We are publishing this regulation to comply with the court order of October 10, 1985. Because this revised regulation is being issued to comply with the Seventh Circuit's interpretation of the SSI statute and regulation, we are applying the revised regulation in all States in the Seventh Circuit.

Provisions of the Regulation

To implement the court's orders, we will apply a special rule to be applicable in the States of Illinois, Indiana, and Wisconsin. Under our usual rules, a claimant is not considered to be receiving a rental subsidy if he or she is paying the amount charged under a business arrangement. The new rule provides that a business arrangement exists when the amount of monthly rent required to be paid equals the current market rental value. Further, a business arrangement exists when the amount of monthly rent required to be paid is equal to or greater than the presumed maximum value derived under the presumed value rule described in § 416.1140. If the required rent is less than the presumed maximum value we will impute, as in-kind support and maintenance, the difference between the required amount of rent and either the presumed maximum value or the current market value, whichever is less. The result of this rule is that a claimant whose required rent does not exceed the presumed maximum value would always have funds at least equal to two-thirds of his or her Federal benefit rate minus $20 available to meet his or her other basic needs. (Required rent equals $132, Federal benefit rate equals $330, $206 remains available for other needs.)

Justification for Final Rules

The Department, even when not required by statute, as a matter of policy generally follows the Administrative Procedure Act (APA) notice of proposed rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis that they are impracticable, unnecessary, or contrary to the public interest. We have determined that under 5 U.S.C. 553(b)(B), good cause exists for waiver of proposed rulemaking and public comment procedures on these regulations because we are implementing court orders specifically mandating changes to the regulations.

Since the regulation is effective only for States in the Seventh Circuit, and that circuit mandated a revision of our rental subsidy policy, we find that use of notice and comment procedures is unnecessary. Directly affected members of the Indiana class had the opportunity to comment on the terms of the regulation through the court action. A certified class in Wisconsin and Illinois has requested that the relief ordered by the *Jackson* district court be extended to them. *See Beckless* v. *Heckler*, No. 84-C-0335 (N.D. Ill. filed Oct. 26, 1984). Moreover, we could not make any changes to the regulation as a result of public comment.

Use of notice and comment procedures is also impracticable. The district court has ordered us to issue notices and accept requests for reconsideration under the amended regulation in time frames that are too short to allow for prior notice and opportunity for comment. Therefore, these rules are being issued as final rules and will become effective on the first day of the month they are published in the **Federal Register**.

Regulatory Procedures

Executive Order 12291

This regulation has been reviewed under Executive Order 12291 and we have determined that it will not have an annual effect on the economy of $100 million or more, or otherwise meet the threshold of the Executive Order. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

This regulation will impose no new reporting or recordkeeping requirements requiring clearance by the Office of Management and Budget.

Regulatory Flexibility Act

We certify that this regulation will not have a significant economic impact on a substantial number of small entities since it affects primarily aged, blind, or disable individuals in the States of Illinois, Indiana, and Wisconsin receiving, or applying for, SSI benefits. Those States will be affected because they supplement the Federal SSI benefit and so might incur additional costs. However, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, 5 U.S.C. 601-612.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI).

Dated: March 19, 1986.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: March 27, 1986.

Otis R. Bowen,

Secretary of Health of Human Services.

PART 416—[AMENDED]

Part 416 of Chapter III of title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart K of Part 416 continues to read as follows:

Authority: Secs. 1102, 1611, 1612, 1613, 1614, and 1631 of the Social Security Act as amended; sec. 211 of Pub. L. 93-66; 49 Stat. 647, as amended; 86 Stat. 1466, 1468, 1470, 1471, and 1475; 87 Stat. 154; 42 U.S.C 1302, 1382, 1382a, 1382b, 1382c, and 1383. Sec. 202 of Pub. L. 98-265, 94 Stat. 449; 42 U.S.C. 1382c.

2. Paragraph (b) of § 416.1130 is revised to read as follows:

§ 416.1130 Introduction.

(a) * * *

(b) *How we define in-kind support and maintenance.* In-kind support and maintenance means any food, clothing, or shelter that is given to you or that you receive because someone else pays for it. Shelter includes room rent, mortgage payments, real property taxes, heating fuel, gas, electricity, water, sewerage, and garbage collection services. You are not receiving in-kind support and maintenance in the form of room or rent if you are paying the amount charged under a business arrangement. A business arrangement exist when the amount of monthly rent required to be paid equals the current market rental values (see § 416.1101). *Exception:* In the States in the Seventh Circuit (Illinois, Indiana, and Wisconsin), a business arrangement exists when the amount of monthly rent required to be paid equals or exceeds the presumed maximum value described in § 416.1140(a)(1). In those States, if the required amount of rent is less than the presumed maximum value, we will impute as in-kind support and maintenance, the difference between the required amount of rent and either the presumed maximum value or the current market value, whichever is less.

* * * * *

[FR Doc. 86-8827 Filed 4-18-86; 8:45 am]

BILLING CODE 4190-11-M

20 CFR Part 416

[Regulation No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Eligibility; Filing of Applications; Amounts of Benefits; Suspensions and Terminations; Relationship; Prorating SSI Monthly Benefit Payments

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: We have revised our regulations to reflect section 1611(c) of the Social Security Act (the Act), as amended by section 181 of Pub. L. 97-248 (the "Tax Equity and Fiscal Responsibility Act of 1982") which was effective on October 1, 1982. The revised regulations provide that Supplemental Security Income (SSI) benefit payments for the month of initial eligibility will be prorated from the date of application or the date an individual meets all eligibility requirements, whichever is later. They will also provide that the SSI benefit payments for the month after a month or more of ineligibility will be prorated from the date an individual again meets all eligibility requirements.

EFFECTIVE DATES: These regulations are effective the month following the month of publication in the **Federal Register**, but the statutory changes which these regulations reflect were effective October 1, 1982.

FOR FURTHER INFORMATION CONTACT: Henry D. Lerner, Legal Assistant, Social Security Administration, Office of Regulations, 6401 Security Boulevard, 3-B-3 Operations Building, Baltimore, Maryland 21235, (301) 594-7463.

SUPPLEMENTARY INFORMATION: We published a Notice of Proposed Rulemaking which reflects the provisions of section 1611(c) of the Act, as amended by section 181 of Pub. L. 97-248, on September 5, 1985 (50 FR 36106) and provided a 60-day comment period. Since no comments were received during the comment period, we are publishing these final rules without change.

Prior Law

From January 1974 through September 30, 1982, an individual was paid SSI benefits from the first day of the first month the individual met all eligibility requirements, regardless of what day during that month he or she applied or on what day in the month he or she met the other factors of eligibility (attainment of age 65, onset of disability, etc.) for SSI benefits. Further, a person was also paid SSI benefits from the first day of the month in which he or she reacquired eligibility after a month or more of ineligibility, without regard to what day during the month all factors of eligibility were again met. Consequently, some individuals, when they met all eligibility requirements on a day other than the first day of the month, received an SSI benefit check which included benefits for days before the individual met all eligibility requirements.

Section 181 of Pub. L. 97-248

Section 181 of Pub. L. 97-248 amended section 1611(c) of the Act to change the way the amount of SSI benefits is determined in the month of initial eligibility and in the first month in which an individual again meets all eligibility requirements after a month or more of ineligibility. Effective October 1, 1982, such SSI benefit payments must be prorated.

When SSI benefit payments are prorated, an individual who meets all factors of eligibility on a day other than the first day of the month of initial eligibility on a day other than the first day of the month after a month or more of ineligibility is paid an amount which is less than a full month's benefits. The amount of benefits for such month is based on the number of days in the month the individual meets all eligibility requirements, beginning with the day in that month the individual first meets the requirements through the end of the month.

The purpose of prorating SSI benefit payments is to ensure that SSI benefits are paid only for the period individuals meet all eligibility requirements for benefits.

The Provisions of These Regulations; General

These regulations provide that in a month of initial eligibility the amount of the SSI benefit payment is based on the number of days from and including the day on which an individual first meets all of the requirements for eligibility (filing an application is a requirement of eligibility) through the end of the month. When an individual again meets all eligibility requirements after a month or more of ineligibility, the amount of the SSI benefit payment is based on the number of days from and including the day on which an individual again meets all factors of eligibility through the end of month. Under these regulations, proration will apply to both Federal SSI benefits and federally administered optional State supplementation (OSS). Proration will not, however, apply to mandatory minimum State supplementation (MMSS).

Subpart B—Eligibility

Section 416.211 currently provides that with certain limited exceptions an individual is not eligibe for SSI benefits for any month throughout which he or she is a resident of a public institution. This section has been expanded by these regulations also to provide that an individual, who is a resident of a public institution at the time he or she applies for and first meets all other eligibility factors for SSI benefits, will be considered ineligible until the date on which he or she is no longer a resident of the public institution. That is, the SSI benefit amount for such a month will be prorated based on the date of discharge from the public institution.

We have made this change because the purpose of section 1611(c) is to assure that the amount of the SSI benefits payable for a month of initial eligibility or re-eligibility reflects only the number of days in which individuals establish their need for such benefits by meeting all eligibility requirements. The legislative history of this provision states, ". . . since SSI is available only to the needy the committee believes that benefits should not be provided for periods prior to the time the individual recognizes his need and requests assistance." S. Rep. No. 97-494, Vol. I, 97th Cong., 2d Sess. 56 (1982).

Section 1611(e) of the Act, which describes the limitations on eligibility for SSI benefits of certain individuals, provides in part that any individual who is a resident of a public institution throughout a month cannot be eligible

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for SSI benefits. The proration provisions of section 1611(c) of the Act do not change the SSI eligibility requirements nor do they expressly provide that benefits can be prorated based on the date of discharge from a public institution. On the other hand, section 1611(c) does not specify those situations in which we must prorate SSI benefits. The statute merely specifies the month to which proration applies and the date to use as the basis for determining the prorated amount. Therefore, it is within the Secretary's authority to determine when SSI eligibility is met or restored for purposes of implementing proration.

The purpose of the proration provision as previously noted, is to pay an amount based on the days in the month an individual meets all eligibility requirements for such benefits. In carrying out this purpose, these regulations will prorate benefits from the date of discharge from the public institution both in cases of initial eligibility and reeligibility. During these months the needs of the individual are being met by the public institution until the date of discharge. Therefore, to pay SSI benefits from the date of discharge is within the purpose of section 1611(c).

Subpart C—Filing of Applications

These regulations will amend several sections of Subpart C to implement section 1611(c) as amended by section 181 of Pub. L. 97–248, to make changes that are technical and clarifying, and to make other changes that will make the regulations within Subpart C consistent with each other and to make them as consistent as is practicable with the rules dealing with the filing of applications that we follow in the Old-Age, Survivors, and Disability Insurance (OASDI) programs.

The current rules in § 416.325(b) that discuss the exceptions to the general rule as to when an application is considered filed and in § 416.340 that discuss the use of the date of a written statement as the application filing date are inconsistent. Section 416.325(b) provides that, when an application for SSI benefits is mailed, if using the date we receive the application results in a loss of benefits, we consider the application as being filed on the date shown by a United States postmark. Section 416.340 provides that the date a written statement, such as a letter, is received at a Social Security office (whether or not it was mailed) is to be considered the application filing date if the use of that date will result in eligibility for additional benefits. These regulations make §§ 416.325(b) and 416.340 consistent with one another.

We are revising §§ 416.325(b) and 416.340 to provide that we consider an application for SSI benefits as being filed on the date that the document (application or written statement) is received by us or by someone authorized to act on our behalf. If the application or written statement is mailed to us, we will use the date of mailing as shown by a United States postmark. By amending § 416.340 to permit the use of the postmark date of a written statement as an application filing date we also make the rules of Title XVI more consistent with the rules in the OASDI programs that deal with the filing of applications, and thus eliminate an element of confusion that now exists. Further, a written statement constitutes an intent to file for benefits. Therefore, a written statement should be given the same consideration as a mailed written application.

Sections 416.325(b) and 416.340 provide further that if there is no postmark or if it is unreadable, we will use the date of signature (if dated) or 5 days before the day the signed application or written statement was received, whichever date is later. In effect this revision will also amplify on and make these rules more specific. At present, § 416.325(b) simply indicates that when the postmark is not available or there was no postmark, we consider other evidence of when the application was mailed to us.

Section 416.325(b) is revised to provide that SSI benefits will be paid effective with the date on which an application is filed, if all other factors of eligibility are met on that date. The rules will also provide that benefits cannot be paid for any period before the date of application, when the application is filed on a date after all other factors of eligibility are met.

The revisions to § 416.330, for the most part, reflect changes that were proposed on May 16, 1983, in a separate NPRM that was published in the Federal Register at 48 FR 21967 to implement the provisions of section 306 of Pub. L. 96–265, the Social Security Disability Amendments of 1980. These changes relate to the effective period of applications when a hearing decision on the application is pending. The additional change that we are making in § 416.330 is simply to provide that if an individual meets all requirements of eligibility while an application is in effect, we will pay SSI benefits from the first day (rather than the first month) that he or she meets all the requirements.

We have changed the example in § 416.315 to reflect proration. The revision to the rules in § 416.320 is not substantive; it corrects a technical error. The revision to the rules in § 416.345 is editorial in nature.

Subparts D–Amount of Benefits and E–Payment of Benefits

Amendments to Subpart E (Payment of Benefits) that implement proration appear in the final rules implementing section 1611(c)(1) as amended by section 2341 of Pub. L. 97–35 which provides for retrospective monthly accounting (RMA). These final rules also include a change to Subpart D.

Section 1611(c) as amended by section 2341 of Pub. L. 97–35 requires, with certain exceptions, the use of RMA in the SSI program. Final regulations dealing with RMA, which were published in the Federal Register on November 28, 1985 (50 FR 48563) included amendments to Subpart D to implement RMA. The final RMA regulations that were published separately, were updated to take account of provisions of section 1611(c) as amended by section 181 of Pub. L. 97–248, so that the rules contained therein will not be incorrect and outdated. For this reason, amendments to §§ 416.501 and 416.502 of Subpart E and § 416.420(b)(1) of Subpart D have not been included in these rules.

Section 416.420 as included in the RMA regulations will provide that in the month of initial eligibility or reeligibility the SSI benefit amount will be prorated according to the number of days in the month that the individual is eligible beginning with the date of application or the date all eligibility requirements are met, whichever is later. Formerly, an application was considered to have been received on the first day of the month in which we received the application and SSI benefits were paid for the entire month.

Section 416.501, as amended in the RMA regulations, will provide that SSI benefits will be prorated and they will be paid beginning on the first day on which the individual meets all requirements for eligibility regardless of whether it is a month of initial eligibility or a month following a month or more of ineligibility. Since it is now possible for members of a couple to become eligible for SSI benefits on different days of the month, this section also provides that each member of a couple may receive different SSI payment amounts for a month if each meets the eligibility requirements on different days of the month.

Section 416.502, which describes the manner in which we pay SSI benefits, as included in the RMA regulations,

provides that SSI benefits payable to an individual will not be paid before the day on which the individual acquires or reacquires eligibility. This section also provides that, unless otherwise indicated, the monthly amount of SSI benefits payable to an eligible couple will be equally divided and paid.

These rules also amend Subpart D to include a new § 416.421 that explains the way we compute prorated benefits. Under these rules, the amount of the SSI benefit payment is prorated based on the date all eligibility factors, except income and resources, are met. For a fuller discussion of the policy on income and resources, see below under the heading "Subpart M—Suspensions and Terminations".

Payment Computation

In determining the amount of SSI benefit payments due for a month in which benefits are to be prorated:

(1) We first compute the amount of the SSI benefit payment which the claimant would receive for the month without proration. (We call this the unprorated benefit.)

(2) We then determine the date in the month on which the claimant meets all factors of eligibility. (We call this the proration date.)

(3) We then count the number of days in the month a claimant meets all eligibility factors, beginning with the proration date and counting through the end of the month. (We call these the benefit days.)

(4) We then multiply the unprorated benefit by the number of benefit days and divide by the number of days in the month for which benefits are being determined. The result is the amount of the SSI benefit payment due for the month in which the benefits are to be prorated.

These steps will be followed in computing the federally administered OSS also. We will do this since it is SSA policy to maintain consistent rules for determining OSS and Federal SSI benefits. We do this under our authority in section 1616(b) of the Act to establish rules, when consistent with the Act, that facilitate efficient administration of both the SSI and OSS programs.

Under these regulations, if an individual is eligible for both a Federal SSI benefit and a federally administered OSS, we compute and prorate the Federal SSI and OSS benefit amounts separately. The results in either computation that include a fraction of a cent will be raised to the next higher cent. We then add the two prorated amounts to get the total payment due for the month.

Under these rules, proration will not apply to federally administered mandatory minimum State supplements (MMSS). Although we have the authority to apply the rules for Federal SSI benefits to the MMSS we can do so only if the rule is consistent with the purpose of MMSS. The purpose of the MMSS is to assure that an individual's total income is not reduced below its December 1973 level. Since the application of proration could result in a reduction in an individual's December 1973 level, it cannot be applied to MMSS.

Subpart M—Suspensions and Terminations

Subpart M provides in part that suspension of SSI benefit payments is required when an individual is alive but no longer meets the requirements of eligibility under title XVI of the Act and termination in accordance with §§ 416.1331–416.1335 does not apply. SSI benefit payments are not resumed until the individual again meets all requirements for eligibility except for the filing of a new application. These rules also provide, upon requesting reinstatement of SSI benefit payments, that an individual is required to submit such evidence as may be necessary to establish that he or she again meets all the requirements for eligibility.

The revisions to the rules in Subpart M provide that the amount of the SSI benefit payments for the first month in which an individual again becomes eligible after a month or more of ineligibility will be prorated. A month of ineligibility for purposes of determining when to prorate the SSI benefit payment for a subsequent month, is a month for which the individual is ineligible for any Federal SSI benefit and any federally administered State supplementation.

When an individual again meets all eligibility requirements after a month or more of ineligibility, under these rules, proration will apply only when an individual reacquires eligibility after being ineligible for at least one of the following reasons:

(1) The individual was a resident of a public institution throughout a month. Eligibility is reacquired as of the date of discharge if all other eligibility requirements are met (see § 416.1325).

(2) The individual failed to comply with the requirement to accept treatment for drug addiction or alcoholism. Eligibility is reacquired as of the earliest date of the first month on which the recipient complies with the required treatment or other direction, and all other eligibility requirements are met (see § 416.1328).

(3) The individual was absent from the United States throughout a month. If the individual is outside the United States for 30 consecutive days or more, the individual is considered as remaining outside the United States until he or she has returned and remained in the United States for 30 consecutive days. Eligibility is reacquired as of the day following the 30th consecutive day of presence in the United States if all other eligibility requirements are met. If the individual is outside the United States for a full calendar month but less than 30 days (i.e. absent during February) eligibility is reacquired as of the day the individual returns to the United States if all other factors of eligibility are met (see § 416.1327).

(4) The individual was not a resident of the United States. Eligibility is reacquired as of the date the individual is a resident of the United States if all other eligibility requirements are met (see § 416.1329).

(5) The individual did not meet the definition of United States citizen, "alien lawfully admitted for permanent residence", or permanent resident of the United States under color of law. Eligibility is reacquired as of the date on which the individual regains his or her status in one of these categories, if all other eligibility requirements are met (see§ 416.1329).

(6) The individual failed to comply with the requirement to accept vocational rehabilitation services. Eligibility is reacquired as of the date on which he or she complies if all other eligibility requirements are met (see§ 416.1329).

(7) The individual failed to comply with the requirement to file for and obtain other benefits. Eligibility is reacquired as of the date the individual complies, if all other eligibility requirements are met (see§ 416.1330).

Under these rules, if the reason that a recipient's benefits were suspended was excess resources, excess income, or failure to comply with a request for information, benefits for the first month that benefits are reinstated will not be prorated. We will not prorate benefits for the first month that benefits are reinstated under each of these circumstances for differing reasons. First, we will not prorate based on income since we count income for the entire month. If an individual has excess income for a month he or she is ineligible for that month. Income cannot be spent down and eligibility established during the month. In addition, using countable income for the entire month is necessary to calculate the prorated benefit amount under section 1611(c)(2)(B) of the Act. Second, we regarded the failure to provide information as being not so much a factor of eligibility as it is a failure to substantiate eligibility based on other factors. These rules clarify that once the information is provided, benefits are reinstated for any previous months the individual met the eligibility requirements. Last, regarding resources, the reason we are not having proration

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apply to the first month for which benefits are reinstated after suspension due to excess resources is that, like income, resources are counted for an entire month. Resources cannot be spent down and eligibility established during the month. Also, not prorating in these instances reflects our ongoing concern for effective and efficient administration. Paying benefits for only full months in these situations is simpler, will result in fewer errors and is less costly to administer because it is less complicated than the prorating of benefits in these instances.

Subpart R—Relationships

Current regulations at § 416.1802(d) of Subpart R provide, if an individual gets married during a month, even on the first day of the month, that we will treat that individual as being single until the next month. Alternatively, this section provides that if an individual's marriage ends, even on the first day of the month, we will treat that individual as married until the next month. Thus, an individual's marital status at the beginning of a given month determines whether we consider that individual to be single or married when we compute the amount of that individual's SSI benefits for the month.

Before the proration of benefits pursuant to section 1611(c) as amended by section 181 of Pub. L. 97–248 began, this policy worked effectively at assuring that the SSI benefit which we paid an individual for a month accurately reflected the individual's marital status at the point in time at which he or she became eligible for SSI benefits. This was because an individual was considered to have filed for benefits on the first day of the month and was paid benefits for the full month as long as he or she became eligible to receive benefits at some point during that month.

Now that SSI benefits are being prorated, our regulations can no longer provide this assurance. For this reason we have amended § 416.1802(d) of Subpart R. Under that rule, the current provisions of § 416.1802(d) will remain in effect. However, this section will also include one very limited exception. The exception provides that during the month in which two individuals get married to one another, we will treat them as an eligible couple if each becomes eligible for SSI benefits in such month on a day after the date on which they were married. A very limited number of individuals would be affected by our change; for the individuals that would be affected, the amount of benefits they receive will be less than that which they would be paid if we treated them as single. However, to treat them as single seems incongruous, since they are married at the point at which their eligibility for SSI benefits is first met. Similarly, if, in the month a marriage ends, each member of the couple becomes eligible for SSI benefits after the date the marriage ends, we will treat them as eligible individuals.

Regulatory Procedures

Executive Order No. 12291

These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major rule. The policies reflected in these rules will generate estimated program savings of $44 million in fiscal year (FY) 1986 and $46 million in FY 1987. A one-time administrative cost of $7.2 million was incurred in FY 1983. Also, implementation of these provisions will result in annual Medicaid savings of $20 million because the Medicaid program follows SSI policy. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act of 1980

These regulations impose no reporting and recordkeeping requirements requiring clearance by the Office of Management and Budget.

Regulatory Flexibility Act

We certify that these regulations, will not have a significant economic impact on a substantial number of small entities because they primarily affect the States and individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance programs, Supplemental Security Income (SSI).

Dated: January 22, 1986.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: February 26, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Part 416 of Title 20 of the Code of Federal Regulations is amended as follows:

Subpart B—Eligibility

1. The authority citation for Subpart B of Part 416 is revised to read as follows:

Authority: Secs. 1102, 1602, 1611, 1614, and 1631 of the Social Security Act as amended, secs. 211 and 212 of Pub. L. 93–66, 49 Stat. 647 as amended, 86 Stat. 1465, 86 Stat. 1466, 86 Stat. 1471, and 86 Stat. 1475 (42 U.S.C. 1302, 1381a, 1382, 1382c, and 1383).

2. In § 416.211, paragraph (a) is revised to read as follows:

§ 416.211 You are a resident of a public institution.

(a) *General rule.* (1) You are not eligible for SSI benefits for any month throughout which you are a resident of a public institution (defined in § 416.201). In addition, if you are a resident of a public institution when you first apply for SSI benefits and meet all other eligibility requirements you cannot be eligible until the day of your release from the institution. The amount of SST benefits for the month of your release will be prorated (see Subpart D) beginning with the date of your release.

(2) By "throughout a month" we mean that you reside in an institution as of the beginning of a month and stay the entire month. If you have been a resident of a public institution, you remain a resident if you are transferred from one public institution to another or if you are temporarily absent for a period of not more than 14 consecutive days. A person also is a resident of an institution throughout a month if he or she is born in the institution during the month and resides in the institution the rest of the month or resides in the institution as of the beginning of a month and dies in the institution during the month.

* * * * *

Subpart C—Filing of Applications

3. The authority citation for Subpart C of Part 416 is revised to read as follows:

Authority: Secs. 1102, 1611 as amended, and 1631 of the Social Security Act, 49 Stat. 647, as amended, 86 Stat. 1465, 86 Stat. 1475 (42 U.S.C. 1302, 1382, 1383).

4. In § 416.315 the example is revised to read as follows:

§ 416.315 Who may sign an application.

* * * * *

Example: Mr. Smith comes to a Social Security office to file an application for SSI disability benefits for Mr. Jones. Mr. Jones, who lives alone, just suffered a heart attack and is in the hospital. He asked Mr. Smith, whose only relationship is that of a neighbor and friend, to file the application for him. We will accept an application signed by Mr. Smith since it would not be possible to have Mr. Jones sign and file the application at this time. SSI benefits are payable starting with the day an application is filed or the date all other requirements for eligibility are met, whichever is later. If Mr. Smith could not sign an application for Mr. Jones, a loss of benefits would result if it is later determined that Mr. Jones is in fact disabled.

§ 416.320 [Amended]

5. In § 416.320 the last sentence of paragraph (a)(2) is amended by removing the words "or an institution" and adding the words "of an institution" in lieu thereof.

6. In § 416.325 paragraph (b)(1) is revised to read as follows:

§ 416.325 When an application is considered filed.

* * * * *

(b) *Exceptions.* (1) When we receive an application that is mailed, we will use the date shown by the United States postmark as the filing date if using the date the application is received will result in a loss of benefits. If the postmark is unreadable or there is no postmark, we will use the date the application is signed (if dated) or 5 days before the day we receive the signed application, whichever date is later.

* * * * *

7. Section 416.330 is revised to read as follows:

§ 416.330 Filing before the first month you meet the requirements for eligibility.

If you file an application for SSI benefits before the first month you meet all the other requirements for eligibility, the application will remain in effect until we make a final determination on your application unless there is a hearing decision on your application. If there is a hearing decision, your application will remain in effect until the hearing decision is issued.

(a) If you meet all the requirements for eligibility while your application is in effect, we will pay you benefits from the first month that you meet all the requirements. The amount of such benefits is based on the number of days you meet all eligibility requirements beginning with the first day you meet all of the requirements through the end of the month.

(b) If you first meet all the requirements for eligibility after the period for which your application was in effect, you must file a new application for benefits. In this case, we will pay you benefits only from the first month that you meet all the requirements based on the new application. The amount of such benefits is calculated as in § 416.330(a) above.

8. Section 416.335 is revised to read as follows:

§ 416.335 Filing in or after the month you meet the requirements for eligibility.

When you file an application in the month that you meet all the other requirements for eligibility, your application is good for payment as of the first day in the month that you meet all eligibility requirements. If you file an application after the month you first meet all the other requirements for eligibility, you cannot be paid for any months before the month you filed an application. See §§ 416.340, 416.345 and 416.350 on how a written statement or an oral inquiry made before the filing of the application form may affect the filing date of the application. The amount of SSI benefits you are paid in the first month that you meet all eligibility requirements is based on the number of days you meet all such requirements, starting with the first day on which you meet all eligibility requirements through the end of the month.

9. Section 416.340 is amended by revising the introductory text and revising paragraph (d)(1) to read as follows:

§ 416.340 Use of date of written statement as application filing date.

We will use the date a written statement, such as a letter, an SSA questionnaire or some other writing, is received at a social security office, at another Federal or State office designated by us, or by a person we have authorized to receive applications for us as the filing date of an application for benefits, only if the use of that date will result in your eligibility for additional benefits. If the written statement is mailed, we will use the date the statement was mailed to us as shown by a United States postmark. If the postmark is unreadable or there is no postmark, we will use the date the statement is signed (if dated) or 5 days before the day we receive the written statement, whichever date is later, as the filing date of an application for benefits. In order for us to use your written statement to protect your filing date, the following requirements must be met:

* * * * *

(d)(1) The claimant is alive when the application is filed on a prescribed form, or

* * * * *

10. In § 416.345, paragraph (e)(1) is revised to read as follows:

§ 416.345 Use of date of oral inquiry as application filing date.

* * * * *

(e)(1) The claimant is alive when the application is filed on a prescribed form, or

* * * * *

Subpart D—Amount of Benefits

11. The authority citation for Subpart D of Part 416 is revised to read as follows:

Authority: Secs. 1102, 1611, 1612, and 1631 of the Social Security Act as amended; 49 Stat. 647 as amended, 86 Stat. 1466, 86 Stat. 1468, 86 Stat. 1475 (42 U.S.C. 1302, 1382, 1382a, and 1383).

12. A new § 416.421 is added to read as follows:

§ 416.421 Determination of benefits; computation of prorated benefits.

(a) In the month you are first eligible for benefits, your benefit will be prorated according to the number of days in the month that you are eligible beginning with the date of application or the date on which you meet all eligibility requirements, whichever is later. In the month that you reacquire eligibility after a month or more of ineligibility (see § 416.1321(b)), your benefit will be prorated according to the number of days in the month that you are eligible beginning with the date on which you meet all eligibility requirements.

(b) In determining the amount of your benefit for a month in which benefits are to be prorated, we first compute the amount of the benefit that you would receive for the month as if proration did not apply. We then determine the date on which you meet all factors of eligibility. (The income limits must be met based on the entire month and the resource limit must be as of the first day of the month.) We then count the number of days in the month beginning with the day on which you first meet all factors of eligibility through the end of the month. We then multiply the amount of your unprorated benefit for the month by the number of days for which you are eligible for benefits and divide that figure by the number of days in the month for which your benefit is being determined. The result is the amount of the benefit that you are due for the month in which benefits are to be prorated.

Example. Mr. X applies for SSI on April 16, 1984. He has no income. He first meets all factors of eligibility on April 16, 1984. His Federal benefit rate is $314 per month. Mr. X's unprorated benefit for April is $314. The number of days from when he first meets all factors of eligibility (including that day) through the end of the month is 15. The

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unprorated benefit ($314) multiplied by the number of days for which he is eligible for benefits (15) is $4710. That amount divided by the number of days in April (30) is $157. This is the amount that Mr. X is due for the month of April.

Subpart M—Suspensions and Terminations

13. The authority citation for Subpart M of Part 416 is revised to read as follows:

Authority: Secs. 1102, 1611–1615, and 1631 of the Social Security Act, as amended, 49 Stat. 647, as amended, 86 Stat. 1466–1477 (42 U.S.C. 1302, 1382–1382d, 1383), unless otherwise noted.

14. In § 416.1321, paragraph(b) is revised to read as follows:

§ 416.1321 Suspensions; general.

* * * * *

(b) *Effect of suspension.* (1) When payments are correctly suspended due to the ineligibility of a recipient, payments shall not be resumed until the individual again meets all requirements for eligibility except the filing of a new application. Such recipient, upon requesting reinstatement, shall be required to submit such evidence as may be necessary (except evidence of age, disability, or blindness) to establish that he or she again meets all requirements for eligibility under this part. Payments to such recipient shall be reinstated effective with the first day such recipient meets all requirements for eligibility except the filing of a new application.

(2) A month of ineligibility for purposes of determining when to prorate the SSI benefit payment for a subsequent month, is a month for which the individual is ineligible for any Federal SSI benefit and any federally administered State supplementation.

* * * * *

15. Section 416.1322 is revised to read as follows:

§ 416.1322 Suspension due to failure to comply with request for information.

(a) Suspension of benefit payments is required effective with the month following the month in which it is determined in accordance with § 416.714(b) that the individual is ineligible for payment due to his or her failure to comply with our request for necessary information. When we have information to establish that benefit payments are again payable, the benefit payments will be reinstated for any previous month for which the individual continued to meet the eligibility requirements of § 416.202. If the reason that an individual's benefits were suspended was failure to comply with our request for information, the payments for the months that benefits are reinstated will not be prorated under § 416.421.

(b) A suspension of payment for failure to comply with our request for information will not apply with respect to any month for which a determination as to eligibility for or amount of payment can be made based on information on record, whether or not furnished by an individual specified in § 416.704(a). Where it is determined that the information of record does not permit a determination with respect to eligibility for or amount of payment, notice of a suspension of payment due to a recipient's failure to comply with a request for information will be sent in accordance with §§ 416.1336 and 416.1404.

16. In § 416.1323, paragraph (b) is revised to read as follows:

§ 416.1323 Suspension due to excess income.

* * * * *

(b) *Resumption of payments.* If benefits are otherwise payable, they will be resumed effective with the first month in which a recipient's monthly countable income becomes less than the applicable Federal benefit rate (or the sum of that rate and the level for any federally administered State supplementary payment) for that month. If the reason that a recipient's benefits were suspended was excess income, the payment for the first month that benefits are reinstated will not be prorated under § 416.421.

17. In § 416.1324, paragraph (b) is revised to read as follows:

§ 416.1324 Suspension due to excess resources.

* * * * *

(b) *Resumption of payments.* If benefits are otherwise payable, they will be resumed effective with the start of the month after the month in which a recipient's countable resources no longer exceed the limit that applies. If the reason that a recipient's benefits were suspended was excess resources, the payment for the first month that benefits are reinstated will not be prorated under § 416.421.

18. Section 416.1325 is revised to read as follows:

§ 416.1325 Suspension due to status as a resident of a public institution.

(a) Except as provided in § 416.211 (b) and (c), a recipient is ineligible for benefits for the first full calendar month in which he or she is a resident of a public institution (as defined in § 416.201) throughout the calendar month (as defined in § 416.211(a)), and payments are suspended effective with such first full month. Such ineligibility continues for so long as such individual remains a resident of a public institution.

(b) *Resumption of payments.* If benefits are otherwise payable, they will be resumed effective with the earliest day of the month in which a recipient is no longer a resident of a public institution. See § 416.421. A transfer from one public institution to another or a temporary absence from the institution lasting 14 days or less, however, will not change his or her status as a resident, and the suspension will continue.

19. Section 416.1326, paragraph (b) is revised to read as follows:

§ 416.1326 Suspension for failure to accept treatment for drug addiction or alcoholism.

* * * * *

(b) *Resumption of payments.* When payments are suspended because a disabled recipient who is medically determined to be a drug addict or an alcoholic is not undergoing the required treatment, such ineligibility continues until he or she demonstrates compliance by actually undergoing the required treatment and such compliance is verified by the responsible authority at the institution or facility providing the treatment (see Subpart O of this part). Benefits will be resumed effective with the earliest day of the month on which the recipient complies with the required treatment or other direction, provided such compliance is first verified by the responsible official and provided the recipient otherwise establishes eligibility for benefits for such month. See § 416.421.

Example: Payments to C, a drug addict, were suspended effective May because C failed to report for treatment. On June 25, C reported for treatment and otherwise established eligibility for benefits. The responsible State official reported on August 2 that C had reported June 25 and was complying with the required treatment. SSI payment may be resumed effective with June. The amount of SSI benefits payable for June will be based on the number of days starting with June 25 through the end of the month.

20. Section 416.1327 is revised to read as follows:

§ 416.1327 Suspension due to absence from the United States.

(a) *Suspension effective date.* A recipient is not eligible for SSI benefits if he is outside the United States for a full calendar month. For purposes of this paragraph—

(1) "United States" means the 50 States, the District of Columbia, and the Northern Mariana Islands;

(2) "Day" means a full 24–hour day; and

(3) In determining whether a recipient has been outside the United States for a full calendar month, it must be established whether the recipient is outside the United States for 30 consecutive days or more. If yes, he or she will be treated as remaining outside the United States for a period of 30 consecutive days. When a recipient had been outside the United States, the first period of 30 consecutive days of absence is counted beginning with the day after the day the recipient departs from the United States and ending with the day before the day on which he or she returns to the United States. When a recipient has returned to the United States, the second period of 30 consecutive days starts on the day the individual returned and ends on the 30th day of continuous presence in the United States. Benefits will be suspended effective with the first full calendar month in which a recipient is outside the United States.

(b) *Resumption of payments after absence from the United States.* If benefits are otherwise payable they will be resumed—

(1) Effective with the day following the 30th day of continuous presence in the United States after the recipient's return if the absence was for 30 consecutive days or more.

(2) Effective with the day the recipient returned to the United States, if the absence from the United States was for a full calendar month, but for less than 30 consecutive days (this can occur only for the calendar month of February).

Example 1: Mike left the United States on March 1 and returned on April 1. Counting March 2 through March 31, he was outside the United States for 30 consecutive days; thus he is also deemed to be outside the United States for 30 additional consecutive days. Therefore, for April 1 through April 30, he is deemed to be outside the United States and not eligible for the calendar month of April. Payments start effective May 1.

Example 2: Mary left the United States on April 15 and returned on July 1. Counting April 16 through June 30, she was actually outside the United States and not eligible for the calendar months of May and June. Since she was absence for more than 30 consecutive days, she is deemed to be outside the United States for 30 additional consecutive days. Therefore, for July 1 through July 30, she is deemed to be outside the United States and not eligible for payment until July 31.

21. In § 416.1328, paragraph (b) is revised to read as follows:

§ 416.1328 Suspension due to refusal to accept vocational rehabilitation services.

* * * * *

(b) *Resumption of payments.* If benefits are otherwise payable, they will be resumed effective with the earliest day of the month on which the recipient no longer refuses without good cause to accept vocational rehabilitation services. See § 416.421.

22. Section 416.1329 is revised to read as follows:

§ 416.1329 Suspension due to loss of United States residency, United States citizenship, or status as an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law.

(a) A recipient ceases to be an eligible individual or eligible spouse, under section 1614(a)(1)(B) of the Act, when he or she ceases to meet the requirement of § 416.202(b) with respect to United States residency, United States citizenship, or status as an alien lawfully admitted for permanent residence or otherwise permanently residing in the United States under color of law. Payments are suspended effective with the first month after the last month in which a recipient meets the requirements of § 416.202(b).

(b) *Resumption of payments.* If benefits are otherwise payable, they will be resumed effective with the earliest day of the month on which the recipient again meets both the residence and citizenship or lawfully admitted alien or color of law requirements. See § 416.421.

23. Section 416.1330 is revised to read as follows:

§ 416.1330 Suspension due to failure to apply for and obtain other benefits.

(a) *Suspension effective date.* A recipient ceases to be an eligible individual or eligible spouse when, in the absence of a showing of incapacity to do so, or other good cause, he or she fails within 30 days after notice from the Social Security Administration of probable eligibility, to take all appropriate steps to apply for and, if eligible, to obtain payments such as an annuity, pension, retirement, or disability benefit, including veterans' compensation, old-age, survivors, and disability insurance benefit, railroad retirement annuity or pension, or unemployment insurance benefit. Benefit payments are suspended due to such ineligibility effective with the month in which the recipient was notified in writing of the requirement that he or she file and take all appropriate steps to receive the other benefits. See § 416.210(e).

(b) *Resumption of payment.* If benefits are otherwise payable, they will be resumed effective with the earliest day of the month on which the recipient takes the necessary steps to obtain the other benefits. See § 416.421.

Subpart R—Relationship

24. The authority citation for Subpart R of Part 416 continues to read as follows:

Authority: Secs. 1102, 1614 (b), (c), and (d), and 1631(d)(1) of the Social Security Act; 49 Stat. 647 as amended, 86 Stat. 1473 and 1478 (42 U.S.C. 1302, 1382c (b), (c) and (d), and 1383(d)(1)).

25. In § 416.1802, paragraph [d] is revised to read as follows:

§ 416.1802 Effects of marriage on eligibility and amount of benefits.

* * * * *

(d)(1) *General rule:* Benefits depend on whether you are married or not married at the beginning of each month If you get married, even on the first day of a month we will treat you as single until the next month. If your marriage ends, even on the first day of a month, we will treat you as married until the next month.

(2) *Exception: If you both meet eligibility requirements after your date of marriage or after your marriage ends.* If, in the month that you marry, each of you first meets all eligibility requirements after the date of your marriage, we will treat you as an eligible couple for that month. If, in the month that your marriage ends, each of you first meets all eligibility requirements after the date your marriage ends, we will treat you as eligible individuals. (See Subparts D and E regarding how your benefits will be prorated.)

[FR Doc. 86–8626 Filed 4–18–86; 8:45 am]
BILLING CODE 4190–11–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 602

[T.D. 8025]

OMB Control Numbers Under the Paperwork Reduction Act; Returns Relating to Cash Payments in Excess of $10,000 Received in a Trade or Business

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction.

SUMMARY: This document contains a correction to Treasury Decision 8025, which was published in the Federal Register on May 23, 1985 (50 FR 21239). T.D. 8025 issued temporary regulations

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relating to the requirement of reporting cash in excess of $10,000 received in a trade or business and other issues arising under the Tax Reform Act of 1984.

EFFECTIVE DATES: The correction is effective May 23, 1985.

FOR FURTHER INFORMATION CONTACT: Dale D. Goode of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attn: CC:LR:T). Telephone: 202–566–3935 (not a toll-free number).

Background

On May 23, 1985, the **Federal Register** published (51 FR 21239) Treasury Decision 8025 relating to the reporting of cash in excess of $10,000 received in a trade or business. This document contains temporary regulations under section 6050I of the Internal Revenue Code of 1954, as added by section 146 of the Tax Reform Act of 1984.

Need for Correction

As published, T.D. 8025 contains a typographical error on page 21243, second column, line 28.

Correction of Publication

Accordingly, the publication of Treasury Decision 8025 which was the subject of FR Doc. 85–11902 is corrected in § 602.101, on page 21243, second column, line 28, by adding the letter "T" immediately after "§ 1.6050I–1" to read "§ 1.6050I–1T".

Paul A. Francis,

Acting Director, Legislation and Regulations Division.

[FR Doc. 86–8870 Filed 4–18–86; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF LABOR

Office of the Secretary

Wage and Hour Division

29 CFR Part 5

Amendments to Federal Contract Labor Standards Regulations Eliminating Daily Overtime Requirements on Federal and Federally Assisted Contracts

Correction

In FR Doc. 86–7726 beginning on page 12264 in the issue of Wednesday, April 9, 1986, make the following correction: On page 12265, in the third column, in § 5.5(a), in the fourth line, "one-" should read "one and one-".

BILLING CODE 1505–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–10–FRL–3069–2]

Approval and Promulgation of State Implementation Plan: Oregon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA today approves the amendments to the Oregon State Implementation Plan (SIP) which will modify the Veneer and Plywood Manufacturing Operations Rule (OAR 340–25–315) so as to apply uniform emission limits for veneer dryers throughout the state. In addition, the revision will also delete a section of the rule dealing with the implementation of compliance dates which have already passed.

EFFECTIVE DATE: This action will be effective on June 20, 1986, unless notice is received before May 21, 1986, that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460;
Air Programs Branch (10A–85–18), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101;
State of Oregon, Department of Environmental Quality, 522 S.W. Fifth, Yeon Building, Portland, Oregon 97204.

Copy of the State's submittal may be examined at: The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, DC.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101.

FOR FURTHER INFORMATION CONTACT: Ann Williamson, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. Telephone: (206) 442–8633, FTS: 399–8633.

SUPPLEMENTARY INFORMATION:

I. Background

The Oregon Environmental Quality Commission adopted the existing visible emission limits for veneer dryers in April 1977. In March 1979, standards for particulate mass emissions for wood-fired veneer dryers were adopted. These rules did not apply to veneer dryers located within "special problem areas," specifically the Portland, Eugene-Springfield, and Medford-Ashland Air Quality Maintenance Areas (AQMAs). It was expected that more stringent emission standards would be considered for sources in those areas.

During the period since the adoption of the current standards, veneer dryers within the special problem areas have been subject to the same emission limits as dryers elsewhere in the state. These limits were implemented by application of the "highest and the best practicable treatment and control" criterion and by placing emission limits in the permits for those facilities.

Since 1979, the Oregon Department of Environmental Quality (DEQ) and the Lane Regional Air Pollution Control Authority (LRAPA) have evaluated the need for more stringent controls on veneer dryers in special problem areas. This evaluation considered the needs of the airsheds, the availability of more effective controls, and the performance of controls that have been installed.

In 1983 and 1984, DEQ conducted a comprehensive study of veneer dryer visible emissions. The survey evaluated the performance and effectiveness of emission controls on 121 of the state's 230 veneer dryers. Based on these evaluations, DEQ feels that the more stringent emission standards for special control areas are not needed at this time.

Specific visible emission limits for veneer dryers in some of the special problem areas have already been established. The Specific Air Pollution Control Rules for the Medford AQMA designates visible emission limitations the same as for those dryers outside the special problem areas. LRAPA Rules require similar air emission controls for veneer dryers in the Eugene-Springfield area. At the present time, no visible emission limits apply to veneer dryers in the Portland AQMA. Additionally, no standard has been set for particulate mass emissions from wood-fired veneer dryers located in any of the special problem areas. This rule will serve to provide consistency for emission standards throughout the state.

A total of 21 veneer dryers would be affected by this rule change (including the two wood-fired operations under the jurisdiction of LRAPA). All of these dryers have demonstrated compliance with the current visible emission standards in OAR 340–25–315. This degree of emission control has been achieved by applying the requirement for "highest and best practicable

treatment and control" (OAR 340–25–310) and by placing limits in permits.

Eleven of the 18 affected wood-fired dryers have already been source tested to verify compliance with the mass particulate standard. Based on an extrapolation of visible emission performance of the tested systems, it is expected that the remaining untested dryers would have similar mass emission compliance results. Thus, the impact of the rule modification on the mill operations and the airshed is expected to be minor.

At the present time, DEQ has not identified a need for more stringent veneer dryer emission standards inside the special problem areas. The rule modification will delete the wording "located outside the special problem areas" where reference is made to standards for emissions from veneer dryers (OAR 340–25–315(1)(a)(b) and (c)).

An additional revision to the rule would delete a section on compliance schedules for veneer dryers for which the dates are now passed. The deletion of this section of the rule would have no present or future effect on the implementation or maintenance of veneer dryer emission controls since the dates have passed.

II. Summary of Rulemaking Action

EPA is approving today the amendments to the Oregon SIP which revise the current Veneer and Plywood Operations Rule (OAR 340–25–315) to make the emission limits for veneer dryers consistent throughout the state and to delete any and all references to compliance dates and schedules.

EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. This action will be effective 60 days from the date of this **Federal Register** unless, within 30 days of its publication, notice is received that adverse or critical comments will be submitted.

If such notice is received, this action will be withdrawn before the effective date by publishing two subsequent notices. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period. If no such comments are received, the public is advised that this action will be effective June 20, 1986.

III Procedural Review

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. section 605(b), I certify that this revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709)

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 20, 1986. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2))

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Reporting and recording requirements.

Dated: April 10, 1986.

Lee M. Thomas,

Administrator.

Note.—Incorporation by reference of the Implementation Plan for the State of Oregon was approved by the Director of the Office of Federal Register on July 1, 1982.

PART 52—[AMENDED]

Part 52 of Chapter I, Title 40 Code of Federal Regulations is amended as follows:

Subpart MM—Oregon

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.1970 is revised by adding paragraph (c)(76) as follows:

§ 52.1970 Identification of plan.

* * * * *

(c) * * *

(76) Revisions to the Oregon State Implementation Plan were submitted by the Director of the Department of Environmental Quality on August 5, 1985. Revisions are: extension of existing emission standards for veneer dryers (OAR 340–25–315) to include sources located in special problem areas, and the deletion of any references to the implementation of compliance dates which have already passed.

(i) Incorporation by Reference.

(a) Letter of August 5, 1985, from the Department of Environmental Quality to EPA and Amendments to OAR 340–25–315, Veneer and Plywood Operations Rule, as adopted by the Environmental Quality Commission on July 19, 1985.

[FR Doc. 86–8837 Filed 4–18–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 280

[OSW–FRL 2911–6]

Hazardous Waste; Notification Requirements for Owners of Underground Storage Tanks; Correction

AGENCY: Environmental Protection Agency.

ACTION: Final rule; correction.

SUMMARY: This document corrects the dates for notification by depositors provided in the final rule implementing the notification requirements for owners of underground storage tanks under section 9002 of the Resource Conservation and Recovery Act, as amended (RCRA). These regulations were published on November 8, 1985 (50 FR 46602). This action is necessary so that the period of notification by depositors to owners or operators of underground storage tanks will be in accordance with the period specified in the law (section 9002(a)(5) of RCRA).

DATES: The final rule was effective on November 8, 1985. From December 8, 1985 through June 8, 1987 depositors of regulated substances in underground storage tanks must reasonably notify tank owners or operators of the owners' notification obligations.

ADDRESS: The public docket for this final rule [Docket No. 9002] is located in Room S–212, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424–9346 (toll free) or (202) 382–3000 in Washington, DC; or Virginia Cummings, Office of Underground Storage Tanks (WH–562A), United States Environmental Protection Agency, Washington, DC, 20460, (202) 382–7925.

SUPPLEMENTARY INFORMATION: The following corrections are made on page 46602 in the issue of November 8, 1985:

1. On page 46603, column 1, last paragraph, "From December 9, 1985 through May 9, 1987" is corrected to read, "From December 8, 1985 through June 8, 1987."

2. On page 46613, column 2, 40 CFR 280.3(g) is correctly revised to read as follows:

§ 280.3 Notification requirements.

* * * * *

(g) Beginning on December 8, 1985 through June 8, 1987, any person who deposits regulated substances in an underground storage tank must make reasonable efforts to notify the owner or operator of such tank of the owner's

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obligations under paragraphs (a) through (c) of this section.

* * * * *

Dated: April 15, 1986.

Ronald Brand,

Director, Office of Underground Storage Tanks.

[FR Doc. 86-8832 Filed 4-18-86; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101-25, 101-26, and 101-28

[FPMR Amdt. E-261]

Customer Supply Center Program

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation provides policy for the GSA customer supply center program and deletes policy and references relating to the GSA self-service store program which are no longer applicable. The regulation is necessary to establish the policy governing the use of customer supply centers and to provide agencies with information concerning the program and the related responsibilities.

EFFECTIVE DATE: April 21, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Donald Genova, Director, Logistics Planning Division (703-557-7970).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule, has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits, and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Parts 101-25, 101-26, and 101-28

Government Property Management Warehouses.

1. The authority citation for Parts 101-25, 101-26, and 101-28 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

PART 101-25—GENERAL

Subpart 101-25.1—General Policies

2. Section 101-25.107 is amended by revising paragraph (b) to read as follows:

§ 101-25.107 Guidelines for requisitioning and proper use of consumable or low cost items.

* * * * *

(b) Approval of requisitions for replenishment of cupboard storeroom stocks should be restricted to officials at a responsible supervisory level to ensure that supply requirements are justified on the basis of essentiality and quantity. Where requisitions are not required, such as in obtaining items from GSA customer supply centers, informal "shopping lists" should be approved at the same level.

* * * * *

PART 101-26—PROCUREMENT SOURCES AND PROGRAMS

Subpart 101-26.1—General

3. Section 101-26.106 is revised to read as follows:

§ 101-26.106 Consolidation of requirements.

Full consideration shall be given to the consolidation of individual small volume requirements to enable the Government to benefit from lower prices normally obtainable through definite quantity contracts for larger volume procurements. This policy pertains to procurement from commercial sources either directly or through an intermediary agency and does not apply to GSA-stock items or small volume requirements normally obtained from GSA customer supply centers. When it is practical, each agency shall establish procedures that will permit planned requirements consolidation on an agencywide basis. When it is impractical to plan requirements on an agencywide consolidated basis, the requirements consolidation effort may be limited to a bureau, to other agency segments, or to a program, if such limited consolidation will provide significant price advantages when procurement is effected on a volume basis. Requisitions for item requirements exceeding maximum order limitations in Federal Supply Schedule contracts shall be submitted to GSA in accordance with the applicable instructions in the respective schedules. Special buying services desired by agencies for procurement of other consolidated item requirements shall be requested from GSA in accordance with § 101-26.102.

Subpart 101-26.4—Purchase of Items From Federal Supply Schedule Contracts

4. Section 101-26.408-4 is amended by revising paragraph (c) to read as follows:

§ 101-26.408-4 Placement of orders against multiple-award schedules.

* * * * *

(c) GSA customer supply centers are immediate sources of supply for Federal agencies and are responsible for providing small quantity issues of administrative supplies and other selected items to fulfill short-term official agency requirements. In furtherance of this responsibility, these centers stock a variety of high demand items including a number which may be other than a lowest priced item available from a multiple-award Federal Supply Schedule. In such instances, the GSA centers are exempt from the requirements of the § 101-26.408-4 pertaining to the inclusion of justification of purchase in the delivery order file. When an agency makes a purchase of more than $500 per line item from a GSA customer supply center which is other than a similar lowest priced item available from a multiple-award schedule, GSA will assume that a justification has been prepared and made a part of the buying agency's purchase file. Availability of products, regardless of the total amount of the line item price, does not relieve an agency of the responsibility to select the lowest priced item commensurate with needs of the agency.

PART 101-28—STORAGE AND DISTRIBUTION

5. The table of contents for Part 101-28 is amended by revising the following subpart:

Subpart 101-28.3—Customer Supply Centers

Sec.
101-28.300 Scope of subpart.
101-28.301 Applicability.
101-28.302 Mission of customer supply centers.
101-28.303 Benefits provided by customer supply centers.
101-28.304 Item selection and stockage criteria.
101-28.304-1 Types of items.
101-28.304-2 Determining items to be stocked.
101-28.305 Prices of customer supply center items.
101-28.306 Customer supply center (CSC) accounts and related controls.
101-28.306-1 Establishment of a CSC account by a customer activity.
101-28.306-2 Use of customer supply centers.
101-28.306-3 Limitations on use.
101-28.306-4 Expiration or cancellation.
101-28.306-5 Safeguards.
101-28.306-6 Sensitive items.
101-28.306-7 Responsibility for operation.

6. Part 101-28 is amended to revise Subpart 101-28.3 to read as follows:

Subpart 101-28.3—Customer Supply Centers

§ 101-28.300 Scope of subpart.

This subpart provides policy for the GSA customer supply center program, including policy on item stockage, services provided, and Federal agency participation.

§ 101-28.301 Applicability.

This subpart is applicable to all activities that are eligible to use customer supply centers. Eligible activities include executive agencies, elements of the legislative and judicial branches of the Government, and cost reimbursable contractors. Customer supply centers are for the use of activities located within the market area of a customer supply center as determined by GSA.

§ 101-28.302 Mission of customer supply centers.

Customer supply centers are retail supply distribution outlets established by GSA to provide efficient, economical support of frequently needed common-use expendable items for the accomplishment of customer agency missions.

§ 101-28.303 Benefits provided by customer supply centers.

The customer supply centers (CSCs) provide the following:

(a) Overall savings to the Federal Government through volume purchases.

(b) Quick and easy catalog item selection and simplified order placement by telephone, mail, electronic mail, or customer walk-in for urgent agency requirements.

(c) Next business day shipment to the customer for most orders.

(d) Same day pick up of emergency walk-in and telephone orders.

(e) Immediate stock availability information for all telephone and walk-in orders.

(f) Extensive inventory designed to meet the needs of customer agencies within the geographic area served by each CSC.

(g) A detailed catalog which lists the items stocked and procedures for use of the CSC.

(h) Automated biweekly billings (consistent with DOD MILSBILLS).

(i) Other services as approved by the GSA Regional Administrator.

§ 101-28.304 Item selection and stockage criteria.

§ 101-28.304-1 Types of items.

Items stocked in customer supply centers are based on customer agency requirements for common use expendable items. In addition to administrative type items commonly used in Government offices, janitorial supplies, handtools, and other industrial-type items are stocked when required to meet the mission-related needs of the activities supported by the CSC.

§ 101-28.304-2 Determining items to be stocked.

(a) Each CSC will stock administrative items normally required by Federal agencies for day-to-day operations. In addition to those items, each CSC will stock additional items as determined by the requirements of the activities within the geographic area it serves.

(b) Regional FSS offices will canvass customer agencies periodically to identify items for which there is an official need within their support area.

(c) Customer agencies may request that specific items be stocked by their support CSC. The requests must be submitted in writing to the appropriate FSS Bureau Director and must be signed by a customer agency official at a level of responsibility (division director or higher) acceptable to the GSA Regional Administrator. All requests must indicate the expected monthly usage of the item requested. Each request will be evaluated and the submitting activity notified of the results of the evaluation.

§ 101-28.305 Prices of customer supply center items.

The selling price of a CSC item is an average price which is calculated automatically by the CSC computer at the time the item is ordered. Items stocked in CSCs that are obtained from GSA wholesale supply distribution facilities are input into the computer at the price in effect at the time of shipment from the facilities (this price is normally the price shown in the GSA Supply Catalog). Items stocked in CSCs that are not available from GSA wholesale supply distribution facilities but which are obtained from other Government supply sources or commercial sources are input into the computer at the invoice cost. Due to cost averaging, item prices listed in the CSC catalog may differ somewhat from the sale price for a particular transaction.

§ 101-28.306 Customer supply center (CSC) accounts and related controls.

§ 101-28.306-1 Establishment of a CSC account by a customer activity.

(a) Eligible agencies should contact the GSA Regional Federal Supply Service Bureau to obtain full information on the use of the CSC for their locale. FSS Bureau personnel will provide assistance to agencies in the establishment of the CSC account, brief personnel on the use of the CSC to meet local, retail supply requirements, and provide copies of the CSC catalog.

(b) An appropriate level management official (division director of higher) authorized to obligate agency funds must sign the GSA Form 3525, Application for Customer Supply Services, requesting establishment of the CSC account for the activity.

§ 101-28.306-2 Use of customer supply centers.

(a) Orders are received by the CSC via phone, mail, electronic mail, or in person on a walk-in basis for urgent agency requirements. All use of the CSC is based upon the customer access code assigned at the time of establishment of the activity account. The customer access code determines the ship-to point for orders placed with the CSC. The ship-to point cannot be changed, one established, except by the submission of a written request signed by an appropriate agency official.

(b) All orders placed with the CSC, except emergency pickup orders, described in § 101-28.306-1(c), will be shipped to the activity placing the order via mail or small parcel carrier not later than the end of the next business day.

(c) Walk-in orders for urgent requirements are accepted and filled immediately provided the individual placing the order has proper identification. Telephone orders placed in the morning may be picked up in the afternoon of the same day provided that the individual picking up the order possesses proper identification and the order ticket number provided by the CSC personnel at the time the order is placed.

§ 101-28.306-3 Limitations on use.

(a) Agencies shall establish internal controls to ensure that the use of the CSC account by the agency or other authorized activities is limited to the purchase of items for official Government use. The controls shall include written instructions that contain a statement prohibiting the use of the

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CSC account in acquiring items for other than Government use. When an agency makes a purchase of more than $500 per line item from a GSA customer supply center which is other than a similar lowest priced item available from a multiple-award schedule, GSA will assume that a justification has been prepared and made a part of the buying agency's purchase file. Availability of products, regardless of the total amount of the line item price, does not relieve an agency of the responsibility to select the lowest priced item commensurate with needs of the agency.

(b) Office supplies needed by Members of Congress and the Delegate of the District of Columbia for use in their offices in the House or Senate Office Buildings should be obtained from the Senate and Houses Representatives supply rooms, as appropriate. Members of Congress, except for the Delegate of the District of Columbia, should limit their use of the CSCs to those located outside of the District of Columbia. The Delegate of the District of Columbia may obtain office supplies for the use of his or her district offices from the CSC serving the District of Columbia.

§ 101-26.306-4 Expiration or cancellation.

(a) CSC accounts established for Federal agencies or members of the Federal judiciary are valid for an indefinite period of time unless canceled by the Commissioner, FSS, GSA, or by a GSA Regional Administrator.

(b) CSC accounts established for authorized contractors or Members of Congress will contain an expiration date reflecting the termination date of the contract or term of office. New accounts will be established for reinstated contractors or reelected Members of Congress upon submission of a new application.

(c) Any CSC customer may request cancellation of his/her account when no longer required or whenever there is cause to believe that the customer access code has been compromised. Agencies shall keep GSA advised of any changes in organization or accounting structures that might have an impact on their CSC accounts.

(d) The Commissioner FSS, GSA, may periodically direct a nationwide purge of all CSC accounts to cancel those that are duplicates, not needed, or for which the customer access code has been compromised. Selective account cancellations may be directed by the GSA Regional Administrator in coordination with FSS Central Office. Under the procedures of a nationwide purge, CSC accounts become invalid as of a specific date established by the Commissioner, FSS, GSA, or by a Regional Administrator, and new CSC accounts are established upon receipt of new applications.

§ 101-26.306-5 Safeguards.

Agencies shall establish internal controls to ensure that the customer access codes assigned for their accounts are properly protected. It is by use of these access codes that orders are accepted by the CSC and these codes determine the ship-to points for all orders filled by the CSC with the exception of orders picked up at the CSC by the customer. GSA will not change the ship-to location associated with the customer access code except upon receipt of a written request to do so, signed by a duly authorized official of the customer activity.

§ 101-26.306-6 Sensitive items.

Many items stocked by the CSCs may be considered sensitive based upon standard criteria factors such as propensity for personal use, the potential for embarrassment of GSA and customer agencies, the level of customer complaints, and control as an accountable item of personal property. Each customer activity shall take all appropriate measures necessary to ensure that all items are properly controlled within its activity and are purchased solely for official Government use.

§ 101-26.306-7 Responsibility for operation.

The GSA Regional Administrator is responsible for the operation of any CSCs located within his or her region.

Dated: March 20, 1986.

Paul Trause,

Acting Administrator of General Services.

[FR Doc. 86-8851 Filed 4-18-86; 8:45 am]

BILLING CODE 6820-24-M

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41 CFR Part 105-67

[ADM 7900.10]

Debarment/Suspension of Contractors From Purchase of Federal Personal Property

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The General Services Administration Property Management Regulation (GSPMR) is amended to add Part 105-67 to implement the October 9, 1985, amendment to the Federal Property Management Regulation (FPMR) which applied the Governmentwide policies, procedures, and requirements of Subpart 9.4 of the Federal Acquisition Regulation (FAR) on suspension, debarment and ineligibility to contractors who purchase Federal personal property. The new subpart implements FPMR Subpart 101-45.6 within GSA by applying the policies, procedures and requirements of Subpart 509.4 of the General Services Administration Acquisition Regulation (GSAR) on suspension, debarment and ineligibility to contractors who purchase Federal personal property.

EFFECTIVE DATE: April 21, 1986.

FOR FURTHER INFORMATION CONTACT: Edward C. Loeb, Procurement Analyst, Office of GSA Acquisition Policy and Regulations (VP), (202) 535-7791.

SUPPLEMENTARY INFORMATION:

Background

On December 20, 1985, the General Services Administration (GSA) published in the **Federal Register** (50 FR 52808) Notice ADM 7900.10 inviting comments from interested parties on these proposed changes to the regulation and provided a 30-day comment period. No comments were received from the public. Comments from various GSA offices have been reviewed, reconciled, and incorporated, when appropriate, in the final rule.

Impact:

This is not a major rule as defined in Executive Order 12291. Therefore, preparation of a regulatory impact analysis was not necessary. The GSA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

List of Subjects in 41 CFR 105-67

Debarred, Suspended and ineligible contractors.

Authority: 40 U.S.C. 486(c).

Part 105-67 is added to read as follows:

PART 105-67—SALE OF PERSONAL PROPERTY

Sec.

105-67.100 Scope of subpart.

105-67.101 Debarred, suspended and ineligible contractors.

§ 105-67.100 Scope of subpart.

This subpart prescribes policies and procedures governing the debarment or suspension of contractors from purchases of Federal personal property (see FPMR Part 101-45).

§ 105-67.101 Debarred, suspended and ineligible contractors.

The policies, procedures and requirements of Subpart 509.4 of the General Services Administration Acquisition Regulation (GSAR) are incorporated by reference and made applicable to contracts for, and to contractors who engage in, the purchase of Federal personal property.

Dated: April 14, 1986.

Paul Trause,

Acting Administrator of General Services.

[FR Doc. 86-8852 Filed 4-18-86; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 431 and 435

Medicaid and Unemployment Compensation Programs

Correction

In FR Doc. 86-4280 beginning on page 7178 in the issue of Friday, February 28, 1986, make the following corrections: On page 7213, in the second column, the section number now reading "§ 435.460" should be changed to read "§ 435.960"; and in the first line of the section, the paragraph designation should be "(a)".

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 205

Duplication of Benefits

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule will implement the duplication of benefits provisions of the Disaster Relief Act of 1974 (Pub. L. 93-288), section 315, 42 U.S.C. 5155. This will establish Federal Emergency Management Agency (FEMA) regulations on duplication of benefits, replacing those which are currently in effect at 44 CFR 205.10. This rule specifies policies for preventing duplication of benefits and for remedying it when it has occurred.

EFFECTIVE DATE: May 21, 1986.

FOR FURTHER INFORMATION CONTACT: Donna M. Dannels, Individual Assistance Division, Office of Disaster Assistance Programs, State and Local Programs and Support, Federal Emergency Management Agency, 500 'C' St., SW, Washington, D.C. 20472, (202) 646-3662.

SUPPLEMENTARY INFORMATION: The duplication of benefits regulations being withdrawn basically repeat the law and do not provide specific procedures or policies. New procedures have been developed based on input FEMA solicited from other agencies involved in the duplication of benefits process. These new procedures have appeared in program guidance. The proposed regulations are more specific than the existing regulations and prescribe policy more clearly. On May 22, 1985, FEMA published a proposed rule and accepted comments until July 22, 1985. Comments were received from seven parties. Responses were directly sent to the commentors. The Department of Emergency and Military Affairs in Arizona commented in a supportive manner and did not request any revisions to the rule. The Alliance of American Insurers and the American Insurance Association questioned FEMA's authority to obtain coverage and/or settlement information on disaster victims from the insurers. The rule has been changed to place the responsibility for providing settlement information to FEMA on the insured, thus making requests from the insurers unnecessary. The Federal Insurance Adminstration (FIA) and the Alliance of American Insurers noted that references to flood insurance in the rule imply that coordination is needed only with the National Flood Insurance Program. The rule was revised and instructs coordination with the FIA. The FIA maintains information on not only policies with the National Flood Insurance Program, but also privately provided Write-Your-Own policies. The FIA inquired about which agencies the quality control reviews referred to in (b)(3) and (d)(3) would apply. The phrase "government and voluntary agencies" was added in (d)(3) for clarification. The Texas Department of Human Resources and the Small Business Administration (SBA) suggested that the actual delivery sequence be shown in this rule. This sequence will appear in section (c)(1). The SBA and a FEMA regional office asked for clarification of section (c)(3) when exceptional circumstances are involved. This section has been revised to clarify recoupment responsibilities when the delivery sequence is disrupted. The SBA also requested a definition of which agencies are covered in section (d) Program Guidance. This is differentiated in the rule as programs covered under the Disaster Relief Act, (d)(4), and programs under other authorities, (d) (1) and (2), but does not list the specific agencies. Another FEMA regional office comment requested that the FEMA Regional Director's responsibility in recovering duplicated assistance be limited to preventive measures. The Disaster Relief Act prohibits this in section 315 as it specifically states a responsibility for directing the person, business concern or other entity to repay the Treasury. The remaining comments from the commentors mentioned in this section are editorial or nonsubstantive and do not require replies.

Environmental Considerations

This regulation is procedural, and based on the following criteria, FEMA has determined that the implementation of this regulation will have no significant impact on the environment:

(1) Minimal or no effect on environmental quality;

(2) No significant change to existing environmental conditions; and

(3) No significant cumulative environmental impact. Executive Order 12291 and Regulatory Flexibility Act.

This rule has been determined not to be a "major rule" within the sense of Executive Order 12291, for the following reasons:

(1) It will not have an annual effect on the economy of $100 million or more;

(2) It will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and

(3) It will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Also, it has been determined that this regulation will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis will not be prepared.

There are no information collection requirements in this regulation.

Content of the Rule

This rule implements section 315 of the Disaster Relief Act of 1974, 42 U.S.C. 5155. It states the agency policy for preventing duplication of benefits and for remedying it when it has occurred.

List of Subjects in 44 CFR Part 205

Community facilities, Disaster assistance, Grant programs, Housing and community development.

Accordingly, 44 CFR Part 205 is amended as follows:

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PART 205—FEDERAL DISASTER ASSISTANCE (PUB. L. 93-288)

1. The authority citation for Part 205 is revised to read as follows and all authority citations within Subpart A are removed.

Authority: 42 U.S.C. 5201 Reorganization Plan No. 3 of 1978, Executive Order 12148.

2. Section 205.10 is revised to read as follows:

§ 205.10 Duplication of benefits.

(a) *Purpose.* This section establishes the policies for implementing Section 315 of the Disaster Relief Act, entitled Duplication of Benefits.

(b) *Agency Policy.* It is FEMA policy:

(1) To prevent duplication of benefits between its own programs and insurance benefits, and between its own programs and other disaster assistance, by providing assistance under the Act only when other assistance, which is the primary responsibility of another State or Federal agency to provide, will be significantly delayed or is unavailable, and when the delay or unavailability is not caused by the applicant;

(2) To examine a debt resulting from duplication to determine that the likelihood of collecting the debt and the best interests of the United States government justify taking the necessary recovery actions to remedy duplication which has occurred when other assistance has become available;

(3) To assure, by consultation with other Federal agencies and by performing selected quality control reviews, that the other disaster relief agencies establish and follow policies and procedures to prevent and remedy duplication among their programs, other programs, and insurance benefits; and

(4) To coordinate the effort of agencies providing assistance so that each agency understands the prevention and remedial policies of the others and is able to fulfill its own responsibilities regarding duplication of benefits.

(c) *Delivery Sequence.* (1) Duplication occurs when an agency has provided assistance which was the primary responsibility of another agency, and the agency with primary responsibility later provides assistance. A delivery sequence establishes the order in which disaster relief agencies and organizations provide assistance. The specific sequence, in accordance with the mandates of the assistance programs, is to be followed in the delivery of assistance. When the delivery sequence has been disrupted, the disrupting agency is responsible for rectifying the duplication. The delivery sequence pertains to that period of time in the recovery phase when most of the traditional disaster assistance programs are available.

(2) The delivery sequence is, in order of delivery:

First—volunteer agencies' emergency assistance (except expendable items such as clothes, linens, and basic kitchenware); insurance (including flood insurance);

Second—temporary housing assistance (to include provision of a housing unit and minimal repairs);

Third—Small Business Administration and Farmers Home Administration disaster loans;

Fourth—Individuals and Family Grant program assistance;

Fifth—volunteer agencies' "additional assistance" programs; and

Sixth—the "Cora Brown Fund."

(3) Two significant points about the delivery sequence are that:

(i) Each assistance agency should, in turn, offer and be responsible for delivering assistance without regard to duplication with a program later in the sequence; and

(ii) The sequence itself determines what types of assistance can duplicate other assistance (e.g., a Federal program can duplicate insurance benefits, however, insurance benefits cannot duplicate the Federal assistance). An agency's position in the sequence determines the order in which it should provide assistance and what other resources it must consider before it does so.

(4) If following the delivery sequence concept would adversely affect the timely receipt of essential assistance by a disaster victim, the following exception may be invoked. When there is a time delay, an agency may offer assistance which is the primary responsibility of another agency. There may be cases when an agency (Agency B) delivers assistance which is normally the primary responsibility of another agency (Agency A) because Agency A has, for good cause, denied assistance. After the assistance is delivered, Agency A re-opens the case. If the primary response Agency A then provides assistance, that Agency A is responsible for coordinating with Agency B to either: (i) Assist Agency B in preventing the duplication of benefits or (ii) in the case where the disaster victim has refused assistance from Agency A, notify Agency B that it must recover assistance previously provided.

(d) *Program Guidance.*—(1) *Programs Under the Act v. Other Agency Assistance.*

(i) In making an eligibility determination, the FEMA Regional Director, in the case of Federally operated programs, or the State, in the case of State operated programs, shall determine whether assistance is the primary responsibility of another agency to provide, according to the delivery sequence; and determine whether that primary response agency can provide assistance in a timely way.

(ii) If it is determined that timely assistance can be provided by the agency with primary responsibility, refrain from providing assistance under the Act. If it is determined that assistance from the agency with primary responsibility will be significantly delayed, assistance under the Act may be provided, but then must be recovered from the applicant when the other assistance becomes available.

(2) *Programs Under the Act v. Insurance.* In making an eligibility determination, the FEMA Regional Director or State shall:

(i) Remind the applicant about his/her responsibility to pursue an adequate settlement. The applicant must provide information concerning insurance recoveries. The burden of proof is on the applicant to prove that, despite conditions of settlement or expected settlement, the need for disaster assistance is paramount;

(ii) Determine whether the applicant's insurance settlement will be sufficient to cover the loss or need without disaster assistance; and

(iii) Determine whether insurance benefits (including flood insurance) will be provided in a timely way, thus precluding the need for disaster assistance, or whether assistance should be provided immediately to prevent a hardship. Where flood insurance is involved, the Regional Director shall coordinate with the Federal Insurance Administration. The purpose of this coordination is to obtain information about flood insurance coverage and settlements.

(3) *Random Sample.* Each disaster assistance agency is responsible for preventing and rectifying duplication of benefits under the coordination of the Federal Coordinating Officer (FCO) and the general authority of section 315. To determine whether duplication has occurred and established procedures have been followed, the Regional Director shall, within 90 days after the close of the disaster assistance programs' application period, for selected disaster declarations, examine on a random sample basis, FEMA's and other government and voluntary agencies' case files and document the findings in writing.

(4) *Duplication When Assistance Under the Act is Involved.* If duplication is discovered, the Regional Director shall determine whether the duplicating agency followed its own remedial procedures.

(i) If the duplicating agency followed its procedures and was successful in correcting the duplication, the Regional Director will take no further action. If the agency was not successful in correcting the duplication, and the Regional Director is satisfied that the duplicating agency followed its remedial procedures, no further action will be taken.

(ii) If the duplicating agency did not follow its duplication of benefits procedures, or the Regional Director is not satisfied that the procedures were followed in an acceptable manner, then the Regional Director shall provide an opportunity for the agency to take the required corrective action. If the agency cannot fulfill its responsibilities for remedial action, the Regional Director shall notify the recipient of the excess assistance, and after examining the debt, if it is determined that the likelihood of collecting the debt and the best interests of the United States government justify taking the necessary recovery actions, then take those recovery actions in conjunction with agency representatives for each identified case in the random sample (or larger universe, at the Regional Director's discretion).

(5) *Duplication When Assistance Under Other Authorities is Involved.* When the random sample shows evidence that duplication has occurred and corrective action is required, the Regional Director and the FCO shall urge the duplicating agency to follow its own procedures to take corrective action, and shall work with the agency toward that end. Under his/her authority in section 315, the Regional Director shall require the duplicating agency to report to him/her on its attempt to correct the duplications identified in the sample.

(e) *Recovering FEMA Funds: Debt Collection.* FEMA's Debt Collection Regulations (44 CFR Part 11) and policy statements give agency debt collection officers and the Comptroller certain responsibilities in recovering funds due to FEMA. In addition, they specify thresholds for compromise, suspension, and termination of debts. These regulations prescribe the procedures FEMA will follow to recover duplications FEMA is responsible for acting upon.

Dated: April 11, 1986.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 86-8544 Filed 4-18-86; 8:45 am]

BILLING CODE 6718-02-M

44 CFR Part 205

Temporary Housing Assistance

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule establishes the Federal Emergency Management Agency (FEMA) program regulations for the Temporary Housing Assistance (THA) Program under section 404 of the Disaster Relief Act of 1974. THA is provided to applicants who qualify for it as a result of a major disaster or emergency declared by the President. The regulations specify agency policies concerning eligibility criteria; avoidance of duplication of benefits and the types and extent of assistance to be provided.

EFFECTIVE DATE: This Rule is effective May 21, 1986.

FOR FURTHER INFORMATION CONTACT: Sarah L. Wise, Individual Assistance Division, Office of Disaster Assistance Programs, State and Local Programs and Support, FEMA, 500 'C' Street, SW., Washington, D.C. 20472, (202) 646-3657.

SUPPLEMENTARY INFORMATION: On December 6, 1985, FEMA published a proposed rule in the **Federal Register**. Two responses were received. One commentor objected to the statement that a greater share of the burden of relief was being shifted to disaster victims. Paragraph (b), Program Intent, has been reworded to better state FEMA's intent. Field tests of the new procedures clearly show that people are able to help themselves when given the financial assistance to do so. Concerns about duplication of insurance benefits were raised. Duplication of benefits is addressed in the regulations and agency procedures due to the explicit prohibition of such duplication in section 315(b) of Pub. L. 93-288. However, the regulations allow sufficient flexibility to assist people when benefits are unavoidably delayed.

Concern was also expressed that removing technical detail from the regulations and expanding the Regional Director's authority may result in too much variation in program administration. It should be noted that FEMA is issuing accompanying instructions and policy statements to its Regional Offices to insure consistency, while enabling the Regional Director the flexibility to cope with unique and changing disaster situations.

The definition of financial ability in paragraph (c)(5) has also been reworded for clarity.

One commentor requested that FEMA make transient housing available. Such assistance has always been and still is available and is unaffected by these regulations. Prompt placement of mobile homes was also raised as a concern. The use of mobile homes has always been an option in the program and these regulations do not change past or current policies.

One commentor expressed concern that FEMA was placing the burden of determining eligibility on pre-disaster renters. This determination will continue to be done by FEMA. The only burden the disaster victim will have to bear is placing a toll free call if they wish to apply for additional assistance.

Comments were received on the dollar limitations for minimal repairs. One commentor objected to FEMA placing a $100 deductible on the minimal repair grant. The minimum dollar limitation is not a deductible—it is a threshhold. In extreme hardship cases this threshhold can be waived. It is FEMAs position that any damages under $100 can normally be assumed by the applicant. One of the commentors expressed concern that a maximum amount for minimal repairs is not specified. Paragraph (g)(1)(ii)(C) has been changed to give the Associate Director authority to establish both a minimum and a maximum dollar limitation. The dollar limitations established by the Associate Director are $100 as a minimum and $5,000 as a maximum. A notice will be published in the **Federal Register** if either of these amounts are changed.

One comment concerned the reference in paragraph (d)(1) to "rent-free" housing. Pub. L. 93-288 (404(a)) mandates that no rental shall be established during the first twelve months of occupancy. Continued occupancy is based on need, therefore the reference is appropriate.

Comments received on Disaster Application Center procedures are noted but are not germane to this regulation and have been addressed in separate correspondence to the commentor.

In addition to the changes made as a result of the comments received there were several other changes made based on experiences in more recent disaster operations. The most significant of these changes are to the minimal repairs form of assistance, paragraph (g). Items (G) and (I) of the minimal repairs scope of work have also been slightly reworded

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to eliminate the connotation that all minimal repairs performed under this program are temporary. Item (O), involving repairs to foundations, walls, and footings that affect the essential living area has been added. By modifying the scope of work, FEMA can assure that the most economical form of assistance which is appropriate to the situation is used. Because of the dollar limitations, FEMA has determined that major reconstruction could not be undertaken and therefore the use of minimal repairs remains consistent with the intent of the Act.

Other changes made include: Changing all delegations of authority to the Regional Director or Associate Director (further guidance on redelegation will be provided by memorandum); adding a new condition of ineligibility involving evacuation solely as a precautionary measure; identifying an applicant who is refused continued rental assistance (after receiving an initial rental payment) as one who may request a reconsideration of that decision (paragraph (f)(2)(ix)); and eliminating paragraph (k)(3)(iii)(E) since it was redundant given paragraph (k)(3)(ii).

FEMA has determined that there will be no significant impact on the environment caused by implementation of this final rule. An environmental assessment resulting in a finding of no significant impact is on file and may be inspected or obtained at the Office of Disaster Assistance Programs, Individual Assistance Division; or at the Office of Rules Docket Clerk, FEMA, 500 'C' Street, SW., Washington, D.C. 20472.

This rule has been determined not to be a "major rule" within the meaning of Executive Order 12291, for the following reasons:

(1) It will not have an annual effect on the economy of $100 million or more;

(2) It will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and,

(3) It will not have a significant adverse impact on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Further, the program applies to individuals and thus it is certified it will not have a significant economic impact on a substantial number of small entities.

Therefore, no regulatory analyses have been prepared.

Subsection 206.52(a) provides for collection of information. This request, OMB # 3067-0124, has been approved and is effective until July 1986.

List of Subjects in 44 CFR Part 205

Disaster assistance grant programs, Community disaster loans.

Accordingly, 44 CFR Part 205 is amended as follows:

PART 205—FEDERAL DISASTER ASSISTANCE (PUB. L. 93-288)

1. The authority citation for Part 205 is revised to read as follows:

Authority: 42 U.S.C. 5201, Reorganization Plan No. 3 of 1978; E.O. 12148.

2. § 205.52 is revised to read as follows:

§ 205.52 Temporary housing assistance.

(a) *Purpose.* This section prescribes the policy to be followed by the Federal Government or any other organization when implementing section 404, Disaster Relief Act of 1974, 42 U.S.C. 5174.

(b) *Program Intent.* Assistance under this program is made available to applicants who require temporary housing as a result of a major disaster or emergency that is declared by the President. Eligibility for assistance is based on need created by disaster-related uninhabitability of a primary residence or other disaster-related displacement, combined with a lack of adequate insurance coverage. Eligible applicants may be paid for authorized accommodations and/or repairs. In the interest of assisting the greatest number of people in the shortest possible time, applicants who are able to do so will be encouraged to make their own arrangements for temporary housing (e.g., renting an apartment or contracting for minimal repairs), using the funds provided by this program. Ineligibility relates only to the criteria for temporary housing assistance; denial of such assistance does not imply that repairs to a residence are not required. Although numerous instances of minor damage may cause some inconvenience to the applicant, the determining eligibility factor must be the habitability of the residence. FEMA has also determined that it is reasonable to expect applicants or their landlords to make some repairs of a minor nature.

(c) *Definitions.* (1) "Adequate alternate housing" means housing that:

(i) Accommodates the needs of the applicant(s)/occupant(s);

(ii) Is within reasonable commuting distance of work, school or other centers of household activity;

(iii) Is within the financial ability of the applicant(s)/occupant(s); and

(iv) Does not impose an undue burden upon the applicant(s)/occupant(s) in the realization of a reasonable permanent housing plan.

(2) "Effective date of assistance" means either the date the eligible applicant obtained his/her own FEMA approved temporary housing or the date FEMA provides assistance but, where applicable, only after appropriate insurance benefits are exhausted.

(3) "Essential living area" means that area of the residence essential to normal living, i.e., kitchen, one bathroom, dining area, living room, entrances and exits, and essential sleeping areas. It does not include family rooms, guest rooms, garages, or other nonessential areas, unless hazards exist in these areas which impact the safety of the essential living area.

(4) "Fair market rent" means a reasonable amount to pay in the local area for the size and type of accommodations provided. (Formula is provided in paragraph (g)(2) of this section.)

(5) "Financial ability" is the determination of the applicant(s)/occupant(s) ability to pay housing costs. The determination is based upon the amount paid for housing before the disaster, provided the household income has not changed subsequent to or as a result of the disaster or 25 percent of gross post disaster income if the household income change. When computing financial ability, extreme or unusual financial circumstances may be considered by the Regional Director.

(6) "Household" means all residents of the predisaster residence who request temporary housing assistance, plus any additions during the temporary housing period, such as infants, spouses or part-time residents who were not present at the time of the disaster but who are expected to return during the temporary housing period.

(7) "Housing costs" means shelter rent and mortgage payments including principal, interest, real estate taxes, real property insurance, and utility costs, where appropriate.

(8) "Occupant" means an eligible applicant residing in temporary housing provided under this section.

(9) "Owner-occupied" means that the residence is occupied by: The legal owner; a person who does not hold formal title to the residence and pays no rent but is responsible for the payment of taxes, maintenance of the residence; or a person who has lifetime occupancy rights with formal title vested in another.

(10) "Primary residence" means the dwelling where the applicant normally lives during the major portion of the calendar year, or a dwelling which is

required because of proximity to employment.

(d) *Duplication of benefits.*—(1) *Requirement to avoid duplication.* Assistance under section 404 shall not be made available to an applicant if such assistance has been provided by any other source. If any State or local government or voluntary agency has provided temporary housing, the assistance under this section begins at the expiration of such assistance and may continue rent-free, not to exceed twelve months provided the criteria for continued assistance, paragraph (k)(3) of this section, are met. If it is determined that temporary housing assistance will be provided under this section, notification shall be given to those agencies which have the potential to duplicate such assistance. In the instance of insured applicants, assistance shall not be provided unless:

(i) Payment of the applicable benefits has been significantly delayed;

(ii) Applicable benefits have been exhausted;

(iii) Applicable benefits are insufficient to cover the temporary housing need; or

(iv) Housing or the required services ae not available on the private market.

(2) *Recovery of funds.* Prior to provision of assistance, the applicant must agree to repay to FEMA from insurance proceeds or recoveries from any other source an amount equivalent to the value of the temporary housing assistance provided. In no event shall the amount repaid to FEMA exceed the amount recovered by the applicant. All claims shall be collected in accordance with Agency Regulations at 44 CFR Part 11, Subpart C and procedures for debt collection.

(e) *Applications.*—(1) *Application period.* Applications for temporary housing assistance shall be accepted for a 60-day period following the date of the declaration of a major disaster or emergency, unless additional time for submission of applications is authorized by the Regional Director in order to achieve uniformity of application periods in contiguous States. After the established period, applications shall be accepted; however, processing shall not be completed unless authorized by the Regional Director on a case-by-case basis.

(Approved by the Office of Management and Budget under OMB Control Number 3067-0009)

(2) *Household composition.* Members of a household shall be included on a single application and be provided a single temporary housing residence unless it is administratively determined that the size of the household requires that more than one residence be provided.

(f) *General eligibility guidelines.* Temporary housing assistance may be made available to those applicants who, as a result of a major disaster or emergency declared by the President, are qualified for such assistance.

(1) *Conditions of eligibility.* Temporary housing assistance may be provided only when *both* of the following conditions are met:

(i) The applicant's primary residence has been made uninhabitable or the applicant has been displaced as the result of a major disaster or emergency because:

(A) The residence has been destroyed, essential utility service has been interrupted; or the essential living area has been damaged as a result of the disaster to such an extent as to constitute a serious health or safety hazard which did not exist prior to the disaster. The Regional Director shall prepare additional guidelines when necessary to respond to a particular disaster;

(B) The residence has been made inaccessible as a result of the incident to the extent that the applicant cannot reasonably be expected to gain entry due to the disruption or destruction of transportation routes, other impediments to access, or restrictions placed on movement by a responsible official due to continued health and safety issues.

(C) The owner of the applicant's residence requires the residence to meet his/her personal needs because the owner's predisaster residence was made uninhabitable as a result of the disaster;

(D) Financial hardship resulting from the disaster has led to eviction or dispossession; or

(E) Other circumstances resulting from the disaster, as determined by the Regional Director, prevent the applicant from occupying his/her predisaster primary residence.

(ii) Insured applicants have made every reasonable effort to secure insurance benefits, available proceeds are insufficient as defined in paragraph (d) of this section, and the insured has agreed to repay FEMA from whatever insurance proceeds are later received, pursuant to paragraph (d)(2) of this section.

(2) *Conditions of ineligibility.* Temporary housing assistance shall not be provided:

(i) To an applicant who is displaced from other than his/her primary residence; or

(ii) To an applicant who is displaced solely as a consequence of a redevelopment program undertaken by a community; or

(iii) When the residence in question is habitable, i.e., only minor damage exists and it can reasonably be expected to be repaired by the applicant/owner or the landlord; or

(iv) When the applicant owns a secondary or vacation residence, or unoccupied rental property which meets his/her temporary housing needs; or

(v) To an applicant who has adequate rent-free housing accommodations; or

(vi) To an applicant who has adequate insurance coverage and there is no indication that benefits will be delayed; or

(vii) To an applicant who has adequate insurance but has made no effort to obtain the benefits; or

(viii) When a late application is not approved for processing by the Regional Director as authorized in paragraph (e)(1) above, or

(ix) To an applicant who evacuated his/her residence in response to official warnings solely as a precautionary measure, and who is able to return to the residence immediately after the incident, (i.e., the applicant is not otherwise eligible for temporary housing assistance).

(g) *Forms of temporary housing assistance.*—(1) *Minimal repairs.* Minimal repairs may be authorized to quickly repair or restore to a habitable condition that portion of or areas affecting the essential living area of, or private access to, an owner-occupied primary residence which was damaged as a result of the disaster. Such assistance shall not be used for major reconstruction or rehabilitation. Installation of utilities or conveniences not available in the residence prior to the disaster shall not be provided under minimal repairs. However, repairs which are authorized shall conform to applicable local and/or State building codes; upgrading of existing damaged utilities may be authorized when required by these codes.

(i) *Options for minimal repairs.* Eligible applicants approved for minimal repairs may be assisted through one or a combination of the following methods:

(A) *Cash payment.* Payment shall be limited to the reasonable costs for the repairs and replacements in the locality, as determined by the Regional Director.

(B) Provision of materials and replacement items.

(C) Government awarded repair contracts when authorized by the Associate Director.

(ii) *Feasibility.* Minimal repairs may be provided to those eligible applicants:

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(A) Who are owner-occupants of the residence to be made habitable;

(B) Whose residence can be made habitable by repairs to the essential living area within 30 days following the feasibility determination. The Regional Director may extend this period for extenuating circumstances by determining that this type of assistance is still more cost effective, timely and otherwise suitable than other forms for temporary housing; and

(C) Whose residence can be made habitable by the performance of minimal repairs to the essential living area, the cost of which do not exceed the dollar limitations established by the Associate Director. The Regional Director may, on a case-by-case basis, waive the dollar limitations when minimal repairs are more cost effective and appropriate than other forms of housing assistance or when extenuating circumstances warrant.

(iii) *Scope of work.* The type of repair or replacement authorized may vary depending upon the nature of the disaster. Items will be repaired where feasible or replaced only when necessary to insure the safety, security, or health of the occupant. Replacement items shall be of minimum quality, size, and capacity taking into consideration the needs of the applicant(s). Minimal repairs shall be disaster related and shall be limited to:

(A) Repairs to the plumbing system, including repairs to or replacement of fixtures, providing service to the kitchen and one bathroom;

(B) Repairs to the electrical system providing service to essential living areas, including repairs to or replacement of essential fixtures;

(C) Repairs to the heating unit, including repairs to duct work, vents, and integral fuel and electrical systems. If repair or replacement through other forms of assistance cannot be accomplished before the start of the season requiring heat, minimal repairs may be authorized. Replacement of a heating unit may be authorized by the Regional Director when an inspection shows that the unit has been damaged beyond repair, or when the availability of necessary parts or components makes repair impossible.

(D) Repairs to or replacement of essential components of the fuel system to provide for cooking, and to provide for heating when assistance through other programs cannot be accomplished before the start of the season requiring heat;

(E) Pumping and cleaning of the septic system, repairs to or replacement of the tank, drainfield, or repairs to sewer lines;

(F) Flushing and/or purifying the water well, and repairs to or replacement of the pump, controls, tank, and pipes;

(G) Repairs to or replacement of exterior doors, repair of windows and/or screens needed for health purposes;

(H) Repairs to the stove and refrigerator, when feasible in lieu of provision of these items under paragraph (j) of this section;

(I) Minimal repairs to the roof when the damages affect the essential living area;

(J) Minimal repairs to interior floors, when severe buckling or deterioration creates a serious safety hazard;

(K) Blocking, leveling, and anchoring of a mobile home;

(L) Reconnecting and/or resetting mobile home sewer, water, electrical and fuel lines, and tanks;

(M) Towing necessary to remove a mobile home from its original site, only when necessary to accomplish other authorized minimal repairs;

(N) Emergency repairs to private access routes, limited to those repairs that meet the minimum safety standards are using the most economical materials available. Such repairs are provided on a one-time basis when no alternative access facilities are immediately available;

(O) Minimal repairs to the foundation piers, walls or footings when the damages affect the structural integrity of the essential living area;

(P) Elimination of other health and safety hazards or performance of essential repairs which are authorized by the Regional Director as not available through emergency services provided by voluntary or community agencies, and cannot reasonably be expected to be completed on a timely basis by the applicant without FEMA assistance.

(iv) *Requirements of the Flood Disaster Protection Act.* FEMA has determined that flood insurance purchase requirements need not be imposed as a condition of receiving minimal repairs. Minimal repairs recipients will normally receive assistance for further repairs from other programs which will impose the purchase and maintenance requirements. However, except for items which are not insurable under the National Flood Insurance Program (e.g., access, sewer and septic systems) minimal repairs may not be provided in zones A or V of a suspended or sanctioned community.

(2) *Existing resources.* These may include locally available Government-owned or assisted properties, private or commercial properties, transient accommodations, and staying with family and friends.

(i) *Government-owned or assisted properties.* Payment for the use of such properties shall be in accordance with existing memoranda of understanding between FEMA and the providing agency.

(ii) *Private and Commercial properties.* Rental for private or commercial properties may be paid in accordance with the fair market rent guidelines for the type and size of residence required. At each disaster site, fair market rent guidelines for each size residence shall be established by averaging the cost of available residence per number of bedrooms for each locality where temporary housing will be provided. Where privately owned mobile homes are to be used, a separate guideline should be developed if there is a substantial difference in rent between this type of residence and conventional housing. Guidelines for hotels, motels, and other short-term resources shall be developed only when there is a substantial variance in price among the available supply. The purpose of these fair market rent guidelines is to prevent development of an inflated rental market resulting from the disaster and to insure cost effectiveness. These guidelines reflect the desired maximum payment. Use of resources more costly than the guidelines may be authorized for full payment only when other existing resources are not available. When authorized by the Regional Director, the Federal Government may pay for security deposits; however, the owner or occupant shall reimburse the full amount to the Federal Government before or at the time that temporary housing assistance is terminated.

(iii) *Staying with Family and Friends.* Sharing of accommodations with family or friends is an allowable form of assistance only when an eligible applicant elects it as his/her form of assistance.

(iv) *Transient accommodations.* Immediately following a Presidentially declared major disaster or emergency, disaster victims are expected to stay with family or friends without FEMA assistance, or to make use of mass shelters to the fullest extent possible for short-term housing. Transient accommodations may be provided when individual circumstances warrant such assistance for only a short period of time or pending provision of other temporary housing resources. Transient accommodations may be provided for up to 30 days unless this period is extended by the Regional Director.

Authorized expenditures for transient accommodations shall be restricted to the rental cost including utilities except for those which are separately metered. Payment for food, telephone, or other similar services is not authorized under this section.

(3) Mobile homes, travel trailers, and other manufactured housing units. Government-owned or privately owned mobile homes, travel trailers, and other manufactured housing units may be placed on commercial, private, or group sites. The placement must comply with applicable State and local codes and ordinances as well as FEMA's floodplain management regulations at 44 CFR Part 9, Floodplain Management and Protection of Wetlands, and the environmental assessment regulations at 44 CFR Part 10, Environmental Considerations.

(i) A commercial site is a site customarily leased for a fee because it is fully equipped to accommodate a housing unit. The Associate Director has determined that leasing commercial sites at Federal expense is in the public interest. When the Regional Director determines that upgrading of commercial sites or installation of utilities on such sites will provide more cost-effective, timely, and suitable temporary housing than other types of resources, he/she may authorize such action at Federal expense.

(ii) A private site is a site provided or obtained by the applicant at no cost to the Federal Government. The Associate Director has determined that the cost of installation or repairs of essential utilities on private sites is authorized at Federal expense when such actions will provide more cost-effective, timely, and suitable temporary housing than other types of resources.

(iii) A group site is a site which accommodates two or more units and is provided or obtained by a State, local government or other entity completely developed with all essential utilities at no cost to the Federal Government. However, the Associate Director may authorize development of group sites, including installation of essential utilities, at Federal expense, based upon a recommendation from the Regional Director indicating that all other efforts to obtain funding have been exhausted.

(h) *Appropriate form of temporary housing.* The form of temporary housing provided should not exceed eligible applicants' minimum requirements, taking into consideration items such as timely availability, cost effectiveness, permanent housing plans, special needs (handicaps, etc.) of the applicants, and the requirements of FEMA's floodplain management regulations at 44 CFR Part 9. An applicant shall receive one form of temporary housing, except for transient accommodations or when provision of an additional form is in the best interest of the Government. An eligible applicant is expected to accept the first offer of temporary housing; unwarranted refusal shall result in forfeiture of temporary housing assistance. Existing resources shall be utilized to the fullest extent practicable prior to provision of government-owned mobile homes.

(i) *Utility costs.* All utility costs shall be the responsibility of the occupant except where utility services are not metered separately and are therefore a part of the rental charge. Utility use charges and deposits shall always be the occupant's responsibility.

(j) *Supplemental assistance.* Essential furniture may be provided to eligible temporary housing applicants when such assistance is required to occupy the primary or temporary housing residence. However, loss of furniture does not in and of itself constitute eligibility for temporary housing assistance.

(1) Assistance shall be provided in the most practical manner either by cash payment or obtaining the furniture items by purchase, lease, lease with an option to buy or from Federal stock. Items provided shall be of average construction and quality. Luxury items shall not be provided.

(2) Furniture made available to temporary housing applicants shall be disposed of in one of the following ways:

(i) In those instances where furniture has been leased with a purchase option, the occupant may purchase the items from the lessor before his/her temporary housing assistance is terminated; or

(ii) If the furniture has been purchased by the Federal Government it shall be disposed of in accordance with Federal property management procedures at 41 CFR 101-45.5, Abandonment or Destruction of Surplus Property.

(k) *Duration of assistance.*—(1) *Commencement.* Temporary housing assistance may be provided as of the date of the incident of the major disaster or emergency as specified in the Federal Register notice. An effective date of assistance shall be established for each applicant.

(2) *Continued assistance.* Predisaster renters normally shall be provided no more than 1 month of assistance unless the Regional Director determines that continued assistance is warranted in accordance with paragraph (k)(3). All other occupants of temporary housing shall be certified eligible for continued assistance in increments not to exceed 3 months. Recertification of eligibility for continued assistance shall be in accordance with paragraph (k)(3), taking into consideration the occupant's permanent housing plan. A realistic permanent housing plan shall be established for each occupant requesting additional assistance no later than at the time of the first recertification.

(3) *Criteria for continued assistance.* A temporary housing occupant shall make every effort to obtain and occupy permanent housing at the earliest possible time. A temporary housing occupant will be required to provide receipts and shall be eligible for continued assistance when:

(i) Adequate alternate housing is not available;

(ii) The permanent housing plan has not been realized through no fault of the applicant; or

(iii) The occupant(s) is in compliance with the terms of the lease/rental agreement including:

(A) Prompt payment of utility, rent, and other appropriate charges;

(B) Maintenance of the temporary housing residence and behavior of occupants in a manner normally expected of a tenant of rental housing;

(C) Utilization of the residence as a dwelling for the occupant's household; and

(D) Reimbursement to the Government where all or a portion of the temporary housing assistance represents a duplication of benefits.

(4) *Rental policy.* Provided the occupant is eligible for continued assistance, no rental shall be established for the first twelve months of occupancy in temporary housing including occupancy in transient accommodations. Thereafter, rentals shall be established based on the fair market rent for the accommodations provided. Such rentals shall be adjusted to take into consideration the financial ability of the household. Based on information obtained through recertification, occupants will be notified of the date and the amount of the first rental payment at least 30 days before the expiration of the first 12 months of occupancy.

(m) *Termination of assistance.* Termination of temporary housing assistance shall be initiated with a 15-day written notice after which the occupant shall be liable for such additional charges as are deemed appropriate by the Regional Director including, but not limited to, the fair market rental for the temporary housing residence.

(1) *Grounds for Termination.* Temporary housing assistance may be

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terminated for reasons including, but not limited to the following:

(i) *Adequate alternate housing is available to the occupant(s);*

(ii) The temporary housing assistance was obtained either through misrepresentation or fraud; or

(iii) Failure to comply with any term of the lease/rental agreement including those defined in paragraph (k)(3)(iii).

(2) *Termination procedures.* These procedures shall be utilized in all instances except when a State is administering the Temporary Housing Assistance Program. States shall be subject to their own procedures provided they afford the occupant(s) with due process safeguards described in paragraph (m)(2)(v)(B).

(i) Notification of Occupant. Written notice shall be given by FEMA to the occupant(s) at least 15 days prior to the proposed termination of assistance. This notice shall specify: The reasons for termination of assistance/occupancy; the date of termination, which shall be not less than 15 days after receipt of the notice; the administrative procedure available to the occupant if he/she wishes to dispute the action; and the occupant's liability after the termination date for additional charges.

(ii) *Filing of Appeal.* If the occupant desires to dispute the termination, upon receipt of the written notice specified in paragraph (m)(2)(i), he/she shall present an appeal in writing to the appropriate office in person or by mail within five business days. The appeal must be signed by the occupant and state the reasons why the assistance or occupancy should not be terminated. If a hearing is desired, the appeal should so state.

(iii) *Response to Appeal.* If a hearing pursuant to paragraph (m)(2)(ii) has not been requested the occupant has waived the right to a hearing. The appropriate program official shall deliver or mail a written response to the occupant within 5 business days after the receipt of the complaint.

(iv) *Request for hearing.* If the occupant requests a hearing pursuant to paragraph (m)(2)(ii), FEMA shall schedule a hearing date within 10 business days from the receipt of the appeal, at a time and place reasonably covenient to the occupant, who shall be notified promptly thereof in writing. The notice of hearing shall specify the procedure governing the hearing.

(v) *Hearing.*—(A) *Hearing Officer.* The hearing shall be conducted by a Hearing Officer, who shall be designated by the Regional Director, and who shall not have been involved with the decision to terminate the occupant's temporary housing assistance, nor be a subordinate of any individual who was so involved.

(B) *Due Process.* The occupant shall be afforded a fair hearing and provided the basic safeguards of due process, including cross-examination of the responsible official(s), access to the documents on which FEMA is relying, the right to counsel, the right to present evidence and the right to a written decision.

(C) *Failure to appear.* If a occupant fails to appear at a hearing the Hearing Officer may make a determination that the occupant has waived his/her right to a hearing, or may, for good cause shown, postpone the hearing for no more than 5 business day.

(D) *Proof.* At the hearing, the occupant must first attempt to establish that continued assistance is appropriate; thereafter, FEMA must sustain the burden of proof in justifying that termination of assistance is appropriate. The occupant shall have the right to present evidence and arguments in support of his/her complaint, to controvert evidence relied on by FEMA, and to cross examine all witnesses on whose testimony or information FEMA relies. The hearing shall be conducted by the Hearing Officer and any evidence pertinent to the facts and issues raised may be received without regard to its admissibility under rules of evidence employed in formal judicial proceedings.

(vi) *Decision.* The decision of the Hearing Officer shall be based solely upon applicable Federal and State law, and FEMA regulations and requirements promulgated thereunder. The Hearing Officer shall prepare a written decision setting forth a statement of findings and conclusions together with the reasons therefor, concerning all material issues raised by the complainant within five (5) business days after the hearing. The decision of the Hearing Officer shall be binding on FEMA, which shall take all actions necessary to carry out the decision or refrain from any actions prohibited by the decision.

(A) The decision shall include a notice to the occupant that he/she must vacate the premises within three (3) days of receipt of the written notice or on the termination date stated in the original notice of termination, as required in (m)(2)(i), whichever is later. If the occupant does not quit the premises, appropriate action shall be taken and, if suit is brought, the occupant may be required to pay court costs and attorney fees.

(B) If the occupant is required to give a specific number of days notice which exceeds the number of days in the termination notice, the Regional Director may approve the payment of rent for this period of time if requested by the occupant.

(n) *Disposition of temporary housing units.*—(1) *Acquisition.* The Associate Director may purchase mobile homes or other manufactured housing units for those who require temporary housing. After such temporary housing is vacated, it shall be returned to one of the FEMA-operated Strategic Storage Centers for refurbishment and storage until needed in a subsequent major disaster or emergency. When returning the unit to a Strategic Storage Center is not feasible or cost effective, the Associate Director may prescribe a different method of disposition in accordance with applicable Federal regulations.

(2) *Sales.*—(i) *Eligibility.* When adequate alternate housing is not available, the Regional Director shall make available for sale directly to a temporary housing occupant(s) any mobile home or manufactured housing unit, acquired by purchase, in accordance with the following:

(A) The unit is to be used as a primary residence;

(B) The purchaser has a site that complies with local codes and ordinances as well as FEMA's floodplain management regulations at 44 CFR Part 9 (in particular § 9.13(e)); and

(C) The purchaser has sufficient funds to purchase and, if necessary, relocate the unit.

The Associate Director may approve the sale of a mobile home or manufactured housing unit to a temporary housing occupant when adequate alternate housing is available but only when such sales are clearly in the best interest of the Government.

(ii) *Sales price.* Units shall be sold at prices that are fair and equitable to the purchaser and to the Government, as determined by the Associate Director. The purchaser shall pay the total sales price at the time of sale.

(iii) *Adjustment to the sales price.* (A) Adjustments to the sales price may be provided only when both of the following conditions are met:

(*1*) There is a need to purchase the unit for use as the purchaser's primary residence because other adequate alternate housing is unavailable. Adequate alternate housing must meet the criteria in paragraph (c)(1) of this section, and may consist of:

(*i*) Existing housing;

(*ii*) Additional resources such as disaster-damaged rental accommodations which can reasonably be expected to be repaired and become available in the near future;

(*iii*) New housing construction or housing to be made available through Government subsidy which is included in the immediate recovery plans for the area; and

(*iv*) Residences which can be repaired by the predisaster owner/occupant through funds available from insurance, other disaster assistance programs, or through his/her own resources.

(*2*) In addition to his/her own resources, the purchaser cannot obtain sufficient funds through insurance proceeds, disaster loans, grants, and commercial lending institutions to cover the sales price.

(B) To determine the adjusted sales price, the current available financial resources of the applicant shall be calculated. If the financial resources are equal to or greater than the basic sales price, then no adjustment shall be approved. If the applicant's financial resources are less than the basic sales price, the sales price shall be adjusted to take into consideration the financial resources available but shall include some consideration. Deviations from this rule may be reviewed on a case-by-case basis by the Associate Director.

(C) The Regional Director must approve all adjustments to the sales price of a mobile home.

(iv) *Other conditions of sale.* (A) A unit shall be sold "as is, where is" except for repairs necessary to protect health or safety, which are to be completed prior to sale. There shall be no implied warranties. In addition, the purchaser must be informed that he/she may have to bring the unit up to codes and standards which are applicable at the proposed site.

(b) In accordance with the Flood Disaster Protection Act of 1973, Pub. L. 93-234, as amended, the sale of a unit for the purpose of meeting the permanent housing need of an individual or family may not be approved where the unit would be placed in a designated special flood hazard area which has been identified by the Director for at least one year as floodprone unless the community in which the unit is to be located after the sale is, at the time of approval, participating in the National Flood Insurance Program. The purchaser must agree to buy and maintain an adequate flood insurance policy for as long as the unit is occupied by the purchaser. An adequate policy for purposes of this paragraph shall mean one which provides coverage for the basic sales price of the unit. The purchaser must provide proof of purchase of the initial flood insurance policy.

(3) *Transfer.* The Associate Director may lend temporary housing units purchased under section 404(a) of the Act directly to States, other Governmental entities, or voluntary organizations. Such transfers may be made only in connection with a Presidential declaration of a major disaster or emergency. Donations may be made only when it is in the best interest of the Government, such as when future re-use by the Federal Government would not be economically feasible. As a condition of such transfers, the Associate Director shall require that the recipient:

(i) Utilize the units for the purpose of providing temporary housing for victims of major disasters or emergencies in accordance with the written agreement; and

(ii) Comply with the current applicable FEMA policies and regulations, including this section; 44 CFR Part 9 (especially §§ 9.13 and 9.14), Floodplain Management and Protection of Wetlands; 44 CFR Part 10, Environmental Assessment; and 44 CFR 205.16, Non-discrimination in Disaster Assistance. The Associate Director may order returned any temporary housing unit made available under this section which is not used in accordance with the terms of transfer.

(o) *Mortgage and rental payments.* Assistance in the form of mortgage or rental payments may be paid or be provided on behalf of applicants who, as a result of a major disaster or emergency, have received written notice of dispossession or eviction from their primary residence by foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease entered into prior to the disaster. Written notice, for the purpose of this paragraph, means a communication in writing by a landlord, mortgage holder, or other party authorized under State law to file such notice. The purpose of such notice is to notify an occupant of impending termination of a lease, foreclosure of a mortgage or lien, or cancellation of any contract of sale, which would result in the occupant's dispossession or eviction. Applications for this type of assistance may be filed up to one year following the date of declaration. This assistance may be provided for a period not to exceed one year or for the duration of the period of financial hardship, as determined by the Regional Director, whichever is less. The location of the residence of an applicant for assistance under this section shall not be a condition of eligibility.

(p) *Reconsiderations.* (1) An applicant declared ineligible for temporary housing assistance, an applicant whose application has been cancelled for cause, an applicant whose application has been refused because of late filing, or an applicant who received a direct housing payment but is not eligible for continued assistance in accordance with paragraph (k)(3) above shall have the right to dispute such a determination within five (5) calendar days following notification of such action. The Regional Director shall reconsider the original decision within 15 calendar days after its receipt. The applicant shall be given a written notice of the disposition of the reconsideration. The decision of the Regional Director is final.

(2) An occupant who has been notified that his/her request to purchase a mobile home or manufactured housing unit or that a request for an adjustment to the sales price has been denied shall have the right to dispute such a determination within five (5) business days after receipt of such notice. The Regional Director shall reconsider the original decision within 15 calendar days after receipt of the complaint. The occupant shall receive written notice of the disposition of the reconsideration. The decision of the Regional Director is final.

(q) *Reports.* The Associate Director, Regional Director, or Federal Coordinating Officer may require from field operations such reports, plans, and evaluations as they deem necessary to carry out their responsibilities under the Act and these regulations.

(r) *Federal responsibility.* The Federal financial and operational responsibility for the Temporary Housing Assistance Program shall not exceed 18 months from the date of the declaration of the major disaster or emergency. This period may be extended in writing by the Associate Director, based on a determination that it is necessary and in the public interest. The Regional Director may authorize continued use on a non-reimbursable basis of Government property, office space, and equipment by a State, other Government entity, or voluntary organization after the 18 month period.

(s) Non-Federal administration of temporary housing assistance. A State may request authority to administer all or part of the Temporary Housing Assistance Program in the Governor's request for a declaration or in a subsequent written request to the Regional Director from the Governor or his/her authorized representative. The State must have an approved plan prior to the incident and an approved operational annex within three (3) days of the declaration in order to administer the program. When administering the program the State must comply with FEMA program regulations and policies.

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(1) *State temporary housing assistance plan.* (i) States which have an interest in administering the Temporary Housing Assistance Program shall be required to develop a plan that includes, at a minimum, the items listed below:

(A) Assignment of temporary housing assistance responsibilities to State and/or local officials and agencies;

(B) A description of the program, its functions, goals and objectives of the program, and proposed organization and staffing plan;

(C) Procedures for:

(*1*) Accepting applications at Disaster Assistance Centers and subsequently at a State established disaster housing office;

(*2*) Determining eligibility utilizing FEMA's habitability contract and notifying applicants of the determination;

(*3*) Preventing duplication of benefits between temporary housing assistance and assistance from other means, as well as a recoupment procedure when duplication occurs;

(*4*) Providing the various types of assistance (minimal repairs, existing resources, transient accommodations, and mobile homes);

(*5*) Providing supplemental assistance;

(*6*) Recertifying occupants for continued assistance;

(*7*) Terminating assistance;

(*8*) Contracting for services and/or supplies;

(*9*) Quality control;

(*10*) Maintaining a management information system;

(*11*) Financial management;

(*12*) Public information;

(*13*) Processing appeals; and

(*14*) Arranging for a program review.

(ii) The Governor or his/her designee may request the Regional Director to provide technical assistance in the preparation of an administrative plan.

(iii) The Governor or his/her designee shall submit the plan to the Regional Director for approval. Plans shall be revised, as necessary, and shall be reviewed at least annually by the Regional Director.

(2) *Operational annex.* Prior to the State administering the program, the State must submit an operational annex which tailors the approved State plan to the particular disaster or emergency. The annex must be reviewed and approved by the Regional Director within three (3) days of the declaration or the State shall not be permitted to administer the program. The operational annex shall include but not be limited to:

(i) Organization and staffing specific to the manager disaster or emergency;

(ii) Pertinent goals and management objectives;

(iii) A proposed budget; and

(iv) A narrative which describes methods for orderly tracking and processing of applications; assuring timely delivery of assistance; identification of potential problem areas; and any deviations from the approved plan.

The Regional Director may require additional annexes as necessary for subsequent phases of the operation.

(3) *Evaluation of capability.* State and local government assumption of the temporary housing assistance program for a particular disaster shall be approved by the Regional Director based on an evaluation of the capabilities and commitment of the entity. At a minimum, the evaluation shall include a review of the following:

(i) The State temporary housing assistance plan which has been approved by the Regional Director prior to the incident, and the specific operational annex which has been approved in accordance with paragraph(s)(2).

(ii) Past performance in administration of temporary housing assistance or other similar operations;

(iii) Management and staff capabilities; and

(iv) Demonstrated understanding of the task to be performed.

(4) *Grant application.* Approval of funding shall be obtained through submission of a project application by the State or local government through the Governor's Authorized Representative. (Approved by the Office of Management and Budget under OMB Control Number 3067–0043.) The State shall maintain adequate documentation to enable analysis of the program in accordance with FEMA Regulations 44 CFR 205.115. Final reimbursement to the State, or final debt collection, shall be based on an examination of the voucher filed by the State.

(5) *Authorized costs.* All expenditures associated with administering the program are authorized if in compliance with this section and OMB Circular A–87 Revised, Cost Principles for State and Local Governments (46 FR 9548). Specifically, the following expenses are authorized when applicable:

(i) Administrative expenses.

(A) Regular salaries;

(B) Overtime;

(C) Travel;

(D) Communications;

(E) Space rental;

(F) Equipment rental;

(G) Furniture rental;

(H) Supplies;

(I) Printing and reproduction;

(J) Liability insurance premiums; and

(K) Program reviews and audits.

(ii) Program costs.

(A) Minimal repairs;

(B) Costs associated with rental payments reimbursements for temporary housing including transient accommodations and commercial site rental;

(C) Mobile home installation and maintenance;

(D) Mobile home private site development;

(E) Cost of supplemental assistance;

(F) Mortgage and rental payments; and

(G) Other necessary costs, when approved by the Associate Director.

All contracts require the review and approval of the Regional Director prior to award, in order to be considered as an authorized expenditure.

(6) *Federal monitoring and oversight.* The Regional Director shall monitor State-administered activities since he/she remains responsible for the overall delivery of temporary housing assistance. In addition, policy guidance and interpretations to meet specific needs of a disaster shall be provided through the oversight function.

(7) *Technical assistance.* The Regional Director shall provide technical assistance as necessary to support State-administered operations through training, procedural issuances, and by providing experienced personnel to assist the State and local staff.

(8) *Operational resources.* The Regional Director shall make available for use in State or locally administered operations Federal stand-by contracts, memoranda of understanding with Government and voluntary agencies, and Federal property, such as government-owned mobile homes and travel trailers.

(9) *Program Reviews and Audits.* The State shall conduct a program review of each operation. All operations are subject to Federal audit.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 86–8548 Filed 4–18–86; 8:45 am]

BILLING CODE 6718–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

45 CFR Part 201

Aid to Families With Dependent Children; Grants to States for Public Assistance Programs; Reporting the Federal Share of Child Support Collections by States

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: This final regulation, which implements section 407(c) of Pub. L. 98–265, the Social Security Disability Amendments of 1988, requires the Department of Health and Human Services to reduce the quarterly grant award made to a State under title IV–A by the appropriate Federal share of child support collections made by a State. This final rule is a technical change to clarify that the amount of the quarterly grant award made to a State will be reduced by the Federal share of child support collections made, like any other pro rata share of recovered funds to which the Federal government is entitled.

EFFECTIVE DATE: April 21, 1986; Compliance retroactive to the statutory implementation date of January 1, 1981.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara M. Levering, Director, Office of Intergovernmental Communications, Office of Family Assistance, Social Security Administration, 2100 Second Street, SW., Washington, DC, 20201, telephone (202) 245–2037.

SUPPLEMENTARY INFORMATION: On August 21, 1985, a notice of proposed rulemaking was published in the **Federal Register** (50 FR 33784–33786).

Section 403(b)(2)(E) of the Social Security Act requires the Department to reduce the amount of the quarterly grant award made to a State under title IV–A by a sum equivalent to the pro rata share to which the Federal government is equitably entitled from the net amount recovered during any prior quarter by a State or political subdivision within a State. In 1980, Congress clarified the Department's authority to reduce quarterly grant awards by child support collections when it passed Pub. L. 96–265. (Section 407(c) of Pub. L. 265) amended the Social Security Act (the Act) by adding a new section 403(B)(2)(C) to title IV–A that specifically provided that the quarterly grant awards made to a State under the AFDC program are to be reduced by whatever amount is necessary to assure that the appropriate Federal share of child support collections made by a State are returned to the Federal government.

This rule implements section 407(c) by amending 45 CFR 201.5(a)(3) to provide that States must report on their quarterly statement of expenditures the appropriate Federal share of child support collections that they make.

If States do not fully or properly report the Federal share of child support collections made on their quarterly statement of expenditures, the Federal government will adjust the Federal share reported accordingly. The adjustment will be made pursuant to 45 CFR 201.5(c). We saw no need to amend 45 CFR 201.5(c) since that section already requires quarterly grant awards to be reduced "because of over- or under-estimate for the prior quarter and for other adjustments." We would consider any recovery of child support payments to be an "other adjustment."

Response to Public Comments on Notice of Proposed Rulemaking

A 60-day comment period was provided in the August 21, 1985, notice of proposed rulemaking. We received one letter from one State agency indicating awareness of the published proposal with no further comment.

Regulatory Procedures

Executive Order 12291

This regulation does not meet the criteria specified in Executive Order 12291 for a major regulation and no regulatory impact analysis is required.

Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act of 1980 (Pub. L. 96–511) the Quarterly Statement of Expenditures (SSA–41) in its present format—which is used by States to report their expenditures and the Federal share of all collections has been approved by the Office of Management and Budget under existing OMB No. 0960–0294. There is no further or new collection of information request being imposed on State agencies by this technical regulatory change.

Regulatory Flexibility Act

We certify that this regulation will not, if promulgated, have a significant economic impact on a substantial number of small entities because it affects only the transfer of funds between the Federal government and the States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13.808—Public Assistance—Maintenance Assistance (State Aid))

List of Subjects in 45 CFR Part 201

Aid to families with dependent children, Family assistance office, Grant programs—Social programs, Guam, Public assistance programs, Puerto Rico, Virgin Islands.

Dated: February 20, 1986.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: March 18, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

PART 201—[AMENDED]

45 CFR Part 201 is amended as set forth below.

1. The authority citation for Part 45 CFR Part 201 is revised to read as follows:

Authority: Secs. 403 and 1102 of the Social Security Act, as amended; 49 Stat. 620, as amended; 49 Stat. 647, as amended; 42 U.S.C. 603, and 1302, and 1302.

2. Section 201.5 is amended by revising the introductory text and paragraph (a)(3) to read as follows:

§ 201.5 Grants.

To States with approved plans, grants are made each quarter for expenditures under the plan for assistance, services, training and administration. The determination as to the amount of a grant to be made to a State is based upon documents submitted by the State agency containing information required under the Act and such other pertinent facts, including for title IV–A the appropriate Federal share of child support collections made by the State, as may be found necessary. Progressive reductions in Federal Medicaid payments to the States under sections 1903(g) and (t) of the Act for fiscal years 1982–1984 are described in 45 CFR Part 433, Subpart E.

(a) *Form and manner of submittal.* (1)

* * * * * * *

(3) The State agency must also submit a quarterly statement of expenditures for each of the public assistance programs under the Act. This is an accounting statement of the disposition of the Federal funds granted for past periods and provides the basis for making the adjustments necessary when the State's estimate for any prior quarter was greater or less than the amount the State actually expended in that quarter. The statement of expenditures also shows the share of the Federal

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Government in any recoupment, from whatever source, including for title IV–A the appropriate Federal share of child support collections made by the State, of expenditures claimed in a prior period, and also in expenditures not properly subject to Federal financial participation which are acknowledged by the State agency or have been revealed in the course of an audit.

[FR Doc. 86-8468 Filed 4-18-86; 8:45 am]
BILLING CODE 4150-11-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-138; RM-4778]

FM Broadcast Station in Silver Springs, FL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action allots Channel 238A to Silver Springs, Florida, as its first FM service, in response to a petition filed by Steven and Georgia Hainline.

EFFECTIVE DATE: May 22, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Allotments FM, Broadcast Stations (Silver Springs, Florida); MM Docket 85–138, RM–4778.

Adopted: April 7, 1986.
Released: April 15, 1986.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 50 FR 21630, published May 28, 1985, proposing to allot Channel 238A to Silver Springs, Florida, as its first FM Channel. The proceeding was instituted at the request of Georgia and Steven Hainline ("petitioners"). Supporting comments were filed by the petitioners and by James J. Nathan, [1] both stating their intention to apply for the channel.

2. In view of the expressed interest in operating a first FM service at Silver Springs, we believe that the public interest would benefit from the allotment of Channel 238A. In order to meet the spacing requirements to Station WNLT (FM) [2] (Channel 239), Clearwater, Florida, the transmitter site is restricted to 4.2 miles northeast of the city.

3. Accordingly, it is ordered, That effective May 22, 1986, the FM Table of Allotments § 73.202(b) of the Rules, is amended with respect to the community of Silver Springs, Florida, as follows:

City	Channel No.
Silver Springs, Florida	238A

4. The filing window for filing applications on this channel is open on May 23, 1986, and closes on June 23, 1986.

5. It is further ordered, That this proceeding is terminated.

6. For further information concerning the above, contact Montrose H. Tyree, (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-8611 Filed 4-18-86; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-248; RM-4869]

FM Broadcast Station in Custer, SD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein allocates Channel 286C2 to Custer, South Dakota, as the community's first local FM service, at the request of Richard A. Deno.

EFFECTIVE DATE: May 22, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Custer, South Dakota); MM Docket No. 85–248, RM–4869.

Adopted: April 7, 1986.
Released: April 15, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 50 FR 34724, published August 27, 1985, requesting comments on the proposed allocation of Channel 286C2 to Custer, South Dakota, as the community's first local FM service, at the request of Richard A. Deno ("petitioner"). Petitioner and Eileen Cofell d/b/a Custer Broadcasting ("Custer Broadcasting") filed comments supporting the allocation. No oppositions to the allotment were received. Channel 286C2 can be allocated in compliance with the Commission's minimum distance separation requirements without requiring the imposition of a site restriction.

2. We believe the public interest would be served by allocating Channel 286C2 to Custer, South Dakota, as it could provide the community with its first local FM service. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective May 22 1986, the FM Table of Allotments, § 73.202(b) of the Rules, is amended with respect to the community listed below, to read as follows:

City	Channel No.
Custer, South Dakota	286C2

[1] The comments of James J. Nathan were submitted after the date for filing comments had expired. However, since these comments merely relate to his support of the proposal, they have been accepted.

[2] After issuance of the *Notice*, Station WMGC (FM) changed its call letters to WNLT (FM).

3. The window period for filing applicatins will open on May 23, 1986, and close on June 23, 1986.

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-8612 Filed 4-18-86; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF DEFENSE

48 CFR Parts 232 and 252

Department of Defense Federal Acquisition Regulation Supplement Limitation of Progress Payments

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Defense Acquisition Regulatory Council has approved changes to the coverage in the DoD FAR Supplement regarding Limitation of Progress Payments in DoD contracts. The purpose of the change is to implement section 916 of the Defense Procurement Improvement Act of 1986 (Pub. L. 99–145).

EFFECTIVE DATE: April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)/DARS, c/o OASD(A&L), Room 3C841, The Pentagon, Washington, DC 20301–3062, telephone (202) 697–7266.

SUPPLEMENTARY INFORMATION:

A. Background

Section 916 of the Defense Procurement Improvement Act of 1986 (Pub. L. 99–145) placed the following limitations on progress payments: (1) Must be commensurate with work accomplished and (2) may not exceed 80 percent if the contract action is undefinitized. The changes included in this notice implement those limitations. The Defense Acquisition Regulatory Council published a proposed rule in the **Federal Register** on February 21, 1986 (51 FR 6284 of February 21, 1986). No substantive comments were received. Therefore, no changes to the proposed rule have been made.

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1985 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1984 edition of the DOD FAR Supplement made by Defense Acquisition Circulars 84–1 through 84–10.

Interested parties may submit proposed revisions to this Supplement directly to the DAR Council.

B. Regulatory Flexiblity Act

A Regulatory Flexibility Analysis was performed and provided to the Chief Counsel for Advocacy of the Small Business Administration as a result of the proposed rule published in the **Federal Register** on February 21, 1986 (51 FR 6284 of February 21, 1986). There were no public comments received that addressed the Regulatory Flexibility Analysis. Therefore, the analysis as originally proposed has not been changed.

C. Paperwork Reduction Act Information

This rule applies to undefinitized Basic Ordering Agreements and Letter Contracts. Contractors already keep record on these contractual instruments. All that is needed is changing the new progress payment rate on the request for such payments. The impact is so minimal as to be immeasurable. Also, no comments were received to indicate that there would be a measurable impact.

List of Subjects in 48 CFR Parts 232 and 252

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, the DoD FAR Supplement contained in 48 CFR Chapter 2 is amended as set forth below.

PART 232—CONTRACT FINANCING

1. The authority citation for 48 CFR Part 232 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

2. Section 232.070 is added to read as follows:

232.070 Definition.

"Contract action", as used in this part, means an action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administative changes.

3. Section 232.102 is amended by revising paragraph (e)(2) to read as follows:

232.102 Description of Contract Financing Methods.

* * * * *

(e)(2) Progress payments based on a percentage or stage of completion will be confined to contracts for construction, shipbuilding, and ship conversion, alteration or repair. Agency procedures must ensure that payments are commensurate with work accomplished, which meets the quality standards established under the contract. Furthermore, progress payments may not exceed 80 percent of the eligible costs of work accomplished on undefinitized contract actions.

4. Section 232.111 is amended by adding paragraphs (S–71) and (S–72) to read as follows:

232.111 Contract Clauses.

* * * * *

(S–71) The contracting officer shall insert the clause at 252.232–7005, Payments Under Fixed-Price Construction Contracts, in lieu of FAR clause 52.232–5, in solicitations and contracts for construction when a fixed-price contract is contemplated.

(S–72) The contracting officer shall insert the clause at 252.232–7006, Payments Under Fixed-Price Architect-Engineer Contracts, in lieu of FAR clause 52.232–10, appropriately modified with respect to payment due dates, in fixed-price architect-engineer contracts.

5. Section 232.501–1 is amended by revising in the second sentence of paragraph (a) the term "CASH II" to read "CASH III"; by deleting the last sentence of paragraph (a); and by adding paragraph (S–70) to read as follows:

232.501–1 Customary Progress Payment Rates.

* * * * *

(S–70) The Defense Procurement Improvement Act of 1986 (Pub. L. 99–145) limits progress payments to 80 percent on work accomplished under undefinitized contract actions. A higher rate is not authorized and is not within the meaning of unusual progress payments.

6. Section 232.502–4 is amended by adding paragraphs (S–72), (S–73), and (S–74) to read as follows:

232.502–4 Contract Clauses.

* * * * *

(S–72) The contracting officer shall insert the clause at 252.232–7007, Progress Payments, in lieu of FAR clause 52.232–16 and its Alternates I and II, in

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solicitations and fixed-price contracts under which the Government will provide progress payments based on costs.

(S–73) If the contract contains a contract action that is not definitized, the contracting officer shall use the clause with its Alternate I.

(S–74) If the contract is a letter contract, the contracting officer shall use the clause with its Alternate II.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

7. The authority for Part 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

8. Sections 252.232–7005, 252–232–7006, and 252.232–7007 are added to read as follows:

252.232–7005 Payments Under Fixed-Price Construction Contracts.

As prescribed in 232.111(S–71), insert the following clause:

Payments Under Fixed-Price Construction Contracts (Apr 1986) (DEV.)

(a) The Government shall pay the Contractor the contract price as provided in this contract.

(b) The Government shall make progress payments monthly as the work proceeds, or at more frequent intervals as determined by the Contracting Officer, on estimates of work accomplished which meets standards of quality established under the contract, as approved by the Contracting Officer. If requested by the Contracting Officer, the Contractor shall furnish a breakdown of the total contract price showing the amount included therein for each principal category of the work, in such detail as requested, to provide a basis for determining progress payments. In the preparation of estimates, the Contracting Officer may authorize material delivered on the site and preparatory work done to be taken into consideration. Material delivered to the Contractor at locations other than the site may also be taken into consideration if—

(1) Consideration is specifically authorized by this contract; and

(2) The Contractor furnishes satisfactory evidence that it has acquired title to such material and that the material will be used to perform this contract.

(c) In making these progress payments, the Contracting Officer may retain a maximum of ten percent (10%) of the approved estimated amount until final completion and acceptance of the contract work. If the Contracting Officer finds that satisfactory progress was achieved during any period for which a progress payment is to be made, the Contracting Officer may authorize payment to be made in full without retention of a percentage. However, by the time the work is substantially complete, the Contracting Officer shall have retained an amount that the Contracting Officer considers adequate protection of the Government and may then release to the Contractor all or a portion of any excess amount. Also, on completion and acceptance of each separate building, public work, or other division of the contract, for which the price is stated separately in the contract, payment may be made for the completed work without retention of a percentage.

(d) All material and work covered by progress payments made shall, at the time of payment, become the sole property of the Government, but this shall not be construed as—

(1) Relieving the Contractor from the sole responsibility for all material and work upon which payments have been made or the restoration of any damaged work; or

(2) Waiving the right of the Government to require the fulfillment of all of the terms of the contract.

(e) In making these progress payments, the Government shall, upon request, reimburse the Contractor for the amount of premiums paid for performance and payment bonds (including coinsurance and reinsurance agreements, when applicable) after the Contractor has furnished evidence of full payment to the surety. The retainage provisions in paragraph (c) above shall not apply to that portion of progress payments attributable to bond premiums.

(f) The Government shall pay the amount due the Contractor under this contract after—

(1) Completion and acceptance of all work;

(2) Presentation of a properly executed voucher; and

(3) Presentation of release of all claims against the Government arising by virtue of this contract, other than claims, in stated amounts, that the Contractor has specifically excepted from the operation of the release. A release may also be required of the assignee if the Contractor's claim to amounts payable under this contract has been assigned under the Assignment of Claims Act of 1940 (31 U.S.C. 203 and 41 U.S.C. 15).

(g) Notwithstanding any other provision of this contract, progress payments shall not exceed eighty percent (80%) on work accomplished on undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

(End of clause)

252.232–7006 Payments Under Fixed-Price Architect-Engineer Contracts.

As prescribed in 232.111(S–72), insert the following clause:

Payments Under Fixed-Price Architect-Engineer Contracts (Apr 1986) (DEV.)

(a) Estimates shall be made monthly of the amount and value of the work accomplished and services performed by the Contractor under this contract which meet standards of quality established under this contract. The estimates shall be prepared by the Contractor and accompanied by any supporting data required by the Contracting Officer.

(b) Upon approval of the estimate by the Contracting Officer, payment upon properly executed vouchers shall be made to the Contractor, as soon as practicable, of ninety percent (90%) of the approved amount, less all previous payments; *Provided,* that payment may be made in full during any months in which the Contracting Officer determines that performance has been satisfactory. Also, whenever the Contracting Officer determines that the work is substantially complete and that the amount retained is in excess of the amount adequate for the protection of the Government, the Contracting Officer may release the excess amount to the Contractor.

(c) Upon satisfactory completion by the Contractor and acceptance by the Contracting Officer of the work done by the Contractor under the "Statement of Architect-Engineer Services", the Contractor will be paid the unpaid balance of any money due for work under the statement, including retained percentages relating to this portion of the work. If the Government exercises the option under the Option for Supervision and Inspection Services clause, progress payments as provided for in (a) and (b) above will be made for this portion of the contract work. Upon satisfactory completion and final acceptance of the construction work, the Contractor shall be paid any unpaid balance of money due under this contract.

(d) Before final payment under the contract, or before settlement upon termination of the contract, and as a condition precedent thereto, the Contractor shall execute and deliver to the Contracting Officer a release of all claims against the Government arising under or by virtue of this contract, other than any claims that are specifically excepted by the Contractor from the operation of the release in amounts stated in the release.

(e) Notwithstanding any other provision in this contract, and specifically paragraph (b) of this clause, progress payments shall not exceed eighty percent (80%) on work accomplished on undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes.

(End of clause)

252.232–7007 Progress Payments.

(a) As prescribed in 232.502–4(S–72), insert the following clause in solicitations and fixed-price contracts under which the Government will provide progress payments based on costs. A different customary rate for other than small business concerns may be substituted in accordance with FAR 32.501–1 for the progress payment and liquidation rate indicated.

(b) If an unusual progress payment rate is approved for the prime contractor (see FAR 32.501–2), the rate approved shall be substituted for the customary rate in paragraph (a)(1).

(c) If the liquidation rate is changed from the customary progress payment rate (see FAR 32.503–6 and FAR 32.503–9), the new rate shall be substituted for the rate in paragraphs (a)(4), (a)(5), and (b).

(d) If advance and progress payments are authorized in the same contract, the words "less any unliquidated advance payments" may be deleted from paragraph (a)(4) of this clause.

(e) If an unusual progress payment rate is approved for a subcontract (see FAR 32.504(b) and FAR 32.501–2), subparagraph (j)(4) shall be modified to specify the new rate, the name of the subcontractor, and that the new rate shall be used for that subcontractor in lieu of the customary rate.

Progress Payments (Apr 1986) (DEV.)

Progress payments shall be made to the Contractor when requested as work progresses, but not more frequently than monthly in amounts approved by the Contracting Officer, under the following conditions:

(a) *Computation of amounts.*

(1) Unless the Contractor requests a smaller amount, each progress payment shall be computed as (i) eighty percent (80%) of the Contractor's cumulative total costs under this contract, as shown by records maintained by the Contractor for the purpose of obtaining payment under Government contracts, plus (ii) progress payments to subcontractors (see paragraph (j) below), all less the sum of all previous progress payments made by the Government under this contract. Cost of money that would be allowable under 31.205–10 of the Federal Acquisition Regulation shall be deemed an incurred cost for progress payment purposes.

(2) The following conditions apply to the timing of including costs in progress payment requests:

(i) The costs of supplies and services purchased by the Contractor directly for this contract may be included only after payment by cash, check, or other form of actual payment.

(ii) Costs for the following may be included when incurred, even if before payment, when the Contractor is not delinquent in payment of the costs of contract performance in the ordinary course of business:

(A) Materials issued from the Contractor's stores inventory and placed in the production process for use on this contract.

(B) Direct labor, direct travel, and other direct in-house costs.

(C) Properly allocable and allowable indirect costs.

(iii) Accrued costs of Contractor contributions under employee pension, profit sharing, and stock ownership plans shall be excluded until actually paid unless—

(A) The Contractor's practice is to contribute to the plans quarterly or more frequently; and

(B) The contribution does not remain unpaid thirty (30) days after the end of the applicable quarter or shorter payment period (any contributions remaining unpaid shall be excluded from the Contractor's total costs for progress payments until paid).

(iv) If the contract is subject to the special transition method authorized in Cost Accounting Standard (CAS) 410, Allocation of Business Unit General and Administrative Expense to Final Cost Objective, General and Administrative expenses (G&A) shall not be included in progress payment requests until the suspense account prescribed in CAS 410 is less than—

(A) Five million dollars ($5 million); or

(B) The value of the work-in-process inventories under contracts entered into after the suspense account was established (only a pro rata share of the G&A allocable to the excess of the inventory over the suspense account value is includable in progress payment requests under this contract).

(3) The Contractor shall not include the following in total costs for progress payment purposes in subparagraph (a)(1)(i) above:

(i) Costs that are not reasonable, allocable to this contract, and consistent with sound and generally accepted accounting principles and practices.

(ii) Costs incurred by subcontractors or suppliers.

(iii) Costs ordinarily capitalized and subject to depreciation or amortization except for the properly depreciated or amortized portion of such costs.

(iv) Payments made or amounts payable to subcontractors or suppliers, except for—

(A) Completed work, including partial deliveries, to which the Contractor has acquired title; and

(B) Work under cost-reimbursement or time-and-material subcontracts to which the Contractor has acquired title.

(4) The amount of unliquidated progress payments may exceed neither (i) the progress payments made against incomplete work (including allowable unliquidated progress payments to subcontractors) nor (ii) the value, for progress payment purposes, of the incomplete work. Incomplete work shall be considered to be the supplies and services required by this contract, for which delivery and invoicing by the Contractor and acceptance by the Government are incomplete.

(5) The total amount of progress payments shall not exceed eighty percent (80%) of the total contract price.

(6) If a progress payment or the unliquidated progress payments exceed the amounts permitted by subparagraphs (a)(4) or (a)(5) above, the Contractor shall repay the amount of such excess to the Government on demand.

(b) *Liquidation.* Except as provided in the Termination for Convenience of the Government clause, all progress payments shall be liquidated by deducting from any payment under this contract, other than advance or progress payments, the unliquidated progress payments, or eighty percent (80%) of the amount invoiced, whichever is less. The Contractor shall repay to the Government any amounts required by a retroactive price reduction, after computing liquidations and payments on past invoices at the reduced prices and adjusting the unliquidated progress payments accordingly. The Government reserves the right to unilaterally change from the ordinary liquidation rate to an alternate rate when deemed appropriate for proper contract financing.

(c) *Reduction or suspension.* The Contracting Officer may reduce or suspend progress payments, increase the rate of liquidation, or take a combination of these actions, after finding on substantial evidence any of the following conditions:

(1) The Contractor failed to comply with any material requirement of this contract (which includes paragraphs (f) and (g) below).

(2) Performance of this contract is endangered by the contractor's (i) failure to make progress or (ii) unsatisfactory financial condition.

(3) Inventory allocated to this contract substantially exceeds reasonable requirements.

(4) The Contractor is delinquent in payment of the costs of performing this contract in the ordinary course of business.

(5) The unliquidated progress payments exceed the fair value of the work accomplished on the undelivered portion of this contract.

(6) The Contractor is realizing less profit than that reflected in the establishment of any alternate liquidation rate in paragraph (b) above, and that rate is less than the progress payment rate stated in subparagraph (a)(1) above.

(d) *Title.*

(1) Title to the property described in this paragraph (d) shall vest in the Government. Investiture shall be immediately upon the date of this contract, for property acquired or produced before that date. Otherwise, investiture shall occur when the property is or should have been allocable or properly chargeable to this contract.

(2) "Property", as used in this clause, includes all of the below-described items acquired or produced by the Contractor that are or should be allocable or properly chargeable to this contract under sound and generally accepted accounting principles and practices.

(i) Parts, materials, inventories, and work in process;

(ii) Special tooling and special test equipment to which the Government is to acquire title under any other clause of this contract;

(iii) Nondurable (i.e., noncapital) tools, jigs, dies, fixtures, molds, patterns, taps, gauges, test equipment, and other similar manufacturing aids, title to which would not be obtained as special tooling under subparagraph (d)(2)(ii) above; and

(iv) Drawings and technical data, to the extent the Contractor or subcontractors are required to deliver them to the Government by other clauses of this contract.

(3) Although title to property is in the Government under this clause, other

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applicable clauses of this contract, e.g., the termination or special tooling clauses, shall determine the handling and disposition of the property.

(4) The Contractor may sell any scrap resulting from production under this contract without requesting the Contracting Officer's approval, but the proceeds shall be credited against the costs of performance.

(5) To acquire for its own use or dispose of property to which title is vested in the Government under this clause, the Contractor must obtain the Contracting Officer's advance approval of the action and the terms. The Contractor shall (i) exclude the allocable costs of the property from the costs of contract performance, and (ii) repay to the Government any amount of unliquidated progress payments allocable to the property. Repayment may be by cash or credit memorandum.

(6) When the Contractor completes all of the obligations under this contract, including liquidation of all progress payments, title shall vest in the Contractor for all property (or the proceeds thereof) not—

(i) Delivered to, and accepted by, the Government under this contract; or

(ii) Incorporated in supplies delivered to, and accepted by, the Government under this contract and to which title is vested in the Government under this clause.

(7) The terms of this contract concerning liability for Government-furnished property shall not apply to property to which the Government acquired title solely under this clause.

(e) *Risk of Loss.* Before delivery to and acceptance by the Government, the Contractor shall bear the risk of loss for property, the title to which vests in the Government under this clause, except to the extent the Government expressly assumes the risk. The Contractor shall repay the Government an amount equal to the unliquidated progress payments that are based on costs allocable to property that is damaged, lost, stolen, or destroyed.

(f) *Control of Costs and Property.* The Contractor shall maintain an accounting system and controls adequate for the proper administration of this clause.

(g) *Reports and Access to Records.* The Contractor shall promptly furnish reports, certificates, financial statements, and other pertinent information reasonably requested by the Contracting Officer for the administration of this clause. Also, the Contractor shall give the Government reasonable opportunity to examine and verify the Contractor's books, records, and accounts.

(h) *Special Terms Regarding Default.* If this contract is terminated under the Default clause, (i) the Contractor shall, on demand, repay to the Government the amount of unliquidated progress payments and (ii) title shall vest in the Contractor, on full liquidation of progress payments, for all property for which the Government elects not to require delivery under the Default clause. The Government shall be liable for no payment except as provided by the Default clause.

(i) *Reservation of Rights.*

(1) No payment or vesting of title under this clause shall (i) excuse the Contractor from performance of obligations under this contract or (ii) constitute a waiver of any of the rights or remedies of the parties under the contract.

(2) The Government's rights and remedies under this clause (i) shall not be exclusive but rather shall be in addition to any other rights and remedies provided by law or this contract and (ii) shall not be affected by delayed, partial, or omitted exercise of any right, remedy, power, or privilege, nor shall such exercise or any single exercise preclude or impair any further exercise under this clause or the exercise of any other right, power, or privilege of the Government.

(j) *Progress Payments to Subcontractors.* The amounts mentioned in (a)(1)(ii) above shall be all progress payments to subcontractors or divisions, if the following conditions are met:

(1) The amounts included are limited to (i) the unliquidated remainder of progress payments made plus (ii) for small business concerns any unpaid subcontractor requests for progress payments that the Contractor has approved for current payment in the ordinary course of business.

(2) The subcontract or interdivisional order is expected to involve a minimum of approximately six (6) months between the beginning of work and the first delivery, or, if the subcontractor is a small business concern, four (4) months.

(3) The terms of the subcontract or interdivisional order concerning progress payments—

(i) Are substantially similar to the terms of the clause 52.232–16, Progress Payments, of the Federal Acquisition Regulation (or that clause with its Alternate I for any subcontractor that is a small business concern);

(ii) Are at least as favorable to the Government as the terms of this clause;

(iii) Are not more favorable to the subcontractor or division than the terms of this clause are to the Contractor;

(iv) Are in conformance with the requirements of paragraph 32.504(e) of the Federal Acquisition Regulation; and

(v) Subordinate all subcontractor rights concerning property to which the Government has title under the subcontract to the Government's right to require delivery of the property to the Government if (A) the Contractor defaults or (B) the subcontractor becomes bankrupt or insolvent.

(4) The progress payment rate in the subcontract is the customary rate used by the Contracting Activity, depending on whether the subcontractor is or is not a small business concern.

(5) The parties agree concerning any proceeds received by the Government for property to which title has vested in the Government under the subcontract terms, that the proceeds shall be applied to reducing any unliquidated progress payments by the Government to the Contractor under this contract.

(6) If no unliquidated progress payments to the Contractor remain, but there are unliquidated progress payments that the Contractor has made to any subcontractor, the Contractor shall be subrogated to all the rights the Government obtained through the terms required by this clause to be in any subcontract, as if all such rights had been assigned and transferred to the Contractor.

(7) The Contractor shall pay the subcontractor's progress payment request under subparagraph (j)(1)(ii) above, within a reasonable time after receiving the Government progress payment covering those amounts.

(8) To facilitate small business participation in subcontracting under this contract, the Contractor agrees to provide progress payments to small business concerns, in conformity with the standards for customary progress payments stated in Subpart 32.5 of the Federal Acquisition Regulation. The Contractor further agrees that the need for such progress payments shall not be considered as a handicap or adverse factor in the award of subcontracts.

(k) *Limitations on Undefinitized Contract Actions.* Notwithstanding any other progress payment provision in this contract, progress payments may not exceed eighty percent (80%) of costs incurred on work accomplished under undefinitized contract actions. A "contract action" is any action resulting in a contract, as defined in FAR Subpart 2.1, including contract modifications for additional supplies or services, but not including contract modifications that are within the scope and under the terms of the contract, such as contract modifications issued pursuant to the Changes clause, or funding and other administrative changes. This limitation shall apply to the costs incurred, as computed in accordance with paragraph (a), and shall remain in effect until the contract action is definitized. Costs incurred which are subject to this limitation shall be segregated on contractor progress payment requests and invoices from those costs eligible for higher progress payment rates. For purposes of progress payment liquidation, as described in paragraph (b), progress payments for undefinitized contract actions shall be liquidated at eighty percent (80%) of the amount invoiced for work performed under the undefinitized contract action so long as the contract action remains undefinitized.

The amount of unliquidated progress payments for undefinitized contract actions shall not exceed eighty percent (80%) of the maximum liability of the Government under the undefinitized contract action or such lower limit specified elsewhere in the contract. Separate limits may be specified for separate actions.

(End of clause)

Alternate I (Apr 1986)

If the contract is with a small business concern, change each mention of the progress payment and liquidation rates excepting paragraph (k) to the customary rate of ninety percent (90%) for small business concerns (see FAR 32.501–1), delete subparagraphs (a)(1) and (a)(2) from the basic clause, and substitute the following subparagraphs (a)(1) and (a)(2):

(a) *Computation of amounts.* (1) Unless the Contractor requests a smaller amount, each progress payment shall be computed as (i) ninety percent (90%) of the Contractor's total costs incurred under this contract whether or not actually paid, plus (ii) progress payments to subcontractors (see paragraph (j) below), all less the sum of all previous progress payments made by the Government under this contract. Cost of money that would be allowable under 31.205–10 of the Federal Acquisition Regulation shall be deemed an incurred cost for progress payment purposes.

(2) Accrued costs of Contractor contributions under employee pension plans shall be excluded until actually paid unless—

(i) The Contractor's practice is to make contributions to the retirement fund quarterly or more frequently; and

(ii) The contribution does not remain unpaid thirty (30) days after the end of the applicable quarter or shorter payment period (any contribution remaining unpaid shall be excluded from the Contractor's total costs for progress payments until paid).

Alternate II (Apr 1986)

If the contract is a letter contract, add paragraphs (l) and (m) shown below: The amount specified in paragraph (m) shall not exceed eighty percent (80%) applied to the maximum liability of the Government under the letter contract. Separate limits may be specified for separate parts of the work.

(l) Progress payments made under this letter contract shall, unless previously liquidated under paragraph (b), be liquidated under the following procedures:

(1) If this letter contract is superseded by a definitive contract, unliquidated progress payments made under this letter contract shall be liquidated by deducting the amount from the first progress or other payments made under the definitive contract.

(2) If this letter contract is not superseded by a definitive contract calling for the furnishing of all or part of the articles or services covered under the letter contract, unliquidated progress payments made under the letter contract shall be liquidated by deduction from the amount payable under the Termination clause.

(3) If this letter contract is partly terminated and partly superseded by a contract, the Government shall allocate the unliquidated progress payments to the terminated and unterminated portions as the Government deems equitable, and shall liquidate each portion under the relevant procedure in subparagraphs (l) (1) and (2) above.

(4) If the method of liquidating progress payments provided above does not result in full liquidation, the Contractor shall immediately pay the unliquidated balance to the Government on demand.

(M) The amount of unliquidated progress payments shall not exceed . . . . . (*specify dollar amount*)

[FR Doc. 86–8824 Filed 4–18–86; 8:45 am]
BILLING CODE 3810–01–M

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48 CFR Parts 242 and 252

Department of Defense Federal Acquisition Regulation Supplement; Indirect Cost Certificate

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The DAR Council has approved changes to DoD FAR Supplement Parts 242 and 252 to implement direction by the Secretary of Defense with respect to claims for overhead costs, and to comply with certain statutes.

EFFECTIVE DATE: April 14, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)/DARS, c/o OASD(A&L), Room 3C841, the Pentagon, Washington, DC 20301–3062, telephone (202) 697–7266.

SUPPLEMENTARY INFORMATION:

A. Background

On March 12, 1985, the Secretary of Defense directed that contractors with the Department of Defense will be required to certify that all cost included in claims for overhead costs are allowable in accordance with contract requirements and the cost principles applicable to those contracts. Interim changes to the DoD FAR Supplement Parts 242 and 252 were issued to implement this decision. These changes were published in the Federal Register (50 FR 12028, March 27, 1985), and public comments were invited.

Section 911 of the Department of Defense Authorization Act, 1986 (Pub. L. 99–145), as amended by section 8112 of the DoD Appropriation Act, 1986 (Pub. L. 99–190), added section 2324 to Title 10, United States Code, that required, *inter alia*, that a certification, to the best of the certifying official's knowledge and belief, of the allowability of indirect cost be included with proposals for the settlement of indirect costs.

Changes have been made to DoD FAR Supplement 242.7 and 252.242 published herewith (1) as a result of the comments received and (2) to comply with section 2324 of Title 10, United States Code.

The DoD FAR Supplement is codified in Chapter 2, Title 48 of the Code of Federal Regulations.

The October 1, 1985 revision of the CFR is the most recent edition of that title. It reflects amendments to the 1984 edition of the DoD FAR Supplement made by Defense Acquisition Circulars 84–1 through 84–10.

Interested parties may submit proposed revisions to this Supplement directly to the DAR Council.

B. Regulatory Flexibility Act Information

The changes to DFARS 242.7 and 252.242 will not have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C 601 et seq.) because—

(1) The rule does not add any new requirement with respect of identifying or accounting for costs. It simply requires an appropriate company official to certify that the company is complying with the regulation.

(2) No specific comments from small entities were received indicating any impact.

C. Paperwork Reduction Act Information

The rule imposes no new recordkeeping requirements on contractors. Rules already exist on the allowability of costs on Government contracts. Contractors should already be reviewing their proposals as a normal course of business to eliminate such costs from their proposals. This rule is simply a certification by an appropriate company official that, to the best of his knowledge and belief, the company is complying with the regulations.

List of Subjects in 48 CFR Parts 242 and 252

Government procurement.

Charles W. Lloyd,
Executive Secretary, Defense Acquisition Regulatory Council.

Adoption of Amendments

Therefore, the DoD FAR Supplement contained in 48 CFR Chapter 2 is amended as set forth below.

1. The authority for 48 CFR Parts 242 and 252 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

PART 242—CONTRACT ADMINISTRATION

2. Sections 242.770 and 242.770–1 are added to read as follows:

242.770 Certification of indirect costs.

(a) *Policy.* (1) No proposal to establish billing rates or final indirect cost rates shall be accepted unless such costs have been certified by the contractor using the Certificate of Indirect Costs set forth in paragraph (d) below. The certificate must be signed on behalf of the firm by an individual of the contractor's organization at a level no lower than vice president or chief financial officer of the business segment of the contractor that submits the proposal.

(2) No billing rate or final indirect cost rate shall be agreed to by the contracting officer or auditor based on a proposal from the contractor that has not been certified. Where it is necessary to establish billing or final indirect cost rates in order to comply with the terms

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of a contract and the contractor has not submitted a certified proposal for establishing such rates in accordance with the requirements of this section, the Government shall unilaterally establish such rates. Such rates may be based upon audited historical data or such other data that has been furnished to the contracting officer or auditor and for which it can be demonstrated that all unallowable costs have been excluded. When billing or final indirect cost rates are unilaterally established by the Government because of failure of the contractor to submit a certified proposal for establishing such rates in accordance with this section, the rates established will be set at a level low enough to ensure that potentially unallowable costs will not be reimbursed.

(b) It shall be the responsibility of the cognizant contracting officer or auditor to review billing rates periodically for indirect costs and all circumstances affecting the level of indirect cost rates. Generally, billing rates shall not be in effect for longer than one year. Final indirect cost rates shall be established promptly after the end of the applicable year.

(c) *Waiver.* (1) The Secretary of Defense or the Secretary of the military department concerned may, in an exceptional case, waive the requirement for certification under paragraph (a) in the case of any contract if the Secretary—

(i) Determines in such case that it would be in the interest of the United States to waive such certification; and

(ii) States in writing the reasons for that determination and makes such determination available to the public.

(2) Examples of situations where it may be appropriate to waive the requirement for certification of indirect costs include, but are not limited to contracts with:

(i) Foreign governments or international governmental organizations, such as subsidiary bodies of NATO;

(ii) State and local governments that are subject to OMB Circular A–87;

(iii) Educational institutions subject to OMB Circular A–21; or

(iv) nonprofit organizations subject to OMB Circular A–122.

(d) *Certificate.* The certificate required by this section shall be in the following form:

Certificate of Indirect Costs

This is to certify that to the best of my knowledge and belief:

1. I have reviewed the indirect cost proposal submitted herewith;

2. All costs included in this proposal (identify, date) to establish billing or final indirect costs rates for (identify period covered by rate) are allowable in accordance with the requirements of contracts to which they apply and with the cost principles of the Department of Defense applicable to those contracts;

3. This proposal does not include any costs which are unallowable under applicable cost principles of the Department of Defense, such as (without limitation): advertising and public relations costs, contributions and donations, entertainment costs, fines and penalties, lobbying costs, defense of fraud proceedings, and good will; and

4. All costs, included in this proposal are properly allocable to Defense contracts on the basis of a beneficial or causal relationship between the expenses incurred and the contracts to which they are allocated in accordance with applicable acquisition regulations.

I declare under penalty of perjury that the foregoing is true and correct.

Firm: _____

Signature: _____

Name of Corporate Official: _____

Title: _____

Date of Execution: _____

242.770-1 Clause.

The contracting officer shall insert the clause at 252.242-7003, "Certification of Indirect Costs" in all solicitations and contracts which provide for (a) interim reimbursement of indirect costs, (b) establishment of final indirect costs rates, or (c) contract financing that includes interim payment of indirect cost (e.g., progress payments based on cost and payments based on percentage or state of physical completion such as shipbuilding).

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

3. Section 252.242-7003 is added to read as follows:

252.242-7003 Certification of Indirect Costs.

As prescribed in 247.770-1, insert the following clause:

Certification of Indirect Costs (April 1986)

(a) The Contractor shall certify any proposal to establish or modify billing rates or to establish final indirect cost rates in the form set forth in paragraph (b) of this clause. The certificate shall be signed on behalf of the Contractor by an individual of the Contractor's organization at a level no lower than a vice president or chief financial officer of the business segment of the Contractor that submits the proposal. The Contractor understands that if the Contractor fails to submit a certificate as required herein, payments on account of indirect cost shall be at rates unilaterally established by the Government.

(b) *Certificate of Indirect Costs.* The certificate of indirect costs shall read as follows:

Certificate of Indirect Costs

This is to certify that to the best of my knowledge and belief:

1. I have reviewed the indirect cost proposal submitted herewith;

2. All costs included in the proposal (identify, date) to establish billing or final indirect cost rates for (identify period covered by rate) are allowable in accordance with the requirements of contracts to which they apply and with the cost principles of the Department of Defense applicable to those contracts;

3. This proposal does not include any costs which are unallowable under applicable cost principles of the Department of Defense, such as (without limitation): advertising and public relations costs, contributions and donations, entertainment costs, fines and penalties, lobbying costs, defense of fraud proceedings, and good will; and

4. All costs included in this proposal are properly allocable to Defense contracts on the basis of a beneficial or causal relationship between the expenses incurred and the contracts to which they are allocated in accordance with applicable acquisition regulations.

I declare under penalty of perjury that the foregoing is true and correct.

Firm: _____

Signature: _____

Name of Corporate Official: _____

Title: _____

Date of Execution: _____

(End of clause)

[FR Doc. 86–8825 Filed 4–16–86; 8:45 am]

BILLING CODE 3810-01-M

Proposed Rules

Federal Register
Vol. 51, No. 76
Monday, April 21, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Office of Transportation

7 CFR Part 3300

Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment To Be Used for Such Carriage (ATP); Inspection, Testing, and Certification of Special Equipment

AGENCY: Office of Transportation, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this rule is to establish procedures for the inspection, testing, and certification of insulated, refrigerated, mechanically refrigerated, and heated transport equipment in accordance with the subject Agreement and the standards specified therein. Under this rule United States firms which manufacture or own such equipment may obtain certification for their equipment as needed for the international carriage of perishable foodstuffs. This rule has been developed under the authority delegated to the Secretary of Agriculture to implement the Agreement, as set forth in the International Carriage of Perishable Foodstuffs Act, which authority has been further delegated by the Secretary to the Assistant Secretary for Marketing and Inspection Services and the Administrator of the Office of Transportation.

DATE: Comments must be submitted before May 21, 1986.

ADDRESS: Written comments should be sent to: Robert F. Guilfoy, Jr., Office of Transportation, Department of Agriculture, 1405 Auditors Building, 201 14th Street SW., Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: To obtain further information, including copies of the Agreement and the Act (Pub. L. 97–325), contact Robert F. Guilfoy, Jr., at the above address or by telephone: (202) 447–6235.

SUPPLEMENTARY INFORMATION: The subject Agreement, dated September 1, 1970, was developed by the Economic Commission for Europe (ECE), a regional body of the United Nations. The ECE is made up of 34 member countries, including 32 European countries, the United States, and Canada.

The United States Senate ratified the Agreement on March 20, 1980, followed by enactment by the Congress of the International Carriage of Perishable Foodstuffs Act on October 15, 1982. The U.S. acceded to the Agreement on January 20, 1983.

The basic objectives of this rule derive from the Perishable Foodstuffs Act, section 2, paragraphs (3) and (4), which read "(3) this Act will make ti possible for equipment in the United States to be inspected, tested, and certified in accordance with the agreement and the standards specified therein; and (4) this Act will improve the condition for the movement of perishable foodstuffs in international carriage in equipment owned or operated by United States firms, which will serve to protect existing trade and promote expansion of trade in perishable foodstuffs, and will improve the sale of United States manufactured equipment for use in international carriage."

Under this rule, domestic owners may obtain certification for new equipment manufactured in the United States or in a foreign country. Domestic owners may also obtain certification or recertification for equipment in service. Foreign owners may obtain certification for new equipment manufactured in the United States, but not for equipment manufactured in a foreign country or for equipment in service.

It should be noted that this rules does not make it mandatory that all special transport equipment manufactured, owned, or operated by U.S. firms be certified. Rather, this rule sets up procedures whereby U.S. firms may obtain certification of their equipment, if they so desire and as needed, for transport of perishable foodstuffs between countries which are contracting parties to the Agreement, particularly in Europe.

Since the Agreement is an intergovernmental agreement within the United Nations, it is necessary that inspection, testing, and certification of equipment in each country be done under the auspices of government.

Thus far, the following 21 countries have become contracting parties to the Agreement: Austria, Belgium, Bulgaria, Czechoslovakia, Denmark, Finland, France, Federal Republic of Germany, German Democratic Republic, Italy, Luxembourg, Morocco, Netherlands, Norway, Poland, Spain, Sweden, U.S.S.R., United Kingdom, United States of America, and Yugoslavia.

Exemptions

Article 5 of the Agreement provides that the Agreement shall not apply to carriage in containers in which the transport operation involves a movement of more than 150 km by sea. Thus, a container moving from the United States to a country in Europe, or vice-versa, would not have to be certified. It may be noted that Article 5 makes no mention of roll-on roll-off (RoRo) vehicles moving more than 150 km by sea, probably because there was little if any of that type of movement when the Agreement was being drafted. In any event, manufacturers and owners of refrigerated oceangoing containers in the United States would need certification for their equipment when the equipment is to be used for transport of perishable foodstuffs between countries in Europe where the receiving country is a contracting party to the Agreement.

Article 10 of the Agreement provides that a contracting party has the option to declare that the Agreement does not apply to carriage in its territories outside Europe. That Article was placed in the Agreement, during its drafting, at the express request of the United States, for the following three reasons: (1) The Agreement was developed primarily for application to transport of perishable foodstuffs in Europe; (2) Industry standards in the United States were considered to be comparable to the standards in the Agreement, and (3) The U.S. had no need to apply the Agreement to vehicles coming into the U.S. from Canada or Mexico.

In depositing its instrument of accession with the United Nations, the U.S. exercised the option available in Article 10 by declaring that the Agreement does not apply to carriage in the United States or its territories.

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Considerations Regarding Verification that Production of New Equipment Conforms With the Reference Equipment

The Agreement, in its Annex 1, Appendix 1, paragraphs 2 (a) and (b) reads as follows:

"(a) New equipment of a specific type serially-produced may be approved by testing one unit of that type. If the unit tested fulfills the requirments prescribed for the class to which it is presumed to belong, the test report shall be regarded as a Type Approval Certificate—

(b) The competent authority shall take steps to verify that production of units is in conformity with the approved type.—"

In deciding how to treat the requirement concerning conformity of production with the reference equipment, the following factors were considered:

(1) A manufacturer of equipment normally verifies to the buyer of the equipment that the manufacturer has complied with specifications stipulated by the buyer.

(2) It would be difficult to justify placing an extra cost on the manufacturer to have an outside organization verify conformity of production.

(3) The regulations of the United Kingdom, which is a contracting party to the Agreement, allow manufacturers to certify that production conforms to the approved type.

Taking into account the aforementioned factors, it was decided to have the manufacturer submit a statement that production conforms with the reference equipment, and this is reflected in the pertinent part of this rule.

Considerations Regarding Inspection of Containers in Service

The Agreement, in its Annex 1, Appendix 2, paragraphs 29 and 49, requires that equipment in service at the end of the period of validity of its certificate shall either be tested in a testing station or be inspected by experts, in order to obtain renewal of a certificate.

As a practical matter, the United States would not be primarily concerned with testing and inspection of trucks, trailers, semitrailers, and railcars, since the U.S. will not apply the Agreement to transport equipment operating in the United States.

The primary concern of the United States is in connection with inspection of mechanically refrigerated intermodal containers operated by U.S. containership companies and U.S. container leasing firms which need certification of their containers for inter-country operations in Europe.

In deciding how to treat the requirement concerning inspection of containers in service, the following factors were considered:

(1) It is generally agreed that it would be difficult and costly to schedule a particular container into a particular seaport where, and when, an independent inspector, outside the carrier's organization, might be available to perform an inspection.

(2) Conceivably, a great number of mechanically refrigerated containers in service may require inspection in the coming years.

(3) The inspection requirements in the Agreement are not considered to be stringent. The check of the insulated body is essentially a visual inspection, and when operating the mechanical refrigerating appliance the ambient temperature need only be no lower than +15 °C (59 °F), compared to test of the equipment when new in an ambient of +30 °C (86 °F). Further, in an inspection the appliance is turned off as soon as it reaches the required inside air temperature, without having to be operated for 12 hours with a 35 percent additional heat load as in the original test when the equipment was new.

(4) Operators of intermodal mechanically refrigerated containers normally check a container before each trip to ensure that the equipment is in good repair and that the refrigerating unit is operating properly. Also, operators normally perform periodic maintenance inspections of equipment similar to the inspection required by the Agreement.

Taking into account the aforementioned factors, it was decided that the most practical and least costly way to accomplish inspections of equipment in service would be to place the responsibility for such inspections on the owners of the equipment, and this is reflected in the pertinent part of this rule.

Paperwork Reduction

A request for approval of collection of information under this proposed rule is being submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (Title 44, Chapter 35, United States Code).

Review of this Proposed Rule

This proposed rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated as a 'non-major' rule. Martin F. Fitzpatrick, Jr., Administrator, Office of Transportation, has certified that this proposed action will not have a significant impact on a substantial number of small entities.

List of Subjects in 7 CFR Part 3300

Foods, Laboratories, Reporting and recordkeeping requirements, Transportation.

Accordingly, Chapter XXX, consisting of Part 3300, is proposed to be added to Title 7 to read as follows:

CHAPTER XXX—OFFICE OF TRANSPORTATION, DEPARTMENT OF AGRICULTURE

PART 3300—AGREEMENT ON THE INTERNATIONAL CARRIAGE OF PERISHABLE FOODSTUFFS AND ON THE SPECIAL EQUIPMENT TO BE USED FOR SUCH CARRIAGE (ATP); INSPECTION, TESTING, AND CERTIFICATION OF SPECIAL EQUIPMENT

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3300.100 List of approved testing stations, approved testing laboratories, and fees for certificates.
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Authority: Sec. 4, Pub. L. 97–325, International Carriage of Perishable Foodstuffs Act (7 U.S.C. 4403).

Subpart A—Introduction

§ 3300.1 Scope of authority and purpose.

The International Carriage of Perishable Foodstuffs Act assigns to the Secretary of Agriculture the responsibility for implementation of the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (ATP). The purpose of this rule is to establish procedures for the inspection, testing, and certification of insulated, refrigerated, mechanically refrigerated, and heated transport equipment in accordance with the Agreement and the standards specified therein. In the process, the intent is to utilize existing industry facilities to the greatest extent practicable.

§ 3300.4 Definitions.

"Administrator" means the Administrator, Office of Transportation, U.S. Department of Agriculture, whose current address is: 1405 Auditors Building, 201 14th Street SW., Washington, DC 20250.

"ATP" means the Agreement on the International Carriage of Perishable Foodstuffs and on the Special Equipment to be Used for Such Carriage (ATP), and the annexes and appendices thereto, done at Geneva, September 1, 1970, under the auàpices of the Economic Commission for Europe, and any subsequent amendments thereto.

"ATP Manager" means the person designated by the Administrator to manage the program established by this rule, whose current address is: ATP Manager, Office of Transportation, U.S. Department of Agriculture, 1405 Auditors Building, 201 14th Street SW., Washington, DC 20250.

"Body manufacturer" means an organization which produces insulated bodies for equipment.

"Body manufacturing plant" means a facility at which insulated bodies are produced.

"Contracting party" means a country which is signatory to the ATP.

"Domestic Owner" means an organization which is incorporated or chartered under the laws of, and with principal office in, the United States, and which owns or operates the equipment directly or through a wholly owned subsidiary in a foreign country.

"Equipment" means the special transport equipment that complies with the definitions and standards set forth in ATP, Annex 1, including, but not limited to, railcars, trucks, trailers, semitrailers, and intermodal freight containers that have an insulated body only, or an insulated body equipped with a refrigerating, mechanically refrigerating, or heating appliance.

"Equipment manufacturer" means an organization which produces or assembles the complete unit of equipment, that is, the insulated body with the thermal appliance installed.

"Equipment manufacturing plant" means a facility at which an equipment manufacturer produces or assembles the complete unit of equipment.

"Foreign-ATP certificate" means a certificate issued by a foreign country which is a contracting party to the ATP, attesting that the equipment listed in the certificate complies with pertinent standards in the ATP.

"Foreign owner" means an organization registered under the laws of, or with principal office in, a country outside the United States, and which owns or operates the equipment.

"Identical mechanical refrigerating appliance" means a mechanical refrigerating appliance which is of the same model number and design as the reference mechanical refrigerating appliance, and produced by a particular mechanical refrigerating appliance manufacturer, at a particular mechanical refrigerating appliance manufacturing plant.

"Insulated body" means the six-sided structural component of equipment, consisting of insulated doors, sidewalls, roof, floor, and endwall, inside which perishable foodstuffs are carried.

"International carriage" means transportation of perishable foodstuffs if such foodstuffs are loaded in equipment or the equipment containing them is loaded onto a rail or road vehicle, in the territory of any country and such foodstuffs are, or the equipment containing them is, unloaded in the territory of another country that is a contracting party, where such transportation is by:

(a) Rail,

(b) Road,

(c) Any combination of rail and road, or

(d) Any sea crossing of less than one hundred and fifty kilometers, if preceded or followed by one or more land journeys as referred to in paragaphs (a), (b), and (c) of this definition, and the perishable foodstuffs are shipped in the same equipment used for such land journeys without transloading of such foodstuffs.

In the case of any transportation that involves one or more sea crossings other than as specified in paragraph (d) of this definition, each land journey shall be considered separately.

"Mechanical refrigerating appliance manufacturer" means an organization which produces mechanical refrigerating appliances.

"Mechanical refrigerating appliance manufacturing plant" means a facility which produces mechanical refrigerating appliances.

"New equipment" means equipment produced or assembled at an equipment manufacturing plant on or after the effective date of this rule.

"Perishable foodstuffs" means the quick deep-frozen and frozen food products listed in Annex 2, and the chilled food products listed in Annex 3 to the ATP.

"Reference equipment" means a unit of equipment which has passed a test in an approved testing station, and can thereby serve as a basis for certification of related serially-produced equipment.

"Reference insulated body" means an insulated body which has passed a test in an approved testing station for measurement of the K-coefficient of the body, and can thereby serve as the basis for approval of serially-produced bodies in the case in which the insulated body and the mechanical refrigerating appliance of the equipment are tested separately.

"Reference mechanical refrigerating appliance" means a mechanical refrigerating appliance which has passed a test in an approved testing laboratory, and can thereby serve as the basis for approval of identical mechanical refrigerating appliances in

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the case in which the mechanical refrigerating appliance and the insulated body of the equipment are tested separately.

"Serially-produced bodies" means insulated bodies which meet the definition in ATP, Annex 1, Appendix 1, paragraph 2(c)(i).

"Serially-produced equipment" means equipment of a specific type (container, semi-trailer, trailer, truck, or container), which meets the definition in ATP, Annex 1, Appendix 1, paragraph 2(c).

"Thermal appliance" means the refrigerating, mechanical refrigerating, or heating appliance which is installed in the insulated body of the equipment.

"Thermal appliance manufacturer" means an organization which produces thermal appliances.

"Thermal appliance manufacturing plant" means a facility at which thermal appliances are produced.

"U.S. ATP testing laboratory" means a facility in the United States which has been approved by the Administrator to conduct tests of mechanical refrigerating appliances.

"U.S. ATP testing station" means a facility in the United States which has been approved by the Administrator to conduct tests of equipment.

"U.S. ATP certificates" means a certificate issued by the U.S. Department of Agriculture, attesting that the equipment listed in the certificate complies with pertinent standards in the ATP.

"United States" means the fifty States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

Subpart B—Procedures for Testing of Equipment

§ 3300.7 General.

Testing of equipment according to the ATP is basically done in two phases:

(a) Measurement of the insulating capacity, that is, the K-coefficient, of the insulated body.

(b) Determination of the efficiency of the thermal appliance as installed in the insulated body. In the case of mechanically refrigerated equipment, the mechanical refrigerating appliance may be tested separately.

§ 3300.10 Measurement of the K-coefficient of an insulated body.

The K-coefficient shall be measured according to the procedures in ATP, Annex 1, Appendix 2, paragraphs 1–28, and the following shall apply:

(a) The internal heating method shall be used.

(b) The measurement shall be performed with the thermal appliance installed in the insulated body, unless the equipment consists of an insulated body only without a thermal appliance.

(c) In ATP, Annex 1, Appendix 2, paragraph 8, last line, 'about +20 °C' for the mean temperature of the walls of the body shall be interpreted to mean between +19 °C (+66 °F) and 21 °C (+70 °F).

(d) A report of each test shall be completed on a form corresponding to the pertinent test report model prescribed in ATP, Annex 1, Appendix 2. Report forms may be obtained by request to the ATP manager.

§ 3300.13 Measurement of the K-coefficient of an insulated body without its mechanical refrigerating appliance installed.

If there is an opening in the front wall of the body intended to accommodate the mechanical refrigerating appliance, the opening shall be temporarily closed off with an insulated partition. The K-coefficient shall then be measured according to the procedures in ATP, Annex 1, Appendix 2, paragraph 1–28. In performing such measurement the following shall apply:

(a) The internal heating method shall be used.

(b) In ATP, Annex 1, Appendix 2, paragraph 8, last line, 'about +20 °C' for the mean temperature of the walls of the body shall be interpreted to mean between +19 °C (+66 °F) and +21 °C (+70 °F).

(c) A report of each test shall be completed on a form corresponding to the pertinent test report model prescribed in ATP, Annex 1, Appendix 2. Report forms may be obtained by request to the ATP manager.

§ 3300.16 Determination of the efficiency of the thermal appliance as installed in the insulated body.

In determining the efficiency of a thermal appliance with respect to maintaining prescribed temperature inside the body, the procedures in ATP, Annex 1, Appendix 2, paragraphs 31–40 and 43–47 shall be used. A report of each test shall be completed on a form corresponding to the pertinent test report model prescribed in ATP, Annex 1, Appendix 2. Report forms may be obtained by request to the ATP manager.

Subpart C—Approval of Testing Stations

§ 3300.19 General.

Any public or private organization incorporated or chartered under the laws of, and with principal office in, the United States may apply to have one or more of its facilities in the United States designated as a U.S. ATP testing station.

§ 3300.22 Application for approval.

Application by an officer of the organization shall be submitted to the Administrator for each facility for which approval is sought. Copies of Form, Application for Approval as a U.S. ATP Testing Station, may be obtained by request to the ATP manager. The following information is requested in the application:

(a) A statement that the organization is incorporated or chartered under the laws of, and that it has its principal office in, the United States, including the address and telephone number of the principal office.

(b) The address and telephone number of the testing station, and name and title of person in charge of the station.

(c) A summary of experience at the facility which would indicate capability to conduct tests of equipment according to Subpart B of this rule.

(d) A general description of the station, including drawings on letter size (8½ × 11 inches) paper to show the floor plan and cross-sections of the test chamber, basic dimensions, location of heat exchangers and instruments, and any other pertinent information.

(e) An indication of which of the following types of equipment, as defined in ATP, Annex 1, that the station is capable of testing: Intermodal freight containers, semi-trailers, trailers, railcars, and trucks.

(f) A statement that the Administrator, ATP manager, or other respresentative of the Administrator may, before a decision concerning the application, observe a test at the station of a class C mechanically refrigerated container or semi-trailer, with Class C being defined as in ATP, Annex 1, paragraph 3.

(g) A statement that the station will be open to public use, that is, to manufacturers and owners of equipment which may apply to have equipment tested.

(h) A statement that the fees to be charged by the organization for testing will be reasonable with respect to costs involved, and that such fees will be payable directly to the organization by those who seek testing of their equipment.

(i) A statement that the station will maintain records of basic data developed in each test conducted under this rule, such records to be available for review by the ATP manager or other representative of the Administrator upon request. The record for each test shall be maintained for a period of three years.

(j) A statement that the organization will advise the ATP manager at least 30 days prior to each test conducted under this rule, so that the ATP manager or other representative of the Administrator may, if desired, observe the test.

(k) A statement that the organization will send to the ATP manager a copy of each test report for equipment tested at the station according to this rule, within 30 days after completion of the test.

(l) A statement that, should any significant change occur in the facility with respect to structure or test equipment as a result of redesign or other cause during the period of approval, the organization will so advise the ATP manager within 30 days after such change.

(m) Any other pertinent information.

§ 3300.25 Response to application for approval.

The Administrator will, within 30 days of receipt of the application and any relevant information required, advise the applicant whether or not the facility is approved as a testing station. Approval is for a 5-year period from date of approval.

§ 3300.28 Application for renewal of approval.

If an organization wishes to have an approval renewed at the end of a 5-year period, it shall submit a request for renewal to the Administrator 90 days before expiration of the existing approval. The request for renewal shall contain the same type of information as required in the original application, that is, the information called for in § 3300.22 of this Subpart C.

§ 3300.31 Response to application for renewal of approval.

The Administrator will, within 30 days of receipt of application and any relevant information required, advise the applicant whether or not approval is renewed. A renewal extends the period of approval for 5 more years.

§ 3300.34 Termination of approval.

An approved testing station may at any time withdraw as an approved testing station by written notice to the Administrator. Similarly, the Administrator may suspend or terminate for cause the approved status of a testing station by written notice to the organization, setting forth reasons for such action. Examples of causes for suspension or termination of approval of a testing station would be a change in equipment or operations at the station which would render the station incapable of performing tests according to the standards in the ATP, or noncompliance of the station with pertinent portions of this rule.

Subpart D—Procedures for Separate Testing of Mechanical Refrigerating Appliances

§ 3300.37 General.

ATP, Annex 1, Appendix 2, paragraph 41, provides that approval of mechanically refrigerated equipment may be done on the basis of separate testing of the mechanical refrigerating appliance.

§ 3300.40 Testing of a mechanical refrigerating appliance.

For separate testing of a mechanical refrigerating appliance, the following shall pertain:

(a) The calibrated-box method shall be used, as set forth in ARI Standard 1110, Standard for Mechanical Refrigeration Units, of the Air-Conditioning and Refrigeration Institute.

(b) The appliance shall be rated according to the class, or classes, of service for which the appliance is intended, with classes being defined as in ATP, Annex 1, paragraph 3.

(c) A report of each test shall be completed on a form corresponding to the pertinent test report model prescribed in ATP, Annex 1, Appendix 2. Report forms may be obtained by request to the ATP manager.

Subpart E—Approval of Testing Laboratories

§ 3300.43 General.

Any public or private organization incorporated or chartered under the laws of, and with principal office in, the United States may apply to have one or more of its facilities in the United States designated as a U.S. ATP testing laboratory.

§ 3300.46 Application for approval.

Application by an officer of the organization shall be submitted to the Administrator for each facility for which approval is sought. Copies of Form, Application for Approval as a U.S. ATP Testing Laboratory, may be obtained by request to the ATP manager. The following information is requested in the application:

(a) A statement that the organization is incorporated or chartered under the laws of, and that it has its principal office in, the United States, including the address and telephone number of the principal office.

(b) The address and telephone number of the testing laboratory, and name and title of person in charge of the laboratory.

(c) A summary of the experience at the facility which would indicate a capability to conduct tests of mechanical refrigerating appliances according to Subpart D of this rule.

(d) A general description of the laboratory, including drawings on letter size (8½ x 11 inches) paper to show the floor plant and cross-sections of the test chamber, basic dimensions, location of heat exchangers and instruments, and any other pertinent information.

(e) A statement that the Administrator, ATP manager, or other representative of the Administrator may, before a decision concerning the application, observe a test of a mechanical refrigerating appliance at the laboratory.

(f) A statement that the laboratory will maintain records of basic data developed in each test conducted under this rule, such records to be available for review by the ATP manager, or other representative of the Administrator, upon request. The record for each test shall be maintained for a period of three years.

(g) A statement that the organization will advise the ATP manager at least 30 days prior to each test conducted under this rule, so that the ATP manager or other representative of the Administrator may, if desired, observe the test.

(h) A statement that, should any significant change occur in the facility with respect to structure or test equipment as a result of redesign or other cause during the period of approval, the organization will so advise the ATP manager within 30 days after such change.

(i) A statement that the organization will send to the ATP manager a copy of each test report for an appliance tested at the laboratory according to this rule, within 30 days after completion of the test.

(j) Any other pertinent information.

§ 3300.49 Response to application for approval.

The Administrator will, within 30 days of receipt of an application and any relevant information required, advise the applicant whether or not the facility is approved as a testing laboratory. Approval is for a 5-year period from date of approval.

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§ 3300.52 Application for renewal of approval.

If an organization wishes to have an approval renewed at the end of a 5-year period, it shall submit a request for renewal to the Administrator 90 days before expiration of the existing approval. The request for renewal shall contain the same type of information as required in the original application, that is, the information called for in § 3300.46 of this Subpart E.

§ 3300.53 Response to application for renewal of approval.

The Administrator will, within 30 days of receipt of application and any relevant information required, advise the applicant whether or not approval is renewed. A renewal extends the period of approval for 5 more years.

§ 3300.54 Termination of approval.

An approved testing laboratory may at any time withdraw as an approved testing laboratory by written notice to the Administrator. Similarly, the Administrator may suspend or terminate for cause the approved status of a testing laboratory by written notice to the organization, setting forth reasons for such action. Examples of causes for suspension or termination of approval of a testing laboratory would be a change in equipment or operations at the laboratory which would render the laboratory incapable of performing tests according to the standards in the ATP, or noncompliance of the station with pertinent portions of this rule.

Subpart F—Certification of New Equipment

§ 3300.61 General.

For certification of new equipment by the U.S. Department of Agriculture, the following shall apply:

(a) For equipment manufactured, that is, produced or assembled, in the United States, or in a foreign country which is not a contracting party:

(1) In the case in which the complete unit of equipment is tested, such test shall be performed in a U.S. ATP testing station.

(2) In the case in which the mechanical refrigerating appliance and the insulated body are tested separately, such tests shall be performed in approved testing facilities in the United States or in test facilities located in, and approved by, a foreign country which is a contracting party.

(b) For equipment manufactured in a foreign country which is a contracting party, tests may be performed in facilities approved by such country, or in the United States or another country which is a contracting party.

(c) Domestic owners are eligible to receive U.S. ATP certificates for equipment produced or assembled in the United States or in a foreign country.

(d) Foreign owners are eligible to receive U.S. ATP certificates only for equipment produced or assembled in the United States.

§ 3300.64 Testing and verification requirements.

In accordance with ATP, Annex 1, Appendix 1, paragraphs 1(a), 2, and 3, and Appendix 2, paragraph 41, certification of new equipment is based upon the following:

(a) For a unit of equipment, a test of the equipment in an approved testing station.

(b) For serially-produced equipment:

(1) A test of one unit of equipment in an approved testing station, such unit to serve as the reference equipment, and;

(2) Verification by the equipment manufacturer that production of other units of equipment is in conformity with the reference equipment.

(c) For mechanically refrigerated equipment, certification may be based upon:

(1) Separate test of the mechanical refrigerating appliance in an approved testing laboratory, the appliance tested to serve as the reference mechanical refrigerating appliance.

(2) Separate testing of the insulated body in an approved testing station, the body tested to serve as the reference insulated body.

(3) Where more than one unit of equipment is involved, verification by the equipment manufacturer that all appliances are identical to the reference mechanical refrigerating appliance, and that production of bodies is in conformity with the reference insulated body.

§ 3300.67 Application for certificate for new equipment produced or assembled in the United States or in a foreign country which is not a contracting party to the ATP.

Application for certification of equipment shall be submitted to the ATP manager by an officer in the organization of the owner of the equipment. Copies of Form, Application for U.S. ATP Certificate for New Equipment Produced or Assembled in the United States or in a Foreign Country which is not a Contracting Party of the ATP, may be obtained by request to the ATP manager. The following information is requested in the application:

(a) A statement as to whether the owner is a domestic owner or a foreign owner, with the address and telephone number of its principal office, and the name and title of the key person to contact.

(b) If different from the owner, the name, address and telephone number of the operator of the equipment, and the name and title of the key person to contact.

(c) The name and address of the equipment manufacturer, and the name and title of the key person to contact.

(d) The type of equipment (intermodal freight container, trailer, semi-trailer, railcar, or truck).

(e) The total number of units of equipment.

(f) For each unit of equipment, the serial number of the body and the owners identification number for the equipment.

(g) The class of equipment and distinguishing mark for which certification is sought, referring to ATP, Annex 1, Appendix 4.

(h) In the case in which the complete equipment, that is, the insulated body with its thermal appliance installed, has been tested:

(1) The original or certified copy of the report of the test of the equipment or of the reference equipment performed in a U.S. ATP testing station. In accordance with ATP, Annex 1, Appendix 1, paragraphs 2(a), (b), (c), and (d), the validity of the test report for reference equipment shall expire either at the end of the 36-month period following date of the test, or at the end of manufacture of 1,000 units of serially-produced equipment, whichever occurs first. The serially-produced equipment shall be equipment produced or assembled at the same equipment manufacturing plant at which the reference equipment was produced or assembled.

(2) For serially-produced equipment, a statement from an officer in the organization of the equipment manufacturer giving the following information:

(i) The name and address of the equipment manufacturing plant at which the equipment was produced or assembled.

(ii) Verification that equipment, listed by serial number of each body, was produced in conformity with the reference equipment.

(iii) Verification that each insulated body has a body manufacturer's plate, or other means of identification, affixed to the body which shows the items of information required by ATP, Annex 1, paragraph 6.

(i) In the case in which the mechanical refrigerating appliance and the insulated body have been tested separately:

(1) The original or certified copy of the report of test of the mechanical refrigerating appliance, or of the reference mechanical refrigerating appliance, performed in a U.S. ATP testing laboratory or in a testing laboratory located in, and approved by, a country which is a contracting party. The validity of the test report for the reference appliance shall expire either at the end of the 36-month period following date of test, or at the end of manufacture of 1,000 units of identical mechanical refrigerating appliances, whichever occurs first. The identical appliances shall be appliances manufactured at the same mechanical refrigerating appliance manufacturing plant at which the reference appliance was manufactured.

(2) The original or certified copy of the report of test of the insulated body, or of the reference insulated body, in a U.S. ATP testing station or in a testing station located in, and approved by, a country which is a contracting party. The validity of the test report for the reference insulated body shall expire either at the end of the 36-month period following date of test, or at the end of manufacture of 1,000 serially-produced bodies, whichever occurs first. The serially-produced insulated bodies shall be bodies produced at the same body manufacturing plant at which the reference insulated body was manufactured.

(3) A statement from an officer in the organization of the equipment manufacturer giving the following information:

(i) Verification that:

(A) The mechanical refrigerating appliance installed in each unit of equipment is an identical mechanical refrigerating appliance with respect to the reference appliance.

(B) The insulated body of each unit of equipment meets the definition of serially-produced bodies.

(C) Each insulated body and each mechanical refrigerating appliance has a manufacturer's plate, or other means of affixing the information, showing the items of information required by ATP, Annex 1, paragraph 6.

(ii) Data for the reference insulated body, as follows:

(A) The value of the mean surface area, $S=\sqrt{S_i \times S_o}$, in square meters, where S_i is the total inside area, and S_o is the total outside surface area of the body.

(B) The value of the heat transfer coefficient, K, in watts per square meter of mean surface area, per degree centigrade difference in temperature between outside and inside the body.

(C) The total heat transfer rate of the body, $H=K\times S\times \Delta T$, in watts, where ΔT is the difference in temperature in degrees centigrade between the outside temperature (+30 °C), and the inside temperature for the class of equipment for which certification is sought, with class as defined in ATP, Annex 1, paragraph 3.

(D) The total heat transfer rate, multiplied by the factor of 1.75: $H_1=H\times 1.75$, in watts.

(iii) For the reference mechanical refrigerating appliance, the effective refrigerating capacity, W_o, in watts, at the outside temperature (+30 °C) and the inside temperature for the class of equipment for which certification is sought, with class as defined in ATP, Annex 1, paragraph 3.

§ 3300.70 Application for certificate for new equipment produced or assembled in a foreign country which is a contracting party to the ATP.

Application for certification of equipment shall be submitted to the ATP manager by an officer in the organization of the owner of the equipment. Copies of Form, Application for U.S. ATP Certificate for New Equipment Produced or Assembled in a Foreign Country which is a Contracting Party to the ATP, may be obtained from the ATP manager. The following information is requested in the application:

(a) A statement that the owner is a domestic owner, with address and telephone number of its principal office and the name and title of key person to contact.

(b) If different from the owner, the name, address, and telephone number of the operator of the equipment, and the name and title of key person to contact.

(c) The name, address, and telephone number of the equipment manufacturer, and the name and title of key person to contact.

(d) The type of equipment (intermodal freight container, trailer, semi-trailer, railcar, or truck).

(e) The total number of units of equipment.

(f) For each unit of equipment, the serial number of the body and the owners identification number for the equipment.

(g) The class of equipment and distinguishing mark for which certification is sought, referring to ATP, Annex 1, Appendix 4.

(h) The original, or certified copy, of the report of test of the equipment, or of the reference equipment.

(i) For mechanically refrigerated equipment of which the mechanical refrigerating appliance and the insulated body have been tested separately:

(1) The original, or certified copy, of the report of test of the mechanical refrigerating appliance, or of the reference mechanical refrigerating appliance.

(2) The original, or certified copy, of the report of test of the insulated body, or of the reference insulated body.

(j) Verification that each insulated body has a body manufacturer's plate, or other means of identification, affixed to the body which shows the items of information required by ATP, Annex 1, paragraph 6.

(k) The original of the foreign-ATP certificate issued for the equipment.

§ 3300.73 Issuance of certificate.

The ATP manager will evaluate documents received and, for equipment deemed qualified, will issue a U.S. ATP certificate to the applicant within 30 days of receipt of an application and any relevant information required. The certificate will be in the format prescribed in ATP, Annex 1, Appendix 3. For equipment deemed not qualified, the applicant will be advised of reasons for non-qualification within 30 days of receipt of an application and any relevant information required.

§ 3300.76 Period of validity of certificates.

In accordance with ATP, Annex 1, Appendix 1, paragraph 1(b), certificates issued for new equipment are valid for a period of 6 years from date of issue.

Subpart G—Certification of Equipment in Service

§ 3300.79 General.

Only domestic owners are eligible to receive U.S. ATP certificates for equipment in service.

(a) For equipment in service which has not previously been certified, the following will apply:

(1) A test of the equipment shall be done in a U.S. ATP testing station, to measure the K-coefficient of the insulated body and the efficiency of the thermal appliance in accordance with §§ 3300.10 and 3300.16, respectively, of this rule. It may be noted that, when testing the thermal appliance of equipment in service, a 35 percent additional heat load is not required as in the case of new equipment.

(2) If the equipment consists of serially-produced equipment manufactured by a particular equipment manufacturer, and belonging to one owner, then certification may be based upon performing both of the following:

(i) A test of 1 percent of the units of equipment as prescribed in preceding paragraph (a)(1) of this section.

(ii) An inspection by the owners of each unit of equipment, using the procedures set forth in ATP, Annex 1,

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Appendix 2, paragraphs 29 and 49. A report of each inspection shall be completed on a form corresponding to the pertinent test report model in ATP, Annex 1, Appendix 2. Report forms may be obtained by a request to the ATP manager.

(b) For renewal of a U.S. ATP certificate which is nearing its expiration date, the owner may obtain renewal of the certificate by any one of the following three procedures:

(1) A test of the equipment as prescribed in preceding paragraph (a)(1) of this section.

(2) If the equipment consists of serially-produced equipment manufactured by a particular equipment manufacturer and belonging to one owner, the procedure prescribed in preceeding paragraphs (a)(2) (i) and (ii) of this section.

(3) An inspection by the owner of each unit of equipment as prescribed in preceeding paragraph (a)(2)(ii) of this section.

(c) For equipment transferred from a foreign owner to a domestic owner, and certified according to a current foreign-ATP certificate, the domestic owner may obtain a U.S. ATP certificate in exchange for the foreign-ATP certificate.

§ 3300.82 Application for certificate.

Application for certification of equipment shall be submitted to the ATP manager by an officer in the organization of the owner of the equipment. Copies of Form, Application for U.S. ATP Certificate for Equipment in Service, may be obtained by request to the ATP manager. The following information is requested in the application.

(a) A statement that the owner is a domestic owner, the address and telephone number of its principal office, and the name and title of person to contact.

(b) If different from the owner, the name, address, and telephone number of the operator of the equipment, and the name and title of the person to contact.

(c) The type of equipment (intermodal freight container, trailer, semi-trailer, railcar, or truck).

(d) The total number of units of equipment.

(e) For each unit of equipment, the serial number of the body and the owner's identificaiton number for the equipment.

(f) The class of equipment and distinguishing mark for which certification is sought, referring to ATP, Annex 1, Appendix 4.

(g) One or more of the following, as required:

(1) An original or certified copy of test report(s).

(2) An original of inspection report for each unit of equipment.

(3) A certified copy of previously issued U.S. ATP certificate.

(4) An original of foreign-ATP certificate.

§ 3300.86 Issuance of certificate.

The ATP manager will evaluate documents received and, for equipment deemed qualified, will issue a U.S. ATP certificate to the applicant within 30 days of receipt of the application and any relevant information required. The certificate will be in the format prescribed in ATP, Annex 1, Appendix 3. For equipment deemed not qualified, the applicant will be advised of reasons for non-qualification within 30 days of receipt of an application and any relevant information required.

§ 3300.88 Period of validity of certificates.

In accordance with ATP, Annex 1, Appendix 1, paragraphs 1 (b) and (c), and Appendix 2, paragraphs 29 and 49, considered in combination, certificates will be valid for periods as follows:

(a) For equipment which passes a test in a U.S. ATP testing station, 6 years.

(b) For serially-produced equipment of which 1 percent have passed a test in a U.S. ATP testing station, and all units have been inspected by the owner and pass such inspection, 6 years.

(c) For equipment previously certified, and which has been inspected by the owner and passed such inspection, 3 years.

Subpart H—Other Provisions

§ 3300.91 Responsibilities of equipment manufacturers.

For new equipment which is to be certified under this rule, and in addition to any other responsibilities of manufacturers under this rule, the equipment manufacturer shall notify the ATP manager 30 days before start of manufacture so that the ATP manager or other representative of the Administrator may, if desired, observe the manufacturing operation.

§ 3300.94 Responsibilities of owners of equipment.

Owners who receive a U.S. ATP certificate for their equipment have the following responsibilities:

(a) To affix a certification plate to the equipment, as specified in ATP, Annex 1, paragraph 4.

(b) To affix a distinguishing mark to the equipment, as specified in ATP, Annex 1, paragraph 5.

(c) To maintain equipment in good repair and operating condition, with the understanding that the U.S ATP certificate is valid only so long as:

(1) The insulated body and the thermal appliance are maintained in good condition;

(2) No material alteration is made to the thermal appliance which decreases its refrigerating capacity, and;

(3) If the thermal appliance is replaced, it is replaced by an appliance of equal or greater refrigerating capacity.

§ 3300.97 Fees for U.S ATP certificates.

The fee schedule for issuance of U.S. ATP certificates by the USDA Office of Transportation will be calculated according to the criteria in Circular A-25, issued by the Office of Management and Budget. Fees may be revised as required on an annual basis.

§ 3300.100 List of approved testing stations, approved testing laboratories, and fees for certificates.

A current list of U.S ATP testing stations, U.S. ATP testing laboratories, and fees for issuance of U.S. ATP certificates by the United States Department of Agriculture, may be obtained by request to the ATP manager.

§ 3300.103 Appeals.

Any organization aggrieved by an action in connection wtih the rule may obtain a review of such action by submitting pertinent information by letter to the Administrator. The decision of the Administrator is final.

Dated: April 15, 1986.

Martin F. Fitzpatrick, Jr.,

Administrator, Office of Transportation, U.S. Department of Agriculture.

[FR Doc. 86-8722 Filed 4-18-86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AWP-2]

Proposed Alteration of Transition Area; Santa Maria, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the 700 foot transition area at Santa Maria, California, to provide additional controlled airspace for aircraft executing an instrument approach procedure to the Santa Maria, California, Public Airport utilizing the Santa Maria, California, VOR as a navigational aid.

DATES: Comments must be received on or before May 29, 1986.

ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP-530, Docket No. 86-AWP-2, Air Traffic Division, P.O. Box 92007, WWPC, Los Angeles, California 90009.

The official docket may be examined in the Office of the Regional Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6W14, 15000 Aviation Boulevard, Lawndale, California.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division, at the above address.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace Specialist, Airspace Branch, AWP-520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration (FAA), 15000 Aviation Boulevard, Lawndale, California 90260; telephone (213) 297-1649.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AWP-2." The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Airspace Branch, Air Traffic Division, 15000 Aviation Boulevard, Lawndale, California 90260, both before and after the closing date for comments.

A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Airspace Branch, AWP-520, P.O. Box 92007 WWPC, Los Angeles, California 90009. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to §71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the 700 foot transition area at Santa Maria, California. The alteration of the transition area at and above 700 feet above the ground will keep aircraft on instrument approach within airspace where air traffic control service is provided. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under Instrument Flight Rules (IFR) and other aircraft operating under Visual Flight Rules (VFR). Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Part 71—[Amended]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Part 71—[Amended]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. §71.181 is amended as follows:

Santa Maria, CA—[Revised]

That airspace extending upward from 700 feet above the surface beginning at lat. 34°45'00" N. long. 120°20'10" W.; to lat. 34°49'20" N., long. 120°28'00" W.; thence clockwise via the 5-mile radius of the Santa Maria Public Airport (lat. 34°53'56" N., long. 120°27'23" W.) to lat. 34°54'20"N., long. 120°32'30"W.; to lat. 34°54'04"N., long. 120°34'49" W.; to lat. 35°03'40" N., long. 120°41'41" W.; to lat. 35°07'47"N., long. 120°33'20"W.; to lat. 34°58'12"N., long. 120°26'20"W.; thence clockwise via the 5-mile radius of the Santa Maria Public Airport (lat. 34°53'56"N., long. 120°27'23"W.); to lat. 34°53'26"N., long. 120°21'10"W.; to lat. 34°48'50"N., long. 120°15'50"W.; to the point of beginning.

Issued in Los Angeles, California, on April 9, 1986.

Wayne C. Newcomb,

Manager, Air Traffic Division.

[FR Doc. 86-8607 Filed 4-18-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AGL-12]

Proposed Alteration of Transition Area, New Ulm, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the New Ulm, Minnesota, transition area to accomodate two new NDB Standard Instrument Approach Procedures (SIAPs) at New Ulm Municipal Airport to serve Runways 15 and 33.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATE: Comments must be received on or before May 23, 1986.

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ADDRESS: Send comments on the proposal in triplicate to: Federal Aviation Administration, Regional Counsel, AGL-7, Attn: Rules Docket No. 86-AGL-12, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Air Traffic Division Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

SUPPLEMENTARY INFORMATION: The present transition area is being expanded to accommodate two new SIAPs. The additional airspace designated for the NDB Runway 33 SIAP will be approximately a 2.5 miles extension from the 5 mile radius southeast of the airport with a width of 3 miles each side of the 162° bearing from the New Ulm NDB; and for the NDB Runway 15 SIAP approximately a 1 mile northeast width expansion to the existing extension northwest of New Ulm Municipal Airport.

The development of the procedures requires that the FAA alter the designated airspace to insure that the procedures will be contained within controlled airspace. The minimum descent altitudes for these procedures may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the defined area which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AGL-12". The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments recieved. All comments submitted will be available for examination in the Rule Docket, FAA, Great Lakes Region, Office of Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71-181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the designated transition area airspace near New Ulm, Minnesota.

Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B date January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10654; 49 U.S.C. 108(g) (Revised Pub. 97-449, January 12, 1983); 14 CFR 1.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

New Ulm, MN—[Amended]

That airspace extending upward from 700 feet above the surface within a 5 mile radius of New Ulm Municipal Airport (Lat. 44°19'00" N., Long. 94°29'45" W.) Within 3 miles each side of the 315° bearing from New Ulm Municipal Airport, extending from the 5 mile radius area to 8 miles northwest of the airport: and 3 miles each side of the 162° from New Ulm Municipal Airport, extending from the 5 mile radius area to 7.5 miles southeast of the airport.

Issued in Des Plaines, Illinois, on April 8, 1986.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 86-8806 Filed 4-18-86; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[AD-FRL-3005-1]

National Emission Standards for Hazardous Air Pollutants; Alternative Calibration Procedure to Test Method 107; Proposal of Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule and notice of public hearing.

SUMMARY: The purpose of this proposed rule is to revise certain equipment specifications and add an alternative calibration procedure in a method already published in 40 CFR Part 61.

A public hearing will be held, if requested, to provide interested persons an opportunity for oral presentation of data, views, or arguments concerning the proposed rule.

DATES: *Comments.* Comments must be received on or before July 27, 1986.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by May 12, 1986, a public hearing will be held on June 5, 1986, beginning at 10:00 a.m. Persons interested in attending the hearing should call William Grimley at (919) 541-2237 to verify that a hearing will occur.

Request to Speak at Hearing. Persons wishing to present oral testimony must contact EPA by May 12, 1986.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention: Docket Number A-85-29, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by May 12, 1986, the public hearing will be held at EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify William Grimley, Emission Measurement Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-2237.

Docket. Docket No. A-85-29, containing materials relevant to this rulemaking, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: William Grimley, Emission Measurement Branch, Emission Standards and Engineering Division (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541-2237.

SUPPLEMENTARY INFORMATION:

I. The Rulemaking

Method 107 was promulgated in the Federal Register on September 7, 1982 (47 FR 39168).

One intention of these proposed amendments is to facilitate calibration of the gas chromatograph by removing the requirement for a multipoint calibration during each 8-hour period of use, provided a calibration check that is made on that frequency is within certain tolerances.

The proposed amendments also provide for elimination of the sample prepressurization requirement, provided that the sample does not exceed a specified weight, or if solution of the prepressurization equation yields an absolute prepressurization value that is within 30 percent of the barometric pressure.

II. Administrative requirements

A. *Public Hearing*

A public hearing will be held, if requested, to discuss the proposed method revisions in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, DC (see **ADDRESSES** section of this preamble).

B. *Docket*

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) To allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process and (2) to serve as the record in case of judicial review (except for interagency review materials [Section 307(d)(A)]).

C. *Office of Management and Budget Review*

Executive Order 12291 Review. Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprise in domestic or export markets.

D. *Regulatory Flexibility Act Compliance*

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this attached rule, if promulgated, will have no economic impact on small entities because no additional costs will be incurred.

List of Subjects in 40 CFR Part 61

Air pollution control, Intergovernmental relations, Reporting and recordkeeping requirements, Incorporation by reference, Asbestos, Beryllium, Mercury, and Vinyl chloride.

Dated: April 4, 1986.

J. Craig Potter,

Assistant Administrator.

It is proposed to amend 40 CFR Part 61, Appendix B, Method 107 as follows:

PART 61—[AMENDED]

1. The authority citation for Part 61 continues to read as follows:

Authority: Sections 101, 112, 114, 116, 301(a) of the Clean Air Act, as amended (42 U.S.C. 7401, 7412, 7414, 7416, 7601).

2. By revising the first sentence of section 1.2 as follows:

The basis for this method relates to the vapor equilibrium that is established at a constant known temperature in a closed system between RVCM, PVC resin, water, and air.

3. By revising section 2 as follows:

2. *Range and Sensitivity.*

The lower limit of detection of vinyl chloride will vary according to the sampling and chromatographic system. The system should be capable of producing a measurement for a 50-ppm vinyl chloride standard that is at least 10 times the standard deviation of the system background noise level.

4. By revising section 6.1.2 as follows:

6.1.2 Glass Vials. Headspace vials, with Teflon-faced butyl rubber sealing discs, for water samples.

5. By revising section 6.2 as follows:

6.2 Sample Recovery. The following equipment is required:

6.2.1 Glass Vials. Headspace vials, with butyl rubber septa and aluminum caps. Silicone rubber is not acceptable.

6.2.2 Analytical Balance. Capable of determining sample weight with an accuracy of ±1 percent.

6.2.3 Vial Sealer. To seal headspace vials.

6.2.4 Syringe. 100-μl capacity.

6. By revising section 6.3.1 as follows:

6.3.1 Headspace Sampler and Chromatograph. Capable of sampling and analyzing a constant amount of headspace gas from a sealed vial while maintaining that

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vial at a temperature of 90°C ± 0.5°C. The chromatograph shall be equipped with a flame ionization detector. Perkin-Elmer Corporation Models F-40, F-42, F-45, HS-6, and HS-100, and Hewlett-Packard Corporation Model 19395A have been found satisfactory. Chromatograph backflush capability may be required.

7. By revising section 6.3.3 as follows:

6.3.3 Thermometer. 0 to 100°C, accurate to ±0.1°C.

8. By removing sections 6.3.4, 6.3.5, 6.3.7, and 6.3.8.

9. By revising section 6.3.6 and redesignating it as section 6.3.4 as follows:

6.3.4 Integrator-Recorder. To record chromatograms.

10. By adding a new section 6.3.5 as follows:

6.3.5 Barometer. Accurate to ±1 mm Hg.

11. By redesignating section 6.3.9 as section 6.3.6.

12. By redesignating section 6.3.10 as section 6.3.7.

13. By revising section 7.1.2 as follows:

7.1.2 Nitrogen or Helium. Zero grade.

14. By adding section 7.1.4 as follows:

7.1.4 Water. Interference free.

15. By adding the following sentence to the end of section 8.1.1:

All samples should be kept refrigerated.

16. By removing the first sentence of section 8.1.2.

17. By revising the first two sentences of section 8.2.1 as follows:

The weight of the resin used must be between 0.1 and 4.5 grams. An exact weight must be obtained (±1 percent) for each sample.

18. By removing the work "distilled" from the fifth sentence of section 8.2.1.

19. By adding the following sentences at the end of section 8.2.1:

Prepressurization is not required if the sample weight, as analyzed, does not exceed 0.2 gram. It is also not required if solution of the prepressurization equation yields an absolute prepressurization value that is within 30 percent of the atmospheric pressure.

20. By revising the third and fourth sentences of section 8.2.2 as follows:

Then determine the ample weight (±1 percent). All samples, weighing over 0.2 gram, must be prepressurized prior to conditioning for 1 hour at 90°C, except as noted in section 8.2.1.

21. By revising the sixth and seventh sentences of section 8.2.3 as follows:

Determine sample weight (±1 percent). Condition the vial for 1 hour at 90°C in the analyzer bath.

22. By revising the third and fourth sentences of section 8.2.4 as follows:

Determine sample weight (±1 percent). Condition the vial for 1 hour at 90°C in the analyzer bath.

23. By removing the second sentence of section 8.3.3.

24. By revising the first paragraph of section 9 as follows:

Calibration is to be performed each 8-hour period the chromatograph is used. Alternatively, calibration with duplicate 50-, 500-, 2,000-, and 4,000-ppm standards (hereafter described as a four-point calibration) may be performed on a monthly basis provided that a calibration confirmation test consisting of duplicate analysis of an appropriate standard is performed once per plant shift or once per chromatograph carrousel operation (if the chromatograph operation is less frequent than once per shift). The criterion for acceptance of each calibration confirmation test is that both analyses of 500-ppm standards [2,000-ppm standards if dispersion resin (excluding latex resin) samples are being analyzed] must be within 5 percent of the most recent four-point calibration curve. If this criterion is not met, then a complete four-point calibration must be performed before sample analyses can proceed.

25. By adding the following sentence at the end of section 9.1:

Prepressurization of standards is not required unless samples have been prepressurized.

26. By revising the first sentence of section 9.2 as follows:

Prepare two vials each of 50-, 500-, 2,000- and 4,000-ppm standards.

27. By revising section 10.1 as follows:

10.1 Response Factor. If the calibration curve described in Section 9.2 passes through zero, an average response factor, R_f, may be used to facilitate computation of vinyl chloride sample concentrations. To complete R_f, first compute a response factor, R_s, for each sample as follows:

$$R_s = \frac{A_s}{C_s}$$

Sum the individual response factors, and calculate R_f. If the calibration curve does not pass through zero, use the calibration curve to determine each sample concentration.

28. By removing the following paragraph in section 10.2:

Assuming the following conditions are met, these values can be substituted into Equation 107-2:

P_s = 759 mm Hg.

V_s = Vial volume—sample volume (Fisher vials are 22.0 cm^3 and Perkin-Elmer vials are 21.8 cm^3).

T_1 = 23° C or 296° K.

T_2 = 90° C or 363° K.

29. By removing the last equation in section 10.2.

30. By revising the definition of the term V_s in section 10.2 as follows:

V_s = Volume of the vapor phase, cm^3.

$$= V_v - \frac{m(TS)}{1.36} - \frac{m(1-TS)}{0.9853}$$

31. By adding the following terms to the end of the terminology list in section 10.2:

V_v = Vial volume, cm^3

1.36 = Density of PVC at 90°C, g/cm^3

0.9853 = Density of water at 90° C, g/cm^3

32. By revising the title of section 11 as follows:

11. *Bibliography.*

[FR Doc. 86-8718 Filed 4-18-86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 65

[CA-3-FRL-3005-4]

State and Federal Administrative Orders Permitting a Delay in Compliance With State Implementation Plan Requirements; Proposed Approval of an Administrative Order Issued by the Pennsylvania Department of Environmental Resources

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking; invitation for public comment.

SUMMARY: EPA has proposed to approve an Administrative Order issued by the Pennsylvania Department of Environmental Resources to Fisher Scientific Company. The Order requires the company to bring air emissions from its laboratory equipment manufacturing facilities located in Indiana Township, Indiana County, Pennsylvania into compliance with certain regulations contained in the federally approved Pennsylvania State Implementation Plan (SIP) for the control of ozone. Compliance shall be achieved by April 21, 1986 utilizing low solvent technology (LST) and April 27, 1987 should LST be abandoned and add-on controls installed or by reducing potential volatile organic compound emissions to less than 500 pounds per day and 50 tons per year. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a Delayed Compliance Order pursuant to the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the enforcement provisions of Section 113 of the Act or the citizen suit provisions of the Act for violation of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATES: Written comments must be received on or before May 21, 1986.

ADDRESSES: Comments should be submitted to Director, Air Management Division, EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at the EPA Region III address above during normal business, hours.

FOR FURTHER INFORMATION CONTACT: James B. Topsale, P.E., Environmental Engineer, Enforcement Policy and State Coordination Section, Air Management Division, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, Telephone: (215) 597-8553.

SUPPLEMENTARY INFORMATION: Fisher Scientific Company operates a laboratory equipment manufacturing facility in Indiana Township, Indiana County, Pennsylvania. The Order under consideration addresses emissions from the extreme performance coating processes, which are subject to § 129.52, Table 1, Miscellaneous Metal Parts and Products, 10(f), of Title 25 of the Pennsylvania Code. According to DER's letters dated September 9, 1981 and October 30, 1985, Fisher Scientific Company is subject to the Miscellaneous Parts and Products, Extreme Performance Coatings Standard rather than the one for Metal Furniture Coatings. The reason for this classification by DER is that the coatings, which are used at the Indiana Facility for scientific apparatus, consist of epoxy-acrylic systems with corrosion inhibitors and that regular metal furniture is coated normally with all acrylic paints. Because all the laboratory metal furniture produced by Fisher Scientific Company is coated with an epoxy-acrylic coating system, PADER concludes that the facility operations should be classified under the Miscellaneous Metal Parts and Products standard rather than the one for Metal Furniture. The regulations limit the emissions of volatile organic compounds (VOC), and are part of the federally approved Pennsylvania State Implementation Plan for the control of ozone. The Order requires final compliance with the regulation by April 21, 1986 through the use of low solvent technology (LST) and April 21, 1987 should LST be abandoned and add-on controls installed or by reducing potential volatile organic compound emissions to less than 500 pounds per day and 50 tons per year. Section 129.52 does not apply to facilities whose surface coating processes in total have the potential to emit VOCs in quantities less than or equal to 500 pounds per day or 50 tons per year.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Clean Air Act (the Act). EPA has reviewed the Order and has found that the Order does satisfy the requirements of this subsection of the Act.

EPA's review indicates that the laboratory equipment manufacturing facility is a major source of VOC emissions. The facility is located in the Southwest Pennsylvania Intrastate Air Quality Control Region, a non-attainment area for the National Ambient Air Quality Standard for ozone. The facility as presently constructed is unable to comply with regulations limiting emissions of VOC's codified at § 129.52 Table 1, 10(f) of Title 25 of the Pennsylvania Code part of the federally-approved State Implementation Plan, because low solvent coatings are still being developed. Prior to issuance of the Order, Pennsylvania provided an opportunity for public comment and hearing on the Order. No public comments or requests for public hearing were received by the State. The Order contains requirements for expeditious increments of progress towards compliance and emission monitoring and reporting requirements and provides for interim emission reduction requirements as required by section 113(d)(6) of the Clean Air Act. These requirements are sufficient to avoid any imminent and substantial endangerment to health within the meaning of section 113(d)(7)(a) of the Clean Air Act. The first five increment(s) of progress, which require quarterly progress reports on the steps Fisher Scientific Company is taking to achieve compliance have been completed. The 1984 estimated VOC emissions of 97.7 tons/year (T/Y) will be reduced to 38.0 T/Y by April 21, 1986 if low solvent coatings are chosen, but in any event no later than April 21, 1987.

The system of emissions reduction required during the period covered by this Order is the best practicable system in light of the ultimate emission reductions required for compliance with the SIP. This interim system provides substantial emission reduction in a manner which permits the Company to move toward the use of either low solvent coatings or facility alterations to install add-on controls or by reducing potential volatile organic compound emissions to less than 500 pounds per day and 50 tons a year.

The Order requires the facility to comply with the State Implementation Plan whenever it is temporarily able to do so and the Order, therefore, meets the requirements of section 113(d)(7)(B). The Order notifies Fisher Scientific Company of its liability for noncompliance penalties under Section 120 of the Clean Air Act, 42 U.S.C. 7420 as required by § 113(d)(1)(E) of the Act.

If the Order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (section 304) would be similarly precluded.

If approved, the Order would also constitute an addition to the Pennsylvania SIP. However, source compliance with the Order will not preclude assessment of any penalties under section 120 of the Act, unless the source is otherwise entitled to an exemption under section 120(a)(2)(B) or (C).

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the **Federal Register** the Agency's final action on the Order in 40 CFR Part 65.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of the Executive Order 12291.

(42 U.S.C. 7413, 7601)

Dated: April 9, 1986.

James M. Seif,

Regional Administrator, Region III.

[FR Doc. 86-8841 Filed 4-18-86; 8:45 am]

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LEGAL SERVICES CORPORATION

45 CFR Part 1630

Cost Standards and Procedures

AGENCY: Legal Services Corporation.

ACTION: Proposed rule.

SUMMARY: The proposed rulemaking establishes a new Part 1630 prescribing standards and procedures for determining allowable cost for grants and contracts under section 1006 of the Legal Services Corporation Act (Act), and for recovering disallowed costs. The Corporation has relied on the standards and procedures contained in the Audit and Accounting Guide for Recipients and Auditors (Audit Guide), and LSC Instruction 83-6, of November 23, 1983, entitled "Standard Operating Procedure for Questioned Costs." The Audit Guide was published on November 29, 1985 [50 FR 49278]. These new standards and procedures are intended to give recipients clear and simple standards and procedures to know what costs are allowable, which costs require prior approval, how that approval is obtained, and how to obtain review of disallowed costs.

DATE: Comments must be received on or before May 21, 1986.

ADDRESS: Comments may be submitted to the Office of General Counsel, Legal Services Corporation, 400 Virginia Avenue SW., Washington, DC 20024-2751.

FOR FURTHER INFORMATION CONTACT: John H. Bayly, Jr. General Counsel, (202) 863-1820.

SUPPLEMENTARY INFORMATION: The Corporation has been working for some time through the "Audit and Appropriations" and "Operations and Regulations" Committees of the Board of Directors, and corporate staff, to improve accountability over the federal funds entrusted to the Corporation. The evident need for clear and concise standards, governing the determination of allowable costs to recipients for program funds and for the recovery of misspent tax dollars, became abundantly clear in the process of developing a comprehensive revision of the Audit Guide, and in the processing of allowable cost disputes. Proposed rules were issued for comment on August 29, 1985 [50 FR 35102] and several comments were received. Useful information was developed, and the programs had an opportunity to give their views. In the process of taking a wider look at sources, the Corporation is exploring the wealth of guidance and experience developed by the Federal executive agencies in their efforts to safeguard tax dollars and assimilated into the various circulars of the Office of Management and Budget (OMB). Circulars A-122, ("Cost principles for Non-profit Organization") and A-110 ("Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education Hospitals, and Other Non-profit Organization") were particularly instructive.

These proposed regulations follow the standards and policies of the Circulars to the extent practicable. We have not, however, rigidly followed the circulars for the sake of consistency or to avoid the work of making our own hard choices. These circulars are the product of many years of experience, much trial and error, and many separate voices. We would be short sighted not to use them to the extent possible. After all, their purpose, like ours, is to assure accountability for tax dollars.

The principal elements of the proposed rules are as follows

(1) Governing Standards: Sec. 1630.4 sets forth the applicable standards and criteria. Thus, costs must be actual and the recipient must be liable for payment, and costs must be reasonable and necessary, and in compliance with the Act, applicable appropriations acts, relevant rules and regulations, and the Audit Guide. They must also be consistent, uniformly applied, and in accord with generally accepted accounting principles. They cannot be used to match other federal dollars unless such use is legally permitted and they must be adequately documented.

Recipients must avail themselves of applicable credits, such as discounts, rebates, insurance refunds and recoveries. They must account for all program income, including attorneys' fees, and apply such income as a credit against the Corporation award. They may work out an advance understanding with the Corporation to avoid uncertainty about cost allowability.

(2) Unallowable Costs: Under §1630.5, unallowable costs are:

(a) Cost incurred in violation of statute, implementing rules and regulation, or the terms of the recipients award.

(b) Certain distant, out-of-state travel, without Corporation approval that is not closely related to the fundamental purpose of Corporation funding: Provision of direct legal services to eligible clients. Travel for lobbying (under the narrow exceptions permitted by Congress), training (often used in the past as a cover for political organizing), and other permitted non-litigation functions need to be held to a reasonable proportion of funding so that the resources of grantees may be concentrated on direct delivery of legal services to clients. The time limits for the Corporation to act on request for approval have been shortened for travel requests and the Corporation would expect to act promptly in all such requests and to average no more than a few working days and as promptly as necessary for written or oral requests that state a reasonable need for immediate action.

(3) Without prior approval, certain expenses connected with lobbying, legislative advocacy and formal rule making;

(4) The use of funds provided by the Corporation for the expenses of litigation against the Corporation. Although some have argued that Congress specifically intended to allow such use of funds appropriated for legal services to eligible clients, they have not provided references to the legislative history and we are not aware of any reason to believe that this was intended by Congress. It is, of course, our intent to conform as precisely as possible to Congressional intent. One obvious reason that litigation regarding denial of refunding has taken a long time to resolve even where the merits of the case are clear cut is that a recipient's management has no incentive to settle. Instead, recipients can litigate and simply reduce services to clients to cover the costs of complicating and delaying the inevitable. The provision is similar in intent to provisions in federal regulations concerning grants to non-profit organizations. *See* OMB Circular A-122, attachment B.34(d), 45 FR at 46031 (July 6, 1980). The Corporation is considering incorporating this and other relevant federal grant regulations into this regulation by reference except where they are inconsistent with specific laws relevant to the Corporation.

(5) Without prior approval, attorneys' fees in other cases involving recipients such as labor disputes.

(6) Without prior approval,

(a) leases and purchases in excess of $10,000 for single or combined purchases;

(b) purchases of real property; and

(c) certain consultant contracts in excess of $5000 or $261 per 8-hour day, or $35.00 per hour.

(3) *Burden of Proof:* The recipient has the burden of proof. Where it claims that funds were not subject to a restriction, it also has the burden of proof on that issue. Where a restriction applies to funds which are commingled, or where it applies to one of two or more funds for the same or similar payments, there is a rebuttable presumption that the restriction applies to all the funds.

Review and Appeal: Under § 1630.7 the Corporation may question a cost by notifying a recipient who may respond within 30 days. The Corporation has 45 days thereafter to make a decision. The recipient may appeal the decision to the President within 30 days, and the President then has 30 days to make a final decision on the record. Under § 1630.8, disallowed funds are recovered from future checks or by direct payment or otherwise. The Corporation is considering combining, shortening, and streamlining the procedures set forth in § 1630.7 and .8; the Corporation could provide a notice that provides the facts and reasons for questioning a cost, the recipient could make one response, and then one decision could be made.

Other Matters: The Corporation cannot claim lack of prior approval where it fails to act on time (§ 1630.6). It must require recipients to take corrective action to avoid recurrences and it may take other action under parts 1606, 1623 and 1625 for more serious financial irregularities (§ 1630.9). It may also make appropriate referrals such as to law enforcement agencies and bar associations. Recovery of a questioned cost is not to be construed as a termination or a denial of refunding under parts 1606 or 1625. Under § 1630.10, where expenditures under subgrants or subcontracts are disallowed, the subrecipient or subcontractor is jointly and severally responsible and subject to the same remedies as the recipients.

List of Subjects in 45 CFR Part 1630

Accounting, government contracts, grant programs, legal services.

For the reasons set out in the preamble, 45 CFR Chapter XVI is proposed to be amended by adding Part 1630 as follows:

PART 1630—COSTS STANDARDS AND PROCEDURES

Sec.

1630.1 Purpose.
1630.2 Definitions.
1630.3 Burden of proof presumption.
1630.4 Standards governing allowability of costs.
1630.5 Costs specifically unallowable.
1630.6 Effect of absence of prior approval.
1630.7 Review and appeal process.
1630.8 Recovery of disallowed costs.
1630.9 Other remedies, effect on other parts.
1630.10 Responsibility of Subgrantees and Subcontractors.
1630.11 Time.

Authority: Sec. 1006(b) (1), (2), (3) and (5), 1007(a) (3) and (9), 1007(d), 1008(e), 1010(c), and 1011 of the Legal Services Corporation Act, as amended (42 U.S.C. 2996e(b) (1), (2), (3) and (5), 2996f(a), (3) and (9), 2996f(d), 2996g(e), 2996i(c) and 2996j).

§ 1630.1 Purpose.

This part is intended to provide uniform standards for allowability of costs and to provide a comprehensive, fair, impartial, timely and flexible process for the resolution of questioned costs incurred by recipients of the Corporation. It is the intent of the Corporation to conform these requirements, where appropriate, to the policies developed over years of Federal experience with grants to nonprofit organizations.

§ 1630.2 Definitions.

(a) A "questioned cost" is a charge or proposed charge to a recipient's Corporation and non-public funds which could be determined to be ineligible.

(b) An "allowed cost" is a questioned cost that, after investigation, the Corporation has determined to be eligible for payment from a recipient's Corporation or non-public funds, or both.

(c) A "disallowed cost" is a cost which has been determined to be ineligible for payment from a recipient's Corporation or non-public funds, or both, including any income the recipient may have derived from the activities supported by that cost, including proceeds from the sale of assets purchased with those funds, and interest on those funds.

(d) "Recipient" as used in this part means any grantee or contractor receiving funds from the Corporation under §§ 1006(a)(1) or 1006(a)(3) of the Act.

§ 1630.3 Burden of proof presumption.

(a) The recipient shall at all times have the burden of proof under this Part.

(b)(1) If a recipient defends a questioned cost on the basis that the funds used were not subject to the restriction cited by the Corporation, the recipient has the burden of proof that the funds actually expended were not in fact subject to that restriction.

(2) Where a recipient or subrecipient has placed funds subject to a restriction contained in a federal statute, a Corporation rule, regulation, instruction or guideline, or in an award condition in the same account with funds not subject to such restriction, or where funds in separate accounts are controlled by the same person or are under common control, and from the time the recipient first placed funds subject to the restriction in one of the accounts, clear, objective, prior standards have not been followed consistently as to what expenses will be paid from which account, it will be a rebuttable presumption that the restriction applies to all the funds in the account or accounts.

§ 1630.4 Standards governing allowability of costs.

(a) *General Criteria.* Expenditures by a recipient are allowable under the recipient's award only if the recipient can demonstrate that the expenditure was:

(1) Actually incurred after the effective date of the award and the recipient was liable for payment;

(2) Reasonable and necessary for the provision of legal services for eligible clients or for the accomplishment of another function specially approved in the terms and conditions of the award;

(3) Allocable to such function(s);

(4) In compliance with the Act, applicable appropriation acts, Corporation regulations, guidelines and instructions, the LSC Audit and Accounting Guide for Recipients and Auditors, and the terms and conditions of its award;

(5) Consistent with policies and procedures that apply uniformly to both the Corporation financed and other activities of the recipient;

(6) Accorded consistent treatment;

(7) Determined in accordance with generally accepted accounting principles;

(8) Not included as a cost or used to meet cost sharing or matching requirements of any other Corporation or Federally financed program in either the current or a prior period, except as otherwise permitted by law; and

(9) Adequately and contemporaneously documented and the documentation was made available to the Corporation from normal business records without an opportunity for alteration;

(b) *Reasonable costs.* A cost is reasonable if, in its nature or amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the costs. The question of the reasonableness of specific costs must be scrutinized with particular care in connection with organizations or separate divisions thereof which receive the preponderance of their support from awards made by Corporation or Federal agencies. In determining the reasonableness of a given cost, consideration shall be given to:

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(1) Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the organization or the performance of the award.

(2) The restraints or requirements imposed by such factors as generally accepted sound business practices, arms-length bargaining, Federal and State laws and regulations, and terms and conditions of the award.

(3) Whether the individuals concerned acted with prudence in the circumstances, considering their responsibilities to the organization, its members, employees, clients, the public at large, the Corporation, and the Federal Government.

(4) Significant deviations from the established practices of the organization which may unjustifiably increase the award costs.

(c) *Allocable costs.* (1) A cost is allocable to a particular cost objective, such as a grant, project, service, or other activity, in accordance with the relative benefits received. A cost is allocable to a Corporation award if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it:

(i) Is incurred specifically for the award.

(ii) Benefits both the award and other work and can be distributed in reasonable proportion to the benefits received, or

(iii) Is necessary to the overall operation of the organization, although a direct relationship to any particular cost objective cannot be shown.

(2) Any cost allocable to a particular award or other cost objective under these principles may not be shifted to other Corporation or Federal awards to overcome funding deficiencies, or to avoid restrictions imposed by law or by the terms of the award.

(d) *Applicable credits.* (1) A recipient must deduct all applicable credits, as defined in paragraph (d)(2) of this section, from the costs it charges to an award from the Corporation.

(2) The term "applicable credits" refers to those receipts or reduction of expenditures which operate to offset or reduce expense items that are allocable to awards as direct or indirect costs. Typical examples of such transactions are: purchase discounts, rebates or allowances, recoveries or indemnities on losses, insurance refunds, and adjustments of overpayments or erroneous charges. To the extent that such credits accruing or received by the recipient relate to allowable costs they shall be credited to the award either as a cost reduction or cash refund as appropriate.

(e) *Program income.* Program income represents gross income earned by the recipient from Corporation supported activities, and includes, but is not limited to, income from service fees (including attorneys' fees and costs), sales of commodities and property, and interest earned on grant or contract advances or other funds. All such program income received during the project period must be applied as a credit against grant or contract costs charged the Corporation.

(f) *Advance understandings.* Under any given award the reasonableness and allocability of certain items of costs may be difficult to determine. This is particularly true in connection with organizations that receive a preponderance of their support from LSC. In order to avoid subsequent disallowance or dispute based on unreasonableness or nonallocability, it is often desirable to seek a written agreement with the Office of Monitoring, Audit, and Compliance in advance of the incurrence of special or unusual costs. The absence of an advance agreement on any element of cost will not, in itself, affect the reasonableness or allocability of that element. Acceptance of the annual budget as part of the renewal of funding does not constitute an "advance understanding" or "approval" of an unallowable cost, unless the cost or expenditure is identified and specifications of the purpose, amount, and all other information necessary to evaluate the necessity and reasonableness of the cost are included and explicit approval of the specific transaction is included with approval of the grant application.

§ 1630.5 Costs specifically unallowable.

The following costs are specifically unallowable:

(a) A cost charged to Corporation funds in violation of the Act, other provisions of law, Corporation rules, regulations or guidelines, or the terms of a recipient's grant or contract agreement; or a cost charged to other non-public funds in violation of the Act or Part 1610 of these regulations;

(b) A cost charged to Corporation funds allocable to out-of-state travel beyond 150 miles from a recipient's office that is not on behalf of an eligible client for the purpose of conducting necessary legal investigation and discovery or for the purpose of appearing on behalf of an eligible client in a state or Federal court or before an administrative agency in an adjudicatory matter, without the prior approval of the Corporation. Normally, approval should be requested sufficiently far in advance to be received in writing, but verbal approval followed by a written request for confirmation is acceptable if there is a legitimate need for such travel on short notice;

(c) Without the prior written approval of the Corporation, the following expenditures, if incurred wholly or partially for the purpose of conducting, or supporting legislative advocacy, formal rulemaking or lobbying:

(1) Expense of office space separate from a recipient's principal office, except for branch offices used primarily for direct client service [the approval must be explicit and can be no more than 12 months prior to the payment];

(2) Travel expenditures over $100; and

(3) Conduct of or attendance at meetings and conferences.

(d) Cost of counsel to represent a recipient (1) in a matter in which the Corporation is an opposing party or has an opposing interest (but a recipient may use other non-public funds for payment of such fees), or (2) without prior approval, in other law suits or labor disputes to which recipient is a party.

(e) The following costs if incurred without the prior written approval of the Corporation:

(1) The cost of a lease or purchase of equipment, furniture, books or similar personal property if the single-item or combined purchase price is in excess of $10,000. In the case of a lease, the purchase price is determined by the prevailing market rate for a purchase of the property leased, not by the lease price. "Combined purchase price" means the total cost of all the components of a system, such as a computer or telephone system, in which the components are planned as integral parts of the system or lease process. The addition of books to an existing library purchased during a prior audit year, of new printers to an existing computer system purchased during a prior audit year, or of new furniture to office furniture purchased during a prior audit year would not require prior approval unless the additions had a combined purchase price in excess of $10,000. When purchases or leases are made for more than one office, the "combined purchase price" includes the cost of all new system components for all offices affected;

(2) Purchases of real property;

(3) Consultant contracts in excess of $5,000 or consultant fees in excess of $261 per eight-hour day or $36.00 per hour except that audit service shall not be considered as consultant services, but other services that may be provided by a recipient's auditor, such as the production of write-up costs or the preparation of interim financial reports shall be considered consultant services and shall require approval if the fees exceed the limits established by this part.

§ 1630.6 Effect of absence of prior approval

The Corporation may not assert the absence of its approval as a basis for disallowance of a cost, if it has not provided written notice to a recipient that it objects to a proposed cost expenditure involving Corporation or non-public funds, or a proposed action that could result in a cost expenditure that the recipient will charge to Corporation or non-public funds, within sixty (60) days (or fifteen (15) days of the request is for approval of travel) of the receipt by the Office of Monitoring, Audit, and Compliance, of a request for such approval, or within thirty (30) days of the receipt by that Office of all requested information about the proposal. The Corporation must make written request for additional information within 45 days of the receipt by the Office of Monitoring, Audit, and Compliance of the request for approval. This section does not apply to requests for approval made prior to the effective date of this regulation. If the request for prior approval is denied, the Corporation will provide the recipient with an explanation and statement of the grounds for denial.

§ 1630.7 Review and appeal process.

(a) When it questions a cost incurred by a recipient, the Corporation shall give written notice to the recipient and the Chairperson of its governing body stating the dollar amount of the cost and the reasons for questioning it. Such notice must be provided no more than 6 years after the recipient incurred the cost or expended the funds. To obtain relevant information while investigating a questioned cost, the Corporation may contact any party it deems necessary. If the recipient fails to respond within 30 days of its receipt of notice, the cost shall be disallowed.

(b) Within forty-five (45) days of receiving the recipient's written response to the notice of questioned cost, the Corporation shall issue a determination that the cost has been allowed or disallowed.

(c) Within thirty (30) days after it receives notice from the Corporation that a questioned cost has been disallowed, a recipient may file a written notice of appeal with the President of the Corporation, stating in detail its reasons for requesting review.

(d) Within thirty (30) days after receipt of the written notice of appeal, the President shall either adopt, modify, or reverse the decision of disallowing the cost. The decision shall be based on the written record, including the recipient's notice of appeal, and any response and analysis by Corporation staff. The decision of the President or his or her designee shall become final upon receipt by the recipient of written notice of the decision. The appeal shall be based on the written record, the recipient's notice of appeal, and any response and analysis by Corporation staff. The recipient shall be provided with a copy of the record if requested. The President shall have no prior involvement in the consideration of the particular questioned cost in issue. If the President has had such prior involvement, the President shall designate another executive employee who has no prior involvement to hear and decide the appeal.

§ 1630.8 Recovery of disallowed costs.

(a) Within thirty (30) days after receipt of notice from the Corporation that a questioned cost has been disallowed, the recipient may where it chooses not to protest the decision of the Corporation under § 1630.7 above, show in writing why the Corporation should not for equitable, practicable or other reasons, recover the amount of the disallowed cost. If the recipient fails to respond within the prescribed time, the Corporation shall recover in the form of a reduction in future grant checks or direct payment or othewise, an amount not to exceed the total disallowed cost and any additional income derived from activities supported or assets purchased by means of the disallowed cost. If the disallowed cost is a charge to non-LSC funds in violation of the LSC Act or Part 1610 of these regulations, the Corporation shall recover from the recipient's LSC funds an amount not to exceed the amount of the total disallowed cost and any additional income derived therefrom.

(b) If the recipient has demonstrated, pursuant to paragraph (a) of this section, that recovery of the funds as provided therein is inappropriate, the Corporation, within forty-five (45) days after it receives the recipient's written response, may:

(1) Recover less than the total amount of the disallowed cost through reduction of the amount of monthly grant checks; or

(2) Require the recipient to reimburse its LSC fund from another source or accept the recipient's demonstration that it has reimbursed its LSC fund from a funding source from which the original expenditure could have been made without a violation of Sec. 1010(c) of the Act (42 U.S.C. 2996i(c)) or Part 1610 of the regulations.

§ 1630.9 Other remedies, effect on other parts.

(a) In all cases in which a cost has been disallowed by the Corporation, the Corporation shall require that the recipient take the action needed to prevent the recurrence of the activity that gave rise to such disallowed costs. In cases of serious financial mismanagement, fraud or defalcation of funds, the Corporation shall take appropriate action pursuant to Parts 1606, 1623, and 1625 of its regulations and shall make such referrals and recommendations as the circumstances warrant.

(b) Recovery of questioned costs by any means under this part is not to be construed to affect permanently the annualized funding level of the recipient, or as a termination of financial assistance under Part 1606, a suspension of funding under Part 1623, or a denial of refunding under Part 1625.

§ 1630.10 Responsibility of Subgrantees and Subcontractors.

When disallowed costs arise from expenditures incurred under a subgrant or subcontract of LSC funds, the recipient and the subrecipient or subcontractor will be held jointly and severally responsible for the actions of the subrecipient or subcontractor, as provided in 45 CFR Part 1627, and will be subject to all remedies available under this Part.

§ 1630.11 Time.

(a) *Computation.* Time limits specified in this Part shall be computed in accordance with Rules 6 (a) and (e) of the Federal Rules of Civil Procedure.

(b) *Enlargement.* The President of the Corporation may, on written request for good cause shown, grant an enlargement of time and shall notify the recipient in writing.

Dated: April 17, 1986.

John H. Bayly, Jr.,

General Counsel.

[FR Doc. 86-8948 Filed 4-18-86; 8:45 am]

BILLING CODE 6820-35-M

FEDERAL MARITIME COMMISSION

46 CFR Parts 580 and 581

[Docket No. 86-6]

Service Contracts

AGENCY: Federal Maritime Commission.

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ACTION: Enlargement of time to comment.

SUMMARY: The Commission initiated this proposed rulemaking by Federal Register notice of February 10, 1986 (51 Fr 5734–5745), and established April 21, 1986, as the date comments were to be due. The National Industrial Transportation League (NITL) has now filed a request to extend the time for comments until May 9, 1986. NITL appears to take a position that because of the size of its membership and the "complexity and importance of the issues presented" in the rulemaking there has not been opportunity for a complete evaluation of the issues by NITL's members, and specifically, NITL's International Transportation Committee. While the 60 day period originally established for comments would appear to be adequate time to respond, the Commission also recognizes the particular significance of the proposed rules and is desirous of affording all interested persons a full opportunity to participate. Therefore, the request for an enlargement of time for filing of comments is granted and May 9, 1986, is established as the due date for comments in this rulemaking.

DATE: Comments due on or before May 9, 1986.

ADDRESS: Send comments (original and 20 copies) to: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573 (202) 523–5725.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573 (202) 523–5740.

Robert G. Drew, Director, Bureau of Tariffs, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573 (202) 523–5796.

SUPPLEMENTARY INFORMATION: None.

By the Commission.

Tony P. Kominoth,

Assistant Secretary.

[FR Doc. 86–8862 Filed 4–18–86; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86–129; RM–5268]

FM Broadcast Station in Ozark, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the allotment of FM Channel 225A to Ozark, Missouri, in response to a petition filed by Ozark Entertainment Network. This allotment could provide a first FM broadcast service for the community.

DATES: Comments must be filed on or before June 6, 1986, and reply comments on or before June 23, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making

In the Matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations, (Ozark, Missouri); MM Docket No. 86–129, RM–5268.

Adopted: April 7, 1986.
Released: April 16, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making filed by Ozark Entertainment Network ("petitioner") requesting the allocation of FM Channel 238A [1] to Ozark, Missouri, as that community's first FM broadcast service. Petitioner submitted information in support of the proposal and stated its intention to file an application for the channel.

2. We believe the proposal warrants consideration. Channel 225A can be allocated in compliance with the minimum distance separation requirements provided there is a site restriction 7.2 kilometers (4.5 miles) north of the community. The site restriction will prevent a conflict with Channel 223, Station KSYN, Joplin, Missouri, and with a construction permit for Channel 226, Station KZLE, Batesville, Arkansas.

3. In view of the fact that the proposed allocation could provide a first FM broadcast service to Ozark, the Commission believes it is appropriate to propose amending the FM Table of Allotments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Ozark, Missouri	———	225A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before June 6, 1986, and reply comments on or before June 23, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Mark J. Langston, Ozark Entertainment Network, Post Office Box 10767, St. Louis, Missouri 63105–1287 (Partner, Ozark Entertainment Network).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes and *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b), and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See §1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 86–8816 Filed 4–18–86; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 86–130; RM–5216]

FM Broadcast Station in Vestal, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of Channel 277A to Vestal, New York, as the community's first local FM service, at the request of David Mitchell.

DATES: Comments must be filed on or before June 6, 1986, and reply comments on or before June 23, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making

In the Matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Vestal, New York); MM Docket No. 86–130, RM–5216.

Adopted: April 7, 1986.
Released: April 15, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making submitted by David Mitchell ("petitioner") requesting the allocation of Channel 277A to Vestal, New York, as the community's first local FM service. Petitioner states that he will apply for the channel, if allocated.

2. Channel 277A can be allocated to Vestal in compliance with the Commission's minimum distance separation requirements if the transmitter is restricted to an area at least 5.6 kilometers (3.6 miles) southeast in order to avoid a short-spacing to Station WQNY, Channel 279, at Ithaca, New York. Additionally, Canadian concurrence is required since Vestal is located within 320 kilometers (200 miles) of the U.S.-Canada border.

3. We believe the public interest would be served by proposing to allocate Channel 277A to Vestal as its first local FM service. Accordingly, we propose to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, for the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Vestal, New York	———	277A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before June 6, 1986, and reply comments on or before June 23, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: David Mitchell, 2700 Hall Street, Endwell, New York 13760.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not

[1] Although the petitioner originally requested the allocation of Channel 238A to Ozark, Missouri, that channel would be short spaced to a pending proposal to allocate Channel 238C2 to Pleasant Hope, Missouri (BPH–5328). Therefore, we have substituted FM Channel 225A at Ozark.

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apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied be a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 86-8835 Filed 4-10-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-131; RM-5225]

FM Broadcast Station in Nowata, OK

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of Channel 268A to Nowata, Oklahoma, as the community's second local FM service, at the request of Paul J. Campbell.

DATES: Comments must be filed on or before June 6, 1986, and reply comments on or before June 23, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1082, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited in text.

Notice of Proposed Rule Making

In the Matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Nowata, Oklahoma); MM Docket No. 86-131, RM-5225.

Adopted: April 7, 1986.
Released: April 15, 1986.
By the Chief, Policy and Rules Division.

1. The Commission has before it the petition for rule making submitted by Paul J. Campbell, ("petitioner") requesting the allocation of Channel 268A to Nowata, Oklahoma, as the community's second local FM service. Petitioner states that he will apply for the channel, if allocated. Channel 268A can be allocated to Nowata in compliance with the Commission's minimum distance separation and other technical requirements.

2. In view of the fact that the proposed allotment could provide a second FM service to Nowata, Oklahoma, the Commission believes it is appropriate to propose amending the FM Table of Allotments, § 73.202(b) of the Commission's Rules, with respect to the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Nowata, Oklahoma	232A	232A and 268A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before June 6, 1986, and reply comments on or before June 23, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Paul J. Campbell, 325 West Delaware Street, Nowata, Oklahoma 74048.

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.402(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 86-8810 Filed 4-10-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 228

Small Incidental Takes of Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Notice of Receipt of Request for Rulemaking.

SUMMARY: The National Marine Fisheries Service (NMFS) has received a request from the National Ocean Industries Association to allow the continued taking of ringed seals incidental to seismic activities on the ice in the Beaufort Sea for an additional five-year period. Section 101(a)(5) of the Marine Mammal Protection Act of 1972 directs the Secretary of Commerce (Commerce or Interior depending on species involved) to allow the incidental take of small numbers of marine mammals if the Secretary makes certain findings and prescribes regulations relating to permissible methods and requirements for monitoring and reporting. Regulations that allowed a take from 1982 to 1986 were issued on May 18, 1982 and will expire December 31, 1986. NMFS is inviting information, suggestions, and comments on the structure and contents of the regulations

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and whether it is appropriate to issue them.

DATE: Comments and information should be received by May 21, 1986.

ADDRESS: Assistant Administrator for Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: Margaret Lorenz, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Washington, DC 20235 (tel. 202/634-7529).

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371 *et seq.*) directs the Secretary to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region. This permission may be granted for periods of five years or less. Such taking may be allowed only if the species involved is not depleted and if the Secretary, after notice and opportunity for public comment: (a) Finds that the total taking will have a negligible impact on the species, its habitat, and the availability of the species for subsistence uses, (b) prescribes regulations setting forth permissible methods adverse impact on the species and its habitat, paying particular attention to rookeries, mating grounds, and other areas of similar significance, and (c) prescribes regulations pertaining to the monitoring and reporting of such taking.

NMFS published regulations on May 18, 1982 (47 FR 21248), to implement section 101(a)(5) of the MMPA by establishing a mechanism for the submission and evaluation of requests and establishing requirements for specific regulations and Letters of Authorization to conduct allowed activities (50 CFR Part 228, Subpart A). At that time, specific regulations were published that govern the Taking of Ringed Seals Incidental to On-ice Seismic Activities (50 CFR 228, Subpart B). These regulations cover the specified activity and specified geographical region, effective dates, permissible methods, and requirements for monitoring and reporting.

Receipt of Request

NMFS has received a request from the National Ocean Industries Association (NOIA) to authorize a continued take of ringed seals incidental to on-ice seismic exploratory operations and associated activities in the Beaufort Sea. The request was made on behalf of the memberships of NOIA and the International Association of Geophysical Contractors. The period of time requested to be covered by the regulations is from 1987 through 1991. The specific activity involves collecting seismic reflection data on ice from portable camp facilities and, using primarily, vibrator-type energy source equipment. NOIA anticipates that the maximum amount of area covered over the Outer Continental Shelf area off the North Slope in Alaska in any given year would be 1,600 square miles. Generally, the dates that include safe ice conditions for exploration are from January 1 through May 31. The area in the Beaufort Sea ranges from Pt. Barrow east to Demarcation Point. Since the ringed seal (*Phoca hispida*) stays beneath the ice during winter months and pups are born there from late March through May, there is concern that female seals may react to the acoustic stimulus and abandon their pups before they are able to survive on their own.

The National Ocean Industries Association has complied with the information requirements of 50 CFR 228.4. Copies of the request and copies of the current regulations may be obtained from the Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Washington, DC 20235.

Information Solicited

NMFS invites interested persons to submit comments, information, and suggestions concerning the request and the appropriateness, structure and content of regulations to allow the taking. We will consider this information in developing, if appropriate, proposed regulations allowing, for five more years, the taking of ringed seals incidental to seismic operations on the ice in the Beaufort Sea.

Dated: April 15, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-8664 Filed 4-18-86; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 51, No. 76
Monday, April 21, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 86-014N]

FY 1986 Limitations on Reimbursable Inspection Services

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Food Safety and Inspection Service (FSIS) is advising that, due to budgetary constraints resulting from the Balanced Budget and Emergency Deficit Control Act of 1985 (Pub. L. 99-177; hereinafter the "Balanced Budget Act"), meat and poultry inspection services will be unavailable on Federal holidays for the remainder of FY 1986, and the availability of overtime inspection services will be limited. All FSIS employees will be on unpaid furloughs during holidays, and will not be available to provide inspection services on any basis on these days. These furloughs are necessary to keep FSIS within its FY 1986 budget, as modified by the 1986 sequestration of appropriated funds. Furthermore, overtime meat and poultry inspection services will be unavailable beginning on or about September 12, 1986, and continuing through the balance of FY 1986 ending September 30, 1986. Although FSIS is reimbursed for such services, the FY 1986 sequestration of funds under the Balanced Budget Act reduces the level of permitted Agency expenditures for reimbursable inspection services, as well as for services funded by appropriations.

FOR FURTHER INFORMATION CONTACT: Ronald J. Prucha, Deputy Administrator, Meat and Poultry Inspection Operations, (202) 447-8808, or Patricia Stolfa, Deputy Administrator, International Programs, (202) 447-3473, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC, 20250.

SUPPLEMENTARY INFORMATION: FSIS provides inspection services, without charge, to federally inspected meat and poultry establishments, importers, or exporters up to 8 consecutive hours per shift per day or up to 40 hours per administrative workweek (9 CFR 307.4(c) and 381.37(c)). Normally, if an establishment, importer, or exporter requests inspection services beyond an inspector's normal workday of 8 hours per day or normal workweek of 40 hours per week, FSIS assigns inspectors, if available, to provide such service and is reimbursed by the recipient (the management of an establishment, importer, or exporter) for the hours of overtime worked by those inspectors. Similarly, recipients are required to reimburse FSIS for any inspection services provided on Federal holidays (9 CFR 307.5 and 381.38).

A Presidential Order was issued on February 1, 1986, under the Balanced Budget Act, sequestering 4.3 percent of FSIS' budgetary resources effective March 1, 1986 (51 FR 4291). This sequestration reduced the level of permitted Agency expenditures for all inspection services, whether funded by appropriated funds or reimbursed by serviced establishments, importers, or exporters.

As a consequence, FSIS' appropriated funds were reduced by $15.6 million. However, on March 4, 1986, the President requested that Congress release an additional $5.7 million that had been appropriated but not requested under the initial budget. Furthermore, it is estimated that a reduction of approximately $6 million in expenditures for salaries and benefits will result from FSIS continuing its hiring freeze throughout FY 1986. Nonetheless, FSIS still faces a FY 1986 budget shortfall of approximately $3 million.

The only way that FSIS can reduce its expenditures by an additional $3 million is to reduce further its expenditures on personnel. Approximately 85 percent of the Agency's budget, about $650,000 per day, is spent on employee salaries and benefits. The remainder is spent on travel (primarily that directly related to providing inspection), office space, supplies, and related services (e.g., laboratory analyses). FSIS has already severely reduced expenditures on discretionary spending, and has achieved reductions in the need for inspectors through modifications of inspection procedures. FSIS has achieved such economies to the extent it can without jeopardizing the integrity of the meat and poultry inspection system.

In order to achieve the $3 million reduction in expenditures, therefore, all FSIS employees will be placed on unpaid furloughs for 3 days in FY 1986: May 26, July 4, and September 1. Furloughs coincide with Memorial Day, Independence Day and Labor Day—all Federal holidays—in order to minimize the potential disruption to the operations of official establishments subject to Federal inspection. No FSIS employees will be permitted to work during furloughs, even if an establishment wishes to reimburse the Agency for providing the service.

In FY 1985, FSIS received and disbursed approximately $39.1 million for reimbursable overtime and holiday inspection services. The FY 1986 estimated revenue level for reimbursable services is also $39.1 million. The sequestration of 4.3 percent during FY 1986, however, decreases the level of expenditures allowed for such services to $37.4 million, a $1.7 million reduction. This, in turn, reduces the amount of overtime and holiday inspection services available in FY 1986.

Therefore, FSIS will provide overtime services to requesting establishments, importers, and exporters on a reimbursable basis, subject to the availability of personnel, until total expenditures for such services in FY 1986 reach $37.4 million. Under current law, FSIS will not be able to provide any overtime services once the $37.4 million allocated for such services is exhausted, which, based on current usage of reimbursable services, is estimated to occur on or about September 12, 1986. A **Federal Register** notice will be issued in August 1986 setting the exact date that reimbursable services will be discontinued.

Done at Washington, DC, on: April 15, 1986.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 86-8672 Filed 4-18-86; 8:45 am]

BILLING CODE 3410-DM-M

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Rural Electrification Administration

Clay Electric Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500–1508) and REA's Environmental Policies and Procedures (7 CFR Part 1794), has made a Finding of No Significant Impact with respect to a proposed project by Clay Electric Cooperative, Inc. (Clay). The project consists of construction of a new operations center on approximately 3.2 hectares (8 acres), immediately southwest of an existing substation and headquarters complex on the northwestern edge of the City of Keystone Heights, Clay County, Florida.

FOR FURTHER INFORMATION CONTACT: REA's Finding of No Significant Impact and Environmental Assessment (EA) and Clay's Borrower's Environmental Report (BER) may be reviewed in the Office of the Chief, Distribution and Transmission Engineering Branch, Southeast Area-Electric, Room 0270, South Agriculture Building, REA, Washington, D.C. 20250, telephone (202) 382–8436, or at Clay's office (Mr. T.B. Millican, Manager), P.O. Box 308, Keystone Heights, Florida 32656, telephone (904) 473–4911.

SUPPLEMENTARY INFORMATION: REA has reviewed Clay's BER and has determined that it represents an accurate assessment of the environmental impacts of the proposed project. The proposed project will consist of approximately 3.2 hectares (8 acres), a two story concrete building, storm water retention pond, gas tanks, vehicle washing facilities, parking for 16 visitors vehicles, and employee parking for 80 cars and 32 trucks. REA determined that the proposed project is not likely to affect any threatened or endangered species or critical habitat; it will have no effect upon any property listed or eligible for listing in the National Register of Historic Places; it will not occur in a wetland or a 100-year floodplain; it is not a critical action facility; it will not convert any important farmland, prime forestland or prime rangelands to other uses; it will have no effect upon any river section in the Nationwide Inventory of Wild and Scenic Rivers; and it will not occur in a unit of the Coastal Barrier Resources System. It will directly affect the coastal zone since all of the State of Florida is considered to be in the coastal zone. But, it will be undertaken in a manner, consistent to the maximum extent practicable with the coastal zone management program administered by the State.

Alternatives to the proposed operations center were considered, such as no action, alternate sites and rental.

Based upon Clay's BER and supporting documents, REA prepared an EA concerning the proposed project and its impacts. In accordance with REA's Environmental Policies and Procedures 7 CFR Part 1794, Clay advertised and requested comments on the environmental aspects of the proposed project. No comments were received. REA concluded that approval of financing assistance for all or part of the project would not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement is not necessary. This program is listed in the Catalog of Federal Domestic Assistance as 10.850–Rural Electrification Loans and Loan Guarantees. For the reasons set forth in the final rule related Notice to 7 CFR Part 3015, Subpart V in 50 FR 47034, November 14, 1985, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

Dated: April 15, 1986.

Jack Van Mark,

Acting Administrator.

[FR Doc. 86–8621 Filed 4–18–86; 8:45 am]

BILLING CODE 3410–15–M

DEPARTMENT OF COMMERCE

National Bureau of Standards

[Docket No. 51211–6211]

Proposed Federal Information Processing Standards for Database Language NDL and Database Language SQL

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of Two Proposed Federal Information Processing Standards.

SUMMARY: These proposed standards adopt voluntary industry standards, Database Language NDL and Database Language SQL, for Federal use. The standards are currently draft standards that are expected to be approved as American National Standards in early 1986.

Prior to the submission of these proposed standards to the Secretary of Commerce for review and approval as Federal Information Processing Standards (FIPS), it is essential to assure that consideration is given to the needs and views of manufacturers, the public, and State and local governments. The purpose of this notice is to solicit such views.

These proposed FIPS contain two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standards, is provided in its entirety in this notice; and (2) a specification portion which deals with the technical requirements of the standards. Interested parties may obtain a copy of the technical specifications from the Computer and Business Equipment Manufacturers Association (CBEMA), Attn: X3 Secretariat, 311 First Street, NW, Washington, DC 20001, (202) 737–8888.

DATE: To be considered, comments on these proposed FIPS must be received on or before July 21, 1986.

ADDRESS: Comments concerning the adoption of Database Language NDL and Database Language SQL as FIPS are invited and may be sent to Director, Institute for Computer Sciences and Technology, ATTN: Proposed FIPS for NDL/SQL, National Bureau of Standards, Technology Building, Room B154, Gaithersburg, MD 20899.

Written comments received in response to this notice will be made part of the public record and will be available for inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover, Building, 14th Street between Pennsylvania and Constitution Avenues, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Ms. Joan Sullivan, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, (301) 921–2431.

Dated: April 15, 1986.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication_____

(Date)

Announcing the Standard for Database Language NDL

Federal Information Processing Standards Publications (FIP SPUBS) are issued by the National Bureau of Standards pursuant to section 111(f)(2)

of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89–306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

1. *Name of Standard.* Database Language NDL (FIPS PUB _____).

2. *Category of Standard.* Software Standard, Database.

3. *Explanation.* This publication announces adoption of American National Standard Database Language NDL, ANSI X3.133–198x, as a Federal Information Processing Standard (FIPS). ANSI X3.133–198x specifies three languages that make up a network model database management system. They are:

a. A schema definition language, for declaring the structures and integrity constraints of a network structured database.

b. A subschema definition language, for declaring a user view of that database.

c. A module language, including NDL statements, for declaring the database procedures and executable statements of a specific database application.

The purpose of this standard is to promote portability of database definitions and database application programs between different installations. The standard is used by implementors as the reference authority in developing a network model database management system and standard language interfaces to that database management system; and by other computer professionals who need to know the precise syntactic and semantic rules of the standard.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

6. *Cross Index.*

a. American National Standard Database Language NDL, ANSI X3.133–198x.

b. ISO 8907, Database Language NDL.

7. *Related Documents.*

a. Federal Information Resource Management Regulation 201–8.1, Federal ADP and Telecommunication Standards.

b. American National Standard Programming Language COBOL, X3.23–1985, Addendum _____, Database NDL Interface Module.

c. Federal Information Processing Standards Publication 110, Guideline for Choosing a Data Management Approach.

d. NBS Special Publication 500–115, Report on Approaches to Database Translation.

e. NBS Special Publication 500–106, Guide on Data Models in the Selection and Use of Database Management Systems.

8. *Objectives.* Federal standards for database management systems permit Federal departments and agencies to exercise more effective control over the production, management, and use of the Government's information resources. The primary objectives of Federal database management system standards are:

—to encourage more effective utilization and management of database application programmers by ensuring that skills acquired on one job are transportable to other jobs, thereby reducing the cost of database programmer retraining.

—to reduce the overall software costs by making it easier and less expensive to maintain database definitions and database application programs and to transfer these definitions and programs among different computers and database management systems, including replacement database management systems.

—to reduce the cost of software development by achieving increased database application programmer productivity through the understanding and use of database methods employing standard structures and operations, standard data types, standard constraints, and standard interfaces to programming languages.

—to protect the software assets of the Federal government by insuring to the maximal feasible extent that Federal database management system standards are technically sound and that subsequent revisions are compatible with the installed base.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard database management system specifications.

9. *Applicability.*

a. Federal standards for database management systems should be used for computer database applications and programs that are either developed or acquired for government use. The FIPS Database Language NDL (FIPS NDL) is one of the database management system standards provided for use by all Federal departments and agencies. The FIPS NDL is suited for use in database applications that employ the network data model. The network data model is appropriate for highly structured applications requiring rapid access along predefined paths. Although this standard does not specifically address distributed database applications, it may be used, along with facilities for distributed transaction processing, to access network structured data at remote nodes in a distributed system.

b. The use of FIPS database languages is strongly recommended for database applications when one or more of the following situations exist:

—It is anticipated that the life of the database application will be longer than the life of the presently utilized equipment or database management system, if any.

—The database application is under constant review for updating of the specifications, and changes may result frequently.

—The database application is being designed and developed centrally for a decentralized system that employs computers of different makes and models or database software acquired from a different vendor.

—The database application will or might be run on equipment other than that for which the database application is initially written.

—The database application is to be understood and maintained by programmers other than the original ones.

—The database application is or is likely to be used by organizations outside the Federal government [i.e., State and local governments, and others].

c. Nonstandard lanaguage features should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. A needed language feature not provided by the FIPS database languages should, to the extent possible, be acquired as part of an otherwise FIPS conforming database management system. Although nonstandard language features can be very useful, it should be recognized that their use may make the interchange of programs and future coversion to a revised standard or replacement database management system more difficult and costly.

d. It is recognized that programmatic requirements may be more economically and efficiently satisfied through the use of a database management system employing a different data model than those provided by the FIPS database languages or the use of a database management system that functionally conforms to a FIPS database language but does not conform to all other aspects of the FIPS. The use of any facility should be considered in the context of

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system life, system cost, data integrity, and the protential for data sharing.

e. Programmatic requirements may be also more economically and efficiently satisfied by the use of automatic program generators. However, if the final output of a program generator is NDL database language, then the resulting language should conform to the conditions and specifications of FIPS NDL.

10. *Specifications.* The specifications for FIPS NDL are the Level 2 language specifications of the schema definition language, the subschema definition lanaguage, and the module language (including NDL statements) contained in American National Standard Database Language NDL, ANSI X3.133–198x.

ANSI X3.133–198x defines the scope of the specifications of (Paragraph 1.1, ANSI X3.133–198x), the syntax and semantics of NDL language (Paragraphs 2.0 through 10.0, ANSI X3.133–198x), and requirements for a conforming implementation (Paragraph 1.7, ANSI X3.133–198x). All of the specifications of ANSI X3.133–198x apply to FIPS NDL, with two exceptions. The first exception is that FIPS NDL requires an implementation conforming to FIPS NDL to support the identical syntax and functional requirements of ANSI X3.133–198x; e.g., FIPS NDL does not allow a claim of "functional conformance only" (as defined in Paragraphs 1.7.5 and 1.7.6 of ANSI X3.133–198x). The second exception is that FIPS NDL does not include module language for programming language PL/I.

In addition, a facility must be available in the implementation for the user to optionally specify monitoring of NDL (comprised of schema definition, subschema definition, and module language). The monitoring is an analysis of the NDL syntax used against the syntax specified by FIPS NDL. The implementation will diagnose and identify to the user, in an implementator-defined manner, the following:

—Any NDL syntax that does not conform to that included in FIPS NDL.
—Any NDL syntax conforming to FIPS NDL that, based on a user option (see Paragraph 1.7.2 of ANSI X3.133–198x), may be processed in a non-conforming manner. This monitoring will be based on the analysis of the NDL syntax and the invocation of the user option selecting the non-conforming functions. It is not intended that an analysis be made at processing time.

The standard does not specify the following:

—Concurrent access to the database by multiple users or processes.
—The limits on the number or sizes of database constructs; e.g., subschemas, record, sets, components, boolocean expressions, etc.
—Application pre-processing facilities for producing separate standard database modules and standard language programs.
—A distributed database facility.

11. *Implementation.* The implementation of this standard involves three areas of consideration: acquisition of NDL implementations, interpretation of FIPS NDL, and validation of NDL implementations.

11.1 *Acquisition of NDL Implementations.*

a. This publication is effective (six months after date of announcement of this standard in the Federal Register). Network model database management systems acquired for Federal use after this date should implement FIPS NDL (which includes the schema, subschema, and module languages). Conformance to FIPS NDL should be considered whether NDL implementations are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement, or specified for use in contracts for programming services.

A transition period provides time for industry to produce database management systems conforming to this standard. The transition period begins on the effective date and continues for one (1) year thereafter. The provisions of this publication apply to orders placed after the effective date; however, an NDL implementation conforming to FIPS NDL, if available, may be acquired for use prior to the effective date.

ANSI X3.133–198x specifies two levels of conformance. Level 1 has been defined to facilitate conformance of extant implementations. Although conformance to Level 1 of ANSI X3.133–198x is not sufficient to claim conformance to FIPS NDL, Level 1 implementations may be available during the transition period. An NDL Level 1 implementation may be acquired for interim use during the transition period if a FIPS NDL implementation is not available.

b. Database software is normally purchased as a complete package called a database management system (DBMS). A DBMS is an implementation of one or more data models (e.g., the network model or the relational model). In addition, a DBMS usually provides additional facilities and data interfaces independent of the interfaces specified by the standard. These may include access control, loading and unloading, dynamic schema manipulation, data dictionary, application program preprocessing, data storage specification, natural language query, report generator, or graphics display. A DBMS may also provide additional data structures, such as indices, or software, such as query optimizers, to enhance performance. User requirements for performance or for additional data administration facilities should be specified explicitly.

c. For a wide variety of new applications, either a network model or a relational model DBMS would satisfy user requirements for database services. A procurement may specify that the DBMS must provide interfaces conforming to one of the FIPS database language standards, but leave the selection of the specific standard to the vendor. This approach would be appropriate in the procurement of a DBMS-based application or a turnkey system, or in the procurement of a system where the choice of a data model is less significant than other factors.

11.2 *Interpretation of FIPS NDL.* NBS provides for the resolution of questions regarding FIPS NDL specifications and requirements, and issues official interpretations as needed. All questions about the interpretation of FIPS NDL should be addressed to: Director, Institute for Computer Sciences and Technology, Attn: Database Language NDL Interpretation, National Bureau of Standards, Gaithersburg, MD 20899.

11.3 *Validation of NDL Implementations.* A suite of automated validation tests for NDL implementations is currently under development. The suite will be made available when it is completed. For more information on NDL validation tests, contact: Director, Institute for Computer Sciences and Technology, Attn: Software Standards Testing Program, National Bureau of Standards, Gaithersburg, MD 20899.

12. *Waivers.* Under certain exceptional circumstances, the head of the agency is authorized to waive the application of the provisions of this FIPS PUB. Exceptional circumstances which would warrant a waiver are:

a. Significant, continuing cost or efficiency disadvantages will be encountered by the use of this standard and,

b. The interchange of information between the system for which the waiver is sought and other systems is not anticipated.

Agency heads may act only upon written waiver requests containing the information detailed above. Agency heads may approve requests for waivers only by a written decision which explains the basis upon which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, Maryland 20899.

When the determination on a waiver request applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers on an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver request, any supporting documents, the document approving the waiver request and any supporting and accompanying document(s), with such deletions as the agency is authorized and decides to make under 5 U.S.C. 552(b), shall be part of the procurement documentation and retained by the agency.

13. *Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specification document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication _____ (FIPSPUB _____), and title. Payment may be made by check, money order, or deposit account.

Federal Information Processing Standards Publication _____

(Date)

Announcing the Standard for Database Language SQL

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15 Code of Federal Regulations (CFR).

1. *Name of Standard.* Database Language SQL (FIPS PUB _____).

2. *Category of Standard.* Software Standard, Database.

3. *Explanation.* This publication announces adoption of American National Standard Database Language SQL, ANSI X3.135–198x, as a Federal Information Processing Standard (FIPS). ANSIX3.135–198x specifies two languages that make up a relational model database management system. They are:

a. A schema definition language, for declaring the structures and integrity constraints of a database.

b. A module language, including SQL statements, for declaring the database procedures and executable statements of a specific database application.

The purpose of the standard is to promote portability of database application programs between different installations. The standard is used by implementators as the reference authority in developing a relational model database management system and standard language interfaces to that database management system; and by other computer professionals who need to know the precise syntactic and semantic rules of the standard.

4. *Approving Authority.* Secretary of Commerce.

5. *Maintenance Agency.* Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology.)

6. *Cross Index.*

a. American National Standard Database Language SQL, ANSI X3.135–198x.

b. ISO 9075, Database Language SQL.

7. *Related Documents.*

a. Federal Information Resource Management Regulation 201–8.1, Federal ADP and telecommunication Standards.

b. Federal Information Processing Standards Publication 110, Guideline for Choosing a Data Management Approach.

c. NBS Special Publication 500–115, Report on Approaches to Database Translation.

d. NBS Special Publication 500–108, Guide on Data Models in the Selection and Use of Database Management Systems.

8. *Objectives.* Federal standards for database management systems permit Federal departments and agencies to exercise more effective control over the production, management, and use of the Government's information resources. The primary objectives of Federal database management system standards are:

—to encourage more effective utilization and management of database application programmers by ensuring that skills acquired on one job are transportable to other jobs, thereby reducing the cost of database programmer retraining.
—to reduce the overall software costs by making it easier and less expensive to maintain database definitions and database application programs and to transfer these definitions and programs among different computers and management systems.
—to reduce the cost of software development by achieving increased database application programmer productivity through the understanding and use of database methods employing standard structures and operations, standard data types, standard constraints, and standard interfaces to programming languages.
—to protect the software assets of the Federal government by insuring to the maximal feasible extent that Federal database management system standards are technically sound and that subsequent revisions are compatible with the installed base.

Government-wide attainment of the above objectives depends upon the widespread availability and use of comprehensive and precise standard database management system specifications.

9. *Applicability.*

a. Federal standards for database management systems should be used for computer database applications and programs that are either developed or acquired for government use. The FIPS Database Language SQL (FIPS SQL) is one of the database management system standards provided for use by all Federal departments and agencies. The FIPS SQL is suited for use in database applications that employ the relational data model. The relational data model is appropriate for applications requiring flexibility in the data structures and access paths of the database. The relational data is desirable where there is a substantial need for ad hoc data manipulation by end users who are not computer professionals, in addition to the need for access by applications under production control. Although this standard does not specifically address distributed database applications, it may be used, along with facilities for distributed transaction processing, to access relational structured data at remote nodes in a distributed system.

b. The use of FIPS database languages is strongly recommended for database applications when one or more of the following situations exist:

—It is anticipated that the life of the database application will be longer than the life of the presently utilized equipment or database management system, if any.
—The database application is under constant review for updating of the specifications, and changes may result frequently.

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—This database application is being designed and developed centrally for a decentralized system that employs computers of different makes and models or database software acquired from a different vendor.
—The database application will or might be run on equipment other than that for which the database application is initially written.
—The database application is to be understood and maintained by programmers other than the original ones.
—The database application is or is likely to be used by organizations outside the Federal government (i.e., State and local governments, and others).

c. Nonstandard language features should be used only when the needed operation or function cannot reasonably be implemented with the standard features alone. A needed language feature not provided by the FIPS database languages should, to the extent possible, be acquired as part of an otherwise FIPS conforming database management system. Although nonstandard language features can be very useful, it should be recognized that their use may make the interchange of programs and future conversion to a revised standard or replacement database management system more difficult and costly.

d. It is recognized that progammatic requirements may be more economically and efficiently satisfied through the use of a database management system employing a different data model than those provided by the FIPS database languages or the use of a database management system that functionally conforms to a FIPS database language but does not conform to all other aspects of the FIPS. The use of any facility should be considered in the context of system life, system cost, data integrity, and the potential for data sharing.

e. Programmatic requirements may be also more economically and efficiently satisfied by the use of automatic program generators. However, if the final output of a program generator is SQL database language, then the resulting language should conform to the conditions and specifications of FIPS SQL.

10. *Specifications.* The specifications for FIPS SQL are the Level 2 language specifications of the schema definition language and the module language (including SQL statements) contained in American National Standard Database Language SQL, ANSI X3.135–198x.

ANSI X3.135–198x defines the scope of the specification (Paragraph 1.1, ANSI X3.135–198x) and the syntax and semantics of SQL language (Paragraphs 2.0 through 6.12, ANSI X3.135–198x). All of these specifications apply to FIPS SQL, with two exceptions. Paragraphs 1.7.2 through 1.7.4 and Paragraph 1.7.8, dealing with conformance, are excluded from FIPS SQL. Also, FIPS SQL does not include module language for programming language PL/I.

In addition, a facility must be available in the implementation for the user to optionally specify monitoring of SQL (comprised of schema definition and moduel language). The monitoring is an analysis of SQL syntax used against the syntax specified by FIPS SQL. The implementation will diagnose and identify to the user, in an implementor-defined manner, the following:

—Any SQL syntax that does not conform to that included in FIPS SQL.
—Any SQL syntax conforming to FIPS SQL that, based on a user option (see Paragraph 1.7.5 of ANSI X3.135–198x), may be processed in a non-conforming manner. This monitoring will be based on the analysis of the SQL syntax and the invocation of the user option selecting the non-conforming functions. It is not intended that an analysis be made at processing time.

The standard does not specify the following:

—Concurrent access to the database by multiple users or processes.
—The limits on the number or sizes of database constructs; e.g. columns, rows, tables, views, sub-queries, boolean expressions, etc.
—Application pre-processing facilities for producing separate standard database modules and standard language programs.
—A distributed database facility.

—11. *Implementation.* The implementation of this standard involves three areas of consideration: acquisition of SQL implementations, interpretation of FIPS SQL, and validation of SQL implementations.

11.1 *Acquisition of SQL Implementations.*

a. This publication is effective (six months after date of announcement of this standard in the **Federal Register**). Relational model database management systems acquired for Federal use after this date should implement FIPS SQL (which includes the schema and module languages). Conformance to FIPS SQL should be considered whether SQL implementations are developed internally, acquired as part of an ADP system procurement, acquired by separate procurement, used under an ADP leasing arrangement, or specified for use in contracts for programming services.

A transition period provides time for industry to produce database management systems conforming to this standard. The transition period begins on the effective date and continues for one (1) year thereafter. The provisions of this publication apply to orders placed after the effective date; however, an SQL implementation conforming to FIPS SQL, if available, may be acquired for use prior to the effective date.

ANSI X3.135–198x specifies two levels of conformance. Level 1 has been defined to facilitate conformance of extant implementations. Although conformance to Level 1 of ANSI X3.135–198x is not sufficient to claim conformance to FIPS SQL, Level 1 implementations are expected to be available during the transition period. A full SQL Level 1 implementation may be acquired for interim use during the transition period if a FIPS SQL implementation is not available.

b. Database software is normally purchased as a complete package called a database management system (DBMS). A DBMS is an implementation of one or more data models (e.g. the network model or the relational model). In addition, a DBMS usually provides additional facilities and data interfaces independent of the interfaces specified by the standard. These may include access control, loading and unloading, dynamic schema manipulation, data dictionary, application program pre-processing, data storage specification, natural language query, report generator, or graphics display. A DBMS may also provide additional data structures, such as indices, or software, such as query optimizers, to enhance performance. User requirements for performance or for additional data administration facilities should be specified explicitly.

c. For a wide variety of new applications, either a network model or a relational model DBMS would satisfy user requirements for database services. A procurement may specify that the DBMS must provide interfaces conforming to one of the FIPS database language standards, but leave the selection of the specific standard to the vendor. This approach would be appropriate in the procurement of a DBMS-based application or a turnkey system, or in the procurement of a system where the choice of a data model is less significant than other factors.

11.2 *Interpretation of FIPS SQL.* NBS provides for the resolution of questions regarding FIPS SQL specifications and requirements, and issues official interpretations as needed. All questions about the interpretation of FIPS SQL should be addressed to: Director, Institute for Computer Sciences and Technology, Attn: Database Language SQL Interpretation, National Bureau of Standards, Gaithersburg, MD 20899.

11.3 *Validation of SQL Implementations.* A suite of automated validation tests for SQL implementations is currently under development. The suite will be made available when it is completed. For more information on SQL validation tests, contact: Director, Institute for Computer Sciences and Technology, Attn: Software Standards Testing Program, National Bureau of Standards, Gaithersburg, MD 20899.

12. *Waivers.* Under certain exceptional circumstances, the head of the agency is authorized to waive the application of the provisions of this FIPS PUB. Exceptional circumstances which would warrant a waiver are:

a. Significant, continuing cost or efficiency disadvantages will be encountered by the use of this standard and,

b. The interchange of information between the system for which the waiver is sought and other systems is not anticipated. Agency heads may act only upon written waiver requests containing the information detailed above. Agency heads may approve requests for waivers only by a written decision which explains the basis upon which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, Maryland 20899.

When the determination on a waiver request applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers on an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver request, any supporting documents, the document approving the waiver request and any supporting and accompanying document(s), with such deletions as the agency is authorized and decides to make under 5 U.S.C. Sec. 552(b), shall be part of the procurement documentation and retained by the agency.

13. *Where to Obtain Copies.* Copies of this publication are for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. (Sale of the included specification document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication _____ (FIPSPUB _____), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 86-8847 Filed 4-18-86; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

Marine Fisheries Advisory Committee; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

Time and Date: The meeting will convene May 12, 1986, at 1:00 p.m. and adjourn at approximately 4:00 p.m., May 14.

Place: Holiday Inn-Brickell Point, 495 Brickell Avenue, Miami, Florida.

Status: As required by section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), notice is hereby given of a meeting of the Marine Fisheries Advisory Committee (MAFAC). MAFAC was established by the Secretary of Commerce on February 17, 1971, to advise the Secretary on all living marine resource matters which are the responsibility of the Department of Commerce. This Committee ensures that the living marine resource policies and programs of this Nation are adequate to meet the needs of commercial and recreational fishermen, environmental, state, consumer, academia, and other national interests.

May 12, 1986, 10:00 a.m., Marine Recreational Fisheries Subcommittee meeting.

May 12, 1986, 1:00–5:00 p.m., Fisheries Management Issues.

May 13, 1986, 8:30–11:30 a.m., Marine Recreational Fisheries Issues; 1:00–5:00 p.m., Fisheries Budget Issues.

May 14, 1986, 8:30–10:00 a.m., Seafood Inspection; 10:00–11:30 a.m., Non-tariff Trade Barriers; 1:00–2:00 p.m., Habitat Initiatives; 2:00–3:30 p.m., Executive Session.

FOR FURTHER INFORMATION CONTACT: Ann Smith, Executive Secretary, Marine Fisheries Advisory Committee, National Oceanic and Atmospheric Administration, Washington, DC 20235. Telephone: (202) 634–9563.

Dated: April 15, 1986.

James E. Douglas, Jr.,
Deputy Assistant Administrator, NMFS.

[FR Doc. 86-8817 Filed 4-18-86; 8:45 am]

BILLING CODE 3510-08-M

Marine Mammals: Permit Modification; Oregon Department of Fish & Wildlife; Modification No. 1 to Permit No. 499

Notice is hereby given that pursuant to the provisions of § 216.33(d) and (e) of the Regulations Governing the Taking and Importing Marine Mammals (50 CFR Part 216), scientific research Permit No. 499 issued to the Oregon Department of Fish and Wildlife, Marine Region, Marine Science Drive, Bldg. 3, Newport, Oregon 97365.

Section A–4 is added:

"4. The following may be taken by hot-branding:

a. Up to two hundred (200) harbor seals (*Phoca vitulina*) per year;

b. Up to one hundred (100) northern sea lions (*Eumetopias jubatus*) per year."

Section B–5 is deleted and replaced by:

"5. The Holder shall submit an annual report by December 31 of each year the Permit is in effect. This report shall contain a request for authorization to continue the research in the next year and should describe the previous year's activities, including the number of animals taken in each category of take conducted during the field season, any problems which may have arisen during the authorized activities, the reactions of nearby animals, detailed information on the conduct of the animals of the hot-branding experiments and their effects, and a statement as to whether or not the permitted activities had any unforeseen effects. The Assistant Administrator for Fisheries, in consultation with the Marine Mammal Commission, shall determine if granting the authorization for continued taking is appropriate based on a review of this report."

Section B–9 is added:

"9. The Holder shall keep a detailed record of the branding of each animal and monitor the branded individuals in order to check the healing of the brand and its long term effects."

This modification became effective on April 11, 1986.

The Permit, as modified, is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, DC; and
Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE, BIN C15700, Seattle, Washington 98115.

Dated: April 15, 1986.

Richard B. Roe,
Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-8865 Filed 4-18-86; 8:45 am]

BILLING CODE 3510-22-M

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Marine Mammals; Application for Permit: Web of Life Outdoor Education Center (P366)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1544), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:

a. Name: Web of Life Outdoor Education Center.

b. Address: P.O. Box 530, Carver, Massachusetts 02543.

2. Type of Permit: Scientific research and scientific purposes.

3. Name and Number of Marine Mammals: Humpback whales (*Megaptera novaeangliae*) 25.

4. Type of Take: Harassment while taking exhalation samples.

5. Location of Activity: Southern Stellwagen Bank, Massachusetts.

6. Period of Activity: 2 years.

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: April 14, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-8657 Filed 4-18-86; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammals; Issuance of Permit; Hermann Gucinski (P362)

On October 11, 1985, notice was published in the Federal Register (50 FR 41549) that an application had been filed by Mr. Hermann Gucinski, Environmental Center, Anne Arundel Community College, 101 College Parkway, Arnold, Maryland 21012, to take an unspecified number of mysteceti by harassment during the collection of skin smears and replicates, and observational data.

Notice is hereby given that on April 11, 1986 as authorized by the provisions of the Marine Mammal Protection Act (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service issued a Permit for the above taking subject to certain conditions set forth therein.

Issuance of this Permit as required by the Endangered Species Act of 1973 is based on a finding that such Permit: (1) was applied for in good faith; (2) will not operate to the disavantage of the endangered species which are the subject of this Permit; (3) and will be consistent with the purposes and policies set forth in section 2 of the Endangered Species Act of 1973. This Permit was also issued in accordance with and is subject to Parts 220–222 of Title 50 CFR, the National Marine Fisheries Service regulations governing endangered species permits.

The Permit is available for review by interested persons in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: April 15, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-8658 Filed 4-18-86; 8:45 am]

BILLING CODE 3510-22-M

COMMODITY FUTURES TRADING COMMISSION

Denial of Petition for Rulemaking and Adoption of Interim Informal Procedure Relating to the Recommendation of Enforcement Proceedings

AGENCY: Commodity Futures Trading Commission.

ACTION: Denial of Petition for Rulemaking; Interim Informal Procedure.

SUMMARY: The Commodity Futures Trading Commission denies a petition for formal rules that would allow submissions to the Commission as a matter of right by prospective respondents in Commission enforcement proceedings. The Commodity Futures Trading Commission is announcing an interim informal procedure regarding the submission of voluntary written statements by persons who may be named in proposed enforcement proceedings.

DATE: Effective on April 21, 1986.

FOR FURTHER INFORMATION CONTACT: Ray Sandora, Esq., Assistant Director, Division of Enforcement, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581 (202) 254–7424.

SUPPLEMENTARY INFORMATION: *Denial of Petition for Rulemaking.* The Commission received a petition pursuant to Commission Rule 13.2, 17 CFR 13.2, for a rule amending Part 11 of the Commission's Rules, 17 CFR 1.1 *et seq.*:

Which would provide that persons who are the subject of an investigation by the Commission be given a timely opportunity, in advance of the institution of any enforcement proceedings, to communicate their position to the Commission as to relevant matters of fact and law.

This proposal is similar to an informal procedure, adopted by the Securities and Exchange Commission in 1972, which permits what is known as the "Wells Submission." SEC Rule 202.5(c), 17 CFR 202.5(c). The petition seeks a rule to impose more formal requirements than the procedure in effect at the SEC and would require that a prospective respondent be given notice of the staff's charges and proposed enforcement recommendation and be accorded an opportunity to submit a written statement to the Commission that would accompany the staff recommendation.

The Commission is denying the petition because it proposes a rule that is unduly burdensome and would not be in the public interest. Moreover, the rule proposed in the petition would create a

right to be notified of a proposed enforcement proceeding as well as a right to present legal and factual arguments to the Commission why an action should not be commenced. The petition appears to suggest that the rights must be afforded as a matter of due process. However, neither of these rights is required either by the Constitution or by statute. *See SEC* v. *Jerry T. O'Brien*, 104 S. Ct. 2720 (1984); *SEC* v. *National Student Marketing Corp.*, 538 F.2d 404, 407 (D.C. Cir. 1976), *cert. denied*, 429 U.S. 1073 (1977); *Wellman* v. *Dickinson*, 79 F.R.D. 341, 352 (S.D.N.Y. 1978); *cf. United States* v. *Goldstein*, 342 F. Supp. 661, 668–669 (E.D.N.Y. 1972).

– *Interim Informal Procedure.* The Commodity Futures Trading Commission announces an interim informal procedure adopted at the recommendation of its Division of Enforcement ("Division") for persons who may be named in proposed enforcement proceedings to submit written statements on matters relevant to the recommendation of the proposed proceeding. The Division will study and evaluate the impact of the procedure at the end of 12 months and make appropriate recommendations to the Commission so that the Commission can determine whether the procedure should be continued. The Commission contemplates that the Division's procedure set forth below will be the sole vehicle for communications regarding proposed enforcement proceedings between the Commission and persons who may be named in such proceedings. The procedure is intended to inform the public that the Division of Enforcement will review information submitted by potential respondents and forward it to the Commission before the Commission votes to commence an enforcement action. In addition, this announcement highlights aspects of this procedure that may affect an individual's decision to submit such a statement.

The Division, in its discretion, may inform persons who may be named in a proposed enforcement proceeding of the nature of the proposed allegations pertaining to them. The decision whether to inform such persons of a proposed enforcement proceeding is entirely within the discretion of the Division. There is no obligation that the Division inform anyone of the proposed proceeding. In many cases, premature disclosure to the persons suspected of a violation could inhibit effective Commission action. Moreover, notwithstanding any representation by the staff, the Commission may commence an action against any persons before a written submission is made. Applicable provisions of the procedure, *i.e.*, page limit, contents, and submission to the Division, should also be followed by any person involved in a Division investigation who wishes to submit a statement on his or her own initiative.

The procedure provides that a succinct written statement of no more than twenty (20) pages may be submitted to the Director, Division of Enforcement, 2033 K Street, NW., Washington, DC 20581, with copies to the staff conducting the investigation. All submissions should refer clearly to the specific investigation to which they relate. Any submission is voluntary and while it may include a statement of the events, factual circumstances or other matters relevant to the commencement of a proposed enforcement action, the Commission is more interested in a submission that focuses upon legal and policy arguments.[1] Any statement of fact must be sworn to by a person with personal knowledge of such fact and may not simply be made by counsel upon information and belief. In this regard, it should be noted that submission of a written statement may result in the use of the statement, including factual admissions, in an administrative or judicial proceeding by the Commission, as well as use by another governmental agency or even by a private party who may obtain the statement under the Freedom of Information Act.[2]

The propose of this procedure is to make information available to assist the Commission's determination, in the exercise of its discretion, whether and in what manner it is in the public interest to commence an enforcement proceeding. The procedure permits a written statement only and neither creates a right nor an obligation to make such a statement. In authorizing publication of this procedure the Commission is not soliciting any presentation from any member of the public. Moreover, the Division's procedure does not in any way affect the Commission's right to act prior to receipt of a statement. A written statement with supporting documentation, which conforms to this procedure, submitted to the Director of the Division of Enforcement before the commencement of an enforcement proceeding will, upon request, be forwarded to the Commission along with the Division's recommendation.[3] However, as noted above, no rights or obligations are created by the submission, and the Commission has no obligation to consider the written statement or any part thereof.

The Freedom of Information Act (FOIA), 5 U.S.C. 552, and the Commission rules thereunder, 17 CFR Part 145 (1978), may require disclosure of any statement or part thereof. Also, the Commission may, in its discretion, release any statement or part thereof received unless release is prohibited by the Commodity Exchange Act or other statute or regulation concerning the privacy of information. *See* Commission Rules 11.3, 145.5(g), 145.9, 17 CFR 11.3, 145.5(g) and 145.9.

Commodity Futures Trading Commission Interim Informal Procedure Relating to the Recommendation of Enforcement Proceedings

The Division of Enforcement ("Division"), in its discretion, may inform persons who may be named in a proposed enforcement proceeding of the nature of the allegations pertaining to them. The Division, in its discretion, may advise such persons that they may submit a written statement prior to the consideration by the Commission of any staff recommendation for the commencement of such proceeding. Unless otherwise provided for by the Director of the Division, such written statements shall be submitted within 14 days after persons are informed by the Division of Enforcement of the nature of the proposed allegations pertaining to

[1] The Commission does not envision use of a submission to resolve factual representations between the staff and a potential respondent. As noted by the SEC in connection with its Wells procedure, *see* Sec. Act Release No. 5310 (Sept. 27, 1972), disagreements as to factual matters are best left to be resolved through litigation because the Commission is not well positioned to adjudicate factual disputes in the absence of a fully developed factual record. Accordingly, the Commission anticipates that submissions under this procedure will in general be confined to matters of law or policy directly bearing on the question of whether an enforcement action should be authorized with respect to the person or entity on whose behalf the submission is made.

[2] The requirement that any statement of fact submitted on behalf of a proposed respondent be made under oath by persons with personal knowledge is one substantive difference from the SEC's Wells procedure. In addition, unless otherwise provided for by the Director of the Division, all submissions must be no longer than 20 pages and must be provided within 14 days of notice.

[3] This procedure of Commission consideration of written submissions from proposed respondents in enforcement proceedings is analogous to that followed in Commission Rule 10.106, 17 CFR 10.106, which provides that if a respondent is informed by the Division of Enforcement that the Division will not recommend to the Commission that it accept an offer of settlement, such offer shall not be presented to the Commission unless the respondent so requests.

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them and shall be no more than twenty (20) pages, double spaced on 8½ by 11 inch paper, setting forth their views of factual, legal or policy matters relevant to the commencement of an enforcement proceeding. Any statement of fact included in the submission must be sworn to by a person with personal knowledge of such fact. Statements shall be forwarded to the Director, Division of Enforcement, Washington, DC 20581, with copies to the staff conducting the investigation, shall clearly identify the specific investigation, and, if desired, may request that the statement be forwarded to the Commission. Similarly, persons who become involved in an investigation, and submit a written statement on their own initiative, should follow the relevant procedures described herein. In the event the Division recommends the commencement of an enforcement proceeding to the Commission, any written statement will be forwarded to the Commission if so requested. The Commission may, in its discretion, consider all, any portion or none of the submission when it considers the staff recommendation to commence an enforcement proceeding.

Dated: April 15, 1986.

By the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86-8848 Filed 4-18-86; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors; Meeting

AGENCY: Defense Systems Management College.

ACTION: Board of Visitors Meeting.

SUMMARY: A meeting of the Defense Systems Management College (DSMC) Board of Visitors will be held in Building 202, Fort Belvoir, Virginia, on Thursday, June 5, 1986, from 8:00 a.m. until 3:30 p.m. The agenda will include a review of accomplishments related to the system acquisition education, system acquisition research, and information collection and dissemination missions. It will also include a review of the DSMC plans, resources and operations. The meeting is open to the public; however, because of limitations on the space available, allocation of seating will be made on a first-come, first-serve basis. Persons desiring to attend the meeting should call Mrs. Joyce Reniere, telephone number (703) 664-5486.

April 16, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 86-8857 Filed 4-18-86; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligence Agency Scientific Advisory Committee; Meeting Cancelled

AGENCY: Defense Intelligence Agency Scientific Advisory Committee.

ACTION: Notice of cancellation closed meeting.

SUMMARY: Notice is hereby given that the closed meeting of the Strategic Defense Initiative Panel of the DIA Scientific Advisory Committee, scheduled for 17 April 1986, that was announced in the **Federal Register** on Monday, March 24, 1986 (Vol. 51, FR 10101) has been cancelled.

FOR FURTHER INFORMATION CONTACT: Lt Col Harold E. Linton, USAF, Executive Secretary, DIA Scientific Advisory Committee, Washington, DC 20301 (202/373-4930).

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

April 16, 1986.

[FR Doc. 86-8855 Filed 4-18-86; 8:45 am]

BILLING CODE 3810-01-M

Organization of the Joint Chiefs of Staff; Joint Strategic Target Planning Staff (JSTPS), Scientific Advisory Group; Closed Meeting

AGENCY: Joint Strategic Target Planning Staff, Department of Defense.

ACTION: Notice of closed meeting.

SUMMARY: The Director, Joint Strategic Target Planning Staff has scheduled a closed meeting of the Scientific Advisory Group.

DATE: The meeting will be held on 27 and 28 May 1986.

ADDRESS: The meeting will be held at Offutt AFB, Nebraska.

FOR FURTHER INFORMATION CONTACT: The Joint Strategic Target Planning Staff, Scientific Advisory Group, Offutt AFB, Nebraska 68113.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to discuss strategic issues which relate to the development of the Single Integrated Operational Plan (SIOP). Full development of the topics will require discussion of information classified TOP SECRET in accordance with Executive Order 12356, 2 April 1982. Access to this information must be strictly limited to personnel having requisite security clearances and specified need-to-know. Unauthorized disclosure of the information to be discussed at the SAG meeting could have exceptionally grave impact upon national defense. Accordingly, the meeting will be closed in accordance with 5 U.S.C. 552b(c)(1).

P. H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

April 16, 1986.

[FR Doc. 86-8856 Filed 4-18-86; 8:45 am]

BILLING CODE 3810-01-M

Strategic Defense Initiative Organization

ACTION: Notice of DoD Intent To Establish a Federally Funded Research and Development Center (FFRDC).

SUMMARY: The Department of Defense announces its intention to establish a Federally Funded Research and Development Center (FFRDC) to support the Strategic Defense Initiative Organization (SDIO) and to designate the FFRDC as the Strategic Defense Initiative Institute (SDII). The purpose of this action is to make continuously available to the Strategic Defense Initiative Organization (SDIO) a relatively small but dedicated technical support unit that can facilitate the utilization, in a manner that is more timely, cost effective, and productive than currently possible, of the large national capability that must be applied to the Strategic Defense Initiative Program (SDIP). To accomplish this goal, the support unit personnel must have the across-the-board SDI-related technical skills and functional capabilities to perform a technology evaluation and integration role in support of the SDIO.

The SDII will seek flexible and innovative approaches to solving complex and multidimensional problems for the SDIP. In accomplishing this task, it will tap the broad base of talent, relevant experience, and perspectives available from addressing prior programmatic challenges. This will require contributions from a wide range of agencies and existing organizations, each of which already has some of the resources and skills in the needed areas, but no one of which can address SDIP technical support needs as a unified, coordinated whole.

The SDII must be free from actual, potential, or apparent individual or organizational conflicts of interest. It must gain no competitive advantage from its position over those whose efforts it is helping the SDIO oversee; nor lack objectivity as a result of having profit-seeking, manufacturing, or other conflicting organizational goals, such as a desire to serve other clients.

It has been decided, based on a careful comparative evaluation by the SDIO of all feasible institutional alternatives, that only a carefully designated, new Federally Funded Research and Development Center (FFRDC) within ready physical access of the SDIO can effectively satisy the above purpose for the SDII. Accordingly, this announcement is being issued in compliance with the procedures of OFPP Policy Letter 84-1 of April 4, 1984, "Federally Funded Research and Development Centers."

The Mission Statement for the SDII is as follows:

Mission Statement

The specific mission of the SDII will be to perform, in a highly flexible manner, research, studies, and analyses of emerging technologies and system concepts relative to the Strategic Defense Initiative Program (SDIP); and to provide technical evaluation of basic and applied research efforts and program developments by other contractors. In particular, the scope and nature of the effort to be performed by the SDII in support of the SDIO will include, but not be limited to: (1) Identifying and evaluating existing and potential technical advances, technologies, and system concepts from all available sources; (2) Reducing the costs and increasing the effectiveness of basic and applied SDIP research; (3) Providing advice on the relative utility and integration implications of each of the complex technical aspects of the SDIP; (4) Assessing and helping to develop evolving technical requirements, architectures, and their related testbed needs; (5) Performing test and evaluation planning; (6) Integrating Offense/Defense scenarios and analyses into useful conclusions and framing of issues for decision by the SDIO; (7) Developing and maintaining a data base on active SDIP projects and capabilities, and continually analyzing same for overlap, duplication, and opportunities for coordination; (8) Conducting SDIP-related studies and analyses; and (9) Coordinating and performing other technical and liaison tasks, including interface with the pertinent acquisition activities of the military services, related to performance of SDIP-related technical activities in industry, universities, government laboratories, and elsewhere.

This announcement is not a synoposis in accordance with Section 18 of the Office of Federal Procurement Policy Act, or otherwise a synopsis of sources sought in connection with a procurement. It is being published in response to paragraph 6b(2) of the Office of Federal Procurement Policy letter on FFRDC's which provides for at least three notices over a 90-day period in the *Commerce Business Daily* and the **Federal Register** indicating an agency's intentions to sponsor an FFRDC and the scope and nature of the effort to be performed by the FFRDC.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Sybert, Special Assistant to the Secretary, Executive Secretariat/OSD, Pentagon 3E880, Washington, DC 20301-1000, telephone (202) 697-8388.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

April 16, 1986.

[FR Doc. 86-8858 Filed 4-18-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

April 3, 1986.

The USAF Scientific Advisory Board Armament Division Advisory Group meeting, previously scheduled for April 3-4, 1986, has been postponed. The Advisory Group will meet May 7, 1986 from 8:00 A.M. to 5:00 P.M. and May 8, 1986 from 8:00 A.M. to 3:00 P.M. at AF Armament Division Headquarters, Building 1, Eglin AFB FL.

The purpose of this meeting is to review and discuss selected programs and projects relating to the mission of the Armament Division and to advise the Commander on these programs.

This meeting will involve discussions of classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at, (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-8843 Filed 4-18-86; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Routing of Class C Explosives on a Class C Tender—Exceptions Outlined

AGENCY: Department of the Army, DOD.

ACTION: Notice of exceptions to route class C explosives only on class C explosives tenders.

Purpose: The purpose of this change is twofold. (a) To recognize that there are some safety kits or commodities which may contain small quantities of class C explosives that do not represent a security risk, for example survival kits, pop rivets, aircraft ejection cartridges, .22 caliber, blank or practice ammunition, etc . . ., (b) to allow such items to be moved on Freight All Kinds (FAK) rates.

Summary: Effective June 1, 1986, all carriers transporting class C explosives may do so under a FAK commodity tender description vice a class C tender under the following exceptions, only:

(a) When the class C material is non-sensitive and does not require a transportation protective service, and

(b) When the class C material being transported does not exceed 1000 pounds gross weight per shipment.

Since all tenders now carry a mandatory exclusion (Freight All Kinds, except classes A, B, and C explosives, ammunition or fireworks), carriers wishing to handle up to 1000 pounds per shipment of class C commodities need to amend their tenders to reflect a DOD mandatory exclusion for FAK. The alternate FAK description should read:

Freight All Kinds, except all classes A and B explosives, ammunition or fireworks, and class C explosives, ammunition or fireworks requiring a DOD transportation protective service or nonsensitive class C commodities weighing in excess of 1,000 pounds per shipment, . . . (exclusions can be added by carrier)

Additionally, carriers interested in offering specific commodity class C tenders (Optional Form 280) should include the transportation protective services (TPS) of "Dual Driver Protective Service" (DDPS), "DOD Constant Surveillance Service" (DOD CSS), as well as the accessorial service "Signature and Tally Record Service." If the publication of new rates for these commodities results in increased rates, we require 30 days notice, following their receipt, before the new rates can become effective.

Further information may be obtained by writing to HQMTMC, ATTN: MT-INNT, Falls Church, VA 22141-5050, or by calling Blaise Guzzardo at (202) 756-1149 or Betty Yanowsky at (202) 756-1565/0.

John O. Roach II,

Army Liaison Officer With the Federal Register.

[FR Doc. 86-8866 Filed 4-18-86; 8:45 am]

BILLING CODE 3710-08-M

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DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 86-22-NG]

Gas Ventures; Application To Import Natural Gas From Canada

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of application for blanket authorization to import natural gas from Canada for short-term and spot sales.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt of March 31, 1986, of an application filed by Gas Ventures (Ventures) for a blanket authorization to import up to 100,000 Mcf per day and a total of 75 Bcf of Canadian natural gas for the anticipated term of the proposal. The gas would be supplied by Canadian producers or pipelines and sold on a short-term or spot basis to U.S. purchasers. Ventures would act on its own behalf or as an agent on behalf of U.S. purchasers and/or Canadian suppliers.

Ventures is a joint venture of ITRP Natural Gas Ventures, Inc. and Kimball Energy Corporation. The former is a wholly-owned subsidiary of ITR Petroleum, Inc., a Nevada corporation that currently sells gas to Ventures, and the latter is not affiliated with any other participant. Ventures is a marketer of natural gas, purchasing from independent producers in Wyoming and selling on a spot or short-term basis to Rocky Mountain or Pacific Northwest customers along the Northwest Pipeline Corporation system.

Ventures proposes an import authorization term to extend through December 31, 1987, and month to month thereafter until terminated upon 30 days written notice by Ventures or the ERA, an arrangement that Ventures says would be consistent with its domestic gas purchase contracts. The specific terms of each import and sale would be negotiated on an individual basis, terms would be market responsive, and, to the maximum extent possible, would constitute a best-efforts purchase and delivery basis with no minimum purchase or take-or-pay obligation. Ventures proposes to file quarterly reports to the ERA on a confidential basis. Only existing pipeline facilities would be used.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than 4:30 p.m., on May 21, 1986.

FOR FURTHER INFORMATION:

Norman Breckner, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-76, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9482

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6667

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this Notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices to intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076-A, RG-23, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585. They must be filed no later than 4:30 p.m. e.d.t., May 21, 1986.

The Administrator intends to develop a decisional record on the application through responses to this Notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Ventures' application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on April 14, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-8879 Filed 4-18-86; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 86-24-NG]

Natural Gas Imports; Carlyle Energy, Inc.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Application for Blanket Authorization To Import Natural Gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on April 4, 1986, of an application from Carlyle Energy, Inc. (Carlyle), a wholly-owned subsidiary of Carlyle Energy, Ltd., for blanket authorization to import Canadian natural gas for short-term sales in the domestic spot market. Authorization is requested to import up to 100 Bcf of Canadian natural gas during a two-year term beginning on the date of first delivery of the import. Carlyle intends to market individual volumes of natural gas produced by Carlyle Energy Ltd., its Canadian affiliate, and also import gas from various other Canadian suppliers for its own account or as agent on behalf of either a supplier or purchaser of such volumes. Since Carlyle intends to utilize existing pipeline facilities for the transportation of the volumes imported, the proposal does not contemplate the construction of any new domestic facilities.

The applicant proposes to submit quarterly reports giving details of individual transactions in the month following each calendar quarter.

The application was filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than May 21, 1986.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue, SW., Washington, D.C. 20585 (202) 252-6162;

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6667.

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076-A, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585. They must be filed no later than 4:30 p.m. e.d.t., May 21, 1986.

The Administrator intends to develop a decisional record on the application through responses to the notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trail-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based upon the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Carlyle's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076-A, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., April 14, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-8877 Filed 4-18-86; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 86-10-NG]

NATGAS (U.S.) Inc.; Order Granting Blanket Authorization To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Order Granting Blanket Authorization to Import Natural Gas From Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting blanket authorization to import natural gas from Canada to NATGAS (U.S.) Inc. (NATGAS). The order issued in ERA Docket No. 86-10-NG authorizes NATGAS to import up to 730 Bcf over a two-year period for sale in the domestic spot market.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., 20585. The docket room is open betweeen the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, D.C., April 14, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-8878 Filed 4-18-86; 8:45 am]

BILLING CODE 6450-01-M

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Energy Information Administration

Publication of Alternative Fuel Price Ceilings and Incremental Price Threshold for High Cost Natural Gas

The Natural Gas Policy Act of 1978 (NGPA) (Pub. L. 95-621) signed into law on November 9, 1978, mandated a new framework for the regulation of most facets of the natural gas industry. In general, under Title II of the NGPA, interstate natural gas pipeline companies are required to pass through certain portions of their acquisition costs for natural gas to industrial users in the form of a surcharge. The statute requires that the ultimate costs of gas to the industrial facility should not exceed the cost of the fuel oil which the facility could use as an alternative.

Pursuant to Title II of the NGPA, section 204(e), the Energy Information Administration (EIA) herewith publishes for the Federal Energy Regulatory Commission (FERC) computed natural gas ceiling prices and the high cost gas incremental pricing threshold which are to be effective May 1, 1986. These prices are based on the prices of alternative fuels.

For further information contact: Leroy Brown, Jr., Department of Energy, Energy Information Administration, 1000 Independence Avenue, SW., Room BE-034, Washington, D.C. 20585, Telephone: (202) 252-8077.

Section I.

As required by FERC Order No. 50, computed prices are shown for the 48 contiguous States. The District of Columbia's ceiling is included with the ceiling for the State of Maryland. FERC, by an Interim Rule issued on April 2, 1981, in Docket No. RM79-21, revised the methodology for calculating the monthly alternative fuel price ceilings for State regions. Under the revised methodology, the applicable alternative fuel price ceiling published for each of the contiguous States shall be the lower of the alternative fuel price ceiling for the State or the alternative fuel price ceiling for the multistate region in which the State is located.

The price ceiling is expressed in dollars per million British Thermal Units (BTU's). The method used to determine the price ceilings is described in Section III.

State	Per million BTU's
Alabama	$2.10
Arizona[2]	2.20
Arkansas	2.47
California[1]	2.20
Colorado[2]	2.30
Connecticut[2]	2.31
Delaware[2]	2.54
Florida	2.06
Georgia	2.16
Idaho[2]	2.30
Illinois	2.17
Indiana[1]	2.23
Iowa[1]	2.23
Kansas	2.20
Kentucky[1]	2.23
Louisiana[2]	2.58
Maine[1]	2.31
Maryland[1]	2.54
Massachusetts	2.17
Michigan[2]	2.23
Minnesota[2]	2.23
Mississippi[2]	2.14
Missouri	2.14
Montana[2]	2.30
Nebraska[2]	2.23
Nevada[2]	2.20
New Hampshire[1]	2.31
New Jersey[1]	2.54
New Mexico[2]	2.58
New York	2.52
North Carolina[1]	2.22
North Dakota[2]	2.23
Ohio	2.12
Oklahoma[1]	2.58
Oregon	2.07
Pennsylvania[1]	2.54
Rhode Island[1]	2.31
South Carolina[1]	2.22
South Dakota[2]	2.23
Tennessee[1]	2.22
Texas	1.87
Utah[2]	2.30
Vermont[1]	2.31
Virginia[1]	2.22
Washington[1]	2.20
West Virginia	2.21
Wisconsin[2]	2.23
Wyoming[2]	2.30

[1] Region based price as required by FERC Interim Rule, issued on April 2, 1981, in Docket No. RM-79-21.
[2] Region based price computed as the weighted average price of Regions E, F, G, and H.

Section II. Incremental Pricing Threshold for High Cost Natural Gas

The EIA has determined that the volume-weighted average price for No. 2 distillate fuel oil landed in the greater New York City Metropolitan area during February 1986 was $23.14 per barrel. The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which the incremental pricing threshold becomes effective. The prices found in *Platt's Oilgram Price Report* are given for each trading day in the form of high and low prices for No. 2 fuel oil in Metropolitan New York and Northern New Jersey. A lag adjustment factor was calculated using the average of the low posted price for these two areas for the ten trading days ending April 14, 1986, and dividing that price by the corresponding average price computed from prices published by Platt's for the month of February 1986. This lag adjustment factor was applied to the February price yielding $20.86 per barrel. In order to establish the incremental pricing threshold for high cost natural gas, as identified in the NGPA, Title II, Section 203(a)(7), this price was multiplied by 1.3 and converted to its equivalent in millions of BTU's by dividing by 5.8. Therefore, the incremental pricing threshold for high cost natural gas, effective May 1, 1986, is $4.68 per million BTU's.

Section III. Method Used To Compute Price Ceilings

The FERC, by Order No. 50, issued on September 29, 1979, in Docket No. RM79-21, established the basis for determining the price ceilings required by the NGPA. FERC also, by Order No. 167, issued in Docket No. RM81-27 on July 24, 1981, made permanent the rule that established that only the price paid for No. 6 high sulfur content residual fuel oil would be used to determine the price ceilings. In addition, the FERC, by Order No. 181, issued on November 6, 1981, in Docket No. RM81-28, established that price ceilings should be published for only the 48 contiguous States on a permanent basis.

A. Data Collected

The following data were required from all companies identified by the EIA as sellers of No. 6 high sulfur content (greater than 1 percent sulfur content by weight) residual fuel oil: For each selling price, the number of gallons sold to large industrial users in the months of December 1985, January 1986, and February 1986.[3] All reports of volume sold and price were identified by the State into which the oil was sold.

B. Method Used to Determine Alternative Price Ceilings

(1) Calculation of Volume-Weighted Average Price

The prices which will become effective May 1, 1986 (shown in Section I), are based on the reported price of No. 6 high sulfur content residual fuel oil, for each of the 48 contiguous States, for each of the 3 months, December 1985, January 1986, and February 1986. Reported prices for sales in December 1985 were adjusted by the percent change in the nationwide volume-weighted average price from December 1985 to February 1986. Prices for January 1986 were similarly adjusted by the percent change in the nationwide volume-weighted average price from January 1986 to February 1986. The volume-weighted 3-month average of the adjusted December 1985 and January 1986, and the reported February 1986 prices were then computed for each State.

(2) Adjustment for Price Variation

States were grouped into the regions identified by the FERC (see Section III.C.). Using the adjusted prices and associated volumes reported in a region during the 3-month period, the volume-weighted standard deviation of prices was calculated for each region. The volume-weighted 3-month average price (as calculated in Section III.B.(1) above) for each State was adjusted downward by two times this standard deviation for the region to form the adjusted weighted average price for the State.

(3) Calculation of Ceiling Price

The lowest selling price within the State was determined for each month of the 3-month period (after adjusting up or down by the percent change in oil prices at the national level as discussed in Section III.B.(1) above). The products of the adjusted low price for each month times the State's total reported sales volume for each month were summed over the 3-month period for each State and divided by the State's total sales volume during the 3-months to determine the State's average low price. The adjusted weighted average price (as calculated in Section III.B.(2)) was compared to this average low price, and the higher of the values was selected as the base for determining the alternative fuel price ceiling for each State. For those States which had no reported sales during one or more months of the 3-month period, the appropriate regional volume-weighted alternative fuel price was computed and used in combination with the available State data to calculate the State alternative fuel price ceiling base. The State's alternative fuel price ceiling base was compared to the alternative fuel price ceiling base for the multistate region in which the State is located and the lower of these two prices was selected as the final alternative fuel price ceiling base for the State. The appropriate lag adjustment factor (as discussed in Section III.B.(4)) was then applied to the alternative fuel price ceiling base. The alternative fuel price (expressed in dollars per gallon) was multiplied by 42 and divided by 6.3 to estimate the alternative fuel price ceiling for the State (expressed in dollars per million Btu's).

There were insufficient sales reported in Region G for the month of December 1985, January 1986, and February 1986. The alternative fuel price ceilings for the States in Region G were determined by calculating the volume-weighted average price ceilings for Region E; Region F, Region G, and Region H.

(4) Lag Adjustment

The EIA has implemented a procedure to partially compensate for the two-month lag between the end of the month for which data are collected and the beginning of the month for which ceiling prices become effective. It was determined that *Platt's Oilgram Price Report* publication provides timely information relative to the subject. The prices found in *Platt's Oilgram Price Report* publication are given for each trading day in the form of high and low prices for No. 6 residual oil in 20 cities throughout the United States. The low posted prices for No. 6 residual oil in these cities were used to calculate a national and a regional lag adjustment factor. The national lag adjustment factor was obtained by calculating a weighted average price for No. 6 high sulfur residual fuel oil for the ten trading days ending April 14, 1986, and dividing that price by the corresponding weighted average price computed from prices published by Platt's for the month of 1986. A regional lag adjustment factor was similarly calculated for four regions. These are: One for FERC Regions A and B combined; one for FERC Region C; one for FERC Regions D, E, and G combined; and one for FERC Regions F and H combined. The lower of the national or regional lag factor was then applied to the alternative fuel price ceiling for each State in a given region as calculated in Section III.B.(3).

Listing of States by Region

States were grouped by the FERC to form eight distinct regions as follows:

Region A

Connecticut
Maine
Massachusetts
New Hampshire
Rhode Island
Vermont

Region B

Delaware
Maryland
New Jersey
New York
Pennsylvania

Region C

Alabama
Florida
Georgia
Mississippi
North Carolina
South Carolina
Tennessee
Virginia

Region D

Illinois
Indiana
Kentucky
Michigan
Ohio
West Virginia
Wisconsin

Region E

Iowa
Kansas
Missouri
Minnesota
Nebraska
North Dakota
South Dakota

Region F

Arkansas
Louisiana
New Mexico
Oklahoma
Texas

Region G

Colorado
Idaho
Montana
Utah
Wyoming

Region H

Arizona
California
Nevada
Oregon
Washington

Issued in Washington, D.C., April 17, 1986.

L.A. Pettis,
Deputy Administrator, Energy Information Administration.

[FR Doc. 86-8993 Filed 4-18-86; 8:45 am]
BILLING CODE 6450-01-M

[3] Large Industrial User—A person/firm which purchases No. 6 fuel oil in quantities of 4,000 gallons or greater for consumption in a business, including the space heating of the business premises. Electric utilities, governmental bodies (Federal, State, or Local), and the military are excluded.

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $40,000 obtained as a result of a Consent Order which the DOE entered into with Missouri Terminal Oil Company, a reseller retailer of petroleum products located in St. Louis, Missouri. The money is being held in escrow following the settlement

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of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the Federal Register and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to case number HEF-0131.

FOR FURTHER INFORMATION CONTACT: Walter J. Marullo, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order sets forth procedures and standards that the DOE has tentatively formulated to distribute to adversely affected parties $40,000 plus accrued interest obtained by the DOE under the terms of a Consent Order entered into with Missouri Terminal Oil Company (MTO). The funds were provided to the DOE by MTO to settle all claims and disputes between the firm and the DOE regarding the manner in which the firm applied the federal price regulations with respect to its sales of motor gasoline during the period March 1, 1979, through July 31, 1979.

OHA proposes that a two-stage refund process be followed. In the first stage, OHA has tentatively determined that a portion of the consent order funds should be distributed to firms and individuals that purchased MTO motor gasoline during the consent order period. In order to obtain a refund, each claimant will be required to submit a schedule of its monthly purchases of MTO motor gasoline and to demonstrate that it was injured by MTO's pricing practices. The specific requirements for proving injury are set forth in the following Proposed Decision and Order. Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Some residual funds may remain after all meritorious first-stage claims have been satisfied. OHA invites interested parties to submit their views concerning alternative methods of distributing any remaining funds in a subsequent proceeding.

Any member of the public may submit written comments regarding the proposed refund procedures. Such parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this Notice. All comments received in this proceeding will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: April 14, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

April 14, 1986.

Name of Firm: Missouri Terminal Oil Company.

Date of Filing: October 13, 1983.

Case Number: HEF-0131.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Missouri Terminal Oil Company (MTO).

I. Background

MTO is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31 and is located in St. Louis, Missouri. A DOE audit of MTO's records revealed possible violations of the Mandatory Petroleum Price Regulations. 10 CFR Part 212, Subpart F. The audit alleged that between March 1, 1979, and July 31, 1979, MTO committed possible pricing violations in its sales of motor gasoline.

In order to settle all claims and disputes between MTO and the DOE regarding the firm's sales of motor gasoline during the period covered by the audit, MTO and the DOE entered into a consent order on July 8, 1983. The consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. Additionally, the consent order states that MTO does not admit that it violated the regulations.

Under the terms of the consent order, MTO was required to deposit a total of $40,000, in two annual installments, into an interest-bearing escrow account for ultimate distribution by the DOE. MTO made payments of $20,000 each on January 4, 1984, and January 11, 1985.[1]

II. Proposed Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

Our experience with Subpart V cases leads us to believe that the distribution of refunds in this proceeding should take place in two stages. In the first stage, we will accept claims from identifiable purchasers of motor gasoline who may have been injured by MTO's pricing practices during the period March 1, 1979, through July 31, 1979. If any funds remain after all meritorious in a second-stage proceeding. *See, e.g., Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (*Amoco*).

A. Refunds to Identifiable Purchasers

In the first stage of the MTO refund proceeding, we propose to distribute the funds currently in escrow to claimants who demonstrate that they were injured by MTO's alleged overcharges. As we have done in many prior refund cases, we propose to utilize certain presumptions and findings which will help to determine the extent of a purchaser's alleged injury.

The presumptions and findings we plan to adopt are also used to permit claimants to participate in the refund process without incurring inordinate expenses and to enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. First, we plan to adopt a presumption that the alleged overcharges were dispersed evenly in all of MTO's sales of motor gasoline made during the consent order

[1] The total value of the MTO escrow account stood at $60,404.68 as of March 31, 1986.

period. In the past, we have referred to a refund process that uses this presumption as a volumetric method. Second, we propose to adopt a presumption of injury with respect to small claims. Third, we plan to adopt a presumption that spot purchasers were not injured by the alleged overcharges. Finally, we are making proposed findings that end users, certain types of regulated firms, and cooperatives were injured by MTO's pricing practices.

The pro rata, or volumetric, refund presumption assumes that alleged overcharges by a consent order firm were spread equally over all gallons of product covered by the consent order. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. This presumption is rebuttable, however, A claimant which believes that it incurred a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. *See, e.g., Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12DOE ¶ 85,054 at 88,184 (1984), and cases cited therein.

Under the volumetric method we plan to adopt, a claimant will be eligible to receive a refund equal to the number of gallons of MTO motor gasoline that it purchased during the consent order period times the volumetric factor. The volumetric factor is the average per gallon refund and in this case equals $0.003505 per gallon.[2] in addition, successful claimants will receive a proportionate share of the accrued interest.

The second presumption we plan to use is that purchasers of MTO motor gasoline seeking small refunds were injured by the firm's pricing practices. There are a variety of reasons for adopting this presumption. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). These firms were in the chain of distribution where the alleged ovecharges occurred and therefore bore some impact of the alleged overcharges, at least initially. In order to support a specific claim of injury, a firm would have to compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive. With small claims, the cost to the firm of gathering the necessary information and the cost of OHA of analyzing it could exceed both the expected refund and the benefits from any additional precision. As a result, without simplified procedures injured could effectively be denied the opportunity to receive a refund.

Under the small-claims presumption, a claimant who is a reseller or retailer would not be required to submit any additional evidence of injury beyond volumes of MTO motor gasoline purchased if its refund claim is below a certain sum. Several factors determine the value of this threshold. For example, the cost to the applicant and the government of compiling and analyzing information sufficient to show injury should not exceed the amount of any relevant refund. In this case, where the refund amount is fairly low and the early months of the consent order period are many years past, $5,000 is a reasonable value for the threshold. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,210 (1984); *Office of Special Counsel*, 11 DOE ¶ 85,228 (1984) *(Conoco)*, and cases cited therein.

A reseller or retailer which claims a refund in excess of $5,000 will be required to document its injury. While there are a variety of methods by which a firm can make such a showing, a firm is generally required to demonstrate (i) that it maintained a "bank" of unrecovered costs, in order to show that it did not pass the alleged overcharges through to its own customers, and (ii) that market conditions were the reason that it did not pass through those increased costs.[3]

If a reseller or retailer made only spot purchases, we propose that it should not receive a refund since it is unlikely to have been injured. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396-97. The same rationale applies in the present case. Therefore, we proposed that firms which made only spot purchases of MTO motor gasoline not receive refunds unless they present evidence which rebuts the spot purchaser presumption and established the extent to which they were injured as a result of their purchases of MTO motor gasoline during the consent order period.

As noted above, we have concluded that end users were injured by the alleged overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period. They were therefore not required to base their pricing decisions on cost increases or to keep records which would show whether they passed through cost increases. An analysis of the impact of the alleged overcharges on the final prices of goods and services which were not coverd by the petroleum price regulations would therefore be beyond the scope of a special refund proceeding. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983) *(PVM)*; *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein.[4]

In addition, we propose that firms whose prices for goods and services are regulated by a governmental; agency or by the terms of a cooperative agreement not be required to demonstrate that they absorbed the motor gasoline overcharges alleged by ERA. In the case of regulated firms, *e.g.*, public utilities, any overcharges incurred as a result of MTO's alleged violations of the DOE regulations would routinely be passed through to the utilities' customers. Similarly, any refunds received by such firms would be reflected in the rates they wre allowed to charge their customers. Refunds to agricultural cooperatives would likewise directly influence the prices charged to their member customers. Consequently, we proposed adding such firms to the class of claimants that are not required to show that they did not pass through to their customers cost increases resulting from alleged overcharges. *See, e.g., Office of Special Counsel*, 9 DOE ¶ 82,538 (1982) *(Tenneco), and Office of Special Counsel*, 9 DOE 82,545 at 85,244 (1982) *(Pennzoil)*. Instead, those firms should provide with their application a full explanation of the manner in which refunds would be passed through to their customers and how the appropriate regulatory body or membership group will be advised of the applicant's receipt

[2] This figure is computed by dividing the $40,000 received from MTO by the 11,411,690 gallons of motor gasoline sold by the firm during the consent order period.

[3] Resellers or retailers who claim a refund in excess of $5,000 but who cannot establish that they did not pass through the price increases will be eligible for a refund of up to the $5,000 threshold, without being required to submit evidence of injury beyond purchase volumes. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000. *See* Vickers, 8 DOE at 85,396. *See also* Office of Enforcement, 10 DOE ¶ 85,029 at 88,122 (1982).

[4] If a firm is both a spot purchaser and an end user, it will be treated as an end user and will not be required to make any showing of injury beyond that required of other end users.

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of any refund money. Sales by cooperatives to nonmembers, however, will be treated the same as sales by any other reseller.

As in other cases, only claims for at least $15 will be processed. This minimum has been adopted in prior refund cases because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b). The same principle applies here.

If valid claims exceed the funds available in the escrow account, all refunds will be reduced proportionately. Actual refunds will be determined after analyzing all appropriate claims.

B. Applications for Refund

Any purchaser claiming a portion of the consent order funds will be required to file an Application for Refund pursuant to 10 CFR 205.283. In its application, a claimant must include a schedule of its monthly purchases of MTO motor gasoline during the consent order period as well as all relevant information necessary to support its claim in accordance with the presumptions and findings outlined above. A claimant must also state whether it has previously received a refund, from any source, with respect to the alleged overcharges underlying this proceeding. Each applicant must also state whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Finally, an applicant must report whether it is or has been involved as a party in DOE enforcement or private actions filed under section 210 of the Economic Stabilization Act. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its Application for Refund is pending *See* 10 CFR 205.9(d).

C. Distribution of Remaining Consent Order Funds

In the event that money remains after all meritorious claims have been satisfied, residual funds could be distributed in a number of ways in a subsequent proceeding. However, we will not be in a position to decide what should be done with any remaining funds until the initial stage of this refund proceeding has been completed. We encourage the submission by interested parties of proposals which address alternative methods of distributing any remaining funds.

It Is Therefore Ordered That The refund amount remitted to the Department of Energy by Missouri Terminal Oil Company pursuant to the Consent Order executed on July 8, 1983, will be distributed in accordance with the foregoing decision.

[FR Doc. 86-8860 Filed 4-18-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ORD-FRL-2999-6]

Addendum to the Health Assessment Document for Tetrachloroethylene (Perchloroethylene, Perc, PCE)

Correction

In FR Doc 86-7936 appearing on page 12202 in the issue of Wednesday, April 9, 1986, make the following correction: In the middle column, in the fourth and fifth lines from the bottom, the EPA document number should read "EPA-600/8-82-005FA".

BILLING CODE 1505-01-M

[OPP-00225; (FRL-3006-2)]

State-FIFRA Issues Research and Evaluation Group (SFIREG) Working Committees; Open Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 2-day meeting of the Working Committee on Registration and Classification of State FIFRA Issues Research and Evaluation Group (SFIREG) and a 2-day meeting of the SFIREG Working Committee on Enforcement and Certification to discuss various aspects of pesticides. The meetings will be open to the public.

DATES: The Working Committee on Registration and Classification will meet on Tuesday and Wednesday, May 13 and 14, 1986. The Working Committee on Enforcement and Cetification will meet on Thursday and Friday, May 15 and 16, 1986. The meetings of both committees will start at 8:30 a.m. each day.

ADDRESS: The meeting will be held at: International Hotel, 300 Canal St., New Orleans, LA, (504-581-1300).

FOR FURTHER INFORMATION CONTACT: By mail: Philip H. Gray, Jr., Office of Pesticide Programs (TS-766C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 1115, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, Virginia, (703-557-7096).

SUPPLEMENTARY INFORMATION: The meeting of the Working Committee on Registration and Classification will be concerned with the following topics:

1. Section 24(c) audit.
2. Availability of accurate Restricted Use Pesticide information.
3. Comprehensive policy compendium from Office of Pesticide Programs.
4. Fact Sheets—do they contain inaccurate information?
5. Advertising policy.
6. Unenforceable label language—policy statement.
7. Minor use policy statement.
8. Termiticides—Does SFIREG need to update its current position?
9. Effective dates of future restricted use classifications.
10. Availability of final printed labeling.
11. Granular restrictions—impact on the State programs.
12. EPA chemigation policy.
13. Other topics as appropriate.

The meeting of the Working Committee on Enforcement and Certification will be concerned with the following topics:

1. Standards for triple rinsing of pesticide containers.
2. Uniform reporting of Federal and State outputs under enforcement grants.
3. EPA's rule to cover the sale of restricted use pesticides to uncertified applicators.
4. "Timely and appropriate response" requirement in the enforcement grant guidance.
5. Need for an updated list of cancelled and suspended pesticides.
6. Enforcement policy on wood preservatives.
7. Farm worker safety rule.
8. Chemigation Label Improvement Program notice.
9. Advertising policy.
10. Update on bloc grants.
11. Termiticides—OPP action impact on certification and enforcement.
12. EPA Action Plan and schedule for FIFRA-RCRA Project—Possible impact on State regulatory programs.
13. Report from the EPA Office of Pesticide Certification and Training.
14. Wood preservatives certification and training.
15. State Plan review and revision.
16. Aid for regional category specific training manuals.
17. Emergency dumping from aircraft.
18. Date for required relabeling "Channels of Trade date" or "one date."
19. Disposal by end users of cancelled/suspended pesticides.
20. Question of restricted use for power pole wraps.
21. Other topics as appropriate.

Dated: April 10, 1986.

Steven Schatzow,

Director, Office Pesticide Programs.

[FR Doc. 86-8834 Filed 4-18-86; 8:45 am]

BILLING CODE 6560-50-M

[WH-FRL-3005-6]

Reallotment of Funds Under Wastewater Treatment Works Construction Grants Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of reallotment of funds under Wastewater Treatment Works Construction Grants Program (40 CFR Part 35, Subpart I).

SUMMARY: This notice announces the distribution of unobligated fiscal year (FY) 1984 construction grant funds subject to reallotment after September 30, 1985, under section 205 of the Clean Water Act, 33 U.S.C. 1285; and explains the procedure by which the reallotment distribution was determined.

Section 205(d) of the Clean Water Act (the Act) requires that funds allotted for FY 1978 and beyond which are not obligated by the end of the initial allotment availability period ". . . shall be immediately reallotted by the Administrator . . .". This notice advises the public of the amounts available to the eligible States to be added to their allotments for grants for the construction of municipal wastewater treatment facilities. Under section 205(d), these funds are available for obligation until September 30, 1987.

DATED: April 21, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. John Olsen, Chief, Program Management Branch, Municipal Construction Division (WH-547), Office of Municipal Pollution Control, (202) 382-5837.

SUPPLEMENTARY INFORMATION: Sums allotted to a State under section 205 of the Act remain available for obligation during the fiscal year in which appropriated and the following 12 months (40 CFR 35.2010(b)). Funds not obligated at the end of the period of availability are reallotted to the States which fully obligated their allotments. $2,400,000,000 was appropriated by Pub. L. 98-45 for FY 1984. At the close of the availability period for the FY 1984 allotment (September 30, 1985), 19 States and territories had not obligated $9,948,254 of the $2.4 billion available in FY 1984 allotments.

As explained below, not all of the unobligated funds remaining after the period of availability are subject to reallotment at this time. Due to the following exception, the total amount reallotted is $9,943,154.

Northern Mariana Islands: Section 3(b)(2) of Pub. L. 95-348 (1978) provides that any funds made available to the Northern Mariana Islands (NMI) by the Congress after March 24, 1970 ". . . are hereby authorized to remain available until expended." Accordingly, construction grant funds allotted to the NMI which remain unobligated at the close of the period of availability prescribed by secten 205(b) of the Act are not subject to reallotment.

The amount remaining is $5,100 in FY 1984 funds. Because the NMI would have lost these funds to reallotment without this statutory provisions, section 205(d) prevents the NMI from receiving any funds of other States being reallotted.

Reallotment Procedure

To distribute the $9,943,154 balance subject to reallotment in accordance with the requirements of section 205(d) of the Act, the following procedure was used:

1. The percentages listed in section 205(c) of the Act (as amended by Pub. L. 97-117) were adjusted to reflect the absence of States which had not fully obligated their funds (§ 35.2010(b)).

2. The resulting percentages were applied to the $9,943,154 to arrive at the individual State allotments.

3. The resulting figures (rounded to the nearest $100) are listed in the table which follows. The table also identifies the States which did not fully obligate their funds and the amounts subject to reallotment.

These reallotted funds are available for obligation until September 30, 1987. After that date, unobligated balances will be reallotted under section 205(d) of the Act (§ 35.2010). Grants from these funds may be awarded as of the date of issuance of advices of allowance to the EPA Regional Administrators by the Comptroller of EPA.

Dated: April 12, 1986.

Lee M. Thomas,

Administrator.

State	Subject to reallotment	Reallotment
Alabama		$146,800
Alaska		78,600
Arizona		86,700
Arkansas		85,800
California		933,900
Colorado	$249,888	
Connecticut		160,800
Delaware	641,280	
District of Columbia		63,900
Florida	34,825	
Georgia		221,800
Hawaii	755,705	
Idaho		63,900
Illinois		983,700
Indiana	118,875	
Iowa	886,813	
Kansas	830,809	
Kentucky	464,840	
Louisiana	545,786	
Maine		100,300
Maryland	525,626	
Massachusetts		445,700
Michigan	1,679,709	
Minnesota		241,300
Mississippi		118,300
Missouri		383,900
Montana		63,900
Nebraska		67,100
Nevada		63,900
New Hampshire	118,561	
New Jersey		536,400
New Mexico		63,900
New York		1,456,554
North Carolina		226,900
North Dakota	278,164	
Ohio		739,000
Oklahoma		106,100
Oregon		148,300
Pennsylvania		820,000
Rhode Island		86,900
South Carolina		134,500
South Dakota		63,900
Tennessee		190,700
Texas		496,700
Utah		89,200
Vermont		63,900
Virginia		298,700
Washington		226,300
West Virginia		204,600
Wisconsin		354,900
Wyoming		63,900
Guam	53,211	
Puerto Rico	2,552,641	
Virgin Islands	101,920	
American Samoa	87,840	
Trust Territories of Pacific Islands	15,660	
Northern Mariana Islands		
Total	9,943,154	9,943,154

[FR Doc. 86-8838 Filed 4-18-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

April 14, 1986.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

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Copies of the submission are available from Jerry Cowden, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-7231.

OMB Number: 3060-0179
Title: Section 73.1590, Equipment Performance Measurements
Action: Reinstatement
Respondents: Television and radio broadcast station licensees
Estimated Annual Burden: 11,466 Recordkeepers; 9,961 Hours

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-8609 Filed 4-18-86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement Filed; The Port of Tacoma Terminal

The Federal Maritime Commission hereby gives notice that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of the agreement and the supporting statement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on the agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 20 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in § 560.7 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 121-003904-004.
Title: The Port of Tacoma Terminal Agreement.
Parties:
Port of Tacoma (Port)
Totem Ocean Trailer Express, Inc. (Tote)

Synopsis: The proposed amendment would modify the agreement to (1) provide for the relocation of the Port's access to the preferential use area; and (2) substitute agreement exhibits to reflect the easement relocation and describe the premises as constructed. It would restate the agreement in its entirety and make certain nonsubstantive changes to the language of the agreement.

Filing Party: Mr. Thomas M. Kilbane, Jr., Garvey, Schubert, Adams & Barer, 1011 Western Avenue—10th Floor, Seattle, Washington 98104.

By Order of the Federal Maritime Commission.

Dated: April 16, 1986.

Tony P. Kominoth,

Assistant Secretary.

[FR Doc. 86-8663 Filed 4-18-86; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Vessel Sanitation Inspection Program

AGENCY: Centers for Disease Control (CDC), Public Health Service, HHS.

ACTION: Notice of program restructuring; discontinuation of routine sanitation inspections of international cruise ships by agency inspectors.

SUMMARY: The Centers for Disease Control (CDC) is restructuring the Vessel Sanitation Inspection Program for cruise ships that have international itineraries and call at U.S. ports. Routine sanitation inspections of such vessels by agency inspectors and publication of inspection results will be discontinued. CDC will provide the cruise ship industry with self-inspection guidelines for use in performing sanitation inspections.

EFFECTIVE DATE: April 30, 1986.

FOR FURTHER INFORMATION CONTACT: Laurence S. Farer, M.D., Director, Division of Quarantine, Center for Prevention Services, Centers for Disease Control, 1600 Clifton Rd., Atlanta, Georgia 30333.

SUPPLEMENTARY INFORMATION: The CDC Vessel Sanitation Inspection Program is conducted under the authority of Sections 361(a) and 366(c) of the Public Health Service Act (42 U.S.C. 264(a) and 269(c)). Regulations governing this program are Title 42, Part 71, of the Code of Federal Regulations.

In reviewing long-range public health needs and goals for the United States, CDC has determined that the Vessel Sanitation Inspection Program for cruise ships that have international itineraries and call at U.S. ports, should be restructured.

During the past 10 years, CDC and the cruise ship industry have worked together to improve the level of sanitation on cruise ships. This cooperative effort has resulted in an increase in the number of vessels able to meet CDC standards and a decrease in the frequency and severity of outbreaks of gastrointestinal disease on passenger vessels. Because of the heightened awareness of and attention to shipboard sanitation on the part of both the cruise ship industry and the traveling public, continued routine sanitation inspections by government inspectors are not necessary. Instead, CDC will work with the industry to initiate a self-inspection program which the industry can carry out on its own. CDC will continue to provide technical consultation and assistance, and investigate disease outbreaks if and when they occur. In accordance with the Public Health Service Act and applicable regulations, vessels will continue to be required to report illness and will remain subject to inspection when considered necessary.

A request for public comment on proposed changes in the Vessel Sanitation Inspection Program was published in the **Federal Register** (50 FR 27490) on July 3, 1985. Comments received as a result of the **Federal Register** Notice have been considered and appropriate technical changes will be included in the self-inspection guidelines.

Dated: April 14, 1986.

William E. Muldoon,

Director, Office of Program Support Centers for Disease Control.

[FR Doc. 86-8630 Filed 4-18-86; 8:45 am]

BILLING CODE 4160-18-M

National Institutes of Health

National Cancer Institute; Frederick Cancer Research Facility Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Frederick Cancer Research Facility Advisory Committee, National Cancer Institute, 8:30 a.m. to 5:00 p.m., May 12, 1986. The meeting will be held in the Conference Room in Building 426 at the Frederick Cancer Research Facility, Frederick, Maryland 21701.

The meeting will be open to the public on May 12 from 8:30 a.m. to 10:15 a.m. for a regular status report and discussion of changes and new initiatives. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed from 10:15 a.m. to adjournment on May 12 for review, discussion, and evaluation of individual projects and programs conducted by the contractor for the National Cancer Institute, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items. These proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals, disclosure of which would constitute a clearly unwarrnted invasion of personal privacy.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301-496-5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Berge Hampar, Executive Secretary, Frederick Cancer Research Facility Advisory Committee, National Cancer Institute, Frederick Cancer Research Facility, Building 427, Frederick, Maryland 21701 (301-695-1108) will furnish substantive program information.

Dated: April 7, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-8684 Filed 4-18-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of General Medical Sciences; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the committees of the National Institute of General Medical Sciences for May and June 1986.

These meetings will be open to the public to discuss administrative details relating to committee business for approximately two hours at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion, and evaluation of individual research training grant and research center grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Ann Dieffenbach, Public Information Officer, National Institute of General Medical Sciences, National Institutes of Health, Building 31, Room 4A52, Bethesda, Maryland 20892 (Telephone: 301-496-7301), will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of Committee: Genetic Basis of Disease Review Committee
Executive Secretary: Ms. Linda Engel, Room 950, Westwood building, Telephone: 301-496-7125
Date of Meeting: May 30, 1986
Place of Meeting: Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland
Open: May 30, 1986, 8:30 a.m.-10:30 a.m.
Closed: May 30, 1986, 10:30 a.m.-adjournment

Name of Committee: Pharmacological Sciences Review Committee
Executive Secretary: Dr. Rodney Ulane, Room 952, Westwood Building, Telephone: 301-496-4772
Dates of Meeting: June 5-6, 1986
Place of Meeting: Building 31C, Conference Room 6, National Institutes of Health, Bethesda, Maryland
Open: June 5, 1986, 8:30 a.m.-10:30 a.m.
Closed: June 5, 1986, 10:30 a.m.-5:00 p.m.; June 6, 1986, 8:30 a.m.-adjournment

Name of Committee: Cellular and Molecular Basis of Disease Review Committee
Executive Secretary: Dr. Helen Sunshine, Room 950, Westwood Building, Telephone: 301-496-7125
Date of Meeting: June 9, 1986
Place of Meeting: Building 31C, Conference Room 7, National Institutes of Health, Bethesda, Maryland
Open: June 9, 1986, 8:30 a.m.-10:30 a.m.
Closed: June 9, 1986, 10:30 a.m.-5:00 p.m.

Name of Committee: Minority Access to Research Careers Review Committee
Executive Secretary: Dr. Agnes Donahue, Room 949, Westwood Building, Telephone: 301-496-7585
Dates of Meeting: June 12-13, 1986
Place of Meeting: Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland
Open: June 12, 1986, 8:30 a.m.-10:30 a.m.
Closed: June 12, 1986, 10:30 a.m.-5:00 p.m.; June 13, 1986, 8:30 a.m.-adjournment

(Catalog of Federal Domestic Assistance Program Nos. 13-859, 13-862, 13-863, 13-880, National Institute of General Medical Sciences, National Institutes of Health)

Dated: April 7, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-8685 Filed 4-18-86; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of 2-Chloroethanol

The HHS' National Toxicology Program today announces the availability of the Technical Report describing toxicology and carcinogenesis studies of 2-chloroethanol, an intermediate in the synthesis of ethylene oxide and ethylene glycol and in the production of indigo, dichloroethyl formal and thiodiethylene glycol. It is also an industrial solvent, a pre-emergent plant growth stimulator, an extractant in the dewaxing of mineral oil, and an antioxidant for textile printing dyes.

Toxicology and carcinogenesis studies of 2-chloroethanol were conducted by dermal application of 2-chloroethanol dissolved in 70% ethanol/30% water solutions to groups of 50 F344/N rats of each sex at doses of 0, 50, or 100 mg/kg for 103 weeks or to groups of 50 Swiss CD-1 mice of each sex at doses of 0, 7.5, or 15 mg per animal for 104 weeks.

Under conditions of these 2-year dermal studies, there was no evidence of carcinogenicity [1] of 2-chloroethanol for male and female F344/N rats given 50 or 100 mg/kg per day or for male and female Swiss CD-1 mice given 7.5 or 15 mg per animal per day.

Copies of *Toxicology and Carcinogenesis Studies of 2-Chloroethanol (Ethylene Chlorohydrin) in F344/N Rats and Swiss CD-1 Mice (Dermal Studies)* (T.R. 275) are available

[1] The NTP uses five categories of evidence of carcinogenicity to summarize the strength of the evidence observed in each animal study: two categories for positive results ("clear evidence" and "some evidence"), one category for uncertain findings ("equivocal evidence"), one category for no observable effect ("no evidence"), and one category for studies that cannot be evaluated because of major flaws ("inadequate study").

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without charge from the NTP Public Information Office, MD B2–04, P.O. Box 12233, Research Triangle Park, NC 27709. Telephone (919) 541–3991, FTS: 629–3991.

Dated: April 9, 1986.

David P. Rall,

Director.

[FR Doc. 86–8036 Filed 4–15–86; 8:45 am]

BILLING CODE 4140–01–M

National Toxicology Program; Availability of Technical Report on Toxicology and Carcinogenesis Studies of Isophorone

The HHS' National Toxicology Program today announces the availability of the Technical Report describing toxicology and carcinogenesis studies of Isophorone, a solvent or cosolvent for polyvinyl and nitrocellulose resins, lacquers, finishes, pesticides, herbicides, and a variety of fats, oils and gums.

Toxicology and carcinogenesis studies of isophorone were conducted by administering 0, 250, 500 mg isophorone/kg body weight per day by gavage in corn oil to groups of 50 F344/N rats and 50 B6C3F$_1$ mice of each sex, 5 days per week for 103 weeks.

Under the conditions of these 2-year gavage studies, there was some evidence of carcinogenicity [1] of isophorone in male F344/N rats as shown by the occurrence of renal tubular cell adenomas and adenocarcinomas in animals given 250 or 500 mg/kg per day; carcinomas of the preputial gland were also observed at increased incidence in male rats given 500 mg/kg. There was no evidence of carcinogenicity in female F344/N rats given 250 or 500 mg/kg per day. For male B6C3F$_1$ mice, there was equivocal evidence of carcinogenicity of isophorone as shown by an increased incidence of hepatocellular adenomas or carcinomas (combined) and of mesenchymal tumors in the integumentary system in animals given 500 mg/kg per day and by an increase in malignant lymphomas in animals given 250 mg/kg per day. There was no evidence of carcinogenicity of isophorone in female B6C3F$_1$ mice given 250 or 500 mg/kg per day.

[1] The NTP uses five categories of evidence of carcinogenicity to summarize the strength of the evidence observed in each animal study: two categories for positive results ("clear evidence" and "some evidence"), one category for uncertain findings ("equivocal evidence"), one category for no observable effect ("no evidence"), and one category for studies that cannot be evaluated because of major flaws ("inadequate study").

Copies of *Toxicology and Carcinogenesis Studies of Isophorone in F344/N Rats and B6C3F$_1$ Mice (Gavage Studies)* (TR 291) are available without charge from the NTP Public Information Office, MD B2–04, P.O. Box 12233, Research Triangle Park, NC 27709. Telephone (919) 541–3991, FTS: 629–3991.

Dated: April 16, 1986.

David P. Rall,

Director.

[FR Doc. 86–8037 Filed 4–18–86; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Plan for the Use and Distribution; Wichita and Affiliated Tribes

April 9, 1986.

This notice if published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 [Pub. L. 93–134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use and distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on March 20, 1985, in satisfaction of the award granted to the Wichita and Affiliated Tribes (Keechi, Waco and Tawakonie) before the United States Claims Court in Dockets 371 and 372. The plan for the use and distribution of the funds was submitted to Congress with a letter dated October 29, 1985 and was received (as recorded in the Congressional Record) by the Senate on November 5, 1985 and by the House of Representatives on November 6, 1985. The plan became effective on February 26, 1986 as provided by the 1973 Act, as amended by Pub. L. 97–458, since a joint resolution disapproving it was not enacted. The plan reads as follows:

For the use and Distribution of the Wichita and Affiliated Tribes (Keechi, Waco and Tawakonie) of Oklahoma Judgment Funds in Dockets 371 and 372 Before the United States Claims Court.

The funds appropriated on March 20, 1985, in satisfaction of an award granted to the Wichita and Affiliated Tribes (Keechi, Waco and Tawakonie) in Dockets 371 and 372 before the United States Claims Court, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used and distributed as follows:

Per Capita Payment Aspect

The Wichita and Affiliated Tribes (Keechi, Waco and Tawakonie) membership roll shall be brought current under the enrollment procedures, as provided in the Tribe's Governing Resolution adopted May 8, 1981, and amended on June 24, 1972 and on May 21, 1977; to include all eligible members born on or prior to and living on the effective date of this plan. Subsequent to the preparation and approval of the membership roll, the Secretary of the Interior (hereinafter "Secretary") shall make a per capita distribution of eighty (80) percent of the judgment funds, in sums as equal as possible, to each tribal enrollee.

Programming Aspect

Twenty (20) percent of the funds, and any shares remaining after the per capita payment provided above, shall be invested by the Secretary pursuant to the provisions of 25 U.S.C. 162a. The invested funds, including the interest and investment income accrued, shall be made available for use on a budgetary basis in programs of social and economic benefits, as proposed in the Tribe's plan of operation as recommended by the membership and subject to the approval of the Secretary.

The tribal membership shall have an opportunity to be heard in the development of all proposed programs and to discuss and take action upon them. The Executive Committee shall implement and administer the approved programs.

General Provisions

The per capita shares of living competent adults shall be paid directly to them. Per capita shares of legal incompetents and minors shall be handled as provided in the Act of October 19, 1973, (87 Stat. 466) as amended. The per capita shares of deceased individual beneficiaries shall be distributed to the heirs and legatees as determined in accordance with 43 CFR, Part 4, Subpart D.

None of the funds distributed per capita or held in trust under the provisions of this plan, shall be subject to Federal or State income taxes, and the per capita payments shall not be considered as income or resources when determining the extent of eligibility for assistance under the Social Security Act or, except for per capita shares in excess of $2,000 any Federal of federally assisted programs.

Ross O. Swimmer,

Assistant Secretary—Indian Affairs.

[FR Doc. 86–8045 Filed 4–18–86; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

Prineville District; Advisory Council Meeting

Notice is hereby given in accordance with Pub. L. 94–579 and 43 CFR Part 1780 that a meeting of the Prineville District Advisory Council will be held on May 29, 1986.

The Council will meet in the District conference room at 10:00 a.m. at 185 E. Fourth Street, Prineville, OR 97754.

The agenda will consist of a discussion of the exchange/land base adjustment program, the upcoming resource management plan/environmental impact statement for the Brothers/LaPine Planning Area located in the south half of the Prineville District and the decisions reached in the recently completed resource management plan for the Two Rivers Planning Area located in the north half of the district. The Take Pride in America Program which has been initiated by the Secretary of the Interior will also be discussed.

The public and news media is welcome to attend any segment of the Council meeting. Persons wishing to address the Council either orally or in writing should contact the District Manager at the above address by May 27, 1986.

Summary minutes of the meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within thirty days following the meeting.

James L. Hancock,

District Manager.

[FR Doc. 86–8046 Filed 4–18–86; 8:45 am]

BILLING CODE 4310–33–M

Spokane District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 94–579 and 43 CFR Part 1780, that a meeting of the Spokane District Advisory Council will be held on Wednesday, May 21, 1986. The meeting will begin at 9:00 a.m. in the Conference Room of the BLM Spokane District Office, East 4217 Main Avenue, Spokane, Washington.

The agenda for the meeting is as follows:

1. Discussion of the Juniper Dunes Wilderness Area.
2. Discussion of the proposed BLM/USFS interchange.
3. Discussion of the Annual Work Plan.
4. Discussion of "Project Pride."
5. Discussion of old business.
6. Public comments and statements.

Any responsible person wishing to make an oral statement should notify the District Manager, Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, Washington 99202, or telephone (509) 456–2570 by the close of business, 4:30 p.m., Friday, May 16, 1986. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

A written report of the Council meeting will be maintained at the BLM Spokane District Office and will be made available for public inspection. Reproduction of the meeting report will be made available to the public at the cost of duplication. The meeting is open to the public and news media.

Joseph K. Buesing,

District Manager.

[FR Doc. 86–8029 Filed 4–18–86; 8:45 am]

BILLING CODE 4310–33–M

Colorado; Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of public and private lands in Conejos County. C–35455.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under section 206 of the *Federal Land Policy and Management Act of 1976*, (90 Stat. 2756; 43 U.S.C. 1716):

T. 33 N., R. 10 E., NMPM.
Sec. 35: NE¼,
T. 33 N., R. 11 E., NMPM,
Sec. 18: W½W½,
Sec. 20: E½NE¼, NE¼SE¼,
Sec. 21: N½, N½SE¼, N½SW¼,
Sec. 22: NW¼.
Comprising 1,080 acres of public lands.

In exchange for these lands the United States will acquire the following described lands from Stan and Lester Bagwell:

T. 32 N., R. 10 E., NMPM,
Sec. 12: SE¼NE¼, NE¼SE¼,
T. 32 N., R. 11 E., NMPM,
Sec. 7: Lots 2, 3 & 4, SE¼SE¼ and West 1011 ft. of NE¼SW¼,
Sec. 18: Lots 1, 2 & N½ of 4, E½NW¼, NE¼SW¼, N½SE¼SW¼,
T. 33 N., R. 11 E., NMPM,
Sec. 22: Lots 3 & 4, S½SW¼,
Sec. 27: Lots 1, 2, 3 and NW¼NW¼,
Sec. 28: Lots 1 and 2,
Comprising 792.67 acres M/L of private lands.

The purpose of this exchange is to acquire the non-Federal lands which have high public values for a rafting launch site, public outdoor recreational use, wildlife habitat and management of adjoining public lands. The lands to be obtained in the exchange will have good physical and legal access. The public lands to be transferred to non-Federal ownership have few or no public values.

The values of the lands to be exchanged are approximately equal; full equalization of values will be achieved by payment to the United States by Stan and Lester Bagwell of funds in an amount not to exceed 25 percent of the total value of the lands to be transferred out of Federal ownership.

Lands to be transferred from the United States will be subject to all valid existing rights. Included in the patent will be a reservation to the United States for rights-of-way for ditches and canals under the Act of August 30, 1890. A part of the land may be transferred subject to section 24 of the Federal Power Act.

Publication of this notice segregates the public lands from the operation of all non-discretionary appropriations, including the mining laws, for a period of 2 years from the date of first publication.

Further information concerning the exchange, including the environmental assessment is available for review at the San Luis Resource Area, Alamosa, Colorado.

For a period of 45 days from the date of first publication, interested parties may submit comments to Canon City District Office, 3080 East Main Street, Canon City, Colorado 81212, telephone (303) 275–0631.

Dennis R. Sparks,

District Manager.

[FR Doc. 86–8044 Filed 4–18–86; 8:45 am]

BILLING CODE 4310–JB–M

National Park Service

Intention To Negotiate Concession Contract; Ross Lake Resort, Inc.

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Regional Director of the Pacific Northwest Region of the National Park Service proposes to negotiate a concession contract for the continued

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provision of marina services for the public at Ross Lake National Recreational Area within North Cascades National Park Complex in the state of Washington. The contract will be for a period of five (5) years from June 15, 1986 through June 14, 1991.

The existing concessioner, Ross Lake Resort, Inc., has performed its obligations to the satisfaction of the Secretary under a current contract. Therefore, pursuant to the Act of October 9, 1965, the existing concessioner is entitled to be given a preference in the negotiation of a new contract. This preference allows an existing satisfactory concessioner to offer to meet the terms of the best offer made in response to the terms of the Statement of Requirements if that offer is not that of the existing satisfactory concessioner.

For a copy of the Statement of Requirements describing the opportunity offered and including the application requirements, interested parties should write to the Superintendent, North Cascades National Park Complex, 2105 Highway 20, Sedro Woolley, Washington, 98284 or call Mr. Phil Parker, Concession Analyst, 206–856–5700.

The Secretary will consider and evaluate all proposals timely received. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

This contract action has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

Dated: March 19, 1986.

William J. Briggle,

Acting Regional Director, Pacific Northwest Region.

[FR Doc. 86–8881 Filed 4–18–86; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the seventy-sixth meeting of the Board for International Food and Agricultural Development (BIFAD) on May 13 and 14, 1986.

The purposes of the meeting are to consider an agenda for the second decade of Title XII, to hear presentations on the Biden-Pell grants for Development Education and the Agricultural Education Project in Cameroon, to consider proposed extensions of the Collaborative Research Support Programs on Peanuts and Small Ruminants, and to receive reports on the American Association of State Colleges and Universities, proposal for a program of linkages with smaller institutions, BIFAD's role in evaluation of Title XII Projects, policies affecting agriculture, and a study of institution-building projects of its universities in Africa.

The meeting will held at 1:30 and adjourn at 5:00 on May 13 and will begin at 8:30 on May 14 and adjourn at 12:30. Both days the meetings will be held in the Loy Henderson Conference Room in the State Department, 1st floor, Washington, DC 20523. Any interested person may attend, may present oral statements with the Board before or after the meeting, or may present oral statements in accordance with procedures, established by the Board, and to the extent the time available for the meeting permits. A person lacking a U.S. Government building pass acceptable to the State Department should notify Gretchen Berry of the BIFAD Staff (telephone (202) 647–6449) in order that arrangements may be made to facilitate entry into the building.

Erven J. Long, Director, Research and University Relations, Bureau for Science and Technology, Agency for International Development, is designated as AID Advisory Committee Representative at this meeting. It is suggested that those desiring further information write to him in care of the Agency for International Development, International Development Cooperation Agency, Washington, DC 20523, or telephone him at (703) 235–8929.

Dated: April 15, 1986.

Handy Williamson, Jr.,

Acting Director, Office of Research and University Relations.

[FR Doc. 86–8849 Filed 4–18–86; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 290 (Sub-2)]

Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Approval of Rail Cost Adjustment Factor and Decision.

SUMMARY: The Commission has decided to approve the cost index filed by the Association of American Railroads (AAR) under the procedures of Ex Parte No. 290 (Sub-No. 2), *Railroad Cost Recovery Procedures*. Application of the index provides for a second quarter 1986 Rail Cost Adjustment Factor (RCAF) of 1.023. The RCAF shows a decrease of .046 or 4.3 percent in railroad input prices from the first quarter 1986 level of 1.069. Since the second quarter 1986 RCAF is below the level of a prior RCAF, no rate actions are ordered.

EFFECTIVE DATE: April 1, 1986.

FOR FURTHER INFORMATION CONTACT: Robert C. Hasek (202) 275–0938, or Douglas Galloway (202) 275–7278.

SUPPLEMENTARY INFORMATION: By decision served January 2, 1985 (50 FR 87, January 2, 1985) we outlined the procedures for the calculation of the all inclusive index of railroad input costs and the methodology for the computation of the RCAF. These procedures replaced an interim methodology which was formerly used. AAR is required to calculate the forecasted index on a quarterly basis and submit it on the fifth day of the last month of each calendar quarter.

We have reviewed AAR's calculations of the index for the second quarter of 1986 and find that, with the exception of the lease rental portion of the equipment rents component, these calculations comply with the rules contained in our decision served January 2, 1985. AAR's handling of lease rentals is acceptable on an interim basis.

The indexing rules call for the lease rental portion of the equipment rents component of the index to be calculated using actual data. On November 15, 1985, AAR filed a petition to reopen this proceeding for the purpose of modifying our rule concerning this component. AAR's petition is currently under consideration. At this time we will continue to accept use of the Producer Price Index for Industrial Commodities, less Fuel, Power and Related Products as a surrogate for the lease rental portion of the equipment rents component of the index. We have previously observed that the lease rental portion of the index is only 2.4 percent of the total and is not likely to have a major effect on the RCAF.

In our most recent decision in this proceeding we restated a lump sum payment to certain members of the United Transportation Union (UTU) by amortizing it over the life of the present union contract with interest at the three-month Treasury Bill interest rate. We instructed AAR to continue this calculation by amortizing the principal balance over the remaining quarters using a three-month Treasury Bill interest rate available seven days prior to the submission date of the quarterly index. We have verified AAR's calculation and find that it complies with our instructions.

The major reason for the sharp decrease in the second quarter 1986 RCAF from the first quarter level is a projected 49.2 percent decrease in fuel prices. Additionally, all other components except Equipment Rents showed a slight decline from first quarter levels.

We find the RCAF for the second quarter of 1986 to be 1.023. This is a decrease of .046 or 4.3 percent from the first quarter of 1986. Since the second quarter RCAF is below a previously higher level, no rate actions are ordered.

The indices and RCAF derived from AAR's second quarter 1986 calculations are shown in Table "A" of the Appendix to this decision. Table "B" shows the fourth quarter 1985 index calculated on both an actual basis and a forecasted basis for comparative purposes.

We will issue a notice of proposed rulemaking (NPR) soon proposing changes in the final rules in this proceeding which were issued on January 2, 1985. The NPR will have an expedited comment period. We will propose that rates increased when the RCAF declines. That NPR will also solicit comments on whether the RCAF should be adjusted for forecast error. Action on petitions for reconsideration for the first quarter RCAF, adjustments to the second quarter RCAF, and for modification of railroad rate levels will be held in abeyance until issuance of a final notice in the proposed rulemaking. Because we are not ordering rollbacks at this time, our decision to make the new RCAF effective retroactively will have no immediate rate and tariff implications. Rather, the practical consequences of the April 1 implementaiton date will be addressed in our final decision(s) at the conclusion of the rulemaking proceeding.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources. This proceeding will not have a significant adverse impact on a substantial number of small entities because these procedures simplify a formerly complex and burdensome rate increase procedure.

Authority: 49 U.S.C. 10321, 10707a, 5 U.S.C. 553.

Dated: April 15, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,

Secretary.

Appendix

TABLE A.—EX PARTE 290 (SUB-NO. 2) ALL INCLUSIVE INDEX OF RAILROAD INPUT COSTS

Line No. and index component	1984 weights	First quarter 1986 forecast	Second quarter 1986 forecast
1. Labor	80.5	150.4	149.7
2. Fuel	10.8	101.8	51.7
3. Materials and supplies	7.8	107.1	105.2
4. Equipment Rents	8.4	151.5	151.8
5. Depreciation	7.4	116.5	116.4
6. Other Items [1]	14.1	120.9	120.2
7. Weighted Average	100.0	135.1	129.2
8. Linked Index [2]		129.2	123.7
9. Rail Cost Adjustment Factor [3] (10/1/82=100) 130.9=100		1.069	1.023

[1] Other Items are a combination of Purchased Services, Casualties and Insurance, General and Administrative, Other Taxes and Loss and Damage, all of which are measured by the Producer Price Index for Industrial Commodities, less Fuel, Power and Related Products.

[2] Linking is accomplished by a change to 1984 weights beginning with the fourth quarter 1985. The following formula was used for the second quarter 1986 index:

$$\frac{\text{2nd Quarter 1986 Index (1984 Weights)}}{\text{1st Quarter 1986 Index (1984 Weights)}} \times \text{1st Quarter 1986 Index (Linked Index)} = \text{Linked Index (1980 Weights to 1984 Weights)}$$

or

$$\frac{129.2}{135.1} \times 129.1 = 123.7$$

[3] The denominator was rebased to an October 1, 1982 level in accordance with the requirements of the Staggers Rail Act of 1980.

Table B.—Ex Parte 290 (Sub-No. 2) Comparison of Fourth Quarter 1985 Index Calculated on Both a Forecasted and an Actual Basis

Line No. and index component	1984 weights (percent)	Fourth quarter 1985 forecast	Fourth quarter 1985 actual
1. Labor	80.5	139.0	139.0
2. Fuel	10.8	87.1	87.0
3. Materials and Supplies	7.8	107.7	107.7
4. Equipment Rents	8.4	151.8	151.5
5. Depreciation	7.4	116.0	116.4
6. Other Items	14.1	120.0	120.0
7. Weighted Average	100.0	127.8	128.8
8. Linked Index		122.3	123.3
9. Rail Cost Adjustment Factor		1.012	[1] 1.009

[1] For comparative purposes only, an RCAF for the fourth quarter 1985 has been calculated using actual data. The published RCAF for the fourth quarter 1985 was computed using forecasted data.

[FR Doc. 86–8818 Filed 4–18–86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30783]

James River Corporation et al.—Control Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: Pursuant to 49 U.S.C. 10505 the Commission exempts James River Corporation (JR) from 49 U.S.C. 11343 for the acquisition by JR of control of Crown Zellerbach Corporation (CZ) and in turn of Western Transportation Co., Inc., a wholly-owned subsidiary of CZ, subject to employee protective conditions. The operating rights of Palantic Steamship Co., Inc. are cancelled and the request to exempt the acquisition, by JR of control of Palantic Steamship Co., Inc., through the acquisition of control of CZ, is dismissed.

DATES: This exemption is effective April 28, 1986.

Petitions to reopen must be filed by May 12, 1986.

ADDRESSES: Send pleadings referring to Finance Docket No. 30783 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representatives: Richard H. Catlett, Jr., McGuire, Woods & Battle, One James Center, Richmond, VA 23219.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423 or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: April 14, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,

Secretary.

[FR Doc. 86–9026 Filed 4–18–86; 10:52 am]

BILLING CODE 7035-01-M

NATIONAL SCIENCE FOUNDATION

Committee Management, Notice of Establishment

A determination has been made that the establishment of the Advisory Panel for Advanced Scientific Computing is necessary and in the public interst in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), and other applicable law. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Panel: Advisory Panel for Advanced Scientific Computing.

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Purpose: To advise on the merit of proposals for the establishment of national supercomputer centers and for the establishment of appropriate networking methods between researchers, institutions, and the centers.

Dated: April 16, 1986.

M. Rebecca Winkler,

Committe Management Officer.

[FR Doc. 86-8674 Filed 4-18-86; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specfic problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for pemits and licenses.

The draft guide, temporarily identified by its task number, CE 301-4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Standard Format and Content for the Safety Analysis Report for Onsite Storage of Spent Fuel Storage Casks" and is intended for Division 3, "Fuels and Materials Facilities." It is being developed to provide guidance on the type of information needed by the NRC staff for its evaluation of a Safety Analysis Report for storage of spent fuel in casks at a nuclear reactor site. The guide also provides a format for submitting this information.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. Comments will be most helpful if received by June 16, 1986.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 14th day of April 1986.

For the Nuclear Regulatory Commission.

Guy A. Arlotto, Director,

Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 86-8668 Filed 4-18-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-382, License No. NPF-38 EA 85-10]

Louisiana Power & Light Co. (Waterford, Unit 3); Order Imposing Civil Monetary Penalties

Louisiana Power & Light Company (the licensee) is the holder of Operating License NPF-38 (the license) issued by the Nuclear Regulatory Commission (the Commission or NRC) on March 16, 1985. The license authorizes the licensee to operate the Waterford 3 Steam Electric Station, Unit 3 in accordance with the conditions specified therein.

II

NRC safety inspections of the licensee's activities under Construction Permit CPPR-103 were conducted from June 1983-September 1985. During these inspections, the NRC staff determined that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalties (NOV) was served upon the licensee by letter dated May 24, 1985. The NOV stated the nature of the violations, the provisions of the NRC's requirements that the licensee had violated, and the amount of the civil penalties proposed for the violations. The licensee responded to the NOV on July 19, 1985. Upon consideration of the licensee's response, and the statements of fact, explanations, and arguments for remission or mitigation of the proposed civil penalties contained therein, as set forth in the Appendix to this Order, the Director, Office of Inspection and Enforcement, has determined that civil penalties in the amount of One Hundred Ten Thousand Dollars ($110,00) should be imposed.

III

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended, 42 U.S.C. 2282, Pub. L. 96-295, and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the amount of $110,000 within thirty days of the date of this Order by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director, Office of Inspection and Enforcement, USNRC, Washington, DC 20555.

IV

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement at the above address. A copy of the hearing request shall also be sent to the Executive Legal Director, Office of the Executive Legal Director, USNRC, Washington, DC 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings. If payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee violated NRC requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties, as amended by the enclosed Appendix, and

(b) Whether on the basis of such violations this Order should be sustained.

Dated at Bethesda, Maryland, the 10th day of April 1986.

For the Nuclear Regulatory Commission.

James M. Taylor, Director,

Office of Inspection and Enforcement.

Appendix

On May 24, 1985 a Notice of Violation and Proposed Imposition of Civil Penalties (NOV) was issued to Louisiana Power and Light Company (LP&L) for violations of NRC requirements identified during several special and routine NRC inspections. LP&L's response to the NOV was provided in a letter dated July 19, 1985. The response provides the reasons why the licensee believes several proposed violations are not violations and why mitigation of some of the proposed civil penalties is appropriate. LP&L also provides additional information unavailable at the time of the NRC inspection and clarifies existing information regarding the disputed violations. The contested violations are restated below followed by a description of the licensee's response, and the NRC's evaluation and conclusions. Violations that are admitted and where mitigation is requested are not restated. However, a description of licensee's response and the NRC's evaluation and conclusions are provided as appropriate.

Violation I.D—Failure To Take Adequate Corrective Action (Licensee admits Violations I.A, I.B, I.C, I.E, I.F., and I.G)

Criterion XVI of 10 CFR 50, Appendix B requires that measures be established to assure that conditions adverse to quality, such as failures, malfunctions, deficiencies, deviations, defective material and equipment, and nonconformances are promptly identified and corrected. In the case of significant conditions adverse to quality, the measures shall assure that the cause of the condition is determined and corrective action taken to preclude repetition.

Louisiana Power and Light (LP&L) Quality Assurance (QA) Manual Section QR 16.0, Revision 2, "Corrective Action," paragraph 16.3, requires, in part, that LP&L and its major contractors implement procedures for correction of significant conditions adverse to quality which include determining the cause(s) of the significant adverse conditions, taking prompt corrective action to prevent repetition of the adverse conditions, and documenting and reporting the adverse conditions along with their determined cause(s) and corrective actions to appropriate levels of management for review and assessment.

Contrary to the above:

LP&L failed to take adequate actions to correct two Significant Construction Deficiencies (SCD) 73 and 78 which they issued on April 11, 1983, and April 28, 1983, respectively, to address welding deficiencies by American Bridge in the Reactor Containment Building and the Reactor Auxiliary Building. A comprehensive reinspection program was initiated by LP&L and rework has been completed. A subsequent inspection by the NRC of approximately 380 welds fabricated by Peden Steel Company, which was an American Bridge subcontractor, revealed several welds which did not meet the specified acceptance criteria.

Reference (Ref): Construction Appraisal Team (CAT) [NRC Inspection Report 50-382/84-07], Section VIII.B.4.

Summary of the Licensee's Repsonse

LP&L admits the violation as stated with the following exceptions. LP&L denies that corrective actions for SCD-73 were incomplete in that SCD-73 was retracted by LP&L and became a subset of SCD-78. Thus, actions were completed for SCD-73 under the scope of SCD-78. Additionally, since Peden Steel was not a subcontractor for American Bridge, the scope of both SCDs did not include Peden Steel activities. LP&L does admit, however, that corrective actions were incomplete for SCD-78. The NRC identified that the scope of SCD-78 did not, but should have, included the American Bridge work on the missile framing for both steam generators.

NRC Evaluation of Licensee's Response

The NRC staff reviewed SCD-73, dated April 11, 1983, and SCD-78, dated April 28, 1983, and verified that SCD-73 had been incorporated into SCD-78. In addition, the NRC staff's review verified that Peden Steel was not a subcontractor for American Bridge and, therefore, was not within the scope of SCD-73 or SCD-78. However, the failure of the licensee to include work performed by American Bridge on the steam generator missile framing as part of the total reinspection effort identified in the scope of SCD-78 sufficiently illustrates an example of a significant weakness that existed in LP&L's implementation of its quality assurance program with regard to its corrective action program.

Conclusion

The subject violation has been amended to read as follows:

LP&L failed to take adequate actions to correct Significant Construction Deficiency 78, issued on April 28, 1983 that addressed welding deficiencies by American Bridge in the Reactor Containment Building and the Reactor Auxiliary Building. A comprehensive reinspection program was initiated by LP&L and rework has been completed. However, work performed by American Bridge on the steam generator missile framing was not included in the scope of Significant Construction Deficiency 78.

The NRC staff views this as a single example of the licensee's failure to take adequate corrective action to identified problems. Therefore, as actions taken to resolve deficiencies identified by Significant Construction Deficiency 73 were apparently appropriate, the civil penalties associated with Violation I.D. are being mitigated 50%, a reduction of civil penalties in the amount of Two Thousand Five Hundred Dollars ($2,500).

Violation II—Failure to Ensure Qualification of QA Personnel

Summary of Licensee Response

LP&L admits the violation as stated in the NOV. However, the licensee requests mitigation of the civil penalties proposed for this violation in that, because of the potential severity of this violation, it initiated and completed prompt, intensive, and exhaustive corrective action. Specifically, a verification program was implemented to review the professional credentials of 100 percent of the Quality Assurance/Quality Control (QA/QC) personnel ever employed during the construction phase of Waterford 3 who performed safety-related activities. In addition, the NUS Corporation provided an independent overview of the program.

The licensee's conclusion, as communicated in the "Collective Significance" document as part of its response to the Prelicensing Assessment, indicated that with the exception of Mercury Company, the disposition of most deficiencies identified in Prelicensing Assessment Nos. 1 and 10 did not require any reinspection. For Issue No. 20, an engineering evaluation of the work performed by the Construction Management Team (CMT) personnel established that questions about personnel qualifications did not render the work indeterminate. Also, many other methods (e.g., Authorized Nuclear Inspector, Nondestructive Examination, perequisite preoperations/integrated testing, overinspections, etc.) provide assurance that quality has been built into the plant. Since no significant hardware changes were required, positive evidence as to the adequacy of the overall Construction QA program was provided.

NRC Evaluation of the Licensee's Response

The QA program is required to provide control over activities affecting the quality of identified structures, systems, and components to an extent consistent with their importance. One aspect of this QA program is the need for verification of quality by inspection and tests. To ensure the validity of this verification of quality, the personnel performing activities affecting quality must possess sufficient education and experience, and be suitably trained, to achieve and maintain proficiency in performing their activities.

When a breakdown in the quality verification program occurs, extensive corrective actions are necessary to reestablish confidence in the structures, systems, and components important to safety. LP&L accomplished this by implementing a verification program for the review of the professional credentials of 100 percent of the QA/QC personnel ever employed at Waterford 3 who performed safety-related work, performing engineering evaluations of work performed by individuals that may not have been qualified, and using other methods (e.g., ANI, NDE, prerequisite preoperations/integrated testing, overinspections, etc.) which provided assurance that quality had been built into the plant.

The NRC staff acknowledges that LP&L has taken corrective actions. However, these actions were not unusually prompt nor extensive in view of the severity of the

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problem, and were necessary to verify the quality of the plant *after* the construction of the facility was essentially completed. The intent of the QA program is to provide control over activities while they are in progress. These violations provide multiple examples where LP&L's QA program did not ensure qualification of QA personnel performing safety-related inspection activities while construction activities were in progress. Therefore, mitigation of the civil penalties for prompt and extensive corrective actions is not appropriate.

Conclusion

The NRC staff believes that imposing the proposed civil penalty amount associated with Violation II is warranted. Mitigation based on prompt and extensive corrective action for this violation is not appropriate in this case. Furthermore, the civil penalties emphasize the need for LP&L to ensure that QA/QC personnel satisfy the appropriate qualification requirements during the operations phase so that an effective operations QA program can be better implemented.

Violation III—Failure to Adequately Disposition Conditions Adverse to Quality

(Only the pertinent portions of the violation that are denied are restated below.)

Criterion XVI of 10 CFR 50, Appendix B requires that measures to be established to assure that conditions adverse to quality, such as failures, malfunctions, deficiencies, deviations, defective material and equipment, and nonconformances are promptly identified and corrected. In the case of significant conditions adverse to quality, the measures shall assure that the cause of the condition is determined and corrective action taken to preclude repetition.

LP&L QA Manual Section QR 16.0, "Corrective Action," paragraph 16.2, requires in part that the major contractors and their suppliers establish written procedures for identifying, for determining the cause of, for evaluating, and for correcting conditions adverse to quality, such as failures malfunctions, deficiencies, deviations, defective material and equipment and nonconformances.

A. Ebasco Procedure ASP–III–7, Issue K, "Processing of Nonconformances," paragraph 4.3 defines a nonconformance as a condition in characteristics, documentation, or procedure which renders the quality of the item or service unacceptable or indeterminate. Attachment 7.1, Item 15, requires that the recommended disposition provide specific resolution to correct the nonconforming condition, provide specific resolution to correct the nonconforming condition, including program changes necessary, i.e., revision to specifications, procedures, retraining of personnel, etc. In addition, Item 20 requires that a separate individual evaluate the disposition to ensure that the recommended disposition provides justification as applicable to support and document compliance with applicable codes and standards or makes reference to the appropriate analysis reports.

Contrary to the above, the disposition for the following examples of Ebasco NCRs was not adequate to resolve the identified nonconformance. (30 examples were provided for this violation. The examples are restated as necessary in the Summary of the Licensee's Response below.)

B. Mercury Procedure SP–868, "Procedure for Handling of Nonconformances and Corrective Action," paragraph 4.2, defines a disposition as, "Those actions required to resolve a nonconformance."

Contrary to the above, the recommended disposition for the following examples of Mercury NCRs was not adequate to resolve the identified nonconformance . . . (15 examples were provided for this violation. Examples are restated as necessary in the Summary of the Licensee's response below.)

C. Ebasco Procedure ASP–IV–70, "Handling of Engineering Discrepancy Notices," in paragraph 4.1 defines a discrepancy as "A deviation from the specified requirements (including procedures) that can be readily corrected in accordance with standard approved operating procedures or specifications based on good engineering practices. Discrepancies do not require an elaborate engineering evaluation or disposition for correction. They are deviations from good engineering practice and procedures."

Contrary to the above, LP&L and its contractor Ebasco demonstrated a pattern of dispositioning Engineering Discrepancy Notices (EDNs) "accept as is" or "use as is" when Ebasco Procedure ASP–IV–70, "Handling of Engineering Discrepancy Notices," did not allow this disposition. The correct disposition of an EDN is to bring the subject item into conformance or generate a nonconformance for disposition.

Examples of EDNs dispositioned "accept as is" are:

1. EDN–EC–1646 Arc strikes and undercut.
2. EDN–C–1618 Procedural violations on rework of emergency diesel generator component.
3. EDN–EC–1476 MT or PT on the weld root pass was bypassed.

Ref: SSER–7, A–302.

Summary of the Licensee's Response

The licensee denies ten of the thirty examples in Violation III.A., denies three of the nine examples in Violation III.B, and denies Violation III.C in its entirety. The licensee did not address six of the examples in Violation III.A and these are presumed to be admitted. LP&L also requests mitigation of the civil penalties proposed for Violations III.A and III.B. A description of each of the licensee's arguments for the contested violations follows:

III.A. *Citation: NCR–7139*—Involved field inspections of horizontal seismic supports for radiation monitors RE–HV 50218, and RE–HV 0200.6S. Only the data for the RE–HV 50218 support was the correct attachment.

Response: The licensee denies the violation stating that the disposition was properly implemented in accordance with the Nonconformance Report (NCR). Only a minor revision was necessary to substitute the documentation for support 38E088 with the documentation for 38E086. The disposition was unaffected by this revision. (Note: Correct support designation should be RE–UV–50315, not RE–UV–50215)

Citation: NCR–6159—Inspection of tubetrack welding identified that prior to July 1982, an unknown quantity of welding was performed using WPS–"E" procedure without backing plates. Traceability problems were not identified and addressed by the NCR–6159. In addition, the sample used for tensile testing the welds should have been representative of the weakest weld joint in lieu of the strongest (i.e., worst case example should have been used to conduct tests).

Response: The licensee denies this violation. The licensee, while it maintains that traceability was not in fact a subject or a concern of this NCR, indicates that tubetrack materials were purchased, received and maintained by Ebasco's QA program. Also, the tensile test specimen to which the violation refers was designed to obtain tensile strength of the weld joint so that, when converted to stress, the strength could be translated in subsequent calculations utilizing geometries of the real joints and the manner of load application.

Citation: NCR–7547—Noted discrepancies against OCR–1830 and Mercury NCR–0808. The disposition was based on passing hydrostatic test for acceptability of fitup discrepancy between the union and tubing. The disposition does not account for the effects of service conditions such as vibration and cyclic loads; and an engineering evaluation was not performed.

Response: LP&L denies the violation in that the disposition was based on field inspection and rework of connections, not on satisfying hydrostatic test criteria for acceptability. The connections were also radiographed to further ensure fit-up was acceptable. Ebasco Specification LOU 1564–100 requires minimum engagement of ⅛" where as actual was 5/16". Therefore, fit-ups of the connections were acceptable.

Citation: NCR–1650—Identified that the pressure gauge on the anchor bolt tension tester was out of tolerance, reading +450 psi higher than actual. The NCR disposition was to retest all anchor bolts installed prior to the date the tension test gauge was determined to be out of calibration. However, the affected bolts cannot be identified since the torquing procedure, QCP–309, did not require the recording of the tester serial number.

Response: LP&L denies the violation. LP&L argues that the disposition to the NCR does not require identification of the specific anchor bolts tested, only that an anchor bolt be retested for each representative group. However, LP&L indicates that as a result the NRC staff's disposition concern, corrective action had not been implemented on all representative groups of anchor bolt.

Citation: NCR–6165—States ". . . welder R–1 is not qualified to this procedure. . ." The disposition states,". . . Measures taken to preclude recurrence is required. . ." No indications of the actions taken could be located.

Response: LP&L denies the violation. The disposition as originally written referenced welder R–1 instead of welder R–7. Welder R–7 was qualified to the welding procedure, so a nonconforming condition never existed. LP&L maintains that the disposition as originally written on the face of the NCR was adequate to resolve the identified nonconformance.

Citation: NCR–7182, NCR–7180, NCR–7181, NCR–7184, NCR–6723—These NCRs also involve a violation of ANSI N45.2, Section 13 requirements in that QCP 309 did not require the tension testing equipment's serial number, calibration date, and pressure gauge number to be recorded.

Response:—LP&L denies that the NCRs involve a violation of ANSI N45.2, Section 13 in that Quality Control Procedure (QCP) 309 did not require the tension testing equipment serial number, calibration date and pressure gauge number to be recorded. LP&L admits that QCP 309 did not require recording of the above information; however, its program provides all controls necessary to meet ANSI N45.2, Section 13. Therefore, the dispositions were in fact adequate to resolve all nonconformances that were identified.

Citation: NCR 6514—The problem of traceability for the weld being performed was still in question; not addressed. The NCR also questioned use of some Bergen-Patterson designed supports installed by Mercury without traceability. This problem was also not addressed by referenced attachment.

Response: LP&L denies the violation. Traceability of welds was not a subject of this NCR as written. Rather, the use of Bergen-Patterson designed supports installed by Mercury Company without traceability was questioned. The disposition accepted the supports as installed as no unqualified steel was used by Mercury Company to fabricate safety-related supports; the affected supports were not required to be fabricated in accordance with ASME Section III, subsection NF requirements; and structural members supplied originally by Bergen-Patterson were not stamped with heat numbers and is the probable cause of Mercury's documentation not noting heat numbers. LP&L maintains this NCR was therefore dispositioned properly.

Citation: NCR–4219 (Mercury–614)—Identified a violation of WCP 3110.4, paragraph 6. The sample system piping had been bent downward causing a low point in the piping. The piping was being forced down by support SLRR–186. QCP–3110.4 stated that "tubing must be properly routed." This disposition stated that ". . . tubing was reevaluated after support SLRR–186 and sample line were installed, after completion of Penetration 29 work." There were no records for rework or reinspection to indicate satisfactory reinstallation of supports and sample lines.

Ref: SSER–7, A–33 (applicable to all above NCRs).

Responses: LP&L denies the violation. This dispositon was signed by the instrumentation and control engineer who, once Penetration #29 was reworked, as documented on Mercury Company NCR 664, evaluated the affected piping and verified that it met the installation criteria. Therefore, LP&L maintains this NCR was dispositioned properly.

Citation: NCR–7724— Addressed problems with the qualification of Mercury weldars. Ebasco's disposition of this NCR failed to determine if (1) welder M–109 had performed welds to WPS–Y for which he was not qualified; (2) welder M–101 had performed welds to WPS–Y for which he was not qualified; (3) welder M–85 had performed welds to WPS–D after his qualifications record had been voided.

Ref: SSER–7, A–215.

Response: LP&L denies the violation in that the welders referenced in the NCR were appropriately qualified to the appropriate procedures, but due to documentation errors, their qualification appeared questionable. The licensee maintains that the disposition to the NCR resolves these discrepancies and was adequate to resolve the nonconformance. However, based on the above dispositions, a Welder Qualification records review was performed to assure that discrepancies did not exist regarding welding procedure accuracy. The review identified no additional deficiencies and concluded that the Welder Qualification Records were accurate.

Citation: NCR–6719/R1—Identified problems with Mercury hydrostatic test conditions. The Ebasco disposition of the NCR was based on analyzing the "worse case" hydrostatic test conditions; however, only one test was reviewed by Ebasco.

Response: LP&L denies the violation. The licensee maintains that three tests were in fact analyzed by Ebasco. Later, a worst case hydrostatic test configuration was identified. The licensee notes that Ebasco did not "assume" a worst case but actually determined a worst hydrostatic test. Several hydrostatic test configurations had to be evaluated before the worst case could be determined.

Ref: SSER–7, A–40.

III.B *Citation: NCR–363*—Indicated a problem with fitup of emergency diesel generator fuel oil tank "A". This was a safety-related system; therefore, an authorized nuclear inspector (ANI) review should have been performed, but was not.

Response: LP&L denies the violation in that the ASME process pipe connected to the emergency diesel generator fuel oil tank "A" as described in the NCR is an ASME Class 3 installation and does not require ANI review.

Citation: NCR–554.—Noted numerous problems with supports during a walkdown. There was no proof of work being performed to correct these problems other than a memo (Form 211) stating that work was performed.

Response. LP&L denies the violation in that Form 211 attached to the NCR is a standard Mercury Quality Control Report on which the QC inspector documented his inspection of acceptable resolution to each identified concern. Additionally, Form 211 references Mercury Company Work Package #1723 which was found to contain documentation of all rework activities required by the NCR.

Citation: NCR–658—Identified problems with OCR 1671 seismic Category I support, B–430–X23–J–42. The NCR stated "the disposition has been completed, all rework documented." There was other no documentation in the package other than the NCR W3–7317 acceptance letter.

Response: LP&L denies the violation in that Mercury Company Nonconformance Procedure SP–864 does not specifically require supporting documentation to be attached to an NCR if is cross-referenced to the NCR. Although documentation was not in the package, the NCR and rework documentation were cross-referenced for retrievability and verification that corrective action was completed.

Ref: SSER–7, A–232 (applicable to NCRs included in Violation III.B).

III.C. The licensee denies this violation in its entirety. The licensee arues that procedures were followed, dispositions were made, and corrective actions were taken. LP&L maintains that procedure ASP-IV-70, "Handling of Engineering Discrepancy Notices" (EDNs), states, in sections 6.3.2.4 and sections 6.3.2.5, respectively:

"The Engineering Inspector may either provide the recommended disposition himself or forward the EDN to the appropriate discipline Resident Engineer for recommended disposition. Once the recommended disposition has been completed, the EDN shall be forwarded to the appropriate discipline Senior Resident Engineer, or his designee, for disposition."

"After the Senior Resident Engineer, or his designee, has provided the disposition, he shall indicate to whom the EDN is to be referred for corrective action, or whether an ESSE evaluation is required. (An ESSE evaluation is required whenever the disposition recommends or accepts a deviation from approved design criteria.)"

The licensee further argues that the violation documents the supposition that correct EDN dispositions require conformance or generation of an NCR for disposition. The procedure did not prohibit any specific disposition, but did require controls for appropriate dispositioning and concurrence.

NRC Evaluation of the Licensee's Response

The NRC staff notes that Violations III.A and III.B included 39 examples of problems identified in LP&L's program of dispositioning conditions adverse to quality, 13 of which were disputed by the licensee. (The NRC staff also notes that not response was received from the licensee for six of the examples in Violation III.A). The NRC staff reviewed the NCRs where LP&L denied that a violation in fact existed and, using the additional information and clarified dispositions provided by the licensee, determined that those NCRs had been properly dispositioned (NCRs 7139, 6159, 7547, 1650, 6165, 7182, 7180, 7181, 7184, 6723, 6514, 4219, 7724, 6719/R1, 363, 554, and 658). However, at least three of these 13 examples required additional comprehensive reviews because of inaccurate information provided in the NCRs (NCRs 6514, 7724, and 6165). In addition, the licensee acknowledged that even though deficiencies were processed in accordance with site procedures, the procedures did not provide adequate specific guidelines, which led to the excessive need for judgments and interpretation. As a result, the LP&L Operations QA Audit (SA–W3–QA–84–06, performed January 24–30, 1984), and the continued screening review of 100 percent of Ebasco and subcontractor NCRs to varying degrees, throughout 1984, was necessary to determine the extent of this problem.

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Therefore, the NRC staff believes that the remaining examples are sufficient to establish that the violations were themselves significant enough to warrant civil penalties. In addition, since extensive reviews were required to assess the adequacy of the licensee's nonconformance reporting program, the NRC staff believes that mitigation of the civil penalties based on extensive corrective actions would not be appropriate.

With regard to Violation III.C, the NRC staff's concern involved the use of EDNs rather than NCRs, not whether the processing of EDNs was procedurally controlled. As the violation as proposed stated, ". . . paragraph 4.1 defines a discrepancy as deviation from the specified requirements (including procedures) *that can be readily corrected* (emphasis added) in accordance with standard approved operating procedures or specifications based on good engineering practices . . ." The NRC staff evaluation of the three EDNs cited in the violation indicated that the conditions documented may have represented a greater problem than that of a discrepancy as defined by ASP–IV–70, paragraph 4.1. Furthermore, the NRC staff believes that a more elaborate evaluation of these problems may have been appropriate. However, upon further review, the NRC staff also agrees that the procedure did not prohibit any specific disposition, such as "use-as-is," as the licensee successfully argued. Therefore, Violation III.C is being withdrawn.

Conclusion

Violations III.A and III.B should be amended to delete the examples of the violations LP&L denied in its response. The NRC staff views the remaining examples sufficient to establish the licensee's significant failure to adequately disposition conditions adverse to quality. However, since some of the examples are being withdrawn, a reduction of the proposed civil penalties associated with Violations III.A and III.B in the amount of Two Thousand Five Hundred Dollars ($2,500) is warranted. Violation III.C is also being withdrawn, reducing the proposed civil penalties' amount by another Five Thousand Dollars ($5,000).

Violation IV—Failure to Establish QA Program for Application of Nuclear Protective Coatings

Summary of the Licensee's Response

The licensee admits the violation occurred as stated in the NOV. However, LP&L believes that this violation warrants mitigation due to the following extenuating circumstances. Corrective actions, as defined in its response, were extensive. Deficiencies associated with this violation were reported to the NRC as a Significant Construction Deficiency in accordance with the requirements of 10 CFR 50.55(e) and all corrective actions have been completed.

NRC Evaluation of the Licensee's Response

The NRC staff acknowledges that the licensee took corrective action in evaluating and repairing the protective coatings for the interior of the containment vessel. However, these repairs and evaluations were necessary to ensure the integrity of the protective coatings and to determine the effect failed coatings material may have on safety systems during a design basis accident. In addition, the NRC staff acknowledges the submittal of the required report and the completion of all corrective actions.

However, the NRC staff views the failure of LP&L to implement a QA program for application of nuclear protective coatings as significant weakness that existed in LP&L's QA program during construction. The corrective actions taken were necessary because of this weakness and, therefore, are considered neither prompt nor extensive. Thus, the NRC staff does not believe that mitigation of the civil penalties proposed for Violation IV is warranted. The NRC staff is imposing the full civil penalty amount associated with this violation to emphasize to the licensee the importance for it to ensure similar weaknesses are not carrier over into the operational QA program.

Conclusion

The request for mitigation of the civil penalty associated with this violation has been denied.

Violation V—Failure To Maintain Quality Assurance Records (Only the pertinent portions of the violation that are denied are restated below.)

Criterion XVII of 10 CFR 50, Appendix B, requires that sufficient records be maintained to furnish evidence of activities affecting quality. The records shall include at least the following: operating logs and the results of reviews, inspections, tests, audits, monitoring of work performance and material analyses. The records shall also include closely related data such as qualifications of personnel, procedures, and equipment. Inspection and test records shall as a minimum, identify the inspector or data records, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. Records shall be identifiable and retrievable. Consistent with applicable regulatory requirements, the applicant shall establish requirements concerning record retention, such as duration, location, and assigned responsibility.

LP&L QA Manual Section QR–2.0, "Quality Assurance Program," Table 2.1, states that LP&L is committed to guidance document ANSI N45.2.9, "Requirements for Collection, Storage, and Maintenance of Quality Assurance Records for Nuclear Plants," draft 11, Revision O, January 1, 1973. This ANSI standard requires that the licensee retain QA records in accordance with the retention periods listed in Appendix A of this standard. The following is a sample list of types of records with the retention periods indicated.

Record type	Permanent	Years after commercial operation
Concrete Placement Records	X	
Soil Compaction Test Reports	X	
Field Inspection Report and Release	X	
Material Properties Reports		
Performance Test Procedures and Results Records	X	
Nonconformance Reports	X	
Welding Personnel Qualifications		2
Welding Procedures	X	
Welding Inspection Reports (Magnetic, Liquid Penetrant, Radiographic, Ultrasonic)	X	
Welding Filler Metal Material Reports	X	

Contrary to the above, the NRC inspectors noted that the following QA documents had not been maintained as required by ANSI N45.2.9 . . . (Ten examples were provided for this violation. The examples are restated as necessary in the Summary of the Licensee's Response below.)

Summary of the Licensee's Response

LP&L denies three of the ten examples cited in Violation V. LP&L further requests mitigation of the proposed civil penalties for the seven examples admitted. Specifically, the licensee admits Examples A and B of Violation V recognizing that accountability measures for Ebasco and Mercury NCRs could have been enhanced early in the construction phase. Mitigation of civil penalties is requested on the basis that these two violations has no impact on actual hardware installations and that closed or voided Ebasco and Mercury NCRs were accounted for. LP&L also admits Example D, but requests mitigation of proposed civil penalties based on its extensive corrective actions for inspector qualifications and certification as explained in the Summary of Licensee Response for Violation II. In addition, the licensee admits Examples E, F, G, and I of Violation V, but believes they represent isolated and minor examples of missing documentation. Documentation noted by NRC to be missing was found (Example G), or the associated hardware was determined to be adequate, based on evaluation or reconstruction of other associated documentation (Examples E, F, G, and I). In addition, for Examples E and I, Ebasco and LP&L performed a review of 100 percent of the concrete placement packages to assure overall program adequacy. For Example G, an extensive analysis was performed and concluded that the soil backfill was capable of resisting all impound loads including seismic effects. (Note: In Item E, "3 of 5" should read "5 of 5." Concrete placement package 503–501–16 should read 498–503–16.)

Violations V.C., V.H., and V.J. are denied by LP&L, and are restated below with the response following.

V.C. *Citation:* CB&I did not maintain records of coating materials purchased from Carboline for applications to the inside of the containment vessel.

Ref: SSER–7, A–250.

Response: The licensee denies this violation believing that this violation is subsumed by Violation IV. Chicago Bridge and Iron's contract had no QA requirements for protective coatings applications inside the containment. Hence no records of coating materials purchased from Carboline were maintained.

V.H. *Citation:* Inspection documentation does not exist for several bolted connections on the east and west main steam line framing (elevation +46 and above).

Ref. SSER–7, A–30.

Response: LP&L denies the violation as stated. SCD–78, dated March 29, 1983, identified deficiencies in American Bridge structural steel installations and documentation (reference NRC Violation I.D.). LP&L recognizes and agrees that corrective actions (scoping) were inadequate, but maintains that in place programs and procedures would have required proper reinspection and documentation if the SCD corrective actions had been scoped properly. Ebasco procedures ASP–IV–128 and 129 had been developed when SCD–78 was issued. These procedures would have been used and were, in fact, used after the scoping problem was brought to its attention.

V.J. *Citation:* CCW system structure (cooling tower) pour package (499–804–8A1). The top of the wall pour was identified as not being covered with water for one day during that airing period. Discrepancy Notice (DN) L308 specified that the normal curing period be extended two extra days. Curing information for the final day was not in the package.

Ref: CTA, section V.B.1.

Response: LP&L denies the violation as stated in the NOV in that Discrepancy Notice DN-C-308 was dispositioned in error on October 20, 1976 to extend the curing time for the concrete placement to four days (from October 20–23, 1976). The licensee subsequently issued NCR W3–236. This NCR become the higher tier and controlling document. Since the NCR (W3-236) did not require any additional curing days in that the disposition was "accept-as-is", no additional reports were required to be maintained.

NRC Evaluation of the Licensee's Response

The NRC staff reviewed Examples C, H, and J of Violation V using the information provided in the licensee's response. As a result of this review, the NRC staff is withdrawing Examples C, H and J from the NOV. With regard to Example H, whether or not procedures were developed that would have been used to require inspection and documentation is not at issue for the cited violation. The fact that documentation did not exist at the time of the NRC review effort is at issue, and the response provided by LP&L to the cited violation addresses this issue. With regard to Example J, the NRC staff would point out that the Discrepancy Notice is a QA record that should reflect accurate information, even though it is a "lower tier" document. Furthermore, its disposition appears appropriate with regard to the concern of shrinkage cracking, a concern that is not always addressed by simply satisfying compressive strength requirements.

The NRC staff believes the seven remaining examples cited in Violation V are sufficient to establish the failure of LP&L to properly maintain QA records during the construction process. Extensive reviews were performed by the licensee to assure program adequacy due to weaknesses that existed in the licensee's QA program during construction. In the NRC staff's view, mitigation of the civil penalties associated with Violation V based on the performance of these required reviews would not be appropriate. Even though the associated hardware was determined to be adequate, it is significant that these intensive inspections and investigations were necessary. Also, these civil penalties emphasize to the licensee the importance the NRC places on the maintenance of QA records.

Conclusion

Examples C, H, and J have been withdrawn from Violation V. No mitigation of civil penalties associated with this violation is warranted.

Violation VI—Failure to Adequately Review Quality Assurance Records

Summary of the Licensee Response

LP&L admits the violations as stated in the NOV. The licensee believes these violations identified were either a misinterpretation of requirements (Example A) or were isolated instances in which in-place design control requirements were not followed (Examples B and C). The licensee believes that mitigation is warranted based on prompt and extensive corrective actions.

NRC Evaluation of the Licensee's Response

These examples represent deficiencies identified by the NRC in various reviews after the licensee's contractor had conducted its document reviews performed to verify the acceptability of the Construction-Installation Records. Two of these (Examples A and B), are considered particularly significant in that hardware changes as well as additional reviews were required to verify the acceptability of the installations. These examples are indicative of LP&L's failure to adequately review QA records. In addition, actions taken by the licensee were not unusually extensive in view of the problems identified. Therefore, mitigation of the Civil penalties associated with this violation would not be appropriate.

Conclusion

No mitigation of the Civil penalties associated with Violation VI is warranted.

Violation VII—Improper Welder Certification

Criterion XVI of 10 CFR 50, Appendix B, requires that measures be established to assure that special processes, including welding, heat treating, and nondestructive testing, are controlled and accomplished by qualified procedures in accordance with applicable codes, standards, specifications, criteria, and other special requirements.

LP&L QA Manual section QR 9.0, Revision 2, "Control of Special Processes," requires that "Special process control records shall provide objective evidence that special processes were performed in compliance with approved special process control procedures by qualified personnel. Results of nondestructive examinations, inspections, and tests shall be recorded in accordance with applicable codes, standards, and specifications. Special process control shall be retained by the vendor and/or supplied to LP&L as required by contract or purchase order. Qualifications records of procedures, equipment, and personnel associated with special processes shall be established, filed, and kept up-to-date."

Contrary to the above, the following examples of Mercury welder certification records indicated the welders were certified to welding procedures for which they were not qualified.

A. Welder M–44—Was originally qualified to WPS–B but the record had been retyped and incorrectly indicated the welder was qualified to WPS–Y. The NRC staff reviewed the welder's qualifications record, but could find no qualification to WPS–Y.

B. Welder M–109—The NRC staff found that the welder's WPS–*N* qualifications record was dated November 26, 1982, and voided October 22, 1983; however, the welder qualification status record did not show qualification or welding performed to WPS-Y.

C. Welder M–9—This welder's qualification status record reflected dates different than those recorded on the welder qualifications record for WPS–E. This record had been revised to change the qualification test date from December 18, 1979, to December 18, 1978. However, the welder qualification status record indicated the test was performed on December 18, 1979, as originally dated.

D. Welder M–101—This welder was originally qualified to WPS–B but the welder's qualification test record had been revised and the qualification changed to WPS–Y. The NRC staff reviewed the welder's qualification record, but could find no qualification to WPS–Y.

Ref: SSER–7, A–215

Summary of the Licensee Response

LP&L denies the violation as stated. A review of all Mercury welders for proper qualifications was initiated in October 1983 as a result of the disposition to NCR–W3–7218. The review revealed that Mercury welders making safety and seismic welds were properly qualified with the exception of one welder. The identified exception was dispositioned using NCR–W3–7219. Since the NRC review, NCR–W3–7218 has been supplemented with an attachment that provides a clearer and more auditable documentation of the review.

NCR–W3–7724 was issued as a result of concerns regarding discrepancies in Mercury welder qualifications records noted by the NRC inspectors during the special inspections. The licensee determined that welders had welded to processes for which they were qualified with the exception of welder M–315. This welder did perform a weld out of his qualifications; however, the weld was rejected in process by the Mercury QC inspector and redone by a qualified welders.

NRC Evaluation of the Licensee's Response

Based on the licensee's response the NRC staff agrees with LP&L's contention that the violation is not valid as stated in the NOV. The licensee argues that welders were

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certified to welding procedures for which they were qualified. Based on the supplementary documentation to NRC–W3–723 and a reevaluation of NCRs W3–7219 and W3–7724, the NRC staff agrees with that argument. The four examples cited in the violation indicated that documentation provided for certification of the welders was not appropriate to reflect the welder's qualifications and therefore, not properly established, filed, and kept up-to-date. In addition, at the time of the NRC review, these records were incomplete and difficult to retrieve. However, since welders were certified to welding procedures for which they were qualified, a reduction in the civil penalties associated with this violation is warranted.

Conclusion

Violation VII is being withdrawn from the NOV. The civil penalties associated with this violation are being withdrawn in the amount of Five Thousand Dollars ($5,000).

Violation VIII—Failure to Properly Identify Conditions Adverse to Quality (Only the pertinent portion of the violation that is denied is restated below.)

Criterion XVI of 10 CFR 50, Appendix B, requires that measures be established to assure that conditions adverse to quality, such as failures, malfunctions, deficiencies, deviations, defective material and equipment, and NCRs are properly identified and corrected.

LP&L QA Manual section 16.0, "Corrective Action," paragraph 16.2, requires, in part, that the major contractors and their suppliers establish written procedures for identifying, for determining the cause of, for evaluating, and for correcting conditions adverse to quality such as failures, malfunctions, deficiences, deviations, defective material and equipment, and nonconformances.

B. Ebasco Procedure ASP–III–7, "Corrective Action," paragraph 6.2.1, requires, in part, that an NCR be issued if the condition cannot be corrected within the scope of approved engineering drawings, specifications, or procedures, or if elaborate engineering evaluation is required, or involves items designed ASME section III. Paragraph 4.3 of this procedure defines a nonconformance as "a condition in characteristic, documentation, or procedure which renders the quality of an item or service unacceptable or indeterminate. Examples of nonconformances include: physical defects, test failures, incorrect or inadequate documentation, or deviation from prescribed inspection or test procedures."

Contrary to the above, the following efficiencies were identified during performance of Ebasco Quality Assurance Instruction QAI 9, "Review and Handling of Construction—Installation Records":

Item 1. *Q3–CC–1C–6*—[1] 9.2 dated May 27, 1983 reviewed Item 1—Torque wrench CT–339 was designated by field instructions for torquing of bolts to 90 ft/lbs. This wrench, designated for work between 0–600 ft/lbs. had not been calibrated for use in the lower range. Resolution was "use as is" since the bolts are evenly torqued, but resolution did not address the problem with the calibration of the torque wrench. An NCR should have been issued.

Item 2. *Q2–SI–1C–69*—[1] 9.2 dated March 24, 1983, reviewed item—Dravo certified material test report (CMTR) which indicated the piping material specified as 376TP304. The bill of material specified the material as 358TP304. An NCR should have been issued.

Item 3. *Q2–LW3–SI–10–F/E*—[1] 9.2 reviewed Item 11—Supplemental data was added to quality assurance records. The additions were neither initialed or dated, as required by ANSI N45.2.9, paragraph 3.2.6. An NCR should have been issued.

Item 4. *QMC-HYPO P11.E*—[1] 9.2 reviewed Items 43, 78, and 81—Penetration test reports were generated a a result of the work required by CIWA 820914 and FCR 1498 R1 for the installation of seal rings in penetrations. The work performed was not inspected or documented. An NCR should have been issued.

Ref: SSER–7,A–05

Summary of the Licensee's Response

The licensee admits that Example A occurred as stated in the NOV and that an NCR should have been written: however, the licensee requests mitigation based on prompt corrective action nd claims no adverse safety condition would have resulted had the deficiency gone undetected.

LP&L denies that Example B occurred based on paragraphs 7.3.3 to 7.3.5 of Ebasco Procedure QAI–9, Revision 2. The licensee believes these procedural requirements provide adequate assurance that Ebasco Form QAI–9.2, "Construction Installation Records Deficiency Reports," was reviewed for potential nonconforming conditions. The licensee believes the items cited in Example B are not considered to have been potentially nonconforming; however, further clarification should have been provided with the 9.2 resolutions.

The licensee recognizes that Example C reflects the NRC concern identified in the Prelicensing Assessment Issue No. 4; however, mitigation of the proposed civil penalties is requested in that no issues revealed conditions that required physical plant changes. No lower tier documents that were judged to warrant processing as an NCR described conditions which, if left uncorrected, would adversely affect plant safety, and upgrading the documents to NCRs would not have changed the dispositions or corrective actions. Furthermore, during a review of sampled documents, no defects (a hardware deficiency which if left uncorrected would adversely affect safety) were found and on that basis there was a confidence level of 95 percent that 90 percent of the total population neither described conditions that have safety significance nor met the reportability criterion of 10 CFR 50.55(e) and 10 CFR Part 21.

(Note for Example B: Correct Q3–CC–IC–16 to Q3–CC–1C–6 for Item 1, Correct date May 5, 1983 to May 21, 1983 for Item 1, Correct Q2–ST–1C–69 to Q2–S1–1C–69 for Item 2, Correct Q2–W3–ST–10F/E to Q2–LW3–S1–10–F/E for Item 3, Correct QMC–HVPO–P11E to QIVC–HVPO–P11–E for Item 4, Correct FCR 1490 R1 to FCR 1498R1.)

[1] Refers to Quality Assurance Instruction QAI–9, Attachment 9.2, "Construction—Installation Records Deficiency Report."

NRC Evaluation of the Licensee's Response

This violation addresses what the NRC staff perceived as examples of the licensee's failure to properly identify conditions adverse to quality. Eight different items in three different areas were cited. The licensee admits four of the items, and denies the remaining four items in one area (Example B).

An effective QA program that is implemented during the construction phase looks to identify and correct problems as constuction progresses. A strong corrective action program ensures conditions adverse to quality are identified, and corrected and recurrence is pervented. As a result of the NRC reviews, the NRC staff concluded that LP&L did not have a strong corrective action program in-place during construction, and extensive inspections and investigations were necessary to establish the extent of nonconformances when some were identified. For instance, one example of a violation of separation criteria was identified in Example A. LP&L then inspected 53 additional N1 instrument lines were 13 violations out of 276 locations were identified. All violations were evaluated and found acceptable. A walkdown of 12 other N1 instrument lines was performed, and one item required rework. While these reviews resulted in few hardware changes, they were necessary to verify the quality of construction at Waterford 3 because of the number of problems identified by the NRC in the various areas. Although the licensee requests mitigation for prompt corrective action, in the NRC staff's view, mitigation of any of the civil penalties associated with Example A, or any of the examples in Violation VIII, would deemphasize the importance for the licensee to ensure it has a strong corrective action program during operation, and that nonconformances are *promptly* identified and corrected. Such a program must be in-place during both construction and operation.

The NRC staff does not agree with LP&L that all of the items cited in Example B are not potentially nonconforming. The NRC staff does agree with LP&L for two of the items, and items 3 and 4 are being withdrawn from Example B. However, for items 1 and 2, from the information provided both during the NRC review and in the licensee's response, these items should have been documented on NRCs for evaluation and disposition in accordance with the appropriate requirements. In item 1, the torquing of flange bolts to the required values specified in field instruction with a torque wrench that was not calibrated or of an incorrect range renders the actual torque values indeterminate. Likewise, for item 2, a conflict between a certified material test report and a bill of material would not be recognized as a clerical error by the individual performing the record review, otherwise the problem would not have been documented. Thus, by procedure, an NRC should have been written as the material was indeterminate.

In the NRC staff's view the three items cited in Example C are considered significant, particularly item 3. The NRC staff would point out that it does not agree that these deficiencies are minor and controllable without the additional review provided by an

NCR. For the same reasons as discussed above, mitigation is not warranted.

In summary, the NRC staff's concern involving Violation VIII was that the example cited in the violation represented a pattern of documenting nonconformances (items requiring an engineering evaluation) on documents or in systems other than the system approved by the LP&L QA program. The NRC staff believes the six items are in themselves sufficient to establish a weakness in the LP&L QA program for the failure to properly identify conditions adverse to quality.

Conclusion

Items 3 and 4 of Example B in Violation VIII are withdrawn from the NOV. No mitigation or reduction in the civil penalties associated with Violation VIII is warranted.

Violation IX—Inadequate Procedures to Control Activities Affecting Quality (Only the pertinent portion of the violation that is denied is restated below.)

Criterion V of 10 CFR 50, Appendix B, requires that activities affecting quality shall be prescribed by documented instructions, procedures, or drawings of a type appropriate to the circumstances and shall be accomplished in accordance with these instructions, procedures, or drawings.

LP&L QA Manual Section QP–5.0, Revision 2, "Instructions, Procedures and Drawings," required that "Safety-related activities of LP&L and its major contractors shall be described in documented instructions, procedures, drawings, specifications, checklists, or manuals appropriate to the circumstances. Activities such as design, procurement, manufacturing, construction, installation, testing, inspection, and auditing shall be accomplished in accordance with these documents."

Contrary to the above, review of the following procedures revealed that the instructions were inadequate to ensure that activities affecting quality were correctly executed.

A. Ebasco Procedure ASP–IV–18, Issue Q, "Receiving, Storage, Issuing and Control of Welding Electrodes and Filler Materials," does not meet the storage and rebake requirements for storage of AWS A5.1 (7018), electrodes, as described by AWS D1.1–1980, to which Ebasco is committed. American Welding Society AWS D1.1–1980 requires that low hydrogen electrodes conforming to AWS A5.1 be purchased in hermetically sealed containers or be dried for at least 2 hours between 450 °F and 800 °F before they can be used. Electrodes shall be dried prior to use if the hermetically sealed container shows evidence of damage. Immediately after opening of the hermetically sealed container or removal of the electrodes from drying ovens, electrodes shall be stored in ovens held at a temperature of at least 250°F (120°C). After the opening of hermetically sealed containers or removal from drying or storage ovens, electrode exposure to the atmosphere shall not exceed 4 hours prior to being returned to the storage area. In the case that electrodes are exposed for a period greater than 4 hours, the electrodes are required to be redried.

Ebasco Procedure ASP–IV–18 requires that electrodes be stored in ovens of a temperature between 200–300 °F for approximately 8 hours following removal from the hermetically sealed container and prior to use. Covered electrodes are not to be exposed to ambient temperatures for more than 4 hours and if unused are to be returned to the storage ovens for 8 hours prior to reissuance. No instructions are given for electrodes exposed for a period greater than 4 hours.

Ref: SSER–7, A–21.5

Summary of Licensee Response

LP&L denies Example A contending that instructions were adequate to ensure activities affecting quality were correctly executed. The licensee does admit that Ebasco weld material control procedure, ASP–IV–18, never provided for rebaking weld rods. However, the procedure did require low hydrogen electrodes be redried or destroyed if the four hour American Welding Society (AWS) Code exposure limit was exceeded. This method was used to provide adequate drying using conventional rod ovens as opposed to rebake ovens which required higher temperatures. The required temperature and times did differ from AWS D1.1; however, they did meet ASME section II, Part C, SFA 5.1, which is endorsed by AWS.

In addition, LP&L retained the weld rod manufactuer to duplicate this drying process which showed the technique to be adequate. Furthermore, the NRC staff previously determined that noted conditions had no safety significance or impact on hardware. [Reference SSER 9, "Discussion of 23 Issues as presented in the June 13, 1984 letter from D. G. Eisenhut (NRC) to J. M. Cain, LP&L, Issue 22."]

The licensee admits that the procedure as cited in Example B used by LP&L construction QA for "transfer" reviews was not approved until March 22, 1984. However, the licensee requests mitigation of proposed civil penalties based on their extensive reviews finding no adverse safety conditions resulting from the use of an unapproved procedure.

NRC Evaluation of the Licensee's Response

Example A was based upon the time and temperature requirements delineated in AWS D1.1–1980 to which Ebasco was committed to for control of low hydrogen electrodes (7018). The use of time and temperature requirements as established in ASME Section II, Part C, SFA 5.1, without first verifying the adequacy of the drying process, as opposed to the rebake process, using a suitable test program constitutes a failure to control an activity that directly affects quality. Ebasco Procedure ASP–IV–18, Issue O, "Receiving, Storage, Issuing, and Control of Welding Electrodes and Filler Materials," did not meet the storage and rebake requirements for storage of AWS A5.1 (7018) electrodes as described by AWS D1.1–1980. The procedure therefore was inadequate to control the rebake process for low hydrogen (7018) electrodes.

Example B is viewed to be significant by the NRC staff. The review performed by LP&L was necessary to determine if preoperational testing was adversely affected or invalidated and if system operability may have been jeopardized. This review was necessary because of the inadequate implementation of LP&L's QA program. Therefore, mitigation of any of the civil penalties associated with Example B would not be appropriate.

Conclusion

Example A of Violation IX was accurately identified as an inadequate procedure to control activities affecting quality. Thus, no reduction in the proposed civil penalties amount is warranted. In addition, mitigation of the civil penalties associated with Example B would not be appropriate.

Violation X—Failure to Control Conditionally Released Equipment

Summary of the Licensee's Response

The licensee admits the violation as stated in the NOV, but requests mitigation of the proposed civil penalties based on extensive reviews and the argument that no adverse safety condition existed.

NRC Evaluation of the Licensee's Response

The NRC staff does not consider that mitigation would be appropriate in that the review performed by LP&L was necessary to verify that Conditional Certifications of equipment and other conditional release conditions have been identified, reviewed and resolved.

Conclusion

No mitigation of civil penalties associated with Violation X is appropriate.

Violation XI—Failure to Maintain Design Control

Summary of the Licensee's Response

LP&L admits that approved procedures for design control were not followed or lacked clarity but denies that this violation represents a 10 CFR Part 50, Appendix B, Criterion III violation since the design control program was in place.

NRC Evaluation of the Licensee's Response

The NRC staff recognizes that Ebasco Procedure ASP–IV–58, Revision E, "Attachment to Seismic Supports," required that added loads be reported to engineering for inclusion into the "Seismic Allowable Load Chart." The examination of 25 seismic cable tray and HVAC supports by the NRC CAT inspector revealed that 18 exhibited loads were not shown on the design documents. Based on the potential significance and number of examples identified, the NRC staff concluded that the controls provided by the Ebasco procedure were not sufficient to ensure that added loads were identified and included on the "Seismic Allowable Load Chart." While a design control program was in place, weaknesses existed such that additional measures were necessary for the identification and control of design interfaces and for coordination among participating design organizations to satisfy the requirements of 10 CFR Part 50, Appendix B, Criterion III, "Design Control."

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Conclusion

The use of 10 CFR Part 50, Appendix B, Criterion III in this violation is appropriate.

Violation XII—Failure to Adequately Perform Document and Design Control Reviews

The licensee admits this violation.

Violation XIII.C—Failure to Implement an Adequate Inspection Program (LP&L admits Violations XIII.A and XIII.B)

Criterion X of 10 CFR 50, Appendix B, requires that a program for inspection of activities affecting quality be established for and executed by or for the organization performing the activity to verify conformance with the documented instructions, procedures, and drawings for accomplishing the activity.

LP&L QA Manual Section 10, "Inspection," paragraph 10.1, requires, in part, that LP&L's major contractors establish programs for inspection during manufacturing and construction to assure conformance with applicable instructions, procedures, drawings, specifications, and contract requirements.

C. Contrary to the above, the licensee did not ensure that an adequate inspection program was implemented by their contractors to ensure that HVAC restraints were inspected to the actual as-built configuration.

Ref: CAT, section III.B.3

Summary of the Licensee's Response

The licensee denied this violation as stated. All cases noted in the NRC review were installations that conformed to the alternate installation details as shown on Ebasco design drawings, but did not conform to the contractor (Waldinger) generated "fabrication tickets" (shop fabrication drawings) which reflected basic design details. These contractor generated "fabrication tickets" were considered supplementary to the Ebasco (Contract) design drawings (which is noted on many of the Waldinger drawings). Therefore, acceptance of the modified connection based on alternate allowable design drawings was valid with regard to procedure requirements.

Waldinger's procedure should have stated that inspection criteria could be either "fabrication tickets" or design drawings" which would have prevented the NRC finding and this alleged violation.

NRC Evaluation

Based on the additional information provided, the NRC has concluded that Violation XIII.C should be withdrawn.

Conclusion

The subject violation has been withdrawn. Withdrawal of the civil penalties in the amount of Five Thousand Dollars ($5,000) associated with this violation is warranted.

[FR Doc. 86-8673 Filed 4-18-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-369 and 50-370]

Duke Power Co.; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to the Duke Power Company (the licensee) for the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

Environmental Assessment

Identification of Proposed Action

The proposed amendments would change the Technical Specifications to provide for operation up to full power with the Upper Head Injection Accumulator (UHI) System functionally disabled (i.e., with UHI isolation valves closed) or with UHI physically removed.

Other changes associated with UHI isolation or removal would also be made to appropriate Technical Specifications. These include deletion of Technical Specifications requiring UHI system maintenance, surveillance, and leakage verification and modification of Technical Specifications to reflect deletion of UHI related containment penetrations and associated conductor overcurrent protective devices, containment isolation valves, and system piping snubbers. The proposed Technical Specifications also reflect changes to the ECCS cold leg injection accumulators to increase the operable range limits of the nitrogen gas cover-pressure (from 430 and 484 psig to 585 and 639 psig), and to decrease the operable range limits of their water volume (from 6022 and 6256 gallons to 6670 and 7342 gallons). The changes to the ECCS cold leg injection accumulators would also be accompanied by appropriate modifications to instrumentation alarm functions and procedures, and by replacement of flow restricting orifices in their discharge piping with orifices of smaller diameter; however, these accompanying changes do not involve a change to the Technical Specifications.

The proposed action is in accordance with licensee's letters dated May 9, October 2 and 14, December 17 and 23, 1985, January 14, March 17, and April 8, 1986.

The Need for the Proposed Action

The licensee has requested this action because the UHI system has been found to cause frequent maintenance problems and operational delays. Filling and venting requirements of the UHI System add about 10 hours to a startup from cold shutdown conditions. The system contributes to occupational radiation exposure during normal operation (i.e., during surveillance and maintenance) and during refueling outages requiring removal or reconnection of injection piping to the reactor vessel upper head. The continuing operational difficulties and radiological exposures associated with the UHI system would be eliminated upon completion of system removal.

Environmental Impacts of the Proposed Action

A. Plant Radiological Releases

The UHI system performs no function during normal operation but serves to mitigate accidents after they occur. Therefore, no adverse change in plant radiological or non-radiological releases would occur for normal operation of the plant with the UHI system isolated or removed.

Plant performance and consequences after an accident or transient are the same with the UHI system functionally disabled (isolated) as with the UHI system physically removed. By letter dated October 2, 1985, and amended March 17, 1986, the licensee provided safety analyses for loss-of-coolant accidents (LOCA) and non-LOCA transients for the planned configuration (no UHI operation, modified cold-leg injection) using Commission approved analytical models and methodology. The Commission has reviewed these analyses and finds that the radiological and non-radiological releases for accidents and transients are not increased. The Commission, with the technical assistance of a contractor, Sandia National Laboratories, has also performed independent plant performance analyses of a LOCA using more realistic models (TRAC) and assumptions and finds that the UHI system is of only marginal (if any) benefit in mitigating conditions during and after a LOCA, and that no significant changes in fuel damage or radiological releases would occur after a LOCA without UHI operation.

Accordingly, Commission findings in the Final Environmental Statement Related to Operation of William B. McGuire Nuclear Station, Units 1 and 2, dated April 1976, and its January 1981 addendum, regarding radiological and non-radiological releases from the plant during normal operation or after accidents are not adversely altered by this action.

B. Occupational Radiological Aspects of UHI Removal

By letters dated October 29, 1985 and December 23, 1985, the licensee described the construction changes and activities associated with UHI removal. The principal tasks involve (1) replacing or reboring four cold leg accumulator flow element orifice plates, (2) cutting of the reactor vessel head penetrations and welding on caps, followed by hydrotesting, (3) removing UHI piping, valves, support/restraints and instrumentation, (4) capping various UHI piping interfaces with other systems, (5) capping two 12-inch containment penetrations, (6) relocating the level transmitters on the cold leg accumulators and (7) capping accumulator lines at the accumulator. The submittals compared the dose incurred from task performance (144 person-Rem for the two units) with dose avoided through reduced maintenance, inspection and operational requirements (420 person-Rem for the two units), and found a net exposure savings of 276 person-Rem over plant life due to UHI removal. The Commission has evaluated the radiological aspects of the proposed changes against the criteria of Chapter 12 of the Standard Review Plan (NUREG-0800) and Regulatory Guide 8.8, "Information Relevant to Ensuring that Occupational Radiation Exposures at Nuclear Power Stations will be as Low as it is Reasonably Achievable," and has concluded that the radiological aspects of UHI removal have been fully considered, and that the radiation protection measures planned for the tasks are acceptable to protect the workers, and will result in doses that are as low as is reasonably achievable.

C. Waste

Removal of the UHI related components and associated tasks is estimated by the licensee to generate about 807 cubic feet of contaminated components for each McGuire unit, mostly comprised of various-diameter pipe, valves, hangers, Grayloc disconnectors and thermal sleeves. About 94% of this component volume is estimated to contain low or medium radiation and contamination levels for a total waste activity of about 1.4 curies; and the other 6% (about 55 cubic feet) from near the reactor vessel head area is estimated to contain high radiation and contamination levels for a total waste activity of about 5.2 curies. The total estimated radioactivity associated with these components is, therefore, 6.6 curies. The components will either be decontaminated and scrapped or transported to Barnwell, South Carolina for burial as low-level waste. The licensee estimates that using the decontamination option would reduce the waste volume for disposal to about one cubic foot. The total estimated activity of 6.6 curies represents only approximately 0.0% of the total activity shipped from McGuire in solid waste in 1985. Disposal and shipment of radioactive materials will be performed in accordance with applicable regulatory requirements.

D. Conclusion

Plant radiological and non-radiological releases during normal operation or after an accident will not be increased by the proposed action. Disposal of system components would add only a small fraction to the radioactivity normally shipped from the site in solid waste. The radiological exposure of construction workers during UHI removal will be as low as is reasonably achievable, and will be less than the dose which would, otherwise, result to personnel observing and maintaining the UHI system for the remainder of plant life. Accordingly, we conclude that this proposed action would result in no significant adverse environmental impact.

Alternative to the Proposed Actions: Since we have concluded that the environmental effects of the proposed action are negligible, any alternatives with equal or greater environmental impact need not be evaluated.

The principal alternative would be to deny the requested amendments. That alternative, in effect, is the same as the "no action" alternative. Neither alternative would reduce environmental impacts of plant operation but would result in increased personnel radiation exposure during plant life.

Alternative Use of Resources: This action does not involve the use of resources not previously considered in connection with the Nuclear Regulatory Commission's Final Environmental Statement dated April 1976 or its addendum dated January 1981 related to this facility.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's requests of May 9, October 2 and 14, December 17 and 23, 1985, and January 14, March 17 and April 8, 1986. The NRC staff discussed this action with the ACRS Subcommittee on ECCS on February 21, 1985, and March 20, 1986, and with the ACRS Full Committee on April 10, 1986.

Finding of No Significant Impact: The Commission has determined not to prepare an environmental impact statement for the proposed license amendments.

Based upon this environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for amendment dated May 9, 1985, and its supplements dated October 2 and 14, December 17 and 23, 1985, January 14, March 17, and April 8, 1986; the Final Environmental Statement related to operation of William B. McGuire Nuclear Station, Units 1 and 2 (NUREG-0083) dated April 1976, including its addendum dated January 1981; and ACRS Transcripts dated February 21, 1985, March 20 and April 10, 1986 which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28242.

Dated at Bethesda, Maryland, this 16th day of April 1986.

For the Nuclear Regulatory Commission.

Dari S. Hood,

Acting Director, PWR Project Directorate No. 4, Office of Nuclear Reactor Regulation.

[FR Doc. 86-8869 Filed 4-18-86; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Hydropower Assessment Steering Committee; Meeting

AGENCY: The Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Hydropower Assessment Steering Committee to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1-4. Activities will include:

- Hydro assessment: Rivers study, anadromous fish;
- Protected areas designation consultation;
- FERC update;
- Other; and
- Public comment.

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DATE: April 24, 1986, 9:30 a.m.

ADDRESS: The meeting will be held in the Council's meeting room, 850 SW. Broadway, Suite 1100, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Peter Paquet, 503–222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 86–8820 Filed 4–18–86; 8:45 am]

BILLING CODE 0000-00-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–15062; File Nos. 812–6103 and 3–6578]

E.F. Hutton & Co. Inc. and The E.F. Hutton Group Inc.; Application for Exemption From Section 9(a) of the Investment Company Act of 1940—Notice of Filing of Consultants' Reports and Deadlines for Submitting Participation Requests and Written Submissions

April 15, 1986.

Notice is hereby given that Nelson S. Kibler and Frederick M. Werblow, the independent consultants selected by E.F. Hutton & Company Inc. ("Hutton") and The E.F. Hutton Group Inc. (collectively, "Applicants"), and accepted by the Commission, to examine, respectively, Hutton's policies and practices regarding the handling of customer securities and monies and its investment company operations, have filed their reports and recommendations. *See* Investment Company Act Release No. 14774 (Oct. 29, 1985), Securities Exchange Act Release No. 22949 (Feb. 25, 1986) and Investment Advisers Act Release No. 1014 (Feb. 25, 1986). The reports are available for public inspection in the Commission's Public Reference Branches at its Headquarters Office in Washington, DC and Regional Offices in Chicago and New York.

Notice is hereby further given that interested persons wishing to be heard or otherwise participate in the hearing on Applicants' request for permanent relief from section 9(a) of the Investment Company Act of 1940 have 30 days from the date hereof in which to file a request to do so; and parties to the matter, and interested persons allowed to participate in the matter, will have 60 days from the date hereof in which to file written submissions with the Commission on the issues to be considered in the hearing. Interested persons should refer to Investment Company Act Release No. 14774, cited above, for the procedure by which they may seek to participate in the hearing, the issues to be considered in the hearing, and the type of written submissions which may be made to the Commission in this matter.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 86–8822 Filed 4–18–86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

April 16, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following securities:

Kaneb Energy Partners, Ltd.

Depositary Units representing Limited Partnership Interests (File No. 7–8906)

Zenith Laboratories, Inc.

Common Stock, $0.09 Par Value (File No. 7–8907)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 7, 1986, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86–8873 Filed 4–18–86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD–86–029]

National Boating Safety Advisory Council; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Boating Safety Advisory Council to be held on Tuesday and Wednesday, May 13 & 14, 1986, at the Beach Quarters Hotel, 5th & Oceanfront, Virginia Beach, Virginia, beginning at 9:00 a.m. and ending at 4:00 p.m. on both days. The agenda for the meeting will be as follows:

1. Introduction of new Council Members.
2. Review of action taken at the 36th Meeting of the Council.
3. Members' Items.
4. Executive Director's Report.
5. Regulatory review.
6. Capacity Plate Replacement Subcommittee report.
7. Update on Hybrid Life Preserver project.
8. Report on 1985 Boating Accident Statistics.
9. Update on Regulatory Project, Operating a Vessel While Intoxicated.
10. Reply to Members' Items.
11. Remarks by Chief, Office of Boating, Public, and Consumer Affairs.
12. Chairman's Session.

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain M. B. Stenger, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G–BBS), Washington, DC, 20593, or by calling (202) 426–1080.

Issued in Washington, DC, April 16, 1986.

L.C. Kindbom,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 86–8850 Filed 4–18–86; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

Advisory Circular: Cutouts in a Modified Fuselage of Small Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Draft Advisory Circular (AC) Availability and Request for Comments.

SUMMARY: This AC provides information and guidance concerning acceptable means of compliance with Part 23 of the Federal Aviation Regulations (FAR) applicable to the structural substantiation of a fuselage modified by incorporation of large or small cutouts.

DATE: Commenters must identify File AC 23–5X; Subject: Cutouts in a Modified Fuselage of Small Airplanes, and comments must be received on or before June 20, 1986.

ADDRESS: Send all comments on the proposed draft AC to: Federal Aviation Administration, ATTN: Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Joseph W. Burress, Aerospace Engineer, Regulations and Policy Office (ACE–110), Aircraft Certification Division, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; commercial telephone (816) 374–6941, or FTS 758–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed draft AC by writing to: Federal Aviation Administration, Aircraft Certification Division, Regulations and Policy Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

Comments Invited

Interested parties are invited to submit comments on the proposed draft AC. The proposed draft AC and comments received may be inspected at the offices of the Regulations and Policy Office (ACE–110), Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

Background

Incorporation of large cutouts in a fuselage is one of the most significant structural modifications made to an airplane. Such modifications include large cargo door cutouts, baggage door cutouts, enlargement of existing doors, installation of oversize windows, etc. Small cutouts in a fuselage cause less of a structural problem. These modifications include such items as camera window cutouts, auxiliary power unit (APU) intake and exhaust cutouts, antenna cutouts, etc. The redistribution of axial and shear loads, pressure loads, and changes in stiffness and fatigue strength are considerations that should be evaluated. If multiple cutouts are close to one another, superposition of loads may occur.

Issued in Kansas City, Missouri, April 10, 1986.

Barry D. Clements,

Manager, Aircraft Certification Division.

[FR Doc. 86–8804 Filed 4–18–86; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Applications for Renewal or Modification of Exemptions or Applications to Become a Party to an Exemption; Correction

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for renewal or modification of exemptions or application to become a party to an exemption; correction.

SUMMARY: This document corrects a notice published in the **Federal Register** on Thursday, April 10, 1986 on page 12433. The closing date for comments should have been April 24, 1986 instead of March 26, 1986.

Issued in Washington, DC, on April 15, 1986.

Joseph T. Horning,

Chief, Exemptions and Approvals Division, Office of Hazardous Materials Transportation.

[FR Doc. 86–8823 Filed 4–18–86; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirement Submitted to OMB for Review

Date: April 15, 1986.

The Department of the Treasury has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, P.L. 96–511. Copies of this submission may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0625
Form Number: SWR–E 2486
Type of Review: Extension
Title: Letter Requesting Documentation or Information Supporting Exemption from Windfall Profit Tax Under Section 4991 and 4494, IRS
Clearance Officer: Garrick Shear (202) 566–6150, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Robert Neal (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Joseph F. Maty,

Departmental Reports Management Office.

[FR Doc. 86–8861 Filed 4–18–86; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirement Submitted to OMB for Review

Date: April 16, 1986.

The Department of the Treasury has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, P.L. 96–511. Copies of this submission may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

U.S. Customs Service

OMB Number: 1515–0068
Form Number: CF 28
Type of Review: Extension
Title: Customs Form 28
Clearance Officer: Vince Olive (202) 566–9181, U.S. Customs Service, Room 6321, 1301 Constitution Avenue, NW., Washington, DC 20229
OMB Reviewer: Milo Sunderhauf (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Joseph F. Maty,

Departmental Reports Management Office.

[FR Doc. 86–8860 Filed 4–18–86; 8:45 am]

BILLING CODE 4810-25-M

VOL 51 ISS 76 AP 21 1986 UMI

Sunshine Act Meetings

Federal Register
Vol. 51, No. 76
Monday, April 21, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, April 23, 1986.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

1. Enforcement Matter OS# 3789a

The staff will brief the Commission on issues related to OS# 3789a.

2. Enforcement Matter OS# 5550

The Commission will consider Enforcement Matter OS# 5550.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301-492-6800.

April 16, 1986.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 86-8662 Filed 4-17-86 9:35 am]

BILLING CODE 6355-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Thursday April 24, 1986.

LOCATION: Third Floor Hearing Room, 1111-18th Street, N.W., Washington, DC

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

FY'89 Planning

The staff will brief the Commission on proposed Fiscal Year 1989 planning issues.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301-492-6800.

April 16, 1986.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 86-8663 Filed 4-17-86; 9:36 am]

BILLING CODE 6355-01-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 2:00 p.m. (eastern time), Monday, April 28, 1986.

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, D.C. 20507.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

Closed

1. Litigation Authorization: General Counsel Recommendations
2. Discussion of Certain Commissioners' Charges
3. Discussion of Subpoena Determinations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer at (202) 634-6748.

Dated: April 16, 1986.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

This Notice Issued April 16, 1986.

[FR Doc. 86-8642 Filed 4-17-86; 8:45 am]

BILLING CODE 6750-06-M

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 9:30 a.m. (eastern time), Tuesday, April 29, 1986.

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200-C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, DC 20507.

STATUS: Part will be open to the public and part will be closed to the public.

MATTERS TO BE CONSIDERED:

Open

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Refinement of EEOC's Investigative Techniques Applicable to Uncooperative Respondents
4. Amendment to Title VII Procedural Regulations

Closed

1. Litigation Authorization: General Counsel Recommendations
2. Discussion of Certain Commissioners' Charges
3. Discussion of Subpoena Determinations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634-6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer at (202) 634-6748.

Dated: April 16, 1986.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

This Notice Issued April 16, 1986.

[FR Doc. 86-8643 Filed 4-17-86; 8:45 am]

BILLING CODE 6750-06-M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

April 16, 1986.

TIME AND DATE: 10:00 a.m., Tuesday, April 22, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Z.B. Houser v. Northwestern Resources Co., Docket No. WEST 83-101-D. (Issues include whether the administrative law judge appropriately dismissed the discrimination complaint.)

It was determined by a unanimous vote of Commissioners that a meeting be held on this item and that no earlier announcement of the meeting was possible. 5 U.S.C. 552b(e)(1).

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids must inform the Commission in advance of those needs, so the Commission may, subject to limitations, ensure access for any handicapped person who gives reasonable advance notice. 29 CFR 2706.150(a)(3) and 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86-8674 Filed 4-17-86; 3:10 pm]

BILLING CODE 6735-01-M

6

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, May 7, 1986.

PLACE: Board Hearing Room 8th Floor, 1425 K. Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of April, 1986.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Director's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Director, Tel: (202) 523-5920.

Date of notice: April 10, 1986.

Rowland K. Quinn, Jr.,

Executive Director, National Mediation Board.

[FR Doc. 86-8694 Filed 4-17-86; 9:37 am]

BILLING CODE 7550-01-M

7

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND PLACE: 9:00 a.m., Tuesday, April 29, 1986.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: The first four items will be open to the public; the last item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Summary Reports:* Runway Incursion Special Investigations.
2. *Marine Accident Report:* Grounding of the U.S. Passenger Vessel PILGRIM BELLE, at Sow and Pigs Reef, Vineyard Sound, Massachusetts, on July 28, 1985.
3. *Railroad Accident Report:* Rear-End Collision of Metro-Dade Transportation Administration Train Nos. 172-171 and 141-142, Miami, Florida, June 28, 1985.
4. *Recommendations:* To the American Public Transit Association (APTA) and the Urban Mass Transportation Administration (UMTA) on Alcohol and Drug Use on Rail Rapid Transit Systems.
5. *Opinion and Order:* Administrator v. Vance, Docket SE-6548; disposition of respondent's appeal.

FOR MORE INFORMATION, CONTACT: Catherine T. Kaputa, (202) 382-6525.

Catherine T. Kaputa,

Federal Register Liaison Officer.

April 16, 1986.

[FR Doc. 86-8929 Filed 4-17-86; 10:56 am]

BILLING CODE 7533-01-M

8

OVERSEAS PRIVATE INVESTMENT CORPORATION

Meeting of the Board of Directors

TIME AND DATE: 9:00 a.m. (closed portion), 10:30 a.m. (open portion), Tuesday, April 29, 1986.

PLACE: Offices of the Corporation, seventh floor Board Room, 1615 M Street, NW., Washington, DC.

STATUS: The first part of the meeting from 9:00 a.m. to 10:30 a.m. will be closed to the public. The open portion of the meeting will start at 10:30 a.m.

MATTERS TO BE CONSIDERED: (Closed to the public 9:00 a.m. to 10:30 a.m.):

1. Finance Project in Caribbean Country.
2. Finance Project in Middle Eastern Country.
3. Insurance Project in African Country.
4. China Underwriting Policy.
5. Facultative Reinsurance Advisory Group.
6. Review of OPIC Internal Procedures Complying with Statutory Performance Requirements Provisions.
7. OPIC Privatization.
8. Claims Report.
9. Information Report: Citrus Fruit Policy.
10. Information Report: Finance.
11. Information Report: General.

FURTHER MATTERS TO BE CONSIDERED: (Open to the public 10:30 a.m.):

1. Approval of the Minutes of the Previous Meeting.
2. Approval of Scheduled Board Meetings.
3. Personnel Actions.
4. Financial Statements.
5. Information Reports.

CONTACT PERSON FOR INFORMATION: Information with regard to this meeting may be obtained from the Secretary of the Corporation at (202) 457-7015.

Elizabeth A. Burton,

Corporate Secretary.

April 17, 1986.

[FR Doc. 86-8938 Filed 4-17-86; 8:45 am]

BILLING CODE 3210-01-M

9

PAROLE COMMISSION

PLACE: 5550 Friendship Boulevard, One North Park Building, Room 420-F, Chevy Chase, Maryland 20815.

DATE AND TIME:

Monday, April 28, 1986—11:00 a.m. to 5:30 p.m.
Tuesday, April 29, 1986—9:00 a.m. to 5:30 p.m.
Wednesday, April 30, 1986—9:00 a.m. to 5:30 p.m.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of minutes of open business meeting of January 28 and 29, 1986, and Conference Call Business Meeting of February 28, 1986.
2. Reports from the Chairman, Vice Chairman, Commissioners, Legal, Research, Case Operations, and the Administrative Section.
3. Presentations to the Commission by:
(a) David Nurco [4/29/86—11:00 a.m.]
(b) Marie Ragghianti [4/30/86—9:00 a.m.]
4. Participation in Alcohol Anti-Buse Program
5. Enforcement of Special Drug Aftercare Condition
6. National Defense Emergency Preparedness
7. Hearings with one hearing examiner present
8. Assistance to law enforcement agencies through inmate cooperation
9. Special parole terms—aggregation with regular parole terms
10. Uniform procedures for utilizing volunteers
11. Uniform procedures for utilizing interns
12. Increased victim participation in the parole decision process
13. Use of parolees and mandatory releasees as informants
14. Uniformity of a temporary parole certificate
15. Testing of suspected parolees for AIDS
16. Parole of certain prisoners to deportation detainers
17. Proposed guideline revisions
(a) Transportation of unlawful aliens
(b) Introduction/distribution of narcotics in institutions
(c) Drugs for personal use
(d) Distribution of drugs near schools
(e) Cocaine dependence and salient factor score
(f) Miscellaneous items
(g) Decisions above the guidelines involving poorer risks than salient factor score

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Consent Agenda

The following items are placed on the Commission's Consent Agenda. A request to discuss a particular item must be received by April 22, 1986. Items for which no such request is received shall be deemed adopted by consent and will not be discussed at the meeting.

18. Technical cleanup—Rule 2.20 DEA and drug purity information
19. Interim rules made into final rules

CONTACT PERSON FOR MORE INFORMATION: Peter B. Hoffman, Director of Research, United States Parole Commission, (301) 492–5960.

Dated: April 16, 1986.

Joseph A. Barry,

General Counsel, United States Parole Commission.

[FR Doc. 86–8930 Filed 4–17–86; 10:56 am]

BILLING CODE 4410–01–M

10

PAROLE COMMISSION

DATE AND TIME: Monday, April 28, 1986—9:00 a.m. to 11:00 a.m.

PLACE: 5550 Friendship Boulevard, One North Park Building, Room 420–F, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Appeals to the Commission of approximately 16 cases decided by the National Commissioners pursuant to a reference under 28 CFR 2.17 and appealed pursuant to 28 CFR 2.27. These are all cases originally heard by the examiner panels wherein inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION: Linda Wines Marble, Chief Analyst, National Appeals Board, United States Parole Commission, (301) 492–5987.

Dated: April 16, 1986.

Joseph A. Barry,

General Counsel, United States Parole Commission.

[FR Doc. 86–8931 Filed 4–17–86; 10:56 am]

BILLING CODE 4410–01–M

11

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [51 FR 11671 April 7, 1986].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Tuesday, April 1, 1986.

CHANGE IN THE MEETING: Additional item.

The following additional item was considered at a closed meeting held on Tuesday, April 8, 1986, at 2:30 p.m.

Consideration of *amicus* participation.

Chairman Shad and Commissioners Cox, Peters, Grundfest and Fleischman determined that Commission business required the above change and that no earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Gerald Laporte at (202) 272–3085.

John Wheeler,

Secretary.

April 16, 1986.

[FR Doc. 86–8996 Filed 4–17–86; 3:58 pm]

BILLING CODE 8010–01–M

federal register

Monday
April 21, 1986

Part II

Regulatory Information Service Center

Introduction to the Unified Agenda of Federal Regulations

VOL 51 ISS 76 AP 21 1986 UMI

REGULATORY INFORMATION SERVICE CENTER

Unified Agenda of Federal Regulations

AGENCY: Regulatory Information Service Center.

ACTION: Introduction to the Unified Agenda of Federal Regulations.

SUMMARY: The Regulatory Flexibility Act (5 U.S.C. 602) requires that agencies publish semiannual regulatory agendas describing regulatory actions they are developing. Executive Order 12291 and OMB Bulletins implementing section 3 of the Executive order establish minimum standards for executive agencies' agendas, including specific types of information for each entry, and publication in a uniform format. All Federal regulatory agencies have chosen to publish their regulatory agendas as part of this **Unified Agenda of Federal Regulations.**

The following Parts in this issue of the **Federal Register** are the agency agendas, which together comprise the April 1986 edition of the semiannual **Unified Agenda of Federal Regulations.**

ADDRESS: Regulatory Information Service Center, Room 5216, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: For further information about specific regulatory projects, please refer to the Agency Contact listed for each entry. To provide comment on or to obtain further information about the **Unified Agenda of Federal Regulations**, contact: Mark G. Schoenberg, Executive Director, Regulatory Information Service Center, Room 5216, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. 20503, (202) 395-6993.

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About the Unified Agenda

The **Unified Agenda of Federal Regulations** is compiled by the Regulatory Information Service Center for the Office of Information and Regulatory Affairs, Office of Management and Budget. The Center provides information about Federal regulatory activity to the President and his Executive Office, the Congress, agency managers, and the public.

The Office of Information and Regulatory Affairs is responsible for overseeing the Federal Government's regulatory, paperwork, and information-management activities and for implementing President Reagan's Executive Orders 12291 (Federal Regulation) and 12498 (Regulatory Planning). Under EO 12498, OMB publishes the **Regulatory Program of the United States Government** each year.

The Regulatory Program is a policy document and a management tool that sets forth the priorities of the agency head and of the President regarding the Significant Regulatory Actions (SRAs) that will be conducted during the program year to which it pertains.

The Regulatory Program and the Agenda differ in several ways. The Unified Agenda includes more regulatory actions because it covers almost every Federal agency and includes an exhaustive list of all rulemakings for each. This year's Regulatory Program covers only 22 of the major Federal regulatory agencies, and includes only the most significant of all the regulatory actions that each agency plans to undertake. The Regulatory Program, however, describes each entry more thoroughly than the Unified Agenda.

Most of the regulatory actions described in the **Regulatory Program of the United States Government** are included in this Agenda. In general, the Regulation Identifier Number (RIN) for the action is the same for both publications; however, occasionally, several Agenda entries are combined into one Program entry, and a new RIN is assigned to that entry in the Program.

This edition of the Unified Agenda includes 56 regulatory agendas from all Federal departments, agencies, and commissions that publish agendas. Agencies of the United States Congress are not included. The Unified Agenda provides uniform reporting of data on regulatory activities under development throughout the Federal Government.

The Unified Agenda is produced through a computer system designed by the Center with the advice and assistance of the Government Printing Office. The system was designed to save agencies time and money by automating the preparation and printing of their agendas in a uniform format and to make the Agenda easier to use.

This edition of the Agenda contains a Subject Index to help readers locate entries from various agencies that may affect a particular area of interest. The numbers in the index refer to the sequence numbers that appear before the title of each entry in the Agenda. All entries are numbered sequentially from the beginning to the end of the Agenda.

For those agencies that requested it, we provided a computer-produced Table of Contents that appears after the preamble of the agency's agenda. The agency Tables of Contents help readers locate quickly those entries within an agency that may be of most interest to them.

All agendas contain uniform data elements -- regulation title, significance, legal authority, CFR citation, abstract, legal deadline, timetable, small business effects, and agency contact. Agencies also include any additional information they consider important. If any of the data elements is not included, the agency either did not report the information or may provide an explanation in its preamble. For further information, please contact the individual agency.

The Unified Agenda of Federal Regulations is published in April and October of each year. We welcome comments on this edition and suggestions for improving future ones.

DATED: April 1, 1986.

Mark G. Schoenberg,

Executive Director.

How to Use the Unified Agenda

Each agency agenda appears as a separate Part in this edition of the **Federal Register.** The Parts are organized alphabetically in four groups: cabinet departments, other executive agencies, joint authorities, and independent agencies. Departments are divided into agencies, which may in turn be divided into subagencies.

Each agency begins its agenda with a preamble providing information specific to its agenda. Each agency was asked to list its rules in four groups:

1. Prerule Stage -- actions agencies will undertake in the next 12 months to determine whether or how to initiate rulemaking. Such actions occur prior to a Notice of Proposed Rulemaking and include Advance Notices of Proposed Rulemaking and reviews of existing regulations.

2. Proposed Rule Stage -- actions for which agencies plan to publish a Notice of Proposed Rulemaking as the next step in their rulemaking process.

3. Final Rule Stage -- actions for which agencies plan to publish a final rule or take other final action as the next step in their rulemaking process.

4. Completed Actions -- actions or reviews the agency completed or withdrew since publishing its last agenda. This section also includes items that were begun and completed between issues of the Unified Agenda.

An agency may use a subheading to identify regulations that it has grouped according to a particular topic. When these subheadings are used, they appear above the title of the first regulation in the group.

A bullet (●) preceding an entry indicates that the entry appears in the Agenda for the first time.

The Agenda Sequence Number preceding the title of each entry identifies the location of the entry in this edition of the Agenda. The same number is used in the index to enable readers to find entries on specific subjects. Those agencies that chose to provide a Table of Contents at the beginning of their agendas also use the sequence number in their Table of Contents. Sequence numbers should help readers easily locate items of most interest to them, either by agency or by subject.

The regulatory activities included in the agency agendas are those currently planned for the next 12 months. The agendas do not include regulations excluded from review under EO 12291 such as military regulations and regulations related to internal agency management.

OMB Bulletin 86-4 states that entries describing regulations in the Agenda should contain, at a minimum, the following information:

- Title of the Regulation.
- Significance -- an indication of the significance of the entry that appears when:
  a. the action will be included in the **Regulatory Program of the United States Government** for the 1986 program year, or
  b. the agency otherwise considers the action a priority.

The Significance heading appears only if the entry is a significant action.

- Legal Authority -- the section(s) of the "United States Code" (U.S.C.) or Public Law (PL) or the Executive order that authorize(s) the regulatory action (agencies may provide common name references to laws in addition to U.S.C. or PL references).
- CFR Citation -- the section(s) of the **Code of Federal Regulations** that affect or will be affected by the action.
- Abstract -- a description of the problem the regulation will address; the need for a Federal solution; and, to the extent available, the alternatives that the agency is considering to address the problem and the potential costs and benefits of the action.
- Legal Deadline -- an indication of whether the rule is subject to a statutory or judicial deadline and, if so, the date of that deadline.
- Timetable -- the dates and citations (if available) for all past stages and at least the next future stage of rulemaking. If a date appears in this section as 00/00/00, it means the date of the action is presently undetermined. Similarly, 10/00/86 means the agency can predict the month and year the action will take place, but not the date it will occur.
- Effects on Small Businesses and Other Small Entities -- indicates whether the rule is expected to have a significant economic impact on a substantial

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number of "small entities" as defined by the Regulatory Flexibility Act (5 U.S.C. 601(6)).

- Agency Contact -- the name, title, address, and phone number of a person in the agency who is knowledgeable about the regulation.

Some agencies have provided other optional information at their discretion.

Data Limitations

Agencies prepared entries for this edition of the Unified Agenda to give the public notice of their plans to review, propose, and issue regulations. They have tried to predict their activities over the next 12 months as accurately as possible, but dates and schedules are subject to change. Agencies may withdraw some of the regulations now under development, and they may issue or propose other regulations not included in their agendas. Agency actions in the rulemaking process may occur before or after the dates they have listed. The Agenda does not create a legal obligation on agencies to adhere to schedules within it or to confine their regulatory activities to those regulations that appear in it. The information in this edition is accurate as of February 27, 1986, in the judgment of the submitting agencies, except as otherwise noted in individual agency preambles.

List of Abbreviations

The following abbreviations appear throughout this edition of the Agenda:

ANPRM -- An Advance Notice of Proposed Rulemaking is a preliminary notice that an agency is considering a regulatory action. The agency issues an ANPRM before it develops a detailed proposed rule, describing the general area that may be subject to regulation and asking for public comment on the issues and options being discussed. An ANPRM is issued only when an agency believes it needs to gather more information before proceeding to a formal regulatory proposal.

CFR -- The Code of Federal Regulations is an annual codification of the general and permanent regulations published in the Federal Register by the departments and agencies of the Federal Government. The Code is divided into 50 titles and each title covers a broad area of Federal regulatory law. The CFR is keyed to and kept up-to-date by the daily issues of the Federal Register.

EO -- An Executive order is a directive from the President to an executive agency, issued under Constitutional or statutory authority. Executive orders are published in the Federal Register and in Title 3 of the Code of Federal Regulations.

FR -- The Federal Register is a daily Federal Government publication that provides a uniform system for publishing Presidential documents, all proposed and final regulations, notices of meetings, and other official documents required by statute to be published.

FY -- The Federal fiscal year runs from October 1 to September 30.

NPRM -- A Notice of Proposed Rulemaking is the document an agency issues and publishes in the Federal Register that describes and solicits public comments on a proposed regulatory action. Under the Administrative Procedure Act, an NPRM must include, at a minimum:

- A statement of the time, place, and nature of the public rulemaking proceeding;
- A reference to the legal authority under which the rule is proposed; and
- Either the terms or substance of the proposed rule or a description of the subjects and issues involved.

PL -- A Public Law is a law passed by Congress and signed by the President or enacted over his veto. It has general applicability, as opposed to a private law that applies only to those persons or entities specifically designated. Public laws are numbered in sequence throughout the two-year life of each Congress; for example, PL 97-17 would be the seventeenth public law of the 97th Congress.

RFA -- A Regulatory Flexibility Analysis (RFA) describes the impact of a proposed rule on small entities, as required by the Regulatory Flexibility Act (5 U.S.C. 601). An RFA describes why the agency is considering the action; the objectives of and legal basis for the proposed rule; an estimate of the number of small entities that could be affected and the compliance requirements they would have to fulfill; any other duplicative, overlapping, or conflicting Federal rules; and alternatives to the proposed action. When required, an initial RFA accompanies an NPRM and a final RFA accompanies a final rule.

RIA -- A Regulatory Impact Analysis is required by EO 12291 for all major rules and other regulations designated by the Office of Management and Budget. An RIA is prepared to determine whether a proposed regulatory action meets the requirements of Section 2 of EO 12291, namely that it:

- Be based on adequate information concerning the need for and consequences of the action;
- Not be undertaken unless the potential benefits outweigh the potential costs to society;
- Maximize net benefits to society;
- Entail the least net cost to society of the alternatives considered; and
- Take into account the condition of particular affected industries, the national economy, and contemplated future regulatory actions.

RIN -- The Regulatory Information Service Center assigns a Regulation Identifier Number to identify each regulatory action listed in the Agenda.

USC -- The "United States Code" is a consolidation and codification of all general and permanent laws of the United States. The USC is divided into 50 titles and each title covers a broad area of Federal law.

Information About Additional Copies

Additional copies of this edition of the Federal Register are available from: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, (202) 783-3238.

Copies of individual agency agendas may be available directly from the agency. Please contact the particular agency for further information.

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Monday
April 21, 1986

Part III

Department of Agriculture

Semiannual Regulatory Agenda

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USDA

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Subtitle A, Chs. I-VII, IX-XII, XIV-XVIII, XXI, XXIV-XXIX

9 CFR Chs. I-IV

36 CFR Ch. II

41 CFR Ch. 4

Semiannual Regulatory Agenda: Spring 1986

AGENCY: Office of the Secretary, Department of Agriculture.

ACTION: Semiannual regulatory agenda.

SUMMARY: This agenda provides summary descriptions of major and non-major regulations being developed in agencies of the U.S. Department of Agriculture in conformance with Executive Order 12291, Federal Regulation. The agenda also describes regulations affecting small entities as required by section 602 of the Regulatory Flexibility Act, Pub. L. 96-354.

USDA has attempted to list all regulations and regulatory reviews pending at the time of publication except for minor and routine or repetitive actions; but some may have been inadvertently missed. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the date shown.

FOR FURTHER INFORMATION CONTACT: For further information on any specific entry shown in this agenda, please contact the person listed for that action.

ADDRESSES: Requests for copies of the Agenda should include a self-addressed, stamped envelope and be directed to: Regulatory Agenda, OBPA, Office of the Secretary, Room 148-E, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 382-1270.

DATED: March 14, 1986.

Richard E. Lyng,

Secretary.

Agricultural Marketing Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1	Mohair Standards	0581-AA06
2	Wool Standards	0581-AA12
3	Fees for Service for Voluntary and Mandatory Programs	0581-AA19

Agricultural Marketing Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
4	Review: Voluntary Grading of Poultry Products and Rabbit Products	0581-AA21

Agricultural Marketing Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
5	Plant Variety Protection Board Meeting	0581-AA17
6	Establishment of User Fees for Cotton Market News Service	0581-AA18
7	Review: Mandatory Inspection of Eggs and Egg Products	0581-AA22
8	Review: Grading of Shell Eggs	0581-AA23
9	Review: Voluntary Inspection and Grading of Egg Products	0581-AA24
10	Milk Marketing Orders	0581-AA25
11	Proposed Regulations for Fruits, Vegetables and Related Commodities as Authorized by Federal Marketing Orders	0581-AA26

Agricultural Stabilization and Conservation Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
12	Commodity Credit Corporation (CCC) Claims Regulations	0560-AA38
13	Regs. Relating to the Referral of Delinquent Debts to Credit Reporting Agencies	0560-AA50
14	1987 Feed Grain Program	0560-AA59

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Agricultural Stabilization and Conservation Service—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
15	1987 Extra Long Staple (ELS) Cotton Program	0560-AA60
16	National Average Loan Rates for 1987-Crop Quota and Additional Peanuts	0560-AA61
17	1987 Upland Cotton Program	0560-AA64
18	1987-Crop Flue-Cured Tobacco Marketing Quotas	0560-AA67
19	1987-Crop Burley Tobacco Marketing Quotas	0560-AA68
20	1986 Price Support Levels for All Kinds of Tobacco	0560-AA70
21	1986 Soybean Loan Program	0560-AA71
22	1987 Rice Program	0560-AA72
23	1987-Crop Honey Price Support Program	0560-AA73
24	Price Support Loan Program for 1986 Through 1990-Crops Sugar Beets and Sugarcane	0560-AA74
25	Formula for Defining the Prevailing World Market Price of Cotton and Mechanism for Periodically Announcing the World Market Price	0560-AA75
26	Formula for Defining the Prevailing World Market Price of Rice and Mechanism for Periodically Announcing the World Market Price	0560-AA76
27	1986-Crop Honey Price Support Program and Regulations Governing 1982 and Subsequent Crops - Amendment 4	0560-AA78
28	1987-Crop Peanuts National Poundage Quota	0560-AA79
29	1987 Wheat Program	0560-AA82
30	Highly Erodible Land and Wetland Conservation Programs	0560-AA88

Agricultural Stabilization and Conservation Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
31	National Average Loan Rates for 1985-Crop Quota and Additional Peanuts and Minimum Commodity Credit Corporation (CCC) Export Edible Sales Price for Additional Loan Peanuts	0560-AA31
32	1985 Price Support Level for Honey	0560-AA32
33	1986 Wheat Program	0560-AA58
34	1986 Upland Cotton Program	0560-AA62
35	National Average Loan Rates for 1986-Crop Quota and Additional Peanuts and CCC Sales Policy for 1986-1991 Crops of Peanuts	0560-AA63
36	1987 Wool and Mohair Program	0560-AA65
37	1986 Wool and Mohair Program	0560-AA66
38	1986 Rice Program	0560-AA69
39	Conservation Reserve Programs Under the Food Security Act of 1985	0560-AA77
40	1986-Crop Peanuts National Poundage Quota	0560-AA80
41	1986 Feed Grain Program	0560-AA84
42	1986-Crop Marketing Quotas for Burley Tobacco	0560-AA85
43	1986-Crop Flue-Cured Tobacco Marketing Quotas and Price Support Level	0560-AA86
44	1986 Extra Long Staple (ELS) Cotton Program	0560-AA87

Agricultural Stabilization and Conservation Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
45	Standards for the Approval of Dry and Cold Storage Warehouses for Processed Agricultural Commodities, Extracted Honey, and Bulk Oils	0560-AA15
46	Poundage Quota and Marketing Regulations for the 1983 Through 1985 Crops of Peanuts (Amendment 1)	0560-AA29
47	1985 Price Support Levels for All Kinds of Tobacco	0560-AA39
48	Fees for Voluntary Examinations	0560-AA45
49	1985 Sugar Beet and Sugarcane Loan Rates	0560-AA49
50	1985-86 Milk Price Support Program (effective 10/1/85)	0560-AA51
51	National Acreage Allotment, National Marketing Quota, and Referendum Process for 1986-Crop Peanuts	0560-AA81
52	General Regulations Governing Price Support for the 1985 and Subsequent Crops–Eligibility of Cooperatives for Farm-Stored Loans	0560-AA83

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Animal and Plant Health Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
53	Revision of 7 CFR 319.56, Importation of Fruits and Vegetables	0579-AA12
54	Gypsy Moth - Outdoor Household Articles	0579-AA15
55	Organisms and Products Altered or Produced Through Biotechnology	0579-AA16

Farmers Home Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
56	Suspension and Debarment Regulations	0575-AA02
57	Revision of FmHA Instruction 1944-A, "Section 502 Rural Housing Loan Policies, Procedures and Authorizations," to Implement the Requirements of the Rural Housing Amendments of 1983	0575-AA05
58	Strengthening the FmHA Business and Industrial Guaranteed Loan Program	0575-AA17
59	Revision of Construction Standards for FmHA Financed Housing	0575-AA21
60	Building Requirements and Design Features Emphasizing Cost Containment	0575-AA24

Farmers Home Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
61	Mobile/Manufactured Home Rental Projects	0575-AA08
62	Restricting Insured and Guaranteed Farm Ownership and Operating Loans When Surplus Items Exist	0575-AA12
63	Disaster Assistance - General (Part 1945, Subpart A) Emergency Loan Policies, Procedures and Authorizations (Part 1945, Subpart D)	0575-AA14 0575-AA18
64	Housing Preservation Grants	0575-AA20
65	Management and Supervision of Multiple Family Housing Borrowers and Grant Recipients	
66	FmHA Guarantees of Commercial Lender's Farm Ownership (FO) and Operating Loans (OL) with Accompanying Lender Principal Write Down and/or Interest Rate Reduction	0575-AA22
67	Changes to the FmHA Farmer Program Loan Making, Supervision and Servicing Regulations to Implement the Applicable Provisions of the "Food Security Act of 1985"	0575-AA23

Farmers Home Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
68	Special Debt Set-Aside of a Portion of the Indebtedness of Farmer Program Borrowers	0575-AA10

Federal Grain Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
69	Kinds of Official Services	0580-AA02
70	Recordkeeping and Access to Facilities	0580-AA05

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Food and Nutrition Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
71	Waiver Simplification: Food Stamp Program	0584-AA02
72	Issuance Loss Liability: Food Stamp Program	0584-AA05
73	Food Distribution Program on Indian Reservations	0584-AA09
74	Rewrite of Regulations on Determining Eligibility for Free and Reduced Price Benefits	0584-AA32
75	Administrative Review Process and Quality Control Arbitration Procedures: Food Stamp Program	0584-AA46
76	Conformance with Aid to Families with Dependent Children (AFDC) Rules: Food Stamp Program	0584-AA52
77	Proposal for a National Inventory System	0584-AA60
78	Annual SAE Plan/Funds: Child Nutrition Programs	0584-AA61
79	Simplified Application and Standardized Benefits: Food Stamp Program	0584-AA62
80	Administration/Management: Food Stamp Program	0584-AA63
81	Quality Control System: Food Stamp Program	0584-AA64
82	Employment and Training Requirements: Food Stamp Program	0584-AA65
83	Retailer/Wholesaler Provisions: Food Stamp Program	0584-AA67

Food and Nutrition Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
84	Food Distribution Program	0584-AA07
85	Distribution of Surplus Food under the Temporary Emergency Food Assistance Program (TEFAP) for Fiscal Years 1986 and 1987	0584-AA15
86	Reimbursing Workfare's Administrative Costs: Food Stamp Program	0584-AA20
87	Emergency Food Assistance for Victims of Disasters	0584-AA24
88	Extension of the National Commodity Processing Program	0584-AA26
89	NSLP Verification Monitoring/and AIMS Reporting	0584-AA33
90	Management Evaluations and Corrective Action Plans: Food Stamp Program	0584-AA37
91	Forfeiture Procedures/Bonding: Food Stamp Program	0584-AA40
92	Rewrite of National School Lunch Program Regulations	0584-AA43
93	Meat Alternates Used in Child Nutrition Programs	0584-AA58
94	Non-discretionary Budget Provision: Food Stamp Program	0584-AA59
95	Non-Discretionary Provisions: Food Stamp Program	0584-AA66

Food and Nutrition Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
96	Eligibility Certification and Notice Provisions (OBRA): Food Stamp Program	0584-AA04
97	Food Stamp Program: Revision of Parts 271, 272, 273 and 274	0584-AA10
98	Audit Requirements in the Child Care Food Program	0584-AA30
99	TFP/Deduction Update: Food Stamp Program	0584-AA51
100	Income and Eligibility Verification Procedures: Food Stamp, HHS & DOL Programs	0584-AA53

Food Safety and Inspection Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
101	Records, Registration, and Reports	0583-AA00
102	Administrative Regulations	0583-AA02
103	Red Meat Slaughter Regulations	0583-AA03
104	Transportation	0583-AA19

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Food Safety and Inspection Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
105	Definitions and Standards of Identity or Composition: Cooked Poultry Sausage	0583-AA10
106	Protein Requirements for Turkey Ham	0583-AA11
107	Barbeque Standard	0583-AA12
108	Requirements for Mechanically Separated (Kind) Poultry Product and Products in Which It Is Used	0583-AA15
109	Definitions and Standards of Identity for Miscellaneous Pork Products and Miscellaneous Beef Products	0583-AA20
110	Standard of Identity and Composition for "Lite" Sausage	0583-AA21
111	Regulations Concerning the Irradiation of Pork for Trichina Control	0583-AA23

Food Safety and Inspection Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
112	Labeling for Meat and Poultry Products with Cheese Substitutes, Revised Pizza Standard	0583-AA07
113	Canning of Meat and Poultry Products	0583-AA08
114	Extension of Operating Schedules for Total Quality Control Plants	0583-AA16

Food Safety and Inspection Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
115	Label Approval Regulations	0583-AA05

Foreign Agricultural Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
116	Revision of 7 CFR Part 6, Section 22 Import Quotas; Certain Dairy Products	0551-AA02
117	Revision of Public Law 480 Regulations, 7 CFR Part 17	0551-AA04
118	Revision of Public Law 480 Regulations, 7 CFR Sections 17.6, 17.8 and 17.9	0551-AA05
119	Quarterly Sugar Import Fee Determination	0551-AA06
120	African Food Assistance Program	0551-AA07
121	U.S. Meat Imports	0551-AA09
122	Amendment to 7 CFR Part 6, Section 22 Import Quotas; Certain Dairy Products	0551-AA11
123	Emergency Relief from Certain Perishable Products Imported from Israel	0551-AA12
124	Review of the United States Sugar Import Quota System	0551-AA13
125	Export Enhancement Program	0551-AA15
126	Import Limitation: Country of Origin Quota Adjustment	0551-AA16
127	Calculation of the Market Stabilization Price	0551-AA17
128	Regulations Governing Allocations of Sugar Import Quotas; Other Specified Countries or Areas	0551-AA18

Forest Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
129	Range Management-Grazing and Livestock Use and Management of Wild-Free-Roaming Horses and Burros	0596-AA14
130	Special Uses of National Forest System Lands	0596-AA20
131	Entrance Into Petersburg Watershed	0596-AA23
132	Young Adult Conservation Corps	0596-AA26
133	Experimental Areas and Research Natural Areas	0596-AA30

USDA

Forest Service—Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
134	Youth Conservation Corps	0596-AA32

Forest Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
135	Land Status and Title Records	0596-AA24
136	Add Section to 36 CFR 251.53 - Special Uses to Include Alaska National Interest Land and Conservation Act as an Authority and Add Regulation 36 CFR 251.70 on Ingress and Egress to ETC	0596-AA31
137	Periodic Payments for National Forest Timber Sale Contracts	0596-AA33
138	Use Restrictions of National Forest Lands for the Protection of Municipal Water Supplies	0596-AA34
139	Range Management - Grazing and Livestock Use and Management of Wild-Free-Roaming Horses and Burros	0596-AA35
140	Collection of Reimbursable Costs for Processing Special-Use Applications and Administration of Special-Use Authorizations	0596-AA36
141	Control of Skewed Bidding on National Forest Timber Sales	0596-AA37
142	Modify the General Prohibition Against Use of Vehicles in Excess of 40 Inches in Width on Trails - 36 CFR 261.12(e)	0596-AA38
143	Revise the Definition of "Mechanical Transport" at 36 CFR 293.6(a)	0596-AA39
144	Fee Policy for Linear Rights-of-Way	0596-AA40

Forest Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
145	Debarment and Suspension of Timber Sale Contractors	0596-AA09
146	Recovery of Federal Costs Associated with User Reservation Systems on Some National Forest Recreation Areas	0596-AA16

Forest Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
147	Revision of Advertisements for Sale of National Forest Timber	0596-AA18
148	Administration of Cooperative or Federal Sustained Yield Units	0596-AA19
149	Exercise of Timber, Mineral and Water Rights, of Rights-of-Way, and of Rights to Use and Occupy Lands Conveyed to the U.S.	0596-AA21
150	Management of Municipal Watersheds	0596-AA22
151	Cash Down Payments, Periodic Payments for National Forest Timber Contracts	0596-AA29

Office of Finance and Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
152	Amend USDA Uniform Federal Assistance Regulations	0505-AA01

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Office of Finance and Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
153	Amend USDA Uniform Federal Assistance Regulations, 7 CFR 3015 Subpart Q, Application for Federal Assistance	0505-AA04

Office of Finance and Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
154	Amend USDA Uniform Federal Assistance Regulations, 7 CFR 3015 Subpart I, Audits	0505-AA03

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
155	Rescind Uniform Relocation Regulations	0503-AA02

Soil Conservation Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
156	Soil Surveys	0578-AA00
157	Snow Surveys and Water Supply Forecasts	0578-AA01
158	Prime and Unique Farmlands	0578-AA10

Soil Conservation Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
159	Relocation Assistance	0578-AA12

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Marketing Service (AMS)

Proposed Rule Stage

1. MOHAIR STANDARDS

Legal Authority: Agricultural Marketing Act of 1946; 60 Stat. 1087 to 1091; 7 USC 1621 et seq

CFR Citation: 7 CFR 32

Legal Deadline: None

Abstract: Combine grade standards for mohair and mohair top into one standard. (AMS 84-014)

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: No

Agency Contact: Lilli Fox, Reg. Review Staff, MRD, Department of Agriculture, Agricultural Marketing Service, Room 3525-S, Washington, DC 20250, 202 447-2704

RIN: 0581-AA06

2. WOOL STANDARDS

Legal Authority: 7 USC 1621 et seq; 7 USC 1622; 7 USC 1624; 29 FR 16210; 30 FR 1260, as amended; 30 FR 2160

CFR Citation: 7 CFR 31

Legal Deadline: None

Abstract: Combine grade standards for grease wool and wool top into one standard. (AMS 84-016)

USDA—AMS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Agency Contact: Lilli Fox, Reg. Review Staff, MRD, Department of Agriculture, Agricultural Marketing Service, Room 3525-S, Washington, DC 20250, 202 447-2704

RIN: 0581-AA12

3. FEES FOR SERVICE FOR VOLUNTARY AND MANDATORY PROGRAMS

Legal Authority: 7 USC 1621 to 1627; Agricultural Marketing Act of 1946; 21 USC 1031 to 1056; Egg Products Inspection Act; 7 USC 51 et seq Cotton Standards Act

CFR Citation: 7 CFR 26 to 209

Legal Deadline: None

Abstract: Fees for the voluntary inspection, grading and classing of agricultural commodities and certain mandatory inspection rates are reviewed periodically and changes are made to reflect cost of providing the service. (AMS 84-008)

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: No

Agency Contact: Lilli Fox, Reg. Review Staff, MRD, Department of Agriculture, Agricultural Marketing Service, Room 3525-S, Washington, DC 20250, 202 447-2704

RIN: 0581-AA19

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Marketing Service (AMS)

Final Rule Stage

4. REVIEW: VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS

Legal Authority: 7 USC 1621 to 1627; Agricultural Marketing Act of 1946

CFR Citation: 7 CFR 70

Legal Deadline: None

Abstract: This regulation describes the basis, requirements, and administration of the voluntary grading service for poultry products and rabbit products and U.S. classes, standards and grades. (AMS 85-015)

Timetable:

Action	Date	FR Cite
Begin Review	01/00/85	
End Review	06/24/85	
NPRM	10/24/85	50 FR 43204
NPRM Comment Period End	02/26/86	
Final Action	03/00/86	

Small Entity: No

Agency Contact: Lilli Fox, Reg. Review Staff, MRD, Department of Agriculture, Agricultural Marketing Service, Room 3525-S, Washington, DC 20250, 202 447-2704

RIN: 0581-AA21

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Marketing Service (AMS)

Completed Actions

5. PLANT VARIETY PROTECTION BOARD MEETING

CFR Citation: 7 CFR 180.2

Completed:

Reason	Date	FR Cite
Delete from Agenda: Non Major Item	02/27/86	

Small Entity: No

Agency Contact: Lilli Fox 202 447-2704

RIN: 0581-AA17

6. ESTABLISHMENT OF USER FEES FOR COTTON MARKET NEWS SERVICE

CFR Citation: 7 CFR 28

Completed:

Reason	Date	FR Cite
Delete from Agenda: non major item	02/27/86	

Small Entity: No

Agency Contact: Lilli Fox 202 447-2704

RIN: 0581-AA18

7. REVIEW: MANDATORY INSPECTION OF EGGS AND EGG PRODUCTS

CFR Citation: 7 CFR 59

Completed:

Reason	Date	FR Cite
End Review	11/01/85	

Small Entity: No

Agency Contact: Lilli Fox 202 447-2704

RIN: 0581-AA22

8. REVIEW: GRADING OF SHELL EGGS

CFR Citation: 7 CFR 56

Completed:

Reason	Date	FR Cite
End Review	11/01/85	

Small Entity: No

Agency Contact: Lilli Fox 202 447-2704

RIN: 0581-AA23

9. REVIEW: VOLUNTARY INSPECTION AND GRADING OF EGG PRODUCTS

CFR Citation: 7 CFR 55

Completed:

Reason	Date	FR Cite
End Review	11/01/85	

Small Entity: No

Agency Contact: Lilli Fox 202 447-2704

RIN: 0581-AA24

10. MILK MARKETING ORDERS

CFR Citation: 7 CFR 1000 to 1199

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Completed Actions

Completed:

Reason	Date	FR Cite
Delete from Agenda: Non Major Item	02/27/86	

Small Entity: No

Agency Contact: Lilli Fox 202 447-3704

RIN: 0581-AA25

11. PROPOSED REGULATIONS FOR FRUITS, VEGETABLES AND RELATED COMMODITIES AS AUTHORIZED BY FEDERAL MARKETING ORDERS

CFR Citation: 7 CFR 900 to 999

Completed:

Reason	Date	FR Cite
Delete from Agenda: non major item	02/27/86	

Small Entity: No

Agency Contact: Lilli Fox 202 447-3704

RIN: 0581-AA26

[FR Doc. 86-6826 Filed 04-18-86; 8:45 am]

BILLING CODE 3410-01-T

DEPARTMENT OF AGRICULTURE (USDA)

Agricultural Stabilization and Conservation Service (ASCS)

Proposed Rule Stage

12. COMMODITY CREDIT CORPORATION (CCC) CLAIMS REGULATIONS

Legal Authority: 15 USC 714(k) Commodity Credit Corporation Charter Act

CFR Citation: 7 CFR 1403

Legal Deadline: None

Abstract: Regulations will revise policy, authorities, procedures, and responsibilities for settling claims by and against CCC. (ASCS 84-034)

Timetable:

Action	Date	FR Cite
NPRM	03/14/86	
Final Action	05/02/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA38

13. REGS. RELATING TO THE REFERRAL OF DELINQUENT DEBTS TO CREDIT REPORTING AGENCIES

Legal Authority: 4 CFR 101 to 105; 15 USC 714b The Commodity Credit Corporation Charter Act

CFR Citation: 7 CFR 1403

Legal Deadline: None

Abstract: To implement debt collection legislation and regulations that require disclosure of debts to credit reporting agencies.

To provide incentive for delinquent debtors to repay debts owed to the Government. (ASCS 85-006)

Timetable:

Action	Date	FR Cite
NPRM	03/14/86	
Final Action	05/02/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA50

14. ● 1987 FEED GRAIN PROGRAM

Significance: Regulatory Program

Legal Authority: Ag Act of 1949, as amended by Sec 401-403; 1002, 1003, 1005 and 1012 of the Food Security Act of 1985; PL 99-198

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 716; 7 CFR 719; 7 CFR 792; 7 CFR 794 to 796; 7 CFR 1421.720 to 1421.734

Legal Deadline: Statutory, September 30, 1986. For announcement of acreage adjustment levels.

Abstract: The object of this action is to provide an adequate feed grain supply for domestic and foreign utilization, support farm income and feed grain prices, combat inflation, hold down Federal costs, conserve natural resources, and comply with statutory requirements. (ASCS 86-043)

Timetable:

Action	Date	FR Cite
NPRM	07/15/86	
Final Action	09/30/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA59

15. ● 1987 EXTRA LONG STAPLE (ELS) COTTON PROGRAM

Legal Authority: 7 USC 1444(h); Ag Act of 1949; Sec 103(h) as amended by the Food Security Act of 1985; PL 99-198

CFR Citation: 7 CFR 1427

Legal Deadline: Statutory, December 1, 1986

Abstract: The object of this action is to assure sufficient supplies of cotton for domestic and export use, maintain adequate carryover stocks, support farm income and cotton prices, combat inflation, conserve natural resources, hold down Federal costs, and comply with statutory requirements. (ASCS 86-029)

Timetable:

Action	Date	FR Cite
NPRM	09/01/86	
Final Action	12/01/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA60

16. ● NATIONAL AVERAGE LOAN RATES FOR 1987-CROP QUOTA AND ADDITIONAL PEANUTS

Legal Authority: Ag Act of 1949; as amended by Sec 705 of the Food Security Act of 1985; PL 99-198

USDA—ASCS

Proposed Rule Stage

CFR Citation: Not applicable

Legal Deadline: Statutory, February 15, 1987

Abstract: This action is required by legislation, which provides a formula for computing the quota support level and guidelines for determining the additional support level. The objective is to support farm income and stabilize prices. (ASCS 86-031)

Timetable:

Action	Date	FR Cite
NPRM	12/01/86	
Final Action	02/13/87	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA61

17. ● 1987 UPLAND COTTON PROGRAM

Significance: Regulatory Program

Legal Authority: Ag Act of 1949; as amended by Sec 501 of the Food Security Act of 1985; PL 99-198

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 792; 7 CFR 794 to 796; 7 CFR 1427

Legal Deadline: Statutory, November 1, 1986

Abstract: The object of this action is to assure sufficient supplies of cotton for domestic and export use, maintain adequate carryover stocks, support farm income and cotton prices, combat inflation, hold down Federal costs, and comply with statutory requirements. (ASCS 86-045)

Timetable:

Action	Date	FR Cite
NPRM	08/01/86	
Final Action	10/31/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA64

18. ● 1987-CROP FLUE-CURED TOBACCO MARKETING QUOTAS

Legal Authority: 7 USC 1201 et seq; Ag Adjustment Act of 1938 as amended, Sec 301 et seq

CFR Citation: Not applicable

Legal Deadline: Statutory, December 15, 1986

Abstract: Marketing quotas are required by legislation. Their objective is to balance supply with demand at levels assuring stable supplies for domestic and export use. (ASCS 86-035)

Timetable:

Action	Date	FR Cite
NPRM	09/12/86	
Final Action	12/12/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA67

19. ● 1987-CROP BURLEY TOBACCO MARKETING QUOTAS

Legal Authority: 7 USC 1301 et seq; Ag Adjustment Act of 1938, as amended; Sec 301 et seq

CFR Citation: Not applicable

Legal Deadline: Statutory, February 1, 1987

Abstract: Marketing quotas are required by legislation. Their objective is to balance supply with demand at levels that assure stable supplies for domestic and export use. Possible quota levels range from the minimum statutory level (90% of estimated use) to a somewhat higher level. (ASCS 86-037)

Timetable:

Action	Date	FR Cite
NPRM	11/03/86	
Final Action	01/30/87	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA68

20. ● 1986 PRICE SUPPORT LEVELS FOR ALL KINDS OF TOBACCO

Legal Authority: 7 USC 1445; Sec 106 of the Ag Act of 1949, as amended

CFR Citation: 7 CFR 1464

Legal Deadline: None

Abstract: Set price support level for each type within the statutory range of 65% to 100% of the increase calculated by statutory formula. The objective is to stabilize tobacco prices. (ASCS 86-036)

Timetable:

Action	Date	FR Cite
NPRM	04/11/86	
Final Action	06/29/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA70

21. ● 1986 SOYBEAN LOAN PROGRAM

Legal Authority: 7 USC 1446; Ag Act of 1949, Sec 201; as amended by Sec 601 of the Food Security Act of 1985; PL 99-198

CFR Citation: 7 CFR 1421.365 to 1421.374

Legal Deadline: Statutory, October 1, 1986

Abstract: The object of this action is to assure sufficient supplies of soybeans for domestic and export use, support farm income, combat inflation, hold down Federal costs, and comply with statutory requirements. (ASCS 86-027)

Timetable:

Action	Date	FR Cite
NPRM	08/01/86	
Final Action	09/30/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA71

22. ● 1987 RICE PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1441; Ag Act of 1949; as amended by Sec 601 of the Food Security Act of 1985; PL 99-198

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USDA—ASCS

Proposed Rule Stage

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 794 to 796; 7 CFR 1421

Legal Deadline: Statutory, January 31, 1987

Abstract: The object of this action is to provide an adequate rice supply for domestic and foreign utilization, support farm income and rice prices, combat inflation, hold down Federal costs, conserve natural resources, and comply with statutory requirements. (ASCS 86-047)

Timetable:

Action	Date	FR Cite
NPRM	09/30/86	
Final Action	12/31/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA72

23. ● 1987-CROP HONEY PRICE SUPPORT PROGRAM

Legal Authority: 7 USC 1446(b); Ag Act of 1949, Sec 201(b); as amended by Sec 1041 of the Food Security Act of 1985; PL 99-198

CFR Citation: 7 CFR 1434.26; 7 CFR 1434.27

Legal Deadline: None

Abstract: The Food Security Act of 1985 requires that 1987-crop honey be supported at 63 cents per pound. The Act also provides the Secretary discretion to conduct a marketing loan program. The objective of the marketing loan concept is to (1) minimize the number of loan forfeitures, (2) avoid excessive stocks of honey, (3) reduce the costs incurred by the Federal Government in storing honey, and (4) maintain the competitiveness of honey in domestic and export markets. (ASCS 86-028)

Timetable:

Action	Date	FR Cite
NPRM	01/27/87	
Final Action	04/01/87	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA73

24. ● PRICE SUPPORT LOAN PROGRAM FOR 1986 THROUGH 1990-CROPS SUGAR BEETS AND SUGARCANE

Significance: Regulatory Program

Legal Authority: 7 USC 1446; Ag Act of 1949; as amended by Sec 901 of the Food Security Act of 1985; PL 99-198

CFR Citation: 7 CFR 1435

Legal Deadline: Statutory, October 1, 1986. As far in advance of October 1, 1986, as is practicable for announcement of the 1986 crop price support level.

Abstract: The 1949 Act, as amended by the Food Security Act of 1985, requires the Secretary to support the price of domestically grown sugarcane and sugar beets through a nonrecourse loan program effective for the 1986 through 1990 crops. The object of this action is to develop program and operation provisions for administering a sugar price support program. (ASCS 86-048)

Timetable:

Action	Date	FR Cite
NPRM	07/03/86	
Final Action	09/15/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA74

25. ● FORMULA FOR DEFINING THE PREVAILING WORLD MARKET PRICE OF COTTON AND MECHANISM FOR PERIODICALLY ANNOUNCING THE WORLD MARKET PRICE

Legal Authority: Ag Act of 1949; as amended by Sec 501 of the Food Security Act of 1985; PL 99-198

CFR Citation: Not yet determined

Legal Deadline: Statutory, August 1, 1986. 03/23/86 for (Proposed Regs); 08/01/86 for (Final Regs).

Abstract: The Ag Act of 1949, as amended by the Food Security Act of 1985, provides that the Secretary shall prescribe by regulation (1) a formula to define the prevailing world market price for cotton, and (2) a mechanism by which the Secretary shall periodically announce the prevailing world market price. (ASCS 86-049)

Timetable:

Action	Date	FR Cite
NPRM	03/21/86	
Final Action	08/01/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA75

26. ● FORMULA FOR DEFINING THE PREVAILING WORLD MARKET PRICE OF RICE AND MECHANISM FOR PERIODICALLY ANNOUNCING THE WORLD MARKET PRICE

Legal Authority: Ag Act of 1949; as amended by Sec 601 of the Food Security Act of 1985; PL 99-198

CFR Citation: Not applicable

Legal Deadline: Statutory, April 15, 1986

Abstract: The Ag Act of 1949, as amended by the Food Security Act of 1985, provides that the Secretary shall prescribe by regulation (1) a formula to define the prevailing world market price for rice, and (2) a mechanism by which the Secretary shall periodically announce the prevailing world market price. (ASCS 86-050)

Timetable:

Action	Date	FR Cite
NPRM	03/05/86	
Final Action	04/15/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA76

27. ● 1986-CROP HONEY PRICE SUPPORT PROGRAM AND REGULATIONS GOVERNING 1982 AND SUBSEQUENT CROPS - AMENDMENT 4

Legal Authority: Sec 201(b) of the Ag Act of 1949, as amended; 7 USC 1446(b)

USDA—ASCS

Proposed Rule Stage

CFR Citation: 7 CFR 1434.26; 7 CFR 1434.27

Legal Deadline: None

Abstract: This action will announce the 1986 support rate and the marketing loan concept as provided in the amendments to Sec. 201(b) of the Agricultural Act of 1949, as amended by the Food Security Act of 1985. The objective of the marketing loan concept is to (1) minimize the number of loan forfeitures, (2) avoid excessive stocks of honey, (3) reduce the costs incurred by the Federal Government in storing honey, and (4) maintain the competitiveness of honey in domestic and export markets. (ASCS 86-006)

Timetable:

Action	Date	FR Cite
NPRM	03/07/86	
Final Action	04/01/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA78

28. ● 1987-CROP PEANUTS NATIONAL POUNDAGE QUOTA

Legal Authority: Ag Act of 1938; as amended by Sec 702 of the Food Security Act of 1985; PL 99-198

CFR Citation: Not applicable

Legal Deadline: Statutory, December 15, 1986

Abstract: This action is required by legislation, which provides a formula for computing the National quota. The quota must equal the amount devoted to domestic edible, seed, and related uses and may not be less than 1.1 million tons. The objective is to balance supply with demand at levels that assure stable supplies for domestic use and assure producers a reasonable income. (ASCS 86-033)

Timetable:

Action	Date	FR Cite
NPRM	10/01/86	
Final Action	12/15/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA79

29. ● 1987 WHEAT PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1332 to 1338; Ag Adjustment Act of 1938; as amended by Sec 301-307 of the Food Security Act of 1985; Ag Act of 1949, as amended by Sec 301-312; 1002, 1003, 1005, and 1012 of the Food Security Act of 1985; PL 99-198

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 792; 7 CFR 794 to 796; 7 CFR 1421.485 to 1421.490

Legal Deadline: Statutory, June 1, 1986. For the announcement of acreage adjustment levels.

Abstract: The object of this action is to provide an adequate wheat supply for domestic and foreign utilization, support farm income and wheat prices, combat inflation, hold down Federal costs, conserve natural resources, and comply with statutory requirements. (ASCS 86-041)

Timetable:

Action	Date	FR Cite
NPRM	03/25/86	
Final Action	05/30/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA82

30. ● HIGHLY ERODIBLE LAND AND WETLAND CONSERVATION PROGRAMS

Legal Authority: Ag Adjustment Act of 1949; as amended by the Food Security Act of 1985; Sections 1201-1223 and 1241-1245

CFR Citation: 7 CFR 703, (New)

Legal Deadline: Statutory, June 20, 1986

Abstract: This action is needed to set forth the terms and conditions of the Highly Erodible Land and the Wetland Conservation Programs as required by the Food Security Act of 1985. Under these programs a producer who, after 12/23/85, produces an agricultural commodity on a field defined as highly erodible or on wetland converted after 12/23/85 will be ineligible for any designated USDA program benefits. However, during the period from 12/23/85 to the later of 1/1/90 or 2 years after a producer's field is mapped by SCS for purposes of classifying such land, such producer will not be ineligible for program benefits for highly erodible land that had been cultivated to produce any of the 1981-85 crops, or set aside, diverted or otherwise not cultivated under a USDA production adjustment program. The regulations will identify wetlands based on USDA consultation with the Department of Interior and USDA development of criteria for the identification of hydric soils and hydrophytic vegetation and lists of such soil and vegetation. Certain other exemptions from the ineligibility provisions will also apply. (ASCS 86-051)

Timetable:

Action	Date	FR Cite
NPRM	05/01/86	
Final Action	06/20/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 447-4636

RIN: 0560-AA86

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DEPARTMENT OF AGRICULTURE (USDA) — **Final Rule Stage**

Agricultural Stabilization and Conservation Service (ASCS)

31. NATIONAL AVERAGE LOAN RATES FOR 1985-CROP QUOTA AND ADDITIONAL PEANUTS AND MINIMUM COMMODITY CREDIT CORPORATION (CCC) EXPORT EDIBLE SALES PRICE FOR ADDITIONAL LOAN PEANUTS

Legal Authority: Ag Adjustment Act of 1938, as amended; CCC Charter Act of 1948, as amended; Ag Act of 1949, as amended

CFR Citation: 7 CFR 729; 7 CFR 1446

Legal Deadline: Statutory, February 15, 1986

Abstract: The object of this action is to set loan levels to support farm income and stabilize prices. The CCC export edible sales price minimizes CCC net outlays and maximizes returns to growers of additional peanuts. (ASCS 84-013)

Timetable:

Action	Date	FR Cite
NPRM	12/12/84	49 FR 48344
Announcement - Statutory	02/14/85	
Final Action	03/31/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA31

32. 1985 PRICE SUPPORT LEVEL FOR HONEY

Legal Authority: 7 USC 1446; Ag Act of 1949, Sec 201, as amended

CFR Citation: 7 CFR 1434

Legal Deadline: None

Abstract: The Agricultural Act of 1949, as amended, requires that the price of honey be supported at not less than 60 percent nor more than 90 percent of parity. (ASCS 84-017)

Timetable:

Action	Date	FR Cite
NPRM	02/22/85	50 FR 7359
Announcement	03/29/85	
Final Action	03/31/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA32

33. 1986 WHEAT PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1445b-2 and c; Ag Act of 1949; as amended by Sec 308-312, 1002, 1003, 1005; and 1012 of the Food Security Act of 1985; PL 99-198

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 792; 7 CFR 794 to 796; 7 CFR 1421.485 to 1421.490

Legal Deadline: Statutory. As soon as practicable after enactment of the Food Security Act of 1985 (12/23/85)

Abstract: The object of this action is to provide an adequate wheat supply for domestic and foreign utilization, support farm income and wheat prices, combat inflation, hold down Federal costs, conserve natural resources, and comply with statutory requirements. (ASCS 86-040)

Timetable:

Action	Date	FR Cite
Final Action	04/15/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA58

34. ● 1986 UPLAND COTTON PROGRAM

Significance: Regulatory Program

Legal Authority: Ag Act of 1949; as amended by Sec 501 of the Food Security Act of 1985; PL 99-198

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 719; 7 CFR 770; 7 CFR 792; 7 CFR 794 to 796; 7 CFR 1427

Legal Deadline: Statutory. As soon as practicable after enactment of the Food Security Act of 1985 (12/23/85).

Abstract: The object of this action is to assure sufficient supplies of cotton for domestic and export use, maintain adequate carryover stocks, support farm income and cotton prices, combat inflation, hold down Federal costs, and comply with statutory requirements. (ASCS 86-044)

Timetable:

Action	Date	FR Cite
Final Action	05/15/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA62

35. ● NATIONAL AVERAGE LOAN RATES FOR 1986-CROP QUOTA AND ADDITIONAL PEANUTS AND CCC SALES POLICY FOR 1986-1991 CROPS OF PEANUTS

Legal Authority: Ag Act of 1949; as amended by Sec 705 of the Food Security Act of 1985; PL 99-198

CFR Citation: Not applicable

Legal Deadline: Statutory, February 15, 1986

Abstract: This action is required by legislation, which provides a formula for computing the quota support level and guidelines for determining the additional support level. Sales policy is needed to dispose of peanuts owned or controlled by CCC. The objective is to support farm income and stabilize prices. (ASCS 86-032)

Timetable:

Action	Date	FR Cite
Announcement	02/14/86	
Final Action	04/14/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA63

36. ● 1987 WOOL AND MOHAIR PROGRAM

Legal Authority: 7 USC 1782 et seq; National Wool Act of 1954; as amended by Sec 201 of the Food Security Act of 1985; PL 99-198

CFR Citation: 7 CFR 1468; 7 CFR 1472

Legal Deadline: None

Abstract: To encourage the continued domestic production of wool at prices fair to both producers and consumers in a manner which will assure a viable domestic wool industry in the future, by supporting the prices of wool and mohair by means of loans, purchases, payments, or other operations. The support level for wool is set by statutory formula. (ASCS 86-038)

Timetable:

Action	Date	FR Cite
Final Action	12/31/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA65

USDA—ASCS — **Final Rule Stage**

37. ● 1986 WOOL AND MOHAIR PROGRAM

Legal Authority: 7 USC 1781 et seq; National Wool Act of 1954; as amended by Sec 201 of the Food Security Act of 1985; PL 99-198

CFR Citation: 7 CFR 1468; 7 CFR 1472

Legal Deadline: None

Abstract: To encourage the continued domestic production of wool at prices fair to both producers and consumers in a manner which will assure a viable domestic wool industry in the future, by supporting the prices of wool and mohair by means of loans, purchases, payments, or other operations. The support level for wool is set by statutory formula. (ASCS 86-039)

Timetable:

Action	Date	FR Cite
Final Action	04/01/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA66

38. ● 1986 RICE PROGRAM

Significance: Regulatory Program

Legal Authority: Ag Act of 1949; as amended by Sec 601 of the Food Security Act of 1985; PL 99-198

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 718; 7 CFR 770; 7 CFR 794 to 796; 7 CFR 1421

Legal Deadline: Statutory. As soon as practicable after enactment of the Food Security Act of 1985 (12/23/85).

Abstract: The object of this action is to provide an adequate rice supply for domestic and foreign utilization, support farm income and rice prices, combat inflation, hold down Federal costs, conserve natural resources, and comply with statutory requirements. (ASCS 86-046)

Timetable:

Action	Date	FR Cite
Final Action	04/29/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA69

39. ● CONSERVATION RESERVE PROGRAMS UNDER THE FOOD SECURITY ACT OF 1985

Significance: Regulatory Program

Legal Authority: PL 99-198; The Food Security Act of 1985

CFR Citation: 7 CFR 704

Legal Deadline: Statutory, June 21, 1986

Abstract: This action will reduce soil erosion, improve water quality, and improve wildlife habitat on approximately 40 to 45 million acres through a voluntary Conservation Reserve Program. The program would require that producers convert highly erodible cropland from crop production to less erosive, permanent vegetation for a minimum of ten years. Participants would receive an annual rental payment based on accepted bids, as well as cost sharing for the establishment of permanent vegetation. Determinations will be made on program size, land eligibility, grazing, bidding requirements, payment-in-kind or cash, and the definitions of "field," "highly erodible land," and "cropland." This program is expected to reduce the production of commodities, and thereby reduce the cost of the commodity programs. This will have the effect of partially offsetting the cost of the Conservation Reserve Program. (ASCS 86-005)

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/13/86	51 FR 8760
Final Action	05/01/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA77

40. ● 1986-CROP PEANUTS NATIONAL POUNDAGE QUOTA

Legal Authority: Ag Act of 1938; as amended by Sec 702 of the Food Security Act of 1985; PL 99-198

CFR Citation: Not applicable

Legal Deadline: Statutory, December 15, 1985

Abstract: This action is required by legislation, which provides a formula for computing the National quota. The quota must equal the amount devoted to domestic edible, seed, and related uses and may not be less than 1.1 million tons. The objective is to balance supply with demand at levels that assure stable supplies for domestic use and assure producers a reasonable income. (ASCS 86-034)

Timetable:

Action	Date	FR Cite
Announcement	01/09/86	
Final Action	04/14/86	
NPRM	00/00/00	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA80

41. ● 1986 FEED GRAIN PROGRAM

Significance: Regulatory Program

Legal Authority: Ag Act of 1949; as amended by Sec 401-403, 1002, 1003; and 1012 of the Food Security Act of 1985; PL 99-198

CFR Citation: 7 CFR 707; 7 CFR 709; 7 CFR 713; 7 CFR 718; 7 CFR 719; 7 CFR 792; 7 CFR 794 to 796; 7 CFR 1421.720 to 1421.734

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USDA—ASCS — **Final Rule Stage**

Legal Deadline: Statutory. As soon as practicable after enactment of the Food Security Act of 1985 (12/23/85).

Abstract: The object of this action is to provide an adequate feed grain supply for domestic and foreign utilization, support farm income and feed grain prices, combat inflation, hold down Federal costs, conserve natural resources, and comply with statutory requirements. (ASCS 86-042)

Timetable:

Action	Date	FR Cite
Final Action	04/15/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA84

42. ● 1986-CROP MARKETING QUOTAS FOR BURLEY TOBACCO

Legal Authority: 7 USC 1314Ag Adjustment Act of 1938, as amended

CFR Citation: Not applicable

Legal Deadline: Statutory, March 1, 1986

Abstract: Marketing quotas are required by legislation. Their objective is to balance supply with demand at levels that assure stable supplies for domestic and export use. (ASCS 85-026)

Timetable:

Action	Date	FR Cite
NPRM	12/17/85	50 FR 51436
Announcement	02/28/86	
Final Action	04/15/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA85

43. ● 1986-CROP FLUE-CURED TOBACCO MARKETING QUOTAS AND PRICE SUPPORT LEVEL

Legal Authority: 7 USC 1312(a) et seq

CFR Citation: Not applicable

Legal Deadline: Statutory, December 15, 1985

Abstract: This action would balance supply with demand at levels assuring stable supplies for domestic and export use. The expected cost is $80 million net receipt (crop year basis). (ASCS 85-021)

Timetable:

Action	Date	FR Cite
NPRM	10/17/85	50 FR 42067
Announcement - Quota	12/31/85	
Announcement - Price Support	02/28/86	
Final Action	03/31/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA86

44. ● 1986 EXTRA LONG STAPLE (ELS) COTTON PROGRAM

Legal Authority: 7 USC 1444(h); Ag Act of 1949, Sec 103(h); as amended by Sec 507 of the Food Security Act of 1985; PL 99-198

CFR Citation: 7 CFR 1427

Legal Deadline: None

Abstract: The object of this action is to assure sufficient supplies of cotton for domestic and export use, maintain adequate carryover stocks, support farm income and cotton prices, combat inflation, conserve natural resources, hold down Federal costs, and comply with statutory requirements. (ASCS 86-030)

Timetable:

Action	Date	FR Cite
Final Action	05/15/86	

Small Entity: No

Agency Contact: Tom Witzig, Department of Agriculture, Agricultural Stabilization and Conservation Service, Room 3726-S, P.O. Box 2415, Washington, DC 20013, 202 475-4636

RIN: 0560-AA87

DEPARTMENT OF AGRICULTURE (USDA)
Agricultural Stabilization and Conservation Service (ASCS)

Completed Actions

45. STANDARDS FOR THE APPROVAL OF DRY AND COLD STORAGE WAREHOUSES FOR PROCESSED AGRICULTURAL COMMODITIES, EXTRACTED HONEY, AND BULK OILS

CFR Citation: 7 CFR 1423

Completed:

Reason	Date	FR Cite
Final Action	10/21/85	50 FR 42511

Small Entity: No

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560-AA15

46. POUNDAGE QUOTA AND MARKETING REGULATIONS FOR THE 1983 THROUGH 1985 CROPS OF PEANUTS (AMENDMENT 1)

CFR Citation: 7 CFR 729

Completed:

Reason	Date	FR Cite
Final Action	08/05/85	50 FR 31585

Small Entity: No

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560-AA29

47. 1985 PRICE SUPPORT LEVELS FOR ALL KINDS OF TOBACCO

CFR Citation: 7 CFR 1464

Completed:

Reason	Date	FR Cite
Final Action Flue-Cured	04/17/85	50 FR 15202

Small Entity: No

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560-AA39

48. FEES FOR VOLUNTARY EXAMINATIONS

CFR Citation: 7 CFR 102

USDA—ASCS — **Completed Actions**

Completed:

Reason	Date	FR Cite
Final Action	08/23/85	50 FR 34075

Small Entity: No

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560-AA45

49. 1985 SUGAR BEET AND SUGARCANE LOAN RATES

Significance: Regulatory Program

CFR Citation: 7 CFR 1435.110 et seq

Completed:

Reason	Date	FR Cite
Final Action	10/22/85	50 FR 42740

Small Entity: No

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560-AA49

50. 1985-86 MILK PRICE SUPPORT PROGRAM (EFFECTIVE 10/1/85)

CFR Citation: 7 CFR 1430

Completed:

Reason	Date	FR Cite
Withdrawn	04/01/86	

Small Entity: No

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560-AA51

51. ●NATIONAL ACREAGE ALLOTMENT, NATIONAL MARKETING QUOTA, AND REFERENDUM PROCESS FOR 1986-CROP PEANUTS

Significance: Agency Priority

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Withdrawn	04/01/86	

Small Entity: No

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560-AA81

52. ●GENERAL REGULATIONS GOVERNING PRICE SUPPORT FOR THE 1985 AND SUBSEQUENT CROPS—ELIGIBILITY OF COOPERATIVES FOR FARM-STORED LOANS

CFR Citation: 7 CFR 1421.3(g); 7 CFR 1421.302(b)

Completed:

Reason	Date	FR Cite
Withdrawn	04/01/86	

Small Entity: No

Agency Contact: Tom Witzig 202 475-4636

RIN: 0560-AA83

[FR Doc. 86-8636 Filed 04-18-86; 8:45 am]

BILLING CODE 3410-01-T

DEPARTMENT OF AGRICULTURE (USDA)
Animal and Plant Health Inspection Service (APHIS)

Proposed Rule Stage

53. REVISION OF 7 CFR 319.56, IMPORTATION OF FRUITS AND VEGETABLES

Significance: Regulatory Program

Legal Authority: 7 USC 150dd to 150ff; 7 USC 159; 7 USC 162

CFR Citation: 7 CFR 319.56

Legal Deadline: None

Abstract: An increased number of exotic pests have been introduced recently into the United States. Some of these pests may have arrived on importations of fruits and vegetables. Since these pests are capable of causing extensive economic damage, Plant Protection and Quarantine (PPQ) is considering the development of an improved system for determining the entry status of agricultural products, particularly fruits and vegetables. (APHIS 85-008)

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	
Start of Public Hearing	07/01/86	
NPRM Comment Period End	08/01/86	
Final Action	11/01/86	

Small Entity: Undetermined

Agency Contact: Nick Bedeosem, Department of Agriculture, Animal and Plant Health Inspection Service, Room 728, Federal Bldg., Hyattsville, MD 20782, 301 436-5533

RIN: 0579-AA12

54. ● GYPSY MOTH - OUTDOOR HOUSEHOLD ARTICLES

Significance: Regulatory Program

Legal Authority: 7 USC 150dd; 7 USC 150ee; 7 USC 161; 7 USC 162

CFR Citation: 7 CFR 301.45

Legal Deadline: None

Abstract: The Department has been regulating the movement of outdoor household articles (OHA) out of those areas in the northeast which are regulated for gypsy moth. The (OHA) regulations have been in place since 1983. The current program requires that no life stages of the pest be moved out of those areas. Owners of OHA can either inspect the articles themselves and remove any life stages found or can contact a qualified certified applicator (OCA) and pay for the services necessary to rid the articles of gypsy moth. The program, despite a massive educational campaign using various media, has not lived up to expectations. At best, the Agency is experiencing only 50 percent compliance. This information is based on random spot checks of moving vans leaving the infested northeast. The Agency is considering ways to improve the compliance rate to at least 70 percent. Alternatives being considered include mandatory inspection by qualified certified applicators; mandatory written certification of inspection by the owner of the OHA; and increased public notification and awareness. (86-021)

Timetable:

Action	Date	FR Cite
NPRM	07/01/86	
Final Action	10/01/86	

Small Entity: No

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USDA—APHIS — Proposed Rule Stage

Agency Contact: Nick Bedesem, Department of Agriculture, Animal and Plant Health Inspection Service, Room 728, Federal Bldg., Hyattsville, MD 20782, 301 436-5533

RIN: 0579-AA15

55. ● ORGANISMS AND PRODUCTS ALTERED OR PRODUCED THROUGH BIOTECHNOLOGY

Significance: Regulatory Program

Legal Authority: 7 USC 150aa to 150jj; 7 USC 151 to 164

CFR Citation: Not applicable

Legal Deadline: None

Abstract: Trade in organisms and products altered or produced through biotechnology may introduce plant diseases and pests which are new to or not previously widespread in the United States and which pose a threat to U.S. agriculture and the environment if the introduction of these genetically engineered articles is not regulated. The articles themselves, the cultures in which they are transported, or their packaging may be contaminated with plant disease-causing organisms. Some genetically engineered organisms may be or may become plant pests. The effect of introducing the organism into the environment where it could become established and widespread is unknown. It is necessary, therefore, to establish some degree of regulation over these articles. (APHIS 86-015)

Timetable:

Action	Date	FR Cite
NPRM	04/01/86	
Final Action	08/01/86	

Small Entity: Undetermined

Agency Contact: Nick Bedesem, Department of Agriculture, Animal and Plant Health Inspection Service, Room 728, Federal Bldg., Hyattsville, MD 20782, 301 436-5533

RIN: 0579-AA16

[FR Doc. 86-8288 Filed 04-18-86; 8:45 am]
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DEPARTMENT OF AGRICULTURE (USDA) — Proposed Rule Stage

Farmers Home Administration (FmHA)

56. SUSPENSION AND DEBARMENT REGULATIONS

Legal Authority: 7 USC 1989; 42 USC 1480(j)

CFR Citation: 7 CFR 1924

Legal Deadline: None

Abstract: This regulatory activity will improve FmHA's suspension and debarment system by establishing regulations that are compatible with other federal agency regulations. (FmHA 83-004)

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	
Final Action	06/00/87	

Small Entity: No

Agency Contact: Carl Opstad, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-S, Washington, DC 20250, 202 382-9744

RIN: 0575-AA02

57. ● REVISION OF FMHA INSTRUCTION 1944-A, "SECTION 502 RURAL HOUSING LOAN POLICIES, PROCEDURES AND AUTHORIZATIONS," TO IMPLEMENT THE REQUIREMENTS OF THE RURAL HOUSING AMENDMENTS OF 1983

Significance: Regulatory Program

Legal Authority: 42 USC 1480(j)

CFR Citation: 7 CFR 1924; 7 CFR 1944

Legal Deadline: None

Abstract: The need for Government action is mandated by changes in the Agency's authorizing statute requiring corresponding changes in the FmHA rural housing program. The objectives of the action are: (1) allow extension of terms for applicants for initial loans with incomes of not more than 60 percent of median income for up to 38 years if needed for repayment ability; (2) give priority to applicants with the greatest need for housing because of their low income and inadequate dwellings, and to those applicants who will reside in areas which are the most rural in character; (3) implement Section 502 loans to purchase mobile/manufactured homes and sites, and certain allowable expenses for transportation and set-up. Item (3) has been made a separate publication. (FmHA 84-003)

Timetable:

Action	Date	FR Cite
NPRM Item (3)	01/17/86	51 FR 2507
NPRM Items (1) & (2)	03/00/86	
Final Action Item (3)	05/00/86	
Final Action Items (1) & (2)	06/00/86	

Small Entity: No

Agency Contact: Carl Opstad, Regulatory Coordinator, Room 6348-S, Department of Agriculture, Farmers Home Administration, Washington, DC 20250, 202 382-9744

RIN: 0575-AA05

58. ● STRENGTHENING THE FMHA BUSINESS AND INDUSTRIAL GUARANTEED LOAN PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 1989

CFR Citation: 7 CFR 1980

Legal Deadline: None

Abstract: FmHA needs to fulfill the provisions of OMB Circular A-70 as they relate to FmHA's Business and Industrial (B&I) Guaranteed Loan program. There are weaknesses in the program's requirements for overall credit terms, evaluations, and servicing. Existing provisions of FmHA regulations must be modified or deleted to address the identified problems. The Agency proposes to rewrite and/or amend FmHA Instructions 1980-A and 1980-E in order to make administrative and public procedural changes for strengthening overall credit terms, evaluations, and servicing requirements of the FmHA B&I Guaranteed Loan program. (FmHA 86-007)

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
Final Action	06/00/86	

USDA—FmHA — Proposed Rule Stage

Small Entity: No

Agency Contact: Carl Opstad, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-S, Washington, DC 20250, 202 382-9744

RIN: 0575-AA17

59. REVISION OF CONSTRUCTION STANDARDS FOR FMHA FINANCED HOUSING

Significance: Regulatory Program

Legal Authority: 7 USC 1989; 42 USC 1480(j)

CFR Citation: 7 CFR 1924

Legal Deadline: None

Abstract: FmHA will adopt an official standard within each FmHA State Office jurisdiction. The State's legally adopted code will be used if (1) it is based on one of the voluntary national model building codes, or (2) it is equivalent to those codes. If a State code is not used, FmHA State Directors will determine which of the model codes is most prevalent and appropriate for the area and adopt that as FmHA's code for the area. (FmHA 86-006)

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Carl Opstad, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-S, Washington, DC 20250, 202 382-9744

RIN: 0575-AA21

60. ● BUILDING REQUIREMENTS AND DESIGN FEATURES EMPHASIZING COST CONTAINMENT

Legal Authority: 42 USC 1480(j)

CFR Citation: 7 CFR 1944

Legal Deadline: None

Abstract: The objectives of the action would make the FmHA housing program available to a greater number of very low income persons and simultaneously reduce the overall cost of the program to the government. (FmHA 86-003)

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	10/00/86	

Small Entity: No

Agency Contact: Carl Opstad, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-S, Washington, DC 20250, 202 382-9744

RIN: 0575-AA24

DEPARTMENT OF AGRICULTURE (USDA) — Final Rule Stage

Farmers Home Administration (FmHA)

61. MOBILE/MANUFACTURED HOME RENTAL PROJECTS

Legal Authority: 42 USC 1480(j)

CFR Citation: 7 CFR 1944

Legal Deadline: None

Abstract: The objectives of the action are to provide financing to eligible applicants to develop mobile/manufactured housing projects for rental purposes to eligible occupants as provided for in the Rural Housing Amendments of 1983. (FmHA 84-007)

Timetable:

Action	Date	FR Cite
NPRM	01/17/86	51 FR 2516
Final Action	06/00/86	

Small Entity: No

Agency Contact: Carl Opstad, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-S, Washington, DC 20250, 202 382-9744

RIN: 0575-AA08

62. ● RESTRICTING INSURED AND GUARANTEED FARM OWNERSHIP AND OPERATING LOANS WHEN SURPLUS ITEMS EXIST

Significance: Regulatory Program

Legal Authority: 7 USC 1989

CFR Citation: 7 CFR 1941; 7 CFR 1943; 7 CFR 1980

Legal Deadline: None

Abstract: The Federal Government has had many different programs in an attempt to regulate the supply of agricultural commodities. The problem is to find a way to have an adequate supply of agricultural commodities without creating surpluses or shortages.

The Agency is proposing to change its regulations to allow the Administrator of FmHA to restrict loans for certain periods of time for surplus agricultural commodities that are depressing prices. This would save the applicant and the Agency the work, time, and the expense involved in processing applications for which a feasible plan of operation cannot be developed. The proposed change in regulations would help eliminate the number of applications that have to be fully processed and then rejected. (FmHA 86-006)

Timetable:

Action	Date	FR Cite
NPRM	12/02/85	
Final Action	07/00/86	

Small Entity: No

Agency Contact: Carl Opstad, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-S, Washington, DC 20250, 202 382-9744

RIN: 0575-AA12

63. ● DISASTER ASSISTANCE - GENERAL (PART 1945, SUBPART A) EMERGENCY LOAN POLICIES, PROCEDURES AND AUTHORIZATIONS (PART 1945, SUBPART D)

Significance: Regulatory Program

Legal Authority: 7 USC 1989

CFR Citation: 7 CFR 1945

Legal Deadline: None

Abstract: The Emergency Agricultural Credit Act of 1984 amended the Emergency Loan (EM) program. The Act authorized FmHA to provide emergency credit to agricultural producers in

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counties that are contiguous to counties that have been declared disaster areas.

The Consolidated Farm and Rural Development Act also requires the Agency to base its appraisal of collateral offered as security for emergency loans on (1) the value of the collateral one year and one day before the disaster designation is requested by a State Governor, an Indian tribal council, or FmHA State Director; or (2) the value one day before such request; or (3) on its present-market value, whichever is the highest value. (FmHA 86-009)

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/00/86	
Final Action	04/00/86	

Small Entity: No

Agency Contact: Carl Opstad, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-S, Washington, DC 20250, 202 382-9744

RIN: 0575-AA14

64. ● HOUSING PRESERVATION GRANTS

Significance: Regulatory Program

Legal Authority: 42 USC 1480(j)

CFR Citation: 7 CFR 1944

Legal Deadline: None

Abstract: The Annual Housing Survey of 1981 notes that there are over two million housing units in rural areas with some form of deterioration or inadequacy affecting the health and safety of their occupants. Since the Housing Act of 1949, housing programs have been implemented to provide replacement housing or to repair existing units. Many of these programs have been operated by Farmers Home Administration directly with eligible families in rural areas. Congress established the Housing Preservation Grant (HPG) Program to address some of these problems. (FmHA 86-005)

Timetable:

Action	Date	FR Cite
NPRM	07/26/85	
Final Action	04/00/86	

Small Entity: No

Agency Contact: Carl Opstad, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-S, Washington, DC 20250, 202 382-9744

RIN: 0575-AA18

65. MANAGEMENT AND SUPERVISION OF MULTIPLE FAMILY HOUSING BORROWERS AND GRANT RECIPIENTS

Significance: Regulatory Program

Legal Authority: 42 USC 1480(j)

CFR Citation: 7 CFR 1930; 7 CFR 1944

Legal Deadline: None

Abstract: Interim final rule to implement the requirements of the Rural Housing Amendments of 1983 regarding definitions of income and adjusted annual income, use of HUD income limits for eligibility, establish requirements regarding rent increases, implement rules on pets in elderly projects, establish new rules on providing rental assistance, and establish occupancy levels between low and very low income tenants. (FmHA 83-017)

Timetable:

Action	Date	FR Cite
NPRM for 1930	07/16/85	50 FR 28782
NPRM for 1944	10/01/85	50 FR 39959
Interim Action for 1944	03/00/86	
Final Action	03/00/86	
Final Action for 1930	05/00/86	

Small Entity: No

Agency Contact: Carl Opstad, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-S, Washington, DC 20250, 202 382-9744

RIN: 0575-AA20

66. FMHA GUARANTEES OF COMMERCIAL LENDER'S FARM OWNERSHIP (FO) AND OPERATING LOANS (OL) WITH ACCOMPANYING LENDER PRINCIPAL WRITE DOWN AND/OR INTEREST RATE REDUCTION

Legal Authority: 7 USC 1989

CFR Citation: 7 CFR 1960

Legal Deadline: None

Abstract: The general objective of the proposed action is to integrate Government and Private Sector resources in a continual effort to resolve financial difficulties in agriculture. The proposed action amends the debt adjustment program regulations for guaranteed OL and FO loans to clarify the dollar value equivalency of an interest rate reduction used in lieu of a required 10 percent minimum write down of the total principal and interest outstanding on loan(s) which a lender wants guaranteed; to reduce the minimum positive cash flow requirement under the DAP from 110 percent to 100 percent and to permit lenders to use a combination write down of principal of indebtedness along with an interest rate reduction which would equal the value of an upfront write down of existing indebtedness of at least 10 percent. The intended effect of this action is to provide additional financial assistance to both lenders and their farm borrowers in a time of financial difficulty. (FmHA 85-005)

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/13/85	50 FR 9967
Final Action	05/00/86	

Small Entity: No

Agency Contact: Carl Opstad, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-S, Washington, DC 20250, 202 382-9744

RIN: 0575-AA22

67. ● CHANGES TO THE FMHA FARMER PROGRAM LOAN MAKING, SUPERVISION AND SERVICING REGULATIONS TO IMPLEMENT THE APPLICABLE PROVISIONS OF THE "FOOD SECURITY ACT OF 1985"

Legal Authority: 7 USC 1989

CFR Citation: 7 CFR 1900; 7 CFR 1910; 7 CFR 1924; 7 CFR 1941; 7 CFR 1943; 7 CFR 1945; 7 CFR 1955; 7 CFR 1980

Legal Deadline: Statutory, June 23, 1986

Abstract: Most of the provisions of the Food Security Act of 1985 are mandated by the Act. The major effects will be to insure that the agency provides prompt service to applicants and borrowers, reduce the need and size of the emergency loan program, provide for additional ways that borrowers may continue farming, provide a home during the transition from farming to other employment, preserve the family farm, protect the national food supply, and provide for conservation of less productive land. (FmHA 86-001)

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/25/86	51 FR 6704
Final Action	04/00/86	

Small Entity: No

Agency Contact: Carl Opstad, Regulatory Coordinator, Department of Agriculture, Farmers Home Administration, Room 6348-S, Washington, DC 20250, 202 382-9744

RIN: 0575-AA23

DEPARTMENT OF AGRICULTURE (USDA)
Farmers Home Administration (FmHA)

Completed Actions

68. SPECIAL DEBT SET-ASIDE OF A PORTION OF THE INDEBTEDNESS OF FARMER PROGRAM BORROWERS

Significance: Agency Priority

CFR Citation: 7 CFR 1951

Completed:

Reason	Date	FR Cite
Interim Final Rule	10/19/84	49 FR 41220

Small Entity: No

Agency Contact: Carl Opstad 202 382-9744

RIN: 0575-AA10

[FR Doc. 86-8690 Filed 04-18-86; 8:45 am]

BILLING CODE 3410-01-T

DEPARTMENT OF AGRICULTURE (USDA)
Federal Grain Inspection Service (FGIS)

Completed Actions

69. KINDS OF OFFICIAL SERVICES

CFR Citation: 7 CFR 800.75 to 800.78; 7 CFR 800.135 to 800.140; 7 CFR 800.160 to 800.166

Completed:

Reason	Date	FR Cite
Final Action	10/31/85	50 FR 45389

Small Entity: No

Agency Contact: L. Lebakken, Jr., Chief 202 382-1738

RIN: 0580-AA02

70. RECORDKEEPING AND ACCESS TO FACILITIES

CFR Citation: 7 CFR 800.25 to 800.26

Completed:

Reason	Date	FR Cite
Final Action	01/15/86	51 FR 1767

Small Entity: No

Agency Contact: L. Lebakken, Jr., Chief 202 382-1738

RIN: 0580-AA05

[FR Doc. 86-8690 Filed 04-18-86; 8:45 am]

BILLING CODE 3410-01-T

DEPARTMENT OF AGRICULTURE (USDA)
Food and Nutrition Service (FNS)

Proposed Rule Stage

71. ● WAIVER SIMPLIFICATION: FOOD STAMP PROGRAM

Legal Authority: 7 USC 2014(b)

CFR Citation: 7 CFR 273; 7 CFR 273.21

Legal Deadline: None

Abstract: This rule modifies Food Stamp regulations to increase regulatory flexibility and reduce the need for waiver requests by State agencies. The rule will make numerous changes in certification and program administration; however the majority of changes will affect Monthly Reporting and Retrospective Budgeting since this area is the source of most waiver requests. (FNS 85-001)

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	03/00/87	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3864

RIN: 0584-AA02

72. ISSUANCE LOSS LIABILITY: FOOD STAMP PROGRAM

Legal Authority: 7 USC 2016; 7 USC 2020(e)(20)

CFR Citation: 7 CFR 274; 7 CFR 276

Legal Deadline: None

Abstract: These rules govern the issuance of food stamps to Food Stamp Program participants. They also establish the system for accounting for the food stamps and establish liabilities for losses during the issuance process. (FNS 84-002)

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/29/82	47 FR 49010
NPRM	04/00/86	
Final Action	12/00/86	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3864

RIN: 0584-AA05

73. FOOD DISTRIBUTION PROGRAM ON INDIAN RESERVATIONS

Legal Authority: 7 USC 2013(b)

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Proposed Rule Stage

CFR Citation: 7 CFR 253

Legal Deadline: None

Abstract: The rule reorganizes existing regulatory provisions for clarity and ease of reference. This rule describes the terms and conditions under which (1) USDA-donated foods (available under 7 CFR 250) may be distributed to households on or near Indian reservations; (2) the program may be administered by capable Indian tribal organizations; and (3) funds may be obtained from USDA for the costs incurred in administering the program. The rule also provides for the concurrent operation of the Food Distribution Program and the Food Stamp Program on Indian reservations when such concurrent operation is requested by an Indian tribal organization. (FNS 84-514)

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
Final Action	06/00/86	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA09

74. REWRITE OF REGULATIONS ON DETERMINING ELIGIBILITY FOR FREE AND REDUCED PRICE BENEFITS

Legal Authority: 42 USC 1758; 42 USC 1779

CFR Citation: 7 CFR 245

Legal Deadline: None

Abstract: This rule will revise regulations covering the eligibility process for school meals and milk. Part 245 has not undergone a complete rewrite in many years despite legislative change which has substantially changed the application process. The rewrite is primarily nonsubstantive in nature. The rewrite is intended to remove duplicative and obsolete provisions to clarify and reorganize all sections and to incorporate the requirements of P.L. 97-35. (FNS 84-518)

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	01/00/87	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA32

75. ADMINISTRATIVE REVIEW PROCESS AND QUALITY CONTROL ARBITRATION PROCEDURES: FOOD STAMP PROGRAM

Legal Authority: 7 USC 2023(a); 7 USC 2025(c),(d)

CFR Citation: 7 CFR 276.7

Legal Deadline: None

Abstract: FNS is considering simplification of review process. In addition, FNS is proposing to set definite timeframes for the submission of State requests for arbitration on individual quality control cases where findings are disputed. (FNS 84-013)

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
Final Action	09/00/86	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA46

76. CONFORMANCE WITH AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC) RULES: FOOD STAMP PROGRAM

Significance: Regulatory Program

Legal Authority: 7 USC 2014(f); PL 99-198 (99 Stat. 1354)

CFR Citation: 7 CFR 273; 7 CFR 275

Legal Deadline: Statutory, April 1, 1987

Abstract: This rule reviews Food Stamp and Aid to Families with Dependent Children regulations for inconsistencies and proposes conformance by altering either or both program's rules. (FNS 85-002)

Timetable:

Action	Date	FR Cite
ANPRM	02/19/85	50 FR 6970
NPRM	06/00/86	
NPRM Comment Period End	06/00/86	
Final Action	01/00/87	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA52

77. ● PROPOSAL FOR A NATIONAL INVENTORY SYSTEM

Legal Authority: 7 USC 612c; 7 USC 612c Note; 15 USC 713c; 42 USC 1755; 42 USC 1758; 7 USC 1431; 22 USC 1922; 7 USC 1859; 7 USC 1431b; 7 USC 1431 Note; 7 USC 1446a-1; 42 USC 1761; 42 USC 5179; 42 USC 5180; 42 USC 1762a

CFR Citation: 7 CFR 252

Legal Deadline: None

Abstract: This proposal offers an alternative to the National Commodity Processing (NCP) Program and the proposed mandated State processing program. The proposal is intended to make processed end products available to all eligible recipient agencies and place the burdens of administration at the levels best suited and equipped to handle the various responsibilities. (FNS 86-509)

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	03/00/87	

Small Entity: No

Additional Information: 42 USC 1766; 42 USC 3030a; 42 USC 1760; 5 USC 301; 7 USC 1431e; 42 USC 1779.

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA60

78. ● ANNUAL SAE PLAN/FUNDS: CHILD NUTRITION PROGRAMS

Legal Authority: 42 USC 1779

CFR Citation: 7 CFR 235.4(d)

Legal Deadline: None

USDA—FNS

Proposed Rule Stage

Abstract: The annual SAE plan would be integrated into the SAE funding process. Upon FNS approval of its plan a State agency would receive SAE funds equal to the lesser of the amount provided under the allocation formulas plus any amount carried over from the previous year, or the amount justified in its plan. SAE plans would be broadened to include State as well as SAE funds and be structured to address program needs. These plans could be amended at any time to justify additional SAE funds, up to the amount allocated by formula, or to reflect any other changes in funding or funding needs. FNS would assess State plan implementation as part of its ongoing management evaluation of State agencies. The rule would also: provide more effective monitoring of the State maintenance of effort (MOE) requirement as a condition of receiving SAE funds; limit to one the number of SAE reallocations that FNS could perform annually; and emphasize FNS's authority to sanction a State agency's funds for failure to implement its approved administrative plan. (FNS 85-506)

Timetable:

Action	Date	FR Cite
NPRM	03/25/86	51 FR 10214
Final Action	07/00/86	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA61

79. ● SIMPLIFIED APPLICATION AND STANDARDIZED BENEFITS: FOOD STAMP PROGRAM

Legal Authority: PL 99-198; 7 USC 2011 to 2027; 91 Stat 958

CFR Citation: 7 CFR 282.19

Legal Deadline: None

Abstract: This rule addresses the simplified application and standardized benefit provisions contained in the Food Security Act of 1985. These provisions should result in reductions in administrative costs and, depending on the benefit standardization procedures used, significant reductions in error rates. (FNS 86-010)

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	11/00/86	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA62

80. ● ADMINISTRATION/MANAGEMENT: FOOD STAMP PROGRAM

Legal Authority: PL 99-198, Secs. 1524, 1530, 1526, 1534, 1539; 7 USC 2011 to 2027; 91 Stat 958

CFR Citation: 7 CFR 272.4; 7 CFR 272.3; 7 CFR 273.18; 7 CFR 275.15

Legal Deadline: Statutory, April 1, 1987

Abstract: This regulation implements the following five provisions of the Food Security Act of 1985: (1) sets standards for the periodic review of food stamp offices' hours of operation; (2) requires State agencies to encourage participation in the Expanded Food and Nutrition Education Program (EFNEP); (3) requires project areas with 5,000 or more households to establish units to detect fraud; (4) allows State agencies to enter into agreements with State agencies administering Unemployment Compensation laws so that food stamp State agencies can collect outstanding claims by withholding unemployment benefits and/or other methods of collecting claims when recoupment is not an available method; (5) requires the Department to require State agencies to change the certification procedures used in project areas where it is determined that payment error rates are impairing the integrity of the program. (FNS 86-011)

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	03/00/87	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA63

81. ● QUALITY CONTROL SYSTEM: FOOD STAMP PROGRAM

Legal Authority: PL 99-198 (99 Stat. 1354, Sec 1538)

CFR Citation: 7 CFR 275

Legal Deadline: Statutory, December 23, 1987

Abstract: This rule will make any changes to the quality control (QC) system made necessary by the requirements in the Food Security Act of 1985. (FNS 86-007)

Timetable:

Action	Date	FR Cite
NPRM	01/00/87	
Final Action	06/00/87	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA64

82. ● EMPLOYMENT AND TRAINING REQUIREMENTS: FOOD STAMP PROGRAM

Legal Authority: PL 99-198; 7 USC 2011 to 2027; 91 Stat. 958

CFR Citation: 7 CFR 273.7; 7 CFR 273.22

Legal Deadline: Statutory, April 1, 1987

Abstract: The Food Security Act of 1985 mandates extensive changes in the work requirements of the Food Stamp Program. This rule will provide guidelines for State agencies to design and implement employment and training programs by April 1, 1987. (FNS 86-009)

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	12/15/86	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA65

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83. ● RETAILER/WHOLESALER PROVISIONS: FOOD STAMP PROGRAM

Legal Authority: PL 99-198; 7 USC 2011 to 2027; 91 Stat. 958

CFR Citation: 7 CFR 278

Legal Deadline: None

Abstract: This rule addresses the retailer/wholesaler provisions contained in the Food Security Act of 1985. These provisions are intended to reduce paperwork required of retail stores; improve compliance by retailers and wholesalers; and provide information to State agencies administering the WIC Program to improve the oversight of stores participating in that program. (FNS 86-014)

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	12/00/86	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA67

DEPARTMENT OF AGRICULTURE (USDA)

Food and Nutrition Service (FNS)

Final Rule Stage

84. FOOD DISTRIBUTION PROGRAM

Legal Authority: 7 USC 612c; 15 USC 713c; 42 USC 1755; 42 USC 1756; 7 USC 1431; 22 USC 1922; 7 USC 1859; 7 USC 1431b; 7 USC 1431 Note; 7 USC 1446e-1; 42 USC 1761; 42 USC 5179; 42 USC 5180; 42 USC 1762a; 42 USC 1766; ...

CFR Citation: 7 CFR 250

Legal Deadline: None

Abstract: The rule reorganizes existing regulatory provisions for clarity and ease of reference. This rule outlines the responsibilities of the Food and Nutrition Service and State agencies concerning the distribution of USDA-donated foods acquired under various legislative authorities. The rule prescribes the terms and conditions under which donated foods may be obtained through distributing agencies for use in schools, child care institutions, nonprofit summer camps for children, charitable institutions, nutrition programs for the elderly, and otherwise in the assistance of needy persons. In addition, a number of provisions have been included to strengthen and improve the State Processing Program. (FNS 84-513)

Timetable:

Action	Date	FR Cite
NPRM	06/19/85	50 FR 33470
Final Action	06/00/86	

Small Entity: No

Additional Information: ADDITIONAL LEGAL AUTHORITIES: 7 USC 612c Note; 42 USC 3030a; 42 USC 1760; 5 USC 301; 7 USC 1431e; 42 USC 1779

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA07

85. DISTRIBUTION OF SURPLUS FOOD UNDER THE TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM (TEFAP) FOR FISCAL YEARS 1988 AND 1987

Significance: Regulatory Program

Legal Authority: PL 98-8, Title II

CFR Citation: 7 CFR 251

Legal Deadline: Statutory, April 1, 1987. Sec. 1583 of PL 99-198 requires publication of rules by April 1, 1987.

Abstract: This rule amends the Temporary Emergency Food Assistance Program regulations to include (1) provisions for monitoring of program participation and submission of reports and (2) changes from the Food Security Act of 1985. These provisions strengthen 7 CFR 251 by adding monitoring and accountability components. (FNS 84-519)

Timetable:

Action	Date	FR Cite
NPRM	07/02/84	49 FR 27159
Final Action	04/00/86	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA15

86. REIMBURSING WORKFARE'S ADMINISTRATIVE COSTS: FOOD STAMP PROGRAM

Legal Authority: 7 USC 2029(g)(2)

CFR Citation: 7 CFR 273.22

Legal Deadline: None

Abstract: The rule describes criteria for incentive reimbursement for optional workfare projects. (FNS 85-005)

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/11/83	48 FR 1171
Final Action	03/00/86	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA20

87. EMERGENCY FOOD ASSISTANCE FOR VICTIMS OF DISASTERS

Legal Authority: 7 USC 2013(b); 7 USC 2014(h)

CFR Citation: 7 CFR 280

Legal Deadline: None

Abstract: This final rule defines special eligibility and issuance procedures during declared disasters. (FNS 84-001)

Timetable:

Action	Date	FR Cite
NPRM	01/27/81	46 FR 8923
Final Action	09/00/86	

Small Entity: No

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Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA24

88. EXTENSION OF THE NATIONAL COMMODITY PROCESSING PROGRAM

Legal Authority: 7 USC 612c; 7 USC 612c Note; 15 USC 713c; 42 USC 1755; 42 USC 1756; 7 USC 1431; 22 USC 1922; 7 USC 1859; 7 USC 1431b; 7 USC 1431 Note; 7 USC 1446e-1; 42 USC 1761; 42 USC 5179; 42 USC 5180; 42 USC 1762a

CFR Citation: 7 CFR 252

Legal Deadline: None

Abstract: This rule extends the National Commodity Processing (NCP) Program through June 30, 1986 and incorporates the provisions of the proposed amendments published February 4, 1986. (FNS 84-504)

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/23/83	48 FR 28609
NPRM Part 252	02/04/85	51 FR 4370
Extension of Interim Final Rule	09/12/85	50 FR 37163
One Year Extension of Interim Rule	06/01/86	

Small Entity: No

Additional Information: ADDITIONAL LEGAL AUTHORITIES: 42 USC 1766; 42 USC 3030a; 42 USC 1760; 5 USC 301; 7 USC 1431e.

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA26

89. NSLP VERIFICATION MONITORING/AND AIMS REPORTING

Legal Authority: 42 USC 1758; 42 USC 1779

CFR Citation: 7 CFR 210; 7 CFR 245

Legal Deadline: None

Abstract: This proposal will require State agencies to monitor School Food Authorities' compliance with the verification of eligibility requirements contained in 7 CFR 245. This monitoring would become part of the Assessment, Improvement and Monitoring System which is currently in place. (FNS 84-509)

Timetable:

Action	Date	FR Cite
NPRM	09/30/85	50 FR 39707
Final Action	04/00/86	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA33

90. MANAGEMENT EVALUATIONS AND CORRECTIVE ACTION PLANS: FOOD STAMP PROGRAM

Legal Authority: 7 USC 2020(e)(13); 7 USC 2025(b)

CFR Citation: 7 CFR 275

Legal Deadline: None

Abstract: This rule focuses program reviews on priority target areas and improves use of corrective action planning. (FNS 84-018)

Timetable:

Action	Date	FR Cite
NPRM	08/29/85	50 FR 35091
Final Action	09/00/86	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA37

91. FORFEITURE PROCEDURES/BONDING: FOOD STAMP PROGRAM

Legal Authority: 7 USC 2024(g)

CFR Citation: 7 CFR 278

Legal Deadline: None

Abstract: This rule allows FNS to retain goods or money acquired during investigations of potential store violations. The rule will also permit disqualified stores seeking reauthorization to post letters of credit in lieu of collateral bonds. (FNS 84-017)

Timetable:

Action	Date	FR Cite
NPRM	06/14/85	50 FR 32712
Final Action	09/00/86	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA40

92. REWRITE OF NATIONAL SCHOOL LUNCH PROGRAM REGULATIONS

Legal Authority: 42 USC 1751 et seq

CFR Citation: 7 CFR 210

Legal Deadline: None

Abstract: This rule will propose to revise the regulations covering the National School Lunch Program and the Commodity School Program. Since January 20, 1970, Part 210 has been amended with over 50 final rules and a number of interim rules. This proposal is nonsubstantive in nature. Emphasis is placed on resolving ambiguities and inconsistencies; eliminating unnecessary, duplicative and obsolete provisions; and clarifying both language and style so that Part 210 is more easily understood. (FNS 84-511)

Timetable:

Action	Date	FR Cite
NPRM	02/12/85	50 FR 5950
Interim Final Rule	06/00/86	
Final Action	04/00/87	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3064

RIN: 0584-AA43

93. MEAT ALTERNATES USED IN CHILD NUTRITION PROGRAMS

Legal Authority: 42 USC 1758; 42 USC 1761; 42 USC 1766; 42 USC 1779

CFR Citation: 7 CFR 210; 7 CFR 225, Subpart D; 7 CFR 226, Subpart E

Legal Deadline: None

Abstract: Amend meal pattern requirements to expand the list of allowable meat alternates to include

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high protein nuts and seeds and their butters. (FNS 85-501)

Timetable:

Action	Date	FR Cite
NPRM	12/06/85	50 FR 49933
Final Action	06/01/86	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3864

RIN: 0584-AA58

94. ● NON-DISCRETIONARY BUDGET PROVISION: FOOD STAMP PROGRAM

Significance: Agency Priority

Legal Authority: PL 99-198; (99 Stat. 1354) Secs. 1505, 1511(2), (3)(A) & (B), 1514(1)

CFR Citation: 7 CFR 273

Legal Deadline: Statutory, May 1, 1986

Abstract: This final rule will implement certain non-discretionary major budgetary provisions of the Food Security Act of 1985. This action: 1) increases the maximum resource limit to $2,000 for nonelderly/nondisabled households; 2) expands the $3,000 maximum resource limit for elderly/disabled households; 3) increases the earned income deduction from 18 percent to 20 percent; 4) separates the combined shelter/dependent care maximum deduction limit for nonelderly/nondisabled households; 5) increases the maximum limit for the dependent care deduction to $160 per nonelderly/nondisabled household; and 6) prohibits the collection of State and local sales taxes on food stamp purchases. The sale tax prevision has the potential of significantly affecting those States currently taxing items purchased with food stamps. (FNS 86-001)

Timetable:

Action	Date	FR Cite
Final Action	04/00/86	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3864

RIN: 0584-AA59

95. ● NON-DISCRETIONARY PROVISIONS: FOOD STAMP PROGRAM

Legal Authority: PL 99-198 (99 Stat. 1354); Sec 1504, 1511(4), 1512, 1513, 1516(4), 1525, 1529, 1533, 1543

CFR Citation: 7 CFR 273; 7 CFR 278; 7 CFR 285

Legal Deadline: None

Abstract: This final rule will implement certain non-discretionary provisions from the Food Security Act of 1985. These provisions are: (1) expanding the definition of disabled; (2) liability of every adult household member for over issuance of coupons; (3) limiting mandatory MRRB to households with earnings or recent work history; (4) changes in the standard utility allowances policy; (5) requirement that one adult household member certify, under penalty of perjury, the accuracy of information on the application; (6) requirement that State agencies ensure that eligible homeless people can participate; (7) requirement that self-employment income be averaged taking into account anticipated earnings; (8) extension of eligibility to anyone placed in a institution of higher education through a program under JTPA; and (9) Puerto Rico cash-out provisions. (FNS-86-002)

Timetable:

Action	Date	FR Cite
Final Action	04/00/86	

Small Entity: No

Agency Contact: Irene Lankford, Department of Agriculture, Food and Nutrition Service, Room 1107, Park Office Center, 3101 Park Center Dr., Alexandria, VA 22302, 703 756-3864

RIN: 0584-AA66

DEPARTMENT OF AGRICULTURE (USDA)

Food and Nutrition Service (FNS)

Completed Actions

96. ELIGIBILITY CERTIFICATION AND NOTICE PROVISIONS (OBRA): FOOD STAMP PROGRAM

CFR Citation: 7 CFR 273

Completed:

Reason	Date	FR Cite
Final Action	03/28/86	51 FR 10764

Small Entity: No

Agency Contact: Irene Lankford 703 756-3864

RIN: 0584-AA04

97. FOOD STAMP PROGRAM: REVISION OF PARTS 271, 272, 273 AND 274

CFR Citation: 7 CFR 271; 7 CFR 272; 7 CFR 273; 7 CFR 274

Completed:

Reason	Date	FR Cite
Withdrawn	04/00/86	

Small Entity: No

Agency Contact: Irene Lankford 703 756-3864

RIN: 0584-AA10

98. AUDIT REQUIREMENTS IN THE CHILD CARE FOOD PROGRAM

CFR Citation: 7 CFR 226.8

Completed:

Reason	Date	FR Cite
Final Action	02/04/86	51 FR 4293

Small Entity: No

Agency Contact: Irene Lankford 703 756-3864

RIN: 0584-AA30

99. TFP/DEDUCTION UPDATE: FOOD STAMP PROGRAM

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Final Action	09/09/85	50 FR 36841

Small Entity: No

Agency Contact: Irene Lankford 703 756-3864

RIN: 0584-AA51

USDA—FNS

Completed Actions

100. INCOME AND ELIGIBILITY VERIFICATION PROCEDURES: FOOD STAMP, HHS & DOL PROGRAMS

Significance: Regulatory Program

CFR Citation: 7 CFR 271.2; 7 CFR 272.2; 7 CFR 272.6; 7 CFR 273.2; 7 CFR 273.6; 7 CFR 275.12; 7 CFR 272.1

Completed:

Reason	Date	FR Cite
Final Action	02/28/86	51 FR 7178

Small Entity: No

Agency Contact: Irene Lankford 703 756-3864

RIN: 0584-AA53

[FR Doc. 86-8866 Filed 04-18-86; 8:45 am]

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DEPARTMENT OF AGRICULTURE (USDA)

Food Safety and Inspection Service (FSIS)

Prerule Stage

101. RECORDS, REGISTRATION, AND REPORTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq; 5 USC 552 et seq; 5 USC 601 et seq; 44 USC 3501 et seq; EO 12291

CFR Citation: 9 CFR 320; 9 CFR 381, Subpart Q

Legal Deadline: None

Abstract: The Agency will review Parts 320 and 381 Subpart Q, of Title 9 of the Code of Federal Regulations relating to records and reports required to be maintained by official meat and poultry establishments. The purpose of the review will be to determine whether present reporting and recordkeeping requirements can be reduced or effected in a more efficient, less burdensome manner. (FSIS 82-003)

Timetable:

Action	Date	FR Cite
Begin Review	08/08/83	
End Review	09/30/86	

Small Entity: No

Agency Contact: G. E. McEvoy, Director, Planning Office, Department of Agriculture, Food Safety and Inspection Service, Room 105, Annex Bldg., Washington, DC 20250, 202 447-3317

RIN: 0583-AA00

102. ADMINISTRATIVE REGULATIONS

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq; 44 USC 3501 et seq; 5 USC 601 et seq; 7 CFR Part 1; EO 12291

CFR Citation: 9 CFR 304; 9 CFR 305; 9 CFR 306; 9 CFR 307; 9 CFR 329; 9 CFR 331; 9 CFR 335; 9 CFR 381

Legal Deadline: None

Abstract: The Agency will review administrative requirements for applying for, granting, refusing, inaugurating, and withdrawing inspection; detaining, seizing, and condemning meat and poultry products; assigning program employees; designating States and territories and providing reimbursable services; scheduling of operations, and for overtime and holiday services.

Would also determine adequacy of current regulations as they relate to petitioning the Agency for regulatory change and informing interested persons of Agency procedures for appeal in the event of adverse determinations. (FSIS 83-009)

Timetable:

Action	Date	FR Cite
Begin Review	01/00/83	
End Review	09/30/87	

Small Entity: No

Agency Contact: G. E McEvoy, Director, Planning Office, Department of Agriculture, Food Safety and Inspection Service, Room 105, Annex Bldg., Washington, DC 20250, 202 447-3317

RIN: 0583-AA02

103. RED MEAT SLAUGHTER REGULATIONS

Legal Authority: 21 USC 601 et seq; 5 USC 601 et seq; EO 12291

CFR Citation: 9 CFR 307; 9 CFR 309; 9 CFR 310; 9 CFR 311; 9 CFR 312; 9 CFR 313; 9 CFR 314; 9 CFR 316

Legal Deadline: None

Abstract: The Agency will review the slaughter provisions of the regulations promulgated under the Federal Meat Inspection Act (FMIA), 9 CFR 307, 309 through 314, and 316, to identify regulatory provisions that may be deleted or modified as a result of either technological advances or changes in meat inspection procedures while allowing the Agency to maintain the same standards for product wholesomeness and public health protection. (FSIS 83-004)

Timetable:

Action	Date	FR Cite
Begin Review	01/00/83	
End Review	06/30/87	

Small Entity: No

Agency Contact: G. E. McEvoy, Director, Planning Office, Department of Agriculture, Food Safety and Inspection Service, Room 105, Annex Bldg., Washington, DC 20250, 202 447-3317

RIN: 0583-AA03

104. TRANSPORTATION

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq; 5 USC 601 et seq; EO 12291

CFR Citation: 9 CFR 325; 9 CFR 381, Subpart S

Legal Deadline: None

Abstract: The Agency will review Parts 325 and 381 Subpart S, of Title 9 of the Code of Federal Regulations relating to requirements on the movement of product between inspected facilities to determine if they reflect current Agency practice and whether they impose unnecessary burdens on industry. (FSIS 85-003)

Timetable:

Action	Date	FR Cite
Begin Review	01/15/85	
End Review	12/31/86	

Small Entity: No

Agency Contact: G. E. McEvoy, Director, Planning Office, Department of Agriculture, Food Safety and Inspection Service, Room 105, Annex Bldg., Washington, DC 20250, 202 447-3317

RIN: 0583-AA19

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DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Proposed Rule Stage

105. DEFINITIONS AND STANDARDS OF IDENTITY OR COMPOSITION: COOKED POULTRY SAUSAGE

Significance: Regulatory Program

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: Would establish a definition and standard of identity for certain cooked poultry sausages. (FSIS 83-010)

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Irwin Dubinsky, Acting Director, Policy Office, Department of Agriculture, Food Safety and Inspection Service, Room 3812-S, Washington, DC 20250, 202 447-6735

RIN: 0583-AA10

106. PROTEIN REQUIREMENTS FOR TURKEY HAM

Legal Authority: 21 USC 451 et seq

CFR Citation: 9 CFR 381

Legal Deadline: None

Abstract: Would establish more effective compliance measures and procedures to accommodate new technologies. (FSIS 83-018)

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	09/00/87	

Small Entity: No

Agency Contact: Irwin Dubinsky, Acting Director, Policy Office, Department of Agriculture, Food Safety and Inspection Service, Room 3812-S, Washington, DC 20250, 202 447-6735

RIN: 0583-AA11

107. BARBEQUE STANDARD

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 319; 9 CFR 381

Legal Deadline: None

Abstract: Would provide for alternative processing methods to be used for barbequed meat and poultry products. (FSIS 83-039)

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Irwin Dubinsky, Acting Director, Policy Office, Department of Agriculture, Food Safety and Inspection Service, Room 3812-S, Washington, DC 20250, 202 447-6735

RIN: 0583-AA12

108. REQUIREMENTS FOR MECHANICALLY SEPARATED (KIND) POULTRY PRODUCT AND PRODUCTS IN WHICH IT IS USED

Significance: Regulatory Program

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 317; 9 CFR 318; 9 CFR 319; 9 CFR 381

Legal Deadline: None

Abstract: Would revise and supplement the requirements regarding the manufacture, characteristics, use, and labeling of poultry product made by mechanical deboning and the labeling of finished products in which it is used as an ingredient. (FSIS 84-001)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Irwin Dubinsky, Acting Director, Policy Office, Department of Agriculture, Food Safety and Inspection Service, Room 3812-S, Washington, DC 20250, 202 447-6735

RIN: 0583-AA15

109. ● DEFINITIONS AND STANDARDS OF IDENTITY FOR MISCELLANEOUS PORK PRODUCTS AND MISCELLANEOUS BEEF PRODUCTS

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 319

Legal Deadline: None

Abstract: USDA received a petition from the National Pork Producers Council requesting that a standard for ground pork be adopted. The petitioner expressed concern that variations in the quality of ground pork products might cause negative consumer response to ground pork. USDA also received a petition from the Western States Meat Association requesting that the standards for ground beef, chopped beef, and hamburger be clarified by designating the anatomical origin of the meat that may be used in these products. USDA proposed to amend the regulations to include compositional requirements that are consistent with regulations for similar products and incorporate existing policies. (FSIS 86-001)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Margaret O'K. Glavin, Acting Director, Department of Agriculture, Food Safety and Inspection Service, Standards and Labeling Division, MPITS, Washington, DC 20250, 202 447-6042

RIN: 0583-AA20

110. ● STANDARD OF IDENTITY AND COMPOSITION FOR "LITE" SAUSAGE

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 319

Legal Deadline: None

Abstract: USDA has been petitioned by the American Meat Institute (AMI) "to promulgate a standard of identity and composition for 'lite' sausage." The current cooked sausage standard includes various processed meat food products, such as frankfurters, hot dogs, weiners, viennas, bolognas, and knockwurst. The AMI petition requests a new standard for lower-fat "lite" sausage that would require not more than 22.5 percent fat and not less than 11.5 percent protein, as compared with 30 percent fat and 10 percent added water maximums in the existing cooked-sausage standard. (FSIS 86-002)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

USDA—FSIS

Proposed Rule Stage

Agency Contact: Margaret O'K. Glavin, Acting Director, Department of Agriculture, Food Safety and Inspection Service, Standard and Labeling Division, MPITS, Washington, DC 20250, 202 447-6042

RIN: 0583-AA21

111. ● REGULATIONS CONCERNING THE IRRADIATION OF PORK FOR TRICHINA CONTROL

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq

CFR Citation: 9 CFR 318

Legal Deadline: None

Abstract: USDA published a regulation approving the use of low-dose irradiation in federally inspected plants to control trichina in pork carcass and fresh cuts of pork on January 15, 1986. The regulation was published as a final rule and approved the use of irradiation in pork for the control of trichina. Further regulatory issues concerning the use of irradiation in pork such as labeling requirements and the amendment of current regulations to name irradiation as an approved method of "controlling" trichina were not addressed in the original rulemaking. (FSIS 86-003)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Margaret O'K. Glavin, Acting Director, Department of Agriculture, Food Safety and Inspection Service, Standards and Labeling Division, MPITS, Washington, DC 20250, 202 447-6042

RIN: 0583-AA23

DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Final Rule Stage

112. LABELING FOR MEAT AND POULTRY PRODUCTS WITH CHEESE SUBSTITUTES, REVISED PIZZA STANDARD

Significance: Regulatory Program

Legal Authority: 21 USC 601 et seq; 21 USC 451 et seq

CFR Citation: 9 CFR 317; 9 CFR 319; 9 CFR 381

Legal Deadline: None

Abstract: Would amend the meat and poultry regulations to provide for more informative labeling of cheese substitutes, a minimum cheese content for pizza products, and the use of only cooked meat on pizza. (FSIS 83-007)

Timetable:

Action	Date	FR Cite
NPRM	08/05/83	48 FR 35654
Final Action	00/00/00	

Small Entity: Yes

Agency Contact: Irwin Dubinsky, Acting Director, Policy Office, Department of Agriculture, Food Safety and Inspection Service, Room 3812-S, Washington, DC 20250, 202 447-6735

RIN: 0583-AA07

113. CANNING OF MEAT AND POULTRY PRODUCTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 308; 9 CFR 318; 9 CFR 320; 9 CFR 327; 9 CFR 381

Legal Deadline: None

Abstract: Proposes to amend meat and poultry regulations to accommodate technological advances in thermal processing of meat and poultry products contained in hermetically sealed containers. (FSIS 81-013)

Timetable:

Action	Date	FR Cite
NPRM	04/12/84	49 FR 14636
Final Action	06/00/86	

Small Entity: No

Agency Contact: Irwin Dubinsky, Acting Director, Policy Office, Department of Agriculture, Food Safety and Inspection Service, Room 3812-S, Washington, DC 20250, 202 447-6735

RIN: 0583-AA06

114. EXTENSION OF OPERATING SCHEDULES FOR TOTAL QUALITY CONTROL PLANTS

Legal Authority: 21 USC 451 et seq; 21 USC 601 et seq

CFR Citation: 9 CFR 318; 9 CFR 381

Legal Deadline: None

Abstract: Would allow plants operating under total quality control systems to process and ship product past the normal 8-hour schedule. (FSIS 83-020)

Timetable:

Action	Date	FR Cite
NPRM	08/19/85	50 FR 33346
Final Action	06/00/86	

Small Entity: No

Agency Contact: Irwin Dubinsky, Acting Director, Policy Office, Department of Agriculture, Food Safety and Inspection Service, Washington, DC 20250, 202 447-6735

RIN: 0583-AA16

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DEPARTMENT OF AGRICULTURE (USDA)
Food Safety and Inspection Service (FSIS)

Completed Actions

115. LABEL APPROVAL REGULATIONS

CFR Citation: 9 CFR 317; 9 CFR 381, Subpart N

Completed:

Reason	Date	FR Cite
End Review	09/25/85	50 FR 38624

Small Entity: No

Agency Contact: G. E. McEvoy 202 447-3317

RIN: 0583-AA05

[FR Doc. 86-8626 Filed 04-18-86; 8:45 am]
BILLING CODE 3410-01-T

DEPARTMENT OF AGRICULTURE (USDA)
Foreign Agricultural Service (FAS)

Completed Actions

116. REVISION OF 7 CFR PART 6, SECTION 22 IMPORT QUOTAS; CERTAIN DAIRY PRODUCTS

CFR Citation: 7 CFR 6.20 et seq

Completed:

Reason	Date	FR Cite
Delete from the Agenda: Non Major	02/27/86	

Small Entity: No

Agency Contact: Bob Johnson 202 475-3712

RIN: 0551-AA02

117. REVISION OF PUBLIC LAW 480 REGULATIONS, 7 CFR PART 17

CFR Citation: 7 CFR 17

Completed:

Reason	Date	FR Cite
Delete from Agenda: Non Major	02/27/86	

Small Entity: No

Agency Contact: Bob Johnson 202 475-3712

RIN: 0551-AA04

118. REVISION OF PUBLIC LAW 480 REGULATIONS, 7 CFR SECTIONS 17.6, 17.8 AND 17.9

CFR Citation: 7 CFR 17.6; 7 CFR 17.8; 7 CFR 17.9

Completed:

Reason	Date	FR Cite
Delete from the Agenda: Non Major	02/27/86	

Small Entity: No

Agency Contact: Bob Johnson 202 475-3712

RIN: 0551-AA06

119. QUARTERLY SUGAR IMPORT FEE DETERMINATION

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Delete from the Agenda: Non Major Action	02/27/86	

Small Entity: No

Agency Contact: Bob Johnson 202 475-3712

RIN: 0551-AA08

120. AFRICAN FOOD ASSISTANCE PROGRAM

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Notice	08/28/84	49 FR 26615

Small Entity: No

Agency Contact: Bob Johnson 202 475-3712

RIN: 0551-AA07

121. U.S. MEAT IMPORTS

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Delete from Agenda: Non Major	02/27/86	

Small Entity: No

Agency Contact: Bob Johnson 202 475-3712

RIN: 0551-AA09

122. AMENDMENT TO 7 CFR PART 6, SECTION 22 IMPORT QUOTAS; CERTAIN DAIRY PRODUCTS

CFR Citation: 7 CFR 6.20 et seq

Completed:

Reason	Date	FR Cite
Final Action	08/26/85	50 FR 30261

Small Entity: No

Agency Contact: Bob Johnson 202 475-3712

RIN: 0551-AA11

123. EMERGENCY RELIEF FROM CERTAIN PERISHABLE PRODUCTS IMPORTED FROM ISRAEL

CFR Citation: 7 CFR 1540

Completed:

Reason	Date	FR Cite
Final Action	10/29/85	50 FR 43691

Small Entity: No

Agency Contact: Bob Johnson 202 475-3712

RIN: 0551-AA12

124. REVIEW OF THE UNITED STATES SUGAR IMPORT QUOTA SYSTEM

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Delete from Agenda: Non Major	02/27/86	

Small Entity: No

Agency Contact: Bob Johnson 202 475-3712

RIN: 0551-AA13

125. EXPORT ENHANCEMENT PROGRAM

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Withdrawn	04/01/86	

Small Entity: No

USDA—FAS

Completed Actions

Agency Contact: Bob Johnson 202 475-3712

RIN: 0551-AA15

126. IMPORT LIMITATION: COUNTRY OF ORIGIN QUOTA ADJUSTMENT

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Delete from Agenda: non-major item	02/27/86	

Small Entity: No

Agency Contact: Bob Johnson 202 475-3712

RIN: 0551-AA16

127. ●CALCULATION OF THE MARKET STABILIZATION PRICE

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Delete from Agenda: Non Major	02/27/86	

Small Entity: No

Agency Contact: Bob Johnson 202 475-3712

RIN: 0551-AA17

128. ●REGULATIONS GOVERNING ALLOCATIONS OF SUGAR IMPORT QUOTAS; OTHER SPECIFIED COUNTRIES OR AREAS

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Final Action	12/06/85	50 FR 49919

Small Entity: No

Agency Contact: Bob Johnson 202 475-3712

RIN: 0551-AA18

[FR Doc. 86-8626 Filed 04-18-86; 8:45 am]
BILLING CODE 3410-01-T

DEPARTMENT OF AGRICULTURE (USDA)
Forest Service (FS)

Prerule Stage

129. RANGE MANAGEMENT-GRAZING AND LIVESTOCK USE AND MANAGEMENT OF WILD-FREE-ROAMING HORSES AND BURROS

Legal Authority: 43 USC 1901; 16 USC 1331 to 1340; 16 USC 551; 7 USC 1011

CFR Citation: 36 CFR 222, Subpart A; 36 CFR 222, Subpart B

Legal Deadline: None

Abstract: Review of Subparts A and B pursuant to EO 12291. Subpart A sets forth policy and procedure governing management of the range environment, issuance of permits for grazing and livestock use, range improvements, and establishment and functions of grazing advisory boards.

Subpart B defines categories of wild, free-roaming horses and burros, sets protection standards and provides for relocation of excess animals and general administrative procedures. (FS 84-005)

Timetable:

Action	Date	FR Cite
Begin Review	10/00/85	50 FR 43981
End Review	07/01/86	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1498

RIN: 0596-AA14

130. SPECIAL USES OF NATIONAL FOREST SYSTEM LANDS

Legal Authority: 16 USC 551; 16 USC 495; 16 USC 431 et seq; 7 USC 1011(d); 43 USC 1761 to 1771; 16 USC 497; 30 USC 185; 16 USC 580d; 43 USC 931c, 931d; 16 USC 1131 to 1136; 16 USC 532 to 538; 16 USC 4601 to 4606a(c); 16 USC 791a et seq; 16 USC 470aa

CFR Citation: 36 CFR 251.50 to 251.64

Legal Deadline: None

Abstract: Review of existing rule which explains procedures for applying for and obtaining approval for special uses of National Forest System lands and the terms, conditions, and instruments of special use authorizations. (FS 84-014)

Timetable:

Action	Date	FR Cite
Begin Review	10/22/84	49 FR 41519
End Review	05/00/86	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1498

RIN: 0596-AA20

131. ENTRANCE INTO PETERSBURG WATERSHED

Legal Authority: 16 USC 551; 16 USC 472; 43 USC 1761 to 1771

CFR Citation: 36 CFR 251.35

Legal Deadline: None

Abstract: Rule restricts entry into watershed without approval of authorized officials of Petersburg, Alaska. Rule will be reviewed pursuant to EO 12291. (FS 84-017)

Timetable:

Action	Date	FR Cite
Begin Review	04/01/86	
End Review	08/01/86	
Final Action	04/01/87	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1498

RIN: 0596-AA23

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Prerule Stage

132. YOUNG ADULT CONSERVATION CORPS

Legal Authority: 29 USC 601

CFR Citation: 36 CFR 215

Legal Deadline: None

Abstract: Describes the Young Adult Conservation Corps (YACC) program requirements and procedures for States to follow in obtaining grants to establish and administer YACC programs on non-Federal public lands. Rule to be removed since program ended in FY 1982. (FS 85-010)

Timetable:

Action	Date	FR Cite
Begin Review	02/10/86	
End Review	04/01/86	
Final Action	06/01/86	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1488

RIN: 0596-AA26

133. EXPERIMENTAL AREAS AND RESEARCH NATURAL AREAS

Legal Authority: 16 USC 551

CFR Citation: 36 CFR 251.23

Legal Deadline: None

Abstract: Directs establishment of experimental forests and ranges and, when appropriate, research natural areas to provide base for forestry research. Sets forth management restrictions in research natural areas. (FS 85-008)

Timetable:

Action	Date	FR Cite
Begin Review	04/00/86	
End Review	12/00/86	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1488

RIN: 0596-AA30

134. YOUTH CONSERVATION CORPS

Legal Authority: 16 USC 1704

CFR Citation: 36 CFR 214

Legal Deadline: None

Abstract: Directs the Youth Conservation Corps (YCC) program requirements and procedures for States to follow in obtaining grants to establish and administer YCC programs. Rules to be removed since grant program is not funded or anticipated to be funded in the future. (FS 85-009)

Timetable:

Action	Date	FR Cite
Begin Review	02/10/86	
End Review	04/01/86	
Final Action	06/01/86	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1488

RIN: 0596-AA32

DEPARTMENT OF AGRICULTURE (USDA)

Proposed Rule Stage

Forest Service (FS)

135. LAND STATUS AND TITLE RECORDS

Legal Authority: 16 USC 472; 16 USC 551; 16 USC 1603

CFR Citation: 36 CFR 200.12, (New)

Legal Deadline: None

Abstract: Objective is to establish that the Land Status Record is the official record of title for National Forest System lands and to set forth the authorities, policies, and procedures for recording, custody, maintenance, and use of title documents and title status reports. (FS 85-012)

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
Final Action	06/00/87	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1488

RIN: 0596-AA24

136. ADD SECTION TO 36 CFR 251.53 - SPECIAL USES TO INCLUDE ALASKA NATIONAL INTEREST LAND AND CONSERVATION ACT AS AN AUTHORITY AND ADD REGULATION 36 CFR 251.70 ON INGRESS AND EGRESS TO ETC

Legal Authority: 16 USC 3210(a)

CFR Citation: 36 CFR 251.53

Legal Deadline: None

Abstract: The proposed regulation will tie the granting of special-use authorizations for ingress and egress under the Alaska National Interest Lands and Conservation Act (ANILCA) to the existing authorities for granting authorizations to use or occupy National Forest lands and remove the discretionary aspects of those laws and regulations when applied to parties qualifying for access under ANILCA. (FS 85-001)

Timetable:

Action	Date	FR Cite
NPRM	06/30/86	
Final Action	12/01/86	

Small Entity: No

Additional Information: TITLE CONT: Private Lands Within the National Forests.

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1488

RIN: 0596-AA31

USDA—FS

Proposed Rule Stage

137. PERIODIC PAYMENTS FOR NATIONAL FOREST TIMBER SALE CONTRACTS

Legal Authority: 16 USC 472a; 16 USC 618

CFR Citation: 36 CFR 223.51, (New)

Legal Deadline: None

Abstract: The Federal Timber Sale Contract Payment Modification Act requires the Forest Service to require purchasers to make periodic payments on timber sales. As established by the act, the objective of periodic payments is to discourage speculative bidding on National Forest timber sales. A soon-to-be published rule (See RIN 0596-AA29) will require cash down payments and one periodic payment requirement. However, to fully comply with the act, additional rules are required. This rule will be based on an evaluation of the effects of requiring annual payments, on consideration of procedures that would permit the pooling of payments, and on consideration of market-related contract adjustments.

There are no alternatives to issuing this rule; it is required by the Federal Timber Sale Contract Payment Modification Act. (FS 85-014)

Timetable:

Action	Date	FR Cite
NPRM	04/15/86	
Final Action	08/15/86	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1488

RIN: 0596-AA33

138. ● USE RESTRICTIONS OF NATIONAL FOREST LANDS FOR THE PROTECTION OF MUNICIPAL WATER SUPPLIES

Legal Authority: 16 USC 475; 16 USC 551

CFR Citation: 36 CFR 251.9

Legal Deadline: None

Abstract: This action amends the regulation providing protection of municipal watersheds to conform to recent legislation, principally the National Forest Management Act (NFMA). (FS 86-003)

Timetable:

Action	Date	FR Cite
NPRM	07/01/86	
Final Action	04/01/87	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1488

RIN: 0596-AA34

139. ● RANGE MANAGEMENT - GRAZING AND LIVESTOCK USE AND MANAGEMENT OF WILD-FREE-ROAMING HORSES AND BURROS

Legal Authority: 43 USC 1901; 16 USC 1331 to 1340; 16 USC 551; 7 USC 1011

CFR Citation: 36 CFR 222, Subpart A; 36 CFR 222, Subpart B

Legal Deadline: None

Abstract: Minor amendments to 36 CFR 222, Subparts A and B are under consideration to (1) delete the portion pertaining to Grazing Advisory Boards since the authority for these Boards under FLMA expired 12/31/85, (2) refine the procedures for placing wild horses and burros in private maintenance and care, (3) clarify the notification allowed before cancelling a permit when lands grazed are to be devoted to another public purpose including disposal, and (4) delete the reference to the Granger-Thye Act concerning range improvements. (FS 86-004)

Timetable:

Action	Date	FR Cite
NPRM	09/01/86	
Final Action	12/01/86	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1488

RIN: 0596-AA35

140. ● COLLECTION OF REIMBURSABLE COSTS FOR PROCESSING SPECIAL-USE APPLICATIONS AND ADMINISTRATION OF SPECIAL-USE AUTHORIZATIONS

Significance: Regulatory Program

Legal Authority: 43 USC 1764; 31 USC 483a; 30 USC 181 (Mineral Leasing Act)

CFR Citation: 36 CFR 251.58

Legal Deadline: None

Abstract: The objective of the rulemaking is to establish the policy, procedures, and guidelines for recovering costs incurred by the Forest Service in the administration of special uses on National Forest System Lands. (FS 86-005)

Timetable:

Action	Date	FR Cite
NPRM	08/01/86	
Final Action	06/01/87	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1488

RIN: 0596-AA36

141. ● CONTROL OF SKEWED BIDDING ON NATIONAL FOREST TIMBER SALES

Legal Authority: 16 USC 472a

CFR Citation: 36 CFR 223.69

Legal Deadline: None

Abstract: Timber may not be sold at less than appraised value. Skewed bidding enables bidders to tailor their bids to their competitive strengths. While skewed bidding can be advantageous to purchasers, it can also reduce Government receipts and increase Forest Service timber sale administration costs. These results were documented by the General Accounting Office (GAO/RCED-83-37). This proposal is made in partial response to the recommendations in that review. (FS 86-006)

Timetable:

Action	Date	FR Cite
NPRM	04/01/86	
Final Action	10/01/86	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1488

RIN: 0596-AA37

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Proposed Rule Stage

142. ● MODIFY THE GENERAL PROHIBITION AGAINST USE OF VEHICLES IN EXCESS OF 40 INCHES IN WIDTH ON TRAILS - 36 CFR 261.12(E)

Legal Authority: 16 USC 551

CFR Citation: 36 CFR 261.12(e)

Legal Deadline: None

Abstract: The objective of this action is to permit forest officers more discretion for controlling off-road vehicle use. Three factors have created the need to modify this regulation: (1) the general prohibition at 36 CFR 261.12(e) controls trail use by width of vehicle. Originally developed to control four wheel-drive vehicles on trails, this method uses a fairly arbitrary device (width) to control use; (2) off-road vehicle plans (36 CFR 295) use vehicle types to prescribe the vehicles that are permitted to use forest trails; (3) some recent models of trail vehicles (all terrain vehicles and snowmobiles) exceed the forty inch rule by one to five inches. The combination of the two methods of control with the larger model sizes has created confusion among users about ORV plan direction and created law enforcement difficulties. The proposed action would clarify the regulations and still maintain the tools necessary to control off-road vehicle use. (FS-86-007)

Timetable:

Action	Date	FR Cite
NPRM	04/01/86	
Final Action	09/01/86	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1488

RIN: 0596-AA36

143. ● REVISE THE DEFINITION OF "MECHANICAL TRANSPORT" AT 36 CFR 293.6(A)

Legal Authority: 16 USC 113 to 136; 16 USC 528 to 531; 16 USC 577 to 577c; 16 USC 1133

CFR Citation: 36 CFR 293.6(a)

Legal Deadline: None

Abstract: The objective of this action is to clarify the definition of mechanical transport in 36 CFR 293.6(a). Except where specifically provided for, the Wilderness Act (16 USC 1133) prohibits both motorized equipment and mechanical transport. Mechanical transport includes devices such as bicycles, hang gliders, wheeled carts, and other items designed to carry people or supplies and powered by either "non living" or "living" power sources. (FS 86-009)

Timetable:

Action	Date	FR Cite
NPRM	04/01/86	
Final Action	09/30/86	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1488

RIN: 0596-AA38

144. ● FEE POLICY FOR LINEAR RIGHTS-OF-WAY

Significance: Regulatory Program

Legal Authority: 30 USC 181 et seq; PL 94-579

CFR Citation: 36 CFR 251.51

Legal Deadline: None

Abstract: The objective of this action is to bring the present Forest Service fee determinations for Linear Rights-of-Way up to date and in line with the Mineral Leasing Act (30 USC 181 et seq) and the Federal Land Policy and Management Act (PL 94-579). The action is to be coordinated with the Bureau of Land Management to achieve consistent procedures between the two agencies. (FS 86-011)

Timetable:

Action	Date	FR Cite
ANPRM	04/20/84	
NPRM	07/01/86	
Final Action	10/01/86	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1488

RIN: 0596-AA40

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Final Rule Stage

145. DEBARMENT AND SUSPENSION OF TIMBER SALE CONTRACTORS

Legal Authority: 16 USC 551; 16 USC 472a

CFR Citation: 36 CFR 223, Subpart C

Legal Deadline: None

Abstract: The objective is to set forth conditions and procedures under which purchasers of National Forest System timber may be suspended or debarred from further contracting. (FS 83-004)

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/27/83	48 FR 23818
Extension of Interim Rule	07/11/84	49 FR 28241
NPRM Part III	01/23/86	51 FR 3158
Final Action	06/15/86	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1488

RIN: 0596-AA09

146. RECOVERY OF FEDERAL COSTS ASSOCIATED WITH USER RESERVATION SYSTEMS ON SOME NATIONAL FOREST RECREATION AREAS

Legal Authority: 16 USC 551; 16 USC 472

CFR Citation: 36 CFR 291

USDA—FS

Final Rule Stage

Legal Deadline: None

Abstract: The objective is to recover the costs of administering a reservation system for visits to and use of highly popular National Forest System recreation areas. (FS 84-001)

Timetable:

Action	Date	FR Cite
NPRM	11/16/84	49 FR 45177
Final Action	03/01/86	

Small Entity: No

Agency Contact: Marian P. Connolly, Regulatory Coordinator, Department of Agriculture, Forest Service, P.O. Box 2417, Washington, DC 20013, 703 235-1488

RIN: 0596-AA16

DEPARTMENT OF AGRICULTURE (USDA)

Forest Service (FS)

Completed Actions

147. REVISION OF ADVERTISEMENTS FOR SALE OF NATIONAL FOREST TIMBER

CFR Citation: 36 CFR 223.83; 36 CFR 223.84; 36 CFR 223.86; 36 CFR 223.100

Completed:

Reason	Date	FR Cite
Final Action	06/14/85	50 FR 32694

Small Entity: No

Agency Contact: Marian P. Connolly 703 235-1488

RIN: 0596-AA18

148. ADMINISTRATION OF COOPERATIVE OR FEDERAL SUSTAINED YIELD UNITS

CFR Citation: 36 CFR 223.117

Completed:

Reason	Date	FR Cite
Withdrawn	02/00/86	

Small Entity: No

Agency Contact: Marian P. Connolly 703 235-1488

RIN: 0596-AA21

150. MANAGEMENT OF MUNICIPAL WATERSHEDS

CFR Citation: 36 CFR 251.9

Completed:

Reason	Date	FR Cite
End Review	02/01/86	

Small Entity: No

Agency Contact: Marian P. Connolly 703 235-1488

RIN: 0596-AA22

151. CASH DOWN PAYMENTS, PERIODIC PAYMENTS FOR NATIONAL FOREST TIMBER CONTRACTS

CFR Citation: 36 CFR 223

Completed:

Reason	Date	FR Cite
Final Action	10/11/85	50 FR 41496

Small Entity: No

Agency Contact: Marian P. Connolly 703 235-1488

RIN: 0596-AA29

[FR Doc. 86-8838 Filed 04-18-86; 8:45 am]

BILLING CODE 3410-01-T

DEPARTMENT OF AGRICULTURE (USDA)

Office of Finance and Management (OFM)

Proposed Rule Stage

152. AMEND USDA UNIFORM FEDERAL ASSISTANCE REGULATIONS

Legal Authority: 5 USC 301

CFR Citation: 7 CFR 3015

Legal Deadline: None

Abstract: This proposal will bring USDA regulations into compliance with revisions to the Office of Management and Budget Circular A-102, "Uniform requirements for grants to States and local governments." (OFM 84-001)

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	02/00/87	

Small Entity: No

Agency Contact: Lyn Zimmerman, Branch Chief, Federal Assistance, Department of Agriculture, Office of Finance and Management, Room 2117 Auditors Building, Washington, DC 20250, 202 382-1553

RIN: 0505-AA01

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DEPARTMENT OF AGRICULTURE (USDA)
Office of Finance and Management (OFM)

Final Rule Stage

153. AMEND USDA UNIFORM FEDERAL ASSISTANCE REGULATIONS, 7 CFR 3015 SUBPART Q, APPLICATION FOR FEDERAL ASSISTANCE

Legal Authority: 5 USC 301; PL 85-113, Sec 1472

CFR Citation: 7 CFR 3015

Legal Deadline: None

Abstract: This regulation will provide USDA agencies with uniform standards for a competitive award process for grants and cooperative agreements in research, extension, and teaching programs. This regulation codifies current USDA policy as set forth in Secretary's Memorandum 5000-2 which was issued August 13, 1984. (OFM 84-004)

Timetable:

Action	Date	FR Cite
NPRM	04/18/85	50 FR 15433
Final Action	04/30/86	

Small Entity: No

Agency Contact: Lyn Zimmerman, Branch Chief, Federal Assistance, Department of Agriculture, Office of Finance and Management, Room 2117 Auditors Building, Washington, DC 20250, 202 382-1553

RIN: 0505-AA04

DEPARTMENT OF AGRICULTURE (USDA)
Office of Finance and Management (OFM)

Completed Actions

154. AMEND USDA UNIFORM FEDERAL ASSISTANCE REGULATIONS, 7 CFR 3015 SUBPART I, AUDITS

CFR Citation: 7 CFR 3015, Subpart I

Completed:

Reason	Date	FR Cite
Final Action	01/07/86	51 FR 1485

Small Entity: No

Agency Contact: Lyn Zimmerman 202 382-1553

RIN: 0505-AA03

[FR Doc. 86-8636 Filed 04-18-86; 8:45 am]

BILLING CODE 3410-01-T

DEPARTMENT OF AGRICULTURE (USDA)
Office of the Secretary (AgSEC)

Completed Actions

155. RESCIND UNIFORM RELOCATION REGULATIONS

CFR Citation: 7 CFR 21

Completed:

Reason	Date	FR Cite
Final Action	02/27/86	51 FR 7000

Small Entity: No

Agency Contact: Charles A. Bucy 202 447-2582

RIN: 0503-AA02

[FR Doc. 86-8636 Filed 04-18-86; 8:45 am]

BILLING CODE 3410-01-T

DEPARTMENT OF AGRICULTURE (USDA)
Soil Conservation Service (SCS)

Prerule Stage

158. SOIL SURVEYS

Legal Authority: Part of Agriculture Appropriation Act of 1936; PL 74-46 The Soil Conservation and Domestic Allotment Act; PL 89-560 Soil Surveys for Resource Planning and Development; 42 USC 3271; 42 USC 3274

CFR Citation: 7 CFR 611

Legal Deadline: None

Abstract: Prescribes the policy on soil survey operations including cooperative relationships with state agencies, standards, guidelines and plans on survey operations, distribution of soil survey information, and cartographic operations services furnished. (SCS 83-008)

Timetable:

Action	Date	FR Cite
End Review	12/31/86	
Final Action	12/31/87	

Small Entity: No

Agency Contact: Wayne Maresch, Regulatory Coordinator, Department of Agriculture, Soil Conservation Service, Room 6004-South Bldg., Washington, DC 20013, 202 447-4811

RIN: 0578-AA00

157. SNOW SURVEYS AND WATER SUPPLY FORECASTS

Legal Authority: 26 Stat. 653; Sec. 8 Reorg. No. IV of 1940

CFR Citation: 7 CFR 612.1 to 612.7

Legal Deadline: None

Abstract: Sets forth policy and procedures for the administration of a cooperative snow survey and water supply forecast program, including the steps involved in carrying out the program. Sets out data collected and forecasts made, and eligible users of the data. (SCS 83-005)

Timetable:

Action	Date	FR Cite
End Review	02/00/87	
Final Action	08/00/87	

Small Entity: No

Agency Contact: Wayne Maresch, Regulatory Coordinator, Department of Agriculture, Soil Conservation Service, Room 6004-South Bldg., Washington, DC 20013, 202 447-4811

RIN: 0578-AA01

158. PRIME AND UNIQUE FARMLANDS

Legal Authority: 16 USC 590(a) to 590(f); 42 USC 4321 et seq; PL 95-87

USDA—SCS

Prerule Stage

CFR Citation: 7 CFR 657.1 to 657.5

Legal Deadline: None

Abstract: Prescribes SCS policy on the development and maintenance of an inventory of prime and unique farmland of the Nation including the criteria and characteristics used in the identification of such lands. (SCS 83-007)

Timetable:

Action	Date	FR Cite
End Review	02/00/87	
Final Action	08/00/87	

Small Entity: No

Agency Contact: Wayne Maresch, Regulatory Coordinator, Department of Agriculture, Soil Conservation Service, Room 6004-South Bldg., Washington, DC 20013, 202 447-4811

RIN: 0578-AA10

DEPARTMENT OF AGRICULTURE (USDA)
Soil Conservation Service (SCS)

Final Rule Stage

159. RELOCATION ASSISTANCE

Legal Authority: 42 USC 4601 et seq; PL 91-646

CFR Citation: 7 CFR 652

Legal Deadline: None

Abstract: Prescribes the policies and procedures for the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 USC 4601 et seq.) pertaining to the treatment of persons displaced from their homes, businesses, or farms because of federal financially assisted projects. (SCS 85-001)

Timetable:

Action	Date	FR Cite
End Review	01/31/86	
Final Action	05/31/86	

Small Entity: No

Agency Contact: Wayne Maresch, Regulatory Coordinator, Department of Agriculture, Soil Conservation Service, Room 6004-South Bldg., Washington, DC 20013, 202 447-4811

RIN: 0578-AA12

[FR Doc. 86-8636 Filed 04-18-86; 8:45 am]

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April 21, 1986

Part IV

Department of Commerce

Semiannual Regulatory Agenda

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DEPARTMENT OF COMMERCE

Office of the Secretary

13 CFR Ch. III

15 CFR Subtitle A; Subtitle B, Chs. II, III, IV, VIII, IX, Subtitle D, Ch. XXIII

19 CFR Ch. III

37 CFR Ch. I, IV

48 CFR Ch. 13

50 CFR Chs. I, II, IV, VI

Semiannual Agenda of Regulations

AGENCY: Department of Commerce.

ACTION: April 1986 regulatory agenda.

SUMMARY: In compliance with Executive Order (EO) 12291, entitled "Federal Regulation," and the Regulatory Flexibility Act (Pub. L. 96-354), the Department of Commerce (DOC) in April and October of each year publishes in the **Federal Register** an agenda of the regulations that the Department expects to propose or to issue over the next 12 months that are covered by section 1 of EO 12291. In addition, the agenda lists existing regulations currently under review for possible revision or repeal. Finally, the agenda lists rulemakings and reviews of existing regulations completed since publication of the last agenda. The purpose of the agenda is to provide information to the public on regulations currently under review, being proposed, or issued by the Department. The agenda is intended to facilitate comments and views by interested members of the public.

DOC's April 1986 regulatory agenda includes regulatory activities that are expected to be conducted during the period April 1, 1986 through March 31, 1987.

FOR FURTHER INFORMATION CONTACT:

Specific: For additional information about a specific regulatory action listed in the agenda, contact the individual identified as the contact person.

General: Comments or inquiries of a general nature about the agenda should be directed to Michael A. Levitt, Assistant General Counsel for Legislation and Regulation, U.S. Department of Commerce, Washington, D.C. 20230, Telephone: (202) 377-3151.

SUPPLEMENTARY INFORMATION: On February 17, 1981, President Reagan signed Executive Order 12291. The EO requires all executive agencies to publish semiannually an agenda of those regulations that are under consideration pursuant to this Order. Office of Management and Budget (OMB) Bulletin No. 86-4, issued December 23, 1985 establishes guidelines and procedures for the preparation and publication of the April 1986 "Unified Agenda of Federal Regulations" for all Federal departments and agencies. EO 12291 and the OMB Bulletin require that each agenda report the following information on non-exempt regulatory activities being conducted or planned to be conducted by the agency during the twelve-month period succeeding publication: The title of the regulation; the name, title, address and phone number of an agency person who is knowledgeable about the regulation; whether the regulation has or is expected to have a significant economic impact on a substantial number of small entities; the section(s) of the "Code of Federal Regulations" (CFR) which will affect or be affected by the action; the section of the "United States Code" (USC), Public Law (PL), or Executive Order (EO) that authorizes the action; an indication of whether or not the entry is a significant regulatory action included in the Administration's Regulatory Program and if the agency considers it a priority action; an abstract describing the problem the regulation addresses, alternatives to the regulation being considered, and potential costs and benefits of the action; legal deadline, if any; and a timetable of dates and, if available, **Federal Register** citations for past and future stages of the action.

The Regulatory Flexibility Act requires agencies to prepare a regulatory flexibility analysis (RFA) where there is a positive finding that a rule will have a significant impact on a substantial number of small entities. EO 12291 requires agencies to prepare a regulatory impact analysis (RIA) for any regulation considered to be a "major rule" as defined in the EO.

Explanation of Information Contained in the Agenda

Within the Department, the Office of the Secretary and various operating units may issue regulations. Operating units such as the National Oceanic and Atmospheric Administration (NOAA), the Economic Development Administration (EDA), the International Trade Administration (ITA), National Bureau of Standards (NBS) and the Patent and Trademark Office (PTO) issue the greatest share of the Department's regulations, while other operating units such as the United States Travel and Tourism Administration and the Minority Business Development Agency currently have no regulations in the agenda.

A large number of the regulations presented in the agenda deal with fishery management programs of NOAA's National Marine Fisheries Service (NMFS). To avoid repetition of programs and definitions, as well as to provide some understanding of the technical and institutional elements of the NMFS programs, a section on "Explanation of Information Contained in NMFS Regulatory Entries" is provided below.

Explanation of Information Contained in NMFS Regulatory Entries

The Magnuson Fishery Conservation and Management Act of 1976 (16 USC 1801 et seq.) (Act) requires that a preliminary fishery management plan (PMP) be prepared for all fisheries within the Exclusive Economic Zone (EEZ) fished in by foreign fishing nations. The EEZ refers to those waters from the outer edge of the United States territorial sea to a distance of 200 miles. Fishery Management Plans (FMPs) are to be prepared if those fisheries require conservation and management measures. Although PMPs apply only to foreign fishing, the FMPs regulate both foreign and domestic fishing. When promulgated, the FMPs supersede the PMPs. Under the Act, eight Regional Fishery Management Councils (Councils) prepare FMPs, or amendments to FMPs, for fisheries within their respective areas. In the development of such plans or amendments and their implementing regulations, the Councils are required by law to conduct public hearings on the draft plans and to consider the use of alternative means of regulating.

The Council process for developing FMPs and amendments makes it difficult for NMFS to determine the significance of some regulatory actions under consideration at the time the semiannual regulatory agenda is published. Frequently NMFS does not have specific plan objectives or alternatives for management since the Councils may not have approved or submitted plans to the Secretary of Commerce for review, adoption, and implementation.

Another large number of regulatory actions reported in the agenda are proposed or final Federal Information Processing Standards (FIPS), issued by the National Bureau of Standards under PL 89-306. FIPS consist of standards and guidelines to improve Federal Government use and management of computers and information technology. The standards, while often of great use to industry and the public, apply only to the Federal Government. In developing the standards and guidelines, and in providing technical guidance and coordination to Federal agencies, NBS works closely with private industry standard-setting organizations.

The DOC April 1986 regulatory agenda follows.

DATED: March 13, 1986.

Douglas A. Rigg,

General Counsel.

DOC

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
160	Public Information, Freedom of Information (Fees)	0690-AA04

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
161	Contract Clauses and Solicitation Provisions for the Commerce Automated Solicitation System	0690-AA08
162	Use of Penalty Mail to Assist in the Location and Recovery of Missing Children	0690-AA10
163	Contract Clauses and Solicitation Provisions for Ship Construction, Ship Alteration, and Ship Repair Contracts	0690-AA12

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
164	Enforcement of Nondiscrimination on the Basis of Handicap in Department of Commerce Programs	0690-AA06
165	Department of Commerce Implementation of the Competition in Contracting Act of 1984 CAR Amendment 85-2	0690-AA09

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
166	Department of Commerce Implementation of the Competition in Contracting Act of 1984 and the Small Business and Federal Procurement Competition Enhancement Act of 1984 CAR ETC	0690-AA07
167	Uniform Relocation Assistance and Real Property Acquisition	0690-AA11

Bureau of Economic Analysis—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
168	Surveys of International Trade in Services Between U.S. and Foreign Persons	0691-AA05

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Bureau of Economic Analysis—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
169	Surveys of International Trade in Services Between U.S. and Foreign Persons	0691-AA03
170	Final Rule to Increase Exemption Level for Quarterly Report Form BE-577	0691-AA06

Economic Development Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
171	Designation of Areas; Designation of PWP Areas	0610-AA21

Economic Development Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
172	General Requirements for Financial Assistance - Design, Construction of Buildings to Accommodate the Physically Handicapped	0610-AA05
173	Economic Development Administration: Property Management Standards	0610-AA07
174	Property Management Standards - Mortgages	0610-AA12
175	Business Development Program - Financial Assistance for Industrial and Commercial Purposes	0610-AA14
176	General Requirements for Financial Assistance -- Flood Insurance Program; and Environmental Requirements	0610-AA16
177	General Requirements for Financial Assistance: Employment of Expediters or Administrative Employees; Compensation of Persons Engaged by or on Behalf of Applicants	0610-AA18
178	Designation of Areas; Overall Economic Development Program; Public Works and Development Facilities Program	0610-AA19
179	General Requirements for Financial Assistance	0610-AA20
180	General Requirements for Financial Assistance; Unfair Competition	0610-AA22
181	General Requirements for Financial Assistance; Employment of Expediters or Administrative Employees; Compensation of Persons Engaged By or on Behalf of Applicants	0610-AA23
182	Public Works and Development Facilities Program; Industrial Parks and Sites; and General Requirements for Financial Assistance; Authorized Uses of Real Property Acquired or Improved With ETC	0610-AA24

Economic Development Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
183	Energy Conservation: Miscellaneous Amendments to Financial Assistance Programs Regarding Energy Conservation	0610-AA03
184	Designation of Public Works Impact Program Areas; Supplementary Grant Rates	0610-AA10
185	Public Works and Development Facilities Program - Specific Types of Projects	0610-AA13
186	Property Management Standards - Mortgages	0610-AA15
187	Designation of Areas; Notification of Officials	0610-AA17

General Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
188	Administrative Offsets for Debts Owed the Department of Commerce	0605-AA00

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General Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
189	Nonprocurement Suspension and Debarment	0605-AA02

General Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
190	Audit Requirements for State and Local Governments	0605-AA01

International Trade Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
191	General Regulations Governing Foreign Trade Zones in the United States, with Rules of Procedures	0625-AA04
192	Adjustment Assistance for Firms and Industries	0625-AA05
193	Antidumping Duties; Countervailing Duties	0625-AA06

International Trade Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
194	Effect of Imported Articles on the National Security	0625-AA15
195	Revisions to Short Supply Regulations	0625-AA21
196	Exports of Crude Oil Derived from Alaska's Cook Inlet	0625-AA22

International Trade Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
197	Petroleum Partly Refined for Further Refining	0625-AA18

National Bureau of Standards—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
198	FIPS for Session Protocol Standard	0693-AA12
199	FIPS for Message Transfer Protocol	0693-AA17
200	Procedures for the Development of Voluntary Product Standards	0693-AA20
201	FIPS for Database Language SQL	0693-AA32
202	FIPS for Database Language NDL	0693-AA34
203	FIPS for Basic Programming Language	0693-AA35
204	FIPS for MUMPS Programming Language	0693-AA36
205	Revision to FIPS 100, Interface Between Data Terminal Equipment (DTE) and Data Circuit-Terminating Equipment (DCE) for Operation with Packet-Switched Data Communications Networks	0693-AA39
206	FIPS for Internetwork Protocol	0693-AA40
207	FIPS for Small Computer System Interface	0693-AA41

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National Bureau of Standards—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
209	FIPS for Intelligent Peripheral Interface	0693-AA42
209	FIPS for Codes for the Identification of Aquifer Names and Geologic Units	0693-AA44
210	FIPS for Computer Graphics Metafile	0693-AA45
211	FIPS for COBOL Network Database Interface	0693-AA46
212	Revision to FIPS 29-1, Interpretation Procedures for Federal Information Processing Standard Programming Languages	0693-AA47
213	FIPS for C Programming Language	0693-AA48

National Bureau of Standards—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
214	Revision to FIPS 21-1, COBOL	0693-AA04
215	FIPS for Transport Protocol	0693-AA06
216	Revision to FIPS 70, Representation of Geographic Point Locations for Information Interchange	0693-AA13
217	FIPS for Graphical Kernel System (GKS)	0693-AA29
218	FIPS for Videotex/Teletext Presentation Level Protocol Syntax (North American PLPS)	0693-AA30
219	FIPS for Optical Character Recognition (OCR) Dot Matrix Character Sets for OCR-MA	0693-AA33
220	FIPS for Specification for a Data Descriptive File for Information Interchange (DDF)	0693-AA37
221	FIPS for Information Resource Dictionary System (IRDS)	0693-AA38
222	Revision to FIPS 104, American National Standard Codes for the Representation of Names of Countries, Dependencies, and Areas of Special Sovereignty for Information Interchange	0693-AA43

National Bureau of Standards—Completed Actions

Sequence Number	Title	Regulation Identifier Number
223	FIPS PUB 116, 130 mm (5.25 in) Flexible Disk Cartridge Track Format Using Two-Frequency Recording at 3979 bprad on One Side-1.9 tpmm (48 tpi) for Information Interchange	0693-AA21
224	FIPS PUB 118, Flexible Disk Cartridge Labelling and File Structure for Information Interchange	0693-AA22
225	FIPS PUB 117, 130 mm (5.25 in) Flexible Disk Cartridge Track Format Using Modified Frequency Modulation Recording at 7958 bprad on Two Sides-1.9 tpmm (48 tpi) for Information Interchange	0693-AA23
226	FIPS PUB 115, 200 mm (8 in) Flexible Disk Cartridge Track Format Using Modified Frequency Modulation Recording at 13262 bprad on Two Sides - 1.9 tpmm (48 tpi) for Information Interchange	0693-AA24
227	FIPS PUB 114, 200 mm (8 in) Flexible Disk Cartridge Track Format Using Two-Frequency Recording at 6631 bprad on One Side - 1.9 tpmm (48 tpi) for Information Interchange	0693-AA25
228	FIPS PUB 68-1, Minimal BASIC	0693-AA26
229	FIPS PUB 119, Ada	0693-AA27
230	FIPS for Network Database Language (NDL)	0693-AA28
231	FIPS PUB 69-1, FORTRAN	0693-AA31

National Oceanic and Atmospheric Administration—Prerule Stage

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233	Foreign Permit Conditions and Restrictions	0648-AB67

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National Oceanic and Atmospheric Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
234	U.S. General Standards for Grades of Fish Fillets	0648-AA45
235	Processed Fishery Products, Processed Products Thereof & Certain Other Processed Food Products: U.S. Standards for Grades of Frozen Fish Blocks & Products Made Therefrom ETC	0648-AA46
236	U.S. General Standards for Grades of Shrimp	0648-AA47
237	Marking Requirements for the Importation, Exportation, & Interstate Transportation of Fish or Wildlife	0648-AA53
238	Striped Bass Fishery Management Plan	0648-AB25
239	Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region	0648-AB27
240	Fishery Management Plan for Bluefish	0648-AB29
241	Development of a Fishery Management Plan for Summer Flounder	0648-AB30
242	Amendment #1 To American Lobster Fishery Management Plan	0648-AB32
243	Atlantic Billfish and Sharks Fishery - Foreign Fishing Regulations	0648-AB33
244	South Atlantic Shrimp Fishery: Implementing Regulations	0648-AB35
245	Amendment 10 to the Tanner Crab Fishery Management Plan (FMP)	0648-AB36
246	Amendment to the Gulf of Alaska Groundfish Fishery Management Plan	0648-AB40
247	Amendment for Alaska Groundfish and High Seas Salmon Fishery Management Plans - Close FCZ Intrusion into State Waters	0648-AB41
248	Regulations Governing the Taking and Importing of Marine Mammals; Importation of Yellowfin Tuna	0648-AB46
249	Endangered Fish or Wildlife; Permits for the Incidental Taking of Endangered Marine Species	0648-AB47
250	Amendment 11 to the Tanner Crab Fishery Management Plan (FMP)	0648-AB53
251	Fishery Management Plan for Pacific Billfish Fisheries of the Western Pacific Region	0648-AB61
252	Foreign Fishing Poundage and Permit Fees, 1987	0648-AB69
253	Fishery Resources of Puerto Rico and the Virgin Islands	0648-AB71
254	Swordfish Fishery Management Plan	0648-AB72
255	Amendment 1 to the Plan Managing the Commercial and Recreational Ocean Salmon Fisheries off the Coasts of Washington, Oregon and California	0648-AB73
256	Spiny Lobster Fishery of the Gulf of Mexico and South Atlantic - Amendment 1	0648-AB74
257	Amendment 1 to the Reef Fish Fishery of the Gulf of Mexico Fishery Management Plan	0648-AB75
258	Amendment 15 to the Gulf of Alaska Groundfish Fishery Management Plan	0648-AB76
259	Amendment No. 2 for the Fishery Management Plan for the Washington, Oregon, and California Groundfish Fishery	0648-AB77
260	Proposed Regulations for the National Marine Sanctuary Program	0648-AA31
261	Proposed Regulations for the Key Largo National Marine Sanctuary	0648-AA33
262	Draft Regulations for the Proposed Flower Garden Banks National Marine Sanctuary	0648-AB49
263	Draft Regulations for the Proposed Cordell Bank National Marine Sanctuary	0648-AB50
264	Proposed Regulations for the Looe Key National Marine Sanctuary	0648-AB64
265	Proposed Regulations for the National Estuarine Reserve Research Program	0648-AB68
266	Deep Seabed Mining Regulations for Commercial Recovery	0648-AA36

National Oceanic and Atmospheric Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
267	Civil Procedures	0648-AA26
268	Designated Critical Habitat; Hawaiian Monk Seal	0648-AA27
269	Fishery Conservation and Management: Confidentiality of Statistics	0648-AA38
270	Preemption of State Authority under Section 306(b) of the Magnuson Fishery Conservation & Management Act	0648-AA41
271	Interagency Cooperation - Endangered Species Act of 1973, as Amended	0648-AA43
272	Tanner Crab Fishery Management Plan (FMP) - Regulatory Amendment to Change Pot Storage Areas	0648-AA71
273	U.S. Standards for Grades of Fresh or Frozen North American Freshwater Catfish and Products Made Therefrom	0648-AA73
274	Taking of Marine Mammals Incidental to Space Shuttle Launches	0648-AA84
275	Regional Fishery Management Councils	0648-AB09
276	Western Pacific Spiny Lobster Fisheries - Amendment 3	0648-AB21
277	Foreign Fishing - Scientific Research	0648-AB23
278	Secretarial Amendment Extending the Atlantic Mackerel, Squid, and Butterfish Fisheries Management Plan	0648-AB37
279	Reporting Requirements Governing Salmon Taken off Alaska and Delivered or Landed Outside Alaska	0648-AB44
280	Groundfish of the Gulf of Alaska and High Seas Salmon Fishery off Alaska; Technical Amendment	0648-AB51
281	Atlantic Tuna Fisheries - Yellowfin Tuna and Bigeye Tuna	0648-AB70
282	Federal Consistency with Approved Coastal Zone Management Programs	0648-AA34
283	Proposed Regulations for the Proposed Fagatele Bay National Marine Sanctuary	0648-AA74
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National Oceanic and Atmospheric Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
285	General and Recreational Foreign Fishing	0648-AA40
286	U.S. Standards for Grades of Fish Steaks	0648-AA44
287	Amendment 1 to the Atlantic Sea Scallop Fishery Management Plan	0648-AA97
288	Final Rule Implementing the Northeast Multispecies Fishery Management Plan	0648-AB05
289	Regulations Governing the Taking and Importing of Marine Mammals; Definition of Commercial Fishing Operation	0648-AB07
290	Swordfish Fishery Management Plan: Proposed Regulations	0648-AB13
291	Amendment 1 to the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic Fishery Management Plan	0648-AB15
292	Notice of the National Marine Fisheries Service's Proposed Policies for the Management of Interjurisdictional Fisheries and Fishery Resources	0648-AB24
293	Shallow-Water Reef Fish of Puerto Rico and the U.S. Virgin Islands	0648-AB26
294	Financial Assistance for Research and Development Projects to Strengthen and Develop the U.S. Fishing Industry - Notice of Funds Availability	0648-AB28
295	Fishery Management Plan for Sand Eel	0648-AB31
296	Amendment to the Atlantic Surf Clam and Ocean Quahog Fishery Management Plan	0648-AB36
297	Amendment to the Gulf of Alaska Groundfish Fishery Management Plan - Redefine Sablefish Management Boundaries	0648-AB39
298	Threatened Fish and Wildlife; Guadalupe Fur Seal	0648-AB48
299	Amendment 9 to the Bering Sea/Aleutian Islands Groundfish Fishery Management Plan	0648-AB52
300	Amendment to American Lobster Fishery Management Plan - V-Notch on Female Lobsters	0648-AB54
301	Foreign Fishing Poundage and Permit Fees, 1986	0648-AB62
302	Initial Implementation of King Crab Fishery Management Plan	0648-AB63
303	Amendment 14 to the Fishery Management Plan for Groundfish of the Gulf of Alaska	0648-AB66

National Telecommunications and Information Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
304	Public Telecommunications Facilities Program; Interim Revision of Regulations	0660-AA01

Office of Productivity, Technology and Innovation—Completed Actions

Sequence Number	Title	Regulation Identifier Number
305	Rights to Inventions Made by Nonprofit Organizations and Small Business Firms	0692-AA01

Patent and Trademark Office—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
306	Term of Deposit of Microorganism	0651-AA13

Patent and Trademark Office—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
307	Requests for Identifiable Records	0651-AA04
308	Variety Naming Requirements for Plant Patent Applications	0651-AA12
309	Revision of Trademark Fees	0651-AA19

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Patent and Trademark Office—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
310	Arbitration of Patent Interference Cases	0651-AA20
311	Rules for Extension of Patent Term	0651-AA22
312	Trademark Applications	0651-AA23
313	Miscellaneous Amendments of Patent Rules	0651-AA25

Patent and Trademark Office—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
314	Miscellaneous Amendments of Trademark Rules	0651-AA16
315	Trademark Applications	0651-AA17
316	Trademark Automated Search System Fees	0651-AA18

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)

Prerule Stage

160. PUBLIC INFORMATION, FREEDOM OF INFORMATION (FEES)

Legal Authority: 5 USC 552

CFR Citation: 15 CFR 4

Legal Deadline: None

Abstract: These regulations set the fee structure for search and reproduction charges in response to Freedom of Information Act (FOIA) requests. The Department will study the existing fee structure, and then if warranted, propose revisions to the regulations.

Timetable:

Action	Date	FR Cite
Begin Review	06/00/86	
End Review	08/00/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA would be required or prepared if it is decided to propose revisions to these regulations.

Affected Sectors: All

Government Levels Affected: Local, State, Federal

Agency Contact: Geraldine P. LaBoo, Management Analyst, Department of Commerce, Office of the Secretary, Information Management Division, 14th & Constitution Avenue, NW, Washington, DC 20230, 202 377-3271

RIN: 0690-AA04

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)

Proposed Rule Stage

161. CONTRACT CLAUSES AND SOLICITATION PROVISIONS FOR THE COMMERCE AUTOMATED SOLICITATION SYSTEM

Legal Authority: 41 USC 251 et seq; PL 98-369; PL 98-577

CFR Citation: 48 CFR 1 to 53

Legal Deadline: None

Abstract: The Department of Commerce is currently reviewing standardized contract clauses and solicitation provisions for inclusion in a planned Department wide automated solicitation system. A proposed amendment to the Commerce Acquisition Regulation (CAR) would illustrate and incorporate these standardized clauses and provisions. This should ultimately be less burdensome to Department contractors and potential contractors, since the clauses and provisions would be used uniformly throughout the Department.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Robert A. Welch, Director, Department of Commerce, Office of the Secretary, Office of Procurement Management, 14th Street & Constitution Avenue, NW, Washington, DC 20230, 202 377-2773

RIN: 0690-AA08

162. ● USE OF PENALTY MAIL TO ASSIST IN THE LOCATION AND RECOVERY OF MISSING CHILDREN

Legal Authority: PL 99-87 99 Stat. 290, August 9, 1985; EO 12549 February 21, 1986

CFR Citation: 00 CFR undetermined

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Proposed Rule Stage

Legal Deadline: Statutory, February 5, 1985

Abstract: Section (a) (2) of Public Law 99-87 authorizes and requires each executive department and independent establishment of the Government of the United States to prescribe regulations under which penalty mail may be used to assist in the location and recovery of missing children. These regulations are required to be in conformance with guidelines issued by the Department of Justice's Office of Juvenile Justice and Delinquency Prevention located at 50 FR 46822, November 8, 1985.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Mary DiGiulian, Office of Administrative Service Management, Department of Commerce, Office of the Secretary, Washington, DC 20230, 202 377-0884

RIN: 0690-AA10

163. ● CONTRACT CLAUSES AND SOLICITATION PROVISIONS FOR SHIP CONSTRUCTION, SHIP ALTERATION, AND SHIP REPAIR CONTRACTS

Legal Authority: 41 USC 251 et seq

CFR Citation: 48 CFR 1 to 53

Legal Deadline: None

Abstract: The Department of Commerce is currently reviewing Department-wide standardized contract clauses and solicitation provisions for ship construction, ship alteration, and ship repair contracts. This amendment to the Commerce Acquisition Regulation (CAR 86-1) would illustrate and incorporate these standardized clauses and provisions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Robert A. Welch, Director, Office of Procurement Management, Department of Commerce, Office of the Secretary, 14th St. & Constitution Ave., NW, Washington, DC 20230, 202 377-4217

RIN: 0690-AA12

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)

Final Rule Stage

164. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN DEPARTMENT OF COMMERCE PROGRAMS

Legal Authority: 29 USC 794; EO 12250

CFR Citation: 15 CFR 8c

Legal Deadline: None

Abstract: Regulations will be proposed providing for the enforcement of Section 504 of the Rehabilitation Act of 1973, as amended. These regulations will ensure programmatic and physical accessibility for handicapped individuals in Department of Commerce activities.

Timetable:

Action	Date	FR Cite
NPRM	11/24/84	49 FR 45861
NPRM Comment Period End	03/21/85	49 FR 45861
Final Action	07/01/86	

Small Entity: No

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Richard Stearns, Chief, EEO Division, Department of Commerce, Office of the Secretary, Office of Civil Rights, 14th and Constitution Avenue, NW, Washington, DC 20230, 202 377-5881

RIN: 0690-AA06

165. DEPARTMENT OF COMMERCE IMPLEMENTATION OF THE COMPETITION IN CONTRACTING ACT OF 1984 CAR AMENDMENT 85-2

Legal Authority: 41 USC 251 et seq; PL 98-369

CFR Citation: 48 CFR 1 to 53

Legal Deadline: None

Abstract: The Federal Acquisition Regulation (FAR) has been amended to incorporate the requirements of Public Law 98-369. Agencies are required to provide necessary implementing regulations which are peculiar to the executive agency. This is accomplished by Commerce through amendments to the existing Commerce Acquisition Regulation (CAR) (48 CFR 13). The provisions of the Public Law are effective April 1, 1985. Public Law 98-577 also requires amendments to the FAR and the CAR. Effective dates of Public Law 98-577 sections vary, but implementing regulations will be prepared by Mar. 1986. Commerce will amend the existing CAR once the amendments to the FAR are available to the public. Specific parts of the FAR requiring agency supplements cannot be readily determined at this time. Periodic updates are anticipated to implement regulatory and new statutory requirements. This CAR Amendment 85-2 implements the protest provisions of PL 98-369 within Commerce. This Amendment also involves Department policy unrelated to PL 98-369; e.g., women-owned small business acquisition program, pre-award surveys for ship repair contracts, recovery of administrative costs, use of Alternate I of (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/24/85	50 FR 38677
Final Action	03/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: the FAR disputes clause and formal source selection.

DOC—OS

Final Rule Stage

Agency Contact: Robert A. Welch, Director, Department of Commerce, Office of the Secretary, Office of Procurement Management, 14th Street & Constitution Avenue, NW, Washington, DC 20230, 202 377-2773

RIN: 0690-AA09

DEPARTMENT OF COMMERCE (DOC)
Office of the Secretary (OS)

Completed Actions

166. DEPARTMENT OF COMMERCE IMPLEMENTATION OF THE COMPETITION IN CONTRACTING ACT OF 1984 AND THE SMALL BUSINESS AND FEDERAL PROCUREMENT COMPETITION ENHANCEMENT ACT OF 1984 CAR ETC

Legal Authority: 41 USC 251 et seq; PL 98-369; PL 98-577

CFR Citation: 48 CFR 1 to 53

Legal Deadline: None

Abstract: The Federal Acquisition Regulation (FAR) has been amended to incorporate the requirements of Public Law 98-369. Agencies are required to provide necessary implementing regulations which are peculiar to the executive agency. This is accomplished by Commerce through amendments to the existing Commerce Acquisition Regulation (CAR) (48 CFR 13). The provisions of the Public Law are effective April 1, 1985. Public Law 98-577 also requires amendments to the FAR and the CAR. Effective dates of Public Law 98-577 sections vary, but implementing regulations will be prepared by Mar. 1986. Commerce will amend the existing CAR once the amendments to the FAR are available to the public. Specific parts of the FAR requiring agency supplements cannot be readily determined at this time. Periodic updates are anticipated to implement regulatory and new statutory requirements. This CAR Amendment 85-1 implements Public Law 98-369 within Commerce, except for the protest provisions of that Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/08/85	50 FR 19361
Final Action	01/13/86	51 FR 01377
Final Action Effective	01/13/86	51 FR 01377

Small Entity: Undetermined

Additional Information: TITLE CONT: Amendment 85-1.

Agency Contact: Robert A. Welch, Director, Department of Commerce, Office of the Secretary, Office of Procurement Management, 14th Street & Constitution Avenue, NW, Washington, DC 20230, 202 377-2773

RIN: 0690-AA07

167. ● UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION

Legal Authority: 42 USC 4601

CFR Citation: 15 CFR 11; 15 CFR 916; 13 CFR 310

Legal Deadline: None

Abstract: This regulation establishes a common rule for the implementation of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 which requires that owners of real property to be acquired for Federal of federally-assisted programs and persons displaced from their dwellings, business, or farms as a result of such acquisition be provided fair, consistent, and equitable treatment. In May 1982, the Office of Management and Budget, in response to the concerns of State and local governments, formed a Uniform Act Interagency Regulatory Review Working Group to develop the common rule. On February 27, 1985, a Presidential Memorandum was published in the February Register naming the Department of Transportation as the agency with lead responsibility for the Uniform Act and directing agencies to develop and adopt a common proposed rule for publication in the May 28, 1985, Federal Register with the final rule being published in the February 27, 1986 Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	05/28/85	50 FR 21711
Final Action	02/27/86	51 FR 7000

Small Entity: No

Agency Contact: Mary DiGiulian, Director, Office of Administrative Services Management, Department of Commerce, Office of the Secretary, 14th & Constitution Ave., NW, Rm 6319, Washington, DC 20230, 202 377-0684

RIN: 0690-AA11

[FR Doc. 86-8295 Filed 04-18-86; 8:45 am]
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DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA)

Proposed Rule Stage

168. ● SURVEYS OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS

Significance: Regulatory Program

Legal Authority: 22 USC 3101 to 3108 International Investment Survey Act of 1976; PL 98-573, Sec 306 Trade and Tariff Act of 1984

CFR Citation: 15 CFR 801, (See AdditioNot applicable I Information)

Legal Deadline: None

Abstract: Action will fill gaps in data on international services transactions so U.S. Government can better assess size and impact of these transactions, more effectively formulate international economic policies and conduct negotiations to reduce the barriers to

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services trades, improve recording of services transactions in the U.S. balance of payments accounts, and assist U.S. services businesses in identifying and evaluating market opportunities. Annual cost to BEA of conducting surveys will be about $500,000; initial cost to respondents will be about 132,000 manhours, or $4.0 million, at a maximum. Benefits in terms of reduction in barriers to services trade, increased sales of services, and improved balance of payments statistics will far exceed costs.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	
NPRM Comment Period End	10/00/86	
Final Action	01/00/87	
Final Action Effective	01/00/87	

Small Entity: No

Additional Information: A notice of proposed rulemaking to bring existing BEA surveys of U.S. services transactions under 22 USC 3101 to 3108, as amended, and to conduct a BE-20 Benchmark Survey of U.S. Services Transactions With Unaffiliated Foreign Persons was submitted to OMB in August 1985, along with an information collection request for the benchmark survey. On 10/21/85, OMB disapproved the information request for the benchmark survey, largely because of respondent burden. Subsequently, final rules were prepared covering the other existing Bureau of Economic Analysis surveys on U.S. services transactions. Those rules, to be included as 15 CFR 801, are intended to replace existing rules 15 CFR 802 and 15 CFR 803. BEA is now conducting a public outreach program to revise the BE-20 benchmark survey to meet OMB requirements. The above information refers to action expected this year on the rules to amend the new 15 CFR 801 to cover the revised BE-20 benchmark survey.

Public Compliance Cost: Initial Cost: $3,960,000; Yearly Recurring Cost: $2,000,000; Base Year for Dollar Estimates: 1986

Affected Sectors: All

Government Levels Affected: Federal

Agency Contact: George R. Kruer, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street, NW, Room 608, Tower Building, Washington, DC 20230, 202 523-0657

RIN: 0691-AA05

DEPARTMENT OF COMMERCE (DOC)
Bureau of Economic Analysis (BEA)

Final Rule Stage

169. SURVEYS OF INTERNATIONAL TRADE IN SERVICES BETWEEN U.S. AND FOREIGN PERSONS

Significance: Regulatory Program

Legal Authority: 22 USC 3101 to 3108 International Investment Survey Act of 1976; PL 98-573, Sec 306 Trade and Tariff Act of 1984

CFR Citation: 15 CFR 801, (See AdditioNot applicable I nformation); 15 CFR 803, (Revision)

Legal Deadline: None

Abstract: Action will fill gaps in data on international services transactions so U.S. Government can better assess size and impact of these transactions, more effectively formulate international economic policies and conduct negotiations to reduce the barriers to services trade, improve recording of services transactions in the U.S. balance of payments accounts, and assist U.S. services businesses in identifying and evaluating market opportunities. Annual cost to BEA of conducting surveys will be about $500,000; initial cost to respondents will be about 132,000 manhours, or $4.0 million, at a maximum. Benefits in terms of reduction in barriers to services trade, increased sales of services, and improved balance of payments statistics will far exceed costs.

Timetable:

Action	Date	FR Cite
NPRM	09/18/85	50 FR 37867
Final Action	03/00/86	

Small Entity: No

Additional Information: A notice of proposed rulemaking to bring existing BEA surveys of U.S. services transactions under 22 USC 3101 to 3108, as amended, and to conduct a BE-20 Benchmark Survey of U.S. Services Transactions With Unaffiliated Foreign Persons was submitted to OMB in August 1985, along with an information collection request for the benchmark survey. On 10/21/85, OMB disapproved the information request for the benchmark survey, largely because of respondent burden. Subsequently, final rules were prepared covering the other existing Bureau of Economic Analysis surveys on U.S. services transactions. Those rules, to be included as 15 CFR 801, are intended to replace existing rules 15 CFR 802 and 15 CFR 803. BEA is now conducting a public outreach program to revise the BE-20 benchmark survey to meet OMB requirements.

Public Compliance Cost: Initial Cost: $3,960,000; Yearly Recurring Cost: $2,000,000; Base Year for Dollar Estimates: 1986

Affected Sectors: All

Government Levels Affected: Federal

Agency Contact: George R. Kruer, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street, NW, Room 608, Tower Building, Washington, DC 20230, 202 523-0657

RIN: 0691-AA03

170. ● FINAL RULE TO INCREASE EXEMPTION LEVEL FOR QUARTERLY REPORT FORM BE-577

Legal Authority: 22 USC 3101 to 3108 Int'l Invest. and Trade in Serv. Survey Act

CFR Citation: 15 CFR 806

Legal Deadline: None

Abstract: This action will raise the exemption level from $10,000,000 to $15,000,000 for quarterly report form BE-577, Direct Transactions of U.S. Reporter with Foreign Affiliate. The purpose of the change is to effect a reduction in the number of reports filed by U.S. companies concerning transactions with their foreign affiliates and thus significantly reduce the reporting burden.

DOC—BEA — Final Rule Stage

Timetable:

Action	Date	FR Cite
Final Action	03/00/86	

Small Entity: No

Agency Contact: George R. Kruer, Chief, International Investment Division, Department of Commerce, Bureau of Economic Analysis, 1401 K Street, NW, Room 608, Tower Building, Washington, DC 20230, 202 523-0657

RIN: 0691-AA06

[FR Doc. 86-8285 Filed 04-18-86; 8:45 am]

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DEPARTMENT OF COMMERCE (DOC)
Economic Development Administration (EDA)

Proposed Rule Stage

171. ● DESIGNATION OF AREAS; DESIGNATION OF PWIP AREAS

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 302

Legal Deadline: None

Abstract: 13 CFR Part 302 at Section 302.7 entitled "Designation of Public Works Impact Program Areas" will be amended at paragraph (a)(4) to delete reference to submission of an Overall Economic Development Program (OEDP) since under EDA's authorizing legislation, Public Works Impact Program (PWIP) projects need not meet OEDP requirements; and to add that although there are no boundary constraints for PWIPs under the Act, program considerations dictate that for an area to be given PWIP designation, it must be capable of analysis in light of available data establishing eligibility for designation.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
Int/Fin Final Rule	03/00/86	
Final Action	06/00/86	
Final Action Effective	06/00/86	

Small Entity: No

Additional Information: Neither a RIA nor an RFA is required or will be prepared.

Government Levels Affected: Local, State

Agency Contact: Walter Archibald, Director, Office of Compliance Review, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th St. between Penn. and Const. Ave, NW, Room 7320, Washington, DC 20230, 202 377-2710

RIN: 0610-AA21

DEPARTMENT OF COMMERCE (DOC)
Economic Development Administration (EDA)

Final Rule Stage

172. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE - DESIGN, CONSTRUCTION OF BUILDINGS TO ACCOMMODATE THE PHYSICALLY HANDICAPPED

Legal Authority: 42 USC 4151 to 4156; 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 308.14

Legal Deadline: None

Abstract: Existing regulations will be amended if necessary to reflect the most recent (1980) standards of the American National Standards Institute (ANSI) for handicap accessibility as well as the "Minimum Guidelines and Requirements for Accessible Design" published by the Architectural and Transportation Barriers Compliance Board (47 FR 33862, August 14, 1982) and the proposed "Uniform Federal Accessibility Standards" published by GSA (comments due by August 22, 1983).

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State

Analysis: See Additional Information

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Operations and Administration, 14th & Constitution Ave., NW, Room 7009 Washington, DC 20230, 202 377-5441

RIN: 0610-AA05

173. ECONOMIC DEVELOPMENT ADMINISTRATION: PROPERTY MANAGEMENT STANDARDS

Legal Authority: 40 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 314

Legal Deadline: None

Abstract: EDA's regulations regarding the use and disposition of real property acquired or improved with Federal funds may be revised to clarify EDA policy regarding the authorized use and disposition of grant property (real property) and in particular requirements regarding the lease and/or sale of such property. If revised, the change may clarify present requirements for

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determining the appropriate amount of compensation due the Federal Government upon the sale of real property acquired or improved with grant funds.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Operations and Administration, 14th & Constitution Ave., NW, Room 7009 Washington, DC 20230, 202 377-5461

RIN: 0610-AA07

174. PROPERTY MANAGEMENT STANDARDS - MORTGAGES

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 314.5

Legal Deadline: None

Abstract: These amendments allow the Assistant Secretary to waive the prohibition against placing mortgages on property which has been financed by an EDA public works grant, if an additional condition is met. This additional condition for waiver is that all proceeds from a loan which is secured by a mortgage or lien on property which has been financed by an EDA public works grant shall be available only to the grantee and such proceeds shall be used on the project which secures such loans, or for working capital purposes relating to that project.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/30/84	49 FR 22468
Final Action	03/00/86	
Final Action Effective	03/00/86	

Small Entity: No

Additional Information: Neither an RIA, nor an RFA is required or will be prepared.

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Operations and Administration, 14th & Constitution Ave., NW, Room 7009, Washington, DC 20230, 202 377-5461

RIN: 0610-AA12

175. BUSINESS DEVELOPMENT PROGRAM - FINANCIAL ASSISTANCE FOR INDUSTRIAL AND COMMERCIAL PURPOSES

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 306

Legal Deadline: None

Abstract: This rule amends EDA's project financing regulation by increasing EDA's ordinary maximum participation for business loan projects from $10,000 to $20,000 per job created or saved. Findings from EDA and GAO studies indicate that the current average government cost per job saved or created far exceeds the $10,000 limit. An increased limit of $20,000 per job created or saved is consistent with these findings.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/20/85	50 FR 97
Final Action	04/00/86	
Final Action Effective	04/00/86	

Small Entity: No

Additional Information: Neither a RIA nor a RFA is required or will be prepared.

Affected Sectors: Multiple

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Operations and Administration, 14th & Constitution Ave., NW, Rm. H7001, Washington, DC 20230, 202 377-5461

RIN: 0610-AA14

176. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE -- FLOOD INSURANCE PROGRAM; AND ENVIRONMENTAL REQUIREMENTS

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 309.15; 13 CFR 309.18

Legal Deadline: None

Abstract: This rule would amend EDA's regulation at 13 CFR 309.15 on Flood Hazard to reflect a shift in the administration of the Flood Insurance Program from the Department of Housing and Urban Development (HUD) to the Federal Emergency Management Agency (FEMA). It also would update environmental regulations at 13 CFR 309.18.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/86	
Final Action	06/00/86	
Final Action Effective	06/00/86	

Small Entity: No

Additional Information: Neither a RIA, nor a RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Walter Archibald, Director, Office of Compliance Review, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th & Constitution Avenue, NW, Room 7324, Washington, DC 20230, 202 377-2719

RIN: 0610-AA18

177. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE: EMPLOYMENT OF EXPEDITERS OR ADMINISTRATIVE EMPLOYEES; COMPENSATION OF PERSONS ENGAGED BY OR ON BEHALF OF APPLICANTS

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 309

Legal Deadline: None

Abstract: This rule amends EDA's general requirements regulation -- employment of expediters or administrative employees -- concerning EDA positions involving discretion, to conform to the reorganization of EDA pursuant to Department of Commerce Organization Order 45-1. Old positions which are no longer in existence are deleted. New comparable positions are listed in the amended regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/20/85	50 FR 97
Final Action	06/00/86	
Final Action Effective	06/00/86	

Small Entity: No

Additional Information: Neither a RIA nor RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Travis P. Dungan, Deputy Assistant Secretary for Finance, Department of Commerce, Economic Development Administration, Herbert C. Hoover Building, 14th & Constitution Ave., NW, Room 7824, Washington, DC 20230, 202 377-5927

RIN: 0610-AA15

178. DESIGNATION OF AREAS OVERALL ECONOMIC DEVELOPMENT PROGRAM PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 302; 13 CFR 304; 13 CFR 305

Legal Deadline: None

Abstract: This rule amends EDA's rules by updating provisions concerning Public Works Impact Areas and Special Impact Areas, specifically as to Designation Requirements; Overall Economic Development Program Requirements; and Supplementary Grant Rates.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/86	
Final Action	06/00/86	
Final Action Effective	06/00/86	

Small Entity: Not Applicable

Additional Information: Neither a RIA nor a RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Walter Archibald, Director, Office of Compliance Review, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th & Constitution Avenue, NW, Room 7324, Washington, DC 20230, 202 377-2719

RIN: 0610-AA19

179. GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 309

Legal Deadline: None

Abstract: The rule concerns nonrelocation requirements. The amendment narrows the nonrelocation requirements to business development projects. The amendment also limits the definition of "financial assistance" to loans and guarantees and deletes reference to grants, technical assistance and training.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/13/85	50 FR 96749
Final Action	03/00/86	
Final Action Effective	03/00/86	

Small Entity: Not Applicable

Additional Information: Neither a RIA nor a RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: James F. Marten, Deputy Chief Counsel for Operations and Adm., Department of Commerce, Economic Development Administration, Herbert C. Hoover Building, 14th and Constitution Ave., NW, Room 7009, Washington, DC 20230, 202 377-5461

RIN: 0610-AA20

180. ● GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE; UNFAIR COMPETITION

Legal Authority: 42 USC 3211; Dept. of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 309

Legal Deadline: None

Abstract: 13 CFR 309 at Section 309.2 entitled "Unfair Competition" will be amended to change conditions under which EDA will conduct a study (verification and evaluation) called a "702 Study" of the capacity and demand for particular goods, materials, commodities, services or facilities. The amendment will narrow the unfair competition requirements for a "702 Study" by raising the threshold amount of projects from $10,000 to $ 25,000. Also, the unfair competition exceptions will be expanded to apply to all EDA financial assistance programs. Certain projects will be exempt from "702 Study" requirements and the definition of retention of capacity and employment will be changed by deleting the word "existing".

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/86	
Final Action	06/00/86	
Final Action Effective	06/00/86	

Small Entity: Not Applicable

Additional Information: Neither a RIA, nor a RFA is required or will be prepared.

Government Levels Affected: Local, State

Agency Contact: Walter Archibald, Director, Office of Compliance Review, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th St. between Penn. and Const. Ave., NW, Room 7329, Washington, DC 20230, 202 377-4718

RIN: 0610-AA22

181. ● GENERAL REQUIREMENTS

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FOR FINANCIAL ASSISTANCE; EMPLOYMENT OF EXPEDITERS OR ADMINISTRATIVE EMPLOYEES; COMPENSATION OF PERSONS ENGAGED BY OR ON BEHALF OF APPLICANTS

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 309

Legal Deadline: None

Abstract: 13 CFR 309 at Section 309.7 entitled "Employment of expediters or administrative employees; compensation of persons engaged by or on behalf of applicants" will be amended to conform, at subparagraph c to P.L. 99-180, December 13, 1985, to state that fees for services of attorneys and consultants in preparing applications for EDA financial assistance cannot be financed under P.L. 99-180; however, attorneys' and consultants' fees used to meet grant requirements, such as for example, conducting a title search or preparing plans and specifications, could be eligible project costs and paid for out of funds appropriated or otherwise made available under P.L. 99-180.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/86	
Final Action	06/00/86	
Final Action Effective	06/00/86	

Small Entity: No

Additional Information: Neither a RIA, nor a RFA is required or will be prepared.

Government Levels Affected: Local, State

Agency Contact: James F. Marten, Deputy Chief Counsel for Operations and, Administration, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th St. between Penn. and Const. Ave., NW, Room 7009, Washington, DC 20230, 202 377-5441

RIN: 0610-AA23

182. ● PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM; INDUSTRIAL PARKS AND SITES; AND GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE; AUTHORIZED USES OF REAL PROPERTY ACQUIRED OR IMPROVED WITH ETC

Legal Authority: 42 USC 3211; Department of Commerce Organization Order 10-4, as amended

CFR Citation: 13 CFR 305; 13 CFR 314

Legal Deadline: None

Abstract: 13 CFR 305 at Section 305.43 entitled "Industrial parks and sites" and 13 CFR 314 at Section 314.3 entitled "Authorized Uses of real property acquired or improved with Federal funds" will be amended to delete references to nonrelocation requirements for other than business development projects under Section 202 of the Public Works and Economic Development Act of 1965, as amended (42 USC 3121 et. seq.) consistent with an opinion by the Department's General Counsel. In addition, 13 CFR Part 314 at Section 3 is amended to contain sex neutral language ("he/she") when referring to the Assistant Secretary.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/00/86	
Final Action	06/00/86	
Final Action Effective	06/00/86	

Small Entity: No

Additional Information: Neither a RIA, nor a RFA is required or will be prepared.

TITLE CONT: Federal Funds.

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: James F. Marten, Deputy Chief Counsel for Operations and, Administration, Department of Commerce, Economic Development Administration, Herbert C. Hoover Bldg., 14th St. between Penn. and Const. Ave., NW, Room 7009, Washington, DC 20230, 202 377-5441

RIN: 0610-AA24

DEPARTMENT OF COMMERCE (DOC)
Economic Development Administration (EDA)

Completed Actions

183. ENERGY CONSERVATION: MISCELLANEOUS AMENDMENTS TO FINANCIAL ASSISTANCE PROGRAMS REGARDING ENERGY CONSERVATION

Legal Authority: EO 12185

CFR Citation: 13 CFR 306.59; 13 CFR 306.12(g)(14); 13 CFR 306.12(j); 13 CFR 307.22(b); 13 CFR 307.26(c)(6); 13 CFR 307.55(a)(15); 13 CFR 307.55(b)(5); 13 CFR 307.56(h); 13 CFR 307.57(a)(6); 13 CFR 308.6(a)(8)

Legal Deadline: None

Abstract: Regulations were issued to bring the existing regulations within the bounds of the requirements of EO 12185 which directed Federal agencies to revise their regulations to encourage recipients of Federal financial assistance to conserve energy. The new regulations are designed to encourage EDA assistance recipients to undertake energy conservation measures on a voluntary basis. There are no viable alternatives to the regulations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/10/82	47 FR 19982
Beg. Comment Period on Interim Rule	05/10/82	47 FR 19982
End Comment Period on Interim Rule	07/10/82	47 FR 19982
Final Action	01/14/86	51 FR 1492
Final Action Effective	01/14/86	51 FR 1492

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Analysis: See Additional Information

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Operations and Administration, Washington, DC 20230, 202 377-5441

RIN: 0610-AA03

184. DESIGNATION OF PUBLIC WORKS IMPACT PROGRAM AREAS; SUPPLEMENTARY GRANT RATES

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 302.7; 13 CFR 305.5

Legal Deadline: None

Abstract: These amendments were in effect for a limited time under the Emergency Jobs Act which has ended and for which funds are no longer available. The rules, with two technical exceptions (changing description of Assistant Secretary to "he/she" and implementing the change in delegation to the Assistant Secretary for project approval), are to revert back to the original.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/23/83	48 FR 23154
Final Action	03/28/85	50 FR 12235
Final Action Effective	03/28/85	50 FR 12235

Small Entity: No

Additional Information: Neither an RIA or RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, 14th and Constitution Avenue, NW, Room 7009, Washington, DC 20230, 202 377-5441

RIN: 0610-AA10

185. PUBLIC WORKS AND DEVELOPMENT FACILITIES PROGRAM - SPECIFIC TYPES OF PROJECTS

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 305

Legal Deadline: None

Abstract: This rule amends EDA's tourism and recreation regulation to conform to an EDA policy position exempting the Public Works Impact Program (PWIP) projects from the tourism and recreation requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/07/85	50 FR 725
Final Action	01/15/86	51 FR 1782
Final Action Effective	01/15/86	51 FR 1782

Small Entity: No

Additional Information: Neither a RIA nor a RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: James F. Marten, Deputy Chief Counsel Operation and Admin, Department of Commerce, Economic Development Administration, 14th & Constitution Ave., NW, Rm. H7001, Washington, DC 20230, 202 377-5441

RIN: 0610-AA13

186. PROPERTY MANAGEMENT STANDARDS - MORTGAGES

Legal Authority: 42 USC 3211; DOC Organization Order 10-4, as amended

CFR Citation: 13 CFR 314

Legal Deadline: None

Abstract: This rule amends EDA's Property Management regulations concerning mortgages. It provides that funds obtained from loans secured by mortgages on property which has been financed by an EDA grant shall be provided only to the grantee, with the exception of public utilities subject to existing bonds containing after-acquired property clauses, for use on the project which is being mortgaged or for working capital purposes relating to that project.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/85	50 FR 6336
Final Action	01/15/86	51 FR 1783
Final Action Effective	01/15/86	51 FR 1783

Small Entity: No

Additional Information: Neither a RIA, nor a RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: James F. Marten, Deputy Chief Counsel, Department of Commerce, Economic Development Administration, Operations and Administration, 14th & Constitution Ave., NW, Rm. H7001, Washington, DC 20230, 202 377-5441

RIN: 0610-AA15

187. DESIGNATION OF AREAS; NOTIFICATION OF OFFICIALS

Legal Authority: 42 USC 3211; DOC Organization Order, 10-4, as amended

CFR Citation: 13 CFR 302

Legal Deadline: None

Abstract: EDA is amending 13 CFR 302 on Area Designation at Subpart D — Notice as to when the Assistant Secretary is to notify local, State and national officials as to termination or modification of designation status.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/85	50 FR 128
Final Action	01/15/86	51 FR 1782
Final Action Effective	01/15/86	51 FR 1782

Small Entity: Not Applicable

Additional Information: Neither a RIA nor a RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Walter Archibald, Director, Office of Compliance Review, Department of Commerce, Economic Development Administration, Herbert C. Hoover Building, 14th & Constitution Avenue, NW, Room 7324, Washington, DC 20230, 202 377-2710

RIN: 0610-AA17

[FR Doc. 86-8266 Filed 04-18-86; 8:45 am]
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DEPARTMENT OF COMMERCE (DOC)
General Administration (ADMIN)

Proposed Rule Stage

188. ADMINISTRATIVE OFFSETS FOR DEBTS OWED THE DEPARTMENT OF COMMERCE

Legal Authority: PL 97-365, Sec 10

CFR Citation: 15 CFR 2A, (New)

Legal Deadline: None

Abstract: The proposed regulation will cover Department procedures for withholding money due individuals and businesses indebted to the Federal Government. Administrative offsets will be used by the Department when debtors have failed to make timely and adequate payments to satisfy such debts. Prior to collecting claims through administrative offset, debtors will be provided under the regulations with a notification of the amount and nature of the claim and the Department's intention to collect the claim through administrative offset, and explanation of the debtor's rights, an opportunity for the debtor to inspect and copy the agency's records relating to the claim, an opportunity for review of the claim by the agency if contested by the debtor, and an opportunity to enter into a written agreement with the agency for repayment of the amount due. These procedures will ensure the effective use of administrative offsets when appropriate, thereby increasing collections of amounts due the Federal Government. The result will be better cash management and a slight reduction in the need of the Federal Government to borrow funds in the capital market.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
NPRM Comment Period End	04/00/86	
Final Action	06/00/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: Multiple

Agency Contact: Roger J. Mallet, Chief, Financial Management Branch, Department of Commerce, General Administration, Office of Finance and Federal Assistance, Room 6823, 14th & Constitution Ave. NW, Washington, DC 20230, 202 377-2324

RIN: 0605-AA00

Final Rule Stage

189. ● NONPROCUREMENT SUSPENSION AND DEBARMENT

Legal Authority: Executive Order (Yet to be issued)

CFR Citation: 15 CFR Part undetermined

Legal Deadline: None

Abstract: To eliminate duplicative and inconsistent debarment and suspension actions across the government. Private actions or actions by other levels of government would lack broad enough jurisdiction. This regulation will benefit the U.S. by eliminating duplicative and costly actions. Benefits have not been quantified at this time.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/86	

Small Entity: Undetermined

Agency Contact: Robert McNamara, Grants/Cooperative Agreement Specialist, Department of Commerce, General Administration, 14th & Constitution Avenue, NW, Washington, DC 20230, 202 377-5817

RIN: 0605-AA02

Completed Actions

190. AUDIT REQUIREMENTS FOR STATE AND LOCAL GOVERNMENTS

Legal Authority: PL 98-502 Single Audit Act of 1984

CFR Citation: 15 CFR 8a

Legal Deadline: None

Abstract: The Department of Commerce published to implement the requirements for auditing state and local governments as required by the Single Audit Act of 1984, P.L. 98-502. This regulation is meant to improve audits of Federal aid programs to state and local governments. The rule establishes audit requirements for state and local governments that receive Federal aid, and defines the Department's responsibilities for implementing and monitoring these requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/26/85	50 FR 30418
Final Action	02/28/86	

Small Entity: No

Government Levels Affected: State, Federal

Agency Contact: John J. Phelan, Chief, Federal Assistance Policy Branch, Department of Commerce, General Administration, Room 6020, 14th & Constitution Avenue, NW, Washington, DC 20230, 202 377-5817

RIN: 0605-AA01

[FR Doc. 86-8355 Filed 04-18-86; 8:45 am]

BILLING CODE 3510-BW-T

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Proposed Rule Stage

191. GENERAL REGULATIONS GOVERNING FOREIGN TRADE ZONES IN THE UNITED STATES, WITH RULES OF PROCEDURES

Legal Authority: 19 USC 81a et seq Foreign-Trade Zones Act of 1934

CFR Citation: 15 CFR 400

Legal Deadline: None

Abstract: Revision of the regulation is needed to administer the Foreign-Trade Zones Act of 1934, as amended, to provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States. At the time the ANPRM was published the emphasis was on changing the rules to provide improved guidance to the public on procedures and criteria followed in making decisions concerning special-purpose subzones and operations detrimental to the public interest. Since that time, it has been decided to propose revisions to the entire 15 CFR 400 in order to update the language and conform it to current CFR format.

Timetable:

Action	Date	FR Cite
ANPRM	10/14/80	45 FR 67681
ANPRM Comment Period End	12/15/80	
NPRM	04/00/86	
Final Action	08/30/86	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Stephen J. Powell, Assistant General Counsel for Import Administration, Department of Commerce, International Trade Administration, Room B-099, Pennsylvania Ave. and 14th St., NW, Washington, DC 20230, 202 377-1411

RIN: 0625-AA04

192. ADJUSTMENT ASSISTANCE FOR FIRMS AND INDUSTRIES

Legal Authority: 19 USC 2341 et seq

CFR Citation: 15 CFR 320

Legal Deadline: None

Abstract: This regulation will implement the responsibilities transferred from EDA to ITA concerning the provision of adjustment assistance to firms and industries adversely affected by imports. The proposed rule will reflect amendments to the authorizing legislation and make procedural changes required because of the transfer of the program to ITA. Proposed rules were published in the Federal Register (November 1984). Final rules have not been published because pending authorizing legislation may alter program significantly.

Timetable:

Action	Date	FR Cite
NPRM	11/13/84	49 FR 44903
NPRM Comment Period End	12/13/84	49 FR 44903

Next Action Undetermined

Small Entity: Not Applicable

Additional Information: Neither an RIA nor an RFA is required or will be prepared. This rule is exempt from the requirements of the Regulatory Flexibility Act, since the Department is not required by Section 553 of Title 5 of the United States Code or any other law to publish general notice of proposed rulemaking for regulations implementing the adjustment assistance program (See Section 553(a)(2) concerning loans and grants).

Affected Sectors: Multiple

Analysis: See Additional Information

Agency Contact: August Fromuth, Acting Deputy Assistant Secretary, Department of Commerce, International Trade Administration, Office of Trade Adjustment Assistance, Washington, DC 20230, 202 377-0150

RIN: 0625-AA05

193. ANTIDUMPING DUTIES; COUNTERVAILING DUTIES

Significance: Regulatory Program

Legal Authority: 19 USC 1303; 19 USC 1671 et seq

CFR Citation: 19 CFR 353; 19 CFR 355

Legal Deadline: None

Abstract: Current antidumping and countervailing duty regulations will be revised to reflect recent statutory changes and current administrative practices and to improve the clarity of the regulations. The revisions will improve administrative efficiency in enforcement of the antidumping and countervailing duty laws. The revisions will replace the entire text of 19 CFR Parts 353 and 355.

Supplemental Timetable:

AD Regulations

NPRM 05/01/86

NPRM Comment Period End 06/01/86

Final Action 09/30/86

CVD Regulations

NPRM 06/10/85 (50 FR 28225)

NPRM Comment Period End 09/09/85 (50 FR 32068)

Final Action 05/30/86

Small Entity: No

Affected Sectors: Multiple

Agency Contact: Stephen J. Powell, Assistant General Counsel for Import Administration, Department of Commerce, International Trade Administration, Room B-099, Pennsylvania Ave. & 14th St., NW, Washington, DC 20230, 202 377-1411

RIN: 0625-AA08

Final Rule Stage

194. EFFECT OF IMPORTED ARTICLES ON THE NATIONAL SECURITY

Legal Authority: 19 USC 1862 Trade Expansion Act of 1962, as amended; 5 USC App. Reorganization Plan No. 3 of 1979; EO 12188

CFR Citation: 15 CFR 359

Legal Deadline: None

Abstract: Section 359.10(a) of the existing regulation requires that a report of an investigation be organized into several sections containing classified and unclassified information. Paragraph (c) of that section requires that the report (excluding confidential material) be published in the Federal Register. Paragraph (a) will be amended

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to delete the report organization requirement and paragraph (b) will be amended to permit publication of either the full report or a summary thereof. It is impractical, time consuming, and not cost effective to organize the report, and publish the full report, as now required by the regulation. Section 359.10(c) will also be amended to provide that a copy of the report will be available to the public from the Publications Distribution Office of the Department rather than at ITA's Freedom of Information Records Inspection Facility.

Timetable:

Action	Date	FR Cite
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: None

Agency Contact: Edward Levy, 232 Program Manager, Department of Commerce, International Trade Administration, Strategic Analysis Division, Washington, DC 20230, 202 377-2322

RIN: 0625–AA15

195. REVISIONS TO SHORT SUPPLY REGULATIONS

Legal Authority: 50 USC app 2401 et seq; PL 99-64; 42 USC app 2401 et seq; 10 USC 7420 et seq; 43 USC 1354; 30 USC 185; EO 11912; EO 12214; EO 12002

CFR Citation: 15 CFR 371; 15 CFR 377; 15 CFR 399

Legal Deadline: None

Abstract: On July 12, 1985, the Export Administration Amendments Act of 1985 (PL 99-64) extended and amended the Export Administration Act of 1979 (50 USC app 2401, et seq.)(EAA). Certain changes were made to the Short Supply provisions of Section 7 of the EAA. Accordingly, revision of the Short Supply provisions (15 CFR 377) and related licensing requirements (15 CFR 371 and 399) of the Export Administration Regulations (15 CFR 368-399) is necessary. An interim final rule was issued which included (1) elimination the validated licensing requirement for exports of refined petroleum products so as to permit their export with certain restrictions under a general license; (2) a new definition of "crude oil" for purposes of the regulation; and (3) certain technical and housekeeping changes. There are no costs associated with this action which would promote the export of decontrolled products.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/09/85	50 FR 41131
Final Action	12/00/86	

Small Entity: Yes

Agency Contact: Rodney A. Joseph, Short Supply Program Manager, Department of Commerce, International Trade Administration, Office of Industrial Resource Administration, Room 3876, Washington, DC 20230, 202 377-3984

RIN: 0625–AA21

196. ● EXPORTS OF CRUDE OIL DERIVED FROM ALASKA'S COOK INLET

Significance: Regulatory Program

Legal Authority: 50 USC app 2401, et seq. PL 96-72, as amended; EO 12525 July 12, 1985 (50 FR 28757, July 16, 1985); 42 USC 6212 PL 97-163, as amended, Sec 103; 30 USC 185 PL 93-153, Sec 28; 43 USC 1354 PL 95-372, Sec 28; EO 11912 April 3, 1976 (41 FR 15825, as amended); 10 USC 7420 and 7430(e) PL 94-258, Sec 101 and 201(11)(e); 50 FR 25169 June 18, 1985

CFR Citation: 15 CFR 377

Legal Deadline: None

Abstract: On November 6, 1985, the Secretary of Commerce determined that permitting the export of crude oil derived from Alaska's Cook Inlet is in the national interest and consistent with the purposes of the Energy Policy and Conservation Act. Accordingly, the Department of Commerce proposes to revise Part 377 of the Export Administration Regulations to permit exports of crude oil derived from Alaska's Cook Inlet. There are no costs associated with this action.

Timetable:

Action	Date	FR Cite
NPRM	12/26/85	50 FR 52798
NPRM Comment Period End	02/24/86	50 FR 52798
Final Action	04/00/86	

Small Entity: No

Agency Contact: Rodney A. Joseph, Short Supply Program Manager, Department of Commerce, International Trade Administration, Office of Industrial Resource Administration, Room 3876, Washington, DC 20230, 202 377-3984

RIN: 0625–AA22

DEPARTMENT OF COMMERCE (DOC)
International Trade Administration (ITA)

Completed Actions

197. PETROLEUM PARTLY REFINED FOR FURTHER REFINING

Legal Authority: 50 USC 1702 PL 95-223, as amended, Sec 203; 50 USC 1704 PL 95-223, as amended, Sec 208; EO 12470 March 30, 1984 (49 FR 13099, April 3, 1984); 42 USC 6212 PL 94-163, as amended, Sec 103; EO 11912 April 13, 1976 (49 FR 15825, as amended); 10 USC 7430 as amended by PL 98-258, Sec 201(10)

CFR Citation: 15 CFR 377

Legal Deadline: None

Abstract: With few exceptions, the Congress prohibits the export of crude oil. However, the Department wants to ensure that it does not unnecessarily restrict sales of refined petroleum products by imposing regulatory barriers that were not intended by statutes. Accordingly, the Department will attempt to clarify the definition of refined petroleum products to provide greater certainty to exporters as to what may be exported. There are no costs associated with this action.

Timetable:

Action	Date	FR Cite
ANPRM	01/15/85	50 FR 2064
ANPRM Comment Period End	02/14/85	50 FR 2064
Withdrawn	10/00/85	50 FR 41131

DOC—ITA — Completed Actions

Small Entity: Not Applicable

Additional Information: The proposal was withdrawn at the time that a revision to the Short Supply regulations (15 CFR 377) was published as an interim final rule by October 1985.

Agency Contact: John A. Richards, Director, Department of Commerce, International Trade Administration, Office of Industrial Resource Administration, Room 3876, Washington, DC 20230, 202 377-4506

RIN: 0625–AA18

[FR Doc. 86-8395 Filed 04-18-86; 8:45 am]

BILLING CODE 3510-BW-T

DEPARTMENT OF COMMERCE (DOC)
National Bureau of Standards (NBS)

Proposed Rule Stage

198. FIPS FOR SESSION PROTOCOL STANDARD

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will provide for reliable connections between users on a computer network. It is one of a family of computer network protocol standards which will make possible computer-to-computer communication of Federal ADP systems. It will enable Federal Government agencies to select equipment based on cost and performance considerations and to interconnect equipment of different manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
NPRM Comment Period End	09/00/86	
Final Action	00/00/00	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, Maryland 20899, 301 921-2731

RIN: 0693–AA12

199. FIPS FOR MESSAGE TRANSFER PROTOCOL

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will provide for reliable exchange of messages through Federal Government computer networks. It is one of a family of computer network protocol standards which will make possible computer-to-computer communication of Federal ADP systems. It will enable Federal agencies to select equipment based on cost and performance considerations and to interconnect equipment of different manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, Maryland 20899, 301 921-2731

RIN: 0693–AA17

200. PROCEDURES FOR THE DEVELOPMENT OF VOLUNTARY PRODUCT STANDARDS

Legal Authority: 15 USC 272

CFR Citation: 15 CFR 10

Legal Deadline: None

Abstract: The Department of Commerce proposes to revise its existing procedures for the development of Voluntary Product Standards. The Department proposes to modify the provisions for the withdrawal of standards and to establish a new appeals mechanism and provisions for developing interpretations of standards.

Timetable:

Action	Date	FR Cite
NPRM	03/12/86	50 FR 50177
Final Action	06/30/86	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: 208 Beverages; 242 Sawmills and Planing Mills; 243 Millwork, Veneer, Plywood, and Structural Wood Members; 322 Glass and Glassware, Pressed or Blown

Agency Contact: Donald R. Mackay, Associate Manager, Standards Management Prog, Department of Commerce, National Bureau of Standards, Office of Product Standards Policy, Admin A625, Gaithersburg, Maryland 20899, 301 921-3287

RIN: 0693–AA20

201. FIPS FOR DATABASE LANGUAGE SQL

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (currently ANSI BSR X3.135) that defines the structure and operations of a relational data model and specifies data definition and data manipulation language interfaces to database systems supporting the relational model. Use of this standard will enable database definition and application modules to be interchanged between different systems, and will enable staff training and skills to be more fully utilized.

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Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA32

202. FIPS FOR DATABASE LANGUAGE NDL

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (current ANSI BSR X3.133-198x) that defines the structure and operations of a network data model and specifies data definition and data manipulation language interfaces to database systems supporting the network model. Use of this standard will enable database definition and application modules to be interchanged between different systems, and will enable staff training and skills to be more fully utilized.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA34

203. FIPS FOR BASIC PROGRAMMING LANGUAGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (currently draft proposed standard) which defines the syntax of the BASIC programming language and the semantics for its interpretation. The standard will be used by implementors as the reference authority in developing compilers, interpreters or forms of high level language processors and by other computer professionals who need to know the precise syntactic and semantic rules of the standard. Use of this standard will promote the portability of programs between different systems, and will enable organizations to more fully utilize staff training and skills.

Timetable:

Action	Date	FR Cite
NPRM	01/13/86	51 FR 1418
NPRM Comment Period End	04/14/86	51 FR 1418
Final Action	10/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA35

204. FIPS FOR MUMPS PROGRAMMING LANGUAGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (ANSI/MDC X11.1-1984) which defines the syntax of language and the semantics for its interpretation. The standard will be used by implementors as the reference authority in developing compilers, interpreters or forms of high level language processors and by other computer professionals who need to know the precise syntactic and semantic rules of the standard. Use of this standard will promote the portability of programs between different systems, and will enable organizations to more fully utilize staff training and skills.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA36

205. REVISION TO FIPS 100, INTERFACE BETWEEN DATA TERMINAL EQUIPMENT (DTE) AND DATA CIRCUIT-TERMINATING EQUIPMENT (DCE) FOR OPERATION WITH PACKET-SWITCHED DATA COMMUNICATIONS NETWORKS

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This revision will make the standard consistent with minor changes that were made to Recommendation X.25 by the Consultative Committee for International Telegraph and Telephone in 1984. This is an international standard for data processing equipment, services and telecommunications equipment using public packet switched data communications networks.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA39

206. FIPS FOR INTERNETWORK PROTOCOL

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

DOC—NBS

Proposed Rule Stage

Abstract: This standard will provide the specifications for network interconnection via procedures for the connectionless transmission of data and control information from one network entity to another. It is based on the work of the International Organization for Standardization and is one of a family of computer network protocol standards which will make possible computer-to-computer communications of Federal ADP systems. It will enable organizations to select equipment based on cost and performance considerations and to interconnect equipment of different manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA40

207. FIPS FOR SMALL COMPUTER SYSTEM INTERFACE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (currently dpANS X3.131) which defines the physical, electrical, and mechanical specifications for an 8-bit parallel bus, suitable for connecting physically small computers to each other and to mass storage peripherals. This standard is widely used in industry, and will enable Federal users to reduce costs and improve reutilization of mass storage components for small systems.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
NPRM Comment Period End	09/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA41

208. FIPS FOR INTELLIGENT PERIPHERAL INTERFACE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will adopt American National Standards (currently dpANS X3.129, dpANS X3.130, dpANS X3.132, and X3T9/85-37) which provide for the interconnection of high performance computer systems and mass storage components for large and medium scale computers. This standard will be an alternative to FIPS 60, I/O Channel Interface, and will enable Federal agencies to reduce the cost of computer system components through improved competition.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
NPRM Comment Period End	09/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA42

209. FIPS FOR CODES FOR THE IDENTIFICATION OF AQUIFER NAMES AND GEOLOGIC UNITS

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 15 CFR 6

Legal Deadline: None

Abstract: This standard will adopt for Federal government use codes for aquifer names and geologic units developed by the Department of the Interior under its Memorandum of Understanding with NBS to develop and maintain earth science data element and representation standards. The standard will facilitate the interchange of information among Federal departments and agencies.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA44

210. ● FIPS FOR COMPUTER GRAPHICS METAFILE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (currently draft proposed standard) that specifies a file format suitable for the description, storage, and communication of graphical information in a device independent manner. Use of this standard will facilitate the transfer of graphical information between different graphical software systems, different graphical devices, and different computer installations, and will reduce time in recomputing and regenerating graphical information.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA45

211. ● FIPS FOR COBOL NETWORK DATABASE INTERFACE

Legal Authority: 40 USC 759(f); EO 11717

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DOC—NBS

Proposed Rule Stage

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (currently preliminary draft standard) that defines COBOL syntax providing access to a subschema of a schema and providing a data manipulation language. The standard will provide a means by which the user of database systems may access a database that has been described by a schema. Use of this standard and other related standards will facilitate software modules to be interchanged between different systems, and will enable staff training and skills to be more fully utilized.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA46

212. ● REVISION TO FIPS 29-1, INTERPRETATION PROCEDURES FOR FEDERAL INFORMATION PROCESSING STANDARD PROGRAMMING LANGUAGES

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This revision to the interpretation procedures for Federal Information Processing Standard programming languages will provide for more flexibility and more timely response to requests for interpretations by adding to the methods that are available for developing interpretations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA47

213. ● FIPS FOR C PROGRAMMING LANGUAGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (currently draft proposed standard) which defines the syntax of the C programming language and the semantics for its interpretation. The standard will be used by implementers as the reference authority in developing compilers, interpreters or forms of high level language processors and by other computer professionals who need to know the precise syntactic and semantic rules of the standard. Use of this standard will promote the portability of programs between different systems, and will enable organizations to more fully utilize staff training and skills.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA48

DEPARTMENT OF COMMERCE (DOC)
National Bureau of Standards (NBS)

Final Rule Stage

214. REVISION TO FIPS 21-1, COBOL

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will adopt the revised American National Standard Programming Language COBOL for Federal Government use. The standard will promote the portability of COBOL programs for use on a variety of data processing systems and will enable Federal agencies and departments to exercise more effective control over the production, management, and use of Federal Government information resources.

Timetable:

Action	Date	FR Cite
NPRM	11/20/84	49 FR 45772
NPRM Comment Period End	03/20/85	49 FR 45772
Final Action	04/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, Maryland 20899, 301 921-2731

RIN: 0693-AA04

215. FIPS FOR TRANSPORT PROTOCOL

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard provides for reliable, transparent transfer of data between two heterogeneous or homogeneous computer systems. The standard is based on an international consensus and is compatible with the International Organization for Standardization (ISO) document ISO/TC97/SC 16 N 1169, class 2 and class 4. This is one of a family of computer network protocol standards which will make possible computer-to-computer communication of Federal ADP systems. It will enable Federal agencies to select equipment based on cost and performance considerations and to interconnect equipment of different manufacturers.

Timetable:

Action	Date	FR Cite
ANPRM	03/03/81	46 FR 14913
ANPRM Comment Period End	05/03/81	46 FR 14913
NPRM	05/20/83	48 FR 22770
NPRM Comment Period End	08/18/83	48 FR 22770
Final Action	06/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, Maryland 20899, 301 921-2731

RIN: 0693-AA06

216. REVISION TO FIPS 70, REPRESENTATION OF GEOGRAPHIC POINT LOCATIONS FOR INFORMATION INTERCHANGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 15 CFR 6

Legal Deadline: None

Abstract: This revision will extend the current FIPS which establishes uniform formats for geographic point location data that is collected, processed and analyzed by Federal Government agencies. The extensions will provide for more complete and accurate representation of data.

DOC—NBS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/15/83	48 FR 41478
NPRM Comment Period End	12/14/83	48 FR 41478
Final Action	06/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, Maryland 20899, 301 921-2731

RIN: 0693-AA13

217. FIPS FOR GRAPHICAL KERNEL SYSTEM (GKS)

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will adopt for Federal government use an American National Standard for GKS. Use of this standard will enable Federal agencies to exchange graphics programs between different installations. The standard will enable agencies to encourage more effective utilization and management of graphics application programmers by ensuring that skills acquired in one job are transportable to other jobs, thereby reducing the costs of training.

Timetable:

Action	Date	FR Cite
NPRM	03/29/85	50 FR 12602
NPRM Comment Period End	06/27/85	50 FR 12602
Final Action	06/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA29

218. FIPS FOR VIDEOTEX/TELETEXT PRESENTATION LEVEL PROTOCOL SYNTAX (NORTH AMERICAN PLPS)

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will adopt for Federal agency use American National Standard X3.110-1983, Videotex/Teletext Presentation Level Protocol Syntax (North American PLPS). This standard will enable Federal agencies to acquire data processing and communications and related equipment that interchange coded information in accordance with the voluntary industry standard.

Timetable:

Action	Date	FR Cite
NPRM	04/10/85	50 FR 14128
NPRM Comment Period End	07/09/85	50 FR 14128
Final Action	04/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA30

219. FIPS FOR OPTICAL CHARACTER RECOGNITION (OCR) DOT MATRIX CHARACTER SETS FOR OCR-MA

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (currently ANSI BSR X3.111) which provides the description, scope, and application rules for a character set that is generated by dot matrix printers and that closely matches the OCR-A character set. Use of this standard will reduce the cost of data input into ADP systems which use OCR equipment.

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Timetable:

Action	Date	FR Cite
NPRM	11/08/85	50 FR 46474
NPRM Comment Period End	02/06/86	50 FR 46474
Final Action	10/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA39

220. FIPS FOR SPECIFICATION FOR A DATA DESCRIPTIVE FILE FOR INFORMATION INTERCHANGE (DDF)

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will adopt an International Standard ISO 8211, which provides a standard interchange format for data structures, data files, data definitions, and databases. Use of this standard will enable Federal agencies to transport data easily between computer systems of different manufacturers and to restructure the data without loss of content or meaning.

Timetable:

Action	Date	FR Cite
NPRM	08/16/85	50 FR 33090
NPRM Comment Period End	11/14/85	50 FR 33090
Final Action	10/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA37

221. FIPS FOR INFORMATION RESOURCE DICTIONARY SYSTEM (IRDS)

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will adopt an American National Standard (new draft proposed) which will promote portability of information resources. The Information Resource Dictionary System is a software system for recording, storing, and processing descriptions of an organization's significant data. Use of the standard will improve identification of data that can be shared within an organization, reduce unnecessary development of computer programs, and increase portability of staff skills and training.

Timetable:

Action	Date	FR Cite
NPRM	08/13/85	50 FR 32610
NPRM Comment Period End	11/12/85	50 FR 32610
Final Action	10/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA43

222. REVISION TO FIPS 104, AMERICAN NATIONAL STANDARD CODES FOR THE REPRESENTATION OF NAMES OF COUNTRIES, DEPENDENCIES, AND AREAS OF SPECIAL SOVEREIGNTY FOR INFORMATION INTERCHANGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 15 CFR 6

Legal Deadline: None

Abstract: This revision to an existing FIPS updates the codes for representation of countries, dependencies, and areas of special sovereignty and proposes these American National Standard codes as a Federal Program Standard for use in international trade applications. The current FIPS 104 is a guideline.

Timetable:

Action	Date	FR Cite
NPRM	08/13/85	50 FR 32609
NPRM Comment Period End	11/12/85	50 FR 32609
Final Action	04/00/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA38

DEPARTMENT OF COMMERCE (DOC)

National Bureau of Standards (NBS)

Completed Actions

223. FIPS PUB 116, 130 MM (5.25 IN) FLEXIBLE DISK CARTRIDGE TRACK FORMAT USING TWO-FREQUENCY RECORDING AT 3979 BPRAD ON ONE SIDE-1.9 TPMM (48 TPI) FOR INFORMATION INTERCHANGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: These specifications will adopt for Federal government use an international standard (ISO 8630/2) for the recorded characteristics of flexible disk cartridges. Use of these specifications will enable Federal agencies to interchange information using commercially available disk technology and to purchase off-the-shelf equipment. The specifications will be issued as a standard for use by agencies at their discretion.

Timetable:

Action	Date	FR Cite
NPRM	09/06/82	47 FR 39554
NPRM Comment Period End	12/07/82	47 FR 39554
Final Action	09/30/85	50 FR 39745

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Action	Date	FR Cite
Final Action Effective	04/01/86	50 FR 42745

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, Maryland 20899, 301 921-2731

RIN: 0693-AA21

224. FIPS PUB 118, FLEXIBLE DISK CARTRIDGE LABELLING AND FILE STRUCTURE FOR INFORMATION INTERCHANGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: These specifications will adopt for Federal government use an international standard (ISO 7665) for labelling and file structure of flexible disks. Use of these specifications will enable Federal agencies to interchange information using commercially available disk technology and to purchase off-the-shelf equipment. The specifications will be issued as a standard for use by agencies at their discretion.

Timetable:

Action	Date	FR Cite
NPRM	09/06/82	47 FR 39554
NPRM Comment Period End	12/07/82	47 FR 39554
Final Action	09/30/85	50 FR 39745
Final Action Effective	04/01/86	50 FR 42745

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, Maryland 20899, 301 921-2731

RIN: 0693-AA22

225. FIPS PUB 117, 130 MM (5.25 IN) FLEXIBLE DISK CARTRIDGE TRACK FORMAT USING MODIFIED FREQUENCY MODULATION RECORDING AT 7958 BPRAD ON TWO SIDES-1.9 TPMM (48 TPI) FOR INFORMATION INTERCHANGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: These specifications will adopt for Federal government use an international standard (ISO 7487/2) for the recorded characteristics of flexible disk cartridges. Use of these specifications will enable Federal agencies to interchange information using commercially available disk technology and to purchase off-the-shelf equipment. The specifications will be issued as a standard for use by agencies at their discretion.

Timetable:

Action	Date	FR Cite
NPRM	09/06/82	47 FR 39554
NPRM Comment Period End	12/07/82	47 FR 39554
Final Action	09/30/85	50 FR 39745
Final Action Effective	04/01/86	50 FR 42745

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, Maryland 20899, 301 921-2731

RIN: 0693-AA23

226. FIPS PUB 115, 200 MM (8 IN) FLEXIBLE DISK CARTRIDGE TRACK FORMAT USING MODIFIED FREQUENCY MODULATION RECORDING AT 13262 BPRAD ON TWO SIDES - 1.9 TPMM (48 TPI) FOR INFORMATION INTERCHANGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: These specifications will adopt for Federal government use an international standard (ISO 7085/2) for the recorded characteristics of flexible disk cartridges. Use of these specifications will enable Federal agencies to interchange information using commercially available disk technology and to purchase off-the-shelf equipment. The specifications will be issued as a standard for use by agencies at their discretion.

Timetable:

Action	Date	FR Cite
NPRM	09/06/82	47 FR 39554
NPRM Comment Period End	12/07/82	47 FR 39554
Final Action	09/30/85	50 FR 39745
Final Action Effective	04/01/86	50 FR 42745

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, Maryland 20899, 301 921-2731

RIN: 0693-AA24

227. FIPS PUB 114, 200 MM (8 IN) FLEXIBLE DISK CARTRIDGE TRACK FORMAT USING TWO-FREQUENCY RECORDING AT 6631 BPRAD ON ONE SIDE - 1.9 TPMM (48 TPI) FOR INFORMATION INTERCHANGE

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: These specifications will adopt for Federal government use an international standard (ISO 5654/2) for the recorded characteristics of flexible disk cartridges. Use of these specifications will enable Federal agencies to interchange information using commercially available disk technology and to purchase off-the-shelf equipment. The specifications will be issued as a standard for use by agencies at their discretion.

Timetable:

Action	Date	FR Cite
NPRM	09/06/82	47 FR 39554
NPRM Comment Period End	12/07/82	47 FR 39554
Final Action	09/30/85	50 FR 39745
Final Action Effective	04/01/86	50 FR 42745

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Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, Maryland 20899, 301 921-2731

RIN: 0693-AA25

228. FIPS PUB 69-1, MINIMAL BASIC

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This revision of the current standard (FIPS 68) will change the Applicability and Objectives sections to clarify issues related to the use of programming languages. The revision will make the goals of the FIPS more definitive, recognize advances in programming technology, provide more specific guidance concerning the applicability of FIPS languages, and provide consistent policy for all FIPS languages. The language specifications (American National Standard Programming Language Minimal BASIC, X3.60-1978) are not changed.

Timetable:

Action	Date	FR Cite
NPRM	11/20/84	49 FR 45774
NPRM Comment Period End	03/20/85	49 FR 45774
Final Action	12/24/85	50 FR 52546
Final Action Effective	12/24/85	50 FR 52546

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA26

229. FIPS PUB 119, ADA

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will adopt for Federal agency use American National Standard ANSI/MIL-STD-1815A-1983, Reference Manual for the Ada Programming Language, which is a voluntary industry standard developed by the Department of Defense. This standard will enable programs written in Ada to be used in a variety of data processing systems and will enable agencies to encourage more effective utilization and management of programmers by ensuring that programming skills acquired in one job are transportable to other jobs, thereby reducing the cost of training.

Timetable:

Action	Date	FR Cite
NPRM	03/25/85	50 FR 11748
NPRM Comment Period End	06/24/85	50 FR 11748
Final Action	11/08/85	50 FR 46472
Final Action Effective	05/01/86	50 FR 46472

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA27

230. FIPS FOR NETWORK DATABASE LANGUAGE (NDL)

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This standard will adopt for Federal agency use an American National Standard currently undergoing formal public review. Use of the specifications will enable Federal agencies to acquire database management systems and other database software that will operate on many different computer systems. Further, training and skills of staff will be transferable to different systems.

Timetable:

Action	Date	FR Cite
This item duplicates RIN #0693-AA34 and should be deleted from the Regulatory Agenda.	02/27/86	

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA28

231. FIPS PUB 69-1, FORTRAN

Legal Authority: 40 USC 759(f); EO 11717

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This revision of the current standard (FIPS 69) will change the Applicability and Objectives sections to clarify issues related to the use of programming languages. The revision will make the goals of the FIPS more definitive, recognize advances in programming technology, provide more specific guidance concerning the applicability of FIPS languages, and provide consistent policy for all FIPS languages. The language specifications (American National Standard Programming Language FORTRAN, X3.9-1978) are not changed.

Timetable:

Action	Date	FR Cite
NPRM	11/20/84	49 FR 45774
NPRM Comment Period End	03/20/85	49 FR 45774
Final Action	12/24/85	50 FR 52546
Final Action Effective	12/24/85	50 FR 52546

Small Entity: No

Affected Sectors: 357 Office, Computing, and Accounting Machines

Government Levels Affected: Federal

Agency Contact: Shirley Radack, Program Analyst, Department of Commerce, National Bureau of Standards, B151 Technology, Gaithersburg, MD 20899, 301 921-2731

RIN: 0693-AA31

[FR Doc. 86-8235 Filed 04-18-86; 8:45 am]

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DEPARTMENT OF COMMERCE (DOC)

Prerule Stage

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

232. STUDY OF FISHERY MANAGEMENT

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: A panel of experts selected by the NOAA Administrator will conduct the Fishery Management Study. The Study will evaluate methods and associated institutional arrangements required to carry out fishery management in the United States, recommend changes to the system when needed and seek ways to reduce federal regulatory burdens and costs of fisheries management. It will focus on fundamentals such as the results we expect from management, whether the proper institution arrangements are in place, the appropriate State and Federal roles, and on ways to reduce costs and regulatory burdens while maintaining effective research and enforcement efforts. The study report should be completed by June 1986 so that its recommendations can be reflected in NOAA's position for the 1987 Magnuson Act reauthorization. Due to time and budget constraints, the planned contractual effort was replaced by the panel concept. The panel will meet for the first time in February 1986.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: John T. Everett, Chief, Policy and Planning Staff, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, DC 20235, 202 634-7439

RIN: 0648-AB65

233. ● FOREIGN PERMIT CONDITIONS AND RESTRICTIONS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 611

Legal Deadline: None

Abstract: The action will address the question of what conditions and restrictions are appropriate for the issuance of foreign fishing permits. An advanced notice of proposed rulemaking will solicit comments from the public and the fishery management councils regarding the conditions and restrictions on permits. Comments will be reviewed and the need for further action will be determined at that time.

Timetable:

Action	Date	FR Cite
ANPRM	06/12/86	
ANPRM Comment Period End	08/06/86	
Publication of Policy Statement or NPRM	10/16/86	
NPRM Comment Period End	11/16/86	
Final Action	01/01/87	

Small Entity: No

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Alfred J. Bilik, Fishery Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW, Washington, DC 20235, 202 634-7433

RIN: 0648-AB67

DEPARTMENT OF COMMERCE (DOC)

Proposed Rule Stage

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

234. U.S. GENERAL STANDARDS FOR GRADES OF FISH FILLETS

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 263A; 50 CFR 263B; 50 CFR 263C; 50 CFR 263D; 50 CFR 263E

Legal Deadline: None

Abstract: This revision would amend 50 CFR Subpart 263A and delete 50 CFR Subparts 263A, B, C & D. The revision will simplify the voluntary standards for the inspection/grading of fish fillets by industry and Government inspection personnel by incorporating general criteria for the standards. The timetable for this action is very tentative. Further research will be needed before publication of the rule.

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DOC—NOAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Government Levels Affected: State, Federal

Analysis: See Additional Information

Agency Contact: Rita A. Creitz, Standards Coordinator, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Utilization Research, NMFS, Washington, DC 20235, 202 634-7458

RIN: 0648-AA45

235. PROCESSED FISHERY PRODUCTS, PROCESSED PRODUCTS THEREOF & CERTAIN OTHER PROCESSED FOOD PRODUCTS: U.S. STANDARDS FOR GRADES OF FROZEN FISH BLOCKS & PRODUCTS MADE THEREFROM ETC

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 264A; 50 CFR 264B; 50 CFR 264C; 50 CFR 264D; 50 CFR 264E; 50 CFR 264F; 50 CFR 264G

Legal Deadline: None

Abstract: The revised rule will expand the coverage of established voluntary standards for grades of fishery products to include new products made from fish blocks. The standards will take into account new technology and equipment. These standards will be used in a voluntary program of fishery products inspection and certification by the NMFS. Industry has shown a high level of interest and support for the revisions. The timetable for this action is very tentative. Further research will be needed before the rule is published.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Government Levels Affected: State, Federal

Analysis: See Additional Information

Agency Contact: Rita A. Creitz, Standards Coordinator, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Utilization Research, NMFS, Washington, DC 20235, 202 634-7458

RIN: 0648-AA46

236. U.S. GENERAL STANDARDS FOR GRADES OF SHRIMP

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 265A

Legal Deadline: None

Abstract: The final rule will establish general quality grading standards for all non-breaded forms of fresh or frozen shrimp. These grading standards will provide for the systematic differentiation of the quality of shrimp into four categories – U.S. Grades A, B, C and Substandard. The proposed standards will be applied to all commercial species of fresh or frozen shrimp in raw or cooked states in all non-breaded market forms. The adoption of grading standards is expected to facilitate trade in shrimp of all commercial species, as consumers will be able to select shrimp on the basis of identified quality. Industry has shown great interest in and support for the standards. Timetable for next action is very tentative. Public comments received indicate a need for further research before the rule is published.

Timetable:

Action	Date	FR Cite
NPRM	05/20/82	47 FR 21840
Interim Final Rule	05/20/82	47 FR 21840
NPRM Comment Period End	08/18/82	47 FR 21840
Next Action Undetermined		

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Government Levels Affected: State, Federal

Analysis: See Additional Information

Agency Contact: Rita A. Creitz, Standards Coordinator, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Utilization Research, NMFS, Washington, DC 20235, 202 634-7458

RIN: 0648-AA47

237. MARKING REQUIREMENTS FOR THE IMPORTATION, EXPORTATION, & INTERSTATE TRANSPORTATION OF FISH OR WILDLIFE

Significance: Regulatory Program

Legal Authority: 16 USC 3371 to 3375 Lacey Act Amendments of 1981

CFR Citation: 50 CFR 14.81 to 14.83

Legal Deadline: None

Abstract: These regulations will enable NOAA to monitor interstate and foreign commerce in fish and fishery products, for the purpose of detecting violations of Federal, state and foreign laws. The regulations will conform to current industry practices.

Timetable:

Action	Date	FR Cite
NPRM	04/30/86	
Final Action	06/01/86	

Small Entity: No

Additional Information: The regulations will be issued jointly with the Department of the Interior. Neither an RIA nor an RFA is required.

Affected Sectors: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Government Levels Affected: Local, State, Federal

Analysis: See Additional Information

Agency Contact: Steven C. Springer, Special Agent In Charge, Department of Commerce, National Oceanic and Atmospheric Administration, Enforcement Div., NMFS, Washington, DC 20235, 202 634-7285

RIN: 0648-AA53

DOC—NOAA

Proposed Rule Stage

238. STRIPED BASS FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser & Management Act

CFR Citation: Not yet determined

Legal Deadline: Statutory. 110 days after the fishery management plan is submitted by the fishery management council.

Abstract: The drastic 10-year decline of commercial and recreational landings of striped bass indicates the need for protective management measures for territorial waters and the fishery conservation zone (FCZ). The territorial waters will be managed by the Interstate Striped Bass Plan of the Atlantic States Marine Fisheries Commission. The Interstate Striped Bass Plan will be adopted by Secretarial amendment for implementation in the FCZ so that management measures in the territorial and FCZ waters will be fully compatible.

Timetable:

Action	Date	FR Cite
NPRM	07/29/86	
NPRM Comment Period End	08/29/86	
Final Action	10/03/86	
Final Action Effective	11/03/87	

Small Entity: Yes

Additional Information: A RIA is not required. A regulatory impact review and a regulatory flexibility analysis will be available.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis; Regulatory Impact Review 07/29/86

Agency Contact: Richard H. Schaefer, Actg. Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service FNER, 14 Elm St., Gloucester, MA 01930, 617 281-3600

RIN: 0648-AB25

239. FISHERY MANAGEMENT PLAN FOR THE BOTTOMFISH AND SEAMOUNT GROUNDFISH FISHERIES OF THE WESTERN PACIFIC REGION

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser & Management Act

CFR Citation: 50 CFR 664

Legal Deadline: Statutory. 110 days after the fishery management plan is submitted by the fishery management council.

Abstract: The FMP will establish framework measures for the bottomfish/groundfish resources within the FCZ off American Samoa, Guam and Hawaii. This FMP would achieve optimum yield preventing stock reductions that would cause instability in the production and market supply of fresh bottomfish, proposes to collect the data necessary to monitor the fishery and would promote an expanded domestic harvest of underutilized bottomfish/groundfish resources in an orderly manner.

Timetable:

Action	Date	FR Cite
NPRM	03/25/86	
NPRM Comment Period End	05/09/86	
Final Action	06/13/86	
Final Action Effective	07/13/86	

Small Entity: Undetermined

Additional Information: A RIA is not required and will not be prepared. A regulatory impact review was prepared.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Analysis: Regulatory Impact Review 03/25/86

Agency Contact: E. Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service FSWR, 300 S. Ferry St., Terminal Island, CA 90731, 213 548-2575

RIN: 0648-AB27

240. FISHERY MANAGEMENT PLAN FOR BLUEFISH

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The FMP will control the level of fishing in order to prevent the decline of this valuable recreational and commercial species. The FMP, which was disapproved on 9/7/84, will be revised.

Timetable:

Action	Date	FR Cite
NPRM	11/01/86	
NPRM Comment Period End	12/15/86	
Final Action	01/19/87	
Final Action Effective	02/18/87	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: State, Federal

Agency Contact: Richard H. Schaefer, Actg. Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service FNER, 14 Elm St., Gloucester, MA 01930, 617 281-3600

RIN: 0648-AB29

241. DEVELOPMENT OF A FISHERY MANAGEMENT PLAN FOR SUMMER FLOUNDER

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Summer flounder is seasonably vulnerable to very large and varied commercial and recreational fisheries. Landings have declined in recent years and there is concern that overfishing may occur. The summer flounder crosses Council and Regional boundaries necessitating close coordination between the constituent agencies. The long-term benefits of higher production and revenue to the fishermen and processors are expected to outweigh any short-term limitations on catches in order to rebuild the stocks. Rebuilding the stocks to the maximum level, the efficiency of the fleet will improve as catches per unit of effort will correspondingly rise.

Timetable:

Action	Date	FR Cite
NPRM	12/01/86	
NPRM Comment Period End	01/16/87	
Final Action	02/21/87	
Final Action Effective	03/20/87	

Small Entity: Undetermined

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Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Richard H. Schaefer, Actg. Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 14 Elm St. FNER, Gloucester, MA 01930, 617 281-3600

RIN: 0648-AB30

242. AMENDMENT #1 TO AMERICAN LOBSTER FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 649

Legal Deadline: None

Abstract: Amendment #1 to the American Lobster Fishery Management Plan has been proposed to incorporate gear marking requirements. Mandatory reporting of fixed gear is not part of the amendment. The proposed gear marking of offshore lobster trawls would allow fishermen that are harvesting species other than lobster with moving gear such as an otter trawl to avoid entanglement with lobster traps which are fixed gear. Amendment 1 also proposes an exemption to the lobster trap vent requirement for those fishermen with a directed fishery for black sea bass in the area south of Barnegat Light shoreward of the 30 fathom contour. Finally, this amendment provides authority for the Reg. Director to allow exemptions with the concurrence of the New England Fishery Management Council to any specific provisions for the lobster FMP for the purpose of research beneficial to the lobster resource and fishery.

Timetable:

Action	Date	FR Cite
NPRM	03/04/86	
NPRM Comment Period End	04/18/86	
Final Action	05/23/86	
Final Action Effective	06/22/86	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Richard H. Schaefer, Actg. Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service FNER, 14 Elm St., Gloucester, MA 01930, 617 281-3600

RIN: 0648-AB32

243. ATLANTIC BILLFISH AND SHARKS FISHERY - FOREIGN FISHING REGULATIONS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 611, (Revision)

Legal Deadline: None

Abstract: Amends foreign fishing regulations at 50 CFR 611.61 to provide means to adjust seasonal closures affecting foreign longline fishermen to reduce conflicts with domestic fishermen and foreign incidental catches of billfishes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
NPRM Comment Period End	07/00/86	
Final Action	11/00/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Carmen J. Blondin, Deputy Assistant Admin. for Fishery Mgmt., Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 3300 Whitehaven St., NW, Washington, DC 20235, 202 634-7514

RIN: 0648-AB33

244. SOUTH ATLANTIC SHRIMP FISHERY: IMPLEMENTING REGULATIONS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 643, (Reserved)

Legal Deadline: Statutory. 110 days after regulation is submitted by the fishery management council.

Abstract: Problems are overcapitalization of shrimp fishing vessels, conservation of shrimp spawning stocks, and inconsistency of State management. Alternatives are continuing with management by each State (no action), limited entry to transfer surplus capital from the fishery, cooperative Federal/State restrictions on fishing on spawning stocks, consistency of State fishing regulations (seasons, areas), improved data collection and analysis on a regional basis and gear modifications that could conserve threatened sea turtles that are incidental catch in shrimp trawls.

Timetable:

Action	Date	FR Cite
NPRM	02/00/87	
NPRM Comment Period End	03/00/87	
Final Action	06/00/87	
Final Action Effective	07/00/87	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Jack T. Brawner, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service FSER, 9450 Koger Blvd., St. Petersburg, FL 33702, 206 526-6150

RIN: 0648-AB35

245. AMENDMENT 10 TO THE TANNER CRAB FISHERY MANAGEMENT PLAN (FMP)

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 671

Legal Deadline: None

Abstract: An amendment to the existing Tanner crab fishery management plan to expand the Alaska Regional Director's field order authority to adjust harvest levels and seasons. A similar proposal contained in Amendment 9 was disapproved by the Secretary.

Timetable:

Action	Date	FR Cite
NPRM	06/15/86	
NPRM Comment Period End	08/01/86	
Final Action	10/01/86	
Final Action Effective	11/01/86	

Small Entity: Undetermined

Additional Information: A RIA is not required. A regulatory impact review and a regulatory flexibility analysis will be prepared.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Robert W. McVey, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, P.O. Box 1668 FAKR, Juneau, AK 99802, 907 586-7221

RIN: 0648-AB38

246. AMENDMENT TO THE GULF OF ALASKA GROUNDFISH FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 672

Legal Deadline: None

Abstract: Amendment to the Gulf of Alaska Groundfish Fishery Management Plan prohibits retention of any groundfish species when the optimum yield for that species has been reached.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
NPRM Comment Period End	08/00/86	
Final Action	11/00/86	
Final Action Effective	12/00/86	

Small Entity: Undetermined

Additional Information: A RIA is not required. A Regulatory Impact Review will be prepared.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Robert W. McVey, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service FAKR, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AB40

247. AMENDMENT FOR ALASKA GROUNDFISH AND HIGH SEAS-SALMON FISHERY MANAGEMENT PLANS - CLOSE FCZ INTRUSION INTO STATE WATERS

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser & Management Act

CFR Citation: 50 CFR 672

Legal Deadline: None

Abstract: This amendment will implement the intent of current legislation that refers to the State of Alaska management of groundfish in Federal waters that intrude into the intercoastal waters of southeastern Alaska. It affects the Gulf of Alaska groundfish and High Sea salmon fisheries. The amendment to the Gulf of Alaska Groundfish Fishery Management Plan to redefine Sablefish Management Boundaries (RIN 0648-AB39) has been combined with this action.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
NPRM Comment Period End	08/00/86	
Final Action	10/00/86	
Final Action Effective	11/00/86	

Small Entity: No

Additional Information: A RIA is not required. A regulatory impact review will be prepared.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: State, Federal

Agency Contact: Robert W. McVey, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service FAKR, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AB41

248. REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS; IMPORTATION OF YELLOWFIN TUNA

Significance: Regulatory Program

Legal Authority: 16 USC 1361 et seq Marine Mammal Protection Act of 1972

CFR Citation: 50 CFR 216.24

Legal Deadline: None

Abstract: U.S. tuna purse seine fishermen operating in the eastern tropical Pacific have been subject to certain restrictions relating to the take of marine mammals, whereas other nations fishing in a similar manner that export tuna to the U.S. often do not impose similar constraints on their own industry. Therefore, the Marine Mammal Protection Act of 1972 was amended to require all such nations, prior to being allowed to import tuna, to provide documentary evidence that they have adopted a program governing the incidental taking of marine mammals that is comparable to that of the U.S. and that the average rate of incidental take in the fishery is comparable to the U.S. These regulations will implement this requirement.

Timetable:

Action	Date	FR Cite
ANPRM	11/29/84	49 FR 46921
NPRM	05/01/86	
NPRM Comment Period End	07/01/86	
Final Action	11/01/86	
Final Action Effective	02/01/87	

Small Entity: No

Additional Information: This action will require restrictions on foreign nations that export tuna to the U.S. similar to those imposed on U.S. tuna fishermen. These regulations will have no impact domestically in terms of bringing more U.S. nationals under Federal regulations.

Public Compliance Cost: Initial Cost: $9,825; Yearly Recurring Cost: $9,825; Base Year for Dollar Estimates: 1985

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Kenneth R. Hollingshead, Marine Resource Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Species & Habitat Conservation, NMFS, Washington, DC 20235, 202 634-7529

RIN: 0648-AB46

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DOC—NOAA

Proposed Rule Stage

249. ENDANGERED FISH OR WILDLIFE; PERMITS FOR THE INCIDENTAL TAKING OF ENDANGERED MARINE SPECIES

Legal Authority: 16 USC 1531 et seq Endangered Species Act of 1973

CFR Citation: 50 CFR 220; 50 CFR 222

Legal Deadline: None

Abstract: The proposed regulations implement Section 10(a)(1)(B) of the Endangered Species Act, as amended (ESA). The proposal provides, under limited circumstances, for issuance of permits allowing the incidental taking of endangered species. The proposal applies to certain Federal permit or license holders and to private entities or State local governments whose actions are not otherwise subject to Federal involvement or control. Prior to the 1982 amendments to the ESA, the taking of endangered species was prohibited except for scientific research or to enhance the propagation or survival of the species. Permits issued under the proposed regulations would allow Permit holders to conduct their activities without risk of prosecution for the incidental take of species authorized by such permits.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
NPRM Comment Period End	05/00/86	

Small Entity: Undetermined

Additional Information: Potential cost to applicants is estimated at 2500. Cost per applicant is estimated at $10. Each applicant will be required to submit a conservation plan as part of the permit process. As part of their conservation plan, fishermen will have the option of voluntary use of the Trawling Efficiency Device which allows trapped sea turtles to escape from fishing nets. Selection of this option will result in an additional cost of approximately $400 per Device. NEPA, E.O. 12291 and RFA determinations have not been undertaken.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Local, State, Federal

Agency Contact: Patricia A. Carter, Fishery Biologist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Species and Habitat Conservation, NMFS, Washington, DC 20235, 202 634-7471

RIN: 0648-AB47

250. AMENDMENT 11 TO THE TANNER CRAB FISHERY MANAGEMENT PLAN (FMP)

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser & Management Act

CFR Citation: 50 CFR 671

Legal Deadline: None

Abstract: An amendment to the existing Tanner crab fishery management plan and regulations to close fishery conservation zone intrusions into State of Alaska waters. Boundary changes are proposed so that these areas of intrusion fall under State management.

Timetable:

Action	Date	FR Cite
NPRM	07/01/86	
NPRM Comment Period End	08/15/86	
Final Action	11/01/86	
Final Action Effective	12/01/86	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: State, Federal

Agency Contact: Robert W. McVey, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service FAKR, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AB53

251. FISHERY MANAGEMENT PLAN FOR PACIFIC BILLFISH FISHERIES OF THE WESTERN PACIFIC REGION

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 662

Legal Deadline: Statutory. 110 days after the fishery management plan is submitted by the fishery management council.

Abstract: The FMP proposes a conservation and management program for harvesting billfish, mahimahi, wahoo and oceanic sharks in the U.S. ECZ of the central and western Pacific ocean. The FMP presents management measures and reporting requirements to regulate the take of billfish, mahimahi, wahoo and oceanic sharks by foreign fishing vessels in the ECZ surrounding Hawaii, Guam, American Samoa, and U.S. Island possessions in the Pacific ocean. Other than proposing to prohibit the use of drift gillnet gear, the FMP does not propose controls on the catches of billfish and associated species by domestic fishing vessels, but proposes the strengthening of State and Territorial reporting requirements and data collection and sampling activities to better monitor domestic participation in the domestic fisheries for billfish and associated species.

Timetable:

Action	Date	FR Cite
NPRM	05/06/86	
NPRM Comment Period End	06/20/86	
Final Action	07/25/86	
Final Action Effective	08/24/86	

Small Entity: Undetermined

Additional Information: An RIR will be prepared.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Local, State, Federal

Agency Contact: E. Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 300 S. Ferry St., Terminal Island, CA 90731, 213 548-2575

RIN: 0648-AB61

252. ● FOREIGN FISHING POUNDAGE AND PERMIT FEES, 1987

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 611.12

Legal Deadline: Statutory, January 1, 1987

Abstract: This rule will set poundage and permit fees for foreign fishing in 1987.

DOC—NOAA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/30/86	
NPRM Comment Period End	10/30/86	
Final Action	12/15/86	
Final Action Effective	01/01/87	

Small Entity: No

Additional Information: An RIA is not required. A regulatory impact review will be prepared and available September 1986.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Alfred J. Bilik, Fishery Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW, Washington, DC 20235, 202 634-7232

RIN: 0648-AB69

253. ● FISHERY RESOURCES OF PUERTO RICO AND THE VIRGIN ISLANDS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 00 CFR undetermined

Legal Deadline: Statutory. 110 days after it is submitted by the fishery management council.

Abstract: Overfishing of finfish and shellfish by a large fleet of small boat artisanal fishermen is a serious problem. A variety of size limits and seasons are being considered applicable to the species that require protection. The benefits are estimated to exceed the costs.

Timetable:

Action	Date	FR Cite
NPRM	02/02/87	
NPRM Comment Period End	03/18/87	
Final Action	07/07/87	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Jack T. Brawner, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 206 826-6150

RIN: 0648-AB71

254. ● SWORDFISH FISHERY MANAGEMENT PLAN

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 630

Legal Deadline: Statutory. 110 days after the fishery management plan is submitted by the fishery management council.

Abstract: Management measures which were disapproved when the FMP was adopted (9/16/85 50 FR 33952) will be revised and resubmitted for Secretarial Review. Measures which may be considered include a prohibition on nighttime longlining, restrictions on drift entanglement nets, and a cap on the incidental catch of swordfish by foreign longline and squid trawl fisheries.

Timetable:

Action	Date	FR Cite
NPRM	03/31/86	
NPRM Comment Period End	04/25/86	
Final Action	06/04/86	
Final Action Effective	06/29/86	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Jack T. Brawner, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, FSER, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AB72

255. ● AMENDMENT 1 TO THE PLAN MANAGING THE COMMERCIAL AND RECREATIONAL OCEAN SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON AND CALIFORNIA

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 661

Legal Deadline: Statutory. 110 days after the amendment is submitted by the fishery management council.

Abstract: The amendment is expected to establish natural spawning escapement goals for Oregon coastal coho. Also the amendment will reexamine inseason management actions, management of the Klamath River salmon, coho allocations south of Cape Falcon, Oregon and habitat consideration. This action is in response to court orders mandating cooperative management of salmon, and U.S.-Canada treaty requirements for the management of ocean salmon.

Timetable:

Action	Date	FR Cite
NPRM	10/06/86	
NPRM Comment Period End	11/19/86	
Final Action	12/24/86	
Final Action Effective	01/23/87	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Local, State, Federal

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, FNWR, 7600 Sand Point Way NE, Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648-AB73

256. ● SPINY LOBSTER FISHERY OF THE GULF OF MEXICO AND SOUTH ATLANTIC - AMENDMENT 1

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 641, (Revision)

Legal Deadline: Statutory. 110 days after the amendment is submitted by the fishery management council.

Abstract: There is a high mortality of undersized lobsters used as line bait in traps, an increasing number of traps in the fishery, incompatible State and Federal regulations, and an excessive number of abandoned traps. The alternatives considered are: a required onboard live well for carrying lobsters used as bait, a Federal permit to fish, a

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temporary moratorium on the number of permitted vessels, a prohibition on imported lobsters (Panulirus argus) smaller than the minimum size, modify the sportfishing possession limit, request modification of the State reporting requirements, require a performance bond for all permitted fishermen with forfeiture of bond for failure to remove traps during closed season, require release of all egg-bearing lobsters, require a permit to separate lobsters at sea, and require identification of gear and vessels. Estimated benefits are an increase in annual yield of 1.5 million lbs. and an increase of $3.3 million to fishermen by 1987. The benefits will exceed the costs.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	
NPRM Comment Period End	12/00/86	
Final Action	01/00/87	
Final Action Effective	02/00/87	

Small Entity: Yes

Additional Information: An RIA is not required. A regulatory impact review and a regulatory flexibility analysis will be prepared.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis

Agency Contact: Jack T. Brawner, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 206 526-6150

RIN: 0648-AB74

257. ● AMENDMENT 1 TO THE REEF FISH FISHERY OF THE GULF OF MEXICO FISHERY MANAGEMENT PLAN

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 641, (Revision)

Legal Deadline: Statutory. 110 days after the amendment is submitted by the fishery management council.

Abstract: There is an increasing harvest of snappers and groupers by the longline fishery and some indications of growth overfishing. The recreational fishery continues to harvest many small red snappers. The alternatives are seasons and area closures for the longline fishery and control of recreational fishing for red snapper by area and season. The benefits are estimated to exceed the costs.

Timetable:

Action	Date	FR Cite
NPRM	03/03/87	
NPRM Comment Period End	04/17/87	
Final Action	06/23/87	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Jack T. Brawner, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, 9450 Koger Blvd., St. Petersburg, FL 33702, 206 526-6150

RIN: 0648-AB75

258. ● AMENDMENT 15 TO THE GULF OF ALASKA GROUNDFISH FISHERY MANAGEMENT PLAN

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 672

Legal Deadline: Statutory. 110 days after the amendment is submitted by the fishery management council.

Abstract: Amendment to the Gulf of Alaska Groundfish Fishery Management Plan that changes the optimum yields for groundfish species.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	
NPRM Comment Period End	01/00/87	
Final Action	02/00/87	
Final Action Effective	03/00/87	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Robert W. McVey, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AB76

259. ● AMENDMENT NO. 2 FOR THE FISHERY MANAGEMENT PLAN FOR THE WASHINGTON, OREGON, AND CALIFORNIA GROUNDFISH FISHERY

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 663

Legal Deadline: Statutory. 110 days after the amendment is submitted by the fishery management council.

Abstract: This amendment will (1) remove a subarea optimum yield (OY) for sablefish in Monterey Bay; (2) allow prohibited species to be landed in the Whiting fishery; (3) remove the 20 percent lid on increases to accepted biological catch; (4) framework gear provisions; and (5) take 3 species out of the numerical OY category (sablefish, Pacific ocean perch, and other rockfish).

Timetable:

Action	Date	FR Cite
NPRM	09/16/86	
NPRM Comment Period End	10/31/86	
Final Action	12/05/86	
Final Action Effective	01/04/87	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Rolland A. Schmitten, Director, Northwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, FNWR, 7600 Sand Point Way NE, Bldg. 1, Seattle, WA 98115, 206 526-6150

RIN: 0648-AB77

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

260. PROPOSED REGULATIONS FOR THE NATIONAL MARINE SANCTUARY PROGRAM

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 922

Legal Deadline: None

Abstract: As a result of the Marine Protection, Research and Sanctuaries Act reauthorization signed by the President on October 19, 1984, the regulations are being revised to incorporate modifications from the new legislation regarding the sanctuary designation process and site selection criteria.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
NPRM Comment Period End	07/00/86	
Final Action	09/00/86	
Final Action Effective	10/00/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Dr. Nancy Foster, Chief, Sanctuary Programs Division, Department of Commerce, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW, Washington, DC 20235, 202 634-4236

RIN: 0648-AA31

261. PROPOSED REGULATIONS FOR THE KEY LARGO NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 929

Legal Deadline: None

Abstract: These regulations are being revised to update enforcement provisions and to change research permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
NPRM Comment Period End	09/00/86	
Final Action	12/00/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Dr. Nancy Foster, Chief, Sanctuary Programs Division, Department of Commerce, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW, Washington, DC 20235, 202 634-4236

RIN: 0648-AA33

262. DRAFT REGULATIONS FOR THE PROPOSED FLOWER GARDEN BANKS NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 943

Legal Deadline: None

Abstract: These regulations will protect the ecological and biological reef communities of the East and West Flower Garden Banks offshore Texas and Louisiana, if the area is designated as a national marine sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	
NPRM Comment Period End	10/00/86	
Final Action	01/00/87	

Small Entity: No

Agency Contact: Dr. Nancy Foster, Chief, Sanctuary Programs Division, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Mgt., 3300 Whitehaven Street, NW, Washington, DC 20235, 202 634-4236

RIN: 0648-AB49

263. DRAFT REGULATIONS FOR THE PROPOSED CORDELL BANK NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 942

Legal Deadline: None

Abstract: These regulations will protect the ecological, recreational, and esthetic resources of the waters surrounding Cordell Bank, if the area is designated as a national marine sanctuary.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
NPRM Comment Period End	06/00/86	
Final Action	09/00/86	

Small Entity: No

Agency Contact: Dr. Nancy Foster, Chief, Sanctuary Programs Division, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Mgt., 3300 Whitehaven Street, NW, Washington, DC 20235, 202 634-4236

RIN: 0648-AB50

264. PROPOSED REGULATIONS FOR THE LOOE KEY NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 937

Legal Deadline: None

Abstract: These regulations are being revised to update enforcement provisions and to change research permit requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
NPRM Comment Period End	09/00/86	
Final Action	12/00/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Agency Contact: Dr. Nancy Foster, Chief, Sanctuary Programs Division, Department of Commerce, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW, Washington, DC 20235, 202 634-4236

RIN: 0648-AB64

265. ● PROPOSED REGULATIONS FOR THE NATIONAL ESTUARINE RESERVE RESEARCH PROGRAM

Legal Authority: 16 USC 1461

CFR Citation: 15 CFR 921

Legal Deadline: None

Abstract: When the Coastal Zone Management Reauthorization Act of 1985 becomes effective, the existing regulations for the National Estuarine Sanctuary Program will need to be updated to reflect the changes that will occur in the program--(1) a stronger emphasis for conducting, promoting and coordinating research within the system; (2) changes the name of the program to "National Estuarine Reserve Research System"; (3) the amount of

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Federal financial assistance is increased to $4,000,000 per site; and (4) submission of an annual report to Congress beginning with fiscal year 1988.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
NPRM Comment Period End	08/00/86	
Final Action	12/00/86	

Small Entity: No

Government Levels Affected: Local, State

Agency Contact: Dr. Nancy Foster, Chief, Sanctuary Programs Division, Department of Commerce, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW, Washington, DC 20235, 202 634-4236

RIN: 0648-AB66

NATIONAL OCEAN SURVEY/OFFICE OF MINERAL ENERGY

266. DEEP SEABED MINING REGULATIONS FOR COMMERCIAL RECOVERY

Significance: Regulatory Program

Legal Authority: 30 USC 1401 et seq Deep Seabed Hard Mineral Resources Act

CFR Citation: 15 CFR 971

Legal Deadline: None

Abstract: Under 15 CFR 970, prospective deep seabed miners may apply to NOAA for the exploration license needed to explore the deep seabed for manganese nodules. Under the new regulations, prospective miners will be able to apply to NOAA for a permit to commercially recover and process nodules to obtain strategic metals (nickel, copper, cobalt, manganese). These permits would provide security of tenure for applicants with respect to other U.S. citizens and other nations' permittees in accordance with applicable international agreements. Fees for securing and maintaining a permit will be based on the Government's processing costs. These fees would be an inconsequential portion of the cost of a commercial recovery operation. The cost of a commercial recovery operation is expected to exceed one billion dollars. Alternatives to the regulation would require amending the Deep Seabed Hard Mineral Resources Act, which would be considered in the context of the U.S. law of the sea policy.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/82	47 FR 57903
NPRM	04/00/86	
Public Hearing	06/00/86	
NPRM Comment Period End	08/00/86	
Final Action	09/00/86	
Final Action Effective	10/00/86	

Small Entity: No

Additional Information: The RIA and RFA prepared for the exploration license regulations will be reviewed and reaffirmed or supplemented as needed to cover new issues raised by the commercial recovery permit regulations. It is expected that small entities will not be permittees. Rather some small entities are expected to be contractors or subcontractors to permittees. The RIA and RFA are available, as are the programmatic Environmental Impact Statement and supporting guidance document on seabed mining using currently foreseeable technology.

Affected Sectors: 102 Copper Ores; 106 Ferroalloy Ores, Except Vanadium; 108 Metal Mining Services; 331 Blast Furnaces, Steel Works, and Rolling and Finishing Mills; 333 Primary Smelting and Refining of Nonferrous Metals; 951 Administration of Environmental Quality Programs

Government Levels Affected: Local, State, Federal

Analysis: See Additional Information

Agency Contact: John W. Padan, Program Manager, Deep Seabed Mining, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean Minerals and Energy, 2001 Wisconsin Avenue, NW, Suite 105, Washington, DC 20235, 202 653-8257

RIN: 0648-AA36

DEPARTMENT OF COMMERCE (DOC)

Final Rule Stage

National Oceanic and Atmospheric Administration (NOAA)

NATIONAL MARINE FISHERIES SERVICE

267. CIVIL PROCEDURES

Legal Authority: 15 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act; 16 USC 773 et seq Northern Pacific Halibut Act of 1982

CFR Citation: 15 CFR 904

Legal Deadline: None

Abstract: The existing regulations (15 CFR 904) provide uniform procedures for enforcement and civil proceedings under the various fishery and marine resource statutes administered by NOAA. The regulations are being revised to consolidate all aspects of NOAA's civil process which can be uniformly treated. The revised regulations will provide uniform permit processing procedures and sanction procedures; means of addressing the respondent's ability to pay in civil penalty proceedings; procedures for issuance and appeal of written warnings, summary forfeitures, and for selling seized perishable fish. The revisions will clarify for the public the procedures which NOAA follows in carrying out its enforcement responsibilities. The amendments thus are beneficial rather than burdensome to the public. These procedural regulations will not increase costs to the public or local governments. Nor will they have a significant adverse effect on competition, employment or industry. The alternative of not further consolidating the procedures was considered and rejected. There is no alternative to making the updating and housekeeping portions of the amendments.

Timetable:

Action	Date	FR Cite
NPRM Revising Interim Final Rule	10/31/84	
Beg. Comment Period on NPRM	10/31/84	
End Comment Period on NPRM	12/31/84	

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Action	Date	FR Cite
Interim Final Rule	04/01/85	50 FR 12781
Final Action	05/01/86	
Final Action Effective	06/01/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Government Levels Affected: State, Federal

Analysis: See Additional Information

Agency Contact: Margaret H. Frailey, Asst. General Counsel, Department of Commerce, National Oceanic and Atmospheric Administration, Enforcement and Litigation, 3300 Whitehaven Street, NW, Room 533, Washington, DC 20235, 202 254-8359

RIN: 0648-AA26

268. DESIGNATED CRITICAL HABITAT; HAWAIIAN MONK SEAL

Legal Authority: 16 USC 1531 et seq Endangered Species Act of 1973

CFR Citation: 50 CFR 226.11

Legal Deadline: None

Abstract: Designation of Critical Habitat is conducted pursuant to the Endangered Species Act of 1973, as amended. Critical Habitat is that area within (or outside) the geographic range of the animal wherein are found those physical and/or biological features essential for the conservation of the species and which may require special management considerations. The objective is to protect the Hawaiian Monk Seal.

Timetable:

Action	Date	FR Cite
NPRM	01/09/85	50 FR 01089
NPRM Comment Period End	03/11/85	50 FR 01089
Final Action	04/00/86	
Final Action Effective	05/00/86	

Small Entity: Undetermined

Additional Information: A supplemental environmental impact statement is available for public review. It has been determined that this is not a major rule under E.O. 12291, therefore no RIA is required, and that this rule will not have a significant economic impact on a substantial number of small entities, therefore no RFA is required.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Local, State, Federal

Analysis: See Additional Information

Agency Contact: Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, CA 90731, 213 548-2575

RIN: 0648-AA27

269. FISHERY CONSERVATION AND MANAGEMENT: CONFIDENTIALITY OF STATISTICS

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 603

Legal Deadline: None

Abstract: The regulations provide internal procedures to protect statistics collected from the public under the Magnuson Fishery Conservation and Management Act from disclosure.

Timetable:

Action	Date	FR Cite
NPRM	01/09/78	43 FR 1460
Interim Final Rule	12/07/79	44 FR 237
Final Action	12/00/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared. The Regulatory Flexibility Act does not apply because the regulations affect only internal operations of an agency.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Local, State, Federal

Analysis: See Additional Information

Agency Contact: B. G. Thompson, Acting Chief, Fisheries Statistics Program, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Data & Information Management, NMFS, Washington, DC 20235, 202 634-7366

RIN: 0648-AA36

270. PREEMPTION OF STATE AUTHORITY UNDER SECTION 306(B) OF THE MAGNUSON FISHERY CONSERVATION & MANAGEMENT ACT

Legal Authority: 16 USC 1856 Sec 306, Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 619

Legal Deadline: None

Abstract: The regulations interpret certain statutory terms applicable to, and establish procedures governing, formal adjudicatory hearings to be held before the Secretary of Commerce can apply Federal fishery regulations to certain waters within State boundaries. Section 306(b) of the Magnuson Fishery Conservation and Management Act authorizes the Secretary of Commerce to regulate a fishery within State boundaries in certain circumstances. Before the Secretary is authorized to do so, he must make certain findings after providing an opportunity for a formal adjudicatory hearing. The regulations apprise affected parties of the procedures to be followed at such a hearing and also of the types of information to be scrutinized that is relevant to the findings to be made.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/22/82	47 FR 12161
Final Action	04/01/86	
Final Action Effective	05/01/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Local, State, Federal

Analysis: See Additional Information

Agency Contact: Wendy Raymont, Attorney, Department of Commerce, National Oceanic and Atmospheric Administration, 3300 Whitehaven St., NW, Page Bldg. 2, Room 404, Washington, DC 20235, 202 634-4224

RIN: 0648-AA41

271. INTERAGENCY COOPERATION - ENDANGERED SPECIES ACT OF 1973, AS AMENDED

Significance: Regulatory Program

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Legal Authority: 16 USC 1531 et seq Endangered Species Act of 1973

CFR Citation: 50 CFR 402

Legal Deadline: None

Abstract: The regulations will update existing regulations pursuant to the 1978, 1979 and 1982 amendments to the Endangered Species Act. The revisions will explain, organize, and simplify the consultation process required by Section 7 of the Act, and will be published jointly with the U.S. Fish and Wildlife Service.

Timetable:

Action	Date	FR Cite
NPRM	06/29/83	48 FR 29990
NPRM Comment Period End	08/29/83	48 FR 29990
Final Action	04/00/86	
Final Action Effective	05/00/86	

Small Entity: No

Additional Information: The Department of the Interior, as lead agency in the development of the regulations, has prepared a draft environmental assessment. A determination will be made at the time of the final rule as to whether this is a major Federal action within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969. It has been determined that the regulations will not constitute a major rule under EO 12291 and will not have a significant economic impact on a substantial number of small entities under the terms of the Regulatory Flexibility Act.

Affected Sectors: 951 Administration of Environmental Quality Programs

Government Levels Affected: Federal

Analysis: See Additional Information

Agency Contact: Charles Karnella, Marine Resource Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Species and Habitat Conservation, NMFS, Washington, DC 20235, 202 634-7471

RIN: 0648-AA43

272. TANNER CRAB FISHERY MANAGEMENT PLAN (FMP) - REGULATORY AMENDMENT TO CHANGE POT STORAGE AREAS

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 671

Legal Deadline: None

Abstract: This regulatory amendment would modify crab pot storage in the Bering Sea and Gulf of Alaska. Changes are needed to establish new shallow water areas to store domestic Tanner crab pots during closed seasons around the Pribilof Islands, and to prevent preemption of productive fishing grounds for other species.

Timetable:

Action	Date	FR Cite
NPRM	12/02/83	48 FR 54363
NPRM Comment Period End	01/16/84	48 FR 54363
Final Action	08/01/86	
Final Action Effective	09/01/86	

Small Entity: No

Additional Information: An environmental assessment was prepared which includes a socioeconomic analysis upon which the determinations of non-major under EO 12291 and non-significant under the Regulatory Flexibility Act were made. The environmental assessment is available.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: State, Federal

Analysis: Environmental assessment 12/02/83 (48 FR 54363)

Agency Contact: Mr. Robert W. McVay, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AA71

273. U.S. STANDARDS FOR GRADES OF FRESH OR FROZEN NORTH AMERICAN FRESHWATER CATFISH AND PRODUCTS MADE THEREFROM

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 267, (New)

Legal Deadline: None

Abstract: This proposed standard will establish a voluntary standards system to identify various products made from North American Freshwater Catfish and to grade these products A, B, C and Substandard. The objective of the standard is to facilitate trade in these products thereby benefiting the consumer. The standard will be used by NMFS in the voluntary program of fishery products inspection and certification. Industry has expressed strong support for these voluntary standards.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/05/84	49 FR 27514
Final Action	10/01/86	
Final Action Effective	11/01/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: 027 Animal Specialties; 209 Miscellaneous Food Preparations and Kindred Products

Government Levels Affected: State, Federal

Analysis: See Additional Information

Agency Contact: Rita A. Creitz, Standards Coordinator, Department of Commerce, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, N.W., Washington, DC 20235, 202 634-7458

RIN: 0648-AA73

274. TAKING OF MARINE MAMMALS INCIDENTAL TO SPACE SHUTTLE LAUNCHES

Legal Authority: 16 USC 1361 et seq Marine Mammal Protection Act of 1972

CFR Citation: 50 CFR 228.21 to 228.26

Legal Deadline: None

Abstract: Based on request from the Air Force, the NMFS will publish regulations which will allow a small number of marine mammals to be incidentally taken as a result of sonic booms from space shuttle launches from Vandenberg Air Force Base, California. Section 101 (a)(5) of the Marine Mammal Protection Act provides for allowing the taking of small numbers of marine mammals incidental to specified activities provided that certain findings can be made and regulations are established which set forth permissible methods of taking, and requirements for monitoring and reporting.

Timetable:

Action	Date	FR Cite
ANPRM	05/04/84	49 FR 19098
ANPRM Comment Period End	07/03/84	
NPRM	08/01/85	50 FR 31200
NPRM Comment Period End	09/30/85	50 FR 31200
Final Action	03/31/86	
Final Action Effective	04/30/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared. An environmental assessment was prepared.

Affected Sectors: 966 Space Research and Technology

Government Levels Affected: Federal

Analysis: See Additional Information

Agency Contact: Charles Karnella, Acting Chief, Protected Species Division, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Of. of Protected Species & Habitat Conserv., Washington, DC 20235, 202 634-7529

RIN: 0648-AA84

275. REGIONAL FISHERY MANAGEMENT COUNCILS

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser & Management Act

CFR Citation: 50 CFR 601

Legal Deadline: None

Abstract: Revision of regulatory guidance with regard to the operations of the Regional Fishery Management Councils is being considered to conform with new legislation and administration regulatory policy. These guidelines will not have a direct regulatory impact on the fishing industry or entities participating in the industry.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/01/86	

Small Entity: No

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Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: None

Government Levels Affected: State, Federal

Agency Contact: Loretta Williams, Fishery Management Assistant, Department of Commerce, National Oceanic and Atmospheric Administration, Washington, DC 20235, 202 634-7218

RIN: 0648-AB09

276. WESTERN PACIFIC SPINY LOBSTER FISHERIES - AMENDMENT 3

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser & Management Act

CFR Citation: 50 CFR 681

Legal Deadline: Statutory. 110 days after the amendment is submitted by the fishery management council.

Abstract: This amendment will redefine the legal size and measurement site of spiny lobsters and remove the present 15 percent tolerance for undersized spiny lobsters in the catch. The existing regulations have proved unenforceable.

Timetable:

Action	Date	FR Cite
NPRM	01/07/86	51 FR 1262
NPRM Comment Period End	02/06/86	51 FR 1262
Final Action	03/07/86	
Final Action Effective	04/06/86	

Small Entity: No

Additional Information: A regulatory impact review was prepared and is available.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Analysis: Regulatory Impact Review 07/09/85

Agency Contact: E. Charles Fullerton, Director, Southwest Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 300 S. Ferry Street, Terminal Island, CA 90731, 213 548-2575

RIN: 0648-AB21

277. FOREIGN FISHING - SCIENTIFIC RESEARCH

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser & Management Act

CFR Citation: 50 CFR 611.14

Legal Deadline: None

Abstract: The action would revise the scientific research provisions of the foreign fishing regulations. The action is necessary to bring the regulations into compliance with current policy on scientific research and clarify what foreign vessels may be considered scientific research vessels while conducting activities which might otherwise be considered fishing.

Timetable:

Action	Date	FR Cite
NPRM	12/28/84	49 FR 50498
NPRM Comment Period End	02/26/85	49 FR 50498
Final Action	08/00/86	
Final Action Effective	09/00/86	

Small Entity: No

Additional Information: This action is related to RIN 0648-AA40 General and Recreational Foreign Fishing

Affected Sectors: None

Government Levels Affected: State, Federal

Agency Contact: Alfred J. Bilik, Fishery Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 3300 Whitehaven St., NW, Washington, DC 20235, 202 634-7432

RIN: 0648-AB23

278. SECRETARIAL AMENDMENT EXTENDING THE ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 655, (Revision); 50 CFR 611

Legal Deadline: None

Abstract: The Fishery Management Plan for Atlantic Mackerel, Squid and Butterfish Fisheries and its implementing regulations expire on March 31, 1986, and must be extended

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to continue the management regime governing the harvest of these species by domestic and foreign fishermen until regulations implementing Amendment 2 to the Plan become effective.

Timetable:

Action	Date	FR Cite
NPRM	01/16/86	
NPRM Comment Period End	02/17/86	
Final Action	03/21/86	
Final Action Effective	04/20/86	

Small Entity: No

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Richard H. Schaefer, Acting Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service FNER, 14 Elm St. Federal Bldg., Gloucester, MA 01930, 617 281-3600

RIN: 0648-AB37

279. REPORTING REQUIREMENTS GOVERNING SALMON TAKEN OFF ALASKA AND DELIVERED OR LANDED OUTSIDE ALASKA

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 674

Legal Deadline: None

Abstract: A mandatory reporting requirement for fishing vessel operators who harvest salmon in the fishery conservation zone (FCZ) off Alaska and who sell, transfer, or deliver salmon in the FCZ or to a U.S. port outside Alaska. The operator must submit a fish ticket to the Alaska Department of Fish and Game after each sale, transfer, or delivery. Receipt of this ticket is necessary to obtain timely data on salmon catches.

Timetable:

Action	Date	FR Cite
Interim Rule and request for comments pub.	07/23/84	49 FR 29611
Interim Rule expired	01/23/85	49 FR 29611
Final Action	10/01/86	

Small Entity: No

Additional Information: This rule contains a collection of information requirements subject to the Paperwork Reduction Act, which has been approved as OMB control number 0648-0016.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: State, Federal

Agency Contact: Robert W. McVay, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service FAKR, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AB44

280. GROUNDFISH OF THE GULF OF ALASKA AND HIGH SEAS SALMON FISHERY OFF ALASKA; TECHNICAL AMENDMENT

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 672; 50 CFR 674

Legal Deadline: None

Abstract: As required under P.L. 98-623, NOAA issues a technical amendment to codify the fishery management boundaries of southeastern Alaska established by that law.

Timetable:

Action	Date	FR Cite
Final Action	05/00/86	
Final Action Effective	05/00/86	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: State, Federal

Agency Contact: Marilyn Luipold, Attorney Advisor, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service GCF, 3300 Whitehaven St. NW, Washington, DC 20235, 202 634-4224

RIN: 0648-AB51

281. ● ATLANTIC TUNA FISHERIES - YELLOWFIN TUNA AND BIGEYE TUNA

Legal Authority: Atlantic Tunas Convention Act of 1975 (16 USC 971)

CFR Citation: 50 CFR 285

Legal Deadline: None

Abstract: Minimum size limit of seven pounds (3.2kg) on the landing of bigeye tuna in the Atlantic tuna fishery.

Timetable:

Action	Date	FR Cite
NPRM	10/30/85	50 FR 45134
NPRM Comment Period End	11/29/85	50 FR 45134
Final Action	04/01/86	
Final Action Effective	05/01/86	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Analysis: Draft RIR 10/30/85 (50 FR 45134); Final RIR 04/01/86

Agency Contact: Richard B. Roe, Director, Office of Fisheries Management, Department of Commerce, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW, Washington, DC 20235, 202 634-7218

RIN: 0648-AB70

NATIONAL OCEAN SURVEY/OFFICE OF COASTAL RESOURCES MANAGEMENT

282. FEDERAL CONSISTENCY WITH APPROVED COASTAL ZONE MANAGEMENT PROGRAMS

Significance: Regulatory Program

Legal Authority: 16 USC 1456 Coastal Zone Management Act of 1972

CFR Citation: 15 CFR 930

Legal Deadline: None

Abstract: On January 11, 1984, the U.S. Supreme Court issued its decision in Secretary of the Interior et al. v. California et al. No. 82-1336. The Court held that the sale of Outer Continental Shelf (OCS) oil and gas leases is not an activity "directly affecting" the coastal zone within the meaning of Section 307(c)(1) of the Coastal Zone Management Act of 1972, as amended (CZMA), and, therefore, that a consistency determination is not required under that section before such sales may be made. Section 307 (c)(1) requires that Federal agencies conducting or supporting activities "directly affecting the coastal zone" must conduct or support those activities

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in a manner which is consistent to the maximum extent practicable with federally-approved state coastal zone management programs. NOAA engaged in rulemaking to revise certain CZMA regulations as a result of the Supreme Court decision. NOAA removed those references which identify OCS lease sales as activities covered by the Section 307(c)(1) requirements.

Timetable:

Action	Date	FR Cite
ANPRM	06/01/84	49 FR 22825
ANPRM Comment Period End	06/31/84	49 FR 22825
NPRM	01/28/85	50 FR 3796
NPRM Comment Period End	03/01/85	50 FR 3796
Draft study issued	04/00/85	
Final Action	06/30/85	50 FR 35210
Completion of Study	09/00/86	

Small Entity: No

Additional Information: NOAA issued a final rule August 31, 1985 making the changes required by the Supreme Court Decision, and decided to undertake a comprehensive study of the Federal consistency process. The Draft Study issued April 1985 will assist NOAA in evaluating the need for and consequences of further revision of the Federal consistency regulations.

Affected Sectors: Multiple

Government Levels Affected: State, Federal

Agency Contact: Nan Evans, Senior Policy Analyst, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean and Coastal Resource Mangmnt, 3300 Whitehaven Street, NW, Washington, DC 20235, 202 634-4249

RIN: 0648-AA34

283. PROPOSED REGULATIONS FOR THE PROPOSED FAGATELE BAY NATIONAL MARINE SANCTUARY

Legal Authority: 16 USC 1431 to 1434

CFR Citation: 15 CFR 941

Legal Deadline: None

Abstract: The American Samoa Government does not currently possess the legal authorities necessary for managing site-specific marine resources such as the Fagatele Bay National Marine Sanctuary. Regulations will be proposed for the Fagatele Bay National Marine Sanctuary to fulfill a need evidenced by uncontrolled harvesting of reef fisheries and the loss of habitat via destructive fishing methods. Long-term benefits include resource protection and restoration of habitat; public education and development of an environmental ethic; and ecological succession studies. This project will serve as a prototype for other resource protection initiatives by the American Samoa Government.

Timetable:

Action	Date	FR Cite
NPRM	12/04/84	49 FR 47415
NPRM Comment Period End	02/04/85	
Final Action	05/00/86	
Final Action Effective	06/00/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: State

Analysis: See Additional Information

Agency Contact: Dr. Nancy Foster, Chief, Sanctuary Programs Div., Department of Commerce, National Oceanic and Atmospheric Administration, Office of Ocean & Coastal Resource Mgmt., 3300 Whitehaven Street, N.W., Washington, DC 20235, 202 634-4236

RIN: 0648-AA74

NATIONAL OCEAN SURVEY/OFFICE OF MINERAL ENERGY

284. LICENSING OF OCEAN THERMAL ENERGY CONVERSION FACILITIES AND PLANTSHIPS

Legal Authority: 42 USC 9101 et seq Ocean Thermal Energy Conversion Act; as amended by PL 96-623

CFR Citation: 15 CFR 981 et seq

Legal Deadline: None

Abstract: These regulations (15 CFR 981) established a stable legal system and a streamlined licensing process to facilitate commercial development of ocean thermal energy conversion (OTEC) facilities and plantships. Section 117 of the Ocean Thermal Energy Conversion Act of 1980 requires NOAA to review these regulations periodically, at intervals of not more than every three years, and to revise them as necessary based on that review. In addition, the regulations must be revised to conform to the 1984 Amendments to the OTEC Act. NOAA will amend its regulations in accordance with these reviews.

Timetable:

Action	Date	FR Cite
NPRM	11/00/85	
NPRM Comment Period End	12/00/85	
Final Action	05/00/86	
Final Action Effective	05/00/86	

Small Entity: No

Additional Information: A Final Regulatory Impact Analysis (July 1981) and a Final Programmatic Environmental Impact Statement (July 1981) are available. Neither an RIA nor an RFA is required or prepared for a review of an existing regulation.

Affected Sectors: 281 Industrial Inorganic Chemicals; 287 Agricultural Chemicals; 361 Electric Transmission and Distribution Equipment; 362 Electrical Industrial Apparatus

Government Levels Affected: Local, State, Federal

Analysis: See Additional Information

Agency Contact: James B. Rucker, OTEC Program Manager, Department of Commerce, National Oceanic and Atmospheric Administration, Ocean Minerals and Energy Division, 2001 Wisconsin Ave., NW, Page 1 Rm. 105, Washington, DC 20235, 202 254-3483

RIN: 0648-AA69

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DEPARTMENT OF COMMERCE (DOC)

National Oceanic and Atmospheric Administration (NOAA)

Completed Actions

285. GENERAL AND RECREATIONAL FOREIGN FISHING

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conservation & Mgmt. Act

CFR Citation: 50 CFR 611.1 to 611.98

Legal Deadline: None

Abstract: The regulations will be amended to revise the general regulations governing foreign fishing within the fishery conservation zone (FCZ). The action is necessary because the regulations no longer reflect current practice in the fisheries; they are not deterring illegal actions, and are disjointed, contradictory and difficult to use. The revision is intended to make the regulations consistent with current practices in the fisheries, reduce illegal fishing and simplify and improve the utility of the regulations. The revision reorganizes almost every section of the two affected subparts. Additional definitions are added, including one for recreational fishing which would exempt foreign recreational fishing vessels from permit requirements. Obsolete material is deleted. Reports required for foreign fishing vessels are revised. Additional requirements for facilitation are added. Recordkeeping requirements are revised and requirements for joint ventures are specified.

Timetable:

Action	Date	FR Cite
NPRM	12/28/84	49 FR 50408
NPRM Comment Period End	12/28/84	49 FR 50408
Final Action	01/01/86	50 FR 34984
Final Rule Clarification	02/15/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: None

Government Levels Affected: State, Federal

Analysis: See Additional Information

Agency Contact: Alfred J. Bilik, Fishery Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, Fees, Permits, & Regulations Division, NMFS, 3300 Whitehaven Street, NW, Washington, DC 20235, 202 634-7432

RIN: 0648-AA40

286. U.S. STANDARDS FOR GRADES OF FISH STEAKS

Legal Authority: 7 USC 1621 to 1630 Agricultural Marketing Act of 1946

CFR Citation: 50 CFR 262A

Legal Deadline: None

Abstract: The interim rule would establish a voluntary standards system to classify fish steaks by quality into four categories - U.S. Grade A, B, C, and Substandard. The objective is to facilitate trade in fish steaks classified by quality thereby benefiting the consumer and the industry. The standards would be used in a voluntary program of fishery products inspection and certification by NMFS. The total value of the industry product in 1981 was $19 million. Industry has expressed a high level of interest in and support for the voluntary standards. The timetable for this action is very tentative. Further research will be needed before the rule is published.

Timetable:

Action	Date	FR Cite
Action temporarily discontinued	02/20/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: 091 Commercial Fishing; 209 Miscellaneous Food Preparations and Kindred Products

Government Levels Affected: State, Federal

Analysis: See Additional Information

Agency Contact: Rita A. Creitz, Standards Coordinator, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Utilization Research, NMFS, Washington, DC 20235, 202 634-7438

RIN: 0648-AA44

287. AMENDMENT 1 TO THE ATLANTIC SEA SCALLOP FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser & Management Act

CFR Citation: 50 CFR 650

Legal Deadline: None

Abstract: New England Fishery Management Council has prepared an amendment to the FMP for Atlantic Sea Scallops. With the current low scallop abundance and poor recruitment prospects, the present FMP does not appear to be providing the degree of resource protection anticipated by the Council. If the resource is to be conserved for the benefit of the industry and public, revised management measures are needed to ensure that incoming recruitment to the fishery, when and if it occurs, be better protected. The proposed measure will be a minimum individual meat size, rather than the present average minimum meat count. The ten smallest scallops in a one pint sample must weigh at least 4 ounces. The valuable Atlantic sea scallop resource is capable of yielding 100 million dollars annually, and requires additional protection.

Timetable:

Action	Date	FR Cite
Final Action	11/08/85	50 FR 46069
Final Action Effective	01/01/86	50 FR 46069
Effective date delayed by emergency action.	01/03/86	51 FR 208

Small Entity: Yes

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Richard Schaefer, Actg. Regional Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 14 Elm St., Gloucester, MA 01930, 617 281-3600

RIN: 0648-AA87

288. FINAL RULE IMPLEMENTING THE NORTHEAST MULTISPECIES FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser & Management Act

CFR Citation: 50 CFR 651

Legal Deadline: None

Abstract: The Northeast Multispecies Fishery Management Plan (FMP) was intended to replace the present "Interim Fishery Management Plan for Atlantic Groundfish" which has regulated fishing for cod, haddock, and yellowtail flounder since 1982. Management measures included minimum fish sizes, for commercially-caught cod, haddock, yellowtail flounder, pollock, winter flounder, witch flounder & American plaice; minimum fish sizes for recreationally caught cod and haddock; minimum net mesh sizes in Georges Bank and Gulf of Maine; seasonal closure of a spawning area for yellowtail flounder in Southern New England; a 4-mo. seasonal closure of a haddock spawning area on Georges, and "exempted fisheries program" to allow use of small mesh in certain nearshore areas for several pelagic fisheries and gear marking requirements for bottom tending gillnets. The Secretary of Commerce has disapproved this plan.

Timetable:

Action	Date	FR Cite
NPRM	12/03/85	50 FR 49582
NPRM Comment Period End	01/03/86	50 FR 49582
Withdrawn	01/31/86	

Small Entity: Yes

Additional Information: An RIA is not required and will not be prepared. An RFA, a regulatory impact review, an Environmental Impact Statement, and the FMP will be available.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis; Reg. Impact Review/RFA/EIS 02/06/85

Agency Contact: Richard Schaefer, Actg. Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 14 Elm St., Gloucester, MA 01930, 617 281-3600

RIN: 0648-AB05

289. REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS; DEFINITION OF COMMERCIAL FISHING OPERATION

Legal Authority: 16 USC 1361 et seq Marine Mammal Protection Act of 1972

CFR Citation: 50 CFR 216.3

Legal Deadline: None

Abstract: NOAA has modified the definition of "commercial fishing operation" to include commercial passenger fishing vessels (party boats) under that definition. This modification allows party boat owners and operators to apply for general permits and certificates of inclusion which allow the incidental taking of marine mammals during fishing operations. Under the Marine Mammal Protection Act, no marine mammals may be taken in the course of fishing operations unless permits and certificates have been obtained and until now, party boats were excluded from obtaining permits and certificates. Therefore, they were unable to protect the catch and gear of their paid passengers from depredations. Modification of definition should improve fishing conditions and result in increased revenue. Potential total costs to applicants are estimated at $450. Cost per applicant is estimated at $2.50.

Timetable:

Action	Date	FR Cite
ANPRM	12/15/83	48 FR 55755
ANPRM Comment Period End	01/31/84	
NPRM	01/30/85	50 FR 04244
NPRM Comment Period End	03/18/85	50 FR 04244
Final Action	12/04/85	50 FR 49696
Final Action Effective	01/03/86	50 FR 49696

Small Entity: No

Additional Information: It has been determined that the proposed regulation (1) is a non-major Federal action under NEPA and an Environmental Assessment has been prepared and released to general public; (2) will not constitute a major rule under E.O. 12291 and thus does not require a R.I.A. and (3) will not have a significant impact on a substantial number of small entities and thus does not require a Regulatory Flexibility Analysis.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Analysis: See Additional Information

Agency Contact: K. R. Hollingshead, Marine Resources Management Specialist, Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Species and Habitat Conservation, NMFS, Washington, DC 20235, 202 634-7529

RIN: 0648-AB07

290. SWORDFISH FISHERY MANAGEMENT PLAN: PROPOSED REGULATIONS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser & Management Act

CFR Citation: 50 CFR 630; 50 CFR 611

Legal Deadline: Statutory. 110 days after fishery management plan is submitted by fishery management council.

Abstract: The Plan proposed time, area and quota restrictions on foreign fishing to minimize the bycatch of swordfish. American fishermen would have been controlled by time, area or size restrictions (variable season closure). Data collection would have been by onboard technicians carried on a random stratified sample of trips.

The Secretary of Commerce disapproved all but the following provisions of the plan: establishment of a permit requirement, institution of reporting requirements for the Caribbean, and establishment of a framework procedure for possible future closures of geographical areas (variable season closure).

Timetable:

Action	Date	FR Cite
NPRM	05/31/85	50 FR 23159
NPRM Comment Period End	07/12/85	50 FR 23159
Final Action	08/22/85	50 FR 33952
Final Action Effective	09/16/85	50 FR 33952

Small Entity: Yes

Additional Information: A RIA is not required. A regulatory impact review and a regulatory flexibility analysis will be prepared.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis; Regulatory Impact Review 05/01/85

Agency Contact: Jack T. Brawner, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AB13

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291. AMENDMENT 1 TO THE COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC FISHERY MANAGEMENT PLAN

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser & Management Act

CFR Citation: 50 CFR 642

Legal Deadline: Statutory. 110 days after amendment is submitted by the fishery management council.

Abstract: Amendment 1 revised the implementing regulation to modify management of king mackerel. The resource is divided into Gulf and South Atlantic Migratory Groups. For each group an annual total allowable catch is determined that is allocated among recreational and commercial fishermen. A portion of the commercial quota is allocated to the purse seine fishery. Annual permits are required for vessels fishing the Gulf group. When a commercial quota is attained, commercial fishing must cease for that group. Recreational quotas will be controlled by a bag limit on charter and private boats of 2 fish per person per trip.

Timetable:

Action	Date	FR Cite
NPRM	06/10/85	50 FR 24242
NPRM Comment Period End	07/20/85	50 FR 24242
Final Action	08/26/85	50 FR 34840
Final Action Effective	09/22/85	50 FR 34840

Small Entity: Yes

Additional Information: A RIA is not required and will not be prepared. A RIR/RFA will be available in March 1985.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: State, Federal

Analysis: Regulatory Flexibility Analysis; Regulatory Impact Review 03/15/85

Agency Contact: Jack T. Brawner, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AB15

292. NOTICE OF THE NATIONAL MARINE FISHERIES SERVICE'S PROPOSED POLICIES FOR THE MANAGEMENT OF INTERJURISDICTIONAL FISHERIES AND FISHERY RESOURCES

Significance: Regulatory Program

Legal Authority: 16 USC 661 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The policies are to guide Federal participation in, and support of, interjurisdictional fisheries management by defining the Federal role, proposing general management objectives, and identifying means of implementation. These policies are needed to: (1) provide a framework for more effective management planning and other actions concerning interjurisdictional fisheries and fishery resources; (2) develop a broad awareness of the shared State & Federal responsibilities, and benefits of, long-term management of these fisheries and resources; (3) promote consistent conservation & management throughout the entire range of interjurisdictional fisheries and resources; and (4) establish specific & effective means of resolving jurisdictional differences which interfere with effective fisheries management. It is expected that these policies will result in closer cooperations between State and Federal government agencies responsible for interjurisdictional fisheries programs.

Timetable:

Action	Date	FR Cite
Action Reserved	11/21/85	

Small Entity: No

Affected Sectors: None

Government Levels Affected: State, Federal

Agency Contact: Richard B. Roe, Dir. Off. of Resource Conser & Management, Department of Commerce, National Oceanic and Atmospheric Administration, 3300 Whitehaven St. NW, Washington, DC 20235, 202 634-7218

RIN: 0648-AB24

293. SHALLOW-WATER REEF FISH OF PUERTO RICO AND THE U.S. VIRGIN ISLANDS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser & Management Act

CFR Citation: 50 CFR 669

Legal Deadline: Statutory. 110 days after fishery management plan is submitted by the fishery management council.

Abstract: The Caribbean Fishery Management Council has prepared a Fishery Management Plan (FMP) for shallow-water reeffish of Puerto Rico and the U.S. Virgin Islands. A fishery for various species of snappers, groupers, grunts, porgies, goatfishes, and other edible reeffish using fish traps exists in the territorial waters of Puerto Rico and the U.S. Virgin Islands and the fishery conservation zone. These states have agreed to adopt compatible regulations with those developed by the FMP. Declining catch per unit effort for the reeffish fishery indicates that management measures are necessary to maximize spawning potential and prevent overfishing. Within a 2-3 yr. period after implementation, benefits are predicted to outweigh costs for proposed regulations concerning minimum fish sizes for yellowtail snapper and Nassau grouper. The proposed minimum mesh size for fish traps will allow some juvenile stages of most reeffishes to escape the gear & optimize the size of goatfish which are retained.

Timetable:

Action	Date	FR Cite
NPRM	06/10/85	50 FR 24251
NPRM Comment Period End	07/20/85	50 FR 24251
Final Action	08/26/85	50 FR 34850
Final Action Effective	09/22/85	50 FR 34850

Small Entity: No

Affected Sectors: 091 Commercial Fishing

Agency Contact: Jack T. Brawner, Director, Southeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service FSER, 9450 Koger Blvd., St. Petersburg, FL 33702, 813 893-3141

RIN: 0648-AB26

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294. FINANCIAL ASSISTANCE FOR RESEARCH AND DEVELOPMENT PROJECTS TO STRENGTHEN AND DEVELOP THE U.S. FISHING INDUSTRY - NOTICE OF FUNDS AVAILABILITY

Legal Authority: 15 USC 713(c) Saltonstall-Kennedy Act

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: To provide an annual solicitation of proposals to compete for fisheries development, utilization research and demonstration grants. No alternative to a competitive process for making awards is being considered. It is anticipated that in FY 1986 about 7 million in grant funds will be made available, representing about 70% of total project costs. Grantees are required to match funds on each project. This averages about 30% of total project costs or 3 million dollars.

Timetable:

Action	Date	FR Cite
Final Action	04/16/85	50 FR 15060

Small Entity: Not Applicable

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1984

Government Levels Affected: Federal

Agency Contact: Phyllis Bentz, Program Leader, S-K Program Administration, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Industry Development Division, Washington, DC 20235, 202 634-7451

RIN: 0648-AB28

295. FISHERY MANAGEMENT PLAN FOR SAND EEL

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: An FMP will be prepared to address the problem of an expanding trawl fishery for sand eel in the Northeast which threatens to reduce the abundance of this important food source for traditional commercial and recreational species.

Timetable:

Action	Date	FR Cite
Deleted from Agenda- no action anticipated during the reporting period.	02/27/86	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Richard H. Schaefer, Actg. Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service FNER, 14 Elm St., Gloucester, MA 01930, 617 281-3600

RIN: 0648-AB31

296. AMENDMENT TO THE ATLANTIC SURF CLAM AND OCEAN QUAHOG FISHERY MANAGEMENT PLAN

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Fishery Conser & Management Act

CFR Citation: 50 CFR 652

Legal Deadline: Statutory. 110 days after amendment is submitted by the fishery management council.

Abstract: Amends the regulations governing the harvest of surf clams from Georges Bank. Establishes an optimum yield of 25,000 to 300,000 bushels and a western boundary at 69 degrees longitude. The provision that Mid-Atlantic surf clam vessels may land clams only once during an authorized fishing period was disapproved by the Secretary of Commerce.

Timetable:

Action	Date	FR Cite
NPRM	04/25/85	50 FR 16326
NPRM Comment Period End	05/28/85	50 FR 16326
Final Action	08/14/85	50 FR 32707
Final Action Effective	09/06/85	50 FR 32707

Small Entity: No

Additional Information: An RIA will not be required and will not be prepared. A regulatory impact review will be prepared.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Analysis: Regulatory Impact Review 04/30/85

Agency Contact: Richard H. Shaefer, Actg. Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service FNER, Federal Bldg., 14 Elm St., Gloucester, MA 01930, 617 281-3600

RIN: 0648-AB36

297. AMENDMENT TO THE GULF OF ALASKA GROUNDFISH FISHERY MANAGEMENT PLAN - REDEFINE SABLEFISH MANAGEMENT BOUNDARIES

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser & Management Act

CFR Citation: 50 CFR 672

Legal Deadline: None

Abstract: This amendment will redefine the management boundaries in the Gulf of Alaska and High Seas salmon fisheries.

Timetable:

Action	Date	FR Cite
Merged with RIN 0648-AB41 - combined with amendment to close FCZ intrusion into State waters.	02/27/86	

Small Entity: Undetermined

Additional Information: A RIA is not required. A regulatory impact review will be prepared.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Analysis: Regulatory Impact Review 05/07/85

Agency Contact: Robert W. McVey, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service FAKR, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AB39

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296. THREATENED FISH AND WILDLIFE; GUADALUPE FUR SEAL

Legal Authority: 16 USC 1531 et seq Endangered Species Act of 1973

CFR Citation: 50 CFR 227.4; 50 CFR 227.11, (New); 50 CFR 227.71

Legal Deadline: None

Abstract: Regulations are proposed to list and protect the Guadalupe fur seal (Arctocephalus townsendi) under the Endangered Species Act of 1973. No critical habitat is proposed. In response to a petition, the NMFS conducted a review of the status of the species and determined that it should be listed as a threatened species.

Timetable:

Action	Date	FR Cite
ANPRM	02/08/84	49 FR 04804
ANPRM Comment Period End	04/10/84	49 FR 04804
NPRM	01/03/85	50 FR 00294
NPRM Comment Period End	03/04/85	50 FR 00294
Final Action	12/16/85	50 FR 51251
Final Action Effective	01/15/86	50 FR 51251

Small Entity: Not Applicable

Additional Information: The Endangered Species Act requires that decisions on listings be made solely on the basis of the best scientific and commercial data available regarding a species status.

Affected Sectors: 138 Oil and Gas Field Services; 966 Space Research and Technology

Government Levels Affected: Local, State, Federal

Agency Contact: Patricia A. Montanio, Fishery Biologist, Protected Species Div., Department of Commerce, National Oceanic and Atmospheric Administration, Office of Protected Species & Habitat Conservation, NMFS, Washington, DC 20235, 202 634-7529

RIN: 0648-AB46

299. AMENDMENT 9 TO THE BERING SEA/ALEUTIAN ISLANDS GROUNDFISH FISHERY MANAGEMENT PLAN

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 675

Legal Deadline: None

Abstract: Amendment 9 to the Fishery Management Plan for the Bering Sea/Aleutian Islands Groundfish Fishery was proposed by the North Pacific Fishery Management Council to ban foreign trawling within 20 miles of the Aleutian Islands in order to reduce by catches of species fully utilized by U.S. fishermen and to eliminate gear conflicts with longliners in this area. The Secretary of Commerce has disapproved the proposed ban on foreign trawling. The amendment also requires reporting by catcher/processor vessels to provide NMFS with more timely catch information necessary for adequate inseason management. NMFS habitat conservation policy is also implemented by Amendment 9.

Timetable:

Action	Date	FR Cite
Final Action	11/01/85	50 FR 46072
Final Action Effective	12/01/85	50 FR 46072

Small Entity: Undetermined

Additional Information: Amendment 8 to the Bering Sea/Aleutian Islands Groundfish Fishery Management Plan - RIN 0648-AB45 was incorporated into this Amendment 9.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Robert W. McVey, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service FAKR, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AB52

300. AMENDMENT TO AMERICAN LOBSTER FISHERY MANAGEMENT PLAN - V-NOTCH ON FEMALE LOBSTERS

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 649

Legal Deadline: None

Abstract: An amendment to the American Lobster Fishery Management Plan has been proposed to place a three-year moratorium on the taking or possession of V-notched lobsters (markings made on adult female lobsters by commercial fishermen). The purpose of the amendment is to return females that are bearing eggs or have previously carried eggs so as to enhance recruitments.

Timetable:

Action	Date	FR Cite
Withdrawn - no action anticipated during reporting period.	05/07/84	49 FR 19363

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Richard H. Schaefer, Actg. Director, Northeast Region, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service FNER, 14 Elm St., Gloucester, MA 01930, 617 281-3600

RIN: 0648-AB54

301. FOREIGN FISHING POUNDAGE AND PERMIT FEES, 1986

Significance: Regulatory Program

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 611.12

Legal Deadline: None

Abstract: This rule will set poundage and permit fees for foreign fishing in 1986.

Timetable:

Action	Date	FR Cite
NPRM	10/11/85	50 FR 41533
NPRM Comment Period End	11/12/85	50 FR 41533
Final Action Effective	01/01/86	51 FR 202
Final Action	01/03/86	51 FR 202

Small Entity: No

Additional Information: An RIA is not required. A regulatory/impact review will be prepared and available September 1985.

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Agency Contact: Alfred J. Buik, Fishery Management Officer, Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, 3300 Whitehaven St., NW, Washington, DC 20235, 202 634-7432

RIN: 0648-AB62

302. INITIAL IMPLEMENTATION OF KING CRAB FISHERY MANAGEMENT PLAN

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 676

Legal Deadline: None

Abstract: Notice of approval specifying the laws and regulations of the State of Alaska governing fishing for king crab in the Bering Sea and Aleutian Islands area, which are found by the Secretary of Commerce to be consistent with the FMP, will initially implement the king crab FMP.

Timetable:

Action	Date	FR Cite
Withdrawn - No regulatory action anticipated at the present time.	01/29/86	

Small Entity: Undetermined

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: State, Federal

Agency Contact: Robert W. McVey, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AB63

303. AMENDMENT 14 TO THE FISHERY MANAGEMENT PLAN FOR GROUNDFISH OF THE GULF OF ALASKA

Legal Authority: 16 USC 1801 et seq Magnuson Fishery Conser and Management Act

CFR Citation: 50 CFR 672

Legal Deadline: None

Abstract: The measures proposed in the amendment will (1) establish Central Southeast Outside District within existing Southeast Outside District to better manage demersal shelf rockfish which are part of the other rockfish category and which have a harvest limit of 600 mt; (2) implement harvest OYs for pollock, Pacific ocean perch, other rockfish, Atka mackerel & other species; (3) establish requirement for all U.S. catcher/processing vessels that hold their catch for more than 2 wks. to provide weekly catch reports & check in & check out of regulatory areas; (4) give AK Reg. Dir. authority to allow fisheries that do not take halibut to continue to operate in areas where halibut bycatch limits have been reached; (5) incorporate NMFS habitat policy into Gulf of AK groundfish FMP which gives the N. Pacific Fishery Management Council authority to protect marine environment; (6) change opening date of pot and hookline sablefish fishery to April 1 in all regulatory areas; allocate sablefish among pot hook and line and trawl fishermen and gradually reduce pot fishermen's allocation to zero over several years.

Timetable:

Action	Date	FR Cite
NPRM	07/24/85	50 FR 30481
NPRM Comment Period End	09/07/85	50 FR 30481
Final Action	10/18/85	50 FR 93193
Final Action Effective	11/18/85	50 FR 93193

Small Entity: Yes

Additional Information: This action combines RIN 0648-AB18 "Amendment to the Gulf of Alaska Groundfish Fishery Management Plan-Control Sablefish Fishing off Southeast Alaska"; RIN 0648-AB42 "Amendment to Gulf of Alaska Groundfish Fishery Management Plan - Establish New Optimum Yields" and RIN 0648-AB43 "Amendment to Gulf of Alaska Groundfish Fishery Management Plan - Catch Limits for Pacific Halibut".

Affected Sectors: 091 Commercial Fishing

Government Levels Affected: Federal

Analysis: Regulatory Flexibility Analysis; Regulatory Impact Review 07/24/85

Agency Contact: Robert W. McVey, Director, Alaska Region, Department of Commerce, National Oceanic and Atmospheric Administration, P.O. Box 1668, Juneau, AK 99802, 907 586-7221

RIN: 0648-AB66

[FR Doc. 86-8285 Filed 04-18-86; 8:45 am]

BILLING CODE 3510-BW-T

DEPARTMENT OF COMMERCE (DOC)

Prerule Stage

National Telecommunications and Information Administration (NTIA)

304. PUBLIC TELECOMMUNICATIONS FACILITIES PROGRAM; INTERIM REVISION OF REGULATIONS

Legal Authority: 47 USC 390 to 394; 47 USC 397 to 399b

CFR Citation: 15 CFR 2301

Legal Deadline: None

Abstract: NTIA has completed three grant cycles since the last revision of its PTFP Rules. During these three cycles we have recognized several areas which cause confusion. We intend to clarify these areas to allow potential grantees to understand more easily the requirements and facilitate their application. The proposed changes to Rules and Regulations will allow for more uniformity and clarity in administering the program. Areas included are: 1. Applicant eligibility for planning grants and making project eligibility language more consistent with the law and NTIA practices. 2.What constitutes a complete application and distinguishes it from an application that is deficient. 3.What does filing a timely application mean and how it is to be delivered in a timely manner. 4.How to amend an application. 5.How to reactivate a deferred application. 6.How to request special consideration. 7.Expanded discussions on control and use of equipment, eligible equipment items, and non-eligible equipment items. 8.Expanded discussions on the close-out and monitoring procedures for a project.

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DOC—NTIA

Prerule Stage

Timetable:

Action	Date	FR Cite
Begin Review	04/00/84	
Interim Final Rule	09/18/84	49 FR 36600
End Review	06/00/86	
Final Action	10/00/86	
Final Action Effective	10/00/86	

Small Entity: No

Government Levels Affected: Local, State

Agency Contact: Burnham S. Morse, Telecommunications Policy Analyst, Department of Commerce, National Telecommunications and Information Administration, 14th & Constitution Avenue NW, Room H4890, Washington, DC 20230, 202 377-1836

RIN: 0660-AA01

[FR Doc. 86-8395 Filed 04-18-86; 8:45 am]

BILLING CODE 3510-CW-T

DEPARTMENT OF COMMERCE (DOC)
Office of Productivity, Technology and Innovation (OPTI)

Completed Actions

305. RIGHTS TO INVENTIONS MADE BY NONPROFIT ORGANIZATIONS AND SMALL BUSINESS FIRMS

Significance: Regulatory Program

Legal Authority: 35 USC 206

CFR Citation: 37 CFR 401

Legal Deadline: None

Abstract: 35 USC 206 as amended by PL 98-620, requires the Secretary to issue regulations implementing 35 USC 202-204 which deals with the rights in inventions to be provided to nonprofit organizations and small businesses that perform Government supported research and development. Previously this was the responsibility of OFPP which issued OMB Cir. A-124. The regulation is based on Cir. A-124 with such substantive changes as are necessary because of various amendments made by PL 98-620. No alternative is available since a major thrust of the statute was the development of a single regulation to replace the numerous regulations that were in effect prior to 1981. The statute and regulations will benefit contractors and the public by creating the certainty necessary for the early commercialization of inventions by the private sector. Compared to the pre-1981 situation this reduces administrative costs of both the Government and contractors.

Timetable:

Action	Date	FR Cite
NPRM	04/04/85	50 FR 13524
Final Action	03/00/86	

Small Entity: Yes

Agency Contact: Norman Latker, Director, Department of Commerce, Office of Productivity, Technology and Innovation, Federal Technology Management Policy Div., Room H 4837, Washington, DC 20230, 202 377-0650

RIN: 0692-AA01

[FR Doc. 86-8396 Filed 04-18-86; 8:45 am]

BILLING CODE 3510-CW-T

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Prerule Stage

306. TERM OF DEPOSIT OF MICROORGANISM

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.71

Legal Deadline: None

Abstract: PTO will propose amendment of its rules of practice in patent cases to set the duration of a microorganism deposit for patent purposes in accordance with the Budapest Treaty.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/86	
ANPRM Comment Period End	07/00/86	
NPRM	10/00/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Agency Contact: Rene D. Tegtmeyer, Assistant Commissioner for Patents, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3811

RIN: 0651-AA13

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

Proposed Rule Stage

307. REQUESTS FOR IDENTIFIABLE RECORDS

Legal Authority: 35 USC 6

CFR Citation: 37 CFR 1.15

Legal Deadline: None

Abstract: The existing regulations govern requests for records not disclosed to the public as part of PTO's informational activities. The regulations need to be revised to eliminate obsolete provisions.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
NPRM Comment Period End	07/00/86	
Final Action	10/00/86	

DOC—PTO

Proposed Rule Stage

Action	Date	FR Cite
Final Action Effective	11/00/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Analysis: See Additional Information

Agency Contact: John W. Dewhirst, Department of Commerce, Patent and Trademark Office, Ofc. of the Solicitor, Washington, DC 20231, 703 557-4035

RIN: 0651-AA04

308. VARIETY NAMING REQUIREMENTS FOR PLANT PATENT APPLICATIONS

Legal Authority: 35 USC 41; 35 USC 6

CFR Citation: 37 CFR 1.17; 37 CFR 1.71; 37 CFR 1.163; 37 CFR 1.166

Legal Deadline: None

Abstract: PTO will propose amendment of its rules of practice in patent cases to implement the International Convention for the Protection of New Varieties of Plants. The International Convention requires registration of a plant variety name at the time a patent on a plant variety is issued. Compliance with the registration requirements of the Convention would be determined in the process of examining plant patent applications.

Timetable:

Action	Date	FR Cite
NPRM	08/16/85	50 FR 33062
NPRM Comment Period End	10/31/86	
Notice	12/27/85	50 FR 52963
NPRM	04/00/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Agency Contact: Stanley D. Schlosser, Legislative and International Specialist, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3065

RIN: 0651-AA12

309. REVISION OF TRADEMARK FEES

Significance: Regulatory Program

Legal Authority: 15 USC 1113; 15 USC 1123

CFR Citation: 37 CFR 2.6

Legal Deadline: Statutory. 15 U.S.C. 1113(a) specifies that fees will not take effect prior to 60 days following notice in the Federal Register.

Abstract: PTO plans to amend its rules of practice in trademark cases to adjust trademark fees. The fees have not been adjusted since their establishment on October 1, 1982.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
NPRM Comment Period End	07/00/86	
Final Action	09/00/86	
Final Action Effective	11/00/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Analysis: See Additional Information

Agency Contact: Bradford R. Huther, Asst. Commissioner for Finance and Planning, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-1572

RIN: 0651-AA19

310. ARBITRATION OF PATENT INTERFERENCE CASES

Legal Authority: 35 USC 6; PL 98-622

CFR Citation: 37 CFR 1.690

Legal Deadline: None

Abstract: An amendment of PTO's rules of practice relating to patent interferences will be proposed to implement the provision in Public Law 98-622 for arbitration of patent interference cases.

Timetable:

Action	Date	FR Cite
ANPRM	01/16/85	50 FR 02294
ANPRM Comment Period End	03/01/85	50 FR 02294
NPRM	04/00/86	
NPRM Comment Period End	07/00/86	
Final Action	10/00/86	
Final Action Effective	11/00/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Agency Contact: Fred E. McKelvey, Deputy Solicitor, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-4035

RIN: 0651-AA20

311. RULES FOR EXTENSION OF PATENT TERM

Significance: Regulatory Program

Legal Authority: 35 USC 6; PL 98-417

CFR Citation: 37 CFR 1.1; 37 CFR 1.6; 37 CFR 1.20; 37 CFR 1.710 to 1.785

Legal Deadline: None

Abstract: PTO plans to propose changes in its rules of practice in patent cases to specify procedures and fees for extending the terms of patents pursuant to the provisions of Public Law 98-417 for the restoration of up to 5 years of the loss in a patent term due to regulatory delays.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
NPRM Comment Period End	06/00/86	
Final Action	10/00/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

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DOC—PTO

Proposed Rule Stage

Analysis: See Additional Information

Agency Contact: R. Franklin Burnett, Special Assistant, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3054

RIN: 0651–AA22

312. TRADEMARK APPLICATIONS

Significance: Regulatory Program

Legal Authority: 15 USC 1123; Crocker National Bank v. Canadian Imperial Bank of Commerce; 223 USPQ 909 (TTAB 1984)

CFR Citation: 37 CFR 2.21; 37 CFR 2.33; 37 CFR 2.39; 37 CFR 2.56; 37 CFR 2.57; 37 CFR 2.58

Legal Deadline: None

Abstract: PTO plans to propose amendment of its rules of practice in trademark cases to revise the use and specimen requirements in trademark applications filed by foreign applicants pursuant to Section 44 of the Trademark Act, 15 USC 1126. The revision would conform the use and specimen requirements with the decision of the Trademark Trial and Appeal Board in Crocker National Bank v. Canadian Imperial Bank of Commerce, 223 USPQ 909 (1984). Since this decision has been appealed, any regulatory action will have to await the outcome of the judicial review.

Timetable:

Action	Date	FR Cite
NPRM (if necessary)	01/00/87	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Analysis: See Additional Information

Agency Contact: Ms. Carlisle Walters, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3268

RIN: 0651–AA23

313. ● MISCELLANEOUS AMENDMENTS OF PATENT RULES

Legal Authority: 35 USC 6; 35 USC 135

CFR Citation: 37 CFR 1.14; 37 CFR 1.131; 37 CFR 1.194; 37 CFR 1.612; 37 CFR 1.637; 37 CFR 1.658; 37 CFR 5.3

Legal Deadline: None

Abstract: PTO plans to amend its rules of practice to clarify the procedure in patent interference cases.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
NPRM Comment Period End	09/00/86	
Final Action	01/00/87	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Agency Contact: Saul L. Serota, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-4072

RIN: 0651–AA25

Final Rule Stage

DEPARTMENT OF COMMERCE (DOC)
Patent and Trademark Office (PTO)

314. MISCELLANEOUS AMENDMENTS OF TRADEMARK RULES

Legal Authority: 15 USC 1123

CFR Citation: 37 CFR 2.1; 37 CFR 2.101(b); 37 CFR 2.104; 37 CFR 2.112(a); 37 CFR 2.114(c); 37 CFR 2.132(c); 37 CFR 2.145(d)

Legal Deadline: None

Abstract: PTO proposes amendment of the trademark rules to improve or clarify inter partes and appeal procedures.

Timetable:

Action	Date	FR Cite
NPRM	06/11/84	49 FR 24033
NPRM Comment Period End	07/18/84	49 FR 24033
Final Action	05/00/86	
Final Action Effective	06/00/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Agency Contact: Janet E. Rice, Member, Trademark Trial and Appeal Board, Department of Commerce, Patent and Trademark Office, Crystal Square 5, Suite 1006, Washington, DC 20231, 703 557-3551

RIN: 0651–AA16

315. TRADEMARK APPLICATIONS

Legal Authority: 15 USC 1123

CFR Citation: 37 CFR 2.21; 37 CFR 2.52; 37 CFR 2.54; 37 CFR 2.58

Legal Deadline: None

Abstract: PTO proposes amendment of its trademark rules to codify and improve procedures for processing trademark applications.

Timetable:

Action	Date	FR Cite
NPRM	08/01/84	49 FR 30749
NPRM Comment Period End	10/30/84	
Final Action	06/00/86	
Final Action Effective	07/00/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Agency Contact: Ellen J. Seeherman, Staff Assistant, Department of Commerce, Patent and Trademark Office, Crystal Plaza 3, Room 11C17, Washington, DC 20231, 703 557-7464

RIN: 0651–AA17

316. TRADEMARK AUTOMATED SEARCH SYSTEM FEES

Legal Authority: 15 USC 1113; 15 USC 1123; PL 98-517; PL 97-247

CFR Citation: 37 CFR 2.6

Legal Deadline: None

DOC—PTO

Final Rule Stage

Abstract: PTO proposes to amend its rules to establish user fees for members of the public desiring to conduct trademark searches of the computerized data bases in the PTO's automated trademark search system.

Timetable:

Action	Date	FR Cite
NPRM	06/07/84	49 FR 31460
NPRM Comment Period End	09/05/84	
NPRM Comment Period Extended to	09/25/84	49 FR 35527
Final Action	04/00/86	
Final Action Effective	06/00/86	

Small Entity: No

Additional Information: Neither an RIA nor an RFA is required or will be prepared.

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Analysis: See Additional Information

Agency Contact: J. Howard Bryant, Administrator for Automation, Department of Commerce, Patent and Trademark Office, Washington, DC 20231, 703 557-3900

RIN: 0651–AA18

[FR Doc. 86-8869 Filed 04-18-86; 8:45 am]
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Part V

Department of Defense

Semiannual Regulatory Agenda

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DOD

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Chs. I, V, VI, and VII

33 CFR Ch. II

36 CFR Ch. III

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Department of Defense.

ACTION: Publication of the consolidated semiannual agenda of DoD regulatory documents.

SUMMARY: The Department of Defense is publishing this consolidated semiannual agenda of regulatory documents for public information and comments under E.O. 12291, "Federal Regulation." This agenda incorporates the objectives and criteria, when applicable, of the regulatory reform program under E.O. 12291, and other regulatory reform programs. It contains DoD issuances initiated by DoD Components that may have economic and environmental impact on state, local, public or private interests under the criteria of E.O. 12291. Although most DoD issuances listed in the agenda are of negligible public impact, their nature may be of public interest and are therefore published to provide notice of rulemaking and an opportunity for public participation in the internal DoD rulemaking process.

This agenda updates the report published on October 29, 1985 and includes regulations expected to be issued and under review over the next 12 months. The next agenda is scheduled to be published in October 1986. In addition to this agenda, DoD Components also publish rulemaking notices pertaining to their specific statutory administration requirements as required.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD regulatory improvement program and for general semiannual agenda information, contact Mr. Terry D. Judd, telephone 202-697-1142 or write to Directorate for Organizational and Management Planning, OASD(C), Washington, D.C. 20301.

For questions of a legal nature concerning the agenda and its statutory requirements or obligations, contact Ms. Kathleen Buck, legal counsel, Office of the General Counsel, Washington, D.C. 20301, or call 202-697-2714.

For specific agenda items, contact the appropriate individual indicated in each DoD Component report.

SUPPLEMENTARY INFORMATION: This consolidated agenda is composed of the regulatory status reports from the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force. Included also in this agenda is the regulatory report from the U.S. Army Corps of Engineers, whose civil works functions fall under the reporting requirements of E.O. 12291. Their agenda will reflect these requirements, with follow-on reporting actions taken, as necessary.

DoD issuances range from DoD Directives (reflecting departmental policy) to implementing instructions and regulations (largely internal and used to implement Directives). The OSD agenda section contains the primary Directives under which DoD Components promulgate their implementing regulations.

To ease identification and to clarify the differences between the variety of issuances reported, they are identified by their DoD internal numbering system, which denotes Component level of authority and type of issuance in addition to the required CFR number.

In addition, this agenda, although published under the reporting requirements of E.O. 12291, will continue to be the DoD single source reporting vehicle which will identify issuances that are currently applicable under the various regulatory reform programs in progress. Therefore, when applicable, DoD Components will identify those rules which come under the criteria of the:

a. Regulatory Flexibility Act.

b. Paperwork Reduction Act.

c. GATT International Trade Agreement.

These DoD issuances which are directly applicable under these statutes will be identified in the agenda and their action status indicated. Generally, the reports contained in this agenda will contain three sections: (1) Current and projected rulemaking; (2) review of existing regulations; and (3) completed actions.

Although not a regulatory agency, the Department of Defense will continue to participate in regulatory initiatives designed to reduce economic costs and unnecessary environmental burdens upon the public. Comments and recommendations are invited on the rules reported and should be addressed to the DoD Component representatives identified in each section.

Although sensitive to the needs of the public and regulatory reform, DoD reserves the right to exercise the exemptions and flexibility permitted in its rulemaking process in order to proceed with its overall defense-oriented mission.

Note: The publishing of this agenda does not waive the applicability of the military affairs exemption in title 5, section 553 and section 1 of E.O. 12291.

DATED: February 3, 1986.

D. O. Cooke,

Deputy Assistant Secretary of Defense.

AGENCY: Office of the Secretary, DoD.

ACTION: This agenda updates the report published on October 29, 1985, and includes regulations expected to be issued and under review over the next 12 months.

SUMMARY: The regulatory material listed below is in 3 parts: (1) Current and projected rulemaking; (2) review of existing regulations; and (3) completed actions.

FOR FURTHER INFORMATION CONTACT: The Agency contact names and telephone numbers appear after each agenda entry. For other information on the agenda, contact Mrs. Patricia H. Means, Directives Division, Correspondence and Directives Directorate, Washington Headquarters Services, telephone 202-697-4111.

SUPPLEMENTARY INFORMATION:

DOD—OS

E.O. 12291. None of the regulatory documents listed below is a "major rule" and no major rules are presently under development.

Regulatory Flexibility Action, section 610. The Office of the Secretary of Defense has screened its existing regulatory documents and has concluded that none of its regulatory documents causes significant impact on a substantial number of small entities.

Paperwork Reduction Act, Pub. L. 96-511. None of the DoD regulatory documents listed in the agenda require information collection reports affecting the public sector under the criteria of Pub. L. 96-511.

GATT Agreement. None of the DoD regulatory documents listed in this agenda impact upon foreign trade under the GATT Agreement.

The OSD agenda follows.

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Proposed Rule Stage

317. ALLOTMENTS FOR CHILD AND SPOUSAL SUPPORT (DOD DIRECTIVE 1340.XX)

Legal Authority: PL 97-248; 37 USC 101; 15 USC 1673; 42 USC 665

CFR Citation: 32 CFR 54

Legal Deadline: None

Abstract: This rule implements section 172 of Pub. L. 97-248, which is codified under Title 42, United States Code, Section 665 (42 USC 665). It provides guidance on processing allotments for child and spousal support from the pay of active duty military personnel, when direct payment is requested by an authorized person.

Timetable:

Action	Date	FR Cite
NPRM	10/18/82	47 FR 46297

Next Action Undetermined

Small Entity: No

Agency Contact: James T. Jasinski, Department of Defense, Office of the Secretary, 202 697-9536

RIN: 0790-AA06

318. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS) (FEDERAL MEDICAL CARE RECOVERY ACT, CHAPTER 9) (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This proposed amendment (48 FR 45791, October 7, 1983) revises the CHAMPUS regulation by consolidating all federal claims provisions arising under the operation of CHAMPUS into two chapters.

Timetable:

Action	Date	FR Cite
NPRM	10/07/83	48 FR 45791

Next Action Undetermined

Small Entity: No

Agency Contact: Tariq Shahid, Department of Defense, Office of the Secretary, 303 361-3587

RIN: 0790-AA29

319. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); CARDIAC PACEMAKER TELEPHONE MONITORING (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: An amendment to the proposed rule was published (49 FR 35934) that will allow coverage for transtelephonic monitoring of cardiac pacemakers which is currently excluded under CHAMPUS Basic Program.

Timetable:

Action	Date	FR Cite
NPRM	01/18/84	49 FR 2118

Next Action Undetermined

Small Entity: No

Agency Contact: David E. Bennett, Department of Defense, Office of the Secretary, 303 361-3606

RIN: 0790-AA31

320. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); ELIGIBILITY OF ADULT ADOPTEES FOR MEDICAL BENEFITS (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 10 USC 1086; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This proposed amendment clarifies the intent of Title 10 USC 1072 (2), concerning eligibility of adopted children. This is necessary to ensure that reasonable limits are placed on CHAMPUS eligibility. This clarification will result in uniform eligibility determinations corresponding to the interest of Congress.

Timetable:

Action	Date	FR Cite
NPRM	03/02/84	49 FR 7837
NPRM Comment Period End	04/02/84	

Next Action Undetermined

Small Entity: No

Agency Contact: Tariq Shahid, Department of Defense, Office of the Secretary, 303 361-3587

RIN: 0790-AA39

321. CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE UNIFORMED SERVICES (CHAMPUS); AMENDMENT OF AMBULANCE SERVICE COVERAGE (DOD 6010.8-R)

Legal Authority: 10 USC 1079; 5 USC 301

CFR Citation: 32 CFR 199

Legal Deadline: None

Abstract: This proposed amendment (49 FR 17976, April 26, 1984) will revise the definition of "ambulance," remove the $100 allowable charge ceiling used to distinguish between local and long distance ambulance service, and expand coverage for transfer to a Uniformed Service Medical Treatment Facility (USMTF).

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Timetable:

Action	Date	FR Cite
NPRM	04/26/84	49 FR 17878
NPRM Comment Period End	05/25/84	

Next Action Undetermined

Small Entity: No

Agency Contact: David E. Bennett, Department of Defense, Office of the Secretary, 303 361-8888

RIN: 0790-AA40

322. ● FINANCIAL INSTITUTIONS ON DOD INSTALLATIONS (DOD DIRECTIVE 1000.11)

Legal Authority: 10 USC 136

CFR Citation: 32 CFR 231

Legal Deadline: None

Abstract: This proposed rule updates Department of Defense (DoD) policies and procedures concerning banking institutions that operate on DoD domestic and overseas installations. The revision provides specific guidance to the Heads of DoD Components on the establishment, operation and termination of these onbase institutions and contemplates a more proactive role by the Assistant Secretary of Defense (Comptroller).

Timetable:

Action	Date	FR Cite
ANPRM	10/23/85	50 FR 3319

Next Action Undetermined

Small Entity: No

Agency Contact: Ronald L. Adolphi, Department of Defense, Office of the Secretary, 202 697-8281

RIN: 0790-AA51

323. ● PROCEDURES GOVERNING BANKING OFFICES ON DOD INSTALLATIONS (DOD INSTRUCTION 1000.12)

Legal Authority: 10 USC 136

CFR Citation: 32 CFR 230

Legal Deadline: None

Abstract: This proposed rule updates Department of Defense (DoD) policies and procedures concerning banking institutions that operate on DoD domestic and overseas installations. The revision provides specific guidance to the Heads of DoD Components on the establishment, operation and termination of these onbase institutions and contemplates a more proactive role by the Assistant Secretary of Defense (Comptroller).

Timetable:

Action	Date	FR Cite
ANPRM	10/23/85	50 FR 36610

Next Action Undetermined

Small Entity: No

Agency Contact: Ronald L. Adolphi, Department of Defense, Office of the Secretary, 202 697-8281

RIN: 0790-AA52

324. ● PROCEDURES GOVERNING CREDIT UNIONS ON DOD INSTALLATIONS (DOD INSTRUCTION 1000.10)

Legal Authority: 10 USC 136

CFR Citation: 32 CFR 231a

Legal Deadline: None

Abstract: This proposed rule codifies, for the first time, provisions concerning the operation of credit unions on DoD installations. It provides specific guidance to the Heads of DoD Components on the establishment, operation and termination of these onbase institutions and contemplates a more proactive role by the Assistant Secretary of Defense (Comptroller).

Timetable:

Action	Date	FR Cite
ANPRM	10/23/85	50 FR 36622

Next Action Undetermined

Small Entity: No

Agency Contact: Ronald L. Adolphi, Department of Defense, Office of the Secretary, 202 697-8281

RIN: 0790-AA53

DEPARTMENT OF DEFENSE (DOD)
Office of the Secretary (OS)

Completed Actions

325. DEFENSE INDUSTRIAL PERSONNEL SECURITY CLEARANCE REVIEW PROGRAM (DOD DIRECTIVE 5220.6)

Legal Authority: 5 USC 504; EO 10865

CFR Citation: 32 CFR 155

Legal Deadline: None

Abstract: This rule is being revised and reissued to (1) reflect organizational changes in the Dept. of Defense, (2) simplify the language contained in the existing rule, (3) incorporate the Equal Access to Justice (5 USC 504) standard in the section pertaining to reimbursement for lost earnings, and (4) establish the Adjudication Policy for security clearance determinations under this rule.

Timetable:

Action	Date	FR Cite
NPRM	07/06/84	49 FR 31455
NPRM Comment Period End	08/06/84	49 FR 31455
Final Action Effective	08/12/85	50 FR 35790
Final Action	09/04/85	50 FR 35790

Small Entity: No

Government Levels Affected: Federal

Agency Contact: James P. Brown, Department of Defense, Office of the Secretary, Directorate for Industrial Security, Clearance Review, 202 696-4568

RIN: 0790-AA42

326. COMMERCIAL ACTIVITIES PROGRAM (DOD DIRECTIVE 4100.15)

Legal Authority: 5 USC 301; 5 USC 552; PL 93-400

CFR Citation: 32 CFR 169

Legal Deadline: None

Abstract: The Department of Defense revised its rule regarding the Commercial Activities Program to incorporate substantive changes to Part 169 required by Office of Management and Budget (OMB) Circular A-76, "Performance of Commercial Activities," August 3, 1983.

Timetable:

Action	Date	FR Cite
NPRM	05/03/85	50 FR 18886
NPRM Comment Period End	06/03/85	50 FR 18886
Final Action Effective	08/12/85	50 FR 37527
Final Action	12/16/85	50 FR 37527

Small Entity: Yes

Agency Contact: Lee Ruddle, Department of Defense, Office of the Secretary, 202 325-0537

RIN: 0790-AA47

327. COMMERCIAL ACTIVITIES PROGRAM PROCEDURES (DOD INSTRUCTION 4100.33)

Legal Authority: 5 USC 301; 5 USC 552; PL 93-400

CFR Citation: 32 CFR 169a

Legal Deadline: None

Abstract: The Department of Defense revised its rule regarding the Commercial Activities Program to incorporate substantive procedural changes to Part 169a required by Office of Management and Budget (OMB) Circular A-76, "Performance of Commercial Activities," August 3, 1983 and to implement the DoD policies established in Part 169 of this title.

Timetable:

Action	Date	FR Cite
NPRM	05/10/85	50 FR 19703
NPRM Comment Period End	05/10/85	50 FR 19703
Final Action Effective	09/09/85	50 FR 40805
Final Action	10/07/85	50 FR 40804

Small Entity: Yes

Agency Contact: Lee Ruddle, Department of Defense, Office of the Secretary, 202 325-0537

RIN: 0790-AA48

328. RELEASE OF OFFICIAL INFORMATION IN LITIGATION AND TESTIMONY BY DEPARTMENT OF DEFENSE PERSONNEL AS WITNESSES (DOD DIRECTIVE 5405.2)

Legal Authority: 5 USC 301; 10 USC 133

CFR Citation: 32 CFR 97

Legal Deadline: None

Abstract: This final rule established policies, practices, responsibilities and procedures for the release of official DoD information in litigation and for the appearance and testimony by DoD personnel as witnesses during litigation.

Timetable:

Action	Date	FR Cite
NPRM	03/14/85	50 FR 10248
NPRM Comment Period End	04/14/85	50 FR 10248
Final Action Effective	07/23/85	50 FR 32056
Final Action	08/08/85	50 FR 32056

Small Entity: No

Agency Contact: Kathleen Buck, Department of Defense, Office of the Secretary, 202 697-2714

RIN: 0790-AA49

329. ● GUIDANCE FOR THE DETERMINATION AND REPORTING OF NUCLEAR RADIATION DOSE FOR DOD PARTICIPANTS IN THE ATMOSPHERIC NUCLEAR TEST PROGRAM

Legal Authority: 38 USC 354, Note 98 Stat 2725; PL 98-542

CFR Citation: 32 CFR 218

Legal Deadline: None

Abstract: This rule, as amended, establishes minimum standards for reporting nuclear radiation doses. The standards are uniformly applicable to all branches of the Military Services and shall be used in preparing radiation dose estimates in responses to inquiries by the Veterans Administration in connection with claims for compensation, or by any veteran or survivor.

Timetable:

Action	Date	FR Cite
Final Action	10/21/85	50 FR 42520
Final Action Effective	11/20/85	50 FR 42520

Small Entity: No

Agency Contact: Robert L. Brittigan, Office of the Secretary of Defense, Defense Nuclear Agency, Department of Defense, Office of the Secretary, 202 325-7881

RIN: 0790-AA54

330. ● VOLUNTARY STATE TAX WITHHOLDING FROM RETIRED PAY (DOD DIRECTIVE 1332.34)

Legal Authority: 10 USC 1045

CFR Citation: 32 CFR 78

Legal Deadline: None

Abstract: This rule implements section 654 of PL 98-525, which is codified under title 10, United States Code, section 1045 (10 USC 1045). It provides guidance on voluntary State tax withholding from the retired pay of Uniformed Service members.

Timetable:

Action	Date	FR Cite
ANPRM	05/13/85	50 FR 12249
Final Action	11/15/85	50 FR 47219
Final Action Effective	11/15/85	50 FR 47219

Small Entity: No

Agency Contact: James T. Jasinski, Department of Defense, Office of the Secretary, 202 697-0536

RIN: 0790-AA55

331. ● DOD NEWSPAPERS AND CIVILIAN ENTERPRISE PUBLICATIONS (DOD INSTRUCTION 5120.4)

Legal Authority: 10 USC 121; 10 USC 133

CFR Citation: 32 CFR 297

Legal Deadline: None

Abstract: This rule updates policy, procedures, and responsibilities concerning DoD newspaper and civilian enterprise (CE) publications other than newspapers in support of the DoD Internal Information Program.

Timetable:

Action	Date	FR Cite
Final Action	08/15/85	50 FR 32851
Final Action Effective	11/14/85	50 FR 32851

Small Entity: No

Agency Contact: Stanley F. Jensen, Office of the Secretary of Defense, American Forces Information Services, Department of Defense, Office of the Secretary, 202 696-5271

RIN: 0790-AA56

[FR Doc. 86-8265 Filed 04-18-86; 8:45 am]
BILLING CODE 3810-01M-T

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DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)

AGENCY: Department of the Army.

ACTION: Semiannual agenda of regulatory information under review or development by the Department of the Army.

SUMMARY: None of the regulations contained in this agenda meets the criteria of the Regulatory Flexibility Act (5 U.S.C. et seq), has priority status, is a major rule under E.O. 12291, or contains reporting requirements in the "Paperwork Act." Furthermore, none of the regulations come under the GATT International Trade Agreement.

FOR FURTHER INFORMATION CONTACT: Where a contact official is indicated, contact the specific individual. For general information, contact Mr. John O. Roach, telephone 202-325-6040, or write to Department of the Army, DAIM-FAR-P, Room 1130, Hoffman I, Alexandria, Virginia 22331-0301.

DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)
Prerule Stage

332. THE ARMY GENERAL COUNSEL'S HONORS PROGRAMS

Legal Authority: 10 USC 302; 10 USC 3065

CFR Citation: 32 CFR 585

Legal Deadline: None

Abstract: Army General Counsel's Honors Program. To recruit highly qualified attorneys to fill vacancies in the Army General Counsel's Office. Comment period completed.

Timetable:

Action	Date	FR Cite
Review, editing and internal Army coordination underway	00/00/00	

Small Entity: No

Additional Information: Paperwork Reduction Act Impact - None.

International Trade Impact - None.

Agency Contact: Mr. John Pavlick, Department of Defense, Department of the Army, Office of the Army General Counsel, 202 695-8562

RIN: 0702-AA00

333. AIRFIELD CERTIFICATION AND USE OF ARMY AIRFIELDS BY OTHER THAN US DEPARTMENT OF DEFENSE AIRCRAFT

Legal Authority: PL 85-726; PL 97-240; PL 91-258

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Prescribes responsibilities and procedures with regard to use of US Army airfields by other than DoD.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Paperwork Reduction Act Impact - None.

International Trade Impact - None.

Agency Contact: Mr. Jesse Burch, Department of Defense, Department of the Army, US Army Air Traffic Control Activity, Aeronautical Service Office, 703 272-7706

RIN: 0702-AA02

334. ARMY NATIONAL CEMETERIES

Legal Authority: 24 USC Chapter 7

CFR Citation: 32 CFR 553

Legal Deadline: None

Abstract: To publish revised guidelines and administration of Arlington National Cemetery and the Soldiers Home National Cemetery.

Timetable:

Action	Date	FR Cite
ANPRM Comment Period End	12/10/85	50 FR 50315
End Review	01/00/86	
Next Action Undetermined		

Small Entity: No

Additional Information: Paperwork Reduction Act Impact - None.

International Trade Impact - None.

Agency Contact: Tom Ellis, Department of Defense, Department of the Army, US Army Military Personnel Center, Alexandria, VA 22331-0400, 703 325-7969

RIN: 0702-AA07

335. INDEBTEDNESS OF MILITARY PERSONNEL

Legal Authority: 10 USC 1553

CFR Citation: 32 CFR 513

Legal Deadline: None

Abstract: This Army regulation provides policy and procedures governing private indebtedness of Army members. It provides guidance for processing claims. It also forbids debt collectors from contacting commanders without prior consent of the debtor or without a court order.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Not Applicable

Agency Contact: LTC Milton J. Brokaw, Department of Defense, Department of the Army, US Army Community and Family Support Center, (DCAF-IS-PA) Room 462, Hoffman I, Alexandria, VA 22331-0522, 202 325-8951

RIN: 0702-AA09

DOD—DOA
Prerule Stage

336. ● EQUAL EMPLOYMENT OPPORTUNITY DISCRIMINATION COMPLAINTS

Legal Authority: 42 USC 2000e; 29 USC 621 et seq

CFR Citation: 32 CFR 588

Legal Deadline: None

Abstract: This regulation established the Army's policies and procedures in the filing, processing, investigating, and settling of equal employment opportunity discrimination complaints. It is designed for Army Commanders, Equal Employment Opportunity Officials, investigators, civilian personnel officers, labor counselors, managers, supervisors, employees, and applicants for employment. It applies to all discrimination complaints based on race, color, religion, sex, national origin, age, physical or mental handicap.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: CPT Paul B. Martins, Program Manager, Department of Defense, Department of the Army, Office of the Secretary of the Army, ATTN: SFCR, Washington, DC 20310-1813, 202 695-6784

RIN: 0702-AA13

DEPARTMENT OF DEFENSE (DOD)
Department of the Army (DOA)
Completed Actions

337. ARMY DISCHARGE REVIEW BOARD

Legal Authority: 10 USC 1553

CFR Citation: 12 CFR 581.2

Legal Deadline: None

Abstract: The rules and regulations for the Army Discharge Review Board (ADRB) have been revised. This rule governs the actions and composition of the Army Discharge Review Board. It governs applications and ADRB motions for discharge review, public inspection, copying, and distributions of ADRB documents through the Armed Forces Discharge Review/Correction Board Reading Room; preparing decisional documents and index entries; and processing complaints regarding them.

Timetable:

Action	Date	FR Cite
Final Action	08/16/85	50 FR 33035
Final Action Effective	08/16/85	50 FR 33035

Small Entity: Not Applicable

Agency Contact: Major Mary Cook, Director, Department of Defense, Department of the Army, Army Council of Review Boards, OSA, Washington, DC 20310-1610, 202 692-4582

RIN: 0702-AA10

338. ● FAMILY SUPPORT, CHILD CUSTODY AND PATERNITY

Legal Authority: 10 USC 3012

CFR Citation: 32 CFR 584

Legal Deadline: None

Abstract: This regulation gives the Department of the Army's support, custody, and paternity policies and information on garnishment and involuntary allotment for payment of support under a court order. It includes guidance for processing complaints and claims as well as requests regarding adoption proceedings of children of Army soldiers, and U.S. Citizenship determinations. Procedures for processing complaints and claims against non-active duty or discharged Army personnel are also provided.

Timetable:

Action	Date	FR Cite
Final Action	12/24/85	50 FR 52447

Small Entity: No

Agency Contact: LTC Milton J. Brokaw, Department of Defense, Department of the Army, U.S. Army Community and Family Support Cntr, (DACF-IS-PA), Rm 468 Hoffman I, Alexandria, VA 22331-0522, 202 325-8951

RIN: 0702-AA11

339. ● EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION

Legal Authority: 42 USC 2000e; 29 USC 621 et seq

CFR Citation: 32 CFR 569

Legal Deadline: None

Abstract: This regulation provides guidance for development, implementation and evaluation of equal opportunity and affirmative action programs for minorities, women and handicapped individuals. This regulation reflects changes on program direction and requirements brought about by the transfer of oversight authority and responsibility from the former Civil Service Commission to the Equal Employment Opportunity Commission.

Timetable:

Action	Date	FR Cite
Final Action	01/31/86	51 FR 4062

Small Entity: No

Agency Contact: John F. Nelson, Director, Equal Opportunity Agency, Department of Defense, Department of the Army, Department of the Army, SAMR-SFEOA (The Pentagon), Washington, DC 20310-1813, 202 694-4340

RIN: 0702-AA12

[FR Doc. 86-8888 Filed 04-18-86; 8:45 am]
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DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Prerule Stage

340. CORPS OF ENGINEERS MANAGEMENT OF ARMY AND AIR FORCE REAL PROPERTY

Legal Authority: 5 USC 301; 10 USC 3012

CFR Citation: 32 CFR 644

Legal Deadline: None

Abstract: Chapter 8 of ER 405-1-12 is mainly comprised of instructions and guidance relating to internal agency procedures for managing and administering real property and interests in real property controlled by the Army and Air Force. Accordingly, it was determined that the entire chapter does not require publication in the Federal Register. Excerpts of applicable parts will be proposed for publication by December 1986.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/86	

Small Entity: Undetermined

Agency Contact: Mr. Terrence Wilmer, Chief, Programs Division, Department of Defense, U.S. Army Corps of Engineers, ATTN: DAEN-REP, Washington, DC 20314-1000, 202 272-0522

RIN: 0710-AA14

341. ● REGULATORY PROGRAM OF THE CORPS OF ENGINEERS, PART 326 - ENFORCEMENT

Legal Authority: 33 USC 403; 33 USC 1341; 33 USC 1413

CFR Citation: 33 CFR 326

Legal Deadline: None

Abstract: The Corps of Engineers is proposing to amend 33 CFR Part 326 to reflect the sequence of enforcement actions, to clarify ambiguous procedures and language, and to provide district engineers with the flexibility needed to resolve violations in the most effective manner and to be able to concentrate existing staff resources on the most critical enforcement actions. Some procedures in this part would be revised to provide for a more practical approach to certain enforcement problems. These regulations, if finalized would reduce the costs of enforcing the regulatory program.

Timetable:

Action	Date	FR Cite
ANPRM Comment Period End	05/00/86	
Final Action	09/00/86	
Final Action Effective	10/00/86	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: Bernard N. Goode, Chief, Regulatory Branch, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: DAEN-CWO-N, 202 272-0199

RIN: 0710-AA15

342. ● REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, PART 329 - NAVIGABLE WATERS OF THE UNITED STATES

Legal Authority: 33 USC 403; 33 USC 1341; 33 USC 1413

CFR Citation: 33 CFR 329

Legal Deadline: None

Abstract: The Corps of Engineers plans proposed revisions to completely reorganize the relevant policies and administrative procedures in a more logical manner, to clarify the policy involved through the elimination of contradictory statements, and to simplify Part 329 by eliminating unnecessarily detailed procedures. The Corps does not intend to make any changes to the policies governing navigability determinations. The amendments if approved will not increase costs.

Timetable:

Action	Date	FR Cite
ANPRM Comment Period End	06/00/86	
Final Action	10/00/86	
Final Action Effective	11/00/86	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: Bernard N. Goode, Chief, Regulatory Branch, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: DAEN-CWO-N, 202 272-0199

RIN: 0710-AA16

343. ● REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS, PART 325, APPENDIX D--ENDANGERED SPECIES COUNTERPART REGULATIONS

Legal Authority: 33 USC 403; 33 USC 1341; 33 USC 1413

CFR Citation: 33 CFR 325, Appendix D

Legal Deadline: None

Abstract: Procedures for the protection of endangered species in the regulatory program of the Corps of Engineers. Because of the increased emphasis being placed on endangered species by the Federal and state resource agencies, the Corps identified a need to provide more definitive guidance on implementing the Endangered Species Act (ESA) in its regulatory program. The Corps is now developing counterpart regulations with the Department of Interior. The regulations will basically bring together various guidance used in the past by both the Corps and DOI. The regulations will include guidance on how the ESA Amendments impact applicants for Federal permits.

Timetable:

Action	Date	FR Cite
ANPRM Comment Period End	05/00/86	
Final Action	09/00/86	
Final Action Effective	09/00/86	

Small Entity: No

Agency Contact: Bernard N. Goode, Chief, Regulatory Branch, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: DAEN-CWO-N, 202 272-0199

RIN: 0710-AA17

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Final Rule Stage

344. CONSOLIDATED REGULATORY PROGRAM OF THE CORPS OF ENGINEERS

Significance: Regulatory Program

Legal Authority: 33 USC 403; 33 USC 1413; 33 USC 1344

CFR Citation: 33 CFR 320 to 330

Legal Deadline: None

Abstract: Program policies and procedures for the conduct of the Regulatory Program of the Corps of Engineers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/22/82	47 FR 31794
Amendments proposed NPRM	05/12/83	48 FR 21466
NPRM Lawsuit Settlement Revisions (33 CFR 320, 323, 325, 330)	03/29/84	49 FR 12260
Publish final Lawsuit Rules	10/05/84	49 FR 39478
Final Action	05/00/86	
Final Action Effective	07/00/86	

Small Entity: No

Additional Information: Paperwork Reduction Act Impact - The paperwork, reports, studies, etc., required of government at all levels, businesses and citizens will be reduced by the revised procedures.

Small Business Impact - By streamlining the procedures for obtaining a Corps permit, the regulatory burden on small businesses will be reduced.

GATT Impact - None.

Affected Sectors: None

Agency Contact: Bernard Goode, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: DAEN-CWO-N, 202 272-0200

RIN: 0710-AA04

345. ENVIRONMENTAL QUALITY, PROCEDURES FOR IMPLEMENTING THE NATIONAL ENVIRONMENTAL POLICY ACT (NEPA)

Significance: Regulatory Program

Legal Authority: 42 USC 4321

CFR Citation: 33 CFR 230

Legal Deadline: None

Abstract: Revisions will streamline Corps NEPA procedures consistent with improved management techniques and reduce unnecessary regulatory burdens on applicants who seek Department of the Army permits.

Timetable:

Action	Date	FR Cite
NPRM	01/11/84	49 FR 1387
Final Action	06/00/86	

Small Entity: No

Additional Information: Additional agency contact: Dr. Robert Pierce (202) 272-0199

Paperwork Reduction Act Impact - None.

GATT Impact - None.

Agency Contact: Mr. Richard L. Makinen, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: DAEN-CWR-P, 202 272-0120

RIN: 0710-AA11

346. REGULATORY PROGRAMS OF THE CORPS OF ENGINEERS

Legal Authority: 33 USC 403; 33 USC 1344; 33 USC 1413

CFR Citation: 33 CFR 325, Appendix C

Legal Deadline: None

Abstract: Procedures for including concerns for the protection of historic properties in the regulatory program of the Corps of Engineers.

Timetable:

Action	Date	FR Cite
NPRM	05/04/84	49 FR 19036
Final Action	05/00/86	

Small Entity: No

Additional Information: Paperwork Reduction Act Impact - The paperwork, reports, studies, etc., required of government at all levels, business and citizens will be reduced by the revised procedures.

Small Business Impact - By streamlining the procedures for obtaining a Corps permit, the regulatory burden on small businesses will be reduced.

GATT Impact - None.

Affected Sectors: None

Agency Contact: Bernard Goode, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: DAEN-CWO-N, 202 272-0200

RIN: 0710-AA12

DEPARTMENT OF DEFENSE (DOD)
U.S. Army Corps of Engineers (COE)

Completed Actions

347. RULES AND REGULATIONS GOVERNING PUBLIC USE OF WATER RESOURCE DEVELOPMENT OF PROJECTS ADMINISTERED BY THE CHIEF OF ENGINEERS

Legal Authority: 16 USC 460d

CFR Citation: 36 CFR 327

Legal Deadline: None

Abstract: Final rule published in 1979. Minor revisions will provide clarification of authority used by field personnel in the management of natural resources.

Timetable:

Action	Date	FR Cite
ANPRM	04/19/84	49 FR 15796
Final Action	11/07/85	50 FR 46284

Small Entity: No

Additional Information: Paperwork Reduction Act Impact - None.

GATT Impact - None.

Agency Contact: Darrell E. Lewis, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: DAEN-CWO-R, 202 272-0247

RIN: 0710-AA03

348. RECREATION USE FEES

Legal Authority: 16 USC 460; 16 USC 461

CFR Citation: 36 CFR 71

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DOD—COE

Completed Actions

Legal Deadline: None

Abstract: Will provide updated version of ER 1130-2-404, Recreation Use Fees. The proposed regulation change expands the Corps recreation fee program at Corps projects.

Timetable:

Action	Date	FR Cite
Final Action	02/07/85	50 FR 27334

Small Entity: No

Additional Information: Paperwork Reduction Act Impact - None.

GATT Impact - None.

Agency Contact: Darrell E. Lewis, Department of Defense, U.S. Army Corps of Engineers, Washington, DC 20314-1000, ATTN: DAEN-CWO-R, 202 272-0247

RIN: 0710-AA10

[FR Doc. 86-8256 Filed 04-18-86; 8:45 am]

BILLING CODE 3810-BW-T

DEPARTMENT OF DEFENSE (DOD)
Department of the Navy. (NAVY)

AGENCY: Department of the Navy.

ACTION: This agenda updates the report published October 29, 1985 and includes regulations expected to be issued and under review over the next 12 months by the Department of the Navy.

SUMMARY: None of the regulations contained in this agenda meets the criteria of the Regulatory Flexibility Act (Pub. L. 96-354), has priority status, is a major rule under E.O. 12291, or contains reporting requirements under the "Paperwork Act." Further, none of the regulations comes under the GATT International Trade Agreement.

FOR FURTHER INFORMATION CONTACT: Where a contact official is indicated, contact the specified individual. For general information, contact Ms. Alcinda P. Wenberg, telephone 202-695-0792 or write to Department of the Navy, Chief of Naval Operations, OP-945C, Washington, D.C. 20350-2000.

Final Rule Stage

DEPARTMENT OF DEFENSE (DOD)
Department of the Navy (NAVY)

349. NONNAVAL MEDICAL AND DENTAL CARE (NAVMEDCOMINST 6320.1)

Legal Authority: 5 USC 301; 5 USC 8140; 10 USC 1071 to 1085; 10 USC 5031; 10 USC 6148; 10 USC 6201 to 6203; 32 CFR 700.1202

CFR Citation: 32 CFR 732

Legal Deadline: None

Abstract: To update the NAVMEDCOM Instruction.

Timetable:

Action	Date	FR Cite
Final Action	06/00/86	

Small Entity: No

Agency Contact: Mr. H. Pelham, Department of Defense, Department of the Navy, MEDCOM, 202 653-1179

RIN: 0703-AA00

350. ● DELIVERY OF PERSONNEL; SERVICE OF PROCESS AND SUBPOENA; PRODUCTION OF OFFICIAL RECORDS

Legal Authority: 5 USC 301; 10 USC 5031; 10 USC 5148; 32 CFR 700.206; 32 CFR 700.1202

CFR Citation: 32 CFR 720

Legal Deadline: None

Abstract: To revise and clarify rules on litigation.

Timetable:

Action	Date	FR Cite
Final Action	06/30/86	

Small Entity: No

Agency Contact: CDR William Henderson, Department of Defense, Department of the Navy, Judge Advocate General, Navy Department 200 Stovall St., Alexandria, VA 22332, 202 325-9870

RIN: 0703-AA14

[FR Doc. 86-8256 Filed 04-18-86; 8:45 am]

BILLING CODE 3810-BW-T

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

AGENCY: Department of the Air Force.

ACTION: This agenda updates the report published on October 29, 1985 and includes regulations expected to be issued and under review over the next 12 months.

SUMMARY: The regulations listed on the agenda are existing or proposed regulations under internal review for revision or development and only apply to those regulations affecting the public. The Department of the Air Force has no "major rules" under development or review as defined by Executive Order 12291. Also, it has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) do not apply to these rules and that these rules do not contain reporting or recordkeeping requirements under the criteria of the Paperwork Reduction Act of 1980 (Pub. L. 96-511). These rules do not have an impact on international trade and therefore the provisions of the GATT Agreement do not apply.

FOR FURTHER INFORMATION CONTACT: Where a contact official is indicated, contact the specified individual. For general information, contact Ms. Patsy J. Conner, telephone (202) 697-1861 or write, Department of the Air Force, USAF/DASJR(S), Pentagon, Washington, D.C. 20330-5025.

DOD—AF

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Prerule Stage

351. FOREIGN TAX RELIEF PROGRAM (AFR 110-18)

Legal Authority: DODD 5100.64, dtd 12 Aug 70; 32 CFR 211

CFR Citation: 32 CFR 848

Legal Deadline: None

Abstract: Implements DOD foreign taxation on DOD expenditures in foreign countries.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: Mr. Carroll, Department of Defense, Department of the Air Force, HQ USAF/JACI, 202 695-9831

RIN: 0701-AA12

352. AIR FORCE SUPPLEMENT TO THE FEDERAL ACQUISITION REGULATION (FAR)

Legal Authority: PL 93-400; PL 96-83

CFR Citation: 48 CFR (New)

Legal Deadline: None

Abstract: Air Force FAR Supplement establishes for the Air Force uniform policy and procedures implementing and supplementing the FAR, the DOD FAR Supplement, and other DOD publications concerning contracting.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: Col. Finkbiner, Special Assistant for FAR, Department of Defense, Department of the Air Force, HQ USAF/RDC-FAR, 202 697-9441

RIN: 0701-AA14

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Proposed Rule Stage

353. USE OF USAF INSTALLATIONS BY OTHER THAN U.S. DOD AIRCRAFT (AFR 55-20)

Legal Authority: Federal Aviation Act of 1958; PL 85-726; 49 USC 1507(a); 49 USC 1508

CFR Citation: 32 CFR 855

Legal Deadline: None

Abstract: Gives requirements, procedures, and responsibilities. Revision is in coordination process within the USAF.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Mrs. Young, Department of Defense, Department of the Air Force, HQ USAF/PRPJA, 202 697-1796

RIN: 0701-AA02

354. ● AIRCRAFT ARRESTING SYSTEMS (AFR 55-42)

Legal Authority: 10 USC 8012

CFR Citation: 32 CFR 856

Legal Deadline: None

Abstract: Establishes policy on managing aircraft arresting systems including installation of systems at joint-use airports and use of systems by non-United States government aircraft.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/83	
End Review	02/28/86	
NPRM	03/00/86	

Small Entity: No

Agency Contact: Captain Hardin, Department of Defense, Department of the Air Force, HQ USAF/LEEV, Bldg 516, Bolling AFB, Washington, DC 20332-5000, 202 767-6240

RIN: 0701-AA17

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DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Final Rule Stage

355. SELECTING ARCHITECT-ENGINEER (A-E) FIRMS FOR PROFESSIONAL SERVICES BY NEGOTIATED CONTRACTS (AFR-88-31)

Legal Authority: PL 95-507; 15 USC 631; 15 USC 632; 15 USC 633; 15 USC 637; 15 USC 661; 15 USC 662; 15 USC 663; 15 USC 667; 15 USC 693; 15 USC 694; 25 USC 450

CFR Citation: 32 CFR 634

Legal Deadline: None

Abstract: USAF policies & procedures. Revision is in publication process within the Air Force.

Timetable:

Action	Date	FR Cite
To be Withdrawn	00/00/00	

Small Entity: No

Agency Contact: Mr. Furlong, Department of Defense, Department of the Air Force, HQ USAF/LEEE, 202 767-4288

RIN: 0701-AA01

356. AIR FORCE PRIVACY ACT PROGRAM (AFR 12-35)

Legal Authority: 5 USC 552a

CFR Citation: 32 CFR 806b

Legal Deadline: None

Abstract: This regulation implements DOD 5400.11-R and governs the Privacy Act program within the Department of the Air Force.

Timetable:

Action	Date	FR Cite
Final Action	06/00/86	

Small Entity: No

Agency Contact: Mr. Jon Updike, Department of Defense, Department of the Air Force, HQ USAF/DAQD, The Pentagon, Washington, DC 20330-5000, 202 694-3431

RIN: 0701-AA15

357. APPOINTMENT TO THE UNITED STATES AIR FORCE ACADEMY (AFR 53-10)

Legal Authority: 10 USC 9342

CFR Citation: 32 CFR 901

Legal Deadline: None

Abstract: Defines admissions procedures for the USAF Academy.

Timetable:

Action	Date	FR Cite
Final Action	08/00/86	

Small Entity: No

Agency Contact: Mrs. Norma Nottingham, Chief, AF Academy Activities Gp Cadet Branch, Department of Defense, Department of the Air Force, HQ USAF/MPPA, The Pentagon, Washington, DC 20330-5060, 202 697-7116

RIN: 0701-AA16

DEPARTMENT OF DEFENSE (DOD)
Department of the Air Force (AF)

Completed Actions

358. ACQUISITION OF INFORMATION CONCERNING PERSONS AND ORGANIZATIONS NOT AFFILIATED WITH THE DEPARTMENT OF DEFENSE (AFR 124-13)

Legal Authority: DODD 5200.27; 10 USC 8012

CFR Citation: 32 CFR 954

Legal Deadline: None

Abstract: Provides USAF policy, limitation & procedures. Awaiting determination and interpretation of policy issues by OSD.

Timetable:

Action	Date	FR Cite
No action expected next 12 months	00/00/00	

Small Entity: No

Additional Information: Awaiting rewrite of DODD.

Agency Contact: Mr. Walker, Department of Defense, Department of the Air Force, HQ AFOSI/XPP, 202 767-5839

RIN: 0701-AA04

359. MILITARY JUSTICE GUIDE (AFR 111-1)

Legal Authority: 10 USC 836; 10 USC 869; 10 USC 940; 10 USC 8012; MCM, US, 1984

CFR Citation: 32 CFR 883

Legal Deadline: None

Abstract: Provides USAF procedures in implementing a portion of the Manual for Courts-Martial, United States, 1984.

Timetable:

Action	Date	FR Cite
Withdrawn	11/14/85	50 FR 47048

Small Entity: No

Agency Contact: Col. Dixon, Department of Defense, Department of the Air Force, HQ USAF/JAJM, 202 767-1539

RIN: 0701-AA05

360. PERSONNEL REVIEW BOARDS-SUBPART A - AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS (AFR 31-3)

Legal Authority: 10 USC 1552

CFR Citation: 32 CFR 865

Legal Deadline: None

Abstract: Establishes procedures for the correction of military records.

Timetable:

Action	Date	FR Cite
NPRM	04/04/84	49 FR 13382
NPRM Comment Period End	05/04/84	
Final Action Effective	05/31/85	
Final Action	09/06/85	50 FR 36426

Small Entity: No

Agency Contact: Mr. D'Orazio, Department of Defense, Department of the Air Force, HQ SAF/MICB, 202 692-4731

RIN: 0701-AA09

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DOD—AF

Completed Actions

361. OBTAINING MEDICAL, DENTAL, AND VETERINARY CARE FROM CIVILIAN SOURCES (AFR 168-10)

Legal Authority: 10 USC 1074(b); 10 USC 1076(b)

CFR Citation: 32 CFR 880

Legal Deadline: None

Abstract: Provides guidance on authorizing and providing reimbursement at Air Force expense for essential medical and dental care from civilian sources.

Timetable:

Action	Date	FR Cite
Withdrawn	12/04/85	50 FR 49688

Small Entity: No

Agency Contact: MSgt. Fulton, Department of Defense, Department of the Air Force, HQ USAF/SGHC, Bolling AFB, DC 20332-6188, 202 767-5062

RIN: 0701-AA10

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Part VI

Department of Education

Semiannual Regulatory Agenda

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ED

DEPARTMENT OF EDUCATION

Office of the Secretary

34 CFR Subtitles A and B

Unified Agenda of Federal Regulations

AGENCY: Department of Education.

ACTION: Publication of the Unified Agenda of Federal Regulations.

SUMMARY: The Secretary of Education publishes a Unified Agenda of Federal Regulations as required by Office of Management and Budget (OMB) Bulletin 86-4 issued under the authority of section 6(b) of Executive Order 12291 (Federal Regulations). The purpose of the agenda is to encourage more effective public participation in the regulatory process by giving the public early information about pending regulatory activities.

FOR FURTHER INFORMATION CONTACT: Questions or comments related to specific regulations listed in this agenda should be directed to the contact person listed for that set of regulations. Questions or comments on the overall agenda should be directed to A. Neal Shedd, Director, Division of Regulations Management, Office of the General Counsel, Department of Education, Room 2131, FOB-6, 400 Maryland Avenue, S.W., Washington, D.C. 20202. Telephone: (202) 732-2887.

SUPPLEMENTARY INFORMATION: Executive Order 12291, dated February 17, 1981, and the Regulatory Flexibility Act, Pub. L. 96-354, enacted September 19, 1980, require the Department of Education to publish, in October and April of each year, (1) an agenda of regulations that the Department expects to issue, and (2) currently effective regulations that are under review. The agenda includes both notices of proposed rulemaking (NPRMs) currently being drafted and pending final regulations.

Under the authority of Executive Order 12291, the Director of OMB has issued OMB Bulletin No. 86-4, dated December 23, 1985, prescribing the content and structure of the "Unified Agenda of Federal Regulations." The unified agenda will be issued semiannually and will cover the succeeding 12 months from the date of publication.

For each set of regulations listed, the agenda provides the title of the document, the type of document, a citation of any rulemaking or other action taken since publication of the most recent agenda, and planned dates of future rulemaking. In addition, the agenda provides the following information:

- An abstract, which includes a description of the problem to be addressed, any principal alternatives being considered, and potential costs and benefits of the action.
- An indication of whether the planned action is likely to have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 USC 601(b)).
- A reference to where a reader can find the current regulations in the "Code of Federal Regulations."
- A citation of legal authority.
- The name, address, and telephone number of the contact person at the Department from whom a reader can obtain additional information regarding the planned action.
- An indication if the action is included in the Department of Education Regulatory Program under Executive Order 12498 and, if not, an indication if the action is a priority of the agency.

If the "Abstract" section of an entry refers readers to the preamble, it means that amendments to those particular regulations would be designed (1) to effect regulatory relief, including reducing paperwork and compliance burdens, improving cost effectiveness and, to the extent possible, vesting greater discretion in State and local agencies, and (2) if necessary, to clarify and simplify requirements governing that program.

This publication in the **Federal Register** does not impose any binding obligation on the Department with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded. Dates of future regulatory action are subject to revision in subsequent agendas.

DATED: February 13, 1986.

William J. Bennett,

Secretary of Education.

Departmental Management—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
362	Education Department General Administrative Regulations	1880-AA19

Departmental Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
363	Advisory Committee Management	1880-AA18
364	Claims Collection	1880-AA09
365	Claims Collection	1880-AA22
366	Uniform Administrative Requirements for Grants to State and Local Governments	1880-AA15
367	Family Educational Rights and Privacy Act	1880-AA08

ED

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
368	Education Department Acquisition Regulations (EDAR)	1880-AA16

Departmental Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
369	Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs	1880-AA21
370	Interest on Outstanding Debts	1880-AA03
371	Government in the Sunshine Act Regulations	1880-AA11

Office of Bilingual Education and Minority Languages Affairs—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
372	Transition Program for Refugee Children	1885-AA10

Office of Bilingual Education and Minority Languages Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
373	Bilingual Education: Academic Excellence Program	1885-AA11
374	Bilingual Education: Evaluation Assistance Centers and Multifunctional Resource Centers	1885-AA13

Office of Bilingual Education and Minority Languages Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
375	Bilingual Education Act Programs	1885-AA06
376	Bilingual Education: State Educational Agency Program and Fellowship Program (Final Amendments)	1885-AA14

Office of Bilingual Education and Minority Languages Affairs—Completed Actions

Sequence Number	Title	Regulation Identifier Number
377	Bilingual Education Evaluation	1885-AA09

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Office for Civil Rights—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
378	Nondiscrimination on the Basis of Sex in Education Programs and Activities Receiving or Benefiting from Federal Financial Assistance	1870-AA06

Office for Civil Rights—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
379	Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance	1870-AA05

Office of Educational Research and Improvement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
380	Partnerships in Education for Mathematics, Science, and Engineering	1850-AA15
381	Leadership in Educational Administration Program (LEAD)	1850-AA16
382	Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages	1850-AA05
383	Secretary's Discretionary Program – Amendments	1850-AA14
384	Territorial Teacher Training Assistance Program	1850-AA10
385	National Diffusion Network Program	1850-AA13

Office of Educational Research and Improvement—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
386	Salary Offset for Department of Education Employees to Recover Overpayment of Pay or Allowances	1850-AA17
387	Educational Research Grant Program	1850-AA01
388	Library Services and Construction Act – State-Administered Program and Direct Grant Program for Indian Tribes and Hawaiian Natives	1850-AA08

Office of Educational Research and Improvement—Completed Actions

Sequence Number	Title	Regulation Identifier Number
389	Strengthening Research Library Resources Program	1850-AA09

Office of Elementary and Secondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
390	Financial Assistance to State Agencies to Meet Special Educational Needs of Handicapped Children	1810-AA19
391	Assistance for LEAs in Areas Affected by Federal Activities and Arrangements for Education of Children Where LEAs Cannot Provide Suitable Free Public Education – Heavily Impacted Districts	1810-AA20
392	Assistance for LEAs in Areas Affected by Federal Activities and Arrangements for Ed. of Children Where LEAs Cannot Provide Suitable Free Public Ed. – Sec. 3, Elig. to Claim Students	1810-AA21

ED

Office of Elementary and Secondary Education—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
393	Assistance for LEAs in Areas Affected by Federal Activities and Arrangements for Ed. of Children Where LEAs Cannot Provide Suitable Free Public Ed.–Sec. 2, Fed. Acquisition/Real Property	1810-AA22
394	Assist. for LEAs in Areas Affected by Fed. Act. and Arrangements for Ed. of Children Where LEAs Cannot Provide Suitable Free Pub. Ed. – Sec. 3, Aver. Daily Attend./Aver. Daily Membership	1810-AA23
395	Magnet Schools Assistance Program	1810-AA24
396	Women's Educational Equity Program	1810-AA16

Office of Elementary and Secondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
397	Amendments to Chapter 1 of the Education Consolidation and Improvement Act of 1981 to Implement Pub. L. 98-211	1810-AA11
398	State Grants for Strengthening the Skills of Teachers and Instruction in Math, Science, Foreign Languages, and Computer Learning - Amendments	1810-AA12
399	Assistance for School Construction in Areas Affected by Federal Activities (SAFA)	1810-AA05

Office of Elementary and Secondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
400	State Grants for Strengthening the Skills of Teachers and Instruction in Mathematics, Science, Foreign Languages, and Computer Learning	1810-AA12
401	Indian Education Program - Formula Grants to Local Educational Agencies and Tribal Schools	1810-AA14

Office of Postsecondary Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
402	Carl D. Perkins Scholarship Program	1840-AA35
403	National Talented Teacher Fellowship Program	1840-AA36
404	Procedures for Determining the Eligibility of Institutions and Schools of Postsecondary Education	1840-AA32
405	College Housing Program; Financial Assistance for Construction, Reconstruction, or Renovation of Higher Ed. Facilities; Loan Management	1840-AA38
406	Financial Assist. for Construction, Reconstruction, or Renovation of Higher Ed. Facilities; Grants for Construction, Reconstruction, and Renovation of Graduate Academic Facilities	1840-AA27
407	Student Assistance General Provisions – QC/QA System	1840-AA39
408	National Direct Student Loan Program: Reduction of Default Rate	1840-AA43
409	National Direct Student Loan Program: Reduction of Default Rate	1840-AA48

Office of Postsecondary Education—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
410	College Housing Program (Loan Discounts)	1840-AA49
411	College Housing Program – Amendments	1840-AA50
412	Student Assistance General Provisions– Subparts A, B, D, F, G	1840-AA11
413	National Direct Student Loan Program (Subpart C - Due Diligence)	1840-AA02

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Office of Postsecondary Education—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
414	National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grant Programs (Campus-based programs)	1840-AA03
415	Guaranteed Student Loan/PLUS Programs	1840-AA04
416	Guaranteed Student Loan – 1986-87 Family Contribution Schedule	1840-AA38

Office of Postsecondary Education—Completed Actions

Sequence Number	Title	Regulation Identifier Number
417	Student Assistance General Provisions - Subpart E	1840-AA31
418	Student Assistance General Provisions (Subpart C - Selective Service Regulations Requirements)	1840-AA47
419	Guaranteed Student Loan/PLUS Programs (Tax-Exempt Bonds)	1840-AA37
420	Pell Grant Program - Family Contribution Schedule - Family Size Offsets	1840-AA33

Office of Special Education and Rehabilitative Services—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
421	State Independent Living Rehabilitation Services Program	1820-AA37

Office of Special Education and Rehabilitative Services—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
422	Assistance to States for Education of Handicapped Children	1820-AA36
423	Assistance to States for Education of Handicapped Children – Amendment	1820-AA38

Office of Special Education and Rehabilitative Services—Completed Actions

Sequence Number	Title	Regulation Identifier Number
424	Special Projects and Demonstrations - Transitional Rehabilitation Services for Handicapped Youth	1820-AA32

Office of Vocational and Adult Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
425	State Vocational Education Program and the Secretary's Discretionary Programs of Vocational Education	1830-AA05

ED

Office of Intergovernmental and Interagency Affairs—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
426	Intergovernmental Review of Department of Education Programs and Activities – List of Programs	1860-AA00

Office of Intergovernmental and Interagency Affairs—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
427	Intergovernmental Review of Department of Education Programs and Activities	1860-AA01

Miscellaneous Department of Education—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
428	Equal Access to Justice	1801-AA01
429	Due Process Regulations	1801-AA02

DEPARTMENT OF EDUCATION (ED) — **Prerule Stage**
Departmental Management (EDMAN)

362. EDUCATION DEPARTMENT GENERAL ADMINISTRATIVE REGULATIONS

Legal Authority: 20 USC 1221e to 20 USC 1223(a)(1)

CFR Citation: 34 CFR 75

Legal Deadline: None

Abstract: The Department is considering miscellaneous amendments to update and improve the regulations in 34 CFR Part 75 of the Education Department General Administrative Regulations (EDGAR).

Timetable:

Action	Date	FR Cite
Begin Review	06/00/86	
End Review	08/00/86	
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Hazel Fiers, Special Advisor, Management, Department of Education, Departmental Management, 400 Maryland Avenue, Rm. 3021, FOB-6, Washington, D.C. 20202, 202 472-5123

RIN: 1880-AA19

DEPARTMENT OF EDUCATION (ED) — **Proposed Rule Stage**
Departmental Management (EDMAN)

363. ADVISORY COMMITTEE MANAGEMENT

Legal Authority: 20 USC 1233 et seq.; 5 USC Appendix 2

CFR Citation: 34 CFR 11

Legal Deadline: None

Abstract: See Preamble.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	11/00/86	

Small Entity: Undetermined

Agency Contact: Ann Bailey, Committee Management Officer, Department of Education, Office of Intergovernmental and Interagency Affairs, 400 Maryland Ave, SW, (Rm. 2135, FOB-6), Washington, DC 20202, 202 245-6061

RIN: 1880-AA18

364. CLAIMS COLLECTION

Significance: Regulatory Program

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ED—EDMAN

Proposed Rule Stage

Legal Authority: 31 USC 3711 to 3719

CFR Citation: 34 CFR 30

Legal Deadline: None

Abstract: These proposed regulations would implement requirements of the Debt Collection Act of 1982, the Federal Claims Collection Act and Standards, and OMB Circular A-50 regarding establishment of a debt collection program.

The proposed regulations would improve management and accountability of Federal funds. They are designed to establish an efficient, equitable, and effective program for the collection of debts owed to the Department of Education.

These regulations will be divided in two parts. See RIN # 1880-AA22.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	
Final Action	12/00/86	

Small Entity: No

Agency Contact: David T. Dexter, Management Analyst, Department of Education, Departmental Management, 400 Maryland Ave, SW, (Rm. 3034 FOB-6), Washington, DC 20202, 202 472-6032

RIN: 1880-AA09

365. ● CLAIMS COLLECTION

Significance: Regulatory Program

Legal Authority: 31 USC 3711 to 3719

CFR Citation: 34 CFR 30

Legal Deadline: None

Abstract: These proposed regulations would provide offset standards and procedures as part of the Department's overall debt collection standards and procedures. These regulations will be published separately from the overall regulations. RIN 1880-AA09.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	09/00/86	

Small Entity: Undetermined

Agency Contact: David T. Dexter, Management Analyst, Department of Education, Departmental Management, 400 Maryland Avenue, Room 3034, FOB-6, Washington, DC 20202, 202 472-6032

RIN: 1880-AA22

366. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS TO STATE AND LOCAL GOVERNMENTS

Legal Authority: OMB Circular A-102; 20 USC 3474

CFR Citation: 34 CFR 80

Legal Deadline: None

Abstract: This action will implement revised OMB Circular A-102 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." The current ED regulations codified at 34 CFR Part 74 were adopted by ED to implement both Circular A-102 and a companion Circular A-110 which governs grants and cooperative agreements to recipients other than governments. To implement revised Circular A-102 ED will adopt regulations approved by OMB affecting grantees that are State, local, and Indian tribal governments in 34 CFR Part 80. Regulations for the grantees covered by Circular A-11 will be retained in an amended 34 CFR Part 74.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Hazel Fiers, Special Advisor, Management, Department of Education, Departmental Management, 400 Maryland Ave, SW, (Rm. 3021 FOB-6), Washington, DC 20202, 202 472-5123

RIN: 1880-AA15

367. FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT

Significance: Regulatory Program

Legal Authority: 20 USC 1232g

CFR Citation: 34 CFR 99

Legal Deadline: None

Abstract: See Preamble.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	10/00/86	

Small Entity: No

Agency Contact: Patricia Ballinger, Director, FERPA, Department of Education, Departmental Management, 400 Maryland Ave., SW, Room 4074, Switzer Bldg., Washington, DC 20202, 202 732-2058

RIN: 1880-AA06

DEPARTMENT OF EDUCATION (ED)

Departmental Management (EDMAN)

Final Rule Stage

368. EDUCATION DEPARTMENT ACQUISITION REGULATIONS (EDAR)

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR Chapter 34

Legal Deadline: None

Abstract: These regulations implement the Federal Acquisition Regulations within the Department of Education, and include additional policies, procedures, solicitation provisions, and contract clauses.

Timetable:

Action	Date	FR Cite
Final Action	05/00/86	

Small Entity: Undetermined

Agency Contact: Ken Barberi, Procurement Policy Analyst, Department of Education, Departmental Management, 400 Maryland Ave, SW, (Rm. 5082, ROB-3), Washington, DC 20202, 202 732-2532

RIN: 1880-AA16

DEPARTMENT OF EDUCATION (ED)

Departmental Management (EDMAN)

Completed Actions

369. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

CFR Citation: 34 CFR 15

Completed:

Reason	Date	FR Cite
Final Action	02/27/86	51 FR 7000
Final Action Effective	05/28/86	

Small Entity: No

Agency Contact: Gary Rasmussen 202 245-8306

RIN: 1880-AA21

370. INTEREST ON OUTSTANDING DEBTS

CFR Citation: 34 CFR 75; 34 CFR 76; 34 CFR 200; 34 CFR 298; 34 CFR 668; 41 CFR Chapter 34

Completed:

Reason	Date	FR Cite
Withdrawn	01/27/86	

Small Entity: No

Agency Contact: Frank Stidman 202 245-2964

RIN: 1880-AA03

371. GOVERNMENT IN THE SUNSHINE ACT REGULATIONS

CFR Citation: 34 CFR 705

Completed:

Reason	Date	FR Cite
Withdrawn	01/28/86	

Small Entity: Undetermined

Agency Contact: Elizabeth Ruppert 202 254-8247

RIN: 1880-AA11

[FR Doc. 86-8627 Filed 04-18-86; 8:45 am]

BILLING CODE 4000-01-T

DEPARTMENT OF EDUCATION (ED)

Office of Bilingual Education and Minority Languages Affairs (BEMLA)

Prerule Stage

372. TRANSITION PROGRAM FOR REFUGEE CHILDREN

Significance: Regulatory Program

Legal Authority: 8 USC 1522(d)

CFR Citation: 34 CFR 538

Legal Deadline: None

Abstract: See Preamble

Timetable:

Action	Date	FR Cite
Begin Review	08/00/85	
End Review	03/00/86	
NPRM	05/00/86	
Final Action	08/00/86	

Small Entity: Undetermined

Agency Contact: William Wooten, Acting Executive Officer, Department of Education, Office of Bilingual Education and Minority Languages Affairs, 400 Maryland Ave, SW (Rm. 421 Rptrs. Bldg.), Washington, D.C. 20202, 202 245-2600

RIN: 1885-AA10

DEPARTMENT OF EDUCATION (ED)

Office of Bilingual Education and Minority Languages Affairs (BEMLA)

Proposed Rule Stage

373. ● BILINGUAL EDUCATION: ACADEMIC EXCELLENCE PROGRAM

Legal Authority: 20 USC 3221 to 3262

CFR Citation: 34 CFR 524

Legal Deadline: None

Abstract: These proposed regulations would implement the provisions of P.L. 98-511 governing projects designed to serve as models of exemplary bilingual education programs and facilitate the dissemination of effective bilingual education practices.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	07/00/86	

Small Entity: Undetermined

Agency Contact: William Wooten, Acting Executive Officer, Department of Education, Office of Bilingual Education and Minority Languages Affairs, 400 Maryland Ave., SW, Room 421, Rptrs. Bldg., Washington, DC 20202, 202 245-2600

RIN: 1885-AA11

374. ● BILINGUAL EDUCATION: EVALUATION ASSISTANCE CENTERS AND MULTIFUNCTIONAL RESOURCE CENTERS

Legal Authority: 20 USC 3221 to 3262

CFR Citation: 34 CFR 549; 34 CFR 575

Legal Deadline: None

Abstract: These proposed regulations would implement provisions of P.L. 98-511 for establishing evaluation assistance centers and multifunctional resource centers.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	11/00/86	

Small Entity: Undetermined

Agency Contact: William Wooten, Acting Executive Officer, Department of Education, Office of Bilingual Education and Minority Languages Affairs, 400 Maryland Ave. SW, Room 421, Rptrs. Bldg., Washington, DC 20202, 202 245-2600

RIN: 1885-AA13

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DEPARTMENT OF EDUCATION (ED) — **Final Rule Stage**

Office of Bilingual Education and Minority Languages Affairs (BEMLA)

375. BILINGUAL EDUCATION ACT PROGRAMS

Significance: Regulatory Program

Legal Authority: 20 USC 3221 to 3262

CFR Citation: 34 CFR 500; 34 CFR 501; 34 CFR 506; 34 CFR 510; 34 CFR 514; 34 CFR 525; 34 CFR 526; 34 CFR 527; 34 CFR 537; 34 CFR 561; 34 CFR 573; 34 CFR 574

Legal Deadline: None

Abstract: These final regulations implement provisions of the Education Amendments of 1984, P.L. 98-511. Includes RIN 1885-AA08.

Timetable:

Action	Date	FR Cite
NPRM	11/22/85	50 FR 48352
NPRM Comment Period End	01/28/86	
Final Action	05/00/86	

Small Entity: Undetermined

Agency Contact: William Wooten, Acting Executive Officer, Department of Education, Office of Bilingual Education and Minority Languages Affairs, 400 Maryland Avenue, SW, Room 421 Rptrs. Bldg., Washington, DC 20202, 202 245-2600

RIN: 1885-AA08

376. ● BILINGUAL EDUCATION: STATE EDUCATIONAL AGENCY PROGRAM AND FELLOWSHIP PROGRAM (FINAL AMENDMENTS)

Legal Authority: 20 USC 3221 to 3262

CFR Citation: 34 CFR 548; 34 CFR 562

Legal Deadline: None

Abstract: These technical amendments would conform these regulations to the General Provisions Regulations to be published in final form in May 1986.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: William Wooten, Acting Executive Officer, Department of Education, Office of Bilingual Education and Minority Languages Affairs, 400 Maryland Avenue, SW, Room 421, Rptrs. Bldg., Washington, DC 20202, 202 245-2600

RIN: 1885-AA14

DEPARTMENT OF EDUCATION (ED) — **Completed Actions**

Office of Bilingual Education and Minority Languages Affairs (BEMLA)

377. BILINGUAL EDUCATION EVALUATION

Significance: Regulatory Program

CFR Citation: 34 CFR 500

Completed:

Reason	Date	FR Cite
Merged with RIN 1885-0008	02/03/86	

Small Entity: Undetermined

Agency Contact: William Wooten 202 245-2600

RIN: 1885-AA09

[FR Doc. 86-8857 Filed 04-18-86; 8:45 am]
BILLING CODE 4000-01-T

DEPARTMENT OF EDUCATION (ED) — **Proposed Rule Stage**

Office for Civil Rights (OCR)

378. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 20 USC 1681; 20 USC 1682

CFR Citation: 34 CFR 106

Legal Deadline: None

Abstract: These proposed regulations would amend the fringe benefits provision of the regulations implementing Title IX of the Education Amendments of 1972. The regulations would require employers offering employees a fringe benefit plan to have both equal pay-in and equal pay-out of benefits, regardless of the sex of the employee.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Frederick T. Cioffi, Acting Director, Policy and Enforcement Services, Department of Education, Office for Civil Rights, 400 Maryland Ave, SW, Rm 5050, Switzer Bldg., Washington, DC 20202, 202 732-1635

RIN: 1870-AA06

DEPARTMENT OF EDUCATION (ED) — **Final Rule Stage**

Office for Civil Rights (OCR)

379. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 42 USC 6101 et seq

CFR Citation: 34 CFR 110

Legal Deadline: None

Abstract: These agency-specific final regulations would provide appropriate investigative, conciliation, and enforcement procedures consistent with the general Age Discrimination Act regulations issued by DHEW, now the Department of Health and Human Services.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Frederick T. Cioffi, Acting Director, Policy and Enforcement Services, Department of Education, Office for Civil Rights, 400 Maryland Ave, SW, Room 5050, Switzer Bldg., Washington, DC 20202, 202 732-1635

RIN: 1870-AA05

[FR Doc. 86-8857 Filed 04-18-86; 8:45 am]
BILLING CODE 4000-01-T

ED—OCR — **Final Rule Stage**

DEPARTMENT OF EDUCATION (ED) — **Proposed Rule Stage**

Office of Educational Research and Improvement (OERI)

380. ● PARTNERSHIPS IN EDUCATION FOR MATHEMATICS, SCIENCE, AND ENGINEERING

Legal Authority: PL 99-159

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These proposed regulations would implement Education for Economic Security Act, as amended by the National Science, Engineering, and Mathematics Authorization Act of 1986 (P.L. 99-159).

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	07/18/86	

Small Entity: Undetermined

Agency Contact: Patricia Alexander, Senior Associate, Department of Education, Office of Educational Research and Improvement, 400 Maryland Avenue, SW, Room 722, Brown Bldg., Washington, DC 20202, 202 254-8227

RIN: 1850-AA15

381. ● LEADERSHIP IN EDUCATIONAL ADMINISTRATION PROGRAM (LEAD)

Legal Authority: 20 USC 4201 to 4206

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations would implement certain provisions of Title IX of the Human Services Reauthorization Act of 1984 (P.L. 98-558).

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	07/00/86	

Small Entity: Undetermined

Agency Contact: Joseph F. Dominic, Senior Associate, Programs for the Improvement of Practice, Department of Education, Office of Educational Research and Improvement, 400 Maryland Avenue, SW, Room 822, Brown Bldg., Washington, DC 20202, 202 254-8050

RIN: 1850-AA16

382. ● SECRETARY'S DISCRETIONARY PROGRAM FOR MATHEMATICS, SCIENCE, COMPUTER LEARNING, AND CRITICAL FOREIGN LANGUAGES

Legal Authority: 20 USC 3972

CFR Citation: 34 CFR 755

Legal Deadline: None

Abstract: These amendments to the program regulations would implement the provisions of the National Science, Engineering, and Mathematics Authorization Act of 1986, P.L. 99-159, and permit the Secretary to review and fund unsolicited proposals for the program throughout the year.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	07/00/86	

Small Entity: Undetermined

Agency Contact: Patricia Alexander, Program Coordinator, Department of Education, Office of Educational Research and Improvement, 400 Maryland Avenue, SW, Room 722, Brown Bldg., Washington, DC 20202, 202 254-8227

RIN: 1850-AA05

383. ● SECRETARY'S DISCRETIONARY PROGRAM — AMENDMENTS

Legal Authority: 20 USC 3851

CFR Citation: 34 CFR 780

Legal Deadline: None

Abstract: These proposed amendments would revise the number of points assigned to the evaluation criteria and would permit the Secretary to review and fund unsolicited proposals for the program throughout the year.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Thomas E. Enderlein, Program Coordinator, Department of Education, Office of Educational Research and Improvement, 400 Maryland Avenue, SW, Room 717, Brown Bldg., Washington, DC 20202, 202 254-8227

RIN: 1850-AA14

384. TERRITORIAL TEACHER TRAINING ASSISTANCE PROGRAM

Legal Authority: PL 95-561

CFR Citation: 34 CFR 790

Legal Deadline: None

Abstract: See Preamble. These proposed regulations would also amend 34 CFR 790.2 (Eligible Parties) to promote increased participation in the Territorial Teacher Training Program on the part of the institutions of higher education in each respective territory.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	07/00/86	

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Small Entity: No

Agency Contact: Haroldie Spriggs, Program Specialist, Programs for the Improvement of Practices, Department of Education, Office of Educational Research and Improvement, 400 Maryland Ave., SW (Rm. 711 Brown Bldg.), Washington, DC 20202, 202 254-5933

RIN: 1850-AA10

385. NATIONAL DIFFUSION NETWORK PROGRAM

Legal Authority: 20 USC 3851

CFR Citation: 34 CFR 706

Legal Deadline: None

Abstract: These proposed amendments would expand the membership of the joint dissemination review panel to persons outside the Department, revise the standards for review of proposed exemplary education programs, and revise the priorities for funding.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	07/00/86	

Small Entity: No

Agency Contact: Lois N. Weinberg, Education Program Specialist, Programs for the Improvement of Practice, Department of Education, Office of Educational Research and Improvement, 400 Maryland Ave., S.W., Room 714, Brown Bldg., Washington, DC 20202, 202 653-7998

RIN: 1850-AA13

DEPARTMENT OF EDUCATION (ED)

Office of Educational Research and Improvement (OERI)

Final Rule Stage

386. ● SALARY OFFSET FOR DEPARTMENT OF EDUCATION EMPLOYEES TO RECOVER OVERPAYMENT OF PAY OR ALLOWANCES

Legal Authority: 5 USC 5514

CFR Citation: 34 CFR 32

Legal Deadline: None

Abstract: These regulations would implement procedures for offsetting a debt against the Federal pay of a current or former employee of the Department of Education to recover an overpayment of pay or allowances.

Timetable:

Action	Date	FR Cite
NPRM	09/11/84	49 FR 35858
NPRM Comment Period End	10/11/84	
Final Action	05/00/86	

Small Entity: No

Agency Contact: Charles J. Walters, Policy Analyst, Department of Education, Office of Educational Research and Improvement, Office of Personnel Resource Management, 400 Maryland Ave., SW (Rm. 1063 FOB-6), Washington, DC 20202, 202 245-3987

RIN: 1850-AA17

387. EDUCATIONAL RESEARCH GRANT PROGRAM

Legal Authority: 20 USC 1221e

CFR Citation: 34 CFR 700; 34 CFR 701; 34 CFR 702; 34 CFR 703; 34 CFR 709; 34 CFR 710; 34 CFR 716; 34 CFR 718; 34 CFR 720; 34 CFR 795

Legal Deadline: None

Abstract: See Preamble

Timetable:

Action	Date	FR Cite
NPRM	03/12/85	50 FR 9970
NPRM Comment Period End	04/11/85	
Final Action	06/00/86	

Small Entity: No

Agency Contact: Frank Sobol, Senior Research Associate, Department of Education, Office of Educational Research and Improvement, Department of Education, 400 Maryland Ave., SW (Rm. 638 Brown Bldg.), Washington, DC 20202, 202 254-5746

RIN: 1850-AA01

388. ● LIBRARY SERVICES AND CONSTRUCTION ACT – STATE-ADMINISTERED PROGRAM AND DIRECT GRANT PROGRAM FOR INDIAN TRIBES AND HAWAIIAN NATIVES

Legal Authority: 20 USC 357 et seq.

CFR Citation: 34 CFR 770; 34 CFR 771; 34 CFR 772

Legal Deadline: None

Abstract: These technical amendments to the LSCA regulations implement the provisions of Title III of the National Science, Engineering, and Mathematics Authorization Act of 1986 (P.L. 99-159).

Timetable:

Action	Date	FR Cite
Final Action	04/00/86	

Small Entity: Undetermined

Agency Contact: Robert Klassen, Acting Director, Public Library Support Staff, Department of Education, Office of Educational Research and Improvement, 400 Maryland Ave., SW, Room 728, Brown Bldg., Washington, DC 20202, 202 254-8864

RIN: 1850-AA08

DEPARTMENT OF EDUCATION (ED)

Office of Educational Research and Improvement (OERI)

Completed Actions

389. STRENGTHENING RESEARCH LIBRARY RESOURCES PROGRAM

CFR Citation: 34 CFR 778

Completed:

Reason	Date	FR Cite
Final Action	11/22/85	50 FR 48190
Final Action Effective	01/20/86	

Small Entity: No

Agency Contact: Louise Sutherland 202 254-5000

RIN: 1850-AA09

[FR Doc. 86-8857 Filed 04-18-86; 8:45 am]

BILLING CODE 4000-01-T

DEPARTMENT OF EDUCATION (ED)

Office of Elementary and Secondary Education (OESE)

Proposed Rule Stage

390. FINANCIAL ASSISTANCE TO STATE AGENCIES TO MEET SPECIAL EDUCATIONAL NEEDS OF HANDICAPPED CHILDREN

Significance: Regulatory Program

Legal Authority: 20 USC 2771 to 2772; 20 USC 3801 to 3805; 20 USC 3807; 20 USC 3871 to 3876

CFR Citation: 34 CFR 202; 34 CFR 204

Legal Deadline: None

Abstract: These proposed regulations would implement provisions of the Education Consolidation and Improvement Act of 1981, as amended. Proposed regulations were published in December of 1982 as a part of RIN 1810-AA60. The Department will publish revised proposed rules under the program for further public comment.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	11/00/86	

Small Entity: No

Agency Contact: William Tyrrell, Acting Director, Division of Assistance to States, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Ave. SW, Room 3614, Switzer Bldg., Washington, DC 20202, 202 732-1614

RIN: 1810-AA19

391. ● ASSISTANCE FOR LEAS IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR EDUCATION OF CHILDREN WHERE LEAS CANNOT PROVIDE SUITABLE FREE PUBLIC EDUCATION – HEAVILY IMPACTED DISTRICTS

Legal Authority: 20 USC 236; 20 USC 237; 20 USC 238; 20 USC 239; 20 USC 240; 20 USC 241; 20 USC 242; 20 USC 243; 20 USC 244

CFR Citation: 34 CFR 222

Legal Deadline: None

Abstract: These amendments would affect supplemental payments enabling local educational agencies heavily impacted by federally connected children to provide a level of education equal to that offered by comparable school districts.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
Final Action	01/00/87	

Small Entity: Undetermined

Agency Contact: W. Stanley Kruger, Acting Director, Division of Impact Aid, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2107, Washington, DC 20202, 202 245-9427

RIN: 1810-AA20

392. ● ASSISTANCE FOR LEAS IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR ED. OF CHILDREN WHERE LEAS CANNOT PROVIDE SUITABLE FREE PUBLIC ED. – SEC. 3, ELIG. TO CLAIM STUDENTS

Legal Authority: 20 USC 236; 20 USC 237; 20 USC 238; 20 USC 239; 20 USC 240; 20 USC 241; 20 USC 242; 20 USC 243; 20 USC 244

CFR Citation: 34 CFR 222

Legal Deadline: None

Abstract: These proposed regulations would establish criteria for claiming federally connected children associated with the impact of Federal activities in local school districts. These criteria would apply in cases of tuition agreements.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	12/00/86	

Small Entity: Undetermined

393. ● ASSISTANCE FOR LEAS IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR ED. OF CHILDREN WHERE LEAS CANNOT PROVIDE SUITABLE FREE PUBLIC ED.–SEC. 2, FED. ACQUISITION/REAL PROPERTY

Legal Authority: 20 USC 236; 20 USC 237; 20 USC 238; 20 USC 239; 20 USC 240; 20 USC 241; 20 USC 242; 20 USC 243; 20 USC 244

CFR Citation: 34 CFR 222

Legal Deadline: None

Abstract: These proposed regulations would establish conditions for payment in lieu of taxes to local educational agencies in cases in which the Federal Government has acquired property and removed the property from local tax rolls.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	12/00/86	

Small Entity: Undetermined

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Agency Contact: W. Stanley Kruger, Acting Director, Division of Impact Aid, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2107, Washington, DC 20202, 202 245-9427

RIN: 1810-AA22

394. ● ASSIST. FOR LEAS IN AREAS AFFECTED BY FED. ACT. AND ARRANGEMENTS FOR ED. OF CHILDREN WHERE LEAS CANNOT PROVIDE SUITABLE FREE PUB. ED. — SEC. 3, AVER. DAILY ATTEND./AVER. DAILY MEMBERSHIP

Legal Authority: 20 USC 236; 20 USC 237; 20 USC 238; 20 USC 239; 20 USC 240; 20 USC 241; 20 USC 242; 20 USC 243; 20 USC 244

CFR Citation: 34 CFR 222

Legal Deadline: None

Abstract: These amendments would establish definitions and procedures for calculating payments to federally impacted school districts in States that do not collect "average daily attendance" data on an annual basis.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	11/00/86	

Small Entity: Undetermined

Agency Contact: W. Stanley Kruger, Acting Director, Division of Impact Aid, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2107, Washington, DC 20202, 202 245-9427

RIN: 1810-AA23

395. ● MAGNET SCHOOLS ASSISTANCE PROGRAM

Legal Authority: 20 USC 4051; 20 USC 4052; 20 USC 4053; 20 USC 4054; 20 USC 4055; 20 USC 4056; 20 USC 4057; 20 USC 4058; 20 USC 4059; 20 USC 4060; 20 USC 4061; 20 USC 4062

CFR Citation: 34 CFR 280

Legal Deadline: None

Abstract: These proposed regulations would implement certain provisions of the National Science, Engineering, and Mathematics Authorization Act of 1986 (P.L. 99-159).

Timetable:

Action	Date	FR Cite
NPRM	03/10/86	51 FR 8294
NPRM Comment Period End	04/09/86	
Final Action	07/09/86	

Small Entity: No

Agency Contact: M. Patricia Goins, Division of Educational Support, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW, Room 2023, Washington, DC 20202, 202 472-7980

RIN: 1810-AA24

396. WOMEN'S EDUCATIONAL EQUITY PROGRAM

Legal Authority: 20 USC 3341 to 3348

CFR Citation: 34 CFR 745

Legal Deadline: None

Abstract: See Preamble. These regulations would also implement Sec. 932(a)(2) of Title IX, Part C of the Elementary and Secondary Education Act of 1965, as amended by P.L. 98-511. Includes RIN 1810-AA15

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	10/00/86	

Small Entity: Undetermined

Agency Contact: Mrs. Jan-Williams Madison, Chief, Women's Educational Equity Act Program, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave., SW (Rm. 2017), Washington, DC 20202, 202 245-2465

RIN: 1810-AA16

DEPARTMENT OF EDUCATION (ED)
Office of Elementary and Secondary Education (OESE)

Final Rule Stage

397. AMENDMENTS TO CHAPTER 1 OF THE EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981 TO IMPLEMENT PUB. L. 98-211

Legal Authority: 20 USC 3801 to 3808; 20 USC 3871 to 3876

CFR Citation: 34 CFR 200; 34 CFR 204

Legal Deadline: None

Abstract: These amendments implement provisions of the Education Consolidation and Improvement Act of 1981 Technical Amendments, P.L. 98-211.

Timetable:

Action	Date	FR Cite
NPRM	08/09/84	49 FR 31914
NPRM Comment Period End	11/08/84	
Final Action	04/00/86	

Small Entity: No

Agency Contact: James M. Spillane, Director, Division of Program Support, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Avenue, SW, Washington, DC 20202, 202 245-9646

RIN: 1810-AA11

398. ● STATE GRANTS FOR STRENGTHENING THE SKILLS OF TEACHERS AND INSTRUCTION IN MATH, SCIENCE, FOREIGN LANGUAGES, AND COMPUTER LEARNING - AMENDMENTS

Legal Authority: 20 USC 3961 to 3971; 20 USC 3973

CFR Citation: 34 CFR 208

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the National Science, Engineering, and Mathematics Authorization Act of 1986 (P.L. 99-159).

Timetable:

Action	Date	FR Cite
Final Action	04/00/86	

Small Entity: Undetermined

ED—OESE

Final Rule Stage

Agency Contact: Allen A. Schmieder, Chief, Mathematics and Science Section, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Avenue, SW, Room 2030, Washington, DC 20202, 202 755-0410

RIN: 1810-AA12

399. ASSISTANCE FOR SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITIES (SAFA)

Legal Authority: 20 USC 631 to 645; 20 USC 647

CFR Citation: 34 CFR 221

Legal Deadline: None

Abstract: These regulations would (1) implement amendments to the law, (2) clarify existing requirements, and (3) where practicable, effect regulatory relief, including reduction of paperwork and compliance burdens and improvement of cost effectiveness.

Timetable:

Action	Date	FR Cite
NPRM	10/15/84	49 FR 40362
NPRM Comment Period End	12/14/84	
Final Action	06/00/86	

Small Entity: No

Agency Contact: W. Stanley Kruger, Acting Director, Division of Impact Aid, Department of Education, Office of Elementary and Secondary Education, 400 Maryland Ave, SW, Room 2107, Washington, DC 20202, 202 245-1975

RIN: 1810-AA05

DEPARTMENT OF EDUCATION (ED)
Office of Elementary and Secondary Education (OESE)

Completed Actions

400. STATE GRANTS FOR STRENGTHENING THE SKILLS OF TEACHERS AND INSTRUCTION IN MATHEMATICS, SCIENCE, FOREIGN LANGUAGES, AND COMPUTER LEARNING

CFR Citation: 34 CFR 208

Completed:

Reason	Date	FR Cite
Final Action	10/25/85	50 FR 43542
Final Action Effective	12/09/85	

Small Entity: No

Agency Contact: Allen A. Schmieder 202 755-0410

RIN: 1810-AA12

401. INDIAN EDUCATION PROGRAM - FORMULA GRANTS TO LOCAL EDUCATIONAL AGENCIES AND TRIBAL SCHOOLS

CFR Citation: 34 CFR 251

Completed:

Reason	Date	FR Cite
Final Action	02/07/86	51 FR 4733
Final Action Effective	03/24/86	

Small Entity: No

Agency Contact: Ervin A. Keith 202 732-1890

RIN: 1810-AA14

[FR Doc. 86-8837 Filed 04-18-86; 8:45 am]

BILLING CODE 4000-01-T

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Proposed Rule Stage

402. CARL D. PERKINS SCHOLARSHIP PROGRAM

Legal Authority: PL 98-558

CFR Citation: 34 CFR 653

Legal Deadline: None

Abstract: These regulations would implement certain provisions of Title VII, Part E of the Human Services Reauthorization Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	07/00/86	

Small Entity: Undetermined

Agency Contact: Neil C. Nelson, Chief, State Student Incentive Grant Program, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, SW, Room 4026, ROB-3, Washington, DC 20202, 202 472-4265

RIN: 1840-AA35

403. NATIONAL TALENTED TEACHER FELLOWSHIP PROGRAM

Legal Authority: 20 USC 11192a to 1119a-5

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: These regulations would implement certain provisions of the Human Services Reauthorization Act of 1985. No funds have been appropriated for this program and the Administration has not requested funds for operation of the program for FY1987.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Leo Paszkiewicz, Regulations Officer, Department of Education, Office of Postsecondary Education, 400 Maryland Ave, SW, (Rm. 4060 ROB-3), Washington, DC 20202, 202 245-2787

RIN: 1840-AA36

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404. PROCEDURES FOR DETERMINING THE ELIGIBILITY OF INSTITUTIONS AND SCHOOLS OF POSTSECONDARY EDUCATION

Significance: Regulatory Program

Legal Authority: 20 USC 1088; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 600

Legal Deadline: None

Abstract: These regulations would establish procedures the Secretary would use to determine the eligibility of institutions and schools of postsecondary education that apply to participate in any of the programs authorized by the Higher Education Act of 1965, as amended.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	10/00/86	

Small Entity: Undetermined

Agency Contact: Morris L. Brown, Director, Div. of Eligibility and Agency Evaluation, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW (Rm. 3030, ROB-3), Washington, DC 20202, 202 245-9703

RIN: 1840-AA32

405. COLLEGE HOUSING PROGRAM; FINANCIAL ASSISTANCE FOR CONSTRUCTION, RECONSTRUCTION, OR RENOVATION OF HIGHER ED. FACILITIES; LOAN MANAGEMENT

Legal Authority: 20 USC 1132a to 1132e; 12 USC 1749a to 1744d

CFR Citation: 34 CFR 614; 34 CFR 615; 34 CFR 617

Legal Deadline: None

Abstract: These regulations would establish comprehensive loan management procedures for outstanding College Housing and Academic Facilities loans. The regulations would also make technical amendments to Part 614 - College Housing Program and Part 617 - Financial Assistance for Construction, Reconstruction, and Renovation of Academic Facilities Program.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	09/00/86	

Small Entity: Undetermined

Agency Contact: Samuel J. Weaver, Chief, Institutional Receivable Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Ave, SW, Room 3669, ROB-3, Washington, DC 20202, 202 472-6369

RIN: 1840-AA30

406. FINANCIAL ASSIST. FOR CONSTRUCTION, RECONSTRUCTION, OR RENOVATION OF HIGHER ED. FACILITIES; GRANTS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF GRADUATE ACADEMIC FACILITIES

Legal Authority: 20 USC 1132a to 1132e-1

CFR Citation: 34 CFR 617; 34 CFR 619

Legal Deadline: None

Abstract: These regulations would establish funding procedures and criteria for applications for grants under Title VII, Part B of the Higher Education Act, as amended.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	07/00/86	

Small Entity: No

Agency Contact: Charles Griffith, Director, Higher Education Incentive Programs, Department of Education, Office of Postsecondary Education, 400 Maryland Ave, SW, Room 3022, ROB-3, Washington, DC 20202, 202 245-3253

RIN: 1840-AA27

407. ● STUDENT ASSISTANCE GENERAL PROVISIONS – QC/QA SYSTEM

Significance: Regulatory Program

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1092; 20 USC 1094; 20 USC 1141

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: These regulations would set standards for institutions to develop and maintain a quality-control plan. These regulations are the result of the findings of the Project to Test Procedures for Quality Control/Quality Assurance Systems in Student Assistance Programs. These regulations would amend existing RIN 1840-AA31.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	
Final Action	12/00/86	

Small Entity: No

Agency Contact: Fred Sellers, Chief, Policy Section, Pell Grant Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, Room 4318, ROB-3, Washington, DC 20202, 202 472-4300

RIN: 1840-AA39

408. NATIONAL DIRECT STUDENT LOAN PROGRAM: REDUCTION OF DEFAULT RATE

Significance: Regulatory Program

Legal Authority: 20 USC 1087aa to 1087ii; 20 USC 421 to 429

CFR Citation: 34 CFR 674

Legal Deadline: None

Abstract: This regulatory action is being undertaken to reduce the high number of defaulted loans under the National Direct Student Loan Program (NDSL) and the unacceptably high default rate of certain participating institutions of higher education. Those provisions of the current regulations for the NDSL Program that have a bearing on the default rate have been reviewed. As a result of that review, the Department expects to issue regulations designed to alleviate the problem substantially. These regulations would apply to academic year 1988-87.

Timetable:

Action	Date	FR Cite
NPRM	02/13/86	51 FR 5484
NPRM Comment Period End	03/31/86	
Final Action	06/00/86	

Small Entity: Undetermined

Agency Contact: Margaret Henry, Policy Section Chief, Campus-Based Programs, Department of Education, Office of Postsecondary Education, 400 Maryland Ave. SW, Room 4018, ROB-3, Washington, DC 20202, 202 245-9720

RIN: 1840-AA43

409. ● NATIONAL DIRECT STUDENT LOAN PROGRAM: REDUCTION OF DEFAULT RATE

Significance: Regulatory Program

ED—OPE — Proposed Rule Stage

Legal Authority: 20 USC 1087aa to 1087ii; 20 USC 421; 20 USC 429

CFR Citation: 34 CFR 674

Legal Deadline: None

Abstract: The Department plans to develop regulations that would be designed to further reduce the high number of defaulted loans under the NDSL program and the high default rate of certain participating institutions of higher education. These regulations would amend the regulations under RIN 1840-AA43 and would apply to academic year 1987-88 and subsequent years.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	09/00/86	

Small Entity: Undetermined

Agency Contact: Margaret Henry, Chief, Policy Section, Campus-Based Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, Room 4018, ROB-3, Washington, DC 20202, 202 245-9720

RIN: 1840-AA48

DEPARTMENT OF EDUCATION (ED)
Office of Postsecondary Education (OPE)

Final Rule Stage

410. ● COLLEGE HOUSING PROGRAM (LOAN DISCOUNTS)

Legal Authority: 20 USC 1749c(c)(9)

CFR Citation: 34 CFR 614

Legal Deadline: None

Abstract: These regulations implement an amendment in P.L. 99-178.

Timetable:

Action	Date	FR Cite
Final Action	04/00/86	

Small Entity: Undetermined

Agency Contact: Samuel Weaver, Chief, Institutional Receivable Branch, Department of Education, Office of Postsecondary Education, Room 3669, ROB-3, 400 Maryland Ave., SW, Washington, DC 20202, 202 472-6369

RIN: 1840-AA49

411. ● COLLEGE HOUSING PROGRAM – AMENDMENTS

Legal Authority: 12 USC 1749(c); 12 USC 1749a(c)(1)

CFR Citation: 34 CFR 614

Legal Deadline: None

Abstract: These amendments to the regulations governing loans issued under the College Housing Program clarify existing cost reimbursement requirements under the program.

Timetable:

Action	Date	FR Cite
NPRM	11/12/85	50 FR 46675
NPRM Comment Period End	12/12/85	
Final Action	04/00/86	

Small Entity: No

Agency Contact: Charles L. Griffith, Director, Division of Higher Ed. Incentive Programs, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, Room 3022, ROB-3, Washington, DC 20202, 202 245-3253

RIN: 1840-AA50

412. STUDENT ASSISTANCE GENERAL PROVISIONS– SUBPARTS A, B, D, F, G

Significance: Regulatory Program

Legal Authority: 20 USC 1085; 20 USC 1088; 20 USC 1092; 20 USC 1094; 20 USC 1097; 20 USC 1141(a)

CFR Citation: 34 CFR 668

Legal Deadline: None

Abstract: See Preamble

Timetable:

Action	Date	FR Cite
NPRM	12/12/84	49 FR 48494
NPRM Comment Period End	02/11/85	
Final Action	06/00/86	

Small Entity: No

Agency Contact: Gail Cornish, Pell Grant Policy Specialist, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, SW, Washington, DC 20202, 202 472-4300

RIN: 1840-AA11

413. ● NATIONAL DIRECT STUDENT LOAN PROGRAM (SUBPART C - DUE DILIGENCE)

Significance: Regulatory Program

Legal Authority: 20 USC 1087aa to 1087ii

CFR Citation: 34 CFR 674

Legal Deadline: None

Abstract: These amendments to Subpart C of the regulations provide strict standards in procedures for the collection of student loans under the NDSL Program. This would aid in reducing the number of defaulted loans under that program.

Timetable:

Action	Date	FR Cite
NPRM	02/26/85	50 FR 7872
NPRM Comment Period End	04/12/85	
Final Action	05/00/86	

Small Entity: No

Agency Contact: Margaret Henry, Chief, Policy Section, Campus-Based Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Ave. SW, Room 4018, ROB-3, Washington, DC 20202, 202 245-9720

RIN: 1840-AA02

414. NATIONAL DIRECT STUDENT LOAN, COLLEGE WORK-STUDY, AND SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT PROGRAMS (CAMPUS-BASED PROGRAMS)

Legal Authority: 20 USC 1087aa to 1087ii; 42 USC 2751 to 2756b; 20 USC 1070b to 1070b-3

CFR Citation: 34 CFR 674; 34 CFR 675; 34 CFR 676

Legal Deadline: None

Abstract: See Preamble. RIN 1840-AA02 is now a separate regulation.

Timetable:

Action	Date	FR Cite
NPRM	02/27/85	50 FR 8050
NPRM Comment Period End	04/29/85	
Final Action	06/00/86	

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ED—OPE

Final Rule Stage

Small Entity: Undetermined

Agency Contact: Margaret Henry, Chief, Policy Section, Campus-based Branch, Department of Education, Office of Postsecondary Education, 400 Maryland Ave, SW, Room 4318, ROB-3, Washington, DC 20202, 202 245-9720

RIN: 1840-AA03

415. GUARANTEED STUDENT LOAN/PLUS PROGRAMS

Significance: Regulatory Program

Legal Authority: 20 USC 1071 to 1087-2

CFR Citation: 34 CFR 682; 34 CFR 683

Legal Deadline: None

Abstract: See Preamble. This action now includes previous RIN 1840-AA05 and 1840-AA37.

Timetable:

Action	Date	FR Cite
NPRM	09/04/85	50 FR 35864
NPRM Comment Period End	11/04/85	
Final Action	07/00/86	

Small Entity: No

Agency Contact: Ralph Madden, Acting Chief, Policy Section, Department of Education, Office of Postsecondary Education, 400 Maryland Ave., SW, Room 4310, ROB-3, Washington, DC 20202, 202 245-2475

RIN: 1840-AA04

416. GUARANTEED STUDENT LOAN — 1986-87 FAMILY CONTRIBUTION SCHEDULE

Legal Authority: 20 USC 1078; 20 USC 1082

CFR Citation: 34 CFR 682

Legal Deadline: Statutory, April 1, 1986

Abstract: These regulations establish 1986-87 levels of expected family contributions that the Secretary of Education will use to determine student eligibility for interest subsidies under the Guaranteed Student Loan Program.

Timetable:

Action	Date	FR Cite
Final Action	04/01/86	

Small Entity: No

Agency Contact: Ralph Madden, Acting Chief, Policy Section, Department of Education, Office of Postsecondary Education, 400 Maryland Avenue, Room 4310, ROB-3, Washington, DC 20202, 202 245-2475

RIN: 1840-AA38

DEPARTMENT OF EDUCATION (ED)

Office of Postsecondary Education (OPE)

Completed Actions

417. STUDENT ASSISTANCE GENERAL PROVISIONS - SUBPART E

Significance: Regulatory Program

CFR Citation: 34 CFR 668

Completed:

Reason	Date	FR Cite
Final Action	03/14/86	51 FR 8946
Final Action Effective	04/28/86	

Small Entity: Undetermined

Agency Contact: Fred Sellers 202 472-4300

RIN: 1840-AA31

418. STUDENT ASSISTANCE GENERAL PROVISIONS (SUBPART C - SELECTIVE SERVICE REGULATIONS REQUIREMENTS)

CFR Citation: 34 CFR 668

Completed:

Reason	Date	FR Cite
Final Action	06/28/85	50 FR 26650
Final Action Effective	09/01/85	

Small Entity: Undetermined

Agency Contact: Mike High 202 472-4300

RIN: 1840-AA47

419. GUARANTEED STUDENT LOAN/PLUS PROGRAMS (TAX-EXEMPT BONDS)

CFR Citation: 34 CFR 682

Completed:

Reason	Date	FR Cite
Merged with RIN 1840-AA04	02/00/86	

Small Entity: No

Agency Contact: Ralph Madden 202 245-2475

RIN: 1840-AA37

420. PELL GRANT PROGRAM - FAMILY CONTRIBUTION SCHEDULE - FAMILY SIZE OFFSETS

CFR Citation: 34 CFR 690

Completed:

Reason	Date	FR Cite
Final Action	02/04/86	51 FR 4472
Final Action Effective	03/21/86	

Small Entity: No

Agency Contact: Deborah Cohen 202 472-4300

RIN: 1840-AA33

[FR Doc. 86-8627 Filed 04-18-86; 8:45 am]

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DEPARTMENT OF EDUCATION (ED)

Office of Special Education and Rehabilitative Services (OSERS)

Prerule Stage

421. STATE INDEPENDENT LIVING REHABILITATION SERVICES PROGRAM

Legal Authority: 29 USC 711(c)

CFR Citation: 34 CFR 365

Legal Deadline: None

Abstract: See Preamble

Timetable:

Action	Date	FR Cite
Begin Review	06/00/85	
End Review	00/00/00	

Small Entity: Undetermined

Agency Contact: Robert Davis, Assoc. Comm. Program Operations, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Ave., S.W. (Rm. 3036 Switzer), Washington, D.C. 20202, 202 732-1289

RIN: 1820-AA37

DEPARTMENT OF EDUCATION (ED)

Office of Special Education and Rehabilitative Services (OSERS)

Final Rule Stage

422. ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN

Legal Authority: 20 USC 1413; 20 USC 1416

CFR Citation: 34 CFR 300

Legal Deadline: None

Abstract: These regulations establish procedures for the disapproval of a State plan, and establish the rights of parties and the duties of the hearing official or panel.

Timetable:

Action	Date	FR Cite
NPRM	11/23/84	49 FR 46252
NPRM Comment Period End	02/21/85	
Final Action	04/00/86	

Small Entity: No

Agency Contact: William Tyrrell, Acting Director, Division of Assistance to States, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Ave, SW, (Rm. 3614 Switzer), Washington, DC 20202, 202 732-1014

RIN: 1820-AA36

423. ● ASSISTANCE TO STATES FOR EDUCATION OF HANDICAPPED CHILDREN — AMENDMENT

Legal Authority: 20 USC 1411 (c)(2)(A)(i)(II)

CFR Citation: 34 CFR 300

Legal Deadline: None

Abstract: These regulations would implement a provision of the National Science, Engineering, and Mathematics Authorization Act of 1986 (P.L. 99-159).

Timetable:

Action	Date	FR Cite
Final Action	04/30/86	

Small Entity: Undetermined

Agency Contact: William Tyrrell, Acting Director, Division of Assistance to States, Department of Education, Office of Special Education and Rehabilitative Services, 400 Maryland Ave., SW, Washington, DC 20202, 202 732-1014

RIN: 1820-AA38

DEPARTMENT OF EDUCATION (ED)

Office of Special Education and Rehabilitative Services (OSERS)

Completed Actions

424. SPECIAL PROJECTS AND DEMONSTRATIONS - TRANSITIONAL REHABILITATION SERVICES FOR HANDICAPPED YOUTH

CFR Citation: 34 CFR 376

Completed:

Reason	Date	FR Cite
Final Action	01/30/86	51 FR 3894
Final Action Effective	03/16/86	

Small Entity: No

Agency Contact: Albert Rotundo 202 732-1298

RIN: 1820-AA32

[FR Doc. 86-8627 Filed 04-18-86; 8:45 am]

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DEPARTMENT OF EDUCATION (ED)

Office of Vocational and Adult Education (OVAE)

Proposed Rule Stage

425. ● STATE VOCATIONAL EDUCATION PROGRAM AND THE SECRETARY'S DISCRETIONARY PROGRAMS OF VOCATIONAL EDUCATION

Legal Authority: 20 USC 2301 et seq

CFR Citation: 34 CFR 400; 34 CFR 401; 34 CFR 415

Legal Deadline: None

Abstract: These proposed regulations would implement certain provisions of the National Science, Engineering, and Mathematics Authorization Act of 1986 (P.L. 99-159).

Timetable:

Action	Date	FR Cite
NPRM	03/06/86	51 FR 7906
NPRM Comment Period End	04/21/86	

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ED—OVAE — **Proposed Rule Stage**

Action	Date	FR Cite
Final Action	07/00/86	

Small Entity: No

Agency Contact: Thomas L. Jakse, Acting Director, Policy Analysis Staff, Department of Education, Office of Vocational and Adult Education, 400 Maryland Ave., SW, Room 620, Rptrs. Bldg., Washington, DC 20202, 202 732-2237

RIN: 1830–AA05

[FR Doc. 86-8627 Filed 04-18-86; 8:45 am]

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DEPARTMENT OF EDUCATION (ED) — **Proposed Rule Stage**

Office of Intergovernmental and Interagency Affairs (EDSI)

426. INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF EDUCATION PROGRAMS AND ACTIVITIES – LIST OF PROGRAMS

Legal Authority: EO 12372; 34 USC 6506; 42 USC 3334

CFR Citation: 34 CFR 79

Legal Deadline: None

Abstract: This notice would list those ED programs to be included and those ED programs to be excluded under EO 12372 and ED's implementing regulations in 34 CFR Part 79. The public will be given an opportunity to comment on the listing.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: F. LeRoy Walser, Acting Executive Director, Federal Interagency Committee on Ed., Department of Education, Office of Intergovernmental and Interagency Affairs, 400 Maryland Ave., SW, Room 2083, Washington, DC 20202, 202 447-7501

RIN: 1860–AA00

DEPARTMENT OF EDUCATION (ED) — **Final Rule Stage**

Office of Intergovernmental and Interagency Affairs (EDSI)

427. INTERGOVERNMENTAL REVIEW OF DEPARTMENT OF EDUCATION PROGRAMS AND ACTIVITIES

Legal Authority: EO 12372; 31 USC 6506; 42 USC 3334

CFR Citation: 34 CFR 79

Legal Deadline: None

Abstract: These amendments implement changes in the scope of the intergovernmental review process required by EO 12372.

Timetable:

Action	Date	FR Cite
NPRM	07/31/85	50 FR 30959
NPRM Comment Period End	09/16/85	
Final Action	05/00/86	

Small Entity: No

Agency Contact: F. LeRoy Walser, Acting Executive Director, Federal Interagency Committee on Ed., Department of Education, Office of Intergovernmental and Interagency Affairs, 400 Maryland Ave., SW, Room 2083, Washington, DC 20202, 202 447-7501

RIN: 1860–AA01

[FR Doc. 86-8627 Filed 04-18-86; 8:45 am]

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DEPARTMENT OF EDUCATION (ED) — **Proposed Rule Stage**

Miscellaneous Department of Education (EDMIS)

428. ● EQUAL ACCESS TO JUSTICE

Legal Authority: 5 USC 504

CFR Citation: 34 CFR 21

Legal Deadline: None

Abstract: These regulations establish procedures for the award of fees and other expenses to applicants that prevail in adversary adjudications before the Department of Education. The regulations must be amended to reflect recent amendments to the Equal Access to Justice Act made by P.L. 99-80.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Peter Wathen-Dunn, General Attorney, Office of the General Counsel, Department of Education, Miscellaneous Department of Education, 400 Maryland Ave., SW, Room 4087, Washington, DC 20202, 202 732-2300

RIN: 1801–AA01

429. ● DUE PROCESS REGULATIONS

Legal Authority: 20 USC 1234; 20 USC 3872; 20 USC 1411 to 1420

ED—EDMIS — **Proposed Rule Stage**

CFR Citation: 34 CFR 78; 34 CFR 204; 34 CFR 218; 34 CFR 222; 34 CFR 300

Legal Deadline: None

Abstract: The Department plans to revise and consolidate due process regulations governing notice and hearings, with the ultimate goal of having one set of procedures for cases heard by the Education Appeal Board and one for cases heard by an Administrative Law Judge.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	
Final Action	04/00/87	

Small Entity: Undetermined

Agency Contact: Amy Schwartz, Executive Assistant, Office of the General Counsel, Department of Education, Miscellaneous Department of Education, 400 Maryland Avenue, SW, Room 4087, FOB-6, Washington, DC 20202, 202 732-2303

RIN: 1801–AA02

[FR Doc. 86-8627 Filed 04-18-86; 8:45 am]

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federal register

Monday
April 21, 1986

Part VII

Department of Energy

Semiannual Regulatory Agenda

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DOE

DEPARTMENT OF ENERGY

10 CFR Chs. II, III, and X

41 CFR Chs. 9 and 109

48 CFR Ch. 9

Regulatory Agenda

AGENCY: Department of Energy.

ACTION: April 1986 regulatory agenda.

SUMMARY: In furtherance of this Administration's commitment to make government more responsive to the citizens of the United States and to assist in fulfilling the President's mandate to lessen regulatory burdens, the Department of Energy (DOE) is publishing an agenda of regulatory activities that DOE expects to take in the next year or has completed since October 1985. This Agenda provides the Administration with an effective tool for monitoring and controlling the promulgation of regulations. It includes (1) all rules expected to be issued as proposed or final rules before April 1987, (2) all rules being reviewed within the Department to determine whether to propose modifications through rulemaking, and (3) all rules for which regulatory action has been completed since the October 1985 Regulatory Agenda. In addition, the Agenda identifies each rule that DOE expects to propose or promulgate which is "likely to have a significant economic impact on a substantial number of small entities," and thus also serves as the Department's regulatory flexibility agenda. The Agenda does not include routine regulations and those that relate to internal agency management.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the Agenda in general, contact: Robert E. Morey, Department of Energy, Room 6B-144, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-0507.

Specific: For further information about any particular item on the Agenda, contact the individual listed under that item.

SUPPLEMENTARY INFORMATION:

Executive Order 12291, 46 FR 13193 (February 19, 1981), requires each Federal agency to publish, in April and October of each year, an agenda of proposed regulations that the agency has issued or expects to issue, and currently effective rules that are under agency review. Under the Executive Order, the Office of Management and Budget (OMB) sets forth standards and procedures for the preparation of these agendas.

There are important reasons for preparing this Agenda. It is vital in this Administration's efforts to reduce the burdens of existing and future regulations, to increase agency accountability for regulatory actions, to provide for Presidential oversight of the regulatory process, to minimize duplication and conflict of regulations, and to insure well-reasoned regulations. This Administration has made considerable progress in these efforts.

In fiscal year 1986, the Department (excluding the Federal Energy Regulatory Commission) is committed to a goal of achieving a 5 percent reduction in paperwork burden imposed on the public by its information collections. Special attention is being given to the reduction of the paperwork burden on the Department's management and operating contractors and other contractors, and substantial progress has already been made in these areas. In addition, for fiscal year 1986, the Energy Information Administration projects that the burden on the public of its energy information collections is expected to decrease by an additional 85,000 hours, or approximately 6.7 percent.

Executive Order 12291 also provides that the regulatory agenda may be incorporated with the "regulatory flexibility agenda" required under the Regulatory Flexibility Act, 5 U.S.C. 602. The regulatory flexibility agenda must contain: (1) A brief description of the subject area and a summary of the nature of any rule which the agency expects to propose or promulgate which is "likely to have a significant economic impact on a substantial number of small entities"; (2) the objectives and legal basis for the issuance of the rule and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and (3) the name and telephone number of an agency official knowledgeable about each rule.

Appended to this notice is DOE's April 1986 Regulatory Agenda, reflecting the status of rules listed as of February 15, 1986. Incorporated in this Agenda is the regulatory flexibility agenda required under 5 U.S.C. 602.

The April 1986 Regulatory Agenda has been prepared in accordance with OMB Bulletin 86-4. Regulatory activities have been divided among categories according to their next stage: prerulemaking action, proposed rule, final rule, or completed action.

Regulations designated as "significant" are those which are also included in the "Regulatory Program of the United States Government," prepared pursuant to Executive Order 12498, 50 FR 1036 (January 8, 1985). Significant regulations also include those which, while not of Government-wide interest or importance, nevertheless are priorities of the individual agencies.

Each item will contain the following information: (1) DOE office or administration (that is, the DOE organizational unit responsible for the regulation); (2) RIN number (that is, the Regulation Identifier Number assigned by OMB/OIRA); (3) title; (4) significance (that is, if the regulation also is included in the Regulatory Program or, if not, is a DOE priority regulation); (5) agency contact (that is, the name, title, address and telephone number of a person who is knowledgeable about the regulation); (6) effects on small businesses and other entities (that is, whether the action is likely to have a significant economic impact on a substantial number of "small entities" as defined by the Regulatory Flexibility Act); (7) CFR citation (that is, the section of the "Code of Federal Regulations" that will be affected); (8) legal authority (that is, a citation to the section of the "United States Code" (U.S.C.), Public Law (P.L.) or the Executive Order (E.O.) that authorizes the regulatory action); (9) abstract (that is, a description of the problem the regulation will address, the alternatives being considered for addressing the problem, and the potential costs and benefits of the action); (10) legal deadline (that is, the statutory or judicial deadline, if any); and (11) timetable (that is, the dates, and citations if applicable, for all past stages and at least the next stage of the rulemaking). In addition, each item regarding completed actions (that is, regulations completed or withdrawn and reviews completed since the preceding Agenda) states the date and citation, if appropriate.

DOE

On March 14, 1986, a draft of the Agenda was transmitted to the Chief Counsel for Advocacy of the Small Business Administration for comment, if any, to fulfill the requirements of 5 U.S.C. 602(b).

DOE's next Agenda will be published in October 1986.

Issued in Washington, D.C. on March 14, 1986.

J. Michael Farrell,
General Counsel.

Conservation and Renewable Energy—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
430	Federal Energy Management & Planning Programs Methodology & Procedures for Life Cycle Costing Analyses	1904-AA06
431	Procedures for Preliminary Energy Audits and Guidelines for Buildings Plans	1904-AA09
432	Federal Energy Management Program (FEMP) Guidelines for General Operations Plans	1904-AA10
433	Energy-Efficiency Standards for Thirteen Types of Consumer Products	1904-AA28

Conservation and Renewable Energy—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
434	Energy Performance Standards for New Buildings– Commercial Buildings	1904-AA08
435	Energy Efficiency Test Procedures for Water Heaters	1904-AA12
436	Energy Efficiency Test Procedures – Waiver	1904-AA22
437	Energy Efficiency Test Procedures for Central Air Conditioners	1904-AA23
438	Energy Performance Standards for New Buildings – Federal Residential Buildings	1904-AA27

Conservation and Renewable Energy—Completed Actions

Sequence Number	Title	Regulation Identifier Number
439	Energy Efficiency Standards for Four Types of Consumer Products	1904-AA04
440	Energy Efficiency Standards for Three Types of Consumer Products	1904-AA05
441	Commercial and Apartment Conservation Service (CACS) Standby Program Regulations	1904-AA16
442	Twenty-six State Petitions Regarding Federal Preemption of State Energy Efficiency Standards for Appliances	1904-AA19
443	Weatherization Assistance for Low-Income Persons – Amendments	1904-AA20
444	State Petition Regarding Federal Preemption of State Energy Efficiency Standards for Appliances	1904-AA24

Departmental and Others—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
445	Loan Guarantee for Development of Underground Coal Mines and Construction of Coal Preparation Plants	1901-AA02

Departmental and Others—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
446	Non-Department of Energy Funded Work	1901-AA05
447	Basis of Fees for Disposal of U.S. Department of Energy Defense High-Level Wastes	1901-AA06
448	Part 605 Special Research Grants Program; Proposed Rule	1901-AA07

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Departmental and Others—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
449	Proposed Uranium Enrichment Services Criteria	1901-AA08

Economic Regulatory Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
450	Proposed Rule Establishing New Administrative Procedures with Respect to Short-Term Imports and Exports of Natural Gas	1903-AA07

Economic Regulatory Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
451	Review and Establishment of Natural Gas Curtailment Priorities for Interstate Pipelines	1903-AA00
452	Administrative Procedures for Adjustments of Natural Gas Curtailment Priority Regulations	1903-AA04

Management and Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
453	Financial Assistance Regulations; Cooperative Agreements	1991-AA03
454	Department of Energy Acquisition Regulation Revisions	1991-AA23
455	Department of Energy Acquisition Regulation	1991-AA25
456	Department of Energy Property Management Regulation	1991-AA28
457	Department of Energy Acquisition Regulation	1991-AA32
458	Department of Energy Financial Assistance Rules	1991-AA34
459	Department of Energy Financial Assistance Rules	1991-AA35
460	Department of Energy Acquisition Regulation (DEAR)	1991-AA36

Management and Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
461	Department of Energy Financial Assistance Rules	1991-AA21
462	Department of Energy Acquisition Regulation	1991-AA26
463	Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs	1991-AA27
464	Department of Energy Acquisition Regulation	1991-AA29
465	Department of Energy Acquisition Regulation	1991-AA33

DOE

Management and Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
466	Department of Energy Acquisition Regulation	1991-AA30
467	Department of Energy Financial Assistance Rules	1991-AA31

Office of General Counsel—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
468	Amendments to Department of Energy Conduct of Employees	1990-AA00
469	Patent Waiver Regulation	1990-AA02
470	Foreign Gifts and Decorations	1990-AA04

Office of General Counsel—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
471	Clarification of the Term Byproduct Material	1990-AA05

DEPARTMENT OF ENERGY (DOE)

Prerule Stage

Conservation and Renewable Energy (CE)

430. FEDERAL ENERGY MANAGEMENT & PLANNING PROGRAMS METHODOLOGY & PROCEDURES FOR LIFE CYCLE COSTING ANALYSES

Legal Authority: PL 95-619, Sec 545; PL 96-294, Sec 405; 42 USC 8255; EO 11912; EO 12003; PL 95-619, Sec 547

CFR Citation: 10 CFR 436

Legal Deadline: None

Abstract: The National Energy Conservation Policy Act requires DOE to promulgate regulations that establish a methodology for estimating and comparing the life cycle costs of Federal buildings and for determining life cycle cost effectiveness. The Energy Security Act requires that the regulations provide for the use of marginal costs in the life cycle cost analysis. DOE is seeking legislative revisions to NECPA to authorize use of average energy costs rather than marginal costs in LCC analysis.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: J. William Bethea, Director, Federal Energy Management Program, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-9430

RIN: 1904-AA08

431. PROCEDURES FOR PRELIMINARY ENERGY AUDITS AND GUIDELINES FOR BUILDINGS PLANS

Legal Authority: PL 94-163; PL 95-619; EO 11912; EO 12003

CFR Citation: 10 CFR 436

Legal Deadline: None

Abstract: The regulations in Subpart B are needed to provide the procedures for conducting and reporting on preliminary energy audits of Federal buildings, as required by Title V, Part 3, of the National Energy Conservation Policy Act (NECPA) and section 10 of EO 11912, as amended. The regulations in Subpart C are needed to provide guidelines for the formulation and updating of Buildings Plans by Federal agencies to achieve goals for reduction of Federal building energy use, pursuant to section 10 of EO 11912, as amended, section 381 of the Energy Policy and Conservation Act, as amended, and NECPA. DOE is reviewing these procedures and guidelines in order to determine how to make them less prescriptive.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: J. William Bethea, Director, Federal Energy Management Program, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-9430

RIN: 1904-AA09

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DOE—CE

Prerule Stage

432. FEDERAL ENERGY MANAGEMENT PROGRAM (FEMP) GUIDELINES FOR GENERAL OPERATIONS PLANS

Legal Authority: PL 94-163, Sec 201; PL 96-102, Sec 211; EO 11912; EO 12003

CFR Citation: 10 CFR 436

Legal Deadline: None

Abstract: This rule is needed to provide guidelines for use by Federal agencies in their development of overall 10-year energy management plans to conserve energy in the general operations of the agencies, and to provide for agency responses to energy emergencies per authorities cited section 0. DOE is reviewing these guidelines in order to determine how to make them less prescriptive.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: J. William Bethea, Director, Federal Energy Management Program, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-9430

RIN: 1904-AA10

433. ● ENERGY-EFFICIENCY STANDARDS FOR THIRTEEN TYPES OF CONSUMER PRODUCTS

Significance: Regulatory Program

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Judicial, 00/00/00

Abstract: Congress directed DOE to prescribe energy efficiency standards for thirteen types of major household appliances. This requirement does not apply, however, if DOE determines, by rule, that establishment of a standard will not result in significant conservation of energy or is not technologically feasible or economically justified. On July 16, 1985, the United States Court of Appeals for the District of Columbia Circuit set aside all final rules regarding appliance efficiency standards which the Department had promulgated up to that time. In light of the court decision, the Department intends to initiate new rulemakings for all thirteen covered products. The thirteen covered products are refrigerators/refrigerator-freezers, freezers, dishwashers, clothes dryers, water heaters, room air conditioners, home heating equipment not including furnaces, television sets, kitchen ranges and ovens, clothes washers, humidifiers/dehumidifiers, central air conditioners, and furnaces.

There is a statutory requirement to review these rules every five years.

Timetable:

Action	Date	FR Cite
Notice of Inquiry (Engineering Analysis, etc)	09/00/86	
NPRM	08/00/88	
NPRM Comment Period End	11/00/88	
Final Action	07/00/89	

Small Entity: Undetermined

Agency Contact: Michael J. McCabe, Chief, Test and Evaluation Branch (GF-217), Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-9127

RIN: 1904-AA28

DEPARTMENT OF ENERGY (DOE)

Conservation and Renewable Energy (CE)

Proposed Rule Stage

434. ENERGY PERFORMANCE STANDARDS FOR NEW BUILDINGS—COMMERCIAL BUILDINGS

Legal Authority: PL 94-385; PL 96-390; PL 95-91; PL 97-35

CFR Citation: 10 CFR 435

Legal Deadline: Statutory, October 1983. Deadline for Final Rule.

Abstract: Title III of the Energy Conservation and Production Act, as amended, requires the development and promulgation of energy performance standards for new buildings. In order to comply with this requirement, DOE currently is developing voluntary guidelines for the private sector and mandatory standards for the federal government.

Timetable:

Action	Date	FR Cite
NPRM	02/00/86	
NPRM Comment Period End	05/15/86	
Interim Final Rule	09/15/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: James A. Smith, Director, Buildings Systems Division, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-9835

RIN: 1904-AA08

435. ENERGY EFFICIENCY TEST PROCEDURES FOR WATER HEATERS

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430.22

Legal Deadline: None

Abstract: Final test procedures for 13 types of appliances were established during 1978. The test procedures form the basis of manufacturers' representations on the Federal Trade Commission's EnergyGuide label. The purpose of the rulemaking is to establish test procedures for heat pump water heaters and to eliminate the need for the test procedure waiver granted to A. O. Smith for its water heater with a thermal compensatory dip tube. Based on the comments received pursuant to the February 8, 1984, NPRM, the Department is preparing a new NPRM. This NPRM will propose a single test procedure to cover both gas, oil and electric water heaters as well as heat pump water heaters.

DOE—CE

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	02/06/84	49 FR 4870
NPRM Comment Period End	05/21/84	49 FR 4870
NPRM	07/00/86	

Small Entity: No

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-9127

RIN: 1904-AA12

436. ENERGY EFFICIENCY TEST PROCEDURES – WAIVER

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430.27

Legal Deadline: None

Abstract: Final test procedures for 13 types of appliances were established during 1978. The test procedures form the basis of manufacturers' representations on the Federal Trade Commission's EnergyGuide label. The Department can temporarily waive test procedure requirements for a particular covered product when characteristics of that product prevent use of the prescribed test procedures or lead to results of the test procedures that provide materially inaccurate comparative data. The purpose of this rulemaking is to streamline the waiver process.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
NPRM Comment Period End	05/00/86	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entity: No

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-9127

RIN: 1904-AA22

437. ENERGY EFFICIENCY TEST PROCEDURES FOR CENTRAL AIR CONDITIONERS

Legal Authority: 42 USC 6293

CFR Citation: 10 CFR 430.22

Legal Deadline: None

Abstract: Final test procedures for 13 types of appliances were established during 1978. The test procedures form the basis of manufacturers' representations on the Federal Trade Commission's EnergyGuide label. The purpose of the rulemaking is to establish test procedures for water-source heat pumps and multi-evaporator heat pumps; to eliminate the test procedure waiver granted to Borg-Warner Central Environmental Systems for its variable speed heat pump; and to incorporate, by reference, the American Society of Heating, Refrigerating, and Air-conditioning Engineers Standard 116-83 and the Air-conditioning and Refrigeration Institute Standard 210/240-84 into the test procedures.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
NPRM Comment Period End	09/00/86	
Final Action	03/00/87	
Final Action Effective	04/00/87	

Small Entity: No

Additional Information: A Notice of Inquiry was published in the Federal Register on April 2, 1985 to request comments on a rating procedure to determine the energy performance of a central air conditioner combination (condensing unit and indoor coil) without conducting the full laboratory procedure prescribed by the DOE test procedures. 50 FR 13042. DOE is considering proposing such a rating method in the rulemaking.

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-9127

RIN: 1904-AA23

438. ● ENERGY PERFORMANCE STANDARDS FOR NEW BUILDINGS – FEDERAL RESIDENTIAL BUILDINGS

Legal Authority: PL 94-385; PL 96-390; PL 95-91; PL 97-35

CFR Citation: 10 CFR 345

Legal Deadline: Statutory, October 1983. Deadline for Final Rule.

Abstract: Title III of the Energy Conservation and Production Act, as amended, requires the development and promulgation of energy performance standards for new buildings. In order to comply with this requirement, DOE currently is developing voluntary guidelines for the private sector and mandatory standards for the federal government.

Timetable:

Action	Date	FR Cite
NPRM	04/15/86	
NPRM Comment Period End	07/15/86	

Small Entity: No

Agency Contact: James A. Smith, Director, Building Systems Division, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave., SW, Washington, DC 20585, 202 252-9835

RIN: 1904-AA27

DEPARTMENT OF ENERGY (DOE)

Conservation and Renewable Energy (CE)

Completed Actions

439. ENERGY EFFICIENCY STANDARDS FOR FOUR TYPES OF CONSUMER PRODUCTS

Significance: Regulatory Program

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Statutory. Section 325(l)(4) of the Act requires that DOE prescribe a rule for an energy efficiency standard for the four products not earlier than 60 days after publication of the notice of proposed rulemaking, but not later than two years after publication of the advance notice of proposed rulemaking.

Abstract: Congress directed DOE to prescribe energy efficiency standards for certain specific consumer products unless DOE determines, by rule, that the establishment of such standard will not result in significant conservation of energy or is not technologically feasible

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or economically justified. This rule deals with four of these products: dishwashers, clothes washers, television sets, and humidifiers and dehumidifiers. The analysis will include all allowable alternatives including various efficiency levels for these consumer products as well as the alternative of no efficiency standard for these consumer products.

Timetable:

Action	Date	FR Cite
ANPRM	12/13/79	44 FR 72276
NPRM	04/01/85	50 FR 12966
NPRM Comment Period End	07/01/85	
Withdrawn	03/05/86	51 FR 7582

Small Entity: Undetermined

Additional Information: The United States Court of Appeals for the District of Columbia Circuit decided on July 16, 1985, to set aside the final rules regarding Federal appliance energy efficiency standards. The final rule for clothes washers and kitchen ranges and ovens was published on December 22, 1982, (47 FR 57198). The final rule for refrigerators and refrigerator-freezers, freezers, water heaters, room air conditioners, furnaces and central air conditioners was published on August 30, 1983 (48 FR 39376). In light of the court decision, the Department has withdrawn this proposed rulemaking. The Department intends to initiate new rulemakings for all 13 covered products.

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-9127

RIN: 1904–AA04

440. ENERGY EFFICIENCY STANDARDS FOR THREE TYPES OF CONSUMER PRODUCTS

Significance: Regulatory Program

Legal Authority: 42 USC 6295

CFR Citation: 10 CFR 430.32

Legal Deadline: Statutory. Section 325(l)(4) requires DOE to prescribe a rule for an energy efficiency standard for the three products not earlier than 60 days after publication of the notice of proposed rulemaking, but not later than two years after publication of the advance notice of proposed rulemaking.

Abstract: Congress directed DOE to prescribe energy efficiency standards for certain specific consumer products unless DOE determines, by rule, that the establishment of such standard will not result in significant conservation of energy or is not technologically feasible or economically justified. This rule deals with heat pumps, heat pump water heaters and home heating equipment (not including furnaces). The analysis will include all allowable alternatives including various efficiency levels as well as the alternative of no efficiency standard.

Timetable:

Action	Date	FR Cite
ANPRM	01/23/80	45 FR 5602
End Review	03/05/86	

Small Entity: Undetermined

Additional Information: The United States Court of Appeals for the District of Columbia Circuit decided on July 16, 1985, to set aside the final rules regarding Federal appliance energy efficiency standards. The final rule for clothes washers and kitchen ranges and ovens was published on December 22, 1982 (47 FR 57198). The final rule for refrigerators and refrigerator-freezers, water heaters, room air conditioners, furnaces and central air conditioners was published on August 30, 1983 (48 FR 39376). In light of the court decision, the Department intends to initiate new rulemakings for all 13 covered products.

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-9127

RIN: 1904–AA05

441. COMMERCIAL AND APARTMENT CONSERVATION SERVICE (CACS) STANDBY PROGRAM REGULATIONS

Significance: Regulatory Program

Legal Authority: 42 USC 8284

CFR Citation: 10 CFR 458.701 to 458.716

Legal Deadline: Statutory, September 4, 1984

Abstract: On October 26, 1983, DOE issued a final rule in compliance with Title VII of the National Energy Conservation Policy Act, as amended, establishing the Commercial and Apartment Conservation Service (CACS) Program. The CACS Program is an energy audit program for commercial and apartment buildings to be carried out by public utilities in accordance with Plans developed by States. NECPA requires DOE to administer the Program in States that choose not to submit Plans (and in States determined not to be adequately implementing a State Plan). DOE will administer the program in the manner set forth in the CACS Standby Program Regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/31/84	49 FR 50970
NPRM Comment Period End	03/01/85	49 FR 50970
Final Action	09/17/85	50 FR 37818
Final Action Effective	10/17/85	50 FR 37818

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Shelley Launey (202) 252-1650.

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis; Final EIS 08/00/83 (48 FR 50935)

Agency Contact: Andre Van Rest, Supr. Conservation Program Specialist, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-1858

RIN: 1904–AA16

442. TWENTY-SIX STATE PETITIONS REGARDING FEDERAL PREEMPTION OF STATE ENERGY EFFICIENCY STANDARDS FOR APPLIANCES

Significance: Regulatory Program

Legal Authority: 42 USC 6297 (b)(3)

CFR Citation: 10 CFR 430.33

Legal Deadline: Statutory, 00/00/00. Section 327(b) (4) of the Act requires that DOE, within 6 months after the date any petition is filed, shall deny such petition or prescribe the requested rule, except that it may publish a notice in the Federal Register extending such period to a date certain.

Abstract: This is a rulemaking responding to 26 State petitions that the Department promulgate rules exempting various of the States' appliance energy efficiency standards from federal preemption, regarding six types of major household appliances. The appliances are: refrigerators and refrigerator-freezers, freezers, water heaters, room air conditioners, central air conditioners, and furnaces.

Timetable:

Action	Date	FR Cite
NPRM	08/17/84	49 FR 32944
NPRM Comment Period End	11/15/84	
Withdrawn	03/05/86	51 FR 7582

Small Entity: No

Additional Information: The United State Court of Appeals for the District of Columbia Circuit decided on July 16, 1985, to set aside the final rules regarding Federal appliance energy efficiency standards. The final rule for clothes washers and kitchen ranges and ovens was published on December 22, 1982 (47 FR 57198). The final rule for refrigerators and refrigerator-freezers, freezers, water heaters, room air conditioners, furnaces and central air conditioners was published on August 30, 1983 (48 FR 39376). In light of the court decision, the Department has withdrawn this proposed rulemaking.

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-9127

RIN: 1904–AA19

443. WEATHERIZATION ASSISTANCE FOR LOW-INCOME PERSONS — AMENDMENTS

Legal Authority: 42 USC 6861

CFR Citation: 10 CFR 440

Legal Deadline: Statutory, October 1, 1985. Statute requires performance fund "beginning in fiscal year 1986".

Abstract: This rulemaking will implement the change to the program regulations required by the Human Services Reauthorization Act of 1984. The amendment requires DOE to establish a performance fund of not less than 5 percent and not more than 15 percent of the annual program appropriation, beginning in fiscal year 1986.

Timetable:

Action	Date	FR Cite
NPRM	07/19/85	50 FR 29620
NPRM Comment Period End	09/17/85	
Final Action	12/05/85	50 FR 49912
Final Action Effective	01/06/86	50 FR 49912

Small Entity: No

Agency Contact: Greg Reamy, Energy Conservation Program Specialist, Department of Energy, Conservation and Renewable Energy, 1000 Independence Ave., SW, Washington, DC 20585, 202 252-2284

RIN: 1904–AA20

444. STATE PETITION REGARDING FEDERAL PREEMPTION OF STATE ENERGY EFFICIENCY STANDARDS FOR APPLIANCES

Significance: Regulatory Program

Legal Authority: 42 USC 6297(b)(3)

CFR Citation: 10 CFR 430.33

Legal Deadline: Statutory, 00/00/00. Section 327(b)(4) of the Act requires that DOE, within 6 months after the date any petition is filed, shall deny such petition or prescribe the requested rule, except that it may publish a notice in the Federal Register extending such period to a date certain.

Abstract: This is a rulemaking responding to two State petitions that the Department promulgate rules exempting various States' appliance energy efficiency standards from Federal preemption. For Michigan, the appliances addressed in the State's petition are gas furnaces, gas clothes dryers, and gas kitchen ranges and ovens. For Hawaii, the appliance addressed in the State's petition is water heaters.

Timetable:

Action	Date	FR Cite
NPRM	05/24/85	50 FR 21450
NPRM Comment Period End	08/22/85	
Withdrawn	03/05/86	51 FR 7582

Small Entity: No

Additional Information: The United States Court of Appeals for the District of Columbia Circuit decided on July 16, 1985, to set aside the final rules regarding Federal appliance energy efficiency standards. The final rule for clothes washers and kitchen ranges and ovens was published on December 22, 1982 (47 FR 57198). The final rule for refrigerators and refrigerator-freezers, freezers, water heaters, room air conditioners, furnaces and central air conditioners was published on August 30, 1983 (48 FR 39376). In light of the court decision, the Department has withdrawn this proposed rulemaking.

Agency Contact: Michael J. McCabe, Supervisory Mechanical Engineer, Department of Energy, Conservation and Renewable Energy, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-9127

RIN: 1904–AA24

[FR Doc. 86-8838 Filed 04-18-86; 8:45 am]

BILLING CODE 6450-01-T

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)

Prerule Stage

445. LOAN GUARANTEE FOR DEVELOPMENT OF UNDERGROUND COAL MINES AND CONSTRUCTION OF COAL PREPARATION PLANTS

Legal Authority: 42 USC 6211

CFR Citation: 10 CFR 300, (Revision)

Legal Deadline: None

Abstract: The Coal Loan Guarantee Program is designed to encourage and assist relatively small coal producers to increase the nation's coal production from low-sulfur underground coal mines; to enhance competition within the coal industry; to encourage new market entry by small coal producers who, historically, have been unable to obtain adequate long-term financing; and to encourage the construction of coal preparation plants designed to reduce the sulfur content of coal.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: Peter Muchunas, Program Manager, Department of Energy, Departmental and Others, FE-23, Germantown, MD, 301 353-2803

RIN: 1901–AA02

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DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)
Proposed Rule Stage

448. ● NON-DEPARTMENT OF ENERGY FUNDED WORK

Legal Authority: PL 95-91, Sec 646; PL 95-91, Sec 648; 31 USC 1536; 31 USC 1536; 42 USC 2051; 42 USC 2053; 42 USC 3201

CFR Citation: 10 CFR 1008

Legal Deadline: None

Abstract: An existing Department of Energy (DOE) Order, DOE 4200.2 RESEARCH AND DEVELOPMENT WORK PERFORMED FOR OTHERS BY GOVERNMENT-OWNED, CONTRACTOR - OPERATED FACILITIES, is in the process of being revised and expanded into a new DOE Order, NON-DEPARTMENT OF ENERGY FUNDED WORK. This Order established DOE policy, responsibilities, and procedures for authorizing and administering non-DOE funded work performed under DOE contracts. Such work makes use of public property, and any revision or reissue of the Order may be governed by the requirements of the Administrative Procedure Act, 5 USC 553. The DOE General Counsel will be asked to determine the applicability of 5 USC 553 to the issuance of the New Order, and, if required, a proposed rule will be developed in FY 1986 to ensure that work conducted by the Department's laboratories for other Federal agencies, State and local governments, businesses, industry, and universities constitutes acceptable, effective, and efficient use of DOE facilities. The cost of this rule to DOE is expected to be minimal while benefits to DOE and others, although difficult to quantify, is expected to be significant.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Lawrence K. Akers, Program Analyst, Department of Energy, Departmental and Others, Washington, DC 20585, 202 252-9756

RIN: 1901-AA05

447. ● BASIS OF FEES FOR DISPOSAL OF U.S. DEPARTMENT OF ENERGY DEFENSE HIGH-LEVEL WASTES

Significance: Regulatory Program

Legal Authority: PL 97-425, Sec 302; PL 97-425, Sec 6; EO 12291

CFR Citation: 10 CFR 961

Legal Deadline: None

Abstract: The purpose of this rulemaking is to determine the charges to be paid by DOE Defense Programs to the Office of Civilian Radioactive Waste Management for the disposal of defense high level waste in civilian repositories to be constructed pursuant to the Nuclear Waste Policy Act of 1982. The Department will consider several options relating to both the determination of total charges and of payment schedules.

Timetable:

Action	Date	FR Cite
NPRM	04/30/86	
NPRM Comment Period End	06/30/86	
Final Action	08/15/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Ronald Milner, Director, Analytical Services & Financial Management, Department of Energy, Departmental and Others, Office of Civilian Radioactive Waste Mgmt., (RW-12), Washington, DC 20585, 202 252-9173

RIN: 1901-AA06

448. ● PART 605 SPECIAL RESEARCH GRANTS PROGRAM; PROPOSED RULE

Legal Authority: 42 USC 2051; 42 USC 5817; 42 USC 5901; 42 USC 7254; 42 USC 7258; 31 USC 6301 et seq

CFR Citation: 10 CFR 605

Legal Deadline: None

Abstract: This action would revise administrative guidelines in order to clarify and streamline DOE-OER pre and post award policies and procedures.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: Not Applicable

Agency Contact: Robert Zich, Director, Acquisition and Assistance, Management Division, Department of Energy, Departmental and Others, (ER64), Washington, DC 20545, 301 353-5544

RIN: 1901-AA07

DEPARTMENT OF ENERGY (DOE)
Departmental and Others (ENDEP)
Final Rule Stage

449. ● PROPOSED URANIUM ENRICHMENT SERVICES CRITERIA

Significance: Agency Priority

Legal Authority: 42 USC 2201 (v)

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: The proposed criteria, which constitute the terms and conditions under which the Department of Energy offers uranium enrichment services to civilian customers, will reinforce continuing efforts to conduct the Department's enrichment activities in a more businesslike and competitive manner in the context of the highly competitive marketplace that exists today.

Timetable:

Action	Date	FR Cite
NPRM	01/29/86	51 FR 3624
NPRM Comment Period End	02/28/86	51 FR 3624
Next Action Undetermined		

Small Entity: No

Agency Contact: Lawrence Leiken, Attorney, Department of Energy, Departmeatal and Others, 1000 Independence Ave., SW, Washington, DC 20585, 202 252-6975

RIN: 1901-AA08

[FR Doc. 86-8888 Filed 04-18-86; 8:45 am]
BILLING CODE 6450-01-T

DEPARTMENT OF ENERGY (DOE)
Economic Regulatory Administration (ERA)
Proposed Rule Stage

450. ● PROPOSED RULE ESTABLISHING NEW ADMINISTRATIVE PROCEDURES WITH RESPECT TO SHORT-TERM IMPORTS AND EXPORTS OF NATURAL GAS

Significance: Agency Priority

Legal Authority: 15 USC 717b; 42 USC 7101 et seq; EO 12009

CFR Citation: 10 CFR 590

Legal Deadline: None

Abstract: The proposed rule would amend the administrative procedure regulations contained in 10 CFR 590, by establishing a new Subpart F to provide alternative, expedited procedures regarding applications to import and export natural gas on a short-term basis. The purpose of the proposed rule is to reduce the regulatory burden on parties wishing to import or export natural gas on a short-term or spot market basis by streamlining our licensing process, thus facilitating the operation of the market.

Timetable:

Action	Date	FR Cite
NPRM	04/04/86	
Public hearing	04/29/86	
NPRM Comment Period End	05/16/86	

Small Entity: No

Agency Contact: Paula A. Delgenesit, Director, Natural Gas Division, Department of Energy, Economic Regulatory Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-9482

RIN: 1903-AA07

DEPARTMENT OF ENERGY (DOE)
Economic Regulatory Administration (ERA)
Completed Actions

451. REVIEW AND ESTABLISHMENT OF NATURAL GAS CURTAILMENT PRIORITIES FOR INTERSTATE PIPELINES

Legal Authority: 42 USC 7151; 42 USC 7172; 15 USC 3391 to 3393

CFR Citation: 10 CFR 598

Legal Deadline: None

Abstract: The proposed rule establishes natural gas curtailment priorities applicable to deliveries by interstate pipelines during periods when not enough gas is available to supply all customers. The proposed rule implements the rulemaking requirements of Title IV of the Natural Gas Policy Act of 1978 by establishing curtailment priorities for high priority uses and for essential agricultural and essential industrial feedstock and process uses.

Timetable:

Action	Date	FR Cite
NPRM	07/02/80	45 FR 45098
Withdrawn from Agenda. No action expected this year.	03/26/86	

Small Entity: Not Applicable

Additional Information: FERC currently is reviewing the proposed rule pursuant to section 404 of the DOE Act. Final Rule will be issued approximately six weeks after FERC concurrence is received. A regulatory flexibility analysis is not required in regard to this rule since the notice of proposed rulemaking was issued prior to January 1, 1981.

Agency Contact: Constance Buckley, Department of Energy, Economic Regulatory Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-9482

RIN: 1903-AA00

452. ADMINISTRATIVE PROCEDURES FOR ADJUSTMENTS OF NATURAL GAS CURTAILMENT PRIORITY REGULATIONS

Legal Authority: 15 USC 3412; 42 USC 7101; 5 USC 553

CFR Citation: 10 CFR 580; 10 CFR 585

Legal Deadline: None

Abstract: This rule proposes procedures for seeking interpretations, modifications, or rescissions of natural gas curtailment priority regulations for essential agricultural uses. The Federal Energy Regulatory Commission (FERC) took jurisdiction over the proposed rule on June 15, 1979, under Section 404 of the DOE Organization Act, and the matter is currently at FERC.

Timetable:

Action	Date	FR Cite
NPRM	05/07/79	44 FR 27676
NPRM Comment Period End	06/06/79	44 FR 27676
Withdrawn from Agenda. No action expected this year.	03/26/86	

Small Entity: No

Agency Contact: Constance Buckley, Department of Energy, Economic Regulatory Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-9482

RIN: 1903-AA04

[FR Doc. 86-8888 Filed 04-18-86; 8:45 am]
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DEPARTMENT OF ENERGY (DOE)
Management and Administration (MA)

Proposed Rule Stage

453. FINANCIAL ASSISTANCE REGULATIONS; COOPERATIVE AGREEMENTS

Legal Authority: 42 USC 7254; 42 USC 7256; 31 USC 6301 et seq

CFR Citation: 10 CFR 600C

Legal Deadline: None

Abstract: This revision would conform DOE rules on cooperative agreement award and administration with DOE and government-wide financial assistance policy (the latter contained in OMB circulars A-102 and A-110) and would reflect DOE experience under the existing rule.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
NPRM Comment Period End	05/00/86	
Final Action	07/00/86	
Final Action Effective	08/00/86	

Small Entity: No

Agency Contact: Cherlyn Seckinger, Procurement Analyst, Department of Energy, Management and Administration, MA-421.2, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-6196

RIN: 1991-AA03

454. DEPARTMENT OF ENERGY ACQUISITION REGULATION REVISIONS

Legal Authority: 41 USC 401 et seq The Office of Federal Procurement Policy Act; 42 USC 7101 et seq The Department of Energy Organization Act; EO 12352 Procurement Reforms

CFR Citation: 48 CFR 927; 48 CFR 950

Legal Deadline: None

Abstract: The Department of Energy Acquisition Regulation, promulgated March 29, 1984, at 49 FR 11922, supplements and implements the Federal Acquisition Regulation. A more recent Federal Acquisition Circular has been issued to establish a FAR Part 27 concerning Patents. It will be necessary to revise Part 927 of the DEAR to supplement and implement the FAR and to explain how DOE patent policy will differ due to our statutory requirements. The Department also plans to revise Part 950 of the DEAR regarding extraordinary contract actions to describe how such requests will be handled. Neither of the actions is anticipated to have any cost impact.

Timetable:

Action	Date	FR Cite
NPRM	04/01/86	
NPRM Comment Period End	05/15/86	
Final Action	08/01/86	
Final Action Effective	09/01/86	

Small Entity: No

Agency Contact: Richard B. Langston, Procurement Analyst, Department of Energy, Management and Administration, MA-421.1, Washington, DC 20585, 202 252-6259

RIN: 1991-AA23

455. DEPARTMENT OF ENERGY ACQUISITION REGULATION

Legal Authority: 42 USC 2011 et seq; 42 USC 7154

CFR Citation: 48 CFR 970

Legal Deadline: None

Abstract: This action would update and consolidate in one place all provisions applicable to the subcontracting practices of DOE management and operating contractors.

Timetable:

Action	Date	FR Cite
NPRM	03/15/86	
NPRM Comment Period End	04/30/86	

Small Entity: No

Agency Contact: Robert M. Webb, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Ave., SW, Washington, DC 20585, 202 252-6247

RIN: 1991-AA25

456. DEPARTMENT OF ENERGY PROPERTY MANAGEMENT REGULATION

Legal Authority: 42 USC 7254

CFR Citation: 41 CFR 109

Legal Deadline: None

Abstract: To update the Property Management Regulations regarding official use of motor vehicles. The rule would also make various other minor upgrading changes.

Timetable:

Action	Date	FR Cite
NPRM	09/01/86	
NPRM Comment Period End	09/01/86	
Final Action	11/01/86	
Final Action Effective	12/01/86	

Small Entity: No

Agency Contact: Robert Wilson, Property Management Representative, Department of Energy, Management and Administration, 1000 Independence Ave SW, Washington, DC 20585, 202 252-6200

RIN: 1991-AA28

457. DEPARTMENT OF ENERGY ACQUISITION REGULATION

Legal Authority: 42 USC 7254

CFR Citation: 48 CFR 945

Legal Deadline: None

Abstract: To revise standards relative to contractor acquisition of government property.

Timetable:

Action	Date	FR Cite
NPRM	04/01/86	
NPRM Comment Period End	05/01/86	
Final Action	07/31/86	
Final Action Effective	08/31/86	

Small Entity: No

Agency Contact: Edward Pietsch, Property Management Representative, Department of Energy, Management and Administration, 1000 Independence Ave. SW, Washington, DC 20585, 202 252-6252

RIN: 1991-AA32

458. DEPARTMENT OF ENERGY FINANCIAL ASSISTANCE RULES

Legal Authority: 42 USC 7254; 42 USC 7256; 31 USC 6301 et seq

CFR Citation: 10 CFR 600.117

Legal Deadline: None

Abstract: This revision would update and clarify the property provisions of the rule. The principal change would be to raise the dollar threshold for recipient recordkeeping and property accountability under the Department of Energy Financial Assistance Rules (FAR).

DOE—MA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/01/86	
NPRM Comment Period End	05/30/86	

Small Entity: No

Additional Information: Related to 1991-AA21.

Agency Contact: Ellen Feinsilber, Chief, Business and Financial Policy Branch, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-8173

RIN: 1991-AA34

459. DEPARTMENT OF ENERGY FINANCIAL ASSISTANCE RULES

Legal Authority: 42 USC 7254; 42 USC 7256; 31 USC 6301 et seq

CFR Citation: 10 CFR 600.6; 10 CFR 600.7; 10 CFR 600.9; 10 CFR 600.14

Legal Deadline: None

Abstract: This regulatory revision of DOE Financial Assistance Rules (FAR) would establish more detailed documentation procedures and clarify the restricted eligibility requirements governing financial assistance awards on a non-competitive basis.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
NPRM Comment Period End	04/00/86	

Small Entity: No

Additional Information: Related to 1991-AA21.

Agency Contact: Ellen Feinsilber, Chief, Business and Financial Policy Branch, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-8173

RIN: 1991-AA35

460. ● DEPARTMENT OF ENERGY ACQUISITION REGULATION (DEAR)

Legal Authority: PL 99-145, Sec 1534

CFR Citation: 48 CFR 970

Legal Deadline: Statutory, April 7, 1986. Publication of final rule.

Abstract: Amend procurement regulations (DEAR) to make unallowable for reimbursement under DOE Management and Operating contracts the ten cost items specified in Section 1534 as non-allowable costs.

Timetable:

Action	Date	FR Cite
NPRM	03/04/86	51 FR 7469
NPRM Comment Period End	04/03/86	
Final Action	04/00/86	
Final Action Effective	04/00/86	

Small Entity: No

Agency Contact: Rudolph J. Schuhbauer, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-8173

RIN: 1991-AA36

DEPARTMENT OF ENERGY (DOE)
Management and Administration (MA)

Final Rule Stage

461. DEPARTMENT OF ENERGY FINANCIAL ASSISTANCE RULES

Legal Authority: 42 USC 7254; 42 USC 7256; 31 USC 6301 et seq

CFR Citation: 10 CFR 600.20; 10 CFR 600.102; 10 CFR 600.103; 10 CFR 600.106; 10 CFR 600.106; 10 CFR 600.114; 10 CFR 600.115; 10 CFR 600.119

Legal Deadline: None

Abstract: The revised regulation would provide modified and simplified policies and procedures with respect to research administration. The revision would eliminate burdensome obligations such as prior approval of certain budgetary changes and would permit more flexibility in the use of funds awarded.

Timetable:

Action	Date	FR Cite
NPRM	08/13/85	50 FR 32684
NPRM Comment Period End	09/10/85	50 FR 32684
Final Action	03/03/86	
Final Action Effective	04/01/86	

Small Entity: No

Agency Contact: Ellen Feinsilber, Chief, Business and Financial Policy Branch, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-8173

RIN: 1991-AA21

462. DEPARTMENT OF ENERGY ACQUISITION REGULATION

Legal Authority: 42 USC 7254 Department of Energy Organization Act

CFR Citation: 48 CFR 914; 48 CFR 933; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: To provide new bid protest procedures. This action is the Department's implementation of the government-wide policy of the Federal Acquisition Regulation required by the Competition in Contracting Act.

Timetable:

Action	Date	FR Cite
NPRM	03/27/85	50 FR 13053
NPRM Comment Period End	05/28/85	50 FR 13053
Final Action	04/01/86	
Final Action Effective	05/01/86	

Small Entity: No

Agency Contact: G. L. Allen, Director, Business Clearance, Department of Energy, Management and Administration, 1000 Independence Ave SW, Washington, DC 20585, 202 252-1528

RIN: 1991-AA26

463. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY ASSISTED PROGRAMS

Legal Authority: 42 USC 4601

CFR Citation: 10 CFR 1039

Legal Deadline: None

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DOE—MA

Final Rule Stage

Abstract: Provides implementation of PL 91-646 (Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs Policies Act of 1970), which requires that owners of real property that will be acquired for Federal or Federally assisted programs and persons displaced from their dwellings, businesses, or farms as a result of such acquisition be provided fair, consistent, and equitable treatment. This common rule for several agencies is being evaluated by OMB who is the lead agency. Currently awaiting final determination from OMB, who will then publish for comment in Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	05/28/85	50 FR 21712
NPRM Comment Period End	07/29/85	50 FR 21712
Final Action	09/30/86	

Small Entity: No

Government Levels Affected: Local, State, Federal

Agency Contact: Donald G. Trost, Realty Officer, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-1191

RIN: 1991–AA27

484. DEPARTMENT OF ENERGY ACQUISITION REGULATION

Legal Authority: 42 USC 2168 Atomic Energy Act; 42 USC 7254 Department of Energy Organization Act

CFR Citation: 48 CFR 904; 48 CFR 952

Legal Deadline: None

Abstract: This regulatory action would amend the Department of Energy Acquisition Regulation (DEAR) to add a new contract clause and related instructions concerning protection of sensitive unclassified data. The contract clause would be applicable to contractors whose employees participate in the design, operation, or maintenance of computer or telecommunication systems or have access to DOE sensitive unclassified data stored in computer systems. Sensitive unclassified data may include, but not necessarily be limited to, personnel data maintained in systems of records subject to Privacy Act protection, proprietary business data within the meaning of 18 U.S.C. Sec. 1905 and the Freedom of Information Act, and unclassified controlled nuclear information within the meaning of 42 U.S.C. Sec. 2168.

Timetable:

Action	Date	FR Cite
NPRM	06/21/85	50 FR 25722
NPRM Comment Period End	07/22/85	50 FR 25722
Final Action	05/30/86	
Final Action Effective	06/30/86	

Small Entity: No

Agency Contact: Laura Bick, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Ave, SW, Washington, DC 20585, 202 252-6246

RIN: 1991–AA29

485. DEPARTMENT OF ENERGY ACQUISITION REGULATION

Legal Authority: 42 USC 7254 Department of Energy Organization Act

CFR Citation: 48 CFR 902; 48 CFR 904; 48 CFR 913; 48 CFR 915; 48 CFR 917; 48 CFR 919; 48 CFR 925; 48 CFR 952; 48 CFR 970

Legal Deadline: None

Abstract: This action is for the purpose of updating the Acquisition Regulation as a result of changes in the Federal Acquisition Regulation and Internal Procedures. It discontinues the use of DOE Small Purchase Forms as GSA has issued forms for that purpose. It increases the threshold for formal source evaluation boards from $5 to $10 million. It adds a new solicitation provision entitled "Buy America Act - Construction Materials." It also provides new guidance on Small Business Subcontract Plans Under Management Contracts.

Timetable:

Action	Date	FR Cite
NPRM	06/26/85	50 FR 34656
Final Action	05/30/86	
Final Action Effective	06/30/86	

Small Entity: No

Agency Contact: Pam Bolling, Procurement Clerk, Department of Energy, Management and Administration, 1000 Independence Ave, SW, Washington, DC 20585, 202 252-6251

RIN: 1991–AA33

DEPARTMENT OF ENERGY (DOE)
Management and Administration (MA)

Completed Actions

466. DEPARTMENT OF ENERGY ACQUISITION REGULATION

Legal Authority: 42 USC 7101 Department of Energy Organization Act

CFR Citation: 48 CFR 914; 48 CFR 915; 48 CFR 952

Legal Deadline: None

Abstract: To reduce paperwork burdens associated with the preparation of Representations and Certifications by Prospective Contractors.

Timetable:

Action	Date	FR Cite
NPRM	06/22/85	50 FR 21087
NPRM Comment Period End	08/21/85	50 FR 21087
Final Action	09/04/85	50 FR 35956
Final Action Effective	10/04/85	

Small Entity: No

Agency Contact: Richard Langston, Procurement Analyst, Department of Energy, Management and Administration, 1000 Independence Ave. SW, Washington, DC 20585, 202 252-6284

RIN: 1991–AA30

467. DEPARTMENT OF ENERGY FINANCIAL ASSISTANCE RULES

Legal Authority: 42 USC 7254; 42 USC 7256; 31 USC 7501 et seq

DOE—MA

Completed Actions

CFR Citation: 10 CFR 600.2; 10 CFR 600.104; 10 CFR 600.109; 10 CFR 600.120; 10 CFR 600.123; 10 CFR 600.300 et seq

Legal Deadline: None

Abstract: The revised regulation would implement the Single Audit Act of 1984 (PL 98-502) and OMB Circular A-128 and make necessary technical and conforming amendments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/18/85	50 FR 42354
Final Action Effective	10/18/85	50 FR 42354
Final Action	02/04/86	51 FR 4298

Small Entity: No

Agency Contact: Ellen Felsenfeld, Chief, Business and Financial Policy Branch, Department of Energy, Management and Administration, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-6178

RIN: 1991–AA31

[FR Doc. 86-8556 Filed 04-18-86; 8:45 am]

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DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC)

Proposed Rule Stage

468. AMENDMENTS TO DEPARTMENT OF ENERGY CONDUCT OF EMPLOYEES

Legal Authority: 18 USC 201 to 209; 42 USC 7211 to 7216; EO 11222

CFR Citation: 10 CFR 1010

Legal Deadline: None

Abstract: The regulations need to be revised to reflect the provisions and requirements of the Ethics in Government Act. In addition, it is anticipated that certain sections of the regulations will be clarified and/or revised to reflect current Office of General Counsel policy and interpretations.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
NPRM Comment Period End	11/00/86	

Small Entity: No

Additional Information: As part of the revision of the Department of Energy Conduct of Employees Regulations, we propose to amend Appendix I of the Regulations. We expect final action on this amendment of the Regulations to be completed by December 31, 1986.

Agency Contact: Susan Fonner, Acting Deputy AGC for General Law, Department of Energy, Office of General Counsel, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-1522

RIN: 1990–AA00

469. PATENT WAIVER REGULATION

Legal Authority: 42 USC 2182; 42 USC 5908

CFR Citation: 10 CFR 784; 41 CFR 9-9.109-6

Legal Deadline: None

Abstract: The regulation provides procedures and standards for obtaining a waiver of the Government's rights in inventions made under DOE research and development contracts with entities that are not small businesses or nonprofit institutions, and terms and conditions of such waivers. Currently, DOE waiver policy is provided in DOE Procurement Regulations (41 CFR 9-9.109-6). The proposed regulation places DOE patent waiver policy in a separate regulation, and also provides updates, revisions and clarifications to waiver policy as contained in 41 CFR 9-9.109-6.

Timetable:

Action	Date	FR Cite
NPRM	06/30/86	
NPRM Comment Period End	08/30/86	

Small Entity: Undetermined

Agency Contact: Richard E. Constant, Assistant General Counsel for Patents, Department of Energy, Office of General Counsel, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-2986

RIN: 1990–AA02

470. FOREIGN GIFTS AND DECORATIONS

Legal Authority: 5 USC 7342 41 CFR 101-49.001-5

CFR Citation: 10 CFR 1050

Legal Deadline: None

Abstract: The regulations need to be amended to reflect the increase in the dollar amount of "minimal value." (Whether a gift is of minimal value is a factor as to whether the regulations apply.) The dollar amount of minimal value is determined by the General Services Administration, by GSA regulation. Accordingly, the DOE regulations will reference the GSA regulation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/87	

Small Entity: No

Agency Contact: Susan Fonner, Acting Deputy AGC for General Law, Department of Energy, Office of General Counsel, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-1522

RIN: 1990–AA04

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DEPARTMENT OF ENERGY (DOE)
Office of General Counsel (OGC)

Final Rule Stage

471. CLARIFICATION OF THE TERM BYPRODUCT MATERIAL

Legal Authority: 42 USC 2011 et seq (Atomic Energy Act of 1954)

CFR Citation: 10 CFR 962, (new)

Legal Deadline: None

Abstract: This regulation will clarify the application of the term Byproduct Material, as defined in section 11(e) (1) of the Atomic Energy Act (42 USC 2014(e) (1)) to Department of Energy owned or produced radioactive waste substances, for the purpose of determining which of these waste substances are Byproduct Material under the Atomic Energy Act, and are therefore not "solid waste" as that term is defined in the Resource Conservation and Recovery Act (42 USC 6901 et seq).

Timetable:

Action	Date	FR Cite
NPRM	11/01/85	50 FR 45736
NPRM Comment Period End	01/02/86	
Final Action	03/00/86	

Small Entity: No

Agency Contact: Henry K. Gessen, Assistant General Counsel for Environment, Department of Energy, Office of General Counsel, GC-11, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, 202 252-6947

RIN: 1990-AA05

[FR Doc. 86-8355 Filed 04-18-86; 8:45 am]
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federal register

Monday
April 21, 1986

Part VIII

Department of Health and Human Services

Semiannual Regulatory Agenda

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HHS

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

20 CFR Ch. III

21 CFR Ch. I

42 CFR Chs. I-V

45 CFR Subtitle A, Chs. II, III, and XIII

Unified Agenda of Regulations

AGENCY: Department of Health and Human Services.

ACTION: Publication of unified agenda of regulations.

SUMMARY: The President's February 17, 1981, Executive Order (12291) and the Regulatory Flexibility Act of 1980 require the Department to publish an agenda of significant regulations being developed and an indication of those regulatory actions that are being analyzed for their effect on small businesses. The Department published its last agenda on October 28, 1985.

FOR FURTHER INFORMATION CONTACT: For further inquiries or comments related to specific regulations listed in the agenda, the public is encouraged to contact the appropriate responsible individual. Questions or comments on the overall agenda should be sent to: John J. Phelan, Associate Executive Secretary/Regulations, Office of the Secretary, Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, D.C. 20201, Telephone: (202) 245-3475.

James J. Delaney,
Executive Secretary.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
472	Nondiscrimination Requirement Applicable to Block Grants and Community Economic Development and Head Start Programs - Including Nondiscrimination on the Bases of Sex and Religion	0991-AA02
473	Public Information Regulation	0991-AA07
474	Privacy Act Regulation	0991-AA11
475	Principles for Determining Costs and Cost Allocation Procedures Applicable to Grants, Contracts, and Other Agreements for Work Performed by Hospitals	0991-AA12
476	Enforcement of Nondiscrimination on the Basis of Handicap in the Department of Health and Human Services	0991-AA17
477	Revision to OIG's Sanction Authorities	0991-AA21
478	Block Grant Programs	0991-AA25
479	Administration of Grants - Implementation of OMB Circular A-102	0991-AA27
480	Departmental Grants Administration Manual	0991-AA33
481	Automatic Data Processing Equipment and Services; Conditions for Federal Financial Participation II	0991-AA34

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
482	Automatic Data Processing Equipment and Services – Conditions for Federal Financial Participation	0991-AA14
483	Medicare Physician Fee Freeze Sanctions	0991-AA20
484	Equal Opportunity in Employment: Public Broadcasting, Public Radio and Public Telecommunications Entities Receiving Federal Funds from the Corporation for Public Broadcasting	0991-AA22
485	Administration of Grants-Implementation of OMB Circular A-88	0991-AA29
486	Administration of Grants-Single Audit Act of 1984	0991-AA30

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
487	Income and Eligibility Verification Procedures	0991-AA26
488	Medicare and Medicaid Fraud and Abuse Technical Amendments	0991-AA31

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Office of the Secretary—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
489	Automatic Data Processing Equipment and Services; Conditions for Federal Financial Participation–Waiver of Prior Approval	0991-AA32

Departmental Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
490	Claims Collection	0990-AA00
491	Grants to States for Public Assistance Programs	0990-AA01

Office of Human Development Services—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
492	Head Start Program-Prerulemaking Action	0990-AA15

Office of Human Development Services—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
493	Foster Care Maintenance Payments, Adoption Assistance, and Child Welfare Services – Notice of Proposed Rulemaking	0990-AA06
494	Runaway and Homeless Youth Program–Notice of Proposed Rulemaking	0990-AA11
495	Developmental Disabilities Program–Notice of Proposed Rulemaking	0990-AA12

Office of Human Development Services—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
496	Work Incentive Program for AFDC Recipients under Title IV of the Social Security Act–Final Rules	0990-AA09
497	Head Start Program–Final Rule	0990-AA10
498	Child Abuse & Neglect Prevention & Treatment Program–Final Rules	0990-AA14

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Office of Human Development Services—Completed Actions

Sequence Number	Title	Regulation Identifier Number
499	Grants for State and Community Programs on Aging; Grants to Indian Tribes for Supportive & Nutrition Services—Final Rules	0960-AA02

Social Security Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
500	Old Age, Survivors, and Disability Insurance Program; Black Lung Program; and Supplemental Security Income Program; Office of Management & Budget Control Numbers for Approved Information ETC	0960-AA97

Social Security Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
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502	Supplemental Security Income Program; Reductions, Suspensions and Terminations	0960-AA22
503	Old-Age, Survivors, and Disability Insurance Program; Wage Coverage Under Social Security	0960-AA55
504	Supplemental Security Income Program; Reopening and Revising Supplemental Security Income Determinations and Decisions Within Four Years of the Notice of the Initial Determination	0960-AA59
505	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Simplified Fee Process for Representatives of Claimants	0960-AA64
506	Old-Age, Survivors, and Disability Insurance Program; Residency Requirement for Paying Benefits to Non-Resident Aliens	0960-AA78
507	Aid to Families With Dependent Children; Consideration of Utility Payments Made By Tenants in Housing and Urban Development Assisted Housing	0960-AA87
508	Old-Age, Survivors, and Disability Insurance Program; Coverage of Certain Newly Hired Federal Employees; Coverage of Earnings of Federal Judges	0960-AA89
509	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs Treatment of OASDI Lump Sum and Monthly Payments in the Aid to Families with Dependent Children Program	0960-AA90
510	Public Assistance Programs, Duplicate Assistance Payments	0960-AA96
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512	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Respiratory System	0960-AB00
513	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Musculoskeletal System	0960-AB01
514	Black Lung Program; Establishing Dependency of Surviving Divorced Wife and Computation of Basic Rate	0960-AB05
515	Aid to Families With Dependent Children; Application of Federal Financial Participation of Recovered Incorrect Payments to Quality Control Disallowances	0960-AB06
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517	Old-Age, Survivors, and Disability Insurance Program; Black Lung Program; Opportunity for Oral Hearing Before Benefit Recovery	0960-AB17
518	Old Age Survivors Disability Insurance and Supplemental Security Income Programs; Standards for Consultative Examinations; Medical Evidence	0960-AB22
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Social Security Administration—Proposed Rule Stage—Continued

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526	Old Age Survivors Disability Insurance and Supplemental Security Income Programs; Compliance With Federal Law	0960-AB36
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528	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Adjustments in SSI Benefits on Account of Retroactive Benefits Under Title II	0960-AB38
529	Supplemental Security Income Program; Limitation on Recoupment Rate in Case of Overpayment	0960-AB40
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533	Aid to Families with Dependent Children Program; Administrative Improvement in the AFDC Program	0960-AB72
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543	Old-Age, Survivors, and Disability Insurance Program; Reduction Because of Entitlements to Other Benefits	0960-AB87
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549	Supplemental Security Income Program; Spousal Deeming Computation Involving State Supplementation	0960-AB95
550	Old-Age, Survivors, and Disability Insurance Program; Revised Medical Criteria for Determination of Disability; Mental Impairments - Childhood Listings	0960-AB96
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555	Old-Age, Survivors, and Disability Insurance Program; Medical Evaluation Criteria for Acquired Immune Deficiency Syndrome (AIDS)	0960-AC06
556	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Decisions by Administrative Law Judges in Cases Remanded by Courts	0960-AC07
557	Supplemental Security Income Program; Prohibition on Direct Payment of Fees to Representatives	0960-AC08

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Social Security Administration—Final Rule Stage

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570	Supplemental Security Income Program; Resource Limits for Conditional SSI Payments	
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572	Supplemental Security Income Program; Presumptive Disability and Presumptive Blindness; Categories of Impairments-AIDS	0960-AA79 0960-AA83
573	Aid to Families With Dependent Children; Reduction of Federal Funds for Unreported Child Support Collections	0960-AA85
574	Aid to Families With Dependent Children; Definition of Permissible State Practice-Quality Control	0960-AB07
575	Aid to Families With Dependent Children Program; Income and Eligibility Verification Systems	0960-AB08
576	Aid to Families With Dependent Children Program; Implementation of the Deficit Reduction Act of 1984	0960-AB11
577	Supplemental Security Income Program; Resources; Exclusion of Underpayments	
578	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Personal Appearance Demonstration Projects	0960-AB20 0960-AB21
579	Old Age Survivors Disability Insurance and Supplemental Security Income Program; Frequency of Periodic Reviews	
580	Old Age Survivors Disability Insurance and Supplemental Security Income Programs; Qualifications of Medical Professionals Evaluating Mental Impairments	0960-AB31
581	Old Age, Survivors, Disability Insurance and Supplemental Security Income Programs; Determining Disability and Blindness; Multiple Impairments	0960-AB39
582	Refugee Resettlement Program; Refugee Cash and Assistance; Requirements for Job Search, Employment Services, and Employment; Refugee Medical Assistance; and Refugee Support Services	0960-AB74 0960-AB81
583	Old Age, Survivors, and Disability Insurance Programs; Unlimited Reopening for Insured Status	0960-AB84
584	Old Age, Survivors, and Disability Insurance Programs; Withdrawal of an Application	
585	Organizations and Procedures; Availability of Information and Records to the Public–Social Security Rulings–Acquiescence Series	0960-AB85
586	Old Age, Survivors, and Disability Insurance Programs; Extension and Reextension Agreements for Assessment, Credit or Refund of Amounts Due or Overpaid by a State	0960-AB88 0960-AC01
587	Supplemental Security Income Program; In-Kind Support and Maintenance – Rental Subsidies	0960-AC02
588	Supplemental Security Income Program; Liquid and Nonliquid Resources and Resource Determinations	0960-AC03
589	Supplemental Security Income Program; Pension Funds for Deeming Purposes and Grandfathering Provisions	
590	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Continued Payment of Benefits to Persons in Vocational Rehabilitation Programs	0960-AC05

Social Security Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
591	Supplemental Security Income Program; Eligibility, Amount of Benefits, Income, Resources, State Supplementary Provisions, Agreements, Payments	0960-AA27
592	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Revised Medical Criteria for Determination of Disability	0960-AA41
593	Old-Age, Survivors, and Disability Insurance Program and Supplemental Security Income Program; Disability Hearings at the Reconsideration Level	0960-AA49

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Social Security Administration—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
594	Old-Age, Survivors, and Disability Insurance and Supplemental Security Income Programs; Payment of Certain Travel Expenses	0960-AA61
595	Supplemental Security Income Program; Temporary Residents of Emergency Shelters for the Homeless	0960-AA70
596	Supplemental Security Income Program; The Automobile, Property Essential to Self-Support; the Home	0960-AA82
597	Aid to Families With Dependent Children Program, Treatment of Assigned Support Payments Received Directly and Retained by AFDC Applicants or Recipients	0960-AB02
598	Aid to Families With Dependent Children Program; Office of Management and Budget Control Numbers for Information Collection Requirements Contained in AFDC Regulations	0960-AB04
599	Supplemental Security Income Program; Increase in Dollar Limitation Under Assets Test	0960-AB23
600	Old Age Survivors Disability Insurance and Supplemental Security Income Programs; Standard of Review for Termination of Disability Benefits and Periods of Disability	0960-AB25
601	Supplemental Security Income Programs; Eligibility; Continuation of Benefits and Eligibility for Certain Severely Impaired Recipients Who Work	0960-AB35

Office of Child Support Enforcement—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
602	Interstate Child Support Enforcement	0992-AA17
603	Medical Support Enforcement #2	0992-AA18
604	Prohibition of Federal Funding of Costs of Incarceration and Counsel for Indigent Absent Parents	0992-AA19

Office of Child Support Enforcement—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
605	Disregard of Child Support Payments; Regulations Implementing the Deficit Reduction Act of 1984	0992-AA20

Office of Child Support Enforcement—Completed Actions

Sequence Number	Title	Regulation Identifier Number
606	Medical Support Enforcement	0992-AA12
607	OMB Control Numbers for Information Collection Requirements Contained in OCSE Regulations	0992-AA15

Public Health Service—Office of Assistant Secretary for Health (OASH)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
608	Grants for Adolescent Pregnancy and Family Life Projects	0905-AA24

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Public Health Service—Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
609	Obligated Service for Mental Health Traineeships	0905-AB48

Public Health Service—Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
610	Confidentiality of Alcohol and Drug Abuse Patient Records	0905-AA26

Public Health Service—Centers for Disease Control (CDC)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
611	Project Grants for Health Programs for Refugees	0905-AB43
612	Distribution of Reference Biological Standards and Biological Preparations	0905-AB49
613	Improve Standards for Respirator Devices	0905-AB58
614	Medical Examination of Aliens	0905-AB66

Public Health Service—Centers for Disease Control (CDC)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
615	Specifications for Medical Examinations of Underground Coal Miners	0905-AB51

Public Health Service—Food and Drug Administration (FDA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
616	Medical Device Amendments: Implementation Improvement	0905-AB64
617	Clinical Testing for New Drugs	0905-AB61

Public Health Service—Food and Drug Administration (FDA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
618	Over-the-Counter (OTC) Drug Review	0905-AA08
619	Risk Assessment Policy for Regulating Carcinogenic Impurities in Food and Color Additives	0905-AA12
620	Current Good Manufacturing Practice for Finished Pharmaceuticals; Retrospective Review	0905-AA73
621	Current Good Manufacturing Practice (CGMP) for Blood and Blood Components; Retrospective Review	0905-AA75
622	Reporting Requirements for Marketed Animal Drugs	0905-AB06
623	Adverse Drug Experience Reporting Requirements for Marketed Prescription Drugs Without Approved New Drug or Abbreviated New Drug Applications	0905-AB53
624	Proposed Rule to Implement the Orphan Drug Amendments to the Federal Food, Drug, and Cosmetic Act	0905-AB55
625	Implementation of Title I of the "Drug Price Competition and Patent Term Restoration Act of 1984" (Title I)	0905-AB63
626	Patent Term Restoration of Regulated Products (Title II of "Drug Price Competition and Patent Term Restoration Act of 1984")	0905-AB65

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Public Health Service—Food and Drug Administration (FDA)—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
627	Food Labeling Information Regarding Good Nutrition and Health	0905-AB67
628	Food Labeling; Label Claims for Foods on the Basis of Cholesterol Content	0905-AB68
629	Abbreviated New Animal Drug Applications for Post-1962 Animal Drugs	0905-AB72

Public Health Service—Food and Drug Administration (FDA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
630	Premarket Approval Application (PMA) Procedures	0905-AA19
631	Current Good Manufacturing Practice for Human Food	0905-AA72
632	Good Laboratory Practice for Nonclinical Laboratory Studies	0905-AA84
633	Irradiation in the Production, Processing, and Handling of Food	0905-AA86
634	Availability of Bulk New Animal Drug Substances for Use By Licensed Veterinarians	0905-AB01
635	Animal Drug Safety Policy	0905-AB04
636	IND Regulations Revision	0905-AB09
637	Sulfiting Agents; Labeling in Drugs for Human Use	0905-AB38
638	Labeling of Drug Products for Over-the-Counter Human Use (Exclusivity Policy)	0905-AB40
639	Food Labeling and Uses of Sulfiting Agents	0905-AB52
640	Proposed User Charge; New Drug Applications, Abbreviated New Drug Applications, and Antibiotic Applications Review	0905-AB58
641	Provisionally Listed Color Additives	0905-AB60
642	Antibody Test for HTLV-III; General Biological Products Stds.; Additional Standards for Human Blood and Blood Products; Serological Test for Human T-Lymphotropic Virus, Type III	0905-AB62
643	Methylene Chloride	0905-AC09

Public Health Service—Food and Drug Administration (FDA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
644	Revised Procedures Regarding Medicated Feed Applications	0905-AA15
645	Exempt Infant Formula	0905-AA85
646	New Animal Drug Approval Process; Review of NADA Rules	0905-AA96
647	Current Good Manufacturing Practice for Blood and Blood Components; Uniform Blood Labeling	0905-AB30
648	Nutrient Requirements for Infant Formula	0905-AB37
649	Labeling for Oral Aspirin-Containing Drug Products; Reye Syndrome	0905-AB97

Public Health Service—Health Resources and Services Administration (HRSA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
650	General Review and Revision of Public Law 93-638 Program and Contracting Regulations	0905-AB98

Public Health Service—Health Resources and Services Administration (HRSA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
651	Limitation on Federal Participation for Capital Expenditures Review Program Under Section 1122 of the Social Security Act	0905-AA39
652	Program Grants for Migrant Health Services	0905-AA62

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Public Health Service—Health Resources and Services Administration (HRSA)—Proposed Rule Stage—Continued

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648	Project Grants and Loans For Home Health Services and Training	0905-AB11
654	Primary Care Block Grant Program	0905-AB12
655	Indian Health Service, 42 CFR Part 36 Subpart L Contracts Under the Indian Self-Determination Act: Amendments	0905-AB31
656	Grants for Nurse Anesthetists Traineeships	0905-AB33
657	Reasonable Volume of Uncompensated Services to Persons Unable to Pay (Hill-Burton)	0905-AB35
658	Health Education Assistance Loan (HEAL) Program: Program Management	0905-AB46
659	Grants for Residency Training and Faculty Development in General Internal Medicine or General Pediatrics	0905-AB50
660	Indian Eligibility	0905-AB69
661	Health Professions Student Loan (HPSL) Program-Improved Program Management Regulations	0905-AB98
662	Nursing Student Loan (NSL) Program - Improved Program Management Regulations	0905-AB95
663	Changes to Public Law 98-550 Regulations to Add a Review Process for Declination Appeals	0905-AB99
664	Grants for Community Health Centers	0905-AC01
665	Health Maintenance Organizations; Employer Contributions to the HMO Option	0905-AC83
666	Charging Fees for Health Maintenance Organization Qualification Applications	0905-AC84
667	Charging Fees for Hill-Burton Direct and Guaranteed Loan Modification Requests	0905-AC85
668	Grants for Nurse Practitioner and Nurse Midwife Training Programs	0905-AC11
669	Programs for the Training of Physician Assistants	0905-AC15
670	Nursing Special Project Grants: Demonstration Projects	0905-AC21

Public Health Service—Health Resources and Services Administration (HRSA)—Final Rule Stage

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671	Grants for Nurse Practitioner Traineeship Programs	0905-AA47
672	Grants for Residency Training in Preventive Medicine	0905-AA50
673	National Health Service Corps (NHSC); Private Practice Option (PPO) Loans to Individuals	0905-AA57
674	Reasonable Volume of Uncompensated Services to Persons Unable to Pay - Hill-Burton (Public Facilities)	0905-AB75
675	Health Professions Student Loan (HPSL) Program: Deferment Revisions	0905-AC06
676	Health Education Assistance Loan (HEAL) Program: Deferment Revisions	0905-AC07
677	Grants for Various Health Professions: Interdisciplinary Training and Curriculum Development	0905-AC08
678	Health Education Assistance Loan (HEAL) Program: Provisions of the Law (Pub. L. 99-129)	0905-AC09
679	Nursing Student Loan (NSL) Program: Provisions of the Law (Pub. L. 99-92)	0905-AC10
680	Grants for Graduate Programs in Health Administration	0905-AC12
681	Health Professions Student Loan (HPSL) Program: Provisions of the Law (Pub.L. 99-129)	0905-AC13
682	Capitation Grants for Schools of Public Health	0905-AC14
683	Advanced Nurse Education Programs	0905-AC16
684	Educational Assistance to Individuals from Disadvantaged Backgrounds	0905-AC17
685	Nursing Special Project Grants	0905-AC18
686	Stipends for Disadvantaged Health Professions Students	0905-AC19
687	Grants for Residency Training in the General Practice of Dentistry	0905-AC20
688	Area Health Education Centers (AHEC)	0905-AC22

Public Health Service—Health Resources and Services Administration (HRSA)—Completed Actions

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690	Nursing Student Loan Program (NSL); Debt Management: Delinquency Rates	0905-AB80
691	Grants for Hospital Construction and Modernization Federal Right of Recovery and Waiver of Recovery	0905-AB81

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Public Health Service—National Institutes of Health (NIH)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
692	Misconduct in Science	0905-AB91
693	Changes in NIH Program Regulations Necessitated by the Provisions of the Health Research Extension Act of 1985 (P.L. 99-158)	0905-AC02

Public Health Service—National Institutes of Health (NIH)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
694	National Library of Medicine Programs, Revision of General Rules for the National Library of Medicine and National Library of Medicine Grants	0905-AA66

Public Health Service—National Institutes of Health (NIH)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
695	National Institutes of Health Center Grants 42 CFR 52a	0905-AA68

Health Care Financing Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
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697	Medicaid Eligibility	0938-AA58
698	MMIS: Definition of "Mechanized Claims Processing and Information Retrieval System" and of "Information"	0938-AA63
699	Benefit Period Determinations and Drug Regimen Reviews	0938-AB03
700	Miscellaneous Medicare and Medicaid Amendments	0938-AB05
701	Changes to the Lesser of Costs or Charges Provisions	0938-AB29
702	Payment for Clinical Diagnostic Laboratory Services	0938-AB50
703	Waiver of Certain Membership Requirements for Certain Health Maintenance Organizations (HMOs) and State Option for Disenrollment Restrictions for Certain HMOs Under Medicaid	0938-AB54
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705	Medicare: Health Maintenance Organizations and Competitive Medical Plans: Coordinated Open Enrollment	0938-AB57
706	Hospice "Core" Services; Nursing	0938-AB58
707	Indirect Part B Payment Procedure	0938-AB59
708	Hospital Insurance Entitlement and Supplementary Medical Insurance Enrollment, Entitlement, and Premiums	0938-AB60
709	Payment for the Services of Physicians Furnished in Teaching Settings and Other Providers	0938-AB61
710	Medicare/Medicaid Revaluation of Assets	0938-AB64
711	ESRD Network Area Designation Procedures	0938-AB65
712	OMB Review of Information Collection and Recordkeeping Requirements for Home Health Agencies, Independent Laboratories, and Providers of Outpatient, Physical Therapy and/or (cont)	0938-AB68
713	Clarification of Policy on Adjusting the Hospital-Specific Portion of the Prospective Payment Rate	0938-AB71
714	Payment Adjustments for Sole Community Hospitals	0938-AB72
715	Revision of Medicaid Eligibility Quality Control (MEQC) Program Requirements	0938-AB85
716	Medicaid: Identification of Third Party Liability Resources for Medical Assistance	0938-AB86
717	Conditions of Participation for Home Health Agencies	0938-AB93
718	Revision of Medicaid Drug Reimbursement Requirements	0938-AB97
719	Medicare Recovery Against Third Parties and Medicare Secondary Payor	0938-AC05
720	Miscellaneous Conforming Amendments	0938-AC06
721	Medicare Coverage of Hepatitis B Vaccine for High and Intermediate Risk Individuals, Hemophilia Clotting and Certain X-Ray Services	0938-AC07
722	Changes to the Inpatient Hospital Prospective Payment System and Fiscal Year 1987 Rates	0938-AC11
723	Refinement of Reasonable Charge Methodology	0938-AC14

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Health Care Financing Administration—Proposed Rule Stage—Continued

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725	Lowest Charge Levels (LCL) for Medical Services, Supplies and Equipment	0938-AC16
726	End Stage Renal Disease Program: Composite Rate Update	0938-AC17
727	Monthly Capitation Payment for Physicians Outpatient Dialysis Services	0938-AC18
728	Second Surgical Opinion Requirement for Medicaid Recipients	0938-AC19
729	Assignment and Reassignment of Provider-Based Home Health Agencies and Hospices to Designated Regional Intermediaries	0938-AC20
730	Review of Information Collection and Recordkeeping Requirements for Suppliers of End-Stage Renal Disease Services	0938-AC26
731	Changes in Medicare Payments for Direct Medical Education Costs	0938-AC27
732	Fire Safety Standards for Hospitals, Skilled Nursing Facilities, Intermediate Care Facilities and Ambulatory Surgical Centers	0938-AC28
733	Cost Limits for Hospital Medicare Part B Clinical Laboratory Services	0938-AC30
734	Medicaid: Eligibility Determinations Based on Disability; Medically Needy Income Levels for Individuals	0938-AC31
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Health Care Financing Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
737	Home Health Agencies: Financial Security Requirements	0938-AA13
738	Conditions of Participation for Hospitals	0938-AA23
739	Recognition of State Reimbursement Control Systems	0938-AA34
740	Survey and Certification Procedures	0938-AA38
741	Physician Certification and Plan of Treatment Requirements	0938-AA46
742	Intermediate Sanction of Long-Term Care Facilities	0938-AA60
743	Mental Retardation--Definition of "Persons with Related Conditions"	0938-AA78
744	Payments to Institutions	0938-AB00
745	Deduction of Incurred Medical Expenses (Spenddown)	0938-AB07
746	Relations with Other Agencies, Miscellaneous Medicaid Definitions and Third Party Liability Quality Control	0938-AB21
747	Adjustment of Federal Share for Uncashed or for Cancelled (Voided) Medicaid Checks	0938-AB35
748	Revisions to Medicaid Payment for Hospital and Long-Term Care Facility Services	0938-AB40
749	FFP for LTC Facilities after Termination of Provider Agreement	0938-AB42
750	Revisions in Reporting and Recordkeeping Requirements	0938-AB46
751	Treatment of Social Security Cost of Living Increases for Individuals Who Lose SSI Eligibility	0938-AB62
752	Schedule of Limits for Skilled Nursing Facility Inpatient Routine Service Costs (Effective 04/01/86)	0938-AB66
753	Schedule of Limits on Skilled Nursing Facility Inpatient Routine Service Costs	0938-AB99
754	Payment for Costs of Malpractice Insurance	0938-AC00
755	Medicaid Coverage of Qualified Pregnant Women and Children and Newborn Children	0938-AC02
756	Payment to Health Maintenance Organizations and Competitive Medical Plans	0938-AC03
757	Determination of Reasonable Charges for Physician and Other Medical Services	0938-AC04
758	Long Term Care Survey	0938-AC10
759	List of Covered Surgical Procedures for Ambulatory Surgical Centers	0938-AC21
760	OMB Control Numbers for Collection of Information Requirements Contained in HCFA Regulations	0938-AC22
761	Office of Management and Budget Request for Review of Collection of Information Requirements	0938-AC23
762	Payment for Indirect Medical Education Costs	0938-AC24
763	Fire Safety Standards for ICFs/MR	0938-AC25
764	Medicare Economic Index for Reasonable Charges (Effective 10/01/86)	0938-AC29
765	Part A Premium for Uninsured Aged For 12-Month Period Beginning 01/01/87	0938-AC32
766	Part B Premium for 12-Month Period Beginning 01/01/87	0938-AC34
767	Inpatient Hospital Deductible Beginning 01/01/87	0938-AC36

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Health Care Financing Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
768	Medicaid Overpayment Reporting Requirements	0938-AA04
769	Limitation on Payment for Services Furnished to Employed Aged, Their Spouses, and Spouses of Younger Employees	0938-AA31
770	Third Party Liability (TPL), Premium FFP Rates, Mandatory Assignment of Rights to Payments; Sources of State Fund	0938-AA65
771	Procedures for Determining Whether Providers, Practitioners, or Other Suppliers of Services are Liable for Certain Noncovered Services	0938-AB33
772	Forms Used for Claiming Payment	0938-AB34
773	Changes to Return on Equity Capital and the Elimination of the Exception from the Cost Limits for New HHAs	0938-AB70
774	Income and Eligibility Verification	0938-AB73
775	Standards for Intermediate Care Facilities for the Mentally Retarded	0938-AB76
776	Monthly Actuarial Rates and Part B Premium Rates Beginning 01/01/88	0938-AB80
777	Part A Premium for 12-Month Period Beginning 01/01/88	0938-AB81
778	Assignment and Reassignment of Home Health Agencies to Designated Regional Intermediaries	0938-AB84
779	Limitations on the Reimbursement of Nonphysician Medical Services	0938-AB91
780	ESRD Councils	0938-AB96
781	Reasonable Charge Limitations	0938-AC08
782	Processing of Claims by Electronic Means as a Condition of Qualification for the Periodic Interim Payment Method of Reimbursement	0938-AC09
783	Grouper Changes	0938-AC12
784	Exclusion of New Alcohol/Drug Hospitals and Units from the Prospective Payment System	0938-AC13

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Office of the Secretary (OS)

Proposed Rule Stage

472. NONDISCRIMINATION REQUIREMENT APPLICABLE TO BLOCK GRANTS AND COMMUNITY ECONOMIC DEVELOPMENT AND HEAD START PROGRAMS - INCLUDING NONDISCRIMINATION ON THE BASES OF SEX AND RELIGION

Legal Authority: 42 USC 9908; 42 USC 300w-7; 42 USC 300x-7; 42 USC 300y-9; 42 USC 726; 42 USC 9825; 42 USC 9821; 42 USC 9849

CFR Citation: 45 CFR 92

Legal Deadline: None

Abstract: To implement the nondiscrimination requirements applicable to block grants and the Community Economic Development and Head Start Programs authorized by the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35.

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2808
NPRM Comment Period End	03/24/86	51 FR 2808

Small Entity: No

Additional Information: New CFR Subpart to be assigned.

Agency Contact: Marcella Haynes, Director, Policy and Special Projects Div., Department of Health and Human Services, Office of the Secretary, Div of PSP, Off of Mgmt & Pol, OCR, Rm. 5410, HHS North Bldg. 330 Independence Ave, SW, Washington, DC 20201, 202 245-6671

RIN: 0991-AA02

473. PUBLIC INFORMATION REGULATION

Legal Authority: 5 USC 552

CFR Citation: 45 CFR 5

Legal Deadline: None

Abstract: This will be the first complete update since August 1974 of the Department's Public Information Regulation implementing the Freedom of Information Act. It will facilitate public access to information by making necessary revisions, clarifying, and promulgating at one time all the subparts of the regulation. It will also help Departmental personnel processing FOIA requests by providing them with an integrated regulation that is compatible with current procedures for processing FOIA requests and assessing search and copy fees that reflect the increased cost of such services. The only alternative to this complete update is to continue to operate with a regulation that in the past has been revised on a piecemeal basis.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Russell M. Roberts, Director, FOI/Priv Div, Department of Health and Human Services, Office of the Secretary, Off of Pub Affairs, Rm 410B, Humphrey Bldg. 200 Independence Ave, SW, Washington, DC 20201, 202 472-7453

RIN: 0991-AA07

474. PRIVACY ACT REGULATION

Legal Authority: 5 USC 552a

CFR Citation: 45 CFR 5b

Legal Deadline: None

Abstract: This will be the first complete update since 1975 of the Department's Privacy Act Regulation implementing the Privacy Act of 1974. It will facilitate

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individuals' access to information and records that the Department maintains about them in more than 400 designated Privacy Act Systems of Records, clarifying and promulgating at one time all the subparts of the regulation. It will also help Departmental personnel processing Privacy Act requests by providing them with an integrated regulation that is compatible with current procedures for processing such requests. The only alternative to this complete update is to continue to operate with a regulation that in the past has been revised on a piecemeal basis.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Russell M. Roberts, Director, FOI/Priv Div, Department of Health and Human Services, Office of the Secretary, Off of Pub Affairs, Rm 410B, HHH Bldg, 200 Independence Avenue, SW, Washington, DC 20201, 202 472-7453

RIN: 0991-AA11

475. PRINCIPLES FOR DETERMINING COSTS AND COST ALLOCATION PROCEDURES APPLICABLE TO GRANTS, CONTRACTS, AND OTHER AGREEMENTS FOR WORK PERFORMED BY HOSPITALS

Legal Authority: 5 USC 501

CFR Citation: 45 CFR 74, Appendix E; 45 CFR 76

Legal Deadline: None

Abstract: This action will revise the Department's current cost principles for research and development activities under grants and contracts with hospitals to make them clearer, more specific, and compatible with cost principles issued by OMB for educational institutions and nonprofit organizations. The revision will also broaden the coverage of the principles to include all grants, contracts and other agreements with hospitals (except the Medicare & Medicaid programs).

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Henry G. Kirschenmann, Jr., Deputy Assistant Secretary, Department of Health and Human Services, Office of the Secretary, Office of Procurement, Assist & Logistics, Rm 513D, HHH Bldg, 200 Independence Ave. SW, Washington, DC 20201, 202 245-6670

RIN: 0991-AA12

476. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

Significance: Agency Priority

Legal Authority: 29 USC 794

CFR Citation: 45 CFR 85.1-62

Legal Deadline: None

Abstract: Implements the amendment made to Sec. 504 of the Rehabilitation Act of 1973 by Pub.L. 95-602 in 1978, which extended Sec. 504 to the Federal sector. The proposed Part 85 is modeled on Part 84 which implements Sec. 504 with respect to recipients of Federal financial assistance.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: Not Applicable

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Government Levels Affected: Federal

Agency Contact: Frank E.G. Weil, Policy Branch, Department of Health and Human Services, Office of the Secretary, Office for Civil Rights, 330 Independence Avenue SW, Room 5416, Washington, DC 20201, 202 245-6671

RIN: 0991-AA17

477. REVISION TO OIG'S SANCTION AUTHORITIES

Significance: Agency Priority

Legal Authority: PL 98-369, Sec 2333; 42 USC 1395yd; 42 USC 1320a7; 42 USC 1302; 42 USC 1395cc; 42 USC 1395hh; 42 USC 1396a; 42 USC 1396b

CFR Citation: 42 CFR 405; 42 CFR 420; 42 CFR 455; 42 CFR 474; 42 CFR 489

Legal Deadline: None

Abstract: This regulation will incorporate Section 2333 of P.L. 98-369 which provides authority to exclude entities that employees practitioners convicted of Medicare or Medicaid related offenses in key management positions or where an individual convicted of Medicare or Medicaid offenses has a five percent or more ownership interest. NPRM will also make substantive revision and clarify certain legal issues in the existing OIG sanction regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: Yes

Agency Contact: James Patton, Director, Health Care Admin. Sanctions Div., Department of Health and Human Services, Office of the Secretary, Office of Inspector General, 1849 Gwynn Oak Avenue, Baltimore, MD 21207, 301 594-3957

RIN: 0991-AA21

478. BLOCK GRANT PROGRAMS

Significance: Regulatory Program

Legal Authority: 42 USC 9901; 42 USC 300w; 42 USC 8621; 42 USC 300x

CFR Citation: 45 CFR 96

Legal Deadline: None

Abstract: In a prior session of Congress, four of the Department's block grants were reauthorized and certain requirements imposed on the States and other recipients were changed. The block grants include those for Alcohol and Drug Abuse and Mental Health Services; Preventive Health and Health Services; Low-Income Energy Assistance and Community Services. In addition, Congress enacted the Single Audit Act of 1984 which substantially changes the Federal audit requirements imposed upon State and local governments and modifies Federal agency responsibility for oversight of those audits. These legislative changes necessitate changes in the Department's block grant regulation issued July 6, 1982. Alternative measures for addressing the problem are not being considered. None of the proposed legislative changes will involve substantial cost.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	07/00/86	

Small Entity: No

Agency Contact: Robert C. Raymond, Deputy Director, Program Systems, Department of Health and Human Services, Office of the Secretary, Room 447-D, Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201, 202 245-7316

RIN: 0991-AA25

479. ADMINISTRATION OF GRANTS - IMPLEMENTATION OF OMB CIRCULAR A-102

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 74

Legal Deadline: None

Abstract: This action will implement revised OMB Circular No. A-102 "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments." The current HHS regulation codified at 45 CFR Part 74 was written by HHS to implement both Circular No. A-102 and a companion Circular A-110 which governs grants and cooperative agreements to recipients other than governments. Revised Circular A-102 will require us to adopt essentially verbatim a common regulation drafted by OMB and affecting governmental grantees only.

Timetable:

Action	Date	FR Cite
Notice of Proposed Revision of Circular A-102 published by OMB	06/18/84	49 FR 24958
NPRM	07/00/86	

Small Entity: No

Government Levels Affected: Local, State

Agency Contact: Joel B. Feinglass, Director, Office of Assistance & Cost Policy, Department of Health and Human Services, Office of the Secretary, Room 513-D, Hubert H. Humphrey Bldg., 200 Independence Ave., SW, Washington, DC 20201, 202 245-7565

RIN: 0991-AA27

480. ● DEPARTMENTAL GRANTS ADMINISTRATION MANUAL

Significance: Agency Priority

Legal Authority: 5 USC 301

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: This action will implement a recommendation by the Office of Science and Technology Policy that all Federal agencies adopt the National Science Foundation's practices for the award and payment of the indirect cost rates of most grantees as predetermined. The combined amount awarded for direct and indirect costs of a grant would be a ceiling no longer subject to upward adjustment based on changing indirect cost rates or base amounts. These changes would reduce both government and grantee administrative effort and would result in annual savings of about $7 million of current obligational authority and $28 million of obligations against lapsed appropriations. Finally, adoption of the OSTP recommendation will require elimination of the current practice whereby PHS peer review panels are not provided with the indirect cost portion of proposed grant budgets. However, it has not been decided whether this elimination will be done as part of this action or as a separate action to be taken by PHS.

Timetable:

Action	Date	FR Cite
Notice for Public Comment	05/00/86	

Small Entity: No

Agency Contact: Joel B. Feinglass, Director, Office of Assistance and Cost Policy, Department of Health and Human Services, Office of the Secretary, 200 Independence Avenue, SW, Room 513D Hubert H. Humphrey Building, Washington, DC 20201, 202 245-7565

RIN: 0991-AA33

481. ● AUTOMATIC DATA PROCESSING EQUIPMENT AND SERVICES; CONDITIONS FOR FEDERAL FINANCIAL PARTICIPATION II

Significance: Agency Priority

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 95.601; 45 CFR 95.605; 45 CFR 95.611; 45 CFR 95.612; 45 CFR 95.613; 45 CFR 95.615; 45 CFR 95.617; 45 CFR 95.619; 45 CFR 95.621; 45 CFR 95.623; 45 CFR 95.624; 45 CFR 95.625; 45 CFR 95.631; 45 CFR 95.633; 45 CFR 95.641

Legal Deadline: None

Abstract: This NPRM will propose new regulations of 45 CFR 95.600, et seq., to reduce the amount of time necessary to review and respond to State and local agency requests for FFP. The reduction in process time will be accomplished by streamlining the review process and requiring fewer points of prior approval by the Department.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Government Levels Affected: Local, State, Federal

Agency Contact: Ron Lentz, Division of State Data Systems, Department of Health and Human Services, Office of the Secretary, Room 542F HHH Bldg., 200 Independence Ave., SW, Washington, DC 20201, 202 245-7354

RIN: 0991-AA34

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Final Rule Stage

482. AUTOMATIC DATA PROCESSING EQUIPMENT AND SERVICES – CONDITIONS FOR FEDERAL FINANCIAL PARTICIPATION

Significance: Agency Priority

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 95.600; 45 CFR 95.601; 45 CFR 95.606; 45 CFR 95.611; 45 CFR 95.613; 45 CFR 95.615; 45 CFR 95.617; 45 CFR 95.619; 45 CFR 95.621; 45 CFR 95.623; 45 CFR 95.625; 45 CFR 95.631; 45 CFR 95.633; 45 CFR 95.641; 45 CFR 95.624, (New)

Legal Deadline: None

Abstract: This regulation is issued to simplify and make these regulations consistent with those regulations that govern availability of FFP at the enhanced matching rate for computerized systems for programs under titles IV-A, IV-D and XIX of the Social Security Act, to allow States more flexibility in implementing small systems, and to reduce paperwork.

Timetable:

Action	Date	FR Cite
NPRM	11/19/84	49 FR 45617
NPRM Comment Period End	01/18/85	49 FR 45617
Final Action	06/00/86	

Small Entity: No

Additional Information: The basic requirements of this proposed rule have been in effect for some time. This rulemaking is made to reduce regulatory requirements.

Agency Contact: Ron Lentz, Management Analyst, Department of Health and Human Services, Office of the Secretary, Room 542F HHH Bldg., 200 Independence Ave., SW, Washington, DC 20201, 202 245-7354

RIN: 0991-AA14

483. MEDICARE PHYSICIAN FEE FREEZE SANCTIONS

Significance: Agency Priority

Legal Authority: PL 98-369, Sec 2306

CFR Citation: 42 CFR 420; 45 CFR 101

Legal Deadline: Statutory

Abstract: This rule sets forth OIG procedures for imposing civil money penalties and Medicare program exclusions on physicians who choose not to be participating physicians and who raise charges to Medicare beneficiaries in violation of the freeze on such fees contained in PL 98-369, Sec. 2306. The rule also modifies existing regulations to permit the OIG to impose civil money penalties and assessments on those who choose to be participating physicians under Medicare and who violate their participation agreements as set forth under Sec. 2306.

Timetable:

Action	Date	FR Cite
NPRM	09/13/85	50 FR 37366
NPRM Comment Period End	10/13/85	
Final Action	04/00/86	

Small Entity: Yes

Additional Information: Provisions dealing with two technical amendments to OIG's fraud and abuse authorities - PL 98-369, Sections 2346 and 2370 - as well as conforming rule changes to reflect the redelegation of the Medicare/Medicaid fraud and abuse authorities to the OIG have been separated out into an interim final rule with comment period.

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Government Levels Affected: Federal

Agency Contact: James Patton, Director, Health Care Admin. Sanctions Div., Department of Health and Human Services, Office of the Secretary, Office of Inspector Gen., 1849 Gwynn Oak Avenue, Baltimore, MD 21207, 301 594-3957

RIN: 0991-AA20

484. EQUAL OPPORTUNITY IN EMPLOYMENT: PUBLIC BROADCASTING, PUBLIC RADIO AND PUBLIC TELECOMMUNICATIONS ENTITIES RECEIVING FEDERAL FUNDS FROM THE CORPORATION FOR PUBLIC BROADCASTING

Legal Authority: 47 USC 2405

CFR Citation: 45 CFR 87.1-40

Legal Deadline: None

Abstract: Implements the Equal Opportunity in Employment Provisions of the Public Telecommunications Financing Act of 1978, PUB. L. 95-267, 47 U.S.C. 398(b)(1). This provision requires that equal opportunity in employment be afforded to all persons and that no person shall be subjected to discrimination in employment on the grounds of race, color, religion, national origin, or sex by the Public Broadcasting Service, National Public Radio, and public telecommunications entities receiving Federal funds from the Corporation for Public Broadcasting.

Timetable:

Action	Date	FR Cite
ANPRM	03/13/79	
NPRM	12/21/79	44 FR 75676
Final Action	04/00/86	

Small Entity: No

Public Compliance Cost: Yearly Recurring Cost: $6,000

Government Levels Affected: Local, State

Agency Contact: Frank E. G. Weil, Policy Branch, Department of Health and Human Services, Office of the Secretary, Office for Civil Rights, 330 Independence Avenue, SW, Room 5416, Washington, DC 20201, 202 245-6671

RIN: 0991-AA22

485. ADMINISTRATION OF GRANTS-IMPLEMENTATION OF OMB CIRCULAR A-88

Significance: Agency Priority

Legal Authority: 5 USC 301

CFR Citation: 45 CFR 74.62(b), (Revised)

Legal Deadline: None

Abstract: This action will implement revised OMB Circular A-88 which is expected to be issued sometime this year. The Circular will provide governmentwide standards for non-Federal audits of college and university recipients of Federal grants and contracts. The Circular and these amendments will replace the audit requirements currently contained in OMB Circular A-110.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Additional Information: It is expected that OMB will publish a draft of its Circular in the Federal Register and obtain public comments. The specific form and nature of our action is expected to be mandated by OMB.

HHS—OS

Final Rule Stage

Agency Contact: Joel B. Feinglass, Director, Office of Assistance & Cost Policy, Department of Health and Human Services, Office of the Secretary, Room 513D, Hubert H. Humphrey Bldg., 200 Independence Ave., SW, Washington, DC 20201, 202 245-7565

RIN: 0991-AA29

486. ADMINISTRATION OF GRANTS-SINGLE AUDIT ACT OF 1984

Significance: Agency Priority

Legal Authority: 5 USC 301; 31 USC 7505; PL 98-502, Sec 7505 Single Audit Act of 1984

CFR Citation: 45 CFR 74.62(a), (Revised); 45 CFR 74, Appendix I; 45 CFR 74, Appendix J

Legal Deadline: None

Abstract: This action implements the Single Audit Act of 1984 and OMB Circular A-128 by requiring recipients that are governments to comply with Circular A-129. That Circular provides governmentwide standards for implementing the Act. The Act, Circular and these amendments replace Attachment P to Circular A-102. Attachment P contained the previous Federal policy on non-Federal audits of governmental recipients of Federal grants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/06/85	50 FR 31715
Final Action Effective	09/00/86	

Small Entity: No

Government Levels Affected: Local, State

Agency Contact: Joel B. Feinglass, Director, Office of Assistance & Cost Policy, Department of Health and Human Services, Office of the Secretary, Room 513D, Hubert H. Humphrey Bldg., 200 Independence Ave., SW, Washington, DC 20201, 202 245-7565

RIN: 0991-AA30

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of the Secretary (OS)

Completed Actions

487. INCOME AND ELIGIBILITY VERIFICATION PROCEDURES

Significance: Agency Priority

CFR Citation: 45 CFR 205; 45 CFR 206; 45 CFR 232; 42 CFR 431; 42 CFR 435

Completed:

Reason	Date	FR Cite
Final Action	02/28/86	51 FR 7178

Small Entity: No

Agency Contact: Sheldon Shalit 202 245-7488

RIN: 0991-AA28

488. MEDICARE AND MEDICAID FRAUD AND ABUSE TECHNICAL AMENDMENTS

Significance: Agency Priority

CFR Citation: 42 CFR 420; 42 CFR 455; 42 CFR 489; 45 CFR 101

Completed:

Reason	Date	FR Cite
Final Action	09/13/85	50 FR 37370
Final Action Effective	10/13/85	

Small Entity: No

Agency Contact: James Patton 301 594-3957

RIN: 0991-AA31

489. ◉AUTOMATIC DATA PROCESSING EQUIPMENT AND SERVICES; CONDITIONS FOR FEDERAL FINANCIAL PARTICIPATION—WAIVER OF PRIOR APPROVAL

Significance: Agency Priority

CFR Citation: 45 CFR 95.623; 45 CFR 95.624

Completed:

Reason	Date	FR Cite
Final Action	01/27/86	51 FR 3337
Final Action Effective	01/27/86	51 FR 3337

Small Entity: No

Agency Contact: Ron Lentz 202 245-7354

RIN: 0991-AA32

[FR Doc. 86-5772 Filed 04-18-86; 8:45 am]

BILLING CODE 4150-04-T

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Departmental Management (HHSDM)

Final Rule Stage

490. CLAIMS COLLECTION

Legal Authority: PL 97-365; 31 USC 3711; 31 USC 3716 to 3718; 5 USC 5514; 5 USC 552a

CFR Citation: 45 CFR 30, (Revision)

Legal Deadline: None

Abstract: The proposed rule amends the Department's regulation for collecting debts. Principally, the amendments implement the Debt Collection Act of 1982 (P.L. 97-365), which amended the Federal Claims Collection Act of 1966 (31 U.S.C. 3711, 3716-3718) to authorize, among other things, the charging of interest, penalties and administrative costs, and the use of administrative offset, private collection agencies and credit reporting agencies by the Government. The amendments also implement government-wide regulations issued by the Department of Justice and GAO (49 F.R. 8889) and OPM (49 F.R. 27470).

Timetable:

Action	Date	FR Cite
NPRM	05/02/85	50 FR 18694
NPRM Comment Period End	07/01/85	50 FR 18694

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HHS—HNSDM — Final Rule Stage

Action	Date	FR Cite
Final Action	05/00/86	

Small Entity: No

Agency Contact: Sarah Hertz, Chief, Litigation and Claims Branch, Department of Health and Human Services, Departmental Management, Room 5362 HHS North, 330 Independence Ave., SW, Washington, DC 20201, 202 475-0155

RIN: 0990-AA00

491. GRANTS TO STATES FOR PUBLIC ASSISTANCE PROGRAMS

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 201.66, (Revision)

Legal Deadline: None

Abstract: The proposed rule amends 45 CFR 201.66 by removing paragraph (b)(6). Section 201.66 governs States' repayment by installments of debts to the Department arising from audit disallowances under Titles I, IV-A, X, XIV, XVI (AABD) or XIX of the Social Security Act (42 U.S.C. 201 et seq). Paragraph (b)(6) provides that States will not be charged interest on those repayments unless mandated by court order. Paragraph (b)(6) is being removed to conform to the Department's interest policy set forth in the proposed amendments to 45 CFR Part 30, the Claims Collection Regulation. The provision is inconsistent with the Department's policy of charging interest on outstanding debts.

Timetable:

Action	Date	FR Cite
NPRM	05/02/85	50 FR 18704
NPRM Comment Period End	07/01/85	50 FR 18705
Final Action	05/00/86	

Small Entity: No

Agency Contact: Sarah Hertz, Chief, Litigation and Claims Branch, Department of Health and Human Services, Departmental Management, Room 5362 HHS North, 330 Independence Ave., SW, Washington, DC 20201, 202 475-0155

RIN: 0990-AA01

[FR Doc. 86-8772 Filed 04-18-86; 8:45 am]

BILLING CODE 4150-04-T

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Prerule Stage
Office of Human Development Services (HDSO)

492. HEAD START PROGRAM-PRERULEMAKING ACTION

Significance: Regulatory Program

Legal Authority: 42 USC 9831 et seq Head Start Act, Title VI, Subc B of PL 97-35

CFR Citation: 45 CFR 1301; 45 CFR 1302; 45 CFR 1303; 45 CFR 1304; 45 CFR 1305

Legal Deadline: None

Abstract: The existing Head Start program regulations will be examined to determine whether rulemaking procedures should be initiated to update, clarify or remove unnecessary provisions from the Code of Federal Regulations. All Head Start program issuances will be reviewed and will be updated, clarified, consolidated, rescinded or included in revised proposed regulations as necessary.

Timetable:

Action	Date	FR Cite
End Review	03/00/86	
NPRM	09/00/86	

Small Entity: No

Agency Contact: Mr. Clennie H. Murphy, Jr., Acting Associate Commissioner, Department of Health and Human Services, Office of Human Development Services, Administration for Children, Youth and Families, Head Start Bureau, OHDS P.O. Box 1182, Washington, DC 20013, 202 755-7782

RIN: 0980-AA15

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage
Office of Human Development Services (HDSO)

493. FOSTER CARE MAINTENANCE PAYMENTS, ADOPTION ASSISTANCE, AND CHILD WELFARE SERVICES — NOTICE OF PROPOSED RULEMAKING

Legal Authority: 42 USC 670 et seq; Federal Payment for Foster Care and Adoption Assistance; 42 USC 620 et seq Child Welfare Services; 42 USC 1320 Rules and Regulations

CFR Citation: 45 CFR 1356; 45 CFR 1357

Legal Deadline: None

Abstract: This NPRM will propose criteria the Department will use to verify that a State has met statutory requirements and is eligible to receive additional funds under Section 427 of the Social Security Act as amended by the Adoption Assistance and Child Welfare Act of 1980 (Pub. L. 96-272). The proposed rule will contain the specific criteria by which State performance in meeting the requirements of Section 427 is determined, the percentage levels and other standards for case record compliance, and procedures for conducting compliance reviews.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Casimer R. Wichlacz, Deputy Associate Commissioner, Children's Bureau, ACYF, Department of Health and Human Services, Office of Human Development Services, P.O. Box 1182, Washington, D.C. 20201, 202 755-7619

RIN: 0980-AA08

494. RUNAWAY AND HOMELESS YOUTH PROGRAM—NOTICE OF PROPOSED RULEMAKING

Legal Authority: 42 USC 5701 Note The Runaway and Homeless Youth Act, as amended

CFR Citation: 45 CFR 1351

Legal Deadline: None

HHS—HDSO — Proposed Rule Stage

Abstract: These rules will make technical changes to modify 45 CFR 1351 to conform to changes in legislation that: (1) provide for making grants to any eligible entity and no longer restrict grants to nonprofit entities; and (2) refer to "family" or "families" in place of "parent," "parents," and/or "legal guardian(s)."

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
Final Action	03/00/87	

Small Entity: No

Agency Contact: Dominic J. Mastrapasqua, Acting Associate Commissioner, Department of Health and Human Services, Office of Human Development Services, Family and Youth Services Bureau, ACYF/HDS, PO Box 1182, Washington, DC 20013, 202 755-7766

RIN: 0980-AA11

495. DEVELOPMENTAL DISABILITIES PROGRAM—NOTICE OF PROPOSED RULEMAKING

Legal Authority: 42 USC 6000 et seq

CFR Citation: 45 CFR 1385; 45 CFR 1386; 45 CFR 1387; 45 CFR 1388

Legal Deadline: None

Abstract: The proposed regulations revise Part 1388 to establish new program criteria for University Affiliated Facilities which include criteria for measuring achievement and identifying areas needing special attention. They also implement the requirement for recovery of construction funds and include procedures to allow a State to redesignate a new agency to administer the protection and advocacy system for good cause. They delete Part 1387, Special Projects, and make editorial and technical changes as required by statute.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Ms. Elsbeth Wyatt, Department of Health and Human Services, Office of Human Development Services, Administration on Developmental Disabilities, OHDS/HHS, Rm 330-E HHH Bldg, 200 Independence Ave SW, Wash., DC 20201, 202 245-2807

RIN: 0980-AA12

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage
Office of Human Development Services (HDSO)

496. WORK INCENTIVE PROGRAM FOR AFDC RECIPIENTS UNDER TITLE IV OF THE SOCIAL SECURITY ACT—FINAL RULES

Legal Authority: 42 USC 602 (a) (19); 42 USC 630 to 644; 42 USC 1302; 42 USC 614

CFR Citation: 29 CFR 56; 45 CFR 224

Legal Deadline: None

Abstract: These rules implement three provisions of the Deficit Reduction Act of 1984 (PL 98-369) regarding the WIN program. These changes: (1) add a new exemption for women from the WIN work requirements beginning with the sixth month of pregnancy; (2) permit, under the protective payment requirement, a sanctioned caretaker relative (one who refused to participate in WIN or accept employment without good cause) to receive the AFDC payment on behalf of the assistance unit if a suitable protective payee cannot be located; and (3) exempt AFDC recipients from the work program requirements if they are participating in a Work Supplementation Program operated by a State.

Timetable:

Action	Date	FR Cite
Final Rule Effective	07/18/84	
Final Rule Effective	10/01/84	50 FR 6164
Final Rule with Comment Period	02/14/85	50 FR 6164
Final Rule Comment Period Begins	02/14/85	50 FR 6164
Final Rule Comment Period Ends	04/15/85	
Final Action	04/00/86	

Small Entity: No

Agency Contact: William Kacvinsky, Executive Director, Department of Health and Human Services, Office of Human Development Services, Work Incentive Program, Rm 8422 Patrick Henry Bldg, 601 D St. NW, Washington, DC 20213, 202 376-8999

RIN: 0980-AA09

497. HEAD START PROGRAM—FINAL RULE

Significance: Regulatory Program

Legal Authority: 42 USC 9831 et seq Head Start Act, Title VI,; Subchapter B of PL 97-35, as amended

CFR Citation: 45 CFR 1301

Legal Deadline: None

Abstract: This rule would amend existing regulations governing the recruitment and selection of Head Start staff. The proposed rule would emphasize the importance of careful screening of employees in Head Start programs by requiring that Head Start programs have formal personnel policies and procedures in place that will provide safeguards against the possibility of abuse and neglect, including sexual abuse, occurring in the Head Start program.

Timetable:

Action	Date	FR Cite
NPRM	04/03/85	50 FR 13253
NPRM Comment Period End	06/03/85	50 FR 13253
Final Action	05/00/86	

Small Entity: No

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HHS—HDSO

Final Rule Stage

Agency Contact: Ms. Terry A. Lewis, Department of Health and Human Services, Office of Human Development Services, Head Start Bureau, Administration for Children, Youth and Families, HDS/HHS, PO Box 1182, Washington, DC 20013, 202 755-8388

RIN: 0980-AA16

498. CHILD ABUSE & NEGLECT PREVENTION & TREATMENT PROGRAM—FINAL RULES

Significance: Regulatory Program

Legal Authority: 42 USC 5101 et seq

CFR Citation: 45 CFR 1340

Legal Deadline: None

Abstract: This final rule will modify existing regulations to comport with the statutory changes made in the Child Abuse Amendments of 1984 (P.L. 98-457) and allow States to authorize, by statute, disclosure of confidential information in the State's child abuse registry to additional persons or agencies for employment and related purposes with the aim of farther preventing child abuse and neglect.

Timetable:

Action	Date	FR Cite
NPRM	04/24/85	50 FR 16105
NPRM Comment Period End	06/24/85	50 FR 16105
Final Action	05/00/86	

Small Entity: No

Agency Contact: Jay Olson, Department of Health and Human Services, Office of Human Development Services, National Center on Child Abuse and Neglect, HDS/HHS, PO Box 1182, Washington, DC 20013, 202 245-2859

RIN: 0980-AA14

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Office of Human Development Services (HDSO)

Completed Actions

499. GRANTS FOR STATE AND COMMUNITY PROGRAMS ON AGING; GRANTS TO INDIAN TRIBES FOR SUPPORTIVE & NUTRITION SERVICES—FINAL RULES

CFR Citation: 45 CFR 1321; 45 CFR 1328

Completed:

Reason	Date	FR Cite
Final Action	10/11/85	50 FR 41514
Final Action Effective	05/01/86	50 FR 12942

Small Entity: No

Agency Contact: Donald Smith or Frederik Luhmann 202 472-3957

RIN: 0980-AA02

[FR Doc. 86-8773 Filed 04-18-86; 8:45 am]

BILLING CODE 4130-04-T

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Social Security Administration (SSA)

Prerule Stage

500. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; BLACK LUNG PROGRAM; AND SUPPLEMENTAL SECURITY INCOME PROGRAM; OFFICE OF MANAGEMENT & BUDGET CONTROL NUMBERS FOR APPROVED INFORMATION ETC

Legal Authority: 44 USC 3507(f)

CFR Citation: 20 CFR 404; 20 CFR 410.240; 20 CFR 416

Legal Deadline: None

Abstract: To comply with the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and with regulations implementing the Act published by OMB on 3/31/83 (48 FR 13666), we are publishing, as part of our regulations, the OMB control number for all reporting or recordkeeping requirements currently approved by OMB that are imposed by 20 CFR Parts 401, 404, 410, 416, and 422 of existing regulations.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: TITLE CONT: Collection Requirements Imposed by Social Security Administration Regulations

Agency Contact: Cliff Terry, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-7519

RIN: 0960-AA97

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Social Security Administration (SSA)

Proposed Rule Stage

501. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; COVERAGE OF EMPLOYEES OF STATE AND LOCAL GOVERNMENTS

Legal Authority: 42 USC 418; 42 USC 1302; PL 98-21, Sec 103; PL 98-21, Sec 342

CFR Citation: 20 CFR 404, Subpart M

Legal Deadline: None

Abstract: This proposed regulation reflects policies and procedures concerning agreements between States and the Secretary for Social Security coverage of State and local employees, payment of Social Security contributions, filing of wage reports by States, charging interest for late payments, etc. The current rules need to be organized into a logical sequence and to be updated to reflect many policies which SSA has followed for many years. In preparing this regulation, we reviewed all policies to assess their impact on the trust funds and to reduce recordkeeping burdens. We also added the provisions of sections 103 and 342 of Pub. L. 98-21. Sec. 103 prohibits termination of existing coverage under the States' agreements. Sec. 342 changes payment of Social Security contributions from once a month to twice a month. Other than these two statutory changes, which leave no room for administrative discretion, the only policy change in this proposed regulation that will result in any significant program or administrative cost or saving is to require States to pay their contributions by electronic transfer of funds. We estimate this will result in $8-9 million additional (cont)

Timetable:

Action	Date	FR Cite
Notice of Decision to Develop Regs	09/28/79	44 FR 55899
Notice of Available Working Draft	09/26/80	45 FR 63868
NPRM	05/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: income to the trust funds per year.

Agency Contact: Cliff Terry, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-7519

RIN: 0960-AA13

HHS—SSA

Proposed Rule Stage

will have no impact on SSA programs and administrative costs.

Timetable:

Action	Date	FR Cite
Notice of Decision to Develop Regs	06/19/79	44 FR 35241
NPRM	04/00/86	

Small Entity: No

Agency Contact: Charles H. Campbell, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 597-3466

RIN: 0960-AA22

503. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; WAGE COVERAGE UNDER SOCIAL SECURITY

Legal Authority: 42 USC 405; 42 USC 1302; PL 98-21, Sec 327; PL 96-342, Sec 1002(a); PL 97-306, Sec 408; PL 96-499, Sec 1141

CFR Citation: 20 CFR 404.1043; 20 CFR 404.1055; 20 CFR 404.1059; 20 CFR 404.1060; 20 CFR 404.1341

Legal Deadline: None

Abstract: This regulation consists of amendments to 5 rules on wage coverage under Social Security. These amendments are: (1) The value of the meals and lodging furnished for the convenience of the employer must be excluded from the employee's gross income; (2) With only limited exceptions, an employer may no longer exclude from an employee's wages, his or her payment of the employee's FICA tax; (3) Payments by an employer to an employee after the calendar year of the employee's entitlement to disability insurance benefits are not wages if paid in a period the employee did not work; (4) The scope of the entitlement to the deemed wages provided to internees of the camps for Japanese-Americans during World War II period is being broadened; (5) The scope of the entitlement to the deemed wages provided to members of the uniformed services is being narrowed. Only two regulations will have a cost impact. Amendment (1) above will reduce the Social Security benefits paid the affected employees but not by $100 million in any year. Amendment (2) will increase taxes paid by employers and employees but these increases are required by the statutory provisions and the Secretary has (cont)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: ABSTRACT CONT: no discretion in implementing them.

Agency Contact: C.H. Campbell, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 597-3466

RIN: 0960-AA55

502. SUPPLEMENTAL SECURITY INCOME PROGRAM; REDUCTIONS, SUSPENSIONS AND TERMINATIONS

Legal Authority: 42 USC 1302; 42 USC 1382; 42 USC 1382c; 42 USC 1382d; 42 USC 1383

CFR Citation: 20 CFR 416, Subpart M

Legal Deadline: None

Abstract: This regulation reorganizes, revises, and clarifies the rules on withholding, reducing, suspending, and terminating an SSI beneficiary's benefits. These regulations include changes in the present rules that are required by recent statutory enactments and, additionally, make the rules easier to read and understand. This regulation

504. SUPPLEMENTAL SECURITY INCOME PROGRAM; REOPENING AND REVISING SUPPLEMENTAL SECURITY INCOME DETERMINATIONS AND DECISIONS WITHIN FOUR YEARS OF THE NOTICE OF THE INITIAL DETERMINATION

Legal Authority: 42 USC 1302; 42 USC 1383; 42 USC 1383b

CFR Citation: 20 CFR 416.1468

Legal Deadline: None

Abstract: The proposed rules provide for the reopening and revising of Supplemental Security Income determinations within four years of the notice of the initial determination if we discover an error affecting a claimant's eligibility or benefit amount during this period through the use of information exchange and data gathering involving either our records or our records and those of other Federal or State agencies. This rule is being proposed because the two-year period in which we may reopen and revise a determination based on new and material evidence we acquire through data and exchange is often too short and often expires before the determination to correct errors revealed by the data can be made. The budgetary impact has not yet been determined.

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Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Philip Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-7452

RIN: 0960-AA86

505. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; SIMPLIFIED FEE PROCESS FOR REPRESENTATIVES OF CLAIMANTS

Significance: Regulatory Program

Legal Authority: 42 USC 406(a); 42 USC 1383(d)(2); 42 USC 406; 42 USC 1302

CFR Citation: 20 CFR 404, Subpart R; 20 CFR 416, Subpart O

Legal Deadline: None

Abstract: The proposed regulation will revise the method for setting fees for representation. The current procedure has been criticized as too subjective and as resulting in excessively high fees. Also, Social Security Rulings on escrow accounts and third party payments would be incorporated in the proposed regulation. Additionally, conditions under which law firms or other representative entities would be recognized would be included; currently, SSA only recognizes individuals.

The regulations will result in a negligible administrative savings to SSA. There would also be a reduction in the amount of fees paid by beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	
Final Action	07/00/87	

Small Entity: No

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-6765

RIN: 0960-AA64

506. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; RESIDENCY REQUIREMENT FOR PAYING BENEFITS TO NON-RESIDENT ALIENS

Legal Authority: 42 USC 405; 42 USC 1302; PL 98-21, Sec 340

CFR Citation: 20 CFR 404.460(b)

Legal Deadline: None

Abstract: These regulations implement Sec. 340 of Pub. L. 98-21--The Social Security Amendments of 1983--which provides a U.S. residence requirement that the dependent or survivor beneficiary must now meet if he or she is an alien outside the U.S. These provisions do not apply to the alien who is an old-age or disability beneficiary who is residing outside the U.S. for more than 6 months. The dependent or survivor beneficiary, however, who is an alien outside the U.S. will not be paid benefits effective January 1, 1985 unless he or she satisfies these new residence requirements. These provisions will effect negligible budget savings, i.e., $50 million for the period 1983-89.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: C.H. Campbell, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 597-3406

RIN: 0960-AA76

507. AID TO FAMILIES WITH DEPENDENT CHILDREN; CONSIDERATION OF UTILITY PAYMENTS MADE BY TENANTS IN HOUSING AND URBAN DEVELOPMENT ASSISTED HOUSING

Legal Authority: PL 98-181; 42 USC 602; 42 USC 1302

CFR Citation: 45 CFR 233

Legal Deadline: None

Abstract: The proposed rule will provide that Housing and Urban Development Assisted Aid to Families With Dependent Children tenants who pay utilities but no rent to landlord will have their utilities considered rent by a State IV-A agency in computing the Aid to Families With Dependent Children grant.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: Barbara Levering, Director, OIC, Department of Health and Human Services, Social Security Administration, Office of Family Assistance, Office of Intergovernmental Comm., 2100 Second St., SW, Washington, DC 20201, 202 245-2637

RIN: 0960-AA87

508. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; COVERAGE OF CERTAIN NEWLY HIRED FEDERAL EMPLOYEES; COVERAGE OF EARNINGS OF FEDERAL JUDGES

Legal Authority: PL 98-21, Sec 101; PL 98-118, Sec 4

CFR Citation: 20 CFR 404.1018; 20 CFR 404.1061

Legal Deadline: None

Abstract: The proposed regulations would codify section 101 of Pub. L. 98-21, as amended by section 4 of Pub. L. 118, which generally provides Social Security coverage for certain Federal employees and covers certain payments to retired Federal judges after 1985. Estimated increased revenues (resulting from this legislation) for 1984-1989 are $9.4 billion. Long-range savings are estimated at .26 percent of taxable payroll.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Steve Siff, Chief, IRR Branch, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-6697

RIN: 0960-AA89

509. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS TREATMENT OF OASDI LUMP SUM AND MONTHLY PAYMENTS IN THE AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383(a)

CFR Citation: 20 CFR 404, Subpart U; 20 CFR 416, Subpart F

Legal Deadline: None

Abstract: These proposed rules would revise 20 CFR 404.2040, which stipulates the use of benefit payments by a representative payee, explaining that retroactive title II benefits received by a representative payee who is a member of an Aid to Families with Dependent Children (AFDC) assistance unit, on behalf of a child in the same unit, may be considered available to meet the needs of that AFDC assistance unit. If the representative payee is not a member of the assistance unit, title II benefits would be counted as available income for AFDC purposes only to the extent that the payee provides these funds to the AFDC household for the beneficiary's maintenance. Potential costs and benefits are not available at this time. We are also proposing direct payment to a beneficiary under age 18 if the beneficiary is within 7 months of attaining age 18 and is initially filing an application for benefits. This proposed revision represents a policy change and is an extension of the 4-month period in our current regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-7452

RIN: 0960-AA90

510. PUBLIC ASSISTANCE PROGRAMS, DUPLICATE ASSISTANCE PAYMENTS

Legal Authority: 42 USC 1302; 42 USC 603

CFR Citation: 45 CFR 201.70

Legal Deadline: None

Abstract: This proposed regulation will require States to report on their quarterly statement of expenditures the Federal share of previously claimed assistance checks which are determined to be: (1) replacements of checks cashed by eligible recipients, or (2) original checks cashed by persons other than the authorized payee. This rule will also clarify procedures for claiming Federal Financial Participation for duplicate checks.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Barbara Levering, Director, OIC, Department of Health and Human Services, Social Security Administration, Office of Family Assistance, Office of Intergovernmental Comm., 2100 Second St., SW, Washington, DC 20201, 202 245-2637

RIN: 0960-AA96

511. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; CARDIOVASCULAR SYSTEM

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.1500ff Appendix 1, Part A

Legal Deadline: None

Abstract: Section 4.00 of Appendix 1 of the Disability regulations (404.1501 through 404.159) describes cardiovascular impairments considered severe enough to prevent an individual from doing any gainful activity. We are reviewing this section of the Listing of Impairments and are anticipating the need for revising the criteria to bring them more up to date with current medical technologies and practice in this area of medicine which is advancing rapidly.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Hugh A. Meade, Jr., Dir of Medical and Vocational Policy, Department of Health and Human Services, Social Security Administration, Office of Disability, 6401 Security Blvd., Baltimore, MD 21235, 301 594-3352

RIN: 0960-AA99

512. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; RESPIRATORY SYSTEM

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404.1500ff, Appendix 1, Part A

Legal Deadline: None

Abstract: Section 3.00 of Appendix 1 to the Disability Regulations (404.1501 through 404.1599) describes those respiratory impairments which are considered severe enough to prevent a person from engaging in any gainful activity. We are proposing comprehensive revision to that section to require consideration of the nature and clinical manifestations of respiratory disorders, as well as consideration of the degree of limitations such disorders may impose on an individual's ability to work.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Hugh A. Meade, Jr., Dir of Div of Medical and Vocational Policy, Department of Health and Human Services, Social Security Administration, Office of Disability, 6401 Security Blvd., Baltimore, MD 21235, 301 594-3352

RIN:

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0960-AB00

513. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; MUSCULOSKELETAL SYSTEM

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 405

CFR Citation: 20 CFR 404.1500ff, Appendix 1, Part A

Legal Deadline: None

Abstract: Section 1.00 of Appendix 1 to the Disability Regulations 404.1501 through 404.1599 describes those musculoskeletal impairments which are considered severe enough to prevent a person from doing any gainful activity. We are proposing comprehensive revisions to that section to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medicine. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age Survivors, and Disability Insurance program. The budgetary impact is unknown at this time.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	
Final Action	05/00/87	

Small Entity: No

Agency Contact: Hugh A. Meade, Jr., Dir of Div of Medical and Vocation Policy, Department of Health and Human Services, Social Security Administration, Office of Disability, 6401 Security Blvd., Baltimore, MD 21235, 301 594-3352

RIN: 0960-AB01

514. BLACK LUNG PROGRAM; ESTABLISHING DEPENDENCY OF SURVIVING DIVORCED WIFE AND COMPUTATION OF BASIC RATE

Legal Authority: 30 USC 901

CFR Citation: 20 CFR 410

Legal Deadline: None

Abstract: These proposed regulations correct several errors in our regulations relating to the Black Lung Benefits Program, update the formula for determining the monthly black lung benefit amount, and change the heading of 20 CFR 410 to "Federal Mine Safety and Health Act of 1977."

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 597-3409

RIN: 0960-AB05

515. AID TO FAMILIES WITH DEPENDENT CHILDREN; APPLICATION OF FEDERAL FINANCIAL PARTICIPATION OF RECOVERED INCORRECT PAYMENTS TO QUALITY CONTROL DISALLOWANCES

Legal Authority: 42 USC 1203; 42 USC 603

CFR Citation: 45 CFR 201.69

Legal Deadline: None

Abstract: This proposed rule would reduce the Federal dollar amount of Quality Control Disallowances assessed on States for incorrect assistance payments (payments to ineligibles and overpayments to eligible individuals) made in the Aid to Families With Dependent Children program by a percentage of the recoveries of incorrect payments made.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Barbara Levering, Director, Office of Intergovernmental Comm., Department of Health and Human Services, Social Security Administration, Office of Family Assistance, 2100 Second St., SW, Washington, DC 20201, 202 245-2637

RIN: 0960-AB06

516. SUPPLEMENTAL SECURITY INCOME PROGRAM; INCOME; BILLS PAID FOR YOU

Legal Authority: 42 USC 1382(a)

CFR Citation: 20 CFR 416.1106(g); 20 CFR 416.1193(a) to (b)

Legal Deadline: None

Abstract: Federally funded needs based payments are counted dollar for dollar as income for SSI purposes regardless of the manner in which they are paid (e.g., directly to a vendor). Bills paid by "someone else" (e.g., a relative or friend) are not income. Regulations need clarification that "someone else" does not mean another federally funded needs based program. Also, cash provided by a governmental medical or social services agency is not income. Regulations will restrict this to cash which is either repayment for, or restricted to the future purchase of, a program-approved service.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 597-3409

RIN: 0960-AB09

517. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; BLACK LUNG PROGRAM; OPPORTUNITY FOR ORAL HEARING BEFORE BENEFIT RECOVERY

Significance: Agency Priority

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 427; 42 USC 1302; 30 USC 921; 30 USC 922(a); 30 USC 922(b); 30 USC 936(a); 30 USC 952; 31 USC 957

CFR Citation: 20 CFR 404.902a; 20 CFR 404.907; 20 CFR 404.930; 20 CFR 410.561; 20 CFR 410.623; 20 CFR 410.630

Legal Deadline: None

Abstract: These regulations reflect the Supreme Court's decision in Califano v. Yamasaki that SSA must provide the person who is requesting that SSA waive recovery of an overpayment with an opportunity for an oral hearing before action is taken to recover the overpayment.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Charles H. Campbell, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 597-3409

RIN: 0960-AB17

518. OLD AGE SURVIVORS DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; STANDARDS FOR CONSULTATIVE EXAMINATIONS; MEDICAL EVIDENCE

Significance: Regulatory Program

Legal Authority: PL 98-460, Sec 9; 42 USC 465; 42 USC 421; 42 USC 423; 42 USC 1302; 42 USC 1382c; 42 USC 1383

CFR Citation: 20 CFR 404.1512; 20 CFR 416.912; 20 CFR 404.1519; 20 CFR 416.919; 20 CFR 404.1502; 20 CFR 416.920; 20 CFR 404.1593; 20 CFR 416.993; 20 CFR 416.902; 20 CFR 404.1513; 20 CFR 416.913; 20 CFR 404.1520; 20 CFR 404.1545; 20 CFR 416.945; 20 CFR 404.1546

Legal Deadline: Statutory, April 7, 1985

Abstract: The proposed regulations include standards for obtaining consultative examinations, the types of consultative examination referrals to be made, and monitoring procedures for consultative examinations and the referral process. The proposed regulations also provide for evaluating medical evidence of record and a 12-month medical history where appropriate. The requirement that a medical assessment in work-related terms be included in medical reports is being eliminated. The changes will not have any significant impact on either administrative or program costs.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	11/00/86	

Small Entity: No

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7415

RIN: 0960-AB22

519. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; PERMANENT RESIDENCE UNDER COLOR-OF-LAW

Legal Authority: Berger v. Schweiker No. 78c 1420 (E.D.N.Y. July 31, 1984); Berger v. Heckler 771 F. 2d 1556 (1985); Section 1614(a)(1)(B) of the Social Security Act

CFR Citation: 20 CFR 416.1618

Legal Deadline: None

Abstract: The proposed rule implements Berger which defines color of law for SSI purposes and sets out categories of aliens who are to be considered permanently residing in the U.S. under color of law. This will enable additional aliens to qualify for Supplemental Security Income benefits. Our preliminary estimates are that the proposed regulations could result in Federal SSI costs of between $17 million and $135 million in fiscal year (FY) 1986, between $7 million and $285 million in FY 1987 and between $9 million and $280 million in FY 1988. Our maximal estimated Medicaid costs for FY 1986 are $155 million Federal and $130 million State, for FY 1987, $370 million Federal and $295 million State, and for FY 1988, $420 million Federal and $355 million State.

Timetable:

Action	Date	FR Cite
NPRM	03/19/86	51 FR 09462
Final Action	11/00/86	

Small Entity: No

Agency Contact: Dave Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7460

RIN: 0960-AB24

520. SUPPLEMENTAL SECURITY INCOME PROGRAMS; ASSIGNMENT OF RIGHTS TO THIRD-PARTY MEDICAL PAYMENTS TO STATE

Legal Authority: 42 USC 1383c; 42 USC 1396k

CFR Citation: 20 CFR 416.2101 to 416.2119

Legal Deadline: None

Abstract: Our current regulations implementing section 1634 of the Social Security Act provide that SSA will make determinations for the State on whether aged, blind, or disabled people are eligible for Medicaid if the State's Medicaid requirements for these people are the same as SSI eligibility requirements. Sec. 2367 of Pub. L. 98-369 mandates that States require, as a condition of Medicaid eligibility, that a person assign to the State his or her rights to any medical care support available under an order of a court or an administrative agency and any third-party payments for medical care (except Medicare). This is a Medicaid requirement that is different from SSI requirements. We plan to amend our regulations to provide that in making the Medicaid eligibility determination under a section 1634 agreement, SSA will also determine that the new assignment requirement has been met. The resulting cost for SSA is estimated as less than $1 million a year, of which States would pay half. We are also rewriting and reorganizing our regulations for making Medicaid determinations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Cliff Terry, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-7519

RIN: 0960-AB28

521. SUPPLEMENTAL SECURITY INCOME PROGRAM; HOW WE COUNT UNEARNED INCOME

Legal Authority: 42 USC 1302; 42 USC 1382a

CFR Citation: 20 CFR 416.1123(b)

Legal Deadline: None

Abstract: The issue is whether amounts otherwise due an individual assigned to repay a legal obligation should continue to be included in income under the Supplemental Security Income (SSI) program. The proposed regulation will clarify that we count such amounts as income. Because this clarification only

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will reflect current operating policy, no costs/savings are anticipated.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235, 301 594-7459

RIN: 0960-AB29

522. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; CONTINUATION OF BENEFITS DURING APPEAL

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 423; 42 USC 1382; 42 USC 1382c; 42 USC 1383

CFR Citation: 20 CFR 404, Subpart P; 20 CFR 416, Subpart I

Legal Deadline: None

Abstract: These proposed rules which implement section 2 of Pub. L. 97-455, section 2 of Pub. L. 98-118 and section 7 of Pub. L. 98-460 provide the following groups with the option to elect to continue receiving benefits/payments pending reconsideration and/or a hearing before an administrative law judge on a medical cessation determination; recipients of disability insurance; adult child's, disabled widow's, disabled widower's, mother's and father's, or spouse's benefits based on having in care a disabled adult child; recipients of benefits based on having in care, a child under age 18 but over age 15, who is disabled and receiving child's benefits; recipients of SSI benefits based on disability or blindness. Any continued payments are subject to recovery as overpayments, subject to the same waiver provisions now in current law and regulations where the medical cessation decision is upheld on appeal. The estimated additional costs not already funded are FY 1985--$80.1 million, FY 1986--$112.6 million.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	10/00/86	

Small Entity: No

Agency Contact: Larry Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-7459

RIN: 0960-AB30

523. SUPPLEMENTAL SECURITY INCOME PROGRAM; TREATMENT OF OVERPAYMENTS WHEN RECIPIENT'S COUNTABLE ASSETS EXCEED LIMITS IN CERTAIN CASES

Legal Authority: PL 98-369, Sec 2613

CFR Citation: 20 CFR 416

Legal Deadline: None

Abstract: This proposed regulation reflects the provisions of section 2613 of P.L. 98-369 which provides for waiving recovery of an overpayment that is attributable solely to excess resources if the amount of the excess is $50 or less unless the overpaid recipient (and spouse if any) knowingly and willfully failed to report the value of his/her resources accurately and timely.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Larry Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-7459

RIN: 0960-AB32

524. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; EXTENSION OF MEDICAID ELIGIBILITY WHEN SUPPORT COLLECTIONS RESULT IN TERMINATION OF AFDC ELIGIBILITY

Legal Authority: 42 USC 606; 42 USC 1302; PL 98-378, Sec 20

CFR Citation: 45 CFR 233

Legal Deadline: None

Abstract: This interim final rule, which implements section 20 of the Child Support Enforcement Amendments of 1984 (Pub. L. 98-378) specifies that in any case where the collection or increased collection of support under title IV-D of the Social Security Act contributes wholly or partly to a family's ineligibility for AFDC, the family is deemed, but only for the purpose of Medicaid eligibility, to be receiving AFDC for a period of four calender months after the last month of AFDC eligibility. This applies only to families who receive AFDC in three of the six months immediately preceding the month of ineligibility. "Received" includes those individuals denied an AFDC payment solely because the payment amount is under $10 or because the payment is determined to be zero as a result of rounding. The estimated costs are: FY 1985--$53 million, FY 1986--$58 million, FY 1987--$62 million, and FY 1988--$68 million.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-6629

RIN: 0960-AB33

525. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM REOPENING AND REVISING DETERMINATIONS AND DECISIONS WHERE THERE IS CLEAR ERROR OR NEW AND MATERIAL EVIDENCE

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1302; 30 USC 923(b); 30 USC 936(a); 30 USC 956; 30 USC 957

CFR Citation: 20 CFR 404, Subpart J; 20 CFR 410, Subpart F

Legal Deadline: None

Abstract: These proposed rules would make two changes on when a determination or decision affecting someone's rights may be reopened and revised. These changes would permit reopening more than 4 years after the date of the notice of the initial determination so that we can correct clerical errors or errors on the face of the evidence considered in making the determination or decision. We are proposing to make these changes so that we can correct erroneous determinations or decisions discovered more than 4 years after the date of the initial determination. In addition, the proposed rules would establish a new

administrative action called a "non-action finding." A "non-action finding" occurs when we fail to act on a report by a beneficiary and as a result fail to make an adverse change in the individual's benefits. A "non-action finding" is final and binding on both us and the beneficiary, subject to special rules on reopening and revising that action. We are proposing to make this change so that a beneficiary is protected under rules covering the reopening and revising of determinations and decisions against the retroactive effect of a (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	01/00/87	

Small Entity: No

Additional Information: TITLE CONT: Adjudicative Non-Action.

ABSTRACT CONT: determination made more than 4 years later based on that report. Expansion of the time limits - Saving of $78.6 million in benefit payments per year; "Non-action finding"-Cost of $400,000 a year in benefit payments.

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-7462

RIN: 0960-AB34

526. OLD AGE SURVIVORS DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; COMPLIANCE WITH FEDERAL LAW

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 421; 42 USC 1302; PL 98-460, Sec 17

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: The regulations deal with the operation of State agencies which make disability determinations for the Social Security Disability Benefits program and the Supplemental Security Income for the Aged, Blind, and Disabled program under regulations and other written SSA guidelines. The regulations implement recently enacted law which requires the Secretary to take definitive steps within specific time frames to assure the compliance of State agencies with SSA regulations and other written guidelines or proceed to determine their participation in the SSA administered programs. The regulations also make other changes to improve the disability determination process and to clarify and update other administrative requirements. Costs/savings cannot be estimated at this time.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	12/00/86	

Small Entity: No

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 597-3469

RIN: 0960-AB36

527. OLD AGE SURVIVORS DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; PAYMENT OF COSTS OF REHABILITATION SERVICES

Significance: Regulatory Program

Legal Authority: PL 98-460, Sec 11; 42 USC 405; 42 USC 422; 42 USC 1302; 42 USC 1382(d)

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: Public Law 98-460 created 2 new provisions under which SSA will pay vocational rehabilitation (VR) agencies for the costs of services provided to disabled or blind social security beneficiaries or SSI recipients. Under the first new provision, SSA will allow payment to VRA's for the costs of VR services provided to individuals continuing to receive payment because they are participating in a VR program after their period of disability has ceased due to their unexpected medical recovery. The second new provision allows payment to VRA's for the costs of VR services provided to beneficiaries/recipients who refuse without good cause to continue or to cooperate in a VR program in such a way as to preclude their successful rehabilitation with such refusal resulting in the nonpayment of their disability or blindness payments. It is estimated that the first year costs of this program will be less than 1 million dollars.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	01/00/87	

Small Entity: No

Agency Contact: Dave Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulation, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7460

RIN: 0960-AB37

528. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; ADJUSTMENTS IN SSI BENEFITS ON ACCOUNT OF RETROACTIVE BENEFITS UNDER TITLE II

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1320a-6; 42 USC 1302; 42 USC 1383; PL 98-369, Sec 2615; 42 USC 1383b

CFR Citation: 20 CFR 404.408a; 20 CFR 416.1123

Legal Deadline: None

Abstract: Sec. 2615 of Pub. L. 98-369 amended sec. 1127 of the Social Security Act to eliminate loopholes that permitted some people who were paid Old-Age, Survivors and Disability Insurance (OASDI) and Supplemental Security Income (SSI) benefits retroactively to receive more in total benefits for the same period than if they had been paid the benefits when regularly due. The two main changes are: (1) Retroactive SSI benefits will be reduced where retroactive OASDI benefits for the same period have been paid before the SSI benefits. Under prior law, reductions could be made only in retroactive OASDI benefits and only when the retroactive SSI had been paid first. (2) OASDI or SSI benefits payable retroactively upon reinstatement following a period of suspension or termination will be reduced by the amount of SSI benefits that would not have been paid if the OASDI benefits had been paid when regularly due. We will amend our regulations to conform to the statutory changes. The program savings to SSA are estimated as $5 million a year.

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Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	01/00/87	

Small Entity: No

Agency Contact: Cliff Terry, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-7519

RIN: 0960-AB38

529. SUPPLEMENTAL SECURITY INCOME PROGRAM; LIMITATION ON RECOUPMENT RATE IN CASE OF OVERPAYMENT

Legal Authority: 42 USC 1302; 42 USC 1381; 42 USC 1381a; 42 USC 1382; 42 USC 1382c; 42 USC 1383; 42 USC 1383b

CFR Citation: 20 CFR 416, Subpart E

Legal Deadline: None

Abstract: These proposed rules which implement section 2612 of Pub. L. 98-369 will limit the rate at which an overpayment may be recovered from an individual still receiving benefits (SSI or federally administered supplementary payments, or both) to 10 percent of the recipient's total income (countable income plus SSI and State supplementary payments) or the recipient's payment for the month, whichever is less. They will apply the 10 percent requirement only to recipients in current payment status. However, recovery of an overpayment by withholding from SSI payments due will be suspended when a recipient is subject to the $25 payment limitation (living arrangement D). The 10 percent limit will not apply in situations involving installment agreements, recovery by refund, cross program adjustment for individuals not in SSI current pay or where it is determined that the overpayment occurred because of recipient fraud or willful misrepresentation. They will, in negotiated cases, set a rate of withholding that is appropriate for the financial condition of the overpaid person after factual evaluation. Such cases will also be considered initial determinations for (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: which the recipient has appeal rights. Estimated costs are FY 1986--$2 million, FY 1987--$2 million, FY 1988--$2 million, FY 1989--$2 million.

Agency Contact: Larry Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-7459

RIN: 0960-AB40

530. OLD-AGE, SURVIVORS, DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS: EVALUATION OF SYMPTOMS, INCLUDING PAIN

Significance: Regulatory Program

Legal Authority: PL 98-460, Sec 3; 42 USC 205; 42 USC 423 (d) (5); 42 USC 1302; 42 USC 136

CFR Citation: 20 CFR 404, Subpart P; 20 CFR 416, Subpart I

Legal Deadline: None

Abstract: These proposed regulations reflect a temporary statutory standard (through December 31, 1988) for evaluating cases involving pain or other symptoms. This standard reflects SSA's current policy for evaluating symptoms, including pain.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	12/00/86	

Small Entity: No

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd, Baltimore, Maryland 21235, 301 594-7415

RIN: 0960-AB41

531. DISCLOSURE OF PERSONAL INFORMATION TO LAW ENFORCEMENT AGENCIES AND COURTS (PRERULEMAKING ACTIVITY)

Significance: Regulatory Program

Legal Authority: 5 USC 552; 5 USC 552a; 5 USC 1306; 26 USC 6103

CFR Citation: 20 CFR 401

Legal Deadline: None

Abstract: Under present rules, disclosure to a law enforcement agency is allowed only when a violent crime has been committed and the subject of the information has been either indicted or convicted of that crime. These rules severely restrict permissible disclosures, since most subjects, once indicted or convicted, are already in custody or otherwise accounted for. SSA is considering a change in policy that will expand the circumstances in which information can be disclosed.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Pete Benson, Social Insurance Specialist, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-5622

RIN: 0960-AB66

532. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; FOOD STAMP PROGRAM; POLICY CONSISTENCY

Significance: Regulatory Program

Legal Authority: 42 USC 1302

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: We are seeking ways to develop greater consistency in eligibility policies and procedures between the AFDC and Food Stamp programs, within existing statutory requirements. We are particularly interested in how we can make similar requirements in the two programs identical and streamline processes. The aim is to improve and simplify program administration and ease the burden placed upon the individuals applying for assistance.

Timetable:

Action	Date	FR Cite
ANPRM	02/19/85	50 FR 6970
ANPRM Comment Period End	04/22/85	50 FR 6970

NPRM 00/00/00

Small Entity: Undetermined

Agency Contact: Natalie Dethloff, Director, DLRP, Department of Health and Human Services, Social Security Administration, Office of Family Assistance, 2100 Second Street, SW, Washington, DC 20201, 202 245-3284

RIN: 0960-AB71

533. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; ADMINISTRATIVE IMPROVEMENT IN THE AFDC PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 602; 42 USC 603; 42 USC 606; 42 USC 607; 42 USC 1302

CFR Citation: 45 CFR 201; 45 CFR 205; 45 CFR 206; 45 CFR 225; 45 CFR 232; 45 CFR 233; 45 CFR 234; 45 CFR 237

Legal Deadline: None

Abstract: The proposed rule will organize and codify those administrative changes which will better target program resources, reduce administrative cost, or increase State flexibility.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
Final Action	03/00/87	

Small Entity: No

Agency Contact: Natalie Dethloff, Director, DLRP, Department of Health and Human Services, Social Security Administration, Office of Family Assistance, 2100 Second Street, SW, Washington, DC 20201, 202 245-3284

RIN: 0960-AB72

534. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; ADJUDICATION OF SOCIAL SECURITY DISABILITY CLAIMS (PRE-RULEMAKING ACTIVITIES)

Significance: Regulatory Program

Legal Authority: PL 98-460, Sec 10

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: The Disability Program is a dynamic program that is subject to ongoing review and change. It is essential that certain actions be taken that ensure the rules under which the program operates (a) reflect legislative changes, (b) reflect chronological changes, and (c) are complete. In addition, the public must have an opportunity to comment on these rules. More specifically our goals are as follows: (A) To implement PL 98-460, the Disability Benefits Reform Act of 1984, in a way that is consistent with legislative interest and administrative effectiveness. (B) To develop disability guidelines, procedures, and policies which can be consistently interpreted and applied throughout all lines of the disability process and are in compliance with PL 98-460, section 10, which requires that all major disability policies be published as regulations. (C) To assure that disability program policies and adjudicative criteria are consistent with the latest advances in medicine and vocational assessment and realistic in relationship to measurements available for assessing disability.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: This entry does not describe one regulation but is descriptive of a number of regulations which may result from our review of disability rulings as required by section 10 of PL 98-460.

Agency Contact: Nancy J. Dapper, Department of Health and Human Services, Social Security Administration, 100 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-3749

RIN: 0960-AB73

535. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE; BLACK LUNG; AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; BASIS FOR DISQUALIFICATION OF CLAIMANT REPRESENTATIVE

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383; 30 USC 923

CFR Citation: 20 CFR 404; 20 CFR 410; 20 CFR 416

Legal Deadline: None

Abstract: The proposal changes the regulatory basis for the suspension or disqualification of claimant representatives. There has been an increase in the number of concerns about the conduct of some representatives. The complaints concern conduct and behavior which are inconsistent with the role and responsibilities representatives take, but such conduct and practices do not constitute grounds for suspension or disqualification under current regulations. The proposed additional bases for suspension or disqualification will give us the regulatory authority to suspend or disqualify in these situations.

The proposed changes will result in negligible program or administrative costs.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7452

RIN: 0960-AB76

536. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; WAIVER OF ADJUSTMENT OR RECOVERY OF OVERPAYMENTS, AND LIABILITY OF A CERTIFYING OFFICER AGAINST EQUITY AND GOOD CONSCIENCE; DEFINED

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 427; 42 USC 1302

CFR Citation: 20 CFR 404.509

Legal Deadline: None

Abstract: The proposed change would allow us to grant waiver of recovery of the overpayment to such contingently liable individuals who are without fault and living in a separate household at the time of the overpayment.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Duane Heston, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-6629

RIN: 0960-AB77

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537. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; OVERPAYMENTS, UNDERPAYMENTS, WAIVER OF ADJUSTMENT OR RECOVERY OF OVERPAYMENTS, AND LIABILITY OF A CERTIFYING OFFICER—ETC

Legal Authority: 42 USC 404; 42 USC 405; 42 USC 427; 42 USC 1302

CFR Citation: 20 CFR 404.501; 20 CFR 404.502

Legal Deadline: None

Abstract: These proposed amendments to the regulations amend the definition of overpayment as it appears in the regulations to make it clear that the term "overpayment" includes not only checks sent directly to a payee but payments made to a financial institution either by means of a check or through electronic fund transfer. They also incorporate into the regulations longstanding policies concerning the circumstances under which individuals other than the overpaid persons themselves are liable for repayment of an overpayment. No increased program or administrative costs are anticipated as these rules make no changes in our policies.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: TITLE CONT: Overpayments.

Agency Contact: Duane Heaton, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-6629

RIN: 0960-AB78

538. SUPPLEMENTAL SECURITY INCOME PROGRAM; TREATMENT OF PROPERTY HELD IN TRUST OR OTHER SIMILAR LEGAL DEVICES WHEN THE PROPERTY IS AVAILABLE FOR A BENEFICIARY'S SUPPORT AND MAINTENANCE

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1381; 42 USC 1381a; 42 USC 1382; 42 USC 1382a; 42 USC 1382b; 42 USC 1382c(f); 42 USC 1383

CFR Citation: 20 CFR 416.1201

Legal Deadline: None

Abstract: This proposed regulation provides that assets held in any revocable or irrevocable trust or any other similar legal device including but not limited to gifts made in accordance with the Uniform Gifts to Minors Act, if available for the beneficiary's support and maintenance, will be a countable resource. It would include as countable assets those that will not be disbursed either at the discretion of the trustees or at the direction of the trustor because such disbursement would adversely affect the beneficiary's eligibility for Supplemental Security Income benefits.

Timetable:

Action	Date	FR Cite
NPRM	02/00/87	
Final Action	08/00/87	

Small Entity: No

Agency Contact: Henry D. Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7463

RIN: 0960-AB79

539. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; AMENDED EXCEPTIONS TO REDUCTION WHERE SPOUSE IS RECEIVING A GOVERNMENT PENSION; DECREASED AMOUNT OF REDUCTION

Legal Authority: 42 USC (b); 42 USC (c); 42 USC (e); 42 USC (f)

CFR Citation: 20 CFR 404.408a

Legal Deadline: None

Abstract: In these regulations, we are amending our rules on reducing the Social Security benefit amounts of spouses who are receiving Government pensions. The amendments, which implement section 2 of Pub. L. 98-617, provide that, for beneficiaries subject to this reduction, the benefit reduction in all cases will be two-thirds (instead of 100 percent) the amount of the spouse's Government pension. The amendments also extend by one month the periods for meeting the existing exceptions to reduction in cases where an employee's pension eligibility was delayed by one month solely because of a requirement which postponed eligibility for the pension until the month after the month in which all other requirements were met. The changes are effective for benefits payable for December 1984 and later months. These regulations will cost the Social Security trust funds $10 million per year in increased benefits.

Timetable:

Action	Date	FR Cite
NPRM	12/31/85	50 FR 53340
NPRM Comment Period End	03/03/86	
Final Action	08/00/86	

Small Entity: No

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-6785

RIN: 0960-AB80

540. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; PERIOD OF DISABILITY--WHEN YOU MAY NOT BE ENTITLED TO BENEFITS

Legal Authority: 42 USC 402; 42 USC 405; 42 USC 416; 42 USC 423; 42 USC 428; 42 USC 1302

CFR Citation: 20 CFR 404

Legal Deadline: None

Abstract: This proposed regulation would prohibit an individual from receiving any underpayment due a beneficiary other than the worker, if the individual requesting the underpayment due the beneficiary intentionally killed that beneficiary.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Lawrence V. Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7459

RIN: 0960-AB82

541. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; DETERMINING FIRST MONTH OF ENTITLEMENT BASED ON ONE-HALF SUPPORT

Legal Authority: 42 USC 402(b)(4)

CFR Citation: 20 CFR 404.366(b)

Legal Deadline: None

Abstract: Under present regulations, an insured person can be found to be providing one-half support to a claimant if he or she makes regular contributions for support and the amount exceeds one-half of the claimant's ordinary living costs. The usual approach for determining one-half support is to compare the amount of the insured's contributions with the total income of the claimant.

The proposed regulations change would more accurately reflect that the claimant's total income for support purposes is always considered in the support determination. The change would more specifically address the situation where a claimant elects to invest or otherwise segregate his or her own income and claim one-half support from the insured person. This situation will most frequently arise in cases involving Government pension offset. There would be no significant costs/savings since the policy is already being interpreted in this manner.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Dave Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-7460

RIN: 0960-AB83

542. SUPPLEMENTAL SECURITY INCOME PROGRAM; TREATMENT OF ALASKA NATIVE AND REGIONAL VILLAGE CORPORATION DIVIDEND DISTRIBUTION

Legal Authority: 42 USC 1382a

CFR Citation: 20 CFR 416, Subpart K, Appendix

Legal Deadline: None

Abstract: This proposed regulation would clarify that payments received under the Alaska Native Claims Settlement Act are only excluded as income to the extent they are exempt from taxation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Irv Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 597-3409

RIN: 0960-AB86

543. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REDUCTION BECAUSE OF ENTITLEMENTS TO OTHER BENEFITS

Legal Authority: 42 USC 405; 42 USC 407; 42 USC 1302

CFR Citation: 20 CFR 404.407, (Revision); 20 CFR 404.612

Legal Deadline: None

Abstract: Section 202(k)(4) of the Social Security Act discusses simultaneous entitlement to retirement and disability insurance benefits (RIB/DIB) and provides that SSA will pay the higher benefit unless the claimant elects to be paid the lower. Section 223(a)(1) explains that an application for DIB may be filed by someone other than the number holder (NH) within 3 months after the month of the NH's death. Strict interpretation had been made of section 202(k)(4) so that no one other than the NH (or proper applicant on behalf of a living NH) could make the election described in section 202(k)(4). In section 404.612(d) of the CFR, the explanation of section 223(a)(1) is given. We have recently published new operating policy which explains that the same person who files an application pursuant to CFR section 404.612(d) may make the election described in CFR 404.407(c).

We are proposing to change CFR 404.407(c) to clarify that the person described in section 404.612(d) may make the election discussed in section 202(k)(4).

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Additional Information: We considered changing the requirements in CFR 404.640 for withdrawing an application to enable the individual who filed a DIB application pursuant to CFR 404.612(d) to withdraw the application. However, the change would only apply to disability applications filed after the death of the NH and would not have affected RIB/DIB applications filed by NH's who die prior to making the election described in 404.407(c). The proposed change, therefore, will be more equitable. We foresee minimal costs from this change since the number of potentially affected beneficiaries is small and the period of time during which they will receive the higher family maximum amount (based on the RIB) will only be for the months during which the deceased NH is simultaneously entitled to DIB. Also, this cost will be offset by administrative savings since overpayments will not be created and have to be recovered in situations where NH's die prior to the DIB determination where RIB has been paid.

Agency Contact: Lawrence V. Dudar, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7459

RIN: 0960-AB87

544. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE, SUPPLEMENTAL SECURITY INCOME & BLACK LUNG PROGRAMS--OWN MOTION REVIEW OF FEE DETERMINATION

Legal Authority: 42 USC 405; 42 USC 406; 42 USC 1302; 30 USC 923(b); 30 USC 936(a); 30 USC 956; 30 USC 957; 42 USC 1383

CFR Citation: 20 CFR 404.1720; 20 CFR 410.686; 20 CFR 416.1520

Legal Deadline: None

Abstract: We propose to revise our regulation on review of attorney fee determinations approved for services before the Social Security Administration (SSA) under titles II and XVI of the Social Security Act and under title IV of the Federal Mine Safety and Health Act. These revised rules, if adopted, will allow SSA on its own motion to review and revise attorney fee determinations which are clearly based on improper application of the law and regulations, or on an error of fact. This change extends authority to SSA for reopening fee determinations; an initiative by regulation which is now only applicable

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to an attorney or his/her client. The savings from this regulation are negligible.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Dusty Heston, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7460

RIN: 0960-AB89

545. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE; BLACK LUNG; SUPPLEMENTAL SECURITY INCOME PROGRAMS; COMPONENT RECOMMENDATION THAT THE APPEALS COUNCIL REVIEW ALJ DECISIONS

Legal Authority: 42 USC 405; 42 USC 406; 42 USC 409; 42 USC 1302; 42 USC 1383; 42 USC 1383a; 30 USC 923

CFR Citation: 20 CFR 404; 20 CFR 416; 20 CFR 416

Legal Deadline: None

Abstract: These proposed regulations add to our regulations procedures under which a Social Security component responsible for carrying out an administrative law judge hearing decision may recommend to the Appeals Council that the Appeals Council review the decision. Also, we are revising our regulations to make it clear that the Social Security Administration may reopen a final determination or decision on its own initiative. We are adding these rules to our regulations to make the public aware of these procedures and clarify any questionable issues.

The proposed changes will result in negligible program or administrative costs or savings.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7453

RIN: 0960-AB90

546. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; GENERAL ADMINISTRATION — PUBLIC ASSISTANCE PROGRAM—QUALITY CONTROL SYSTEM

Legal Authority: 42 USC 1302; PL 97-248; PL 98-123

CFR Citation: 45 CFR 205.42; 45 CFR 205.44

Legal Deadline: None

Abstract: These proposed rules amend the QC regulations under the AFDC program by introducing two primary changes. The first establishes a new performance-based threshold to determine whether or not States that failed to meet the statutory error standards can, in fact, be considered for a waiver. The revision replaces the provision at 45 CFR 205.42(g)(2)(v) regarding a timely developed and implemented corrective action plan, as well as the requirement at 45 CFR 205.44(g)(2)(iv) relating to a demonstrated error reduction from the last assessment period. The second, which generally pertains to those States which are eligible to be considered for a waiver by virtue of having met the threshold, establishes more definitive criteria to be used in determining whether waivers will be granted.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Barbara M. Levering, Director, OIC, Department of Health and Human Services, Social Security Administration, Office of Family Assistance, 2160 Second Street, SW, Washington, DC 20201, 202 245-2837

RIN: 0960-AB91

547. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; USE OF WORK EVALUATIONS TO EVALUATE INDIVIDUALS WITH MENTAL IMPAIRMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 404.1547, (New); 20 CFR 416.947, (New)

Legal Deadline: None

Abstract: The regulations that we are proposing provide the necessary guidelines for the disability determination services when it is necessary to refer individuals with mental impairments for a work evaluation. Work evaluations are needed in certain disability cases (both title II and title XVI) when it is necessary to evaluate the individual's ability to perform past work or other work available in the economy.

Timetable:

Action	Date	FR Cite
Notice	03/11/85	50 FR 9770
NPRM	10/00/86	
Final Action	04/00/87	

Small Entity: Undetermined

Agency Contact: Hugh A. Meade, Jr., Director, Division of Medical & Vocational, Policy, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-3352

RIN: 0960-AB92

548. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; LISTING OF IMPAIRMENTS—APPENDIX 2—MEDICAL - VOCATIONAL GUIDELINES, ILLITERACY AND INABILITY TO COMMUNICATE IN ENGLISH

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 404P, Appendix 2

Legal Deadline: None

Abstract: The proposed changes will clarify the meanings of the terms "illiteracy" and "inability to communicate in the English language" as they are used in the disability adjudication regulations. The new rules will show that inability to communicate in English is a more adverse factor than being only illiterate in English. Since only the Secretary of the Department of Health and Human Services and his or her delegates are empowered to administer the title II and title XVI disability and blindness programs these changes must be made on a Federal level. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program. The budgetary impact is unknown at the time.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: No

Agency Contact: Hugh A. Meade, Jr., Director, Division of Medical & Vocational Policy, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-3352

RIN: 0960-AB94

549. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; SPOUSAL DEEMING COMPUTATION INVOLVING STATE SUPPLEMENTATION

Legal Authority: Bouchard v. Secretary, USDC (Mass) Civil No. 78-0632-F; 42 USC 1382e

CFR Citation: 20 CFR 416.2025(b)

Legal Deadline: None

Abstract: This proposed rule would use the Bouchard decision as the basis for a nationwide policy providing that for purposes of calculating State supplementary payments an optional State supplementary rate for a couple would be used instead of the rate for an individual in spousal deeming cases.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Dave Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7460

RIN: 0960-AB95

550. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY; MENTAL IMPAIRMENTS - CHILDHOOD LISTINGS

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 404P, Appendix 1, Part B

Legal Deadline: None

Abstract: Section 112.00 of Appendix 1 to the Old-Age, Survivors, and Disability Insurance Disability Regulations 404.1501 through 404.1599 describe those mental impairments that apply only to the evaluation of impairments of persons under age 18. We are proposing comprehensive revisions to that section to ensure that the medical evaluation criteria are up to date and consistent with the latest advances in medicine. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program. The budgetary impact is unknown at this time.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	
Final Action	04/00/87	

Small Entity: No

Agency Contact: Hugh A. Meade, Jr., Director of Division of Medical &, Vocational Policy, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-3352

RIN: 0960-AB96

551. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE, BLACK LUNG, AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; ROTATION OF ALJS APPOINTMENT TO HEAR AND DECIDE CASES; EXCEPTIONS TO APPOINTING

Significance: Regulatory Program

Legal Authority: 5 USC 3105; 5 USC 554(d)

CFR Citation: 20 CFR 404.929; 20 CFR 416.1429; 20 CFR 410.630

Legal Deadline: None

Abstract: The current regulations on appointing ALJ's to hear and decide cases do not discuss (1) the appointment of ALJ's in rotation to hear and decide cases; or (2) the exceptions to appointing ALJ's in rotation. In addition, the current regulations provide that once an ALJ has been appointed to conduct a hearing, the case may be assigned to another ALJ "if circumstances warrant." The regulations do not discuss the circumstances which would warrant (1) assigning another ALJ to conduct the hearing; or (2) assigning another ALJ to decide a case after the original ALJ has conducted the hearing. The regulatory changes will address concerns about timeliness of hearings and decisions raised by Congress, the public, and the courts. This will result in faster hearings and decisions in many cases, and the overall result will be a lowered cost per case processed. In addition, they will address the agency's public relations and litigation problems caused by the delayed processing of cases.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	
Final Action	07/00/87	

Small Entity: No

Agency Contact: Eugene R. Larkin, Social Insurance Policy Analyst, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-1818

RIN: 0960-AB97

552. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; ELIMINATING THE CONCEPT OF CONSIDERING A RENTAL SUBSIDY AS UNEARNED INCOME

Significance: Regulatory Program

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Legal Authority: 42 USC 1382a

CFR Citation: 20 CFR 416.1130(b)

Legal Deadline: None

Abstract: Proposed change will reduce complexity and administrative burdens in determining the receipt of in-kind support and maintenance in the supplemental security income program. No alternative proposals are under consideration. The regulatory change will result in Federal program costs of $6 million offset by administrative savings of $1.2 million annually.

Timetable:

Action	Date	FR Cite
NPRM	03/00/87	
Final Action	09/00/87	

Small Entity: No

Agency Contact: Dave Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7666

RIN: 0960-AB06

553. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; TREATMENT OF PROCEEDS FROM HOME EQUITY CONVERSION (HEC) PLANS AS INCOME

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1382a; 42 USC 1383

CFR Citation: 20 CFR 416.1103; 20 CFR 416.1120; 20 CFR 416.1121

Legal Deadline: None

Abstract: Under current policy, payments received by a person as a result of a Home Equity Conversion (HEC) (e.g., reverse mortgage, sale lease back, etc.) are not considered income. The change in regulations would result in these payments being considered income. This change is being made in the realization that HEC's generate cash available for food, clothing, or shelter and meet the definition of income in 20 CFR 416.1102. Program costs and savings are considered insignificant.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	

Small Entity: No

Agency Contact: Irving Darrow, Legal Assistant, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 597-3460

RIN: 0960-AC00

554. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; NOTICE OF REVISED DETERMINATION OR DECISION

Legal Authority: 42 USC 405

CFR Citation: 20 CFR 404.902(e)

Legal Deadline: None

Abstract: The proposed regulation will make the next level of appeal a reconsideration, instead of a hearing, where a reconsideration is reopened and revised. Current policy has led to errors as to the appropriate level of appeal. The change will eliminate these errors. To the extent the number of hearings is reduced, there will be some savings (since reconsiderations are less costly); but the estimated savings are negligible.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: No

Agency Contact: Steve Siff, Chief, Individual Rights & Procedures Br., Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-6957

RIN: 0960-AC04

555. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; MEDICAL EVALUATION CRITERIA FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS)

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 404P, Appendix 1

Legal Deadline: None

Abstract: Section 10.00 of Appendix 1 to the Disability Regulations (404.1501 through 404.1599) describes multiple body system impairments which are severe enough to prevent a person from doing any gainful activity. We are proposing to add the criteria for evaluation of AIDS to this section. The Supplemental Security Income program incorporates by reference and uses the same medical criteria as the Old-Age, Survivors, and Disability Insurance program. The budgetary impact is unknown at this time.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
Final Action	03/00/87	

Small Entity: No

Agency Contact: Hugh A. Meade, Jr., Director, Division of Medical & Vocational Policy, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-3332

RIN: 0960-AC06

556. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DECISIONS BY ADMINISTRATIVE LAW JUDGES IN CASES REMANDED BY COURTS

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383; 42 USC 1383b

CFR Citation: 20 CFR 404.953; 20 CFR 404.985; 20 CFR 404.984; 20 CFR 416.1453; 20 CFR 416.1483; 20 CFR 416.1484

Legal Deadline: None

Abstract: If the court remands a case and the SSA Appeals Council remands it to an administrative law judge (ALJ), under current regulations the ALJ can make only a recommended decision on the case, which does not become a final decision until the Appeals Council takes some action on it. This can involve delay. The proposed regulation would permit the ALJ to make a decision which would become final unless, within 60 days, either the claimant files exceptions or the Appeals Council takes jurisdiction. The change will permit prompter final decisions and some administrative saving. It will not affect program cost.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: No

Agency Contact: Cliff Terry, Legal Assistant, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7519

RIN: 0960-AC07

557. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; PROHIBITION ON DIRECT PAYMENT OF FEES TO REPRESENTATIVES

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.1520; 20 CFR 416.1529

Legal Deadline: None

Abstract: In these proposed rules, we will state explicitly our policy of not withholding money from a claimant's retroactive SSI benefits to pay a fee directly to the claimant's representative. We believe such withholding is prohibited by the assignment provisions of section 207 of the Social Security Act. We expect no costs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-6785

RIN: 0960-AC08

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Social Security Administration (SSA)

Final Rule Stage

558. SUPPLEMENTAL SECURITY INCOME PROGRAM; EFFECTIVE DATE OF APPLICATION AND PRORATION OF INITIAL SSI BENEFIT PAYMENT

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1382; 42 USC 1382(c); 42 USC 1382f; 42 USC 1383

CFR Citation: 20 CFR 416, Subpart B; 20 CFR 416, Subpart C; 20 CFR 416, Subpart M; 20 CFR 416, Subpart R

Legal Deadline: None

Abstract: These regulations will enable SSI benefits in the month of application to be prorated from the date of application or the date of eligibility, whichever is later. The regulations will also apply to months in which the individual reapplies after a period of ineligibility.

Timetable:

Action	Date	FR Cite
NPRM	09/05/85	50 FR 36108
Final Action	04/00/86	

Small Entity: No

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-7463

RIN: 0960-AA03

559. SUPPLEMENTAL SECURITY INCOME PROGRAMS; MANDATORY PASS THROUGH UNDER STATE SUPPLEMENTATION PROVISIONS

Significance: Agency Priority

Legal Authority: 42 USC 1382g(c); PL 97-377, Sec 147; PL 98-21, Sec 402

CFR Citation: 20 CFR 416, Subpart T

Legal Deadline: None

Abstract: These rules reflect changes in the law which enable States effective for the 12-month period ending 6/82, to switch from the "maintaining of total expenditures" method of compliance with mandatory pass through provisions to the "maintaining of payment levels" method without first having to pass through to all current SSI recipients all the Federal cost-of-living benefit increases which have occurred since 12/76. States can meet the pass through requirements by maintaining the payment levels in effect in December of the latest preceding total expenditures period. The concept of "State Supplementary payment level" is changed to a concept of combined supplementary and SSI payment levels applicable to months after 3/83. Also, a State is permitted to reduce its 3/83 State Supplementary payment levels by an amount up to the difference between the amount of the 7/83 general increase in the Federal benefits in 7/83. Also reflected in the rules is a special method of compliance for States meeting the passalong requirements by the total annual expenditures test for the period 7/1/80 through 6/30/81. The total expenditures for that period need only equal or exceed the total (cont)

Timetable:

Action	Date	FR Cite
NPRM	02/25/85	50 FR 07607

Next Action Undetermined

Small Entity: No

Additional Information: ABSTRACT CONT: expenditures for 7/1/76 through 6/30/77, rather than the total expenditures for the preceding 12-month period.

Agency Contact: David Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-7460

RIN: 0960-AA05

560. GENERAL ADMINISTRATION-PUBLIC ASSISTANCE PROGRAMS; AFDC; FEDERAL FINANCIAL PARTICIPATION IN THE COST OF A STATEWIDE MECHANIZED CLAIMS PROCESSING SYSTEM

Legal Authority: 42 USC 602(a); 42 USC 603(a)(3); 42 USC 613; PL 96-265, Sec 408

CFR Citation: 45 CFR 205.35; 45 CFR 205.36; 45 CFR 205.37; 45 CFR 205.38

Legal Deadline: None

Abstract: The regulation will make available, at State option, 90 percent matching funds for the planning, design, development, and installation of a statewide claims processing and information retrieval system for the AFDC program. The 90 percent matching includes the purchase or rental of computer equipment and

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software used for the operation of this system. The regulation will result in short-run administrative costs, but is expected to result in greater long-run program savings through increased accuracy of processing. The regulation also provides for the disallowance of incentive funds that exceed the normal administrative FFP rate (50 percent) back to the beginning date of development should SSA suspend approval of an approved APD or should a State voluntarily withdraw its approved APD.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/81	46 FR 47784
Final Action	04/00/86	

Small Entity: No

Agency Contact: Barbara Levering, Director, OIC, Department of Health and Human Services, Social Security Administration, Office of Family Assistance, 2100 Second Street, SW, Washington, DC 20201, 202 245-2637

RIN: 0960-AA16

561. SUPPLEMENTAL SECURITY INCOME PROGRAM; AGE 18 AND ALIEN DEEMING

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1382; 42 USC 1383; 42 USC 1381; 42 USC 1381a; 42 USC 1382; 42 USC 1382a; 42 USC 1382b; 42 USC 1382c(f); 42 USC 1383(d)

CFR Citation: 20 CFR 416, Subpart K

Legal Deadline: None

Abstract: This regulation provides that deeming of parental income and resources to an eligible child ends when a child reaches age 18 and that a sponsor's income and resources are deemed to an alien for a period of three years after admission for aliens who first apply for SSI benefits after September 30, 1980. The regulation eliminates different treatment of children aged 18 to 21 depending on status as students, and assumes that sponsors will support aliens and sets more rigid rules for the sponsor to alien deeming than apply to other deeming categories.

Timetable:

Action	Date	FR Cite
Notice of Decision to Develop Regs	11/14/80	45 FR 75225
NPRM	12/10/81	46 FR 60470
Final Action	05/00/86	

Small Entity: No

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-7463

RIN: 0960-AA26

562. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; FUTURE EFFECT OF APPLICATIONS AND RELATED CHANGES IN APPEALS COUNCIL PROCEDURES

Legal Authority: 42 USC 402; 42 USC 416; 42 USC 423(b); 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404, Subpart G; 20 CFR 404, Subpart J; 20 CFR 416, Subpart C; 20 CFR 416, Subpart N

Legal Deadline: None

Abstract: These rules should promote final resolution of cases at the hearing stage and help to reserve appeals council review for cases of a genuinely appellate nature. These rules specify that if a person files an application for benefits before the first month he or she meets all requirements for entitlement, we will allow the claim only if he or she meets all requirements before a hearing decision is issued (if a hearing is held) or if no hearing is held, before a final determination is made. These rules will generate program savings and administrative costs and savings.

Timetable:

Action	Date	FR Cite
Notice of Decision to Develop Regs	09/16/80	45 FR 61315
NPRM	05/16/83	48 FR 21967
NPRM Comment Period End	07/15/83	
Final Action	06/00/86	

Small Entity: No

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, MD 21235, 301 594-7452

RIN: 0960-AA28

563. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; COMPUTING A SUPPLEMENTAL PAYMENT IN STATES REQUIRED TO DO SO BY SECTION 402(A)(28) OF THE SOCIAL SECURITY ACT

Legal Authority: 42 USC 602; 42 USC 1302

CFR Citation: 45 CFR 232.21; 45 CFR 233.20; 45 CFR 232.20

Legal Deadline: None

Abstract: This regulation will require that eligibility be based on the current month's reported support payments, and each month's supplemental payment be based on the largest part of the amount collected in the current month that would not cause ineligibility. It will provide uniform and equitable redeterminations of eligibility and payment amounts. This regulation will result in minimal costs.

Timetable:

Action	Date	FR Cite
Notice of Decision to Develop Regs	05/18/79	44 FR 29122
NPRM	02/15/80	45 FR 8322
Final Action	05/00/86	

Small Entity: No

Agency Contact: Barbara Levering, Director, OIC, Department of Health and Human Services, Social Security Administration, Office of Family Assistance, 2100 Second St., SW, Washington, DC 20024, 202 245-2637

RIN: 0960-AA33

564. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; LEAST COSTLY APPROACH

Significance: Regulatory Program

Legal Authority: 42 USC 602; 42 USC 603; 42 USC 606; 42 USC 607; 42 USC 1302

CFR Citation: 45 CFR 201; 45 CFR 205; 45 CFR 206; 45 CFR 225; 45 CFR 232; 45 CFR 233; 45 CFR 234; 45 CFR 235; 45 CFR 237

Legal Deadline: None

Abstract: This regulation will affect a number of provisions of the AFDC program. It will result in savings to State and Federal governments and will ease the paperwork burden of the States. The changes may include provisions on restricted payments, hearings, redeterminations, issuances of replacement checks and others that will result in a "least costly" approach to the administration of AFDC. This regulation will result in dollar savings and the relief of administrative burdens that we expect to accrue.

Timetable:

Action	Date	FR Cite
NPRM	11/16/84	49 FR 45558
NPRM Comment Period End	01/15/85	
Final Action	04/00/86	

Small Entity: No

Agency Contact: Natalie Dethloff, Director, DLRP, Department of Health and Human Services, Social Security Administration, Office of Family Assistance, 2100 Second Street, SW, Washington, DC 20201, 202 245-2284

RIN: 0960-AA43

565. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; PROVISION FOR INFERRING A PERSON IS DEAD

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 404, Subpart H

Legal Deadline: None

Abstract: The proposed regulations revise SSA policy to provide that absent evidence to the contrary, we will consider a State or local court determination of death as sufficient evidence to presume the death of a missing insured person. If this presumption cannot be made, we will consider a life insurance settlement for the death of the insured person to be persuasive evidence for an inference of death. We will also infer the death of the insured person after a 7-year absence if, following the disappearance, a diligent search failed to locate the insured person and there are no known circumstances to reasonably explain the absence. The proposed changes will result in negligible program or administrative costs or savings.

Timetable:

Action	Date	FR Cite
NPRM	02/29/84	49 FR 07405
NPRM Comment Period End	04/30/84	
Next Action Undetermined		

Small Entity: No

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-7452

RIN: 0960-AA54

566. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; BENEFITS FOR DIVORCED SPOUSES BEFORE ENTITLEMENT OF INSURED WORKER

Legal Authority: PL 98-21, Sec 132; PL 98-21, Sec 301

CFR Citation: 20 CFR 404, Subpart D; 20 CFR 404, Subpart E

Legal Deadline: None

Abstract: This proposed regulation provides that a divorced spouse of a worker who is eligible for old-age benefits can receive wife's or husband's benefits if the divorced spouse is otherwise eligible for them and the parties have been divorced for at least 2 years, even if the worker has not applied for benefits or if the worker's current earnings are too high to permit payment of the worker's old-age benefits. Total program cost is estimated as under $100 million through 1989.

Timetable:

Action	Date	FR Cite
NPRM	02/07/85	50 FR 05264
Final Action	04/00/86	

Small Entity: No

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-6785

RIN: 0960-AA60

567. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; NEW BENEFIT COMPUTATIONS FOR COST-OF-LIVING ADJUSTMENT, FOR DELAYED RETIREMENT CREDIT, AND FOR ETC

Legal Authority: 42 USC 402(w); 42 USC 403(a),(b); 42 USC 415(i); 42 USC 1382(f)

CFR Citation: 20 CFR 404, Subpart C; 20 CFR 404, Subpart D; 20 CFR 404, Subpart E; 20 CFR 416, Subpart D

Legal Deadline: None

Abstract: This regulation will state that beginning with 1983, the annual cost-of-living adjustment will be effective in December and paid in January rather than being effective in June and paid in July. This revised schedule affects both OASDI and SSI. Additionally, the adjustment will be based on the lower of wages or price increases when the OASDI trust fund ratio of assets to estimated outgo falls below a given percentage. This regulation will also explain that the combined family maximum, where there is entitlement on two workers' records, will be increased only on the basis of cost-of-living adjustments. Finally, this regulation will explain the gradual increases in the delayed retirement credit. Shifting the cost-of-living adjustment will reduce program expenditures by $39.4 billion for 1983-89. The other provisions of this regulation package will have negligible program costs.

Timetable:

Action	Date	FR Cite
NPRM	07/05/85	50 FR 27615
NPRM Comment Period End	09/03/85	
Final Action	05/00/86	

Small Entity: No

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-6785

RIN: 0960-AA62

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568. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; ELIMINATION OF WINDFALL BENEFITS FOR PERSONS RECEIVING PENSIONS FROM NONCOVERED EMPLOYMENT

Significance: Regulatory Program

Legal Authority: PL 98-21, Sec 113

CFR Citation: 20 CFR 404, Subpart C

Legal Deadline: None

Abstract: The provision of section 113 of Pub. L. 98-21 (the Social Security Amendments of 1983) eliminates the windfall that occurs when the heavy weighting in the benefit formula that is intended for workers with low wages goes instead to workers who spent many years in noncovered employment and worked only a few years in covered employment. This will be accomplished by modifying the benefit computation formula to consider a worker's pension from noncovered employment. This provision will decrease program costs by $1 million for 1983-89.

Timetable:

Action	Date	FR Cite
NPRM	12/03/85	50 FR 49558
NPRM Comment Period End	02/03/86	
Final Action	08/00/86	

Small Entity: No

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-6785

RIN: 0960-AA65

569. AID TO FAMILIES WITH DEPENDENT CHILDREN AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DISREGARDING OF SUPPORT AND MAINTENANCE ASSISTANCE BASED ON NEED

Significance: Agency Priority

Legal Authority: 42 USC 602; 42 USC 1382a; 42 USC 1302; PL 98-369

CFR Citation: 20 CFR 416, Subpart K; 20 CFR 416, Subpart L; 45 CFR 233.20

Legal Deadline: None

Abstract: These regulations implement section 2639 of Pub. L. 98-369 which that certain support and maintenance assistance is not to be counted when determining an individual's eligibility for and the amount of his or her Supplemental Security Income (SSI) benefits or at the State's option, his or her Aid to Families with Dependent Children (AFDC) payments. Section 2639 is effective October 1, 1984 through September 30, 1987.

Timetable:

Action	Date	FR Cite
NPRM	05/24/85	50 FR 21457
NPRM Comment Period End	07/23/85	50 FR 21472
Final Action	06/00/86	

Small Entity: No

Agency Contact: Harry J. Short, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235, 301 594-7337

RIN: 0960-AA71

570. SUPPLEMENTAL SECURITY INCOME PROGRAM; RESOURCE LIMITS FOR CONDITIONAL SSI PAYMENTS

Legal Authority: 42 USC 1302; 42 USC 1382b(b); 42 USC 1383(d)

CFR Citation: 20 CFR 416, Subpart L

Legal Deadline: None

Abstract: Current regulations for the Supplemental Security Income program provide that if total excess resources (liquid and nonliquid) do not exceed certain limits, an individual may receive conditional SSI payments while disposing of the excess resources. This regulation will eliminate the limit on total resources and also revise "bona fide effort to sell" policy for disposing of excess resources.

Timetable:

Action	Date	FR Cite
NPRM	11/13/85	50 FR 46778
NPRM Comment Period End	01/13/86	
Final Action	09/00/86	

Small Entity: No

Agency Contact: Henry D. Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, Maryland 21235, 301 594-7463

RIN: 0960-AA75

571. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM; INDEXING FOR WIDOW(ER)'S BENEFITS; EFFECT OF REMARRIAGE ON WIDOW(ER)'S ENTITLEMENT; REDUCTION OF DISABLED WIDOW(ER)'S BENEFITS; ETC

Legal Authority: PL 98-21, Sec 131; PL 98-21, Sec 133; PL 98-21, Sec 134; PL 98-21, Sec 334; 42 USC 405; 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 404, Subpart C; 20 CFR 404, Subpart D; 20 CFR 404, Subpart E; 20 CFR 404, Subpart G

Legal Deadline: None

Abstract: These final rules will explain: (1) that in many situations remarriage will no longer affect a widow(er)'s entitlement to benefits on the earnings record of a deceased insured worker; (2) that benefit amounts for a widow(er) will be larger because the worker's earnings will be indexed based on the surviving spouse's eligibility rather than on the worker's year of death; (3) that benefits to a widow(er) who becomes entitled before age 60 (based on disability) will no longer be further reduced for months before age 60; (4) that, as an exception to limited retroactivity, a widow(er) age 60 or 61 may choose to have benefits begin effective with the month of death even though he or she did not apply until the next month. Budgetary information is unavailable at this time.

Timetable:

Action	Date	FR Cite
NPRM	05/29/84	49 FR 22340
NPRM Comment Period End	07/30/84	
Final Action	04/00/86	

Small Entity: No

Agency Contact: Jack Schanberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-6785

RIN: 0960-AA77

572. SUPPLEMENTAL SECURITY INCOME PROGRAM; PRESUMPTIVE DISABILITY AND PRESUMPTIVE BLINDNESS; CATEGORIES OF IMPAIRMENTS-AIDS

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1383

CFR Citation: 20 CFR 416.934

Legal Deadline: None

Abstract: Section 1631(a)(B) of the Social Security Act provides for the payment of benefits to persons applying for supplemental security income benefits on the basis of disability or blindness before making a formal determination when available information indicates a high probability that disability exists. These presumptive disability and blindness decisions may be made at the Social Security district offices in a limited number of impairment categories. We are adding AIDS to these categories.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/11/85	50 FR 5573
Final Action	12/00/86	

Small Entity: No

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-7415

RIN: 0960-AA79

573. AID TO FAMILIES WITH DEPENDENT CHILDREN; REDUCTION OF FEDERAL FUNDS FOR UNREPORTED CHILD SUPPORT COLLECTIONS

Legal Authority: 42 USC 1302; 42 USC 603

CFR Citation: 45 CFR 201.5

Legal Deadline: None

Abstract: This final rule makes a technical amendment to 45 CFR 201.5 based on section 407 of Public Law 96-265, the Social Security Disability Amendments of 1980. The rule requires the Department of Health and Human Services to reduce a State's title IV-A grant award for failure to include appropriate child support collections on its statement of expenditures.

Timetable:

Action	Date	FR Cite
NPRM	06/21/85	50 FR 33783
NPRM Comment Period End	10/21/85	
Final Action	07/00/86	

Small Entity: No

Agency Contact: Barbara Levering, Director, OIC, Department of Health and Human Services, Social Security Administration, Office of Family Assistance, Office of Intergovernmental Comm., 2100 Second St., SW, Washington, DC 20201, 202 245-2637

RIN: 0960-AA83

574. AID TO FAMILIES WITH DEPENDENT CHILDREN; DEFINITION OF PERMISSIBLE STATE PRACTICE-QUALITY CONTROL

Legal Authority: 42 USC 1302; 42 USC 602

CFR Citation: 45 CFR 205.40

Legal Deadline: None

Abstract: This rule will amend the definition of "Permissible State Practice." The rule will enable quality control to review against Federal requirements when a State plan is not amended to reflect new Federal rules, or when a State plan is submitted which is inconsistent with Federal rules and has not yet been disapproved.

Timetable:

Action	Date	FR Cite
NPRM	06/18/85	50 FR 25269
NPRM Comment Period End	08/19/85	
Final Action	09/00/86	

Small Entity: No

Agency Contact: Barbara Levering, Director, OIC, Department of Health and Human Services, Social Security Administration, Office of Family Assistance, Office of Intergovernmental Comm., 2100 Second St., SW, Washington, DC 20201, 202 245-2637

RIN: 0960-AA85

575. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; INCOME AND ELIGIBILITY VERIFICATION SYSTEMS

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 205.50; 45 CFR 205.51; 45 CFR 205.56; 45 CFR 205.57; 45 CFR 205.58; 45 CFR 205.60; 45 CFR 206.10; 45 CFR 205.52; 45 CFR 205.55; 45 CFR 205.62; 45 CFR 205.40

Legal Deadline: None

Abstract: The proposed regulations describe State agency requirements to access and use of income and eligibility information in the administration of the AFDC program.

Timetable:

Action	Date	FR Cite
NPRM	03/14/85	50 FR 10450
NPRM Comment Period End	04/29/85	
Final Action	04/00/86	

Small Entity: No

Agency Contact: Barbara Levering, Director, OIC, Department of Health and Human Services, Social Security Administration, Office of Family Assistance, 2100 Second St., SW, Washington, DC 20201, 202 245-2637

RIN: 0960-AB07

576. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; IMPLEMENTATION OF THE DEFICIT REDUCTION ACT OF 1984

Significance: Agency Priority

Legal Authority: 42 USC 1302; PL 98-369 The Deficit Reduction Act of 1984

CFR Citation: 45 CFR 205.50; 45 CFR 206.10; 45 CFR 233.52; 45 CFR 239; 45 CFR 233.20; 45 CFR 233.31; 45 CFR 233.51; 45 CFR 233.38; 45 CFR 234.60; 45 CFR 238; 45 CFR 240.22; 45 CFR 233.10; 45 CFR 233.90; 45 CFR 232.20; 45 CFR 233.35

Legal Deadline: None

Abstract: The interim regulations implement changes made to the Aid to Families With Dependent Children (AFDC) program by the Deficit Reduction Act of 1984. These changes affect eligibility requirements, countable income and resources, work programs and program administration.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/10/84	49 FR 35588
Final Action	04/00/86	

Small Entity: No

Agency Contact: Barbara Levering, Director, OIC, Department of Health and Human Services, Social Security Administration, Office of Family Assistance, 2100 Second St., SW, Washington, DC 20201, 202 245-2637

RIN: 0960-AB08

577. SUPPLEMENTAL SECURITY INCOME PROGRAM; RESOURCES; EXCLUSION OF UNDERPAYMENTS

Legal Authority: PL 98-369, Deficit Reduction Act of 1984

CFR Citation: 20 CFR 416.1210

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Legal Deadline: None

Abstract: The proposed regulations implement legislation requiring the exclusion from resources of supplemental security income and title II underpayments for 6 months following the month of payment.

Timetable:

Action	Date	FR Cite
NPRM	08/26/85	50 FR 34562
NPRM Comment Period End	10/25/85	
Final Action	07/00/86	

Small Entity: No

Agency Contact: Henry Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7453

RIN: 0960-AB11

578. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; PERSONAL APPEARANCE DEMONSTRATION PROJECTS

Significance: Agency Priority

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1383; PL 98-460

CFR Citation: 20 CFR 404; 20 CFR 416

Legal Deadline: None

Abstract: Sec. 8 of Pub. L. 98-460 requires SSA to carry on demonstration projects that provide an opportunity for a personal appearance with the decisionmaker before an unfavorable determination about disability is made. The sample of cases is to include disability cases under title II of the Social Security Act (the Act) as well as disability cases in the Supplemental Security Income program under title XVI of the Act. It is to include people who have applied for benefits but have not received an initial determination about their eligibility and people who have been receiving benefits but whose condition is being reviewed to determine whether they are still disabled or blind. The purpose is to test whether a personal appearance with the decisionmaker at this stage of the decisionmaking process will permit the decisionmaker to better evaluate the person's condition and simplify and expedite the decision process. We plan to issue regulations to implement the demonstration projects. The cost to SSA is not yet determined.

Timetable:

Action	Date	FR Cite
NPRM	12/27/85	50 FR 53129
NPRM Comment Period End	01/27/86	
Final Action	07/00/86	

Small Entity: No

Agency Contact: Cliff Tuey, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Boulevard, Baltimore, Maryland 21235, 301 594-7519

RIN: 0960-AB20

579. OLD AGE SURVIVORS DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAM; FREQUENCY OF PERIODIC REVIEWS

Significance: Regulatory Program

Legal Authority: PL 98-460, Sec 15; 42 USC 1382; 42 USC 1383

CFR Citation: 20 CFR 416; 20 CFR 404

Legal Deadline: Statutory, April 7, 1985

Abstract: The regulation will implement Sec. 15 of PL 98-460 by establishing the standards to be used in determining the frequency of periodic eligibility reviews. Until final regulations are issued, no individual's eligibility may be reviewed under periodic review more than once.

Timetable:

Action	Date	FR Cite
NPRM	06/18/85	50 FR 25400
NPRM Comment Period End	08/02/85	
Final Action	04/00/86	

Small Entity: No

Agency Contact: Harry Short, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7337

RIN: 0960-AB21

580. OLD AGE SURVIVORS DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; QUALIFICATIONS OF MEDICAL PROFESSIONALS EVALUATING MENTAL IMPAIRMENTS

Significance: Regulatory Program

Legal Authority: PL 98-460, Sec 8; 42 USC 405; 42 USC 421; 42 USC 1302; 42 USC 1382c; 42 USC 1383

CFR Citation: 20 CFR 404.1503; 20 CFR 404.1528; 20 CFR 404.1546; 20 CFR 404.1615; 20 CFR 404.1616; 20 CFR 404.1617; 20 CFR 416.903; 20 CFR 416.926; 20 CFR 416.946; 20 CFR 416.1015; 20 CFR 414.1016; 20 CFR 416.1017

Legal Deadline: None

Abstract: The proposed regulations reflect the provisions of section 8 of PL 98-460 by requiring that we make every reasonable effort to have a qualified psychiatrist or psychologist to complete the medical portion of the case review and any residual functional capacity assessment in unfavorable determinations in mental impairment cases. We are also explaining the qualifications necessary to be considered as reasonable effort to obtain the services of a qualified psychiatrist or psychologist. SSA must now make every reasonable effort to see that the services of qualified psychiatrists and psychologists are obtained through proper State administration including, where necessary, raising State fee schedules to provide compensation at the prevailing rates in the community. SSA may also contract directly for these services when the State is unable to provide them due to inadequate compensation or other impediments at the State level. Costs will increase by $7.2 million in 1986. These figures were derived from the number of additional physician hours needed for State agency medical consultants.

Timetable:

Action	Date	FR Cite
NPRM	12/13/85	50 FR 50920
NPRM Comment Period End	02/11/86	
Final Action	07/00/86	

Small Entity: No

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7215

RIN: 0960-AB31

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581. OLD AGE, SURVIVORS, DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; DETERMINING DISABILITY AND BLINDNESS; MULTIPLE IMPAIRMENTS

Legal Authority: PL 98-460, Sec 4; 42 USC 405; 42 USC 423; 42 USC 1302; 42 USC 1382

CFR Citation: 20 CFR 404.1520; 20 CFR 404.1521; 20 CFR 404.1522; 20 CFR 404.1523; 20 CFR 416.920; 20 CFR 416.921; 20 CFR 416.922; 20 CFR 416.923

Legal Deadline: None

Abstract: This provision of the law requires us to consider the combined effect of all of a person's impairments in determining disability regardless of whether any single impairment, if considered separately, would be of sufficient severity. If we do find a medically severe combination of impairments, the combined impact of the impairments must be considered throughout the disability determination process. We are revising regulations which explain how we evaluate multiple severe impairments to reflect that we will now consider the combined effect of impairments to determine severity. When the combined effect is found to be severe, that the person's impairments are evaluated under the full sequential evaluation process. Current cost estimates for fiscal years 1985 and 1986 are as follows: Additional title II benefits: less than $5 million per year. Additional SSI benefits: FY 1985-negligible; FY 1986- $1 million.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/05/85	50 FR 8726
Final Action	05/00/86	

Small Entity: No

Agency Contact: William Ziegler, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7337

RIN: 0960-AB39

582. REFUGEE RESETTLEMENT PROGRAM; REFUGEE CASH AND ASSISTANCE; REQUIREMENTS FOR JOB SEARCH, EMPLOYMENT SERVICES, AND EMPLOYMENT; REFUGEE MEDICAL ASSISTANCE; AND REFUGEE SUPPORT SERVICES

Significance: Regulatory Program

Legal Authority: 8 USC 1522(a)(9)

CFR Citation: 45 CFR 400

Legal Deadline: None

Abstract: This regulation will establish requirements governing refugee cash assistance; job search, employability services, and employment on the part of applicants for, and recipients of, refugee cash assistance; refugee medical assistance; and refugee support (social) services.

Timetable:

Action	Date	FR Cite
NPRM	01/30/86	51 FR 03918
Final Action	10/00/86	

Small Entity: No

Agency Contact: A. Christine Cohagen, Program Analyst Div. of Policy & Analysis, Department of Health and Human Services, Social Security Administration, Rm 1229, 330 C Street, SW, Washington, DC 20201, 202 245-1027

RIN: 0960-AB74

583. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; UNLIMITED REOPENING FOR INSURED STATUS

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 404

Legal Deadline: None

Abstract: It is our policy that a determination or decision which finds that the claimant did not have insured status at the time of the determination may be reopened only in certain situations where the Act permits a correction in the earnings credited to the individual's earnings record and where the evidence of earnings was in the possession of the Railroad Retirement Board or the Social Security Administration prior to the date of notice of disallowance or denial. The current regulations do not contain specific references to the particular sections of the Act concerning the correction of earnings. The regulations contain specific references to the particular sections of the Act which will permit unlimited reopening and revision of an unfavorable determination or decision concerning insured status.

The changes will result in negligible administrative costs or savings. They have no effect on program costs or savings because the changes represent long standing established policy.

Timetable:

Action	Date	FR Cite
NPRM	11/20/85	50 FR 47758
NPRM Comment Period End	01/21/86	
Final Action	09/00/86	

Small Entity: No

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7452

RIN: 0960-AB81

584. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; WITHDRAWAL OF AN APPLICATION

Legal Authority: 42 USC 405; 42 USC 1302

CFR Citation: 20 CFR 404

Legal Deadline: None

Abstract: This regulation will restore the intended meaning of 20 CFR 404.640(b)(2) which was inadvertently altered during a recodification. The regulation will state that an application may be withdrawn after a determination has been made on it if "any other person whose entitlement would be rendered erroneous because of the withdrawal consents in writing to it."

Timetable:

Action	Date	FR Cite
NPRM	12/18/85	50 FR 51650
NPRM Comment Period End	02/18/86	
Final Action	10/00/86	

Small Entity: No

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Agency Contact: Lawrence V. Duska, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7459

RIN: 0960-AB04

595. ORGANIZATIONS AND PROCEDURES; AVAILABILITY OF INFORMATION AND RECORDS TO THE PUBLIC—SOCIAL SECURITY RULINGS—ACQUIESCENCE SERIES

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1306; 42 USC 1395(e)(2); 42 USC 1395hh; 5 USC 552

CFR Citation: 20 CFR 422

Legal Deadline: None

Abstract: These interim regulations describe a new type of Social Security Ruling which will be available to the public and which will be applied at certain levels of the Social Security Administration's adjudicative process. These regulations will result in negligible program or administrative costs or savings.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/09/00	

Small Entity: No

Agency Contact: Phil Berge, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7463

RIN: 0960-AB85

596. OLD AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAMS; EXTENSION AND REEXTENSION AGREEMENTS FOR ASSESSMENT, CREDIT OR REFUND OF AMOUNTS DUE OR OVERPAID BY A STATE

Legal Authority: 42 USC 418(q); 42 USC 418(r)

CFR Citation: 20 CFR 404.1281; 20 CFR 404.1286

Legal Deadline: None

Abstract: In these regulations, we are revising our rules on agreeing to extensions of the periods during which we may assess a State for amounts due and in which a State may file its claim for refund of, or credit for, overpayments under its coverage agreement with the Secretary of Health and Human Services. (Coverage of Services performed by State and local governmental employees is by agreement under Section 218 of the Social Security Act (the Act). We will agree to extend or reextend the time limit for no more than 6 months at a time and, further, will enter into reextension agreements only if certain conditions are met. With these revisions of the rules, we believe we will be more closely complying with the intent of Section 218(q) and (r) of the Act. Costs are expected to be negligible.

Timetable:

Action	Date	FR Cite
NPRM	12/02/85	50 FR 49397
NPRM Comment Period End	01/31/86	
Final Action	08/00/86	

Small Entity: No

Agency Contact: Jack Schamberger, Legal Assistant, Department of Health and Human Services, Social Security Administration, Office of Regulations, 6401 Security Blvd., Baltimore, MD 21235, 301 594-6765

RIN: 0960-AB86

597. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; IN-KIND SUPPORT AND MAINTENANCE — RENTAL SUBSIDIES

Legal Authority: Jackson v. Schweiker 683F.2d 1076 (7th Cir. 1982); Jackson v. Heckler No. 879-213 (N.D. In., 1985)

CFR Citation: 20 CFR 416.1130

Legal Deadline: None

Abstract: This Final rule implements Jackson to provide that, in determining eligibility for, and amount of, SSI benefits, in Indiana, a claimant will be considered not receiving in-kind support and maintenance in the form of a rental subsidy if the amount of rent that must be paid is equal to or greater than the presumed maximum value derived under the presumed value rule. Program and administrative costs are negligible.

Timetable:

Action	Date	FR Cite
Final Action	04/00/86	

Small Entity: No

Agency Contact: Dave Smith, Legal Assistant, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7666

RIN: 0960-AC01

598. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; LIQUID AND NONLIQUID RESOURCES AND RESOURCES DETERMINATIONS

Legal Authority: 42 USC 1302; 42 USC 1382c; 42 USC 1383

CFR Citation: 20 CFR 416.1201; 20 CFR 416.1207, (New)

Legal Deadline: None

Abstract: SSA is amending its regulations to include a 20-day rule for distinguishing between liquid and nonliquid resources, a first-of-the-month rule as it applies to changes in the value of resources within a month, and a rule on when income becomes a resource. These policies were published in an NPRM reorganizing and rewriting the entire Subpart L on Resources. We do not plan at this time to publish the entire NPRM as a final rule. We are publishing final regulations on several significant policies which are being divided into two final regulations packages. We are finalizing these two rules at this time since they are needed for clarification. Costs concerning these clarified rules will be minimal.

Timetable:

Action	Date	FR Cite
NPRM	11/06/82	47 FR 50511
NPRM Comment Period End	01/07/83	
Final Action	06/00/86	

Small Entity: No

Agency Contact: Henry D. Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7463

RIN: 0960-AC02

599. ● SUPPLEMENTAL SECURITY INCOME PROGRAM; PENSION FUNDS FOR DEEMING PURPOSES AND GRANDFATHERING PROVISIONS

Legal Authority: 42 USC 1302; 42 USC 1382b; 42 USC 1383

CFR Citation: 20 CFR 416.1202; 20 CFR 416.1260

Legal Deadline: None

Abstract: SSA is amending its regulations to include a rule that pension funds are not counted as resources for deeming purposes and a provision in its grandfathering rules that an "SSI benefit" means a Federal benefit only and does not include any State supplement. These rules were published in the Federal Register as an NPRM reorganizing and rewriting the entire Subpart L on Resources. We do not plan at this time to publish the entire NPRM as a final rule. We are publishing several significant policies which are being divided into two final regulations packages. Costs concerning the pension funds rule will be minimal since we estimate less than 25 cases a year.

Timetable:

Action	Date	FR Cite
NPRM	11/06/82	47 FR 50511
NPRM Comment Period End	01/07/83	
Final Action	07/00/86	

Small Entity: No

Agency Contact: Henry D. Lerner, Legal Assistant, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7463

RIN: 0960-AC03

600. ● OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; CONTINUED PAYMENT OF BENEFITS TO PERSONS IN VOCATIONAL REHABILITATION PROGRAMS

Significance: Regulatory Program

Legal Authority: 42 USC 405; 42 USC 1302; 42 USC 1382

CFR Citation: 20 CFR 404.316; 20 CFR 404.337; 20 CFR 404.352; 20 CFR 404.1586; 20 CFR 404.1596; 20 CFR 404.1597; 20 CFR 416.1321; 20 CFR 416.1336

Legal Deadline: None

Abstract: The purpose of these regulation changes is to allow for consideration for continued payment of disability benefits to persons who medically recover while participating in a vocational rehabilitation (VR) program, without regard to whether the person was expected at the onset of the VR program to medically recover before the scheduled completion date of the program. Current regulations restrict continuing payment to persons who, at the time their VR programs began, were not expected to medically recover prior to the scheduled completion date of their VR programs. These changes bring the regulations into conformity with several recent court decisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/86	
Final Action	09/00/86	

Small Entity: No

Agency Contact: Harry J. Short, Legal Assistant, Department of Health and Human Services, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, 301 594-7337

RIN: 0960-AC05

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)
Social Security Administration (SSA)

Completed Actions

591. SUPPLEMENTAL SECURITY INCOME PROGRAM; ELIGIBILITY, AMOUNT OF BENEFITS, INCOME, RESOURCES, STATE SUPPLEMENTARY PROVISIONS, AGREEMENTS, PAYMENTS

Significance: Agency Priority

CFR Citation: 20 CFR 416, Subpart B; 20 CFR 416, Subpart D; 20 CFR 416, Subpart K; 20 CFR 416, Subpart L; 20 CFR 416, Subpart T

Completed:

Reason	Date	FR Cite
Final Action	11/26/85	50 FR 48563

Small Entity: No

Agency Contact: Henry Lerner 301 594-7463

RIN: 0960-AA27

592. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY

CFR Citation: 20 CFR 404, Subpart P

Completed:

Reason	Date	FR Cite
Final Action	12/06/85	50 FR 50068
Final Action Effective	01/06/86	

Small Entity: No

Agency Contact: William J. Ziegler 301 594-7415

RIN: 0960-AA41

593. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM AND SUPPLEMENTAL SECURITY INCOME PROGRAM; DISABILITY HEARINGS AT THE RECONSIDERATION LEVEL

Significance: Regulatory Program

CFR Citation: 20 CFR 404; 20 CFR 416; 20 CFR 422

Completed:

Reason	Date	FR Cite
Final Action	01/08/86	51 FR 00298

Small Entity: No

Agency Contact: Anita Dunn 301 597-0057

RIN: 0960-AA49

594. OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; PAYMENT OF CERTAIN TRAVEL EXPENSES

Significance: Agency Priority

CFR Citation: 20 CFR 404, Subpart J; 20 CFR 416, Subpart N

Completed:

Reason	Date	FR Cite
Interim Final Rule	03/14/86	51 FR 08805

Small Entity: No

Agency Contact: Cliff Terry 301 594-7519

RIN: 0960-AA61

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596. SUPPLEMENTAL SECURITY INCOME PROGRAM; TEMPORARY RESIDENTS OF EMERGENCY SHELTERS FOR THE HOMELESS

Significance: Agency Priority

CFR Citation: 20 CFR 416, Subpart S; 20 CFR 416, Subpart M

Completed:

Reason	Date	FR Cite
Final Action	12/18/85	50 FR 51514

Small Entity: No

Agency Contact: Harry J. Short 301 594-7337

RIN: 0960-AA70

596. SUPPLEMENTAL SECURITY INCOME PROGRAM; THE AUTOMOBILE, PROPERTY ESSENTIAL TO SELF-SUPPORT, THE HOME

Significance: Agency Priority

CFR Citation: 20 CFR 416.1212; 20 CFR 416.1216; 20 CFR 416.1220; 20 CFR 416.1222; 20 CFR 416.1224; 20 CFR 416.1225; 20 CFR 416.1226; 20 CFR 416.1227

Completed:

Reason	Date	FR Cite
Final Action	10/22/85	50 FR 42683

Small Entity: No

Agency Contact: Henry Lerner 301 594-7463

RIN: 0960-AA92

597. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM, TREATMENT OF ASSIGNED SUPPORT PAYMENTS RECEIVED DIRECTLY AND RETAINED BY AFDC APPLICANTS OR RECIPIENTS

CFR Citation: 45 CFR 232.12; 45 CFR 233.20; 45 CFR 302.31; 45 CFR 303.80

Completed:

Reason	Date	FR Cite
Final Action	09/27/85	50 FR 34693

Small Entity: No

Agency Contact: Barbara Levering 202 245-2837

RIN: 0960-AB02

598. AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM; OFFICE OF MANAGEMENT AND BUDGET CONTROL NUMBERS FOR INFORMATION COLLECTION REQUIREMENTS CONTAINED IN AFDC REGULATIONS

CFR Citation: 45 CFR 200

Completed:

Reason	Date	FR Cite
Deferred	01/00/86	

Small Entity: No

Agency Contact: Cliff Terry 301 594-7519

RIN: 0960-AB04

599. SUPPLEMENTAL SECURITY INCOME PROGRAM; INCREASE IN DOLLAR LIMITATION UNDER ASSETS TEST

Significance: Agency Priority

CFR Citation: 20 CFR 416.1202; 20 CFR 416.1205; 20 CFR 416.1244; 20 CFR 416.1246; 20 CFR 416.1324

Completed:

Reason	Date	FR Cite
Final Action	09/26/85	50 FR 38981

Small Entity: No

Agency Contact: Henry Lerner 301 594-7463

RIN: 0960-AB23

600. OLD AGE SURVIVORS DISABILITY INSURANCE AND SUPPLEMENTAL SECURITY INCOME PROGRAMS; STANDARD OF REVIEW FOR TERMINATION OF DISABILITY BENEFITS AND PERIODS OF DISABILITY

Significance: Regulatory Program

CFR Citation: 20 CFR 404; 20 CFR 416

Completed:

Reason	Date	FR Cite
Final Action	12/06/85	50 FR 50118

Small Entity: No

Agency Contact: Harry Short 301 594-7337

RIN: 0960-AB25

601. SUPPLEMENTAL SECURITY INCOME PROGRAMS; ELIGIBILITY; CONTINUATION OF BENEFITS AND ELIGIBILITY FOR CERTAIN SEVERELY IMPAIRED RECIPIENTS WHO WORK

CFR Citation: 20 CFR 416.260; 20 CFR 416.261; 20 CFR 416.262; 20 CFR 416.263; 20 CFR 416.264; 20 CFR 416.265; 20 CFR 416.266; 20 CFR 416.267; 20 CFR 416.268; 20 CFR 416.269

Completed:

Reason	Date	FR Cite
Final Action	11/13/85	50 FR 46760

Small Entity: No

Agency Contact: Fred Miranda 301 594-7341

RIN: 0960-AB35

[FR Doc. 86-8772 Filed 04-18-86; 8:45 am]

BILLING CODE 4150-04-T

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Proposed Rule Stage

Office of Child Support Enforcement (OCSE)

602. INTERSTATE CHILD SUPPORT ENFORCEMENT

Significance: Regulatory Program

Legal Authority: 42 USC 654(9); 42 USC 1302

CFR Citation: 45 CFR 302.36; 45 CFR 303.7; 45 CFR 303.52; 45 CFR 305.20; 45 CFR 305.32

Legal Deadline: None

Abstract: These proposed regulations would revise existing regulations governing interstate cooperation to require States to adopt uniform procedures for working interstate child support enforcement cases. These procedures would address such issues as: notice and information requirements, time frames, who pays for IV-D services provided, and information exchange between initiating and responding States.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Interim Final Rule	11/00/86	

Small Entity: No

Agency Contact: Joyce Linder or Betsy Matheson, Program Specialists, Department of Health and Human Services, Office of Child Support Enforcement, 6110 Executive Boulevard, Rockville, Maryland 20852, 301 443-5369

RIN: 0992-AA17

603. MEDICAL SUPPORT ENFORCEMENT #2

Significance: Regulatory Program

Legal Authority: 42 USC 652(f); 42 USC 1302

CFR Citation: 45 CFR 306

Legal Deadline: None

Abstract: These proposed regulations would revise existing requirements governing cooperative agreements between Medicaid and IV-D agencies to provide medical support enforcement services and require enhanced State IV-D agency efforts in medical support enforcement.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	11/00/86	

Small Entity: No

Additional Information: Related to RIN 0992-AA12 - Medical Support Enforcement.

Agency Contact: Mary Reagan, Program Specialist, Department of Health and Human Services, Office of Child Support Enforcement, 6110 Executive Boulevard, Rockville, Maryland 20852, 301 443-5359

RIN: 0992-AA16

604. PROHIBITION OF FEDERAL FUNDING OF COSTS OF INCARCERATION AND COUNSEL FOR INDIGENT ABSENT PARENTS

Legal Authority: 42 USC 1302

CFR Citation: 45 CFR 304.23; 45 CFR 304.27

Legal Deadline: None

Abstract: This proposed rule would prohibit Federal funding under the Child Support Enforcement program for expenditures resulting from incarceration of absent parents in child support enforcement cases and costs of counsel for indigent absent parents in IV-D actions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Government Levels Affected: Local, State, Federal

Agency Contact: Joyce Linder or Betsy Matheson, Program Specialists, Department of Health and Human Services, Office of Child Support Enforcement, 6110 Executive Boulevard, Room 1016, Rockville, Maryland 20852, 301 443-5359

RIN: 0992-AA18

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage

Office of Child Support Enforcement (OCSE)

605. DISREGARD OF CHILD SUPPORT PAYMENTS; REGULATIONS IMPLEMENTING THE DEFICIT REDUCTION ACT OF 1984

Legal Authority: 42 USC 1302; 42 USC 657(b)(1)

CFR Citation: 45 CFR 302.51

Legal Deadline: None

Abstract: This interim final rule implements the Deficit Reduction Act of 1984 which amends the Social Security Act to require that the first $50 collected on a monthly support obligation be paid to the Aid to Families with Dependent Children (AFDC) family. This amount does not affect the family's AFDC eligibility or the amount of assistance to which they were entitled.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/10/84	49 FR 35566
Final Action	09/00/90	

Small Entity: No

Government Levels Affected: Local, State, Federal

Agency Contact: Carol Jordan, Program Specialist, Department of Health and Human Services, Office of Child Support Enforcement, 6110 Executive Boulevard, Room 1016, Rockville, Maryland 20852, 301 443-5369

RIN: 0992-AA20

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Completed Actions

Office of Child Support Enforcement (OCSE)

606. MEDICAL SUPPORT ENFORCEMENT

CFR Citation: 45 CFR 304.20; 45 CFR 304.23; 45 CFR 306.50; 45 CFR 306.51; 45 CFR 302.80; 45 CFR 306.0

Completed:

Reason	Date	FR Cite
Final Action	10/16/85	50 FR 41867

Small Entity: No

Agency Contact: Carol Jordan 301 443-5369

RIN: 0992-AA12

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HHS—OCSE

Completed Actions

607. OMB CONTROL NUMBERS FOR INFORMATION COLLECTION REQUIREMENTS CONTAINED IN OCSE REGULATIONS

CFR Citation: 45 CFR 300, (New)

Completed:

Reason	Date	FR Cite
Withdrawn no further action anticipated this year	02/00/86	

Small Entity: No

Agency Contact: Gail Blatt 301 443-5359

RIN: 0992–AA15

[FR Doc. 86-8772 Filed 04-18-86; 8:45 am]
BILLING CODE 4150-04-T

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)

Final Rule Stage

Office of Assistant Secretary for Health (OASH)

608. GRANTS FOR ADOLESCENT PREGNANCY AND FAMILY LIFE PROJECTS

Legal Authority: 42 USC 300z et seq Public Health Service Act

CFR Citation: 42 CFR 59

Legal Deadline: None

Abstract: The proposed rule would establish the requirements for grants for demonstration projects funded under Title XX of the Public Health Service Act. The title authorizes the Department of Health and Human Services to make grants to projects that will provide health, social and education services to pregnant and nonpregnant adolescents, adolescent parents, and their families.

Timetable:

Action	Date	FR Cite
NPRM	05/20/83	48 FR 22750
NPRM Comment Period End	07/19/83	48 FR 22750
Final Action	00/00/00	

Small Entity: No

Additional Information: SMALL BUSINESSES CONT: Given the size of the appropriation anticipated, the number of grants for demonstration projects that can be funded is not expected to result in this regulation's having a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

Agency Contact: Donald Underwood, Grants Management Officer, Department of Health and Human Services, Public Health Service, Office of Population Affairs, Room 736E, HHH Bldg., 200 Independence Ave., Washington, DC 20201, 202 245-0148

RIN: 0905–AA24

[FR Doc. 86-8772 Filed 04-18-86; 8:45 am]
BILLING CODE 4150-04-T

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)

Proposed Rule Stage

Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA)

609. OBLIGATED SERVICE FOR MENTAL HEALTH TRAINEESHIPS

Legal Authority: 42 USC 242a

CFR Citation: 42 CFR 64a

Legal Deadline: None

Abstract: This rule implements statutory service payback obligations of recipients of clinical traineeships in psychology, psychiatry, social work, or nursing. The NPRM would revise 42 CFR 64a to establish a uniform rate of interest for all individuals who receive clinical traineeships, clarify that funds owed to the government become a debt when the trainee fails to complete the obligation, require that training institutions conduct entrance and exit interviews with trainees to inform them of the seriousness of their service obligations, and provide guidelines for hardship deferrals. The option in existing regulations is to continue the potential for 50 different interest rates with disputes ensuing over what the maximum rate is within each jurisdiction. In addition the existing rule permits a 5-year interest-free period which the NPRM would reduce to 2 years. The NPRM will reduce costs to the government by reducing the interest-free period and by avoiding the expense of settling disputes concerning the correct interest rate for payback obligations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: Not Applicable

Agency Contact: Joan Jenkins, Office of Policy Analysis and Coordination, Department of Health and Human Services, Alcohol, Drug Abuse, and Mental Health Administration, Room 17C-05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-3476

RIN: 0905–AB48

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)

Final Rule Stage

Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA)

610. CONFIDENTIALITY OF ALCOHOL AND DRUG ABUSE PATIENT RECORDS

Significance: Agency Priority

Legal Authority: 42 USC 290ee-3; 42 USC 290dd-3

CFR Citation: 42 CFR 2

Legal Deadline: None

Abstract: Federal law requires that certain alcohol and drug abuse patient records be kept confidential. A comprehensive rewrite of implementing regulations proposed in the NPRM simplifies and substantially shortens existing rules and proposes major substantive changes including: (1) Limiting applicability to specialized alcohol and drug abuse programs, (2) Requiring notice to patients of Federal confidentiality requirements, (3) Including a sample consent form, (4) Eliminating the impediment to a patient's access to her/his own records, (5) Eliminating most sections restricting disclosures based on patient consent.

Timetable:

Action	Date	FR Cite
Notice of Decision to Develop Regs	01/02/80	45 FR 53
NPRM	08/25/83	48 FR 38758
NPRM Comment Period End	10/24/83	
Final Action	04/00/86	

Small Entity: No

Additional Information: The location of the confidentiality provisions for alcohol and drug abuse patient records has been transferred from one public law to another and has been changed in the United States Code. P.L. 98-24, the Alcohol and Drug Abuse Amendments of 1983, consolidates alcohol, drug abuse, and mental health authorities in Title V of the Public Health Service Act. Section 408 of the Drug Abuse Prevention, Treatment and Rehabilitation Act (21 U.S.C. 1175) is transferred to section 527 of the Public Health Service Act and is now codified at 42 U.S.C. 290ee-3. Section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (42 U.S.C. 4582) is transferred to section 523 of the Public Health Service Act and is now codified at 42 U.S.C. 290dd-3.

Agency Contact: Judith T. Galloway, Regulations Officer, Department of Health and Human Services, Alcohol, Drug Abuse, and Mental Health Administration, Room 13C-06, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-3200

RIN: 0905–AA26

[FR Doc. 86-8772 Filed 04-18-86; 8:45 am]
BILLING CODE 4150-04-T

HHS—PHS

Final Rule Stage

Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA)

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)

Proposed Rule Stage

Centers for Disease Control (CDC)

611. PROJECT GRANTS FOR HEALTH PROGRAMS FOR REFUGEES

Legal Authority: 8 USC 1522(b) Section 412(b)(5) Immigration and Nationality Act; PL 96-212 Refugee Act of 1980; PL 97-363 Refugee Assistance Amendments of 1982

CFR Citation: 42 CFR 51e

Legal Deadline: None

Abstract: Regulations are required by Department policy for this project grant program administered by the Centers for Disease Control (CDC) under an intra-agency agreement with the Office of Refugee Resettlement (ORR). The project grants are awarded to State and local health agencies to assist them in providing initial health assessments to arriving refugees. These health assessments specifically address conditions of public health concerns, like tuberculosis, and also identify personal health problems that could impair the effective resettlement of the refugee. CDC has established the program requirements, guidelines, and standards for evaluation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Additional Information: FTS 236-1802

Agency Contact: Anthony M. Scardaci, Associate Dir., Ctr. for Prevention Services, Department of Health and Human Services, Centers for Disease Control, 1600 Clifton Road, N.E., Atlanta, GA 30333, 404 329-1802

RIN: 0905–AB43

612. DISTRIBUTION OF REFERENCE BIOLOGICAL STANDARDS AND BIOLOGICAL PREPARATIONS

Significance: Regulatory Program

Legal Authority: 31 USC 9701 Independent Offices Appropriation Act of 1952; 42 USC 216 Sec 215, 58 Stat. 690, as amended; 42 USC 263 Sec 352 of the Public Health Service Act, as amended

CFR Citation: 42 CFR 7, (New)

Legal Deadline: None

Abstract: This proposal initiates a program that would impose a user charge upon a private agency which requests reference biological standards or biological preparations for their own comparative performance tests to cover the cost to the Centers for Disease Control (CDC) of developing and distributing the products. CDC is proposing to impose an average user charge of $24 per unit distributed. The cost will vary, depending upon the type of preparation requested. CDC is not proposing to impose a user charge for State and local health departments, the World Health Organization, or international governments because these materials are provided to those agencies for public health reasons and not for the benefit of the requesters.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	08/00/86	

Small Entity: No

Public Compliance Cost: Initial Cost: $95,000; Yearly Recurring Cost: $95,000; Base Year for Dollar Estimates: 1984

Affected Sectors: Multiple

Agency Contact: William K. Harrell, PH.D., Director, Biological Products Program, Department of Health and Human Services, Centers for Disease Control, Center for Infectious Diseases, 1600 Clifton Road, N.E., Atlanta, GA 30333, 404 329-3353

RIN: 0905–AB49

613. IMPROVE STANDARDS FOR RESPIRATOR DEVICES

Significance: Regulatory Program

Legal Authority: 30 USC 801

CFR Citation: 30 CFR 11

Legal Deadline: None

Abstract: There are three major problems that the proposed regulatory action is intended to solve. First, the current regulatory provisions in 30 CFR 11 in some instances date back almost fifty years. As a result the provisions are not current with many of the extensive changes in respirator technology. Second, the current regulations do not provide for testing of respirators under either actual or simulated use conditions prior to

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Centers for Disease Control (CDC)

certification. Third, the resources required to conduct routine respirator certification testing has made it difficult for NIOSH to keep respirator performance standards current with advances in respirator technology and with new knowledge on respirator performance characteristics. Alternatives considered: (1) the Federal government could relinquish the field entirely to the private sector. (2) The Federal government could promulgate performance standards but not be involved in assuring compliance with those standards. (3) The Federal government could continue to be the certifier of respirators but have manufacturers conduct testing. (4) The Federal government could continue its present role of total operation of the respirator system. NIOSH (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: selected alternative number (3). Cost is yet to be determined.

Agency Contact: Glendel J. Provost, Science Advisor, Department of Health and Human Services, Public Health Service, Office of the Director, NIOSH, Centers for Disease Control, 404 226-3343

RIN: 0905-AB58

614. ◉ MEDICAL EXAMINATION OF ALIENS

Significance: Agency Priority

Legal Authority: Sec 215 58 STAT 690; Sec 234 66 STAT 196; 42 USC 216; 8 USC 1224; Sec 322 58 STAT 696; Sec 325 58 STAT 696 to 697; Sec 212 66 STAT 182; Sec 326 66 STAT 182; 42 USC 249; 42 USC 252; 8 USC 1182; 8 USC 1226

CFR Citation: 42 CFR 34(b)(6), (New)

Legal Deadline: None

Abstract: Dangerous contagious diseases, as defined under subsection 34.2(b), includes chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, infectious syphilis, infectious leprosy, and active tuberculosis. The proposed revision would add acquired immunodeficiency syndrome (AIDS) as the eighth disease on this list. It is proposed to add AIDS since it would be anomalous to have diseases such as the other sexually transmitted diseases (STD) on the list and not include AIDS. AIDS is a recently defined STD of significant public health importance.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Laurence S. Farer, M.D., Director, Division of Quarantine, CPS, Department of Health and Human Services, Public Health Service, Centers for Disease Control, Atlanta, GA 30333, 404 235-1296

RIN: 0905-AB66

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)

Final Rule Stage

Centers for Disease Control (CDC)

615. SPECIFICATIONS FOR MEDICAL EXAMINATIONS OF UNDERGROUND COAL MINERS

Legal Authority: 30 USC 843 Federal Mine Safety and Health Act of 1977

CFR Citation: 42 CFR 37, (Revision)

Legal Deadline: None

Abstract: The National Institute for Occupational Safety and Health (NIOSH) administers an X-ray examination program for coal miners as mandated by the Federal Mine Safety and Health Act of 1977. The proposed amendment will provide additional specifications to enable X-ray readers in the Department's medical surveillance program for underground coal miners to interpret miners' chest X-rays more accurately to classify any existing or developing pneumoconiosis. The proposed changes are based on recommendations by NIOSH, the Mine Health Research Advisory Committee to NIOSH, and the American College or Radiology Task Force on Pneumoconiosis. The proposed rule will expand the specification for X-ray film size, specify film/screen combinations and speeds which can be used, and specify the method for obtaining a definitive interpretation of chest X-rays when two readers' interpretations do not agree.

Timetable:

Action	Date	FR Cite
NPRM	08/27/85	50 FR 34723
NPRM Comment Period End	09/26/85	50 FR 34723
Final Action	00/00/00	

Small Entity: No

Agency Contact: Ms. Mitzie Martin, Chief, Receiving Center Section, Department of Health and Human Services, Centers for Disease Control, Examinatns Proc Br, Div of Resp Dis Studies, NIOSH, 944 Chestnut Ridge Rd., Morgantown, WV 26505, 304 291-4301

RIN: 0905-AB51

[FR Doc. 86-8772 Filed 04-18-86; 8:45 am]

BILLING CODE 4160-04-T

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)

Prerule Stage

Food and Drug Administration (FDA)

616. MEDICAL DEVICE AMENDMENTS: IMPLEMENTATION IMPROVEMENT

Significance: Regulatory Program

Legal Authority: PL 94-295 Medical Device Amendments of 1976

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Various groups have criticized the provisions of the amendments and/or the Agency's implementation of them. Agency task forces were established to analyze and to explore/develop alternatives or solutions respecting premarket notification, premarket approval, clinical investigations, reclassification, current good manufacturing practice, education, definitions, small business impact, and the repair, replacement, or refund provisions of the amendments and the Agency's regulations thereunder. The task forces have preliminarily identified aspects of the criticisms that are amenable to solution by the Federal government, e.g., revision of existing Agency regulations and initiation of legislative changes. Other solutions may be amenable to cooperative efforts between the Federal government and society as a whole—e.g., education of device users; specific alternatives have not yet been identified. Regulatory priorities/options will be established during the development of any rulemaking activity that the Agency may initiate in response to the task forces' findings and recommendations.

Timetable:

Action	Date	FR Cite
Final Task Force Reports Completed	09/00/85	
Implementation of Task Force Recommendations	09/00/86	

HHS—PHS

Prerule Stage

Food and Drug Administration (FDA)

Small Entity: Undetermined

Agency Contact: Philip B. White, Dir., Office of Standards & Regulations, Department of Health and Human Services, Food and Drug Administration, Cent. for Devices & Rad. Health (HFZ-80), 5600 Fishers Lane, Rockville, MD 20857, 301 443-3403

RIN: 0905-AB54

617. CLINICAL TESTING FOR NEW DRUGS

Significance: Regulatory Program

Legal Authority: 21 USC 355 Federal Food, Drug, and Cosmetic Act

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The development of a new drug and obtaining an approved marketing application is a major undertaking and may cost the applicant millions of dollars. Accordingly, it is important that applicants understand what clinical testing must be conducted to obtain final approval of a new drug. Despite substantial guidance already available to applicants about the clinical testing necessary to meet the statutory standard, important questions about clinical studies inevitably will arise during the drug development process. The agency is exploring various options of providing additional guidance that would be intended to reduce the time and financial costs associated with clinical studies of questionable import. Alternatives include allowing the private sector to continue to rely primarily on their own expertise; providing guidance on a case-by-case basis, for example, during conferences between the agency and drug sponsors before the final states of clinical testing; and developing additional broad guidance in the form of a general guideline.

Timetable:

Action	Date	FR Cite
Request for Public Comments on Options	10/00/85	
Decision on Which Option to Pursue	09/00/86	

Small Entity: Not Applicable

Agency Contact: Steven H. Unger, Regulatory Counsel, Department of Health and Human Services, Public Health Service, Center for Drugs & Biologics (HFN-362), 5600 Fishers Lane, Rockville, MD 20857, 301 443-5220

RIN: 0905-AB61

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)

Proposed Rule Stage

Food and Drug Administration (FDA)

618. OVER-THE-COUNTER (OTC) DRUG REVIEW

Significance: Agency Priority

Legal Authority: 21 USC 321(p) Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 310; 21 CFR 330; 21 CFR 333; 21 CFR 334; 21 CFR 336; 21 CFR 336; 21 CFR 337; 21 CFR 338; 21 CFR 339; 21 CFR 340; 21 CFR 341; 21 CFR 342; 21 CFR 343; 21 CFR 344; 21 CFR 345; ...

Legal Deadline: None

Abstract: The OTC drug review establishes conditions under which OTC drugs are considered generally recognized as safe and effective and not misbranded. After a final monograph (i.e., final rule) is issued, only OTC drugs meeting the conditions of the monograph, or having an approved new drug application, may be legally marketed. NOTE: NPRM for "Antidotes, Toxic Ingestion Products" to be combined with NPRM for "Emetic Products" and reproposed as "Poison Treatment Products." NPRM for "Astringent (Wet Dressings) Products" to be included in NPRMs for "External Analgesic" & "Skin Protectant Products." NPRM for "Diaper Rash Products" to be included in NPRMs for "Anti-fungal," "Anti-microbial," "External Analgesic" and "Skin Protectant Products." NPRM for "Fever Blister/Cold Sore Products (External)" to be included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Insect Bites and Stings (Relief) Products" to be included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Mercurial (Topical) Products" to be included in NPRM for (cont)

Supplemental Timetable:

Acne (Topical) Products
ANPRM 03/23/82 (47 FR 12430)
NPRM 01/15/85 (50 FR 2172)
Final Action 00/00/00

Alcohol (Topical) Products
ANPRM 05/21/82 (47 FR 22344)

Alertness Aid Products
ANPRM 12/06/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 00/00/00

Anorectal Products
ANPRM 05/27/80 (45 FR 35576)
NPRM 00/00/00

Antihelmintic Products
ANPRM 09/09/80 (45 FR 59541)
NPRM 08/24/82 (47 FR 37062)
Final Action 00/00/00

Antibiotic First Aid Products
ANPRM 04/01/77 (42 FR 17642)

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NPRM 07/09/82 (47 FR 29968)
Final Action 00/00/00

Anticaries Products
ANPRM 09/28/80 (45 FR 20660)
NPRM 09/30/85 (50 FR 39864)
Final Action 00/00/00
Final Action 00/00/00

Antidiarrheal Products
ANPRM 09/21/75 (40 FR 12824)
NPRM 04/00/86

Antidotes, Toxic Ingestion Products
ANPRM 01/05/82 (47 FR 444)

Antiemetic Products
ANPRM 09/21/75 (40 FR 12984)
NPRM 07/13/79 (44 FR 41064)
Final Action 00/00/00

Antifungal (Topical) Products
ANPRM 03/23/82 (47 FR 12480)
NPRM 00/00/00

Antimicrobial Products
ANPRM 09/13/74 (39 FR 33103)
NPRM 01/06/78 (43 FR 1210)
Revised NPRM 00/00/00

Antiperspirant Products
ANPRM 10/10/78 (43 FR 46684)
NPRM 08/20/82 (47 FR 36492)
Final Action 00/00/00

Aphrodisiac Products
ANPRM 10/01/82 (47 FR 43572)
NPRM 01/15/85 (50 FR 2168)
Final Action 00/00/00

Astringent (Wet Dressings) Products
ANPRM 09/07/82 (47 FR 39436)

Benign Prostatic Hypertrophy Products
ANPRM 10/01/82 (47 FR 43566)
NPRM 00/00/00

Boil Ointments
ANPRM 06/29/82 (47 FR 28306)
NPRM 00/00/00

Camphorated Oil Drug Products
Final Action 09/21/82 (47 FR 41716)

Cholecystokinetic Products
ANPRM 02/12/80 (45 FR 9266)
NPRM 08/24/82 (47 FR 37068)
Final Action 08/10/88 (48 FR 27004)

Corn and Callus Remover Products
ANPRM 01/05/82 (47 FR 522)
NPRM 00/00/00

Cough/Cold (Antiboilergic) Products
Final Action 11/08/85 (50 FR 46562)

Cough/Cold (Anticholinergic/Expectorant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 07/09/82 (47 FR 30002)

Cough/Cold (Antihistamine) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2200)
Final Action 00/00/00

Cough/Cold (Antitussive) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/19/83 (48 FR 48576)
Final Action 00/00/00

Cough/Cold (Bronchodilator) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 10/26/82 (47 FR 47520)
Final Action 00/00/00

Cough/Cold (Combination) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 00/00/00

Cough/Cold (Expectorant) Products
Final Action 00/00/00

Cough/Cold (Nasal Decongestant) Products
ANPRM 09/09/76 (41 FR 38312)
NPRM 01/15/85 (50 FR 2220)
Final Action 00/00/00

Dandruff, Seborrheic Dermatitis and Psoriasis Control Products
ANPRM 12/03/82 (47 FR 54646)
NPRM 00/00/00

Diaper Rash Products
ANPRM 09/07/82 (47 FR 39405)

Digestive Aid Products
ANPRM 01/05/82 (47 FR 454)
NPRM 00/00/00

Emetic Products
ANPRM 09/21/75 (40 FR 12900)
NPRM 09/05/78 (43 FR 39544)

Exocrine Pancreatic Insufficiency Products
ANPRM 12/21/79 (44 FR 75666)
NPRM 11/08/85 (50 FR 46594)
NPRM 11/08/85 (50 FR 46594)
Final Action 00/00/00

External Analgesic Products
ANPRM 12/04/79 (44 FR 69768)
NPRM 02/06/83 (48 FR 05852)
Final Action 00/00/00

Fever Blister Products (Internal)
ANPRM 01/05/82 (47 FR 502)
NPRM 06/17/85 (50 FR 25156)
Final Action 00/00/00

Fever Blister/Cold Sore Products (External)
ANPRM 09/07/82 (47 FR 39436)

Hair Grower and Hair Loss Prevention Products
ANPRM 11/27/80 (45 FR 73665)
NPRM 01/15/85 (50 FR 2180)
Final Action 00/00/00

Hormone (Topical) Products
ANPRM 01/05/82 (47 FR 430)
NPRM 00/00/00

Hypo/Hyperphosphatemia Products
ANPRM 12/08/80 (45 FR 81154)
NPRM 01/15/85 (50 FR 2160)
Final Action 00/00/00

Ingrown Toenail Relief Products
ANPRM 10/17/80 (45 FR 69126)
NPRM 09/03/82 (47 FR 39120)
Final Action 00/00/00

Insect Bites and Stings (Relief) Products
ANPRM 09/07/82 (47 FR 39412)

Insect Repellent Drug Products (Internal)
ANPRM 01/05/82 (47 FR 424)
NPRM 08/10/83 (48 FR 26966)
Final Action 06/17/85 (50 FR 25170)

Internal Analgesic Products
ANPRM 07/08/77 (42 FR 35346)
NPRM 04/00/86

Internal Deodorant Products
ANPRM 01/05/82 (47 FR 512)
NPRM 06/17/85 (50 FR 25162)
Final Action 00/00/00

Laxative Products
ANPRM 09/21/75 (40 FR 12902)
NPRM 01/15/85 (50 FR 2124)
Final Action 00/00/00

Leg Muscle Cramps (Nocturnal Relief) Products
ANPRM 10/01/82 (47 FR 43563)
NPRM 11/08/85 (50 FR 46589)
Final Action 00/00/00
Final Action 00/00/00

Male Genital Desensitizer Products
ANPRM 09/07/82 (47 FR 39412)
NPRM 10/02/85 (50 FR 40260)
Final Action 00/00/00
Final Action 00/00/00

Menstrual Products
ANPRM 12/07/82 (47 FR 55075)
NPRM 00/00/00

Mercurial (Topical) Products
ANPRM 01/05/82 (47 FR 436)

Nailbiting/Thumbsucking Deterrent Products
ANPRM 10/17/80 (45 FR 69122)
NPRM 09/03/82 (47 FR 39096)
Final Action 00/00/00

Nighttime Sleep Aid Products
ANPRM 12/08/75 (40 FR 57292)
NPRM 06/13/78 (43 FR 25544)
Final Action 00/00/00

Ophthalmic Products
ANPRM 06/06/80 (45 FR 30002)
NPRM 06/26/83 (48 FR 29788)
Final Action 00/00/00

Oral Cavity (Health Care) Products
ANPRM 05/25/82 (47 FR 22760)
NPRM 00/00/00

Oral Discomfort (Relief) Products
ANPRM 05/25/82 (47 FR 22712)
NPRM 00/00/00

Oral Mucosal Injury Products
ANPRM 11/02/79 (44 FR 63270)
NPRM 07/26/83 (48 FR 33964)
Final Action 00/00/00

Oral Wound Healing Products
Final Action 04/00/86
Final Action 04/00/86

Otic Products
ANPRM 12/16/77 (42 FR 63556)
NPRM 07/09/82 (47 FR 30012)
Final Action 00/00/00

Overindulgence Remedies
ANPRM 10/01/82 (47 FR 43540)
NPRM 00/00/00

Pediculicide Products
ANPRM 06/29/82 (47 FR 28312)
NPRM 00/00/00

Poison Ivy/Oak/Sumac Prevention
ANPRM 09/07/82 (47 FR 39412)

Poison Treatment Products
NPRM 01/15/85 (50 FR 2244)
Final Action 00/00/00

Skin Bleaching Products
ANPRM 11/03/78 (43 FR 51546)
NPRM 09/03/82 (47 FR 39106)
Final Action 00/00/00

Skin Protectant Products
ANPRM 08/04/78 (43 FR 34628)
NPRM 02/15/83 (48 FR 6820)
Final Action 00/00/00

Smoking Deterrent Products
ANPRM 01/05/82 (47 FR 490)
NPRM 07/09/85 (50 FR 27552)
Final Action 00/00/00

Stomach Acidifier Products
ANPRM 10/19/79 (44 FR 60316)
NPRM 01/15/85 (50 FR 2184)
Final Action 00/00/00

Vaginal Contraceptive Products
ANPRM 12/12/80 (45 FR 82014)
NPRM 00/00/00

Vaginal Drug Products
ANPRM 10/13/83 (48 FR 46684)
NPRM 00/00/00

Wart Remover Products
ANPRM 10/03/80 (45 FR 65609)
NPRM 09/03/82 (47 FR 39102)
Final Action 00/00/00

Weight Control Products
ANPRM 02/28/82 (47 FR 8466)
NPRM 00/00/00

Small Entity: No

Additional Information: ABSTRACT CONT: "Antimicrobial Products." "Poison Ivy/Oak/Sumac Prevention" to be included in NPRMs for "External Analgesic" and "Skin Protectant Products." NPRM for "Alcohol (Topical) Products" to be included in revised NPRM for "Antimicrobial Products."

SMALL BUSINESSES CONT: The effects, if any, vary depending on the individual rulemaking. However, the agency anticipates that the rules would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

Agency Contact: William E. Gilbertson, Director, Division of OTC Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Drugs & Biologics (HFN-210), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8000

RIN: 0905-AA06

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619. RISK ASSESSMENT POLICY FOR REGULATING CARCINOGENIC IMPURITIES IN FOOD AND COLOR ADDITIVES

Significance: Regulatory Program

Legal Authority: 21 USC 321 Federal Food, Drug, and Cosmetic Act; 21 USC 348 Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act; 21 USC 376 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR Chapter 1

Legal Deadline: None

Abstract: This proposed rule would establish a new policy for assessing the safety of food and color additives containing minute levels of carcinogenic impurities. The proposal would clarify the definition of an "additive" to apply the Delaney Clause only when the additive as a whole has been shown to cause cancer, and would use risk assessment procedures as one of the tools for determining the safety of an additive under the general safety clause of section 409 of the Federal Food, Drug, and Cosmetic Act.

Timetable:

Action	Date	FR Cite
ANPRM	04/02/82	47 FR 14464
ANPRM Comment Period End	07/01/82	47 FR 14464
NPRM	05/00/88	
Final Action	05/00/87	

Small Entity: Undetermined

Agency Contact: Alan M. Rulis, Assistant to the Director, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-300) 200 C Street, SW, Washington, DC 20204, 202 472-5746

RIN: 0905-AA12

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620. CURRENT GOOD MANUFACTURING PRACTICE FOR FINISHED PHARMACEUTICALS; RETROSPECTIVE REVIEW

Significance: Regulatory Program

Legal Authority: 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 360b Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 211

Legal Deadline: None

Abstract: As part of its retrospective review, FDA plans to determine the need for any changes in the current GMPs to eliminate unnecessary requirements and to allow flexibility without undermining protection of the public health.

Timetable:

Action	Date	FR Cite
Begin Review	04/00/82	
End Review	10/00/85	
NPRM	11/00/86	

Small Entity: Undetermined

Agency Contact: Robert J. Meyer, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drugs & Biologics (HFN-362), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8049

RIN: 0905-AA73

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621. CURRENT GOOD MANUFACTURING PRACTICE (CGMP) FOR BLOOD AND BLOOD COMPONENTS; RETROSPECTIVE REVIEW

Significance: Regulatory Program

Legal Authority: 21 USC 321 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 42 USC 262 Public Health Service Act; 5 USC 553 Administrative Procedures Act; 5 USC 702 Administrative Procedures Act; 5 USC 703 Administrative Procedures Act; 5 USC 704 Administrative Procedures Act

CFR Citation: 21 CFR 606

Legal Deadline: None

Abstract: FDA is responsible for issuing regulatory standards for blood and blood components to ensure the continued safety, purity, and potency of such products. Since 1975, CGMP regulations have been in effect that provide standards for facilities, personnel, and manufacturing procedures for blood and blood components. In accordance with the Regulatory Flexibility Act, FDA has conducted a retrospective review of its CGMP regulations for blood and blood components, to determine how the regulations may be revised to relieve regulatory burdens and increase flexibility without adversely affecting the public health. Part of the retrospective review of the CGMP will be completed through FDA's implementation of an efficacy review of blood and blood derivatives which responds to recommendations of a Committee of scientific experts—the Panel on Review of Blood and Blood Derivatives. To complete the remainder of the retrospective review program regarding the CGMP, FDA will issue a proposed rule to revise the CGMP regulations.

Timetable:

Action	Date	FR Cite
NPRM Blood & Blood Derivatives; Implementation of Efficacy Review	12/24/85	50 FR 52602
Comment Period Ends	03/24/86	50 FR 52602

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Proposed Rule Stage

Food and Drug Administration (FDA)

Action	Date	FR Cite
NPRM Blood & Blood Components; Retrospective Review	08/00/86	
Final Action	03/00/87	

Small Entity: No

Agency Contact: Steven F. Falter, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drugs & Biologics (HFN-366), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8046

RIN: 0905-AA75

622. REPORTING REQUIREMENTS FOR MARKETED ANIMAL DRUGS

Significance: Regulatory Program

Legal Authority: 21 USC 360C Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 510.300; 21 CFR 510.301; 21 CFR 514.8

Legal Deadline: None

Abstract: This proposed rule would amend the reporting requirements for marketed animal drugs to clarify the information on dosage and species, and to specify reporting requirements for manufacturers. To permit a more accurate assessment of adverse effects related to dosage and species, and to clarify the responsibility of premix manufacturers in reporting adverse effects from use of medicated feeds.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
Final Action	11/00/87	

Small Entity: No

Agency Contact: Andrew Beaulieu, Director, Division of Surveillance, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-210), 5600 Fishers Lane, Rockville, MD 20857, 301 443-3644

RIN: 0905-AB06

623. ADVERSE DRUG EXPERIENCE REPORTING REQUIREMENTS FOR MARKETED PRESCRIPTION DRUGS WITHOUT APPROVED NEW DRUG OR ABBREVIATED NEW DRUG APPLICATIONS

Significance: Regulatory Program

Legal Authority: 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 21 USC 374 Federal Food, Drug, and Cosmetic Act; 42 USC 262 Public Health Service Act

CFR Citation: 21 CFR 211; 21 CFR 310; 21 CFR 600

Legal Deadline: None

Abstract: This proposed rule would require manufacturers, packers, and distributors of marketed prescription drug products that are not the subject of approved new drug or abbreviated new drug applications to report to the agency whenever the manufacturer, packer, or distributor receives information about any serious and unexpected adverse event associated with the use of one of its marketed drug products. The agency is taking this action based on recent events whereby serious adverse reactions, which were associated with an intravenous drug product (that was not the subject of an approved new drug or abbreviated new drug application and that is no longer being marketed), were not reported to the agency by the manufacturer, packer, or distributor. Under the agency's current regulations, neither the manufacturer, packer, nor distributor of such a product is expressly obligated to report serious safety problems to the agency. A separate proposed rule for biological products would require reports of adverse experiences associated with the use of licensed biological products.

Timetable:

Action	Date	FR Cite
NPRM	03/21/85	50 FR 11478
NPRM Comment Period End	05/20/85	50 FR 11478
NPRM Licensed Biological Products	06/00/86	
Final Action	06/00/86	
Final Action Licensed Biological Products	04/00/87	

Small Entity: No

Agency Contact: Robert D. Bradley, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drugs & Biologics (HFN-364), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8046

RIN: 0905-AB53

624. PROPOSED RULE TO IMPLEMENT THE ORPHAN DRUG AMENDMENTS TO THE FEDERAL FOOD, DRUG, AND COSMETIC ACT

Significance: Regulatory Program

Legal Authority: PL 97-414 Orphan Drug Act

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Orphan Drug Act is intended to provide incentives for drug companies to invest in the development of drugs for rare diseases or conditions. Certain incentives are necessary because "orphan drugs" are unlikely to be profitable. The agency is required to carry out provisions of the Orphan Drug Act, e.g., by designating a drug as an orphan drug, by providing protocol assistance, and by granting seven years of exclusive approval status. The proposed rule would establish procedures whereby drug sponsors can take advantage of the incentives to encourage development of orphan drugs. While several provisions of the Orphan Drug Act call for promulgation of regulations, the agency is considering the extent to which regulations will be needed to provide the framework and guidance for implementing a program of incentives to drug sponsors and manufacturers.

Timetable:

Action	Date	FR Cite
Interim Guidelines	09/09/83	48 FR 40784
Revised Interim Guidelines	05/09/85	50 FR 19583
NPRM	01/00/87	

Small Entity: Undetermined

Agency Contact: Emery J. Sturniolo, Assistant to the Director, Department of Health and Human Services, Food and Drug Administration, Office of Orphan Products Dev. (HF-35), 5600 Fishers Lane, Rockville, MD 20857, 301 443-4718

RIN: 0905-AB55

HHS--PHS

Proposed Rule Stage

Food and Drug Administration (FDA)

625. IMPLEMENTATION OF TITLE I OF THE "DRUG PRICE COMPETITION AND PATENT TERM RESTORATION ACT OF 1984" (TITLE I)

Significance: Regulatory Program

Legal Authority: PL 98-417, (Title I)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Until the passage of Title I of the "Drug Price Competition and Patent Term Restoration Act of 1984," abbreviated new drug application (ANDA) procedures were only available for generic products equivalent to pioneer drugs approved before 1962. Title I opened up the ANDA policy to generic copies of products approved after 1962. This rulemaking is intended to establish clear and uniform procedures for the review and timely approval of ANDAs. This should assist the generic drug industry by ending considerable confusion about the procedures governing review of ANDAs. In turn, with the availability of lower-cost generic products, it is estimated that consumers may save millions of dollars. The statute calls for promulgation of implementing regulations, however, the agency also expects to develop guidelines and other policy statements to assist in developing approvable applications.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
Final Action	09/00/87	

Small Entity: Undetermined

Agency Contact: Marilyn Watson, Special Asst. to the Division Director, Department of Health and Human Services, Food and Drug Administration, Center for Drugs & Biologics (HFN-366), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8038

RIN: 0905-AB63

626. PATENT TERM RESTORATION OF REGULATED PRODUCTS (TITLE II OF "DRUG PRICE COMPETITION AND PATENT TERM RESTORATION ACT OF 1984")

Significance: Regulatory Program

Legal Authority: PL 98-417, (Title II)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Congress passed the "Drug Price Competition and Patent Term Restoration Act of 1984" to compensate research-intensive firms for the loss of patent term due to required testing and government review of premarketing applications for drugs, devices, and food additives. The new legislation imposes an administrative burden on the agency to help determine whether a patent is eligible for extension, to assess the length of premarket testing and review, to determine whether applicants acted with due diligence and to conduct informal hearings. While the statute requires regulations for implementation of the "due diligence" provisions, the agency is considering other alternatives, such as informal guidance or formal guidelines, for implementing other statutory requirements.

Timetable:

Action	Date	FR Cite
Request for Public Comments on Implementing Title II	09/28/85	50 FR 39791
NPRM	07/00/86	
Final Action	07/00/87	

Small Entity: Undetermined

Agency Contact: Frank Sasinowski, Deputy Director, Health Assessment Policy Staff, Department of Health and Human Services, Food and Drug Administration, Office of Health Affairs (HFY-20), 5600 Fishers Lane, Rockville, MD 20857, 301 443-1382

RIN: 0905-AB65

627. FOOD LABELING INFORMATION REGARDING GOOD NUTRITION AND HEALTH

Significance: Regulatory Program

Legal Authority: 21 USC 371(a) Federal Food, Drug, and Cosmetic Act

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: This action will announce the agency's approach for permitting truthful and nonmisleading health claims on food labels provided the claims can be substantiated by scientific evidence.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: F. Edward Scarbrough, Chief, Regulatory Affairs Staff, Department of Health and Human Services, Food and Drug Administration, Cent. for Food Safety & Appl. Nut. (HFF-204), 200 C Street, SW, Washington, DC 20204, 202 245-3117

RIN: 0905-AB67

628. FOOD LABELING; LABEL CLAIMS FOR FOODS ON THE BASIS OF CHOLESTEROL CONTENT

Significance: Regulatory Program

Legal Authority: 21 USC 343 Federal Food, Drug, and Cosmetic Act; 21 USC 362 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 101.9; 21 CFR 101.25

Legal Deadline: None

Abstract: The proposed rule would provide a mechanism that will allow relevant, truthful, and nonmisleading claims about cholesterol and fatty acid on product labeling for consumers. This proposed rule resulted from the medical and consumer interest in the association between dietary fat and cholesterol and the occurrence of coronary heart disease, the leading cause of death and disability in the United States today.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: F. Edward Scarbrough, Chief, Regulatory Affairs Staff, Department of Health and Human Services, Food and Drug Administration, Cent. for Food Safety & Appl. Nut. (HFF-204), 200 C Street, SW, Washington, DC 20204, 202 245-3117

RIN: 0905-AB66

629. ABBREVIATED NEW ANIMAL DRUG APPLICATIONS FOR POST-1962 ANIMAL DRUGS

Significance: Regulatory Program

Legal Authority: 21 USC 360b Federal Food, Drug, and Cosmetic Act

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Proposed Rule Stage

Food and Drug Administration (FDA)

CFR Citation: 21 CFR 514.1; 21 CFR 514.2; 21 CFR 514.3; 21 CFR 514.11

Legal Deadline: None

Abstract: This proposed rule would permit applicants to file abbreviated new animal drug applications (ANADAs) for products identical to approved post-1962 drugs and to omit certain reports that are required in full NADAs to show safety and effectiveness of the product. It would apply only to certain drug products specified by FDA. If adopted, the proposed rule would reduce duplicative testing of drugs and also reduce the cost to the manufacturer of getting the affected drugs on the market.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: Undetermined

Agency Contact: Richard Lehmann, Dir., Div. of Biometrics & Production Drugs, Department of Health and Human Services, Food and Drug Administration, Bureau of Veterinary Medicine (HFV-120), 5600 Fishers Lane, Rockville, MD 20857, 301 443-3134

RIN: 0905-AB72

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)

Final Rule Stage

Food and Drug Administration (FDA)

630. PREMARKET APPROVAL APPLICATION (PMA) PROCEDURES

Significance: Regulatory Program

Legal Authority: 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 353 Federal Food, Drug, and Cosmetic Act; 21 USC 360 Federal Food, Drug, and Cosmetic Act; 21 USC 360c to 360j Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act; 21 USC 373 Federal Food, Drug, and Cosmetic Act; 21 USC 374 Federal Food, Drug, and Cosmetic Act; 21 USC 375 Federal Food, Drug, and Cosmetic Act; 21 USC 379 Federal Food, Drug, and Cosmetic Act; 21 USC 381 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 814

Legal Deadline: None

Abstract: This proposed rule would establish requirements for submission to FDA of applications for premarket approval including safety and effectiveness data for all class III (premarket approval) medical devices. The rule would establish procedures for manufacturers to demonstrate the safety and effectiveness of these medical devices.

Timetable:

Action	Date	FR Cite
NPRM	12/12/80	45 FR 81769
NPRM Comment Period End	02/10/81	45 FR 81769
Notice of 60-day Ext. of Com. Per.	02/17/81	46 FR 12502
Final Action	04/00/86	

Small Entity: Not Applicable

Agency Contact: James J. McCue, Jr., Director, Operations Staff, Office of Standards & Regulations, Department of Health and Human Services, Food and Drug Administration, Center for Devices & Rad Health (HFZ-84), 5600 Fishers Lane, Rockville, MD 20857, 301 443-4674

RIN: 0905-AA19

631. CURRENT GOOD MANUFACTURING PRACTICE FOR HUMAN FOOD

Significance: Regulatory Program

Legal Authority: 21 USC 332 Federal Food, Drug, and Cosmetic Act; 21 USC 333 Federal Food, Drug, and Cosmetic Act; 21 USC 334 Federal Food, Drug, and Cosmetic Act; 21 USC 342(a) Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 110

Legal Deadline: None

Abstract: This tentative final rule represents the next action on FDA's proposed revisions to the Current Good Manufacturing Practice regulations published June 8, 1979, and FDA's review of the existing regulations under Executive Order 12291 and the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
NPRM	06/08/79	47 FR 33236
NPRM Comment Period End	12/31/79	47 FR 33236
Tentative Final Rule	04/00/86	
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: Old title during review: "Current Good Manufacturing Practice in Manufacturing, Processing, Packing, or Holding Human Food (Umbrella Rule)"

Agency Contact: P.G. Harrill, Deputy Director, Division of Food Technology, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-210) 200 C Street, SW, Washington, DC 20204, 202 485-0007

RIN: 0905-AA72

632. GOOD LABORATORY PRACTICE FOR NONCLINICAL LABORATORY STUDIES

Significance: Regulatory Program

Legal Authority: 21 USC 346 Federal Food, Drug, and Cosmetic Act; 21 USC 346a Federal Food, Drug, and Cosmetic Act; 21 USC 348 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 353 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 356 Federal Food, Drug, and Cosmetic Act; 21 USC 357 Federal Food, Drug, and Cosmetic Act; 21 USC 360 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 21 USC 376 Federal Food, Drug, and Cosmetic Act; 21 USC 381 Federal Food, Drug, and Cosmetic Act; 42 USC 216 Public Health Service Act; 42 USC 262 Public Health Service Act; 42 USC 263 Public Health Service Act; ...

CFR Citation: 21 CFR 58

Legal Deadline: None

Abstract: This action will revise the agency's regulations covering Good Laboratory Practice for Nonclinical Laboratory Studies based upon the agency's review of these existing rules under Executive Order 12291 and the Regulatory Flexibility Act.

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Final Rule Stage

Food and Drug Administration (FDA)

Timetable:

Action	Date	FR Cite
NPRM	10/29/84	49 FR 43530
NPRM Comment Period End	12/28/84	49 FR 43530
Final Action	07/00/86	

Small Entity: No

Agency Contact: Paul D. Lepore, Bioresearch Coordinator, Department of Health and Human Services, Food and Drug Administration, Div. of Compliance Policy (HFC-211), 5600 Fishers Lane, Rockville, MD 20857, 301 443-2390

RIN: 0905-AA84

633. IRRADIATION IN THE PRODUCTION, PROCESSING, AND HANDLING OF FOOD

Significance: Regulatory Program

Legal Authority: 21 USC 321 Federal Food, Drug, and Cosmetic Act; 21 USC 342 Federal Food, Drug, and Cosmetic Act; 21 USC 343 Federal Food, Drug, and Cosmetic Act; 21 USC 348 Federal Food, Drug, and Cosmetic Act; 21 USC 373 Federal Food, Drug, and Cosmetic Act; 21 USC 374 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 179.25; 21 CFR 179.26

Legal Deadline: None

Abstract: This final rule would permit the sterilization of food with ionizing radiation. This final rule has resulted from increased interest in irradiation in food processing by industry and Congress, as well as the completion of a report by FDA's Irradiated Food Committee.

Timetable:

Action	Date	FR Cite
ANPRM	03/27/81	46 FR 18992
ANPRM Comment Period End	06/25/81	46 FR 18992
Ext. of Comment Period to 07/27/81	07/07/81	46 FR 35120
NPRM	02/14/84	
NPRM Comment Period End	04/16/84	49 FR 05714
Final Action	04/00/86	

Small Entity: No

Agency Contact: Clyde A. Takeguchi, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-330) 200 C Street, SW, Washington, D.C. 20204, 202 472-5740

RIN: 0905-AA88

634. AVAILABILITY OF BULK NEW ANIMAL DRUG SUBSTANCES FOR USE BY LICENSED VETERINARIANS

Significance: Regulatory Program

Legal Authority: 21 USC 360b Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 514.1

Legal Deadline: None

Abstract: This proposed rule would permit veterinarians to obtain bulk new animal drug substances for compounding products for use in their own practice. A number of veterinarians have requested that the regulations be revised in order that bulk new animal drug substances may be legally obtained by them for use in their practices.

Timetable:

Action	Date	FR Cite
NPRM	07/01/85	50 FR 27016
Final Action	01/00/87	

Small Entity: No

Agency Contact: Frank Pugliese, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-100), 5600 Fishers Lane, Rockville, MD 20857, 301 443-4580

RIN: 0905-AB01

635. ANIMAL DRUG SAFETY POLICY

Significance: Regulatory Program

Legal Authority: 21 USC 342 Federal Food, Drug, and Cosmetic Act; 21 USC 343 Federal Food, Drug, and Cosmetic Act; 21 USC 348 Federal Food, Drug, and Cosmetic Act; 21 USC 360b Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act; 21 USC 376 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 500.80; 21 CFR 500.82; 21 CFR 500.84; 21 CFR 500.86; 21 CFR 500.88; 21 CFR 514.1; 21 CFR 514.11; 21 CFR 514.115

Legal Deadline: None

Abstract: This reproposal would establish an operational definition of the no-residue requirements of the anti-cancer clauses of the Federal Food, Drug, and Cosmetic Act regarding food additives, color additives, and drugs intended for use in food-producing animals.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	07/18/79	44 FR 17070
NPRM	11/20/79	44 FR 17070
NPRM Amended	02/11/83	48 FR 06361
NPRM	10/31/85	50 FR 45530
Comment Period End	02/28/86	50 FR 45530
Final Action	12/00/86	

Small Entity: Yes

Agency Contact: Robert Benson, Chemist, Department of Health and Human Services, Food and Drug Administration, Center for Veterinary Medicine (HFV-301), 5600 Fishers Lane, Rockville, MD 20857, 301 443-2289

RIN: 0905-AB04

636. IND REGULATIONS REVISION

Significance: Regulatory Program

Legal Authority: 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 353 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 356 Federal Food, Drug, and Cosmetic Act; 21 USC 357 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 42 USC 262 Public Health Service Act

CFR Citation: 21 CFR 312

Legal Deadline: None

Abstract: This proposed rule would revise extensively the IND rules to improve the efficiency of FDA's operations and to update and clarify its internal policies in reviewing and expediting applications for new drugs. These revisions are believed necessary to improve the efficiency of the drug review process. The result would be greater assurance that safe and effective new drugs are approved as promptly as possible. The undertaking reflects FDA's commitment to refine and improve the entire IND/NDA process. The IND/NDA rules were scheduled for retrospective review announced by FDA in its July 2, 1982 notice (47 FR 29004) establishing priorities for reviewing the agency's

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existing rules under the Regulatory Flexibility Act and Executive Order 12291. This item was previously listed in the agenda as New Drug Approval Process: Revision of IND/NDA Rules (RIN 0905-AA00).

Timetable:

Action	Date	FR Cite
NPRM	08/09/83	48 FR 26769
NPRM Comment Period End	09/08/83	48 FR 26769
Final Action	04/00/86	

Small Entity: No

Agency Contact: Steven H. Unger, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drugs & Biologics (HFN-362), 5600 Fishers Lane, Rockville, MD 20857, 301 443-3220

RIN: 0905-AB09

637. SULFITING AGENTS; LABELING IN DRUGS FOR HUMAN USE

Significance: Regulatory Program

Legal Authority: 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 201

Legal Deadline: None

Abstract: The agency is assessing various options to determine the most responsible and feasible course to protect sulfite-allergic people, while ensuring that drug products remain stable, effective, and safe. The agency will monitor the drug industry's program of voluntary ingredient disclosure on labeling to determine if susceptible individuals have adequate information to avoid sulfites. For prescription drugs containing sulfites, the agency is considering requiring, through rulemaking, a warning statement to health professionals, about sulfites.

Timetable:

Action	Date	FR Cite
NPRM	11/19/85	50 FR 47558
NPRM Comment Period End	01/21/86	50 FR 47558
Final Action	08/00/86	

Small Entity: No

Agency Contact: Eileen Hodkinson, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drugs & Biologics (HFN-364), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8046

RIN: 0905-AB38

638. LABELING OF DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE (EXCLUSIVITY POLICY)

Significance: Regulatory Program

Legal Authority: 21 USC 321(p) Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 330

Legal Deadline: None

Abstract: The agency's exclusivity policy of limiting over-the-counter (OTC) drug monograph labeling terminology to specific words and phrases has been the subject of comment throughout the OTC drug review process. This proposed rule would modify that exclusivity policy as it relates to indications for use and would prescribe the placement of monograph terminology in the labeling of OTC drug products. The modified exclusivity policy would permit manufacturers to use other truthful and nonmisleading statements relating to indications for use.

Timetable:

Action	Date	FR Cite
NPRM	04/22/85	50 FR 15810
NPRM Comment Period End	07/22/85	50 FR 15810
Final Action	05/00/86	

Small Entity: No

Agency Contact: William E. Gilbertson, Dir., Div. of OTC Drug Evaluation, Department of Health and Human Services, Food and Drug Administration, Center for Drugs & Biologics (HFN-210), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8000

RIN: 0905-AB40

639. FOOD LABELING AND USES OF SULFITING AGENTS

Significance: Regulatory Program

Legal Authority: 21 USC 343 Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act; 21 USC 201(s) Federal Food, Drug, and Cosmetic Act; 21 USC 348 Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 182.3616; 21 CFR 182.3637; 21 CFR 182.3739; 21 CFR 182.3766; 21 CFR 182.3795; 21 CFR 182.3862; 21 CFR 190

Legal Deadline: None

Abstract: Comments received in response to a 1982 proposal affirming that the food uses of certain sulfiting agents were generally recognized as safe (GRAS), the findings and conclusions of the Federation of American Societies for Experimental Biology, and adverse reactions reports (including some reports of deaths), have lead to a reexamination of the GRAS status of sulfiting agents. Sulfiting agents (sulfur dioxide, sodium sulfite, sodium and potassium bisulfites, and sodium and potassium metabisulfites) are chemical preservatives that are extensively used in foods. The agency published a proposed rule to clarify the circumstances under which the presence of sulfiting agents must be declared on the label of packaged foods. The agency is also considering what its options are with regard to the GRAS status of (1) sulfiting agents on fruits and vegetables served or sold raw, (2) sulfiting agents used on potatoes, and (3) other food uses of sulfiting agents.

Timetable:

Action	Date	FR Cite
NPRM	04/03/85	50 FR 13306
NPRM Comment Period End	06/03/85	50 FR 13306
NPRM Revoking Use of Sulfiting Agents on Fruits & Vegetables ETC	06/14/85	50 FR 32630
Final Action	04/00/86	
Final Action Revoking Use of Sulfiting Agents on Fruits & ETC	04/00/86	
NPRM GRAS Status of the Use of Sulfiting Agents on Potatoes ETC	06/00/86	
Final Action GRAS Status of the Use of Sulfiting Agents on Potatoes ETC	02/00/87	

Action	Date	FR Cite
NPRM GRAS Status of Certain Other Food Uses of Sulfiting Agents ETC	00/00/00	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: NAME: Alan Rulis (GRAS), Asst. to the Director, Div. of Food & Color Additives, Cent. for Food Safety & Applied Nutrition (HFF-330), 200 C Street, SW, Washington, DC 20204, (202) 472-5676.

Agency Contact: Elizabeth J. Campbell, Supervisor, Consumer Safety Officer, Guidelines & Compliance Research Branch, Department of Health and Human Services, Food and Drug Administration, Center for Food Safety and Applied Nutrition (HFF-312), 200 C St., SW, Washington, DC 20204, 202 485-0175

RIN: 0905-AB52

640. PROPOSED USER CHARGE; NEW DRUG APPLICATIONS, ABBREVIATED NEW DRUG APPLICATIONS, AND ANTIBIOTIC APPLICATIONS REVIEW

Significance: Regulatory Program

Legal Authority: 21 USC 351 Federal Food, Drug, and Cosmetic Act; 21 USC 352 Federal Food, Drug, and Cosmetic Act; 21 USC 353 Federal Food, Drug, and Cosmetic Act; 21 USC 355 Federal Food, Drug, and Cosmetic Act; 21 USC 356 Federal Food, Drug, and Cosmetic Act; 21 USC 357 Federal Food, Drug, and Cosmetic Act; 21 USC 371 Federal Food, Drug, and Cosmetic Act; 31 USC 9701 Independent Offices Appropriation Act

CFR Citation: 21 CFR 314

Legal Deadline: None

Abstract: The proposed rule would initiate a program that would require drug manufacturers (as beneficiaries of special services that the agency provides) to bear the costs that the agency incurs in reviewing and approving new drug and antibiotic applications, abbreviated new drug applications, and certain supplemental applications. The agency would set fees for different types of applications. The benefit accruing to an applicant under the agency's new drug and antibiotic application review and approval activity is that the applicant may lawfully market its new drug or antibiotic upon gaining agency approval. Review by the agency also benefits applicants by helping ensure that they will market only safe and effective drug products. This, in turn, enhances public confidence in applicant's drug products.

Timetable:

Action	Date	FR Cite
NPRM	08/06/85	50 FR 31726
NPRM Comment Period End	09/05/85	

Next Action Undetermined

Small Entity: No

Additional Information: Since publication of the proposed rule, the Conference Report on H. Rept. 3037, which is given the status of enacted legislation in the continuing resolution, prohibits FDA from using any appropriated funds to design, develop, or implement user charges under 31 U.S.C. 9701.

Agency Contact: Eileen Hodkinson, Regulatory Counsel, Department of Health and Human Services, Food and Drug Administration, Center for Drugs & Biologics (HFN-364), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8046

RIN: 0905-AB56

641. PROVISIONALLY LISTED COLOR ADDITIVES

Significance: Regulatory Program

Legal Authority: 21 USC 371 Federal Food, Drug, and Cosmetic Act; 21 USC 376(b), (c), & (d) Federal Food, Drug, and Cosmetic Act; 21 USC 376 note Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 81.1; 21 CFR 81.27

Legal Deadline: None

Abstract: The final rule will amend the color additives regulations to provide new closing dates for the use of nine provisionally listed color additives (FD&C Red No. 3 and its likes, FD&C Yellow No. 6, D&C Red No. 8, D&C Red No. 9, D&C Red No. 19, D&C Red No. 33, D&C Red No. 36, D&C Red No. 37, and D&C Orange No. 17) beyond September 3, 1985. A second final rule will permanently list the provisionally listed uses of FD&C Yellow No. 5. The purpose for postponing the closing dates is to permit the uninterrupted use of these color additives while FDA receives and evaluates additional scientific data that is required by the final rule.

Timetable:

Action	Date	FR Cite
NPRM	08/26/85	50 FR 26377
NPRM Comment Period End	07/26/85	50 FR 26377
Final Action FD&C Yellow No. 5	03/00/86	
Final Action D&C Red Nos. 8,9,19 & 37, D&C Orange No. 17, FD&C Yellow No. 6	06/00/86	
Final Action FD&C Red No. 3	09/00/86	
Final Action D&C Red Nos. 33 and 36	03/00/87	

Small Entity: No

Agency Contact: Donna A. Dennis, Supervisor, Div. of Food & Color Additives, Department of Health and Human Services, Food and Drug Administration, Cent. for Food Safety & Appl. Nut. (HFF-334), 200 C Street, SW, Washington, DC 20204, 202 426-9463

RIN: 0905-AB60

642. ANTIBODY TEST FOR HTLV-III; GENERAL BIOLOGICAL PRODUCTS STDS.; ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS; SEROLOGICAL TEST FOR HUMAN T-LYMPHOTROPIC VIRUS, TYPE III

Significance: Regulatory Program

Legal Authority: 42 USC 216 Public Health Service Act; 42 USC 262 Public Health Service Act

CFR Citation: 21 CFR 610.45, (new); 21 CFR 640.2(f), (revision); 21 CFR 640.5, (new); 21 CFR 640.14, (revision); 21 CFR 640.23(a), (revision); 21 CFR 640.33(a), (revision); 21 CFR 640.53(a), (revision); 21 CFR 640.67, (revision); 21 CFR 640.70(a)(11), (new); 21 CFR 640.71(a)(4), (new); 21 CFR 640.72(a)(2), (revision)

Legal Deadline: None

Abstract: The Food and Drug Administration is proposing to require that each unit of blood and blood components be tested and found nonreactive by a licensed serologic test for antibody to human T-lymphotropic virus type III (HTLV-III). HTLV-III is believed to be the causative agent of acquired immunodeficiency syndrome (AIDS). If blood tests positive to the test for antibody to HTLV-III, the blood should not be used. Requiring the test

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Final Rule Stage

Food and Drug Administration (FDA)

on each unit of blood and blood components should decrease the risk of transmitting AIDS by transfusion or parenteral administration of blood and blood components.

Timetable:

Action	Date	FR Cite
NPRM	02/21/86	51 FR 6362
Final Action	02/00/87	

Small Entity: No

Agency Contact: Steven F. Falter, Consumer Safety Officer, Department of Health and Human Services, Food and Drug Administration, Center for Drugs & Biologics (HFN-364), 5600 Fishers Lane, Rockville, MD 20857, 301 295-8046

RIN: 0905-AB62

643. ● METHYLENE CHLORIDE

Significance: Regulatory Program

Legal Authority: 21 USC 361 Federal Food, Drug, and Cosmetic Act; 21 USC 362 Federal Food, Drug, and Cosmetic Act; 21 USC 371(a) Federal Food, Drug, and Cosmetic Act

CFR Citation: 21 CFR 700.19

Legal Deadline: None

Abstract: Methylene chloride is used as a flame suppressant in aerosol cosmetic products (hair sprays). Recent carcinogenicity bioassay studies, however, have shown that methylene chloride is an animal carcinogen. These studies indicate that the continued use of methylene chloride, in functional amounts, in such cosmetic products poses a significant risk to the public health, especially in specific segments of the population that are continually exposed to aerosol cosmetics containing methylene chloride. Methylene chloride is also used as a solvent to extract caffeine from green coffee beans. However, all but a very small portion of the methylene chloride is removed during processing in aerosol cosmetic products, but no action is necessary on its use as a decaffeinating agent. Regulatory action must be taken to protect the public health from the high risks presented by this industry to replace methylene chloride but believes that efforts by the cosmetic industry to replace methylene chloride but believes that prohibiting its use in cosmetics is the only approach that will assure that the public health will be fully safeguarded from all such products, both foreign and domestic.

Timetable:

Action	Date	FR Cite
NPRM	12/16/85	50 FR 51551
NPRM Comment Period End	02/16/86	50 FR 51551
Final Action	12/00/86	

Small Entity: No

Agency Contact: George H. Pauli, Supervisor, Division of Food and Color Additives, Department of Health and Human Services, Food and Drug Administration, Cent. for Food Safety & Applied, Nutrition (HFF-334), 200 C Street, SW, Washington, DC 20204, 202 472-5740

RIN: 0905-AC00

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)

Completed Actions

Food and Drug Administration (FDA)

644. REVISED PROCEDURES REGARDING MEDICATED FEED APPLICATIONS

Significance: Regulatory Program

CFR Citation: 21 CFR 207; 21 CFR 210; 21 CFR 225; 21 CFR 226; 21 CFR 501; 21 CFR 514; 21 CFR 558

Completed:

Reason	Date	FR Cite
Final Action	03/03/86	51 FR 7382

Small Entity: No

Agency Contact: George Graber 301 443-4486

RIN: 0905-AA15

645. EXEMPT INFANT FORMULA

Significance: Agency Priority

CFR Citation: 21 CFR 107.3; 21 CFR 107.50

Completed:

Reason	Date	FR Cite
Final Action	11/22/85	50 FR 48183
Final Action Effective	02/20/86	50 FR 48183

Small Entity: No

Agency Contact: Nicholas Duy 202 245-3117

RIN: 0905-AA86

646. NEW ANIMAL DRUG APPROVAL PROCESS; REVIEW OF NADA RULES

Significance: Regulatory Program

CFR Citation: 21 CFR 514.1; 21 CFR 514.8

Completed:

Reason	Date	FR Cite
End Review	12/00/85	

Small Entity: Undetermined

Agency Contact: Richard A. Carnevale, DVM 301 443-4213

RIN: 0905-AA96

647. CURRENT GOOD MANUFACTURING PRACTICE FOR BLOOD AND BLOOD COMPONENTS; UNIFORM BLOOD LABELING

CFR Citation: 21 CFR 601; 21 CFR 640

Completed:

Reason	Date	FR Cite
Final Action	06/30/85	50 FR 35458
Final Action Effective	09/02/86	50 FR 35458

Small Entity: Not Applicable

Agency Contact: Steven F. Falter 301 295-8046

RIN: 0905-AB30

648. NUTRIENT REQUIREMENTS FOR INFANT FORMULA

CFR Citation: 21 CFR 107

Completed:

Reason	Date	FR Cite
Final Action	10/30/85	50 FR 45106
Final Action Effective	01/14/86	50 FR 45106

Small Entity: No

Agency Contact: Nicholas Duy 202 245-3117

RIN: 0905-AB37

HHS—PHS

Completed Actions

Food and Drug Administration (FDA)

649. ●LABELING FOR ORAL ASPIRIN-CONTAINING DRUG PRODUCTS; REYE SYNDROME

Significance: Regulatory Program

CFR Citation: 21 CFR 201.314

Completed:

Reason	Date	FR Cite
Final Action	03/07/86	51 FR 8180

Small Entity: No

Agency Contact: Christopher Smith 301 443-5133

RIN: 0905-AB97

[FR Doc. 86-8172 Filed 04-18-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)

Prerule Stage

Health Resources and Services Administration (HRSA)

650. ● GENERAL REVIEW AND REVISION OF PUBLIC LAW 93-638 PROGRAM AND CONTRACTING REGULATIONS

Significance: Regulatory Program

Legal Authority: 25 USC 40 et seq

CFR Citation: 41 CFR 3 to 4; 42 CFR 36, Subpart H and I

Legal Deadline: None

Abstract: The Indian Self-Determination Act, Public Law 93-638 Regulations published November 1975 need to be revised and updated in light of 10 years of experience. Some provisions are now obsolete and others may impose unnecessary burden, restrictions, and require clarification. The proposed revision in effect would streamline the contract process, delete obsolete provisions, reduce unnecessary paperwork, strengthen accountability requirements and provide opportunities to strengthen autonomy and provide greater flexibility to Public Law 93-638 contractors.

Timetable:

Action	Date	FR Cite
Begin Review	04/00/86	

Small Entity: Undetermined

Agency Contact: Richard J. McCloskey, Chief, Legislation and Regulations Branch, Department of Health and Human Services, Public Health Service, 5600 Fishers Lane, Room 6A-30, Rockville, Maryland 20857, 301 443-1116

RIN: 0905-AB9*

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)

Proposed Rule Stage

Health Resources and Services Administration (HRSA)

651. LIMITATION ON FEDERAL PARTICIPATION FOR CAPITAL EXPENDITURES REVIEW PROGRAM UNDER SECTION 1122 OF THE SOCIAL SECURITY ACT

Significance: Regulatory Program

Legal Authority: PL 93-641; PL 97-35; PL 98-559; PL 98-21; 42 USC 1302a-1

CFR Citation: 42 CFR 100; 42 CFR 405; 42 CFR 405.435(a); 42 CFR 405.435(b); 42 CFR 405.1690; 42 CFR 447.350(b)

Legal Deadline: None

Abstract: This NPRM sets forth provisions under which the Secretary may deny Federal payment under Title XVIII (Medicare) and Title XIX (Medicaid), for expenses related to capital expenditures (1) which the Designated Planning Agency (DPA) has found to be inconsistent with established standards, criteria or plans developed under the Public Health Service (PHS) Act; or (2) for which the DPA was not provided notice as required.

This is a new NPRM which replaces a previous NPRM published August 10, 1983 and is being issued to: (1) incorporate statutory changes made since promulgation of the original regulations; (2) incorporate existing policy into regulations; and (3) ensure the efficient and effective implementation of Section 1122 of the Social Security Act without incorporating provisions of Title XV of the PHS Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Not Applicable

Agency Contact: Stan Bestacky, Acting Legislative Officer, Department of Health and Human Services, Health Resources and Services Administration, Office of Program Development, 5600 Fishers Lane, Rm. 17A-45, Rockville, MD 20857, 301 443-3480

RIN:

0905-AA39

652. PROGRAM GRANTS FOR MIGRANT HEALTH SERVICES

Legal Authority: 42 USC 216; 42 USC 254(b)

CFR Citation: 42 CFR 56

Legal Deadline: None

Abstract: A notice of proposed rulemaking (NPRM) was published in the Federal Register on December 10, 1980 to revise the existing regulations to incorporate provisions of Pub. L. 95-626, the Health Services Amendments of 1978. Because of administrative changes and new policy direction, a new NPRM was developed to place greater emphasis on and to facilitate State participation in this program. The Secretary received significant adverse reaction to the approach and a new NPRM is being prepared to simplify the regulation and incorporate the provisions of Pub. L. 95-626.

Timetable:

Action	Date	FR Cite
NPRM Previous	12/19/80	45 FR 85366
NPRM	04/00/86	

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Small Entity: No

Additional Information: SMALL BUSINESSES CONT: This regulation will increase opportunities for States to become grantees under this program. Not every State will choose to implement this approach and it is anticipated that many who do will implement it in co-application with existing grantees. Therefore, it is expected that this regulation will not have a significant impact on a substantial number of small entities as defined by the Regulatory Flexibility Act.

Agency Contact: James J. Corrigan, Associate Bureau Director, Department of Health and Human Services, Public Health Service, Legislation and Policy, BHCDA, Room 7-05, 5600 Fishers Lane, Rockville, MD 20857, 301 443-2380

RIN: 0905-AA62

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653. PROJECT GRANTS AND LOANS FOR HOME HEALTH SERVICES AND TRAINING

Legal Authority: 42 USC 255; 42 USC 216

CFR Citation: 42 CFR 51e

Legal Deadline: None

Abstract: Title III of the Public Health Service Act was amended by section 6 of the Orphan Drug Act of 1983 (P.L. 97-414). The effect of the amendment authorizes a new program of grants and loans to support home health services. Specifically, it authorizes grants to nonprofit agencies and loans to proprietary agencies to establish and operate home health programs. It also authorizes grants and contracts for training paraprofessionals to provide home health services, with special consideration given to trainees 50 years of age or older. The program is expected to impact in cost savings through better methods of identifying patients at risk and decreasing the length and frequency of hospital stays.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: James J. Corrigan, Associate Bureau Director, Department of Health and Human Services, Health Resources and Services Administration, Legislation and Policy, BHCDA, 5600 Fishers Lane, Room 7-05, Rockville, MD 20857, 301 443-2380

RIN: 0905-AB11

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654. PRIMARY CARE BLOCK GRANT PROGRAM

Legal Authority: 42 USC 216; 42 USC 300Y to 300Y11

CFR Citation: 42 CFR 51; 45 CFR 74; 45 CFR 96

Legal Deadline: None

Abstract: Section 1932 of the Public Health Service Act was amended by section 8 of the Orphan Drug Act of 1983 (P.L. 97-414). The effect of the amendment requires the Secretary to promulgate separate regulations for the Primary Care Block Grant taking into consideration the distinctive features of the program such as: the program consists principally of community health centers; the States have the option of assuming responsibility for the program; the States have to make a substantial financial contribution; if a State opts for the block, it agrees to continue to provide a statutory range of services; new centers could only be established in medically underserved areas; and procedural safeguards protecting existing centers.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: James J. Corrigan, Associate Bureau Director, Department of Health and Human Services, Health Resources and Services Administration, Legislation and Policy, BHCDA, 5600 Fishers Lane, Room 7-05, Rockville, MD 20857, 301 443-2380

RIN: 0905-AB12

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655. INDIAN HEALTH SERVICE, 42 CFR PART 36 SUBPART I, CONTRACTS UNDER THE INDIAN SELF-DETERMINATION ACT: AMENDMENTS

Legal Authority: 25 USC 450G

CFR Citation: 42 CFR 36, Subpart I

Legal Deadline: None

Abstract: This is a revision to implement a policy to charge interest and penalties on delinquent debts. This is in compliance with Department of the Treasury's guidelines pertaining to debt collection activities and the joint regulations issued on April 17, 1981, by the Attorney General and the Comptroller General and is consistent with the Debt Collection Act of 1982 (P.L. 97-365). This will require a change to the Department's Indian Health Service (IHS) P.L. 93-638 regulations to include a new contract/grant clause.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: Undetermined

Agency Contact: Richard J. McCloskey, Director, Office of Leg. & Reg. Services, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, PKLN Bldg. Rm. 6A-20, Rockville, MD 20857, 301 443-1116

RIN: 0905-AB31

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656. GRANTS FOR NURSE ANESTHETISTS TRAINEESHIPS

Legal Authority: 42 USC 216; 42 USC 297-1

CFR Citation: 42 CFR 57, Subpart F (Proposed)

Legal Deadline: None

Abstract: These proposed rules would implement section 831 of the Public Health Service Act to make grants to public or private nonprofit institutions to cover the costs of traineeships for the training, in programs which meet such requirements as the Secretary shall by regulation prescribe and which are accredited by an entity or entities designated by the Secretary of Education, of licensed registered nurses to be nurse anesthetists.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

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Agency Contact: Mrs. Gretchen Osgood, Deputy Director, Division of Nursing, BHPr, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Room 5C-26, Rockville, MD 20857, 301 443-5786

RIN: 0905-AB33

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657. REASONABLE VOLUME OF UNCOMPENSATED SERVICES TO PERSONS UNABLE TO PAY (HILL-BURTON)

Significance: Regulatory Program

Legal Authority: 42 USC 216; 42 USC 300r; 42 USC 300s; 42 USC 300p-6

CFR Citation: 42 CFR 124, Subpart F

Legal Deadline: None

Abstract: The existing regulations at 42 CFR Part 124, Subpart F establish specific requirements that recipients of Federal assistance under Title VI or Title XVI of the PHS Act made assurances that they will make available in the facility constructed, modernized or converted with that assistance, a reasonable volume of services to persons unable to pay for services. The proposed regulation would provide increased flexibility to obligated facilities and reduce administrative burden while assuring access to intended beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Agency Contact: Stan Bastacky, Acting Legislative Officer, Department of Health and Human Services, Health Resources and Services Administration, Office of Program Development, 5600 Fishers Lane, Room 17A-45, Rockville, MD 20857, 301 443-5460

RIN: 0905-AB35

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658. HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: PROGRAM MANAGEMENT

Significance: Regulatory Program

Legal Authority: 42 USC 216; 42 USC 294 to 294l

CFR Citation: 42 CFR 60

Legal Deadline: None

Abstract: This proposed rule would revise existing regulations governing the Health Education Assistance Loan (HEAL) program, authorized by the PHS Act. These proposed revisions would strengthen the regulations to improve procedures at schools and lending institutions for making, servicing, and collecting HEAL loans and would clarify the rights and responsibilities of lenders, schools, borrowers, and the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	12/00/86	

Small Entity: No

Agency Contact: Ms. Peggy Washburn, Chief, Program Dev. Branch, DSA, BHPr, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Room 8-46, Rockville, Maryland, 20857, 301 443-4540

RIN: 0905-AB46

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659. GRANTS FOR RESIDENCY TRAINING AND FACULTY DEVELOPMENT IN GENERAL INTERNAL MEDICINE OR GENERAL PEDIATRICS

Legal Authority: 42 USC 216; 42 USC 295g-4; 42 USC 295g-4(a)

CFR Citation: 42 CFR 57, Subpart FF

Legal Deadline: None

Abstract: These regulations propose to amend the existing regulations for residency training in general internal medicine and general pediatrics and to implement section 786 (a)(3) and (4) to plan, develop, and operate a program and provide financial assistance to physicians who plan to teach in general internal medicine and general pediatrics.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Daniel N. Mosica, M.D., Director, Division of Medicine, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Public Health Service, 5600 Fishers Lane, Room 4C-25, Rockville, MD 20857, 301 443-6190

RIN: 0905-AB50

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660. INDIAN ELIGIBILITY

Significance: Regulatory Program

Legal Authority: 25 USC 13 (Snyder Act); 42 USC 2001 to 2004 (Transfer Act)

CFR Citation: 42 CFR 36, Subparts A, B & C

Legal Deadline: None

Abstract: The Indian Health Service (IHS) and the Health Resources and Services Administration (HRSA) have been reviewing potential approaches for strengthening the management and allocation of IHS resources to most effectively serve program beneficiaries. The eligibility criteria for IHS program beneficiaries represent a primary focus of the review, particularly in view of recent trends among service recipients. For example, more people with a claim of Indian descent are using IHS services than ever before even though alternative medical care is available. This situation has arisen from greater awareness of possible eligibility, the availability of improved care, greater acceptance of the program by Indian people, and increased costs of medical care outside of IHS. The various special programs established by Congress to provide health services to the Indian people are a direct outgrowth of treaties and the resulting Federal trust relationship. Thus, any changes in these programs require Federal regulatory action. The NPRM will address such matters as tribal affiliation, residency requirements, and blood quantum.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	02/00/87	

Small Entity: Not Applicable

Agency Contact: Richard J. McCloskey, Chief, Department of Health and Human Services, Public Health Service, Legislation & Regulations Branch, 5600 Fishers Lane, Room 6A-20, Rockville, MD 20857, 301 443-1116

RIN: 0905-AB89

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661. HEALTH PROFESSIONS STUDENT LOAN (HPSL) PROGRAM-IMPROVED PROGRAM MANAGEMENT REGULATIONS

Significance: Regulatory Program

Legal Authority: 42 USC 216; 42 USC 294m to 294q

CFR Citation: 42 CFR 57, Subpart C

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Proposed Rule Stage

Health Resources and Services Administration (HRSA)

Legal Deadline: None

Abstract: These regulations propose provisions to assure that schools have authority to follow procedures in administering the Federal funds entrusted to their use, that are consistent with those followed by the Federal Government in administering debts owed directly to it, based on the Debt Collection Act.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
Final Action	06/00/87	

Small Entity: No

Agency Contact: Ms. Peggy Washburn, Chief, Program Dev. Br., DSA, BHPr, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Room 8-48, Rockville, MD 20857, 301 443-4569

RIN: 0905-AB93

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662. NURSING STUDENT LOAN (NSL) PROGRAM - IMPROVED PROGRAM MANAGEMENT REGULATIONS

Significance: Regulatory Program

Legal Authority: 42 USC 216; 42 USC 297a to 297h

CFR Citation: 42 CFR 57, Subpart D

Legal Deadline: None

Abstract: These regulations propose provisions to assure that schools have authority to follow procedures in administering the Federal funds entrusted to their use, that are consistent with those followed by the Federal Government in administering debts owed directly to it, based on the Debt Collection Act.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
Final Action	06/00/87	

Small Entity: No

Agency Contact: Ms. Peggy Washburn, Chief, Program Dev. Br., DSA, BHPr, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Room 8-46, Rockville, MD 20857, 301 443-4569

RIN: 0905-AB95

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663. ● CHANGES IN PUBLIC LAW 93-638 REGULATIONS TO ADD A REVIEW PROCESS FOR DECLINATION APPEALS

Significance: Regulatory Program

Legal Authority: 25 USC 13; 42 USC 2001 et seq; 25 USC 450 et seq

CFR Citation: 42 CFR 36

Legal Deadline: None

Abstract: Absence of a clear distribution between budget allocation and declination issues in the regulations has caused confusion for tribal organization. This proposed regulation will establish a method for tribes to seek a review of budget allocation decisions outside of the Indian Self Determination Act declination appeals procedures.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Lee Morris, Senior Analyst, Legislation and Regulations Branch, Department of Health and Human Services, Public Health Service, 5600 Fishers Lane, Room 6A-20, Rockville, Maryland 20857, 301 443-1116

RIN: 0905-AB99

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664. ● GRANTS FOR COMMUNITY HEALTH CENTERS

Legal Authority: 42 USC 254c; 42 USC 300 y-2; 42 USC 300 y-1; 42 USC 300 y-5; 42 USC 300 y-7; 42 USC 300 y-9

CFR Citation: 42 CFR 51c

Legal Deadline: None

Abstract: A notice of proposed rulemaking (NPRM) was published on December 19, 1980 to revise the existing regulations to incorporate provisions of Pub. L. 95-626. Because of administrative changes and new policy directions, including the passage of the Primary Care Block Grant (PCBG) authority, finalization of the NPRM was delayed to determine if it was needed. Only one territory has received a grant under the PCBG and the Community Health Center regulation is being revised for publication as a new NPRM to incorporate Pub. L. 95-626 changes, other relevant policy changes and to simplify the existing regulation.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: James J. Corrigan, Associate Bureau Director, Legislation and Policy, Department of Health and Human Services, Public Health Service, 5600 Fishers Lane, Rockville, MD 20857, 301 443-2380

RIN: 0905-AC01

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665. ● HEALTH MAINTENANCE ORGANIZATIONS; EMPLOYER CONTRIBUTIONS TO THE HMO OPTION

Significance: Regulatory Program

Legal Authority: 42 USC 216; 42 USC 300e to 300e-17

CFR Citation: 42 CFR 110.808, (revised)

Legal Deadline: None

Abstract: This notice proposes to amend the Public Health Service rules on health maintenance organizations (HMOs) by removing the requirement that an employer contributing to the cost of the non-HMO alternatives in an employee health benefits plan contribute in a like manner to the HMO alternative. Such a requirement is considered to be unnecessary regulation. The regulation as revised would delete 42 CFR 110.808, except for those provisions which paraphrase statutory language (Title XIII of the PHS Act) that assures that an employer will not have to pay more for employee health benefits as a result of offering the option of enrollment in a federally qualified HMO.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	02/00/87	

Small Entity: No

Agency Contact: Stanford Bastacky, Acting Legislative Officer, BHMORD, Department of Health and Human Services, Public Health Service, Room 17A-45, 5600 Fishers Lane, Rockville, MD 20857, 301 443-5400

RIN: 0905-AC03

HHS—PHS

Proposed Rule Stage

Health Resources and Services Administration (HRSA)

666. ● CHARGING FEES FOR HEALTH MAINTENANCE ORGANIZATION QUALIFICATION APPLICATIONS

Significance: Regulatory Program

Legal Authority: 31 USC 9701

CFR Citation: 42 CFR 110.804, (revised)

Legal Deadline: None

Abstract: The Office of Health Maintenance Organizations/Bureau of Health Maintenance Organizations and Resources Development has the responsibility for qualification and monitoring of health maintenance organizations to assure that they meet the managerial, marketing, health services, structural, and financial requirements established by Federal statute and regulations. This notice proposes to amend Public Health Service rules on HMOs to charge a user fee for reviewing applications for HMO Federal qualification. The user fee would be used to cover the cost to the Government of reviewing these applications.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	08/00/86	

Small Entity: No

Agency Contact: Stanford Bastacky, Acting Regulations Officer, BHMORD, Department of Health and Human Services, Public Health Service, 5600 Fishers Lane, Rockville, MD 20857, 301 443-5400

RIN: 0905-AC04

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667. ● CHARGING FEES FOR HILL-BURTON DIRECT AND GUARANTEED LOAN MODIFICATION REQUESTS

Significance: Regulatory Program

Legal Authority: 31 USC 9701

CFR Citation: 42 CFR 53.156, (new)

Legal Deadline: None

Abstract: The Office of Health Facilities/Bureau of Health Maintenance Organizations and Resources Development reviews requests for Hill-Burton direct and guaranteed loan modifications (release of collateral, granting of easements, granting of parity, or subordination of collateral). This notice proposes to add a new section to Public Health Service rules on Hill-Burton loans to charge a user fee for these modification requests. The user fee would be used to cover the cost of reviewing and processing requests for such special concessions. These fees would provide reimbursement for services that go beyond routine maintenance of the mortgage, allowing the hospital greater financial flexibility.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	08/00/86	

Small Entity: No

Agency Contact: Stanford Bastacky, Acting Legislative Officer, BHMORD, Department of Health and Human Services, Public Health Service, Room 17A-45, 5600 Fishers Lane, Rockville, MD 20857, 301 443-5400

RIN: 0905-AC05

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668. ● GRANTS FOR NURSE PRACTITIONER AND NURSE MIDWIFE TRAINING PROGRAMS

Legal Authority: 42 USC 216; 42 USC 296m

CFR Citation: 42 CFR 57, Subpart Y

Legal Deadline: None

Abstract: This regulation would implement the provisions of the Nursing Education Amendments of 1985 (Pub. L. 99-92) and the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129) to bring the existing regulations into compliance with the law.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Ms. Jo Eleanor Elliott, R.N., M.A., Director, Division of Nursing, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 5C-26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-5786

RIN: 0905-AC11

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669. ● PROGRAMS FOR THE TRAINING OF PHYSICIAN ASSISTANTS

Significance: Agency Priority

Legal Authority: 42 USC 216; 42 USC 292a(5)

CFR Citation: 42 CFR 57, Subpart I

Legal Deadline: Statutory, October 1, 1986. After consultation with appropriate organizations, the Secretary shall, not later than October 1, 1986, prescribe regulations for programs for the training of physician assistants.

Abstract: This Notice of Proposed Rulemaking would amend existing regulations to incorporate the provisions of the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129).

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Daniel N. Masica, M.D., Director, Division of Medicine, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 4C-25, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-6190

RIN: 0905-AC15

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670. ● NURSING SPECIAL PROJECT GRANTS: DEMONSTRATION PROJECTS

Legal Authority: 42 USC 216; 42 USC 296k

CFR Citation: 42 CFR 57, Subpart T

Legal Deadline: None

Abstract: This Notice of Proposed Rulemaking is needed to implement the provisions of the Nursing Education Amendments of 1985 (Pub. L. 99-92), which adds three new purposes to the Nursing Special Projects Program and specific appropriation authority for demonstrations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Ms. Jo Eleanor Elliott, R.N., M.A., Director, Division of Nursing, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 5C-26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-5786

RIN: 0905-AC21

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DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) — Final Rule Stage
Public Health Service (PHS) — Health Resources and Services Administration (HRSA)

671. GRANTS FOR NURSE PRACTITIONER TRAINEESHIP PROGRAMS

Legal Authority: 42 USC 216; 42 USC 296m

CFR Citation: 42 CFR 57, Subpart AA

Legal Deadline: None

Abstract: This final regulation governs a grant program to provide traineeships for nurse practitioner training to registered nurses. The rule deletes the requirement that trainees must be residents of health manpower shortage areas and provides instead that applicants from such areas be given special considerations; the rule modifies practice commitment requirements and includes conditions for waiver or suspension of repayments. No funding for future traineeships is anticipated. The rule is needed to administer existing traineeships and to monitor compliance and repayment/waivers.

Timetable:

Action	Date	FR Cite
(Past) Interim Final Rule	05/06/80	45 FR 29803
Interim Final Rule	08/01/84	49 FR 30702
Final Action	04/00/86	

Small Entity: No

Agency Contact: Ms. Jo Eleanor Elliott, R.N., M.A., Director, Division of Nursing, BHPr, Department of Health and Human Services, Health Resources and Services Administration, 5600 Fishers Lane, Room 5C-26, Rockville, MD 20857, 301 443-5786

RIN: 0905-AA47

672. GRANTS FOR RESIDENCY TRAINING IN PREVENTIVE MEDICINE

Legal Authority: 42 USC 295h-1c

CFR Citation: 42 CFR 57, Subpart EE

Legal Deadline: None

Abstract: These regulations would implement provisions of the Omnibus Budget Reconciliation Act of 1981 (P.L. 97-35) which give the Secretary new authority for a grants program which will assist schools of medicine, osteopathy, and public health in the planning and development of new residency programs and the maintenance and improvement of existing residency training programs in preventive medicine. Funds from this program can be used to provide financial assistance to trainees in the residency programs.

Timetable:

Action	Date	FR Cite
NPRM	12/09/83	48 FR 55272
NPRM Comment Period End	02/07/84	48 FR 55272
Final Action	04/00/86	

Small Entity: No

Agency Contact: Daniel N. Masica, M.D., Director, Division of Medicine, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Public Health Service, 5600 Fishers Lane, Room 4C-25, Rockville, MD 20857, 301 443-6190

RIN: 0905-AA50

673. NATIONAL HEALTH SERVICE CORPS (NHSC); PRIVATE PRACTICE OPTION (PPO) LOANS TO INDIVIDUALS

Legal Authority: 42 USC 254p(c); 42 USC 254n(1)

CFR Citation: 42 CFR 23

Legal Deadline: None

Abstract: The Secretary is authorized to make such arrangements as are deemed necessary for the individual exercising the private practice option for the use of equipment and supplies and for the lease or acquisition of other equipment and supplies. The Secretary is authorized to make loans to NHSC assignees who have completed 2 years of their service obligation or who are just beginning their service obligation. The Secretary is required by statute to publish in regulations the interest rate and repayment terms for these loans.

Timetable:

Action	Date	FR Cite
NPRM	07/03/85	
NPRM Comment Period End	09/13/85	50 FR 27465
Final Action	07/00/86	

Small Entity: No

Agency Contact: James J. Corrigan, Associate Bureau Director, Department of Health and Human Services, Health Resources and Services Administration, Legislation and Policy, BHCDA, Room 7-05, 5600 Fishers Lane, Rockville, MD 20857, 301 443-2360

RIN: 0905-AA57

674. REASONABLE VOLUME OF UNCOMPENSATED SERVICES TO PERSONS UNABLE TO PAY - HILL-BURTON (PUBLIC FACILITIES)

Significance: Regulatory Program

Legal Authority: 42 USC 216; 42 USC 300r; 42 USC 300s; 42 USC 300s-6

CFR Citation: 42 CFR 124

Legal Deadline: None

Abstract: The existing regulations at 42 CFR Part 124 Subpart F establish specific requirements that recipients of Federal assistance under Title VI or Title XVI of the PHS Act made assurances that they will make available in the facility constructed, modernized or converted with that assistance, a reasonable volume of services to persons unable to pay for services. Many public hospitals provide significant amounts of free or low-cost health services to the poor, or are prohibited from charging for services. Currently, these facilities are required to implement administrative procedures that are either unnecessary or anomalous. The proposed changes will alleviate the administrative burden on these facilities.

Timetable:

Action	Date	FR Cite
NPRM	09/06/85	50 FR 36454
NPRM Comment Period End	11/05/85	50 FR 36454
Final Action	08/00/86	

Small Entity: No

Agency Contact: Stan Bastacky, Acting Legislative Officer, Department of Health and Human Services, Public Health Service, Office of Program Development, 5600 Fishers Lane, Rm. 17A-45, Rockville, MD 20857, 301 443-5460

RIN: 0905-AB75

675. ● HEALTH PROFESSIONS STUDENT LOAN (HPSL) PROGRAM: DEFERMENT REVISIONS

Significance: Agency Priority

Legal Authority: 42 USC 216; 42 USC 294m to 294q

CFR Citation: 42 CFR 57, Subpart C

Legal Deadline: Statutory, January 22, 1986. Within 90 days after the Act's enactment, the Secretary of HHS shall promulgate regulations to carry out Sec. 741(c)(2) of the Public Health Service Act. Although the regulations will not be published until after the legal deadline, no requests for new deferments are expected until after publication.

Abstract: This rule amends existing regulations governing the Health Professions Student Loan (HPSL) Program to include the revised deferment provisions enacted on October 22, 1985, as part of the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129).

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/30/86	

Small Entity: No

Agency Contact: Ms. Peggy Washburn, Chief, Program Devel. Br., DSA, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-4540

RIN: 0905-AC06

676. ● HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: DEFERMENT REVISIONS

Significance: Agency Priority

Legal Authority: 42 USC 216; 42 USC 294 to 294l

CFR Citation: 42 CFR 60

Legal Deadline: Statutory, January 22, 1986. Within 90 days after the Act's enactment, the Secretary of HHS shall promulgate regulations to carry out clause (ii) of Sec. 731(a)(2)(B) of the Public Health Service Act. Although the regulations will not be published until after the legal deadline, no requests for new deferments are expected until after publicati

Abstract: This rule amends existing regulations governing the Health Education Assistance Loan (HEAL) Program to include the revised deferment provisions enacted on October 22, 1985, as part of the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129).

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/30/86	

Small Entity: No

HHS—PHS — Final Rule Stage
Health Resources and Services Administration (HRSA)

Agency Contact: Ms. Peggy Washburn, Chief, Program Devel. Br., DSA, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-4540

RIN: 0905-AC07

677. ● GRANTS FOR VARIOUS HEALTH PROFESSIONS: INTERDISCIPLINARY TRAINING AND CURRICULUM DEVELOPMENT

Legal Authority: 42 USC 216; 42 USC 295g-8

CFR Citation: 42 CFR 57, Subpart NN

Legal Deadline: None

Abstract: These regulations would implement provisions of the Health Professions Training Assistance Act of 1985 (Pub.L. 99-129) to bring the existing regulations into compliance with the law.

Timetable:

Action	Date	FR Cite
Final Action	09/30/86	

Small Entity: No

Agency Contact: Mr. David B. Hoover, Acting Chief, Div. of Assoc. and Dental Health Professions, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-101, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-6853

RIN: 0905-AC08

678. ● HEALTH EDUCATION ASSISTANCE LOAN (HEAL) PROGRAM: PROVISIONS OF THE LAW (PUB. L. 99-129)

Significance: Agency Priority

Legal Authority: 42 USC 216; 42 USC 294 to 294l

CFR Citation: 42 CFR 60

Legal Deadline: None

Abstract: These regulations would implement provisions of the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129) to bring the existing regulations into compliance with the law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/86	

Small Entity: No

Agency Contact: Ms. Peggy Washburn, Chief, Program Devel. Br., DSA, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-4540

RIN: 0905-AC09

679. ● NURSING STUDENT LOAN (NSL) PROGRAM: PROVISIONS OF THE LAW (PUB. L. 99-92)

Significance: Agency Priority

Legal Authority: 42 USC 216; 42 USC 297a to 297h

CFR Citation: 42 CFR 57, Subpart D

Legal Deadline: None

Abstract: This regulation would implement the provisions of the Nursing Education Amendments of 1985 (Pub.L. 99-92) to bring the existing regulations into compliance with the law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/00/86	

Small Entity: No

Agency Contact: Ms. Peggy Washburn, Chief, Program Devel. Br., DSA, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-4540

RIN: 0905-AC10

680. ● GRANTS FOR GRADUATE PROGRAMS IN HEALTH ADMINISTRATION

Legal Authority: 42 USC 216; 42 USC 295h

CFR Citation: 42 CFR 58, Subpart A

Legal Deadline: None

Abstract: These regulations would implement provisions of the Health Professions Training Assistance Act of 1985 (Pub.L. 99-129) to bring the existing regulations into compliance with the law.

Timetable:

Action	Date	FR Cite
Final Action	07/00/86	

Small Entity: No

HHS—PHS

Final Rule Stage

Health Resources and Services Administration (HRSA)

Agency Contact: William S. Brooks, D.P.A., Chief, Public Health Professions Branch, DADHP, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-6757

RIN: 0905-AC12

681. ● HEALTH PROFESSIONS STUDENT LOAN (HPSL) PROGRAM: PROVISIONS OF THE LAW (PUB.L. 99-129)

Significance: Agency Priority

Legal Authority: 42 USC 216; 42 USC 294m to 294q

CFR Citation: 42 CFR 57, Subpart C

Legal Deadline: None

Abstract: These regulations would implement the provisions of the Health Professional Training Assistance Act of 1985 (Pub. L. 99-129) to bring the existing regulations into compliance with the law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/86	

Small Entity: No

Agency Contact: Ms. Peggy Washburn, Chief, Program Devel. Br., DSA, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-4540

RIN: 0905-AC13

682. ● CAPITATION GRANTS FOR SCHOOLS OF PUBLIC HEALTH

Legal Authority: 42 USC 216; 42 USC 295f

CFR Citation: 42 CFR 57, Subpart JJ

Legal Deadline: None

Abstract: These regulations would implement provisions of the Health Professions Training Assistance Act of 1985 (Pub.L. 99-129) to bring the existing regulations into compliance with the law.

Timetable:

Action	Date	FR Cite
Final Action	07/00/86	

Small Entity: No

Agency Contact: William S. Brooks, D.P.A., Chief, Public Health Prof. Branch DADHP, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-05, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-6757

RIN: 0905-AC14

683. ● ADVANCED NURSE EDUCATION PROGRAMS

Legal Authority: 42 USC 216; 42 USC 296l

CFR Citation: 42 CFR 57, Subpart Z

Legal Deadline: None

Abstract: This regulation would implement the provisions of the Nursing Education Amendments of 1985 (Pub. L. 99-92) and the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129) to bring the existing regulations into compliance with the law.

Timetable:

Action	Date	FR Cite
Final Action	09/00/86	

Small Entity: No

Agency Contact: Ms. Jo Eleanor Elliott, R.N., M.A., Director, Division of Nursing, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 5C-26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-5786

RIN: 0905-AC16

684. ● EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS

Legal Authority: 42 USC 216; 42 USC 295g-7

CFR Citation: 42 CFR 57, Subpart S

Legal Deadline: None

Abstract: These regulations would implement provisions of the Health Professions Training Assistance Act of 1985 (Pub.L. 99-129) to bring the existing regulations into compliance with the law.

Timetable:

Action	Date	FR Cite
Final Action	09/00/86	

Small Entity: No

Agency Contact: Clay E. Simpson, Jr., Ph.D., Director, Division of Disadvantaged Assistance, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8A-09, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-2100

RIN: 0905-AC17

685. ● NURSING SPECIAL PROJECT GRANTS

Legal Authority: 42 USC 216; 42 USC 296k

CFR Citation: 42 CFR 57, Subpart T

Legal Deadline: None

Abstract: This regulation would implement the provisions of the Nursing Education Amendments of 1985 (Pub. L. 99-92) and the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129) to bring the existing regulations into compliance with the law.

Timetable:

Action	Date	FR Cite
Final Action	09/00/86	

Small Entity: No

Agency Contact: Ms. Jo Eleanor Elliott, R.N., M.A., Director, Division of Nursing, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 5C-26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-5786

RIN: 0905-AC18

686. ● STIPENDS FOR DISADVANTAGED HEALTH PROFESSIONS STUDENTS

Significance: Agency Priority

Legal Authority: 42 USC 216; 42 USC 295g-7; 42 USC 294z

CFR Citation: 42 CFR 57, Subpart S

Legal Deadline: None

Abstract: These regulations would implement a new authority under section 787(a)(2)(F) of the Public Health Service Act, added by the Health Professions Training Assistance Act of 1985 (Pub..L. 99-129) for stipends for disadvantaged individuals for any period of health professions education at a school of medicine, osteopathy, or dentistry.

HHS—PHS

Final Rule Stage

Health Resources and Services Administration (HRSA)

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/86	

Small Entity: No

Agency Contact: Ms. Peggy Washburn, Chief, Program Devel. Br., DSA, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8-48, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-4540

RIN: 0905-AC19

687. ● GRANTS FOR RESIDENCY TRAINING IN THE GENERAL PRACTICE OF DENTISTRY

Legal Authority: 42 USC 216; 42 USC 295g-6(b)

CFR Citation: 42 CFR 57, Subpart L

Legal Deadline: None

Abstract: These regulations would implement provisions of the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129) to bring the existing regulations into compliance with the law.

Timetable:

Action	Date	FR Cite
Final Action	07/00/86	

Small Entity: No

Agency Contact: Richard Weaver, D.D.S., Chief, Dental Health Branch, DADHP, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 8C-15, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-6837

RIN: 0905-AC20

688. ● AREA HEALTH EDUCATION CENTERS (AHEC)

Legal Authority: 42 USC 216; 42 USC 295g-1

CFR Citation: 42 CFR 57, Subpart MM

Legal Deadline: None

Abstract: These regulations would implement provisions of the Health Professions Training Assistance Act of 1985 (Pub.L. 99-129) to bring the existing regulations into compliance with the law.

Timetable:

Action	Date	FR Cite
Final Action	09/00/86	

Small Entity: No

Agency Contact: Daniel N. Mosica, M.D., Director, Division of Medicine, BHPr, Department of Health and Human Services, Health Resources and Services Administration, Room 4C-25, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, 301 443-6190

RIN: 0905-AC22

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)

Completed Actions

Health Resources and Services Administration (HRSA)

689. GRANTS FOR MATERNAL AND CHILD HEALTH SERVICES FEDERAL SET-ASIDE PROGRAM

CFR Citation: 42 CFR 51c; 42 CFR 51d; 42 CFR 51f

Completed:

Reason	Date	FR Cite
Final Action	03/05/86	51 FR 07726

Small Entity: No

Agency Contact: James J. Corrigan 301 443-2380

RIN: 0905-AA61

690. NURSING STUDENT LOAN PROGRAM (NSL); DEBT MANAGEMENT: DELINQUENCY RATES

Significance: Regulatory Program

CFR Citation: 42 CFR 57, Subpart D

Completed:

Reason	Date	FR Cite
Final Action	09/23/85	50 FR 34428
Final Action Effective	09/23/85	

Small Entity: No

Agency Contact: Ms. Peggy Washburn 301 443-4540

RIN: 0905-AB60

691. GRANTS FOR HOSPITAL CONSTRUCTION AND MODERNIZATION FEDERAL RIGHT OF RECOVERY AND WAIVER OF RECOVERY

Significance: Regulatory Program

CFR Citation: 42 CFR 53, Subpart M

Completed:

Reason	Date	FR Cite
Final Action	09/23/85	50 FR 34426

Small Entity: No

Agency Contact: Stan Bastecky 301 443-5400

RIN: 0905-AB61

[FR Doc. 86-8772 Filed 04-18-86; 8:45 am]

BILLING CODE 4160-04-T

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)

Proposed Rule Stage

National Institutes of Health (NIH)

692. MISCONDUCT IN SCIENCE

Significance: Regulatory Program

Legal Authority: 42 USC 241; 42 USC 289b

CFR Citation: 42 CFR 50

Legal Deadline: None

Abstract: Recipients of Public Health Service research and research training funds do not presently have sufficient guidance regarding their responsibility to investigate and report possible misconduct in PHS-funded research or research training. While many institutions have voluntarily established procedures for dealing with misconduct in science, they are not required to do so and in many recent instances the

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HHS—PHS

Proposed Rule Stage

National Institutes of Health (NIH)

lack of defined procedures has delayed or compromised awardees' investigations. Institutional policies regarding reports to funding agencies vary considerably. The proposed regulation will define the point at which funding agencies are notified and will require awardees to develop procedures for dealing with misconduct in science. Section 493 of the PHS Act requires that the HHS Secretary issue regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	11/00/86	

Small Entity: No

Agency Contact: William F. Raub, Ph.D, Dep. Dir. for Extramural Rsch. & Training, Department of Health and Human Services, Public Health Service, National Inst. of Health, Bldg. 1, Rm: 107, 9000 Rockville Pike, Bethesda, MD 20892, 301 496-1966

RIN: 0905-AB91

693. ● CHANGES IN NIH PROGRAM REGULATIONS NECESSITATED BY THE PROVISIONS OF THE HEALTH RESEARCH EXTENSION ACT OF 1985 (P.L. 99-158)

Legal Authority: PL 99-158, Sec 2

CFR Citation: 42 CFR 4; 42 CFR 52 to 52h; 42 CFR 59a; 42 CFR 64; 42 CFR 66

Legal Deadline: None

Abstract: The regulations of the National Institutes of Health will be revised to show changed section numbers in the PHS Act and reflect program changes under the Health Research Extension Act of 1985 (P.L. 99-158).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Agency Contact: Lowell D. Peart, NIH Regulations Officer, Department of Health and Human Services, National Institutes of Health, 9000 Rockville Pike, 31/3B03, Bethesda, MD 20892, 301 496-4606

RIN: 0905-AC02

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)

Final Rule Stage

National Institutes of Health (NIH)

694. NATIONAL LIBRARY OF MEDICINE PROGRAMS. REVISION OF GENERAL RULES FOR THE NATIONAL LIBRARY OF MEDICINE AND NATIONAL LIBRARY OF MEDICINE GRANTS

Legal Authority: 42 USC 216; 42 USC 286; 42 USC 286b-2; 42 USC 286b-3; 42 USC 286b-5; 42 USC 286b-6

CFR Citation: 42 CFR 4; 42 CFR 59a; 42 CFR 63; 42 CFR 64

Legal Deadline: None

Abstract: All of the regulations are being substantially clarified and reduced in size by eliminating out of date or otherwise available information. The regulations at 42 CFR Part 4 pertain to the access of facilities and library collections. Those at 42 CFR Part 59a deal with NLM extramural programs. Part 59a is being amended to remove the requirement that photocopies of biomedical material be provided without charge to users. The regulations at 42 CFR Part 63 deal with both NIH and NLM traineeships. Part 63 is proposed to be deleted because NIH no longer has general traineeship authority and the sole remaining NLM program is unfunded. The regulations at 42 CFR Part 64 govern the training grants of NIH and NLM.

Timetable:

Action	Date	FR Cite
NPRM	02/11/85	50 FR 05638
Final Action	05/00/86	

Small Entity: No

Agency Contact: Kenneth Carney, Executive Officer, Department of Health and Human Services, Public Health Service, National Library of Medicine, Bethesda, MD 20894, 301 496-6491

RIN: 0905-AA66

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Public Health Service (PHS)

Completed Actions

National Institutes of Health (NIH)

695. NATIONAL INSTITUTES OF HEALTH CENTER GRANTS 42 CFR 52A

CFR Citation: 42 CFR 52a

Completed:

Reason	Date	FR Cite
Final Action	12/04/85	50 FR 49692
Final Action Effective	12/04/85	50 FR 49692

Small Entity: No

Agency Contact: Lowell D. Peart 301 496-4606

RIN: 0905-AA68

[FR Doc. 86-8772 Filed 04-18-86; 8:45 am]

BILLING CODE 4160-04-T

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Health Care Financing Administration (HCFA)

Proposed Rule Stage

698. AMENDING COST REPORTS AND REOPENING INTERMEDIARY PAYMENT DETERMINATIONS AND ADMINISTRATIVE REVIEW DECISIONS

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g; 42 USC 1395l; 42 USC 1395x(v); 42 USC 1395hh; 42 USC 1395rr; 42 USC 1395ww; 42 USC 1395aa; 42 USC 405; 42 USC 1395i; 42 USC 1395oo

CFR Citation: 42 CFR 405.453; 42 CFR 405.1833; 42 CFR 405.1885; 42 CFR 405.1887; 42 CFR 405.1803(b); 42 CFR 405.1811(a); 42 CFR 405.1813; 42 CFR 405.1837(b); 42 CFR 405.1841; 42 CFR 405.1863; 42 CFR 405.1877; 42 CFR 405.1889

Legal Deadline: None

Abstract: This proposal would establish rules to govern and distinguish between the amending of cost reports and the reopening of Medicare intermediary payment determinations and administrative review decisions. This proposal would provide guidance to intermediaries and the Provider Reimbursement Review Board concerning the circumstances under which those actions may be taken.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Harold Fishman, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medicare Eligibility Policy, Room 448 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9077

RIN: 0938-AA33

697. MEDICAID ELIGIBILITY

Legal Authority: PL 97-248, Sec 137(b); PL 98-369, Sec 2373; PL 97-35, Sec 2171; PL 97-35, Sec 2172

CFR Citation: 42 CFR 435; 42 CFR 436

Legal Deadline: None

Abstract: This regulation would implement changes with respect to Medicaid eligibility groups and coverage criteria made by the Tax Equity and Fiscal Responsibility Act of 1982 (TEFRA) and the Deficit Reduction Act of 1984 (PL 98-369). Most of these changes affect the provisions of September 30, 1981 regulations concerning Medicaid eligibility for the medically needy, published as a result of the Omnibus Budget Reconciliation Act of 1981. The regulations would also respond to public comments received on the September 30 regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Marlene Svoles, Division Director, Department of Health and Human Services, Health Care Financing Administration, Div of Medicaid Eligibility, Room 416, East High Rise Bldg, 6325 Security Blvd, Baltimore, MD 21207, 301 594-9050

RIN: 0938-AA58

696. MMIS: DEFINITION OF "MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL SYSTEM" AND OF "INFORMATION"

Legal Authority: 42 USC 1302; 42 USC 1396b

CFR Citation: 42 CFR 433.111

Legal Deadline: None

Abstract: This rule would change the definitions of "improvement" and of "mechanized claims processing and information retrieval systems" to clarify under what circumstances we will pay Federal financial participation at a percentage higher than 50 percent for a Medicaid Management Information System.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Additional Information: TITLE CONT: Retrieval System.

Agency Contact: William Grant, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Methods & Systems Requirements, 2-A-1 Meadows East, 6325 Security Blvd., Baltimore, MD 21207, 301 594-7847

RIN: 0938-AA87

699. BENEFIT PERIOD DETERMINATIONS AND DRUG REGIMEN REVIEWS

Legal Authority: 42 USC 1302; 42 USC 1395d; 42 USC 1395x; 42 USC 1395hh; 42 USC 1396d

CFR Citation: 42 CFR 405.1127(a); 42 CFR 409.60; 42 CFR 442.339(a); 42 CFR 405.704

Legal Deadline: None

Abstract: This regulation would amend current regulations regarding Medicare spell of illness to create a distinction between "inpatient" and "resident" for purposes of determining whether a patient is an inpatient of an SNF. This regulation also would propose that either an RN or a pharmacist could perform drug regimen reviews in SNFs or ICFs.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Thomas Hoyer, Director, Division of Provider Services, Department of Health and Human Services, Health Care Financing Administration, Room 405 East High Rise, 6325 Security Boulevard, Baltimore, MD 21207, 301 594-9448

RIN: 0938-AB03

700. MISCELLANEOUS MEDICARE AND MEDICAID AMENDMENTS

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 416; 42 CFR 409; 42 CFR 441

Legal Deadline: None

Abstract: These rules amend existing Medicare and Medicaid regulations to conform them to statutory and policy changes that have occurred since those regulations were last published. The pertinent statutory changes are primarily those contained in the Omnibus Reconciliation Act of 1980 (P.L. 96-499) and the Departments of Labor, Health and Human Services, Education, and Related Agencies Appropriations Act of 1985 (P.L. 98-619).

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

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Agency Contact: Luisa Iglesias, Technical Assistant, Department of Health and Human Services, Health Care Financing Administration, BERC Regulations Staff, Rm. 4230 North, 300 Independence Ave., SW, Washington, DC 20201, 202 245-6363

RIN: 0938-AB06

701. CHANGES TO THE LESSER OF COSTS OR CHARGES PROVISIONS

Significance: Regulatory Program

Legal Authority: 42 USC 1395f(b); 42 USC 1395l(a); PL 98-369, Sec 2308; PL 98-369, Sec 2321

CFR Citation: 42 CFR 405.455

Legal Deadline: None

Abstract: This regulation would eliminate application of the lesser of costs or charges aggregation method for determining payment for services furnished under Part A or Part B of Medicare effective with cost reporting periods beginning on or after October 1, 1984 (section 2308(a) of P.L. 98-369). We would eliminate the accumulation and carryover of unreimbursed costs to subsequent cost reporting periods applicable with cost reporting periods beginning on or after the effective date of the final rule. We would revise the nominal charge provisions for providers that furnish services either free of charge or at a nominal charge in accordance with section 2308(b) of P.L. 98-369. We would also revise the payment provisions for durable medical equipment furnished by home health agencies effective on or after July 18, 1984.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	02/00/87	

Small Entity: Yes

Agency Contact: William Goeller, Division Director, ORP, Department of Health and Human Services, Health Care Financing Administration, Room 1-F-5 East Low Rise, 6325 Security Boulevard, Baltimore, MD 21207, 301 597-1363

RIN: 0938-AB29

702. PAYMENT FOR CLINICAL DIAGNOSTIC LABORATORY SERVICES

Legal Authority: PL 98-369, Sec 2303

CFR Citation: 42 CFR 405.439; 42 CFR 405.501; 42 CFR 405.502; 42 CFR 405.505; 42 CFR 405.511; 42 CFR 405.516; 42 CFR 405.1672; 42 CFR 405.1675; 42 CFR 405.1684; 42 CFR 431.54; 42 CFR 447.10; 42 CFR 447.300; 42 CFR 447.321; 42 CFR 447.342

Legal Deadline: None

Abstract: These regulations would implement provisions of Pub.L. 98-369 relating to payment and "assignment" for diagnostic laboratory tests.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Bernard Pateshnik, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medical Services Reimbursement, Room 1-A-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1334

RIN: 0938-AB50

703. WAIVER OF CERTAIN MEMBERSHIP REQUIREMENTS FOR CERTAIN HEALTH MAINTENANCE ORGANIZATIONS (HMOS) AND STATE OPTION FOR DISENROLLMENT RESTRICTIONS FOR CERTAIN HMOS UNDER MEDICAID

Legal Authority: 42 USC 1903(m)

CFR Citation: 42 CFR 434.26; 42 CFR 434.27; 42 CFR 434.20

Legal Deadline: None

Abstract: These regulations would implement certain provisions of section 2364 of the Deficit Reduction Act of 1984 as those provisions affect HMOs and CMPs in the Medicaid Program.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Agency Contact: Robert E. Wren, Office Director, Department of Health and Human Services, Health Care Financing Administration, Office of Coverage Policy, Room 401 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9059

RIN: 0938-AB54

704. PHYSICIAN CERTIFICATION AND PLAN OF CARE REQUIREMENTS AND INSPECTION OF CARE REVIEWS

Legal Authority: 42 USC 1302; PL 98-369, Sec 2363 and 2366

CFR Citation: 42 CFR 440; 42 CFR 441; 42 CFR 456

Legal Deadline: None

Abstract: These rules would implement Sections 2363 and 2366 of the Deficit Reduction Act of 1984. The rules would make the requirements for physician certification and development of a plan of care (formerly utilization control requirements) State plan requirements. States would no longer be required to make the quarterly showings of compliance for those requirements or for utilization review. A quarterly demonstration to the Secretary of a satisfactory utilization control program would be limited to inspections of care in participating mental hospitals, skilled nursing facilities and intermediate care facilities, including intermediate care facilities for the mentally retarded.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: Yes

Agency Contact: Thomas E. Hoyer, Division Director, Department of Health and Human Services, Health Care Financing Administration, Div. of Provider Services & Coverage Pol., Room 405 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9448

RIN: 0938-AB55

705. MEDICARE: HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS: COORDINATED OPEN ENROLLMENT

Significance: Agency Priority

Legal Authority: 42 USC 1395mm

CFR Citation: 42 CFR 417

Legal Deadline: None

Abstract: These regulations would implement section 2350 of Pub. L. 98-369 by requiring that HMOs and CMPs hold coordinated open enrollment periods in geographic areas that encompass two or more organizations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Stanley Katz, Division Director, Department of Health and Human Services, Health Care Financing Administration, Div. of Medical Services Coverage Policy, Room 489 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-8561

RIN: 0938-AB57

706. HOSPICE "CORE" SERVICES; NURSING

Legal Authority: PL 98-369, Sec 2343

CFR Citation: 42 CFR 418.80; 42 CFR 418.83

Legal Deadline: None

Abstract: This regulation would implement provisions of PL 98-369 relating to hospices contracting for "core services." PL 97-248, the Tax Equity and Fiscal Responsibility Act of 1982, authorized time limited Medicare Part A coverage for hospice services. The law specifies that a hospice must routinely provide the following "core services" directly: nursing care, medical social services, physician's services, and counseling services. This regulation would permit the Secretary to waive the nursing care "core services" requirement for hospices which are located in rural areas, which were in operation on or before January 1, 1983, and which have demonstrated a good faith effort to hire their own nurses.

Timetable:

Action	Date	FR Cite
NPRM	03/03/86	51 FR 7292
Final Action	00/00/00	

Small Entity: No

Agency Contact: Thomas Hoyer, Division Director, Department of Health and Human Services, Health Care Financing Administration, Div. of Provider Services & Coverage Pol., Room 405 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9448

RIN: 0938-AB58

707. INDIRECT PART B PAYMENT PROCEDURE

Legal Authority: 42 USC 1395u

CFR Citation: 42 CFR 405.1672; 42 CFR 405.1679; 42 CFR 405.1685; 42 CFR 405.1686

Legal Deadline: None

Abstract: This proposed regulation would implement provisions of Pub.L. 98-369 that allow payment for services furnished under Part B of Medicare to be made to a health benefits plan.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Harold Fishman, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medicare Eligibility, Room 448 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9077

RIN: 0938-AB59

708. HOSPITAL INSURANCE ENTITLEMENT AND SUPPLEMENTARY MEDICAL INSURANCE ENROLLMENT, ENTITLEMENT, AND PREMIUMS

Legal Authority: 26 USC 3121; 42 USC 415; 42 USC 417; 42 USC 426; 42 USC 433; 42 USC 602; 42 USC 606; 42 USC 614; 42 USC 1382; 42 USC 1395c; 42 USC 1395p; 42 USC 1395q; 42 USC 1395r; 42 USC 1395v; 42 USC 1395w; ...

CFR Citation: 42 CFR 405; 42 CFR 410; 42 CFR 408

Legal Deadline: None

Abstract: This regulation would revise the Medicare rules that deal with hospital insurance entitlement and with supplementary medical insurance (SMI) enrollment, entitlement and premiums, as required by amendments to the Social Security Act. It would also revise Medicaid rules that deal with State buy-in agreements, under which States secure SMI benefits for certain Medicaid-eligible individuals, by paying their SMI premiums.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Harold Fishman, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medicare Eligibility Policy, Room 448 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9077

RIN: 0938-AB60

709. PAYMENT FOR THE SERVICES OF PHYSICIANS FURNISHED IN TEACHING SETTINGS AND OTHER PROVIDERS

Legal Authority: 42 USC 1395u; 42 USC 1395x; 42 USC 1395xx

CFR Citation: 42 CFR 405.485; 42 CFR 405.486; 42 CFR 405.480; 42 CFR 405.481; 42 CFR 405.482; 42 CFR 405.522; 42 CFR 405.523; 42 CFR 405.524; 42 CFR 405.525; 42 CFR 405.550; 42 CFR 405.551; 42 CFR 405.552; 42 CFR 405.553; 42 CFR 405.554; 42 CFR 405.555; ...

Legal Deadline: None

Abstract: These regulations would implement provisions of P.L. 98-499 and P.L. 98-369. This legislation deals with certain problems that have arisen in the Medicare program with respect to payment for physicians who practice in the teaching setting. Specifically addressed by Congress is the problem of distinguishing between the services a physician furnishes to individual patients as a teaching provider and services furnished to the provider, as well as the method of reimbursement for these services. This proposed rule sets forth the conditions under which physicians in teaching settings would be reimbursed on a reasonable cost basis or, alternatively, on a reasonable charge basis. It also describes the methods used to determine the customary charges for the services of those physicians. This rule would also clarify related issues of physician reimbursement.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	

Small Entity: No

Agency Contact: Bernard Pateshnik, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medical Services Reimbursement, Room 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1334

RIN: 0938-AB61

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710. MEDICARE/MEDICAID REVALUATION OF ASSETS

Significance: Regulatory Program

Legal Authority: PL 99-509, Sec 2314; 42 USC 1395x

CFR Citation: 42 CFR 405.414; 42 CFR 405.415; 42 CFR 447.250; 42 CFR 447.252; 42 CFR 447.272

Legal Deadline: None

Abstract: This regulation would implement section 2314 of Pub.L. 99-509. Section 2314 of P.L. 99-509 imposes new limitations on the valuation of assets acquired as the result of changes in ownership occurring on or after July 18, 1984. These changes would affect hospitals and skilled nursing facilities under the Medicare program and hospitals, skilled nursing facilities, intermediate care facilities, and intermediate care facilities for the mentally retarded under the Medicaid program. These changes are intended to promote economy in the Medicare and Medicaid programs.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	02/00/87	

Small Entity: Undetermined

Agency Contact: Bruce Oliver, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Division of Audit and Payment Policy, Room 1-H-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9563

RIN: 0938-AB64

711. ESRD NETWORK AREA DESIGNATION PROCEDURES

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1395c; 42 USC 1395y(a); 42 USC 1395hh; 42 USC 1395kk; 42 USC 1395rr

CFR Citation: 42 CFR 405.2110

Legal Deadline: None

Abstract: This proposed rule would remove the requirement in current regulations that HCFA change designations of ESRD network areas through rulemaking, and would remove the list of currently designated network areas that now appears in the regulations. This proposal would also remove the criteria that define existing network areas. This amendment would increase the efficiency and effectiveness of the ESRD program by instituting a faster process for changing network area designations as programmatic needs arise.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	07/00/86	

Small Entity: Yes

Agency Contact: Spencer Colburn, Branch Chief, Department of Health and Human Services, Health Care Financing Administration, Division of Inst. & Ambulatory Services, Hospitals Br., Room 2-D-2 MB, 6300 Security Blvd., Baltimore, MD 21207, 301 594-3613

RIN: 0938-AB85

712. OMB REVIEW OF INFORMATION COLLECTION AND RECORDKEEPING REQUIREMENTS FOR HOME HEALTH AGENCIES, INDEPENDENT LABORATORIES, AND PROVIDERS OF OUTPATIENT, PHYSICAL THERAPY AND/OR (CONT)

Legal Authority: 42 USC 1302; 42 USC 1395x; 42 USC 1395z; 42 USC 1395y; 42 USC 1395gg; 42 USC 1395hh; 42 USC 1395x(e)(10) and (11); 42 USC 1395aa; 42 USC 1395x(p)

CFR Citation: 42 CFR 405.1221(e); 42 CFR 405.1221(f); 42 CFR 405.1221(g); 42 CFR 405.1221(j); 42 CFR 405.1223(b); 42 CFR 405.1229(a); 42 CFR 405.1315(f); 42 CFR 405.1316(f); 42 CFR 405.1720(b); 42 CFR 405.1721; 42 CFR 405.1224; 42 CFR 405.1228; 42 CFR 405.1225(a); 42 CFR 405.1226; 42 CFR 405.1314; ...

Legal Deadline: None

Abstract: The purpose of this proposed rule is to set forth changes in several regulations containing information collection requirements, and to obtain public comments on the proposed changes.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Additional Information: TITLE CONT: Speech Pathology Services

Agency Contact: Stefan Miller, Branch Chief, Department of Health and Human Services, Health Care Financing Administration, Laboratory and Ambulatory Services Branch, Room 309 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-6394

RIN: 0938-AB83

713. CLARIFICATION OF POLICY ON ADJUSTING THE HOSPITAL-SPECIFIC PORTION OF THE PROSPECTIVE PAYMENT RATE

Significance: Agency Priority

Legal Authority: 42 USC 1395ww

CFR Citation: 42 CFR 412.71; 42 CFR 412.72; 42 CFR 412.73; 42 CFR 412.128

Legal Deadline: None

Abstract: This proposed rule would clarify Medicare's policy on adjusting the hospital-specific portion of the prospective payment rate for inpatient hospital services as the result of adjustments to a hospital's target amount for events occurring in the year following its base year. It would clarify that exemptions, exceptions, or adjustments granted under section 1886(b)(4) of the Act or 42 CFR 405.460 or 405.463(a)-(h) for periods subsequent to the base year have no effect on the hospital-specific portion of the prospective payment rate. It would also clarify the PPS regulations governing administrative and judicial review of payment amounts. In particular, the rule would clarify the effect of successful appeals of base year costs on the hospital specific portion of the prospective rate.

Timetable:

Action	Date	FR Cite
NPRM	03/10/86	51 FR 8206
Final Action	09/00/86	

Small Entity: No

Agency Contact: Edward Rees, Branch Chief, Department of Health and Human Services, Health Care Financing Administration, Payment Determination Policy Branch, DHPP, R. 1-H-1 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-6463

RIN: 0938-AB71

714. PAYMENT ADJUSTMENTS FOR SOLE COMMUNITY HOSPITALS

Significance: Agency Priority

Legal Authority: 42 USC 1395ww(d)

CFR Citation: 42 CFR 412.72; 42 CFR 412.92

Legal Deadline: None

Abstract: This proposed rule would change Medicare prospective payment regulations for inpatient hospital services to allow for an adjustment of the hospital-specific portion of the prospective payment rate for sole community hospitals.

Timetable:

Action	Date	FR Cite
NPRM	03/10/86	51 FR 8211
Final Action	00/00/00	

Small Entity: No

Agency Contact: Charles Booth, Office Director, Department of Health and Human Services, Health Care Financing Administration, Office of Reimbursement Policy, Room 161 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9760

RIN: 0938-AB72

715. REVISION OF MEDICAID ELIGIBILITY QUALITY CONTROL (MEQC) PROGRAM REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 1396b

CFR Citation: 42 CFR 431.800 to 431.806; 42 CFR 431.810 to 431.822; 42 CFR 431.830 to 431.836; 42 CFR 431.901 to 431.904; 42 CFR 431.861 to 431.864

Legal Deadline: None

Abstract: Under current regulations, States are allowed to rebut their quarterly projected error rate with more recent MEQC data. However, this rebuttal process underestimates the true error rate. Therefore, we are considering a revision of the regulations to eliminate the rebuttal process. Further, amendments that we are proposing would clarify the basic operating MEQC program functions and modify other MEQC program elements. We also plan to revise the criteria under which States may make good faith waiver requests. Waiver requests submitted after final regulations are in place will be reviewed under the new criteria regardless of the error rate period for which the waiver is being requested. Waivers will not be permitted for periods for which waivers were requested under prior waiver criteria.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	10/00/86	

Small Entity: No

Agency Contact: Joyce Somsak, Director, Office of Quality Control Programs, Department of Health and Human Services, Health Care Financing Administration, Bureau of Quality Control Programs, 207-L ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1354

RIN: 0938-AB85

716. MEDICAID: IDENTIFICATION OF THIRD PARTY LIABILITY RESOURCES FOR MEDICAL ASSISTANCE

Significance: Regulatory Program

Legal Authority: 42 USC 1396a(25)

CFR Citation: 42 CFR 433.136; 42 CFR 431.305; 42 CFR 431.306

Legal Deadline: None

Abstract: These regulations would require that the agency at a minimum: (1) obtain certain health insurance information for applicants or recipients; (2) attempt to secure agreements to conduct data exchanges with certain State and Federal agencies; (3) conduct diagnosis and trauma code edits to identify third party resources; and (4) follow other specified procedures regarding followup, safeguarding information, and reporting and recordkeeping. The objectives are to improve State agency performance in the identification of third party resources and to assure the timely incorporation of this resource information into the third party claims payment processing system.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	09/00/86	

Small Entity: No

Agency Contact: Herb Shankroff, Branch Chief, Department of Health and Human Services, Health Care Financing Administration, Policies and Procedures Branch, 1-A-4 Meadows East Building, Baltimore, MD 21207, 301 594-8710

RIN: 0938-AB86

717. CONDITIONS OF PARTICIPATION FOR HOME HEALTH AGENCIES

Legal Authority: 42 USC 1302; 42 USC 1395x; 42 USC 1395hh

CFR Citation: 42 CFR 405.1201 to 405.1230; 42 CFR 484; 42 CFR 485

Legal Deadline: None

Abstract: The sophistication of HHA service delivery has increased since 1973, the year of the last major HHA regulatory revisions. We are unsure whether current Federal requirements will ensure that HHAs are capable of furnishing quality services to program beneficiaries and that these HHAs will continue to remain as viable providers of health care. Therefore, proposed amendments would upgrade and strengthen selected home health agency requirements for this purpose.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Yes

Agency Contact: Sheila A. Ryan, Division Director, Department of Health and Human Services, Health Care Financing Administration, Div. of Provider and Supplier Standards, Room 300 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-5775

RIN: 0938-AB93

718. REVISION OF MEDICAID DRUG REIMBURSEMENT REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 1396(b)(i)(1); 42 USC 1396a(a)(30)

CFR Citation: 45 CFR 19.1 to 19.6; 42 CFR 447.331 to 447.334

Legal Deadline: None

Abstract: A proposed rule is being developed which would revise the method for setting limits on Federal matching payments under Medicaid for drugs. Current reimbursement for prescription drugs is limited to the lowest of (1) the estimated acquisition cost plus a reasonable dispensing fee, (2) the usual and customary charge for the prescription, or (3) for certain drugs available from multiple sources, the maximum allowable cost plus a reasonable dispensing fee. The regulations have been reviewed to determine their effects.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	09/00/86	

Small Entity: Yes

Agency Contact: Judy Boggs, Special Assistant to AAP, Department of Health and Human Services, Health Care Financing Administration, Room 325H HHH Bldg., 200 Independence Ave., SW, Washington, DC 20201, 202 245-9322

RIN: 0938-AB07

719. MEDICARE RECOVERY AGAINST THIRD PARTIES AND MEDICARE SECONDARY PAYOR

Legal Authority: 42 USC 1302; 42 USC 1395y; 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 411; 42 CFR 489; 42 CFR 489

Legal Deadline: None

Abstract: This proposed rule would revise regulations to reflect recent statutory provisions regarding HCFA's right to bring an action directly against certain third parties or to join or intervene in an action against a third party. It would also place certain requirements on hospitals regarding the identification and billing of potential Medicare secondary payor cases. Additionally, it would include requirements regarding timely refunds to Medicare when collections have been made from another insurer. The proposal would also clarify rules for Medicare payment for services furnished to an end-stage renal disease (ESRD) patient who is also covered under an employer group health plan. And, it would update policies pertaining to Medicare payment for services covered under a workers' compensation law or plan.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Yes

Agency Contact: Herbert Pollock, Branch Chief, Department of Health and Human Services, Health Care Financing Administration, Medicare Claims Payment Policy Branch, Rm. 474 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-5978

RIN: 0938-AC05

720. MISCELLANEOUS CONFORMING AMENDMENTS

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 406; 42 CFR 408; 42 CFR 409; 42 CFR 410; 42 CFR 431; 42 CFR 432; 42 CFR 435; 42 CFR 474; 42 CFR 489

Legal Deadline: None

Abstract: These rules conform certain regulations (primarily pertaining to Medicare) with statutory changes enacted since those rules were last published. They also clarify, correct, and redesignate some of the rules that are being conformed.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Lulee V. Iglesias, Technical Assistant, Department of Health and Human Services, Health Care Financing Administration, BERC, Regulations Staff, Room 4230 North, 300 Independence Ave., SW, Washington, DC 20201, 202 245-8668

RIN: 0938-AC06

721. MEDICARE COVERAGE OF HEPATITIS B VACCINE FOR HIGH AND INTERMEDIATE RISK INDIVIDUALS, HEMOPHILIA CLOTTING AND CERTAIN X-RAY SERVICES

Legal Authority: 42 USC 1302; 42 USC 1395l to 1395v; 42 USC 1395x; 42 USC 1395y; 42 USC 1395cc; 42 USC 1395hh; 42 USC 1395g; 42 USC 1395l; 42 USC 1395u; 42 USC 1395gg; 42 USC 1395pp

CFR Citation: 42 CFR 405.231(r); 42 CFR 405.232(b), (c); 42 CFR 405.310(e), (k)

Legal Deadline: None

Abstract: This proposed rule would implement section 2323 of P.L. 98-369 which provides Medicare coverage for hepatitis B vaccine for those individuals who are eligible for Medicare and at high or intermediate risk of contracting hepatitis B. It would implement section 2324 of P.L. 98-369 that provides coverage for the self-administration of hemophilia clotting factors and the items necessary for their administration to Medicare eligibles. The proposed rule would solicit public comments on our definition of those individuals who are at high or intermediate risk of contracting hepatitis B. The proposal would also clarify Medicare coverage of certain x-ray services.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Joyce Eng, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Office of Coverage Policy, Rm. 463 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-6318

RIN: 0938-AC07

722. ● CHANGES TO THE INPATIENT HOSPITAL PROSPECTIVE PAYMENT SYSTEM AND FISCAL YEAR 1987 RATES

Significance: Regulatory Program

Legal Authority: 42 USC 1395ww

CFR Citation: 42 CFR 412

Legal Deadline: Statutory, June 1, 1986. 42 USC 1395ww(e)(5)(A) requires publication of proposed rule by June 1 and a final rule by September 1.

Abstract: This proposed rule will solicit public comments on various revisions to the inpatient hospital prospective payment system. It will also include proposed changes in the methods, amounts, and factors used to determine the prospective payment rates applicable to discharges occurring during FY 1987.

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	
Final Action	09/01/86	
Final Action Effective	10/01/86	

Small Entity: Yes

Agency Contact: Charles Booth, Office Director, Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, 121 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 594-8769

RIN: 0938-AC11

723. ● REFINEMENT OF REASONABLE CHARGE METHODOLOGY

Significance: Regulatory Program

Legal Authority: 42 USC 1395l; 42 USC 1395u; 42 USC 1395zz

CFR Citation: 42 CFR 405.500 to 405.544

Legal Deadline: None

Abstract: This proposed rule would solicit public comments on revisions to the regulations that govern the determination of the reasonable charges that Medicare pays for physicians' services and other medical and health services under its supplementary medical insurance program.

Timetable:

Action	Date	FR Cite
Proposed Notice	05/00/86	
Final Action	09/00/86	

Small Entity: Yes

Agency Contact: Bernard Patashnik, Division Director, Division of Medical Services Reimbursement, Department of Health and Human Services, Health Care Financing Administration, Room 1-H-5 East Low Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1334

RIN: 0938-AC14

724. ● SCHEDULE OF LIMITS ON HOME HEALTH AGENCY COSTS PER VISIT FOR COST REPORTING PERIODS BEGINNING ON OR AFTER JULY 1, 1986 BUT BEFORE JULY 1, 1987

Significance: Regulatory Program

Legal Authority: 42 USC 1395x(v)(1)

CFR Citation: 42 CFR 405.460

Legal Deadline: None

Abstract: This notice sets forth a schedule of limits on Home Health Agency (HHA) costs that may be reimbursed under the Medicare program. The limits in this notice apply to HHA costs for entire cost reporting periods beginning on or after July 1, 1986 but before July 1, 1987.

Timetable:

Action	Date	FR Cite
NPRM	03/25/86	
Final Notice	06/01/86	

Small Entity: Yes

Agency Contact: Steven R. Kirsh, Branch Chief, Division of Payment Policy, Department of Health and Human Services, Health Care Financing Administration, 1-A-1 East Low Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9465

RIN: 0938-AC15

725. ● LOWEST CHARGE LEVELS (LCL) FOR MEDICAL SERVICES, SUPPLIES AND EQUIPMENT

Significance: Regulatory Program

Legal Authority: 42 USC 1395u

CFR Citation: 42 CFR 405.511

Legal Deadline: None

Abstract: Medicare Part B payments for medical services, supplies, and equipment that do not generally vary significantly in quality from one supplier to another must be based on a reasonable charge that does not exceed the lowest charge level (LCL) at which the items or services are widely and consistently available in a locality. This notice would identify supplies, services or equipment that do not vary widely in quality and propose that the reasonable charge for these items and services be set at the LCL. At the present time the LCL applies only to wheelchairs and hospital beds and our experience indicates that additional items and services should be included to control Part B payments for such greatly similar items and services.

Timetable:

Action	Date	FR Cite
Proposed Notice	06/00/86	
Final Action	09/01/86	
Final Action Effective	10/01/86	

Small Entity: Yes

Agency Contact: Bernard Patashnik, Director, Division of Med. Svcs. Reimb., Department of Health and Human Services, Health Care Financing Administration, 1-H-5 East Low Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1334

RIN: 0938-AC16

726. ● END STAGE RENAL DISEASE PROGRAM: COMPOSITE RATE UPDATE

Significance: Regulatory Program

Legal Authority: 42 USC 1395rr

CFR Citation: 42 CFR 405.439

Legal Deadline: None

Abstract: Current Medicare regulations governing reimbursement under the ESRD program for facilities' outpatient maintenance dialysis services provide for periodic review of the composite rate and updates when the Secretary determines it is necessary. The regulations also prescribe the Medicare allowable and reasonable cost principles that are considered in setting the composite rate and updates. This proposed notice would solicit public comments on establishment of revised rates based on use of more recent audited cost data and would consider refinements to the payment methodology.

Timetable:

Action	Date	FR Cite
Proposed Notice	04/00/86	
Final Action	07/00/86	
Final Action Effective	08/01/86	

Small Entity: Yes

Agency Contact: Bernadette Schumacher, Director, Division of Dialysis and Transplant Payment Policy, Department of Health and Human Services, Health Care Financing Administration, 1-A-5 East Low Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1397

RIN: 0938-AC17

727. ● MONTHLY CAPITATION PAYMENT FOR PHYSICIANS OUTPATIENT DIALYSIS SERVICES

Significance: Regulatory Program

Legal Authority: 42 USC 1395rr

CFR Citation: 42 CFR 405.542

Legal Deadline: None

Abstract: This proposed notice would update the home/facility physician treatment capability ratio used to determine the monthly capitation payment for physician services furnished to outpatient maintenance dialysis patients. The current ratio is 10:7, or about 1.4 to 1. Recent data show that a change in this ratio is warranted. Physicians are capable, in a given period, of caring for more home dialysis patients than are reflected in the current home/facility ratio.

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Timetable:

Action	Date	FR Cite
Proposed Notice	04/00/86	
Final Action	07/00/86	
Final Action Effective	08/01/86	

Small Entity: Yes

Agency Contact: Robert Niemann, Program Analyst, Div. of Dialysis & Transplant Policy, BERC, Department of Health and Human Services, Health Care Financing Administration, 1-A-5 East Low Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1819

RIN: 0938-AC18

726. ● SECOND SURGICAL OPINION REQUIREMENT FOR MEDICAID RECIPIENTS

Significance: Regulatory Program

Legal Authority: 42 USC 1396a; 42 USC 1396(a)(4); 42 USC 1396(a)(19); 42 USC 1396(a)(30)

CFR Citation: 42 CFR 431

Legal Deadline: None

Abstract: This proposed rule would impose a Federal requirement that each State's Medicaid plan include a program for requiring second surgical opinions for certain procedures. Medicaid payment for these procedures would be denied if the recipient did not obtain a second opinion and exceptions or waivers of the requirement did not apply. Studies have shown that mandatory second opinion programs applicable to the Medicaid population result in substantial cost savings with no direct effect on the health outcomes of patients. A number of States have already voluntarily adopted such a program, and both cost savings and more efficient program administration would result from broadening it to a Federal requirement.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	09/00/86	
Final Action Effective	10/01/86	

Small Entity: Undetermined

Agency Contact: Thomas Hoyer, Director, Div. of Provider Svcs. Coverage Policy, Department of Health and Human Services, Health Care Financing Administration, 405 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9446

RIN: 0938-AC19

729. ● ASSIGNMENT AND REASSIGNMENT OF PROVIDER-BASED HOME HEALTH AGENCIES AND HOSPICES TO DESIGNATED REGIONAL INTERMEDIARIES

Significance: Regulatory Program

Legal Authority: 42 USC 1395h; 42 USC 1395(e)(4); 42 USC 1395(e)(5)

CFR Citation: 42 CFR 421.3; 42 CFR 421.117; 42 CFR 421.128

Legal Deadline: None

Abstract: This regulation would require all home health agencies and hospices to be served by designated regional intermediaries, instead of permitting provider-based HHAs and hospices to use the intermediaries their parent providers use. This would reduce the number of intermediaries serving the HHAs and hospices, thus resulting in more consistent payment determinations and more effective and efficient administration.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	03/00/87	

Small Entity: No

Agency Contact: Toba Winston, Branch Chief, Contract Policy Branch, Department of Health and Human Services, Health Care Financing Administration, Room 334 Meadows East Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 594-0471

RIN: 0938-AC20

730. ● REVIEW OF INFORMATION COLLECTION AND RECORDKEEPING REQUIREMENTS FOR SUPPLIERS OF END-STAGE RENAL DISEASE SERVICES

Legal Authority: 42 USC 1302; 42 USC 1395rr

CFR Citation: 42 CFR 405.2111; 42 CFR 405.2112; 42 CFR 405.2113(a); 42 CFR 405.2113(f); 42 CFR 405.2114; 42 CFR 405.2123; 42 CFR 405.2134; 42 CFR 405.2135; 42 CFR 405.2136; 42 CFR 405.2136(b); 42 CFR 405.2136(c); 42 CFR 405.2136(d); 42 CFR 405.2136(e); 42 CFR 405.2136(f); 42 CFR 405.2136(g); ...

Legal Deadline: None

Abstract: The purpose of this proposed rule is to propose changes in several regulations containing information collection requirements for suppliers of End-Stage Renal Diseases services. The changes would remove requirements found to be overly prescriptive.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: John Powell, Program Analyst, Hospital Service Branch, Department of Health and Human Services, Health Care Financing Administration, Div. of Provider and Supplier Standards, Room 300 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-9565

RIN: 0938-AC26

731. ● CHANGES IN MEDICARE PAYMENTS FOR DIRECT MEDICAL EDUCATION COSTS

Significance: Regulatory Program

Legal Authority: 42 USC 1395x(v)(1)(A); 42 USC 1395x(b); 42 USC 1395k(a)(2)(B)

CFR Citation: 42 CFR 405.421; 42 CFR 412.113

Legal Deadline: None

Abstract: This regulation proposes changes to the Medicare Policy concerning reimbursement for direct medical education costs. These changes are necessary to update the current limitations on these costs imposed on providers for cost reporting periods beginning on or after July 1, 1985, but before July 1, 1988, and to limit Medicare payment to necessary medical education costs.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
Final Action	06/00/86	

Small Entity: Yes

Agency Contact: Paul Hotale, Chief, Payment Limitation & Exclusions Br., Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, 1-H-1 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1755

RIN: 0938-AC27

732. ● FIRE SAFETY STANDARDS FOR HOSPITALS, SKILLED NURSING FACILITIES, INTERMEDIATE CARE FACILITIES AND AMBULATORY SURGICAL CENTERS

Significance: Agency Priority

Legal Authority: 42 USC 1395x(e)(9); 42 USC 1395x(j)(13); 42 USC 1395k(a)(2)(F)(i); 42 USC 1396d(e); 42 USC 1396d(d); 42 USC 1302

CFR Citation: 42 CFR 405.1022(b)(1); 42 CFR 405.1134(a); 42 CFR 416.44(b); 42 CFR 442.321(a); 42 CFR 442.321(c); 42 CFR 442.322; 42 CFR 442.323

Legal Deadline: None

Abstract: This proposed rule would solicit comments on amending the fire safety standards for hospitals, skilled nursing facilities, intermediate care facilities and ambulatory surgical centers to incorporate by reference the 1985 edition of the Life Safety Code of the National Fire Protection Association.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Samuel Kidder, Chief, Long Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, 300 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 597-5866

RIN: 0938-AC28

733. ● COST LIMITS FOR HOSPITAL MEDICARE PART B CLINICAL LABORATORY SERVICES

Significance: Regulatory Program

Legal Authority: 42 USC 1395x

CFR Citation: 42 CFR 405 Subpart D

Legal Deadline: None

Abstract: As a result of Section 2303 of Pub. L. 98-369, hospital laboratories providing tests for the hospital's outpatients are reimbursed on the basis of areawide fee schedules for clinical diagnostic laboratory tests provided to Medicare beneficiaries. Independent laboratories and laboratories in physicians' offices are reimbursed on the same basis. Also, as a result of Section 2303, hospital laboratories are to be reimbursed on a reasonable cost basis beginning July 1987. Current regulations dealing with reasonable costs provide general rules for setting cost limits. This proposed rule would specify cost limits for hospital laboratory services furnished to hospital outpatients and to those inpatients who have exhausted their Part A benefits and are receiving benefits under Part B.

Timetable:

Action	Date	FR Cite
NPRM	01/09/87	
Final Action	06/00/87	
Final Action Effective	07/01/87	

Small Entity: Yes

Agency Contact: Steve Kirsh, Chief, Cost Control Policy Branch, Department of Health and Human Services, Health Care Financing Administration, Room 1-A-1 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9465

RIN: 0938-AC30

734. ● MEDICAID: ELIGIBILITY DETERMINATIONS BASED ON DISABILITY; MEDICALLY NEEDY INCOME LEVELS FOR INDIVIDUALS

Legal Authority: 42 USC 1396a(a)(10); 42 USC 1396d(a)

CFR Citation: 42 CFR 435.541; 42 CFR 435.911; 42 CFR 435.1007

Legal Deadline: None

Abstract: These proposed regulations would (1) revise the rules for making medicaid eligibility determinations that are based on disability to make them consistent with related policies of the Social Security Administration under the Supplemental Security Income (SSI) program; and (2) clarify the payment level on which States must base the medically needy income level for individuals in order for the State to qualify to receive Federal financial participation in expenditures for medical assistance for these individuals. Because of numerous questions and litigation, it is necessary to clarify our policy on the controlling nature of SSI disability determinations on Medicaid eligibility.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Joyce Jackson, Branch Chief, Division of Medicaid Eligibility Policy, Department of Health and Human Services, Health Care Financing Administration, 341 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 597-3979

RIN: 0938-AC31

735. ● FUNDING FOR MEDICAID ELIGIBILITY DETERMINATION SYSTEMS

Legal Authority: 42 USC 1396b(a); 42 USC 1396b(r)

CFR Citation: 42 CFR 433.112; 42 CFR 433.116; 42 CFR 433.128

Legal Deadline: None

Abstract: This notice proposes to announce requirements for Medicaid eligibility determination systems that State Medicaid agencies may wish to implement. Federal financial participation would be available for these systems only at the 50 percent rate for administrative costs described under section 1903(a)(7) of the Social Security Act; funding at higher levels would terminate. Implementation of the notice would increase Federal savings.

Timetable:

Action	Date	FR Cite
Proposed Notice	07/00/86	

Small Entity: No

Agency Contact: Wesley Baker, Branch Chief, Requirements Branch, Department of Health and Human Services, Health Care Financing Administration, Room G-C-7 Meadows East, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9151

RIN: 0938-AC33

736. ● MEDICARE ECONOMIC INDEX

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1395u(b)(3)

CFR Citation: 00 CFR None

Legal Deadline: None

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HHS—HCFA

Proposed Rule Stage

Abstract: In this notice, we propose to retroactively recompute the Medicare economic index to account for the Bureau of Labor Statistics' change in the housing component of the Consumer Price Index. That change reflects rental equivalents rather than the cost of home ownership in the housing component. It is considered a more accurate representation of average changes in housing and office space expenses. Since the Medicare economic index is cumulative, we would recompute the index base to its beginnings on July 1973, and apply the computations prospectively. (The index base would include 1971 physician charge data.)

Timetable:

Action	Date	FR Cite
Proposed Notice	05/00/86	
Final Action	09/00/86	

Small Entity: Yes

Agency Contact: Bernard Patashnik, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medical Services Reimbursement, 1-H-5 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1334

RIN: 0938-AC35

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Final Rule Stage

Health Care Financing Administration (HCFA)

737. HOME HEALTH AGENCIES: FINANCIAL SECURITY REQUIREMENTS

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g; 42 USC 1395l(a); 42 USC 1395x(v); 42 USC 1395hh; 42 USC 1395m; 42 USC 1395ww; 42 USC 1395xx

CFR Citation: 42 CFR 405.402; 42 CFR 405.419; 42 CFR 405.429; 42 CFR 405.1201 to 405.1202; 42 CFR 405.1231

Legal Deadline: None

Abstract: These regulations would implement sections 930(n) and (p) of the Omnibus Reconciliation Act of 1980. The regulations would require home health agencies participating in Medicare to meet conditions, including bonding or establishment of escrow accounts to ensure the financial security of the Medicare program. It would exclude from Medicare reimbursement any costs incurred by an HHA in connection with bonding or establishing an escrow account and any interest payments made by an HHA that are charged on amounts borrowed to repay Medicare overpayments. The intent of these additional requirements is to assure the availability of funds to repay overpayments, and thereby ensure the financial security of the Medicare program.

Timetable:

Action	Date	FR Cite
NPRM	11/25/85	50 FR 48435

Next Action Undetermined

Small Entity: Yes

Agency Contact: Ward Pleines, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Office of Reimbursement Policy, Rm. 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-6323

RIN: 0938-AA13

738. CONDITIONS OF PARTICIPATION FOR HOSPITALS

Significance: Regulatory Program

Legal Authority: 42 USC 1395t; 42 USC 1395d; 42 USC 1395hh; 42 USC 1395x; PL 98-369, Sec 2335; PL 98-369, Sec 2340

CFR Citation: 42 CFR 1011 to 1042; 42 CFR 416.41; 42 CFR 440.1; 42 CFR 440.10; 42 CFR 440.40; 42 CFR 440.140.150; 42 CFR 440.250; 42 CFR 441.11; 42 CFR 441.13; 42 CFR 441.40; 42 CFR 456.51; 42 CFR 456.501; 42 CFR 489.21; 42 CFR 482

Legal Deadline: None

Abstract: This regulation simplifies requirements which hospitals must meet to be certified to participate in Medicare and Medicaid. It is intended to reduce Federal requirements, simplify and clarify regulations, and provide maximum flexibility in hospital administration while strengthening patient health and safety. This regulation is a review item of the Presidential Task Force on Regulatory Relief. It also conforms Medicare regulations to statutory changes made by PL 98-369 regarding certification of psychiatric and tuberculosis hospitals.

Timetable:

Action	Date	FR Cite
NPRM	01/04/83	48 FR 299
Final Action	04/00/86	

Small Entity: Yes

Agency Contact: Sheila Ryan, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Standards and Certification, 300 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-3775

RIN: 0938-AA23

739. RECOGNITION OF STATE REIMBURSEMENT CONTROL SYSTEMS

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1395hh; PL 98-369, Sec 2315; 42 USC 1395y(a)(14); 42 USC 1395ww(c); 42 USC 1395cc(a)(1)(F)

CFR Citation: 42 CFR 403.300; 42 CFR 403.302; 42 CFR 403.304; 42 CFR 403.306; 42 CFR 403.308; 42 CFR 403.310; 42 CFR 403.312; 42 CFR 403.314; 42 CFR 403.316; 42 CFR 403.318; 42 CFR 403.320; 42 CFR 403.322; 42 CFR 403.321

Legal Deadline: None

Abstract: This final rule implements statutory requirements to set forth conditions and procedures under which HCFA will approve Medicare payments for hospital services to be made in accordance with a State hospital reimbursement control system rather than in accordance with general Medicare principles of reimbursement.

Timetable:

Action	Date	FR Cite
NPRM	05/13/85	50 FR 20048
Final Action	04/00/86	

Small Entity: Undetermined

HHS—HCFA

Final Rule Stage

Agency Contact: Charlene Brown, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Div. of Alternative Reimb. Systems, 1-A-1 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-2388

RIN: 0938-AA34

740. SURVEY AND CERTIFICATION PROCEDURES

Significance: Agency Priority

Legal Authority: 42 USC 1395t; 42 USC 1395x; 42 USC 1395bb; 42 USC 1395cc; 42 USC 1395hh; 42 USC 1396a; 42 USC 1396(i)

CFR Citation: 42 CFR 405; 42 CFR 431; 42 CFR 481; 42 CFR 442; 42 CFR 489; 42 CFR 490; 42 CFR 455; 42 CFR 485; 42 CFR 488; 42 CFR 491

Legal Deadline: None

Abstract: This regulation would streamline, simplify and integrate survey and certification procedures for providers and suppliers under Medicare and Medicaid. It is intended to accomplish effective monitoring with greater flexibility to States without loss of quality of health services.

Timetable:

Action	Date	FR Cite
NPRM	05/27/82	47 FR 23404
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Walter Merten, Division Director, Department of Health and Human Services, Health Care Financing Administration, Div. of Survey Procedures and Training, 2-K-1 DWE, 1849 Gwynn Oak Ave., Baltimore, MD 21207, 301 594-5812

RIN: 0938-AA38

741. PHYSICIAN CERTIFICATION AND PLAN OF TREATMENT REQUIREMENTS

Legal Authority: PL 96-499, Sec 930(e); 42 USC 1302; 42 USC 1395hh; PL 98-369, Sec 2336

CFR Citation: 42 CFR 405.1633; 42 CFR 409.42; 42 CFR 405.1717

Legal Deadline: None

Abstract: These rules confirm interim final rules published on October 28, 1982 (47 FR 47388) with changes that make it possible for certain additional physicians to certify need for home health services and to establish and review a plan of treatment for those services. The changes are responsive to public comments and also serve to implement section 2336 of Pub. L. 98-369. The rules also make clarifying changes with respect to timing and procedures for certification for home health services and outpatient physical therapy and speech pathology services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/26/82	47 FR 47388
Final Action	05/00/86	

Small Entity: No

Agency Contact: Raymond T. Johnson, Branch Chief, Department of Health and Human Services, Health Care Financing Administration, Utilization Effectiveness Branch, BERC, Rm. 455 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-6370

RIN: 0938-AA46

742. INTERMEDIATE SANCTION OF LONG-TERM CARE FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1395; 42 USC 1395x; 42 USC 1395aa; 42 USC 1395cc; 42 USC 1395hh

CFR Citation: 42 CFR 405.1501; 42 CFR 405.1502; 42 CFR 442.1 to 442.2; 42 CFR 442.117 to 442.119; 42 CFR 489.1 to 489.3; 42 CFR 489.50; 42 CFR 420.100; 42 CFR 420.105; 42 CFR 420.107; 42 CFR 420.114; 42 CFR 447.40; 42 CFR 489.53 to 489.54; 42 CFR 489.57; 42 CFR 489.60 to 489.66; 42 CFR 405.1505

Legal Deadline: None

Abstract: This regulation authorizes the Secretary and State Medicaid agencies to impose an alternative to terminating long-term care facilities found to be out of compliance with the Medicare conditions of participation or the Medicaid conditions of participation or standards in facilities where deficiencies do not pose an immediate jeopardy to patient health and safety. HCFA and the State Medicaid agency may deny payment for new admissions to the facilities.

Timetable:

Action	Date	FR Cite
NPRM	02/21/85	50 FR 07191
Final Action	04/00/86	

Small Entity: No

Agency Contact: Matthew Brown, Branch Chief, Department of Health and Human Services, Health Care Financing Administration, Long Term Care Services Br., Rm. 2-D-2 ME, 6300 Security Blvd., Baltimore, MD 21207, 301 594-7617

RIN: 0938-AA60

743. MENTAL RETARDATION—DEFINITION OF "PERSONS WITH RELATED CONDITIONS"

Legal Authority: 42 USC 1302; 42 USC 1396d

CFR Citation: 42 CFR 435.1009

Legal Deadline: None

Abstract: This regulation would amend Medicaid regulations on intermediate care facility services for the mentally retarded persons with related conditions by revising the current definition of "persons with related conditions." This definition is presently tied to the definition of developmental disability in the Developmental Disabilities Assistance and Bill of Rights Act (DDABRA). This regulation establishes a Medicaid definition of conditions related to mental retardation that would meet the specific needs of the Medicaid program and would be independent of the definition of developmental disability in the DDABRA.

Timetable:

Action	Date	FR Cite
NPRM	02/23/83	48 FR 7593
Final Action	04/00/86	

Small Entity: Yes

Agency Contact: Robert Wren, Office Director, Department of Health and Human Services, Health Care Financing Administration, Office of Coverage Policy, Room 403, East High Rise Bldg, 6325 Security Blvd, Baltimore, MD 21207, 301 594-9080

RIN: 0938-AA78

744. PAYMENTS TO INSTITUTIONS

Significance: Agency Priority

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 435.725; 42 CFR 435.733; 42 CFR 435.832; 42 CFR 436.832

Legal Deadline: None

Abstract: This regulation alleviates problems encountered by States in calculating patient income to be applied

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to the cost of care in institutions. It is intended to permit States greater flexibility in administering their programs (Regulatory Reform).

Timetable:

Action	Date	FR Cite
NPRM	03/10/85	50 FR 10992
NPRM Comment Period End	05/20/85	
Final Action	09/00/86	

Small Entity: Yes

Agency Contact: Marianne Svolos, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medicaid Eligibility, Room 416 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9059

RIN: 0938-AB00

745. DEDUCTION OF INCURRED MEDICAL EXPENSES (SPENDDOWN)

Significance: Agency Priority

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 435.732; 42 CFR 435.831; 42 CFR 436.831

Legal Deadline: None

Abstract: These regulations permit States to revise the process by which medical expenses are considered in determining Medicaid eligibility. This process applies when an individual's income level during a budget period would ordinarily preclude eligibility except that incurred medical expenses reduce income to the eligibility level.

Timetable:

Action	Date	FR Cite
NPRM	09/02/83	48 FR 39659
NPRM Comment Period End	11/01/83	
Final Action	05/00/86	

Small Entity: Undetermined

Agency Contact: Marianne Svolos, Director, Div. of Medicaid Eligibility, Department of Health and Human Services, Health Care Financing Administration, Room 416 East High Rise Bldg., 6325 Security Boulevard, Baltimore, MD 21207, 301 594-9059

RIN: 0938-AB07

746. RELATIONS WITH OTHER AGENCIES, MISCELLANEOUS MEDICAID DEFINITIONS AND THIRD PARTY LIABILITY QUALITY CONTROL

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 431.625; 42 CFR 435.1009; 42 CFR 440.2; 42 CFR 440.10; 42 CFR 440.20; 42 CFR 440.60; 42 CFR 440.180; 42 CFR 441.151; 42 CFR 447.40; 42 CFR 431.800; 42 CFR 440.30

Legal Deadline: None

Abstract: These regulations: (1) revise Medicaid policy on State payments of cost sharing amounts under Medicare Part B "buy-in" agreements; (2) revise and clarify certain Medicaid definitions; (3) remove the requirement that State plans include third party liability quality control reviews as a part of the State's Medicaid quality control system.

Timetable:

Action	Date	FR Cite
NPRM	03/11/83	48 FR 10378
NPRM Comment Period End	05/11/83	
Final Action	09/00/00	

Small Entity: No

Agency Contact: Thomas Hoyer, Director, Division of Provider Services, Department of Health and Human Services, Health Care Financing Administration, Room 409 EHR, 6325 Security Boulevard, Baltimore, MD 21207, 301 594-9448

RIN: 0938-AB21

747. ADJUSTMENT OF FEDERAL SHARE FOR UNCASHED OR FOR CANCELLED (VOIDED) MEDICAID CHECKS

Legal Authority: 42 USC 1302; 42 USC 1396b(a)(1); 42 USC 1396b(d)(3)

CFR Citation: 45 CFR 201.5; 42 CFR 433.40; 42 CFR 430.0

Legal Deadline: None

Abstract: This rule requires a State agency to refund to the Federal government the Federal share of Medicaid checks that remain uncashed 180 days after issuance and requires that the federal share of cancelled (voided) Medicaid checks be refunded quarterly because there has not been an expenditure of funds in either case.

Timetable:

Action	Date	FR Cite
NPRM	05/31/85	50 FR 23147
NPRM Comment Period End	07/01/85	
Interim Final Rule	04/00/86	

Small Entity: No

Agency Contact: David McNally, Director, Div. of State Agency Financial Mgt, Department of Health and Human Services, Health Care Financing Administration, Room 350 Meadows East Building, 6325 Security Boulevard, Baltimore, MD 21207, 301 597-1399

RIN: 0938-AB35

748. REVISIONS TO MEDICAID PAYMENT FOR HOSPITAL AND LONG-TERM CARE FACILITY SERVICES

Significance: Agency Priority

Legal Authority: 42 USC 1302; 42 USC 1396a(a)(30); 42 USC 1396a(a)(13); 42 USC 1396b; PL 98-369, Sec 2369(a)

CFR Citation: 42 CFR 447.253; 42 CFR 447.272; 42 CFR 447.321; 42 CFR 447.257; 42 CFR 447.280

Legal Deadline: None

Abstract: This regulation would make several changes to the procedural requirements for States to obtain approval of their inpatient reimbursement rates. It is intended that these changes would promote increased economy in the administration of the Medicaid program while retaining State flexibility.

Timetable:

Action	Date	FR Cite
NPRM	02/18/86	51 FR 05726
Final Action	04/00/86	

Small Entity: No

Agency Contact: Tzvi Hefter, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Long Term Care Section, Room 1-A-1 ELR Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 597-1399

RIN: 0938-AB40

749. FFP FOR LTC FACILITIES AFTER TERMINATION OF PROVIDER AGREEMENT

Legal Authority: 42 USC 1302

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CFR Citation: 42 CFR 442.16; 42 CFR 442.40; 42 CFR 442.42

Legal Deadline: None

Abstract: These rules would modify and clarify policy on Federal financial participation (FFP) in State Medicaid payments to a skilled nursing facility (SNF) or an intermediate care facility (ICF) after the facility's provider agreement has been terminated or has expired and not been renewed.

Timetable:

Action	Date	FR Cite
NPRM	10/18/85	50 FR 42192
Final Action	12/00/86	

Small Entity: No

Affected Sectors: 919 General Government, Not Elsewhere Classified

Government Levels Affected: State

Agency Contact: Gilda Martin, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Financial Policy Branch, Rm. 350 Meadows East, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1399

RIN: 0938-AB42

750. REVISIONS IN REPORTING AND RECORDKEEPING REQUIREMENTS

Legal Authority: 42 USC 1302; 42 USC 1395x(p); 42 USC 1395x(s)(3)(11) and (12); 42 USC 1395aa; 42 USC 1395hh

CFR Citation: 42 CFR 405.1413(c); 42 CFR 405.1716(c); 42 CFR 405.1716(d); 42 CFR 405.1717(b); 42 CFR 405.1717(e); 42 CFR 405.1725(a); 42 CFR 405.1702(d), (f) to (k); 42 CFR 405.1731(a),(c); 42 CFR 434.36; 42 CFR 434.55; 42 CFR 405.1733(a),(b); 42 CFR 434.27(a)

Legal Deadline: None

Abstract: This proposed rule would set forth changes in several regulations containing collection of information requirements. The changes are HCFA's response to the Office of Management and Budget requirement to eliminate regulations that are overly prescriptive, duplicative, or lack practical utility. The requirements affect the providers and suppliers of outpatient physical therapy and speech pathology services; physical therapists in independent practice; portable X-ray services; and Medicaid contracts with health maintenance organizations and prepaid health plans.

Timetable:

Action	Date	FR Cite
NPRM —	02/24/86	51 FR 6429
Final Action	12/00/86	

Small Entity: No

Agency Contact: Stefan Miller, Laboratory and Ambulatory Branch Chief, Department of Health and Human Services, Health Care Financing Administration, 300 East High Rise Bldg., 6325 Security Blvd., Baltimore, Maryland 21207, 301 597-6394

RIN: 0938-AB46

751. TREATMENT OF SOCIAL SECURITY COST OF LIVING INCREASES FOR INDIVIDUALS WHO LOSE SSI ELIGIBILITY

Significance: Agency Priority

Legal Authority: 42 USC 1302

CFR Citation: 42 CFR 435.135; 42 CFR 435.136

Legal Deadline: None

Abstract: This revision to Medicaid rules provides that a State, in determining categorically needy financial eligibility for an individual who would still be eligible for benefits under SSI but for receipt of a section 215(i) cost of living increase after April 1977, must treat that individual as if he or she were still receiving SSI benefits. Section 215(i) cost of living increases are made to persons who receive monthly Social Security cash benefits. (This regulation is being developed pursuant to a court order.)

Timetable:

Action	Date	FR Cite
NPRM	04/12/85	50 FR 14397
NPRM Comment Period End	06/11/85	
Final Action	04/00/86	

Small Entity: No

Agency Contact: Roy Trudel, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Division of Medicaid Eligibility Policy, Room 416 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9128

RIN: 0938-AB62

752. SCHEDULE OF LIMITS FOR SKILLED NURSING FACILITY INPATIENT ROUTINE SERVICE COSTS (EFFECTIVE 04/01/86)

Significance: Regulatory Program

Legal Authority: 42 USC 1395x(v)(1); 42 USC 1395yy

CFR Citation: 42 CFR 405.460

Legal Deadline: None

Abstract: This notice sets forth a revised schedule of limits on skilled nursing facility inpatient routine service costs that are reimbursed under Medicare. This schedule would be effective for cost reporting periods beginning on or after April 1, 1986.

Timetable:

Action	Date	FR Cite
Proposed Notice	11/22/85	50 FR 48304
Final Action	03/01/86	

Small Entity: Yes

Agency Contact: William Goeller, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Payment and Reporting Policy, Room 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1802

RIN: 0938-AB86

753. SCHEDULE OF LIMITS ON SKILLED NURSING FACILITY INPATIENT ROUTINE SERVICE COSTS

Significance: Regulatory Program

Legal Authority: 42 USC 1395x(v)(1); 42 USC 1395yy

CFR Citation: 42 CFR 405.460

Legal Deadline: None

Abstract: This notice would set revised limits for hospital-based SNF inpatient routine service costs. One revised schedule of limits would be effective for cost reporting periods beginning on or after October 1, 1982, and prior to July 1, 1984. The other revised schedule would be effective for cost reporting periods beginning on or after July 1, 1984.

Timetable:

Action	Date	FR Cite
Proposed Notice	11/22/85	50 FR 48304
Final Action	03/31/86	

Small Entity: Yes

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Agency Contact: William Goeller, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Payment and Reporting Policy, Room 1-F-5 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1402

RIN: 0938-AB99

754. PAYMENT FOR COSTS OF MALPRACTICE INSURANCE

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1395f(b); 42 USC 1395g; 42 USC 1395l(a); 42 USC 1395x(v); 42 USC 1395hh; 42 USC 1395r; 42 USC 1395aaa; 42 USC 1395xx

CFR Citation: 42 CFR 405.452(a)

Legal Deadline: None

Abstract: We are substantially revising the methodology we use to determine reasonable cost reimbursement for the costs of malpractice insurance. Separate policies are being implemented for Medicare hospitals, for Medicare skilled nursing facilities, and for providers of services under the Medicaid and Maternal and Child Health programs.

Timetable:

Action	Date	FR Cite
NPRM	09/17/85	50 FR 25170
Final Action	04/00/86	

Small Entity: Yes

Agency Contact: Paul Trimble, Technical Advisor, Department of Health and Human Services, Health Care Financing Administration, Division of Audit and Payment Policy, Room 1-5-F ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9040

RIN: 0938-AC00

755. MEDICAID COVERAGE OF QUALIFIED PREGNANT WOMEN AND CHILDREN AND NEWBORN CHILDREN

Legal Authority: PL 99-509, Sec 2361; PL 99-509, Sec 2362

CFR Citation: 42 CFR 435.3; 42 CFR 435.115; 42 CFR 435.116; 42 CFR 435.117; 42 CFR 435.301; 42 CFR 436.2; 42 CFR 436.114; 42 CFR 436.120; 42 CFR 436.122

Legal Deadline: None

Abstract: These regulations would conform the Medicaid regulations to statutory changes made by the Deficit Reduction Act of 1984 by adding two mandatory eligibility groups of individuals: qualified pregnant women and children under age 5 and certain newborn children. States have been advised previously that the statute is self-implementing. Additionally, a manual instruction containing procedures for States to implement these requirements was issued to States. However, these regulations are necessary to conform the Medicaid regulations to statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	11/21/85	50 FR 48102
NPRM Comment Period End	01/21/86	
Final Action	06/00/86	

Small Entity: No

Agency Contact: Richard Strauss, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, Office of Eligibility Policy, Rm. 416 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9029

RIN: 0938-AC02

756. PAYMENT TO HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS

Legal Authority: 42 USC 1395x; 42 USC 1395mm

CFR Citation: 42 CFR 417.416; 42 CFR 417.448; 42 CFR 417.460; 42 CFR 417.554; 42 CFR 417.597

Legal Deadline: None

Abstract: This final rule responds to comments received on a final rule with comment period published January 10, 1985 (50 FR 1314). That rule authorized Medicare reimbursement for health services to eligible health maintenance organizations and competitive medical plans on a prospective basis for those entities that have a risk contract or on a reasonable cost basis for those that have a cost contract. The items open to comment were: (1) services by clinical psychologists in risk organizations, (2) direct payments to skilled nursing facilities, and (3) the establishment of benefit stabilization funds.

Timetable:

Action	Date	FR Cite
Final Action with comment period	01/10/85	50 FR 1314
Final Action	00/00/00	

Small Entity: Yes

Agency Contact: Stanley Katz, Division Director, Department of Health and Human Services, Health Care Financing Administration, Division of Medical Services Coverage Policy, Room 480 EHR, 6325 Security Blvd., Baltimore, MD 21207, 301 594-9561

RIN: 0938-AC03

757. DETERMINATION OF REASONABLE CHARGES FOR PHYSICIAN AND OTHER MEDICAL SERVICES

Legal Authority: 42 USC 1395u; PL 98-369, Sec 2306

CFR Citation: 42 CFR 405.501; 42 CFR 405.504; 42 CFR 405.551

Legal Deadline: None

Abstract: Section 2306(b) of the Deficit Reduction Act provided that the customary and prevailing charge levels that are used to determine the Part B reasonable charge of physicians and suppliers are to be updated on October 1 instead of July 1 of each year. In addition, the updates are to be computed on the basis of charges made by physicians and other suppliers for services during the period April 1 to March 31, instead of during the calendar year period preceding the update. This rule would revise Medicare rules regarding updating of the reasonable charge levels. Accordingly, it also announces that the annual economic index that would have been used to determine the amount of any increase to prevailing charges for physicians' services between July 1983 July 1, 1984, is superseded because of provisions in section 2306 of the Deficit Reduction Act, which provided for a freeze on the prevailing charge update for July 1984.

Timetable:

Action	Date	FR Cite
Final Action	03/00/86	

Small Entity: No

Agency Contact: Bernard Pateshnik, Division Director, Department of Health and Human Services, Health Care Financing Administration, Div. of Medical Services Reimbursement, Rm. 1-H-8 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1334

RIN: 0938-AC04

758. LONG TERM CARE SURVEY

Significance: Regulatory Program

Legal Authority: 42 USC 1302; 42 USC 1395hh

CFR Citation: 42 CFR 405; 42 CFR 442

Legal Deadline: None

Abstract: The Court of Appeals for the Tenth Circuit ruled that the Secretary of HHS has a duty to establish an enforcement system which will adequately inform him, on a continuing basis, whether nursing homes receiving Federal Medicaid funds are actually providing high quality medical care. The primary proposal under consideration is nationwide implementation of the Patient Care and Services (PaCS) survey process. The PaCS survey would: provide continuing information on whether nursing homes are providing quality care; and, would be used as an enforcement mechanism to terminate participation of those facilities that do not maintain high quality care. This change would be implemented through the rulemaking process.

Timetable:

Action	Date	FR Cite
NPRM	10/31/85	50 FR 45584
Final Action	05/00/86	

Small Entity: No

Agency Contact: Sharon Harris, Office Director, Department of Health and Human Services, Health Care Financing Administration, Office of Survey and Certification, Rm. 2-A-5 ME, 6325 Security Blvd., Baltimore, MD 21207, 301 594-5547

RIN: 0938-AC10

759. ● LIST OF COVERED SURGICAL PROCEDURES FOR AMBULATORY SURGICAL CENTERS

Legal Authority: 42 USC 1395l(i)(l)

CFR Citation: 42 CFR 416.65

Legal Deadline: None

Abstract: Medicare coverage is available for facility services furnished in connection with certain surgical procedures performed in an ambulatory surgical center, (ASC).

This final notice contains changes to the list of covered ASC procedures that were made as a result of our consideration of the public comments received in response to a proposed notice published February 16, 1984.

Timetable:

Action	Date	FR Cite
Proposed Notice	02/16/84	49 FR 6023
Final Action	00/00/00	

Small Entity: Yes

Agency Contact: Bob Cereghino, Program Analyst, Department of Health and Human Services, Health Care Financing Administration, 463 East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301 594-8372

RIN: 0938-AC21

760. ● OMB CONTROL NUMBERS FOR COLLECTION OF INFORMATION REQUIREMENTS CONTAINED IN HCFA REGULATIONS

Legal Authority: 42 USC 1302; 44 USC Chapter 35

CFR Citation: 42 CFR 400.310

Legal Deadline: None

Abstract: This rule adds additional OMB control numbers to the display in 42 CFR Chapter IV of currently valid OMB control numbers for approved "collection of information" requirements contained in HCFA regulations.

Timetable:

Action	Date	FR Cite
Final Action	04/00/86	

Small Entity: Not Applicable

Agency Contact: Michael Odachowski, Director, Division of Management, Organizational Analysis & Planning, Department of Health and Human Services, Health Care Financing Administration, G-A-1 East Low Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 594-3075

RIN: 0938-AC22

761. ● OFFICE OF MANAGEMENT AND BUDGET REQUEST FOR REVIEW OF COLLECTION OF INFORMATION REQUIREMENTS

Legal Authority: 44 USC 3507

CFR Citation: 42 CFR 405.2112; 42 CFR 405.2113; 42 CFR 405.2114; 42 CFR 405.2136

Legal Deadline: None

Abstract: As a result of reviews performed under the authority of the Paperwork Reduction Act of 1980, the Executive Office of Management and Budget (EOMB) has directed that we revise collection of information requirements in our regulations concerning conditions for coverage of end-stage renal disease services. This notice informs the public of EOMB's decision, and announces our intention to develop a proposed rule to modify the regulations.

Timetable:

Action	Date	FR Cite
Notice	04/00/86	

Small Entity: Not Applicable

Agency Contact: Michael Odachowski, Director, Division of Managment, Organizational Analysis & Planning, Department of Health and Human Services, Health Care Financing Administration, G-A-1 East Low Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 594-3075

RIN: 0938-AC23

762. ● PAYMENT FOR INDIRECT MEDICAL EDUCATION COSTS

Significance: Regulatory Program

Legal Authority: 42 USC 1395ww(d)(5)(B)

CFR Citation: 42 CFR 412.118

Legal Deadline: None

Abstract: Under the Medicare inpatient hospital prospective payment system, hospitals receive an additional payment for the indirect costs of medical education. We have estimated that Medicare operating costs increase at a slower rate as teaching programs grow larger and we believe that Medicare is paying more than is necessary to account for the indirect costs of hospitals with approved graduate medical programs, particularly in those hospitals with a high ratio of interns and residents to beds. We are proposing to revise our application of the indirect medical education adjustment factor from a linear basis to a curvilinear or variable basis. This revision would yield a smaller increase in payments per discharge as the ratio of interns and residents to beds increases.

Timetable:

Action	Date	FR Cite
NPRM	02/00/86	
Final Action	05/00/86	

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HHS—HCFA

Final Rule Stage

Action	Date	FR Cite
Final Action Effective	06/00/86	

Small Entity: Yes

Agency Contact: Paul Elstein, Chief, Payment Limitations & Exclusions Br., Office of Reimbursement Policy, Department of Health and Human Services, Health Care Financing Administration, 1-H-1 ELR, 6325 Security Blvd., Baltimore, MD 21207, 301 597-1753

RIN: 0938–AC24

763. ● FIRE SAFETY STANDARDS FOR ICFS/MR

Significance: Agency Priority

Legal Authority: 42 USC 1396d(c); 42 USC 1396d(d)

CFR Citation: 42 CFR 442.507; 42 CFR 442.508; 42 CFR 442.509

Legal Deadline: None

Abstract: This rule amends the fire safety standards for intermediate care facilities for the mentally retarded. It updates the standards to incorporate the 1985 edition of the Life Safety Code of the National Fire Protection Association rather than the 1981 edition currently required. The incorporation of the new edition is intended to ensure that Medicaid providers and recipients have the benefit of the most current fire safety standards.

Timetable:

Action	Date	FR Cite
NPRM	11/05/85	50 FR 45921
Final Action	05/00/86	

Small Entity: Yes

Agency Contact: Samuel Kidder, Chief, Long-Term Care Branch, Department of Health and Human Services, Health Care Financing Administration, 300 East High Rise, 6325 Security Blvd., Baltimore, MD 21207, 301 597-5966

RIN: 0938–AC25

764. ● MEDICARE ECONOMIC INDEX FOR REASONABLE CHARGES (EFFECTIVE 10/01/86)

Significance: Agency Priority.

Legal Authority: 42 USC 1395u(b)(3)

CFR Citation: 42 CFR 405.504

Legal Deadline: None

Abstract: This notice sets forth the economic index used in the calculation of prevailing charges for physicians' services under Part B of Medicare.

Timetable:

Action	Date	FR Cite
Notice	10/01/86	

Small Entity: Not Applicable

Agency Contact: Solomon Mussey, Supervisory Actuary, Department of Health and Human Services, Health Care Financing Administration, M-1 1705 Equitable Building, 6325 Security Blvd., Baltimore, MD 21207, 301 594-2829

RIN: 0938–AC29

765. ● PART A PREMIUM FOR UNINSURED AGED FOR 12-MONTH PERIOD BEGINNING 01/01/87

Significance: Agency Priority

Legal Authority: 42 USC 1395i-2(d)(2)

CFR Citation: 42 CFR 408.22

Legal Deadline: Statutory, September 30, 1986

Abstract: This notice announces Medicare's monthly hospital insurance premium for the uninsured aged for the 12 months beginning January 1, 1987.

Timetable:

Action	Date	FR Cite
Notice	09/30/86	

Small Entity: Not Applicable

Agency Contact: Solomon Mussey, Supervisory Actuary, Department of Health and Human Services, Health Care Financing Administration, M-1 1705 Equitable Building, 6325 Security Blvd., Baltimore, MD 21207, 301 594-2829

RIN: 0938–AC32

766. ● PART B PREMIUM FOR 12-MONTH PERIOD BEGINNING 01/01/87

Significance: Agency Priority

Legal Authority: 42 USC 1395r

CFR Citation: 42 CFR 405.902

Legal Deadline: Statutory, September 30, 1986

Abstract: This notice announces the monthly actuarial rates for aged (age 65 and over) and disabled (under age 65) enrollees in the Medicare Supplementary Medical Insurance (SMI) program for the 12 months beginning January 1, 1987. It also announces the monthly SMI premium rate to be paid by all enrollees during the 12 months beginning January 1, 1987.

Timetable:

Action	Date	FR Cite
Notice	09/30/86	

Small Entity: Not Applicable

Agency Contact: Solomon Mussey, Supervisory Actuary, Department of Health and Human Services, Health Care Financing Administration, M-1 1705 Equitable Building, 6325 Security Blvd., Baltimore, MD 21207, 301 594-2829

RIN: 0938–AC34

767. ● INPATIENT HOSPITAL DEDUCTIBLE BEGINNING 01/01/87

Significance: Agency Priority

Legal Authority: 42 USC 1395e

CFR Citation: 42 CFR USC 409.82

Legal Deadline: Statutory, September 30, 1986

Abstract: This notice provides for cost sharing amounts payable by the beneficiary. It will inform the public of the revised rates beginning 01/01/87.

Timetable:

Action	Date	FR Cite
Notice	09/30/86	

Small Entity: Not Applicable

Agency Contact: Solomon Mussey, Supervisory Actuary, Department of Health and Human Services, Health Care Financing Administration, M-1 1705 Equitable Building, 6325 Security Blvd., Baltimore, MD 21207, 301 594-2829

RIN: 0938–AC36

DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS)

Health Care Financing Administration (HCFA)

Completed Actions

768. MEDICAID OVERPAYMENT REPORTING REQUIREMENTS

Significance: Agency Priority

CFR Citation: 42 CFR 447.401 to 447.431

Completed:

Reason	Date	FR Cite
Withdrawn	11/00/85	

Small Entity: No

Agency Contact: Dan Metzman 301 594-6196

RIN: 0938–AA04

769. LIMITATION ON PAYMENT FOR SERVICES FURNISHED TO EMPLOYED AGED, THEIR SPOUSES, AND SPOUSES OF YOUNGER EMPLOYEES

CFR Citation: 42 CFR 405.340; 42 CFR 405.341; 42 CFR 405.342; 42 CFR 405.343; 42 CFR 405.344

Completed:

Reason	Date	FR Cite
Final Action	10/11/85	50 FR 41503
Final Action Effective	11/12/85	

Small Entity: No

Agency Contact: Harold Fishman 301 594-8077

RIN: 0938–AA31

770. THIRD PARTY LIABILITY (TPL), PREMIUM FFP RATES, MANDATORY ASSIGNMENT OF RIGHTS TO PAYMENTS; SOURCES OF STATE FUND

Significance: Regulatory Program

CFR Citation: 42 CFR 432.2; 42 CFR 432.50; 42 CFR 432.60; 42 CFR 433.15; 42 CFR 433.45; 42 CFR 433.136; 42 CFR 433.139; 42 CFR 433.149; 42 CFR 433.151 to 433.152; 42 CFR 433.145; 42 CFR 433.137; 42 CFR 435.604; 42 CFR 432.45; 42 CFR 433.135; 42 CFR 436.604; ...

Completed:

Reason	Date	FR Cite
Final Action	11/12/85	50 FR 46852

Small Entity: No

Agency Contact: David McNally 301 597-1396

RIN: 0938–AA65

771. PROCEDURES FOR DETERMINING WHETHER PROVIDERS, PRACTITIONERS, OR OTHER SUPPLIERS OF SERVICES ARE LIABLE FOR CERTAIN NONCOVERED SERVICES

Significance: Regulatory Program

CFR Citation: 42 CFR 405.195; 42 CFR 405.196; 42 CFR 405.301; 42 CFR 405.330; 42 CFR 405.331; 42 CFR 405.332; 42 CFR 405.334

Completed:

Reason	Date	FR Cite
Final Action	02/21/86	51 FR 6222

Small Entity: No

Agency Contact: Harold Fishman 301 594-8077

RIN: 0938–AB33

772. FORMS USED FOR CLAIMING PAYMENT

CFR Citation: 42 CFR 405.1862

Completed:

Reason	Date	FR Cite
Final Action	09/30/85	50 FR 39869

Small Entity: No

Agency Contact: Daniel Baker 301 594-1369

RIN: 0938–AB34

773. CHANGES TO RETURN ON EQUITY CAPITAL AND THE ELIMINATION OF THE EXCEPTION FROM THE COST LIMITS FOR NEW HHAS

Significance: Regulatory Program

CFR Citation: 42 CFR 405.429; 42 CFR 405.460; 42 CFR 405.402

Completed:

Reason	Date	FR Cite
Final Action	02/20/86	51 FR 6139

Small Entity: No

Agency Contact: William Goeller 301 597-1369

RIN: 0938–AB70

774. INCOME AND ELIGIBILITY VERIFICATION

Significance: Agency Priority

CFR Citation: 42 CFR 431.300; 42 CFR 431.305; 42 CFR 431.306; 42 CFR 431.800; 42 CFR 431.804; 42 CFR 435.910; 42 CFR 435.912; 42 CFR 435.917; 42 CFR 435.920; 42 CFR 435.940; 42 CFR 435.945; 42 CFR 435.955; 42 CFR 435.960; 42 CFR 435.965; 42 CFR 435.948; ...

Completed:

Reason	Date	FR Cite
Final Action	02/26/86	51 FR 7178

Small Entity: No

Agency Contact: Joyce Somsak 301 597-1354

RIN: 0938–AB73

775. STANDARDS FOR INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

Significance: Regulatory Program

CFR Citation: 42 CFR 435; 42 CFR 442

Completed:

Reason	Date	FR Cite
Final Action	03/04/86	51 FR 7520

Small Entity: No

Agency Contact: Samuel Kidder 301 597-5966

RIN: 0938–AB76

776. MONTHLY ACTUARIAL RATES AND PART B PREMIUM RATES BEGINNING 01/01/86

Significance: Agency Priority

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Final Action	09/30/85	50 FR 39932

Small Entity: Not Applicable

Agency Contact: Carter Warfield 301 594-2993

RIN: 0938–AB80

777. PART A PREMIUM FOR 12-MONTH PERIOD BEGINNING 01/01/86

Significance: Agency Priority

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Final Action	09/30/85	50 FR 39932

Small Entity: Not Applicable

Agency Contact: Solomon Mussey 301 594-2829

RIN: 0938–AB81

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778. ASSIGNMENT AND REASSIGNMENT OF HOME HEALTH AGENCIES TO DESIGNATED REGIONAL INTERMEDIARIES

Significance: Regulatory Program

CFR Citation: 00 CFR Not Applicable

Completed:

Reason	Date	FR Cite
Final Action	02/13/86	51 FR 5403

Small Entity: No

Agency Contact: Tobe Winston 301 594-8471

RIN: 0938-AB84

779. LIMITATIONS ON THE REIMBURSEMENT OF NONPHYSICIAN MEDICAL SERVICES

Significance: Regulatory Program

CFR Citation: 42 CFR 405.509; 42 CFR 405.511

Completed:

Reason	Date	FR Cite
Final Action	10/01/85	50 FR 40166
Final Action Effective	10/01/85	

Small Entity: Undetermined

Agency Contact: Bernard Patashnik 301 597-1334

RIN: 0938-AB91

780. ESRD COUNCILS

Significance: Regulatory Program

CFR Citation: 42 CFR 405.2100; 42 CFR 405.2102; 42 CFR 405.2111; 42 CFR 405.2112; 42 CFR 405.2113; 42 CFR 405.2114; 42 CFR 405.2116; 42 CFR 405.2120; 42 CFR 405.2121; 42 CFR 405.2132; 42 CFR 405.2134; 42 CFR 405.2136; 42 CFR 405.2138; 42 CFR 405.2164

Completed:

Reason	Date	FR Cite
Withdrawn	02/00/86	

Small Entity: Undetermined

Agency Contact: Antoine J. Elias 301 594-9712

RIN: 0938-AB98

781. REASONABLE CHARGE LIMITATIONS

Significance: Regulatory Program

CFR Citation: 42 CFR 405.502

Completed:

Reason	Date	FR Cite
Final Action	02/18/86	51 FR 5726

Small Entity: No

Agency Contact: Ronald Wren 301 594-7187

RIN: 0938-AC08

782. PROCESSING OF CLAIMS BY ELECTRONIC MEANS AS A CONDITION OF QUALIFICATION FOR THE PERIODIC INTERIM PAYMENT METHOD OF REIMBURSEMENT

CFR Citation: 42 CFR 405.454

Completed:

Reason	Date	FR Cite
Final Action	01/21/86	51 FR 2736

Small Entity: Yes

Agency Contact: Dan Baker 301 594-5415

RIN: 0938-AC09

783. ●GROUPER CHANGES

Significance: Agency Priority

CFR Citation: 42 CFR 412.10

Completed:

Reason	Date	FR Cite
Final Action	03/13/86	51 FR 8762

Small Entity: Undetermined

Agency Contact: Linda Magno 301 594-9343

RIN: 0938-AC12

784. ●EXCLUSION OF NEW ALCOHOL/DRUG HOSPITALS AND UNITS FROM THE PROSPECTIVE PAYMENT SYSTEM

Significance: Agency Priority

CFR Citation: 42 CFR 412.23; 42 CFR 412.32

Completed:

Reason	Date	FR Cite
Withdrawn	03/00/86	

Small Entity: No

Agency Contact: Thomas Hoyer 301 594-9446

RIN: 0938-AC13

[FR Doc. 86-8772 Filed 04-18-86; 8:45 am]

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federal register

Monday
April 21, 1986

Part IX

Department of Housing and Urban Development

Semiannual Regulatory Agenda

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HUD

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Subtitles A and B

[Docket No. N-86-1891]

Semiannual Agenda of Regulations

AGENCY: Department of Housing and Urban Development.

ACTION: Semiannual agenda, under Executive Order 12291 and the Regulatory Flexibility Act, of regulations expected to be issued and under review.

SUMMARY: In accordance with section 5 of Executive Order 12291, "Federal Regulation," the Department is publishing its agenda of proposed regulations already issued or expected to be issued, and of currently effective rules that are under review. Also, under section 602 of the Regulatory Flexibility Act, the Department has prepared a regulatory flexibility agenda of regulations expected to be proposed or promulgated which are likely to have a significant economic impact on a substantial number of small entities. As permitted by Executive Order 12291 and the Regulatory Flexibility Act, the two agendas are combined for publication.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, S.W., Washington, D.C. 20410, (202) 755-7055. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Executive Order 12291, "Federal Regulation," issued on February 17, 1981 (46 FR 13193), requires each agency to publish semiannually an agenda of regulations that the agency has issued or expects to issue and of currently effective regulations that are under agency review.

The Regulatory Flexibility Act, 5 U.S.C. 601-612, requires each agency to publish semiannually a regulatory flexibility agenda of rules expected to be proposed or promulgated which are likely to have a significant economic impact on a substantial number of small entities," meaning small businesses, small organizations, or small governmental jurisdictions.

Executive Order 12291 and section 605 of the Regulatory Flexibility Act each permit incorporation of the agenda it requires with any other prescribed agenda. Accordingly, the agenda set out below combines the information required by the Executive Order and by the Regulatory Flexibility Act. In addition, the agenda contains certain information not required by either the Executive Order or by the Act which the Department considers useful, both better to inform the public and to enhance the Department's own inventory control over its body of regulations.

For purposes of Executive Order 12291, "regulation" or "rule" is defined as "an agency statement of general applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the procedure or practice requirements of an agency," subject to certain exceptions. The agenda published below concentrates upon regulatory material contained, or expected to be contained, in the "Code of Federal Regulations" (CFR) (or incorporated therein by reference) following publication in the Federal Register. As appropriate, however, issuances in the nature of general statements of policy may be published in the Federal Register but not for codification in the CFR.

The Department also is subject to certain requirements involving congressional review of rulemaking actions, including publication of an agenda. Section 7(o) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)) requires that the Secretary transmit to the congressional committees having jurisdictional oversight (the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs) a semiannual agenda of all rules or regulations which are under development or review by the Department. A rule appearing on the agenda cannot be published for comment before or during the first 15 calendar days of continuous session of Congress after transmittal of the agenda. If, within such period, either Committee notifies the Secretary that it intends to review any rule or regulation or portion thereof which appears on the agenda, the Secretary must submit to both Committees a copy of the rule or regulation, in the form it is intended to be proposed, at least 15 calendar days of continuous session before it is published for comment. The Semiannual Agenda appearing hereinafter is the agenda transmitted to the Committees in compliance with the foregoing requirement.

The agenda items are divided first by program office. Within each program office, the agenda items are divided into four groups: (i) Prerulemaking actions, (ii) publications or other implementations of notices of proposed rulemaking, (iii) publications or other implementations of final rules, and (iv) completed actions. Within each grouping, rules are listed in chronological order by the Part number of the CFR affected. Where a rule affects multiple parts of the CFR, the rule is listed by the first affected Part number. Priority rules include all regulations designated for priority development by the Department.

Items listed in this agenda are from the following Offices within the Department: Office of the Secretary; Office of Housing; Office of Public and Indian Housing; Office of Community Planning and Development; Office of Fair Housing and Equal Opportunity; Office of Administration; Government National Mortgage Association; and Office of the Inspector General.

DATED: February 18, 1986.

John J. Knapp,

General Counsel.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
785	24 CFR 81.41 Secondary Market Operations of the Federal National Mortgage Association (FNMA) (S-3-81)	2501-AA10

HUD

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
786	24 CFR 00 Standards of Conduct (S-5-85; FR-2146)	2501-AA31
787	24 CFR 17 Implementation of the Interest Provisions of the Debt Collection Act of 1982 (S-9-84; FR-2022)	2501-AA24
788	24 CFR 46 Protection of Human Subjects in Research (S-6-83; FR-1807)	2501-AA15
789	24 CFR 50 Procedure for Floodplain Management and the Protection of Wetlands. Implementation of Executive Orders 11988 and 11990 (S-7-84; FR-865)	2501-AA23
790	24 CFR 50 Departmental Policies, Responsibilities, and Procedures for Protection and Enhancement of Environmental Quality (S-4-85; FR-2208)	2501-AA30

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
791	24 CFR 24 Suspension and Debarment (S-2-79; FR-1676)	2501-AA05
792	41 CFR 0024 Office of Small and Disadvantaged Business Utilization: General Functions and Role in the Department's Procurement Process (S-8-84; FR-1894)	2501-AA22
793	24 CFR 35.1 Lead-Based Paint Hazard Elimination in Certain Residential Structures (P-4-86; FR-1748)	2501-AA36
794	24 CFR 58 Environmental Review Procedures - Rental Rehabilitation and Housing Development Grant Program (S-6-84; FR-1965)	2501-AA25
795	24 CFR 942 Pet Ownership in Assisted Rental Housing for the Elderly or Handicapped (S-8-86; FR-1936)	2501-AA35
796	24 CFR 882.105 Shared Housing and Revised Occupancy Policies in the Section 8 and Public Housing Programs (S-6-86; FR-1829)	2501-AA33

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
797	24 CFR 17 Tax Refund Deduction Program (S-2-85; FR 12092)	2501-AA28
798	24 CFR 20 Board of Contract Appeals Rules of Procedures (S-1-79; FR-1349)	2501-AA04
799	24 CFR 244 Flood Insurance Requirements for Mortgage Insurance and Grant Programs (S-3-85; FR-2007)	2501-AA29
800	24 CFR 236 Restrictions on Housing Assistance to Ineligible Aliens (S-7-86; FR-1588)	2501-AA34
801	24 CFR 791 Review of Applications for Housing Assistance and Allocation of Housing Assistance Funds (S-10-84; FR-1898)	2501-AA27

Office of Housing—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
802	24 CFR 200 Supplement to Minimum Property Standards for Solar Heating and Domestic Hot Water Systems (H-8-80; FR-1320)	2502-AA99
803	24 CFR 203 FHA Mortgage Insurance on Indian Land where the Tribe is the Mortgagor (H-8-85; FR-2059)	2502-AC81
804	24 CFR 215 State Agency Amendments (H-70-84; FR-1997)	2502-AC73
805	24 CFR 219 Flexible Subsidy Program (H-48-82)	2502-AA53
806	24 CFR 219 Flexible Subsidy Program; 1983 Amendments (H-50-84)	2502-AC31
807	24 CFR 880 Government Officials, Conflicts of Interest (H-127-82)	2502-AA13
808	24 CFR 910 Book Entry Securities of Public Housing Authorities (H-84-83; FR-1845)	2502-AB75

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Office of Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
809	24 CFR 15 Disclosure of Financial Information to Mortgage Purchasers (H-78-84; FR-2014)	2502-AC85
810	24 CFR 58 Flood Insurance Requirements for Mortgage Insurance and Grant Program (CPD-74-84; FR-2007)	2502-AC78
811	24 CFR 200.935 Use of Materials Bulletin No. 66 - HUD Building Product Standards and Certification Program for EPDM Roofing (H-108-82)	2502-AA68
812	24 CFR 200.929 Use of Material Bulletin No. 78a, Plastic Supply Piping for Domestic Cold Water (H-33-79; FR 1154)	2502-AB05
813	24 CFR 200.935 Use of Materials Bulletin (UM) No. 52b - HUD Building Product Standards and Certification Program for Wood Flush Doors (H-83-84; FR-2110)	2502-AC78
814	24 CFR 200 Use of Materials Bulletin No. 49a - HUD Building Product Standards and Certification Program for Pressure Treated Lumber and Plywood (H-17-85)	2502-AC98
815	24 CFR 200 Use of Materials Bulletin No. 71 - Polystyrene Foam Board (H-20-85)	2502-AD00
816	24 CFR 200 Use of Materials Bulletin No. 49c - Grademarking of Plywood (H-21-85)	2502-AD01
817	24 CFR 200 Use of Materials Bulletin No. 66 - Mat Formed Particleboard (H-22-85)	2502-AD02
818	24 CFR 0201.21 Miscellaneous Amendments to Part 201--Property Improvement and Manufactured Home Loans (FR-2171; H-4-86)	2502-AD37
819	24 CFR 209 Mortgagee Approval - Eligibility Requirements (H-84-76; FR-909)	2502-AB12
820	24 CFR 203.18 Veteran Qualifications--Eligibility Requirements for Mutual Mortgage Insurance and Rehabilitation Loans (H-147-83; FR-1501)	2502-AB89
821	24 CFR 203 Mutual Mortgage Insurance and Rehabilitation Loans; Elimination of Restrictions on Contiguous Properties Applicable to Investor Mortgagors (H-1-84; FR-1831)	2502-AC17
822	24 CFR 203 One-Time Mortgage Insurance Premium for Non-Mutual Fund - Single Family Insurance Program (H-46-84; FR-1930)	2502-AC35
823	24 CFR 203 Single Family Mortgage Insurance on Hawaiian Home Lands (H-38-84; FR-1928)	2502-AC36
824	24 CFR 203 Insurance of Single Family Shared Appreciation Mortgages (H-33-84; FR-1917)	2502-AC42
825	24 CFR 203 Retention Period for Mortgagee Single Family Claim Records (H-81-84)	2502-AC50
826	24 CFR 203 Limit On Claim Cost (H-82-84)	2502-AC52
827	24 CFR 203 Penalty for Lack of Documentation (H-80-84)	2502-AC54
828	24 CFR 203 HUD Inspections - No Duty of Care (H-1-85; FR-2025)	2502-AC92
829	24 CFR 203.33 Relation of Income to Mortgage Payments (H-95-85; FR-2117)	2502-AD30
830	24 CFR 203 Temporary Mortgage Assistance Payments (TMAP), and Assignments to HUD (H-44-85; FR-2147)	2502-AD34
831	24 CFR 203 Single Family Foreclosures--Deficiency Judgements (H-6-86; FR-2193)	2502-AD38
832	24 CFR 203 Elimination of Closing Costs as an Item Eligible for Inclusion as Part of an FHA Insured Single Family Mortgage (H-10-86; FR-2203)	2502-AD39
833	24 CFR 203.43 Refinancing of Existing HUD-Insured Mortgages (H-8-86; FR-2197)	2502-AD41
834	24 CFR 207 Multifamily Mortgage Insurance (H-66-82)	2502-AA63
835	24 CFR 207 Mortgage Insurance Programs under National Housing Act (H-48-81; FR-1525)	2502-AA90
836	24 CFR 207 Cooperative Housing Mortgage Insurance Subordinated Secretary-held Mortgages (H-33-83; FR-1756)	2502-AB97
837	24 CFR 207 Insurance of Multifamily Shared Application Mortgages (H-41-84; FR-1934)	2502-AC34
838	24 CFR 207 Limitation on Prepayment of Mortgages on Multifamily Rental Housing (H-54-84; FR-1952)	2502-AC49
839	24 CFR 207.32a Revision of Maximum Insurable Mortgage Amount in Multifamily Refinancings Under Section 223(f) (H-98-85; FR-2126)	2502-AD31
840	24 CFR 215 Preference in the Provision of Housing for Families Who Are Occupying Substandard Housing, Are Involuntarily Displaced, or Are Paying More Than 50% of Family Income (H-22-80; FR-1597)	2502-AA34
841	24 CFR 235 Amendments to the Section 235 Program (H-3-86; FR-2037)	2502-AC93
842	24 CFR 231 Mandatory Meals Programs in HUD-Assisted Housing Projects (H-43-85; FR-2179)	2502-AD27
843	24 CFR 791 Review of Applications for Housing Assistance and Allocation of Housing Assistance Funds (S-10-84; FR-1696)	2502-AA73
844	24 CFR 882 Section 8 Housing Assistance Payments Program-Existing Housing-Quality Standards-Lead Based Paint (H-2-83; FR-1529)	2502-AC55
845	24 CFR 882 Section 8 Housing Assistance Payments Program-Public Housing Agency Administrative Fees (H-12-86; FR-2207)	2502-AD42
846	24 CFR 882 Section 8 Housing Assistance Payments Program - Requesting Exception Rents to the Fair Market Rents (H-14-86; FR-2213)	2502-AD44
847	24 CFR 885 Management Rules and Comprehensive Housing and Community Development Amendments (H-94-83; FR-1761)	2502-AC03
848	24 CFR 247 Miscellaneous Revisions to Part 886 (H-59-84; FR-1950)	2502-AC59
849	24 CFR 886 Provision of Section 8 Existing Housing Assistance for Projects at Foreclosure Sales (H-3-86; FR-2156)	2502-AD43
850	24 CFR 886 Section 8 Housing Assistance Payments Programs -- Public Comments on Proposed Fair Market Rents (H-13-86; FR-2212)	2502-AD40
851	24 CFR 3280 Transportation, Durability, Testing - Manufactured Home Construction and Safety Standards (H-23-85)	2502-AD03

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Sequence Number	Title	Regulation Identifier Number
852	24 CFR 3500 Real Estate Settlement Procedures Act -- Controlled Business Provisions and Miscellaneous Amendments (H-45-84; FR-1942)	2502-AC09

Office of Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
853	24 CFR 200 Applicability of Minimum Property Standards Manufactured Homes under Title II of the National Housing Act (H-82-82; FR-1578)	2502-AB24
854	24 CFR 200.925 Minimum Property Standards for Care-Type Housing -- MPS (H-39-82; FR-1776)	2502-AB86
855	24 CFR 200.935 Use of Materials Bulletin (UM) No. 44d-HUD Building Product Standards and Certification Program for Carpet and Attached Cushion (H-85-84; FR-2104)	2502-AC71
856	24 CFR 203.43c Eligibility of Mortgages Involving a Dwelling Unit in a Cooperative Housing Development (H-93-82; FR-1742)	2502-AA61
857	24 CFR 203 Mortgage Insurance for One-to-Four-Family Residences--Adjustment for Damages or Neglect (H-19-79; FR-837)	2502-AB03
858	24 CFR 203 Conveyance of One- to Four-Family Properties Occupied by Tenants or Former Mortgagors (H-9-85; FR-2084)	2502-AB10
859	24 CFR 200 Payment of Single Family Mortgage Insurance without Conveyance of Title (H-38-84; FR-1927)	2502-AC37
860	24 CFR 203.17 Single Family Mortgage Insurance - Indian Reservations (H-36-84; FR-1921)	2502-AC39
861	24 CFR 203.49 Insurance of Single Family Adjustable Rate Mortgages (H-82-84; FR-1916)	2502-AC43
862	24 CFR 203 Insurance of Single Family Indexed Mortgages (H-31-84; FR-1915)	2502-AC44
863	24 CFR 204 Single Family Coinsurance Program Revisions (H-28-80; FR-1094)	2502-AB01
864	24 CFR 207 Multifamily Housing Mortgage Insurance - Assignment of Insured Mortgages (H-35-83; FR-1768)	2502-AC14
865	24 CFR 207 Change in Default Notice Reporting Period - Multifamily Insurance (H-4-84; FR-1842)	2502-AC18
866	24 CFR 207.504 Multifamily Mortgage Insurance Programs; Requirement of Increased Equity, Limited Recourse or Special Escrow (H-15-84; FR-1871)	2502-AC19
867	24 CFR 207 Deregulation of Rents (H-28-84; FR-1905)	2502-AC21
868	24 CFR 207.31e Insurance of Multifamily Graduated Payment Mortgages (H-16-84; FR-1872)	2502-AC27
869	24 CFR 207.31c Insurance of Multifamily Partially Amortized Mortgages (H-34-84; FR-1918)	2502-AC41
870	24 CFR 207 Removal of Refinancing Limitations (H-2-85; FR-2029)	2502-AC89
871	24 CFR 215 Definition of Income Rents and Reexamination of Family Income for the Rent Supplement and Section 236 Programs (H-140-82, H-141-82; FR-1702)	2502-AC05
872	24 CFR 232 Interest Rates for Fire Safety Equipment in Nursing Homes to be Set by FR Notice (H-10-85; FR-2065)	2502-AC85
873	24 CFR 234 Condominium Ownership Mortgage Insurance-1963 Act Amendments (H-71-84; FR-1999)	2502-AC79
874	24 CFR 241 Maximum Mortgage Amounts for Hospitals (H-72-84; FR-2004)	2502-AC84
875	24 CFR 242.23 Mortgage Insurance Requirements for Private and Public Hospitals (H-69-84; FR-1992)	2502-AC81
876	24 CFR 290 HUD-Owned Multifamily Projects-Management and Disposition (H-69-78; FR-432)	2502-AC88
877	24 CFR 290.17 HUD-Owned Multifamily Projects - Management and Disposition - Rent Setting Provisions (H-41-85; FR-2142)	2502-AD33
878	24 CFR 390 Securitization of Adjustable Rate Mortgages (H-61-84; FR-1962)	2502-AC70
879	24 CFR 850 Housing Development Grant Program (H-26-84; FR-1902)	2502-AC23
880	24 CFR 882 Section 8 Housing Assistance Payments Program - Moderate Rehabilitation (H-38-81; FR-1527)	2502-AA96
881	24 CFR 882 Targeting of Section 8 Certificates of Family Participation (H-22-83; FR-1736)	2502-AB47
882	24 CFR 882.218 Section 8 Housing Assistance Payments Programs Portability of Section 8 Existing Housing Certificates (H-46-83; FR-1600)	2502-AB88
883	24 CFR 882.215 Section 8 Existing Housing Assistance Payments Program Causes for Termination from Tenancy (H-37-85; FR-2114)	2502-AD29
884	24 CFR 885 Section 202 - Loans for Housing for the Elderly or Handicapped (H-10-84; FR-1899)	2502-AC53
885	24 CFR 886 Additional Assistance Program for Projects with HUD-Insured or HUD-Held Mortgages (H-69-78)	2502-AA41
886	00 CFR Not yet determined Section 8 Housing Assistance Payments Program - Housing Vouchers (H-42-85; FR-2170)	2502-AD26
887	24 CFR 892 Section 8-Litigation by PHAs to Recover Wrongfully Used Section 8 Funds (H-126-82; FR-1692)	2502-AA12
888	24 CFR 3280.3 Manufactured Home Construction and Safety Standards - Standards Revision (H-30-85; FR-2137)	2502-AD10
889	24 CFR 3280 Revision of Manufactured Home Construction and Safety Standards - Subpart F - Thermal Protection (H-31-85; FR-2183)	2502-AD11

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Sequence Number	Title	Regulation Identifier Number
890	24 CFR 200.935 Use of Materials Bulletin No. 36i - HUD Building Product Standards and Certification Program for the Grademarking of Lumber (H-104-82; FR-2109)	2502-AA66
891	24 CFR 200 Restrictions on Housing Assistance to Ineligible Aliens (H-26-82; FR-1586)	2502-AC13
892	24 CFR 201 Property Improvement and Manufactured Home Loan Program Deregulation Amendments (H-57-81; FR-1656)	2502-AA93
893	24 CFR 200 Use of Commitment Correspondents in Connection with FHA Mortgage Insurance (H-60-84; FR-1954)	2502-AC86
894	24 CFR 203 Refinancing of FHA Single Family Loans-Technical Revisions (H-66-84; FR-1979)	2502-AC80
895	24 CFR 203 Conveyance of One- to Four-Family Properties Occupied by Tenants or Former Mortgagors (H-9-85; FR-2064)	2502-AC86
896	24 CFR 203 Deficiency Judgements - Single Family Mortgages (H-95-82; FR-1717)	2502-AD25
897	24 CFR 207 Limitation on Prepayment for Bond Financed Projects (H-54-83; FR-1819)	2502-AC01
898	24 CFR 242 Refinancing of Hospital Mortgages (H-50-83; FR-1806)	2502-AC15
899	24 CFR 266.13 Transfer from Nonprofit to Profit Motivated Ownership for Multifamily Housing Projects with HUD-Insured or HUD-Held Mortgages (H-37-83; FR-1771)	2502-AB93
900	24 CFR 882 Single Room Occupancy Housing (H-25-84; FR-1898)	2502-AC25
901	24 CFR 885 Housing for the Elderly or Handicapped (H-99-82)	2502-AB28
902	24 CFR 885 Section 202 Loans for Housing for the Elderly or Handicapped Community Representation on Borrower's Board (H-46-78)	2502-AC99
903	24 CFR 880.602 Section 8-Limit on Contract Rent Increases (H-132-82; FR-1703)	2502-AA18
904	24 CFR 888 Section 8 Housing Assistance Payments Program - Fiscal Year 1986 Fair Market Rents - Existing Housing (H-86-84; FR-2133)	2502-AC87
905	24 CFR 1710 Technical Amendments to the Interstate Land Sales Registration Regulations (H-15-85; FR-2080)	2502-AC83
906	24 CFR 3280 Manufactured Home Construction and Safety Standards: Energy Efficiency Standards (H-40-85; FR-2136)	2502-AD32
907	24 CFR 3282 Manufactured Home Procedural and Enforcement Regulations; Primary Inspection Agency (PIA) Rating (H-28-85)	2502-AD08
908	24 CFR 3282 Manufactured Home Procedural and Enforcement Regulations, Subpart G - Administrative Agencies (H-32-85; FR-2113)	2502-AD12

Office of Community Planning and Development—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
909	24 CFR 0596 Designation of Enterprise Zones (CPD-11-83; FR-1913)	2506-AA45

Office of Community Planning and Development—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
910	24 CFR 510 Section 312 Rehabilitation Loan Program and Community Development Action Relocation Requirements (CPD-4-85; FR-2151)	2506-AA65
911	24 CFR 570 Technical Assistance: Discretionary Awards (CPD-6-79; FR-1115)	2506-AA30
912	24 CFR 570.488 Community Development Block Grants: State's Program (CPD-7-83; FR-1877)	2506-AA36
913	24 CFR 570 Community Development Block Grants Urban Development Action Grants (CPD-14-83)	2506-AA40
914	24 CFR 0570.511 Community Development Block Grant Program: Escrow Accounts (CPD-2-86; FR-2164)	2506-AA66
915	24 CFR 571.702 (b) Indian Community Development Block Grant Program: Revision to Corrective and Remedial Action (CPD-13-84; FR-2102)	2506-AA58

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Office of Community Planning and Development—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
916	24 CFR 42 Uniform Relocation Assistance and Real Property Acquisition (S-11-86; FR-2106)	2506-AA48
917	24 CFR 511 Residential Rental Rehabilitation Program (CPD-7-84; FR-1901)	2506-AA55
918	24 CFR 511 Performance Adjustments to Formula Allocations-Rental Rehabilitation Program (CPD-14-84; FR-2055)	2506-AA60
919	24 CFR 511.33 Rental Rehabilitation Grant Program--Revision of Limit on Maximum Reallocation of Grant Amounts (CPD-3-86; FR-2185)	2506-AA67
920	24 CFR 570 Community Development Block Grant Regulations (CPD-6-84; FR-1895)	2506-AA47
921	24 CFR 571 Community Development Block Grants for Indian Tribes and Alaskan Native Villages - Selection Process (CPD-11-84; FR-2000)	2506-AA33

Office of Community Planning and Development—Completed Actions

Sequence Number	Title	Regulation Identifier Number
922	24 CFR 50 Departmental Policies, Responsibilities, and Procedures for Protection and Enhancement of Environmental Quality (CPD-29-78; FR-1054)	2506-AA10
923	24 CFR 58 Environmental Review Procedures for the CDBG Program (CPD-21-81; FR-1027)	2506-AA05
924	24 CFR 570 Small Cities CDBG Program (CPD-35-81; FR-1502)	2506-AA06
925	24 CFR 571.101 Indian CDBG Program Assured Funding Process (CPD-4-84)	2506-AA50
926	24 CFR 571.607 Indian CDGB Program - Conflict of Interest Provisions (CPD-5-84; FR-2016)	2506-AA51

Government National Mortgage Association—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
927	24 CFR 203 Book-Entry Securities of GNMA (GNMA-2-85)	2503-AA03

Government National Mortgage Association—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
928	24 CFR 390 Mortgage-Backed Securities - Revision to Date for First Monthly Payment to Principal and Interest (GNMA-1-85; FR-2135)	2503-AA04

Office of Fair Housing and Equal Opportunity—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
929	24 CFR 100 Affirmative Fair Housing, Marketing Technical Amendments (FH&EO-2-83; FR-1670)	2529-AA17
930	24 CFR 114 Fair Housing-Property Insurance Activities (FH&EO-10-78)	2529-AA10

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Office of Fair Housing and Equal Opportunity—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
931	24 CFR 8.101 Nondiscrimination Based on Handicapped in Programs Conducted by HUD (FR-2163; FH&EO-2-85)	2529-AA26
932	24 CFR 120 Amendments of the Community Housing Resource Board Regulations (FH&EO-1-85; FR-2065)	2529-AA27

Office of Fair Housing and Equal Opportunity—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
933	24 CFR 8 Nondiscrimination Based on Handicap in Federally-Assisted Programs and Activities (FH&EO-4-84; FR-770)	2529-AA26
934	24 CFR 105 Procedure for Processing Complaints under Section 804 of the Fair Housing Act (FH&EO-6-84; FR 2012)	2529-AA24
935	24 CFR 135 Employment Training and Business Opportunities for Lower Income Persons in Connection with Assisted Projects (FH&EO-4-81)	2529-AA15
936	24 CFR 146 Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance from HUD (FH & EO-1-79; FR-1161)	2529-AA01

Office of Fair Housing and Equal Opportunity—Completed Actions

Sequence Number	Title	Regulation Identifier Number
937	24 CFR 144 Implementation of Section 109 of the Housing and Community Development Act of 1974 (FH&EO-13-78; FR-1058)	2529-AA02

Office of Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
938	24 CFR 3 Organization, Function, and Delegations of Authority Subpart C - Secretary's Delegations of Authority to Heads of Offices (ADM-2-82)	2535-AA01

Office of Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
939	24 CFR 44 Cost Principles for Nonprofit Organizations (ADM-1-85; FR-2044)	2535-AA08
940	24 CFR 11 Audit Requirements for the Fair Housing Assistance Program and the Community Housing Resource Boards (FH&EO-1-86; FR-2140)	2535-AA11
941	24 CFR 570 Federal Procurement of Cement Containing Fly Ash (ADM-1-84; FR-1936)	2535-AA05

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Office of Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
942	48 CFR Chap. 24 Amendment of the HUD Acquisition Regulations (ADM-5-85; FR-2131)	2535-AA10
943	24 CFR 17 Administrative Claim; Implementing Certain Provisions of the Debt Collection Act of '82 (S-10-86; FR-1644)	2535-AA09
944	48 CFR 24 HUD Acquisition Regulation (ADM-2-84; FR-2098)	2535-AA06
945	24 CFR 965 Transfer of Authority to Settle Contract Disputes Concerning the Consolidated Supply Program (ADM-2-85; FR-2087)	2535-AA07

Office of Public and Indian Housing—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
946	24 CFR 905 Indian Housing Program--Revised Program Regulations (P-2-86; FR-2208)	2577-AA32

Office of Public and Indian Housing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
947	24 CFR 904 Turnkey III Homeownership Opportunities Program (P-3-85; FR-2138)	2577-AA34
948	24 CFR 968 Public and Indian Housing - Cost Containment Procedures (P-1-86; FR-2191)	2577-AA37
949	24 CFR 812 Increase in Single Person Occupancy Limits (P-48-84; FR-2063)	2577-AA07
950	24 CFR 960 Public Housing – Tenant Leases and PHA Grievance Hearings (P-26-79; FR-1164)	2577-AA18
951	24 CFR 964 Tenant Participation in Management of Public and Indian Housing Projects (P-1-85; FR-2033)	2577-AA30
952	24 CFR 990 Disallowance of Legal Expenses for Suits against HUD in Calculation of Operating Subsidy (P-2-85; FR-2134)	2577-AA33
953	24 CFR 990.105 Performance Funding System - Elimination of Inflation Factor for Fiscal Year 1987 (P-3-86; FR-2210)	2577-AA36

Office of Public and Indian Housing—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
954	24 CFR 905 Indian Preferences (P-51-83; FR-1808)	2577-AA26
955	24 CFR 965.303 Individual Metering of Utilities of Existing PHA-Owned Projects (P-36-83; FR-1769)	2577-AA27
956	24 CFR 990.110 Performance Funding System; Vacancy Rule Revisions (P-38-83; FR-1775)	2577-AA23

Office of Public and Indian Housing—Completed Actions

Sequence Number	Title	Regulation Identifier Number
957	24 CFR 969 Public Housing Program-Continued Operation of Projects as Lower-Income Housing After Completion of Debt Service (P-60-79; FR-1202)	2577-AA15
958	24 CFR 970.2 Public Housing Program-Demolition of Buildings or Disposition of Real Property (P-23-84; FR-1892)	2577-AA02
959	24 CFR 990 Modification to the Performance Funding System (P-2-84; FR-1834)	2577-AA00

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Prerule Stage

785. SECONDARY MARKET OPERATIONS OF THE FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA) (S-3-81)

Legal Authority: 12 USC 1723a; 42 USC 3536(d)

CFR Citation: 24 CFR 81.41; 24 CFR 81.45

Legal Deadline: None

Abstract: This rule would amend the definition of "FNMA security" at 24 CFR 81.41(b) to delete the exclusionary parenthetical and repeal the provision in 24 CFR 81.45(b) which allows FNMA debentures in book-entry form only.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Walter T. Cassidy, Assistant General Counsel for Finance, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7260

RIN: 2501-AA10

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Proposed Rule Stage

786. STANDARDS OF CONDUCT (S-5-85; FR-2146)

Legal Authority: EO 11222; 18 USC 201 to 209

CFR Citation: 24 CFR 00

Legal Deadline: None

Abstract: This rule would revise and improve the Department's Standards of Conduct regulation. It would clarify the current rule and eliminate redundant and outdated material. In addition, it would conform the current rule to subsequently enacted statutes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: David D. White, Asst. General Counsel for Administrative Law, Department of Housing and Urban Development, Office of the Secretary, Office of Equal Opportunity and Admin. Law, 202 755-7137

RIN: 2501-AA31

787. IMPLEMENTATION OF THE INTEREST PROVISIONS OF THE DEBT COLLECTION ACT OF 1982 (S-6-84; FR-2022)

Legal Authority: 42 USC 3535(d); 31 USC 3711; 31 USC 3717

CFR Citation: 24 CFR 17; 24 CFR 200; 24 CFR 201; 24 CFR 203; 24 CFR 207; 24 CFR 202; 24 CFR 220; 24 CFR 232; 24 CFR 241; 24 CFR 250; 24 CFR 255

Legal Deadline: None

Abstract: This rule implements increased charges for late payments made to the government by debtors. Regulatory changes include the imposition of interest at a minimum Annual rate of interest on the outstanding debt which is equal to the average investment rate of the Treasury tax and loan accounts as determined by the Secretary of the Treasury; assessment of penalty charges of up to six percent for payments over 90 days late; and charges for the administrative costs of processing the late payment. The Department must issue a demand letter to the debtor which indicates when the payment is due and the date used to calculate the interest and penalty charges.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Samuel B. Rothman, Attorney-Advisor, Department of Housing and Urban Development, Office of the Secretary, Office of Program Enforcement, 202 755-7184

RIN: 2501-AA24

788. PROTECTION OF HUMAN SUBJECTS IN RESEARCH (S-6-83; FR-1807)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 46

Legal Deadline: None

Abstract: On response to a Presidential Commission, an Interagency Task Force on the Protection of Human Subjects in Research has proposed that all Federal agencies adopt a common policy and uniform regulations for the protection of human subjects in research. HUD has agreed to adopt the policy and to issue a regulation based on a model previously promulgated by the Department of Health and Human Services on this subject, and as embodied in the planned Executive Order.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: Compliance costs for HUD's adoption of the model regulation will be minimal, because almost all research conducted by HUD falls within categories exempted from the requirements of the model regulation. The infrequent projects that may not be exempt (perhaps one every two years) have in the past been proposed by organizations already subject to the Department of Health and Human Services regulation, and thus would not have any incremental compliance costs for the organization, other than the actual project requirements.

Costs would be slight.

Affected Sectors: Profit and Non-profit Research Organizations.

Levels of Government Affected: only HUD itself.

The Executive Order will be published for public comment and then promulgated with changes, if any, resulting from the public.

Agency Contact: Arthur S. Newburg, Senior Advisor for Research Management, Department of Housing and Urban Development, Office of the Secretary, 202 755-6230

RIN: 2501-AA15

789. PROCEDURE FOR FLOODPLAIN MANAGEMENT AND THE PROTECTION OF WETLANDS. IMPLEMENTATION OF EXECUTIVE ORDERS 11988 AND 11990 (S-7-84; FR-865)

Legal Authority: EO 11988; EO 11900; 42 USC 3535(d)

CFR Citation: 24 CFR 50; 24 CFR 55; 24 CFR 58; 24 CFR 200

Legal Deadline: None

Abstract: This regulation sets forth the policy, procedure and responsibilities of the Department of Housing and Urban Development to implement and enforce Executive Order 11988, Floodplain Management, and Executive Order 11990, the Protection of Wetlands. This regulation replaces a general statement of Departmental policy (44 FR 47623; August 14, 1979) implementing these Executive Orders to specific HUD-assisted projects and through certain review procedures.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Walter Prybyla, Deputy Director, Environmental Management, Department of Housing and Urban Development, Office of Community Planning and Development, Division, Office of Environment & Energy, 202 755-6611

RIN: 2501-AA23

790. DEPARTMENTAL POLICIES, RESPONSIBILITIES, AND PROCEDURES FOR PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY (S-4-85; FR-2206)

Legal Authority: 42 USC 4321; PL 95-557

CFR Citation: 24 CFR 50

Legal Deadline: None

Abstract: This rule proposes revisions in the regulations governing HUD's consideration of environmental factors in decision-making under HUD programs other than the Community Development Block Grant, Urban Development Action Grant, Rental Rehabilitation, and Housing Development Grant Programs. The rule is intended to reduce regulatory burdens and procedural details based on experience under the existing regulations; reflect field office reorganization; and implement sec. 535 of the Housing Act of 1949, as amended.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Additional Information: Replaces RIN: 2506-AA10

Agency Contact: Fred D. Regetz, Environmental Specialist, Department of Housing and Urban Development, Office of Community Planning and Development, Office of Environment and Energy, 202 755-6611

RIN: 2501-AA30

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Final Rule Stage

791. SUSPENSION AND DEBARMENT (S-2-79; FR-1676)

Significance: Agency Priority

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 24

Legal Deadline: None

Abstract: Would amend 24 CFR Part 24 to conform with Policy Letter 82-1, "Policy Guidance Concerning Government-wide Debarment, Suspension and Ineligibility" issued by the Office of General Procurement Policy, dated June 24, 1982. Additionally, it would clarify the criteria for imposing administrative sanctions on grantees and program participants other than procurement contractors, as well as to clarify the procedural safeguards afforded participants in suspension and debarment proceedings.

Timetable:

Action	Date	FR Cite
NPRM	10/11/83	48 FR 46072
NPRM Comment Period End	12/12/83	48 FR 46072
Final Action	00/00/00	

Small Entity: No

Agency Contact: Phillip L. Schulman, Asst Gen Coun for Insp Gen & Admn Proceedngs, Department of Housing and Urban Development, Office of the General Counsel, 202 755-5557

RIN: 2501-AA05

792. OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION: GENERAL FUNCTIONS AND ROLE IN THE DEPARTMENT'S PROCUREMENT PROCESS (S-8-84; FR-1894)

Legal Authority: 42 USC 3535(d)

CFR Citation: 41 CFR 0024

Legal Deadline: None

Abstract: The Department is considering amending its regulations on the role of the Office of Small and Disadvantaged Business Utilization (OSDBU) in the procurement process. The 1978 Amendments to the Small Business Act of 1958 identify responsibilities of the OSDBU to establish goals for the participation by small business concerns and small business concerns controlled by socially and economically disadvantaged individuals in HUD procurement.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

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HUD—HUDSEC

Final Rule Stage

Agency Contact: Casey Mann, II, Special Assistant, Department of Housing and Urban Development, Office of the Secretary, Office of Small & Disadvantaged Business, Utilization, 202 755-3639

RIN: 2501-AA22

793. LEAD-BASED PAINT HAZARD ELIMINATION IN CERTAIN RESIDENTIAL STRUCTURES (P-4-86; FR-1749)

Significance: Regulatory Program

Legal Authority: 42 USC 4801; 42 USC 1437a; 42 USC 1437b; 42 USC 1437c; 42 USC 1437d; 42 USC 1437g; 42 USC 1437f; 42 USC 1437j; 42 USC 1437n; 42 USC 4822; PL 91-695; PL 93-151; PL 94-317

CFR Citation: 24 CFR 35.1; 24 CFR 35.3; 24 CFR 35.5; 24 CFR 35.24; 24 CFR 905.107; 24 CFR 965.701; 24 CFR 965.702; 24 CFR 965.703; 24 CFR 965.704; 24 CFR 965.705; 24 CFR 965.706; 24 CFR 965.707; 24 CFR 965.708; 24 CFR 968.4; 24 CFR 968.5

Legal Deadline: Judicial, August 1, 1986

Abstract: Would develop regulations (first for Public and Indian Housing, then for other HUD programs) consistent with the Lead-Based Paint Poisoning Prevention Act. Alternatives to address the problem are being developed at this time. The potential cost is estimated to exceed $100 million per year. This action would benefit children susceptible to lead-based paint poisoning and would avoid cost of medical treatment and reduce the occurrence of mental retardation traced to lead-base paint.

Timetable:

Action	Date	FR Cite
NPRM	02/14/86	51 FR 5606
Final Action	08/00/86	
NPRM Single Family Insurance, Sec 8 Existing & Vouchers, FHA, etc	09/00/86	
NPRM Block Grant & Rehabilitation	11/00/86	

Small Entity: No

Additional Information: Additional Agency Contact:

Grant Mitchell, Assistant General Counsel for Fiscal Management and Energy Programs.

202 755-6550

This Agenda Item replaces RIN 2502-AA06; H-81-82.

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2501-AA36

794. ENVIRONMENTAL REVIEW PROCEDURES - RENTAL REHABILITATION AND HOUSING DEVELOPMENT GRANT PROGRAM (S-6-84; FR-1965)

Legal Authority: 42 USC 1437o(l); 42 USC 5304(f)

CFR Citation: 24 CFR 58

Legal Deadline: None

Abstract: The final rule provides policies and procedures by which assisted communities and participating states discharge Federal environmental review responsibilities. The final rule also streamlines and reduces the environmental requirements. Such actions include: (1) an expanded listing of block grant activities and projects exempt or categorically excluded from the NEPA requirements; (2) the definitive list of related statutes and authorities that must be observed by grant recipients for the release of block grant funds as required by the HUD legislation; and (3) the further provisions needed to conform with and implement innovative measures of the HUD Amendments of 1981 such as the new state-administered block grant program for small cities and the assumption of the environmental oversight responsibilities by such states; and (4) the (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/07/84	49 FR 23810
Interim Rule Effective	07/31/84	49 FR 23810
Final Action	05/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: provisions and additions needed for extending and adopting the environmental procedures, including historic preservation requirements, to the programs established by title III of the Housing and Urban-Rural Recovery Act of 1983.

Includes: RIN 2506-AA05 (CPD-21-61; FR-1027)

Agency Contact: Charles E. Thomsen, Department of Housing and Urban Development, Office of Community Planning and Development, Office of Environmental and Energy, Environmental Management Division, 202 755-6611

RIN: 2501-AA25

795. PET OWNERSHIP IN ASSISTED RENTAL HOUSING FOR THE ELDERLY OR HANDICAPPED (S-8-86; FR-1936)

Significance: Regulatory Program

Legal Authority: 42 USC 3535(d); 12 USC 1701n-1; PL 98-181, Sec 227

CFR Citation: 24 CFR 942; 24 CFR 511; 24 CFR 243.2; 24 CFR 243.1; 24 CFR 243.3; 24 CFR 243.4; 24 CFR 243.10; 24 CFR 243.15; 24 CFR 243.20; 24 CFR 243.22; 24 CFR 243.24; 24 CFR 243.26; 24 CFR 243.30; 24 CFR 243.35; 24 CFR 243.40; ...

Legal Deadline: None

Abstract: Sec. 227 of the 1983 Statute permits tenants of rental housing projects for the elderly or handicapped to own common household pets. Owner, managers and housing authorities are prohibited from discriminating against persons in connection with admission to, or continued occupancy of, such housing because of ownership of pets. This rule would implement the statute and establish guidelines under which owners and managers of covered housing (1) may prescribe reasonable rules governing the keeping of common household pets and (2) must consult with tenants when prescribing the rules.

Timetable:

Action	Date	FR Cite
NPRM	12/28/84	
NPRM Comment Period End	02/26/85	49 FR 50562
Final Action	05/00/86	

Small Entity: No

Additional Information: This Agenda Item replaces RIN 2577-AA05; P-43-84.

Government Levels Affected: Local, State

HUD—HUDSEC

Final Rule Stage

Agency Contact: David Pass, Program Analyst, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-5980

RIN: 2501-AA35

796. SHARED HOUSING AND REVISED OCCUPANCY POLICIES IN THE SECTION 8 AND PUBLIC HOUSING PROGRAMS (S-6-86; FR-1829)

Significance: Regulatory Program

Legal Authority: 42 USC 1437d; 42 USC 1437d; 42 USC 1437f; 42 USC 3535(d); PL 98-181, Sec 211

CFR Citation: 24 CFR 882.105; 24 CFR 882; 24 CFR 883; 24 CFR 884.216; 24 CFR 884.226; 24 CFR 813; 24 CFR 880; 24 CFR 884; 24 CFR 913; 24 CFR 960; 24 CFR 882.102; 24 CFR 882.103; 24 CFR 881; 24 CFR 882.106; 24 CFR 882.102; ...

Legal Deadline: None

Abstract: Rule will provide for eligible applicants and tenants to share units in Section 8 assisted units and in public housing.

Timetable:

Action	Date	FR Cite
Final Action	04/00/86	

Small Entity: No

Additional Information:

This Agenda Item replaces RIN 2503-AB87; H-59-83.

Contact for Public and Indian Housing Programs:

Nancy Chisholm

Office of Policy

202 755-6713

Contract for Sec. 8 New Construction and Substantial Rehab:

James J. Tahash

Director, Program Planning Division

202 426-3944

Agency Contact: Madeline Hastings, Director, Existing Housing Division, Department of Housing and Urban Development, Office of Housing, 202 755-6867

RIN: 2501-AA33

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of the Secretary (HUDSEC)

Completed Actions

797. TAX REFUND DEDUCTION PROGRAM (S-2-85; FR 12092)

Significance: Agency Priority

CFR Citation: 24 CFR 17

Completed:

Reason	Date	FR Cite
Withdrawn	09/30/85	

Small Entity: No

Agency Contact: Shirley A. Evans 202 755-6310

RIN: 2501-AA26

798. BOARD OF CONTRACT APPEALS RULES OF PROCEDURES (S-1-79; FR-1349)

CFR Citation: 24 CFR 20

Completed:

Reason	Date	FR Cite
Final Action	11/05/85	50 FR 45910
Final Action Effective	12/16/85	50 FR 45910

Small Entity: No

Agency Contact: David T. Anderson 202 755-6132

RIN: 2501-AA04

799. FLOOD INSURANCE REQUIREMENTS FOR MORTGAGE INSURANCE AND GRANT PROGRAMS (S-3-85; FR-2007)

Significance: Agency Priority

CFR Citation: 24 CFR 244; 24 CFR 250; 24 CFR 884; 24 CFR 511; 24 CFR 570; 24 CFR 207; 24 CFR 234; 24 CFR 238

Completed:

Reason	Date	FR Cite
Final Action	12/03/85	48 FR 4123
Final Action Effective	12/25/85	48 FR 34123

Small Entity: No

Agency Contact: Walter Prybyla 202 755-6611

RIN: 2501-AA29

800. RESTRICTIONS ON HOUSING ASSISTANCE TO INELIGIBLE ALIENS (S-7-86; FR-1588)

Significance: Agency Priority

CFR Citation: 24 CFR 236; 24 CFR 215; 24 CFR 966; 24 CFR 200; 24 CFR 247; 24 CFR 235; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 812; 24 CFR 880; 24 CFR 881; 24 CFR 912; 24 CFR 200.180; 24 CFR 200.181; ...

Completed:

Reason	Date	FR Cite
Final Action	04/00/86	51 FR 11198

Small Entity: No

Agency Contact: James J. Tahash 202 426-3944

RIN: 2501-AA34

801. REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATION OF HOUSING ASSISTANCE FUNDS (S-10-84; FR-1696)

Significance: Regulatory Program

CFR Citation: 24 CFR 791

Completed:

Reason	Date	FR Cite
Became Regulatory Program RIN 2502-AA73	02/27/86	

Small Entity: No

Agency Contact: Robert J. Coyle 202 426-8751

RIN: 2501-AA27

[FR Doc. 86-9773 Filed 04-18-86; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Prerule Stage

Office of Housing (OH)

602. SUPPLEMENT TO MINIMUM PROPERTY STANDARDS FOR SOLAR HEATING AND DOMESTIC HOT WATER SYSTEMS (H-6-80; FR-1320)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: Updates obsolete references in MPS 4930.2 and reflects current changes in solar heating.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Mark Holman, Chief, Standards Branch, Department of Housing and Urban Development, Office of Housing, Manufactured Housing and Const Standards, 202 755-5924

RIN: 2502-AA99

603. FHA MORTGAGE INSURANCE ON INDIAN LAND WHERE THE TRIBE IS THE MORTGAGOR (H-6-85; FR-2059)

Significance: Agency Priority

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: Regulation to provide mortgage insurance on Indian reservations where there is a problem with marketability of title and where the tribe is mortgagor.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entity: No

Agency Contact: Brian Chappelle, Director, Department of Housing and Urban Development, Office of Housing, Single Family Development Division, 202 755-6720

RIN: 2502-AC81

604. STATE AGENCY AMENDMENTS (H-70-84; FR-1967)

Legal Authority: 12 USC 1715z-16(b); 12 USC 1715z-16(c)

CFR Citation: 24 CFR 215; 24 CFR 221; 24 CFR 236; 24 CFR 245

Legal Deadline: None

Abstract: This rule would make the Department's regulations on prohibited lease terms applicable to projects owned by state housing agencies.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: James Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management, 202 426-3870

RIN: 2502-AC79

605. FLEXIBLE SUBSIDY PROGRAM (H-46-82)

Legal Authority: 12 USC 1715; PL 95-551

CFR Citation: 24 CFR 219

Legal Deadline: None

Abstract: Would establish a flexible subsidy loan program for certain limited dividend projects for the correction of physical and cash flow deficiencies.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Includes: H-64-82.

Agency Contact: James J. Tahash, Director, Department of Housing and Urban Development, Office of Housing, Program Planning Division, Office of Multifamily Housing Management, 202 426-3944

RIN: 2502-AA53

606. FLEXIBLE SUBSIDY PROGRAM; 1983 AMENDMENTS (H-83-84)

Legal Authority: PL 98-181, Sec 217

CFR Citation: 24 CFR 219

Legal Deadline: None

Abstract: Implements section 217 of the Housing and Urban Rural Recovery Act of 1983.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: James J. Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of the General Counsel, Office of Multifamily Housing Management, 202 426-3870

RIN: 2502-AC31

607. GOVERNMENT OFFICIALS, CONFLICTS OF INTEREST (H-127-82)

Legal Authority: PL 97-35

CFR Citation: 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 886; 24 CFR 886; 24 CFR 889

Legal Deadline: None

Abstract: Would prevent possible conflicts of interest on the part of Federal, State and local government officials with regard to participation in projects assisted under Section 8.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: John J. Knapp, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7244

RIN: 2502-AA13

608. BOOK ENTRY SECURITIES OF PUBLIC HOUSING AUTHORITIES (H-64-83; FR-1845)

Legal Authority: 12 USC 1737f(c); 12 USC 1737f(a)

CFR Citation: 24 CFR 810

Legal Deadline: None

Abstract: This rule would permit local housing authorities to issue tax- exempt notes and bonds in book-entry form through the Federal Reserve Banks. Book-entry securities may be issued and marketed more efficiently than securities in certificate form.

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HUD—OH

Prerule Stage

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Robert H. Menke, Department of Housing and Urban Development, Office of Public and Indian Housing, Office of Financial Management, 202 755-1591

RIN: 2502-AB75

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Proposed Rule Stage

Office of Housing (OH)

609. DISCLOSURE OF FINANCIAL INFORMATION TO MORTGAGE PURCHASERS (H-78-84; FR-2014)

Significance: Agency Priority

Legal Authority: 42 USC 3535(i); 12 USC 1713(k); 12 USC 1713(l)

CFR Citation: 24 CFR 15

Legal Deadline: None

Abstract: This rule would permit the Department to disclose profit and loss information to potential purchasers of HUD-held mortgages to facilitate mortgage sales. It is necessary to validate the release of this information under the Trade Secrets Act, 18 USC 1905.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: Undetermined

Agency Contact: Marvin Hillman, Director, Multifamily Property Disposition, Department of Housing and Urban Development, Office of Housing, 202 755-7343

RIN: 2502-AC65

610. FLOOD INSURANCE REQUIREMENTS FOR MORTGAGE INSURANCE AND GRANT PROGRAM (CPD-74-84; FR-2007)

Legal Authority: 42 USC 4012(a); 42 USC 4106(a)

CFR Citation: 24 CFR 56; 24 CFR 207; 24 CFR 232; 24 CFR 234; 24 CFR 236; 24 CFR 241; 24 CFR 242; 24 CFR 244; 24 CFR 250; 24 CFR 511; 24 CFR 570; 24 CFR 884; 24 CFR 904; 24 CFR 905

Legal Deadline: None

Abstract: This rule would implement HUD's responsibilities under the Flood Disaster Protection Act of 1973. It would add a new Part 56 to specify HUD's responsibilities to require that flood insurance be obtained for eligible properties. This part would then be cross-referenced in the rules governing programs involving mortgage insurance and housing assistance grants.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Walter Prybyla, Deputy Director, Environmental Mgt. Div., Department of Housing and Urban Development, Office of Housing, Office of Community Planning and Development, 202 755-6611

RIN: 2502-AC76

611. USE OF MATERIALS BULLETIN NO. 66 - HUD BUILDING PRODUCT STANDARDS AND CERTIFICATION PROGRAM FOR EPDM ROOFING (H-106-82)

Legal Authority: 42 USC 3535(d); 12 USC 1715(b)

CFR Citation: 24 CFR 200.935

Legal Deadline: None

Abstract: Would promulgate HUD Use of Materials Bulletin No. 66 (UM 66). UM 66 accepts recently published product standards for EPDM roofing membrane. In addition, it would provide for a certification program for these products.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Yes

Agency Contact: Tsou-Liang Tang, Structural Engineer, Department of Housing and Urban Development, Office of Housing, Manufactured Housing and Const Standards, 202 755-5929

RIN: 2502-AA68

612. USE OF MATERIAL BULLETIN NO. 78A, PLASTIC SUPPLY PIPING FOR DOMESTIC COLD WATER (H-33-79; FR 1154)

Legal Authority: 42 USC 3535(d); 12 USC 1715(b)

CFR Citation: 24 CFR 200.929

Legal Deadline: None

Abstract: UM 78 originally outlined the requirements and conditions for HUD field office acceptance of a number of plastic piping materials for use in domestic water service, (from water main to house), and included references covering polybutylene piping (PB). UM 78 identified national standard references for plastic piping which is normally used in residential construction for domestic cold water service. This revision will update references to industry standards and combine UM 78 and UM 76, "CPCV and PB Plastic Hot and Cold Water Distribution."

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

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HUD—OH

Proposed Rule Stage

Agency Contact: Donald R. Fairman, Chief, Department of Housing and Urban Development, Office of Housing, Technical Support Branch, 202 755-5718

RIN: 2502-AB08

813. USE OF MATERIALS BULLETIN (UM) NO. 52B - HUD BUILDING PRODUCT STANDARDS AND CERTIFICATION PROGRAM FOR WOOD FLUSH DOORS (H-83-84; FR-2115)

Legal Authority: 45 USC 3535(d); 12 USC 1715(b)

CFR Citation: 24 CFR 200.935; 24 CFR 200.944

Legal Deadline: None

Abstract: Would promulgate HUD Use of Materials Bulletin (UM) No. 52b, which is a revision of an existing UM for Wood Flush Doors. UM52b references a revised industry consensus standard that covers the manufacture, testing, and a certification and labeling of such products. In addition, it establishes a certification and labeling program for doors to be acceptable under HUD program.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Donald R. Fairman, Chief, Department of Housing and Urban Development, Office of Housing, Technical Support Branch, 202 755-5718

RIN: 2502-AC78

814. USE OF MATERIALS BULLETIN NO. 48A - HUD BUILDING PRODUCT STANDARDS AND CERTIFICATION PROGRAM FOR PRESSURE TREATED LUMBER AND PLYWOOD (H-17-85)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This bulletin would revise an existing bulletin covering pressure treated lumber and plywood for use above ground, at ground contact and for ground contact foundations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Donald R. Fairman, Chief, Technical Support Branch, Department of Housing and Urban Development, Office of Housing, Office of Manufactured Housing and Regulatory Functions, 202 755-5718

RIN: 2502-AC98

815. USE OF MATERIALS BULLETIN NO. 71 - POLYSTYRENE FOAM BOARD (H-20-85)

Legal Authority: 12 USC 1735e

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This rule would establish standards for Polystyrene Foam Board approved for use in structures insured under the National Housing Act.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Undetermined

Agency Contact: Donald Fairman, Chief, Technical Support Branch, Department of Housing and Urban Development, Office of Housing, Office of Manufactured Housing and Regulatory Functions, 202 755-5718

RIN: 2502-AD00

816. USE OF MATERIALS BULLETIN NO. 40C - GRADEMARKING OF PLYWOOD (H-21-85)

Legal Authority: 12 USC 1735e

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This rule would establish standards for Grademarking of Plywood approved for use in structures insured under the National Housing Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Undetermined

Agency Contact: Donald Fairman, Chief, Technical Support Branch, Department of Housing and Urban Development, Office of Housing, Office of Manufactured Housing and Regulatory Functions, 202 755-5718

RIN: 2502-AD01

817. USE OF MATERIALS BULLETIN NO. 66 - MAT FORMED PARTICLEBOARD (H-22-85)

Legal Authority: 12 USC 1735e

CFR Citation: 24 CFR 200

Legal Deadline: None

Abstract: This rule would establish standards for mat formed particle board approved for use in structures insured under the National Housing Act.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Donald Fairman, Chief, Technical Support Branch, Department of Housing and Urban Development, Office of Housing, Office of Manufactured Housing and Regulatory Functions, 202 755-5718

RIN: 2502-AD02

818. ● MISCELLANEOUS AMENDMENTS TO PART 201--PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOANS (FR-2171; H-4-86)

Significance: Regulatory Program

Legal Authority: 12 USC 1703

CFR Citation: 24 CFR 0201.21; 24 CFR 0201.25; 24 CFR 0201.60; 24 CFR 0201.61; 24 CFR 0201.62; 24 CFR 0201.63; 24 CFR 0201.64

Legal Deadline: None

Abstract: The proposed rule would (1) change the period for the financing of premiums for comprehensive and extended hazard insurance from three years to one year; and (2) add a new subpart G to govern collection of claims owed to HUD under Title I loans.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: William C. Sorrentino, Dir. Ofc of Manufacture Hsg & Reg Functions, Department of Housing and Urban Development, Office of Housing, 202 755-5210

RIN: 2502-AD37

HUD—OH

Proposed Rule Stage

819. MORTGAGEE APPROVAL - ELIGIBILITY REQUIREMENTS (H-64-76; FR-903)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: Amends Part 203 to simplify and reorganize mortgage approval requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: No

Agency Contact: Andrew Zirneklis, Mortgagee Review Board Officer, Department of Housing and Urban Development, Office of Housing, Office of Lender Activities and Land Sales Registration, 202 755-6824

RIN: 2502-AB12

820. VETERAN QUALIFICATIONS--ELIGIBILITY REQUIREMENTS FOR MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS (H-47-83; FR-1801)

Legal Authority: 12 USC 1709; 12 USC 1715b; 12 USC 3535(d)

CFR Citation: 24 CFR 203.18

Legal Deadline: None

Abstract: Rule proposes to eliminate the requirement that a veteran submit a Certificate of Veteran Status from the Veterans Administration in order to establish eligibility for special loan terms for veterans. The proposed change would permit a veteran to certify that he or she qualifies as a veteran and would require the veteran to submit only a copy of his or her discharge papers. This change would expedite the processing of FHA mortgage insurance for veterans and eliminate the fee charged by the Veterans Administration for issuance of a Certificate of Veteran Status.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Brian Chappelle, Director, Department of Housing and Urban Development, Office of Housing, Single Family Development Division, 202 755-6720

RIN: 2502-AB89

821. MUTUAL MORTGAGE INSURANCE AND REHABILITATION LOANS; ELIMINATION OF RESTRICTIONS ON CONTIGUOUS PROPERTIES APPLICABLE TO INVESTOR MORTGAGORS (H-1-84; FR-1831)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This proposed rule would amend 24 CFR 203.42(a). The current rule prohibits the insuring of a mortgage on property on which there is a dwelling to be rented by a mortgagor, if the property is part of, or contiguous to, a subdivision or group of similar properties and if the mortgagor has a financial interest in eight or more of the contiguous properties. This rulemaking would modify this rental property mortgage restriction, thereby enabling investors to more freely apply for FHA mortgage insurance to purchase one-to-four family rental units.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Brian Chappelle, Director, Department of Housing and Urban Development, Office of Housing, Single Family Housing Division, 202 755-6720

RIN: 2502-AC17

822. ONE-TIME MORTGAGE INSURANCE PREMIUM FOR NON-MUTUAL FUND - SINGLE FAMILY INSURANCE PROGRAM (H-40-84; FR-1930)

Legal Authority: 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 203; 24 CFR 221; 24 CFR 226; 24 CFR 227; 24 CFR 234

Legal Deadline: None

Abstract: This rule would extend the one-time mortgage insurance premium provision for single-family mortgages to funds other than the Mutual Mortgage Insurance Fund.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Undetermined

Agency Contact: James B. Mitchell, Director, Department of Housing and Urban Development, Office of Housing, Financial Policy Division, 202 426-4325

RIN: 2502-AC35

823. SINGLE FAMILY MORTGAGE INSURANCE ON HAWAIIAN HOME LANDS (H-39-84; FR-1928)

Significance: Agency Priority

Legal Authority: 42 USC 3535(d); PL 96-181, Sec 421

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: Regulation to provide mortgage insurance for certain property located within Hawaiian homelands.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Alan Kappeler, Director, Department of Housing and Urban Development, Office of Housing, Office of Single Family Housing, 202 755-5946

RIN: 2502-AC36

824. INSURANCE OF SINGLE FAMILY SHARED APPRECIATION MORTGAGES (H-33-84; FR-1917)

Legal Authority: 12 USC 1715z; PL 96-181, Sec 444

CFR Citation: 24 CFR 203; 24 CFR 234

Legal Deadline: None

Abstract: HUD proposes regulations governing the insurance of mortgages, the terms of which permit the lender to share in the net appreciated value of the mortgaged property at the time of its sale.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

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Agency Contact: Brian Chappelle, Director, Single Family Development Division, Department of Housing and Urban Development, Office of Housing, Office of Insured Single Family Housing, 202 755-6720

RIN: 2502-AC42

825. RETENTION PERIOD FOR MORTGAGEE SINGLE FAMILY CLAIM RECORDS (H-81-84)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: Under the new Single Family Claims System, the mortgagee is not required to provide documentation to support the fiscal data reported or entered on the new claim form. Instead, the mortgagee will be randomly audited; at which time, the mortgagee is expected to produce all the supporting receipts, payment ledger records, etc.

We plan to change the regulations to specify the retention period and file contents for records supporting single family claim payments and mortgage reviews.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: Yes

Agency Contact: S.A. Evans, Director, Department of Housing and Urban Development, Office of Administration, Office of Finance and Accounting, 202 755-6310

RIN: 2502-AC50

826. LIMIT ON CLAIM COST (H-82-84)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: Due to the costs of processing single family claims to both HUD and the mortgagee, we propose a regulation change which will set a limit of $50 or less on the amount of refund HUD will expect from the mortgagee; and the amount of claim the mortgagee will file with HUD.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Yes

Agency Contact: Richard Buchheit, Director, Single Family Servicing Division, Department of Housing and Urban Development, Office of Housing, Office of Insured Single Family Housing, 202 755-6672

RIN: 2502-AC52

827. PENALTY FOR LACK OF DOCUMENTATION (H-80-84)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: The new single family process provides for "random audits" of mortgagees' records which file S/F claims with HUD for insurance benefits. During the audit, the mortgagee will be required to provide specific supporting documentation. When the mortgagee cannot produce the required documentation, HUD will penalize the mortgagee for the amount not supported plus the current interest rate on that unsupported amount from the date of payment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: S.A. Evans, Director, Department of Housing and Urban Development, Office of Administration, Office of Finance and Accounting, 202 755-6310

RIN: 2502-AC54

828. HUD INSPECTIONS - NO DUTY OF CARE (H-1-85; FR-2025)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 203; 24 CFR 234

Legal Deadline: None

Abstract: Proposed regulation to protect HUD against claims brought under the Federal Tort Claims Act, which claim negligent HUD inspection of FHA-insured properties.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Brian Chappelle, Acting Director, Department of Housing and Urban Development, Office of Housing, Single Family Development Division, 202 755-6720

RIN: 2502-AC92

829. RELATION OF INCOME TO MORTGAGE PAYMENTS (H-35-85; FR-2117)

Legal Authority: 12 USC 1709; 12 USC 1715b

CFR Citation: 24 CFR 203.33

Legal Deadline: None

Abstract: To be more consistent with the underwriting practices of conventional mortgage lenders, this rule would substitute gross income for net income for purposes of HUD's determinations on the adequacy and stability of a mortgagor's income for FHA mortgage insurance. In addition, this rule would make appropriate adjustments to percentages of gross income to housing expense and other recurring charges.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Brian Chappelle, Director, Department of Housing and Urban Development, Office of Housing, Single Family Development Division, 202 755-6720

RIN: 2502-AD30

830. TEMPORARY MORTGAGE ASSISTANCE PAYMENTS (TMAP), AND ASSIGNMENTS TO HUD (H-44-85; FR-2147)

Significance: Regulatory Program

Legal Authority: 12 USC 1715b; 12 USC 1715u

CFR Citation: 24 CFR 203; 24 CFR 204

Legal Deadline: None

Abstract: Amendments to TMAP and Assignment rule in light of statutory changes, the District Court holdings in FERRELL, and policy developments. Because of the number of changes in the rule, it is to be published as a proposed rule. This rule was identified in earlier Agendas as RIN 2502-AB79 (H-29-81; FR-1415).

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Timetable:

Action	Date	FR Cite
NPRM	01/03/86	51 FR 216
NPRM Comment Period End	03/04/86	51 FR 216
Final Action	07/00/86	

Small Entity: No

Agency Contact: Richard B. Buchheit, Director, Department of Housing and Urban Development, Office of Housing, Single Family Service Division, 202 755-6672

RIN: 2502-AD34

831. ● SINGLE FAMILY FORECLOSURES—DEFICIENCY JUDGEMENTS (H-6-86; FR-2193)

Significance: Regulatory Program

Legal Authority: 12 USC 1709

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This rule would permit HUD to request lenders to seek deficiency judgments after a single family home foreclosure and to reimburse the lender for its costs.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Agency Contact: Richard Buchheit, Director, Single Family Development Division, Department of Housing and Urban Development, Office of Housing, 202 755-6880

RIN: 2502-AD38

832. ● ELIMINATION OF CLOSING COSTS AS AN ITEM ELIGIBLE FOR INCLUSION AS PART OF AN FHA INSURED SINGLE FAMILY MORTGAGE (H-10-86; FR-2203)

Significance: Regulatory Program

Legal Authority: 12 USC 1709; 12 USC 1715y

CFR Citation: 24 CFR 203; 24 CFR 220; 24 CFR 221; 24 CFR 234

Legal Deadline: None

Abstract: Current HUD policy is to allow a high percentage of closing costs associated with the financing of single family homes to be included as part of the insurable mortgage amount. This results from the HUD treating closing costs as part of the appraised value or cost of acquisition of a single family property. It is proposed that HUD regulations be revised so that "appraised value" or "costs of acquisition" are applied in a manner which prohibits the inclusion of closing-related costs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Alan Kappeler, Director, Office of Insured SF Housing, Department of Housing and Urban Development, Office of Housing, 202 755-9046

RIN: 2502-AD39

833. ● REFINANCING OF EXISTING HUD-INSURED MORTGAGES (H-8-86; FR-2197)

Significance: Regulatory Program

Legal Authority: 12 USC 1709

CFR Citation: 24 CFR 203.43; 24 CFR 221; 24 CFR 234

Legal Deadline: None

Abstract: This proposed rule would revise HUD's present regulations at 24 CFR Parts 203, 221, and 234 to provide for insured refinancing of HUD insured mortgages.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Brian Chappelle, Director, Single Family Development Division, Department of Housing and Urban Development, Office of Housing, 202 755-6720

RIN: 2502-AD41

834. MULTIFAMILY MORTGAGE INSURANCE (H-86-82)

Legal Authority: 12 USC 1715z-6; 12 USC 1752-9; 12 USC 1715l; 12 USC 1715z-7

CFR Citation: 24 CFR 207; 24 CFR 213; 24 CFR 220; 24 CFR 221; 24 CFR 232; 24 CFR 241; 24 CFR 242; 24 CFR 244

Legal Deadline: None

Abstract: Would amend mortgage insurance regulations to require payment of fees for rehabilitation feasibility processing and for reprocessing of outstanding commitments after appropriate extensions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Joseph E. Malloy, Chief, Insurance Branch, Department of Housing and Urban Development, Office of Housing, Office of Insured Multifamily Housing Development, 202 755-6223

RIN: 2502-AA63

835. MORTGAGE INSURANCE PROGRAMS UNDER NATIONAL HOUSING ACT (H-48-81; FR-1525)

Legal Authority: 12 USC 1713; 12 USC 1715

CFR Citation: 24 CFR 207; 24 CFR 213; 24 CFR 220; 24 CFR 221; 24 CFR 231; 24 CFR 232; 24 CFR 234; 24 CFR 242

Legal Deadline: None

Abstract: Would amend Parts 207, 213, 220, 221, 231, 232, 234, 242 and 244 to allow up to a 20% increase in maximum project mortgage amounts to cover increased costs due to the installation of a solar energy system or residential energy conservation measures.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: Joseph E. Malloy, Chief, Insurance Branch, Department of Housing and Urban Development, Office of Housing, Office of Insured Multifamily Housing Development, 202 755-6223

RIN: 2502-AA90

836. COOPERATIVE HOUSING MORTGAGE INSURANCE SUBORDINATED SECRETARY-HELD MORTGAGES (H-33-83; FR-1756)

Significance: Agency Priority

Legal Authority: 12 USC 1713; 12 USC 1715e; 12 USC 1715b

CFR Citation: 24 CFR 207; 24 CFR 213

Legal Deadline: None

Abstract: The rule will permit unsubsidized multifamily rental housing projects with Secretary-held mortgages to be converted to cooperatives by

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subordinating the Secretary-held mortgage to a new first mortgage. The rule would benefit tenants by giving them the opportunity for cooperative homeownership at a lower cost. The government would benefit by sharing half of the equity appreciation received by the project owner in selling the project to a Cooperative.

Timetable:

Action	Date	FR Cite
NPRM	05/09/86	

Small Entity: Undetermined

Agency Contact: Joseph E. Malloy, Chief, Insurance Branch, Department of Housing and Urban Development, Office of Housing, Office of Insured Multifamily Housing Development, 202 755-6293

RIN: 2502-AB97

837. INSURANCE OF MULTIFAMILY SHARED APPLICATION MORTGAGES (H-41-84; FR-1934)

Legal Authority: 12 USC 1715z; PL 98-181, Sec 445

CFR Citation: 24 CFR 207; 24 CFR 220; 24 CFR 222; 24 CFR 231

Legal Deadline: None

Abstract: Regulation will govern the insuring of mortgages, the terms of which permit the lender to share in the net appreciated value of the mortgaged project at the time of its sale.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Joseph E. Malloy, Chief, Insurance Branch, Department of Housing and Urban Development, Office of Housing, Office of Insured Multifamily Housing Dev., 202 755-6223

RIN: 2502-AC34

838. LIMITATION ON PREPAYMENT OF MORTGAGES ON MULTIFAMILY RENTAL HOUSING (H-54-84; FR-1952)

Significance: Regulatory Program

Legal Authority: 12 USC 1715z-15

CFR Citation: 24 CFR 207; 24 CFR 221; 24 CFR 215; 24 CFR 886; 24 CFR 245; 24 CFR 277; 24 CFR 219; 24 CFR 231; 24 CFR 242; 24 CFR 244

Legal Deadline: None

Abstract: Rule will restrict prepayment of multifamily project mortgages whenever Secretary has prepayment approval responsibilities. Prepayment will not be approved unless project is no longer needed for lower income housing, tenants have been given notice and opportunity to comment, and a relocation assistance plan has been put in place. Similar restrictions will apply to termination of insurance. Where the Secretary is not responsible for approving prepayment and therefore cannot restrict it, priority will be given for additional section 8 and troubled project assistance in order to discourage prepayment.

Timetable:

Action	Date	FR Cite
NPRM	05/09/86	

Small Entity: No

Agency Contact: James Tahash, Director, Department of Housing and Urban Development, Office of Housing, Program Planning, Office of Multifamily Housing Management, 202 755-5970

RIN: 2502-AC49

839. REVISION OF MAXIMUM INSURABLE MORTGAGE AMOUNT IN MULTIFAMILY REFINANCINGS UNDER SECTION 223(F) (H-39-85; FR-2126)

Legal Authority: 12 USC 1713; 12 USC 1715z(9)

CFR Citation: 24 CFR 207.32a; 24 CFR 255.203

Legal Deadline: None

Abstract: This rule proposes to substitute for existing limits on insurable mortgage amounts in connection with the refinancing of existing multifamily housing projects, a new limit which will be lesser of (1) 85 percent of value or (2) where the property was purchased within 48 months of the refinancing transaction, the following percentages of the original cost of acquisition of the property - 85 percent where property purchased within 12 months, 90 percent if purchased within 24-36 months and 100 percent if purchased within 36 to 48 months.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: James Hamernick, Director, Department of Housing and Urban Development, Office of Housing, Office of Insured Multifamily Housing Dev., 202 755-6589

RIN: 2502-AD31

840. PREFERENCE IN THE PROVISION OF HOUSING FOR FAMILIES WHO ARE OCCUPYING SUBSTANDARD HOUSING, ARE INVOLUNTARILY DISPLACED, OR ARE PAYING MORE THAN 50% OF FAMILY INCOME (H-22-80; FR-1597)

Significance: Regulatory Program

Legal Authority: 12 USC 1701s; 42 USC 1437c; 42 USC 1437f; PL 96-181, Sec 203

CFR Citation: 24 CFR 215; 24 CFR 880; 24 CFR 881; 24 CFR 882; 24 CFR 883; 24 CFR 884; 24 CFR 886; 24 CFR 904; 24 CFR 905; 24 CFR 960; 24 CFR 885

Legal Deadline: None

Abstract: Would establish preferences in the Section 8 and Rent Supplement programs for those "living in substandard housing", for those who are "involuntarily displaced" and for those paying more than 50 percent of their income for rent. The Department will be publishing a proposed rule again because of the change in position taken by the Department as a result of the public comments received on the 09/26/84 proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Additional Information: Additional contact persons:

1. Nancy Chisholm

Office of Policy

Office of Public and Indian Housing

202 755-6713

2. Madeline Hastings

Existing Housing Division

Office of Housing

202 755-6887

Agency Contact: James Tahash, Director, Department of Housing and Urban Development, Office of Housing, Program Planning Division, 202 426-3978

RIN: 2502-AA34

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841. AMENDMENTS TO THE SECTION 235 PROGRAM (H-3-85; FR-2037)

Legal Authority: PL 96-181, Sec 226; 42 USC 3535(d); PL 98-479, Sec 104

CFR Citation: 24 CFR 235

Legal Deadline: None

Abstract: A regulation to codify program changes in the section 235 program required by section 226 of the Housing and Urban-Rural Recovery Act of 1983 and the 1984 Supplemental Appropriations Act (Pub. L. 98-396). The regulation may include other changes to existing regulations as well as those specifically required by the cited legislation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Brian Chappelle, Director, Department of Housing and Urban Development, Office of Housing, Single Family Development Division, 202 755-6720

RIN: 2502-AC93

842. MANDATORY MEALS PROGRAMS IN HUD-ASSISTED HOUSING PROJECTS (H-43-85; FR-2179)

Significance: Regulatory Program

Legal Authority: PL 86-372, Sec 202

CFR Citation: 24 CFR 231; 24 CFR 221; 24 CFR 236; 24 CFR 277; 24 CFR 880; 24 CFR 881; 24 CFR 883; 24 CFR 884; 24 CFR 885

Legal Deadline: None

Abstract: This proposed rule will put in regulatory form the administrative policy that allows mandatory meals in elderly housing projects with prior HUD approval. The rule will provide the guidelines that owners shall use in requiring mandatory participation in their meals programs in order to ensure that tenants with unique circumstances are not required to participate in a meal program for which they receive no benefit but must pay for.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Agency Contact: James J. Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of Housing, 202 426-3944

RIN: 2502-AD27

843. ● REVIEW OF APPLICATIONS FOR HOUSING ASSISTANCE AND ALLOCATION OF HOUSING ASSISTANCE FUNDS (S-10-84; FR-1896)

Legal Authority: 42 USC 1439

CFR Citation: 24 CFR 791

Legal Deadline: None

Abstract: The rule revises HUD's regulations for the allocation of housing assistance funds to conform with statutory changes made by the Housing and Urban-Rural Recovery Act of 1983. It contains an explicit description of the allocation formula and deletes specific requirements on allocating funds in accordance with approved Housing Assistance Plans; and eliminates the requirements for local consultation in the allocation process. Part 791 would also be amended to consolidate local government submission requirements and HUD criteria for review of applications for housing.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Additional Information: Includes: H-4-81, FR-1512.

Agency Contact: Robert J. Coyle, Department of Housing and Urban Development, Office of Housing, 202 426-8751

RIN: 2502-AA73

844. SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM-EXISTING HOUSING-QUALITY STANDARDS-LEAD BASED PAINT (H-2-83; FR-1528)

Significance: Agency Priority

Legal Authority: 42 USC 1437f

CFR Citation: 24 CFR 882

Legal Deadline: None

Abstract: This rule would limit the applicability of HUD's Lead Based Paint regulation for units leased under the Section 8 Existing Housing and Moderate Rehabilitation Programs to those units built before 1950 and in which assisted families with children under age seven choose to live.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: Gerald J. Benoit, Director, Department of Housing and Urban Development, Office of Housing, Existing Housing Division, 202 755-6477

RIN: 2502-AC55

845. ● SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM-PUBLIC HOUSING AGENCY ADMINISTRATIVE FEES (H-12-86; FR-2207)

Significance: Regulatory Program

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 882; 24 CFR 887

Legal Deadline: None

Abstract: Under the Section 8 housing program, housing assistance payments are made to owners on behalf of eligible families. Generally, the Department administers this program through public housing agencies (PHAs). In exchange for providing the administrative support for the program PHAs receive an administrative fee. This rule will revise two aspects of the administrative fee element of the program. First, the Department proposes to revise the base Fair Market Rent used to compute the Administrative Fee and second, the Department proposes to make the amount uniform for the Section 8 Certificate and Housing Voucher programs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Madeline Hasting, Director, Existing Housing Division, Department of Housing and Urban Development, Office of Housing, 202 755-6887

RIN: 2502-AD42

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846. ● SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM - REQUESTING EXCEPTION RENTS TO THE FAIR MARKET RENTS (H-14-86; FR-2213)

Significance: Regulatory Program

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 882; 24 CFR 886

Legal Deadline: None

Abstract: The Section 8 Existing Housing Assistance Payments Program is authorized by the United States Housing Act of 1937. HUD provides assistance payments on behalf of eligible families to owners. By regulations, the Department also encourages PHAs administering the Section 8 Certificate Program to promote greater choice of housing opportunities for eligible families in the program. Currently, PHAs are encouraged to enter into administrative arrangements with other PHAs to permit certificate holders to seek housing in the broadest range of areas. While there are several voluntary mobility programs in operation around the country, a Section 8 Certificate holder only has limited opportunity to relocate. Accordingly, the Department proposes to revise its regulations to condition the granting of exception Fair Market Rents on the existence of interjurisdictional (cont)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: mobility agreements between neighboring jurisdictions.

Agency Contact: Madeline Hastings, Director, Existing Housing Division, Department of Housing and Urban Development, Office of Housing, Office of Elderly and Assisted Housing, 202 755-6887

RIN: 2502-AD44

847. MANAGEMENT RULES AND COMPREHENSIVE HOUSING AND COMMUNITY DEVELOPMENT AMENDMENTS (H-34-83; FR-1781)

Legal Authority: 12 USC 1701c; 42 USC 3535(d)

CFR Citation: 24 CFR 885

Legal Deadline: None

Abstract: This rule would amend HUD's current regulations on loans for housing for the elderly or handicapped. The proposed regulation would add regulatory provisions to govern section 202/8 project operations and management and would incorporate changes required by recent statutory amendments governing housing assistance payments and contracts.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Undetermined

Agency Contact: James J. Tahash, Director, Department of Housing and Urban Development, Office of Housing, Program Planning Division, Office of Multifamily Housing Management, 202 426-3978

RIN: 2502-AC03

848. MISCELLANEOUS REVISIONS TO PART 886 (H-58-84; FR-1950)

Legal Authority: 42 USC 1437a; 14 USC 1437c; 14 USC 1437f; 42 USC 3535(d)

CFR Citation: 24 CFR 247; 24 CFR 886

Legal Deadline: None

Abstract: This rule would make various amendments to Part 886-Section 8 Housing Assistance Payments Programs-Special Allotments. The changes would (1) apply 24 CFR Part 247 - Evictions from Certain Subsidized and HUD-Owned Projects, to terminations of tenancy under Part 886; (2) modify the maximum monthly rent provisions of Subpart C to reflect Section 102(b)(7) of the Housing and Community Development Technical Amendments of 1984; (3) amend the work write-up, cost estimate and cost certification provisions governing the rehabilitation of properties under Subpart C; and (4) make other miscellaneous changes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: James J. Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management, 202 426-3978

RIN: 2502-AC59

849. ● PROVISION OF SECTION 8 EXISTING HOUSING ASSISTANCE FOR PROJECTS AT FORECLOSURE SALES (H-3-86; FR-2158)

Legal Authority: 42 USC 1437f; 12 USC 3706; 12 USC 3717; 12 USC 1713(k)

CFR Citation: 24 CFR 886; 24 CFR 27

Legal Deadline: None

Abstract: This interim rule would amend Parts 886 and 27 to provide that Section 8 assistance be available for projects sold at foreclosure sales.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Agency Contact: James J. Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management, 202 426-3944

RIN: 2502-AD43

850. ● SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS — PUBLIC COMMENTS ON PROPOSED FAIR MARKET RENTS (H-13-86; FR-2212)

Significance: Regulatory Program

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 886

Legal Deadline: None

Abstract: Section 8 of the United States Housing Act of 1937 authorizes a system of housing assistance payments to aid lower income families in renting decent, safe and sanitary housing. Housing assistance payments are determined in relation to the area-wide Fair Market Rent established at least annually by the Department. To assist the Department in making decisions about increasing proposed Fair Market Rents in response to public comments, the Department will amend its regulations to require additional data. Thus, not only will commenters be requested to comment on the accuracy of the proposed rents, but commenters also will be asked to submit data showing that the current or proposed Section 8 assistance is not adequate and makes the program or project (as appropriate) unworkable unless changed.

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Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information:

Additional Contact:

Edward M. Winiarski

Chief Appraiser

Technical Support Division

Office of Multifamily Housing Development

Office of Housing

202 426-7625

Agency Contact: Madeline Hastings, Director, Existing Housing Division, Department of Housing and Urban Development, Office of Housing, Office of Elderly and Assisted Housing, 202 755-6887

RIN: 2502-AD40

851. TRANSPORTATION, DURABILITY, TESTING - MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS (H-23-85)

Legal Authority: 42 USC 5403

CFR Citation: 24 CFR 3280

Legal Deadline: None

Abstract: This rule will amend the standards applicable to manufactured homes to assure that they withstand the adverse effects of transportation shock and vibration.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: No

Agency Contact: Mark Holman, Chief, Standards Branch, Department of Housing and Urban Development, Office of Housing, Office of Manufac. Housing and Reg. Functions, 202 755-6590

RIN: 2502-AD03

852. REAL ESTATE SETTLEMENT PROCEDURES ACT — CONTROLLED BUSINESS PROVISIONS AND MISCELLANEOUS AMENDMENTS (H-45-84; FR-1942)

Significance: Agency Priority

Legal Authority: 12 USC 2601; 12 USC 2607; PL 98-181, Sec 461

CFR Citation: 24 CFR 3500

Legal Deadline: None

Abstract: The rule will implement statutory amendments established by Section 461 of the Housing and Urban Rural Recovery Act of 1983 (Pub.L.98-181). The amendments address a problem identified as "controlled business" and the manner in which Section 8 of the Real Estate Settlement Procedures Act (12 USC 2607), the kickback prohibition of RESPA is to be applied to such arrangements. No alternatives are being considered because of the statutory mandate. The potential costs cannot be accurately projected but are believed to be incidental. The rule will also contain other miscellaneous changes to clarify and update the existing rule.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Brian Chappelle, Director, Single Family Development Division, (202) 755-6720.

Agency Contact: Grant E. Mitchell, Assistant General Counsel, Department of Housing and Urban Development, Office of the General Counsel, Office of Equal Opportunity and Admin. Law, Fiscal Management and Energy Division, 202 755-6550

RIN: 2502-AC09

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Housing (OH)

Final Rule Stage

853. APPLICABILITY OF MINIMUM PROPERTY STANDARDS - MANUFACTURED HOMES UNDER TITLE II OF THE NATIONAL HOUSING ACT (H-82-82; FR-1578)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 200; 24 CFR 203

Legal Deadline: None

Abstract: Would insure financing of properties with manufactured homes under Title II of the National Housing Act, as a means to broaden affordable home ownership opportunities. To qualify for such financing, the manufactured homes, foundations and sites must meet prescribed standards to insure adequate security for HUD-insured mortgages. By such action homeowners can expect reduced housing cost without sacrificing housing quality or durability.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Brian Chappelle, Acting Director, Department of Housing and Urban Development, Office of Housing, Single Family Development Division, 202 755-6720

RIN: 2502-AB24

854. MINIMUM PROPERTY STANDARDS FOR CARE-TYPE HOUSING — MPS (H-38-83; FR-1776)

Significance: Agency Priority

Legal Authority: PL 98-181, Sec 405

CFR Citation: 24 CFR 200.925

Legal Deadline: None

Abstract: Would eliminate the current Minimum Property Standards (MPS) for Care-Type Housing and revise the current MPS for Multifamily Housing to include Care-Type Housing. By doing this, marketability and livability criteria would be deleted to the same extent as they were deleted from multifamily housing. This would also adopt by reference, nationally recognized model building codes or State or local codes,

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If acceptable, to provide health and safety criteria.

Timetable:

Action	Date	FR Cite
NPRM	02/15/85	50 FR 6369
NPRM Comment Period End	04/16/85	50 FR 6369
Final Action	00/00/00	

Small Entity: No

Agency Contact: Mark Holsaas, Chief, Standards Branch, Department of Housing and Urban Development, Office of Housing, Manufactured Housing and Const Standards, 202 755-5924

RIN: 2502-AB66

856. USE OF MATERIALS BULLETIN (UM) NO. 44D-HUD BUILDING PRODUCT STANDARDS AND CERTIFICATION PROGRAM FOR CARPET AND ATTACHED CUSHION (H-85-84; FR-2104)

Legal Authority: 42 USC 3535(d); 12 USC 1715(b)

CFR Citation: 24 CFR 200.935; 24 CFR 200.942

Legal Deadline: None

Abstract: Would promulgate HUD Use of Materials Bulletin (UM) No. 44d, which is a revision of existing UM 44c, and accepts national industry consensus standards for manufacture, sampling, testing, and acceptance of carpet and carpet with attached cushion. In addition, it would provide for a certification and labeling program for carpet to be acceptable under HUD programs.

Timetable:

Action	Date	FR Cite
NPRM	10/15/85	50 FR 41690
NPRM Comment Period End	12/16/85	50 FR 41690
Final Action	04/00/86	

Small Entity: No

Agency Contact: Donald R. Fairman, Chief, Department of Housing and Urban Development, Office of Housing, Technical Support Branch, 202 755-5716

RIN: 2502-AC71

858. ELIGIBILITY OF MORTGAGES INVOLVING A DWELLING UNIT IN A COOPERATIVE HOUSING DEVELOPMENT (H-83-82; FR-1742)

Legal Authority: 12 USC 1709

CFR Citation: 24 CFR 203.43c; 24 CFR 203.437

Legal Deadline: None

Abstract: Would relax some restrictions which have unnecessarily inhibited activity under the program. The rule would delete the requirement that corporations waive the right of first refusal and it would eliminate the limitation of the mortgage term on an individual share to the term remaining on the blanket mortgage. The 1983 statute extends the availability of mortgage insurance in existing conventionally financed cooperatives provided construction has been completed one year. The statute removed the requirement that the cooperative have an insured blanket mortgage.

Timetable:

Action	Date	FR Cite
NPRM	10/15/84	49 FR 40188
NPRM Comment Period End	12/14/84	49 FR 40188
Final Action	05/00/86	

Small Entity: No

Agency Contact: Brian Chappelle, Director, Department of Housing and Urban Development, Office of Housing, Single Family Development Division, 202 755-6720

RIN: 2502-AA61

857. MORTGAGE INSURANCE FOR ONE-TO-FOUR-FAMILY RESIDENCES—ADJUSTMENT FOR DAMAGES OR NEGLECT (H-19-79; FR-837)

Legal Authority: 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: Allows conveyance or assignment of fire damaged property when the fire insurance policy has been terminated (or renewal refused) and the mortgagee has been unable to obtain adequate insurance to protect its investment.

Timetable:

Action	Date	FR Cite
Final Action	06/00/86	

Small Entity: No

Agency Contact: Richard Buchheit, Director, Department of Housing and Urban Development, Office of Housing, Single Family Servicing Division, 202 755-6873

RIN: 2502-AB03

858. ● CONVEYANCE OF ONE- TO FOUR-FAMILY PROPERTIES OCCUPIED BY TENANTS OR FORMER MORTGAGORS (H-9-85; FR-2064)

Legal Authority: 12 USC 1709; 12 USC 1715b

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: This proposed rule would amend the current rule on occupied conveyances of HUD-acquired properties. Included in this proposed rule are revised criteria for determining when HUD will accept conveyance of a one- to four-family property by a mortgagee when there are tenants of a former mortgagor in occupancy.

Timetable:

Action	Date	FR Cite
NPRM	02/25/86	51 FR 6556
Final Action	09/00/86	

Small Entity: Undetermined

Agency Contact: Jacqueline B. Campbell, Director, Department of Housing and Urban Development, Office of Housing, Single Family Property Disposition Division, 202 755-5740

RIN: 2502-AB10

859. PAYMENT OF SINGLE FAMILY MORTGAGE INSURANCE WITHOUT CONVEYANCE OF TITLE (H-39-84; FR-1927)

Significance: Regulatory Program

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 200; 24 CFR 203; 24 CFR 204; 24 CFR 220; 24 CFR 228

Legal Deadline: None

Abstract: Would authorize the Secretary to pay insurance claims without acquiring title to the property where (1) foreclosure sale produces price equal to property's fair market value (less appropriate adjustments for acceptable costs) and (2) insurance claim is assigned to the Secretary.

Timetable:

Action	Date	FR Cite
NPRM	01/10/85	50 FR 1233
NPRM Comment Period End	03/11/85	50 FR 1233
Final Action	00/00/00	

Small Entity: No

Agency Contact: Alan Kappeler, Director, Department of Housing and Urban Development, Office of Housing, Office of Insured Single Family Housing, 202 755-3046

RIN: 2502-AC37

860. SINGLE FAMILY MORTGAGE INSURANCE - INDIAN RESERVATIONS (H-36-84; FR-1921)

Legal Authority: 12 USC 1701; 12 USC 1715z-16; 42 USC 3535(d); 12 USC 1715b; 12 USC 1709; 12 USC 1713; 12 USC 1715k; 12 USC 1715h; 12 USC 1715m; 12 USC 1748f; 12 USC 1748h-z; PL 98-181, Sec 422

CFR Citation: 24 CFR 203.17; 24 CFR 203.43h; 24 CFR 200.163; 24 CFR 203.350; 24 CFR 203.436; 24 CFR 203.604; 24 CFR 203.695; 24 CFR 204.1; 24 CFR 204.400; 24 CFR 220.1; 24 CFR 220.251; 24 CFR 220.900; 24 CFR 221.1; 24 CFR 221.251; 24 CFR 221.800; ...

Legal Deadline: None

Abstract: Regulation to provide mortgage insurance on Indian reservations.

Timetable:

Action	Date	FR Cite
NPRM	10/19/84	49 FR 41212
NPRM Comment Period End	02/18/85	49 FR 41212
Final Action	05/00/86	

Small Entity: No

Agency Contact: Brian Chappelle, Director, Department of Housing and Urban Development, Office of Housing, Single Family Development Division, 202 755-6720

RIN: 2502-AC39

861. INSURANCE OF SINGLE FAMILY ADJUSTABLE RATE MORTGAGES (H-32-84; FR-1916)

Legal Authority: 12 USC 1715z; PL 98-181, Sec 443

CFR Citation: 24 CFR 203.49

Legal Deadline: None

Abstract: HUD will propose regulations governing the insuring of mortgages, the terms of which permit adjustments to a mortgagor's payments based on changes in an interest rate index.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/06/84	49 FR 23580
Interim Rule Effective	07/30/84	49 FR 23580
Final Action	08/00/86	

Small Entity: No

Additional Information: Under the 1985 Regulatory Program this appeared as part of RIN 2502-AD20.

Agency Contact: Brian Chappelle, Director, Single Family Development Division, Department of Housing and Urban Development, Office of Housing, Office of Insured Single Family Housing, 202 755-6720

RIN: 2502-AC43

862. INSURANCE OF SINGLE FAMILY INDEXED MORTGAGES (H-31-84; FR-1915)

Significance: Agency Priority

Legal Authority: 12 USC 1715z-10; PL 98-181, Sec 441

CFR Citation: 24 CFR 203; 24 CFR 234

Legal Deadline: None

Abstract: HUD will propose regulations governing the insuring of a mortgage, the terms of which permit for adjustments to the principal balance of the loan, and mortgagee payments based upon periodic changes in a price index.

Timetable:

Action	Date	FR Cite
NPRM	06/04/84	49 FR 23063
NPRM Comment Period End	08/03/84	49 FR 23063
Final Action	00/00/00	

Small Entity: No

Agency Contact: Brian Chappelle, Director, Single Family Development Division, Department of Housing and Urban Development, Office of Housing, Office of Insured Single Family Housing, 202 755-6720

RIN: 2502-AC44

863. SINGLE FAMILY COINSURANCE PROGRAM REVISIONS (H-20-80; FR-1084)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 204

Legal Deadline: None

Abstract: Would revise the single family coinsurance requirements to adopt a recently proposed rule and to incorporate certain public comments received in response to that proposal. This revision: (1) extends coverage to include mortgages on condominiums and non-occupant owner transactions; (2) replaces the stop-loss provision with a hold-harmless provision intended to protect the secondary market against failure of lenders to pass through insurance benefits paid by HUD; (3) clarifies and simplifies various requirements in light of several years' experience with the program; and (4) permits coinsuring mortgagees to obtain mortgage insurance to cover the risk of their 10 percent exposure. Includes H-59-81.

Timetable:

Action	Date	FR Cite
Final Action	04/00/86	

Small Entity: No

Additional Information: Includes: H-59-81.

Agency Contact: Brian Chappelle, Director, Department of Housing and Urban Development, Office of Housing, Single Family Development Division, 202 755-6720

RIN: 2502-AB01

864. MULTIFAMILY HOUSING MORTGAGE INSURANCE - ASSIGNMENT OF INSURED MORTGAGES (H-35-83; FR-1768)

Legal Authority: 12 USC 1713; 42 USC 3535(d)

CFR Citation: 24 CFR 207

Legal Deadline: None

Abstract: The proposed rule would amend 24 CFR 207.301 to permit a mortgagee to sell or syndicate the entire or any portion of its beneficial interest in an insured multifamily mortgage or pool of multifamily mortgages without prior HUD consent if certain conditions are met. These conditions would maintain the rights, benefits, and obligations of all parties potentially affected by an assignment of insured mortgages.

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Timetable:

Action	Date	FR Cite
NPRM	10/10/84	49 FR 39686
NPRM Comment Period End	12/10/84	49 FR 39686
Final Action	07/00/86	

Small Entity: No

Agency Contact: James T. Tahash, Director, Program Planning Div., Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management, 202 426-3978

RIN: 2502–AC14

865. CHANGE IN DEFAULT NOTICE REPORTING PERIOD - MULTIFAMILY INSURANCE (H-4-84; FR-1842)

Legal Authority: 42 USC 3535(d); 12 USC 1713

CFR Citation: 24 CFR 207

Legal Deadline: None

Abstract: The Department proposes to amend its default notification regulation to move up the date upon which a mortgagee must notify HUD of a mortgagor's non-payment.

Timetable:

Action	Date	FR Cite
NPRM	08/09/85	50 FR 32233
NPRM Comment Period End	10/08/85	50 FR 32233
Final Action	06/00/86	

Small Entity: No

Agency Contact: James Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management, 202 426-3944

RIN: 2502–AC18

866. MULTIFAMILY MORTGAGE INSURANCE PROGRAMS; REQUIREMENT OF INCREASED EQUITY LIMITED RECOURSE OR SPECIAL ESCROW (H-15-84; FR-1871)

Legal Authority: 12 USC 1715b; 42 USC 3535(d)

CFR Citation: 24 CFR 207.504; 24 CFR 207.19; 24 CFR 220.507; 24 CFR 220.508; 24 CFR 221.514; 24 CFR 221.515; 24 CFR 221.531; 24 CFR 221.532; 24 CFR 231.3; 24 CFR 231.4; 24 CFR 232.30; 24 CFR 232.32; 24 CFR 232.61

Legal Deadline: None

Abstract: This rule limits profit-motivated and limited dividend multifamily mortgagors to mortgages of 85 percent of value or replacement cost except where the mortgagor agrees either to accept limited personal liability for loan repayment or to establish an up-front rent-up escrow.

Timetable:

Action	Date	FR Cite
NPRM	09/20/84	49 FR 36871
NPRM Comment Period End	11/19/84	49 FR 36871
Final Action	00/00/00	

Small Entity: No

Agency Contact: Joseph E. Malloy, Chief, Insurance Branch, Department of Housing and Urban Development, Office of Housing, Office of Insured Multifamily Housing Development, 202 755-6223

RIN: 2502–AC19

867. DEREGULATION OF RENTS (H-29-84; FR-1905)

Significance: Agency Priority

Legal Authority: PL 98-181, Sec 431

CFR Citation: 24 CFR 207; 24 CFR 220; 24 CFR 221

Legal Deadline: None

Abstract: This final rule implements a recent statutory amendment granting the Secretary discretion to regulate rents, among other things, in unsubsidized multifamily projects with mortgages insured pursuant to section 207 of the National Housing Act after 11/30/83. Before this amendment, the statute mandated that the Secretary regulate rents in those projects. The rule also adds an alternative method of determining rents in projects insured before 11/30/83 under sections 207, 220 and 221.

Timetable:

Action	Date	FR Cite
NPRM	10/10/84	49 FR 39690
NPRM Comment Period End	12/10/84	49 FR 39690
Final Action	04/00/86	

Small Entity: No

Agency Contact: James Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Development, 202 426-3944

RIN: 2502–AC21

868. INSURANCE OF MULTIFAMILY GRADUATED PAYMENT MORTGAGES (H-16-84; FR-1872)

Legal Authority: 12 USC 1715z-1; 12 USC 1713; 12 USC 1715k; 12 USC 1715l; 12 USC 1715v; PL 98-181, Sec 442

CFR Citation: 24 CFR 207.31c; 24 CFR 220.526; 24 CFR 221.560d; 24 CFR 231.17; 24 CFR 207.252f; 24 CFR 221.755

Legal Deadline: None

Abstract: These Amendments would permit the Department to insure graduated payment mortgages - loans that provide for rates of amortization corresponding to anticipated increases in project income.

Timetable:

Action	Date	FR Cite
NPRM	10/19/84	49 FR 41068
NPRM Comment Period End	12/18/84	49 FR 41068
Final Action	00/00/00	

Small Entity: No

Additional Information: These rules may be published separately.

Agency Contact: Joseph Malloy, Chief, Insurance Branch, Department of Housing and Urban Development, Office of Housing, Office of Insured Multifamily Housing Dev., 202 755-6223

RIN: 2502–AC27

869. INSURANCE OF MULTIFAMILY PARTIALLY AMORTIZED MORTGAGES (H-34-84; FR-1918)

Legal Authority: 42 USC 1715z; PL 98-181, Sec 446

CFR Citation: 24 CFR 207.31c; 24 CFR 220.526; 24 CFR 221.560b; 24 CFR 231.15; 24 CFR 207.31d; 24 CFR 207.252d; 24 CFR 220.527; 24 CFR 221.560c; 24 CFR 221.755; 24 CFR 231.16

Legal Deadline: None

Abstract: Regulations governing the Department's insuring of mortgages, the terms of which do not require full amortization of the loan over the mortgage term.

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Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	10/30/84	49 FR 43561
NPRM Comment Period End	12/31/84	49 FR 43561
Final Action	00/00/00	

Small Entity: No

Agency Contact: Joseph E. Malloy, Chief, Insurance Branch, Department of Housing and Urban Development, Office of Housing, Office of Insured Multifamily Housing Development, 202 755-6223

RIN: 2502–AC41

870. REMOVAL OF REFINANCING LIMITATIONS (H-2-85; FR-2028)

Legal Authority: 12 USC 1715k; 45 USC 3535(d); PL 98-181, Sec 432

CFR Citation: 24 CFR 207; 24 CFR 213; 24 CFR 220; 24 CFR 232; 24 CFR 242; 24 CFR 244; 24 CFR 251; 24 CFR 885

Legal Deadline: None

Abstract: This rule revises certain financing limitations imposed on the rehabilitation of property where the mortgage covering such property is to be insured under one of the programs set out in Title II of the National Housing Act.

Timetable:

Action	Date	FR Cite
Final Action	05/00/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: James Hamernick, Director, Department of Housing and Urban Development, Office of Housing, Office of Insured Multifamily Housing, 202 755-5720

RIN: 2502–AC89

871. DEFINITION OF INCOME RENTS AND REEXAMINATION OF FAMILY INCOME FOR THE RENT SUPPLEMENT AND SECTION 236 PROGRAMS (H-149-82, H-141-82; FR-1702)

Significance: Agency Priority

Legal Authority: 12 USC 1701s; 12 USC 1715b; 12 USC 1715z-1; 42 USC 3535(d)

CFR Citation: 24 CFR 215; 24 CFR 236; 24 CFR 886

Legal Deadline: None

Abstract: This rule will implement recent statutory changes affecting the definition of income for purposes of eligibility and rent determination as well as rent requirements and reexamination of income under the Rent Supplement and Section 236 Programs. It adopts definitions and procedures similar to those adopted for the Section 8 and Public and Indian Housing Programs under related statutory amendments.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/23/84	49 FR 29580
Interim Rule Effective	10/01/84	49 FR 29580
Final Action	05/00/86	

Small Entity: No

Agency Contact: James J. Tahash, Director, Program Planning Division, Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management, 202 426-3978

RIN: 2502–AC05

872. INTEREST RATES FOR FIRE SAFETY EQUIPMENT IN NURSING HOMES TO BE SET BY FR NOTICE (H-10-85; FR-2065)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 232

Legal Deadline: None

Abstract: This final rule would interpret Section 104(b) of the Housing and Community Development Technical Amendments of 1984, to authorize the Department's publishing of interest rates for fire safety equipment in nursing homes to be set by Federal Register Notice.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Agency Contact: Michael Phillips, Attorney-Advisor, Department of Housing and Urban Development, Office of the General Counsel, 202 755-7055

RIN: 2502–AC85

873. CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE-1983 ACT AMENDMENTS (H-71-84; FR-1989)

Legal Authority: 12 USC 1715y

CFR Citation: 24 CFR 234

Legal Deadline: None

Abstract: This rule will revise the requirements for condominium mortgage insurance.

Timetable:

Action	Date	FR Cite
Final Action	05/00/86	

Small Entity: No

Additional Information: Includes: FR-1388

Agency Contact: Brian Chappelle, Director, Department of Housing and Urban Development, Office of Housing, Single Family Development Division, 202 755-6270

RIN: 2502–AC79

874. MAXIMUM MORTGAGE AMOUNTS FOR HOSPITALS (H-72-84; FR-2004)

Significance: Regulatory Program

Legal Authority: 12 USC 1715-7

CFR Citation: 24 CFR 241; 24 CFR 242

Legal Deadline: None

Abstract: Proposed rule to require greater equity contribution for insurance of mortgages related to projects that have estimated replacement costs greater than $100 million.

Timetable:

Action	Date	FR Cite
NPRM	10/12/84	49 FR 40044
NPRM Comment Period End	12/11/84	49 FR 40044
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: James Hamernick, Director, Department of Housing and Urban Development, Office of Housing, Insured Multifamily Housing Development, 202 755-6300

RIN: 2502–AC84

875. MORTGAGE INSURANCE REQUIREMENTS FOR PRIVATE AND PUBLIC HOSPITALS (H-69-84; FR-1992)

Significance: Regulatory Program

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Legal Authority: 12 USC 1715z-7; PL 98-181, Sec 436; PL 98-479, Sec 104

CFR Citation: 24 CFR 242.23; 24 CFR 242.51; 24 CFR 242.67; 24 CFR 242.57

Legal Deadline: None

Abstract: Proposed rule prescribes requirements governing insurance of mortgages for public hospitals, and includes new eligibility provisions for tax supported hospitals.

Timetable:

Action	Date	FR Cite
NPRM	10/12/84	49 FR 40047
NPRM Comment Period End	12/11/84	49 FR 40047
Final Action	00/00/00	

Small Entity: No

Agency Contact: James Hamernick, Director, Department of Housing and Urban Development, Office of Housing, Insured Multifamily Housing Development, 202 755-6580

RIN: 2502-AC81

876. HUD-OWNED MULTIFAMILY PROJECTS-MANAGEMENT AND DISPOSITION (H-89-76; FR-432)

Significance: Regulatory Program

Legal Authority: 12 USC 1715z-16; 12 USC 1701z-11; 12 USC 1701z-12; 12 USC 1713; 12 USC 1715b

CFR Citation: 24 CFR 290; 24 CFR 886

Legal Deadline: None

Abstract: Would conform current regulation more closely to Section 203 of the Housing and Community Development Act of 1978, as amended; decrease reliance on project-based Section 8 subsidies as a means of maintaining availability of units for low- and moderate-income persons. Changes in the proposed rule that would conform the rental structure in HUD-owned properties to statutory housing programs are being implemented by separate final rule.

Timetable:

Action	Date	FR Cite
NPRM	10/18/84	49 FR 40888
NPRM Comment Period End	12/17/84	49 FR 40888
Final Action	00/00/00	

Small Entity: No

Agency Contact: Marvin T. Hilman, Director, Multifamily Property Dispos. Div., Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management, 202 755-7343

RIN: 2502-AC88

877. HUD-OWNED MULTIFAMILY PROJECTS - MANAGEMENT AND DISPOSITION - RENT SETTING PROVISIONS (H-41-85; FR-2142)

Significance: Agency Priority

Legal Authority: 12 USC 1715z-1b; 12 USC 1701z-11; 12 USC 1713

CFR Citation: 24 CFR 290.17

Legal Deadline: None

Abstract: Would implement changes to the rent setting procedures for HUD-owned multifamily projects that were part of the proposed rule published at 49 FR 40888 on October 18, 1984. These changes would give the Department greater flexibility in setting rents while furthering the objectives of section 203 of the Housing and Community Development Amendments of 1978 which govern the management and disposition of HUD-owned multifamily rental projects.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Additional Information: Split from: FR-432 (N-89-78) RIN 2502-AC88

Agency Contact: Marvin Hillman, Director, Multifamily Property Disposition Division, Department of Housing and Urban Development, Office of Housing, Office of Multifamily Housing Management, 202 755-7343

RIN: 2502-AD33

878. SECURITIZATION OF ADJUSTABLE RATE MORTGAGES (H-61-84; FR-1962)

Significance: Agency Priority

Legal Authority: 12 USC 1721(g); 12 USC 1723(a)

CFR Citation: 24 CFR 390

Legal Deadline: None

Abstract: This rule would amend 24 CFR Part 390 to enable GNMA to guarantee securities based on mortgages that do not contain fixed rate, level payment provisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/06/84	49 FR 23586
Interim Rule effective	07/30/84	49 FR 23586
Final Action	08/00/86	

Small Entity: No

Agency Contact: Cheryl Patton, Department of Housing and Urban Development, Office of Housing, Office of Mortgage Finance, Government National Mortgage Association, 202 755-5583

RIN: 2502-AC70

879. HOUSING DEVELOPMENT GRANT PROGRAM (H-26-84; FR-1902)

Legal Authority: 42 USC 1437o

CFR Citation: 24 CFR 850

Legal Deadline: None

Abstract: Implements the Housing Development Grant Program established by Section 301 of the Housing and Urban-Rural Recovery Act of 1983. Under this Program, the Secretary is authorized to make grants to cities and urban counties and to States acting on behalf of units of general local government to support new construction or substantial rehabilitation of residential rental housing. At least 20 percent of the units in a project assisted under this Program must be leased to, or made available for occupancy by, lower income families for a period of 20 years. The rent for these units cannot exceed 30 percent of the adjusted income of a family at 50 percent of area median income. Assisted projects must be located within eligible areas, special purpose areas or neighborhood preservation areas.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/14/84	49 FR 24634
Interim Rule effective	08/07/84	49 FR 24634
Final Action	00/00/00	

Small Entity: No

Agency Contact: Jessica Franklin, Acting Director, Department of Housing and Urban Development, Office of Housing, Development Grant Division, 202 755-6142

RIN: 2502-AC23

880. SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM - MODERATE REHABILITATION (H-38-81; FR-1527)

Legal Authority: PL 95-557; 42 USC 1437

CFR Citation: 24 CFR 882

Legal Deadline: None

Abstract: Simplifies and reduces program requirements for local PHAs and participating owners, provides greater local flexibility and implements provision of the HCD Amendments of 1981.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Agency Contact: Louise Kleffner, Director, Moderate Rehabilitation Branch, Department of Housing and Urban Development, Office of Housing, Office of Elderly and Assisted Housing, Existing Housing Division, 202 755-6887

RIN: 2502-AA86

881. TARGETING OF SECTION 8 CERTIFICATES OF FAMILY PARTICIPATION (H-22-83; FR-1736)

Legal Authority: 42 USC 1437f

CFR Citation: 24 CFR 882

Legal Deadline: None

Abstract: Amends 24 CFR Part 882 to eliminate restrictions on targeting Section 8 Certificates of Family Participation under certain circumstances. The rule permits HUD to provide Section 8 Certificates of Family Participation to families residing in (1) a property to be rehabilitated under the Rental Rehabilitation Program, (2) a HUD-owned multifamily project that HUD determines to sell or vacate, (3) a multifamily project with a HUD-held mortgage purchased at foreclosure by a party other than HUD, or (4) a unit covered by a project-based Housing Assistance Payments contract when the owner elects not to renew the contract for an additional term.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/09/84	49 FR 31858
Interim Rule Effective	10/04/84	49 FR 31858
Final Action	06/00/86	

Small Entity: No

Agency Contact: Gerald J. Benoit, Department of Housing and Urban Development, Office of Housing, Office of Elderly and Assisted Housing, 202 755-5720

RIN: 2502-AB47

882. SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAMS PORTABILITY OF SECTION 8 EXISTING HOUSING CERTIFICATES (H-46-83; FR-1800)

Legal Authority: 42 USC 1437f; PL 98-181, Sec 207

CFR Citation: 24 CFR 882.216

Legal Deadline: None

Abstract: This rule provides for a system of permitting national mobility of certificate holders and participants in the Section 8 Existing Housing Program. This would enable families to move from the jurisdiction of one PHA to another and would supplement the mobility mechanisms that are already in place.

Timetable:

Action	Date	FR Cite
NPRM	10/19/84	49 FR 41072
NPRM Comment Period End	12/18/84	49 FR 41072
Final Action	00/00/00	

Small Entity: No

Agency Contact: Madeline Hastings, Director, Department of Housing and Urban Development, Office of Housing, Office of Elderly and Assisted Housing, Existing Housing Division, 202 755-6887

RIN: 2502-AB66

883. SECTION 8 EXISTING HOUSING ASSISTANCE PAYMENTS PROGRAM CAUSES FOR TERMINATION FROM TENANCY (H-37-85; FR-2114)

Legal Authority: 42 USC 1437f

CFR Citation: 24 CFR 882.215

Legal Deadline: None

Abstract: This rule would revise 24 CFR 882.215 to make it clear that an owner may not, during the first year of the term of a lease, terminate a tenancy for business or economic reasons or because the owner desires to use the property for the owner's personal residence.

Timetable:

Action	Date	FR Cite
Final Action	05/00/86	

Small Entity: No

Agency Contact: Madeline Hastings, Director, Existing Housing Division, Department of Housing and Urban Development, Office of Housing, Office of Elderly and Assisted Housing, 202 755-6887

RIN: 2502-AD29

884. SECTION 202 - LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED (H-10-84; FR-1698)

Significance: Agency Priority

Legal Authority: PL 98-479, Sec 102; PL 98-181, Sec 223

CFR Citation: 24 CFR 885

Legal Deadline: None

Abstract: This rule would establish requirements on prepayment of Section 202 direct loan mortgages and incorporate amendments to programs made by the Housing and Urban-Rural Recovery Act of 1983 and the Technical Amendments Act of 1984.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/86	

Small Entity: No

Additional Information: Includes: FR-1857

Agency Contact: Robert W. Wilden, Director, Assisted Elderly and Handicapped, Department of Housing and Urban Development, Office of Housing, Housing Division, 202 426-8738

RIN: 2502-AC53

885. ADDITIONAL ASSISTANCE PROGRAM FOR PROJECTS WITH HUD-INSURED OR HUD-HELD MORTGAGES (H-89-78)

Significance: Agency Priority

Legal Authority: 42 USC 1437

CFR Citation: 24 CFR 886

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Legal Deadline: None

Abstract: Amended 24 CFR 886, Subpart A to remove the requirement that HUD annually inspect 100% of the units under HUD-insured or HUD-held mortgages and to call for inspections based on a reasonable sample. This brings this requirement in line with other programs which permit inspections on a sample basis.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Agency Contact: James J. Tahash, Director, Department of Housing and Urban Development, Office of Housing, Program Planning Division, Office of Multifamily Housing Management, 202 426-3944

RIN: 2502-AA41

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886. SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM - HOUSING VOUCHERS (H-42-85; FR-2170)

Significance: Regulatory Program

Legal Authority: 42 USC 3535(d)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Department has proposed legislation to make the Housing Vouchers Demonstration Program a permanent housing assistance payment program and currently is developing a final rule based on the Housing Voucher Notices of Funding Availability for Fiscal Years 1984, 1985, and 1986. The rule will enhance the administration of the Housing Voucher Program. If approved as a permanent program, Housing Vouchers would become the principal vehicle for future funding of housing assistance payments under Section 8 of the United States Housing Act of 1937.

Timetable:

Action	Date	FR Cite
Final Action	08/00/86	
Final Action Effective	10/00/86	

Small Entity: No

Agency Contact: Madeline Hastings, Director, Existing Housing Division, Department of Housing and Urban Development, Office of Housing, Office of Elderly and Assisted Housing, 202 755-6867

RIN: 2502-AD26

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887. SECTION 8-LITIGATION BY PHAS TO RECOVER WRONGFULLY USED SECTION 8 FUNDS (H-126-82; FR-1662)

Significance: Agency Priority

Legal Authority: 42 USC 1437f; PL 97-35, Sec 329

CFR Citation: 24 CFR 882

Legal Deadline: None

Abstract: Would permit PHAs to retain, out of judgments obtained by them in recovering amounts wrongfully paid as a result of fraud and abuse in the Section 8 program, an amount equal to the greater of legal expenses incurred in obtaining the judgment; or 50 percent of the amount actually collected on the judgments.

Timetable:

Action	Date	FR Cite
NPRM	02/23/83	48 FR 7590
NPRM Comment Period End	04/25/83	48 FR 7590
Final Action	08/00/86	

Small Entity: No

Agency Contact: Gershon M. Ratner, Associate General Counsel of Litigation, Department of Housing and Urban Development, Office of the General Counsel, 202 755-1300

RIN: 2502-AA12

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888. MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS - STANDARDS REVISION (H-38-85; FR-2137)

Significance: Agency Priority

Legal Authority: 42 USC 5403, Sec 604; 42 USC 5424, Sec 625

CFR Citation: 24 CFR 3280.3

Legal Deadline: None

Abstract: The final rule will amend those portions of the Manufactured Home Construction Standards to correct a number of problems that have been discovered as a result of experience with the standards and research.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Additional Information: In the 1985 Regulatory Program this appeared as part of RIN 2502-AD19.

Agency Contact: Mark W. Holman, Chief, Standards Branch, Department of Housing and Urban Development, Office of Housing, Office of Manufactured Housing and Regulatory Functions, 202 755-6584

RIN: 2502-AD10

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889. REVISION OF MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS - SUBPART F - THERMAL PROTECTION (H-31-85; FR-2183)

Significance: Agency Priority

Legal Authority: 42 USC 5403

CFR Citation: 24 CFR 3280

Legal Deadline: None

Abstract: This action will include, in the Manufactured Home Construction and Safety Standards, the requirement for options for increasing thermal efficiency.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Mark W. Holman, Chief, Standards Branch, Department of Housing and Urban Development, Office of Housing, Office of Manufactured Homes and Regulatory Functions, 202 755-6584

RIN: 2502-AD11

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Housing (OH)

Completed Actions

890. USE OF MATERIALS BULLETIN NO. 38I - HUD BUILDING PRODUCT STANDARDS AND CERTIFICATION PROGRAM FOR THE GRADEMARKING OF LUMBER (H-104-82; FR-2109)

CFR Citation: 24 CFR 200.935; 24 CFR 200.943

Completed:

Reason	Date	FR Cite
Final Action	01/13/86	51 FR 1369

Small Entity: No

Agency Contact: Jerome Tobias 202 755-5929

RIN: 2502-AA66

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891. RESTRICTIONS ON HOUSING ASSISTANCE TO INELIGIBLE ALIENS (H-26-82; FR-1588)

CFR Citation: 24 CFR 200; 24 CFR 215; 24 CFR 235; 24 CFR 236; 24 CFR 812; 24 CFR 912

Completed:

Reason	Date	FR Cite
Withdrawn Replaced by Agenda Item S-7-86	01/31/86	

Small Entity: No

Agency Contact: James J. Tahash 202 426-3944

RIN: 2502-AC13

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892. PROPERTY IMPROVEMENT AND MANUFACTURED HOME LOAN PROGRAM DEREGULATION AMENDMENTS (H-57-81; FR-1656)

Significance: Regulatory Program

CFR Citation: 24 CFR 201

Completed:

Reason	Date	FR Cite
Final Action	10/25/85	50 FR 43516
Final Action Effective	01/15/86	50 FR 43516

Small Entity: No

Agency Contact: Christopher Peterson 202 755-5210

RIN: 2502-AA93

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893. USE OF COMMITMENT CORRESPONDENTS IN CONNECTION WITH FHA MORTGAGE INSURANCE (H-60-84; FR-1954)

Significance: Agency Priority

CFR Citation: 24 CFR 200; 24 CFR 203

Completed:

Reason	Date	FR Cite
Final Action	12/19/85	50 FR 51673

Small Entity: No

Agency Contact: Brian Chappelle 202 755-6720

RIN: 2502-AC86

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894. REFINANCING OF FHA SINGLE FAMILY LOANS-TECHNICAL REVISIONS (H-66-84; FR-1979)

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Merged with FR-2197, RIN 2502-AD41	01/24/86	

Small Entity: No

Agency Contact: Brian Chappelle 202 755-6720

RIN: 2502-AC80

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895. CONVEYANCE OF ONE- TO FOUR-FAMILY PROPERTIES OCCUPIED BY TENANTS OR FORMER MORTGAGORS (H-9-85; FR-2064)

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Became part of Regulatory Program RIN 2502-AB10	02/27/86	

Small Entity: Undetermined

Agency Contact: Jacqueline B. Campbell 202 755-5749

RIN: 2502-AC86

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896. DEFICIENCY JUDGEMENTS - SINGLE FAMILY MORTGAGES (H-85-82; FR-1717)

Significance: Agency Priority

CFR Citation: 24 CFR 203

Completed:

Reason	Date	FR Cite
Merged with FR-2193	12/11/85	

Small Entity: No

Agency Contact: Richard Buchheit 202 755-6772

RIN: 2502-AD25

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897. LIMITATION ON PREPAYMENT FOR BOND FINANCED PROJECTS (H-54-83; FR-1819)

CFR Citation: 24 CFR 207; 24 CFR 220; 24 CFR 221; 24 CFR 231; 24 CFR 232; 24 CFR 241

Completed:

Reason	Date	FR Cite
Final Action	01/16/86	51 FR 2358

Small Entity: Undetermined

Agency Contact: Joseph E. Malloy 202 755-6223

RIN: 2502-AC01

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898. REFINANCING OF HOSPITAL MORTGAGES (H-50-83; FR-1806)

CFR Citation: 24 CFR 242; 24 CFR 207; 24 CFR 232

Completed:

Reason	Date	FR Cite
Final Action	11/20/85	50 FR 47726

Small Entity: No

Agency Contact: Joseph E. Malloy 202 755-6223

RIN: 2502-AC15

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899. TRANSFER FROM NONPROFIT TO PROFIT MOTIVATED OWNERSHIP FOR MULTIFAMILY HOUSING PROJECTS WITH HUD-INSURED OR HUD-HELD MORTGAGES (H-37-83; FR-1771)

CFR Citation: 24 CFR 265.13

Completed:

Reason	Date	FR Cite
Withdrawn	06/05/85	

Small Entity: No

Agency Contact: James J. Tahash 202 426-3970

RIN: 2502-AB93

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900. SINGLE ROOM OCCUPANCY HOUSING (H-25-84; FR-1898)

CFR Citation: 24 CFR 882

Completed:

Reason	Date	FR Cite
Merged into 2502-AC56 which was then completed	09/25/85	

Small Entity: No

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Completed Actions

Agency Contact: Madeline Hastings 202 755-6957

RIN: 2502-AC25

901. HOUSING FOR THE ELDERLY OR HANDICAPPED (H-89-82)

CFR Citation: 24 CFR 885

Completed:

Reason	Date	FR Cite
Withdrawn	02/06/86	

Small Entity: No

Agency Contact: Robert W. Wilden 202 426-3739

RIN: 2502-AB28

902. SECTION 202 LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED COMMUNITY REPRESENTATION ON BORROWER'S BOARD (H-46-78)

CFR Citation: 24 CFR 885

Completed:

Reason	Date	FR Cite
Withdrawn	01/13/86	

Small Entity: Undetermined

Agency Contact: Joseph F. Gelletich 202 755-5478

RIN: 2502-AC99

903. SECTION 8-LIMIT ON CONTRACT RENT INCREASES (H-132-82; FR-1703)

CFR Citation: 24 CFR 880.602; 24 CFR 880.609; 24 CFR 881.602; 24 CFR 881.109; 24 CFR 883.710; 24 CFR 884.109; 24 CFR 886.112; 24 CFR 883.703

Completed:

Reason	Date	FR Cite
Withdrawn	02/00/86	

Small Entity: No

Agency Contact: James J. Tahash 202 426-3979

RIN: 2502-AA18

904. SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM - FISCAL YEAR 1986 FAIR MARKET RENTS - EXISTING HOUSING (H-86-84; FR-2133)

CFR Citation: 24 CFR 888

Completed:

Reason	Date	FR Cite
Withdrawn	02/05/86	

Small Entity: No

Agency Contact: Gerald J. Benoit 202 755-5720

RIN: 2502-AC67

905. TECHNICAL AMENDMENTS TO THE INTERSTATE LAND SALES REGISTRATION REGULATIONS (H-15-85; FR-2060)

Significance: Agency Priority

CFR Citation: 24 CFR 1710; 24 CFR 1720

Completed:

Reason	Date	FR Cite
Final Action	03/19/85	50 FR 10942
Final Action Effective	04/29/85	50 FR 10942

Small Entity: No

Agency Contact: John L. Brady 202 755-6503

RIN: 2502-AC83

906. MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS: ENERGY EFFICIENCY STANDARDS (H-40-85; FR-2136)

CFR Citation: 24 CFR 3280

Completed:

Reason	Date	FR Cite
Merged with FR-2163 - RIN 2502-AD11	01/19/85	

Small Entity: No

Agency Contact: Mark W. Holman 202 755-6584

RIN: 2502-AD32

907. MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS; PRIMARY INSPECTION AGENCY (PIA) RATING (H-29-85)

CFR Citation: 24 CFR 3282

Completed:

Reason	Date	FR Cite
Withdrawn	02/03/86	

Small Entity: No

Agency Contact: G. Robert Fuller 202 755-6629

RIN: 2502-AD08

908. MANUFACTURED HOME PROCEDURAL AND ENFORCEMENT REGULATIONS, SUBPART G - ADMINISTRATIVE AGENCIES (H-32-85; FR-2113)

CFR Citation: 24 CFR 3282

Completed:

Reason	Date	FR Cite
Withdrawn	02/03/86	

Small Entity: Undetermined

Agency Contact: Tobias Gottesman 202 755-6584

RIN: 2502-AD12

[FR Doc. 86-8773 Filed 04-18-86; 8:45 am]

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Prerule Stage

909. DESIGNATION OF ENTERPRISE ZONES (CPD-11-83; FR-1913)

Significance: Regulatory Program

Legal Authority: Yet to be determined

CFR Citation: 24 CFR 0596

Legal Deadline: None

Abstract: Provides procedures for nomination of geographic areas by States and Local governments for designation as an enterprise zone by Secretary of HUD. Program intended to stimulate the creation of new jobs, particularly for disadvantaged workers and long-term unemployed individuals, and to promote re-evaluation of distressed areas through tax incentives and actions to reduce regulatory requirements to encourage free enterprise by the private sector within the zones.

HUD—CPD

Prerule Stage

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Government Levels Affected: Local, State, Federal

Agency Contact: Michael T. Savage, Program Advisor, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6300

RIN: 2506-AA45

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Proposed Rule Stage

910. SECTION 312 REHABILITATION LOAN PROGRAM AND COMMUNITY DEVELOPMENT ACTION RELOCATION REQUIREMENTS (CPD-4-85; FR-2151)

Legal Authority: 42 USC 1452b; 42 USC 5301 to 5320

CFR Citation: 24 CFR 510; 24 CFR 570

Legal Deadline: None

Abstract: The rule will revise the relocation/displacement requirements for the Section 312 Rehabilitation Loan Program and the Urban Development Action Grants Program. These regulations are being developed in an effort to establish comparable treatment for persons who are displaced by HUD assisted projects. A separate rulemaking contains a newly revised Part 42, the Department's regulations implementing the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Melvin Gaffner, Deputy Director, Relocation and Real Estate, Office of Urban Rehabilitation, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6336

RIN: 2506-AA65

911. TECHNICAL ASSISTANCE: DISCRETIONARY AWARDS (CPD-6-79; FR-1115)

Legal Authority: 42 USC 5307; PL 96-161, Sec 107

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: Would amend 24 CFR 570.402 to update and clarify the priorities for Technical Assistance funding and to clarify application and review procedures for awards.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Jerome Friedman, Director, Policy Development Division, Department of Housing and Urban Development, Office of Community Planning and Development, Office of Program Policy Development, 202 755-6969

RIN: 2506-AA30

912. COMMUNITY DEVELOPMENT BLOCK GRANTS: STATE'S PROGRAM (CPD-7-83; FR-1877)

Significance: Regulatory Program

Legal Authority: 42 USC 5301; PL 96-161, Sec 104; PL 96-161, Sec 101

CFR Citation: 24 CFR 570.488

Legal Deadline: None

Abstract: This revision would implement the 1983 amendments. This includes: definitions of low and moderate income persons, requirements for meeting the three national objectives, the 51% test for low and moderate income benefit, added local and state public participation, coverage of program income, performance reporting and record keeping, and consequences of states dropping program administration after FY 85.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Richard J. Kennedy, Asst. Dir. State Small Cities Div., Department of Housing and Urban Development, Office of Community Planning and Development, Office of Block Grant Assistance, State and Small Cities Division, 202 755-6322

RIN: 2506-AA38

913. COMMUNITY DEVELOPMENT BLOCK GRANTS URBAN DEVELOPMENT ACTION GRANTS (CPD-14-83)

Legal Authority: 42 USC 5301

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: The proposed regulations will correct a number of inaccuracies of a technical nature. These include Davis-Bacon Act Relationship to Indian tribes, and various corrections to eligibility matters including use of new census

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Proposed Rule Stage

data. The alternative was a set of technical amendments which the Office of General Counsel advised against. The cost of this regulation should be negligible while the benefits are significant in terms of providing corrections and updated information of a technical nature to applicants and recipients. The regulation will also incorporate changes made by the Housing and Urban-Rural Recovery Act of 1983. Further development on the rule is pending congressional action on the program.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Michael McMahon, Director, Program Policy and Support Div., Department of Housing and Urban Development, Office of Community Planning and Development, Office of Urban Development Action Grants, 202 755-6227

RIN:

2506-AA40

914. ● COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM: ESCROW ACCOUNTS (CPD-2-86; FR-2164)

Legal Authority: 42 USC 5301 to 5321

CFR Citation: 24 CFR 0570.511

Legal Deadline: None

Abstract: The Department is proposing to establish a rule that would govern the circumstances under which CDBG program recipients could establish escrow accounts for the purpose of disbursing funds to contractors expeditiously. The rule reflects U.S. Treasury Department requirements governing cash withdrawals.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Paul D. Webster, Dir., Financial Management Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-1871

RIN: 2506-AA66

915. INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM: REVISION TO CORRECTIVE AND REMEDIAL ACTION (CPD-13-84; FR-2102)

Legal Authority: 42 USC 5301 to 5320

CFR Citation: 24 CFR 571.702 (b); 24 CFR 571.302(a)

Legal Deadline: None

Abstract: This rule would amend the corrective and remedial actions to be taken against grant recipients who fail to perform properly. One of the actions to be taken is to require recipients to reimburse their program account of Letter of Credit in any amounts improperly expended. This amendment would allow the recipient to make such reimbursement through an in-kind contribution if sufficient cash is not available. In addition, it would allow alternative, non-cash transfer remedies to prevent a recurrence of the previous problems.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Leroy P. Gonnella, Director, Secretary's Fund Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-6092

RIN: 2506-AA58

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Final Rule Stage

916. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION (3-11-86; FR-2106)

Legal Authority: 42 USC 4601

CFR Citation: 24 CFR 42; 24 CFR 43

Legal Deadline: None

Abstract: Would revise HUD rules to conform to the Uniform Act regulations developed by the Uniform Act Interagency Regulatory Review Working Group formed by OMB and publish jointly by over 20 Federal agencies. The rule would establish Uniform policies and procedures for all Federal agencies responsible for implementing the Uniform Act.

Timetable:

Action	Date	FR Cite
NPRM	05/29/85	50 FR 21712
NPRM Comment Period End	07/29/85	50 FR 21712
Final Action	05/00/86	

Small Entity: Not Applicable

Additional Information: Includes CPD-4-81 (RIN-2506-AA14).

Agency Contact: Melvin J. Geffner, Deputy Director, Relocation and Real Estate, Department of Housing and Urban Development, Office of Community Planning and Development, Office of Urban Rehabilitation, 202 755-6338

RIN: 2506-AA46

917. RESIDENTIAL RENTAL REHABILITATION PROGRAM (CPD-7-84; FR-1901)

Legal Authority: 42 USC 1437o; 42 USC 3535(d); PL 98-478, Sec 103; PL 98-181, Sec 302; PL 98-181, Sec 301

CFR Citation: 24 CFR 511

Legal Deadline: None

Abstract: This rule implements the Rental Rehabilitation Program authorized by section 17 of the U.S. Housing Act of 1937. The regulation (1) sets out a variety of program and other requirements to be met by grantees, State recipients and others that use or benefit from rental rehabilitation grants amounts, (2) enumerates the requirements for participating in the Rental Rehabilitation Program, (3) sets forth the formula by which allocations of rental rehabilitation grant amounts will be made to eligible grantees, (4) explains the rental housing assistance available for tenants, (5) enumerates administrative requirements for the Program, and (6) explains how HUD will review program performance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/20/84	49 FR 16936
Interim Rule Effective	05/24/84	49 FR 16936
Final Action	09/00/86	

Small Entity: No

Additional Information: Includes: CPD-17-82; CPD-8-84; FR-1912

Agency Contact: Robert I. Dodge III, Director, Office of Urban Rehabilitation, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-5685

RIN: 2506-AA55

918. PERFORMANCE ADJUSTMENTS TO FORMULA ALLOCATIONS-RENTAL REHABILITATION PROGRAM (CPD-14-84; FR-2055)

Legal Authority: 42 USC 1437o; PL 98-181, Sec 301

CFR Citation: 24 CFR 511

Legal Deadline: None

Abstract: This rule sets forth the performance adjustment standards for the Rental Rehabilitation Program. Beginning with Fiscal Year 1987, the Secretary of HUD may adjust the allocation for a city, urban county, consortia, or State administering a rental rehabilitation program by up to 15 percent above or below the amount of its annual allocation based on an annual review of performance in carrying out the performance adjustment standards established in HUD legislation enacted in 1983 and this rule.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/10/85	50 FR 50584
Final Action	08/00/86	

Small Entity: No

Agency Contact: Craig Nickerson, Director, Rental Rehabilitation Division, Department of Housing and Urban Development, Office of Community Planning and Development, 202 755-5970

RIN: 2506-AA60

919. ● RENTAL REHABILITATION GRANT PROGRAM—REVISION OF LIMIT ON MAXIMUM REALLOCATION OF GRANT AMOUNTS (CPD-3-86; FR-2185)

Legal Authority: 42 USC 1437o

CFR Citation: 24 CFR 511.33

Legal Deadline: None

Abstract: This rule would revise the regulations governing the reallocation of rental rehabilitation grant amounts. Currently, a reallocation to a grantee may not exceed 130 percent of the amount initially obligated to the grantee in that year. This rule would raise the reallocation limit in fiscal year 1986 to 160 percent of the cumulative amount obligated to the grantee in fiscal years 1984, 1985 and 1986.

Timetable:

Action	Date	FR Cite
Final Action	05/00/86	

Small Entity: No

Agency Contact: Craig S. Nickerson, Director, Rental Rehab Division, Department of Housing and Urban Development, Office of Community Planning and Development, Office of Urban Rehabilitation, 202 755-5970

RIN: 2506-AA67

920. COMMUNITY DEVELOPMENT BLOCK GRANT REGULATIONS (CPD-6-84; FR-1895)

Significance: Regulatory Program

Legal Authority: 42 USC 5301

CFR Citation: 24 CFR 570

Legal Deadline: None

Abstract: As a result of the 1983 and 1984 amendments to the Housing and Community Development Act of 1974 as amended, this proposed rule would set forth new requirements governing the administration of Community Development Block Grant funds under Subpart A (General Provisions), C (Eligible Activities), D (Entitlement Grants), F (Small Cities Programs), K (Other Applicable Laws), M (Loan Guarantees), J (Grant Administration), and O (Program Management).

Timetable:

Action	Date	FR Cite
NPRM	10/31/84	49 FR 43852
NPRM Comment Period End	12/31/84	49 FR 43852
Final Action	00/00/00	

Small Entity: No

Additional Information: Includes: FR-1825, FR-1852, FR-1854; FR-1572

Government Levels Affected: Local, Federal

Agency Contact: James R. Broughman, Director, Department of Housing and Urban Development, Office of Community Planning and Development, Office of Block Grant Assistance, Entitlement Cities Division, 202 755-6267

RIN: 2506-AA47

921. COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKAN NATIVE VILLAGES - SELECTION PROCESS (CPD-11-84; FR-2000)

Legal Authority: 42 USC 5301 to 5330

CFR Citation: 24 CFR 571

Legal Deadline: None

Abstract: This rule would incorporate new policies and procedures that would simplify and add flexibility to the rating and ranking process for applicants in the CDBG program for Indian Tribes and Alaskan Native villages.

Timetable:

Action	Date	FR Cite
NPRM	08/01/85	50 FR 31194
NPRM Comment Period End	09/30/85	50 FR 31194
Final Action	07/00/86	

Small Entity: No

Agency Contact: Leroy Gonnella, Director, Secretary's Fund Division, Department of Housing and Urban Development, Office of Community Planning and Development, Office of Program Policy Development, 202 755-6092

RIN: 2506-AA33

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Community Planning and Development (CPD)

Completed Actions

922. DEPARTMENTAL POLICIES, RESPONSIBILITIES, AND PROCEDURES FOR PROTECTION AND ENHANCEMENT OF ENVIRONMENTAL QUALITY (CPD-29-79; FR-1054)

Significance: Agency Priority

CFR Citation: 24 CFR 50

Completed:

Reason	Date	FR Cite
Merged with RIN 2501-AA30 (FR-2206)	01/17/86	

Small Entity: No

Agency Contact: Frederick D. Regetz 202 755-6611

RIN: 2506-AA10

923. ENVIRONMENTAL REVIEW PROCEDURES FOR THE CDBG PROGRAM (CPD-21-81; FR-1027)

Significance: Agency Priority

CFR Citation: 24 CFR 58

Completed:

Reason	Date	FR Cite
Merged with RIN 2501-AA25 (FR-1965)	01/17/86	

Small Entity: No

Agency Contact: Charles E. Thomsen 202 755-6611

RIN: 2506-AA06

924. SMALL CITIES CDBG PROGRAM (CPD-35-81; FR-1502)

CFR Citation: 24 CFR 570

Completed:

Reason	Date	FR Cite
Withdrawn	03/03/86	

Small Entity: No

Agency Contact: Richard Kennedy 202 755-6322

RIN: 2506-AA06

925. INDIAN CDBG PROGRAM ASSURED FUNDING PROCESS (CPD-4-84)

CFR Citation: 24 CFR 571.101

Completed:

Reason	Date	FR Cite
Withdrawn	01/17/86	

Small Entity: No

Agency Contact: Leroy P. Gonnella 202 755-6692

RIN: 2506-AA50

926. INDIAN CDGB PROGRAM - CONFLICT OF INTEREST PROVISIONS (CPD-5-84; FR-2016)

CFR Citation: 24 CFR 571.607

Completed:

Reason	Date	FR Cite
Final Action	12/19/85	50 FR 51675

Small Entity: No

Agency Contact: Leroy P. Gonnella 202 755-6692

RIN: 2506-AA51

[FR Doc. 86-8773 Filed 04-18-86; 8:45 am]

BILLING CODE 4210-01-T

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Government National Mortgage Association (GNMA)

Prerule Stage

927. BOOK-ENTRY SECURITIES OF GNMA (GNMA-2-85)

Significance: Agency Priority

Legal Authority: 12 USC 1701

CFR Citation: 24 CFR 203

Legal Deadline: None

Abstract: The regulation will provide for utilization of a book-entry system to govern the issuance and custody of GNMA securities. The system allows for maintenance of records by an Agent Bank and utilization of wire transfers. Further, the book-entry system will curtail loss, theft and repeated pledging of GNMA securities.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	

Small Entity: Undetermined

Government Levels Affected: Federal

Agency Contact: Walter T. Cassidy, Assistant General Counsel for Finance, Department of Housing and Urban Development, Government National Mortgage Association, Office of Insured Housing and Finance, 202 755-7260

RIN: 2503-AA03

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Government National Mortgage Association (GNMA)

Proposed Rule Stage

928. MORTGAGE-BACKED SECURITIES - REVISION TO DATE FOR FIRST MONTHLY PAYMENT TO PRINCIPAL AND INTEREST (GNMA-1-85; FR-2135)

Legal Authority: 12 USC 1719

CFR Citation: 24 CFR 390

Legal Deadline: None

Abstract: This rule would make a technical change in 24 CFR 390 to accommodate the new automated system for handling the issuance of commitments to guarantee mortgage-backed securities. The current rule requires that mortgage in a pool of mortgages backing the issuance of guaranteed securities have a date for the first scheduled monthly payment of principal and interest, or date of purchase from an Association that is no more than twelve months before the date of issuance of the GNMA commitment. This rule would revise this requirement to provide that the date for the first scheduled monthly payment of principal and interest could be no more than 24 months before the issue date of the securities.

HUD—GNMA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Agency Contact: Richard W. Dyas, Vice Pres., Office of Mortgage-Backed Secur., Department of Housing and Urban Development, Government National Mortgage Association, 202 755-6772

RIN: 2503-AA04

[FR Doc. 86-8773 Filed 04-18-86; 8:45 am]

BILLING CODE 4210-01-T

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Prerule Stage

929. AFFIRMATIVE FAIR HOUSING, MARKETING TECHNICAL AMENDMENTS (FH&EO-2-83; FR-1670)

Legal Authority: 42 USC 3601; 42 USC 3535(d); EO 11063

CFR Citation: 24 CFR 100; 24 CFR 106; 24 CFR 200

Legal Deadline: None

Abstract: The amendment will clarify when the certificate of intent not to market housing is submitted and that the notice of intent to begin marketing is part of an owner's responsibility under the Affirmative Fair Housing Marketing Plan (and has been approved by OMB under the Paperwork Reduction Act). It will also require that owners of FHA-insured, unsubsidized projects submit annually data on the race, ethnicity and gender of household head.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Peter Kaplan, Director, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Office of Program Standards and Evaluation, 202 755-7727

RIN: 2529-AA17

930. FAIR HOUSING-PROPERTY INSURANCE ACTIVITIES (FH&EO-10-78)

Legal Authority: 42 USC 3601

CFR Citation: 24 CFR 114

Legal Deadline: None

Abstract: Would add a new Subpart H detailing HUD's general standards to be utilized by HUD concerning property insurance practices which could constitute discriminatory activities.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Katrina Ross, Director, Fair Housing Enforcement Division, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Office of Fair Housing Enforcement, 202 755-5673

RIN: 2529-AA10

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Proposed Rule Stage

931. NONDISCRIMINATION BASED ON HANDICAPPED IN PROGRAMS CONDUCTED BY HUD (FR-2163; FH&EO-2-85)

Significance: Regulatory Program

Legal Authority: 29 USC 794

CFR Citation: 24 CFR 9.101; 24 CFR 9.102; 24 CFR 9.103; 24 CFR 9.110; 24 CFR 9.111; 24 CFR 9.130; 24 CFR 9.140; 24 CFR 9.149; 24 CFR 9.150; 24 CFR 9.151; 24 CFR 9.160; 24 CFR 9.170

Legal Deadline: None

Abstract: This proposed rule would implement section 504 of the Rehab Act of 1973 (as extended by the Rehab. Comprehensive Service and Developmental Disabilities Act of 1978) for HUD-conducted programs or activities. This proposed rule will be a companion rule to the Department's rule on nondiscrimination based on handicap in federally assisted programs.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: David Enzel, Attorney Advisor, Department of Housing and Urban Development, Office of the General Counsel, Off. of Equal Opportunity & Administrative Law, Fair Housing and Equal Opportunity, 202 755-6207

RIN: 2529-AA28

932. AMENDMENTS OF THE COMMUNITY HOUSING RESOURCE BOARD REGULATIONS (FH&EO-1-85; FR-2985)

Legal Authority: 42 USC 3601 to 3619

CFR Citation: 24 CFR 120

Legal Deadline: None

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HUD—FHEO — Proposed Rule Stage

Abstract: This proposed rule would amend the current rule for the Community Housing Resources Board at 24 CFR 120. This rule would establish further program features, including provisions for grant administration and accountability monitoring.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Additional Information: Includes FR-1407 (RIN-2529-AA06)

Agency Contact: Deborah Seabron-Dickens, Program Coordinator, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, 202 755-6215

RIN: 2529-AA27

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Final Rule Stage

933. NONDISCRIMINATION BASED ON HANDICAP IN FEDERALLY-ASSISTED PROGRAMS AND ACTIVITIES (FH&EO-4-84; FR-770)

Significance: Regulatory Program

Legal Authority: 42 USC 5309

CFR Citation: 24 CFR 8

Legal Deadline: None

Abstract: Would add a new 24 CFR 8 Part to set forth procedures and policies to assure nondiscrimination based on handicap in programs and activities receiving Federal financial assistance.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Additional Information:

Proposed rule published 04/19/78 43 FR 16652

Interim rule published 05/06/83 48 FR 20638

Republished 05/18/83 48 FR 22470

Effective date revoked 06/15/83 48 FR 27528

Interim rule to be treated as proposed rule

Agency Contact: David Ensel, Attorney, Department of Housing and Urban Development, Office of the General Counsel, 202 755-6207

RIN: 2529-AA26

934. PROCEDURE FOR PROCESSING COMPLAINTS UNDER SECTION 804 OF THE FAIR HOUSING ACT (FH&EO-6-84; FR 2012)

Significance: Regulatory Program

Legal Authority: 42 USC 3601 to 3619; 42 USC 3535(d)

CFR Citation: 24 CFR 105

Legal Deadline: None

Abstract: This rule would amend 24 CFR Part 105 which governs the procedure for processing complaints under section 810 of the Fair Housing Act. The proposed rule would reorganize the provisions of Part 105 and would add more specific descriptions of the procedures used to investigate fair housing complaints to make a determination to resolve matters raised in complaints and to try to eliminate and correct alleged discriminatory housing practices by one or more means.

Timetable:

Action	Date	FR Cite
NPRM	10/16/84	49 FR 40526
NPRM Comment Period End	12/17/84	49 FR 40526
Final Action	06/00/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Charles M. Farbstein, Assistant General Counsel, Department of Housing and Urban Development, Office of the General Counsel, Equal Opportunity, 202 755-5570

RIN: 2529-AA24

935. EMPLOYMENT TRAINING AND BUSINESS OPPORTUNITIES FOR LOWER INCOME PERSONS IN CONNECTION WITH ASSISTED PROJECTS (FH&EO-4-81)

Legal Authority: 12 USC 1701u; 42 USC 3535(d)

CFR Citation: 24 CFR 135

Legal Deadline: None

Abstract: This regulation implements the provisions of Section 3 of the Housing and Urban Development Act of 1968 with respect to opportunities for training and employment for lower income residents arising in connection with HUD assisted projects and for contracting opportunities for business concerns located in or owned in substantial part by persons residing in the area of HUD assisted projects.

Timetable:

Action	Date	FR Cite
Final Action	10/00/86	

Small Entity: No

Agency Contact: Harold Payne, Section 3 Coordinator, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Off of Fair Hsng Enforc and Sec 3 Compliance, 202 755-5873

RIN: 2529-AA15

936. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM HUD (FH & EO-1-79; FR-1161)

Legal Authority: 42 USC 6101

CFR Citation: 24 CFR 146

Legal Deadline: None

Abstract: This part sets forth policies and procedures to assure nondiscrimination on the basis of age in programs receiving financial assistance from the Department.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Agency Contact: Myra B. Kennedy, Equal Opportunity Specialist, Department of Housing and Urban Development, Office of Fair Housing and Equal Opportunity, Program Compliance Division, 202 755-5904

RIN: 2529-AA01

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Fair Housing and Equal Opportunity (FHEO)

Completed Actions

937. IMPLEMENTATION OF SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974 (FH&EO-13-78; FR-1058)

Significance: Agency Priority

CFR Citation: 24 CFR 144

Completed:

Reason	Date	FR Cite
Withdrawn	01/24/86	

Small Entity: No

Agency Contact: Barry Anderson 202 755-5964

RIN: 2529-AA02

[FR Doc. 86-8773 Filed 04-18-86; 8:45 am]

BILLING CODE 4210-01-T

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA)

Prerule Stage

938. ORGANIZATION, FUNCTION, AND DELEGATIONS OF AUTHORITY SUBPART C - SECRETARY'S DELEGATIONS OF AUTHORITY TO HEADS OF OFFICES (ADM-2-82)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 3

Legal Deadline: None

Abstract: Subpart C delegates authority from the Secretary to the Comptroller and then to certain Divisions. This subpart is almost entirely obsolete. The alternatives being considered are to eliminate Subpart C entirely or to update all of the obsolete references. Neither one will have any significant costs; each will require a minimal amount of staff time and Federal Register publication costs. The benefits of both alternatives are to eliminate a potentially confusing delegation of authority.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Donald C. Demitros, Director, Mortgage Insurance Acont. & Serv., Department of Housing and Urban Development, Office of Administration, Office of Finance and Accounting, 202 755-5843

RIN: 2565-AA01

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)
Office of Administration (OA)

Proposed Rule Stage

939. COST PRINCIPLES FOR NONPROFITS ORGANIZATIONS (ADM-1-85; FR-2044)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 44

Legal Deadline: None

Abstract: This rule would set forth uniform requirements for the administration of HUD grants and principles for determining costs applicable to activities assisted by HUD grants, as contained in OMB Circulars A-102, A-110, A-87, A-21, and A-122 regarding grant management.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Edward L. Girouard, Director, Department of Housing and Urban Development, Office of Administration, Policy and Evaluation Division, 202 755-5294

RIN: 2535-AA08

940. AUDIT REQUIREMENTS FOR THE FAIR HOUSING ASSISTANCE PROGRAM AND THE COMMUNITY HOUSING RESOURCE BOARDS (FH&EO-1-86; FR-2140)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 11; 24 CFR 120

Legal Deadline: None

Abstract: Although OMB Circulars A-102 and A-87 are applicable by their language, to grant recipients under the Federal Housing Assistance Program, and although OMB Circulars A-110 and A-122 are applicable to grant recipients under the Community Housing Resource Board Program, the regulations governing these programs do not mention the applicability of the respective OMB Circulars. HUD therefore is proposing to amend the regulations for these two programs to specify the applicability of the respective OMB Circulars to grant recipients under these programs.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: No

Agency Contact: Charles M. Farbstein, Asst. General Counsel for Equal Opportunity, Department of Housing and Urban Development, Office of Administration, Office of Equal Opportunity and Admin. Law, 202 755-5570

RIN: 2535-AA11

941. FEDERAL PROCUREMENT OF CEMENT CONTAINING FLY ASH (ADM-1-84; FR-1936)

Legal Authority: 42 USC 3535(d); 42 USC 6962

CFR Citation: 24 CFR 570; 24 CFR 207

Legal Deadline: None

Abstract: Rule will provide restrictions on Federal procurement of cement and concrete containing fly ash. Will be patterned on Environmental Protection Agency guidelines.

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HUD—OA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Ed Girovasi, Director, Department of Housing and Urban Development, Office of Administration, Policy and Evaluation Division, Office of Procurement And Contracts, 202 755-5294

RIN: 2535-AA05

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Final Rule Stage

Office of Administration (OA)

942. AMENDMENT OF THE HUD ACQUISITION REGULATIONS (ADM-5-85; FR-2131)

Legal Authority: 40 USC 486(c); 42 USC 3535(d)

CFR Citation: 48 CFR Chap. 24

Legal Deadline: None

Abstract: The rule would add Part 2452, Solicitation Provisions and Contract Clauses and Part 2453, Forms. When the original HUDAR was published in March, 1984, solicitation provisions and contract clauses were incorrectly placed, and no HUD forms were included at all.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/86	

Small Entity: No

Agency Contact: Edward L. Girovasi, Jr., Director, Policy and Evaluation Division, Department of Housing and Urban Development, Office of Administration, Office of Procurement and Contracts, 202 755-5294

RIN: 2535-AA10

943. ADMINISTRATIVE CLAIM: IMPLEMENTING CERTAIN PROVISIONS OF THE DEBT COLLECTION ACT OF '82 (S-10-86; FR-1644)

Legal Authority: 42 USC 3711; 42 USC 3717; 42 USC 3535(d)

CFR Citation: 24 CFR 17

Legal Deadline: None

Abstract: This rule would make final an interim rule published in 1984, which implemented the administrative offset and salary offset provisions of the Debt Collection Act of 1982.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/14/84	49 FR 32346
Final Action	07/00/86	

Small Entity: Undetermined

Agency Contact: Samuel B. Rothman, Attorney Advisor, Department of Housing and Urban Development, Office of Administration, Office of Program Enforcement, 202 755-7184

RIN: 2535-AA09

944. HUD ACQUISITION REGULATION (ADM-2-84; FR-2098)

Legal Authority: 31 USC 3551 to 3556; 41 USC 403; 41 USC 253; 40 USC 486(c); 42 USC 3535(d)

CFR Citation: 48 CFR 24

Legal Deadline: None

Abstract: The rule will amend the HUD Acquisition Regulation to implement the Competition in Contracting Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/08/85	50 FR 46572
Interim Rule Effective	12/18/85	50 FR 46572
Final Action	08/00/86	

Small Entity: Undetermined

Agency Contact: Edward L. Girovasi, Jr., Director, Department of Housing and Urban Development, Office of Administration, Policy and Evaluation Division, 202 755-5294

RIN: 2535-AA06

945. TRANSFER OF AUTHORITY TO SETTLE CONTRACT DISPUTES CONCERNING THE CONSOLIDATED SUPPLY PROGRAM (ADM-2-85; FR-2087)

Legal Authority: 42 USC 3535(d)

CFR Citation: 24 CFR 965

Legal Deadline: None

Abstract: Contracting authority for the Consolidated Supply Program (CSP) recently was transferred from the Office of Public and Indian Housing to the Office of Procurement and Contracts. One function - authority to settle dispute between HUD and CSP contractors - should also have been transferred to the Office of Procurement and Contracts. This rule transfers the authority.

Timetable:

Action	Date	FR Cite
Final Action	04/00/86	

Small Entity: No

Agency Contact: Edward L. Girovasi, Director, Policy and Evaluation Division, Department of Housing and Urban Development, Office of Administration, Office of Procurement and Contracts, 202 755-5294

RIN: 2535-AA07

[FR Doc. 86-8773 Filed 04-18-86; 8:45 am]
BILLING CODE 4210-01-T

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Prerule Stage

Office of Public and Indian Housing (PIH)

946. INDIAN HOUSING PROGRAM—REVISED PROGRAM REGULATIONS (P-2-86; FR-2208)

Legal Authority: 25 USC 450e(b)

CFR Citation: 24 CFR 905

Legal Deadline: None

Abstract: This rule will update the Indian Housing Program regulations to reflect legislative amendments enacted in the Housing and Community Development Amendments of 1981 and the Housing and Urban-rural Recovery Act of 1983. This proposal also will constitute a consolidation of relevant provisions of regulations flowing from the U.S. Housing Act of 1937, as these affect the Indian housing programs. It is the Department's intention that this consolidated Part 905, followed with a comprehensive Indian Housing Handbook, should be the controlling regulatory package governing the development and operation of Indian housing projects.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: John V. Meyers, Director, Office of Indian Housing, Department of Housing and Urban Development, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-1015

RIN: 2577-AA32

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Proposed Rule Stage

Office of Public and Indian Housing (PIH)

947. TURNKEY III HOMEOWNERSHIP OPPORTUNITIES PROGRAM (P-3-85; FR-2138)

Significance: Agency Priority

Legal Authority: 42 USC 1437

CFR Citation: 24 CFR 904

Legal Deadline: None

Abstract: This would make miscellaneous amendments to the existing Turnkey III program regulations to facilitate program administration and to allow flexibility to address specific local problems. The amendments will clarify appropriate procedures to use when existing occupants are eligible to become homebuyers to facilitate the actual sales of the units.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Undetermined

Agency Contact: Wayne Hunter, Senior Program Analyst, Department of Housing and Urban Development, Office of Public and Indian Housing, Office of Public Housing, 202 755-6712

RIN: 2577-AA34

948. ● PUBLIC AND INDIAN HOUSING - COST CONTAINMENT PROCEDURES (P-1-86; FR-2191)

Significance: Regulatory Program

Legal Authority: 42 USC 1437d; PL 99-160

CFR Citation: 24 CFR 968; 24 CFR 941; 24 CFR 905

Legal Deadline: None

Abstract: This proposed rule will amend Public and Indian housing development and modernization regulations to reflect the repeal of Sec. 6(b) of the United States Housing Act. Sec. 6(b) limits on dwelling construction and equipment cost for the different areas of the country. The proposed rule will also amend these regulations to incorporate new cost containment procedures.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577-AA37

949. INCREASE IN SINGLE PERSON OCCUPANCY LIMITS (P-48-84; FR-2063)

Legal Authority: 42 USC 1437a

CFR Citation: 24 CFR 812; 24 CFR 912

Legal Deadline: None

Abstract: Implements Section 202 of the Housing and Urban-Rural Recovery Act of 1983 to permit the Secretary to increase from 15 percent to 30 percent the number of units within the area under the jurisdiction of any public housing agency that may be occupied by single persons. In addition, the rule changes the maximum percentage of income that recipients of the Section 8 Existing Housing Program may pay under their leases.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Additional Information: ADDITIONAL CONTACT PERSON: James J. Tahash; Director, Program Planning Division; Office of Multifamily Housing Management. (202) 426-3970.

Agency Contact: Edward Whipple, Chief, Occupancy Branch, Department of Housing and Urban Development, Office of Public and Indian Housing, Office of Public Housing, 202 426-0744

RIN: 2577-AA07

950. PUBLIC HOUSING — TENANT LEASES AND PHA GRIEVANCE HEARINGS (P-26-79; FR-1164)

Significance: Regulatory Program

Legal Authority: 42 USC 1437

CFR Citation: 24 CFR 960; 24 CFR 966

Legal Deadline: None

Abstract: Would amend the regulations to simplify the requirements for provisions included in the lease between a PHA and its tenants and the requirements for the grievance procedure.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

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HUD—PIH

Proposed Rule Stage

Agency Contact: Edward Whipple, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 426-0744

RIN: 2577-AA16

951. TENANT PARTICIPATION IN MANAGEMENT OF PUBLIC AND INDIAN HOUSING PROJECTS (P-1-85; FR-2033)

Significance: Regulatory Program

Legal Authority: 42 USC 1437d; 42 USC 3535(d)

CFR Citation: 24 CFR 964; 24 CFR 968

Legal Deadline: None

Abstract: P-1-85

This rule will codify the Department's policy of encouraging public housing agencies (including Indian housing authorities) to foster tenant participation and to contract with tenant management corporations to perform appropriate functions in the management of public (or Indian) housing.

Timetable:

Action	Date	FR Cite
NPRM	01/09/86	51 FR 979
NPRM Comment Period End	03/10/86	51 FR 979
Final Action	06/00/86	

Small Entity: No

Government Levels Affected: Local

Agency Contact: Janice D. Rattley, Department of Housing and Urban Development, Office of Public and Indian Housing, Project Management Division, 202 755-1800

RIN: 2577-AA30

952. DISALLOWANCE OF LEGAL EXPENSES FOR SUITS AGAINST HUD IN CALCULATION OF OPERATING SUBSIDY (P-2-85; FR-2134)

Legal Authority: 42 USC 1437g

CFR Citation: 24 CFR 990

Legal Deadline: None

Abstract: This proposed rule would provide that a PHA's legal expenses for litigation against HUD would not be an allowable expense in calculation of operating subsidy.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577-AA33

953. ● PERFORMANCE FUNDING SYSTEM - ELIMINATION OF INFLATION FACTOR FOR FISCAL YEAR 1987 (P-3-86; FR-2210)

Significance: Agency Priority

Legal Authority: 42 USC 1437g

CFR Citation: 24 CFR 990.105

Legal Deadline: None

Abstract: This proposed rule would curtail increases in operating subsidy eligibility in the Public and Indian Housing programs for Fiscal Year 1987 by eliminating the use of the local inflation factor in determining a PHA's allowable expense level for that year.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Agency Contact: Nancy Chisholm, Director, Office of Policy, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6713

RIN: 2577-AA36

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Public and Indian Housing (PIH)

Final Rule Stage

954. INDIAN PREFERENCES (P-51-83; FR-1808)

Significance: Regulatory Program

Legal Authority: 42 USC 1437; 25 USC 450e(b)

CFR Citation: 24 CFR 905

Legal Deadline: None

Abstract: Section 7(b) of the Indian Self-Determination and Education Assistance Act requires that preference be given to the greatest extent feasible to Indian organizations and economic enterprises in contracting and to Indians in employment and training. The goal is to improve the provision of Indian preference in both development and management as compared to the current regulations implementing Indian preference.

Timetable:

Action	Date	FR Cite
Final Action	07/00/86	

Small Entity: No

Agency Contact: John V. Meyers, Department of Housing and Urban Development, Office of Public and Indian Housing, Office of Indian Housing, 202 755-1015

RIN: 2577-AA26

955. INDIVIDUAL METERING OF UTILITIES OF EXISTING PHA-OWNED PROJECTS (P-36-83; FR-1769)

Legal Authority: 42 USC 1437 note; 42 USC 1437a; 42 USC 1437d; 42 USC 1437g

CFR Citation: 24 CFR 965.303; 24 CFR 965.304; 24 CFR 965.305; 24 CFR 965.307; 24 CFR 965.310; 24 CFR 965.401; 24 CFR 965.402; 24 CFR 965.403; 24 CFR 965.404; 24 CFR 965.405; 24 CFR 965.406; 25 CFR 965.407; 24 CFR 965.408; 24 CFR 965.409; 24 CFR 965.410

Legal Deadline: None

Abstract: Rule amendment to allow PHAs to employ a more flexible cost-benefit analysis when determining the cost-effectiveness of individual metering of tenant utilities.

Timetable:

Action	Date	FR Cite
NPRM	11/14/83	48 FR 51785
NPRM Comment Period End	01/13/84	48 FR 51785
Final Action	00/00/00	

Small Entity: No

HUD—PIH

Final Rule Stage

Agency Contact: Charles R. Ashmore, Utilities Officer, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 755-6649

RIN: 2577-AA27

956. PERFORMANCE FUNDING SYSTEM; VACANCY RULE REVISIONS (P-38-83; FR-1775)

Significance: Regulatory Program

Legal Authority: 42 USC 1437; 42 USC 3535(d)

CFR Citation: 24 CFR 990.110

Legal Deadline: None

Abstract: This rule establishes new conditions under which a Public Housing Agency may use a Projected Occupancy Percentage of less than 97% in computing its per-unit Operating Income Level under the Performance Funding System. A PHA that is defined as a low occupancy PHA is required to have a HUD-approved Comprehensive Plan which sets out strategies for increasing its occupancy rate to 97%. A low occupancy PHA with such a Plan may use its yearly, PHA-wide occupancy goal, rather than 97% to compute its Operating Income Level. A PHA with a high occupancy rate (equal to or greater than 97%) may use 97% as its Projected Occupancy Percentage in computing its per-unit Operating Income Level. These changes enable a PHA to maximize its total income by reducing its vacancies.

Timetable:

Action	Date	FR Cite
NPRM	05/31/84	49 FR 22663
NPRM Comment Period End	07/02/84	49 FR 22663
Interim Final Rule	06/24/85	50 FR 25951
Interim rule effective	08/02/85	50 FR 25951
Final Action	04/00/86	

Small Entity: No

Agency Contact: John T. Comerford, Chief, Financial Management Branch, Department of Housing and Urban Development, Office of Public and Indian Housing, 202 426-1872

RIN: 2577-AA23

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Office of Public and Indian Housing (PIH)

Completed Actions

957. PUBLIC HOUSING PROGRAM-CONTINUED OPERATION OF PROJECTS AS LOWER-INCOME HOUSING AFTER COMPLETION OF DEBT SERVICE (P-60-79; FR-1202)

CFR Citation: 24 CFR 969

Completed:

Reason	Date	FR Cite
No further action contemplated	02/10/86	

Small Entity: No

Agency Contact: Nancy Chisholm 202 755-6713

RIN: 2577-AA15

958. PUBLIC HOUSING PROGRAM-DEMOLITION OF BUILDINGS OR DISPOSITION OF REAL PROPERTY (P-23-84; FR-1892)

CFR Citation: 24 CFR 970.2; 24 CFR 970.1; 24 CFR 970.3; 24 CFR 970.4; 24 CFR 970.5; 24 CFR 970.6; 24 CFR 970.7; 24 CFR 970.8; 24 CFR 970.9; 24 CFR 970.10; 24 CFR 970.11

Completed:

Reason	Date	FR Cite
Final Action	12/13/85	50 FR 50891

Small Entity: No

Agency Contact: C. Wayne Hunter 202 755-6713

RIN: 2577-AA02

959. MODIFICATION TO THE PERFORMANCE FUNDING SYSTEM (P-2-84; FR-1834)

CFR Citation: 24 CFR 990

Completed:

Reason	Date	FR Cite
Final Action	11/18/85	50 FR 47368
Final Action Effective	04/01/86	50 FR 47368

Small Entity: No

Agency Contact: Nancy Chisholm 202 755-6713

RIN: 2577-AA00

[FR Doc. 86-8773 Filed 04-18-86; 8:45 am]

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Part X

Department of the Interior

Semiannual Regulatory Agenda

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DOI

DEPARTMENT OF THE INTERIOR

Office of the Secretary

25 CFR Ch. I

30 CFR Chs. II, IV and VII

36 CFR Ch. I

43 CFR Subtitle A, Chs. I and II

48 CFR Ch. 14

50 CFR Chs. I and IV

Semiannual Agenda of Rules Scheduled for Review or Development

AGENCY: Department of the Interior.

ACTION: Semiannual agenda of rules scheduled for review or development.

SUMMARY: This notice provides the semiannual agenda of rules scheduled for review or development between April 1986 and October 1986. An agenda is required by the Regulatory Flexibility Act and Executive Order 12291.

ADDRESS: Unless otherwise indicated, all Agency Contacts are located at the Department of the Interior, 18th and C Streets, N.W., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: All comments and inquiries with regard to these rules should be directed to the appropriate Agency Contact. General comments relating to the agenda should be directed to the Division of Directives and Regulatory Management, Office of Information Resources Management, Department of the Interior, at the address above or on 202-343-6191.

SUPPLEMENTARY INFORMATION: With this publication the Department satisfies the requirement of Executive Order 12291 that the Department publish in April and October of each year an agenda of rules that have been issued or are expected to be issued, and currently effective rules that are scheduled for review.

Simultaneously the Department meets the requirement of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) that an agenda be published in April and October of each year identifying rules which will have significant economic effects on a substantial number of small entities; those rules which will have such effects are specifically identified in the agenda.

This agenda also identifies rules determined to be "significant" under Executive Order 12498 and which are included in this Department's 1986 regulatory program. A more comprehensive discussion of this program and the rules will be contained in the "Regulatory Program of the United States Government" (April 1, 1986 - March 31, 1987), which will be published by the Office of Management and Budget.

DATED: February 3, 1986.

Gerald R. Rice,

Assistant Secretary of the Interior.

DEPARTMENT OF THE INTERIOR (DOI)

Proposed Rule Stage

Assistant Secretary for Policy, Budget, and Administration (ASPBA)

960. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Legal Authority: 31 USC 501 et seq; 16 USC 452; EO 11541; 31 USC 6503 to 6504; Act of 1966; 16 USC 831h; 31 USC 6301; 5 USC 301; 24 USC 278; 31 USC 701 et seq as amended; 40 USC 474 et seq; 41 USC 5 et seq

CFR Citation: 43 CFR Not yet determined

Legal Deadline: None

Abstract: This Notice of Proposed Rulemaking proposes common regulations establishing consistency and uniformity among Federal agencies in the administration of grants to State, local, and federally recognized Indian tribal governments.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Colonel C. Armstrong, Chief, Division of Acquisition and Grants, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th & C Streets, NW, Washington, DC 20240, 202 343-6431

RIN: 1090-AA11

961. NATURAL RESOURCE DAMAGE ASSESSMENT - TYPE A PROCEDURES

Significance: Regulatory Program

Legal Authority: 33 USC 9651(c)(1) Comp Envir Rspns, Compnstn & Liabty Act 1980

CFR Citation: 43 CFR 11

Legal Deadline: Judicial, May 5, 1986. Statutory deadline 12/11/82. Judicial deadlines requires NPRM by 05/05/86 and final rule 10/07/86.

Abstract: CERCLA allows trustees of natural resources which have been damaged by a release of a hazardous substance to bring a claim against the responsible party. Section 301(c) requires the development of two sets of regulations. The Type A regulations will be composed of simplified procedures which require minimal field investigations. Type B regulations will include alternative protocols for the testing, sampling, and valuing of natural resource damages. This submission covers the Type A procedures.

Timetable:

Action	Date	FR Cite
ANPRM	01/10/83	48 FR 1064
ANPRM Comment Period End	02/15/83	48 FR 1064
ANPRM - second. Comment summary; comment period reopened to 08/31/83	06/31/83	48 FR 34768
Comment period reopened until 5/31/85	01/11/85	50 FR 1550
NPRM	05/05/86	
Final Action	10/07/86	

Small Entity: Undetermined

DOI—ASPBA

Proposed Rule Stage

Agency Contact: Mr. Keith Eastin, Associate Solicitor/Energy and Resources, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th and C Streets NW, Washington, DC 20240, 202 343-4883

RIN: 1090-AA07

962. DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION (FAR)

Legal Authority: 5 USC 301

CFR Citation: 48 CFR 1400

Legal Deadline: None

Abstract: This rule will implement changes in the FAR as a result of the Small Business and Federal Procurement Competition Enhancement Act of 1984, P.L. 98-577.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: William S. Opdyke, Chief, Branch of Policy and Regulations, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th & C Streets, NW, Washington, DC 20240, 202 343-3433

RIN: 1090-AA10

DEPARTMENT OF THE INTERIOR (DOI)

Final Rule Stage

Assistant Secretary for Policy, Budget, and Administration (ASPBA)

963. NATURAL RESOURCE DAMAGE ASSESSMENT - TYPE B PROCEDURES

Significance: Regulatory Program

Legal Authority: 33 USC 9651(c)(1) Comp Envir Rspns, Compnstn & Liabty Act 1980

CFR Citation: 43 CFR 11

Legal Deadline: Judicial, June 23, 1986. Statutory Deadline 12/11/82 Judicial deadline requires final rules by 6/23/86

Abstract: CERCLA allows trustees of natural resources which have been damaged by a release of a hazardous substance to bring a claim against the responsible party. Section 301(c) requires the development of two sets of regulations. The Type A regulations will be composed of simplified procedures which require minimal field investigations. Type B regulations will include alternative protocols for the testing, sampling, and valuing of natural resource damages. This submission covers the Type B procedures.

Timetable:

Action	Date	FR Cite
ANPRM	01/10/83	48 FR 1064
ANPRM Comment Period End	02/15/83	48 FR 1064
Second ANPRM issued. Summary of comments provided and comment period reopened until 08/31/83	08/01/83	48 FR 34768
Comment period reopened until 05/31/85	01/11/85	50 FR 1550
NPRM	12/20/85	
NPRM Comment Period End	02/20/86	
Final Action	06/23/86	
Final Action Effective	07/23/86	

Small Entity: Undetermined

Agency Contact: Mr. Keith Eastin, Associate Solicitor/Energy and Resources, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th and C Streets NW, Washington, DC 20240, 202 343-4883

RIN: 1090-AA06

964. DEPARTMENT OF THE INTERIOR ACQUISITION REGULATION

Legal Authority: 5 USC 301

CFR Citation: 48 CFR 1400

Legal Deadline: None

Abstract: This rule will implement changes made in the FAR as a result of the Competition in Contracting Act of 1984, P.L. 98-369.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Agency Contact: William Opdyke, Chief, Branch of Policy and Regulations, Department of the Interior, Assistant Secretary for Policy, Budget, and Administration, 18th & C Streets, NW, Washington, DC 20240, 202 343-3433

RIN: 1090-AA08

[FR Doc. 86-8521 Filed 04-18-86; 8:45 am]

BILLING CODE 4310-10-T

DEPARTMENT OF THE INTERIOR (DOI)

Prerule Stage

Office of the Solicitor (OSOL)

965. PRACTICES BEFORE THE DEPARTMENT

Legal Authority: 43 USC 1464

CFR Citation: 43 CFR 1

Legal Deadline: None

Abstract: This rule governs practice in administrative proceedings before the Department. It will be revised to update its provisions and assure that they are consistent with the Department's employee conduct regulations (43 CFR Part 20) and the Ethics in Government Act.

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DOI--OSOL

Prerule Stage

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: Originally scheduled: January 1981.

Agency Contact: Deborah Ryan, Attorney-Advisor, Department of the Interior, Office of the Solicitor, 18th and C Streets, NW, Washington, DC 20240, 202 343-5216

RIN: 1092-AA09

968. RECORDS AND TESTIMONY

Legal Authority: 5 USC 552

CFR Citation: 43 CFR 2

Legal Deadline:

None

Abstract: The Department's regulations implementing the Freedom of Information Act will be clarified and updated as appropriate under current law.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: John D. Trexler, Assistant Solicitor, Department of the Interior, Office of the Solicitor, 18th & C Streets, NW, Washington, DC 20240, 202 343-5216

RIN: 1092-AA02

DEPARTMENT OF THE INTERIOR (DOI)
Office of the Solicitor (OSOL)

Proposed Rule Stage

967. ● TRANS-ALASKA PIPELINE LIABILITY FUND

Legal Authority: 43 USC 1653(c); 33 USC 1321(p)(1),(2)

CFR Citation: 43 CFR 29

Legal Deadline: None

Abstract: These regulations, which supervise and administer the Fund provided for by Sec. 204(c) of the Trans-Alaska Pipeline Authorization Act, 43 USC Sec 1653(c) will be amended to eliminate inconsistencies between the existing regulations and the Act, clarify language which has been found to be confusing, delete provisions that are no longer necessary, and provide a more efficient process for filing and considering claims made against the Fund.

Timetable:

Action	Date	FR Cite
NPRM	05/01/86	

Small Entity: Undetermined

Agency Contact: Robert H. Moll, Attorney-Advisor, Department of the Interior, Office of the Solicitor, Washington, DC 20240, 202 343-5216

RIN: 1092-AA03

[FR Doc. 86-8621 Filed 04-18-86; 8:45 am]

BILLING CODE 4310-10-T

DEPARTMENT OF THE INTERIOR (DOI)
Office for Equal Opportunity (OEO)

Prerule Stage

966. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Legal Authority: The Age Discrimination Act of 1975, as amended; 42 USC 6101; 45 CFR 90

CFR Citation: 43 CFR 17, Subpart C

Legal Deadline: None

Abstract: This rule will set forth guidelines for non-discrimination on the basis of age in programs or activities receiving Federal financial assistance from the Department.

Timetable:

Action	Date	FR Cite
NPRM	01/03/80	45 FR 976
Begin Review	06/00/86	
Final Action	02/00/87	

Small Entity: No

Additional Information: LEGAL AUTHORITY: Originally scheduled: January 1979.

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1986

Affected Sectors: None

Government Levels Affected: Local, State

Agency Contact: Malvia C. Fowler, Supervisory Equal Opportunity Spc., Department of the Interior, Office for Equal Opportunity, 18th and C Streets, NW, Washington, DC 20240, 202 343-4331

RIN: 1091-AA00

DEPARTMENT OF THE INTERIOR (DOI)
Office for Equal Opportunity (OEO)

Final Rule Stage

969. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN DEPARTMENT OF THE INTERIOR PROGRAMS

Legal Authority: PL 95-602, Sec 504; 29 USC 794

CFR Citation: 43 CFR 17, Subpart E

Legal Deadline: Judicial. The Court asked that the rules be published as quickly as possible.

Abstract: This rule will provide for the enforcement of section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of handicap as applied to programs or activities conducted by the Department of the Interior.

Timetable:

Action	Date	FR Cite
NPRM	09/11/85	50 FR 37006
NPRM Comment Period End	11/11/85	
Final Action	06/00/86	

Small Entity: No

Additional Information: Originally scheduled: October 1983.

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1986

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Joseph A. Canedo, Departmental Section 504 Program Manager, Department of the Interior, Office for Equal Opportunity, 18th and C Streets, NW, Washington, DC 20240, 202 343-3899

RIN: 1091-AA01

[FR Doc. 86-8521 Filed 04-18-86; 8:45 am]

BILLING CODE 4310-10-T

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Prerule Stage

970. DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Legal Authority: 43 USC 1201; 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 372; 25 USC 373; 25 USC 374; 25 USC 373a; 25 USC 373b

CFR Citation: 43 CFR 4

Legal Deadline: None

Abstract: The Office of Hearings and Appeals is reviewing existing procedural regulations to change as necessary the title of the Interior Board of Land Appeals (IBLA) to the Interior Board of Land and Indian Appeals (IBLIA) to reflect the proposed consolidation of the functions of the Interior Board of Indian Appeals into IBLIA. The regulations are being reviewed for changes necessary to reflect the proposed transfer to IBLIA of the authority and review functions over appeals adjudicated by the Director or ad hoc appeals boards.

Timetable:

Action	Date	FR Cite
Begin Review	09/00/85	
End Review	10/00/86	

Small Entity: Undetermined

Government Levels Affected: Federal

Agency Contact: Wm. Philip Horton, Chief Administrative Judge, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Va 22203, 703 235-3750

RIN: 1094-AA24

971. SPECIAL RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 43 CFR 4.251

Legal Deadline: None

Abstract: The existing rule is under review to determine whether changes are needed in the priority of claims filed against Indian trust estates.

Timetable:

Action	Date	FR Cite
Begin Review	09/00/85	
End Review	10/00/86	

Small Entity: Undetermined

Government Levels Affected: Federal

Agency Contact: Paul T. Baird, Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Va. 22203, 703 235-3810

RIN: 1094-AA22

972. SPECIAL RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 43 CFR 4.310(a)

Legal Deadline: None

Abstract: The existing rule is being reviewed to determine whether a change should be made to the effective date for filing a notice of appeal under 25 CFR 2.19, relating to appeals from decisions of officials of the Bureau of Indian Affairs.

Timetable:

Action	Date	FR Cite
Begin Review	02/01/85	
End Review	10/00/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: John H. Kelly, Deputy Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3810

RIN: 1094-AA17

973. SPECIAL RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 43 CFR 4.340

Legal Deadline: None

Abstract: The existing rule is under review to determine whether to delete the requirement that copies of Board decisions be sent to parties by certified mail.

Timetable:

Action	Date	FR Cite
Begin Review	02/07/85	
End Review	10/00/86	

Small Entity: No

Government Levels Affected: Federal

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DOI—OHA

Prerule Stage

Agency Contact: John H. Kelly, Deputy Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3810

RIN: 1094-AA13

974. SPECIAL RULES APPLICABLE TO PUBLIC LAND HEARINGS AND APPEALS

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4.413

Legal Deadline: None

Abstract: The agency is reviewing the rule to determine whether it should be revised to change the designation of the appropriate officer in the Solicitor's Office to receive service in administrative appeals from decisions of the Eastern States Office, Bureau of Land Management.

Timetable:

Action	Date	FR Cite
Begin Review	05/00/86	
End Review	10/00/86	

Small Entity: Undetermined

Government Levels Affected: Federal

Agency Contact: James R. Kleiler, Attorney Adviser, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3750

RIN: 1094-AA20

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Proposed Rule Stage

975. SPECIAL RULES APPLICABLE TO PUBLIC LAND HEARINGS AND APPEALS

Legal Authority: 43 USC 1201; 43 USC 1701

CFR Citation: 43 CFR 4, Subpart E

Legal Deadline: None

Abstract: Rulemaking has been initiated to revise existing rules to place time limitations on the filing of petitions for reconsideration of decisions of the Board of Land Appeals.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: No

Additional Information: Originally scheduled: July 1979.

Agency Contact: James R. Kleiler, Attorney Advisor, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3750

RIN: 1094-AA01

976. ● DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4, Subpart B

Legal Deadline: None

Abstract: Rulemaking is being proposed to make express provision for in camera review of information which is exempt, protected, or prohibited from unauthorized disclosure by Federal statute when such information is submitted in an administrative proceeding.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: John H. Kelly, Deputy Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3810

RIN: 1094-AA26

977. SPECIAL RULES APPLICABLE TO SURFACE COAL MINING HEARINGS AND APPEALS

Legal Authority: 30 USC 1275; 5 USC 301

CFR Citation: 43 CFR 4.1276

Legal Deadline: None

Abstract: The proposed rulemaking will revise existing rules to place time limitations on the filing of petitions for reconsideration of decisions of the Board of Land Appeals.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: No

Agency Contact: James R. Kleiler, Attorney-Adviser, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203, 703 235-3750

RIN: 1094-AA10

978. SPECIAL RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 372; 25 USC 373; 25 USC 374; 25 USC 373a; 25 USC 373b

CFR Citation: 43 CFR 4.208, (New)

Legal Deadline: None

Abstract: The agency is investigating whether there is need for a new rule relating to disclaimers of devises under Indian wills.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: John H. Kelly, Deputy Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3810

RIN: 1094-AA11

979. SPECIAL RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 372; 25 USC 373; 25 USC 374; 25 USC 373a; 25 USC 373b

CFR Citation: 43 CFR 4.209

Legal Deadline: None

Abstract: The agency is proposing to add a new regulation to provide procedures to be followed when heirs in an Indian probate proceeding cannot be located.

DOI—OHA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: John H. Kelly, Deputy Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Va 22203, 703 235-3810

RIN: 1094-AA16

980. SPECIAL RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 372; 25 USC 373; 25 USC 374; 25 USC 373a; 25 USC 373b

CFR Citation: 43 CFR 4.231(b); 43 CFR 4.236; 43 CFR 4.320(c); 43 CFR 4.323

Legal Deadline: None

Abstract: The agency is proposing that the transcription of hearings before administrative law judges (Indian probate), which is presently required in all cases, should be made discretionary.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: John H. Kelly, Deputy Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Va 22203, 703 235-3810

RIN: 1094-AA15

981. TRIBAL ACQUISITION OF INTERESTS UNDER SPECIAL STATUTE

Legal Authority: 25 USC 2201 to 2210

CFR Citation: 43 CFR 4.300; 43 CFR 4.301; 43 CFR 4.302; 43 CFR 4.303; 43 CFR 4.304; 43 CFR 4.305; 43 CFR 4.306; 43 CFR 4.307; 43 CFR 4.308

Legal Deadline: None

Abstract: The Indian Land Consolidation Act (Act) was enacted on January 12, 1983, and changes existing law regarding the descent of Indian trust and restricted lands. The Act provides that certain undivided fractional interests in such lands can now be acquired by the tribe instead of descending by intestacy or devise. Existing regulations governing the probate of Indian lands by Indian Probate Judges must therefore be amended to conform with the Act.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: John H. Kelly, Deputy Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Blvd., Arlington, VA 22203, 703 235-3810

RIN: 1094-AA08

982. ● SPECIAL RULES APPLICABLE TO PUBLIC LAND HEARINGS AND APPEALS

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4.401(c); 43 CFR 4.413

Legal Deadline: None

Abstract: Rulemaking is being proposed to amend the requirements for proof of service of documents to require that a party serving a document other than the notice of appeal certify that he sent the document to the adverse party by mail.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: Undetermined

Agency Contact: Wm. Philip Horton, Chief Administrative Judge, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3750

RIN: 1094-AA25

DEPARTMENT OF THE INTERIOR (DOI)
Office of Hearings and Appeals (OHA)

Final Rule Stage

983. SPECIAL RULES APPLICABLE TO SURFACE COAL MINING HEARINGS AND APPEALS

Legal Authority: 30 USC 1201

CFR Citation: 43 CFR 4.1100 to 1196

Legal Deadline: None

Abstract: Regulations are being proposed to add procedures for hearings and appeals under the permanent regulatory program of the Surface Mining Control and Reclamation Act of 1977 (including review of approval or disapproval of applications for permits) and for the assessment of individual civil penalties under 30 USC 1268(f) and to make revisions to the existing regulations in 43 CFR Part 4, Subpart L.

Timetable:

Action	Date	FR Cite
NPRM	11/15/85	50 FR 47237
NPRM Comment Period End	12/16/85	50 FR 47237
Final Action	10/00/86	

Small Entity: Undetermined

Government Levels Affected: Federal

Agency Contact: Will A. Irwin, Administrative Judge, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Va 22203, 703 235-3750

RIN: 1094-AA23

984. SPECIAL RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 372; 25 USC 373; 25 USC 374; 25 USC 373a; 25 USC 373b

CFR Citation: 43 CFR 4.222

Legal Deadline: None

Abstract: The agency is proposing to amend its regulation concerning discovery procedures in Indian probate proceedings to conform more closely to procedures set forth in the Federal Rules of Civil Procedure.

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Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/25/85	50 FR 48446
NPRM Comment Period End	01/24/86	50 FR 48446
Final Action	04/00/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: John H. Kelly, Deputy Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Va 22203, 703 235-3810

RIN: 1094-AA14

965. SPECIAL RULES APPLICABLE IN INDIAN AFFAIRS HEARINGS AND APPEALS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 372; 25 USC 373; 25 USC 374; 25 USC 373a; 25 USC 373b

CFR Citation: 43 CFR 4.320(a)

Legal Deadline: None

Abstract: The agency is proposing to provide parties with 60 days from the date a decision or order of an administrative law judge (Indian probate) is mailed in which to file an appeal with the Board of Indian Appeals.

Timetable:

Action	Date	FR Cite
NPRM	11/25/85	50 FR 48445
NPRM Comment Period End	12/26/85	50 FR 48445
Final Action	04/00/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: John H. Kelly, Deputy Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, Va 22203, 703 235-3810

RIN: 1094-AA18

DEPARTMENT OF THE INTERIOR (DOI)

Office of Hearings and Appeals (OHA)

Completed Actions

966. DEPARTMENT HEARINGS AND APPEALS PROCEDURES

Legal Authority: 43 USC 1201

CFR Citation: 43 CFR 4.1; 43 CFR 4.5; 43 CFR 4.27(b); 43 CFR 4.317; 43 CFR 4.832

Legal Deadline: None

Abstract: Existing regulations are being revised to clarify that the Secretary does not have power to exercise jurisdiction over matters before the Interior Board of Contract Appeals. (IBCA), to establish procedures relating to the exercise of the Secretary's reserved powers over Office of Hearings and Appeals proceedings and to broaden and strengthen the general prohibition against ex parte communications in Office of Hearings and Appeals proceedings. The Office of Hearings and Appeals is also proposing to remove duplicative provisions regarding ex parte communications from the procedures for particular Office of Hearings and Appeals proceedings.

Timetable:

Action	Date	FR Cite
NPRM	03/19/85	50 FR 10996
NPRM Comment Period End	04/18/85	50 FR 10996
Final Action	10/29/85	50 FR 43703
Final Action Effective	11/29/85	50 FR 43703

Small Entity: No

Government Levels Affected: Federal

Agency Contact: John H. Kelly, Deputy Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3810

RIN: 1094-AA12

967. SPECIAL RULES APPLICABLE TO SURFACE COAL MINING HEARINGS AND APPEALS

Legal Authority: 30 USC 1201

CFR Citation: 43 CFR 4.1294

Legal Deadline: None

Abstract: Revision of existing rule is proposed to more clearly define the conditions under which costs and expenses (including attorney's fees) may be awarded and to conform with a recent decision in which the United States Supreme Court held that absent some degree of success on the merits by a claimant, it is not "appropriate" for a court to award attorney's fees.

Timetable:

Action	Date	FR Cite
Final Action	11/15/85	50 FR 47222
Final Action Effective	12/16/85	50 FR 47222

Small Entity: Undetermined

Government Levels Affected: Federal

Agency Contact: John H. Kelly, Deputy Director, Department of the Interior, Office of Hearings and Appeals, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-3810

RIN: 1094-AA19

[FR Doc. 86-4321 Filed 04-18-86; 8:45 am]

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DEPARTMENT OF THE INTERIOR (DOI)

United States Fish and Wildlife Service (FWS)

Prerule Stage

968. NORTHWEST STEELHEAD AND SALMON CONSERVATION AND ENHANCEMENT GRANTS

Legal Authority: 16 USC 3301 to 3325; PL 96-561

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Secretary of the Interior is authorized under PL 96-561 to establish a program to provide grants for projects for the enhancement of the salmon and steelhead resources of the Washington and Columbia River conservation areas. The Act authorizes $84,000,000 for salmon and steelhead enhancement in the two conservation areas. Comprehensive enhancement plans for the Washington and Columbia River conservation areas must be developed and agreed to by the States of Washington and Oregon and the treaty tribes, and approved by the Secretary before grants can be provided. Rules will be promulgated to administer the grant program.

DOI—FWS

Prerule Stage

Timetable:

Action	Date	FR Cite
ANPRM	03/00/86	
NPRM	06/00/86	
Final Action	09/00/86	

Small Entity: Yes

Additional Information: SMALL BUSINESSES CONT: Small entities likely to be affected by these rules include some sporting goods stores, hardware stores, motels and hotels, restaurants, clothing stores, boat and marine equipment stores, marinas, gasoline stations, private hunting clubs, land owners' leasing hunting rights, and mail order houses selling hunting equipment and supplies. Originally scheduled: April 1985. E.O. 12291: These rules are major because of the economic values associated with migratory game bird hunting; however, the need to obtain and consider the latest population data for these migratory birds requires that the regulatory schedule be shortened. The regulatory impact analysis, as required by E.O. 12291, and the small entity flexibility analysis, as required by 5 U.S.C. 601 et seq., have been combined into one analysis as provided for by both authorities. Copies of the combined analysis will be available from the Agency Contact upon publication of the Notice of Intent in March 1985.

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Joseph H. Kutkuhn, Associate Director - Federal Assistance, Department of the Interior, United States Fish and Wildlife Service, Department of the Interior, Washington, DC 20240, 202 343-6394

RIN: 1018-AA88

969. MIGRATORY BIRD HUNTING

Significance: Regulatory Program

Legal Authority: 16 USC 703 to 711

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service annually publishes a series of documents establishing migratory bird hunting regulations for the 1986-87 season. The documents consist of proposed frameworks providing outside limits for dates and hours of shooting, as well as bag and possession limits; final frameworks for hunting seasons from which States may select regulations; and final rules approving such State selections.

Timetable:

Action	Date	FR Cite
Final Action 1986-87 seasons	10/17/86	50 FR 42926

Legal Authority: 16 USC 701 to 718

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: In 1979, the United States and Canada signed a protocol to amend the 1916 treaty concerning management of migratory birds. The protocol initiated efforts to recognize historical native subsistence of such birds. A rule will be developed to implement this international agreement.

Timetable:

Action	Date	FR Cite
ANPRM	03/10/83	48 FR 10101
Develop/publish notice of availability of joint U.S.-Canada statement for public comment	11/00/86	

Small Entity: Undetermined

Additional Information: This action will follow that in RIN 1018-AA90 that was listed in the Regulatory Program of the United States Government.

Agency Contact: Ronald Lambertson, Associate Director - Federal Assistance, Department of the Interior, United States Fish and Wildlife Service, Room 3252, Washington, DC 20240, 202 343-5333

RIN: 1018-AA92

970. ● SUBSISTENCE TAKE OF MIGRATORY BIRDS

Significance: Regulatory Program

DEPARTMENT OF THE INTERIOR (DOI)

United States Fish and Wildlife Service (FWS)

Proposed Rule Stage

971. SEIZURE AND FORFEITURE PROCEDURES

Legal Authority: 16 USC 1540; 16 USC 3371 to 3378

CFR Citation: 50 CFR 12

Legal Deadline: None

Abstract: This Part would be amended to apply customs laws to seizures and forfeitures incurred under the Lacey Act Amendments of 1981 and the Endangered Species Act, as authorized by both statutes.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Undetermined

Additional Information: Originally scheduled: April 1983.

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Proposed Rule Stage

Agency Contact: Clark R. Bavin, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-9242

RIN: 1018-AA04

992. HUMANE TRANSPORT OF WILD ANIMALS AND BIRDS

Significance: Regulatory Program

Legal Authority: PL 97-79, 95 Stat. 1073

CFR Citation: 50 CFR 14

Legal Deadline: Statutory. 180 days after enactment of Public Law 97-79, dated November 16, 1981.

Abstract: Section 9(d) of the Lacey Act Amendments of 1981 shifts authority for prescribing requirements for the humane and healthful transport of wild animals and birds from the Secretary of the Treasury to the Secretary of the Interior. This authority will be promulgated in Part 14.

Timetable:

Action	Date	FR Cite
Notice of Public Meeting	02/26/82	47 FR 8386
Notice of Intent to propose Rules	06/30/82	47 FR 28431
NPRM	12/04/85	50 FR 49709
NPRM Comment Period End	03/05/86	51 FR 4945
Final Action	07/31/86	

Small Entity: No

Additional Information: Originally scheduled: April 1982.

Agency Contact: Thomas J. Parisot, Chief, Wildlife Permit Office, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-1937

RIN: 1018-AA07

993. IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Legal Authority: 16 USC 3376(a)(2)

CFR Citation: 50 CFR 14

Legal Deadline: None

Abstract: The Service would amend the requirements for marking and labeling containers or packages containing fish or wildlife in a joint rulemaking with the Department of Commerce. The Lacey Act Amendments of 1981 make it unlawful to import, export, or transport in interstate commerce any containers or packages containing fish or wildlife that are not marked or labeled in accordance with regulations jointly issued by the Secretaries of the Interior and of Commerce. Such regulations will be in accordance with existing commercial practices.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Additional Information: Originally scheduled: October 1983.

Agency Contact: Clark R. Bavin, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-9242

RIN: 1018-AA79

994. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1540

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Part 17 would be amended to implement provisions of the Endangered Species Act Amendments of 1982 on noncommercial transshipments of wildlife and pre-Act status.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: Undetermined

Additional Information: Originally scheduled: April 1983.

Agency Contact: Clark R. Bavin, Chief, Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-8242

RIN: 1018-AA66

995. SOUTHERN SEA OTTER EXPERIMENTAL POPULATION

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: Regulations will be proposed to identify an experimental population for the southern sea otter (Enhydra lutris nereis) as provided by Section 10(j) of the 1982 amendments to the ESA. The experimental population designation will increase management flexibility to enhance the recovery effort for this species.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Undetermined

Agency Contact: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 18th & C Streets, NW, Washington, DC 20240, 703 235-2771

RIN: 1018-AA87

996. ● INCIDENTAL TAKING OF MARINE MAMMALS BY COMMERCIAL FISHING OPERATIONS

Legal Authority: 16 USC 13

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Service will develop regulations to implement a provision contained in the 1981 amendments to the Marine Mammal Protection Act, concerning the incidental taking of marine mammals by commercial fishermen. The rules would apply to those species of marine mammals for which the Service has responsibility, i.e. sea otters, walrus, polar bears, manatees, and dugongs, except those listed as depleted.

Timetable:

Action	Date	FR Cite
NPRM	07/15/86	
NPRM Comment Period End	09/15/86	

Small Entity: Undetermined

Agency Contact: Leroy W. Sowl, Chief, Division of Wildlife Management, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 202 632-7563

RIN: 1018-AA96

997. PUBLIC ENTRY AND USE

Legal Authority: 16 USC 460k; 16 USC 668dd

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DOI—FWS

Proposed Rule Stage

CFR Citation: 50 CFR 26; 50 CFR 32; 50 CFR 33

Legal Deadline: None

Abstract: Regulations will be proposed which will simplify and reduce administrative costs related to the process by which special regulations, relating to public, access use, and recreation are issued for units of the National Wildlife Refuge system. Special regulations will be used for public access use and recreation on individual national wildlife refuges.

Timetable:

Action	Date	FR Cite
NPRM	07/03/84	49 FR 27334
NPRM Comment Period End	08/02/84	49 FR 27334
Final Action Hunting and Fishing	09/19/84	49 FR 36736
NPRM Public Entry and Use	09/00/86	

Small Entity: No

Additional Information: Originally scheduled: April 1981.

Agency Contact: James F. Gillett, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-4311

RIN: 1018-AA36

998. MINERAL RIGHTS RESERVED AND EXCEPTED

Legal Authority: 16 USC 668(dd) National Wildlife Refuge System Admin Act

CFR Citation: 50 CFR 29.32, (Revision)

Legal Deadline: None

Abstract: Existing regulations will be revised to provide more comprehensive guidance on the procedures to be followed by persons conducting mineral exploration and/or development on National Wildlife Refuge System (NWRS) lands where the mineral rights are vested in other parties. Such operations were conducted on 47 NWRS units in 11 states during 1984. The purpose of the new rule will be to protect NWRS resources to the maximum extent possible without infringing upon the rights of the subsurface owners. Similar regulations of the National Park Service (36 CFR 9.30) and the Forest Service (36 CFR 251.15) will be considered in developing the NWRS regulations.

Timetable:

Action	Date	FR Cite
ANPRM	05/20/85	50 FR 20814
ANPRM Comment Period End	07/05/85	50 FR 20814
NPRM	11/00/86	

Small Entity: Undetermined

Agency Contact: James F. Gillett, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, 18th & C Streets, NW, Washington, DC 20240, 202 343-4311

RIN: 1018-AA86

999. HUNTING

Legal Authority: 16 USC 460k; 16 USC 668dd

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: The Service will review annually and prior to each hunting season may amend hunting regulations for specific national wildlife refuges.

Timetable:

Action	Date	FR Cite
Final Action for 1985 changes	09/04/85	50 FR 35815
NPRM	07/00/86	
NPRM Comment Period End	08/00/86	50 FR 23470
Final Action	09/00/86	

Small Entity: No

Additional Information: Originally scheduled: April 1983.

Agency Contact: James F. Gillett, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-4311

RIN: 1018-AA71

1000. ALASKA NATIONAL WILDLIFE REFUGES

Legal Authority: 43 USC 1621(g)

CFR Citation: 50 CFR 36

Legal Deadline: None

Abstract: A new Subpart F will be added and will contain regulations for certain lands within and/or adjacent to certain National Wildlife Refuges in Alaska pursuant to Section 22(g) of the Alaska Native Claims Settlement Act of 1971.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1988.

Agency Contact: James F. Gillett, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-4311

RIN: 1018-AA83

1001. ALASKA NATIONAL WILDLIFE MONUMENTS

Legal Authority: 16 USC 432; 16 USC 742(f); 16 USC 460(k)(3); Presidential Proclamations of 12/1/78 (43 FR 57009); 16 USC 3101

CFR Citation: 50 CFR 96 to 106

Legal Deadline: None

Abstract: These rules, which would have provided the general land management regulations for Yukon Flats and Becharof National Wildlife Monuments in Alaska, will be withdrawn.

Timetable:

Action	Date	FR Cite
Notice of Intent	02/28/79	44 FR 11247
NPRM	06/28/79	44 FR 37754
Withdraw Proposed Rules	07/00/86	

Small Entity: Undetermined

Additional Information: DETERMINATION UNDER E.O. 12291: The Department of the Interior previously determined that these regulations were not significant under the provisions of E.O. 12044. They will not be reconsidered under the provisions of E.O. 12291, since the Service plans to withdraw the proposed rules that were published on June 28, 1979. Originally scheduled: July 1979.

Agency Contact: James F. Gillett, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-4311

RIN: 1018-AA55

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Proposed Rule Stage

1002. ALASKA NATIONAL WILDLIFE MONUMENTS: MINERALS MANAGEMENT

Legal Authority: 16 USC 432; 16 USC 742(f); 30 USC 21 et seq; Presidential Proclamations of 12/1/78 (43 FR 57019, 57119); 30 USC 612; 16 USC 3101

CFR Citation: 50 CFR 107

Legal Deadline: None

Abstract: This rule, which would have governed mining in Yukon Flats and Becharof National Wildlife Monuments in Alaska, will be withdrawn.

Timetable:

Action	Date	FR Cite
Notice of Intent	02/26/79	44 FR 11247
NPRM	01/11/80	45 FR 2616
Withdraw Proposed Rules	07/00/86	

Small Entity: Undetermined

Additional Information: DETERMINATION UNDER E.O. 12291: The Department of the Interior previously determined that this rule was not significant under the provisions of E.O. 12044. It will not be reconsidered under the provisions of E.O. 12291, since the Service plans to withdraw the proposed rule that was published on January 11, 1980. Originally scheduled: January 1980.

Agency Contact: James F. Gillett, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-4311

RIN: 1018-AA58

DEPARTMENT OF THE INTERIOR (DOI)

United States Fish and Wildlife Service (FWS)

Final Rule Stage

1003. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: Statutory. In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife, and plants under the Endangered Species Act, and where prudent, would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Supplemental Timetable:

Amargosa vole
NPRM 08/29/83 (48 FR 39090)
Final Action 11/15/84 (49 FR 45160)

Ash Meadows; one plant and seven insects
NPRM 10/13/83 (48 FR 46590)
Final Action 05/20/85 (50 FR 20777)

Bahama and Schaus swallowtail butterflies
NPRM 08/29/83 (48 FR 39096)
Final Action 08/31/84 (49 FR 34501)

Big Spring spinedace
NPRM 11/30/83 (48 FR 54082)
Final Action 03/28/85 (50 FR 12298)

Brown pelican
NPRM 11/10/83 (48 FR 51736)
Final Action 02/04/85 (50 FR 4936)

Fresno kangaroo rat
NPRM 11/21/83 (48 FR 52608)
Final Action 01/30/85 (50 FR 4222)

Gouania hillebrandii
NPRM 11/09/84 (49 FR 44753)
Final Action 00/00/00

Hau hele'ula
NPRM 09/12/83 (48 FR 40920)
Final Action 00/00/00

Heliotrope milk-vetch
NPRM 01/13/81 (46 FR 3186)
Final Action 00/00/00

Johnston's frankenia
NPRM 07/08/83 (48 FR 31414)
Final Action 08/07/84 (49 FR 31418)

Long haired phlox
NPRM 08/29/83 (48 FR 39093)
WITHDRAWN 03/28/85 (50 FR 12348)

Mariana island species
NPRM 08/27/84 (49 FR 33681)
Final Action 00/00/00

Modoc sucker
NPRM 01/31/84 (49 FR 3692)
Final Action 08/11/85 (50 FR 24526)

Ozark cavefish
NPRM 01/31/84 (49 FR 3689)
Final Action 11/01/84 (49 FR 43965)

San Benito evening primrose
NPRM 10/31/83 (48 FR 50126)
Final Action 02/12/85 (50 FR 5755)

Silvering
NPRM 10/25/83 (48 FR 49316)
Final Action 00/00/00

Smoky madtom
NPRM 11/21/83 (48 FR 52612)
Final Action 10/26/84 (49 FR 43065)

Texas snowbells
NPRM 10/11/83 (48 FR 46066)
Final Action 10/12/84 (49 FR 40036)

Three Yaqui River fishes
NPRM 07/15/83 (48 FR 32527)
Final Action 08/31/84 (49 FR 34490)

Small Entity: No

Additional Information: After reviewing the biological status of candidate and listed species, the Service promptly proceeds to propose rules to list, delist, or reclassify such species as appropriate. Generally, final action on the proposed rules must be taken within one year.

Agency Contact: John L. Spinks, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-2771

RIN: 1018-AA10

1004. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: Judicial. In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed to list, reclassify or delist certain species of wildlife and plants as endangered or threatened species. When prudent, critical habitat will also be identified.

Supplemental Timetable:

Alabama beach mice (3 species)
NPRM 06/07/84 (49 FR 23794)
Final Action 06/06/85 (50 FR 23672)

Alligator snapping turtle
ANPRM 02/27/84 (49 FR 7416)
Final Action 00/00/00

Amber Darter
NPRM 07/13/84 (49 FR 28572)
Final Action 08/05/85 (50 FR 31597)

American Alligator
NPRM 06/20/84 (49 FR 25342)
Final Action 06/20/85 (50 FR 25672)

Beautiful goetzea
NPRM 08/18/84 (49 FR 24903)
Final Action 04/19/85 (50 FR 15664)

Blue Ridge goldenrod
NPRM 07/23/84 (49 FR 29829)
Final Action 03/28/85 (50 FR 12306)

DOI—FWS

Final Rule Stage

Carex specuicola
NPRM 04/11/84 (49 FR 14408)
Final Action 05/08/85 (50 FR 19370)

Conasauga logperch
NPRM 07/13/84 (49 FR 28572)
Final Action 08/05/85 (50 FR 31597)

Desert dace
NPRM 05/29/84 (49 FR 22355)
Final Action 12/10/85 (50 FR 50304)

Desert pupfish
NPRM 05/16/84 (49 FR 20739)
Final Action 00/00/00

Fish Creek Springs tui chub
NPRM 06/06/84 (49 FR 23409)
Final Action 00/00/00

Flattened musk turtle
NPRM 04/05/84 (49 FR 13558)
Extend NPRM comment period 11/01/85 (50 FR 45638)
Final Action 00/00/00

Foskett speckled dace
NPRM 04/17/84 (49 FR 15099)
Final Action 03/28/85 (50 FR 12302)

Hiko White River springfish
NPRM 05/07/84 (49 FR 19360)
Final Action 09/27/85 (50 FR 39123)

Hutton tui chub
NPRM 04/17/84 (49 FR 15099)
Final Action 03/28/85 (50 FR 12302)

Interior least tern
NPRM 05/29/84 (49 FR 22444)
Final Action 05/28/85 (50 FR 21784)

June Sucker
NPRM 07/02/84 (49 FR 27183)
Final Action 00/00/00

Key Largo woodrat and cotton mouse
NPRM 04/06/84 (49 FR 13720)
Final Action 08/31/84 (49 FR 34504)

Lakela's mint
NPRM 07/23/84 (49 FR 29632)
Final Action 05/15/85 (50 FR 20212)

Large flowered fiddleneck
NPRM 05/08/84 (49 FR 19534)
Final Action 05/06/85 (50 FR 19374)

Last chance townsendia
NPRM 05/29/84 (49 FR 22352)
Final Action 08/21/85 (50 FR 33734)

Maguire primrose
NPRM 04/13/84 (49 FR 14771)
Final Action 08/21/85 (50 FR 33731)

Mancos milk vetch
NPRM 06/28/84 (49 FR 26610)
Final Action 06/27/85 (50 FR 26568)

Niangua darter
NPRM 04/17/84 (49 FR 15102)
Final Action 08/12/85 (50 FR 24649)

Owens tui chub
NPRM 03/23/84 (49 FR 10950)
Final Action 00/00/00 (50 FR 31592)

Pecos bluntnose shiner
NPRM 05/11/84 (49 FR 20031)
Final Action 00/00/00

Railroad Valley springfish
NPRM 04/17/84 (49 FR 15109)
Final Action 00/00/00

Rhizome fleabane
NPRM 04/24/84 (49 FR 17548)
Final Action 04/26/85 (50 FR 16680)

Sacramento Mountains thistle
NPRM 05/16/84 (49 FR 20735)
Final Action 00/00/00

San Mateo thornmint
NPRM 08/18/84 (49 FR 24908)
Final Action 09/18/85 (50 FR 37858)

Sonoran chub
NPRM 06/06/84 (49 FR 23402)
Final Action 00/00/00

Thornber's fishhook cactus
NPRM 04/24/84 (49 FR 17551)
Final Action 00/00/00

Triepot Darter
NPRM 07/13/84 (49 FR 28572)
Withdrawn 01/03/86 (51 FR 230)

Vahl's boxwood
NPRM 07/13/84 (49 FR 28580)
Final Action 08/13/85 (50 FR 32572)

Warner sucker
NPRM 05/21/84 (49 FR 21383)
Final Action 09/27/85 (50 FR 39117)

Welsh's milkweed
NPRM 06/06/84 (49 FR 23399)
Final Action 00/00/00

White River spinedace
NPRM 05/29/84 (49 FR 22359)
Final Action 09/12/85 (50 FR 37194)

White River springfish
NPRM 05/07/84 (49 FR 19366)
Final Action 09/27/85 (50 FR 39123)

Small Entity: Not Applicable

Additional Information: Originally scheduled: October 1984.

Agency Contact: John Spinks, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 235-2771

RIN: 1018-AA84

1005. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: Statutory. In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed to list, reclassify, or delist certain species of wildlife and plants as endangered or threatened species. When prudent, critical habitat will also be identified.

Supplemental Timetable:

Bay Checkerspot butterfly
NPRM 09/11/84 (49 FR 35665)
Final Action 00/00/00

Blackside dace
NPRM 09/04/84 (49 FR 34878)
Final Action 00/00/00

Florida pine rockland plants
NPRM 11/07/84 (49 FR 44507)
Final Action 07/18/85 (50 FR 29345)

Hawaiian gardenia
NPRM 10/12/84 (49 FR 40058)
Final Action 08/21/85 (50 FR 33728)

Inyo brown towhee
NPRM 11/25/84 (49 FR 46174)
Final Action 00/00/00

Maguire daisy
NPRM 07/27/84 (49 FR 30211)
Final Action 09/05/85 (50 FR 36067)

Micocoukee gooseberry
NPRM 08/31/84 (49 FR 34535)
Final Action 07/18/85 (50 FR 29338)

Northern flying squirrel
NPRM 11/21/84 (49 FR 45880)
Final Action 07/01/85 (50 FR 26999)

Piping plover
NPRM 11/08/84 (49 FR 44712)
Final Action 12/11/85 (50 FR 50726)

Ruth's golden aster
NPRM 11/20/84 (49 FR 45786)
Final Action 07/18/85 (50 FR 29341)

Short's goldenrod
NPRM 10/11/84 (49 FR 39873)
Final Action 09/05/85 (50 FR 36065)

Slender rush-pea
NPRM 11/21/84 (49 FR 45884)
Final Action 11/01/85 (50 FR 45614)

Tar River spiny mussel
NPRM 09/17/84 (49 FR 36418)
Final Action 06/27/85 (50 FR 26572)

Three Palau birds
NPRM 09/19/84 (49 FR 36685)
Final Action 09/12/85 (50 FR 37192)

Small Entity: Not Applicable

Additional Information: Originally scheduled: April 1985.

Agency Contact: John Spinks, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 18th & C Streets, NW, Washington, DC 20240, 703 235-2771

RIN: 1018-AA85

1006. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: Statutory. In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife and plants under the Endangered Species Act, and where prudent would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

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Supplemental Timetable:

Achyranthes rotundata
NPRM 04/22/85 (50 FR 15764)
Final Action 04/00/86

Amargosa niterwort
NPRM 05/20/85 (50 FR 20814)
Final Action 05/00/86

Ash Meadows gumplant
NPRM 05/20/85 (50 FR 20814)
Final Action 05/00/86

Canby's dropwort
NPRM 03/28/85 (50 FR 12345)
Final Action 03/00/86

Cochise pincushion cactus
NPRM 03/06/85 (50 FR 9063)
Final Action 01/09/86 (51 FR 952)

Flagstaff pennyroyal
NPRM 03/28/85 (50 FR 12348)
Final Action 03/00/86

Fragrant prickly apple
NPRM 03/06/85 (50 FR 9069)
Final Action 11/01/85 (50 FR 45618)

Hymenoxys texana
NPRM 03/06/85 (50 FR 9095)
Final Action 03/00/86

Ivory-billed woodpecker
NPRM 04/10/85 (50 FR 14123)
Final Action 04/00/86

Jones cycladenia
NPRM 01/10/85 (50 FR 1247)
Final Action 01/10/86

Lanai sandalwood
NPRM 03/06/85 (50 FR 9066)
Final Action 01/24/86 (51 FR 3162)

Least Bell's vireo
NPRM 05/03/85 (50 FR 18968)
Final Action 05/00/86

Little Colorado spinedace
NPRM 05/22/85 (50 FR 21095)
Final Action 05/00/86

Long-haired phlox
NPRM 03/28/85 (50 FR 12348)
Final Action 03/00/86

Longspurred balm
NPRM 03/29/85 (50 FR 12587)
Final Action 03/00/86

Mauna Kea silversword
NPRM 03/06/85 (50 FR 9092)
Final Action 03/00/86

Minnesota trout lily
NPRM 05/03/85 (50 FR 18893)
Final Action 05/00/86

Northern aplomado falcon
NPRM 05/20/85 (50 FR 20810)
Final Action 05/00/86

Piping plover
NPRM 01/29/85 (50 FR 3940)
Final Action 01/00/86

Prickly-ash
NPRM 02/11/85 (50 FR 5647)
Final Action 12/20/85 (50 FR 51950)

Scrub balm
NPRM 03/29/85 (50 FR 12587)
Final Action 03/00/86

Tumamoc globe-berry
NPRM 05/20/85 (50 FR 20806)
Final Action 05/00/86

Small Entity: Not Applicable

Additional Information: After reviewing the biological status of candidate and listed species, the Service promptly proceeds to propose rules to list, delist, or reclassify such species as appropriate. Generally, final action on the proposed rules must be taken within one year.

Agency Contact: John Spinks, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 6th Floor Broyhill (OBS), Washington, DC 20240, 202 235-2771

RIN: 1018-AA95

1007. ● ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17

Legal Deadline: Statutory. In accordance with 16 U.S.C. 1533, the Service must take action (list, withdraw, or extend the rulemaking for six months) on a proposed listing no later than one year after such proposal.

Abstract: Regulations will be developed which would list, reclassify, or delist, as appropriate, certain species of fish, wildlife and plants under the Endangered Species Act, and where prudent would identify critical habitat for endangered and threatened species. Such actions are taken upon determination that species are endangered, threatened, or neither and are based solely on the biological information available to the Department.

Supplemental Timetable:

Alabama leather flower
NPRM 12/06/85 (50 FR 49970)
Final Action 12/00/86

Bruneau hot spring snail
NPRM 08/21/85 (50 FR 33603)
Final Action 08/00/86

Dismal swamp southeastern shrew
NPRM 07/16/85 (50 FR 28821)
Final Action 07/00/86

Dwarf naupaka
NPRM 07/16/85 (50 FR 28878)
Final Action 07/00/86

Florida golden aster
NPRM 08/05/85 (50 FR 31629)
Final Action 08/00/86

Florida grasshopper sparrow
NPRM 12/18/85 (50 FR 51565)
Final Action 12/00/86

Giant kangaroo rat
NPRM 08/13/85 (50 FR 32585)
Final Action 08/00/86

Hayun lagu
NPRM 10/25/85 (50 FR 43423)
Final Action 10/00/86

Jesup's milk vetch
NPRM 12/19/85 (50 FR 51718)
Final Action 12/00/86

Kauai hau kuahiwi
NPRM 07/16/85 (50 FR 28873)
Final Action 07/00/86

Ko'oloa'ula
NPRM 07/16/85 (50 FR 28876)
Final Action 07/00/86

Large flowered skullcap
NPRM 11/13/85 (50 FR 46797)
Final Action 11/00/86

Leadbeater's possum, et. al.
NPRM 10/25/85 (50 FR 43420)
Final Action 10/00/86

Leopard, goral, serow in Nepal
NPRM 08/14/85 (50 FR 24917)
Final Action 08/00/86

Loach minnow
NPRM 08/16/85 (50 FR 25360)
Final Action 08/00/86

Palmate-bracted bird's beak
NPRM 07/16/85 (50 FR 28870)
Final Action 07/00/86

Peter's mountain mallow
NPRM 09/03/85 (50 FR 35584)
Final Action 09/00/86

Pondberry
NPRM 08/13/85 (50 FR 32581)
Final Action 08/00/86

Prairie bush clover
NPRM 12/06/85 (50 FR 49967)
Final Action 12/00/86

Santa Cruz cypress
NPRM 09/12/85 (50 FR 37249)
Final Action 09/00/86

Spikedace
NPRM 08/16/85 (50 FR 25390)
Final Action 08/00/86

Steamboat buckwheat
NPRM 09/12/85 (50 FR 37252)
Final Action 09/00/86

Tinian monarch
NPRM 11/01/85 (50 FR 45632)
Final Action 11/00/86

Toad flax cress
NPRM 11/04/85 (50 FR 45846)
Final Action 11/00/86

Uhiuhi
NPRM 10/18/85 (50 FR 42196)
Final Action 10/00/86

Waccamaw silverside
NPRM 11/07/85 (50 FR 46320)
Final Action 11/00/86

Small Entity: Not Applicable

Agency Contact: John L. Spinks, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 235-2771

RIN: 1018-AA96

1008. MARINE MAMMALS

Legal Authority: 16 USC 1382(a)

CFR Citation: 50 CFR 18

Legal Deadline: None

Abstract: The Service will propose rules that would require the marking, tagging, or otherwise identifying of raw parts of certain lawfully taken marine mammals, including those taken by Alaska Natives for purposes of subsistence or the creation and selling of authentic native articles of handicrafts and clothing. Except for scientific research purposes, the rules would also prohibit exportation of raw parts of these marine mammals from Alaska and the sale of such parts, other than those that are edible, to persons other than resident Alaska Natives. These rules are necessary for management purposes.

Timetable:

Action	Date	FR Cite
NPRM	12/03/85	50 FR 49577
Final Action	09/00/86	

Small Entity: No

Additional Information: Originally scheduled: July 1980.

Agency Contact: Leroy Bowl, Chief, Division of Wildlife Management, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 632-2282

RIN: 1018-AA20

1009. NONTOXIC SHOT REGULATIONS FOR HUNTING MIGRATORY BIRDS

Significance: Regulatory Program

Legal Authority: 16 USC 701 to 718

CFR Citation: 50 CFR 20

Legal Deadline: None

Abstract: The Service, in coordination with the States, identifies areas of migratory bird hunting where the use of conventional lead shotshells results in lead poisoning of such birds and other wildlife. The Service will review existing nontoxic shot zones for the continued need for inclusion, and propose new areas for consideration as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	01/06/86	51 FR 409
Final Action	04/30/86	

Small Entity: No

Agency Contact: Rollin Sparrowe, Chief, Office of Migratory Bird Management, Department of the Interior, United States Fish and Wildlife Service, Room 536 Matomic, Washington, DC 20240, 202 254-3207

RIN: 1018-AA93

1010. NATIONAL WILDLIFE REFUGES

Legal Authority: 16 USC 668dd et seq; Withdrawal Proclamation of 2/11/80, Sec 204(c) (45 FR 9562)

CFR Citation: 50 CFR 26, Subpart C

Legal Deadline: None

Abstract: The emergency management rules for the twelve areas in Alaska, which were withdrawn and reserved as National Wildlife Refuges, will be rescinded.

Timetable:

Action	Date	FR Cite
Emergency Rule	03/04/80	45 FR 14192
Rescind Emergency Rule	07/00/86	

Small Entity: Undetermined

Additional Information: Originally scheduled: July 1980.

Agency Contact: James F. Gillett, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-4311

RIN: 1018-AA35

1011. ● FISH AND WILDLIFE RESTORATION GRANTS; INTEREST EARNED ON LICENSE FEES

Legal Authority: 16 USC 669; 16 USC 777i

CFR Citation: 50 CFR 80

Legal Deadline: None

Abstract: This action proposes to incorporate general accepted accounting principles related to interest earned on fees collected by the States through the sale of hunting and fishing licenses. The rule would require States to ensure that such interest is used in their fish and wildlife conservation programs.

Timetable:

Action	Date	FR Cite
NPRM	12/09/85	50 FR 50185
NPRM Comment Period End	02/26/86	
Final Action	09/00/86	

Small Entity: No

Agency Contact: Thomas W. Taylor, Acting Chief, Division of Federal Aid, Department of the Interior, United States Fish and Wildlife Service, Washington, DC 20240, 703 235-1526

RIN: 1018-AA97

DEPARTMENT OF THE INTERIOR (DOI)
United States Fish and Wildlife Service (FWS)

1012. GENERAL PERMIT PROCEDURES; IMPORTATION, EXPORTATION, AND TRANSPORTATION OF WILDLIFE

Legal Authority: 16 USC 1540; 16 USC 703 to 712; 16 USC 668a

CFR Citation: 50 CFR 13; 50 CFR 14

Legal Deadline: None

Abstract: These various permit rules will be reviewed and amended, if necessary, to eliminate any unnecessary, burdensome, or counterproductive information collection.

Timetable:

Action	Date	FR Cite
NPRM	06/18/84	49 FR 24898
End Review	12/31/84	
Final Action	12/26/85	50 FR 52886
Final Action Effective	02/24/86	50 FR 52886

Small Entity: No

Additional Information: As a result of the review of these 50 CFR Parts, the Service will initiate two rules. The first rule will deal with the establishment of "user Fees" for persons engaged in importing and exporting wildlife. A second rule appears above in RIN 1018-AA78.

Agency Contact: Clark R. Bavin, Chief Division of Law Enforcement, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-9242

RIN: 1018-AA75

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1013. THREATENED WILDLIFE

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 17, Subpart D

Legal Deadline: None

Abstract: At the request of State, Federal and private parties, the special rule on the American alligator, found in 50 CFR 17.42(a), will be reviewed in order to determine whether to revise or revoke certain prohibitions and procedures. Areas to be considered during the review include: present prohibitions on export of meat and parts other than hides; need for serially numbering each tag applied to hides; need for a Federal permit to kill alligators legally held under State Alligator Farmer permits; and use of data collected from reports required of permittees.

Timetable:

Action	Date	FR Cite
Notice of Intent	07/16/82	47 FR 31024
NPRM	10/23/84	49 FR 42954
NPRM Comment Period End	11/23/84	49 FR 42954
Final Action	10/30/85	50 FR 45407
Final Action Effective	11/30/85	50 FR 45407

Small Entity: No

Additional Information: Originally scheduled: April 1982.

Agency Contact: Thomas J. Parisot, Chief, Wildlife Permit Office, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-1937

RIN: 1018-AA60

1014. ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Legal Authority: 16 USC 1531 et seq

CFR Citation: 50 CFR 17

Legal Deadline: None

Abstract: The Ninety-Seventh Congress of the United States enacted the 1982 amendments to the Endangered Species Act of 1973 providing for (1) the incidental taking of listed species and (2) prohibiting the removal and reduction to possession of listed plants from lands under Federal jurisdiction. These amendments require appropriate regulatory amendments.

Timetable:

Action	Date	FR Cite
NPRM	07/06/83	48 FR 31417
NPRM Comment Period End	09/02/83	48 FR 35973
Final Action	09/30/85	50 FR 39681
Final Action Effective	09/30/85	50 FR 39681

Small Entity: No

Additional Information: Originally scheduled: April 1983.

Agency Contact: Thomas J. Parisot, Chief, Wildlife Permit Office, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-1937

RIN: 1018-AA64

1015. ENDANGERED SPECIES CONVENTION

Legal Authority: 16 USC 1531 to 1543; TIAS 8249

CFR Citation: 50 CFR 23

Legal Deadline: None

Abstract: The regulations implementing the Convention on International Trade in Endangered Species of Wild Fauna and Flora will be clarified and revised to incorporate certain recommendations of the Parties.

Timetable:

Action	Date	FR Cite
NPRM	04/12/85	50 FR 14402
NPRM General regulations revisions	09/24/85	50 FR 38663
Final Action Appendices revisions	11/22/85	50 FR 48212
NPRM - Supplemental, General regulations revisions	03/00/86	
Final Action General regulations revisions	08/00/86	

Small Entity: No

Additional Information: Originally scheduled: January 1980.

Agency Contact: Thomas J. Parisot, Chief, Wildlife Permit Office, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-1937

RIN: 1018-AA29

1016. CONSERVATION EASEMENTS

Legal Authority: 16 USC 460k; 16 USC 668dd et seq

CFR Citation: 50 CFR 25

Legal Deadline: None

Abstract: This subpart will be revised to include new rules which govern non-Federal activities affecting conservation easements.

Timetable:

Action	Date	FR Cite
NPRM	04/25/84	49 FR 17778
Final Action	03/05/86	51 FR 7571

Small Entity: No

Additional Information: Originally scheduled: January 1961.

Agency Contact: James F. Gillett, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-4311

RIN: 1018-AA36

1017. MINERAL OPERATIONS

Legal Authority: 16 USC 460k; 16 USC 668dd et seq

CFR Citation: 50 CFR 29, Subpart C

Legal Deadline: None

Abstract: This subpart will be revised to include new rules which govern mining on areas within the National Wildlife Refuge System.

Timetable:

Action	Date	FR Cite
NPRM	12/31/80	45 FR 86512
Terminated action, determined unnecessary	02/03/86	

Small Entity: No

Additional Information: The information collection requirements contained in this rule will be submitted to the Office of Management and Budget for approval as required by 44 U.S.C. 3501 et seq. Originally scheduled: January 1981.

Agency Contact: James F. Gillett, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-4311

RIN: 1018-AA30

1018. ADDITION OF TWENTY-ONE NATIONAL WILDLIFE REFUGES TO THE LISTS OF OPEN AREAS FOR MIGRATORY GAME BIRD HUNTING, UPLAND GAME HUNTING, BIG GAME HUNTING, AND/OR SPORT FISHING

Legal Authority: 16 USC 460(k) Refuge Recreation Act of 1962; 16 USC 668(dd) National Wildlife Refuge System Admin Act of 1966

CFR Citation: 50 CFR 32

Legal Deadline: None

Abstract: Before new hunting and fishing opportunities are initiated on national wildlife refuges, the refuge is listed in 50 CFR Sections 32.11, 32.21, 32.31, and/or Section 33.4.

Regulations will be proposed that would add the following National Wildlife Refuges (NWR) to the lists of open areas: Migratory game bird hunting - Buffalo Lake NWR, TX; San Bernardino NWR, AZ; Union Slough NWR, IA; Harbor Island NWR, MI; and Bogue Chitto NWR, MS: Upland Game Hunting - San Bernardino NWR, AZ; Buffalo Lake NWR, TX; Union Slough NWR, IA; Harbor Island NWR, MI; and Bogue Chitto NWR, MS: Big Game Hunting - Columbia White-tailed Deer NWR, WA; Buffalo Lake NWR, TX; Union Slough NWR, IA; Harbor Island NWR, MI; and Bogue Chitto NWR, MS; and Back Bay NWR, VA: Sport Fishing - Columbia White-tailed Deer NWR, WA; Lower Suwannee NWR, FL; Cedar Keys NWR, FL; Pelican Island NWR, FL; Hobe Sound NWR, FL; Egmont Key NWR, FL; Pinellas NWR, FL; Bon Secour NWR, AL; Wheeler NWR, AL; Blackbeard Island NWR, GA; Harris Neck NWR, GA; Tybee NWR, GA; Wassaw NWR, GA; Wolf Island NWR, GA; and Pinkney Island NWR, SC.

Timetable:

Action	Date	FR Cite
NPRM	05/16/85	50 FR 20462
NPRM Comment Period End	06/17/85	50 FR 20462
Final Action	08/26/85	50 FR 34478

Small Entity: Undetermined

Agency Contact: James F. Gillett, Chief, Division of Refuge Management, Department of the Interior, United States Fish and Wildlife Service, 18th & C Streets, NW, Washington, DC 20240, 202 343-4311

RIN: 1018-AA89

1019. ENDANGERED SPECIES: INTERAGENCY COOPERATION

Significance: Regulatory Program

Legal Authority: 16 USC 1531 to 1543

CFR Citation: 50 CFR 402

Legal Deadline: None

Abstract: The Endangered Species Act Amendments of 1978, 1979 and 1982 made some changes in the consultation requirements of Section 7. These proposed rules would amend existing rules governing Section 7 consultation by implementing changes required by the amendments and incorporating other procedural changes designed to improve interagency cooperation.

Timetable:

Action	Date	FR Cite
NPRM	07/07/83	48 FR 31275
Final Action	04/00/86	

Small Entity: No

Additional Information: Originally scheduled: July 1979.

Agency Contact: John L. Spinks, Chief, Office of Endangered Species, Department of the Interior, United States Fish and Wildlife Service, 18th and C Streets, NW, Washington, DC 20240, 703 235-2771

RIN: 1018-AA00

[FR Doc. 86-8621 Filed 04-18-86; 8:45 am]

BILLING CODE 4310-10-T

DEPARTMENT OF THE INTERIOR (DOI)

National Park Service (NPS)

Prerule Stage

1020. CRITERIA FOR DETERMINATIONS OF ADVERSE IMPACT UNDER SECTION 165(D)(2)(C)(II) AND (III) OF THE CLEAN AIR ACT

Significance: Regulatory Program

Legal Authority: 42 USC 7475(d)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Under the Clean Air Act, the Department of the Interior, as Federal Land Manager, has the affirmative responsibility to protect the air quality related values of its class 1 areas and to consider whether proposed new major sources of air pollution will have an adverse impact on these values. The Department has developed and applied "working" criteria for making adverse impact determinations in several cases since 1982. Both industry and environmental groups have commented on the "working" criteria and requested further rulemaking action on the criteria. In response to these requests, this rulemaking action would solicit public input on the working definitions as well as related technical and legal issues.

The Notice of Intent will ask several questions. The answers to these questions will be useful in determining alternatives and potential costs and benefits.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/86	
ANPRM Comment Period End	01/01/87	
NPRM	04/01/88	

Small Entity: Undetermined

Additional Information: This action is carried as RIN 1093-AA02 in the Regulatory Program of the United States Government.

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Prerule Stage

Agency Contact: Molly N. Ross, Assistant Division Chief, Department of the Interior, National Park Service, Air Quality Division, 18th & C Streets, NW, Room 3021, Washington, DC 20240, 202 343-4911

RIN: 1024-AB40

DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Proposed Rule Stage

1021. GENERAL PROVISIONS RESOURCE PROTECTION, PUBLIC USE AND RECREATION BOATING AND WATER USE ACTIVITIES

Legal Authority: 16 USC 1; 16 USC 1a to 2(h); 16 USC 3

CFR Citation: 36 CFR 1; 36 CFR 2; 36 CFR 3

Legal Deadline: None

Abstract: The service completed a major revision of these regulations in April 1984. A thorough review of the regulations will be conducted after the 1984 visitor use season, leading to minor revisions and further refinements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Andrew T. Ringgold, Staff Park Ranger, Department of the Interior, National Park Service, Branch of Ranger Activities, Interior Building, 18th and C Streets, NW, Washington, DC 20240, 202 343-4187

RIN: 1024-AB09

1022. VEHICLES AND TRAFFIC SAFETY

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 4

Legal Deadline: None

Abstract: The service proposes to review and revise the regulations in this part, which has not undergone major revision since 1966. Revisions are expected, at a minimum, to reflect the abolishment of management categories, to provide for consistency with state vehicle codes and to strengthen the regulation pertaining to driving under the influence of alcohol or drugs.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Andrew T. Ringgold, Staff Park Ranger, Department of the Interior, National Park Service, Branch of Ranger Activities, 18th and C Streets, NW, Washington, DC 20240, 202 343-4187

RIN: 1024-AB06

1023. BIG CYPRESS NATIONAL PRESERVE: INDIAN USE AND OCCUPANCY

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.86

Legal Deadline: None

Abstract: This rule will define the Statutory rights of the Miccosukee and Seminole Indians within Big Cypress National Preserve.

Timetable:

Action	Date	FR Cite
NPRM	11/12/81	46 FR 55709
NPRM	03/00/86	

Small Entity: No

Additional Information: Originally scheduled: January 1981.

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities, Department of the Interior, National Park Service, Southeast Regional Office, 75 Spring Street, SW, Atlanta, GA 30303, 404 242-4916

RIN: 1024-AA07

1024. NEW RIVER GORGE NR: HUNTING

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7

Legal Deadline: None

Abstract: The regulation pertains to the New River Gorge National River located in West Virginia. This regulation would allow hunting on those lands and waters administered by the National Park Service as part of the New River Gorge National River area. This regulation is consistent with the park enabling legislation.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: William Supernaugh, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 143 South Third Street, Philadelphia, PA 19106, 215 597-7057

RIN: 1024-AA86

1025. UPPER DELAWARE SRR: FISHING

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7

Legal Deadline: None

Abstract: This regulation pertains to the Upper Delaware Scenic and Recreation River in New York State. The final regulations published on June 30, 1983 prohibit certain fishing methods that are allowed by New York State law. This proposed regulation would authorize fishing in any manner consistent with existing State law.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

DOI—NPS

Proposed Rule Stage

Agency Contact: William Supernaugh, Acting Chief, Ranger Activities, Department of the Interior, National Park Service, 143 South Third Street, Philadelphia, PA 19106, 215 597-7057

RIN: 1024-AA87

1026. NEW RIVER GORGE NR: FISHING

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7

Legal Deadline: None

Abstract: This regulation pertains to the New River Gorge National River located in West Virginia. The final regulations published on June 30, 1983 prohibit certain fishing methods and the taking of certain species that are allowed by the laws of West Virginia. This regulation would authorize the use of those fishing methods and the taking of those fish species consistent with West Virginia law.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: William Supernaugh, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 143 South Third Street, Philadelphia, PA 19106, 215 597-7057

RIN: 1024-AA88

1027. ● CANAVERAL NATIONAL SEASHORE: PUBLIC NUDITY REGULATION

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7

Legal Deadline: None

Abstract: The Service proposes to establish restrictions on Public Nudity at Canaveral National Seashore, Florida. The Service's intention is to adopt State and Local restrictions that apply in the same area.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Undetermined

Agency Contact: Arthur Graham, Superintendent, Department of the Interior, National Park Service, Canaveral National Seashore, P.O. Box 6447, Titusville, FL. 32782, 305 867-6634

RIN: 1024-AB52

1028. ● REDWOOD NATIONAL PARK: DRIFTWOOD REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7

Legal Deadline: None

Abstract: The Service proposes to establish conditions and restrictions for the collection of Driftwood from beach areas at Redwood National Park, CA.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Undetermined

Agency Contact: Homer Leach, Chief Ranger, Department of the Interior, National Park Service, Redwood National Park, 1111 Second St., Crescent City, CA. 95531, 707 464-6101

RIN: 1024-AB58

1029. APPALACHIAN NATIONAL SCENIC TRAIL

Legal Authority: 16 USC 3; 16 USC 1246(i)

CFR Citation: 36 CFR 7.100

Legal Deadline: None

Abstract: The Service proposes to review the levels of resource and visitor protection on the Appalachian Trail provided by the General Regulations in 36 CFR Parts 1 and 2 and to revise 36 CFR 7.100 accordingly.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: David A. Ritchie, Project Manager, Department of the Interior, National Park Service, Appalachian Trail Project Office, Harpers Ferry Center, Harpers Ferry, WV 25425, 304 535-2346

RIN: 1024-AB07

1030. ● YELLOWSTONE NATIONAL PARK: FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.13

Legal Deadline: None

Abstract: The Service proposes to revise existing Fishing Regulations that pertain to Yellowstone National Park. The purposes of this revision are to simplify the regulations and to improve the Service's ability to manage Fishery Resources by species.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Undetermined

Agency Contact: Gary Brown, Assistant Chief Ranger, Department of the Interior, National Park Service, Yellowstone National Park, P.O. Box 168, Yellowstone, NP WY 82190, 307 344-7381

RIN: 1024-AB57

1031. ● SHENANDOAH NATIONAL PARK: FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.15

Legal Deadline: None

Abstract: The service proposes to revise regulations at Shenandoah National Park, VA pertaining to Fishing Seasons, Creel Limits, Equipment Restrictions and Stream Closures.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Larry Hakel, Chief Ranger, Department of the Interior, National Park Service, Shenandoah National Park, Route 4, Box 292, Luray, VA 22835, 703 999-2243

RIN: 1024-AB51

1032. CUYAHOGA VALLEY NRA: OFF-ROAD VEHICLES AND SNOWMOBILES

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.17

Legal Deadline: None

Abstract: The Service proposes to designate routes for off-road vehicles and snowmobile use in compliance with Executive Order 11644, in an area west of Riverview Road bounded by I-80 and I-271.

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Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Brian McHugh, Chief Park Ranger, Department of the Interior, National Park Service, Cuyahoga Valley NRA, 15610 Vaughn Road, Brecksville, Ohio 44141, 216 526-5256

RIN: 1024-AB44

1033. CANYON DE CHELLY NATIONAL MONUMENT

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.19

Legal Deadline: None

Abstract: This proposed rulemaking will establish criteria for the operation of horse rental facilities within Canyon De Chelly National Monument.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Undetermined

Agency Contact: Ken Mabery, Park Ranger, Department of the Interior, National Park Service, Southwest Region, P.O. Box 728, Santa Fe, NM 87501, 505 988-6371

RIN: 1024-AB47

1034. FORT JEFFERSON NM: FISHING; BOUNDARY ADJUSTMENTS

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.27

Legal Deadline: None

Abstract: This proposed regulation pertains to Fort Jefferson National Monument and will delete references to the taking of crayfish and Conch. Information will be included to redefine the park boundary. These changes are necessary to reflect a closure of park waters to the removal of crayfish and Conch and to update boundary changes mandated by Congressional action in 1980 that enlarged the park area.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: Undetermined

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-6916

RIN: 1024-AA96

1035. BUFFALO NATIONAL RIVER: FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.35

Legal Deadline: None

Abstract: The proposed rule will allow fishing activities within Buffalo National River to continue in the traditional manner. It will permit gigging of rough fish, noncommercial capture of bait fish using traps or seines, and fishing with set lines or trouthines It will also allow the possession and collection of terrestrial and aquatic insects by hand or hand-held net for use as bait. It will allow the possession and collection by hand-held net or seine of crayfish for consumption or bait.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Undetermined

Agency Contact: Ken Mabery, Park Ranger, Department of the Interior, National Park Service, Southwest Region, P.O. Box 728, Santa Fe, NM 87501, 505 988-6371

RIN: 1024-AB49

1036. MAMMOTH CAVE NP: FISHING

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.36

Legal Deadline: None

Abstract: This proposed regulation pertains to Mammoth Cave National Park. The regulation will allow fishing to take place in accordance with applicable Kentucky State law.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-6916

RIN: 1024-AA94

1037. JEAN LAFITTE NHP: CRAWFISHING REGULATIONS

Legal Authority: 16 USC 3; 16 USC 230d

CFR Citation: 36 CFR 7.37

Legal Deadline: None

Abstract: The proposed rulemaking pertains to Jean Lafitte National Historical Park located in Louisiana. The rulemaking will establish criteria for the harvesting of crawfish in the Barataria Unit and will establish a recreational and subsistence season. The policy is consistent with Public Law 95-625 and existing National Park Service and Department of the Interior policies.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: James L. Iseneggle, Superintendent, Department of the Interior, National Park Service, Jean Lafitte National Historical Park, 423 Canal Street, Rm. 208, New Orleans, LA 70130, 504 589-3882

RIN: 1024-AB33

1038. EVERGLADES NP: MINING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.45(a)

Legal Deadline: None

Abstract: This deletion applies to Everglades National Park in Florida. Section 7.45(a) will be deleted because it is a duplication of the General Regulations 36 CFR, Sections 1.6, 1.7 and 2.1.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Additional Information: FTS 242-6916.

DOI—NPS

Proposed Rule Stage

Agency Contact: William Sturgeon, Regional Law Enforcement Specialist, Department of the Interior, National Park Service, Southeast Regional Office, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-6916

RIN: 1024-AB10

1039. CURECANTI RECREATION AREA: GRAZING AND HAYING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.51 (f)

Legal Deadline: None

Abstract: This proposed rulemaking pertains to Curecanti National Recreation Area located in Colorado. The rulemaking will establish criteria for authorized use of certain areas for the grazing of livestock and haying of irrigated meadows as part of the Colorado River Storage Project Act of April 11, 1956 (70 Stat. 105, Public Law 485).

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Thomas J. McDonnell, Regional Law Enforcement Specialist, Department of the Interior, National Park Service, Rocky Mountain Regional Office, 655 Parfet Street, Denver, CO 80225, 303 234-3679

RIN: 1024-AB11

1040. CURECANTI RECREATION AREA: POWERLESS FLIGHT

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.51(e)

Legal Deadline: None

Abstract: This proposed rulemaking pertains to Curecanti National Recreation Area in Colorado. The rulemaking will establish criteria for the operation or use of hang gliders and balloons designed for powerless flight consistent with Department of the Interior and National Park Service policies.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Thomas J. McDonnell, Regional Law Enforcement Specialist, Department of the Interior, National Park Service, 655 Parfet Street, Denver, CO 80225, 303 234-3679

RIN: 1024-AB12

1041. CURECANTI RECREATION AREA: OFF-ROAD VEHICLES

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.51 (d)

Legal Deadline: None

Abstract: This proposed rulemaking pertains to Curecanti National Recreation Area located in Colorado. The rulemaking will establish criteria for the operation of vehicles in off-road situations consistent with existing Executive Order 11644 and National Park Service and Department of the Interior policies.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Thomas J. McDonnell, Regional Law Enforcement Specialist, Department of the Interior, National Park Service, 655 Parfet Street, Denver, CO 80225, 303 234-3679

RIN: 1024-AB27

1042. COULEE DAM RECREATION AREA: TRAPPING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.55

Legal Deadline: None

Abstract: The Service proposes to regulate trapping activities in accordance with State law.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Gordon Boyd, Chief Park Ranger, Department of the Interior, National Park Service, P.O. Box 37, Coulee Dam, WA 99116, 509 633-9301

RIN: 1024-AB14

1043. COULEE DAM RECREATION AREA OFF-ROAD VEHICLES

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.55

Legal Deadline: None

Abstract: The Service proposes to establish a regulation designating routes for ORV use.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Gordon Boyd, Chief Park Ranger, Department of the Interior, National Park Service, P.O. Box 37, Coulee Dam, WA 99116, 509 633-9301

RIN: 1024-AB15

1044. ● LAKE MEREDITH RECREATION AREA - FIREARMS REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.57

Legal Deadline: None

Abstract: This proposal pertains to Lake Meredith Recreation Area, Texas. The Service proposes to allow organized groups to use the Spring Canyon Firing Range for target practice at designated times and periods in the presence of a qualified Range Officer. This proposal is consistent with National Park Service General Regulations and Policies.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: John C. Higgins, Superintendent, Department of the Interior, National Park Service, P.O. Box 1439, Fritch, Texas 79036, 806 857-3151

RIN: 1024-AB56

1045. ● CAPE HATTERAS NATIONAL SEASHORE: OFF-ROAD VEHICLE REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.58

Legal Deadline: None

Abstract: The Service proposes to designate by regulation routes available for off-road vehicle use at Cape Hatteras National Seashore, NC.

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Timetable:

Action	Date	FR Cite
NPRM	03/00/87	

Small Entity: Undetermined

Agency Contact: Thomas Hartman, Superintendent, Department of the Interior, National Park Service, Cape Hatteras National Seashore, Route 1, Box 675, Manteo, NC 27954, 919 473-2111

RIN: 1024-AB54

1046. LAKE CHELAN NRA: FIREWOOD MANAGEMENT

Legal Authority: 16 USC 3; 16 USC 90c-1

CFR Citation: 36 CFR 7.62

Legal Deadline: None

Abstract: The Service proposes to develop regulations to implement a Firewood Management Program at Lake Chelan NRA.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: Undetermined

Agency Contact: John Reynolds, Superintendent, Department of the Interior, National Park Service, North Cascades NP, 800 State Street, Sedro Wooley, WA 98284, 206 855-1331

RIN: 1024-AB30

1047. ROCKY MOUNTAIN NP: MOUNTAIN CLIMBING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.7 (d)

Legal Deadline: None

Abstract: This deletion affects Rocky Mountain National Park in Colorado. Section 7.7 (d) will be deleted so that Rocky Mountain National Park will be in line with several other National Parks with significant technical climbing and no required registration check in/check out.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: Undetermined

Agency Contact: Thomas J. McDonnell, Regional Law Enforcement Specialist, Department of the Interior, National Park Service, Rocky Mountain Regional Office, 655 Parfet Street, Denver, CO 80225, 303 234-3678

RIN: 1024-AB16

1048. ROCKY MOUNTAIN NP: WINTER BACKCOUNTRY TRIPS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.7 (e)

Legal Deadline: None

Abstract: This deletion affects Rocky Mountain National Park in Colorado. Section 7.7 (e) will be deleted so that Rocky Mountain National Park will be in line with several other National Parks that do not require check out for overnight winter camping.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Thomas J. McDonnell, Regional Law Enforcement Specialist, Department of the Interior, National Park Service, Rocky Mountain Regional Office, 655 Parfet Street, Denver, CO 80225, 303 234-3678

RIN: 1024-AB17

1049. ROCKY MOUNTAIN NATIONAL PARK: FISHING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.7 (a)

Legal Deadline: None

Abstract: The service proposes to revise this section to further define waters closed to fishing as well as to further clarify the possession limit of fish.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: Undetermined

Agency Contact: David R. Stevens, Research Biologist, Department of the Interior, National Park Service, Rocky Mountain National Park, Estes Park, CO 80517, 303 586-2371

RIN: 1024-AB46

1050. GLEN CANYON NATIONAL RECREATION AREA, DESIGNATED AIRSTRIPS

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.70(a)(1)

Legal Deadline: None

Abstract: This action is proposed to delete a reference to an airstrip at Wahweap which was closed by FAA in 1982 because of accidents and potential hazards to an adjacent residential area. Alternate landing facilities are available seven miles away.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: Undetermined

Agency Contact: John Ritenour, Chief, Resource Mngmt & Visitor Protection, Department of the Interior, National Park Service, Glen Canyon National Recreation Area, P.O. Box 1507, Page, AZ 86040, 602 645-2471

RIN: 1024-AB24

1051. DELAWARE WATER GAP NRA: FISHING

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.71

Legal Deadline: None

Abstract: Final regulations published June 30, 1983 in the Federal Register prohibit several fishing methods that are authorized by State laws in Pennsylvania and New Jersey. This proposed regulation affects the Delaware Water Gap National Recreation Area and would allow fishing in any manner consistent with the State laws of Pennsylvania and New Jersey.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Undetermined

Agency Contact: William Supernaugh, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 143 South Third Street, Philadelphia, PA 19106, 215 597-7057

RIN: 1024-AA98

1052. ● DELAWARE WATER GAP NATIONAL RECREATION AREA: COMMERCIAL VEHICLE REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.71

Legal Deadline: None

Abstract: The Service proposes to revise Commercial Vehicle Regulations at Delaware Water Gap NRA to reflect Statutory Provisions which went into effect in 1986.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: Undetermined

Agency Contact: William Supernaugh, Chief, Branch of Ranger Activities, Department of the Interior, National Park Service, 143 South Third St., Philadelphia, PA 19106, 215 597-7057

RIN: 1024-AB53

1053. BUCK ISLAND REEF NM: FISHING

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.73

Legal Deadline: None

Abstract: This proposed regulation pertains to Buck Island Reef National Monument and would establish criteria for the taking of lobsters in accordance with the laws of the Territory of the Virgin Islands.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-4916

RIN: 1024-AA93

1054. BUCK ISLAND REEF NM: SUBMERGED FEATURES

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.73

Legal Deadline: None

Abstract: This regulation pertains to Buck Island Reef National Monument and would protect coral formations from damage by park visitors.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-4916

RIN: 1024-AA97

1055. VIRGIN ISLANDS NP: BOATING

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.74

Legal Deadline: None

Abstract: This proposed regulation pertains to the Virgin Islands National Park and will establish a permit system relating to mooring of boats, length of stay and other criteria.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-4916

RIN: 1024-AB00

1056. VIRGIN ISLANDS NP: FISHING

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.74

Legal Deadline: None

Abstract: This proposed regulation pertains to the Virgin Islands National Park and will establish criteria for the taking of lobsters in accordance with the laws of the Territory of the Virgin Islands.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: William Sturgeon, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-4916

RIN: 1024-AB01

1057. PADRE ISLAND NATIONAL SEASHORE: EMERGENCY VEHICLES

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.75(a)(2)(v)

Legal Deadline: None

Abstract: The final regulations published on June 30, 1983 in the Federal Register adequately cover the provision found in 36 CFR 7.75(a)(2)(v). The new Section reference will be found in 36 CFR 1.2(e) when the final regulations become effective. Section 7.75(a)(2)(v) will then be deleted. This deletion affects Padre Island National Seashore.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: William M. Lukens, Jr., Superintendent, Department of the Interior, National Park Service, Padre Island, NS, 9405 S. Padre Island Dr., Corpus Christi, TX 78418, 512 937-2621

RIN: 1024-AB03

1058. PADRE ISLAND NATIONAL SEASHORE: HUNTING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.75(b)

Legal Deadline: None

Abstract: The service proposes to revise this section to further define where hunting is allowed and how duck blinds may be used.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	07/00/86	

Small Entity: No

Agency Contact: William M. Lukens, Jr., Superintendent, Department of the Interior, National Park Service, Padre Island National Seashore, 9405 South Padre Island Drive, Corpus Christi, TX 78418, 512 937-2621

RIN: 1024-AB22

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1059. BIG THICKET NATIONAL PRESERVE: HUNTING REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.85

Legal Deadline: None

Abstract: The Service proposes to revise the hunting regulations that apply the Big Thicket. Changes proposed include dates for open seasons, the use of temporary blinds, permits, the use of calling devices and the use of dogs.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Ken Mabery, Park Ranger, Department of the Interior, National Park Service, Southwest Region, P.O. Box 728, Sante Fe, NM 87501, 505 988-6371

RIN: 1024-AB48

1060. INDIANA DUNES NL: ALCOHOLIC BEVERAGES

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.88(b)

Legal Deadline: None

Abstract: This proposed rulemaking would prohibit the possession and use of alcoholic beverages within the confines of all swimming beaches at Indiana Dunes National Lakeshore.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: Undetermined

Agency Contact: James R. Walker, Visitor Services Specialist, Department of the Interior, National Park Service, Midwest Region, 1709 Jackson St., Omaha, NE 68102, 402 221-3475

RIN: 1024-AB25

1061. WHISKEYTOWN NATIONAL RECREATION AREA: GOLD-PANNING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.91

Legal Deadline: None

Abstract: The proposed rulemaking pertains to Whiskeytown National Recreation Area in California and would allow the panning of gold using only historical implements.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Ray Foust, Superintendent, Department of the Interior, National Park Service, P.O. Box 188, Whiskeytown, CA 96095, 916 241-6584

RIN: 1024-AB45

1062. CAPE LOOKOUT NATIONAL SEASHORE: OFF-ROAD VEHICLES

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7.96

Legal Deadline: None

Abstract: This proposed regulation pertains to Cape Lookout National Seashore and will establish criteria for the operation of vehicles in off road situations consistent with existing NPS policy.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: Undetermined

Agency Contact: William Sturgess, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 75 Spring Street, SW, Atlanta, GA 30303, 404 221-4916

RIN: 1024-AA80

1063. MANAGEMENT OF MINING CLAIM ACTIVITIES

Legal Authority: 16 USC 1901 et seq Mining In The Parks Act of 1976; 16 USC 1 et seq NPS Organic Act; 30 USC 21 et seq Mining Law of 1872

CFR Citation: 36 CFR 9, Subpart A

Legal Deadline: None

Abstract: As mandated by the "Mining In The Parks Act of 1976", the NPS promulgated its existing regulations to assure that operations on valid mining claims within units of the National Park System are conducted so as to prevent or minimize damage to park resources. The experience gained by the application of these regulations over the past six years indicates that certain adjustments are now necessary to clarify and simplify the existing regulatory language and to improve the management of mineral resources within NPS units. Specifically, several sections of the current regulations either have proven difficult to interpret or pertain to a surface disturbance moratorium that expired in 1980 thus rendering them obsolete.

Timetable:

Action	Date	FR Cite
ANPRM	07/20/84	49 FR 29415
ANPRM Comment Period End	09/20/84	49 FR 29415
30 day extension to ANPRM comment period to	09/20/84	
NPRM	04/15/86	
Final Action	08/15/86	
Final Action Effective	08/15/86	

Small Entity: No

Agency Contact: Carol McCoy, Chief, Policy and Regulations Branch, Department of the Interior, National Park Service, Room 3223 (460), Box 37127, Washington, DC 20013 - 7127, 202 343-4366

RIN: 1024-AB37

1064. MINERALS MANAGEMENT NONFEDERAL OIL AND GAS RIGHTS

Legal Authority: 16 USC 1 et seq; 31 USC 9701; 5 USC 301

CFR Citation: 36 CFR 9B

Legal Deadline: None

Abstract: Several sections of the regulations were ambiguously written which has caused confusion in interpreting the existing regulations during site specific implementation. NPS wants to make technical revisions to clarify requirements for both applicants and the NPS, such as: updating terms for consistency with existing policies and practices; setting bond limits consistent with existing reclamation costs; allowing NPS to collect administrative fees for issuing permits consistent with cost reimbursement requirements of Congressional and Executive direction; clarifying compliance issues associated with different access conditions; and, making the regulations applicable to all non-federal oil and gas operations within affected units of the NPS consistent with the enabling acts of affected units.

These are technical revisions to the regulations governing non-federal oil and gas activities within affected units of the National Park System. The existing authorities are 16 U.S.C. 1, et seq. and 31 U.S.C. 9701, 5 U.S.C. 301; and enabling legislation of the affected units.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	01/00/87	
Final Action Effective	02/00/87	

Small Entity: Undetermined

Agency Contact: Carol McCoy, Chief, Branch of Policy and Regulations, Department of the Interior, National Park Service, P.O. Box 37127 (460) Room 3223, Washington, DC 20013-7127, 202 343-4366

RIN: 1024-AB39

1065. ● MINERALS MANAGEMENT NONFEDERAL RIGHTS OTHER THAN OIL AND GAS

Significance: Agency Priority

Legal Authority: 16 USC 1 et seq; 31 USC 9701; 5 USC 301

CFR Citation: 36 CFR 9C

Legal Deadline: None

Abstract: Extensive nonfederal mineral rights exist within units of the National Park System. Two hundred eight park units contain privately-owned inholdings totalling over 4.5 million acres and 96 park units contain split estates (surface is federally owned and the subsurface is privately owned) totaling 1.2 million acres. The extent of the minerals associated with nonfederal mineral rights is less well defined. Currently, few nonfederal mineral rights, other than oil and gas, are being developed within NPS units. The Service expects this relatively inactive development trend to continue. However, when such rights are proposed for development, the Service is charged by Congress to ensure that approved activities within park boundaries are consistent with the purposes for which the units were established. The proposed regulation would establish procedures and standards for the exercise of nonfederal mineral rights, for minerals other than oil and gas, to ensure that development activities are conducted in a manner to protect affected park units. The proposed regulations would establish consistent requirements for operators and the Service.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
NPRM Comment Period End	09/00/86	
Final Action	12/00/86	
Final Action Effective	01/00/87	

Small Entity: Undetermined

Agency Contact: Carol McCoy, Chief, Policy and Regulations Branch, Department of the Interior, National Park Service, P.O. Box 37127 (460) Room 3223, Washington, DC 20013-7127, 202 343-4366

RIN: 1024-AB55

1066. NPS UNITS IN ALASKA: CONCESSIONS

Legal Authority: 16 USC 1

CFR Citation: 36 CFR 13

Legal Deadline: None

Abstract: This rulemaking will establish procedures for providing commercial visitor services in certain Alaska national park areas as provided for by the Alaska National Interest Lands Act.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: Undetermined

Agency Contact: William Tanner, Staff Park Ranger, Department of the Interior, National Park Service, Alaska Regional Office - NPS, 2525 Gambell Street, Anchorage, AK 99503, 907 271-4551

RIN: 1024-AB18

1067. GATES OF THE ARCTIC NATIONAL PARK AND PRESERVE: DESIGNATION OF TRADITIONAL SUBSISTENCE HUNTING ZONES

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 13.64

Legal Deadline: None

Abstract: The service proposes to designate zones that have been used traditionally for subsistence hunting purposes within Gates of the Arctic National Park and Preserve by local rural residents.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Richard Ring, Superintendent, Department of the Interior, National Park Service, Gates of the Arctic National Park & Preserve, Box 74680, Fairbanks, AK 99707, 907 452-6363

RIN: 1024-AB32

1068. FIRE ISLAND NATIONAL SEASHORE: ZONING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 28

Legal Deadline: None

Abstract: This rule will be revised to add new definitions, to amend permitted and prohibited uses and to update zoning standards to reflect Seashore policy and local zoning ordinances.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1983.

Agency Contact: Larry Hovig, Department of the Interior, National Park Service, North Atlantic Regional Office, 15 State Street, Boston, MA 02109, 617 223-1178

RIN: 1024-AA80

1069. YOSEMITE NATIONAL PARK: ADMINISTRATION EL PORTAL LAW ENFORCEMENT AND FIRE PREVENTION

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 34

Legal Deadline: None

Abstract: This rule will promulgate law enforcement and fire prevention regulations for the El Portal area in Yosemite National Park. El Portal is an administrative site used by the National Park Service and is not currently covered under other regulations in Title 36.

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Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	02/25/86	51 FR 6561
NPRM Comment Period End	03/27/86	

Small Entity: No

Additional Information: Originally scheduled: January 1981.

Agency Contact: Phil Ward, Department of the Interior, National Park Service, Western Regional Office, 450 Golden Gate Avenue, Box 36063, San Francisco, CA 94102, 415 556-1966

RIN: 1024-AA29

1070. NATIONAL REGISTER OF HISTORIC PLACES

Legal Authority: 16 USC 470 et seq

CFR Citation: 36 CFR 60

Legal Deadline: None

Abstract: This rule is being amended to revise: appeals for listing nominations by persons or local governments in States without approved State historic preservation programs; procedures for nominations from State and Federal agencies; and procedures for making changes to listed properties and removals from the National Register, including appeals, and to incorporate 36 CFR Part 63.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/16/81	46 FR 56183
NPRM	04/15/86	

Small Entity: No

Additional Information: Originally scheduled: January 1981.

Agency Contact: Hardy Pearce, Department of the Interior, National Park Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-9585

RIN: 1024-AA44

1071. NATIONAL NATURAL LANDMARKS

Legal Authority: Historic Sites Act of 1935

CFR Citation: 36 CFR 62.5

Legal Deadline: None

Abstract: Revision to the National Natural Landmarks Program national significance criteria is proposed to clarify the language and sharpen the definition. Revised criteria will better enable the National Park Service to make precise decisions about additions to the National Registry of Natural Landmarks, as well as better communicate the concept of national significance to the public. The alternative to this proposed action is to leave the present regulation 36 CFR 62.5 as it is. There are no perceived costs associated with this proposed rule revision.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: Undetermined

Government Levels Affected: Local, State, Federal

Agency Contact: Arthur L. Stewart, Acting Chief, Natural Areas Survey Branch, Department of the Interior, National Park Service, 413, Interagency Resources Division, P.O. Box 37127, Washington, DC 20013-7127, 202 343-9508

RIN: 1024-AB41

1072. DETERMINATION OF ELIGIBILITY FOR INCLUSION IN THE NATIONAL REGISTER OF HISTORIC PLACES

Legal Authority: 16 USC 470 et seq

CFR Citation: 36 CFR 63

Legal Deadline: None

Abstract: This rule incorporates certain revisions responding to the National Historic Preservation Act Amendments of 1980. In addition to responding to the new law, these changes update and revise in other minor respects the procedures for determining the eligibility of properties for the National Register. This rule will be consolidated with 36 CFR Part 60. Proposed rule (36 CFR Part 1204) was published May 23, 1980 (45 FR 34909).

Timetable:

Action	Date	FR Cite
NPRM 36 CFR 1204	05/23/80	45 FR 34909
NPRM	10/01/86	

Small Entity: No

Additional Information: Originally scheduled: July 1979.

Agency Contact: Carol Shull, Department of the Interior, National Park Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-9539

RIN: 1024-AA46

1073. ARCHEOLOGICAL AND HISTORIC PRESERVATION ACT DEPARTMENT OF THE INTERIOR REGULATIONS

Legal Authority: 16 USC 469; 16 USC 470; 16 USC 470aa

CFR Citation: 36 CFR 66

Legal Deadline: None

Abstract: This rule is part of the Department's proposed overall rulemaking with respect to the Archeological and Historic Preservation Act of 1974. This guidance will facilitate the Department's coordination of activities authorized under the Act, and its reporting to Congress on the scope and effectiveness of the program, as required by section 5(c) of the Act.

Timetable:

Action	Date	FR Cite
ANPRM	10/29/85	50 FR 43567
ANPRM Comment Period End	11/27/85	50 FR 43567
NPRM	12/00/86	

Small Entity: Undetermined

Additional Information: Draft rules have been prepared and circulated for comment to Bureaus in the Department of the Interior. Following review and approval within the Department, the rules will be sent to other Federal Agencies for comment.

Agency Contact: Bennie Keel, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-4101

RIN: 1024-AA49

1074. CURATION OF FEDERALLY-OWNED ARCHEOLOGICAL COLLECTIONS

Legal Authority: 16 USC 470a; 16 USC 470dd

CFR Citation: 36 CFR 79

Legal Deadline: None

Abstract: This rule fulfills the Secretary of the Interior's responsibility to issue regulations on the disposition, exchange and curation of federally-owned prehistoric and historic archeological artifacts and associated records recovered under the Antiquities Act of 1906, the Reservoir Salvage Act of 1960 (as amended by the Archeological and Historic Preservation Act of 1974), the National Historic Preservation Act of 1966 (as amended) and the Archaeological Resources Protection Act of 1979. The regulation will describe Federal agency responsibilities to preserve federally-owned archeological collections and provide guidance for Federal agencies to select appropriate repositories and to ensure that appropriate Indian tribes or individuals are notified concerning the disposition of materials recovered from Indian lands.

Timetable:

Action	Date	FR Cite
ANPRM	10/11/85	50 FR 41527
ANPRM Comment Period End	11/12/85	50 FR 41527
NPRM	12/00/86	

Small Entity: Undetermined

Agency Contact: Dr. Bennie C. Keel, Departmental Consulting Archeologist, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-4101

RIN: 1024-AB13

1075. LAND AND WATER CONSERVATION FUND PROGRAM OF ASSISTANCE TO STATES (PART 59), URBAN PARK AND RECREATION RECOVERY PROGRAM (PART 72), POST-COMPLETION COMPLIANCE

Legal Authority: PL 88-578; 16 USC 2501; PL 95-625

CFR Citation: 36 CFR 59; 36 CFR 72

Legal Deadline: None

Abstract: The purpose of this regulation is to incorporate program requirements pertaining to the conversion of assisted recreation sites and facilities to non-public recreation uses, and to incorporate requirements regarding residency status of users of assisted sites into the Code of Federal Regulations. This proposal contains only those policies and procedures which are already operative and will not have an impact on the current operation and administration of both programs. Although not included in this publication, recipients of L&WCF and UPARR assistance should be aware that existing laws, regulations and program policy regarding post-completion compliance with Title VI of the Civil Rights Act of 1964, and Section 504 of the Rehabilitation Act of 1973 remain requirements of these programs and will continue to be fully enforced. All post-completion compliance requirements of both programs will remain in force regardless of the program's funding and authorization status at any given point.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Government Levels Affected: Local, State

Agency Contact: Samuel L. Hall, Chief, Recreation Grants Division, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-3780

RIN: 1024-AB42

1076. CEMETERY SITES AND HISTORICAL PLACES

Legal Authority: 16 USC 3

CFR Citation: 43 CFR 2653

Legal Deadline: None

Abstract: The Service is proposing to amend 43 CFR 2653.5 by deleting all references to the Service as the consulting agency concerning the cultural value and significance of existing Alaska Native cemetery sites and historical places. This revision will relieve the Service from the responsibility of being the consulting agency for sites located on all Federal lands in Alaska, thus eliminating an expensive duplication of Federal effort.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1983.

Agency Contact: Rich O'Guinn, Department of the Interior, National Park Service, Alaska Regional Office, 2525 Gambell Street, Anchorage, AK 99503, 907 271-4551

RIN: 1024-AA84

1077. NATIONAL PARK SERVICE ACQUISITION REGULATION

Legal Authority: 5 USC 301; 40 USC 486(c)

CFR Citation: 48 CFR 1489; 48 CFR 1452.289; 48 CFR 1453.2; 48 CFR 1453.3

Legal Deadline: None

Abstract: The proposed regulation would establish Bureau-specific solicitation provisions, contract clauses and prescriptions for their use. These are necessary to supplement and implement the Federal Acquisition Regulation and the Department of the Interior Acquisition Regulation. This will provide standard contractual language for provisions and clauses not otherwise available in the Federal or Interior regulations that are needed by our operational contracting activities. This action should result in cost savings as this development and standardization will relieve the individual contracting activities of the responsibility of developing their own.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Lawrence E. Sawler, Chief, Acquisition and Assistance, System Branch, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 523-5021

RIN: 1024-AB35

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DEPARTMENT OF THE INTERIOR (DOI)
National Park Service (NPS)

Final Rule Stage

1078. FIRE ISLAND NATIONAL SEASHORE: OFF-ROAD VEHICLES

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7

Legal Deadline: None

Abstract: This rule will amend existing regulations pertaining to off-road vehicle use by designating routes for their use.

Timetable:

Action	Date	FR Cite
NPRM	07/25/83	48 FR 33722
Final Action	06/00/86	

Small Entity: No

Additional Information: Originally scheduled: October 1981.

Agency Contact: Lee Frank, Department of the Interior, National Park Service, North Atlantic Regional Office, 15 State Street, Boston, MA 02109, 617 223-3769

RIN: 1024-AA14

1079. ZION NATIONAL PARK: TRUCKING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7

Legal Deadline: None

Abstract: The Service is proposing to review existing trucking regulations for Zion National Park. These rules will adjust times, conditions and costs for truck convoys on the Zion-Mt. Carmel tunnel road to accommodate the safe use of park roads by visitors and to recover the costs of convoy services. The alternative to this rule is to leave existing provisions in place with no cost recovery and continuing public safety problems.

Timetable:

Action	Date	FR Cite
NPRM	05/14/85	50 FR 20111
NPRM Comment Period End	06/13/85	50 FR 20111
Final Action	03/00/86	

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1983.

Agency Contact: John Chapman, Department of the Interior, National Park Service, Rocky Mountain Regional Office, P.O. Box 25287, Denver, CO 80225, 303 234-3966

RIN: 1024-AA78

1080. BLUE RIDGE PARKWAY: COMMERCIAL VEHICLES

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.34(f),(g)

Legal Deadline: None

Abstract: The service proposes to delete these two sections which are duplicated by provisions found in 36 CFR parts 1 and 5.

Timetable:

Action	Date	FR Cite
Final Action	05/00/86	

Small Entity: No

Agency Contact: Gary Everhardt, Superintendent, Department of the Interior, National Park Service, 700 Northwestern Bank Bldg., Asheville, NC 28801, 704 259-0351

RIN: 1024-AB36

1081. LAKE MEAD NATIONAL RECREATION AREA: NOISE ABATEMENT EXEMPTION

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.40 (l)

Legal Deadline: None

Abstract: The proposed rulemaking pertains to Lake Mead National Recreation Area, located in Arizona and Nevada. It would allow motor vessels to exceed existing noise limitations while participating in regattas; thereby, making possible the continuation of a traditional activity.

Timetable:

Action	Date	FR Cite
NPRM	12/20/85	50 FR 51866
NPRM Comment Period End	01/21/86	50 FR 51866
Final Action	06/00/86	

Small Entity: Undetermined

Agency Contact: Newton Sikes, Chief Ranger, Department of the Interior, National Park Service, 601 Nevada Hwy., Boulder City, NV 89005, 702 293-8941

RIN: 1024-AB50

1082. LAKE CHELAN NRA: TARGET PRACTICE

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.62

Legal Deadline: None

Abstract: This proposed rulemaking pertains to Lake Chelan NRA and will designate a specially designed and constructed facility and time and location for target practice.

Timetable:

Action	Date	FR Cite
NPRM	05/09/85	50 FR 19546
NPRM Comment Period End	06/10/85	50 FR 19546
Final Action	04/00/86	

Small Entity: No

Agency Contact: John Reynolds, Superintendent, Department of the Interior, National Park Service, North Cascades National Park, 800 State Street, Sedro Wooley, WA 98284, 206 855-1331

RIN: 1024-AB19

1083. ROSS LAKE NRA: TARGET PRACTICE

Legal Authority: 16 USC 1

CFR Citation: 36 CFR 7.69

Legal Deadline: None

Abstract: This proposed rulemaking pertains to Ross Lake National Recreation Area and will designate a specially designed and constructed facility and time and location for target practice.

Timetable:

Action	Date	FR Cite
NPRM	05/09/85	50 FR 19546
NPRM Comment Period End	06/10/85	50 FR 19546
Final Action	04/00/86	

Small Entity: No

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Final Rule Stage

Agency Contact: John Reynolds, Superintendent, Department of the Interior, National Park Service, North Cascades National Park, 800 State Street, Sedro Wooley, WA 98284, 206 855-1331

RIN: 1024-AB29

1084. ST. CROIX NSR: WATER USE

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.9(a)(3),(4)

Legal Deadline: None

Abstract: This revision would change established beginning and ending dates for water skiing at St. Croix National Scenic Riverway from Memorial Day through Labor Day to the period May 15th through September 15th. This rulemaking would also change the southern limit from mile 24.5 to 1 mile 25.0.

Timetable:

Action	Date	FR Cite
NPRM	10/04/85	50 FR 40567
NPRM Comment Period End	11/04/85	50 FR 40567
Final Action	05/00/86	

Small Entity: No

Agency Contact: James R. Walker, Visitor Services Specialist, Department of the Interior, National Park Service, Midwest Region, 1709 Jackson St., Omaha, NE 68102, 402 221-3478

RIN: 1024-AB08

1085. NATIONAL CAPITAL REGION: SPECIAL REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 50; 36 CFR 7.96; 36 CFR 7.99

Legal Deadline: None

Abstract: This deletion affects National Capital Region. Part 50 will be deleted and regulations peculiar to this region will be incorporated in revisions to Part 7. 7.96 will address special regulations in those NPS areas within the District of Columbia. 7.99 will address special regulations in NPS areas in the District of Columbia, Maryland and Virginia.

The National Capital Region will then use the same general regulations as the rest of the NPS.

Timetable:

Action	Date	FR Cite
NPRM	12/19/85	50 FR 51782
NPRM Comment Period End	02/18/86	50 FR 51782
Final Action	07/00/86	

Small Entity: No

Agency Contact: Lowell Sturgill, Associate Regional Director, Operations, Department of the Interior, National Park Service, National Capital Region, 1100 Ohio Drive, SW, Washington, DC 20242, 202 426-6858

RIN: 1024-AB29

1086. CONCESSIONER CHILD LABOR

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 8.4

Legal Deadline: None

Abstract: It is proposed to amend 36 CFR by deleting Section 8.4, Child Labor, which prohibits a person under 16 years of age to be employed by a concessioner. This action will allow National Park Service concessioners to employ minors in accordance with Federal or State labor laws applicable in the state of employment. This action is without cost to any party but will benefit children and concessioners by permitting concessioners to employ children between the ages of 14 and 16. It will benefit parents working for a concessioner by enabling the concessioner to employ their children under the age of 16 who otherwise may be unemployed or would need to be transported to a place of working outside a national park area, sometimes a considerable distance. The only other alternatives are to delete only the first sentence of Subsection 8.4 or leave the current regulation as is.

Timetable:

Action	Date	FR Cite
NPRM	05/09/85	50 FR 19548
NPRM Comment Period End	06/10/85	50 FR 19548
Final Action	04/00/86	

Small Entity: No

Agency Contact: James A. Owen, Concessions Analyst, Department of the Interior, National Park Service, Washington, DC 20240, 202 523-1741

RIN: 1024-AB34

1087. NPS UNITS IN ALASKA: CLOSURE REGULATIONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 13

Legal Deadline: None

Abstract: This rule will provide for the closure of certain areas within Denali National Park and Preserve, Glacier Bay National Park and Preserve and Katmai National Park and Preserve to snowmachines, motorboats and aircraft use.

Timetable:

Action	Date	FR Cite
NPRM	04/06/83	48 FR 14978
NPRM Comment Period End	06/06/83	48 FR 14978
Comment Period Extension Begin	06/06/83	48 FR 26319
Comment Period Extension Ends	06/06/83	
Final Action	06/00/86	

Small Entity: No

Additional Information: Originally scheduled: April 1982.

Agency Contact: Bill Tanner, Department of the Interior, National Park Service, Alaska Regional Office, 2525 Gambell Street, Anchorage, AK 99503, 907 271-4551

RIN: 1024-AA71

1088. NPS UNITS IN ALASKA: CABIN USE

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 13

Legal Deadline: None

Abstract: This rule will govern all authorized types of cabin use in National Park Service areas in Alaska.

Timetable:

Action	Date	FR Cite
NPRM	04/03/84	49 FR 13160
Extension of NPRM Comment Period to 08/13/84	06/01/84	49 FR 22635
Final Action	04/00/86	

Small Entity: No

Additional Information: Originally scheduled: April 1983.

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Final Rule Stage

Agency Contact: Bill Tessen, Department of the Interior, National Park Service, Alaska Regional Office, 2525 Gambell Street, Anchorage, AK 99503, 907 271-4551

RIN: 1024-AA86

1089. ARCHEOLOGICAL RESOURCES PROTECTION ACT DEPARTMENT OF THE INTERIOR SUPPLEMENTAL REGULATIONS

Legal Authority: 16 USC 470aa et seq

CFR Citation: 43 CFR 7(b)

Legal Deadline: None

Abstract: This rule will implement the provisions of Section 16(b) of the Archaeological Resources Protection Act of October 31, 1979, and will be based on the uniform rule found in 43 CFR 7. The intended effect of this rule is to advise the public of its obligations to the Department and to further advise of the Department's obligations to the public concerning the protection and conservation of archaeological resources located on public and Indian lands within the United States, its territories and possessions.

Timetable:

Action	Date	FR Cite
NPRM	11/14/86	50 FR 47073
NPRM Comment Period End	01/13/86	50 FR 47073
Final Action	12/00/86	

Small Entity: No

Agency Contact: Bonnie C. Keel, Department of the Interior, National Park Service, P.O. Box 37127, Washington, DC 20013-7127, 202 343-4101

RIN: 1024-AA83

1090. TRANSPORTATION AND UTILITY SYSTEMS IN ALASKA

Legal Authority: 16 USC 3161

CFR Citation: 43 CFR 36

Legal Deadline: None

Abstract: This rule will establish procedures for the review and approval of any application for a transportation or utility system in Alaska, if any portion of the system's route will be within any national conservation system unit, national recreation area or national conservation area in the State.

Timetable:

Action	Date	FR Cite
NPRM	07/15/83	48 FR 32506
Final Action	04/00/86	

Small Entity: No

Additional Information: Originally scheduled: October 1982.

Agency Contact: Brian Koula, Department of the Interior, National Park Service, 18th and C Streets, NW, Washington, DC 20240, 202 343-7957

RIN: 1024-AA58

DEPARTMENT OF THE INTERIOR (DOI)

National Park Service (NPS)

Completed Actions

1091. CATOCTIN MOUNTAIN PARK: POSSESSION OF WEAPONS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR Not yet determined

Legal Deadline: None

Abstract: This proposed rulemaking pertains to Catoctin Mountain Park in Maryland. The rulemaking will prohibit, with exceptions, the possession of weapons, whether loaded or unloaded, within the park.

Timetable:

Action	Date	FR Cite
Withdrawn because problem solved by other means	12/01/85	

Small Entity: Undetermined

Additional Information: It has been determined that this regulation is necessary for the protection and security of the President of the United States while he is at Camp David.

Agency Contact: Lowell Sturgill, Associate Regional Director, Operations, Department of the Interior, National Park Service, Air Quality Division, 18th & C Streets, NW, Room 3021, Washington, DC 20240, 202 426-8658

RIN: 1024-AB05

1092. DELAWARE WATER GAP NRA: COMMERCIAL VEHICLE FEES

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 7

Legal Deadline: None

Abstract: This regulation affects the Delaware Water Gap National Recreation Area and that portion of Route 209 that passes through the park. Interim commercial vehicle fees for Route 209 have been in effect since October 14, 1983. This regulation will establish revised fees.

Timetable:

Action	Date	FR Cite
NPRM	10/14/83	48 FR 46779
NPRM	01/08/85	50 FR 973
NPRM Comment Period End	02/07/85	50 FR 973
Final Action	06/23/85	50 FR 34128
Final Action Effective	09/23/85	50 FR 34128

Small Entity: No

Agency Contact: William Supernaugh, Acting Chief, Ranger Activities Branch, Department of the Interior, National Park Service, 143 South Third Street, Philadelphia, PA 19106, 215 597-7857

RIN: 1024-AA99

1093. ROSS LAKE NRA: AIRCRAFT USE

Legal Authority: 16 USC 1

CFR Citation: 36 CFR 7.69

Legal Deadline: None

Abstract: This regulation will allow aircraft to utilize the water surface of Ross Lake within the park boundaries.

Timetable:

Action	Date	FR Cite
NPRM	05/09/85	50 FR 19547
NPRM Comment Period End	06/10/85	50 FR 19547
Final Action	12/20/85	50 FR 51855
Final Action Effective	01/21/86	

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Completed Actions

Small Entity: No

Agency Contact: John Reynolds, Superintendent, Department of the Interior, National Park Service, North Cascades National Park, 800 State Street, Sedro Wooley, WA 98284, 206 855-1331

RIN: 1024-AB20

1094. GOLDEN GATE NRA: PETS

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.79

Legal Deadline: None

Abstract: The service proposes to establish pet policies and restrictions at Golden Gate NRA in addition to those contained in 36 CFR 2.15.

Timetable:

Action	Date	FR Cite
Withdrawn - Rulemaking no longer being considered	01/17/86	

Small Entity: No

Agency Contact: Gil Soper, Chief, Ranger Activities, Department of the Interior, National Park Service, Building 201, Fort Mason, San Francisco, CA 94124, 415 556-0560

RIN: 1024-AB31

1095. NATIONAL CEMETERY REGULATIONS

Significance: Agency Priority

Legal Authority: 16 USC 1; 16 USC 3

CFR Citation: 36 CFR 12

Legal Deadline: None

Abstract: These regulations were last revised in 1971 and are again in need of updating to assure appropriate levels of protection and consistent management of national cemeteries.

Timetable:

Action	Date	FR Cite
NPRM	10/28/85	50 FR 43581
Final Action	03/14/86	

Small Entity: No

Agency Contact: Andrew T. Ringgold, Staff Park Ranger, Department of the Interior, National Park Service, Branch of Ranger Activities, Interior Building, 18th and C Sts., NW, Washington, DC 20240, 202 343-4167

RIN: 1024-AB04

1096. IDENTIFICATION OF INTEGRAL VISTAS ASSOCIATED WITH FEDERAL CLASS I AREAS

Legal Authority: 42 USC 7491; 16 USC 1 et seq National Park Service Organic Act

CFR Citation: 36 CFR 16, (New)

Legal Deadline: None

Abstract: This rule will provide guidelines for identification of integral vistas and a list of integral vistas associated with 43 of the 48 National Park Service mandatory class I areas where visibility is an important value. The alternatives under consideration include (a) no action and (b) proposal of revised list of integral vistas. Upon completion, the RIA will discuss costs and benefits of the rule. Cost-benefit analysis is difficult, however, and speculative at best, since the rule merely identifies the integral vistas, but commits the decision on whether and how much to protect any particular vista to the permitting authority (usually the state, otherwise EPA). In other words, once an integral vista is properly and timely identified, the permitting authority must balance its protection against costs of compliance, the time necessary for compliance, the energy and nonair quality environmental impacts of compliance, and the remaining useful life of any existing source, subject to such requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/15/81	46 FR 3648
Prop. Guidelines/Notice of Avail.	01/15/81	46 FR 3648
NPRM Comment Period End	02/17/81	46 FR 3648
Comment Period begins	04/24/81	46 FR 23389
Comment Period reopened	04/24/81	46 FR 23389
Comment Period ends	06/08/81	46 FR 23389
The Department announced its decision not to finalize the Integral Vista Rulemaking.	10/25/85	

Small Entity: No

Additional Information: Originally scheduled: October 1981. EPA regulatory deadline for final action: 12/31/85.

DOI announced decision not to finalize Internal Vista rulemaking: 10/25/85

Analysis: Regulatory Impact Analysis

Agency Contact: Molly N. Ross, Assistant Division Chief, Department of the Interior, National Park Service, Air Quality Division, 18th and C Streets, NW, Washington, DC 20240, 202 343-4911

RIN: 1024-AA35

1097. NATIONAL CAPITAL PARKS REGULATIONS; LAFAYETTE PARK; STRUCTURE PROHIBITIONS; SIGN LIMITATIONS

Significance: Agency Priority

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 50.19

Legal Deadline: None

Abstract: The rule would prohibit structures, with certain exceptions, and limit the number and size of signs placed or set down in Lafayette Park. The rule is being promulgated in response to citizen complaints concerning the continually worsening visual blight in the Park, and in response to safety and resource protection concerns. Large numbers of signs and structures now present in Lafayette Park have contributed to the steady deterioration of this historic and well manicured "garden park". In addition to the visual blight created by these objects, substantive damage to the Park results from the placement and support of large signs and structures. Finally, poorly constructed signs and structures create constant safety hazards in the Park. Many less restrictive alternatives were considered but found to be inadequate to meet the substantial government interests present here. The rule should have minimal potential costs, the only costs anticipated being possible increased law enforcement costs. The benefits to

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Lafayette Park and the public are substantial in that increased aesthetic quality, safety and resource protection benefit all citizens.

Timetable:

Action	Date	FR Cite
NPRM	08/20/85	50 FR 33571
NPRM Comment Period End	10/21/85	50 FR 33571
Final Action	03/05/86	
Final Action Effective	04/04/86	

Small Entity: No

Agency Contact: Sandra Alley, Associate Regional Director, Public Affairs, Department of the Interior, National Park Service, National Capital Region, 1100 Ohio Drive, SW, Washington, DC 20242, 202 426-6766

RIN: 1024-AB43

1099. OZARK NSR: FISHING

Legal Authority: 16 USC 3

CFR Citation: 36 CFR 7.63(d)(3)

Legal Deadline: None

Abstract: This proposed rulemaking would authorize the taking of crayfish and turtles in areas designated by the Superintendent of Ozark National Scenic Riverways consistent with Missouri fishing laws.

Timetable:

Action	Date	FR Cite
NPRM	06/28/85	50 FR 26809
NPRM Comment Period End	07/29/85	50 FR 26809
Final Action	10/25/85	50 FR 43387
Final Action Effective	11/25/85	50 FR 43387

Small Entity: No

Agency Contact: James R. Walker, Visitor Services Specialist, Department of the Interior, National Park Service, Midwest Region, 1709 Jackson St., Omaha, NE 68102, 402 221-3478

RIN: 1024-AB23

[FR Doc. 86-8822 Filed 04-18-86; 8:45 am]
BILLING CODE 4310-70-F

DEPARTMENT OF THE INTERIOR (DOI)

Prerule Stage

Bureau of Indian Affairs (BIA)

1098. INDIAN EDUCATION POLICIES

Significance: Regulatory Program

Legal Authority: 25 USC 2010; 25 USC 2013

CFR Citation: 25 CFR 32

Legal Deadline: None

Abstract: Policy statements under this part are generally broad, rhetorical, and nonmeasurable. The revision will address the simplification, clarification, consolidation, and elimination of policy statements that are not attainable or measurable. OIEP will pursue selected policy statements that have the administration's agreements and do not anticipate any increase or potential increase in cost in the revision of this regulation.

Timetable:

Action	Date	FR Cite
Review of current regulations	07/00/86	
Consultation with tribes	09/00/86	
NPRM	12/00/86	

Small Entity: Undetermined

Agency Contact: George D. Scott, Educational Specialist, Department of the Interior, Bureau of Indian Affairs, Rm. 3530-Main Int., 18th & C Streets, NW, Washington, DC 20245, 202 343-4872

RIN: 1076-AB64

1100. PREPARATION OF A ROLL TO SERVE AS THE BASIS FOR THE DISTRIBUTION OF JUDGEMENT FUNDS AWARDED TO THE PEMBINA BAND OF CHIPPEWA INDIANS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 1241 et seq

CFR Citation: 25 CFR 66

Legal Deadline: None

Abstract: This rule, which is scheduled for review, governs the one-time compilation of a roll of lineal descendants of members of the Pembina Band of Chippewa Indians as it was constituted in 1863 pursuant to the Act of July 29, 1971. The roll is to serve as the basis for a distribution of an apportioned share of judgment funds awarded the Pembina Band of Chippewa Indians. This Part has been redesignated from 25 CFR Part 43g.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/85	
End Review	09/00/86	

Small Entity: Undetermined

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3594

RIN: 1076-AB57

1101. PREPARATION OF A ROLL OF ALASKA NATIVES

Legal Authority: 43 USC 1601 et seq; PL 94-204

CFR Citation: 25 CFR 69

Legal Deadline: None

Abstract: This rule, which is subject to review, governs the preparation of a roll of Alaska Natives pursuant to the Alaska Native Claims Settlement Act, as amended. Persons whose names are included on the Alaska Native roll are eligible to participate in benefits under ANCSA. This Part has been redesignated from 25 CFR Part 43h.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/85	
End Review	09/00/86	

Small Entity: Undetermined

DOI—BIA

Prerule Stage

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3594

RIN: 1076-AB66

1102. REVISION OF THE MEMBERSHIP ROLL OF THE EASTERN BAND OF CHEROKEE INDIANS, NORTH CAROLINA

Legal Authority: PL 85-134

CFR Citation: 25 CFR 75

Legal Deadline: None

Abstract: This rule, which is subject to review, governed the revision authorized by the Act of August 21, 1957, Pub. L. 85-134, (71 Stat. 374), of the membership roll of the Eastern Band of Cherokee Indians, North Carolina, prepared and approved in accordance with the Act of June 4, 1924 (43 Stat. 376), and the Act of March 4, 1931 (46 Stat. 1518). The rule also provides procedures for maintaining a current membership roll. This Part has been redesignated from 25 CFR Part 47.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/85	
End Review	09/00/86	

Small Entity: Undetermined

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3594

RIN: 1076-AB54

1103. REGULATIONS FOR PRO RATA SHARES OF TRIBAL FUNDS

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 112

Legal Deadline: None

Abstract: Procedures and criteria for filing application for pro rata share of tribal funds. No alternatives are under active consideration. Regulations will be reviewed for any necessary updates, clarity, etc. No cost or benefit estimates applicable at this time.

Timetable:

Action	Date	FR Cite
Begin Review	05/01/85	
End Review	09/00/86	

Small Entity: Undetermined

Agency Contact: Barbara Davis, Trust Funds Specialist, Department of the Interior, Bureau of Indian Affairs, Rm. 4513-Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3969

RIN: 1076-AB65

1104. DISTRIBUTION OF JUDGEMENT FUNDS AWARDED TO THE OSAGE TRIBE OF INDIANS IN OKLAHOMA

Legal Authority: 86 Stat. 1295

CFR Citation: 25 CFR 121

Legal Deadline: None

Abstract: 25 CFR 121 is being reviewed as scheduled under the Bureau's Regulatory Reform Act.

The regulations in this part govern the distribution, pursuant to the act of October 27, 1972, of judgement funds awarded to the Osage Tribe of Indians of Oklahoma.

Timetable:

Action	Date	FR Cite
Begin Review	01/00/86	
End Review	10/00/86	

Small Entity: No

Agency Contact: Barbara Davis, Trust Funds Specialist, Department of the Interior, Bureau of Indian Affairs, Room 4513, Main Interior, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3969

RIN: 1076-AB66

1105. PROCEDURES FOR DEPOSITING FUNDS TO THE CREDIT OF 14X6140-DEPOSITS OF PROCEEDS OF LANDS WITHDRAWN FOR NATIVE SELECTION, BIA

Legal Authority: PL 94-204, 89 Stat. 1146; 43 USC 1613; 94 Stat. 2371

CFR Citation: 25 CFR 124, (Revision)

Legal Deadline: None

Abstract: Provide up to date and correct deposit procedures to be used by all Departments and Agencies of the Federal Government and the State of Alaska for the deposit of proceeds derived from contracts, leases, permits, and rights-of-way or easements pertaining to affected lands or resources in affected lands withdrawn for Native selection pursuant to the Alaska Native Claims Settlement Act.

Timetable:

Action	Date	FR Cite
Begin Review	01/00/86	
End Review	09/00/86	

Small Entity: Undetermined

Public Compliance Cost: Initial Cost: $0

Affected Sectors: None

Agency Contact: Betty L. Wilkinson, Acting Chief, Department of the Interior, Bureau of Indian Affairs, Division of Accounting Management, Room 4604, Main Interior, 18th & C Sts., NW, Washington, DC 20245, 202 343-7338

RIN: 1076-AB67

1106. OPERATION OF U.S.M.S. "NORTH STAR" BETWEEN SEATTLE, WASHINGTON AND STATIONS OF THE BUREAU OF INDIAN AFFAIRS AND OTHER GOVERNMENT AGENCIES, ALASKA

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 142

Legal Deadline: None

Abstract: The review of this rule was originally assigned an "End Review Date" of October 1984. During the 1985 Shipping Season, which extends from April through October 1985, the BIA will be conducting a test of the Department of Defense Coolbarge system. During that period, all Bureau-sponsored cargo will be shipped via Coolbarge and the USMS "Northstar" will be temporarily removed from service. If the test proves to be successful, then, the Northstar Operation (the use of the Bureau-held ship) will be permanently discontinued in favor of Coolbarge. After completing the test evaluation, decisions will be made regarding Northstar vs. Coolbarge. After the policy decisions are made, the regulation will be deletad or revised as appropriate to reflect and describe the new concept of Operation. The estimated completion date should be changed to October 1986.

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Prerule Stage

Timetable:

Action	Date	FR Cite
End Review	10/00/86	

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1983.

Agency Contact: Gerald Taylor, Seattle Liaison Office, Department of the Interior, Bureau of Indian Affairs, Federal Building, Seattle, WA 98104, 206 784-3338

RIN: 1076-AA96

1107. LAND RECORDS AND TITLE DOCUMENTS

Legal Authority: 25 USC 5; 25 USC 9

CFR Citation: 25 CFR 150; 43 CFR 4

Legal Deadline: None

Abstract: This regulation will be reviewed with only minor changes expected due to a realignment of responsibilities concerning our title plants. This rule sets forth authorities, policy and procedures governing the recording, custody, maintenance, use and certification of title documents, and the issuance of title status reports for Indian land.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/86	
End Review	12/31/86	

Small Entity: No

Agency Contact: William J. Bucholz, Chief, Division of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, Rm. 4520-Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-7737

RIN: 1076-AB68

1108. ● LAND ACQUISITIONS

Legal Authority: PL 97-459

CFR Citation: 25 CFR 151

Legal Deadline: None

Abstract: The Bureau proposes to publish amendments to Part 151 dealing with acquisition of fractional interests in land. Simultaneously, this rule will be reviewed to determine if all provisions are current and up-to-date.

Timetable:

Action	Date	FR Cite
NPRM	08/17/84	
NPRM Comment Period End	10/16/84	
End Review	12/00/86	

Small Entity: Undetermined

Additional Information: A recent District Court opinion has held that a portion of our Land Acquisition Regulations are unconstitutional. This decision is being appealed to the Supreme Court.Depending on outcome, these rules may have to be revised.

Agency Contact: William J. Bucholz, Chief, Div. of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20245, 202 343-7737

RIN: 1076-AA81

1109. DETERMINATION OF COMPETENCY: CROW INDIANS

Legal Authority: 41 Stat. 755; 46 Stat. 1495

CFR Citation: 25 CFR 153

Legal Deadline: None

Abstract: A full review will be accomplished with a view towards determining whether this rule has outlived its usefulness or can be combined with one general "competency" part. Governs the procedures in determining the competency of Crow Indians under Public Law 303, 61st Congress, approved September 8, 1940.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/85	
End Review	09/30/86	

Small Entity: No

Agency Contact: William J. Bucholz, Chief, Division of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, Rm. 4520-Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-7737

RIN: 1076-AB69

1110. REALLOTMENT OF LANDS TO UNALLOTTED INDIAN CHILDREN

Legal Authority: 25 USC 461 to 479; 25 USC 408

CFR Citation: 25 CFR 156

Legal Deadline: None

Abstract: Provides for the reallotment of original patent of lands to Indian children or the reallotment of land to when the original patent has been destroyed but is verifiable.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/86	
End Review	12/31/86	

Small Entity: No

Agency Contact: William J. Bucholz, Chief, Division of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, Rm. 4520-Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-7737

RIN: 1076-AB70

1111. SALE OF IRRIGABLE LANDS, SPECIAL WATER CONTRACT REQUIREMENTS

Legal Authority: 25 USC 385; 25 USC 386

CFR Citation: 25 CFR 159; 25 CFR 160; 25 CFR 171; 25 CFR 173

Legal Deadline: None

Abstract: This existing regulation will be reviewed in Calendar Year 1986 to determine whether to propose modifications through rulemaking.

Provides requirements for the payment of assessment fees and recordation of agreements in contracts to sell irrigable lands.

Timetable:

Action	Date	FR Cite
Begin Review	01/00/86	
End Review	10/00/86	

Small Entity: No

Agency Contact: Mort S. Dreamer, Civil Engineer - Irrigation and Power, Department of the Interior, Bureau of Indian Affairs, Rm. 4513-Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-5866

RIN: 1076-AB71

1112. INCLUSION OF LIENS IN ALL PATENTS AND INSTRUMENTS EXECUTED

Legal Authority: 25 USC 385; 25 USC 386

CFR Citation: 25 CFR 160; 25 CFR 134; 25 CFR 171; 25 CFR 173

Legal Deadline: None

DOI—BIA

Prerule Stage

Abstract: This existing regulation will be reviewed in Calendar Year 1986 to determine whether to propose modifications through rulemaking.

The rule implements the act of March 7, 1923, which created a first lien against irrigable lands under all Indian irrigation projects where the construction, operation and maintenance costs of such projects remain unpaid and are reimbursable, and directs that such lien shall be recited in any patent or instrument issued for such lands to cover such unpaid charges.

Timetable:

Action	Date	FR Cite
Begin Review	01/00/86	
End Review	10/00/86	

Small Entity: No

Agency Contact: Mort S. Dreamer, Civil Engineer - Irrigation and Power, Department of the Interior, Bureau of Indian Affairs, Rm. 4513-Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-5866

RIN: 1076-AB72

1113. OPERATION AND MAINTENANCE

Legal Authority: 25 USC 385; 25 USC 386

CFR Citation: 25 CFR 171; 25 CFR 159; 25 CFR 160; 25 CFR 173

Legal Deadline: None

Abstract: This existing regulation will be reviewed in Calendar Year 1986 to determine whether to propose modifications through rulemaking.

Procedures governing the delivery of water to irrigation projects or units and the establishment of an annual operation and maintenance assessment rate for such sites.

Timetable:

Action	Date	FR Cite
Begin Review	01/00/86	
End Review	10/00/86	

Small Entity: No

Agency Contact: Mort S. Dreamer, Civil Engineer - Irrigation and Power, Department of the Interior, Bureau of Indian Affairs, Rm. 4513-Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-5866

RIN: 1076-AB74

1114. CONCESSIONS, PERMITS AND LEASES ON LANDS WITHDRAWN OR ACQUIRED IN CONNECTION WITH INDIAN IRRIGATION PROJECTS

Legal Authority: 25 USC 385; 25 USC 386

CFR Citation: 25 CFR 173; 25 CFR 159

Legal Deadline: None

Abstract: This existing regulation will be reviewed in Calendar Year 1986 to determine whether to propose modifications through rulemaking.

This rule governs the granting of concessions, business, agricultural and grazing leases or permits on reservoir sites, reserves for canals or flowage areas, and other lands withdrawn or otherwise acquired in connection with the San Carlos, Fort Hall, Flathead and Duck Valley or Western Shoshone irrigation projects.

Timetable:

Action	Date	FR Cite
Begin Review	01/00/86	
End Review	10/00/86	

Small Entity: No

Agency Contact: Mort S. Dreamer, Civil Engineer - Irrigation and Power, Department of the Interior, Bureau of Indian Affairs, Rm. 4513-Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-5866

RIN: 1076-AB73

1115. LEAD AND ZINC MINING OPERATIONS AND LEASES, QUAPAW AGENCY

Legal Authority: Sec. 26, 41 Stat. 1246; 50 Stat. 68

CFR Citation: 25 CFR 215; 25 CFR 212; 30 CFR Chapter II

Legal Deadline: None

Abstract: The regulations in this part provide the procedures and processes for lead and zinc mining operations and leases within the Quapaw Agency. No changes to the regulations are being considered at this time.

Timetable:

Action	Date	FR Cite
Begin Review	09/30/86	
End Review	09/30/86	

Small Entity: No

Agency Contact: Joseph C. Johnston, Chief, Division of Energy and Mineral Res., Department of the Interior, Bureau of Indian Affairs, Rm. 4529-Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-5669

RIN: 1076-AB75

1116. MANAGEMENT OF TRIBAL ASSETS OF UTE INDIAN TRIBE, UINTAH AND OURAY RESERVATION, UTAH, BY THE TRIBE AND THE UTE DISTRIBUTION CORP

Legal Authority: 25 USC 677 to 677aa Secs 27 & 28 of the Act of 8/27/54; 68 Stat. 868; 5 USC 301; 230 DM 1 and 2; 25 USC 2 Sec 463 of the Revised Statutes; 25 USC 9 Sec 465 of the Revised Statutes

CFR Citation: 25 CFR 217

Legal Deadline: None

Abstract: The regulations state that the assets shall be managed jointly by the business committee and the board of directors. These regulations set out the procedures for exercising such joint management. There is currently a conflict concerning these regulations which may justify a review.

Timetable:

Action	Date	FR Cite
Begin Review	09/30/86	
End Review	09/30/86	

Small Entity: Undetermined

Agency Contact: Joseph C. Johnston, Chief, Division of Energy and Mineral Res., Department of the Interior, Bureau of Indian Affairs, Rm. 4529-Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-5669

RIN: 1076-AB78

1117. ● OIL AND GAS MINERAL AGREEMENTS

Legal Authority: PL 97-382; 52 Stat. 347; 35 Stat. 783

CFR Citation: 25 CFR 225

Legal Deadline: None

Abstract: The Bureau proposes to publish regulations that will govern mineral agreements for the development of Indian owned oil and gas resources pursuant to the Indian Mineral Development Act of 1982, Public Law 97-382, which authorizes the tribes to enter into negotiated agreements rather than go through the previously required competitive advertising procedure.

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Prerule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/12/83	48 FR 31978
End Review	06/00/86	

Small Entity: Undetermined

Additional Information: Originally scheduled: April 1985.

Agency Contact: Joseph Johnston, Chief, Div. of Energy and Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-6489

RIN: 1076-AA62

1118. LEASING OF OSAGE RESERVATION LANDS FOR OIL AND GAS MINING

Legal Authority: Sec 3, 34 Stat. 543; Sec 1, 45 Stat. 1478; Sec 2, 45 Stat. 1478; Sec 1, 45 Stat. 1478; Sec 2, 45 Stat. 1479

CFR Citation: 25 CFR 226; 25 CFR 2

Legal Deadline: None

Abstract: The regulations in this part provide procedures and processes for oil and gas mining leasing of Osage Reservation lands. Changes are being considered.

Timetable:

Action	Date	FR Cite
Begin Review	01/00/86	
End Review	10/00/86	

Small Entity: Undetermined

Agency Contact: Joseph C. Johnston, Chief, Div. of Energy & Mineral Resources, Department of the Interior, Bureau of Indian Affairs, Rm. 4529-Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-6489

RIN: 1076-AB79

1119. LEASING OF CERTAIN LANDS IN WIND RIVER INDIAN RESERVATION, WYOMING, FOR OIL AND GAS MINING

Legal Authority: Sec 1, 39 Stat. 519

CFR Citation: 25 CFR 227; 30 CFR Chapter II; 17 CFR Chapter II; 30 CFR 221; 25 CFR 211.26(d)

Legal Deadline: None

Abstract: The regulations in this part provide the procedures and processes for acquiring leases, processes of payment of royalties and rents and leasing operations on certain lands in Wind River Indian Reservation, Wyoming, for oil and gas mining. No changes are being considered at this time.

Timetable:

Action	Date	FR Cite
Begin Review	08/30/86	
End Review	09/30/86	

Small Entity: No

Agency Contact: Joseph C. Johnston, Chief, Divison of Energy and Mineral Res., Department of the Interior, Bureau of Indian Affairs, Rm. 4529-Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-6489

RIN: 1076-AB80

1120. INDIAN FISHING IN ALASKA

Legal Authority: 25 USC 2; 25 USC 9; 43 USC 1457; 26 Stat. 110; 48 USC 356; 39 Stat. 1777; 49 Stat. 1250; 48 USC 358; 72 Stat. 339; 73 Stat. 141

CFR Citation: 25 CFR 241

Legal Deadline: None

Abstract: The purpose of the regulations is to regulate all fishing within the Annette Islands Reserve and to regulate Indian and other native commercial fishing in the Kariuk Indian Reservation, Alaska. The alternative of no regulation would not protect Indian fishing rights.

Timetable:

Action	Date	FR Cite
Begin Review	01/00/86	
End Review	10/00/86	

Small Entity: Undetermined

Government Levels Affected: Local, Federal

Agency Contact: Gary L. Rankel, Chief, Branch of Fish, Wildlife & Recreation, Department of the Interior, Bureau of Indian Affairs, Rm. 4529-Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-6489

RIN: 1076-AB81

1121. USE OF COLUMBIA RIVER INDIAN IN-LIEU FISHING SITES

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 248

Legal Deadline: None

Abstract: This section provides regulations for the use of any of the lands acquired by the Secretary of War and transferred to the Secretary of the Interior pursuant to the Act of March 2, 1945 (59 Stat. 22), as amended, as "in lieu sites" to replace Indian fishing grounds submerged or destroyed as a result of the construction of the Bonneville Dam. The alternative of no regulation would not protect Indian fishing rights.

Timetable:

Action	Date	FR Cite
Begin Review	01/00/86	
End Review	10/00/86	

Small Entity: Undetermined

Government Levels Affected: Local, Federal

Agency Contact: Gary Rankel, Chief, Branch of Fish, Wildlife & Rec., Department of the Interior, Bureau of Indian Affairs, Rm. 4555-Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-6998

RIN: 1076-AB82

1122. OFF-RESERVATION TREATY FISHING

Legal Authority: 25 USC 2; 25 USC 9; 5 USC 301

CFR Citation: 25 CFR 249

Legal Deadline: None

Abstract: This rule, which is scheduled for review, governs protection of off-reservation nonexclusive fishing rights; promotes proper management, conservation and protection of fisheries resources; and provides for determination of restrictions on the manner of nonexclusive fishing privileges.

Timetable:

Action	Date	FR Cite
End Review	09/00/86	

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1983.

Agency Contact: Gary L. Rankel, Chief, Branch of Fish, Wildlife & Recreation, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4998

RIN: 1076-AB00

DOI—BIA

Prerule Stage

1123. ● SUBCHAPTER M — INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT PROGRAMS

Significance: Regulatory Program

Legal Authority: 25 USC 450 et seq; PL 96-250

CFR Citation: 25 CFR 271; 25 CFR 272; 25 CFR 274; 25 CFR 276; 25 CFR 277; 25 CFR 278

Legal Deadline: None

Abstract: Technical amendments to the Indian Self-Determination Act permit Indian tribes, by mutual agreement, to enter into grants, cooperative agreements and contracts with the Bureau of Indian Affairs. As there are no regulatory provisions for the award of grants or cooperative agreements, the regulations will be revised to include such awards, as well as, make general revisions to simplify and clarify the regulatory provisions pertaining to the contractibility of the trust, administrative and legal service functions performed by the Bureau.

Timetable:

Action	Date	FR Cite
Hold public hearings with Indian leaders on draft proposed rule	04/30/86	
NPRM	10/31/86	
Final Action	01/31/87	

Small Entity: Undetermined

Additional Information: Individual regulatory actions for 25 CFR Parts 271, 272, 274, 276, 277 and 278 have been consolidated as one action in the semi-annual agenda and the Regulatory Planning Program. The regulatory identification number for Subchapter M in the Regulatory Planning Program is 1076-AB62 which now includes all previous regulatory actions identified under 1076-AA47, 1076-AA48, 1076-AA50, 1076-AA52, 1076-AA53, and 1076-AA54, respectively, for the 25 CFR Parts listed above.

Agency Contact: Jay T. Suagee, Chief, Division of Self-Determination, Office of Indian Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4796

RIN: 1076-AB62

DEPARTMENT OF THE INTERIOR (DOI)

Proposed Rule Stage

Bureau of Indian Affairs (BIA)

1124. ● SAFETY CODE COMPLIANCE

Significance: Regulatory Program

Legal Authority: 25 USC 2005(b)

CFR Citation: 25 CFR Not yet determined

Legal Deadline: Judicial, May 1986

Abstract: Legislation in Public Law 95-561 (25 U.S.C. 2005(b)) requires the establishment of a central jurisdictional authority for the adoption, interpretation, administration and enforcement of Bureau-wide adopted codes and standards. The Bureau will develop standards by which to measure the quality of building construction and safety and will establish a central authority to perform oversight functions to assure adequate life and structural safety.

Timetable:

Action	Date	FR Cite
NPRM	08/01/86	
NPRM Comment Period End	10/01/86	
Final Action	04/01/87	

Small Entity: Undetermined

Agency Contact: Pete Dexter, Safety Specialist, Department of the Interior, Bureau of Indian Affairs, Division of Safety Management, Field Safety, Office, P.O. Box 2186, Albuquerque, NM 87103, 505 766-2963

RIN: 1076-AB61

1125. ● APPLICABILITY OF RULES OF THE BUREAU OF INDIAN AFFAIRS

Significance: Agency Priority

Legal Authority: 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 1.1

Legal Deadline: None

Abstract: Definitions used in 25 CFR need to be standardized whenever possible and placed under a single CFR Part. Only those definitions most commonly used in the 25 CFR will be affected by this action which will reduce confusion and printing costs. Specialized definitions to be used in new rulemaking actions will continue to be included with the proposed action rather than being included under the standardized definition(s), as appropriate. Definitions being standardized will be identified by term and defined; deletions from other 25 CFR Parts will be specifically identified.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: Not Applicable

Agency Contact: Anne Higgins, Management Analyst, Division of Management, Research and Evaluation, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4669

RIN: 1076-AB88

1126. APPEALS FROM ADMINISTRATIVE ACTIONS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 2

Legal Deadline: None

Abstract: The present administrative appeal regulations are ambiguous and misleading. It is difficult to tell what issues may be appealed and to whom the appeal should be sent. Most deadlines are uncertain. Those that are certain are often unrealistic. It is also unclear when a final decision will be rendered by the Interior Board of Indian Appeals and when it will be rendered by the Assistant Secretary for Indian Affairs. Alternatives will be developed by reviewing the existing appeal regulations of other agencies. Consideration will be given to specifying which types of appeals go to the Assistant Secretary and which to the Board. The alternative of providing for the Assistant Secretary to make a case-by-case decision whether or not to

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refer the matter to the Board will also be considered. The primary benefit should be reduced frustration for both appellants and the BIA officials who handle the appeals. The greatest cost may be that both appellants and BIA officials may have to comply with more specified procedures and meet more deadlines in order for the system to work.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Undetermined

Agency Contact: David Etheridge, Attorney-Adviser, Department of the Interior, Bureau of Indian Affairs, Office of the Solicitor, Washington, DC 20240, 202 343-8526

RIN: 1076-AB21

1127. ACTION ON WILLS OF OSAGE INDIANS

Legal Authority: PL 95-496

CFR Citation: 25 CFR 17

Legal Deadline: None

Abstract: This rule is being revised to permit the Field Solicitor of the Department to: (1) approve/disapprove wills of persons of Osage Indian blood providing for the disposition of restricted property; (2) issue orders and decisions; (3) issue subpoenas and to administer oaths to witnesses testifying at hearings; and (4) send appeals from decisions to the Regional Solicitor of the Department.

Timetable:

Action	Date	FR Cite
Total rewrite - new NPRM anticipated	00/00/00	

Small Entity: Undetermined

Additional Information: Originally scheduled: January 1981.

Agency Contact: William J. Bucholz, Chief, Division of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, Room 4520 - Main Interior, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-7737

RIN: 1076-AA03

1128. ● FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

Significance: Regulatory Program

Legal Authority: 25 USC 13; PL 93-473

CFR Citation: 25 CFR 20

Legal Deadline: None

Abstract: The Bureau is developing a quality assurance system for inclusion in 25 CFR 20. The system would provide for an ongoing evaluation of the administration of the Bureau's general assistance program in accordance with established Bureau policies and procedures. The rulemaking actions will complete an earlier initiative to develop a quality assurance system which began in a previous rulemaking action with regard to the implementation of the provisions of Public Law 93-473.

Timetable:

Action	Date	FR Cite
NPRM	09/07/86	
NPRM Comment Period End	10/07/86	
Final Action	12/15/86	

Small Entity: Undetermined

Agency Contact: Dr. Ed Brown, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-6434

RIN: 1076-AB92

1129. SCHOOL BOARDS

Significance: Agency Priority

Legal Authority: 25 USC 2001 et seq

CFR Citation: 25 CFR 35

Legal Deadline: None

Abstract: The purpose of this rule is to define and delineate the duties and responsibilities of local Indian School Boards in accordance with Federal statutes and regulations. This rule will provide Bureau-wide consistency for the overall exercise of authority and control of Bureau and tribally operated schools.

Timetable:

Action	Date	FR Cite
NPRM	09/30/86	

Small Entity: No

Agency Contact: George D. Scott, Education Specialist, Department of the Interior, Bureau of Indian Affairs, Office of Indian Education Programs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4872

RIN: 1076-AB03

1130. EDUCATION PERSONNEL

Significance: Agency Priority

Legal Authority: 25 USC 2011; 25 USC 2015

CFR Citation: 25 CFR 36, (Revision)

Legal Deadline: None

Abstract: The review of this rule is to update and/or delete the requirements that apply to all individuals appointed or converted to contract education positions in the Bureau of Indian Affairs. The review applies to employees with continuing tenure in both the competitive and excepted service who incumber education positions.

Timetable:

Action	Date	FR Cite
End Review	08/15/84	
NPRM	05/00/86	

Small Entity: Undetermined

Agency Contact: George D. Scott, Education Specialist, Department of the Interior, Bureau of Indian Affairs, Office of Indian Education Programs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4872

RIN: 1076-AB02

1131. INDIAN SCHOOL EQUALIZATION PROGRAM

Significance: Agency Priority

Legal Authority: PL 95-561; 25 USC 2008

CFR Citation: 25 CFR 39, (Revision)

Legal Deadline: None

Abstract: This rule, which contains the funding mechanism for Bureau operated and contract elementary and secondary schools, has been reviewed and will be revised when academic and dormitory standards are finalized in 25 CFR Part 36.

Timetable:

Action	Date	FR Cite
NPRM	09/30/86	

Small Entity: No

Agency Contact: George D. Scott, Education Specialist, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4872

RIN: 1076-AA09

1132. THE INDIAN SCHOOL EQUALIZATION PROGRAM (NEW SCHOOL STARTS, PROGRAM EXPANSIONS, SCHOOL CLOSURES, CONSOLIDATIONS, AND PROGRAM REDUCTIONS)

Significance: Regulatory Program

Legal Authority: 92 Stat 2320; 42 Stat 208

CFR Citation: 25 CFR 39, Sec 22

Legal Deadline: None

Abstract: The addition of regulations for "School Closures and Consolidations" will address a uniform procedure for school closure and consolidation in the Bureau-operated and funded schools. The new rule would provide the Bureau advance planning time in the development of its future budgets.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
NPRM Comment Period End	08/00/86	
Final Action	12/31/86	

Small Entity: No

Agency Contact: George D. Scott, Education Specialist, Department of the Interior, Bureau of Indian Affairs, 18th & C Streets, NW, Washington, DC 20240, 202 343-4872

RIN: 1076-AB48

1133. ADMINISTRATION OF THE HIGHER EDUCATION PROGRAM

Significance: Regulatory Program

Legal Authority: 25 USC 13; PL 67-85

CFR Citation: 25 CFR 40

Legal Deadline: None

Abstract: This rule will revise established policies and provide uniform procedures to govern the higher education program administered under the authority of 25 U.S.C. 13. This rule applies only to educational grants; Bureau educational loans are governed by 25 CFR Part 91. This Part has been redesignated from 25 CFR Part 32.

Timetable:

Action	Date	FR Cite
NPRM	05/01/86	
NPRM Comment Period End	07/01/86	
Final Action	11/01/86	

Small Entity: No

Additional Information: Originally scheduled: January 1980.

Agency Contact: Esther Whalen, Education Specialist, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4871

RIN: 1076-AA10

1134. GRANTS TO TRIBALLY CONTROLLED COMMUNITY COLLEGES AND NAVAJO COMMUNITY COLLEGE

Significance: Agency Priority

Legal Authority: 25 USC 1815; 25 USC 640

CFR Citation: 25 CFR 41, (Revision)

Legal Deadline: None

Abstract: The Secretary proposes to revise the current regulations which are used to govern the administration of grants to the Tribally Controlled Community Colleges. The revision is mandatory since the current regulations do not apply to the new requirements which were made under the Amendments Act. The revision will govern the new requirements which include: 1. Planning Grants; 2. Forward Funding; 3. Facility Construction; 4. Endowments; and 5. New Method of Counting Students.

Timetable:

Action	Date	FR Cite
NPRM	09/30/86	

Small Entity: No

Agency Contact: Esther Whalen, Education Specialist, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4871

RIN: 1076-AA11

1135. CONSTITUTIONAL AND CIVIL RIGHTS OF INDIAN STUDENTS

Legal Authority: PL 95-561; 25 USC 2017

CFR Citation: 25 CFR 42

Legal Deadline: None

Abstract: This rule will set forth policies, requirements and procedures to ensure the protection of the constitutional and civil rights of students attending Bureau or contract schools and dormitories.

Timetable:

Action	Date	FR Cite
NPRM	09/30/86	44 FR 29855

Small Entity: No

Additional Information: Originally scheduled: January 1981. Proposed rulemaking actions would change the title of the regulation from "Student Rights and Due Process Procedures" to the title shown.

Agency Contact: William Mehojah, Chief, Branch of Elementary and Secondary, Education Programs, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4071

RIN: 1076-AA12

1136. ADMINISTRATION OF THE INDIAN ADULT EDUCATION PROGRAMS

Significance: Agency Priority

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 46

Legal Deadline: None

Abstract: These proposed regulations are designed to provide standardized administrative procedures for administering and operating Indian adult education programs.

Timetable:

Action	Date	FR Cite
NPRM	09/30/86	

Small Entity: No

Agency Contact: Esther Whalen, Education Specialist- Supervisory, Department of the Interior, Bureau of Indian Affairs, Office of Indian Education Programs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4871

RIN: 1076-AA15

1137. PREPARATION OF A ROLL OF ALASKA NATIVES

Legal Authority: 43 USC 1601 et seq; PL 94-204

CFR Citation: 25 CFR 69

Legal Deadline: None

Abstract: This rule is being amended to provide procedures for the redetermination of permanent residence of Alaska Natives enrolled pursuant to Public Law 92-203 in accordance with section 1(c) of Public Law 94-204. This

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Part has been redesignated from 25 CFR Part 43h.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: Undetermined

Additional Information: Originally scheduled: April 1981.

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-3594

RIN: 1076-AA18

1138. ENROLLMENT OF INDIANS OF THE SAN PASQUAL BAND OF MISSION INDIANS IN CALIFORNIA

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 1401 et seq

CFR Citation: 25 CFR 78

Legal Deadline: None

Abstract: This rule governed the enrollment of persons in the San Pasqual Band of Mission Indians in California as of January 1, 1959. The rule also provides procedures for maintaining a current membership roll. As a result of review, it has been determined that there is a continued need for this rule. However, the regulations do need to be revised. This rulemaking action will revise the regulations to make general revisions of an administrative nature including the elimination of sex-based and gender specific terminology and to provide procedures for the preparation of a current roll to serve as the basis for the distribution of judgment funds. This Part has been redesignated from 25 CFR Part 48.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3594

RIN: 1076-AB59

1139. USE OR DISTRIBUTION OF INDIAN JUDGMENT FUNDS

Legal Authority: 5 USC 301; 87 Stat 466; 87 Stat 467; 87 Stat 468; 96 Stat 2512; 96 Stat 2513; 96 Stat 2514

CFR Citation: 25 CFR 87

Legal Deadline: None

Abstract: The regulations govern the preparation of proposed plans for the use or distribution of all judgement funds awarded to Indian tribes and groups by the Indian Claims Commission, the United States Court of Claims or the United States Claims Court, excepting any tribe or group whose trust relationship with the Federal Government has been terminated and for which there exists legislation authorizing the disposition of its judgment funds; and of all funds deriving from judgments entered prior to the date of the Act for which there has been no enabling legislation. The regulations are being revised to eliminate gender-specific terminology, incorporate the provisions of the Act of January 12, 1983 and for clarification. The revisions will make the regulations current to existing laws and should enable parties affected to more easily understand the regulations. The proposed revisions are a result of a review of the rules completed on July 10, 1984.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Additional Information: The proposed revisions to 25 CFR 87 have necessitated minor technical revisions to 25 CFR 115 which will be processed in conjunction with the proposed rule.

Agency Contact: John A. Shapard, Branch Chief, Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment & Research, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3596

RIN: 1076-AB20

1140. ● ATTORNEY FEE CONTRACTS WITH INDIAN TRIBES; PAYMENT OF TRIBAL ATTORNEY FEES WITH FEDERALLY APPROPRIATED FUNDS

Significance: Agency Priority

Legal Authority: 5 USC 301; 25 USC 476; 25 USC 13; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 89.40 to .46

Legal Deadline: None

Abstract: The Bureau of Indian Affairs proposes to revise the rule concerning the circumstances under which the Bureau of Indian Affairs, in the performance of the Federal Government's trust responsibility to Indian tribes, may, in its discretion, provide Departmental funds to an Indian tribe or other Indian organization for the payment of a private attorney's legal services. The proposed revisions would not change the underlying policy of the current rule which is to pay for private counsel to represent Indian tribes only in exceptional circumstances. The principal changes involve representation in child custody proceedings, services of tribal court personnel, and non-litigation services. The proposed revision would also provide that when trust resources are involved, tribes and individual Indian allottees are eligible to apply for and receive Federally appropriated funds under 25 CFR 89.

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2722
NPRM Comment Period End	03/24/86	51 FR 2722
Final Action	06/00/86	

Small Entity: No

Agency Contact: Frank Keel, Special Assistant, Office of Trust Responsibilities, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Code 201, Washington, DC 20245, 202 343-5474

RIN: 1076-AB87

1141. LOANS TO INDIANS FROM THE REVOLVING LOAN FUND

Significance: Agency Priority

Legal Authority: 25 USC 1451; PL 93-262

CFR Citation: 25 CFR 101

Legal Deadline: None

Abstract: This part is being revised to improve the processing of U.S. Direct Loan applications, improving the collection procedures currently used, and expediting the processing of expert assistance loans.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/84	
End Review	09/30/84	
NPRM	06/00/86	

Small Entity: No

Agency Contact: Richard Nephew, Assistant Chief, Div of Financial Assistance, Department of the Interior, Bureau of Indian Affairs, Main Interior Building - (Room 4062), 18th & C Streets, NW, Washington, DC 20245, 202 343-3851

RIN: 1076-AB04

1142. LOAN GUARANTY, INSURANCE, AND INTEREST SUBSIDY

Significance: Agency Priority

Legal Authority: 88 Stat. 77

CFR Citation: 25 CFR 103

Legal Deadline: None

Abstract: The purpose of this regulation is to prescribe the terms, conditions, and provisions under which loans made to eligible tribes, Indian organizations, and individual Indians for financing economic enterprises which contribute beneficially to the economy of an Indian reservation may be guaranteed or insured by the United States.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Joseph Weller, Chief, Division of Financial Assistance, Department of the Interior, Bureau of Indian Affairs, Rm. 4062-Main Int., 18th & C Streets, NW, Washington, DC 20245, 202 343-3657

RIN: 1076-AB05

1143. ANNUITY AND OTHER PER CAPITA PAYMENTS

Legal Authority: 5 USC 301; PL 98-64

CFR Citation: 25 CFR 111, (Revision)

Legal Deadline: None

Abstract: Procedures will describe standards by which per capita payments to Indians out of Tribal Trust Revenue may be made by either the Secretary of the Interior or by Tribal governments.

Information on cost or benefits, if applicable, is unknown at this point.

Timetable:

Action	Date	FR Cite
NPRM	09/30/86	

Small Entity: No

Agency Contact: Barbara Davis, Trust Fund Specialist, Department of the Interior, Bureau of Indian Affairs, Office of Trust Responsibilities, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-2963

RIN: 1076-AB45

1144. ● INDIVIDUAL INDIAN MONEY ACCOUNTS

Significance: Regulatory Program

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 43 USC 1457

CFR Citation: 25 CFR 115

Legal Deadline: None

Abstract: The Individual Indian Money Account program involves funds held in trust status for individuals. Although the rule generally prohibits voluntary accounts, except in circumstances of substantial hardship, the Bureau currently maintains many such accounts in the program. The current regulations will be revised to include specific criteria which must be met by voluntary depositors and which determine cases of "substantial hardship" as required by the regulations.

Timetable:

Action	Date	FR Cite
Review of all accounts maintained	04/30/86	
Identify commercial banks on or near Reservations	06/01/86	
Revise Regulations for exception criteria	07/01/86	
NPRM	09/30/86	
Final Action	12/01/86	

Small Entity: Undetermined

Agency Contact: Betty L. Wilkinson, Acting Chief, Division of Accounting Management, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-7336

RIN: 1076-AB91

1145. ● MANAGEMENT OF OSAGE JUDGMENT FUNDS FOR EDUCATION AND SOCIO-ECONOMIC PROGRAMS

Significance: Agency Priority

Legal Authority: 86 Stat 1295

CFR Citation: 25 CFR 122

Legal Deadline: None

Abstract: The implementing rule for 25 CFR 122 has been reviewed and a determination was made that the portion of the regulations governing socio-economic programs is no longer needed. The rule will be revised to remove that portion of the program.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Undetermined

Agency Contact: Esther Whalen, Education Specialist, Division of Education Programs, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-4671

RIN: 1076-AB51

1146. ● ISSUANCE OF PATENTS IN FEE, CERTIFICATES OF COMPETENCY, REMOVAL OF RESTRICTIONS, AND SALE OF CERTAIN INDIAN LANDS

Significance: Agency Priority

Legal Authority: 25 USC 378 to 379; 25 USC 404 to 405; 25 USC 372 to 373; 25 USC 483; 25 USC 355; 25 USC 2201 to 2211

CFR Citation: 25 CFR 152

Legal Deadline: None

Abstract: The Bureau of Indian Affairs proposes to revise certain sections of 25 CFR 152 which involve the issuance of fee patents, removal of restrictions, certificates of competency and the sale of certain Indian land. These regulations preclude the sale and/or exchange of tribal land except through special authorized legislation. The Indian Land Consolidation Act, Public Law 97-459, enacted on January 12, 1983

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and subsequently amended on October 30, 1984, enables Indian tribes to sell or exchange tribal land for the express purpose of consolidating tribal landholdings. The regulations are being revised to reflect the changes made by the legislation. In addition, the partitioning section is being revised for the purpose of clarification.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: Undetermined

Agency Contact: Lee Maytubby, Realty Specialist, Division of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Code 220, Washington, DC 20245, 202 343-3637

RIN: 1076-AB90

1147. LEASING AND PERMITTING

Legal Authority: 25 USC 380; 25 USC 393; 25 USC 394; 25 USC 395; 25 USC 397; 25 USC 402; 25 USC 402a; 25 USC 403; 25 USC 403a to c; 25 USC 415; 25 USC 415a to d; 25 USC 477; 25 USC 635

CFR Citation: 25 CFR 162

Legal Deadline: None

Abstract: This rule will reorganize Part 162 into three new subheadings: (1) How to Acquire Leases; (2) Special Provisions and Requirements of Leases; and (3) Special Provisions for Specific Reservations. These revisions will facilitate the use of the regulations for easier reference. This Part has been redesignated from 25 CFR Part 131.

Timetable:

Action	Date	FR Cite
NPRM	10/27/78	43 FR 50210

Next Action Undetermined

Small Entity: No

Additional Information: Originally scheduled: July 1979.

Affected Sectors: None

Agency Contact: William J. Bucholz, Chief, Division of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20245, 202 343-7737

RIN: 1076-AA29

1148. GRAZING REGULATIONS FOR FORMER NAVAJO-HOPI JOINT USE AREA LANDS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 640d; 25 USC 640d-28

CFR Citation: 25 CFR 168

Legal Deadline: None

Abstract: This rule will be revised to clarify the Secretary's responsibilities over grazing control and range restoration activities in the area formerly known as the Joint Use Area under the July 9, 1960 amendments to the Navajo-Hopi Settlement Act, 25 U.S.C. 640d-640d-28. The rule will also be revised to correct vague and/or ambiguous language contained in certain provisions of the existing rule. This Part has been redesignated from 25 CFR Part 153.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	

Small Entity: Undetermined

Additional Information: In May 1982, the District Court for the District of Arizona invalidated the regulations and ordered the Bureau to publish new regulations. The Bureau published interim regulations on Hopi Partitioned Funds on September 8, 1982. During the past year several negotiating meetings have been held with the Navajo Tribe to obtain concurrence to include Navajo Partitioned Land in the regulations. The Navajo Tribe wants separate regulations and the Bureau has drafted new regulations for Navajo Partitioned Lands.

Agency Contact: Sam Miller, Range Management Specialist, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20245, 202 343-2807

RIN: 1076-AA33

1149. ROADS OF THE BUREAU OF INDIAN AFFAIRS

Significance: Agency Priority

Legal Authority: 25 USC 13; 25 USC 318(a); PL 97-424, Sec 105(a)(3); 23 USC 109(o); 23 USC 112(b); 23 USC 114(c); 23 USC 202(e); 23 USC 204; 23 USC 217

CFR Citation: 25 CFR 170

Legal Deadline: None

Abstract: With the Surface Transportation Assistance Act of 1982, Indian reservation road construction is funded from the Highway Trust Fund with authorizations for Fiscal Years 1983, 1984, 1985 and 1986. Other provisions include a requirement for proper maintenance of roads, applications of the "Buy Indian" and Indian Self Determination Acts, and joint program management by the Secretaries of Interior and Transportation. These changes in the law make changes in regulations imperative. The no-action alternative would leave program managers with outdated guidelines. Cost of the action will be minimal and it imposes no burden on the public. Benefits will be a better ordered road construction and maintenance program on Indian reservations, greater management efficiency, and clarity of procedures for federal managers, legislators and tribal officials. This part is also scheduled for review.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: James T. Ball, Assistant Chief, Div of Transportation, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-8043

RIN: 1076-AB05

1150. USE OF WATER ON INDIAN RESERVATIONS

Legal Authority: 25 USC 1a; 25 USC 2; 25 USC 9; 25 USC 381; 25 USC 415

CFR Citation: 25 CFR 179

Legal Deadline: None

Abstract: This rule will state the criteria the Secretary will follow in determining whether to approve water codes enacted by Indian tribes which would regulate the use of waters on Indian reservations. This Part has been redesignated from 25 CFR Part 260.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Additional Information: DETERMINATION UNDER E.O. 12291: The effects of this document were previously considered under the provisions of E.O. 12044 which was revoked by E.O. 12291 on February 17, 1981. The document will be reconsidered under the provisions of E.O. 12291 before it is published as a final rule. Originally scheduled: April 1981.

Agency Contact: John Bushman, Staff Assistant, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20245, 202 343-3980

RIN: 1076-AA37

1151. LEASING OF RESTRICTED LANDS OF MEMBERS OF FIVE CIVILIZED TRIBES, OKLAHOMA, FOR MINING

Legal Authority: Sec. 2, 35 Stat. 312; Sec. 18, 41 Stat. 426; Sec. 1, 45 Stat. 495; Sec. 1, 47 Stat. 777; 25 USC 356; Secs. 3, 11, 35 Stat. 313, 316; Sec. 8, 47 Stat. 779

CFR Citation: 25 CFR 213

Legal Deadline: None

Abstract: This rule is being revised to insure consistency with existing law and to improve operating procedures. Issues to be addressed include authority to lease inherited restricted land, the processing of lease payments through the Minerals Management Service, and the approval process for division orders. There are no alternatives being considered and the potential cost is unknown.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Not Applicable

Agency Contact: Joseph Johnston, Chief, Division of Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3722

RIN: 1076-AB41

1152. LEASING OF OSAGE RESERVATION LANDS, OKLAHOMA, FOR MINING EXCEPT OIL AND GAS

Legal Authority: Sec. 3, 34 Stat. 543

CFR Citation: 25 CFR 214

Legal Deadline: None

Abstract: This rule is being reviewed and updated to take account of changes in mineral market conditions, interest rates, and various aspects of the local situation on the Osage Reservation since the rule was originally published.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Joseph Johnston, Chief, Division of Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3722

RIN: 1076-AB42

1153. REINDEER IN ALASKA

Legal Authority: 48 USC 250(k)

CFR Citation: 25 CFR 243

Legal Deadline: None

Abstract: This regulation is being revised to enable the BIA to regulate the sale of reindeer products as well as reindeer.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: Gary L. Rankel, Chief, Branch of Fish, Wildlife & Recreation, Department of the Interior, Bureau of Indian Affairs, Div. of Land & Water Res., 1951 Constitution Ave., NW, Washington, DC 20245, 202 343-4068

RIN: 1076-AB16

1154. PRESERVATION OF ANTIQUITIES

Legal Authority: 16 USC 470aa

CFR Citation: 25 CFR 261

Legal Deadline: None

Abstract: Part 261 is authorized by the Antiquities Act of 1906 (16 U.S.C. 432) which has been largely superseded by the Archeological Resources Protection Act (16 U.S.C. 470aa). This Part has been redesignated from 25 CFR Part 132.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1981.

Agency Contact: George Farris, Chief, Environmental Service Staff, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20245, 202 343-6574

RIN: 1076-AA44

1155. HERITAGE PRESERVATION

Legal Authority: 16 USC 469; 16 USC 470aa; 16 USC 470l; 42 USC 1996

CFR Citation: 25 CFR 262

Legal Deadline: None

Abstract: This rule will establish procedures for implementing the requirements of legislation relating to cultural resources. Subpart A will implement the requirements of the National Historic Preservation Act as it pertains to Bureau actions which may affect properties that are listed on the National Register of Historic Places. Subpart B will implement the requirements of the Archaeological Resources Protection Act, particularly the requirement that no archaeological resources may be excavated without a permit. This Part has been redesignated from 25 CFR Part 281.

Timetable:

Action	Date	FR Cite
NPRM Subpart A	09/15/80	45 FR 60823
NPRM	09/00/86	

Small Entity: Undetermined

Additional Information: DETERMINATION UNDER E.O. 12291: The effects of this document were previously considered under the provisions of E.O. 12044 which was revoked by E.O. 12291 on February 17, 1981. The document will be reconsidered under the provisions of

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E.O. 12291 before it is published as a final rule. Originally scheduled: April 1981.

Agency Contact: George Farris, Chief, Environmental Services Staff, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20245, 202 343-6574

RIN: 1076-AA45

1156. CONTRACTS UNDER INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

Significance: Regulatory Program

Legal Authority: 25 USC 450; 41 USC 501

CFR Citation: 25 CFR 271

Legal Deadline: None

Abstract: A proposed rule, published in 47 FR 40326 on September 13, 1982, changed regulations to provide assistance to tribes from contracts to grants or cooperative agreement and for other purposes. The public comments to the proposed rule were overwhelmingly unfavorable. Consequently, the Bureau intends to publish a reproposed rule to (1) strengthen administrative controls over contracts, (2) eliminate obsolete and unnecessary requirements, and (3) to clarify or simplify the regulatory provisions.

Timetable:

Action	Date	FR Cite
NPRM	09/13/82	47 FR 40326
Hold hearings with Indian leadership on draft proposed rules	04/00/86	
NPRM	10/00/86	
Final Action	01/00/87	

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1981.

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Myron Rock, Self-Determination Program Analyst, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4796

RIN: 1076-AA47

1157. CONTRACTS UNDER INDIAN SELF-DETERMINATION ACT (SUBPART H - NEW SCHOOL STARTS AND PROGRAM EXPANSIONS)

Significance: Agency Priority

Legal Authority: 88 Stat. 2203; 42 Stat. 208

CFR Citation: 25 CFR 271

Legal Deadline: None

Abstract: The purpose of the addition of the new rule "New Starts and Program Expansions," is to establish uniform application procedures and approval criteria for tribes seeking to operate new schools or to expand existing education programs through funding by the Indian School Equalization Formula. This rule would provide further clarification and refine existing criteria established in Part 271 of Public Law 93-638 which do not address tribal operation of schools on an indepth basis.

Timetable:

Action	Date	FR Cite
Hold hearings with Indian leadership	05/00/86	
NPRM	11/00/86	
Final Action	02/00/87	

Small Entity: No

Additional Information: Adds a new Subpart H to 25 CFR 271.

Agency Contact: Nancy Garrett, Deputy Director, OIEP, Department of the Interior, Bureau of Indian Affairs, 18th & C Sts. NW, Washington, DC 20245, 202 343-2123

RIN: 1076-AB49

1158. GRANTS UNDER INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

Significance: Regulatory Program

Legal Authority: 25 USC 450h

CFR Citation: 25 CFR 272

Legal Deadline: None

Abstract: The purpose of this rule is (1) to provide for changes in administrative processes, (2) to establish procedures and definitions consistent with other parts of this chapter, and (3) to ensure that self-determination grants are consistent with legislative intent.

Timetable:

Action	Date	FR Cite
NPRM	09/13/82	47 FR 40336
Hold hearings with Indian leadership on draft proposed rule	04/00/86	
NPRM	10/00/86	
Final Action	01/00/87	

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1981.

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: George Clark, Self-Determination Program Specialist, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4066

RIN: 1076-AA48

1159. EDUCATION CONTRACTS UNDER JOHNSON-O'MALLEY ACT

Significance: Agency Priority

Legal Authority: 25 USC 455 to 457

CFR Citation: 25 CFR 273

Legal Deadline: None

Abstract: A proposed rule was published in 47 FR 40340 on September 13, 1982 to provide consistency with 25 CFR Part 271. That is, to provide assistance to tribes by grant or cooperative agreement rather than by contract. The public comments were unfavorable to the proposed revision, consequently the Bureau intends to publish a reproposed rule to (1) strengthen administrative controls over contracts, (2) clarify the relationship between tribes and Indian education committees, and (3) to otherwise organize the subparts for easier use.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Additional Information: Originally scheduled: May 1978.

Affected Sectors: None

Government Levels Affected: Local, Federal

Agency Contact: William Mehojah, Chief, Branch of Elementary and Secondary Education Programs, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4071

RIN: 1076-AA49

1160. SCHOOL CONSTRUCTION CONTRACTS OR SERVICES FOR TRIBALLY OPERATED PREVIOUSLY PRIVATE SCHOOLS

Legal Authority: 25 USC 458; 25 USC 458d; PL 93-638; PL 95-561; PL 96-46

CFR Citation: 25 CFR 274

Legal Deadline: None

Abstract: A proposed rule was published in 47 FR 40348 on September 13, 1982, to change from contracts to grants and cooperative agreements as the method of providing assistance to tribes. The public comments were unfavorable to the proposed revision. Consequently the Bureau intends to publish a reproposed rule to (1) strengthen administrative controls over school construction contracts, (2) to include the Office of Indian Education Programs in the application and approval procedures and (3) remove unnecessary administrative language. This part is also scheduled for review.

Timetable:

Action	Date	FR Cite
NPRM	09/13/82	47 FR 40348
Hold hearings with Indian leadership	05/00/86	
NPRM	11/00/86	
Final Action	02/00/87	

Small Entity: Undetermined

Additional Information: ADDITIONAL AGENCY CONTACT: Harvey Jacobs (202) 343-4493 (see Agency Contact heading for address). Originally scheduled: April 1981.

Affected Sectors: None

Government Levels Affected: Local, Federal

Agency Contact: Richard Glynn, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-4576

RIN: 1076-AA50

1161. STAFFING

Significance: Agency Priority

Legal Authority: 42 USC 4762; 25 USC 450i; 26 USC 48

CFR Citation: 25 CFR 275

Legal Deadline: None

Abstract: This part outlines methods available to tribes for utilizing the services of Bureau employees. Revisions will be made to include the Office of Indian Education Programs in the application and approval procedures for the awards under Public Law 93-638.

Timetable:

Action	Date	FR Cite
NPRM	09/13/82	47 FR 40352
NPRM	09/00/86	

Small Entity: Undetermined

Additional Information: ADDITIONAL AGENCY CONTACT: Harvey Jacobs (202) 343-5517 (see Agency Contact heading for address). Originally scheduled: January 1981.

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Mercedes Lewis, Personnel Staffing Specialist, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-6366

RIN: 1076-AA51

1162. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR CONTRACTS AND GRANTS

Legal Authority: PL 93-638

CFR Citation: 25 CFR 276

Legal Deadline: None

Abstract: This rule establishes the requirements for the uniform administration of contracts and grants to Indian Tribal Governments pursuant to P.L. 93-638.

Timetable:

Action	Date	FR Cite
NPRM	09/13/82	47 FR 40353
Hold hearings with Indian leadership	05/00/86	
NPRM	11/00/86	
Final Action	02/00/87	

Small Entity: Undetermined

Additional Information: Originally scheduled: January 1981.

Agency Contact: Peter Campanelli, Procurement Specialist, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-3498

RIN: 1076-AA52

1163. SCHOOL CONSTRUCTION CONTRACTS FOR PUBLIC SCHOOLS UNDER INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT

Legal Authority: 25 USC 458c(b); 41 USC 501

CFR Citation: 25 CFR 277

Legal Deadline: None

Abstract: A proposed rule was published in 47 FR 40353 on September 13, 1982, the purpose of which was to change the method of award to tribes from contracts and grants and cooperative agreements. The public comments were unfavorable to such a change. Consequently, the Bureau intends to publish a reproposed rule to (1) strengthen controls over school construction contracts, (2) to provide changes in administrative processes and (3) to remove unnecessary administrative language.

Timetable:

Action	Date	FR Cite
NPRM	09/13/82	47 FR 40356
Hold hearings with Indian leadership	05/00/86	
NPRM	11/00/86	
Final Action	02/00/87	

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1981.

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Frank Latta, Chief, Division of School Facilities, Department of the Interior, Bureau of Indian Affairs, P.O. Box 1788, Albuquerque, NM 87103, 505 766-2985

RIN: 1076-AA53

1164. SPECIAL ECONOMIC DEVELOPMENT AND CORE MANAGEMENT FOR SMALL TRIBES

Significance: Regulatory Program

Legal Authority: 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 278

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DOI—BIA

Proposed Rule Stage

Legal Deadline: None

Abstract: The purpose of the program is to provide small tribes (1,500 or less population) with core management capability to enable them to administer tribal affairs and programs in a competent and responsible manner. The program is intended to supplement and complement Section 104(a) grants and other resources available to the tribe. The program is administered on a basis of need and merit with stringent eligibility and performance guidelines. An administrative decision was made to integrate the program with the grant program found in 25 CFR 272, which is currently under revision. Each grant program could and would maintain its separate identity under this arrangement but tribes would be afforded greater flexibility for use of funds under the programs.

Upon completion of the integration of rules and completion of the proposed and final rule stages for 25 CFR 272, the rules under 25 CFR 278 would be removed.

Timetable:

Action	Date	FR Cite
Public hearings	03/00/86	
NPRM	09/00/86	
NPRM Comment Period End	11/00/86	

Small Entity: Undetermined

Government Levels Affected: Federal

Agency Contact: Woodrow Sneed, Financial Analyst, Division of Financial Assistance, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-1491

RIN: 1076-AA54

1165. ◉ INDIAN BUSINESS DEVELOPMENT PROGRAM

Significance: Regulatory Program

Legal Authority: 25 USC 1524 Indian Financing Act of 1974

CFR Citation: 25 CFR 286

Legal Deadline: None

Abstract: This rule will activate an old grant program that has been without appropriation authority since FY 1978. The Indian Financing Act amendments of 1984 authorize grants up to $250,000 to tribes and up to $100,000 to individual Indians for economic enterprises.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
NPRM Comment Period End	07/00/86	
Final Action	12/00/86	

Small Entity: Undetermined

Agency Contact: Joe Weller, Chief, Division of Financial Assistance, Department of the Interior, Bureau of Indian Affairs, Office of Indian Services, Division of Financial Assistance, Washington, DC 20240, 202 343-3687

RIN: 1076-AA55

DEPARTMENT OF THE INTERIOR (DOI)

Final Rule Stage

Bureau of Indian Affairs (BIA)

1166. PREFERENCE IN EMPLOYMENT

Legal Authority: 25 USC 43; 25 USC 46; 25 USC 44; 25 USC 348; 25 USC 472; 25 USC 479

CFR Citation: 25 CFR 5

Legal Deadline: None

Abstract: The revision of this rule would extend the expired date of October 4, 1985, for a period of time to permit the Osage Tribal Council the additional time to organize and to establish current membership standards for purposes of Indian preference employment for their tribal members in the Bureau of Indian Affairs.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Action will be taken to extend time limitation only upon request from the Osage Tribe and approval by the Deputy Assistant Secretary.

Agency Contact: Mercedes Lewis, Personnel Staffing Specialist, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Ave., NW, Washington, DC 20245, 202 343-3306

RIN: 1076-AB60

1167. LAW AND ORDER ON INDIAN RESERVATIONS

Significance: Agency Priority

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 13

CFR Citation: 25 CFR 11

Legal Deadline: None

Abstract: This Part is being revised to provide Courts of Indian Offenses with a complete and updated code of laws and to clarify the jurisdiction of those courts and their relationship to tribal governments and the Department of the Interior.

Timetable:

Action	Date	FR Cite
NPRM	10/24/85	50 FR 43235
NPRM Comment Period End	01/31/86	51 FR 400
Final Action	06/30/86	

Small Entity: Undetermined

Additional Information: Originally scheduled: January 1981.

Agency Contact: Allen Davis, Legal Technician, Division of Law Enforcement, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-1711

RIN: 1076-AA01

1168. CARE OF INDIAN CHILDREN IN CONTRACT SCHOOLS

Significance: Agency Priority

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 22

Legal Deadline: None

DOI—BIA

Final Rule Stage

Abstract: Delete - No longer in effect.

This rule governed the contracting by missions, associations, and other eleemosynary institutions for care of Indian children who resided within the exterior boundaries of Indian reservations under the jurisdiction of the Bureau of Indian Affairs.

Timetable:

Action	Date	FR Cite
Remove Rule	06/00/86	

Small Entity: No

Agency Contact: Dr. Eddie F. Brown, DSW, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Ave., NW, Code 450 - Room 312 South, Washington, DC 20245, 202 343-6434

RIN: 1076-AB76

1169. FEDERAL SCHOOLS FOR INDIANS (REVISION)

Legal Authority: 34 Stat. 1018; 35 Stat. 783; 40 Stat. 564; 25 USC 286; 25 USC 289

CFR Citation: 25 CFR 31, (Revision)

Legal Deadline: None

Abstract: The purpose of the proposed revision is to clarify and define the clause "adequate free public school facilities" for non-Indian and Indian children of less than one-fourth blood who wish to attend Bureau-funded day and boarding schools. This proposed revision will also address criteria by which these students may attend Bureau-funded schools and tuition payments related thereto. Costs related to this part will be assumed by the public school district in the form of tuition payments, at no cost to the Bureau. Tuition fees charged will not exceed the tuition cost charged by the State or County in which the Bureau school is located.

Timetable:

Action	Date	FR Cite
NPRM	05/10/85	50 FR 19701
NPRM Comment Period End	07/05/85	
Final Action	09/30/86	

Small Entity: No

Additional Information: Section 31.3 revised to "conditions under which non-eligible students may attend Bureau-funded schools." Most comments are negative. Awaiting advice from SOL for future actior

Agency Contact: William Mehojah, Chief, Branch of Elementary and Secondary Programs, Department of the Interior, Bureau of Indian Affairs, 18 & C Sts. NW, Washington, DC 20240, 202 343-4971

RIN: 1076-AB47

1170. PREPARATION OF A ROLL OF EASTERN CREEK INDIANS

Legal Authority: 25 USC 2; 25 USC 9; 25 USC 1401 et seq; 5 USC 301

CFR Citation: 25 CFR 63

Legal Deadline: None

Abstract: As a result of review, it has been determined that this rule is no longer necessary and should be revoked. The rule governed the one-time compilation of a roll of Eastern Creek Indian descendants eligible to share in a per capita distribution of an apportioned share of judgment funds awarded the Creek Nation of Indians in Indian Claims Commission Docket 275. The roll has been completed and approved and the per capita payment made. Therefore, there is no further need for or applicability of this rule. This Part has been redesignated from 25 CFR Part 43.

Timetable:

Action	Date	FR Cite
Removal of rule	09/00/86	
Final Action	09/00/86	

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1984.

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3594

RIN: 1076-AB25

1171. PREPARATION OF A ROLL OF PYRAMID LAKE PAIUTE INDIANS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 64

Legal Deadline: None

Abstract: As a result of review, it has been determined that this rule is no longer necessary and should be revoked. The rule governed the one-time compilation of a roll of members of the Pyramid Lake Paiute Tribe eligible to share in the distribution of judgment funds awarded the Pyramid Lake Paiute Indians by the Indian Claims Commission in Docket No. 87-B. The roll has been completed and approved and the distribution of judgment funds made. Therefore, it has been determined that there is no further need for or applicability of this rule. This Part has been redesignated from 25 CFR Part 43a.

Timetable:

Action	Date	FR Cite
Removal of rule	09/00/86	
Final Action	09/00/86	

Small Entity: No

Additional Information: Originally scheduled: October 1984.

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3594

RIN: 1076-AB27

1172. PREPARATION OF A ROLL OF MOHAVE DESCENDANTS ENROLLED AS MEMBERS OF THE COLORADO RIVER INDIAN TRIBES

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 1401 et seq

CFR Citation: 25 CFR 67

Legal Deadline: None

Abstract: As a result of review, it has been determined that this rule is no longer necessary and should be revoked. The rule governed the one-time compilation of a roll of certain members of the Colorado River Indian Tribes who were lineal descendants of the aboriginal Mohave Tribe eligible to share in the per capita distribution of an apportioned share of judgment funds awarded the Mohave Indians by the Indian Claims Commission in Dockets Nos. 283 and 295. The roll has been completed and approved and the per capita payment made. Therefore, it has been determined that there is no further need for or applicability of this rule. This Part has been redesignated from 25 CFR Part 43e.

Timetable:

Action	Date	FR Cite
Final Action Removal of rule	09/00/86	

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Final Rule Stage

Small Entity: No

Additional Information: Originally scheduled: October 1984

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3594

RIN: 1076-AB30

1173. PREPARATION OF A ROLL OF PERSONS OF GRAND RIVER OTTAWA INDIAN BLOOD TO BE USED AS THE BASIS TO DISTRIBUTE JUDGMENT FUNDS

Legal Authority: PL 94-540

CFR Citation: 25 CFR 72

Legal Deadline: None

Abstract: As a result of review, it has been determined that this rule is no longer necessary and should be revoked. The rule governed the one-time compilation of a roll of persons who possess Grand River Ottawa Indian blood to be used to distribute the judgment funds awarded the Grand River Band of Ottawa Indians in Indian Claims Commission Docket 40-K. The roll has been completed and approved and the per capita payment made. Therefore, it has been determined that there is no further need for or applicability of this rule. This Part has been redesignated from 25 CFR Part 43n.

Timetable:

Action	Date	FR Cite
Final Action Removal of rule	09/00/86	

Small Entity: No

Additional Information: Originally scheduled: October 1984

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3594

RIN: 1076-AB33

1174. ENROLLMENT OF INDIANS OF THE RINCON, SAN LUISENO BAND OF MISSION INDIANS IN CALIFORNIA

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 74

Legal Deadline: None

Abstract: This rule governed the enrollment of persons in the Rincon, San Luiseno Band of Mission Indians of California as of July 21, 1957. The rule also provides procedures for maintaining a current membership roll. As a result of review, it has been determined that there is no further need for this rule and it can be revoked. This Part has been redesignated from 25 CFR Part 48.

Supplemental Timetable:

Removal of rule
Final Action 09/00/86

Small Entity: Undetermined

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3594

RIN: 1076-AB55

1175. PREPARATION OF A MEMBERSHIP ROLL OF THE PRIBILOF ISLANDS ALEUT COMMUNITIES OF ST. PAUL AND ST. GEORGE

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 1401 et seq

CFR Citation: 25 CFR 77

Legal Deadline: None

Abstract: This rule governed the one-time compilation of a roll of members of the Pribilof Islands Aleut Communities of St. Paul and St. George eligible to share in a per capita distribution of judgment funds awarded the Aleut Communities of the Pribilof Islands by the U.S. Court of Claims in Dockets 352 and 369-A. The roll has been completed and approved and the per capita payment made. Therefore, there is no further need for or applicability of the rule and the rule is being revoked.

Timetable:

Action	Date	FR Cite
Final Action Removal of rule	09/00/86	

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1984.

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3594

RIN: 1076-AB35

1176. REVOLVING CATTLE POOL

Significance: Agency Priority

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 102

Legal Deadline: None

Abstract: This program was transferred to the Bureau of Indian Affairs in the 1950's and it has been inactive for a long time. There have been no funds appropriated to run the program, so we are proposing to delete this.

The terms and conditions of loans of cattle by the United States government to tribes, tribal corporations or tribal members were prescribed. The loans consisted of cattle repayable in kind or assignment of cattle under specific agreements.

Timetable:

Action	Date	FR Cite
Removal of rule	09/00/86	

Small Entity: No

Agency Contact: Joseph Weller, Chief, Division of Financial Assistance, Department of the Interior, Bureau of Indian Affairs, Rm. 4062, Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-5367

RIN: 1076-AB83

1177. ● RIGHTS-OF-WAY OVER INDIAN LANDS

Legal Authority: 5 USC 301; 25 USC 323 to 328

CFR Citation: 25 CFR 169

Legal Deadline: None

Abstract: The Bureau of Indian Affairs intends to amend several sections of its rights-of-way regulations which impose a variety of specific requirements on grantees of rights-of-way over Indian lands. These requirements were intended to implement public laws enacted around the turn of the century which authorized the Secretary of the Interior to issue rights-of-way for various specific purposes. In 1948 Congress gave the Department comprehensive authority to grant rights-of-way for any purpose or any term of years without the antiquated restrictions of the older statutes. The regulations continue to reflect the old requirements and the result has been inconsistent application of the 1948 Act. The removal or revisions of these sections would end that practice.

Timetable:

Action	Date	FR Cite
NPRM	01/13/86	51 FR 1391
NPRM Comment Period End	02/12/86	51 FR 1391
Final Action	06/00/86	

Small Entity: No

Agency Contact: Frank Hissong, Realty Specialist, Division of Real Estate Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Code 220, Washington, DC 20245, 202 343-3611

RIN: 1076-AB89

DOI—BIA

Final Rule Stage

1178. FLATHEAD INDIAN IRRIGATION PROJECT, MONTANA

Legal Authority: 5 USC 301; 62 Stat. 273

CFR Citation: 25 CFR 176

Legal Deadline: None

Abstract: This rule contains regulations to be followed for the operation of the electric power system at the Flathead Indian Irrigation Project, Montana.

Timetable:

Action	Date	FR Cite
NPRM	09/30/85	47 FR 50850
NPRM Comment Period End	11/30/85	

Next Action Undetermined

Small Entity: No

Additional Information: Originally scheduled: April 1981.

Agency Contact: Mort S. Dreamer, Civil Engineer - Irrigation and Power, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20245, 202 343-5696

RIN: 1076-AA73

1179. CONTRACTS FOR PROSPECTING AND MINING ON INDIAN MINERAL LANDS

Significance: Agency Priority

Legal Authority: 25 USC 396; 25 USC 396d; 25 USC 415; 25 USC 476; 25 USC 477

CFR Citation: 25 CFR 211

Legal Deadline: None

Abstract: The regulations in this Part govern contracts for the prospecting and mining of Indian-owned minerals, other than oil and gas. Revisions will be made which would combine rules for the review and approval of mineral development contracts on both tribal and allotted lands into one Part. This Part has been redesignated from 25 CFR Part 171.

Timetable:

Action	Date	FR Cite
NPRM	08/11/80	45 FR 53164
NPRM	07/12/83	48 FR 31978
Final Action	06/00/86	

Small Entity: Yes

Additional Information: ADDITIONAL AGENCY CONTACT: Tommy Riggs (see Agency Contact heading for phone and address). Originally scheduled: May 1978.

Agency Contact: Joseph Johnston, Chief, Div. of Energy & Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3722

RIN: 1076-AA36

1180. LEASING OF ALLOTTED LANDS FOR MINING

Significance: Agency Priority

Legal Authority: 25 USC 396; 35 Stat. 396

CFR Citation: 25 CFR 212

Legal Deadline: None

Abstract: As a result of review, it has been determined that this Part is no longer necessary and should be revoked. The rules which currently govern the leasing of oil and gas on Indian allotted lands will be replaced by a new 25 CFR Part 225 and in the revisions to 25 CFR Part 211. This Part has been redesignated from 25 CFR Part 172.

Timetable:

Action	Date	FR Cite
NPRM	08/11/80	45 FR 53164
NPRM	07/12/83	48 FR 31978
Removal of rule	06/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Tommy Riggs (see Agency Contact heading for phone and address). Originally scheduled: April 1981.

Agency Contact: Joseph Johnston, Chief, Div. of Energy & Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3722

RIN: 1076-AA39

1181. OPERATION, RECLAMATION AND CONSERVATION ON MINERAL LANDS

Legal Authority: 25 USC 380; 25 USC 396; 25 USC 396d; 25 USC 415; 25 USC 476; 25 USC 477; 42 USC 4332

CFR Citation: 25 CFR 216

Legal Deadline: None

Abstract: This rule will provide for mining and exploration plans, performance plans and other operational aspects of mining on Indian lands, including compliance with the National Environmental Policy Act. This Part has been redesignated from 25 CFR Part 177. This part is also scheduled for review.

Timetable:

Action	Date	FR Cite
NPRM	08/11/80	45 FR 53164
Final Action	09/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Tommy Riggs (see Agency Contact heading for phone and address). Originally scheduled: May 1978.

Agency Contact: Joseph Johnston, Chief, Div. of Mineral Resources, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3722

RIN: 1076-AA40

1182. WIND RIVER RESERVATION GAME CODE

Legal Authority: 43 USC 1457; 25 USC 2; 25 USC 9; 64 Stat. 1262; 18 USC 1165; 16 USC 3371 to 3378; 15 Stat. 673; 5 USC 301

CFR Citation: 25 CFR 244

Legal Deadline: None

Abstract: The interim rule will provide regulations governing hunting of big and small game on the Wind River Indian Reservation in Wyoming, to conserve,

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protect and increase the currently depleted populations. No alternative actions for addressing the problem are being considered. The program will be confined to a localized area, and economic effects will be relatively insignificant. Benefits will be conservation of existing populations through reduced hunting mortality. Costs for personnel and equipment to enforce the regulations are estimated at $235,000 for the first year and $200,000 annually thereafter, to be derived by reallocation of existing funding.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/05/84	49 FR 39308

Next Action Undetermined

Small Entity: No

Agency Contact: Gary Rankel, Chief, Branch of Fish, Wildlife & Recreation, Department of the Interior, Bureau of Indian Affairs, Main Interior - 18th and C Sts., NW, Room 4555, Washington, DC 20245, 202 343-4086

RIN: 1076-AB43

1183. OFF-RESERVATION TREATY FISHING - FRASER RIVER CONVENTION; SOCKEYE AND PINK SALMON FISHERY

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 249

Legal Deadline: None

Abstract: This rule is an annual amendment covering the treaty Indian fishery in waters subject to the Fraser River Convention. Regulations provided by the rule assure fulfillment of obligations to treaty tribes and to Canada. The alternative of no regulation would leave the treaty Indian fishery unregulated, and was not considered. The rule is beneficial in that it will allow for the implementation of treaty guaranteed rights in a manner consistent with U.S. obligations to Canada. The rule will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/09/84	49 FR 27937

Next Action Undetermined

Small Entity: No

Agency Contact: Gary Rankel, Chief, Branch of Fish, Wildlife & Recreation, Department of the Interior, Bureau of Indian Affairs, Main Interior - 18th and C Sts., NW, Washington, DC 20245, 202 343-4086

RIN: 1076-AB12

1184. INDIAN FISHING: HOOPA VALLEY INDIAN RESERVATION

Legal Authority: 25 USC 2; 25 USC 9; 5 USC 301; Reorganization Plan No. 3 of 1950; 64 Stat. 1262

CFR Citation: 25 CFR 250

Legal Deadline: None

Abstract: This rule, which contains the regulations for the Hoopa fishery, will be revised to remove burdensome requirements.

Timetable:

Action	Date	FR Cite
NPRM	06/24/83	48 FR 29004

Next Action Undetermined

Small Entity: Undetermined

Additional Information: Originally scheduled: April 1983.

Agency Contact: Gary L. Rankel, Chief, Branch of Fish, Wildlife & Recreation, Department of the Interior, Bureau of Indian Affairs, Main Interior, 18th & C Streets, NW, Washington, DC 20245, 202 343-4086

RIN: 1076-AA83

1185. BUY INDIAN ACT CONTRACTING

Legal Authority: 25 USC 47; 36 Stat. 861

CFR Citation: 48 CFR 1480

Legal Deadline: None

Abstract: This rule will be codified as the new 48 CFR 1480 instead of the old 41 CFR Part 14H to establish policies and procedures concerning the Bureau of Indian Affairs acquisition management system. This issuance pertains to contracts (excluding building construction) entered pursuant to the Act of June 25, 1910 (25 U.S.C. 47), which is usually referred to as the "Buy Indian Act."

Timetable:

Action	Date	FR Cite
NPRM	10/08/82	47 FR 44678
Proposed	11/15/84	49 FR 45187
Final Action	09/00/86	

Small Entity: Yes

Additional Information: Originally scheduled: April 1982.

Agency Contact: Peter A. Campanelli, Procurment Analyst, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-5125

RIN: 1076-AA56

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Indian Affairs (BIA)

Completed Actions

1186. SOCIAL WELFARE-FINANCIAL ASSISTANCE INDIAN CHILD WELFARE

Significance: Agency Priority

Legal Authority: 25 USC 13

CFR Citation: 25 CFR 20; 25 CFR 23

Legal Deadline: Statutory, September 30, 1985

Abstract: Public Law 97-394 requires the Bureau of Indian Affairs to impose a rateable reduction in General Assistance (GA) grant payments to eligible Indian clientele. When implemented, the rateable reduction will vary among states in that it will be identical in amount to the reductions established by states in the Administration of their respective Aid to Families with Dependent Children programs. In the past, the Bureau has made GA grant payments at the full need levels established by the states. The effect of applying a rateable reduction will be reduced program costs.

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Timetable:

Action	Date	FR Cite
NPRM	01/11/84	49 FR 1381
NPRM Comment Period End	02/21/84	
Final Action	09/30/85	50 FR 39924

Small Entity: No

Agency Contact: Dr. Eddie F. Brown, DSW, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue NW, Code 450 - Room 312-S, Washington, DC 20245, 202 343-6434

RIN: 1076-AA77

1187. FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAM

Significance: Regulatory Program

Legal Authority: PL 98-473; 25 USC 13

CFR Citation: 25 CFR 20

Legal Deadline: Statutory, September 30, 1985

Abstract: BIA will amend rule according to directions of Congress, Public Law 98-473. No alternatives are being considered because of legal opinion from Office of the solicitor. The action's potential cost is unknown at this time. Public Law 98-473 requires the BIA to promulgate regulations for BIA's assistance program which would clearly and generally define eligibility for general public welfare assistance or the availability of general public welfare assistance from a state.

Timetable:

Action	Date	FR Cite
Final Action rateable reductions	03/29/85	50 FR 12527
Final Action Effective rateable reductions	04/29/86	
NPRM	07/26/85	50 FR 30686
NPRM Comment Period End	08/26/85	50 FR 30686
NPRM general assistance payments	09/00/85	
Final Action	09/30/85	50 FR 39924
Final Action Effective	09/30/86	50 FR 39924

Small Entity: No

Public Compliance Cost: Initial Cost: 90; Yearly Recurring Cost: 90; Base Year for Dollar Estimates: 1985

Affected Sectors: Multiple

Government Levels Affected: State, Federal

Analysis: n/a

Agency Contact: Dr. Eddie F. Brown, DSW, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Code 450 - Room 312-S, Washington, DC 20245, 202 343-6434

RIN: 1076-AB44

1188. CARE OF INDIAN CHILDREN IN CONTRACT SCHOOLS

Legal Authority: 5 USC 301

CFR Citation: 25 CFR 22

Legal Deadline: None

Abstract: 25 CFR 22 is being reviewed as scheduled under the Bureau's Regulatory Reform Act.

Timetable:

Action	Date	FR Cite
Withdrawn See 1076-AB76	01/00/86	

Small Entity: Undetermined

Agency Contact: Ed Brown, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 18th & C Sts. NW, Washington, DC 20245, 202 343-6434

RIN: 1076-AB50

1189. INDIAN CHILD WELFARE ACT – MULTI YEAR DEVELOPMENT GRANTS

Significance: Agency Priority

Legal Authority: 25 USC 1952; 25 USC 2; 25 USC 9

CFR Citation: 25 CFR 23.37

Legal Deadline: None

Abstract: Indian Child Welfare Act - This rule will be amended to reflect the requirements to implement the Indian Child Welfare Act program. The Submission of MultiYear Developmental Grants will enable eligible applicants to operate three year projects. This amendment reflects a change from an annual submission to submissions on a three year basis.

Timetable:

Action	Date	FR Cite
NPRM	01/11/84	49 FR 1381
Final Action	12/16/85	50 FR 51244
Final Action Effective	12/16/86	50 FR 51244

Small Entity: No

Agency Contact: Dr. Eddie F. Brown, DSW, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Code 450 - Room 312-S, Washington, DC 20245, 202 343-6434

RIN: 1076-AA85

1190. MINIMUM ACADEMIC STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN AND NATIONAL CRITERIA FOR DORMITORY SITUATIONS

Significance: Regulatory Program

Legal Authority: 25 USC 2001; 25 USC 2002; PL 95-561

CFR Citation: 25 CFR 36

Legal Deadline: None

Abstract: This rule will prescribe minimum academic standards for the basic education of Indian children in Bureau schools and provide the national criteria for use in the operations of dormitories by the Bureau. This Part has been redesignated from 25 CFR Part 31e.

Timetable:

Action	Date	FR Cite
NPRM	03/23/83	
NPRM Comment Period End	05/09/83	
Final Action	09/09/85	50 FR 36798
Final Action Effective	10/09/85	50 FR 36798

Small Entity: No

Additional Information: Originally scheduled: January 1980.

Agency Contact: George B. Scott, Education Specialist, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20245, 202 343-4872

RIN: 1076-AA08

1191. SPECIAL EDUCATION

Significance: Agency Priority

Legal Authority: PL 94-142

CFR Citation: 25 CFR 45

Legal Deadline: None

Abstract: This rule will establish standards for the provision of special education and related services to Indian children in schools operated by or under the authority of the Bureau. This Part has been redesignated from 25 CFR Part 31k.

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Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	09/29/80	45 FR 64472
NPRM Comment Period End	11/30/80	
Final Action	06/23/85	50 FR 34094
Final Action Effective	10/07/85	50 FR 34094

Small Entity: No

Additional Information: DETERMINATION UNDER E.O. 12291: The effects of this document were previously considered under the provisions of E.O. 12044 which was revoked by E.O. 12291 on February 17, 1981. The document will be reconsidered under the provisions of E.O. 12291 before it is published as a final rule. Originally scheduled: January 1980.

Public Compliance Cost: Base Year for Dollar Estimates: 1981

Agency Contact: Charles Cordova, Chief, Branch of Exceptional Education, Department of the Interior, Bureau of Indian Affairs, 18th and C Streets, NW, Washington, DC 20240, 202 343-6675

RIN: 1076-AA14

1192. PREPARATION OF ROLLS OF INDIANS

Significance: Agency Priority

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 25 USC 1401 et seq

CFR Citation: 25 CFR 61

Legal Deadline: None

Abstract: The regulations contained in 25 CFR Part 61 are general regulations that govern the compilation of rolls of Indians by the Secretary of the Interior when required to do so under statutory authority. This rulemaking action will revise the regulations to add certain portions which will govern the preparation of specific rolls under statutory authority, delete other portions that govern the preparation of certain rolls which have subsequently been completed and for which there is no further need or applicability, and make general revisions of an administrative nature including the elimination of sex-based and gender specific terminology. This Part has been redesignated from 25 CFR Part 41.

Timetable:

Action	Date	FR Cite
NPRM	06/17/85	50 FR 25062
NPRM Comment Period End	07/17/85	
Final Action	11/08/85	50 FR 46427
Final Action Effective	12/09/85	50 FR 46427

Small Entity: No

Agency Contact: Kathleen L. Slover, Tribal Enrollment Specialist, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3594

RIN: 1076-AB07

1193. PAYMENT OF ATTORNEY FEES WITH APPROPRIATED FUNDS

Legal Authority: 25 USC 13; 25 USC 450 et seq

CFR Citation: 25 CFR 89.40 to 43

Legal Deadline: None

Abstract: There is a question of whether child custody proceedings under the Indian Child Welfare Act and requests for non-litigation services should comply with part 89. There is also a question of whether Indian allottees are eligible to receive appropriated funds.These issues will be addressed via the rulemaking process.

Timetable:

Action	Date	FR Cite
End Review	01/00/86	

Small Entity: Not Applicable

Agency Contact: M. Franklin Keel, Staff Assistant, Department of the Interior, Bureau of Indian Affairs, Office of Trust Responsibilities, 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-5474

RIN: 1076-AB53

1194. LOANS TO INDIANS FROM THE REVOLVING LOAN FUND

Legal Authority: 25 USC 70N; 77 Stat. 301

CFR Citation: 25 CFR 101

Legal Deadline: None

Abstract: Loans from the Indian Revolving Loan Fund shall be made for purposes which will improve and promote the economic development on Indian reservations. Individual loan ceiling increased from $100,000 per applicant to $350,000. In addition, it opened the program to individuals whose tribes had their own relending program.

Timetable:

Action	Date	FR Cite
Withdrawn Duplicates RIN 1076-AB04.	01/00/86	

Small Entity: No

Affected Sectors: None

Agency Contact: Joseph Weller, Chief, Division of Financial Assistance, Department of the Interior, Bureau of Indian Affairs, Rm. 4060-Main Int., 1951 Constitution Avenue, NW, Washington, DC 20245, 202 343-3657

RIN: 1076-AB64

1195. INDIVIDUAL INDIAN MONEY ACCOUNTS

Legal Authority: 5 USC 301; 25 USC 2; 25 USC 9; 43 USC 1457

CFR Citation: 25 CFR 115

Legal Deadline: None

Abstract: This rule, which is scheduled for review, describes the operation of the Individual Indian Monies Accounts maintained by the Bureau for individual Indians and groups.

Timetable:

Action	Date	FR Cite
NPRM	03/19/85	50 FR 10980
NPRM Comment Period End	04/18/85	50 FR 10980
Final Action	01/22/86	51 FR 2873
Final Action Effective	02/21/86	51 FR 2873

Supplemental Timetable:
on other reservations
Identify commercial banks 06/01/86

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1983.

Public Compliance Cost: Initial Cost: $0

Affected Sectors: None

Agency Contact: Barbara Davis, Trust Funds Specialist, Division of Accounting Management, Department of the Interior, Bureau of Indian Affairs, 1951 Constitution Avenue, NW, Rm. 4513, Main Interior, Washington, DC 20245, 202 343-3963

RIN: 1076-AA69

DOI—BIA

Completed Actions

1196. MANAGEMENT OF OSAGE JUDGEMENT FUNDS FOR EDUCATION AND SOCIO-ECONOMIC PROGRAMS

Legal Authority: 88 Stat 1295

CFR Citation: 25 CFR 122

Legal Deadline: None

Abstract: 25 CFR 122 is being reviewed as scheduled under the Bureau's Regulatory Reform Act.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/85	
End Review	12/31/85	

Small Entity: Undetermined

Agency Contact: Esther Whalen, Education Specialist, Department of the Interior, Bureau of Indian Affairs, 18th & C Sts. NW, Washington, DC 20245, 202 343-4871

RIN: 1076-AB51

[FR Doc. 86-8521 Filed 04-18-86; 8:45 am]

BILLING CODE 4310-10-T

DEPARTMENT OF THE INTERIOR (DOI)

Minerals Management Service (MMS)

Prerule Stage

1197. ADMINISTRATION OF 20 PERCENT SET ASIDE

Significance: Regulatory Program

Legal Authority: 15 USC 751

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Regulation for 20 percent set aside administration is needed for oversight of section 8(b)(7) of the Outer Continental Shelf Lands Act. The alternative is no oversight. The potential benefits and costs of this action have not been determined.

Timetable:

Action	Date	FR Cite
Notice to User Refiners and Producers	04/00/86	
NPRM	07/00/86	
Final Action	12/00/86	

Small Entity: Undetermined

Agency Contact: Dennis Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center-BLDG 85 (628), Denver, Colorado 80225, 303 231-3432

RIN: 1010-AA73

1198. DEVELOPMENT AND PRODUCTION OPERATIONS FOR NONENERGY MINERALS ON THE OUTER CONTINENTAL SHELF

Significance: Regulatory Program

Legal Authority: 43 USC 1334

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Proposes the desirability of new regulations to govern Production and Development Operations on the Outer Continental Shelf (OCS) for minerals other than oil, gas, and sulphur under the authority of the OCS Lands Act; and requests comments and recommendations from interested parties. Alternative is to specify requirements in a lease document. Promulgation of regulation is not expected to result in costs significantly more than those incurred through the unregulated use of good commercial practices. The regulation will require that hard mineral operations are conducted in a manner that will ensure safety and protection of the environment.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/86	
ANPRM Comment Period End	06/00/86	

Small Entity: Undetermined

Agency Contact: Jane Roberts, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 860-7916

RIN: 1010-AA81

1199. NONDISCRIMINATION IN EMPLOYMENT IN THE OUTER CONTINENTAL SHELF

Legal Authority: 43 USC 1863; 43 USC 1331 et seq; 42 USC 2000d to 2000e

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: There are no provisions in current Minerals Management Service regulations which provide a mechanism for remedy of unlawful discrimination in Outer Continental Shelf (OCS) employment. Rules would be developed to provide a process whereby persons who believed they had been denied employment because of unlawful discrimination would have a forum. These rules would implement the purposes of section 604 of the OCS Lands Act Amendment of 1978. Alternatives considered are no action, issuance of a policy statement and no rules, and proposal of extensive affirmative action rules similar to those rescinded in the past. Very few complaints are expected to arise as there has been no evidence of discrimination to date. Therefore, costs are expected to be minimal. Benefits would be the assurance that the requirements of section 604 are being fully carried out.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Mary McDonald, Program Analyst, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 860-7916

RIN: 1010-AA87

1200. VALUATION OF OIL FOR ROYALTY PURPOSES FROM FEDERAL AND INDIAN LEASES

Significance: Regulatory Program

Legal Authority: 30 USC 1701 et seq

CFR Citation: 30 CFR 206; 25 CFR 211; 25 CFR 212

Legal Deadline: None

Abstract: Consistent oil valuation for royalty computation purposes from Federal and Indian leases will be prepared in response to a Linowes Commission recommendation that the Minerals Management Service issue detailed, definitive product valuation guidelines.

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DOI—MMS

Prerule Stage

Timetable:

Action	Date	FR Cite
Notice of Proposed Guidelines	11/29/82	47 FR 53822
Notice of Proposed Guidelines	12/21/82	47 FR 56871
ANPRM	02/05/86	51 FR 4507
ANPRM Comment Period End	04/07/86	
NPRM	09/00/86	

Small Entity: No

Additional Information: Merged in part from 1010-AA60 Submittal of Sales Contracts, Division Orders, and Similar Documents.

Agency Contact: William H. Feldmiller, Chief, Royalty Valuation and Standards, Department of the Interior, Minerals Management Service, Royalty Standards and Measurements Division, Denver Federal Center, MS 653, Bldg 85, Lakewood, CO 80225, 303 231-3184

RIN: 1010-AA39

1201. COMPUTATION OF OIL AND GAS TRANSPORTATION ALLOWANCE

Significance: Regulatory Program

Legal Authority: 30 USC 1701 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: These regulations will establish consistent procedures for the determination of the oil and gas transportation deduction for the purpose of royalty computations. The regulations are in response to a Linowes Commission finding that current procedures are inconsistent throughout the royalty program.

Timetable:

Action	Date	FR Cite
ANPRM	02/05/86	51 FR 4507
ANPRM Comment Period End	04/07/86	
NPRM	09/00/86	

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1983.

Agency Contact: William H. Feldmiller, Chief, Royalty Valuation and Standards, Department of the Interior, Minerals Management Service, Royalty Standards & Measurements Div., Denver Federal Center, MS 653, Bldg 85, Lakewood, CO 80225, 303 231-3184

RIN: 1010-AA45

1202. COMPUTATION OF GAS PROCESSING DEDUCTIONS

Significance: Regulatory Program

Legal Authority: 30 USC 1701 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: These regulations will provide consistent procedures for the determination of the gas processing deduction for the purpose of royalty computations. The regulations are in response to a Linowes Commission finding that current procedures are inconsistent throughout the royalty program.

Timetable:

Action	Date	FR Cite
ANPRM	02/05/86	51 FR 4507
ANPRM Comment Period End	04/07/86	
NPRM	09/00/86	

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1983.

Agency Contact: William H. Feldmiller, Chief, Royalty Valuation and Standards, Department of the Interior, Minerals Management Service, Royalty Standards & Measurements Div., Denver Federal Center, MS 653, Bldg 85, Lakewood, CO 80225, 303 231-3184

RIN: 1010-AA46

1203. VALUATION OF GAS AND GAS PRODUCTS FOR ROYALTY PURPOSES, FROM FEDERAL AND INDIAN LEASES

Significance: Regulatory Program

Legal Authority: 30 USC 1701 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: Consistent gas and gas products valuation regulations for Royalty computation purposes, from Federal and Indian leases will be prepared. These regulations are in response to a Linowes Commission recommendation that Minerals Management Service issue detailed, definitive product valuation regulations. These regulations will provide clear terms and procedures and will help clarify areas which are ambiguous. A part of RIN 1010-AA30 and all of RIN 1010-AA40 were merged into this rulemaking.

Timetable:

Action	Date	FR Cite
Notice of Proposed Guidelines	11/29/82	47 FR 53822
Notice of Proposed Guidelines	12/21/82	47 FR 56871
ANPRM	02/05/86	51 FR 4507
ANPRM Comment Period End	04/07/86	
NPRM	09/00/86	

Small Entity: Undetermined

Agency Contact: William H. Feldmiller, Chief, Royalty Valuation and Standards, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 653, Bldg 85, Lakewood, CO 80225, 303 231-3184

RIN: 1010-AA54

1204. VALUATION OF COAL FOR ROYALTY PURPOSES FROM FEDERAL AND INDIAN LEASES

Significance: Regulatory Program

Legal Authority: 30 USC 192 et seq

CFR Citation: 30 CFR 206

Legal Deadline: None

Abstract: This regulation will provide consistent valuation procedures for coal for the purpose of royalty computations. It is being prepared in response to a Linowes Commission recommendation for a detailed definitive product valuation regulation which contains clear terms and procedures.

Timetable:

Action	Date	FR Cite
ANPRM	02/05/86	51 FR 4507
ANPRM Comment Period End	04/07/86	
NPRM	09/00/86	

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1983. Merged in part from 1010-AA42, Submittal of Sales Contracts, Division Orders, and Similar Documents.

Agency Contact: William H. Feldmiller, Chief, Royalty Valuation and Standards, Department of the Interior, Minerals Management Service, Denver Federal Center, Bldg. 85, Lakewood, CO 80225, 303 231-3184

RIN: 1010-AA83

DOI—MMS

Prerule Stage

1205. DIRECT PAYMENT OF ROYALTIES TO INDIAN TRIBES OR ALLOTTEES

Legal Authority: 25 USC 396; 25 USC 476; 25 USC 477; 25 USC 509

CFR Citation: 30 CFR 218; 25 CFR 211; 25 CFR 212

Legal Deadline: None.

Abstract: The Minerals Management Service is considering direct payment of minerals royalties to Tribes or allottees. Annually, about $175 million is distributed to approximately 20,000 individual allottees and Tribes. The payments are sent by the payor to MMS and from MMS to the Bureau of Indian Affairs for distribution. The present system increases the risk of making late or wrong payment and is extremely expensive and inefficient to administer. Also, accountability is difficult to establish under the present system.

Timetable:

Action	Date	FR Cite
ANPRM	11/13/84	49 FR 44924
ANPRM Comment Period End	01/13/85	
ANPRM - Second	03/05/86	51 FR 7584
Complete Initial Analysis of Comments	09/00/86	

Small Entity: Undetermined

Agency Contact: Mary McDonald, Program Analyst, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 860-7916

RIN: 1010-AA86

1207. AIR QUALITY

Significance: Regulatory Program

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.57

Legal Deadline: None

Abstract: Amendments to the DOI Air Quality regulation for oil and gas operations will be proposed for Outer Continental Shelf areas adjacent to California. The changes would provide additional safeguards for those pollutants which could be critical to air quality in the region. A determination of potential costs and benefits cannot be made until responses to the Advance Notice of Proposed Rulemaking are analyzed. The DOI is conducting a conflict assessment to determine the likelihood of the interested and affected parties being able to reach an agreement on an air quality regulatory program. If DOI determines to participate in negotiations with affected parties, then the DOI will initiate negotiated rulemaking procedures with State and local governments, environmental groups, and the oil and gas industry.

Timetable:

Action	Date	FR Cite
ANPRM	01/07/85	50 FR 836
ANPRM Comment Period End	03/08/85	
Begin conflict assessment phase of negotiated rulemaking process	04/15/86	
Determine potential for negotiated agreement	07/30/86	
Reach agreement on a negotiated rule or begin development of rule through standard processes	01/00/87	
Complete Determination of Effects of Rules	04/00/87	
NPRM	05/00/87	
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: John Mirabella, General Engineer, Department of the Interior, Minerals Management Service, Mail Stop 646, Reston, VA 22091, 703 860-7916

RIN: 1010-AA61

1208. SHARING OF PROPRIETARY INFORMATION WITH STATES

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 252.7; 30 CFR 251.14; 30 CFR 250.4

Legal Deadline: None

Abstract: Elaborates more fully MMS policy with regard to sharing proprietary information with states which is required by sections 6(g) and 26(d) of the OCS Lands Act. The elaboration of the MMS policy will have no economic effect. The alternative is to not promulgate this amendment.

1206. REMOVAL OF POSTPRODUCTION PLATFORMS

Significance: Regulatory Program

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250

Legal Deadline: None

Abstract: Information is being solicited concerning requirements governing removal of postproduction platforms. Changes could provide more latitude for disposition of platforms following the completion of OCS oil and gas operations. Benefits could include increased development of marine life, improvements in private and commercial fishing, and reduced costs to industry. Alternative is to leave existing rules unchanged.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/84	
End Review	04/00/86	

Small Entity: Undetermined

Agency Contact: Dennis Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 628, Bldg 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AA78

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Prerule Stage

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Jane A. Roberts, Legislative Specialist, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 860-7916

RIN: 1010-AA67

DEPARTMENT OF THE INTERIOR (DOI)

Minerals Management Service (MMS)

Proposed Rule Stage

1208. ● ROYALTY-IN-KIND CRUDE OIL

Significance: Regulatory Program

Legal Authority: 30 USC 181 et seq; 43 USC 1331 et seq; 30 USC 1701 et seq

CFR Citation: 30 CFR 208; 30 CFR 209

Legal Deadline: None

Abstract: The Royalty-in-Kind provisions of these rules, some of which were transferred from the Department of Energy, will be revised in order to simplify and streamline the Federal Government's process for selling its Royalty crude oil. The contents of existing 30 CFR 208 and 30 CFR 209 will be combined at new 30 CFR 208. 30 CFR 209 will be removed.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: James R. Dotlefs, Chief, Fiscal Accounting Division, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg 85, Denver, CO 80225, 303 231-3286

RIN: 1010-AA31

1210. ● ROYALTY PAYMENTS BASED ON PROPOSED AGREEMENT ALLOCATIONS

Legal Authority: 30 USC 181 et seq

CFR Citation: 30 CFR 210

Legal Deadline: None

Abstract: Rules have not been established for Royalty payment on Federal and Indian leases committed to Federally approved exploratory unit agreements that are pending final approval of an initial participating area or expansion of existing participating area by the Bureau of Land Management (BLM). The new rule would require reports and payments of royalties for onshore Federal and Indian gas leases committed to the unit agreements. The costs/benefits for this rulemaking have not been determined.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Undetermined

Agency Contact: James R. Dotlefs, Chief, Fiscal Accounting Division, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 662, Bldg 85, Lakewood, CO 80225, 303 231-3286

RIN: 1010-AA94

1211. OIL AND GAS AND SULPHUR OPERATIONS ON THE OUTER CONTINENTAL SHELF (OCS)

Significance: Regulatory Program

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250, (Revision)

Legal Deadline: None

Abstract: The rules at 30 CFR 250 will be revised by consolidating regulations, OCS Orders, Notices to Lessees, and related offshore operating requirements into a unified body of regulations; eliminating burdensome and counterproductive requirements; adding performance standards; and simplifying and streamlining these rules to the maximum extent practicable. Other alternatives considered were not revising the regulations and revising only those regulations identified by industry.

Timetable:

Action	Date	FR Cite
NPRM	03/16/88	
NPRM Comment Period End	06/00/88	
Complete Initial Review of public comments	10/00/88	
Complete draft of Final Rule	01/00/87	

Small Entity: Undetermined

Additional Information: Merged in whole or in part into one rulemaking: 1010-AA11, 30 CFR 250.70 and .80, Penalties; 1010-AA13, 30 CFR 250.3, Disclosure of Information; 1010-AA25, OCS Order No. 2, para. 8, Safety Requirements for Drilling Operations in a H2S Environment; 1010-AA26, OCS Order No. 6, Well Completion of Oil & Gas Wells; 1010-AA28, OCS Order No. 11, Oil & Gas Production Rates, Prevention Waste, & Protection of Correlative Rights; 1010-AA32, 30 CFR 250.45, Reports of Accidents & Malfunctions; 1010-AA34, 30 CFR 250.75, Self-Inspection; 1010-AA47, 30 CFR 250.80-2, Remedies & Penalties; 1010-AA48, 30 CFR 250, Environmental Reports; 1010-AA49, 30 CFR 250, Protection of Cultural Resources; 1010-AA50, 30 CFR 250.35, Effects of Drilling & Reworking on Lease Term; 1010-AA51, OCS Order No. 5, Production Safety Systems; 1010-AA52; OCS Order No. 9, Pipelines.

DOI—MMS

Proposed Rule Stage

Agency Contact: David A. Schuenke, Chief, Branch of Rules, Department of the Interior, Minerals Management Service, Mail Stop 646, Reston, VA 22091, 703 860-7916

RIN: 1010-AA53

1212. ● SAFETY AND POLLUTION PREVENTION EQUIPMENT

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250 (OCS Order No. 5)

Legal Deadline: None

Abstract: References to standards incorporated by reference in current Minerals Management Service Orders are inconsistent and, in some case, redundant. The rulemaking would delete superfluous references, make all other references consistent, and update the references to standards to the current edition.

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	
NPRM Comment Period End	06/30/86	

Small Entity: Undetermined

Agency Contact: William S. Cook, Petroleum Engineer, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Dr., Reston, VA 22091, 703 860-7916

RIN: 1010-AA88

1213. ● EXTENSION OF PROTECTION OF PROPRIETARY DATA AND INFORMATION UNTIL A SUBSEQUENT LEASE SALE IN AN AREA

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250.3; 30 CFR 251.14

Legal Deadline: None

Abstract: In some instances, current regulations result in release of proprietary data and information before the company which collected the data and information is able to use it during a lease sale in the area to which the data and information pertain. The proposed rule will revise the regulations to ensure that parties generating proprietary data and information are able to use the data and information in at least one lease sale. The costs or benefits of this rulemaking have not been determined but are not expected to be major.

Timetable:

Action	Date	FR Cite
NPRM	06/05/86	
NPRM Comment Period End	06/15/86	

Small Entity: Undetermined

Agency Contact: John Mirabella, General Engineer, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 860-7916

RIN: 1010-AA93

1214. ● BOREHOLE ABANDONMENT

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250.44

Legal Deadline: None

Abstract: There are no provisions in current Minerals Management Service regulations which address the requirements for the temporary abandonment of a borehole. This revision allows an operator to temporarily abandon a borehole in an environmentally sound manner. There are no potential additional costs as the rule reflects current industry practice. The benefits are an operator may be able to utilize a drilled well at a later point rather than immediately abandoning it, thereby reducing the cost of operations. The requirements in the amendment will ensure that the temporarily abandoned wells will not constitute a hazard to navigation or other uses of the ocean, or to the environment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
NPRM Comment Period End	07/00/86	

Small Entity: Undetermined

Agency Contact: William S. Cook, Petroleum Engineer, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 860-7916

RIN: 1010-AA86

1215. ACCIDENTS, FIRES, AND MALFUNCTIONS FACT-FINDINGS PROCEEDINGS

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250.45(c), (new)

Legal Deadline: None

Abstract: Proposes to establish procedures to obtain testimony from witnesses or persons who have knowledge of serious accidents, fires, blowouts, or spills that occurred during oil and gas and sulphur operations in the Outer Continental Shelf. The testimony would help accident investigation panels to determine the cause or probable cause of an accident under investigation. The procedures would facilitate meetings of investigatory panels and would reduce legal challenges to future Minerals Management Service fact-finding investigations. The alternative would be not to have procedures. The proposed rule is procedural in nature; therefore, it does not imply cost.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Mario Rivero, Petroleum Engineer, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 860-7916

RIN: 1010-AA86

1216. ● EMERGENCY EVACUATION PLANS

Legal Authority: 43 USC 1331 et seq

CFR Citation: 30 CFR 250.47

Legal Deadline: None

Abstract: There are no provisions in current Minerals Management Service regulations requiring the submission of evacuation plans for fixed manned facilities on the OCS. The costs relative to this action would be that of preparing and submitting the document. The benefit is ensuring that adequate evacuation plans exist for all fixed facilities to ensure that fatalities and injuries during emergency evacuation are minimized.

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	
NPRM Comment Period End	07/31/86	

Small Entity: Undetermined

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Proposed Rule Stage

Agency Contact: William S. Cook, Petroleum Engineer, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 860-7916

RIN: 1010-AA95

1217. PROSPECTING FOR NONENERGY MINERALS ON THE OUTER CONTINENTAL SHELF

Significance: Regulatory Program

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 257, or a new part to be determined

Legal Deadline: None

Abstract: Proposes the desirability of new regulations to govern exploration on the Outer Continental Shelf (OCS) for minerals other than oil, gas, and sulphur under the authority of the OCS Lands Act; and requests comments and recommendations from interested parties. Alternative is to specify requirements in a permitting document rather than in regulations. Promulgation of regulations is not expected to result in costs significantly more than those incurred through the unregulated use of good commercial practices. The rules will require that hard mineral operations will be conducted in a manner which will ensure safety and protection of the environment.

Timetable:

Action	Date	FR Cite
ANPRM	12/07/84	49 FR 47871
ANPRM Comment Period End	04/08/85	
NPRM	04/00/86	
NPRM Comment Period End	06/00/86	

Small Entity: Undetermined

Agency Contact: Jane Roberts, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 860-7916

RIN: 1010-AA71

1218. ISSUANCE OF LEASES FOR NONENERGY MINERALS ON THE OUTER CONTINENTAL SHELF

Significance: Regulatory Program

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 256, or new part to be determined

Legal Deadline: None

Abstract: Proposes the desirability of new regulations to govern lease issuance on the Outer Continental Shelf (OCS) for minerals other than oil, gas, and sulphur under the authority of the OCS Lands Act; and requests comments and recommendations from interested parties. Alternative is to not have leasing requirements in regulations. Promulgation of regulation for leasing of hard mineral resources is not expected to add to the cost to industry. Regulations will ensure uniform leasing policy for all interested parties.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/85	
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Jane Roberts, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 860-7916

RIN: 1010-AA82

1219. APPEALS PROCEDURES

Legal Authority: 25 USC 396; 25 USC 396a; 30 USC 181 to 287; 30 USC 351 to 359; 30 USC 1001 to 1026; 30 USC 1701 to 1757; 43 USC 1331 to 1356

CFR Citation: 30 CFR 290

Legal Deadline: None

Abstract: Revisions to 30 CFR 290 are needed to assure that the administrative appeals procedures are compatible with the newly adopted civil penalty regulations of 30 CFR 241, are in accord with current organizational configurations, and contain new provisions concerning filing dates and the submission of confidential information. Persons exercising administrative appeals rights would be required to identify information that they claim is exempt from public disclosure and to provide second copies of appeals documents. The procedural revisions should increase efficiencies in processing appeals and reduce risks of inadvertent disclosure of private information. The maximum estimated total cost of the proposed revisions is not expected to exceed $5,000 per year for all affected persons.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: C. Eric Hager, Staff Assistant (Appeals), Department of the Interior, Minerals Management Service, Mail Stop 623, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 860-7251

RIN: 1010-AA68

DEPARTMENT OF THE INTERIOR (DOI)

Final Rule Stage

Minerals Management Service (MMS)

1220. NOTICE TO LESSEES NO. 5 (NTL-5) VALUATION OF NATURAL GAS PRODUCED FROM ONSHORE FEDERAL AND INDIAN LEASES

Legal Authority: 30 USC 181 et seq

CFR Citation: 30 CFR 206.13

Legal Deadline: None

Abstract: Notice to Lessees No. 5 (NTL-5) requires payment of royalty on gas based on the higher of market price or the Federal Energy Regulatory Commission (FERC) ceiling price. This requirement is not appropriate in times of market "softness" when demand is low and market prices are universally lower than the FERC ceiling price. This proposal would allow royalty to be paid on the market price when it is lower than the FERC ceiling price. The alternative is no action which would result in the adverse effect of litigation by the industry against the Minerals Management Service.

Timetable:

Action	Date	FR Cite
NPRM	01/03/86	51 FR 260
NPRM Comment Period End	02/03/86	
Final Action	04/15/86	

DOI—MMS

Final Rule Stage

Small Entity: No

Additional Information: This proposal is for the purpose of correcting inequities existing as the result of imposing the present NTL-5 during a period of "softness" in the gas market. The revised NTL-5 is intended to be an interim action pending promulgation of final product valuation regulation for gas under RIN 1010-AA54.

Agency Contact: Dennis Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 628, Bldg 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AA86

1221. INFORMATION COLLECTION - SOLID MINERALS

Legal Authority: 30 USC 189; 30 USC 359; 25 USC 396d

CFR Citation: 30 CFR 210; 30 CFR 218

Legal Deadline: None

Abstract: The Department of the Interior intends to promulgate an interim rule requiring coal and other solid mineral operators/lessees to provide information to start-up and operate the Auditing and Financial System (AFS) for solid minerals produced on Federal and Indian lands. The data collected will be used to document payments, maintain royalty accounts, and for audits.

Timetable:

Action	Date	FR Cite
NPRM	06/20/85	50 FR 25585
NPRM Comment Period End	07/22/85	
Final Action	04/15/86	

Small Entity: Undetermined

Agency Contact: Dennis Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 628, Bldg 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AA62

1222. IMPLEMENTATION AND OPERATION OF THE PRODUCTION ACCOUNTING AND AUDITING SYSTEM (PAAS)

Legal Authority: 30 USC 1701 et seq; 30 USC 181 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: The proposed regulations set out the specific reports required from operators of Federal and Indian Leases for the implementation and operation of the Production Accounting and Auditing System. This will ensure tighter controls on Federal lands and thus result in additional revenues for the Government.

Timetable:

Action	Date	FR Cite
NPRM	04/01/85	50 FR 12928
NPRM Comment Period End	06/17/85	
Final Action	04/15/86	

Small Entity: No

Agency Contact: Dennis Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 628, Bldg 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AA55

1223. ● EXTENDING PROPRIETARY TERMS IN AREAS UNAVAILABLE FOR LEASING

Legal Authority: 43 USC 1352

CFR Citation: 30 CFR 250.3; 30 CFR 251.14-1

Legal Deadline: None

Abstract: Amends rules to provide for extensions of the terms during which data and information are not releasable to the public without consent of the lessees or permittees. The terms would be extended for areas of the OCS designated by the Secretary as unavailable for leasing. The rule would protect the proprietary nature of data and information from areas unavailable for leasing. When areas are unavailable, data and information cannot be used commercially as it was intended and the Government does not get the benefit of data and information that would have been collected had they been able to be used commercially. Not providing extensions would harm owners of already collected data and information and discourage collection of additional data and information. This rule is expected to affect the data and information generated from 20 permits per year. The value of the data and information can be estimated based on an average of $1,000,000 per permit to generate the data and information. The maximum impact of the proposed rule is estimated to be the cost of generating the data and information or $20,000,000 per year.

Timetable:

Action	Date	FR Cite
NPRM	02/20/86	51 FR 6133
Final Action	06/00/86	

Small Entity: No

Agency Contact: Jane A. Roberts, Legislative Specialist, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 860-7916

RIN: 1010-AA97

1224. REIMBURSEMENT TO PERMITTEES, GEOPHYSICAL

Legal Authority: 43 USC 1331; 43 USC 1352; PL 99-190

CFR Citation: 30 CFR 251.13(b), (Revision); 30 CFR 252.3

Legal Deadline: None

Abstract: Regulation revisions implement certain provisions concerning reimbursement contained in the 1986 appropriations act for MMS. The act stipulates that permittees engaged in geological and geophysical exploration on the Outer Continental Shelf be treated the same as lessees with respect to reimbursement on processed geophysical data provided by permittees to the MMS.

Timetable:

Action	Date	FR Cite
Final Action	05/00/86	
Final Action Effective	06/00/86	

Small Entity: Undetermined

Agency Contact: Mary B. McDonald, Program Analyst, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 860-7916

RIN: 1010-AA90

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Minerals Management Service (MMS)

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1225. SUSPENSION AND DEBARMENT AS ADDITIONAL PENALTY

Legal Authority: 30 USC 181 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Minerals Leasing Act and Federal Oil and Gas Royalty Management Act authorize assessing significant penalties for the failure to pay royalties. These penalties include financial penalties, criminal sanctions, and the authority to revoke leases. Although debarring authority is not explicitly granted, we believe we have that authority. It is needed because the other remedies may not be effective. The process approval is complicated and time consuming. There may be little incentive for a company to comply at the outset. Debarment would provide that incentive. The alternative considered is operating only under the present penalty regulations at 30 CFR 241.

Timetable:

Action	Date	FR Cite
Withdrawn It is determined that rulemaking is not necessary.	02/00/86	

Small Entity: Undetermined

Agency Contact: Dennis Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center-BLDG 85 (628), Denver, Colorado 80225, 303 231-3432

RIN: 1010-AA72

1226. VALUATION OF SOLID MINERALS OTHER THAN COAL

Legal Authority: 30 USC 192 et seq; 25 USC 2102

CFR Citation: 30 CFR 201 to 249

Legal Deadline: None

Abstract: The proposed regulation will revise old and develop new sections to cover Royalty Management's increased responsibilities required by Federal Law. This would clarify existing regulations.

Timetable:

Action	Date	FR Cite
Withdrawn No action required at this time.	03/03/86	

Small Entity: Undetermined

Agency Contact: William H. Feldmiller, Chief, Royalty Valuation and Standards, Department of the Interior, Minerals Management Service, Denver Federal Center, Mail Stop 653, Bldg 85, Lakewood, CO 80225, 303 231-3184

RIN: 1010-AA56

1227. MISCELLANEOUS AMENDMENTS TO ROYALTY MANAGEMENT REGULATIONS

Legal Authority: 30 USC 181 et seq; 30 USC 1701 et seq

CFR Citation: 30 CFR 202; 30 CFR 212; 30 CFR 218

Legal Deadline: None

Abstract: The proposed amendments would ensure consistency with other Royalty Management regulations and would conform to present practices. The amendments include elimination of references in regulations to provide a monthly statement of account to lessees. The potential costs and benefits of this action have not been determined. The alternative is to continue the present system of inconsistency within Royalty Management regulations.

Timetable:

Action	Date	FR Cite
Withdrawn Merged in whole or part with 1010-AA30 and 1010-AA62	03/03/86	

Small Entity: Undetermined

Agency Contact: Dennis Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 628, Bldg 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AA80

1228. ROYALTY PAYMENTS ON TAKE OR PAY CONTRACTS

Legal Authority: 30 USC 1701 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: This action will reaffirm the Department's authority that royalties are due on proceeds under provisions of natural gas contracts on Federal and Indian lands. The potential costs and benefits of this action have not been determined. The alternative is not to promulgate this rule which would leave industry unclear as to what their obligations are under take or pay contracts.

Timetable:

Action	Date	FR Cite
Withdrawn Merged in whole with 1010-AA54	03/03/86	

Small Entity: Undetermined

Agency Contact: William H. Feldmiller, Chief, Royalty Valuation and Standards, Department of the Interior, Minerals Management Service, Denver Federal Center, Mail Stop 653, Bldg. 85, Denver, CO 80225, 303 231-3184

RIN: 1010-AA75

1229. DESIGNATION OF A SINGLE PAYOR FOR EACH FEDERAL AND INDIAN LEASE

Legal Authority: 30 USC 181 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: The Department of the Interior is considering the establishment of a single payor requirement for each Federal and Indian lease. This was a specific recommendation by the Secretary's Advisory Committee on Minerals Accountability. The potential costs and benefits of this action have not been determined.

Timetable:

Action	Date	FR Cite
ANPRM	12/06/84	49 FR 47624
ANPRM Comment Period End	01/07/85	
Withdrawn No action required at this time	03/03/86	

Small Entity: Undetermined

Agency Contact: Dennis Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 628, Bldg 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AA76

1230. ACCOUNTING ADJUSTMENT DATA LIMITATION

Legal Authority: 30 USC 1701 et seq

CFR Citation: 30 CFR 218

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Legal Deadline: None

Abstract: The regulation will limit accounting adjustments to 180 days after month of production by lessee. At present, accounting adjustments are made years later for very small amounts. There is a need to reduce the accounting entries to the account, which will generate a cost benefit. The potential costs and benefits of this action have not been determined. The alternatives of longer and shorter times have been considered, as well as maintaining the present system.

Timetable:

Action	Date	FR Cite
Withdrawn Adjustments are not significant to require rulemaking.	02/00/86	

Small Entity: Undetermined

Agency Contact: Dennis Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center-BLDG 85 (628), Denver, Colorado 80225, 303 231-3432

RIN: 1010-AA77

1231. CHARGES AND PENALTIES FOR LATE PAYMENT AND LATE REPORTING

Legal Authority: 31 USC 952; 96 Stat 1749 et seq

CFR Citation: 30 CFR 218

Legal Deadline: None

Abstract: This proposed rule would conform the Minerals Management Service Royalty Management regulations on non-payment and late payment of royalties, fees, and other assessments to the requirements of the Debt Collection Act of 1982 (DCA). This would be accomplished by requiring the payment of charges to cover the costs of processing and handling delinquent payments. The alternative to this action would be no action. That alternative would be contrary to law.

Timetable:

Action	Date	FR Cite
Withdrawn Rulemaking is not necessary to fulfill this statutory obligation	03/03/86	

Small Entity: No

Agency Contact: Dennis Whitcomb, Chief, Rules and Procedures Branch, Department of the Interior, Minerals Management Service, Denver Federal Center, MS 628, Bldg 85, Denver, CO 80225, 303 231-3432

RIN: 1010-AA91

1232. SUSPENSION OF OPERATIONS AND LEASE CANCELLATION

Legal Authority: 43 USC 1334

CFR Citation: 30 CFR 250.12

Legal Deadline: None

Abstract: Amends the regulations to require the granting of an automatic suspension of operations to permit time to carry out the activities described in an approved development and production plan for a Gulf of Mexico lease in water depths of 400 to 900 meters. Alternatives considered include maintaining the current policy of discretionary suspensions and granting longer primary terms in deeper water. The amendment is expected to cut costs and increase Federal revenues by eliminating some of the uncertainties of operating in deeper water.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/24/84	49 FR 17449
Overtaken by other action final rule (RIN 1010-AA89)	11/29/85	50 FR 49041

Small Entity: No

Agency Contact: Jane A. Roberts, Legislative Specialist, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 860-7818

RIN: 1010-AA84

1233. EIGHT-YEAR PRIMARY TERMS FOR LEASES IN 400 TO 900 METERS OF WATER

Legal Authority: 43 USC 1337(b)(2)

CFR Citation: 30 CFR 250.34-1; 30 CFR 256.37

Legal Deadline: None

Abstract: The amendment would provide 8-year primary terms for leases in water depths of 400 to 900 meters with a requirement to commence an exploratory well within the first 5 years of the term. The longer term is to provide the time needed to explore, develop, and produce in deeper water. Current rules provide a 5-year term with an automatic suspension of operations to carry out the activities set out in an approved development and production plan. The rule applies to the Gulf of Mexico only. Alternatives considered include extending the automatic suspension provisions to all OCS, granting lease terms between 5 and 10 years at various water depths from 300 to 900 meters, or leaving the rules as is. The industry is expected to realize increased profit from marginal leases and the government should receive higher bids because the risk of losing the lease is decreased.

Timetable:

Action	Date	FR Cite
NPRM	06/11/85	50 FR 24546
NPRM Comment Period End	07/11/85	
Final Action	11/29/85	50 FR 49041
Final Action Effective	12/30/85	

Small Entity: No

Agency Contact: Jane Roberts, Legislative Specialist, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 860-7818

RIN: 1010-AA89

1234. AREA ADJACENT TO A STATE

Legal Authority: 43 USC 1352

CFR Citation: 30 CFR 252.2(e)

Legal Deadline: None

Abstract: Amendment would revise the definition of area adjacent to a State. Current regulations give the definition as that portion of the OCS within a planning area if such planning area is bordered by that State. Under current rules New York and Rhode Island are not considered adjacent to the North Atlantic planning area but are adjacent to the Mid-Atlantic planning area. The amendment would deem both states adjacent to both planning areas for the purpose of inspecting proprietary information. Alternatives include leaving the current rule as is or deeming the states adjacent the North Atlantic planning area and not the Mid-Atlantic.

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Timetable:

Action	Date	FR Cite
NPRM	10/24/85	50 FR 43256
NPRM Comment Period End	11/25/85	
Final Action	03/28/86	51 FR 10361
Final Action Effective	04/25/86	

Small Entity: No

Agency Contact: Jane Roberts, Legislative Specialist, Department of the Interior, Minerals Management Service, Mail Stop 646, 12203 Sunrise Valley Drive, Reston, VA 22091, 703 860-7916

RIN: 1010-AA92

[FR Doc. 86-8261 Filed 04-18-86; 8:45 am]

BILLING CODE 4310-10-T

DEPARTMENT OF THE INTERIOR (DOI)

Proposed Rule Stage

Office of Surface Mining Reclamation and Enforcement (OSM)

1235. SUBCHAPTER A - GENERAL, APPLICABILITY

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 700.11; 30 CFR 704

Legal Deadline: None

Abstract: The lack of review procedures for operations meeting the two-acre exemption under the Surface Mining Control and Reclamation Act has led to difficulty in enforcing this provision of the Statute. Therefore, OSMRE is proposing to implement rules to identify the procedures by which a surface mining operation will be exempted from the provisions of the Statute. The proposed rule will identify the qualification and operator notification requirements, verification procedures and recordation process. The rule would result in benefits to small operators and regulatory authorities in clarifying those operations clearly meeting the exemption criteria and they would be treated as such. No additional costs to the environment would occur because operations would not commence within a specified time of notice, for regulatory authority review.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
NPRM Comment Period End	09/00/86	
Final Action	01/00/87	

Small Entity: Undetermined

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Room 5101 L, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA89

1236. PERMANENT REGULATORY PROGRAM REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701.5; 30 CFR 785.19(d)

Legal Deadline: None

Abstract: This proposed rule would comply with a ruling by the District Court for the District of Columbia which stated that the definition of farming and agricultural activities were not equal as it related to Alluvial Valley Floors as defined in OSM's regulations. The Court ordered that the definition be repromulgated in a manner consistent with Congressional intent. Pursuant to the Court ruling, additional guidance would be provided as to what the "essential hydrologic functions" are of AVFs.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
NPRM Comment Period End	07/00/86	
Final Action	12/00/86	

Small Entity: Undetermined

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA54

1237. PERMANENT PROGRAM PERFORMANCE STANDARDS SURFACE AND UNDERGROUND ACTIVITIES ROADS

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816.150; 30 CFR 816.151; 30 CFR 817.150; 30 CFR 817.151

Legal Deadline: None

Abstract: The regulation will address the sections that were remanded back to OSM by the action of the Court and modify some provisions that are confusing in the existing file. The changes will provide additional guidance to the surface coal mine operator in fulfilling the performance standards of the Act. Costs will not be increased because the regulations will amplify existing requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
NPRM Comment Period End	09/00/86	
Final Action	01/00/87	

Small Entity: Undetermined

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA60

1238. PERMANENT REGULATORY PROGRAM DEFINITIONS; AREAS UNSUITABLE FOR MINING

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701.5; 30 CFR 761

Legal Deadline: None

Abstract: The proposed rule would clarify the applicability of the prohibitions in section 522(e)(4) and (5) of the Surface Mining Control and Reclamation Act of surface impacts of

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underground mining. The issue of the relationship between section 522(e) and mining related subsidence will be addressed in the proposed rulemaking. The rulemaking will seek to clarify whether OSM's rules have the effect of prohibiting underground mining operations related to the features and facilities within the distance limitations enumerated in sections 522(e)(4) and (5) of the Act. The proposed rulemaking will address the issue of what is a "Surface Impact" incident to an underground mine.

Timetable:

Action	Date	FR Cite
ANPRM	04/03/85	50 FR 13250
Notice of intent to prepare a draft EIS & Preliminary RIA; Scoping Meeting	06/19/85	50 FR 25473
Notice of Scoping Meeting, Request for comments	06/19/85	50 FR 25473
ANPRM Comment Period End	08/27/85	50 FR 13250
Scoping Hearing for NEPA and RIA	04/00/86	
NPRM	03/00/87	
NPRM Comment Period End	05/00/87	
Final Action	09/00/87	

Small Entity: Yes

Additional Information: The Office of Surface Mining has determined that the proposed rulemaking constitutes a major Federal action requiring an EIS to meet the requirements of the National Environmental Policy Act. OSM has also made the determination that the proposed rule may be significant within the meaning of E.O. 12291. Precise cost/price impacts cannot be determined prior to further development of the regulation, but such costs are anticipated to be significant in terms of E.O. 12291 and the Regulatory Flexibility Act. Therefore, a Preliminary Regulatory Impact Analysis and Small Entity Flexibility Analysis are being prepared.

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Room 5101 L, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA80

1239. PERMANENT REGULATORY PROGRAM DEFINITIONS

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701.5

Legal Deadline: None

Abstract: The proposed rulemaking is in response to a court order of the District Court for the District of Columbia which remanded the portion of OSM's definition of "affected area" relating to the description and inclusion of roads in "affected areas." The proposed regulation will address alternative definitions and descriptions of roads as part of the definition of "affected areas" and clarify the relationship of these terms to various provisions of the Surface Mining Control and Reclamation Act of 1977. OSM is unable at this time to determine precisely what additional costs would be associated with the rule. It should be minimal, however, as this rule is intended only to identify the limitations on roads to be included in surface mining operations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	
NPRM Comment Period End	02/00/87	
Final Action	07/00/87	

Small Entity: Undetermined

Agency Contact: Mary Josie Smith, Chief, Branch of Western Activities, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Room 5121, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5159

RIN: 1029-AA84

1240. PERMANENT PROGRAM PERFORMANCE STANDARDS DEFINITIONS, PREVIOUSLY MINED AREAS

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701.5

Legal Deadline: None

Abstract: This rulemaking action is in response to a Court Order by the U.S. District Court for the District of Columbia In re; Permanent Surface Mining Regulation Litigation II, July 15, 1985. The proposed regulation would amend the definition of previously mined area to include only those lands mined prior to May 3, 1978, and not reclaimed to the standards of the Act. This rule may lead to a reduction of environmental benefits since there will be less incentive for remining and reclamation of mines abandoned after May 3, 1978. Otherwise, there are no significant increase or decrease in costs.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Undetermined

Agency Contact: Raymond E. Aufmuth, Physical Scientist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Room 210, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5843

RIN: 1029-AA88

1241. EXEMPTION FOR COAL EXTRACTION INCIDENTAL TO THE EXTRACTION OF OTHER MINERALS

Legal Authority: 30 USC 1201

CFR Citation: 30 CFR 702

Legal Deadline: None

Abstract: The Surface Mining Act exempts mining operations that extract other minerals where coal does not exceed 16 2/3 percent of tonnage of minerals removed for sale. Evidence of abuse of this exemption has been given to Congress by legitimate operators. Coal mine operators are using the exemption to avoid compliance with the Surface Mining Act's environmental protection performance standards. Proposed regulations would require operations claiming exemption to apply for exemption and report on their operations. The costs of compliance for these operations is undetermined. Benefits would be to the public in terms of protection of health, safety, and environment from detrimental effects of mining. Legitimate noncoal operators would be able to compete fairly with those operations now using the

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exemption to underself their legitimate competitors.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: Undetermined

Agency Contact: Henry Garka, Biological Scientist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, Room 5101 L, 202 343-1512

RIN: 1029-AA53

1242. RESTRICTION ON FINANCIAL INTERESTS OF STATE EMPLOYEES

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 705.5

Legal Deadline: None

Abstract: This rule will address whether the Office of Surface Mining should retain the exemption for members of multiple interest boards in the definition of the term "employee" in 30 CFR 705.5 for purposes of determining restrictions on financial interests of State regulatory authority employees. In the event the exemption is retained, the Office of Surface Mining would propose to define multiple interest boards qualifying for the exemption.

Timetable:

Action	Date	FR Cite
NPRM	09/06/79	44 FR 52098
NPRM Comment Period End	07/31/84	49 FR 22498
NPRM-Second	07/00/86	
Final Action	11/00/86	

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1983.

Agency Contact: Ann L. Chapman, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Washington, DC 20240, Room 5415 L, 202 343-4865

RIN: 1029-AA41

1243. EXEMPTION FOR COAL EXTRACTION INCIDENTAL TO GOVERNMENT FINANCED CONSTRUCTION

Legal Authority: 30 USC 1202; 30 USC 1211; 30 USC 1278

CFR Citation: 30 CFR 707

Legal Deadline: None

Abstract: The current limiting language in 30 CFR Part 707 can have at least three adverse results for the Abandoned Mine Lands (AML) Program. The inability to remove incidental amounts of coal encountered during reclamation activities can result in: 1) the loss of a valuable energy resource, 2) a no-cost subsidy of a future mining operation, and 3) a windfall profit to the mineral owner. In addition, the Federal and State governments are unable to reduce the costs of their AML projects. Participation in the incidental recovery of coal and resulting reduction in reclamation costs would allow the Federal and State AML programs to accomplish more reclamation at a substantial saving. To correct these deficiencies and to allow greater flexibility for the AML Program to remove incidental amounts of coal encountered during AML-financed reclamation activities, the clarification and expansion of the scope of Part 707 is being proposed.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
NPRM Comment Period End	07/00/86	
Final Action	01/00/87	

Small Entity: Undetermined

Agency Contact: Ted Ifft, Reclamation Specialist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, Room 5124 L, 202 343-7867

RIN: 1029-AA58

1244. REQUIREMENTS FOR COAL EXPLORATION—PERMIT REQUIREMENTS FOR EXPLORATION REMOVING MORE THAN 250 TONS OF COAL

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 772.11; 30 CFR 772.12

Legal Deadline: None

Abstract: The proposed rule would comply with a court order of the District Court for the District of Columbia which remanded OSM reporting requirements for surface coal exploration. The proposed rule would revise existing requirements to include the filing of a notice by all individuals or operators planning coal exploration, and specify the information required on applications for coal exploration. The obligation to report is a standing requirement of existing regulations. This rule would expand the requirement to report. Because affected States already have the expanded requirement in place, no additional costs or benefits are expected to be associated with the rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	
NPRM Comment Period End	02/00/87	
Final Action	06/00/87	
Final Action Effective	09/00/87	

Small Entity: Undetermined

Agency Contact: Mark Boster, Chief, Division of Permit & Environmental Analysis, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Room 5111 L, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-1480

RIN: 1029-AA62

1245. INDIVIDUAL CIVIL PENALTIES

Significance: Regulatory Program

Legal Authority: 30 USC 1201

CFR Citation: 30 CFR 723; 30 CFR 724; 30 CFR 845; 30 CFR 846, (New)

Legal Deadline: None

Abstract: The proposed rule will improve the implementation of Section 518(f) of the Surface Mining Control and Reclamation Act by clarifying the meaning of "knowing and willful" and defining the manner in which a daily penalty will be assessed for a continuing violation. Corporate officials associated with a permittee in violation of the Act will be identified and assessed individual civil penalties in addition to any penalties imposed on the Corporate entity.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
NPRM Comment Period End	08/00/86	
Final Action	12/00/86	

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Small Entity: No

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Washington, DC 20240, 202 343-5546

RIN: 1029-AA81

1246. MAINTENANCE OF STATE PROGRAMS AND PROCEDURES FOR SUBSTITUTING FEDERAL ENFORCEMENT OF STATE PROGRAMS AND WITHDRAWING APPROVAL OF STATE PROGRAMS

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 733

Legal Deadline: None

Abstract: This rule will be revised to provide the Director, Office of Surface Mining, with additional options when problems are identified in the administration of approved State programs. The Office will propose a shortened, streamlined process for taking action when a site-specific problem arises in a State.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	
NPRM Comment Period End	02/00/87	
Final Action	06/00/87	

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1983.

Agency Contact: Mary Tisdale, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Washington, DC 20240, 202 343-5361

RIN: 1029-AA42

1247. SURFACE COAL MINING AND RECLAMATION OPERATIONS; PERMANENT REGULATORY PROGRAM; FEDERAL PROGRAM FOR A STATE; PROCEDURAL REQUIREMENTS

Legal Authority: 30 USC 1251; 30 USC 1253 to 1299; 30 USC 1271; 30 USC 1272; 30 USC 1295

CFR Citation: 30 CFR 736.11

Legal Deadline: None

Abstract: OSM will propose revisions to its rules governing standards and procedures for the promulgation, implementation, revision, and termination of a Federal program for a State for coal exploration and surface coal mining operations on non-Federal and non-Indian lands within that State.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Undetermined

Agency Contact: Mark Boster, Chief, Division of Permit & Environmental Analysis, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, Room 5111 L, 202 343-1480

RIN: 1029-AA71

1248. FEDERAL LANDS PROGRAM

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq; 30 USC 181 et seq

CFR Citation: 30 CFR 740; 30 CFR 745; 30 CFR 746

Legal Deadline: None

Abstract: Various language changes will be proposed in 30 CFR 740, 745, and 746 in response to a ruling by the District Court for the District of Columbia with respect to the definition of "mining plans", the applicability of the Federal lands program, and for technical accuracy and to clarify ambiguous language that has surfaced since publication of the rules in February 1983.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	
NPRM Comment Period End	01/00/87	
Final Action	05/00/87	

Small Entity: Undetermined

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA76

1249. DEFINITION AND CRITERIA FOR VALID EXISTING RIGHTS

Significance: Regulatory Program

Legal Authority: 30 USC 1254; 30 USC 1272

CFR Citation: 30 CFR 761.5; 30 CFR 761.11(h)

Legal Deadline: None

Abstract: OSM is repromulgating certain portions of its regulations which define "valid existing rights" and prohibit surface coal mining on lands within units of the National Park System, National Wildlife Refuge System and certain other areas designated by Congress. OSM is repromulgating these regulations as a result of a District Court Decision in Round III of the present litigation on OSM's permanent program regulations.

Timetable:

Action	Date	FR Cite
Scoping Hearings for NEPA and RIA	04/00/86	
NPRM	03/00/87	
NPRM Comment Period End	05/00/87	
Final Action	09/00/87	

Small Entity: No

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Division of Regulation and Inspection, 202 343-5546

RIN: 1029-AA77

1250. LANDS UNSUITABLE REGULATIONS

Significance: Agency Priority

Legal Authority: 30 USC 1254; 30 USC 1272

CFR Citation: 30 CFR 761.5; 30 CFR 761.11(a); 30 CFR 761.11(c); 30 CFR 762.5; 30 CFR 764.15(a)(3); 30 CFR 764.15(b)(2); 30 CFR 769.14(a)(1); 30 CFR 769.14(a)(3); 30 CFR 769.14(b)(2)

Legal Deadline: None

Abstract: OSM is repromulgating certain portions of its regulations under Subchapter F which contain criteria for and describe the petition process for designating lands unsuitable for surface coal mining operations. OSM is repromulgating these regulations as a result of a District Court decision in Round III of the present litigation on OSM's permanent program regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: No

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Agency Contact: Richard O. Miller, Chief, Regulatory Development & Issues Management, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Room 134, 1951 Constitution Ave., NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA80

1251. REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING PERMIT APPLICATIONS MINIMUM REQUIREMENTS FOR LEGAL, FINANCIAL, CIVIL PENALTIES

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 773, (Revision); 30 CFR 778, (Revision); 30 CFR 845, (Revision)

Legal Deadline: None

Abstract: The existing rules pertaining to the requirements for permit and permit processing, Permit applications and civil penalties are to be amended. The proposed revisions expressly establish an affirmative obligation on permittees and permit applicants to pay uncontested penalties and abate uncontested violations. Permittees and applicants for permits must meet these obligations prior to the issuance of a permit and as a condition of continued operation under existing permits.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
NPRM Comment Period End	07/00/86	
Final Action	12/00/86	

Small Entity: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA66

1252. REQUIREMENTS FOR PERMITS AND PERMIT PROCESSING

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 773

Legal Deadline: None

Abstract: This regulation is intended to clarify existing requirements concerning protection of historic properties which may be affected by surface coal mining and reclamation operations. This rule would clarify that States with regulatory programs approved by the Secretary of the Interior have authority to require specific actions to assist the Secretary of the Interior comply with section 106 of the National Historic Preservation Act. Since this is a clarification of existing requirements, no change in costs are expected. Benefits will be seen in more clarity in regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
NPRM Comment Period End	06/00/86	
Final Action	10/00/86	

Small Entity: No

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, TSR Room 5111-I, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA87

1253. SURFACE MINING PERMIT APPLICATIONS MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 779.20; 30 CFR 780.16; 30 CFR 783.20; 30 CFR 784.21; 30 CFR 816.97(a); 30 CFR 816.97(b); 30 CFR 817.97

Legal Deadline: None

Abstract: OSM is amending Fish and Wildlife performance standards at 30 CFR 816.97 to comply with the District Court's decision of October 1, 1984, which pertains to protection of endangered and threatened species and the exclusion of wildlife from toxic ponds. In addition, OSM is amending the Fish and Wildlife permitting requirements at 30 CFR 779.20 and 780.16 to provide greater flexibility and clarity.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
NPRM Comment Period End	07/00/86	
Final Action	11/00/86	

Small Entity: Undetermined

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA74

1254. UNDERGROUND MINING PERMIT APPLICATIONS MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN SUBSIDENCE CONTROL PLAN

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 784.20

Legal Deadline: None

Abstract: In remanding Section 817.21(c)(2) for further comment following the Permanent Surface Mining Regulation Litigation II, the court also found that the 1979 rule requiring the subsidence control plan to include the results of the pre-subsidence survey and description of proposed monitoring measure were deleted in the 1982 proposed and 1983 final rule without adequate notice. Because this regulation related to Section 817.121(c)(2) concerning the protection of surface structures, the court ordered the Secretary to request additional public comments on this deletion in conjunction with the comments of 817.121(c)(2). No other alternative to the repromulgation of this rule is being considered because of the court order. Depending upon the number and types of comments received, this 1983 rule may or may not be changed. Consequently, the action's potential costs and benefits cannot be assessed.

Timetable:

Action	Date	FR Cite
NPRM	07/06/85	50 FR 27910
NPRM Comment Period End	09/16/85	
Scoping Hearings for NEPA and RIA	04/00/86	

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Action	Date	FR Cite
End of Comment Period	05/00/87	
Final Action	09/00/87	

Small Entity: Undetermined

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA63

1255. REQUIREMENT TO RELEASE PERFORMANCE BONDS

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 800.40(a)(2)

Legal Deadline: None

Abstract: This proposed rule would require that an applicant for bond release include the name of the permittee in the application. This action is being taken as a result of a commitment made during litigation on bonding requirements before the District Court for the District of Columbia where it was found that an explicit requirement for providing the name of the applicant was necessary. There will be no increase or decrease in the cost/benefits of this rule.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
NPRM Comment Period End	11/00/86	
Final Action	03/00/87	

Small Entity: No

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Room 5121-L, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA01

1256. PERMANENT PROGRAM PERFORMANCE STANDARDS SURFACE AND UNDERGROUND MINING ACTIVITIES BACKFILLING AND GRADING

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816.100; 30 CFR 816.102(g); 30 CFR 816.104(a); 30 CFR 816.105(a); 30 CFR 817.100; 30 CFR 817.102; 30 CFR 817.104; 30 CFR 817.105

Legal Deadline: None

Abstract: The regulation will address the sections that were remanded back to OSM by the action of the Court. The regulation will provide additional guidance to the surface coal mine operator in fulfilling the performance standards of the Act. Costs will not be increased because the regulations will amplify existing requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
NPRM Comment Period End	09/00/86	
Final Action	01/00/87	

Small Entity: Undetermined

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA57

1257. PERMANENT PROGRAM PERFORMANCE STANDARDS - SURFACE MINING ACTIVITIES, UNDERGROUND MINING ACTIVITIES – REVEGETATION

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816.116(b)(3)(ii); 30 CFR 816.116(c)(4); 30 CFR 817.116(b)(3)(ii); 30 CFR 817.116(c)(4); 30 CFR 816.116(c)(2); 30 CFR 817.116(c)(2)

Legal Deadline: None

Abstract: This rule is being proposed in response to an order of the U.S. District Court remanding several aspects of OSM regulations concerning revegetation which has inadequate support in the administrative record. OSM will propose rules concerning replanting of trees as a normal husbandry practice, the period for revegetation success, and rills and gullies control as a normal conservation practice. Costs and benefits of this action have not been determined since the final scope of the rule is not certain. This analysis will be based in large part on public comments received on the proposed rule.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Yes

Agency Contact: Azlo Dalrymple, Biological Scientist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Room 210, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-3613

RIN: 1029-AA86

1258. PERMANENT PROGRAM PERFORMANCE STANDARDS - SURFACE MINING ACTIVITIES, UNDERGROUND MINING ACTIVITIES - IMPOUNDMENTS

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 816.49(a)(8); 30 CFR 817.49(a)(8)

Legal Deadline: None

Abstract: The regulation will address the issue addressed in a district court challenge to OSM regulations. The rule will address the problem of combination spillways and will specify a spillway configuration that must be installed to safely pass the designed precipitation event. In some cases, the rule may allow one spillway to serve as a combination principal and emergency spillway. The proposed action may reduce costs in those cases where one spillway will safely pass the design precipitation event with no corresponding decrease in environmental protection.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	
NPRM Comment Period End	12/00/86	
Final Action	04/00/87	

Small Entity: Undetermined

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Room 5101 L, 1954 Constitution Ave., NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA79

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Proposed Rule Stage

1259. PERMANENT PROGRAM PERFORMANCE STANDARDS UNDERGROUND MINING ACTIVITIES SUBSIDENCE CONTROL

Significance: Agency Priority

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 817.121(c)(2)

Legal Deadline: None

Abstract: Following Permanent Surface Mining Regulation Litigation II, the court remanded portions of the subsidence control rule relating to the protection of surface structures and facilities to Office of Surface Mining to repromulgate the rule for notice and comment, holding that the final 1983 rule represents a radical change from the 1982 proposed rule. No other alternative to the repromulgation of the 1983 rule is being considered because of the court order. Depending upon the number and type of comments received the 1983 final rule relating to the protection of surface structures and facilities may or may not be changed. Consequently, the action's potential costs and benefits cannot be assessed.

Timetable:

Action	Date	FR Cite
NPRM	07/08/85	50 FR 27910
NPRM Comment Period End	09/16/85	
NPRM-Second	03/00/87	
Final Action	09/00/87	

Small Entity: Undetermined

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA65

1260. PERMANENT PROGRAM PERFORMANCE STANDARDS UNDERGROUND MINING ACTIVITIES - HYDROLOGIC BALANCE PROTECTION

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 817.41(b)(2)

Legal Deadline: None

Abstract: The rulemaking is in response to a challenge of this issue in District Court where the Office agreed to suspend 30 CFR 817.41(b)(2), concerning requirement to restore groundwater recharge capacity, and repromulgate the rule to develop the administrative records. OSM will propose two options: (1) removing 817.41(b)(2) and (2) retaining this paragraph while asking for comments concerning its legality, technological validity, and environmental impacts. Since this rule will be repromulgated with options, a determination of its potential costs and benefits cannot be assessed until comments are received and options chosen.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
NPRM Comment Period End	07/00/86	
Final Action	11/00/86	

Small Entity: Undetermined

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Room 5010 L, 1951 Constitution Ave., NW, Washington, DC, 202 343-5546

RIN: 1029-AA75

1261. SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS OPERATIONS ON PRIME FARMLAND

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 823.11(a); 30 CFR 823.11(b)

Legal Deadline: None

Abstract: These regulations are being revised as ordered by the District Court for the District of Columbia. They will amend OSM's permanent program performance standards with respect to prime farmlands by allowing last cut lakes to remain after mining is complete only where they are beneficial or necessary to agricultural activity and allowing for a support facility exemption only for underground mines. These changes are mandated by Court Order, thus, no alternatives to this action are being considered.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
NPRM Comment Period End	07/00/86	
Final Action	01/00/87	

Small Entity: Undetermined

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA84

1262. SURFACE COAL MINING AND RECLAMATION OPERATIONS; PERMANENT REGULATORY PROGRAMS; PERMANENT PROGRAM INSPECTION AND ENFORCEMENT PROCEDURES

Legal Authority: 30 USC 1267

CFR Citation: 30 CFR 840; 30 CFR 842; 30 CFR 843

Legal Deadline: None

Abstract: The proposed rule would clarify inspection requirements of surface coal mining and reclamation operations under initial and permanent regulatory programs and nomenclature designations of the Office of Surface Mining field operating Units.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	
NPRM Comment Period End	02/00/87	
Final Action	05/00/87	

Small Entity: Undetermined

Agency Contact: Daniel E. Stocker, Chief, Branch of Inspection, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5384

RIN: 1029-AA67

1263. RECLAMATION ON PRIVATE LAND

Legal Authority: 30 USC 1238

CFR Citation: 30 CFR 882

Legal Deadline: None

Abstract: To address concerns raised by Inspector General and states in regulations implementing Lien Provisions of Surface Mining Control Act. Provisions for documenting lien waivers and defining unclear terms will be proposed. State and Federal reclamation programs will expend more time and resources documenting their decisions to waive liens but possibility for windfall profits to private landowners from expenditure of federal funds will be decreased. Satisfaction of liens will result in recovery of federal funds.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Undetermined

Agency Contact: Ted Ifft, Reclamation Specialist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, Room 5124 L, 202 343-7867

RIN: 1029-AA68

DOI—OSM

Proposed Rule Stage

DEPARTMENT OF THE INTERIOR (DOI)

Final Rule Stage

Office of Surface Mining Reclamation and Enforcement (OSM)

1264. PERMANENT REGULATORY PROGRAM DEFINITION OF ADVERSE PHYSICAL IMPACT

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701.5; 30 CFR 816.106(b); 30 CFR 817.106(b)

Legal Deadline: None

Abstract: This regulation addresses the result of a joint motion approved by the District Court for the District of Columbia on December 3, 1984. The final regulation will remove the definition of adverse physical impact; remove the limitations imposed by 30 CFR 816.106(b) and 817.106(b); and require that all reasonably available spoil in the immediate vicinity of the remining operation be used to backfill the highwall to the maximum extent technically practicable. In view of the joint motion this is the only alternative being considered. There will be little if any potential costs because of the very limited application of this rule. Therefore, benefits which will result will also be very limited. The proposed rule asks for public comment on this very issue.

Timetable:

Action	Date	FR Cite
NPRM	06/13/85	50 FR 7522
NPRM Comment Period End	08/22/85	
Final Action	05/00/86	

Small Entity: Undetermined

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA52

1265. SURFACE COAL MINING AND RECLAMATION OPERATIONS PERMANENT REGULATORY PROGRAM - CONTROL

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701.5; 30 CFR 773.15; 30 CFR 773.17; 30 CFR 778.13

Legal Deadline: None

Abstract: The proposed rule would require the regulatory authority to make findings prior to permit issuance that the applicant and persons or business entities closely connected to the applicant do not have any outstanding unabated violations, delinquent AML reclamation fee accounts, or unpaid final civil penalties.

Timetable:

Action	Date	FR Cite
NPRM	04/05/85	50 FR 13724
NPRM Comment Period End	06/26/85	
Final Action	05/00/86	

Small Entity: Undetermined

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA56

1266. PERMANENT REGULATORY PROGRAM DEFINITION OF SUPPORT FACILITIES

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 701.5

Legal Deadline: None

Abstract: The proposed rule will amend the definition of the term support facilities as a result of the District Court for the District of Columbia's opinion of July 6, 1984. The proposed regulation would bring additional support facilities under the Permanent Program Regulations of the Surface Mining Control and Reclamation Act and amend the definition of support facility to connote a functional relationship with a regulated facility. This proposed rule would impose only minor costs to the coal industry since relatively few operations will be affected.

Timetable:

Action	Date	FR Cite
NPRM	07/10/85	50 FR 28180
Interim Final Rule	07/10/85	50 FR 28186
NPRM Comment Period End	09/09/85	
Final Action	05/00/86	

Small Entity: Undetermined

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA73

1267. PERMIT APPLICATION FEE SCHEDULE FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS UNDER FEDERAL, FEDERAL LANDS NOT UNDER COOPERATIVE AGREEMENT, AND INDIAN LANDS PROGRAMS

Legal Authority: 30 USC 1257

CFR Citation: 30 CFR 701; 30 CFR 736; 30 CFR 740; 30 CFR 746; 30 CFR 750; 30 CFR 772

Legal Deadline: None

Abstract: The proposed rule would govern the collection by OSM of application fees for permits to conduct surface coal mining and reclamation operations, and for permits to conduct coal exploration, as well as fees for

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processing mining plans and for mid-term review of surface coal mining and reclamation permits. Recipients of these services would be required to reimburse OSM for the actual cost incurred by the Department in providing the service. An amendment to OSM's appropriations for 1986 prohibits further expenditure of funds for development of this regulation. Rulemaking action suspended.

Timetable:

Action	Date	FR Cite
NPRM	08/22/85	50 FR 7522
NPRM Comment Period End	07/26/85	

Next Action Undetermined

Small Entity: No

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA48

1268. ● PERMANENT REGULATORY PROGRAM AREAS UNSUITABLE FOR SURFACE MINING - AREAS DESIGNATED BY ACT OF CONGRESS - WILD AND SCENIC RIVERS

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq.

CFR Citation: 30 CFR 761

Legal Deadline: None

Abstract: This rule is being proposed to eliminate an inconsistency between provisions of OSMRE regulations governing how far mining can occur from the banks of study rivers designated as such under the Wild and Scenic Rivers Act and guidelines of the National Park Service. The proposed rule would establish the same boundary for study areas as is established under the Wild and Scenic Rivers Act. OSMRE does not expect any significant costs or benefits of this rule other than the benefits of removing duplicative requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/15/85	50 FR 32962
NPRM Comment Period End	10/24/85	50 FR 32962
Final Action	04/30/86	
Final Action Effective	05/30/86	

Small Entity: No

Agency Contact: Richard Miller, Chief, Regulatory Development and Issues Management, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA78

1269. CRITERIA FOR DESIGNATING AREAS AS UNSUITABLE FOR SURFACE COAL MINING OPERATIONS

Significance: Regulatory Program

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 762.5

Legal Deadline: None

Abstract: The objection to the definitions of the terms "fragile lands" and "historic lands" in 762.5 is their requirement that damage from proposed mining to historic and other values must be irreparable or permanent before lands can be classified as fragile or historic and therefore, eligible for consideration as being unsuitable for mining. The court order requires only a finding of significant damage, in accordance with Section 522(a)(3)(b) of the Act. In as much as the required wording "significant damage" is used in 762.11(b)(2) in the fragile-or-historic-lands criterion for designating lands as unsuitable, rather than using the wording of the two definitions, the proposed rule change would remove the degree-of-damage requirement from the definitions and thereby remove the wording objected to. In addition, the two terms would be combined into the one term "fragile or historic lands" that is used in the Act and also in 762.11(b)(2). The cost and benefits would remain unchanged because a finding of only significant damage and the combined term are already in place in 762.11(b)(2).

Timetable:

Action	Date	FR Cite
NPRM	07/25/85	50 FR 30408
NPRM Comment Period End	10/03/85	
Final Action	06/00/86	

Small Entity: Undetermined

Agency Contact: Richard Miller, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA62

1270. BLASTER TRAINING AND CERTIFICATION FOR BLASTERS AND MEMBERS OF BLASTING CREWS FOR FEDERAL PROGRAMS AND FEDERAL LANDS NOT UNDER COOPERATIVE AGREEMENTS

Legal Authority: 30 USC 1201 et seq

CFR Citation: 30 CFR 855

Legal Deadline: None

Abstract: The proposed rule will establish a program to train and certify persons who use or are in charge of crews that use explosives in connection with surface coal mining on Federal lands not under cooperative agreements and for Federal programs.

Timetable:

Action	Date	FR Cite
Final Action	06/00/78	
NPRM	09/11/84	49 FR 35714
Interim Final Rule	09/00/00	

Small Entity: No

Agency Contact: Arthur Anderson, Physical Scientist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave. NW, Washington, DC 20240, Room 5101 L, 202 343-1589

RIN: 1029-AA51

1271. STATE RECLAMATION PLAN AMENDMENTS

Legal Authority: 30 USC 1235

CFR Citation: 30 CFR 884; 30 CFR 886

Legal Deadline: None

Abstract: The revised rule provides that the Director may request that a State initiate procedures to amend its reclamation plan and that the Director may establish, after consultation with the State, a timetable which is consistent with established administrative and legislative procedures in the State for submitting an amendment to the reclamation plan. Failure to amend the reclamation plan within the specified time could result in either the suspension of the AMLR Plan, reduction, suspension or termination of existing grants or the withdrawal from consideration of all future grant applications. States may have minor administrative costs in amending their approved reclamation plans. Benefits would include more efficient and cost effective reclamation procedures.

Timetable:

Action	Date	FR Cite
NPRM	01/04/85	50 FR 483
NPRM Comment Period End	03/04/85	
Final Action	04/00/86	

Small Entity: Undetermined

Agency Contact: Ted Ifft, Reclamation Specialist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, Room 5124 L, 202 343-7887

RIN: 1029-AA70

1272. STATE-FEDERAL COOPERATIVE AGREEMENTS

Legal Authority: 30 USC 1201 et seq.

CFR Citation: 30 CFR Subchapter T

Legal Deadline: None

Abstract: This Subchapter will incorporate the State-Federal Cooperative Agreements for the permanent regulatory programs on Federal lands in various States. The affected Parts in Title 30 are indicated in parentheses after each State.

Supplemental Timetable:

Alabama (901)

Final Action Effective 08/29/85

Alabama(901)
NPRM 01/23/85 (50 FR 2966)
Final Action 07/30/85 (50 FR 30916)

Utah(944)
NPRM 03/31/82 (47 FR 13738)
Final Action 04/00/86

Virginia(946)
NPRM 06/27/83 (48 FR 29545)
Final Action 12/00/86

West Virginia(948)
NPRM 03/09/84 (49 FR 8913)

Wyoming(950)
Final Action 12/00/86 (49 FR 4106)

Small Entity: No

Additional Information: Originally scheduled: January 1980.

Agency Contact: Murray Newton, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5866

RIN: 1029-AA40

DEPARTMENT OF THE INTERIOR (DOI)

Office of Surface Mining Reclamation and Enforcement (OSM)

Completed Actions

1273. SUBSIDENCE INSURANCE PROGRAM GRANTS

Significance: Regulatory Program

Legal Authority: HR RES 648; PL 98-473; 30 USC 1231

CFR Citation: 30 CFR 887, (New)

Legal Deadline: None

Abstract: Proposed regulations implementing Congressional amendment to Surface Mining Control Act that authorizes up to $3 million to States for the establishment of state administered self-sustaining subsidence insurance programs. If all eligible states avail themselves of the opportunity, the costs to the AML Reclamation Fund will be $69 million. Benefits are, if land is insured, approximately $100 million in savings to the AML reclamation program. If land is not insured, then the AML Trust Fund will lose up to a maximum of $69 million. The subsidence insurance program will result in considerable savings to home owners and commercial and industrial entities who will be able to insure their property from damage caused by subsidence in abandoned underground coal mines.

Timetable:

Action	Date	FR Cite
NPRM	07/25/85	50 FR 30402
NPRM Comment Period End	08/26/85	
Final Action	02/13/86	51 FR 5490

Small Entity: Undetermined

Agency Contact: Richard Miller, Program Management Specialist, Department of the Interior, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW, Washington, DC 20240, 202 343-5546

RIN: 1029-AA55

[FR Doc. 86-8521 Filed 04-18-86; 8:45 am]

BILLING CODE 4310-10-T

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Reclamation (RB)

Proposed Rule Stage

1274. OFF-ROAD VEHICLE USE

Legal Authority: 43 USC 391 et seq

CFR Citation: 43 CFR 420

Legal Deadline: None

Abstract: This rule governs the use of off-road vehicles on Bureau Lands and provides for the opening of only those lands where the use of such vehicles will not adversely affect associated project features or facilities. The provisions of this rule will be expanded to cover the use of ultralight vehicles, since, by definition, these vehicles are excluded from control of the Federal Aviation Administration.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Additional Information: Originally scheduled: October 1983.

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DOI—RB

Proposed Rule Stage

Agency Contact: Fred Gientka, Chief, Water O&M Branch, Department of the Interior, Bureau of Reclamation, Bldg 67, Federal Center, Denver, CO 80225, 303 776-3661

RIN: 1006-AA06

1275. ● ACREAGE LIMITATION: REVISED PROPOSED RULES AND REGULATIONS

Significance: Regulatory Program

Legal Authority: 5 USC 552; 43 USC 371; 43 USC 390

CFR Citation: 43 CFR 426

Legal Deadline: Statutory, April 17, 1987

Abstract: Under the Reclamation Reform Act (RRA) of 1982, districts and individuals have the option of coming under the acreage limitation provisions of the new law or remaining subject to those of prior Reclamation law. Section 203(b) of the RRA provides that districts have 4 1/2 years from the date of enactment of the RRA to amend their existing repayment and water service contracts to come under the RRA provisions. After April 12, 1987, individuals in nonamending districts will be required to pay full cost for water supplied to leased land in excess of 160 acres.

The final rules published in December 1983 did not address implementation of section 203(b). The existing rules need to be revised in order to implement this provision, as required by law.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
NPRM Comment Period End	07/00/86	
Final Action	11/00/86	

Small Entity: No

Agency Contact: James Cook, Chief, Division of Water and Land, Department of the Interior, Bureau of Reclamation, 18th & C Sts., NW, Washington, DC 20240, 202 343-5184

RIN: 1006-AA16

1276. ● GENERAL REGULATIONS FOR POWER GENERATION, OPERATION, MAINTENANCE AND REPLACEMENT AT THE BOULDER CANYON PROJECT, ARIZONA/NEVADA

Legal Authority: 43 USC 617 et seq; 74 USC 628 et seq; PL 98-381

CFR Citation: 43 CFR 431, (new)

Legal Deadline: None

Abstract: The proposed regulations will define the procedures to be used in providing specific power contractors with cost and power generation data associated with the operation of the Boulder Canyon Project. These regulations will replace those portions of the "General Regulations for Lease of Power," dated April 25, 1930, and the "General Regulations for Generation and Sale of Power in Accordance with the Boulder Canyon Project Adjustment Act," approved and promulgated on May 20, 1941 (1941 General Regulations), which are under the jurisdiction of the Secretary of the Interior and which will terminate on May 31, 1987.

Timetable:

Action	Date	FR Cite
NPRM	03/03/86	51 FR 7633
Final Action	05/00/86	

Supplemental Timetable:

Rulemaking
Notice of Intent to Propose 12/03/85 (50 FR 49563)

Small Entity: No

Affected Sectors: None

Government Levels Affected: Local, State

Agency Contact: Everett Wallace, Jr., Senior Staff Assistant for Power Operations, and Maintenance, Department of the Interior, Bureau of Reclamation, Washington, DC 20240, 202 343-1209

RIN: 1006-AA14

Final Rule Stage

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Reclamation (RB)

1277. NEWLANDS RECLAMATION PROJECT, NV; TRUCKEE RIVER STORAGE PROJECT, NV; & WASHOE RECLAMATION PROJECT; NV-CA (TRUCKEE & CARSON RIVER BASINS, CA-NV); PYRAMID LAKE INDIAN RESERVATION, NV, ETC

Legal Authority: 43 USC 373; 33 USC 498; 16 USC 703 to 711; 16 USC 715 to 715r; 32 Stat 388; 70 Stat 775; 72 Stat 705

CFR Citation: 43 CFR 418, (Revision)

Legal Deadline: Judicial. The issue is under Judicial deadline imposed by court order, but is being held up by pending legal suits.

Abstract: Allocation of water for irrigation, Indian tribes and endangered species in an area of water shortage as required by the Secretary of the Interior by Court Order orders. See Pyramid Lake Paiute Tribe of Indians v. Morton, 353 F. Supp. 252 (D.D.C. 1973) and Carson-Truckee Water Conservancy District v. Watt, 549 F. Supp. 704 (D. Nev. 1982). Review completed, changes in rule published in NPRM.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Additional Information: TITLE CONT: Stillwater Area, NV. New legislation and revised operating criteria are being proposed, but effective dates are indefinite due to lawsuits and legal concerns.

Affected Sectors: 01 AGRICULTURAL PRODUCTION-CROPS; 09 FISHING, HUNTING, AND TRAPPING

Agency Contact: Roy H. Boyd, Chief, Water Operations Branch, Department of the Interior, Bureau of Reclamation, 18th & C Streets, NW, Washington, DC 20240, 202 343-5471

RIN: 1006-AA08

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Reclamation (RB)

Completed Actions

1278. UNPRODUCTIVE LAND: ELIMINATION OR EXCHANGE

Legal Authority: 43 USC 1201; 43 USC 423

CFR Citation: 43 CFR 403

Legal Deadline: None

Abstract: Provides the procedures for the eliminating from irrigated project lands of lands permanently unproductive, for exchanging entries, for making additional entries, amending water rights, extending time for making repayments of construction, operation and maintenance charges and for the taking over of a project by the Water User's Organization.

Timetable:

Action	Date	FR Cite
Revoked and Removed	11/14/85	50 FR 47049

Small Entity: Undetermined

Agency Contact: Terence Cooper, Staff Specialist - Land Resources, Department of the Interior, Bureau of Reclamation, Washington, DC 20240, 202 343-5204

RIN: 1006-AA11

1279. RECLASSIFICATION AS IRRIGABLE OF HIGH LAND COLUMBIA BASIN PROJECT, WASHINGTON

Legal Authority: Sec. 8, 57 Stat 14; 16 USC 835

CFR Citation: 43 CFR 416

Legal Deadline: None

Abstract: Prescribe policies and procedures under which areble high land within an irrigation district, when included in farm units or water delivery units, or in designated areas served therefrom, on the Columbia Basin Project, Washington, may be reclassified as irrigable. Such reclassification will permit the lands to receive water and be subject to assessment by the district.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/84	
End Review	01/31/85	
Revoked and Removed	11/14/85	50 FR 47050

Small Entity: Undetermined

Agency Contact: Terence Cooper, Staff Specialist, Land Resources, Department of the Interior, Bureau of Reclamation, Washington, DC 20240, 202 343-5204

RIN: 1006-AA10

[FR Doc. 86-4521 Filed 04-18-86; 8:45 am]

BILLING CODE 4310-10-T

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Land Management (BLM)

Proposed Rule Stage

1280. PUBLIC LAND RECORDS

Legal Authority: 5 USC 301; 43 USC 2; 44 USC 3101; 43 USC 12; 43 USC 751; 43 USC 1201; 43 USC 2457; 43 USC 1740

CFR Citation: 43 CFR 1813

Legal Deadline: None

Abstract: This rule will amend the existing regulations by updating them to reflect and accommodate the transition from the Manual Record System (Tract Books, Master Plats, etc), to an Automated Records System.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Robert Nauert, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8663

RIN: 1004-AA77

1281. ● MINERALS (NONMINERAL ENTRIES ON MINERAL LANDS)

Legal Authority: 30 USC 186; 30 USC 124

CFR Citation: 43 CFR Subpart 2093

Legal Deadline: None

Abstract: The amendments made by this rulemaking would eliminate portions of the existing regulations that refer to repealed authorities and make minor changes that reflect the merger of functions between the Bureau of Land Management and the Minerals Management Service.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Ben Koski, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington DC 20240, 202 343-8663

RIN: 1004-AB20

1282. LAND CLASSIFICATION

Legal Authority: 43 USC 315f; 43 USC 869; 43 USC 1701 et seq

CFR Citation: 43 CFR 2400

Legal Deadline: None

Abstract: The rulemaking will revise the existing land classification regulations, will remove obsolete provisions, remove burdensome provisions, simplify the land classification system and provide a new protest system for use in connection with land classification decisions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Jim Crisp, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8663

RIN: 1004-AB19

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DOI—BLM

Proposed Rule Stage

1283. DESERT LAND ENTRIES

Legal Authority: 43 USC 321 to 323

CFR Citation: 43 CFR 2520

Legal Deadline: None

Abstract: This rule will revise the existing regulation to streamline and simplify its provisions, while removing burdensome and obsolete provisions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Gary Rowe, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004-AB11

1284. INDIAN ALLOTMENTS

Legal Authority: 25 USC 334

CFR Citation: 43 CFR 2530

Legal Deadline: None

Abstract: This rule would revise the existing regulations to remove obsolete and burdensome provisions and clarify and simplify the remaining provisions.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Undetermined

Agency Contact: Rob Nauert, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004-AB10

1285. RIGHTS-OF-WAY; PRINCIPLES AND PROCEDURES

Significance: Regulatory Program

Legal Authority: 43 USC 1746; 30 USC 185

CFR Citation: 43 CFR 2800

Legal Deadline: None

Abstract: This rule will be amended to revise the schedule used in the cost reimbursement process for processing and monitoring right-of-way grants(2803.1-1; 2883.1-1).

Timetable:

Action	Date	FR Cite
NPRM	01/17/83	48 FR 2110
NPRM	07/00/86	
Final Action	03/00/87	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Robert C. Bruce (202) 343-8735 (see Agency Contact heading for address). Originally scheduled: October 1982.

Agency Contact: Theodore Bingham, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 343-5441

RIN: 1004-AA17

1286. RIGHTS-OF-WAY; PRINCIPLES AND PROCEDURES; OIL AND NATURAL GAS PIPELINES AND RELATED FACILITIES, GENERAL

Significance: Regulatory Program

Legal Authority: 43 USC 1746; 30 USC 181 et seq

CFR Citation: 43 CFR 2800; 43 CFR 2880

Legal Deadline: None

Abstract: This rule will amend the existing right-of-way regulations to provide a clear and streamlined procedure for setting the annual rental for rights-of-way.

Timetable:

Action	Date	FR Cite
ANPRM	05/04/84	49 FR 19049
ANPRM Comment Period End	07/03/84	49 FR 19049
ANPRM - Second	01/18/85	50 FR 2697
ANPRM - Second	03/19/85	50 FR 2697
NPRM	09/00/86	
Final Action	05/00/87	

Small Entity: Undetermined

Agency Contact: Theodore Bingham, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-5441

RIN: 1004-AA74

1287. RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES

Legal Authority: 43 USC 1746

CFR Citation: 43 CFR 2800

Legal Deadline: None

Abstract: This rule will be amended to provide for improved administration of rights-of-way under the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Additional Information: ADDITIONAL AGENCY CONTACT: Robert C. Bruce (202) 343-8735.

Agency Contact: Darrell Barnes, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-5441

RIN: 1004-AB00

1288. RIGHTS-OF-WAY UNDER THE MINERAL LEASING ACT

Legal Authority: 30 USC 185

CFR Citation: 43 CFR 2880

Legal Deadline: None

Abstract: This rule will be amended to provide for improved administration of rights-of-way under the Mineral Leasing Act.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Undetermined

Additional Information: ADDITIONAL AGENCY CONTACT: Robert C. Bruce (202) 343-8735.

Agency Contact: Darrell Barnes, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-5441

RIN: 1004-AA98

1289. RECREATION AND PUBLIC PURPOSES ACT LEASES

Legal Authority: 43 USC 869 et seq

CFR Citation: 43 CFR 2910; 43 CFR 2912

Legal Deadline: None

Abstract: The rule will amend the existing regulations to implement policy changes as they relate to the granting of public lands for recreation and public purposes under the Recreation and Public Purposes Act.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: Undetermined

DOI—BLM

Proposed Rule Stage

Agency Contact: Rob Nauert, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004-AA73

1290. EXPLORATION ACTIVITY; OIL AND GAS LEASING

Legal Authority: 16 USC 3101 et seq; 30 USC 181 et seq; 30 USC 351 to 359; 40 USC 760 et seq; 43 USC 1701 et seq

CFR Citation: 43 CFR 3040; 43 CFR 3100; 43 CFR 3110; 43 CFR 3120

Legal Deadline: None

Abstract: This rulemaking will make corrections and modifications to the existing regulations, including procedural changes that have resulted from operations under the regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Agency Contact: Mona Schermerhorn, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2228

RIN: 1004-AA97

1291. EXPLORATION ACTIVITY; OIL AND GAS LEASING, OIL AND GAS LEASING - NATIONAL PETROLEUM RESERVE - ALASKA; GEOTHERMAL RESOURCE LEASING - GENERAL

Legal Authority: 30 USC 181 et seq; 30 USC 301 to 306; 30 USC 351 to 359; 43 USC 1701 et seq; PL 96-514; 40 Op. Atty. Gen. 41

CFR Citation: 43 CFR 3040; 43 CFR 3100; 43 CFR 3130; 43 CFR 3200

Legal Deadline: None

Abstract: This rule would amend the existing regulations as they relate to bond coverage for oil and gas and geothermal resources. Bond amounts may be modified.

Timetable:

Action	Date	FR Cite
NPRM	05/01/85	50 FR 18614
NPRM Comment Period End	07/01/85	50 FR 18614
NPRM	10/00/86	

Small Entity: No

Agency Contact: Mona Schermerhorn, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2199

RIN: 1004-AB13

1292. ONSHORE OIL AND GAS OPERATIONS - NONCOMPLIANCE AND ASSESSMENTS

Significance: Regulatory Program

Legal Authority: 30 USC 189; 30 USC 189; 30 USC 359; 30 USC 1701 et seq; 25 USC 396; 25 USC 396d

CFR Citation: 43 CFR 3163

Legal Deadline: None

Abstract: This rule will amend the recently codified regulations implementing the Federal Oil and Gas Royalty Management Act to address concerns raised about the impact of the regulations on industry.

Timetable:

Action	Date	FR Cite
ANPRM	09/22/85	50 FR 11517
ANPRM Comment Period End	05/21/85	50 FR 11517
NPRM	01/30/86	51 FR 3882
NPRM Comment Period End	03/31/86	
Final Action	12/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Robert C. Bruce, (202) 343-8735.

Agency Contact: George F. Brown, Assistant Director, Fluid Leasable Minerals, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2147

RIN: 1004-AB05

1293. ONSHORE OIL AND GAS ORDER NO. 7 - DISPOSAL OF PRODUCED WATER

Legal Authority: 30 USC 189; 30 USC 359

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.3; 43 CFR 3162.5

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas regulations as found in 43 CFR Part 3160. The order details the requirements for the handling, storing or disposing of water produced from oil or gas wells. It replaces NTL-2B. The Order will also contain inspection standards. This order is referenced in the Table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: No

Additional Information: Onshore Oil and Gas Orders are used in place of the previously issued or proposed Notice to Lessees and Operators (NTL) which were issued by the Conservation Division of the U.S. Geological Survey.

Agency Contact: Stephen Spector, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2147

RIN: 1004-AA66

1294. ONSHORE OIL AND GAS ORDER NO. 6 - HYDROGEN SULFIDE OPERATIONS

Significance: Regulatory Program

Legal Authority: 30 USC 189; 30 USC 359

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.3; 43 CFR 3162.5

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas regulations as found in 43 CFR Part 3160. The order details the requirements for protecting workers and the public from hydrogen sulfide. It specifies documentation needed prior to operation and measures required during drilling and production. This order is referenced in the Table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	10/15/84	49 FR 40354
NPRM Comment Period End	01/14/85	49 FR 48576
NPRM-Second	07/00/86	
Final Action	06/00/87	

Small Entity: No

Additional Information: Onshore Oil and Gas Orders are used in place of the previously issued or proposed Notice to Lessees and Operators (NTL) which were issued by the Conservation Division of the U.S. Geological Survey.

DOI—BLM

Proposed Rule Stage

Agency Contact: George F. Brown, Assistant Director, Fluid Leasable Minerals, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2127

RIN: 1004–AA87

1295. ONSHORE OIL AND GAS OPERATIONS - ONSHORE OIL AND GAS ORDER NUMBER 4- MEASUREMENT OF CRUDE OIL

Legal Authority: 30 USC 189; 30 USC 359; 25 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.7

Legal Deadline: None

Abstract: This document is being issued under the oil and gas operations regulations as found in 43 CFR Part 3160. The order details the requirements for the accurate measurement and recording of the volumes of crude oil and lease condensation produced and sold from Federal and Indian (except Osage) leases. This includes such production from other leases which is allocated to a covered lease. This order will also contain inspection standards. This is referenced in the Table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Additional Information: Onshore Oil and Gas Orders are used in place of the previously issued or proposed Notice to Lessees and Operators (NTL) which were issued by the Conservation Division of the Geological Survey.

Agency Contact: Stephen Spector, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2147

RIN: 1004–AA96

1296. ● ONSHORE OIL AND GAS ORDER NO. 2 - DRILLING OPERATIONS

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 226; 25 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.3; 43 CFR 3162.5

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas operations regulations as found in 43 CFR Part 3160. The order details the uniform national minimum standards of performance which are expected for drilling operations on Federal and Indian (except Osage) lands. It also will contain enforcement actions that will result from failure to meet the minimum standards.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: Undetermined

Agency Contact: Stephen Spector, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2147

RIN: 1004–AB21

1297. ● ONSHORE OIL AND GAS ORDER NO. 2 - SITE SECURITY

Significance: Regulatory Program

Legal Authority: 30 USC 189; 30 USC 359; 30 USC 1701 et seq.; 25 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3161.3; 43 CFR 3162.7-1; 43 CFR 3162.7-4

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas operations regulations as found in 43 CFR Part 3160. The order supplements the minimum standards found in the regulations at 43 43 CFR 3162.7-4(b), (c) and (d).

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	12/00/86	

Small Entity: Undetermined

Agency Contact: Stephen Spector, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington DC 20240, 202 653-2147

RIN: 1004–AB24

1298. ONSHORE OIL AND GAS OPERATIONS - COOPERATIVE AGREEMENTS, DELEGATIONS OF AUTHORITY AND CONTRACTS FOR OIL AND GAS INSPECTION AND ENFORCEMENT

Legal Authority: 30 USC 1701; 30 USC 1732; 30 USC 1736; 30 USC 1751

CFR Citation: 43 CFR 3170

Legal Deadline: None

Abstract: This rulemaking will provide the procedures for implementing the provisions of the Federal Oil and Gas Royalty Management Act authorizing cooperative agreements with States and Indian tribes for inspection and enforcement. It will also provide the procedures for delegation of authority to States in connection with oil and gas operations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Susan Pepperney, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2209

RIN: 1004–AB17

1299. GEOTHERMAL RESOURCE OPERATIONS

Legal Authority: 30 USC 1001 to 1025

CFR Citation: 43 CFR 3200; 43 CFR 3260; 43 CFR 3270

Legal Deadline: None

Abstract: This rulemaking will revise provisions of former 30 CFR 270 which was transferred to the Bureau from the Minerals Management Service and amend the geothermal leasing provisions which regulate geothermal operations conducted on Federal lands. The changes are designed to remove burdensome and cumbersome provisions and simplify the regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Stephen Spector, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2147

RIN: 1004–AB18

1300. ● ONSHORE OIL AND GAS ORDER NO. 5 - MEASUREMENT OF NATURAL GAS

Legal Authority: 30 USC 189; 30 USC 359; 25 USC 396; 25 USC 396(d)

CFR Citation: 43 CFR 3164.1(b); 43 CFR 3162.7

DOI—BLM

Proposed Rule Stage

Legal Deadline: None

Abstract: This order is being issued under the revised oil and gas operations regulations as found in 43 CFR Part 3160. The order details the requirements for the accurate measurement of the volumes of natural gas produced and sold from Federal and Indian (except Osage) leases. This includes such production from other leases which is allocated to a covered lease. The order also will contain inspection standards. This order is to be referenced in the Table at 43 CFR 3164.1(b).

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Stephen Spector, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-2147

RIN: 1004–AB22

1301. OPERATING REGULATIONS FOR EXPLORATION, DEVELOPMENT AND PRODUCTION

Legal Authority: 30 USC 181 et seq

CFR Citation: 43 CFR 3570

Legal Deadline: None

Abstract: This rule will revise the existing regulations to streamline them and to have them reflect current policy and industry operating practices relating to the leasing of minerals other than oil and gas.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Harry Moritz, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-7722

RIN: 1004–AA66

1302. MULTIPLE USE: MINING: MINING CLAIMS UNDER THE GENERAL MINING LAWS

Legal Authority: 30 USC 22 et seq; 30 USC 521 to 540; 30 USC 601 to 615; 30 USC 621 to 625; 43 USC 2; 43 USC 1732; 43 USC 1740; 61 Stat. 681

CFR Citation: 43 CFR Group 3700; 43 CFR Group 3800

Legal Deadline: None

Abstract: These two groups of regulations will be combined into a single group, with the language being revised to remove burdensome, cumbersome and unnecessary provisions. In addition, the language will be updated and clarified and some provisions will be revised to meet the needs of today's conditions.

Timetable:

Action	Date	FR Cite
Notice of Intent to Proposed Rulemaking	12/27/82	47 FR 57521
NPRM	06/00/86	

Small Entity: Undetermined

Additional Information: ADDITIONAL AGENCY CONTACT: Robert C. Bruce, (202) 343-8735.

Agency Contact: Eugene Carlet, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8537

RIN: 1004–AB04

1303. ● GRAZING ADMINISTRATION - EXCLUSIVE OF ALASKA

Legal Authority: 43 USC 315, 315a to 315r; 43 USC 1701 et seq; 43 USC 118(d); 43 USC 1901 et seq

CFR Citation: 43 CFR 4100

Legal Deadline: None

Abstract: The amendment made by this rulemaking would bring the existing regulations into compliance with the decision in Natural Resources Defense Council, Inc. v. Hodel, et al., No. CIV. S-84-616 RAR (1985). It also would update the existing regulations to have them conform to recent grazing policy changes.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Undetermined

Agency Contact: Billy R. Templeton, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8195

RIN: 1004–AB23

1304. PROTECTION OF SPECIAL STATUS PLANTS

Legal Authority: 43 USC 1701 et seq

CFR Citation: 43 CFR 8550

Legal Deadline: None

Abstract: This rule will provide the procedure for protecting rare plants located on the public lands. The uncontrolled collection of these rare plants will endanger their existence.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: Undetermined

Agency Contact: William H. Radtkey, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8282

RIN: 1004–AB09

1305. CULTURAL RESOURCE MANAGEMENT

Legal Authority: 43 USC 1701 et seq; 16 USC 470 et seq; 42 USC 4321; 16 USC 432; 16 USC 470aa et seq; 42 USC 1996; 16 USC 433; 36 CFR 800.11

CFR Citation: 43 CFR 8100; 43 CFR 8110; 43 CFR 8111; 43 CFR 8140; 43 CFR 8141; 43 CFR 8142; 43 CFR 8143

Legal Deadline: None

Abstract: The rule will adapt a Governmentwide compliance procedure to a Bureau-specific procedure, with substantial streamlining, reduction of outside consultation, quicker management decisions that are more rapidly carried out, public land users being allowed to proceed with land or resource use with less delay and cultural resources being protected as effectively as under the existing review system of review.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Undetermined

Agency Contact: John G. Douglas, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-9353

RIN: 1004–AA69

1306. PALEONTOLOGY

Legal Authority: 43 USC 1701 et seq

CFR Citation: 43 CFR 8270

Legal Deadline: None

Abstract: This rule will be revised to provide the procedures for the

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management of paleontological specimens located on the public lands.

Timetable:

Action	Date	FR Cite
NPRM	08/17/82	47 FR 35914
NPRM- Second	11/00/87	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Ted Hudson (202) 343-8735 (see Agency Contact heading for address). The information collection requirements contained in this rule were approved by the Office of Management and Budget under 44 USC 3501 et seq and assigned clearance number 1004-0106. Originally scheduled: 07/80.

Agency Contact: Carl Barna, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 343-3287

RIN: 1004-AA27

1307. RECREATION: GENERAL

Legal Authority: 43 USC 1701 et seq; 43 USC 869; 43 USC 1181a; 43 USC 315; 43 USC 4321 et seq; 16 USC 460l to 461; 16 USC 1131; 16 USC 1271 to 1287; 16 USC 1241; 16 USC 670; 29 USC 794

CFR Citation: 43 CFR Subpart 8300

Legal Deadline: None

Abstract: This rule will be amended to revise the policy statement for recreation management of the public lands.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: Undetermined

Additional Information: ADDITIONAL AGENCY CONTACT: Ted Hudson (202) 343-8735 (see Agency Contact heading for address). Originally scheduled: October 1981.

Agency Contact: Wesley R. Henry, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 343-9353

RIN: 1004-AA35

1308. CADASTRAL SURVEY

Legal Authority: 43 USC 1701 et seq; 48 USC 351; 43 USC 772; 43 USC 773

CFR Citation: 43 CFR 9180

Legal Deadline: None

Abstract: This rule would revise the existing regulations to remove obsolete and burdensome provisions and clarify and simplify the remaining provisions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/88	

Small Entity: Undetermined

Agency Contact: Bernard W. Hestrup, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8798

RIN: 1004-AB07

1309. UNAUTHORIZED USE OF PUBLIC LANDS

Legal Authority: 43 USC 1701 et seq

CFR Citation: 43 CFR 9239

Legal Deadline: None

Abstract: This rule will be amended to clarify those activities that are prohibited on the public lands, to provide managers with additional authority to resolve existing violations and to clarify the authority of the Secretary of the Interior in instances of mineral trespass.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	

Small Entity: Undetermined

Additional Information: ADDITIONAL AGENCY CONTACT: Robert C. Bruce (202) 343-8735 (see Agency Contact heading for address). Originally scheduled: April 1981.

Agency Contact: Walter I. Johnson, Jr., Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 653-8815

RIN: 1004-AA38

DEPARTMENT OF THE INTERIOR (DOI)

Bureau of Land Management (BLM)

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1310. OPENING AND CLOSING LANDS

Legal Authority: 43 USC 1740; 43 USC 1201

CFR Citation: 43 CFR 2090; 43 CFR 2091

Legal Deadline: None

Abstract: This rule will amend the existing regulations to: (1) clarify how and when specific actions close or open public lands; (2) provide the procedure under which information concerning opening and closing of public lands will be published in the Federal Register; and (3) eliminate confusion about when lands are open or closed by specifying if and when the record notation rule will apply.

Timetable:

Action	Date	FR Cite
NPRM	06/07/85	50 FR 24124
NPRM Comment Period End	08/06/85	50 FR 24124
Final Action	06/00/86	
Final Action Effective	07/00/86	

Small Entity: No

Agency Contact: Jim Powell, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-6846

RIN: 1004-AA78

1311. EXCHANGES - GENERAL PROCEDURES – EXCHANGES INVOLVING FEE FEDERAL COAL DEPOSITS

Legal Authority: 43 USC 1715; 43 USC 1716

CFR Citation: 43 CFR Subpart 2203

Legal Deadline: None

Abstract: The rulemaking will provide the procedures for antitrust review of exchanges of Federally-owned coal. This rulemaking is in response to recommendations made by the Commission on Fair Market Value for Federal Coal Leasing.

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Timetable:

Action	Date	FR Cite
NPRM	06/13/85	50 FR 37369
NPRM Comment Period End	10/15/85	50 FR 37369
Final Action	04/00/86	
Final Action Effective	05/00/86	

Small Entity: No

Agency Contact: David Hemstreet, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004-AB15

1312. ALASKA STATE SELECTION

Legal Authority: 94 Stat. 2437

CFR Citation: 43 CFR Subpart 2627

Legal Deadline: None

Abstract: This rule will be amended to provide a change in selection procedures for the State of Alaska as provided for in the amendments to the Alaska Statehood Act.

Timetable:

Action	Date	FR Cite
NPRM	11/18/83	48 FR 48400
Final Action	10/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Robert C. Bruce (202) 343-8735 (see Agency Contact heading for address). Originally scheduled: January 1981.

Agency Contact: Robert Faithful, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 343-6511

RIN: 1004-AA12

1313. FAA AIRPORT GRANTS

Legal Authority: 49 USC 2215

CFR Citation: 43 CFR 2640; 43 CFR 2641

Legal Deadline: None

Abstract: This rule will amend the existing regulations to incorporate changes made by the Airport and Airway Improvement Act of 1982 and other procedural changes to improve the operation of the regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/07/85	50 FR 31897
NPRM Comment Period End	10/07/85	50 FR 31897
Final Action	06/00/86	

Small Entity: No

Agency Contact: Gary Rowe, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8693

RIN: 1004-AA76

1314. ALASKA NATIVE SELECTIONS

Legal Authority: 43 USC 1601 et seq

CFR Citation: 43 CFR 2650; 43 CFR 2651

Legal Deadline: None

Abstract: This rule will establish a new method of charging acreage against Alaska Native Entitlement pursuant to the Alaska Native Claims Settlement Act. It will also establish a procedure for use by Alaska Native Corporations in selecting additional lands to fulfill any additional entitlement due to the change in the method of charging acreage.

Timetable:

Action	Date	FR Cite
NPRM	07/07/84	49 FR 31457
NPRM Comment Period End	11/23/84	49 FR 41266
Final Action	10/00/86	

Small Entity: No

Agency Contact: Robert Faithful, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-6511

RIN: 1004-AA75

1315. CONVEYANCE OF FEDERALLY-OWNED MINERAL INTERESTS

Legal Authority: 43 USC 1719(b)

CFR Citation: 43 CFR 2720

Legal Deadline: None

Abstract: This rule will be amended to make minor revisions to the existing regulations on conveyancing of Federally-owned mineral interests and to provide segregation of lands covered by an application.

Timetable:

Action	Date	FR Cite
NPRM	02/07/85	50 FR 5296
NPRM Comment Period End	04/08/85	50 FR 5296
Final Action	05/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Robert C. Bruce (202) 343-8735 (see Agency Contact heading for address). Originally scheduled: April 1981.

Agency Contact: David Hemstreet, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 343-8693

RIN: 1004-AA15

1316. RIGHTS-OF-WAY, PRINCIPLES AND PROCEDURES

Legal Authority: 43 USC 1732; 43 USC 1740

CFR Citation: 43 CFR 2800

Legal Deadline: None

Abstract: This rulemaking will provide procedures for the administration of rights-of-way granted under statutes that were repealed by the Federal Land Policy and Management Act.

Timetable:

Action	Date	FR Cite
NPRM	07/02/85	50 FR 27322
NPRM Comment Period End	09/03/85	50 FR 27322
Final Action	04/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Robert C. Bruce (202) 343-8735.

Agency Contact: Darrell Barnes, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-5441

RIN: 1004-AA99

1317. AIRPORT LEASES

Legal Authority: 43 USC 1201; 43 USC 1734; 43 USC 1740

CFR Citation: 43 CFR Subpart 2911

Legal Deadline: None

Abstract: This rule would be revised to: remove from the regulations those provisions repealed by the Federal Land Policy and Management Act of

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1978 relating to withdrawals of beacon lights and air navigation facilities; to impose an increased application service fee; and to update the provisions relating to the setting of rental charges for lands leased for airport purposes.

Timetable:

Action	Date	FR Cite
NPRM	08/30/85	50 FR 35578
NPRM Comment Period End	10/21/85	50 FR 35578
Final Action	06/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Robert C. Bruce (202) 343-8735 (see Agency Contact heading for address). Originally scheduled: April 1983.

Agency Contact: Gary Rowe, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 343-8083

RIN: 1004-AA49

1318. COMBINED HYDROCARBON LEASING

Legal Authority: 30 USC 181 et seq; 30 USC 351 et seq; 43 USC 1701 et seq; 96 Stat. 1070

CFR Citation: 43 CFR 3140

Legal Deadline: None

Abstract: This rule would be amended to provide definitions of and procedures for meeting the production in paying quantities and the diligent development of tar sand requirements for all combined hydrocarbon leases.

Timetable:

Action	Date	FR Cite
NPRM	01/10/85	50 FR 1300
NPRM Comment Period End	03/11/85	50 FR 1300
Final Action	06/00/86	

Small Entity: No

Agency Contact: Edward E. Cogge, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-3982

RIN: 1004-AA70

1319. COAL MANAGEMENT - GENERAL

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359

CFR Citation: 43 CFR 3400

Legal Deadline: None

Abstract: This rule will amend the existing regulations covering the procedures for leasing and management of Federal coal to reflect certain recommendations of the Commission on Fair Market Value Policy for Federal Coal Leasing.

Timetable:

Action	Date	FR Cite
NPRM	11/05/84	49 FR 44221
NPRM Comment Period End	05/09/85	50 FR 12083
Final Action	06/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Dan Dick (202) 343-4437.

Agency Contact: Tom Walker, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-4636

RIN: 1004-AA95

1320. COAL MANAGEMENT - GENERAL

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359

CFR Citation: 43 CFR 3400

Legal Deadline: None

Abstract: This rule will amend the existing regulations covering the procedures for leasing and management of Federal coal to reflect certain recommendations of the Office of Technology Assessment.

Timetable:

Action	Date	FR Cite
NPRM	03/15/85	50 FR 10508
NPRM Comment Period End	05/09/85	50 FR 12053
Final Action	06/00/86	

Small Entity: No

Additional Information: This rulemaking was split from an existing RIN, 1004-AA95, Coal Management - General.

Agency Contact: Tom Walker, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-4636

RIN: 1004-AB14

1321. LEASING OF SOLID MINERALS OTHER THAN COAL AND OIL SHALE

Legal Authority: 30 USC 181 et seq; 30 USC 351 to 359

CFR Citation: 43 CFR Group 3500

Legal Deadline: None

Abstract: This rulemaking is being totally revised by format only to facilitate ease of understanding and to promote clarity and efficiency. The rulemaking will divide the minerals covered into specific titles.

Timetable:

Action	Date	FR Cite
NPRM	04/12/85	50 FR 4512
NPRM Comment Period End	07/11/85	50 FR 4512
Final Action	04/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACTS: Robert C. Bruce (202) 343-8735.

Agency Contact: Zareh Moxian, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-3258

RIN: 1004-AB01

1322. WILD FREE-ROAMING HORSE AND BURRO PROTECTION: MANAGEMENT AND CONTROL

Legal Authority: 16 USC 1331 to 1340; 43 USC 1701 et seq

CFR Citation: 43 CFR 4700

Legal Deadline: None

Abstract: This part will be revised in order to reorganize the regulations into a logical, consistent format and to remove needless self-regulation more appropriate for the Bureau Manual. In addition, related rules will be consolidated (aircraft and motor vehicles - 4730 and 4740; removal of horses and burros - 4720, 4740 and 4750), and rules which have no foundation in the law will be eliminated (problem animals - (4740.3(c); fencing of private land - 4750.3)). Procedures for adoption and title transfer will be clarified, and burdensome requirements for veterinarian certifications will be eased by canceling the requirement or allowing certification from any qualified official (4740.4-2 and 4740.5). The costs to those who choose to participate in the adoption program should be lessened by these revisions.

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Timetable:

Action	Date	FR Cite
NPRM	12/18/84	49 FR 49252
NPRM Comment Period End	02/19/85	49 FR 49252
Final Action	06/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Ted Hudson (202) 343-8735 (see Agency Contact heading for address). Originally scheduled: April 1981.

Agency Contact: Richard Starke, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 653-9215

RIN: 1004-AA31

1323. USE AUTHORIZATIONS; SPECIAL RECREATION PERMITS

Legal Authority: 43 USC 1201 et seq; 43 USC 1701 et seq; 43 USC 1181a; 16 USC 460 to 6a

CFR Citation: 43 CFR Subpart 8372

Legal Deadline: None

Abstract: This rule is being revised to reflect revised, special recreation policies.

Timetable:

Action	Date	FR Cite
NPRM	09/16/85	50 FR 37555
NPRM Comment Period End	11/15/85	50 FR 37555
Final Action	06/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Ted Hudson (202) 343-8735 (see Agency Contact heading for address). Originally scheduled: October 1981.

Agency Contact: Bruce Brown, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 343-9353

RIN: 1004-AA36

DEPARTMENT OF THE INTERIOR (DOI)
Bureau of Land Management (BLM)

Completed Actions

1324. RECREATION AND PUBLIC PURPOSES ACT: CONVEYANCES

Legal Authority: 43 USC 869 et seq; 43 USC 1721

CFR Citation: 43 CFR 2740; 43 CFR 2910

Legal Deadline: None

Abstract: These rules will be amended to facilitate acquisition of public lands by States, State instrumentalities and subdivisions, including counties and municipalities, for recreational or public purposes. These amendments would not affect procedures as they relate to non-profit associations other than to require a nonrefundable application service fee.

Timetable:

Action	Date	FR Cite
NPRM	09/28/82	47 FR 42684
Final Action	12/10/85	50 FR 50298
Final Action Effective	01/09/86	50 FR 50298

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Robert C. Bruce (202) 343-8735 (see Agency Contact heading for address). Originally scheduled: October 1981.

Agency Contact: Rob Nauert, Department of the Interior, Bureau of Land Management, 18th and C Streets, NW, Washington, DC 20240, 202 343-8731

RIN: 1004-AA18

1325. COAL LEASE AND COAL LAND EXCHANGES; ALLUVIAL VALLEY FLOORS

Legal Authority: 30 USC 1260(b)(5)

CFR Citation: 43 CFR Subpart 3436

Legal Deadline: None

Abstract: This rule will be revised to delete the provision requiring alluvial valley floor exchange proponents to bear all the administrative costs connected with such exchanges.

Timetable:

Action	Date	FR Cite
NPRM	06/07/85	50 FR 23997
NPRM Comment Period End	08/07/85	50 FR 23997
Final Action	10/17/85	50 FR 42022
Final Action Effective	11/18/85	50 FR 42022

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Robert C. Bruce (202) 343-8735 (see Agency Contact heading for address).

Agency Contact: Carole Smith, Department of the Interior, Bureau of Land Management, 18th & C Streets, NW, Washington, DC 20240, 202 343-8821

RIN: 1004-AA64

1326. COAL EXPLORATION AND MINING OPERATIONS RULES - CLARIFICATION OF LOGICAL MINING UNIT EFFECTIVE DATE

Legal Authority: 30 USC 181 et seq; 90 Stat. 1083

CFR Citation: 43 CFR 3480

Legal Deadline: None

Abstract: This rulemaking will clarify the discretionary authority of the Secretary of the Interior in establishing the effective date of approval of a logical mining unit.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/02/85	50 FR 40197
Final Action	11/00/85	

Small Entity: No

Agency Contact: Allen B. Agnew, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-7722

RIN: 1004-AB16

1327. GRAZING ADMINISTRATION - EXCLUSIVE OF ALASKA

Legal Authority: 43 USC 315; 43 USC 1181(d); 43 USC 1701 et seq; PL 98-473

CFR Citation: 43 CFR 4100; 43 CFR 4130; 43 CFR 4140; 43 CFR 4170

Legal Deadline: None

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Abstract: This rule will amend the existing regulations to incorporate the provisions of the Department of the Interior Appropriations Act for Fiscal Year 1985 covering subleasing of grazing leases and permits.

Timetable:

Action	Date	FR Cite
NPRM	03/11/85	50 FR 9696
NPRM Comment Period End	05/10/85	50 FR 9696
Final Action	11/04/85	50 FR 45824
Final Action Effective	12/04/85	50 FR 45824

Small Entity: No

Agency Contact: Billy Templeton, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 653-8193

RIN: 1004-AB12

1328. PROCEDURES - FOSSIL FOREST RESEARCH NATURAL AREA

Legal Authority: 16 USC 1131 to 1136; 43 USC 1701 et seq; 30 USC 181 et seq; 30 USC 1201 et seq; 90 Stat. 1063 to 1092

CFR Citation: 43 CFR 8224

Legal Deadline: None

Abstract: This rule will provide procedures for the management and protection of natural, aesthetic, scientific, educational and paleontological values in the Fossil Forest of New Mexico.

Timetable:

Action	Date	FR Cite
NPRM	05/30/85	50 FR 23034
NPRM Comment Period End	07/29/85	50 FR 23034
Final Action	10/17/85	50 FR 42122
Final Action Effective	11/18/85	50 FR 42122

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Ted Hudson, (202) 343-8735

Agency Contact: F. Carl Barna, Department of the Interior, Bureau of Land Management, 1800 C Street, NW, Washington, DC 20240, 202 343-8353

RIN: 1004-AB06

[FR Doc. 86-8821 Filed 04-18-86; 8:45 am]

BILLING CODE 4310-10-T

DEPARTMENT OF THE INTERIOR (DOI)

Geological Survey (GS)

Final Rule Stage

1329. WATER RESOURCES RESEARCH AND WATER RESOURCES TECHNOLOGY DEVELOPMENT PROGRAM

Legal Authority: PL 98-242, Sec 105 to 106 Water Resources Research Act of 1964

CFR Citation: 30 CFR 402, (New)

Legal Deadline: None

Abstract: The purpose of the new proposed regulation is to establish procedures that will enable the Department of the Interior to meet its responsibilities in administering the Water Resources Research Act of 1984. The objective of this Act is to assist the Nation and the States in augmenting their water resources science and technology. The proposed regulation addresses the location of the administrative responsibility within the Department of the Interior; cost-sharing requirements and evaluation processes required by the Water Resources Research Act of 1984; and, application and reporting procedures to be utilized by interested parties.

Timetable:

Action	Date	FR Cite
NPRM	10/18/85	50 FR 42188
NPRM Comment Period End	12/17/85	50 FR 42188
Final Action	06/00/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Melvin Law, Department of the Interior, Geological Survey, 426 National Center, Reston VA 22092, 703 860-7324

RIN: 1028-AA01

[FR Doc. 86-8821 Filed 04-18-86; 8:45 am]

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federal register

Monday
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Part XI

Department of Justice

Semiannual Regulatory Agenda

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DEPARTMENT OF JUSTICE

8 CFR Ch. I

21 CFR Ch. II

28 CFR Ch. I

48 CFR Ch. 28

Regulatory Agenda

AGENCY: Justice Management Division, Department of Justice.

ACTION: Regulatory agenda.

SUMMARY: The Department of Justice is publishing its April 1986 regulatory agenda pursuant to Executive Order No. 12291, "Federal Regulation," 3 CFR 127 (1981 Compilation), the Regulatory Flexibility Act, 5 U.S.C.A. 601-612 (West 1984), and Office of Management and Budget Bulletin No. 86-4, December 23, 1985.

FOR FURTHER INFORMATION CONTACT: Janis A. Sposato, General Counsel, Justice Management Division, Department of Justice, Room 1226, 10th and Constitution Avenue, N.W., Washington, D.C. 20530 (202-633-3452).

SUPPLEMENTARY INFORMATION: The Department has identified 25 current and projected rulemakings for inclusion in the agenda. Three of these regulations have had final actions.

DATED: February 20, 1986.

W. Lawrence Wallace,

Assistant Attorney General for Administration.

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Proposed Rule Stage

1330. ● ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN DEPARTMENT OF JUSTICE PROGRAMS

Legal Authority: 29 USC 794

CFR Citation: 28 CFR 42

Legal Deadline: None

Abstract: This proposed regulation would amend the regulation issued by the Department of Justice for enforcement of section 504 of the Rehabilitation Act of 1973, as amended, in federally assisted programs or activities to include a cross-reference to the Uniform Federal Accessibility Standards.

Timetable:

Action	Date	FR Cite
NPRM	05/01/86	
NPRM Comment Period End	07/01/86	

Small Entity: No

Agency Contact: Howard Feinstein, Attorney, Department of Justice, Civil Rights Division, Coordination and Review Section, Civil Rights Division, Washington, DC 20530, 202 724-5737

RIN: 1190-AA16

DEPARTMENT OF JUSTICE (DOJ)
Civil Rights Division (CRT)

Final Rule Stage

1331. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 42 USC 6103

CFR Citation: 28 CFR 42, Subpart H, (New)

Legal Deadline: None

Abstract: This regulation will implement the Age Discrimination Act of 1975, as amended. The proposed rule was published for comment, modified, approved by the Office of Legal Counsel, Department of Justice and forwarded to the Secretary of the Department of Health and Human Services for approval on November 10, 1980.

Timetable:

Action	Date	FR Cite
NPRM	05/19/80	45 FR 32710
Final Action	00/00/00	

Small Entity: No

Agency Contact: Doreen Dennis, Attorney, Department of Justice, Civil Rights Division, Coordination and Review Section, Washington, DC 20530, 202 724-2219

RIN: 1190-AA03

1332. PROCEDURES FOR THE ADMINISTRATION OF SECTION 5 OF THE VOTING RIGHTS ACT OF 1965, AS AMENDED

Significance: Regulatory Program

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 42 USC 1973c

CFR Citation: 28 CFR 51

Legal Deadline: None

Abstract: PROBLEM THE REGULATION WILL ADDRESS: Revision of the Procedures is needed as a result of experience under them since 1981, interpretations of Section 5 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973c, contained in judicial decisions, changes mandated by the 1982 Amendments to the Voting Rights Act, P.L. 97-205, 96 Stat. 131., and to set out substantive standards followed by the Attorney General. ALTERNATIVES BEING CONSIDERED: (1) Revisions to address all of the problems described above, or (2) revisions limited to incorporate changes made by the 1982 Amendments. ACTION'S POTENTIAL COSTS: None. ACTION'S POTENTIAL BENEFITS: Entities subject to Section 5 and other interested persons will receive greater guidance with respect to the procedures and standards of the Attorney General.

Timetable:

Action	Date	FR Cite
NPRM	05/06/85	50 FR 19122
NPRM Comment Period End	07/05/85	
Final Action	04/01/86	

DOJ—CRT

Final Rule Stage

Action	Date	FR Cite
Final Action Effective	05/01/86	

Small Entity: Not Applicable

Agency Contact: David Hunter, Attorney, Voting Section, Department of Justice, Civil Rights Division, Washington, DC 20530, 202 724-5896

RIN: 1190-AA05

1333. IMPLEMENTATION OF THE PROVISIONS OF THE VOTING RIGHTS ACT REGARDING LANGUAGE MINORITY GROUPS

Legal Authority: 5 USC 301; 28 USC 509; 28 USC 510; 42 USC 1973b; 42 USC 1973j(d); 42 USC 1973aa-1a; 42 USC 1973aa-2

CFR Citation: 28 CFR 55

Legal Deadline: None

Abstract: Revision of the minority language guidelines is needed to conform them to new determinations of coverage and to changes mandated by the 1982 Amendments to the Voting Rights Act, PL 97-205. Affected entities and interested persons will have more accurate information with respect to the application of the minority language requirements of the Voting Rights Act.

Timetable:

Action	Date	FR Cite
Final Action	04/01/86	
Final Action Effective	04/01/86	

Small Entity: Not Applicable

Agency Contact: David H. Hunter, Attorney, Voting Section, Department of Justice, Civil Rights Division, Washington, DC 20530, 202 724-5896

RIN: 1190-AA15

[FR Doc. 86-8774 Filed 04-18-86; 8:45am]

BILLING CODE 4410-01-T

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM)

Prerule Stage

1334. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW REPRESENTATION AND APPEARANCES

Legal Authority: 28 USC 509; 28 USC 510; 5 USC 301; 8 USC 1103; 8 USC 1362

CFR Citation: 8 CFR 292.3; 8 CFR 3.1

Legal Deadline: None

Abstract: The contemplated regulation change would revise the procedure by which attorneys and representatives may be disbarred or suspended. It provides for a hearing and decision by an immigration judge, with appeal rights to the Board of Immigration Appeals and some limited review by the Attorney General. The change is desirable since it eliminates procedural entanglements between the Service and the immigration judges which exist in the current procedure.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Gerald S. Hurwitz, Counsel to the Director, Department of Justice, General Administration, Executive Office for Immigration Review, Suite 1609, 5203 Leesburg Pike, Falls Church, VA 22041, 703 756-6470

RIN: 1103-AA03

1335. REPRESENTATION AND APPEARANCES

Legal Authority: 8 USC 1103; 8 USC 1362

CFR Citation: 8 CFR 292.1

Legal Deadline: None

Abstract: The contemplated regulation change would limit practice of foreign-licensed attorneys outside the definition of attorney under 8 CFR 1.1(f) to matters arising outside the United States and to those instances where the Immigration and Naturalization Service allows such practice. This is designed to help assure the high quality of representation in immigration matters.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Gerald S. Hurwitz, Counsel to the Director, Department of Justice, General Administration, Executive Office for Immigration Review, Suite 1609, 5203 Leesburg Pike, Falls Church, VA 22041, 703 756-6470

RIN: 1103-AA05

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM)

Proposed Rule Stage

1336. PROCEDURAL RULES FOR IMMIGRATION JUDGE PROCEEDINGS

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1253

CFR Citation: 8 CFR 3; 8 CFR 103; 8 CFR 208; 8 CFR 236; 8 CFR 242; 8 CFR 243; 8 CFR 246; 8 CFR 292

Legal Deadline: None

Abstract: The contemplated regulation revisions would set out a group of uniform rules of procedure in immigration proceedings to provide guidance to parties appearing before immigration judges in deportation,

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Proposed Rule Stage

exclusion, bond, and rescission matters. These rules are designed to assist in the expeditious, fair, and proper resolution of matters coming before immigration judges. These rules encompass such matters as jurisdiction, venue, motions, conduct of hearing, decisions, and appeals.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Gerald S. Hurwitz, Counsel to the Director, Department of Justice, General Administration, Executive Office for Immigration Review, Suite 1609, 5203 Leesburg Pike, Falls Church, VA 22041, 703 756-6470

RIN: 1103-AA04

1337. MOTIONS TO REOPEN DEPORTATION PROCEEDINGS

Legal Authority: 8 USC 1103; 8 USC 1252

CFR Citation: 8 CFR 242

Legal Deadline: None

Abstract: The contemplated revision would delete the language allowing an application for adjustment of status under section 245 of the Immigration and Nationality Act, filed by itself, to be considered as a motion to reopen in deportation proceedings. The practice of allowing such applications to be treated as motions to reopen has resulted in confusion and administrative delay. This revision would treat motions to reopen for adjustment of status as any other motion to reopen. It is designed to eliminate the administrative difficulties involved with the filing of a bare adjustment of status application with no indication of whether or not it is a motion to reopen.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Gerald S. Hurwitz, Counsel to the Director, Department of Justice, General Administration, Executive Office for Immigration Review, Suite 1609, 5203 Leesburg Pike, Falls Church, VA 22041, 703 756-6470

RIN: 1103-AA07

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM)

Final Rule Stage

1338. APPEAL OF SECTION 212(C) WAIVER APPLICATIONS

Legal Authority: 8 USC 301; 8 USC 509; 8 USC 510; 8 USC 1101; 8 USC 1103; 8 USC 1182; 8 USC 1182b; 8 USC 1182c; 8 USC 1184; 8 USC 1225; 8 USC 1226; 8 USC 1228; 8 USC 1252

CFR Citation: 8 CFR 3; 8 CFR 212

Legal Deadline: None

Abstract: The proposed regulation revisions would streamline the appeal procedure for this application by eliminating an appeal to the Board of Immigration Appeals following a denial of the waiver by an INS district director. The appeal to the Board of Immigration Appeals is retained in reviewing proceedings before immigration judges. The revision is designed to encourage speedy adjudication of Immigration and Nationality Act section 212(c) applications and economy of resources.

Timetable:

Action	Date	FR Cite
NPRM	08/24/85	50 FR 25904
NPRM Comment Period End	07/24/85	50 FR 25904
Interim Final Rule	00/00/00	

Small Entity: No

Agency Contact: Gerald S. Hurwitz, Counsel to the Director, Department of Justice, General Administration, Executive Office for Immigration Review, Suite 1609, 5203 Leesburg Pike, Falls Church, VA 22041, 703 756-6470

RIN: 1103-AA06

1339. ● PROCEDURAL RULES FOR IMMIGRATION JUDGE PROCEEDINGS

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1226; 8 USC 1252; 8 USC 1253

CFR Citation: 8 CFR 3; 8 CFR 103; 8 CFR 208; 8 CFR 236; 8 CFR 242; 8 CFR 243; 8 CFR 246; 8 CFR 292

Legal Deadline: None

Abstract: The proposed regulation revisions would set out a group of uniform Rules of Procedure in Immigration Proceedings to provide guidance to parties appearing before immigration judges in deportation, exclusion, bond, and rescission matters. These rules are designed to assist in the expeditious, fair, and proper resolution of matters of jurisdiction, venue, motions, conduct of hearing, decisions, and appeals.

Timetable:

Action	Date	FR Cite
NPRM	12/19/85	50 FR 51693
NPRM Comment Period End	01/21/86	50 FR 51693
Final Action	00/00/00	

Small Entity: No

Agency Contact: Gerald S. Hurwitz, Counsel to the Director, Department of Justice, General Administration, Executive Office for Immigration Review, 5203 Leesburg Pike, Suite 1609, Falls Church, Virginia 22041, 703 756-6470

RIN: 1103-AA08

DEPARTMENT OF JUSTICE (DOJ)
General Administration (DOJADM)

Completed Actions

1340. JUSTICE ACQUISITION REGULATIONS

CFR Citation: 48 CFR 32

Completed:

Reason	Date	FR Cite
Rulemaking no longer considered necessary	01/29/86	

Small Entity: Undetermined

Agency Contact: Larry Silvis 202 272-6356

RIN: 1103-AA02

[FR Doc. 86-8774 Filed 04-18-86; 8:45am]
BILLING CODE 4410-01-T

DEPARTMENT OF JUSTICE (DOJ)
Immigration and Naturalization Service (INS)

Prerule Stage

1341. ASYLUM PROCEDURES

Legal Authority: 8 USC 1103; 8 USC 1158; 8 USC 1182; 8 USC 1225; 8 USC 1226; 8 USC 1252; 8 USC 1253

CFR Citation: 8 CFR 208; 8 CFR 235.9; 8 CFR 236.3; 8 CFR 242.17(c); 8 CFR 243.9; 8 CFR 253.1(f)

Legal Deadline: None

Abstract: The proposed rule would set forth procedures to be used in adjudicating asylum and withholding of deportation applications under sections 208 and 243(h) of the Immigration and Nationality Act.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/86	
ANPRM Comment Period End	06/00/86	

Small Entity: No

Agency Contact: Ralph B. Thomas, Immigration Inspector, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-5463

RIN: 1115-AA13

1342. NONIMMIGRANT CLASSES; TEMPORARY EMPLOYEES AND INTRACOMPANY TRANSFEREES

Legal Authority: 8 USC 1101; 8 USC 1184

CFR Citation: 8 CFR 214.2(h); 8 CFR 214.2(l)

Legal Deadline: None

Abstract: This proposed rule would amend existing regulations relating to temporary employees and intracompany transferees to clarify the requirements for eligibility and facilitate public understanding of the adjudication process.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Flora Richardson, Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-3240

RIN: 1115-AA18

1343. DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE; DIRECT TRANSITS

Legal Authority: 8 USC 1182

CFR Citation: 8 CFR 212.1(k)

Legal Deadline: None

Abstract: The proposed rule would outline requirements for approval of Section 212(k) Waivers, including an Amended I-193 for use in making application.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/86	
ANPRM Comment Period End	05/00/86	

Small Entity: No

Agency Contact: Dennis McCloskey, Assistant Chief Inspector, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-2699

RIN: 1115-AA19

1344. PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING AND APPEAL; ORDER TO SHOW CAUSE AND NOTICE OF HEARING

Legal Authority: 8 USC 1252

CFR Citation: 8 CFR 242.1(A)

Legal Deadline: None

Abstract: This proposed change would extend order to show cause issuance authority to an Assistant District Director for Deportation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Michael Cronin, Detention and Deportation Officer, Department of Justice, Immigration and Naturalization Service, 425 Eye Street, NW, Washington, DC 20536, 202 633-4120

RIN: 1115-AA20

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DEPARTMENT OF JUSTICE (DOJ) — **Proposed Rule Stage**

Immigration and Naturalization Service (INS)

1345. ● POWERS AND DUTIES OF SERVICE OFFICES; AVAILABILITY OF SERVICE RECORDS

Legal Authority: 8 USC 1103

CFR Citation: 8 CFR 103.7(B)(1)

Legal Deadline: None

Abstract: This rule proposes to amend the fee schedule of the Immigration and Naturalization Service and the Executive Office for Immigration Review with the charges being adjusted to more nearly reflect the current recovery cost of providing the benefits and services. These changes are necessary to place the financial burden of providing special services and benefits, which do not accrue to the public at large, on the recipients.

Timetable:

Action	Date	FR Cite
NPRM	01/22/86	51 FR 2995
NPRM Comment Period End	03/24/86	51 FR 2995
Final Action	07/00/86	
Final Action Effective	08/00/86	

Small Entity: No

Agency Contact: Charles S. Thomasson, Systems Accountant, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-4765

RIN: 1115-AA21

1346. ● POWERS AND DUTIES OF SERVICE OFFICERS; AVAILABILITY OF SERVICE RECORDS

Legal Authority: 8 USC 1103

CFR Citation: 8 CFR 103.2(B)(2)

Legal Deadline: None

Abstract: This proposed rule would incorporate a provision to allow the withholding of information relating to a pending civil or criminal investigation, or if such disclosure will, in the opinion of the District Director, compromise a confidential informant. This rule would also correct current language by requiring consent of classifying authority prior to release of classified information.

Timetable:

Action	Date	FR Cite
NPRM	07/02/85	50 FR 27269
NPRM Comment Period End	10/03/85	50 FR 35098
Next Action Undetermined		

Small Entity: No

Agency Contact: Paul W. Schmidt, Deputy General Counsel, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-2866

RIN: 1115-AA22

DEPARTMENT OF JUSTICE (DOJ) — **Final Rule Stage**

Immigration and Naturalization Service (INS)

1347. PETITION TO CLASSIFY ALIEN AS IMMEDIATE RELATIVE OF A UNITED STATES CITIZEN OR AS A PREFERENCE IMMIGRANT; FILING DATE

Legal Authority: 8 USC 1154

CFR Citation: 8 CFR 204.1(d)(2)

Legal Deadline: None

Abstract: This proposed rule would require filing of third and sixth preference petitions within 30 days of issuance of a labor certification in order to preserve the date of submission to a state employment service office as the alien's priority date. Otherwise the priority date would be the date the petition is filed with the Service.

Timetable:

Action	Date	FR Cite
NPRM	11/08/85	50 FR 46441
NPRM Comment Period End	01/07/86	50 FR 46441
Final Action	03/00/86	
Final Action Effective	04/00/86	

Small Entity: No

Agency Contact: Lloyd Sutherland, Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-3946

RIN: 1115-AA14

1348. CERTIFICATES OF CITIZENSHIP; EXAMINATION UPON APPLICATION; NATURALIZATION AND CITIZENSHIP PAPERS LOST, MUTILATED, OR DESTROYED; NEW CERTIFICATE IN CHANGED NAME

Legal Authority: 8 USC 1452; 8 USC 1454

CFR Citation: 8 CFR 341.2(A); 8 CFR 343A.1

Legal Deadline: None

Abstract: This rule would amend the existing regulations relating to the conducting of required interviews on applications for citizenship or replacement of lost, mutilated, or destroyed citizenship papers. This would eliminate unnecessary interview time and allow more applications to be processed.

Timetable:

Action	Date	FR Cite
NPRM	07/15/85	50 FR 28586
NPRM Comment Period End	09/13/85	50 FR 28586
Final Action	03/00/86	
Final Action Effective	04/00/86	

Small Entity: No

Agency Contact: Raymond R. Jaroneski, Jr., Immigration Examiner, Department of Justice, Immigration and Naturalization Service, 425 Eye St., NW, Washington, DC 20536, 202 633-3914

RIN: 1115-AA15

DEPARTMENT OF JUSTICE (DOJ) — **Completed Actions**

Immigration and Naturalization Service (INS)

1349. IMPOSITION OF MINIMUM BOND AS CONDITION OF RELEASE

CFR Citation: 8 CFR 3.1(b)(7); 8 CFR 242.2

Completed:

Reason	Date	FR Cite
Not Presently Being Considered	02/06/86	

Small Entity: No

Agency Contact: Michael J. Hallman 202 633-3628

RIN: 1115-AA03

1350. NONIMMIGRANT CLASSES; EXTENSIONS OF STAY FOR CERTAIN NONIMMIGRANT CLASSIFICATIONS

CFR Citation: 8 CFR 214.2

Completed:

Reason	Date	FR Cite
Final Action	10/17/85	50 FR 42006
Final Action Effective	11/18/85	50 FR 42006

Small Entity: No

Agency Contact: Jeffrey Trecartin 202 633-3240

RIN: 1115-AA11

1351. DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE; DIRECT TRANSITS

CFR Citation: 8 CFR 212.1(e)

Completed:

Reason	Date	FR Cite
Final Action	10/09/85	50 FR 41314
Final Action Effective	01/07/86	50 FR 47035

Small Entity: No

Agency Contact: Harvey Adler 202 633-2894

RIN: 1115-AA17

[FR Doc. 86-5774 Filed 04-18-86; 8:45am]

BILLING CODE 4410-01-T

DEPARTMENT OF JUSTICE (DOJ) — **Final Rule Stage**

Legal Activities (LA)

1352. REVISION OF DEPARTMENT OF JUSTICE FEE REGULATIONS IMPLEMENTING THE FREEDOM OF INFORMATION ACT

Legal Authority: 28 USC 509; 28 USC 510; 5 USC 301; 5 USC 552; 31 USC 9701

CFR Citation: 28 CFR 16, (Revision)

Legal Deadline: None

Abstract: This is a proposed revision to the procedural regulations of the Department of Justice, 28 CFR 16.10, setting forth the fees to be charged under the Freedom of Information Act ("FOIA"), 5 USC 552. It is proposed that this provision be amended, for the first time since 1975, to increase certain of the fees charged under the Act. No change is proposed in the current charge of 10 cents per page for duplication.

Timetable:

Action	Date	FR Cite
NPRM	12/23/85	50 FR 52335
NPRM Comment Period End	01/22/86	50 FR 52335
Final Action	00/00/00	

Small Entity: No

Agency Contact: Daniel J. Metcalfe, Co-Director, Department of Justice, Legal Activities, Office of Information and Privacy, Washington, DC, 202 724-7408

RIN: 1105-AA04

1353. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN DEPARTMENT OF JUSTICE ADMINISTRATIVE PROCEEDINGS

Legal Authority: 5 USC 504 Equal Access to Justice Act

CFR Citation: 28 CFR 24, (Revision)

Legal Deadline: None

Abstract: The Equal Access to Justice Act was reauthorized on August 5, 1985. Various new amendments have been adopted which require revision of the procedures for applications for attorneys fees, eligible parties, and proceedings covered.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/86	
Final Action	06/00/86	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, Federal

Analysis: Regulatory Impact Analysis

Agency Contact: Helen Shaw, Department of Justice, Legal Activities, 202 633-2034

RIN: 1105-AA05

[FR Doc. 86-5774 Filed 04-18-86; 8:45am]

BILLING CODE 4410-01-T

DEPARTMENT OF JUSTICE (DOJ) — **Completed Actions**

Office of Justice Programs (OJP)

1354. OMB ADMINISTRATIVE REQUIREMENTS FOR DOJ ASSISTANCE PROGRAMS--GRANTS ADMINISTRATION

CFR Citation: 28 CFR 11

Completed:

Reason	Date	FR Cite
Withdrawn	07/00/85	

Small Entity: Not Applicable

Agency Contact: Charles A. Lauer 202 724-7795

RIN: 1121-AA05

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Completed Actions

1355. CRIME VICTIM ASSISTANCE GRANTS

CFR Citation: 00 CFR None

Completed:

Reason	Date	FR Cite
Final Action	10/23/85	50 FR 43011
Final Action Effective	10/23/85	50 FR 43011

Small Entity: Not Applicable

Agency Contact: Charles M. Hollis 202 724-5947

RIN: 1121-AA07

1356. EMERGENCY FEDERAL LAW ENFORCEMENT ASSISTANCE

CFR Citation: 28 CFR 65

Completed:

Reason	Date	FR Cite
Final Action	12/16/85	50 FR 51340
Final Action Effective	12/16/85	50 FR 51340

Small Entity: No

Agency Contact: R. John Gregrich 202 724-5838

RIN: 1121-AA08

[FR Doc. 86-8774 Filed 04-18-86; 8:45 am]

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federal register

Monday
April 21, 1986

Part XII

Department of Labor

Semiannual Regulatory Agenda

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DEPARTMENT OF LABOR

Office of the Secretary

20 CFR Chs. I, IV, V, VI, and VII

29 CFR Subtitle A and Chs. II, IV, V, XVII, and XXV

30 CFR Ch. I

41 CFR Ch. 60

48 CFR Ch. 29

Semiannual Agenda of Regulations

AGENCY: Office of the Secretary, Labor.

ACTION: Semiannual agenda of regulations selected for review or development.

SUMMARY: This document sets forth the Department's Semiannual Agenda of Regulations which have been selected for review or development during the coming one-year period. The agenda complies with the requirements of both Executive Order 12291 and the Regulatory Flexibility Act.

DATES: The agenda includes all regulations which are expected to be under review or development between April 1986 and April 1987.

FOR FURTHER INFORMATION CONTACT: Roland G. Droitsch, Acting Deputy Assistant Secretary for Policy, Office of the Assistant Secretary for Policy, Department of Labor, 200 Constitution Avenue, N.W., Room S-2233, Washington, D.C. 20210, (202) 523-8058.

SUPPLEMENTARY INFORMATION: Executive Order 12291 and the Regulatory Flexibility Act require the semiannual publication in the Federal Register of an agenda of regulations.

Executive Order 12291 became effective February 17, 1981, and in substance requires the Department of Labor to publish an agenda, listing all the regulations it expects to have under active consideration for promulgation, proposal or review during the coming one-year period. It also requires the Department to conduct a Regulatory Impact Analysis for all "major" regulations being developed.

The Regulatory Flexibility Act became effective on January 1, 1981. It applies only to regulations for which a notice of proposed rulemaking was issued on or after January 1, 1981, and requires the Department of Labor to publish an agenda, listing all the regulations it expects to propose or promulgate that are likely to have a "significant economic impact on a substantial number of small entities" (5 U.S.C. 602). For any regulation that will have this impact, the Department must conduct a Regulatory Flexibility Analysis to gauge the economic consequences of the rule, and to analyze the availability of more flexible approaches for lightening the rule's regulatory burden on "small entities."

If a proposed regulation will not have a "significant economic impact on a substantial number of small entities," the Department of Labor must publish a certification to that effect at the time of the general notice of proposed rulemaking or at the time of the publication of the final rule. That certification must be accompanied by a succinct statement explaining the reasons for the agency's determinations.

As permitted by law, the Department of Labor is combining in this publication its agendas under the Regulatory Flexibility Act and Executive Order 12291.

The regulatory reform process, of which the unified agenda is a part, continues to be an extremely valuable aid in the development of better regulations by the Department. We believe that our regulatory reform program has resulted in improved regulatory management, more clearly written regulations and significantly less burdensome regulations.

Further improvement is certainly needed, and we are constantly seeking new and innovative approaches in pursuit of this goal. All interested members of the public are invited and encouraged to let Departmental Officials know how our regulatory reform process can be further improved and, of course, to participate in and comment on the review or development of the regulations listed on the agenda.

William E. Brock,
Secretary of Labor.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1357	Debt Collection Act Regulations: Salary Offset	1290-AA04
1358	Right to Financial Privacy Act	1290-AA05

Employment Standards Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1359	Employment of Minors Between 14 and 16 Years of Age (Child Labor Regulation Number 3) (ESA/W-H)	1215-AA09
1360	Defining and Delimiting the Terms "Any Employee Employed in a Bona Fide Executive, Administrative, or Professional Capacity. . ." (ESA/W-H)	1215-AA14
1361	Child Labor Regulations Subpart E, Occupations Particularly Hazardous for the Employment of Minors 16 and 17 Years of Age Involved the Operation of Bakery Machines (ESA/W-H)	1215-AA20
1362	Child Labor Regulations Subpart E, Occupations Particularly Hazardous for the Employment of Minors 16 and 17 Years of Age Involving Slaughtering and Related Occupations (ESA/W-H)	1215-AA21

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Employment Standards Administration—Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1363	Child Labor Regulations Subpart E, Occupations Particularly Hazardous for the Employment of Minors 16 and 17 Years of Age Involving Motor Vehicle Drivers and Helpers (ESA/W-H)	1215-AA23
1364	Wage Payments Under the Fair Labor Standards Act of 1938	1215-AA32

Employment Standards Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1365	Government Contractors: Nondiscrimination and Affirmative Action Obligation (ESA/OFCCP)	1215-AA01
1366	Labor Standards Provisions, Davis-Bacon and Related Acts (ESA/WH)	1215-AA07
1367	Records to be Kept by Employers (ESA/W-H)	1215-AA22
1368	Claims for Compensation Under the Federal Employees' Compensation Act	1215-AA29
1369	General Regulations Under the Walsh-Healey Public Contracts Act	1215-AA33
1370	Employment of Handicapped Clients in Sheltered Workshops	1215-AA34
1371	Labor Standards on Projects or Productions Assisted by Grants from the National Endowment for the Arts (ESA/W-H)	1215-AA35
1372	Application of the Fair Labor Standards Act to State and Local Government Agencies (29 CFR 553 Subpart A)	1215-AA37
1373	Application of the Fair Labor Standards Act to State and Local Government Agencies (29 CFR 553, Subpart C)	1215-AA38
1374	Application of the Fair Labor Standards Act to State and Local Government Agencies (29 CFR 553, Subpart B)	1215-AA39
1375	Claims for Compensation Under the War Hazards Compensation Act	1215-AA42

Employment Standards Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1376	Nondiscrimination and Affirmative Action Obligations for Disabled Veterans, Veterans of Vietnam Era, and Handicapped Workers (ESA/OFCCP)	1215-AA02
1377	Black Lung: Obligations of Lessors for Claims for Benefits (ESA/OWCP)	1215-AA03
1378	FECA Medical Fee Regulations (ESA/OWCP)	1215-AA13

Employment Standards Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1379	Longshoreman's Act: Regional Offices (ESA/OWCP)	1215-AA12
1380	Longshoremen's Act: Second Injury Relief; Annual Assessments (ESA/OWCP)	1215-AA18
1381	Longshore and Harbor Workers' Compensation Act and Related Statutes	1215-AA30

Employment and Training Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1382	Services to Migrant and Seasonal Farmworkers, Job Service Complaint System, Monitoring and Enforcement	1205-AA37
1383	Use of Funds Transferred to the States Under Section 903(c) of the Social Security Act (Reed Act)	1205-AA43
1384	Review SESA Administrative Financing System	1205-AA51
1385	Job Training Partnership Act Audits	1205-AA53

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Employment and Training Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1386	Airline Deregulation: Employee Benefit Program	1205-AA07
1387	Limitations on Tax Credit Reductions and Interest on Advances to States	1205-AA14
1388	Federal-State Extended Unemployment Compensation Act of 1970	1205-AA15
1389	Unemployment Compensation for Ex-Servicemembers	1205-AA26
1390	Unemployment Insurance Quality Control Program	1205-AA28
1391	Place Rate Adjustments	1205-AA30
1392	Labor Certification Process for the Permanent Employment of Aliens in the United States	1205-AA33
1393	Agricultural Adverse Effect Wage Rates - Methodology for Computing Rates for 1986	1205-AA39
1394	Work Incentive Programs for Aid to Families with Dependent Children Recipients under Title IV of the Social Security Act	1205-AA45
1395	Administrative Procedure	1205-AA46
1396	Disaster Unemployment Assistance Program (DUA)	1205-AA50
1397	Labor Certification Process for Temporary Employment of Alien Workers in Agriculture: Adverse Effect Wage Rates for Idaho, Oregon and Louisiana	1205-AA52
1398	Job Corps Program Under Title IV-B of the Job Training Partnership Act	1205-AA54
1399	Preference in Federal Procurement For Labor Surplus Areas Under Executive Orders 12073 and 10582	1205-AA55

Employment and Training Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1400	Trade Adjustment Assistance for Workers	1205-AA17
1401	Senior Community Service Employment Program	1205-AA29
1402	Trade Adjustment Assistance for Workers	1205-AA31
1403	Labor Certification Process for the Temporary Employment of Aliens in Agriculture and Logging in the United States	1205-AA34
1404	Labor Certification Process for Temporary Employment of Alien Workers in Agriculture: Montana Adverse Effect Wage Rate	1205-AA48

Employment and Training Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1405	Implementation of the Deficit Reduction Act (P.L. 98-369) Provisions for Exchange of Income and Eligibility Information Among Federally-assisted Income Maintenance Programs	1205-AA32

Pension and Welfare Benefits Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1406	Participant Directed Individual Account Plans	1210-AA08
1407	Loans to Participants	1210-AA09
1408	Adequate Consideration	1210-AA15
1409	Amendment of Severance Pay Regulation	1210-AA18
1410	Qualified Domestic Relations Orders Under the Retirement Equity Act	1210-AA19
1411	Procedures for Administrative Imposition of Civil Sanctions	1210-AA20
1412	Top Hat Plans	1210-AA21
1413	The Payment of Trustees' Litigation Expenses	1210-AA22

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Pension and Welfare Benefits Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1414	Individual Benefit Reporting - Recordkeeping - Multiple Employer Plans	1210-AA02
1415	Individual Benefit Reporting and Recordkeeping for Single Employer Plans	1210-AA03
1416	Plan Assets Regulation	1210-AA06
1417	Exemptive and Alternative Method of Compliance for Annual Reporting of Certain Entities	1210-AA14
1418	Definition of Plan Assets -- Employee Contributions	1210-AA16

Pension and Welfare Benefits Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1419	Participation of Self-Regulatory Organizations in the Prohibited Transaction Exemption Process	1210-AA17

Mine Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1420	Review of Self-Contained Self Rescue Devices (SCSR) Standards Applicable to Coal Mining	1219-AA08
1421	Underground Coal Mine Electrical Standards	1219-AA10
1422	Review of Hoisting and Transportation of Persons and Material Standards Applicable to Coal Mining	1219-AA12
1423	Approval Criteria for Diesel-Powered Equipment for Underground Coal Mines	1219-AA27
1424	Approval Criteria for Respiratory Protective Devices	1219-AA30
1425	Surface Coal Mine Electrical Standards	1219-AA32
1426	Notification, Investigation, Reports and Records of Accidents Injuries, Illnesses, Employment, and Coal Production in Mines	1219-AA33

Mine Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1427	Pattern of Violations	1219-AA04
1428	Procedures for Approval of Mining Equipment	1219-AA06
1429	Underground Coal Mine Ventilation	1219-AA11
1430	Review of Metal and Nonmetal Electricity Standards	1219-AA14
1431	Explosives and Blasting in Underground Coal Mines	1219-AA16
1432	Review of Metal and Nonmetal Explosives Standards	1219-AA17
1433	Metal and Nonmetal Air Quality Standards	1219-AA21
1434	Approval Requirements for Explosives and Sheathed Explosive Units	1219-AA23
1435	Mine Plan Approvals	1219-AA26
1436	Metal and Nonmetal Radiation Standards	1219-AA28
1437	Updating Fees Associated with Equipment Approvals	1219-AA29

Mine Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1438	Underground Coal Mine Roof Control	1219-AA13
1439	Metal and Nonmetal Gassy Mines	1219-AA15
1440	Safety Standards for Loading, Hauling and Dumping at Metal and Nonmetal Mines	1219-AA18
1441	Safety Standards for Machinery and Equipment at Metal and Nonmetal Mines	1219-AA19

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Mine Safety and Health Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1442	Metal and Nonmetal Ground Control Standards	1219-AA22

Office of the Assistant Secretary for Administration and Management—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1443	Nondiscrimination in Programs and Activities Receiving Federal Financial Assistance from the Department of Labor	1291-AA02
1444	Department of Labor Acquisition Regulation (DOLAR) Implementation of Competition in Contracting Act of 1984 (CICA) (Pub. L. 98-369) into DOLAR	1291-AA06
1445	Closeout Requirements for Grants, Contracts, and Other Agreements	1291-AA09
1446	Public Contracts and Property Management; Federal Standards for Audit of Federally Funded Grants, Contracts and Agreements	1291-AA10

Office of the Assistant Secretary for Administration and Management—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1447	Enforcement of Nondiscrimination on the Basis of Handicap in Department of Labor Programs	1291-AA04

Office of the Assistant Secretary for Administration and Management—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1448	Administrative Requirements Governing All Grants and Agreements by which Department of Labor Agencies Award Funds to State and Local Governments, Indian and Native American Entities, ETC	1291-AA05
1449	Implementation of the Single Audit Act of 1984	1291-AA07

Occupational Safety and Health Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1450	Carcinogen Policy	1218-AA01
1451	4,4'-Methylenedianiline	1218-AA58
1452	Manual Lifting (Part 1910)	1218-AA85
1453	Methylene Chloride	1218-AA98

Occupational Safety and Health Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1454	Occupational Exposures to Toxic Substances in Laboratories	1218-AA00
1455	Respiratory Protection	1218-AA05
1456	Hazard Communication	1218-AA06
1457	Methods of Compliance	1218-AA28
1458	Hazardous Materials–Flammable and Compressed Gases (Part 1910)	1218-AA31

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Occupational Safety and Health Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1459	Electrical Safety-Related Work Practices (Part 1910)	1218-AA22
1460	Oil and Gas Well Drilling and Servicing (Part 1910)	1218-AA34
1461	Excavations (Part 1926)	1218-AA36
1462	Fall Protection (Part 1926)	1218-AA37
1463	Scaffolds (Part 1926)	1218-AA40
1464	Safety Testing/Certification (Part 1910)	1218-AA42
1465	Scaffolds and Similar Work Surfaces (Part 1910)	1218-AA46
1466	Benzene	1218-AA47
1467	Fall Protection Systems (Personal Protective Equipment) (Part 1910)	1218-AA48
1468	Ladders and Similar Climbing Devices (Part 1910)	1218-AA50
1469	Confined Space (Part 1910)	1218-AA51
1470	Logging (Part 1910)	1218-AA52
1471	Control of Hazardous Energy Sources (Lockout/Tagout) (Part 1910)	1218-AA53
1472	Safety and Health Regulations for Longshoring(Part 1918)	1218-AA56
1473	Stairways and Ladders (Part 1926)	1218-AA57
1474	Electric Power Generation, Transmission and Distribution (Part 1910)	1218-AA59
1475	Revision of Recordkeeping Requirements for Tests, Inspections, and Maintenance Checks	1218-AA60
1476	Pulp, Paper and Paperboard Mills (Part 1910)	1218-AA61
1477	Motor Vehicles, Mechanized Equipment, and Marine Operations (Part 1926)	1218-AA63
1478	Steel Erection (Part 1926)	1218-AA65
1479	Fall Protection (Part 1915)	1218-AA66
1480	Scaffolds (Part 1915)	1218-AA68
1481	Access and Egress (Part 1915)	1218-AA70
1482	Face, Head, Eye and Foot Protection (Personal Protective Equipment) (Part 1910)	1218-AA71
1483	Welding, Cutting and Brazing (Part 1910)	1218-AA72
1484	Welding, Cutting and Heating (Part 1915)	1218-AA73
1485	Personal Protective Equipment (Part 1915)	1218-AA74
1486	Servicing Single Piece Rim Wheels (Part 1917)	1218-AA75
1487	Compressed Air (Part 1926)	1218-AA76
1488	Hazardous Materials–Flammable and Combustible Liquids (Part 1910)	1218-AA77
1489	Formaldehyde	1218-AA82
1490	Hazard Communication in Shipyard Employment (Part 1915)	1218-AA88
1491	Explosive and Other Dangerous Atmospheres (Part 1915)	1218-AA91
1492	Surface Preparation and Preservation (Part 1915)	1218-AA96

Occupational Safety and Health Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1493	Ethylene Dibromide (EDB)	1218-AA06
1494	Access to Employee Exposure and Medical Records	1218-AA15
1495	Concrete and Masonry Construction (Part 1926)	1218-AA20
1496	Grain Handling Facilities (Parts 1910 and 1917)	1218-AA22
1497	Asbestos	1218-AA26
1498	Powered Platforms for Exterior Building Maintenance (Part 1910)	1218-AA33
1499	Underground Construction (Tunnels and Shafts)(Part 1926)	1218-AA38
1500	Electrical Standards for Construction (Part 1926)	1218-AA39
1501	Crane or Derrick Suspended Platforms (1926)	1218-AA45
1502	Accident Prevention Tags (Part 1910)	1218-AA49
1503	Presence Sensing Device Initiation of Mechanical Power Presses (Part 1910)	1218-AA54
1504	Hazard Communication (Trade Secrets)	1218-AA93

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Occupational Safety and Health Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1505	Cotton Dust	1218-AA02
1506	Lead - Reconsideration of Whole Standard	1218-AA11
1507	Lead - Coverage of the Stevedoring Industry	1218-AA13
1508	Safety and Health Regulations for Shipyard	1218-AA55
1509	Motor Vehicles, Mechanized Equipment, and Marine Operations (Part 1926)	1218-AA63
1510	Steel Erection (Part 1926)	1218-AA65

Office of the Assistant Secretary for Veteran's Employment & Training—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1511	Annual Report From Federal Contractors	1293-AA01

DEPARTMENT OF LABOR (DOL)
Office of the Secretary (OS)

Final Rule Stage

1357. DEBT COLLECTION ACT REGULATIONS: SALARY OFFSET

Legal Authority: 5 USC 5514

CFR Citation: 29 CFR 20

Legal Deadline: None

Abstract: These regulations will implement the Debt Collection Act of 1982 (P.L. 97-365). The Debt Collection Act gives Federal agencies new tools to collect on debts owed to the United States. These include the authority of Federal agencies to offset the current pay account of an employee ("Salary Offset") when the employee owes money to the United States. These regulations will establish the policies and procedures the Department of Labor will use to implement a salary offset, in conformance with the Office of Personnel Management Regulations on this matter (49 FR 27470).

Timetable:

Action	Date	FR Cite
NPRM	12/16/85	50 FR 51354
NPRM Comment Period End	01/30/86	50 FR 51354
Final Action	06/00/86	
Final Action Effective	07/00/86	

Small Entity: No

Agency Contact: Seth Zinman, Associate Solicitor for Legislation and, Legal Counsel, Department of Labor, Office of the Secretary, 200 Constitution Ave. NW, Rm N2428, FPBldg., Washington, DC 20210, 202 523-8201

RIN: 1290-AA04

1358. RIGHT TO FINANCIAL PRIVACY ACT

Legal Authority: 12 USC 3401 et seq Right to Financial Privacy Act of 1978

CFR Citation: 29 CFR 19, (New)

Legal Deadline: None

Abstract: These proposed regulations would authorize Department of Labor units to request financial records from a financial institution pursuant to the formal written request procedure established by the Right to Financial Privacy Act of 1978, 12 U.S.C. 3401 et seq., and would set forth the conditions under which such requests may be made. Section 1108(2) of the Right to Financial Privacy Act of 1978 requires that the formal written request be authorized by regulations promulgated by the head of the agency or department. These proposed regulations would thus, once implemented, enable Department of Labor units to utilize the formal written request procedure to obtain financial records.

Timetable:

Action	Date	FR Cite
NPRM	04/02/85	50 FR 13049
NPRM Comment Period End	05/02/85	
Final Action	08/00/86	
Final Action Effective	09/00/86	

Small Entity: No

Agency Contact: Seth D. Zinman, Associate Solicitor, for Legislation and Legal Counsel, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm N2428, FPBldg., Washington, DC 20210, 202 523-8201

RIN: 1290-AA05

[FR Doc. 86-8778 Filed 04-18-86; 8:45 am]

BILLING CODE 4510-23-T

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Prerule Stage

1359. ● EMPLOYMENT OF MINORS BETWEEN 14 AND 16 YEARS OF AGE (CHILD LABOR REGULATION NUMBER 3) (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 29 USC 203

CFR Citation: 29 CFR 570

Legal Deadline: None

Abstract: Section 3(1) of the Fair Labor Standards Act requires the Secretary of Labor to issue regulations with respect to minors between 14 and 16 years of age ensuring that the periods and conditions of their employment do not interfere with their schooling, health, or well-being. Child Labor Regulation No.3 sets forth the permissible industries and occupations in which 14 and 15 year olds may be employed. In addition, this regulation specifies the number of hours in a day and in a week, and time periods within a day that such minors may be employed.

Changes in technology and job content over the years have expanded the types of employment which could be made available for 14 and 15 year olds. In order to increase job opportunities for such minors, while maintaining essential protection for their well-being, possible modifications to the regulation are being considered.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/86	

Small Entity: Undetermined

Agency Contact: Herbert J. Cohen, Deputy Administrator, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215-AA09

1360. DEFINING AND DELIMITING THE TERMS "ANY EMPLOYEE EMPLOYED IN A BONA FIDE EXECUTIVE, ADMINISTRATIVE, OR PROFESSIONAL CAPACITY. . ." (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 29 USC 213(a)(1)

CFR Citation: 29 CFR 541

Legal Deadline: None

Abstract: These regulations set forth the criteria used in the determination of the application of the Fair Labor Standards Act exemption for "executive," "administrative," "professional" and "outside sales employees" from the minimum wage and overtime requirements of the Act. The existing regulation was targeted for review by the President's Task Force on Regulatory Relief. A final rule increasing the salary test criteria was published on 01/13/81 (46 FR 3010) and was scheduled to become effective on 02/13/81. On 02/12/81 (46 FR 11972) an indefinite stay of the final rule was published. On 03/27/81 (46 FR 18998) a proposal to suspend the final rule indefinitely was published with comments due by 04/28/81. As a result of numerous comments and petitions received from industry groups regarding the duties and responsibilities tests as set forth in the regulations, as well as recent case law developments, the Department concluded that a more comprehensive review of these regulations was needed and decided to reopen the comment period and broaden the scope of the review to include all aspects of the regulations. An ANPRM was published on 11/19/85 and its comment period was (cont'd)

Timetable:

Action	Date	FR Cite
Indefinite stay of Final Rule	02/12/81	46 FR 11972
Propsl to suspend Rule indefinitely	03/27/81	46 FR 18998
Comments due on Suspension Proposal	04/28/81	
ANPRM	11/19/85	50 FR 47696
Extension of ANPRM Comment period from 01/21/86 to 03/22/86	01/17/86	51 FR 2525
ANPRM Comment Period End	03/22/86	51 FR 2525
NPRM	12/00/86	

Small Entity: Yes

Additional Information: subsequently extended to 03/22/86. A NPRM scheduled to be issued by 12/00/86.

Agency Contact: Herbert J. Cohen, Deputy Administrator, Department of Labor, Employment Standards Administration, Rm S3502, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8305

RIN: 1215-AA14

1361. ● CHILD LABOR REGULATIONS SUBPART E, OCCUPATIONS PARTICULARLY HAZARDOUS FOR THE EMPLOYMENT OF MINORS 16 AND 17 YEARS OF AGE INVOLVED THE OPERATION OF BAKERY MACHINES (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 29 USC 203

CFR Citation: 29 CFR 570.62

Legal Deadline: None

Abstract: Section 3(1) of the Fair Labor Standards Act directs the Secretary of Labor to designate occupations which may be particularly hazardous for the employment of minors between 16 and 18 or detrimental to their health or well-being. The specific hazardous order under consideration for possible revision is Hazardous Occupations Order No. 11, occupations involving the operation of power-driven bakery machines.

A review of the order is planned to ensure the health and safety of 16 and 17 year olds in these occupations are safeguarded, and to assess the impact of technological change in the industry on employment opportunities for youth.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/86	

Small Entity: Undetermined

Agency Contact: Herbert J. Cohen, Deputy Administrator, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215-AA20

1362. ● CHILD LABOR REGULATIONS SUBPART E, OCCUPATIONS PARTICULARLY HAZARDOUS FOR THE EMPLOYMENT OF MINORS 16 AND 17 YEARS OF AGE INVOLVING SLAUGHTERING AND RELATED OCCUPATIONS (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 29 USC 203

CFR Citation: 29 CFR 570.61

Legal Deadline: None

Abstract: Section 3(1) of the Fair Labor Standards Act directs the Secretary of Labor to designate occupations which may be particularly hazardous for the employment of minors between 16 and

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16 or detrimental to their health or well-being. The specific hazardous order under consideration for possible revision is Hazardous Occupations Order No. 16, involving occupations in slaughtering, meat-packing or processing.

A review of the order is planned to ensure that the health and safety of 16 and 17 year olds in these occupations are safeguarded, while at the same time assessing the impact of technological advances in the industry on employment opportunities for youth.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/86	

Small Entity: Undetermined

Agency Contact: Herbert J. Cohen, Deputy Administrator, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215-AA21

1363. ● CHILD LABOR REGULATIONS SUBPART E, OCCUPATIONS PARTICULARLY HAZARDOUS FOR THE EMPLOYMENT OF MINORS 16 AND 17 YEARS OF AGE INVOLVING MOTOR VEHICLE DRIVERS AND HELPERS (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 29 USC 203

CFR Citation: 29 CFR 570.52

Legal Deadline: None

Abstract: Section 3(1) of the Fair Labor Standards Act directs the Secretary of Labor to designate occupations which may be particularly hazardous for the employment of minors between 16 and 18 or detrimental to their health or well being. The specific hazardous order under consideration for possible revision is Hazardous Occupations Order No. 2, concerning motor vehicle drivers and their helpers.

A review of this order is planned to ensure that the health and safety of 16 and 17 year olds in these occupations are safeguarded, and that restrictions on the employment opportunities of youth are not imposed unnecessarily.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/86	

Small Entity: Undetermined

Agency Contact: Herbert J. Cohen, Deputy Administrator, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215-AA23

1364. WAGE PAYMENTS UNDER THE FAIR LABOR STANDARDS ACT OF 1938

Significance: Regulatory Program

Legal Authority: 29 USC 203(m); 29 USC 203(t)

CFR Citation: 29 CFR 531

Legal Deadline: None

Abstract: These regulations contain the basic standards governing the application of Section 3(m) of the FLSA, which provides that, under certain conditions, the reasonable cost or fair value of furnishing employees with board, lodging, or other facilities may be applied towards meeting the Act's minimum wage and overtime requirements. Section 3(m) also provides that tips received by certain employees may be credited towards the payments of the statutory minimum wage (up to a maximum of 40 percent). The changes under consideration would conform the regulations to legislative amendments, court decisions interpreting Section 3(m), and administrative experience related to enforcement of these provisions.

Timetable:

Action	Date	FR Cite
End Review	12/00/86	

Small Entity: Undetermined

Agency Contact: Herbert J. Cohen, Deputy Administrator, Department of Labor, Employment Standards Administration, Room S3502, FP Bldg., 200 Constitution Avenue, NW, Washington, DC 20210, 202 523-8305

RIN: 1215-AA32

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Proposed Rule Stage

1365. GOVERNMENT CONTRACTORS: NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATION (ESA/OFCCP)

Significance: Regulatory Program

Legal Authority: EO 11246, as amended; 38 USC 2012; 29 USC 793; 29 USC 1781

CFR Citation: 41 CFR 60-1; 41 CFR 60-2; 41 CFR 60-4; 41 CFR 60-20; 41 CFR 60-30; 41 CFR 60-50; 41 CFR 60-60; 41 CFR 60-250; 41 CFR 60-741

Legal Deadline: Judicial, October 1983. Rules implementing Section 461 of the 1982 JTPA are required to be published under the Act. The operational aspects of such rules need to be coordinated with the pending revisions discussed above, which has resulted in a delay.

Abstract: These provisions contain OFCCP's rules covering nondiscrimination and affirmative action obligations of covered contractors under EO 11246, the Vietnam Era Veterans Readjustment Assistance Act of 1974, and Sec. 503 of the Rehabilitation Act of 1973. The rule would be revised to make them more cost effective, reduce paperwork burdens and assure that contractors hire the best qualified person regardless of race, color, religion, sex, or national origin. Proposed changes to the regulations were published in the Federal Register on 12/28/78 and 02/22/80, and a final rule on these issues was published on 12/30/80 (45 FR 86215). The rule was stayed and reviewed in accordance with the President's Executive Order 12291 of 02/17/81. An ANPRM was published on 07/14/81 (46 FR 36213) and supplemented on 08/21/81 (46 FR 42490) to elicit comments on several issues pertaining to the regulation. A notice of proposed rulemaking was published on 08/25/81 (46 FR 42968) with comments due by 10/26/81. The proposal suspended the effective date of the 12/30/80 regulation, and proposed revision of that regulation. A supplemental proposal was published 04/23/82 (47 FR 17770). A final (cont)

Timetable:

Action	Date	FR Cite
ANPRM	07/14/81	46 FR 36213
Supplement to ANPRM	08/21/81	46 FR 42490
Previous NPRM & suspend eff date	08/25/81	46 FR 42968
NPRM	04/23/82	47 FR 17770
NPRM Comment Period End	05/24/82	
NPRM (Section 461, 29 USC 1781)	12/00/86	
Final Action	12/00/86	

Small Entity: Yes

Additional Information: ABSTRACT CONT: rule will be forwarded to OMB for review and publication in December 1986. In addition, in accordance with Section 461 of the Job Training Partnership Act of 1982 (JTPA), a Notice of Proposed Rulemaking, which would permit Federal contractors to meet their Executive Order affirmative action obligations through approved publication on the Federal Register in December 1986.

Agency Contact: Leonard J. Biermann, Director, Division of Program Policy, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW, Rm C3324, FPBldg., Washington, DC 20210, 202 523-8426

RIN: 1215-AA01

1366. LABOR STANDARDS PROVISIONS, DAVIS-BACON AND RELATED ACTS (ESA/WH)

Significance: Regulatory Program

Legal Authority: 40 USC 276a to 276a7; 40 USC 276c; 40 USC 327 to 332; 5 USC Appendix Reorganization Plan No. 14 of 1950; 29 USC 259

CFR Citation: 29 CFR 1; 29 CFR 5

Legal Deadline: None

Abstract: These regulations govern labor standards applicable to federally funded or assisted construction contracts subject to the Davis- Bacon and Related Acts (as well as contracts subject to the Contract Work Hours and Safety Standards Act). The Department plans to implement provisions in these regulations that would permit contractors to expand their use of semi-skilled "helpers" on Davis-Bacon covered projects at wages lower than those paid to skilled journeymen. Revised final rules were originally published 05/28/82 (47 FR 23658), but were deferred on 07/26/83 (47 FR 32070) due to an injunction issued by the U.S. District Court. Although the U.S. Court of Appeals for the D.C. Circuit has since upheld most of the key provisions published in 1982, the district court injunction remains in effect against certain provisions dealing with helpers. The Department intends to implement the helper provisions in accordance with the decisions of the district and appeals courts.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Yes

Agency Contact: Herbert J. Cohen, Deputy Administrator, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215-AA07

1367. RECORDS TO BE KEPT BY EMPLOYERS (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 29 USC 211(c)

CFR Citation: 29 CFR 516

Legal Deadline: None

Abstract: Revision of this regulation is being considered to reflect the repeal or modification of certain minimum wage and overtime exemptions by the 1974 and 1977 amendments to the Fair Labor Standards Act, and to simplify regulatory language.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
NPRM Comment Period End	07/00/86	
Final Action	09/00/86	

Small Entity: No

Agency Contact: Herbert J. Cohen, Deputy Administrator, Department of Labor, Employment Standards Administration, Rm S3502, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8305

RIN: 1215-AA22

1368. CLAIMS FOR COMPENSATION UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT

Significance: Regulatory Program

Legal Authority: 5 USC 8101 et seq

CFR Citation: 20 CFR 10.1 et seq

Legal Deadline: None

Abstract: This proposal would revise the Federal Employees' Compensation Act regulations to (1) increase the ability of employing agencies to monitor the Act's continuance of pay (COP) provisions; (2) reduce the period for using up the remainder of the 45-day COP eligibility when there is a recurrence of a disability subsequent to a first return to work from six months to 90 days from the date of return to work; (3) require partially disabled employees to report on their efforts to find work; (4) make other modifications designed to provide consistent rationale for the payment of benefits; and (5) incorporate procedures for giving full due process in overpayment cases before recoupment.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	09/00/86	

Small Entity: No

Agency Contact: Thomas M. Markey, Associate Director for Federal Employees, Compensation, Department of Labor, Employment Standards Administration, Rm S3229, FPBldg., 200 Constitution Ave., NW, Washington, DC 20210, 202 523-7552

RIN: 1215-AA29

1369. GENERAL REGULATIONS UNDER THE WALSH-HEALEY PUBLIC CONTRACTS ACT

Legal Authority: 41 USC 38

CFR Citation: 41 CFR 50-201.101(b)(6); 41 CFR 50-201.1201

Legal Deadline: None

Abstract: The proposed rule would revise the role of the Small Business Administration (SBA) in determining a small business concern's eligibility as a "manufacturer" or "regular dealer" under the Walsh-Healey Public Contracts Act (PCA). Current procedures for small businesses require SBA review of all contracting agency findings of ineligibility, as well as all protests which challenge an agency's

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findings of eligibility. SBA did not have an opportunity to comment when the current rules were first adopted following enactment of the 1977 Amendments to the Small Business Act (P.L. 95-89, 91 Stat. 553 (15 USC 637(b)(7)(B)). SBA believes its review authority under the Act is restricted to only executive branch agency findings of noneligibility under PCA, and has requested revisions to the regulations which would eliminate SBA review in protest cases which challenge an agency's findings that a small business is eligible for award. Additional revisions requested by SBA would streamline the processing of cases between SBA and Wage Hour. (cont)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Yes

Additional Information: ABSTRACT CONT'D. An additional procedural change would discontinue the reporting requirement for federal contracting agencies to submit Standard Form (SF) 99, Notice of Award of Contract, to the Wage and Hour Division for contracts subject to the Walsh-Healey Public Contracts Act (PCA). A similar rule change was promulgated under the Service Contract Act (SCA) regulations (29 CFR 4.6) published October 27, 1983 (48 FR 49770). The reduced administrative burden for the affected procurement agencies resulting from the rule change under both SCA and PCA is expected to produce estimated annual cost savings governmentwide of nearly $410,000, the majority of which is attributable to PCA contract awards.

Agency Contact: Herbert J. Cohen, Deputy Administrator, Department of Labor, Employment Standards Administration, Room S-3502, FP Building, Washington, DC 20210, 202 523-8305

RIN: 1215-AA33

1370. EMPLOYMENT OF HANDICAPPED CLIENTS IN SHELTERED WORKSHOPS

Significance: Regulatory Program

Legal Authority: 29 USC 214; 29 USC 211

CFR Citation: 29 CFR 525

Legal Deadline: None

Abstract: These regulations establish the terms and conditions under which handicapped clients in sheltered workshops performing work subject to the provisions of the Fair Labor Standards Act (FLSA), the Walsh-Healey Public Contracts Act, and the Service Contract Act may be employed, under certificate, at wage rates less than those otherwise required by these acts. The FLSA Amendments of 1966 substantially revised the provision of section 14(c) of the Act which authorizes such employment. The regulations have not been comprehensively revised since 1967 when they were revised to reflect the amendments. The Department is planning to issue an NPRM by 07/00/86.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	12/00/86	

Small Entity: Yes

Agency Contact: Herbert J. Cohen, Deputy Administrator, Department of Labor, Employment Standards Administration, Rm S3502, FPBldg., 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8305

RIN: 1215-AA34

1371. LABOR STANDARDS ON PROJECTS OR PRODUCTIONS ASSISTED BY GRANTS FROM THE NATIONAL ENDOWMENT FOR THE ARTS (ESA/W-H)

Significance: Regulatory Program

Legal Authority: 20 USC 954(i) and (l); 20 USC 956 (g)

CFR Citation: 29 CFR 505

Legal Deadline: Statutory, June 18, 1986

Abstract: The National Foundation on the Arts and Humanities Act of 1965, as amended in 1976, requires the Secretary to determine the prevailing minimum compensation for professional performers and related or supporting personnel employed on projects or productions assisted by grants from the National Endowment for the Arts and the National Endowment for the Humanities. As originally enacted, these labor standards only applied to the Arts; the existing regulations do not reflect the amendments which applied the same labor standards to the Humanities. The Arts, Humanities, and Museums Amendments of 1985, which were enacted on December 20, 1985, require the Secretary of Labor to issue regulations to assure that prevailing minimum compensation is provided to all professional performers and related or supporting professional personnel employed on projects or productions financed in whole or in part by the National Endowment for the Humanities.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	08/18/86	

Small Entity: Undetermined

Agency Contact: Herbert J. Cohen, Deputy Administrator, Department of Labor, Employment Standards Administration, Room S3502, FPBldg., 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8305

RIN: 1215-AA35

1372. ● APPLICATION OF THE FAIR LABOR STANDARDS ACT TO STATE AND LOCAL GOVERNMENT AGENCIES (29 CFR 553 SUBPART A)

Significance: Regulatory Program

Legal Authority: PL 99-150; 29 USC 201 et seq

CFR Citation: 29 CFR 553

Legal Deadline: Statutory, April 15, 1986

Abstract: As a result of the Fair Labor Standards Act (FLSA) Amendments of 1985, certain provisions of the FLSA relating to employees of State and local governments were changed. The Subpart will implement general provisions of the FLSA as required by the Amendments.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	07/00/86	

Small Entity: Undetermined

Agency Contact: Herbert J. Cohen, Deputy Administrator, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215-AA37

1373. ● APPLICATION OF THE FAIR LABOR STANDARDS ACT TO STATE AND LOCAL GOVERNMENT AGENCIES (29 CFR 553, SUBPART C)

Significance: Regulatory Program

Legal Authority: PL 99-150; 29 USC 201 et seq

CFR Citation: 29 CFR 553

Legal Deadline: Statutory, April 15, 1986

Abstract: As a result of the Fair Labor Standards Act (FLSA) Amendments of 1985, certain provisions of the FLSA relating to employees of State and local governments were changed. This revised subpart will amend existing rules concerning fire protection and law enforcement activities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	07/00/86	

Small Entity: Undetermined

Agency Contact: Herbert J. Cohen, Deputy Administrator, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215-AA38

1374. ● APPLICATION OF THE FAIR LABOR STANDARDS ACT TO STATE AND LOCAL GOVERNMENT AGENCIES (29 CFR 553, SUBPART B)

Significance: Regulatory Program

Legal Authority: PL 99-150; 29 USC 201 et seq

CFR Citation: 29 CFR 553

Legal Deadline: Statutory, March 15, 1986

Abstract: As a result of the Fair Labor Standards Act (FLSA) Amendments of 1985, certain provisions of the FLSA relating to employees of State and local governments were changed. This revised subpart will implement the provisions of Section 3(e)(4) of the FLSA regarding volunteers, as required by the Amendments. The Department is mandated to promulgate regulations on public agency volunteers by March 15, 1986.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	07/00/86	

Small Entity: Undetermined

Agency Contact: Herbert J. Cohen, Deputy Administrator, Department of Labor, Employment Standards Administration, 200 Constitution Avenue, NW, Rm S3502, FPBldg., Washington, DC 20210, 202 523-8305

RIN: 1215-AA39

1375. ● CLAIMS FOR COMPENSATION UNDER THE WAR HAZARDS COMPENSATION ACT

Significance: Agency Priority

Legal Authority: 42 USC 1701 et seq

CFR Citation: 20 CFR 61; 20 CFR 62

Legal Deadline: None

Abstract: The War Hazards Compensation Act regulations are being reviewed to determine whether modifications should be proposed to (1) reflect amendments made to the Act which replaced the World War II frame of reference in the Act with language applicable to the current and future conditions faced by employees of contractors working in hazardous overseas locations; (2) simplify and clarify the requirements for filing a claim under the Act; (3) remove unnecessary and repetitious sections in the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Agency Contact: Thomas M. Markey, Associate Director, Federal Employees', Compensation, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW, Rm S3229 - FPBldg., Washington, DC 20210, 202 523-7522

RIN: 1215-AA42

DEPARTMENT OF LABOR (DOL)
Employment Standards Administration (ESA)

Final Rule Stage

1376. NONDISCRIMINATION AND AFFIRMATIVE ACTION OBLIGATIONS FOR DISABLED VETERANS, VETERANS OF VIETNAM ERA, AND HANDICAPPED WORKERS (ESA/OFCCP)

Significance: Agency Priority

Legal Authority: 29 USC 793; 38 USC 2012

CFR Citation: 41 CFR 60-1; 41 CFR 60-250; 41 CFR 60-741

Legal Deadline: None

Abstract: This proposal would make the definition section of these regulations consistent with 1978 amendments to the Rehabilitation Act of 1973 and the 1980 amendments to the Vietnam Era Veterans' Readjustment Assistance Act, and conform these rules to changes in DOL's regulations implementing employment under Section 504 of the Rehabilitation Act. The provisions reflecting statutory changes have been incorporated into the 08/25/81 "main" OFCCP proposal (46 FR 42968).

Timetable:

Action	Date	FR Cite
NPRM	12/30/80	45 FR 86205
NPRM Comment Period End	03/02/81	45 FR 86205
Final Action	12/00/86	

Small Entity: Undetermined

Agency Contact: Leonard J. Biermann, Director, Division of Program Policy, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW, Rm C3324, FPBldg., Washington, DC 20210, 202 523-9426

RIN: 1215-AA02

1377. BLACK LUNG: OBLIGATIONS OF LESSORS FOR CLAIMS FOR BENEFITS (ESA/OWCP)

Legal Authority: 30 USC 901 et seq

CFR Citation: 20 CFR 725.491(b)(2)

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DOL—ESA

Final Rule Stage

Legal Deadline: None

Abstract: The intent of this proposal is to make explicit the Department's policy that a lessor of a coal mine, who has never actually operated such a mine, will not be held liable for the payment of benefits for black lung contracted in the course of employment in that mine and, therefore, need not insure against that possibility.

Timetable:

Action	Date	FR Cite
NPRM	01/27/81	46 FR 8570
NPRM Comment Period End	03/30/81	46 FR 8570
Final Action	06/30/86	

Small Entity: Undetermined

Agency Contact: James DeMarce, Associate Director, Department of Labor, Employment Standards Administration, Rm C3520, FPBldg., 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8662

RIN: 1215-AA03

1378. FECA MEDICAL FEE REGULATIONS (ESA/OWCP)

Significance: Agency Priority

Legal Authority: 5 USC 8101 et seq

CFR Citation: 20 CFR 10.400 et seq

Legal Deadline: None

Abstract: 5 USC 8103(a) of the Federal Employees' Compensation Act provides that the United States shall furnish a broad range of medical services and supplies to employees of the United States injured in the performance of duty. ESA proposes to exercise its statutory authority to define the "reasonableness" of medical service costs and thereby monitor, and possibly reduce, these costs by imposing a schedule of allowable fees to be paid for services under this law. On 06/07/84 (49 FR 23658), a notice of proposed rulemaking was published with comments due by 08/06/84. The comment period was extended from 08/06/84 to 10/05/84 in response to a request by the American Medical Association (49 FR 33995), and reopened from 01/31/85 to 03/04/85 (50 FR 4525).

Timetable:

Action	Date	FR Cite
NPRM	06/07/84	49 FR 23658
NPRM Comment Period End	08/06/84	49 FR 23658
Extension of Comment Period	08/24/84	49 FR 33995
Comment Period Reopened from 1/31/85 to 3/4/85	03/04/85	50 FR 4525
Final Action	03/00/86	

Small Entity: Undetermined

Agency Contact: Thomas M. Markey, Deputy Associate Director, Department of Labor, Employment Standards Administration, Rm S3229, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-7552

RIN: 1215-AA13

DEPARTMENT OF LABOR (DOL)

Employment Standards Administration (ESA)

Completed Actions

1379. LONGSHOREMAN'S ACT: REGIONAL OFFICES (ESA/OWCP)

Legal Authority: 33 USC 939(b)

CFR Citation: 20 CFR 702.101

Legal Deadline: None

Abstract: The low volume of cases received under the Longshore Act and its extensions did not justify maintaining separate longshore district offices for the disposition of cases in the Denver and Kansas City regions. Therefore, these offices were closed and their workloads transferred to the Seattle and Chicago district offices, respectively. This rule formalizes these changes by making a technical amendment to 20 CFR 702.101 redefining the jurisdictions of the four affected district offices. This rule has been incorporated into regulatory changes implementing the Longshore and Harbor Workers' Compensation Amendments of 1984, and is, therefore, withdrawn.

Timetable:

Action	Date	FR Cite
Withdrawn	01/14/86	

Small Entity: No

Agency Contact: Neil Meatone, Associate Director, Department of Labor, Employment Standards Administration, 200 Constitution Ave., NW, Rm C4315, FPBldg., Washington, DC 20210, 202 523-8572

RIN: 1215-AA12

1380. LONGSHOREMEN'S ACT: SECOND INJURY RELIEF; ANNUAL ASSESSMENTS (ESA/OWCP)

Legal Authority: 33 USC 901 et seq

CFR Citation: 20 CFR 702

Legal Deadline: None

Abstract: Revisions and additions have been considered to reflect and codify the Department's policies and procedures for handling second injury relief cases and to modify the procedures pertaining to the annual assessment of insurance carriers and self-insurers. Action was deferred in light of Congressional action on amendments to the Act. The 1984 Amendments made changes in these areas. These revisions have been incorporated into regulatory changes implementing the Longshore and Harbor Workers' Compensation Act of 1984. This rule, therefore, is withdrawn.

Timetable:

Action	Date	FR Cite
NPRM	01/27/81	46 FR 8690
NPRM Comment Period End	03/30/81	46 FR 8690
Withdrawn	01/14/86	

Small Entity: No

Agency Contact: Neil Meatone, Associate Director, Department of Labor, Employment Standards Administration, Rm C4315, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8572

RIN: 1215-AA10

1381. LONGSHORE AND HARBOR WORKERS' COMPENSATION ACT AND RELATED STATUTES

Legal Authority: 5 USC 301; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat 1263; 33 USC 939; 42 USC 1651 et seq; 36 DC Code 501 et seq; 43 USC 1331; 5 USC 8171 et seq; Secretary of Labor's Order No. 13-71, 36 FR 8755; PL 98-426

CFR Citation: 20 CFR 701; 20 CFR 702; 20 CFR 703

Legal Deadline: None

Abstract: The Longshore and Harbor Workers' Compensation Act Amendments of 1984 were passed and signed into law on September 28, 1984 (P.L. 98-426). These amendments made many substantive changes to the Longshore Act (33 USC 901 et seq.), which were effective on the date of enactment, or 90 days thereafter. These regulations implement the changes made by the amendments, and make technical corrections in the unchanged sections of the regulations. The changes include an exemption from the Act's coverage for specified classes of workers, a certification procedure for exemption from coverage of certain small-vessel facilities, provisions allowing the Secretary to debar medical care providers and representatives for certain reasons, and revisions in the assessment formula for the program's Special Fund (for second injury coverage). Because of the statutory deadlines imposed, these regulations were published as interim final rules on January 3, 1985 with a comment period which was extended until March 22, 1985. The interim final rules remained in effect until 01/31/86, at which time they became final rules.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/03/85	50 FR 384
Comment Period of Interim FinalRule Extended from 03/04/85	03/12/85	50 FR 9709
Interim Final Rule Extendedfrom 10/01/85 to 12/31/85	09/30/85	50 FR 39661
Interim Final Rule Extendedfrom 12/31/85 to 02/03/86	12/31/85	50 FR 53308
Final Action Effective	01/31/86	51 FR 4270
Final Action	02/03/86	51 FR 4270

Small Entity: No

Agency Contact: Richard Staufenberger, Deputy Director, Department of Labor, Employment Standards Administration, 200 Constitution Ave. NW, Rm S3524, FPBldg., Washington, DC 20210, 202 523-7503

RIN: 1215-AA30

[FR Doc. 86-8775 Filed 04-18-86; 8:45 am]

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DEPARTMENT OF LABOR (DOL)

Employment and Training Administration (ETA)

Prerule Stage

1382. ● SERVICES TO MIGRANT AND SEASONAL FARMWORKERS, JOB SERVICE COMPLAINT SYSTEM, MONITORING AND ENFORCEMENT

Significance: Regulatory Program

Legal Authority: 29 USC 49(k)

CFR Citation: 20 CFR 653; 20 CFR 658; 20 CFR 651

Legal Deadline: None

Abstract: ETA is reviewing services to migrant and seasonal farmworkers under the Wagner-Peyser Act as a result of amendments to Wagner-Peyser under Title V of the Job Training Partnership Act. It is anticipated that an ANPRM and subsequent rulemaking may result.

Timetable:

Action	Date	FR Cite
Begin Review	03/00/86	
ANPRM	11/00/86	

Small Entity: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor, Certifications, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 8122, PHBldg., Washington, DC 20213, 202 376-6328

RIN: 1205-AA37

1383. USE OF FUNDS TRANSFERRED TO THE STATES UNDER SECTION 903(C) OF THE SOCIAL SECURITY ACT (REED ACT)

Legal Authority: 26 USC 3304; 42 USC 1302; 42 USC 503; 42 USC 1103

CFR Citation: 20 CFR 601; 20 CFR 651; 20 CFR 652; 20 CFR 658; 41 CFR 29 to 70

Legal Deadline: None

Abstract: This regulation sets out Reed Act requirements for States. It covers: restoration of Reed Act funds used to pay unemployment benefits; appropriation by the States and use of funds for administration; and disposition, reduced usage, and replacement of Reed Act-financed property. The regulation implements P.L. 97-348 and updates existing material issued as manuals. Alternatives being considered include: (1) Issuing a regulation, another type of directive, or nothing; (2) issuing particular rules for calculating Reed Act balances which reflect P.L. 97-348 restorations, Title XII advances, program income, and sales, other dispositions, and reduced usage of real and personal property, issuing alternative rules for calculating balances, or issuing no rules; (3) Issuing particular rules covering sales, other dispositions, and reduced usage of Reed Act property, issuing alternative property disposition rules, or issuing no rules. Issuing a regulation will benefit grantees by reducing the uncertainty as to the applicable rules. No significant additional costs will result.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity:

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DOL—ETA — Prerule Stage

Not Applicable

Public Compliance Cost: Initial Cost: $5,000; Yearly Recurring Cost: $5,000; Base Year for Dollar Estimates: 1984

Affected Sectors: 94 ADMINISTRATION OF HUMAN RESOURCES PROGRAMS

Government Levels Affected: State, Federal

Agency Contact: Janice M. Sawyer, Administrator, Ofc of Financial Control & Mgmt Systems, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 8000, PHBldg., Washington, DC 20213, 202 376-6585

RIN: 1205-AA43

1384. ● REVIEW SESA ADMINISTRATIVE FINANCING SYSTEM

Significance: Regulatory Program

Legal Authority: 42 USC 501 to 504; 42 USC 1302

CFR Citation: 20 CFR 601.5

Legal Deadline: None

Abstract: States and other interested parties have questioned the adequacy of the existing method for financing and allocating SESA administrative resources in general and unemployment insurance (UI) administrative resources in particular. Problems identified include: (1) basis and methodology for allocating SESA administrative resources among States; (2) insufficient flexibility to meet State management needs; (3) excessive Federal intervention and prescription; (4) inadequate State accountability and authority; (5) disincentives for improving productivity; (6) inadequate resources for nonpersonal services. The framework for the basic UI system is outlined in the Social Security Act (SSA) and the Federal Unemployment Tax Act (FUTA). Title III of the SSA states that the Secretary of Labor shall provide the administrative funds needed by each State approved under FUTA for the proper and efficient administration of the UI program. A formal consultation process has been initiated to solicit public comments on problems and proposed changes to the current SESA administrative financial system. Planned (cont.)

Timetable:

Action	Date	FR Cite
Public Meetings	01/00/86	
Secretary's Policy Decision	05/00/86	

Small Entity: No

Additional Information: (ABSTRACT CONT): changes will be announced upon completion of this review.

Government Levels Affected: State, Federal

Agency Contact: Carolyn M. Golding, Director, Unemployment Insurance Service, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 7112, PHBldg., Washington, DC 20213, 202 376-6536

RIN: 1205-AA51

1385. ● JOB TRAINING PARTNERSHIP ACT AUDITS

Significance: Agency Priority

Legal Authority: Section 164 Job Training Partnership Act; Section 189 Job Training Partnership Act

CFR Citation: 20 CFR 629.42

Legal Deadline: None

Abstract: Governors are responsible for resolving audits of their JTPA subgrantees and subcontractors. Current ETA policy requires federal review and approval of these resolutions only in cases of fraud, gross mismanagement and abuse. More routine audit resolutions are only reviewed on a sample basis during onsite compliance reviews. However, a recent legal opinion stated that the JTPA regulations as presently written could be construed as requiring federal review and approval of all Governors' audit resolutions. The regulations may have to be amended in order to implement ETA's policy.

Timetable:

Action	Date	FR Cite
Begin Review	01/00/86	
End Review	07/00/86	

Small Entity: No

Affected Sectors: None

Government Levels Affected: State, Federal

Agency Contact: David O. Williams, Administrator, Office of Program and, Fiscal Integrity, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 8400, PHBldg., Washington, DC 20213, 202 376-6822

RIN: 1205-AA53

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Proposed Rule Stage

1386. AIRLINE DEREGULATION: EMPLOYEE BENEFIT PROGRAM

Significance: Regulatory Program

Legal Authority: 49 USC 1552

CFR Citation: 20 CFR 638

Legal Deadline: None

Abstract: These regulations are being developed to implement the benefit provisions contained in Sec. 43 of the Airline Deregulation Act of 1978. The Act requires the Secretary of Labor to specify the percentage of prior salary which an "eligible protected employee" would receive as a benefit payment under the Act. An eligible protected employee is a person who has had at least 4 years of employment with a certificated air carrier as of October 24, 1978 and who loses his or her job during the ten years following such date in a bankruptcy or major employment contraction if and only if the Civil Aeronautics Board determines that the principal causes of such job loss was deregulation. On May 17, 1984 the U.S. District Court for the District of Columbia held that Section 43 of the Airline Deregulation Act was unconstitutional. On July 16, 1985, the U.S. Court of Appeals decided that the employee protection provisions of Section 43 were severable from the legislative veto provisions. However, further judicial action on other issues is likely before the Department can implement these regulations.

Timetable:

Action	Date	FR Cite
NPRM/Previous	03/30/79	44 FR 19148
NPRM First right of hire	09/17/82	47 FR 41304

DOL—ETA — Proposed Rule Stage

Action	Date	FR Cite
Comments due First right of hire NPRM	10/16/82	
NPRM	11/00/86	
NPRM Comment Period End	12/00/86	
Final Action	06/00/87	

Small Entity: No

Government Levels Affected: State, Federal

Agency Contact: Lorenzo Roberts, Unemployment Insurance Specialist, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 7430, PHBldg., Washington, DC 20213, 202 376-7366

RIN: 1205-AA07

1387. LIMITATIONS ON TAX CREDIT REDUCTIONS AND INTEREST ON ADVANCES TO STATES

Significance: Regulatory Program

Legal Authority: 26 USC 3302; 42 USC 1302; PL 97-35, Sec 2408

CFR Citation: 20 CFR 608

Legal Deadline: None

Abstract: The Omnibus Budget Reconciliation Act of 1981 amended the tax credit provisions of FUTA to authorize the placing of a "cap" on reductions in tax credits on a State-by-State basis in certain prescribed circumstances. The amendment requires these determinations to be made in accordance with regulations prescribed by the Secretary of Labor. The same Act also amended Title XII of the Social Security Act to assess interest on advances to States, the payment of which is prohibited from State unemployment funds. The proposal would implement these statutory changes.

Timetable:

Action	Date	FR Cite
NPRM	02/00/87	
NPRM Comment Period End	03/00/87	
Final Action	09/00/87	
Final Action Effective	00/00/00	

Small Entity: No

Government Levels Affected: State, Federal

Agency Contact: James Manning, Chief, Division of Actuarial Services, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 7410, PHBldg., Washington, DC 20213, 202 376-7231

RIN: 1205-AA14

1388. FEDERAL-STATE EXTENDED UNEMPLOYMENT COMPENSATION ACT OF 1970

Significance: Regulatory Program

Legal Authority: 26 USC 3304 Note; 42 USC 1302

CFR Citation: 20 CFR 615

Legal Deadline: None

Abstract: These regulations would be amended to implement various statutory amendments of 1980, 1981, 1982, and 1983 to the Federal-State Extended Unemployment Compensation Act of 1970. The regulations would (1) provide for the denial of extended benefits to certain interstate claimants and to individuals who fail to actively engage in seeking work or refuse to accept an offer of suitable work, (2) provide for the purging of certain disqualifications in order to establish eligibility for extended benefits, and (3) establish the method of determining the rate of insured unemployment for extended benefit claims, the State trigger rates and removal of the National trigger.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	02/00/87	

Small Entity: Undetermined

Government Levels Affected: State, Federal

Agency Contact: Lorenzo Roberts, Unemployment Insurance Specialist, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 7430, PHBldg., Washington, DC 20213, 202 376-7366

RIN: 1205-AA15

1389. UNEMPLOYMENT COMPENSATION FOR EX-SERVICEMEMBERS

Significance: Regulatory Program

Legal Authority: 5 USC 8506; 5 USC 8521 to 8525

CFR Citation: 20 CFR 614

Legal Deadline: None

Abstract: Section 201 of Public Law 97-362 (Miscellaneous Revenue Act of 1982) amends the eligibility requirements for unemployment compensation for ex-servicemembers. Proposed regulations are under development to implement these new requirements.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
NPRM Comment Period End	08/00/86	
Final Action	12/00/86	

Small Entity: No

Government Levels Affected: State, Federal

Agency Contact: Lorenzo Roberts, Unemployment Insurance Specialist, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 7430, PHBldg., Washington, DC 20213, 202 376-7366

RIN: 1205-AA26

1390. UNEMPLOYMENT INSURANCE QUALITY CONTROL PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 503; 42 USC 1302

CFR Citation: 20 CFR 602

Legal Deadline: None

Abstract: The establishment of a UI QC program is a major initiative to reduce administrative errors and claimant abuse in the UI system. Reported error rates are 10 times lower than those found under the QC sampling methodology. A one percent reduction in the error rate could potentially translate to a savings of millions of dollars in the benefit payment process. Additional savings may be realized when the program is extended to the revenue function.

Timetable:

Action	Date	FR Cite
ANPRM	09/26/84	49 FR 38083
ANPRM Comment Period End	10/26/84	49 FR 38083
NPRM	06/00/86	
NPRM Comment Period End	07/00/86	
Final Action	09/00/86	

Small Entity: No

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Government Levels Affected: State, Federal

Agency Contact: Carolyn Golding, Director, Unemployment Insurance Service, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 7112, PHBldg., Washington, DC 20213, 202 376-6638

RIN: 1205-AA28

1391. PIECE RATE ADJUSTMENTS

Significance: Regulatory Program

Legal Authority: 8 USC 1101(a)(15)(H)(ii); 8 USC 1184

CFR Citation: 20 CFR 655, Subpart C

Legal Deadline: None

Abstract: The regulation, as proposed, modifies the previous piece rate adjustment regulation published as a final rule on June 21, 1985, which was declared invalid by the U.S. District Court of Appeals on July 8, 1985. The new regulation is designed to cure the defects noted by the Court in the previous regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
NPRM Comment Period End	06/00/86	
Final Action	07/00/86	
Final Action Effective	07/00/86	

Small Entity: No

Affected Sectors: 013 Field Crops, Except Cash Grains; 016 Vegetables and Melons; 017 Fruits and Tree Nuts; 019 General Farms, Primarily Crop; 071 Soil Preparation Services; 072 Crop Services

Government Levels Affected: State, Federal

Agency Contact: Thomas M. Bruening, Chief, Div. of Foreign Labor Certifications, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 8122, PHBldg., Washington, DC 20213, 202 376-6226

RIN: 1205-AA30

1392. LABOR CERTIFICATION PROCESS FOR THE PERMANENT EMPLOYMENT OF ALIENS IN THE UNITED STATES

Significance: Regulatory Program

Legal Authority: 8 USC 1182(a)(14)

CFR Citation: 20 CFR 656

Legal Deadline: None

Abstract: Physicians are currently on the Department's Schedule A precertification list if they are to be employed in a designated Health Manpower Shortage Area (HMSA) or an area which has an insufficient number of physicians as designated by the Public Health Service (PHS). The PHS has recommended removal of physicians from Schedule A, or in the alternative leave only those physicians on Schedule A that are to be employed in the HMSA's. According to the PHS: (1) neither Congress nor the Department of Health and Human Services recognizes the existence of a national shortage of physicians; (2) alien physicians after they are certified do not go to the HMSA's or the area with an insufficient number of physicians, or if they do go to these areas they leave shortly after starting work. Thus, the labor certification program has not had a significant effect in alleviating the shortage of physicians in the HMSA's or in the areas with an insufficient number of physicians. Consequently, ETA proposes to remove all physicians from Schedule A.

Timetable:

Action	Date	FR Cite
NPRM	01/24/86	51 FR 3192
NPRM Comment Period End	03/00/86	
Final Action	05/00/86	
Final Action Effective	06/00/86	

Small Entity: No

Affected Sectors: 80 HEALTH SERVICES; 82 EDUCATIONAL SERVICES

Government Levels Affected: State, Federal

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor, Certification, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 8122, PHBldg., Washington, DC 20213, 202 376-6226

RIN: 1205-AA33

1393. AGRICULTURAL ADVERSE EFFECT WAGE RATES - METHODOLOGY FOR COMPUTING RATES FOR 1986

Significance: Regulatory Program

Legal Authority: 8 USC 1101(a)(15)(H)(ii); 8 USC 1184

CFR Citation: 20 CFR 655, Subpart C

Legal Deadline: None

Abstract: Propose new methodology for computing agricultural Adverse Effect Wage Rates (AEWRs) for 1986. New methodology would return to use of USDA quarterly survey data for indexing AEWRs, as was the case prior to 1931, when that survey was temporarily discontinued.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
NPRM Comment Period End	05/00/86	
Final Action	06/00/86	

Small Entity: No

Affected Sectors: 013 Field Crops, Except Cash Grains; 016 Vegetables and Melons; 017 Fruits and Tree Nuts; 019 General Farms, Primarily Crop; 071 Soil Preparation Services; 072 Crop Services

Government Levels Affected: State, Federal

Agency Contact: Thomas M. Bruening, Chief, Div. of Foreign Labor Certifications, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 8122, PHBldg., Washington, DC 20213, 202 376-6226

RIN: 1205-AA39

1394. WORK INCENTIVE PROGRAMS FOR AID TO FAMILIES WITH DEPENDENT CHILDREN RECIPIENTS UNDER TITLE IV OF THE SOCIAL SECURITY ACT

Significance: Agency Priority

Legal Authority: 42 USC 1302

CFR Citation: 29 CFR 56.17, (Revision); 20 CFR 56.18, (Revision); 29 CFR 56.19, (Revision); 29 CFR 56.86, (New)

Legal Deadline: None

Abstract: The regulation will provide Work Incentive Program grantees and contractors administrative appeal rights before the Office of Administrative Law Judges for the following: (1) an adjustment in payment; (2) termination of the contract or grant; (3) a final determination disapproving outstanding claims arising from terminations, disapproving unreimbursed costs, or rejecting the termination settlement proposal; (4) a final determination disallowing costs as a result of an audit; and (5) a final determination disallowing costs resulting from the closing out of the grant/contract. Currently, no such rights exists and a grantee/contractor's only appeal forum is Federal Court. Provision of these hearing rights should reduce the workload of the Federal Court system and allow the Department of Labor to adjudicate the issues in a more informal setting with Administrative Law Judges, who are more accustomed to dealing with the particular issues involved. The regulations will also correct a perceived inequity since most Employment and Training Administration programs have administrative appeal rights.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
NPRM Comment Period End	09/00/86	
Final Action	11/00/86	

Small Entity: No

Additional Information: A Department of Labor Inter-Agency Task Force established to implement the Single Audit Act has decided that all Department of Labor programs shall have some type of appeal rights within the Department of Labor. The Office of the Assistant Secretary for Employment and Training Administration decided that appeal rights for all Employment and Training Administration programs shall be provided by the Office of Administrative Law Judges.

Government Levels Affected: Local, State, Federal

Agency Contact: Linda D. Kontnier, Chief, Division of Debt Management, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 8422, PHBldg., Washington, DC 20213, 202 376-6639

RIN: 1205-AA45

1395. ADMINISTRATIVE PROCEDURE

Significance: Agency Priority

Legal Authority: 42 USC 1302

CFR Citation: 20 CFR 601.9 (Revision)

Legal Deadline: None

Abstract: The regulation will provide States with administrative appeal rights before the Office of Administrative Law Judges for final determinations disallowing costs or imposing corrective actions as a result of all audits in the Federal-State unemployment compensation program and related Federal unemployment benefit and allowance programs. Currently, no such appeal rights exist and if a State seeks review of one of the above actions the only appeal forum is the Federal Court. Provision of these appeal rights before the Office of Administrative Law Judges should reduce the workload of the Federal Court system and allow the Department of Labor to adjudicate the issues in a more informal setting with the Administrative Law Judges, who are more accustomed to dealing with the particular issues involved. The regulation will also correct what is perceived as an inequity, since most Employment and Training Administration programs have administrative appeal rights.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
NPRM Comment Period End	08/00/86	
Final Action	01/00/87	

Small Entity: No

Additional Information: A Department of Labor Inter-Agency Task Force established to implement the Single Audit Act has decided that all Department of Labor programs shall have some type of appeal rights within the Department of Labor. The Office of the Assistant Secretary for Employment and Training Administration decided that appeal rights for all Employment and Training Administration programs shall be provided by the Office of Administrative Law Judges.

Government Levels Affected: State, Federal

Agency Contact: Linda D. Kontnier, Chief, Division of Debt Management, Department of Labor, Employment and Training Administration, 601 D Street, NW, RM 8422, PHBldg., Washington, DC 20213, 202 376-6639

RIN: 1205-AA46

1396. ● DISASTER UNEMPLOYMENT ASSISTANCE PROGRAM (DUA)

Significance: Regulatory Program

Legal Authority: 42 USC 5177

CFR Citation: 20 CFR 625, (Revision)

Legal Deadline: None

Abstract: A few technical amendments are necessary to update the DUA Final Regulations which were published September 28, 1977. A clarification is needed on the administration of DUA in the Virgin Islands. Also, the Canal Zone should be selected from the eligible "States." The formula for computing DUA weekly benefit amounts needs to be simplified. The first week of DUA payable needs to be clarified. None of the changes contemplated would result in additional costs.

Timetable:

Action	Date	FR Cite
NPRM	01/00/87	
NPRM Comment Period End	02/00/87	
Final Action	07/00/87	

Small Entity: No

Additional Information: In addition to updating the current regulations the anticipated changes will provide for more efficient operation of the program.

Affected Sectors: None

Government Levels Affected: State, Federal

Agency Contact: Lorenzo Roberts, Unemployment Insurance Specialist, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 7430, PHBldg., Washington, DC 20213, 202 376-7366

RIN: 1205-AA50

1397. ● LABOR CERTIFICATION PROCESS FOR TEMPORARY EMPLOYMENT OF ALIEN WORKERS IN AGRICULTURE: ADVERSE EFFECT WAGE RATES FOR IDAHO, OREGON AND LOUISIANA

Legal Authority: 8 USC 1101(a)(15)(H)(ii); 8 USC 1184

CFR Citation: 20 CFR 655, Subpart C

Legal Deadline: None

Abstract: Propose to add Idaho, Oregon and Louisiana to the list of States for which annual adverse effect wage rates are established.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
NPRM Comment Period End	04/00/86	
Final Action	05/00/86	

Small Entity: No

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DOL—ETA — Proposed Rule Stage

Affected Sectors: 013 Field Crops, Except Cash Grains; 016 Vegetables and Melons; 017 Fruits and Tree Nuts; 019 General Farms, Primarily Crop; 071 Soil Preparation Services; 072 Crop Services

Government Levels Affected: State, Federal

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor, Certifications, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 6122, PHBldg., Washington, DC 20213, 202 376-6226

RIN: 1205-AA52

1398. ● JOB CORPS PROGRAM UNDER TITLE IV-B OF THE JOB TRAINING PARTNERSHIP ACT

Legal Authority: 29 USC 1579

CFR Citation: 20 CFR 684

Legal Deadline: None

Abstract: The regulations will revise and streamline the existing rules for the Job Corps program. These changes will not create new cost nor materially change the existing program. The new rules will be in compliance with Title IV-B of the Job Training Partnership Act.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	
NPRM Comment Period End	02/00/87	

Small Entity: Undetermined

Agency Contact: Peter E. Rell, Director, Office of Job Corps, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 6414, PHBldg., Washington, DC 20213, 202 376-1113

RIN: 1205-AA54

1399. ● PREFERENCE IN FEDERAL PROCUREMENT FOR LABOR SURPLUS AREAS UNDER EXECUTIVE ORDERS 12073 AND 10582

Significance: Regulatory Program

Legal Authority: EO 12073; EO 10582

CFR Citation: 20 CFR 654.5(b)

Legal Deadline: None

Abstract: Currently the Department of Labor only classifies civil jurisdictions (counties, cities over 50,000 population as well as townships and towns in certain selected States) as labor surplus areas. This policy has resulted in some employment centers in the nation's large metropolitan areas not being classified as labor surplus areas, even though the entire Metropolitan Statistical Areas or Primary Metropolitan Statistical Areas would meet the labor surplus area criteria if such geographic areas were classified. The proposed rule would grant the Assistant Secretary for Employment and Training the authority to classify Metropolitan Statistical Areas and Primary Metropolitan Statistical Areas as labor surplus areas to help alleviate unemployment in these areas. The change will add some additional labor surplus areas to the current list but it will not increase the funds going to such designated areas.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
NPRM Comment Period End	07/00/86	
Final Action	09/00/86	

Small Entity: No

Agency Contact: Richard C. Gilliland, Director, Untied States Employment Service, Department of Labor, Employment and Training Administration, Patrick Henry Building (Room 8100), 601 D Street, Washington, DC 20213, 202 376-6759

RIN: 1205-AA55

DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA) — Final Rule Stage

1400. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

Significance: Regulatory Program

Legal Authority: 19 USC 2320

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: These regulations would implement the 1981 and 1983 amendments to the Trade Act of 1974. The Trade Adjustment Assistance program provides adjustment assistance, in the form of reemployment services, training, job search, relocation allowances, and cash benefits (adjustment assistance) to workers whose unemployment is linked to increased imports of foreign-made products. The amendments represent a fundamental shift in program emphasis from income maintenance to placement and employment services and benefits such as training, job search and relocation. The 1981 amendments are designed to assure that adjustment assistance and reemployment services are more appropriately targeted to trade impacted workers with emphasis placed on their return to work. The 1983 amendments extended the program to September 30, 1985. The 1984 amendments to the program are not included in these regulations but will be issued separately.

Timetable:

Action	Date	FR Cite
NPRM	03/04/83	48 FR 9444
NPRM Comment Period End	07/26/83	48 FR 32837
Final Action	06/00/86	

Small Entity: No

Agency Contact: Lorenzo Roberts, Unemployment Insurance Specialist, Department of Labor, Employment and Training Administration, Rm 7430, PHBldg., 601 D St, NW, Washington, DC 20213, 202 376-7366

RIN: 1205-AA17

1401. SENIOR COMMUNITY SERVICE EMPLOYMENT PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 3056 et seq, Older Americans Community Svcs Employ Act

CFR Citation: 20 CFR 674

Legal Deadline: Statutory, May 8, 1985. P.L. 98-459, Section 205(c)

Abstract: The regulations will revise and update the existing rules for the Senior Community Service Employment Program. These changes will not create new cost nor materially change the existing program. However, the new rules will place the program in compliance with the 1984 Amendments to the Older Americans Act.

Timetable:

Action	Date	FR Cite
NPRM	07/19/85	50 FR 29606
NPRM Comment Period End	08/27/85	50 FR 34725
Extension of Comment Period to 9/19/86	08/27/85	50 FR 34725
Final Action	07/00/86	

Small Entity: No

Agency Contact: Paul A. Mayrand, Director, Office of Special Targeted, Programs, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 6122, PHBldg., Washington, DC 20213, 202 376-6225

RIN: 1205-AA29

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DOL—ETA — Final Rule Stage

1402. TRADE ADJUSTMENT ASSISTANCE FOR WORKERS

Significance: Regulatory Program

Legal Authority: 19 USC 2320

CFR Citation: 20 CFR 617

Legal Deadline: None

Abstract: This regulation would implement provisions of the Deficit Reduction Act of 1984 amending the Trade Act of 1974. The legislation amends Section 233(a)(3), to enable workers to collect the extra 26 weeks of Trade Adjustment Assistance (TRA) beginning with the first week the worker enters training if the training has not been approved until after the last week of entitlement to basic TRA. It also amends Sections 227 and 230 of the Trade Act to increase the maximum job search allowance to $600 (from $600) and the maximum lump-sum relocation allowance to $800 (from $600).(Since the proposed rule is supplemental to proposed rule at 28 CFR Part 635, the actual date of issuance of this rule as a final rule is dependent upon publication as a final rule of the amendments to The Trade Act of 1974 in Title XXV of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35).

Timetable:

Action	Date	FR Cite
NPRM	04/15/85	50 FR 14720
NPRM Comment Period End	05/15/85	50 FR 14720
Final Action	09/00/86	

Small Entity: No

Additional Information: Legislation i.e., effective upon enactment (July 18, 1984)

Government Levels Affected: State, Federal

Agency Contact: Marvin M. Fooks, Director, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 6434, PHBldg., Washington, DC 20213, 202 376-3646

RIN: 1205-AA31

1403. LABOR CERTIFICATION PROCESS FOR THE TEMPORARY EMPLOYMENT OF ALIENS IN AGRICULTURE AND LOGGING IN THE UNITED STATES

Legal Authority: 8 USC 1101(a)(15)(H)(ii); 8 USC 1184

CFR Citation: 20 CFR 655, Subpart C

Legal Deadline: None

Abstract: Current regulations state that when employers provide meals they may charge the worker no more than $4.00 per day. There are exceptions in cases where employers document costs exceeding $4.00 in support of higher meal charges. In such instances, a ceiling of $5.00 per day may be charged if approved by the RA. These charges were established in 1980, and do not reflect the higher costs for food that currently exist. ETA proposes to increase the amount employers can charge workers for three meals per day.

Timetable:

Action	Date	FR Cite
NPRM	12/10/85	50 FR 50913
NPRM Comment Period End	01/09/86	50 FR 50913
Final Action	03/00/86	
Final Action Effective	03/00/86	

Small Entity: No

Affected Sectors: 016 Vegetables and Melons; 017 Fruits and Tree Nuts; 019 General Farms, Primarily Crop; 071 Soil Preparation Services; 072 Crop Services

Government Levels Affected: State, Federal

Agency Contact: Thomas M. Bruening, Chief, Division of Foreign Labor, Certification, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 6122, PHBldg., Washington, DC 20213, 202 376-6226

RIN: 1205-AA34

1404. LABOR CERTIFICATION PROCESS FOR TEMPORARY EMPLOYMENT OF ALIEN WORKERS IN AGRICULTURE: MONTANA ADVERSE EFFECT WAGE RATE

Legal Authority: 8 USC 1101(a)(15)(H)(ii); 8 USC 1184

CFR Citation: 20 CFR 655, Subpart C

Legal Deadline: None

Abstract: Propose to add Montana to the list of States in which annual adverse effect wage rates are established.

Timetable:

Action	Date	FR Cite
NPRM	12/10/85	50 FR 50911
NPRM Comment Period End	01/09/86	50 FR 50911
Final Action	05/00/86	

Small Entity: No

Affected Sectors: 013 Field Crops, Except Cash Grains; 016 Vegetables and Melons; 017 Fruits and Tree Nuts; 019 General Farms, Primarily Crop; 071 Soil Preparation Services; 072 Crop Services

Government Levels Affected: State, Federal

Agency Contact: Thomas M. Bruening, Chief, Div. of Foreign Labor Certifications, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 6122, PHBldg., Washington, DC 20213, 202 376-6226

RIN: 1205-AA48

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DEPARTMENT OF LABOR (DOL)
Employment and Training Administration (ETA)

Completed Actions

1405. IMPLEMENTATION OF THE DEFICIT REDUCTION ACT (P.L. 98-369) PROVISIONS FOR EXCHANGE OF INCOME AND ELIGIBILITY INFORMATION AMONG FEDERALLY-ASSISTED INCOME MAINTENANCE PROGRAMS

Significance: Agency Priority

Legal Authority: 42 USC 1392; 42 USC 1320b-7

CFR Citation: 20 CFR 603

Legal Deadline: None

Abstract: P.L. 98-369 (The Deficit Reduction Act) contains provisions which establish an income and eligibility system for exchange of information among state agencies administering programs for AFDC, Medicaid, Food Stamps, SSI, UI and other Grants to states program under Titles I, X and XIV of the Social Security Act. The provisions relate to the use of social security numbers, utilization and exchange of information, reimbursement of costs, accounting systems and protection of data. The provisions for the income and eligibility system take effect for all agencies April 1, 1985, unless the state agency submits a plan of good faith effort requesting waiver of the requirement until September 30, 1986.

Timetable:

Action	Date	FR Cite
NPRM	03/14/86	50 FR 10450
NPRM Comment Period End	04/29/86	50 FR 10450
Final Action	02/28/86	51 FR 7178

Small Entity: No

Government Levels Affected: State, Federal

Agency Contact: Irene Lynn, Chief, St. Legislative Review/Guidance Group, Department of Labor, Employment and Training Administration, 601 D Street, NW, Rm 7283, PHBldg., Washington, DC 20213, 202 736-7169

RIN: 1205-AA32

[FR Doc. 86-8275 Filed 04-18-86; 8:45 am]
BILLING CODE 4510-30-T

Proposed Rule Stage

DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA)

1406. PARTICIPANT DIRECTED INDIVIDUAL ACCOUNT PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1104(c); 29 USC 1135

CFR Citation: 29 CFR 2550

Legal Deadline: None

Abstract: The regulation would describe the kinds of plans referred to in Section 404(c) as participant directed individual account plans, the circumstances under which a participant or beneficiary will be considered to have exercised control over his individual account, and the consequences under section 404(c) of such an exercise of control.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
NPRM Comment Period End	07/00/86	
Final Action	04/00/87	

Small Entity: Undetermined

Agency Contact: Shelby J. Hoover, Staff Attorney, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm C4508, FPBldg., Washington, DC 20210, 202 523-8658

RIN: 1210-AA06

1407. LOANS TO PARTICIPANTS

Legal Authority: 29 USC 1135

CFR Citation: 29 CFR 2550

Legal Deadline: None

Abstract: This rule describes the circumstances under which the exemption in Section 408(b)(1) from the prohibited transaction provisions for loans by a plan to plan participants will be available.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: William Flanagan, Attorney, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm C4508, FPBldg., Washington, DC 20210, 202 523-8562

RIN: 1210-AA09

1408. ADEQUATE CONSIDERATION

Legal Authority: 29 USC 1002(3)(16); 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: This regulation would provide guidance as to what constitutes adequate consideration under Section 3(18) of ERISA for securities for which there is no generally recognized market.

Timetable:

Action	Date	FR Cite
NPRM	03/00/87	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: William Flanagan, Attorney, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm C4508, FPBldg., Washington, DC 20210, 202 523-8562

RIN: 1210-AA15

1409. AMENDMENT OF SEVERANCE PAY REGULATION

Legal Authority: 29 USC 1135; 29 USC 1002(2)(B)(i)

CFR Citation: 29 CFR 2510.3-2(b)

Legal Deadline: None

Abstract: This regulation would amend the regulation defining severance pay plans at 29 CFR 2510.3-2(b) to clarify when a severance pay arrangement constitutes a pension plan for purposes of Title I of ERISA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

DOL—PWBA

Proposed Rule Stage

Agency Contact: Doris F. Jacobs, Staff Attorney, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm C4508, FPBldg., Washington, DC 20210, 202 523-8610

RIN: 1210-AA18

1410. QUALIFIED DOMESTIC RELATIONS ORDERS UNDER THE RETIREMENT EQUITY ACT

Legal Authority: 29 USC 1056(d)(3)(L); 29 USC 1135

CFR Citation: 29 CFR 2530

Legal Deadline: None

Abstract: This regulation would clarify the application of the qualified domestic relations order provisions of Section 206(d)(3) of ERISA added by the Retirement Equity Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	03/00/87	

Small Entity: Undetermined

Agency Contact: Jean Leahy, Staff Attorney, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm C4508, FPBldg., Washington, DC 20210, 202 523-8593

RIN: 1210-AA19

1411. PROCEDURES FOR ADMINISTRATIVE IMPOSITION OF CIVIL SANCTIONS

Significance: Regulatory Program

Legal Authority: 29 USC 1132 (l); 29 USC 1135

CFR Citation: 29 CFR 2560; 29 CFR 2570

Legal Deadline: None

Abstract: This procedural rule would implement Section 502(i) of ERISA which authorizes the Secretary of Labor to impose civil sanctions against parties in interest (as defined in ERISA Section 3(14)) who engage in prohibited transactions with welfare plans and nonqualified pension plans.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	12/00/87	

Small Entity: No

Agency Contact: Doris F. Jacobs, Staff Attorney, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm C4508, FPBldg., Washington, DC 20210, 202 523-8610

RIN: 1210-AA20

1412. TOP HAT PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: This regulation would provide guidance as to what constitutes an unfunded employee benefit plan maintained primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees ("top hat" plans) for purposes of Title I of ERISA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Jean Leahy, Staff Attorney, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm C4508, FPBldg., Washington, DC 20210, 202 523-8593

RIN: 1210-AA21

1413. THE PAYMENT OF TRUSTEES' LITIGATION EXPENSES

Legal Authority: 29 USC 1135

CFR Citation: 29 CFR 2550

Legal Deadline: None

Abstract: This proposed regulation will provide guidance on circumstances in which it will be lawful under Title I of ERISA for employee benefit plans to pay the litigation expenses of plan fiduciaries as defined in ERISA Section 3(21). Such guidance will clarify a legal issue about which there has been considerable confusion.

Timetable:

Action	Date	FR Cite
NPRM	01/00/87	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Kevin E. Sullivan, Staff Attorney, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm C4508, FPBldg., Washington, DC 20210, 202 523-8593

RIN: 1210-AA22

Final Rule Stage

DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA)

1414. INDIVIDUAL BENEFIT REPORTING - RECORDKEEPING - MULTIPLE EMPLOYER PLANS

Legal Authority: 29 USC 1025; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520; 29 CFR 2530

Legal Deadline: None

Abstract: The rule would govern: (1) reports that must be furnished to participants and beneficiaries in multiple employer pension plans, regarding the benefits to which they are entitled, or may become entitled, at retirement; and (2) records that must be maintained to provide the information necessary to prepare these reports. This rule was first proposed on 02/09/79 (44 FR 8294) jointly with the single employer plan benefit reporting regulations.

Timetable:

Action	Date	FR Cite
NPRM Previous	02/09/79	44 FR 8294
NPRM	08/08/80	45 FR 52624
NPRM Comment Period End	10/08/80	
Notice of 11/25/80 Public Hearing	11/12/80	45 FR 74727
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Howard Hensley, Chief, Division of Reporting and Disclosure, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave., NW, Rm N5669, FPBldg., Washington, DC 20210, 202 523-8377

RIN: 1210-AA02

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DOL—PWBA

Final Rule Stage

1415. INDIVIDUAL BENEFIT REPORTING AND RECORDKEEPING FOR SINGLE EMPLOYER PLANS

Legal Authority: 29 USC 1025; 29 USC 1059; 29 USC 1135

CFR Citation: 29 CFR 2520; 29 CFR 2530

Legal Deadline: None

Abstract: The rule would govern: (1) reports that must be furnished to participants and beneficiaries in single employer pension plans, regarding the benefits to which they are entitled, or may become entitled, at retirement; and (2) records that must be maintained to provide the information necessary to prepare these reports. This rule was first proposed on 02/09/79 (44 FR 8294) jointly with the multiple employer plan benefit reporting regulation.

Timetable:

Action	Date	FR Cite
NPRM Previous	02/09/79	44 FR 8294
NPRM	08/01/80	45 FR 51231
Notice of 11/25/80 Public Hearing	11/12/80	45 FR 74728
NPRM Comment Period End	10/01/81	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Howard Hensley, Chief, Division of Reporting and Disclosure, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave., NW, Rm N5669, FPBldg., Washington, DC 20210, 202 523-8377

RIN: 1210-AA03

1416. PLAN ASSETS REGULATION

Significance: Regulatory Program

Legal Authority: 29 USC 1135

CFR Citation: 29 CFR 2510

Legal Deadline: None

Abstract: The remaining part of this regulation would clarify what investments constitute assets of an employee benefit plan under ERISA. The regulation had been targeted for review by the President's Task Force on Regulatory Relief. A final rule dealing with the housing portion of the regulation was published on 05/18/82 (47 FR 21241) and became effective on 06/17/82.

Timetable:

Action	Date	FR Cite
Previous NPRM	08/28/79	44 FR 50363
NPRM Previous	08/01/80	45 FR 38084
NPRM	01/08/85	50 FR 961
NPRM Comment Period End	03/11/85	50 FR 961
Public Hearings were held 05/06/85, 05/07/85 and	05/06/85	
Final Action	08/00/89	

Small Entity: No

Agency Contact: Shelby J. Hoover, Staff Attorney, Department of Labor, Office of the Secretary, 200 Constitution Ave., NW, Rm C4508, FPBldg., Washington, DC 20210, 202 523-8636

RIN: 1210-AA06

1417. EXEMPTION AND ALTERNATIVE METHOD OF COMPLIANCE FOR ANNUAL REPORTING OF CERTAIN ENTITIES

Significance: Regulatory Program

Legal Authority: 29 USC 1024; 29 USC 1030; 29 USC 1135

CFR Citation: 29 CFR 2520

Legal Deadline: None

Abstract: ERISA and the regulations issued thereunder, require the administrator of an employee benefit plan, unless otherwise exempt, to file annual reports relating to the financial status and activities of the plan. Among other things, the annual report is required to include statements and schedules concerning the assets of the plan and transactions involving those assets. This regulation will provide an alternative method of compliance with the annual reporting requirements for certain employee benefit plans which invest in entities, the underlying assets of which constitute plan assets under the Department's "Plan Assets" regulation.

Timetable:

Action	Date	FR Cite
NPRM	01/24/85	50 FR 3362
NPRM Comment Period End	03/25/85	50 FR 8362
Final Action	08/00/86	

Small Entity: No

Agency Contact: George Holmes, Plan Benefit Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave., NW, Rm N4472, FPBldg., Washington, DC 20210, 202 523-8515

RIN: 1210-AA14

1418. DEFINITION OF PLAN ASSETS – EMPLOYEE CONTRIBUTIONS

Significance: Regulatory Program

Legal Authority: 29 USC 1135

CFR Citation: 29 CFR 2550

Legal Deadline: None

Abstract: This regulation would describe when monies paid to, or withheld by, an employer as contributions to an employee benefit plan are considered "Plan Assets" for purposes of Title I of ERISA and certain related provisions of the Internal Revenue Code. Proposed regulations dealing with this matter were published by the Department on August 28, 1979, and June 9, 1980.

Timetable:

Action	Date	FR Cite
NPRM	08/28/79	44 FR 50363
NPRM Comment Period End	01/07/80	
Public Hearings	02/27/80	
NPRM	06/06/80	45 FR 38084
Final Action	07/00/86	

Small Entity: No

Additional Information: Subpart of RIN 1210-AA08 (Definition of Plan Assets) which will be handled separately.

Agency Contact: Rudolph Nuisel, Plan Benefit Specialist, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave., NW, Rm C4508, FPBldg., Washington, DC 20210, 202 523-8671

RIN: 1210-AA16

DEPARTMENT OF LABOR (DOL)
Pension and Welfare Benefits Administration (PWBA)

Completed Actions

1419. PARTICIPATION OF SELF-REGULATORY ORGANIZATIONS IN THE PROHIBITED TRANSACTION EXEMPTION PROCESS

Legal Authority: 29 USC 1108 (a); Sec. 101 Reorganization Plan No. 4 of 1978

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Department has solicited public comment concerning methods of enhancing private sector participation in the processing of exemptions from the prohibited transaction provisions of ERISA. Following an analysis of the comments received in response to the Department's solicitation, a determination will be made as to what future action is appropriate.

Timetable:

Action	Date	FR Cite
Begin Review	11/15/84	
Solicitation of comments	12/10/84	49 FR 48111
Comment Period ends	02/08/85	
End Review Based on options developed, no further action anticipated.	11/29/85	

Small Entity: Undetermined

Agency Contact: Robert Doyle, Deputy Assistant Administrator, Department of Labor, Pension and Welfare Benefits Administration, 200 Constitution Ave., NW, Rm C4526, FPBldg., Washington, DC 20210, 202 523-8658

RIN: 1210-AA17

[FR Doc. 86-8775 Filed 04-18-86; 8:45 am]
BILLING CODE 4510-29-T

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Prerule Stage

1420. REVIEW OF SELF-CONTAINED SELF RESCUE DEVICES (SCSR) STANDARDS APPLICABLE TO COAL MINING

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1714

Legal Deadline: None

Abstract: The Self-Contained Self Rescue Devices (SCSR) Standards are part of the overall coal review of high priority standards. These standards would be revised to incorporate technological advances. MSHA has deferred further rulemaking on SCSR's at this time. The agency has not determined its next action. Further information concerning this rulemaking will be available in the next Agenda.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
ANPRM	07/01/83	48 FR 30589
ANPRM Comment Period End	08/30/83	

Next Action Undetermined

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA08

1421. UNDERGROUND COAL MINE ELECTRICAL STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.500; 30 CFR 75.600; 30 CFR 75.700; 30 CFR 75.800; 30 CFR 75.900; 30 CFR 75.1000

Legal Deadline: None

Abstract: The Electrical Standards are part of the overall coal review of high priority standards. These standards would be revised to: (1) eliminate unnecessary standards; (2) clarify and update existing standards; (3) incorporate technological advances; and (4) reduce recordkeeping burdens on the industry.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
End Review	12/00/84	
ANPRM	04/00/86	
NPRM	03/00/87	

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA10

1422. REVIEW OF HOISTING AND TRANSPORTATION OF PERSONS AND MATERIAL STANDARDS APPLICABLE TO COAL MINING

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1400

Legal Deadline: None

Abstract: The hoisting and transportation standards are part of the overall coal review of high priority standards. These standards would be revised to: (1) eliminate unnecessary standards; (2) clarify and update standards; (3) incorporate technological advances; and (4) reduce recordkeeping burdens on the industry. MSHA has deferred rulemaking on this project at this time. Further information concerning the agency's next action will be available in the next Agenda.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
ANPRM	07/01/83	48 FR 30589
ANPRM Comment Period End	08/30/83	

Next Action Undetermined

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA12

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DOL—MSHA

Prerule Stage

1423. APPROVAL CRITERIA FOR DIESEL-POWERED EQUIPMENT FOR UNDERGROUND COAL MINES

Significance: Regulatory Program

Legal Authority: Section 508 of the Federal Mine Safety and Health Act of 1977; 30 USC 801 et seq

CFR Citation: 30 CFR 36

Legal Deadline: None

Abstract: The atmosphere of underground coal mines contains methane gas which can quickly accumulate in explosive concentrations. To protect against gas ignitions and mine explosions, the Federal Mine Safety and Health Act of 1977 requires that mining equipment be built in accordance with certain performance standards. To administer these requirements, MSHA has established a mining equipment approval system, including evaluation criteria. At present, approximately 88 underground coal mines are using about 1100 pieces of diesel equipment. Existing MSHA approval criteria do not, however, apply to this equipment. Existing MSHA regulations (30 CFR 36) apply only to diesel equipment for noncoal mines and tunnels. MSHA has encouraged coal mine operators to voluntarily use diesel-powered equipment approved for noncoal mines. This effort has not been completely successful. Cost estimates have not been calculated. However, costs could arise from the purchase and maintenance of approved diesel equipment and for environmental controls. The major benefit would be increased productivity resulting from elimination of electric trailing cables, and increased (cont)

Timetable:

Action	Date	FR Cite
ANPRM	09/00/86	

Small Entity: Yes

Additional Information: ABSTRACT CONT: safety possible in areas such as materials handling when diesels are used to replace electric equipment.

ADDITIONAL INFORMATION: Regulations acknowledging the use of diesel-powered equipment in underground coal mines highlight issues regarding exposure limits for diesel fumes, raising potential policy issues regarding appropriate health standards.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA27

1424. APPROVAL CRITERIA FOR RESPIRATORY PROTECTIVE DEVICES

Significance: Regulatory Program

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 11

Legal Deadline: None

Abstract: Under the 1977 Mine Act, MSHA and the National Institute for Occupational Safety and Health (NIOSH) jointly approve respirators for use in hazardous atmospheres. Recent problems in field use of respirators suggest that the present laboratory tests for respirators may not accurately predict their effectiveness during actual use. In addition, new technology has been developed which cannot be accommodated by the existing regulations. In determining alternatives, MSHA will first reexamine its role in the joint approval process. Under the existing procedures, most of the respirators approved are for non-mining applications. Therefore, MSHA will reassess the extent of its role in the approval process. Another alternative would be to replace federal testing with private sector testing according to federal specifications. Benefits could include improved respirators for field use and a faster approval process. However, the private sector testing alternative could be expected to raise costs for manufacturers because of market prices for testing products.

Timetable:

Action	Date	FR Cite
Under Review Pending Joint Agency Decision for Rulemaking	04/00/86	

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Arlington, Va 22203, 703 235-1910

RIN: 1219-AA30

1425. ● SURFACE COAL MINE ELECTRICAL STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 77.500; 30 CFR 77.600; 30 CFR 77.700; 30 CFR 77.800; 30 CFR 77.900; 30 CFR 77.1000; 30 CFR 77.1600

Legal Deadline: None

Abstract: The Electrical Standards for surface coal mines is a new entry that is being included in the overall review of high priority coal standards. These standards would be revised to: (1) eliminate unnecessary standards; (2) clarify and update existing standards; (3) incorporate technological advances; and (4) reduce recordkeeping burdens on the industry. Further, the agency will be reviewing the existing incorporations by reference with a goal of including more performance-oriented standards.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/86	

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA32

1426. ● NOTIFICATION, INVESTIGATION, REPORTS AND RECORDS OF ACCIDENTS INJURIES, ILLNESSES, EMPLOYMENT, AND COAL PRODUCTION IN MINES

Significance: Regulatory Program

Legal Authority: 30 USC 957; 30 USC 813(d)

CFR Citation: 30 CFR 50

Legal Deadline: None

Abstract: This is a new entry. It concerns MSHA's requirements for reporting of accidents, injuries and illnesses in coal and noncoal mines. Over the last several months, concerns have been raised about the nature of the reporting requirements, including possible instances of under-reporting. MSHA has established an intra-agency task force to review field reporting experience. Depending upon the task force findings, MSHA will decide whether or not to initiate rulemaking.

DOL—MSHA

Prerule Stage

Timetable:

Action	Date	FR Cite
Begin Review	12/00/85	
Task Force Report Completed	03/03/86	

Small Entity: Yes

Additional Information: MSHA will decide on the need for rulemaking after review of the task force report.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA33

DEPARTMENT OF LABOR (DOL)
Mine Safety and Health Administration (MSHA)

Proposed Rule Stage

1427. PATTERN OF VIOLATIONS

Significance: Regulatory Program

Legal Authority: 30 USC 814(e); 30 USC 957

CFR Citation: 30 CFR 104

Legal Deadline: None

Abstract: The 1977 Mine Act provides for issuance of withdrawal orders to mines having a pattern of serious violations until the mine is completely free of such violations. A 1980 proposed rule would have set criteria for determining if a "pattern of violations" exists. Commenters generally opposed the proposal stating that it was complex, too statistically-oriented and vague. In addition, since the proposal was published, the statutory concept of "significant and substantial violations" (S&S) has been redefined by the Federal Mine Safety and Health Review Commission. S&S violations are a critical element in the statutory provisions. For these reasons, MSHA withdrew the 1980 proposal and issued an ANPRM that outlines new procedures for implementing the statutory provision for pattern of violations.

Timetable:

Action	Date	FR Cite
ANPRM	02/08/85	50 FR 5470
Withdrawal of 1980 NPRM	02/08/85	50 FR 5470
Extension of Comment Period to 5/10/85	04/05/85	50 FR 13617
ANPRM Comment Period End	04/09/85	50 FR 5470
NPRM	06/00/86	

Small Entity: Yes

Additional Information: Public hearings would most likely be held during December 1986.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA04

1428. PROCEDURES FOR APPROVAL OF MINING EQUIPMENT

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 7

Legal Deadline: None

Abstract: This would be a new Part. Under existing regulations, certain equipment must be approved by MSHA prior to use in underground mines. In lieu of MSHA testing, the proposal would permit manufacturers or independent laboratories to test certain equipment prior to issuance of the Agency's approval.

Timetable:

Action	Date	FR Cite
ANPRM	03/04/83	48 FR 09475
Notice of Public Meetings	03/18/83	48 FR 11665
ANPRM Comment Period End	05/03/83	
NPRM	02/06/86	51 FR 4686
NPRM Comment Period End	04/07/86	51 FR 4686
Public Hearing (announced 2/6/86, 51 FR 4686)	06/00/86	
Final Action	02/00/87	

Small Entity: Yes

Additional Information: Public hearings will most likely be held during June 1986.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Blvd., Rm 627, BT #3, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA06

1429. UNDERGROUND COAL MINE VENTILATION

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.300

Legal Deadline: None

Abstract: The Ventilation Standards are part of the overall coal review of high priority standards. These standards would be revised to: (1) eliminate unnecessary standards; (2) clarify and update standards; (3) incorporate technological advances; and (4) reduce recordkeeping burdens on the industry.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
End Review	12/00/84	
ANPRM	11/19/85	50 FR 47702
Extension of ANPRM Comment Period to 4/4/86	02/14/86	51 FR 5548
ANPRM Comment Period End	02/18/86	
NPRM	12/00/86	
Public Hearing (announced 2/14/85)	04/00/87	

Small Entity: Yes

Additional Information: Public hearings would most likely be held during April 1987.

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Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA11

1430. REVIEW OF METAL AND NONMETAL ELECTRICITY STANDARDS

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56.12000; 30 CFR 57.12000

Legal Deadline: None

Abstract: The electricity standards are part of the overall metal and nonmetal review of high priority sections. These standards would be revised to: (1) eliminate unnecessary standards; (2) clarify and update existing standards; (3) incorporate technological advances; and (4) reduce recordkeeping burdens on the industry.

Timetable:

Action	Date	FR Cite
Begin Review	03/25/80	45 FR 19267
ANPRM	05/20/83	48 FR 22895
ANPRM Comment Period End	07/19/83	
NPRM	07/00/86	

Small Entity: Yes

Additional Information: Public hearings will most likely be held in December 1986.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA14

1431. EXPLOSIVES AND BLASTING IN UNDERGROUND COAL MINES

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.1300

Legal Deadline: None

Abstract: The Explosives Standards are part of the overall coal review of high priority standards. These standards would be revised to: (1) eliminate unnecessary standards; (2) clarify and update standards; (3) incorporate technological advances; and (4) reduce recordkeeping burdens on the industry.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
ANPRM	05/08/84	49 FR 19601
ANPRM Comment Period End	07/20/84	49 FR 19601
NPRM	04/00/86	
Final Action	09/00/86	

Small Entity: Yes

Additional Information: Public hearings will most likely be held during August 1986. See also RIN 1219-AA23 for detailed requirements and timetables of Approval Schedule.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA16

1432. REVIEW OF METAL AND NONMETAL EXPLOSIVES STANDARDS

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56.6000; 30 CFR 57.6000

Legal Deadline: None

Abstract: The explosives standards are part of the overall metal and nonmetal review of high priority sections. These standards would be revised to: (1) eliminate unnecessary standards; (2) clarify and update existing standards; (3) incorporate technological advances; and (4) reduce recordkeeping burdens on the industry.

Timetable:

Action	Date	FR Cite
Begin Review	03/25/80	45 FR 19267
ANPRM	09/20/84	49 FR 33067
Extension of ANPRM Comment Period to 11/16/84	09/25/84	49 FR 37649
ANPRM Comment Period End	10/19/84	
NPRM	06/00/86	

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA17

1433. METAL AND NONMETAL AIR QUALITY STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 55.5; 30 CFR 56.5

Legal Deadline: None

Abstract: The Air Quality Standards are part of the overall metal and nonmetal review of high priority sections. These standards would be revised to: (1) eliminate unnecessary standards; (2) clarify and update existing standards; (3) incorporate technological advances; and (4) reduce recordkeeping burdens on the industry.

Timetable:

Action	Date	FR Cite
Begin Review	03/25/80	45 FR 19267
ANPRM	07/06/83	48 FR 31171
Extension of Comment Period to 10/06/83	08/12/83	48 FR 36789
Extension of Comment Period to 11/07/83	09/16/83	48 FR 41747
ANPRM Comment Period End	11/07/83	
NPRM	09/00/86	

Small Entity: Yes

Additional Information: Public hearing will most likely be held during February 1987.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA21

1434. APPROVAL REQUIREMENTS FOR EXPLOSIVES AND SHEATHED EXPLOSIVE UNITS

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 15

Legal Deadline: None

Abstract: The explosives approval schedules are part of the overall coal review of high priority standards. The schedules in 30 CFR Part 15 list requirements for approval of explosives and sheathed explosive units.

Timetable:

Action	Date	FR Cite
ANPRM	08/06/84	49 FR 23281
ANPRM Comment Period End	08/10/84	
NPRM	06/00/86	

Small Entity: Yes

Additional Information: Public hearings would most likely be held during October 1986.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA23

1435. MINE PLAN APPROVALS

Significance: Regulatory Program

Legal Authority: 30 USC 957

CFR Citation: 30 CFR Chapter I

Legal Deadline: None

Abstract: Members of the mining community have recommended a proposal that they believe would encourage more cooperative efforts in developing mine plans and provide for an equal appeal procedure for disputed matters. Specifically, the proposal would (1) establish time frames for MSHA and mine operator actions on mine plans, (2) specify that the agreed upon provisions would take effect immediately, (3) provide that citations be issued regarding plan provisions upon which the operator and District Manager cannot agree, (4) establish guidelines for the abatement of such citations and (5) provide for the review of these citations before the Federal Mine Safety and Health Review Commission.

Timetable:

Action	Date	FR Cite
Request for comments	03/22/85	50 FR 11644
NPRM	06/00/86	

Small Entity: Yes

Additional Information: Public hearings would most likely be held in December 1986.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA26

1436. METAL AND NONMETAL RADIATION STANDARDS

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57.5037 to 57.5047

Legal Deadline: None. However, the Agency has submitted a projected schedule to the court.

Abstract: MSHA is reviewing its existing metal and nonmetal ionizing radiation standards. The agency has identified specific issues with respect to possible regulatory action. The purpose of this review is to evaluate the adequacy of the existing standards in providing appropriate protection for mines exposed to radiation hazards in surface and underground operations.

Timetable:

Action	Date	FR Cite
Request for Comments	01/29/85	50 FR 4144
Extension of Comment Period to 6/3/85	03/22/85	50 FR 11638
ANPRM	11/19/85	50 FR 47700
ANPRM Comment Period End	02/18/86	
NPRM	10/00/86	

Small Entity: Yes

Additional Information: Public hearings will most likely be held during February 1987.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA28

1437. UPDATING FEES ASSOCIATED WITH EQUIPMENT APPROVALS

Significance: Regulatory Program

Legal Authority: 30 USC 957

CFR Citation: 30 CFR 11 to 33

Legal Deadline: None

Abstract: This rulemaking would revise MSHA's existing system of charging fees for the testing, evaluation, and approval of products manufactured for use in mines. Most of the existing fees have not changed since 1965, and no longer reflect the cost to the government for providing the services involved. The rulemaking would establish a procedure for updating fees periodically to reflect the current cost of providing these services and would establish fees for services for which applicants currently are not charged.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: Yes

Additional Information: Public hearings will most likely be held during August 1986.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA29

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DEPARTMENT OF LABOR (DOL)

Final Rule Stage

Mine Safety and Health Administration (MSHA)

1438. UNDERGROUND COAL MINE ROOF CONTROL

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 75.200

Legal Deadline: None

Abstract: The Roof Control Standards are part of the overall coal review of high priority standards. These standards would be revised to: (1) eliminate unnecessary standards; (2) clarify and update standards; (3) incorporate technological advances; and (4) reduce recordkeeping burdens on the industry.

Timetable:

Action	Date	FR Cite
Begin Review	07/09/82	47 FR 30025
ANPRM	09/02/83	48 FR 40165
ANPRM Comment Period End	11/16/83	48 FR 40165
NPRM	10/15/85	50 FR 41784
Extension of Comment Period to 02/17/86	12/13/85	50 FR 50925
Final Action	01/00/87	

Small Entity: Yes

Additional Information: The comment period on all issues except the two-entry task force recommendations closed in December 1985. The task force report recommendations remained open until 02/17/86. Public hearings were held during February 1986.

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA13

1439. METAL AND NONMETAL GASSY MINES

Significance: Regulatory Program

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 57.21000

Legal Deadline: None

Abstract: The Gassy Mine Standards are part of the overall metal and nonmetal review of high priority sections. These standards would be revised to: (1) eliminate unnecessary standards; (2) clarify and update existing standards; (3) incorporate technological advances; and (4) reduce recordkeeping burdens on the industry.

Timetable:

Action	Date	FR Cite
Begin Review	03/25/83	45 FR 19267
ANPRM	06/10/83	48 FR 27025
ANPRM Comment Period End	08/09/83	
Extension of Comment Period to 09/09/83	08/12/83	48 FR 36789
NPRM	06/04/85	50 FR 23612
Extension of Comment Period to 09/05/85	07/19/85	50 FR 29437
NPRM Comment Period End	08/05/85	50 FR 23812
Notice of Public Hearings	09/17/85	50 FR 37815
Final Action	09/00/86	

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA15

1440. SAFETY STANDARDS FOR LOADING, HAULING AND DUMPING AT METAL AND NONMETAL MINES

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56.9000; 30 CFR 57.9000

Legal Deadline: None

Abstract: The Loading, Hauling and Dumping Standards are part of the overall metal and nonmetal review of high priority sections. These standards would be revised to: (1) eliminate unnecessary standards; (2) clarify and update existing standards; (3) incorporate technological advances; and (4) reduce recordkeeping burdens on the industry. After consideration of the public rulemaking records relating to both the machinery and equipment and loading, hauling and dumping standards, the agency has decided to reorganize the standards to more accurately and clearly address the hazards.

Timetable:

Action	Date	FR Cite
Begin Review	03/25/80	45 FR 19267
ANPRM	04/22/83	48 FR 17513
ANPRM Comment Period End	06/21/83	
NPRM	12/18/84	49 FR 49202
Extension of time to comment to 03/22/85	01/25/85	50 FR 3681
NPRM Comment Period End	02/19/85	49 FR 49202
Notice of Public Hearings	07/03/85	50 FR 27566
Final Action	11/00/86	

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Room 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA16

1441. SAFETY STANDARDS FOR MACHINERY AND EQUIPMENT AT METAL AND NONMETAL MINES

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56.14000; 30 CFR 57.14000

Legal Deadline: None

Abstract: The Machinery and Equipment Standards are part of the overall metal and nonmetal review of high priority sections. These standards would be revised to: (1) eliminate unnecessary standards; (2) clarify and update existing standards; (3) incorporate technological advances; and (4) reduce recordkeeping burden on the industry. After consideration of the public rulemaking records relating to both the machinery and equipment and loading, hauling and dumping standards, the agency has decided to reorganize the standards to more accurately and clearly address the hazards.

Timetable:

Action	Date	FR Cite
Begin Review	03/25/80	45 FR 19267
ANPRM	02/11/83	48 FR 6489
ANPRM Comment Period End	04/15/83	
NPRM	03/06/84	49 FR 8375

DOL—MSHA

Final Rule Stage

Action	Date	FR Cite
NPRM Comment Period End	05/07/84	49 FR 8375
Notice of Public Hearings	05/21/84	49 FR 21494
Final Action	11/00/86	

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA19

1442. METAL AND NONMETAL GROUND CONTROL STANDARDS

Significance: Agency Priority

Legal Authority: 30 USC 811

CFR Citation: 30 CFR 56.3000; 30 CFR 57.3000

Legal Deadline: None

Abstract: The ground control standards are part of the overall metal and nonmetal review of high priority sections. These standards would be revised to: (1) eliminate unnecessary standards; (2) clarify and update existing standards; (3) incorporate technological advances; and (4) reduce recordkeeping burdens on the industry.

Timetable:

Action	Date	FR Cite
Begin Review	03/25/80	45 FR 19267
ANPRM	05/11/83	48 FR 30508
ANPRM Comment Period End	05/11/83	
NPRM	09/06/84	49 FR 8368
NPRM Comment Period End	05/07/84	49 FR 8368
Notice of Public Hearings	05/21/84	
Final Action	05/00/86	

Small Entity: Yes

Agency Contact: Patricia W. Silvey, Director, Office of Standards, Department of Labor, Mine Safety and Health Administration, 4015 Wilson Boulevard, Rm 627, Arlington, VA 22203, 703 235-1910

RIN: 1219-AA22

[FR Doc. 86-8775 Filed 04-18-86; 8:45 am]

BILLING CODE 4510-43-T

DEPARTMENT OF LABOR (DOL)

Proposed Rule Stage

Office of the Assistant Secretary for Administration and Management (OASAM)

1443. NONDISCRIMINATION IN PROGRAMS AND ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM THE DEPARTMENT OF LABOR

Significance: Regulatory Program

Legal Authority: 29 USC 794; 42 USC 6101 to 6107; 42 USC 2000d to 2000d-4; 20 USC 1681 to 1683; 15 USC 8151; 29 USC 1501 et seq; 20 USC 1685

CFR Citation: 29 CFR 31

Legal Deadline: Statutory, October 1, 1983. The statutory effective date for JTPA implementing regulations is 10/01/83; the ADA required implementing regulations within 90 days of the HHS guidance regulation which was published on June 12, 1979.

Abstract: DOL's existing regulations implementing Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, as amended have been revised as a single comprehensive civil rights regulation covering all DOL statutory authority relating to nondiscrimination in Federally assisted programs with uniform administrative and enforcement procedures.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	12/00/86	

Small Entity: No

Additional Information: Draft regulations have been submitted to DOJ and EEOC for approval under E.O. 12250 and E.O. 12067, respectively. The Department is currently awaiting DOJ's final approval of the regulations. Upon receipt of the approval letter from the Assistant Attorney General, DOL will forward the regulations to the Office of Management and Budget for review.

Public Compliance Cost: Initial Cost: $0

Affected Sectors: None

Government Levels Affected: Local, State

Agency Contact: William J. Harris, Director, Office of Civil Rights, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Ave., NW, Rm N4123, FPBldg., Washington, DC 20210, 202 523-9327

RIN: 1291-AA02

1444. DEPARTMENT OF LABOR ACQUISITION REGULATION (DOLAR) IMPLEMENTATION OF COMPETITION IN CONTRACTING ACT OF 1984 (CICA) (PUB. L. 98-369) INTO DOLAR

Significance: Agency Priority

Legal Authority: 5 USC 301; 29 USC 551; 40 USC 486(c); 41 USC 401; PL 98-369, Sec 2701; EO 12352; EO 12291

CFR Citation: 48 CFR 29

Legal Deadline: None

Abstract: Develop Department of Labor Acquisition Regulations to implement new regulations incorporated into the Federal Acquisition Regulation (FAR) mandated by the Competition in Contracting Act of 1984 (Pub. L. 98-369).

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
NPRM Comment Period End	06/00/86	
Final Action	09/00/86	
Final Action Effective	09/00/86	

Small Entity: No

Affected Sectors: All

Government Levels Affected: Local, State, Federal

Agency Contact: Theodore Goldberg, Director, Office of Procurement & Grant Pol, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Ave., NW, Rm S1522, FPBldg., Washington, DC 20210, 202 523-9174

RIN: 1291-AA06

1445. ● CLOSEOUT REQUIREMENTS FOR GRANTS, CONTRACTS, AND OTHER AGREEMENTS

Significance: Agency Priority

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DOL—OASAM

Proposed Rule Stage

Legal Authority: 5 USC 301; 29 USC 801 et seq; 29 USC 795; 30 USC 901 et seq; 29 USC 651 et seq; 42 USC 3011 et seq; 42 USC 501 et seq; 42 USC 1101 et seq; 42 USC 1321 et seq; 29 USC 49 et seq; OMB Circular No. A-102; OMB Circular No. A-110

CFR Citation: 29 CFR 97

Legal Deadline: None

Abstract: Proposed administrative requirements for grants and agreements to provide uniform closeout procedures.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
NPRM Comment Period End	05/00/86	
Final Action	08/00/86	
Final Action Effective	09/00/86	

Small Entity: No

Agency Contact: Thomas K. Delaney, Deputy Director, Directorate of Procurement, and Grant Management, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Ave., NW, Rm S1522, FPBldg., Washington, DC 20210, 202 523-6174

RIN: 1291-AA09

1446. ● PUBLIC CONTRACTS AND PROPERTY MANAGEMENT; FEDERAL STANDARDS FOR AUDIT OF FEDERALLY FUNDED GRANTS, CONTRACTS AND AGREEMENTS

Significance: Agency Priority

Legal Authority: 5 USC 301; 31 USC 7505(a); OMB Circular No. A-128; OMB Circular No. A-110

CFR Citation: 29 CFR 96

Legal Deadline: None

Abstract: Amends administrative requirements for audit by adding sections on audit resolution and audit appeals.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
NPRM Comment Period End	05/00/86	
Final Action	08/00/86	
Final Action Effective	09/00/86	

Small Entity: No

Agency Contact: Thomas K. Delaney, Deputy Director, Directorate of Procurement, and Grant Management, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Ave., NW, Rm S1522, FPBldg., Washington, DC 20210, 202 523-6174

RIN: 1291-AA10

Final Rule Stage

DEPARTMENT OF LABOR (DOL)
Office of the Assistant Secretary for Administration and Management (OASAM)

1447. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN DEPARTMENT OF LABOR PROGRAMS

Significance: Regulatory Program

Legal Authority: 29 USC 794

CFR Citation: 29 CFR 33

Legal Deadline: None

Abstract: Before the 1978 Amendments to Section 504 of the Rehabilitation Act of 1973, Congress had not held Federal Agencies to the same standard of accessibility to which recipients of Federal assistance were held. This proposed regulation would not require DOL to take any action when it can demonstrate that taking such action would result in a fundamental alteration in the nature of a program or activity or in undue financial and administrative burdens. This regulation would require, however, that persons with handicaps, who are eligible for and who can achieve the purpose of a federally-conducted program or activity, be allowed access to that program or activity. Effective communication would also be required with applicants, participants, personnel, and members of the public that have impaired vision or hearing.

Timetable:

Action	Date	FR Cite
NPRM	07/02/85	50 FR 27296
NPRM Comment Period End	10/25/85	50 FR 27296
Final Action	06/30/86	

Small Entity: No

Additional Information: Regulation was approved by EEOC 12/84 and has been submitted to DOJ for review under E.O. 12250.

Agency Contact: William J. Harris, Director, Office of Civil Rights, Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Ave., NW, Rm N4123, FPBldg., Washington, DC 20210, 202 523-6827

RIN: 1291-AA04

DEPARTMENT OF LABOR (DOL)
Office of the Assistant Secretary for Administration and Management (OASAM)

Completed Actions

1448. ADMINISTRATIVE REQUIREMENTS GOVERNING ALL GRANTS AND AGREEMENTS BY WHICH DEPARTMENT OF LABOR AGENCIES AWARD FUNDS TO STATE AND LOCAL GOVERNMENTS, INDIAN AND NATIVE AMERICAN ENTITIES, ETC

Significance: Agency Priority

Legal Authority: 5 USC 301; 29 USC 801 et seq; 29 USC 795; 30 USC 901 et seq; 29 USC 651 et seq; 42 USC 3011 et seq; 42 USC 501 et seq; 42 USC 1101 et seq; 42 USC 1321 et seq; 29 USC 49 et seq; OMB Circular No. A-102; OMB Circular No. A-110; PL 97-300; EO 12291

CFR Citation: 41 CFR 29 to 70

Legal Deadline: None

Abstract: Revise Department of Labor audit and closeout regulations governing grants and agreements awarded by the Department of Labor.

Timetable:

Action	Date	FR Cite
This regulation was split into two The two new rin numbers are 1291-AA09 and 1291-AA10.	02/10/85	

Small Entity: No

Additional Information: TITLE CONT: Public and Private Institutions of Higher Education and Hospitals, and other Quasi-Public and Private Nonprofit Organizations

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Agency Contact: Thomas Delaney, Dep. Dir., Dir of Procurement & Grant Mgmt., Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Ave., NW, Rm S1522, FPBldg., Washington, DC 20210, 202 523-6904

RIN: 1291-AA05

1449. IMPLEMENTATION OF THE SINGLE AUDIT ACT OF 1984

Significance: Agency Priority

Legal Authority: 5 USC 301

CFR Citation: 29 CFR 96

Legal Deadline: None

Abstract: This rule would provide for independent audits on an organization-wide basis of financial operations of Federal grantees that are State or local governments or Indian tribal governments that receive Federal assistance as well as Universities, hospitals and non-profit organizations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/08/85	50 FR 32050
Interim Final Effective	08/08/85	50 FR 32050
Interim Final Action Interim final become final 10/08/85—60 days after effective date	08/08/85	50 FR 32050

Small Entity: No

Additional Information: Previous Action RIN 1293-AA01, Federal and Non-Federal Audit Requirements

Agency Contact: Thomas Delaney, Dep. Dir., Dir of Procurement & Grant Mgmt., Department of Labor, Office of the Assistant Secretary for Administration and Management, 200 Constitution Ave., NW, Rm S1522, FPBldg., Washington, D.C. 20210, 202 523-6904

RIN: 1291-AA07

[FR Doc. 86-8775 Filed 04-18-86; 8:45 am]

BILLING CODE 4510-23-T

Prerule Stage

DEPARTMENT OF LABOR (DOL)
Occupational Safety and Health Administration (OSHA)

1450. CARCINOGEN POLICY

Significance: Regulatory Program

Legal Authority: 29 USC 653; 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1990

Legal Deadline: None

Abstract: The Carcinogen Policy describes the criteria and procedures OSHA will use to identify, classify, and then regulate carcinogens. The Policy also establishes a process for screening chemicals and for setting priorities for potential rulemaking activities. The validity of the scientific criteria set forth in the policy and the cost-effectiveness of the rule are being reexamined. The original standard was issued in 1980 before the Supreme Court "benzene" decision on significant risk. Thereafter, a final rule deleting provisions of the Carcinogen Policy that were inconsistent with the benzene decision was published on 01/19/81 (46 FR 4889). A proposal was published on 01/23/81 (46 FR 7902) to permit alternatives to the risk analysis section of the carcinogen policy to be addressed. The proposal was withdrawn on 03/27/81 (46 FR 19000). An advance notice of proposed rulemaking was published on 01/05/82 (47 FR 187) with comments due by 04/05/82. That document also proposed to stay the publication of the candidate and priority lists. The final stay was published on 01/04/83 (48 FR 241). As part of its evaluation of the policy, OSHA is reviewing the public comments received in response (cont)

Timetable:

Action	Date	FR Cite
ANPRM	01/05/82	47 FR 187
End of Comment Period on stay	02/19/82	
ANPRM Comment Period End	04/05/82	
Stay published	01/04/83	48 FR 241
Decision whether to proceed with a proposed revision to the regulation	05/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: to the document published by the Office of Science and Technology Policy entitled, "Chemical Carcinogens, Review of the Science and its

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DOL—OSHA

Prerule Stage

Associated Principles, May 1984" and is reviewing the later version of that document which was published March 14, 1985. OSHA is participating in the review of principles of risk assessment initiated by the Executive Office of the President in May 1985 under the chairmanship of NSF and OSTP. The results of this review will also be considered.

Government Levels Affected: Federal

Agency Contact: Barry J. White, Acting Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA01

1451. 4,4'-METHYLENEDIANILINE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: Not yet determined

Legal Deadline: Statutory, February 15, 1986. Under provisions of Section 9 of the Toxic Substances Control Act. OSHA must respond to EPA concerning its referral of a substance for regulatory action within the time period specified by the EPA Administrator.

Abstract: 4,4'-Methylenedianiline (MDA) is a chemical used primarily to manufacture methylenediphenyl diisocyanate, which is used to make polyurethane foams and elastomers. Recent scientific data indicate that MDA is a carcinogen in animals and a potential carcinogen in humans. In 1983, OSHA and the Environmental Protection Agency participated in a joint effort to publish an advance notice of proposed rulemaking to solicit information on MDA production and use, estimates of environmental and occupational exposure, and studies of it, toxic and carcinogenic effects. EPA has evaluated the data received in response to the advance notice and has concluded that the chemical presents an unreasonable risk of injury to the health of exposed workers. Under the provisions of section 9(a) of the Toxic Substances Control Act, EPA referred MDA to OSHA for action, giving OSHA 180 days to respond (due 1/5/86). OSHA responded to the EPA referral on 2/28/86. OSHA is in the process of establishing a mediated rulemaking advisory committee to participate in the development of a proposed regulation for MDA.

Timetable:

Action	Date	FR Cite
ANPRM	06/20/83	48 FR 42836
ANPRM Comment Period End	11/23/83	48 FR 42836
TSCA section 9(a) referral from EPA	07/05/85	50 FR 27674
Published notice soliciting participation on mediated rulemaking advisory committee	10/22/85	50 FR 42780
Extension of time for submission of advisory committee nominations	11/26/85	50 FR 48655
Deadline for submission of advisory committee nominations	12/23/85	50 FR 48655
Selection of advisory committee members and notice of first meeting	04/00/86	
NPRM	10/00/86	
Final Action	12/00/87	

Small Entity: Undetermined

Agency Contact: Barry J. White, Acting Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA58

1452. ● MANUAL LIFTING (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Nation's number one injury problem is back injuries. These injuries account for one of five compensation claims and one of four dollars expended for compensation. The purpose of the proposed request for comments and information is to enable OSHA to determine a course of action—possibly either formal rulemaking or informal guidance-aimed at reducing the number of back-related injuries which result from improper manual lifting. The request will identify a number of approaches to improving manual lifting, and invite public comments and suggestions. Specific engineering and administrative controls should reduce the pain, suffering, and lost time of the workforce as well as reduce the associated economic costs.

Timetable:

Action	Date	FR Cite
Request for Information-Manual Lifting-Related Injuries	06/00/86	

Small Entity: Undetermined

Affected Sectors: All

Government Levels Affected: State, Federal

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA95

1453. ● METHYLENE CHLORIDE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.1000

Legal Deadline: None. There is no deadline unless EPA refers this substance to OSHA for action under Section 9 of TSCA.

Abstract: In July 1985, OSHA was petitioned by the United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) to issue a hazard alert; issue an emergency temporary standard; and to begin work on a new permanent standard for methylene chloride (DCM). This request was based on information obtained from the Environmental Protection Agency and the National Toxicology Program indicating that DCM is an animal carcinogen and may have the potential to cause cancer in humans. In response to the UAW petition OSHA has announced that it will issue a set of DCM guidelines and is in the process of preparing an advance notice of proposed rulemaking. The Agency has not yet issued a decision concerning an emergency temporary standard.

DOL—OSHA

Prerule Stage

Timetable:

Action	Date	FR Cite
ANPRM	07/00/86	
Response to UAW Petition	07/00/86	
ANPRM Comment Period End	09/00/86	

Small Entity: Undetermined

Agency Contact: Barry J. White, Acting Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA96

DEPARTMENT OF LABOR (DOL)

Proposed Rule Stage

Occupational Safety and Health Administration (OSHA)

1454. OCCUPATIONAL EXPOSURES TO TOXIC SUBSTANCES IN LABORATORIES

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1450

Legal Deadline: None

Abstract: Existing OSHA standards are designed to protect employees who are engaged in work involving exposure to only a few toxic chemicals during relatively standardized, continuous or repetitive processes. In contrast, laboratory workers are exposed to a multitude of toxic substances under frequently changing or unpredictable conditions. OSHA will examine whether prudent work practices and protective equipment, chosen for the specific facility and task, are more effective, feasible and economical for laboratory work than adhering to OSHA's current substance-specific exposure standards.

Timetable:

Action	Date	FR Cite
ANPRM	04/14/81	46 FR 21785
ANPRM Comment Period End	07/15/81	
NPRM	04/00/86	
Public Hearings	06/00/86	
Final Action	03/00/87	

Small Entity: Undetermined

Agency Contact: Barry J. White, Acting Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA00

1455. RESPIRATORY PROTECTION

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.134; 29 CFR 1915.152; 29 CFR 1918.102; 29 CFR 1926.103

Legal Deadline: None

Abstract: The present respiratory protection standards have been in place for more than 10 years and do not take into consideration the current state-of-the-art for respiratory protection. In addition, the general industry standard for respirators contains redundancies and includes several advisory provisions which should be eliminated or changed. OSHA is reviewing the current standards and intends to propose revisions following its analysis of the standard and other comments and information received in response to the ANPRM published 05/14/82 and the preproposal draft that was circulated for comment in September 1985.

Timetable:

Action	Date	FR Cite
ANPRM	05/14/82	47 FR 20603
ANPRM Comment Period End	09/13/82	
Public comment period onpreproposal draft ends	11/29/85	
NPRM	08/00/86	
Public hearings on proposal	12/00/86	
Final Action	00/00/00	

Small Entity: Yes

Agency Contact: Barry J. White, Acting Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA05

1456. HAZARD COMMUNICATION

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1200

Legal Deadline: None

Abstract: On May 24, 1985, the U.S. Court of Appeals for the Third Circuit directed the Secretary of Labor to reconsider application of the Hazard Communication standard and to consider extending the application of the standard to employers in industries other than manufacturing unless he can state reasons why such application would not be feasible. Because the public rulemaking record for the Hazard Communication standard developed prior to OSHA's promulgation of the rule on November 23, 1983 does not contain sufficient information on industries other than those in the manufacturing sector, OSHA will begin rulemaking action to determine whether extension of the standard to cover other industry sectors is feasible.

Timetable:

Action	Date	FR Cite
ANPRM	11/27/85	50 FR 48794
ANPRM Comment Period End	02/25/86	50 FR 48794
NPRM	11/00/86	
NPRM Comment Period End	02/00/87	

Small Entity: Yes

Agency Contact: Barry J. White, Acting Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3718, FPBldg., 200 Constitution Avenue, NW, Washington, DC 20210, 202 523-7075

RIN: 1218-AA08

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1457. METHODS OF COMPLIANCE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1000(e); 29 CFR 1910.134(a)(1)

Legal Deadline: None

Abstract: OSHA's policy concerning the use of engineering controls and respirators was targeted for review by the President's Task Force on Regulatory Relief in 1981. Current OSHA regulations require that employers implement feasible engineering controls to maintain air contaminant concentrations in the workplace at or below the prescribed permissible exposure limits. The use of respirators is permitted only in those cases where engineering controls are not feasible, not yet installed, or not adequate. This policy has been criticized as being inflexible, not cost-effective, and often unnecessary for employee health protection. OSHA believes that any changes to the policy for use of engineering controls must be based on changes that are made to the respiratory protection regulations (29 CFR 1910.134). Proposals regarding revision of the methods of compliance policy will be made after OSHA has made decisions regarding revision of the respiratory protection regulations. Thus, no further regulatory action on this item is expected during the next six months.

Timetable:

Action	Date	FR Cite
ANPRM	02/22/83	48 FR 7473
ANPRM Comment Period End	06/22/83	
NPRM	12/00/86	
Final Action	12/00/87	

Small Entity: Yes

Agency Contact: Barry J. White, Acting Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3718, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-7075

RIN: 1218-AA28

1458. HAZARDOUS MATERIALS—FLAMMABLE AND COMPRESSED GASES (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910, Subpart H

Legal Deadline: None

Abstract: The present Subpart H, Hazardous Materials, standard is out of date and in some respects is oriented towards public safety and property protection. OSHA has been petitioned to cover many other hazardous materials operations where presently it has no standards. It is the purpose of this revision to consolidate the existing standards for flammable and compressed gases by providing general requirements and specific requirements for selected gases which warrant special attention due to their hazards and uses within the industrial environment. The overall intended effect of the revision is to update and simplify the existing requirements while enhancing employee safety and health.

Timetable:

Action	Date	FR Cite
ANPRM	01/23/81	46 FR 7692
ANPRM Comment Period End	02/01/82	46 FR 7692
NPRM	02/00/87	
Final Action	12/00/88	

Small Entity: Undetermined

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA31

1459. ELECTRICAL SAFETY-RELATED WORK PRACTICES (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.331

Legal Deadline: None

Abstract: Standards are currently under review for the second part (Subpart S of Part 1910) of OSHA's electrical standard which would establish a performance-oriented standard for electrical safety- related work practices to complement the existing electrical installation standards. The proposed standard includes requirements for work performed on or near exposed energized and deenergized parts of electric equipment and includes requirements for both the safe use of the electric as well as the use of personal protection devices.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	
Final Action	08/00/87	

Small Entity: Undetermined

Affected Sectors: All

Government Levels Affected: Local, State, Federal

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA32

1460. OIL AND GAS WELL DRILLING AND SERVICING (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.270

Legal Deadline: None

Abstract: Employees in oil and gas well drilling and servicing are exposed to a variety of safety hazards which are not specifically covered by present OSHA safety standards. It has proved difficult to apply the existing general industry standards to control the unique nature of this industry. OSHA is considering a standard which will address the unique problems of oil and gas well drilling and servicing.

Timetable:

Action	Date	FR Cite
NPRM	12/28/83	48 FR 57202
NPRM Comment Period End	06/04/84	49 FR 9913
Public Hearing Held 07/24/84 thru	08/10/84	49 FR 9913
NPRM - Second	03/00/87	
End of Comment Period for Second NPRM	06/00/87	

Small Entity: Yes

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA34

1461. EXCAVATIONS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.650; 29 CFR 1926.651; 29 CFR 1926.652; 29 CFR 1926.653

Legal Deadline: None

Abstract: This rule prescribes and recommends the minimum measures to be taken to protect employees from injury during excavation work. A revision of the existing rule is being considered because trench and excavation sidewall failures that have resulted in death and injury to workers continue in significant numbers. Claims that the standards are ambiguous and too restrictive, especially with respect to the type of soil involved, have also been made.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	08/00/87	

Small Entity: Undetermined

Additional Information: 1. 29 CFR 1926.650 through .653 currently entitled: "Excavations, Trenching, and Shoring.

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA36

1462. FALL PROTECTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.104; 29 CFR 1926.105; 29 CFR 1926.500; 29 CFR 1926.501; 29 CFR 1926.502

Legal Deadline: None

Abstract: The existing standard is being proposed for revision because it is poorly formatted, ambiguous, omits coverage of several areas needing fall protection and is misnamed. The standard has resulted in industry and trade confusion as well as compliance officer misapplication because of its present format and language. [Subpart M)

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	04/00/87	

Small Entity: Undetermined

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3605, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8061

RIN: 1218-AA37

1463. SCAFFOLDS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.451; 29 CFR 1926.452; 29 CFR 1910.28; 29 CFR 1910.29

Legal Deadline: None

Abstract: This standard is being proposed for revision to address several significant problem areas including (1) the maximum distance between the scaffold and the wall; (2) whether cross-bracing may be used in lieu of guardrails; and (3) whether cross-bracing may be used as guardrails. (Subpart L)

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	04/00/87	

Small Entity: Undetermined

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3605, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8061

RIN: 1218-AA49

1464. SAFETY TESTING/CERTIFICATION (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 657

CFR Citation: 29 CFR 1907, (Revision); 29 CFR 1910, (Revision); 29 CFR 1935, (New); 29 CFR 1936, (New)

Legal Deadline: Judicial, March 30, 1985. Deadline established pursuant to settlement agreement with laboratory in Maryland; plaintiff has not objected to continued Agency action in the spirit of the agreement.

Abstract: This proposal addresses various requirements in the General Industry standards (Part 1910) for either "safety testing" of certain workplace equipment and materials or the use of equipment/materials "certified for safety." It would include many self-regulatory and standards-developing efforts in the private sector and use already existing systems (in private sector or Government) for (1) the accreditation of testing laboratories and third-party certification programs, and (2) the certification for safety of workplace equipment. New Part 1936 would affect only applicants seeking system recognition by OSHA. New Part 1935 would contain those test methods/procedures already specified in OSHA standards or adopted through 6(b) rulemaking. Amended Part 1910 would (1) clarify employer responsibilities, (2) require valid test results or certifications, and (3) provide uniformity in OSHA terminology for several already-existing requirements and definitions. The remainder of Part 1907 would be revoked.

Timetable:

Action	Date	FR Cite
ANPRM	01/04/83	48 FR 270
ANPRM Comment Period End	03/15/83	48 FR 7204
NPRM	03/06/84	49 FR 8326
NPRM Comment Period End	06/21/84	49 FR 19836
Informal Public Hearing	09/25/84	49 FR 28759
Limited reopening of Proposed Rule until 12/31/84	11/30/84	49 FR 47049
First final Action on Certain Aspects of Proposal	06/00/86	
Reopen Record on other Aspects for new Information	11/00/86	
Final Action	06/00/87	

Small Entity: No

Additional Information: 1. Settlement agreement: MET Electrical Testing Company, Inc. v. Raymond J. Donovan, Secretary of Labor: Civil No. Y-82-1133, in the U.S. District Court for the District of Maryland. 2. ANPR Title: "Accreditation of Testing Laboratories" 3. NPRM Title: "Safety Testing or Certification of Certain Workplace

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Equipment and Materials (formerly entitled Accreditation of Testing Laboratories)."

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, Washington, D.C. 20210, 202 523-8061

RIN: 1218-AA42

1466. SCAFFOLDS AND SIMILAR WORK SURFACES (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.28

Legal Deadline: None

Abstract: Existing standards for scaffolds and similar working surfaces need to be revised because they are out of date and restrict technological innovation. The proposed revision is performance oriented and permits flexibility for compliance.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	
Final Action	11/00/87	
NPRM Comment Period End	00/00/00	

Small Entity: Undetermined

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, D.C. 20210, 202 523-8061

RIN: 1218-AA46

1466. BENZENE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1000, Table Z-2; 29 CFR 1910.1028

Legal Deadline: None. Although there is no legal deadline pending for this standard at this time, OSHA's schedule for rulemaking on this issue is currently under review in the U.S. Court of Appeals for the District of Columbia Circuit and such a deadline may be imposed.

Abstract: OSHA has proposed to amend the existing standard for occupational exposure to benzene by reducing the permissible exposure limit from 10 parts benzene per million parts of air (10 ppm) to an eight-hour time-weighted average of 1 ppm and by adding appropriate industrial hygiene and medical surveillance provisions necessary for the protection of employee health. This action is based on OSHA's preliminary determination that the proposed standard is needed to reduce the risk of leukemia and other adverse health consequences of exposure to benzene.

Timetable:

Action	Date	FR Cite
NPRM	12/10/85	50 FR 50512
Notice changing public hearing	01/28/86	51 FR 3474
NPRM Comment Period End	02/14/86	50 FR 50512
Public hearings	03/11/86	50 FR 50512
Final Action	02/00/87	

Small Entity: Yes

Agency Contact: Barry J. White, Acting Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA47

1467. FALL PROTECTION SYSTEMS (PERSONAL PROTECTIVE EQUIPMENT) (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910, Subpart I

Legal Deadline: None

Abstract: Existing standards do not contain criteria for personal fall protection systems. Consequently, requirements containing criteria for personal fall protection systems would be added to 29 CFR Part 1910; Subpart I, Personal Protection Equipment, to enhance employee protection from injury and death due to falls to different elevations.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	
Final Action	11/00/87	

Small Entity: No

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA48

1468. LADDERS AND SIMILAR CLIMBING DEVICES (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.21; 29 CFR 1910.22; 29 CFR 1910.23; 29 CFR 1910.24; 29 CFR 1910.25; 29 CFR 1910.26; 29 CFR 1910.27; 29 CFR 1910.28; 29 CFR 1910.29; 29 CFR 1910.30

Legal Deadline: None

Abstract: Existing standards for ladders and similar climbing devices need to be revised because they are out of date and restrict technological innovation. The proposed revision is performance oriented and permits flexibility for compliance.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	
Final Action	11/00/87	

Small Entity: Undetermined

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA50

1469. CONFINED SPACE (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.146

Legal Deadline: None

Abstract: Entry into confined spaces has been responsible for many employee deaths and injuries. However, current standards do not specifically address the hazards associated with entry into confined spaces. Therefore, OSHA is proposing certain criteria and precautions which are necessary to minimize the hazards associated with employees entering confined spaces.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
Final Action	09/00/87	

Small Entity: Undetermined

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA51

1470. LOGGING (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.266, (Revision)

Legal Deadline: None

Abstract: Logging is a very hazardous industry. It has an incidence rate nearly twice that of manufacturing, and reflecting the seriousness of the injuries incurred, a lost workday rate nearly four times as high. The purpose of the standard will be to protect workers from the ever-present hazards of chain saw operation, falling objects (trees, branches), rolling or sliding logs, falls from trees, and materials handling accidents. At present there is no OSHA standard specifically applicable to logging in general. There is a standard, 29 CFR 1910.266, applicable only to pulpwood logging; however, pulpwood logging is estimated to account for less than half of the logging activity in the United States. Development of a national OSHA standard addressing all types of logging will provide coverage for those loggers not now protected. The new regulation will provide coverage where there is no approved state regulation and will set a minimum safety level for those states that chose to develop a state regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	
Final Action	10/00/87	

Small Entity: Undetermined

Additional Information: A preproposal draft standard was circulated for public comment. The proposed standard will be developed to incorporate public comment as appropriate.

Affected Sectors: 24 LUMBER AND WOOD PRODUCTS, EXCEPT FURNITURE

Government Levels Affected: State, Federal

Agency Contact: Mr. Barry J. White, Director, Safety Standards, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA52

1471. CONTROL OF HAZARDOUS ENERGY SOURCES (LOCKOUT/TAGOUT) (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.147, (New)

Legal Deadline: None

Abstract: The proposed standard will fill a major gap in our current regulations which now depend for enforcement on the general duty clause, 5(a)(1). It will apply to those situations where the unexpected energization, start up or the release of stored energy would cause injury to employees. Providing comprehensive and uniform control procedures is also expected to reduce significantly the potential for injury and death of employees because the hazards targeted for control exist in virtually every workplace. Further, the proposed standard will respond to the concerns of organized labor who petitioned OSHA in 1979 and again in 1982 for regulatory action to protect employees and to the American National Standards Institute's petition for OSHA to adopt its consensus standard ANSI Z244.1-1982. Regulatory options involve developing a comprehensive standard covering all potentially hazardous energy sources or limiting the scope and application to those certain machines or industries that are causing most of the injuries.

Timetable:

Action	Date	FR Cite
ANPRM	06/17/80	45 FR 41012
ANPRM Comment Period End	09/15/80	
Preproposal Draft Submitted	07/00/83	
NPRM	07/00/86	
Final Action	07/00/87	

Small Entity: Yes

Affected Sectors: Multiple

Government Levels Affected: State, Federal

Agency Contact: Mr. Barry J. White, Director, Safety Standards, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm. N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA53

1472. SAFETY AND HEALTH REGULATIONS FOR LONGSHORING(PART 1918)

Significance: Regulatory Program

Legal Authority: 29 USC 655 Occupational Safety and Health Act of 1970; 33 USC 941 Longshoremen's and Harborworkers Compensation Act

CFR Citation: 29 CFR 1910.16; 29 CFR 1918, (Revision)

Legal Deadline: None

Abstract: The purpose of this regulatory action would be to update and revise a standard first issued in 1960. The current language in many instances addresses the hazards to cargo handling involving methods long since abandoned, and fails to address the serious hazards of newer methods. Because so much of the current standard is out of date, compliance is minimal. These revised guidelines will provide both employers and employees with a blueprint for effective and safe workpractices in the cargo handling industry.

No other alternative other than revision is contemplated. The current standard is too outdated to serve as a basis for increased consultation, training or education. The annual cost of the revision is expected to be minimal – less than five million dollars.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	
Final Action	01/00/88	

Small Entity: Yes

Affected Sectors: 44 WATER TRANSPORTATION

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605 FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA56

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1473. STAIRWAYS AND LADDERS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 653(b); 40 USC 333

CFR Citation: 29 CFR 1926.450; 29 CFR 1926.452; 29 CFR 1926.501; 29 CFR 1926.502; 29 CFR 1926.1050; 29 CFR 1926.1051

Legal Deadline: None

Abstract: The use of stairways and ladders during construction can be extremely hazardous for employees. OSHA presently has regulations covering the construction, use, and maintenance of stairways and ladders, used on construction worksites. However, this NPRM has been developed to streamline those requirements and to reduce the number of accidents that result from insufficient fall protection provisions. Data to determine the potential costs and benefits from this rulemaking are currently being collected and analyzed by OSHA's Office of Regulatory Analysis. (Subpart X)

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	04/00/87	

Small Entity: Undetermined

Additional Information: This new Subpart X is a revision of the ladder and stairway portions of existing Subparts L (ladders and scaffolds) and M (Floor and Wall Openings and Stairways). The remaining portions of Subparts L and M are being revised as Subparts L (scaffolds) and M (Fall Protection). (RIN 1218-AA37 - Fall Protection; RIN 1218-AA40 - Scaffolds.)

Affected Sectors: Multiple

Government Levels Affected: State, Federal

Agency Contact: Barry White, Director, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg. ., Washington, DC 20210, 202 523-8061

RIN: 1218-AA57

1474. ELECTRIC POWER GENERATION, TRANSMISSION AND DISTRIBUTION (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.269

Legal Deadline: None

Abstract: A major area of coverage not addressed in the current OSHA electrical standards for general industry (29 CFR 1910) involves the maintenance and operation practices associated with electrical transmission and distribution lines, substations and generating stations. It is intended that the proposed standard fill this void by establishing minimum requirements for electrical safety work practices for employees working on or near facilities whose purpose is the generation and distribution of electricity.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
Final Action	09/00/87	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA59

1475. REVISION OF RECORDKEEPING REQUIREMENTS FOR TESTS, INSPECTIONS, AND MAINTENANCE CHECKS

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333; 33 USC 941

CFR Citation: 29 CFR 1910; 29 CFR 1915; 29 CFR 1926

Legal Deadline: None

Abstract: The purpose of this regulatory action is to revise 19 provisions in Parts 1910 and 1915 to allow employers to certify that regulatory requirements have been met instead of requiring employers to maintain extensive and burdensome records of the results and findings of various tests, inspections and maintenance checks required in the standards. OSHA is undertaking this action in compliance with the Paperwork Reduction Act of 1980.

Timetable:

Action	Date	FR Cite
NPRM	01/23/86	51 FR 312
NPRM Comment Period End	03/24/86	51 FR 312
Final Action	09/00/86	

Small Entity: No

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA60

1476. PULP, PAPER AND PAPERBOARD MILLS (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.261, (Revision)

Legal Deadline: None

Abstract: This regulatory action will revise the existing standards covering mills where pulp, paper, and paperboard are manufactured and converted. The revision will develop performance oriented standards that address current gaps in coverage, the use of new technology, the elimination of outmoded or redundant provisions, and the use of appropriate OSHA general industry standards.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	
Final Action	11/00/87	

Small Entity: Undetermined

Affected Sectors: 26 PAPER AND ALLIED PRODUCTS

Government Levels Affected: State, Federal

Agency Contact: Barry J. White, Director, Safety Standards, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA61

1477. ◉ MOTOR VEHICLES, MECHANIZED EQUIPMENT, AND MARINE OPERATIONS (PART 1926)

Significance: Regulatory Program

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Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.600; 29 CFR 1926.601; 29 CFR 1926.602; 29 CFR 1926.603; 29 CFR 1926.604; 29 CFR 1926.605; 29 CFR 1926.606

Legal Deadline: None

Abstract: This regulatory action is being made to update the rollover protective structures to reflect the latest technology. In addition, the action is to eliminate redundant provisions, remove outdated referenced consensus standards, and delete ambiguous language from Subpart O of Part 1926.

Timetable:

Action	Date	FR Cite
NPRM	03/00/87	
Final Action	05/00/88	

Small Entity: Undetermined

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA63

1478. ◉ STEEL ERECTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 333

CFR Citation: 29 CFR 1926.750, (Revision); 29 CFR 1926.751, (Revision); 29 CFR 1926.752, (Revision)

Legal Deadline: None

Abstract: The purpose of this regulatory action is to revise the Steel Erection Standard to state clearly which employees (connectors, bolt-up crew, etc.) are required to use fall protection; which type of fall protection can be used (belts, nets, decking, catch platforms, etc.); and at what height fall protection is needed to meet the fall protection requirements for steel erection operations.

Timetable:

Action	Date	FR Cite
NPRM	03/00/87	
Final Action	03/00/88	

Small Entity: Undetermined

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA65

1479. FALL PROTECTION (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 33 USC 941

CFR Citation: 29 CFR 1915.201; 29 CFR 1915.202; 29 CFR 1915.203

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering fall protection and will consolidate all related and applicable 29 CFR 1910 provisions into 29 CFR 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	07/00/87	

Small Entity: Undetermined

Additional Information: 1. Applicable Part 1910 provisions under consideration: 29 CFR 1910.22; 29 CFR 1910.23

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Room N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA66

1480. SCAFFOLDS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 33 USC 941

CFR Citation: 29 CFR 1915.71; 29 CFR 1915.26; 29 CFR 1915.29

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standards covering scaffolds and will consolidate all related and applicable 29 CFR 1910 provisions into 29 CFR 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	07/00/87	

Small Entity: Undetermined

Additional Information: 1218-AA62 Shipyard Standard

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA68

1481. ACCESS AND EGRESS (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 33 USC 941

CFR Citation: 29 CFR 1915.72; 29 CFR 1915.74; 29 CFR 1915.75; 29 CFR 1915.76

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standards covering access and egress and will consolidate all related and applicable 29 CFR 1910 provisions into 29 CFR 1915. The revision will develop, in part, performance-oriented standards, address current gaps in coverage, address new technology, and eliminate outmoded and redundant provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	07/00/87	

Small Entity: Undetermined

Additional Information: 1. Applicable Part 1910 provisions under consideration: 29 CFR 1910.24 - .27; 29 CFR 1910.35 - .37.

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Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA70

1482. FACE, HEAD, EYE AND FOOT PROTECTION (PERSONAL PROTECTIVE EQUIPMENT) (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910

Legal Deadline: None

Abstract: Existing standards for eye, face, head, and foot protection reference outdated national consensus standards which have been updated and improved. Consequently, criteria for personal protective equipment for eye, face, head, and foot would be revised to reflect improved developments in these equipment. This would allow the use of better personal protective equipment and would result in improved employee protection from eye, face, head, and foot hazards.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	
Final Action	11/00/87	

Small Entity: Undetermined

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605 FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA71

1483. WELDING, CUTTING AND BRAZING (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.251; 29 CFR 1910.252; 29 CFR 1910.253; 29 CFR 1910.254

Legal Deadline: None

Abstract: OSHA proposes to revise and update its existing Subpart Q covering welding, cutting and brazing operations, and to develop performance-oriented standards designed to reduce the number of deaths and injuries due to unsafe equipment and unsafe operations. There has been no substantial revision to Subpart Q since its adoption in 1971. A complete and comprehensive revision is needed at this time to bring the standard into line with the current state-of-the art and updated consensus standards.

Timetable:

Action	Date	FR Cite
NPRM	02/00/87	
Final Action	02/00/88	

Small Entity: Undetermined

Affected Sectors: Multiple

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA72

1484. WELDING, CUTTING AND HEATING (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 33 USC 941

CFR Citation: 29 CFR 1915.51; 29 CFR 1915.52; 29 CFR 1915.53; 29 CFR 1915.54; 29 CFR 1915.55; 29 CFR 1915.56; 29 CFR 1915.57

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering welding, cutting, and heating. The revision will develop, in part, a performance-oriented standard, address current gaps in coverage, recognize new technology, and eliminate outmoded or redundant provisions. In addition, it will consolidate 29 CFR 1915 standards and applicable 29 CFR 1910 standards into one set of provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	07/00/87	

Small Entity: Undetermined

Additional Information: 1. Applicable Part 1910 provisions under consideration: 29 CFR 1910.251 through .253

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA73

1485. PERSONAL PROTECTIVE EQUIPMENT (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 33 USC 941

CFR Citation: 29 CFR 1915.151; 29 CFR 1915.152; 29 CFR 1915.153; 29 CFR 1915.154

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering personal protective equipment. The revision will develop, in part, a performance-oriented standard, address current gaps in coverage, recognize new technology, and eliminate outmoded or redundant provisions. It will consolidate 29 CFR 1915 standards and applicable 29 CFR 1910 standards into one set of provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	07/00/87	

Small Entity: Undetermined

Additional Information: 1. Applicable Part 1910 provisions under consideration: 29 CFR 1910.132 through .137.

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA74

1486. SERVICING SINGLE PIECE RIM WHEELS (PART 1917)

Significance: Regulatory Program

Legal Authority: 33 USC 941

CFR Citation: 29 CFR 1917.44(o) (Revision)

Legal Deadline: None

Abstract: OSHA intends to revise 1917.44(o) to include the servicing of single piece rim wheels. When the general industry rule for single piece rim wheels was issued (02/03/84), the Agency spoke of its desire to extend the same type of coverage to the maritime industry. The Agency has recently been petitioned by maritime labor and management groups to initiate this action.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	11/00/86	

Small Entity: Undetermined

Affected Sectors: 44 WATER TRANSPORTATION

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA75

1487. COMPRESSED AIR (PART 1926)

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.803

Legal Deadline: None

Abstract: OSHA published a "Request for Comments and Information" on April 22, 1985, on the subject of working in compressed air and decompression (50 FR 15756). Based on the information obtained, OSHA has determined that immediate action will not be taken. The Agency intends to continue data collection, and to reevaluate the decision in light of additional input, staff resources, and Agency priorities within 12 to 18 months.

Timetable:

Action	Date	FR Cite
Request for Comments and Information	04/22/85	50 FR 15756
Comment Period Closed	07/22/85	

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Room N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA76

1488. HAZARDOUS MATERIALS—FLAMMABLE AND COMBUSTIBLE LIQUIDS (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.106 (Revision)

Legal Deadline: None

Abstract: Standards for flammable and combustible liquids, contained in 29 CFR 1910, Subpart H, would be revised to update existing criteria and to provide more flexibility by correcting problems associated with the specificity of some of the existing requirements. The proposed revision would address current problem areas as liquid transfer, system leakage, and vapor recovery.

Timetable:

Action	Date	FR Cite
ANPRM	01/23/81	46 FR 7692
ANPRM Comment Period End	02/01/82	46 FR 7692
NPRM	01/00/87	
Final Action	01/00/88	

Small Entity: Undetermined

Affected Sectors: Multiple

Government Levels Affected: State, Federal

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, FP Building, 200 Constitution Avenue, NW, Washington, DC 20210, 202 523-8061

RIN: 1218-AA77

1489. FORMALDEHYDE

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.1000; 29 CFR 1910.1048; 29 CFR 1910.19

Legal Deadline: None. There is currently no applicable legal deadline, however, OSHA's action is under review by the U.S. Court of Appeals for the District of Columbia Circuit and a decision specifying a final rule completion date is a possible outcome.

Abstract: Studies indicate adverse health effects in humans and animals exposed to airborne formaldehyde at concentrations permitted by OSHA's present standard. In humans, formaldehyde causes reversible sensory irritation of the eyes, nose, and throat of some persons at concentrations of about 1 ppm. As concentration increases, the prevalence and severity of effects increase. A chronic study in animals suggests that formaldehyde may also pose a carcinogenic risk since a statistically significant excess risk of cancer occurred at 5.6 and 14.3 ppm, and benign tumors and cytotoxic changes occurred at 2 ppm. This information indicates that the present OSHA standard for formaldehyde may need revision. In an April 17, 1985, Federal Register notice, OSHA announced its intention to initiate rulemaking on formaldehyde. On December 10, 1985, OSHA published a proposed standard.

Timetable:

Action	Date	FR Cite
ANPRM	04/17/85	50 FR 15179
ANPRM Comment Period End	06/15/85	50 FR 15179
NPRM	12/10/85	50 FR 50412
NPRM Comment Period End	03/10/86	50 FR 50412
Public hearings	04/22/86	50 FR 50412
Final Action	09/00/87	

Small Entity: Yes

Agency Contact: Barry J. White, Acting Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA82

1490. HAZARD COMMUNICATION IN SHIPYARD EMPLOYMENT (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655 Occupational Safety and Health Act of 1970; 33 USC 941 Longshoremen's and Harborworkers Compensation Act

CFR Citation: 29 CFR 1915.97, (Revision)

Legal Deadline: None

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DOL—OSHA

Proposed Rule Stage

Abstract: As the shipbuilding and ship repairing industries (SIC 37) are covered under the scope of the Hazard Communication Standard (29 CFR 1910.1200), duplication of regulations exist due to similar requirements in Section 1915.97 dealing with hazardous materials. This action would eliminate this duplication by deleting from 29 CFR 1915.97 those regulations dealing with hazardous materials and adopting the Hazard Communication Standard. This would also eliminate the mandatory use of the OSHA Form 20 (MSDS). To provide equal protection to all shipyard employees, shipbreaking (SIC 44) is also included in this action.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	09/00/86	

Small Entity: Yes

Affected Sectors: 37 TRANSPORTATION EQUIPMENT; 44 WATER TRANSPORTATION

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8063

RIN: 1218-AA88

CFR Citation: 29 CFR 1915

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering explosive and other dangerous atmospheres. This revision will develop, in part, a performance-oriented standard, address any gaps in coverage, recognize new technology, and eliminate outmoded or redundant standards. It will consolidate 29 CFR 1915 standards and applicable 29 CFR 1910 standards into one set of provisions.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	
Final Action	08/00/87	

Small Entity: Undetermined

Affected Sectors: 373 Ship and Boat Building and Repairing

Government Levels Affected: State, Federal

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8063

RIN: 1218-AA91

CFR Citation: 29 CFR 1915.32; 29 CFR 1915.33; 29 CFR 1915.34; 29 CFR 1915.35; 29 CFR 1915.36

Legal Deadline: None

Abstract: This regulatory action will revise the existing shipyard standard covering surface preparation and preservation in enclosed confined and other spaces. The revision will develop, in part, a performance-oriented standard, address current gaps in coverage, recognize new technology, and eliminate outmoded or redundant provisions. It will consolidate 29 CFR 1915 standards and applicable 29 CFR 1910 standards into one set of provisions.

Timetable:

Action	Date	FR Cite
NPRM	03/00/87	
Final Action	03/00/88	

Small Entity: Yes

Government Levels Affected: State, Federal

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA96

1491. EXPLOSIVE AND OTHER DANGEROUS ATMOSPHERES (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 33 USC 941

1492. ● SURFACE PREPARATION AND PRESERVATION (PART 1915)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 33 USC 941

DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Final Rule Stage

1493. ETHYLENE DIBROMIDE (EDB)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1048

Legal Deadline: None

Abstract: Recent scientific studies have reported that ethylene dibromide causes cancer when administered orally, by inhalation and by skin application in laboratory animals. In addition, other studies have shown the chemical to be a mutagen, teratogen and testicular toxin in experimental animals. On the basis of these reports, OSHA has determined that its current permissible exposure limit of 20 ppm does not provide exposed workers adequate protection against cancer and other adverse health effects. A proposed standard for ethylene dibromide was published 10/07/83 (43 FR 45956). Public hearings were held in February 1984. OSHA is currently in the process of decisionmaking on the provisions to be included in the final standard.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/81	46 FR 61671
ANPRM Comment Period End	05/31/82	
NPRM	10/07/83	48 FR 45956
NPRM Comment Period End	11/21/83	48 FR 45956
Public HearingHeld	02/08/84	
Final Action	12/00/86	

Small Entity: Yes

DOL—OSHA

Final Rule Stage

Agency Contact: Barry J. White, Acting Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA06

1494. ACCESS TO EMPLOYEE EXPOSURE AND MEDICAL RECORDS

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1910.20

Legal Deadline: None

Abstract: The regulation, promulgated in May, 1980 (45 FR 35212), requires employers to preserve and maintain exposure and medical records pertinent to an employee's occupational exposure to toxic substances, and to assure access to these records by employees, designated employee representatives, and OSHA. OSHA has reviewed the regulation and has proposed certain modifications including revision of the definitions of "toxic substance" and "exposure records", changes in the scope and application of the regulation and additional trade secret protection provisions. OSHA is currently reviewing the information received and developing a final standard.

Timetable:

Action	Date	FR Cite
NPRM	07/13/82	47 FR 30420
NPRM Comment Period End	09/21/82	
Public Hearing Held	10/05/82	
Final Action	05/00/86	

Small Entity: Undetermined

Agency Contact: Barry J. White, Acting Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA15

1495. CONCRETE AND MASONRY CONSTRUCTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.700; 29 CFR 1926.701; 29 CFR 1926.702

Legal Deadline: None

Abstract: One of the greatest hazards associated with concrete and masonry structures in the construction industry is the collapse or failure of the entire structure or its forms and shoring. The catastrophic failures of recent years indicate that revision of the existing standard applicable to such construction operations may be necessary.

Timetable:

Action	Date	FR Cite
ANPRM	02/09/82	47 FR 5910
ANPRM Comment Period End	04/10/82	
NPRM	09/16/85	50 FR 37543
Comment Period Extended 30 Dayste 12/16/85	10/21/85	50 FR 42571
NPRM Comment Period End	11/15/85	50 FR 37543
Final Action	03/00/87	

Small Entity: Undetermined

Additional Information: 1. 29 CFR 1926, Subpart Q currently entitled: "Concrete, Concrete Forms, and Shoring.

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA20

1496. GRAIN HANDLING FACILITIES (PARTS 1910 AND 1917)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 33 USC 941

CFR Citation: 29 CFR 1910; 29 CFR 1917

Legal Deadline: None

Abstract: Employees in grain handling facilities (grain elevators, processing plants, and mills) are exposed to safety hazards associated with fires and explosions. Enforcement personnel have met with difficulties in the application of existing OSHA general industry standards to control these major hazards. OSHA is now developing a proposed standard for grain handling facilities.

Timetable:

Action	Date	FR Cite
ANPRM	02/15/80	45 FR 10732
ANPRM Comment Period End	03/24/80	
NPRM	01/06/84	49 FR 996
NPRM Comment Period End	06/08/84	49 FR 6923
Public Hearings held through 07/12/84	06/12/84	49 FR 6923
Final Action	06/00/86	

Small Entity: Yes

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3605, FPBldg, 200 Constitution Ave., NW, Washington, DC 20210, 202 523-8061

RIN: 1218-AA22

1497. ASBESTOS

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1910.1001

Legal Deadline: None

Abstract: OSHA has announced its intention to revise this standard because data indicate that the present OSHA permissible exposure limit (PEL) may not adequately protect workers from asbestos-related diseases. The revision will include a change in the PEL and other appropriate modifications. On November 4, 1983, OSHA published an Emergency Temporary Standard (48 FR 51086) which immediately reduced the PEL to 0.5 fibers/cc. The ETS was challenged in the U.S. Court of Appeals for the 5th Circuit, and was stayed pending judicial review on 11/23/83. The review was completed on 3/7/84. At that time the Appeals Court held the ETS to be invalid and ordered enforcement of the ETS permanently stayed. OSHA has published a proposal to revise the current standard on 04/10/84 (49 FR 4116). Public hearings were held in June 1984. OSHA is in the process of analyzing all of the information contained in the rulemaking record prior to making a decision regarding the provisions to be included in the final standard.

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Timetable:

Action	Date	FR Cite
Emergency Temporary Standard (ETS)	11/04/83	48 FR 51086
ETS stayed by Court Order	11/23/83	
NPRM	04/10/84	49 FR 4116
NPRM Comment Period End	05/25/84	49 FR 4116
Public Hearings Held	06/19/84	
Final Action	05/00/86	

Small Entity: Yes

Agency Contact: Barry J. White, Acting Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA26

1498. POWERED PLATFORMS FOR EXTERIOR BUILDING MAINTENANCE (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.66

Legal Deadline: None

Abstract: The present standard, which requires positive engagement of a powered platform with a building face to provide stabilization, may need to be revised because many variance designs have been submitted which do not provide positive engagement of the platform, yet claim equal stability. The agency believes there may be merit to this claim.

Timetable:

Action	Date	FR Cite
ANPRM	02/11/83	48 FR 6368
ANPRM Comment Period End	03/14/83	48 FR 6368
NPRM	01/22/85	50 FR 2900
NPRM Comment Period End	02/25/85	50 FR 2900
Reopening of NPRM Comment Period to 8/1/85	07/02/85	50 FR 27307
Informal Public Hearing	02/20/86	
Final Action	03/00/87	

Small Entity: No

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA33

1499. UNDERGROUND CONSTRUCTION (TUNNELS AND SHAFTS)(PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.800

Legal Deadline: None

Abstract: The existing standards may be revised to update the treatment of hazards of construction in underground locations such as tunnels, shafts, chambers, passageways and covered excavations. In some cases, the existing standard may be too restrictive. Additionally, some of the language is ambiguous.

Timetable:

Action	Date	FR Cite
NPRM	08/05/83	48 FR 35774
NPRM Comment Period extended to	02/17/84	48 FR 56087
Public Hearing Held	03/13/84	
Limited Reopening of Comment Period Until 10/18/85	09/19/85	50 FR 33357
Final Action	11/00/86	

Small Entity: No

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA36

1500. ELECTRICAL STANDARDS FOR CONSTRUCTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333 Sec 107

CFR Citation: 29 CFR 1926.400

Legal Deadline: None

Abstract: The current OSHA standard incorporates the old (1971) National Electrical Code by reference and is in need of updating. The agency is examining the rule in light of repeated criticisms that many details in the present standard either conflict with or limit the implementation of current construction practices.

Timetable:

Action	Date	FR Cite
NPRM	10/07/83	48 FR 45872
NPRM Comment Period extended to	12/31/83	48 FR 54652
Final Action	03/00/86	

Small Entity: No

Affected Sectors: Multiple

Government Levels Affected: Local, State, Federal

Agency Contact: Barry White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605 FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA39

1501. CRANE OR DERRICK SUSPENDED PLATFORMS (1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655

CFR Citation: 29 CFR 1926.550

Legal Deadline: None

Abstract: The use of cranes and derricks to suspend personnel in platforms is a hazardous operation that is not currently covered by OSHA Construction Standards. OSHA has issued administrative instructions on this practice, but this alternative to rulemaking has not been successful. This NPRM has been developed to reduce the number of accidents, many of which involve multiple fatalities, that result from equipment inadequacies and failures or improper work practices. Data to determine the potential costs and benefits from this rulemaking are currently being collected by OSHA's Office of Regulatory Analysis.

Timetable:

Action	Date	FR Cite
NPRM	02/17/84	49 FR 6260
NPRM Comment Period End	06/10/84	49 FR 25240
Public Hearing Held	09/18/84	
Final Action	12/00/86	

Small Entity: No

Affected Sectors: 15 BUILDING CONSTRUCTION - GENERAL CONTRACTORS AND OPERATIVE BUILDERS; 16 CONSTRUCTION OTHER THAN BUILDING CONSTRUCTION - GENERAL CONTRACTORS; 17 CONSTRUCTION - SPECIAL TRADE CONTRACTORS

Government Levels Affected: State, Federal

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Barry White, Director, Department of Labor, Occupational Safety and Health Administration, Room N3605, 200 Constitution Ave. NW, Washington, DC 20210, 202 523-8061

RIN: 1218-AA45

1502. ACCIDENT PREVENTION TAGS (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.145

Legal Deadline: None

Abstract: Standards for accident prevention tags contained in 29 CFR Part 1910 Subpart J would be revised to update existing criteria, and to provide more flexibility by correcting problems associated with the specificity of some of the existing requirements. The proposed revision would also recognize the use of symbols or pictographs rather than only written legends, and would ensure that tags are designed and used properly to enhance their function in identifying hazards to employees.

Timetable:

Action	Date	FR Cite
NPRM	04/24/84	49 FR 17541
NPRM Comment Period End	06/08/84	49 FR 17542
Final Action	04/00/86	

Small Entity: Undetermined

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA49

1503. PRESENCE SENSING DEVICE INITIATION OF MECHANICAL POWER PRESSES (PART 1910)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.211, (Revision); 29 CFR 1910.217, (Revision)

Legal Deadline: None

Abstract: This regulatory action will remove an existing provision which prohibits presence sensing device initiation of mechanical power presses, and will add provisions which will enable the presence sensing device initiation to be done safely. Presence sensing device initiation has been identified as presenting potential increases in safety and productivity with an ergonomic advantage of less worker fatigue. A preliminary regulatory impact analysis has been completed. It is estimated that the discounted savings over the first 10 years the standard will be in effect will be approximately $535 million.

Timetable:

Action	Date	FR Cite
NPRM	03/29/85	50 FR 12700
NPRM Comment Period End	06/27/85	50 FR 12700
Final Action	07/00/86	

Small Entity: Undetermined

Additional Information: A preproposal draft standard was circulated for public comment.

Affected Sectors: Multiple

Government Levels Affected: State, Federal

Agency Contact: Mr. Barry J. White, Director, Safety Standards, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA54

1504. HAZARD COMMUNICATION (TRADE SECRETS)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 29 USC 657

CFR Citation: 29 CFR 1200

Legal Deadline: None

Abstract: On May 24, 1985, the U.S. Court of Appeals for the Third Circuit directed the Secretary of Labor to reconsider the definition of "trade secret" in the Hazard Communication Standard, and to extend access to trade secrets to employees and collective bargaining agents. The purpose of this action is to respond to the Court's direction, and make appropriate modifications to the final rule. Potential costs of these modifications are not known yet, but will be assessed as the rule is developed. OSHA has published two documents addressing the required modifications to the trade secrets provisions of the Hazard Communication Standard as well as extending access to trade secret information to occupational health nurses in non-emergency situations. Nurses were not originally included among the health professionals entitled to access and the Agency has determined that since the rule is being modified to permit employees and designated representatives access, it would also be appropriate to modify the rule to ensure nurses can obtain such information. A final determination on this issue will be published together with that prepared on the issues raised by the Court.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/27/85	50 FR 48750
Interim Final Rule Effective Date	11/29/85	50 FR 48750
NPRM	12/02/85	50 FR 49410
Interim Final Rule Comment Period Ends	01/27/86	50 FR 48750
NPRM Comment Period End	01/31/86	50 FR 49410
Final Action	05/00/86	

Small Entity: Undetermined

Agency Contact: Barry J. White, Acting Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, Rm N3718, FPBldg., 200 Constitution Avenue, NW, Washington, DC 20210, 202 523-7075

RIN: 1218-AA93

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DEPARTMENT OF LABOR (DOL)

Occupational Safety and Health Administration (OSHA)

Completed Actions

1505. COTTON DUST

Significance: Agency Priority

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1043

Legal Deadline: None

Abstract: This standard, issued in 1978, was challenged in the courts and had been stayed as it applied to certain industrial sectors. In addition, where the standard was in effect, there were problems with the device used to measure cotton dust, some control methods specified by the standard were not cost-effective, and there were questions concerning the significance of the risk in some industry sectors. Data were collected to determine how and to what extent the standard should be revised. Two ANPRMs were published (03/31/81 and 02/09/82). A proposal to revise the standard was published on 06/10/83. Public hearings were held during September/October 1983. Following an analysis of the public record in this proceeding, OSHA published a final rule on December 13, 1985.

Timetable:

Action	Date	FR Cite
ANPRM	03/31/81	46 FR 19501
ANPRM Comment Period End	05/15/81	
ANPRM -Second	02/09/82	47 FR 5906
Second ANPRM Comment Period ended	03/26/82	
NPRM	06/10/83	48 FR 26962
NPRM Comment Period End	08/26/83	48 FR 26962
Final Action	12/13/85	50 FR 51120
Final Action Effective	02/11/86	50 FR 51120

Small Entity: Yes

Agency Contact: Barry J. White, Acting Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA02

1506. LEAD - RECONSIDERATION OF WHOLE STANDARD

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1025

Legal Deadline: None

Abstract: The current standard for occupational exposure to lead was promulgated in 1978. It sets a PEL of 50 micrograms of lead per cubic meter of air (50 ug/m3), and requires the use of feasible engineering or workpractice controls. There are serious questions concerning significant risk, feasibility and cost-effectiveness of the standard in certain industries; therefore, OSHA has announced its intention to review and reconsider the regulation.

Timetable:

Action	Date	FR Cite
ANPRM	04/21/81	46 FR 22764
ANPRM Comment Period End	06/01/81	
End Review No further regulatory action will be taken. Compliance (cont)	12/00/85	

Small Entity: Yes

Additional Information: (Item 12 cont) problems of individual firms will be handled through the Agency's variance request procedures.

Agency Contact: Barry J. White, Acting Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA11

1507. LEAD - COVERAGE OF THE STEVEDORING INDUSTRY

Legal Authority: 29 USC 655(b)

CFR Citation: 29 CFR 1910.1025

Legal Deadline: None

Abstract: Circumstances unique to the stevedoring industry may make the application of the OSHA Lead Standard, in its present form, inappropriate. Therefore, OSHA has proposed to exempt this industry or to administratively stay application of the entire standard to this industry while the Agency examines (1) whether the stevedoring industry should be subject to this, or any lead standard and (2) if the industry should be subject to a different lead standard, what form that standard should take. This action has been combined with RIN 1218-AA11 and publication of action on this item will occur at the time action is taken on item AA11.

Timetable:

Action	Date	FR Cite
NPRM	02/26/82	47 FR 8361
NPRM Comment Period End	03/29/82	
End Review No further regulatory action will be taken. Compliance (cont)	12/00/85	

Small Entity: No

Additional Information: (Item 12 cont) problems of individual firms will be handled through the Agency's variance request procedures.

Agency Contact: Barry J. White, Acting Director, Health Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Ave., NW, Rm N3718, FPBldg., Washington, DC 20210, 202 523-7075

RIN: 1218-AA13

1508. SAFETY AND HEALTH REGULATIONS FOR SHIPYARD

Legal Authority: 29 USC 655 (Occupational Safety and Health Act of 1970); 33 USC 941 (Longshoremen's and Harborworkers Compensation Act)

CFR Citation: 29 CFR 1915

Legal Deadline: None

Abstract: The purpose of this action would be to place unrevised in Part 1915, all OSHA Part 1910 General Industry Standards that are not now located in Part 1915, but that relate to the work undertaken in shipyard employment, thereby creating a vertical standard.

The Action is essentially only bookkeeping, i.e., moving standards, unchanged from one location in the CFR to another -- from Part 1910 to Part 1915. It can therefore be done without a proposed rule, and will be published as a final rule. It will end the long standing confusion over the application of OSHA standards to this industry among employers, employees, and OSHA compliance steff.

These are existing standards, there are no potential costs. This inclusion project will be coordinated with the project designed to revise Part 1915.

DOL—OSHA

Completed Actions

As an alternative, OSHA has considered the feasibility of accomplishing this unrevised consolidation through a simple "Notice of Enforcement Policy," rather than through regulatory action.

Timetable:

Action	Date	FR Cite
Non-Regulatory Alternative Implemented	12/31/85	

Small Entity: Yes

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA55

1509. MOTOR VEHICLES, MECHANIZED EQUIPMENT, AND MARINE OPERATIONS (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655(b); 40 USC 333

CFR Citation: 29 CFR 1926.600; 29 CFR 1926.601; 29 CFR 1926.602; 29 CFR 1926.603; 29 CFR 1926.604; 29 CFR 1926.605; 29 CFR 1926.606

Legal Deadline: None

Abstract: This rule is being reviewed to determine if the rule should be continued without change, or should be amended or rescinded.

Timetable:

Action	Date	FR Cite
Begin Review	01/04/85	
End Review New rulemaking (to revise) will occur.	12/31/85	

Small Entity: Undetermined

Affected Sectors: All

Government Levels Affected: Local, State, Federal

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, Room N3605, FP Building, 200 Constitution Avenue, NW, Washington, DC 20210, 202 523-8061

RIN: 1218-AA63

1510. STEEL ERECTION (PART 1926)

Significance: Regulatory Program

Legal Authority: 29 USC 655; 29 USC 333

CFR Citation: 29 CFR 1926.750 to .752

Legal Deadline: None

Abstract: This rule is being reviewed to determine if the rule should be continued without change, or should be amended or rescinded.

Timetable:

Action	Date	FR Cite
Begin Review	01/02/85	
End Review New rulemaking will occur.	12/31/85	

Small Entity: Yes

Agency Contact: Barry J. White, Director, Safety Standards Programs, Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Rm N3605, FPBldg., Washington, DC 20210, 202 523-8061

RIN: 1218-AA65

[FR Doc. 86-8775 Filed 04-18-86; 8:45 am]

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DEPARTMENT OF LABOR (DOL)

Office of the Assistant Secretary for Veteran's Employment & Training (ASVE- T)

Proposed Rule Stage

1511. ANNUAL REPORT FROM FEDERAL CONTRACTORS

Significance: Regulatory Program

Legal Authority: 38 USC 2012(d)

CFR Citation: 41 CFR 61-250

Legal Deadline: Statutory, February 12, 1983. Within 90 days of enactment which was October 14, 1982.

Abstract: Implements requirements of 38 USC 2012(d) for an annual report from entities having contracts of $10,000 or more with Federal agencies or departments. Specifies that the report shall include the number of special disabled and Vietnam-era veterans in the contractor's work force by job category and hiring location, number of employees hired and of those hired, the number of special disabled and Vietnam-era veterans.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/85	50 FR 33360
ANPRM Comment Period End	09/18/85	50 FR 33360
NPRM	04/00/86	
Final Action	08/00/86	

Small Entity: Undetermined

Agency Contact: Joseph C. Juarez, Dir., Ofc. of Veterans' Emp. & Trng Programs, Department of Labor, Office of the Assistant Secretary for Veteran's Employment & Training, Rm S1316, FPBldg., 200 Constitution Ave., NW, Washington, DC 20210, 202 523-9110

RIN: 1293-AA01

[FR Doc. 86-8776 Filed 04-18-86; 8:45 am]

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Part XIII

Department of State

Semiannual Regulatory Agenda

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STATE

DEPARTMENT OF STATE

22 CFR Ch. I

[Docket No. SD - 186]

Semiannual Agenda of Regulations and Regulatory Flexibility Agenda

AGENCY: Department of State.

ACTION: Publication of regulatory agenda.

SUMMARY: As required by Executive Order 12291 and OMB Bulletin 86-4, the April 1986 agenda of regulations of the Department of State is set forth below. The agenda also contains regulatory flexibility information required by the Regulatory Flexibility Act of 1980 (Pub. L. No. 96-354).

FOR FURTHER INFORMATION CONTACT: James H. Thessin, Assistant Legal Adviser for Management, Department of State, Room 4427A, 2201 C Street, N.W., Washington, D.C. 20520, telephone (202) 647-2350.

DATED: March 13, 1986.

Ronald I. Spiers,

Under Secretary for Management.

DEPARTMENT OF STATE (STATE) — Proposed Rule Stage

1512. FOREIGN MISSIONS ACT REGULATIONS

Significance: Regulatory Program

Legal Authority: 22 USC 4301 et seq; 22 USC 254(e)

CFR Citation: 22 CFR 151

Legal Deadline: None

Abstract: The Foreign Missions Act creates certain authorities for the Secretary of State relating to the regulation of foreign missions, diplomatic, consular, and international organizations. Exercise of these authorities could involve restricting or controlling the access of such missions to American vendors of goods and services. Exercise of other authorities in the Foreign Missions Act could affect the location of premises of foreign missions. Exercise of authority in the Diplomatic Relations Act, 22 USC 254(a) et seq., as amended by Title VI of P.L. 98-164, will have an impact on the acquisition of liability insurance coverage for the operation of motor vehicles, vessels, and aircraft by personnel of foreign missions, and could in certain situations, subject foreign missions to surcharges or fees. The regulations under consideration would provide procedures for exercise of these authorities. These regulations are at the stage of preliminary consideration. No timetable has been established other than that established in Title VI of P.L. 98-164.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: James E. Nolan, Director, Office of Foreign Missions, Department of State, Room 2105, 2201 C Street, NW, Washington, D.C. 20520, 202 647-3416

RIN: 1400-AA04

1513. IMPLEMENTATION OF 1980 HAGUE CONVENTION ON THE CIVIL ASPECTS OF INTERNATIONAL CHILD ABDUCTION

Significance: Regulatory Program

Legal Authority: None, until passage of treaty

CFR Citation: 22 CFR Not yet determined

Legal Deadline: None

Abstract: The 1980 Hague Convention provides for the prompt return of children habitually resident in one contracting State who have been wrongfully abducted to another, including wrongful retention by a non-custodial parent.

If the United States ratifies the Convention and Congress enacts the federal legislation, the Bureau of Consular Affairs will be tasked by executive order to serve as U.S. central authority (CA) under the Convention. Thus it will receive applications for the return of children wrongfully abducted to or retained in the United States. In conjunction with cooperating authorities in the U.S. State where the child is believed to be located, the CA's task will include seeking to locate the child, facilitating the initiation of a court action to require the child's return, arranging for the provision of information about the child's circumstances in the country of its habitual residence, and arranging for the child's return transportation if return is ordered. The President transmitted the Convention to the Senate for its advice and consent to ratification on October 30, 1985 (Senate Treaty Document 99-11).

Timetable:

Action	Date	FR Cite
Transmission of the Convention from the President to the Senate	10/30/85	
Next Action Undetermined		

Small Entity: Not Applicable

Additional Information: Detailed legal analysis of Convention submitted to Senate Foreign Relations Committee Chairman Lugar (January 1986) is to be published in the Federal Register.

Agency Contact: Carmen A. DiPlacido, Dir., Office of Citizens Consular Services, Department of State, Bureau of Consular Affairs, Washington, DC 20520, 202 647-3666

RIN: 1400-AA05

1514. ● BANKING SERVICES; PROCEDURES FOR RESTRICTING

Legal Authority: 22 USC 4301 et seq

CFR Citation: 22 CFR 152

Legal Deadline: None

Abstract: The rule will set out the procedures that the Department of State will follow whenever the banking services of particular foreign missions are restricted pursuant to the Foreign Missions Act, 22 USC 4301 et seq.

STATE — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Not Applicable

Government Levels Affected: State, Federal

Agency Contact: James Nolan, Director, Office of Foreign Missions, Department of State, Washington, DC 20520, 202 647-4217

RIN: 1400-AA07

DEPARTMENT OF STATE (STATE) — Final Rule Stage

1515. GUIDELINES FOR EXTRAORDINARY PROTECTION OF FOREIGN MISSIONS

Significance: Regulatory Program

Legal Authority: 22 USC 4314; PL 99-93, Sec 126

CFR Citation: 22 CFR Not yet determined

Legal Deadline: None

Abstract: In some cases where the Secretary of State has requested extraordinary protective services, such as fixed guardposts at a building or residence, or dedicated bodyguard protection for a foreign official who has been specifically threatened, some local authorities have either declined or been unable to provide such protection.

Through the Foreign Missions Act and the Foreign Missions Act Amendments of 1985, Congress has authorized the Secretary of State to provide, among other benefits, protective services to foreign missions. Thus, the Secretary may arrange with State and local authorities for extraordinary protection for foreign officials where necessary, either by request of local authorities or on the Secretary's initiative.

For fiscal year 1986, $2.5 million has been provided in addition to amounts for reimbursement to New York, a program previously administered by the Treasury Department.

Timetable:

Action	Date	FR Cite
Consultations with local law enforcement officials began 01/01/86	00/00/00	
Consultations with relevant committees of congress began 01/01/86	00/00/00	

Small Entity: Not Applicable

Additional Information: Draft guidelines have been discussed with representative groups of local law enforcement authorities.

The law requires prior consultation with the Congress on the guidelines.

Agency Contact: Sidney Telesford, Director for Protective Security, Department of State, Bureau of Diplomatic Security, Washington, DC 20520, 202 647-8740

RIN: 1400-AA03

[FR Doc. 86-8286 Filed 04-18-86; 8:45 am]

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Part XIV

Department of Transportation

Semiannual Regulatory Agenda

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DOT

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Chs. I and II

23 CFR Chs. I and II

33 CFR Chs. I and IV

41 CFR Ch. 12

46 CFR Chs. I and III

48 CFR Ch. 12

49 CFR Subtitle A, Chs. I-VI

[OST Docket No. 59; Notice 85-2]

Department Regulations Agenda; Semiannual Summary

AGENCY: Department of Transportation.

ACTION: Department regulations agenda.

SUMMARY: The Regulations Agenda is a semiannual summary of all current and projected rulemakings, reviews of existing regulations and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding twelve months or such longer period as may be anticipated, or for which action has been completed since the last Agenda. The Agenda provides the public with information about the Department of Transportation's regulatory activity. It is expected that this information will enable the public to be more aware of, and allow it to more effectively participate in, the Department's regulatory activity.

ADDRESSES: The mailing address for the initiating offices of the Department which appear in the Agenda are 400 Seventh Street, S.W., Washington, D.C. 20590, except for the Federal Aviation Administration which is located at 800 Independence Avenue, S.W., Washington, D.C. 20591; the U.S. Coast Guard, which is located at 2100 Second Street, S.W., Washington, D.C. 20593; and the Saint Lawrence Seaway Development Corporation, which is located at 400 Seventh Street, S.W., Box 44090, Washington, D.C. 20026-4090.

FOR FURTHER INFORMATION CONTACT:

General

For further information on the Agenda, in general, contact: Neil R. Eisner, Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590, 202-426-4723.

Specific

For further information about any particular item on the Agenda, contact the individual listed in the column headed "Agency Contact" for that item.

SUPPLEMENTARY INFORMATION:

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Supplementary Information:
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Background

Improvement of government regulations is a prime goal of the Reagan Administration. There should be no more regulations than necessary, and those that are issued should be simpler, more comprehensible, and less burdensome. Regulations should not be issued without appropriate involvement of the public; once issued, they should be periodically reviewed and revised, as needed, to assure that they continue to meet the needs for which they originally were designed.

To help the Department of Transportation ("Department") achieve these goals, and in accordance with Executive Order 12291 ("Federal Regulation"; 46 FR 13193; February 19, 1981) and the Department's Regulatory Policies and Procedures (44 FR 11034; February 26, 1979), the Department prepares a semiannual Regulatory Agenda for publication in the Federal Register. The Agenda summarizes all current and projected rulemaking, reviews of existing regulations and completed actions of the Department. These are matters on which action has begun or is projected during the succeeding twelve months or such longer period as may be anticipated or for which action has been completed since the last Agenda.

The Agendas are based on reports submitted by the initiating offices in January and July each year. After these reports are consolidated for, and reviewed by, the Department Regulations Council, the Department's Regulations Agenda is prepared and published in the Federal Register. The Department's last Agenda was published in the Federal Register on October 29, 1985 (50 FR 44348). The next one is scheduled for publication in the Federal Register in October 1986.

Regulatory Flexibility Act

In 1980, Congress passed the Regulatory Flexibility Act (RFA), Pub. L. 96-354, which requires the designation of those regulations for which a Regulatory Flexibility Analysis will be prepared, i.e., those regulations that would have a significant economic impact on a substantial number of small entities. The heading "Small Entity" will indicate whether a Regulatory Flexibility Analysis is required by a "yes" or a "no." If a Regulatory Flexibility Analysis will be prepared for a particular rulemaking, that fact also will be noted under the heading "Analysis."

The RFA also requires that each year the Department publish a list of those regulations that have a significant economic impact on a substantial number of small entities and are to be reviewed under the Act during the succeeding twelve months. The Agenda includes those regulations to be reviewed under the RFA or those for which review has been concluded since the last Agenda. A "yes" or "no" will be found under the heading "small entity," for each such regulation. It should be noted, however, that after a preliminary assessment of the regulations listed for RFA review, it may be found that the regulations, in fact, do not have a significant economic impact on a substantial number of small entities and a full RFA review will be unnecessary.

Definitions

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The Agenda covers all rules and regulations of the Department, including those that establish conditions for financial assistance. The following definitions are provided for ease in understanding the information in this document.

(1) *Initiating office* means an operating administration or other organizational element within the Department, the head of which is authorized by law or delegation to issue regulations or to formulate regulations for issuance by the Secretary.

(2) *Significant regulation* means a regulation that is not an emergency regulation and that in the judgment of the head of the initiating office, or the Secretary, or the Deputy Secretary

(a) Is a major regulation;

(b) Concerns a matter on which there is substantial public interest or controversy;

(c) Has a major impact on another operating administration or other parts of the Department or other Federal Agency;

(d) Has a substantial effect on State and local governments;

(e) Has a substantial impact on a major transportation safety problem;

(f) Initiates a substantial regulatory program or change in policy;

(g) Is substantially different from international requirements or standards; or

(h) Otherwise involves important Department policy.

(3) *Major regulation* means a significant regulation for which a Regulatory Impact Analysis is required to be prepared.

(4) *Emergency regulation* means (a) a regulation that, in the judgment of the head of the initiating office, circumstances require to be issued without notice and opportunity for public comment or made effective in less than 30 days after publication in the Federal Register; or (b) is governed by short-term statutory or judicial deadlines.

(5) *Nonsignificant regulation* means a regulation that, in the judgment of the head of the initiating office, is neither a significant nor an emergency regulation.

A preliminary and final Regulatory Impact Analysis is required for each proposed and final regulation, respectively that

(1) Is likely to result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major effect on the general economy in terms of costs, consumer prices, or production;

(c) A major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions;

(d) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets; or

(2) The Secretary or head of the initiating office determines such an analysis.

Explanation of Information on the Agenda

The format for this Agenda is required by Office of Management and Budget Bulletin No. 86-4 (December 23, 1985).

First, the Agenda is divided by initiating offices. Then, in accordance with the OMB Bulletin, for each initiating office the Agenda is divided into four categories: (1) prerule stage, (2) proposed rule stage, (3) final rule stage, and (4) completed actions. For each entry, the Agenda provides the following information: (1) the "significance" of the action (i.e., whether it is significant because it is on the Regulatory Program or because of agency priority; or whether it is nonsignificant or routine and frequent; (2) a short descriptive title; (3) the legal basis for the action being taken or the regulation being reviewed; (4) the related regulatory citation in the "Code of Federal Regulations"; (5) an indication of any legal deadline; (6) an abstract of the review or the proposed or final regulation; (7) a timetable, including the earliest expected date for a decision on whether to issue the proposed or final regulation, or complete the review and determine the corrective action to be taken. (The action taken can be revocation or revision of the regulation, or it can be a determination that no regulatory action is necessary because the regulation is found to be achieving its goals and the goals and objectives of Executive Order 12291 and the Department's Regulatory Policies and Procedures.); (8) a statement as to whether the Regulatory Flexibility Act applies because of the rulemaking's effect on small entities; (9) if there is information that does not fit in the other categories, it will be included under a separate heading, entitled "Additional Information"; (10) a listing, where determined, of any analyses an initiating office will prepare or has prepared for the rulemaking document; e.g., a Regulatory Impact Analysis or Evaluation, an Environmental Impact Statement (EIS), a Regulatory Flexibility Analysis, or an Urban Impact Analysis. (It should be noted that, even though a Regulatory Impact Analysis is not required for some items on the Agenda, the Department requires an economic analysis for all of its regulations. This economic analysis is contained in the Regulatory Evaluation if a Regulatory Impact Analysis is not prepared); (11) an agency contact office or official who can provide further information, including advice on how to obtain documents referenced in the Agenda; and (12) a "RIN" number assigned solely to identify an individual action in the Agenda.

For nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements (such as the Federal Aviation Administration's Airspace Rules) to keep those requirements operationally current, only the general category of the regulations, the identity of a contact office or official, and an indication of the expected number of regulations are included; individual regulations are not listed.

If a regulatory docket number has already been established, it may be provided under the "Additional Information" heading. If a member of the public desires further information regarding a particular proposal or regulation, reference should be made to this docket number.

In the "Timetable" column, abbreviations are used to indicate the particular documents being considered for issuance by that date. ANPRM stands for Advance Notice of Proposed Rulemaking, SNPRM for Supplemental Notice of Proposed Rulemaking, NPRM for Notice of Proposed Rulemaking, and FR for Final Rule. Listing a future date in this column is not an indication that a proposed or a final rule will be issued on that date; it is the earliest date on which a decision is expected to be made on whether to issue the document listed.

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Submittal of any proposed or final rule to the Office of Management and Budget for review, under Executive Order 12291, must follow such a decision. For major rules, this review could take 80 days or more. If any document is issued, publication in the Federal Register would follow within a few days. In addition, these dates are based on current schedules. Information received subsequent to the issuance of this Agenda could result in a decision not to take regulatory action or in changes to proposed publication dates. For example, the need for further evaluation could result in a later publication date; evidence of a greater need for the regulation could result in an earlier publication date.

Finally, a dot (•) preceding an entry indicates that the entry appears in the Agenda for the first time.

Mailing Lists for Regulatory Documents

To assist the public in obtaining regulatory documents issued within the Department of Transportation, an Appendix A has been included in this document. The appendix contains instructions on how to be placed on mailing lists for copies of regulatory documents, including the Department's Semiannual Regulations Agenda, issued by the operating administrations of the Department and the Office of the Secretary. There is no charge for this service; however, because of the costs involved, the number of copies of a document forwarded to an individual requestor may be limited. Persons already on mailing lists for particular documents within the Department will remain on those lists and should not reapply.

By following the instructions specified in the appendix, a person can be placed on a mailing list for future copies of the Department's Regulations Agenda, which will be updated and published in the Federal Register every year during April and October. By using the Agenda, individuals can determine which Notice or Advance Notice of Proposed Rulemaking, to be issued by elements of the Department, is of interest to them. Then, using the instructions in the appendix, such persons also can be placed on a mailing list to ensure that, after the document of interest is issued, a copy will be mailed to them for their review and comment. In this way, individuals will be relieved of the burden of having to review the Federal Register, perhaps on a daily basis. The Department expects that this process will ensure that those people placed on mailing lists will receive early notice so that their views on the document can be adequately prepared and presented within the established comment period.

General Rulemaking Contact Persons

To assist persons desiring to obtain general information concerning the rulemaking process within the Department's operating administrations, an Appendix B has been added to the Agenda. This appendix sets forth the addresses and the telephone numbers of the persons who can respond quickly to requests for general rulemaking information. Please note, however, that questions related to particular rulemaking actions should still be referred to the contact person listed with the particular rulemaking on the Agenda.

Public Rulemaking Dockets

To facilitate the inspection of docket files and the submission of comments by the public, an Appendix C sets forth the addresses and working hours for the Rules Docket for each operating administration.

Request for Comments

Agenda

Our Agenda is intended primarily for the use of the public. Since its inception, we have made modifications and refinements that we believe provide the public with more helpful information as well as make the Agenda easier to use. We would also like you, the public, to make suggestions or comments on how the Agenda could be further improved. For example, do you find the information presented in an easily understandable manner? Do you find it easy to follow a regulation's development from Agenda to Agenda? Do you find that the format for setting out the information enables you to use the Agenda easily? Do you find that the explanation of the information in the Agenda is clearly explained in the preamble to the Agenda? Your responses to these questions or any other comments or suggestions you may have should be sent to Neil R. Eisner, whose address appears above.

Reviews

In an effort to comply further with the spirit of Executive Order 12291 and the Regulatory Flexibility Act, we are also seeking suggestions on existing regulations that should be included in our review of existing regulations list; that is, which existing regulations issued by an operating administration of the Department or the Office of the Secretary do you believe need to be reviewed to determine whether they should be revised or revoked? The Department is particularly interested in obtaining information on requirements that have a "significant economic impact on small entities" and therefore, must be reviewed under the Regulatory Flexibility Act. If you have any suggested regulations, please send them, along with your explanation of why they should be reviewed, to the concerned operating administration or the Office of the Secretary, at the appropriate address noted in the "Addresses" paragraph above.

In accordance with the Regulatory Flexibility Act, comments are specifically invited on regulations that are targeted for review under the RFA. Those comments should be addressed to the "contact" person of the operating administration involved, at the appropriate address noted in the "Addresses" paragraph above.

Purpose

The Department is publishing this Regulations Agenda in the Federal Register to share with interested members of the public the Department's preliminary expectations regarding its future regulatory actions. This should enable the public to be more aware of the Department's regulatory activity. Knowledge of the nature and scope of this activity, as well as the specific proposals and reviews being considered, should result in more effective public participation in the Department's regulatory activity. For example, awareness of the dates when notices may be issued seeking public comment should allow appropriate planning and more efficient use of the comment period. By providing the expected date for a decision on whether to issue a final rule, the Department expects that more appropriate planning by those concerned with the regulation will also be possible. This publication in the Federal Register does not impose any binding obligation on the Department, or any of the offices within the Department, with regard to any specific item on the Agenda or the Review List. Regulatory action in addition to the items listed is not precluded. If further information is desired on any of the items listed in the Agenda or the Review List, the public is encouraged to contact the individual listed for the particular item. Additional information concerning the Agenda, in general, or the Department's Regulatory Policies and Procedures may be obtained from Neil R. Eisner, whose address and telephone number appear above.

Issued in Washington, D.C. on March 12, 1986.

Elizabeth Hanford Dole,

Secretary of Transportation.

Appendix A - Instructions for Obtaining Copies of Regulatory Documents

United States Coast Guard (USCG)

Persons who desire to obtain a copy of any regulatory document to be issued by the USCG that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person), United States Coast Guard, 2100 Second Street, S.W., Washington, D.C. 20593.

Federal Aviation Administration (FAA)

The FAA has a mailing list system for Notices and Advance Notices of Proposed Rulemaking (NPRMs and ANPRMs). Persons interested in obtaining future copies of all of those documents to be issued by the FAA or only of those concerning certain parts of the Federal Aviation Regulations should request a copy of Advisory Circular No. 11-2, which describes the application procedure, by calling 202-426-8058 or by writing to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591.

Federal Highway Administration (FHWA)

The FHWA has in the past maintained a consumer mailing list for individuals and agencies wishing to routinely receive Federal-aid highway related rulemaking actions. Due to staff and budgetary constraints, it has become necessary to discontinue the availability of this service.

Persons who desire to obtain a copy of any regulatory document to be issued by the FHWA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person), Federal Highway Administration, 400 7th Street, S.W., Washington, D.C. 20590.

Federal Railroad Administration (FRA)

Persons who desire to obtain a copy of any regulatory document to be issued by the FRA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person), Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590.

National Highway Traffic Safety Administration (NHTSA)

Persons who desire to obtain a copy of any other regulatory document to be issued by the NHTSA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person), National Highway Traffic Safety Administration, 400 7th Street, S.W., Washington, D.C. 20590.

Urban Mass Transportation Administration (UMTA)

Persons who desire to obtain a copy of any regulatory document to be issued by UMTA that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the following address: (Name of contact person), Urban Mass Transit Administration, 400 7th Street, S.W., Washington, D.C. 20590.

Saint Lawrence Seaway Development Corporation (SLSDC)

Persons who desire to obtain a copy of any regulatory document to be issued by SLSDC that is listed in this Agenda should communicate with the contact person listed with the regulation either by telephone or by letter to the contact person at the address specified below: (Name of contact person), Saint Lawrence Seaway Development Corporation, 400 7th Street, S.W., Room 5424, P.O. Box 44090, Washington, D.C. 20026-4090.

Research and Special Programs Administration (RSPA)

Persons wishing to be placed on mailing lists for regulatory documents to be issued by RSPA should contact: Mr. Roosevelt McKinley, Jr., Information Services Division, DMT-11, 400 7th Street, S.W., Washington, D.C. 20590.

Maritime Administration (MARAD)

Anyone desiring a copy of a MARAD regulatory document referred to in the Agenda may request a copy of that document by contacting Mrs. Georgia Stamas, Secretary, Maritime Administration, 400 Seventh Street, S.W. (Room 7300), Washington, D.C. 20590, (202) 426-5746.

Office of the Secretary (OST)

Persons desiring to receive future copies of the Regulations Agenda should submit their request to: Assistant General Counsel for Regulation and Enforcement, C-50, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590, (202) 426-4723.

Persons who have an interest in specific regulatory documents to be issued by the Office of the Secretary should forward requests for copies of those documents to the same address. These requests should fully identify the document desired. Persons requesting a rulemaking document on an aviation matter (of the kind formerly handled by the CAB) will be placed on a mailing list for all OST aviation related rulemakings.

Appendix B - General Rulemaking Contact Persons

The following is a list of persons who can be contacted within the Department for general information concerning the rulemaking process within the various operating administrations.

USCG - Capt. Robert Ingraham, Marine Safety Council, USCG Headquarters Building, Room 4402, 2100 Second Street, S.W., Washington, D.C. 20593. Telephone: 202/426-1477.

FAA - John H. Cassidy, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Ave., S.W., Room 915A, Washington, D.C. 20591. Telephone: 202/426-3073.

FHWA - Michael J. Laska, Office of the Chief Counsel, 400 7th Street, S.W., Room 4223, Washington, D.C. 20590. Telephone: 202/426-0761.

FRA - Mike Haley, Office of Chief Counsel, 400 7th Street, S.W., Room 8201, Washington, D.C. 20590. Telephone: 202/472-9042.

NHTSA - Steve Oesch, Office of Chief Counsel, 400 7th Street, S.W., Room 5219, Washington, D.C. 20590. Telephone: 202/426-2992.

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UMTA - Katherine Cowen, Office of Chief Counsel, 400 7th Street, S.W., Room 9228, Washington, D.C. 20590. Telephone: 202/426-4011.

SLSDC - Fredrick A. Bush, General Counsel's Office, 400 7th Street, S.W., Room 5424, P.O. Box 44890, Washington, D.C. 20026-4090. Telephone: 202/426-3574.

RSPA - Kathy Sachen, Office of Chief Counsel, 400 7th Street, S.W., Room 8420, Washington, D.C. 20590. Telephone: 202/755-4972.

MARAD - Mrs. Georgia Stamas, Secretary, Maritime Administration, 400 7th Street, S.W., Room 7300B, Washington, D.C. 20590. Telephone: 202/426-5748.

OST - Neil Eisner, Office of Regulation and Enforcement, 400 7th Street, S.W., Room 10424, Washington, D.C. 20590. Telephone: 202/426-4723.

Appendix C - Public Rulemaking Dockets

The following is a list of Rule Docket locations for the various operating administrations where the public may review regulatory dockets and hand deliver comments on advance notices and notices of proposed rulemaking:

USCG - Marine Safety Council, 2100 2nd Street, S.W., Room 4402, Washington, D.C. 20593. Working Hours: 7:30-4:00 (Monday-Friday).

FAA - Rules Docket, Office of Chief Counsel, Regulations and Enforcement Division, 800 Independence Ave., S.W., Room 915G, Washington, D.C. 20591. Working Hours: 8:30-5:00.

FHWA - Docket Room, 400 7th Street, S.W., Room 4205, (Federal Motor Carrier Safety Regulations in Room 3404), Washington, D.C. 20590. Working Hours: 7:45-4:15.

FRA - Docket Clerk, 400 7th Street, S.W., Room 8201, Washington, D.C. 20590. Working Hours: 8:30-5:00.

NHTSA - Docket Room, 400 7th Street, S.W., Room 5109, Washington, D.C. 20590. Working Hours: 8:00-4:00.

UMTA - Docket Clerk, 400 7th Street, S.W., Room 9223, Washington, D.C. 20590. Working Hours: 8:30-5:00.

SLSDC - 400 7th Street, S.W., Room 5424, P.O. Box 44890, Washington, D.C. 20026-4090. Working Hours: 8:15-4:45.

RSPA - Docket Branch, 400,7th Street, S.W., Room 8426, Washington, D.C. 20590. Working Hours: 8:30-5:00.

MARAD - Docket Clerk, 400 7th Street, S.W., Room 7300, Washington, D.C. 20590. Working Hours: 9:00-5:30.

OST - Docket Clerk, 400 7th Street, S.W., Room 4107, Washington, D.C. 20590. Working Hours: 9:00-5:30.

Office of the Secretary—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1516	+ Review: Comprehensive Review of CAB Consumer Rules	2105-AB03
1517	+ Licensing of Commercial Launch Site Operations	2105-AA27
1518	+ Airline Interline Agreements	2105-AA85
1519	+ Consumer Protection for Default by Scheduled Air Carriers	2105-AA98
1520	Direct Flights	2105-AA73
1521	Currency-Related Adjustments for International Air Cargo Rates	2105-AA87
1522	Establishment of New Class Service Mail Rate for Bush Operations Within Alaska	2105-AB01

+ Designates significant regulation.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1523	+ Electronic Filing of Tariffs	2105-AB00
1524	+ Minority Business Enterprise Program (Financial Assistance Programs)	2105-AA04
1525	+ Nondiscrimination on the Basis of Handicap (Air Travel)	2105-AA18
1526	+ Commercial Space Transportation: Third-Party Liability Insurance for Commercial Space Launch Activities	2105-AA26
1527	+ Overseas	2105-AB17
1528	+ 14 CFR Parts 204 and 291, Limitation on Fitness Determination: Revocation of Operating Authority	2105-AB19
1529	Review of Air Carrier Agreements and 408 Applications	2105-AB20
1530	Nondiscrimination in Federally-Assisted Programs of the Department of Transportation--State Transportation Agencies' EEO Affirmative Action Programs	2105-AA06 2105-AA29
1531	Nondiscrimination on the Basis of Handicap (Directly Conducted Programs)	2105-AA31
1532	Air Carrier Cargo Tariff Publications	2105-AA67
1533	Overseas Military Personnel Air Charter Tariffs	2105-AA70
1534	Unfair and Deceptive Practices by Airline Ticket Agents	2105-AA83
1535	Filing Requirements for International Air Cargo Tariffs	2105-AA89
1536	Policy Statement on Standard Foreign Fare Level for Air Carriers	2105-AA92
1537	Employment Discrimination Against Handicapped Persons by Air Carriers	2105-AA99
1538	Cargo Rate Changes on 30 Days Notice	
1539	Update the Department of Transportation Acquisition Regulations to Implement the Competition in Contracting Act as Set Forth in the Federal Acquisition Regulations-Proposed Rules	2105-AB15
1540	Warranty Regulations for Major System Acquisitions of the United States Coast Guard - Proposed Rule	2105-AB16

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Office of the Secretary—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1541	Names of Air Carriers and Foreign Air Carriers	2105-AB18

+ Designates significant regulation.

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1542	+ Nondiscrimination on the Basis of Handicap (Mass Transit Programs)	2105-AA01
1543	+ Commercial Space Transportation: Licensing Regulations	2105-AA25
1544	+ Certificate Duration in Limited Entry Markets. Notice Requirements for Carriers Leaving Limited-Entry Markets During a Selection Case. Procedures and Criteria for Selecting Carriers	2105-AA49
1545	+ Public Availability of Information	2105-AA05
1546	+ Liberalization of Air Carrier Charter Rules	2105-AA41
1547	+ Smoking Aboard Aircraft; Notice to Passengers	2105-AA72
1548	Title VI Civil Rights Regulation	2105-AA02
1549	Minority Business Enterprise Program (Direct Contracting)	2105-AA03
1550	Consolidation of Transportation Grants to U.S. Territories	2105-AA08
1551	Nondiscrimination on the Basis of Age in DOT Financial Assistance Programs	2105-AA09
1552	Minority Business Enterprise Program (Financial Assistance Programs); counting credit for suppliers and other service providers	2105-AA20
1553	Airline Time and Mileage Guides	2105-AA39
1554	Direct Air Carrier Responsibility for Returning Stranded Charter Passengers	2105-AA40
1555	Zones for Airline Mail Rates	2105-AA44
1556	Air Travelers: Age Discrimination	2105-AA45
1557	Policy Statement on Airline Preemption	2105-AA46
1558	Insurance for On-Demand Air Taxi Operators and Canadian Air Taxis	2105-AA47
1559	Navigation of Foreign Civil Aircraft	2105-AA65
1560	Nondiscrimination in Federally-Assisted Aviation Economics Related Programs of DOT	2105-AA66
1561	Effect of Expiration of a Bilateral on Foreign Air Carrier Authority	2105-AA68
1562	Joint Tariff Filing by Foreign Air Freight Forwarders	2105-AA69
1563	Implementation of Statute Requiring Interest on Subsidy Claims	2105-AA77
1564	Diversion of Flights Within a Metropolitan Area	2105-AA78
1565	Simplified Aviation Exemption Procedures	2105-AA82
1566	Baggage Liability Notices in International Air Transportation	2105-AA84
1567	Essential Air Service Subsidy for the Freely Associated States	2105-AA86
1568	Simplified Airline Counter Sign Notices	2105-AA88

+ Designates significant regulation.

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1569	+ Sharing of Single Air Carrier Designator Codes	2105-AA90
1570	+ Allocation of "Slots" at Washington National Airport	2105-AA00

+ Designates significant regulation.

U.S. Coast Guard—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1571	+ Operating a Vessel While Intoxicated, Recreational Vessels (84-099a)	2115-AC24
1572	Review: Vessel Reporting Requirements	2115-AB28
1573	Review: Logbook Entries, Cargo Vessels	2115-AB45

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U.S. Coast Guard—Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1574	Special Operating Requirements, Uninspected Vessels	2115-AB47
1575	Intervals for Internal Examination and Hydrostatic Testing of Pressure Vessel Type Cargo Tanks (85-061)	2115-AC16

+ Designates significant regulation.

U.S. Coast Guard—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1576	+ California Offshore Mooring System (83-032)	2115-AB29
1577	+ Intervals for Drydocking and Tailshaft Examination on Inspected Vessels (84-024)	2115-AB58
1578	+ Revisions of the Regulations on Outer Continental Shelf Activities (84-098)	2115-AB74
1579	+ Operating a Vessel While Intoxicated, Commercial Vessels	2115-AC23
1580	+ Qualifications of the Person in Charge of Oil Transfer Operations, Tankerman Requirements (79-116)	2115-AA03
1581	+ Safety Rules for Vessels Engaged in Chemical Waste Incineration at Sea (84-025)	2115-AB80
1582	+ User Fees for Coast Guard Services (84-028)	2115-AB73
1583	+ Vessel Bridge-to-Bridge Radiotelephone Communications on the Great Lakes (84-040)	2115-AB89
1584	Inland Waterways Navigation Regulations Connecting Waters from Lake Huron to Lake Erie (85-060)	2115-AC17
1585	Reception Facilities (78-036)	2115-AA21
1586	Liquefied Natural Gas Waterfront Facility (78-036)	2115-AA22
1587	Crane Operator Qualifications and Standards for Offshore Crane Design Inspection, Testing and Operation (79-059)	2115-AA94
1588	Launching Devices for Liferafts (79-168)	2115-AA45
1589	Maneuvering Performance Regulations (80-136)	2115-AA53
1590	Servicing Inflatable Liferafts (81-010)	2115-AA57
1591	General Bridge Permit Regulations (81-057)	2115-AA61
1592	General Revision of 46 CFR 151, Barges Carrying Certain Bulk Dangerous Cargoes (81-082)	2115-AA70
1593	Tank Vessels Carrying Noxious Liquid Substances in Bulk; Pollution Prevention and Control, Equipment and Operational Requirements (81-101)	2115-AA73
1594	Fairways on the Southern Coast of Alaska (81-103)	2115-AA74
1595	Fees for Numbering of Undocumented Vessels (82-001)	2115-AA75
1596	OSV Subchapter (82-004)	2115-AA77
1597	Subchapter "D" & "O" Barges - Internal Inspections (82-005)	2115-AA78
1598	Casualty Reporting Requirements for Recreational Boats (82-015)	2115-AA82
1599	Casualty and Accident Reporting Thresholds (82-015)	2115-AB84
1600	General Revisions of Pollution Prevention Regulations for Tankers (82-030)	2115-AA88
1601	Hand Held Flashlights, Independent Inspection Agencies (82-042)	2115-AA91
1602	Aids to Navigation on Outer Continental Shelf (82-054)	2115-AA92
1603	Natural Ventilation Regulations for Small Boats (82-056)	2115-AA94
1604	Safety Standards for New Self Propelled Vessels Carrying Bulk Gas (82-058)	2115-AA95
1605	Visual Distress Signals-Strobe Lights (82-084)	2115-AB18
1606	Nautical Schools: Implementing the Maritime Educational Training Act of 1980 (82-092)	2115-AB21
1607	Revocation of Military Explosives Regulations (83-006)	2115-AB33
1608	Carriage and Use of Liquefied or Non-liquefied Flammable Gas as Cooking Fuels on Vessels Carrying Passengers for Hire (83-013)	2115-AB35
1609	Reassessment of Coast Guard Fire Protection Regulations to Incorporate SOLAS 1974 (83-026)	2115-AB36
1610	Reassessment of Coast Guard Marine Engineering Regulations – Incorporation of SOLAS 74 Amendments (83-043)	2115-AB41
1611	Mobile Offshore Drilling Unit Regulations Revision (83-071a)	2115-AB66
1612	Marine Portable Tanks (84-043)	2115-AB69
1613	Ships' Stores and Supplies of Hazardous Materials (84-044)	2115-AB65
1614	Exception of Unmanned Barges from COLREGS Vertical Sector Light Requirements (84-049)	2115-AB90
1615	Oil-Water Interface Detectors (CGD 84-052)	2115-AB66
1616	Licensing of Pilots-Manning of Vessels-Pilots (84-060)	2115-AB67
1617	Personal Flotation Device Components (84-066)	2115-AB70
1618	Lifesaving Equipment--Implementation of 1983 Amendments to SOLAS 1974 (84-069)	2115-AB72
1619	Lifesaving Equipment: Immersion Suits (84-069a)	2115-AB98
1620	Safety Rules for Ships Carrying Hazardous Liquids (84-085)	2115-AB92
1621	Certification of Seamen (84-088)	2115-AC02
1622	Safe Powering Standard (85-002)	2115-AC07
1623	Reception Facilities (85-010)	2115-AC08
1624	Vessel Reporting Requirements (85-015)	2115-AC09
1625	Delegation of Authority to United States Classification Societies (85-019)	2115-AC10

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U.S. Coast Guard—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1626	MARPOL Pollution Prevention Regulations (85-026)	2115-AC11
1627	Fire Detection and Alarm Systems (85-051)	2115-AC13
1628	Private Aids to Navigation, RACONS (85-057)	2115-AC14
1629	Boating Safety Ventilation Standards (85-059)	2115-AC15
1630	Heald Bank Cutoff Safety Fairway (85-062)	2115-AC19
1631	Revisions to the Electrical Engineering Regulations (85-063)	2115-AC20
1632	Berwick Bay Vessel Traffic Service (85-078)	2115-AC21
1633	Subchapter "T" Title 46, General Updates and Revisions (85-080)	2115-AC22
1634	Training in the Use of Automatic Radar Plotting Aids (ARPA) (85-089)	2115-AB99
1635	Puget Sound Vessel Traffic Service (85-092)	2115-AC01
1636	Inland Waterway Navigation Regulations; All Waters Tributary to the Gulf of Mexico (85-096)	2115-AC03
1637	Type A and B Fuel Hose in the Fuel Systems Standard (85-098)	2115-AC04

+ Designates significant regulation.

U.S. Coast Guard—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1638	+ Workplace Safety and Health Requirements for Facilities on the Outer Continental Shelf (79-077)	2115-AA35
1639	+ Joint U.S.-Canada Vessel Traffic Management regulations for the Pacific region (79-131)	2115-AA39
1640	+ Licensing of Officers and Motorboat Operators and Registration of Staff Officers (81-059)	2115-AA84
1641	Safety/Security Zone Regulations	2115-AA97
1642	Anchorage Area Regulations	2115-AA98
1643	Fixed Fire Extinguishing Systems on Uninspected Vessels (74-264)	2115-AA08
1644	Stability Standards for Hopper Dredges (76-060)	2115-AA11
1645	Construction and Equipment; Existing Self-Propelled Vessels Carrying Bulk Liquefied Gases (77-069)	2115-AA00
1646	Requirement for First Purchaser List Kept by Boat Dealers (77-115)	2115-AA16
1647	Miscellaneous Changes to 46 CFR 56 (77-140)	2115-AA17
1648	Approval of Inflatable Personal Flotation Devices (PFDs) (78-174)	2115-AA29
1649	Recreational Hybrid PFD's (78-174a)	2115-AC12
1650	Carriage and Operational Requirements for Inflatable Life Jackets (78-174b)	2115-AC16
1651	Modification to Line Throwing Device Requirements (79-160)	2115-AA42
1652	Inflatable Liferaft Stability (80-113)	2115-AA50
1653	Damage Stability and Flooding Protection Standards for Great Lakes Bulk Dry Cargo Vessels (80-159)	2115-AA01
1654	Personal Flotation Devices (81-023)	2115-AA58
1655	Automated Vital Systems (81-030)	2115-AA59
1656	Licensing of Officers and Operators for Mobile Offshore Drilling Units (81-59a)	2115-AB91
1657	Shipping Safety Fairway Amendments, Gulf of Mexico (81-06b)	2115-AB57
1658	Documentation of Vessels; Controlling Interest (82-105)	2115-AB27
1659	Sailing School Vessel Regulations (83-005)	2115-AB32
1660	Independent Laboratory Inspection of Lifesaving Equipment (83-030)	2115-AB38
1661	Editorial Changes to Title 46 CFR Resulting from P.L. 98-89 (83-067)	2115-AB54
1662	Requirements for Mobile Offshore Drilling Units (83-071)	2115-AB56
1663	Amendments to Bridge Lighting Requirements (84-022)	2115-AB62
1664	Oil and Hazardous Substance Discharge Reporting Requirements (84-067)	2115-AB96
1665	Thermal Protective Aids (84-069b)	2115-AC00
1666	Accommodations, Rails and Guards (84-073)	2115-AB68
1667	International Regulations for Preventing Collisions at Sea, 1972 Colrege Demarcation Lines (84-091)	2115-AC06
1668	Inland Navigation Rules (85-061)	2115-AB97
1669	Drawbridge Regulations	2115-AA99

+ Designates significant regulation.

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U.S. Coast Guard—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1670	+ Operating a Vessel While Intoxicated (84-099)	2115-AB83
1671	+ Suspension and Revocation Proceedings (82-002)	2115-AA76
1672	Review: Regulatory Flexibility Act Reviews	2115-AB01
1673	VTS Houston-Galveston, TX (74-029)	2115-AA07
1674	Private Aids to Navigation and State Aids to Navigation (78-157)	2115-AA27
1675	Aids to Navigation - General Interference with, Damages to and Charges for Aids to Navigation (78-159)	2115-AA28
1676	Deepwater Port Liability Fund Requirements (79-158)	2115-AA41
1677	Safety Rules for Self-Propelled Vessels Carrying Hazardous Liquids (81-078)	2115-AB93
1678	Compatibility of Cargoes (83-047)	2115-AB49
1679	Simplified Admeasurement (83-070)	2115-AB51
1680	Documentation of Vessels, Hailing Port Markings (84-027)	2115-AB64
1681	Unmanned River Service Dry Cargo Barges: Load Line Regulations (84-058)	2115-AB95

+ Designates significant regulation.

Federal Aviation Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1682	+ Advanced V/STOL Rotorcraft Standards	2120-AB25
1683	+ Airmen Medical Standards	2120-AA70
1684	Part 91 Notice	2120-AA07
1685	Transport Rotorcraft Performance	2120-AB36
1686	Helicopter Minimum Flightcrew	2120-AB86

+ Designates significant regulation.

Federal Aviation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1687	+ Parts Manufacturer Approvals	2120-AA00
1688	+ Low-Altitude Wind Shear Equipment Requirements for Takeoff and Landing Operations of Transport Category Airplanes	2120-AA01 2120-AA88
1689	+ Improved Seat Safety Standards	2120-AB53
1690	+ Primary Category Aircraft	2120-AB69
1691	+ Powered Ultralights: Airmen Certification Requirements	2120-AB97
1692	+ Flight Attendant Flight Time Limitations and Rest Requirements	2120-AC06
1693	+ Carry On Baggage	2120-AA57
1694	+ Amend Part 23 to Include Requirements for Crash-Resistant Fuel Systems	2120-AB22
1695	+ Airplane Cabin Fire Protection	2120-AB35
1696	+ Occupant Restraint in Normal and Transport Category Rotorcraft	2120-AB39
1697	+ Proposed Department of Energy Prohibited Areas	2120-AB47
1698	+ Proposed Revision to Noise Certification Standards for Propeller Driven Small Airplanes	2120-AB48
1699	+ Charges for Use of Metropolitan Washington Airports	2120-AB50
1700	+ Proposed Limits on the Growth of Noise from Certain Airplanes and Airplane Types	2120-AB77
1701	+ Independent Power Source for Public Address System in Transport Category Airplanes	2120-AB88
1702	+ Proposed Revision of Noise Certification of Turbojet and Large Transport Category Aircraft	
1703	+ Improved Flammability Standards for Materials Used in the Interior of Cargo or Baggage Compartments in Airplanes Operated in Air Carrier Service Under Part 121	2120-AC04 2120-AC09
1704	+ Ultralight Registration and Marking	2120-AC16
1705	+ Part 23 Airworthiness Review - Notice No. 1 (Crashworthiness)	2120-AB09
1706	Review: Part 21—Certification Procedures for Products and Parts	2120-AB13
1707	Review: Part 67—Medical Standards and Certification	2120-AB14
1708	Review: Part 141—Pilot Schools	
1709	Review: Part 121 – Certification and Operations: Domestic, Flag and Supplemental Air Carriers and Commercial Operators of Large Aircraft	2120-AB27
1710	Review: Part 135 – Air Taxi Operators and Commercial Operators	2120-AB28

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Federal Aviation Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1711	Review: Carriage of Weapons and Other Dangerous Objects at Washington National Airport and Washington Dulles International Airport	2120-AC01
1712	Objects Affecting Navigable Airspace	2120-AA09
1713	Metropolitan Washington Airports Regulations	2120-AA12
1714	Rotorcraft Regulatory Review Program Notice No. 4	2120-AA29
1715	Foreign Air Carriers and Operators of Certain Large U.S.- Registered Airplanes	2120-AA42
1716	Implementation of SAFER Propulsion System Recommendations	2120-AA49
1717	Regulation of Motor Vehicles Carrying Passengers for Hire at Washington National Airport	2120-AA62
1718	FAR 23 Airworthiness Review	2120-AA75
1719	Accelerated Ground Training - Flight Engineers' Skill Requirements	2120-AA79
1720	Instrument Flight Rule Requirements	2120-AA82
1721	Airplane Simulator Use in Airman Certification	2120-AA83
1722	Transport Rotorcraft Structural Fatigue and Damage Tolerance	2120-AA84
1723	FAR 23.49(b) Stall Speeds for Single Engine and Multiengine Airplanes of 6,000 lbs. or less	2120-AA92
1724	Amendment of Sections 91.171, 91.172, and Appendices E and F of Part 43	2120-AA98
1725	National Airspace Review (NAR) Terminal Airspace Task Group Recommendations	2120-AB02
1726	Fatigue Limit Test (Propellers)	2120-AB05
1727	Part 61—Certification: Pilots and Flight Instructors	2120-AB12
1728	Standards for Approval of A Reduced V1 Methodology for Takeoff on Wet and Contaminated Runways	2120-AB17
1729	Standards for Approval for High Altitude Operation of Subsonic Airplanes	2120-AB18
1730	Appendix G, Continuous Turbulence Criteria	2120-AB20
1731	Rebuilt Engine Maintenance Records	2120-AB29
1732	Miscellaneous Operational Amendments	2120-AB45
1733	Low Fuel Quantity Indicators	2120-AB46
1734	Dealer's Aircraft Registration Certificate	2120-AB49
1735	Part 157 Review	2120-AB74
1736	Part 101 Review Program	2120-AB75
1737	Engine Fuel and Induction Systems	2120-AB76
1738	Helicopter Instrument Flight	2120-AB87
1739	Expansion of Applicability of Section 43.17 to Include Any Country with Appropriate Bilateral Airworthiness Agreement, Including Maintenance	2120-AB89
1740	Revised One-Engine-Inoperative Ratings for Rotorcraft	2120-AB90
1741	Turbine Burst Protection for Transport Category Helicopters	2120-AB91
1742	Anti-Blocking Device	2120-AB92
1743	Offshore Airspace Review	2120-AB93
1744	Airspace Reclassification	2120-AB95
1745	Terminal Control Area (TCA) San Diego (Modification)	2120-AB98
1746	Transponder Requirements	2120-AB99
1747	Flight Plan and Transponder Requirements	2120-AC00
1748	Changes Requiring a New Type Certificate	2120-AC05
1749	Part 119 - Certification and Operations Specifications: Air Carriers and Other Operators for Compensation or Hire	2120-AC08
1750	Gliders and Balloons	2120-AC10
1751	Aircraft Identification and Retention of Fuel System Modification Records	2120-AC11
1752	Part 23 Airworthiness Review, Notice No. 5 (Equipment, Systems, and Installation)	2120-AC14
1753	Part 23 Airworthiness Review, Notice No. 2	2120-AC15
1754	Aircraft Registration; Recording of Aircraft Titles and Security Documents	2120-AC17

+ Designates significant regulation.

Federal Aviation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1755	+ Update of Part 139	2120-AA10
1756	+ High Density Airport Traffic Rule	2120-AA72
1757	+ Metropolitan Washington Airports Policy	2120-AA89
1758	+ Expansion of CVR/FDR Equipment Requirements on U.S. Aircraft	2120-AA95
1759	+ Improved Flammability Standards for Materials Used in the Interiors of Transport Category Airplane Cabins	2120-AB23
1760	+ Slot Allocation; Initial Withdrawal and Redistribution of Slots	2120-AC02
1761	+ Certification: Student Recreational, Recreational, Student Other Than Recreational and Private Pilots	2120-AA54
1762	+ Fire Protection Requirements for Cargo or Baggage Compartments	2120-AA90

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Federal Aviation Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1763	+ Mode S Transponder	2120-AB03
1764	+ Protective Breathing Equipment	2120-AB32
1765	+ Civil Helicopter Noise Certification	2120-AB33
1766	+ Elimination of Airport Delays	2120-AB42
1767	Pilot Oxygen Mask Requirements	2120-AA11
1768	Revision of Part 91	2120-AA13
1769	Recording of Aircraft Titles and Security Documents - Notice of Lien	2120-AA14
1770	Cessna Finance Petition	2120-AA15
1771	Inoperative Instruments or Equipment	2120-AA19
1772	Rotorcraft Regulatory Review Program Amendment No. 3	2120-AA26
1773	Rotorcraft Review Notice No. 5-Operations and Maintenance	2120-AA30
1774	Standards for Approval of an Automatic Takeoff Thrust Control System	2120-AA48
1775	Transport Category Airplane Airworthiness Standards	2120-AA47
1776	FY-1982 Miscellaneous Amendments	2120-AA50
1777	Amend Part 23 to Include Empennage Fatigue Requirements	2120-AA58
1778	Noise Standards: Aircraft Type and Airworthiness Certification	2120-AA74
1779	Revise Part 23 to Include Commuter Category Airplanes	2120-AA77
1780	General Aviation Safety Panel's Recommendations on Weather Minimums	2120-AB04
1781	Electronic Fuel Controls	2120-AB06
1782	Turbo Prop Engine Propeller Brake Proposals	2120-AB07
1783	Type Certification Procedures - Special Class of Aircraft	2120-AB44
1784	Part 95 Instrument Flight Rules	2120-AA63
1785	Airworthiness Directives	2120-AA64
1786	Standard Instrument Approach Procedures	2120-AA65
1787	Airspace Actions	2120-AA66

+ Designates significant regulation.

Federal Aviation Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1788	+ Use of Alcohol or Drugs; Submission to Alcohol Tests	2120-AA16
1789	+ Slot Transfer Methods	2120-AB37
1790	+ Slot Allocation Alternative Methods	2120-AB38
1791	+ Aviation Consumer Action Project Public Citizen Health Research Group, Petition to Amend Part 121 - Medical Equipment Requirements	2120-AB40
1792	+ Aircraft Fleet Modernization Strategies	2120-AC03
1793	+ Shoulder Harnesses in Normal, Utility, and Acrobatic Category Airplanes	2120-AB43
1794	+ Transponder On	2120-AB84
1795	Review: Terminal Control Areas (TCA's): Phoenix	2120-AA22
1796	Part 91 Review Lost Communications	2120-AA06
1797	Parachute Jumping, Notice and Authorization Requirements	2120-AA21
1798	Terminal Control Area (TCA) New York (Modification)	2120-AA24
1799	Terminal Control Area (TCA) Las Vegas (Modification)	2120-AA25
1800	Flight Operations Control Systems	2120-AA26
1801	Airport Improvement Program	2120-AA73
1802	Aviation Insurance: Revision of Aircraft War Risk Insurance Regulation	2120-AB85
1803	MCAS El Toro, Special Airport Traffic Area	2120-AB96
1804	Certification: Pilots and Flight Instructors	2120-AC07
1805	Aviation Maintenance Technician Schools	2120-AC12
1806	Pilot Schools	2120-AC13

+ Designates significant regulation.

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Federal Highway Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1807	Coordination of Federal and Federally Assisted Programs and Projects	2125-AA12
1808	Roadside Design Guide	2125-AB44

Federal Highway Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1809	+ Parts and Accessories Necessary for Safe Operation	2125-AB45
1810	+ Federal Motor Carrier Safety Regulations: General	2125-AA34
1811	+ Disqualification of Drivers (Traffic Records)	2125-AA79
1812	+ Truck Size and Weight; Trailer Lengths	2125-AB26
1813	+ Inspection, Repair, and Maintenance	2125-AB34
1814	+ Federal Motor Carrier Safety Regulations	2125-AB35
1815	+ Hours of Service	2125-AB39
1816	+ Truck Size and Weight; Lane Widths	2125-AB43
1817	+ Safety Fitness Determination	2125-AB46
1818	+ Employee Safety and Health Standards	2125-AB50
1819	+ Driving a Motor Vehicle	2125-AB51
1820	+ Truck Size and Weight; Specialized Equipment	2125-AB48
1821	+ Air Quality Procedures for Use in Federal-Aid Highway and Federally Funded Transit Programs	2125-AB10
1822	Review: General Materials Requirements	2125-AA19
1823	State Highway Agency Construction Contract Equal Opportunity Compliance Review Program Requirements	2125-AB08
1824	Contract Procedures	2125-AA16
1825	Pavement Design Policy	2125-AA88
1826	Highway Construction or Alteration Necessitated by Construction of Water Resources Development Projects	2125-AB04
1827	Federal-Aid Programs Approval and Project Authorization	2125-AB18
1828	Railroad-Highway Projects	2125-AB25
1829	Equal Employment Opportunity on Federal and Federal-aid Construction Contracts (Including Supportive Services)	2125-AB27
1830	Agreement Provisions Regarding Overruns in Contract Time	2125-AB49
1831	Written Examination	2125-AA33
1832	Railroad Grade Crossings	2125-AA36
1833	Administration of Negotiated Contracts	2125-AB30
1834	Highway Beautification: Outdoor Advertising; Technical Amendment	2125-AB32
1835	Manual on Uniform Traffic Control Devices	2125-AA37

+ Designates significant regulation.

Federal Highway Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1836	+ Splash/Spray Suppressant Devices on Truck Tractors, Semitrailers and Trailers	2125-AA84
1837	+ Truck Size and Weight; Interpretation and Policy Statement; Proposed Rulemaking	2125-AB28
1838	+ Truck Size and Weight; Automobile Transporters	2125-AB42
1839	+ Environmental Impact and Related Procedures	2125-AA05
1840	Highway Planning Program Administration	2125-AA10
1841	Use and Disposition of Property Previously Acquired By States For Withdrawn Interstate Segments	2125-AA11
1842	Emergency Relief	2125-AA50
1843	Acceleration of Projects	2125-AA87
1844	Erosion and Sediment Control on Highway Construction Projects	2125-AB05
1845	Navigational Clearances for Bridges	2125-AB07
1846	Equal Employment Opportunity on Federal and Federal-Aid Construction Contracts (Including Supportive Services); Report Requirements	2125-AB15
1847	Required Contract Provisions	2125-AB20
1848	Contract Procedures; Advertising For Bids; Noncollusion Affidavit	2125-AB21
1849	Samples and Testing of Materials and Construction	2125-AB31
1850	Labor and Employment	2125-AB37
1851	Design Standards for Highways; Technical Amendments	2125-AB47

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Federal Highway Administration—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1852	Compliance with Motor Carrier Noise Standards	2125-AA27
1853	Qualification of Drivers; Drugs	2125-AB52
1854	Transfer of Federal-Aid Highway Funds	2125-AA64
1855	Federal-Aid Highway Programs: State Internal Audit Responsibilities	2125-AB29
1856	Certification of Enforcement of Heavy Vehicle Use Tax	2125-AB36
1857	Public Hearings and Location Design Approval	2125-AB09

+ Designates significant regulation.

Federal Highway Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1858	+ Notification, Reporting and Recording of Accidents	2125-AA35
1859	+ Outdoor Advertising Control and Acquisition	2125-AA04
1860	Skid Accident Reduction Program	2125-AA90
1861	Mass Transit and Special Use Highway Projects	2125-AB01
1862	Participation in Contract Claim Awards and Settlements	2125-AB02
1863	Supportive Services for Disadvantaged and Women Business Enterprises	2125-AB19
1864	The Acquisition Function	2125-AA23
1865	Relocation Assistance	2125-AA81
1866	Relocation Assistance-Moving Payments-Moving Expense Schedules	2125-AA38

+ Designates significant regulation.

National Highway Traffic Safety Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1867	+ Review: Uniform Tire Quality Grading	2127-AB77
1868	+ Review: Impact Protection for the Driver from the Steering Control System	2127-AB78
1869	+ Review: Child Seating Systems	2127-AA70
1870	+ Lighting Simplification--Potential Amendments to Simplify FMVSS 108 Lamps, Reflective Devices, and Associated Equipment	2127-AB87
1871	+ Side Impact Protection Head/Neck Protection and Occupant Ejection Mitigation	2127-AB85
1872	Review: Lamps, Reflective Devices, and Associated Equipment	2127-AB76
1873	Occupant Protection In Interior Impact	2127-AB16
1874	Seating Systems	2127-AA69
1875	School Bus Seating System	2127-AA65
1876	Federal Motor Vehicle Safety Standard No. 301 - Fuel System Integrity	2127-AB43

+ Designates significant regulation.

National Highway Traffic Safety Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1877	+ Review: Side Door Strength	2127-AA59
1878	+ Review: Uniform Tire Quality Grading	2127-AA52
1879	+ Commercial Vehicle Conspicuity	2127-AA12
1880	+ Side Impact Protection: Thorax Protection	2127-AB86
1881	+ Insurer Reporting Requirements (Theft Prevention Standard)	2127-AB82
1882	+ Anthropomorphic Test Dummies	2127-AA48
1883	+ Splash and Spray Suppression Devices	2127-AA97
1884	+ Heavy Trailer Stability	2127-AB42
1885	Review: Procedures for Considering Environmental Impacts	2127-AB79

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National Highway Traffic Safety Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1886	Flammability of School Bus Interior Materials	2127-AA44
1887	Seating Reference Point/Motor Vehicle Driver's Eye Range	2127-AA46
1888	Passenger Car Brake Systems	2127-AA13
1889	Hydraulic and Air Brake Systems	2127-AA92
1890	Brake Hoses	2127-AB74
1891	Rear View Mirror Systems	2127-AA21
1892	Rear View Mirror Systems	2127-AA23
1893	Heavy Duty Vehicle Brake Systems (Formerly Truck and Trailer Brake Systems)	2127-AA00
1894	Air Brake Systems	2127-AA27
1895	Windshield Glazing Materials	2127-AA73
1896	Seat Belt Assembly Anchorages	2127-AA95
1897	Windshield Mounting	2127-AA74
1898	Certification of Speed Limit Enforcement	2127-AB88
1899	Vehicle Classification - Compact Vans/Station Wagons	2127-AA57
1900	Voluntary Tire Registration	2127-AB18
1901	Consumer Information - Wet Stopping Distance	2127-AA56

+ Designates significant regulation.

National Highway Traffic Safety Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1902	+ Review: Federal Motor Vehicle Safety Standards; School Bus Passenger Seating and Crash Protection	2127-AB84
1903	+ Truck Rear Underride Protection	2127-AA43
1904	+ Pedestrian Protection	2127-AA45
1905	+ Anthropomorphic Test Dummies	2127-AB68
1906	+ Occupant Crash Protection - Test Procedures and other issues	2127-AB20
1907	+ Post-1986 Passenger Car Fuel Economy Standards	2127-AB75
1908	+ Petitions for Exemptions from the Vehicle Theft Prevention Standard	2127-AB81
1909	+ Crashworthiness Ratings	2127-AA03
1910	+ National Minimum Drinking Age	2127-AB30
1911	+ Child Restraint Systems	2127-AB72
1912	Review: Federal Motor Vehicle Safety Standards, "Lamps, Reflective Devices, and Associated Equipment"	2127-AB83
1913	Controls and Displays	2127-AA06
1914	Lamps, Reflective Devices, and Associated Equipment	2127-AA16
1915	Lamps, Reflective Devices and Associated Equipment	2127-AB37
1916	Rear View Mirrors	2127-AA66
1917	Referee Brake Fluids	2127-AB09
1918	Steering Control Rearward Displacement	2127-AA32
1919	Occupant Crash Protection	2127-AB71
1920	Motorcycle Helmets	2127-AA40
1921	Air Brake Systems	2127-AB12
1922	Incentive Grant Criteria for Alcohol Traffic Safety Programs--Amendment	2127-AB23
1923	Consumer Information--Stopping Distance	2127-AA50

+ Designates significant regulation.

National Highway Traffic Safety Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
1924	+ Seat Belt Assemblies	2127-AA35
1925	+ Occupant Crash Protection - Response to Petitions for Reconsideration	2127-AB45
1926	+ MY 1988 Passenger Car Fuel Economy Standards	2127-AB32
1927	+ MY 1987 Light Truck Fuel Economy Standards	2127-AB33
1928	+ My 1988 Light Truck Fuel Economy Standards	2127-AB69
1929	+ Theft Prevention Standard	2127-AB31
1930	+ Procedures for Selection of Covered Vehicles; Motor Vehicle Theft Law Enforcement Act of 1984	2127-AB73

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National Highway Traffic Safety Administration—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
1931	+ Uniform Tire Quality Grading Standards - Treadwear Amendments	2127-AB21
1932	+ Seat Belt Assembly Anchorages	2127-AB70
1933	+ Child Seating Systems	2127-AA80
1934	+ Procedures for Transition to New National Driver Register	2127-AA96
1935	Windshield Defoggers	2127-AA91
1936	Hydraulic Brake Systems	2127-AA94
1937	Brake Hoses	2127-AA90
1938	Lamps, Reflective Devices, and Associated Equipment	2127-AA16
1939	Lamps, Reflective Devices, and Associated Equipment	2127-AA19
1940	Lamps, Reflective Devices, and Associated Equipment	2127-AA60
1941	Lamps, Reflective Devices, and Associated Equipment	2127-AA77
1942	Lamps, Reflective Devices, and Associated Equipment	2127-AB35
1943	Lamps, Reflective Devices and Associated Equipment	2127-AB39
1944	Highway Safety Standards	2127-AA96
1945	Defect and Noncompliance Reports	2127-AB44

+ Designates significant regulation.

Federal Railroad Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1946	+ Special Safety Inquiry; Rail-Highway Grade Crossing Safety	2130-AA27
1947	Review: Regulatory Flexibility Act Reviews	2130-AA10
1948	Review of Locomotive Cab Safety	2130-AA32
1949	Review of Radio Communication	2130-AA34
1950	Review: Special Safety Inquiry; Power Brake Regulations	2130-AA40

+ Designates significant regulation.

Federal Railroad Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1951	Safety Standards for Cabooses	2130-AA01
1952	Amendments to Regulations Implementing Section 905 of the 4R Act	2130-AA04
1953	Rules of Practice	2130-AA07

Federal Railroad Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1954	Special Safety Inquiry; Railroad Power Brakes	2130-AA28
1955	Rear End Device-Passenger Commuter and Freight Trains	2130-AA39

Urban Mass Transportation Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1956	+ Charter Bus Regulations	2132-AA04
1957	+ Implementation of Section 19 of the Urban Mass Transportation Act of 1964 as Amended -- Nondiscrimination	2132-AA01

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Urban Mass Transportation Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1958	+ Air Quality Procedures for Use in Federal-Aid Highway and Federally Funded Transit Programs	2132-AA19
1959	+ Private Enterprise Participation	2132-AA29
1960	+ Major Capital Investment Projects	2132-AA22
1961	+ Extension of Safety Requirements to all Federally Assisted Buses	2132-AA24
1962	+ Maintenance of Equipment and Facilities	2132-AA26
1963	School Bus Operations	2132-AA09
1964	Section 15 Reporting Requirements for Section 9 Apportionment Grants; Penalty Procedures for Non-compliance	2132-AA21

+ Designates significant regulation.

Urban Mass Transportation Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
1965	+ Environmental Impact and Related Procedures	2132-AA03
1966	+ "Buy America" Requirements of the Surface Transportation Assistance Act of 1982	2132-AA15
1967	Innovative Techniques and Methods	2132-AA05
1968	Miscellaneous Amendments - Organization, Functions, and Procedures	2132-AA06
1969	Technology Introduction	2132-AA07

+ Designates significant regulation.

Research and Special Programs Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
1970	Specification Packages of Type B and Fissile Radioactive Materials	2137-AA29
1971	DOT Specification 51 Portable Tanks	2137-AA36

Research and Special Programs Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
1972	+ Performance-Oriented Packaging Standards	2137-AA01
1973	+ Collection of Service Segment Data and Charter Data from Foreign Air Carriers	2137-AA97
1974	+ Alignment of Airline Uniform System of Accounts and Reports with Generally Accepted Accounting Principles	2137-AA99
1975	+ Collection of Service Segment Data and Charter Data from U.S. Air Carriers	2137-AB01
1976	+ Requests for Confidential Treatment of Aviation Economics- Related Materials Filed with DOT	2137-AB02
1977	+ Confidentiality of Parts 241 and 298 Airline Reports	2137-AB05
1978	+ Data Collection and Reporting: Hazardous Materials Incident Reports	2137-AA51
1979	+ Reportable Quantities of Hazardous Substances	2137-AA88
1980	+ Recodification of Explosive Regulations	2137-AA93
1981	Review: Consolidation of Specifications for High Pressure Seamless Cylinders	2137-AA92
1982	Definition of a Flammable Solid	2137-AA05
1983	Revision of Operating Procedures for Motor Vehicles	2137-AA07
1984	Use of Interested Inspectors for Cylinder Inspections	2137-AA08
1985	Consolidation and Revision of Requirements for the Carriage of Explosives by Vessel	2137-AA10
1986	Oxidizing Materials Definition, Criteria and Proposed Regulations	2137-AA11
1987	Odorization of LP Gas	2137-AA25
1988	Private Carriers Licensed to Use Radioactive Materials	2137-AA28
1989	Quality Assurance for Radioactive Materials Shippers	2137-AA30
1990	Steel Pipe	2137-AA40
1991	Specification 8W and 8WA Welded Steel Cylinders	2137-AA63
1992	Revision of the IM Tank Table	2137-AA64
1993	Rewrite and Recodification of Section 173.34	2137-AA73

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Research and Special Programs Administration—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
1994	Marking Owner's Symbols on Compressed Gas Cylinders	2137-AA74
1995	Reclassification of Special Fireworks	2137-AA78
1996	Required Use of Emergency Response Guidebooks and Material Safety Data Sheets	2137-AA88
1997	Odorization of Liquefied Petroleum Gas (LPG)	2137-AA89
1998	Collection of Financial Information from the Commuter Air Carrier Industry	2137-AA98
1999	Revise Definition of Airline Revenue and Nonrevenue Passengers, and First Class and Coach Passengers	2137-AB00
2000	Require Specific Categories of Records and Retention Periods for Commuter Air Carriers Receiving Subsidy	2137-AB04
2001	Matter Incorporated by Reference (Hazardous Materials)	2137-AA45

+ Designates significant regulation.

Research and Special Programs Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2002	+ Review of Sample Size and Administration of the Airline Passenger Origin-Destination Survey	2137-AA95
2003	+ Review of the Form 41 Report of Financial and Operating Statistics for Large Certificated Air Carriers	2137-AA96
2004	+ Specification and Use Requirements for MC 306, MC 307, and MC 312 Cargo Tanks (Including Proj. 301-83 and Incorporates Docket HM 183)	2137-AA42
2005	+ Add to 49 CFR 195.2 Definitions a Definition of "gathering line"	2137-AA60
2006	Interior Piping	2137-AA21
2007	Conversion of Individual Exemptions to Regulations of General Applicability	2137-AA43
2008	Minor Regulatory Adjustments to Regulations of General Applicability	2137-AA44
2009	Confirmation or Revision of Maximum Operating Pressure for Certain Changes in Class Location	2137-AA62
2010	Clarification of Welding Requirements for Gas Pipelines	2137-AA69
2011	Damage Prevention Program for Gas Pipelines (Docket No. PS-59)	2137-AA71
2012	Modifications to DOT Specification 21PF-1 Overpacks	2137-AA72
2013	Cargo Tanks Used in Atmospheric Gas and Helium, Cryogenic Liquid Service Docket HM-115A	2137-AA84
2014	Limitation Aboard Aircraft	2137-AA85
2015	Bulk Packagings and Miscellaneous Rule Changes	2137-AA90

+ Designates significant regulation.

Research and Special Programs Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2016	+ Streamline Airline Passenger Origin-Destination Survey Reporting	2137-AB03
2017	Radiation Level Specifications	2137-AA27
2018	Monitoring External Corrosion Control	2137-AA36
2019	Records for Hydrostatic Testing, Operation and Maintenance and Accident Reporting	2137-AA58
2020	Nondestructive Testing of Girth Welds	2137-AA59
2021	Cylinder Retester Identification Numbers	2137-AA65
2022	Incorporation by Reference, Updating Steel Line Pipe Specifications (Docket No. P-29)	2137-AA94

+ Designates significant regulation.

Maritime Administration—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2023	Review: MARAD Program Regulations: Review of all MARAD Program Regulations	2133-AA56

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Maritime Administration—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2024	+ Cargo Preference - U.S. Flag Vessels - Determination of Fair and Reasonable Rates for Bulk Vessels	2133-AA43
2025	+ Determinations of Non-availability of U.S.-Flag Vessels	2133-AA36
2026	+ Approval of Marine Hull Underwriters	2133-AA50
2027	+ Cargo Preference - Implementation of P.L. 99-198	2133-AA55
2028	+ Regulations and Minimum Standards for State, Territorial or Regional Maritime Academies and Colleges	2133-AA57
2029	Review: War Risk Insurance	2133-AA54
2030	Statistical Data for Use In Operating-Differential Subsidy (ODS) Application Hearings	2133-AA16
2031	Rules of Practice and Procedures; for Hearing in Operating-Differential Subsidy (ODS) Application; Applications for Subsidies and Other Direct Financial Aid	2133-AA20
2032	Merchant Marine Training; Regulations and Minimum Standards for State; Territorial or Regional Maritime Academies and Colleges	2133-AA42

+ Designates significant regulation.

Maritime Administration—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2033	+ Cargo Preference-U.S. Flag Vessels-Determination of Fair and Reasonable Rates for Liner Vessels	2133-AA02
2034	+ Elimination of Restrictions on Non-Subsidized Voyages by Subsidized Liner Companies	2133-AA18
2035	+ Notice of Intent to Redesignate Essential Trade Routes	2133-AA44
2036	+ Final Guidelines For Considering Early ODS Contract Terminations	2133-AA47
2037	+ Establishment of Mandatory Position Reporting System for Vessels	2133-AA31
2038	+ General Procedures for Determining Operating-Differential Subsidy (ODS) for Liner Vessels	2133-AA46
2039	+ Cargo Preference - U.S. Flag Vessels; Evaluation of Bids for Subsidized Liner Vessels	2133-AA52
2040	+ Operating-Differential Subsidy (ODS) for Bulk Cargo Vessels Engaged in Worldwide Services; General Procedures for Determining ODS	2133-AA53
2041	Suspension of ODS Agreements for All or Portion of the Vessels Included Therein	2133-AA17
2042	Making Excess or Surplus Federal Property Available to the United States Merchant Marine Academy, (USMMA), State Maritime Academies and Approved Nonprofit Maritime Training Institutions	2133-AA34
2043	Blanket Approval for: Bareboat Charters of Recreational Vessels to Noncitizens; Sales to Noncitizens and Transfers to Foreign Registry or Flag of Vessels Under 200 Gross Tons	2133-AA40
2044	Marine Protection and Indemnity Insurance Instructions Under General Agency and Berth Agency Agreements	2133-AA51

+ Designates significant regulation.

Maritime Administration—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2045	+ Vessel Obligation Guarantees; Vessel Requirements, United States Construction	2133-AA29
2046	War Risk Insurance	2133-AA49

+ Designates significant regulation.

DEPARTMENT OF TRANSPORTATION (DOT)

Office of the Secretary (OST)

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1516. + REVIEW: COMPREHENSIVE REVIEW OF CAB CONSUMER RULES

Significance: Regulatory Program

Legal Authority: 49 USC 1301 et seq Federal Aviation Act of 1958, as amended

CFR Citation: 14 CFR 201.6; 14 CFR 203; 14 CFR 205; 14 CFR 221, Subpart N; 14 CFR 248; 14 CFR 250; 14 CFR 252; 14 CFR 253; 14 CFR 254; 14 CFR 296.6 and 297.30; 14 CFR 298.30; 14 CFR 379; 14 CFR 380; 14 CFR 382; 14 CFR 399, Subpart G

Legal Deadline: None

Abstract: The Civil Aeronautics Board was an independent agency; its rules have now been transferred to DOT, a cabinet department. This review will identify any CAB rules which are not consistent with Department or Administration regulatory criteria, such

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as those that impose an unnecessarily high cost or those with paperwork burdens that can be reduced or which involve a level of benefits or costs which are either higher or lower than necessary. The review will examine all alternatives, from strengthening a given rule to eliminating it. Non-regulatory approaches, including the supplying of information by the government, or regulation by another level of government, will be also considered. The benefits and costs will be known only after these alternatives have been developed. This review is a priority because it involves important departmental policy.

Timetable:

Action	Date	FR Cite
Begin Review	02/25/85	
End Review	05/00/86	

Small Entity: Yes

Additional Information: The committee conducting this review will examine all CAB consumer rules. Rulemaking proceedings on individual regulations may follow, depending on the committee's findings and recommendations.

Agency Contact: Timothy J. Kelly, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 7th Street, SW, Room 10405, Washington, DC 20590, 202 755-2228

RIN: 2106-AB03

1517. + LICENSING OF COMMERCIAL LAUNCH SITE OPERATIONS

Significance: Regulatory Program

Legal Authority: PL 98-575

CFR Citation: Not applicable

Legal Deadline: None

Abstract: The rulemaking addresses the development of technical standards for commercial launch site operations and the appropriate regulatory framework for issuing licenses authorizing such operations. In its initial stages the rulemaking will focus on identifying the basic safety elements associated with site operations, determining the degree to which safety operations can effectively be conducted by private entities, identifying the appropriate factors to consider in reviewing site proposals, and developing the standards to be applied in determining whether to approve such proposals.

This rule is significant because it is included in the Department's Regulatory Program.

Timetable:

Action	Date	FR Cite
Interim Guidance	02/25/85	
ANPRM	06/01/86	

Small Entity: No

Agency Contact: Gerald Musarra, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4723

RIN: 2106-AA27

1518. + AIRLINE INTERLINE AGREEMENTS

Significance: Regulatory Program

Legal Authority: 49 USC 1324; 49 USC 1371 to 1379; 49 USC 1381; 49 USC 1382; 49 USC 1384; 49 USC 1386; 49 USC 1461; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: Republic Airlines petitioned the CAB for emergency rulemaking and other relief concerning changes in carrier interline practices. It stated that a number of major carriers have withdrawn from the current multilateral interline traffic agreement and henceforth will maintain interline arrangements only pursuant to bilateral agreements that are terminable monthly without notice. It alleged that failure to notify passengers that interlining may cease abruptly and without notice could constitute an unfair or deceptive practice within the meaning of section 411 of the Federal Aviation Act of 1958. In addition, it argued that the right to terminate interline agreements without notice could be used for anticompetitive purposes. Republic asked the CAB to adopt interim rules requiring notice to passengers and to institute a rulemaking proceeding to determine whether these no-notice bilateral interline agreements are an unfair method of competition. The CAB denied the request for emergency rules. DOT is now considering the subject of interlining and whether to begin a rulemaking proceeding. This rulemaking would be significant because it would affect competition in a (cont)

Timetable:

Action	Date	FR Cite
Order 83-12-3 Denial of Emergency Action	00/00/00	
Petition filed in Docket 41825	00/00/00	
Petition under consideration	00/00/00	

Next Action Undetermined

Small Entity: No

Additional Information: ABSTRACT CONT: deregulated environment and may affect the convenience of travel for passengers.

Agency Contact: Stephen Colevas, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4382

RIN: 2105-AA85

1519. + CONSUMER PROTECTION FOR DEFAULT BY SCHEDULED AIR CARRIERS

Significance: Regulatory Program

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1381

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: Transamerica petitioned the CAB to investigate ways to protect consumers against service defaults by scheduled air carriers in domestic, overseas, and foreign air transportation. Transamerica suggested that the Board condition the award of operating authority to perform direct carrier scheduled service on air carriers developing a default protection plan. For foreign air travel, it suggested that the obligation be limited to outbound flights. The petitioner argued that prompt action is necessary in order to ensure continued public confidence in scheduled air service and to protect passengers from unnecessary financial hardship. DOT is considering what action should be taken on the petition.

Timetable:

Action	Date	FR Cite
Petition filed in Docket 42368	00/00/00	

Next Action Undetermined

Small Entity: No

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Agency Contact: Tim Kelly, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 755-2228

RIN: 2105-AA98

1520. DIRECT FLIGHTS

Significance: Nonsignificant

Legal Authority: 49 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: Donald L. Pevsner petitioned the CAB to institute a rulemaking proceeding to ban use of the term "direct flight" because it is deceptive, and to declare use of the term to be a prima facie violation of section 411 of the Federal Aviation Act of 1958. The Department is now considering what action to take in response to the petition.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: Petition under consideration. It has been filed in Docket 41217.

Agency Contact: Tim Kelly, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 755-2228

RIN: 2105-AA73

1521. CURRENCY-RELATED ADJUSTMENTS FOR INTERNATIONAL AIR CARGO RATES

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371 to 1379; 49 USC 1381; 49 USC 1384; 49 USC 1386; 49 USC 1461; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: TWA petitioned the CAB to establish an expanded policy of international cargo rate flexibility by which carriers would file for expedited effectiveness certain increased cargo rates on inbound traffic to the United States. The rate changes involved would be currency-related adjustments that carriers file in response to foreign government orders. TWA stated that this change is needed so that airlines are not exposed to penalties for failing to comply with foreign government directives. In addition, it argued that protracted review of these filings has a severe impact on airline revenues because an airline cannot change its tariffs to reflect currency devaluations. DOT is considering what action to take in response to this petition.

Timetable:

Action	Date	FR Cite
Petition filed in Docket 41786	00/00/00	

Next Action Undetermined

Small Entity: No

Agency Contact: Lawrence Myers, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 472-5821

RIN: 2105-AA87

1522. ESTABLISHMENT OF NEW CLASS SERVICE MAIL RATE FOR BUSH OPERATIONS WITHIN ALASKA

Significance: Nonsignificant

Legal Authority: 49 USC 1376

CFR Citation: 14 CFR 302.3

Legal Deadline: None

Abstract: CAB Sunset Act of 1984 extends Intra-Alaska mail rate authority through December 1988. This rulemaking would consider the establishment of new service mail rates to bush points in Alaska. It would also consider the data reporting requirements and appropriate updating procedures to support the establishment and future revision of these rates.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Julien R. Schrenk, Transportation Economist, Department of Transportation, Office of the Secretary, 400 Seventh Street, NW, Washington, DC 20590, 202 472-5128

RIN: 2105-AB01

DEPARTMENT OF TRANSPORTATION (DOT)

Office of the Secretary (OST)

Proposed Rule Stage

1523. + ELECTRONIC FILING OF TARIFFS

Significance: Regulatory Program

Legal Authority: 49 USC 1373

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: DOT will examine whether conversion from a paper document system to a computerized system of filing and monitoring air carrier tariffs can reduce paper flow, speed up processing, and allow the industry to utilize computer and telecommunications technology to communicate with DOT. The alternative is to maintain the current paper tariffs system. Potential savings to the industry may be greater than to the government, since airlines already utilize automated fare and rate systems. In addition, airlines may be able to implement changes faster, thus responding more quickly to market conditions, and may be less burdened with the cost of producing and transmitting paper documents. The Department may reduce paper flow, experience savings in processing time and staffing, and improve the accuracy and control of tariff data.

Timetable:

Action	Date	FR Cite
ANPRM	08/19/85	50 FR 33452
ANPRM Comment Period End	11/18/85	

Next Action Undetermined

Small Entity: Undetermined

Additional Information: ADDITIONAL AGENCY CONTACT: Thomas Moore, Chief, Tariffs Division, 400 - Seventh

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Proposed Rule Stage

Street, SW, Washington, DC 20590, (202) 472-5573

Agency Contact: Dante McDowell, Transportation Industry Analyst, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 472-5573

RIN: 2105-AB09

1524. + MINORITY BUSINESS ENTERPRISE PROGRAM (FINANCIAL ASSISTANCE PROGRAMS)

Significance: Agency Priority

Legal Authority: 42 USC 2000d Civil Rights Act of 1964, Title VI; 49 USC 1730; 45 USC 906; 49 USC 1615; PL 97-424, Sec 105(f)

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: The Department is reviewing its regulation establishing a minority business enterprise (MBE) program in its financial assistance programs (49 CFR Part 23). This regulation has been controversial, is of interest to most DOT grant recipients and contractors, and affects the operations of all DOT financial assistance programs. As part of the Administration's program of reviewing regulations that are costly or controversial, the Department has decided that it is necessary to consider revisions of the existing rule. The aim of the revisions would be to reduce regulatory burdens associated with the present rule and clarify the administration of some provisions about which questions have been raised. On the basis of this review, the Department intends to publish from time to time, proposed rules to improve various aspects of the way the program is administered. This review is to improve the administration of the existing program, and it is not intended to affect the major policy provisions of the regulation.

Timetable:

Action	Date	FR Cite
Final Action	03/31/80	45 FR 21172
NPRM make interim amend to final rule, pend. revision of entire rule	03/12/81	46 FR 16282
Final Action for interim amendment	04/27/81	46 FR 23457

Next Action Undetermined

Small Entity: Yes

Additional Information: Final Rule published March 31, 1980 (45 FR 21172). NPRM to make interim amendment to this final rule, proposing to delete two controversial provisions, pending revision of the entire rule published March 12, 1981 (46 FR 16282). Final rule for interim amendment published April 27, 1981 (46 FR 16202). Further action to revise existing rule under consideration.

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 04/27/81

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4723

RIN: 2105-AA04

1525. + NONDISCRIMINATION ON THE BASIS OF HANDICAP (AIR TRAVEL)

Significance: Agency Priority

Legal Authority: 29 USC 794; PL 97-248, Sec. 511-519 Airport and Airway Improv. Act of 1982

CFR Citation: 49 CFR 27; 14 CFR 382

Legal Deadline: None

Abstract: The Civil Aeronautics Board (CAB) has a regulation providing protection of the rights of handicapped air travellers. Based on recent Congressional action, DOT began enforcing this regulation on January 1, 1985. DOT has prepared and transmitted to the Department of Justice, for review under E.O. 12250, an NPRM that would extend to passengers on all airlines the provisions of subparts B and C of the rule, which now apply only to subsidized carriers. This NPRM would also respond to the decision of the U.S. Court of Appeals for the D.C. Circuit in Paralyzed Veterans of America v. Civil Aeronautics Board, which said that Section 504 applied to all air carriers, whether or not they receive a direct Federal subsidy.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: The Department of Justice sought, and obtained, Supreme Court review of the PVA v. CAB case. The court is expected to hear arguments in the case during its current term. Further action in the rulemaking is being deferred pending the outcome of the litigation.

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4723

RIN: 2105-AA18

1526. + COMMERCIAL SPACE TRANSPORTATION: THIRD-PARTY LIABILITY INSURANCE FOR COMMERCIAL SPACE LAUNCH ACTIVITIES

Significance: Agency Priority

Legal Authority: PL 98-575, Sec 16 Commercial Space Launch Act

CFR Citation: 14 CFR 419

Legal Deadline: None

Abstract: Persons authorized to conduct commercial launch activities by a license issued by DOT are statutorily required to have in effect at least that amount of third-party liability insurance prescribed by DOT for the licensed activity. The rulemaking addresses alternate approaches to setting the appropriate amount of third-party liability insurance licensees must carry.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/85	50 FR 19280
ANPRM Comment Period End	07/08/85	50 FR 19280
NPRM	08/00/86	

Small Entity: No

Additional Information: The CFR citations are tentative at this point.

Agency Contact: Gerald Musarra, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4723

RIN: 2105-AA26

1527. ● + OVERSALES

Significance: Agency Priority

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Legal Authority: 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1377; 49 USC 1381; 49 USC 1386; 49 USC 1482

CFR Citation: 14 CFR 250

Legal Deadline: None

Abstract: U.S. and foreign air carriers are filing Form 251 "Report of Passengers Denied Confirmed Space" on a monthly basis. This report shows the number of passengers who were denied confirmed space and how they were accommodated. The Paperwork Reduction Act of 1980 (P.L. 96-511) does not permit filing frequencies greater than quarterly unless justified. This proposed rule would reduce the filing frequency from monthly to quarterly. There would be some cost savings and burden reduction to both the industry and the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
Final Action	07/00/86	

Small Entity: No

Agency Contact: Jack Calloway, Chief, Department of Transportation, Office of the Secretary, Data Requirements & Public Reports Division, DAI-10/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 426-3059

RIN: 2105-AB17

1528. ● + 14 CFR PARTS 204 AND 291, LIMITATION ON FITNESS DETERMINATION: REVOCATION OF OPERATING AUTHORITY

Significance: Agency Priority

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1386; 49 USC 1388; 49 USC 1389

CFR Citation: 14 CFR 204; 14 CFR 291

Legal Deadline: None

Abstract: The proposed rule would, if finalized, automatically revoke the authority of carriers who do not begin operations within one year of being found fit or who, having begun and then ceased operations, remain dormant for any subsequent one-year period. The rule would be in substitution for the existing continuing fitness regulation, which calls for new fitness determinations only after a two-year period of dormancy—and even then, only if a dormant carrier actually intends to start operations. The new rule, by reducing the number of dormant certificated carriers, should greatly enhance our ability to monitor carriers under the continuing fitness function. The costs should be negligible because, under the Department's streamlined certification procedures, carriers needing to reapply for certificate authority by virtue of the rule would face filing requirements and procedures closely comparable to those that already exist under the Department's current continuing fitness regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/14/86	
NPRM Comment Period End	04/14/86	
Final Action	06/02/86	

Small Entity: No

Agency Contact: Jeffrey B. Gaynes, Patricia T. Szrom, Office of Aviation Operations, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Room 6402, Washington, DC 20590, 202 755 - 3812, 202 472-5418

RIN: 2105-AB19

1529. ● REVIEW OF AIR CARRIER AGREEMENTS AND 408 APPLICATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1303; 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1378; 49 USC 1379; 49 USC 1382; 49 USC 1384; 49 USC 1386; 49 USC 1388; 49 USC 1551

CFR Citation: 14 CFR 303

Legal Deadline: None

Abstract: The Department intends to review the regulation to determine if more efficient procedures can be developed which will not interfere with the marketplace.

Timetable:

Action	Date	FR Cite
NPRM	04/01/86	
NPRM Comment Period End	05/01/86	
Final Action	06/15/86	

Small Entity: No

Agency Contact: George Baranko, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 472-5621

RIN: 2105-AB20

1530. NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF THE DEPARTMENT OF TRANSPORTATION—STATE TRANSPORTATION AGENCIES' EEO AFFIRMATIVE ACTION PROGRAMS

Significance: Nonsignificant

Legal Authority: Federal-Aid Highway Act of 1968, as amended, Sec 22(a); BR Revitalization & Regulatory Reform Act of 1976, Sec 905; 49 USC 1615 Urban Mass Transportation Act of 1964, as amended; 29 USC 794 Rehabilitation Act of 1973, Sec 504

CFR Citation: 49 CFR 1.48(c); 49 CFR 2.49(u); 49 CFR 1.51(a)

Legal Deadline: None

Abstract: The proposed regulation would set forth requirements and procedures for all State Departments of Transportation (DOTs) equal employment opportunity compliance programs. It would also consolidate FHWA, FRA, and UMTA responsibilities in this area. This proposed regulation is significant because it would affect the equal opportunity employment programs of all State transportation agencies. It is needed because OST, FHWA, FRA, and UMTA each have responsibility for implementing the equal employment opportunity programs of State DOTs. This proposed rule would assure full coordination among these departmental elements, reduce the burden on the recipients, simplify reporting requirements, and eliminate duplication of effort.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: The proposed

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regulation was forwarded to EEOC for review and coordination. The primary issue addressed by this proposal was raised in the course of reviewing a related regulation. Further action will be delayed pending the outcome of that review.

Agency Contact: Dewey Thomas, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4764

RIN: 2105-AA06

1531. NONDISCRIMINATION ON THE BASIS OF HANDICAP (DIRECTLY CONDUCTED PROGRAMS)

Significance: Nonsignificant

Legal Authority: 29 USC 794

CFR Citation: 49 CFR 28

Legal Deadline: None

Abstract: This regulation would implement the 1978 amendments to section 504 of the Rehabilitation Act of 1973 which made its prohibition of discrimination on the ground of handicap applicable to the directly conducted programs of Federal agencies as well as to their financial assistance programs. The rule would apply to DOT facilities, personnel practices, and regulatory programs. It would be based on a model rule developed by the Department of Justice. The rule would also apply to DOT activities and functions transferred from the Civil Aeronautics Board after that agency's "sunset". A CAB NPRM that was being developed on this subject will be subsumed in this project.

Timetable:

Action	Date	FR Cite
NPRM	06/15/86	

Small Entity: Undetermined

Agency Contact: Robert Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 472-5577

RIN: 2105-AA29

1532. AIR CARRIER CARGO TARIFF PUBLICATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1373; 49 USC 1482

CFR Citation: 14 CFR 221.171; 14 CFR 221.173

Legal Deadline: None

Abstract: This petition proposes to amend the requirement that air carriers post cargo tariffs at stations, offices, and locations other than their principal office. The petitioners proposed to allow carriers to maintain a memorandum tariff at each location and have a toll-free number for shippers to obtain access to complete tariff information. Petitioners alleged that such a change would substantially reduce the cost and time burden of maintaining and continually updating voluminous files of current and past tariffs at each location.

Timetable:

Action	Date	FR Cite
Petition Filed in Docket 42660	11/27/84	
Next Action Undetermined		

Small Entity: No

Additional Information: Petition under consideration.

Agency Contact: Lawrence Myers, Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 472-5821

RIN: 2105-AA31

1533. OVERSEAS MILITARY PERSONNEL AIR CHARTER TARIFFS

Significance: Nonsignificant

Legal Authority: 49 USC 1373; 49 USC 1386

CFR Citation: 14 CFR 372

Legal Deadline: None

Abstract: The reference to tariffs in the rule governing Overseas Military Personnel Charters (OMPC) has become obsolete, at least with respect to domestic air transportation. The CAB was considering whether to eliminate the tariff requirement for all OMPC's and replace it with consumer protection requirements similar to those in its Public Charter rule in Part 380. This proposal is still being considered by DOT.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Tim Kelly, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 755-2220

RIN: 2105-AA67

1534. UNFAIR AND DECEPTIVE PRACTICES BY AIRLINE TICKET AGENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1376; 49 USC 1381

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: Enforcement policies currently make reference to tariffs. DOT is considering whether to limit these provisions to foreign air transportation or to eliminate them entirely.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Tim Kelly, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 755-2220

RIN: 2105-AA70

1535. FILING REQUIREMENTS FOR INTERNATIONAL AIR CARGO TARIFFS

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1324; 49 USC 1371 to 1374

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: The Department is considering shortening the filing requirements from 60 to 30 days for international cargo tariffs that are within the Standard Foreign Rate Level. This rule would encourage pricing flexibility and standardize the tariff-filing requirements for cargo rates and passenger fares that are within the zone.

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Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Lawrence Myers, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 472-5821

RIN: 2105-AA83

1536. POLICY STATEMENT ON STANDARD FOREIGN FARE LEVEL FOR AIR CARRIERS

Significance: Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1375; 49 USC 1377; 49 USC 1378; 49 USC 1379; 49 USC 1381; 49 USC 1382; 49 USC 1386; 49 USC 1461; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: The CAB considered adopting a policy statement that would combine the CAB's policies on Standard Foreign Fare Level (SFFL), which are found in numerous orders, into a single, comprehensive rule. DOT is considering what should be included in the rule.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Lawrence Myers, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 472-5821

RIN: 2105-AA89

1537. EMPLOYMENT DISCRIMINATION AGAINST HANDICAPPED PERSONS BY AIR CARRIERS

Significance: Nonsignificant

Legal Authority: 29 USC 794; 49 USC 1324; 49 USC 1371; 49 USC 1374; 49 USC 1376; 49 USC 1377; 49 USC 1386; 49 USC 1389; EO 12250 45 FR 72995

CFR Citation: 14 CFR 382

Legal Deadline: None

Abstract: The CAB was considering new rules prohibiting unlawful discrimination against otherwise qualified handicapped persons who are employed by, or are seeking employment from, airlines. This proposed rule is under the authority of the Rehabilitation Act of 1973. This action is under consideration at DOT.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Robert Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4723

RIN: 2105-AA92

1538. CARGO RATE CHANGES ON 30 DAYS NOTICE

Significance: Nonsignificant

Legal Authority: 49 USC 1379

CFR Citation: 14 CFR 221.160

Legal Deadline: None

Abstract: This rule would amend regulations to allow cargo tariffs which are within the zones established under 14 CFR 399.41 to be filed on 30 days' notice. There are two alternatives: either maintain the status quo (60 days' notice) or change cargo tariff filing regulations to 30 days' notice to be consistent with passenger tariff filing requirements. Standardization of the regulatory tariff filing requirements for both cargo and passenger tariffs would benefit the industry.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Tom Moore, Chief, Tariffs Division, Department of Transportation, Office of the Secretary, 400 7th Street, SW, Washington, DC 20590, 202 472-5578

RIN: 2105-AA80

1539. UPDATE THE DEPARTMENT OF TRANSPORTATION ACQUISITION REGULATIONS TO IMPLEMENT THE COMPETITION IN CONTRACTING ACT AS SET FORTH IN THE FEDERAL ACQUISITION REGULATIONS-PROPOSED RULES

Significance: Nonsignificant

Legal Authority: 40 USC 486(c); 10 USC 2301; 48 CFR 1.301; 48 CFR 1.59; PL 98-369, Title VII

CFR Citation: 48 CFR 1201, (Revision)

Legal Deadline: None

Abstract: The Competition in Contracting Act (CICA) P.L. 98-369, effective April 1, 1985, makes major changes in the structure and control of the Federal acquisition process. These changes have been effected by the Federal Acquisition Regulation (FAR). The intent of the update of the Department's acquisition regulation is to implement the FAR coverage of CICA where required.

Timetable:

Action	Date	FR Cite
NPRM	03/01/86	
NPRM Comment Period End	06/01/86	
Interim Final Rule	08/01/86	
Final Action	10/01/86	

Small Entity: Yes

Agency Contact: Roger C. Martino, Chief, Procurement Management Division, Department of Transportation, Office of the Secretary, Room 9100, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4237

RIN: 2105-AB15

1540. WARRANTY REGULATIONS FOR MAJOR SYSTEM ACQUISITIONS OF THE UNITED STATES COAST GUARD - PROPOSED RULE

Significance: Nonsignificant

Legal Authority: PL 98-473

CFR Citation: 48 CFR 1246

Legal Deadline: None

Abstract: This rulemaking would establish the regulations for Coast Guard warranties that shall be included in all contracts with prime contractors for major system acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	03/01/86	
NPRM Comment Period End	05/01/86	

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Action	Date	FR Cite
Interim Final Rule	07/01/86	
Final Action	09/01/86	

Small Entity: Undetermined

Agency Contact: Roger Marino, Department of Transportation, Office of the Secretary, Room 9100, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4237

RIN: 2105-AB16

1541. ● NAMES OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Significance: Nonsignificant

Legal Authority: 49 USC 1381; 49 USC 204(a); 49 USC 1371; 49 USC 1372; 49 USC 1386

CFR Citation: 14 CFR 215, (Revision)

Legal Deadline: None

Abstract: The Department must now routinely decide issues of name similarity whenever an airline wishes to use a different name for its operations or a new applicant wishes to use a name for its proposed operations. The issue arises even where there is no evidence that use of a certain name will cause or has caused confusion with an existing name. The current rule is duplicative of other statutes. The issue can be decided privately without routine, active government intervention, or can be handled on a case-by-case basis. The proposed rule would 1) delete specific criteria for decisions on name cases, 2) emphasize ad hoc enforcement, and 3) change the rule to make it a form of registration. Removal of routine intervention would reduce delay in applications for name changes. It would not result in less protection for travelers when there is a real need for action.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: Undetermined

Agency Contact: Juliana Winters, Senior Attorney, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-7631

RIN: 2105-AB18

DEPARTMENT OF TRANSPORTATION (DOT)

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Office of the Secretary (OST)

1542. + NONDISCRIMINATION ON THE BASIS OF HANDICAP (MASS TRANSIT PROGRAMS)

Significance: Regulatory Program

Legal Authority: 29 USC 794 Rehabilitation Act of 1973, as amended; 49 USC 1612(a) Urban Mass Trans. Act of 1964, as amended; 23 USC 142 Note Federal-aid Highway Act of 1973, as amended; 49 USC 1612(d) Urban Mass Trans. Act of 1964, as amended

CFR Citation: 49 CFR 27

Legal Deadline: Judicial, July 5, 1983. Statutory deadline for final rule on July 5, 1983. Court decision in Federal District Court for Maine required DOT to expedite rulemaking, but did not set a special deadline.

Abstract: The Department's rule concerning mass transit service for handicapped persons is currently an interim final rule published July 20, 1981 (46 FR 37488). This rule was issued after a court decision said that section 504 did not authorize the Department's previous mass transit requirements. In 1983, Congress enacted section 317(c) of the Surface Transportation Assistance Act of 1982, which requires the Department to publish a new rule. The Department published an NPRM for this new rule on September 6, 1983 (48 FR 40684). The Department has reviewed the comments and will publish a final rule based on this NPRM.

Timetable:

Action	Date	FR Cite
NPRM	09/06/83	48 FR 40684
Extension of Comment Period	10/31/83	48 FR 50125
Final Action	03/01/86	

Small Entity: Yes

Additional Information: The U.S. District Court for the District of Maine entered an order December 3, 1985 in the case of Maine Association of Handicapped Persons v. Dole. The order directed the Department to complete drafting the final rule and transmit it to the Department of Justice and the Office of Management and Budget for review by December 17, 1985. The Department complied with this order. Pursuant to the order the Department is reporting to the Court every 15 days on the status of the rulemaking.

Analysis: Regulatory Impact Analysis

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4723

RIN: 2105-AA01

1543. + COMMERCIAL SPACE TRANSPORTATION: LICENSING REGULATIONS

Significance: Regulatory Program

Legal Authority: PL 98-575

CFR Citation: 14 CFR 400 to 415

Legal Deadline: None

Abstract: The rulemaking addresses the general organization and procedures of the Office of Commercial Space Transportation and the review procedures and information requirements pertaining to launch license applications. The proposed regulations will identify the general factors the government will consider, in the absence of published technical standards, in the course of determining whether to grant a launch license request. The process identified in the proposed regulations will set out in greater detail the two-part process described in the Department's Notice of Policy published in the Federal Register on February 25, 1985. That process consists of a Mission Review, focusing on national security and foreign policy issues, and a launch Safety Review, focusing on public safety issues. The proposed regulations will reflect the Department's current thinking on the conduct of these reviews in light of comments received on the Notice of Policy. These regulations are significant because they involve issues of substantial interest to the public and important DOT policies.

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Timetable:

Action	Date	FR Cite
Notice of Policy and Request for Comments	02/25/85	
Comment Period on Notice 02/25/85 to	04/26/85	
Interim Final Rule	02/26/86	
Comment on Interim Final Rule 02/26/86 to	04/28/86	
NPRM	11/15/86	

Small Entity: No

Agency Contact: Gerald Musarra, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4723

RIN: 2105-AA25

1544. + CERTIFICATE DURATION IN LIMITED ENTRY MARKETS. NOTICE REQUIREMENTS FOR CARRIERS LEAVING LIMITED-ENTRY MARKETS DURING A SELECTION CASE. PROCEDURES AND CRITERIA FOR SELECTING CARRIERS

Significance: Regulatory Program

Legal Authority: 49 USC 1371

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: This action will enable the Department to establish criteria upon which carriers will be selected to serve those markets where the number of U.S. flag carriers is restricted under current bilateral arrangements. The proposal will also examine whether certificate authority should be awarded for a limited duration or on a permanent basis. This rulemaking is significant because it could potentially establish new policy and legal precedent in the selection of carriers for limited designation markets and the duration of the authority which these carriers are awarded.

Timetable:

Action	Date	FR Cite
ANPRM	07/27/82	47 FR 32442
Extension of ANPRM Comment Period	09/24/82	47 FR 42122
ANPRM Comment Period End	09/27/82	
Extended ANPRM Comment Period End	11/29/82	
NPRM	09/23/85	50 FR 38539
NPRM Comment Period End	11/07/85	50 FR 38539
Final Action	05/00/86	

Small Entity: No

Agency Contact: Vance Fort, Deputy Asst. Secretary, Department of Transportation, Office of the Secretary, Policy and International Affairs, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4551

RIN: 2105-AA49

1545. + PUBLIC AVAILABILITY OF INFORMATION

Significance: Agency Priority

Legal Authority: 5 USC 552 Freedom of Information Act

CFR Citation: 49 CFR 7

Legal Deadline: None

Abstract: This involves a revision of DOT's Freedom of Information Act regulations. Specific areas to be addressed include fees to be charged for search and reproduction costs and the establishment of more precise criteria to enable the Department to determine when a waiver of fees is in the public interest. It would also address records relating to those functions of the Civil Aeronautics Board that were transferred to the Department. This rulemaking is significant because of substantial public interest. It is needed because the Freedom of Information Regulations need periodic revision to keep current with changes in case law, policy, and implementation costs.

Timetable:

Action	Date	FR Cite
NPRM	10/12/85	50 FR 42049
NPRM Comment Period End	12/16/85	
Final Action	06/00/86	
Final Action Effective	07/00/86	

Small Entity: No

Additional Information: The regulations were last revised in 1975 (40 FR 7915). A new revision is currently under development.

Agency Contact: Rebecca H. Lima, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4542

RIN: 2105-AA05

1546. + LIBERALIZATION OF AIR CARRIER CHARTER RULES

Significance: Agency Priority

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1372; 49 USC 1381; 49 USC 1386

CFR Citation: 14 CFR 207; 14 CFR 208; 14 CFR 212; 14 CFR 296; 14 CFR 380

Legal Deadline: None

Abstract: The CAB proposed new charter rules for direct and indirect air carriers. The proposed rules retain the financial protections of existing rules for direct air carriers while eliminating rules restricting the types of groups (such as "affinity" or "single-entity") to whom charters may be sold. The proposal would also retain a security instrument and depository system for indirect air carriers, along with contract rules for public protection. The proposal also highlights depository bank and travel agent responsibilities in handling passenger funds. The proposal replaces one made earlier. DOT is considering what action should be taken.

Timetable:

Action	Date	FR Cite
NPRM (EDR-439/SPDR-86, Docket 40336)	02/19/82	47 FR 7443
NPRM Comment Period End	04/20/82	
Reply Comment Period End	05/10/82	
NPRM	04/12/83	48 FR 15639
NPRM (EDR-456/SPDR-88, Docket 40336)	04/12/83	48 FR 15639
NPRM Comment Period End	06/13/83	
Reply Comment Period End	06/28/83	

Next Action Undetermined

Small Entity: Yes

Agency Contact: Tim Kelly, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 755-2228

RIN: 2105-AA41

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1547. + SMOKING ABOARD AIRCRAFT; NOTICE TO PASSENGERS

Significance: Agency Priority

Legal Authority: 49 USC 1324; 49 USC 1374; 49 USC 1377; 49 USC 1381; 49 USC 1386

CFR Citation: 14 CFR 252; 14 CFR 253

Legal Deadline: None

Abstract: This rule would inform passengers of their right to a seat in non-smoking section of an aircraft by one of two proposed alternatives. The first would require airlines to include a prescribed notice on or with their tickets. The second would include smoking in the list of subjects incorporated by reference in the contract of carriage, which would inform passengers that additional information may be obtained from the place of ticketing.

Timetable:

Action	Date	FR Cite
NPRM (EDR-449, Docket 41009)	11/19/82	47 FR 52190
NPRM Comment Period End	12/20/82	

Next Action Undetermined

Small Entity: Yes

Agency Contact: Tim Kelly, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 755-2229

RIN: 2105-AA72

1548. TITLE VI CIVIL RIGHTS REGULATION

Significance: Nonsignificant

Legal Authority: 42 USC 2000d-4

CFR Citation: 49 CFR 21

Legal Deadline: None

Abstract: In 1981, the Department proposed a consolidation and expansion of its existing Title VI regulation (49 CFR Part 21). Few comments were received on this NPRM, and a final regulation was never published. The Department reviewed the existing regulation to determine if changes were needed. It was concluded that the Department can continue to enforce Title VI appropriately through the existing regulation. Consequently the Department does not anticipate further rulemaking action, and intends to withdraw the NPRM.

Timetable:

Action	Date	FR Cite
NPRM	01/19/81	46 FR 5588
NPRM Comment Period End	04/20/81	
To be withdrawn	07/31/86	

Small Entity: No

Additional Information: NPRM published in the Federal Register January 19, 1981 (46 FR 5588). Comment period closed April 20, 1981. No further action is anticipated on this NPRM.

Analysis: Regulatory Evaluation 01/19/81

Agency Contact: Dorsey Thomas, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4754

RIN: 2105-AA02

1549. MINORITY BUSINESS ENTERPRISE PROGRAM (DIRECT CONTRACTING)

Significance: Nonsignificant

Legal Authority: EO 11625; EO 12138; 45 USC 803; PL 95-507

CFR Citation: 49 CFR 23

Legal Deadline: None

Abstract: As part of the NPRM that proposed its minority business program rule, (49 CFR Part 23), the Department proposed rules concerning minority business involvement in direct DOT procurement. However, because of the program established by Public Law 95-507, these proposed rules became unnecessary, and were never finalized. That program provides for subcontracting plans and goals in certain direct Federal contracts as well as for disadvantaged business set-asides under the Small Business Administration 8(a) program. The Department intends to withdraw this proposal.

Timetable:

Action	Date	FR Cite
NPRM	05/17/79	44 FR 28926
NPRM Comment Period End	07/16/79	
Final Action concerning financial assistance programs	03/31/80	45 FR 21172
Withdraw Proposed Rule	04/15/86	

Small Entity: No

Additional Information: The Department published a final rule concerning its financial assistance programs on March 31, 1980 (45 FR 21172). The Department has concluded that further rulemaking in the direct contracting field is unnecessary at this time, and intends to withdraw this proposed rule.

Analysis: Regulatory Evaluation 05/17/79

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4723

RIN: 2105-AA03

1550. CONSOLIDATION OF TRANSPORTATION GRANTS TO U.S. TERRITORIES

Significance: Nonsignificant

Legal Authority: PL 95-134, Title V

CFR Citation: 49 CFR 29

Legal Deadline: None

Abstract: The regulation would comply with Title V of Pub. L. 95-134, which permits departments and agencies to consolidate grant programs, reduce reporting requirements, and waive local matching fund requirements.

Timetable:

Action	Date	FR Cite
NPRM	01/08/79	44 FR 1765

Next Action Undetermined

Small Entity: No

Agency Contact: Jack Bennett, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4455

RIN: 2105-AA08

1551. NONDISCRIMINATION ON THE BASIS OF AGE IN DOT FINANCIAL ASSISTANCE PROGRAMS

Significance: Nonsignificant

Legal Authority: PL 94-135, Title III

CFR Citation: 29 CFR 1691

Legal Deadline: None

Abstract: This regulation would prohibit age discrimination by recipients of DOT financial assistance programs. Few comments were received on the NPRM. The Department intends to publish a final rule later this year.

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Timetable:

Action	Date	FR Cite
NPRM	10/22/79	44 FR 60946

Next Action Undetermined

Small Entity: No

Agency Contact: Joseph Austin, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4754

RIN: 2105-AA09

1552. MINORITY BUSINESS ENTERPRISE PROGRAM (FINANCIAL ASSISTANCE PROGRAMS); COUNTING CREDIT FOR SUPPLIERS AND OTHER SERVICE PROVIDERS

Significance: Nonsignificant

Legal Authority: 42 USC 2000d; 49 USC 1730; 45 USC 906; 49 USC 1615; PL 97-424, Sec 105(f), Surface Transp. Assist. Act of 1982

CFR Citation: 49 CFR 27.47(e)(f)

Legal Deadline: None

Abstract: The current DOT MBE rule provides that recipients and contractors may receive only 20 percent credit for the cost of goods purchased from MBE suppliers who do not manufacture the goods. The Department intends to propose a regulation to correct the perceived inequities resulting from this approach. The Department published an NPRM on this rule October 2, 1985. The Department is now reviewing the comments.

Timetable:

Action	Date	FR Cite
NPRM	10/03/85	50 FR 40422
Final Action	04/15/86	

Small Entity: No

Agency Contact: Robert C. Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4723

RIN: 2105-AA20

1553. AIRLINE TIME AND MILEAGE GUIDES

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: The DOT currently prohibits fares or rates based upon units of time. This rule would remove these restrictions.

Timetable:

Action	Date	FR Cite
NPRM (EDR-448, Docket 41034)	10/27/82	47 FR 47599

Next Action Undetermined

Small Entity: No

Agency Contact: Thomas Moore, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 472-6573

RIN: 2105-AA39

1554. DIRECT AIR CARRIER RESPONSIBILITY FOR RETURNING STRANDED CHARTER PASSENGERS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371

CFR Citation: 14 CFR 207; 14 CFR 208

Legal Deadline: None

Abstract: This rule would make direct air carriers responsible for returning charter passengers stranded by strikes or other interruptions of their services by eliminating the force majeure clause from charter contracts. However, the Department is considering a comprehensive proposal (RIN 2105-AA41 in this agenda) to revise and simplify air charter rules. The Department's final action in this proceeding will be consistent with the comprehensive review of the charter rule.

Timetable:

Action	Date	FR Cite
NPRM	07/11/80	45 FR 46812
NPRM (EDR-405, Docket 37169)	07/11/80	45 FR 46812
NPRM Comment Period End	09/25/80	
Reply Comment Period End	10/10/80	
Final Action	04/00/86	

Small Entity: No

Agency Contact: Tim Kelly, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 755-2229

RIN: 2105-AA40

1555. ZONES FOR AIRLINE MAIL RATES

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1376; 49 USC 1551(b)(1)(D)

CFR Citation: 14 CFR 233, (Proposed)

Legal Deadline: None

Abstract: This proposed rule would end the current practice of prescribing fixed rates for the transportation of mail by air, and in its place establish zones for each category of mail. Each zone would be defined by maximum and minimum rates prescribed by DOT, and airlines would be free to contract with the Postal Service for the carriage of mail at any price within the zone. The rule is now moot with regard to domestic mail rates except in Alaska.

Timetable:

Action	Date	FR Cite
NPRM	09/07/79	44 FR 52246
NPRM (EDR-387/PDR-68, Docket 36497)	09/07/79	44 FR 52246
Supplemental NPRM (EDR-387C/PDR-68C)	12/18/80	45 FR 83510
Comment Period End	02/17/81	
Supp NPRM	12/15/85	
Final Action	07/31/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Lawrence Myers (202) 426-5621.

Agency Contact: Lawrence Myers, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-7419

RIN: 2105-AA44

1556. AIR TRAVELERS: AGE DISCRIMINATION

Significance: Nonsignificant

Legal Authority: 42 USC 6102

CFR Citation: 14 CFR 376, (Proposed)

Legal Deadline: None

Abstract: This rule will prohibit discrimination against air travelers on the basis of age and implement the Age Discrimination Act of 1975. A final rule was adopted by the CAB on April 10, 1980, and was forwarded to the Secretary of HHS for approval, as required by the Age Discrimination Act.

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The rule was approved by HHS on July 13, 1984, with changes. However, these changes have not been incorporated. DOT is considering combining this rulemaking with a broader DOT age discrimination rule on which work is now under way.

Timetable:

Action	Date	FR Cite
NPRM (SPDR-76, Docket 36630)	09/28/79	44 FR 56363
Final Rule adopted by the Board	04/16/80	
HHS approval. Final Rule with changes	07/13/84	
Next Action Undetermined		

Small Entity: No

Agency Contact: Robert Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4723

RIN: 2105-AA45

1557. POLICY STATEMENT ON AIRLINE PREEMPTION

Significance: Nonsignificant

Legal Authority: 49 USC 1305

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: This rule will set out Department policies for regulation of the rates, routes, and services of airlines that have interstate authority. The CAB concluded that under section 105 of the Federal Aviation Act of 1958 it, not the States, was responsible for economic regulation (or deregulation, as the case may be) of all the routes, rates, or services of any airline holding either (i) a certificate of public convenience and necessity to provide interstate air transportation, or (ii) an exemption under section 416 of the Act from the requirement for such a certificate.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/15/79	44 FR 9953
Interim Rule (PS-83, Docket 34664)	02/15/79	44 FR 9948
Request for comments on Interim Rule (PSDR-56, Docket 34664)	02/15/79	44 FR 9953
Comment Period End	04/16/79	
Final Action	03/00/87	

Small Entity: Yes

Agency Contact: Lawrence Myers, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 472-5621

RIN: 2105-AA46

1558. INSURANCE FOR ON-DEMAND AIR TAXI OPERATORS AND CANADIAN AIR TAXIS

Significance: Nonsignificant

Legal Authority: PL 95-504; 49 USC 1371; 49 USC 1374; 49 USC 1386

CFR Citation: 14 CFR 206; 14 CFR 298

Legal Deadline: None

Abstract: This rule would set the minimum per-person aircraft accident liability insurance limits for U.S. and Canadian on-demand air taxi operators at $150,000, instead of at $300,000 as it is for other air carriers. The NPRM further includes alternative proposals to set the per-person limit at $75,000 or $100,000 or to eliminate all minimum amounts, requiring a public notice instead. Other rules for insurance coverage for these carriers would be as in 14 CFR Part 205, including the prohibition on safety-related exclusions. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM (EDR-395, Docket 37531)	02/04/80	45 FR 7566
NPRM (EDR-395B, Docket 37531)	10/27/81	46 FR 52585
NPRM Comment Period End	12/28/81	
Reply Comment Period End	01/18/82	
NPRM (EDR-395C, Docket 37531)	03/10/83	48 FR 10073
Comment Period End	05/17/83	
Final Action	04/30/86	

Small Entity: Yes

Agency Contact: George Wellington, Chief, Continuing Licenses, Branch, Licensing Division, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 755-3808

RIN: 2105-AA47

1559. NAVIGATION OF FOREIGN CIVIL AIRCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1372; 49 USC 1508

CFR Citation: 14 CFR 375

Legal Deadline: None

Abstract: The CAB proposed to simplify and clarify its rules governing the navigation of foreign aircraft that are not engaged in foreign air transportation. The proposed rule would delete outdated provisions and conform the language of the rule to FAA regulations. In addition, the rule would expand the definition of foreign and civil aircraft to include U.S. registered aircraft owned by non U.S. citizens and would revise the application procedures for foreign aircraft permits to expedite their processing. The Department is now considering what action to take.

Timetable:

Action	Date	FR Cite
NPRM	10/25/84	49 FR 42948
Extension of comment period (SPDR-91A)	12/13/84	49 FR 48659
NPRM Comment Period End	12/26/84	
Final Action	04/30/86	

Small Entity: No

Agency Contact: Teresa A. Smith, Chief, Discrete Operations Branch, Licensing Division, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 755-3808

RIN: 2105-AA85

1560. NONDISCRIMINATION IN FEDERALLY-ASSISTED AVIATION ECONOMICS RELATED PROGRAMS OF DOT

Significance: Nonsignificant

Legal Authority: 42 USC 2000d-1

CFR Citation: 14 CFR 379

Legal Deadline: None

Abstract: The CAB reviewed its rules that implement Title VI of the Civil Rights Act of 1964, in response to suggestions from the Department of Justice. An NPRM was approved by the Board on June 15, 1982, and was forwarded to the Justice Department for review in accordance with Executive Order 12250. This regulation and its relationship to the DOT Title VI regulation (49 CFR Part 21) are now under review in the Department.

Timetable:

Action	Date	FR Cite
NPRM approved by Board	06/15/82	
Next Action Undetermined		

Small Entity: No

Additional Information: The Justice Department is reviewing the NPRM.

Agency Contact: Robert Ashby, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4723

RIN: 2105-AA66

1561. EFFECT OF EXPIRATION OF A BILATERAL ON FOREIGN AIR CARRIER AUTHORITY

Significance: Nonsignificant

Legal Authority: 49 USC 1159b; 49 USC 1324; 49 USC 1372; 49 USC 1386; 49 USC 1481; 49 USC 1502; 5 USC 558; 5 USC 559

CFR Citation: 14 CFR 377

Legal Deadline: None

Abstract: In the past, the CAB had held that a foreign air carrier's permit or exemption authority continues after the underlying bilateral Service Agreement expired, by virtue of section 558(c) of the Administrative Procedure Act. This rule would reverse that policy in order to ensure equal competitive opportunities for U.S. carriers. This rulemaking is significant because it involves substantial public interest. It affects the relationship between U.S. and foreign carriers.

Timetable:

Action	Date	FR Cite
NPRM (SPDR-89 and SPDR-89A, Docket 41497)	06/03/83	48 FR 24923
NPRM Comment Period End	08/02/83	
Final Action	03/31/86	

Small Entity: No

Agency Contact: Richard M. Loughlin, Chief, Licensing Division, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Room 10105, Washington, DC 20590, 202 755-3808

RIN: 2105-AA68

1562. JOINT TARIFF FILING BY FOREIGN AIR FREIGHT FORWARDERS

Significance: Nonsignificant

Legal Authority: 49 USC 1373; 49 USC 1386

CFR Citation: 14 CFR 296; 14 CFR 221

Legal Deadline: None

Abstract: This rule would permit indirect cargo air carriers to participate in joint tariffs filed by direct air carriers and direct foreign air carriers for the foreign air transportation of cargo. The rule would require that advance notice be given to the shipper that the shipment will be interlined, and that the shipment is not otherwise consolidated for rating purposes. This rule would simply codify an existing exemption order. CAB Order 82-12-24.

Timetable:

Action	Date	FR Cite
Final Action	06/01/86	

Small Entity: No

Agency Contact: Lawrence Myers, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 472-5621

RIN: 2105-AA69

1563. IMPLEMENTATION OF STATUTE REQUIRING INTEREST ON SUBSIDY CLAIMS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1376; 49 USC 1389; PL 97-369

CFR Citation: 14 CFR 326, (Proposed)

Legal Deadline: None

Abstract: Under section 322 of the FY 1983 Transportation Appropriations Act, interest may be paid on certain "hold-in" subsidy claims by certificated air carriers under sections 419 and 406 of the Act. This rule would set procedures for payment of that interest.

Timetable:

Action	Date	FR Cite
NPRM (EDR-468/PSDR-81, Docket 41683)	09/23/83	48 FR 43343
NPRM Comment Period End	11/07/83	
Reply Comment Period	11/28/83	
Next Action Undetermined		

Small Entity: No

Timetable:

Action	Date	FR Cite
NPRM (PDR-87, Docket 41855)	12/21/83	48 FR 56509
NPRM Comment Period End	02/21/84	
Reply Comment Period End	03/02/84	
Final Action	04/00/86	

Small Entity: No

Agency Contact: Robert Ross, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 472-5586

RIN: 2105-AA77

1564. DIVERSION OF FLIGHTS WITHIN A METROPOLITAN AREA

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1305; 49 USC 1324; 49 USC 1371; 49 USC 1375; 49 USC 1377 to 1379; 49 USC 1381; 49 USC 1382; 49 USC 1386; 49 USC 1461; 49 USC 1481; 49 USC 1482; 49 USC 1502; 49 USC 1504; ...

CFR Citation: 14 CFR 253; 14 CFR 399

Legal Deadline: None

Abstract: The CAB proposed to amend its rules requiring notice of contract terms for domestic travel to require that actual notice be given passengers of terms absolving carriers from any responsibility to transport a passenger to the destination named on the ticket, or to reimburse the passenger for expenses in reaching the airport noted on the ticket when a flight is diverted to another airport in the same metropolitan area. Alternatively, the Board proposed to declare it to be an unfair and deceptive practice to divert a passenger without arranging and paying for alternate transportation to the destination airport named on the passenger's ticket. The Board considered a final rule but did not decide what action to take. DOT is now considering what action to take.

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DOT—OST

Final Rule Stage

Additional Information: ADDITIONAL LEGAL AUTHORITIES: PL 96-354; 5 USC 601.

Agency Contact: Tim Kelly, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW., Washington, DC 20590, 202 755-2220

RIN: 2105-AA78

1565. SIMPLIFIED AVIATION EXEMPTION PROCEDURES

Significance: Nonsignificant

Legal Authority: 49 USC 1371; 49 USC 1372; 49 USC 1386

CFR Citation: 14 CFR 302; 14 CFR 399; 14 CFR 399

Legal Deadline: None

Abstract: The CAB proposed updating its rules applicable to exemption procedures to conform the rules to the changes brought about by the Airline Deregulation Act and the International Air Transportation Competition Act of 1979, and to modernize the evidentiary and service requirements.

Timetable:

Action	Date	FR Cite
NPRM (PDR-66/ODR-27/PSDR-83)	10/05/84	49 FR 39337
Reply comments due	12/04/84	
Final Action	04/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Nancy Trowbridge, (202) 755-3805.

Agency Contact: Gwyneth Jones, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 472-5577

RIN: 2105-AA82

1566. BAGGAGE LIABILITY NOTICES IN INTERNATIONAL AIR TRANSPORTATION

Significance: Nonsignificant

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1371; 49 USC 1372; 49 USC 1373; 49 USC 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221

Legal Deadline: None

Abstract: In response to a petition by Mr. Howard Boros, the CAB proposed to amend the baggage liability notices provided to passengers in foreign air travel. The NPRM proposed to eliminate the disclaimer of liability for fragile and perishable items because that notice is false and misleading.

Timetable:

Action	Date	FR Cite
NPRM (EDR-477, Docket 41690)	12/18/84	49 FR 4911
NPRM Comment Period End	03/18/85	

Next Action Undetermined

Small Entity: No

Agency Contact: Joanne Petrie, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 472-5877

RIN: 2105-AA84

1567. ESSENTIAL AIR SERVICE SUBSIDY FOR THE FREELY ASSOCIATED STATES

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1502; S.J. Res. 296 Compact of Free Association; H. Doc. 98-192 Compact of Free Association

CFR Citation: 14 CFR 211; 14 CFR 272, (Proposed); 14 CFR 302

Legal Deadline: None

Abstract: The Compact of Free Association between the U.S. and the governments of certain territories in the Trust Territory of the Pacific Islands has recently been adopted by the U.S. Congress, and will enter into effect later this year. The Compact of Free Association and related Article IX of the Federal Programs and Services Agreement would make provision for payment of subsidy, if necessary, to maintain essential air transportation to the Federated States of Micronesia and the Marshall Islands when they acquire their new status. The Compact and Agreement also permit the Department under certain conditions to pay subsidy to Freely Associated States air carriers and to authorize these carriers to carry local air traffic between Guam, the Commonwealth of the Northern Mariana Islands, and Honolulu, Hawaii. This rule would establish the requirements and procedures for implementing these provisions.

Timetable:

Action	Date	FR Cite
NPRM (EDR-478/PDR-89, Docket 42721)	01/02/85	50 FR 96
NPRM Comment Period End	04/04/85	
Reply to Comments due	04/25/85	
Final Action	06/00/86	

Small Entity: No

Agency Contact: Peter Sakwarzkopf, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 472-5621

RIN: 2105-AA86

1568. SIMPLIFIED AIRLINE COUNTER SIGN NOTICES

Significance: Nonsignificant

Legal Authority: 49 USC 1301; 49 USC 1302; 49 USC 1384; 49 USC 1371 to 1374; 49 USC 1381; 49 USC 1386; 49 USC 1481; 49 USC 1482

CFR Citation: 14 CFR 221; 14 CFR 250; 14 CFR 256

Legal Deadline: None

Abstract: The American Association of Airport Executives, the Airport Operators Council International and the Air Transport Association of America petitioned the CAB to simplify its countersign requirements. Presently, airlines are required to display four different consumer protection notices on their ticket counters. The petitioners alleged that the current notices are hard to read and, therefore, do not provide much notice to passengers. They proposed replacing the four notices with one simplified countersign. The CAB adopted an NPRM that proposed a number of alternatives, such as a long and/or short notice, where the notices would be required to be posted and whether a smoking notice should be included. DOT is now considering what action to take in response to the notice and comments filed.

Timetable:

Action	Date	FR Cite
NPRM (EDR-474, Docket 41971)	08/01/84	49 FR 30742
NPRM Comment Period End	09/17/84	
Reply Comment Period End	10/02/84	

DOT—OST

Final Rule Stage

Next Action Undetermined

Small Entity: Yes

Agency Contact: Tim Kelly, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 755-2220

RIN: 2105-AA88

DEPARTMENT OF TRANSPORTATION (DOT)
Office of the Secretary (OST)

Completed Actions

1569. + SHARING OF SINGLE AIR CARRIER DESIGNATOR CODES

Significance: Regulatory Program

Legal Authority: 49 USC 1302; 49 USC 1324; 49 USC 1981

CFR Citation: 14 CFR 399

Legal Deadline: None

Abstract: The CAB proposed adding a policy statement that it would regard it as an unfair and deceptive practice and an unfair method of competition if two or more carriers share a single carrier designator code without giving reasonable notice to consumers of the identity of carriers actually providing service under the shared code and the nature of the relationship between carriers involved. The Board considered a final rule but took no final action. DOT issued a final policy statement on September 23, 1985. The Department also noted that it would continue to study the competitive ramifications of code sharing while the policy addressed the consumer deception question. This rulemaking is significant because consumers may be at a disadvantage without full disclosure of the identity of carriers providing services for all parts of the trip.

Timetable:

Action	Date	FR Cite
NPRM PSDR-85, Docket 42199	10/31/84	49 FR 43709
Final Action issued final policy statement	09/23/85	50 FR 38508
Final Action Effective	12/23/85	50 FR 38508

Small Entity: No

Agency Contact: Bob Young, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4731

RIN: 2105-AA90

1570. + ALLOCATION OF "SLOTS" AT WASHINGTON NATIONAL AIRPORT

Significance: Agency Priority

Legal Authority: 49 USC 1303; 49 USC 1347; 49 USC 1348(a); 49 USC 1354(a); Act for the Administration of Washington Natl Airport, Sec 2

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: Proposed amendment to establish procedures for allocating the hourly number of instrument flight operations (takeoffs and landings) or "slots" that may be reserved at Washington National Airport (WNA) in accordance with the FAA's High Density Rule.

Timetable:

Action	Date	FR Cite
NPRM	10/27/80	45 FR 71236
Emergency Regulation	11/03/80	45 FR 72637
Comment Period extended	01/05/81	46 FR 932
Public Hearing	02/03/81	
Withdrawn	12/20/85	50 FR 52199
To be withdrawn	00/00/00	

Small Entity: No

Additional Information: The CAB in conjunction with the FAA commissioned the Polinomics Research Laboratories, Inc., to research the allocation problem. A report of its findings has been prepared. Another report by Econ, Inc., analyzing a slot allocation auction procedure has been prepared under an FAA contract. The emergency regulation was published in the Federal Register on November 3, 1980 (45 FR 72637). The NPRM for a long term solution to the slot allocation problem was issued on October 27, 1980 (45 FR 71236). A public hearing was held on February 13, 1981, and the comment period was extended until February 26, 1981 (46 FR 932, January 5, 1981). On June 1, 1984, the FAA issued NPRM 84-6, dealing with slot transfers among carriers, and NPRM 84-7 proposing a slot allocation method for use if a scheduling committee should fail to allocate slots. These NPRMs are discussed in the FAA portion of the agenda. The withdrawal of this NPRM might be accomplished in conjunction with final action on NPRMs 84-6 and 84-7.

Analysis: Regulatory Impact Analysis

Agency Contact: Harvey Safeer, Department of Transportation, Office of the Secretary, 400 Seventh Street, SW, Washington, DC 20590, 202 426-3331

RIN: 2105-AA00

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DEPARTMENT OF TRANSPORTATION (DOT)

Prerule Stage

U.S. Coast Guard (USCG)

1571. ● + OPERATING A VESSEL WHILE INTOXICATED, RECREATIONAL VESSELS (84-099A)

Significance: Agency Priority

Legal Authority: 46 USC 6105; 46 USC 7101; 46 USC 3306; 46 USC 2302(c)

CFR Citation: 33 CFR 95; 33 CFR 146; 33 CFR 150; 33 CFR 173; 33 CFR 177

Legal Deadline: None

Abstract: Solicits public assessment of the appropriateness of a Federal Standard for determining whether an individual is operating a recreational vessel while intoxicated.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/86	

Small Entity: No

Agency Contact: Captain Stenger, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1531

RIN: 2115-AC24

1572. REVIEW: VESSEL REPORTING REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 46 USC 391a

CFR Citation: 33 CFR 161

Legal Deadline: None

Abstract: These regulations were developed and promulgated pursuant to the Port and Tanker Safety Act. They require vessel owners to report their locations, arrivals and departures when carrying certain hazardous cargoes. The barge industry and certain boat owners in the past have opposed these regulations. These regulations are being reviewed because of their controversy and impact on the barge and towing industry.

Timetable:

Action	Date	FR Cite
Begin Review	04/01/84	
End Review	12/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 12/00/86

Agency Contact: LT Franchini, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 755-1357

RIN: 2115-AB28

1573. REVIEW: LOGBOOK ENTRIES, CARGO VESSELS

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 201; 46 USC 11304

CFR Citation: 46 CFR 97.35

Legal Deadline: None

Abstract: The regulations list requirements for keeping logbooks on Cargo Vessels. This review is part of the Coast Guard's ongoing program to periodically review all regulations for costs and effectiveness.

Timetable:

Action	Date	FR Cite
Begin Review	04/01/84	
End Review	06/00/86	

Small Entity: No

Agency Contact: CDR. W. Tweedie, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-4431

RIN: 2115-AB45

1574. SPECIAL OPERATING REQUIREMENTS, UNINSPECTED VESSELS

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 523p; 46 USC 4104; 46 USC 4105; 46 USC 4302

CFR Citation: 46 CFR 26.03

Legal Deadline: None

Abstract: Contains requirements for action to be taken in emergencies. This review is being conducted in accordance with requirements in the Regulatory Flexibility Act because it affects small entities.

Timetable:

Action	Date	FR Cite
Begin Review	04/01/84	
End Review	05/00/86	

Small Entity: Yes

Agency Contact: CDR R. Tweedie, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-4431

RIN: 2115-AB47

1575. ● INTERVALS FOR INTERNAL EXAMINATION AND HYDROSTATIC TESTING OF PRESSURE VESSEL TYPE CARGO TANKS (85-061)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 38; 46 CFR 151

Legal Deadline: None

Abstract: This rulemaking proposes revising inspection intervals for Pressure Vessel Cargo Tanks. An ANPRM was issued seeking public and industry views on the adequacy of present intervals and suggested intervals.

Timetable:

Action	Date	FR Cite
ANPRM	12/03/85	50 FR 49536
ANPRM Comment Period End	03/03/86	
NPRM	03/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: Lt Potvin, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-4431

RIN: 2115-AC18

DEPARTMENT OF TRANSPORTATION (DOT)

Proposed Rule Stage

U.S. Coast Guard (USCG)

1576. + CALIFORNIA OFFSHORE ROUTING SYSTEM (83-032)

Significance: Regulatory Program

Legal Authority: 33 USC 1223; 33 USC 1224

CFR Citation: 33 CFR 166; 33 CFR 167

Legal Deadline: None

Abstract: Would implement the results of the Port Access Route Study mandated by the Ports and Waterways Safety Act. As a result of the study, the Coast Guard has preliminarily determined that potential conflicts between oil drilling and shipping require creation of a fairway system off the coast of California from the vicinity of San Francisco to Los Angeles/Long Beach and changes to the San Francisco and Santa Barbara channel traffic separation schemes. No structures would be permitted in the fairway.

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	

Small Entity: No

Additional Information: Results of the Port Access Study for California were published in the Federal Register on June 24, 1982 (47 FR 27430) and on October 14, 1982 (47 FR 46043), and on December 5, 1985 (50 FR 49861).

Analysis: Regulatory Impact Analysis

Agency Contact: Mr. C. Young, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 245-0108

RIN: 2115-AB29

1577. + INTERVALS FOR DRYDOCKING AND TAILSHAFT EXAMINATION ON INSPECTED VESSELS (84-024)

Significance: Regulatory Program

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 31; 46 CFR 61; 46 CFR 71; 46 CFR 91; 46 CFR 107; 46 CFR 167; 46 CFR 189; 46 CFR 176

Legal Deadline: None

Abstract: Various Coast Guard regulations specify the intervals for drydocking and tailshaft examinations on inspected vessels. The Coast Guard is considering changing these intervals. The Coast Guard will propose to extend the interval between drydockings, if this can be accomplished without diminishing overall vessel safety, because extension of the interval can result in significant savings to vessel operators. The ANPRM sought information from industry on developing technology. This regulation is significant because it involves important departmental safety policy.

Timetable:

Action	Date	FR Cite
ANPRM	05/04/84	49 FR 19050
NPRM	05/00/86	

Small Entity: Yes

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: Lt Lanto, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-4431

RIN: 2115-AB58

1578. ● + REVISIONS OF THE REGULATIONS ON OUTER CONTINENTAL SHELF ACTIVITIES (84-098)

Significance: Regulatory Program

Legal Authority: 43 USC 1331

CFR Citation: 46 CFR 146; 46 CFR 147; 46 CFR 148; 46 CFR 149

Legal Deadline: None

Abstract: Would modify 33 CFR Subchapter N by extending coverage of workplace safety rules, by modernizing material standards for fixed platforms, by specifying training requirements, and by establishing a self-certification program for the inspection of fixed Outer Continental Shelf (OCS) facilities.

Timetable:

Action	Date	FR Cite
ANPRM	03/07/85	51 FR 9290
Extension of Comment Period to 09/03/85	05/16/85	50 FR 20445
ANPRM Comment Period End	07/03/85	51 FR 9290
NPRM	01/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: CDR Cross, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2307

RIN: 2115-AB74

1579. ● + OPERATING A VESSEL WHILE INTOXICATED, COMMERCIAL VESSELS

Significance: Regulatory Program

Legal Authority: 46 USC 6105; 46 USC 7101; 46 USC 3306; 46 USC 2302(c)

CFR Citation: 46 CFR 4; 46 CFR 5; 46 CFR 35; 46 CFR 78; 46 CFR 97; 46 CFR 109; 46 CFR 167; 46 CFR 185; 46 CFR 196; 46 CFR 197

Legal Deadline: None

Abstract: Proposes (1) to prohibit crewmembers on vessels subject to inspection from performing any duties while intoxicated or within four hours of consuming alcohol, (2) civil penalties for owners, charterers, managing operators, agents, masters or individuals in charge of vessels subject to inspection that allow crewmembers to perform any duties while intoxicated, and (3) to allow personnel licensed, documented or certificated by the Coast Guard to seek rehabilitation prior to being subject to a proceeding to suspend or revoke the license, certificate or document.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Analysis: Regulation Evaluation 05/00/86

Agency Contact: Mr. L. Glass, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-0251

RIN: 2115-AC23

1580. + QUALIFICATIONS OF THE PERSON IN CHARGE OF OIL TRANSFER OPERATIONS, TANKERMAN REQUIREMENTS (79-116)

Significance: Agency Priority

Legal Authority: 46 USC 3703; 46 USC 7317; 46 USC 8703; 46 USC 9101; 46 USC 9102

CFR Citation: 33 CFR 155; 46 CFR 12; 46 CFR 13; 46 CFR 30; 46 CFR 31; 46 CFR 35; 46 CFR 70; 46 CFR 90; 46 CFR 96; 46 CFR 105; 46 CFR 151; 46 CFR 153; 46 CFR 157

Legal Deadline: None

Abstract: Would redefine and establish qualifying criteria for certifying individuals engaged in the carriage and transfer of the various categories of dangerous cargoes in bulk. This is considered significant because of passage of the Port and Tanker Safety Act of 1978 and the fact that the International Convention on the Standards for Training, Certification and Watchkeeping for Seafarers of 1978 entered into force on April 28, 1984. This rulemaking is necessary because

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most pollution incidents are the result of personnel error; consequently, the minimum qualifications of persons involved in handling polluting substances should be specified.

Timetable:

Action	Date	FR Cite
NPRM	12/18/80	45 FR 83266
Begin Public Hearings	01/00/81	
End Public Hearings	02/00/81	
Supplemental NPRM	08/00/86	

Small Entity: Yes

Additional Information: Docket No. CGD 79-116 and 79-116a. Environmental Analysis and Inflationary Impact Statement completed February 1977. Extensive comments were received on the April 25, 1977 NPRM and it was withdrawn on April 30, 1979. NPRM published December 1980 (45 FR 83266 and 45 FR 83290). ADDITIONAL ANALYSIS: Inflationary Impact Statement.

Analysis: Regulatory Evaluation 08/00/86; Environmental Impact Statement 08/00/86

Agency Contact: Mr. C. Heizer, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2241

RIN: 2115-AA03

1581. + SAFETY RULES FOR VESSELS ENGAGED IN CHEMICAL WASTE INCINERATION AT SEA (84-025)

Significance: Agency Priority

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 153

Legal Deadline: None

Abstract: Would establish safety rules for the design of vessels engaged in the incineration of chemical wastes at sea. This regulation is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 09/00/85

Agency Contact: LCDR D. B. Crawford, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1217

RIN: 2115-AB60

1582. + USER FEES FOR COAST GUARD SERVICES (84-026)

Significance: Agency Priority

Legal Authority: 31 USC 9701; 46 USC 3306; 46 USC 3703; 49 USC 108

CFR Citation: 33 CFR 27; 33 CFR 66; 33 CFR 74; 33 CFR 100; 46 CFR 159

Legal Deadline: None

Abstract: This proposal would impose fees for certain Coast Guard services in keeping with the Administration's policy of recovering costs of services provided by the Federal Government to identifiable beneficiaries to the extent practicable. This rulemaking is significant because it will set precedent for a whole range of anticipated Coast Guard initiatives and is likely to create an adverse public reaction. It may also involve substantial cost.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: Mr. J. Kursban, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-3439

RIN: 2115-AB73

1583. + VESSEL BRIDGE-TO-BRIDGE RADIOTELEPHONE COMMUNICATIONS ON THE GREAT LAKES (84-040)

Significance: Agency Priority

Legal Authority: 33 USC 1201; 33 USC 1202; 33 USC 1203; 33 USC 1204; 33 USC 1205; 33 USC 1208; 33 USC 1207; 33 USC 1209

CFR Citation: 33 CFR 26

Legal Deadline: None

Abstract: Recreational boat use of Channel 16, a distress and safety frequency on the Great Lakes, has become so great that commercial vessels have been having difficulty communicating navigational information. The Coast Guard is considering making modifications to the existing radiotelephone requirements.

Timetable:

Action	Date	FR Cite
Request for comments	07/06/84	49 FR 27766

Next Action Undetermined

Small Entity: No

Additional Information: Project is being held in an inactive status pending an exchange of diplomatic notes with Canada.

Agency Contact: LTJG Zacharias, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 245-0186

RIN: 2115-AB89

1584. ● INLAND WATERWAYS NAVIGATION REGULATIONS CONNECTING WATERS FROM LAKE HURON TO LAKE ERIE (85-060)

Significance: Nonsignificant

Legal Authority: 33 USC 1208; 33 USC 1221; 33 USC 1223; 33 USC 1231

CFR Citation: 33 CFR 162

Legal Deadline: None

Abstract: This rulemaking would reduce the number of required call-ins to reduce voice traffic on channel 16.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 10/00/86

Agency Contact: Mr. Powers, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-4958

RIN: 2115-AC17

1585. RECEPTION FACILITIES (78-035)

Significance: Nonsignificant

Legal Authority: 33 USC 1905

CFR Citation: 33 CFR 158

Legal Deadline: None

Abstract: Would require ports and terminals to ensure waste reception facilities are provided to receive vessel oil and chemical wastes.

Timetable:

Action	Date	FR Cite
ANPRM	03/24/83	48 FR 12395
Interim Final Rule	09/09/85	50 FR 36768
NPRM	09/00/86	49 FR 25196

Small Entity: Yes

Additional Information: Docket No. CGD 78-035. Interim final rule published. After a review period a final rule will be issued. See also the entry under Coast Guard Docket Number 85-010 elsewhere in this agenda.

Analysis: Regulatory Evaluation 09/09/85

Agency Contact: LCDR Davison, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-9578

RIN: 2115-AA21

1586. LIQUEFIED NATURAL GAS WATERFRONT FACILITY (78-038)

Significance: Nonsignificant

Legal Authority: 33 USC 1225

CFR Citation: 33 CFR 127

Legal Deadline: None

Abstract: Would establish LNG Waterfront Facility Safety Regulations in accordance with Memorandum of Understanding between USCG and Research and Special Programs Administration.

Timetable:

Action	Date	FR Cite
ANPRM	08/03/78	43 FR 34362
Supplementary ANPRM	03/08/79	44 FR 12693
NPRM	05/00/86	

Small Entity: Yes

Additional Information: Docket No. CGD 78-038.

Analysis: Regulatory Evaluation 09/00/85

Agency Contact: LT Franchini, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-9579

RIN: 2115-AA22

1587. CRANE OPERATOR QUALIFICATIONS AND STANDARDS FOR OFFSHORE CRANE DESIGN INSPECTION, TESTING AND OPERATION (79-059)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306; 46 USC 6101; 46 USC 6301; 49 USC 108

CFR Citation: 33 CFR 140; 33 CFR 143; 33 CFR 149; 46 CFR 107; 46 CFR 108; 46 CFR 109

Legal Deadline: None

Abstract: Would develop required qualifications for crane operators employed on the Outer Continental Shelf and standards for crane design, inspection, and testing.

Timetable:

Action	Date	FR Cite
ANPRM	01/10/80	45 FR 2052
NPRM	09/00/86	

Small Entity: No

Additional Information: Docket No. CGD 79-059.

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: LT. W. Burke, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2307

RIN: 2115-AA34

1588. LAUNCHING DEVICES FOR LIFERAFTS (79-168)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306

CFR Citation: 46 CFR 160; 46 CFR 163

Legal Deadline: None

Abstract: Proposed standards, procedures and tests for approving equipment used to launch inflatable liferafts from vessels and offshore platforms.

Timetable:

Action	Date	FR Cite
NPRM	02/13/86	50 FR 5377
NPRM Comment Period End	05/13/86	
Final Action	02/00/87	

Small Entity: No

Additional Information: Docket No. CGD 79-166.

Analysis: Regulatory Evaluation 08/00/85

Agency Contact: LCDR Riley, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1445

RIN: 2115-AA45

1589. MANEUVERING PERFORMANCE REGULATIONS (80-136)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 1

Legal Deadline: None

Abstract: Would establish requirements to improve ship maneuvering and stopping ability for new tank vessels and possibly all vessels in response to mandates in 46 USC 3703. International Maritime Organization recommendations will be considered.

Timetable:

Action	Date	FR Cite
ANPRM	09/14/81	46 FR 45631
ANPRM	07/17/84	49 FR 28893
NPRM	10/00/86	

Small Entity: No

Additional Information: Docket No. CGD 80-136. Supplemental ANPRM published 7/17/84, 49 FR 28893. This proposal has been inactive pending International Maritime Organization action.

Analysis: Regulatory Evaluation 10/00/86

Agency Contact: Mr. P. Cojeen, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2188

RIN: 2115-AA53

1590. SERVICING INFLATABLE LIFERAFTS (81-010)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: Would allow liferaft servicing in U.S. and foreign ports without Coast Guard Marine Inspectors being present.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Additional Information: Docket No. CGD 81-010.

Analysis: Regulatory Evaluation 09/00/86

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Proposed Rule Stage

Agency Contact: LT Keegan, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1444

RIN: 2115-AA57

1591. GENERAL BRIDGE PERMIT REGULATIONS (81-057)

Significance: Nonsignificant

Legal Authority: 33 USC 401

CFR Citation: 33 CFR 115

Legal Deadline: None

Abstract: Would establish rules for issuing general bridge permits.

Timetable:

Action	Date	FR Cite
NPRM	09/23/82	47 FR 41988
Supplemental NPRM	09/00/86	

Small Entity: No

Additional Information: Docket No. CGD 81-057.

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: Mr. J. Schwartz, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 755-7629

RIN: 2115-AA61

1592. GENERAL REVISION OF 46 CFR 151, BARGES CARRYING CERTAIN BULK DANGEROUS CARGOES (81-062)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 151

Legal Deadline: None

Abstract: Would revise the rules for barges carrying bulk cargoes by clarifying the language, eliminating unnecessary requirements and upgrading some existing requirements.

Timetable:

Action	Date	FR Cite
ANPRM	06/04/84	49 FR 23085
NPRM	12/00/86	

Small Entity: No

Additional Information: Docket No. CGD 81-062.

Analysis: Regulatory Evaluation 12/00/86

Agency Contact: R.M. Query, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1217

RIN: 2115-AA70

1593. TANK VESSELS CARRYING NOXIOUS LIQUID SUBSTANCES IN BULK; POLLUTION PREVENTION AND CONTROL, EQUIPMENT AND OPERATIONAL REQUIREMENTS (81-101)

Significance: Nonsignificant

Legal Authority: 33 USC 1901 et seq.

CFR Citation: 33 CFR 157; 46 CFR 153

Legal Deadline: None

Abstract: Would limit and restrict the discharge of noxious liquid substances made by chemical tankers.

Timetable:

Action	Date	FR Cite
ANPRM	01/13/82	48 FR 1519
NPRM	09/00/86	

Small Entity: No

Additional Information: Docket No. CGD 81-101.

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: Mr. R.M. Query, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1217

RIN: 2115-AA73

1594. FAIRWAYS ON THE SOUTHERN COAST OF ALASKA (81-103)

Significance: Nonsignificant

Legal Authority: 33 USC 1223; 33 USC 1224

CFR Citation: 33 CFR 166

Legal Deadline: None

Abstract: Would establish fairways on the southern coast of Alaska implementing the result of a Port Access Route Study.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Additional Information: Docket No. CGD 81-103.

Analysis: Regulatory Evaluation 05/00/86

Agency Contact: LTJG D. Reese, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20590, 202 245-0186

RIN: 2115-AA74

1595. FEES FOR NUMBERING OF UNDOCUMENTED VESSELS (82-001)

Significance: Nonsignificant

Legal Authority: 46 USC 1472

CFR Citation: 33 CFR 173

Legal Deadline: None

Abstract: Would raise fees for the numbering of undocumented vessels in areas where the Coast Guard is the issuing authority.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. CGD 82-001.

Agency Contact: Mr. C. Perry, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-0106

RIN: 2115-AA75

1596. OSV SUBCHAPTER (82-004)

Significance: Nonsignificant

Legal Authority: 46 USC 3301(3); 46 USC 3305; 46 USC 3306

CFR Citation: 46 CFR 125 to 136

Legal Deadline: None

Abstract: Create new 46 CFR subchapter governing Offshore Supply Vessels.

Timetable:

Action	Date	FR Cite
ANPRM	02/14/83	48 FR 6636
NPRM	06/00/86	

Small Entity: No

Additional Information: Docket No. CGD 82-004.

Analysis: Regulatory Evaluation 01/00/86

Agency Contact: Lt. B. Russell, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2189

RIN: 2115-AA77

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Proposed Rule Stage

1597. SUBCHAPTER "D" & "O" BARGES - INTERNAL INSPECTIONS (82-005)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3307

CFR Citation: 46 CFR 151

Legal Deadline: None

Abstract: Change Subchapter "O" Regulation on internal inspection to coincide with drydock interval.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Additional Information: Docket No. CGD 82-005.

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: Lt. Potvin, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-4431

RIN: 2115-AA78

1598. CASUALTY REPORTING REQUIREMENTS FOR RECREATIONAL BOATS (82-015)

Significance: Nonsignificant

Legal Authority: 46 USC 1486

CFR Citation: 33 CFR 173; 33 CFR 174

Legal Deadline: None

Abstract: Amend casualty and accident reporting requirements for operators of recreational boats involved in boating accidents.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. CGD 82-015.

Agency Contact: Mr. C. Perry, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-0106

RIN: 2115-AA82

1599. ● CASUALTY AND ACCIDENT REPORTING THRESHOLDS (82-015)

Significance: Nonsignificant

Legal Authority: 46 USC 1467; 46 USC 1488

CFR Citation: 33 CFR 173; 33 CFR 174

Legal Deadline: None

Abstract: Would raise the threshold for requiring an accident report from $200 to $500.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Yes

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: Mr. Colihan, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1065

RIN: 2115-AB94

1600. GENERAL REVISIONS OF POLLUTION PREVENTION REGULATIONS FOR TANKERS (82-030)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 2104; 46 USC 3703

CFR Citation: 33 CFR 157

Legal Deadline: None

Abstract: Amend pollution regulations to clarify, correct minor errors, and incorporate policy decisions and international interpretations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Additional Information: This project is related to CGD 82-028, Segregated Ballast, Dedicated Clean Ballast, and Crude Oil Washing. Any further action on this project must wait until the rulemaking process for CGD 82-028 is completed because any policy decisions that result will be applicable to this rulemaking.

Analysis: Regulatory Evaluation 06/00/86

Agency Contact: LCDR Lantz, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-4431

RIN: 2115-AA88

1601. HAND HELD FLASHLIGHTS. INDEPENDENT INSPECTION AGENCIES (82-042)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 161

Legal Deadline: None

Abstract: Would remove two-cell flashlight requirements, and revise material and testing requirements in flashlight approval specification.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: The Coast Guard is working toward development of an industry consensus standard. The proposal will be terminated if this effort is successful.

Agency Contact: Mr. T. Noras, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2286

RIN: 2115-AA91

1602. AIDS TO NAVIGATION ON OUTER CONTINENTAL SHELF (82-054)

Significance: Nonsignificant

Legal Authority: 14 USC 2; 14 USC 83; 14 USC 85; 14 USC 92; 14 USC 633

CFR Citation: 33 CFR 67

Legal Deadline: None

Abstract: Would allow manufacturer certification of lights for marking artificial islands and fixed structures.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Additional Information: Docket No. 82-054.

Analysis: Regulatory Evaluation 09/00/86

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Agency Contact: LT Hayden, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1973

RIN: 2115-AA92

1603. NATURAL VENTILATION REGULATIONS FOR SMALL BOATS (82-056)

Significance: Nonsignificant

Legal Authority: 46 USC 1454

CFR Citation: 33 CFR 183

Legal Deadline: None

Abstract: Would replace existing regulations with voluntary industry standard.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. 82-056.

Agency Contact: Mr. A. Colihan, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-4927

RIN: 2115-AA94

1604. SAFETY STANDARDS FOR NEW SELF PROPELLED VESSELS CARRYING BULK GAS (82-058)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 154

Legal Deadline: None

Abstract: Would update and revise standards for self-propelled vessels carrying bulk liquefied gases.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Additional Information: Docket No. 82-058.

Analysis: Regulatory Evaluation 06/00/86

Agency Contact: Mr. Wybenga, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1217

RIN: 2115-AA95

1605. VISUAL DISTRESS SIGNALS-STROBE LIGHTS (82-084)

Significance: Nonsignificant

Legal Authority: 46 USC 1454

CFR Citation: 33 CFR 175

Legal Deadline: None

Abstract: Would add strobe lights as an optional carriage item for inland rule waters.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. CGD 82-084.

Agency Contact: Mr. C. Perry, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1089

RIN: 2115-AB16

1606. NAUTICAL SCHOOLS: IMPLEMENTING THE MARITIME EDUCATIONAL TRAINING ACT OF 1980 (82-092)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 12959(e)

CFR Citation: 46 CFR 166; 46 CFR 167; 46 CFR 168

Legal Deadline: None

Abstract: Would update authority cites for Nautical Schools Inspection Regulations (46 CFR Subchapter "R") and update certain parts to conform with current inspection policies. Nautical School vessels operated by the United States (formerly called "Public Nautical School Ships") between 15 and 300 gross tons would be subject to inspection for the first time.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Additional Information: Docket No. CGD 82-092.

Analysis: Regulatory Evaluation 06/00/86

Agency Contact: LCDR Parsons, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-4431

RIN: 2115-AB21

1607. REVOCATION OF MILITARY EXPLOSIVES REGULATIONS (83-006)

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1806; 49 USC 1807; 49 USC 1808; 46 USC 170

CFR Citation: 46 CFR 146

Legal Deadline: None

Abstract: Would revoke 46 CFR concurrently with the Research and Special Programs Administration's rulemaking and revise other sections in Title 46 accordingly.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. CGD 83-006. To be published concurrently with Materials Transportation Board rulemaking.

Analysis: Regulatory Evaluation 00/00/00

Agency Contact: Mr. F. Thompson, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1577

RIN: 2115-AB33

1608. CARRIAGE AND USE OF LIQUEFIED OR NON-LIQUEFIED FLAMMABLE GAS AS COOKING FUELS ON VESSELS CARRYING PASSENGERS FOR HIRE (83-013)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306; 46 USC 4104; 46 USC 4105; 46 USC 4302

CFR Citation: 46 CFR 25; 46 CFR 56; 46 CFR 147; 46 CFR 184

Legal Deadline: None

Abstract: Proposed requirements for the use of liquefied flammable gas as cooking fuel.

Timetable:

Action	Date	FR Cite
NPRM	03/22/84	49 FR 10685
Supplemental NPRM	04/00/86	

Small Entity: Yes

Additional Information: Docket No. CGD 83-013.

Analysis: Regulatory Evaluation 03/22/84 (49 FR 10685)

Agency Contact: LCDR Parsons, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 755-1011

RIN: 2115-AB35

1609. REASSESSMENT OF COAST GUARD FIRE PROTECTION REGULATIONS TO INCORPORATE SOLAS 1974 (83-026)

Significance: Nonsignificant

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306; 46 USC 3503; 46 USC 3703

CFR Citation: 46 CFR Subchapter D; 46 CFR Subchapter H; 46 CFR Subchapter I

Legal Deadline: None

Abstract: Would bring Coast Guard regulations into agreement with the international requirements of SOLAS 1974 and its amendments.

Timetable:

Action	Date	FR Cite
ANPRM	10/01/84	49 FR 38672
ANPRM Comment Period End	11/30/84	
NPRM	05/00/86	

Small Entity: No

Additional Information: Docket No. CGD 83-026. Incorporates part of docket CGD 81-090.

Analysis: Regulatory Evaluation 05/00/86

Agency Contact: Mr. D. Kerlin, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2197

RIN: 2115-AB36

1610. REASSESSMENT OF COAST GUARD MARINE ENGINEERING REGULATIONS -- INCORPORATION OF SOLAS 74 AMENDMENTS (83-043)

Significance: Nonsignificant

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306

CFR Citation: 46 CFR Subchapter F

Legal Deadline: None

Abstract: Would effect a general reassessment of Subchapter F and incorporation of international requirements becoming effective 1 Sept. 1984.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Additional Information: Docket No. CGD 83-043.

Analysis: Regulatory Evaluation 06/00/86

Agency Contact: LCDR Koski, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2160

RIN: 2115-AB41

1611. MOBILE OFFSHORE DRILLING UNIT REGULATIONS REVISION (83-071A)

Significance: Nonsignificant

Legal Authority: 46 USC 86; 46 USC 2104; 46 USC 2303; 46 USC 3305; 46 USC 3306; 46 USC 3311; 46 USC 3312; 46 USC 3318

CFR Citation: 46 CFR 56; 46 CFR 58; 46 CFR 107; 46 CFR 108; 46 CFR 109; 46 CFR 111; 46 CFR 174

Legal Deadline: None

Abstract: This project would revise the regulations in subchapter I-A to clarify them, bring them up to date, delete some unnecessary requirements, and incorporate the recommendations developed from major casualties. These changes are largely editorial in nature.

Timetable:

Action	Date	FR Cite
ANPRM	01/25/85	50 FR 11741
Extension of Comment Period	05/16/85	50 FR 20461
ANPRM Comment Period End	09/23/85	
NPRM	09/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: LCDR Dupree, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2367

RIN: 2115-AB88

1612. MARINE PORTABLE TANKS (84-043)

Significance: Nonsignificant

Legal Authority: 49 USC 1801

CFR Citation: 46 CFR 64

Legal Deadline: None

Abstract: This proposal would discontinue the Coast Guard specification for Marine Portable Tanks. In their place, the Coast Guard would recognize tanks approved by the Department of Transportation, Research and Special Programs Administration as Intermodal Tanks.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: Mr. F. Thompson, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1577

RIN: 2115-AB69

1613. SHIPS' STORES AND SUPPLIES OF HAZARDOUS MATERIALS (84-044)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 147

Legal Deadline: None

Abstract: Would apply rules for hazardous materials used as ships' stores to offshore structures as well as vessels. Also would reduce the burden on shippers and manufacturers by deleting the requirement for separate Coast Guard classification of Ships' Stores and adopting the classification and identification provisions of the Research and Special Programs Administration found in 49 CFR Subchapter C which are already required for the transportation of hazardous materials.

Timetable:

Action	Date	FR Cite
ANPRM	10/01/84	49 FR 38672
NPRM	06/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 06/00/86

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Agency Contact: Mr. F. Wybenga, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1577

RIN: 2115-AB65

1614. EXCEPTION OF UNMANNED BARGES FROM COLREGS VERTICAL SECTOR LIGHT REQUIREMENTS (84-049)

Significance: Nonsignificant

Legal Authority: 33 USC 160; 33 USC 258; 33 USC 322

CFR Citation: 33 CFR 81

Legal Deadline: None

Abstract: Annex I of the International Regulations for Preventing Collisions at Sea, 1972. (COLREGS), contains technical requirements for navigation lights on vessels which proceed beyond the COLREGS demarcation lines. Lights on unmanned barges may not be able to meet the vertical sector requirements due to lack of electricity producing equipment on board these vessels. The Coast Guard is considering the need to exempt unmanned barges from the requirements. The Coast Guard is addressing this matter with the International Maritime Organization in March 1986 to get an international consensus concerning vertical sector requirements for unmanned barges.

Timetable:

Action	Date	FR Cite
Request for Comments	07/06/84	49 FR 27786

Next Action Undetermined

Small Entity: No

Agency Contact: LCDR C. Bell, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 245-0108

RIN: 2115-AB90

1615. OIL-WATER INTERFACE DETECTORS (CGD 84-052)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 162

Legal Deadline: None

Abstract: This project would propose a new specification for approval of oil-water interface detectors presently required by Annex 1 of MARPOL 73/78.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 06/00/86

Agency Contact: Ms. L. Martinez, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1444

RIN: 2115-AB66

1616. LICENSING OF PILOTS-MANNING OF VESSELS-PILOTS (84-060)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306; 46 USC 7101; 46 USC 7109; 46 USC 7112; 46 USC 8101; 46 USC 8502

CFR Citation: 46 CFR 157; 46 CFR 10.05-39

Legal Deadline: None

Abstract: This proposal would define "pilotage waters" and "coastwise seagoing vessel." In addition, it would increase the gross tonnage authorization of licensed officers to serve as pilot on self-propelled coastwise seagoing vessels from 1,000 gross tons to 1,600 gross tons.

Timetable:

Action	Date	FR Cite
NPRM	06/24/85	50 FR 26117
Supplemental NPRM	09/00/86	

Small Entity: No

Additional Information: This proposal has been split from a previously published NPRM identified by the same title with Coast Guard Docket number 77-084 and RIN 2115-AA04.

Analysis: Regulatory Evaluation 06/27/85 (50 FR 26117)

Agency Contact: Mr. J. Hartke, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2985

RIN: 2115-AB67

1617. PERSONAL FLOTATION DEVICE COMPONENTS (84-068)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a); 46 USC 4102; 46 USC 4302

CFR Citation: 46 CFR 164; 46 CFR 160

Legal Deadline: None

Abstract: This project would add state-of-the-art synthetic materials as standard components, add performance requirements for nonstandard components, and upgrade out-dated requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: Mr. S. Wehr, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1444

RIN: 2115-AB70

1618. LIFESAVING EQUIPMENT—IMPLEMENTATION OF 1983 AMENDMENTS TO SOLAS 1974 (84-069)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 33 CFR 175; 46 CFR 31; 46 CFR 33; 46 CFR 35; 46 CFR 71; 46 CFR 75; 46 CFR 78; 46 CFR 91; 46 CFR 94; 46 CFR 97; 46 CFR 107; 46 CFR 108; 46 CFR 109; 46 CFR 154; 46 CFR 160; ...

Legal Deadline: None

Abstract: This project would implement the provisions of the 1983 amendments to SOLAS 1974 which come into force in July of 1986. It would also reorganize the lifesaving equipment regulations in order to simplify, clarify and reduce redundancy.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/84	49 FR 50745
ANPRM Comment Period End	03/01/85	
NPRM	09/00/86	

Small Entity: No

Additional Information: 46 CFR 30; 46 CFR 90; 46 CFR 112; 46 CFR 113; 46 CFR 167; 46 CFR 189; 46 CFR 192; 46 CFR 196; 46 CFR 199

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: Mr. R. Markle, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1444

RIN: 2115-AB72

1619. ● LIFESAVING EQUIPMENT: IMMERSION SUITS (84-069A)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This proposal is a sub-project to Coast Guard docket 84-069, Lifesaving Equipment. This proposal would incorporate the provisions of international agreement (SOLAS) into Coast Guard regulations concerning immersion suits.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Additional Information: This proposal is split off from CGD 84-069, Lifesaving Equipment (RIN: 2115-AB72).

Analysis: Regulatory Evaluation 09/00/82

Agency Contact: LCDR Riley, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1444

RIN: 2115-AB98

1620. SAFETY RULES FOR SHIPS CARRYING HAZARDOUS LIQUIDS (84-085)

Significance: Nonsignificant

Legal Authority: 46 USC 3703; 49 USC 1803

CFR Citation: 46 CFR 153

Legal Deadline: None

Abstract: This project would incorporate amendments to the Intergovernmental Maritime Organization into part 153, make some editorial improvements in the part's language and organization, and make minor substantive corrections.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 12/00/86

Agency Contact: Mr. R. M. Query, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1217

RIN: 2115-AB92

1621. ● CERTIFICATION OF SEAMEN (84-088)

Significance: Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 2104; 46 USC 7301; 46 USC 7302; 46 USC 7303; 46 USC 7304; 46 USC 7305; 46 USC 7306; 46 USC 7307; 46 USC 7308; 46 USC 7309; 46 USC 7310

CFR Citation: 46 CFR 12

Legal Deadline: None

Abstract: This rulemaking would simplify and restructure the entire part. Among the changes contemplated are the addition of several new endorsements to seamens' documents and new ratings. An ANPRM will be issued to gather necessary additional information.

Timetable:

Action	Date	FR Cite
ANPRM	02/04/85	50 FR 4875
Comment Period Extended	06/03/85	50 FR 23318
ANPRM Comment Period End	08/01/85	
NPRM	03/00/87	

Small Entity: No

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: LTJG Connaughton, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 425-2240

RIN: 2115-AC02

1622. ● SAFE POWERING STANDARD (85-002)

Significance: Nonsignificant

Legal Authority: 46 USC 4302

CFR Citation: 33 CFR 183

Legal Deadline: None

Abstract: This rulemaking proposes a new classification of recreational "sport boat" in order to give certain small outboard powered runabouts, which can clearly operate safely with more horsepower than they currently rate under the Coast Guard Safe Powering Standard, more reasonable maximum horsepower capacities.

Timetable:

Action	Date	FR Cite
ANPRM	03/21/85	50 FR 11383
ANPRM Comment Period End	05/09/85	
Extension of Comment Period to 06/09/85	05/23/85	50 FR 21311
NPRM	09/00/86	

Small Entity: Yes

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: Mr. Colihan, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1065

RIN: 2115-AC07

1623. ● RECEPTION FACILITIES (85-010)

Significance: Nonsignificant

Legal Authority: 33 USC 1905

CFR Citation: 33 CFR 254

Legal Deadline: None

Abstract: This rulemaking would set procedures and standards for certification of chemical waste reception facilities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: No

Additional Information: This project was split out from Coast Guard Docket 78-035 Reception Facilities (RIN: 2115-AA21) listed elsewhere in the agenda. These two projects would implement Annex I and Annex II of MARPOL 73/78, respectively. Annex I deals with oil while Annex II deals with chemicals. The project was split for clarity.

Analysis: Regulatory Evaluation 10/00/86

Agency Contact: Lt. Mallon, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-0578

RIN: 2115-AC08

1624. ● VESSEL REPORTING REQUIREMENTS (85-015)

Significance: Nonsignificant

Legal Authority: 46 USC 2306; 46 USC 3309

CFR Citation: 46 CFR 2; 46 CFR 4

Legal Deadline: None

Abstract: This rulemaking would propose to add requirements for prior

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notice to the Coast Guard for vessel inspections and would provide a mechanism for owners to notify the Coast Guard when they believe their vessel is in distress.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 10/00/86

Agency Contact: LCDR Lantz, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-4431

RIN: 2115-AC09

1625. ● DELEGATION OF AUTHORITY TO UNITED STATES CLASSIFICATION SOCIETIES (85-019)

Significance: Nonsignificant

Legal Authority: 46 USC 3316

CFR Citation: 46 CFR 2

Legal Deadline: None

Abstract: The Coast Guard, under 46 U.S.C. 3316, delegates plan review and inspection to the American Bureau of Shipping. Other classification societies have requested similar acceptance. The proposed advance notice solicited information on what criteria should be used to determine who will be allowed to work on the Coast Guard's behalf.

Timetable:

Action	Date	FR Cite
ANPRM	10/03/85	50 FR 40413
ANPRM Comment Period End	01/03/86	
NPRM	09/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: Lt. Astley, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-4431

RIN: 2115-AC10

1626. ● MARPOL POLLUTION PREVENTION REGULATIONS (85-026)

Significance: Nonsignificant

Legal Authority: 33 USC 1321; 33 USC 1902; 33 USC 1903

CFR Citation: 33 CFR 155; 33 CFR 151

Legal Deadline: None

Abstract: This rulemaking would implement various provisions of the International Convention for the Prevention of Pollution from Ships 1973, as modified by the Protocol of 1978 Relating Thereto (MARPOL 73/78). These proposed changes are largely editorial.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 10/00/86

Agency Contact: LTJG Jones, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-0573

RIN: 2115-AC11

1627. ● FIRE DETECTION AND ALARM SYSTEMS (85-051)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703

CFR Citation: 46 CFR 161

Legal Deadline: None

Abstract: This rulemaking would update the 30 year old Coast Guard specification for fire detection and alarm systems to use modern terminology and address modern systems. Consensus standards would be adopted by reference.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: Mr. W. Boyce, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2197

RIN: 2115-AC13

1628. ● PRIVATE AIDS TO NAVIGATION, RACONS (85-057)

Significance: Nonsignificant

Legal Authority: 14 USC 81; 14 USC 83; 14 USC 85; 14 USC 86

CFR Citation: 33 CFR 66

Legal Deadline: None

Abstract: This rulemaking proposes to allow racons as private aids to navigation. Such private electronic aids to navigation are now prohibited but their use could improve safety, particularly on oil rigs adjacent to traffic lanes in the Gulf of Mexico.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: LCDR Blaney, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1973

RIN: 2115-AC14

1629. ● BOATING SAFETY VENTILATION STANDARDS (85-059)

Significance: Nonsignificant

Legal Authority: 46 USC 1454; 46 USC 1455

CFR Citation: 33 CFR 183

Legal Deadline: None

Abstract: This rulemaking would remove certain construction specifications regarding air vents because the specifications have proven to be of little value.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Yes

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: Mr. Colihan, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1065

RIN: 2115-AC15

1630. ● HEALD BANK CUTOFF SAFETY FAIRWAY (85-062)

Significance: Nonsignificant

Legal Authority: 46 USC 1223

CFR Citation: 33 CFR 166

Legal Deadline: None

Abstract: A study of port access in the Galveston area shows the need for a new fairway for deep draft vessels in the vicinity of Heald Bank. This proposal would establish that fairway.

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Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 12/00/86

Agency Contact: LTJG Reese, Department of Transportation, U.S. Coast Guard, 2100 Second Street, NW, Washington, DC 20593, 202 245-0108

RIN: 2115-AC19

1631. ● REVISIONS TO THE ELECTRICAL ENGINEERING REGULATIONS (85-063)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 2113; 46 USC 3301; 46 USC 3306; 46 USC 3316; 46 USC 3203; 46 USC 4104

CFR Citation: 46 CFR 110; 46 CFR 111; 46 CFR 112; 46 CFR 113

Legal Deadline: None

Abstract: This rulemaking would generally update and revise 46 CFR Subchapter J to address changes in technology, include international conventions (Amendments to SOLS '74), clarify requirements, and reflect experience gained as a result of vessel reflaggings.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: Mr. Crapps, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2160

RIN: 2115-AC20

1632. ● BERWICK BAY VESSEL TRAFFIC SERVICE (85-078)

Significance: Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 161

Legal Deadline: None

Abstract: This rulemaking would replace currently used categorical horsepower-tow length requirements with stricter straight-line ratio requirements which have proven effective in preventing tow/bridge collisions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 06/00/86

Agency Contact: Mr. E. LaRue, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-4958

RIN: 2115-AC21

1633. ● SUBCHAPTER "T" TITLE 46, GENERAL UPDATES AND REVISIONS (85-080)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 175; 46 CFR 176; 46 CFR 177; 46 CFR 178; 46 CFR 179; 46 CFR 180; 46 CFR 181; 46 CFR 182; 46 CFR 183; 46 CFR 184; 46 CFR 185; 46 CFR 186; 46 CFR 187

Legal Deadline: None

Abstract: This rulemaking would revise Subchapter "T" to reflect recent statutory changes, incorporate new technology, and improve safety requirements. Among the changes contemplated would be a change in inspection intervals and drydocking intervals.

Timetable:

Action	Date	FR Cite
NPRM	01/00/87	

Small Entity: Yes

Analysis: Regulatory Evaluation 01/00/87

Agency Contact: Lt. Astley, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-4431

RIN: 2115-AC22

1634. ● TRAINING IN THE USE OF AUTOMATIC RADAR PLOTTING AIDS (ARPA) (85-089)

Significance: Nonsignificant

Legal Authority: 33 USC 1223; 46 USC 3703

CFR Citation: 33 CFR 164

Legal Deadline: None

Abstract: Requests comments on the International Maritime Organization resolution to require ARPA training for all masters, chief mates, and officers in charge of a navigational watch. Regulatory action may follow depending on public comments.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: CDR G. Naccara, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2240

RIN: 2115-AB99

1635. ● PUGET SOUND VESSEL TRAFFIC SERVICE (85-092)

Significance: Nonsignificant

Legal Authority: 33 USC 1231

CFR Citation: 33 CFR 161

Legal Deadline: None

Abstract: This rulemaking would clarify and streamline existing regulations to bring them into conformity with current operating procedures.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: No

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 10/00/86

Agency Contact: LTJG Bradley, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1960

RIN: 2115-AC01

1636. ● INLAND WATERWAY NAVIGATION REGULATIONS; ALL WATERS TRIBUTARY TO THE GULF OF MEXICO (85-096)

Significance: Nonsignificant

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 162

Legal Deadline: None

Abstract: Proposes to revise and update the inland waterways navigation regulations for the Gulf Intercostal Waterway from St. Marks, Fla. to the Rio Grande River.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

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Analysis: Regulatory Evaluation 09/00/86

Agency Contact: Mr. Powers, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-4958

RIN: 2115-AC03

1637. ● TYPE A AND B FUEL HOSE IN THE FUEL SYSTEMS STANDARD (85-066)

Significance: Nonsignificant

Legal Authority: 46 USC 1454; 46 USC 1456; 46 USC 1488

CFR Citation: 33 CFR 183

Legal Deadline: None

Abstract: This rulemaking would require recreational boats to use fuel lines resistant to permeation by methanol.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: Mr. Gray, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1065

RIN: 2115-AC04

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1638. + WORKPLACE SAFETY AND HEALTH REQUIREMENTS FOR FACILITIES ON THE OUTER CONTINENTAL SHELF (79-077)

Significance: Regulatory Program

Legal Authority: 43 USC 1333; 43 USC 1347

CFR Citation: 33 CFR 142

Legal Deadline: None

Abstract: This regulation would develop occupational safety and health standards for personnel working on OCS facilities.

Timetable:

Action	Date	FR Cite
Notice of Meeting	03/05/81	46 FR 15402
Correction of Notice	03/19/81	46 FR 17702
NPRM	01/09/84	49 FR 1085
Correction	02/20/84	49 FR 7253
Final Action	03/00/86	

Small Entity: Yes

Additional Information: Docket No. CGD 79-077.

This action is taken in concert with OSHA.

Analysis: Regulatory Evaluation 01/09/84 (49 FR 1085)

Agency Contact: Mr. Penn, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2367

RIN: 2115-AA35

1639. + JOINT U.S.-CANADA VESSEL TRAFFIC MANAGEMENT REGULATIONS FOR THE PACIFIC REGION (79-131)

Significance: Agency Priority

Legal Authority: 33 USC 1221

CFR Citation: 33 CFR 161

Legal Deadline: None

Abstract: Would implement the provisions of an agreement for a cooperative vessel traffic management system for the Pacific region.

Timetable:

Action	Date	FR Cite
NPRM	08/18/83	48 FR 37433

Next Action Undetermined

Small Entity: No

Additional Information: All action on this proposal has been suspended pending legislative action by the Canadian Government.

Agency Contact: Lt. J. G. Carallo, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-4958

RIN: 2115-AA39

1640. + LICENSING OF OFFICERS AND MOTORBOAT OPERATORS AND REGISTRATION OF STAFF OFFICERS (81-059)

Significance: Agency Priority

Legal Authority: 46 USC 3306; 46 USC 7101; 46 USC 7102; 46 USC 7106; 46 USC 7104; 46 USC 7105; 46 USC 7106; 46 USC 7107; 46 USC 7108; 46 USC 7009; 46 USC 7110; 46 USC 7111; 46 USC 7112; 46 USC 7113; 46 USC 7114; ...

CFR Citation: 46 CFR 10; 46 CFR 157; 46 CFR 186; 46 CFR 187

Legal Deadline: None

Abstract: Would amend the licensing regulations to simplify administration and improve readability to the public. Also to provide a license structure for all mariners with which to advance in an orderly career pattern. Will also delete many unnecessary and outdated licenses. This regulation has been made significant because of its far reaching impact on all licensed officers of the merchant marine.

Timetable:

Action	Date	FR Cite
ANPRM	10/29/81	46 FR 53624
NPRM	08/08/83	48 FR 35920
Comment Period extended	11/10/83	48 FR 51650
Supplemental NPRM	10/24/85	50 FR 43316
Final Action	10/00/86	

Small Entity: No

Additional Information: ADDITIONAL LEGAL AUTHORITIES: 46 USC 6101; 46 USC 8105; 46 USC 8104; 46 USC 8301; 46 USC 8302; 46 USC 8303; 46 USC 8304; 46 USC 8502; 46 USC 7701; 46 USC 7702; 46 USC 7703; Comment period runs until 02/21/86. Public hearings held in Washington, D.C.; New York, New York; Seattle, Washington; San Francisco, California; and New Orleans, Louisiana.

Analysis: Regulatory Evaluation 08/08/83

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Agency Contact: CDR Naccara, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2240

RIN: 2115-AA64

1641. SAFETY/SECURITY ZONE REGULATIONS

Significance: Nonsignificant

Legal Authority: 33 USC 1233; 33 USC 1225

CFR Citation: 33 CFR 100; 33 CFR 165

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected to range from 04/86 to 10/86.

Timetable:

Action	Date	FR Cite
Total actions expected to end	03/00/86	

Small Entity: No

Agency Contact: Mr. L. Manoliades, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-5116

RIN: 2115-AA97

1642. ANCHORAGE AREA REGULATIONS

Significance: Nonsignificant

Legal Authority: 33 USC 471; 33 USC 2030; 33 USC 2035; 33 USC 2071

CFR Citation: 33 CFR 110

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected to range from 04/86 to 10/86.

Timetable:

Action	Date	FR Cite
Total actions expected to end	10/00/86	

Small Entity: No

Agency Contact: Mr. L. Manoliades, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-5116

RIN: 2115-AA98

1643. FIXED FIRE EXTINGUISHING SYSTEMS ON UNINSPECTED VESSELS (74-284)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 4104; 46 USC 4105; 46 USC 4302; 49 USC 108

CFR Citation: 46 CFR 162.029

Legal Deadline: None

Abstract: Would establish standards for the construction and installation of Halon 1301 and other fixed fire extinguishing systems as optional systems for compliance with existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/19/82	47 FR 16648
Final Action	09/00/86	

Small Entity: No

Additional Information: Docket No. CGD 74-284.

Analysis: Regulatory Evaluation 04/19/82

Agency Contact: Mr. K. Wahle, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1444

RIN: 2115-AA08

1644. STABILITY STANDARDS FOR HOPPER DREDGES (76-080)

Significance: Nonsignificant

Legal Authority: 46 USC 88; 46 USC 362; 46 USC 367

CFR Citation: 46 CFR 42; 46 CFR 45

Legal Deadline: None

Abstract: Would permit a deeper load line assignment for hopper dredges which meet the proposed damage stability standards.

Timetable:

Action	Date	FR Cite
NPRM	12/10/79	44 FR 70791
Final Action	12/00/86	

Small Entity: No

Additional Information: Docket No. CGD 76-080. Alternative procedure under consideration.

Analysis: Regulatory Evaluation 12/10/79

Agency Contact: LCDR Letourneau, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2167

RIN: 2115-AA11

1645. CONSTRUCTION AND EQUIPMENT; EXISTING SELF-PROPELLED VESSELS CARRYING BULK LIQUEFIED GASES (77-069)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 154

Legal Deadline: None

Abstract: Would amend regulations for existing self-propelled vessels that carry bulk liquefied gases by including the substantive requirements for the "Code for Existing Ships Carrying Liquefied Gases in Bulk" adopted by the International Maritime Organization (IMO). These amended regulations would increase safety levels for existing ships carrying gas.

Timetable:

Action	Date	FR Cite
ANPRM	06/30/77	42 FR 33353
NPRM	03/14/85	50 FR 10264
Final Action	09/00/86	

Small Entity: No

Additional Information: Docket No. 77-069.

Analysis: Regulatory Evaluation 03/14/85 (50 FR 10264)

Agency Contact: Ms. K. Barylski, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1217

RIN: 2115-AA00

1646. REQUIREMENT FOR FIRST PURCHASER LIST KEPT BY BOAT DEALERS (77-115)

Significance: Nonsignificant

Legal Authority: 46 USC 1464

CFR Citation: 33 CFR 179

Legal Deadline: None

Abstract: Would require boat dealers to assist in creating a list of retail purchasers so manufacturers could send notice to alert for safety defects.

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Timetable:

Action	Date	FR Cite
NPRM	12/29/80	45 FR 85475

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. CGD 77-115.

Analysis: Regulatory Evaluation 12/29/80

Agency Contact: Mr. Colihan, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1885

RIN: 2115-AA16

1647. MISCELLANEOUS CHANGES TO 46 CFR 56 (77-140)

Significance: Nonsignificant

Legal Authority: 46 USC 3301; 46 USC 3305; 46 USC 3306

CFR Citation: 46 CFR 56

Legal Deadline: None

Abstract: Would update Title 46, Subchapter F - Marine Engineering. Some facets of these regulations for shipboard piping systems have become obsolete as a result of technological developments and changes in cited codes and standards.

Timetable:

Action	Date	FR Cite
NPRM	01/09/85	50 FR 1073
NPRM Comment Period End	03/11/85	
Comment Period Extension	03/21/85	50 FR 11397
Final Action	06/00/86	

Small Entity: No

Additional Information: Docket No. CGD 77-140.

Analysis: Regulatory Evaluation 01/09/85

Agency Contact: Mr. F. Weidner, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2169

RIN: 2115-AA17

1648. APPROVAL OF INFLATABLE PERSONAL FLOTATION DEVICES (PFDS) (78-174)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703; 46 USC 4102; 46 USC 4302

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: Would establish performance standards for inflatable and hybrid PFDs and procedures for granting product approval to these devices.

Timetable:

Action	Date	FR Cite
ANPRM	03/15/79	44 FR 15933
NPRM	05/29/85	50 FR 21862
NPRM Comment Period End	07/15/85	
Interim Final Rule	08/27/85	50 FR 33923
Final Action	10/00/86	

Small Entity: No

Additional Information: Docket No. CGD 78-174. Two additional projects split from this one. They are listed in this agenda as CGD 780174a, Carriage and Operational Requirements for Hybrid PFDs and CGD 78-174b, Carriage and Operational Requirements for Inflatable Life Jackets. Entries for these projects follow in the agenda.

Analysis: Regulatory Evaluation 08/27/85 (50 FR 33923)

Agency Contact: Mr. S. Wehr, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1444

RIN: 2115-AA29

1649. ● RECREATIONAL HYBRID PFD'S (78-174A)

Significance: Nonsignificant

Legal Authority: 43 USC 1348

CFR Citation: 33 CFR 146; 33 CFR 175; 33 CFR 181

Legal Deadline: None

Abstract: This rulemaking proposes requirements concerning the carriage of hybrid Personal Flotation Devices (PFD's) on recreational boats and on outer continental shelf facilities. Hybrid PFD's have reduced inherent buoyancy and are less bulky, making them more comfortable to wear. This increased comfort should result in increased wear rates and lead to a corresponding reduction in the number of drownings in boating accidents.

Timetable:

Action	Date	FR Cite
NPRM	05/29/85	50 FR 21862
NPRM Comment Period End	07/15/85	50 FR 21862
Final Action	12/00/86	

Small Entity: No

Additional Information: This project and a companion, Carriage and Operational Requirements for Inflatable Life Jackets (78-174b), split from the proposal titled Hybrid PFDs; Establishment of Approved Requirements (78-174) (RIN: 2115-AA29). This project (RIN: 2115-AA29) was published as an interim final rule (50 FR 33923).

Analysis: Regulatory Evaluation 05/29/85

Agency Contact: Mr. Wehr, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1444

RIN: 2115-AC12

1650. ● CARRIAGE AND OPERATIONAL REQUIREMENTS FOR INFLATABLE LIFE JACKETS (78-174B)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 3703; 46 USC 4104; 46 USC 4302

CFR Citation: 46 CFR 25; 46 CFR 26; 46 CFR 30; 46 CFR 33; 46 CFR 35; 46 CFR 70; 46 CFR 75; 46 CFR 78; 46 CFR 90; 46 CFR 94; 46 CFR 97; 46 CFR 108; 46 CFR 109; 46 CFR 160; 46 CFR 167; ...

Legal Deadline: None

Abstract: This rulemaking proposes approval and operating requirements for inflatable life jackets and hybrid inflatable personal flotation devices (hybrid PFD's). Their use would be optional. To be counted toward Coast Guard carriage requirements on recreational boats and uninspected commercial vessels, hybrid PFD's would be required to be worn.

Timetable:

Action	Date	FR Cite
NPRM	05/29/85	50 FR 21878
Final Action	10/00/86	

Small Entity: No

Additional Information: This project, and a companion, Recreational Hybrid PFD's (78-174a), split from the rule titled Hybrid PFD's; establishment of Approved Requirements (78-174) (RIN: 2115-AA29). This rule (RIN: 2115-AA29) was published as an interim final rule (50 FR 33923).

Analysis: Regulatory Evaluation 05/29/85 (50 FR 21878)

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Final Rule Stage

Agency Contact: Mr. Wehr, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC, 202 426-1444

RIN: 2115-AC16

1651. MODIFICATION TO LINE THROWING DEVICE REQUIREMENTS (79-160)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306

CFR Citation: 46 CFR 33; 46 CFR 75; 46 CFR 78; 46 CFR 94; 46 CFR 97; 46 CFR 108; 46 CFR 160; 46 CFR 167; 46 CFR 192; 46 CFR 196

Legal Deadline: None

Abstract: Would modify the regulation requiring a line throwing device only in cargo vessels over 500 gross tons and passenger vessels on international voyages. This project is to be withdrawn due to adverse comments received during the NPRM stage.

Timetable:

Action	Date	FR Cite
NPRM	12/11/80	45 FR 81616
To be withdrawn	03/00/86	

Small Entity: No

Additional Information: Docket No. CGD 79-160.

Agency Contact: LT Gold, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-0561

RIN: 2115-AA42

1652. INFLATABLE LIFERAFT STABILITY (80-113)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: Would provide specific rules for function, size, and placement of stability appendages.

Timetable:

Action	Date	FR Cite
ANPRM	06/29/81	46 FR 33341
NPRM	01/11/85	50 FR 1536
NPRM Comment Period End	04/11/85	
Extension of Comment Period	07/05/85	50 FR 37628
Final Action	12/00/86	

Small Entity: No

Additional Information: Docket No. CGD 80-113. Comment period extended to 10/14/85.

Analysis: Regulatory Evaluation 01/11/85

Agency Contact: Mr. M. Daniels, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1445

RIN: 2115-AA50

1653. DAMAGE STABILITY AND FLOODING PROTECTION STANDARDS FOR GREAT LAKES BULK DRY CARGO VESSELS (80-159)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 45; 46 CFR 93

Legal Deadline: None

Abstract: Would require a level of subdivision for new ships which is at least equivalent to that required for Maritime Administration construction loan guarantees. Would reduce the risk of catastrophic sinking and increase the time available to utilize recently improved survival gear.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/83	48 FR 8312
NPRM	11/07/85	50 FR 46315
NPRM Comment Period End	01/06/86	50 FR 46315
Final Action	06/00/86	

Small Entity: No

Additional Information: Docket No. CGD 80-159.

Analysis: Regulatory Evaluation 11/07/85 (50 FR 46315)

Agency Contact: LCDR Letourneau, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2187

RIN: 2115-AA01

1654. PERSONAL FLOTATION DEVICES (81-023)

Significance: Nonsignificant

Legal Authority: 46 USC 1454; 46 USC 1488

CFR Citation: 33 CFR 175; 33 CFR 181

Legal Deadline: None

Abstract: Revokes an obsolete provision and makes several editorial changes.

Timetable:

Action	Date	FR Cite
NPRM	04/12/82	47 FR 15606

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. CGD 81-023.

Analysis: Regulatory Evaluation 04/12/82

Agency Contact: Mr. C. Perry, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-0188

RIN: 2115-AA58

1655. AUTOMATED VITAL SYSTEMS (81-030)

Significance: Nonsignificant

Legal Authority: 46 USC 3306; 46 USC 8105

CFR Citation: 46 CFR 62

Legal Deadline: None

Abstract: Would implement the provisions for periodically unattended machinery spaces and automated machinery in the 1974 SOLAS Amendments and the guidance on system design in the Coast Guard Navigation and Inspection Circular on Automated Main and Auxiliary Machinery.

Timetable:

Action	Date	FR Cite
NPRM	09/23/85	50 FR 38608
Final Action	12/00/86	

Small Entity: No

Additional Information: Docket No. CGD 81-030.

Comment period extended until 21 Feb. 1986.

Analysis: Regulatory Evaluation 09/23/85 (50 FR 38608)

Agency Contact: LT Randall, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2206

RIN: 2115-AA59

1656. LICENSING OF OFFICERS AND OPERATORS FOR MOBILE OFFSHORE DRILLING UNITS (81-59A)

Significance: Nonsignificant

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Final Rule Stage

Legal Authority: 46 USC 3306; 46 USC 7101; 46 USC 7102; 46 USC 7103; 46 USC 7104; 46 USC 7105; 46 USC 7106; 46 USC 7107; 46 USC 7108; 46 USC 7009; 46 USC 7110; 46 USC 7111; 46 USC 7112; 46 USC 7113; 46 USC 7114; ...

CFR Citation: 46 CFR 10; 46 CFR 15

Legal Deadline: None

Abstract: This project resulted from comments received on Coast Guard proposed rulemaking 81-59, Licensing of Officers and Motorboat Operators and Registration of Staff Officers which is contained in this agenda under another listing. The comment suggested that licensing of officers on Mobile Offshore Drilling Units be discussed in a separate rulemaking. This project is the result of those suggestions. The project would establish licensing requirements for officers on Mobile Drilling Units.

Timetable:

Action	Date	FR Cite
NPRM	08/08/83	48 FR 35920
SNPRM	10/24/85	50 FR 43316
Final Action	10/00/86	

Small Entity: No

Additional Information: This project was split from Coast Guard docket 81-059, Licensing of Officers and Motorboat Operators and Registration of Staff Officers. That project is listed elsewhere in this agenda with the RIN 2115-AA84.

Analysis: Regulatory Evaluation 10/24/85 (50 FR 43316)

Agency Contact: CDR G. Naccara, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2240

RIN: 2115-AB91

1657. SHIPPING SAFETY FAIRWAY AMENDMENTS, GULF OF MEXICO (81-068)

Significance: Nonsignificant

Legal Authority: 33 USC 1223; 33 USC 1224

CFR Citation: 33 CFR 166

Legal Deadline: None

Abstract: The Coast Guard is proposing to amend existing shipping fairways and to establish new fairway anchorages in the Gulf of Mexico. The fairway modifications and anchorages are necessary to provide for safe access routes in areas of high traffic density and offshore structures.

Timetable:

Action	Date	FR Cite
NPRM	08/09/82	47 FR 34432
Supplemental NPRM	03/30/84	49 FR 12715
Supplemental NPRM	05/03/84	49 FR 18870
Final Action	05/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 08/09/82

Agency Contact: LTJG D. Reede, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 245-0186

RIN: 2115-AB57

1658. DOCUMENTATION OF VESSELS; CONTROLLING INTEREST (82-105)

Significance: Nonsignificant

Legal Authority: 46 USC 12121; 49 USC 108

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: Solicits comments on the term "controlling interests" for the purpose of documenting vessels owned by partnerships.

Timetable:

Action	Date	FR Cite
ANPRM	11/12/82	47 FR 51170
NPRM	07/16/84	49 FR 28744
NPRM Comment Period End	10/15/84	49 FR 35967
Final Action	06/00/86	

Small Entity: Undetermined

Additional Information: Docket No. CGD 82-105. Comment period extended 9/13/84.

Analysis: Regulatory Evaluation 07/16/84

Agency Contact: Lt. Oxley, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1492

RIN: 2115-AB27

1659. SAILING SCHOOL VESSEL REGULATIONS (83-005)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3306

CFR Citation: 46 CFR 169

Legal Deadline: None

Abstract: Would generate a new set of inspection regulations for sailing school vessels as mandated by the Sailing School Vessel Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	12/24/84	49 FR 49974
NPRM Comment Period End	02/22/85	
Final Action	03/00/86	

Small Entity: Yes

Additional Information: Docket No. CGD 83-005.

Analysis: Regulatory Evaluation 12/24/84 (49 FR 49974)

Agency Contact: LT Astley, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-4431

RIN: 2115-AB32

1660. INDEPENDENT LABORATORY INSPECTION OF LIFESAVING EQUIPMENT (83-030)

Significance: Nonsignificant

Legal Authority: 46 USC 3306(a)

CFR Citation: 46 CFR 159; 46 CFR 160

Legal Deadline: None

Abstract: Would establish independent laboratory inspection of lifeboats, liferafts, and launching equipment to replace Coast Guard inspection.

Timetable:

Action	Date	FR Cite
NPRM	08/27/84	49 FR 38151
NPRM Comment Period End	12/26/84	
Final Action	10/00/86	

Small Entity: No

Additional Information: Docket No. CGD 83-030.

Analysis: Regulatory Evaluation 08/27/84 (49 FR 38151)

Agency Contact: Mr. R. Markle, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1444

RIN: 2115-AB36

1661. EDITORIAL CHANGES TO TITLE 46 CFR RESULTING FROM P.L. 98-89 (83-067)

Significance: Nonsignificant

Legal Authority: PL 98-89

CFR Citation: 46 CFR Chapter 1

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Final Rule Stage

Legal Deadline: None

Abstract: Would amend Title 46, CFR to reflect 46 U.S.C. citations for marine safety laws consolidated and reenacted by P.L. 98-89.

Timetable:

Action	Date	FR Cite
First Rule	10/04/84	49 FR 39161
Second Rule	01/11/85	50 FR 1524
Third Rule	12/00/86	

Small Entity: No

Additional Information: Docket No. CGD 83-067.

This is an ongoing project which will include numerous revisions to the citations. Accordingly there will be several final rules published under the same docket number.

Analysis: Regulatory Evaluation 10/04/84 (49 FR 39161)

Agency Contact: LCDR D. Parsons, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2197

RIN: 2115-AB54

1662. REQUIREMENTS FOR MOBILE OFFSHORE DRILLING UNITS (83-071)

Significance: Nonsignificant

Legal Authority: 46 USC 2104; 46 USC 3301; 46 USC 3305; 46 USC 3306

CFR Citation: 46 CFR Subchapter I-A; 46 CFR 109; 46 CFR 170; 46 CFR 174

Legal Deadline: None

Abstract: This project would generally update the regulations pertaining to mobile offshore drilling units. These regulations have not been updated since 1976 and need to reflect provisions of the Outer Continental Shelf Lands Act Amendments of 1978 and 1982 and the treaty for Safety of Life at Sea (1974), which has been accepted by the United States.

Timetable:

Action	Date	FR Cite
ANPRM	06/01/84	49 FR 22836
NPRM	09/30/85	50 FR 39734
NPRM Comment Period End	11/09/85	50 FR 39734
Final Action	09/00/86	

Small Entity: No

Additional Information: Docket No. CGD 83-071.

Analysis: Regulatory Evaluation 09/30/85 (50 FR 39734)

Agency Contact: LT. V. Mihal, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2199

RIN: 2115-AB56

1663. AMENDMENTS TO BRIDGE LIGHTING REQUIREMENTS (84-022)

Significance: Nonsignificant

Legal Authority: 33 USC 494; 33 USC 499

CFR Citation: 33 CFR 117; 33 CFR 118

Legal Deadline: None

Abstract: Would provide regulatory standards for prescribing or approving signals other than lighting on bridges.

Timetable:

Action	Date	FR Cite
NPRM	01/31/85	50 FR 4529
Final Action	03/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 01/31/85 (50 FR 4529)

Agency Contact: Mr. A. Meschter, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-0942

RIN: 2115-AB62

1664. ● OIL AND HAZARDOUS SUBSTANCE DISCHARGE REPORTING REQUIREMENTS (84-067)

Significance: Nonsignificant

Legal Authority: 33 USC 1321(j)(1)(a)

CFR Citation: 33 CFR 153

Legal Deadline: None

Abstract: Would modify the procedures for reporting discharges of oil and hazardous substances as required by Section 311 of the Federal Water Pollution Control Act.

Timetable:

Action	Date	FR Cite
NPRM	09/20/85	50 FR 38139
Final Action	10/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 09/20/85 (50 FR 38139)

Agency Contact: LT Wiltshire, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-9568

RIN: 2115-AB96

1665. ● THERMAL PROTECTIVE AIDS (84-068B)

Significance: Nonsignificant

Legal Authority: 46 USC 3306

CFR Citation: 46 CFR 160

Legal Deadline: None

Abstract: This proposal would adopt specifications for approving thermal protective aids which protect seamen who must in an emergency enter the water.

Timetable:

Action	Date	FR Cite
NPRM	10/01/85	50 FR 40036
Final Action	10/00/86	

Small Entity: No

Additional Information: This project is derived from Coast Guard Docket 84-069, Lifesaving Equipment (RIN:2115-AB72).

Analysis: Regulatory Evaluation 10/01/85 (50 FR 40036)

Agency Contact: LDCR Riley, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1444

RIN: 2115-AC00

1666. ACCOMMODATIONS, RAILS AND GUARDS (84-073)

Significance: Nonsignificant

Legal Authority: 46 USC 2103; 46 USC 3306; 46 USC 3703; 46 USC 10104

CFR Citation: 46 CFR 32; 46 CFR 77; 46 CFR 95; 46 CFR 195

Legal Deadline: None

Abstract: This proposal would eliminate duplicative regulations and clarify language in certain areas.

Timetable:

Action	Date	FR Cite
NPRM	09/30/85	50 FR 39729
NPRM Comment Period End	11/29/85	50 FR 39729
Final Action	09/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 09/30/85 (50 FR 39729)

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Final Rule Stage

Agency Contact: LCDR Murphy, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2197

RIN: 2115-AB66

1667. ● INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972 COLREGS DEMARCATION LINES (84-091)

Significance: Nonsignificant

Legal Authority: 14 USC 2; 33 USC 151a

CFR Citation: 33 CFR 80

Legal Deadline: None

Abstract: This rulemaking would update identifiable lines which delineate waters upon which International Regulations for Preventing Collisions at Sea, 1972 (COLREGS) apply.

Timetable:

Action	Date	FR Cite
NPRM	09/19/85	50 FR 38013
NPRM Comment Period End	11/04/85	50 FR 38013
Final Action	09/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 09/19/85 (50 FR 38013)

Agency Contact: LCDR Bell, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 245-0106

RIN: 2115-AC06

1668. ● INLAND NAVIGATION RULES (85-091)

Significance: Nonsignificant

Legal Authority: 33 USC 2014

CFR Citation: 33 CFR 89

Legal Deadline: None

Abstract: Would implement rule 14(d) as enacted by Public Law 98-557 to the Inland Navigation Rules. Rule 14(d) gives the downbound vessel right-of-way when vessels are approaching each other in head-on situations.

Timetable:

Action	Date	FR Cite
Final Action	10/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 10/00/86

Agency Contact: LCDR Bell, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1950

RIN: 2115-AB97

1669. DRAWBRIDGE REGULATIONS

Significance: Routine and Frequent

Legal Authority: 33 USC 499

CFR Citation: 33 CFR 117

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected 50. Action dates range from 04/86 to 10/86.

Timetable:

Action	Date	FR Cite
Total actions expected to end	10/00/86	

Small Entity: No

Agency Contact: Mr. Maechter, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1360

RIN: 2115-AA99

DEPARTMENT OF TRANSPORTATION (DOT)
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Completed Actions

1670. ● + OPERATING A VESSEL WHILE INTOXICATED (84-099)

Significance: Regulatory Program

Legal Authority: 46 USC 6105; 46 USC 7101; 46 USC 3306; 46 USC 2302(c)

CFR Citation: 33 CFR 95; 33 CFR 146; 33 CFR 150; 33 CFR 173; 33 CFR 177; 46 CFR 4; 46 CFR 5; 46 CFR 35; 46 CFR 78; 46 CFR 97; 46 CFR 109; 46 CFR 167; 46 CFR 185; 46 CFR 196; 46 CFR 197

Legal Deadline: None

Abstract: Proposes: (1) to prohibit crewmembers on vessels subject to inspection from performing any duties while intoxicated or within four hours of consuming any alcohol; (2) civil penalties for owners, charterers, managing operators, agents, masters or individuals in charge of vessels subject to inspection that allow crewmembers to perform any duties while intoxicated; and (3) to allow personnel licensed, documented or certificated by the Coast Guard to seek rehabilitation prior to being subject to a proceeding to suspend or revoke the license, certificate or document.

Timetable:

Action	Date	FR Cite
Split into two RINs 2115-AC23 and 2115-AC24	03/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 04/00/86

Agency Contact: Capt. Stenger, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1531

RIN: 2115-AB83

1671. + SUSPENSION AND REVOCATION PROCEEDINGS (82-002)

Significance: Agency Priority

Legal Authority: 46 USC 7701

CFR Citation: 46 CFR 5

Legal Deadline: None

Abstract: Revise and Amend 46 CFR Part 5 to (1) incorporate changes due to recent legislative actions (2) improve clarity and conciseness and (3) make substantive procedural changes.

Timetable:

Action	Date	FR Cite
NPRM	09/30/83	48 FR 44851
Final Action	08/09/85	50 FR 32179
Final Action Effective	09/09/85	59 FR 32179

Small Entity: No

Additional Information: Docket No. CGD 82-002.

Analysis: Regulatory Evaluation 08/09/85 (59 FR 32179)

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Completed Actions

Agency Contact: CDR Stansell, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2215

RIN: 2115-AA76

1672. REVIEW: REGULATORY FLEXIBILITY ACT REVIEWS

Significance: Nonsignificant

Legal Authority: 5 USC 610

CFR Citation: 33 CFR 1 to 199; 46 CFR 1 to end

Legal Deadline: None

Abstract: Review completed. A proposed definition will be published in a future issue of the Federal Register.

Timetable:

Action	Date	FR Cite
Begin Review	06/29/81	46 FR 33404
End Review	02/00/86	

Small Entity: Yes

Additional Information: Review in Process.

Agency Contact: Mr. Bruce Novak, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1477

RIN: 2115-AB01

1673. VTS HOUSTON-GALVESTON, TX (74-029)

Significance: Nonsignificant

Legal Authority: 33 USC 1223

CFR Citation: 33 CFR 161

Legal Deadline: None

Abstract: Would make mandatory a new voluntary vessel traffic service.

Timetable:

Action	Date	FR Cite
NPRM	09/18/80	45 FR 62158
Withdrawn	12/19/85	50 FR 51709

Small Entity: No

Additional Information: Docket No. CGD 74-029.

Agency Contact: Mr. E. LaRue, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-4868

RIN: 2115-AA07

1674. PRIVATE AIDS TO NAVIGATION AND STATE AIDS TO NAVIGATION (78-157)

Significance: Nonsignificant

Legal Authority: 14 USC 2; 14 USC 83; 14 USC 85; 5 USC 610

CFR Citation: 33 CFR 66

Legal Deadline: None

Abstract: Would codify and clarify the regulations concerning State and private aids to navigation to allow electronic private aids.

Timetable:

Action	Date	FR Cite
Terminated	01/03/86	

Small Entity: No

Additional Information: Docket No. CGD 78-157.

Agency Contact: Mr. Zacharias, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1974

RIN: 2115-AA27

1675. AIDS TO NAVIGATION - GENERAL INTERFERENCE WITH, DAMAGES TO AND CHARGES FOR AIDS TO NAVIGATION (78-159)

Significance: Nonsignificant

Legal Authority: 14 USC 81; 14 USC 87; 14 USC 92

CFR Citation: 33 CFR 60; 33 CFR 62; 33 CFR 66; 33 CFR 70; 33 CFR 74; 33 CFR 76

Legal Deadline: None

Abstract: Would codify, revise and clarify the existing regulations.

Timetable:

Action	Date	FR Cite
Terminated	01/03/86	

Small Entity: No

Additional Information: Docket No. CGD 78-159.

Agency Contact: Mr. Blaney, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1973

RIN: 2115-AA28

1676. DEEPWATER PORT LIABILITY FUND REQUIREMENTS (79-158)

Significance: Nonsignificant

Legal Authority: 33 USC 1509; 33 USC 1517

CFR Citation: 33 CFR 137; 33 CFR 150

Legal Deadline: None

Abstract: Would implement provisions of the Deepwater Port Act of 1974 to establish and administer liability limits and compensation relative to accidental oil spills at deep water port sites.

Timetable:

Action	Date	FR Cite
NPRM	10/02/80	45 FR 67706
Interim Final Rule	06/24/82	47 FR 27478
Final Action	06/15/85	50 FR 32966
Final Action Effective	06/15/85	50 FR 32966

Small Entity: No

Additional Information: Docket No. CGD 79-158.

Analysis: Regulatory Evaluation 06/15/85 (50 FR 32966)

Agency Contact: Mr. F. Martin, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 472-5052

RIN: 2115-AA41

1677. ● SAFETY RULES FOR SELF-PROPELLED VESSELS CARRYING HAZARDOUS LIQUIDS (81-078)

Significance: Nonsignificant

Legal Authority: 46 USC 3703; 49 USC 1803

CFR Citation: 46 CFR 30; 46 CFR 151; 46 CFR 153

Legal Deadline: None

Abstract: This rule adds to and revises the lists of cargoes regulated under parts 30, 151 and 153 and includes carriage requirements for these new cargoes.

Timetable:

Action	Date	FR Cite
Final Action	05/22/85	50 FR 21166
Final Action Effective	07/22/85	50 FR 21166

Small Entity: No

Analysis: Regulatory Evaluation 05/22/85 (50 FR 21166)

Agency Contact: Mr. Query, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1217

RIN: 2115-AB93

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Completed Actions

1678. COMPATIBILITY OF CARGOES (83-047)

Significance: Nonsignificant

Legal Authority: 46 USC 3703

CFR Citation: 46 CFR 150

Legal Deadline: None

Abstract: Would consolidate requirements for compatible storage of bulk liquid hazardous materials on tank vessels; would update table from April 14, 1983.

Timetable:

Action	Date	FR Cite
NPRM	01/11/85	50 FR 1551
NPRM Comment Period End	02/11/85	
Final Action	08/16/85	50 FR 33037
Final Action Effective	09/30/85	50 FR 33037

Small Entity: No

Additional Information: Docket No. CGD 83-047.

ADDITIONAL LEGAL AUTHORITY: 46 CFR 1.46(t) also applies.

Analysis: Regulatory Evaluation 08/16/85 (50 FR 33037)

Agency Contact: Dr. M. Parsorouskis, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-6262

RIN: 2115-AB49

1679. SIMPLIFIED ADMEASUREMENT (83-070)

Significance: Nonsignificant

Legal Authority: PL 98-594

CFR Citation: 46 CFR 69

Legal Deadline: None

Abstract: This project would unify various separate parts in 46 CFR dealing with admeasurement.

Timetable:

Action	Date	FR Cite
NPRM	03/18/85	50 FR 10803
Final Action	10/01/85	50 FR 40008
Final Action Effective	10/01/85	50 FR 40008

Small Entity: No

Additional Information: Docket No. CGD 83-070.

Analysis: Regulatory Evaluation 10/01/85 (50 FR 40008)

Agency Contact: Mr. Lewis, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2192

RIN: 2115-AB51

1680. DOCUMENTATION OF VESSELS, HAILING PORT MARKINGS (84-027)

Significance: Nonsignificant

Legal Authority: 46 USC 12121; 49 USC 108

CFR Citation: 46 CFR 67

Legal Deadline: None

Abstract: Solicits comments on whether regulations requiring marking of hailing port on vessels should be continued and, if so, what changes should be made in methods for determining port to be marked.

Timetable:

Action	Date	FR Cite
ANPRM	05/17/84	49 FR 20872
NPRM	11/19/84	49 FR 45623
NPRM Comment Period End	02/19/85	49 FR 45623
Withdrawn	11/19/85	50 FR 47411

Small Entity: Undetermined

Agency Contact: LCDR Meeks, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-1462

RIN: 2115-AB64

1681. ● UNMANNED RIVER SERVICE DRY CARGO BARGES: LOAD LINE REGULATIONS (84-058)

Significance: Nonsignificant

Legal Authority: 46 USC 88

CFR Citation: 46 CFR 45

Legal Deadline: None

Abstract: This rule exempts unmanned river service dry cargo barges operating on short voyages in Lake Michigan from requirements to obtain a load line certificate. This rule would apply only to unmanned barges carrying non-hazardous and non-polluting cargoes.

Timetable:

Action	Date	FR Cite
NPRM	12/14/84	49 FR 48762
Final Action	05/09/85	50 FR 19532
Final Action Effective	06/10/85	50 FR 19532

Small Entity: No

Analysis: Regulatory Evaluation 05/09/85 (50 FR 19532)

Agency Contact: LT Fiebrandt, Department of Transportation, U.S. Coast Guard, 2100 Second Street, SW, Washington, DC 20593, 202 426-2896

RIN: 2115-AB95

[FR Doc. 86-8868 Filed 04-18-86; 8:45 am]

BILLING CODE 4910-62-T

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Aviation Administration (FAA)

Prerule Stage

1682. + ADVANCED V/STOL ROTORCRAFT STANDARDS

Significance: Regulatory Program

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 00, (New)

Legal Deadline: None

Abstract: This proposed action would add a new Part to the FAR to establish airworthiness standards for advanced V/STOL rotorcraft. This action is needed since current rotorcraft airworthiness standards in Parts 27 and 29 are insufficient for anticipated tilt rotor and other advanced design rotorcraft.

Timetable:

Action	Date	FR Cite
ANPRM	04/01/86	

Small Entity: No

Analysis: Regulatory Evaluation 03/00/86

DOT—FAA

Prerule Stage

Agency Contact: Jim Honaker, Department of Transportation, Federal Aviation Administration, Southwest Region, P.O. Box 1689, Fort Worth, Texas 76101, 817 877-2552

RIN: 2120-AB25

1683. + AIRMEN MEDICAL STANDARDS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1427 Federal Aviation Act of 1958, Sec. 607

CFR Citation: 14 CFR 67

Legal Deadline: None

Abstract: These regulations specify the medical standards which must be met before a medical certificate is issued to an airman. For example, a medical certificate is required before a person can obtain a pilot license. During a recent rulemaking involving these regulations, a considerable number of commenters expressed the belief that the current standards should and could be revised to state, in generally applicable objective terms, all those circumstances in which the FAA will issue medical certificates. In the past, some certificates have been issued on a case-by-case basis, with appropriate limitations, under exemption and waiver provisions where strict compliance with the existing standards was not essential in the interest of safety. A comprehensive review of these regulations is necessary to determine if the commenters' arguments are correct. If they are and the requested regulatory changes are possible, it could greatly reduce burdens, both on the FAA and airmen, associated with the processing of medical certificates.

Timetable:

Action	Date	FR Cite
AMA Report to FAA	02/00/86	

Next Action Undetermined

Small Entity: No

Additional Information: The FAA contracted with the American Medical Association (AMA) on August 29, 1983. The AMA will develop a comprehensive report which will be used by the FAA as part of its evaluation of Part 67 standards.

Agency Contact: William H. Hark, M.D., Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-3802

RIN: 2120-AA70

1684. PART 91 NOTICE

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: The agency conducted a Regulatory Review Conference of 14 CFR Part 91, Subpart B, in September 1977, in order to update that part. This action will cover all proposals covered by the review except for lost communications.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/86	

Small Entity: No

Additional Information: Docket No. 16431.

Agency Contact: Burton Chandler, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8626

RIN: 2120-AA07

1685. TRANSPORT ROTORCRAFT PERFORMANCE

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 29

Legal Deadline: None

Abstract: This project is to solicit public comment on possible revision and clarification of transport rotorcraft performance and airworthiness standards and to establish minimum gradients of climb during takeoff.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/85	50 FR 42126
ANPRM Comment Period End	04/15/86	

Small Entity: Undetermined

Agency Contact: Jim S. Honaker, Department of Transportation, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, 817 877-2552

RIN: 2120-AB36

1686. HELICOPTER MINIMUM FLIGHTCREW

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This project proposes to revise Parts 27 and 29 to require a minimum of two pilots if the power control(s) (throttles) are not a part of the collective control.

Timetable:

Action	Date	FR Cite
ANPRM	11/27/85	50 FR 48786
ANPRM Comment Period End	05/25/86	

Small Entity: No

Agency Contact: Jim S. Honaker, Department of Transportation, Federal Aviation Administration, P.O. box 1689, Fort Worth, Tx 76101, 817 877-2552

RIN: 2120-AB86

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DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Proposed Rule Stage

1687. + PARTS MANUFACTURER APPROVALS

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 21; 14 CFR 45

Legal Deadline: None

Abstract: Since its inception, the PMA program has been controversial, and that controversy was underscored by several attempts by FAA to change the regulations. Public comment to previous NPRM's suggested FAA disparity in applying PMA rules and confusion among aviation industry members and other Federal agencies concerning both the PMA process as it existed and FAA's proposed changes. The agency withdrew its proposals and assembled a team to study all aspects of the controversy and suggest alternatives for future rulemaking. The report titled "Parts Manufacturer Approval Program Evaluation, Phase I Report" proposes (1) standardizing PMA procedures with or without rulemaking, (2) formalizing the data comparison approval method, (3) pursuing property right legislation for certain data, (4) deregulating aircraft replacement parts, or (5) delegating certain approval aspects back to industry. Regulatory Flexibility Act and Executive Order 12291 analyses are being done as part of Phase II of the study.

Timetable:

Action	Date	FR Cite
NPRM	12/23/75	42 FR 43985
Second NPRM	01/15/81	46 FR 3775
Third NPRM	07/00/86	

Small Entity: Yes

Additional Information: Docket No. 17147. This project was initiated December 23, 1975. NPRM No. 77-19 was published in the Federal Register (42 FR 43985). Comment period later reopened until January 4, 1978 (NPRM No. 77-19A, 42 FR 61048) and again reopened until May 15, 1978 (NPRM No. 77-19B, 43 FR 15432). Portions of NPRM 77-19 dealing with other subjects were handled separately. Supplemental Notice of Proposed Rulemaking (SNPRM) was published January 15, 1981 (46 FR 3775). Initial comment period closed April 15, 1981; reply comment period closed May 15, 1981. NPRM 77-19D reopening the comment period until August 24, 1981, and the reply comment period until September 21, 1981, was published July 23, 1981 (46 FR 38062). NPRM's 77-19 through 77-19D withdrawn October 12, 1984 (49 FR 40154). Phase I Report available to the public January 15, 1985 (50 FR 6303). Phase II of the study initiated May 1985 to prepare Regulatory Flexibility Act and other analyses required to pursue future NPRM.

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Michele Owsley, Department of Transportation, Federal Aviation Administration, P. O. Box 1689, Ft. Worth, TX 76101, 817 877-2976

RIN: 2120-AA00

1688. + LOW-ALTITUDE WIND SHEAR EQUIPMENT REQUIREMENTS FOR TAKEOFF AND LANDING OPERATIONS OF TRANSPORT CATEGORY AIRPLANES

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: Would revise existing regulation to require all large passenger-carrying aircraft be equipped with a device that will display wind shear information to the pilots. This action is considered a significant project because it will generate substantial public interest and will be controversial. As a result of several accidents involving wind shear, it is necessary to identify equipment that will enable pilots to identify low level wind shear conditions.

Timetable:

Action	Date	FR Cite
ANPRM	05/03/79	44 FR 25607

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 19110. In 1975, the FAA began a two year effort to develop a wind shear program. As part of the program, FAA began work to develop a wind shear warning and pilot aiding device which has achieved encouraging results. Following the initial announcement of this proposal it was determined that a regulatory analysis would not be required; however, an evaluation will be made and docketed. ANPRM No. 79-11 was published on May 3, 1979 (44 FR 25807) and comment period closed August 3, 1979. (14 CFR Parts 91, 121 & 135.)

Agency Contact: David L. Casey, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8096

RIN: 2120-AA01

1689. + IMPROVED SEAT SAFETY STANDARDS

Significance: Regulatory Program

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: To develop improved load test criteria for occupant seat/ restraint systems on transport airplanes based on the on-going joint FAA/NASA/industry transport airplane crashworthiness program which encompasses tests and studies of past survivable accident data. This rulemaking is significant because it involves important Departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 09/00/85

Agency Contact: Iven Connally, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2120

RIN: 2120-AA88

1690. ● + PRIMARY CATEGORY AIRCRAFT

Significance: Regulatory Program

Legal Authority: 49 USC 1344; 49 USC 1348(c); 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 1651(b)(2); 42 USC 1857(f)-10; 42 USC 4321 et seq; EO 11514; 49 USC 106(g); PL 97-449

DOT—FAA

Proposed Rule Stage

CFR Citation: 14 CFR 21; 14 CFR 36; 14 CFR 43; 14 CFR 91; 14 CFR 141; 14 CFR 147

Legal Deadline: None

Abstract: This notice proposes to establish a new category of aircraft for type, production, and airworthiness certification. These aircraft will be designed for pleasure and personal use, and classified as a primary category aircraft. In addition, the notice proposes simplified type, production, and airworthiness certification procedures, special maintenance criteria, and associated changes to pilot requirements for this category of aircraft.

Small Entity: Undetermined

Analysis: Regulatory Evaluation 03/00/86

Agency Contact: Vito Pulero, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 426-8374

RIN: 2120-AB53

1691. + POWERED ULTRALIGHTS: AIRMAN CERTIFICATION REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1401 to 1408; 49 USC 1421 to 1432; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 106(g); 42 USC 4321

CFR Citation: 14 CFR 1; 14 CFR 61; 14 CFR 91; 14 CFR 103

Legal Deadline: None

Abstract: This notice would propose to establish airman certification requirements for persons operating powered ultralight aircraft. These mandatory certification standards are being considered because the response by ultralight operators to voluntary training programs has not been adequate. These proposed certification requirements are intended to achieve an acceptable level of safety in the operation of these aircraft.

Small Entity: No

Analysis: Regulatory Evaluation 02/00/86

Agency Contact: Larry Williams, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 426-8150

RIN: 2120-AB69

1692. ● + FLIGHT ATTENDANT FLIGHT TIME LIMITATIONS AND REST REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: Based upon petitions from the Association of Flight Attendants and the Joint Council of Flight Attendant Unions, the FAA is considering proposing amendments to Part 121 and 135 that would establish maximum duty time limits and minimum hours of rest for flight attendants. Summaries of the petitions were published (50 FR 6185 and 50 FR 25252) and requested comments to assist the FAA in determining what, if any, regulatory proposals should be developed.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Affected Sectors: Multiple

Agency Contact: Gary Martindell, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 538-8666

RIN: 2120-AB97

1693. ● + CARRY ON BAGGAGE

Significance: Regulatory Program

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1485; 49 USC 1502; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This proposed regulation would enhance safety aboard aircraft by ensuring that all baggage brought aboard can be and is safety stored. This proposal was prompted by a petition from the Association of Flight Attendants.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: Undetermined

Analysis: Regulatory Evaluation 02/00/86

Agency Contact: Roger Riviere, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 426-8096

RIN: 2120-AC06

1694. + AMEND PART 23 TO INCLUDE REQUIREMENTS FOR CRASH-RESISTANT FUEL SYSTEMS

Significance: Agency Priority

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would amend Part 23 to include requirements for crash-resistant fuel tanks, lines and fittings. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	03/05/85	50 FR 8948
ANPRM Comment Period End	07/03/85	

Next Action Undetermined

Small Entity: No

Agency Contact: Earsa L. Tankesley, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106, 816 374-6930

RIN: 2120-AA57

1695. + AIRPLANE CABIN FIRE PROTECTION

Significance: Agency Priority

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

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DOT—FAA

Proposed Rule Stage

Abstract: To develop a revision to FAR 25.853 to improve fire protection for lavatories and galleys by requiring that smoke detectors and fire extinguishers, among other things, be installed. This rulemaking is significant because it involves important Departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	09/30/86	

Small Entity: No

Additional Information: Project follows completion of Part 121 rulemaking.

Analysis: Regulatory Evaluation

Agency Contact: Gary L. Killion, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2112

RIN: 2120-AB22

1696. + OCCUPANT RESTRAINT IN NORMAL AND TRANSPORT CATEGORY ROTORCRAFT

Significance: Agency Priority

Legal Authority: 49 USC 1344 Federal Aviation Act of 1958, Sec 303; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604; 49 USC 1425 Federal Aviation Act of 1958, Sec. 605; 49 USC 1426 Federal Aviation Act of 1958, Sec. 608; 49 USC 1429 Federal Aviation Act of 1958, Sec. 609; 49 USC 1430 Federal Aviation Act of 1958, Sec. 610

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This project proposes to amend the rotorcraft airworthiness standards in Parts 27 and 29 of the FAR. These proposals would add two dynamic crash impact design requirement conditions for seat and occupant restraint systems, increase the static design load factors for seating devices and items of mass in the cabin or adjacent to the cabin as prescribed, prescribe a shoulder harness for each occupant, and add human impact injury criteria for the dynamic crash impact conditions. These proposals are intended to significantly improve occupant protection levels in a survivable emergency landing impact.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: No

Analysis: Regulatory Flexibility Analysis

Agency Contact: James Major, Department of Transportation, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, 817 877-2549

RIN: 2120-AB35

1697. + PROPOSED DEPARTMENT OF ENERGY PROHIBITED AREAS

Significance: Agency Priority

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 106(g) Revised, Pub. L. 97-449, January 12, 1983

CFR Citation: 14 CFR 11.65; 14 CFR 73

Legal Deadline: None

Abstract: The proposed establishment or modification of prohibited airspace over these sites is one segment of a Department of Energy (DOE) comprehensive effort to enhance the protection of vital nuclear weapons research, development, and production facilities. If established, helicopter operations at any altitude over the designated sites would be prohibited without prior DOE authorization. This rulemaking is significant because it may be controversial. A summary of written and oral comments received in response to notices and hearings was sent to the DOE February 22, 1985, for them to address.

Timetable:

Action	Date	FR Cite
ANPRM	02/08/84	49 FR 04765
Public Hearings Announced	07/20/84	49 FR 29411
Extension of Comment Period	08/07/84	49 FR 31435
ANPRM Comment Period End	11/16/84	

Next Action Undetermined

Small Entity: Yes

Agency Contact: Paul Gallant, ATO-243 Aeronautical Requirements, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-3128

RIN: 2120-AB39

1698. + PROPOSED REVISION TO NOISE CERTIFICATION STANDARDS FOR PROPELLER DRIVEN SMALL AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1431 Federal Aviation Act of 1958, Sec. 611

CFR Citation: 14 CFR 21; 14 CFR 36

Legal Deadline: None

Abstract: Would revise noise certification standards for propeller-driven small airplanes to substitute the use of actual takeoff tests for the level flyover tests currently specified. This proposal would revise test procedures applicable to noise certification tests conducted on or after January 1, 1987. It would also revise the noise level limit numbers to approximate the equivalent of the sound levels measured and corrected in accordance with the current standard. These proposals result from industry requests for certification to be more directly based upon typical inservice noise measurements and from studies conducted in several nations over a three year period under the auspices of the International Civil Aviation Organization. In addition, the FAA proposes to exempt antique airplanes and changes involving the addition of floats or skis from the acoustical change measurement and documentation requirements of Part 21. This regulation is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Undetermined

Analysis: Draft Regulatory Evaluation 03/00/86

DOT—FAA

Proposed Rule Stage

Agency Contact: Richard N. Tedrick, Manager, Noise Policy and Regulatory Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 755-9027

RIN: 2120-AB47

1699. + CHARGES FOR USE OF METROPOLITAN WASHINGTON AIRPORTS

Significance: Agency Priority

Legal Authority: 49 USC 2401 to 2407; 49 USC 2421 to 2433

CFR Citation: 14 CFR 159.181 to 185

Legal Deadline: None

Abstract: Proposed revision to reflect changed costs of operating the airports. This rulemaking is significant because it may involve possible controversy resulting from increased landing fees. It is of special interest to the airline industry.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Edward S. Faggen, Department of Transportation, Federal Aviation Administration, Washington National Airport, Hangar 9, Washington, DC 20001, 703 557-8123

RIN: 2120-AB48

1700. + PROPOSED LIMITS ON THE GROWTH OF NOISE FROM CERTAIN AIRPLANES AND AIRPLANE TYPES

Significance: Agency Priority

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a); 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1431(b) Federal Aviation Act of 1958, Sec. 611(b); 49 USC 1421 et seq National Environmental Policy Act, Title I; EO 11514; 49 USC 106(g)

CFR Citation: 14 CFR 36; 14 CFR 91

Legal Deadline: None

Abstract: Would revise both noise certification standards and operating noise rules to ensure that aircraft certificated within certain broad noise groups or "stages" remain within those stages. Those proposals would apply to transport category large aircraft and to turbojet powered aircraft regardless of category. The proposed rule would prohibit modification of both individual airplanes and whole airplane types where those modifications would result in the growth of noise beyond the limits of the airplane's current stage. While the proposal would not restrict airplane changes that result in lower noise, it would in some cases prohibit re-modification of those aircraft to return to their original noise levels. The FAA believes that these rules are necessary to correct a defect in the current regulations and to protect airports, aircraft operators and the public from the effects of that defect. This rulemaking is significant because of intense public interest.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Analysis: Draft Regulatory Evaluation

Agency Contact: Richard N. Tedrick, Manager, Noise Policy and Regulatory Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 755-9027

RIN: 2120-AB50

1701. + INDEPENDENT POWER SOURCE FOR PUBLIC ADDRESS SYSTEM IN TRANSPORT CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: This action would amend the regulations to require an independent power source for the public address (PA) system in certain transport category airplanes. The requirement would be applicable to future type certification of airplanes that are required to have PA systems for use in air carrier service and to such airplanes manufactured after a specified date, regardless of the date of application for type certificate.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 02/00/86

Agency Contact: Robert Hall, Department of Transportation, Federal Aviation Administration, Nortwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2143

RIN: 2120-AB77

1702. + PROPOSED REVISION OF NOISE CERTIFICATION OF TURBOJET AND LARGE TRANSPORT CATEGORY AIRCRAFT

Significance: Agency Priority

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a); 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1431(b) Federal Aviation Act of 1958, Sec. 611(b); 49 USC 1421 et seq National Environmental Policy Act, Title I; EO 11514

CFR Citation: 14 CFR 36; 14 CFR 91

Legal Deadline: None

Abstract: Would revise certification and operational requirements for aircraft produced after January 1, 1988. On that date the current two stage noise requirements would be replaced with a simpler single standard corresponding to the current Stage 3.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 03/00/86

Agency Contact: Richard N. Tedrick, Manager, Noise Policy & Regulatory Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 755-9027

RIN: 2120-AB88

1703. ● + IMPROVED FLAMMABILITY STANDARDS FOR MATERIALS USED IN THE INTERIOR OF CARGO OR BAGGAGE COMPARTMENTS IN AIRPLANES OPERATED IN AIR CARRIER SERVICE UNDER PART 121

Significance: Agency Priority

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DOT—FAA

Proposed Rule Stage

Legal Authority: 49 USC 1354(a); 49 USC 1355; 49 USC 1356; 49 USC 1357; 49 USC 1401; 49 USC 1421 to 1430; 49 USC 1485; 49 USC 1502; 49 USC 106(g); 49 USC 1.47(a); PL 97-449; 49 USC 1472

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action proposes requirements to improve cargo compartment fire protection for transport category airplanes operated under Part 121 after a specified date. This action proposes a new rule which would require, within two years, replacement of ceiling and sidewall (including door and bulkhead) cargo compartment fire resistant liner panels in Class C and D cargo compartments greater than 200 cubic feet in volume in certain transport category airplanes.

Timetable:

Action	Date	FR Cite
NPRM	06/31/86	

Small Entity: No

Agency Contact: Gary L. Killion, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2112

RIN: 2120-AC04

1704. ● + ULTRALIGHT REGISTRATION AND MARKING

Significance: Agency Priority

Legal Authority: . 49 USC 1348; 49 USC 1354; 49 USC 1401; 49 USC 1402; 49 USC 1421 to 1430; 49 USC 1423; 49 USC 1522; 49 USC 1655(c); 49 USC 1347; 49 USC 1357(d)(2); 49 USC 1372; 49 USC 1442; 49 USC 1443; 49 USC 1472; 49 USC 1432

CFR Citation: 14 CFR 1; 14 CFR 45; 14 CFR 103

Legal Deadline: None

Abstract: This notice proposes to establish registration and marking requirements for powered ultralight aircraft. These requirements are needed to enforce existing ultralight air traffic safety requirements effectively and to enable the FAA to issue important safety information to powered ultralight operators. The FAA intends that these requirements will better protect the safety of other airspace users and persons and property on the ground from powered ultralight accidents.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 03/00/86

Agency Contact: Joseph Gwiazdowski, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 426-8361

RIN: 2120-AC09

1705. ● + PART 23 AIRWORTHINESS REVIEW - NOTICE NO. 1 (CRASHWORTHINESS)

Significance: Agency Priority

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1423

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This notice proposes changes to the airworthiness standards to enhance cabin safety and occupant protection by raising the level of crashworthiness for new designs of small airplanes type certificated after a certain date.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: No

Additional Information: This notice is the first of several planned notices resulting from a regulatory review of Part 23 that was conducted in late 1984.

Analysis: Regulatory Evaluation 12/12/85

Agency Contact: Earsa L. Tankesley, Manager, Regulations & Policy Office, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo 64106, 816 374-6930

RIN: 2120-AC16

1706. REVIEW: PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This part prescribes procedural requirements for the issuance of type certificates and changes to those certificates; the issuance of production certificates; the issuance of airworthiness certificates; and the issuance of export airworthiness approvals. In addition it prescribes rules governing the holders of these certificates and procedural requirements for the approval of certain materials, parts, processes, and appliances. The review will also analyze the impact on small entities in accordance with the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: M. C. Beard, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8235

RIN: 2120-AB09

1707. REVIEW: PART 67—MEDICAL STANDARDS AND CERTIFICATION

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1427 Federal Aviation Act of 1958, Sec. 607

CFR Citation: 14 CFR 67

Legal Deadline: None

Abstract: This part prescribes the medical standards and procedures that apply to the issuance of medical certificates to airmen. The review will also analyze the impact on small entities in accordance with the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite

DOT—FAA

Proposed Rule Stage

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: William Hark, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-3802

RIN: 2120-AB13

1708. REVIEW: PART 141—PILOT SCHOOLS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1422 Federal Aviation Act of 1958, Sec. 602; 49 USC 1427 Federal Aviation Act of 1958, Sec. 607

CFR Citation: 14 CFR 141

Legal Deadline: None

Abstract: This part prescribes the requirements for issuing pilot school certificates, provisional pilot school certificates, and associated ratings and the general operating rules for the holders of those certificates and ratings; the personnel and aircraft requirements for a pilot school or a provisional pilot school certificate; and the facilities an applicant must have available to hold a pilot school or provisional pilot school certificate. Also prescribed are the curriculum and course outline requirements for the issuance of a pilot school or provisional pilot school certificate or rating; the requirements for the issuance of an examining authority to the holder of a pilot school certificate and the privileges and limitations of that authority; and the operating rules that are applicable to a pilot school or provisional pilot school certificated under this part. The review will also analyze the impact on small entities in accordance with the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: John S. Kern, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8237

RIN: 2120-AB14

1709. REVIEW: PART 121 -- CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1401 Federal Aviation Act of 1958, Sec. 501; 49 USC 1421 to 1430 Federal Aviation Act of 1958, Secs. 601-610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: Review of rules governing the certification and operations of air carriers, supplemental air carriers, and commercial air carriers engaging in: (1) interstate or overseas transportation under a certificate of public convenience and necessity; (2) foreign air transportation under a certificate of public convenience and necessity; (3) charter flights or other special service operations; and (4) carriage of persons or property in air commerce for compensation or hire. These regulations are being reviewed to comply with the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: John S. Kern, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8237

RIN: 2120-AB27

1710. REVIEW: PART 135 -- AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355(a) Federal Aviation Act of 1958, Sec. 314(a); 49 USC 1421 to 1430 Federal Aviation Act of 1958, Secs. 601-610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 135

Legal Deadline: None

Abstract: Review of rules governing: (1) air taxi operations conducted under Part 298; (2) transportation of mail by aircraft conducted under a postal service contract; and (3) carriage of persons or property for compensation or hire as a commercial operator in specified aircraft. These regulations are being reviewed to comply with the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: John S. Kern, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8237

RIN: 2120-AB28

1711. ● REVIEW: CARRIAGE OF WEAPONS AND OTHER DANGEROUS OBJECTS AT WASHINGTON NATIONAL AIRPORT AND WASHINGTON DULLES INTERNATIONAL AIRPORT

Significance: Nonsignificant

Legal Authority: 49 USC 2401 or 2407; 49 USC 2421 to 2433

CFR Citation: 14 CFR 159.79

Legal Deadline: None

Abstract: Amendment to clarify existing rules governing the carriage of weapons and other dangerous objects on Washington National Airport and Dulles International Airport so that rule more closely conforms to regulations governing aviation security and to existing local ordinances. The change would make it easier for the public to comply with airports' rules without compromising airport security.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Affected Sectors: Multiple

Agency Contact: Edward S. Faggen or Jana E. McIntyre, Legal Counsel, Attorney, Department of Transportation, Federal Aviation Administration, Metropolitan Washington Airports, Washington National Airport, Hangar 9, Washington, DC 20001, 703 557-8123

RIN: 2120-AC01

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DOT—FAA

Proposed Rule Stage

1712. OBJECTS AFFECTING NAVIGABLE AIRSPACE

Significance: Nonsignificant

Legal Authority: 49 USC 1304 Federal Aviation Act of 1958, Sec. 104; 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1431 Federal Aviation Act of 1958, Sec. 611; 49 USC 1501 Federal Aviation Act of 1958, Sec. 1101

CFR Citation: 14 CFR 77

Legal Deadline: None

Abstract: Would revise and reorganize 14 CFR Part 77 in a more logical sequence and present regulatory requirements relating to proposed construction or alteration and their impact on navigable airspace. It is also intended to clarify and strengthen agency actions in determining whether a particular object would be a hazard to air navigation.

Timetable:

Action	Date	FR Cite
Notice of Review	06/19/78	43 FR 26322
Review Conference	12/08/80	
National Airspace Review Begins	07/09/84	
NPRM	03/00/86	

Small Entity: No

Additional Information: Docket No. 16920.

Analysis: Regulatory Evaluation 03/00/86

Agency Contact: Gene Falsetti, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8790

RIN: 2120-AA09

1713. METROPOLITAN WASHINGTON AIRPORTS REGULATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 2401 to 2407; 49 USC 2421 to 2433

CFR Citation: 14 CFR 159

Legal Deadline: None

Abstract: Proposed revision to reflect changed operational conditions and policies and to simplify, clarify and consolidate the regulations pertaining to the National Capital Airports.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Edward S. Faggen, Department of Transportation, Federal Aviation Administration, Washington National Airport Hangar 9, Washington, DC 20001, 703 557-8123

RIN: 2120-AA12

1714. ROTORCRAFT REGULATORY REVIEW PROGRAM NOTICE NO. 4

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This is the fourth of a series of notices to be issued as part of the FAA's comprehensive Rotorcraft Regulatory Review Program. This notice contains proposals which would amend and update the airframe and related equipment requirements in Parts 27 and 29 of the Federal Aviation Regulations.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Analysis:

Regulatory Impact Analysis

Agency Contact: James Major, Department of Transportation, Federal Aviation Administration, PO Box 1689, Ft Worth, TX 76101, 817 877-3549

RIN: 2120-AA29

1715. FOREIGN AIR CARRIERS AND OPERATORS OF CERTAIN LARGE U.S.- REGISTERED AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421 to 1430 Fed Aviation Act of 1958, Secs. 601 to 610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 129; 14 CFR 135

Legal Deadline: None

Abstract: This document proposes changes in regulations pertaining to (1) U.S. registered aircraft operated by foreign persons in common carriage and (2) certain large U.S. registered airplanes not operated in common carriage.

Timetable:

Action	Date	FR Cite
NPRM	12/10/85	50 FR 50566
NPRM Comment Period End	04/10/86	

Small Entity: No

Additional Information: Docket No. 24856

Agency Contact: Lawrence P. Bedore, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8096

RIN: 2120-AA42

1716. IMPLEMENTATION OF SAFER PROPULSION SYSTEM RECOMMENDATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend Sec 25.975 to require fuel tank vent protection during ground fires and Sec 25.1189 to require design practices which maximize the probability of engine fuel supply shut-off in a potential fire situation.

Timetable:

Action	Date	FR Cite
ANPRM	09/26/84	49 FR 38078
ANPRM Comment Period End	01/25/85	

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 24251

Agency Contact: James M. Walker, Department of Transportation, Federal Aviation Administration, NorthWest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2116

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[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

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1717. REGULATION OF MOTOR VEHICLES CARRYING PASSENGERS FOR HIRE AT WASHINGTON NATIONAL AIRPORT

Significance: Nonsignificant

Legal Authority: 49 USC 2401 to 2407; 49 USC 2421 to 2433

CFR Citation: 14 CFR 159.2; 14 CFR 190.4

Legal Deadline: None

Abstract: Amendment to require taxicab drivers and other drivers of ground vehicles carrying passengers for hire to and from Washington National Airport to obtain a permit from the FAA Metropolitan Washington Airports. Regulation would prescribe procedures for issuance and revocation of permits.

Timetable:

Action	Date	FR Cite
ANPRM	05/02/83	48 FR 19838
NPRM	07/00/86	

Small Entity: Yes

Analysis: Regulatory Evaluation

Agency Contact: Edward S. Faggen, Department of Transportation, Federal Aviation Administration, Washington National Airport, Hangar 9, Washington, DC 20001, 703 557-8123

RIN: 2120-AA62

1718. FAR 23 AIRWORTHINESS REVIEW

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would update Part 23 to be compatible with current technology, reduce the regulatory burden on the public and where possible, state the requirements more objectively.

Timetable:

Action	Date	FR Cite
Announcement of Review	01/31/83	48 FR 4290
Notice of Reopening of Comment Period	06/09/83	48 FR 26823
Compilation of Proposals and Announcement of Conference	10/22/84	49 FR 144
NPRM	00/00/00	

Small Entity: No

Additional Information: Docket No. 23404. Other regulatory projects affecting Part 23, and not needing analysis more in-depth than would occur as part of this review, are being included in this review to assure efficient use of the affected FAA rulemaking resources. Current projects in this category include the project to revise Part 23 to include Special Conditions and the project to amend Part 23 to include Marking Requirements for External Openable Exits. A public meeting is planned as a result of proposals received and four separate NPRM's are planned to resolve the known issues.

Analysis: Regulatory Evaluation 06/07/85

Agency Contact: Earse L. Tankesley, Department of Transportation, Federal Aviation Administration, 601 E. 12th St., Kansas City, MO 64106, 816 374-6930

RIN: 2120-AA75

1719. ACCELERATED GROUND TRAINING - FLIGHT ENGINEERS' SKILL REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a)

CFR Citation: 14 CFR 63; 14 CFR 91; 14 CFR 125

Legal Deadline: None

Abstract: This proposed action would amend the regulations to allow the flight engineers' normal procedure practical test to be conducted in an approved flight simulator in lieu of conducting it, in flight, in an airplane.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. 22781.

Agency Contact: Gary Davis, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8058

RIN: 2120-AA79

1720. INSTRUMENT FLIGHT RULE REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a)

CFR Citation: 14 CFR 135

Legal Deadline: None

Abstract: This proposed action would amend the regulations to: (1) allow operation of single-engine aircraft in IFR conditions; (2) permit IFR operations en route with a VFR buffer zone underneath the cloud ceiling and an IFR approach at destination; (3) change IFR minimums at U.S. military airports to be compatible with U.S. civil airport requirements; provide drift down standards during en route operations in IFR conditions in multi-engine aircraft; and provide consistency in regulations regarding references to instrument approach requirements.

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Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Additional Information: Docket No. 20169

Agency Contact: Roger E. Riviere, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8666

RIN: 2120-AA92

1721. AIRPLANE SIMULATOR USE IN AIRMAN CERTIFICATION

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604

CFR Citation: 14 CFR 61; 14 CFR 121

Legal Deadline: None

Abstract: This proposed action would amend the regulations to objectively match maneuver and procedure requirements with a catalog of simulation devices. The amendment should extend the maximum credit to simulation devices that objective requirements will permit.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Analysis: Regulatory Evaluation 02/00/86

Agency Contact: David C. Gilliom, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-3460

RIN: 2120-AA83

1722. TRANSPORT ROTORCRAFT STRUCTURAL FATIGUE AND DAMAGE TOLERANCE

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 611; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 29

Legal Deadline: None

Abstract: This notice proposes to change Section 29.571 governing the requirements for fatigue substantiation of transport category helicopter structure. It adds a requirement that damage tolerance criteria be used "unless shown to be impractical." The proposal is intended to obtain consistent use of state-of-the-art damage tolerant materials and design features in transport category aircraft.

Timetable:

Action	Date	FR Cite
ANPRM	01/06/83	48 FR 772
ANPRM Comment Period End	04/18/83	48 FR 772
NPRM	03/15/86	

Small Entity: No

Additional Information: Docket No. 23485.

Public meeting held on February 8, 1983.

Analysis: Regulatory Evaluation 09/16/85

Agency Contact: Robert T. Weaver, Department of Transportation, Federal Aviation Administration, PO Box 1689, Ft Worth, TX 76101, 817 877-3548

RIN: 2120-AA84

1723. FAR 23.49(B) STALL SPEEDS FOR SINGLE ENGINE AND MULTIENGINE AIRPLANES OF 6,000 LBS. OR LESS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 F.A. Act, Sec. 313; 49 USC 1421 F.A. Act, Sec. 601; 49 USC 1423 F.A. Act, Sec. 603

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would relieve the current 61-knot stall speed requirements of Part 23 by either deleting the requirement or specifying an alternative requirement.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Yes

Additional Information: A new generation of turbo-powered, single-engine airplanes is being developed whose operating efficiency and performance will be greatly reduced if they are required to meet the current stall speed requirements. The object of this rulemaking activity is to permit design and certification of higher performance, single-engine airplanes that may achieve higher cruise speeds with better specific fuel consumption by increasing wing loading.

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 09/30/85

Agency Contact: Karen Tankesley, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106, 816 374-6930

RIN: 2120-AA92

1724. AMENDMENT OF SECTIONS 91.171, 91.172, AND APPENDICES E AND F OF PART 43

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601

CFR Citation: 14 CFR 43; 14 CFR 91

Legal Deadline: None

Abstract: This action would delay an October 15, 1982, compliance date to afford operators additional time to accomplish tests and inspections required by Sec. 91.171, correct inappropriate references, and delete a requirement for integrated system tests of ATC transponders by operators.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Charles J. Serich, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8177

RIN: 2120-AA98

1725. NATIONAL AIRSPACE REVIEW (NAR) TERMINAL AIRSPACE TASK GROUP RECOMMENDATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a)

CFR Citation: 14 CFR 1; 14 CFR 71

Legal Deadline: None

Abstract: Would: (1) reclassify terminal control areas into one category; (2) apply the operating requirements of the current Group I TCA to Group II TCA's; (3) require student pilots to obtain a logbook endorsement from a certified instructor pilot prior to operating in any TCA; (4) replace the term "airport traffic area" with the term "control tower area", (5) apply the two-way radio communications requirements of Section 91.87 for operations at an airport with an operating control tower operated by other entities; (6) adopt a new definition for airport traffic areas (control tower areas); (7) redefine control zones with a standard ceiling of 3,000 feet AGL; and (8) use nautical miles versus statute miles to describe certain terminal airspace designations.

Timetable:

Action	Date	FR Cite
ANPRM	02/05/85	50 FR 5054
Final Action	01/00/86	
NPRM	05/00/86	
ANPRM Comment Period End	06/06/86	

Small Entity: No

Agency Contact: William C. Davis, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8626

RIN: 2120-AB02

1726. FATIGUE LIMIT TEST (PROPELLERS)

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 35

Legal Deadline: None

Abstract: Would revise Part 35 Fatigue Limit Test (Propellers) to add requirement for composite propellers to include environmental effects in fatigue evaluation bird impact and lightning protection.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 04/00/86

Agency Contact: M. Buckman, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, ANE-110, FAA NE Region, 12 New England Executive Park, Burlington, MA 01803, 617 273-7079

RIN: 2120-AB05

1727. PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1422 Federal Aviation Act of 1958, Sec. 602

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: This part prescribes the requirements for issuing pilot and flight instructor certificates and ratings, the conditions under which these ratings are necessary, and the privileges and limitations of those certificates and ratings. The review will also analyze the impact on small entities in accordance with the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: John S. Kern, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8237

RIN: 2120-AB12

1728. STANDARDS FOR APPROVAL OF A REDUCED V1 METHODOLOGY FOR TAKEOFF ON WET AND CONTAMINATED RUNWAYS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This notice proposes amendments to Parts 25, 121, and 135 of the Federal Aviation Regulations (FAR) to add new standards for transport category airplanes which would provide for approval of a reduced takeoff decision speed (V1) methodology for takeoff on wet and contaminated runways.

Timetable:

Action	Date	FR Cite
NPRM	02/00/86	
Next Action Undetermined		

Small Entity: No

Additional Information: All-Engine Flight Path portion removed to expedite reduced V1 rulemaking.

Analysis: Regulatory Evaluation 02/00/86

Agency Contact: Denny Whitmire, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2119

RIN: 2120-AB17

1729. STANDARDS FOR APPROVAL FOR HIGH ALTITUDE OPERATION OF SUBSONIC AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This proposal would review special conditions issued for high altitude operation and to consolidate and incorporate these special conditions into Part 25.

Timetable:

Action	Date	FR Cite
NPRM	05/31/86	

Small Entity: No

Affected Sectors: Multiple

Analysis: Regulatory Evaluation

Agency Contact: Mark Quam, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2134

RIN: 2120-AB18

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1730. APPENDIX G, CONTINUOUS TURBULENCE CRITERIA

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This proposal would review Appendix G (Continuous Gust Design Criteria) of Part 25 for possible revision.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Ivan Connally, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2120

RIN: 2120-AB20

1731. REBUILT ENGINE MAINTENANCE RECORDS

Significance: Nonsignificant

Legal Authority: 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: This action would propose to delete the rule that allows engine manufacturers to designate their overhaul engines as being "zero time engines."

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Robert J. Baker, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8058

RIN: 2120-AB29

1732. MISCELLANEOUS OPERATIONAL AMENDMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958 Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958 Sec. 601; 49 USC 1423 Federal Aviation Act of 1958 Sec. 603; 49 USC 1424 Federal Aviation Act of 1958 Sec. 604

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This notice would propose to amend existing regulations pertaining to passenger compliance with no smoking and seatbelt signs and instructions given to them by crewmembers by upgrading those rules to ensure their enforceability.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: Undetermined

Agency Contact: Gary Davis, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 426-8058

RIN: 2120-AB45

1733. LOW FUEL QUANTITY INDICATORS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: To revise Far 25.1305 to include a requirement to install a means to alert the flightcrew of potentially unsafe low fuel quantities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 06/00/86

Agency Contact: Neil Schalekamp, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2135

RIN: 2120-AB46

1734. DEALER'S AIRCRAFT REGISTRATION CERTIFICATE

Significance: Nonsignificant

Legal Authority: 49 USC 1349 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1401 Federal Aviation Act of 1958, Sec 501

CFR Citation: 14 CFR 47

Legal Deadline: None

Abstract: Proposed amendment to expand eligibility for obtaining a Dealer's Registration Certificate to resident aliens and certain non-citizen corporations.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Julie A. Stanford, Aircraft Regulation Specialist, Department of Transportation, Federal Aviation Administration, P.O. Box 25724, Oklahoma City, OK 73125, 405 686-2384

RIN: 2120-AB49

1735. PART 157 REVIEW

Significance: Nonsignificant

Legal Authority: Secs 309, 313(a), 314, 72 Stat, 751.; 49 USC 1350; 49 USC 1354(a); 49 USC 1355

CFR Citation: 14 CFR 157

Legal Deadline: None

Abstract: Revision of FAR Part 157 to include issues relating to ultralight activities and to require notice of proposed traffic patterns and changes thereto. Pending completion of Regulatory Evaluation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Yes

Agency Contact: Brent Fernald, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8026

RIN: 2120-AB74

1736. PART 101 REVIEW PROGRAM

Significance: Nonsignificant

Legal Authority: Secs 307, 313(a), 402, 601, 602, 603, 902, 1110, 1302; 72 Stat 749; 49 USC 1348; 49 USC 1354; 49 USC 1372; 49 USC 1421; 49 USC 1442; 49 USC 1443; 49 USC 1472; 49 USC 1510; 49 USC 1522

CFR Citation: 14 CFR 101

Legal Deadline: None

Abstract: This Review Program is intended to provide full public participation in matters concerning FAA evaluation of the operation of moored balloons, kites, unmanned rockets, unmanned free balloons, and the possible inclusion of remotely piloted vehicle regulations. Pending completion of Regulatory Evaluation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Yes

Additional Information: Part 91 revision also required to provide comprehensive treatment of manned balloon operations and to clarify the respective applicability and requirements of both parts 91 and 101 with respect to balloon operations.

Analysis: Regulatory Evaluation

Agency Contact: Brent Fernald, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8026

RIN: 2120-AB75

1737. ENGINE FUEL AND INDUCTION SYSTEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: This advance notice proposes the addition of a new paragraph. FAR Section 33.35(f), to incorporate requirements for the fuel mixture to go to full-rich if a disconnect occurs in the mixture linkage.

Timetable:

Action	Date	FR Cite
ANPRM	02/28/86	
Next Action Undetermined		

Small Entity: No

Analysis: Regulatory Evaluation 02/00/86

Agency Contact: George Mulcahy, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, Federal Aviation Administration, NE Region, 12 New England Executive Park, Burlington, MA 01803, 617 273-7077

RIN: 2120-AB76

1738. HELICOPTER INSTRUMENT FLIGHT

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 27; 14 CFR 29

Legal Deadline: None

Abstract: This project proposes to revise Appendix B of Parts 27 and 29 to permit IFR operations at airspeeds below the normal minimum instrument airspeed during approach and landing.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: The FAA has determined that adoption of this proposal will not result in an economic burden on the public. It is a relieving rule that removes a minimum speed limitation when certain optional performance standards are met.

Agency Contact: Jim S. Honaker, Department of Transportation, Federal Aviation Administration, P.O. box 1689, Fort Worth, TX 76101, 817 877-2552

RIN: 2120-AB87

1739. EXPANSION OF APPLICABILITY OF SECTION 43.17 TO INCLUDE ANY COUNTRY WITH APPROPRIATE BILATERAL AIRWORTHINESS AGREEMENT, INCLUDING MAINTENANCE

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1422; 49 USC 1423; 49 USC 1424; 49 USC 1425; 49 USC 106(g)

CFR Citation: 14 CFR 43

Legal Deadline: None

Abstract: The proposed amendment would revise Section 43.17 to accept the completion of maintenance, alteration or modification of an aircraft, engine, propeller, appliance, component, or part thereof, and for installation by a person authorized by the Civil Aviation Authority (CAA) of the foreign country having the Bilateral Airworthiness Agreement(BAA), which includes maintenance alteration, or modification, with the U.S., and for the import of those items into the U.S. when such work is done in accordance with the Schedule of Implementation Procedures for the BAA between the U.S. and the foreign country.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Analysis: Regulatory Evaluation 02/00/86

Agency Contact: Angelo Mastrullo, Department of Transportation, Federal Aviation Administration, 800

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Independence Ave., SW, Washington, D.C. 20591, 202 426-8260

RIN: 2120-AB89

1740. REVISED ONE-ENGINE-INOPERATIVE RATINGS FOR ROTORCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 27; 14 CFR 29; 14 CFR 33

Legal Deadline: None

Abstract: This project proposes to revise Parts 27, 29, and 33 to set forth qualifications and performance associated with optional 30-second/2-minute one-engine-inoperative (OEI) ratings for rotorcraft.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Analysis: Regulatory Evaluation 06/30/86

Agency Contact: Wilbur F. Wells, Department of Transportation, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101, 817 877-2551

RIN: 2120-AB90

1741. TURBINE BURST PROTECTION FOR TRANSPORT CATEGORY HELICOPTERS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 29

Legal Deadline: None

Abstract: The purpose of this project is a proposal to amend Part 29 to require design features or other provisions to minimize the hazards of failure of high speed rotors used in turbine engines in transport category helicopters.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 05/20/86

Agency Contact: Wilbur F. Wells, Department of Transportation, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, 817 877-2551

RIN: 2120-AB91

1742. ANTI-BLOCKING DEVICE

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 106(g) Revised Pub. L. 97-449, January 12, 1983; 14 CFR 11.45; 49 USC 1354(a)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: Mr. John G. Rutty submitted a petition for rulemaking seeking to amend the FAR to require antiblocking and stuck microphone (ABD) relief circuitry operatively associated with aircraft voice communications radios employed in certain high-density air traffic areas. Action Pending Operational Evaluation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Brent Fernald, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8626

RIN: 2120-AB92

1743. OFFSHORE AIRSPACE REVIEW

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) F.A. Act, Section 307(a); 49 USC 1354(a) F.A. Act, Section 313(a)

CFR Citation: 14 CFR 71; 14 CFR 75

Legal Deadline: None

Abstract: User organizations recommended under the National Airspace Review to simplify the classification of offshore airspace designations.

Timetable:

Action	Date	FR Cite
ANPRM	07/29/85	50 FR 30798
ANPRM Comment Period End	10/28/85	50 FR 30798
Next Action Undetermined		

Small Entity: No

Analysis: Regulatory Evaluation 07/00/85

Agency Contact: William C. Davis, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8783

RIN: 2120-AB93

1744. AIRSPACE RECLASSIFICATION

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1354; 14 CFR 11.45; 14 CFR 11.65

CFR Citation: 14 CFR 71; 14 CFR 73; 14 CFR 75; 14 CFR 91; 14 CFR 103; 14 CFR 105; 14 CFR 1

Legal Deadline: None

Abstract: Users organizations recommended, under the National Airspace Review, to redesign the airspace system to a more simple system similar to the systems in place in Canada and proposed under ICAO recommendations.

Timetable:

Action	Date	FR Cite
ANPRM	02/05/85	50 FR 5046
ANPRM Comment Period End	06/06/85	50 FR 5046
NPRM	05/07/86	

Small Entity: Undetermined

Analysis: Regulatory Evaluation 01/01/86

Agency Contact: William C. Davis, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8783

RIN: 2120-AB95

1745. ● TERMINAL CONTROL AREA (TCA) SAN DIEGO (MODIFICATION)

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a); 49 USC 1354(a); 49 USC 1510

CFR Citation: 49 CFR 71

Legal Deadline: None

Abstract: Terminal Control Areas (TCA) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled

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aircraft in a higher density terminal environment.

Timetable:

Action	Date	FR Cite
NPRM	03/31/86	

Small Entity: No

Affected Sectors: Multiple

Agency Contact: Gene Falcetti, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8783

RIN: 2120-AB96

1746. ● TRANSPONDER REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1502; 49 USC 1510; 49 USC 1522

CFR Citation: 14 CFR 99

Legal Deadline: None

Abstract: This proposal would require aircraft to have an operating transponder when operating into, within, or out of the United States through coastal air defense identification zones (ADIZ).

Timetable:

Action	Date	FR Cite
NPRM	03/31/86	

Small Entity: No

Affected Sectors: Multiple

Agency Contact: Burton Chandler, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8783

RIN: 2120-AB99

1747. ● FLIGHT PLAN AND TRANSPONDER REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1502; 49 USC 1510; 49 USC 1522

CFR Citation: 14 CFR 99

Legal Deadline: None

Abstract: The proposal would require that all civil aircraft operating into, within, or out of the United States through a coastal air defense identification zone be operated under a field flight plan regardless of true airspeed. Each such operation by an aircraft equipped with a functioning air traffic control (ATC) transponder would have to be conducted with that transponder on and replying on the appropriate code or on a code assigned by ATC.

Timetable:

Action	Date	FR Cite
NPRM	03/31/86	

Small Entity: No

Affected Sectors: Multiple

Agency Contact: Burton Chandler, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8783

RIN: 2120-AC00

1748. ● CHANGES REQUIRING A NEW TYPE CERTIFICATE

Significance: Nonsignificant

Legal Authority: 49 USC 1344; 49 USC 1348(c); 49 USC 1352; 49 USC 1354(a); 49 USC 1355; 49 USC 1421 to 1431; 49 USC 1502; 49 USC 1651(b)(2); 42 USC 1857f-10; 42 USC 4321 et seq; EO 11514; 49 USC 106(g); PL 97-449

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This notice proposes to amend the Federal Aviation Regulations to permit certain aircraft product changes to be accomplished under amended type certification or supplemental type certification procedure in lieu of applying for a new type certificate. The granting of several exemptions emphasized the need for a review of established criteria mandating an application for a new type certificate. The availability of advanced, high performance, light-weight engines and superior replacement systems requires this rule change for the upgrading of older seasoned designs to increase safety, utility, performance, and reliability, and reduce operational cost. The rule remains unchanged for aircraft product modifications which are so extensive that a substantially complete investigation of compliance is required.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Affected Sectors: Multiple

Analysis: Regulatory Evaluation 09/00/86

Agency Contact: Heinz Hellebrand, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 426-8365

RIN: 2120-AC05

1749. ● PART 119 - CERTIFICATION AND OPERATIONS SPECIFICATIONS: AIR CARRIERS AND OTHER OPERATORS FOR COMPENSATION OR HIRE

Significance: Nonsignificant

Legal Authority: 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1357; 49 USC 1401; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125; 49 USC 1485; 49 USC 106(g)

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 129; 14 CFR 135

Legal Deadline: None

Abstract: The FAA proposes to update and clarify the certification and operations specifications requirements for persons who operate aircraft for compensation or hire by (1) codifying the Special Federal Aviation Regulation pertaining to the certification requirements and (2) consolidating into one part the certification and operations specifications requirements for persons who operate under Part 121 or Part 135. The proposal responds to the termination of the Civil Aeronautics Board (CAB) and to changes in the air transportation industry since the Airline Deregulation Act of 1978. The proposal would provide a guide enabling persons who operate aircraft for compensation or hire to determine the certification and operations requirements with which they must comply.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 04/00/86

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Agency Contact: Larry Bedore, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 426-8058

RIN: 2120-AC08

1750. ● GLIDERS AND BALLOONS

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421 to 1430; 49 USC 106(g); 49 USC 1355; 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 1522; 49 USC 2121 to 2125

CFR Citation: 14 CFR 43; 14 CFR 61; 14 CFR 91

Legal Deadline: None

Abstract: This notice proposes to amend the regulations to discontinue classifying glider and balloon assembly as preventive maintenance, except in certain circumstances; add training requirements for pilots in preflight assembly of gliders and balloons; and add preflight assembly and post assembly inspections to the preflight responsibilities for preflight assembly and inspection of gliders and balloons while simultaneously reducing the recording burden on the public.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 05/00/86

Agency Contact: Charles Schaffer, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 426-8363

RIN: 2120-AC10

1751. ● AIRCRAFT IDENTIFICATION AND RETENTION OF FUEL SYSTEM MODIFICATION RECORDS

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421 to 1430; 49 USC 106(g); 49 USC 1355; 49 USC 1301(7); 49 USC 1303; 49 USC 1344; 49 USC 1348; 49 USC 1352 to 1355; 49 USC 1421 to 1431; 49 USC 1471; 49 USC 1472; 49 USC 1502; 49 USC 1510; 49 USC 2121 to 2125

CFR Citation: 14 CFR 43; 14 CFR 45; 14 CFR 91

Legal Deadline: None

Abstract: The FAA proposes to require: (1) that 12-inch high nationality and registration marks (N-numbers) be displayed on aircraft that penetrate an Air Defense Identification Zone (ADIZ) or a Defense Early Warning Identification Zone (DEWIZ); (2) that a civil aircraft identification (ID) plate be displayed in a visible area on the exterior of an aircraft near the right rear-most entrance; and (3) that a copy of the FAA Form 337 for the installation of a temporary extended range fuel system be obtained and kept in the aircraft by the owner or operator until the system is removed. The U.S. Customs Service has requested the FAA to consider amending these regulations to assist in identifying aircraft suspected of being involved in drug trafficking.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 05/00/86

Agency Contact: Joseph Gwiazdowski, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 426-8361

RIN: 2120-AC11

1752. ● PART 23 AIRWORTHINESS REVIEW, NOTICE NO. 5 (EQUIPMENT, SYSTEMS, AND INSTALLATION)

Significance: Nonsignificant

Legal Authority: 49 USC 1354; 49 USC 1421; 49 USC 1423

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This proposed amendment to Part 23 would allow certification of small airplanes with systems critical to safe flight that are not now approved without special conditions, exemptions, or equivalent safety findings.

Timetable:

Action	Date	FR Cite
NPRM	08/01/86	

Small Entity: No

Additional Information: This notice results from a regulatory review of Part 23 that was conducted in late 1984.

Analysis: Regulator Evaluation

Agency Contact: Earsa L. Tankesley, Manager, Regulations & Policy Office, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo 64106, 816 374-6930

RIN: 2120-AC14

1753. ● PART 23 AIRWORTHINESS REVIEW, NOTICE NO. 2

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec 313; 49 USC 1421 Federal Aviation Act of 1958, Sec 601; 49 USC 1423 Federal Aviation Act of 1958, Sec 603

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This notice will propose design requirements applicable to advancements in technology being incorporated into current designs, reducing the hazards from bird strike, allowing certification of spin resistant airplanes, reducing the regulatory burden in showing compliance with some requirements, and providing requirements for new technology that is being utilized in the development of small airplanes.

Timetable:

Action	Date	FR Cite
NPRM	03/24/86	

Small Entity: No

Additional Information: This notice results from a regulatory review of Part 23 that was conducted in late 1984.

Analysis: Regulatory Evaluation

Agency Contact: Earsa L. Tankesley, Manager, Regulations & Policy Office, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, Mo 64106, 816 374-6930

RIN: 2120-AC15

1754. ● AIRCRAFT REGISTRATION RECORDING OF AIRCRAFT TITLES AND SECURITY DOCUMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1401(a); 49 USC 1401(b); 49 USC 1402; 49 USC 1403(g); 49 USC 1405

CFR Citation: 14 CFR 47; 14 CFR 49

Legal Deadline: None

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Abstract: This is a recodification of 14 CFR Parts 47 and 49 in order to modernize these parts, making them compatible with modern business practices, in keeping with FAA policy.

The potential costs have not yet been assessed, but are considered to be negligible as the impact will be procedural and not substantive.

The potential benefits are the clarification of regulatory language and facilitation of procedures for registration of aircraft and recordation of conveyances affecting ownership of or interest in US civil aircraft.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: Yes

Agency Contact: Alonso J. rodriguez, Attorney Advisor, Department of Transportation, Federal Aviation Administration, P.O. Box 25082, Oklahoma City, OK 73125, 405 686-2296

RIN: 2120-AC17

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Federal Aviation Administration (FAA)

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1755. + UPDATE OF PART 139

Significance: Regulatory Program

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1429 Federal Aviation Act of 1958, Sec. 609; 49 USC 1430 Federal Aviation Act of 1958, Sec. 610; 49 USC 1432 Federal Aviation Act of 1958, Sec. 612

CFR Citation: 14 CFR 139

Legal Deadline: None

Abstract: Revision of 14 CFR Part 139 to update and clarify the part including fire-fighting, rescue, and airport fueling operation requirements. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	10/23/85	50 FR 43094
NPRM Comment Period End	01/21/86	

Next Action Undetermined

Small Entity: Yes

Additional Information: This project was initiated on June 25, 1975, in response to a GAO evaluation of the FAA's Airport Certification Program and the result it has on improving the safety of Airports. Recent delays have occurred due to industry concerns over aviation fueling responsibilities. FAA has reviewed proposals presented by a group of aviation organizations and changes have been made to the NPRM. The NPRM was published in the Federal Register on October 23, 1985. The comment period closed on January 21, 1986.

Analysis: Regulatory Evaluation 03/00/86

Agency Contact: Jose Roman, Jr., Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-3067

RIN: 2120-AA10

1756. + HIGH DENSITY AIRPORT TRAFFIC RULE

Significance: Regulatory Program

Legal Authority: 49 USC 1303 Federal Aviation Act of 1958, Sec. 103; 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a)

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: Would rescind the operations reservations rule as it applies to the John F. Kennedy, LaGuardia, and Chicago O'Hare Airports. Under the current rule, an operator must secure a reservation for any instrument flight rule departure or arrival operation at those airports during designated hours. The proposal is considered significant because of the public interest it is likely to generate.

Timetable:

Action	Date	FR Cite
NPRM	03/31/83	48 FR 13434
Interim Final Rule	03/06/84	49 FR 8237
Final Action	00/00/00	48 FR 8237

Small Entity: No

Additional Information: Docket No. 22471. The rule was originally promulgated to reduce air traffic congestion and delay. With the advent of improved programs, procedures, and air traffic flow management, the rule is felt to be unnecessary. On March 6, 1984, the FAA issued an interim final rule that amended the High Density Rule (49 FR 8237; March 6, 1984). The agency will reexamine within the next 6-9 months (from the 3/1/84 issuance date) the capability of the air traffic control system to handle the unusual demands that a less constrained system may create, such as significant airborne holding and multiple requests by operators for release from gates. This will be examined in connection with airport capacity and the experience levels of air traffic control personnel.

Analysis: Regulatory Evaluation 03/31/83

Agency Contact: John Watterson, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8783

RIN: 2120-AA72

1757. + METROPOLITAN WASHINGTON AIRPORTS POLICY

Significance: Regulatory Program

Legal Authority: 49 USC 1303 Federal Aviation Act of 1958, Sec. 103; 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(b) Federal Aviation Act of 1958, Sec. 307(b); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); Act for the Administration of Washington National Airport; Second Washington Airport Act; 64 Stat. 770, Sec. 4

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This rulemaking proposes to change the annual passenger ceiling at Washington National Airport from 16 million to 14.8 million or to a figure between 14.8 million and 16 million depending upon the highest annual

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passenger level forecasted within the next 2 years. It also proposes to allow commuter carriers utilizing smaller, quieter aircraft to conduct a limited number of "stolrunway" operations at National Airport in addition to the operations permitted by the current limitations. This amendment is proposed to guide the future operation and development of Washington National and Dulles International Airports and to improve the quality of the environment in the areas around National. This rulemaking is considered to be significant because of possible public interest.

Timetable:

Action	Date	FR Cite
SNPRM	06/14/84	49 FR 24626
SNPRM Comment Period	07/16/84	

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 21955.

Analysis: Regulatory Evaluation 06/14/84

Agency Contact: Edward P. Faberman, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-3773

RIN: 2120-AA89

1758. + EXPANSION OF CVR/FDR EQUIPMENT REQUIREMENTS ON U.S. AIRCRAFT

Significance: Regulatory Program

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604

CFR Citation: 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: This action proposes to change the regulations to expand the minimum flight data recorder [FDR] requirements for existing and newly manufactured pre-1989 type certificated aircraft operating under Part 121. This proposed action also would amend Part 135 to require cockpit voice recorders (CVR) on multiengine-powered, fixed-wing aircraft manufactured after a certain date if the aircraft requires two pilots and is certificated to carry six or more passengers. This is in response to an NTSB recommendation.

Timetable:

Action	Date	FR Cite
NPRM	01/08/85	50 FR 949
Notice Reopening Comment Period	04/18/85	50 FR 15528
NPRM Comment Period End	06/03/85	50 FR 15528
Final Action	07/00/86	

Small Entity: No

Additional Information: Docket No. 24418

Agency Contact: Frank Rock, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8323

RIN: 2120-AA95

1759. + IMPROVED FLAMMABILITY STANDARDS FOR MATERIALS USED IN THE INTERIORS OF TRANSPORT CATEGORY AIRPLANE CABINS

Significance: Regulatory Program

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 106(g)

CFR Citation: 14 CFR 25; 14 CFR 121

Legal Deadline: None

Abstract: To develop a revision to FAR 25.853 to improve fire test methods of interior materials that will improve the safety in cabin seating environments. This regulation has been made significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	04/16/85	50 FR 15038
NPRM Comment Period End	07/15/85	
Comment period reopened	07/26/85	50 FR 30447
Comment period closed	09/09/85	
Final Action	04/30/86	

Small Entity: No

Additional Information: Docket No. 24594

Public Compliance Cost: Initial Cost: $4,000,000; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1967

Affected Sectors: Multiple

Analysis: Regulatory Evaluation 04/00/85

Agency Contact: Gary L. Killion, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2112

RIN: 2120-AB23

1760. ● + SLOT ALLOCATION; INITIAL WITHDRAWAL AND REDISTRIBUTION OF SLOTS

Significance: Regulatory Program

Legal Authority: 49 USC 1302; 49 USC 1303; 49 USC 1348; 49 USC 1354(a); 49 USC 1421(a); 49 USC 1424; 49 USC 2402; 49 USC 2424

CFR Citation: 14 CFR 93, Subpart S; 14 CFR 93, Subpark K

Legal Deadline: None

Abstract: The high density rule, 14 CFR Subpart K, limits the number of Air Carrier and Commuter operations at the four high density airports. On December 16, 1985, DOT issued new Subpart S to Part 93 providing that operating slots at high density airports may be bought and sold, effective April 1, 1986. Subparts provides that each operator will be allocated those slots held by the operator on December 16, 1985. Because there will be few slots available for new entrants, this proposal would ensure that five percent of the total slots at each airport are available for reallocation by lottery. The lottery would include a preference for new entrant carriers.

Timetable:

Action	Date	FR Cite
NPRM	12/16/85	50 FR 52199
NPRM Comment Period End	01/24/86	
Final Action	03/01/86	

Small Entity: No

Affected Sectors: Multiple

Agency Contact: Edward Faberman, Deputy Chief Counsel, FAA, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 426-3773

RIN: 2120-AC02

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1761. + CERTIFICATION: STUDENT RECREATIONAL, RECREATIONAL, STUDENT OTHER THAN RECREATIONAL AND PRIVATE PILOTS

Significance: Agency Priority

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1422 Federal Aviation Act of 1958, Sec. 602

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: This petition proposes to establish a new concept in the certification of pilots to permit the issuance of a student recreational, a recreational, a student other than recreational, and a private pilot certificate. This rulemaking is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/25/85	
NPRM Comment Period End	09/24/85	
Final Action	11/00/86	

Small Entity: No

Additional Information: Docket No. 24695

Agency Contact: Larry Williams, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8150

RIN: 2120-AA54

1762. + FIRE PROTECTION REQUIREMENTS FOR CARGO OR BAGGAGE COMPARTMENTS

Significance: Agency Priority

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: To develop criteria for cargo compartment liners required for all categories of cargo compartments except Class A and to investigate compartment volume, ventilation and detection and fire prevention capabilities of certain approved self-extinguishing materials used for cargo compartment liners.

Timetable:

Action	Date	FR Cite
NPRM	06/06/84	49 FR 31830
Reopen comment period	10/12/84	49 FR 40041
Comment Period Closes	01/10/85	
Reopen comment period	04/03/85	50 FR 13226
Comment period closes	06/03/85	
Final Action	04/30/86	

Small Entity: No

Additional Information: Docket No. 24185. This regulation was formerly titled "Cargo Compartment Classification."

Affected Sectors: Multiple

Analysis: Regulatory Evaluation 06/06/84

Agency Contact: Gary L. Killion, Department of Transportation, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, 206 431-2112

RIN: 2120-AA90

1763. + MODE S TRANSPONDER

Significance: Agency Priority

Legal Authority: 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1353 Federal Aviation Act of 1958, Sec. 312; 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601

CFR Citation: 14 CFR 43; 14 CFR 91; 14 CFR 121; 14 CFR 127; 14 CFR 135

Legal Deadline: None

Abstract: Proposes use of Mode S transponder within terminal control areas and generally above 12,500 feet MSL. Also proposes that ATCRBS transponder may be used in those airspace areas. This regulation is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
ANPRM	10/18/83	48 FR 48364
NPRM	09/17/85	
NPRM Comment Period End	12/16/85	50 FR 37674

Next Action Undetermined

Small Entity: Undetermined

Additional Information: Docket No. 23799. Mode S is considered to be the key airborne link to the new automated National Airspace System. It will also figure as a key component in data-linking information between air and ground.

Analysis: Regulatory Evaluation 09/17/85 (50 FR 37674)

Agency Contact: Gene Falsetti, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8783

RIN: 2120-AB03

1764. + PROTECTIVE BREATHING EQUIPMENT

Significance: Agency Priority

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: This action proposes to update the regulations applicable to protective breathing equipment (PBE) and require compliance with Technical Standard Order-C99 (TSO-C99). The proposed changes would specify additional requirements for portable PBE at all required hand fire extinguisher locations and training requirements for crewmembers using PBE.

Timetable:

Action	Date	FR Cite
NPRM	10/10/85	
NPRM Comment Period End	02/10/86	50 FR 41452

Next Action Undetermined

Small Entity: Yes

Additional Information: Docket No. 24792

Analysis: Regulatory Flexibility Analysis

Agency Contact: Roger E. Riviere, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8096

RIN: 2120-AB32

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1765. + CIVIL HELICOPTER NOISE CERTIFICATION

Significance: Agency Priority

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a); 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1431(b) Federal Aviation Act of 1958, Sec. 611(b); 42 USC 4321 et seq. National Environmental Policy Act, Title I; EO 11514

CFR Citation: 14 CFR 21; 14 CFR 36

Legal Deadline: None

Abstract: Would revise noise certification standards for aircraft to add provisions applicable to helicopters. These would apply to civil helicopters in the normal, transport, and restricted categories, and would provide noise level limits and test procedures for the issuance of new and amended type certificates. It would also prohibit changes in type design of helicopters that might increase their noise levels beyond certain limits. Although this notice contains several provisions similar to those in an earlier notice, which was withdrawn in 1981, it differs from that notice in several important aspects. One is the absence of any limit on manufacture of older non-conforming types; another is the increased commonality between these proposed standards and those adopted by the International Civil Aviation Organization (ICAO).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: Part 36 of the Federal Aviation Regulations (14 CFR Part 36) contains noise standards for aircraft type and airworthiness certification. As the part is currently organized, Subparts B and C and Appendices A, B, and C apply to transport category large airplane and subsonic turbojet powered airplanes regardless of category. Appendix F contains the provisions applicable to propeller driven light airplanes. This notice proposes to prescribe noise levels and test procedures for civil helicopters certificated in the normal, transport, and restricted categories. These proposals include rules governing the issuance of new and amended type certificates for helicopters for which application is made on and after the publication date of this notice. The proposed rule would prohibit certain growth or other design changes if those changes might result in noise levels beyond prescribed limits. The proposed rule also provides the test conditions and procedures for conducting helicopter noise tests to demonstrate compliance with the prescribed noise levels.

Analysis: Regulatory Evaluation 09/00/85; Environmental Analysis 09/00/85

Agency Contact: Richard N. Tedrick, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 755-0027

RIN: 2120-AB33

1766. + ELIMINATION OF AIRPORT DELAYS

Significance: Agency Priority

Legal Authority: 49 USC 1303 Federal Aviation Act of 1958, Sec. 103; 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a); 14 CFR 11.49

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This proposed rule is designed to alleviate increased delays throughout the air traffic system. If implemented, the FAA would alter current airline scheduling through a lottery process to more evenly space arrivals and departures throughout the day. Alternatives include voluntary schedule changes by the airlines. The rule, or the alternatives, would benefit the airline industry and the public by limiting delays. This regulation is significant because of its involvement with important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	08/20/84	49 FR 33062

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 24208.

Agency Contact: Edward P. Faberman, Acting Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-3775

RIN: 2120-AB42

1767. PILOT OXYGEN MASK REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1421 to 1430 Fed. Aviation Act of 1958, Secs. 601 to 610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 91; 14 CFR 121; 14 CFR 135

Legal Deadline: None

Abstract: Proposed rule to permit certain widebody turbojet airplanes to operate up to flight level of 45,000 feet above sea level without requirements for the pilot to use supplemental oxygen.

Timetable:

Action	Date	FR Cite
NPRM	08/12/82	47 FR 35146
Final Action	11/00/86	

Small Entity: No

Additional Information: Docket No. 23243.

Analysis: Regulatory Evaluation 08/12/82

Agency Contact: Larry Bedore, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8090

RIN: 2120-AA11

1768. REVISION OF PART 91

Significance: Nonsignificant

Legal Authority: 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1401 Federal Aviation Act of 1958, Sec. 501; 49 USC 1402 Federal Aviation Act of 1958, Sec. 502; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1422 to 1430 Fed. Aviation Act of 1958, Secs. 602 to 610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 91

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Legal Deadline: None

Abstract: This review deals with the air traffic and general operating rules in Part 91 - the most fundamental aviation regulations. This action would reorganize and rearrange the rules without substantive change, to make them easier to use and understand. (Phase I). A later action will review and revise them to eliminate unnecessary burdens in keeping with E.O. 12291. (Phase II). AOPA withdrew its petition on November 20, 1980, so the FAA could proceed with this two-step review. ANPRM 79-2 published the original AOPA petition for comment on January 22, 1979 (44 FR 4571). NPRM 79-2A proposing reorganization of Part 91 was published on September 10, 1981 (46 FR 45256). NPRM 79-2B extended the comment period to April 9, 1982 (December 10, 1981; 46 FR 60461). Comments received on NPRM 79-2A will form a basis for proceeding with Phase II.

Timetable:

Action	Date	FR Cite
ANPRM	01/22/79	44 FR 4571
NPRM	09/10/81	46 FR 45256
NPRM	03/20/85	50 FR 11282
NPRM Comment Period End	07/18/85	
Final Action	08/00/86	

Small Entity: No

Additional Information: Docket No. 18334.

Analysis: Regulatory Evaluation 09/10/81

Agency Contact: James R. Kelln, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8150

RIN: 2120-AA13

1769. RECORDING OF AIRCRAFT TITLES AND SECURITY DOCUMENTS - NOTICE OF LIEN

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1401 Federal Aviation Act of 1958, Sec. 501; 49 USC 1403 Federal Aviation Act of 1958, Sec. 503; 49 USC 1405 Federal Aviation Act of 1958, Sec. 505; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 49

Legal Deadline: None

Abstract: Proposed amendment to prescribe specific procedures for filing Notice of Lien with the Aircraft Registry. This proposal would also require release of the Notice filed upon satisfaction of the lien.

Timetable:

Action	Date	FR Cite
NPRM	01/13/75	40 FR 2445

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 14236.

Agency Contact: Les Dunlop, Aircraft Registration Program Officer, Department of Transportation, Federal Aviation Administration, PO Box 25724, Okla City, OK 73125, 405 686-2284

RIN: 2120-AA14

1770. CESSNA FINANCE PETITION

Significance: Nonsignificant

Legal Authority: 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1401 Federal Aviation Act of 1958, Sec. 501; 49 USC 1403 Federal Aviation Act of 1958, Sec. 503; 49 USC 1405 Federal Aviation Act of 1958, Sec. 505; 49 USC 1406 Federal Aviation Act of 1958, Sec. 506; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 47

Legal Deadline: None

Abstract: Petition for rulemaking to amend Part 47 to provide all persons who hold a security interest in aircraft the same protection now afforded the seller of an aircraft under a conditional sales contract.

Timetable:

Action	Date	FR Cite
ANPRM	10/20/77	42 FR 55891
NPRM	05/22/80	45 FR 34826

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 17311.

Analysis: Regulatory Evaluation 05/22/80

Agency Contact: Les Dunlop, Aircraft Registration Program Officer, Department of Transportation, Federal Aviation Administration, PO Box 25724, Okla City, OK 73125, 405 686-2284

RIN: 2120-AA15

1771. INOPERATIVE INSTRUMENTS OR EQUIPMENT

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1354(a) Federal Aviation Act of 1958, Sec.313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1355(a) Federal Aviation Act of 1958, Sec. 314(a); 49 USC 1421(a) to 1430 Fed. Av. Act 1958, Secs. 601(a) to 610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 43; 14 CFR 91; 14 CFR 121; 14 CFR 125; 14 CFR 135

Legal Deadline: None

Abstract: Proposed rule to revise Part 91 to include provisions that will allow the operation of powered aircraft with certain installed instruments and equipment inoperative. The proposal would consolidate minimum equipment list requirements presently contained in various parts of the Federal Aviation Regulations into one regulation.

Timetable:

Action	Date	FR Cite
NPRM	10/26/81	46 FR 52278

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 22320.

Analysis: Regulatory Evaluation 10/26/81

Agency Contact: John Lynch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8150

RIN: 2120-AA19

1772. ROTORCRAFT REGULATORY REVIEW PROGRAM AMENDMENT NO. 3

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 1; 14 CFR 27; 14 CFR 29; 14 CFR 33

Legal Deadline: None

Abstract: This amendment changes Parts 1, 27, 29, and 33 in the area of propulsion system requirements. New rules or changes to rules are included in

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the area of engine ratings, detailed combustion heater requirements, lightning protection, system tests, and oil requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/27/84	49 FR 46670
NPRM Comment Period End	03/26/85	
Final Action	10/15/86	

Small Entity: No

Analysis: Regulatory Evaluation 11/27/84

Agency Contact: Wilbur Wells, Department of Transportation, Federal Aviation Administration, PO Box 1689, Ft Worth, TX 76101, 817 877-2551

RIN: 2120-AA26

1773. ROTORCRAFT REVIEW NOTICE NO. 5-OPERATIONS AND MAINTENANCE

Significance: Nonsignificant

Legal Authority: 49 USC 1341 Federal Aviation Act of 1958, Sec. 301; 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1401 Federal Aviation Act of 1958, Sec. 501; 49 USC 1402 Federal Aviation Act of 1958, Sec. 502; 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601; 49 USC 1430 Federal Aviation Act of 1958, Sec. 610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 43; 14 CFR 45; 14 CFR 61; 14 CFR 91; 14 CFR 121; 14 CFR 127; 14 CFR 133; 14 CFR 135

Legal Deadline: None

Abstract: This is the fifth of a series of notices to be issued as part of the FAA's comprehensive Rotorcraft Regulatory Review Program. This notice contains proposals which would amend and update the operations and maintenance requirements pertaining to rotorcraft and covered in Parts 43, 45, 61, 91, 121, 127, 133, and 135 of the Federal Aviation Regulations. Part 1 would also be amended to add a definition of a Class D rotorcraft-load combination.

Timetable:

Action	Date	FR Cite
NPRM	03/12/85	
NPRM Comment Period End	07/10/85	50 FR 10144
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. 24550

Analysis: Regulatory Evaluation 03/00/85

Agency Contact: Larry Williams, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8150

RIN: 2120-AA30

1774. STANDARDS FOR APPROVAL OF AN AUTOMATIC TAKEOFF THRUST CONTROL SYSTEM

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would review certain special conditions issued for Part 25 airplanes and incorporate in Part 25 those that have not been previously incorporated.

Timetable:

Action	Date	FR Cite
NPRM	04/27/84	49 FR 18240
Extension of Comment Period	07/20/84	49 FR 29410
NPRM Comment Period End	06/27/84	
Final Action	07/30/86	

Small Entity: No

Additional Information: The special conditions included in this project are automatic take-off thrust control systems (ATTCS). Docket No. 24046.

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: Multiple

Analysis: Regulatory Evaluation 04/27/84

Agency Contact: James M. Walker, Department of Transportation, Federal Aviation Administration, NorthWest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2116

RIN: 2120-AA46

1775. TRANSPORT CATEGORY AIRPLANE AIRWORTHINESS STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 106(g)

CFR Citation: 14 CFR 25

Legal Deadline: None

Abstract: This action would amend the airworthiness standards contained in Part 25 applicable to transport category airplanes to: (1) relieve the regulatory burden wherever possible, (2) ensure the airworthiness standards are practicable for the light transport airplanes common to regional air carrier operation, and (3) update Part 25 for clarity and accuracy.

Timetable:

Action	Date	FR Cite
NPRM	12/03/84	49 FR 47358
NPRM Comment Period End	04/04/85	
Final Action Effective	07/30/86	

Small Entity: No

Additional Information: Docket No. 24344

Affected Sectors: Multiple

Analysis: Regulatory Evaluation 12/03/84

Agency Contact: Gary Killion, Department of Transportation, Federal Aviation Administration, NorthWest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, WA 98168, 206 431-2112

RIN: 2120-AA47

1776. FY-1982 MISCELLANEOUS AMENDMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1352 Federal Aviation Act of 1958, Sec. 311; 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355(a) Federal Aviation Act of 1958, Sec. 314(a); 49 USC 1421 to 1430 Fed Aviation Act of 1958, Secs. 601 to 610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 21; 14 CFR 65; 14 CFR 107; 14 CFR 121; 14 CFR 135; 14 CFR 145

Legal Deadline: None

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Abstract: This action would amend various sections of the regulations. The proposed amendments are clarifying, editorial, or corrective in nature.

Timetable:

Action	Date	FR Cite
NPRM	10/03/83	48 FR 45214
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. 23781.

Analysis: Regulatory Evaluation 10/03/83

Agency Contact: Ida Cronauer, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8357

RIN: 2120-AA50

1777. AMEND PART 23 TO INCLUDE EMPENNAGE FATIGUE REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would provide for fatigue integrity of small airplane empennage structure where present Part 23 fatigue requirements apply only to the wing.

Timetable:

Action	Date	FR Cite
NPRM	02/28/86	
Next Action Undetermined		

Small Entity: No

Additional Information: The FAA is evaluating additional data obtained from NASA.

Analysis: Regulatory Evaluation

Agency Contact: Earse L. Tankesley, Department of Transportation, Federal Aviation Administration, 601 E. 12th Street, Kansas City, MO 64106, 816 374-6930

RIN: 2120-AA58

1778. NOISE STANDARDS: AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603; 49 USC 1431 Federal Aviation Act of 1958, Sec. 611

CFR Citation: 14 CFR 36

Legal Deadline: None

Abstract: Part 36 prescribes noise type certification standards for turbo jet powered airplanes and propeller driven small airplanes regardless of category. This review will examine the need to reorganize and realign the noise standards to make them more understandable and easier to use. This review would reorganize existing material into several new subparts, and utilize an improved numbering system to provide for the easier inclusion of future changes. Other improvements would be made by deleting redundancies, obsolete compliance dates, and making other minor changes. Additionally, Part 36 will be reviewed in accordance with Executive Order 12291 to reduce regulatory burdens on the public, including the preparation of both a Regulatory Evaluation and a Regulatory Flexibility Analysis.

Timetable:

Action	Date	FR Cite
NPRM		50 FR 4172
NPRM Comment Period End	04/24/85	
Next Action Undetermined		

Small Entity: Yes

Additional Information: Will also consider Petition for Rulemaking from the Aerospace Industries of America (Docket No. 23340; Petition Notice No. PR-82-13). Comment Period closed January 20, 1983.

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 01/29/85; Environmental Assessment 07/00/85

Agency Contact: Richard Tedrick, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 755-8827

RIN: 2120-AA74

1779. REVISE PART 23 TO INCLUDE COMMUTER CATEGORY AIRPLANES

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 23

Legal Deadline: None

Abstract: This action would amend Part 23 to include airworthiness standards for multi-engine airplanes having a maximum passenger seating configuration, excluding any pilot seat, of 19 seats, and with a maximum takeoff weight of up to 19,000 pounds.

Timetable:

Action	Date	FR Cite
NPRM	11/15/83	48 FR 52010
Final Action	12/00/85	
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. 23516.

Analysis: Regulatory Evaluation 11/15/83

Agency Contact: Earse L. Tankesley, Department of Transportation, Federal Aviation Administration, 601 E. 12th St., Kansas City, MO 64106, 816 374-6930

RIN: 2120-AA77

1780. GENERAL AVIATION SAFETY PANEL'S RECOMMENDATIONS ON WEATHER MINIMUMS

Significance: Nonsignificant

Legal Authority: 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: Would standardize weather minimums in all airspace at night.

Timetable:

Action	Date	FR Cite
NPRM	07/23/85	50 FR 30124
NPRM Comment Period End	09/23/85	50 FR 30124
Next Action Undetermined		

Small Entity: No

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DOT—FAA — Final Rule Stage

Agency Contact: Burton Chandler, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8826

RIN: 2120-AB04

1781. ELECTRONIC FUEL CONTROLS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: Would revise FAR 33.67 to incorporate requirements for electronic fuel controls for gas turbines.

Timetable:

Action	Date	FR Cite
NPRM	02/14/85	50 FR 6186
NPRM Comment Period End	07/29/85	
Final Action	10/00/86	

Small Entity: No

Additional Information: Notice to reopen comment period for an additional 30 days issued on June 6, 1985. Action taken in response to requests from several aviation organizations.

Analysis: Regulatory Evaluation 02/14/85 (50 FR 6186)

Agency Contact: H. Alden Jackson, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, ANE-110, FAA NE Region, 12 New England Executive Park, Burlington, MA 01803, 617 273-7078

RIN: 2120-AB06

1782. TURBO PROP ENGINE PROPELLER BRAKE PROPOSALS

Significance: Nonsignificant

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1423 Federal Aviation Act of 1958, Sec. 603

CFR Citation: 14 CFR 33

Legal Deadline: None

Abstract: Would revise Part 33 by adding a new section entitled "Engine Propeller Brake Systems Tests." This new section would require tests of the propeller brake with respect to ground locking, dynamic braking, and engine starts and stops.

Timetable:

Action	Date	FR Cite
NPRM	12/14/84	49 FR 48760
NPRM Comment Period End	02/25/86	50 FR 1542
Final Action	03/00/86	

Small Entity: No

Additional Information: Notice to extend comment period (50 FR 1542)

Analysis: Regulatory Evaluation 12/14/84 (49 FR 48760)

Agency Contact: Donald F. Perrault, Aerospace Engineer, Department of Transportation, Federal Aviation Administration, ANE-110, FAA NE Region, 12 New England Executive Park, Burlington, MA 01803, 617 273-7081

RIN: 2120-AB07

1783. TYPE CERTIFICATION PROCEDURES - SPECIAL CLASS OF AIRCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958 Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958 Sec. 601; 49 USC 1423 Federal Aviation Act of 1958 Sec. 603; 49 USC 1424 Federal Aviation Act of 1958 Sec. 604

CFR Citation: 14 CFR 21

Legal Deadline: None

Abstract: This notice would propose to amend Part 21 to address procedures which will permit establishing airworthiness requirements for the type certification of a special class of aircraft such as gliders, airships, and compound aircraft for which no airworthiness standards have been issued under Chapter I of 14 CFR.

Timetable:

Action	Date	FR Cite
NPRM	10/18/85	50 FR 42368
NPRM Comment Period End	12/17/85	

Next Action Undetermined

Small Entity: Undetermined

Additional Information: Docket No. 24804

Analysis: Regulatory Evaluation

Agency Contact: James Zakrajsek, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 426-8374

RIN: 2120-AB44

1784. PART 95 INSTRUMENT FLIGHT RULES

Significance: Routine and Frequent

Legal Authority: 49 USC 1348 F.A. Act of 1958, Sec. 307; 49 USC 1510 F.A. Act of 1958, Sec. 1110

CFR Citation: 14 CFR 95

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--2500. 04/00/85 - 04/00/86.

Timetable:

Action	Date	FR Cite
Total actions expected to end	04/00/87	

Small Entity: No

Agency Contact: Don Funai, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8277

RIN: 2120-AA63

1785. AIRWORTHINESS DIRECTIVES

Significance: Routine and Frequent

Legal Authority: 49 USC 1354(a) F.A. Act, Sec. 313(a); 49 USC 1421 F.A. Act, Sec. 601; 49 USC 1423 F.A. Act, Sec. 603; 49 USC 1431(b) F.A. Act, Sec. 611(b)

CFR Citation: 14 CFR 39

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--300. 04/00/85 - 04/00/86.

Timetable:

Action	Date	FR Cite
Total actions expected to end	04/00/87	

DOT—FAA — Final Rule Stage

Small Entity: No

Agency Contact: Jack McGrath, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8192

RIN: 2120-AA64

1786. STANDARD INSTRUMENT APPROACH PROCEDURES

Significance: Routine and Frequent

Legal Authority: 49 USC 1348 F.A. Act, Sec. 307; 49 USC 1354(a) F.A. Act, Sec. 313(a); 49 USC 1421 F.A. Act, Sec. 601; 49 USC 1510 F.A. Act, Sec. 1110

CFR Citation: 14 CFR 97

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--2800. 04/00/85 - 04/00/86.

Timetable:

Action	Date	FR Cite
Total actions expected to end	04/00/87	

Small Entity: No

Agency Contact: Don Funai, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8277

RIN: 2120-AA65

1787. AIRSPACE ACTIONS

Significance: Routine and Frequent

Legal Authority: 49 USC 1348(a) F.A. Act, Sec. 307(a); 49 USC 1354(a) F.A. Act, Sec. 313(a)

CFR Citation: 14 CFR 71; 14 CFR 73; 14 CFR 75

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. Total actions expected--525. 04/00/85 - 04/00/86.

Timetable:

Action	Date	FR Cite
Total actions expected to end	04/00/87	

Small Entity: No

Agency Contact: John Watterson, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8783

RIN: 2120-AA66

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Aviation Administration (FAA)

Completed Actions

1788. + USE OF ALCOHOL OR DRUGS; SUBMISSION TO ALCOHOL TESTS

Significance: Regulatory Program

Legal Authority: 49 USC 1429 Federal Aviation Act of 1958, Sec. 609; 49 USC 106(g); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1355 Federal Aviation Act of 1958, Sec. 314; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1422 Federal Aviation Act of 1958, Sec. 602

CFR Citation: 14 CFR 61; 14 CFR 91; 14 CFR 65; 14 CFR 63

Legal Deadline: None

Abstract: Proposed rule which will subject Certificated Flight Crewmembers suspected of being under the influence of alcohol to blood-alcohol tests and establish a specific blood-alcohol content level at which a pilot is considered to be intoxicated. This rulemaking is significant because it may involve important departmental policy. Supplemental notice proposes to require crewmembers to submit to tests for alcohol given by law enforcement officers under certain conditions.

Timetable:

Action	Date	FR Cite
NPRM	07/27/81	46 FR 38480
SNPRM	04/17/85	50 FR 15376
SNPRM Comment Period Begin	06/17/85	
SNPRM Comment Period End	07/16/85	
Final Action	01/09/86	51 FR 1226
Final Action Effective	04/09/86	

Small Entity: No

Additional Information: Docket No. 21956.

Analysis: Regulatory Evaluation 07/27/81; Regulatory Evaluation 04/01/83

Agency Contact: Roger Baker, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8194

RIN: 2120-AA16

1789. + SLOT TRANSFER METHODS

Significance: Regulatory Program

Legal Authority: 49 USC 1303 Federal Aviation Act of 1958, Sec. 103; 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313; 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: The rule permits the purchase, sale, or trade of slots by any person at any high density airport. A use-or-lose provision is included to prevent the holding of unused slots. International and essential air service slots receive special treatment. Unallocated slots are distributed by lottery.

Timetable:

Action	Date	FR Cite
NPRM	06/07/84	49 FR 23806
NPRM Comment Period End	08/06/84	
Final Action	12/20/85	50 FR 52180
Final Action Effective	04/01/86	

Small Entity: No

Analysis: Regulatory Evaluation 12/00/85

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Agency Contact: Edward P. Faberman, Acting Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-3773

RIN: 2120-AB37

1790. + SLOT ALLOCATION ALTERNATIVE METHODS

Significance: Regulatory Program

Legal Authority: 49 USC 1303 Federal Aviation Act of 1958, Sec. 103; 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313; 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This notice set forth a procedure to be used if the scheduling committees are unable to allocate newly available slots at the high density airports. The proposal is, in part, a response to the recommendations made by a number of air carriers and commuters in response to the FAA's High Density Rulemaking. Those commenters stated that they are concerned that the scheduling committees may deadlock. A separate NPRM on the transfer of slots has also been issued. This regulation is significant because it involves important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	06/07/84	49 FR 23788
NPRM Comment Period End	08/06/84	
Final Action	12/20/85	50 FR 52180
Final Action Effective	04/01/86	

Small Entity: No

Analysis: Regulatory Evaluation 12/00/85

Agency Contact: Edward P. Faberman, Acting Chief Counsel, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-3773

RIN: 2120-AB38

1791. + AVIATION CONSUMER ACTION PROJECT PUBLIC CITIZEN HEALTH RESEARCH GROUP, PETITION TO AMEND PART 121 - MEDICAL EQUIPMENT REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec. 313; 49 USC 1421 Federal Aviation Act of 1958, Sec. 601; 49 USC 1424 Federal Aviation Act of 1958, Sec. 604

CFR Citation: 14 CFR 121.309(d); 14 CFR 121.333(c)

Legal Deadline: None

Abstract: This notice proposes to require air carriers to provide medical equipment for use in the diagnosis and treatment of in-flight medical emergencies by qualified personnel. The notice further proposes to require air carriers to report such in-flight medical emergencies, how the medical equipment was used, and the disposition of the patient. The intended effect of this proposal is to enhance the potential for diagnosis and initial treatment of in-flight medical emergencies prior to care at a surface facility. This regulation is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	03/14/85	50 FR 10444
NPRM Comment Period End	07/12/85	
Final Action	01/00/86	51 FR 1218
Final Action Effective	06/01/86	

Small Entity: No

Additional Information: Docket No. 21369

Agency Contact: Andrew Herse, M.D., Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-3435

RIN: 2120-AB40

1792. ● + AIRCRAFT FLEET MODERNIZATION STRATEGIES

Significance: Regulatory Program

Legal Authority: 49 USC 1348(c); 49 USC 1354(a); 49 USC 1421; 49 USC 1431(b); 49 USC 1655(c); 42 USC 4321 et seq.

CFR Citation: 14 CFR 21, (Revision); 14 CFR 23, (Revision); 14 CFR 25, (Revision); 14 CFR 36, (Revision); 14 CFR 91, (Revision)

Legal Deadline: None

Abstract: The FAA was directed by the Appropriations Committee of the U.S. House of Representatives (H. Report 99-256) to report on alternatives available to provide incentives to air carriers to accelerate modernization of the commercial aircraft fleet. This report will detail those alternatives, including a program of regulatory actions that might be taken by the FAA over a period of five to seven years, for implementation for up to fifteen years.

Timetable:

Action	Date	FR Cite
Public Hearing Announcement Public Hearing 12/10/85	12/01/85	50 FR 45701
Report to Congress (Reg. Program) Description of Regulatory Alternative for Fleet Modernization	04/01/86	

Small Entity: Undetermined

Additional Information: A public hearing was held on December 10, 1985, to afford interested parties the opportunity to present their views and data on issues raised in the preparation of the Report to Congress.

Government Levels Affected: Local, State, Federal

Agency Contact: Richard N. Tedrick, Manager, Noise Policy and Regulatory Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 755-9027

RIN: 2120-AC03

1793. + SHOULDER HARNESSES IN NORMAL, UTILITY, AND ACROBATIC CATEGORY AIRPLANES

Significance: Agency Priority

Legal Authority: 49 USC 1354 Federal Aviation Act of 1958, Sec 313; 49 USC 1421 Federal Aviation Act of 1958, Sec 601; 49 USC 1423 Federal Aviation Act of 1958, Sec 603

CFR Citation: 14 CFR 23; 14 CFR 91

Legal Deadline: None

Abstract: This notice proposes to amend Parts 23 and 91 of the Federal Aviation Regulations (FAR) to require the installation of shoulder harnesses at all seats of normal, utility, and acrobatic category airplanes with a passenger seating configuration, excluding pilot seats, of nine or less, manufactured one year after the effective date of the proposed amendment, and to require the pilot-in-command to brief passengers on how to fasten and unfasten their shoulder harness for takeoff and landings if shoulder harnesses are installed. This proposal responds to the conclusions of an FAA Crashworthiness Study Report, a Petition for Rulemaking from the General Aviation Manufacturers Association (GAMA), and Safety Recommendations from the National Transportation Safety Board (NTSB). This proposal will enhance the crashworthiness of small airplanes manufactured one year after the effective date of the proposed amendment. This regulation is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	05/06/85	50 FR 9108
NPRM Comment Period End	06/20/85	
Final Action	11/13/85	50 FR 46872
Final Action Effective	12/12/85	

Small Entity: Undetermined

Analysis: Regulatory Evaluation 05/00/85

Agency Contact: J. Robert Ball, Department of Transportation, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106, 816 947-5888

RIN: 2120-AB43

Action	Date	FR Cite
Final Action	11/01/85	
Final Action Effective	12/02/85	50 FR 45599

Small Entity: Undetermined

Agency Contact: Gene Falsetti, Air Traffic Control Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8783

RIN: 2120-AB94

1795. REVIEW: TERMINAL CONTROL AREAS (TCA'S): PHOENIX

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1510 Federal Aviation Act of 1958, Sec. 1110

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment.

Timetable:

Action	Date	FR Cite
NPRM	04/07/80	45 FR 23457
SNPRM	06/15/81	46 FR 31269
Withdrawn	09/18/85	50 FR 37865

Small Entity: No

Additional Information: Docket No. 18805/79-AWE-18.

Analysis: Regulatory Evaluation 06/15/81

Agency Contact: Lewis W. Still, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8626

RIN: 2120-AA22

1796. PART 91 REVIEW LOST COMMUNICATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1348(c) Federal Aviation Act of 1958, Sec. 307(c); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421(a) Federal Aviation Act of 1958, Sec. 601(a)

CFR Citation: 14 CFR 91

Legal Deadline: None

Abstract: Proposed amendment to simplify lost communications procedures.

Timetable:

Action	Date	FR Cite
NPRM	11/20/84	49 FR 46749
NPRM Comment Period End	01/28/85	
Final Action	08/05/85	50 FR 31587

Small Entity: No

Additional Information: Docket No. 16431.

Agency Contact: Paul Smith, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8783

RIN: 2120-AA06

1797. PARACHUTE JUMPING, NOTICE AND AUTHORIZATION REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 49 USC 1348 Federal Aviation Act of 1958, Sec. 307; 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1421 Federal Aviation Act of 1958, Sec. 601

CFR Citation: 14 CFR 105

Legal Deadline: None

Abstract: Proposed amendments would require notice of parachute jumps in terms of above mean sea level and would require ATC authorization for jumps in/into a terminal control area.

Timetable:

Action	Date	FR Cite
NPRM	12/27/85	50 FR 52933
NPRM Comment Period End	02/25/86	
Withdrawn	00/00/00	

Small Entity: No

Agency Contact: Gene Falsetti, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8783

RIN: 2120-AA21

1798. TERMINAL CONTROL AREA (TCA) NEW YORK (MODIFICATION)

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec 307(a); 49 USC

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1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1510 Federal Aviation Act of 1958, Sec. 1110

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment.

Timetable:

Action	Date	FR Cite
NPRM	01/08/81	46 FR 2066
Withdrawn	09/19/85	50 FR 37666

Small Entity: No

Additional Information: Docket No. 18605.

Analysis: Regulatory Evaluation 01/08/81

Agency Contact: Lewis W. Still, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8783

RIN: 2120-AA24

1799. TERMINAL CONTROL AREA (TCA) LAS VEGAS (MODIFICATION)

Significance: Nonsignificant

Legal Authority: 49 USC 1348(a) Federal Aviation Act of 1958, Sec. 307(a); 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313(a); 49 USC 1510 Federal Aviation Act of 1958, Sec. 1110

CFR Citation: 14 CFR 71

Legal Deadline: None

Abstract: Terminal Control Areas (TCA's) are proposed to reduce the midair collision potential by eliminating the mix of controlled and uncontrolled aircraft in a higher density terminal environment.

Timetable:

Action	Date	FR Cite
NPRM	09/20/81	
Final Action	07/12/82	47 FR 30052

Small Entity: No

Agency Contact: Lewis W. Still, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8926

RIN: 2120-AA25

1800. FLIGHT OPERATIONS CONTROL SYSTEMS

Significance: Nonsignificant

Legal Authority: 49 USC 1354(a) Federal Aviation Act of 1958, Sec. 313 (a); 49 USC 1421 to 1430 Fed. Aviation Act of 1958, Secs. 601 to 610; 49 USC 1502 Federal Aviation Act of 1958, Sec. 1102

CFR Citation: 14 CFR 121

Legal Deadline: None

Abstract: Based upon a Transamerican Airlines (TIAS) and World Airways (WRLS) joint petition for rulemaking, the FAA is considering amending Part 121 to allow among other things all operations to be conducted under a flight operations control system. Advance Notice 80-16 (14 FR 67103) issued Oct. 2, 1980, published the entire petition and requested comments to assist the FAA in determining what if any regulatory proposals should be developed.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/80	45 FR 67103
Withdrawn	01/10/86	51 FR 1330

Small Entity: No

Additional Information: Docket No. 18591.

Agency Contact: Roger E. Riviere, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8098

RIN: 2120-AA26

1801. AIRPORT IMPROVEMENT PROGRAM

Significance: Nonsignificant

Legal Authority: PL 97-248 Airport and Airway Improvement Act of 1982

CFR Citation: 14 CFR 158, (Proposed)

Legal Deadline: None

Abstract: This action would prescribe requirements and procedures for applicants desiring to receive financial assistance under the Airport and Airway Improvement Act of 1982. The program provides grants for planning and developing public-use airports and the implementation of noise compatibility programs. Generally, to receive funds, the applicant must be a public agency; although, in some instances, private airport owners may receive funds. Contents of the regulation will be governed by the requirements of the Act and OMB Circular A-102.

Timetable:

Action	Date	FR Cite
Project Terminated	12/26/85	

Small Entity: Undetermined

Additional Information: In September 1982, legislation authorizing the Airport Improvement Program was enacted. This same legislation repealed the Airport and Airway Development Act of 1970 which authorized the Airport Development Aid Program (CFR Pt. 152).

Agency Contact: Edgar Williams, APP-510, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-3857

RIN: 2120-AA73

1802. AVIATION INSURANCE: REVISION OF AIRCRAFT WAR RISK INSURANCE REGULATION

Significance: Nonsignificant

Legal Authority: 49 USC 1531 to 1542

CFR Citation: 14 CFR 198

Legal Deadline: None

Abstract: This rulemaking would revise the provisions of the Federal Aviation Regulations dealing with the Federal aviation insurance program. These revisions are necessary to reflect certain amendments to the Federal Aviation Act which broadened the scope of risks which may be insured by the administrator. This rule implements those legislative changes and, in addition, extensively revises the current aviation insurance regulations to better reflect current carrier insurance needs and commercial insurance practice.

Timetable:

Action	Date	FR Cite
NPRM	07/19/84	49 FR 35130
Final Action	12/16/85	50 FR 51332
Final Action Effective	01/15/86	

Small Entity: No

Additional Information: Docket No. 24223

Affected Sectors: None

Government Levels Affected: Federal

DOT—FAA

Completed Actions

Agency Contact: Kenneth W. Harris, Manager, Aviation Activity Branch, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-3711

RIN: 2120-AB85

1803. MCAS EL TORO, SPECIAL AIRPORT TRAFFIC AREA

Significance: Nonsignificant

Legal Authority: 49 USC 1348; 49 USC 1354(a); 49 USC 1421; 49 USC 1422; 49 USC 1443; 49 USC 1472; 49 USC 1510; 49 USC 1522

CFR Citation: 14 CFR 93

Legal Deadline: None

Abstract: This advance notice proposes to establish a special airport traffic area at Marine Corps Air Station (MCAS), El Toro, California. The proposed rule would require pilots to establish and maintain two-way radio communications with, and receive authorization from, FAA coast terminal radar approach control facility. The action was requested by the United States Marine Corps to enhance the level of safety within the airspace from over Dana Point, California, to the MCAS at El Toro and to reduce the mid-air collision potential between unknown, uncontrolled aircraft and military aircraft arriving at MCAS El Toro.

Timetable:

Action	Date	FR Cite
ANPRM	06/18/84	49 FR 24982
ANPRM Comment Period End	09/07/84	49 FR 24982
Final Action	12/09/85	50 FR 50284
Final Action Effective	01/16/86	50 FR 50284

Small Entity: No

Agency Contact: William C. Davis, ATC Specialist, Department of Transportation, Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591, 202 426-8783

RIN: 2120-AB96

1804. ● CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

Significance: Nonsignificant

Legal Authority: 5 USC 601 et seq.

CFR Citation: 14 CFR 61

Legal Deadline: None

Abstract: This part prescribes the requirements for issuing pilot and flight instructor certificates and ratings, the conditions under which those certificates and ratings are necessary, and the privileges and limitations of those certificates and ratings.

Timetable:

Action	Date	FR Cite
End Review	07/00/86	

Small Entity: No

Additional Information: Initial Regulatory Flexibility Act study found no section of Part 61 has a significant economic impact on a substantial number of small entities.

Agency Contact: Leonard Smith, Regulations Officer, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 426-8237

RIN: 2120-AC07

1805. ● AVIATION MAINTENANCE TECHNICIAN SCHOOLS

Significance: Nonsignificant

Legal Authority: 5 USC 601 et seq

CFR Citation: 14 CFR 147

Legal Deadline: None

Abstract: This part prescribes the requirements for issuing aviation maintenance technician school certificates and associated ratings and the general operating rules for the holders of those certificates and ratings.

Timetable:

Action	Date	FR Cite
End Review	08/25/86	

Small Entity: No

Additional Information: Initial Regulatory Flexibility Act study found no section of Part 147 has a significant economic impact on a substantial number of small entities.

Agency Contact: Leonard Smith, Regulations Officer, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 426-8237

RIN: 2120-AC12

1806. ● PILOT SCHOOLS

Significance: Nonsignificant

Legal Authority: 5 USC 601 et seq.

CFR Citation: 14 CFR 141

Legal Deadline: None

Abstract: This part prescribes the requirements for issuing pilot school certificates, provisional pilot school certificates, and associated ratings and the general operating rules for the holders of those certificates and ratings.

Timetable:

Action	Date	FR Cite
End Review	07/00/86	

Small Entity: No

Additional Information: Initial Regulatory Flexibility Act study found no section of Part 141 has a significant economic impact on a substantial number of small entities.

Agency Contact: Leonard Smith, Regulations Officer, Department of Transportation, Federal Aviation Administration, 800 Independence Ave., SW, Washington, DC 20591, 202 426-8237

RIN: 2120-AC13

[FR Doc. 86-8859 Filed 04-18-86; 8:45 am]
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DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Prerule Stage

1807. COORDINATION OF FEDERAL AND FEDERALLY ASSISTED PROGRAMS AND PROJECTS

Significance: Nonsignificant

Legal Authority: EO 12372

CFR Citation: 49 CFR 17

Legal Deadline: None

Abstract: This revision would implement Executive Order 12372 and related OMB implementing procedures regarding intergovernmental review of Federal programs.

Timetable:

Action	Date	FR Cite
To Be Withdrawn	04/00/86	

Small Entity: No

Additional Information: The operating procedures governing intergovernmental review of FHWA programs are contained in 49 CFR 17 as published by the Office of the Secretary (48 FR 29284, 6/24/83). It has been determined that additional FHWA regulations are not necessary.

Agency Contact: Barna Juhasz, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0175

RIN: 2125-AA12

1808. ROADSIDE DESIGN GUIDE

Significance: Nonsignificant

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 625

Legal Deadline: None

Abstract: This regulation would amend the existing 1977 "Guide for Selecting, Locating, and Designing Traffic Barriers" (Barrier Guide) which is incorporated in 23 CFR Part 625 as a guide. The 1977 Barrier Guide will be replaced by a new guide to be titled "Roadside Design Guide." As soon as a workable draft guide is prepared, the FHWA will publish as Advance Notice of Proposed Rulemaking (ANPRM) requesting public comment on the application of the "Roadside Design Guide" to Federal projects. The ANPRM will consist of: A complete explanation as to how the "Roadside Guide "has been updated and a detailed description of the procedures that will be taken to effectuate Federal adoption. The public comment period could extend as many as 180 days.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/86	

Small Entity: No

Additional Information: Depending on the status of the draft "Roadside Design Guide" relating to its content, a second ANPRM could be issued. After that "Roadside Design Guide" has been formally approved for use by the States, the FHWA will then issue a Notice of Proposed Rulemaking (NPRM) with another public comment period. Only when this process culminates in a thorough review and analysis of all public comments will a decision to issue Final Rule be made.

Analysis: Reg. Evaluation 05/00/86

Agency Contact: James H. Hatton, Jr., Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0313

RIN: 2125-AB44

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Proposed Rule Stage

1809. + PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Significance: Regulatory Program

Legal Authority: 49 USC 3102; PL 98-554, Sec 110

CFR Citation: 49 CFR 393

Legal Deadline: Statutory, April 30, 1986

Abstract: This rulemaking action responds to section 210 of the Motor Carrier Safety Act of 1984. Section 210 requires the Department to open Part 393 of the Federal Motor Carrier Safety Regulations (FMCSR), which concerns the parts and accessories necessary for the safe operation of commercial motor vehicles for public comment and review. In essence, Part 393 is the basis for the vehicle inspection currently performed on vehicles operated by motor carriers subject to the jurisdiction of the DOT. Public comment has been requested pursuant to an ANPRM 01/10/85. An NPRM will be issued which will represent an analysis and review of comments received.

Timetable:

Action	Date	FR Cite
ANPRM	01/10/85	50 FR 1245
ANPRM Comment Period End	02/25/85	50 FR 1245
NPRM	04/00/86	
Final Action	10/00/86	

Small Entity: No

Additional Information: On January 10, 1985, an ANPRM was published (50 FR 1245) which addressed two (2) Parts of the FMCSR. Comments were requested on Part 393 (Parts and Accessories) and Part 396 (Inspection and Maintenance). This rulemaking has been split and each Part will be addressed in separate rulemaking actions. For the rulemaking action dealing with Inspection, Repair and Maintenance, see "Nonsignificant Rulemaking" portion of agenda.

Analysis: Reg. Evaluation 04/00/86

Agency Contact: Neill L. Thomas, Department of Transportation, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW, Washington, DC 20590, 202 755-1011

RIN: 2125-AB45

1810. + FEDERAL MOTOR CARRIER SAFETY REGULATIONS: GENERAL

Significance: Regulatory Program

Legal Authority: 49 USC 3102; PL 98-554, Sec 206

CFR Citation: 49 CFR 390

Legal Deadline: Statutory, April 30, 1986

Abstract: This rulemaking action will address the general provisions

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Proposed Rule Stage

regarding the Motor Carrier Safety Regulations (FMCSR) contained in Part 390 of 49 CFR. This rulemaking is being undertaken to implement section 206 of the Motor Carrier Safety Act (MCSA) of 1984 which mandated the reissuance of the FMCSR. Part 390 deals with motor carrier definitions and general provisions regarding motor carrier operations. This entry appeared in the last agenda (April 1985) entitled "Retail Fertilizer Distribution Exemption." Pursuant to section 206 of the MCSA, the ANPRM on retail fertilizer distribution exemption (2/10/82, 47 FR 5273) was withdrawn on 1/23/85 (50 FR 2998). This rulemaking action will incorporate the comments made to the 2/10/82 ANPRM since the provisions relating to exemptions for retail fertilizer equipment are contained in Part 390.

Timetable:

Action	Date	FR Cite
Fertilizer ANPRM fertilizer	02/10/82	47 FR 5273
ANPRM	01/23/85	50 FR 2998
Fertilizer ANPRM Withdrawn Fertilizer	01/23/85	50 FR 2998
ANPRM Comment Period End	03/11/85	50 FR 2998
NPRM	04/00/86	
Final Action	10/00/86	

Small Entity: No

Analysis: Reg. Evaluation 04/00/86

Agency Contact: Neill L. Thomas, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 755-1011

RIN: 2125-AA34

1811. + DISQUALIFICATION OF DRIVERS (TRAFFIC RECORDS)

Significance: Regulatory Program

Legal Authority: 49 USC 3102; PL 98-554, Sec 206; 23 USC 315

CFR Citation: 49 CFR 391

Legal Deadline: Statutory, April 30, 1986

Abstract: Revisions are being proposed in response to section 206 of the Motor Carrier Safety Act of 1984. The proposed revisions will require motor carriers to insure that drivers which operate (1) commercial motor vehicles transporting certain classes of hazardous materials (H/M) or (2) cargo tank commercial motor vehicles requiring placards meet additional or more stringent qualification requirements.

Timetable:

Action	Date	FR Cite
ANPRM	09/27/82	47 FR 42383
ANPRM	01/23/85	50 FR 2998
Initial ANPRM Withdrawn	01/23/85	50 FR 2998
ANPRM Comment Period End	03/11/85	50 FR 2998
NPRM	04/00/86	
Final Action	10/00/86	

Small Entity: No

Additional Information: An initial ANPRM was published on 9/27/82 (47 FR 42383). This ANPRM was withdrawn on January 23, 1985 (50 FR 2998) pursuant to section 206 of the Motor Carrier Safety Act of 1984, which mandated the reissuance of regulations pertaining to commercial motor carrier safety. The comments received to the initial ANPRM (9/27/82) will be incorporated into this rulemaking action. A 60 day public comment period will be provided for the NPRM.

Analysis: Reg. Evaluation 04/00/86

Agency Contact: Mr. J. J. Fulnecky, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 755-1011

RIN: 2125-AA79

1812. + TRUCK SIZE AND WEIGHT; TRAILER LENGTHS

Significance: Regulatory Program

Legal Authority: PL 97-424, Sec 133; PL 97-424, Sec 411; PL 97-424, Sec 412; PL 97-424, Sec 413; PL 97-424, Sec 416

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: An analysis of comments to the March 1, 1985 NPRM indicates insufficient rationale to establish semitrailer lengths in 11 States. Therefore, a supplemental request for information was made of FHWA field offices and the trucking industry (through the 60 NR committee) to try to reach a supportable length in the remaining States. That supplemental information was due September 1, 1985. There still remains insufficient rationale for establishing semitrailer lengths in 5 States. After carefully considering a number of options, it has been determined to issue a supplemental NPRM.

Timetable:

Action	Date	FR Cite
NPRM	03/01/85	50 FR 8342
NPRM Comment Period End	04/30/85	50 FR 8342
Supplemental NPRM	04/00/86	
Final Action	12/00/86	

Small Entity: No

Additional Information: A Regulatory Impact Analysis has been prepared for the June 5 rulemaking and is available for inspection in the headquarters office of FHWA, 400 Seventh Street, S.W., Washington, D.C.

Analysis: Regulatory Evaluation (min. impact) 03/01/85 (50 FR 8342)

Agency Contact: Edwin E. Ragonetsis, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0370

RIN: 2125-AB26

1813. + INSPECTION, REPAIR, AND MAINTENANCE

Significance: Regulatory Program

Legal Authority: 49 USC 3102; PL 98-554, Sec 210; PL 98-554, Sec 204; 23 USC 315

CFR Citation: 49 CFR 396; 49 CFR 390; 49 CFR 398

Legal Deadline: None

Abstract: The FHWA is seeking public comment concerning the development of Federal commercial motor vehicle inspection standards which would be applicable to motor carriers engaged in interstate or foreign commerce. This action is required by section 210 of the Motor Carrier Safety Act of 1984. The proposed revisions will require motor carriers to comply with Federal inspection standards, a State inspection program or an authorized self-inspection program. The FHWA also proposes to add two definitions contained in section 204 of the Motor Carrier Safety Act of 1984.

Timetable:

Action	Date	FR Cite
ANPRM	01/10/85	50 FR 1245
ANPRM Comment Period End	02/24/85	

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Action	Date	FR Cite
NPRM	04/00/86	
Final Action	10/00/86	

Small Entity: Undetermined

Additional Information: The NPRM will propose revisions after having fully taken into account the public comments received to the ANPRM (01/10/85, 50 FR 1245). The 1/10/85 ANPRM also solicited comments on the provisions relating to the parts and accessories necessary for the safe operation of commercial motor vehicles. This section (parts and accessories) and comments made thereto will be the subject of a separate rulemaking action. See "Nonsignificant Rulemakings" portion of agenda.

Analysis: Regulatory Evaluation 04/00/86

Agency Contact: Neill L. Thomas, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 755-1611

RIN: 2125-AB34

1814. + FEDERAL MOTOR CARRIER SAFETY REGULATIONS

Significance: Regulatory Program

Legal Authority: 42 USC 3102; PL 98-554, Sec 206

CFR Citation: 49 CFR 390 to 399

Legal Deadline: Statutory, April 30, 1986

Abstract: Section 206 of the Motor Carrier Act of 1984 (Pub. L 98-554) (the Act) directs the Secretary of Transportation to issue regulations pertaining to commercial motor vehicle safety. The Department has issued regulations, the Federal Motor Carrier Safety Regulations (FMCSR), on this subject under earlier authority (49 U.S.C. 3102). The purpose of this advance notice of proposed rulemaking (ANPRM) is to identify and solicit comment on specific changes which should be made to the FMCSR prior to reissuance in order to effectuate the purposes of the Act. The purposes of the Act are to ensure that: commercial motor vehicles are safely maintained, equipped, loaded and operated; the responsibilities of drivers do not impair their ability to drive safely; the physical condition of drivers is adequate to enable them to drive safely; and the operation of the vehicles does not have deleterious effects on drivers. This rulemaking will be a comprehensive effort, and thus the Agency will incorporate certain other regulatory actions which have been proposed but have not yet been completed. There is no alternative to the overall reissuance of the FMCSR. However, (cont)

Timetable:

Action	Date	FR Cite
ANPRM	01/23/85	50 FR 2998
ANPRM Comment Period End	03/11/85	

Next Action Undetermined

Small Entity: No

Additional Information: (ABSTRACT CONT:) the agency intends to propose specific changes to the FMCSR which will then be fully analyzed, including a full range of alternatives to each proposal. Similarly, potential costs and benefits cannot now be identified, but rather must await the development of a notice of proposed rulemaking. This rulemaking is significant because of substantial public interest. Due to the amount of subject matter which this rulemaking action addresses, each Part (390-399) will be addressed in separate rulemakings. Comments received in response to this action will be considered as appropriate regarding the separate rulemaking actions. See "Priority Rulemakings" and "Other Rulemakings" portions of the agenda for actions resulting from this entry.

Agency Contact: Neill L. Thomas, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 755-1611

RIN: 2125-AB35

1815. + HOURS OF SERVICE

Significance: Regulatory Program

Legal Authority: 49 USC 3102; PL 98-554, Sec 206

CFR Citation: 49 CFR 395

Legal Deadline: Statutory, April 30, 1986

Abstract: Section 206 of the Motor Carrier Safety Act of 1984 (Act) directs the DOT to reissue regulations pertaining to commercial motor vehicle safety. On November 23, 1984, the FHWA published a final rule at 49 FR 46145 regarding Hours of Service in order to comply with an opinion of the United States Court of Appeals for the District of Columbia Circuit. A docket was opened (MC-99-1) in order to request comments for further consideration of revisions to the requirement of the driver's record of duty status. Pursuant to section 206 of the Act, an ANPRM was issued (1/23/85; 50 FR 2998) and again requested comments regarding the requirement for recorded hours of service. This rulemaking action will incorporate all comments received to the above mentioned published rulemaking actions. This document will consider the possible elimination of certain items required on the driver's record of duty status and extending the 12-hour limitation in the 100 mile radius exemption to 15 hours or permitting a 50 mile radius rule as an option with the 15 hour rule. This rulemaking is considered significant because of the potential cost savings which may result from (con't)

Timetable:

Action	Date	FR Cite
ANPRM	01/23/85	50 FR 2998
ANPRM Comment Period End	03/11/85	50 FR 2998
NPRM	04/00/86	
Final Action	10/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: the reduction in requirements for maintaining the driver's record of duty status. Previous RIN for published final rule on 11/23/84 is 2125-AB22.

Analysis: Reg. Evaluation 04/00/86

Agency Contact: Neill L. Thomas, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 755-1011

RIN: 2125-AB39

1816. + TRUCK SIZE AND WEIGHT; LANE WIDTHS

Significance: Regulatory Program

Legal Authority: 23 USC 315; PL 97-424, Sec 416; PL 98-554, Sec 105; PL 97-424, Sec 411; PL 97-424, Sec 412; PL 97-424, Sec 413

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: By this action, the FHWA is taking steps to implement the 12-foot wide lane provisions contained in the Surface Transportation Assistance Act of 1982 (STAA) as amended by the Tandem Truck Safety Act of 1984 (TTSA). An ANPRM published 4/1/85 at 50 FR 12825 identified for re-examination specific routes on the National Network containing sections with lanes less than 12 feet wide in those States which do not otherwise permit 102-inch wide vehicles on the National Network, pursuant to State law. These States are Alabama, Florida, Kentucky, Maryland, Missouri, New Hampshire, New Jersey, New York, North Carolina, Puerto Rico, South Carolina, Tennessee, and Virginia. After a review, FHWA intends to propose the deletion of highways with lane widths less than 12 feet wide if such designation is found to be inconsistent with highway safety. The FHWA is soliciting information, data and comments concerning these routes that may assist in the review.

Timetable:

Action	Date	FR Cite
ANPRM	04/01/85	50 FR 12825
ANPRM Comment Period End	05/16/85	50 FR 12825
NPRM	03/12/86	51 FR 8511
NPRM Comment Period End	05/11/86	51 FR 8511
Final Action	12/00/86	

Small Entity: No

Additional Information: Further Agency Contact is Mr. D. C. Oliver, (202) 426-0825. Also, a Regulatory Impact Analysis which had been prepared for the June 5, 1984, final rule on truck size and weight provisions is available for inspection in the headquarters office of FHWA, 400 Seventh Street, SW, Washington, DC.

Analysis: Reg. Evaluation 03/00/86

Agency Contact: Edwin E. Rugenstein, Department of Transportation, Federal Highway Administration, 400 7th Street, SW, Washington, DC 20590, 202 426-5370

RIN: 2125-AB43

1817. + SAFETY FITNESS DETERMINATION

Significance: Regulatory Program

Legal Authority: PL 98-554, Sec 215; 49 USC 3102

CFR Citation: 49 CFR 385

Legal Deadline: None

Abstract: Section 215 of the Motor Carrier Safety Act of 1984 requires the FHWA, in cooperation with the Interstate Commerce Commission, to establish a procedure to determine the safety fitness of owners and operators of commercial motor vehicles including persons seeking new or additional operating authority as motor carriers. Comments are being requested regarding the proposed changes in the current safety rating procedures and a new proposed "provisional safety rating" for those carriers who have not previously been assigned a safety rating or who intend to be a new entrant into the motor carrier industry. It has been determined that this rulemaking action is a significant regulation under the regulatory policies and procedures of the Department of Transportation because of the total estimated indirect benefits that may result.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Additional Information: A 45 day public comment period will be provided.

Analysis: Reg. Evaluation 04/00/86

Agency Contact: Gary E. Curtis, Department of Transportation, Federal Highway Administration, 400 4th Street, SW, Washington, DC 20590, 202 426-1724

RIN: 2125-AB46

1818. ● + EMPLOYEE SAFETY AND HEALTH STANDARDS

Significance: Regulatory Program

Legal Authority: PL 98-554, Sec 206; 49 USC App 2505

CFR Citation: 49 CFR 390

Legal Deadline: Statutory, April 30, 1986

Abstract: The Federal Highway Administration (FHWA) is considering proposing to revise Part 390 of the Federal Motor Carrier Safety Regulations (FMCSR) to implement Section 206 of the Motor Carrier Safety Act of 1984. This proposal would establish the duties of employers and drivers regarding employee safety and health. A motor carrier would be responsible for furnishing to each driver a place of employment that is free from recognized hazards that cause or are likely to cause death or injury to drivers. A driver would be responsible for cooperating with a motor carrier's safety program. It is anticipated that this general duty rule will cover those aspects of the driver environment (such as hot surfaces, lack of insulation, and broken equipment in or on the vehicle) that are not covered by present standards under the FMCSR.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Analysis: Reg Evaluation (Minimal Impact) 04/00/86

Agency Contact: Mr. Neill L. Thomas, Chief, Development Branch, Bureau of Motor Carrier Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 755-1611

RIN: 2125-AB50

1819. ● + DRIVING A MOTOR VEHICLE

Significance: Regulatory Program

Legal Authority: PL 98-554, Sec 206; 49 USC App 2505

CFR Citation: 49 CFR 392

Legal Deadline: Statutory, April 30, 1986

Abstract: The Federal Highway Administration (FHWA) is proposing to amend Part 392 of the Federal Motor Carrier Safety Regulations (FMCSR) to (1) relax the requirement concerning a spare set of corrective lenses, (2) add language to include pretrip inspection of hazardous materials laden vehicles and cargo tanks, (3) require drivers of hazardous materials-laden vehicles to notify emergency response personnel anytime a vehicle is disabled because of an accident or if the driver suspects and unintentional release of hazardous materials, (4) strengthen the disqualification criteria of drivers of hazardous materials-laden vehicles, (5) require a means of communication between the driver and passengers on an articulated vehicle, (6) delete the time requirement for the operation of head lamps, and (7) delete the prohibited practice rule concerning unauthorized passengers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	10/00/86	

Small Entity: No

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Analysis: Reg Evaluation (Minimal Impact) 04/00/86

Agency Contact: Mr. Neill L. Thomas, Chief, Development Branch, Bureau of Motor Carrier Safety, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 755-1011

RIN: 2125-AB61

1820. ● + TRUCK SIZE AND WEIGHT; SPECIALIZED EQUIPMENT

Significance: Agency Priority

Legal Authority: 23 USC 315; 49 USC 2311(d)

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: An ANPRM has been issued requesting public comment on a petition to designate a particular combination of vehicles as specialized equipment under the provisions of section 411(d) of the Surface Transportation Assistance Act of 1982 (STAA). The FHWA is specifically requesting comments on particular safety and central characteristics of a vehicle combination referred to as a "maxi-cube." The FHWA is also considering the adoption of a definition for the term "specialized."

Timetable:

Action	Date	FR Cite
ANPRM	12/27/85	50 FR 52940
ANPRM Comment Period End	02/10/86	50 FR 52940
NPRM	04/00/86	

Small Entity: No

Analysis: Reg Evaluation (Minimal Impact) 04/00/86

Agency Contact: Ed Rugenstein, Department of Transportation, Federal Highway Administration, 202 426-0370

RIN: 2125-AB48

1821. + AIR QUALITY PROCEDURES FOR USE IN FEDERAL-AID HIGHWAY AND FEDERALLY FUNDED TRANSIT PROGRAMS

Significance: Agency Priority

Legal Authority: 23 USC 109(h); 23 USC 109(j); 23 USC 315; 42 USC 4332; 42 USC 7401; 42 USC 7506

CFR Citation: 23 CFR 770

Legal Deadline: None

Abstract: This regulation proposes to consolidate and amend existing air quality requirements for transportation projects into a single amended air quality regulation. The amended regulation is intended to streamline and simplify (1) the process of determining which highway projects are exempt from the Federal assistance limitations of section 176(a) of the Clean Air Act (CAA), and (2) the conformity and priority procedures contained in 23 CFR 770. The amendments are also intended to provide more authority and flexibility to State and local agencies and to meet the objectives of the CAA in the most cost-effective and expeditious manner. The amendments are significant because they involve important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: James Getzewich, (202) 426-7162, of UMTA.

Analysis: Reg. Evaluation 03/00/86

Agency Contact: James M. Shrouds, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0350

RIN: 2125-AB10

1822. REVIEW: GENERAL MATERIALS REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 23 USC 112; 23 USC 113; 23 USC 114; 23 USC 117; 23 USC 128

CFR Citation: 23 CFR 635D

Legal Deadline: None

Abstract: This regulation would simplify procedures relating to general material requirements for Federal-aid construction work.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Additional Information: An initial NPRM was issued on 01/29/81 (46 FR 9642). It has been determined to issue another NPRM based on further review.

Analysis: Reg. Evaluation (Minimal Impact) 07/00/86

Agency Contact: B.B. Myers, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0362

RIN: 2125-AA19

1823. STATE HIGHWAY AGENCY CONSTRUCTION CONTRACT EQUAL OPPORTUNITY COMPLIANCE REVIEW PROGRAM REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 23 USC 112(b); 23 USC 140(a); 23 USC 315

CFR Citation: 23 CFR 230

Legal Deadline: None

Abstract: The proposed revisions would amend the existing FHWA regulation governing construction contract equal employment opportunity (EEO) compliance procedures, which concern the employment practices of construction contractors on Federal highway projects. This proposal would eliminate existing detailed compliance procedures and allow States flexibility in adopting a procedure with respect to contract compliance.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Analysis: Reg. Evaluation 05/00/86

Agency Contact: Glen R. Reed, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0471

RIN: 2125-AB08

1824. CONTRACT PROCEDURES

Significance: Nonsignificant

Legal Authority: 23 USC 112; 23 USC 113; 23 USC 114; 23 USC 117; 23 USC 128

CFR Citation: 23 CFR 635

Legal Deadline: None

Abstract: This revision to an existing regulation would simplify Federal-aid contract procedures.

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Timetable:

Action	Date	FR Cite
NPRM	08/18/78	43 FR 36685
Supplemental NPRM	03/00/87	

Small Entity: No

Additional Information: An initial NPRM was issued on 08/18/78, 43 FR 36685. It has been determined to issue another NPRM after further review.

Analysis: Reg Evaluation 03/00/87

Agency Contact: B.B. Myers, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0362

RIN: 2125-AA18

1825. PAVEMENT DESIGN POLICY

Significance: Nonsignificant

Legal Authority: 23 USC 109(a)(b)(c); 23 USC 315

CFR Citation: 23 CFR 626; 23 CFR 625

Legal Deadline: None

Abstract: The existing regulation on pavement design would be modified to eliminate unnecessary requirements and duplicative provisions. Currently, the Federal Highway Administration (FHWA) uses the "American Association of State Highway and Transportation Officials (AASHTO) Interim Guide for Design of Pavement Structures, 1972," Chapter III Revised, 1981, to evaluate the adequacy of the proposed pavement designs for Federal-aid projects. AASHTO has approved a new Pavement Design Guide. FHWA will solicit public comment on the revised guide and evaluate whether the revised guide should be adopted for application on Federal-aid projects.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Additional Information: A Federal Register notice was published on 4/24/85 (50 FR 16103) outlining and explaining the procedural steps the FHWA would take to effectuate Federal adoption of the revised guide.

Analysis: Reg. Evaluation (Minimal Impact) 04/00/86

Agency Contact: Leon Neel, Department of Transportation, Federal Highway Administration, 400 Seventh Street, NW, Washington, DC 20590, 202 426-0327

RIN: 2125-AA88

1826. HIGHWAY CONSTRUCTION OR ALTERATION NECESSITATED BY CONSTRUCTION OF WATER RESOURCES DEVELOPMENT PROJECTS

Significance: Nonsignificant

Legal Authority: 23 USC 109(a); 23 USC 315; 23 USC 101(d)

CFR Citation: 23 CFR 620

Legal Deadline: None

Abstract: The proposed regulation would prescribe policies and procedures for the coordination of highway and water resources development projects; the financing of the alteration of highway on any of the Federal-aid highway systems made necessary by the construction of water resources development projects; and the financing of new highway construction through areas that may be inundated by proposed water resources development projects.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Additional Information: A 60 day comment period will be provided.

Analysis: Reg. Evaluation (Minimal Impact) 04/00/86

Agency Contact: Daniel O'Connor, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 472-7880

RIN: 2125-AB04

1827. FEDERAL-AID PROGRAMS APPROVAL AND PROJECT AUTHORIZATION

Significance: Nonsignificant

Legal Authority: 23 USC 105; 23 USC 106; 23 USC 116; 23 USC 134; 23 USC 315

CFR Citation: 23 CFR 630

Legal Deadline: None

Abstract: This action addresses FHWA's programming and authorization policies and procedures for projects under the Federal-aid program. The purpose of this action will be to determine if revisions are warranted in order to improve overall management of the Federal-aid highway program.

Timetable:

Action	Date	FR Cite
ANPRM	08/03/84	49 FR 31079
NPRM	04/00/86	

Small Entity: Undetermined

Analysis: Reg. Evaluation (Minimal impact) 04/00/86

Agency Contact: James A. Carney, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0450

RIN: 2125-AB18

1828. RAILROAD-HIGHWAY PROJECTS

Significance: Nonsignificant

Legal Authority: 23 USC 109(e); 23 USC 120(d); 23 USC 130; 23 USC 315; 23 USC 405

CFR Citation: 23 CFR 646

Legal Deadline: None

Abstract: The FHWA is proposing to amend its regulation prescribing policies and procedures for advancing Federal-aid and direct Federal highway projects involving railroad facilities. The proposed amendment will incorporate and clarify existing FHWA policy regarding participation with Federal-aid highway funds in providing specified horizontal and vertical clearances for railroad overpass and underpass structures at highways. Upon a review of comments received to the NPRM, it has been decided that a supplemental NPRM will be issued.

Timetable:

Action	Date	FR Cite
NPRM	02/20/85	50 FR 7067
NPRM Comment Period End	04/22/85	
Supplemental NPRM	07/00/86	

Small Entity: No

Additional Information: A 60-day comment period is being provided.

Analysis: Regulatory Evaluation (min. impact) 02/20/85 (50 FR 7067)

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Agency Contact: James A. Carney, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0428

RIN: 2125-AB25

1829. EQUAL EMPLOYMENT OPPORTUNITY ON FEDERAL AND FEDERAL-AID CONSTRUCTION CONTRACTS (INCLUDING SUPPORTIVE SERVICES)

Significance: Nonsignificant

Legal Authority: 23 USC 140; 23 USC 315

CFR Citation: 23 CFR 230A

Legal Deadline: None

Abstract: This revision will amend and update the existing policies and procedures relative to the equal employment opportunity program on Federal and Federal-aid highway construction contracts. In addition, this revision will amend the on-the-job (OJT) training special provisions and procedures for implementation of OJT supportive services programs to increase program effectiveness and address the current need for upgrading minorities and women in the skilled construction trades.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Undetermined

Analysis: Regulatory Evaluation (min. impact) 12/00/86

Agency Contact: B.B. Myers, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0362

RIN: 2125-AB27

1830. ◉ AGREEMENT PROVISIONS REGARDING OVERRUNS IN CONTRACT TIME

Significance: Nonsignificant

Legal Authority: 23 USC 101(a); 23 USC 104; 23 USC 109; 23 USC 110; 23 USC 113; 23 USC 115; 23 USC 120(f); 23 USC 121(c); 23 USC 125; 23 USC 315; 23 USC 320

CFR Citation: 23 CFR 630

Legal Deadline: None

Abstract: The revised regulations would require each State highway agency (SHA) to keep liquidated damage provisions current so that amounts recovered through contractor assessments would at a minimum cover SHA's average daily construction engineering cost attributable to the contract time overrun. The FHWA rate table presently in the regulation would be removed and the provisions for FHWA recovery of costs would be modified.

Timetable:

Action	Date	FR Cite
NPRM	03/18/86	51 FR 4217
NPRM Comment Period End	05/02/86	51 FR 4217
Final Action	08/00/86	

Small Entity: No

Analysis: Reg Evaluation (Minimal Impact) 04/00/86

Agency Contact: Bob B. Myers, Department of Transportation, Federal Highway Administration, 202 426-0362

RIN: 2125-AB49

1831. WRITTEN EXAMINATION

Significance: Nonsignificant

Legal Authority: 49 USC 3102; PL 98-554, Sec 206

CFR Citation: 49 CFR 391.35

Legal Deadline: None

Abstract: This rulemaking action will be issued in order to implement section 206 of the Motor Carrier Safety Act of 1984. Section 206 requires the reissuance by the FHWA of regulations pertaining to commercial motor carrier safety. Options available to the FHWA regarding the requirement for a written examination for commercial vehicle drivers include (1) rescission of the requirement; (2) retaining the requirement and updating the questions; and, (3) revising the requirement to a pass/fail situation.

Timetable:

Action	Date	FR Cite
Initial ANPRM	03/04/82	47 FR 4256
ANPRM	01/23/85	50 FR 2996
Initial ANPRM Withdrawn	01/23/85	50 FR 2996
ANPRM Comment Period End	03/11/85	50 FR 2996
NPRM	07/00/86	

Small Entity: No

Additional Information: An initial ANPRM on the written examination was published on 3/4/82 (47 FR 4256). Pursuant to section 206 of the Motor Carrier Safety Act of 1984, which required the reissuance of the Federal Motor Carrier Safety Regulations, the initial ANPRM was withdrawn on 1/23/85 (50 FR 2996). Comments made to the initial ANPRM have been incorporated into this rulemaking action.

Analysis: Reg. Evaluation 07/00/86

Agency Contact: Neill Thomas, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 755-1011

RIN: 2125-AA33

1832. RAILROAD GRADE CROSSINGS

Significance: Nonsignificant

Legal Authority: 49 USC 3102

CFR Citation: 49 CFR 392.10

Legal Deadline: None

Abstract: The FHWA is considering a revision that would make this Federal regulation more consistent with the Uniform Vehicle Code with respect to stopping requirements. No action is anticipated within the next 12 months.

Timetable:

Action	Date	FR Cite
ANPRM	11/18/82	47 FR 51904

Next Action Undetermined

Small Entity: No

Agency Contact: Joseph J. Fulnecky, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 755-1011

RIN: 2125-AA36

1833. ADMINISTRATION OF NEGOTIATED CONTRACTS

Significance: Nonsignificant

Legal Authority: 23 USC 315; 23 USC 104(f); 23 USC 114(a); 23 USC 307(c); 23 USC 402

CFR Citation: 23 CFR 172

Legal Deadline: None

Abstract: Revisions to the existing regulation will be made to update minimum requirements and to conform to the new Federal acquisition regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Additional Information: A 60-day comment period will be provided.

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation (min. impact) 06/00/86

Agency Contact: Max Inman, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0562

RIN: 2125-AB30

1834. HIGHWAY BEAUTIFICATION: OUTDOOR ADVERTISING: TECHNICAL AMENDMENT

Significance: Nonsignificant

Legal Authority: 23 USC 131; 23 USC 315

CFR Citation: 23 CFR 750

Legal Deadline: None

Abstract: The FHWA is proposing to amend its regulations in order to clarify existing FHWA policy that temporary political campaign signs and other signs, displays, and devices associated with Federal, State, or local elections may be permitted without violating the Highway Beautification Act.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: A 45-day public comment period will be provided.

Analysis: Regulatory Evaluation (min. impact) 10/00/86

Agency Contact: Edward V. A. Kussy, Department of Transportation, Federal Highway Administration, 700 Seventh Street, SW, Washington, DC 20590, 202 426-0781

RIN: 2125-AB32

1835. MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES

Significance: Routine and Frequent

Legal Authority: 23 USC 109(b); 23 USC 109(d); 23 USC 402(a)

CFR Citation: 23 CFR 655

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep these requirements operationally current. Total actions expected—2. 12/00/86.

Timetable:

Action	Date	FR Cite
Total actions expected to end	12/00/86	

Small Entity: No

Analysis: Reg. Evaluation (Min. Impact) 12/00/86

Agency Contact: F. Russell, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0411

RIN: 2125-AA37

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Highway Administration (FHWA)

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1836. + SPLASH/SPRAY SUPPRESSANT DEVICES ON TRUCK TRACTORS, SEMITRAILERS AND TRAILERS

Significance: Regulatory Program

Legal Authority: 49 USC 2314; 49 USC 3102; Section 414 of STAA of 1982

CFR Citation: 49 CFR 393

Legal Deadline: None

Abstract: Section 414 of the Surface Transportation Assistance Act of 1982 (Pub. L. 97-424) states that Congress declares the visibility on wet roadways in the Interstate System should be improved by reducing splash and spray from truck tractors, semitrailers and trailers. Congress instructed the Secretary to establish, by regulation, minimum standards with respect to the performance and installation of splash and spray suppression devices on truck tractors, semitrailers and trailers. Further, Congress mandated that all vehicles in use 5 years from date of enactment be equipped with such devices. The revisions to 49 CFR 393 will implement this mandate. This rulemaking is considered significant because of its economic impact on the motor carrier industry.

Timetable:

Action	Date	FR Cite
NPRM	04/12/85	50 FR 14630
Comment Period Extended	06/11/85	50 FR 24549
NPRM Comment Period End	08/12/85	50 FR 24549
Determination of Next Appropriate Action	12/00/86	

Small Entity: Yes

Additional Information: The public comment period was extended to 8/12/85 by a notice published on 6/11/85 (50 FR 24549).

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis

Agency Contact: Neill Thomas, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20591, 202 755-1011

RIN: 2125-AA84

1837. + TRUCK SIZE AND WEIGHT; INTERPRETATION AND POLICY STATEMENT; PROPOSED RULEMAKING

Significance: Regulatory Program.

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Legal Authority: 23 USC 315; PL 97-424, Sec 133; PL 97-424, Sec 411; PL 97-424, Sec 412; PL 97-424, Sec 413; PL 97-424, Sec 416

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA is proposing to provide a statement of FHWA interpretation and policy addressing the size and weight provisions contained in the Tandem Truck Safety Act of 1984 (TTSA) which amended the Surface Transportation Assistance Act of 1982 (STAA). This action addresses (1) conditions under which segments of the National System of Interstate and Defense Highways may be deleted from the National Truck Network, (2) conditions affecting the designation of new routes on the Federal-Aid Primary System as part of the National Truck Network, and (3) new provisions for 102-inch wide 28 1/2-foot semi-trailers. The issue relative to the qualifications of highways previously designated with lane widths less than 12 feet is the subject of a separate rulemaking action. See "Nonsignificant Rulemakings" portion of agenda.

Timetable:

Action	Date	FR Cite
NPRM	09/18/85	50 FR 37970
NPRM Comment Period End	11/04/85	50 FR 37970
Final Action	04/00/86	

Small Entity: No

Additional Information: This action had previously been characterized as significant in the agenda. Upon further review, it has been determined that since this rulemaking proposes to technically amend the June 5, 1984, final rule on Truck Size and Weight and to finalize certain issues left unresolved, it is not considered significant. A Regulatory Impact Analysis has been prepared for the June 5 rulemaking and is available for inspection in the Headquarters office of FHWA, 400 Seventh Street, SW, Washington, D.C.

Analysis: Regulatory Evaluation 09/18/85 (50 FR 37970)

Agency Contact: Edwin E. Rugenstein, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-5370

RIN: 2125-AB26

1838. + TRUCK SIZE AND WEIGHT; AUTOMOBILE TRANSPORTERS

Significance: Regulatory Program

Legal Authority: 23 USC 315; PL 97-424, Sec 133; PL 97-424, Sec 411; PL 97-424, Sec 412; PL 97-424, Sec 413; PL 97-424, Sec 416

CFR Citation: 23 CFR 658

Legal Deadline: None

Abstract: The FHWA is proposing revisions to certain provisions established by the final rule on truck size and weight published at 49 CFR 23302 on June 5, 1984. This action proposes: (1) a definition for an automobile-transporter; (2) a minimum 75-foot overall length for a stinger-steered automobile-transporter; (3) the allowance of triple saddlemount combinations with a minimum length of 65 feet; and, (4) no overall length limitations for conventional tractor-semitrailer automobile transporters when the semitrailer is 48 feet in length. The purpose of this rulemaking action is to clarify and further define certain issues contained in the June 5, 1984, final rule.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/84	49 FR 38956
ANPRM Comment Period End	11/17/84	49 FR 38956
NPRM	11/25/85	50 FR 48431
NPRM Comment Period End	01/09/86	50 FR 48431
Final Action	07/00/86	

Small Entity: No

Additional Information: A Regulatory Impact Analysis which had been prepared for the June 5, 1984, final rule on truck size and weight provisions is available for inspection in the Headquarters office of FHWA, 400 Seventh Street, SW, Washington, DC.

Analysis: Reg. Evaluation (Min. Impact) 11/25/85 (50 FR 48431)

Agency Contact: Edwin E. Rugenstein, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-5370

RIN: 2125-AB42

1839. + ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

Significance: Agency Priority

Legal Authority: 42 USC 4321 et seq; 23 USC 101 et seq; 49 USC 1601 et seq; 49 USC 303(c); 49 USC 303

CFR Citation: 23 CFR 771; 49 CFR 622; 23 CFR 790; 23 CFR 635.309; 23 CFR 640.107; 23 CFR 650.109; 23 CFR 712.204

Legal Deadline: None

Abstract: This regulation covers the preparation of environmental impact statements and related documents and compliance with other Federal environmental requirements under FHWA and UMTA grant programs. The changes are intended to streamline the project development process and provide increased decisionmaking authority to agency field offices. The amendments are significant because they involve important departmental policy. They are needed to reduce burdens associated with the environmental review process.

Timetable:

Action	Date	FR Cite
Notice and Request for Comments on Priority Review	04/13/81	46 FR 21620
NPRM	08/01/83	48 FR 34894
Final Action	04/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: A. Marner, UMTA (202) 426-0090.

Analysis: Regulatory Evaluation 08/01/83 (48 FR 34894)

Agency Contact: Fred Skaer, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0188

RIN: 2125-AA05

1840. HIGHWAY PLANNING PROGRAM ADMINISTRATION

Significance: Nonsignificant

Legal Authority: 23 USC 104; 23 USC 307; 23 USC 315

CFR Citation: 23 CFR 420, Subpart A; 23 CFR 450, Subpart C

Legal Deadline: None

Abstract: This revision to an existing regulation would reflect policy changes in management of the highway planning and research program, e.g., allowing separate projects for components of the program (urbanized area planning,

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statewide planning, research and development), and applying matching rates to time periods rather than a fiscal year fund, etc. NPRM was published January 11, 1979 (44 FR 2400). As a result of comments received to the Docket, as well as internal coordination, FHWA is considering combining this regulation with 23 CFR Part 450, Subpart C, Metropolitan Planning Funds, since both deal with program administration. A revised NPRM combining parts 420 and 450 and incorporating requirements mandated by the Surface Transportation Assistance Act of 1982 was published on 3/28/85 (50 FR 12328).

Timetable:

Action	Date	FR Cite
NPRM	01/11/79	44 FR 2400
NPRM	03/28/85	50 FR 1238
NPRM Comment Period End	05/28/85	50 FR 1238
Final Action	04/00/86	

Small Entity: No

Additional Information: Docket No. 78-24. CFR CITATION: FHPM 4-1-2-1 and 4-4-7 also applies.

Analysis: Reg. Evaluation (Minimal impact) 03/28/85 (50 FR 12328)

Agency Contact: Barna Juhasz, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0173

RIN: 2125-AA10

1841. USE AND DISPOSITION OF PROPERTY PREVIOUSLY ACQUIRED BY STATES FOR WITHDRAWN INTERSTATE SEGMENTS

Significance: Nonsignificant

Legal Authority: 23 USC 103(e)(5)(6); PL 96-106, Sec 2(c)

CFR Citation: 23 CFR 480

Legal Deadline: None

Abstract: Federal Highway Administration regulations in 23 CFR Part 480 prescribe the circumstances under which states must repay the Federal Government for the Federal contribution to the purchase of property for Interstate highway projects that are later withdrawn. Congress, in Public Law 96-106, amended 23 U.S.C. 103(e) to change the circumstances under which repayment must be made. This revision to an existing regulation would incorporate the legislative changes in 23 CFR Part 480, and narrows the scope of the regulation by eliminating situations other than Interstate withdrawals from its coverage.

Timetable:

Action	Date	FR Cite
NPRM	11/20/80	45 FR 76705
NPRM	09/20/85	50 FR 38130
NPRM Comment Period End	11/19/85	50 FR 38130
Final Action	04/00/86	

Small Entity: No

Additional Information: This regulation was formerly titled Review: Payback Regulation Amendments.

Analysis: Reg. Evaluation (Minimal impact) 09/20/85 (50 FR 38130)

Agency Contact: C. L. Shuffleberger, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0404

RIN: 2125-AA11

1842. EMERGENCY RELIEF

Significance: Nonsignificant

Legal Authority: 23 USC 101; 23 USC 120(i); 23 USC 315; 42 USC 5155

CFR Citation: 23 CFR 668

Legal Deadline: None

Abstract: This rulemaking will revise procedures for the administration of emergency funds for the repair or reconstruction of Federal-aid highways, which are found to have suffered serious damage by natural disasters over a wide area or catastrophic failures. These revisions will improve the effectiveness of program implementation.

Timetable:

Action	Date	FR Cite
NPRM	09/17/85	50 FR 37688
NPRM Comment Period End	12/16/85	50 FR 37688
Final Action	04/00/86	

Small Entity: No

Additional Information: This rulemaking resulted from a review of the regulation (RIN 2125-AA50).

Analysis: Reg. Evaluation (Minimal impact) 09/17/85 (50 FR 37688)

Agency Contact: J. A. Carney, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0450

RIN: 2125-AA50

1843. ACCELERATION OF PROJECTS

Significance: Nonsignificant

Legal Authority: 23 USC 140; 23 USC 315; Surface Transportation Assistance Act of 1982, Sec. 129

CFR Citation: 23 CFR 630

Legal Deadline: None

Abstract: This revision would expedite the processing of Federal-aid highways projects by promoting wider use of the findings and recommendations of the demonstration project carried out under section 141 of the 1976 Federal-Aid Highway Act. This action is also being taken pursuant to section 129 of the Surface Transportation Assistance Act of 1982.

Timetable:

Action	Date	FR Cite
ANPRM	08/26/83	48 FR 38854
ANPRM Comment Period End	11/25/83	48 FR 57330
To be withdrawn	04/00/86	

Small Entity: No

Additional Information: Additional information: An interim policy statement was published 6/6/83 (48 FR 25181) to implement acceleration methods for selected projects within existing regulations. Initially, FHWA had considered issuing a new regulation as a vehicle for accelerating Federal-aid projects pursuant to Section 129 of the STAA of 1982. However, it has been determined that the objectives of Section 129 can be best implemented by revisions to existing regulations. Therefore, separate regulations will not be issued regarding the acceleration program. This approach received the concurrence of Deputy Administrator Lamm on April 11, 1984. This regulation will be withdrawn.

Analysis: Reg. Evaluation (Minimal impact) 08/26/83 (48 FR 38854)

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Agency Contact: S. M. Sliwoski, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0334

RIN: 2125-AA87

1844. EROSION AND SEDIMENT CONTROL ON HIGHWAY CONSTRUCTION PROJECTS

Significance: Nonsignificant

Legal Authority: 23 USC 109(g); 23 USC 315; 23 USC 109(h); 33 USC 1323

CFR Citation: 23 CFR 650

Legal Deadline: None

Abstract: The proposed regulation will adopt AASHTO Guide Specifications for water pollution control. It has been determined that AASHTO Specifications are adequate and appropriate for managing and enforcing erosion and sediment control activities on Federal-aid projects.

Timetable:

Action	Date	FR Cite
NPRM	01/18/85	50 FR 2694
NPRM Comment Period End	03/18/85	
Final Action	05/00/86	

Small Entity: No

Additional Information: A 60 day comment period will be provided.

Analysis: Reg. Evaluation (Minimal impact) 01/18/85 (50 FR 2694)

Agency Contact: Daniel S. O'Connor, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 472-7600

RIN: 2125-AB05

1845. NAVIGATIONAL CLEARANCES FOR BRIDGES

Significance: Nonsignificant

Legal Authority: 23 USC 144(h); 23 USC 315; 33 USC 401; 33 USC 491; 33 USC 511; 33 USC 525; 33 USC 535

CFR Citation: 23 CFR 650

Legal Deadline: None

Abstract: The proposed regulation would establish FHWA policy and would set forth coordination procedures for Federal-aid highway bridges which require navigational clearances.

Timetable:

Action	Date	FR Cite
NPRM	04/11/85	50 FR 14251
NPRM Comment Period End	07/11/85	50 FR 14251
Final Action	04/00/86	

Small Entity: No

Additional Information: A 90 day comment period was provided.

Analysis: Reg. Evaluation (Minimal impact) 04/11/85 (50 FR 14251)

Agency Contact: Philip Thompson, Hydraulics Engineer, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-7699

RIN: 2125-AB07

1846. EQUAL EMPLOYMENT OPPORTUNITY ON FEDERAL AND FEDERAL-AID CONSTRUCTION CONTRACTS (INCLUDING SUPPORTIVE SERVICES); REPORT REQUIREMENTS

Significance: Nonsignificant

Legal Authority: 23 USC 101; 23 USC 112; 23 USC 117; 23 USC 140; 23 USC 315

CFR Citation: 23 CFR 230; 23 CFR 640; 23 CFR 642

Legal Deadline: None

Abstract: The FHWA is amending its regulation on recordkeeping and reporting requirements for on-the-job training on Federal-aid construction contracts. The revised regulation would no longer require contractors to submit the Federal-Aid Highway Construction Contractor's Semi-Annual Training Report (OMB No. 2125-0021) and would no longer require State Highway Agencies to complete and submit the Federal-Aid Highway Construction Semi-Annual Training Report (OMB No. 2125-0021). In addition, the specific recordkeeping requirement and documentation of contractor performance under the training special provision would be eliminated. The revisions are being proposed as a result of an effort to carry out an internal Cost Avoidance, Reduction, Efficiency, and Effectiveness (CARE) program.

Timetable:

Action	Date	FR Cite
NPRM	11/22/82	47 FR 52470
NPRM Comment Period End	12/22/82	47 FR 52470
Final Action	11/00/86	

Small Entity: No

Analysis: Reg. Evaluation (Minimal impact) 11/22/82 (47 FR 52470)

Agency Contact: B.B. Myers, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0392

RIN: 2125-AB15

1847. REQUIRED CONTRACT PROVISIONS

Significance: Nonsignificant

Legal Authority: 23 USC 114; 23 USC 315

CFR Citation: 23 CFR 633

Legal Deadline: None

Abstract: This revision will update the existing regulation by including in the required contract provisions new labor standard provisions issued by the Department of Labor, disadvantaged business requirements issued by the Department of Transportation, changes in subcontracting requirements previously issued by FHWA and contract termination provisions issued by Office of Management and Budget.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/86	

Small Entity: No

Analysis: Reg. Evaluation (Minimal impact) 04/00/86

Agency Contact: B.B. Myers, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0392

RIN: 2125-AB20

1848. CONTRACT PROCEDURES; ADVERTISING FOR BIDS; NONCOLLUSION AFFIDAVIT

Significance: Nonsignificant

Legal Authority: 23 USC 112; 23 USC 315

CFR Citation: 23 CFR 635

Legal Deadline: None

Abstract: The revisions would require all persons submitting bids on a Federal-aid highway project to submit with the bid an affidavit on non-collusion. The submission of an affidavit of non-collusion will serve to notify bidders that collusion on bidding is a violation of law and will serve in a court or administrative hearing as evidence of intent when other evidence that demonstrates the act of collusion is presented.

Timetable:

Action	Date	FR Cite
NPRM	03/27/85	50 FR 12037
NPRM Comment Period End	05/28/85	50 FR 12037
Final Action	04/00/86	

Small Entity: No

Analysis: Reg. Evaluation (Minimal impact) 03/27/85 (50 FR 12037)

Agency Contact: Mr. Hugh T. O'Reilly, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-9780

RIN: 2125-AB21

1849. SAMPLES AND TESTING OF MATERIALS AND CONSTRUCTION

Significance: Nonsignificant

Legal Authority: 23 USC 114; 23 USC 204; 23 USC 206; 23 USC 208; 23 USC 210; 23 USC 315

CFR Citation: 23 CFR 637

Legal Deadline: None

Abstract: The FHWA is proposing to provide a more effective policy and procedure with regard to sampling and testing of materials and construction in Federal-aid highway projects. The amendments will clarify requirements and provide additional guidance in the areas of acceptance sampling and testing laboratory inspection programs and material certifications.

Timetable:

Action	Date	FR Cite
NPRM	09/20/85	50 FR 38136
NPRM Comment Period End	11/04/85	50 FR 38136
Final Action	06/00/86	

Small Entity: No

Analysis: Regulatory Evaluation (min. impact) 09/20/85 (50 FR 38136)

Agency Contact: B.B. Myers, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0392

RIN: 2125-AB31

1850. LABOR AND EMPLOYMENT

Significance: Nonsignificant

Legal Authority: 23 USC 113; 23 USC 315

CFR Citation: 23 CFR 635

Legal Deadline: None

Abstract: This amendment would revise the existing regulation prescribing the inclusion of prevailing wage rates determined by the Secretary of Labor in advertisements and contracts for Federal-aid highway projects. The proposed amendment would preclude the payment of Federal-aid funds for the excess labor costs due to State prevailing wage rates which are higher than those determined by the Department of Labor on Federal-aid projects.

Timetable:

Action	Date	FR Cite
NPRM	09/27/85	50 FR 30137
NPRM Comment Period End	11/12/85	50 FR 30137
Final Action	04/00/86	

Small Entity: No

Analysis: Reg. Evaluation (minimal impact) 04/00/86

Agency Contact: Hugh T. O'Reilly, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-9780

RIN: 2125-AB37

1851. ● DESIGN STANDARDS FOR HIGHWAYS; TECHNICAL AMENDMENTS

Significance: Nonsignificant

Legal Authority: 23 USC 109; 23 USC 315; 23 USC 402

CFR Citation: 23 CFR 625; 23 CFR 655

Legal Deadline: None

Abstract: The FWHA is updating the list of publications which are incorporated by reference in 23 CFR Part 625 for application on Federal-aid projects. This list includes citations to publications containing standards, specifications, policies, guides, and references which are approved for application in the geometric and structural design of federally funded highways. The revisions amend the regulations by (1) updating citations to reflect current publication dates and titles; (2) removing obsolete references; (3) relocating references to the appropriate section; (4) correcting references to incorporate prior rulemaking actions; and (5) redesignating and adding certain publications that contain guidance and informational material to a new section. While the revisions are nonsubstantive in nature, they will serve to clarify existing rule which was last completely updated in 1978.

Timetable:

Action	Date	FR Cite
Final Action	05/00/86	

Small Entity: No

Analysis: Reg Evaluation (Minimal impact) 05/00/86

Agency Contact: Mr. Seppo I. Siilas, Department of Transportation, Federal Highway Administration, 202 426-0312

RIN: 2125-AB47

1852. COMPLIANCE WITH MOTOR CARRIER NOISE STANDARDS

Significance: Nonsignificant

Legal Authority: 49 USC 3102

CFR Citation: 49 CFR 325

Legal Deadline: None

Abstract: The FHWA is considering amending the noise emission standards to add a new minimum distance of 31 feet from which to measure highway noise. FHWA is also considering eliminating the correction factor which allowed a variance for noise tests taken at hard sites, e.g., asphalt, compared to those taken at soft sites, e.g. grassy areas.

Timetable:

Action	Date	FR Cite
NPRM	04/03/80	45 FR 22120

Next Action Undetermined

Small Entity: No

Agency Contact: Neill Thomas, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 755-1011

RIN: 2125-AA27

1853. ● QUALIFICATION OF DRIVERS; DRUGS

Significance: Nonsignificant

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Legal Authority: 49 USC 3102; 49 USC App 2505

CFR Citation: 49 CFR 391

Legal Deadline: None

Abstract: This rulemaking action will amend the Federal Motor Carrier Safety Regulations (FMCSR) by revising the prohibitive language of the nonalcoholic drug medical standard for interstate or foreign commerce drivers. The revisions would prohibit the use of certain nonalcoholic drugs whereas the current rule prohibits the driver from having a current clinical diagnosis of drug dependence. The change is being proposed because the present language could allow known drug users to continue to drive commercial motor vehicles in spite of the knowledge of their drug use.

Timetable:

Action	Date	FR Cite
NPRM	10/01/85	50 FR 40040
NPRM Comment Period End	10/31/85	50 FR 40040
Final Action	03/00/86	

Small Entity: No

Analysis: Reg Evaluation (Minimal Impact) 10/01/85 (50 FR 40040)

Agency Contact: Neill L. Thomas, Department of Transportation, Federal Highway Administration, 202 755-1011

RIN: 2125-AB52

1854. TRANSFER OF FEDERAL-AID HIGHWAY FUNDS

Significance: Nonsignificant

Legal Authority: Surface Transportation Assistance Act of 1982, Sec. 116

CFR Citation: 23 CFR 160, Subpart A; 23 CFR 160, Subpart B; 23 CFR 160, Subpart C

Legal Deadline: None

Abstract: This regulation revision will reflect the required statutory changes included in section 116 of the STAA of 1982 regarding the transfer of Interstate construction funds.

Timetable:

Action	Date	FR Cite
Final Action	10/00/86	

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 10/00/86

Agency Contact: Larry C. Hamm, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0674

RIN: 2125-AA84

1855. FEDERAL-AID HIGHWAY PROGRAMS: STATE INTERNAL AUDIT RESPONSIBILITIES

Significance: Nonsignificant

Legal Authority: PL 98-502 Single Audit Act of 1984; 23 USC 315

CFR Citation: 23 CFR 12

Legal Deadline: None

Abstract: Revisions to the existing regulation will be made to comply with the requirements of P.L. 98-502, the Single Audit Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	10/24/85	50 FR 43233
NPRM Comment Period End	10/24/85	50 FR 43233
Final Action	04/00/86	

Small Entity: No

Additional Information: A 60-day comment period will be provided.

Analysis: Regulatory Evaluation (min. impact) 10/24/85 (50 FR 43233)

Agency Contact: Max Inman, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0062

RIN: 2125-AB29

1856. CERTIFICATION OF ENFORCEMENT OF HEAVY VEHICLE USE TAX

Significance: Nonsignificant

Legal Authority: 23 USC 141(d); 23 USC 315

CFR Citation: 23 CFR 669

Legal Deadline: None

Abstract: This final rule establishes procedures to be followed by each State for certifying that it is obtaining proof of payment of the heavy vehicle use tax imposed by section 4481 of the Internal Revenue Code of 1954, as amended, before such vehicles are lawfully registered in the State.

Timetable:

Action	Date	FR Cite
Final Action	04/00/86	

Small Entity: No

Additional Information: A 45-day public comment period will be provided.

Analysis: Regulatory Evaluation (min. impact) 04/00/86

Agency Contact: Thomas R. Weeks, Chief, Highway Users and Funding Division, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0179

RIN: 2125-AB36

1857. PUBLIC HEARINGS AND LOCATION DESIGN APPROVAL

Significance: Nonsignificant

Legal Authority: 23 USC 101 et seq; 23 USC 109(h); 23 USC 128; 23 USC 315; 49 USC 1651; 49 USC 1657(e)(1)

CFR Citation: 23 CFR 790; 23 CFR 771.111(h); 23 CFR 635.309; 23 CFR 650.109

Legal Deadline: None

Abstract: The existing regulation contains duplicative provisions that are contained in 23 CFR 771. The rescission of 23 CFR 790 will simplify and consolidate project development processes preceding PS & E (Plans, Specifications, and Estimates) under the NEPA process and will consolidate requirements for public hearings in a single regulation. This rulemaking action will be combined with RIN #2125-AA05 for clarity.

Timetable:

Action	Date	FR Cite
NPRM	01/31/85	50 FR 4525
NPRM Comment Period End	03/04/85	50 FR 4525
Final Action	04/00/86	

Small Entity: No

Analysis: Reg. Evaluation 01/31/85 (50 FR 4525)

Agency Contact: Florence Mills, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0360

RIN: 2125-AB09

DEPARTMENT OF TRANSPORTATION (DOT)
Federal Highway Administration (FHWA)

Completed Actions

1858. + NOTIFICATION, REPORTING AND RECORDING OF ACCIDENTS

Significance: Regulatory Program

Legal Authority: 49 USC 3102; PL 98-554, Sec 206

CFR Citation: 49 CFR 394

Legal Deadline: Statutory, April 30, 1986

Abstract: The revision deals primarily with revising the truck and bus accident report forms. Being considered are (1) the consolidation of both forms into one, (2) reducing the number of copies to be filed and (3) raising the reporting threshold from the present $2,000 to a higher figure. The NPRM issued on 1/16/84 (49 FR 1912) has been withdrawn pursuant to section 206 of the Motor Carrier Safety Act of 1984. Section 206 requires the reissuance of regulations concerning commercial motor vehicle safety by April 30, 1986. The comments received in response to the NPRM will be incorporated into this rulemaking action.

Timetable:

Action	Date	FR Cite
Initial NPRM	01/16/84	49 FR 1912
ANPRM	01/23/85	50 FR 2998
Initial NPRM Withdrawn	01/23/85	50 FR 2998
ANPRM Comment Period End	03/11/85	50 FR 2998
Final Action Effective	01/00/86	51 FR 6121
Final Action	02/20/86	51 FR 6121

Small Entity: No

Additional Information: The ANPRM on Accident Report published on 1/16/84 (49 FR 1912) was formally withdrawn by notice published 1/23/85 (50 FR 2998). This action was taken pursuant to section 206 of the Motor Carrier Safety Act of 1984. A second NPRM is scheduled to be published in October 1985.

Analysis: Reg. Evaluation 10/00/85

Agency Contact: Neill L. Thomas, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 755-1011

RIN: 2125-AA35

1859. + OUTDOOR ADVERTISING CONTROL AND ACQUISITION

Significance: Agency Priority

Legal Authority: 23 USC 131; 23 USC 148; 23 USC 315

CFR Citation: 23 CFR 750, Subpart G

Legal Deadline: None

Abstract: This amendment would have provided a definition of "effective control" of outdoor advertising as required by 23 U.S.C. 131. It would also have set further requirements for signs exempt from control under the statute and established the basic framework for State development of police power regulations and procedures. This action is being terminated because after a further review, it has been determined that no further regulatory action is necessary. Any future rulemaking actions will depend on the results of current legislative initiatives to revise the Highway Beautification Act.

Timetable:

Action	Date	FR Cite
Action Terminated	12/27/85	

Small Entity: No

Agency Contact: Robert Harter, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0142

RIN: 2125-AA04

1860. SKID ACCIDENT REDUCTION PROGRAM

Significance: Nonsignificant

Legal Authority: 23 USC 109(a)(b)(c); 23 USC 315; 23 USC 401; 23 USC 402; 49 USC 1655

CFR Citation: 23 CFR 626; 23 CFR 1204

Legal Deadline: None

Abstract: The FHWA issued an ANPRM to solicit comments on the adequacy of the current policy on skid accident reduction. Comments were also requested on several specific issues raised concerning the current policy. Twenty-nine formal replies were received including twenty-two from State highway agencies. The FHWA has completed field reviews of the effectiveness of skid accident reduction programs in selected States. Based on comments received to the public docket and a further review of current programs, it has been determined that new regulations are unnecessary. Therefore, the ANPRM issued on 5/25/84 (49 FR 22105) has been withdrawn. (01/13/86; 51 FR 1389).

Timetable:

Action	Date	FR Cite
ANPRM	05/25/84	49 FR 22105
ANPRM Comment Period End	09/25/84	49 FR 22105
Withdrawn	01/13/86	51 FR 1389

Small Entity: No

Analysis: Reg. Evaluation (Minimal Impact) 01/00/86

Agency Contact: Leon Noel, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0327

RIN: 2125-AA90

1861. MASS TRANSIT AND SPECIAL USE HIGHWAY PROJECTS

Significance: Nonsignificant

Legal Authority: 23 USC 137 (Sec 118 of STAA); 23 USC 142 (Sec 120 of STAA); 23 USC 146 (Sec 163 of STAA); 23 USC 149; 23 USC 315

CFR Citation: 23 CFR 810

Legal Deadline: None

Abstract: The existing regulation has been revised to incorporate statutory changes mandated by the Surface Transportation Assistance Act of 1982 (STAA) and to make other revisions to update references to other regulations or statutes and to reflect administrative changes. The revisions provide the basic criteria for determining whether mass transit and special use highway projects are eligible for Federal-aid funding under 23 USC 137, 142, and 149. This rulemaking consolidates previous projected rulemakings under the headings Fringe and Corridor Parking and High Occupancy Lanes.

Timetable:

Action	Date	FR Cite
NPRM	04/26/84	49 FR 17966
NPRM Comment Period End	06/25/84	49 FR 17966
Final Action	08/22/85	50 FR 33915
Final Action Effective	09/22/85	50 FR 33915

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: George Schoener, (202) 426-0210.

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DOT—FHWA — Completed Actions

Analysis: Reg. Evaluation (Minimal impact) 08/22/85 (50 FR 33918)

Agency Contact: James Carney, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0650

RIN: 2125-AB01

1862. PARTICIPATION IN CONTRACT CLAIM AWARDS AND SETTLEMENTS

Significance: Nonsignificant

Legal Authority: 23 USC 110; 23 USC 120; 23 USC 315

CFR Citation: 23 CFR 635

Legal Deadline: None

Abstract: The revisions address the extent to which Federal-aid highway funds may participate in awards and settlements of Federal-aid highway contract claims brought by private contractors against State Highway Agencies. The revisions clarify the existing regulation by specifying more definitive criteria in determining eligibility for participation. It is anticipated that the revised regulation would enable State Highway Agencies to submit more specific information supporting their requests for participation determinations more consistent State-to-State.

Timetable:

Action	Date	FR Cite
NPRM	03/27/84	49 FR 11678
NPRM Comment Period End	07/30/84	49 FR 23683
Final Action	10/16/85	50 FR 41862
Final Action Effective	11/15/85	50 FR 41862

Small Entity: No

Additional Information: Docket No. 84-3

Analysis: Reg. Evaluation (Minimal impact) 10/16/85 (50 FR 41862)

Agency Contact: B. B. Myers, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0362

RIN: 2125-AB02

1863. SUPPORTIVE SERVICES FOR DISADVANTAGED AND WOMEN BUSINESS ENTERPRISES

Significance: Nonsignificant

Legal Authority: 23 USC 140; 23 USC 101; 23 USC 304; 23 USC 315

CFR Citation: 23 CFR 230

Legal Deadline: None

Abstract: This regulation prescribes procedures for supportive services programs to provide training and assistance to minority, disadvantaged and women business enterprises in Federal-aid highway contracting activities. It implements the statutory provisions of Section 119(b) of the Surface Transportation Assistance Act of 1982.

Timetable:

Action	Date	FR Cite
Final Action	12/16/85	50 FR 51242
Final Action Effective	12/16/85	50 FR 51242

Small Entity: Undetermined

Additional Information: The FHWA has opened a public docket (85-32) and invites comments on the procedures adopted in the regulation for program implementation.

Analysis: Reg. Evaluation (Minimal impact) 12/16/85 (50 FR 51242)

Agency Contact: B.B. Myers, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0362

RIN: 2125-AB19

1864. THE ACQUISITION FUNCTION

Significance: Nonsignificant

Legal Authority: 42 USC 4633; 42 USC 4651 to 4655; 23 USC 315; 23 USC 323; 42 USC 2000d-l

CFR Citation: 23 CFR 710; 23 CFR 712; 23 CFR 713; 23 CFR 720

Legal Deadline: None

Abstract: On March 5, 1985 (50 FR 8955), the Department of Transportation issued a final rule which prescribed uniform departmental procedures for compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601 et seq.) (Uniform Act). This rulemaking action will rescind FHWA's regulations which have been superseded by the DOT regulations of 3/5/85.

Timetable:

Action	Date	FR Cite
Final Action	07/03/85	50 FR 34091
Final Action Effective	08/23/85	50 FR 34091
Final Action Rescission	08/23/85	50 FR 34091

Small Entity: No

Analysis: Reg. Evaluation (Min. Impact) 08/23/85 (50 FR 34091)

Agency Contact: Robert J. Meore, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0116

RIN: 2125-AA81

1865. RELOCATION ASSISTANCE

Significance: Nonsignificant

Legal Authority: 42 USC 4601 et seq; 23 USC 315

CFR Citation: 23 CFR 740

Legal Deadline: None

Abstract: This revision would reduce Federal requirements related to the relocation assistance program. On March 5, 1985 (50 FR 8955), the Department of Transportation issued a final rule which prescribed uniform departmental procedures for compliance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601 et seq.) (Uniform Act). This rulemaking action will rescind FHWA's regulations which have been superseded by the DOT regulations of 3/5/85.

Timetable:

Action	Date	FR Cite
Final Action Effective	07/03/85	50 FR 34091
Final Action Rescission	08/23/85	50 FR 34091

Small Entity: No

Analysis: Reg. Evaluation (Minimal impact) 08/23/85 (50 FR 34091)

Agency Contact: Douglas A. Wubbels, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0142

RIN: 2125-AA23

DOT—FHWA — Completed Actions

1866. RELOCATION ASSISTANCE-MOVING PAYMENTS-MOVING EXPENSE SCHEDULES

Significance: Routine and Frequent

Legal Authority: 42 USC 4601 et seq; 23 USC 315

CFR Citation: 49 CFR 25

Legal Deadline: None

Abstract: By notice published on January 14, 1986, at 51 FR 1591 and under the authority on 42 U.S.C. 4601 et seq. and 23 U.S.C. 315, the moving expense schedules will henceforth be published in the form of Federal Register notices.

Timetable:

Action	Date	FR Cite
Final Action Action Terminated	01/14/86	51 FR 1591

Small Entity: No

Agency Contact: Gerald Starkweather, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0117

RIN: 2125-AA38

[FR Doc. 86-8030 Filed 04-18-86; 8:45 am]

BILLING CODE 4910-62-T

DEPARTMENT OF TRANSPORTATION (DOT) — Prerule Stage

National Highway Traffic Safety Administration (NHTSA)

1867. + REVIEW: UNIFORM TIRE QUALITY GRADING

Significance: Regulatory Program

Legal Authority: 15 USC 1423

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: This regulation requires that tires be graded in three areas of performance: treadwear, traction, and temperature resistance. The information is to be molded on tire sidewalls, provided on a removable paper label, and published in the vehicle manufacturer's consumer information booklet. The evaluation is to determine to what degree the information is used, how it is used, and the cost of providing grading information.

Timetable:

Action	Date	FR Cite
Begin Review	02/00/86	
End Review	02/00/87	

Small Entity: Undetermined

Agency Contact: Frank G. Ephraim, Director, Office of Standards Evaluation, Department of Transportation, National Highway Traffic Safety Administration, NNP-10, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1574

RIN: 2127-AB77

1868. ● + REVIEW: IMPACT PROTECTION FOR THE DRIVER FROM THE STEERING CONTROL SYSTEM

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.203

Legal Deadline: None

Abstract: This review involves detailed quantitative analysis of factors limiting the performance of energy-absorbing steering assemblies in cars and an evaluation of the assemblies' fatality and injury reduction in light trucks.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/86	
End Review	12/31/87	

Small Entity: Undetermined

Agency Contact: Frank G. Ephraim, Director, Office of Standards Evaluation, Department of Transportation, National Highway Traffic Safety Administration, NNP-10, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1574

RIN: 2127-AB78

1869. + REVIEW: CHILD SEATING SYSTEMS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: This regulation was selected for review because of public interest.

Timetable:

Action	Date	FR Cite
Begin Review	11/00/84	
End Review	12/31/85	
Next Action Undetermined		

Small Entity: No

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1574

RIN: 2127-AA70

1870. ● + LIGHTING SIMPLIFICATION--POTENTIAL AMENDMENTS TO SIMPLIFY FMVSS 108 LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Proposes a comprehensive review of headlighting requirements of FMVSS No. 108 which may be simplified, while being consistent with motor vehicle safety. The agency has concentrated its efforts into five principal areas. The first is the feasibility of a standard directed toward on-board original equipment headlighting performance rather than toward performance of individual aftermarket headlamps in a laboratory environment. The second is the desirability of specifications for headlamp life. The third concerns the necessity of dimensional specifications for headlamp equipment. The fourth is the issue of headlamp aim. The fifth is the elimination of obsolete photometric requirements.

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DOT—NHTSA — Prerule Stage

Timetable:

Action	Date	FR Cite
ANPRM	10/22/85	50 FR 42735
ANPRM Comment Period End	03/06/86	51 FR 1542
NPRM	12/00/86	

Small Entity: Undetermined

Additional Information: Docket No. 85-15, Notice 1.

Docket No. 85-15, Notice 2.

Federal Register Notice (51 FR 1542) extends comments period from a closing date of Jan. 21, 1986 to March 6, 1986.

Agency Contact: Ralph Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AB87

1871. ● + SIDE IMPACT PROTECTION HEAD/NECK PROTECTION AND OCCUPANT EJECTION MITIGATION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.214

Legal Deadline: None

Abstract: Would propose amending the current standard to include head/neck protection and to mitigate ejection through side windows and doors.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/86	

Small Entity: Undetermined

Agency Contact: Ralph Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AB85

1872. REVIEW: LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 25 USC 1392; 25 USC 1401; 25 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: The standard requires passenger cars sold after Oct. 1, 1985 to be equipped with center high-mounted stop lamps. The evaluation will determine the reduction of rear-impact collisions that occurs after the lamps are introduced in the vehicle fleet, as well as the cost of the lamps.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/85	
Preliminary Report	01/01/87	
Interim Report	01/01/88	
End Review	10/01/89	

Small Entity: Undetermined

Agency Contact: Frank G. Ephraim, Director, Office of Standards Evalution, Department of Transportation, National Highway Traffic Safety Administration, NPP-10, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1574

RIN: 2127-AB76

1873. OCCUPANT PROTECTION IN INTERIOR IMPACT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.201

Legal Deadline: None

Abstract: This standard, which is applicable to passenger cars, light trucks and buses, and multi-purpose passenger vehicles, includes requirements for padded instrument panels, seat backs, sun visors and arm rests. Its purpose is to provide impact protection for occupants. This regulation was selected for review because of costs, safety benefits and public interest.

Timetable:

Action	Date	FR Cite
Begin Review	01/00/86	
End Review	12/00/86	

Small Entity: No

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1574

RIN: 2127-AB16

1874. SEATING SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.207

Legal Deadline: None

Abstract: This regulation was selected for review because of costs.

Timetable:

Action	Date	FR Cite
Begin Review	05/00/86	
End Review	10/00/86	

Small Entity: No

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1574

RIN: 2127-AA69

1875. SCHOOL BUS SEATING SYSTEM

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.222

Legal Deadline: None

Abstract: This regulation was selected for review because of public interest.

Timetable:

Action	Date	FR Cite
Begin Review	06/00/85	
End Review	06/00/86	

Small Entity: No

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1574

RIN: 2127-AA65

1876. FEDERAL MOTOR VEHICLE SAFETY STANDARD NO. 301 - FUEL SYSTEM INTEGRITY

Significance: Nonsignificant

Legal Authority: EO 12291

CFR Citation: 49 CFR 571.301

Legal Deadline: None

Abstract: This standard, which is applicable to passenger cars, light trucks, and school buses, specifies requirements for the integrity of motor vehicle fuel systems. The purpose of the standard is to reduce deaths and injuries caused by fires which result from fuel spillage or after motor vehicle crashes. This evaluation follows up and expands on a prior study on passenger cars which showed that while the regulation was effective in preventing deaths and injuries, the incidence of crash fires appeared to be increasing. This evaluation will also provide the initial assessment of the regulation as it applies to light trucks. A review has determined that this rule has minimal effects on small entities, and therefore a Regulatory Flexibility Act Review is not required. The rule will still be reviewed as a priority review item. Subsequent to completion of the study and provision for public comment, the Agency will consider whether changes should be made in the standard's requirements.

Timetable:

Action	Date	FR Cite
Begin Review	10/00/85	
End Review	06/00/86	

Small Entity: No

Agency Contact: Frank Ephraim, Director, Office of Program Evaluation, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1574

RIN: 2127-AB43

DOT—NHTSA — Prerule Stage

DEPARTMENT OF TRANSPORTATION (DOT)
National Highway Traffic Safety Administration (NHTSA)

Proposed Rule Stage

1877. + REVIEW: SIDE DOOR STRENGTH

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.214

Legal Deadline: None

Abstract: This regulation provides minimum standards for side door crash resistance for passenger cars under static test conditions. NHTSA estimates that the standard saves 2,800 lives and averts 7,000 injuries a year. A recurring cost of $300 million (an additional cost of $36 per vehicle) is associated with the requirement. An initial review of this regulation, originally promulgated in 1974, was completed in 1979.

Timetable:

Action	Date	FR Cite
Comments docketed		
Evaluation Report published	12/06/82	47 FR 54839

Next Action Undetermined

Small Entity: No

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1574

RIN: 2127-AA59

1878. + REVIEW: UNIFORM TIRE QUALITY GRADING

Significance: Regulatory Program

Legal Authority: 15 USC 1423

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: Would include rolling resistance for tires as a substitute for top temperature resistance grade in the Uniform Tire Quality Grading Standards.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Robert Shelton, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0846

RIN: 2127-AA52

1879. + COMMERCIAL VEHICLE CONSPICUITY

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Would improve the conspicuity of commercial vehicles by establishing in FMVSS 108 performance requirements for the total lighting and marking system of commercial vehicles (excluding headlights).

Timetable:

Action	Date	FR Cite
ANPRM	05/27/80	45 FR 35405

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 80-9.

Research underway.

Analysis: Regulatory Flexibility Analysis

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA12

1880. ● + SIDE IMPACT PROTECTION: THORAX PROTECTION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.214

Legal Deadline: None

Abstract: Would propose amending the current standard to upgrade thoracic protection in passenger car side impacts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Undetermined

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DOT—NHTSA

Proposed Rule Stage

Agency Contact: Ralph Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AB66

1881. ● + INSURER REPORTING REQUIREMENTS (THEFT PREVENTION STANDARD)

Significance: Regulatory Program

Legal Authority: 15 USC 2032

CFR Citation: 49 CFR 544

Legal Deadline: Statutory. First annual reports required to be filed with agency by 10/24/86.

Abstract: As required by Title VI of the Cost Savings Act, insurance companies will be required to file annual reports with NHTSA. These reports are intended to develop information that will help prevent or discourage the theft of motor vehicles, prevent or discourage the sale and distribution in interstate commerce of parts removed from stolen vehicles, and help reduce the cost to consumers for comprehensive insurance coverage for motor vehicles.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
NPRM Comment Period End	05/00/86	

Small Entity: Undetermined

Agency Contact: Charles Gauthier, Department of Transportation, National Highway Traffic Safety Administration, NRM-22, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1740

RIN: 2127-AB82

1882. + ANTHROPOMORPHIC TEST DUMMIES

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 572

Legal Deadline: None

Abstract: Would provide performance criteria for the adult surrogate dummies which would be required in dynamic testing of vehicles if Standard 214, Side Door Strength, is upgraded.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA48

1883. + SPLASH AND SPRAY SUPPRESSION DEVICES

Significance: Regulatory Program

Legal Authority: 49 USC 2314

CFR Citation: 49 CFR 583

Legal Deadline: Statutory. Standard for new vehicles is now required to take effect one year after final rule is published.

Abstract: In accordance with the mandate of section 414 of the Surface Transportation Assistance Act of 1982, would establish minimum standards with respect to the performance of splash and spray suppression devices on truck tractors, semitrailers and trailers. Would also establish minimum standards with respect to the installation of splash and spray suppression devices on new vehicles. This regulation is significant because it is potentially controversial.

Timetable:

Action	Date	FR Cite
NPRM	04/12/85	50 FR 14632
NPRM Comment Period Extended	02/13/86	51 FR 5383
NPRM Comment Period End	04/14/86	51 FR 5383
Determination of Next Appropriate Action	12/00/86	

Small Entity: Yes

Additional Information: NHTSA's rulemaking would only affect new vehicles and equipment. However, section 414 of the Surface Transportation Assistance Act also mandates that the Department of Transportation establish minimum standards with respect to the installation of splash and spray devices for vehicles already in service. The Federal Highway Administration will conduct the rulemaking to satisfy that mandate. The Federal Highway Administration has classified its rulemaking as major. The costs of that rulemaking are expected to be much greater than NHTSA's rulemaking since (1) the population of vehicles in service is many times the annual production of new trucks, (2) a truck manufacturer will pay less per unit for each splash and spray suppression device when ordered in large quantities, and (3) the labor time to install the devices is far less for a new truck manufacturer, since it can be done at the assembly plant. In 1984, the Surface Transportation Assistance Act was amended to change the implementation date from 1/1/85, for new vehicles and 1/1/86, for vehicles in service, to one year after publication of the Final Rule for new vehicles & 3 years later for vehicles in service.

Analysis: Preliminary Regulatory Evaluation 04/12/85

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA97

1884. + HEAVY TRAILER STABILITY

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: In response to a petition for rulemaking, the agency is proposing a new regulation to add a requirement that 102-inch wide trailers be equipped with axle tracks having a minimum axle width of 77 inches. An advanced notice of proposed rulemaking seeking comments on the safety issue raised by the petition was published on May 22, 1984 (49 FR 21551). This rulemaking is significant because of the possible substantial impact on the industry and because it is a joint venture involving two operating administrations.

Timetable:

Action	Date	FR Cite
ANPRM	05/22/84	49 FR 21551
ANPRM Comment Period End	08/20/84	49 FR 21551
NPRM	05/00/86	

DOT—NHTSA

Proposed Rule Stage

Small Entity: Yes

Additional Information: This regulation is a joint endeavor of NHTSA and the Bureau of Motor Carrier Safety (BMCS). A departmental task force was formed in February 1985 to analyze the economic issues associated with this undertaking. Thus, further public action awaits the results of the task force analysis, which are anticipated in 1986.

Analysis: To Be Determined 05/00/86

Agency Contact: Ralph J. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AB42

1885. ● REVIEW: PROCEDURES FOR CONSIDERING ENVIRONMENTAL IMPACTS

Significance: Nonsignificant

Legal Authority: 42 USC 4321, et seq (National Environmental Policy Act-NEPA)

CFR Citation: 49 CFR 520

Legal Deadline: None

Abstract: NHTSA's regulation will be reviewed and reissued, as necessary, where it conflicts with or is duplicative of the regulations of Council on Environmental Quality (CEQ), 40 CFR Parts 1500-1508, and with DOT Order 5610.1C, each of which implements the National Environmental Policy Act (NEPA), 42 USC 4321, et seq.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Kathleen C. DeMeter, Ass't Chief Counsel for General Law, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1834

RIN: 2127-AB79

1886. FLAMMABILITY OF SCHOOL BUS INTERIOR MATERIALS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: Would utilize guidelines prescribed by UMTA to define flammability characteristics of School Bus Interior Materials.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Yes

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA44

1887. SEATING REFERENCE POINT/MOTOR VEHICLE DRIVER'S EYE RANGE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: Would update the definition of Seating Reference Point to incorporate latest industry practices.

Timetable:

Action	Date	FR Cite
ANPRM	03/08/82	47 FR 9865
NPRM	04/00/86	

Small Entity: No

Additional Information: Docket No. 82-05.

Analysis: Regulation Evaluation (Minimal) 10/00/85

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA46

1888. PASSENGER CAR BRAKE SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: Would propose a New Standard No. 135, "Passenger Car Brake System", which would replace Standard No. 105, "Hydraulic Brake System," as it applies to that vehicle type. New Standard would differ from the existing one primarily in that it contains a revised and shortened test procedure based on a draft harmonized international procedure developed by the United Nations Economic Commission for Europe (ECE).

Timetable:

Action	Date	FR Cite
NPRM	05/10/85	50 FR 19744
NPRM Comment Period End	12/16/85	
Extends comment period to 09/17/85	01/13/86	
SNPRM	07/00/86	

Small Entity: No

Additional Information: Docket No. 79-18.

Analysis: Preliminary Regulatory Evaluation 05/10/85

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA13

1889. HYDRAULIC AND AIR BRAKE SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.105; 49 CFR 571.121

Legal Deadline: None

Abstract: In response to a petition for rulemaking, would amend the brake burnish procedures specified for vehicles over 10,000 pounds by Standards No. 105 and No. 121. Based on comments to NPRM of 06/27/83 (48 FR 29560) a new NPRM is deemed necessary.

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DOT—NHTSA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
SNPRM	05/23/85	50 FR 21313
Comment Period Ends	11/19/85	50 FR 21313
NPRM	06/00/86	48 FR 29560

Small Entity: No

Additional Information: Docket Nos. 70-27 and 83-07. NPRM, Docket No. 70-27, Notice 39; Docket No. 83-07, Notice 1.

Analysis: Regulatory Evaluation (Minimal) 05/23/85

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA92

1890. BRAKE HOSES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.106

Legal Deadline: None

Abstract: Response to grant of a petition to amend the tensile strength test for air brake hose which is included in Section 7.3.10 of FMVSS No. 106.

Timetable:

Action	Date	FR Cite
ANPRM	03/20/86	50 FR 11200

Next Action Undetermined

Small Entity: Not Applicable

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AB74

1891. REAR VIEW MIRROR SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: Would amend FMVSS No. 111 to improve mirror systems for trucks, buses and multipurpose passenger vehicles with a GVWR over 10,000 pounds.

Timetable:

Action	Date	FR Cite
NPRM	11/06/78	43 FR 51657

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 71-3a. NPRM, Notice 4.

Research underway.

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA21

1892. REAR VIEW MIRROR SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: Would amend FMVSS No. 111 to improve mirror systems for trucks, buses and multipurpose passenger vehicles with a GVWR of 10,000 pounds or less.

Timetable:

Action	Date	FR Cite
NPRM	11/06/78	43 FR 51657

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 71-3a. NPRM, Notice 4.

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA23

1893. HEAVY DUTY VEHICLE BRAKE SYSTEMS (FORMERLY TRUCK AND TRAILER BRAKE SYSTEMS)

Significance: Nonsignificant

Legal Authority: 15 USC 1392 National Traffic & Motor Vehicle Safety Act of 1966; 15 USC 1407 National Traffic & Motor Vehicle Safety Act of 1966

CFR Citation: 49 CFR 571.121; 49 CFR 571.105

Legal Deadline: None

Abstract: Would establish a new brake standard for all trucks, buses and trailers with a Gross Vehicle Weight Rating (GVWR) over 10,000 pounds. This standard would replace Standard No. 121, Air Brake Systems, and that portion of Standard No. 105, Hydraulic Brake Systems, that applies to vehicles with a GVWR over 10,000 pounds. It would also establish new requirements for heavy trailers having other than air-actuated brakes. In developing the standard, the agency will consider compatibility with international regulations. Research programs in support of this new standard and possible future upgradings of the standard will investigate such long-term advanced braking system concepts as automatic brake adjustors, load-sensing proportioning valves, air driers, and retarders for heavy trucks, buses and trailers. This rule is considered significant because of the level of public and Congressional interest. It is necessary to prevent and reduce the severity of accidents involving heavy vehicles by providing increased accident avoidance capability.

Timetable:

Action	Date	FR Cite
ANPRM	02/15/79	44 FR 9783
ANPRM	02/28/80	45 FR 13155

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 79-03. ANPRM, Notice 2; Second ANPRM, Notice 3.

Research underway.

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA00

1894. AIR BRAKE SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: Would revise the requirements in Standard No. 121 for parking and emergency brake functions for trailers. Based on comments to NPRM of 02/23/81 (46 FR 37952) a new NPRM is deemed necessary.

DOT—NHTSA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/23/81	46 FR 37952
SNPRM	09/00/86	

Small Entity: No

Additional Information: Docket No. 79-03. NPRM, Notice 5.

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA27

1895. WINDSHIELD GLAZING MATERIALS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.205

Legal Deadline: None

Abstract: This regulation was selected for review because of costs, and safety benefits.

Timetable:

Action	Date	FR Cite
Evaluation Report published	02/00/85	

Next Action Undetermined

Small Entity: No

Additional Information: Evaluation Report will be completed.

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1574

RIN: 2127-AA73

1896. SEAT BELT ASSEMBLY ANCHORAGES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: Would propose amending Standard No. 210 to harmonize the strength of the anchorage test with the United Nations Economic Commission for Europe (ECE) Regulation No. 14 and to upgrade other requirements and clarify language.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Analysis: Evaluation type to be determined 04/00/86

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA95

1897. WINDSHIELD MOUNTING

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.212

Legal Deadline: None

Abstract: This regulation was selected for review because of costs, and safety benefits.

Timetable:

Action	Date	FR Cite
Evaluation Report published	02/00/85	

Next Action Undetermined

Small Entity: No

Additional Information: Evaluation report will be completed.

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1574

RIN: 2127-AA74

1898. ● CERTIFICATION OF SPEED LIMIT ENFORCEMENT

Significance: Nonsignificant

Legal Authority: 23 USC 141; 23 USC 154; 23 USC 118; 23 USC 315

CFR Citation: 23 CFR 650; 49 CFR 1.50; 49 CFR 1.48

Legal Deadline: None

Abstract: The Department will review the existing 55 MPH procedural regulations to determine if they can be made more efficient and to update the regulation where necessary. Provisions addressing the effect of future compliance (for a State found not to be in compliance in a given fiscal year) on the reinstatement of funds withheld will also be reviewed.

Timetable:

Action	Date	FR Cite
NPRM	02/26/86	
NPRM Comment Period End	03/30/86	
Final Action	04/30/86	
Final Action Effective	04/30/86	

Small Entity: No

Government Levels Affected: State

Agency Contact: Sam Whitehorn, Attorney, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 472-5577

RIN: 2127-AB86

1899. VEHICLE CLASSIFICATION - COMPACT VANS/STATION WAGONS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407; 15 USC 2001

CFR Citation: 49 CFR 571; 49 CFR 523

Legal Deadline: None

Abstract: Would invite comment on possible amendments to the safety and fuel economy regulations, with respect to the manner in which compact vans/station wagons and certain other vehicles are classified.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: S. Wood, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2992

RIN: 2127-AA57

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DOT—NHTSA

Proposed Rule Stage

1900. VOLUNTARY TIRE REGISTRATION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407; 15 USC 1418; 15 USC 1421

CFR Citation: 49 CFR 574

Legal Deadline: None

Abstract: This regulation requires that independent tire dealers provide customers with a card to register newly purchased tires so that the customer may send in the completed card. These dealers were formerly required to register the tires for the customer, a requirement which has been retained for manufacturer-owned stores. The Motor Vehicle Safety and Cost Savings Authorization Act of 1982 requires that an evaluation be conducted.

Timetable:

Action	Date	FR Cite
Begin Review	07/00/83	
Prelim. Evaluation Report Published	09/27/85	50 FR 188

Next Action Undetermined

Small Entity: No

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1574

RIN: 2127-AB18

1901. CONSUMER INFORMATION - WET STOPPING DISTANCE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 575.105

Legal Deadline: None

Abstract: Would develop a new rule for consumer information if tests indicate that there are significant differences in wet stopping distances among different models of cars on asphalt or concrete road surfaces.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Robert Shelton, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0846

RIN: 2127-AA56

DEPARTMENT OF TRANSPORTATION (DOT)

National Highway Traffic Safety Administration (NHTSA)

Final Rule Stage

1902. ● + REVIEW: FEDERAL MOTOR VEHICLE SAFETY STANDARDS; SCHOOL BUS PASSENGER SEATING AND CRASH PROTECTION

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1407

CFR Citation: 49 CFR 571.222

Legal Deadline: None

Abstract: Would amend Federal Motor Vehicle Safety Standard No. 222, School Bus Passenger Seating and Crash Protection to set requirements for safety belts when belts are voluntarily installed on school buses having gross vehicle weight ratings greater than 10,000 pounds.

Timetable:

Action	Date	FR Cite
NPRM	10/10/85	50 FR 41368
NPRM Comment Period End	11/25/85	50 FR 41368
Final Action	06/00/86	
Final Action Effective	10/00/86	

Small Entity: No

Additional Information: Notice grants a petition for rulemaking submitted by the Wayne Corporation and proposes an amendment to Federal Motor Vehicle Safety Standard No. 222, "School Bus Passenger Seating and Crash Protection."

Agency Contact: Robert Williams, Department of Transportation, National Highway Traffic Safety Administration, NRM-12, 400 Seventh Steet, SW, Washington, DC 20590, 202 426-2264

RIN: 2127-AB84

1903. + TRUCK REAR UNDERRIDE PROTECTION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: Would require protective devices to reduce vehicle penetration under the rear-ends of heavy trucks and trailers (without resulting in overly severe forces being transmitted to restrained and unrestrained occupants in vehicles that crash into the devices).

Timetable:

Action	Date	FR Cite
NPRM	01/08/81	46 FR 2136

Next Action Undetermined

Small Entity: Undetermined

Additional Information: Docket No. 1-11, NPRM, Notice 8.

Research underway.

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA43

1904. + PEDESTRIAN PROTECTION

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571

Legal Deadline: None

Abstract: Would reduce adult pedestrian leg injuries and child injuries through modification of the bumper area.

Timetable:

Action	Date	FR Cite
NPRM	01/22/81	46 FR 7015

Next Action Undetermined

Small Entity: Yes

Additional Information: Docket No. 78-19, NPRM, Notice 1. Research underway.

DOT—NHTSA

Final Rule Stage

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA45

1905. + ANTHROPOMORPHIC TEST DUMMIES

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571; 49 CFR 572

Legal Deadline: None

Abstract: Proposes to adopt the hybrid III test Dummy as an alternative to the Part 572 Test Dummy in testing done in accordance with Standard No. 208, Occupant Crash Protection. Would amend Standard No. 208 and Part 572.

Timetable:

Action	Date	FR Cite
NPRM	04/08/85	50 FR 14602
NPRM Comment Period End	06/11/85	50 FR 14602
Final Action	04/00/86	

Small Entity: Not Applicable

Analysis: Preliminary Regulatory Evaluation 04/08/85

Agency Contact: Ralph Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, NRM-10, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AB68

1906. + OCCUPANT CRASH PROTECTION - TEST PROCEDURES AND OTHER ISSUES

Significance: Regulatory Program

Legal Authority: 15 USC 1392 National Traffic and Motor Vehicle Safety Act ETC; 15 USC 1407 National Traffic and Motor Vehicle Safety Act ETC

CFR Citation: 49 CFR 571.208; 49 CFR 572

Legal Deadline: None

Abstract: This rulemaking addresses the test procedures used in compliance testing, the dummy used for such testing, and the oblique angle test requirement in the automatic occupant crash protection standard. It also addresses some related issues including the standard's applicability to convertibles, reporting requirements for manufacturers, and the exercise of "due care" by manufacturers, in complying with the standard. This rulemaking will consider whether the Hybrid III dummy or a variation may be substituted for the dummy currently specified in 49 CFR 572 at some future time with corresponding changes in, or additions to the injury criteria established by the existing Federal Motor Vehicle Safety Standard 208. The costs and benefits of these various proposed changes are not yet known. This regulation is significant because of its involvement with departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	04/12/85	50 FR 14589
NPRM Comment Period End	05/28/85	50 FR 14589
Final Action	03/00/86	

Small Entity: Undetermined

Analysis: Regulatory Impact Analysis; Preliminary Regulatory Evaluation 04/12/85

Agency Contact: Barry Felrice, Associate Administrator for Rulemaking, Department of Transportation, National Highway Traffic Safety Administration, NRM-01, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1810

RIN: 2127-AB20

1907. ● + POST-1986 PASSENGER CAR FUEL ECONOMY STANDARDS

Significance: Regulatory Program

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 531

Legal Deadline: Statutory. Amendments reducing the fuel economy standard for a particular model year are required to be made by the beginning of a model year.

Abstract: This rule would amend the average fuel economy standard applicable to passenger automobiles manufactured in model years (MYs) 1987 and 1988, within a range between 26.0 mpg and 27.5 mpg for each model year. The agency previously granted several petitions relating to these and other model years. General Motors (GM) and Ford had petitioned for a reduction in the MY 1986 and thereafter standards, from 27.5 mpg to 26.0 mpg. (The agency has completed rulemaking with respect to their petitions for MY 1986.) The Center For Auto Safety and Environmental Policy Institute had petitioned for an increase in the MY 1987 to 1990 standards. The agency will consider the petitions regarding model years after MY 1988 at a later time.

Timetable:

Action	Date	FR Cite
NPRM	01/22/86	51 FR 2912
Final Action	08/31/86	

Small Entity: No

Agency Contact: Robert Shelton, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 755-9384

RIN: 2127-AB75

1908. ● + PETITIONS FOR EXEMPTIONS FROM THE VEHICLE THEFT PREVENTION STANDARD

Significance: Regulatory Program

Legal Authority: 15 USC 2025

CFR Citation: 49 CFR 543

Legal Deadline: Statutory. Statute requires petitions for exemption to be submitted 6 months before start of production of passenger vehicle line.

Abstract: Establishes procedures to be followed by manufacturers in preparing and submitting petitions for exemptions from the vehicle theft prevention standard. Passenger motor vehicle manufacturers may petition NHTSA for these exemptions for vehicle lines whose standard equipment includes an antitheft device that is likely to be as effective as compliance with the vehicle theft prevention standard in deterring and reducing vehicle theft. Procedures are also established which the agency will follow in processing these petitions and in reaching determinations on whether they should be granted. These procedures have been issued as an interim final rule for MY 1987 and as a proposed rule for MYs 1988 and thereafter.

Timetable:

Action	Date	FR Cite
NPRM	01/07/86	51 FR 715
Interim Final Rule	01/07/86	51 FR 715
Final Action	06/00/86	

Small Entity: No

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DOT—NHTSA

Final Rule Stage

Analysis: Preliminary Regulatory Evaluation 01/00/86

Agency Contact: Charles Gauthier, Department of Transportation, National Highway Traffic Safety Administration, DOT/NHTSA NRM-20, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1740

RIN: 2127-AB61

1909. + CRASHWORTHINESS RATINGS

Significance: Regulatory Program

Legal Authority: 15 USC 1401; 15 USC 1941

CFR Citation: 49 CFR Chapter 5

Legal Deadline: None

Abstract: Ratings: Would require manufacturers to disseminate crashworthiness performance information concerning their cars to the public, to provide consumers with comparative information on the crashworthiness performance of new car models. This rulemaking is considered significant because of the impact on manufacturers, the interest shown by consumers, and the potential significant effects on the automotive marketplace.

Timetable:

Action	Date	FR Cite
NPRM	01/22/81	46 FR 7025

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 79-17. NPRM, Notice 1. Comment due date extended to October 22, 1981 by notice published April 2, 1981 (46 FR 19947; Notice 2).

Analysis: Regulatory Impact Analysis

Agency Contact: Charles Gauthier, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1740

RIN: 2127-AA03

1910. + NATIONAL MINIMUM DRINKING AGE

Significance: Agency Priority

Legal Authority: 23 USC 158

CFR Citation: 23 CFR 1206, (New)

Legal Deadline: None

Abstract: Would prescribe requirements necessary to implement 23 U.S.C. 158, which provides penalties for States that don't adopt twenty-one as the Minimum Drinking Age. This regulation is significant because of substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	09/27/85	50 FR 39140
NPRM Comment Period End	10/28/85	50 FR 39140
Final Action	03/00/86	

Small Entity: No

Government Levels Affected: State

Agency Contact: George Reagle, Associate Administrator, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0837

RIN: 2127-AB30

1911. + CHILD RESTRAINT SYSTEMS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 213

Legal Deadline: None

Abstract: Would amend Standard No. 213 "Child Restraint Systems" by requiring those child restraints equipped with a tether strap to pass the 30 mile per hour(mph) test without attaching the tether strap and eliminating the requirement that tethered restraints be subjected to the 20 mph test.This action is considered significant due to substantial public interest.

Timetable:

Action	Date	FR Cite
NPRM	06/28/85	50 FR 27633
NPRM Comment Period End	08/19/85	50 FR 27633
Final Action	03/00/86	

Small Entity: Not Applicable

Analysis: Preliminary Regulatory Evaluation 06/28/85

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, NRM-10, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AB72

1912. ● REVIEW: FEDERAL MOTOR VEHICLE SAFETY STANDARDS, "LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT"

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1401; 15 USC 1403; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Proposes an amendment to Motor Vehicle Safety Standard No. 108, "Lamps, Reflective Devices, and Associated Equipment" that would amend the specifications for the standardized replaceable light source. This would allow a manufacturer to determine the diameter of the glass capsule, while specifying the location of the black cap, for assuring the interchangeability of the standardized light source in different lamp designs to achieve the required photometric performance.

Timetable:

Action	Date	FR Cite
NPRM	09/18/85	50 FR 37882
NPRM Comment Period End	11/04/85	50 FR 37882
Final Action	06/00/86	
Final Action Effective	06/00/86	

Small Entity: Yes

Additional Information: The notice implements the grants of petitions for rulemaking submitted by General Electric Company, North American Phillips Corporation, General Motors Corporation and Helle KG. By this action the agency is also denying a petition from the Valeo Group (CIBIE-Marchal of France).

Agency Contact: Richard L. Van Iderstine, Department of Transportation, National Highway Traffic Safety Administration, NRM-01, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2720

RIN: 2127-AB63

1913. CONTROLS AND DISPLAYS

Significance: Nonsignificant

DOT—NHTSA

Final Rule Stage

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.101

Legal Deadline: None

Abstract: Would amend Standard No. 101 to permit greater flexibility in the illumination and identification of controls and displays. The proposal would allow gauges to have a two-level lighting intensity, rather than being continuously variable over a wide range. It would distinguish between critical telltales, such as the turn signal indicators, which must be visible under all lighting conditions, and less significant telltales, such as the water temperature indicator, which would be permitted the same range of intensity as gauges. The term, "informational readout display" would be eliminated as no longer useful. To accommodate new display technologies, the proposal would permit the cancellation of messages, but would require them to be retrievable by the driver. The use of specified words to identify controls would be permitted, as an alternative to the symbols now required for many controls. This action was initiated in response to several petitions for rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	09/12/85	50 FR 37240
NPRM Comment Period End	10/28/85	50 FR 37240
Final Action	04/00/86	

Small Entity: No

Additional Information: Docket No. 1-18. NPRM, Notice 21. The comments to the Notice of Proposed Rulemaking, NPRM, of 02/01/82 (47 FR 4541) and an agency task force review have led to the decision to issue a new NPRM on the subject.

Analysis: Regulatory Evaluation (minimal) 09/12/85

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA08

1914. LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition, would delete the requirement for use of a "Test Bulb" with stringent filament location specifications in testing lamp assemblies.

Timetable:

Action	Date	FR Cite
NPRM	09/03/85	50 FR 35583
NPRM Comment Period End	11/18/85	50 FR 42970
Final Action	04/00/86	

Small Entity: No

Analysis: Regulatory Evaluation (Minimal) 09/03/85

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA16

1915. LAMPS, REFLECTIVE DEVICES AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition, Safety Standard No. 108 (Lamps, Reflective Devices and Associated Equipment) would be amended to permit the use of two new miniature standardized replaceable light sources in replaceable bulb headlamp systems, and an improved version of the H-4 European light source designed for U.S. safety needs.

Timetable:

Action	Date	FR Cite
NPRM	05/13/85	50 FR 19961
NPRM Comment Period End	06/27/85	50 FR 19961
Final Action	04/00/86	

Small Entity: No

Analysis: Preliminary Regulatory Evaluation 05/13/85; Final Regulatory Evaluation 10/05/85

Agency Contact: Ralph J. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, Office of Vehicle Safety Standards, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AB37

1916. REAR VIEW MIRRORS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.111

Legal Deadline: None

Abstract: This proposal would amend FMVSS 111 by establishing requirements for passenger cars to: a) reduce the blind areas by upgrading mirror visibility using improved compliance testing procedures, b) upgrade occupant protection requirements and add pedestrian protection requirements using shatter resistant and breakaway or foldaway tests, c) set specifications for day-night reflectance requirements to reduce headlight glare, d) set specifications for convex mirror quality and use, and e) minimize obstruction of the forward view by establishing mirror location specifications. FR to permit use of passenger side convex mirrors published. FR responding to petitions and clarifying 1982 FR published. The agency plans to terminate rulemaking with respect to remaining issues.

Timetable:

Action	Date	FR Cite
NPRM	11/06/78	43 FR 51657
Final Action to permit use of passenger side convex mirrors published	09/02/82	47 FR 38698
Final Action responding to petitions and clarifying 1982 FR published	08/26/83	48 FR 38942

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. 71-3a. NPRM, Notice 4; FR, Notice 6; FR, Notice 7.

Action to be terminated with respect to other issues.

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DOT—NHTSA — Final Rule Stage

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA86

1917. REFEREE BRAKE FLUIDS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.116

Legal Deadline: None

Abstract: Would amend the requirements of Standards 106 and 116 to specify new material composition for the referee brake fluid used for compatibility testing. The referee brake fluid currently specified is difficult to obtain and would be replaced by new materials specified by SAE.

Timetable:

Action	Date	FR Cite
NPRM	03/07/85	50 FR 9294
NPRM Comment Period End	05/06/85	50 FR 9294
Final Action	06/00/86	

Small Entity: No

Analysis: Regulatory Evaluation (Minimal) 03/07/85

Agency Contact: Ralph Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AB09

1918. STEERING CONTROL REARWARD DISPLACEMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.204

Legal Deadline: None

Abstract: Would extend the applicability of the Standard from vehicles with an unloaded weight of 4,000 pounds to vehicles with an unloaded weight of 5,500 pounds.

Timetable:

Action	Date	FR Cite
NPRM	04/04/85	50 FR 13402
NPRM Comment Period End	07/19/85	50 FR 20919
Final Action	08/00/86	

Small Entity: No

Analysis: Regulatory Evaluation (Minimal) 04/04/85

Agency Contact: Ralph Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA32

1918. OCCUPANT CRASH PROTECTION

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 14 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Proposes an amendment to standard No. 208, Occupant Crash Protection, to upgrade the safety requirements for new trucks, buses and multipurpose passenger vehicles with a gross vehicle weight rating of more than 10,000 pounds.

Timetable:

Action	Date	FR Cite
NPRM	05/24/85	50 FR 23041
NPRM Comment Period End	07/15/85	
Final Action	08/00/86	

Small Entity: Undetermined

Analysis: Regulatory Evaluation (Minimal) 05/24/85

Agency Contact: Ralph Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, NRM-10, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AB71

1920. MOTORCYCLE HELMETS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.218

Legal Deadline: None

Abstract: The proposal would add new headform sizes to FMVSS 218.

Timetable:

Action	Date	FR Cite
NPRM	09/27/85	50 FR 39144
NPRM Comment Period End	11/26/85	50 FR 39144
Final Action	07/00/86	

Small Entity: Undetermined

Analysis: Preliminary Regulatory Evaluation 09/27/85 (50 FR 39144)

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA40

1921. AIR BRAKE SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.121

Legal Deadline: None

Abstract: Would amend the brake application and release timing requirements and test devices in FMVSS No. 121 in order to better simulate the real world performance with respect to towing and towed units, especially multi-trailer combinations.

Timetable:

Action	Date	FR Cite
NPRM	05/14/85	50 FR 20113
NPRM Comment Period End	06/28/85	50 FR 20113
NPRM Comment Period Extended to 12-30-85	12/30/85	50 FR 27032
Final Action	08/00/86	

Small Entity: No

Analysis: Regulatory Evaluation (minimal) 05/14/85

Agency Contact: Ralph Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AB12

1922. INCENTIVE GRANT CRITERIA FOR ALCOHOL TRAFFIC SAFETY PROGRAMS--AMENDMENT

Significance: Nonsignificant

Legal Authority: 23 USC 408

CFR Citation: 23 CFR 1309

Legal Deadline: None

Abstract: Would amend the 408 grant program to expand the scope of the regulation to include programs for the treatment, rehabilitation of and research into drugged driving and to establish a special grant for states with minimum sentencing requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/16/85	50 FR 20438
NPRM Comment Period End	06/17/85	
Final Action	04/00/86	

Small Entity: No

Government Levels Affected: State

DOT—NHTSA — Final Rule Stage

Agency Contact: George Reagle, Assoc. Administrator for Traffic Safety Prgm, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0837

RIN: 2127-AB23

1923. CONSUMER INFORMATION--STOPPING DISTANCE

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 575.101

Legal Deadline: None

Abstract: Would modify requirements for stopping distance consumer information. A notice was published approving various alternatives concerning the requirement to provide stopping distance information. Comments are under review and analysis.

Timetable:

Action	Date	FR Cite
NPRM	06/30/83	48 FR 30166
NPRM Comment Period End	08/05/83	
Final Action	07/00/86	

Small Entity: No

Additional Information: Docket No. 83-09. NPRM, Notice 1.

Agency Contact: Charles Gauthier, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1740

RIN: 2127-AA50

DEPARTMENT OF TRANSPORTATION (DOT) — Completed Actions

National Highway Traffic Safety Administration (NHTSA)

1924. + SEAT BELT ASSEMBLIES

Significance: Regulatory Program

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: On April 12, 1985, NHTSA issued a notice proposing modifications to certain aspects of the comfort and convenience performance requirements in Standard No. 208, Occupant Crash Protection. The agency's purpose was to clarify the intent of the requirements and to address the concerns raised in petitions for reconsideration received from seven vehicle manufacturers regarding the final rule on comfort and convenience issued on January 8, 1981. This rule sets comfort and convenience performance requirements for both manual and automatic safety belt assemblies installed in motor vehicles with a GVWR of 10,000 pounds or less. The April 12, 1985 notice also proposed to change the effective date of the comfort and convenience requirements. A final rule setting the effective date as September 1, 1986, was issued on August 23, 1985. Two petitions for reconsideration have been received.

Timetable:

Action	Date	FR Cite
Previous NPRM	01/08/81	46 FR 2064
Final Action	01/08/81	46 FR 2064
Final Action deferring effective date to 09/01/83	02/18/82	47 FR 7254
NPRM to defer effective date to 09/01/85	11/15/82	47 FR 51432
Final Action to defer effective date to 09/01/85	06/02/83	48 FR 24717
NPRM	04/12/85	71 FR 14580
NPRM Comment Period End	05/28/85	71 FR 14580
Final Action	11/06/85	50 FR 46056
Reply to petitions for reconsideration	03/00/86	44 FR 77210
Final Action Effective	09/01/86	50 FR 34152

Small Entity: No

Additional Information: Docket No. 74-14. NPRM, Notice 17; FR, Notice 19; FR deferring effective date, Notice 24; NPRM for additional deferral of effective date, Notice 29. FR for additional deferral, Notice 30.

Analysis: Final Regulatory Evaluation 08/23/85 (50 FR 34152)

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA35

1925. + OCCUPANT CRASH PROTECTION - RESPONSE TO PETITIONS FOR RECONSIDERATION

Significance: Regulatory Program

Legal Authority: 15 USC 1392 National Traffic and Motor Vehicle Safety Act ETC; 15 USC 1407 National Traffic and Motor Vehicle Safety Act ETC

CFR Citation: 49 CFR 571.208

Legal Deadline: None

Abstract: Sixteen petitions for reconsideration of the Secretary's final rule on Standard No. 208 were received. On August 30 1985, the agency responded to all of the issues raised by the petitioners except those having to do with the criteria for mandatory safety belt use laws. The agency will respond to petitions on that issue at a later date.

Timetable:

Action	Date	FR Cite
Final Action	08/30/85	50 FR 35233
Final Action Effective	10/15/85	50 FR 35233

Small Entity: No

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Government Levels Affected: Federal

Agency Contact: Barry Felrice, Associate Administrator for Rulemaking, Department of Transportation, National Highway Traffic Safety Administration, NRM-01, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1810

RIN: 2127-AB45

1926. + MY 1988 PASSENGER CAR FUEL ECONOMY STANDARDS

Significance: Regulatory Program

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 531

Legal Deadline: Statutory. Amendments reducing the fuel economy standard for a particular model year are required to be made by the beginning of a model year.

Abstract: This rule amends the average fuel economy standard applicable to passenger automobiles manufactured in MY 1988 by reducing it from 27.5 mpg to 26.0 mpg. This action was initiated in response to petitions for rulemaking submitted by General Motors and Ford.

Timetable:

Action	Date	FR Cite
Grant for petition for Rulemaking	11/29/84	49 FR 6770
Request for comments	12/10/84	49 FR 48064
NPRM	07/22/85	50 FR 29912
Final Action	10/04/85	50 FR 40528
Final Action Effective	11/04/85	50 FR 40528

Small Entity: No

Analysis: Regulatory Impact Analysis

Agency Contact: Robert Shelton, Director, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 755-9384

RIN: 2127-AB02

1927. + MY 1987 LIGHT TRUCK FUEL ECONOMY STANDARDS

Significance: Regulatory Program

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 533

Legal Deadline: Statutory. Light truck fuel economy standards are required to be set at least 18 months prior to the beginning of the model year.

Abstract: In accordance with the mandatory requirements of Section 502 (b) of the Motor Vehicle Information and Cost Savings Act, this rule establishes light truck average fuel economy standards for model year 1987. The initial NPRM proposed standards for model year 1986 and 1987. The Standards for model year 1986 were published on October 22, 1984 (49 FR 41250).

Timetable:

Action	Date	FR Cite
NPRM	03/08/84	49 FR 8637
NPRM Comment Period End	04/08/84	49 FR 8637
Final Action	10/03/85	50 FR 40398
Final Action Effective	11/04/85	50 FR 40398

Small Entity: No

Analysis: Regulatory Impact Analysis

Agency Contact: Robert Shelton, Director, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 755-9384

RIN: 2127-AB33

1928. + MY 1988 LIGHT TRUCK FUEL ECONOMY STANDARDS

Significance: Regulatory Program

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 533

Legal Deadline: Statutory. Light truck fuel economy standards are required to be set at least 18 months prior to the beginning of the model year.

Abstract: In accordance with the mandatory requirements of Section 502(b) of the Motor Vehicle Information and Cost Savings Act, this rulemaking would establish light truck average fuel economy standards for model year 1988.

Timetable:

Action	Date	FR Cite
NPRM	01/24/86	51 FR 3221
Final Action	01/24/86	51 FR 3221

Small Entity: No

Agency Contact: Robert Shelton, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 755-9384

RIN: 2127-AB69

1929. + THEFT PREVENTION STANDARD

Significance: Regulatory Program

Legal Authority: PL 98-547 Motor Vehicle Theft Law Enforcement Act of 1984

CFR Citation: 49 CFR 541

Legal Deadline: Statutory, September 24, 1985

Abstract: In response to the provisions of the Motor Vehicle Theft Law Enforcement Act of 1984, establishes a new standard that requires certain major vehicle parts, determined to have high theft potential to be marked with the vehicle identification number or a derivative thereof.

Timetable:

Action	Date	FR Cite
NPRM	05/10/85	50 FR 19728
NPRM Comment Period End	06/10/85	50 FR 19728
Final Action	10/24/85	50 FR 43166
Final Action Effective	04/24/86	50 FR 42166

Small Entity: Yes

Government Levels Affected: Local, State, Federal

Analysis: Final Regulatory Evaluation 10/24/85

Agency Contact: Charles Gauthier, Director, Office of Market Incentives, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1740

RIN: 2127-AB31

1930. + PROCEDURES FOR SELECTION OF COVERED VEHICLES; MOTOR VEHICLE THEFT LAW ENFORCEMENT ACT OF 1984

Significance: Regulatory Program

Legal Authority: 15 USC 2002

CFR Citation: 49 CFR 542

Legal Deadline: Statutory. For existing lines, final selections required to be made by 10/25/85. For new lines in future years, final selections required to be made 6 months before start of production.

Abstract: Sets forth procedures for selecting high theft motor vehicle lines to be covered under the proposed vehicle theft prevention standard.

Timetable:

Action	Date	FR Cite
NPRM	06/20/85	50 FR 25603
NPRM Comment Period End	07/05/85	50 FR 25603
Final Action	08/28/85	50 FR 34831
Final Action Effective	11/01/85	50 FR 34831

Small Entity: Not Applicable

Analysis: Reg. Evaluation (Minimal) 06/28/75

Agency Contact: Charles Gauthier, Department of Transportation, National Highway Traffic Safety Administration, NRM-20, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1740

RIN: 2127-AB73

1931. + UNIFORM TIRE QUALITY GRADING STANDARDS - TREADWEAR AMENDMENTS

Significance: Regulatory Program

Legal Authority: 15 USC 1423

CFR Citation: 49 CFR 575

Legal Deadline: None

Abstract: Would amend treadwear grading procedures of the Uniform Tire Quality Grading Standards to assure greater reliability of grading information for consumers. Test procedures would be amended to reduce variability. This regulation is significant because it involves important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Preliminary Regulatory Evaluation	04/00/86	

Small Entity: No

Additional Information: Merged with RIN 2127-AA51, Uniform Tire Quality Grading

Analysis: Preliminary Regulatory Evaluation 04/00/86

Agency Contact: Robert Shelton, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-9846

RIN: 2127-AB21

1932. + SEAT BELT ASSEMBLY ANCHORAGES

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.210

Legal Deadline: None

Abstract: This rule amends Standard No. 210. Seat Belt Assembly Anchorages, to permit the securing of child safety seats, by requiring all vehicles with automatic restraint systems at the right front passenger seating position to be equipped with anchorages for a lap belt at that position if the automatic restraint cannot be used to secure a child safety seat.

Timetable:

Action	Date	FR Cite
NPRM	12/11/80	45 FR 81625
Final Action	10/10/85	50 FR 41356
Final Action Effective	09/01/87	50 FR 41356

Small Entity: Not Applicable

Analysis: Final Regulatory Evaluation 10/10/85

Agency Contact: Ralph Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AB70

1933. + CHILD SEATING SYSTEMS

Significance: Agency Priority

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.213

Legal Deadline: None

Abstract: Amends FMVSS 213 to change its buckle release pressure requirements.

Timetable:

Action	Date	FR Cite
NPRM	05/05/83	48 FR 20259
Final Action	08/21/85	50 FR 33722
Final Action Effective	02/18/86	50 FR 33722

Small Entity: No

Additional Information: Docket No. 74-09. NPRM, Notice 12.

Analysis: Regulatory Evaluation (Minimal) 08/21/85 (50 FR 33722)

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA80

1934. + PROCEDURES FOR TRANSITION TO NEW NATIONAL DRIVER REGISTER

Significance: Agency Priority

Legal Authority: 23 USC 401 Note

CFR Citation: 23 CFR 1325

Legal Deadline: None. The notice replying to letters requesting reconsideration is not subject to a legal deadline. However, if the NDR includes an abstract request mechanism, the agency's pilot test program of the NDR will be affected; this program has a statutory deadline of 04/25/85. Congress may delay this deadline to 04/25/86.

Abstract: The National Driver Register Act of 1982 directs the agency to establish a new National Driver Register (NDR) that will assist states in electronically exchanging information about problem drivers. This rulemaking establishes the procedures for making an orderly transition from the current NDR system to the electronic system mandated by the Act. This regulation is significant because it involves important departmental policy. On December 2, 1985, a request for comments (50 FR 49409) was published in the Federal Register. The agency had received a number of letters pertaining to a statement made in the preamble to the final rule (50 FR 28191) regarding procedures for transition to the new National Driver Register (NDR). In the December 2, 1985 notice, the agency indicated that it would reconsider its decision not to include a driver license abstract request mechanism in the NDR and requested further comments from the public. Letters requesting reconsideration have been received and a reply to these letters will be issued.

Timetable:

Action	Date	FR Cite
NPRM	10/01/84	49 FR 38648
NPRM Comment Period End	10/31/84	
Final Action	07/11/85	50 FR 28191
Final Action Effective	08/12/85	50 FR 28191
Request for comments on issue in preamble	12/02/85	50 FR 49409

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Action	Date	FR Cite
Reply to letters for reconsideration	03/00/86	

Small Entity: No

Additional Information: CFR citation to be determined.

Government Levels Affected: State

Analysis: Regulatory Evaluation 10/01/84

Agency Contact: Clay Hatch, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4368

RIN: 2127-AA96

1935. WINDSHIELD DEFOGGERS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.103

Legal Deadline: None

Abstract: In response to a petition for rulemaking, requires windshield defogging systems in passenger cars, multipurpose passenger vehicles, trucks and buses built for sale in parts of the United States other than the continental portion. (Defogging systems are already required for vehicles built for sale in the continental United States.)

Timetable:

Action	Date	FR Cite
NPRM	07/14/83	48 FR 32200
Final Action	11/27/85	50 FR 48772
Final Action Effective	09/01/87	50 FR 48772

Small Entity: No

Additional Information: Docket No. 83-10. NPRM, Notice 1.

Analysis: Regulatory Evaluation 11/27/85 (50 FR 48772)

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA91

1936. HYDRAULIC BRAKE SYSTEMS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.105

Legal Deadline: None

Abstract: Notice in Federal Register on 1/15/86 terminated rulemaking to amend Standard No. 105. The agency has concluded that smaller brake fluid reservoirs would unnecessarily result in an added safety risk without any compensatory safety benefits.

Timetable:

Action	Date	FR Cite
NPRM	07/26/83	48 FR 34306
Terminated	01/15/86	51 FR 1826

Small Entity: No

Additional Information: Docket No. 70-27.

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA94

1937. BRAKE HOSES

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.106

Legal Deadline: None

Abstract: Amends portions of the standard that relate to adhesion properties of hose layers on air and vacuum brake hoses. This action resulted from a petition for rulemaking.

Timetable:

Action	Date	FR Cite
Notice granting petition for Rulemaking	02/18/82	47 FR 7293
NPRM	05/22/85	50 FR 21090
NPRM Comment Period End	07/22/85	50 FR 21090
Final Action	01/07/86	51 FR 603

Small Entity: No

Additional Information: Docket No. 82-02.

Analysis: Regulatory Evaluation (Minimal) 05/22/85

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA90

1938. LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition for rulemaking, provides an alternative location for front identification lamps on vehicles whose overall width exceeds 80 inches, allowing them to be mounted on the top of the vehicle.

Timetable:

Action	Date	FR Cite
NPRM	02/22/82	47 FR 7911
Final Action	09/11/85	50 FR 36996
Final Action Effective	10/11/85	50 FR 36996

Small Entity: No

Additional Information: Docket No. 82-04. NPRM, Notice 1.

Analysis: Regulatory Evaluation (minimal) 09/11/85

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA18

1939. LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Withdrawn because glare problem appeared minimal and there was a demonstrable safety benefit in maintaining the current location.

Timetable:

Action	Date	FR Cite
Withdrawn	08/09/85	50 FR 32241

Small Entity: No

Additional Information: Docket No. 82-03.

DOT—NHTSA

Completed Actions

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA19

1940. LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: This standard, which is applicable to both motor vehicles and equipment, specifies requirements for original and replacement lamps, reflective devices, and associated equipment necessary for signaling and for the safe operation of motor vehicles during darkness and other conditions of reduced visibility. The standard was reviewed because of its relatively high costs. The review was limited to the standard's requirement for side marker lamps. The review is completed. An evaluation report was published in July 1983. Public comments were received, summarized and docketed. Project has been cancelled.

Timetable:

Action	Date	FR Cite
Evaluation Report published	08/01/83	48 FR 34783
End Review	12/01/85	
Comments docketed	00/00/00	

Small Entity: No

Agency Contact: Frank Ephraim, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1574

RIN: 2127-AA80

1941. LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: Amends FMVSS 108 to allow installation of a modulating headlamp on motorcycles.

Timetable:

Action	Date	FR Cite
NPRM	09/23/82	47 FR 42009
SNPRM	08/28/84	49 FR 34049
Final Action	07/22/85	50 FR 29676
Final Action Effective	08/21/85	50 FR 29776

Small Entity: No

Additional Information: Docket No. 82-16. NPRM, Notice 1.

Analysis: Regulatory Evaluation (Minimal) 07/22/85 (50 FR 29676)

Agency Contact: R. Hitchcock, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AA77

1942. LAMPS, REFLECTIVE DEVICES, AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition, would amend Safety Standard No. 108 to allow clearance and identification lamps of large vehicles to flash when the hazard warning system is operating. Rulemaking was terminated on the grounds that no benefits to safety would accrue and that the potential would exist for a degradation of safety.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	12/10/84	49 FR 42965
Final Action	10/18/85	50 FR 42195
Final Action Effective	10/18/85	50 FR 42195
NPRM	10/25/85	49 FR 42965

Small Entity: No

Analysis: Regulatory Evaluation (Minimal) 10/18/85 (50 FR 42195)

Agency Contact: Ralph J. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AB35

1943. LAMPS, REFLECTIVE DEVICES AND ASSOCIATED EQUIPMENT

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 571.108

Legal Deadline: None

Abstract: In response to a petition, Safety Standard No. 108 (Lamps, Reflective Devices and Associated Equipment), was amended to permit simultaneous use of lower and upper beams, and co-aiming but not optional availability of an auxiliary filament in a lower beam lamp, for Type F sealed beam headlamp systems.

Timetable:

Action	Date	FR Cite
NPRM	05/13/85	50 FR 19966
NPRM Comment Period End	06/12/85	50 FR 19966
Final Action	03/19/86	51 FR 9454

Small Entity: No

Additional Information: This proposed rulemaking is a continuation of the final rule (49 FR 50176) in which Type F sealed beam headlamp system was permitted for use on new motor vehicles after July 1, 1985.

Analysis: Regulatory Evaluation (Minimal) 05/13/85

Agency Contact: Ralph J. Hitchcock, Director, Office of Vehicle Safety Standards, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0842

RIN: 2127-AB39

1944. HIGHWAY SAFETY STANDARDS

Significance: Nonsignificant

Legal Authority: 23 USC 402

CFR Citation: 23 CFR 1204

Legal Deadline: None

Abstract: This joint NHTSA/FHWA rulemaking amends seven of the 18 Highway Safety Standards to clarify these standards and eliminate apparent Federal paperwork burdens on State governments.

DOT—NHTSA

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	08/31/84	49 FR 34513
NPRM Comment Period End	10/01/84	49 FR 34513
Final Action	11/04/85	50 FR 45815
Final Action Effective	11/04/85	50 FR 45815

Small Entity: No

Government Levels Affected: State

Agency Contact: George Reagle, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0837

RIN: 2127-AA96

1945. DEFECT AND NONCOMPLIANCE REPORTS

Significance: Nonsignificant

Legal Authority: 15 USC 1392; 15 USC 1407

CFR Citation: 49 CFR 573

Legal Deadline: None

Abstract: This rule deleted certain information currently required to be included in the quarterly reports submitted to NHTSA by a motor vehicle or motor vehicle equipment manufacturer conducting a defect or noncompliance notification campaign.

Timetable:

Action	Date	FR Cite
NPRM	03/27/85	50 FR 12056
NPRM Comment Period End	05/28/85	50 FR 12056
Final Action	01/06/86	51 FR 397
Final Action Effective	01/06/86	51 FR 397

Small Entity: No

Analysis: Regulatory Evaluation (minimal) 01/06/86

Agency Contact: George Parker, Associate Administrator for Enforcement, Department of Transportation, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0756

RIN: 2127-AB44

[FR Doc. 86-8636 Filed 04-18-86; 8:45 am]

BILLING CODE 4910-62-M

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Railroad Administration (FRA)

Prerule Stage

1946. + SPECIAL SAFETY INQUIRY; RAIL-HIGHWAY GRADE CROSSING SAFETY

Significance: Regulatory Program

Legal Authority: 45 USC 431; 45 USC 437

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: The inquiry will obtain information from the public to assist in evaluating possible future courses of action to enhance public safety at railroad-highway grade crossings.

Timetable:

Action	Date	FR Cite
Notice of Special Safety Inquiry	06/18/84	49 FR 24966
Public Hearing, St. Paul, Minnesota	07/18/84	
Notice of Special Safety Inquiry	12/24/84	49 FR 49961
Public Hearing, Washington, D.C. begins 01/23/85	01/24/85	
Summary Report on Hearings	07/18/85	

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. RSSI - 84-3.

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0897

RIN: 2130-AA27

1947. REVIEW: REGULATORY FLEXIBILITY ACT REVIEWS

Significance: Nonsignificant

Legal Authority: PL 96-354

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: In accordance with the Regulatory Flexibility Act (RFA) review plan published in the Federal Register on June 30, 1981 (46 FR 33693), FRA has not selected any specific regulations for RFA review at this time. Instead, FRA has established a plan to develop regulatory definitions of the criteria used in the RFA for the selection of regulations to be reviewed. A notice was published in the Federal Register on August 3, 1981 (46 FR 39461) initiating a safety inquiry to evaluate the effectiveness of the safety regulatory program as it applies to small railroads.

Timetable:

Action	Date	FR Cite
Review Plan	06/30/81	46 FR 33693
Notice of Safety Inquiry Review	08/03/81	46 FR 39461

Next Action Undetermined

Small Entity: Yes

Agency Contact: Lawrence L. Wagner, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-8836

RIN: 2130-AA10

1948. REVIEW OF LOCOMOTIVE CAB SAFETY

Significance: Nonsignificant

Legal Authority: 45 USC 431; 45 USC 437; 45 USC 22; 45 USC 23; 45 USC 28; 45 USC 34

CFR Citation: 49 CFR 229

Legal Deadline: None

Abstract: The Agency is engaged in a review of the issue of locomotive cab environment. The review will evaluate possible future courses of action to enhance the safety of railroad employees who occupy locomotive cabs.

DOT—FRA

Prerule Stage

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0897

RIN: 2130-AA32

1949. REVIEW OF RADIO COMMUNICATION

Significance: Nonsignificant

Legal Authority: 45 USC 431; 45 USC 437

CFR Citation: 49 CFR 220

Legal Deadline: None

Abstract: The Agency is engaged in a review of the issue of radio communication in the railroad industry. The review will evaluate possible future courses of action to enhance the safety of railroad operations involving radio communication.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0897

RIN: 2130-AA34

1950. REVIEW: SPECIAL SAFETY INQUIRY; POWER BRAKE REGULATIONS

Significance: Nonsignificant

Legal Authority: 45 USC 431; 45 USC 437

CFR Citation: 49 CFR 232

Legal Deadline: None

Abstract: The inquiry will obtain information to assist in evaluation of the impact of the change in the power brake regulations made in August 1982 in Docket PB-6.

Timetable:

Action	Date	FR Cite
Notice of Special Safety Inquiry	09/03/85	50 FR 35643
Notice of Change of Hearing Date	09/26/85	50 FR 39025
Public Hearing, Washington, D.C.	10/24/85	
Next Action Undetermined		

Small Entity: No

Additional Information: Docket RSSI-85-1.

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0897

RIN: 2130-AA40

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Railroad Administration (FRA)

Proposed Rule Stage

1951. SAFETY STANDARDS FOR CABOOSES

Significance: Nonsignificant

Legal Authority: 45 USC 431; 45 USC 438

CFR Citation: 49 CFR 237

Legal Deadline: None

Abstract: The proposed rule would seek to establish comprehensive safety standards for cabooses.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. RSC-78-6

Analysis: Regulatory Evaluation

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0897

RIN: 2130-AA01

1952. AMENDMENTS TO REGULATIONS IMPLEMENTING SECTION 905 OF THE 4R ACT

Significance: Nonsignificant

Legal Authority: PL 94-210

CFR Citation: 49 CFR 265

Legal Deadline: None

Abstract: This action would amend 49 CFR Part 265 to make changes necessitated by the promulgation of the Department of Transportation's comprehensive Minority Business Enterprise regulation (49 CFR Part 23). Part 265 will be revised to omit those provisions now covered in Part 23.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Analysis: Regulatory Evaluation

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DOT—FRA

Proposed Rule Stage

Agency Contact: William Faebouer, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-7718

RIN: 2130-AA04

1953. RULES OF PRACTICE

Significance: Nonsignificant

Legal Authority: PL 96-354

CFR Citation: 49 CFR 211

Legal Deadline: None

Abstract: This proposed rule would amend 49 CFR Part 211 to respond to the provisions of the Regulatory Flexibility Act of 1980 by defining the criteria used by FRA in determining whether any regulatory proposal or final rule will have a significant economic impact on a substantial number of small entities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 12/00/85

Agency Contact: Lawrence L Wagner, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-9836

RIN: 2130-AA07

DEPARTMENT OF TRANSPORTATION (DOT)

Federal Railroad Administration (FRA)

Final Rule Stage

1954. SPECIAL SAFETY INQUIRY; RAILROAD POWER BRAKES

Significance: Nonsignificant

Legal Authority: 45 USC 9

CFR Citation: 49 CFR 232.13

Legal Deadline: None

Abstract: The inquiry obtained information from the public that assisted FRA in evaluating currently available devices that can determine the brake pipe pressure on the rear car of a train and transmit the pressure reading to the cab of the controlling locomotive. The proposed rule would permit use of a telemetry device to determine the application and release of the brakes on the rear car of a train during the intermediate terminal air brake test.

Timetable:

Action	Date	FR Cite
Notice of Special Safety Inquiry	05/07/84	49 FR 19359
Public Hearing, Washington, D.C.	06/05/84	
NPRM	09/03/85	50 FR 35640
Notice of Change of Hearing Date	09/26/85	50 FR 39024
Public Hearing, Washington, D.C.	10/25/85	
Final Action	03/00/86	

Small Entity: No

Additional Information: Docket No. PB-7.

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0897

RIN: 2130-AA26

1955. REAR END DEVICE-PASSENGER COMMUTER AND FREIGHT TRAINS

Significance: Nonsignificant

Legal Authority: 45 USC 431; 45 USC 438

CFR Citation: 49 CFR 221

Legal Deadline: None

Abstract: The proposed rule would permit railroads greater flexibility in selecting personnel to perform the required inspections and accommodate recently developed telemetry devices that provide an electronic check on the marker's condition.

Timetable:

Action	Date	FR Cite
NPRM	09/03/85	50 FR 35636
Public Hearing, Washington, D.C.	10/23/85	
Final Action	03/00/86	

Small Entity: No

Additional Information: Docket No. RSRM-2.

Analysis: Reg. Evaluation

Agency Contact: Philip Olekszyk, Department of Transportation, Federal Railroad Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0897

RIN: 2130-AA39

[FR Doc. 86-8659 Filed 04-18-86; 8:45 am]

BILLING CODE 4910-62-T

DEPARTMENT OF TRANSPORTATION (DOT)

Urban Mass Transportation Administration (UMTA)

Proposed Rule Stage

1956. + CHARTER BUS REGULATIONS

Significance: Regulatory Program

Legal Authority: 49 USC 1602(f); 49 USC 1608(c)

CFR Citation: 49 CFR 604

Legal Deadline: None

Abstract: These regulations provide information regarding the restrictions imposed by section 3(f) of the UMT Act (49 USC 1602(f)) on charter bus operations by UMTA recipients. UMTA will publish an NPRM in 1986.

Timetable:

Action	Date	FR Cite
ANPRM	10/12/82	47 FR 44795
NPRM	03/00/86	

Small Entity: Yes

Additional Information: ADDITIONAL LEGAL AUTHORITY: 49 CFR 1.51 also applies. UMTA originally published these regulations on April 1, 1976 (41 FR 14123). UMTA published an ANPRM on January 19, 1981, that proposed extensive changes to the regulations. (46 FR 5394). The comment period closed on March 5, 1981. UMTA reviewed the comments received and recognized that there were many fundamental issues that needed further exploration. Consequently, UMTA decided to issue a new ANPRM rather than to continue to develop the previously issued ANPRM into an NPRM. The new ANPRM was published on October 12, 1982, and the public comment period closed on Nov. 26, 1982.

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 03/00/86

Agency Contact: Douglas G. Gold, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1936

RIN: 2132-AA04

1957. + IMPLEMENTATION OF SECTION 19 OF THE URBAN MASS TRANSPORTATION ACT OF 1964 AS AMENDED -- NONDISCRIMINATION

Significance: Agency Priority

Legal Authority: 49 USC 1615 UMT Act Sec. 19

CFR Citation: 49 CFR 626

Legal Deadline: None

Abstract: The proposed regulations would unify the civil rights regulations that recipients of funds under the Urban Mass Transportation Act must meet. This rulemaking is significant because substantial public interest is anticipated. Regulations are needed to implement a new statutory provision which consolidates UMTA's authority to assure effective and uniform compliance with civil rights and equal employment opportunity requirements in a manner comparable to other agencies within the Department of Transportation.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Additional Information: Section 19 was added to the UMT Act in November 1978 by the Surface Transportation Assistance Act of 1978. UMTA plans to issue an NPRM in 1986.

Analysis: Regulatory Evaluation 07/00/86

Agency Contact: Clifford T. Lee, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Room 7412, Washington, DC 20590, 202 426-6371

RIN: 2132-AA01

1958. + AIR QUALITY PROCEDURES FOR USE IN FEDERAL-AID HIGHWAY AND FEDERALLY FUNDED TRANSIT PROGRAMS

Significance: Agency Priority

Legal Authority: 23 USC 109(h); 23 USC 109(j); 23 USC 315; 42 USC 4332; 42 USC 7401; 42 USC 7506

CFR Citation: 23 CFR 770; 49 CFR 623

Legal Deadline: None

Abstract: This regulation proposes to consolidate and amend existing air quality requirements for transportation projects into a single amended air quality regulation. The amended regulation is intended to streamline and simplify (1) the process of determining which highway projects are exempt from the Federal assistance limitations of section 176(a) of the Clean Air Act (CAA), and (2) the conformity and priority procedures contained in 23 CFR 770. The amendments are also intended to provide more authority and flexibility to State and local agencies and to meet the objectives of the CAA in the most cost-effective and expeditious manner. The amendments are significant because they involve important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: James N. Shrouds, (202) 426-4836, of FHWA.

Analysis: Regulatory Evaluation 03/00/86

Agency Contact: Abbe Marner, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-9066

RIN: 2132-AA19

1959. + PRIVATE ENTERPRISE PARTICIPATION

Significance: Agency Priority

Legal Authority: 49 USC 1607(e); 49 USC 1602(e); 49 USC 1607a(f)

CFR Citation: 49 CFR 614

Legal Deadline: None

Abstract: The proposed regulations will encourage, to the maximum extent feasible, the participation of private enterprise in plans and programs that receive Federal funding under the UMT Act. UMTA intends, through these proposed rules, to ensure an appropriate role for the private sector in local mass transportation decision-making, and to secure opportunities for carriers to provide services that are convenient for the public, and cost efficient, with minimum public subsidy.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Yes

Additional Information: On October 22, 1984 UMTA issued a notice of policy (49 FR 41310-12) designed to encourage private participation in mass transportation planning and programming to the maximum extent feasible, consistent with the directives of UMT Act subsections 3(e), 8(e), and 9(f). UMTA now finds that rulemaking is necessary to ensure enforcement capability and to overcome practices that unfairly exclude private enterprise from opportunities to provide mass transportation services. The essential principles of policy that would be effected through this rulemaking are the same as those announced in the October 22, 1984 Federal Register notice.

Analysis: Regulatory Evaluation 07/00/86

DOT—UMTA

Proposed Rule Stage

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DOT—UMTA

Proposed Rule Stage

Agency Contact: Scott A. Biehl/Douglas Bienie, Department of Transportation, Urban Mass Transportation Administration, 400 7th Street, SW, Room 9223, Washington, DC 20590, 202 755-4713

RIN: 2132-AA20

1960. + MAJOR CAPITAL INVESTMENT PROJECTS

Significance: Agency Priority

Legal Authority: 49 USC 1602; 49 USC 1604; 49 USC 1607; 49 USC 1607a-1; 23 USC 103(e)(4); 23 USC 142

CFR Citation: 49 CFR 615

Legal Deadline: None

Abstract: This regulation, which is being reviewed in light of pending legislative action, would set out the process applicants for grants under the UMT Act (49 USC 1601 et seq.) and the Federal-Aid Highway Act should follow in order to be eligible for Federal financial assistance for major capital investment projects. This regulation is significant because it involves important departmental policy.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: Undetermined

Analysis: Regulatory Evaluation 10/00/86

Agency Contact: Don Emerson/Theodore A. Munter, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Room 9228, Washington, DC 20590, 202 426-1936

RIN: 2132-AA22

1961. + EXTENSION OF SAFETY REQUIREMENTS TO ALL FEDERALLY ASSISTED BUSES

Significance: Agency Priority

Legal Authority: 49 USC 1602; 49 USC 1607

CFR Citation: 49 CFR 637

Legal Deadline: None

Abstract: On October 1, 1982, UMTA rescinded its policy making advanced design bus specifications (The "White Book") mandatory for its grantees, but continued to mandate certain safety requirements applicable to such buses. On October 16, 1984, UMTA issued an ANPRM on whether these safety requirements should be extended to other buses financed by UMTA. This rulemaking is significant because of substantial public interest and controversy and because of the potential impact on the bus industry.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Undetermined

Additional Information: ANPRM asked for comments on what benefits would be derived from mandating these requirements; what their financial impact on manufacturers and grantees would be; and whether competition in bus markets would significantly be affected by these.

Government Levels Affected: Local, State

Analysis: Regulatory Evaluation 07/00/86

Agency Contact: Kenneth E. Bolton, Director of Policy, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Room 9300, Washington, DC 20590, 202 426-4060

RIN: 2132-AA24

1962. + MAINTENANCE OF EQUIPMENT AND FACILITIES

Significance: Agency Priority

Legal Authority: 49 USC 1602; 49 USC 1607

CFR Citation: 49 CFR 636

Legal Deadline: None

Abstract: This regulation would require each transit agency that receives Federal financial assistance to have a maintenance program that states maintenance goals and objectives, provides for adequate maintenance for both fixed facilities and equipment, and provides for adequate personnel to meet the goals and objectives of the program. The proposed rule would also require that each transit agency retain or assemble information necessary for UMTA to review the transit agency's actual maintenance activities and make determinations on compliance as required by statute. This rule is significant because it concerns a matter on which there is substantial controversy.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Additional Information: The Surface Transportation Assistance Act of 1982 (1982 STAA) included maintenance provisions in both sections 3 and 9 of the UMT Act. In the new section 9 block grant program, Congress provided that all recipients must certify that they will maintain facilities and equipment. UMT Act section 9(e)(3)(B). Section 9(g)(1) authorizes UMTA to determine by review or audit whether the recipients have complied with the maintenance requirement. The 1982 STAA also amended the section 3 discretionary grant and loan program by adding a provision that requires applicants to have sufficient capability to maintain facilities and equipment obtained with Federal assistance. UMT Act 3(a)2(A)(iii). This proposed regulation would provide UMTA with the information necessary to implement these provisions.

Analysis: Regulatory Evaluation 07/00/86

Agency Contact: Kenneth F. Bolton, Department of Transportation, Urban Mass Transportation Administration, Office of Policy, UMTA, 400 Seventh Street, SW, Room 9311, Washington, DC 20590, 202 426-4060

RIN: 2132-AA26

1963. SCHOOL BUS OPERATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1602(g); 49 USC 1608(c)(6); 23 USC 103(e)(4); 23 USC 142(a); 23 USC 142(c)

CFR Citation: 49 CFR 605

Legal Deadline: None

Abstract: This regulation provides information regarding the restrictions imposed by section 3(g) of the UMT Act (49 USC 1602(g)) on the school bus operations by UMTA recipients. UMTA plans to issue an NPRM in 1986.

Timetable:

Action	Date	FR Cite
ANPRM	10/12/82	47 FR 44795
ANPRM Comment Period End	11/26/82	
NPRM	06/00/86	

Small Entity: Yes

DOT—UMTA

Proposed Rule Stage

Additional Information: UMTA originally issued this regulation on April 1, 1976 (41 FR 14128). UMTA reviewed this regulation and issued an ANPRM that proposed three alternatives to the current regulation: (1) retain the existing regulation, (2) modify the definition of "tripper services," and (3) define "exclusive" school bus service.The public comment period closed November 26, 1982.

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 06/00/86

Agency Contact: Katherine Cowen, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4011

RIN: 2132-AA09

1964. SECTION 15 REPORTING REQUIREMENTS FOR SECTION 9 APPORTIONMENT GRANTS; PENALTY PROCEDURES FOR NON-COMPLIANCE

Significance: Nonsignificant

Legal Authority: 49 USC 1607; 49 USC 1611

CFR Citation: 49 CFR 630

Legal Deadline: None

Abstract: This regulation would simplify Part 630 and implement procedures to handle late reporters, missing certifications and dead head miles in order to provide more timely Section 9 formula apportionments based on the most valid data available.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Additional Information: The proposed rule would update and streamline the existing regulation without greatly affecting reporting transit agencies' responsibilities.

Analysis: Regulatory Evaluation 07/00/86

Agency Contact: Ron Fisher, Director, Information Services, Department of Transportation, Urban Mass Transportation Administration, URT-7, 202 426-9157

RIN: 2132-AA23

DEPARTMENT OF TRANSPORTATION (DOT)

Urban Mass Transportation Administration (UMTA)

Final Rule Stage

1965. + ENVIRONMENTAL IMPACT AND RELATED PROCEDURES

Significance: Agency Priority

Legal Authority: 42 USC 4321 et seq; 23 USC 101 et seq; 49 USC 1601 et seq; 49 USC 1653(f)

CFR Citation: 23 CFR 771; 49 CFR 622

Legal Deadline: None

Abstract: This regulation covers the preparation of environmental impact statements and related documents and compliance with other Federal environmental requirements under UMTA and FHWA grant programs. The changes are intended to streamline the project development process and provide increased decisionmaking authority to agency field offices. This rulemaking is significant because it involves important departmental policy. It is needed to reduce burdens associated with the environmental review process.

Timetable:

Action	Date	FR Cite
Notice and Request for Comments	04/13/81	46 FR 21620
NPRM	08/01/83	48 FR 34894
Final Action	04/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Fred Skaer, FHWA, (202) 426-0106. Notice and request for comments on priority review of environmental process published on April 13, 1981 (46 FR 21620). An NPRM was published on August 1, 1983.

Analysis: Regulatory Evaluation 08/01/83

Agency Contact: Abbe Marner, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0096

RIN: 2132-AA03

1966. + "BUY AMERICA" REQUIREMENTS OF THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

Significance: Agency Priority

Legal Authority: PL 97-424 Surface Transportation Assistance Act of 1982 Sec 165

CFR Citation: 49 CFR 661

Legal Deadline: None

Abstract: This rulemaking implements Section 165 of the Surface Transportation Assistance Act of 1982 (PL 97-424).

Timetable:

Action	Date	FR Cite
Emergency Final Rule	09/15/83	49 FR 41562
Next Action Undetermined		

Small Entity: Yes

Additional Information: UMTA issued this regulation as an emergency regulation in September 1983. UMTA took this action since the requirements in Section 165 of the 1982 STAA apply to all UMTA funds obligated after January 6, 1983. UMTA will determine what, if any further regulatory activities to take based on a review of the comments and experience gained working with the existing regulations.

Agency Contact: Edward J. Gill, Jr., Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4063

RIN: 2132-AA15

1967. INNOVATIVE TECHNIQUES AND METHODS

Significance: Nonsignificant

Legal Authority: 49 USC 1603(i)

CFR Citation: 49 CFR 644

Legal Deadline: None

Abstract: These regulations would prescribe policies and procedures for administering the grant programs for projects using innovative techniques and methods in the management and operation of public transportation

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DOT—UMTA — Final Rule Stage

services under Section 4(i) of the UMT Act as amended.

Timetable:

Action	Date	FR Cite
NPRM	12/01/80	45 FR 79089
To be withdrawn	00/00/00	

Small Entity: No

Additional Information: UMTA will prepare a Circular dealing with Innovative Techniques and Methods 4(i). UMTA will withdraw the NPRM and publish a Circular that will be described in the Federal Register. Until then, however, the NPRM should be used as guidance.

Analysis: Regulatory Evaluation 12/01/80

Agency Contact: Sal Caruso, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4953

RIN: 2132-AA05

1968. MISCELLANEOUS AMENDMENTS - ORGANIZATION, FUNCTIONS, AND PROCEDURES

Significance: Nonsignificant

Legal Authority: 49 USC 1657; 49 USC 1659

CFR Citation: 49 CFR 601

Legal Deadline: None

Abstract: These amendments will reflect modifications in the organization and distribution of functions as well as changes in the delegations of authority within the Urban Mass Transportation Administration.

Timetable:

Action	Date	FR Cite
Final Action	06/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 06/00/86

Agency Contact: Henry T. Carter, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4922

RIN: 2132-AA06

1969. TECHNOLOGY INTRODUCTION

Significance: Nonsignificant

Legal Authority: 49 USC 1602(a)(1)(c)

CFR Citation: 49 CFR 641

Legal Deadline: None

Abstract: These regulations would implement Section 3(a)(1)(c) of the UMT Act of 1964, as amended, by prescribing policies and procedures for administering the grant program for projects that would introduce new technology into public transportation.

Timetable:

Action	Date	FR Cite
NPRM	01/19/81	46 FR 5832
To be withdrawn	00/00/00	

Small Entity: No

Additional Information: UMTA will prepare a Circular dealing with Technology Introduction 3(a)(1)(c). UMTA has decided to withdraw this rulemaking activity and to issue it as a Circular that will be described in the Notice section of the Federal Register. Until then, the January 19, 1981, NPRM should be used as guidance.

Analysis: Regulatory Evaluation 01/19/81

Agency Contact: Sal Caruso, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-4953

RIN: 2132-AA07

[FR Doc. 86-8808 Filed 04-18-86; 8:45 am]

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DEPARTMENT OF TRANSPORTATION (DOT) — Prerule Stage

Research and Special Programs Administration (RSPA)

1970. SPECIFICATION PACKAGES OF TYPE B AND FISSILE RADIOACTIVE MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808; 49 USC 1809

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: Advance notice to address feasibility of continued use and needed modifications of certain radioactive materials package designs.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/86	

Small Entity: No

Additional Information: Project 300-83.

Analysis: Regulatory Evaluation 03/00/86

Agency Contact: E. Mazzullo, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2311

RIN: 2137-AA20

1971. DOT SPECIFICATION 51 PORTABLE TANKS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: Consideration of revisions of DOT Specification 51 Portable Tanks, including waiver of requirements for post-weld heat treatment for certain steels and use of bottom outlets.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/86	

Small Entity: No

Additional Information: Project 302-83.

Analysis: Regulatory Evaluation 03/00/86

Agency Contact: L. Jackson, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2075

RIN: 2137-AA36

DEPARTMENT OF TRANSPORTATION (DOT) — Proposed Rule Stage

Research and Special Programs Administration (RSPA)

1972. + PERFORMANCE-ORIENTED PACKAGING STANDARDS

Significance: Regulatory Program

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1808

CFR Citation: 49 CFR 172; 49 CFR 173; 49 CFR 178

Legal Deadline: None

Abstract: To develop performance-oriented packaging standards for small packagings based on the Recommendation of the United Nations Committee of Experts on the Transport of Dangerous Goods. Also includes former non-significant rulemakings entitled "Consolidation of Specifications and Establishment of Performance Standards for Specification Bags" (Docket No. HM-153), "Specifications for and use of Specification 17 Steel Drums" (Docket No. HM-182), and "Organic Peroxide Requirements" (Project 186-72). The rulemaking is significant because a large number of specifications for packaging in the Hazardous Materials Regulations would be affected by this project. To a large extent the complexity and mass of the present Hazardous Materials Regulations are due to the detailed specification-type packaging standards contained in these regulations. To replace these with standards based on the U.N. system would both simplify the present regulations and facilitate international trade.

Timetable:

Action	Date	FR Cite
ANPRM	04/15/82	47 FR 16268
Corrections Docum & Notice of Meeting	05/17/82	47 FR 26172
Extension of Comment Period to 01/13/83	09/00/82	47 FR 40816
NPRM	12/00/86	

Small Entity: No

Additional Information: Docket No. HM-181. Further action to be determined from evaluation of comments received on ANPRM.

Analysis: Regulatory Flexibility Analysis; Regulatory Evaluation 12/00/86

Agency Contact: T. Chariton, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-3075

RIN: 2137-AA01

1973. + COLLECTION OF SERVICE SEGMENT DATA AND CHARTER DATA FROM FOREIGN AIR CARRIERS

Significance: Regulatory Program

Legal Authority: 49 USC 1301; 49 USC 1374; 49 USC 1381; 49 USC 1388; 49 USC 1482

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: DOT is considering a rule that would require submission to DOT of nonstop market data from foreign carriers providing scheduled service between their home countries and the United States. This information is needed to assess potential and actual benefits of bilateral agreements. In addition international charter data currently collected from foreign carriers may also be incorporated with service segment reporting. This information may very well replace some of the data currently collected by the Immigration and Naturalization Service (INS) on Forms I-92 and I-94. Although there will be some start-up costs, it is anticipated that over the long run there will be substantial savings for both the industry and the government.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	03/00/87	

Small Entity: No

Affected Sectors: 45 TRANSPORTATION BY AIR

Agency Contact: Jack Calloway, Chief, Department of Transportation, Research and Special Programs Administration, Data Requirements & Public Reports Division, DAI-10/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 426-7372

RIN: 2137-AA97

1974. + ALIGNMENT OF AIRLINE UNIFORM SYSTEM OF ACCOUNTS AND REPORTS WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES

Significance: Regulatory Program

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: As part of the continuing effort to align the DOT's aviation accounting rules with generally accepted accounting principles, certain sections of the Uniform System of Accounts and Reports need to be deleted or amended. These changes would provide relief from the present requirements for most air carriers.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Affected Sectors: 45 TRANSPORTATION BY AIR

Agency Contact: Jack Calloway, Chief, Department of Transportation, Research and Special Programs Administration, Data Requirements & Public Reports Division, DAI-10/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 426-7372

RIN: 2137-AA99

1975. + COLLECTION OF SERVICE SEGMENT DATA AND CHARTER DATA FROM U.S. AIR CARRIERS

Significance: Regulatory Program

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1387

CFR Citation: 14 CFR 241; 14 CFR 217

Legal Deadline: None

Abstract: This proposed rule would standardize service segment data reporting for aviation. Presently, larger carriers file very detailed service segment data in ADP format while smaller carriers file a condensed version on a hardcopy report. This rule would standardize domestic service segment data at a condensed level. In addition international charter data currently being collected from U.S. carriers may also be incorporated with service segment reporting.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	03/00/87	

Small Entity: No

Affected Sectors: 45 TRANSPORTATION BY AIR

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Proposed Rule Stage

Agency Contact: Jack Calloway, Chief, Department of Transportation, Research and Special Programs Administration, Data Requirements & Public Reports Division, DAI-10/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 426-7372

RIN: 2137-AB01

1976. + REQUESTS FOR CONFIDENTIAL TREATMENT OF AVIATION ECONOMICS- RELATED MATERIALS FILED WITH DOT

Significance: Regulatory Program

Legal Authority: 49 USC 1324; 49 USC 1482

CFR Citation: 14 CFR 302

Legal Deadline: None

Abstract: This rule would revise the procedures governing requests to confidential treatment of material filed with the Department to clarify the relation between those procedures and the Freedom of Information Act.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Joseph S. Nalevanko, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 472-2686

RIN: 2137-AB02

1977. + CONFIDENTIALITY OF PARTS 241 AND 298 AIRLINE REPORTS

Significance: Regulatory Program

Legal Authority: 49 USC 1324; 49 USC 1373; 49 USC 1371; 49 USC 1374; 49 USC 1386

CFR Citation: 14 CFR 241; 14 CFR 298

Legal Deadline: None

Abstract: This rule would consider whether some components of individual carrier's reports submitted under Parts 241 and 298 should be kept confidential and for how long.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	02/00/87	

Small Entity: No

Agency Contact: Jack Calloway, Chief, Department of Transportation, Research and Special Programs Administration, Data Requirements & Public Reports Division, DAI-10/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 426-7372

RIN: 2137-AB05

1978. + DATA COLLECTION AND REPORTING: HAZARDOUS MATERIALS INCIDENT REPORTS

Significance: Agency Priority

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1809

CFR Citation: 49 CFR 171

Legal Deadline: None

Abstract: The current regulations require reports of hazardous material incidents. The objective of this review is to determine if the current data requirements can be modified to reduce the burden on industry but still result in the collection of the information needed for the hazardous materials safety program. Although safety programs, such as the one covered by these regulations, require data in order to function properly, it is possible that the data collection can be made less burdensome.

Timetable:

Action	Date	FR Cite
ANPRM	03/16/84	49 FR 10042

Next Action Undetermined

Small Entity: No

Additional Information: Docket HM-36B.

Agency Contact: R. Abis, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2075

RIN: 2137-AA51

1979. + REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES

Significance: Agency Priority

Legal Authority: 49 USC 1804

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173

Legal Deadline: None

Abstract: Requested comments on the burdens and benefits associated with incorporating EPA revised Reportable Quantities of Hazardous Substances into the Hazardous Materials Regulations. Discussion of the regulatory alternatives being considered is included. Potential costs and benefits are unknown at this time. This regulation is significant because of substantial public interest and because it is potentially controversial.

Timetable:

Action	Date	FR Cite
ANPRM	06/06/83	48 FR 35965
ANPRM Comment Period End	10/12/83	
Extension of time for public comment till 11/16/83.	10/19/83	48 FR 48483
NPRM	05/00/86	

Small Entity: No

Additional Information: HM-145E

Analysis: Regulatory Evaluation 02/00/86

Agency Contact: L. Jackson, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2075

RIN: 2137-AA68

1980. + RECODIFICATION OF EXPLOSIVE REGULATIONS

Significance: Agency Priority

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 172; 49 CFR 173

Legal Deadline: None

Abstract: Proposed consolidation and revision of the regulations on the classification and packaging of explosives, and the alignment of these regulations with the recommendations of the United Nations Committee of experts on the transport of Dangerous Goods.

Timetable:

Action	Date	FR Cite
End Review	02/00/86	
NPRM	06/00/86	
NPRM Comment Period End	12/00/86	
Final Action	05/00/87	
Final Action Effective	07/00/87	

Small Entity: Undetermined

Additional Information: Project 306-83

DOT—RSPA

Proposed Rule Stage

Agency Contact: Charles Ke/H. Mitchell, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2311

RIN: 2137-AA93

1981. REVIEW: CONSOLIDATION OF SPECIFICATIONS FOR HIGH PRESSURE SEAMLESS CYLINDERS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 172; 49 CFR 173

Legal Deadline: None

Abstract: Proposed consolidation and revision of the specifications on the manufacture of high pressure, seamless cylinders. (Project No. 123-71).

Timetable:

Action	Date	FR Cite
End Review	02/00/86	
NPRM	07/00/86	
NPRM Comment Period End	10/00/86	
Final Action	01/00/87	
Final Action Effective	02/00/87	

Small Entity: No

Agency Contact: Arthur Mallen, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 755-4906

RIN: 2137-AA92

1982. DEFINITION OF A FLAMMABLE SOLID

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: Consideration of new standards for classifying a material as a flammable solid. Previously part of Docket HM-116 which was terminated May 22, 1980 (45 FR 34560) to permit publication of ANPRM.

Timetable:

Action	Date	FR Cite
ANPRM	05/07/81	46 FR 25492

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. HM-178

Agency Contact: C. Ke, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2311

RIN: 2137-AA05

1983. REVISION OF OPERATING PROCEDURES FOR MOTOR VEHICLES

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 177

Legal Deadline: None

Abstract: Proposed simplification and recodification of the existing operating procedures for transportation of hazardous materials by motor vehicles as prescribed in Part 177. Development of driver training requirements (formerly Project 270-78).

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: Project 261-78

Agency Contact: M. Morris, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2075

RIN: 2137-AA07

1984. USE OF INTERESTED INSPECTORS FOR CYLINDER INSPECTIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: Proposal would result in ending of permitting "Interested" inspectors to perform inspections and testing of domestically manufactured low pressure gas cylinders.

Timetable:

Action	Date	FR Cite
NPRM	03/17/76	44 FR 1179

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. HM-74A

Agency Contact: H. Mitchell, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2075

RIN: 2137-AA08

1985. CONSOLIDATION AND REVISION OF REQUIREMENTS FOR THE CARRIAGE OF EXPLOSIVES BY VESSEL

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 176

Legal Deadline: None

Abstract: Proposed consolidation and revision of requirements for the carriage of military and commercial explosives by vessel and adoption of United Nations scheme for classification and compatibility of explosives for the water mode.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: Project 279-78

Agency Contact: H. Mitchell/F. Thompson (USCG), Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1577

RIN: 2137-AA10

1986. OXIDIZING MATERIALS DEFINITION, CRITERIA AND PROPOSED REGULATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: Development of new standards for classifying a material as an oxidizing material.

Timetable:

Action	Date	FR Cite
ANPRM	06/15/81	46 FR 31294

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. HM-179

Analysis: Regulatory Evaluation 03/00/85

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Proposed Rule Stage

Agency Contact: M. Morris/C. Schultz, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2311

RIN: 2137-AA11

1987. ODORIZATION OF LP GAS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 172

Legal Deadline: None

Abstract: NPRM solicits comments on the benefit of requiring LP gas to be odorized. Odorization will enhance its identification during transportation in commerce.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. HM-126E

Agency Contact: L. Jackson, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2075

RIN: 2137-AA25

1988. PRIVATE CARRIERS LICENSED TO USE RADIOACTIVE MATERIALS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806; 49 USC 1808

CFR Citation: 49 CFR 173; 49 CFR 177

Legal Deadline: None

Abstract: Proposed exceptions for private carriers who also are licensed to use radioactive materials in the course of their businesses.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Project 298-82.

Agency Contact: E. Mazzullo, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2311

RIN: 2137-AA26

1989. QUALITY ASSURANCE FOR RADIOACTIVE MATERIALS SHIPPERS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806; 49 USC 1808

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: Advance notice to solicit comments on the desirability of establishing quality assurance program requirements for all shippers of radioactive materials.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Project 291-80.

Agency Contact: E. Mazzullo, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2311

RIN: 2137-AA30

1990. STEEL PIPE

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Development of performance standards for qualifying steel pipe for use in gas pipelines.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Action deferred pending development of industry standard by Voluntary Standards Committee.

Agency Contact: P. Cory, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2062

RIN: 2137-AA40

1991. SPECIFICATION 8W AND 8WA WELDED STEEL CYLINDERS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1808

CFR Citation: 49 CFR 171; 49 CFR 173; 49 CFR 178

Legal Deadline: None

Abstract: Would eliminate existing Specifications 8 and 8AL and provide a consolidated specification for the manufacture of acetylene cylinders.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: No

Additional Information: Docket No. HM-23.

Analysis: Regulatory Evaluation 03/00/86

Agency Contact: M. Morris, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2075

RIN: 2137-AA63

1992. REVISION OF THE IM TANK TABLE

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: Would revise the IM Tank Table to incorporate interim approvals issued since April of 1981 and other changes.

DOT—RSPA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. HM-167A

Agency Contact: L. Jackson/C. Ke, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2311

RIN: 2137-AA84

1993. REWRITE AND RECODIFICATION OF SECTION 173.34

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 173.34, Rewrite and Recodification

Legal Deadline: None

Abstract: The recodification of Sec. 173.34 will provide industry with regulations set up by the functions to be performed. The rewrite should make it possible to understand the regulations more readily, and simplify the process of determining how to apply specific requirements. The potential cost has tentatively been determined to be minimal.

Timetable:

Action	Date	FR Cite
End Review	07/00/85	
NPRM	07/00/86	

Small Entity: No

Additional Information: Project No. 305-83

Analysis: Regulatory Evaluation 02/00/86

Agency Contact: Charles Hochman/M. Morris, Technical Staff, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 755-4906

RIN: 2137-AA73

1994. MARKING OWNER'S SYMBOLS ON COMPRESSED GAS CYLINDERS

Significance: Nonsignificant

Legal Authority: 49 USC 1804

CFR Citation: 49 CFR 173.34(c)(1)

Legal Deadline: None

Abstract: Currently the regulations allow more than one owner symbol on a cylinder. This revision would prohibit the display of more than one owner symbol on a compressed gas cylinder. This will promote easy identification of cylinders and reduce theft problems associated with these cylinders.

Timetable:

Action	Date	FR Cite
ANPRM	04/11/84	49 FR 14405
ANPRM Comment Period End	05/23/84	
Next Action Undetermined		

Small Entity: No

Additional Information: Docket No. HM-172A

Agency Contact: L. Jackson, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2075

RIN: 2137-AA74

1995. RECLASSIFICATION OF SPECIAL FIREWORKS

Significance: Nonsignificant

Legal Authority: 49 USC 1801

CFR Citation: 49 CFR 172.101; 49 CFR 173.88; 49 CFR 173.100

Legal Deadline: None

Abstract: This notice solicits comments on the merits of a petition of rulemaking proposing to reclassify certain fireworks currently classified as class B explosives to class C explosives.

Timetable:

Action	Date	FR Cite
ANPRM	11/19/84	49 FR 45627
ANPRM Comment Period End	02/14/85	49 FR 45627
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: H. Mitchell, Transportation Regulations Specialist, Department of Transportation, Research and Special Programs Administration, 400 Seventh St, SW, Washington, DC 20590, 202 426-2075

RIN: 2137-AA78

1996. REQUIRED USE OF EMERGENCY RESPONSE GUIDEBOOKS AND MATERIAL SAFETY DATA SHEETS

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1808

CFR Citation: 49 CFR 172

Legal Deadline: None

Abstract: This proposal solicits comments on the potential benefits and consequences of requiring the use of Emergency Response Guidebooks (ERG) and/or Material Safety Data Sheets (MSDS) to communicate information on the hazards of hazardous materials while they are moving in commerce.

Timetable:

Action	Date	FR Cite
ANPRM	03/16/84	49 FR 10048
Public Hearing held, Washington, D.C.	05/02/84	49 FR 10048
ANPRM Comment Period End	06/26/84	49 FR 10048
Next Action Undetermined		

Small Entity: Yes

Additional Information: HM-126C

Agency Contact: Lee Jackson, Department of Transportation, Research and Special Programs Administration, 400 7th Street, SW, Washington, DC 20590, 202 426-2075

RIN: 2137-AA88

1997. ODORIZATION OF LIQUEFIED PETROLEUM GAS (LPG)

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1808

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173

Legal Deadline: None

Abstract: This proposal requested comments on the feasibility of requiring that LPG be odorized to enhance its identification when being transported in commerce. The original ANPRM Docket HM-126D, odorization of LPG and miscellaneous proposals, has been divided into two separate dockets. Odorization of LPG is now HM-126E, an ANPRM. Miscellaneous proposals, including bulk packagings remain under HM-126D, as a Final Rule.

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Proposed Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	08/22/84	49 FR 33184

Next Action Undetermined

Small Entity: No

Agency Contact: Lee Jackson, Department of Transportation, Research and Special Programs Administration, 400 Seventh St., SW, Washington, DC 20590, 202 426-3975

RIN: 2137–AA89

1998. COLLECTION OF FINANCIAL INFORMATION FROM THE COMMUTER AIR CARRIER INDUSTRY

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1374; 49 USC 1386

CFR Citation: 14 CFR 298

Legal Deadline: None

Abstract: DOT is considering proposing to collect basic financial information from the commuter air carrier industry. Data would be used for safety purposes, fitness reviews, and various economic analysis such as trust fund revenue generation, and airport and airways development.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Yes

Agency Contact: Jack Calloway, Chief, Department of Transportation, Research and Special Programs Administration, Data Requirements & Public Reports Division, DAI-10/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 426-7372

RIN: 2137–AA99

1999. REVISE DEFINITION OF AIRLINE REVENUE AND NONREVENUE PASSENGERS, AND FIRST CLASS AND COACH PASSENGERS

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1373

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: The present definition of revenue and nonrevenue passengers for aviation reporting purposes is stated in terms of the exemptions for free and reduced-rate transportation in sections 403(b) of the Federal Aviation Act of 1958. These definitions have become outmoded in the process of air fare deregulation. In addition, first class and coach passengers are defined in terms of the type of fare paid with premium or standard fares being the benchmark for first class. With deregulation and the proliferation of the marketplace with new air fares, these definitions may also be outmoded. The DOT is considering several options for revising these definitions.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Jack Calloway, Chief, Department of Transportation, Research and Special Programs Administration, Data Requirements & Public Reports Division, DAI-10/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 426-7372

RIN: 2137–AB00

2000. REQUIRE SPECIFIC CATEGORIES OF RECORDS AND RETENTION PERIODS FOR COMMUTER AIR CARRIERS RECEIVING SUBSIDY

Significance: Nonsignificant

Legal Authority: 49 USC 1324; 49 USC 1371 to 1374; 49 USC 1377; 49 USC 1381; 49 USC 1386; 49 USC 1482

CFR Citation: 14 CFR 249

Legal Deadline: None

Abstract: This rule would require commuter air carriers receiving subsidy to retain certain records in support of their claims for subsidy; modify or eliminate several of the records prescribed for retention by certificated carriers; and clarify one of the records prescribed for retention by public charter operators and overseas military personnel charter operators. In addition, the proposal would transfer the record retention requirements contained in Part 374a to Part 249.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Yes

Agency Contact: Jack Calloway, Chief, Department of Transportation, Research and Special Programs Administration, Data Requirements & Public Reports Division, DAI-10/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 426-7372

RIN: 2137–AB04

2001. MATTER INCORPORATED BY REFERENCE (HAZARDOUS MATERIALS)

Significance: Routine and Frequent

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 171

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. NPRM approximately every six months, with FR targeted two months thereafter. 01/00/86 - 12/00/86

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: Docket No. HM-22A.

Agency Contact: E. Mazzullo, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-3975

RIN: 2137–AA45

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Final Rule Stage

2002. + REVIEW OF SAMPLE SIZE AND ADMINISTRATION OF THE AIRLINE PASSENGER ORIGIN-DESTINATION SURVEY

Significance: Regulatory Program

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1382

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: OMB has mandated that the 10 percent sampling requirement contained in the Passenger Origin-Destination Survey be eliminated and that a requirement that the collection include a statistically valid sample be substituted. The NPRM has requested comments on the size of the sample and invited the public to propose alternative methods of administering the statutory data collection requirements contained in the Civil Aeronautics Board Sunset Act of 1984. The NPRM also proposed to standardize reporting between pre-deregulation carriers and post-deregulation carriers. This change has the potential for reducing the burden on the industry. This rulemaking is significant because it may substantially change the reporting requirements for the aviation industry and significantly reduce the associated paperwork burdens.

Timetable:

Action	Date	FR Cite
ANPRM	01/02/85	50 FR 101
NPRM	10/22/85	50 FR 42870
Final Action	03/31/86	

Small Entity: No

Affected Sectors: 45 TRANSPORTATION BY AIR

Agency Contact: Jack Calloway, Chief, Department of Transportation, Research and Special Programs Administration, Data Requirements & Public Reports Division, DAI-10/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 426-7372

RIN: 2137–AA95

2003. + REVIEW OF THE FORM 41 REPORT OF FINANCIAL AND OPERATING STATISTICS FOR LARGE CERTIFICATED AIR CARRIERS

Significance: Regulatory Program

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1387

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: OMB stated that the continuation of uniform, detailed financial and operating reporting of domestic air transportation appears to be contrary to airline deregulation. It has mandated that an NPRM be issued soliciting specific recommendations from the affected public. The NPRM will be broad enough in scope to accommodate a wide range of alternatives, including complete elimination of all requirements. The NPRM will specifically request comments on the need for, and frequency of, the collection in the light of the information collection requirements imposed on the airlines by other Federal agencies. Additionally, the NPRM will request specific comments from other agencies that presently use the Form 41 data. This rulemaking is significant because it may substantially change the reporting requirements for the aviation industry and significantly reduce the associated paperwork burdens.

Timetable:

Action	Date	FR Cite
ANPRM	01/02/85	50 FR 101
NPRM	08/23/85	50 FR 34366
NPRM Comment Period End	10/22/85	
Final Action Effective	01/01/86	
Final Action	04/00/86	

Small Entity: No

Affected Sectors: 45 TRANSPORTATION BY AIR

Agency Contact: Jack Calloway, Chief, Department of Transportation, Research and Special Programs Administration, Data Requirements & Public Reports Division, DAI-10/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 426-7372

RIN: 2137–AA96

2004. + SPECIFICATION AND USE REQUIREMENTS FOR MC 306, MC 307, AND MC 312 CARGO TANKS (INCLUDING PROJ. 301-83 AND INCORPORATES DOCKET HM 183)

Significance: Agency Priority

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805

CFR Citation: 49 CFR 173; 49 CFR 177; 49 CFR 178

Legal Deadline: None

Abstract: Modify cargo tank specifications in sections 178.340-178.342 for clarity, provide for manufacture of vacuum-loaded cargo tanks, establish standards for corrosion in cargo tanks. (In conjunction with BMCS.)

Timetable:

Action	Date	FR Cite
ANPRM	06/28/82	47 FR 27876
NPRM	09/17/85	50 FR 37767
Corrections and Clarifications	12/05/85	50 FR 49866

Next Action Undetermined

Small Entity: Undetermined

Additional Information: Docket No. HM-183A

Analysis: Regulatory Evaluation 09/17/85 (50 FR 37767)

Agency Contact: J. O'Steen/ J. Pena, Department of Transportation, Federal Highway Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-0033

RIN: 2137–AA42

2005. + ADD TO 49 CFR 195.2 DEFINITIONS A DEFINITION OF "GATHERING LINE"

Significance: Agency Priority

Legal Authority: 49 USC 2002

CFR Citation: 49 CFR 195.2

Legal Deadline: None

Abstract: Definition of terms would be proposed to clarify application of Part 195 to gathering lines. Minimal costs and benefits will result since there will be no substantive changes to existing standards.

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DOT—RSPA — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/27/85	50 FR 48611
NPRM Comment Period End	12/31/85	
Final Action	04/00/86	

Small Entity: No

Additional Information: PS-85

Analysis: Regulatory Evaluation 11/27/85 (50 FR 48611)

Agency Contact: Lucian Fusnow, Department of Transportation, Research and Special Programs Administration, Dept. of Transportation, 400 Seventh St., SW, Washington, DC 20590, 202 426-2396

RIN: 2137-AA60

2006. INTERIOR PIPING

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: The adequacy of existing standards with regard to safety problems concerning interior piping would be examined and new standards may be proposed. Responses to the ANPRM indicate that State and local safety regulations adequately cover gas piping in a building. Proposed change in "Service Line" definition would recognize this situation.

Timetable:

Action	Date	FR Cite
ANPRM	04/03/80	45 FR 22118
ANPRM Comment Period End	08/01/80	
To be withdrawn due to the low incidence of interior failure	03/00/86	

Small Entity: No

Additional Information: Docket No. PS-67.

Analysis: Regulatory Evaluation 02/00/86

Agency Contact: R. Langley, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2392

RIN: 2137-AA21

2007. CONVERSION OF INDIVIDUAL EXEMPTIONS TO REGULATIONS OF GENERAL APPLICABILITY

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 171 to 178

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. NPRM approximately every four months; with FR targeted approximately two months thereafter. 01/00/86 - 12/00/86

Timetable:

Action	Date	FR Cite
Periodic Update	01/19/84	49 FR 2250
NPRM	08/28/84	49 FR 34044
Final Action	03/00/86	

Small Entity: Undetermined

Additional Information: Docket No. HM-139

Agency Contact: D. Raines, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 472-2726

RIN: 2137-AA43

2008. MINOR REGULATORY ADJUSTMENTS TO REGULATIONS OF GENERAL APPLICABILITY

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 171 to 178

Legal Deadline: None

Abstract: Nonsignificant regulations issued routinely and frequently as a part of an established body of technical requirements to keep those requirements operationally current. NPRM approximately every four months, with FR targeted approximately two months thereafter.

Timetable:

Action	Date	FR Cite
NPRM	03/22/84	49 FR 10780
Periodic Update	03/22/84	49 FR 10780
Final Action	03/00/86	

Small Entity: Undetermined

Additional Information: Docket No. HM-166R.

Analysis: Regulatory Evaluation 03/22/84

Agency Contact: D. Raines, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 472-2726

RIN: 2137-AA44

2009. CONFIRMATION OR REVISION OF MAXIMUM OPERATING PRESSURE FOR CERTAIN CHANGES IN CLASS LOCATION

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: Proposal would examine the requirement for confirmation or revision of the maximum allowable operating pressure for certain pre-tested gas pipelines when changed conditions adjacent to the pipeline meet the class location definition of 49 CFR 192.5(d)(2). It would also consider other effects of changes adjacent to pipelines involving 192.5(d)(2) and problems identified with compliance benefits and costs.

Timetable:

Action	Date	FR Cite
ANPRM	09/05/85	50 FR 36116
ANPRM Comment Period End	01/03/86	50 FR 45845
NPRM	02/00/86	
Final Action	07/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 02/00/86

Agency Contact: R. Langley, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2392

RIN: 2137-AA62

2010. CLARIFICATION OF WELDING REQUIREMENTS FOR GAS PIPELINES

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192.223; 49 CFR 192.225; 49 CFR 192.227; 49 CFR 192.237; 49 CFR 192.239

Legal Deadline: None

Abstract: Clarification of requirements for preheating and stress relieving to be proposed; redundancies in welding and welder qualification would be removed (Part 192, Subpart E).

Timetable:

Action	Date	FR Cite
NPRM	12/02/85	50 FR 49429
NPRM Comment Period End	01/31/86	50 FR 49429
Final Action	05/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 12/02/85 (50 FR 49429)

Agency Contact: William A. Gloe, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2862

RIN: 2137-AA69

2011. DAMAGE PREVENTION PROGRAM FOR GAS PIPELINES (DOCKET NO. PS-59)

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192.614

Legal Deadline: None

Abstract: Consider possible wording change on requirement for operator response to notice from excavator in order to facilitate more effective damage prevention programs.

Timetable:

Action	Date	FR Cite
NPRM	12/03/85	50 FR 49575
Final Action	07/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 12/03/85 (50 FR 49575)

Agency Contact: Robert Langley, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2392

RIN: 2137-AA71

2012. MODIFICATIONS TO DOT SPECIFICATION 21PF-1 OVERPACKS

Significance: Nonsignificant

Legal Authority: 49 USC 178; 49 USC 1803; 49 USC 1804; 49 USC 1808

CFR Citation: 49 CFR 178

Legal Deadline: None

Abstract: This rulemaking responds to a Department of Energy request that we improve the water resistance of overpacks used in the transportation of uranium hexafluoride. The natural form of mined uranium has low radioactivity; it must be purified to produce a form suitable for certain commercial uses. The purification process produces a small amount of radioactive uranium hexafluoride and a large amount of waste uranium hexafluoride enriched in the fissionable U-235 isotope that is of low radioactivity. This rulemaking addresses the packaging for the more highly radioactive, enriched uranium hexafluoride. It does not address the low level radioactive waste uranium hexafluoride, which is transported in plain cylinders. In the recent capsize of a French vessel carrying uranium hexafluoride, there was a danger of radioactive contamination because the vessel was carrying a variety of uranium hexafluoride packages; some contained material that had been removed from spent reactor fuel and reprocessed for reuse. In the United States, this material is never reprocessed, furthermore, the enriched form of uranium hexafluoride is always carried (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/16/84	49 FR 32774
NPRM Comment Period End	09/12/84	
Final Action	06/00/86	

Small Entity: No

Additional Information: Docket No. HM-190 ABSTRACT CONT: in the United States in the overpacks that are addressed in this rulemaking. RSPA has no data showing any releases of radioactivity from these overpacks. DOE has been rejecting some deliveries from its contractors because of water in the overpacks; this rulemaking would increase the resistance of the overpacks to water penetration and retention.

Analysis: Regulatory Evaluation 08/16/84 (49 FR 32774)

Agency Contact: E. Mazzullo, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2313

RIN: 2137-AA72

2013. CARGO TANKS USED IN ATMOSPHERIC GAS AND HELIUM, CRYOGENIC LIQUID SERVICE DOCKET HM-115A

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1808

CFR Citation: 49 CFR 173; 49 CFR 178

Legal Deadline: None

Abstract: Proposes to revise certain requirements pertaining to atmospheric gas and helium. Cryogenic liquids and the relief system on MC 338 cargo tanks.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Hattie Mitchell, Department of Transportation, Research and Special Programs Administration, 400 7th Street, SW, Washington, DC 20590, 202 426-2975

RIN: 2137-AA84

2014. LIMITATION ABOARD AIRCRAFT

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1807; 49 USC 1808

CFR Citation: 49 CFR 175

Legal Deadline: None

Abstract: Proposes the removal of the fifty pound limit on the quantity that may be stowed in an inaccessible location.

Timetable:

Action	Date	FR Cite
ANPRM	04/06/84	49 FR 13717
ANPRM Comment Period End	09/01/84	49 FR 13717
NPRM	02/13/85	50 FR 6013
NPRM Comment Period End	05/30/85	50 FR 6013
Next Action Undetermined		

Small Entity: No

Additional Information: Further action to be determined based on NPRM comments.

Analysis: Regulatory Evaluation 02/13/85 (50 FR 6013)

DOT—RSPA — Final Rule Stage

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Agency Contact: E. Altemos, International Regulations Coordinator, Department of Transportation, Research and Special Programs Administration, 400 7th Street, SW, Washington, DC 20590, 202 426-4656

RIN: 2137-AA85

2015. BULK PACKAGINGS AND MISCELLANEOUS RULE CHANGES

Significance: Nonsignificant

Legal Authority: 49 USC 1803; 49 USC 1804; 49 USC 1805; 49 USC 1808

CFR Citation: 49 CFR 171; 49 CFR 172; 49 CFR 173

Legal Deadline: None

Abstract: Prescribes marking requirements for bulk packagings and bulk transport vehicles that are not portable tanks, cargo tanks or tank cars. A definition for bulk packaging is provided. Also included are five minor revisions pertinent to marking, to correct, clarify and enhance compliance with the communication regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/27/84	49 FR 38164
NPRM Comment Period End	12/28/84	49 FR 38164
Final Action	03/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 03/00/86

Agency Contact: Lee Jackson, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2075

RIN: 2137-AA90

DEPARTMENT OF TRANSPORTATION (DOT)
Research and Special Programs Administration (RSPA)

Completed Actions

2016. + STREAMLINE AIRLINE PASSENGER ORIGIN-DESTINATION SURVEY REPORTING

Significance: Regulatory Program

Legal Authority: 49 USC 1324; 49 USC 1371; 49 USC 1377; 49 USC 1382

CFR Citation: 14 CFR 241

Legal Deadline: None

Abstract: This rule would standardize reporting instructions for old (pre-deregulation) and new air carriers, limit interline reporting to large carriers (over $75 million in operating revenues), and seek suggestions on ways to further reduce and simplify the survey systems' reporting requirements. This project was merged with the RIN 2105-AA30. Review of Sample Size and Administration of the Airline Passenger Origin-Destination Survey.

Timetable:

Action	Date	FR Cite
Action Terminated : Merged with RIN 2105-AA30	10/22/85	

Small Entity: No

Agency Contact: Jack Calloway, Chief, Department of Transportation, Research and Special Programs Administration, Data Requirements & Public Reports Division, DAI-10/Room 4125, 400 Seventh Street, SW, Washington, DC 20590, 202 426-7372

RIN: 2137-AB03

2017. RADIATION LEVEL SPECIFICATIONS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806; 49 USC 1808

CFR Citation: 49 CFR 173.441(b)

Legal Deadline: None

Abstract: Proposed rewrite of 49 CFR 173.441(b) for clarity and enforceability.

Timetable:

Action	Date	FR Cite
NPRM	10/07/82	47 FR 44356
Final Action	10/16/85	50 FR 4895
Final Action Effective	10/16/85	

Small Entity: No

Additional Information: Docket No. HM-166P.

Analysis: Regulatory Evaluation 10/16/85 (50 FR 41695)

Agency Contact: R. Rawl/F. Mazzullo, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2311

RIN: 2137-AA27

2018. MONITORING EXTERNAL CORROSION CONTROL

Significance: Nonsignificant

Legal Authority: 49 USC 1672

CFR Citation: 49 CFR 192

Legal Deadline: None

Abstract: The requirement to annually check the performance of cathodic protection on pipeline under paving and other corrosion survey regulations would be made more appropriate.

Timetable:

Action	Date	FR Cite
ANPRM	03/10/83	48 FR 10092
Withdrawn	01/23/86	51 FR 3065
To be withdrawn	02/00/86	

Small Entity: No

Additional Information: Docket No. PS-76

The ANPRM is to be withdrawn because of the use of leak survey as an alternative to annual monitoring of cathodic protection was determined not to be acceptable.

Analysis: Regulatory Evaluation 10/00/85

Agency Contact: P. Cory, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2082

RIN: 2137-AA38

2019. RECORDS FOR HYDROSTATIC TESTING, OPERATION AND MAINTENANCE AND ACCIDENT REPORTING

Significance: Nonsignificant

Legal Authority: 49 USC 2002

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: Records of hydrostatic testing would be permitted to be kept in supporting documents as well as the pressure recording chart. The retention period for records of operations would be reduced from three years to one year. Inspection and maintenance records for components other than pipe would be kept for one year rather than three years. Revised reporting requirements would be proposed.

Timetable:

Action	Date	FR Cite
NPRM	11/13/84	49 FR 44928
Final Action	08/26/85	50 FR 34470

Small Entity: No

Analysis: Regulatory Evaluation 08/26/85 (50 FR 34470)

Agency Contact: F. Robinson, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2392

RIN: 2137-AA58

DOT—RSPA — Completed Actions

2020. NONDESTRUCTIVE TESTING OF GIRTH WELDS

Significance: Nonsignificant

Legal Authority: 49 USC 2002

CFR Citation: 49 CFR 195

Legal Deadline: None

Abstract: The requirement to nondestructively test 100 percent of the girth welds would be reduced to 90 percent at certain locations.

Timetable:

Action	Date	FR Cite
Final Action	09/12/85	50 FR 37191
Final Action Effective	10/15/85	50 FR 37191

Small Entity: No

Analysis: Regulatory Evaluation 09/12/85 (50 FR 37191)

Agency Contact: F. Robinson, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2392

RIN: 2137-AA59

2021. CYLINDER RETESTER IDENTIFICATION NUMBERS

Significance: Nonsignificant

Legal Authority: 49 USC 1803 to 1806

CFR Citation: 49 CFR 173

Legal Deadline: None

Abstract: Proposal to incorporate procedures applicable to cylinder retesters.

Timetable:

Action	Date	FR Cite
NPRM	10/04/84	49 FR 39177
Final Action	11/08/85	50 FR 46064
Corrections	12/05/85	50 FR 49840
Final Action Effective	04/15/86	50 FR 52928

Small Entity: No

Additional Information: Docket No. HM-172B

Analysis: Regulatory Evaluation 11/08/85 (50 FR 46054)

Agency Contact: D. Henry/M. Morris, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 472-8982

RIN: 2137-AA65

2022. INCORPORATION BY REFERENCE, UPDATING STEEL LINE PIPE SPECIFICATIONS (DOCKET NO. P-26)

Significance: Nonsignificant

Legal Authority: 49 USC 1672; 49 USC 2002

CFR Citation: 49 CFR 192.55; 49 CFR 192.113; 49 CFR 192, Appendix A; 49 CFR 192, Appendix B; 49 CFR 195.3; 49 CFR 195.106

Legal Deadline: None

Abstract: Final rule will replace references to three industry steel line pipe specifications with the latest edition, a consolidation of the three specifications into one, the 1984 edition of the American Petroleum Institute (API) Specifications 5L. Based on petitions by the American Society of Mechanical Engineers, the Bethlehem Steel Corporation, and representation by the API Tubular Goods Standardization Committee, existing references to API 5L, 5LX and 5LS are out-of-date. Minimal costs and benefits will result because there will be no substantive changes to existing standards.

Timetable:

Action	Date	FR Cite
Final Rule Incorporation by Reference, Updating Steel Line Pipe Specif	09/20/85	
Final Action	11/27/85	50 FR 48809

Small Entity: No

Analysis: Regulatory Evaluation 11/27/85 (50 FR 48809)

Agency Contact: William A. Gloe, Department of Transportation, Research and Special Programs Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-2082

RIN: 2137-AA94

[FR Doc. 86-8850 Filed 04-18-86; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF TRANSPORTATION (DOT)
Maritime Administration (MarAd)

Prerule Stage

2023. ● REVIEW: MARAD PROGRAM REGULATIONS: REVIEW OF ALL MARAD PROGRAM REGULATIONS

Significance: Nonsignificant

Legal Authority: 46 USC 1114(b)

CFR Citation: 46 CFR Chapter II

Legal Deadline: None

Abstract: MARAD is reviewing its regulations in their entirety to identify regulations that are obsolete, or which need updating. ●

Timetable:

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Prerule Stage

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Affected Sectors: 373 Ship and Boat Building and Repairing; 441 Deep Sea Foreign Transportation

Agency Contact: Harris L. Kane, Attorney-Adviser, Office of Chief Counsel, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Room 7221, Washington, DC 20590, 202 755-1002

RIN: 2133-AA56

DEPARTMENT OF TRANSPORTATION (DOT)

Proposed Rule Stage

Maritime Administration (MarAd)

2024. + CARGO PREFERENCE - U.S. FLAG VESSELS - DETERMINATION OF FAIR AND REASONABLE RATES FOR BULK VESSELS

Significance: Regulatory Program

Legal Authority: 46 USC 1241(b); 46 USC 1114(b)

CFR Citation: 46 CFR 382, (New)

Legal Deadline: None

Abstract: This regulation would require provision of rate and cost data to MARAD so it can determine fair and reasonable rates for carriage of preference cargo in bulk vessels at the request of concerned Federal agencies. MARAD would calculate guideline fair and reasonable rates using a methodology which would average operating costs to determine allowable costs for each vessel. It would establish requirements for the submission of data on which the methodology would be based. This rulemaking is significant because it concerns a matter on which there is substantial public interest. It would clarify the meaning of a statutory term.

Timetable:

Action	Date	FR Cite
NPRM	08/06/85	50 FR 31735
NPRM Comment Period End	10/07/85	
SUPP NPRM	05/00/86	

Small Entity: No

Additional Information: This rulemaking has split from an earlier rulemaking: Cargo Preference - U.S. Flag Vessels - Determination of Fair and Reasonable Rates for Liners (RIN = 2133-AA02). Cargo preference regulation was last revised in 1977 (46 CFR 381).

Affected Sectors: 441 Deep Sea Foreign Transportation

Analysis: Draft Evaluation 08/06/85

Agency Contact: Arthur B. Sforza, Director, Office of Ship Operating Costs, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 382-6836

RIN: 2133-AA43

2025. + DETERMINATIONS OF NON-AVAILABILITY OF U.S.-FLAG VESSELS

Significance: Agency Priority

Legal Authority: 46 USC 1114(b); 46 USC 1122(d); 46 USC 1241(b); PL 97-31

CFR Citation: 46 CFR 381.8

Legal Deadline: None

Abstract: This regulation is intended to provide Government agencies and departments guidance in complying with the provisions of the Cargo Preference Act of 1954, 68 Stat. 832 (46 USC 1241(b)), commonly known as Pub. L. 664. This rulemaking is significant because it involves important Departmental policy.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Affected Sectors: 441 Deep Sea Foreign Transportation

Agency Contact: S. Thomas Romeo, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-1765

RIN: 2133-AA36

2026. + APPROVAL OF MARINE HULL UNDERWRITERS

Significance: Agency Priority

Legal Authority: 46 USC 1114(b); 46 USC 1279(b)

CFR Citation: 46 CFR 299, (New)

Legal Deadline: None

Abstract: This advance notice of proposed rulemaking would establish MARAD's criteria for accepting an organization as an underwriter on any policy of insurance covering vessels under Title XI and Title VI programs or other MARAD administered aid programs.

Timetable:

Action	Date	FR Cite
ANPRM	10/11/85	50 FR 41531
ANPRM Comment Period End	11/12/85	
Next Action Undetermined		

Small Entity: No

DOT—MarAd

Proposed Rule Stage

Agency Contact: William B. Ebersold, Maritime Aids Specialist, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Room 6128, Washington, DC 20590, 202 382-6369

RIN: 2133-AA50

2027. ● + CARGO PREFERENCE - IMPLEMENTATION OF P.L. 99-198

Significance: Agency Priority

Legal Authority: 46 USC 1241

CFR Citation: 46 CFR 381

Legal Deadline: None

Abstract: These amendments to the existing cargo preference regulations will implement S1142 of P.L. 98-198, the Food Security Act of 1985, that clarifies the applicability of cargo preference requirements to the shipment of U.S. agricultural products. It provides for an increase in the required percentage of carriage on U.S. flag vessels of agricultural commodities not specifically exempted from cargo preference requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Affected Sectors: 441 Deep Sea Foreign Transportation

Government Levels Affected: Federal

Analysis: Draft Evaluation 04/00/86

Agency Contact: Lewis C. Paine, Director, Office of Market Development, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-5750

RIN: 2133-AA55

2028. ● + REGULATIONS AND MINIMUM STANDARDS FOR STATE, TERRITORIAL OR REGIONAL MARITIME ACADEMIES AND COLLEGES

Significance: Agency Priority

Legal Authority: 46 USC 1295

CFR Citation: 46 CFR 310

Legal Deadline: None

Abstract: The Maritime Administration provides support to six state maritime schools for maritime education. The federal support is outlined in agreements that have been executed between MARAD and the schools. The existing regulations will be revised to reflect changes in these agreements due to decreased federal support.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: No

Affected Sectors: 441 Deep Sea Foreign Transportation; 442 Deep Sea Domestic Transportation; 443 Great Lakes-St. Lawrence Seaway Transportation; 822 Colleges, Universities, Professional Schools, and Junior Colleges

Government Levels Affected: State, Federal

Analysis: Draft Regulatory Evaluation 03/00/86

Agency Contact: Arthur W. Friedberg, Director, Office of Maritime Labor & Training, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-5755

RIN: 2133-AA57

2029. ● REVIEW: WAR RISK INSURANCE

Significance: Nonsignificant

Legal Authority: 46 USC 1283

CFR Citation: 46 CFR 308

Legal Deadline: None

Abstract: MARAD is considering whether to expand eligibility for War Risk Insurance to foreign flag vessels other than those documented under the laws of Panama, Liberia or Honduras, that are effectively U.S. controlled vessels.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Affected Sectors: 44 WATER TRANSPORTATION; 633 Fire, Marine, and Casualty Insurance

Agency Contact: Jack Malkin, Director, Office of Marine Insurance, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Room 8204, Washington, DC 20590, 202 382-6368

RIN: 2133-AA54

2030. STATISTICAL DATA FOR USE IN OPERATING-DIFFERENTIAL SUBSIDY (ODS) APPLICATION HEARINGS

Significance: Nonsignificant

Legal Authority: 46 USC 1175

CFR Citation: 46 CFR 207

Legal Deadline: None

Abstract: The amendment proposes procedures that would assist in preparation of standard forecasts of liner cargo (if a Final Rule covering ODS application hearing procedures is issued) in which forecast procedures would be included.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: Further action dependent on disposition of RIN 2133-AA20.

Affected Sectors: 441 Deep Sea Foreign Transportation

Agency Contact: Edmond J. Fitzgerald, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 382-6374

RIN: 2133-AA16

2031. RULES OF PRACTICE AND PROCEDURES; FOR HEARING IN OPERATING-DIFFERENTIAL SUBSIDY (ODS) APPLICATION; APPLICATIONS FOR SUBSIDIES AND OTHER DIRECT FINANCIAL AID

Significance: Nonsignificant

Legal Authority: 46 USC 1114(b)

CFR Citation: 46 CFR 201; 46 CFR 206; 46 CFR 251

Legal Deadline: None

Abstract: Amendments to existing agency rules of practice and procedure and regulations governing applications for financial assistance, as well as new Part 208 that would establish a standard discovery order and standard techniques for forecasting the adequacy of U.S. flag liner service in hearings required under the Merchant Marine Act, 1936.

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DOT—MarAd

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/25/79	44 FR 37005

Next Action Undetermined

Small Entity: No

Affected Sectors: 441 Deep Sea Foreign Transportation; 449 Great Lakes-St. Lawrence Seaway Transportation

Agency Contact: Robert J. Patten, Jr., Deputy Chief Counsel, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-5711

RIN: 2133-AA20

2082. MERCHANT MARINE TRAINING; REGULATIONS AND MINIMUM STANDARDS FOR STATE, TERRITORIAL OR REGIONAL MARITIME ACADEMIES AND COLLEGES

Significance: Nonsignificant

Legal Authority: 46 USC 1114(b); PL 97-31

CFR Citation: 46 CFR 310

Legal Deadline: None

Abstract: The Maritime Administration is considering amending its merchant marine training regulations to rescind a 10 percent reduction in the number of student incentive payments offered to incoming students at the state maritime academies/colleges. The reduction which is being rescinded was published in the Federal Register on April 4, 1984, as one of a number of amendments to 46 CFR Part 310 (49 FR 13384). This action was considered necessary because the 1985 and 1986 funding levels for Maritime Training, contained in appropriation legislation, exceeded the funding level that had been reflected in the April 1984 MARAD rulemaking action.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: Rulemaking action may be unnecessary because of 1987 maritime training appropriation that is consistent with existing regulation.

Affected Sectors: 822 Colleges, Universities, Professional Schools, and Junior Colleges; 44 WATER TRANSPORTATION

Agency Contact: Edwin M. Hackett, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-5759

RIN: 2133-AA42

DEPARTMENT OF TRANSPORTATION (DOT)

Maritime Administration (MarAd)

Final Rule Stage

2033. + CARGO PREFERENCE-U.S. FLAG VESSELS-DETERMINATION OF FAIR AND REASONABLE RATES FOR LINER VESSELS

Significance: Regulatory Program

Legal Authority: 46 USC 1241(b); 46 USC 1114(b)

CFR Citation: 46 CFR 382, (New)

Legal Deadline: None

Abstract: Regulation would require provision of rate and cost data to MARAD so it can determine fair and reasonable rates for carriage of preference cargo at the request of concerned Federal agencies. This rulemaking is significant because it concerns a matter on which there is substantial public interest. It is needed to clarify the meaning of a statutory term.

Timetable:

Action	Date	FR Cite
NPRM	02/10/86	51 FR 5012
Final Action	10/00/86	

Small Entity: No

Analysis: Draft Regulatory Evaluation 02/00/86

Agency Contact: Arthur B. Sforza, Director, Office of Ship Operating Costs, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 382-6936

RIN: 2133-AA02

2034. + ELIMINATION OF RESTRICTIONS ON NON-SUBSIDIZED VOYAGES BY SUBSIDIZED LINER COMPANIES

Significance: Regulatory Program

Legal Authority: 46 USC 1173; 46 USC 1114(b)

CFR Citation: 46 CFR 281

Legal Deadline: None

Abstract: The Maritime Administration (MARAD) proposes to amend its regulations with respect to procedures now required under liner operating-differential subsidy agreements (ODSA) for Approval of "Non-Subsidized Voyages." This proposed rulemaking would revoke existing requirements that the subsidized operator obtain MARAD approval before it or a related company undertakes a non-subsidized voyage.

Timetable:

Action	Date	FR Cite
NPRM	10/07/85	50 FR 40876
NPRM Comment Period End	12/05/85	50 FR 48616
Final Action	03/00/86	

Small Entity: No

Analysis: Regulatory Evaluation 03/00/86

Agency Contact: Edmond J. Fitzgerald, Director, Office of Trade Studies - MARAD, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 382-0374

RIN: 2133-AA18

2035. + NOTICE OF INTENT TO REDESIGNATE ESSENTIAL TRADE ROUTES

Significance: Regulatory Program

Legal Authority: 46 USC 1121

CFR Citation: Not applicable

Legal Deadline: None

Abstract: The Maritime Administration intends to redesignate U.S., foreign trade routes determined to be essential for the promotion, development, expansion and maintenance of the foreign commerce of the United States, under authority in the Merchant Marine Act, 1936. There have been no substantial changes in essential trade route designations since the Act's enactment, other than inclusion of the U.S. Great Lakes. This action recognizes that in recent years major changes in shipping technology and U.S. trade patterns have emerged. It would consolidate the present 29 essential trade routes and essential trade areas into fewer essential trade areas.

Timetable:

Action	Date	FR Cite
Notice of Intent to Redesignate Essential Trade Routes	03/06/85	50 FR 9532
Public Comment Period Begins	03/06/85	
Public Comment Period Ends	05/15/85	50 FR 16036
Publication of Final Redesignation of Essential Trade Routes	04/00/86	

Small Entity: No

Additional Information: It reflects the current pattern of vessel operations. It contemplates amendments to the Operating-Differential Subsidy Agreement for a subsidized operator upon request made to the Maritime Subsidy Board. A detailed discussion of the factors supporting this action is contained in a study of the Agency, Reevaluation of U.S. Liner Trade Routes. This study is available upon request.

Analysis: Economic analysis 04/00/86

Agency Contact: Edmond J. Fitzgerald, Director, Office of Trade Studies - MARAD, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Room 8117, Washington, DC 20590, 202 382-0374

RIN: 2133-AA44

2036. + FINAL GUIDELINES FOR CONSIDERING EARLY ODS CONTRACT TERMINATIONS

Significance: Regulatory Program

Legal Authority: 46 USC 1241(b)

CFR Citation: 46 CFR 1171 to 1185

Legal Deadline: None

Abstract: MARAD is considering whether to propose regulations that state the factors it will consider in making determinations on requests from operators of vessels under ODS agreements for early termination of the ODS agreements or a cash settlement for early termination, commonly called a "buy out".

Timetable:

Action	Date	FR Cite
Rulemaking or other action	04/00/86	

Small Entity: No

Additional Information: An alternative to rulemaking is to publish no guidelines and consider proposals on an ad hoc basis.

Affected Sectors: 441 Deep Sea Foreign Transportation

Agency Contact: James E. Caponiti, Chief, Div. of Subsidy Analysis, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 382-6036

RIN: 2133-AA47

2037. + ESTABLISHMENT OF MANDATORY POSITION REPORTING SYSTEM FOR VESSELS

Significance: Agency Priority

Legal Authority: 46 USC 1122a; 46 USC 1293

CFR Citation: 46 CFR 307, (New)

Legal Deadline: None

Abstract: The Maritime Administrator and the Commandant of the Coast Guard have agreed to merge MARAD's U.S. Merchant Vessel Locator Filing System (USMER) with Coast Guard's Automated Mutual-Assistance Vessel Rescue System (AMVER). Under the new reporting system, USMER reports will be suspended and AMVER reports will be mandatory for all vessels that were previously subject to USMER reporting requirements. This rulemaking is significant because it may involve important Departmental policy.

Timetable:

Action	Date	FR Cite
Final Action	05/00/86	

Small Entity: No

Affected Sectors: 441 Deep Sea Foreign Transportation

Agency Contact: Walter Lockland, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-5743

RIN: 2133-AA31

2038. + GENERAL PROCEDURES FOR DETERMINING OPERATING-DIFFERENTIAL SUBSIDY (ODS) FOR LINER VESSELS

Significance: Agency Priority

Legal Authority: 46 USC 1173; 46 USC 1114(b)

CFR Citation: 46 CFR 282, (New)

Legal Deadline: None

Abstract: The procedure that MARAD now follows in determining ODS for liner vessels is set forth in a manual, rather than in a regulation. Under the existing procedure, final subsidy payments are delayed on the average of three years. The proposed rule prescribes a system of fixed and final ODS rates that would permit administration of the ODS program on a more current basis. A change in procedures for determining foreign competition more accurately could result in annual ODS savings of up to $4 million.

Timetable:

Action	Date	FR Cite
NPRM	02/06/86	51 FR 4627
Final Action	10/00/86	

Small Entity: No

Affected Sectors: 441 Deep Sea Foreign Transportation

Government Levels Affected: Federal

Analysis: Draft Evaluation 02/00/86

Agency Contact: Arthur B. Sforza, Director, Office of Ship Operating Costs, Department of Transportation, Maritime Administration, Office of Ship Operating Costs-MARAD, 400 Seventh Street, SW, Room 8114, Washington, DC 20590, 202 382-6374

RIN: 2133-AA46

2039. + CARGO PREFERENCE - U.S. FLAG VESSELS; EVALUATION OF BIDS FOR SUBSIDIZED LINER VESSELS

Significance: Agency Priority

Legal Authority: 46 USC 1241

CFR Citation: 46 CFR 381.8

Legal Deadline: None

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DOT—MarAd

Final Rule Stage

Abstract: This regulation would establish procedures governing the evaluation by U.S. shipper agencies of bids from subsidized U.S.-flag liner vessel operators for the carriage of open-rated civilian and military preference cargoes.

Timetable:

Action	Date	FR Cite
NPRM	02/10/86	51 FR 5015
Final Action	11/00/86	

Small Entity: No

Additional Information: On 11/11/84, MARAD issued a final rule setting forth procedures governing the evaluation by shipper agencies of bids from U.S.-flag bulk vessel operators for the carriage of dry bulk preference cargoes.

Government Levels Affected: Federal

Agency Contact: Arthur B. Sforza, Director, Office of Ship Operating Costs, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 382-6836

RIN: 2133-AA52

2040. + OPERATING-DIFFERENTIAL SUBSIDY (ODS) FOR BULK CARGO VESSELS ENGAGED IN WORLDWIDE SERVICES; GENERAL PROCEDURES FOR DETERMINING ODS

Significance: Agency Priority

Legal Authority: 46 USC 1171 to 1176; 46 USC 1178 to 1181

CFR Citation: 46 CFR 252

Legal Deadline: None

Abstract: Under the current system for determining subsidy for bulk vessels as set forth in 46 CFR 252, final payments are delayed an average of three years. The current system precludes the operators from timely receipt of monies due them, thereby hindering the companies' cash management capability and the government's ability to forecast accurate budget obligations. The amended rule would prescribe new procedures for determining subsidy. The new system would provide payment of ODS as a fixed and final daily amount so the operators and the government can firmly establish the amounts of subsidy receivable on a current basis.

Timetable:

Action	Date	FR Cite
NPRM	12/23/85	50 FR 52339
NPRM Comment Period End	02/21/86	
Final Action	05/00/86	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Analysis: Draft Evaluation 12/23/85; Final Evaluation 05/00/86

Agency Contact: Arthur B. Sforza, Director, Office of Ship Operating Costs, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 382-6836

RIN: 2133-AA53

2041. SUSPENSION OF ODS AGREEMENTS FOR ALL OR PORTION OF THE VESSELS INCLUDED THEREIN

Significance: Nonsignificant

Legal Authority: 46 USC 1184; 46 USC 1114(b); PL 97-35

CFR Citation: 46 CFR 295, (New)

Legal Deadline: None

Abstract: Disposition of MARAD Docket S-764, concerning the carriage of preference cargoes by subsidized operators, will affect rulemaking action.

Timetable:

Action	Date	FR Cite
NPRM	08/16/83	48 FR 37449

Next Action Undetermined

Small Entity: No

Affected Sectors: 441 Deep Sea Foreign Transportation

Agency Contact: Raymond Barberesi, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 382-6362

RIN: 2133-AA17

2042. MAKING EXCESS OR SURPLUS FEDERAL PROPERTY AVAILABLE TO THE UNITED STATES MERCHANT MARINE ACADEMY (USMMA), STATE MARITIME ACADEMIES AND APPROVED NONPROFIT MARITIME TRAINING INSTITUTIONS

Significance: Nonsignificant

Legal Authority: 46 USC 1295g

CFR Citation: 46 CFR 310

Legal Deadline: None

Abstract: MARAD proposes to implement a provision in the Maritime Education and Training Act of 1980 to make excess or surplus vessels, shipboard equipment and other marine equipment available to the USMMA, State Maritime Academies and other nonprofit training institutions approved jointly by MARAD and the Coast Guard. Action has been suspended.

Timetable:

Action	Date	FR Cite
NPRM	12/01/83	48 FR 54254
NPRM Comment Period End	01/16/84	48 FR 54254

Next Action Undetermined

Small Entity: No

Additional Information: Action suspended pending resolution of authority issue.

Affected Sectors: 442 Deep Sea Domestic Transportation; 444 Transportation on Rivers and Canals; 445 Local Water Transportation; 829 Schools and Educational Services, Not Elsewhere Classified

Analysis: Draft Regulatory Evaluation 12/01/83 (48 FR 54254); Final Regulatory Evaluation 04/00/85

Agency Contact: Arthur Friedberg, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington,DC 20590, 202 426-5755

RIN: 2133-AA34

2043. BLANKET APPROVAL FOR: BAREBOAT CHARTERS OF RECREATIONAL VESSELS TO NONCITIZENS; SALES TO NONCITIZENS AND TRANSFERS TO FOREIGN REGISTRY OR FLAG OF VESSELS UNDER 200 GROSS TONS

Significance: Nonsignificant

Legal Authority: 46 USC 808; 46 USC 839; 46 USC 841a

CFR Citation: 46 CFR 221

Legal Deadline: None

Abstract: These amendments would expand the scope of a general provision for the blanket approval of certain vessel charters and sales to non-citizens.

DOT—MarAd

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/30/85	50 FR 39737
Final Action	03/00/86	
NPRM Comment Period End	11/29/86	50 FR 39737

Small Entity: Yes

Affected Sectors: 442 Deep Sea Domestic Transportation; 443 Great Lakes-St. Lawrence Seaway Transportation; 444 Transportation on Rivers and Canals; 445 Local Water Transportation

Analysis: Regulatory Evaluation 04/00/85

Agency Contact: Jessie Fernanders, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-5821

RIN: 2133-AA40

2044. MARINE PROTECTION AND INDEMNITY INSURANCE INSTRUCTIONS UNDER GENERAL AGENCY AND BERTH AGENCY AGREEMENTS

Significance: Nonsignificant

Legal Authority: 46 USC 1114(b)

CFR Citation: 46 CFR 326

Legal Deadline: None

Abstract: These amendments conform these regulations to reflect existing Maritime Administration (MARAD) practices, office names and addresses concerning the handling of marine protection insurance (P&I) claims by General Agents and Berth Agents under General Agency and Berth Agency Agreements with the United States, acting by and through the Director, National Shipping Authority in MARAD, with respect to vessels under MARAD control in the National Defense Reserve Fleet.

Timetable:

Action	Date	FR Cite
Final Action	05/00/86	

Small Entity: No

Affected Sectors: 441 Deep Sea Foreign Transportation; 442 Deep Sea Domestic Transportation; 446 Services Incidental to Water Transportation

Agency Contact: Jack Malkin, Director, Office of Marine Insurance, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Room 8204, Washington, DC 20590, 202 382-0369

RIN: 2133-AA51

DEPARTMENT OF TRANSPORTATION (DOT)

Maritime Administration (MarAd)

Completed Actions

2045. + VESSEL OBLIGATION GUARANTEES; VESSEL REQUIREMENTS, UNITED STATES CONSTRUCTION

Significance: Regulatory Program

Legal Authority: 46 USC 1114(b)

CFR Citation: 46 CFR 298.11

Legal Deadline: None

Abstract: MARAD is considering amending 46 CFR 298.11 to relax the requirement that where practicable only articles, materials, and supplies of U.S. origin be used in vessels receiving obligation guarantees.

Timetable:

Action	Date	FR Cite
NPRM	03/21/85	
NPRM Comment Period End	05/20/85	50 FR 11397
Final Action	03/06/86	51 FR 7790
Final Action Effective	04/05/86	51 FR 7790

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: John M. Hotaling,(202) 426-5727 (See Agency Contact heading for address).

Affected Sectors: 441 Deep Sea Foreign Transportation; 442 Deep Sea Domestic Transportation; 443 Great Lakes-St. Lawrence Seaway Transportation; 444 Transportation on Rivers and Canals

Analysis: Regulatory Impact Analysis

Agency Contact: Norman Hammer, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Washington, DC 20590, 202 426-5733

RIN: 2133-AA29

2046. WAR RISK INSURANCE

Significance: Nonsignificant

Legal Authority: 46 USC 1281 to 1293; 46 USC 1114(b)

CFR Citation: 46 CFR 308

Legal Deadline: None

Abstract: MARAD will implement recently enacted legislation reinstating its authority to provide war risk insurance through the issuance of interim binders of insurance for U.S. - flag vessels, or vessels owned or controlled by U.S. citizens, and certain other specified foreign-flag vessels, when such insurance is not otherwise available from commercial sources. The rule will establish the terms and conditions for reinstating or issuing interim binders.

Timetable:

Action	Date	FR Cite
Final Action	12/09/85	50 FR 50165

Small Entity: No

Affected Sectors: 441 Deep Sea Foreign Transportation; 442 Deep Sea Domestic Transportation; 443 Great Lakes-St. Lawrence Seaway Transportation

Agency Contact: William B. Ebersold, Director, Office of Marine Insurance, Department of Transportation, Maritime Administration, 400 Seventh Street, SW, Room 8204, Washington, DC 20590, 202 382-0369

RIN: 2133-AA49

[FR Doc. 86-8530 Filed 04-18-86; 8:45 am]
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April 21, 1986

Part XV

Department of the Treasury

Semiannual Regulatory Agenda

VOL 51 ISS 76 AP 21 1986 UMI

TREAS

DEPARTMENT OF THE TREASURY (TREAS)
Office of the Secretary (OS)

DEPARTMENT OF THE TREASURY

Office of the Secretary

31 CFR Subtitle A, Chs. I and II

Semiannual Agenda

AGENCY: Office of the Secretary, Treasury.

ACTION: Semiannual agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12291 ("Federal Regulation," February 17, 1981), which require the publication of a semiannual agenda of regulations. The semiannual agenda of the Department of the Treasury conforms to the Unified Agenda Format developed by the Regulatory Information Service Center (RISC).

FOR FURTHER INFORMATION CONTACT: For additional information about a specific Office of the Secretary regulation, contact the "agency contact" listed in the specific regulatory action. For general information concerning the Agenda, contact Richard S. Carro, Director, Office of Legislation and Regulations, Office of the General Counsel, Room 1422, 1500 Pennsylvania Avenue, N.W., Washington, D.C. 20220, (202) 566-2558, not a toll-free call.

SUPPLEMENTARY INFORMATION: The semiannual agenda of the Office of the Secretary includes the Office of the General Counsel and the Office of Revenue Sharing.

DATED: February 12, 1986.
By direction of the Secretary.

Sherrie M. Cooksey,
Executive Secretary.

Office of the Secretary—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2047	31 CFR 1.1 Disclosure of Records	1505-AA01

Office of the Secretary—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2048	31 CFR 128 Reporting of International Capital and Foreign Currency Transactions and Holdings, Transfers of Credit, and Export of Coin and Currency	1505-AA13

Office of the Secretary—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2049	31 CFR 10 Continued Professional Education for Individuals Enrolled to Practice Before the Internal Revenue Service	1505-AA07
2050	31 CFR 10 Discipline of Appraisers Against Whom Aiding and Abetting Penalties Under the Internal Revenue Code Have Been Assessed	1505-AA14

DEPARTMENT OF THE TREASURY (TREAS) — Proposed Rule Stage
Office of the Secretary (OS)

2047. DISCLOSURE OF RECORDS

Legal Authority: 5 USC 552; 5 USC 552a; 31 USC 321

CFR Citation: 31 CFR 1.1

Legal Deadline: None

Abstract: This regulation amends the Department of Treasury's regulations implementing the Freedom of Information and Privacy Acts. The proposed amendments are intended to facilitate and simplify public requests for information, and to assure accurate and consistent application of policies and procedures throughout the Department. The regulation revises fees charged by the Department for duplication, search and other services to reflect increased costs to the Department.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	09/00/86	

Small Entity: No

Agency Contact: Phyllis De Piazza, Departmental Disclosure Officer, Department of the Treasury, Office of the Secretary, 202 566-2789

RIN: 1505-AA01

TREAS—OS — Proposed Rule Stage

DEPARTMENT OF THE TREASURY (TREAS) — Final Rule Stage
Office of the Secretary (OS)

2048. REPORTING OF INTERNATIONAL CAPITAL AND FOREIGN CURRENCY TRANSACTIONS AND HOLDINGS, TRANSFERS OF CREDIT, AND EXPORT OF COIN AND CURRENCY

Legal Authority: 31 USC 5315

CFR Citation: 31 CFR 128

Legal Deadline: None

Abstract: Part 128 of Title 31, CFR, sets forth the requirements and describes the forms used for reporting international capital and foreign currency transactions and holdings. Large amounts of offshore loans to U.S. nonbank residents are not being properly reported on the TIC C-series forms prescribed in Subpart B of Part 128. Much of this underreporting results from confusion among nonbank borrowers over whether the source of their loans is domestic or foreign. This confusion is exacerbated by the failure of U.S. intermediaries to comply with existing obligations, specified in the Form BL-2 instructions, either to report certain foreign transactions on behalf of their U.S. customers or to inform those customers of foreign ownership of claims held against them. This final rule describes and authorizes the issuance of TIC Form BL-3, designed for use by a bank or other financial intermediary in the U.S. to notify a nonbanking customer that a foreign loan has been arranged and that the customer has an obligation to report on TIC Form CQ-1.

Timetable:

Action	Date	FR Cite
NPRM	05/10/85	50 FR 19702
NPRM Comment Period End	07/15/85	50 FR 19702
Final Action	03/00/86	
Final Action Effective	03/00/86	

Small Entity: No

Agency Contact: Gary A. Lee, Department of the Treasury, Office of the Secretary, Room 5453, 1500 Pennsylvania Avenue, NW, Washington, DC 20220, 202 566-3114

RIN: 1505-AA13

DEPARTMENT OF THE TREASURY (TREAS) — Completed Actions
Office of the Secretary (OS)

2049. CONTINUED PROFESSIONAL EDUCATION FOR INDIVIDUALS ENROLLED TO PRACTICE BEFORE THE INTERNAL REVENUE SERVICE

Legal Authority: 31 USC 330

CFR Citation: 31 CFR 10

Legal Deadline: None

Abstract: This notice reflects advance notice of an intention to modify the regulations governing practice before the Internal Revenue Service. The modification would require continuing professional education as a condition for the maintenance of good standing for enrollment to practice before the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
ANPRM	07/03/84	49 FR 27326
ANPRM Comment Period End	09/04/84	49 FR 27326
NPRM	04/23/85	50 FR 15937
NPRM Comment Period End	06/24/85	50 FR 15937
Final Action	01/22/86	51 FR 02675
Final Action Effective	01/22/86	51 FR 02675

Small Entity: No

Agency Contact: Mr. Leslie S. Shapiro, Director of Practice, Department of the Treasury, Office of the Secretary, Internal Revenue Service, Washington, DC 20224, 202 535-0787

RIN: 1505-AA07

2050. DISCIPLINE OF APPRAISERS AGAINST WHOM AIDING AND ABETTING PENALTIES UNDER THE INTERNAL REVENUE CODE HAVE BEEN ASSESSED

Legal Authority: 5 USC 301; 31 USC 321

CFR Citation: 31 CFR 10

Legal Deadline: None

Abstract: This notice solicits public comment on proposed regulations implementing section 156 of the Deficit Reduction Act of 1984 (98 Stat. 695). Section 156 provides for the disqualification of appraisals and appraiser testimony in connection with Treasury Department or Internal Revenue Service proceedings with respect to any appraiser who has been assessed an aiding and abetting penalty under 26 USC 7701(a) after July 18, 1984.

Timetable:

Action	Date	FR Cite
NPRM	02/20/85	50 FR 07075
NPRM Comment Period End	04/21/85	50 FR 07075
Final Action	10/17/85	50 FR 42014
Final Action Effective	10/17/85	50 FR 42015

Small Entity: No

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TREAS—CS

Completed Actions

Agency Contact: Mr. Leslie S. Shapiro, Director of Practice, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, 202 535-8787

RIN: 1506-AA14

[FR Doc. 86-8778 Filed 04-18-86; 8:45 am]

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Office of Revenue Sharing—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2051	31 CFR 51, Subpart G Revision of Subpart G	1507-AA08
2052	31 CFR 51 Wind Down of Revenue Sharing Program	1507-AA09

DEPARTMENT OF THE TREASURY (TREAS)

Office of Revenue Sharing (ORS)

Proposed Rule Stage

2051. REVISION OF SUBPART G

Legal Authority: 31 USC 6701 to 6724 The Revenue Sharing Act

CFR Citation: 31 CFR 51, Subpart G

Legal Deadline: None

Abstract: Subpart G contains the administrative hearing procedures to be used when a violation of the Revenue Sharing Act has occurred. These regulations have not been substantially reviewed since 1979 and need to be clarified and updated. No cost to the public or the Federal government is expected to be incurred as a result of this regulation.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Jacqueline L. Jackson, Attorney Advisor. (See contact heading for address and phone.)

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1985

Government Levels Affected: Local, Federal

Agency Contact: Richard S. Isen, Chief Counsel for Revenue Sharing, Department of the Treasury, Office of Revenue Sharing, 2401 E Street, NW, Washington, DC 20226, 202 634-5182

RIN: 1507-AA08

2052. WIND DOWN OF REVENUE SHARING PROGRAM

Legal Authority: 31 USC 6701 to 6724 The Revenue Sharing Act

CFR Citation: 31 CFR 51

Legal Deadline: None

Abstract: The Revenue Sharing Program is expected to expire at the end of Fiscal Year 1986. There is legislation pending in Congress to facilitate the orderly wind down of the Program. The legislation may result in corresponding changes to the regulations. No alternative to wind down is available. It is expected that termination of the program will effect substantial cost savings.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: ADDITIONAL AGENCY CONTACT: Jacqueline L. Jackson, Attorney Advisor. (See contact heading for address and phone.)

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1985

Government Levels Affected: Local, Federal

Agency Contact: Richard S. Isen, Chief Counsel for Revenue Sharing, Department of the Treasury, Office of Revenue Sharing, 2401 E Street, NW, Washington, DC 20226, 202 634-5182

RIN: 1507-AA09

[FR Doc. 86-8779 Filed 04-18-86; 8:45 am]

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DEPARTMENT OF THE TREASURY (TREAS)

Financial Management Service (FMS)

Financial Management Service, Fiscal Service

31 CFR Ch. II

Semiannual Agenda

AGENCY: Financial Management Service, Treasury.

ACTION: Semiannual agenda.

SUMMARY: This notice is given pursuant to the requirements of the "Regulatory Flexibility Act" (Pub. L. 96-354, September 19, 1980) and Executive Order 12291 ("Federal Regulation," February 17, 1981), which require publication of a semiannual agenda of regulations under development or review.

FOR FURTHER INFORMATION CONTACT: For additional information about a specific regulation contained in this agenda, contact the "agency contact" listed in the specific regulatory action.

SUPPLEMENTARY INFORMATION: The proposed regulations are not considered to be major regulations within the meaning of E.O. 12291 and will not have a significant impact on small entities within the meaning of the Regulatory Flexibility Act.

DATED: January 31, 1986.

W. E. Douglas,

Commissioner.

Financial Management Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2053	31 CFR 205 Revision of 31 CFR Part 205 (TDC No. 1075), Payments Between the Federal Government and Recipient Organizations	1510-AA00

Financial Management Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2054	31 CFR 223.1 Regulations Governing Surety Companies Doing Business with the United States	1510-AA05
2055	31 CFR 206 Management of Federal Agency Receipts and Operation of the Cash Management Improvements Fund	1510-AA06

DEPARTMENT OF THE TREASURY (TREAS)

Financial Management Service (FMS)

Proposed Rule Stage

2053. REVISION OF 31 CFR PART 205 (TDC NO. 1075), PAYMENTS BETWEEN THE FEDERAL GOVERNMENT AND RECIPIENT ORGANIZATIONS

Significance: Agency Priority

Legal Authority: 5 USC 301; 31 USC 6503; 42 USC 4213

CFR Citation: 31 CFR 205

Legal Deadline: None

Abstract: Revision of 31 CFR 205 will implement a new funding technique for Federal programs. The regulation would require a State to pay interest on Federal funds from the time they are deposited to the State's account until the time those funds are paid out to redeem checks or warrants or make payments by other means. This new "Checks Issued-Interest Remitted" technique was developed in response to statutes in some States that require that funds reside in a bank account prior to the issuance of checks. This revision also provides for the remittance of interest by the Federal Government if a State disburses its own funds for program purposes in accordance with Federal law, regulation or Federal/State agreement.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Additional Information: In addition, other cash management issues discussed by the State/Federal Cash Management Reform Task Force will be addressed in this regulation.

Government Levels Affected: Local, State, Federal

Agency Contact: Katherine Payne, Manager, Treasury Programs Branch, Department of the Treasury, Financial Management Service, Treasury Anx. 1 PB 802, Madison Place and Pennsylvania, NW, Washington, DC 20226, 202 634-5704

RIN: 1510-AA00

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DEPARTMENT OF THE TREASURY (TREAS)
Financial Management Service (FMS)

Completed Actions

2064. REGULATIONS GOVERNING SURETY COMPANIES DOING BUSINESS WITH THE UNITED STATES

Legal Authority: 31 USC 9305

CFR Citation: 31 CFR 223.1; 31 CFR 223.3; 31 CFR 223.7; 31 CFR 223.9; 31 CFR 223.12

Legal Deadline: None

Abstract: The amended guidelines revise and strengthen the financial criteria that must be met in order to qualify for a Treasury Certificate of Authority and as an Admitted Reinsurer. The revised guidelines will assist in more effectively using limited resources and thus enable the government to more readily determine which insurance companies are financially strong enough to be allowed to write federal surety bonds. The revision is anticipated to help alleviate the need for additional personnel to monitor this program and should not increase costs to the insurance industry.

Timetable:

Action	Date	FR Cite
NPRM	08/07/84	49 FR 31454
NPRM Comment Period End	10/09/84	
Final Action	12/31/85	50 FR 53314
Final Action Effective	12/31/85	

Small Entity: Not Applicable

Agency Contact: Terry L. Boyer, Manager, Surety Bond Branch, Department of the Treasury, Financial Management Service, 615 Matomic Bldg., 1717 H Street, NW, Washington, DC 20226, 202 634-2345

RIN: 1510-AA06

2065. MANAGEMENT OF FEDERAL AGENCY RECEIPTS AND OPERATION OF THE CASH MANAGEMENT IMPROVEMENTS FUND

Significance: Agency Priority

Legal Authority: 31 USC 321; 31 USC 3301; 31 USC 3302; 31 USC 3720

CFR Citation: 31 CFR 206

Legal Deadline: Statutory, October 1, 1986

Abstract: This proposed regulation implements the Deficit Reduction Act of 1984, Title VI, Subtitle C, Section 2652. This regulation prescribes the policies and guidelines for promoting effective cash management through improved billing, collection, and deposit that results in improved availability of funds.

Timetable:

Action	Date	FR Cite
NPRM	03/28/85	50 FR 12330
NPRM Comment Period End	05/28/85	50 FR 12333
Final Action	09/03/85	50 FR 35547
Final Action Effective	10/03/85	50 FR 35547

Small Entity: Not Applicable

Additional Information: Previous reporting proposed two regulations to implement Section 2652 of the Deficit Reduction Act of 1984 (RIN 1510-AA06 and AA07). The two regulations have now been combined into one regulation. Therefore, RIN 1510-AA07 is withdrawn.

Agency Contact: Susan Veintemillas, Program Analyst, Department of the Treasury, Financial Management Service, Cash Management Division, Rm 711 Premier Building 1725 "I" St. NW, Washington, DC 20226, 202 634-5781

RIN: 1510-AA06

[FR Doc. 86-8778 Filed 04-18-86; 8:45 am]

BILLING CODE 4810-35-T

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Bureau of Alcohol, Tobacco and Firearms

27 CFR Ch. I

[Notice No. 586]

Unified Agenda of Federal Regulations

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF); Treasury.

ACTION: General notice; Unified Agenda of Federal Regulations of regulatory projects under development, consideration, and review.

SUMMARY: Pursuant to section 5 of Executive Order 12291, entitled "Federal Regulations," ATF is publishing an agenda of proposed regulations that are expected to be or that have been issued. The agenda also contains descriptions of existing regulations that are being reviewed under the terms of the Executive Order within the next six months, and regulatory projects identified for review pursuant to the ATF Regulatory Reform Program. Pursuant to section 610 of the Regulatory Flexibility Act (Pub. L. 96-354; 5 U.S.C. 610), ATF is also indicating whether a regulatory project is likely to have a significant economic impact upon a substantial number of small entities.

This general notice is designed to give the public adequate notice of the regulatory activities being contemplated by ATF.

The agenda is based on information available at the present time. The next "Unified Agenda of Federal Regulations" will be published in the Federal Register of October 1986.

FOR FURTHER INFORMATION CONTACT: For information about any particular regulatory project, contact the person listed in the subheading "Agency Contact," for the regulatory project.

For general information about this general notice, contact Lori Weins, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20226; (202) 566-7626.

Following is a table of abbreviations used throughout the agenda.

TABLE OF ABBREVIATIONS

ABBREVIATION	MEANING
ANPRM	Advance notice of proposed rulemaking
ATF	Bureau of Alcohol, Tobacco and Firearms
CFR	Code of Federal Regulations
DSP	Distilled Spirits Plant
E.O.	Executive Order
FR	Federal Register

TREAS—BATF

TABLE OF ABBREVIATIONS—Continued

ABBREVIATION	MEANING
FAA Act	Federal Alcohol Administration Act
NPRM	Notice of proposed rulemaking
OFR	Office of the Federal Register
OMB	Office of Management and Budget
Pub. L	Public Law

TABLE OF ABBREVIATIONS—Continued

ABBREVIATION	MEANING
T.D.	Treasury Decision
T.D. with N	(Temporary) Treasury Decision with Notice
T.D. w/o N	Treasury Decision without Notice
Treasury	Department of the Treasury

Issuance

By direction of the Secretary of the Treasury, this general notice reads as set forth below.

SIGNED: February 11, 1986.

Stephen E. Higgins,

Director.

Bureau of Alcohol, Tobacco and Firearms—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2056	27 CFR 19.11 Implementation of the "Wine Impact Bill"	1512-AA06
2057	27 CFR 9 American Viticultural Areas	1512-AA07
2058	27 CFR 5.22 Standard of Identity for Vodka	1512-AA10
2059	27 CFR 4 Recodification of 27 CFR Part 4	1512-AA17
2060	27 CFR 197 Nonbeverage Drawback	1512-AA20
2061	27 CFR 4.29 Grape Harvest Labeling for Wine	1512-AA31
2062	27 CFR 4.26 Estate Bottled	1512-AA34
2063	27 CFR 5.22 Reduced Proof Distilled Spirits Products	1512-AA36
2064	27 CFR 240.180 to 240.409 Recodification of Wine Regulations (Subparts A to O)	1512-AA42
2065	27 CFR 4 Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages; Use of the Word Light (Lite)	1512-AA48
2066	27 CFR 4 Labeling and Advertising of Wine, Distilled Spirits and Malt Beverages; Appearance of Athletes and Depiction of Athletic Events	1512-AA50
2067	27 CFR 5.37 Replacement of Proof Statement with Percentage-of-Alcohol- by-Volume Statement on Distilled Spirits Labels	1512-AA62
2068	27 CFR 4 Winegrape Varietal Designations	1512-AA67
2069	27 CFR 250 Recodification of 27 CFR Part 250 as 27 CFR Part 26	1512-AA68
2070	27 CFR 4.35 Winemaking Terminology	1512-AA70
2071	27 CFR 4.24 Non-Generic Designations of Grape Wine Having Geographical Significance	1512-AA71
2072	27 CFR 55 Fireworks Regulations	1512-AA52
2073	27 CFR 270.11 Manufacturer's Identification on Tobacco Products Packages	1512-AA26
2074	27 CFR 285 27 CFR Part 285, Manufacture of Cigarette Papers and Tubes	1512-AA33

Bureau of Alcohol, Tobacco and Firearms—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2075	27 CFR 19.377 Reporting Taxes Due to the Governments of Puerto Rico and the Virgin Islands	1512-AA09
2076	27 CFR 245 Recodification of Beer Regulations	1512-AA24
2077	27 CFR 5.22(b)(1)(iii) Change in Standard of Identity for Straight Whiskies of the Same Type	1512-AA32
2078	27 CFR 4.39(i) Geographic Brand Names	1512-AA37
2079	27 CFR 5.47a 375 ml and 600 ml Containers for Distilled Spirits	1512-AA39
2080	27 CFR 19.42 Caribbean Basin Economic Recovery Act	1512-AA45
2081	27 CFR 240 Materials and Processes for the Production and Treatment of Wine	1512-AA61
2082	27 CFR 7.25 Listing of Principal Place of Business on Beer Labels	1512-AA66
2083	27 CFR 4 Disclosure of Sulfiting Agents on Alcohol Beverage Labels	1512-AA68

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Bureau of Alcohol, Tobacco and Firearms—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2064	27 CFR 13.31 Denatured Alcohol - Measurement of Proof	1512-AA43
2065	27 CFR 5.22(h)(3) 2 1/2% Alcohol Flavoring	1512-AA46
2066	27 CFR 47 Revision of 27 CFR Part 47 to Conform to the Revision of the International Traffic in Arms Regulations (ITAR)	1512-AA59

DEPARTMENT OF THE TREASURY (TREAS)

Proposed Rule Stage

Bureau of Alcohol, Tobacco and Firearms (BATF)

ALCOHOL

2056. IMPLEMENTATION OF THE "WINE IMPACT BILL"

Significance: Agency Priority

Legal Authority: 26 USC 5010

CFR Citation: 27 CFR 19.11; 27 CFR 19.37 to 19.40; 27 CFR 19.42; 27 CFR 19.346; 27 CFR 19.372; 27 CFR 19.402; 27 CFR 19.505; 27 CFR 19.568; 27 CFR 19.681; 27 CFR 19.748; 27 CFR 19.763; 27 CFR 19.764; 27 CFR 19.776 to 19.780; 27 CFR 170.681 to 170.691; 27 CFR 197.105; ...

Legal Deadline: None

Abstract: Restores the tax system which existed for distilled spirits products containing wine or alcoholic flavoring materials prior to the enactment of the Distilled Spirits Tax Revision Act of 1979; also permits spirits bottled for industrial purposes to be transferred in bond between distilled spirits plants.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Jim Stephens, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7531

RIN: 1512-AA06

2057. AMERICAN VITICULTURAL AREAS

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 9

Legal Deadline: None

Abstract: Establishes grape-growing regions as American viticultural areas for purposes of labeling and advertising of wine.

Supplemental Timetable:

Alexander Valley, CA - Amendment (contact Michael Breen)
NPRM 04/00/86
Arkansas Mountain, AR (contact Steve Simon)
NPRM 04/00/86
Armenderis, NM (contact Ed Reisman)
NPRM 09/00/86
Central Coast, CA (contact John Linthicum)
NPRM 07/11/84 (49 FR 28257)
NPRM Comment Period End 09/10/84
Final Action 10/24/85 (50 FR 43128)
El Dorado, CA - Amendment (contact Jim Hunt)
NPRM 04/00/86
Kanawha River Valley, WVA (contact John Linthicum)
NPRM 01/21/86 (51 FR 2728)
NPRM Comment Period End 02/20/86
Final Action 09/00/86
Lodi, CA (contact Lori Weins)
NPRM 07/12/85 (50 FR 28409)
NPRM Comment Period End 08/26/85
Final Action 02/13/86
Mimbres Valley, NM (contact Ed Reisman)
NPRM 02/12/85 (50 FR 5775)
NPRM Comment Period End 03/29/85
Final Action 11/21/85 (50 FR 48070)
Monticello, VA - Amendment (contact Jim Hunt)
NPRM 04/00/86
North Fork of Long Island, NY (contact Ed Reisman)
NPRM 03/00/86
Northern Neck, VA (contact Ed Reisman)
NPRM 09/17/85 (50 FR 37892)
NPRM Comment Period End 11/01/85
Final Action 08/00/86
Ozark Highlands, MO (contact Steve Simon)
NPRM 06/00/86
Ozark Mountains, AR, OK, MO (contact Steve Simon)
NPRM 09/17/85 (50 FR 37896)
NPRM Comment Period End 11/01/85
Final Action 09/00/86
San Benito, CA (contact Steve Simon)
NPRM 06/00/86
San Lucas, CA (contact Mike Breen)
NPRM 06/00/86
Santa Clara Valley, CA (contact Ed Reisman)
NPRM 09/00/86
South Coast, CA (contact Steve Simon)
NPRM 04/19/85 (50 FR 15589)
NPRM Comment Period End 06/03/85
Final Action 11/21/85 (50 FR 48083)
Stags Leap District, CA (contact Jim Fioretta)
NPRM 10/00/86
Temecula, CA - Amendment (contact John Linthicum)
NPRM 10/10/85 (50 FR 41364)
NPRM Comment Period End 11/12/85
Final Action 01/06/86 (51 FR 749)

Small Entity: No

Agency Contact: See supplemental timetable, American Viticultural Areas, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA07

2058. STANDARD OF IDENTITY FOR VODKA

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5.22

Legal Deadline: None

Abstract: Considers clarifying the standard of identity for vodka by revoking Revenue Ruling 56-96 which permits the use of small quantities of sugar or citric acid in vodka; or would propose a new class and type of vodka which contains trace amounts of sugar or citric acid.

Timetable:

Action	Date	FR Cite
ANPRM	01/11/82	47 FR 1148
ANPRM Comment Period End	07/11/82	
NPRM	04/00/86	

Small Entity: No

Agency Contact: John Linthicum, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA10

2059. RECODIFICATION OF 27 CFR PART 4

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: To revise the wine labeling and advertising regulations; where applicable, to incorporate production regulations; and due to statutory amendments requested, may result in a legislative submission.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: No

Additional Information: Additional Agency Contact: Ed Reisman

Agency Contact: James Hunt, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA17

2060. NONBEVERAGE DRAWBACK

Significance: Agency Priority

Legal Authority: 26 USC 5131 et seq

CFR Citation: 27 CFR 197

Legal Deadline: None

Abstract: To update, clarify, simplify, and recodify the regulations relating to drawback of tax on distilled spirits used in the manufacture of non-beverage products.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Yes

Additional Information: SMALL BUSINESSES CONT: This regulation affects approximately 500 entities.

Agency Contact: Steve Simon, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA20

2061. GRAPE HARVEST LABELING FOR WINE

Significance: Agency Priority

Legal Authority: 27 USC 205E; 27 USC 205F

CFR Citation: 27 CFR 4.29

Legal Deadline: None

Abstract: Late harvest designations, based on the Brix (percent by weight) level of the grapes at harvest would indicate to consumers that the grapes used to produce the wine were left on the vine for express purpose of increasing the sugar content. The designations would indicate additional techniques and processes were used in the production of the wine.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: Michael Breen, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA31

2062. ESTATE BOTTLED

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.26

Legal Deadline: None

Abstract: To redefine estate bottled requirements and provide for additional terms to provide requirements for imported wine.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: John Linthicum, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA34

2063. REDUCED PROOF DISTILLED SPIRITS PRODUCTS

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5.22

Legal Deadline: None

Abstract: ATF is proposing to amend the regulations to provide for reduced proof distilled spirits products similar to "light beer," "light wine" and similar "light products which have become increasingly popular with consumers in recent years. Since 1968, the words "light whisky" have referred to whisky produced by two processes which are different from other American whiskies and the term "light" does not refer to lower alcohol content. However, ATF is considering abolishing "light whisky" as a standard of identity, so that the word "light" can refer only to reduced alcohol content. Unlike wine and beer, distilled spirits products are usually sold at more than one bottling proof (e.g. whisky is frequently sold at 80 degrees, 86 degrees, and 100 degrees proof) with the difference in proof being the only distinction between products which are otherwise identical. Therefore, ATF must carefully consider labeling to ensure there exists a clear cut difference in the minds of consumers between products at minimum bottling proof or above minimum bottling proof, and those which are reduced in proof.

Timetable:

Action	Date	FR Cite
ANPRM	08/04/83	48 FR 35460
ANPRM Comment Period Extension	10/28/83	48 FR 49870
ANPRM Comment Period End	11/02/83	48 FR 35460

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Action	Date	FR Cite
ANPRM	01/31/84	
Extended Comment Period Ende		
ANPRM	01/30/85	50 FR 4236
Comment Period Extension		
ANPRM	04/15/85	
Extended Comment Period Ende		
ANPRM	01/13/86	51 FR 1393
Comment Period Reopened		
ANPRM	04/14/86	
Reopened Comment Period Ends		
NPRM	00/00/00	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: John Linthicum, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA36

2064. RECODIFICATION OF WINE REGULATIONS (SUBPARTS A TO O)

Significance: Agency Priority

Legal Authority: 26 USC 7805

CFR Citation: 27 CFR 240.180 to 240.400

Legal Deadline: None

Abstract: To update, simplify, and clarify regulations relating to wine; and to incorporate ATF rulings into the Regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: James Hunt, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA42

2065. LABELING AND ADVERTISING OF WINE, DISTILLED SPIRITS AND MALT BEVERAGES; USE OF THE WORD LIGHT (LITE)

Significance: Agency Priority

Legal Authority: 27 USC 205e to f

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None

Abstract: "Light (Lite)" was addressed to a limited extent in Notice No. 362 (45 FR 83530). However, subsequent to its publication ATF was petitioned by the Center for Science in the Public Interest (CSPI), requesting mandatory caloric labeling on all alcohol beverages, as well as the establishment of upper limits on calories in products labeled as "light (lite)." Comments will be requested on CSPI's petition as well as other issues involving use of the term "light (lite)."

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Charles Bacon.

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA48

2066. LABELING AND ADVERTISING OF WINE, DISTILLED SPIRITS AND MALT BEVERAGES; APPEARANCE OF ATHLETES AND DEPICTION OF ATHLETIC EVENTS

Significance: Agency Priority

Legal Authority: 27 USC 205e to f

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None

Abstract: Discusses present policy on prohibition of active athletes and requests comments on whether the policy should be relaxed, retained, expanded to include all celebrities. On athletic events, comments are requested if the present prohibition should be expanded to include any athletic event, regardless of when the participants are shown consuming, or preparing to consume, alcohol beverages.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: James Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA50

2067. REPLACEMENT OF PROOF STATEMENT WITH PERCENTAGE-OF-ALCOHOL- BY-VOLUME STATEMENT ON DISTILLED SPIRITS LABELS

Significance: Agency Priority

Legal Authority: 26 USC 5206; 26 USC 5301; 27 USC 205(e)

CFR Citation: 27 CFR 5.37; 27 CFR 19.643

Legal Deadline: None

Abstract: Joseph E. Seagram and Sons, Inc. has petitioned ATF to require the statement of alcohol content on labels of distilled spirits to be stated in percentage-alcohol-by-volume instead of proof.

Timetable:

Action	Date	FR Cite
NPRM	01/24/86	51 FR 1393
NPRM Comment Period End	05/27/86	

Small Entity: No

Agency Contact: John Linthicum, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA62

2068. WINEGRAPE VARIETAL DESIGNATIONS

Significance: Agency Priority

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 4

Legal Deadline: None

Abstract: This proposal would establish standardized lists of winegrape varietal names which may be used on a wine label. In addition we are proposing a method by which new names may be added to the list. These standardized lists will assure more accurate and truthful identification of the wine.

Timetable:

Action	Date	FR Cite
NPRM	02/04/86	51 FR 4392
NPRM Comment Period End	04/07/86	

Small Entity: No

Agency Contact: Charles Bacon, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7595

RIN: 1512-AA67

2069. RECODIFICATION OF 27 CFR PART 250 AS 27 CFR PART 26

Significance: Agency Priority

Legal Authority: 26 USC 7651 to 7652; PL 85-859; 26 USC 5314; 26 USC 7805

CFR Citation: 27 CFR 250

Legal Deadline: None

Abstract: As part of the recodification of Part 250, we plan to simplify, consolidate and or eliminate as many sections of regulations as possible placing particular emphasis on reducing the number of recordkeeping requirements, forms, and customs responsibilities. Wherever possible, we plan to utilize a proprietor's commercial records in lieu of requiring the proprietor to submit public use forms. These changes to Part 250 should considerably reduce the burden hours on industry.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: Jim Stephens, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7531

RIN: 1512-AA69

2070. ● WINEMAKING TERMINOLOGY

Significance: Agency Priority

Legal Authority: 27 USC 205(e)

CFR Citation: 27 CFR 4.35

Legal Deadline: None

Abstract: ATF is proposing to define words denoting winemaking operations for use on wine labels in conjunction with the name and address of the bottler. This project partially fulfills the requirements of the court order in Wawskiewicz v. Department of the Treasury, 480 F. Supp. 739 (D.D.C. 1979), aff'd. in part, rev'd in part, 670 F.2d 296.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: John Linthicum, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA70

2071. ● NON-GENERIC DESIGNATIONS OF GRAPE WINE HAVING GEOGRAPHICAL SIGNIFICANCE

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.24

Legal Deadline: None

Abstract: This proposal expands the list of names officially recognized under 27 CFR Part 4, as being non-generic for the purposes of labeling and advertising of wine. This proposal is the result of petitions from numerous foreign countries for ATF recognition of non-generic wine designations which, in their view, denote distinctive national products. This proposal is also an outgrowth of one of the commitments made by the United States, in the Exchange of Letters of July 26, 1983 with the Commission of the European Communities, to work within the regulatory framework of 27 CFR Part 4, to prevent erosion of non-generic designations of geographic significance. For practical reasons it is being proposed that only "examples" of non-generic designations be listed in Part 4 while a complete list of all non-generic designations be listed in a new Part 12.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: John Kodadek, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 535-6245

RIN: 1512-AA71

FIREARMS

2072. FIREWORKS REGULATIONS

Significance: Agency Priority

Legal Authority: 18 USC Chapter 40

CFR Citation: 27 CFR 55

Legal Deadline: None

Abstract: Information gathering on Safe Handling of Explosive Materials in the Fireworks industry is necessary due to accidental explosions causing death. Injuries and property damage have occurred at fireworks manufacturing and assembling plants. Damage has been in the millions of dollars and some regulatory changes are needed. This notice to gather information is to determine changes needed and potential costs.

Timetable:

Action	Date	FR Cite
General Notice	06/06/84	49 FR 23872
NPRM	06/00/86	

Small Entity: No

Agency Contact: Art Cunn, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7591

RIN: 1512-AA52

TOBACCO PRODUCTS

2073. MANUFACTURER'S IDENTIFICATION ON TOBACCO PRODUCTS PACKAGES

Significance: Agency Priority

Legal Authority: 26 USC 5723

CFR Citation: 27 CFR 270.11; 27 CFR 270.212; 27 CFR 275.163; 27 CFR 275.170; 27 CFR 275.172; 27 CFR 275.174; 27 CFR 290.11; 27 CFR 290.181; 27 CFR 290.185; 27 CFR 290.241 to 290.267; 27 CFR 295.42

Legal Deadline: None

Abstract: To liberalize requirements relating to manufacturer identification on tobacco products packages and to make other miscellaneous changes.

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TREAS—BATF

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Cliff Mullen, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7531

RIN: 1512-AA26

2074. 27 CFR PART 285, MANUFACTURE OF CIGARETTE PAPERS AND TUBES

Significance: Agency Priority

Legal Authority: 26 USC 7805 (68A Stat 917)

CFR Citation: 27 CFR 285

Legal Deadline: None

Abstract: To reduce or eliminate administrative and recordkeeping burdens under 27 CFR Part 285.

Timetable:

Action	Date	FR Cite
ANPRM	09/01/84	
ANPRM Comment Period End	10/02/84	
NPRM	08/00/86	

Small Entity: Undetermined

Agency Contact: Cliff Mullen, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7531

RIN: 1512-AA33

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Final Rule Stage

ALCOHOL

2075. REPORTING TAXES DUE TO THE GOVERNMENTS OF PUERTO RICO AND THE VIRGIN ISLANDS

Significance: Agency Priority

Legal Authority: 26 USC 5555; 26 USC 5207

CFR Citation: 27 CFR 19.377

Legal Deadline: None

Abstract: Changes the reporting requirements for most Puerto Rican and Virgin Islands spirits bottled at domestic distilled spirits plants. The reporting requirement will remain as a line item on the proprietor's monthly reports. However, the time for recording tax determination of insular spirits will change from the time these spirits enter the processing account to the time of tax determination.

Timetable:

Action	Date	FR Cite
NPRM	04/13/81	46 FR 21824
Amended NPRM	02/14/85	50 FR 6200
Final Action	07/00/86	

Small Entity: No

Agency Contact: Jim Stephens, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7531

RIN: 1512-AA09

2076. RECODIFICATION OF BEER REGULATIONS

Significance: Agency Priority

Legal Authority: 26 USC 5051 et seq; 26 USC 5401 et seq

CFR Citation: 27 CFR 245

Legal Deadline: None

Abstract: To simplify and clarify regulations relating to the production and taxpayment of beer; to simplify and reduce paperwork and recordkeeping requirements imposed on industry; and to reflect technological advances in the beer industry since the regulations were last revised.

Timetable:

Action	Date	FR Cite
NPRM	02/03/83	48 FR 4603
NPRM Comment Period End	05/04/83	
Final Action	03/00/86	

Small Entity: No

Agency Contact: Robert White, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA24

2077. CHANGE IN STANDARD OF IDENTITY FOR STRAIGHT WHISKIES OF THE SAME TYPE

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5.22(b)(1)(iii); 27 CFR 19.346(b)

Legal Deadline: None

Abstract: Current regulations do not provide for distilled spirits plant proprietors to mingle and still designate as straight whiskies of the same type produced at different distilleries or produced by different distillers. This project will allow such whiskies to be labeled as straight as long as the whiskies are produced within the same state. Their only alternative is to leave the regulations as they are and to not allow such whiskies to be mingled and designated as straight. We do not anticipate any extra costs to result from this change in regulations. This change will result in greater flexibility for distilled spirits plant proprietors.

Timetable:

Action	Date	FR Cite
NPRM	05/08/84	49 FR 19333
NPRM Comment Period End	07/06/84	
NPRM Comment Period Extended	07/13/84	49 FR 30538
Extended NPRM Comment Period Ends	10/29/84	
Final Action	05/00/86	

Small Entity: No

TREAS—BATF

Final Rule Stage

Agency Contact: Robert White, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7531

RIN: 1512-AA32

2078. GEOGRAPHIC BRAND NAMES

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 4.39(i)

Legal Deadline: None

Abstract: To propose alternatives to the present regulation which requires that the word "brand" appear in the same size type as the brand name itself.

Timetable:

Action	Date	FR Cite
NPRM	05/07/84	49 FR 19330
NPRM Comment Period End	07/06/84	
NPRM Comment Period Extended	07/13/84	49 FR 28417
NPRM Comment Period Extended	09/04/84	49 FR 34847
Extended NPRM Comment Period Ends	09/14/84	
NPRM Extended Comment Period Ends	01/02/85	
Final Action	06/00/86	

Small Entity: No

Agency Contact: Jim Ficaretta, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA37

2079. 375 ML AND 500 ML CONTAINERS FOR DISTILLED SPIRITS

Significance: Agency Priority

Legal Authority: 26 USC 5301; 27 USC 205

CFR Citation: 27 CFR 5.47a

Legal Deadline: None

Abstract: To determine if both sizes should be standards of fill or whether the 375 ml size should replace the 500 ml size.

Timetable:

Action	Date	FR Cite
NPRM	09/23/83	48 FR 43346
NPRM Comment Period Extended	03/21/84	49 FR 10553
NPRM Comment Period End	03/23/84	
Extended Comment Period Ends	01/02/85	
Final Action	04/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Jim Ficaretta

Agency Contact: Ed Reisman, ATF Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA39

2080. CARIBBEAN BASIN ECONOMIC RECOVERY ACT

Significance: Agency Priority

Legal Authority: PL 98-67, Title II (Caribbean Basin Economic Recovery Act); 26 USC 7652

CFR Citation: 27 CFR 19.42; 27 CFR 19.377; 27 CFR 19.517; 27 CFR 250.1; 27 CFR 250.30; 27 CFR 250.31; 27 CFR 250.35; 27 CFR 250.200

Legal Deadline: None

Abstract: Under current law (26 USC 7652), the excise taxes collected on all merchandise manufactured in Puerto Rico and the Virgin Islands, and shipped to the U.S., are deposited into the Treasury of either Puerto Rico or the Virgin Islands.

The Caribbean Basin Economic Recovery Act was passed to promote the economic revitalization of the Caribbean Basin area by removing the duty on certain merchandise from certified Caribbean Basin countries. In order to minimize any adverse effects this would have on Puerto Rico and the Virgin Islands, a provision was added to require that the excise taxes collected on all rum that is imported into the U.S. be deposited in the Treasuries of Puerto Rico and the Virgin Islands. This would be in addition to the amounts already transferred under 28 U.S.C. 7652 (a) and (b).

Timetable:

Action	Date	FR Cite
NPRM	02/14/85	50 FR 6200
Final Action	04/00/86	

Small Entity: No

Agency Contact: Jim Stephens, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7531

RIN: 1512-AA45

2081. MATERIALS AND PROCESSES FOR THE PRODUCTION AND TREATMENT OF WINE

Significance: Agency Priority

Legal Authority: 27 USC 5382

CFR Citation: 27 CFR 240

Legal Deadline: None

Abstract: Updates, clarifies, and simplifies the regulations relating to the production and treatment of wine.

Timetable:

Action	Date	FR Cite
NPRM	09/24/84	49 FR 37527
NPRM Comment Period Extended	01/22/85	50 FR 2832
NPRM Comment Period End	01/23/85	
Extended NPRM Comment Period Ends	03/01/85	
Final Action	09/00/86	

Small Entity: No

Additional Information: This was formerly part of RIN 1512-AA12 Materials and Processes for the Production and Treatment of Wine.

Agency Contact: Mike Breen, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA61

2082. LISTING OF PRINCIPAL PLACE OF BUSINESS ON BEER LABELS

Significance: Agency Priority

Legal Authority: 27 USC 205(e); 26 USC 5412

CFR Citation: 27 CFR 7.25; 27 CFR 25.142; 27 CFR 25.143

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Final Rule Stage

Legal Deadline: None

Abstract: This proposed rule would allow a brewer who operates more than one brewery to use a principal place of business as the address shown on labels in lieu of listing the actual place of production or showing all of the breweries operated by the brewer. This rule would benefit the industry by eliminating the need to prepare redesigned labels every time a brewery was bought, sold, built, or otherwise disposed of. It would benefit industry and government by reducing the numbers of labels submitted for approval under the Federal Administration Act.

Timetable:

Action	Date	FR Cite
NPRM	10/15/85	50 FR 41701
Final Action	05/00/86	

Small Entity: No

Agency Contact: John Liathiasm, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA68

2083. DISCLOSURE OF SULFITING AGENTS ON ALCOHOL BEVERAGE LABELS

Significance: Agency Priority

Legal Authority: 27 USC 205(c)

CFR Citation: 27 CFR 4; 27 CFR 5; 27 CFR 7

Legal Deadline: None

Abstract: The Food and Drug Administration has determined that Sulfites or Sulfiting Agents pose a risk to the health of some individuals. Based on this action, ATF is proposing to require the disclosure of sulfiting agents in the labeling of alcohol beverage products in which they are present at a level of 10 or more ppm, measured as total sulfur dioxide.

Timetable:

Action	Date	FR Cite
NPRM	06/24/85	50 FR 26001
NPRM Comment Period End	08/23/85	
NPRM Comment Period Extension	08/23/85	50 FR 42166
Final Action	06/00/86	

Small Entity: Yes

Additional Information: ADDITIONAL AGENCY CONTACT: Jim Ficaretta

Agency Contact: Mike Breen, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7626

RIN: 1512-AA68

DEPARTMENT OF THE TREASURY (TREAS)
Bureau of Alcohol, Tobacco and Firearms (BATF)

Completed Actions

2084. DENATURED ALCOHOL - MEASUREMENT OF PROOF

Significance: Agency Priority

Legal Authority: 26 USC 7805 (68A Stat. 917, as amended)

CFR Citation: 27 CFR 13.31

Legal Deadline: None

Abstract: The regulation will prescribe procedures for proofing industrial alcohol containing volatile or non-volatile specific gravity obscuring solids.

Timetable:

Action	Date	FR Cite
Withdrawn	01/24/86	

Small Entity: No

Agency Contact: Robert Petrangelo, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7531

RIN: 1512-AA43

2085. 2 1/2% ALCOHOL FLAVORING

Significance: Agency Priority

Legal Authority: 27 USC 205

CFR Citation: 27 CFR 5.22(h)(3); 27 CFR 5.22(h)(4); 27 CFR 5.22(i); 27 CFR 5.35; 27 CFR 5.42(b); 27 CFR 5.65(a)

Legal Deadline: None

Abstract: Ten standard of identity products will be held more closely to the class and type of spirits indicated by their designation.

The class and type of distilled spirits contained in certain other products will be disclosed in greater detail.

Misleading impressions created by the use of the term "Distilled" on distilled spirits products containing coloring, flavoring, or blending materials will be eliminated.

Timetable:

Action	Date	FR Cite
Withdrawn	01/24/86	

Small Entity: No

Agency Contact: Robert Petrangelo, ATF Coordinator, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7531

RIN: 1512-AA46

2086. REVISION OF 27 CFR PART 47 TO CONFORM TO THE REVISION OF THE INTERNATIONAL TRAFFIC IN ARMS REGULATIONS (ITAR)

Significance: Agency Priority

Legal Authority: 22 USC 2778 Sec. 38, Arms Export Control Act of 1976; EO 11958 (42 FR 4311)

CFR Citation: 27 CFR 47

Legal Deadline: None

Abstract: On December 6, 1984, the Department of State published a final rule revising the International Traffic in Arms regulations. Subsequently, ATF is proposing to revise, simplify, and clarify regulations in 27 CFR Part 47 to conform to the revised ITAR and to improve the regulatory scheme established under the ARMS Export Control Act of 1976 to control the import of defense articles and defense services. The major changes consist of revision of the U.S. Munitions Import list articles, increase of the registration fees, procedures for filing the ATF Form 6A, revisions of the list of prescribed countries, and modification of the import provisions of articles coming from Canada.

TREAS—BATF

Completed Actions

Timetable:

Action	Date	FR Cite
Final Action	10/18/85	50 FR 42157

Small Entity: No

Agency Contact: Teri Byers, Arms Imports Specialist, Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226, 202 566-7151

RIN: 1512-AA59

[FR Doc. 86-5781 Filed 04-18-86; 8:45 am]

BILLING CODE 4810-31-T

DEPARTMENT OF THE TREASURY (TREAS)
Comptroller of the Currency (OCC)

Comptroller of the Currency

12 CFR Ch. I

Semiannual Agenda of Regulatory Actions

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Semiannual agenda of regulations.

SUMMARY: As required by the Regulatory Flexibility Act and Executive Order 12291, the Office of the Comptroller of the Currency (Office) has prepared this semiannual agenda of its rules and regulations currently under review and scheduled for review. Regulatory actions taken since the publication of the Office's previous semiannual agenda on October 29, 1985 (50 FR 44503) are also included. It is expected that this semiannual agenda will enable the public to be more aware of, and allow it to more effectively participate in, the Office's regulatory activity.

ADDRESS: The mailing address for all contacts: Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, S.W., Washington, D.C. 20219.

FOR FURTHER INFORMATION CONTACT: For general information about this semiannual agenda contact Nancy Lowther, Financial Analyst, Legislative and Regulatory Analysis Division, (202) 447-1177.

For additional information about a particular item on this semiannual agenda contact the individual identified as the contact person.

SUPPLEMENTARY INFORMATION: The Office has determined that none of the rulemakings discussed in this semiannual agenda requires a regulatory flexibility analysis; all entries have been determined not to have a "significant impact on a substantial number of small entities," and therefore are not subject to the provisions of the Act. Additionally, none of the rules is a "major" rule as defined by Executive Order 12291. Executive Order 12291 defines a "major" rule as one likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

DATED: February 24, 1986.

Robert L. Clarke,

Comptroller of the Currency.

Comptroller of the Currency—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2087	12 CFR 3 Minimum Capital Ratios	1557-AA61

Comptroller of the Currency—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2088	12 CFR 5 Rules, Policies, and Procedures for Corporate Activities	1557-AA00
2089	12 CFR 9 Fiduciary Powers of National Banks and Collective Investment Funds	1557-AA04
2090	12 CFR 19 Rules of Practice and Procedure	1557-AA43
2091	12 CFR 4.19 Testimony and Production of Documents in Court	1557-AA57
2092	12 CFR 11, (New Subsection) Securities Exchange Act Disclosure Rules	1557-AA58
2093	12 CFR 32 Lending Limits	1557-AA59
2094	12 CFR 1 Investment Securities Regulation	1557-AA60

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Comptroller of the Currency—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2095	12 CFR 17 Required Notification To Nominate Bank Directors	1557-AA07
2096	12 CFR 7.5225 Reports of Suspected Crimes	1557-AA12
2097	12 CFR 18 Annual Financial Disclosures to Shareholders	1557-AA44
2098	12 CFR 5.50(i) Rules, Policies, and Procedures for Corporate Activities; Change in Bank Control	1557-AA51
2099	12 CFR 16 Securities Offering Disclosure Rules	1557-AA62

Comptroller of the Currency—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2100	12 CFR 11 Securities Exchange Act Disclosure Rules	1557-AA06
2101	12 CFR 27 Fair Housing Home Loan Data System	1557-AA14
2102	12 CFR 12 Facilitating Shareholder Communications	1557-AA52
2103	12 CFR 11 Securities Exchange Act Disclosure Rules	1557-AA63

DEPARTMENT OF THE TREASURY (TREAS)

Prerule Stage

Comptroller of the Currency (OCC)

2087. ● MINIMUM CAPITAL RATIOS

Legal Authority: 12 USC 1 et seq; 12 USC 93a; 12 USC 161; 12 USC 1818; 12 USC 3907; 12 USC 3909

CFR Citation: 12 CFR 3

Legal Deadline: None

Abstract: The proposal will make explicit adjustments for differences in the riskiness of assets and the presence of off-balance sheet activities when assessing bank capital adequacy. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/86	
ANPRM Comment Period End	06/00/86	
NPRM	08/00/86	
NPRM Comment Period End	10/00/86	
Final Action	12/00/86	

Small Entity: Undetermined

Agency Contact: David Nebhut, Financial Economist, Department of the Treasury, Comptroller of the Currency, Economic and Policy Analysis Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1924

RIN: 1557-AA61

DEPARTMENT OF THE TREASURY (TREAS)

Proposed Rule Stage

Comptroller of the Currency (OCC)

2088. RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

Significance: Agency Priority

Legal Authority: 12 USC 1 et seq

CFR Citation: 12 CFR 5; 12 CFR 5.3; 12 CFR 5.21; 12 CFR 5.30; 12 CFR 5.31; 12 CFR 5.33

Legal Deadline: None

Abstract: The Office is engaged in a continuing review of its rules, policies, and procedures governing corporate activities. On February 19, 1986, at 51 FR 06006, the Office withdrew a proposed rule on the establishment of domestic branches, seasonal agencies and customer bank communication terminals (CBCTs). The Office anticipates revision of its corporate delegations and its merger policies. These proposals are expected to benefit national banks and the Office by removing burdensome and costly regulatory requirements, while maintaining the Office's ability to render an informed decision on the proposed activity. The effect on small entities is considered in the development of each rulemaking.

Timetable:

Action	Date	FR Cite
Withdrawn establishment of domestic branches, seasonal agencies and CBCTs	02/19/86	51 FR 06006
corporate delegations	06/00/86	
mergers	06/00/86	

TREAS—OCC

Proposed Rule Stage

Small Entity: No

Agency Contact: Randall J. Miller, Director for Licensing Policy and Systems, Department of the Treasury, Comptroller of the Currency, Bank Organization & Structure Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1184

RIN: 1557-AA00

2089. FIDUCIARY POWERS OF NATIONAL BANKS AND COLLECTIVE INVESTMENT FUNDS

Legal Authority: Sec 1, 77 Stat 668; 12 USC 92a; 12 USC 481

CFR Citation: 12 CFR 9

Legal Deadline: None

Abstract: Comments in response to a prior rulemaking Final rule Docket No. 80-16 (46 FR 71571) published October 29, 1980 included recommendations that additional amendments should be made to 12 CFR Part 9. The Office believes that the issues raised by the commenters can best be addressed through a comprehensive review of its regulations concerning national bank fiduciary powers and collective investment funds. The Office requested comments from the public as to the desirability and feasibility of a comprehensive review of its trust regulations pertaining to collective investment funds, including specific matters which should be addressed. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	08/25/82	47 FR 27833
ANPRM Comment Period End	09/23/82	47 FR 27833
NPRM	00/00/00	

Small Entity: No

Agency Contact: Charles M. Horn, Assistant Director, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1954

RIN: 1557-AA04

2090. RULES OF PRACTICE AND PROCEDURE

Legal Authority: 12 USC 1818

CFR Citation: 12 CFR 19

Legal Deadline: None

Abstract: The proposed regulation will set forth amendments to the hearing rules for administrative hearings. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
NPRM Comment Period End	08/00/86	
Final Action	12/00/86	

Small Entity: No

Agency Contact: Robert L. Davis, Attorney, Department of the Treasury, Comptroller of the Currency, Enforcement and Compliance Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1818

RIN: 1557-AA43

2091. TESTIMONY AND PRODUCTION OF DOCUMENTS IN COURT

Legal Authority: 5 USC 301; 12 USC 481

CFR Citation: 12 CFR 4.19

Legal Deadline: None

Abstract: This rule governs the release by this Office of documents, especially reports of examination, and testimony for use in litigation to which the Office is not a party. The Office is considering changing the rule to spell out the exact requirements for a request for such release, and the situations under which release will be authorized. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: L. Robert Griffin, Assistant Director, Department of the Treasury, Comptroller of the Currency, Litigation Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1883

RIN: 1557-AA57

2092. SECURITIES EXCHANGE ACT DISCLOSURE RULES

Legal Authority: 15 USC 78

CFR Citation: 12 CFR 11, (New Subsection)

Legal Deadline: None

Abstract: The proposed rule would require that more detailed and meaningful information be provided to shareholders and this Office concerning banks' loan portfolios, other sources of income and exposure to risks. This will assist shareholders in evaluating proposals for mergers, consolidations, acquisitions and similar matters and will assist the Office in administering and enforcing the Securities Exchange Act of 1934 as it applies to national banks. The Office considered not proposing the additional amendments or proposing them as a general guide rather than a rule. However, the Office determined it was appropriate to propose the additional requirements as amendments to Part 11 because the Office believes the proposed requirements will help to clarify the types of disclosures which the Office, shareholders and the public would consider material in analyzing various Exchange Act filings and statements. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
NPRM Comment Period End	07/00/86	
Final Action	12/00/86	

Small Entity: No

Agency Contact: Michael C. Dugas, Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1954

RIN: 1557-AA58

2093. LENDING LIMITS

Legal Authority: 12 USC 1 et seq; 12 USC 84; 12 USC 93a

CFR Citation: 12 CFR 32

Legal Deadline: None

Abstract: This regulation implements 12 USC 84 which prescribes the limitations upon the loans that national banks may make to individual borrowers. The Office is considering revisions which would primarily simplify and clarify certain sections of the regulation. In addition, the proposal may address specific problems which have arisen under the regulation since it was

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promulgated in 1963. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
NPRM Comment Period End	06/00/86	
Final Action	12/00/86	

Small Entity: Undetermined

Agency Contact: Rosemarie Oda, Senior Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1880

RIN: 1557-AA59

2094. ● INVESTMENT SECURITIES REGULATION

Legal Authority: 12 USC 1 et seq; 12 USC 24(7)

CFR Citation: 12 CFR 1

Legal Deadline: None

Abstract: The Office proposes to amend this regulation to provide adequate safeguards for the purchase of mortgage-backed securities by national banks for their own accounts. The proposal will require that issues of such securities, in order to be eligible for purchase by national banks, must satisfy the Office's standards of investment quality and marketability. The proposal is considered a desirable alternative to leaving national banks without guidance in this area. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
NPRM Comment Period End	05/00/86	
Final Action	07/00/86	

Small Entity: Undetermined

Additional Information: ADDITIONAL AGENCY CONTACT: Owen Carney, Director, Investment Securities Division, 202 447-1901, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Andrew F. Campbell, Attorney, Department of the Treasury, Comptroller of the Currency, Legal Advisory Services Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1924

RIN: 1557-AA60

DEPARTMENT OF THE TREASURY (TREAS)

Final Rule Stage

Comptroller of the Currency (OCC)

2095. REQUIRED NOTIFICATION TO NOMINATE BANK DIRECTORS

Legal Authority: 12 USC 1 et seq

CFR Citation: 12 CFR 17

Legal Deadline: None

Abstract: This regulation states that national banks may adopt bylaws or articles of association that require any shareholder proposing to nominate a director, other than a management nominee, to file certain information in advance with the Office and the bank. The office is rescinding this regulation because even in its absence a bank may adopt an article/bylaw that requires any shareholder who intends to nominate a candidate for election to the board of directors to notify the bank in advance of the shareholder meeting. The rulemaking will not have a significant economic impact on a substantial number of small banks or other entities.

Timetable:

Action	Date	FR Cite
NPRM	04/14/80	45 FR 25078
NPRM Comment Period End	06/13/80	45 FR 25078
NPRM	08/23/85	50 FR 34159
NPRM Comment Period Begin	08/23/85	50 FR 34159
NPRM Comment Period End	10/22/85	
Final Action	06/00/86	

Small Entity: No

Agency Contact: James T. Pitts, Assistant Director, Department of the Treasury, Comptroller of the Currency, Securities and Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1954

RIN: 1557-AA07

2096. REPORTS OF SUSPECTED CRIMES

Legal Authority: 12 USC 1 et seq; 12 USC 93a; 12 USC 1818; 12 USC 1881 to 1884

CFR Citation: 12 CFR 7.5225; 12 CFR 21.11

Legal Deadline: None

Abstract: The proposal establishes a regulation requiring national banks to submit a criminal referral form upon the occurrence or discovery of any known or suspected theft, embezzlement, check-kiting operation, misappropriation, or other defalcation involving bank personnel or bank funds, or any other suspected criminal violation involving the affairs of the bank. Mysterious disappearances or unexplained shortages of bank funds need not be reported if they are due to errors which have been discovered and corrected within seven business days. This proposal would remove 12 CFR 7.5225. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	08/28/85	50 FR 34857
NPRM Comment Period End	10/28/85	50 FR 34857
Final Action	06/00/86	

Small Entity: No

Agency Contact: Joel Miller, Attorney, Department of the Treasury, Comptroller of the Currency, Enforcement and Compliance Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1818

RIN: 1557-AA12

2097. ANNUAL FINANCIAL DISCLOSURES TO SHAREHOLDERS

Significance: Regulatory Program

Legal Authority: 12 USC 93a; 12 USC 161; 12 USC 1818

CFR Citation: 12 CFR 18

Legal Deadline: None

TREAS—OCC

Final Rule Stage

Abstract: The proposed regulation revises certain disclosure requirements of this Office. It would require all national banks to prepare periodic reports about their operations, file them with the Office, notify shareholders and depositors of their availability and supply them to such persons upon request and at no cost. The required reports would be prepared annually, quarterly, and shortly after the occurrence of significant events. They would contain narrative information about the bank, its management, results of operations, financial condition, and the existence of enforcement actions. In addition, the reports would contain financial statements covering multiple reporting periods. The reports would also contain information concerning bank fees, service charges, and funds availability. Banks which currently are subject to 12 CFR 11 and those which are members of bank holding companies subject to periodic disclosure requirements of the Securities and Exchange Commission might be able to use reports filed pursuant to those requirements, supplemented with information about the bank. The effect on small entities will be considered in the development of this rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	07/13/84	49 FR 28566
ANPRM Comment Period End	10/11/84	49 FR 28566
NPRM	10/30/85	50 FR 45372
NPRM Comment Period End	02/28/86	51 FR 04504
Final Action	06/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: David G. Hayes, Senior Economic Advisor, Economic and Policy Analysis Division, 202 447-1924, and, Charles M. Horn, Assistant Director, Securities and Corporate Practices Division, 202 447-1954, 490 L'Enfant Plaza East, SW, Washington, DC 20219.

Agency Contact: Emily R. McNaughton, National Bank Examiner, Department of the Treasury, Comptroller of the Currency, Commercial Examinations Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1165

RIN: 1557-AA44

2098. RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES; CHANGE IN BANK CONTROL

Legal Authority: 12 USC 1817(j)(13)

CFR Citation: 12 CFR 5.50(i)

Legal Deadline: None

Abstract: The regulation revises the disclosure policy adopted under the Change in Bank Control Act to provide for the publication of notices of changes in control filed pursuant to the Act, except in certain tender offer situations, and to clarify the procedure under which additional information regarding the acquisition may be made available upon request. The regulation will not have a significant economic impact on a substantial number of small banks or other entities.

Timetable:

Action	Date	FR Cite
NPRM	05/07/85	50 FR 19183
NPRM Comment Period End	06/21/85	50 FR 20800
Final Action	06/00/86	

Small Entity: No

Agency Contact: James T. Pitts, Assistant Director, Department of the Treasury, Comptroller of the Currency, Securities and Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1954

RIN: 1557-AA51

2099. ● SECURITIES OFFERING DISCLOSURE RULES

Legal Authority: 12 USC 1 et seq

CFR Citation: 12 CFR 16

Legal Deadline: None

Abstract: This rule consists of technical amendments involving changes in references to provisions of the Securities Exchange Act Disclosure Rules (12 CFR 11). This action is necessary because a recent amendment to Part 11 included a change in the format of that regulation. As a result, the present references in Part 16 to provisions of Part 11 are technically inaccurate. The regulation will not have a significant economic impact on a substantial number of small banks or other entities.

Timetable:

Action	Date	FR Cite
Final Action	06/00/86	

Small Entity: No

Agency Contact: Michael C. Dugas, Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1954

RIN: 1557-AA62

DEPARTMENT OF THE TREASURY (TREAS)

Completed Actions

Comptroller of the Currency (OCC)

2100. SECURITIES EXCHANGE ACT DISCLOSURE RULES

Legal Authority: 15 USC 78

CFR Citation: 12 CFR 11

Legal Deadline: None

Abstract: The rule addresses a series of amendments to the securities disclosure regulations of the Office. The amendments govern such matters as the form and content of financial statements of national banks, prescribed formats for financial statements and schedules, and requirements prohibiting the falsification of accounting records and misrepresentations by officers and directors of national banks. The rule also reformats the regulation into a more logical form through the development of centralized bodies of nonfinancial and financial disclosure items comparable to the Securities and Exchange Commission's Regulations S-K and S-X, to which the various disclosure forms for registration, periodic reporting and proxy solicitation make reference. The regulation will not have a significant economic impact on a substantial number of small banks or other entities.

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TREAS—OCC

Completed Actions

Timetable:

Action	Date	FR Cite
NPRM	09/21/84	49 FR 37246
NPRM Comment Period End	11/20/84	49 FR 37246
Final Action	10/30/85	50 FR 45276
Final Action Effective	12/30/85	50 FR 45276

Small Entity: No

Agency Contact: Michael C. Dugas, Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1854

RIN: 1557-AA06

2101. FAIR HOUSING HOME LOAN DATA SYSTEM

Legal Authority: 15 USC 1 et seq; 15 USC 481; 15 USC 1818; 15 USC 1691 et seq; 42 USC 3601 et seq

CFR Citation: 12 CFR 27

Legal Deadline: None

Abstract: This regulation requires national banks to record and retain information on age, race, sex, and marital status of applicants for home loans. Its purpose is to gather data necessary to statistically analyze lending practices to detect possible illegal discrimination. The Office anticipates amending this regulation only if it should become inconsistent with Regulation B data collection and recordkeeping requirements promulgated by the Board of Governors of the Federal Reserve System. After reviewing the final rule published by the Board on November 20, 1985 (50 FR 48018) the Office does not anticipate amending this regulation.

Timetable:

Action	Date	FR Cite
Withdrawn	12/17/85	

Small Entity: No

Agency Contact: Patrick J. Mace, Senior Fair Lending Specialist, Department of the Treasury, Comptroller of the Currency, Consumer Examinations Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 287-4365

RIN: 1557-AA14

2102. FACILITATING SHAREHOLDER COMMUNICATIONS

Legal Authority: 12 USC 24; 12 USC 92a; 12 USC 93a

CFR Citation: 12 CFR 12

Legal Deadline: None

Abstract: The proposed rule will relate to a national bank's obligation to forward proxy material and related information to bank customers owning securities held by the bank in its name or that of a bank nominee. Delays, inconsistent practices, voting difficulties, and other problems will be addressed. The rulemaking is expected to benefit bank customers by ensuring that they receive in a timely fashion those materials needed to make informed decisions on shareholder matters. The Office will not pursue this rulemaking project as The Shareholder Communications Act of 1985 (H. R. 1803); Pub. L. 99-222, signed into law on December 26, 1985, gave the Securities and Exchange Commission authority over this area with respect to national banks.

Timetable:

Action	Date	FR Cite
Withdrawn	12/29/85	

Small Entity: No

Agency Contact: Michael C. Dugas, Attorney, Department of the Treasury, Comptroller of the Currency, Securities and Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1854

RIN: 1557-AA52

2103. ● SECURITIES EXCHANGE ACT DISCLOSURE RULES

Legal Authority: 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78p; 15 USC 78w

CFR Citation: 12 CFR 11

Legal Deadline: None

Abstract: This rule consists of technical amendments involving the correction of errors in some of the section or subsection designations and cross references, and the addition of clarifying instructions which should have accompanied a particular subsection. This action is necessary because the Office recently adopted final amendments to Part 11, which included a complete reformatting and reorganization of the regulation (50 FR 45276 on October 30, 1985). The regulation will not have a significant economic impact on a substantial number of small banks or other entities.

Timetable:

Action	Date	FR Cite
Final Action Effective	12/30/85	51 FR 04869
Final Action	02/10/86	51 FR 04867

Small Entity: No

Agency Contact: Michael C. Dugas, Attorney, Department of the Treasury, Comptroller of the Currency, Securities & Corporate Practices Division, 490 L'Enfant Plaza East, SW, Washington, DC 20219, 202 447-1854

RIN: 1557-AA63

[FR Doc. 86-8779 Filed 04-18-86; 8:45 am]

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DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Customs Service

19 CFR Ch. I

Semiannual Agenda

AGENCY: U.S. Customs Service, Treasury.

ACTION: Semiannual agenda.

SUMMARY: In response to Pub. L. 96-354, the "Regulatory Flexibility Act," and Executive Order 12291, "Federal Regulations," Customs has prepared and is publishing for public information a list of regulations either under development or under review.

FOR FURTHER INFORMATION CONTACT: For additional information regarding the substance of any particular regulatory project described in the agenda, please communicate with the person identified as the "Agency Contact." All agency contact persons are located at U.S. Customs Service Headquarters, the address of which is noted below. Comments or inquiries of a general nature about the agenda itself should be directed to Gertrude A. Bresnahan, Regulations Control Branch, Office of Regulations and Rulings, Headquarters, U.S. Customs Service, Room 2426, 1301 Constitution Avenue, N.W., Washington, D.C. 20229 (202-566-8237).

TREAS—CUSTOMS

SUPPLEMENTARY INFORMATION:

Background

Public Law 96-354, the "Regulatory Flexibility Act" (RFA) and Executive Order (E.O.) 12291 of February 17, 1981, "Federal Regulations," require semiannual publication, in April and October of each year, or an agenda of regulations which are "likely to have a significant economic impact on a substantial number of small entities" and "major" regulations, respectively. The RFA and E.O. 12291 also require agencies to include in their agendas currently effective rules which are under agency review. Customs agenda includes a brief abstract of each regulatory project ("project") being considered, an indication of whether the project will have an RFA impact, the section(s) of the "Code of Federal Regulations" affected, the legal authority for the action being taken, the name, title, and telephone number of an agency contact and, where applicable, an approximate timetable of completing action on any project for which Customs has published a notice of proposed rulemaking. In addition, the status of projects referred to in previously published agendas is shown.

The following is the eleventh semiannual agenda to be published by Customs under the RFA and E.O. 12291. It has been determined that none of the projects listed as being under development meets the standards required of a "major" regulation provided in E.O. 12291.

General Statutory authority for the development or review of regulations relating to Customs matters is found in section 301, title 5, United States Code (5 U.S.C. 301), and in sections 66 and 1624, title 19, "United States Code" (19 U.S.C. 66, 1624). When appropriate, additional specific statutory authority is indicated as the legal authority for the project.

DATED: January 22, 1986.

B. James Fritz,

Acting Director, Office of Regulations and Rulings.

United States Customs Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2104	19 CFR 19 Customs Warehouses; Duty-Free Stores	1515-AA22

United States Customs Service—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2105	19 CFR 111 Customs Brokers	1515-AA04
2106	19 CFR 133 Copyright	1515-AA07
2107	19 CFR 24.3a, (New) Accounting; Interest on Delinquent Accounts	1515-AA18
2108	19 CFR 12.104 to 12.104i, (New) Implementation of Convention on Cultural Property	1515-AA45
2109	19 CFR 6 Air Commerce Regulations	1515-AA47
2110	19 CFR 162.74 Prior Disclosure of Violations of 19 USC 1592	1515-AA48

United States Customs Service—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2111	19 CFR 142 Entry of Merchandise; Bonds	1515-AA09
2112	19 CFR 18 Foreign Trade Zones	1515-AA30
2113	19 CFR 10.8-10.9 Waiver of Certificate of Registration for Articles Exported for Repairs, Alterations or Processing	1515-AA40
2114	19 CFR 18.8 Liquidated Damages Claims Against Bonded Carriers	1515-AA41
2115	19 CFR 158.2 Entry Summary Filing	1515-AA43
2116	19 CFR 162.32 Fines, Penalties, and Forfeiture Procedures	1515-AA44

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DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Prerule Stage

2104. CUSTOMS WAREHOUSES; DUTY-FREE STORES

Legal Authority: 19 USC 1555; 19 USC 1556; 19 USC 1623

CFR Citation: 19 CFR 19; 19 CFR 144

Legal Deadline: None

Abstract: Consideration of various actions in regard to administration of duty-free stores. Actions range from abolition of stores to their designation as class of bonded warehouse and/or increased regulation. Actions necessary due to need for increased efficiency of store administration by Customs and to address enforcement problems related to stores. Public comment requested on actions under consideration, as well as store operations in general. Work Plan 83-1 approved.

Timetable:

Action	Date	FR Cite
ANPRM	07/21/83	48 FR 33318
ANPRM Comment Period End	09/19/83	
Pending Congressional Action	09/00/00	

Small Entity: No

Agency Contact: John R. Holl, Operation Officer, Department of the Treasury, United States Customs Service, Room 2428, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5356

RIN: 1515-AA22

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Final Rule Stage

2105. CUSTOMS BROKERS

Significance: Regulatory Program

Legal Authority: 19 USC 1641

CFR Citation: 19 CFR 111

Legal Deadline: None

Abstract: Amend Customs Regulations to clarify responsibilities of customhouse brokers and to ensure uniform compliance with applicable regulations. Customs has under consideration as part of project issue of extent to which brokers should be regulated. Work plan 79-5 approved.

Timetable:

Action	Date	FR Cite
NPRM	08/07/85	50 FR 31871
NPRM Comment Period End	11/05/85	
TD under development	01/16/86	
Final Action	06/00/86	

Small Entity: Undetermined

Additional Information: SMALL BUSINESSES CONT: Determination of RFA impact to be made concurrent with publication of NPRM.

Agency Contact: John P. Simpson, Director, Department of the Treasury, United States Customs Service, Office of Regulations and Rulings, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-2367

RIN: 1515-AA04

2106. COPYRIGHT

Legal Authority: 17 USC 1603

CFR Citation: 19 CFR 133

Legal Deadline: None

Abstract: Amendments to Customs Regulations relating to recordation of copyrights with Customs, to implement provisions of Pub. L. 94-533, "Copyright Act of 1976." The project would reduce administrative costs to Customs and copyright applicants. Work plan 82-17 approved.

Timetable:

Action	Date	FR Cite
NPRM	07/07/83	48 FR 31245
NPRM Comment Period End	10/05/83	
In Treasury Review	09/12/85	
Final Action	06/00/86	

Small Entity: No

Agency Contact: Samuel Orandle, Attorney, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5765

RIN: 1515-AA07

2107. ACCOUNTING; INTEREST ON DELINQUENT ACCOUNTS

Legal Authority: 19 USC 197; 19 USC 198; 19 USC 1484; 19 USC 1500; 19 USC 1505; 19 USC 1623; 31 USC 483a

CFR Citation: 19 CFR 24.3a, (New); 19 CFR 113.4, (New)

Legal Deadline: None

Abstract: Establish interest charges for the last payment of supplemental duty bills (bills for additional duties ascertained upon liquidation), reimbursable services, and miscellaneous bills issued by Customs to organizations outside the Government. Provide incentive for prompt payment or reimbursement of interest costs resulting from Government borrowing. Work Plan 86-2 approved.

Timetable:

Action	Date	FR Cite
NPRM	03/10/83	48 FR 10077
NPRM Comment Period End	05/09/83	
Revised TD Under Development	01/16/86	
Final Action	06/00/86	

Small Entity: No

Agency Contact: Robert B. Hamilton, Accountant, Department of the Treasury, United States Customs Service, National Finance Center, 6026 Lakeside Blvd., Indianapolis, Indiana 46278, 317 298-1308

RIN: 1515-AA18

2108. IMPLEMENTATION OF CONVENTION ON CULTURAL PROPERTY

Legal Authority: 19 USC 66; 19 USC 1624; 19 USC 2612

CFR Citation: 19 CFR 12.104 to 12.104i, (New)

Legal Deadline: None

Abstract: Amends regulations to implement Convention on Cultural Property which prohibits illicit traffic in cultural property while allowing the exchange of national treasures for legitimate scientific, educational, and

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Final Rule Stage

cultural purposes. Certification or other documentation must be presented to show that exportation was not in violation of laws of country from which article originates.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/25/85	50 FR 26193
TD In Treasury Review	01/13/86	
Final Action	06/00/86	

Small Entity: No

Agency Contact: Louis Alfano, Operations Officer, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW, Room 4114, Washington, DC 20229, 202 566-8852

RIN: 1515-AA45

2109. AIR COMMERCE REGULATIONS

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 1624; 19 USC 1644; 49 USC 1509

CFR Citation: 19 CFR 6

Legal Deadline: None

Abstract: Revises rules relating to the entry and clearance of aircraft and the transportation of persons and cargo by aircraft. Sets forth the general Customs requirements applicable to all air commerce.

Timetable:

Action	Date	FR Cite
NPRM	07/26/85	50 FR 30455
NPRM Comment Period End	10/24/85	
TD Under Development	01/16/86	
Final Action	09/00/86	

Small Entity: No

Agency Contact: John A. Mathis, Attorney, Department of the Treasury, United States Customs Service, Room 2322, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-2957

RIN: 1515-AA47

2110. ● PRIOR DISCLOSURE OF VIOLATIONS OF 19 USC 1592

Legal Authority: 19 USC 66; 19 USC 1468; 19 USC 1584; 19 USC 1592; 19 USC 1613; 19 USC 1618

CFR Citation: 19 CFR 162.74

Legal Deadline: None

Abstract: Revises regulations to provide for further clarifications and changes relating to prior disclosure of violations of 19 USC 1592.

Timetable:

Action	Date	FR Cite
NPRM	07/08/85	50 FR 27829
NPRM Comment Period End	10/08/85	50 FR 36630
TD under development	01/21/86	
Final Action	06/00/86	

Small Entity: No

Agency Contact: Charles D. Ressin, Attorney, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW, Washington, DC; 20229, 202 566-8317

RIN: 1515-AA48

DEPARTMENT OF THE TREASURY (TREAS)
United States Customs Service (CUSTOMS)

Completed Actions

2111. ENTRY OF MERCHANDISE; BONDS

Legal Authority: 19 USC 1623

CFR Citation: 19 CFR 142

Legal Deadline: None

Abstract: Acceptance of formal entries with unsecured bonds for certain importations. The project would decrease costs to an importer of merchandise valued less than $1,000. Work plan 81-15 approved.

Timetable:

Action	Date	FR Cite
NPRM	12/21/83	48 FR 56401
NPRM Comment Period End	02/21/84	
In Treasury Review	07/08/85	
Final Action TD 85-161	09/26/85	50 FR 38979
Final Action Effective	10/28/85	

Small Entity: No

Agency Contact: Herbert Geller, Operations Officer, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-5307

RIN: 1515-AA09

2112. FOREIGN TRADE ZONES

Legal Authority: 5 USC 301; 19 USC 66; 19 USC 81a to 81u; 19 USC 1202; 19 USC 1623; 19 USC 1624; 31 USC 9701

CFR Citation: 19 CFR 18; 19 CFR 24; 19 CFR 112; 19 CFR 141; 19 CFR 144; 19 CFR 146; 19 CFR 191

Legal Deadline: None

Abstract: Amends Customs Regulations to incorporate new audit-inspection method of zone supervision by Customs, as well as to set forth revised general provisions applicable to the administration of zones.

Timetable:

Action	Date	FR Cite
NPRM	07/17/84	49 FR 28855
NPRM Comment Period End	10/15/84	
In Treasury Review	09/16/85	
Final Action TD 86-16	02/11/86	51 FR 5040

Small Entity: Undetermined

Agency Contact: John Holl, Operations Officer, Department of the Treasury, United States Customs Service, Room 2426, 1301 Constitution Avenue, NW, Washington, DC 20229, 202 566-8151

RIN: 1515-AA30

2113. WAIVER OF CERTIFICATE OF REGISTRATION FOR ARTICLES EXPORTED FOR REPAIRS, ALTERATIONS OR PROCESSING

Legal Authority: 19 USC 66; 19 USC 197; 19 USC 198; 19 USC 1624; 19 USC 1641; 19 USC 1648

CFR Citation: 19 CFR 10.8-10.9

Legal Deadline: None

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Abstract: Provides for waiver of the Certificate of Registration required for entry of articles exported for repair, alteration, or processing abroad, upon payment of duty on only the value of the work done abroad, when the importer satisfies Customs that exportation of the articles occurred.

Timetable:

Action	Date	FR Cite
NPRM	09/10/84	49 FR 35509
NPRM Comment Period End	11/09/84	
In Treasury Review	07/25/85	
Final Action TD 85-162	09/26/85	50 FR 38975
Final Action Effective	10/28/85	

Small Entity: No

Agency Contact: Leo Wells, Operations Officer, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW, Room 4114, Washington, DC 20229, 202 566-2957

RIN: 1515-AA40

2114. LIQUIDATED DAMAGES CLAIMS AGAINST BONDED CARRIERS

Legal Authority: 19 USC 66; 19 USC 1624; 49 USC 1509

CFR Citation: 19 CFR 18.8

Legal Deadline: None

Abstract: To assure uniform assessment of liquidated damages claims against carriers, as well as cartmen, revises regulations relating to liability for shortages, irregular delivery, or nondelivery of imported merchandise.

Timetable:

Action	Date	FR Cite
NPRM	01/11/85	50 FR 1545
NPRM Comment Period End	03/12/85	
In Customs Review	07/25/85	
Final Action TD 85-191	11/29/85	50 FR 49037
Final Action Effective	12/30/85	

Small Entity: No

Agency Contact: William Rosoff, Attorney, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW, Room 2414, Washington, DC 20229, 202 566-5732

RIN: 1515-AA41

2115. ENTRY SUMMARY FILING

Legal Authority: 19 USC 66; 19 USC 197; 19 USC 198; 19 USC 1624; 19 USC 1641; 19 USC 1648

CFR Citation: 19 CFR 158.2

Legal Deadline: None

Abstract: Allows importers to file entry summaries and pay duty for less than the invoiced and manifested number of packages in a permitted shipment, provided the importer submits both a discrepancy report and, in lieu of the carrier's declaration on the report (attesting to the shortage), copies of the dock receipt or other documents evidencing nonreceipt of the lost or missing packages.

Timetable:

Action	Date	FR Cite
NPRM	10/23/84	49 FR 42576
NPRM Comment Period End	12/24/84	
In Treasury Review	07/11/85	
Final Action TD 85-159	09/23/85	50 FR 38519
Final Action Effective	10/23/85	

Small Entity: No

Agency Contact: Jerry C. Laderberg, Attorney, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW, Room 2417, Washington, DC 20229, 202 566-5765

RIN: 1515-AA43

2116. FINES, PENALTIES, AND FORFEITURE PROCEDURES

Legal Authority: 19 USC 66; 19 USC 1603; 19 USC 1609; 19 USC 1610; 19 USC 1611; 19 USC 1612; 19 USC 1618; 19 USC 1624; 19 USC 1641; 19 USC 1705; 46 USC 7; 46 USC 320

CFR Citation: 19 CFR 162.32; 19 CFR 162.45; 19 CFR 162.46; 19 CFR 171.12; 19 CFR 171.33

Legal Deadline: None

Abstract: To implement provisions of the Trade and Tariff Act of 1984, revises the administrative petitioning process and the summary forfeiture process relating to the disposal of merchandise seized and forfeited for violations of the Customs laws and regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/27/85	50 FR 26588
NPRM Comment Period End	08/26/85	
Final Action TD 85-195	12/10/85	50 FR 50287
Final Action Effective	01/09/86	

Small Entity: No

Agency Contact: Jeremy Baskin, Attorney, Department of the Treasury, United States Customs Service, 1301 Constitution Avenue, NW, Room 2332, Washington, DC 20229, 202 566-5748

RIN: 1515-AA44

[FR Doc. 86-8730 Filed 04-18-86; 8:45 am]

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DEPARTMENT OF THE TREASURY (TREAS)
Internal Revenue Service (IRS)

Internal Revenue Service

26 CFR Ch. I

Improving Government Regulations; Semiannual Agenda of Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Semiannual agenda of regulations.

SUMMARY: This semiannual agenda lists the regulations determined as of January 28, 1986 through March 31, 1987. The purpose of this semiannual agenda is to give the public adequate notice of regulatory activities of the Internal Revenue Service.

FOR FURTHER INFORMATION CONTACT: Robert A. Bley, Executive Assistant to the Director, Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR (202-566-3331), not a toll-free call.

SUPPLEMENTARY INFORMATION:

General

Section 5 of Executive Order 12291 and section 602 of the Regulatory Flexibility Act of the Treasury Directive implementing that Act all require that a semiannual agenda of regulations under development and review be published in the Federal Register. The next semiannual agenda of the Internal Revenue Service will be published in the Federal Register in October of 1986.

Description

This Semiannual Agenda of Regulations lists all projects within the Internal Revenue Service (I.R.S.) as of January 28, 1986, for the development of regulations to appear in the "Code of Federal Regulations." This agenda lists existing regulations under development by the Legislation and Regulations Division and the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, I.R.S. The following information is provided for each regulation project: The title; priority status; whether the regulation is currently under review; its effect, if any, on small business; the part of the "Code of Federal Regulations" affected; the legal authority for issuing the regulation; a brief description of the problem to be addressed in the regulation; and a timetable of action taken and to be taken. Under additional information there is provided the control number of the project within the Chief Counsel's Office, and the name and telephone numbers of the drafting and reviewing attorneys.

By direction of the Secretary of the Treasury.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Internal Revenue Service—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2117	26 USC 0643 Clarification of Section 1.643 (a)-3 relating to the Inclusion of Capital Gain in Distributable Net Income	1545-AI31
2118	26 USC 0861 Source of Interest and Dividends	1545-AI15
2119	26 USC 0925 FSC Transfer Pricing Rules, Distributions, Dividends Received, Deduction and Other Special Rules for FSC	1545-AI16

Internal Revenue Service—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2120	26 USC 0026 Limitation on Credits Based on Tax Liability	1545-AH58
2121	26 USC 0038 General Business Credit and Carryforward and Carryback of Unused Business Credit	1545-AH57
2122	26 USC 0044 Income Tax–Employee Stock Ownership Plan Credit	1545-AD56
2123	26 USC 0044A Rules Relating to Various Sections Concerning Dependency and Family Status of Individuals Living Apart	1545-AH44
2124	26 USC 0046 Income Tax–At Risk Limitations on Investment Credit	1545-AA15
2125	26 USC 0046 Income Tax–Changes Made by Secs 222(a) and 223(b) of the Crude Oil Windfall Profit Tax Act of 1980	1545-AA14
2126	26 USC 0047 Income Tax–Amendment of Recapture Rules	1545-AA18
2127	26 USC 0047 Amendment of Income Tax Regulations Under Sections 47, 48 and 196 Relating to Basis Adjustment to Reflect Investment Tax Credit	1545-AF06
2128	26 USC 0055 Income Tax–Alternative Minimum Tax	1545-AE80
2129	26 USC 0056 Corporate Minimum Tax	1545-AI07
2130	26 USC 0057 Income Tax-Minimum Tax. Item of Tax Preference for Intangible Drilling Costs Incurred in Drilling Oil, Gas or Geothermal Wells	1545-AA34
2131	26 USC 0058 Income Tax–Tax Benefit Rule for Minimum Tax	1545-AA33
2132	26 USC 0066 Income Tax–Treatment of Income of Certain Innocent Spouses in Community Property States	1545-AA37
2133	26 USC 0072 Income Tax–Unisex Annuity Tables	1545-AA38

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TREAS—IRS

Internal Revenue Service—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2134	26 USC 0072 Income Tax--Clarification of the Income Tax Regulations with Respect to the Taxation of Distribution from Qualified Plans Providing Life Insurance Protection	1545-AD60
2135	26 USC 0072 Income Tax--Certain Distributions, Contributions, ETC	1545-AD61
2136	26 USC 0072 Loans Treated as Distributions	1545-AE41
2137	26 USC 0072 Income Tax--Early Withdrawals from Deferred Annuities	1545-AF08
2138	26 USC 0079 Nondiscrimination Requirements for Employer-Provided Group-Term Life Insurance	1545-AE89
2139	26 USC 0086 Regulations on Income Tax Under the Social Security Amendments Act of 1983 Relating to the Taxation of Social Security Benefits	1545-AG29
2140	26 USC 0101 Income Tax--Flexible Premium Contracts	1545-AF28
2141	26 USC 0103 Income Tax--To Amend the Regulations Relating to the Treatment of Replacement Funds	1545-AA46
2142	26 USC 0103 Income Tax--To Provide for the Tax Consequences of Refunding Industrial Development Bonds to the Issuer, Bond-Holder & Industrial User	1545-AA47
2143	26 USC 0103 Income Tax--To Clarify the "Substantially All" Test	1545-AA50
2144	26 USC 0103 Income Tax--To Clarify the "Public Use" and "Functionally Related" Requirements	1545-AA51
2145	26 USC 0103 Income Tax--To Define the Term "Principal User of a Facility"	1545-AA56
2146	26 USC 0103 Income Tax--To Define the Term "Facility"	1545-AA60
2147	26 USC 0103 Income Tax--To Clarify the Definition of Property That is a Solid Waste Disposal Facility & to Conform to Statutory Exemption for Industrial Development Bonds for qualified steam generating ETC	1545-AA64
2148	26 USC 0103 To Provide Regulations Under Section 103(b)(10) Relating to Local District Heating and Cooling Facilities	1545-AE22
2149	26 USC 0103 To Provide Regulations Under Section 103(b)(14)-- Relating to Limitation on Maturity of Industrial Development Bonds	1545-AE69
2150	26 USC 0103 Interest Exempt Other than Under the Internal Revenue Code	1545-AF49
2151	26 USC 0103 To Provide Regulations Under Section 103 (b) (6) (0) Relating to Restrictions on Financing Certain Facilities with Exempt Small Issues	1545-AF53
2152	26 USC 0103 Arbitrage: Treatment of Issue Price and Administrative Costs	1545-AF75
2153	26 USC 0103 Regulations Relating to Federally Guaranteed Bonds	1545-AG84
2154	26 USC 0103 Regulations Relating to $40 Million Small Issue Limit on Tax-Exempt Bonds Per Taxpayer	1545-AH19
2155	26 USC 0103 (b) Income Tax Regulations--To Provide Regulations Under Section 103 (b) (16) and (17) Relating to Acquisition of Land and Existing Facilities	1545-AH45
2156	26 USC 0103 (c) To Revise the Arbitrage Regulations Relating to the Temporary Period for Refunding Issues	1545-AH89
2157	26 USC 0103 (o) Denial of Tax Exemption for Consumer Loan Bonds	1545-AH97
2158	26 USC 0103A To Revise Definition of Areas of Chronic Economic Distress for Purposes of Mortgage Subsidy Bonds	1545-AG88
2159	26 USC 0108 Income Tax--Discharge of indebtedness	1545-AA67
2160	26 USC 0111 Income Tax--Part 1--Income Tax Regulations Under Section 111 Relating to Inclusion of Tax Benefit Items	1545-AH17
2161	26 USC 0117 (d) Qualified Tuition Reductions (Section 532 of the Tax Reform Act of 1984)	1545-AI13
2162	26 USC 0118 Income Tax--Contributions in Aid of Construction for Certain Utilities	1545-AA71
2163	26 USC 0129 Income Tax--Dependent Care Assistance Programs	1545-AD65
2164	26 USC 0130 Income Tax--Part 1 Personal Injury Liability Assignments	1545-AF39
2165	26 USC 0133 Interest on ESOP Securities Acquisition Loans	1545-AG46
2166	26 USC 0162 Income Tax--Empl. Tax--Deductibility of Certain Transportation Expenses	1545-AA76
2167	26 USC 0162 Income Tax--To Provide Better Definitions in the Area of Political Advertising & Grassroots Lobbying	1545-AA79
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2363	26 USC 7701 (b) Amendment of Procedure and Administration Regulations Under Section 7701(b) (Definition of Resident Aliens) to Reflect Section 138 of the Tax Reform Act of 1984 (P.L. 98-369)	1545-AH13
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2393	26 USC 0103 Temporary Regulations Relating to Federally Guaranteed Bonds	1545-AH20
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2427	26 USC 0341 Amendment of the Income Tax Regulations Under Section 341, Relating to Collapsible Corporations, to Reflect the Tax Reform Act of 1984	1545-AG33
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2434	26 USC 0401 Notice, Election, and Consent Rules Under the Retirement Equity Act of 1984	1545-AH71
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2463	26 USC 0501 Income Tax–Rules Clarifying the Regulations With Respect to the Computation of "Gross Income" of an Electric Cooperative	1545-AD89
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2465	26 USC 0513 Income Tax–Hospital Services Not to Constitute an Unrelated Trade or Business	1545-AE05
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2469	26 USC 0642 Income Tax–Disallowance of Certain Items as Deductions for Estate and Income Tax Purposes	1545-AB75
2470	26 USC 0807(d) Temporary Regulations Relating to the Mortality and Morbidity Tables to be Used for Insurance Products for Which There are No Applicable Commissioner's Tables	1545-AH96
2471	26 USC 0818 Treatment of Graded Premium Policies Under the Approximate Revaluation Method of Recomputing Reserves	1545-AF03
2472	26 USC 0820 Income Tax–To Clarify the Treatment of Certain Amounts Refunded in Reinsurance Transactions	1545-AB86
2473	26 USC 0861 Source of Interest and Dividends	1545-AF15
2474	26 USC 0861 Amendment of the Income Tax Regulations Under Sec. 1.861-8 to Provide for the Allocation and Apportionment of Partnership Expenses	1545-AF57
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2479	26 USC 0905 Income Tax–Temporary Regulations–Taxpayer's Obligation to File a Notice of Redetermination of Foreign Tax and Civil Penalties for Failure to File	1545-AC09
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2522	26 USC 6050K Returns Relating to Sales or Exchanges of Certain Partnership Interests	1545-AH42
2523	26 USC 6053 Employee Tip Reporting and Substantiation Requirements	1545-AH24
2524	26 USC 6111 Proposed Regulations Under Sections 6111 and 6708, Relating to Tax Shelter Registration	1545-AG45
2525	26 USC 6111 Procedure and Administration Regulations Relating to Tax Shelter Registration and the Requirement to Maintain Lists of Investors	1545-AH29
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2533	26 USC 6655 To Provide Regulations Relating to Accelerated Payment of Estimated Taxes by Corporations	1545-AE37
2534	26 USC 7216 Amendment of Regulations to Permit Disclosure of Tax Return Information between Franchisees who Jointly Operate a Tax Service	1545-AH91
2535	26 USC 7502 Procedure and Administration–Amendment of Regulations Relating to the Timely Mailing of Returns, Taxes and Deposits	1545-AD42
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2538	26 USC 7701 Amendments of the Regulations on Procedure and Administration Under Section 7701 Relating to Classification of Certain Investment Arrangements	1545-AG20
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Sequence Number	Title	Regulation Identifier Number
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2544	26 USC 0051 Income Tax–Adjustments to New Jobs Credit	1545-AA31
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Sequence Number	Title	Regulation Identifier Number
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2553	26 USC 0166 Income Tax–Deductions for Addition to a Reserve for Certain Guaranteed Debt Obligations	1545-AA81
2554	26 USC 0168 Temporary Regulations Under the Tax Reform Act of 1984, Relating to Tax-Exempt Entity Leasing	1545-AG26
2555	26 USC 0170 Income Tax–Estate & Gift Taxes–Transfers of Partial Interests in Property for Conservation Purposes–To Extend Certain Temporary Tax Provisions	1545-AA91
2556	26 USC 0274 Income Tax–Disallowance of Certain Entertainment Expenses–To Conform to Section 361, Revenue Act of 1978	1545-AB05
2557	26 USC 0274 Withdrawal of Temporary Regulations under Section 274 Relating to Contemporaneous Recordkeeping with Respect to Certain Passenger Automobiles and Certain Other Listed Property	1545-AH81
2558	26 USC 0274 To Provide Temporary Regulations Relating to the Revised Recordkeeping Requirements	1545-AI40
2559	26 USC 0338 Regulations Under Section 338(h)(10) Relating to Special Elective Recognition of Gain or Loss	1545-AI26
2560	26 USC 0368 Income Tax–Acquisition of a Corporation by Merger of a Corporation Controlled by the Acquiring Corporation	1545-AB30
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2563	26 USC 0483 Income Tax–Maximum Rate of Imputed Interest for Sale of Land Between Related Persons	1545-AB58
2564	26 USC 0483 Income Tax–Semiannual Compounding of the Test Rate Under Section 483	1545-AF59
2565	26 USC 0527 Income Tax–Rates of Tax for Principal Campaign Committees	1545-AB60
2566	26 USC 0704 Income Tax–Determination of Partner's Distributive Share	1545-AB80
2567	26 USC 0892 Income Tax–Rules for Determining Whether Loans or Net Leases Are Commercial Activities	1545-AB94
2568	26 USC 1092(b) Income Tax – Mixed Straddle Account Elections	1545-AI29
2569	26 USC 1092(b) Income Tax – Coordination of Loss Deferral and Wash Sale Rules and Treatment of Holding Periods and Losses Under Section 1092	1545-AI30
2570	26 USC 1374 Amendment of Income Tax Regulations Under Sections 1374 and 1375 Relating to the Imposition of Tax on Capital Gains and Passive Investment Income	1545-AE92
2571	26 USC 2001 Temporary Estate, Gift and Generation-Skipping Transfer Tax Regulations under the Tax Reform Act of 1984	1545-AH96
2572	26 USC 3720A Temporary Procedure and Administration Regulations under the Spending Reduction Act of 1984 Relating to the Reduction of Tax Overpayments by the Amount of Past-Due Legally Enforceable Etc	1545-AI00
2573	26 USC 4041 Excise Tax–Applicable to Articles Sold on and After 1964	1545-AC85
2574	26 USC 4051 Excise Tax - Part 145 - Temp. - Definition of First Retail Sale Relating To Tax on Trucks Sold at Retail	1545-AI11
2575	26 USC 4071 Manufacturers & Retailers Excise Tax–Relating to Recapped or Retreaded Tires	1545-AC89
2576	26 USC 4994 Excise Tax–Exemptions for Qualified Governmental Interests, Qualified Charitable Interests (Including Residential Child Care Agencies), Indian Oil, Alaskan ETC	1545-AD05
2577	26 USC 6050 Reporting of State and Local Income Tax Refunds	1545-AE76
2578	26 USC 6050H Income Tax–Mortgage Interest Reporting	1545-AH27
2579	26 USC 6050K Returns Relating to Sales or Exchanges of Certain Partnership Interests	1545-AI35
2580	26 USC 6053(c) Employee Tip Reporting and Substantiation Requirements	1545-AI34
2581	26 USC 6232 Proposed Regulations of Section 6232, Relating to the Applicability of Partnership Audit Rules to the Windfall Profit Tax	1545-AG54
2582	26 USC 6416 Excise Tax–Sporting Goods and Firearms & Administration Provisions of Special Application to Manufacturers & Retailers Excise Tax	1545-AD12
2583	26 USC 6430 Credit or Refund of Windfall Profit Tax Paid by a Trust to Certain Beneficiaries	1545-AI27
2584	26 USC 7872 Temporary Income Tax Regulations Under the Tax Return Act of 1984, Relating to Below-Market Loans	1545-AG82

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DEPARTMENT OF THE TREASURY (TREAS) — **Prerule Stage**

Internal Revenue Service (IRS)

2117. ● CLARIFICATION OF SECTION 1.643 (A)-3 RELATING TO THE INCLUSION OF CAPITAL GAIN IN DISTRIBUTABLE NET INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 643(a)(3) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulation will revise rules specifying when capital gains will be included in distributable net income.

Timetable:

Action	Date	FR Cite
ANPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-148-85.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Ada S. Rousso (202) 566-3287.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AI31

2118. ● SOURCE OF INTEREST AND DIVIDENDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 4a

Legal Deadline: None

Abstract: Proposal would remove Temporary Income Tax Regulations relating to source of income. The Temporary Income Tax Regulations have been mooted by amendment of section 861 (b).

Timetable:

Action	Date	FR Cite
ANPRM	05/01/86	

Small Entity: Not Applicable

Additional Information: LR-109-85.

Drafting attorney: Richard Chewning (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel Reviewing Attorney: Jane Sarosdy (202) 566-5911.

Agency Contact: Richard Chewning, Attorney - Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AI15

2119. ● FSC TRANSFER PRICING RULES, DISTRIBUTIONS, DIVIDENDS RECEIVED, DEDUCTION AND OTHER SPECIAL RULES FOR FSC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 925(b)(1) Internal Revenue Code of 1954; 26 USC 925(b)(2) Internal Revenue Code of 1954; 26 USC 927(d)(2) (B) Internal Revenue Code of 1954; 26 USC 927(e)(1) and (2) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for Application of the FSC Transfer Pricing Rules, Distributions, Dividends Received Deductions and Other Special FSC provisions.

Timetable:

Action	Date	FR Cite
ANPRM	05/01/86	

Small Entity: Not Applicable

Additional Information: LR-110-85.

Drafting attorney: Richard Chewning (202) 566-3289.

Reviewing attorney: Carol Doran Klein (202) 566-3289.

Office of International Tax Counsel Reviewing Attorney: Jane Sarosdy (202) 566-5911.

Agency Contact: Richard Chewning, Attorney - Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AI16

DEPARTMENT OF THE TREASURY (TREAS) — **Proposed Rule Stage**

Internal Revenue Service (IRS)

2120. LIMITATION ON CREDITS BASED ON TAX LIABILITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 26 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide for the grouping of tax credits and credit limitation based on tax liability. The current regulations concerning credits will be renumbered to conform to amendments made by the Tax Reform Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	08/15/86	

Small Entity: Not Applicable

Additional Information: LR-290-84.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH58

2121. GENERAL BUSINESS CREDIT AND CARRYFORWARD AND CARRYBACK OF UNUSED BUSINESS CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 38 Internal Revenue Code of 1954; 26 USC 39 Internal Revenue Code of 1954; 26 USC 196 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

TREAS—IRS — **Proposed Rule Stage**

Legal Deadline: None

Abstract: These regulations will provide rules relating to the general business credit established in the Tax Reform Act of 1984. These regulations will also provide rules for the carryback and carryforward of unused business credits. The regulations will define the general business credit, set forth limitations on the amount of credit allowed for the taxable year and set forth treatment of credit amounts in excess of the limitation.

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-300-84.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH57

2122. INCOME TAX—EMPLOYEE STOCK OWNERSHIP PLAN CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 41 Internal Revenue Code of 1954; 26 USC 404(i) Internal Revenue Code of 1954; 26 USC 409 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance for electing the employee stock ownership credit based on contributions to a tax credit employee stock ownership plan. The maximum credit is determined as a percentage of aggregate compensation of employees under the plan which cannot exceed 0.5.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: EE-151-81.

Drafting attorney: John C. Khil (202) 566-6212.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Calder L. Robertson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD56

2123. RULES RELATING TO VARIOUS SECTIONS CONCERNING DEPENDENCY AND FAMILY STATUS OF INDIVIDUALS LIVING APART

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will clarify the treatment of a dependent of both parents for medical expense deduction and provide consistent rules among various inter-related sections concerning the family status of individuals living apart.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-238-84.

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Treasury attorney: Victor Thuronyi (202) 566-2566.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH44

2124. INCOME TAX—AT RISK LIMITATIONS ON INVESTMENT CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 46(c)(8) Internal Revenue Code of 1954; 26 USC 46(c)(9) Internal Revenue Code of 1954; 26 USC 47(d) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will explain and illustrate the application of the investment tax credit at risk rules under which (with certain exceptions) a taxpayer's credit base for section 38 property for purposes of calculating the amount of investment credit (for certain taxpayers engaged in certain activities) shall be reduced by the nonqualified nonrecourse financing with respect to such property.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-240-81.

Drafting attorney: Keith E. Stanley (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Treasury attorney: Rick D'Avino (202) 566-4518.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AA15

2125. INCOME TAX—CHANGES MADE BY SECS 222(A) AND 223(B) OF THE CRUDE OIL WINDFALL PROFIT TAX ACT OF 1980

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 46(a) Internal Revenue Code of 1954; 26 USC 48(l)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations will reflect the repeal of the refundable feature of the solar and wind energy credits and the extension of the energy credit through 1990 for certain long-term energy projects.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Not Applicable

Additional Information: LR-150-80.

Drafting attorney: William A. Jackson (202) 566-4336.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

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Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AA14

2126. INCOME TAX—AMENDMENT OF RECAPTURE RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 47 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The investment tax credit recapture regulations will be updated to explain the recapture treatment for recovery property.

Timetable:

Action	Date	FR Cite
NPRM	08/31/86	

Small Entity: Not Applicable

Additional Information: LR-315-81.

Drafting attorney: Patricia Wendlandt (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3483.

Agency Contact: Patricia Wendlandt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AA18

2127. AMENDMENT OF INCOME TAX REGULATIONS UNDER SECTIONS 47, 48 AND 196 RELATING TO BASIS ADJUSTMENT TO REFLECT INVESTMENT TAX CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 47 Internal Revenue Code of 1954; 26 USC 48 Internal Revenue Code of 1954; 26 USC 196 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations would provide rules concerning a basis adjustment in the case of the investment tax credit.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-163-82.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Treasury attorney: Victor Thuronyi (202) 566-2566.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AF06

2128. INCOME TAX—ALTERNATIVE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 55 Internal Revenue Code of 1954; 26 USC 57 Internal Revenue Code of 1954; 26 USC 58 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Regulations will provide rules for the computation of the alternative minimum tax and the computation of the credits that may be used to reduce that tax, as well as rules for determining the amount of tax preference for excluded dividends and interest, mining exploration and development costs, and circulation, research and experimental expenditures. The Regulations will also provide rules relating to the optional 10 year write off of certain tax preferences.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Not Applicable

Additional Information: LR-235-82.

Drafting attorney: William A. Jackson (202) 566-4336.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Treasury attorney: Neil Kimmelfield (202) 566-8528.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AE80

2129. CORPORATE MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 56 Internal Revenue Code of 1954; 26 USC 57 Internal Revenue Code of 1954; 26 USC 58 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules for the computation of the "add on" corporate minimum tax. The regulations will also provide rules relating to those minimum tax preference items which are applicable to corporations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-36-85.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Treasury attorney: Neil Kimmelfield (202) 566-8528.

Agency Contact: Margaret M. O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AI07

2130. INCOME TAX-MINIMUM TAX. ITEM OF TAX PREFERENCE FOR INTANGIBLE DRILLING COSTS INCURRED IN DRILLING OIL, GAS OR GEOTHERMAL WELLS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 57 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will explain the application and determination of the tax preference item for intangible drilling costs which was added by the Tax Reform Act of 1976. The regulations will provide rules for determining a taxpayer's net income from oil and gas properties, rules for determining if a well is nonproductive and rules for determining the proper preference tax if a well proves to be nonproductive after the close of a taxable year for which a tax return has already been filed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-209-78.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Mo Schuldinger (202) 566-2928.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AA34

2131. INCOME TAX—TAX BENEFIT RULE FOR MINIMUM TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 56 Internal Revenue Code of 1954; 26 USC 57 Internal Revenue Code of 1954; 26 USC 58 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide tax benefit rules with respect to the minimum tax for tax preferences.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-151-78.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Neil Kimmelfield (202) 566-8528.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AA33

2132. INCOME TAX—TREATMENT OF INCOME OF CERTAIN INNOCENT SPOUSES IN COMMUNITY PROPERTY STATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 66 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules for determining acceptable amounts of community earned income transferred between spouses living apart in community property states, which will not preclude the disregard of community property laws for federal tax purposes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-41-81.

Drafting attorney: Paulette Chernyshev (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Paulette Chernyshev, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AA37

2133. INCOME TAX—UNISEX ANNUITY TABLES

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 72 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide unisex tables to be used in reporting payments received on annuity contracts. The unisex tables would replace the tables currently prescribed in the regulations. The current tables are different for men and women.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Not Applicable

Additional Information: LR-19-80.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AA38

2134. INCOME TAX—CLARIFICATION OF THE INCOME TAX REGULATIONS WITH RESPECT TO THE TAXATION OF DISTRIBUTION FROM QUALIFIED PLANS PROVIDING LIFE INSURANCE PROTECTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 72 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would simplify income tax treatment of amounts distributed from qualified employee plans that provide life insurance.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: EE-44-80.

Drafting attorney: Charles M. Watkins (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD60

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2135. INCOME TAX—CERTAIN DISTRIBUTIONS; CONTRIBUTIONS, ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 72(o) Internal Revenue Code of 1954; 26 USC 72(m) Internal Revenue Code of 1954; 26 USC 405(d)(3) Internal Revenue Code of 1954; 26 USC 401(d)(5) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation will provide taxpayers with guidance regarding income tax treatment of distributions of qualified voluntary employee contributions from qualified employee plans.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-149-81.

Drafting attorney: Nancy J. Marks (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Nancy J. Marks, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD61

2136. LOANS TREATED AS DISTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 72 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance on the application of new rules for determining the income tax treatment to be accorded loans to participants or beneficiaries from qualified employer plans. The new loan rules are provided in new section 72(p) of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: EE-106-82.

Drafting attorney: Calder L. Robertson, Jr. (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Jeffrey A. Quinn (202) 566-2175.

Agency Contact: Calder L. Robertson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AE41

2137. INCOME TAX—EARLY WITHDRAWALS FROM DEFERRED ANNUITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 72 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will provide rules for reporting amounts withdrawn from deferred annuities.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: Not Applicable

Additional Information: LR-279-82.

Drafting attorney: Alice M. Bennett (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Donald Rocap (202) 566-2926.

Agency Contact: Alice M. Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AF08

2138. NONDISCRIMINATION REQUIREMENTS FOR EMPLOYER-PROVIDED GROUP-TERM LIFE INSURANCE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 79(d) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance relating to the nondiscrimination requirements for group-term life insurance purchased for employees.

Timetable:

Action	Date	FR Cite
NPRM	03/30/86	

Small Entity: Not Applicable

Additional Information: EE-110-82.

Drafting attorney: Nancy J. Marks (202) 566-3430.

Reviewing attorney: James L. Brokaw (202) 566-4173.

Office of Tax Legislative Counsel reviewing attorneys: Garlock, Rocap.

Agency Contact: Nancy J. Marks, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AE89

2139. REGULATIONS ON INCOME TAX UNDER THE SOCIAL SECURITY AMENDMENTS ACT OF 1983 RELATING TO THE TAXATION OF SOCIAL SECURITY BENEFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 86 Internal Revenue Code of 1954; 26 USC 6050F Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules relating to the taxation of social security benefits.

The regulations explain the calculation for determining the amount of social security benefits includible in the gross income of the recipient of the benefits. The regulations also provide rules for information reporting with respect to the benefit payments which require the furnishing of the amount of social security benefits paid to and repaid by the recipient along with the name, address, and taxpayer identification number of the recipient.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-81-84.

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Drafting attorney: Paulette Chernyshev (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Paulette Chernyshev, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG29

2140. INCOME TAX—FLEXIBLE PREMIUM CONTRACTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 101(f) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will provide rules for determining what portion (if any) of a flexible premium life insurance contract is life insurance for purposes of section 101 of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-308-82.

Drafting attorney: Linda M. Kroening (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Treasury attorney: Donald Rocap (202) 566-2926.

Agency Contact: Alice M. Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AF28

2141. INCOME TAX—TO AMEND THE REGULATIONS RELATING TO THE TREATMENT OF REPLACEMENT FUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to issuers, purchasers and users of tax-exempt obligations relating to whether amounts are replaced by the proceeds of such obligations. As such, such amounts will be treated as proceeds of such obligation and would be required to be invested at less than a materially higher yield. If such amounts are not invested at less than a materially higher yield than the yield on the obligations then the obligations would be arbitrage bonds.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-99-82.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John M. Fischer (202) 566-3394.

Office of Tax Legislative Counsel reviewing attorney: Jim Lokey.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AA46

2142. INCOME TAX—TO PROVIDE FOR THE TAX CONSEQUENCES OF REFUNDING INDUSTRIAL DEVELOPMENT BONDS TO THE ISSUER, BOND-HOLDER & INDUSTRIAL USER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide that advance refunding issues defined as those refunding issues issued more than 180 days before the redemption of the issue to be refunded may be exempt issues if issued to refund qualified public facilities. A definition of qualified public facilities is provided. Special rules for multipurpose issues are also provided.

Timetable:

Action	Date	FR Cite
Previous Notice	12/06/77	42 FR 61613
Hearing	03/15/78	
Previous Notice	02/06/79	44 FR 7177
NPRM	06/30/86	

Small Entity: Not Applicable

Additional Information: LR-70-77.

Drafting attorney: Susan Thompson Baker (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney:

Agency Contact: Susan Thompson Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AA47

2143. INCOME TAX—TO CLARIFY THE "SUBSTANTIALLY ALL" TEST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance in determining the amount of proceeds of an issue of industrial development bonds. Generally such bonds are exempt only if substantially all of the issue proceeds are used for a purpose designated in 26 USC 103 (b).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-182-79.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Lokey.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AA50

2144. INCOME TAX—TO CLARIFY THE "PUBLIC USE" AND "FUNCTIONALLY RELATED" REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

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Abstract: The amendments to the regulations would provide additional rules to determine under what circumstances property is treated as functionally related and subordinate to an exempt facility, such as a dock or wharf, and, therefore financeable with tax-exempt industrial development bonds. Furthermore, the regulations would examine the public use requirement which generally restricts tax-exempt financing to exempt facilities used by the general public.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-51-79.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: Lokey.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AA51

2145. INCOME TAX—TO DEFINE THE TERM "PRINCIPAL USER OF A FACILITY"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would define the meaning of the term "principal user of a facility" for purposes of applying the limitation set by the Internal Revenue Code upon the permissible size of a small issue of tax-exempt industrial development bonds, as diminished by certain other capital expenditures. This regulation would help identify other facilities the capital expenditures from which must be taken into account in determining whether that issue exceeds the small issue limitation.

Timetable:

Action	Date	FR Cite
NPRM	06/30/86	

Small Entity: Not Applicable

Additional Information: LR-59-74.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Office of Tax Legislative Counsel reviewing attorney: Thuronyi.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AA56

2146. INCOME TAX—TO DEFINE THE TERM "FACILITY"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would clarify meaning of term "FACILITY" for purposes of exempt small issues of industrial development bonds. This will affect whether something could qualify for the small issue exemption from the definition of industrial development bonds.

Timetable:

Action	Date	FR Cite
NPRM	12/08/86	

Small Entity: Not Applicable

Additional Information: LR-227-80.

Drafting attorney: Renay France (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AA60

2147. INCOME TAX—TO CLARIFY THE DEFINITION OF PROPERTY THAT IS A SOLID WASTE DISPOSAL FACILITY & TO CONFORM TO STATUTORY EXEMPTION FOR INDUSTRIAL DEVELOPMENT BONDS FOR QUALIFIED STEAM GENERATING ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b) Internal Revenue Code of 1954; 26 USC 103(g) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules to determine whether property is a sewage or solid waste disposal facility or a facility for the local furnishing of electric energy or gas. Qualifying property may be financed with tax-exempt industrial development bonds.

Timetable:

Action	Date	FR Cite
NPRM	10/01/86	

Small Entity: Not Applicable

Additional Information: LR-100-75.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

TITLE CONT: or alcohol-producing facilities.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AA64

2148. TO PROVIDE REGULATIONS UNDER SECTION 103(B)(10) RELATING TO LOCAL DISTRICT HEATING AND COOLING FACILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code; 26 USC 103 Internal Revenue Code

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to issuers, purchasers and users of industrial development bonds substantially all of the proceeds of which are to be used to provide local district heating and cooling. As such, the regulations will provide guidance with respect to which parts of heating and cooling facilities may be financed with the proceeds of such bonds.

Timetable:

Action	Date	FR Cite
NPRM	12/01/86	

Small Entity: Not Applicable

Additional Information: LR-219-82.

Drafting attorney: Renay France (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Treasury attorney: Elliott Stern (202) 535-6968.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AE22

2149. TO PROVIDE REGULATIONS UNDER SECTION 103(B)(14)—RELATING TO LIMITATION ON MATURITY OF INDUSTRIAL DEVELOPMENT BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Rules will provide guidance with respect to computation of average weighted economic life and average weighted maturity. Rules limit the average length of the maturity of all industrial development bonds.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-220-82.

Drafting attorney: Richard G. Blumenreich (202) 566-3297.

Reviewing attorney: Mitchell H. Rapaport (202) 566-3294.

Office of Tax Legislative Counsel reviewing attorney: James Lokey (202) 566-5453.

Agency Contact: Richard G. Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE69

2150. INTEREST EXEMPT OTHER THAN UNDER THE INTERNAL REVENUE CODE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(m) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposal would describe the application of new Code section 103 (m) to interest earned on obligations which are exempt from taxation under Federal laws outside the Internal Revenue Code. Section 103 (m) broadens the types of obligations described in section 103 (a) to include obligations on which the interest is tax-exempt under provisions of Federal law outside of the Code. Section 103 (m) provides that interest on obligations described in section 103 (m) is considered to be interest described in section 103 (a) for all purposes of the Code.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-34-83.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney:

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AF49

2151. TO PROVIDE REGULATIONS UNDER SECTION 103 (B) (6) (D) RELATING TO RESTRICTIONS ON FINANCING CERTAIN FACILITIES WITH EXEMPT SMALL ISSUES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations would define the types of projects which may not be financed with the proceeds of tax-exempt obligations. The amendments will conform the regulations to changes made in section 103 (b) (6) by section 214 (e), Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-84-83.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Office of Tax Legislative Counsel reviewing attorney: Schuldinger.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AF53

2152. ARBITRAGE: TREATMENT OF ISSUE PRICE AND ADMINISTRATIVE COSTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1.103-13

Legal Deadline: None

Abstract: This regulation would provide guidance to issuers of municipal bonds as to the proper treatment of administrative costs and determination of issue price. This regulation would replace the existing regulation which was invalidated by the D.C. Circuit Court of Appeals.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-32-83.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

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Reviewing attorney: John Fischer (202) 566-3394.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AF75

2153. REGULATIONS RELATING TO FEDERALLY GUARANTEED BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations would provide guidance regarding the provisions enacted by the Tax Reform Act of 1984 which denies Federal income tax exemption for bonds issued by State or local governmental units if payments of principal or interest with respect to such bonds are directly or indirectly guaranteed by the Federal Government.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-156-84.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AG84

2154. REGULATIONS RELATING TO $40 MILLION SMALL ISSUE LIMIT ON TAX-EXEMPT BONDS PER TAXPAYER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC (b)(15) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations would provide guidance regarding the provision enacted by the Tax Reform Act of 1984 which generally denies Federal income tax exemption for a small issue of development bonds if any of its beneficiaries receives the benefits of more than $40 million of prior outstanding industrial development bonds allocated to itself, including its allocated portion of the small issue in question. These regulations would also provide guidance regarding how the proceeds of an issue of industrial development bonds are to be allocated among its beneficiaries.

Timetable:

Action	Date	FR Cite
NPRM	06/30/86	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-157-84.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Office of Tax Legislative Counsel reviewing attorney: Thuronyi.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AH19

2155. INCOME TAX REGULATIONS—TO PROVIDE REGULATIONS UNDER SECTION 103 (B) (16) AND (17) RELATING TO ACQUISITION OF LAND AND EXISTING FACILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 (b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1.103

Legal Deadline: None

Abstract: The regulations will provide rules relating to the prohibition on use of more that 25 percent of the proceeds to acquire land and the exception for first time farmers. The regulations will also provide rules on the prohibition on use of proceeds to acquire existing property and the exception for rehabilitations.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-219-84.

Drafting Attorney: Richard B. Blumenreich (202) 566-3297.

Reviewing attorney: Mitchell H. Rapaport (202) 566-3294.

Treasury attorney: James Lokey (202) 566-5453.

Agency Contact: Richard G. Blumenreich, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH45

2156. TO REVISE THE ARBITRAGE REGULATIONS RELATING TO THE TEMPORARY PERIOD FOR REFUNDING ISSUES

Legal Authority: 26 USC 103(c) Internal Revenue Code of 1954; 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will consider whether to amend the arbitrage regulations under section 103(c) relating to the temporary period for refunding issues.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-60-85.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John M. Fischer (202) 566-3394.

Treasury attorney: Jim Lokey (202) 566-5453.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AH89

2157. DENIAL OF TAX EXEMPTION FOR CONSUMER LOAN BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to consumer loan bonds. The regulations will explain the meaning of the term "loan" for purposes of this provision. The regulations will also provide guidance on which obligations are not consumer loan bonds.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-20-85.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John M. Coulter (202) 566-4473.

Treasury attorney: Jim Lokey (202) 566-5453.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AH97

2158. TO REVISE DEFINITION OF AREAS OF CHRONIC ECONOMIC DISTRESS FOR PURPOSES OF MORTGAGE SUBSIDY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1.103A-2

Legal Deadline: None

Abstract: The regulations will clarify the rules under section 103A relating to designations of areas of chronic economic distress. The regulations would provide objective tests to be used in analyzing requests for such designations.

Timetable:

Action	Date	FR Cite
NPRM	06/30/86	

Small Entity: Not Applicable

Additional Information: LR-307-84.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Treasury attorney: Suzanne R. McDowell (202) 566-8277.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AG88

2159. INCOME TAX—DISCHARGE OF INDEBTEDNESS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 108 Internal Revenue Code of 1954; 26 USC 1017 Internal Revenue Code of 1954; PL 96-589, Sec 2 Bankruptcy Tax Act 1980

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This proposal would provide rules relating to certain income from the discharge of indebtedness, including rules relating to the election to reduce the basis of assets in lieu of recognizing income.

Timetable:

Action	Date	FR Cite
NPRM	01/00/87	

Small Entity: Not Applicable

Additional Information: LR-91-81.

Drafting attorney: Andrew Pullman (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Office of Tax Legislative Counsel reviewing attorney: Lokey.

Agency Contact: Charles M. Whedbee, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3474

RIN: 1545-AA67

2160. INCOME TAX—PART 1—INCOME TAX REGULATIONS UNDER SECTION 111 RELATING TO INCLUSION OF TAX BENEFIT ITEMS

Legal Authority: 26 USC 111 Internal Revenue Code of 1954; 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will revise the rules for determining whether the recovery of an amount deducted in a prior taxable year must be included in income, to reflect changes in section 111 made by section 170 of the Tax Reform Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	04/02/86	

Small Entity: Not Applicable

Additional Information: LR-303-84.

Drafting attorney: Annie R. Alexander (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3318.

Treasury attorney: James Bridgeman (202) 566-4902.

Agency Contact: Annie R. Alexander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH17

2161. QUALIFIED TUITION REDUCTIONS (SECTION 532 OF THE TAX REFORM ACT OF 1984)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 117 (d) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations contain rules explaining when qualified tuition reductions provided for education below the graduate level to an employee of an educational organization or to a person treated as an employee will be excluded from the employee's gross income. The proposed regulations include rules relating to tuition reductions which discriminate in favor of officers, owners or highly compensated employees and so are includible in income.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-35-85.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Treasury attorney: Kent Mason (202) 566-6964.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AJ13

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2162. INCOME TAX—CONTRIBUTIONS IN AID OF CONSTRUCTION FOR CERTAIN UTILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 118(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice would define and interpret when a utility has received a contribution in aid of construction. Changes to the applicable law were made by section 2120 of the Tax Reform Act of 1976 and section 364 of the Tax Reform Act of 1978.

Timetable:

Action	Date	FR Cite
Previous NPRM	09/27/78	
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-136-76.

Drafting attorney: Andrew B. Pullman (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Rocap.

Agency Contact: Andrew B. Pullman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AA71

2163. INCOME TAX—DEPENDENT CARE ASSISTANCE PROGRAMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 129 Internal Revenue Code of 1954; 26 USC 3121(a)(18) Internal Revenue Code of 1954; 26 USC 3306(b)(13) Internal Revenue Code of 1954; 26 USC 3401(a)(18) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 31

Legal Deadline: None

Abstract: Internal Revenue Code section 129 excludes from an employee's gross income amounts paid or expenses incurred by an employer for dependent care assistance provided to an employee pursuant to a qualified program. Payments or benefits excluded under this section are not wages and consequently are not subject to tax under the Federal Insurance Contributions Act and the Federal Unemployment Act and are not subject to withholding. The regulation sets forth plan requirements and related rules.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-147-81.

Drafting attorney: Monice L. Rosenbaum (202) 566-3422.

Reviewing attorney: James L. Brokaw (202) 566-4173.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AD65

2164. INCOME TAX—PART 1 PERSONAL INJURY LIABILITY ASSIGNMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 130 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will provide rules on the exclusion from gross income for amounts received for agreeing to the assignment of a liability to make periodic payments as damages on account of personal injury or sickness.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-82-83.

Drafting attorney: C. Scott McLeod (202) 566-3288.

Reviewing attorney: Cynthia Clark (202) 566-3288.

Tax Legislative Counsel attorney:

Agency Contact: C. Scott McLeod, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF39

2165. INTEREST ON ESOP SECURITIES ACQUISITION LOANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 133 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance concerning the treatment of interest on ESOP securities acquisition loans.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: EE-73-84.

Drafting Attorney: John T. Ricotta (202) 566-3544.

Reviewing Attorney: Michael A. Thrasher (202) 566-3961.

Treasury Attorney: Harry Conaway (202) 566-4902.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AG46

2166. INCOME TAX—EMPL. TAX—DEDUCTIBILITY OF CERTAIN TRANSPORTATION EXPENSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 162 Internal Revenue Code of 1954; 26 USC 62 Internal Revenue Code of 1954; 26 USC 262 Internal Revenue Code of 1954; 26 USC 3121 Internal Revenue Code of 1954; 26 USC 3306 Internal Revenue Code of 1954; 26 USC 3401 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 31

Legal Deadline: None

Abstract: The regulations would provide guidelines for determining when a taxpayer may deduct some transportation expenses incurred in traveling between his home and some places of work.

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-173-77.

Drafting attorney: Beverly A. Baughman (202) 566-3297.

Reviewing attorney: John G. Schmalz (202) 566-3297.

Treasury attorney: Fairlea Sheehy (202) 566-4902.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA76

2167. INCOME TAX—TO PROVIDE BETTER DEFINITIONS IN THE AREA OF POLITICAL ADVERTISING & GRASSROOTS LOBBYING

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 162 Internal Revenue Code of 1954; 26 USC 4945 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide better definitions in the area of political advertising and grassroots lobbying.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
NPRM Comment Period End	09/00/86	
Final Action	09/00/90	

Small Entity: Not Applicable

Additional Information: LR-190-77.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: David R. Haglund (202) 566-3297.

Office of Tax Legislative Counsel reviewing attorney: McDowell.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA79

2168. INCOME TAX—LIMITATION ON INTEREST DEDUCTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 163(d) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to the deductibility of interest on indebtedness incurred to purchase or carry investment property.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-1639.

Drafting attorney: C. Scott McLeod (202) 566-3288.

Reviewing attorney: John M. Fischer (202) 566-3394.

Agency Contact: C. Scott McLeod, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AA80

2169. INCOME TAX—NORMALIZATION REQUIREMENT FOR PUBLIC UTILITY PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 168(e)(3) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The temporary regulations would provide guidance to public utilities relating to the transitional rules for the public utility normalization requirements of ACRS under section 168 (e) (3). Prior to ACRS some public utilities did not have to normalize in order to use accelerated depreciation. Under the transitional rule these utilities are given until January 1, 1988 to meet the normalization requirements of section 168 (e) (3).

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-244-81.

Drafting attorney: Paulette Chernyshev (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Evans.

Agency Contact: Paulette Chernyshev, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AA98

2170. FINANCE LEASES—DEFINITION AND SPECIAL RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 168

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulations project would provide rules regarding what transaction would qualify as a finance lease, a new tax law concept enacted by the Tax Equity and Fiscal Responsibility Act of 1982. This project would also provide guidelines for determining whether a transaction characterized as a lease is really a lease for Federal tax purposes as opposed to a conditional sale or a financing arrangement.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-90-83.

Drafting attorney: Robert Beatson (202) 566-3590.

Reviewing attorney: John A. Tolleris (202) 566-3590.

Treasury attorney: Blake Rubin (202) 566-2627.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AF54

2171. TO PROVIDE REGULATIONS UNDER SECTION 168 RELATING TO INTANGIBLE PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 168 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The project will clarify what type of property is "tangible" property subject to the allowance for depreciation under the accelerated cost recovery system.

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Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-17-84.

Drafting attorney: Ada S. Rousso (202) 566-3287.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Agency Contact: Ada S. Rousso, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AF76

2172. INCOME TAX—AMORTIZATION OF CERTAIN POLLUTION CONTROL FACILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 169 Internal Revenue Code of 1954; Tax Reform Act of 1976 sec 2112

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide a definition of "Pollution Control Facility" for purposes of amortization. An eligible taxpayer would be permitted to amortize the basis of the pollution control facility over a period of five years.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-193-76.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AA89

2173. INCOME TAX—CHARITABLE CONTRIBUTIONS OF SCIENTIFIC PROPERTY USED FOR RESEARCH

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 170 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to corporations making a qualified research contribution of scientific equipment or apparatus to an institution of higher education.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information:

LR-219-81.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA90

2174. INCOME TAX — TO PROVIDE REGULATIONS RELATING TO CONTRIBUTIONS TO PRIVATE FOUNDATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the percentage limitations for charitable contributions to private foundations. The regulations will also provide rules relating to "qualified appreciated stock" as that term is defined in section 170 (e) (5) of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	08/15/86	

Small Entity: Not Applicable

Additional Information: LR-321-84.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel reviewing attorney: James Bridgeman (202) 566-4902.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AI09

2175. ● TO CLARIFY TREATMENT OF AMORTIZABLE BOND PREMIUM WITH RESPECT TO BONDS ISSUED IN CERTAIN SECTION 351 TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1.171-2(a)(1)

Legal Deadline: None

Abstract: This regulation would prescribe the method for determining the bond premium on bonds with a substituted basis. This method will result in the true yield from the bond being reported and avoid the possibility of having capital losses converted into ordinary losses.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-129-83.

Drafting attorney: Laura Ann M. Lauritzen (202) 566-3459.

Reviewing attorney: John Coulter (202) 566-4473.

Treasury attorney:

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AI18

2176. ELECTION TO POSTPONE DETERMINATION WITH RESPECT TO THE PRESUMPTION THAT AN ACTIVITY IS ENGAGED IN FOR PROFIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 183(e) (3) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the election to postpone the determination whether the section 183 (d) presumption applies until the activity has been conducted

for five (or seven) years. The regulations will specify who can make the election and the time and manner of making the election.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Small Entity: Not Applicable

Additional Information: LR-73-84.

Drafting attorney: C. Scott McLeod (202) 566-3288.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Agency Contact: C. Scott McLeod, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG27

2177. INCOME TAX—AMORTIZATION OF REAL PROPERTY CONSTRUCTION PERIOD INTEREST & TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 189 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide that only a portion of the real property construction period interest and taxes are deductible for the taxable year they are paid or accrued. The remaining amounts are amortized over varying periods of time depending on the category of real property to which such amounts are attributable and the taxable year the interest and taxes are paid or accrued.

Timetable:

Action	Date	FR Cite
NPRM	06/30/86	

Small Entity: Not Applicable

Additional Information: LR-145-76.

Drafting attorney: Bruce H. Jurist (202) 566-3238.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: D'Avino.

Agency Contact: Bruce H. Jurist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AA97

2178. INCOME TAX—TO ADD PROVISIONS RELATING TO START-UP EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 195 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to taxpayers electing to amortize start-up expenditures relating to the creation or acquisition of an active trade or business.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-36-81.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB02

2179. MEDICAL DEDUCTION FOR LODGING AWAY FROM HOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 213 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the deduction for medical expenses incurred for lodging away from home.

Timetable:

Action	Date	FR Cite
NPRM	08/05/86	

Small Entity: Not Applicable

Additional Information: LR-308-84.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: John B. Bronsell (202) 566-3328.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH21

2180. INCOME TAX-NOTICE OF PROPOSED RULEMAKING-HOLDINGS PERIODS FOR DIVIDENDS RECEIVED DEDUCTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 246 (c) Internal Revenue Code of 1954; 26 USC 1059 Internal Revenue Code of 1954; 26 USC 854 Internal Revenue Code of 1954; 26 USC 7701 (f) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Amendment of the regulations under section 246 (c) and related sections of the Internal Revenue Code of 1954 to interpret the limitations on qualification for a dividends received deduction imposed by the holding period. The regulations will explain how that holding period is effected when a taxpayer has diminished his risk of loss.

Timetable:

Action	Date	FR Cite
NPRM	11/30/86	

Small Entity: Not Applicable

Additional Information: LR-8-85.

Drafting attorney: Patricia Wendlandt (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Agency Contact: Patricia Wendlandt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AH40

2181. INCOME TAX-DEBT-FINANCED PORTFOLIO STOCK

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 246A Internal Revenue Code of 1954; 26 USC 7701(f) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

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Abstract: Amendment of the regulations to interpret the rule contained in section 246A of the Internal Revenue Code of 1954 relating to the dividends received deduction where portfolio stock is debt financed.

Timetable:

Action	Date	FR Cite
NPRM	08/31/86	

Small Entity: Not Applicable

Additional Information: LR-261-84.

Drafting attorney: Patricia Wendlandt (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Agency Contact: Patricia Wendlandt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AH39

2182. INCOME TAX—PREPUBLICATION EXPENDITURES OF PUBLISHERS AND AUTHORS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 263 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to taxpayers relating to the capitalization of pre-publication expenses of publishers and authors.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-253-76.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AA36

2183. INCOME TAX - NOTICE OF PROPOSED RULEMAKING - PAYMENTS IN LIEU OF DIVIDENDS IN CONNECTION WITH SHORT SALES, SECTION 263 (H) OF THE INTERNAL REVENUE CODE AND SECTION 56 (A) OF THE TRA 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 263 (h) Internal Revenue Code of 1954; 26 USC 265 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the disallowance of deductions for payments made in lieu of dividends in connection with short sales as required by section 263 (h) of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	04/15/86	

Small Entity: Not Applicable

Additional Information: LR-9-85.

Drafting attorney: Patricia Wendlandt (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Agency Contact: Patricia Wendlandt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AH37

2184. INCOME TAX—TAXES AND CARRYING CHARGES CHARGEABLE TO CAPITAL ACCOUNT AND TREATED AS CAPITAL ITEMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 266 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules for electing to capitalize certain taxes and carrying charges that are otherwise expressly deductible under subtitle A of the Code.

Timetable:

Action	Date	FR Cite
NPRM	06/30/86	

Small Entity: Not Applicable

Additional Information: LR-22-82.

Drafting attorney: Bruce B. Jurist (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Agency Contact: Bruce H. Jurist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB03

2185. INCOME TAX—TO ADD PROVISIONS RELATING TO FOREIGN CONVENTIONS (AS AMENDED BY SECTION 4 OF PUBLIC LAW 96-606)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 274(h) Internal Revenue Code of 1954; PL 96-606, Sec 4; PL 97-424, Sec 543; PL 98-67, Sec 222

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules to assist taxpayers in determining whether it is as reasonable to hold a convention, seminar, or similar meeting outside North America as within it, and thus whether expenses relating to attendance at the convention are deductible.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: Not Applicable

Additional Information: LR-114-81.

Drafting attorney: Ada S. Rousso (202) 566-3287.

Reviewing attorney: John M. Fischer (202) 566-3394.

Draft of notice to Treasury for review 11/08/82.

Agency Contact: Ada S. Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AB04

2186. INCOME TAX—TAXATION OF NONEXEMPT MEMBERSHIP ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 277 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would relate to the taxation of nonexempt membership organizations. The regulations would clarify the deductibility to the organization for furnishing services, facilities, et cetera, to its members.

Timetable:

Action	Date	FR Cite
Hearing	08/06/72	
NPRM	00/00/00	
Final Action Effective	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-1721.

Drafting attorney: Bruce H. Jurist (202) 566-3238.

Reviewing attorney: Cynthia Clark (202) 566-3288.

Agency Contact: Bruce H. Jurist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington DC 20224, 202 566-3238

RIN: 1545-AB07

2187. INCOME TAX—AMORTIZATION OF PRODUCTION COST OF MOTION PICTURES, BOOKS, RECORDS, AND OTHER SIMILAR PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 280 Internal Revenue Code of 1954; Section 210 Tax Reform Act of 1976

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to taxpayers relating to the amortization of certain production costs that are otherwise not capitalized. The regulations relate to production costs for motion pictures, books, records, and similar property.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-220-76.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB08

2188. NOTICE OF PROPOSED RULEMAKING RELATING TO RESTRICTIONS ON GOLDEN PARACHUTE PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 280G Internal Revenue Code of 1954

CFR Citation: 26 CFR 280G

Legal Deadline: None

Abstract: These regulations will provide rules relating to restrictions on golden parachute payments. The regulations will provide guidance to taxpayers, who must comply with section 280G, by delineating the circumstances under which payments may be considered excess parachute payments.

Timetable:

Action	Date	FR Cite
NPRM	04/02/86	

Small Entity: Not Applicable

Additional Information: LR-217-84.

Drafting attorney: Annie R. Alexander (202) 566-3297.

Reviewing attorney: Sharon Galm (202) 566-3930.

Treasury attorney: Don Rocap (202) 566-2926.

Agency Contact: Annie R. Alexander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH49

2189. INCOME TAX—SPECIAL RULES RELATING TO CORPORATE PREFERENCE ITEMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 291 Internal Revenue Code of 1954; 26 USC 57(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the determination of the reduction for certain corporate preference items.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Not Applicable

Additional Information: LR-234-82.

Drafting attorney: Timothy J. McKenna (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Agency Contact: Timothy J. McKenna, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AE78

2190. WAIVER OF FAMILY ATTRIBUTION BY ENTITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 302(c)(2) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would interpret the definitions and special rule for waiver of family attribution by entities contained in section 302 (c) (2) of the Internal Revenue Code of 1954, which relates to the tax treatment of certain redemptions of corporate stock.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-189-82.

Drafting attorney: Michel A. Daze' (202) 566-6456.

Reviewing attorney: Charles M. Whedbee (202) 566-3487.

Treasury attorney: McClanahan.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6456

RIN: 1545-AF13

2191. INCOME TAX—TO CLARIFY MEANING OF TERM "REASONABLE REDEMPTION PREMIUM"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 305 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

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Legal Deadline: None

Abstract: The regulations would provide rules to determine when the difference between redemption price and issue price of preferred stock will be treated as a stock distribution.

Timetable:

Action	Date	FR Cite
NPRM	10/01/86	

Small Entity: Not Applicable

Additional Information: LR-91-76.

Drafting attorney: Mark Jennings (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Garlock.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB15

2192. INCOME TAX - AMENDMENTS TO STATUTORY PROVISIONS RELATING TO EARNINGS AND PROFITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 312 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules for the calculation of earnings and profits to reflect changes in the law made by section 61 of the Deficit Reduction Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-154-84.

Drafting attorney: John Brendbent (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Agency Contact: John Broadbent, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, D.C. 20224, 202 566-3458

RIN: 1545-AG30

2193. INCOME TAX—MISCELLANEOUS CORPORATE AMENDMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 302 Internal Revenue Code of 1954; 26 USC 337 Internal Revenue Code of 1954; 26 USC 1371 Internal Revenue Code of 1954; 26 USC 351 Internal Revenue Code of 1954; 26 USC 312 Internal Revenue Code of 1954; 26 USC 542(c) Internal Revenue Code of 1954; PL 98-369, Sec 5

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would amend the Income Tax Regulations to conform them to miscellaneous corporate amendments made by the Bankruptcy Tax Act of 1980.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-71-81.

Drafting attorney: Mark S. Jennings (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB12

2194. REGULATIONS UNDER SECTION 338 (H) (10) AS ADDED TO THE CODE BY SECTION 306 OF THE TECHNICAL CORRECTIONS ACT OF 1982, RELATING TO SPECIAL ELECTIVE RECOGNITION OF GAIN OR LOSS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 338 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would interpret the rules of section 338 (h) (10) under which a special election can be made so that target recognizes gain or loss on the deemed sale of its assets. The proposal is necessary so that affected taxpayers can make election under the provision.

Timetable:

Action	Date	FR Cite
NPRM	01/06/86	51 FR 763
NPRM Comment Period End	03/10/86	
Final Action	01/31/87	

Small Entity: Not Applicable

Additional Information: LR-218-82.

Drafting attorney: Patricia Wendlandt (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Agency Contact: Patricia Wendlandt, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AF93

2195. INCOME TAX—APPLICATION OF SECTION 338 TO STOCK AND ASSET ACQUISITIONS IN THE INTERNATIONAL CONTEXT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 338 Internal Revenue Code of 1954

CFR Citation: 26 CFR 338

Legal Deadline: None

Abstract: These regulations will provide rules relating to section 338 as it applies to stock and asset acquisitions in the international context.

Timetable:

Action	Date	FR Cite
NPRM	04/15/86	

Small Entity: Not Applicable

Additional Information: LR-35-84.

Drafting attorney: Duane H. Pellervo (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C., 20224, 202 566-3458

RIN: 1545-AG13

2196. DEEMED SALE PRICE WHEN CERTAIN STOCK PURCHASES ARE TREATED AS ASSET ACQUISITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 338 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will prescribe rules for computing the basis of stock purchased in certain stock acquisitions and for allocating this basis among the assets of the corporation whose stock was thus acquired.

Timetable:

Action	Date	FR Cite
NPRM	03/01/86	

Small Entity: Not Applicable

Additional Information: LR-191-82.

Drafting attorney: Patricia Wendlandt (202) 566-3458.

Reviewing attorney: Charles Whedbee (202) 566-3487.

Office of Tax Legislative Counsel reviewing attorney: Thomas Wessel.

Agency Contact: Patricia Wendlandt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AF29

2197. INCOME TAX—REGULATIONS UNDER SECTION 338 (A)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 338 Internal Revenue Code of 1954; PL 97-248, Sec 224; PL 97-448, Sec 306

CFR Citation: 26 CFR 1; 26 CFR 31

Legal Deadline: None

Abstract: This regulation would establish general rules relating to the effect of an election under section 336 (g), which permits certain stock purchases to be treated as asset acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-212-82.

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Treasury attorney: Thomas F. Wessel (202) 535-6963.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AE60

2198. INCOME TAX—CORPORATE DISTRIBUTIONS OF APPRECIATED PROPERTY AND PARTIAL LIQUIDATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 346(b) Internal Revenue Code of 1954; 26 USC 302(b) Internal Revenue Code of 1954; 26 USC 302(e) Internal Revenue Code of 1954; 26 USC 311(d) Internal Revenue Code Of 1954; 26 USC 311(e) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would interpret and prevent the circumvention of the repeal of the special tax treatment for partial corporate liquidations as effected by section 222 of the Tax Equity and Fiscal Responsibility Act of 1982. Proposal would also interpret the definitions and special rules relating to appreciated property used to redeem stock contained in section 311 of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: Not Applicable

Additional Information: LR-218-82.

Drafting attorney: Charles W. Culmer (202) 566-4336.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Treasury attorney: David C. Garlock (202) 566-2566.

Agency Contact: Charles W. Culmer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AF16

2199. AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SECTION 367 OF THE CODE (TRANSFERS TO FOREIGN CORPORATIONS) TO REFLECT SECTION 131 OF THE TAX REFORM ACT OF 1984 (P.L. 98-369)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 367 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1T

Legal Deadline: None

Abstract: The Income Tax Regulations under section 367 will be amended to reflect the changes made to that section by the Tax Reform Act of 1984. Section 367 now provides generally that a foreign corporation will not be considered to be a corporation, for purposes of certain nonrecognitions provisions of the Code, upon the transfer of property to such corporation by a U.S. person. The statute provides certain exceptions to that rule, exemptions to those exceptions, and special rules applicable to certain specified transfers. The regulations will provide guidance concerning the applicability of the general rule and its exceptions and special rules, including guidance concerning transfers of assets for use in the section conduct of a trade or business, stock transfers, transfers of intangible assets, and transfers of branch operations that have operated at a loss.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: Not Applicable

Additional Information: LR-150-84.

Drafting attorney: Charles W. Culmer (202) 566-4336.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Treasury attorney: Joseph L. Andrus (202) 566-2964.

Agency Contact: Charles W. Culmer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AG68

2200. INCOME TAX—CORPORATE REORGANIZATION AMENDMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 368 Internal Revenue Code of 1954; 26 USC 354 Internal

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Revenue Code of 1954; 26 USC 358 Internal Revenue Code of 1954; 26 USC 361 Internal Revenue Code of 1954; 26 USC 362 Internal Revenue Code of 1954; 26 USC 381 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provision would provide regulations with respect to amendments to the provisions of the Internal Revenue Code of 1954 dealing with bankruptcy and other insolvency reorganizations, thereby giving the public needed guidance on how the Internal Revenue Service intends to interpret those amendments.

Timetable:

Action	Date	FR Cite
NPRM	01/00/87	

Small Entity: Not Applicable

Additional Information: LR-63-81.

Drafting attorney: Andrew B. Pullman (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Lokey.

Agency Contact: Andrew B. Pullman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB29

2291. DEFINED BENEFIT PLAN TERMINATIONS AND THE REVERSION OF ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 401 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations describe when, in fact, a defined benefit pension plan has been terminated so as to permit reversion to the employer of excess assets.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: EE-106-83.

Drafting attorney: Suzanne K. Tank (202) 566-3422.

Reviewing attorney: James L. Brokaw (202) 566-4173.

Treasury attorney: Conaway.

Agency Contact: Suzanne K. Tank, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AF81

2202. INCOME TAX—REQUIRED DISTRIBUTIONS FROM QUALIFIED PLANS AND INDIVIDUAL RETIREMENT ACCOUNTS AND PARTIAL ROLLOVERS OF INDIVIDUAL RETIREMENT ACCOUNTS

Legal Authority: 26 USC 408(a)(6) Internal Revenue Code of 1954; 26 USC 401(a)(9) Internal Revenue Code of 1954; 26 USC 408(b)(3) Internal Revenue Code of 1954; 26 USC 408(d)(3)(C) Internal Revenue Code of 1954; 26 USC 408(j) Internal Revenue Code of 1954; 26 USC 408(k) Internal Revenue Code of 1954; 26 USC 409(b)(3)(C) Internal Revenue Code of 1954; 26 USC 219(d)(4) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will revise the Income Tax Regulations to incorporate the changes made in the law by the Tax Equity and Fiscal Responsibility Act of 1982 and the Tax Reform Act of 1984 concerning required distributions from qualified plans and individual retirement accounts and partial rollovers of individual retirement accounts.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: EE-113-82.

Drafting attorney: Marjorie Hoffman (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AE95

2203. VARIOUS PENSION PARITY, ETC. PROVISIONS UNDER THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 AND THE ECONOMIC RECOVERY TAX ACT OF 1981

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 72 Internal Revenue Code of 1954; 26 USC 101 Internal Revenue Code of 1954; 26 USC 401 Internal Revenue Code of 1954; 26 USC 404 Internal Revenue Code of 1954; 26 USC 408 Internal Revenue Code of 1954; 26 USC 457 Internal Revenue Code of 1954; 26 USC 1379 Internal Revenue Code of 1954; 26 USC 2039 Internal Revenue Code of 1954; 26 USC 4972 Internal Revenue Code of 1954; PL 95-600, Sec 131 Revenue Act of 1978; PL 97-248, Sec 237; PL 97-248, Sec 238; PL 97-248, Sec 245; PL 97-248, Sec 252; ...

CFR Citation: 26 CFR 1; 26 CFR 20; 26 CFR 54

Legal Deadline: None

Abstract: Regulations will interpret changes in sections 72, 101, 401, 404, 408, 457, 1379, 2039, and 4972 of the Internal Revenue Code relating to the elimination of distinctions between corporate pension plans and plans covering self-employed individuals.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: EE-106-82.

Drafting attorney: Philip R. Bosco (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Philip R. Bosco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AE84

2204. NONDISCRIMINATORY COORDINATION OF DEFINED CONTRIBUTION PLANS WITH OLD AGE, SURVIVORS, AND DISABILITY INSURANCE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 401(l) Internal Revenue Code of 1954; PL 97-248, Sec 249

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will define and interpret rules governing the integration of qualified defined contribution pension, profit sharing, and stock bonus plans with benefits paid under Social Security.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: EE-112-82.

Drafting attorney: Suzanne K. Tank (202) 566-3422.

Reviewing attorney: James L. Brokaw (202) 566-4173.

Treasury attorney: Conaway.

Agency Contact: Suzanne K. Tank, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AE93

2205. INCOME TAX—TAX-FREE ROLLOVERS OF LUMP SUM DISTRIBUTIONS AND PLAN TERMINATION PAYMENTS. LUMP SUM DISTRIBUTIONS MADE WITH RESPECT TO A DECEDENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 402(a)(5) Internal Revenue Code of 1954; 26 USC 402(a)(6) Internal Revenue Code of 1954; 26 USC 402(a)(7) Internal Revenue Code of 1954; 26 USC 401(a)(20) Internal Revenue Code of 1954; 26 USC 403(a)(4) Internal Revenue Code of 1954; 26 USC 403(a)(5) Internal Revenue Code of 1954; 26 USC 403(b)(1) Internal Revenue Code of 1954; 26 USC 403(b)(8) Internal Revenue Code of 1954; 26 USC 404(a)(2) Internal Revenue Code of 1954; 26 USC 691(c)(5) Internal Revenue Code of 1954; PL 94-267; PL 95-438, Sec 4; PL 95-600, Sec 156 Revenue Act of 1978; PL 96-222, Sec 101(a)(8)(A); ...

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation provides rules governing the tax-free rollover of lump sum distributions and plan termination payments under a qualified employee plan.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-15-78.

Drafting attorney: Marjorie Hoffman (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD74

2206. RETIREMENT ARRANGEMENTS OF CHURCHES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 403; 26 USC 415

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the application of amendments to sections 403 and 415 of the Internal Revenue Code of 1954. The amendments revise the present law rules relating to tax-sheltered annuity programs maintained by churches for their employees. The new rules generally increase the ability of churches to provide retirement income for their employees and clarify the status of such programs.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-114-82.

Drafting attorney: Monice L. Rosenbaum (202) 566-3422.

Reviewing attorney: James L. Brokaw (202) 566-4173.

Agency Contact: Monice L. Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AE25

2207. PROCEDURE AND ADMINISTRATION REGULATIONS UNDER THE TAX REFORM ACT OF 1984 RELATING TO DIVIDENDS FROM ESOP'S

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 404(k); 26 USC 116(e); 26 USC 3405(d); 26 USC 3405(f)

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: The regulations would provide guidance relating to the deduction rules when a corporation pays a dividend with respect to stock held by a tax credit employee stock ownership plan or by an employee stock ownership plan.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: EE-72-84.

Drafting attorney: Calder L. Robertson, Jr. (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Treasury attorney: Harry Conaway (202) 566-4902.

Agency Contact: Calder L. Robertson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AG65

2208. INCOME TAX—DEDUCTION LIMITATIONS AND FUNDING RULES FOR VALUING CERTAIN AGREEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 404(a)(1) Internal Revenue Code of 1954; 26 USC 404(a)(6) Internal Revenue Code of 1954; 26 USC 404(a)(7) Internal Revenue Code of 1954; 26 USC 404(a)(3)(A) Internal Revenue Code of 1954; 26 USC 404(g) Internal Revenue Code of 1954; 26 USC 412(c)(2)(A) Internal Revenue Code of 1954; 26 USC 413(b)(7) Internal Revenue Code of 1954; 26 USC 413(c)(6) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules for taking into account the fair market value of certain insurance products in the valuation of assets for pension plans. In addition, the regulations

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amend the regulations to reflect changes made by the Employee Retirement Income Security Act of 1974 to sections 404 and 413 of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-141-79.

Drafting attorney: Harry Beker (202) 566-6212.

Reviewing attorney: Jonathan P. Marget (202) 566-3651.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Harry Beker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AD78

2209. INCOME TAX—EMPLOYEE STOCK OWNERSHIP PLAN LOAN PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 404(a)(9) Internal Revenue Code of 1954; 26 USC 415(c)(6) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance relating to the deduction limitations when employer contributions to an employee stock ownership plan are used to repay the principal and interest of an exempt loan that was made to the employee stock ownership plan.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: EE-152-81.

Drafting attorney: Calder L. Robertson, Jr. (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Agency Contact: Calder L. Robertson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD77

2210. INCOME TAX—DEDUCTIBILITY OF PAYMENTS OF DEFERRED COMPENSATION TO INDEPENDENT CONTRACTORS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 404(d) Internal Revenue Code of 1954; 26 USC 404(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules for taking a deduction under section 404(d) of the Internal Revenue Code for deferred compensation paid to independent contractors. A deduction is permitted only when there is a corresponding income inclusion by the plan participant. In addition, the regulations provide guidance with regard to the amendment of section 404(b) of the Internal Revenue Code by section 133 of the Revenue Act of 1978, which clarified that a method of compensation or contributions having the effect of a plan deferring the receipt of compensation does not have to be similar to a stock bonus, pension, profit-sharing, or annuity plan to be subject to 404(a) of the Internal Revenue Code. The regulations describe methods of compensation or contributions subject to the section 404(a) rules. The regulations also reflect the amendment of section 404(b) of the Internal Revenue Code by the Tax Reform Act of 1984. That amendment provides that certain deferred benefits shall be treated as deferred compensation for purposes of section 404(a).

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: EE-44-79.

Drafting attorney: John T. Ricotta (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

In Office of Chief Counsel (Employee Plans and Exempt Organizations Division) for preparation of revised preliminary draft of notice.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C 20224, 202 566-3544

RIN: 1545-AD78

2211. INCOME TAX—REQUIREMENTS FOR TAX CREDIT EMPLOYEE STOCK OWNERSHIP PLANS, EMPLOYEE PLAN CREDIT, AND DEFINED CONTRIBUTION PLAN VOTING RIGHTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 409 Internal Revenue Code of 1954; 26 USC 48 Internal Revenue Code of 1954; 26 USC 401 Internal Revenue Code of 1954; 26 USC 6699 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules for electing the employee plan credit under section 48 of the Internal Revenue Code, establishing a tax credit employee stock ownership plan under section 409 of the Internal Revenue Code and providing voting rights to participants of certain defined contribution plans under section 401(a)(22) of the Internal Revenue Code. Further, the regulations provide guidance for determining the applicability of and calculating the assessable penalties relating to tax credit employee stock ownership plans under section 6699 of the Internal Revenue Code. The regulations reorganize and modify the current regulations which are based on section 301(d), (e), and (f) of the Tax Reduction Act of 1975, and provide a single set of rules that would apply to tax credit employee stock ownership plans established under the provisions of the Tax Reduction Act of 1975 and the 1978 Revenue Act.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: EE-49-80.

Drafting attorney: John T. Ricotta (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C 20224, 202 566-3544

RIN: 1545-AD82

2212. RETIREMENT EQUITY ACT CHANGES TO PARTICIPATION, VESTING, ETC. RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; PL 98-297, Sec 301 Retirement Equity Act of 1984

CFR Citation: 26 CFR 1.410(a)-3; 26 CFR 1.410(a)-7; 26 CFR 1.411(a)-5; 26 CFR 1.411(b)-1

Legal Deadline: None

Abstract: These regulations provide rules relating to amendments to section 401(a)(25), 402(f), 410, 411, 6057(e), and 6652(j) of the Code, enacted by the Retirement Equity Act of 1984. The regulations will apply changes in the participation and vesting rules to plans that use the elapsed time method of service counting, and to class-year plans. In addition, the rules provide a sample notice that may be used to satisfy section 402(f). Rules governing reductions in accrued benefits will also be provided.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-85-84.

Drafting attorney: Nancy J. Marks (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry J. Conaway (202) 566-4902.

Agency Contact: Nancy J. Marks, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AH03

2213. RULES CLARIFYING THE INCOME TAX REGULATIONS, PART 1, WITH RESPECT TO SERVICE COMPUTATION UNDER PENSION, ETC. PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 410 Internal Revenue Code of 1954; 26 USC 411 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project was undertaken in order to clarify permissible methods of crediting service by qualified plans for purposes of vesting and participation.

Timetable:

Action	Date	FR Cite
NPRM	06/30/86	

Small Entity: Not Applicable

Additional Information: EE-65-82.

Drafting attorney: Nancy J. Marks (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Conaway, McCarty.

Agency Contact: Nancy J. Marks, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AE39

2214. INCOME TAX—PENSION EXCISE TAXES—MISCELLANEOUS FUNDING PROVISIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 412(b) Internal Revenue Code of 1954; 26 USC 412(l) Internal Revenue Code of 1954; 26 USC 412(k) Internal Revenue Code of 1954; 26 USC 4971(d) Internal Revenue Code of 1954; 26 USC 414(l) Internal Revenue Code of 1954; 26 USC 412(a) Internal Revenue Code of 1954; 26 USC 413(b)(6) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 54

Legal Deadline: None

Abstract: The regulations would provide guidance relating to the minimum funding requirements for multiemployer pension plans.

Timetable:

Action	Date	FR Cite
NPRM	07/00/87	

Small Entity: Not Applicable

Additional Information: EE-129-80.

Drafting attorney: George B. Baker (202) 566-3422.

Reviewing attorney: Jonathan P. Marget (202) 566-3651.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: George B. Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AD85

2215. INCOME TAX—DEFINITIONS AND SPECIAL RULES; SERVICE FOR PREDECESSOR

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 414(a) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation will provide guidance to employers maintaining plans on when service with a predecessor employer must or may be treated as service under their plan.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: EE-22-78.

Drafting attorney: Marjorie Hoffman (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD87

2216. INCOME TAX—CHURCH PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 414(e) Inter-

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nal Revenue Code of 1954; PL 96-364, Sec 407

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project relates to the determination of whether a retirement plan is a church plan. Changes to the applicable tax law were made by the Multiemployer Pension Plan Amendments Act of 1980. The regulations would provide persons responsible for the administration of retirement plans with the guidance needed to determine whether their plan is entitled to the special benefits afforded church plans.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: EE-123-80.

Drafting attorney: John T. Ricotta (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD88

2217. INCOME TAX REGULATIONS—AFFILIATED SERVICE GROUPS AND EMPLOYEE LEASING

Legal Authority: 26 USC 7805; 26 USC 414(n); 26 USC 414(m) (5); 26 USC 414(o)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules regarding the treatment of certain leased employees. In addition, the regulations will provide guidance regarding the aggregation of certain management companies as affiliated service groups.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	

Small Entity: Not Applicable

Additional Information: EE-111-82.

Drafting attorney: Philip R. Bosco (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel reviewing attorney: Conaway.

Agency Contact: Philip R. Bosco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AE91

2218. LIMITATIONS ON BENEFITS AND CONTRIBUTIONS UNDER QUALIFIED PLANS

Legal Authority: 26 USC 7805; 26 USC 415; 26 USC 404(a)(3)(B); 26 USC 404(j)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations deal with the amendments to Internal Revenue Code section 415, which lower the limitations on benefits and contributions under qualified plans and the amendments to Internal Revenue Code section 404 which deal with the corresponding deduction for employer payments made to a qualified plan. The regulation also provides special rules for contributions made on behalf of disabled participants and special rules for church plans.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-107-82.

Drafting attorney: Monice Rosenbaum (202) 566-3422.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AE75

2219. JOINT AND SURVIVOR ANNUITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 417 Internal Revenue Code of 1954; 26 USC 401(a) (11) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules on how plans which intend to qualify under section 401 can comply with the qualified joint and survivor annuity rules added to the Code by the Retirement Equity Act of 1984. The regulations will deal with which plans must provide survivor annuities, in what forms the survivor annuities may be paid, the notice and election procedures for survivor annuities and restrictions on a plan's ability to cash out a participant and spouse.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: EE-94-84.

Drafting attorney: William D. Gibbs (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Treasury attorney: Harry J. Conaway (202) 566-4902.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AG72

2220. INCOME TAX—REORGANIZATION STATUS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 418 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules for the determination of whether a multiemployer pension plan is in reorganization as described in section 418 of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	07/00/87	

Small Entity: Not Applicable

Additional Information: EE-124-80.

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Drafting attorney: Paul G. Accettura (202) 566-3544.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Paul G. Accettura, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD91

2221. INCOME TAX—MINIMUM CONTRIBUTION REQUIREMENT, IN GENERAL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 418B Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation project will focus on a special rule to compute the minimum contribution that employers must make to a multiemployer plan when the plan is in reorganization in order for the special funding requirements for multiemployer plans in reorganization to be met.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: EE-125-80.

Drafting attorney: Marjorie Hoffman (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry J. Conaway (202) 566-4902.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD92

2222. INCOME TAX—OVERBURDEN CREDIT AGAINST MINIMUM CONTRIBUTION REQUIREMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 418C Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide that a multiemployer plan that is in reorganization and is overburdened with retirees is eligible for a special overburden credit which will reduce the otherwise required minimum contribution requirement.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-127-80.

Drafting attorney: Harry Beker (202) 566-6212.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Harry Beker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AD94

2223. INCOME TAX—ADJUSTMENTS IN ACCRUED BENEFITS; INSOLVENT PLANS; RELATED VESTING PROVISIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 418D Internal Revenue Code of 1954; 26 USC 418E Internal Revenue Code of 1954; 26 USC 411(a)(3) Internal Revenue Code of 1954; 26 USC 411(a)(4) Internal Revenue Code of 1954; 26 USC 411(d)(6) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide rules under 26 USC 418D and 418E concerning adjustment of accrued benefits by a multiemployer plan in reorganization and suspension of benefit payments by an insolvent multiemployer plan. Conforming changes will be made to regulations under section 411 concerning permitted forfeitures and concerning the computation of the period of service in determining an employee's nonforfeitable percentage.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-128-80.

Drafting attorney: George B. Baker (202) 566-3422.

Reviewing attorney: James L. Brokaw (202) 566-4173.

Agency Contact: George B. Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AD95

2224. TREATMENT OF FUNDED WELFARE BENEFIT PLANS

Legal Authority: 26 USC 419 Internal Revenue Code of 1954; 26 USC 419A Internal Revenue Code of 1954; 26 USC 1239(d) Internal Revenue Code of 1954; 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance concerning the treatment of contributions made by an employer to a welfare benefit plan.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: EE-66-84.

Drafting attorney: John T. Ricotta (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Treasury attorney: Harry Conaway (202) 566-4902.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3544

RIN: 1545-AG14

2225. INCOME TAX—CLARIFICATION OF RELATIONSHIP BETWEEN SECTIONS 446(E) AND 481

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 446(e) Internal Revenue Code of 1954; 26 USC 481 Internal Revenue Code of 1954

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CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would clarify that in order to secure the Commissioner's permission to adopt a new accounting method the taxpayer must take any adjustment required by section 481 into income over the period prescribed by the Commissioner.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Small Entity: Not Applicable

Additional Information: LR-47-80.

Drafting attorney: Paulette Chernyshev (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Elfman.

Agency Contact: Paulette Chernyshev, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB38

2226. INCOME TAX—METHOD OF ACCOUNTING FOR CORPORATIONS ENGAGED IN FARMING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 447 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules and definitions needed to determine which corporations and partnerships with a corporate partner are subject to the requirement that income from farming be reported on the accrual method of accounting with the capitalization of preproductive expenses.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-143-78.

Drafting attorney: Michael Grace (202) 566-3288.

Reviewing attorney: Ewan Purkiss (202) 566-3238.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Thuronyi.

Agency Contact: Michael Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB39

2227. ● ACCOUNTING FOR LONG-TERM CONTRACTS; CORPORATIONS FILING CONSOLIDATED RETURNS WITH A CONTRACTOR

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation provides rules for the manufacturer of components and subassemblies reasonably expected to be incorporated in the subject matter of an extended period long-term contract in the case of members of a consolidated group.

Timetable:

Action	Date	FR Cite
NPRM	01/06/86	51 FR 3
NPRM Comment Period End	03/07/86	51 FR 3
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-121-85.

Drafting attorney: Paulette Chernyshev (202) 566-3288.

Reviewing attorney: John M. Fischer (202) 566-3394.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Evans.

Agency Contact: Paulette Chernyshev, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AJ19

2228. INCOME TAX REGULATIONS—PART I, INSTALLMENT SALES BY NONTAXABLE ENTITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide rules relating to installment sales by nontaxable entities and the election provision by foreign personal holding companies.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: No

Additional Information: LR-143-83.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel reviewing attorney: Suzanne McDowell (202) 566-8527.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF73

2229. INCOME TAX REGULATIONS—PART 1—SPECIAL RULES RELATING TO INSTALLMENT OBLIGATIONS THAT ARE READILY TRADABLE OR PAYABLE ON DEMAND

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to installment obligations that are readily tradable or payable on demand.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: LR-54-84.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Suzanne McDowell (202) 566-8527.

TREAS—IRS

Proposed Rule Stage

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG37

2230. INCOME TAX—INSTALLMENT SALES BETWEEN RELATED PARTIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting installment sales between related parties.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-2-81.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Suzanne McDowell (202) 566-8527.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB45

2231. INCOME TAX—INSTALLMENT METHOD REPORTING BY DEALERS IN PERSONAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for installment method reporting by dealers in personal property.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-146-81.

Drafting attorney: Paulette Chernyshev (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Suzanne McDowell (202) 566-8527.

Agency Contact: Paulette Chernyshev, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB47

2232. INCOME TAX – GAIN OR LOSS ON THE DISPOSITION OF AN INSTALLMENT OBLIGATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453B Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting gain or loss upon the disposition of an installment obligation.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-103-81.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Suzanne McDowell (202) 566-8527.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB41

2233. INCOME TAX—INSTALLMENT SALES REVISION ACT OF 1980, REGULATIONS RELATING TO WRAP-AROUND MORTGAGES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide regulations for reporting sales of property under a wrap-around mortgage arrangement.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-147-82.

Drafting attorney: Paulette Chernyshev (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Suzanne McDowell (202) 566-8527.

Agency Contact: Paulette Chernyshev, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB46

2234. INCOME TAX—TREATMENT OF PREPAID INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 461 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to cash basis taxpayers regarding the deductibility of interest allocable to periods beyond the close of the taxable year.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-190-76.

Drafting attorney: Ewan Purkiss (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB49

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2235. INCOME TAX REGULATIONS—THE ECONOMIC PERFORMANCE REQUIREMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 461(h) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance relating to when economic performance occurs with respect to a liability and how the recurring item exception applies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-256-84.

Drafting attorney: C. Scott McLeod (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: C. Scott McLeod, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AH32

2236. INCOME TAX REGULATIONS—TAXABLE YEAR OF DEDUCTION FOR AMOUNTS PAID BY CASH METHOD TAX SHELTERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 461 (i) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the taxable year of deduction for amounts paid by cash method tax shelters. The regulations will provide guidance with respect to the definition of a tax shelter, the time when economic performance occurs and the calculation of cash basis.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-259-84.

Drafting attorneys: C. Scott McLeod/Sharon L. Hall (202) 566-3288.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Agency Contact: C. Scott McLeod, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AH35

2237. INCOME TAX—ACCRUAL OF VACATION PAY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 463 Internal Revenue Code of 1954; 26 USC 61 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules which require a taxpayer to include in its gross income for the taxable year the amount of the increase, if any, in the suspense account created under section 463. The regulation will also provide rules under section 463 which allow a taxpayer who computes income on the accrual method of accounting to deduct its accrued liabilities for vacation pay in the year the vacation pay is earned by the employee so long as such pay is expected to be paid during the tax year or twelve month period following the close of the year.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-8-75.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB50

2238. EXTENSION OF THE AT-RISK RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 465 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to taxpayers with respect to the extension of the at-risk rules to all activities other than the holding of real property. The regulations would also provide guidance with respect to the exception to the at-risk rules for closely-held corporations actively engaged in equipment leasing, and the recapture provision.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-192-76.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: D'Avino.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF86

2239. AGGREGATION OF CERTAIN ACTIVITIES FOR PURPOSES OF THE AT-RISK RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 465 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Regulation will provide rules for aggregating certain activities for purposes of applying the at-risk rules under section 465. In general, the at-risk rules limit the amount of loss deductible in a taxable year with respect to an activity to the amount the taxpayer is at risk in the activity. The aggregation rules will apply to taxable years beginning after December 31, 1984.

Timetable:

Action	Date	FR Cite
NPRM	04/15/86	

Small Entity: Not Applicable

Additional Information: LR-108-85.

Drafting attorney: Alice M. Bennett (202) 566-3238.

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Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Rick D'Avino (202) 566-4979.

Agency Contact: Alice M. Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AI02

2240. INCOME TAX REGULATIONS—DEFERRED PAYMENTS FOR USE OF PROPERTY OR SERVICES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 467 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the accrued of rent for the use of tangible property (and interest on rent that accrued but is not paid) under a section 467 rental agreement. A section 467 rental agreement will be deferred. Certain tax avoidance transactions will be deferred. Rules will be provided for the recapture of prior understated inclusions. Comparable rules for services will be provided.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-293-84.

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Jeffrey Quinn (202) 566-2175.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG80

2241. INCOME TAX REGULATIONS — SPECIAL RULES RELATING TO NUCLEAR DECOMMISSIONING COSTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 468A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the Federal income tax treatment of nuclear power plant decommissioning costs. The regulations will provide guidance with respect to the manner of making the election, the determination of the amount to be deducted, and the qualification requirements for the nuclear decommissioning fund.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR 18-85.

Drafting attorney: C. Scott McLeod (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: C. Scott McLeod, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AI01

2242. INVENTORY COMPUTED BY USE OF CONSUMER OR PRODUCER PRICE INDEXES

Legal Authority: 26 USC 472 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations would provide examples and further clarification of the existing regulations.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-57-83.

Drafting attorney: Bruce H. Jurist (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Agency Contact: Bruce H. Jurist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AF65

2243. INCOME TAX—QUALIFIED LIQUIDATIONS OF LIFO INVENTORIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 473 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide interpretative and procedural rules relating to qualified liquidations of certain inventories accounted for under the LIFO method.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-82-80.

Drafting attorney: Sharon Hall (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Sharon Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB56

2244. USE OF ONE INVENTORY POOL BY SMALL BUSINESS ELECTING LIFO METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 474 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project provides regulations pertaining to an election by a small business, which employs the dollar value LIFO method of pricing inventories, to use a single inventory pool. The regulations define "small business," thereby giving the rules of eligibility under this provision. Further, the regulations set forth the procedures of making a proper election and give transitional rules to govern pricing in the year of election.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-185-83.

Drafting attorney: Bruce H. Jurist (202) 566-3238.

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Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Agency Contact: Bruce H. Jurist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, ATTN: CC:LR:T, 202 566-3238

RIN: 1545-AF92

2245. INCOME TAX-CHILD CARE ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 501(k) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Nonprofit organizations which provide care for children are deemed to be tax-exempt if substantially all of the child care provided by the organization is for the purpose of enabling individuals (the parents) to be gainfully employed and the services are available to the general public.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: EE-75-84.

Drafting attorney: Ronald Weinstock (202) 566-3422.

Reviewing attorney: James L. Brokaw (202) 566-4173.

Agency Contact: Ronald Weinstock, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AG64

2246. INCOME TAX—AMENDMENT OF REGULATIONS TO REFLECT THE GRANT OF TAX EXEMPT STATUS TO CERTAIN HOSPITAL SERVICE ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 501(e) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide the rules for tax exemption for cooperative hospital service organizations. These organizations provide specified services to exempt hospitals on a centralized basis.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	03/12/84	
Hearing	05/31/84	
Final Action	12/31/85	
NPRM	01/00/87	49 FR 1384

Small Entity: Not Applicable

Additional Information: EE-44-78.

Drafting attorney: Sylvia F. Hunt (202) 566-6212.

Reviewing attorney: Harry Baker (202) 566-6212.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: James Bridgeman (202) 566-4902.

Agency Contact: Sylvia F. Hunt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AE01

2247. INCOME TAX—TAX TREATMENT OF CERTAIN SOCIAL CLUBS & PROHIBITION OF DISCRIMINATION BY CERTAIN SOCIAL CLUBS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 501(c)(7) Internal Revenue Code of 1954; 26 USC 501(i) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations describe the requirements that a club must meet to qualify for tax exemption, explain the social character required of an exempt club, and prescribe the circumstances in which nonmember support is taken into account in determining whether substantially all of the club's activities are for its exempt purposes. Exemption is denied to clubs which by written policy discriminate on the basis of race, color, or religion.

Timetable:

Action	Date	FR Cite
NPRM	01/00/87	

Small Entity: Not Applicable

Additional Information: EE-43-78.

Drafting attorney: Sylvia F. Hunt (202) 566-6212.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: McDowell.

Agency Contact: Sylvia F. Hunt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AD98

2248. NONDISCRIMINATION REQUIREMENTS UNDER SECTIONS 501 (C) (9) AND (20)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 505 (a) Internal Revenue Code of 1954; 26 USC 505 (b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to the nondiscrimination requirements for voluntary employees' beneficiary associations and group legal service plans.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: EE-68-84.

Drafting attorney: Calder L. Robertson, Jr. (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Treasury attorney: Harry Conaway (202) 566-4902.

Agency Contact: Calder L. Robertson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AG23

2249. NOTIFICATION REQUIREMENT FOR SECTION 501(C) (9) AND (20) ORGANIZATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 505 (c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Section 505(c) requires that new VEBAs group legal service plans and plans providing for the payment of supplemental unemployment must timely file and advise the Service that it is applying for tax exempt status.

Timetable:

Action	Date	FR Cite
NPRM	01/00/87	

Small Entity: Not Applicable

Additional Information: EE-69-84.

Drafting attorney: Sylvia F. Hunt (202) 566-6212.

Reviewing attorney: Harry Baker (202) 566-6212.

Treasury attorney: Harry Conaway (202) 566-4902.

Agency Contact: Sylvia F. Hunt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AG44

2250. INCOME TAX—UNRELATED TRADE OR BUSINESS INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 512(a) Internal Revenue Code of 1954; 26 USC 514(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will address the issue of what constitutes real property acquired by a qualified trust. The guidance provided on this issue will determine the scope of the exception under 26 USC 514(c)(9) for such acquisitions from the term acquisition indebtedness. Under 26 USC 514, the existence of such indebtedness on income producing property gives rise to unrelated debt-financed taxable income. The regulation will also address the issue of the proper allocation method to determine fixed indirect expenses connected with the unrelated trade or business use of an exempt organization's property.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: EE-27-81.

Drafting attorney: Calder L. Robertson, Jr. (202) 566-3544.

Reviewing attorney: James L. Brokaw (202) 566-4173.

Agency Contact: Calder L. Robertson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AE00

2251: ● TO AMEND SECTION 1.591-1(B), RELATING TO DEDUCTIBILITY OF INTEREST ON SHORT-TERM CERTIFICATES OF DEPOSIT ISSUED BY SAVING AND LOAN INSTITUTIONS

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 591-1(b)

Legal Deadline: None

Abstract: This regulation would delete section 1.591-1(b). The deletion is necessary because the subsection no longer applies in any situation. Section 1.591-1(b) states that it will not apply if section 1.163-4(a) applies. Section 1.163-4(a) applies to every situation covered in section 1.591-1(b) except "serial associations", a form of savings institution which has fallen into disuse. The subsection is no longer necessary.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-217-83.

Drafting attorney: Laura Ann M. Lauritzen (202) 566-3459.

Reviewing attorney: John M. Coulter (202) 566-4473.

Treasury attorney:

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AI38

2252. TREATMENT OF FORECLOSED PROPERTY BY CERTAIN CREDITORS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 595 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulation would amend the existing regulations relating to the treatment of amounts realized and expended with respect to property securing loans which have been foreclosed on by certain banks.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-83-82.

Drafting attorney: Mitchell H. Rapaport (202) 566-3439.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3294.

Office of Tax Legislative Counsel reviewing attorney: Quinn

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AF00

2253. INCOME TAX—RESTORATION OF DEPLETION DEDUCTIONS ON BONUS AND ADVANCED ROYALTIES IN CERTAIN CASES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 612 Internal Revenue Code of 1954; 26 USC 613 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to the restoration of depletion deductions on bonuses and advanced royalties and the deferment of the exclusion of advanced royalties from gross income from the property.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-114-83.

Drafting attorney: Walter H. Woo (202) 566-3297.

Reviewing attorney: John B. Brunell (202) 566-3328.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

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Agency Contact: Walter H. Woo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB69

2254. PROPERTY DISTRIBUTED IN KIND AND TREATMENT OF MULTIPLE TRUSTS (SEC: 81 AND 82 OF THE TAX REFORM ACT OF 1984)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 643 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the tax consequences when property is distributed in kind from a trust or estate, including rules specifying what gain is recognized upon distribution, who recognizes such gain, and what the basis of the distributed property is in the hands of the distributee. The regulations also explain election rules available to the distributing trust or estate. The regulations also explain rules under which certain multiple trusts will be treated as a single trust.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-34-85.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AI06

2255. INCOME TAX—SPECIAL RULE FOR PROPERTY TRANSFERRED AT LESS THAN FAIR MARKET VALUE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 644 Internal Revenue Code of 1954; 26 USC 641(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will explain how to compute the tax imposed by section 644 on the includible gain recognized on the sale or exchange within two years after transfer to a trust of certain property.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-188-76.

Drafting attorney: Margaret M. O'Connor (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of Tax Legislative Counsel reviewing attorney: Garlock.

Agency Contact: Margaret M. O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AB76

2256. INCOME TAX—PROCEDURE & ADMINISTRATION—ACCUMULATION TRUSTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 667 Internal Revenue Code of 1954; 26 USC 666(e) Internal Revenue Code of 1954; 26 USC 668 Internal Revenue Code of 1954; 26 USC 665(b) Internal Revenue Code of 1954; 26 USC 665(e) to 665(g) Internal Revenue Code of 1954; 26 USC 669 Internal Revenue Code of 1954; 26 USC 1302(a)(2)(B) Internal Revenue Code of 1954; 26 USC 1302(b)(2)(B) Internal Revenue Code of 1954; 26 USC 6401(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: These regulations will clarify the amount of tax imposed on a beneficiary for distributions from a trust of income accumulated by the trust in prior tax years.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	

Small Entity: Not Applicable

Additional Information: LR-184-76.

Drafting attorney: Fred E. Grundeman (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: D'Avino.

Agency Contact: Fred E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AB78

2257. INCOME TAX—PROCEDURE & ADMINISTRATION—FOREIGN TRUSTS HAVING U.S. BENEFICIARIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 679 Internal Revenue Code of 1954; 26 USC 676(b) Internal Revenue Code of 1954; 26 USC 643(a) Internal Revenue Code of 1954; 26 USC 643(c)(6)(C) Internal Revenue Code of 1954; 26 USC 643(c)(6)(D) Internal Revenue Code of 1954; 26 USC 643(d) Internal Revenue Code of 1954; 26 USC 6048 Internal Revenue Code of 1954; 26 USC 6677 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: These regulations will provide to what extent a grantor of a foreign trust with United States beneficiaries will be treated as an owner of that trust, and thus taxed currently on the trust's income.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Not Applicable

Additional Information: LR-187-76.

Drafting attorney: Fred E. Grundeman (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of International Tax Counsel (Treasury) reviewing attorney: Steven R. Lainoff.

Agency Contact: Fred E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AB79

TREAS—IRS

Proposed Rule Stage

2258. AMENDMENT OF SECTION 1.704-1 TO PROVIDE RULES ON PARTNER'S DISTRIBUTIVE SHARES OF ITEMS ATTRIB. TO NONRECOURSE DEBT AND THE INTERRELATIONSHIP OF SUBSECTIONS (B) AND (C) OF SECTION 704

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide proposed regulations under section 704 (b) relating to a partner's distributive share of losses and deductions attributable to nonrecourse debt. Rules concerning the interrelationship between section 704 (b) and (c) will also be provided.

Timetable:

Action	Date	FR Cite
NPRM	10/31/86	

Small Entity: Not Applicable

Additional Information: LR-191-83.

Drafting attorney: John G. Schmalz (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Treasury attorney: James Lokey (202) 566-4516.

Agency Contact: John G. Schmalz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AG00

2259. ALLOCATIONS OF INCOME GAIN, LOSS, AND DEDUCTION WITH RESPECT TO PROPERTY CONTRIBUTED TO A PARTNERSHIP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 704(c)

Legal Deadline: None

Abstract: The regulations will provide rules and examples relating to the requirement to allocate income, gain, loss, and deduction so as to take into account the variation between the basis of the property and its fair market value at the time of contribution.

Timetable:

Action	Date	FR Cite
NPRM	10/31/86	

Small Entity: No

Additional Information: LR-164-83.

Drafting attorney: John G. Schmalz (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Treasury attorney: Blake Rubin (202) 566-4902.

Agency Contact: John G. Schmalz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AG98

2260. INCOME TAX—ITEMS ALLOCATED TO PORTION OF YEAR PARTNER HELD INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 706(d) Internal Revenue Code of 1954; 26 USC 704 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide the methods to be used for allocating partnership items to partners whenever a partner's interest varies during the partnership taxable year.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-285-76.

Drafting attorney: Robert Ginsburgh (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Lokey.

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB81

2261. INCOME TAX—TREATMENT OF PAYMENTS TO PARTNERS NOT ACTING IN THEIR CAPACITY AS PARTNERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 707 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance to taxpayers relating to the treatment of certain allocations and distributions to partners for services and transfers of property where the partner is not acting in his capacity as a partner.

Timetable:

Action	Date	FR Cite
NPRM	02/28/87	

Small Entity: Not Applicable

Additional Information: LR-234-84.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Treasury attorney: Neil Kimmelfield (202) 566-8527.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AG83

2262. AMENDMENT OF INCOME TAX REGULATIONS WITH RESPECT TO TREATMENT OF DISGUISED SALES BY PARTNERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 707 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules for determining when partnership transactions are to be treated as disguised sales.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-163-84.

Drafting attorney: Robert H. Ginsburgh (202) 566-3297.

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Reviewing attorney: John B. Bromell (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Kimmelfield.

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH62

2263. CONTRIBUTIONS TO A PARTNERSHIP OF UNREALIZED RECEIVABLES, INVENTORY ITEMS OR CAPITAL LOSS PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 724 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for determining the character of gain or loss upon the disposition by a partnership of unrealized receivables, inventory items or capital loss property contributed to the partnership by a partner.

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-232-84.

Drafting attorney: Beverly A. Baughman (202) 566-3297.

Reviewing attorney: John G. Schmalz (202) 566-3297.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AG85

2264. INCOME TAX—TREATMENT OF UNREALIZED RECEIVABLES AND INVENTORY ITEMS HELD BY TIERED PARTNERSHIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 751 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to taxpayers relating to the treatment of unrealized receivables and inventory items held by tiered partnerships.

Timetable:

Action	Date	FR Cite
NPRM	10/31/86	

Small Entity: Not Applicable

Additional Information: LR-235-84.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3328.

Treasury attorney: Neil Kimmelfield (202) 566-6527.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH67

2265. PARTNER'S SHARE OF PARTNERSHIP LIABILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; PL 98-369, Sec 79 Tax Reform Act of 1984

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations revise the Income Tax Regulations under section 752 of the Internal Revenue Code of 1954 to conform such regulations to changes in the law with respect to a partner's share of partnership liabilities.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-229-84.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: John G. Schmalz (202) 566-3297.

Treasury attorney: James Lokey/Richard D'Avino (202) 566-6278.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH26

2266. IMPUTED EARNINGS RATE FOR MUTUAL LIFE INSURANCE COMPANIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 809(d) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance to mutual life insurance companies regarding the computation of the imputed earnings rate.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-159-84.

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: Alice Bennett (202) 566-3236.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG63

2267. TEMPORARY INCOME TAX REGULATIONS- DIVERSIFICATION REQUIREMENTS FOR VARIABLE ANNUITY, ENDOWMENT, AND LIFE INSURANCE CONTRACTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 817 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1T

Legal Deadline: None

Abstract: The regulations will provide diversification requirements for variable annuity, endowment and life insurance contracts. The regulations will also provide rules relating to the testing of diversification for variable periods, and applicable effective dates.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-294-84.

Drafting attorney: Bruce H. Jurist (202) 566-3236.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Donald Rocap (202) 566-6527.

Agency Contact: Bruce H. Jurist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3236

RIN: 1545-AG78

2268. INCOME TAX REGULATIONS-DIVERSIFICATION REQUIREMENTS FOR VARIABLE ANNUITY, ENDOWMENT, AND LIFE INSURANCE CONTRACTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 817 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide diversification requirements for variable annuity, endowment, and life insurance contracts. The testing of diversification for various periods and applicable effective dates.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-295-84.

Drafting attorney: Bruce H. Jurist (202) 566-3236.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Donald Rocap (202) 566-6527.

Agency Contact: Bruce H. Jurist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3236

RIN: 1545-AG79

2269. EXTENSION OF HOLDING PERIOD FOR LOSSES ATTRIBUTABLE TO CAPITAL GAIN DIVIDENDS OF RIC'S AND REIT'S

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 852 Internal Revenue Code of 1954; 26 USC 857 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations would interpret the rules of sections 852 and 857 dealing with the extension of holding period for losses attributable to capital gain dividends of REIT's and RIC's and also dealing with personal holding companies eligible for RIC status.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-263-84.

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AH64

2270. INCOME TAX—SOURCE OF INCOME OF UNDERWRITING INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 861(a)(7) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules for determining whether the source of underwriting income is income from sources within the United States to be included in gross income and for clarifying the meaning of United States risks upon which such income determination is made.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-71-77.

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB89

2271. REGULATIONS RELATING TO THE APPLICATION OF SECTIONS 864 AND 956 TO RELATED PARTY INTERNATIONAL FACTORING TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 864(d) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the treatment of income derived by foreign corporations from factoring the receivables of related persons.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Not Applicable

Additional Information: LR-10-85.

Drafting attorney: Marnie Carro (202) 566-3289.

Reviewing attorney: Carol Doran Klein (202) 566-3289.

Agency Contact: Marnie Carro, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AH85

2272. REPEAL OF 30 PERCENT WITHHOLDING BY THE TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 871 Internal Revenue Code of 1954; 26 USC 881 Internal Revenue Code of 1954; 26 USC 1441 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the definition of portfolio interest, the certifications required in the case of obligations that are issued in registered form, and related matters.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-166-84

Drafting attorney: P. Ann Fisher (202) 566-3289.

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Reviewing attorney: Charles C. Saverude (202) 566-3323.

Treasury attorney: Peter Daub (202) 566-5791.

Agency Contact: P. Ann Fisher, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AG66

2273. INCOME TAX—PARTNERSHIP, TRUST, AND ESTATE RULES REGARDING TAXATION OF FOREIGN INVESTMENT IN U.S. REAL PROPERTY INTERESTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 897(e)(2) Internal Revenue Code of 1954; 26 USC 897(g) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide rules for foreign partners to compute gain or loss on the sale or disposition of United States real property interests upon the sale of a partnership interest or a distribution in liquidation of a partnership interest.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Not Applicable

Additional Information: LR-37-82.

Drafting attorney: Jacob Feldman (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorney: Lainoff.

Agency Contact: Jacob Feldman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AB98

2274. NOTICE OF PROPOSED RULEMAKING—NONRECOGNITION OF CORPORATE DISTRIBUTIONS AND REORGANIZATIONS UNDER THE FOREIGN INVESTMENT IN REAL PROPERTY TAX ACT

Legal Authority: 26 USC 897 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules concerning the effect of certain distributions, including dividends, redemptions, distributions pursuant to reorganizations, and liquidations on corporations and their shareholders under the Foreign Investment in Real Property Tax Act. Proposal would also provide rules for determining the extent to which nonrecognition would apply to certain transfers of real property interests and the extent to which certain reorganizations will be treated as sales of property at fair market value.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-297-82.

Drafting attorney: Jeffrey Dorfman.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel reviewing attorneys: Wold, Granwell.

Agency Contact: Jeffrey Dorfman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AF17

2275. INCOME TAX—TO CLARIFY RULES FOR DETERMINING EARNINGS & PROFITS OF A FOREIGN CORPORATION & AMOUNT OF CREDITABLE FOREIGN TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 902 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide one consistent method for determining the earnings and profits of a foreign corporation for all purposes. The regulation will also provide new rules concerning the determination of an entity's functional currency and the recognition of currency gain or loss on transactions that are denominated in a foreign currency.

Timetable:

Action	Date	FR Cite
NPRM	01/31/87	

Small Entity: Not Applicable

Additional Information: LR-190-75.

Drafting attorney: P. Ann Fisher (202) 566-3289.

Reviewing attorneys: Carol Doran Klein (202) 566-3289, Charles C. Saverude (202) 566-3323

Office of International Tax Counsel (Treasury) reviewing attorney: Shay.

Draft of notice to Office of International Tax Counsel (Treasury), 07/09/82.

Agency Contact: P. Ann Fisher, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Room 4109, Washington, D.C. 20224, 202 566-3289

RIN: 1545-AC02

2276. ◎ INCOME TAX REGULATIONS UNDER SECTION 121 OF THE TAX REFORM ACT OF 1984 RELATING TO RESOURCING CERTAIN AMOUNTS RECEIVED FROM A U.S. OWNED FOREIGN CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 904(g) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance on the resourcing of section 951 and 551 inclusions, and interest and dividends from certain U.S. owned foreign corporations. The regulations will provide rules for determining what interest amounts will be subject to resourcing.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-154-85.

Drafting Attorney: Joseph M. Rosenthal (202) 566-3289.

Reviewing Attorney: Carol Doran Klein (202) 566-3289.

Treasury Attorney: Stephen Shay (202) 566-5092.

Agency Contact: Joseph M. Rosenthal, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AI33

2277. PROPOSED REGULATIONS RELATING TO CERTAIN AMOUNTS TREATED AS INTEREST FOR PURPOSES OF THE LIMITATION ON THE FOREIGN TAX CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 904 (d) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the treatment of interest income of a U.S. person that is attributable to separate limitation interest income of a RIC or certain foreign corporations for purposes of the separate foreign tax credit limitations for interest.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-61-85.

Drafting attorney: Marnie J. Carro (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Agency Contact: Marnie Carro, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AH84

2278. INCOME TAX—PROCEDURE & ADMINISTRATION—TAXPAYER'S OBLIGATION TO FILE A NOTICE OF REDETERMINATION OF FOREIGN TAX AND CIVIL PENALTIES FOR FAILURE TO FILE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 905(c) Internal Revenue Code of 1954; 26 USC 6689 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: The regulations will establish procedures for taxpayers by which they must notify the Service of a change in foreign tax liability for a taxable year for which they claimed the foreign tax credit. The regulations provide special rules for redetermining the taxpayer's United States tax liability when the dollar value of the foreign currency fluctuates between the time for which the foreign tax credit is originally claimed and the time for which the foreign tax credit is redetermined. In addition, the regulations set forth deadlines for compliance with the notification requirements.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-34-81.

Drafting attorney: Carol Doran Klein (202) 566-3289.

Reviewing attorney: Jacob Feldman (202) 566-3289.

Office of International Tax Counsel (Treasury) reviewing attorney: Shay.

Draft of the notice to International Tax Counsel of October 19, 1982.

Agency Contact: Carol Doran Klein, Assistant Chief, Branch 5, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Room 4109, Washington, D.C. 20224, 202 566-3289

RIN: 1545-AC06

2279. AMENDMENT OF REGULATIONS UNDER SECTION 907 OF THE INTERNAL REVENUE CODE OF 1954 TO CONFORM THEM TO SECTION 211 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 907 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would amend the regulations under section 907 of the Internal Revenue Code of 1954, relating to the foreign tax credit for taxes on oil and gas income, to conform them to section 211 of the Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-193-82.

Drafting attorney: Richard Chewning (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorney: Lainoff.

Agency Contact: Richard Chewning, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AE34

2280. CURRENT TAXATION OF FOREIGN OIL RELATED INCOME OF CONTROLLED FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 954 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would define and interpret when foreign oil related income will be subject to current taxation under section 954 of the Internal Revenue Code of 1954. Changes to the applicable law were made by section 212 of the Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	

Small Entity: Not Applicable

Additional Information: LR-197-82.

Drafting attorney: Richard Chewning (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel reviewing attorney: Steve Lainoff.

In Legislation and Regulations Division for preparation of a Notice of Proposed Rulemaking.

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TREAS—IRS

Proposed Rule Stage

Agency Contact: Richard Chewning, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AE38

2281. PROPOSED INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1984 RELATING TO INTEREST CHARGE DISCS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 995 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The Regulations will provide guidance relating to the Interest Charge imposed on DISC shareholders for taxable years ending after 1984. The regulations will explain how the Deemed Distribution is computed and how the Interest Charge is computed.

Timetable:

Action	Date	FR Cite
NPRM	07/01/86	

Small Entity: Not Applicable

Additional Information: LR-172-84.

Drafting attorney: Joseph M. Rosenthal (202) 566-3289.

Reviewing attorney: Jacob Feldman (202) 566-3289.

Treasury attorney: Jane Sarosdy (202) 566-8275.

Agency Contact: Joseph M. Rosenthal, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AG71

2282. INCOME TAX--BASIS OF CERTAIN APPRECIATED PROPERTY TRANSFERRED TO DECEDENT, ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1014(e) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will explain the denial of a stepped-up basis for appreciated property acquired by decedent through gift within one year of death if such property passes, directly or indirectly, from donee-decedent to original donor or the donor's spouse.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-235-81.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AC18

2283. RULES RELATING TO THE INAPPLICABILITY OF SECTION 1031 TO PARTNERSHIP INTERESTS AND THE LIMITATION ON THE PERIOD DURING WHICH LIKE KIND EXCHANGES MAY BE MADE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide guidance with respect to changes made to section 1031 by the Tax Reform Act of 1984 including the inapplicability of section 1031 to partnership interests and the limitation on the period during which like kind exchanges may be made.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-237-84.

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: John G. Schmalz (202) 566-3297.

Treasury attorney: Victor Thuronyi (202) 566-2566.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH43

2284. STOCK SALES, ETC, TO AND BY ESOP'S, ETC

Legal Authority: 26 USC 1042 Internal Revenue Code of 1954; 26 USC 4978 Internal Revenue Code of 1954; 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide guidance concerning the tax treatment of gain on certain sales of stock to and by ESOP's, etc.

Timetable:

Action	Date	FR Cite
NPRM	01/00/87	

Small Entity: Not Applicable

Additional Information: EE-71-84.

Drafting attorney: Sylvia F. Hunt (202) 566-6212.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Treasury attorney: Harry Conaway (202) 566-4902.

Agency Contact: Sylvia F. Hunt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AG21

2285. INCOME TAX--BASIS LIMITATION & RECAPTURE OF DEPRECIATION ON PLAYER CONTRACTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1056 Internal Revenue Code of 1954; 26 USC 1245 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules for determining the basis of player contracts acquired by a purchaser upon the sale or exchange of a sports franchise. Generally, the purchaser's basis with respect to player contracts is to be determined by reference to the seller's adjusted basis and the gain the seller recognizes from the transfer of the player contracts. Exceptions are provided in the cases of certain corporate one-year liquidations, certain like-kind exchanges and for certain transfers relating to decedents. Furthermore, a presumption is provided that in the sale or exchange of a sports franchise, not more than 50-percent of the consideration will be allocable to player contracts unless the taxpayer can satisfy the Secretary it is proper to allocate an amount in excess of 50-percent.

TREAS—IRS

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-222-76.

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Sheehy.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AC19

2286. INCOME TAX--NOTICE OF PROPOSED RULEMAKING - AMENDMENT OF REGULATIONS RELATING TO BASIS REDUCTIONS FOR NON-TAXED PORTION OF EXTRAORDINARY DIVIDENDS TO REFLECT TRA 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1059 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Amendment of the regulations to interpret the rule contained in section 1059 of the Internal Revenue Code of 1954 relating to the non-taxed portion of extraordinary dividends. The regulations will explain what dividends are extraordinary, the operations of the required basis reduction, the application of the holding period rule in section 246 (c), etc.

Timetable:

Action	Date	FR Cite
NPRM	10/31/86	

Small Entity: Not Applicable

Additional Information: LR-280-84.

Drafting attorney: Patricia Wendlandt (202) 566-3458.

Reviewing attorney: Marcus S. Blumkin (202) 566-3463.

Agency Contact: Patricia Wendlandt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AH41

2287. INCOME TAX--TAX STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1092 Internal Revenue Code of 1954; 26 USC 6653 Internal Revenue Code of 1954; 26 USC 263(g) Internal Revenue Code of 1954; 26 USC 1256 Internal Revenue Code of 1954; 26 USC 1212 Internal Revenue Code of 1954; 26 USC 1236 Internal Revenue Code of 1954; 26 USC 1234A Internal Revenue Code of 1954; 26 USC 1232 Internal Revenue Code of 1954; 26 USC 1221 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide the rules under Title 5 of the Economic Recovery Tax Act of 1981 for tax straddles. These regulations will affect the tax treatment of regulated futures contracts, forward contracts, and positions in commodities.

Timetable:

Action	Date	FR Cite
NPRM	06/00/87	

Small Entity: Not Applicable

Additional Information: LR-187-81.

Drafting attorney: Timothy J. McKenna (202) 566-3287.

Reviewing attorney: John M. Fischer (202) 566-3394.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of notice.

Agency Contact: Timothy J. McKenna, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AC21

2288. INCOME TAX--GAIN FROM SALE OR EXCHANGE OF STOCK IN FOREIGN CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1248 Internal Revenue Code of 1954; 26 USC 751 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would amend existing regulations with respect to the section 1248 amount attributable to stock of lower tier subsidiaries and stock in less developed country corporations. The regulations would also provide rules for determining the section 1248 amount due to certain dispositions on which gain is not recognized. The regulations would also expand the foreign tax credit available with respect to the section 1248 amount attributable to third-tier subsidiaries.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Not Applicable

Additional Information: LR-232-76.

Drafting attorney: Carol Doran Klein (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorney: Lainoff.

Draft of notice in International Tax Counsel for review.

Agency Contact: Carol Doran Klein, Assistant Chief, Branch 5, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AC31

2289. INCOME TAX--TO CLARIFY TAX TREATMENT OF TRANSFERS OF FRANCHISES, TRADEMARKS, & TRADE NAMES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1253 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would clarify the tax treatment of the transfer of a franchise trademark, or trade name under section 1253 of the Internal Revenue Code of 1954. It would also provide guidance regarding how to allocate the basis among the portions of the sale proceeds which are treated as arising from the sale of a capital asset and other portions which are ordinary income.

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Timetable:

Action	Date	FR Cite
NPRM	00/00/00	
Final Action	00/00/00	
Final Action Effective	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-183-81.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AC34

2290. INCOME TAX—TEMPORARY REGULATIONS UNDER SECTION 1274 AND 483 RELATING TO DEFERRED PAYMENTS UNDER THE TAX REFORM ACT OF 1984

Legal Authority: 26 USC 1274 Internal Revenue Code; 26 USC 483 Internal Revenue Code; 26 USC 7805 Internal Revenue Code

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance under section 1274 with respect to the determination of the issue price (for the purposes of the original issue discount rules) of a debt instrument issued for property when neither the debt instrument nor the property is publicly traded. The regulations would also provide guidance under code section 483 relating to the manner in which unstated interest accrues in the case of a contract for the sale or exchange of property where there is inadequate stated interest.

Timetable:

Action	Date	FR Cite
NPRM	06/30/86	

Small Entity: Not Applicable

Additional Information: LR-158-84.

Drafting Attorney: Ewan Purkiss (202) 566-3238.

Reviewing Attorney: John H. Parcell (202) 566-3336.

Office of Tax Legislative Counsel reviewing attorneys: David Garlock/Jeff Quinn.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AG59

2291. REGULATIONS UNDER SECTION 1271 THROUGH 1275 RELATING TO TAX TREATMENT OF DEBT INSTRUMENTS HAVING ORIGINAL ISSUE DISCOUNT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1275 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations would provide guidance as to computation of amount to be included in income by holders and amount to be deducted by issuers of certain bonds issued after July 1, 1982. With respect to these bonds, original issue discount is computer based, on constant interest accrual. Guidance is also provided as to the computation of original issue discount in special circumstances where the bond contains a variable interest rate, where put and call options are present, and in other circumstances.

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-189-84.

Drafting attorney: Theresa E. Bearman (202) 566-3459.

Reviewing attorney: Susan T. Baker (202) 566-3294.

Treasury attorney: Jeff Quinn (202) 566-2175.

Agency Contact: Theresa E. Bearman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AH46

2292. DISPOSITION GAIN REPRESENTING ACCRUED MARKET DISCOUNT TREATED AS ORDINARY INCOME; DEFERRAL OF INTEREST DEDUCTION ALLOCABLE TO ACCRUED MARKET DISCOUNT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1276 Internal Revenue Code of 1954; 26 USC 1278 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the Treatment of Gain Realized on the Disposition of any Market Discount Bond as Ordinary Income. These regulations will also prescribe the extent to which a deduction for interest allocable to accrued market discount is deferred.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-21-85.

Drafting attorney: Michel A. Daze (202) 566-6450.

Reviewing attorney: Susan T. Baker (202) 566-3294.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C.20224, 202 566-6456

RIN: 1545-AH82

2293. INCOME TAX-TREATMENT OF STRIPPED BONDS AND STRIPPED COUPON

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1286 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the tax treatment of stripped bonds and stripped coupons purchased after July 1, 1982. In particular, guidance will be given as to the proper method for allocation of basis and purchase price.

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-19-85.

Drafting attorney: Theresa E. Bearman (202) 566-3459.

Reviewing attorney: John M. Coulter (202) 566-4473.

Treasury attorney: Linda Carlisle (202) 566-4979.

Agency Contact: Theresa E. Bearman, Attorney-Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AH75

2294. INCOME TAX—TREATMENT OF OBLIGATIONS WHICH PURPORT TO REPRESENT DEBT AS A SECOND CLASS OF STOCK

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1361 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to shareholders and debt instrument holders who must comply with the law relating to subchapter S corporations. The regulations will provide rules relating to whether or not a subchapter S corporation has more than one class of stock.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-4-73.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bridgeman.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AC37

2295. INCOME TAX—DEFINITION OF S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1361 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would address the following matters: (1) the number of permitted shareholders of a small business corporation, (2) the types of trusts that are permitted to be shareholders of a small business corporation, (3) whether shares are permitted to be owned as a split interest and (4) the rules relating to corporations that are ineligible to be an S corporation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-262-82.

Drafting attorney: Robert H. Ginsburgh (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bridgeman.

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE86

2296. AMENDMENT OF INCOME TAX REGULATIONS UNDER CODE SECTIONS 1362 AND 1363 RELATING TO THE ELECTION, REVOCATION, AND TERMINATION OF AN S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1362 Internal Revenue Code of 1954; 26 USC 1363 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidelines for electing, revoking and terminating S corporation status.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-260-82.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Treasury attorney: James Bridgeman (202) 566-4902.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE26

2297. INCOME TAX—PASS-THRU OF S CORPORATION ITEMS TO SHAREHOLDERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1366 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to the tax treatment of income and loss items passed through to the shareholders.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-261-82.

Drafting attorney: Robert H. Ginsburgh (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bridgeman.

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE85

2298. INCOME TAX—RULES RELATING TO ADJUSTMENT TO BASIS OF STOCK OF SHAREHOLDERS OF S CORPORATION AND TO DETERMINATION OF BASIS OF PROPERTY DISTRIBUTION BY CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1367 Internal Revenue Code of 1954; 26 USC 1368 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations would provide rules for adjusting the basis of stock of a shareholder in an S corporation and rules for determining

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the treatment of property distributions by an S corporation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-284-82.

Drafting attorney: Robert H. Ginsburgh (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bridgeman.

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE68

2299. INCOME TAX—APPLICATION OF SUBCHAPTER C RULES TO S CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1371 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposal would amend the regulations under section 1371 to changes made by the subchapter S Revision Act of 1982 relating to the application of subchapter C rules to S corporations and other technical amendments under sections 2, 5, and 6 of the Act. The regulation would provide the public with guidance to comply with the Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-265-82.

Drafting attorney: Robert H. Ginsburgh (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bridgeman.

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE90

2300. INCOME TAX—TREATMENT OF S CORPORATION AS A PARTNERSHIP FOR CERTAIN PURPOSES OF THE INTERNAL REVENUE CODE OF 1954

Legal Authority: 26 USC 7805; 26 USC 1372; 26 USC 1373; 26 USC 6134; 26 USC 4986; 26 USC 48

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide guidance to taxpayers relating to the treatment of S corporation as partnership for purposes of certain provisions of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	02/20/87	

Small Entity: Not Applicable

Additional Information: LR-266-83.

Drafting attorney: David R. Hagland (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel reviewing attorney: James Bridgeman.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE28

2301. INCOME TAX—DEFINITIONS AND SPECIAL RULES PERTAINING TO S CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1377 Internal Revenue Code of 1954; 26 USC 1378 Internal Revenue Code of 1954; 26 USC 1379 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would define and interpret the definitions and special rules contained in section 1377 through 1379 of the Internal Revenue Code of 1954, thereby giving needed guidance to the public on how the Internal Revenue Service intends to interpret those sections of the Code.

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-268-82.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel reviewing attorney: James Bridgeman.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE84

2302. INCOME TAX—TO CLARIFY SECTION 1.1382-6 WITH REGARD TO INVENTORY POOLS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1382 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations would provide guidance to cooperatives with regard to inventory pools that remain open at the end of the taxable year.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-63-82.

Drafting attorney: Annette S. Guarisco (202) 566-3238.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB32

2303. INCOME TAX—DISTRIBUTIONS QUALIFYING AS PATRONAGE DIVIDENDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1382 Internal Revenue Code of 1954; 26 USC 1388 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules for netting the income and losses of allocation units within the cooperative. In addition the regulations clarify the meaning of preexisting legal obligation.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-268-79.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AC39

2304. 26 CFR PART I—AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SECTION 1502 OF THE CODE TO REFLECT SECTION 224 OF TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954; 26 USC 338 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would make amendments to the Consolidated Return Regulations to conform them to section 338 of the Code, as added by section 224 of the Tax Equity and Fiscal Responsibility Act of 1982, as amended by section 306 of the Technical Corrections Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	06/30/86	

Small Entity: No

Additional Information: LR-80-83.

Drafting attorney: John Broadbent (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Treasury attorney: Patricia McClanahan (202) 566-4902.

Agency Contact: John Broadbent, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AF41

2305. AMENDMENT OF CONSOLIDATED RETURNS REGULATIONS RELATING TO LIFE-LIFE CONSOLIDATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954; 26 USC 1504 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would deal with issues relating to life-life consolidations which were reserved by Treasury Decision 7877 for further study.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-66-83.

Drafting attorney: Keith E. Stanley (202) 566-3458.

Reviewing attorney: Mark Blumkin (202) 566-3463.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AF67

2306. AMENDMENT OF SECTION 1.1502-14 TO MODIFY TREATMENT OF STOCK REDEMPTIONS AND NONDIVIDEND DISTRIBUTIONS IN EXCESS OF BASIS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The amendment will coordinate the consolidated return treatment of stock redemptions and nondividend distributions in excess of basis with changes made by the Tax Equity and Fiscal Responsibility Act of 1982.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Additional Information: LR-40-84.

Drafting attorney: Charles W. Culmer (202) 566-4336.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Agency Contact: Charles W. Culmer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AG35

2307. INCOME TAX—CONSOLIDATED RETURN/ACCUMULATED EARNINGS TAX-EARNINGS AND PROFITS WHEN A MEMBER IS A PERSONAL HOLDING COMPANY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposal would provide rules relating to the application of the accumulated earnings tax to a group of corporations filing a consolidated income tax return when one or more members of the group is a personal holding company.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: No

Additional Information: LR-256-79.

Drafting attorney: Charles M. Whedbee (202) 566-3458.

Reviewing attorney: John Broadbent (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: McClanahan.

Agency Contact: Charles M. Whedbee, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC51

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2308. INCOME TAX—TO REFLECT AMENDMENTS OF CONSOLIDATED RETURN REGULATIONS TO REFLECT MERCHANT MARINE ACT OF 1970 CONCERNING MERCHANT MARINE & FISHERIES CAPITAL ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954; 11 USC 1177 Merchant Marine Act of 1936

CFR Citation: 26 CFR 3

Legal Deadline: None

Abstract: The proposal would provide rules for the income tax treatment, by corporations filing consolidated returns, with respect to capital construction funds for certain vessels.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-29-76.

Drafting attorney: Andrew B. Pullman (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Agency Contact: Andrew B. Pullman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC52

2309. INCOME TAX—ACCELERATED DEPRECIATION IN INVESTMENT ADJUSTMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provision would amend the consolidated returns investment adjustment rules to reflect the proper treatment of accelerated depreciation thereby giving the public needed guidance on what that proper treatment is.

Timetable:

Action	Date	FR Cite
NPRM	05/01/86	

Small Entity: No

Additional Information: LR-222-81.

Drafting attorney: Patricia Wendlandt (202) 566-3458.

Reviewing attorney: John Broadbent (202) 566-3458.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: McClanahan.

Agency Contact: Patricia Wendlandt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC47

2310. INCOME TAX—APPLICATION OF SECTION 465 AT RISK LIMITATIONS TO MEMBERS THAT JOIN IN FILING CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954; 26 USC 465 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provision would amend the consolidated returns regulations to provide rules applying the at-risk limitations of section 465 of the Internal Revenue Code of 1954 to affiliated groups filing consolidated returns, thereby giving the public needed guidance as to how these rules apply to such groups.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: LR-75-79.

Drafting attorney: Keith E. Stanley (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Treasury attorney: Patricia McClanahan (202) 566-6002.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC55

2311. INCOME TAX—INCLUDIBILITY IN AN AFFILIATED GROUP OF SUBSIDIARIES FORMED TO COMPLY WITH FOREIGN LAWS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1504 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to an election to treat a foreign subsidiary of a United States corporation as a domestic corporation if the subsidiary is formed in a contiguous country to comply with foreign law.

Timetable:

Action	Date	FR Cite
NPRM	04/01/86	

Small Entity: Not Applicable

Additional Information: LR-180-77.

Drafting attorney: Mark S. Jennings (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Shay, Lelsoff.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AC58

2312. INCOME TAX — AMENDMENT OF REGULATIONS UNDER SECTION 1504 (A) OF THE CODE, AS AMENDED BY SECTION 60 OF THE TAX REFORM ACT OF 1984, DEFINING "AFFILIATED GROUP"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6865 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules defining "affiliated group" for purposes of subtitle A of the Code.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-152-84.

Drafting attorney: Andrew B. Pullman (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Agency Contact: Andrew B. Pullman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AH09

2313. ESTATE AND GIFT TAXES, INCOME TAXES-UNIFIED CREDIT IN LIEU OF EXEMPTIONS, UNIFIED RATE SCHEDULE FOR ESTATE AND GIFT TAXES SITUS OF FOREIGN PARTNERSHIPS FOR ESTATE TAXATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2001 Internal Revenue Code of 1954; 26 USC 2010 Internal Revenue Code of 1954; 26 USC 2011 Internal Revenue Code of 1954; 26 USC 2012(a) Internal Revenue Code of 1954; 26 USC 2012(c) Internal Revenue Code of 1954; 26 USC 2013(a) Internal Revenue Code of 1954; 26 USC 2013(e)(1) Internal Revenue Code of 1954; 26 USC 2014(b)(2) Internal Revenue Code of 1954; 26 USC 2035 Internal Revenue Code of 1954; 26 USC 2038(a) Internal Revenue Code of 1954; 26 USC 2044 Internal Revenue Code of 1954; 26 USC 2052 Internal Revenue Code of 1954; 26 USC 2104 Internal Revenue Code of 1954; 26 USC 2106 Internal Revenue Code of 1954; ...

CFR Citation: 26 CFR 20; 26 CFR 25; 26 CFR 1

Legal Deadline: None

Abstract: The unified rate schedule for estate and gift taxes and unified credit in lieu of exemptions will be implemented by the regulation. The regulations also relate to the estate tax consequences of transfers made within three years of death. In addition, the regulations clarify the situs test of foreign partnerships for purposes of the estate taxation of nonresident alien decedents. The regulations also provide rules relating to charitable remainder trusts.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-212-70.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Fred E. Grundeman (202) 566-3287.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3287

RIN: 1545-AC60

2314. ESTATE TAX—VALUATION OF CERTAIN FARM, ETC. REAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2032A Internal Revenue Code of 1954; 26 USC 2013(f) Internal Revenue Code of 1954; 26 USC 1016(c) Internal Revenue Code of 1954; 26 USC 1040 Internal Revenue Code of 1954

CFR Citation: 26 CFR 20; 26 CFR 1

Legal Deadline: None

Abstract: Special use valuation of certain farm and closely held business real property is available to qualifying estates. The regulation will contain definitions and rules relating to the varfous requirements which an estate must satisfy and will provide rules governing the imposition and payment of the "additional estate tax" should a qualified heir fail to meet the post-death requirements.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	

Small Entity: Not Applicable

Additional Information: LR-208-81.

Drafting attorney: Fred E. Grundeman (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of the Tax Legislative Counsel (Treasury) reviewing attorneys: James D. Bridgeman, David C. Garlock.

Agency Contact: Fred E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AC62

2315. ESTATE TAX - PERMANENT RULES FOR REFORMING GOVERNING INSTRUMENTS CREATING CHARITABLE REMAINDER TRUSTS AND OTHER CHARITABLE INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2055 Internal Revenue Code of 1954

CFR Citation: 26 CFR 20; 26 CFR 25

Legal Deadline: None

Abstract: These regulations will provide permanent rules for reforming governing instruments creating charitable remainder trusts and other charitable interests. The regulations will explain what interests are reformable interests and provide requirements for qualified reformations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Not Applicable

Additional Information: LR-22-85.

Drafting attorney: William A. Jackson (202) 566-4336.

Reviewing attorney: Fred E. Grundeman (202) 566-3287. Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bridgeman.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AI14

2316. ● ESTATE TAX-REGULATIONS RELATING TO REPORTS OF REFORMATIONS OF CHARITABLE REMAINDER TRUSTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2055 Internal Revenue Code of 1954

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: These temporary regulations will provide rules for notification of a reformation of an instrument creating a charitable remainder trust. The regulations will explain procedures for claiming a refund resulting from a qualified reformation.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Not Applicable

Additional Information: LR-119-85.

Drafting attorney: William A. Jackson (202) 566-4336.

Reviewing attorney: Fred E. Grundeman (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bridgeman.

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Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AI28

2317. ASSUMPTION OF ESTATE TAX LIABILITY BY ESOP'S

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2210 Internal Revenue Code of 1954; 26 USC 2002 Internal Revenue Code of 1954; 26 USC 6018 (c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Allows estate tax liability for employer securities to be assumed by ESOP's rather than by the executor. To qualify, a qualified amount of employer securities must be acquired by the ESOP from "or on behalf of" the decedent. In addition, the executor must elect, in writing, to assume the attributable estate tax liability on behalf of the ESOP. The ESOP then becomes liable for the estate tax.

Timetable:

Action	Date	FR Cite
NPRM	01/00/87	

Small Entity: Not Applicable

Additional Information: EE-74-84.

Drafting attorney: Sylvia F. Hunt (202) 566-6212.

Reviewing attorney: Harry Beker (202) 566-6212.

Treasury attorney: Richard D'Avino (202) 566-4979.

Agency Contact: Sylvia F. Hunt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AG36

2318. GIFT TAX—CERTAIN TRANSFERS TREATED AS QUALIFIED DISCLAIMERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2518(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 25

Legal Deadline: None

Abstract: The regulations will provide that certain transfers will be qualified disclaimers for purposes of section 2518 (a).

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Not Applicable

Additional Information: LR-212-81.

Drafting attorney: William A. Jackson (202) 566-4336.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Tax Legislative Counsel (Treasury) reviewing attorney: Bridgeman.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AC70

2319. EMPL. TAX—SOCIAL SECURITY TAX ON EMPLOYERS OF INDIVIDUALS WHO RECEIVE INCOME FROM TIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 3121(t) Internal Revenue Code of 1954

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations would provide guidance for determining the amount of wages on which an employer of a tipped employee must pay social security tax if the employer pays the employee less than the minimum wage.

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-35-78.

Drafting attorney: Beverly Baughman (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3328.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: D'Avino.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AC76

2320. AMENDMENT OF THE EMPLOYMENT TAX REGULATIONS UNDER CODE SECTION 3121 TO CONFORM TO SECTION 321 OF THE SOCIAL SECURITY AMENDMENTS OF 1983

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 3121 Internal Revenue Code of 1954

CFR Citation: 26 CFR 36

Legal Deadline: None

Abstract: The regulation would provide guidance to taxpayers with respect to agreements entered into under section 3121 of the Internal Revenue Code of 1954 as that Section was amended by section 321 of the Social Security Amendments of 1983.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-192-83.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3297.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AF91

2321. ELECTIONS BY CHURCHES AND QUALIFIED CHURCH-CONTROLLED ORGANIZATIONS TO EXCLUDE SERVICE PERFORMED IN THEIR EMPLOY FROM EMPLOYMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 3121 (w) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 5h; 26 CFR 31

Legal Deadline: None

Abstract: These regulations provide the manner in which churches and qualified church-controlled organizations may elect to exclude service performed in their employ from employment and the subsequent treatment of remuneration from such excluded service with respect to self employment taxes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-239-84.

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: John G. Schmals (202) 566-3297.

Treasury attorney: Kent Mason (202) 566-6964.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH63

2322. AMEND THE REGULATIONS TO CLARIFY THE TRUCKING EXCEPTION TO THE DEFINITION OF "EMPLOYEE" FOR PURPOSE OF THE RRTA

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These regulations will clarify the scope of the "trucking service" and "casual service" exceptions to the definition of "employer" in section 3231 (a).

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-212-84.

Drafting attorney: Robert Beatson (202) 566-3450.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Treasury attorney: Tom Wessel (202) 535-6983.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AG74

2323. TREATMENT OF CERTAIN DEFERRED COMPENSATION AND SALARY REDUCTION ARRANGEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6302(c)

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: Proposal would provide rules concerning the treatment of certain deferred compensation and salary reduction arrangements under section 3121 (v) and section 3306 (r) of the Internal Revenue Code of 1954, thereby giving needed guidance to the public on how the Internal Revenue Service intends to interpret those sections of the code.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-195-83.

Drafting attorney: Nerman Dobynes Hubbard (202) 566-3289.

Reviewing attorney: John B. Bromell (202) 566-3297.

Office of Tax Legislative Counsel reviewing attorney:

In Legislation and Regulations Division for preparation of Notice of Proposed Rulemaking.

Agency Contact: Nerman Dobynes Hubbard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AF97

2324. EMPLOYMENT TAX—WITHHOLDING FROM PENSIONS, ANNUITIES, AND OTHER DEFERRED INCOME

Legal Authority: 26 USC 7805; 26 USC 3405; 26 USC 6047(e)

CFR Citation: 26 CFR 35

Legal Deadline: None

Abstract: Proposed regulations would clarify and amend the temporary regulations relating to withholding from pensions, annuities, and other deferred income.

Timetable:

Action	Date	FR Cite
NPRM	06/30/86	

Small Entity: Not Applicable

Additional Information: EE-115-82.

Drafting attorney: Roberto E. Rivera (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Agency Contact: Roberto E. Rivera, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AE96

2325. TO PROVIDE REGULATIONS RELATING TO BACKUP WITHHOLDING UNDER SECTION 3406

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 3406 Internal Revenue Code of 1954

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations will provide that a tax equal to 20 percent of any reportable payment is required to be withheld if certain conditions exist. With respect to reportable interest or dividends, backup withholding applies if (1) no number is provided in the manner required, (2) the Service notifies the payor that the payee's taxpayer identification number is not correct, (3) the payee is subject to backup withholding due to a notified payee underreporting, and (4) the payee fails to certify when required that he or she is not subject to backup withholding due to notified payee underreporting. With respect to other reportable payments (such as rents, royalties, nonemployee compensation, broker transactions, or barter exchanges), backup withholding applies if (1) no taxpayer identification number is provided, or (2) the Service notifies the payor that the payee's taxpayer identification number is not correct.

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-224-82.

Drafting attorney: Renay France (202) 566-3459.

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Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: Richard D'Avino.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AE20

2326. TO PROVIDE TEMPORARY REGULATIONS RELATING TO BACKUP WITHHOLDING WHERE THE SERVICE NOTIFIES PAYOR TO WITHHOLD DUE TO AN INCORRECT TAXPAYER IDENTIFICATION NUMBER

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 3406 Internal Revenue Code of 1954

CFR Citation: 26 CFR 35a

Legal Deadline: None

Abstract: These regulations will prescribe when withholding is required when the Internal Revenue Service notifies the payor of an incorrect taxpayer identification number. The regulations will also describe that no withholding is required if the payee, within 30 days of the Service's notification, certifies under penalties of perjury that the name and taxpayer identification number are correct. If no certification is received within 30 days, backup withholding applies until such cartification is received.

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-7-84.

Drafting attorney: Renay France (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

TLC attorney: Rick D'Avino.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AF90

2327. REGULATIONS ON BACKUP WITHHOLDING IN CASE OF A NOTIFIED PAYEE UNDERREPORTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 3406(i) Internal Revenue Code of 1954

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: These regulations will provide rules relating to when a payer of reportable interest and dividends must withhold on such payments, how to inform payees when they are subject to withholding, and how payees can correct the situation that subjected them to backup withholding.

Timetable:

Action	Date	FR Cite
NPRM	01/15/86	
NPRM Comment Period End	04/15/86	
Final Action	06/30/86	

Small Entity: Not Applicable

Additional Information: LR-86-85.

Drafting attorney: Laura Ann M. Lauritzen (202) 566-3459.

Reviewing attorney: John M. Coulter (202) 566-4473.

Reviewing attorney: Renay France (202) 566-3459.

Treasury attorney: Richard D'Avino (202) 566-4979.

Agency Contact: Laura Ann M. Lauritzen, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AH83

2328. TREATMENT OF REAL ESTATE AGENTS AND DIRECT SELLERS AS NONEMPLOYEES FOR EMPLOYMENT TAX PURPOSES—REPORTING REQUIREMENTS WITH RESPECT TO DIRECT SELLERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 3508 Internal Revenue Code of 1954; 26 USC 3509 Internal Revenue Code of 1954; 26 USC 6041A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 31

Legal Deadline: None

Abstract: The proposed regulations would provide rules for the treatment of real estate agents and direct sellers as independent contractors for employment tax purposes. The proposed rules would also provide guidance for the reporting requirements of sales to direct sellers. The proposed rules would also provide guidance for computing certain employer liability for employment taxes.

Timetable:

Action	Date	FR Cite
NPRM	01/07/86	51 FR 619
NPRM Comment Period End	03/10/86	51 FR 619
Final Action	06/10/86	

Small Entity: Not Applicable

Additional Information: LR-214-82.

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: John Bromell (202) 566-3297.

Office of Tax Legislative Counsel reviewing attorney: James Bridgeman.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE62

2329. EXCISE TAX—RETAILERS EXCISE TAXES ON MOTOR VEHICLES

Legal Authority: 26 USC 4052 Internal Revenue Code of 1954; 26 USC 4051 Internal Revenue Code of 1954; 26 USC 4053 Internal Revenue Code of 1954

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will provide guidance as to what kinds of vehicles are taxable and how the tax is computed.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Additional Information: LR-30-83.

Drafting attorney: Maurice B. Foley (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Perlis.

Agency Contact: Maurice B. Foley, Law Clerk, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AF61

2330. MANUF. & RET. EXCISE TAX—REFUND FOR CERTAIN USES OF TREAD RUBBER & ADJUSTMENTS PURSUANT TO WARRANTY; MISC. EXCISE TAXES —TAX ON POLICIES OF INSURANCE ISSUED BY FOREIGN INSURERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4071(a)(1) Internal Revenue Code of 1954; 26 USC 4071(a)(2) Internal Revenue Code of 1954; 26 USC 4071(d)(1) Internal Revenue Code of 1954; 26 USC 4071(f) Internal Revenue Code of 1954; 26 USC 6416(b)(1) Internal Revenue Code of 1954; 26 USC 6416(b)(2)(G) Internal Revenue Code of 1954; 26 USC 6416(b)(3) Internal Revenue Code of 1954; 26 USC 6511(i) Internal Revenue Code of 1954; 26 USC 4374 Internal Revenue Code of 1954

CFR Citation: 26 CFR 48; 26 CFR 46

Legal Deadline: None

Abstract: The regulations will provide new regulations concerning excise tax refunds and credits in the case of certain uses of tread rubber and adjustments pursuant to warranty. The regulation will also deal with the excise tax on policies of insurance issued by foreign insurers.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: Not Applicable

Additional Information: LR-28-81.

Drafting attorney: Timothy J. McKenna (202) 566-3287.

Reviewing attorney: Fredric E. Grundeman (202) 566-3287.

Agency Contact: Timothy J. McKenna, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AC88

2331. REGULATIONS RELATING TO THE TAX ON SALE OF SPORT FISHING EQUIPMENT, ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4162 Internal Revenue Code of 1954

CFR Citation: 26 CFR 48; 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide rules relating to the excise tax imposed on the sale of sport fishing equipment, and bows and arrows, etc. The regulations will also provide treatment for certain resales of sport fishing equipment.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: Not Applicable

Additional Information: LR-4-85.

Drafting attorney: Timothy J. McKenna (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Agency Contact: Timothy J. McKenna, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AH95

2332. EXCISE TAX—ENVIRONMENTAL TAXES—IMPOSITION OF TAX ON HAZARDOUS WASTES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4681 Internal Revenue Code of 1954; 26 USC 4682 Internal Revenue Code of 1954

CFR Citation: 26 CFR 52

Legal Deadline: None

Abstract: The regulations will explain the imposition of the hazardous waste tax on the receipt of hazardous waste at a qualified hazardous waste disposal facility.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-341-81.

Drafting attorney: Ada S. Rousso (202) 566-3287.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Agency Contact: Ada S. Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AC92

2333. INCOME TAX—LOBBYING BY PUBLIC CHARITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 501(h) Internal Revenue Code of 1954; 26 USC 504 Internal Revenue Code of 1954; 26 USC 4911 Internal Revenue Code of 1954; 26 USC 170(f) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 53; 26 CFR 56

Legal Deadline: None

Abstract: The regulations will provide rules primarily applicable to tax exempt organizations described in section 501(c)(3) that elect to have the provisions of section 501(h) and 4911 apply to their lobbying expenditures.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: EE-154-78.

Drafting attorney: George B. Baker (202) 566-3422.

Reviewing attorney: Paul G. Accettura (202) 566-3544.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: McDowell, Bridgeman.

Agency Contact: George B. Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AE02

2334. FOUNDATION EXCISE TAX-EXCESS BUSINESS HOLDINGS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4943 Internal Revenue Code of 1954; PL 91-172, Sec 101 Tax Reform Act of 1969; PL 98-369, Sec 307 Tax Reform Act of 1984; PL 98-369, Sec 308; PL 98-369, Sec 309; PL 98-369, Sec 310; PL 98-369, Sec 314

CFR Citation: 26 CFR 53.4943-1

Legal Deadline: None

Abstract: Amendments to conform regulations to provisions enacted by the Tax Reform Act of 1984.

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Timetable:

Action	Date	FR Cite
NPRM	06/30/86	

Small Entity: Not Applicable

Additional Information: EE-85-84.

Drafting attorney: Roberto E. Rivera (202) 566-3429.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney

Agency Contact: Roberto E. Rivera, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3429

RIN: 1545-AG49

2335. INCOME TAX--EXCISE TAX--PROCEDURE AND ADMINISTRATION--VARIOUS PRIVATE FOUNDATION PROVISIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4962 Internal Revenue Code of 1954; 26 USC 507(d)(2)(c) Internal Revenue Code of 1954; 26 USC 4940(d) Internal Revenue Code of 1954; 26 USC 4940(e) Internal Revenue Code of 1954; 26 USC 4942 (a)(2) Internal Revenue Code of 1954; 26 USC 4942(f)(1) Internal Revenue Code of 1954; 26 USC 4942(g)(4) Internal Revenue Code of 1954; 26 USC 4945(d)(1) Internal Revenue Code of 1954; 26 USC 4945(d)(4) Internal Revenue Code of 1954; 26 USC 4946(d) Internal Revenue Code of 1954; 26 USC 6104(d) Internal Revenue Code of 1954; 26 USC 6033(n)(3) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 53; 26 CFR 301

Legal Deadline: None

Abstract: These regulations will amend existing rules to reflect changes made by the Tax Reform Act of 1984 relating to the excise taxes on private foundations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: EE-76-84.

Drafting attorney: George B. Baker (202) 566-3422.

Reviewing attorney: James L. Brokaw (202) 566-4173.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bridgeman.

Agency Contact: George B. Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AG18

2336. TAX WITH RESPECT TO CERTAIN FUNDED WELFARE BENEFIT PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4976 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the tax imposed upon certain funded welfare benefit plans which provide "disqualified benefits".

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: EE-67-84.

Drafting attorneys: John T. Ricotta (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Treasury attorney: Harry Conaway (202) 566-4902.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AG12

2337. EXCISE TAX—WITH RESPECT TO THE DEFINITION OF TAXABLE CRUDE OIL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4991 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: These regulations would provide rules relating to the definitions of crude oil, condensate, and tar sand for purposes of the windfall profit tax. These definitions are important because only crude oil is subject to the windfall profit tax.

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-226-81.

Drafting attorney: Beverly A. Baughman (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3328.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD00

2338. EXCISE TAX—ISSUES ARISING WHERE MULTIPLE PARTIES SHARE IN PRODUCTION, INCLUDING UNITIZATIONS, PARTNERSHIPS, TRUSTS AND ESTATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4986 to 4998 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: These regulations would provide rules relating to production from a unitized property of imputed stripper well crude oil, imputed heavy crude oil, and imputed newly discovered crude oil for purposes of the windfall profit tax. The regulations would provide rules for determining the amount of imputed oil and rules for allocating the imputed oil among the producers of the unitized property.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Small Entity: Not Applicable

Additional Information: LR-225-81.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3328.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AC94

2339. FORM OF INDIVIDUAL TAX RETURN

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6012 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide rules for an individual taxpayer for determining the appropriate return to file, for utilizing a substitute form and for attaining assistance from the Internal Revenue Service for computing the tax liability from the partially completed return.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-300-82.

Drafting attorney: Paulette Chernyshev (202) 566-3288.

Reviewing attorney: Ewan D. Purkiss (202) 566-3236.

Agency Contact: Paulette Chernyshev, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF24

2340. TO PROVIDE REGULATIONS RELATING TO NEW EXCEPTION TO ESTIMATED TAX PENALTY WHERE INDIVIDUAL HAS NO TAX LIABILITY FOR PRECEDING TAXABLE YEAR

Legal Authority: 26 USC 7805; 26 USC 6015; 26 USC 6654

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will clarify the new exception to the individual estimated tax in the case of an individual who had no tax liability for the preceding taxable year. Rules also eliminate the requirement that individuals file a declaration of estimated tax.

Timetable:

Action	Date	FR Cite
NPRM	10/01/86	

Small Entity: Not Applicable

Additional Information: LR-226-82.

Drafting attorney: Renay France (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Treasury attorney: Joy Roberts (202) 566-2565.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AE71

2341. INCOME TAX-AMENDMENTS TO REQUIREMENTS FOR RETURN OF PARTNERSHIP INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6031 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidelines for determining when and what information a partnership must provide to its partners. The regulations also provide guidelines for determining what foreign partnerships must file information returns.

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-198-82.

Drafting attorney: Beverly A. Baughman (202) 566-3297.

Reviewing attorney: John G. Schmalz (202) 566-3297.

Treasury attorney: Mary Bennett (202) 566-5815.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE40

2342. PROPOSED REGULATIONS UNDER SECTION 6037 RELATING TO INFORMATION REQUIRED TO BE FURNISHED TO SHAREHOLDERS OF S CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6037 Internal Revenue Code of 1954

CFR Citation: 26 CFR 6037

Legal Deadline: None

Abstract: These regulations will provide rules relating to information required to be furnished to shareholders of S corporations.

Timetable:

Action	Date	FR Cite
NPRM	04/02/86	

Small Entity: Undetermined

Additional Information: LR-233-84.

Drafting attorney: Annie R. Alexander (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Treasury attorney:

Agency Contact: Annie R. Alexander, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH48

2343. ● RETURNS, ETC. ON CERTAIN FRINGE BENEFIT PLANS

Legal Authority: 26 USC 6039D Internal Revenue Code of 1954; 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance concerning a return required by specified fringe benefit plans.

Timetable:

Action	Date	FR Cite
NPRM	01/00/87	

Small Entity: Not Applicable

Additional Information: EE-117-84.

Drafting attorney: Sylvia F. Hunt (202) 566-6212.

Reviewing attorney: Harry Beker (202) 566-6212.

Treasury attorney: Kent Mason (202) 566-8528.

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Agency Contact: Sylvia F. Hunt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AI22

2344. ● INFORMATION REPORTING OF ALLOWANCES, OR REIMBURSEMENTS, OR CHARGES FOR TRAVEL AND OTHER EXPENSES OF PUBLIC SECTOR EMPLOYEES AND CERTAIN OTHER PERSONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6041 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations would make clear that all employers, including the United States, a State, Territory or a political subdivision thereof, and the District of Columbia, are required to report amounts provided to persons in the military or civil service as allowances reimbursements, or charges for traveling and other business expenses, including an allowance for meals and lodging or a per diem allowance in lieu of subsistence, except to the extent that such persons are required to and do account to the employer for such expenses within the meaning of Sec. 1.162-17(b)(4). This same rule would also apply to such payments made to a person in the service of an international organization as defined Section in 7701(a)(18).

Timetable:

Action	Date	FR Cite
NPRM	01/09/86	51 FR 985
NPRM Comment Period End	03/10/86	51 FR 985
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-50-85.

Drafting attorney: Renay France (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

TLC attorney: Pat McClanahan (202) 566-4902.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AI42

2345. INCOME TAX—REGULATIONS RELATING TO RETURNS AS TO INTERESTS IN FOREIGN PARTNERSHIPS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6048A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would give guidance for determining which United States persons who acquire, dispose of or change their interests in foreign partnerships must report their activities. Additionally, guidance would be given as to how, when and where such persons must report and what information they must supply.

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-203-82.

Drafting attorney: Beverly A. Baughman (202) 566-3297.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Treasury attorney: Steven Lainoff (202) 566-5046.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE47

2346. PROPOSED REGULATIONS RELATING TO TAX SHELTER REGISTRATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6111 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide rules relating to the filing of amended tax shelter registration applications and the time for furnishing tax shelter registration numbers.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Small Entity: Not Applicable

Additional Information: LR-66-86.

Drafting attorney: Paulette Chernyshev (202) 566-3288.

Reviewing attorney: Cynthia Clark (202) 566-3828.

Agency Contact: Paulette Chernyshev, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AI04

2347. ESTATE TAX—PROCEDURE AND ADMINISTRATION—DEFERRAL AND INSTALLMENT PAYMENT OF ESTATE TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6166 Internal Revenue Code of 1954; 26 USC 6161 Internal Revenue Code of 1954; 26 USC 6151 Internal Revenue Code of 1954

CFR Citation: 26 CFR 20; 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to executors wishing to extend the time for payment of estate tax where the estate contains an interest in a closely held business. The regulations will provide rules in determining what qualifies as an interest in a closely held business. In addition, the regulations will explain when the installment privileges allowed by section 6166 will be terminated.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Not Applicable

Additional Information: LR-210-76.

Drafting attorney: Maurice B. Foley (202) 566-3287.

Reviewing attorney: Fred E. Grundeman (202) 566-3287.

Treasury attorney: Victor Thuronyi (202) 566-2566.

Agency Contact: Maurice B. Foley, Law Clerk, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AD23

2348. MISCELLANEOUS RULES RELATING TO CONSOLIDATED ADMINISTRATIVE AND JUDICIAL PROCEEDINGS TO DETERMINE THE TAX TREATMENT OF PARTNERSHIP ITEMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6222 Internal Revenue Code of 1954; 26 USC 6229 Internal Revenue Code of 1954; 26 USC 6224 Internal Revenue Code of 1954; 26 USC 6227 Internal Revenue Code of 1954; 26 USC 6230 Internal Revenue Code of 1954; 26 USC 6231 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The proposed regulations would set forth miscellaneous procedural rules for consolidated administrative and judicial proceedings to determine the tax treatment of partnership items. The regulations would provide guidance for various elections under these new procedures and for filing requests for an administrative adjustment.

Timetable:

Action	Date	FR Cite
NPRM	05/01/86	

Small Entity: Not Applicable

Additional Information: LR-205-82.

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3218.

Office of Tax Legislative Counsel reviewing attorney: Blake Rubin.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE51

2349. STATEMENT OF PROCEDURAL RULES TO PROVIDE PROCEDURES FOR PARTNERSHIP-LEVEL PROCEEDINGS WITH RESPECT TO PARTNERSHIP ITEMS

Legal Authority: 5 USC 301; 5 USC 6111

CFR Citation: 26 CFR 601

Legal Deadline: None

Abstract: The amendment of the Statement of Procedural Rules will provide procedures for partnership-level proceedings with respect to partnership items.

Timetable:

Action	Date	FR Cite
NPRM	09/00/00	

Small Entity: Not Applicable

Additional Information: LR-237-82.

Drafting attorney: Paul A. Francis (202) 566-3218.

Reviewing attorney: Paul A. Francis (202) 566-3218.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AI08

2350. DESIGNATION OF TAX MATTERS PARTNER FOR PURPOSES OF DETERMINING THE TAX TREATMENT OF PARTNERSHIP ITEMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6231(a)(7) Internal Revenue Code of 1954; 26 USC 6230(k) Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Proposed regulations would set forth procedural rules for designating and revoking the designation of the "tax matters partner" for purposes of the new partnership-level audit procedures.

Timetable:

Action	Date	FR Cite
NPRM	05/01/86	

Small Entity: Not Applicable

Additional Information: LR-206-82.

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3218.

Office of Tax Legislative Counsel reviewing attorney: Blake Rubin.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE53

2351. EXTENSION OF PARTNERSHIP AUDIT PROVISIONS

Legal Authority: 26 USC 6233 Internal Revenue Code of 1954; 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation will clarify the extent to which the partnership audit provisions apply to an entity which filed a partnership return but which has subsequently been determined not to be a partnership.

Timetable:

Action	Date	FR Cite
NPRM	05/01/86	

Small Entity: Not Applicable

Additional Information: LR-230-84

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: Paul Francis (202) 566-3218.

Treasury attorney: Blake Rubin (202) 566-4922.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AI05

2352. DETERMINATION OF THE TAX TREATMENT OF SUBCHAPTER S ITEMS AT THE CORPORATE LEVEL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6241 Internal Revenue Code of 1954; 26 USC 6242 Internal Revenue Code of 1954; 26 USC 6243 Internal Revenue Code of 1954; 26 USC 6244 Internal Revenue Code of 1954; 26 USC 6245 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposed regulations would provide new rules for determining the tax treatment of any subchapter S item at the corporate level. Regulations would provide rules similar to rules for determining the tax treatment of

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partnership items. The regulations would define the term "subchapter S item."

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-268-82.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE98

2353. ● PROCEDURE AND ADMINISTRATION REGULATIONS—PAYMENT OF TAXES BY CHECK OR MONEY ORDER AND LIABILITY OF FINANCIAL INSTITUTIONS FOR UNPAID TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6311 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will describe the circumstances under which taxpayers may pay taxes by check, money order or other guaranteed draft and the circumstances under which financial institutions on which such instruments are drawn may be liable for unpaid taxes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-161-85.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Michael J. Grace, Attorney/Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AI24

2354. PROCEDURE AND ADMINISTRATION—RELEASE OF LIENS, NOTICE BEFORE LEVY, PROPERTY EXEMPT FROM LEVY REDEMPTION OF LEVIED REAL PROPERTY AND AMOUNT OF DAMAGES IN CASE OF WRONGFUL LEVY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6325 Internal Revenue Code of 1954; 26 USC 6331 Internal Revenue Code of 1954; 26 USC 6334 Internal Revenue Code of 1954; 26 USC 6337 Internal Revenue Code of 1954; 26 USC 7426 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation will provide guidance in obtaining the issuance of a certificate of release of a notice of Federal tax lien. The regulation will revise existing regulations relating to the size of the exemption from levy available for certain property. The proposed regulation also increases the length of post-sale redemption period currently specified in the regulations. The proposed regulations provide rules for service employees administering the Code for providing notice of intention to levy upon the property of a delinquent taxpayer. The proposed regulations increase the amount of damages allowed where property has been levied wrongfully.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-253-82.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Neil Kimmelfield (202) 566-8528.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AE82

2355. INCOME TAX—TENTATIVE REFUND OF TAX UNDER CLAIM OF RIGHT ADJUSTMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6411 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposal provides rules with respect to a tentative refund of income tax when a taxpayer has a claim of right adjustment.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-45-79.

Drafting attorney: Keith E. Stanley (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AD30

2356. ● PROCEDURE AND ADMINISTRATION REGULATIONS—EXTENSION OF THE PERIOD FOR ASSESSMENT OF TAX ON CERTAIN CIRCUMSTANCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6501 Internal Revenue Code of 1954

CFR Citation: 26 CFR 6501

Legal Deadline: None

Abstract: The regulations will describe circumstances under which the normal three-year period for the assessment and collection of tax may be extended.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-162-85.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Michael J. Grace, Attorney/Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AI23

2357. PROCEDURE & ADMINISTRATION—ADDITION TO TAX IN THE CASE OF VALUATION OVERSTATEMENTS AND UNDERSTATEMENTS, AND INCREASE IN THE NEGLIGENCE PENALTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6659 Internal Revenue Code of 1954; 26 USC 6653 Internal Revenue Code of 1954; 26 USC 6660 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301; 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules and definitions with respect to the addition to tax in the case of valuation overstatements and understatements, including rules for computing the portion of an underpayment that is attributable to a valuation overstatement or understatement. The regulations would also provide rules with respect to the increase in the negligence and fraud penalties.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-272-81.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: D'Avino.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AD39

2358. PENALTY FOR PROMOTING ABUSIVE TAX SHELTERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6700 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations would provide rules and definitions relating to the penalty for promoting abusive tax shelters.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-273-82.

Drafting attorney: C. Scott McLeod (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Perlis.

Agency Contact: C. Scott McLeod, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AE99

2359. PENALTY FOR AIDING AND ABETTING IN THE UNDERSTATEMENT OF TAX LIABILITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6701 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Proposal will provide rules with respect to the penalty imposed on a person who aids and abets in the understatement of a third party's tax liability. The proposal also provides the standards which will subject one to the penalty.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-274-82.

Drafting attorney: C. Scott McLeod (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Office of Tax Legislative Counsel reviewing attorney: Mark Perlis.

Agency Contact: C. Scott McLeod, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF01

2360. AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SECTION 6815(D) DEALING WITH CERTIFICATES OF COMPLIANCE WITH THE INCOME TAX LAWS ISSUED TO ALIENS DEPARTING THE UNITED STATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6815 (d)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will clarify which classes of aliens departing the United States are required to obtain certificates of compliance with the income tax laws, providing the public with the guidance needed to comply with the law.

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-2-84.

Drafting attorney: Carol Doran Klein (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

In Legislation and Regulations Division for preparation of notice.

Agency Contact: Carol Doran Klein, Assistant Chief, Branch 5, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AF80

2361. INCOME TAX—PRESUMPTION OF JEOPARDY IN THE CASE OF ILLEGAL ACTIVITY CASH

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6867 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance for applying the presumptions that an amount of cash in excess of ten thousand dollars without an acknowledged owner (1) represents

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gross income to a single individual, (2) is taxable at a rate of fifty percent, and (3) that collection of the tax is in jeopardy for the purposes of sections 6851 and 6861.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-309-82.

Drafting attorney: Ewan Purkiss (202) 566-3238.

Reviewing attorney: Cynthia Clark (202) 566-3288.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AE30

2362. INCOME TAX—INVESTMENT CREDIT IN CASE OF PROPERTY USED BY TAX EXEMPT ORGANIZATIONS & GOVERNMENTAL UNITS; PRACTICE & PROCEDURE—DEF. OF SERVICE CONTRACTS & OTHER ARRANGEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 38(b) Internal Revenue Code of 1954; 26 USC 48(a)(4) Internal Revenue Code of 1954; 26 USC 48(a)(5) Internal Revenue Code of 1954; 26 USC 7701(e) Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Proposal would change the definition of use of property by a tax exempt organization or a governmental unit, for purpose of applying rules relating to the investment tax credit. The regulations would also define service contracts and other arrangements, for purposes of analysis vis a vis leasing arrangements.

Timetable:

Action	Date	FR Cite
NPRM	12/01/86	

Small Entity: Not Applicable

Additional Information: LR-223-78.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: Ada Rousso (202) 566-3287.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3459

RIN: 1545-AA23

2363. AMENDMENT OF PROCEDURE AND ADMINISTRATION REGULATIONS UNDER SECTION 7701(B) (DEFINITION OF RESIDENT ALIENS) TO REFLECT SECTION 138 OF THE TAX REFORM ACT OF 1984 (P.L. 99-369)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 7701(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 301

Legal Deadline: None

Abstract: These regulations provide rules for determining whether an alien individual is a resident or a nonresident alien of the United States.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-234-84.

Drafting attorney: Marnie J. Carro (202) 566-3289.

Reviewing attorney: Carol Doran Klein (202) 566-3289.

Treasury attorney: Mary Bennett (202) 566-5815.

Agency Contact: Marnie J. Carro, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AH13

2364. PROPOSED REGULATIONS UNDER THE TAX REFORM ACT OF 1984, RELATING TO THE DEFINITION OF FAIR MARKET VALUE OF PROPERTY FOR PURPOSES OF DETERMINING GAIN OR LOSS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1.7701-1

Legal Deadline: None

Abstract: These proposed regulations provide clarification for the definition of fair market value in section 7701 (g) of the Internal Revenue Code. They state that, for purposes of determining gain or loss, the fair market value of property shall not be considered to be less than the amount of nonrecourse indebtedness to which property is subject.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	

Small Entity: Not Applicable

Additional Information: LR-284-84.

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG94

2365. TEMPORARY REGULATIONS ON EFFECTIVE DATES AND OTHER QUESTIONS ARISING UNDER THE EMPLOYEE BENEFIT PROVISIONS OF THE TAX REFORM ACT OF 1984

Legal Authority: PL 98-369, Sec 511 to 561

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to effective dates and other questions arising under the employee benefits provisions of the Tax Reform Act of 1984.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/31/85	
NPRM	03/31/86	

Small Entity: Not Applicable

Additional Information: EE-63-84.

Drafting attorney: John T. Ricotta (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Treasury attorney: Harry Conaway (202) 566-4902.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AG41

2366. ● EFFECTIVE DATES AND OTHER QUESTIONS ARISING UNDER EMPLOYEE BENEFIT PROVISIONS OF THE TAX REFORM ACT OF 1984

Legal Authority: PL 98-369, Sec 511 to 561

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide proposed rules relating to effective dates and other questions arising under the employee benefit provisions of the Tax Reform Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	03/31/86	

Small Entity: Not Applicable

Additional Information: EE-96-85.

Drafting attorney: John T. Ricotta (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Treasury attorney: Harry Conaway (202) 566-4902.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AI21

2367. STATEMENT OF PROCEDURAL RULES—SPECIAL AMENDMENT

Legal Authority: 5 USC 552; 5 USC 301

CFR Citation: 26 CFR 601

Legal Deadline: None

Abstract: These regulations will conform the Statement of Procedural Rules with Department of Treasury regulations increasing the fees to be charged for search and duplication services in implementing the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
NPRM	04/01/86	

Small Entity: No

Additional Information: LR-108-83.

Drafting attorney: Mark S. Jennings (202) 566-3458

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AF88

2368. PROPOSED AMENDMENTS TO THE PROCEDURE AND ADMINISTRATION REGULATIONS UNDER THE CHILD SUPPORT ENFORCEMENT AMENDMENTS OF 1984 RELATING TO THE REDUCTION OF TAX OVERPAYMENTS BY AMOUNTS ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 42 USC 664 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These proposed regulations provide rules relating to the reduction of a taxpayer's overpayment of tax (i.e. tax refund) by the amount of any past due support which a State has agreed to collect under section 454 (6) of the Social Security Act. The regulations explain the steps a State must take to have a tax overpayment reduced by an amount of past-due support.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: LR 85-85.

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: David Dickinson (202) 566-6855.

TITLE CONT: of Past-Due Support Owed.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AH99

DEPARTMENT OF THE TREASURY (TREAS)

Internal Revenue Service (IRS)

Final Rule Stage

2369. INCOME TAX—JOINT OWNERSHIP OF ENERGY ITEMS & RENEWABLE ENERGY SOURCE EXPENDITURES FOR PURPOSES OF THE RESIDENTIAL ENERGY CREDIT TO CONFORM TO SECS 201(A) & 202 OF THE ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 23 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide the public with guidance to comply with changes made to section 44C by the Energy Tax Act of 1978 and the Windfall Profit Tax Act of 1980 relating to defining passive and active solar system, subsidized energy financing and other terms pertaining to the residential energy credit.

Timetable:

Action	Date	FR Cite
NPRM	10/31/85	50 FR 45423
NPRM Comment Period End	12/30/85	50 FR 45423
Final Action	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-73-80.

Drafting attorney: Beverly A. Baughman (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

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Treasury attorney: Moshe Schuldinger (202) 566-3289.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA03

2370. TO PROVIDE REGULATIONS RELATING TO MORTGAGE CREDIT CERTIFICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 25 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1.25-1 to 1.25-6T; 26 CFR 1.6709-1

Legal Deadline: None

Abstract: The regulations will provide guidance on the issuance of mortgage credit certificates rules. Guidance will be provided with respect to the various eligibility requirements that mortgagors must satisfy as well as the various program requirements that issuers must satisfy.

Timetable:

Action	Date	FR Cite
NPRM	05/06/85	50 FR 19383
NPRM Comment Period End	07/08/85	50 FR 19383
Hearing	08/14/85	
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-245-84.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Treasury attorney: Suzanne R. McDowell (202) 566-6277.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AH06

2371. ● INCOME TAX—INFORMATION REPORTING FOR MORTGAGE CREDIT CERTIFICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 25 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to issuers of mortgage credit certificates relating to the information to be collected with respect to each recipient of a mortgage credit certificate. The regulations will also provide guidance regarding the time and manner of filing this information with the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
NPRM	09/03/86	50 FR 35572
NPRM Comment Period End	11/04/85	
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-114-85.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John M. Coulter (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Tom Evans (202) 535-9068.

Agency Contact: Mitchell H. Rapaport, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AI39

2372. CREDIT FOR CLINICAL TESTING EXPENSES FOR CERTAIN DRUGS FOR RARE DISEASES OR CONDITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 28 Internal Revenue Code of 1954; 26 USC 280C Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will amend the Income Tax Regulations in order to conform the regulations to sections 28 and 280C of the Internal Revenue Code of 1954, relating to the credit for clinical testing expenses for rare diseases or conditions. The regulations will provide the public with the guidance needed to comply with the law and will affect taxpayers seeking to obtain the credit.

Timetable:

Action	Date	FR Cite
NPRM	04/23/85	50 FR 15930
NPRM Comment Period End	06/24/85	50 FR 15930
Final Action	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-55-83.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AF84

2373. INCOME TAX—CREDIT FOR INCREASING RESEARCH ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 30 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide the extent to which taxpayers will be entitled to an income tax credit for increases in certain research activity.

Timetable:

Action	Date	FR Cite
NPRM	01/21/83	
NPRM Comment Period End	03/19/83	
Hearing	04/19/83	
Final Action	05/20/87	

Small Entity: Not Applicable

Additional Information: LR-236-81.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: John Fischer (202) 566-3394.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Quinn.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA07

2374. SYNCHRONIZATION OF INTEREST

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 46 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide rules relating to the synchronization of interest.

Timetable:

Action	Date	FR Cite
NPRM	06/26/85	50 FR 123
NPRM Comment Period End	07/26/85	50 FR 123
Hearing	08/28/85	
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information: LR-227-84.

Drafting attorney: Paulette Chernyshev (202) 566-3288.

Reviewing attorney: John Parcell (202) 566-3336.

Treasury attorney: Eric Elfman (202) 566-8527.

Agency Contact: Paulette Chernyshev, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AH69

2375. INCOME TAX—INVESTMENT CREDIT FOR COOPERATIVES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 46 Internal Revenue Code of 1954; 26 USC 47 Internal Revenue Code of 1954; PL 95-600, Sec 316

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide guidance with respect to the investment tax credit for cooperatives and their patrons.

Timetable:

Action	Date	FR Cite
NPRM	12/27/83	48 FR 56965
NPRM Comment Period End	02/27/84	48 FR 56965
Final Action	07/00/88	

Small Entity: Not Applicable

Additional Information: LR-4-78.

Drafting attorney: William A. Jackson (202) 566-4336.

Reviewing attorney: Sharon Galm (202) 566-9050.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: D'Avino.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AA09

2376. INCOME TAX—THE INVESTMENT CREDIT FOR QUALIFIED PROGRESS EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 46 Internal Revenue Code of 1954; 26 USC 47 Internal Revenue Code of 1954; 26 USC 48 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations add a new section to provide rules for claiming the investment credit for qualified progress expenditures.

Timetable:

Action	Date	FR Cite
NPRM	01/30/79	44 FR 05910
NPRM Comment Period End	04/01/79	44 FR 05910
Hearing	06/27/79	
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-73-75.

Drafting attorney: Michel A. Daze (202) 566-6456.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Thuronyi.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6456

RIN: 1545-AA13

2377. INCOME TAX—TAX TREATMENT OF MASS ASSETS FOR INVESTMENT CREDIT PURPOSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 38 Internal Revenue Code of 1954; 26 USC 46 Internal Revenue Code of 1954; 26 USC 47 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would clarify the investment tax credit recapture treatment of mass assets thereby giving needed guidance to the public on how the Internal Revenue Service intends to interpret this area.

Timetable:

Action	Date	FR Cite
NPRM	12/20/85	50 FR 57874
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-82-73.

Drafting attorney: Mark S. Jennings (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3483.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AA10

2378. INCOME TAX—INCREASE IN INVESTMENT TAX CREDIT FOR QUALIFIED REHABILITATION EXPENDITURES

Legal Authority: 26 USC 7805 Internal Revenue Code; 26 USC 48 Internal Revenue Code

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules and definitions relating to terms such as qualified rehabilitated expenditures, qualified rehabilitated building, substantial rehabilitation and certified historic structure.

Timetable:

Action	Date	FR Cite
NPRM	06/26/85	50 FR 26794
NPRM Comment Period End	08/27/85	
Hearing	11/15/85	
Final Action	08/31/86	

Small Entity: Not Applicable

Additional Information: LR-238-81.

Drafting attorney: John Schmalz (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: D'Avino.

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Agency Contact: John Schmals, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA12

2379. INCOME TAX—SPECIAL RULES ADDED BY SEC 223(C) OF CRUDE OIL WINDFALL PROFIT TAX ACT 1980, RELATING TO REDUCTION OF CREDIT WHERE PROPERTY IS FINANCED BY SUBSIDIZED ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 48(l) Internal Revenue Code of 1954; PL 96-223, Sec 223(c)

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide that subsidized energy financing and proceeds of exempt industrial development bonds used to finance a facility reduce the qualified investment in the energy property contained in that facility for purposes of determining the amount of the energy tax credit.

Timetable:

Action	Date	FR Cite
NPRM	01/26/82	47 FR 03559
NPRM Comment Period End	03/29/82	47 FR 03559
Hearing	06/03/82	
Final Action	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-176-80.

Drafting attorney: Charles W. Culmer (202) 566-4336.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Treasury attorney: Moshe Schuldinger (202) 566-2928.

Agency Contact: Charles W. Culmer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AA26

2380. INCOME TAX—DEFINITION OF FILMS THAT ARE "TOPICAL OR OTHERWISE ESSENTIALLY TRANSITORY IN NATURE"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 48(k) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposed regulations more specifically define what movie and television films and videotapes qualify for the investment credit.

Timetable:

Action	Date	FR Cite
NPRM	08/09/82	47 FR 24142
NPRM Comment Period End	08/02/82	47 FR 24142
Final Action	10/31/86	
Final Action Effective	10/31/87	

Small Entity: Not Applicable

Additional Information: LR-143-80.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Thusonyl.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA22

2381. INCOME TAX—NONQUALIFIED SALARY REDUCTION AGREEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 61 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide guidance regarding the tax treatment of nonqualified deferred compensation arrangements established by tax exempt charitable organizations such as non-profit hospitals for their employees.

Timetable:

Action	Date	FR Cite
NPRM	02/09/78	43 FR 4638
Final Action Effective	03/06/78	
NPRM Comment Period End	04/04/78	43 FR 4638
Hearing	05/14/78	
News release issued for comment	06/11/79	
Hearing	11/27/79	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-194-77.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AA35

2382. INCOME TAX—GROUP TERM LIFE INSURANCE—EVIDENCE OF INSURABILITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 79 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide guidance in determining whether term life-insurance is group-term life insurance within the meaning of section 79 of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	10/07/82	47 FR 44343
NPRM Comment Period End	12/06/82	47 FR 44343
Hearing	01/19/83	47 FR 53745
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-42-78.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AA39

2383. INCOME TAX—INDUSTRIAL DEVELOPMENT BONDS FOR VEHICLES USED FOR MASS COMMUTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b) Internal Revenue Code of 1954; Economic Recovery Tax Act of 1981, section 814

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: The regulations would define a qualified mass commuting vehicle for purposes of issuance of tax-exempt bonds. A qualified mass commuting vehicle is a bus, subway car or similar equipment that is leased to a mass transit system wholly owned by one or more governmental units and that is used by the mass transit system in providing mass commuting services.

Timetable:

Action	Date	FR Cite
NPRM	12/31/81	46 FR 63326
NPRM Comment Period End	03/03/82	46 FR 63326
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-192-81.

Drafting attorney: Susan Thompson Baker (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney:

Agency Contact: Susan Thompson Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AA43

2384. INCOME TAX—TO AMEND THE REGULATIONS UNDER SECTIONS 1.103-13 AND 1.103-14 WITH RESPECT TO THE CALCULATIONS OF "OVERISSUANCE" AND "CUMULATIVE CASH FLOW DEFICIT"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would clarify rules relating to the proper method for determining whether the amount of tax-exempt obligations exceeds the amount necessary for the governmental purpose for which the proceeds of the obligations are to be used.

Timetable:

Action	Date	FR Cite
Final Action Effective	11/07/78	
NPRM	09/22/84	49 FR 33283
NPRM Comment Period End	10/22/84	49 FR 39283
Public Hearing	01/30/85	
Final Action	09/00/86	

Small Entity: Not Applicable

Additional Information: LR-196-76.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AA40

2386. INCOME TAX—TO CLARIFY THE DEFINITION OF THE TERM "ISSUE"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b)(6) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to issuers, purchasers, and users of industrial development bonds relating to whether multiple lots of obligations will be treated as part of the same issue under section 103 (b).

Timetable:

Action	Date	FR Cite
NPRM	10/06/81	46 FR 50014
Hearing	11/12/81	
NPRM Comment Period End	01/06/82	46 FR 50014
Final Action	12/01/86	

Small Entity: Not Applicable

Additional Information: LR-264-81.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AA54

2385. INCOME TAX—EXEMPTION FOR INDUSTRIAL DEVELOPMENT BONDS FOR WATER FACILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b)(4)(F) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide guidance to determine the rules under which facilities for furnishing water to members of the general public can be financed with tax-exempt industrial development bonds under section 103 (b) (4) of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
Final Action Effective	11/07/78	
NPRM	09/22/84	49 FR 33283
NPRM Comment Period End	10/22/84	49 FR 39283
Public Hearing	01/30/85	
Final Action	09/00/86	

Small Entity: Not Applicable

Additional Information: LR-196-76.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AA40

2387. INCOME TAX—TO CLARIFY THE DEFINITION OF PROPERTY WHICH IS A POLLUTION CONTROL FACILITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will define the term "air or water pollution control facilities". The regulations will further determine the portion of the cost of such facilities that may be financed with tax-exempt industrial development bonds, whenever the facilities also serve certain other purposes.

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TREAS—IRS

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/20/75	40 FR 36371
Hearing	11/21/75	
NPRM Comment Period End	11/28/75	40 FR 36371
Final Action	12/01/86	
Final Action Effective	12/01/86	

Small Entity: Not Applicable

Additional Information: LR-9-75.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AA58

2388. INCOME TAX—MANNER OF ELECTING $10 MILLION LIMITATION ON EXEMPT SMALL ISSUES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b)(6) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would establish revised procedures whereby the issuer of a small issue of tax-exempt industrial development bonds can elect to have a $10 million limitation rather than a $1 million limitation apply in determining the maximum allowable size of such issue. This regulation would centralize the filing of documents relating to this election to make its requirements more administrable.

Timetable:

Action	Date	FR Cite
NPRM	08/22/82	47 FR 36854
NPRM Comment Period End	08/23/82	47 FR 36854
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-50-80.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Office of Tax Legislative Counsel reviewing attorney: Schuldinger.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AA59

2389. INCOME TAX—MORTGAGE SUBSIDY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules which interpret the provisions of section 103a, relating to Mortgage Subsidy Bonds. Mortgage Subsidy Bonds are any obligations a significant portion of the proceeds of which are used to provide financing for owner-occupied residences.

Timetable:

Action	Date	FR Cite
Previous NPRM	07/01/81	46 FR 34348
Hearing	11/05/81	
NPRM	11/10/81	46 FR 55513
NPRM Comment Period End	01/09/82	46 FR 55513
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-20-81.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: McDowell.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AA63

2390. TO PROVIDE REGULATIONS REQUIRING CERTAIN DEBT OBLIGATIONS TO BE ISSUED IN REGISTERED FORM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(j) Internal Revenue Code of 1954; 26 USC 163(f) Internal Revenue Code of 1954; 26 USC 312(m) Internal Revenue Code of 1954; 26 USC 1287(a) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules will provide that certain debt obligations issued after December 31, 1982, must be in registered form. The rules will provide examples of certain obligations that are not subject to the registration requirements. The sanctions for not issuing an obligation in registered form are the denial of an interest deduction, loss of capital gains treatment, loss of an earnings and profits adjustment, and loss of tax-exempt interest status.

Timetable:

Action	Date	FR Cite
NPRM	11/15/82	47 FR 51414
Final Action Effective	12/31/82	
NPRM Comment Period End	01/14/83	47 FR 51414
Hearing	01/25/83	47 FR 51413
Final Action	12/01/86	

Small Entity: Not Applicable

Additional Information: LR-255-82.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Treasury attorney: Tom Wessel (202) 535-6963.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AE16

2391. TO PROVIDE REGULATIONS UNDER SECTION 103(K) AND (L)—RELATING TO PUBLIC APPROVAL AND INFORMATION REPORTING REQUIREMENTS FOR PRIVATE ACTIVITY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposal will clarify the information reporting requirements with respect to private activity bonds. Industrial development bonds must be publicly approved--failure to fulfill this requirement results in loss of tax exemption for the interest on these bonds. Issuers of student loan bonds, charitable use bonds and industrial development bonds are required to supply certain information to the Internal Revenue Service. Failure to comply with this requirement will result in the loss of tax exemption for the bond's interest.

Timetable:

Action	Date	FR Cite
NPRM	05/11/83	48 FR 21166
NPRM Comment Period End	07/11/83	48 FR 21166
Final Action	12/15/86	

Small Entity: Not Applicable

Additional Information: LR-221-82

Drafting attorney: John M. Coulter, Jr. (202) 566-4473.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel reviewing attorney: James Lokey (202) 566-5453.

Agency Contact: John M. Coulter, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4473

RIN: 1545-AE24

2392. TO MODIFY REQUIREMENTS RELATING TO $10 MILLION ELECTION AND CAPITAL EXPENDITURE STATEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b) (6) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations would modify the requirements for making the election of the $10 million limitation upon the size of a small issue of tax-exempt industrial development bonds. These regulations would also revise the requirements for filing capital expenditure statements.

Timetable:

Action	Date	FR Cite
Final Action	06/30/86	

Small Entity: Not Applicable

Additional Information: LR-185-84.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AH20

2393. TEMPORARY REGULATIONS RELATING TO FEDERALLY GUARANTEED BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 Internal Revenue Code of 1954

CFR Citation: 26 CFR IT

Legal Deadline: None

Abstract: These regulations will provide guidance regarding the provisions enacted by the Tax Reform Act of 1984 which denies Federal income tax exemption for bonds issued by State or local governmental units if payments of principal or interest with respect to such bonds are directly or indirectly guaranteed by the Federal Government.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-155-84.

Drafting attorney: John A. Tolleris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Treasury attorney: Joseph Krolikowski (202) 566-2827.

Agency Contact: John A. Tolleris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AH20

2394. TO PROVIDE REGULATIONS RELATING TO THE TAX EXEMPTION OF OBLIGATIONS TO FINANCE MIXED-USE RESIDENTIAL RENTAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 (b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1.103-8

Legal Deadline: None

Abstract: The regulations will clarify the rule relating to obligations to provide residential rental property. The regulations will make clear that a residential rental project can consist in part of non-residential rental property.

Timetable:

Action	Date	FR Cite
NPRM	10/07/85	50 FR 46303
NPRM Comment Period End	01/06/86	
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-260-84.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John M. Coulter (202) 566-4473.

Treasury attorney: Jim Lokey (202) 566-5453.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AH69

2395. AMENDMENT OF REGULATIONS RELATING TO ARBITRAGE ON NONPURPOSE OBLIGATIONS TO REFLECT SECTION 624 OF TRA OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(c)(6) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1.103-15AT

Legal Deadline: None

Abstract: The regulations will provide rules relating to arbitrage on nonpurpose investments with respect to industrial development bonds. Rules will be the limitation on nonpurpose investments and the rebate requirement.

Timetable:

Action	Date	FR Cite
NPRM	01/07/86	51 FR 00837
NPRM Comment Period End	03/08/86	50 FR 00837
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-188-84.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John Fischer (202) 566-3289.

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Treasury attorney: Jim Lokey (202) 566-5453.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AH07

2396. TO PROVIDE REGULATIONS UNDER SECTION 103 (N) RELATING TO CARRYFORWARD ELECTIONS AND ELECTION TO ALLOCATE STATE CEILING TO FACILITIES FOR LOCAL FURNISHING OF ELECTRICITY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 (n) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1.103 (n)-6; 26 CFR 1.103 (n)-7

Legal Deadline: None

Abstract: The regulations will clarify the rules relating to carryforward of unused private activity bond limit and extend the deadline for making such elections. The regulations will also provide rules relating to the election to allocate state ceiling to certain facilities for local furnishing of electricity.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	12/27/84	49 FR 50405
NPRM	12/28/84	49 FR 50405
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-304-84.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Treasury attorney: Jim Lokey (202) 566-5453.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AG91

2397. TO PROVIDE REGULATIONS RELATING TO THE STATE VOLUME CAP ON PRIVATE ACTIVITY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103 (n) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1.103-1T; 26 CFR 1.103-2T; 26 CFR 1.103-3T; 26 CFR 1.103-4T; 26 CFR 1.103-5T; 26 CFR 1.103-6T

Legal Deadline: None

Abstract: These regulations will provide rules relating to the limitation on the aggregate amount of private activity bonds. The regulations will define the terms private activity bond and state ceiling. The regulations will also provide rules for carrying forward any unused private activity bond limit.

Timetable:

Action	Date	FR Cite
NPRM	10/05/84	49 FR 39344
NPRM Comment Period End	12/04/84	49 FR 39344
Public hearing held	04/22/85	
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-144-84.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John M. Coulter (202) 566-4473.

Treasury attorney: Jim Lokey (202) 566-5453.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AH62

2398. INCOME TAX--CHANGES IN EXCLUSION FOR SICK PAY & CERTAIN MILITARY, ETCETERA, DISABILITY PENSIONS; CERTAIN DISABILITY INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 104(a) Internal Revenue Code of 1954; 26 USC 104(b) Internal Revenue Code of 1954; 26 USC 105(d) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would relate to annuities, unemployment compensation, compensation for injuries or sickness, amount received under accident or health plans, and contributions by employees to accident and health plans. Exclusions from income would be clarified.

Timetable:

Action	Date	FR Cite
NPRM	07/09/80	45 FR 46082
NPRM Comment Period End	09/08/80	45 FR 46082
Final Action	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-159-78.

Drafting attorney: Beverly A. Baughman (202) 566-3297.

Reviewing attorney: John M. Fischer (202) 566-3394.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington DC 20224, 202 566-3297

RIN: 1545-AA66

2399. INCOME TAX--PREPAID LEGAL EXPENSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 120 Internal Revenue Code of 1954; 26 USC 501(c)(20) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to the establishment and operation of a qualified group legal services plan. Employer contributions to, and benefits provided under, a qualified plan are excluded from an employee's gross income.

Timetable:

Action	Date	FR Cite
NPRM	04/29/80	45 FR 28360
NPRM Comment Period End	06/30/80	45 FR 28360
Hearing 09/04/80	07/25/80	45 FR 49596
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-5-78.

Drafting attorney: Monice Rosenbaum (202) 566-3422.

Reviewing attorney: Jonathan P. Marget (202) 566-3851.

Office of Tax Legislative Counsel (Treasury) reviewing attorney:

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AD62

2400. INCOME TAX--TAX TREATMENT OF CAFETERIA PLANS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 125 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations establish rules for the tax treatment of cafeteria plans meeting certain nondiscrimination standards. A cafeteria plan permits participating employees to select the particular fringe benefits desired from a package of employer-provided benefits which include statutory nontaxable benefits and cash.

Timetable:

Action	Date	FR Cite
NPRM	12/31/84	49 FR 50733
NPRM Comment Period End	01/30/85	
Hearing	04/11/85	
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: EE-16-79.

Drafting attorney: Harry Beker (202) 566-6212.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Harry Beker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AD63

2401. INCOME TAX-EXCLUSION FROM INCOME OF CERTAIN COST-SHARING PAYMENTS UNDER GOVERNMENT PROGRAMS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 126 Internal Revenue Code of 1954; 26 USC 1255 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules on the exclusion from income of certain cost sharing payments and on the amount recaptured when the property improved with government payments is sold within a certain specified period of time.

Timetable:

Action	Date	FR Cite
NPRM	05/21/81	46 FR 27723
NPRM Comment Period End	07/20/81	46 FR 27723
Hearing	12/01/81	46 FR 50808
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-222-78.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: Ewan D. Purkiss (202) 566-3238.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AA73

2402. INCOME TAX--PART I EXCLUSION FROM GROSS INCOME FOR CERTAIN FOSTER CARE PAYMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 131

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation project will explain what foster child care payments may be excluded from the gross income of a foster parent.

Timetable:

Action	Date	FR Cite
NPRM	02/01/85	50 FR 4702
NPRM Comment Period End	04/02/85	50 FR 4702
Hearing held	06/25/85	
Final Action	12/00/86	

Small Entity: No

Additional Information: LR-83-83.

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Tax Legislative Counsel attorney: Jeff Quinn (202) 566-2175.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF52

2403. INCOME TAX--TO ADD PROVISIONS RELATING TO STATE LEGISLATORS' TRAVEL EXPENSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 162 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to state legislators who elect to deduct a set per diem in lieu of having to substantiate their actual travel expenses arising from their trade or business as a state legislator.

Timetable:

Action	Date	FR Cite
NPRM	08/09/83	48 FR 36137
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-5-82.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Lokey.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA78

2404. SANCTIONS ON ISSUERS AND HOLDERS OF REGISTRATION-REQUIRED OBLIGATIONS NOT IN REGISTERED FORM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 165 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The temporary regulations provide rules for determining whether an issuer may claim an interest deduction for interest paid on an obligation in bearer form, which is otherwise a registration required

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obligation because the issuer satisfies the conditions set forth in section 103 (f) (2) (B). In addition, the temporary regulations provide rules which define the circumstances under which a United States person may hold a registration-required obligation in bearer form.

Timetable:

Action	Date	FR Cite
Interim Final Rule	08/22/84	
Hearing held	01/28/85	49 FR 47870
NPRM	09/29/85	50 FR 39552
NPRM Comment Period End	10/21/85	50 FR 39552
Final Action	08/31/86	

Small Entity: No

Additional Information: LR-238-83.

Drafting attorney: P. Ann Fisher (202) 566-3289.

Reviewing attorney: Carol Doran Klein (202) 566-3289.

Agency Contact: P. Ann Fisher or Carol Doran Klein, Attorney, Office of Chief Counsel, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AF63

2405. INCOME TAX REGULATIONS—TAX STRADDLES RELATING TO SECTION 108 OF THE TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 165 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules under section 108 of the Tax Reform Act of 1984, relating to the treatment of certain losses on straddles entered into before the effective date of the Economic Recovery Tax Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	06/23/84	49 FR 33458
NPRM Comment Period End	10/22/84	49 FR 33458
Public hearing held	11/29/84	
Final Action	01/00/87	

Small Entity: Not Applicable

Additional Information: LR-147-84.

Drafting attorney: Timothy J. McKenna (202) 566-3287

Reviewing attorney: John Fischer (202) 566-3328.

Treasury attorney: Linda Conlisk (202) 566-4979.

Agency Contact: Timothy J. McKenna, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AG57

2406. INCOME TAX—ACCELERATED COST RECOVERY SYSTEM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 168 Internal Revenue Code of 1954; 26 USC 179 Internal Revenue Code of 1954; 26 USC 1245 Internal Revenue Code of 1954; 26 USC 453 Internal Revenue Code of 1954; 26 USC 167 Internal Revenue Code of 1954; 26 USC 1250 Internal Revenue Code of 1954; 26 USC 57(a)(12) Internal Revenue Code of 1954; 26 USC 312(k) Internal Revenue Code of 1954; 26 USC 172(b) Internal Revenue Code of 1954; 26 USC 812(b) Internal Revenue Code of 1954; 26 USC 46(b) Internal Revenue Code of 1954; 26 USC 53(c) Internal Revenue Code of 1954; 26 USC 381(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide regulations under section 168 and accompanying provisions clarifying the operation of the new accelerated cost recovery scheme. This new cost recovery system generally applies to property placed in service after December 31, 1980. Generally, section 168 applies to "recovery property" which is defined as tangible property of a character subject to the allowance for depreciation which is used in a trade or business, or held for the production of income.

Timetable:

Action	Date	FR Cite
NPRM	02/16/84	49 FR 5940
NPRM Comment Period End	05/16/84	49 FR 5940
Hearing held	05/21/84	
Final Action	08/00/86	

Small Entity: Not Applicable

Additional Information: LR-185-81.

Drafting attorney: Ada S. Rousso (202) 566-3287.

Reviewing attorney: John M. Coulter (202) 566-4473.

Treasury attorney: Neil Kimmelfield (202) 566-6527.

Agency Contact: Ada S. Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AA87

2407. INCOME TAX—RELATING TO TERMINAL RENTAL ADJUSTMENT CLAUSES IN CERTAIN MOTOR VEHICLE LEASES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 168(f)(8) Internal Revenue Code of 1954; Tax Equity and Fiscal Responsibility Act of 1982, Section 210

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for determining whether certain motor vehicle agreements which contain terminal rental adjustment clauses are conditional sales agreements or lease agreements.

Timetable:

Action	Date	FR Cite
NPRM	11/23/82	47 FR 52729
NPRM Comment Period End	01/24/83	
Hearing	02/10/83	
Final Action	08/00/90	

Small Entity: Not Applicable

Additional Information: LR-197-82.

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: John M. Fischer (202) 566-3328.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF32

2408. TAX-EXEMPT ENTITY LEASING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 168 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These proposed regulations will provide rules relating to tax-exempt entity leasing and tax-exempt use property under section 168 (j) of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	07/02/85	50 FR 27297
NPRM Comment Period End	09/03/85	50 FR 27297
Hearing	11/25/85	
Final Action	12/01/86	

Small Entity: Not Applicable

Additional Information: LR-31-85.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John Tolleris (202) 566-3459.

Treasury attorney: Blake Rubin (202) 566-4902.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AH76

2409. DEDUCTIONS IN EXCESS OF $5,000 CLAIMED FOR CERTAIN CHARITABLE CONTRIBUTIONS OF PROPERTY AND INFORMATION REPORTING BY DONEES WHO MAKE CERTAIN DISPOSITIONS OF DONATED PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 170(a) (1) Internal Revenue Code of 1954; 26 USC 6050L Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to deductions for charitable contributions. The regulations provide that deductions for certain charitable contributions made by an individual, closely held corporations, personal service corporation, partnership, or S corporation shall not be allowed unless the donor obtains a qualified appraisal and attaches an appraisal summary to the donor's return on which the deduction is first claimed. Additionally, the regulations require the donee of certain charitable deduction property to make an information return.

Timetable:

Action	Date	FR Cite
NPRM	12/31/84	49 FR 50740
NPRM Comment Period End	03/01/85	49 FR 50740
Public hearing held	06/28/85	
Final Action	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-200-84.

Drafting attorney: Beverly A. Baughman (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3328.

Treasury attorney: Richard D'Avino (202) 566-4979.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AG86

2410. INCOME TAX—NET OPERATING LOSSES ATTRIBUTABLE TO PRODUCT LIABILITY LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 172 Internal Revenue Code of 1954; 26 USC 537(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide the necessary guidance with respect to product liability losses and accumulations for the payment of reasonably anticipated product liability losses. Product liability losses may be carried back ten years instead of three years.

Timetable:

Action	Date	FR Cite
Final Action Effective	09/30/79	
NPRM	03/25/83	48 FR 12557
NPRM Comment Period End	05/24/83	48 FR 12557
Final Action	12/15/86	

Small Entity: Not Applicable

Additional Information: LR-218-78.

Drafting attorney: John M. Coulter, Jr. (202) 566-4473.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: David Garlock (202) 566-6377.

Agency Contact: John M. Coulter, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4473

RIN: 1545-AA93

2411. INCOME TAX—NET OPERATING LOSSES FOR CERTAIN REAL ESTATE INVESTMENT TRUSTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 172(b)(1)(E) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: To provide guidance to Real Estate Investment Trusts with net operating loss carryovers. A net operating loss for a year in which the taxpayer was a REIT shall not be a net operating loss carryback to any taxable year preceding the taxable year of such loss, and shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of such loss. In the case of any net operating loss for a taxable year which is not a REIT year, such loss shall not be carried back to any taxable year which is a REIT year.

Timetable:

Action	Date	FR Cite
NPRM	06/26/84	84 FR 16676
NPRM Comment Period End	08/26/84	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-26-81.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Quinn

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AA94

2412. INCOME TAX—ELECTION TO EXPENSE CERTAIN DEPRECIABLE ASSETS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 179 Internal Revenue Code of 1954; 26 USC 263 Internal

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Revenue Code of 1954; 26 USC 1036 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules relating to the election to expense certain depreciable business assets. The regulations determine the type of property to which section 179 applies. In addition, the regulations set forth the maximum amount of section 179 expense allowed and the procedures that must be followed in claiming the expense.

Timetable:

Action	Date	FR Cite
NPRM	09/25/85	50 FR 39018
NPRM Comment Period End	11/25/85	50 FR 39018
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-233-81.

Drafting attorney: Maurice B. Foley (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Thuronyi, Rollyson.

Agency Contact: Maurice B. Foley, Law Clerk, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3287

RIN: 1545-AA95

2413. INDIVIDUAL RETIREMENT PLANS, SIMPLIFIED EMPLOYEE PENSIONS, AND QUALIFIED VOLUNTARY EMPLOYEE CONTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 219 Internal Revenue Code of 1954; 26 USC 408 Internal Revenue Code of 1954; 26 USC 408 Internal Revenue Code of 1954; 26 USC 415 Internal Revenue Code of 1954; 26 USC 2039 Internal Revenue Code of 1954; 26 USC 2517 Internal Revenue Code of 1954; 26 USC 6652 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 20; 26 CFR 25; 26 CFR 301

Legal Deadline: None

Abstract: These regulations set forth rules for individual retirement plans, simplified employee pensions, and qualified voluntary employee contributions after amendment of the Internal Revenue Code of 1954 by the Economic Recovery Tax Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	01/23/84	49 FR 2794
NPRM Comment Period End	03/23/84	49 FR 2794
Final Action	12/00/86	

Small Entity: No

Additional Information: EE-148-82.

Drafting attorney: William D. Gibbs (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry Conaway (202) 566-4902.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD98

2414. INDIVIDUAL RETIREMENT PLANS AND SIMPLIFIED EMPLOYEE PENSIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 62 Internal Revenue Code of 1954; 26 USC 219 Internal Revenue Code of 1954; 26 USC 229 Internal Revenue Code of 1954; 26 USC 404(k) Internal Revenue Code of 1954; 26 USC 408 Internal Revenue Code of 1954; 26 USC 469 Internal Revenue Code of 1954; 26 USC 2503 Internal Revenue Code of 1954; 26 USC 3121 Internal Revenue Code of 1954; 26 USC 3306 Internal Revenue Code of 1954; 26 USC 4973 Internal Revenue Code of 1954; 26 USC 4974 Internal Revenue Code of 1954; 26 USC 6693 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 25; 26 CFR 31; 26 CFR 54; 26 CFR 301

Legal Deadline: None

Abstract: The regulations set forth rules for sponsors of and participants in individual retirement plans, spousal individual retirement plans, and simplified employee pensions.

Timetable:

Action	Date	FR Cite
NPRM	07/14/81	46 FR 36198
NPRM Comment Period End	09/14/81	46 FR 36198
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: EE-7-78.

Drafting attorney: William D. Gibbs (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry Conaway (202) 566-4902.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD59

2415. REGULATIONS UNDER SECTION 267 IRC TO REFLECT SECTION 174 OF THE TAX REFORM ACT OF 1984 RELATING TO LOSSES, EXPENSES, AND INTEREST IN TRANSACTIONS BETWEEN RELATED TAXPAYERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 267 Internal Revenue Code of 1954; 26 USC 706 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation deals with changes in section 267 arising from section 174 of the Tax Reform Act of 1984. It deals with the matching of payor deductions and payee income items in the case of expenses and interest where the accrual method payor and the cash method payee are related persons. The regulation also deals with the deferral and restoration of loss on the sale or exchange of property from one member of a controlled group of corporations to another member.

Timetable:

Action	Date	FR Cite
NPRM	11/30/84	49 FR 47048
NPRM Comment Period End	01/29/85	49 FR 47048
Final Action	12/31/86	

Small Entity: No

Additional Information: LR-163-84.

Drafting attorneys: Keith E. Stanley (202) 566-3458, John G. Schmalz and Robert H. Ginsburgh (202) 566-3297.

Reviewing attorney: Mark B. Blumkin (202) 566-3463.

Treasury attorneys: Jim Lokey (202) 566-5453, Jane Sarosdy (202) 566-6275.

Agency Contact: Keith E. Stanley, John G. Schmalz, Attorneys, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AG11

2416. INCOME TAX—PERSONAL SERVICE CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 269A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will provide rules for determining when the Internal Revenue Service may reallocate income or tax benefits between a personal service corporation and its employee-owners.

Timetable:

Action	Date	FR Cite
NPRM	03/31/83	48 FR 13438
NPRM Comment Period End	05/31/83	48 FR 13438
Hearing	07/19/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-188-82.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: John M. Fischer (202) 566-3394.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AF11

2417. INCOME TAX—DEDUCTIBILITY OF GIFTS BY EMPLOYERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 274(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would reflect the modification by the Economic Recovery Tax Act of 1981 of the third exception to the term "gift" (i.e., the exception within certain dollar limitations for awards of tangible personal property). The regulations would define the term "qualified plan award." The regulations would clarify the existing regulations under section 274 (b) of the Internal Revenue Code of 1954 by excluding from the term "tangible personal property" any award of cash, or of a gift certificate, or of a right to choose among 5 or more different items.

Timetable:

Action	Date	FR Cite
NPRM	12/16/82	47 FR 56367
NPRM Comment Period End	02/14/83	47 FR 56367
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-252-81.

Drafting attorney: Robert H. Ginsburgh (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB06

2418. INCOME TAX—DEDUCTIONS FOR EXPENSES ATTRIBUTABLE TO BUSINESS USE OF HOMES, RENTAL OF VACATION HOMES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 280A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules for determining the deductibility of expenses incurred in connection with the business use, or rental to others, of a dwelling unit. The regulations provide rules for determining when the taxpayer uses a dwelling unit for personal use or when use by another person of the unit is treated as personal use of the unit by the taxpayer.

Timetable:

Action	Date	FR Cite
NPRM	07/21/83	48 FR 33326
NPRM Comment Period End	09/21/83	
Hearing	10/04/83	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-261-76.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: Sharon Galm (202) 566-9050.

Office of Tax Legislative Counsel reviewing attorney: Yecies.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB09

2419. LIMITATIONS ON AMOUNT OF DEPRECIATION AND INVESTMENT TAX CREDIT FOR LUXURY AUTOMOBILES AND CERTAIN OTHER PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 280F Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will clarify the rules limiting the investment tax credit and cost recovery deductions allowable with respect to passenger automobiles and certain other "listed property." The regulations will also provide rules relating to the substantiation requirements for "listed property" under section 274 (d) (4).

Timetable:

Action	Date	FR Cite
NPRM	10/24/84	49 FR 42743
NPRM Comment Period End	12/24/84	49 FR 42743
Hearing held	04/16/85	50 FR 7973
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-145-84.

Drafting attorney: Michel A. Daze (202) 566-6456.

Reviewing attorney: Sharon Galm (202) 566-3930.

Treasury attorney: Jeff Quinn (202) 566-2175.

Agency Contact: Michel Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6456

RIN: 1545-AG99

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2420. INCOME TAX—DISTRIBUTION IN REDEMPTION OF STOCK TO PAY DEATH TAXES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 303 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules for treating distributions in redemption of stock to pay death taxes to be treated as a distribution in full payment in exchange for the stock. The regulations provide rules with respect to stock that is redeemed from a shareholder whose interest in the estate is reduced by any payment of the death taxes or funeral and administrative expenses of the estate.

Timetable:

Action	Date	FR Cite
NPRM	06/22/84	49 FR 33277
NPRM Comment Period End	10/22/84	49 FR 33277
Final Action	09/00/86	

Small Entity: Not Applicable

Additional Information: LR-124-76.

Drafting attorney: Maurice B. Foley (202) 566-3287.

Reviewing attorney: Fred E. Grundeman (202) 566-3287.

Treasury attorney: Victor Thuronyi (202) 566-2566.

Agency Contact: Maurice B. Foley, Law Clerk, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3287

RIN: 1545-AB13

2421. INCOME TAX—DIVIDEND REINVESTMENT IN STOCK OF PUBLIC UTILITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 305 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Notice would define and interpret when a qualified public utility may set up a qualified dividend reinvestment plan so that its shareholders may elect to receive qualified common stock and exclude a certain portion from income. Changes to the applicable law were made by the Economic Tax Recovery Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	08/30/83	48 FR 30146
NPRM Comment Period End	08/29/83	48 FR 30146
Hearing	10/05/83	
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-241-81.

Drafting attorney: Michel A. Daze (202) 566-6456.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Treasury attorney: Carlisle.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-6456

RIN: 1545-AB14

2422. INCOME TAX—SIMULTANEOUS LIQUIDATION OF A PARENT AND SUBSIDIARY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 337 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to the nonrecognition treatment following the sale of assets of a subsidiary corporation provided that the subsidiary and certain other corporations in its affiliated group liquidate within a 12-month period.

Timetable:

Action	Date	FR Cite
NPRM	01/10/84	49 FR 1225
NPRM Comment Period End	03/10/84	
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-130-78.

Drafting attorney: Michel A. Daze (202) 566-6456.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Elfman.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6456

RIN: 1545-AB18

2423. INCOME TAX-ELECTIONS UNDER SECTION 338, AS ADDED BY SECTION 224 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982 AS AMENDED BY THE TECHNICAL CORRECTIONS ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 338 Internal Revenue Code of 1954; PL 97-248, Sec 224; PL 97-448, Sec 306

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules for making elections under section 338, which permits certain stock purchases to be treated as asset acquisitions.

Timetable:

Action	Date	FR Cite
NPRM	09/06/84	49 FR 35144
NPRM Comment Period End	11/05/84	
Final Action	12/01/86	

Small Entity: Not Applicable

Additional Information: LR-26-83.

Drafting attorney: Duane H. Pellervo (202) 566-3458.

Reviewing attorney: Mark Blumkin (202) 566-3463.

Treasury attorney: Thomas F. Wessel (202) 535-6963.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AF36

2424. TEMPORARY REGULATIONS—APPLICATION OF SECTION 338 TO STOCK AND ASSET ACQUISITIONS IN THE INTERNATIONAL CONTEXT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 338 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

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Abstract: These regulations will provide rules relating to section 338 as it applies to stock and asset acquisitions in the international context.

Timetable:

Action	Date	FR Cite
Final Action	04/15/86	

Small Entity: Not Applicable

Additional Information: LR-32-85.

Drafting attorney: Duane H. Pellervo (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Treasury attorney: Steve Shay (202) 566-5992.

Agency Contact: Keith E. Stanley, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AH87

2425. QUESTIONS AND ANSWERS RELATING TO DOMESTIC MATTERS UNDER SECTION 338 OF THE INTERNAL REVENUE CODE OF 1954 - CROSS REFERENCE TO THE TEMPORARY REGULATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 338 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance on a broad range of issues under section 338.

Timetable:

Action	Date	FR Cite
NPRM	04/25/85	50 FR 16430
Final Action	12/01/86	

Small Entity: Not Applicable

Additional Information: LR 33-85.

Drafting attorney: Thomas J. Kane (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Treasury attorney: Thomas F. Wessel (202) 535-6963.

Agency Contact: Thomas J. Kane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AH88

2426. ● DEEMED SALE PRICE WHEN CERTAIN STOCK PURCHASES ARE TREATED AS ASSET ACQUISITIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 338 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Temporary regulations to prescribe rules for computing the basis of stock purchased in certain stock acquisitions and for allocating this basis among the assets of the corporation whose stock was thus acquired.

Timetable:

Action	Date	FR Cite
Final Action	03/01/86	

Small Entity: Not Applicable

Additional Information: LR-122-85.

Drafting attorney: Patricia Wendlandt (202) 566-3458.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Office of Tax Legislative Counsel reviewing attorney: Thomas Wessel.

Agency Contact: Patricia Wendlandt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AI25

2427. AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SECTION 341, RELATING TO COLLAPSIBLE CORPORATIONS, TO REFLECT THE TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 341 (d) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These changes to the regulations will amend the definition of a collapsible corporation and will provide rules for the aggregation of certain types of property for purposes of limiting the application of section 341 to certain corporations.

Timetable:

Action	Date	FR Cite
NPRM	08/31/84	49 FR 34523
NPRM Comment Period End	10/30/84	49 FR 34523
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-107-84.

Drafting attorney: Michel A. Daze (202) 566-6456.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Neil Kimmelfield (202) 535-6986.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave. N.W., Washington, D.C. 20224, 202 566-6456

RIN: 1545-AG33

2428. INCOME TAX—DISTRIBUTION OF STOCK AND SECURITIES OF A CONTROLLED CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 355 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The proposal relates to the income tax treatment of the distribution of stock and securities of a controlled corporation.

Timetable:

Action	Date	FR Cite
NPRM	01/21/77	42 FR 3866
NPRM Comment Period End	03/22/77	42 FR 3866
Final Action	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-936.

Drafting attorney: Charles W. Culmer (202) 566-4336.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Treasury attorney: Richard D'Avino (202) 566-4879.

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Agency Contact: Charles W. Culmer, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AB20

2429. INCOME TAX—TRIANGULAR REORGANIZATIONS, BASIS AND OTHER CONSEQUENCES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 368 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to basis of stock of a corporation acquiring property in exchange for stock of a corporation in control of the acquiring corporation.

Timetable:

Action	Date	FR Cite
NPRM	01/02/81	46 FR 112
NPRM Comment Period End	03/03/81	46 FR 112
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-1993-71.

Drafting attorney: Andrew B. Pullman (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Evans.

Agency Contact: Andrew B. Pullman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB21

2430. INCOME TAX—TREATMENT OF EXCHANGES DESCRIBED IN SECTION 367 (B)

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 367(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide the conditions necessary to prevent the avoidance of Federal income taxes on transfers described in section 367 (b).

Timetable:

Action	Date	FR Cite
NPRM	12/30/77	42 FR 65152
NPRM Comment Period End	03/01/78	42 FR 65152
Notice amended	10/02/79	44 FR 57390
Notice amended	12/27/82	47 FR 57502
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-2-78.

Drafting attorney: Unassigned.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Wold, Granwell.

In Office of Chief Counsel (Legislation and Regulations Division) for preparation of Treasury decision.

Agency Contact: Unassigned, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AB26

2431. ● INCOME TAX—PART 1—TEMPORARY-WHETHER EARNINGS AND PROFITS SHOULD BE ALLOCATED TO AN ACQUIRING CFC FROM AN ACQUIRED CFC FOLLOWING A NON-RECOGNITION TRANSACTION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 367(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Should earnings and profits be allocated to an acquiring CFC from an acquired CFC following a transaction which qualified for non-recognition treatment.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/86	

Small Entity: Not Applicable

Additional Information: LR-128-85.

Drafting attorney: Carol Doran Klein (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorney: unassigned.

In Legislation and Regulations Division for preparation of preliminary draft.

Agency Contact: Carol Doran Klein, Assistant Chief, Branch 5, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Room 4109, Washington, D.C. 20224, 202 566-3289

RIN: 1545-AI32

2432. INCOME TAX—EXCHANGE FUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 368(a)(2)(F) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to reorganizations of undiversified investment companies.

Timetable:

Action	Date	FR Cite
NPRM	01/07/81	46 FR 1744
NPRM Comment Period End	03/08/81	46 FR 1744
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-135-76.

Drafting attorney: Andrew B. Pullman (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Agency Contact: Andrew B. Pullman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB31

2433. INCOME TAX—TEMPORARY REGULATIONS—REORGANIZATIONS INVOLVING FINANCIALLY TROUBLED THRIFT INSTITUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 368 Internal Revenue Code of 1954; 26 USC 382 Internal Revenue Code of 1954; 26 USC 381 Internal Revenue Code of 1954; 26 USC 597 Internal Revenue Code of 1954

CFR Citation: 26 CFR 5c

Legal Deadline: None

Abstract: Provision would provide temporary regulations dealing with

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reorganizations of financially troubled thrift institutions and with the tax consequences of financial assistance payments made to such an institution by a supervisory governmental agency, thereby giving the public needed guidance on how the Internal Revenue Service intends to interpret these issues.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/01/86	

Small Entity: Not Applicable

Additional Information: LR-230-81.

Drafting attorney: Mark S. Jennings (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Quinn.

Agency Contact: Mark S. Jennings, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AB28

2434. ● NOTICE, ELECTION, AND CONSENT RULES UNDER THE RETIREMENT EQUITY ACT OF 1984

Significance: Regulatory Program

Legal Authority: 26 USC 7805

CFR Citation: 26 CFR 401; 26 CFR 402; 26 CFR 417

Legal Deadline: None

Abstract: These regulations provide rules relating to the notice, election and consent rules enacted by the Retirement Equity Act of 1984. The regulations will generally affect sponsors of, and participants in pension, profit-sharing, and stock bonus plans, and provide plan sponsors with guidance necessary to comply with the law.

Timetable:

Action	Date	FR Cite
NPRM	07/19/85	50 FR 29436
Temporary T.D.	07/19/85	50 FR 29376
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-35-85

Drafting Attorney: Nancy J. Marks (202) 566-3903.

Reviewing Attorney: William D. Gibbs (202) 566-3903.

Treasury Attorney: Harry Conaway (202) 566-4902.

Agency Contact: Nancy J. Marks, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, DC 20224, 202 566-3903

RIN: 1545-AH71

2435. NOTICE, ELECTION, AND CONSENT RULES UNDER THE RETIREMENT EQUITY ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 602

Legal Deadline: None

Abstract: The regulations would provide rules relating to notices, elections and consents required under the Retirement Equity Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	07/19/85	50 FR 29436
NPRM Comment Period End	09/17/85	50 FR 29436
Learning	12/09/85	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-35-85.

Drafting attorney: Nancy J. Marks (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

This is included in the Regulatory Program of the United States under overall RIN 1545-AH71.

Agency Contact: Nancy J. Marks, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AH80

2436. INCOME TAX—REFUND OF MISTAKEN CONTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 401(a)(2) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations describe those circumstances under which an employer contribution or withdrawal liability payment to a multiemployer pension plan may be refunded due to a mistake of law or fact.

Timetable:

Action	Date	FR Cite
NPRM	03/11/83	48 FR 10374
NPRM Comment Period End	05/10/83	48 FR 10374
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: EE-133-80.

Drafting attorney: John T. Ricotta (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: John T. Ricotta, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD68

2437. CERTAIN CASH OR DEFERRED ARRANGEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Act of 1954; 26 USC 401(k) Internal Revenue Act of 1954; 26 USC 402(a)(8) Internal Revenue Act of 1954; PL 95-600, Sec 135 Revenue Act of 1978

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulation will provide definitions and interpretations governing qualified cash or deferred arrangements described in section 401(k) of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	11/10/81	46 FR 55544
NPRM Comment Period End	02/15/82	47 FR 00988
Notice of Hearing	02/24/82	47 FR 08028
Hearing	04/20/82	
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: EE-169-78.

Drafting attorney: William D. Gibbs (202) 566-3430.

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Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry Conaway (202) 566-4902.

Agency Contact: William D. Gibbs, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3439

RIN: 1545-AD72

2438. INCOME TAX—TREATMENT OF CERTAIN LUMP SUM DISTRIBUTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 402(a)(2) Internal Revenue Code of 1954; 26 USC 402(e) Internal Revenue Code of 1954; 26 USC 403(a)(2)(A)(iii) Internal Revenue Code of 1954; 26 USC 411(a)(11) Internal Revenue Code of 1954; PL 98-406, Sec 2005 Employee Retirement Income Security Act; PL 94-455, Sec 1512 Tax Reform Act of 1976

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Regulations will provide definitions and other guidance relating to income tax treatment of certain distributions from qualified employee plans.

Timetable:

Action	Date	FR Cite
NPRM	04/30/75	40 FR 18798
Corrected Notice of Proposed Rule	05/23/75	40 FR 22548
NPRM Comment Period End	06/16/75	40 FR 19790
Notice of Hearing	07/03/75	40 FR 28102
Hearing	08/12/75	
Additional Notice of Proposed Rule	05/31/78	44 FR 31228
Comment Period until	07/30/78	44 FR 31229
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-14-78.

Drafting attorney: Marjorie Hoffman (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3439

RIN: 1545-AD73

2439. INCOME TAX—TAXABILITY OF BENEFICIARY UNDER ANNUITY PURCHASE BY SEC. 501(C) ORGANIZATION OR PUBLIC SCHOOL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 403(b)(7) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance on employer contributions of funds, on behalf of employees, to regulated investment company stock (mutual funds). Employer contributions and the earnings on those contributions are exempt from income tax.

Timetable:

Action	Date	FR Cite
NPRM	02/19/78	43 FR 5952
NPRM Comment Period End	04/04/78	43 FR 5952
Partial Revised Notice	12/30/80	45 FR 85285
Hearing	06/04/81	46 FR 17229
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-17-78.

Drafting attorney: Harry Baker (202) 566-6212.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Harry Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AD75

2440. INCOME TAX—DEDUCTION OF EMPLOYER LIABILITY PAYMENTS, NOTICE OF REORGANIZATION AND FUNDING REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 404(g) Internal Revenue Code of 1954; 26 USC 418A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide guidance to employers on when they may deduct employer liability payments paid under section 4062, 4063, or 4064, or part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	05/20/85	50 FR 20806
NPRM Comment Period End	07/19/85	50 FR 20800
Final Action	07/00/86	

Small Entity: Not Applicable

Additional Information: EE-139-88

Drafting attorney: Marjorie Hoffman (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3439

RIN: 1545-AD80

2441. INCOME TAX—DEDUCTION FOR CERTAIN FOREIGN DEFERRED COMPENSATION PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 404A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance relating to the limitations on deductions and adjustments to earnings and profits (or accumulated profits) with respect to certain foreign deferred compensation plans.

Timetable:

Action	Date	FR Cite
NPRM	04/02/85	50 FR 13021
NPRM Comment Period End	06/03/85	50 FR 13021
Hearing	09/20/85	
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: EE-14-81.

Drafting attorney: Calder L. Robertson, Jr. (202) 566-3544.

Reviewing attorney: Michael A. Thrasher (202) 566-3961.

Office of International Tax Counsel (Treasury) reviewing attorney: Jane Sarosdy (202) 566-8275.

Agency Contact: Calder L. Robertson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AD81

2442. ANNUAL INFORMATION REPORTS BY TRUSTEES AND ISSUERS OF INDIVIDUAL RETIREMENT PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 408 Internal Revenue Code of 1954; PL 98-369, Sec 147

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: On June 28, 1983, the Internal Revenue Service issued news release IR-83-88 requiring new information reporting by trustees of individual retirement accounts and issuers of individual retirement annuities (including accounts and annuities that are simplified employee pensions). Form 5498, Individual Retirement Arrangement Information, was prescribed in the news release as the information return to be used for this purpose. This regulation project will amend the regulations under section 408 to conform them to the reporting requirements announced in the news release. In addition, section 147 of the Tax Reform Act of 1984 amended section 408 (i) of the Code to require that contributions be identified as to the taxable year to which they apply. This amendment will be included in this regulation period.

Timetable:

Action	Date	FR Cite
NPRM	11/16/84	49 FR 45450
NPRM Comment Period End	01/15/85	49 FR 45450
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: EE-65-83.

Drafting attorney: Philip R. Bosco (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry J. Conaway (202) 566-4902.

Agency Contact: Philip R. Bosco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3439

RIN: 1545-AF83

2443. RESTRICTIONS ON CASH-OUTS UNDER THE RETIREMENT EQUITY ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1.411(a) (11)-1T; 26 CFR 1.417(e)-1T

Legal Deadline: None

Abstract: The regulations will provide rules governing cash-outs of accrued benefits in excess of $3,500.

Timetable:

Action	Date	FR Cite
NPRM	07/19/85	50 FR 29436
NPRM Comment Period End	09/17/85	50 FR 29436
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-3-85

Drafting attorney: Nan Marks (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel reviewing attorney: Harry J. Conaway.

This is included in the Regulatory Program of the United States under overall RIN 1545-AH71.

Agency Contact: Nan Marks, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3439

RIN: 1545-AH01

2444. INCOME TAX—COORDINATION OF VESTING AND NONDISCRIMINATION REQUIREMENTS FOR QUALIFIED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 411(d)(1) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project was developed to prescribe rules for determining if the vesting schedule of a qualified plan discriminates in favor of employees who are officers, shareholders, or highly compensated.

Timetable:

Action	Date	FR Cite
NPRM	04/09/80	45 FR 24201
Partial Revised Notice	06/12/80	45 FR 39669
Hearing	07/10/80	45 FR 29306
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-164-78.

Drafting attorney: Marjorie Hoffman (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: Marjorie Hoffman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3439

RIN: 1545-AD83

2445. INCOME TAX—EXCISE TAX REGULATIONS—FUNDING FOR QUALIFIED PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 412 Internal Revenue Code of 1954; 26 USC 413(b) Internal Revenue Code of 1954; PL 93-406, Sec 1013

CFR Citation: 26 CFR 1; 26 CFR 54

Legal Deadline: None

Abstract: The regulations would provide guidance relating to the minimum funding requirements for employee pension benefit plans, and to excise taxes for failure to meet the minimum funding standards.

Timetable:

Action	Date	FR Cite
NPRM	12/01/82	47 FR 54093
NPRM Comment Period End	01/31/83	47 FR 54093
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-99-78.

Reviewing attorney: George B. Baker (202) 566-3422.

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Reviewing attorney: Jonathan P. Mayer (202) 566-3361.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Conaway.

Agency Contact: George B. Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422.

RIN: 1545-AD84

2446. INCOME TAX—DEFINITIONS & SPECIAL RULES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 414(b) Internal Revenue Code of 1954; 26 USC 414(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations relate to the definition of controlled groups of corporations and businesses under common control for purposes of certain provisions of the Employee Retirement Income Security Act of 1974 and pension related provisions of the Internal Revenue Code.

Timetable:

Action	Date	FR Cite
NPRM	11/05/75	40 FR 51457
NPRM Comment Period End	01/04/76	40 FR 51457
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-209-74.

Drafting attorney: Michel A. Dane (202) 566-6456.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Conaway.

Agency Contact: Michel A. Dane, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6456.

RIN: 1545-AB36

2447. INCOME TAX—EMPLOYEES OF AN AFFILIATED SERVICE GROUP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 414(m) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules with regard to the aggregation of employees of certain organizations for purposes of certain pension requirements.

Timetable:

Action	Date	FR Cite
NPRM	02/26/83	48 FR 8093
NPRM Comment Period End	04/29/83	
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: EE-3-81.

Drafting attorney: Philip R. Bosco (202) 566-3490.

Reviewing attorney: Richard J. Wickersham (202) 566-3256.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Harry J. Conaway (202) 566-4982.

Agency Contact: Philip R. Bosco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3490

RIN: 1545-AD90

2448. INCOME TAX—CREATION & TREATMENT OF INCENTIVE STOCK OPTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 422A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance for taxpayers who either grant or receive incentive stock options. The grant of an incentive stock option to an employee by an employer will not be a taxable event. At the time such option is exercised by the employee no amount of the spread between the fair market value of the stock at exercise and the option price will be included in the employee's gross income. When the stock acquired through the exercise of the option is sold, the entire gain will be treated as capital gain and not ordinary income if certain holding period and employment relationship requirements are met.

Timetable:

Action	Date	FR Cite
NPRM	02/07/84	49 FR 4584
NPRM Comment Period End	04/09/84	49 FR 4584
Public Hearing Held	06/21/84	49 FR 12940
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-279-81.

Drafting attorney: Bruce H. Jurist (202) 566-3236.

Reviewing attorney: John H. Parcell (202) 566-3288.

Treasury attorney: Fairlea Sheehy (202) 566-2565.

Agency Contact: Bruce H. Jurist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., NW, Washington, D.C. 20224, 202 566-3236

RIN: 1545-AB36

2449. INCOME TAX—GENERAL RULES RELATING TO INSTALLMENT SALES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Treasury decision will provide general rules and rules for reporting contingent installment obligations.

Timetable:

Action	Date	FR Cite
NPRM	02/04/81	46 FR 10749
NPRM Comment Period End	04/06/81	46 FR 10749
Hearing	10/01/81	46 FR 40774
Final Action	12/31/86	

Small Entity: Yes

Additional Information: LR-173-80

Drafting attorney: Ewan Purkiss (202) 566-3238.

Reviewing attorney: John Parcell (202) 566-3330.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Suzanne McDowell (202) 566-8527.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB42

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2450. INCOME TAX—INSTALLMENT OBLIGATIONS RECEIVED FROM A LIQUIDATING CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting gain in respect of installment obligations received as liquidating distributions from corporations under a plan of complete liquidation.

Timetable:

Action	Date	FR Cite
NPRM	01/13/84	49 FR 1742
NPRM Comment Period End	03/16/84	49 FR 1742
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-184-80.

Drafting attorney: Paulette Chernyshev (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Suzanne McDowell (202) 566-8527.

Agency Contact: Paulette Chernyshev, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB43

2451. INCOME TAX—INSTALLMENT OBLIGATIONS RECEIVED IN TRANSACTIONS IN WHICH GAIN OR LOSS IS GENERALLY NOT RECOGNIZED

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules for reporting installment obligations that are received as boot in certain exchanges in which gain is not generally recognized.

Timetable:

Action	Date	FR Cite
NPRM	05/03/84	49 FR 18866
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-166-80.

Drafting attorney: Paulette Chernyshev 202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Suzanne McDowell (202) 566-8527.

Agency Contact: Paulette Chernyshev, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB44

2452. INCOME TAX REGULATIONS—PART 1. INSTALLMENT SALE BY DEALERS IN PERSONAL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 453A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This project will provide rules relating to sales by dealers of personal property on the installment plan.

Timetable:

Action	Date	FR Cite
Final Action	12/00/87	

Small Entity: No

Additional Information: LR-141-83.

Drafting attorney: Paulette Chernyshev (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel reviewing attorney: Suzanne McDowell (202) 566-8527.

Agency Contact: Paulette Chernyshev, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF71

2453. INCOME TAX—EXCLUSION FROM GROSS INCOME WITH RESPECT TO MAGAZINES, PAPERBACKS, AND RECORD RETURNS AFTER CLOSE OF TAXABLE YEAR

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 458 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation will provide rules on the exclusion from gross income of income attributable to the sale of magazines, paperbacks, or records that are returned.

Timetable:

Action	Date	FR Cite
NPRM	08/31/84	49 FR 34520
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-195-78.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB48

2454. TEMPORARY INCOME TAX REGULATIONS—THE ECONOMIC PERFORMANCE REQUIREMENT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 461 (h) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide guidance relating to when economic performance occurs with respect to a liability and how the recurring item exception applies.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-257-84.

Drafting attorney: C. Scott McLeod (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: C. Scott McLeod, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AH33

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2456. TEMPORARY INCOME TAX REGULATIONS—TAXABLE YEAR OF DEDUCTION FOR AMOUNTS PAID BY CASH METHOD TAX SHELTERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 461(i) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to the taxable year of deduction for amounts paid by cash method tax shelters. The regulations will provide guidance with respect to the definition of a tax shelter, the time when economic performance occurs and the calculation of cash basis.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-161-84.

Drafting attorneys: C. Scott McLeod/Sharon L. Hall (202) 566-3288.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Agency Contact: C. Scott McLeod, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AH31

2458. INCOME TAXES—ELECTION FOR ACCRUED VACATION PAY UNDER TRANSITIONAL RULE PROVIDED IN SECTION 91(I) OF THE TAX REFORM ACT OF 1984

Legal Authority: 26 USC 463

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules relating to the election for accrued vacation pay under the transitional rule provided in section 91 (i) of the Tax Reform Act of 1984.

Timetable:

Action	Date	FR Cite
Interim Final Rule	03/30/86	

Small Entity: Not Applicable

Additional Information: LR-255-84.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: Cynthia L. Clark (202) 566-3828.

Treasury attorney: Mark Perlis (202) 566-8278.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AH16

2457. INCOME TAX—LIMITATION ON DEDUCTIONS IN CASE OF FARMING SYNDICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 464 Internal Revenue Code of 1954; 26 USC 278(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide that enterprises which qualify as farming syndicates must deduct expenses for feed, seed fertilizer, sicetera, only when used or consumed and to capitalize certain cost of poultry. Furthermore, farming syndicates are to capitalize certain expenses of groves, orchards and vineyards to the extent such expenses are incurred before the grove, orchard or vineyard becomes productive.

Timetable:

Action	Date	FR Cite
NPRM	11/15/83	48 FR 51936
NPRM Comment Period End	01/16/84	48 FR 51936
Hearing	03/08/84	
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-144-76.

Drafting attorney: Ewan D. Purkiss (202) 566-3238.

Reviewing attorney: Cynthia C. Clark (202) 566-3288.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Thuronyi.

Agency Contact: Ewan D. Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB51

2458. INCOME TAX—DETERMINATION OF AMOUNTS AT RISK WITH RESPECT TO CERTAIN ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 465 Internal Revenue Code of 1954; Section 204 Tax Reform Act of 1976

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to taxpayers for purposes of determining the amount the taxpayer is at risk in certain activities. This guidance is necessary because a taxpayer's deductions are limited to the amount the taxpayer is at risk in the activity. This at risk limit applies to most activities except the holding of real property and certain equipment leasing by closely-held corporations.

Timetable:

Action	Date	FR Cite
NPRM	06/05/79	44 FR 32235
NPRM Comment Period End	08/06/79	44 FR 32235
Hearing	09/27/79	44 FR 49701
Final Action	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-168-76.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: D'Avino.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB52

2459. ● AGGREGATION OF CERTAIN ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 465 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1T

Legal Deadline: None

Abstract: This temporary regulation will provide rules for aggregating certain activities for purposes of applying the at-risk rules under section 465. In general, the at-risk rules limit the amount of loss deductible in a taxable year with respect to an activity

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to the amount the taxpayer is at risk in the activity.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/15/86	

Small Entity: Not Applicable

Additional Information: LR-155-85.

Drafting Attorney: Alice M. Bennett (202) 566-3236.

Reviewing Attorney: John H. Parcell (202) 566-3336.

Treasury Attorney: Rick D'Avino (202) 566-4979.

Agency Contact: Alice M. Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3236

RIN: 1545-AI41

2460. TEMPORARY INCOME TAX REGULATIONS-DEFERRED PAYMENTS FOR USE OF PROPERTY OR SERVICES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 467 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1T

Legal Deadline: None

Abstract: The regulations will provide rules to the accrual of rents for the use of tangible property (and interest on rent that accrues but is not paid) under a section 467 rental agreement. A section 467 rental agreement will be deferred. Certain tax avoidance transactions will be deferred. Rules will be provided for the recapture of prior understated inclusions. Comparable rules for services will be provided.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-292-84.

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Jeffrey Quinn (202) 566-2175.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG81

2461. TEMPORARY INCOME TAX REGULATION—SPECIAL RULES RELATING TO NUCLEAR DECOMMISSIONING COSTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 468A Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide rules relating to the treatment of nuclear power plant decommissioning costs. The regulations will provide guidance with respect to the manner of making the election, the determination of the amount to be deducted and the qualification requirements for the nuclear decommissioning fund.

Timetable:

Action	Date	FR Cite
Interim Final Rule	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-228-84.

Drafting attorney: C. Scott McLeod (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: C. Scott McLeod, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AH08

2462. INCOME TAX—THREE-YEAR AVERAGING FOR INCREASES IN INVENTORY VALUE WHEN ELECTING LIFO METHOD OF ACCOUNTING; VALUE WHEN ELECTING LIFO METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 472(d) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide for three-year averaging for increases in inventory value when electing the LIFO method of accounting.

Timetable:

Action	Date	FR Cite
NPRM	02/10/83	48 FR 6134
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-254-81.

Drafting attorney: Bruce H. Jurist (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Eric Elfman (202) 566-8527.

Agency Contact: Bruce H. Jurist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB55

2463. INCOME TAX—RULES CLARIFYING THE REGULATIONS WITH RESPECT TO THE COMPUTATION OF "GROSS INCOME" OF AN ELECTRIC COOPERATIVE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 501(c)(12) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide that electric cooperatives would take into account costs of goods sold when determining income under the 85 percent member-income test. In addition, the regulations would solicit comments from the public regarding how to compute costs of goods sold.

Timetable:

Action	Date	FR Cite
NPRM	01/10/84	49 FR 1244
NPRM Comment Period End	03/12/84	49 FR 1244
Final Action	04/01/86	

Small Entity: Not Applicable

Additional Information: EE-17-81.

Drafting attorney: Roberto E. Rivera (202) 566-3430.

Reviewing attorney: Richard J. Wickersham (202) 566-3250.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Jewett, McCarty.

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Agency Contact: Roberto E. Rivera, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3430

RIN: 1545-AD69

2464. INCOME TAX—SOCIAL CLUBS UNRELATED BUSINESS INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 512(a)(3) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will provide rules for determining the unrelated business taxable income of certain organizations exempt from taxation under sections 501 (c) (7) and (c) (9) of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	05/13/71	36 FR 8808
NPRM Comment Period End	06/14/71	36 FR 8808
Hearing	08/31/71	36 FR 13034
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-105-83.

Drafting attorney: Sylvia F. Hunt (202) 566-6212.

Reviewing attorney: Michael A. Thrasher.

Office of Tax Legislative Counsel (Treasury) reviewing attorney:

Agency Contact: Sylvia F. Hunt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6212

RIN: 1545-AB59

2465. INCOME TAX—HOSPITAL SERVICES NOT TO CONSTITUTE AN UNRELATED TRADE OR BUSINESS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 513(e) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules relating to the circumstances under which services provided by a tax-exempt hospital to other such hospitals will not be treated as an unrelated trade or business.

Timetable:

Action	Date	FR Cite
NPRM	12/13/82	47 FR 55696
NPRM Comment Period End	02/08/83	47 FR 55696
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: EE-46-78.

Drafting attorney: Calder L. Robertson, Jr. (202) 566-3544.

Reviewing attorney: James L. Brokaw (202) 566-4173.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Tom Evans (203) 535-6968.

Agency Contact: Calder L. Robertson, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3544

RIN: 1545-AE05

2466. INCOME TAX—LIMITATION ON ADDITIONS TO BANK LOSS RESERVES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 585 Internal Revenue Code of 1954; PL 97-34, Sec 273

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would impose a requirement of a minimum addition to bad debt reserves of mutual savings banks in order to conform the treatment of these institutions to financial institutions described in section 585.

Timetable:

Action	Date	FR Cite
NPRM	12/19/83	48 FR 56083
NPRM Comment Period End	02/17/84	48 FR 56083
Final Action	06/00/86	

Small Entity: No

Additional Information: LR-152-79.

Drafting attorney: Ada S. Rousso (202) 566-3287.

Reviewing attorney: Susan Thompson Baker (202) 566-3294.

Agency Contact: Ada S. Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AB66

2467. INCOME TAX—SUPPLEMENTARY RULES ON LIMITATIONS ON PERCENTAGE DEPLETION FOR OIL & GAS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 613(A) Internal Revenue Code of 1954; 26 USC 703(a) Internal Revenue Code of 1954; 26 USC 705(a) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would clarify the circumstances under which percentage depletion will be available in the case of oil and gas wells.

Timetable:

Action	Date	FR Cite
NPRM	05/13/77	42 FR 24270
Hearing	08/31/76	
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-105-75.

Drafting attorney: Walter H. Woo (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: Walter H. Woo, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AB73

2468. INCOME TAX—TO CONFORM TO SEC 3 OF THE ACT OF 12/28/80

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 613A(c)(10) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide guidance to taxpayers using the section 613A(c)(10) exception to the transfer rules under section 613A(c)(9). In general section 613A(c)(9) disallows percentage depletion to the transferee of proven oil or gas property. Section 613A(c)(10) relates to the transfer of qualified property by an individual to a qualified transferee corporation solely in exchange for stock.

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Timetable:

Action	Date	FR Cite
NPRM	10/03/84	49 FR 39076
NPRM Comment Period End	12/03/84	49 FR 39076
Hearing	03/15/85	
Final Action	07/31/86	

Small Entity: Not Applicable

Additional Information: LR-35-81.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB74

2469. INCOME TAX—DISALLOWANCE OF CERTAIN ITEMS AS DEDUCTIONS FOR ESTATE AND INCOME TAX PURPOSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 642(g) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will provide that section 2053 and 2054 deductions are not allowed in computing the taxable income of the estate or any other person or as an offset against sales of property unless a waiver is filed stating that on the estate tax return these deductions were not claimed.

Timetable:

Action	Date	FR Cite
NPRM	02/08/83	48 FR 5762
NPRM Comment Period End	04/11/83	48 FR 5762
Final Action	06/00/87	

Small Entity: Not Applicable

Additional Information: LR-183-76.

Drafting attorney: Fred E. Grundeman (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of Tax Legislative Counsel (Treasury, reviewing attorney: Garlock.

Agency Contact: Fred E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AB75

2470. TEMPORARY REGULATIONS RELATING TO THE MORTALITY AND MORBIDITY TABLES TO BE USED FOR INSURANCE PRODUCTS FOR WHICH THERE ARE NO APPLICABLE COMMISSIONER'S TABLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 807(d) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1T

Legal Deadline: None

Abstract: This project will provide rules relating to the mortality and morbidity tables to be used in computing reserves for life insurance contracts for which there are no applicable Commissioner's standard tables.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-50-85.

Drafting attorney: Sharon Hall (202) 566-3828.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Sharon Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AH98

2471. TREATMENT OF GRADED PREMIUM POLICIES UNDER THE APPROXIMATE REVALUATION METHOD OF RECOMPUTING RESERVES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 818(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to the treatment by life insurance companies of graded premium policies for purposes of recomputing life insurance reserves under the approximate revaluation method.

Timetable:

Action	Date	FR Cite
NPRM	11/08/83	48 FR 51331
NPRM Comment Period End	01/09/84	48 FR 51331
Final Action	04/15/86	

Small Entity: Not Applicable

Additional Information: LR-276-82.

Drafting attorney: Alice Bennett (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Donald Rocap (202) 566-2926.

Agency Contact: Alice Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AF03

2472. INCOME TAX—TO CLARIFY THE TREATMENT OF CERTAIN AMOUNTS REFUNDED IN REINSURANCE TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 809 Internal Revenue Code of 1954; 26 USC 820 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rules will clarify the treatment of certain amounts refunded in reinsurance transaction, and provide rules with respect to the allocation of certain items in modified coinsurance contracts for purposes of an election under section 820. These regulations would affect life insurance companies that enter into coinsurance and modified coinsurance transactions.

Timetable:

Action	Date	FR Cite
NPRM	03/19/82	47 FR 11882
NPRM Comment Period End	05/18/82	47 FR 11882
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-276-81.

Drafting attorney: Alice Bennett (202)566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

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Office of Tax Legislative Counsel (Treasury) reviewing attorney: Garlock.

Agency Contact: Alice Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AB66

2473. SOURCE OF INTEREST AND DIVIDENDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 861 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would treat interest and dividends paid by a domestic corporation having substantial gross income from certain possessions of the United States as income from sources within the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/29/82	47 FR 57972
NPRM Comment Period End	02/28/83	47 FR 57972
Hearing	05/24/83	48 FR 11465
Final Action	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-296-82.

Drafting attorney: Richard Chewning (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel reviewing attorney: Steve Shay.

Notice of Proposed rulemaking published. Hearing held.

In Legislation and Regulations Division for preparation of Treasury decision.

Agency Contact: Richard Chewning, Attorney - Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AF15

2474. AMENDMENT OF THE INCOME TAX REGULATIONS UNDER SEC. 1.861-8 TO PROVIDE FOR THE ALLOCATION AND APPORTIONMENT OF PARTNERSHIP EXPENSES

Legal Authority: 26 USC 7805 Internal Revenue of Code 1954; 26 USC 861 Internal Revenue of Code 1954; 26 USC 862 Internal Revenue of Code 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will indicate whether partnership expenses are to be allocated and apportioned under Sec. 1.861-8 of the partnership level or at the partner level.

Timetable:

Action	Date	FR Cite
NPRM	05/29/84	49 FR 22344
NPRM Comment Period End	07/30/84	
Final Action	12/00/86	

Small Entity: No

Additional Information: LR-101-83.

Drafting attorney: Marnie J. Carro (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Agency Contact: Marnie J. Carro, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AF57

2475. INCOME TAX—ORIGINAL ISSUE DISCOUNT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 871 Internal Revenue Code of 1954; 26 USC 881 Internal Revenue Code of 1954; 26 USC 1441 Internal Revenue Code of 1954; 26 USC 1442 Internal Revenue Code of 1954; 26 USC 3401 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 31

Legal Deadline: None

Abstract: The regulations would provide rules with respect to the taxation of original issue discount on bonds and obligations held by nonresident alien individuals and foreign corporations. The regulations would also provide guidance to withholding agents for withholding tax on original issue discount on such bonds and obligations.

Timetable:

Action	Date	FR Cite
NPRM	07/12/76	41 FR 28517
NPRM Comment Period End	09/09/76	41 FR 28517
Hearing	11/18/76	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-2043.

Drafting attorney: Unassigned.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorneys: Shay, Lainoff.

Agency Contact: Unassigned, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, DC 20224, 202 566-3289

RIN: 1545-AB93

2476. EMPLOYMENT TAXES: APPLICATION OF THE REPEAL OF 30% WITHHOLDING BY THE TAX REFORM ACT OF 1984 AND OF INFORMATION REPORTING AND BACKUP WITHHOLDING IN LIGHT OF SUCH REPEAL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 871 Internal Revenue Code of 1954; 26 USC 881 Internal Revenue Code of 1954; 26 USC 1441 Internal Revenue Code of 1954; 26 USC 1442 Internal Revenue Code of 1954; 26 USC 3406 Internal Revenue Code of 1954; 26 USC 6041 Internal Revenue Code of 1954; 26 USC 6045 Internal Revenue Code of 1954; 26 USC 6049 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules relating to the repeal of 30 percent withholding by the Tax Reform Act of 1984 and to the application of information reporting and backup withholding in light of such repeal.

Timetable:

Action	Date	FR Cite
Hearing held	01/28/85	49 FR 47870
NPRM	08/20/85	50 FR 33552
NPRM Comment Period End	10/22/85	50 FR 33552
Final Action	12/31/86	

Small Entity: No

Additional Information: LR-179-84.

Drafting attorney: P. Ann Fisher (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Treasury attorney: Peter Daub (202) 566-5791.

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Agency Contact: P. Ann Fisher, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Room 4109, Washington, D.C. 20224, 202 566-3289

RIN: 1545-AH15

2477. TEMPORARY INCOME TAX REGULATIONS UNDER SECTIONS 163 RELATING TO REGISTRATION-REQUIRED OBLIGATIONS AND UNDER SECTIONS 871 AND 881 RELATING TO THE PARTIAL REPEAL OF 30 PERCENT WITHHOLDING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 871 Internal Revenue Code of 1954; 26 USC 881 Internal Revenue Code of 1954; 26 USC 1441 Internal Revenue Code of 1954; 26 USC 1442 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 35a

Legal Deadline: None

Abstract: These regulations provide rules as to the application of the TEFRA registration requirements and the issuer sanctions under sections 163 (f)(1) and 4701 to certificates of interest in certain pooled funds and pooled trusts. These regulations also provide revised rules on the requirement of a certification of beneficial non-United States ownership of a foreign-targeted registered obligation. Further, these regulations change the effective date provisions and the place of payment provision in the temporary regulations under section 163 (f)(2)(B).

Timetable:

Action	Date	FR Cite
NPRM	08/15/85	
Interim Final Rule	08/20/85	50 FR 33522
NPRM Comment Period End	10/15/85	
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-48-85.

Drafting attorney: P. Ann Fisher (202) 566-3289.

Reviewing attorneys: Charles C. Saverude (202) 566-3323 and Carol Doran Klein (202) 566-3289.

Treasury attorney: Peter Daub (202) 566-5791.

Agency Contact: P. Ann Fisher, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AH90

2478. INCOME TAX—RECAPTURE OF OVERALL FOREIGN LOSSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 904(f) Internal Revenue Code of 1954; PL 97-248, Sec 211

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules for determining the amount of and recapturing overall foreign losses. An overall foreign loss under any one of the separate limitations on the foreign tax credit may offset the taxpayer's United States tax on United States source income in the year of the loss. The recapture rules provide that a portion of the taxpayer's foreign taxable income under the same limitation in subsequent years is to be recharacterized as United States source income, thereby reducing the taxpayer's foreign tax credit and preventing a double tax benefit from the loss.

Timetable:

Action	Date	FR Cite
NPRM	01/24/86	51 FR 3193
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-3-77.

Drafting attorney: Nerman D. Hubbard (202) 566-3289.

Reviewing attorney: Jacob Feldman (202) 566-3289.

Office of International Tax Counsel (Treasury) reviewing attorneys: Silver, Lainoff.

Agency Contact: Nerman Dobyans Hubbard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AC05

2479. INCOME TAX—TEMPORARY REGULATIONS—TAXPAYER'S OBLIGATION TO FILE A NOTICE OF REDETERMINATION OF FOREIGN TAX AND CIVIL PENALTIES FOR FAILURE TO FILE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 905(c) Internal Revenue Code of 1954; 26 USC 6689 Internal Revenue Code of 1954

CFR Citation: 26 CFR 4

Legal Deadline: None

Abstract: The regulations will establish procedures for taxpayers by which they must notify the Service of a change in foreign tax liability for a taxable year for which they claimed the foreign tax credit. The regulations provide special rules for redetermining the taxpayer's United States tax liability when the dollar value of the foreign currency fluctuates between the time for which the foreign tax credit is originally claimed and the time for which the foreign tax credit is redetermined. In addition, the regulations set forth deadlines for compliance with the notification requirements.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/00/86	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-118-82.

Drafting attorney: Carol Doran Klein (202) 566-3289.

Reviewing attorney: Jacob Feldman (202) 566-3289.

Office of International Tax Counsel (Treasury) reviewing attorney: Shay

Draft of the Treasury decision to International Tax Counsel, on October 19, 1982.

Agency Contact: Carol Doran Klein, Assistant Chief, Branch 5, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Room 4109, Washington, D.C. 20224, 202 566-3289

RIN: 1545-AC09

2480. FSC GENERAL RULES, REQUIREMENTS, DEFINITIONS, AND SPECIAL RULES

Significance: Regulatory Program

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Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 921 Internal Revenue Code of 1954; 26 USC 922 Internal Revenue Code of 1954; 29 USC 927 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide general rules regarding the requirements that a corporation must meet to be a foreign sales corporation (FSC) (or small FSC) and tax treatment of a FSC (or a small FSC) and specific rules regarding the requirements for FSC or small FSC status, the methods of elections and terminating FSC status, and the definition of and computation of carrying charges on sales of property by an FSC.

Timetable:

Action	Date	FR Cite
NPRM	12/12/84	49 FR 48322
NPRM Comment Period End	02/11/85	49 FR 48322
Hearing held	05/13/85	
Final Action	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-167-84.

Drafting attorney: Richard Chewning (202) 566-3280.

Reviewing attorney: Jack Feldman (202) 566-3289.

Treasury attorney: J. Sarosdy (202) 566-5911.

Agency Contact: Richard Chewning, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AG67

2481. INCOME TAX REGULATIONS RELATING TO FOREIGN MANAGEMENT AND FOREIGN ECONOMIC PROCESSES REQUIREMENTS OF A FOREIGN SALES CORPORATION

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 924(d) (4) Internal Revenue Code of 1954; 26 USC 925(b) Internal Revenue Code of 1954; 26 USC 927(d) (2) (B) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules for determining whether a FSC shall be treated as having foreign trading gross receipts by complying with the requirement that certain management activities of the FSC take place outside the United States, and rules for determining whether a transaction is treated as producing foreign trading gross receipts because certain sales activities and activities relating to the disposition of export property are performed by the FSC outside the United States.

Timetable:

Action	Date	FR Cite
NPRM	12/12/84	49 FR 48321
NPRM Comment Period End	02/11/85	49 FR 48321
Final Action	05/00/86	

Small Entity: Not Applicable

Additional Information: LR-134-84.

Drafting attorney: Nerman Dobynes Hubbard (202) 566-3289.

Reviewing attorney: Jack Feldman (202) 566-3289.

Treasury attorneys: Jane Sarosdy and Stephen Shay.

Agency Contact: Nerman Dobynes Hubbard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AH10

2482. ● TEMPORARY REGULATIONS RELATING TO FSC TRANSFER PRICING RULES, DISTRIBUTIONS, DIVIDENDS RECEIVED DEDUCTION AND OTHER SPECIAL RULES FOR FSCS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 925(b)(1) Internal Revenue Code of 1954; 26 USC 925(b)(2) Internal Revenue Code of 1954; 26 USC 927(d)(2) (B) Internal Revenue Code of 1954; 26 USC 927(e)(1) and (2) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide temporary rules for application of the FSC Transfer Pricing Rules, Distributions, Dividends Received Deductions and other special FSC Provisions.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/01/86	

Small Entity: Not Applicable

Additional Information: LR-171-84.

Drafting attorney: Richard Chewning (202) 566-3289.

Reviewing attorney: Carol Doran Klein (202) 566-3289.

Office of International Tax Counsel Reviewing Attorney: Jane Sarosdy (202) 566-5911.

Agency Contact: Richard Chewning, Attorney - Advisor, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AI17

2483. AMENDMENT OF REGULATIONS UNDER SECTIONS 934 AND 936 TO CONFORM TO CHANGES MADE BY SECTION 213 OF THE TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 936 Internal Revenue Code of 1954; 26 USC 934 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would amend sections 936 and 934 of the Internal Revenue Code of 1954 to conform to changes made by section 213 of the Tax Equity and Responsibility Act of 1982. These changes relate to the Puerto Rico and possession tax credit and the income tax liability incurred to the Virgin Island general rules.

Timetable:

Action	Date	FR Cite
ANPRM	11/29/82	47 FR 53746
ANPRM Comment Period End	12/29/82	47 FR 53746
NPRM	01/10/84	49 FR 1227
NPRM Comment Period End	03/12/84	49 FR 1227
Hearing	04/03/84	49 FR 1243
Final Action	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-194-82.

Drafting attorneys: Carol Doran Klein and Jacob Feldman (202) 566-3289.

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Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel reviewing attorney: Steven Lainoff.

Agency Contact: Carol Doran Klein and Jacob Feldman, Attorneys, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AF21

2484. INCOME TAX—DEFINITION OF QUALIFIED POSSESSION SOURCE INVESTMENT INCOME FOR PURPOSES OF PUERTO RICO & POSSESSION TAX CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 936(d)(2) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation would provide rules with respect to what constitutes qualified possession source investment income for purposes of the Puerto Rico and possession tax credit.

Timetable:

Action	Date	FR Cite
NPRM	01/21/86	51 FR 2726
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-106-77.

Drafting attorney: Jacob Feldman (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Office of International Tax Counsel (Treasury) reviewing attorney: Lainoff.

Agency Contact: Jacob Feldman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AC10

2485. ● TO PROVIDE REGULATIONS RELATING TO EXTENSION OF MORTGAGE SUBSIDY BONDS

Legal Authority: 26 USC 103A Internal Revenue Code of 1954

CFR Citation: 26 CFR 6a.103A-3

Legal Deadline: None

Abstract: These regulations will provide rules relating to the additional requirements enacted to restrict the issuance of qualified veterans' mortgage bonds.

Timetable:

Action	Date	FR Cite
NPRM	12/12/84	49 FR 48323
NPRM Comment Period End	02/12/85	
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-240-84.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John M. Coulter (202) 566-4473.

Treasury attorney: Suzanne McDowell (202) 566-8277.

Agency Contact: Mitchell H. Rapaport, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AI36

2486. INCOME TAX—TRANSFERS OF SECURITIES UNDER CERTAIN AGREEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1058 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide that so long as the provisions of section 1058 and these regulations are met, the lender will neither recognize gain or loss on the transfer of securities nor upon the return of identical securities.

Timetable:

Action	Date	FR Cite
NPRM	07/26/83	48 FR 33912
NPRM Comment Period End	09/26/83	48 FR 33912
Final Action	09/30/86	

Small Entity: Not Applicable

Additional Information: LR-182-78.

Drafting attorney: Bruce H. Jurist (202) 566-3238.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Agency Contact: Bruce H. Jurist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AC20

2487. INCOME TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1984 RELATING TO MIXED STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1092(b) (1) Internal Revenue Code of 1954; 26 USC 1092(b) (2) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to mixed straddles. The regulations will explain the application of the straddle-by-straddle identification rules of mixed straddles and the establishment of mixed straddle accounts.

Timetable:

Action	Date	FR Cite
NPRM	01/24/85	50 FR 3351
NPRM Comment Period End	03/25/85	50 FR 3351
Public hearing held	05/02/85	
Final Action	10/00/86	

Small Entity: Not Applicable

Additional Information: LR-299-84.

Drafting attorney: Timothy J. McKenna (202) 566-3287.

Reviewing attorney: John M. Fischer (202) 566-3394.

Treasury attorney: Suzanne McDowell (202) 566-8278.

Agency Contact: Timothy J. McKenna, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AH59

2488. INCOME TAX REGULATIONS UNDER THE ECONOMIC RECOVERY TAX ACT OF 1981 AND THE TAX REFORM ACT OF 1984, RELATING TO STRADDLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1092 (b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

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Abstract: These regulations will provide rules relating to tax straddles. The regulations will explain the general loss deferral rule under section 1092, the application of rules similar to section 1091 and 1233 to straddles.

Timetable:

Action	Date	FR Cite
NPRM	01/24/85	50 FR 3352
NPRM Comment Period End	03/25/85	50 FR 3352
Public hearing held	05/02/85	
Final Action	10/00/86	

Small Entity: Not Applicable

Additional Information: LR-297-84.

Drafting attorney: Timothy J. McKenna (202) 566-3287.

Reviewing attorney: John M. Fischer (202) 566-3294.

Treasury attorney: Linda Carlisle (202) 566-4579.

Agency Contact: Timothy J. McKenna, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AH60

2489. INCOME TAX—TIME FOR DETERMINING RELATEDNESS UNDER SECTION 1239—RELATING TO TRANSFER OF DEPRECIABLE PROPERTY BETWEEN RELATED PERSONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1239 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The rule will provide that 80 percent relatedness determination under section 1239 is determined immediately before or after the sale or exchange of depreciable assets. A determination of relatedness under section 1239 converts what would otherwise be capital gain into ordinary gain.

Timetable:

Action	Date	FR Cite
NPRM	01/05/83	48 FR 00667
NPRM Comment Period End	03/07/83	48 FR 00667
Final Action	12/15/86	

Small Entity: Not Applicable

Additional Information: LR-104-81.

Drafting attorney: John M. Coulter, Jr. (202) 566-4473.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473. Office of Tax Legislative Counsel (Treasury).

Reviewing attorney: James Lokey (202) 566-5453.

Agency Contact: John M. Coulter, Jr., Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4473

RIN: 1545-AC29

2490. INCOME TAX—GAIN FROM DISPOSITION OF INTEREST IN OIL OR GAS PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1254 Internal Revenue Code of 1954; 26 USC 751 Internal Revenue Code of 1954; Tax Reform Act of 1976, Section 705; Tax Reform Act of 1976, Section 1901; Energy Tax Act of 1978, Section 402

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will determine the tax treatment of gain from the disposition of certain oil, gas, or geothermal property to determine how much of the gain from the disposition is subject to recapture under section 1254 and accorded ordinary income treatment. The regulations also will define intangible drilling and development costs, disposition, and oil, gas and geothermal property for purposes of section 1254.

Timetable:

Action	Date	FR Cite
NPRM	06/11/80	45 FR 39512
NPRM Comment Period End	08/11/80	45 FR 39512
Hearing	09/09/80	
Final Action	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-276-76.

Drafting attorney: Robert Beatson (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Mo Schuldinger (202) 566-2928.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AC35

2491. INCOME TAX—CERTAIN RULES RELATING TO SHAREHOLDERS OF SUBCHAPTER S CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1371 Internal Revenue Code of 1954; 26 USC 1372 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would address the following issues: (1) The number of permitted shareholders of a small business corporation, (2) The rules regarding stock held by a husband and wife, (3) The types of trusts that are permitted to be shareholders of a small business corporation, (4) Whether shares are permitted to be owned as a split interest, (5) The rules relating to the time period for making an election of status as a small business corporation and the manner for making such election, and (6) Rules relating to how a new shareholder may terminate a subchepter S election.

Timetable:

Action	Date	FR Cite
NPRM	04/17/80	45 FR 26092
NPRM Comment Period End	06/13/80	45 FR 26092
Hearing	10/09/80	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-277-76.

Drafting attorney: Robert H. Ginsburgh (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bridgeman.

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AC36

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2492. INCOME TAX—CERTAIN ELECTIONS UNDER THE SUBCHAPTER S REVISION ACT OF 1982

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1361 Internal Revenue Code of 1954; 26 USC 1362 Internal Revenue Code of 1954; 26 USC 1377 Internal Revenue Code of 1954; 26 USC 1378 Internal Revenue Code of 1954; 26 USC 1379 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations relate to the time and manner of making certain elections, consents, and refusals under the Subchapter S Revision Act of 1982 and to the taxable year which a corporation may select in order to make the election to be an S corporation.

Timetable:

Action	Date	FR Cite
NPRM	01/26/83	48 FR 03637
NPRM Comment Period End	03/28/83	48 FR 03637
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-1-83.

Drafting attorney: Robert H. Ginsburgh (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bridgeman.

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AF30

2493. WITHHOLDING ON ITEMS OF INCOME COVERED BY AN INCOME TAX CONVENTION

Legal Authority: PL 97-248, Sec 342; 26 USC 7805

CFR Citation: 26 CFR 1; 26 CFR 301

Legal Deadline: None

Abstract: These regulations relate to the withholding on certain items of income subject to a reduced rate of, or exemption from, U.S. tax under an income tax convention to which the United States is a party. These regulations would amend the existing regulations to provide a certification requirement for obtaining reduced rates of, or exemption from, U.S. withholding tax on payments of fixed or determinable annual or periodical income and certain other income.

Timetable:

Action	Date	FR Cite
NPRM	09/10/84	49 FR 35511
NPRM Comment Period End	11/09/84	49 FR 35511
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-271-83.

Drafting attorney: Nerman Dobynes Hubbard (202) 566-3289.

Reviewing attorney: Charles Saverude (202) 566-3323.

Treasury attorney: Peter Daub (202) 566-5791.

Agency Contact: Nerman Dobynes Hubbard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AH86

2494. INCOME TAX: WITHHOLDING UPON DISPOSITIONS OF U.S. REAL PROPERTY INTEREST BY FOREIGN PERSONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1445 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide rules relating to the withholding tax imposed under section 1445 upon any person that acquired a U.S. real property interest from a foreign person. The regulations explain where withholding is required and how that requirement can be modified pursuant to an agreement with the IRS, and also provide rules relating to the manner in which amounts withheld are to be reported and paid over to the IRS.

Timetable:

Action	Date	FR Cite
NPRM	12/31/84	49 FR 50739
NPRM Comment Period End	03/01/85	49 FR 50739
Final Action	09/01/86	

Small Entity: Not Applicable

Additional Information: LR-151-84.

Drafting attorney: Jeffrey Dorfman (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3323.

Treasury attorney: Joseph L. Andrus (202) 566-2964.

Agency Contact: Jeffrey Dorfman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AG70

2495. INCOME TAX—CREDIT & DEDUCTIONS ETC., FOR CONSOLIDATED RETURNS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1502 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Provision would amend the consolidated returns regulations to clarify, among other things, the rules relating to net operating loss carrybacks of a member of an affiliated group filing consolidated returns to a year in which the member was not in existence, thereby giving the public needed guidance on what the rule is in that situation.

Timetable:

Action	Date	FR Cite
NPRM	07/31/84	49 FR 30528
NPRM Comment Period End	10/01/84	49 FR 30528
Hearing held	12/10/84	
Final Action	12/31/86	

Small Entity: No

Additional Information: LR-97-79.

Drafting attorney: John Broadbent (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Patricia McClanahan (202) 566-4902.

Agency Contact: John Broadbent, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D,C. 20224, 202 566-3458

RIN: 1545-AC48

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2496. INCOME TAX—TO REFLECT THE U.S. SUPREME COURT IN U.S. V. VOGEL FERTILIZER CO., HOLDING THAT EACH MEMBER OF STOCKGROUP MUST OWN STOCK IN EACH BROTHER-SISTER CORP

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1563(a)(2) Internal Revenue Code of 1954; 26 USC 52 Internal Revenue Code of 1954; 26 USC 414(c) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations relating to the definition of a brother-sister controlled group of corporations are to be amended to conform to the Supreme Court decision in U.S. v. Vogel Fertilizer Company, which held that a person's stock ownership is not taken into account for purposes of the 80% ownership test unless that person owns stock in each brother-sister corporation.

Timetable:

Action	Date	FR Cite
NPRM	11/16/83	48 FR 52081
NPRM Comment Period End	01/16/84	48 FR 52081
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-35-82.

Drafting attorney: Michel A. Daze (202) 566-6456.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Treasury attorney: Rocap.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-6456

RIN: 1545-AC59

2497. ESTATE & GIFT TAXES—INCLUSION OF STOCK IN ESTATE WHERE DECEDENT RETAINED VOTING RIGHTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2036(a) Internal Revenue Code of 1954

CFR Citation: 26 CFR 20

Legal Deadline: None

Abstract: These regulations will provide the extent to which the retention of voting rights by a transferor of stock will require that the value of that stock be included in the transferor's gross estate.

Timetable:

Action	Date	FR Cite
NPRM	06/03/83	48 FR 35143
NPRM Comment Period End	11/03/83	48 FR 35143
Final Action	02/00/87	

Small Entity: Not Applicable

Additional Information: LR-181-76.

Drafting attorney: Fred E. Grundeman (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: James D. Bridgeman, David C. Garlock.

Agency Contact: Fred E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AC63

2498. ESTATE AND GIFT TAXES—INCREASE IN LIMITATIONS ON MARITAL DEDUCTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2012 Internal Revenue Code of 1954; 26 USC 2014 Internal Revenue Code of 1954; 26 USC 2055 Internal Revenue Code of 1954; 26 USC 2056 Internal Revenue Code of 1954; 26 USC 2207A Internal Revenue Code of 1954; 26 USC 2519 Internal Revenue Code of 1954; 26 USC 2523 Internal Revenue Code of 1954; 26 USC 6019 Internal Revenue Code of 1954

CFR Citation: 26 CFR 20; 26 CFR 25

Legal Deadline: None

Abstract: These regulations will clarify the estate and gift tax treatment of transfers of property between spouses. They will provide how an executor may elect to treat certain property as qualified terminable interest property, in which case the imposition of transfer taxes will be delayed until the latter of (1) the surviving spouse's disposition of an interest in the property or (2) the surviving spouse's death.

Timetable:

Action	Date	FR Cite
NPRM	05/21/84	49 FR 21350
NPRM Comment Period End	07/20/84	49 FR 21350
Final Action	10/00/86	

Small Entity: Not Applicable

Additional Information: LR-211-76.

Drafting attorney: Robert B. Coplan (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Thuronyi.

Agency Contact: Robert B. Coplan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AC67

2499. ESTATE & GIFT TAXES—DISCLAIMERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2518 Internal Revenue Code of 1954; 26 USC 2045 Internal Revenue Code of 1954; 26 USC 2041(a)(2) Internal Revenue Code of 1954; 26 USC 2055(a) Internal Revenue Code of 1954; 26 USC 2056 Internal Revenue Code of 1954; 26 USC 2504 Internal Revenue Code of 1954

CFR Citation: 26 CFR 20; 26 CFR 25

Legal Deadline: None

Abstract: This project will give guidance on the requirement under section 2518 on how to make a qualified disclaimer of a gift or inheritance. If it is qualified, it will not be treated as a gift.

Timetable:

Action	Date	FR Cite
Hearing	11/18/80	
NPRM	07/22/82	45 FR 48922
Final Action	07/00/86	

Small Entity: Not Applicable

Additional Information: LR-213-76.

Drafting attorney: William A. Jackson (202) 566-4336.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Garlock.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AC71

2500. ESTATE & GIFT TAX—GENERATION-SKIPPING TRANSFERS TAX RETURN REQUIREMENT, ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2621 Internal Revenue Code of 1954; 26 USC 2601 to 2614 Internal Revenue Code of 1954

CFR Citation: 26 CFR 26

Legal Deadline: None

Abstract: This project will establish the forms to be used in reporting a generation-skipping transfer and also will establish the date on which the return must be filed and the tax paid. It will also interpret the definitions and special rules and illustrate how to compute the tax.

Timetable:

Action	Date	FR Cite
NPRM	08/06/80	45 FR 51771
Hearing	11/05/80	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-234-79.

Drafting attorney: William A. Jackson (202) 566-4336.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AC74

2501. EMPLOYMENT TAX—TO REQUIRE WITHHOLDING OF SOCIAL SECURITY AND RAILROAD RETIREMENT TAX FROM CERTAIN PAYMENTS OF SICK PAY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 3121 Internal Revenue Code of 1954; 26 USC 3231 Internal Revenue Code of 1954; PL 97-123, Sec 3

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations will provide guidance to third parties paying sick pay which is subject to social security or railroad retirement tax, employees receiving the sick pay, and employers of the employees.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/82	

Action	Date	FR Cite
NPRM	07/06/82	47 FR 29288
NPRM Comment Period End	09/06/82	
Final Action	05/01/86	

Small Entity: Not Applicable

Additional Information: LR-23-82.

Drafting attorney: Renay France (202) 566-3459.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Treasury attorney: Kent Mason (202) 535-0964.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AC77

2502. TEMPORARY REGULATION EXCISE TAXES ON HEAVY TRUCKS, TRUCK TRAILERS AND SEMITRAILERS, AND TRACTORS SOLD AT RETAIL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4051 Internal Revenue Code of 1954; 26 USC 4052 Internal Revenue Code of 1954; 26 USC 4053 Internal Revenue Code of 1954

CFR Citation: 26 CFR 145

Legal Deadline: None

Abstract: The regulations will provide guidance to dealers in paying tax on the sale of heavy trucks, trailers, and tractors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/00/86	

Small Entity: Not Applicable

Additional Information: LR-142-83.

Drafting attorney: Maurice B. Foley (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Mark Perlis.

Agency Contact: Maurice B. Foley, Law Clerk, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AF79

2503. EXCISE TAX—MANUFACTURERS EXCISE TAXES ON MOTOR VEHICLES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4061 Internal Revenue Code of 1954; 26 USC 4063 Internal Revenue Code of 1954; 26 USC 4062 Internal Revenue Code of 1954

CFR Citation: 20 CFR 48; 20 CFR 142; 20 CFR 146

Legal Deadline: None

Abstract: The regulations will update and revise the existing regulations concerning Manufacturers and Retailers excise taxes on motor vehicles. The regulations substantially complete the task of updating the regulations under sections 4061 through 4063 of the Internal Revenue Code of 1954 to reflect statutory changes made to these sections since 1964.

Timetable:

Action	Date	FR Cite
NPRM	12/30/82	47 FR 58297
NPRM Comment Period End	02/28/83	47 FR 58297
Final Action	10/00/86	

Small Entity: Not Applicable

Additional Information: LR-2119.

Drafting attorney: Maurice B. Foley (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

In Legislation and Regulations Division for preparation of Treasury decision.

Agency Contact: Maurice B. Foley, Law Clerk, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AC86

2504. MANUFACTURERS AND RETAILERS EXCISE TAXES—TAXES ON FUELS, TIRES AND GASOLINE

Legal Authority: 26 USC 4071 Internal Revenue Code of 1954; 26 USC 4041 Internal Revenue Code of 1954; 26 USC 4081 Internal Revenue Code of 1954; 26 USC 6420 Internal Revenue Code of 1954; 26 USC 6427 Internal Revenue Code of 1954

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CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations will provide guidance concerning the rates of tax on certain fuels and gasohol. In addition, the regulations will provide guidance concerning the tax on tires.

Timetable:

Action	Date	FR Cite
NPRM	06/22/85	50 FR 33977
NPRM Comment Period End	10/21/85	
Hearing	01/14/86	
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-119-83.

Drafting attorney: Margaret O'Connor (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Mo Schuldinger (202) 566-2928.

Agency Contact: Margaret O'Connor, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AF58

2505. EXCISE TAX—ENVIRONMENTAL TAXES—IMPOSITION OF TAXES ON PETROLEUM AND CERTAIN CHEMICALS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4611 Internal Revenue Code of 1954; 26 USC 4612 Internal Revenue Code of 1954; 26 USC 4661 Internal Revenue Code of 1954; 26 USC 4662 Internal Revenue Code of 1954

CFR Citation: 26 CFR 52

Legal Deadline: None

Abstract: The regulations will provide rules for the computation of the environmental excise taxes on petroleum and certain chemicals. The regulations will also define such terms as entry and taxable chemicals and will explain how to get an exemption from tax for certain chemicals used to make fertilizer.

Timetable:

Action	Date	FR Cite
NPRM	10/21/83	48 FR 48639
NPRM Comment Period End	01/20/84	48 FR 50775
Hearing	02/16/84	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-16-81.

Drafting attorney: William A. Jackson (202) 566-4336.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Carlisle.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AC91

2506. EXCISE TAX—TAX ON ISSUER OF REGISTRATION-REQUIRED OBLIGATION NOT IN REGISTERED FORM

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4701 Internal Revenue Code of 1954

CFR Citation: 26 CFR 46

Legal Deadline: None

Abstract: This regulation will provide that registration-required obligations issued in non-registered form will have an excise tax imposed on the issuer.

Timetable:

Action	Date	FR Cite
NPRM	08/22/84	49 FR 33285
NPRM Comment Period End	10/22/84	49 FR 33285
Final Action	08/00/86	

Small Entity: Not Applicable

Additional Information: LR-9-83.

Drafting attorney: Timothy J. McKenna (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Agency Contact: Timothy J. McKenna, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AF31

2507. FOUNDATION EXCISE TAX—PROCEDURE AND ADMINISTRATION—REVISION OF SECOND TIER EXCISE TAX PROVISIONS, ETC. UNDER CHAPTERS 42 AND 43

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4941 Internal Revenue Code of 1954; 26 USC 4942 Internal Revenue Code of 1954; 26 USC 4943 Internal Revenue Code of 1954; 26 USC 4944 Internal Revenue Code of 1954; 26 USC 4945 Internal Revenue Code of 1954; 26 USC 4951 Internal Revenue Code of 1954; 26 USC 4952 Internal Revenue Code of 1954; 26 USC 4971 Internal Revenue Code of 1954; 26 USC 4975 Internal Revenue Code of 1954; 26 USC 4961 Internal Revenue Code of 1954; 26 USC 4962 Internal Revenue Code of 1954

CFR Citation: 26 CFR 53; 26 CFR 301; 26 CFR 1; 26 CFR 54; 26 CFR 141

Legal Deadline: None

Abstract: This regulation provides rules related to second tier excise taxes as defined in section 4963. The regulations provide guidance to private foundations, black lung benefit trusts, pension trusts, and disqualified persons with respect to them, who may become liable for second tier excise taxes.

Timetable:

Action	Date	FR Cite
NPRM	02/13/84	49 FR 5350
Final Action	10/00/86	

Small Entity: Not Applicable

Additional Information: EE-16-81.

Drafting attorney: George B. Baker (202) 566-3422.

Reviewing attorney: James L. Brokaw (202) 566-4173.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Bridgeman.

Agency Contact: George B. Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AE09

2508. EXCISE TAX—DEFINITION OF NEWLY DISCOVERED OIL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4997 Internal Revenue Code of 1954; 26 USC 4991 Internal Revenue Code of 1954; 26 USC 4996 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Legal Deadline: None

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Abstract: The regulations would provide guidance on the requirements for the qualification of crude oil as newly discovered oil, as well as a definition of production in "commercial quantities" that affects the net income limitation on windfall profit and the exemption for Alaskan oil.

Timetable:

Action	Date	FR Cite
NPRM	11/05/82	47 FR 50306
NPRM Comment Period End	01/04/83	47 FR 50306
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-224-81.

Drafting attorney: Robert H. Ginsburgh (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AC96

2509. EXCISE TAX—INCREMENTAL TERTIARY OIL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4993 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: The regulations would clarify the rules relating to incremental tertiary oil. The regulations provide procedural rules for requesting approval from the Service of tertiary recovery methods which are not already approved under Department of Energy regulations. The regulations also define "project beginning date" and "tertiary injectant".

Timetable:

Action	Date	FR Cite
NPRM	09/10/84	49 FR 35517
NPRM Comment Period End	11/09/84	49 FR 35517
Hearing held	07/26/85	
Final Action	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-67-80.

Drafting attorney: Beverly A. Baughman (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD04

2510. EXCISE TAX—OIL FROM A STRIPPER WELL PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4991 Internal Revenue Code of 1954; 26 USC 4992 Internal Revenue Code of 1954; 26 USC 4994 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: The proposed regulations provide rules and definitions relating to oil from a stripper well property for purposes of tier 2 oil and exempt stripper well oil.

Timetable:

Action	Date	FR Cite
NPRM	01/20/83	48 FR 2552
NPRM Comment Period End	03/20/83	48 FR 2552
Final Action	10/31/86	

Small Entity: Not Applicable

Additional Information: LR-217-81.

Drafting attorney: John G. Schmalz (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: John G. Schmalz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD01

2511. EXCISE TAX—DEFINITION OF OIL REMOVED FROM THE PREMISES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4996 Internal Revenue Code of 1954; 26 USC 4997 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: This regulation would provide for exceptions to the general rule that crude oil is removed from the premises when it is physically transported off the premises. The exceptions are for certain uses of the crude oil on the premises, transportation to contiguous tracts and to storage tanks.

Timetable:

Action	Date	FR Cite
NPRM	01/14/83	48 FR 1762
NPRM Comment Period End	03/15/83	48 FR 1762
Hearing	06/28/83	
Final Action	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-227-81.

Drafting attorney: Beverly A. Baughman (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: Beverly A. Baughman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AC95

2512. EXCISE TAX—DEFINITION OF PROPERTY UNDER THE CRUDE OIL WINDFALL PROFIT TAX ACT 1980

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4996 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: These proposed regulations would provide rules relating to the definition of "property" for purposes of the crude oil windfall profit tax. These regulations are important because the rate of tax depends, in part, on the characteristics of the property from which the crude oil is produced.

Timetable:

Action	Date	FR Cite
NPRM	11/10/82	47 FR 50924
NPRM Comment Period End	01/09/83	47 FR 50924
Final Action	00/00/00	

Small Entity: Not Applicable

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Additional Information: LR-34-82.

Drafting attorney: Robert H. Ginsburgh (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3328.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: Robert H. Ginsburgh, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD08

2513. EXCISE TAX--AMENDMENT OF SEC 51.4996-1(B) WITH RESPECT TO THE TREATMENT OF NET PROFITS INTERESTS FOR WINDFALL PROFITS TAX PURPOSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4996 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: These proposed regulations would provide rules for determining the portion of crude oil removed from the premises attributable to the holder of a net profits interest.

Timetable:

Action	Date	FR Cite
NPRM	08/29/84	49 FR 34242
NPRM Comment Period End	10/29/84	49 FR 34243
Final Action	10/31/86	

Small Entity: Not Applicable

Additional Information: LR-38-82.

Drafting attorney: David R. Haglund (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3328.

Agency Contact: David R. Haglund, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD09

2514. RETURNS REQUIRED ON MAGNETIC MEDIA

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6011 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would require certain returns to be filed on magnetic media. Prior to enactment of section 319 of the Tax Equity and Fiscal Responsibility Act of 1982, there was no statutory or regulatory requirement that any particular return be filed on magnetic media or in other machine-readable form. The regulations would provide standards for determining which returns would be required to be filed on magnetic media.

Timetable:

Action	Date	FR Cite
NPRM	09/18/85	50 FR 37871
NPRM Comment Period End	11/18/85	50 FR 37871
Public Hearing	12/18/85	50 FR 42188
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-289-82.

Drafting attorney: C. Scott McLeod

Reviewing attorney: John H. Parcell (202) 566-3336.

Office of Tax Legislative Counsel reviewing attorney: Mark Perlis.

Agency Contact: C. Scott McLeod, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF12

2515. INFORMATION RETURNS OF BROKERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6045 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations in this project clarify the definition of the term "commodity" for purposes of broker reporting. Rules are provided for determining whether personal property (including gold and silver) is a commodity. Generally, the term "commodity" is defined as personal property that is deliverable in satisfaction of a regulated futures contract, certain specified personal property that the secretary determines is to be treated as a commodity or any form or quality of or any interest in such personal property. The term "commodity" does not include a security, regulated futures contract, forward contract, or a form of tangible personal property if the gross proceeds from its sale exceed by more than 15 percent its value as a commodity. The rules proposed include alternative methods (the "exact" and "approximate" methods) of tangible personal property valuation.

Timetable:

Action	Date	FR Cite
NPRM	01/05/84	49 FR 646
NPRM Comment Period End	03/05/84	49 FR 646
Public hearing held	03/26/84	49 FR 645
Final Action	06/30/86	

Small Entity: No

Additional Information: LR-201-83.

Drafting attorney: Bruce H. Jurist (202) 566-3236.

Reviewing attorney: John H. Parcell (202) 566-3238.

Treasury attorney: Richard D'Avino (202) 566-4979.

Agency Contact: Bruce H. Jurist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AG02

2516. INFORMATION RETURNS OF BROKERS

Legal Authority: 26 USC 7805 Internal Revenue Code; 26 USC 6045 Internal Revenue Code

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide a special rule for broker reporting with respect to transactions made through a cash on delivery account (COD). In addition, these regulations make technical corrections to the list of recipients exempted from coverage under the reporting requirement, and expand the class of brokers which qualify for the multiple broker rule.

Timetable:

Action	Date	FR Cite
NPRM	05/29/84	49 FR 22343
NPRM Comment Period End	07/30/84	49 FR 22343
Final Action	06/30/86	

Small Entity: Not Applicable

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Additional Information: LR-62-84.

Drafting attorneys: Bruce H. Jurist, (202) 566-3238; C. Scott McLeod, (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Richard D'Avino (202) 566-4979.

Agency Contact: Bruce H. Jurist/C. Scott McLeod, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG52

2517. ● ORIGINAL ISSUE DISCOUNT REPORTING REQUIREMENTS UNDER SECTION 6049

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 6049

Legal Deadline: None

Abstract: Regulations would amend existing broker reporting requirements under section 6049 of the Internal Revenue Code for certain original issue discount obligations.

Timetable:

Action	Date	FR Cite
NPRM	02/01/86	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information:

Drafting attorney: Theresa E. Bearman (202) 566-3459.

Reviewing attorney: John M. Coulter (202) 566-4473.

Treasury attorney: Linda Carlisle (202) 566-4979.

Agency Contact: Theresa E. Bearman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave, N.W., Washington, D.C. 20224, 202 566-3459

RIN: 1545-AI20

2518. NOTICE OF PROPOSED RULEMAKING RELATING TO REPORTING OF TRANSFERS OF SECURITY TO A PERSON OTHER THAN THE LENDER UNDER THE TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6050J Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations propose rules relating to information reporting of transfers of security to persons other than the lender.

Timetable:

Action	Date	FR Cite
NPRM	08/31/84	49 FR 34518
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-182-84.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: Ewan D. Purkiss (202) 566-3238.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AG51

2519. INCOME TAX--MORTGAGE INTEREST REPORTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6050H Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations propose rules relating to information reporting of mortgage interest received in a trade or business from individuals, including the persons and interest subject to the reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	08/20/85	50 FR 33551
NPRM Comment Period End	10/21/85	50 FR 33551
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-214-84.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: Ewan D. Purkiss (202) 566-3238.

Treasury attorney: Neil Kimmelfield (202) 566-8528.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AG93

2520. INCOME TAX--RETURNS RELATING TO CASH PAYMENTS IN EXCESS OF $10,000 RECEIVED IN A TRADE OR BUSINESS

Legal Authority: 20 USC 7805 Internal Revenue Code of 1954; 20 USC 6060I Internal Revenue Code of 1954

CFR Citation: 26 CFR 1T

Legal Deadline: None

Abstract: These regulations will provide rules relating to the requirement of reporting cash in excess of $10,000 received in a trade or business. The regulations will explain what transactions must be reported, who must report with respect to cash transactions and how and when the reporting must be accomplished. The regulations also provide rules relating to furnishing statements to any person identified or a return of information.

Timetable:

Action	Date	FR Cite
NPRM	05/23/85	50 FR 21308
NPRM Comment Period End	07/22/85	50 FR 21308
Hearing	09/19/85	
Final Action	06/30/86	

Small Entity: Not Applicable

Additional Information: LR-282-84.

Drafting attorney: Bruce H. Jurist (202) 566-3238.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Treasury attorney: Jim Bridgeman (202) 566-4902.

Agency Contact: Bruce H. Jurist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AG97

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2521. NOTICE OF PROPOSED RULEMAKING RELATING TO REPORTING OF FORECLOSURES AND ABANDONMENTS OF SECURITY UNDER THE TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6050J Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations proposed rules relating to information reporting of foreclosures, abandonments, and other acquisitions of property securing indebtedness, including the persons and property subject to the reporting requirement and the information required to be reported, and when a person has reason to know that property has been abandoned.

Timetable:

Action	Date	FR Cite
NPRM	08/31/84	49 FR 34518
NPRM Comment Period End	10/31/84	49 FR 34518
Final Action	12/31/86	

Small Entity: Not Applicable

Additional Information: LR-181-84.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: Ewan D. Purkiss (202) 566-3238.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AG48

2522. RETURNS RELATING TO SALES OR EXCHANGES OF CERTAIN PARTNERSHIP INTERESTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6050K Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules relating to the manner of filing and contents of returns, statements, and notifications with respect to certain sales or exchanges of interests in partnerships.

Timetable:

Action	Date	FR Cite
NPRM	12/23/85	50 FR 52332
NPRM Comment Period End	02/21/86	50 FR 52332
Final Action	05/01/86	

Small Entity: Not Applicable

Additional Information: LR-236-84.

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Treasury attorney: Blake Rubin (202) 566-2927.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH42

2523. EMPLOYEE TIP REPORTING AND SUBSTANTIATION REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; PL 98-369, Sec 1072 (b) Tax Reform Act of 1984

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations contain rules relating to employee tip reporting and recordkeeping requirements to reflect changes in the tax law made by section 1072 of the Tax Reform Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	07/23/85	50 FR 29990
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-162-84.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Treasury attorney: Richard D'Avino (202) 566-4979.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AH24

2524. PROPOSED REGULATIONS UNDER SECTIONS 6111 AND 6709, RELATING TO TAX SHELTER REGISTRATION

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6111 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: This project will provide rules explaining what investments are tax shelters that must be registered with the Internal Revenue Service. The project will also provide rules relating to the persons required to register tax shelters and to the furnishing of tax shelter registration numbers to investors in tax shelters.

Timetable:

Action	Date	FR Cite
NPRM	08/15/84	49 FR 32728
NPRM Comment Period End	10/15/84	49 FR 32728
Hearing held	01/17/85	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-142-84.

Drafting attorney: Paulette Chernyshev (202) 566-3288.

Reviewing attorney: Cynthia Clark (202) 566-3288.

Treasury attorney: Richard D'Avino (202) 566-4979.

Agency Contact: Paulette Chernyshev, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG45

2525. PROCEDURE AND ADMINISTRATION REGULATIONS RELATING TO TAX SHELTER REGISTRATION AND THE REQUIREMENT TO MAINTAIN LISTS OF INVESTORS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6111 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301T

Legal Deadline: None

Abstract: This project will provide rules to suspend the tax shelter registration requirements for tax shelters that are projected income investments.

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Timetable:

Action	Date	FR Cite
NPRM	10/31/84	49 FR 43714
NPRM Comment Period End	12/31/84	49 FR 43714
Hearing held	01/17/85	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-213-84.

Drafting attorney: Paulette Chernyshev (202) 566-3288.

Reviewing attorney: Cynthia Clark (202) 566-3828.

Treasury attorney: Richard D'Avino (202) 566-4979.

Agency Contact: Paulette Chernyshev, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AH29

2526. TEMPORARY REGULATIONS RELATING TO TAX SHELTER REGISTRATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6111 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1T

Legal Deadline: None

Abstract: This project will provide rules relating to the filing of amended tax shelter registration applications and the time for furnishing tax shelter registration numbers.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/00/86	

Small Entity: Not Applicable

Additional Information: LR-85-85.

Drafting attorney: Paulette Chernyshev (202) 566-3288.

Reviewing attorney: Cynthia Clark (202) 566-3828.

Agency Contact: Paulette Chernyshev, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AI10

2527. REQUIREMENT TO MAINTAIN LISTS OF INVESTORS IN POTENTIALLY ABUSIVE TAX SHELTERS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6112 Internal Revenue Code of 1954; 26 USC 6708 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations will provide guidance to organizers of and sellers of interests in potentially abusive tax shelters relating to the requirement to maintain lists identifying persons who acquire interests in those tax shelters.

Timetable:

Action	Date	FR Cite
NPRM	08/29/84	49 FR 34246
NPRM Comment Period End	10/29/84	49 FR 34246
Hearing	01/17/85	
Final Action	01/00/87	

Small Entity: Not Applicable

Additional Information: LR-149-84.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: D'Avino.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AG58

2528. DEFINITION OF "PARTNERSHIP ITEM"

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6231(a)(3) Internal Revenue Code of 1954; 26 USC 6230(k) Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: Proposed regulations would define the term "partnership item" for purposes of new rules for determining the tax treatment of partnership items at the partnership level.

Timetable:

Action	Date	FR Cite
NPRM	01/14/83	48 FR 01759
NPRM Comment Period End	03/15/83	48 FR 01759
Final Action	05/01/86	

Small Entity: Not Applicable

Additional Information: LR-186-82.

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3216.

Office of Tax Legislative Counsel reviewing attorney: Blake Rubin.

Draft of Treasury decision at Treasury pending review.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AF09

2529. SPECIAL RULES FOR CERTAIN REFUND CLAIMS TREATED AS SPECIAL ENFORCEMENT AREAS UNDER RULES FOR CONSOLIDATED PARTNERSHIP PROCEEDINGS

Legal Authority: 26 USC 6231 (c)(1) Internal Revenue Code of 1954; 26 USC 6231 (c)(3) Internal Revenue Code of 1954

CFR Citation: 26 CFR 301T

Legal Deadline: None

Abstract: These regulations will provide rules relating to special enforcement areas under the rules for consolidated partnership proceedings. Specifically they will identify certain applications for tentative adjustments ("Quick Refunds") and refund claims attributable to abusive tax shelters as areas that have been determined to present special enforcement considerations.

Timetable:

Action	Date	FR Cite
NPRM	12/13/84	49 FR 48573
NPRM Comment Period End	02/11/85	
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-242-84.

Drafting attorney: Nerman Dobynes Hubbard (202) 566-3289.

Reviewing attorney: Paul A. Francis (202) 566-3218.

Treasury attorney: Mark Perlis (202) 566-2926.

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Agency Contact: Norman Dobyns Hubbard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AH00

2530. PROPOSED REGULATIONS UNDER THE SPENDING REDUCTION ACT OF 1984, RELATING TO REDUCTION OF TAX OVERPAYMENTS BY THE AMOUNT OF PAST-DUE LEGALLY ENFORCEABLE DEBT OWED TO FEDERAL AGENCY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 31 USC 3720A

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These proposed regulations will provide rules relating to the reduction of a taxpayer's overpayment of tax (i.e., tax refund) by the amount of any past-due legally enforceable debt owed to a federal agency by the taxpayer. The regulations explain which debts qualify for offset, and the steps a federal agency must make to refer a debt to the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
NPRM	09/30/85	50 FR 39713
NPRM Comment Period End	11/30/85	50 FR 39713
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-291-84.

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: David Dickinson (202) 566-6655.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG95

2531. PROCEDURE AND ADMINISTRATION REGULATIONS—MODIFICATIONS OF INTEREST PAYMENTS FOR CERTAIN PERIODS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6611 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulation would provide rules for determining the period during which interest accrues on an underpayment or an overpayment of tax as provided in sections 6601 and 6611 of the Internal Revenue Code of 1954. The period would be determined, in part, by the dates the return and the claim for refund are filed and by whether they were filed in a way that they can be processed.

Timetable:

Action	Date	FR Cite
NPRM	10/09/84	49 FR 39566
NPRM Comment Period End	12/10/84	
Final Action	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-280-82.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF10

2532. PROCEDURE AND ADMINISTRATION REGULATIONS - INCREASED RATE OF INTEREST ON SUBSTANTIAL UNDERPAYMENTS ATTRIBUTABLE TO CERTAIN TAX MOTIVATED TRANSACTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6621 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations provide guidance to taxpayers subject to the increased rate of interest on substantial underpayments attributable to certain tax motivated transactions. The regulations define tax motivated transaction and accounting methods that may result in a substantial distortion of income. The regulations also provide rules for determining the amount of a tax motivated underpayment and the accrual of interest at the increased rate.

Timetable:

Action	Date	FR Cite
NPRM	12/26/84	49 FR 50406
NPRM Comment Period End	02/26/85	49 FR 50406
Final Action	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-180-84.

Drafting attorney: Michael J. Grace (202) 566-3288.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Richard D'Avino (202) 566-4979.

Agency Contact: Michael J. Grace, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AG75

2533. TO PROVIDE REGULATIONS RELATING TO ACCELERATED PAYMENT OF ESTIMATED TAXES BY CORPORATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6655 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Rules will provide for acceleration of estimated payments by corporations, new seasonal income exception, and clarify the annualization rules. The amount of estimated tax payments required for all corporations is increased from 80 to 90 percent of current year's tax liability.

Timetable:

Action	Date	FR Cite
NPRM	03/26/84	49 FR 11166
Hearing held	06/26/84	
Final Action	12/01/86	

Small Entity: Not Applicable

Additional Information: LR-228-82.

Drafting attorney: Renay France (202) 566-3829.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Treasury attorney: Joy Roberts (202) 566-2565.

Agency Contact: Renay France, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3829

RIN: 1545-AE37

2534. AMENDMENT OF REGULATIONS TO PERMIT DISCLOSURE OF TAX RETURN INFORMATION BETWEEN FRANCHISEES WHO JOINTLY OPERATE A TAX SERVICE

Legal Authority: 26 USC 7216 Internal Revenue Code of 1954; 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would allow disclosure of tax return information by tax return preparers for the purpose of monitoring quality of return preparation.

Timetable:

Action	Date	FR Cite
NPRM	11/19/85	50 FR 47563
NPRM Comment Period End	12/19/85	
Final Action	03/01/86	

Small Entity: Not Applicable

Additional Information: LR-3-85.

Drafting attorney: Richard Chewning (202) 566-3289.

Reviewing attorney: Charles C. Saverude (202) 566-3289.

Office of International Tax Counsel reviewing attorney: Mark Perlis.

Agency Contact: Richard Chewning, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AH91

2535. PROCEDURE AND ADMINISTRATION—AMENDMENT OF REGULATIONS RELATING TO THE TIMELY MAILING OF RETURNS, TAXES AND DEPOSITS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 7502 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations would amend existing regulations, relating to the timely mailing of documents, to provide for the timely mailing of returns, taxes and deposits.

Timetable:

Action	Date	FR Cite
NPRM	12/11/79	44 FR 71436
NPRM Comment Period End	02/11/80	44 FR 71436
Final Action	06/30/86	

Small Entity: Not Applicable

Additional Information: LR-1406.

Drafting attorney: Ewan Purkiss (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: unassigned.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AD42

2536. ADMINISTRATIVE SUMMONSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 7609 Internal Revenue Code of 1954; 26 USC 7610 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: An administrative summons is used by the Internal Revenue Service to obtain taxpayer records in the hands of a third party recordkeeper, such as a bank. Sections 331, 332, and 333 of the Tax Equity and Fiscal Responsibility Act of 1982 amended sections 7602 and 7609 of the Internal Revenue Code of 1954 relating to administrative summonses. The amendments alter the circumstances under which an administrative summons may be issued and also alter the rights and obligations of the subject taxpayer and third-party recordkeeper. This regulation project will provide guidance relating to these new administrative summons procedures.

Timetable:

Action	Date	FR Cite
NPRM	06/12/85	50 FR 24655
NPRM Comment Period End	08/12/85	50 FR 24655
Final Action	06/30/86	

Small Entity: Not Applicable

Additional Information: LR-10-83.

Drafting attorney: Bruce H. Jurist (202) 566-3236.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Treasury attorney: Richard D'Avino (202) 566-4979.

Agency Contact: Bruce H. Jurist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3236

RIN: 1545-AF33

2537. PROCEDURE AND ADMINISTRATION—RESTRICTIONS ON CHURCH TAX INQUIRIES AND EXAMINATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 7611 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301; 26 CFR 1

Legal Deadline: None

Abstract: This regulation will clarify IRS procedures concerning church tax inquiries and examinations which were published as a temporary regulation on March 11, 1985 at 50 FR 9614 as TD 8013.

Timetable:

Action	Date	FR Cite
NPRM	03/11/85	50 FR 9678
NPRM Comment Period End	05/10/85	50 FR 9678
Hearing	07/16/85	50 FR 23316
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: EE-1-85.

Drafting attorney: Monice Rosenbaum (202) 566-3422.

Reviewing attorney: Paul Accettura (202) 566-3544.

Treasury attorney: Fairlee Sheehy (202) 566-2565.

Agency Contact: Monice Rosenbaum, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3422

RIN: 1545-AI12

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TREAS—IRS — **Final Rule Stage**

2538. AMENDMENTS OF THE REGULATIONS ON PROCEDURE AND ADMINISTRATION UNDER SECTION 7701 RELATING TO CLASSIFICATION OF CERTAIN INVESTMENT ARRANGEMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These regulations relate to the classification for federal tax purposes of investment arrangements allowing multiple classes of ownership. They make clear that the existing rules on "fixed investment trust" do not apply to such investment arrangements. An arrangement is a "fixed investment trust" only if it has one class of ownership.

Timetable:

Action	Date	FR Cite
NPRM	05/02/84	49 FR 18741
NPRM Comment Period End	07/02/84	49 FR 18741
Hearing held	07/31/84	
Final Action	06/01/86	

Small Entity: Not Applicable

Additional Information: LR-66-84.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: Paul A. Francis (202) 566-3218.

Treasury attorney: James Bridgeman (202) 566-4902.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AG20

2539. INDIAN TRIBAL GOVERNMENTS TREATED AS STATES FOR CERTAIN PURPOSES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 7701 Internal Revenue Code of 1954; 26 USC 7871 Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: The regulations would provide guidance to certain Indian tribal governments as to their treatment as States under designated sections of the Internal Revenue Code of 1954.

Timetable:

Action	Date	FR Cite
NPRM	05/07/84	49 FR 19329
Final Action	06/00/86	

Small Entity: Not Applicable

Additional Information: LR-221-83.

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: Cynthia L. Clark (202) 566-3288.

Office of Tax Legislative Counsel: Mark Perlis.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AF77

2540. REGULATIONS ON INCOME TAX UNDER THE TAX REFORM ACT OF 1984, RELATING TO BELOW-MARKET LOANS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 7872 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations provide guidance to taxpayers who enter into certain below-market interest rate loan transactions. The regulations explain what type of transactions are treated as loans and what type of loans are subject to the provisions of section 7872. If the loan is subject to section 7872, the below-market loan will be recharacterized as an arm's length market-interest rate loan coupled with a payment by the lender to the borrower in an amount generally equal to the amount of imputed interest. The regulations provide rules for determining the amount and the character of the imputed transfers.

Timetable:

Action	Date	FR Cite
NPRM	08/20/85	50 FR 33553
NPRM Comment Period End	10/20/85	50 FR 33553
Hearing	01/09/86	
Final Action	12/00/86	

Small Entity: Not Applicable

Additional Information: LR-165-84.

Drafting attorney: Sharon L. Hall (202) 566-3828.

Reviewing attorney: John Fischer.

Treasury attorney: Fairlea Sheehy.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3828

RIN: 1545-AH72

2541. INCOME TAX—MARITIME CAPITAL CONSTRUCTION FUND

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 46 USC 1177 Merchant Marine Act of 1936

CFR Citation: 26 CFR 3

Legal Deadline: None

Abstract: The proposal would provide rules for the income tax treatment with respect to capital construction funds for certain vessels.

Timetable:

Action	Date	FR Cite
NPRM	01/29/76	41 FR 04280
NPRM Comment Period End	03/29/76	41 FR 04280
Hearing	07/07/76	
Final Action	01/00/87	

Small Entity: Not Applicable

Additional Information: LR-149-75.

Drafting attorney: Andrew B. Pullman (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Agency Contact: Andrew B. Pullman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3458

RIN: 1545-AD48

2542. STATEMENT OF PROCEDURAL RULES—AMENDMENTS TO STATEMENT OF PROCEDURAL RULES—1961-1

Legal Authority: 5 USC 552; 5 USC 301

CFR Citation: 26 CFR 601

Legal Deadline: None

Abstract: Semi-annual update of the Statement of Procedural Rules.

TREAS—IRS — **Final Rule Stage**

Timetable:

Action	Date	FR Cite
Final Action	07/00/86	

Small Entity: Not Applicable

Additional Information: LR-154-81.

Paralegal Specialist: Carroll Yue (202) 566-3935.

Reviewing attorney: Charles M. Whedbee (202) 566-3458.

Agency Contact: Carroll Yue, Paralegal Specialist, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3935

RIN: 1545-AD55

DEPARTMENT OF THE TREASURY (TREAS) — **Completed Actions**

Internal Revenue Service (IRS)

2543. ● INCOME TAX—INFORMATION REPORTING FOR MORTGAGE CREDIT CERTIFICATES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 25 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance to issuers of mortgage credit certificates relating to be collected with respect to each recipient of a mortgage credit certificate. The regulations also provide guidance regarding the time and manner of filing this information with the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
Final Action Temporary regulations issued	09/03/85	50 FR 35536
Final Action Effective	09/30/85	

Small Entity: Not Applicable

Additional Information: LR-113-85.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John M. Coulter (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Tom Evans (202) 535-6966.

Agency Contact: Mitchell H. Rapaport, Assistant Branch Chief, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AI37

2544. INCOME TAX—ADJUSTMENTS TO NEW JOBS CREDIT

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 51 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules and definitions relating to the targeted job as amended by the Economic Recovery Tax Act of 1981.

Timetable:

Action	Date	FR Cite
NPRM	11/23/83	48 FR 52943
NPRM Comment Period End	01/23/84	48 FR 52943
Final Action	11/06/85	50 FR 45996

Small Entity: Not Applicable

Additional Information: LR-218-81.

Drafting attorney: John Schmalz (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Thuronyi.

Agency Contact: John Schmalz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AA31

2545. INCOME TAX—TO MAKE CERTAIN AMENDATORY CHANGES TO RULES RELATING TO PROPERTY TRANSFERRED IN CONNECTION WITH PERFORMANCE OF SERVICES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 83 Internal Revenue Code of 1954; Section 252 Economic Recovery Tax Act of 1981

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to taxpayers who transfer and receive property in connection with the performance of services. The amendments relate to the definition of property, the effect of section 16(b) of the Securities Exchange Act of 1934 on transferred stock, and the effect of the "Pooling-of-Interest" Accounting rules on transferred stock.

Timetable:

Action	Date	FR Cite
NPRM	11/16/83	48 FR 52079
NPRM Comment Period End	01/16/84	48 FR 52079
Final Action T.D. 8042	08/06/85	50 FR 31712
Final Action Effective	08/06/85	50 FR 31712

Small Entity: Not Applicable

Additional Information: LR-16-80.

Drafting attorney: Bruce H. Jurist (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Office of Tax Legislative Counsel reviewing attorney: Fairlea Sheehy (202) 566-2565.

Agency Contact: Bruce H. Jurist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AA41

2546. INCOME TAX—INCREASE IN LIMIT ON SMALL ISSUES OF INDUSTRIAL DEVELOPMENT BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103(b)(6)(D) Internal Revenue Code of 1954; 26 USC 103(b)(6)(I) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulation would provide guidance regarding the effect of an urban development action grant with respect to a specific facility, upon the capital expenditures limitation with respect to a small issue of tax-exempt industrial bonds issued to finance such facility. The regulation may also provide guidance regarding the required size of such grant in relation to the cost of the facility to be financed by the

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bond issue, and the nexus between the grant and the financed facility.

Timetable:

Action	Date	FR Cite
Final Action Effective	10/01/79	
Closed without regulations	11/29/85	
NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-117-79.

Drafting attorney: John A. Tollaris (202) 566-3590.

Reviewing attorney: John M. Coulter, Jr. (202) 566-3740.

Agency Contact: John A. Tollaris, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3590

RIN: 1545-AA57

2547. TO PROVIDE REGULATIONS RELATING TO EXTENSION OF MORTGAGE SUBSIDY BONDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 103A Internal Revenue Code of 1954

CFR Citation: 26 CFR 6a.103A-2

Legal Deadline: None

Abstract: These regulations will provide rules relating to the extension of authority to issue mortgage subsidy bonds. The regulations will explain the form and manner in which information is to be reported to the Internal Revenue Service. The regulations will also provide rules relating to the requirement that an annual policy statement be filed and the requirement that a state certification be executed for each issue.

Timetable:

Action	Date	FR Cite
NPRM	12/12/84	49 FR 48323
Final Action Effective	12/31/84	
NPRM Comment Period End	02/12/85	49 FR 48323
Public hearing held	04/30/85	
Final Action	09/03/85	50 FR 35540

Small Entity: Not Applicable

Additional Information: LR-240-84.

Drafting attorney: Mitchell H. Rapaport (202) 566-3294.

Reviewing attorney: John M. Coulter (202) 566-4473.

Treasury attorney: Suzanne McDowell (202) 566-3277.

Agency Contact: Mitchell H. Rapaport, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AH66

2548. INCOME TAX REGULATIONS UNDER THE REVENUE ACT OF 1978, RELATING TO SELF-INSURED MEDICAL EXPENSES REIMBURSEMENT PLANS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 105(h) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None.

Abstract: These regulations will provide rules relating to self-insured medical reimbursement plans. The regulations will explain whether policies issued by captive insurance companies are considered self-insured.

Timetable:

Action	Date	FR Cite
Closed by Memo	11/22/85	

Small Entity: Not Applicable

Additional Information: EE-28-84.

Drafting attorney: Richard J. Wickersham (202) 566-3250.

Treasury attorney: Harry Conaway.

Agency Contact: Roberta E. Rivera, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3439

RIN: 1545-AG34

2549. INCOME TAX—PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST RECEIVED BY INDIVIDUALS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 116 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal would provide rules relating to the partial exclusion of dividends and interest for 1981.

Timetable:

Action	Date	FR Cite
NPRM	02/09/81	47 FR 5902
NPRM Comment Period End	04/12/81	47 FR 5902
Hearing	06/22/82	47 FR 20802
Closed without regs.	12/31/85	
Final Action	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-83-80.

Drafting attorney: Phoebe A. Mix (202) 566-3238.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Office of Tax Legislative Counsel reviewing attorneys: not assigned.

Agency Contact: Phoebe A. Mix, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AA69

2550. INCOME TAX—NOTICE OF PROPOSED RULEMAKING RELATING TO THE EXCLUSION FROM GROSS INCOME OF CERTAIN FRINGE BENEFITS

Significance: Regulatory Program

Legal Authority: 26 USC 132

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations will propose rules concerning the exclusion from gross income of certain fringe benefits.

Timetable:

Action	Date	FR Cite
NPRM	12/31/85	
Closed without regulations incorporated into LR-216-84 RIN 1545-AH73	12/31/85	

Small Entity: Undetermined

Additional Information: LR-14-85.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: Philip R. Bosco (202) 566-3430.

Treasury attorney: Kent A. Mason (202) 56608527.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AH56

2551. NOTICE OF PROPOSED RULEMAKING RELATING TO THE TAXATION OF FRINGE BENEFITS AND EXCLUSIONS FROM GROSS INCOME FOR CERTAIN FRINGE BENEFITS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 132 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 31; 26 CFR 54

Legal Deadline: None

Abstract: The regulations propose rules concerning the treatment of taxable and nontaxable fringe benefits, including the valuation of taxable fringe benefits for purposes of income and employment tax withholding. The regulations also include proposed special rules for valuing certain fringe benefits. The regulations propose rules relating to exclusions from gross income for qualified employee discounts, working condition fringes, and de minimis fringes.

Timetable:

Action	Date	FR Cite
NPRM	01/07/85	50 FR 836
NPRM Comment Period End	03/08/85	50 FR 836
Public Hearing	04/16/85	50 FR 7072
Public Hearing	04/17/85	50 FR 7072
Public Hearing	04/18/85	50 FR 7072
Final Action	12/23/85	50 FR 52333
Notice withdrawn LR-1216-84 remains cross reference notice to LR-37-85	12/23/85	50 FR 52333

Small Entity: Undetermined

Additional Information: LR-216-84.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: Philip R. Bosco (202) 566-3430.

Treasury attorney: Kent A. Mason (202) 566-6527.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AH73

2552. TEMPORARY REGULATIONS RELATING TO THE TAXATION OF FRINGE BENEFITS AND EXCLUSIONS FROM GROSS INCOME FOR CERTAIN FRINGE BENEFITS

Significance: Regulatory Program

Legal Authority: 26 USC 132 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules concerning the treatment of taxable and non-taxable gross income of certain fringe benefits, including the valuation of taxable fringe benefits for purposes of income and employment tax withholding. The regulations also include special rules for valuing certain fringe benefits. The regulations include rules relating to exclusions from gross income, for the value of no-additional-cost services, qualified employee discounts, working condition fringes, and de minimis fringes.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8063	12/23/85	50 FR 52281

Small Entity: Undetermined

Additional Information: LR-37-85.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: Philip R. Bosco (202) 566-3430.

Treasury attorney: Kent Mason (202) 566-6527.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AI03

2553. INCOME TAX—DEDUCTIONS FOR ADDITION TO A RESERVE FOR CERTAIN GUARANTEED DEBT OBLIGATIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 166(f) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Proposal will provide rules for establishing a suspense account for certain guaranteed debt obligations.

Timetable:

Action	Date	FR Cite
NPRM	07/11/80	45 FR 46815
NPRM Comment Period End	09/09/80	45 FR 46815
Final Action	01/17/86	51 FR 2478

Small Entity: Not Applicable

Additional Information: LR-117-3.

Drafting attorney: Bruce H. Jurist (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Agency Contact: Bruce H. Jurist, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AA61

2554. TEMPORARY REGULATIONS UNDER THE TAX REFORM ACT OF 1984, RELATING TO TAX-EXEMPT ENTITY LEASING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 168 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These regulations will provide rules relating to tax-exempt entity leasing. The regulations will explain a number of basic issues concerning tax-exempt use property, tax-exempt entities, depreciation, partnerships, high technology equipment, service contracts, lease terms, and transitional rules.

Timetable:

Action	Date	FR Cite
NPRM	07/02/85	50 FR 27287
Final Action	07/02/85	50 FR 27222
Final Action Effective	07/02/85	50 FR 27222
NPRM Comment Period End	09/03/85	

Small Entity: Not Applicable

Additional Information: LR-124-84.

Drafting attorney: Robert Beatson (202) 566-3590.

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Reviewing attorney: John A. Tolleris (202) 566-3590.

Treasury attorney: Blake Rubin (202) 535-0968.

Agency Contact: Robert Beatson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AG26

2555. INCOME TAX—ESTATE & GIFT TAXES—TRANSFERS OF PARTIAL INTERESTS IN PROPERTY FOR CONSERVATION PURPOSES—TO EXTEND CERTAIN TEMPORARY TAX PROVISIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 170(f)(3) Internal Revenue Code of 1954; 26 USC 170(h) Internal Revenue Code of 1954; 26 USC 2055(e)(2) Internal Revenue Code of 1954; 26 USC 2522(c)(2) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1; 26 CFR 20; 26 CFR 25

Legal Deadline: None

Abstract: These regulations will provide to what extent a taxpayer can obtain a charitable deduction for a charitable contribution of a partial interest in real property.

Timetable:

Action	Date	FR Cite
Final Action Effective	12/18/80	51 FR 1496
NPRM	05/23/83	48 FR 22940
NPRM Comment Period End	07/22/83	48 FR 22940
Hearing	09/15/83	
Final Action	01/14/86	51 FR 1496

Small Entity: Not Applicable

Additional Information: LR-200-76.

Drafting attorney: Ada S. Rousso (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hutton, Levinson.

Agency Contact: Ada S. Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3287

RIN: 1545-AA91

2556. INCOME TAX—DISALLOWANCE OF CERTAIN ENTERTAINMENT EXPENSES—TO CONFORM TO SECTION 361, REVENUE ACT OF 1978

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 274(a) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would conform section 274 (a) (1) (B) to changes made by section 361 of the Revenue Act of 1978. The regulations disallow expenditures paid or incurred with respect to a facility used in connection with entertainment.

Timetable:

Action	Date	FR Cite
NPRM	09/26/83	48 FR 43698
NPRM Comment Period End	11/22/83	48 FR 43698
Final Action	09/09/85	50 FR 36575

Small Entity: Not Applicable

Additional Information: LR-203-78.

Drafting attorney: Stuart G. Wessler (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3328.

Office of Tax Legislative Counsel reviewing attorney: Carlisle.

Agency Contact: Stuart G. Wessler, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB05

2557. WITHDRAWAL OF TEMPORARY REGULATIONS UNDER SECTION 274 RELATING TO CONTEMPORANEOUS RECORDKEEPING WITH RESPECT TO CERTAIN PASSENGER AUTOMOBILES AND CERTAIN OTHER LISTED PROPERTY

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 132 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This Treasury decision will withdraw certain temporary regulations contained in T.D. 7986 and T.D. 8009, relating to the substantiation requirements of section 274 (d), and withdraw a portion of other temporary regulations contained in T.D. 8009 relating to the Taxation of Fringe Benefits. This Treasury decision will conform the regulations to Public Law 99-44 which repealed the Contemporaneous Recordkeeping Requirement added to section 274 (d) by the Tax Reform Act of 1984.

Timetable:

Action	Date	FR Cite
Final Action Effective	01/01/85	50 FR 46004
Final Action	11/06/85	50 FR 46004

Small Entity: Not Applicable

Additional Information: LR-64-85.

Drafting attorneys: Michel A. Daze (202) 566-6456 and Annette J. Guarisco (202) 566-3918.

Reviewing attorneys: Sharon Galm (202) 566-3930 and Philip R. Bosco (202) 566-3430.

Treasury attorneys: Jeff Quinn (202) 566-2178 and Kent Mason (202) 535-6984.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6456

RIN: 1545-AH61

2558. ● TO PROVIDE TEMPORARY REGULATIONS RELATING TO THE REVISED RECORDKEEPING REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide guidance relating to the requirement that any deduction or credit claimed for certain business-related expenses be substantiated by adequate records or sufficient evidence corroborating a taxpayer's own statement. The regulations reflect amendments made to the Internal Revenue Code by Public Law 99-44, which repealed the Contemporaneous Recordkeeping requirement enacted in 1984.

Timetable:

Action	Date	FR Cite
Final Action	11/06/85	50 FR 46006
Final Action Effective	01/01/86	50 FR 46007

Small Entity: Not Applicable

Additional Information: LR-117-85.

TREAS—IRS

Completed Actions

Drafting attorneys: Michel A. Daze (202) 566-6456 and Annette J. Guarisco (202) 566-3918.

Reviewing attorneys: Sharon Galm (202) 566-3930 and Philip R. Bosco (202) 566-3430.

Treasury attorneys: Jeff Quinn and Kent Mason.

Agency Contact: Michel A. Daze, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-6456

RIN: 1545-AI40

2559. ● REGULATIONS UNDER SECTION 338(H)(10) RELATING TO SPECIAL ELECTIVE RECOGNITION OF GAIN OR LOSS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 338 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: Temporary regulations to interpret section 338(h)(10) under which a special election can be made so that target recognizes gain or loss on the deemed sale of its assets. The regulations are necessary so that affected taxpayers can make the section 338(h)(10) election.

Timetable:

Action	Date	FR Cite
Final Action	01/08/86	51 FR 741

Small Entity: Not Applicable

Additional Information: LR-83-85.

Drafting attorney: Patricia Wendlandt (202) 566-3458.

Reviewing attorney: Marcus B. Blumkin (202) 566-3463.

Office of Tax Legislative Counsel reviewing attorney: Thomas Wessel.

Agency Contact: Patricia Wendlandt, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AI26

2560. INCOME TAX—ACQUISITION OF A CORPORATION BY MERGER OF A CORPORATION CONTROLLED BY THE ACQUIRING CORPORATION

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 368(a)(2)(E) Internal Revenue Code of 1954; 26 USC 368(b)(2) Internal Revenue Code of 1954; PL 91-693

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to the statutory merger of a controlled corporation into an acquiring corporation using the voting stock of the corporation controlling the merged corporation (reverse triangular merger).

Timetable:

Action	Date	FR Cite
NPRM	01/02/81	46 FR 114
NPRM Comment Period End	03/03/81	46 FR 114
Final Action	06/20/85	50 FR 42868

Small Entity: Not Applicable

Additional Information: LR-1994.

Drafting attorney: Andrew B. Pullman (202) 566-3458.

Reviewing attorney: Carolyn Swift (202) 566-3456.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Yecies, McKee.

Agency Contact: Andrew B. Pullman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3458

RIN: 1545-AB30

2561. INCOME TAX—REQUESTS FOR CHANGE OF METHOD OF ACCOUNTING FROM AN ERRONEOUS METHOD OF ACCOUNTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 446(e) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would clarify the procedures for changing from an erroneous method of accounting to a proper method of accounting. Generally, taxpayers must obtain the Commissioner's consent to change their method of accounting.

Timetable:

Action	Date	FR Cite
Closed without regulations	09/25/85	

Small Entity: Not Applicable

Additional Information: LR-188-79.

Drafting attorney: Alice M. Bennett (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3288.

Agency Contact: Alice Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3239

RIN: 1545-AB37

2562. INCOME TAX—TO CLARIFY TREATMENT OF CERTAIN COSTS INCURRED WITH RESPECT TO LONG TERM CONTRACTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 451 Internal Revenue Code of 1954; Tax Equity and Fiscal Responsibility Act of 1982, Section 229

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would clarify when contracts are completed and when contracts are to be severed or aggregated. The regulations would also provide rules for determining the costs properly allocable to extended period long-term contracts.

Timetable:

Action	Date	FR Cite
NPRM	03/14/83	48 FR 10702
NPRM Comment Period End	05/13/83	48 FR 10702
Hearing	06/29/83	
Final Action T.D. 8067	01/06/86	51 FR 3
Final Action Effective	01/06/87	51 FR 3

Small Entity: Not Applicable

Additional Information: LR-274-81.

Drafting attorney: Paulette Chernyshev (202) 566-3288.

Reviewing attorney: John M. Fischer (202) 566-3394.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Evans.

Agency Contact: Paulette Chernyshev, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N. W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AB40

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2563. INCOME TAX—MAXIMUM RATE OF IMPUTED INTEREST FOR SALE OF LAND BETWEEN RELATED PERSONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 483(g) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance for determining if sales of land between related persons qualify for a lower imputed rate of interest. More specifically, the regulations would provide for a definition of land and for rules to compute the maximum dollar limitation on which the lower imputed rate of interest is to apply.

Timetable:

Action	Date	FR Cite
Closed without regulations	08/22/85	
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-246-81.

Drafting attorney: Ewan Purkiss (202) 566-3236.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3236

RIN: 1545-AB58

2564. INCOME TAX—SEMIANNUAL COMPOUNDING OF THE TEST RATE UNDER SECTION 483

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 483 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide for the semiannual compounding of the test rate of interest used to determine if a deferred payments contract contains unstated interest. Thus, in the case of a contract for the sale of property that provides for no interest or an unreasonably low rate of interest that does not satisfy the test rate of interest compounded semiannually, interest will be imputed under the contract.

Timetable:

Action	Date	FR Cite
closed without regulations	08/22/85	
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: LR-12-83.

Drafting attorney: Ewan Purkiss (202) 566-3236.

Reviewing attorney: John H. Parcell (202) 566-3336.

Agency Contact: Ewan Purkiss, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3236

RIN: 1545-AF59

2565. INCOME TAX—RATES OF TAX FOR PRINCIPAL CAMPAIGN COMMITTEES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 527 Internal Revenue Code of 1954; PL 97-34, Sec 126

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide rules relating to the manner of designation of a principal campaign committee by a member of Congress. A candidate for Congress may make such a designation in order to permit a campaign committee to compute its income tax by multiplying its political organization taxable income by the appropriate rates of tax specified in section 11 (b) of the Code.

Timetable:

Action	Date	FR Cite
NPRM	04/20/83	48 FR 16911
NPRM Comment Period End	06/20/83	48 FR 16911
Final Action	07/30/85	50 FR 30816
Final Action Effective	07/30/85	50 FR 30816

Small Entity: Not Applicable

Additional Information: LR-243-81.

Drafting attorney: Susan Thompson Baker (202) 566-3294.

Reviewing attorney: John M. Coulter, Jr. (202) 566-4473.

Office of Tax Legislative Counsel (Treasury) reviewing attorney:

Agency Contact: Susan Thompson Baker, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3294

RIN: 1545-AB60

2566. INCOME TAX—DETERMINATION OF PARTNER'S DISTRIBUTIVE SHARE

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 704(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules and examples relating to the substantial economic effect test and the determination of a partner's interest in the partnership.

Timetable:

Action	Date	FR Cite
NPRM	03/09/83	48 FR 9871
NPRM Comment Period End	04/27/83	48 FR 9871
Final Action	12/31/85	50 FR 53420

Small Entity: Not Applicable

Additional Information: LR-262-76.

Drafting attorney: John Schmalz (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Lokey.

Agency Contact: John Schmalz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AB80

2567. INCOME TAX—RULES FOR DETERMINING WHETHER LOANS OR NET LEASES ARE COMMERCIAL ACTIVITIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 892 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would establish the activities with respect to loans or the ownership of real property that will be considered investment activities of foreign sovereigns. Income from such investments by foreign

sovereigns would be exempt from U.S. tax.

Timetable:

Action	Date	FR Cite
NPRM	07/22/80	
NPRM Comment Period End	09/22/80	
Withdrawn	09/13/85	50 FR 37381

Small Entity: Not Applicable

Additional Information: LR-110-80.

Drafting attorney: Nerman Dobynes Hubbard.

Reviewing attorney: Carol Doran Klein (202) 566-3289.

Office of International Tax Counsel (Treasury) reviewing attorneys: Andrus, Lainoff.

Agency Contact: Nerman Dobynes Hubbard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AB94

2568. ● INCOME TAX — MIXED STRADDLE ACCOUNT ELECTIONS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1092(b)(1) Internal Revenue Code of 1954; 26 USC 1092(b)(2) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The amended temporary regulations will provide rules relating to the time and manner for making a mixed straddle account election.

Timetable:

Action	Date	FR Cite
NPRM	01/24/85	50 FR 3351
NPRM Comment Period End	03/25/85	50 FR 3351
Final Action	10/17/85	50 FR 42012

Small Entity: Not Applicable

Additional Information: LR-118-85.

Drafting attorney: Timothy J. McKenna (202) 566-3287.

Reviewing attorney: John M. Fischer (202) 566-3394.

Treasury attorney: Linda Carlisle (202) 566-4979.

Treasury attorney: Suzanne McDowell (202) 566-6276.

Agency Contact: Timothy J. McKenna, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AI29

2569. ● INCOME TAX — COORDINATION OF LOSS DEFERRAL AND WASH SALE RULES AND TREATMENT OF HOLDING PERIODS AND LOSSES UNDER SECTION 1092

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1092(b) Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The amended temporary regulations will provide rules relating to the coordination of the loss deferral rules under section 1092 and the Wash sale rule under section 1091. The regulations will also provide rules relating to the treatment of holding periods and losses with respect to straddle positions held by regulated investment companies.

Timetable:

Action	Date	FR Cite
NPRM	01/24/85	50 FR 3352
NPRM Comment Period End	03/25/85	50 FR 3352
Final Action	01/15/86	51 FR 1785

Small Entity: Not Applicable

Additional Information: LR-124-85.

Drafting attorney: Timothy J. McKenna (202) 566-3287.

Reviewing attorney: John M. Fischer (202) 566-3394.

Treasury attorney: Linda Carlisle (202) 566-4979.

Treasury attorney: Suzanne McDowell (202) 566-6276.

Agency Contact: Timothy J. McKenna, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AI30

2570. AMENDMENT OF INCOME TAX REGULATIONS UNDER SECTIONS 1374 AND 1375 RELATING TO THE IMPOSITION OF TAX ON CAPITAL GAINS AND PASSIVE INVESTMENT INCOME

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 1374; 26 USC 1375

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules relating to a tax on capital gains and excess passive income in the case of certain subchapter S corporations.

Timetable:

Action	Date	FR Cite
NPRM	07/03/85	50 FR 27457
Final Action	07/03/85	50 FR 27457
NPRM Comment Period End	09/03/85	

Small Entity: Not Applicable

Additional Information: LR-267-82.

Drafting attorney: John G. Schmalz (202) 566-3297.

Reviewing attorney: Walter H. Woo (202) 566-3297.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Fairlea Sheehy.

Agency Contact: John G. Schmalz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AE92

2571. TEMPORARY ESTATE, GIFT AND GENERATION-SKIPPING TRANSFER TAX REGULATIONS UNDER THE TAX REFORM ACT OF 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 2001 Note

CFR Citation: 26 CFR 27; 26 CFR 602

Legal Deadline: None

Abstract: These regulations will provide rules for taxpayers to report transfers of Public Housing Bonds occurring after December 31, 1983, and before July 18, 1984. The regulation will explain who must report such transfers, and how and when the reports must be made. The regulation will set forth penalties for failure to report such transfers.

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Timetable:

Action	Date	FR Cite
Final Action	06/08/85	50 FR 33010
Final Action Effective	06/08/85	50 FR 33010

Small Entity: Not Applicable

Additional Information: LR-48-85.

Drafting attorney: Fred E. Grundeman (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Treasury attorney: Jim Bridgeman (202) 566-6902.

Agency Contact: Fred E. Grundeman, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AH96

2572. TEMPORARY PROCEDURE AND ADMINISTRATION REGULATIONS UNDER THE SPENDING REDUCTION ACT OF 1984 RELATING TO THE REDUCTION OF TAX OVERPAYMENTS BY THE AMOUNT OF PAST-DUE LEGALLY ENFORCEABLE ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 31 USC 3720A Internal Revenue Code of 1954

CFR Citation: 26 CFR 301

Legal Deadline: None

Abstract: These temporary regulations will provide rules relating to the reduction of a taxpayer's overpayment of tax (i.e. tax refund) by the amount of any past-due legally enforceable debt owed to a federal agency by a taxpayer. The regulations explain which debts qualify for offset, and the steps a federal agency must take to refer a debt to the Internal Revenue Service.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8053	09/30/85	50 FR 39661

Small Entity: Not Applicable

Additional Information: LR-38-85.

Drafting attorney: Sharon L. Hall (202) 566-3288.

Reviewing attorney: David Dickinson (202) 566-6656.

TITLE CONT: Debt Owed to Federal Agency.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3288

RIN: 1545-AI00

2573. EXCISE TAX--APPLICABLE TO ARTICLES SOLD ON AND AFTER 1984

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4041 Internal Revenue Code of 1954; 26 USC 4042 Internal Revenue Code of 1954; 26 USC 4054 Internal Revenue Code of 1954; 26 USC 4056 Internal Revenue Code of 1954

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: The regulations would revise and update the existing regulations regarding manufacturers and retailers excise taxes on special fuels to reflect statutory changes made to section 4041 since 1984. The regulations would provide guidance to the public to comply with the laws.

Timetable:

Action	Date	FR Cite
NPRM	10/22/80	45 FR 69933
NPRM Comment Period End	12/22/80	45 FR 69933
Hearing	04/08/81	
Final Action T.D. 8066	01/02/86	51 FR 11

Small Entity: Not Applicable

Additional Information: LR-211-8.

Drafting attorney: William A. Jackson (202) 566-4336.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: McClanahan.

Agency Contact: William A. Jackson, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-4336

RIN: 1545-AC85

2574. EXCISE TAX - PART 145 - TEMP. - DEFINITION OF FIRST RETAIL SALE RELATING TO TAX ON TRUCKS SOLD AT RETAIL

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4051 Internal Revenue Code of 1954

CFR Citation: 26 CFR 145.4051-1; 26 CFR 602.101 (c)

Legal Deadline: None

Abstract: These rules change the definition of "first retail sale" and provide for registration and certificates of resale in connection with sales for resale, where the purchaser is also in the business of leasing. The purpose is to improve the administration of the excise tax on trucks.

Timetable:

Action	Date	FR Cite
Final Action Temporary regulation	09/13/85	50 FR 37350

Small Entity: Not Applicable

Additional Information: LR-54-85.

Drafting attorney: Maurice B. Foley (202) 566-3287.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Treasury attorney: Mark Perlis (202) 566-8278.

Agency Contact: Maurice B. Foley, Law Clerk, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AI11

2575. MANUFACTURERS & RETAILERS EXCISE TAX--RELATING TO RECAPPED OR RETREADED TIRES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4071 Internal Revenue Code of 1954

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: This project was opened to possibly amend the regulations so as to eliminate the distinction between shoulder to shoulder retread tires and bead to bead retread tires.

Timetable:

Action	Date	FR Cite
NPRM	02/06/84	49 FR 4790
NPRM Comment Period End	03/09/84	49 FR 4790
Final Action	10/11/85	50 FR 41490

Small Entity: Not Applicable

Additional Information: LR-180-81.

Drafting attorney: Robert B. Coplan (202) 566-3287.

Reviewing attorney: Robert B.Coplan (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Perlis.

Agency Contact: Robert B. Coplan, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3287

RIN: 1545-AC89

2576. EXCISE TAX--EXEMPTIONS FOR QUALIFIED GOVERNMENTAL INTERESTS, QUALIFIED CHARITABLE INTERESTS (INCLUDING RESIDENTIAL CHILD CARE AGENCIES), INDIAN OIL, ALASKAN ETC

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 4994 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: The regulations provide rules and definitions relating to various exemptions from the windfall profit tax.

Timetable:

Action	Date	FR Cite
NPRM	02/12/85	50 FR 5770
NPRM Comment Period End	04/15/85	50 FR 5770
Final Action	10/08/85	50 FR 40966

Small Entity: Not Applicable

Additional Information: LR-69-80.

Drafting attorney: John G. Schmalz (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Office of Tax Legislative Counsel (Treasury) reviewing attorney: Schuldinger.

Agency Contact: John G. Schmalz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AD05

2577. REPORTING OF STATE AND LOCAL INCOME TAX REFUNDS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6050E Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations would provide guidance to persons who make payments of refunds of State or local income taxes, or who allow credits or offsets with respect to such taxes, for purposes of reporting these amounts to the Service. The regulations would also prescribe rules for providing statements to the taxpayers receiving the refund or for whom the credit or offset is allowed.

Timetable:

Action	Date	FR Cite
NPRM	09/15/83	48 FR 41436
NPRM Comment Period End	11/14/83	48 FR 41436
Final Action T.D. 8052	09/13/85	50 FR 37347

Small Entity: Not Applicable

Additional Information: LR-233-82.

Drafting attorney: Alice M. Bennett (202) 566-3238.

Reviewing attorney: John H. Parcell (202) 566-3336.

Treasury attorney: Mark Perlis (202) 566-8278.

Agency Contact: Alice M. Bennett, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AE76

2578. INCOME TAX--MORTGAGE INTEREST REPORTING

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6050H Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: The regulations provide rules relating to information reporting of mortgage interest received in a trade or business from individuals, including the persons and interest subject to the reporting requirement.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8047	08/20/85	50 FR 33529

Small Entity: Not Applicable

Additional Information: LR-201-84.

Drafting attorney: Annette J. Guarisco (202) 566-3238.

Reviewing attorney: Ewan D. Purkiss (202) 566-3238.

Treasury attorney: Neil Kimmelfield (202) 566-8528.

Agency Contact: Annette J. Guarisco, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3238

RIN: 1545-AH27

2579. ● RETURNS RELATING TO SALES OR EXCHANGES OF CERTAIN PARTNERSHIP INTERESTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6050K Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: This regulation will provide rules relating to the manner of filing and content of return, statements, and notifications with respect to certain sales or exchanges of interests in partnerships.

Timetable:

Action	Date	FR Cite
Final Action Temporary regulations	12/23/85	50 FR 52313

Small Entity: Not Applicable

Additional Information: LR-129-85.

Drafting attorney: Robert E. Shaw (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3326.

Treasury attorney: Blake Rubin (202) 566-2927.

Agency Contact: Robert E. Shaw, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AI35

2580. ● EMPLOYEE TIP REPORTING AND SUBSTANTIATION REQUIREMENTS

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; PL 98-369, Sec 1072(b) Tax Reform Act of 1984

CFR Citation: 26 CFR 31

Legal Deadline: None

Abstract: The regulations contain rules relating to employee tip reporting and

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recordkeeping requirements to reflect changes in the tax law made by section 1072 of the Tax Reform Act of 1984.

Timetable:

Action	Date	FR Cite
Final Action Temporary regulation published	07/23/85	50 FR 29984

Small Entity: Not Applicable

Additional Information: LR-87-85.

Drafting attorney: Gail H. Morse (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3328.

Treasury attorney: Richard D'Avino (202) 566-4979.

Agency Contact: Gail H. Morse, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AI34

2581. PROPOSED REGULATIONS OF SECTION 6232, RELATING TO THE APPLICABILITY OF PARTNERSHIP AUDIT RULES TO THE WINDFALL PROFIT TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6232 Internal Revenue Code of 1954

CFR Citation: 26 CFR 51

Legal Deadline: None

Abstract: These regulations will provide rules relating to the extension of the partnership audit rules under Code sections 6221-6231 to the Windfall Profit Tax. These regulations provide rules under which the partnership may act on behalf of all partners in the assessment and determination of the Windfall Profit Tax.

Timetable:

Action	Date	FR Cite
NPRM	10/19/84	49 FR 40896
NPRM Comment Period End	12/17/84	49 FR 40896
Final Action	10/01/85	50 FR 39998

Small Entity: Yes

Additional Information: LR-220-83.

Drafting attorney: Nerman Dobynes Hubbard (202) 566-3289.

Reviewing attorney: Paul A. Francis (202) 566-3930.

Treasury attorney: Moshe Schuldinger (202) 566-2929.

Agency Contact: Nerman Dobynes Hubbard, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3289

RIN: 1545-AG54

2582. EXCISE TAX—SPORTING GOODS AND FIREARMS & ADMINISTRATION PROVISIONS OF SPECIAL APPLICATION TO MANUFACTURERS & RETAILERS EXCISE TAX

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6001 to 6427 Internal Revenue Code of 1954; 26 USC 4161 Internal Revenue Code of 1954; 26 USC 4161 Internal Revenue Code of 1954; 26 USC 4182 Internal Revenue Code of 1954

CFR Citation: 26 CFR 48

Legal Deadline: None

Abstract: This regulation will contain amendments which would revise and update the regulations concerning manufacturers excise taxes on sporting goods and firearms and other administrative provisions especially applicable to manufacturers and retailers excise taxes.

Timetable:

Action	Date	FR Cite
NPRM	01/05/83	48 FR 00442
NPRM Comment Period End	05/05/83	
Final Action	09/08/85	50 FR 32012

Small Entity: Not Applicable

Additional Information: LR-2115.

Drafting attorney: Ada S. Rousso (202) 566-3297.

Reviewing attorney: Robert B. Coplan (202) 566-3287.

Office of Tax Legislative Counsel (Treasury) reviewing attorneys: Hutton, Levinson.

Notice published 01/05/83.

Agency Contact: Ada S. Rousso, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington D.C. 20224, 202 566-3287

RIN: 1545-AD12

2583. ● CREDIT OR REFUND OF WINDFALL PROFIT TAX PAID BY A TRUST TO CERTAIN BENEFICIARIES

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 6430(e) Internal Revenue Code of 1954

CFR Citation: 26 CFR 6430

Legal Deadline: None

Abstract: The regulations provide rules and examples relating to a credit of windfall profit tax paid by a trust to certain beneficiaries of the trust.

Timetable:

Action	Date	FR Cite
NPRM	11/20/84	49 FR 45758
NPRM Comment Period End	01/19/85	
Final Action	10/08/85	50 FR 40971

Small Entity: Not Applicable

Additional Information: LR-56-83.

Drafting attorney: John G. Schmalz (202) 566-3297.

Reviewing attorney: John B. Bromell (202) 566-3328.

Treasury attorney: Moshe Schuldinger (202) 566-2929.

Agency Contact: John G. Schmalz, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, 202 566-3297

RIN: 1545-AI27

2584. TEMPORARY INCOME TAX REGULATIONS UNDER THE TAX RETURN ACT OF 1984, RELATING TO BELOW-MARKET LOANS

Significance: Regulatory Program

Legal Authority: 26 USC 7805 Internal Revenue Code of 1954; 26 USC 7872 Internal Revenue Code of 1954

CFR Citation: 26 CFR 1

Legal Deadline: None

Abstract: These temporary regulations provide taxpayers with a list of loan transactions that are not subject to section 7872. If a loan is subject to section 7872, the below-market loan is recharacterized as a market-interest rate loan coupled with a payment by the lender to the borrower in an amount generally equal to the amount of imputed interest. Taxpayers who are parties to a loan listed in these regulations are not subject to section 7872 with respect to that loan.

Accordingly, no amounts are imputed under section 7872.

Timetable:

Action	Date	FR Cite
Final Action T.D. 8045	08/20/85	50 FR 35519

Small Entity: Not Applicable

Additional Information: LR-309-84.

Drafting attorney: Sharon L. Hall (202) 566-3828.

Reviewing attorney: John Fischer.

Treasury attorney: Fairlea Sheehy.

Agency Contact: Sharon L. Hall, Attorney, Department of the Treasury, Internal Revenue Service, 1111 Constitution Ave., N.W., Washington, D.C. 20224, 202 566-3828

RIN: 1545-AG82

[FR Doc. 86-8777 Filed 04-18-86; 8:45 am]

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Part XVI

ACTION

Semiannual Regulatory Agenda

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ACTION

ACTION

45 CFR Ch. XII

Executive Order 12291, Federal Regulation, Semiannual Agenda of Regulations

AGENCY: ACTION.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations that ACTION will have under development, revision or review during the next year. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the Agency official listed for the particular agenda item. For other information concerning ACTION regulations or this semiannual agenda, contact Robert C. MacKichan, General Counsel, ACTION, 806 Connecticut Avenue, N.W., Washington, D.C. 20525, (202) 634-9333.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291, Federal Regulation, and the Regulatory Flexibility Act (5 U.S.C. 605) executive agencies are required to publish in the Federal Register semiannual regulatory agendas in April and October of each year.

The regulations being considered by ACTION are not "major" rules within the meaning of E.O. 12291 and no Regulatory Impact Analysis is required. ACTION has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public; and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Analysis is required under 5 U.S.C. 602.

Donna M. Alvarado,

Director.

ACTION (ACTION) — Prerule Stage

2585. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS

Legal Authority: 42 USC 2000(d)(1); 42 USC 5057; 42 USC 5060

CFR Citation: 45 CFR 1203

Legal Deadline: None

Abstract: In accordance with 42 USC 2000(d)(1) ACTION will promulgate regulations implementing provisions of title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, as amended, and section 417 of the Domestic Volunteer Service Act of 1973, as amended, which prohibit discrimination on the basis of race, color, national origin, religion or sex, in federally assisted programs. Relevant provisions of existing ACTION title VI regulations will be subsumed into this new regulation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Jess Quintero, Deputy Director for Equal Opportunity, ACTION, Office of Compliance, 806 Connecticut Ave., NW, Washington, DC 20525, 202 634-9312

RIN: 3001-AA06

2586. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN ACTION PROGRAMS

Legal Authority: 29 USC 794; 42 USC 5057; 42 USC 5060

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: In accordance with section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794), ACTION will promulgate implementing regulations which prohibit discrimination on the basis of handicap in federally conducted programs and activities. ACTION regulations prohibiting discrimination on the basis of handicap in federally assisted programs are contained in 45 CFR 1232.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Jess Quintero, Deputy Director for Equal Opportunity, ACTION, Office of Compliance, 806 Connecticut Ave., NW, Washington, DC 20525, 202 634-9312

RIN: 3001-AA07

ACTION (ACTION) — Completed Actions

2587. DENIAL OF APPLICATION FOR REFUNDING

Small Entity: No

Agency Contact: J. C. Argetsinger 202 634-9333

CFR Citation: 45 CFR 1206

RIN: 3001-AA08

[FR Doc. 86-8287 Filed 04-18-86; 8:45 am]
BILLING CODE 6050-28-T

Completed:

Reason	Date	FR Cite
Final Action	10/17/85	50 FR 42023
Final Action Effective	12/02/85	50 FR 42023

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Part XVII

Advisory Council on Historic Preservation

Semiannual Regulatory Agenda

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ACHP

ADVISORY COUNCIL ON HISTORIC PRESERVATION

36 CFR Ch. VIII

Regulatory Agenda

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice of regulatory agenda.

SUMMARY: This Regulatory Agenda is a semiannual summary of each proposed and final regulation that the Advisory Council on Historic Preservation expects to publish in the Federal Register during the next twelve (12) months.

ADDRESS: Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, N.W., Suite 809, The Old Post Office Building, Washington, D.C. 20004.

FOR FURTHER INFORMATION CONTACT: John Fowler, Acting Executive Director, Advisory Council on Historic Preservation, 202-786-0503.

John Fowler,

Acting Executive Director.

ADVISORY COUNCIL ON HISTORIC PRESERVATION (ACHP)

Final Rule Stage

2588. PROTECTION OF HISTORIC AND CULTURAL PROPERTIES

Significance: Agency Priority

Legal Authority: PL 89-665; 16 USC 470, as amended; 80 Stat. 915; 84 Stat. 204 (1970); 87 Stat. 139 (1973); 90 Stat. 1320 (1976); 92 Stat. 3467 (1978); EO 11593; 3 CFR 1971

CFR Citation: 36 CFR 800

Legal Deadline: None

Abstract: In order to streamline and increase the effectiveness of the Council's regulations at 36 CFR Part 800 the Council is in the process of preparing revisions to its regulations. The reason for the revisions is to implement new regulatory authorities set forth in PL 96-515, and to improve the efficiency of the historic preservation review process. The alternative to revision of the regulations is to leave them as they are, which would not achieve the goals the Council seeks. The revisions are expected to reduce the cost of complying with the regulations.

Timetable:

Action	Date	FR Cite
NPRM	10/18/85	50 FR 41828
NPRM Comment Period End	01/15/86	
Final Action	07/01/86	
Final Action Effective	10/01/86	

Small Entity: No

Agency Contact: John M. Fowler, Acting Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW, Suite 809, Washington, DC 20004, 202 786-0503

RIN: 3010-AA00

2589. ● ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE ADVISORY COUNCIL ON HISTORIC PRESERVATION

Legal Authority: 29 USC 794

CFR Citation: 36 CFR 812

Legal Deadline: None

Abstract: This regulation ensures that the agency operates all of its programs and activities to ensure nondiscrimination against qualified handicapped persons. It sets forth stahdards for what constitutes discrimination on the basis of mental or physical handicap, provides a definition for handicapped person and qualified handicapped person, and establishes a complaint mechanism for resolving allegations of discrimination. This regulation is issued under the authority of Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in programs or activities conducted by Federal executive agencies. No alternatives are being considered, and no significant impact or cost is anticipated.

Timetable:

Action	Date	FR Cite
NPRM	07/18/84	49 FR 34132
NPRM Comment Period End	12/26/84	
Final Action	07/00/86	
Final Action Effective	09/00/86	

Small Entity: No

Additional Information: The rule has been approved by the Equal Opportunity Commission under Executive Order 12067 and reviewed by the Office of Management and Budget under Executive Order 12291.

Agency Contact: John M. Fowler, Acting Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue NW., #809, Washington, DC 20004, 202 786-0503

RIN: 3010-AA01

[FR Doc. 86-7382 Filed 04-18-86; 8:45 am]

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Part XVIII

Architectural and Transportation Barriers Compliance Board

Semiannual Regulatory Agenda

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ATBCB

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

36 CFR Part 1190

Unified Agenda of Federal Regulations

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Submission of Unified Agenda of Federal Regulations.

SUMMARY: The Architectural and Transportation Barriers Compliance Board submits the following agenda of proposed regulatory activities which may be conducted by the agency during the next twelve months. This regulatory agenda may be revised and/or refined by the agency during the coming months as a result of action taken by the Board. In addition to any regulatory actions, the Board may also consider issuing advisory standards and/or policy statements as part of its statutory responsibilities. When appropriate, these standards and policies will also be published in the **Federal Register**.

ADDRESS: U.S. Architectural and Transportation Barriers Compliance Board, 330 C Street, S.W., Room 1010, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: For information concerning Board regulations and proposed actions, contact Ms. Karen Smith, Office of Technical Services, (202) 472-2700 (voice or TDD) or (202) 245-1591 (messages - voice or TDD).

Charles R. Hauser,

Chairperson, Architectural and Transportation Barriers Compliance Board.

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

Prerule Stage

2590. MINIMUM GUIDELINES AND REQUIREMENTS FOR ACCESSIBLE DESIGN

Significance: Agency Priority

Legal Authority: 29 USC 792(b)(7) Rehabilitation Act of 1973, as amended

CFR Citation: 36 CFR 1190

Legal Deadline: None

Abstract: Specific provisions of the ATBCB Minimum Guidelines and Requirements for Accessible Design have been reserved until such time as sufficient research, information, and/or field experience is obtained. In addition to these reserved provisions, the Board has indicated that additional information would be useful on other provisions contained in the regulation and on other access issues. As materials and experience become available in these areas, the Board plans to take the appropriate action to complete or revise these requirements. For example, this year the Board may issue proposed rules in the areas of signage and detectable tactile surface treatments. Information on alternatives being considered for addressing a particular provision, and the potential costs and benefits of the action being proposed will be provided during the rulemaking process. The last revision to the Minimum Guidelines and Requirements for Accessible Design was published 08/04/82 (47 FR 33862).

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Additional Information: Phone number of agency contact is voice or TDD.

Agency Contact: Ms. Karen Smith, Acting Director-Office of Technical Services, Architectural and Transportation Barriers Compliance Board, 330 C Street, SW, Room 1010, Washington, DC 20202, 202 472-2700

RIN: 3014-AA00

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD (ATBCB)

Final Rule Stage

2591. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD PROGRAMS

Significance: Agency Priority

Legal Authority: 29 USC 794 Rehabilitation Act of 1973, as amended

CFR Citation: 36 CFR 1154

Legal Deadline: None

Abstract: This proposed regulation sets forth procedures and policies to assure nondiscrimination on the basis of handicap in programs and activities conducted by the Board. Patterned on the prototype regulation prepared by the Department of Justice, the draft regulation is under consideration by the Board.

Timetable:

Action	Date	FR Cite
NPRM	03/11/85	
NPRM Comment Period End	07/09/85	
Final Action	03/00/86	

Small Entity: No

Additional Information: Phone number of agency contact is voice or TDD.

Agency Contact: Ms. Debra Fischer, Acting General Counsel, Architectural and Transportation Barriers Compliance Board, 330 C Street, SW, Room 1010, Washington, DC 20202, 202 245-1801

RIN: 3014-AA02

2592. ● COMPLIANCE WITH STANDARDS FOR ACCESS TO AND USE OF BUILDINGS BY HANDICAPPED PERSONS

Legal Authority: 29 USC 794 Rehabilitation Act of 1973, as amended

CFR Citation: 36 CFR 1150

Legal Deadline: None

ATBCB

Final Rule Stage

Abstract: The current regulation sets forth procedures to ensure compliance with standards issued under the Architectural Barriers Act of 1968, Pub. L. 90-480, as amended, 42 U.S.C. 4151 et seq. The Board will consider revision of this regulation to provide a 180 day period for informally resolving complaints in place of the current 90 day period.

Timetable:

Action	Date	FR Cite
Interim Final with Request for Comment	07/00/86	
Interim Final Comment Period End	09/00/86	
Final Action	12/00/86	

Small Entity: No

Agency Contact: Ms. Debra Fischer, Acting General Counsel, Architectural and Transportation Barriers Compliance Board, 330 C Street, SW, Room 1010, Washington, DC 20202, 202 245-1801

RIN: 3014-AA03

[FR Doc. 86-4522 Filed 04-18-86; 8:45 am]

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Part XIX

Council on Environmental Quality

Semiannual Regulatory Agenda

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CEQ

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1502

Semiannual Agenda of Regulations

February 4, 1986

AGENCY: Council on Environmental Quality.

ACTION: Publication of the semiannual agenda of regulations.

SUMMARY: Pursuant to the Regulatory Flexibility Act (5 U.S.C. 605) and Executive Order No. 12291, "Federal Regulations," dated February 12, 1981 the Council on Environmental Quality is required to publish in April and October of each year an agenda of proposed regulations that the Council has issued or expects to issue and current rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Questions should be addressed to: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place, N.W., Washington, D.C. 20006 (202) 395-5754.

A. Alan Hill,
Chairman.

COUNCIL ON ENVIRONMENTAL QUALITY (CEQ) — **Final Rule Stage**

2593. INCOMPLETE OR UNAVAILABLE INFORMATION

Significance: Regulatory Program

Legal Authority: EO 11991; 42 USC 4321 to 4347

CFR Citation: 40 CFR 1502.22

Legal Deadline: None

Abstract: An Advance Notice of Proposed Rulemaking reported in the April, 1985 Semiannual Agenda resulted in a Council decision to amend 40 C.F.R. 1502.22. The regulation had been under review for resolution of the issues raised by judicial opinions. A proposed amendment was published in the Federal Register on Friday, August 9, 1985. 50 Fed. Reg. 32.234 (1985).

The Council received 184 comments on the proposed amendment. The Council is currently in the process of developing the final amendment.

Timetable:

Action	Date	FR Cite
ANPRM	12/31/84	49 FR 50744
ANPRM Comment Period End	02/15/85	49 FR 50744
NPRM	08/09/85	50 FR 32234
NPRM Comment Period End	09/23/85	50 FR 32234
Final Action	04/00/86	

Small Entity: Undetermined

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: Multiple

Government Levels Affected: State, Federal

Agency Contact: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place, NW, Washington, DC 20006, 202 395-5754

RIN: 0331-AA01

[FR Doc. 86-4523 Filed 04-18-86; 8:45 am]
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Part XX

Environmental Protection Agency

Semiannual Regulatory Agenda

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EPA

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL #2900-9]

Regulatory Agenda

AGENCY: Environmental Protection Agency (EPA).

ACTION: Regulatory agenda.

SUMMARY: EPA revises the Regulatory Agenda semiannually and it appears in the Federal Register each April and October. It provides specific information on the status of regulations that are under development, revision, and review at the Agency. The Agenda is published to keep interested parties informed of the progress of EPA regulations.

ADDRESSES: For specific information on any item in the Agenda, please contact the person listed with each entry.

If you have any suggestions for improving this publication, or need general information about the Agenda, please call or write to Angela Tyler, Regulation Management Staff, Environmental Protection Agency, PM-223, Washington, D.C. 20460, (202) 382-7205.

If you want to be on the mailing list for future Agendas, please call or write to Penelope Parker, Regulation and Information Management Division, Environmental Protection Agency, PM-223, Washington, D.C. 20460, (202) 382-5480.

FOR FURTHER INFORMATION CONTACT: Angela Tyler, (202) 382-7205.

SUPPLEMENTARY INFORMATION:

Organization of the Agenda

The Agenda is organized by statutory area -- generally by the titles of the major legislation authorizing EPA's pollution control programs. In a few cases, the Agenda combines regulations with differing statutory authorities that have closely-related subject matter. For example, the Fuel Economy Data regulation under the Energy Policy and Conservation Act appears together with mobile source regulations under the Clean Air Act.

The statutory areas appear in the following order:

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)
Federal Food, Drug, and Cosmetics Act (FFDCA)
Toxic Substances Control Act (TSCA)
Clean Water Act (CWA)
Marine, Protection, Research, and Sanctuaries Act (MPRSA)
Atomic Energy Act (AEA)
Safe Drinking Water Act (SDWA)
Resource Conservation and Recovery Act (RCRA)
Hazardous and Solid Waste Management Act (HSWA)
Clean Air Act (CAA)
Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
General -- Other Acts (including general grant and procurement regulations and regulations that cut across several program areas)

Within each statutory area the entries are divided into four categories: (1) Prerulemakings; (2) proposed rules; (3) final rules; and (4) regulations that EPA is deleting from the Agenda because the Agency has completed, withdrawn, or postponed them indefinitely. Detailed information on each of these sections is presented below.

Appendix A includes a list of abbreviations of terms used in this document.

I. Prerulemakings

Prerulemaking actions are those activities underway at EPA that are intended to determine whether, or how, to initiate rulemaking. These activities would occur prior to proposed rulemaking, and includes anything that influences or leads to rulemaking. These activities include advance notices of proposed rulemaking; significant studies or analyses of the possible need for regulatory action; requests for public comment on the need for regulatory action; or important regulatory policy proposals.

This section also includes existing EPA regulations: (1) that are now under review, or (2) whose review will begin before EPA publishes the next Agenda. The purpose of such reviews is to determine whether the Agency should revise the rule, rescind it, or leave it unchanged. When finished, these reviews will appear in the completed section of the Agenda. If EPA decides to review or rescind the regulation, the action will appear in the following Agenda with an entry in the proposed rule section, and will state the timetable for completing the revision or rescission.

For each regulation under review, the Agenda provides the title, a short abstract, legal authority, CFR reference, any analysis EPA is preparing, contact person, and the schedule for completing the review. It also indicates the "review authority," which in many cases is different from the regulation's statutory authority. EPA reviews regulations under various mandates, and some reviews satisfy more than one of these mandates. The principal mandates are:

Executive Order 12498 is intended to establish annually the Administration's Regulatory Program. It defines priority activities that the Agency will work on during the upcoming year. Its purpose is to minimize duplication and conflict among regulatory activities across different agencies and enhance public understanding of the Administration's regulatory objectives.

Executive Order 12291 establishes the general policy that EPA should review its regulations to ensure that the costs of these regulations are justified by their benefits.

The Regulatory Flexibility Act requires that EPA review existing regulations that have a significant economic impact on a substantial number of small entities, including small businesses, small organizations, and small governments, at least once every ten years. EPA invites public comment on the need to revise the list of regulations EPA is reviewing under the Regulatory Flexibility Act.

Reviews under the RFA are identified by a "Yes" in the "small entity" category. When the Agency completes reviews of regulations with a significant impact on small entities, the Agenda entry includes an abstract that announces the Agency's decision of whether to revise, rescind, or leave the regulation unchanged. This announcement complies with the RFA and EPA's July 16, 1981 plan (46 FR 36930) for reviewing regulations under the Act.

The Paperwork Reduction Act requires EPA to review its information collection activities to determine that the Agency needs and will actually use all of the information that will be collected. The Agency should make sure that it will manage the information as efficiently as possible. EPA must also ensure that the information to be collected is of high quality, appropriate for its intended use, and does not already exist at EPA or at some other Federal agency. In addition, the Act requires EPA to review the cost of collecting the information, so that it will be held to a minimum for both the respondent and EPA.

EPA

Proposed and Final Rules

Regulations are generally listed in the Agenda once they are within a year of scheduled publication as a notice of proposed rulemaking (NPRM) or final action. Very important regulations under development will usually appear even if the scheduled publication dates are more than a year away.

Proposed and final rules appear as: (a) Actions that will create new CFR parts, subparts, or subsections; or (b) actions that revise or amend already existing CFR parts, subparts, or subsections. The word "revision" will appear in parentheses after the title of each regulation undergoing revision. All regulations appearing in the Agenda for the first time are marked with bullets (●).

The regulations are ordered numerically, by section number of the authorizing legislation. For example, all air regulations under section 109 of the Clean Air Act will appear before those under section 111.

This section includes all "significant" EPA regulations. Some are top priority regulations under development that:

- Are subject to Executive Order 12498; or
- The Agency has designated for priority development or revision.

However, the listings exclude: (a) Specialized categories of actions (such as EPA approvals of state plans and other actions that do not apply nationally); and (b) routine actions (such as pesticide tolerances and minor amendments to existing rules).

For each proposed and final regulation, the Agenda includes:

- The title
- The priority classification (if applicable)
- The legal authority
- The CFR reference
- A short abstract
- An analysis section (if the Agency is preparing a Regulatory Impact Analysis [RIA] and/or a Regulatory Flexibility Analysis [RFA])
- A timetable of existing and scheduled actions
- A reference to small entity impacts
- An Agency contact, and
- An additional information section

The additional information section includes the FTS phone number for the Agency contact. It also includes the Start Action Request (SAR) number, which is assigned to the regulation for internal tracking purposes.

III. Completed Actions

These are actions that appeared in the last Agenda, but which EPA is deleting because they are completed or are no longer under consideration. The information given on these regulations and reviews of regulations is less detailed than for those that are still under consideration. Generally, entries include: (1) The date and Federal Register citation, if any, of the last action on the regulation, and (2) an explanation of why the Agency is deleting the regulation from the Agenda.

DATED: March 13, 1986.

John M. Campbell,

Deputy Assistant Administrator for Policy, Planning, and Evaluation.

Appendix A--(Abbreviations)

ANPRM - Advance Notice of Proposed Rulemaking
AOD - Argon-Oxygen Decarbonization
BAT - Best Available Technology
BCT - Best Conventional Technology
BOD - Biochemical Oxygen Demand
BPT - Best Practicable Technology
CA - Cooperative Agreements
CAG - Carcinogenic Assessment Group
CBOD - Carbonaceous Biochemical Oxygen Demand
CEQ - Council on Environmental Quality
CFR - Code of Federal Regulations
DOE - Department of Energy
EAF - Electric Arc Furnaces
FR - Federal Register
FTS - Federal Telecommunications System
GCWR - Gross Combination Weight Rating
GVWR - Gross Vehicle Weight Rating
HDE - Heavy-Duty Engine
HDT - Heavy-Duty Truck
HDV - Heavy-Duty Vehicle
ICS - Intermittent Control System
LDT - Light-Duty Truck
LDV - Light-Duty Vehicle
MCL - Maximum Contaminant Level
NEPA - National Environmental Policy Act
NESHAPS - National Emission Standards for Hazardous Air Pollutants
NPDES - National Pollutant Discharge Elimination System
NPRM - Notice of Proposed Rulemaking
NRDC - Natural Resources Defense Council
NSO - Nonferrous Smelter Orders
NSPS - New Source Performance Standards
OAQPS - Office of Air Quality Planning and Standards
OPP - Office of Pesticide Programs
OPTS - Office of Pesticides and Toxic Substances
OSHA - Occupational Safety and Health Administration
PCB - Polychlorinated Biphenyl
POTW - Publicly Owned Treatment Work
PSD - Prevention of Significant Deterioration
PSES - Pretreatment Standards for Existing Sources
PSNS - Pretreatment Standards for New Sources
RFA - Regulatory Flexibility Act
RIA - Regulatory Impact Analysis
RIN - Regulatory Identifier Number
RMCL - Recommended Maximum Contaminant Level
SAR - Start Action Request
SIC - Standard Industrial Code
SSC - State Superfund Contracts
TSS - Total Suspended Solids
UIC - Underground Injection Control
USC - United States Code
VOC - Volatile Organic Chemical

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2594	SAR NO.2339 Toxicology Data Requirements for Antimicrobial Pesticides	2070-AB51
2595	SAR NO.2317 Restricted Use Classification for Certain Active Ingredients used in Termiticides	2070-AB53
2596	SAR NO.2337 Sale of Restricted Use Pesticides to Noncertified Applicators	2070-AB48

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EPA

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2597	SAR NO.2314 Pesticide Advertising	2070-AB47
2598	SAR No. 2006. Guidelines on Disposal and Storage of Pesticides (Revision)	2070-AA61
2599	SAR No. 1640. Worker Protection Standards for Agricultural Pesticides (Revision)	2070-AA49
2600	SAR NO.2013 User Charges for Pesticide Registrations	2070-AB52

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2601	SAR No. 1828. Restricted Use Classification for Certain Active Ingredients Used in Fumigants	2070-AA00
2602	SAR No. 1964. Comprehensive Revision of Pesticide Registration and Classification Procedures (Revision)	2070-AA56
2603	SAR No. 1965. Pesticide Products; Package Size Exemption for Child Resistant Packaging (Revision)	2070-AA93
2604	SAR No. 2123. Policy Statement Regarding Certain Microbial Products	2070-AB34
2605	SAR No. 2269. Labeling Requirements for Pesticides and Devices (Revision)	2070-AB46
2606	SAR NO.2338 Reporting Requirements for Risk/Benefits Information	2070-AB50
2607	SAR No. 1747. Registration of Pesticide Producing Establishments (Revision)	2070-AA04
2608	SAR NO.1829 Restricted Use Classification for Certain Active Ingredients used in Granular Insecticides	2070-AB49

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2609	SAR No. 1932. Special Review Criteria and Procedures (Revision)	2070-AA57
2610	SAR No. 2252. Pesticide Registration Standards: Docketing and Public Participation Procedures	2070-AB33
2611	SAR No. 1963. Tolerance Fees for Pesticide Chemicals (Revision)	2070-AA46
2612	SAR No. 2180. Enforcement Policy Regarding Failures to Report Information Under Section 6(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)(REVISION)	2070-AB12
2613	SAR No. 2179. Rescission of Efficacy Data Waiver for Vertebrate Control Products (Revision)	2070-AB19
2614	SAR No. 2017. Rule Governing Issuance of Emergency Exemptions from FIFRA (Revision)	2070-AA41

Toxic Substances Control Act (TSCA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2615	SAR No. 2032. Regulatory Investigation of 2-Ethoxyethanol, 2-Methoxyethanol and Their Acetates (Glycol Ethers) (Revision)	2070-AA71

Toxic Substances Control Act (TSCA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2616	SAR No. 1137. Decisions on Test Rules for the Interagency Testing Committee (ITC) Priority Lists	2070-AB07
2617	SAR No. 2124. Strategies for Control/Information Collection for Chemical Categories	2070-AB17
2618	SAR No. 1923. Follow-up Rules on Existing Chemicals	2070-AA58
2619	SAR No. 1976. Follow-up Rules on Non-5(e) New Chemicals	2070-AA59
2620	SAR No. 2246. Chemical Specific Significant New Use Rules to Extend Provisions of Section 5(e) Orders	2070-AB27
2621	SAR NO. 2247 Generic Significant New Use Rule for Acrylate Compounds	2070-AB56
2622	SAR NO.2325 Significant New Use Rule for Pathogens and Microorganisms Containing Genetic Material from Pathogens	2070-AB57

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Toxic Substances Control Act (TSCA)—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2623	SAR No.2326 PMN Rule: Applicability of R&D Exemption to Living Microorganisms	2070-AB58
2624	SAR No. 2149. Regulatory Investigation of Metalworking Fluids	2070-AB09
2625	SAR No. 2146. Regulatory Investigation of Formaldehyde	2070-AB14
2626	SAR No. Regulatory Investigation of 4,4'-Methylenebis (2- Chloroaniline)(MBOCA)	2070-AB22
2627	SAR No.2243. Asbestos Abatement Building Occupant Protection Rule	2070-AB23
2628	SAR No.2244. Polychlorinated Biphenyls (PCBs): Manufacturing, Processing, Distribution in Commerce, and Use Prohibitions; Exclusions and Use Authorizations (Revision)	2070-AB25
2629	SAR No. 2284. Regulatory Investigation of Methylene Chloride	2070-AB41
2630	SAR No. 2295. Asbestos in Schools Reinspection Rule	2070-AB44
2631	SAR No. 2297. PCB Spills Cleanup Policy and PCB Recordkeeping Amendments (Revision)	2070-AB45
2632	SAR NO. 1680 Labeling Rule for Treated Wood	2070-AB55
2633	SAR No. 2178. Section 8 (a) Preliminary Assessment Information Rule	2070-AB08
2634	SAR No. 2129. TSCA Section 8(a) Comprehensive Assessment Information Rule (CAIR)	2070-AB13
2635	SAR No.2327 Collection of Information on Living Microorganisms Released to the Environment	2070-AB59
2636	SAR NO.2324 User Fees for Processing PMNs	2070-AB54

Toxic Substances Control Act (TSCA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2637	SAR No. 2253. Dioxins/Furans: Testing Rule and Requirements for Data Submission	2070-AB21
2638	SAR No. 2245. Negotiated Consent/Procedural Test Rule (Revision)	2070-AB30
2639	SAR No. 1134a. Premanufacture Notification: Stayed Provisions (Revision)	2070-AA94
2640	SAR No. 2250. General Regulations on Significant New Use Rules (SNURs) (Revision)	2070-AB26
2641	SAR No. 2123. Policy Statement Regarding Certain Microbial Products	2070-AB31
2642	SAR No. 2150. Polychlorinated Biphenyls (PCBs): Applications for Exemptions from the Ban on Manufacturing, Processing, and Distribution	2070-AB20
2643	SAR No. 2249 Asbestos Abatement Worker Protection Rule	2070-AB24
2644	SAR No. 2296. Action Concerning Commercial and Industrial Use of Asbestos	2070-AB29
2645	SAR No. 2115. Partial Updating of Certain TSCA Inventory Data	2070-AA99
2646	SAR No. Review of TSCA Section 8(c) Adverse Reactions Reporting and Recordkeeping Requirements(Revision)	2070-AB03
2647	SAR No. 1139a. Section 8(d) Health and Safety Data Reporting Rule	2070-AB11
2648	SAR No. 1139b. Section 8(d) Health and Safety Reporting Rule (revision)	2070-AB35

Toxic Substances Control Act (TSCA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2649	SAR No. 2114. Section 9 Report on 1,3-Butadiene	2070-AB04
2650	SAR No. 1138a. Section 8(c) Records and Reports of Allegations of Significant Adverse Reactions to Health and the Environment (Revision)	2070-AA86
2651	SAR No. 1137d. Chemical Information Rules; Additional Automatic Reporting (Revision)	2070-AA96

Clean Water Act (CWA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2652	SAR No. 2342. Regulations to Implement Recommendations of the Domestic Sewage Study	2040-AA99
2653	SAR No. 1404. Requirements for Application for 301(c) Variances	2040-AA01

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Clean Water Act (CWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2654	SAR No. 2300. Guidelines for Classifying Groundwater under the EPA Groundwater Protection Strategy	2040-AA85
2655	SAR No. 1910. Effluent Guidelines for Adhesives and Sealants	2040-AA30
2656	SAR No. 2213. Effluent Guidelines for Plastics Molding and Forming (Phthalates)	2040-AA77
2657	SAR No. 1409. Effluent Guidelines for Leather Tanning (Revision)	2040-AA91
2658	SAR No. 1438. Effluent Guidelines for Aluminum Forming (Revision)	2040-AA92
2659	SAR NO.1410 Effluent Guidelines for Nonferrous Metals: (Phase I)	2040-AA96
2660	SAR No. 2304. Future Effluent Guidelines – Standards Initiatives	2040-AA90
2661	SAR No. 2212. General Pretreatment Regulations: Response to PIRT (Revision)	2040-AA81
2662	SAR No. 2162. Sewage Sludge Use and Disposal Regulations	2040-AA74
2663	SAR No. 2189 Comprehensive Revisions to Ocean Dumping Regulations	2040-AA78
2664	SAR No. 2301. Incineration-at-Sea Site Designations (North Atlantic and Pacific)	2040-AA88

Clean Water Act (CWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2665	SAR No. 2163. State Sludge Program Regulations	2040-AA73
2666	SAR No. 1722. Simplifying Construction Grants Regulations (Revision)	2040-AA70
2667	SAR No. 1725. NPDES New Source and Short Application Forms (Revision)	2040-AA00
2668	SAR No. 1415. Effluent Guidelines for Organic Chemicals and Plastics and Synthetic Fibers	2040-AA05
2669	SAR No. 1649. Effluent Guidelines for Offshore Oil and Gas Extraction Industry (Revision)	2040-AA12
2670	SAR No. 1427. Effluent Guidelines for Pharmaceuticals	2040-AA13
2671	SAR No. 1425. Effluent Guidelines for Gum and Wood (Revision)	2040-AA17
2672	SAR No. 1420. Effluent Guidelines for Rubber Processing (Revision)	2040-AA42
2673	SAR No. 1969. Effluent Guidelines for Pulp, Paper, and Paperboard (PCB's) (Revision)	2040-AA83
2674	SAR No. 1413. Effluent Guidelines for Ore Mining and Dressing (Placer Mining)	2040-AA85
2675	SAR No. 1433. Effluent Guidelines for Copper Forming (Revision)	2040-AA93
2676	SAR No. 1434. Effluent Guidelines for Battery Manufacturing	2040-AA95
2677	SAR No. 1752. Best Conventional Pollutant Control Technology (BCT) Cost Test and BCT Effluent Guidelines(Revision)	2040-AA45
2678	SAR No. 1900. General Pretreatment Regulations: Definitions for Passthrough and Interference (Revision)	2040-AA46
2679	SAR No. 1451. Hazardous Substances Pollution Prevention for Facilities Subject to Permitting Requirements of Section 402	2040-AA34
2680	SAR No. 1579. Discharge of Oil (Revision)	2040-AA48
2681	SAR No. 2200. NPDES Regulations: Stormwater Application Requirements (Revision)	2040-AA79
2682	SAR No. 2140. Ocean Incineration Regulation (Revision)	2040-AA72

Clean Water Act (CWA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2683	SAR No. 2267. Cost Control of Construction Grant Increases Regulation (Revision)	2040-AA71
2684	SAR No. 1411. Effluent Guidelines for Paint Formulation	2040-AA15
2685	SAR No. 1411A. Effluent Guidelines for Ink Formulation	2040-AA16
2686	SAR No. 1426. Effluent Guidelines for Pesticides	2040-AA18
2687	SAR No. 1432. Effluent Guidelines for Metal Molding and Casting (Foundries)	2040-AA20
2688	SAR No. 1911. Effluent Guidelines for Nonferrous Metals (Phase II)	2040-AA27
2689	SAR No. 1414. Effluent Guidelines for Coal Mining (Revision)	2040-AA66

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Atomic Energy Act (AEA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2690	SAR No. 2073. Residual Radioactivity	2060-AB31

Atomic Energy Act (AEA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2691	SAR No. 1525. Radiofrequency Radiation Guidance	2060-AA02
2692	SAR No. 1727. Environmental Protection Standards for Low-Level Radioactive Waste	2060-AA04

Atomic Energy Act (AEA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2693	SAR No. 1161. Guidance for Occupational Radiation Exposure (Revision)	2060-AA00
2694	SAR No. 1162. Transuranium Elements	2060-AA01

Safe Drinking Water Act (SDWA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2695	SAR No. 1755. National Primary Drinking Water Regulations: Inorganic and Organic Compounds and Microbiological Contaminants and Turbidity (Revision)	2040-AA55
2696	SAR No. 2281. National Primary Drinking Water Regulation: Radionuclides	2040-AA94
2697	SAR NO.2340 National Primary Drinking Water Regulation: Disinfectants and Disinfection By-products	2040-AA97
2698	SAR No. 2131 Underground Injection Control Program: Indian Lands	2040-AA76

Safe Drinking Water Act (SDWA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2699	SAR No. 1567. National Primary Drinking Water Regulations: Maximum Contaminant Levels for Volatile Organic Chemicals Found in Drinking Water	2040-AA53
2700	SAR No. 1756. National Primary Drinking Water Regulations: Fluoride (Revision)	2040-AA56

Noise Control Act (NCA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2701	SAR No. 2046. Withdrawal of Products from the Agency's Reports Identifying Major Noise Sources and Withdrawal of Proposed Rules	2060-AB24

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Noise Control Act (NCA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2702	SAR No. 2045. Motor Carriers Engaged in Interstate Commerce: Noise Emission Standards (Revision)	2060-AB20

Resource Conservation and Recovery Act (RCRA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2703	SAR No. 2211. Prohibition of Underground Injection of Wastes	2050-AB34

Resource Conservation and Recovery Act (RCRA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2704	SAR No. 2207. Containerized Liquids in Landfills	2050-AB12
2705	SAR NO.2334 Corrective Action at Federal Facilities	2050-AB63
2706	SAR NO.2332 Mandatory Inspection Regulation	2050-AB50
2707	SAR No. 2204. Retrofitting Interim Status Surface Impoundments	2050-AB03
2708	SAR No. 2224 Criteria for Classification of Solid Waste Disposal Facilities and Practices (Revision)	2050-AB21
2709	SAR No. 2240. Air Emission Regulations for Hazardous Waste Treatment, Storage, and Disposal Facilities	2050-AB33
2710	SAR No. Identification and Listing of Hazardous Wastes	2050-AB46
2711	SAR No. 2208. Hazardous Waste Exports	2050-AB13
2712	SAR No. 2062. Identification and Listing of Hazardous Wastes: Toxicity Characteristic (Modification)	2050-AA78
2713	SAR No. 1617. Hazardous Waste Management: Miscellaneous Units (Subpart X)	2050-AA23
2714	SAR No. 2078. Hazardous Waste as Fuels: Technical Standards(Revision)	2050-AA72
2715	SAR No. 2060. Land Disposal Liner and Leak Detection Regulation (Revision)	2050-AA76
2716	SAR No. 2225. Financial Responsibility for Corrective Action: Continuing Releases	2050-AB22
2717	SAR No. 2229 and 2273 Use of Appendix VIII for Groundwater Monitoring (Revision)	2050-AB27
2718	SAR No. 1948. Standards for Owners/Operators of Waste Facilities: Financial Responsibility for Corrective Action-As Necessary and Desirable	2050-AB39
2719	SAR No. 2187. Proposed Codification Rule for the 1984 RCRA Amendments	2050-AB58
2720	SAR NO. 2254 Restriction of Land Disposal of Certain Hazardous Wastes: California List	2050-AB65
2721	SAR No. 2363. RCRA Location Standards for Hazardous Waste Treatment, Storage, and Disposal Facilities	2050-AB67
2722	SAR No. 2156. Amendment to State Program Capability Requirements	2050-AB01
2723	SAR No. 2257. Guidelines for Procurement of Re-refined Oil	2050-AB53
2724	SAR No. 2221. Leaking Underground Storage Tanks: Regulations for Tanks	2050-AB19
2725	SAR No. 2234. Requirements for Authorization of States: Underground Storage Tank Programs	2050-AB31
2726	SAR NO. 2556 Corrective Action Regulations for Underground Storage Tanks	2050-AB61

Resource Conservation and Recovery Act (RCRA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2727	SAR No. 2111. Identification and Listing of Hazardous Wastes: Acute Hazardous Waste Mixture Rule (Revision)	2050-AA85
2728	SAR No. 2105. Identification and Listing of Hazardous Wastes: Listing of Commercial Chemical Products (Revision)	2050-AA87
2729	SAR 2274 Identification and Listing of Hazardous Waste: Iron Dextran	2050-AB54
2730	SAR No. 2168. Proposed Reinterpretation of Mining Waste Exclusion (Smelting/Refining)(Revision)	2050-AB56
2731	SAR NO. 2187. State Authorization Codification Rule	2050-AB64
2732	SAR No. 1713. Standards for the Management of Specific Hazardous Wastes: Waste Oil(Revision)	2050-AA00
2733	SAR No. 2068. Identification and Listing of Hazardous Wastes: Test Methods for Hazardous Waste (Revision)	2050-AA82
2734	SAR No. 2188. Schedule for Reviewing Wastes for Possible Land Disposal Restriction	2050-AA97
2735	SAR No. 1878. Restriction of Land Disposal of Certain Hazardous Wastes: Solvents, Dioxins and Establishing the Framework for EPA's Land Disposal Program	2050-AA30
2736	SAR No. 1844. Consolidated Permits: Class Permits(Revision)	2050-AA36
2737	SAR No. 1957. Standards for Storage or Treatment of Hazardous Waste in Tank Systems(Revision)	2050-AA57

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Resource Conservation and Recovery Act (RCRA)—Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2738	SAR No. 2165. Standards for Owners and Operators of Waste Facilities: Closure and Post-Closure Care (Revision)	2050-AB00
2739	SAR No. 2223 and 2273 Alternate Concentration Limits (ACL)and Other Groundwater Regulatory Amendments (Revision)	2050-AB20
2740	SAR No. 2273. Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Liability Storage	2050-AB47
2741	SAR No. 1805. Consolidated Permits: Minor Modifications to Existing RCRA Permits (Revision)	2050-AA37
2742	SAR No. 2011. Guideline for Federal Procurement of Paper and Paper Products Containing Recovered Materials	2050-AA68
2743	SAR No. 2259. Guidelines for Rubber Asphalt	2050-AB52
2744	SAR No. 2222. Interpretive Rule for the Lust Interim Prohibition	2050-AB57

Resource Conservation and Recovery Act (RCRA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2745	SAR No. 1935. RCRA Small Quantity Generator Rule (Revision)	2050-AA59
2746	SAR No. 2079. Hazardous Waste as Fuels: Administrative Standards	2050-AA74
2747	SAR No. 2206. Streamlining Approval of State Program Revisions	2050-AB11
2748	SAR No. 2209. Notification Form for Underground Tanks	2050-AB14

Clean Air Act (CAA)—Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2749	SAR No. 1919. NAAQS: Lead	2060-AA95
2750	SAR No. 1920. NAAQS: Ozone	2060-AA96
2751	SAR No. 1119. NSPS: Perchloroethylene Dry Cleaning	2060-AA14
2752	SAR No. 2264. NSPS: Primary Aluminum Reduction Plants	2060-AB36
2753	SAR No. 2265. NSPS: Secondary Lead Smelters	2060-AB39
2754	SAR NO.2330 NSPS: Petroleum Refineries	2060-AB93
2755	SAR No. 2029. NESHAPS: Beryllium	2060-AB07
2756	SAR No. 2181. Decisions on Regulating Various Air Pollutants	2060-AB56
2757	SAR No. 2287 Hydrocarbon Standards for Light-Duty Trucks (Revision)	2060-AB85
2758	SAR No. 1328. Fuels and Fuel Additives	2060-AA59

Clean Air Act (CAA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2759	SAR NO. 2302. Fuel Economy and Emissions Test Procedures for Light-Duty Vehicles (Revised)	2060-AB90
2760	SAR No. 1002. NAAQS for Sulfur Oxides (Revision)	2060-AA81
2761	SAR No. 1695. NSPS: Solvent Degreasing(111d)	2060-AA33
2762	SAR No. 1691. NSPS: Polymer and Resin Manufacture	2060-AA37
2763	SAR No. 2028. NSPS: Sewage Treatment Plants (Revision)	2060-AB05
2764	SAR No. 2075. NSPS: Industrial Boilers, S02	2060-AB33
2765	SAR No. 2184. NSPS: SOCMI Reactor Processes	2060-AB55
2766	SAR No. 2237. NSPS: Polymeric Coating of Supporting Substrates	2060-AB67
2767	SAR No. 2236. NSPS: Residential Wood Combustion	2060-AB68
2768	SAR No.1696 NSPS: VOC Emissions from Petroleum Refinery Wastewater Systems	2060-AB81
2769	SAR NO. 2239 NSPS: Smelt Boilers	2060-AB95
2770	SAR No. 1686. NESHAPS: Coke Oven Emissions from By-Product Coke Oven Charging, Door Leaks, and Topside Leaks on Wet-Coal Charged Batteries	2060-AA48
2771	SAR No. 1714. NESHAPS: Asbestos (Revision)	2060-AB51
2772	SAR No.2181 NESHAPS: Chromium(Revision)	2060-AB83

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Clean Air Act (CAA)—Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2773	SAR NO. 1969 NESHAPS: Cadmium	2060-AB82
2774	SAR No. 2112. Emission Standards, Test Procedures and CAFE Equivalency Factors for Methanol-Fueled New Motor Vehicles	2060-AB28
2775	SAR NO.2318 Control of Excess Evaporative Emissions/Fuel Volatility	2060-AB89
2776	SAR No. 2143. Small-Volume Manufacturers Certification Procedure (Revision)	2060-AB54
2777	SAR No. 2136. Emission Performance Warranty Regulations (Revision)	2060-AB33
2778	SAR No. 2145 Voluntary Aftermarket Parts Certification Regulations (Revision)	2060-AB98
2779	SAR No. 2215 Fuel and Fuel Additives: Preventative Action Program to Prevent Self-Serve Fuel Switching	2060-AB99
2780	SAR NO. 2240. Treatment, Storage, and Disposal Facility Area Source Air Emissions - RCRA Standards	2060-AB94

Clean Air Act (CAA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2781	SAR No. 1003. NAAQS for Particulate Matter (Revision)	2060-AA62
2782	SAR No. 1845. New Source Review (Revision)	2060-AA88
2783	SAR No. 2102. Ambient Air Quality Surveillance (Revision)	2060-AB47
2784	SAR No. 1503. Restructure CFR Parts 51, 52 (Revision)	2060-AB48
2785	SAR No. 1741. Quality Assurance Procedures, Appendix F, Procedure 1	2060-AA09
2786	SAR No. 1006. NSPS: Stationary Internal Combustion Engines	2060-AA11
2787	SAR No. 1010. NSPS: Solvent Degreasing	2060-AA12
2788	SAR No. 2076 NSPS: Industrial Boilers–Particulate Matter and NOx	2060-AA22
2789	SAR No. 1612. NSPS: Volatile Organic Liquids Storage	2060-AA23
2790	SAR No. 1615. NSPS: Rubber Products Industry-Tire Manufacturing	2060-AA24
2791	SAR No. 1616. NSPS: Synthetic Organic Chemical Industry: Air Oxidation Process	2060-AA30
2792	SAR No. 1733. NSPS: Distillation Operations	2060-AA35
2793	SAR No. 1736. NSPS: Petroleum Refinery, FCC Regenerators	2060-AA36
2794	SAR No. 1959. NSPS: Kraft Pulp Mills (Revision)	2060-AA37
2795	SAR No. 2044. NSPS: Automobile and Light-Duty Truck Coating Operations	2060-AB32
2796	SAR No. 2083. NSPS: Fossil Fuel-Fired Steam Generators (Revision)	2060-AB29
2797	SAR No. 2186 NSPS: Cement Plants (Revision)	2060-AB38
2798	SAR No. 2236. NSPS: Surface Coating of Plastic Parts for Business Machines	2060-AB86
2799	SAR No.1928 NSPS: Magnetic Tape Manufacturing	2060-AB96
2800	SAR No. 1969. Decision on Regulation of Cadmium	2060-AA38
2801	SAR No. 1684. NESHAPS: Arsenic from Smelters and Other Sources	2060-AA41
2802	SAR No. 1685. NESHAPS: Benzene in Coke Ovens/By-Products Plants	2060-AA42
2803	SAR No. 1971. NESHAPS: Vinyl Chloride (Revision)	2060-AB06
2804	SAR No. 2137. NESHAPS: Mercury (Revision)	2060-AB44
2805	SAR No. 2217 NESHAPS: Radionuclides: Uranium Mills	2060-AB57
2806	SAR No. 1893. Dispersion Techniques Implemented Before Enactment of the Clean Air Act Amendments of 1970	2060-AA49
2807	SAR No. 1941. "Guideline on Air Quality Models" (Revision)	2060-AB13
2808	SAR No. 1317. Importation of Motor Vehicles and Motor Vehicle Engines (Revision)	2060-AA54
2809	SAR No. 2290. Removal of Lead from EPA Certification and Test Fuels (Revision)	2060-AB87
2810	SAR No. 2214. Fuel and Fuel Additives: Gasoline Lead Content (Revision)	2060-AB60
2811	SAR NO.2294 X-ray Test Procedures for Measuring Lead Content in Fuels	2060-AB91
2812	SAR No. 2289. Fuel Economy Test Procedures; Adjustment to Test Results to Account for Test Procedure Changes (light-duty trucks)	2060-AB66

Clean Air Act (CAA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2813	SAR No. 1671. NSPS: Basic Oxygen Furnaces (Revision)	2060-AA72
2814	SAR No. 2028. NSPS: Sulfuric Acid Manufacture	2060-AB92
2815	SAR No. 2110. NSPS: On-Shore Production for Sulfur Dioxide	2060-AB27
2816	SAR No. 2266. NSPS: Asphalt Concrete Plants	2060-AB41
2817	SAR No. 2070. NSPS: Reporting Requirements for Opacity	2060-AB42

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Clean Air Act (CAA)—Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
2818	SAR No. 2239. NSPS: Small Boilers	2060-AB69
2819	SAR No.2292 NSPS: Coal Preparation Plants	2060-AB84
2820	SAR No. 1681. NESHAPS General Provisions (Revision)	2060-AA79
2821	SAR No. 2233. Nonconformance Penalties for 1987 and Later Model Year Heavy-Duty Engines (HDEs), Heavy-Duty Vehicles (HDVs), and Light-Duty Trucks (LDTs) (Phase II)	2060-AB65

Superfund (CERCLA)—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2822	SAR No. 1642C. Notification of Continuous Release of Hazardous Substances	2050-AA46
2823	SAR No. 2104. Adjustment of Reportable Quantities of Hazardous Substances Identified as Potential Carcinogens and Chronically Toxic Substances (Revision)	2050-AA80
2824	SAR NO.2335 Adjustment of Reportable Quantities of Hazardous Substances (Radionuclides)	2050-AB60
2825	SAR NO.2336 Adjustment of Reportable Quantities of Hazardous Substances (Acute Air Toxicants)	2050-AB62
2826	SAR No. 2065. Amendments to the National Oil and Hazardous Substances Pollution Contingency Plan	2050-AA75
2827	SAR No. 2077. National Priorities List (NPL) (Revision)	2050-AA79
2828	SAR No. 2160. Response Claims Procedures	2050-AA90

Superfund (CERCLA)—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2829	SAR No. 2291. Adjustments of Reportable Quantities of 105 Hazardous Substances (Revision)	2050-AB48

Superfund (CERCLA)—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2830	SAR No. 1642a. Designation of Additional Hazardous Substances and Reportable Quantity Adjustments	2050-AB50
2831	SAR No. 1642D. Natural Resource Claims Procedure	2050-AA48

General—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2832	SAR No. 2196 Denial or Restriction of Disposal Sites (Revision)	2030-AA05
2833	SAR No. 1625. Regulations for the Federal Claims Collection Act	2020-AA01
2834	SAR No. 2196 Confidentiality Regulations: Special Rules Governing Certain Information Under FIFRA (Revision)	2020-AA06
2835	SAR No. 2216 Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation of Suspension of Permits	2020-AA08
2836	SAR NO. 2307 Notice Requirements for Citizen Suits under the SDWA	2020-AA10

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General—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2837	SAR No. 2049. Nondiscrimination on the Basis of Handicap for Programs Conducted by EPA	2020-AA05
2838	SAR No. 2218 Nondiscrimination on the Basis of Age in Programs Receiving Financial Assistant from the EPA(Revision)	2020-AA07
2839	SAR No. 1835. Amending NEPA Procedures Relating to Wastewater Construction Grants (Revision)	2090-AA04
2840	SAR No. 1605. Emissions Trading Policy (Revision)	2010-AA08
2841	SAR No. 1973. Section 404 State Program Regulations (Revision)	2030-AA00

General—Completed Actions

Sequence Number	Title	Regulation Identifier Number
2842	SAR No. 1791. Public Information and Confidentiality Regulations (Revision)	2020-AA03
2843	SAR No. 2286. FTS:8-382-5460 Public Information Regulations: Collection of Fees	2020-AA09

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Proposed Rule Stage

2594. ● TOXICOLOGY DATA REQUIREMENTS FOR ANTIMICROBIAL PESTICIDES

Significance: Regulatory Program

Legal Authority: 7 USC 136 /FIFRA 3

CFR Citation: 40 CFR 158

Legal Deadline: None

Abstract: EPA will propose a policy to require toxicology data requirements for certain antimicrobial pesticide products. At present, virtually all antimicrobials are registered by EPA on the basis of only acute toxicity data because exposure is not considered to be repeated or long term. The only exception is the category of swimming pool chemicals because exposure of swimmers is whether exposure to additional antimicrobial pesticides is significant and/or repeated and whether expanded toxicology data, as described in Part 158, the Data Requirements for Pesticide Registration, should be required for certain antimicrobials.

Supplemental Timetable:

Policy Statement
Proposal 04/00/86

Small Entity: Undetermined

Additional Information: SAR NO.2339

FTS:8-557-7470

Agency Contact: James Wilson, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767c), Washington, D.C. 20460, 202 557-7470

RIN: 2070-AB51

2595. ● RESTRICTED USE CLASSIFICATION FOR CERTAIN ACTIVE INGREDIENTS USED IN TERMITICIDES

Significance: Regulatory Program

Legal Authority: 7 USC 136 /FIFRA 3

CFR Citation: 40 CFR 162.31

Legal Deadline: None

Abstract: FIFRA requires that pesticides be classified for either general use or restricted to trained, certified pesticide applicators. This rule would classify certain active ingredients in termiticides for restricted use based on criteria concerning toxicity, persistency and quantity used per application. Classification for restricted use permits the continued use of certain pesticides which, if used without restrictions, may have adverse effects on human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Additional Information: SAR NO.2317

FTS: 8-557-5096

Agency Contact: Michael McDavit, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767C), Washington, D.C. 20460, 703 557-5096

RIN: 2070-AB53

2596. ● SALE OF RESTRICTED USE PESTICIDES TO NONCERTIFIED APPLICATORS

Legal Authority: 42 USC 136 /FIFRA 4, 12

CFR Citation: 40 CFR Not applicable

Legal Deadline: None

Abstract: This action is intended to develop regulations to allow the sale of restricted use pesticides to persons who are not certified under special circumstances as set forth by Congress in 1978. Regulatory development will be coordinated with the review of state plans FIFRA Section 4 to determine both need and compatibility with State authorities and programs.

EPA—FIFRA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information: SAR NO.2337

FTS: 8-382-3949

Agency Contact: William Dickinson, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-788), Washington, D.C. 20460, 202 382-3949

RIN: 2070-AB46

2597. ● PESTICIDE ADVERTISING

Legal Authority: 7 USC 136 /FIFRA 12, 18

CFR Citation: 40 CFR 153.12; 40 CFR 166.7

Legal Deadline: None

Abstract: EPA is proposing to treat as unlawful under FIFRA section 12 or restrict the advertising of certain uses of pesticides authorized for experimental use, emergency use, and special local needs. The proposed policy will also address advertising of other unregistered pesticides and pesticide use patterns. This policy is intended to prevent misuse of pesticides which could cause unreasonable adverse effects on humans or the environment.

Supplemental Timetable:

Interpretive Rulemaking
Final Action 00/00/00

Policy Statement
Proposal 03/00/86

Small Entity: No

Additional Information: SAR NO.2314

FTS: 8-557-7758

Agency Contact: John Street, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767C), Washington, D.C. 20460, 703 557-7758

RIN: 2070-AB47

2598. GUIDELINES ON DISPOSAL AND STORAGE OF PESTICIDES (REVISION)

Legal Authority: 7 USC 136q / FIFRA 19

CFR Citation: 40 CFR 165

Legal Deadline: None

Abstract: EPA's Office of Pesticide Programs is updating the Guidelines on Disposal and Storage of Pesticides to make them consistent with current regulations and technology. The Office of Pesticide Programs is also adding interpretive guidance on compliance with RCRA regulations on hazardous waste as they may apply to the disposal and storage of pesticides. These guidelines serve as guidance only and compliance is completely voluntary.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Additional Information: SAR No. 2006.

FTS: 8-557-7347.

Agency Contact: Raymond R. Krueger, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-769C), Washington, DC 20460, 703 557-7347

RIN: 2070-AA61

2599. WORKER PROTECTION STANDARDS FOR AGRICULTURAL PESTICIDES (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136 / FIFRA 25

CFR Citation: 40 CFR 170

Legal Deadline: None

Abstract: The worker protection standards for agricultural pesticides will be revised to reflect new and developing registration and reregistration of pesticides. The current standards need to be revised in order to update the provisions, clarify definitions and responsibilities, and improve implementation, compliance, and enforcement.

Timetable:

Action	Date	FR Cite
ANPRM	08/15/84	49 FR 32805
NPRM	06/09/86	

Small Entity: No

Additional Information: SAR No. 1640.

FTS: 8-557-7666.

Analysis: RIA

Agency Contact: Linda Billings, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-766C), Washington, DC 20460, 703 557-7666

RIN: 2070-AA49

2600. ● USER CHARGES FOR PESTICIDE REGISTRATIONS

Significance: Regulatory Program

Legal Authority: 31 USC 9701 /Idependent Offices Appropriation Act of 1952

CFR Citation: 40 CFR Not applicable

Legal Deadline: None

Abstract: Under the authority of the Independent Offices Appropriation Act (IOAA) of 1952, the Agency is proposing to establish user fees for processing pesticide registration actions which constitute special services to registrants. The Agency is also considering establishing fees for other special services such as re-registration. The proposed registration fee system would place all or part of the burden of payment for the Agency's services on those who benefit from the service rather than on the Agency.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR NO.2013

FTS: 8-557-1485

Agency Contact: Joseph F. Powers, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-757C), Washington, D.C. 20460, 703 557-1485

RIN: 2070-AB52

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ENVIRONMENTAL PROTECTION AGENCY (EPA)—Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Final Rule Stage

2601. RESTRICTED USE CLASSIFICATION FOR CERTAIN ACTIVE INGREDIENTS USED IN FUMIGANTS

Legal Authority: 7 USC 136 / FIFRA 3

CFR Citation: 40 CFR 162.31

Legal Deadline: None

Abstract: FIFRA requires that pesticides be classified for either general use or restricted to trained, certified pesticide applicators, or people under their direct supervision. This rule would classify certain active ingredients in grain fumigants for restricted use based on an evaluation of the incremental risks and benefits of unrestricted use. Classification for restricted use permits the continued use of certain pesticides which, if used without restrictions may have unreasonable adverse effects on the environment. Issuance of a final rule by EPA has been deferred pending completion of a comprehensive review of all grain fumigants used as substitutes to EDB(ethylene dibromide).

Timetable:

Action	Date	FR Cite
NPRM	10/12/83	48 FR 46397
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1828.

FTS: 8-557-7451.

Agency Contact: Linda Vlier, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767-C), Washington, DC 20460, 703 557-7451

RIN: 2070-AA00

2602. COMPREHENSIVE REVISION OF PESTICIDE REGISTRATION AND CLASSIFICATION PROCEDURES (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136(a) / FIFRA 3

CFR Citation: 40 CFR 162

Legal Deadline: None

Abstract: These regulations will revise procedures and requirements for the registration, reregistration and classification of pesticide products as restricted use. The revisions are intended to improve the clarity of the existing rule and to integrate into the procedures aspects of the registration process, such as the Registration Standards program, which were initiated since the original regulation was promulgated.

Timetable:

Action	Date	FR Cite
ANPRM	12/26/79	44 FR 76311
NPRM	09/26/84	49 FR 37915
Final Action	04/00/86	

Small Entity: No

Additional Information: SAR No. 1964.

FTS: 8-557-0502.

Analysis: RIA

Agency Contact: Jean Frane, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767C), Washington, DC 20460, 703 557-0592

RIN: 2070-AA56

2603. PESTICIDE PRODUCTS; PACKAGE SIZE EXEMPTION FOR CHILD RESISTANT PACKAGING (REVISION)

Legal Authority: 7 USC 136d / FIFRA 3

CFR Citation: 40 CFR 162

Legal Deadline: None

Abstract: EPA is proposing to amend its regulations on the use of child resistant packaging for pesticide products to provide for exemptions for certain products based on the size of the package in which the product is distributed. This revision should reduce the cost of packaging for producers who market large-size containers to the pest control service segment of the user community.

Timetable:

Action	Date	FR Cite
NPRM	01/04/84	49 FR 423
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1965.

FTS: 8-557-0592.

Agency Contact: Jean Frane, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767c), Washington, DC 20460, 703-557-0592

RIN: 2070-AA93

2604. POLICY STATEMENT REGARDING CERTAIN MICROBIAL PRODUCTS

Legal Authority: 7 USC 136/FIFRA 3; 7 USC 136/FIFRA 5

CFR Citation: 40 CFR 172; 40 CFR 162

Legal Deadline: None

Abstract: New microorganisms developed through advanced techniques of genetic engineering and used for FIFRA commercial purposes will be subject to EPA requirements. OPTS is now developing a policy for handling genetically engineered pesticides, and strategies for conducting risk assessments of these organisms. A proposed policy was published in December 1984. Comments were due on April 1, 1985. The policy will be revised, as appropriate, and a final statement will be prepared. In addition, OPTS is participating in an inter-Agency Working Group on Biotechnology to ensure that the overall Federal approach is integrated and consistent.

Timetable:

Action	Date	FR Cite
Notice of Proposed Policy	12/31/84	49 FR 50880
Notice of Final Policy	03/00/86	

Small Entity: No

Additional Information: SAR No. 2123.

FTS:8-557-9307.

Agency Contact: Fred Betz, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-769c), Washington, DC 20460, 703 557-9307

RIN: 2070-AB34

2605. LABELING REQUIREMENTS FOR PESTICIDES AND DEVICES (REVISION)

Significance: Regulatory Program

Legal Authority: 7 USC 136 / FIFRA 3

CFR Citation: 40 CFR 156; 40 CFR 167

Legal Deadline: None

Abstract: This regulation will revise and expand the labeling requirements for pesticide products and devices. The revisions will provide for pesticide producers a comprehensive description of pesticide labeling requirements, and will result in better quality pesticide labeling for users.

EPA—FIFRA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/26/84	49 FR 37959
Final Action	09/00/86	

Small Entity: No

Additional Information: SAR No. 2289.

FTS: 8-557-0592.

Split away from RIN: 2070-AA56

Analysis: RIA

Agency Contact: Jean Frane, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767c), Washington, DC 20460, 703 557-0592

RIN: 2070-AB46

2606. ● REPORTING REQUIREMENTS FOR RISK/BENEFITS INFORMATION

Legal Authority: 7 USC 136 /FIFRA 6

CFR Citation: 40 CFR 153

Legal Deadline: None

Abstract: FIFRA Section 6(a)(2) requires that registrants report to EPA additional factual information regarding unreasonable adverse effects of their products. In September 1985, EPA revised its 1979 section 6 (a)(2) enforcement policy by publishing a notice which expanded upon the types of factual information which must be reported and established uniform timeframes for compliance. In response to comments received on this notice, the Agency is revising it to clarify the types of information which registrants must report to EPA.

Supplemental Timetable:

Policy Statement
Final Action 04/00/86

Small Entity: No

Additional Information: SAR NO.2338

FTS: 8-557-0592

Agency Contact: David Alexander, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767C), Washington, D.C. 20460, 703 557-0592

RIN: 2070-AB50

2607. REGISTRATION OF PESTICIDE PRODUCING ESTABLISHMENTS (REVISION)

Legal Authority: 7 USC 136 / FIFRA 7

CFR Citation: 40 CFR 167

Legal Deadline: None

Abstract: This regulation amends the existing regulations on registering establishments that produce pesticides. The regulation implements the Congressional mandate to register establishments that produce active ingredients used in pesticides.

Timetable:

Action	Date	FR Cite
NPRM	07/09/80	45 FR 46100
Final Action	04/00/86	

Small Entity: No

Additional Information: SAR No. 1747.

FTS: 8-382-7826.

Agency Contact: David Hannemann, Environmental Protection Agency, Pesticides and Toxic Substances, (EN-342), Washington, DC 20460, 202 382-7826

RIN: 2070-AA04

2608. ● RESTRICTED USE CLASSIFICATION FOR CERTAIN ACTIVE INGREDIENTS USED IN GRANULAR INSECTICIDES

Legal Authority: 42 USC 136 /FIFRA 3

CFR Citation: 40 CFR 162.31

Legal Deadline: None

Abstract: FIFRA requires that pesticides be classified either for general use, or restricted to trained, certified pesticide applicators or people under their direct supervision. In August 1979, EPA proposed to classify as restricted use several pesticide active ingredients used in granular insecticide formulations. Since then the granular formulations of all of these pesticides, except fenamiphos, have been reclassified through Registration Standard review. Since a Registration Standard review of fenamiphos is not expected to be completed in 1986, EPA is making final its proposal to restrict the use of fenamiphos in granular formulations. Classification for Restricted use permits the continued use of certain pesticides which, if used without restrictions, may have adverse effects on human health or the environment.

Timetable:

Action	Date	FR Cite
Final Action	04/00/86	

Small Entity: No

Additional Information: SAR NO.1829

FTS: 8-557-7758

Agency Contact: John Street, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767C), Washington, D.C. 20460, 703 557-7758

RIN: 2070-AB49

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Completed Actions

2609. SPECIAL REVIEW CRITERIA AND PROCEDURES (REVISION)

Significance: Regulatory Program

CFR Citation: 40 CFR 162.11

Completed:

Reason	Date	FR Cite
Final Action	11/27/85	50 FR 49003

Small Entity: No

Agency Contact: Joan Warshawski 703 557-7420

RIN: 2070-AA57

2610. PESTICIDE REGISTRATION STANDARDS: DOCKETING AND PUBLIC PARTICIPATION PROCEDURES

CFR Citation: 40 CFR 155

Completed:

Reason	Date	FR Cite
Final Action	11/27/85	50 FR 48998

Small Entity: No

Agency Contact: Jean M. Frane 703 557-0592

RIN: 2070-AB33

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EPA—FIFRA

Completed Actions

2611. TOLERANCE FEES FOR PESTICIDE CHEMICALS (REVISION)

CFR Citation: 40 CFR 180.33

Completed:

Reason	Date	FR Cite
Final Action	01/08/86	51 FR 844

Small Entity: No

Agency Contact: Ken Weisel 703 557-1127

RIN: 2070-AA46

2612. ENFORCEMENT POLICY REGARDING FAILURES TO REPORT INFORMATION UNDER SECTION 6(A)(2) OF THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT (FIFRA)(REVISION)

CFR Citation: Not applicable

Completed:

Reason	Date	FR Cite
Policy Notice	09/20/85	50 FR 38115

Small Entity: No

Agency Contact: David Alexander 703 557-8592

RIN: 2070-AB12

2613. RESCISSION OF EFFICACY DATA WAIVER FOR VERTEBRATE CONTROL PRODUCTS (REVISION)

CFR Citation: 40 CFR 136

Completed:

Reason	Date	FR Cite
Final Action	11/13/85	50 FR 46764

Small Entity: No

Agency Contact: Jean Frane 703 557-8592

RIN: 2070-AB19

2614. RULE GOVERNING ISSUANCE OF EMERGENCY EXEMPTIONS FROM FIFRA (REVISION)

CFR Citation: 40 CFR 166

Completed:

Reason	Date	FR Cite
Final Action	01/15/86	51 FR 1696

Small Entity: No

Agency Contact: Franklin Gee 703 557-8592

RIN: 2070-AA41

[FR Doc. 86-8060 Filed 04-18-86; 8:45 am]

BILLING CODE 6560-50-T

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Toxic Substances Control Act (TSCA)

Prerule Stage

2615. REGULATORY INVESTIGATION OF 2-ETHOXYETHANOL, 2-METHOXYETHANOL AND THEIR ACETATES (GLYCOL ETHERS) (REVISION)

Significance: Regulatory Program

Legal Authority: 15 USC 2608 / TSCA 9

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: Recent data indicate that inhalation of glycol ethers can cause teratogenic effects and testicular damage. EPA will refer all occupational risks to the Occupational Safety and Health Administration under TSCA Section 9(a). EPA will continue consultations on consumer risks with the Consumer Product Safety Commission under TSCA Section 9(d).

Timetable:

Action	Date	FR Cite
ANPRM	01/24/84	49 FR 2921
Section 9 Report	04/00/86	
OSHA Response	00/00/00	

Small Entity: No

Additional Information: SAR No. 2032.

FTS: 8-382-3945.

Analysis: RIA; RFA

Agency Contact: Richard Gross, Environmental Protection Agency, Pesticides and Toxic Substances, TS-794, Washington, DC 20460, 202 382-3945

RIN: 2070-AA71

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Toxic Substances Control Act (TSCA)

Proposed Rule Stage

2616. DECISIONS ON TEST RULES FOR THE INTERAGENCY TESTING COMMITTEE (ITC) PRIORITY LISTS

Legal Authority: 15 USC 2603 / TSCA 4

CFR Citation: 40 CFR 799

Legal Deadline: None

Abstract: The following table lists chemicals for which EPA will initiate rulemaking to require testing or publish a notice which provides the reasons for not doing so. The list includes chemicals which have been designated for priority testing consideration by the Interagency Testing Committee as well as those chemicals (i.e., recommended and non-designated chemicals) for which the 12 month statutory requirement does not apply. The list also includes chemicals or categories of chemicals which have been identified for testing consideration by other EPA program offices and through TSCA review processors.

Timetable:

Action	Date	FR Cite
ANPRM	01/08/82	47 FR 973

Supplemental Timetable:

Alkyl Epoxides (ITC List 1)
ANPRM 01/04/84 (49 FR 449)
Notice 09/06/85 (50 FR 36476)

Anilines (ITC List 4)
ANPRM 01/03/84 (49 FR 108)
NPRM 00/00/86

Anthraquinone (ITC List 15)
NPRM 11/06/85 (50 FR 46090)
Final Action 12/00/86

EPA—TSCA

Proposed Rule Stage

Aryl Phosphates (ITC List 2)
ANPRM 12/29/83 (48 FR 57452)
NPRM 01/00/87

Benzyl Butyl Phthalate (ITC List 7)
Notice 10/30/81 (46 FR 53775)
Notice 01/05/82 (47 FR 335)
NPRM 09/06/85 (50 FR 36446)
Final Action 11/00/86

Biphenyl (ITC List 10)
NPRM 05/23/83 (48 FR 23080)
Final Action 09/12/85 (50 FR 37182)

Biphenol (Test Standards)(ITC List 10)
NPRM 10/00/86

Biphenol A (ITC List 14)
NPRM 05/17/85 (50 FR 20691)
Final Action 11/00/86

Chlorinated Benzenes (environmental) (ITC List 1)
Final Action 03/00/86

Chlorinated Benzenes (environmental)(ITC List 1)
ANPRM 01/13/84 (49 FR 1760)

Chlorinated Benzenes (health) (ITC List 1)
Notice 12/28/84 (49 FR 50406)
Final Action 06/00/86

Cresols (ITC List 1)
NPRM 07/11/83 (48 FR 31812)
Final Action 03/00/86

Cumene (ITC List 15)
NPRM 11/06/85 (50 FR 46104)
Final Action 12/00/86

Cyclohexane (ITC List 17)
NPRM 12/00/86
Final Action 00/00/00

Cyclohexanone (ITC List 4)
NPRM 01/03/84 (49 FR 136)
Final Action 00/00/00

Diethylene Glycol Butyl Ether/DGBA (ITC List 13)
ANPRM 11/19/84 (49 FR 45606)
NPRM 07/00/86

Diethylenetriamine (ITC List 8)
NPRM 04/29/82 (47 FR 18386)
Final Action 05/29/85 (50 FR 21398)

Diethylenetriamine (Onco)(ITC List 8)
NPRM 05/23/85 (50 FR 21413)
Final Action 09/00/86

Diethylenetriamine (Test Standards) (ITC List 8)
NPRM 04/00/86

Dioctadecyl Phenyl Phosphate (ITC List 17)
NPRM 12/00/86
Final Action 00/00/00

Ethyltoluene (ITC List 10)
NPRM 05/23/83 (48 FR 23088)
Final Action 05/17/85 (50 FR 20662)

Ethyltoluene (Test Standards)(ITC List 10)
NPRM 04/00/86

Fluorocarbons (ITC List 7)
ANPRM 10/30/81 (46 FR 53704)
NPRM 08/04/84 (49 FR 23112)
NPRM 11/06/85 (50 FR 46133)
Final Action 01/00/87

Formamide (ITC List 10)
NOTICE 12/29/83 (48 FR 57365)
NOTICE 05/23/85 (48 FR 23098)
Final Action 03/00/86

Glycidols (ITC List 3)
ANPRM 12/30/83 (48 FR 57562)
NPRM 09/00/87

Hexafluoropropylene Oxide (ITC List 2)
NPRM 12/30/83 (48 FR 57686)
Final Action 00/00/00

Hydroquinone (ITC List 15)
NPRM 01/04/84 (49 FR 438)
Final Action 12/30/85 (50 FR 53143)

Hydroquinone (Test Standards)(ITC List 5)
NPRM 12/30/85 (50 FR 53160)
Final Action 12/00/86

Mercaptobenzothiazole (ITC List 15)
NPRM 11/06/85 (50 FR 46121)
Final Action 12/00/86

Mesityl Oxide (ITC List 4)
NPRM 07/05/83 (48 FR 30699)
Final Action 12/20/85 (50 FR 51857)

Mesityl Oxide (Test Standards)(ITC List 5)
NPRM 12/20/85 (50 FR 51888)
Final Action 12/00/86

Metholurea (ITC List 12)
ANPRM 05/21/84 (49 FR 21371)
NPRM 09/00/87

Methylcyclopentane (ITC List 16)
NPRM 05/00/86
Final Action 00/00/00

Octamethyl Cyclotetrasiloxane (ITC List 15)
NPRM 10/30/85 (50 FR 45123)
Final Action 12/00/86

Oleylamine (ITC List 13)
NPRM 11/19/84 (49 FR 45610)
Final Action 08/00/86

OSW Generic Test Rule
NPRM 07/00/86
Final Action 00/00/00

Pentabromoethylbenzene (ITC list 15)
NPRM 11/13/85 (50 FR 46785)

Pentabromoethylbenzene (ITC List 15)
Final Action 01/00/87

Phenylenediamines and Toluenediamines (ITC List 15)
ANPRM 01/08/82 (47 FR 973)
NPRM 01/06/86 (31 FR 472)
Final Action 01/00/87

Propylene Oxide (ITC List 1)
NPRM 01/04/84 (49 FR 430)
Final Action 11/27/85 (50 FR 48762)

Propylene Oxide (Test Standards) (ITC List 1)
NPRM 11/27/85 (50 FR 48803)
Final Action 00/00/00

Quinone (ITC List 5)
NPRM 01/04/84 (49 FR 456)
Final Action 12/30/85 (50 FR 53165)

Sodium N-methyl-n-oleyltaurine (ITC List 15)
NOTICE 11/06/85 (50 FR 46178)

Tetrabromobisphenol A (ITC List 16)
Final Action 00/00/00

Tetrabromobisphenol A (ITC List 16)
NPRM 05/00/86

Toluenediamines (ITC List 6)
ANPRM 01/08/82 (47 FR 973)
NPRM 12/00/86

Trichloroethane (ITC List 2)
NPRM 06/05/81 (46 FR 30300)
Final Action 10/10/84 (49 FR 39810)

Trichloroethane (Test Standards) (ITC List 2)
NPRM 08/07/85 (50 FR 31895)
Final Action 12/19/85 (50 FR 51683)

Triethylene Glycol Monomethy,Monoethyl,Monobutyl Ethers(List 16)
NPRM 05/00/86
Final Action 00/00/00

Trimethylbenzene (Test Standards) (List 10)
NPRM 05/23/83 (48 FR 23088)
Final Action 05/17/85 (50 FR 20662)
NPRM 04/00/86

Vinylidiene Chloride
NPRM 03/00/86
Final Action 00/00/00

1,2-Dibromo-4 (1,2-dibromethyl) cyclohexane (ITC List 14)
NOTICE 05/08/85 (50 FR 19460)

1,2-Dichloropropane (ITC List 3)
NPRM 01/06/84 (49 FR 899)
Final Action 09/00/86

1,2-Dichloropropane (Test Standards) (ITC List 3)
NPRM 09/00/86

1,2,4-Tetrachlorobenzene (environmental testing)(ITC List 1)
ANPRM 11/19/84 (49 FR 45606)
NPRM 07/00/86

1,2,4-Tri-and 1,2,4,5-Tetrachlorobenzenes (ITC List 1)
NPRM 07/18/80 (45 FR 48324)
NPRM 12/07/83 (48 FR 54836)
Final Action 07/00/86

2-Ethytexanoic acid (ITC List 14)
NPRM 05/17/85 (50 FR 20678)

2-Ethythexanoic acid (ITC List 14)
Final Action 09/00/86

2,(2-Butoxyethoxy) ethylacetate(DGBA)(ITC List 13)
ANPRM 11/19/84 (49 FR 45606)

2,(2-Butoxyethoxy) ethylacetate(DGBA)(ITC List13)
NPRM 07/00/86

2,6-Di-tert-butylphenol (ITC List 17)
NPRM 12/00/86
Final Action 00/00/00

3,4-Dichlocobenzotrifluoride (ITC List 14)
NPRM 12/00/86
Final Action 00/00/00

Small Entity: No

Additional Information: SAR No. 1137.

FTS: 8-475-8130.

Agency Contact: Gary Timm, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-788), Washington, DC 20460, 202 475-8130

RIN: 2070-AB07

2617. STRATEGIES FOR CONTROL/INFORMATION COLLECTION FOR CHEMICAL CATEGORIES

Significance: Regulatory Program

Legal Authority: 15 USC 2625(c) / TSCA 4; 15 USC 2625(c) / TSCA 5; 15 USC 2625(c) / TSCA 6; 15 USC 2625(c) / TSCA 8; 15 USC 2625(c) / TSCA 9

CFR Citation: 40 CFR 700

Legal Deadline: None

Abstract: EPA is currently evaluating the utility of a categorical approach to regulating new and existing chemicals.

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A categorical approach would permit EPA to put new and existing chemical categories of interest on a more equal footing. The actions considered for the categories include requirements for testing under Section 4 of TSCA, requirements to provide more information on the manufacture and use of the chemicals under Section 8, requirements to limit some aspect of the manufacture or use of a chemical under Section 5, and potential action under Section 6 or 9 to limit the manufacture or use of the chemicals. Consideration will also be given to voluntary approaches to the development of data and the control of category members. Outputs of this action calls for specific categories; those rules are separately in the Regulatory Agenda once a decision has been made to develop a specific rule.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No. 2124.

FTS: 382-3849.

Agency Contact: Joseph DeSantis, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3849

RIN: 2070-AB17

2618. FOLLOW-UP RULES ON EXISTING CHEMICALS

Legal Authority: 15 USC 2604 / TSCA 5; 15 USC 2607 / TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to monitor the commercial development of existing chemicals of concern and/or to gather information to support risk assessments on such chemicals. As these chemicals are identified, EPA will initiate rulemakings under TSCA section 5 and/or 8 to require reporting by the manufacturers, importers and/or processors of these chemicals. Individual proposed or final rules will be published on at least the chemicals listed below:4,4'Methylene bis (2-chloroaninline); Hexamethylphosphoramide; Urethane; Methyl Butyl Ketone; 11-Aminoundecanoic Acid; Hexachloronorbornadiene; Pentachloroethane; Polybrominated Biphenyls and Tris/2,3- Dibromopropyl Phosphate. and p-tert-Butyl Benzoic Acid (PTBBA), p-tert-Butyl Benzaldehyde (PTBB), and p-tert-Butyl Toluene(PTBT).

Supplemental Timetable:

Hexachloronorbornadiene
NPRM 02/22/85 (50 FR 7351)
Final Action 11/19/85 (50 FR 47534)

Hexamethylphosphoramide (HMPA) and Urethane
NPRM 10/10/84 (49 FR 39703)
Final Action 03/00/86

Methyl Butyl Ketone
NPRM 03/00/86

Pentachloroethane
NPRM 07/00/86
Final Action 00/00/00

Polybrominated Biphenyls
NPRM 03/00/86
Final Action 00/00/00

PTBBA, PTBB, PTBT
NPRM 11/07/85 (50 FR 46309)
Final Action 00/00/00

Tris/2,3-Dibromopropyl Phosphate
NPRM 03/00/86
Final Action 00/00/00

11-Aminoundecanoic Acid
NPRM 06/00/86

4,4-Methylene-bis (2-chloroaniline) (MBOCA)
NPRM 04/26/85 (50 FR 16589)
Final Action 04/00/86

Small Entity: No

Additional Information: SAR No. 1923.

FTS: 8-382-3436.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 382-3436

RIN: 2070-AA58

2619. FOLLOW-UP RULES ON NON-5(E) NEW CHEMICALS

Legal Authority: 15 USC 2604 / TSCA 5; 15 USC 2607 / TSCA 8

CFR Citation: 40 CFR 704; 40 CFR 721

Legal Deadline: None

Abstract: EPA has instituted a program to follow the commercial development of selected new chemicals that have completed premanufacture notice review. EPA will issue rules on new chemicals of concern as they are identified to require follow-up reporting under TSCA Section 5 or 8, by the manufacturers and processors of the chemicals. Individual proposed and final rules will be published at different times throughout the period of April 1986 to April 1987.

Supplemental Timetable:

Acetamide, 2-chloro-N-(2-ethyl-6-Methylphenyl)(83-1274)
NPRM 00/00/00

Alkyl, Sulfonic Acid, Ammonium Salt (84-1056)
NPRM 00/00/00

Benzoic Acid, 3,3'Methylenebis (6-Amino-, Di-2-Propenyl Ester)
NPRM 01/02/85 (50 FR 127)
Final Action 00/00/00

Certain Polyamino Chemical Substances
Final Action 00/00/00

Dinitrophenyl Azo-2,4-Diamino-5-Methoxybenzene Derivatives
NPRM 10/25/84 (49 FR 42960)
Final Action 00/00/00

Substituted Methylpyridine/Substituted 2-Phenoxypyridine
NPRM 02/06/84 (49 FR 4390)
Final Action 00/00/00

Small Entity: No

Additional Information: SAR No. 1976.

FTS: 8-382-3771.

Agency Contact: John Bowser, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, D.C. 20460, 202 382-3771

RIN: 2070-AA59

2620. CHEMICAL SPECIFIC SIGNIFICANT NEW USE RULES TO EXTEND PROVISIONS OF SECTION 5(E) ORDERS

Legal Authority: 15 USC 2604 /TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: When the Agency determines that in the absence of adequate safety data, the uncontrolled manufacture, distribution, use or disposal of a PMN substance may present an unreasonable risk, it may issue a proposed order under section 5(e) to limit the aforementioned activities. However, section 5(e) orders apply only to the PMN submitter. Once the substance is placed on the TSCA chemical inventory, other persons are free to manufacture or process the substance without controls. Therefore EPA, by rule, designates manufacture or processing of the substances for use without the specified controls as a significant new use. These SNURs ensure that the original submitter is not at a competitive disadvantage and that no uncontrolled activities will occur without an opportunity for prior Agency review.

Supplemental Timetable:

(84-274) (see additional information for title)
NPRM 08/26/85 (50 FR 34505)
Final Action 00/00/00

(85-1149) (see additional information for title)
NPRM 00/00/00

(85-1176) (see additional information for title)
NPRM 06/00/86

(85-564) (see additional information for title)
NPRM 06/00/86

(85-703) (see additional information for title)
NPRM 03/27/85 (50 FR 12046)

Alkyl Aryl Phosphine (83-1023)
NPRM 09/20/84 (49 FR 36880)
Final Action 00/00/00

Alkyl Glycoether Acrylic Acid Derivative (84-27)
Final Action 05/00/86

Alkyl Glycoether Acrylic Acid Derivative(84-27)
NPRM 12/24/84 (49 FR 49868)

Brominated Aryl Alkyl Ether, Ethylated Amino Phenol Amino ETC
NPRM :(83-906/908/909/910) 09/28/84 (49 FR 38303)
FINAL ACTION :(83-906/908/909/910) 00/00/00

Certain Acrylate and Methacrylate Chemicals (84-176, 180-184)
NPRM 03/27/85 (50 FR 12046)
Final Action 00/00/00

Certain Acrylate Chemicals (84-341-344)
NPRM 06/00/86

Ethyl Dinitrobenzene/ar-ethylbenzenediamine (85-1161/1162)
NPRM 00/00/00

Halogenated Pyridine Alkyl Pyridine (83-1162, 1163)
NPRM 00/00/00

Halogenated-N-(2-propenyl)-N-(Substituted phenyl) acetamide
NPRM :(83-1085) 08/26/85 (50 FR 34500)
FINAL ACTION :(83-1085) 00/00/00

Methylammonium n-Methyldithiocarbamate
NPRM 04/00/86

Methylphenol, bis-(substituted alkyl)(84-417)
NPRM 03/21/85 (50 FR 11391)
Final Action 10/00/86

N,N,N'N'-Tetrakis (oxiranylmethyl) 1,3-Cyclohexanedimethanamine
NPRM :(84-7) 01/13/86 (51 FR 1396)
FINAL ACTION :(84-7) 00/00/00

Polymer of Substitute Aryl Olefin (85-612)
NPRM 07/00/86

Polyol Polyacrylate (85-718)
NPRM 10/00/86

Substituted Aryl Olefin (84-669 and 84-704)
NPRM 04/00/86

Substituted Bromothiophene (83-789)
NPRM 09/28/84 (49 FR 38310)
Final Action 00/00/00

Substituted Methylpyridine (83-237)
NPRM 02/06/84 (49 FR 4390)
Final Action 00/00/00

Substituted Polyester Resin (85-395)
NPRM 00/00/00

Substituted Tetrafluoro Alkanes and Alkanes (84-105/106/107)
NPRM 03/21/85 (50 FR 11384)
Final Action 00/00/00

2-Butenedioic Acid(z), Mono'2-'(1-Oxo-2-propenyl)Oxy'Ethyl'-Ester
NPRM :(85-543, 547) 00/00/00

2-Propenoic Acid-3-Dimethylamino)-2,2-Dimethyl-Propyl Ester
NPRM 00/00/00

2-Propenoic Acid, 2-Methyl
NPRM 00/00/00

2-Propenoic Acid, 3,3,5-Trimethylcyclohexylester
NPRM 00/00/00

Small Entity: No

Additional Information: SAR No. 2246.

FTS:8-382-3771. (85-1176) Alcohols, C1-4, ethers with Polyethylene-polypropylene glycol mono (2-aminopropyl) ether, polymer with maleic anhydride and trimethylolpropane triacrylate

(85-1149) Biphenol A, Polymer with Substituted alkanoic acid and Epichlorohydrin, Polyacrylate

(85-564) Isocyanic acid, polymethylene-polyphenylene ester, polymer with 1,1-methylenebis ;4-isocyanatobenzenel, 2-hydroxyethyl acrylate-blocked

(85-703) Poly 2-hydroxpropyl melamine, polymers with 5-isocyana to 1-isocyanatomethyl-1,3,3-trimethylcyclohexane 2-hydroxyethyl acrylate-blocked

Agency Contact: John Bowser, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3771

RIN: 2070-AB27

2621. ● GENERIC SIGNIFICANT NEW USE RULE FOR ACRYLATE COMPOUNDS

Legal Authority: 15 USC 2694 /TSCA Section 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: The generic acrylate significant new use rule may require any person who proposes to manufacture, import, or process an acrylate/methacrylate subject to the category definition contained within the proposed rule to notify EPA at least 90 days in advance of the initiation of a significant new use. The significant new use rule will apply to a subset of acrylates and methacrylates added to the inventory after the effective date, it will no longer be necessary to issue routine 5(e) orders or chemical specific SNURs for those acrylates covered by the rule.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: Undetermined

Additional Information: SAR NO. 2247

FTS: 8-382-3779

Agency Contact: Ralph Wright, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, D.C. 20460, 202 382-3779

RIN: 2070-AB56

2622. ● SIGNIFICANT NEW USE RULE FOR PATHOGENS AND MICROORGANISMS CONTAINING GENETIC MATERIAL FROM PATHOGENS

Significance: Regulatory Program

Legal Authority: 15 USC 2604 /TSCA Section 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: EPA believes that if a microorganism subject to TSCA is a pathogen or contains genetic material from a pathogen(s), then any new environmental use of the microorganism should be considered a "significant new use" and a significant new use notification should be required. EPA will propose a rule consistent with this policy under TSCA section 5(b). EPA will try to exclude unaltered pathogens used on fewer than 10 acres from this SNUR. EPA will consider whether it should include provisions to review all nonindigenous pathogens. EPA will announce in an FR notice its expectation that anyone using such products will report to EPA between now and the time that the pathogen SNUR is final.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Yes

Additional Information: SAR NO.2325

FTS: 8-382-3626

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Agency Contact: Anne Hollander, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, D.C. 20460, 202 382-3826

RIN: 2070–AB57

2623. ● PMN RULE: APPLICABILITY OF R&D EXEMPTION TO LIVING MICROORGANISMS

Significance: Regulatory Program

Legal Authority: 15 USC 2604 /TSCA 5

CFR Citation: 40 CFR 720

Legal Deadline: None

Abstract: EPA believes that living microorganisms used in small scale field tests are not "small quantities for research and development" and are therefore not exempt from PMB reporting under section 5(h)(4). EPA will amend the PMN rule to clarify this. Under the amended rule, persons wishing to field test "new" microorganisms have to submit a PMN prior to field testing.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Yes

Additional Information: SAR No.2328

FTS:8-382-3826.

Agency Contact: Anne Hollander, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3826

RIN: 2070–AB58

2624. REGULATORY INVESTIGATION OF METALWORKING FLUIDS

Legal Authority: 15 USC 2605 / TSCA 6

CFR Citation: 40 CFR 747

Legal Deadline: None

Abstract: The formulation of water-based metalworking fluids with nitrite in combination with alkanolamines may present an unreasonable risk to machinists due to the formulation of nitrosamines, particularly in n-nitrosodiethanolamine (NDELA). Recent studies indicate that NDELA is a potent animal carcinogen. EPA may propose to prohibit the intentional addition of inorganic nitrites to water- containing metalworking fluids that contain amines.

Timetable:

Action	Date	FR Cite
ANPRM	01/23/84	49 FR 2767
NPRM	06/00/86	

Small Entity: Yes

Additional Information: SAR No. 2149.

FTS: 8-382-3945.

Analysis: RFA; RIA

Agency Contact: Richard Gross, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3945

RIN: 2070–AB09

2625. REGULATORY INVESTIGATION OF FORMALDEHYDE

Significance: Regulatory Program

Legal Authority: 15 USC 2605 / TSCA 6; 15 USC 2608 / TSCA 9

CFR Citation: 40 CFR 765

Legal Deadline: None

Abstract: As described in the Federal Register on May 23, 1984, the Agency has been investigating regulatory options for the reduction of three categories of exposure to formaldehyde: 1) residents exposed to formaldehyde emissions from wood products used in the construction of mobile homes: 2) similarly exposed residents of conventional homes: 3) apparel manufacture employees exposed to formaldehyde released from treated fabrics. Because OSHA proposed a standard in December 1985 that applies to all occupational exposure, EPA has terminated its investigation with respect to apparel manufacturing employees. Investigation is being conducted in consultation with HUD and CPSC. This investigation may lead to the initiation of various control alternatives, including section 9 referral to other agencies and/or section 6 regulations.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/84	49 FR 21870
Section 9(d) and Notice of Termination for Apparel Workers	02/00/86	
Section 9 Report, NPRM, or statement of no unreasonable risk regarding wood products	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 2146.

FTS: 8-382-3945.

Agency Contact: Richard Gross, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3945

RIN: 2070–AB14

2626. REGULATORY INVESTIGATION OF 4,4'-METHYLENEBIS (2-CHLOROANILINE)(MBOCA)

Legal Authority: 15 USC 2605/ TSCA 6; 15 USC 2608/ TSCA 9

CFR Citation: 40 CFR 764

Legal Deadline: None

Abstract: MBOCA is a curing agent used in the manufacturing of elastomers and surface coatings. It has been shown to cause cancer in laboratory animals. Risks are primarily to workers, many of whom work for small businesses. The Agency will close out the ANPR and refer these risks to the Occupational Safety and Health Administration under the consultation provision of TSCA Section 9(d).

Timetable:

Action	Date	FR Cite
ANPRM	05/23/83	48 FR 22954
NPRM	00/00/00	
Supplemental Timetable:		
TSCA 9(d) and ANPR Closure NOTICE	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No.

FTS:8-382-3945

Agency Contact: Richard Gross, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3945

RIN: 2070–AB22

2627. ASBESTOS ABATEMENT BUILDING OCCUPANT PROTECTION RULE

Significance: Regulatory Program

Legal Authority: 15 USC 2605/TSCA 6

CFR Citation: 40 CFR 764

Legal Deadline: None

Abstract: This rulemaking may set standards to ensure that building occupants and visitors are protected during asbestos abatement. Approaches being considered include (1) a rule requiring that asbestos abatement contractors undergo certain training in order to ensure that they are competent to conduct asbestos abatement work, and (2) non-regulatory approaches based on programs EPA has started or is expanding that would assist States in establishing programs that ensure persons performing abatement work are "certified" as competent to perform such work.

In addition, OSHA is now revising its asbestos rule and intends to issue new asbestos standards for the construction industry in the near future. These OSHA standards may contain a provision requiring employers to institute a training program for employees. Such a provision could obviate the need for all or part of this rule, although amendments to the EPA worker protection rule would be necessary.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No.2243.

FTS:8-382-3849.

Agency Contact: Joseph DeSantis, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3849

RIN: 2070–AB23

2628. POLYCHLORINATED BIPHENYLS (PCBS): MANUFACTURING, PROCESSING, DISTRIBUTION IN COMMERCE, AND USE PROHIBITIONS; EXCLUSIONS AND USE AUTHORIZATIONS (REVISION)

Legal Authority: 5 USC 556 /TSCA 6

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: On July 10, 1984, EPA promulgated a rule for inadvertently generated PCBs and authorizing the limited use of PCBs in heat transfer and hydraulic systems (49 FR 28172). EPA will propose amendments to the July 10 Rule in response to two petitions for judicial review of the Rule. The proposed amendments will be based on EPA evaluation of new information submitted by the petitioners and other interested parties.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No.2244.

FTS:8-382-3935.

Agency Contact: Suzanne Rudzinski, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3935

RIN: 2070–AB25

2629. REGULATORY INVESTIGATION OF METHYLENE CHLORIDE

Significance: Regulatory Program

Legal Authority: 15 USC 2605 / TSCA 6; 15 USC 2608 / TSCA 9

CFR Citation: 40 CFR 754

Legal Deadline: None

Abstract: EPA, in consultation with other Federal Agencies, is developing a comprehensive and integrated strategy for a regulatory investigation of methylene chloride. This regulatory investigation will determine whether or not methylene chloride presents an unreasonable risk to human health or the environment and to determine if regulatory controls are needed to eliminate or reduce exposure to methylene chloride.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/85	50 FR 42037
NPRM	02/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 2284.

FTS: 8-382-3945.

Agency Contact: Richard Gross, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3945

RIN: 2070–AB41

2630. ASBESTOS IN SCHOOLS REINSPECTION RULE

Significance: Regulatory Program

Legal Authority: 15 USC 2605 / TSCA 6

CFR Citation: 40 CFR 763

Legal Deadline: None

Abstract: EPA is considering a rule to require local education agencies to reinspect schools periodically for friable asbestos and to report the presence of friable asbestos to parents of school children and school employees.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Yes

Additional Information: SAR No. 2295.

FTS: 382-3849.

Analysis: Regulatory Flexibility Analysis; RFA

Agency Contact: Joseph DeSantis, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3849

RIN: 2070–AB44

2631. PCB SPILLS CLEANUP POLICY AND PCB RECORDKEEPING AMENDMENTS (REVISION)

Legal Authority: 15 USC 2605(e) (3) (B) / TSCA 6(e)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Under EPA's regulations on the disposal of PCBs, spills, leaks and other uncontrolled discharges of PCBs constitute the illegal disposal of PCBs. Because such discharges of PCBs are considered to be violations of the PCB disposal regulations, EPA requires the cleanup of contamination resulting from such discharges. This action is directed toward establishing nationwide standards under TSCA for the cleanup of PCB spills. EPA will propose amendments to the PCB recordkeeping requirements to require owners of fluid

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containing PCBs to maintain records of cleanup. at the same time, EPA will publish for public comment, a TSCA enforcement policy for the clean up of PCB spills.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No. 2297.

FTS: 382-3935.

Agency Contact: Suzanne Rudzinski, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3935

RIN: 2070-AB45

2632. ● LABELING RULE FOR TREATED WOOD

Legal Authority: 15 USC 2605 /TSCA section 6

CFR Citation: Not yet determined

Legal Deadline: Judicial, December 1986. December 1986

Abstract: The Agency is concerned about potential risks to users of wood treated with pesticides. The Agency will propose to require that homeowners and other users of treated wood are provided with information on the safe handling, use ad disposal of treated wood. Final action will depend on whether the wood preservative industry complies fully with a voluntary program to accomplish the same goal.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: SAR NO. 1680

FTS: 8-557-7420

Agency Contact: Paul Lapsley, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-767C), Washington, D.C. 20460, 703 557-7420

RIN: 2070-AB55

2633. SECTION 8 (A) PRELIMINARY ASSESSMENT INFORMATION RULE

Legal Authority: 15 USC 2607a / TSCA 8(a)

CFR Citation: 40 CFR 712

Legal Deadline: None

Abstract: This rule adds chemicals to the list of chemicals and designated mixtures subject to the requirements of the TSCA Section 8(a) Preliminary Assessment Information Rule - (40 CFR Part 712). Chemicals not designated by the Interagency Testing Committee (ITC) for test rules, and not subject to EPA's one year priority consideration are also included for reporting under Section 8(a). These include chemicals identified by OTS; other EPA offices and other Agencies. Manufacturers and importers are required to submit exposure-related data (EPA Form No. 7710-35) on the chemicals. These data will be used to monitor the levels of production, import and/or processing of these substances and the avenues of human and environmental exposure to these substances. It will also support risk assessment and test rule decisions. Reporting rules may be issued on specific chemicals.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Supplemental Timetable:

Anthraquinone

NPRM 11/06/85 (50 FR 46090)
Final Action 00/00/00

Small Entity: No

Additional Information: SAR No. 2178.

FTS: 8-382-3436.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20640, 202 382-3436

RIN: 2070-AB08

2634. TSCA SECTION 8(A) COMPREHENSIVE ASSESSMENT INFORMATION RULE (CAIR)

Significance: Regulatory Program

Legal Authority: 15 USC 2607(a) / TSCA 8(a)

CFR Citation: 40 CFR 712

Legal Deadline: None

Abstract: This rule will contain a comprehensive list of questions for industry reporting which will provide necessary information to complete chemical assessments. Each time EPA needs information on a chemical, the Agency will amend the rule to add the chemical. Not all questions will be selected for each chemical added to the rule; only the most relevant questions will be selected for each chemical. The information obtained by this rule will be used by EPA and other Federal Agencies to support assessments of and rulemaking on chemical substances.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Additional Information: SAR No. 2129.

FTS: 8-382-3438.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 382-3436

RIN: 2070-AB13

2635. ● COLLECTION OF INFORMATION ON LIVING MICROORGANISMS RELEASED TO THE ENVIRONMENT

Significance: Regulatory Program

Legal Authority: 15 USC 2607 /TSCA 8(a)

CFR Citation: Not applicable

Legal Deadline: None

Abstract: EPA will collect information about organisms and their uses which are not now included under its active TSCA biotechnology review program. This will provide a way of monitoring the biotechnology industry and ensuring that there is an increasing base of information with which to assess and modify regulatory decisions. In order to require submission of this information and to clarify what is expected, EPA will issue a rule under section 8(a) of TSCA.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Additional Information: SAR No.2327

FTS:8-382-3826.

Agency Contact: Anne Hollander, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3826

RIN: 2070-AB59

2636. ● USER FEES FOR PROCESSING PMNS

Significance: Regulatory Program

Legal Authority: 15 USC 2625 /TSCA 26(B)

CFR Citation: 40 CFR 720

Legal Deadline: None

Abstract: Section 26(b) of TSCA authorizes EPA, by rule, to require the payment of a fee from any persons required to submit data under sections 4 or 5 of TSCA. The fee may not exceed $2,500 or, in the case of a small business, $100. EPA intends to propose a rule under this authority to require fees for premanufacture notices (PMNs) on new chemical substances. EPA is also considering whether fees should be required for test marketing exemption notices on polymers and low-volume chemicals, and whether fees required for PMNs should be reduced if the submitter provides test data on the new chemical substance.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information: SAR NO.2324

FTS: 8-382-3852

Agency Contact: Joseph A. DeSantis, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, D.C. 20460, 202 382-3852

RIN: 2070-AB54

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Toxic Substances Control Act (TSCA) — Final Rule Stage

2637. DIOXINS/FURANS: TESTING RULE AND REQUIREMENTS FOR DATA SUBMISSION

Significance: Regulatory Program

Legal Authority: 15 USC 2603 /TSCA 4; 15 USC 2607 /TSCA 8

CFR Citation: 40 CFR 799; 40 CFR 712

Legal Deadline: None

Abstract: EPA has proposed to collect information on chemicals containing polyhalogenated dibenzo-p-dioxins (PHDD's) and polyhalogenated dibenzofurans (PHDF's). Rules will be promulgated under section 4 and 8 requiring testing of specified chemicals to determine the presence of and levels of PHDD's and PHDF's; and to require submission of production, use, and exposure data.

Timetable:

Action	Date	FR Cite
NPRM	12/19/85	50 FR 51794
Final Action	02/00/87	

Small Entity: No

Additional Information: SAR No. 2253.

FTS:8-382-3933.

Agency Contact: Suzanne Rudzinski, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3933

RIN: 2070-AB21

2638. NEGOTIATED CONSENT/PROCEDURAL TEST RULE (REVISION)

Legal Authority: 15 USC 2603/TSCA 4

CFR Citation: 40 CFR 790

Legal Deadline: None

Abstract: This amends the test rule development and exemptions procedural rule published October 10, 1984 (49 FR 39776) to allow for rulemaking to be conducted in a single phase (i.e., a proposed rule and a final rule covering both the effects for which testing is necessary and the testing methodology and may add consent orders as a means of obtaining test data required under Section 4 of TSCA.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/17/85	50 FR 20652
Final Action	04/00/88	

Small Entity: No

Additional Information: SAR No. 2245.

FTS:8-475-8130.

Agency Contact: Gary Timm, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-777), Washington, DC 20460, 202 475-8130

RIN: 2070-AB30

2639. PREMANUFACTURE NOTIFICATION: STAYED PROVISIONS (REVISION)

Legal Authority: 15 USC 2604 / TSCA 5

CFR Citation: 40 CFR 720

Legal Deadline: None

Abstract: On September 13, 1983, EPA stayed the effective date of sections 720.3(y), 720.36, 720.50(c), and 720.78(b) of the final premanufacture notification (PMN) rule issued under section 5 of the Toxic Substances Control Act (TSCA). The stayed provisions concerned the section 5(h)(3) research and development exemption, data requirements on related chemicals, and the definition of "possession and control". All other provisions are effective as of October 26, 1983. This reproposal will revise the stayed provisions only.

Timetable:

Action	Date	FR Cite
NPRM	12/27/84	49 FR 5020
Final Action	03/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 1134a.

FTS: 8-382-3849.

Agency Contact: Joseph A. DeSantis, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3849

RIN: 2070-AA94

2640. GENERAL REGULATIONS ON SIGNIFICANT NEW USE RULES (SNURS) (REVISION)

Legal Authority: 15 USC 2604 /TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: Subpart A of part 721 of 40 CFR contains general provisions for Significant New Use Rules (SNURs). The Agency has received comments requesting that the general provisions

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be modified to provide more flexibility in recordkeeping requirements; to revise its hazard communication provisions to make them more compatible with OSHA's Hazard Communication Standard; and to allow manufacturers and processors to seek Agency approval, outside the context of a PMN submission, for risk management measures which are equivalent to those described in a SNUR. Based on comments, EPA will revise the general provisions for SNURs.

Timetable:

Action	Date	FR Cite
NPRM	02/00/86	
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 2250.

FTS:8-382-3779.

Agency Contact: Ralph Wright, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3779

RIN: 2070-AB26

2641. POLICY STATEMENT REGARDING CERTAIN MICROBIAL PRODUCTS

Legal Authority: 15 USC 2604/TSCA 5

CFR Citation: 40 CFR 721

Legal Deadline: None

Abstract: New microorganisms developed through advanced techniques of generic engineering and used for TSCA commercial purposes will be subject to EPA requirements. OPTS is now developing general policies concerning the scope of PMN requirements for genetically engineered organisms, and strategies for conducting risk assessments of these organisms. A proposed policy was published in December 1984. Comments were due on April 1, 1985. The policy will be revised, as appropriate, and final statement will be prepared. In addition, OPTS is participating in an inter-Agency Working Group on Biotechnology to ensure that the overall Federal approach is integrated and consistent.

Timetable:

Action	Date	FR Cite
Notice of Proposed Policy	12/31/84	49 FR 50680
Notice of Final Policy	03/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 2123.

FTS:8-382-3828.

Agency Contact: Anne Hollander, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3828

RIN: 2070-AB31

2642. POLYCHLORINATED BIPHENYLS (PCBS); APPLICATIONS FOR EXEMPTIONS FROM THE BAN ON MANUFACTURING, PROCESSING, AND DISTRIBUTION

Legal Authority: 5 USC 556 / TSCA 6(e)(3)(B)

CFR Citation: 40 CFR 761

Legal Deadline: None

Abstract: Section 6(e)(3)(b) of TSCA provides that the Administrator may grant, by rule, exemptions from the prohibitions on the manufacture, processing and distribution in commerce of PCBs upon finding (1) that granting the exemption will not pose an unreasonable risk of injury to health or the environment, and (2) that good faith efforts have been made to develop a PCB substitute which does not pose an unreasonable risk of injury to health or the environment.

Timetable:

Action	Date	FR Cite
NPRM	08/29/85	50 FR 35182
Notice	08/29/85	50 FR 35192
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 2150.

FTS: 8-382-3935.

Analysis: RIA

Agency Contact: Suzanne Rudzinski, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-798), Washington, DC 20460, 202 382-3935

RIN: 2070-AB20

2643. ASBESTOS ABATEMENT WORKER PROTECTION RULE

Significance: Regulatory Program

Legal Authority: 15 USC 2605 /TSCA 6

CFR Citation: 40 CFR 763.120

Legal Deadline: None

Abstract: This rule would establish worker protection provisions for public employees who conduct asbestos abatement work and are not covered by an OSHA rule or a rule developed under an approved state plan. The rule was made immediately effective.

Timetable:

Action	Date	FR Cite
NPRM	07/12/85	50 FR 28530
Interim Final Rule	07/12/85	50 FR 28530
Final Action	04/00/86	

Small Entity: No

Additional Information: SAR No. 2249

FTS:8-382-3849

Analysis: Regulatory Flexibility Analysis; RFA

Agency Contact: Joseph DeSantis, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3849

RIN: 2070-AB24

2644. ACTION CONCERNING COMMERCIAL AND INDUSTRIAL USE OF ASBESTOS

Significance: Regulatory Program

Legal Authority: 15 USC 2605 / TSCA 6

CFR Citation: 40 CFR 763

Legal Deadline: None

Abstract: Asbestos is a known human carcinogen. Persons are exposed to asbestos from releases to the environment during all phases of the lifecycle of asbestos products. Because of the serious risk presented to many people from exposure to asbestos during the lifecycle of asbestos products, EPA has proposed a rule under Section 6 of TSCA to ban certain asbestos products for which substitutes are currently available and to phase out all or most asbestos mining and importation over 10 years.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/79	44 FR 60057
NPRM	01/29/86	51 FR 3738
Final Action	01/00/87	

Small Entity: Yes

Additional Information: SAR No. 2296.

FTS: 382-3849.

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis; RIA, RFA

Agency Contact: Joseph DeSantis, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-794), Washington, DC 20460, 202 382-3849

RIN: 2070-AB29

2645. PARTIAL UPDATING OF CERTAIN TSCA INVENTORY DATA

Legal Authority: 15 USC 2607 / TSCA 8(a)

CFR Citation: 40 CFR 710, Subpart b

Legal Deadline: None

Abstract: This rule would update, under the authority of section 8(a) of TSCA, the production volume and plant site data for certain substances reported for the TSCA Chemical Substances Inventory. The information is needed by EPA to perform a number of activities associated with the implementation of TSCA. The current Inventory data base was compiled in 1979, based on 1977 data. The obsolescence of the Inventory data base and the lack of an alternative source that can fully satisfy EPA's requirements have formed the basis for the proposed action. EPA has proposed that certain manufacturers/importers of certain substances report current production volume, plant site location, and site-limited status. After the initial reporting, follow-up reporting will be required on a regular basis.

Timetable:

Action	Date	FR Cite
NPRM	03/12/85	50 FR 9944
Final Action	06/00/86	

Small Entity: No

Additional Information: SAR No. 2115.

FTS: 8-382-3938.

Agency Contact: Linda Travers, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-793), Washington, DC 20460, 202 382-3938

RIN: 2070-AA99

2646. REVIEW OF TSCA SECTION 8(C) ADVERSE REACTIONS REPORTING AND RECORDKEEPING REQUIREMENTS(REVISION)

Legal Authority: 15 USC 2607 / TSCA 8

CFR Citation: 40 CFR 717

Legal Deadline: None

Abstract: Under Section 8(c) of the Toxic Substances Control Act, manufacturers, processors, and distributors are responsible for recording allegations that their products caused significant adverse reactions to health or the environment EPA will conduct an evaluation to determine the number and kinds of allegation records that industry is keeping and whether the rule as currently written appears to be meeting its stated objective. The review will be conducted in two phases (pilot study and full-scale evaluation) and the recommendations, where appropriate, will be implemented through revisions to the 8(c) rule.

Timetable:

Action	Date	FR Cite
Begin Pilot Study	01/00/86	
End Pilot Study	06/00/86	

Small Entity: Not Applicable

Additional Information: SAR No.

REVIEW AUTHORITY: Paperwork Reduction Act.

FTS: 8-382-3436.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 382-3436

RIN: 2070-AB03

2647. SECTION 8(D) HEALTH AND SAFETY DATA REPORTING RULE

Legal Authority: 15 USC 2607(d)/TSCA 8(d)

CFR Citation: 40 CFR 716

Legal Deadline: None

Abstract: This rule adds chemicals to the list of chemicals and designated mixtures subject to the requirements of the TSCA Section 8(d) Health and Safety Data Reporting Rule. Chemicals not designated by the Interagency Testing Committee (ITC) and not subject to EPA's 1 year priority consideration are also included for reporting under Section 8(a). These include chemicals identified by OTS; other EPA offices and other Agencies.

Supplemental Timetable:

p-tert-Butyl Benzoic Acid;p-tert-Butyl Benzaldehyde; p-tert-ETC
NPRM 11/07/85 (50 FR 46309)
p-tert-Butyl Benzoic Acid;p-tert-Butyl Benzaldehyde; p-tert-ETC
Final Action 00/00/00
Vinyl Acetate
NPRM 08/08/85 (50 FR 32095)
Final Action 12/27/85 (50 FR 52923)
23 Substances Contained in Hazardous Wastes
NPRM 10/07/85 (50 FR 40874)
Final Action 01/22/86 (51 FR 2890)

Small Entity: No

Additional Information: SAR No. 1139a.

FTS: 8-382-3436.

Docket No. OPTS 84012.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-778), Washington, DC 20460, 202 382-3436

RIN: 2070-AB11

2648. SECTION 8(D) HEALTH AND SAFETY REPORTING RULE (REVISION)

Legal Authority: 15 USC 2607(d) /TSCA 8(d)

CFR Citation: 40 CFR 716

Legal Deadline: None

Abstract: EPA is considering amending the Toxic Substances Control Act (TSCA) Section 8(d) Health and Safety Data Reporting Rule by: lengthening the rule's sunset provision, limiting certain reporting exemptions, and clarifying the rule's confidentiality provisions. EPA believes that these amendments will increase the number and usefulness of the health and safety data reports submitted to EPA, and will provide these reports during the same time period that EPA performs its chemical testing, hazard/risk assessment, and risk management determinations.

Timetable:

Action	Date	FR Cite
NPRM	09/30/85	50 FR 39715
Final Action	09/00/86	

Small Entity: No

Additional Information: SAR No. 1139b.

FTS:8-382-3436.

Agency Contact: Frank Kover, Environmental Protection Agency, Pesticides and Toxic Substances, (TS-788), Washington, DC 20460, 202 382-3436

RIN: 2070-AB35

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ENVIRONMENTAL PROTECTION AGENCY (EPA)—Toxic Substances Control Act (TSCA) — Completed Actions

2649. SECTION 9 REPORT ON 1,3-BUTADIENE

Significance: Regulatory Program

CFR Citation: 40 CFR 784

Completed:

Reason	Date	FR Cite
Section 9 Report	10/10/85	50 FR 41383

Small Entity: Undetermined

Agency Contact: Richard Gross 202 382-3945

RIN: 2070-AB04

2650. SECTION 8(C) RECORDS AND REPORTS OF ALLEGATIONS OF SIGNIFICANT ADVERSE REACTIONS TO HEALTH AND THE ENVIRONMENT (REVISION)

CFR Citation: 40 CFR 717

Completed:

Reason	Date	FR Cite
Final Action	11/13/85	50 FR 46766

Small Entity: No

Agency Contact: Frank Kover 202 382-3439

RIN: 2070-AA86

2651. CHEMICAL INFORMATION RULES; ADDITIONAL AUTOMATIC REPORTING (REVISION)

CFR Citation: 40 CFR 712

Completed:

Reason	Date	FR Cite
Final Action	08/28/85	50 FR 34805

Small Entity: No

Agency Contact: Frank Kover 202 382-3439

RIN: 2070-AA98

[FR Doc. 86-8660 Filed 04-18-86; 8:45 am]

BILLING CODE 6560-50-T

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Clean Water Act (CWA) — Prerule Stage

2652. ● REGULATIONS TO IMPLEMENT RECOMMENDATIONS OF THE DOMESTIC SEWAGE STUDY

Significance: Regulatory Program

Legal Authority: 42 USC 6939 / Sec. 3018(b) RCRA

CFR Citation: 40 CFR 400ff; 40 CFR 122

Legal Deadline: Statutory, August 1987. Eighteen months after submission to Congress of the Domestic Sewage Study required by RCRA Sec. 3018(a). Submitted 2/8/86.

Abstract: Regulations are to be promulgated to ensure that hazardous wastes discharged to publicly owned treatment works are adequately controlled to protect human health and the environment. The ANPRM will present a spectrum of possible approaches and solicit the best ways to implement the recommendations of the Congressionally-mandated study of the RCRA domestic sewage exclusion. The study supports primary reliance on the CWA pretreatment program for regulation of aqueous hazardous waste discharged to sewers.

Timetable:

Action	Date	FR Cite
ANPRM	07/00/86	
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 2342.

Agency Contact: Marilyn Goode, Attorney-Advisor, Environmental Protection Agency, Water, EN-336, 382-475-8521

RIN: 2040-AA99

2653. REQUIREMENTS FOR APPLICATION FOR 301(C) VARIANCES

Legal Authority: 33 USC 1311 / CWA 311

CFR Citation: 40 CFR 125

Legal Deadline: None

Abstract: Section 301(c) of the Clean Water Act provides for variances on economic grounds of the strict requirements of BAT controls for non-toxic, non-conventional pollutants. The Agency is considering providing a guidance document which would set out ground rules and national criteria for granting variances from BAT requirements.

Timetable:

Action	Date	FR Cite
Guidance Document	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 1404.

FTS: 8-382-2724.

Agency Contact: Karen Shafer, Environmental Protection Agency, Water, (PM-220), Washington, DC 20460, 202 382-2724

RIN: 2040-AA01

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Clean Water Act (CWA) — Proposed Rule Stage

2654. GUIDELINES FOR CLASSIFYING GROUNDWATER UNDER THE EPA GROUNDWATER PROTECTION STRATEGY

Significance: Regulatory Program

CFR Citation: Not applicable

Legal Deadline: None

Abstract: In August 1984, EPA issued Groundwater Protection Strategy to provide clear objectives to guide the Agency's efforts to protect groundwater. The strategy incorporated views of State and local governments, industry, a broad-cross section of public-interest groups, and other Federal agencies who had been invited to comment on the development of the strategy. One of the major factors toward the development of the strategy was the need to achieve greater consistency among the many EPA programs in protecting groundwater and the need to take into account its value and vulnerability in developing protection and cleanup approaches. Some EPA programs tended to factor in groundwater considerations to a greater extent than other programs. These differences were creating confusion among those subject to these regulations, and among State and local officials who were implementing EPA programs. Now EPA is looking at a rational basis for decisionmaking through these guidelines. The Agency plans to publish both draft and final guidelines.

Timetable:

Action	Date	FR Cite
Draft Guidelines	05/00/86	
Final Guidelines	09/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 2300.

FTS: 8-382-7077.

Agency Contact: Marian Mlay, Environmental Protection Agency, Water, Washington, DC 20460, (WH-550G), 202 382-7077

RIN: 2040-AA85

2655. EFFLUENT GUIDELINES FOR ADHESIVES AND SEALANTS

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 463

Legal Deadline: None

Abstract: The Agency has decided to exclude portions of the Adhesives and Sealants point source category from toxic pollutant regulation. Authority for this decision is provided under the EPA-NRDC Settlement Agreement, Paragraph 8. The Agency intends to publish a document that will provide a summary of technical findings for this industrial category.

Timetable:

Action	Date	FR Cite
Notice Summary of Technical Findings	09/00/86	

Small Entity: No

Additional Information: SAR No. 1910.

FTS:8-382-7190.

Agency Contact: Elwood Forsht, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7190

RIN: 2040-AA30

2656. EFFLUENT GUIDELINES FOR PLASTICS MOLDING AND FORMING (PHTHALATES)

Legal Authority: 33 USC 1311 /CWA 301; 33 USC 1314 /CWA 304; 33 USC 1316 /CWA 306; 33 USC 1317 /CWA 307; 33 USC 1361 /CWA 501

CFR Citation: 40 CFR 463

Legal Deadline: None

Abstract: The Agency promulgated BPT, BAT, and BCT limitations, and NSPS for the plastics and molding and forming industry on December 17, 1984, with the exception of three phthalates in two subcategories. Limitations were reserved for the phthalates because the Agency does not have treatability data for the technology identified to control those pollutants (i.e., activated carbon absorption). The Agency plans to obtain those data through a treatability study and then to propose and promulgate limitations for phthalates, if appropriate. The phthalates are: 1) bis(2-ethylhexyl) phthalate, 2) di-n-butyl phthalate, and 3) dimethyl phthalate. The Agency is planning to withdraw the phthalates portion of the rule under paragraph 8 of the NRDC consent decree.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	06/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 2213.

FTS: 8-382-7150

Agency Contact: Robert M. Southworth, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7150

RIN: 2040-AA77

2657. EFFLUENT GUIDELINES FOR LEATHER TANNING (REVISION)

Legal Authority: 33 USC 1311 /CWA 301; 33 USC 1314 /CWA 304;; 33 USC 1316 /CWA 306; 33 USC 1317 /CWA 307;; 33 USC 1361 /CWA 501

CFR Citation: 40 CFR 425

Legal Deadline: None

Abstract: In response to a settlement agreement (December 11, 1984), the Agency will propose and promulgate amendments to existing regulations which limit the discharge of toxic pollutants to U.S. waters and publicly owned treatment works.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1409.

FTS: 8-382-7189.

Agency Contact: Rexford R. Gile, Jr., Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7146

RIN: 2040-AA91

2658. EFFLUENT GUIDELINES FOR ALUMINUM FORMING (REVISION)

Legal Authority: 33 USC 1311 /CWA 301; 33 USC 1314 /CWA 304;; 33 USC 1316 /CWA 306; 33 USC 1317 /CWA 307;; 33 USC 1361 /CWA 501

CFR Citation: 40 CFR 467

Legal Deadline: None

Abstract: In response to a settlement agreement (4/1/85), the Agency will propose and promulgate amendments to regulations which limit the discharge of pollutants to U.S. waters and publicly owned treatment works.

Timetable:

Action	Date	FR Cite
Final Action	10/24/83	48 FR 49126
Notice	03/27/84	49 FR 11629
NPRM	12/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 1438.

FTS: 8-382-7152.

Agency Contact: Jan Goodwin, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7152

RIN: 2040-AA92

2659. ● EFFLUENT GUIDELINES FOR NONFERROUS METALS: (PHASE I)

Legal Authority: 33 USC 1311 /CWA 301; 33 USC 1314 /CWA 304; 33 USC 1316 /CWA 306; 33 USC 1317 /CWA 307; 33 USC 1361 /CWA 501

CFR Citation: 40 CFR 421

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EPA—CWA — Proposed Rule Stage

Legal Deadline: None

Abstract: In response to a settlement agreement (11/27/85), the Agency will propose and promulgate amendments to the pretreatment and new source standards for the primary aluminum, secondary aluminum and tungsten subcategories to regulations which limit the discharge of pollutants.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	11/00/86	

Small Entity: No

Additional Information: SAR NO.1410

FTS: 8-382-7126

Agency Contact: Eleanor Zimmerman, Environmental Protection Agency, Water, (WH-552), Washington, D.C. 20460, 202 382-7126

RIN: 2040-AA86

2660. FUTURE EFFLUENT GUIDELINES – STANDARDS INITIATIVES

Significance: Regulatory Program

Legal Authority: 33 USC 1251 /CWA 402

CFR Citation: 40 CFR 122

Legal Deadline: None

Abstract: EPA intends to evaluate categories of industrial dischargers of hazardous or toxic pollutants; identify subcategories based upon production processes, pollutants, and applicable technologies; and determine the extent of the environmental problem and the practicality and efficiency of issuing effluent guidelines. Potential industrial categories for analysis would be selected based on requests from the EPA regional offices, States, and municipalities and from results of internal studies. Regulations for these industries would be based on complex engineering and economic studies to determine wastewater characteristics and treatment capabilities of each industrial category and subcategory.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 2304.

FTS: 8-382-7120.

Agency Contact: Devereaux Barnes, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7129

RIN: 2040-AA90

2661. GENERAL PRETREATMENT REGULATIONS: RESPONSE TO PIRT (REVISION)

Legal Authority: 33 USC 1317 /CWA 307

CFR Citation: 40 CFR 403

Legal Deadline: None

Abstract: Revisions to the General Pretreatment Regulations will be proposed to address final recommendations of the Pretreatment Implementation Review Task Force (PIRT) and the need for other adjustments to the regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	05/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 2212.

FTS: 8-475-9520.

Agency Contact: Debora Clovis, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-9520

RIN: 2040-AA81

2662. SEWAGE SLUDGE USE AND DISPOSAL REGULATIONS

Significance: Regulatory Program

Legal Authority: 33 USC 1345 / CWA 405

CFR Citation: 40 CFR 503

Legal Deadline: Statutory. One year following enactment of CWA amendments.

Abstract: The Agency plans to provide technical criteria and management practices by issuing technical sludge regulations under Section 405 of the Clean Water Act. These regulations will address: Distribution and Marketing, Application of sludge to lands which are used for Food and Non-food Chain crops, Ocean Disposal, Incineration and Landfilling. Fifty chemical are being evaluated for the various reuse and disposal options.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
Final Action	09/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 2162.

FTS: 8-755-0100.

Agency Contact: Patrick Tobin, Environmental Protection Agency, Water, WH-585, Washington, DC 20460, 202 755-0100

RIN: 2040-AA74

2663. COMPREHENSIVE REVISIONS TO OCEAN DUMPING REGULATIONS

Significance: Regulatory Program

Legal Authority: 33 USC 1401 et seq /MPRSA

CFR Citation: 40 CFR 220 to 229

Legal Deadline: None

Abstract: These amendments are necessary to clarify the existing regulations, incorporate program experience, and respond to statutory amendments and the results of two lawsuits. Those lawsuits are the City of New York decision (543 F. Supp.), which involved the consideration of the need for ocean dumping and availability and impacts of land-based alternatives, and NWF v. Costle decision (629 F. 2d 118), which involved dredged material issues. These regulations will involve multi-media issues, such as how to compare impacts of ocean disposal and land-based alternatives. Significant impacts on small entities (i.e., small business and small governmental jurisdictions) seem unlikely. The potential for such impact will be further considered as regulations are developed.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	
Final Action	12/00/87	

Small Entity: No

Additional Information: SAR No. 2189

FTS: 8-755-9231

Agency Contact: John Lishman, Environmental Protection Agency, Water, (WH-556), Washington, DC 20460, 202 755-9231

RIN: 2040-AA78

2664. INCINERATION-AT-SEA SITE DESIGNATIONS (NORTH ATLANTIC AND PACIFIC)

Significance: Regulatory Program

EPA—CWA — Proposed Rule Stage

Legal Authority: 33 USC 1401 / MPRSA 201(c)

CFR Citation: 40 CFR 234

Legal Deadline: None

Abstract: In response to the need to provide for the safe disposal of hazardous wastes, the Agency has proposed regulations governing at-sea incineration of hazardous wastes (50 FR 8222, February 28, 1985). Incineration of liquid wastes at-sea is a potential method to help solve the nation's hazardous waste problem. Designation of sites for incineration-at-sea is a necessary step in making this technique for waste disposal available. An incineration-at-sea site for the Gulf of Mexico was designated in 1976 and redesignated in 1982. The Agency is planning to designate additional sites in the North Atlantic and Pacific.

Timetable:

Action	Date	FR Cite
Final Designation of North Atlantic Site	00/00/00	
Proposed Designation of Pacific Site	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 2301.

FTS: 8-382-7166.

Agency Contact: Tudor Davies, Environmental Protection Agency, Water, (WH-556M), Washington, DC 20460, 202 382-7166

RIN: 2040-AA88

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Clean Water Act (CWA) — Final Rule Stage

2665. STATE SLUDGE PROGRAM REGULATIONS

Significance: Regulatory Program

Legal Authority: 33 USC 1256 /CWA 106; 33 USC 1285(g) /CWA 205(g); 33 USC 1313 /CWA 303; 42 USC 6942 /RCRA 4002

CFR Citation: 40 CFR 501

Legal Deadline: None

Abstract: The agency has proposed requiring States to develop sludge management programs, or improve existing ones, and submit them to the EPA Regional Administrators for approval. Included in the proposal were: 1) the procedural requirements for the submission, review, approval, EPA oversight, and withdrawal of approval of State sludge management programs; and 2) the elements of a State program, including compliance monitoring and enforcement provisions, that a State would be required to obtain approval of its program.

Timetable:

Action	Date	FR Cite
NPRM	02/04/86	51 FR 4456
Final Action	02/00/87	

Small Entity: No

Additional Information: SAR No. 2163.

This item was listed in the April 1, 1985 Regulatory Program of the United States Government as RIN 2040-AA86.

Agency Contact: Charles E. Gross, Environmental Protection Agency, Water, (WH-547), Washington, DC 20460, 202 382-2333

RIN: 2040-AA73

2666. SIMPLIFYING CONSTRUCTION GRANTS REGULATIONS (REVISION)

Legal Authority: 33 USC 1361 / CWA 201

CFR Citation: 40 CFR 35, Appendix A

Legal Deadline: None

Abstract: A revised interim final regulation describing allowable and unallowable costs for construction grant projects was published February 17, 1984. This rule will not be published as a final rule until after Congress acts on reauthorization of the construction grants program.

Timetable:

Action	Date	FR Cite
NPRM - Previous	11/06/81	46 FR 55220
NPRM	05/12/82	47 FR 20470
Interim Final Rule	05/12/82	47 FR 20450
Interim Final Rule Revised	02/17/84	49 FR 6224
Final Action	12/00/86	

Small Entity: No

Additional Information: SAR No. 1722.

Docket No. C-81-5.

FTS: 8-382-7278.

Agency Contact: Patricia Power, Environmental Protection Agency, Water, (WH-595), Washington, DC 20460, 202 382-7278

RIN: 2040-AA70

2667. NPDES NEW SOURCE AND SHORT APPLICATION FORMS (REVISION)

Legal Authority: 33 USC 1311 / CWA 301

CFR Citation: 40 CFR 122

Legal Deadline: None

Abstract: This action will develop an NPDES application form for new manufacturing, commercial, mining, and silvicultural operations. Besides obtaining information necessary for setting effluent discharge limitations, it will also help permit writers to determine whether the facility is a new source. This action will also develop a short, two-page application form for use by non-process wastewater dischargers. These dischargers usually contain only materials such as sanitary wastes and non-contact cooling water.

Timetable:

Action	Date	FR Cite
NPRM	10/01/84	49 FR 38812
Final Action	03/00/86	

Small Entity: No

Additional Information: SAR No. 1725.

FTS:8-475-9541.

Agency Contact: James Gallup, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-9541

RIN: 2040-AA00

2668. EFFLUENT GUIDELINES FOR ORGANIC CHEMICALS AND PLASTICS AND SYNTHETIC FIBERS

Significance: Regulatory Program

Legal Authority: 33 USC 1311 / CWA 30[illegible] 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 [illegible]461 / CWA 501

CFR Citation: 40 CFR 414; 40 CFR 416

Legal Deadline: Judicial, March 31, 1986

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Abstract: The Agency will promulgate BPT, BAT, NSPS and pretreatment standards for the organic chemicals portion of this industry (SIC 2865, 2869). Pollutants include aromatic chlorinated hydrocarbons, phenolic compounds, and metals. EPA is also promulgating BCT, BAT, BPT, NSPS, and pretreatment standards for the plastics and synthetics portion of this industry (SIC 2821, 2823, 2824). Pollutants of concern include phenols, acrolein, ethylbenzene, vinyl chloride, and metals. A notice of availability and request for comments announced the availability of technical and economic data and related documentation received after proposal.

Timetable:

Action	Date	FR Cite
NPRM	03/21/83	48 FR 11828
Notice	07/17/85	50 FR 29068
Notice	10/11/85	50 FR 41528
Final Action	00/00/00	

Small Entity: Yes

Additional Information: SAR No. 1415.

This item was included under RIN 2040-AA89 in the April 1, 1985 Regulatory Program of the United States Government.

Analysis: RIA

Agency Contact: E.H. Forsht, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7199

RIN: 2040-AA05

2669. EFFLUENT GUIDELINES FOR OFFSHORE OIL AND GAS EXTRACTION INDUSTRY (REVISION)

Significance: Regulatory Program

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 435

Legal Deadline: Judicial, December 1985

Abstract: The Agency will promulgate regulations for BAT, BCT, NSPS and certain revisions to BPT.

Timetable:

Action	Date	FR Cite
NPRM	08/26/85	50 FR 34592
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 1649.

This item was included under RIN 2040-AA89 in the April 1, 1985 Regulatory Program of the United States Government. Government.

Agency Contact: Dennis Ruddy, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7131

RIN: 2040-AA12

2670. EFFLUENT GUIDELINES FOR PHARMACEUTICALS

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 439

Legal Deadline: None

Abstract: EPA has promulgated final BPT, BAT, NSPS, PSES and PSNS effluent limitations and standards for the pharmaceutical manufacturing point source category. Additionally, the Agency will promulgate BCT and NSPS regulations to control the discharge of conventional pollutants from existing and new source direct dischargers, respectively. However, BCT limitations will not be established until a final BCT cost test methodology is finalized. The Agency will also finalize BAT and NSPS regulations to control the discharge of the nonconventional pollutant, COD, at a later time.

Timetable:

Action	Date	FR Cite
NPRM	11/26/82	47 FR 53584
Final Action BPT, BAT, PSES, PSNS	10/27/83	48 FR 49606
Notice (BCT)	03/09/84	49 FR 8967
Final Action NSPS	02/00/86	
Final Action (BCT)	03/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 1427.

FTS:8-382-7182.

Agency Contact: Frank Hund, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7182

RIN: 2040-AA13

2671. EFFLUENT GUIDELINES FOR GUM AND WOOD (REVISION)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 454

Legal Deadline: None

Abstract: The Agency intends to promulgate the proposed BPT standards for seven subcategories and NSPS standards for four subcategories. However, the Agency will be withdrawing the proposed BAT limitations and the proposed pretreatment standards. Authority for the BAT and pretreatment exclusions is provided under paragraph 8 of the modified NRDC-EPA settlement agreement. In addition to publishing the final BPT and NSPS standards, the Agency will publish guidance describing available wastewater treatment options and the basis for the exclusion of the BAT and pretreatment standards.

Timetable:

Action	Date	FR Cite
NPRM	11/29/80	44 FR 68710
Notice of Availability - Guidance Document	09/00/86	
Final Action (BPT and NSPS)	09/00/86	

Small Entity: No

Additional Information: SAR No. 1425.

FTS:8-382-7186.

Agency Contact: Richard E. Williams, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7186

RIN: 2040-AA17

2672. EFFLUENT GUIDELINES FOR RUBBER PROCESSING (REVISION)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 428

Legal Deadline: None

Abstract: EPA will collect new wastewater data from rubber producing facilities for nine subcategories as part of a staged regulatory review now scheduled to run from FY 87 through FY 90. Some data obtained from the Organic Chemicals/Plastics and Synthetics Fibers project will be examined for technology transfer opportunities. Lead limits for three subcategories were studied and revisions to these limits will be made. Rubber reclaimers covered by subparts H and I have been re-examined for BCT, BAT, and NSPS regulations. National regulations will not be issued for two rubber reclaimed subcategories.

Timetable:

Action	Date	FR Cite
NPRM	12/18/79	44 FR 75016
Final Action	06/00/90	

Small Entity: Undetermined

Additional Information: SAR No. 1420.

FTS:8-382-7172.

Agency Contact: J. S. Vitalis, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7172

RIN: 2040-AA42

2673. EFFLUENT GUIDELINES FOR PULP, PAPER, AND PAPERBOARD (PCB'S) (REVISION)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 430

Legal Deadline: None

Abstract: EPA promulgated effluent limitations and standards for BPT, BAT, NSPS, PSNS and PSES for the Pulp, Paper and Paperboard and the Builders' Paper and Board Mills point source category. BCT limitation will not be established until promulgation of the general methodology for BCT. The Agency proposed BAT and NSPS regulations that would limit the discharge of polychlorinated biphenyls (PCBs) into waters of the United States from mills in this industry where fine and tissue papers are made from deinked wastepaper. In response to a court remand of the final 1977 BPT regulation, EPA has also proposed a revised BPT limitation for BOD5 in acetate grade production in the dissolving sulfite pulp subcategory. The Agency intends to promulgate BCT limitations, PCB regulations and the BOD5 limitation for acetate grade production in the dissolving sulfite pulp subcategory.

Timetable:

Action	Date	FR Cite
NPRM (BOD)	03/12/80	45 FR 15952
NPRM (BCT)	10/29/82	46 FR 49176
NPRM (PCB)	11/18/82	47 FR 52066
Notice (BOD)	09/06/85	50 FR 36444
Final Action (BCT)	05/00/86	
Final Action (BOD)	05/00/86	
Final Action (PCB)	09/00/86	

Small Entity: No

Additional Information: SAR No. 1988.

FTS:8-382-7137.

Agency Contact: Thomas O'Farrell, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7137

RIN: 2040-AA63

2674. EFFLUENT GUIDELINES FOR ORE MINING AND DRESSING (PLACER MINING)

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 144.103; 40 CFR 144.104

Legal Deadline: None

Abstract: The Agency is promulgating BAT and NSPS for mines and mills that beneficiate gold ores by gravity separation methods. These methods include mining of placer deposits, dredge mining, and hydraulic mining operations. These limitations will apply to wastewater generated by these operations and are an addition to those subcategories for which final regulations were issued on December 3, 1982.

Timetable:

Action	Date	FR Cite
NPRM	11/20/85	50 FR 47982
Final Action	10/00/87	

Small Entity: Yes

Additional Information: SAR No. 1413.

FTS 8-382-7191.

Agency Contact: Willis E. Umholtz, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7191

RIN: 2040-AA65

2675. EFFLUENT GUIDELINES FOR COPPER FORMING (REVISION)

Legal Authority: 33 USC 1311 /CWA 301; 33 USC 1314 /CWA 304;; 33 USC 1316 /CWA 306; 33 USC 1317 /CWA 307;; 33 USC 1361 /CWA 501

CFR Citation: 40 CFR 468

Legal Deadline: None

Abstract: In response to a settlement agreement (9/29/84), the Agency will propose and promulgate amendments to the applicability of the regulation issued on 8/15/83 (48 FR 36128).

Timetable:

Action	Date	FR Cite
Final Action	08/15/83	48 FR 36942
Final Action	09/15/83	48 FR 41409
NPRM	02/04/85	50 FR 4872
NPRM	06/27/85	50 FR 26128
Final Action	04/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 1433.

FTS: 8-382-7152.

Agency Contact: Jan Goodwin, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7152

RIN: 2040-AA93

2676. EFFLUENT GUIDELINES FOR BATTERY MANUFACTURING

Legal Authority: 33 USC 1311 / CWA 301; 33 USC 1314 / CWA 304; 33 USC 1316 / CWA 306; 33 USC 1317 / CWA 307; 33 USC 1361 / CWA 501

CFR Citation: 40 CFR 461

Legal Deadline: None

Abstract: In response to a settlement agreement (3/27/85), the Agency will promulgate amendments to the pretreatment and new source standards for the lead subcategory to regulations which limit the discharge of pollutants.

Timetable:

Action	Date	FR Cite
Notice	04/09/84	49 FR 13679
Notice	07/09/84	49 FR 27946
Notice	12/07/84	49 FR 47925
NPRM	01/28/86	51 FR 3477
Final Action	07/00/86	

Small Entity: No

Additional Information: SAR No. 1434.

FTS: 8-382-7153.

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EPA—CWA

Final Rule Stage

Agency Contact: Mary Belefski, Environmental Protection Agency, Water, (WH-552), Washington, DC 20460, 202 382-7153

RIN: 2040-AA95

2677. BEST CONVENTIONAL POLLUTANT CONTROL TECHNOLOGY (BCT) COST TEST AND BCT EFFLUENT GUIDELINES(REVISION)

Significance: Regulatory Program

Legal Authority: 33 USC 1314 / CWA 304

CFR Citation: 40 CFR 405; 40 CFR 406; 40 CFR 407; 40 CFR 408; 40 CFR 409; 40 CFR 411; 40 CFR 412; 40 CFR 418; 40 CFR 422; 40 CFR 424; 40 CFR 426; 40 CFR 432

Legal Deadline: None

Abstract: EPA is revising the cost reasonableness test for BCT effluent guidelines. EPA is making these revisions in response to a 1981 court decision. EPA proposed a revised BCT methodology and new BCT limitations on October 29, 1982 for 16 industries, including pulp and paper, inorganic chemicals, metal finishing, seafood processing, and meat products. EPA issued a notice of data availability on September 20, 1984, requesting comment on new information that is being considered for use in the final BCT methodology. Following analysis of the comments on this notice, EPA will publish a final BCT methodology and BCT effluent guidelines for certain industries identified in the CFR citations listed.

Timetable:

Action	Date	FR Cite
NPRM	10/29/82	47 FR 49176
Notice	09/20/84	49 FR 37046
Final Action	04/00/86	

Small Entity: No

Additional Information: SAR No. 1752.

FTS: 8-382-5385.

Agency Contact: Debra Manese, Environmental Protection Agency, Water, (WH-586), Washington, DC 20460, 202 382-5385

RIN: 2040-AA45

2678. GENERAL PRETREATMENT REGULATIONS: DEFINITIONS FOR PASSTHROUGH AND INTERFERENCE (REVISION)

Legal Authority: 33 USC 1317 / CWA 307

CFR Citation: 40 CFR 403

Legal Deadline: None

Abstract: The Agency is preparing revisions to the Pretreatment Regulations which will redefine several terms and repromulgate other definitions of passthrough and interference. These revisions will address a remand by the Third Circuit Court of Appeals, and fulfills the request for review of the program by the President's Task Force Regulatory Relief.

Timetable:

Action	Date	FR Cite
NPRM	06/19/85	50 FR 25526
Final Action	03/00/86	

Small Entity: No

Additional Information: SAR No. 1900.

FTS: 8-475-8530.

Agency Contact: Craig Jakubowics, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-8530

RIN: 2040-AA46

2679. HAZARDOUS SUBSTANCES POLLUTION PREVENTION FOR FACILITIES SUBJECT TO PERMITTING REQUIREMENTS OF SECTION 402

Legal Authority: 33 USC 1321 / CWA 311

CFR Citation: 40 CFR 151

Legal Deadline: None

Abstract: This regulation's purpose is to prevent spills of hazardous substances into navigable waters. It sets forth requirements for the Spills Prevention Control and Countermeasure Plans for facilities which (a) are not related to transportation, (b) which store, manufacture or otherwise handle hazardous substances at their facilities, and (c) are subject to NPDES permits. The Agency will likely exempt any small facilities which store less than ten times the reportable quantities of spilled, hazardous substances.

Timetable:

Action	Date	FR Cite
NPRM	09/01/78	43 FR 39276
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 1451.

FTS:8-382-3000. RCRA/CERCLA Hotline 800-424-9346

Agency Contact: John Riley, Environmental Protection Agency, Water, (WH-548B), Washington, DC 20460, 202 382-2190

RIN: 2040-AA34

2680. DISCHARGE OF OIL (REVISION)

Legal Authority: 33 USC 1321 / CWA 311

CFR Citation: 40 CFR 110

Legal Deadline: None

Abstract: This regulation defines harmful quantities of oil for purposes of section 18(m)(3) of the Deep Water Port Act of 1974 and incorporates the 1977, 1978 and 1980 amendments to section 311 of the Clean Water Act (CWA). Generally, this action extends reporting requirements for oil spills beyond the continuous zone to ocean waters and provides for an exemption from section 311 for oil discharge covered under MARPOL and section 402 of the CWA.

Timetable:

Action	Date	FR Cite
NPRM	03/11/85	50 FR 9776
Final Action	09/00/86	

Small Entity: No

Additional Information: SAR No. 1579.

For information call the RCRA/Superfund Hotline (800-424-9346); in D.C. Metropolitan Area (382-3000).

Agency Contact: Jack Kooyoomjian, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548B), Washington, DC 20460, 202 382-4130

RIN: 2040-AA48

2681. NPDES REGULATIONS: STORMWATER APPLICATION REQUIREMENTS (REVISION)

Significance: Regulatory Program

Legal Authority: 33 USC 1251 /CWA 402

CFR Citation: 40 CFR 122

Legal Deadline: None

Abstract: These revisions to the NPDES permit program application requirements for stormwater discharges are in response to concerns about the difficulty of complying the April 26, 1985 deadline for application submittals. These changes will address the deadline for application submission and the information required within the application.

EPA—CWA

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM Deadline and Requirements	03/07/85	50 FR 9362
NPRM Reproposed Requirements	08/12/85	50 FR 32548
Final Action Deadline	08/29/85	50 FR 35200
Final Action Requirements	06/00/86	

Small Entity: No

Additional Information: SAR No. 2200.

FTS: 8-426-7010.

Agency Contact: Martha Kirkpatrick, Environmental Protection Agency, Water, (EN-336), Washington, DC 20460, 202 475-8517

RIN: 2040-AA79

2682. OCEAN INCINERATION REGULATION (REVISION)

Significance: Regulatory Program

Legal Authority: 33 USC 1410 / MPRSA

CFR Citation: 40 CFR 234

Legal Deadline: None

Abstract: The Agency plans to provide specific permitting regulations for the ocean incineration of liquid hazardous and nonhazardous wastes. These regulations will be an independent part of the Ocean Dumping Regulations. The existing Ocean Dumping Regulations provide no specific criteria or standards for the review of ocean incineration permit applications.

Timetable:

Action	Date	FR Cite
NPRM	02/28/85	50 FR 8222
Final Action	09/00/86	

Small Entity: No

Additional Information: SAR No. 2140.

FTS: 8-755-0100.

Agency Contact: Patrick Tobin, Environmental Protection Agency, Water, (WH-585), Washington, DC 20460, 202 755-0100

RIN: 2040-AA72

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Clean Water Act (CWA)

Completed Actions

2683. COST CONTROL OF CONSTRUCTION GRANT INCREASES REGULATION (REVISION)

CFR Citation: 40 CFR 35.2205

Completed:

Reason	Date	FR Cite
Final Action	12/12/85	50 FR 46648

Small Entity: No

Agency Contact: David P. Welch 202 382-5819

RIN: 2040-AA71

2684. EFFLUENT GUIDELINES FOR PAINT FORMULATION

CFR Citation: 40 CFR 446

Completed:

Reason	Date	FR Cite
Postponed indefinitely	02/00/86	

Small Entity: No

Agency Contact: Robert Dellinger 202 382-7137

RIN: 2040-AA15

2685. EFFLUENT GUIDELINES FOR INK FORMULATION

CFR Citation: 40 CFR 447

Completed:

Reason	Date	FR Cite
Withdrawn	03/00/86	

Small Entity: No

Agency Contact: Robert Dellinger 202 382-7137

RIN: 2040-AA16

2686. EFFLUENT GUIDELINES FOR PESTICIDES

Significance: Regulatory Program

CFR Citation: 40 CFR 455

Completed:

Reason	Date	FR Cite
Final Action	10/04/85	50 FR 40672

Small Entity: No

Agency Contact: George Jett 202 382-7189

RIN: 2040-AA18

2687. EFFLUENT GUIDELINES FOR METAL MOLDING AND CASTING (FOUNDRIES)

Significance: Regulatory Program

CFR Citation: 40 CFR 464

Completed:

Reason	Date	FR Cite
Final Action	10/30/85	50 FR 45212

Small Entity: Yes

Agency Contact: Donald Anderson 202 382-7189

RIN: 2040-AA20

2688. EFFLUENT GUIDELINES FOR NONFERROUS METALS (PHASE II)

Significance: Regulatory Program

CFR Citation: 40 CFR 421

Completed:

Reason	Date	FR Cite
Final Action	09/20/85	50 FR 38276

Small Entity: No

Agency Contact: Maria Irizarry 202 382-7126

RIN: 2040-AA27

2689. EFFLUENT GUIDELINES FOR COAL MINING (REVISION)

CFR Citation: 40 CFR 434

Completed:

Reason	Date	FR Cite
Final Action	10/09/85	50 FR 41296

Small Entity: No

Agency Contact: Susan de Nagy 202 382-7141

RIN: 2040-AA66

[FR Doc. 86-8860 Filed 04-18-86; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY (EPA)—Atomic Energy Act (AEA)

Prerule Stage

2690. RESIDUAL RADIOACTIVITY

Significance: Regulatory Program

Legal Authority: 42 USC 2201 / AEA 274; 42 USC 2021 / AEA 274

CFR Citation: 40 CFR 194

Legal Deadline: None

Abstract: The Agency is determining what standards and/or guidance is needed to control radiation exposure levels to the public from residual radioactivity after cleanup of sites and facilities where radionuclides were used and where unrestricted use will be allowed. This action may also control radiation exposure levels to the general public from materials contaminated with radionuclides which will be recycled into general commerce.

Timetable:

Action	Date	FR Cite
ANPRM	05/00/86	
NPRM	05/00/88	
Final Action	05/00/90	

Small Entity: Undetermined

Additional Information: SAR No. 2073.

FTS: 8-557-8927.

Analysis: Regulatory Impact Analysis; RIA

Agency Contact: Stanley Lichtman, Environmental Protection Agency, Air and Radiation, ANR-460, Washington, DC 20460, 703 557-8827

RIN: 2060-AB31

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Atomic Energy Act (AEA)

Proposed Rule Stage

2691. RADIOFREQUENCY RADIATION GUIDANCE

Significance: Regulatory Program

Legal Authority: 42 USC 2021(h) /AEA 274(h) /Reorganization Plan No. 3 of 1970

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This guidance will serve to limit exposure of the general public to radiofrequency radiation, which may pose a potential health risk.

Timetable:

Action	Date	FR Cite
ANPRM	12/23/82	47 FR 57338
NPRM	05/00/86	
Final Action	09/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 1525.

FTS: 8-557-8217.

Background Information Reports: a) Biological Effects of Radiofrequency Radiation, b) the Radiofrequency Radiation Environment, c) Analysis of the Radiofrequency Fields Produced by Broadcast Antennas, and d) Analysis of Economic Impact of Federal Radiation Protection Guidance (to Limit Exposure of the Public to Radiofrequency Radiation).

Agency Contact: David E. Janes, Environmental Protection Agency, Air and Radiation, (ANR-461), Washington, DC 20460, 703 557-8217

RIN: 2060-AA02

2692. ENVIRONMENTAL PROTECTION STANDARDS FOR LOW-LEVEL RADIOACTIVE WASTE

Significance: Regulatory Program

Legal Authority: 42 USC 2021(h) /AEA 274(h) /Reorganization Plan No. 3 of 1970

CFR Citation: 40 CFR 193

Legal Deadline: None

Abstract: The Agency intends to set generally applicable standards for the disposal of low-level radioactive wastes, possibly to include some natural and accelerator produced radioactive wastes. The Agency is considering a criteria for declaring certain wastes as below regulatory concern as part of this activity.

Timetable:

Action	Date	FR Cite
ANPRM	06/31/83	48 FR 39563
NPRM	10/00/86	
Final Action	10/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 1727.

FTS:8-557-8610.

Agency Contact: G. Lewis Meyer, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 703 557-8610

RIN: 2060-AA04

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Atomic Energy Act (AEA)

Final Rule Stage

2693. GUIDANCE FOR OCCUPATIONAL RADIATION EXPOSURE (REVISION)

Legal Authority: 42 USC 2021(h) /AEA 274(h)/Reorganization Plan No. 3 of 1970

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This guidance would update existing (1960) radiation occupational exposure limits for all workers except exposure of uranium miners to radon. It may lower allowable exposure per year and incorporate selected current recommendations of national and international radiation protection advisory bodies.

Timetable:

Action	Date	FR Cite
ANPRM	09/17/79	44 FR 53785
NPRM	01/23/81	46 FR 7636
Final Action	03/00/86	

Small Entity: No

Additional Information: SAR No. 1161.

Docket No. A-79-46.

FTS:8-557-8927.

EPA—AEA

Final Rule Stage

Agency Contact: Allan Richardson, Environmental Protection Agency, Air and Radiation, (ANR 460), Washington, DC 20460, 703 557-8827

RIN: 2060-AA00

2694. TRANSURANIUM ELEMENTS

Legal Authority: 42 USC 2021(h) /AEA 274(h) /Reorganization Plan No. 3 of 1970

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This guidance to Federal Agencies will establish dose rate limits for people exposed to transuranium elements in the general environment. Guidance is undergoing interagency review.

Timetable:

Action	Date	FR Cite
NPRM	11/30/77	42 FR 60956
Interim Final Rule	06/00/86	
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1162.

FTS:8-557-0740.

Agency Contact: Gordon Burley, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 703 557-8710

RIN: 2060-AA01

[FR Doc. 86-8849 Filed 04-18-86; 8:45 am]

BILLING CODE 6560-50-T

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Safe Drinking Water Act (SDWA)

Proposed Rule Stage

2695. NATIONAL PRIMARY DRINKING WATER REGULATIONS: INORGANIC AND ORGANIC COMPOUNDS AND MICROBIOLOGICAL CONTAMINANTS AND TURBIDITY (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 300 / SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: None

Abstract: The monitoring requirements and MCLs in the National Interim Primary Drinking Water Regulations will be comprehensively reviewed for inorganic and organic compounds, microbiological contaminants and turbidity and radionuclides. EPA will conduct an assessment of exposure, analytical methods, potential health effects, and the performance and costs of treatment technologies.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/83	48 FR 45502
NPRM RMCLs	11/13/85	50 FR 46936
NPRM MCLs	03/00/87	
Final Action RMCLs	03/00/87	
Final Action MCLs	03/00/88	

Small Entity: Yes

Additional Information: SAR No. 1755.

FTS:8-382-7575.

Agency Contact: Joseph Cotruvo, Environmental Protection Agency, Water, (WH-550), Washington, DC 20460, 202 382-7575

RIN: 2040-AA55

2696. NATIONAL PRIMARY DRINKING WATER REGULATION: RADIONUCLIDES

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: None

Abstract: EPA may propose Recommended Maximum Contaminant Levels (RMCLs) and Primary Drinking Water Regulations for radionuclides in drinking water. These radionuclides include radium, uranium, radon, gross alpha, and gross beta and photon emitters. RMCLs would first be proposed and would be followed by the proposal of Maximum Contaminant Levels (MCLs) and monitoring requirements at the same time the RMCLs are promulgated.

Timetable:

Action	Date	FR Cite
ANPRM	10/05/83	48 FR 45502
NPRM RMCLs	03/00/86	
NPRM MCLs	05/00/87	
Final Action RMCLs	05/00/87	
Final Action MCLs	05/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2281.

FTS: 8-382-7575.

Agency Contact: Joseph Cotruvo, Environmental Protection Agency, Water, (WH-550), Washington, DC 20460, 202 382-7575

RIN: 2040-AA94

2697. ● NATIONAL PRIMARY DRINKING WATER REGULATION: DISINFECTANTS AND DISINFECTION BY-PRODUCTS

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: None

Abstract: EPA may propose Recommended Maximum Contaminant Levels (RMCLs) for disinfectants and disinfection by-products found in drinking water. RMCLs would be proposed first and would be followed by the proposal of Maximum Contaminant Levels 9MCLs) and monitoring requirements at the same time the RMCLs are finalized.

Timetable:

Action	Date	FR Cite
NPRM RMCLs	12/00/87	
NPRM MCLs	12/00/88	
Final Action RMCLs	12/00/88	
Final Action MCLs	12/00/89	

Small Entity: Undetermined

Additional Information: SAR NO.2340

FTS: 8-382-7575

Agency Contact: Joseph A. Cotruvo Ph.D., Environmental Protection Agency, Water, (WH-550), Washington, D.C. 20460, 202 382-7575

RIN: 2040-AA97

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EPA—SDWA — **Proposed Rule Stage**

2698. UNDERGROUND INJECTION CONTROL PROGRAM: INDIAN LANDS

Legal Authority: 42 USC 300 /SDWA 1422

CFR Citation: 40 CFR 147

Legal Deadline: None

Abstract: EPA is required to prescribed an Underground Injection Control (UIC) program in States that do not have an approved UIC program. In addition, all Indian lands not under the jurisdiction of an approved State program must be covered by a Federal program. The program is to take into consideration the unique conditions and the tribal concerns for each nation.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	09/00/86	

Small Entity: No

Additional Information: SAR No. 2131

FTS: 8-382-5558

Agency Contact: Donald M. Olson, Environmental Protection Agency, Water, (WH-550), Washington, DC 20460, 202 382-5558

RIN: 2040-AA76

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Safe Drinking Water Act (SDWA) — **Final Rule Stage**

2699. NATIONAL PRIMARY DRINKING WATER REGULATIONS: MAXIMUM CONTAMINANT LEVELS FOR VOLATILE ORGANIC CHEMICALS FOUND IN DRINKING WATER

Significance: Regulatory Program

Legal Authority: 42 USC 300 / SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: None

Abstract: EPA has promulgated Recommended Maximum Contaminant Levels (RMCLS) and proposed Primary Drinking Water Regulations for certain volatile synthetic organic compounds (VOCs), (including monitoring and reporting requirements for these VOCs as well as other unregulated VOCs.) These VOCs have been most commonly found in drinking water drawn from groundwater sources. These chemicals include such compounds as trichloroethylene, tetrachloroethylene, and vinyl chloride. Aeration and granular activated carbon (GAC) systems are treatment technologies that can reduce these contaminants to a low level. Preliminary estimates show that average residential monthly bills for affected systems could rise from $1-$14 depending on the size of the drinking water system and the type of technology selected.

Timetable:

Action	Date	FR Cite
ANPRM Previous	07/14/76	41 FR 29901
ANPRM	03/04/82	47 FR 9360
NPRM	06/12/84	49 FR 24330
NPRM RMCLs	06/12/84	49 FR 24330
NPRM MCLs	11/13/85	50 FR 46902
Final Action RMCLs	11/13/85	50 FR 46880
Final Action MCLs	10/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 1567.

FTS: 8-382-7575.

Agency Contact: Joseph Cotruvo, Environmental Protection Agency, Water, (WH-550), Washington, DC 20460, 202 382-7575

RIN: 2040-AA53

2700. NATIONAL PRIMARY DRINKING WATER REGULATIONS: FLUORIDE (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 300 / SDWA 1412

CFR Citation: 40 CFR 141

Legal Deadline: Judicial, March 1986

Abstract: The Agency will assess the maximum contaminant level (MCL) for fluoride in the National Interim Primary Drinking Water Regulations to determine if it reflects potential health effects and the performance and cost of available treatment technologies. Based on statutory requirements and recent technical information, the Agency is considering numerous options.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/81	46 FR 58345
ANPRM	10/05/83	48 FR 45502
NPRM (RMCLs)	05/14/85	50 FR 20164
NPRM (MCLS)	11/14/85	50 FR 47156
Final Action (MCLs)	04/00/88	

Supplemental Timetable:
(RMCLs)
Final Action 11/14/85 (50 FR 47142)

Small Entity: Undetermined

Additional Information: SAR No. 1756.

FTS:8-382-7575.

Agency Contact: Joseph Cotruvo, Environmental Protection Agency, Water, (WH-550), Washington, DC 20460, 202 382-7575

RIN: 2040-AA56

[FR Doc. 86-8640 Filed 04-18-86; 8:45 am]

BILLING CODE 6560-50-T

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Noise Control Act (NCA) — **Final Rule Stage**

2701. WITHDRAWAL OF PRODUCTS FROM THE AGENCY'S REPORTS IDENTIFYING MAJOR NOISE SOURCES AND WITHDRAWAL OF PROPOSED RULES

Legal Authority: 42 USC 4904(b)(1) / NCA 5(b)(1); 42 USC 4905 / NCA 6(a)(1)

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: This action withdraws certain products from the Agency's report identifying major noise sources issued under authority of Section 5(b)(1) of the Noise Control Act of 1972. These products are: Truck Transport Refrigeration Units, Power Lawn Mowers, Pavement Breakers, Rock Drills, Wheel and Crawler Tractors and Buses. This action also withdraws proposed noise regulations for Wheel and Crawler Tractors, and Buses, issued under the authority of Section 6(a)(1) of the Act.

Timetable:

Action	Date	FR Cite
NPRM	12/01/82	47 FR 54108
Final Action	06/00/86	

Small Entity: No

Additional Information: SAR No. 2046.

FTS: 8-382-7403

No CFR parts pertain. This action withdraws proposals which were not codified.

Agency Contact: Kenneth Feith, Environmental Protection Agency, Air and Radiation, Washington, DC 20460, 202 382-7403

RIN: 2060-AB24

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Noise Control Act (NCA) — **Completed Actions**

2702. MOTOR CARRIERS ENGAGED IN INTERSTATE COMMERCE: NOISE EMISSION STANDARDS (REVISION)

CFR Citation: 40 CFR 202

Completed:

Reason	Date	FR Cite
Final Action	01/06/86	51 FR 850

Small Entity: No

Agency Contact: Kenneth Feith 202 382-7403

RIN: 2060-AB20

[FR Doc. 86-8640 Filed 04-18-86; 8:45 am]

BILLING CODE 6560-50-T

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Resource Conservation and Recovery Act (RCRA) — **Prerule Stage**

2703. PROHIBITION OF UNDERGROUND INJECTION OF WASTES

Significance: Regulatory Program

Legal Authority: RCRA 3001; HWSW 201

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: The Hazardous Waste Disposal Amendments of 1984 Sections 201 F&G require the Administrator to investigate the disposal of Hazardous Waste through underground injection wells, and to determine whether such practices are protective of human health and the environment.

Timetable:

Action	Date	FR Cite
ANPRM	06/00/87	
Final Action	02/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2211.

FTS: 8-382-5508.

Agency Contact: Francoise Brasier, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-550), Washington, DC 20460, 202 382-5508

RIN: 2050-AB34

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Resource Conservation and Recovery Act (RCRA) — **Proposed Rule Stage**

2704. CONTAINERIZED LIQUIDS IN LANDFILLS

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 264.314; 40 CFR 265.314

Legal Deadline: Statutory, February 8, 1986

Abstract: The Agency will propose regulations consistent with the Hazardous and Solid Waste Act of 1984. The regulation will 1) minimize the placement of containers in landfills, 2) minimize the placement of free liquids in containers, and 3) prohibit the use of absorbents that biodegrade and release liquids when compressed.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Interim Final Rule	00/00/00	

Small Entity: No

Additional Information: SAR No. 2207.

FTS:8-382-4682

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Agency Contact: Paul Cassidy, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565E), Washington, DC20460, 202 382-4682

RIN: 2050-AB12

2705. ● CORRECTIVE ACTION AT FEDERAL FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6924; 42 USC 6926 /HSWA 206

CFR Citation: 40 CFR 264; 40 CFR 271

Legal Deadline: None

Abstract: HSWA requires corrective action for releases of hazardous wastes and constituents at hazardous waste management facilities seeking RCRA permits. Issues concerning the applicability of the HSWA corrective action requirement to Federal facilities specifically recognition of subdivisions of Federal agencies as facility "owners," limitations on Federal agency responsibility at facilities operated by private parties and policies for establishing priorities for correcting releases at Federal facilities, will be covered by EPA's rules.

Timetable:

Action	Date	FR Cite
Notice of Policy and Interpretation and Intent to Propose	03/05/86	51 FR 7722
NPRM	03/00/87	
Final Action	11/00/87	

Small Entity: Not Applicable

Additional Information: SAR NO.2334

FTS: 8-382-2210

Agency Contact: Paul Connor, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-563), Washington, D.C. 20460, 202 382-2210

RIN: 2050-AB63

2706. ● MANDATORY INSPECTION REGULATION

Legal Authority: 42 USC 6927 /RCRA 3007,HSWA 231

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The Administrator is required under Section 231 3007(e) of the Hazardous and Solid Waste Amendments of 1984 (HSWA) after notice and public comment to promulgate a regulation which establishes standards for mandatory inspections. The regulation will pertain to inspections conducted at treatment, storage, and disposal facilities subject to permitting under section 3005 of HSWA and will establish the manner, frequency, recordkeeping, and reporting of inspections.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
Final Action	07/00/87	

Small Entity: Undetermined

Additional Information: SAR NO.2332

FTS: 8-475-9325

Agency Contact: Bruce Newton, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-527), Washington, D.C. 20460, 202 475-9325

RIN: 2050-AB59

2707. RETROFITTING INTERIM STATUS SURFACE IMPOUNDMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 6905 /RCRA 1006; 42 USC 6912(a) /RCRA 2002(a); 42 USC 6921 /RCRA 3001; 42 USC 6922 /RCRA 3002

CFR Citation: 40 CFR 265.220; 40 CFR 265.230

Legal Deadline: None

Abstract: The Agency will provide guidance on retrofitting provisions and the exemptions. Guidance is for applicants to use to understand the necessary information that must be included in a permit application.

Timetable:

Action	Date	FR Cite
Guidance	06/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 2204.

FTS 8-382-4682

Agency Contact: Paul Cassidy, Environmental Protection Agency, Solid Waste and Emergency Response, Environmental Protection Agency, 401 M street, Washington, D.C. 20460, 202 382-4682

RIN: 2050-AB03

2708. CRITERIA FOR CLASSIFICATION OF SOLID WASTE DISPOSAL FACILITIES AND PRACTICES (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 6907a / RCRA 1008a; 42 USC 6944 / RCRA 4004; 42 USC 6949 / RCRA 4010

CFR Citation: 40 CFR 257

Legal Deadline: Statutory, March 31, 1988

Abstract: The Hazardous and Solid Waste Amendments of 1984 require EPA, by November 8, 1987, to submit a report to Congress on the adequacy of the RCRA 1008(a) and 4004 Criteria in protecting human health and the environment from ground-water contamination, and on the need for additional authorities to enforce the Criteria. EPA must revise the criteria by March 31, 1988, for Subtitle D facilities that may receive hazardous household waste or small quantity generator waste. The revisions will include ground-water monitoring, location restrictions, and corrective action, as appropriate.

Timetable:

Action	Date	FR Cite
NPRM	03/00/87	
Final Action	03/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2224

FTS-382-4489

Analysis: Regulatory Impact Analysis

Agency Contact: Michael Flynn, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565E), Washington, DC, 202 382-4489

RIN: 2050-AB21

2709. AIR EMISSION REGULATIONS FOR HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

Significance: Regulatory Program

Legal Authority: RCRA as Amended by HSWA section 201(N)

CFR Citation: 40 CFR 264

Legal Deadline: None

Abstract: Regulations are under development for monitoring and control of air emissions at hazardous waste treatment, storage, and disposal facilities, including open tanks, surface impoundments, and landfills, as may be necessary to protect human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 2240.

FTS 629-5671

Agency Contact: James Durham, Environmental Protection Agency, Solid Waste and Emergency Response, (MD-13), Environmental Protection Agency, Research Triangle Park, NC 27711, 919 541-5671

RIN: 2050-AB33

2710. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES

Legal Authority: 42 USC 6905 / RCRA 1006; 42 USC 6912(a) / RCRA 2002(a); 42 USC 6921 / RCRA 3001; 42 USC 6922 / RCRA 3002

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: These actions announce EPA's decision whether or not to list a waste as hazardous under RCRA. If a waste is listed as hazardous it will be subject to those requirements contained in 40 CFR Parts 262-266 and Parts 270, 271 and 124. A listing decision is an internal determination which is based on extensive waste characterization studies and toxicological evaluations. As a result of this determination, a regulatory package is prepared which then goes through Agency regulatory review procedures. The Agency can decide either to list or not to list and will justify this decision in the rulemaking package.

Supplemental Timetable:

Additional Solvents
NPRM 07/30/85 (50 FR 30208)
Final Action 08/00/86

Carbamate (SAR 1861)
NPRM 12/20/84 (49 FR 49562)
Final Action 04/00/86

Carbon Disulfide Production (SAR 2172)
NPRM 11/00/86
Final Action 01/00/88

Chlorinated Aliphatic Compounds (SAR 1854)
NPRM 02/10/84 (49 FR 5313)
Interim Final Rule 02/10/84 (49 FR 5308)
Final Action 03/00/86

Chlorotoluene Production (SAR 2205)
NPRM 08/00/86
Final Action 12/00/87

Coal Slurry Pipeline Effluent
NPRM 06/00/86
Final Action 06/00/87

Coke By-Product Wastes (SAR 2227)
NPRM 07/00/86
Final Action 07/00/87

Dialkate/Trialkate
NPRM 05/00/86
Final Action 07/00/87

Dimethoate, Methomyl and Famphur (SAR 1944)
NPRM 10/03/83 (48 FR 45210)
Final Action 04/00/86

Dimethylhydrazine (SAR 1954)
NPRM 12/20/84 (49 FR 49556)
Final Action 06/00/86

Diphenylamine (SAR 2156)
NPRM 03/00/86
Final Action 05/00/87

Dyes and Pigments
NPRM 09/00/86
Final Action 09/00/87

Ethylene Dibromide (SAR 1862)
NPRM 11/08/84 (49 FR 44718)
Interim Final Rule 04/00/86

Halogenated Dioxin
NPRM 11/00/86
Final Action 11/00/87

Hexavalent Chromium (SAR 1761)
NPRM 10/30/80 (45 FR 72029)
Publication of Report 03/00/86

Inorganic Chemical Industry (SAR 2235)
NPRM 07/00/86
Final Action 07/00/87

Laboratory Wastes (SAR 2228)
NPRM 07/00/86
Final Action 07/00/87

Lead Alkyls Production (SAR 2173)
NPRM 04/00/86
Final Action 04/00/87

Linuron and Bromacil (SAR 2154)
NPRM 05/01/85 (50 FR 18622)
Final Action 09/00/86

Methyl Bromide (SAR 2157)
NPRM 04/25/85 (50 FR 16432)
Final Action 07/00/86

Nitroanilines Production (SAR 2171)
NPRM 08/00/86
Final Action 10/00/87

Nitrotoluene/Toluidines (SAR 2155)
NPRM 05/00/86
Final Action 07/00/87

Paint Manufacturing (SAR 2220)
NPRM 05/00/86
Final Action 00/00/00

Petroleum Refinery (SAR 2226)
NPRM 10/00/86
Final Action 02/00/88

Solvent Mixtures (SAR 1858)
NPRM 04/30/85 (50 FR 18378)
Final Action 02/28/86

Toluene Diisocyanate (SAR 1855)
NPRM 05/08/84 (49 FR 19608)
Final Action 10/00/85

Used Oil
NPRM 11/29/86 (50 FR 49164)
Final Action 11/00/86

Wood Preserving (SAR 2174)
NPRM 12/00/86
Final Action 04/00/88

Small Entity: No

Additional Information: SAR No.

RCRA Hotline

FTS: 8-382-3000

Agency Contact: RCRA Hotline, Environmental Protection Agency, Solid Waste and Emergency Response, Washington, DC 20460, 800 424-9346

RIN: 2050-AB46

2711. HAZARDOUS WASTE EXPORTS

Legal Authority: RCRA as Amended by HSWA 245

CFR Citation: 40 CFR 260; 40 CFR 262; 40 CFR 263; 40 CFR 271

Legal Deadline: Statutory, November 8, 1986

Abstract: The primary purpose of the Exports regulation is for EPA to; formally notify foreign governments of exports of hazardous waste to their country, receive confirmation of approval or disapproval and formally notify the U.S. exporter. A notification of approval by EPA must accompany each waste shipment. Only a few hundred shipments of hazardous waste are exported annually, none by small entities.

Timetable:

Action	Date	FR Cite
NPRM	03/13/86	51 FR 87444
Final Action	08/00/86	

Small Entity: No

Additional Information: SAR No. 2208.

FTS:8-382-2217

Agency Contact: Carolyn Barley, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-563), Washington, DC20460, 202 382-2217

RIN: 2050-AB13

2712. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: TOXICITY CHARACTERISTIC (MODIFICATION)

Significance: Regulatory Program

Legal Authority: 42 USC 6921 / RCRA 3001

CFR Citation: 40 CFR 261

Legal Deadline: Statutory, November 8, 1986

Abstract: The EPA is proposing to amend its hazardous waste identification regulations by expanding the Toxicity Characteristic to include approximately 38 additional organic toxicants and by introducing a new

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extraction procedure to be used in the Toxicity Characteristic. This action will add approximately 38 additional organic toxicants to the Toxicity Characteristic.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	11/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 2062.

FTS-8-382-4770.

Analysis: RIA and RFA

Agency Contact: David Friedman, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-562B), Washington, DC 20460, 202 382-4770

RIN: 2050-AA78

2713. HAZARDOUS WASTE MANAGEMENT: MISCELLANEOUS UNITS (SUBPART X)

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 266

Legal Deadline: None

Abstract: General performance requirements will be established for hazardous waste management units which 40 CFR part 264 does not currently address (Subpart X). These types of facilities include deep mines, silos, salt mines, thermal treatment units, and open detonation units.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	12/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 1617.

Docket No. 3004.

FTS:8-382-4654.

Agency Contact: Robert Tonetti, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565), Washington, DC 20460, 202 382-4654

RIN: 2050-AA23

2714. HAZARDOUS WASTE AS FUELS: TECHNICAL STANDARDS(REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004, 3005

CFR Citation: 40 CFR 264

Legal Deadline: Statutory, November 8, 1988

Abstract: Burning of hazardous waste in boilers for the purpose of heat recovery is currently exempt from regulation under RCRA. The Hazardous and Solid Waste Amendments of 1984 require the Agency to develop technical standards for the burning of hazardous waste fuels. This regulation will establish acceptable situations for use of hazardous waste fuel in industrial boilers and certain industrial furnaces. It will also establish prohibitions, operating parameters, and permit procedures.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	05/00/87	

Small Entity: No

Additional Information: SAR No. 2078.

FTS-8-382-7917.

Contains previous RIN 2050-AA29.

Analysis: Regulatory Impact Analysis

Agency Contact: Robert Holloway, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565A), Washington, DC 20460, 202 382-7917

RIN: 2050-AA72

2715. LAND DISPOSAL LINER AND LEAK DETECTION REGULATION (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 265

Legal Deadline: Statutory, May 8, 1987

Abstract: These amendments to the Agency's interim status and permitting rules may include requirements pertaining to double liner and leachate collection systems for certain units which are currently singularly lined, leak detection systems, leak response and repair construction quality assurance plans, removable coupons and leachate level monitoring. These amendments are considered to assure better design, construction, and operation of hazardous waste land disposal facilities and, thus, enhance protection of human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
Final Action	09/00/87	

Small Entity: No

Additional Information: SAR No. 2080.

FTS-8-382-4654.

Includes previous RINs 2050-AA21, 2050-AA50, and 2050-AA52.

Analysis: Regulatory Impact Analysis

Agency Contact: Robert Tonetti, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-505), Washington, DC 20460, 202 382-4654

RIN: 2050-AA76

2716. FINANCIAL RESPONSIBILITY FOR CORRECTIVE ACTION: CONTINUING RELEASES

Significance: Regulatory Program

Legal Authority: 42 USC 6901 /RCRA 3004, HSWA 206

CFR Citation: 40 CFR 264

Legal Deadline: Statutory, November 8, 1985

Abstract: The current RCRA regulations require owners/operators of hazardous waste management facilities to demonstrate financial responsibility for the costs of closure and post closure (if applicable) activities. The HSWA require that owners/operators seeking a RCRA permit also demonstrate financial responsibility for completing corrective actions for prior releases. EPA plans to write implementing regulations using the financial instruments in the current hazardous waste regulations.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
Final Action	09/00/87	

Small Entity: No

Additional Information: SAR No. 2225.

FTS:8-382-4761

Analysis: Regulatory Flexibility Analysis

Agency Contact: Deborah Wolpe, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-562B), Washington, DC20460, 202 382-4761

RIN: 2050-AB22

2717. USE OF APPENDIX VIII FOR GROUNDWATER MONITORING (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 3251/RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 270

Legal Deadline: None

Abstract: The Appendix VIII of 40 CFR Part 261 is a list of hazardous constituents presently referenced in 40 CFR Part 264 for use in groundwater monitoring. This proposed amendment would modify the list for the purposes of this use and includes: 1) codified guidance (Phase I); and 2) revised list of considerations of risks and effectiveness (Phase II).

Timetable:

Action	Date	FR Cite
NPRM (Phase I) Codified Guidance	06/00/86	
NPRM (Phase II) Revised List on Risk & Effectiveness Considerations	12/00/86	
Final Action (Phase I) Codified Guidance	04/00/87	
Final Action (Phase II) Revised List on Risk & Effectiveness Considerations	12/00/87	

Small Entity: No

Additional Information: SAR No. 2229 and 2273

FTS 382-4654

Agency Contact: Dr. Robert W. April, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565E), Washington, DC20460, 202 382-4654

RIN: 2050-AB27

2718. STANDARDS FOR OWNERS/OPERATORS OF WASTE FACILITIES: FINANCIAL RESPONSIBILITY FOR CORRECTIVE ACTION-AS NECESSARY AND DESIRABLE

Legal Authority: 42 USC 6924 / RCRA 3004 /HSWA 208

CFR Citation: 40 CFR 264H; 40 CFR 265H

Legal Deadline: None

Abstract: This rule would require owners and operators of hazardous waste disposal facilities to demonstrate financial responsibility for corrective action. Failures to undertake corrective action by owners or operators will result in increasing degradation of groundwater resources and increased clean-up costs to the public. Firms with low net worth may not be able to obtain or afford other financial assurance mechanisms as they are currently structured in 40 CFR Part 264, Subpart H. The Agency is examining the effects of a national fund and restructured financial assurance instruments.

Timetable:

Action	Date	FR Cite
ANPRM	07/26/82	47 FR 32279
NPRM	07/00/86	
Interim Final Rule	03/00/88	
Final Action	01/00/89	

Small Entity: Yes

Additional Information: SAR No. 1948.

FTS: 8-382-4761.

Analysis: RIA, RFA

Agency Contact: Deborah Wolpe, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-562), Washington, DC 20460, 202 382-4761

RIN: 2050-AB39

2719. PROPOSED CODIFICATION RULE FOR THE 1984 RCRA AMENDMENTS

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 260 to 271; 40 CFR 122 to 124

Legal Deadline: Statutory, November 8, 1986

Abstract: The purpose of this rule is to expand and elaborate on specific portions of the Final Codification Rule which was effective on July 15, 1985. The Final Codification Rule codified those requirements specified by the 1984 amendments to RCRA which were effective immediately or shortly after enactment. More specifically, this rule addresses such areas as minimum technology requirements for land disposal facilities; corrective action for prior releases at solid waste management units; research, demonstration and development permits and permit modifications and post-closure permits.

Timetable:

Action	Date	FR Cite
NPRM	03/28/86	51 FR 10706
Final Action	11/00/86	

Small Entity: No

Additional Information: SAR No. 2187.

FTS -382-5864.

Analysis: Regulatory Impact Analysis

Agency Contact: David Fagan, Environmental Protection Agency, Solid Waste and Emergency Response, WH-563, Washington, DC 20460, 202 382-4892

RIN: 2050-AB58

2720. ● RESTRICTION OF LAND DISPOSAL OF CERTAIN HAZARDOUS WASTES: CALIFORNIA LIST

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 268

Legal Deadline: Statutory, July 8, 1987

Abstract: This rule establishes treatment standards and associated effective dates for a group of hazardous wastes known as the California list (i.e., liquid hazardous waste containing PCB's and liquid and solid hazardous wastes containing halogenated organics). This rule will also establish additional pieces of the land disposal restrictions framework.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
Final Action	07/00/87	

Small Entity: Undetermined

Additional Information: SAR NO. 2254

FTS: 8-382-4770

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EPA—RCRA — Proposed Rule Stage

Agency Contact: Susan Bromm, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-562B), Washington, D.C. 20460, 202 382-4770

RIN: 2050-AB65

2721. ● RCRA LOCATION STANDARDS FOR HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 264.18

Legal Deadline: None

Abstract: Section 3004(a) of RCRA requires EPA to promulgate additional standards for the location of hazardous waste treatment, storage, and disposal facilities. Two location standards (floodplain and seismic restrictions) already exist at 40 CFR Part 264.18. These additional standards are planned to be proposed in September 1987.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	
Final Action	09/00/88	

Small Entity: Yes

Additional Information: SAR No. 2303.

FTS:8-382-4656.

Agency Contact: Glen R. Galen, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565E), Washington, DC 20460, 202 382-4658

RIN: 2050-AB67

2722. AMENDMENT TO STATE PROGRAM CAPABILITY REQUIREMENTS

Legal Authority: 49 USC 6926 / RCRA 3006

CFR Citation: 40 CFR 271.16

Legal Deadline: None

Abstract: This action will amend 40 CFR 271.16 to require a State either to have administrative penalty authority or to request that EPA use its administrative penalty authority when warranted. The new requirements would apply to States that have received final authorization by operation of the "money target" rule, which will provide that a State has a year (two years of a statute must be changed) to comply with federal regulations promulgated after the State obtained final authorization.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No. 2158.

FTS: 8-382-4823.

Agency Contact: Anthony M. Montrone, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-527), Washington, DC 20460, 202 382-4823

RIN: 2050-AB01

2723. GUIDELINES FOR PROCUREMENT OF RE-REFINED OIL

Legal Authority: 42 USC 3251 / RCRA 6002

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: This action establishes the guidelines for the Federal procurement of re-refined waste lubricating oils and hydraulic fluids. This action will encourage the recovery of waste oil and reduce the environmental threat waste oil represents.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	04/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 2257.

FTS-382-4502

Agency Contact: William Sanjour, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565), Environmental Protection Agency, Washington, DC 20460, 202 382-4502

RIN: 2050-AB53

2724. LEAKING UNDERGROUND STORAGE TANKS: REGULATIONS FOR TANKS

Significance: Regulatory Program

Legal Authority: 42 USC 6993 /RCRA 9003

CFR Citation: 40 CFR Not yet determined

Legal Deadline: Statutory. 02/08/87, 08/08/87, 08/08/88

Abstract: This regulation will establish, under Subtitle I of RCRA, requirements for leak detection, prevention, and closure of all underground storage tanks holding petroleum and other regulated substances. Because of the large size of the regulated community, this rule could impact a significant number of small business entities and a Regulatory Flexibility Analysis would be conducted by EPA. Promulgation of this rule, will, for the first time, establish national requirements for the storage of regulated substances, including, petroleum products in underground tanks. It will not apply to underground tanks storing hazardous wastes, which are currently regulated under Subtitle C of RCRA. These regulations will also include performance standards for new tanks; addressing the design, construction, installation, compatibility and leak detection.

Timetable:

Action	Date	FR Cite
NPRM	02/00/87	
Final Action	02/00/88	

Small Entity: No

Additional Information: SAR No. 2221.

FTS 382-7917

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis; RIA and RFA

Agency Contact: David O'Brien, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565), Washington, DC20460, 202 382-7917

RIN: 2050-AB19

2725. REQUIREMENTS FOR AUTHORIZATION OF STATES: UNDERGROUND STORAGE TANK PROGRAMS

Legal Authority: 42 USC 3251 /RCRA 9004 as amended by HSWA

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: The Hazardous and Solid Waste Amendments of 1984 (HSWA) allow EPA to approve State underground storage tank programs to operate in lieu of the Federal program. This rule will establish the requirements for the EPA approval of such State programs.

EPA—RCRA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	02/00/87	
Final Action	02/00/88	

Small Entity: No

Additional Information: SAR No. 2234.

FTS:8-382-2210

Agency Contact: Jim McCormick, Environmental Protection Agency, Solid Waste and Emergency Response, (WH 563), Washington, DC 20460, 202 382-5237

RIN: 2050-AB31

2726. ● CORRECTIVE ACTION REGULATIONS FOR UNDERGROUND STORAGE TANKS

Significance: Regulatory Program

Legal Authority: 40 USC 6981B /RCRA 9003

CFR Citation: 40 CFR Not yet determined

Legal Deadline: Statutory. Petroleum Tanks – 02/08/87 Chemical Tanks – 08/08/88

Abstract: This regulation will establish, under Subtitle I of RCRA, requirements for taking corrective action in response to releases from underground storage tanks, and requirements for the reporting of such releases and the corrective action taken. The requirements will apply to corrective action for releases of "regulated substances," including petroleum and those substances defined under Section 101(14) of the Comprehensive Response, Compensation, and Liability Act. The requirements will not apply to underground tanks storing hazardous wastes which are currently regulated under Subtitle C of RCRA.

Timetable:

Action	Date	FR Cite
NPRM	02/00/87	
Final Action	02/00/88	

Small Entity: Yes

Additional Information: SAR NO. 2556

FTS: 8-382-7917

Agency Contact: Penelope Hansen, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565A), Washington, D.C. 20460, 202 382-7917

RIN: 2050-AB61

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Resource Conservation and Recovery Act (RCRA) — Final Rule Stage

2727. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: ACUTE HAZARDOUS WASTE MIXTURE RULE (REVISION)

Legal Authority: 42 USC 6905 / RCRA 1006; 42 USC 6912 / RCRA 2002; 42 USC 6921 / RCRA 3001; 42 USC 6922 / RCRA 3002

CFR Citation: 40 CFR 261.33

Legal Deadline: None

Abstract: 40 CFR 261.33(e) currently includes disposal of commercial chemical products consisting of a single active ingredient. In addition, under the current regulations, all concentrations of the product are regulated. This action expands the definition to cover mixtures of acutely hazardous materials as well as establish deminimus concentration limits.

Timetable:

Action	Date	FR Cite
NPRM	02/13/86	51 FR 5187
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 2111.

FTS-8-382-4770.

Agency Contact: David Friedman, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-562B), Washington, DC 20460, 202 382-4770

RIN: 2050-AA85

2728. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: LISTING OF COMMERCIAL CHEMICAL PRODUCTS (REVISION)

Legal Authority: 42 USC 6905 / RCRA 1006; 42 USC 6912 / RCRA 2002; 42 USC 6921 / RCRA 3001; 42 USC 6922 / RCRA 3002

CFR Citation: 40 CFR 261.33

Legal Deadline: None

Abstract: This regulation will add Chemical Abstracts Service (CAS) numbers to all compounds listed in 40 CFR Part 261.33 and Appendix VIII as an aid for identification. This rule also corrects a number of errors that have been noted in these lists. The Agency will not publish a proposed rule for this action only a final rule.

Timetable:

Action	Date	FR Cite
Final Action	03/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 2165.

FTS: 8-382-4770.

Agency Contact: David Friedman, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-562B), Washington, DC 20460, 202 382-4770

RIN: 2050-AA87

2729. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE: IRON DEXTRAN

Legal Authority: 42 USC 6905 /RCRA 1006; 42 USC 6912 / RCRA 2002a; 42 USC 6921 / RCRA 3001; 42 USC 6922 /RCRA 3002

CFR Citation: 20 CFR 261

Legal Deadline: None

Abstract: This action proposes to remove iron dextran from 40 CFR Part 261.33(f) and Appendix VIII as a hazardous substance. This action is in response to a petition the Agency received requesting removal because there is no proof of any hazard to the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/08/85	50 FR 46468
Final Action	08/00/86	

Small Entity: No

Additional Information: SAR 2274

FTS 382-4777

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Agency Contact: Agnes Artis, Environmental Protection Agency, Solid Waste and Emergency Response, Environmental Protection Agency, 401 M street, Washington, DC 20460, 202 382-4777

RIN: 2050–AB54

2730. PROPOSED REINTERPRETATION OF MINING WASTE EXCLUSION (SMELTING/REFINING)(REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 6905 /RCRA 1006; 42 USC 6912(a) /RCRA 2002(a); 42 USC 6921 /RCRA 3001; 42 USC 6922 /RCRA 3002

CFR Citation: 40 CFR 261

Legal Deadline: Judicial, September 30, 1986

Abstract: This action will add the following sentence to 40 CFR Part 261.4 (b)(7): For purposes of this paragraph, solid waste from the processing of ores and minerals only includes muds from facilities refining bauxite, phosphogypsum from phosphoric acid plants and slag from primary metal smelters and phosphorous reduction facilities. Wastes removed from the exclusion will be subject to Subtitle C regulation if they are hazardous. This action also relists certain smelter wastes.

Timetable:

Action	Date	FR Cite
NPRM	10/02/85	50 FR 40292
Final Action	09/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 2168.

FTS: 8-382-2791.

Agency Contact: Dr. Dexter Hinckley, Environmental Protection Agency, Solid Waste and Emergency Response, WH-565A, 202 382-2791

RIN: 2050–AB56

2731. ● STATE AUTHORIZATION CODIFICATION RULE

Legal Authority: 42 USC 6905 / RCRA 1006; 42 USC 6912(A) / RCRA 2002(A); 42 USC 6926 / RCRA 3006

CFR Citation: 40 CFR 271

Legal Deadline: None

Abstract: This rule is the first of a set of companion rules to EPA's final rule published July 15, 1985 (50FR28702), which codified in regulations those requirements specified by HSWA which took effect immediately or shortly after enactment. This rule changes the existing regulations to assist in the implementation of the new statutory provisions pertaining to the authorization of State hazardous waste programs.

Timetable:

Action	Date	FR Cite
NPRM	01/06/86	51 FR 496
Final Action	06/00/86	

Small Entity: No

Additional Information: SAR NO. 2187.

FTS: 8-382-2210.

Agency Contact: Truett V. DeGeare, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-563), Washington, D.C. 20460, 202 382-2210

RIN: 2050–AB64

2732. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES: WASTE OIL(REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 6921 to 6925 / RCRA 3001 to 3005; 42 USC 6930 / RCRA 3010

CFR Citation: 40 CFR 260; 40 CFR 261; 40 CFR 266; 40 CFR 270; 40 CFR 271

Legal Deadline: Statutory, November 8, 1986

Abstract: Pursuant to the requirements of the Used Oil Recycling Act (incorporated into RCRA by amendments in 1980 and 1984), the Agency proposed standards to define and control recycled used oil. These standards include controls over the generation, transportation, storage, and reuse of recycled used oil. Certain controls on the burning of used oil will be developed as part of the burning and blending technical standards (RIN: 2050-AB36) discussed elsewhere in this Federal Register.

Timetable:

Action	Date	FR Cite
NPRM	11/29/85	50 FR 49212
Final Action	11/00/86	

Small Entity: Yes

Additional Information: SAR No. 1713. Docket No. 3014.

FTS:8-382-7917.

Analysis: Regulatory Impact Analysis; Regulatory Flexibility Analysis; RIA, RFA

Agency Contact: Michael Petruska, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565), Washington, DC 20460, 202 382-7917

RIN: 2050–AA00

2733. IDENTIFICATION AND LISTING OF HAZARDOUS WASTES: TEST METHODS FOR HAZARDOUS WASTE (REVISION)

Legal Authority: 42 USC 6921 to 6925 / RCRA 3001 to 3005

CFR Citation: 40 CFR 261

Legal Deadline: None

Abstract: This action updates the RCRA manual of approved test methods (test methods for Evaluating Solid Waste, SW-846) with respect to methods for ground water and incinerator monitoring. This action would codify the guidance given to the regulated community by requiring that these methods be used in all aspects of the RCRA program. At present the tests are required, as appropriate, for hazardous waste definition and for incinerator stack monitoring (for example, ground water monitoring and petitions for exclusion from regulation).

Timetable:

Action	Date	FR Cite
NPRM	10/01/84	49 FR 38786
Final Action	06/00/86	

Small Entity: No

Additional Information: SAR No. 2066.

FTS-8-382-4770.

Agency Contact: David Friedman, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-562B), Washington, DC 20460, 202 382-4770

RIN: 2050–AA82

2734. SCHEDULE FOR REVIEWING WASTES FOR POSSIBLE LAND DISPOSAL RESTRICTION

Significance: Regulatory Program

Legal Authority: 42 USC 6921 /RCRA 3001; 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 268

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Legal Deadline: Statutory, November 8, 1986

Abstract: This action would set forth the Agency's schedule for reviewing hazardous wastes to determine if they should be restricted from land disposal. This schedule will identify when the Agency intends to review each hazardous waste listed in 40 CFR Part 261.

Timetable:

Action	Date	FR Cite
ANPRM	02/15/84	49 FR 5854
NPRM	05/31/85	50 FR 23250
Final Action	06/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 2166.

FTS: 8-382-4770.

This action was split off from RIN 2050-AA30.

Agency Contact: Susan Bromm, Environmental Protection Agency, Solid Waste and Emergency Response, WH-562B, Washington, DC 20460, 202 382-4770

RIN: 2050–AA97

2735. RESTRICTION OF LAND DISPOSAL OF CERTAIN HAZARDOUS WASTES: SOLVENTS, DIOXINS AND ESTABLISHING THE FRAMEWORK FOR EPA'S LAND DISPOSAL PROGRAM

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 268

Legal Deadline: Statutory, November 8, 1986

Abstract: This rule establishes the framework for EPA's land disposal restrictions program including setting treatment standards for hazardous wastes prior to land disposal, procedures for filing petitions for ban exemptions, criteria for setting effective dates for bans, and procedures for case-by-case effective date extensions. It will also include decisions for solvents wastes (EPA waste codes F001- F005) and dioxin containing wastes (EPA waste codes F 020-F 023 and F 026- F 028)

Timetable:

Action	Date	FR Cite
ANPRM	02/15/84	49 FR 5854
NPRM	01/14/86	51 FR 1602
Final Action	11/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 1878.

Docket No. 3001.

FTS:8-382-4770.

Analysis: RIA

Agency Contact: Susan Bromm, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-562B), Washington, DC 20460, 202 382-4770

RIN: 2050–AA30

2736. CONSOLIDATED PERMITS: CLASS PERMITS(REVISION)

Legal Authority: 42 USC 6924 / RCRA 3004; 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 270

Legal Deadline: None

Abstract: This regulation will amend EPA's hazardous waste management permitting regulations by establishing a class permit application form for use by facilities whose only activity subject to RCRA permitting consists of storing hazardous wastes in containers that have been generated on-site. Promulgation of this rule would expedite the permitting process for this class of facility. This is the first RCRA class permit the Agency will issue.

Timetable:

Action	Date	FR Cite
NPRM	07/20/84	49 FR 29524
Final Action	06/00/86	

Small Entity: No

Additional Information: SAR No. 1844.

Docket No. 3005.

FTS:8-382-7917.

Agency Contact: Irene Horner, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565), Washington, DC 20460, 202 382-7917

RIN: 2050–AA36

2737. STANDARDS FOR STORAGE OR TREATMENT OF HAZARDOUS WASTE IN TANK SYSTEMS(REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 6924 / RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 265

Legal Deadline: Judicial, June 30, 1986

Abstract: The storage or treatment of hazardous waste in tanks systems raises considerable concern regarding potential risk to health or the environment posed by migration of the waste. The purpose of this action is to develop a more comprehensive regulatory strategy for the proper management of tank systems for storing or treating hazardous waste.

Timetable:

Action	Date	FR Cite
NPRM	06/26/85	50 FR 26444
Final Action	06/00/86	

Small Entity: Yes

Additional Information: SAR No. 1957.

FTS:8-382-3081.

Analysis: Regulatory Impact Analysis

Agency Contact: William Kline, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565), Washington, DC 20460, 202 382-3061

RIN: 2050–AA57

2738. STANDARDS FOR OWNERS AND OPERATORS OF WASTE FACILITIES: CLOSURE AND POST-CLOSURE CARE (REVISION)

Legal Authority: 42 USC 6924 /RCRA 3004; 42 USC 6925 /RCRA 3005

CFR Citation: 40 CFR 264; 40 CFR 265

Legal Deadline: None

Abstract: The Agency proposed revisions to the existing Subpart G and H regulations in accordance with the terms of the American Iron and Steel Institute (AISI) litigation. In addition, the revisions will clarify ambiguous language in the current regulations. Failure to promulgate these revisions directly violates the AISI settlement agreement. Under the AISI settlement agreement, failure to promulgate these revisions may lead to a direct legal challenge of the existing Subpart G and H regulations. Failure to clarify ambiguous language will create problems as the Agency implements those closure and post closure requirements.

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EPA—RCRA — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	03/19/85	50 FR 11068
Final Action	04/00/86	

Small Entity: No

Additional Information: SAR No. 2165.

FTS: 8-382-4790.

Agency Contact: Carole Anshales, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-562B), Washington, DC 20460, 202 382-4790

RIN: 2050-AB00

2739. ALTERNATE CONCENTRATION LIMITS (ACL)AND OTHER GROUNDWATER REGULATORY AMENDMENTS (REVISION)

Legal Authority: 42 USC 6924 /RCRA 3004

CFR Citation: 40 CFR 264

Legal Deadline: None

Abstract: Alternative concentration limits (ACLs) provide a variance for RCRA permits that allows for some leakage of hazardous constituents. The present regulations do not allow for the use of man-made hydrogeologic barriers as part of an ACL demonstration. This regulatory amendment would explicitly allow such use. This action will also evaluate parameters and statistics for detecting ground-water contamination, and other ground- water monitoring and standards issues. This action also evaluates parameters and statistics for detecting ground-water contamination, and other ground-water monitoring and standards issues.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/00/86	

Small Entity: No

Additional Information: SAR No. 2223 and 2273

FTS-382-4495

Agency Contact: Vernon Myers, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565E), Washington, DC20460, 202 382-4495

RIN: 2050-AB20

2740. STANDARDS APPLICABLE TO OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES; LIABILITY STORAGE

Legal Authority: 42 USC 6901 / RCRA 3004

CFR Citation: 40 CFR 264; 40 CFR 265

Legal Deadline: None

Abstract: The Agency is considering whether to revise the financial responsibility requirements in 40 CFR Parts 264(i) and (j) and 265. The Agency will request comments on the availability of insurance to satisfy the existing liability coverage requirements for owners and operators of hazardous waste facilities and on methods for the Agency to address potential restrictions in the availability of coverage. EPA is considering whether any revisions to 40 CFR Parts 264 and 265 are necessary in light of the current state of the insurance market. The Agency intends to promulgate regulations allowing the corporate guarantee to be used for third party liabilities and it intends to propose indemnity agreements and letters of credit.

Timetable:

Action	Date	FR Cite
NPRM	06/25/85	50 FR 33902
Interim Final Rule	06/00/86	

Small Entity: No

Additional Information: SAR No. 2273.

FTS-382-4761

Agency Contact: Carlos Lago, Program Analyst, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-562B), Washington, DC 20460, 202 382-4761

RIN: 2050-AB47

2741. CONSOLIDATED PERMITS: MINOR MODIFICATIONS TO EXISTING RCRA PERMITS (REVISION)

Legal Authority: 42 USC 6925 / RCRA 3005

CFR Citation: 40 CFR 270.42

Legal Deadline: None

Abstract: Existing regulations allow EPA to make specified minor modification to existing RCRA permits without going through the draft permit and public participation procedures required to make more substantial changes to permits. Under the settlement agreement in NRDC v EPA, EPA is proposing an amendment which would expand the kinds of permit modification that qualify as minor modification and thus are exempt from most procedural requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/15/84	49 FR 9850
Final Action	08/00/86	

Small Entity: No

Additional Information: SAR No. 1805.

Docket No. 3005.

FTS:8-382-4500.

Agency Contact: David Fagann, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-563), Washington, DC 20460, 202 382-4740

RIN: 2050-AA37

2742. GUIDELINE FOR FEDERAL PROCUREMENT OF PAPER AND PAPER PRODUCTS CONTAINING RECOVERED MATERIALS

Legal Authority: 42 USC 6962 / RCRA 6002

CFR Citation: 40 CFR 250

Legal Deadline: None

Abstract: This action is a requirement and necessary precedent to the implementation of affirmative recycled paper procurement programs. It would encourage the recovery of post consumer recovered materials and reduce the volume of solid waste.

Timetable:

Action	Date	FR Cite
NPRM	04/09/85	50 FR 14076
Final Action	06/00/86	

Small Entity: No

Additional Information: SAR No. 2011.

FTS: 8-382-4502.

Agency Contact: William Sanjour, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565 A), Washington, DC 20460, 202 382-4502

RIN: 2050-AA68

EPA—RCRA — Final Rule Stage

2743. GUIDELINES FOR RUBBER ASPHALT

Legal Authority: 42 USC 3251 / RCRA 6002

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: This action establishes guidelines for the Federal procurement of asphalt made from rubber from scrap tires. The purpose of this action is to encourage the recovery of scrap tires and reduce the environmental threat they represent.

Timetable:

Action	Date	FR Cite
NPRM	02/20/86	51 FR 6202
Final Action	12/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 2259.

FTS-382-4502

Agency Contact: William Sanjour, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-565), Washington, DC 20460, 202 382-4502

RIN: 2050-AB52

2744. INTERPRETIVE RULE FOR THE LUST INTERIM PROHIBITION

Legal Authority: 42 USC 6993 /RCRA as amended by HSWA section 9003(g)

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: This interpretive rule will present EPA's interpretation of the terms of the Interim Prohibition. Terms such as "operational life", will be interpreted in this document. In addition, guidance will be provided on how to comply with the provisions of the Interim Prohibitions. Examples will be provided of design features and systems which are acceptable under the prohibition as well as those that are not acceptable.

Timetable:

Action	Date	FR Cite
Final Interpretative Rule	04/00/86	

Small Entity: No

Additional Information: SAR No. 2222.

FTS:8-475-6673

Agency Contact: Pat Cohn, Environmental Protection Agency, Solid Waste and Emergency Response, (WH 565), Washington, DC 20460, 202 382-2270

RIN: 2050-AB57

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Resource Conservation and Recovery Act (RCRA) — Completed Actions

2745. RCRA SMALL QUANTITY GENERATOR RULE (REVISION)

Significance: Agency Priority

CFR Citation: 40 CFR 261.5

Completed:

Reason	Date	FR Cite
Final Action	03/24/86	51 FR 10146

Small Entity: Yes

Agency Contact: Bernard Stoll 202 382-4761

RIN: 2050-AA59

2746. HAZARDOUS WASTE AS FUELS: ADMINISTRATIVE STANDARDS

CFR Citation: 40 CFR 264

Completed:

Reason	Date	FR Cite
Final Action	11/29/85	50 FR 49164

Small Entity: No

Agency Contact: Karen Walker 202 382-7917

RIN: 2050-AA74

2747. STREAMLINING APPROVAL OF STATE PROGRAM REVISIONS

CFR Citation: 40 CFR 271

Completed:

Reason	Date	FR Cite
Final Action	03/04/86	51 FR 7540

Small Entity: No

Agency Contact: Truett V. DeGeare 202 382-2210

RIN: 2050-AB11

2748. NOTIFICATION FORM FOR UNDERGROUND TANKS

CFR Citation: 40 CFR 280

Completed:

Reason	Date	FR Cite
Final Action	11/06/85	50 FR 46803

Small Entity: No

Agency Contact: Virginia Garelick 202 382-7917

RIN: 2050-AB14

[FR Doc. 86-8840 Filed 04-18-86; 8:45 am]

BILLING CODE 6560-50-T

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Clean Air Act (CAA) — Prerule Stage

2749. NAAQS: LEAD

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50

Legal Deadline: Statutory, December 1982

Abstract: EPA is reassessing the health and welfare information that has become available since the last revision of the standard.

Timetable:

Action	Date	FR Cite
Begin Review	03/00/82	
End Review	07/00/86	

Small Entity: No

Additional Information: SAR No. 1919.

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EPA—CAA — Prerule Stage

FTS: 8-629-5655

Agency Contact: Bruce Jordan, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711, 919 541-5655

RIN: 2060-AA95

2750. NAAQS: OZONE

Significance: Regulatory Program

Legal Authority: 42 USC 7408 / CAA 108; 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50

Legal Deadline: Statutory, June 1983

Abstract: EPA is reassessing the health and welfare information that has become available since the last revision of the standard. EPA plans to publish a proposed rule on 02/00/88.

Timetable:

Action	Date	FR Cite
Begin Review	09/00/80	
End Review	02/00/87	

Small Entity: Yes

Additional Information: SAR No. 1920.

FTS: 8-629-5655.

REVIEW AUTHORITY: CAA 109.

Agency Contact: Bruce Jordan, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711, 919 541-5655

RIN: 2060-AA96

2751. NSPS: PERCHLOROETHYLENE DRY CLEANING

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart OO

Legal Deadline: None

Abstract: Some new issues have arisen, and EPA is deciding whether to go forward with this rule. Some small perchloroethylene facilities may be affected by this standard.

Timetable:

Action	Date	FR Cite
NPRM	11/25/80	45 FR 78174
Decision on need for standard expected by	00/00/00	

Small Entity: Yes

Additional Information: SAR No. 1119.

Docket No. A-79-30.

FTS:8-629-5624.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5624

RIN: 2060-AA14

2752. NSPS: PRIMARY ALUMINUM REDUCTION PLANTS

Significance: Regulatory Program

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA is reviewing this item to determine whether revisions are warranted. The review will assess performance and costs of primary aluminum reduction plant control systems as well as the experience of the industry and control agencies in implementing the standard. EPA will issue a notice in the Federal Register announcing the results of its review.

Timetable:

Action	Date	FR Cite
Begin Review	04/00/85	
End Review	10/00/86	

Small Entity: No

Additional Information: SAR No. 2264.

FTS: 8-629-5601.

Agency Contact: Kenneth Durkee, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5601

RIN: 2060-AB36

2753. NSPS: SECONDARY LEAD SMELTERS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA is reviewing the standard to determine whether revisions are warranted. The review will assess performance and costs of secondary lead smelter control systems as well as the experience of the industry and control agencies in implementing the standard. EPA will issue a notice in the Federal Register announcing the results of its review.

Timetable:

Action	Date	FR Cite
Begin Review	11/00/86	
End Review	11/00/87	

Small Entity: Yes

Additional Information: SAR No. 2285.

FTS: 8-629-5601.

Agency Contact: James Crowder, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5601

RIN: 2060-AB39

2754. ● NSPS: PETROLEUM REFINERIES

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA is reviewing the NSPS for petroleum refineries under the Clean Air Act of 1977. The scope of this review is limited to studying the current standard for hydrogen sulfide emissions resulting from combustion of refinery fuel gas.

Timetable:

Action	Date	FR Cite
End Review	04/00/87	

Small Entity: No

Additional Information: SAR NO.2330

FTS:8-629-5595

Agency Contact: Kenneth Durkee, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5595

RIN: 2060-AB93

2755. NESHAPS: BERYLLIUM

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA is reviewing the health and technological basis and administrative aspects of the national emission standard for beryllium. EPA will issue a notice in the Federal Register announcing the results of the review.

Timetable:

Action	Date	FR Cite
Begin Review	12/00/81	
End Review	00/00/00	

Small Entity: No

Additional Information: SAR No. 2029.

FTS: 8-629-5595.

REVIEW AUTHORITY: EO 12291.

EPA—CAA — Prerule Stage

Agency Contact: James Crowder, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5595

RIN: 2060-AB07

2756. DECISIONS ON REGULATING VARIOUS AIR POLLUTANTS

Significance: Regulatory Program

Legal Authority: 42 USC 1857 et seq / CAA

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: The Agency is reviewing the health effects, sources, emissions to the ambient air, and the public exposure of these pollutants. The Agency will publish the decisions whether these pollutants should be controlled as a specified air pollutant under the Clean Air Act or other regulatory mechanisms in order to protect the public health.

Supplemental Timetable:

Acrylonitrile
Decision on Regulation 08/10/85 (50 FR 24319)
Carbon Tetrachloride
Decision on Regulation 08/13/85 (50 FR 32621)
Chlorobenzenes
Decision on Regulation 08/13/85 (50 FR 32628)
Chlorofluorocarbon-113 (F-113)
Decision on Regulation 06/10/85 (50 FR 24313)
Chloroform
Decision on Regulation 09/27/85 (50 FR 39626)
Chromium
Decision on Regulation 06/10/85 (50 FR 24317)
Epichlorohydrin
Decision on Regulation 08/11/85 (50 FR 24575)
Ethylene Dichloride
Decision on Regulation 10/16/85 (50 FR 41994)
Ethylene Oxide
Decision on Regulation 10/02/85 (50 FR 40286)
Formaldehyde
Decision on Regulation 12/00/86
Hexachlorocyclopentadine
Decision on Regulation 10/01/85 (50 FR 40154)
Manganese
Decision on Regulation 08/13/85 (50 FR 32627)
Methyl Cloroform
Decision on Regulation 06/10/85 (50 FR 24314)
Methylene Chloride (Dichloromethane)
Decision on Regulation 10/17/85 (50 FR 42037)
Nickel
Decision on Regulation 08/00/86
Perchloroethylene (tetrachloroethylene)
Decision on Regulation 12/26/85 (50 FR 52280)
Phenol
Decision on Regulation 04/00/86
Trichloroethylene
Decision on Regulation 12/23/85 (50 FR 52422)
Vinylidene Chloride
Decision on Regulation 08/13/85 (50 FR 32632)
1,3 - Butadiene
Decision on Regulation 10/10/85 (50 FR 41466)

Small Entity: No

Additional Information: SAR No. 2181.

FTS 8-629-5655.

Agency Contact: David Patrick, Chief, Pollutant Assessment Branch, Environmental Protection Agency, Air and Radiation, MD-12, Research Triangle Park, NC 27711, 919 541-5655

RIN: 2060-AB56

2757. HYDROCARBON STANDARDS FOR LIGHT-DUTY TRUCKS (REVISION)

Legal Authority: 42 USC 7521 / CAA 202

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: Through this action, EPA will consider the establishment of more stringent hydrocarbon emission standards for light-duty trucks based upon the belief that very cost-effective hydrocarbon control is available from these vehicles. The new standards would be no more stringent than the existing passenger car standard for lighter light-duty trucks and an equivalently stringent standard for heavier light-duty trucks.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/86	
NPRM	02/00/87	

Small Entity: No

Additional Information: SAR No. 2287

FTS: 8-374-8496.

Agency Contact: J. Anderson, Environmental Protection Agency, Air and Radiation, (ANR-455), 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4496

RIN: 2060-AB85

2758. FUELS AND FUEL ADDITIVES

Legal Authority: 42 USC 7545 / CAA 211

CFR Citation: 40 CFR 79

Legal Deadline: None

Abstract: These protocols will help determine effects of fuel and fuel additives on public health and emission control devices. They will ensure that motor vehicle fuels and additives will not harm the public health. They will also ensure that they do not damage emission control devices in motor vehicles.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 1328.

FTS:8-374-4339.

Analysis: RIA

Agency Contact: Richard A. Rykowski, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4339

RIN: 2060-AA59

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Clean Air Act (CAA) — Proposed Rule Stage

2759. ● FUEL ECONOMY AND EMISSIONS TEST PROCEDURES FOR LIGHT-DUTY VEHICLES (REVISED)

Significance: Regulatory Program

Legal Authority: 42 USC 7525 /CAA 86; 15 USC 2001 /CAA 600

CFR Citation: 40 CFR 86; 40 CFR 600

Legal Deadline: None

Abstract: This rule will revise the existing fuel economy and emissions test procedures for Light-duty vehicles. Automotive technology has evolved rapidly in recent years and many vehicles now incorporate design

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features which allow the driver to select from several different calibrations which can affect fuel economy and emissions. Consequently, test procedure revisions are necessary to insure that testing continues to be representative of in-use driving.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	09/00/87	

Small Entity: No

Additional Information: SAR NO. 2302.

FTS:8-374-8403.

Agency Contact: Joseph F. Whitehead, Environmental Protection Agency, Air and Radiation, (ANR-455), 2565 Plymouth Road, Ann Arbor, Michigan 48105, 313 668-8403

RIN: 2060-AB90

2760. NAAQS FOR SULFUR OXIDES (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.4

Legal Deadline: Statutory, December 31, 1980

Abstract: EPA has reviewed the scientific criteria used as a basis for establishing ambient air quality standards for sulfur dioxide. The Agency will revise the standards where appropriate to protect public health and welfare.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/79	44 FR 56730
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No. 1002.

Docket No. OAQPS-79-7.

FTS:8-629-5655.

Analysis: Regulatory Impact Analysis; RIA

Agency Contact: Bruce Jordan, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711, 919 541-5655

RIN: 2060-AA61

2761. NSPS: SOLVENT DEGREASING(111D)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This action will require States to control organic solvent cleaners to reduce emissions of specific organic solvents designated under a separate NSPS action (SAR 1010). This action may impact any manufacturing operations that employ organic solvent cleaners to remove grease and oils from parts prior to assembly. Some new issues have arisen and EPA is deciding whether to go forward with this rule.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Yes

Additional Information: SAR No. 1695.

FTS:8-629-5624.

Analysis: RFA

Agency Contact: Fred L. Porter, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5624

RIN: 2060-AA33

2762. NSPS: POLYMER AND RESIN MANUFACTURE

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This rule will control volatile organic compound (VOC) emissions in exhaust streams from polymerization processes in the manufacture of organic polymers and resins.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	09/00/89	

Small Entity: No

Additional Information: SAR No. 1691.

Docket No. A-82-19.

FTS:8-629-5578.

Affected Sectors: Multiple

Agency Contact: Gilbert Wood, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA37

2763. NSPS: SEWAGE TREATMENT PLANTS (REVISION)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA has reviewed this standard and determined that revisions to the monitoring, recordkeeping and reporting requirements are warranted. The review assessed the performance and cost of control systems as well as experience in implementing the existing standard. EPA will issue a notice in the Federal Register announcing the results of its review and proposing revisions to the standard.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
Final Action	10/00/86	

Small Entity: No

Additional Information: SAR No. 2028.

FTS: 8-629-5601.

Agency Contact: James Crowder, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5601

RIN: 2060-AB05

2764. NSPS: INDUSTRIAL BOILERS, SO2

Significance: Regulatory Program

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: Judicial, June 1986. NPRM June, 1986 Final Rule November, 1987

Abstract: Industrial boilers are a major stationary source of sulfur dioxide. EPA is developing performance standards for industrial boilers to achieve continuous emission reduction. The Agency will base emission standards upon the best available system of control taking costs, environmental impacts and energy requirements into account.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	11/00/87	

Small Entity: No

Additional Information: SAR No. 2075.

FTS: 8-629-5578.

Split from previous RIN 2060-AA22 (NSPS: Industrial Boilers)

Analysis: Regulatory Impact Analysis; RIA

Agency Contact: Fred Porter, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AB33

2765. NSPS: SOCMI REACTOR PROCESSES

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: The scope of the SOCMI reactor processes NSPS includes all reactor processes (other than air oxidation reactor processes) used to manufacture 173 synthetic organic chemicals produced in quantities of at least 100 million lb/yr. These large-volume chemicals account for about 90 percent of the total domestic chemical production from the SOCMI. Furthermore, production of these large-volume chemicals is expected to have the greatest impact on nationwide VOC emissions, since the magnitude of emissions from reactor process units are generally proportional to chemical production rates.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Interim Final Rule	09/00/87	
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 2164.

FTS:8-629-5578.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AB55

2766. NSPS: POLYMERIC COATING OF SUPPORTING SUBSTRATES

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This regulation would limit volatile organic compounds emissions from new, modified, and reconstructed plants that coat polymeric compounds onto supporting substrates.

Timetable:

Action	Date	FR Cite
ANPRM	08/17/84	49 FR 32868
NPRM	07/00/86	
Final Action	09/00/87	

Small Entity: No

Additional Information: SAR No. 2237.

FTS:8-629-5578.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Environmental Protection Agency, Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AB67

2767. NSPS: RESIDENTIAL WOOD COMBUSTION

Significance: Regulatory Program

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 50

Legal Deadline: None

Abstract: This regulation would limit particulate matter emissions from new residential wood combustion units. A study is in progress to assess the performance and costs of technology utilized to control these emissions and to analyze the economic aspects of the industry. The Agency is also pursuing regulatory negotiation with affected parties to help resolve major issues.

Timetable:

Action	Date	FR Cite
ANPRM	08/02/85	50 FR 31504
NPRM	01/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 2238.

FTS:8-629-5578.

Agency Contact: Rick Coyles, Environmental Protection Agency, Air and Radiation, (MD-13), Environmental Protection Agency, Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AB68

2768. NSPS: VOC EMISSIONS FROM PETROLEUM REFINERY WASTEWATER SYSTEMS

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This regulation is intended to limit emissions of volatile compounds from new, modified, and reconstructed refinery wastewater systems.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	09/00/87	

Small Entity: No

Additional Information: SAR No.1696

FTS: 8-629-5627

Agency Contact: Gilbert Wood, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5627

RIN: 2060-AB81

2769. ● NSPS: SMALL BOILERS

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: Statutory, June 1989

Abstract: The purpose of this action is to develop new source performance standards for small industrial-commercial-institutional boilers with heat input capacities of 100 millions Btu/hr of less.

Timetable:

Action	Date	FR Cite
NPRM	06/00/89	
Final Action	09/00/90	

Small Entity: Yes

Additional Information: SAR NO. 2239

FTS:8-629-5585

Agency Contact: Kenneth Durkee, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5585

RIN: 2060-AB95

2770. NESHAPS: COKE OVEN EMISSIONS FROM BY-PRODUCT COKE OVEN CHARGING, DOOR LEAKS, AND TOPSIDE LEAKS ON WET-COAL CHARGED BATTERIES

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61 G

Legal Deadline: None

Abstract: This regulation will control emissions of organic pollutants designated as hazardous under section 112. It will require improved maintenance and operation to limit visible emissions from wet-coal-charged coke oven batteries. The standards may

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Timetable:

Action	Date	FR Cite
NPRM	12/00/86	
Final Action	11/00/87	

Small Entity: Undetermined

Additional Information: SAR NO.2316

FTS:8-374-8339

Agency Contact: Richard A. Rykowski, Environmental Protection Agency, Air and Radiation, (ANR-455), 2565 Plymouth Road, Ann Arbor, Michigan 48105, 313 668-4339

RIN: 2060-AB89

2776. SMALL-VOLUME MANUFACTURERS CERTIFICATION PROCEDURE (REVISION)

Legal Authority: 42 USC 7401 / CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: This action will result in rules to provide for certification of emissions compliance for commercial importers and individuals importing vehicles into the United States. By a separate action, the Manufacturers Operations Division is revising its rules for individual vehicle importation. This action is necessary to provide an appropriate mechanism to import vehicles into the United States under certification regulations and assure their compliance with the exhaust emission standards. Current rules for small-volume manufacturers were not intended to apply to conversion of previously manufactured but uncertified configurations. However, increasingly large numbers of manufacturers who import vehicles for resale have applied for EPA certification as an alternative to individual vehicle importation. This will primarily impact small business organizations involved in importing motor vehicles. The likely impact of these changes will be increased costs to these organizations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	05/00/87	

Small Entity: Yes

Additional Information: SAR No. 2143.

FTS: 8-374-4450.

Analysis: Regulatory Flexibility Analysis; RFA

Agency Contact: Eldert Bontekoe, Environmental Protection Agency, Air and Radiation, ANR-455, 2625 Plymouth Road, Ann Arbor, MI 48105, 313 668-4450

RIN: 2060-AB54

2777. EMISSION PERFORMANCE WARRANTY REGULATIONS (REVISION)

Legal Authority: 42 USC 7541(b) / CAA 207(b)

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: This rulemaking will address the issue of establishing: (1) test procedures and standards for heavy-duty gasoline vehicles, (2) new standards for light-duty vehicles and light-duty trucks, and (3) alternative dynamometer loadings for the loaded short tests. These amendments are necessary so that owners of heavy-duty vehicles will have emissions warranty protection and additional owners of light-duty vehicles and trucks will be entitled to warranty protection.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	01/00/87	

Small Entity: No

Additional Information: SAR No. 2136.

FTS: 8-374-4471.

Agency Contact: Jane Armstrong, Environmental Protection Agency, Air and Radiation, ANR-445, 2625 Plymouth Road, Ann Arbor, MI 48105, 313 668-4471

RIN: 2060-AB53

2778. VOLUNTARY AFTERMARKET PARTS CERTIFICATION REGULATIONS (REVISION)

Legal Authority: 42 USC 7541 /CAA 207(b)

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: The U.S. Court of Appeals for the D.C. Circuit has directed EPA to amend the aftermarket parts certification regulations. There were four specific areas which the Court directed EPA to revisit. EPA was directed to develop better procedures for determining adequate grounds for manufacturer denial of a warranty claim; reconsider inclusion of specialty parts into the identification system, and improve the procedure for arbitration of warranty cost claims by vehicle manufacturers' against certified parts manufacturers.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	
Final Action	11/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 2145

FTS: 8-374-4316

Agency Contact: Mike Sabourin, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, Michigan 48105, (ANR-455), 313 668-4316

RIN: 2060-AB58

2779. FUEL AND FUEL ADDITIVES: PREVENTATIVE ACTION PROGRAM TO PREVENT SELF-SERVE FUEL SWITCHING

Legal Authority: 42 USC 7545 /CAA 211; 42 USC 7601(a) /CAA 301(a)

CFR Citation: 40 CFR 80.22; 40 CFR 80.23

Legal Deadline: None

Abstract: This action will develop a "Preventative Action Program" to be used by gasoline retailers to help prevent self-serve fuel switching. Retailers will be afforded an affirmative defense to allegations of "allowing" fuel switching if they have effectively implemented this program. This action would also change the language of the fuel switching regulation to prohibit fuel switching in all vehicles designed to use unleaded gasoline, and not just those that still have an "unleaded only" label or fuel inlet restrictor.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	12/00/86	

Small Entity: No

Additional Information: SAR No. 2215

FTS: 8-382-2633

apply to charging, and leaks from doors, lids or offtakes for all existing or new sources.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
Final Action	05/00/87	

Small Entity: No

Additional Information: SAR No. 1686.

Docket No. A-79-15.

FTS:8-629-5578.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA48

2771. NESHAPS: ASBESTOS (REVISION)

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: The Agency is analyzing possible changes in the emission standards for asbestos mills and manufacturing operations, and the possible addition of monitoring requirements for these sources. Possible changes in the exemptions for specified demolition and renovation operations in existing standards are also being analyzed. The Agency is considering changes in reporting requirements for demolition and renovation operations.

Timetable:

Action	Date	FR Cite
NPRM	02/00/87	
Final Action	05/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 1714.

FTS 8-629-5601.

Agency Contact: James Crowder, Chief, Standards Support Section, Environmental Protection Agency, Air and Radiation, MD-13, RTP, North Carolina, 919 541-5601

RIN: 2060-AB51

2772. NESHAPS: CHROMIUM(REVISION)

Legal Authority: 42 USC 7412 /CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA issued a notice of intent to list total chromium or hexavalent chromium under Section 112 (50 FR 24317). We are further assessing the public health risks of chromium compounds. Also, we are investigating emissions of chromium and techniques that are available to control the emissions from 11 identified source categories. If EPA decides that emission standards are warranted, chromium or hexavalent chromium will be listed under Section 112, and EPA will develop proposed standards.

Timetable:

Action	Date	FR Cite
NPRM	06/00/88	
Final Action	12/00/89	

Small Entity: Undetermined

Additional Information: SAR No.2181

FTS: 8-629-5601

Agency Contact: James Crowder, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5601

RIN: 2060-AB83

2773. ● NESHAPS: CADMIUM

Significance: Regulatory Program

Legal Authority: 42 USC 7412 /CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA issued a notice of intent to list cadmium under Section 112 (50 FR 42000). We are investigating emissions of cadmium and techniques that are available to control the emissions from identified source categories. If EPA decides that emission standards are warranted, cadmium will be listed under section 1112, and EPA will develop proposed standards.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: SAR NO. 1869

FTS:8-629-5601

Agency Contact: James Crowder, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5601

RIN: 2060-AB92

2774. EMISSION STANDARDS, TEST PROCEDURES AND CAFE EQUIVALENCY FACTORS FOR METHANOL-FUELED NEW MOTOR VEHICLES

Legal Authority: 42 USC 7521 / CAA 202, EPCA 301; 42 USC 7601; 15 USC 2001

CFR Citation: 40 CFR 86; 40 CFR 600

Legal Deadline: None

Abstract: This rule will develop emission standards and test procedures applicable to methanol-fueled light-duty vehicles, light-duty trucks, heavy-duty engines, and motorcycles. Current regulations apply only to gasoline-fueled and diesel-powered vehicles. The lack of regulations is a hindrance to the development of methanol-fueled vehicles. This rule will also establish a methanol-gasoline equivalency factor for purposes of corporate average fuel economy calculation and vehicle labeling.

Timetable:

Action	Date	FR Cite
ANPRM	04/10/84	49 FR 14244
NPRM	05/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 2112.

FTS: 8-374-4227.

Agency Contact: Mike Gold, Environmental Protection Agency, Air and Radiation, 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4227

RIN: 2060-AB28

2775. ● CONTROL OF EXCESS EVAPORATIVE EMISSIONS/FUEL VOLATIBILITY

Significance: Regulatory Program

Legal Authority: 42 USC 7521 /CAA 202; 42 USC 7525 /CAA 206; 42 USC 7545 /CAA 211; 42 USC 7601 /CAA 301(a)

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: In-use motor vehicle evaporative hydrocarbon emissions greatly exceed their applicable EPA emissions standards. The primary reason is that the volatility of commercial gasoline is substantially greater than that of the certification test fuel specified by EPA. This rule will consider options to deal with this problem including control of commercial fuel volatility and a change to certification test fuel volatibility.

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EPA—CAA — Proposed Rule Stage

Agency Contact: Richard Kozlowski, Environmental Protection Agency, Air and Radiation, (EN-397F), Washington, DC 20460, 202 382-2633

RIN: 2060-AB59

2780. ● TREATMENT, STORAGE, AND DISPOSAL FACILITY AREA SOURCE AIR EMISSIONS - RCRA STANDARDS

Significance: Regulatory Program

Legal Authority: 42 USC 6924 /RCRA 3004, 3007

CFR Citation: 40 CFR 264, Subparts I,J,K,L,M,N

Legal Deadline: Statutory, May 1987

Abstract: The purpose of this action is to investigate to magnitude of the area (non-combustion) source air emissions from hazardous waste treatment, storage, and disposal facilities and to develop standards for monitoring and control as needed. Pollutants to be considered by such standards would include volatile organic compounds, particulate matter specific toxic substances or a combination, under RCRA is to protect human health and the environment.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	
Final Action	11/00/88	

Small Entity: Undetermined

Additional Information: SAR NO. 2240.

FTS:8-629-3671.

Agency Contact: James F. Durham, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5671

RIN: 2060-AB94

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Clean Air Act (CAA)

Final Rule Stage

2781. NAAQS FOR PARTICULATE MATTER (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 7409 / CAA 109

CFR Citation: 40 CFR 50.6

Legal Deadline: Statutory, December 31, 1980

Abstract: Particulate matter is one of the major pollutants in the ambient air. EPA has reviewed the scientific criteria used as a basis for establishing ambient air quality standards for particulate matter. The Agency proposes to revise the standards to better protect public health and welfare.

Timetable:

Action	Date	FR Cite
ANPRM	10/02/79	44 FR 56730
NPRM	03/20/84	49 FR 10408
Final Action	02/00/87	

Small Entity: No

Additional Information: SAR No. 1003.

Docket No. A-79-29.

FTS:8-629-5655.

Analysis: Regulatory Impact Analysis; RIA

Agency Contact: Bruce Jordan, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711, 919 541-5655

RIN: 2060-AA62

2782. NEW SOURCE REVIEW (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 6910 / CAA 110

CFR Citation: 40 CFR 51; 40 CFR 52

Legal Deadline: None

Abstract: This action would revise EPA's new source requirements for new major stationary sources in PSD and Nonattainment areas. EPA is taking this action to implement a settlement agreement with Chemical Manufacturer's Association and other parties who challenged the regulation amendments promulgated on August 7, 1980.

Timetable:

Action	Date	FR Cite
NPRM	08/25/83	49 FR 38742
Final Action	05/00/86	

Small Entity: No

Additional Information: SAR No. 1845.

FTS:8-629-5591.

Agency Contact: Kirt Cox, Environmental Protection Agency, Air and Radiation, MD-15, Research Triangle Park, NC 27711, 919 541-5581

RIN: 2060-AA68

2783. AMBIENT AIR QUALITY SURVEILLANCE (REVISION)

Legal Authority: 42 USC 7410 / CAA 110; 42 USC 7601 / CAA 301; 42 USC 7619 / CAA 319

CFR Citation: 40 CFR 58

Legal Deadline: None

Abstract: This action will revise Part 58 to clarify and incorporate changes to the regulations deemed appropriate as a result of the past four years of experience. One of the principal revisions will propose allowing 120 days after the end of each quarter instead of the current 90 days for the submittal of National Air Monitoring System (NAMS) air quality and precision data to EPA. The 90 days were too short a time period to properly validate the air quality data. Another revision will propose to use the 1980 census data and urbanized area boundaries instead of the 1970 values for network design and evaluation purposes.

Timetable:

Action	Date	FR Cite
NPRM	03/08/85	50 FR 9538
Final Action	04/00/86	

Small Entity: No

Additional Information: SAR No. 2102.

FTS: 8-629-5651.

Agency Contact: Stanley F. Sleva, Environmental Protection Agency, Air and Radiation, MD-14, Research Triangle Park, NC 27711, 919 541-5651

RIN: 2060-AB47

2784. RESTRUCTURE CFR PARTS 51, 52 (REVISION)

Legal Authority: 42 USC 7410 / CAA 110

CFR Citation: 40 CFR 51; 40 CFR 52

Legal Deadline: None

Abstract: This rule will revise 40 CFR 51, which specifies the requirements for the adoption, preparation, and submittal of state implementation plans. The revisions will delete obsolete provisions, reduce reporting requirements, and clarify portions of the regulation. Reference to Part 51 within Part 52 will be similarly revised. Certain portions of Part 51 such as the PSD provisions will not be restructured at this time.

Timetable:

Action	Date	FR Cite
NPRM	10/11/83	48 FR 46152
Final Action	08/00/86	

Small Entity: No

Additional Information: SAR No. 1503.

Docket No. A-81-25.

FTS: 8-629-5697.

Agency Contact: Joe Sableski, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-5697

RIN: 2060-AB49

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2785. QUALITY ASSURANCE PROCEDURES, APPENDIX F, PROCEDURE 1

Legal Authority: 42 USC 7411 / CAA 111; 42 USC 7414 / CAA; 42 USC 7601 / CAA

CFR Citation: 40 CFR 60, Appendix F

Legal Deadline: None

Abstract: This rule would add quality assurance requirements on gas continuous emission monitoring systems (CEMs) used for compliance. The purpose is to improve data quality and strengthen the basis for decisions made with regard to quality assurance.

Timetable:

Action	Date	FR Cite
NPRM	03/14/84	49 FR 9676
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 1741.

Docket No. A-80-29.

FTS:8-629-2415.

Agency Contact: Darryl von Lehmden, Environmental Protection Agency, Air and Radiation, (MD-77), Research Triangle Park, NC 27711, 919 541-2415

RIN: 2060-AA09

2786. NSPS: STATIONARY INTERNAL COMBUSTION ENGINES

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart FF

Legal Deadline: None

Abstract: These regulations will require the application of best available demonstrated technology to control nitrogen oxide emissions from stationary diesel and dual-fuel internal combustion engines. Some small oil drilling companies and municipal electric generation facilities may be affected by this standard. EPA will issue separate standards for gas and gasoline-fueled stationary I.C. engines later. The Agency is considering exempting engines with a displacement of less than 560 cubic inches per cylinder.

Timetable:

Action	Date	FR Cite
NPRM	07/23/79	44 FR 43152
Final Action	00/00/00	

Small Entity: Yes

Additional Information: SAR No. 1008.

Docket No. OAQPS-79-5.

FTS:8-629-5578.

Analysis: RFA

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA11

2787. NSPS: SOLVENT DEGREASING

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart JJ

Legal Deadline: None

Abstract: Some new issues have arisen, and EPA is deciding whether to go forward with this rule.

Timetable:

Action	Date	FR Cite
NPRM	06/11/80	45 FR 39766
Final Action	00/00/00	

Small Entity: Yes

Additional Information: SAR No. 1010.

Docket No. OAQPS 78-12.

FTS:8-629-5624.

Analysis: Regulatory Flexibility Analysis; RFA

Agency Contact: Fred L. Porter, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5624

RIN: 2060-AA12

2788. NSPS: INDUSTRIAL BOILERS--PARTICULATE MATTER AND NOX

Significance: Regulatory Program

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: Judicial, November 1986

Abstract: Industrial boilers are a major stationary source of Particulate Matter and Nitrogen Oxide emissions. EPA is developing performance standards for industrial boilers to achieve continuous emission reduction. The Agency will base emission limits upon the best available system of control, taking costs, environmental impacts and energy requirements into account.

Timetable:

Action	Date	FR Cite
NPRM	06/19/84	49 FR 25102
Final Action	11/01/86	

Small Entity: No

Additional Information: SAR No. 2076

Split from previous RIN 2060-AA22 (NSPS: Fossil-Fuel-Fired Industrial Boilers)

Analysis: Regulatory Impact Analysis; RIA

Agency Contact: Fred Porter, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA22

2789. NSPS: VOLATILE ORGANIC LIQUIDS STORAGE

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart Kb

Legal Deadline: None

Abstract: This standard will control volatile organic compound emissions from the storage of organic liquids. It will affect new, modified or reconstructed VOL storage vessels (including petroleum liquid storage vessels) with capacities of 10,000 gallons or more.

Timetable:

Action	Date	FR Cite
NPRM	07/23/84	49 FR 29698
Final Action	07/00/86	

Small Entity: No

Additional Information: SAR No. 1612.

Docket No. A-80-51.

FTS:8-629-5578.

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Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA23

2790. NSPS: RUBBER PRODUCTS INDUSTRY-TIRE MANUFACTURING

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart BBB

Legal Deadline: None

Abstract: This standard will control VOC (volatile organic compound) emissions from solvent application during undertread/sidewall cementing, tread end cementing, bead cementing and green tire coating in rubber tire manufacturing plants. It will require use of less solvent or installation of a 75% efficient emission reduction system.

Timetable:

Action	Date	FR Cite
NPRM	01/20/83	48 FR 2676
Final Action	07/00/86	

Small Entity: No

Additional Information: SAR No. 1615.

Docket No. A-80-9.

FTS:8-629-5578.

Agency Contact: Gilbert Wood, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA24

2791. NSPS: SYNTHETIC ORGANIC CHEMICAL INDUSTRY: AIR OXIDATION PROCESS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart III

Legal Deadline: None

Abstract: This regulation will control emissions of volatile organic compounds from the manufacture of synthetic organic chemicals via air oxidation processes.

Timetable:

Action	Date	FR Cite
NPRM	10/21/83	48 FR 48932
Final Action	07/00/86	

Small Entity: No

Additional Information: SAR No. 1618.

FTS:8-629-5578.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA30

2792. NSPS: DISTILLATION OPERATIONS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This regulation will control emissions of volatile organic compounds from new, modified, and reconstructed distillation facilities at petroleum refineries and synthetic organic chemical plants.

Timetable:

Action	Date	FR Cite
NPRM	12/30/83	48 FR 57538
Final Action	07/00/86	

Small Entity: No

Additional Information: SAR No. 1733.

FTS:8-629-5578.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA35

2793. NSPS: PETROLEUM REFINERY, FCC REGENERATORS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This standard will require control of sulfur dioxide from fluidized catalytic cracking units.

Timetable:

Action	Date	FR Cite
NPRM	11/08/85	50 FR 46464
Final Action	12/00/86	

Small Entity: No

Additional Information: SAR No. 1736.

FTS:8-629-5624.

Agency Contact: Gilbert Wood, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5624

RIN: 2060-AA36

2794. NSPS: KRAFT PULP MILLS (REVISION)

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60, Subpart BB

Legal Deadline: None

Abstract: EPA has reviewed this standard and is proposing to make five changes. These revisions would: (1) Exempt black liquor oxidation systems from the standards; (2) revise the existing total reduced sulfur (TRS) standard for smelt dissolving tanks; (3) revise the units of the TRS standard for smelt dissolving tanks; (4) delete the requirement to monitor the combustion temperature in lime kilns, power boilers, or recovery furnaces; and (5) change the frequency of excess emission reports from quarterly to semi-annually.

Timetable:

Action	Date	FR Cite
NPRM	01/19/84	48 FR 2448
Final Action	07/00/86	

Small Entity: No

Additional Information: SAR No. 1959.

FTS: 8-629-5578.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, N.C. 27711, 919 541-5578

RIN: 2060-AA97

2795. NSPS: AUTOMOBILE AND LIGHT-DUTY TRUCK COATING OPERATIONS

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA is revising the NSPS for automobile and light-duty truck coating operations which was promulgated in December 1980 to reflect additional operational data of the best demonstrated prime coat system. This revision of the standard does not reflect a change in the basis of the prime coat standard, but a better understanding of the performance of the prime coat system upon which the standard was originally based.

Timetable:

Action	Date	FR Cite
NPRM	07/20/82	47 FR 32743
Final Action	00/00/00	

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Small Entity: No

Additional Information: SAR No. 2044.

FTS: 8-629-5624.

Agency Contact: Gilbert Wood, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AB22

2796. NSPS: FOSSIL FUEL-FIRED STEAM GENERATORS (REVISION)

Legal Authority: 42 USC 7411 / CAA 111; 42 USC 7601(a)

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: These revisions to the existing NSPS for large fossil fuel-fired steam generators would establish sulfur dioxide compliance, emission monitoring, and reporting requirements on a 30-day rolling average basis.

Timetable:

Action	Date	FR Cite
NPRM	10/21/83	48 FR 48960
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information: SAR No. 2083.

FTS: 8-629-5578.

Analysis: Regulatory Impact Analysis

Agency Contact: Fred Porter, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AB29

2797. NSPS: CEMENT PLANTS (REVISION)

Legal Authority: 42 USC 7411 /CAA 111; 42 USC 7414 /CAA 114

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: EPA has completed review of this action. As a result, the Agency intends to revise the standards to require installation of continuous opacity monitors on all kilns and clinker coolers subject to the standard after August 17, 1971.

Timetable:

Action	Date	FR Cite
NPRM	09/10/85	50 FR 36956
Final Action	08/00/86	

Small Entity: No

Additional Information: SAR No. 2186

FTS: 8-629-5578

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Environmental Protection Agency, Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AB38

2798. NSPS: SURFACE COATING OF PLASTIC PARTS FOR BUSINESS MACHINES

Legal Authority: 42 USC 7411 /CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This action would limit volatile organic compounds emissions from new, modified, and reconstructed plants that coat plastic parts for business machines.

Timetable:

Action	Date	FR Cite
NPRM	01/08/86	51 FR 854
Final Action	01/00/87	

Small Entity: Undetermined

Additional Information: SAR No. 2236.

FTS:8-629-5578.

Agency Contact: Doug Bell, Environmental Protection Agency, Air and Radiation, (MD-13), Environmental Protection Agency, Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AB66

2799. NSPS: MAGNETIC TAPE MANUFACTURING

Legal Authority: 42 USC 7411 / CAA 111

CFR Citation: 40 CFR 60

Legal Deadline: None

Abstract: This regulation is intended to limit emissions of volatile organic compounds from new, modified, and reconstructed magnetic tape manufacturing lines.

Timetable:

Action	Date	FR Cite
NPRM	01/22/86	51 FR 2996
Final Action	04/00/87	

Small Entity: No

Additional Information: SAR No.1928

FTS: 8-629-5627.

Agency Contact: Gilbert Wood, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5627

RIN: 2060-AB88

2800. DECISION ON REGULATION OF CADMIUM

Legal Authority: 42 USC 7422 / CAA 122

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA is currently reviewing relevant available information on emissions of cadmium into the ambient air that may be either by itself or in combination with cadmium intake from food and drinking water reasonably anticipated to endanger public health. EPA will issue a decision on the necessary regulatory action for public comment before it becomes final.

Timetable:

Action	Date	FR Cite
NPRM	10/16/85	50 FR 42000
Final Action	12/00/88	

Small Entity: Undetermined

Additional Information: SAR No. 1869.

FTS:8-629-5645.

Agency Contact: David Patrick, Environmental Protection Agency, Air and Radiation, (MD-12), Research Triangle Park, NC 27711, 919 541-5645

RIN: 2060-AA38

2801. NESHAPS: ARSENIC FROM SMELTERS AND OTHER SOURCES

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61 N; 40 CFR 61 O; 40 CFR 61 P

Legal Deadline: None

Abstract: EPA proposed standards for inorganic arsenic emissions from existing and new primary copper smelters and glass manufacturing plants. In addition, EPA proposed not to develop standards for inorganic arsenic emissions from primary lead smelters, secondary lead smelters, primary zinc smelters, zinc oxide production plants, cotton gins, and arsenic chemical manufacturing plants.

Timetable:

Action	Date	FR Cite
NPRM	07/20/83	48 FR 33112
Final Action	07/00/86	

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Small Entity: No

Additional Information: SAR No. 1664.

FTS:8-629-5624.

Agency Contact: Linda Chaput, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5624

RIN: 2060-AA41

2802. NESHAPS: BENZENE IN COKE OVENS/BY-PRODUCTS PLANTS

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: This regulation will control benzene emissions generated by the processing of gaseous and liquid streams at coke by-product plants. The emission sources to be controlled include process equipment, storage vessels, and fugitive emissions. The standards may consist of equipment specifications, work practices, design specifications, and emission limits.

Timetable:

Action	Date	FR Cite
NPRM	06/06/84	49 FR 23526
Final Action	12/00/86	

Small Entity: No

Additional Information: SAR No. 1665.

FTS:8-629-5578.

Agency Contact: Gilbert Wood, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AA42

2803. NESHAPS: VINYL CHLORIDE (REVISION)

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA has completed its review of the technological basis and administrative aspects of the current standard, which was promulgated in 1976. Conclusions of the review are the basis of (1) proposed administrative and clarifying revisions, (2) announced decisions pertaining to other aspects, and (3) withdrawal of the June 2, 1977, proposed revisions.

Timetable:

Action	Date	FR Cite
NPRM	01/09/85	50 FR 1182
Final Action	08/00/86	

Small Entity: No

Additional Information: SAR No. 1971.

FTS: 8-629-5671

Agency Contact: Gilbert Wood, Environmental Protection Agency, Air and Radiation, (MD-13), Research Triangle Park, N.C., 27711, 919 541-5578

RIN: 2060-AB06

2804. NESHAPS: MERCURY (REVISION)

Legal Authority: 42 USC 7412 / CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: None

Abstract: EPA has reviewed this standard and determined that revisions to the monitoring, recordkeeping, and reporting requirements are warranted. The review assessed the technological basis and administrative aspects of the existing standard. EPA has issued a notice in the Federal Register announcing the results of its review and proposing revisions to the standard.

Timetable:

Action	Date	FR Cite
NPRM	12/26/84	49 FR 50146
Final Action	07/00/86	

Small Entity: No

Additional Information: SAR No. 2137.

FTS:8-629-5578.

Agency Contact: Gilbert H. Wood, Environmental Protection Agency, Air and Radiation, MD-13, Research Triangle Park, NC 27711, 919 541-5578

RIN: 2060-AB44

2805. NESHAPS: RADIONUCLIDES: ● URANIUM MILLS

Significance: Regulatory Program

Legal Authority: 42 USC 7412 /CAA 112

CFR Citation: 40 CFR 61

Legal Deadline: Judicial, May 1, 1986. May 1, 1986

Abstract: EPA is developing standards under Section 112 of the CAA to control emissions of Radon-222 from uranium mill tailings during the period of mill operation prior to closure. Other radioactive releases during operation and all releases after closure are controlled by other EPA standards. Information was solicited through an ANPRM on October 31, 1984. The standard are being developed under court order.

Timetable:

Action	Date	FR Cite
ANPRM	10/31/84	49 FR 43196
NPRM	02/00/86	
Final Action	05/00/86	

Small Entity: No

Additional Information: SAR No. 2217

FTS: 8-557-8977

Analysis: RIA

Agency Contact: Terrence A. McLaughlin, Environmental Protection Agency, Air and Radiation, (ANR-460), Washington, DC 20460, 703 557-8977

RIN: 2060-AB57

2806. DISPERSION TECHNIQUES IMPLEMENTED BEFORE ENACTMENT OF THE CLEAN AIR ACT AMENDMENTS OF 1970

Legal Authority: 42 USC 7410 / CAA 123; 42 USC 7601(a); 42 USC 7423

CFR Citation: 40 CFR 51

Legal Deadline: None

Abstract: These regulations set the requirements for an implemented intermittent control system (ICS). If an operator can show that dispersion techniques implemented before December 31, 1970 meet the ICS requirements then the system can be used to reduce emissions in a State Implementation Plan to meet Federal ambient standards. These regulations are optional for States.

Timetable:

Action	Date	FR Cite
NPRM	09/24/84	49 FR 37542
Final Action	04/00/86	

Small Entity: No

Additional Information: SAR No. 1883.

Docket No. A-79-12.

FTS:8-629-5540.

Agency Contact: Bruce Polkowsky, Environmental Protection Agency, Air and Radiation, (MD-15), Research Triangle Park, NC 27711, 919 541-5540

RIN: 2060-AA49

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2807. "GUIDELINE ON AIR QUALITY MODELS" (REVISION)

Significance: Regulatory Program

Legal Authority: CAA 165(e)

CFR Citation: 40 CFR 51.24(l); 40 CFR 52.21(m)

Legal Deadline: None

Abstract: This action proposes to revise the "Guideline on Air Quality Models" (issued in April 1978) to reflect changes to the state-of-the-science of modeling and changes to current practice and policies. Revisions to the Guideline were developed in 1980 and public hearings were held. Based on public comments, EPA has conducted studies to resolve some issues. Additional evaluation studies of models, suggested by commenters and performed in accordance with the recommendations of the American Meteorological Society, are underway. Early results of both are now available and should become part of EPA's guidance. The revised guideline should greatly reduce inconsistencies in the development and revision of emission limitations and in the determination of PSD increment consumption. New modeling procedures allow potentially greater accuracy in modeling results and the attainment of clean air goals at less cost.

Timetable:

Action	Date	FR Cite
NPRM	12/07/84	
Final Action	07/00/86	

Small Entity: No

Additional Information: SAR No. 1941.

FTS: 8-629-5561.

Docket No. A-80-46.

Agency Contact: Joseph Tikvart, Environmental Protection Agency, Air and Radiation, MD-14, Research Triangle Park, N.C. 27711, 919 541-5561

RIN: 2060-AB13

2808. IMPORTATION OF MOTOR VEHICLES AND MOTOR VEHICLE ENGINES (REVISION)

Legal Authority: 42 USC 7522 / CAA 203

CFR Citation: 40 CFR 85

Legal Deadline: None

Abstract: EPA is considering various options for improving the effectiveness and Administration of EPA's present regulation assessing the importation of nonconforming vehicles. Nonconforming vehicles are ones which have not been demonstrated to conform with Federal emission requirements. The regulatory revision options range from requiring that only certificate holders may import the vehicles (such entitles to bear responsibility for their emission performance) to continuing the approach in the current regulation with various improvements, to elimination of importation of such vehicles (with any minor exceptions). EPA is also considering elimination of any personal use exceptions.

Timetable:

Action	Date	FR Cite
NPRM	07/21/80	45 FR 48812
NPRM - Supplemental	09/09/85	50 FR 36838
Final Action	06/00/86	

Small Entity: Yes

Additional Information: SAR No. 1317.

Docket No. EN-79-9.

FTS:8-382-2499.

Analysis: Regulatory Flexibility Analysis

Agency Contact: Stanley B. Durkee, Environmental Protection Agency, Air and Radiation, (EN-340F), Washington, DC 20460, 202 382-2499

RIN: 2060-AA54

2809. REMOVAL OF LEAD FROM EPA CERTIFICATION AND TEST FUELS (REVISION)

Legal Authority: 42 USC 7525 /CAA 206

CFR Citation: 40 CFR 86

Legal Deadline: None

Abstract: EPA will propose these amendments to require the use of unleaded gasoline in all emissions and fuel economy testing of gasoline fueled light-duty vehicles, light-duty trucks, motorcycles and heavy-duty engines. EPA believes that leaded fuel is no longer needed for new gasoline fueled vehicles or engines. The proposal is consistent with EPA's desire to eliminate the use of leaded fuel in motor vehicles.

Timetable:

Action	Date	FR Cite
NPRM	02/00/86	
Final Action	11/00/86	

Small Entity: No

Additional Information: SAR No. 2290.

FTS: 8-374-8340.

Agency Contact: Peter Hutchins, Environmental Protection Agency, Air and Radiation, (ANR-455), 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-4340

RIN: 2060-AB87

2810. FUEL AND FUEL ADDITIVES: GASOLINE LEAD CONTENT (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 7545 /CAA 211; 42 USC 7601(a) /CAA 301(a)

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: EPA is examining information relevant to a total ban on the use of lead in gasoline. The Agency is considering a set of alternatives ranging from no regulatory action to a ban as soon as January 1, 1986. This rule will have an impact on all refineries, including small refineries. A regulatory flexibility analysis will fully consider the effect of this action on small entities.

Timetable:

Action	Date	FR Cite
NPRM	03/07/85	50 FR 9386
Final Action	00/00/00	

Small Entity: Yes

Additional Information: SAR No. 2214.

FTS: 8-382-2633.

Analysis: Regulatory Flexibility Analysis; RIA, RFA

Agency Contact: Richard Kozlowski, Environmental Protection Agency, Air and Radiation, (EN-397F), Washington, DC 20460, 202 382-2633

RIN: 2060-AB60

2811. ● X-RAY TEST PROCEDURES FOR MEASURING LEAD CONTENT IN FUELS

Significance: Regulatory Program

Legal Authority: 42 USC 7545 /CAA 211; 42 USC 7601 /CAA 301(a)

CFR Citation: 40 CFR 80

Legal Deadline: None

Abstract: This rule is intended to establish an alternate procedure for measuring the lead content of fuel. This procedure uses x-ray spectometry as a measurement tool.

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Timetable:

Action	Date	FR Cite
NPRM	11/29/85	50 FR 49338
Final Action	07/00/86	

Small Entity: No

Additional Information: SAR NO.2294

FTS:8-382-2660

Agency Contact: Marilyn McCall, Environmental Protection Agency, Air and Radiation, (EN-397), WASHINGTON, D.C. 20460, 202 382-2669

RIN: 2060-AB01

2812. FUEL ECONOMY TEST PROCEDURES; ADJUSTMENT TO TEST RESULTS TO ACCOUNT FOR TEST PROCEDURE CHANGES (LIGHT-DUTY TRUCKS)

Legal Authority: 42 USC 2001 / EPCA 301

CFR Citation: 40 CFR 600

Legal Deadline: None

Abstract: In January 1982, the United States Court of Appeals for the Sixth Circuit issued an order requiring EPA to initiate rulemaking to establish adjustment factors for the 1980-85 Corporate Average Fuel Economy (CAFE) test results. Adjustments for light-duty vehicles have been finalized. This rule will establish adjustments for light-duty trucks.

Timetable:

Action	Date	FR Cite
NPRM	07/01/85	50 FR 27186
Final Action	03/00/86	

Small Entity: No

Additional Information: SAR No. 2289.

FTS: 8-374-8345.

Agency Contact: Matt Wagner, Environmental Protection Agency, Air and Radiation, (ANR-455), 2565 Plymouth Road, Ann Arbor, MI 48105, 313 668-8345

RIN: 2060-AB86

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Clean Air Act (CAA) — Completed Actions

2813. NSPS: BASIC OXYGEN FURNACES (REVISION)

CFR Citation: 40 CFR 60 N

Completed:

Reason	Date	FR Cite
Final Action	01/02/86	51 FR 150

Small Entity: Yes

Agency Contact: Doug Bell 919 541-5578

RIN: 2060-AA72

2814. NSPS: SULFURIC ACID MANUFACTURE

CFR Citation: 40 CFR 60, Subpart H

Completed:

Reason	Date	FR Cite
End Review	11/00/85	

Small Entity: No

Agency Contact: James Crowder 919 541-5601

RIN: 2060-AB02

2815. NSPS: ON-SHORE PRODUCTION FOR SULFUR DIOXIDE

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	10/01/85	50 FR 40158

Small Entity: No

Agency Contact: Gilbert Wood 919 541-5578

RIN: 2060-AB27

2816. NSPS: ASPHALT CONCRETE PLANTS

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
End Review	01/00/86	

Small Entity: Yes

Agency Contact: Kenneth Durkee 919 541-5596

RIN: 2060-AB41

2817. NSPS: REPORTING REQUIREMENTS FOR OPACITY

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
Final Action	12/27/85	50 FR 53115

Small Entity: No

Agency Contact: Shirley Tabler 919 541-5578

RIN: 2060-AB42

2818. NSPS: SMALL BOILERS

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
End Review	10/00/85	
Review completed; see RIN: 2060-AB95		

Small Entity: Undetermined

Agency Contact: Kenneth Durkee 919 541-5596

RIN: 2060-AB69

2819. NSPS: COAL PREPARATION PLANTS

CFR Citation: 40 CFR 60

Completed:

Reason	Date	FR Cite
End Review	09/00/85	

Small Entity: Undetermined

Agency Contact: James Crowder 919 541-5601

RIN: 2060-AB84

2820. NESHAPS GENERAL PROVISIONS (REVISION)

CFR Citation: 40 CFR 61 A

Completed:

Reason	Date	FR Cite
Final Action	11/07/85	50 FR 46284

Small Entity: No

EPA—CAA — Completed Actions

Agency Contact: Gilbert Wood 919 541-5578

RIN: 2060-AA79

2821. NONCONFORMANCE PENALTIES FOR 1987 AND LATER MODEL YEAR HEAVY-DUTY ENGINES (HDES), HEAVY-DUTY VEHICLES (HDVS), AND LIGHT-DUTY TRUCKS (LDTS) (PHASE II)

CFR Citation: 40 CFR 86

Completed:

Reason	Date	FR Cite
Final Action	12/31/85	50 FR 53454

Small Entity: Undetermined

Agency Contact: Robert Montgomery 202 382-2487

RIN: 2060-AB65

[FR Doc. 86-8940 Filed 04-18-86; 8:45 am]

BILLING CODE 6560-50-T

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Superfund (CERCLA) — Proposed Rule Stage

2822. NOTIFICATION OF CONTINUOUS RELEASE OF HAZARDOUS SUBSTANCES

Legal Authority: 42 USC 9602 / CERCLA 102; 42 USC 9603 / CERCLA 103

CFR Citation: 40 CFR 304

Legal Deadline: None

Abstract: Section 103(a) requires that persons notify the National Response Center of releases of hazardous substances. Section 103(f) provides an exemption to these reporting requirements. EPA is developing regulations that will clarify Agency policy regarding notification of continuous releases of designated hazardous substances.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	
Final Action	12/00/87	

Small Entity: No

Additional Information: SAR No. 1642C.

FTS 8-382-3000 RCRA/CERCLA Hotline 800-424-9346

Agency Contact: Barbara Hostage, Environmental Protection Agency, Solid Waste and Emergency Response, WH 548B, Washington, DC 20460, 202 382-2198

RIN: 2050-AA46

2823. ADJUSTMENT OF REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES IDENTIFIED AS POTENTIAL CARCINOGENS AND CHRONICALLY TOXIC SUBSTANCES (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 9602 / CERCLA 102; 33 USC 1321 / CWA 311

CFR Citation: 40 CFR 302

Legal Deadline: None

Abstract: EPA has developed proposed determinations of reportable quantities under Section 102 of CERCLA that trigger the notification requirements of Section 103 of CERCLA. This rule will amend the regulation on Determination of Reportable Quantities for Hazardous Substances (40 CFR 302) to adjust the reportable quantities for hazardous substances identified as potential carcinogens and chronically toxic substances. This rule will also amend 40 CFR 117.3 to make these applicable CWA 311 (b).

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	
Final Action	05/00/87	

Small Entity: No

Additional Information: SAR No. 2104.

For further information contact the RCRA/Superfund Hotline (800-424-9346); in Metropolitan D.C. (382-3000).

Agency Contact: Jack Kooyoomjian, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548B), Washington, DC 20460, 202 382-4130

RIN: 2050-AA80

2824. ● ADJUSTMENT OF REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES (RADIONUCLIDES)

Significance: Regulatory Program

Legal Authority: 42 USC 9602 /CERCLA 102

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None. Legislation under consideration may impose a 12/31/86 deadline.

Abstract: Section 102 of CERCLA establishes a statutory reportable quantity (RQ) for all designated hazardous substances and directs the EPA Administrator to promulgate regulations establishing RQ's adjusted from the statutory quantity if appropriate. Radionuclides are hazardous substances under CERCLA because they are designated as a hazardous air pollutant under section 112 of the Clean Air Act. Analysis is underway to determine whether the statutory reportable quantity of one pound is suitable. This rulemaking will adjust the reportable quantity for radionuclides.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	
Final Action	01/00/88	

Small Entity: No

Additional Information: SAR NO.2335

RCRA/CERCLA Hotline 800-424-9346

Agency Contact: Barbara Hostage, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548B), Washington, D.C. 20460, 202 382-2198

RIN: 2050-AB60

2825. ● ADJUSTMENT OF REPORTABLE QUANTITIES OF HAZARDOUS SUBSTANCES (ACUTE AIR TOXICANTS)

Significance: Regulatory Program

Legal Authority: 42 USC 9602 /CERCLA 102

CFR Citation: 40 CFR 302

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EPA—CERCLA — Proposed Rule Stage

Legal Deadline: None

Abstract: As a result of the Agency's publication of the Acute Air Toxicants list and interim guidelines in its November 1985 publication entitled "Chemical Emergency Preparedness Program," those substances that are not on the CERCLA Section 101(14) hazardous substance list (approximately 259 of 402 substances) will be evaluated for reportable quantity (RQ) adjustments pursuant to CERCLA Section 102 authority.

Timetable:

Action	Date	FR Cite
NPRM	05/00/87	
Final Action	02/00/88	

Small Entity: No

Additional Information: SAR NO.2336

RCRA/CERCLA Hotline 800-424-9346

Agency Contact: Jack Kooyoomjian, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548B), Washington, D.C. 20460, 202 382-4130

RIN: 2050-AB62

2826. AMENDMENTS TO THE NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

Significance: Regulatory Program

Legal Authority: 33 USC 1321 / CWA 311; 42 USC 9605 / CERCLA 105

CFR Citation: 40 CFR 300.61

Legal Deadline: None

Abstract: The National Contingency Plan (NCP) is the primary regulation directing government and responsible party response to and cleanup of discharges of oil, and releases of hazardous substances, pollutants and contaminants. EPA anticipates that reauthorization of Superfund, currently being debated in a Congressional Conference Committee, will necessitate further revisions to the NCP. Because of the great differences between the Senate and the House bills, it is inappropriate at this time to speculate upon specific revisions that may be required.

Timetable:

Action	Date	FR Cite
NPRM	02/12/85	50 FR 5862
Final Action	11/20/85	50 FR 47912
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No. 2065.

FTS-8-382-2182.

Agency Contact: James Lounsbury, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548D), Washington, DC 20460, 202 382-2182

RIN: 2050-AA75

2827. NATIONAL PRIORITIES LIST (NPL) (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 9605(8)(B) / CERCLA 105(8)(B)

CFR Citation: 40 CFR 300.66

Legal Deadline: Statutory. Annual Update

Abstract: This action revises the National Priorities List in the National Contingency Plan. CERCLA requires that the National Priorities List be revised at least annually. Periodic revisions will allow EPA to include serious releases of hazardous substances identified as a result of site inspection programs and to delete sites that have been cleaned up.

Timetable:

Action	Date	FR Cite
Final Action First NPL Update(final)	09/21/84	49 FR 37070
NPRM Second NPL Update(NPRM)	10/15/84	49 FR 40320
NPRM Third NPL Update (NPRM)	04/10/85	50 FR 14115
NPRM Fourth NPL Update (NPRM)	09/18/85	50 FR 37950
NPRM Fifth NPL Update	04/00/86	
Final Action Fourth NPL Update	04/00/86	
NPRM Seventh NPL Update	08/00/86	
NPRM Sixth NPL Update	08/00/86	
Final Action Second NPL Update(final)	08/00/86	
Final Action Third NPL Update	08/00/86	

Small Entity: Undetermined

Additional Information: SAR No. 2077.

FTS: 8-382-8103.

Agency Contact: C. Scott Parrish, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548E), Washington, DC 20460, 202 382-5632

RIN: 2050-AA79

2828. RESPONSE CLAIMS PROCEDURES

Legal Authority: 42 USC 9612 / CERCLA 112

CFR Citation: 40 CFR 307

Legal Deadline: None

Abstract: This action prescribes the forms and procedures for persons other than the Government to recover response costs incurred in carrying out the National Contingency Plan.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	11/00/86	

Small Entity: No

Additional Information: SAR No. 2160.

FTS: 8-382-4645.

Analysis: Regulatory Impact Analysis

Agency Contact: William Ross, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548E), Washington, DC 20460, 202 382-4645

RIN: 2050-AA90

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Superfund (CERCLA) — Final Rule Stage

2829. ADJUSTMENTS OF REPORTABLE QUANTITIES OF 105 HAZARDOUS SUBSTANCES (REVISION)

Significance: Regulatory Program

Legal Authority: 42 USC 9602 / CERCLA 102; 42 USC 9603 / CERCLA 103

CFR Citation: 40 CFR Not yet determined

Legal Deadline: None

Abstract: This rule amends the regulation on Notification of Release of Hazardous Substances and Determination of Reportable Quantities to adjust reportable quantity determinations of 105 substances already listed pursuant to the statutes listed in CERCLA Section 101(14). That section defines any substance listed pursuant to specified statute as hazardous for purposes of CERCLA Section 102 reportable quantity determinations.

Timetable:

Action	Date	FR Cite
NPRM	04/04/85	50 FR 13514
Final Action	07/00/86	

Small Entity: No

Additional Information: SAR No. 2291.

382-3000 RCRA/CERCLA Hotline 800-424-9346

Analysis: RFA

Agency Contact: Jack Kooyoomjian, Environmental Engineer, Environmental Protection Agency, Solid Waste and Emergency Response, (WH-548E), Washington, DC 20460, 202 382-4130

RIN: 2050-AB48

ENVIRONMENTAL PROTECTION AGENCY (EPA)—Superfund (CERCLA) — Completed Actions

2830. DESIGNATION OF ADDITIONAL HAZARDOUS SUBSTANCES AND REPORTABLE QUANTITY ADJUSTMENTS

CFR Citation: 40 CFR 302; 40 CFR Not yet determined

Completed:

Reason	Date	FR Cite
Withdrawn postponed indefinately	02/00/86	

Small Entity: Yes

Agency Contact: Jack Kooyoomjian 202 382-3000

RIN: 2050-AB50

2831. NATURAL RESOURCE CLAIMS PROCEDURE

CFR Citation: 40 CFR 306

Completed:

Reason	Date	FR Cite
Final Action	12/13/85	51 FR 51205

Small Entity: No

Agency Contact: William Ross 202 382-4645

RIN: 2050-AA48

[FR Doc. 86-8840 Filed 04-18-86; 8:45 am]

BILLING CODE 6560-50-T

ENVIRONMENTAL PROTECTION AGENCY (EPA)—General — Proposed Rule Stage

2832. DENIAL OR RESTRICTION OF DISPOSAL SITES (REVISION)

Significance: Regulatory Program

Legal Authority: 33 USC 1344 /CWA 404(c)

CFR Citation: 40 CFR 231

Legal Deadline: None

Abstract: This action will revise EPA's existing 404(c) regulations, in effect since October 9, 1979. It will establish the procedures to be used when EPA is considering the use of Section 404(c) of the CWA to prevent the discharge of dredged or fill material into a defined area of the waters of the United States. Section 404(c) gives the Administrator authority to prohibit or withdraw the specification of a site as a disposal site or to deny or restrict use of a disposal site. Prior to 1983, we have taken only one 404(c) action. Since that time, we have initiated nine such actions. In the preamble to the 404(c) regulations, we indicated that we would do an evaluation of these regulations within four years of the effective date. We delayed this evaluation in order to carefully consider our recent experiences with these regulations. This review is completed, and we plan to revise the regulations to reflect our findings.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	
Final Action	06/00/87	

Small Entity: No

Additional Information: SAR No. 2196

FTS: 8-382-5043

Agency Contact: Suzanne Schwartz, Environmental Protection Agency, Administration and Resource Management, (A-104), Washington, DC 20460, 202 382-5043

RIN: 2030-AA05

2833. REGULATIONS FOR THE FEDERAL CLAIMS COLLECTION ACT

Legal Authority: 31 USC 3711

CFR Citation: 40 CFR 13

Legal Deadline: None

Abstract: These regulations will set standards for EPA's debt collection actions under the Federal Claims Collection Act.

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EPA—GENERAL — **Proposed Rule Stage**

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Interim Final Rule	09/00/86	

Small Entity: No

Additional Information: SAR No. 1625.

FTS: 8-382-4550.

Agency Contact: Raye Spears, Environmental Protection Agency, General Counsel and Enforcement Counsel, (LE-132G), Washington, DC 20460, 202 382-4550

RIN: 2020-AA01

2834. CONFIDENTIALITY REGULATIONS: SPECIAL RULES GOVERNING CERTAIN INFORMATION UNDER FIFRA (REVISION)

Legal Authority: 5 USC 552 / Freedom of Information Act ; 7 USC 136h / FIFRA 10

CFR Citation: 40 CFR 2.307

Legal Deadline: None

Abstract: This action would make changes in EPA's procedures for handling business information under FIFRA to reflect amendments to Section 10 of the Act. It would also clarify existing regulations on the treatment of confidential business information under FIFRA.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	
Final Action	02/00/87	

Small Entity: No

Additional Information: SAR No. 2195

FTS: 8-382-5460

Agency Contact: Jane Roemer, Environmental Protection Agency, General Counsel and Enforcement Counsel, (LE-132G), Washington, DC 20460, 202 382-5460

RIN: 2020-AA08

2835. CONSOLIDATED RULES OF PRACTICE GOVERNING THE ADMINISTRATIVE ASSESSMENT OF CIVIL PENALTIES AND THE REVOCATION OF SUSPENSION OF PERMITS

Legal Authority: 7 USC 136; 42 USC 7545; 42 USC 7601

CFR Citation: 40 CFR 22

Legal Deadline: None

Abstract: This action is designed to make minor amendments to the Agency's Consolidated Rules of Practice. These amendments may include a period for public notice and comment after the filing of administrative consent decrees, changing the recipient of administrative civil penalties to the Financial Management Division, and requiring respondents to provide information on their ability to pay civil penalties. Other amendments will be solicited.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: SAR No. 2216

FTS: 8-475-8783

Agency Contact: Winston Haythe, Environmental Protection Agency, General Counsel and Enforcement Counsel, (LE-130A), Washington, DC 20460, 202 475-8783

RIN: 2020-AA06

2836. ● NOTICE REQUIREMENTS FOR CITIZEN SUITS UNDER THE SDWA

Significance: Regulatory Program

Legal Authority: 42 USC 300 /SDWA 1449

CFR Citation: 40 CFR 135

Legal Deadline: None

Abstract: These regulations will specify on whom the notice of intent to file suit should be served, the manner of service, the addresses of such persons, and the contents of the notice. These regulations are similar to those implementing the notice provisions of the Clean Water Act (CWA) and the Resource Conservation and Recovery Act (RCRA).

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	
Final Action	05/00/87	

Small Entity: Not Applicable

Additional Information: SAR NO. 2307

FTS:8-382-7700

Agency Contact: Kenneth Gray, Environmental Protection Agency, General Counsel and Enforcement Counsel, (LE-132S), Washington, D.C. 20460, 202 382-7700

RIN: 2020-AA10

ENVIRONMENTAL PROTECTION AGENCY (EPA)—General — **Final Rule Stage**

2837. NONDISCRIMINATION ON THE BASIS OF HANDICAP FOR PROGRAMS CONDUCTED BY EPA

Legal Authority: 42 USC 794 / Rehabilitation Act 504

CFR Citation: 40 CFR 12

Legal Deadline: None

Abstract: The proposed regulation will provide for EPA's compliance with Section 504 of the Rehabilitation Act, which prohibits discrimination on the basis of handicap in the Agency's programs and activities. It will make the Agency's offices accessible to handicapped persons, and effect the necessary changes in the Agency's employment practices.

Timetable:

Action	Date	FR Cite
NPRM	05/06/85	50 FR 19136
Final Action	00/00/00	

Small Entity: No

Additional Information: SAR No. 2049.

FTS: 8-382-4567.

Agency Contact: Nereid Maxey, Environmental Protection Agency, General Counsel and Enforcement Counsel, Office of Civil Rights, (A-105), Washington, DC 20460, 202 382-4567

RIN: 2020-AA05

2838. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS RECEIVING FINANCIAL ASSISTANT FROM THE EPA(REVISION)

Legal Authority: 42 USC 6101 /Age Discrimination Act of 1979

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EPA—GENERAL — **Final Rule Stage**

CFR Citation: 40 CFR 7

Legal Deadline: None

Abstract: This action is necessary to add age as a basis for nondiscrimination to EPA's Federally-Assisted Nondiscrimination Regulation.

Timetable:

Action	Date	FR Cite
NPRM	01/01/81	46 FR 2306
Final Action	09/00/86	

Small Entity: No

Additional Information: SAR No. 2218

FTS: 8-382-4567

Agency Contact: Nereid Maxey, Environmental Protection Agency, General Counsel and Enforcement Counsel, Office of Civil Rights, (A-105), Washington, DC 20460, 202 382-4567

RIN: 2020-AA07

2839. AMENDING NEPA PROCEDURES RELATING TO WASTEWATER CONSTRUCTION GRANTS (REVISION)

Legal Authority: 42 USC 4321 / NEPA

CFR Citation: 40 CFR 6 E

Legal Deadline: None

Abstract: This action will revise EPA's NEPA implementation procedures relating to wastewater treatment construction grants. It will make them consistent with the amendments for simplifying the construction grants regulations (see SAR No. 1722) and the 1981 Municipal Wastewater Treatment Construction Grant Amendments (P.L. No. 97-117).It will also make minor changes to the NEPA procedures that apply to other EPA programs.

Timetable:

Action	Date	FR Cite
NPRM	01/07/83	48 FR 1012
Interim Final Rule	06/25/85	50 FR 26310
Final Action	05/00/86	

Small Entity: No

Additional Information: SAR No. 1835.

FTS:8-382-5910.

Agency Contact: John Gerba, Environmental Protection Agency, Office of the Administrator, (A-104), Washington, DC 20460, 202 382-5910

RIN: 2090-AA04

2840. EMISSIONS TRADING POLICY (REVISION)

Legal Authority: 42 USC 7503 / CAA 110

CFR Citation: Not applicable

Legal Deadline: None

Abstract: EPA is refining the emissions trading policy governing the use of the bubble, emission offsets, netting, and emission reduction banking. This final policy and accompanying Technical Issues Document will provide states with a framework for incorporating emissions trading activities into their state implementation plans. Through the use of emissions trading industry can substitute more controls where costs are low for less control where costs are high. The final policy will clarify requirements and procedures based on experience under the 1982 interim policy -- particularly regarding baselines and modeling for bubbles, as well as bubbles in nonattainment areas with inadequate demonstrations.

Timetable:

Action	Date	FR Cite
Proposed Policy	04/07/82	47 FR 15076
Reproposed Policy	08/31/83	48 FR 39560
Final Policy	08/00/86	

Small Entity: No

Additional Information: SAR No. 1605.

Docket No. G-81-2.

2841. SECTION 404 STATE PROGRAM REGULATIONS (REVISION)

Significance: Regulatory Program

Legal Authority: 33 USC 1344 / CWA 404

CFR Citation: 40 CFR 124; 40 CFR 232; 40 CFR 233

Legal Deadline: None

Abstract: Under Section 404(g) of the Clean Water Act, EPA is responsible for approving and overseeing assumption of the 404 "dredge and fill" program by States. In response to comments from the States, EPA is revising its State program regulations (formerly part of the Consolidated Permit Regulations), to provide increased incentives and simplified procedures for State assumption of the Section 404 program.

Timetable:

Action	Date	FR Cite
NPRM	10/02/84	49 FR 39012
Final Action	04/00/86	

Small Entity: No

Additional Information: SAR No. 1973.

FTS: 8-382-5043.

Agency Contact: Suzanne Schwartz, Environmental Protection Agency, Office of the Administrator, (A-104), Washington, DC 20460, 202 382-5043

RIN: 2030-AA00

ENVIRONMENTAL PROTECTION AGENCY (EPA)—General — **Completed Actions**

2842. PUBLIC INFORMATION AND CONFIDENTIALITY REGULATIONS (REVISION)

CFR Citation: 40 CFR 2

Completed:

Reason	Date	FR Cite
Final Action	12/18/85	50 FR 51654

Small Entity: No

Agency Contact: Jane Roemer 202 382-5460

RIN: 2020-AA03

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2843. PUBLIC INFORMATION REGULATIONS: COLLECTION OF FEES

CFR Citation: 40 CFR 2

Completed:

Reason	Date	FR Cite
Final Action	12/18/85	50 FR 51654

Small Entity: No

Agency Contact: Jane Roemer 202 382-5469

RIN: 2020-AA09

[FR Doc. 86-8643 Filed 04-18-86; 8:45 am]

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federal register

Monday
April 21, 1986

Part XXI

Equal Employment Opportunity Commission

Semiannual Regulatory Agenda

VOL 51 ISS 76 AP 21 1986 UMI

EEOC

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Ch. XIV

Semiannual Regulatory Agenda

AGENCY: Equal Employment Opportunity Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The Equal Employment Opportunity Commission is publishing its semiannual regulatory agenda pursuant to Executive Order No. 12291, 3 CFR Part 127 (1981 Compilation) and the Regulatory Flexibility Act, 5 U.S.C. Chapter 6. The agenda contains all regulations which are scheduled for review or development during the next twelve months.

FOR FURTHER INFORMATION CONTACT: Richard V. Roscio, Assistant Legal Counsel, Legal Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20507; telephone (202) 634-6592.

SUPPLEMENTARY INFORMATION: The Commission has identified sixteen current and projected rulemakings for inclusion in the agenda. Also listed are five regulatory items which are under review. No new items have been added to the agenda as current and projected rulemaking since the last semiannual agenda was published.

Signed in Washington, D.C. this 27th day of February, 1986.

For the Commission.

Clarence Thomas,

Chairman, Equal Employment Opportunity Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2844	Uniform Guidelines on Employee Selection Procedures	3046-AA00
2845	Equal Employment Opportunity in the Federal Government; Individual and Class EEO Complaints Processing	3046-AA11
2846	Equal Employment in the Federal Government; Processing of Complaints File under the Equal Pay Act	3046-AA16
2847	Procedures for Administrative Exemptions under Section 9 of the Age Discrimination in Employment Act	3046-AA22
2848	Equal Employment Opportunity in the Federal Government: Handicap	3046-AA23
2849	Uniform Guidelines on Employee Selection Procedures	3046-AA24

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2850	The Equal Pay Act Interpretations	3046-AA07
2851	Equal Employment Opportunity in the Federal Government; EEO Appeals	3046-AA17
2852	Interpretative Bulletin on Employee Benefit Plans	3046-AA18

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2853	Equal Employment Opportunity in the Federal Government; Remedial Relief under Section 717	3046-AA06
2854	Coordination of Federal Equal Employment Opportunity Programs	3046-AA10
2855	Federal Agencies' Affirmative Programs of Equal Employment Opportunity	3046-AA12
2856	Equal Employment in the Federal Government; Allegations of Reprisal	3046-AA13
2857	Equal Employment Opportunity in the Federal Government; Mixed Case Complaints	3046-AA14
2858	Equal Employment Opportunity in the Federal Government; Administrative Appeals on Grievances where Allegation of Discrimination Has Been Raised	3046-AA15
2859	Coverage of Apprenticeship Programs under the Age Discrimination in Employment Act	3046-AA21
2860	Administrative Exemption Allowing for Waivers Under the ADEA	3046-AA28

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Completed Actions

Sequence Number	Title	Regulation Identifier Number
2861	Recordkeeping Regulations	3046-AA03
2862	Collection of Applicant Data for Affirmative Action Purposes	3046-AA05
2863	Substantive Regulations on Health Insurance Benefits for Employees Age 65 to 69	3046-AA19

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Prerule Stage

2844. UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Significance: Regulatory Program

Legal Authority: 42 USC 2000e et seq Title VII of the Civil Rights Act of 1964

CFR Citation: 29 CFR 1607

Legal Deadline: None

Abstract: UGESP Recordkeeping Provisions. On March 15, 1983, the Commission voted to review those portions of the recordkeeping provisions of the Guidelines which relate to the maintenance of data necessary to determine adverse impact. Pursuant to that vote, the Commission published in the Federal Register a notice seeking public comment in general and on several specific questions about UGESP recordkeeping. 48 Fed. Reg. 34766 (Aug. 1, 1983). Approximately 45 comments were received. The Commission is currently reviewing the comments and is considering further action. On June 12, 1984, the Commission voted to prepare an NPRM concerning certain UGESP recordkeeping requirements. Prior to publication for comment, co-signatories to UGESP will engage in discussion of recommended changes and other affected agencies will be consulted under E.O. 12067.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: This is included in the Regulatory Program of the United States under the overall RIN 3046-AA25.

Agency Contact: Jeffrey Zuckerman, Chief of Staff, Office of the Chairman, Equal Employment Opportunity Commission, 202 634-6700

RIN: 3046-AA00

2845. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT; INDIVIDUAL AND CLASS EEO COMPLAINTS PROCESSING

Significance: Regulatory Program

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 29 CFR 1613

Legal Deadline: None

Abstract: Comprehensive revision of regulations for processing individual and class EEO complaints in the Federal sector. Under development.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: This is included in the Regulatory Program of the United States under overall RIN 3046-AA26.

Agency Contact: Nicholas M. Inzeo, Assistant Legal Counsel, Legal Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-6592

RIN: 3046-AA11

2846. EQUAL EMPLOYMENT IN THE FEDERAL GOVERNMENT; PROCESSING OF COMPLAINTS FILE UNDER THE EQUAL PAY ACT

Legal Authority: 29 USC 206(d) et seq Equal Pay Act of 1963; 29 USC 204(f) Fair Labor Standards Act of 1938, as amended; 29 USC 206(d) Fair Labor Standards Act of 1938, as amended

CFR Citation: 29 CFR 1613

Legal Deadline: None

Abstract: Development of procedural regulations for processing Federal sector complaints filed under the Equal Pay Act. Under development.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: This is included in the Regulatory Program of the United States under overall RIN 3046-AA28.

Agency Contact: Nicholas M. Inzeo,

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EEOC — Prerule Stage

Assistant Legal Counsel, Legal Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-6592

RIN: 3046-AA16

2847. PROCEDURES FOR ADMINISTRATIVE EXEMPTIONS UNDER SECTION 9 OF THE AGE DISCRIMINATION IN EMPLOYMENT ACT

Legal Authority: 29 USC 628 Age Discrimination in Employment Act

CFR Citation: 29 CFR 1627.15

Legal Deadline: None

Abstract: The purpose of the proposed amendment to 29 CFR 1627.15 is to give those covered by the ADEA more specific information about what they should do if they do wish to seek an exemption from any or all of the ADEA's prohibitions. The advantage is that the establishment of a specific procedure will facilitate the processing of exemption requests.

Timetable:

Action	Date	FR Cite
Submission of Staff Recommendations to Commission	03/00/84	

Next Action Undetermined

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Richard V. Roscio, Assistant Legal Counsel, Legal Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-6592

RIN: 3046-AA22

2848. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT: HANDICAP

Significance: Regulatory Program

Legal Authority: 29 USC 701 et seq Rehabilitation Act of 1973, as amended

CFR Citation: 29 CFR 1613.701 et seq

Legal Deadline: None

Abstract: The Commission is considering alternative ways of resolving various interpretative issues involving the definition of handicapped persons used in its section 501 regulations. One alternative would be to amend the definitions in the regulation itself. The purpose of these revisions would be to clarify the scope of the definitions.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Richard D. Komer, Special Assistant to the Chairman, Office of the Chairman, Equal Employment Opportunity Commission, 202 634-6708

RIN: 3046-AA23

2849. UNIFORM GUIDELINES ON EMPLOYEE SELECTION PROCEDURES

Significance: Regulatory Program

Legal Authority: 42 USC 2000e et seq Title VII of the Civil Rights Act of 1964

CFR Citation: 29 CFR 1607

Legal Deadline: None

Abstract: On March 15, 1983, the Commission voted to review the recordkeeping portions of the Guidelines. During that review process, several questions arose which pertained to the substantive, non-recordkeeping provisions of the Guidelines. Consequently, the Commission decided to review the substantive portions of the Guidelines. The major substantive areas under review are: 1) the purpose of the Guidelines and whether there is still a need for the Guidelines; 2) the theory of adverse impact and the method of determining when such impact is significant; and 3) how to establish test validity. When the review is completed, the Commission will decide whether any regulatory revisions are needed.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/84	
End Review	03/00/86	

Small Entity: No

Additional Information: This action resulted from splitting previous entry RIN 3046-AA00 Uniform Guidelines on Employee Selection Procedures.

It is included in the Regulatory Program of the United States under overall RIN 3046-AA25.

Agency Contact: Jeffrey Zuckerman, Chief of Staff, Office of the Chairman, Equal Employment Opportunity Commission, 202 634-6700

RIN: 3046-AA24

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Proposed Rule Stage

2850. THE EQUAL PAY ACT INTERPRETATIONS

Significance: Regulatory Program

Legal Authority: 29 USC 206(d) et seq Equal Pay Act of 1963; 29 USC 201 et seq Fair Labor Standards Act of 1938, as amended; 29 USC 255 Portal-to-Portal Act of 1947

CFR Citation: 29 CFR 1620.1 to 1620.18

Legal Deadline: None

Abstract: The Commission proposes interpretations with respect to the enforcement of the Equal Pay Act. These interpretations would replace those issued by the Department of Labor which appear at 29 CFR Part 800.

EEOC — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM - Previous Comment Period for Prev. NPRM ended	09/01/81 11/02/81	46 FR 43848

Next Action Undetermined

Small Entity: Undetermined

Additional Information: Interagency Coordination will occur under E.O. 12067 before final publication in Federal Register.

Government Levels Affected: Local, State, Federal

Agency Contact: Nicholas M. Inzeo, Assistant Legal Counsel, Legal Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-6592

RIN: 3046-AA07

2851. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT; EEO APPEALS

Legal Authority: 42 USC 2000e-16 Sec 717 of Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act; 5 USC 7121 Civil Service Reform Act of 1978

CFR Citation: 29 CFR 1613

Legal Deadline: None

Abstract: The proposed notice of rule making is intended to address the processing of federal sector EEO appeals on the questions of finality, requests to reopen, compliance with, enforcement of, and clarity of Commission decisions.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: This is included in the Regulatory Program of the United States under overall RIN 3046-AA26.

Agency Contact: Ronald G. Copeland, Deputy Director, Office of Review and Appeals, Equal Employment Opportunity Commission, 703 756-6076

RIN: 3046-AA17

2852. INTERPRETATIVE BULLETIN ON EMPLOYEE BENEFIT PLANS

Significance: Regulatory Program

Legal Authority: 29 USC 628 The Age Discrimination in Employment Act of 1967

CFR Citation: 29 CFR 1625.10

Legal Deadline: None

Abstract: Comprehensive review of interpretations dealing with costs and benefits under employee benefit plans. The Commission is focusing particularly on interpretations on post normal retirement age pension accruals.

Timetable:

Action	Date	FR Cite
Publication of Request for Comments	09/15/83	
Completion of Regulatory Impact Analysis	04/00/86	
NPRM	06/30/86	

Small Entity: Yes

Additional Information: The Commission is in the process of coordinating proposed rules with affected federal agencies under E.O. 12067.

Agency Contact: Richard V. Roscio, Assistant Legal Counsel, Legal Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-6592

RIN: 3046-AA18

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Final Rule Stage

2853. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT; REMEDIAL RELIEF UNDER SECTION 717

Legal Authority: 42 USC 2000e-16 Section 717 of the Civil Rights Act of 1964

CFR Citation: 29 CFR 1613

Legal Deadline: None

Abstract: Proposed amendments provide that an agency or the Commission may award a complainant reasonable attorney's fees and costs and backpay when an allegation of discrimination prohibited by Section 717 is resolved in favor of the complainant. Final regulations have been approved by the Commission and are in interagency coordination pursuant to Executive Order 12067. Changes to the Final regulations as a result of the interagency coordination are now being drafted.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/09/80	45 FR 24130
Interim Regulations effective	04/11/80	
Final Action	09/00/86	

Small Entity: No

Agency Contact: Nicholas M. Inzeo, Assistant Legal Counsel, Legal Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-6592

RIN: 3046-AA06

2854. COORDINATION OF FEDERAL EQUAL EMPLOYMENT OPPORTUNITY PROGRAMS

Legal Authority: EO 12067 Sec 1-303; EO 12067 Sec 1-304

CFR Citation: 29 CFR 1690

Legal Deadline: None

Abstract: These amendments to 29 CFR 1690 will implement an agreement reached by EEOC and the Department of Justice with the Office of Management and Budget which clarified the sequence to be followed when agencies are required to seek prepublication clearance of equal employment opportunity rules from EEOC under E.O. 12067, DOJ under E.O. 12250, and from OMB under E.O. 12291 and the Paperwork Reduction Act. In addition to clearance by the EEOC

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under E.O. 12067, equal employment opportunity rules issued under Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, as amended, or any other provision of Federal statutory law which prohibits discrimination under any program or activity receiving Federal financial assistance, require clearance from DOJ under E.O. 12250.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Elizabeth M. Thornton, Associate Legal Counsel, Coordination and, Guidance Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-7643

RIN: 3046-AA10

2855. FEDERAL AGENCIES' AFFIRMATIVE PROGRAMS OF EQUAL EMPLOYMENT OPPORTUNITY

Significance: Regulatory Program

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 29 CFR 1613

Legal Deadline: None

Abstract: Revision of regulations and management directive on affirmative action in the Federal sector. Under development.

Timetable:

Action	Date	FR Cite
Final Action on management directive	12/00/86	

Small Entity: No

Agency Contact: Douglas J. Bielan, Director, Public Sector Programs, Office of Program Operations, Equal Employment Opportunity Commission, 202 634-6753

RIN: 3046-AA12

2856. EQUAL EMPLOYMENT IN THE FEDERAL GOVERNMENT; ALLEGATIONS OF REPRISAL

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 29 CFR 1613

Legal Deadline: None

Abstract: Development of procedural regulations for the Federal sector requiring that all allegations of reprisal discrimination be processed as regular complaints. Staff draft transmitted to Federal agencies for comments, Sept. 1982.

Timetable:

Action	Date	FR Cite
Draft transmitted to agencies	09/00/82	
Interim Final Rule	05/02/83	48 FR 19705
Final Action	09/00/86	

Small Entity: No

Agency Contact: Douglas J. Bielan, Director, Public Sector Programs, Office of Program Operations, Equal Employment Opportunity Commission, 202 634-6753

RIN: 3046-AA13

2857. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT; MIXED CASE COMPLAINTS

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 29 CFR 1613

Legal Deadline: None

Abstract: Development of procedural regulations for processing complaints of discrimination about personnel actions which are appealable to the Merit Systems Protection Board (mixed case complaints). Final Rule under development.

Timetable:

Action	Date	FR Cite
Draft transmitted to agencies	09/00/82	
Interim Final Rule	05/02/83	
Final Action	09/00/86	

Small Entity: No

Agency Contact: Douglas J. Bielan, Director, Public Sector Programs, Office of Program Operations, Equal Employment Opportunity Commission, 202 634-6753

RIN: 3046-AA14

2858. EQUAL EMPLOYMENT OPPORTUNITY IN THE FEDERAL GOVERNMENT; ADMINISTRATIVE APPEALS ON GRIEVANCES WHERE ALLEGATION OF DISCRIMINATION HAS BEEN RAISED

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 29 CFR 1613

Legal Deadline: None

Abstract: Development of procedural regulations for administratively appealing decisions on grievances where an allegation of discrimination has been raised. Staff draft transmitted to Federal agencies for comments, Sept. 1982.

Timetable:

Action	Date	FR Cite
Draft transmitted to agencies	09/21/82	
Interim Final Rule	05/02/83	48 FR 19707
Final Action	09/00/86	

Small Entity: No

Agency Contact: Douglas J. Bielan, Director, Public Sector Programs, Office of Program Operations, Equal Employment Opportunity Commission, 202 634-6753

RIN: 3046-AA15

2859. COVERAGE OF APPRENTICESHIP PROGRAMS UNDER THE AGE DISCRIMINATION IN EMPLOYMENT ACT

Legal Authority: 29 USC 628 Age Discrimination in Employment Act of 1967

CFR Citation: 29 CFR 1625.13; 29 CFR 1625.21

Legal Deadline: None

Abstract: The Department of Labor on January 9, 1969, published an interpretative guideline which provided that apprenticeship programs were not covered by the ADEA. On July 1, 1979, the Commission assumed responsibility and authority for enforcement of the ADEA. On September 29, 1981, the Commission republished the Department of Labor's guideline, 29 CFR 1625.13. After an exhaustive review of the ADEA and its legislative history, the Commission proposes to rescind 29 CFR 1625.13, as it presently exists, and promulgate a substantive rule providing that apprenticeship programs are covered by the ADEA. The extension of ADEA coverage to apprenticeship programs is consistent with the purpose of the Act. It will allow those forty years of age and older the same opportunities to participate in apprenticeship programs as are currently enjoyed by younger individuals.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: Multiple

Government Levels Affected: Local, State

Agency Contact: Richard V. Roscio, Assistant Legal Counsel, Legal Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-6592

RIN: 3046-AA21

2860. ADMINISTRATIVE EXEMPTION ALLOWING FOR WAIVERS UNDER THE ADEA

Legal Authority: 29 USC 621 et seq Age Discrimination in Employment Act of 1967

CFR Citation: 29 CFR 1627.16(C)

Legal Deadline: None

Abstract: The Commission proposes to adopt a rule allowing non-EEOC supervised waivers and releases of private rights as an exemption to the provisions of Section 7 of the ADEA for any waiver of rights or release from liability by an employer or job applicant under the ADEA that is voluntary and knowing.

Timetable:

Action	Date	FR Cite
NPRM	10/07/85	50 FR 40807
Comment period completed	12/06/85	
Final Action	09/00/86	

Small Entity: No

Agency Contact: Richard V. Roscio, Assistant Legal Counsel, Legal Services, Office of Legal Counsel, Equal Employment Opportunity Commission, 202 634-6592

RIN: 3046-AA28

EEOC — Final Rule Stage

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (EEOC) — Completed Actions

2861. RECORDKEEPING REGULATIONS

CFR Citation: 29 CFR 1602

Completed:

Reason	Date	FR Cite
No further action currently expected	02/03/86	

Small Entity: Yes

Agency Contact: Nicholas M. Inzeo 202 634-6592

RIN: 3046-AA03

2862. COLLECTION OF APPLICANT DATA FOR AFFIRMATIVE ACTION PURPOSES

CFR Citation: 29 CFR 1613.706

Completed:

Reason	Date	FR Cite
No further action currently expected	02/03/86	

Small Entity: No

Agency Contact: Clayton G. Boyd 202 634-6753

RIN: 3046-AA05

2863. SUBSTANTIVE REGULATIONS ON HEALTH INSURANCE BENEFITS FOR EMPLOYEES AGE 65 TO 69

CFR Citation: 29 CFR 1625

Completed:

Reason	Date	FR Cite
No further action currently expected	02/03/86	

Small Entity: No

Agency Contact: Nicholas M Inzeo 202 634-6592

RIN: 3046-AA19

[FR Doc. 86-8286 Filed 04-18-86; 8:45 am]
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Part XXII

Federal Emergency Management Agency

Semiannual Regulatory Agenda

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FEMA

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Ch. I

Semiannual Agenda

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Semiannual agenda.

SUMMARY: Pursuant to section 5 of Executive Order 12291 ("Federal Regulations") the Federal Emergency Management Agency is publishing its semiannual agenda for FEMA. The agenda lists regulations that will be under development or review during the period April 1, 1986 to April 1, 1987.

ADDRESS: Rules Docket Clerk, Office of General Counsel, Room 840, 500 C Street, S.W., Washington, D.C. 20472.

FOR FURTHER INFORMATION CONTACT: For general information, contact William L. Harding, Office of General Counsel, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 646-4086. For additional information about a specific regulation, contact the person listed as the contact point in the agenda.

SUPPLEMENTARY INFORMATION: Executive Order 12291, "Federal Regulations," directs each Executive agency to adopt procedures to improve existing and future regulations. Publication of an agenda of significant regulations is called for at least semiannually in order to give the public adequate notice of agency rulemaking activities; also publication of a regulatory flexibility agenda concerning rules likely to have a significant impact on a substantial number of small entities must be published in accordance with 5 U.S.C. 601 et seq.

In fulfillment of requirements imposed by the Executive Order and 5 U.S.C. 601, et seq., this agenda describes current and projected regulations, and regulations which will be under review during the period April 1, 1986 to April 1, 1987. This agenda also contains information on regulations on which action was completed since the last FEMA semiannual agenda published October 29, 1985 at 50 FR 44718.

Public comment on the agenda, including that by State and local governments, is invited and should be submitted to the Rules Docket Clerk.

The agenda is not limited to major or significant rules and contains as much information as possible concerning all FEMA regulations to be published in the next 12 months except for routine flood elevation determinations, listing of eligible communities under the National Flood Insurance Program, listing of suspended communities and similar designations.

DATED: February 25, 1986.

Spence W. Perry,

Acting General Counsel.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2864	Preservation of the Mobilization Base Through the Placement of Procurement and Facilities in Labor Surplus Areas	3067-AA32
2865	Policy Guidance and Delegation of Authorities for Use of Priorities and Allocations to Maximize Domestic Energy Supplies	3067-AA33
2866	Use of Priorities and Allocation Authority for Federal Supply Classification (FSC) Common Use Items (DMO-12)	3067-AA34
2867	General Policies for Strategic and Critical Materials Stockpiling (DMO-11)	3067-AA35
2868	Policy on Use of Government-Owned Industrial Plant Equipment by Private Industry (DMO-10A)	3067-AA36
2869	Policy Guidance for a National Emergency Blood Program	3067-AA37
2870	Emergency Health and Medical Occupations	3067-AA38
2871	National Security Policy Governing Scientific and Engineering Manpower (DMO-5)	3067-AA43
2872	Guidance on Priority Use of Resources in Immediate Post Attack Period (DMO-4)	3067-AA44
2873	Defense Production Priorities and Allocations Authority	3067-AA45
2874	Maintenance of the Mobilization Base	3067-AA46
2875	Dispersion and Protective Construction: Policy, Criteria Responsibilities (DMO-1)	3067-AA47
2876	Review and Approval of State and Local Emergency Response Plans	3067-AA76
2877	Radiological Emergency Planning and Preparedness	3067-AA77
2878	Flood Insurance Rating System Changes	3067-AA98
2879	National Earthquake Hazards Reduction Program (NEHRP)	3067-AA99

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2880	Nondiscrimination in Federally-Assisted Programs	3067-AA00
2881	Part 205 - Federal Disaster Assistance (PL 93-288, Subpart M - Hazard Mitigation)	3067-AA13
2882	Nondiscrimination on the Basis of Handicap in FEMA	3067-AA42
2883	Federal Disaster Assistance Sub-Part E Public Assistance	3067-AA53
2884	Procedures for Flood Insurance Map Changes	3067-AA58
2885	Criteria for Recognition of Flood Protection Structures on Flood Insurance Maps	3067-AA63
2886	Individual and Family Grant Program	3067-AA64
2887	Static Assistance Programs for Training and Education in Comprehensive Emergency Management	3067-AA70

FEMA

Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2888	Temporary Relocation Assistance - Superfund	3067-AA72
2889	National Flood Insurance Program Changes	3067-AA79
2890	State Cost Share Criteria for Superfund Relocations	3067-AA83
2891	Permanent Relocation Assistance	3067-AA84
2892	Disaster Assistance: the Declaration Process	3067-AA85
2893	Audit of State and Local Governments	3067-AA88
2894	Project Administration	3067-AA89
2895	Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments	3067-AA90
2896	Community Disaster Loans	3067-AA95
2897	Nation Flood Insurance Program Changes	3067-AA96
2898	Flood Insurance Rate Changes	3067-AA97

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2899	Duplication of Benefits	3067-AA65
2900	Temporary Housing Assistance	3067-AA66
2901	Reimbursement of Other Federal Agencies	3067-AA92
2902	Civil Defense: State and Local Emergency Management Assistance (EMA)	3067-AA94

Completed Actions

Sequence Number	Title	Regulation Identifier Number
2903	Contributions for Civil Defense Equipment	3067-AA48
2904	Flood Insurance Policy Coverage and Rate Changes	3067-AA62
2905	Civil Defense: State and Local Emergency Management Assistance Programs (EMA)	3067-AA86
2906	Radiological Protection Program	3067-AA87
2907	Population Protection Planning Program	3067-AA68
2908	Uniform Relocation Assistance	3067-AA69
2909	Fire Suppression Assistance	3067-AA93

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

Prerule Stage

2864. PRESERVATION OF THE MOBILIZATION BASE THROUGH THE PLACEMENT OF PROCUREMENT AND FACILITIES IN LABOR SURPLUS AREAS

Legal Authority: EO 10480; EO 12148

CFR Citation: 44 CFR 331

Legal Deadline: None

Abstract: This part sets policy and makes assignments with respect to award of contracts, etc. in labor surplus areas for purposes of preserving the mobilization base.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Audrey Reeg, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2853

RIN: 3067-AA32

2865. POLICY GUIDANCE AND DELEGATION OF AUTHORITIES FOR USE OF PRIORITIES AND ALLOCATIONS TO MAXIMIZE DOMESTIC ENERGY SUPPLIES

Legal Authority: 50 USC 2061 et seq; PL 94-163, Sec 104

CFR Citation: 44 CFR 330

Legal Deadline: None

Abstract: This regulation establishes policy guidance on determination and use of priorities and allocations for materials and equipment to maximize

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domestic energy supplies pursuant to section 101(c) of the Defense Production Act.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Audrey Reeg, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2853

RIN: 3067-AA33

2866. USE OF PRIORITIES AND ALLOCATION AUTHORITY FOR FEDERAL SUPPLY CLASSIFICATION (FSC) COMMON USE ITEMS (DMO-12)

Legal Authority: 50 USC App 2061 et seq; EO 10480

CFR Citation: 44 CFR 329

Legal Deadline: None

Abstract: This part provides policy guidance concerning the use of priorities and allocations authority in Title I of Defense Production Act for the procurement of common use items in the Federal Supply Classification.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Audrey Reeg, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2853

RIN: 3067-AA34

2867. GENERAL POLICIES FOR STRATEGIC AND CRITICAL MATERIALS STOCKPILING (DMO-11)

Legal Authority: 50 USC 98 et seq

CFR Citation: 44 CFR 328

Legal Deadline: None

Abstract: This part sets forth policies for the administration of strategic and critical materials stockpiling under the Strategic and Critical Materials Stock Piling Act.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Audrey Reeg, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2853

RIN: 3067-AA35

2868. POLICY ON USE OF GOVERNMENT-OWNED INDUSTRIAL PLANT EQUIPMENT BY PRIVATE INDUSTRY (DMO-10A)

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; EO 12148

CFR Citation: 44 CFR 327

Legal Deadline: None

Abstract: This part establishes policy on use by private industry of Government-owned industrial plant equipment to maintain a reserve of such equipment for emergency preparedness.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Audrey Reeg, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2853

RIN: 3067-AA36

2869. POLICY GUIDANCE FOR A NATIONAL EMERGENCY BLOOD PROGRAM

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; EO 12148

CFR Citation: 44 CFR 326

Legal Deadline: None

Abstract: This regulation prescribes objectives, policies and responsibilities of the National Emergency Blood Program.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Audrey Reeg, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2853

RIN: 3067-AA37

2870. EMERGENCY HEALTH AND MEDICAL OCCUPATIONS

Legal Authority: 50 USC App 2061; EO 11490

CFR Citation: 44 CFR 325

Legal Deadline: None

Abstract: This regulation lists emergency health and medical occupations in support of functions under Executive Order Assigning Emergency Preparedness Functions.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Audrey Reeg, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2853

RIN: 3067-AA38

2871. NATIONAL SECURITY POLICY GOVERNING SCIENTIFIC AND ENGINEERING MANPOWER (DMO-5)

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; EO 12148

CFR Citation: 44 CFR 324

Legal Deadline: None

Abstract: This part provides policy on the training and utilization of the scientific and engineering workforce as it affects national security.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Audrey Reeg, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2853

RIN: 3067-AA43

FEMA — Prerule Stage

2872. GUIDANCE ON PRIORITY USE OF RESOURCES IN IMMEDIATE POST ATTACK PERIOD (DMO-4)

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; EO 12148

CFR Citation: 44 CFR 323

Legal Deadline: None

Abstract: This regulation states policy on use of resources in a post attack period and provides general guidance for Federal, State and local governments on activities to be accorded priority in use of resources, and lists items essential to national survival.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Audrey Reeg, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2853

RIN: 3067-AA44

2873. DEFENSE PRODUCTION PRIORITIES AND ALLOCATIONS AUTHORITY

Legal Authority: 50 USC App 2061 et seq; EO 10480

CFR Citation: 44 CFR 322

Legal Deadline: None

Abstract: This regulation establishes policy guidance and delegates authority with respect to priorities and allocation functions in the Defense Production Act.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Audrey Reeg, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2853

RIN: 3067-AA45

2874. MAINTENANCE OF THE MOBILIZATION BASE

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; EO 12148

CFR Citation: 44 CFR 321

Legal Deadline: None

Abstract: This regulation deals with policies concerning the mobilization base for Department of Defense, Department of Energy, and Maritime Administration and includes procedures relating to selection and maintenance of the base.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Audrey Reeg, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2853

RIN: 3067-AA46

2875. DISPERSION AND PROTECTIVE CONSTRUCTION: POLICY, CRITERIA RESPONSIBILITIES (DMO-1)

Legal Authority: 50 USC 404; 50 USC App 2061 et seq; EO 12148

CFR Citation: 44 CFR 320

Legal Deadline: None

Abstract: This regulation establishes policy and criteria to encourage dispersal of facilities important to the national security and that these be located so as to reduce the risk of damage in event of attack.

Timetable:

Action	Date	FR Cite
Begin Review	00/00/00	

Small Entity: No

Agency Contact: Audrey Reeg, Assistant Associate Director, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2853

RIN: 3067-AA47

2876. REVIEW AND APPROVAL OF STATE AND LOCAL EMERGENCY RESPONSE PLANS

Legal Authority: 50 USC 5131; 50 USC 5201; 50 USC App 2253(g); EO 12148

CFR Citation: 44 CFR 350

Legal Deadline: None

Abstract: Review existing regulation governing policies and procedures for review and approval of State and local emergency plans and preparedness for the offsite effects of a radiological emergency which might occur at a commercial nuclear power plant.

Timetable:

Action	Date	FR Cite
Begin Review	03/01/86	
End Review	05/31/86	

Small Entity: No

Agency Contact: Marshall Sanders, Chief, Program Development Branch, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-4131

RIN: 3067-AA76

2877. RADIOLOGICAL EMERGENCY PLANNING AND PREPAREDNESS

Legal Authority: EO 12148; EO 12241

CFR Citation: 44 CFR 351

Legal Deadline: None

Abstract: Review of regulation which sets out Federal agency roles and assigns tasks regarding Federal assistance to State and local government in their radiological emergency planning and preparedness activities application to radiological accidents at commercial nuclear power facilities.

Timetable:

Action	Date	FR Cite
Begin Review	03/12/86	
End Review	05/14/86	

Small Entity: No

Agency Contact: Marshall Sanders, Chief, Program Development Branch, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-4131

RIN: 3067-AA77

2878. ● FLOOD INSURANCE RATING SYSTEM CHANGES

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 41 CFR 61

Legal Deadline: None

Abstract: National Flood Insurance Program premium rating system changes under consideration include community rating, elevation rating outside special flood hazard areas and also for the emergency program, a coastal shoreline rating system, and an additional charge for machinery and

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equipment below the base flood elevation and in the open.

Timetable:

Action	Date	FR Cite
ANPRM	04/04/86	
ANPRM Comment Period End	07/07/86	
NPRM	11/30/86	
NPRM Comment Period End	01/30/87	
Final Action	09/01/87	
Final Action Effective	10/01/87	

Small Entity: No

Agency Contact: Donald L. Collins, Assistant Administrator, FIA, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3419

RIN: 3067-AA86

2879. ● NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM (NEHRP)

Legal Authority: 42 USC 7701 et seq

CFR Citation: 44 CFR 370

Legal Deadline: None

Abstract: In accordance with the Earthquake Hazards Reduction Act of 1977, as amended, this regulation will assign Federal agency responsibilities for implementation of the National Earthquake Hazards Reduction Program.

Timetable:

Action	Date	FR Cite
ANPRM	00/00/00	
ANPRM Comment Period End	00/00/00	

Small Entity: Not Applicable

Government Levels Affected: Local, State, Federal

Agency Contact: Richard W. Krimm, Assistant Associate Director, Office of Natural & Technological Hazards Program, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-2871

RIN: 3067-AA99

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) — Proposed Rule Stage

2880. NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS

Legal Authority: 42 USC 2000d-1; 29 USC 794; 29 USC 1692; 42 USC 6101; 42 USC 5151; Reorganization Plan No. 3 of 1978; EO 12127; EO 12148

CFR Citation: 44 CFR 7

Legal Deadline: None

Abstract: This rule effectuates for FEMA the nondiscrimination requirements of Title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1975 and section 311 of the Disaster Relief Act of 1974. A draft regulation is undergoing interagency review. The Notice of proposed rulemaking will be issued as soon as interagency clearances are obtained.

Timetable:

Action	Date	FR Cite
NPRM	10/01/86	
NPRM Comment Period End	12/01/86	
Interim Final Rule	01/15/87	
Final Action	02/15/87	

Small Entity: No

Agency Contact: John J. Brosnahan, Director, Office of Equal Opportunity, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-4121

RIN: 3067-AA80

2881. PART 205 - FEDERAL DISASTER ASSISTANCE (PL 93-288, SUPPORT M - HAZARD MITIGATION)

Legal Authority: 42 USC 5201

CFR Citation: 44 CFR 205.400

Legal Deadline: None

Abstract: The proposed rule revision clarifies the hazard mitigation provisions of the Disaster Relief Act of 1974 by specifying general plan requirements and guidelines as well as other procedural requirements. The Hazard Mitigation Requirement is intended to serve as an aid to State and local governments in developing an overall mitigation program to minimize the costs of natural disasters.

Timetable:

Action	Date	FR Cite
NPRM	03/28/86	
NPRM Comment Period End	05/28/86	
Final Action	08/09/86	

Small Entity: No

Agency Contact: Laurence W. Zensinger, Acting Chief, Hazard Mitigation Branch, Federal Emergency Management Agency, Disaster Assistance Programs, Room 713, 500 C Street, SW, Washington, DC 20472, 202 646-3681

RIN: 3067-AA13

2882. NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEMA

Legal Authority: 29 USC 794

CFR Citation: 44 CFR 16

Legal Deadline: None

Abstract: This rule effectuates for FEMA the nondiscrimination requirements of section 504 of the Rehabilitation Act of 1973, as amended in 1978 to include activities conducted directly by Federal agencies. A draft regulation has been prepared and submitted to the Department of Justice and the Equal Employment Opportunity Commission for review.

Timetable:

Action	Date	FR Cite
NPRM	10/01/86	
NPRM Comment Period End	12/01/86	
Interim Final Rule	01/15/87	
Final Action	02/15/87	

Small Entity: No

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Agency Contact: John J. Brosnahan, Director, Office of Equal Opportunity, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-4121

RIN: 3067-AA42

2883. FEDERAL DISASTER ASSISTANCE SUB-PART E PUBLIC ASSISTANCE

Legal Authority: 42 USC 5201

CFR Citation: 44 CFR 205.70 et seq

Legal Deadline: None

Abstract: This proposed rule makes changes in the FEMA disaster assistance regulations implementing the Disaster Relief Act of 1974 (PL 93-288). Changes are made in the eligibility of costs of public assistance to State and local governments. This is being done in recognition of the commitment to the disaster effort now being made by applicants in the form of cost sharing of eligible costs.

Timetable:

Action	Date	FR Cite
NPRM	02/03/84	49 FR 4222
NPRM Comment Period End	06/04/84	
NPRM Comment Period Begin	09/30/85	
NPRM	03/28/86	
NPRM Comment Period End	05/27/86	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Charles B. Stuart, General Engineer, Public Assist. Division, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3661

RIN: 3067-AA53

2884. PROCEDURES FOR FLOOD INSURANCE MAP CHANGES

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 65; 44 CFR 70

Legal Deadline: None

Abstract: Certain procedures for map changes need to be clarified and set forth as rules. These procedures are for revising maps under 44 CFR 65 and 44 CFR 70 and for permitting communities to revise regulatory floodways.

Timetable:

Action	Date	FR Cite
NPRM	03/03/86	
NPRM Comment Period End	05/02/86	
Final Action	08/29/86	
Final Action Effective	10/01/86	

Small Entity: No

Agency Contact: Donald L. Collins, Assistant Administrator, FIA, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3419

RIN: 3067-AA58

2885. CRITERIA FOR RECOGNITION OF FLOOD PROTECTION STRUCTURES ON FLOOD INSURANCE MAPS

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 65

Legal Deadline: None

Abstract: The regulation will establish criteria defining when FEMA will credit flood protection structures with reducing the size of the Special Flood Hazard Area shown, or to be shown, on FEMA flood maps. The criteria will include design, operation and maintenance standards and requirements.

Timetable:

Action	Date	FR Cite
NPRM	03/03/86	
NPRM Comment Period End	05/02/86	
Final Action	08/29/86	
Final Action Effective	10/01/86	

Small Entity: No

Agency Contact: Donald L. Collins, Assistant Administrator, FIA, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3419

RIN: 3067-AA63

2886. INDIVIDUAL AND FAMILY GRANT PROGRAM

Legal Authority: 42 USC 5178; 42 USC 5201

CFR Citation: 44 CFR 205.54

Legal Deadline: None

Abstract: The proposed revisions will address the problems of timeliness of grant assistance, introduce methods for speeding up the administrative processes used by FEMA and the States, and hopefully result in a more efficiently administered program.

Timetable:

Action	Date	FR Cite
NPRM	03/15/86	
NPRM Comment Period End	05/15/86	
Final Action	07/15/86	
Final Action Effective	08/15/86	

Small Entity: Not Applicable

Agency Contact: Agnes C. Mravcak, Federal Emergency Management Agency, Room 710, 500 C Street, SW, Washington, DC 20472, 202 646-3669

RIN: 3067-AA64

2887. STATE ASSISTANCE PROGRAMS FOR TRAINING AND EDUCATION IN COMPREHENSIVE EMERGENCY MANAGEMENT

Legal Authority: Reorganization Plan No. 3, 1978; EO 12127; EO 12148

CFR Citation: 44 CFR 360

Legal Deadline: None

Abstract: This regulation revises existing regulation governing the State Assistance Program for Training and Education in Comprehensive Emergency Management to reflect program and administrative changes occurring since issuance of the regulation in 1981.

Timetable:

Action	Date	FR Cite
NPRM	05/01/86	
NPRM Comment Period End	07/01/86	

Small Entity: No

Agency Contact: Joseph L. LeFleur, Superintendent, Emergency Mgmt. Institute, Federal Emergency Management Agency, Emmitsburg, MD 21727, 301 447-6771

RIN: 3067-AA70

2888. TEMPORARY RELOCATION ASSISTANCE - SUPERFUND

Legal Authority: 42 USC 9601 et seq

CFR Citation: 44 CFR 220

Legal Deadline: None

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Abstract: This part prescribes policy and program guidance to be followed when implementing temporary relocation assistance under the Comprehensive Environmental Response, Compensation and Liability Act, 1980 (CERCLA) Superfund.

Timetable:

Action	Date	FR Cite
NPRM	05/01/86	
NPRM Comment Period End	05/01/86	

Small Entity: No

Agency Contact: Kathleen M. Brady, Emergency Management Specialist, Federal Emergency Management Agency, Room 701, 500 C Street, SW, Washington, DC 20472, 202 646-3804

RIN: 3067-AA72

2888. NATIONAL FLOOD INSURANCE PROGRAM CHANGES

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 59; 44 CFR 60; 44 CFR 61; 44 CFR 73; 44 CFR 76

Legal Deadline: None

Abstract: Possible changes to the insurance contract include mobile home changes. The floodplain management provisions of the NFIP dealing with mobile homes may also be revised, along with other floodplain management changes, including possible changes involving standards for application of sec. 1316 of the National Flood Insurance Act of 1968, additional guidance on community probation and suspension, placement of mechanical and utility equipment, use of best available data, requirements for elevation certificates in unnumbered A-zones, floodproofing, variances, functionally dependent uses, residential basements, openings in elevated building enclosures, and deletion of 44 CFR 76 (State Assistance Program regulations).

Timetable:

Action	Date	FR Cite
NPRM	03/03/86	
NPRM Comment Period End	05/02/86	
Final Action	08/29/86	
Final Action Effective	10/01/86	

Small Entity: No

Agency Contact: Donald L. Collins, Assistant Administrator, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3419

RIN: 3067-AA79

2890. STATE COST SHARE CRITERIA FOR SUPERFUND RELOCATIONS

Legal Authority: 42 USC 9601 et seq

CFR Citation: 42 CFR 222

Legal Deadline: None

Abstract: This part provides basic guidance with regard to the State's allowable costs associated with the administration of temporary and permanent relocation activities under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
NPRM Comment Period End	06/00/86	

Small Entity: No

Agency Contact: Karen Forbes, Emergency Management Specialist, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3867

RIN: 3067-AA83

2891. PERMANENT RELOCATION ASSISTANCE

Legal Authority: 42 USC 9601 et seq

CFR Citation: 44 CFR 221

Legal Deadline: None

Abstract: This part prescribes the policies to be followed by the Federal Emergency Management Agency or any State or local government when implementing permanent relocation under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), also known as Superfund.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
NPRM Comment Period End	09/00/86	
Final Action	11/00/86	

Small Entity: No

Agency Contact: Kathleen Brady, Emergency Management Specialist, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3804

RIN: 3067-AA84

2892. DISASTER ASSISTANCE: THE DECLARATION PROCESS

Legal Authority: 42 USC 5201

CFR Citation: 44 CFR 205, Subpart C

Legal Deadline: None

Abstract: This document describes several proposed regulation changes, most of which are intended to implement the requirement in the Disaster Relief Act of 1974 that Federal disaster assistance be supplemental to the efforts and resources of State and local governments. The policy would require that for each major disaster and emergency the Governor of the affected State make a commitment, on behalf of the State and local governmental and eligible private nonprofit entities to assume a portion of otherwise eligible "public assistance" costs as a part of the non-Federal effort to respond to Presidentially-declared major disasters or emergencies. This proposed rule change includes the establishment of a declaration decision-making system that would incorporate the use of "capability indicators" upon which a public assistance recommendation for a declaration could be made. This proposed rule also includes changes to the current FEMA regulations relating to FEMA policy on preliminary damage assessments, the Consolidated List of Debarred, Suspended, and Ineligible contractors, and the FEMA-State Agreement with regard to certain Indian tribes and Alaskan Native villages.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Sewall H. E. Johnson, Emergency Management Officer, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3618

RIN: 3067-AA85

FEMA

Proposed Rule Stage

2893. AUDIT OF STATE AND LOCAL GOVERNMENTS

Legal Authority: PL 98-502

CFR Citation: 44 CFR 14

Legal Deadline: None

Abstract: This regulation will implement for FEMA the Single Audit Act.

Timetable:

Action	Date	FR Cite
NPRM	03/31/86	
NPRM Comment Period End	05/31/86	

Small Entity: No

Agency Contact: Jane Altenhofen, Supervisory Auditor Office of Inspector General, Federal Emergency Management Agency, Office of Inspector General, 500 C Street, SW, Washington, DC 20472, 202 646-3865

RIN: 3067-AA88

2894. PROJECT ADMINISTRATION

Legal Authority: 42 USC 5201

CFR Citation: 44 CFR 205, Subpart H

Legal Deadline: None

Abstract: Project Administration under Disaster Relief Act. This regulation updates and revises the existing regulation. Interim changes were made in August 1985.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Bruce Baughman, Program Officer, Federal Emergency Management Agency, Office of Disaster Assistance Programs, 500 C Street, SW, Washington, DC 20472, 202 646-3689

RIN: 3067-AA89

2895. ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND COOPERATIVE AGREEMENTS TO STATE AND LOCAL GOVERNMENTS

Legal Authority: Reorganization Plan No. 3 of 1978; EO 12148

CFR Citation: 44 CFR 13

Legal Deadline: None

Abstract: This part will establish uniform administrative rules for Federal grants and cooperative agreements to State and local governments and federally recognized Indian Tribal governments. These will be common regulations issued with other government agencies.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Arthur Curry, Chief, Policy Division, Off. of Comptroller, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3718

RIN: 3067-AA90

2896. ● COMMUNITY DISASTER LOANS

Legal Authority: 42 USC 5201

CFR Citation: 44 CFR 205, Subpart F

Legal Deadline: None

Abstract: To provide FEMA policies and procedures for administering the Community Disaster Loan Program under section 414, PL 93-288.

Timetable:

Action	Date	FR Cite
NPRM	06/20/86	
NPRM Comment Period End	08/20/86	

Small Entity: No

Government Levels Affected: Local

Agency Contact: Gene Morath, Program Officer, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3683

RIN: 3067-AA95

2897. ● NATION FLOOD INSURANCE PROGRAM CHANGES

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 59; 44 CFR 60; 44 CFR 77

Legal Deadline: None

Abstract: Possible changes to the Flood Plain Management provisions of the NFIP include changes to the definition of substantial improvement, guidance on construction in alluvial fan areas, requirements for pile embedment for V-Zone structures, further guidance on community compliance with NFIP criteria, and technical amendments to regulations on acquisition of flood-damaged property under section 1362 of the National Flood Insurance Act of 1968.

Timetable:

Action	Date	FR Cite
NPRM	11/30/86	
NPRM Comment Period End	01/30/87	
Final Action	08/01/87	
Final Action Effective	10/01/87	

Small Entity: No

Agency Contact: Donald L. Collins, Assistant Administrator, FIA, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3419

RIN: 3067-AA96

2898. ● FLOOD INSURANCE RATE CHANGES

Legal Authority: 42 USC 4001 et seq; EO 12127

CFR Citation: 44 CFR 61

Legal Deadline: None

Abstract: The proposed rule would increase the chargeable subsidized premium rates, which apply to all structures in communities participating in the emergency program of the National Flood Insurance Program and to certain structures in communities in the regular program.

Timetable:

Action	Date	FR Cite
NPRM	03/28/86	
NPRM Comment Period End	05/27/86	
Final Action	08/29/86	
Final Action Effective	10/01/86	

Small Entity: No

Agency Contact: Donald L. Collins, Assistant Administrator, FIA, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3419

RIN: 3067-AA97

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FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

Final Rule Stage

2899. DUPLICATION OF BENEFITS

Legal Authority: 42 USC 5155; 42 USC 5201

CFR Citation: 44 CFR 205.10

Legal Deadline: None

Abstract: This regulation will address the prevention of and remedies for duplication of benefits between disaster assistance programs under the Disaster Relief Act and other available assistance (insurance, other legislative authorities).

Timetable:

Action	Date	FR Cite
NPRM	05/22/85	50 FR 21085
NPRM Comment Period End	07/22/85	
Final Action	03/28/86	
Final Action Effective	04/28/86	

Small Entity: Not Applicable

Agency Contact: Donna M. Dannels, Federal Emergency Management Agency, Room 710, 500 C Street, SW, Washington, DC 20472, 202 646-3662

RIN: 3067-AA65

2900. TEMPORARY HOUSING ASSISTANCE

Legal Authority: 42 USC 5174

CFR Citation: 44 CFR 205.52

Legal Deadline: None

Abstract: The revised rule, to be published as proposed, will implement the program changes made since the publication of the current program regulations, as well as clarify several areas which caused inconsistency in delivery of assistance.

Timetable:

Action	Date	FR Cite
NPRM	12/06/85	50 FR 49959
NPRM Comment Period End	02/04/86	
Final Action	04/30/86	
Final Action Effective	05/30/86	

Small Entity: No

Agency Contact: Sarah L. Wise, Emergency Management Specialist, Federal Emergency Management Agency, 500 C Street, SW, Washington, DC 20472, 202 646-3657

RIN: 3067-AA86

2901. REIMBURSEMENT OF OTHER FEDERAL AGENCIES

Legal Authority: 42 USC 5201

CFR Citation: 44 CFR 205, Subpart I

Legal Deadline: None

Abstract: This updates the existing regulation which specifies procedures for obtaining or authorizing the provision of services or use of resources of other Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	08/21/85	50 FR 33783
NPRM Comment Period End	10/21/85	
Final Action	09/30/86	

Small Entity: No

Agency Contact: John F. Guere, Emergency Management Specialist, Federal Emergency Management Agency, Office of Disaster Assistance Programs, 500 C Street, SW, Washington, DC 20472, 202 646-3675

RIN: 3067-AA92

2902. CIVIL DEFENSE: STATE AND LOCAL EMERGENCY MANAGEMENT ASSISTANCE (EMA)

Legal Authority: Reorg. Plan No. 3 of 1978; 50 USC App. 2253 Sec 401 Fed. Civil Def. Act of 1950 as amended; EO 12148

CFR Citation: 44 CFR 302, (Revision)

Legal Deadline: None

Abstract: 44 CFR 302 is being revised to: (1) rename and redefine operational plans as emergency operational plans (EOP's) and to add the requirement for EOP's to conform with two FEMA guides, and (2) to permit States to submit primary annual submission documents in amounts not to exceed their tentative allocation amounts and for those documents to be approved as final annual submissions under certain prescribed conditions. There will be no additional costs incurred. The benefit is the enhancement of the civil defense readiness of the Nation.

Timetable:

Action	Date	FR Cite
NPRM	07/05/85	50 FR 27827
NPRM Comment Period End	09/03/85	
Final Action	03/01/86	
Final Action Effective	04/01/86	

Small Entity: No

Additional Information: This rulemaking results from review under 3067-AA66 - Civil Defense State and Local Emergency Management Assistance Program (EMA).

Agency Contact: John McKay, Chief, Federal Emergency Management Agency, Emergency Mgmt. Systems Development Division, 500 C Street, SW, Washington, DC 20472, 202 646-3509

RIN: 3067-AA94

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA)

Completed Actions

2903. CONTRIBUTIONS FOR CIVIL DEFENSE EQUIPMENT

CFR Citation: 44 CFR 301

Completed:

Reason	Date	FR Cite
Withdrawn	02/01/86	

Small Entity: No

Agency Contact: Joseph Mealy 202 646-3194

RIN: 3067-AA48

2904. FLOOD INSURANCE POLICY COVERAGE AND RATE CHANGES

CFR Citation: 44 CFR 61; 44 CFR 64; 44 CFR 66; 44 CFR 70; 44 CFR 75

Completed:

Reason	Date	FR Cite
Withdrawn	11/01/85	

Small Entity: No

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FEMA

Completed Actions

Agency Contact: Donald L. Collins 202 646-3419

RIN: 3067-AA62

2905. CIVIL DEFENSE: STATE AND LOCAL EMERGENCY MANAGEMENT ASSISTANCE PROGRAMS (EMA)

CFR Citation: 44 CFR 302, (Revision)

Completed:

Reason	Date	FR Cite
Withdrawn	02/01/86	

Small Entity: No

Agency Contact: John McKay 202 646-3509

RIN: 3067-AA66

2906. RADIOLOGICAL PROTECTION PROGRAM

CFR Citation: 44 CFR Chapter I, Subchapter E

Completed:

Reason	Date	FR Cite
Withdrawn	02/01/86	

Small Entity: Not Applicable

Agency Contact: George C. Meyer 202 646-3498

RIN: 3067-AA67

2907. POPULATION PROTECTION PLANNING PROGRAM

CFR Citation: 44 CFR 313

Completed:

Reason	Date	FR Cite
Withdrawn	02/01/86	

Small Entity: Not Applicable

Agency Contact: John E. Bokel 202 646-3509

RIN: 3067-AA68

2908. UNIFORM RELOCATION ASSISTANCE

CFR Citation: 44 CFR 25

Completed:

Reason	Date	FR Cite
Final Action	02/27/86	51 FR 7020
Final Action Effective	05/27/86	

Small Entity: No

Agency Contact: John L. Scheibel 202 646-4100

RIN: 3067-AA69

2909. FIRE SUPPRESSION ASSISTANCE

CFR Citation: 44 CFR 205, Subpart G

Completed:

Reason	Date	FR Cite
Final Action	12/11/85	
Final Action Effective	01/10/86	50 FR 50618

Small Entity: No

Agency Contact: Gene Morath 202 646-3683

RIN: 3067-AA93

[FR Doc. 86-8782 Filed 04-18-86; 8:45 am]

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Part XXIII

Federal Mediation and Conciliation Service

Semiannual Regulatory Agenda

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FEDERAL MEDIATION AND CONCILIATION SERVICE

29 CFR Ch. XII

Unified Agenda of Federal Regulations

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Semiannual agenda required by the Regulatory Flexibility Act of 1980.

SUMMARY: The Federal Mediation and Conciliation Service is redrafting one regulation subject to the Regulatory Flexibility Act during the six month period from April 1986 to October 1986. That regulation is Arbitration Policy and Practice.

FOR FURTHER INFORMATION CONTACT: Daniel P. Dozier, Counsel, Federal Mediation and Conciliation Service, 2100 K Street, N.W., Washington, D.C. 20427, (202) 653-5305.

DATED: March 14, 1986.

Dunne M. Buckmaster,

Deputy Director.

FEDERAL MEDIATION AND CONCILIATION SERVICE (FMCS)

Prerule Stage

2910. REVIEW OF EXISTING ARBITRATION REGULATION

Significance: Agency Priority

Legal Authority: 29 USC 172; 5 USC 552; 29 USC 173

CFR Citation: 29 CFR 1404

Legal Deadline: None

Abstract: The Federal Mediation and Conciliation Service is in the process of redrafting its existing Arbitration Services regulation at 29 CFR Part 1404. The Service will have completed its initial draft by October 1986. A proposed rule will be published soon thereafter and public comments solicited.

Timetable:

Action	Date	FR Cite
End Review	09/00/86	
NPRM	10/01/86	

Small Entity: No

Agency Contact: Daniel P. Dozier, Counsel, Federal Mediation and Conciliation Service, 2100 K Street NW, Washington, DC 20427, 202 653-5305

RIN: 3076-AA01

[FR Doc. 86-8290 Filed 04-18-86; 8:45 am]
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federal register

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Part XXIV

General Services Administration

Semiannual Regulatory Agenda

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GSA

GENERAL SERVICES ADMINISTRATION

41 CFR Chs. 101, 105, and 201

48 CFR Ch. 5

Unified Agenda of Federal Regulations

AGENCY: General Services Administration.

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the proposed regulatory actions that GSA plans for the next 12 months and those actions that were completed since October 1985. This agenda was developed under the guidelines in OMB Bulletin No. 86-4, dated December 23, 1985. GSA's purpose in publishing this agenda is to allow interested persons an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: Rodney Lantier, Chief, Directives and Reports Management Branch (202) 566-0666.

SUPPLEMENTARY INFORMATION: GSA has one priority regulation designated by the Agency. None of the regulations will have an effect on small businesses or other entities. None of the regulations listed are considered major under Executive Order 12291, Federal Regulations.

DATED: February 14, 1986.

Terence C. Golden,

Administrator of General Services.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
2911	Federal Property Management Regulations; Revises the Reporting Requirements for Real Property	3090-AB31
2912	Donation of Personal Property	3090-AA23
2913	Donation of Abandoned and Forfeited Personal Property	3090-AA24
2914	Payment of Substitute Documents	3090-AC36
2915	Revision of Acquisition and Management Provisions regarding the Changing Telecommunication Marketplace, including the Detariffing of Customer Premises Equipment (84.06A)	3090-AB08

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
2916	Utilization and Disposal of Personal Property	3090-AA45
2917	General Services Administration Acquisition Regulation (GSAR)- Small Business Technical Advisors	3090-AB39
2918	General Services Administration Acquisition Regulation Change Part 519	3090-AB76
2919	Debarment/Suspension of Contractors from Purchases of Federal Personal Property	3090-AC35
2920	Buy American Act - Construction Materials (GSAR 5-131)	3090-AC37
2921	Price Adjustment Clause (GSAR 5-98)	3090-AC39
2922	Miscellaneous Forms - GSA Form 2877, 353, and 3471 (GSAR 5-132)	3090-AC40
2923	Department of Defense Reservist/Retiree Military Emergency Travel Warrant	3090-AA05
2924	Abandonment or Destruction of Personal Property	3090-AA28
2925	Instructions for Numbering Standard Form 121, Report of Excess Personal Property. Project 86.14A	3090-AC25
2926	Implementation of Federal Information Processing Standards(FIPS) and Federal Telecommunications Standards (FED-STDS) Project 86.17A	3090-AC26
2927	Enforcement of Nondiscrimination on the Basis of Handicap in Federally Conducted Programs	3090-AC48
2928	Nondiscrimination on the Basis of Race, Color, National Origin, and where applicable, sex	3090-AC49

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
2929	Management of Buildings and Grounds	3090-AA69
2930	Supply Sources and Related Programs	3090-AA89
2931	General Services Administration Acquisition Regulation Change Subpart 46.7	3090-AB82
2932	General Services Administration Acquisition Regulation, Change Receipt of Proposals and Quotations	3090-AB83
2933	General Services Administration Acquisition Regulation Change Part 501	3090-AB86
2934	Payment Due Date Clauses for Construction and Building Contracts (GSAR 5-94)	3090-AC45
2935	Collection of Claims Owed the United States	3090-AB45
2936	Revision of Public Voucher for Transportation Charges, Standard Form 1113	3090-AB60
2937	Revision of Voucher and Schedule of Payments Standard Form 1166 Instructions	3090-AB97

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Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
2938	Audit Procedures for Commercial Bills of Lading- Cost-Reimbursement-Type Contracts	3090-AC20
2939	Revision of Standard Form 1203 - US Government Bill of Lading - Privately Owned Personal Property	3090-AC21
2940	National Defense Stockpile Disposal Regulations	3090-AA40
2941	Negotiated Sales to Public Agencies	3090-AB09
2942	Disposals to Public Agencies	3090-AB55
2943	Property for Correctional Facilities	3090-AB72
2944	Submission of Reports of Excess Real Property	3090-AC12
2945	Acquisition and Use of Excess Personal Property	3090-AA30
2946	Utilization, Donation, Sale, Abandonment or Destruction of Hazardous Materials	3090-AA42
2947	Transportation and Traffic Management	3090-AA73
2948	Cost Effective Procurement of Personal Property	3090-AA95
2949	Motor Equipment Management	3090-AB00
2950	Interagency Fleet Management Systems	3090-AB02
2951	Change to Federal Travel Regulations (FTR), FPMR 101-7 Supplement (Unassigned)	3090-AC00
2952	Change to Federal Travel Regulations (FTR), FPMR 101-7 Supplement (unassigned)	3090-AC01
2953	Revision of Standard Form 121, Annual Report of Utilization and Disposal of Excess and Surplus Personal Property	3090-AC03
2954	Additional Criteria for Exchange or Sale	3090-AC05
2955	Change to Federal Travel Regulations (FTR) FPMR 101-7 Supplement 29	3090-AC22
2956	Change to Federal Travel Regulations (FTR) FPMR 101-7 Supplement (unassigned)	3090-AC23
2957	Change to Federal Travel Regulations (FTR), FPMR 101-7, Supplement 18	3090-AC38
2958	Change to Federal Travel Regulation (FTR), FPMR 101-7 Supplement (unassigned)	3090-AC42
2959	Change to Federal Travel Regulations (FTR), FPMR 101-7, Supplement (unassigned)	3090-AC43
2960	FPMR Implementation of the ADP Dispute Resolution Section of the Competition in Contracting Act of 1984 - Project 84.03	3090-AB64
2961	Implementation of Federal Information Processing Standards (FIPS) Federal Telecommunications Standards (FED-STDS) and Joint FIPS/FED-STDS in the FPMR. Project 85-20A	3090-AC13
2962	Federal Advisory Committee Management	3090-AA62
2963	Federal Employee Parking	3090-AA68

Completed Actions

Sequence Number	Title	Regulation Identifier Number
2964	General Services Administration Acquisition Regulation, Change Part 515	3090-AB84
2965	General Services Administration Acquisition Regulation, Change Part 516	3090-AB96
2966	Protests to the General Accounting Office (GAO)	3090-AC14
2967	Source Selection	3090-AC16
2968	Restrictions on Procurement of Hand and Measuring Tools AC-85-3, Supplement 1	3090-AC27
2969	Threshold for Application of Trade Agreements Act Acquisition Circular (AC-85-5)	3090-AC28
2970	Increase in Imprest Fund and Certified Invoice Thresholds Acquisition Circular AC-86-1	3090-AC29
2971	Repeal of Daily Overtime Requirement - Acquisition Circular (AC-86-2)	3090-AC30
2972	Miscellaneous Revisions to implement the Competition in Contracting Act of 1984 (GSAR Change 16)	3090-AC31
2973	Purchase Under the Trade Agreements Act of 1979 (GSAR Change 17)	3090-AC32
2974	Basis of Award - Construction Contract (GSAR change 18)	3090-AC33
2975	Termination for Convenience of Government and Termination Liabilities (GSAR Change 20)	3090-AC34
2976	Revised GSA Forms (GSAR Change 22)	3090-AC41
2977	Prompt Payment Discounts and Payment Terms (GSAR Change 21)	3090-AC44
2978	Interest Assessment on Overcharges (Receivables)	3090-AA74
2979	Administrative Offset and Interest Assessment on Delinquent Refunds for Totally Unused Tickets	3090-AB12
2980	Revision of Standard Form 1170 and General Services Administration Form 7958	3090-AB68
2981	Subpart 101-47.8 - Identification of Unneeded Federal Real Property and Subpart 101-47.49 -- Illustrations	3090-AC11
2982	Change to Federal Travel Regulations (FTR), FPMR 101-7 Supplement 15	3090-AB99
2983	Instructions for Preparing Standard Form 120	3090-AC04
2984	Change to Federal Travel Regulations (FTR) FPMR 101-7 Supplement 16	3090-AC24
2985	Exemption of ADP Procurement Authority based on the Defense Authorization Act of 1982 - Project 82.23T	3090-AA16
2986	Obsolescence, of Federal ADP Equip. Project 82.06A	3090-AA19
2987	Agency Planning - Project 84.32A	3090-AB58

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GENERAL SERVICES ADMINISTRATION (GSA) — Prerule Stage

OFFICE OF THE COMPTROLLER

2911. FEDERAL PROPERTY MANAGEMENT REGULATIONS; REVISES THE REPORTING REQUIREMENTS FOR REAL PROPERTY

Legal Authority: EO 12411

CFR Citation: 41 CFR 101-3

Legal Deadline: None

Abstract: This regulation revises FPMR 101-3 with changes and additions to the data elements currently collected as part of the World-Wide Real Property Inventory System. It also displays the revised forms to be used when supplying this information. These changes are necessary to monitor government-wide space reduction initiatives mandated by Executive Order 12411 - Government Work Space Management Reforms and Temporary Regulation D-70-Work Space Management Plans.

The General Services Administration has determined this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and the consequence of this rule; has determined that the potential benefits to society from this rule outweigh the potential (cont)

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ABSTRACT CONT: costs and has maximized the net benefits.

Agency Contact: Jerome Jackson, Chief, Reports and Cash Management Branch, General Services Administration, Reports and Cash Management Branch (BCPR), Washington, DC 20405, 202 566-1268

RIN: 3090-AB31

FEDERAL SUPPLY AND SERVICES

2912. DONATION OF PERSONAL PROPERTY

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-44.000; 41 CFR 101-44.001; 41 CFR 101-44.105; 41 CFR 101-44.106; 41 CFR 101-44.108; 41 CFR 101-44.112; 41 CFR 101-44.116; 41 CFR 101-44.120; 41 CFR 101-44.200; 41 CFR 101-44.204; 41 CFR 101-44.205; 41 CFR 101-44.207; 41 CFR 101-44.208; 41 CFR 101-44.4701; 41 CFR 101-44.4901-123; ...

Legal Deadline: None

Abstract: This rule updates GSA's policies and procedures concerning the Federal surplus personal property donation program. It would: (1) prescribe new and revised definitions; (2) implement Title IX of the Education Amendments of 1972; (3) change procedures for donating aircraft, drugs, biologicals, and reagents; (4) clarify cannibalization procedures; (5) add additional terms to the State agency distribution documents; (6) clarify that conditional title, not unrestricted title, passes to a donee at the time it takes possession of the property; (7) prohibit reimbursement to State agencies for certain sales expenses; (8) change reporting requirements; (9) establish an informal appeals procedure; and (10) revise eligibility criteria for educational activities. This amendment is necessary to comply with the provisions of Title IX of the Education Amendments of 1972, section 502(a) of Public Law 94-241, and the Congressional Reports Elimination Act of 1980 (Public Law 96-470). Its intent is to increase the efficiency and effectiveness of the donation program. There should be no significant costs to the public as a result of this regulatory action. It has been determined that potential benefits to (cont)

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ABSTRACT CONT: society from this rule will outweigh the potential costs.

Agency Contact: Stanley M.Duda, Director, General Services Administration, Property Management Division (FBP), Washington, DC 20406, 703 557-0807

RIN: 3090-AA23

2913. DONATION OF ABANDONED AND FORFEITED PERSONAL PROPERTY

Legal Authority: 26 USC 5688(a)

CFR Citation: 41 CFR 101-48.2

Legal Deadline: None

Abstract: This rule would emphasize that all forfeited distilled spirits, wine, or malt beverages donated to eleemosynary institutions are to be used only by their inpatients for medicinal purposes. Allegations of misuse of these donated spirits have created a need for this regulation. There should be no significant costs to the public as a result of this rule. It has been determined that potential benefits to society from this rule will outweigh potential costs.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Stanley M. Duda, Director, General Services Administration, Property Management Division (FBP), Washington, DC 20406, 703 557-0807

RIN: 3090-AA24

2914. ◉ PAYMENT OF SUBSTITUTE DOCUMENTS

Legal Authority: 31 USC 3726; 40 USC 486(C)

GSA — Prerule Stage

CFR Citation: 41 CFR 101-61

Legal Deadline: None

Abstract: This proposed rule will enable Government Finance Centers to delay payments on substitute documents, without incurring interest payments under the Prompt Payment Act, until verification that prior payment has not been made. Finance offices have reported a increase in duplicate payments due to recent changes concerning payment of substitute documents.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/86	

Small Entity: No

Agency Contact: Betty Brown, Transportation Specialist, General Services Administration, Regulations & Procedures Section (FWCP/R), Federal Supply Services, Washington, DC 20405, 202 756-3011

RIN: 3090-AC36

OFFICE OF INFORMATION RESOURCES MANAGEMENT

2915. REVISION OF ACQUISITION AND MANAGEMENT PROVISIONS REGARDING THE CHANGING TELECOMMUNICATION MARKETPLACE, INCLUDING THE DETARIFFING OF CUSTOMER PREMISES EQUIPMENT (84.06A)

Significance: Regulatory Program

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 201 to 21; 41 CFR 201 to 38; 41 CFR 201 to 39; 41 CFR 201 to 40

Legal Deadline: None

Abstract: This project revises FIRMR Provisions relating to Federal Telecommunications acquisition and management. It will include changes brought about by the Federal Communications Commission Computer II inquiry and the divestiture of AT&T. This regulation will update GSA policies and provisions impacting Government-wide telecommunication management and will specifically address the need for requirements definition and analysis for local and intercity service. It will revise "major change" requirements and state what GSA needs from agencies if GSA is expected to provide services or if GSA is reviewing service for individual agency acquisitions. All obsolete provisions will be eliminated.

Timetable:

Action	Date	FR Cite
Final Action	02/00/88	
Draft Paper Telecommunications Policy Development Plan	04/15/86	
NPRM - FIRMR Amendment Telecommunications Regulatory Updates	06/15/86	
Draft Paper Telecommunications Issues	10/15/86	
Final Action FIRMR rule Telecommunications Regulatory Updates	01/15/87	

Small Entity: No

Agency Contact: John F. Stewart, Supervisory Communications Specialist, General Services Administration, Policy Branch (KMPP), Information Resources Management Service, Washington, DC 20405, 202 566-0694

RIN: 3090-AB08

GENERAL SERVICES ADMINISTRATION (GSA) — Proposed Rule Stage

ACQUISITION POLICY

2916. UTILIZATION AND DISPOSAL OF PERSONAL PROPERTY

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-42; 41 CFR 101-43; 41 CFR 101-44; 41 CFR 101-45; 41 CFR 101-46; 41 CFR 101-48

Legal Deadline: None

Abstract: Parts 42-46 and Part 48 prescribe policies and procedures for the utilization and disposal of personal property by Federal agencies. A number of executive agencies have indicated that these parts need to be revised to update, improve, clarify, and streamline these regulations. GSA officials and representatives from the major executive agencies are developing a draft revision of these parts to meet their requirements more adequately.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Emily Karam, Director of Regulatory Review, General Services Administration, Office of Acquisition Policy (V), Washington, DC 20405, 202 566-1177

RIN: 3090-AA45

2917. GENERAL SERVICES

ADMINISTRATION ACQUISITION REGULATION (GSAR)- SMALL BUSINESS TECHNICAL ADVISORS

Legal Authority: 40 USC 486(c) (Sec 205(c), 63 Stat. 390)

CFR Citation: 48 CFR 519

Legal Deadline: None

Abstract: The GSAR will be amended to delete mandatory annual review requirements of class set aside determinations and to reflect the function of the GSA Small Business Technical Advisors.

Timetable:

Action	Date	FR Cite
Final Action	02/00/88	
Next Action Undetermined		

Small Entity: Not Applicable

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Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Sts., NW Room 4026, Washington, DC 20405, 202 523-3822

RIN: 3090-AB39

2918. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION CHANGE PART 519

Legal Authority: 40 USC 486(c) Sec. 205(c), 63 Stat. 390

CFR Citation: 48 CFR 519

Legal Deadline: None

Abstract: To issue a GSAR amendment in Part 519, Small Business and Small Disadvantaged Business Concerns, regarding the subcontracting plan reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	04/10/85	50 FR 14122
NPRM Comment Period End	05/10/85	50 FR 14122
Final Action	02/00/86	

Next Action Undetermined

Small Entity: Not Applicable

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Sts., NW Room 4026, Washington, DC 20405, 202 523-3822

RIN: 3090-AB76

2919. ● DEBARMENT/SUSPENSION OF CONTRACTORS FROM PURCHASES OF FEDERAL PERSONAL PROPERTY

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 105-67

Legal Deadline: None

Abstract: This change to the General Services Administration Property Management Regulation (GSPMR) would add Part 105-67 to implement the October 9, 1985, amendment to the Federal Property Management Regulation (FPMR) which applies the Governmentwide policies, procedures and requirements of Subpart 9.4 of the Federal Acquisition Regulation (FAR) on suspension, debarment and ineligibility to contractors who purchase Federal personal property

Timetable:

Action	Date	FR Cite
NPRM	12/26/85	50 FR 52806
NPRM Comment Period End	01/27/86	50 FR 52806

Next Action Undetermined

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC35

2920. ● BUY AMERICAN ACT - CONSTRUCTION MATERIALS (GSAR 5-131)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 525; 48 CFR 552

Legal Deadline: None

Abstract: The General Services Administration Acquisition Regulation (GSAR) will be amended to add sections that will address the method of evaluation of offers based on the use of non-domestic construction materials in construction contracts.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action Effective		

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, Washington, DC 20405, 202 523-3822

RIN: 3090-AC37

2921. ● PRICE ADJUSTMENT CLAUSE (GSAR 5-98)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 522; 48 CFR 552

Legal Deadline: None

Abstract: The General Services Administration Acquisition Regulation (GSAR) will be amended to revise the contract clause at 552.219-71, Allocation of Orders-Partially Set-Aside items, to clarify when the splitting of orders will begin if the set-aside portion is awarded to a contractor other than the one receiving the award on the corresponding non-set-aside portion. The clause at 552.222-43, Fair Labor Standards Act and Service Contract Act Price Adjustment (Multiyear and option contracts), will be revised to clarify the applicability of the ceiling to price adjustments when no Service Contract Act wage determination is issued to make inclusion of the price adjustment clauses optional in service contracts that do not exceed the small purchase limitation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action Effective	07/00/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC39

2922. ● MISCELLANEOUS FORMS - GSA FORM 2677, 353, AND 3471 (GSAR 5-132)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 509; 48 CFR 513; 48 CFR 514; 48 CFR 553

Legal Deadline: None

Abstract: The General Services Administration Acquisition Regulation (GSAR) will be amended to provide for use of the GSA Form 353, Plant Facilities Report; GSA Form 2877, Non-Depot Item Requisition Order/Receiving/Payment Record, and GSA Form 3471, Abstract of Offers. The GSA Federal Supply Service has obtained an exception to use the GSA Form 353 in lieu of the Standard Forms 1403 thru 1406. The GSA Public Buildings Service has obtained an exception to use the GSA Form 3471 in lieu of the SF. 1409.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action Effective	06/00/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Majorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Streets, nw, Washington, DC 20405, 202 523-3822

RIN: 3090-AC40

OFFICE OF THE COMPTROLLER

2923. DEPARTMENT OF DEFENSE RESERVIST/RETIREE MILITARY EMERGENCY TRAVEL WARRANT

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Legal Deadline: None

Abstract: The Department of Defense will use travel warrants to obtain transportation for selected Military Reservists and Retirees who are ordered to active duty. Implementation of the travel warrant program will provide a simple and efficient system to procure transportation and pay for services furnished, and will impose no additional burden on the Government or the public since the warrant will be used instead of GTR's.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Additional Information: RIN 3090-AA05. The Selective Service System National Emergency Travel Warrant part of this rule making was published 10/11/84 49 FR 39918.

Agency Contact: John W. Sandfort, Chief, General Services Administration, Regulations, Procedures, and Review Branch, (FWCP), Washington, DC 20405, 202 786-3014

RIN: 3090-AA05

FEDERAL SUPPLY AND SERVICES

2924. ABANDONMENT OR DESTRUCTION OF PERSONAL PROPERTY

Legal Authority: 40 USC 483(h)

CFR Citation: 41 CFR 101-45.9, (Revision)

Legal Deadline: None

Abstract: This revision clarifies procedures for agencies' use in the abandonment and destruction of property.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Additional Information: The revision to Subchapter H of the Federal Property Management Regulations by the Interagency Subcommittee on Regulatory Review includes the subject revision to abandonment or destruction of personal property. The General Services Administration's Proponent of this amendment to subchapter H is the Office of Acquisition Policy (V).

Agency Contact: John Hansley, Property Marketing Specialist, General Services Administration, Federal Supply Servicely and Services, Sales Branch (FBP-S), Washington, DC 20406, 703 557-0814

RIN: 3090-AA28

OFFICE OF INFORMATION RESOURCES MANAGEMENT

2925. ● INSTRUCTIONS FOR NUMBERING STANDARD FORM 121, REPORT OF EXCESS PERSONAL PROPERTY. PROJECT 86.14A

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 201 to 33

Legal Deadline: None

Abstract: This regulation adds detailed instructions for preparing the SF 120, Report of Excess Personal Property, for automatic data processing equipment. This regulation will enhance the efficiency in processing excess and exchange/sale of automatic data processing equipment.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Agency Contact: Mary B. Anderson, Computer Specialist, General Services Administration, Policy Branch (KMPP), Information Resources Management Service, Washington DC 20405, 202 566-0194

RIN: 3090-AC25

2926. ● IMPLEMENTATION OF FEDERAL INFORMATION PROCESSING STANDARDS(FIPS) AND FEDERAL TELECOMMUNICATIONS STANDARDS (FED-STDS) PROJECT 86.17A

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 201 to 8

Legal Deadline: None

Abstract: This regulation implements provisions for a number of Federal Information Processing Standards and Federal Telecommunications standards by providing associated standard terminology that shall be used in solicitation and requirements documents as applicable. The general terminology for governmentwide use brings to the attention of potential offers on specific solicitation the requirement for compliance with pertinent standard(s). The intended effect of this regulation is to enhance economy and efficiency in the acquisition of automatic data processing/ telecommunications equipment and services.

See also additional information.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Additional Information: This issuance implements:

Two revised FIPS PUBS - 68-1 on minimal BASIC and 69-1 on FORTRAN;

Nine new FIPS PUBS - 109 on Pascal, 112 on password usage, 113 on data authentication, 114, 115, 116, 117, and 118 on flexible disk cartridge items, and 119 on Ada; and

Two FED-STDS - 1031 on data terminal/data disk interface and 1033 on data communications user-oriented parameters.

Agency Contact: Mary B. Anderson, Computer Specialist, General Services Administration, Policy Branch (KMPP), Information Resources Management Service, Washington, DC 20405, 202 566-0194

RIN: 3090-AC26

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OFFICE OF ORGANIZATION AND PERSONNEL

2927. ● ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY CONDUCTED PROGRAMS

Legal Authority: PL 95-602, Sec 119; 92 Statute 2982

CFR Citation: 41 CFR 105-8

Legal Deadline: None

Abstract: The General Services Administration proposes this regulation to implement the above cited laws. These statutes prohibit discrimination on the basis of handicap as if applies to any programs or activities conducted by GSA.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: This proposed rule has been circulated internally and externally for comments. Comments have been received from the Equal Employment Opportunity Commission. We are still waiting for the Department of Justice's approval and comment on the regulation.

Government Levels Affected: Federal

Agency Contact: Thomas E. Henderson, Equal Employment Specialist, General Services Administration, General Services Administration, 18th and F Streets, NW, Washington, DC 20405, 202 566-1368

RIN: 3090-AC48

2928. ● NONDISCRIMINATION ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, AND WHERE APPLICABLE, SEX

Legal Authority: 40 USC 476; 42 USC 2000d-1; 20 USC 1681

CFR Citation: 41 CFR 101-6.2

Legal Deadline: None

Abstract: The General Services Administration proposes this regulation to implement all of the above cited Federal laws. These statutes prohibit discrimination, in whole or in part, so that no person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program activity receiving Federal assistance from the General Services Administration. In addition, the objectives of the regulation are to streamline certain administrative procedural requirements by consolidating prohibitions of discrimination into one regulation and to make requirements clear and convenient for applicants and recipients to comply with, as well as making the regulation manageable for GSA to administer.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: This proposed rule is being reviewed by the Department of Justice. The Equal Employment Opportunity Commission has also requested a second review of the regulation before publishing as a proposed rule. All internal and other external comments have been reconciled.

Government Levels Affected: Federal

Agency Contact: Thomas E. Henderson, EEO Specialist, General Services Administration, General Services Administration, 18th and F Streets, NW, Washington, DC 20405, 202 566-1368

RIN: 3090-AC49

GENERAL SERVICES ADMINISTRATION (GSA) — Final Rule Stage

ACQUISITION POLICY

2929. MANAGEMENT OF BUILDINGS AND GROUNDS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-20

Legal Deadline: None

Abstract: Part 101-20 prescribes policies and procedures for the management, operation, protection, and maintenance of Government-owned and leased buildings and grounds required by the Federal agencies to undertake their assigned missions. A number of executive agencies have indicated that this part needs to be revised to update, improve, clarify, and streamline these regulations. GSA officials and representatives from the major executive agencies are developing a draft revision of this part to meet their requirements more adequately.

Timetable:

Action	Date	FR Cite
Final Action	09/00/86	

Small Entity: No

Agency Contact: Emily Karam, Director of Regulatory Review, General Services Administration, Office of Acquisition Policy (V), Washington, DC 20405, 202 566-1177

RIN: 3090-AA69

2930. SUPPLY SOURCES AND RELATED PROGRAMS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-26

Legal Deadline: None

Abstract: Part 101-26 prescribes policies and procedures for the procurement of personal property and nonpersonal services by Federal agencies from established Government supply sources. A number of executive agencies have indicated that this part needs to be revised to update, improve, clarify and streamline these regulations. GSA officials and representatives from the major executive agencies are developing a draft revision of this part to meet their requirements more adequately.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/31/83	

Next Action Undetermined

Small Entity: No

Agency Contact: Emily Karam, Director of Regulatory Review, General Services Administration, Office of Acquisition Policy (V), Washington, DC 20405, 202 566-1177

RIN: 3090-AA89

2931. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION CHANGE SUBPART 46.7

Legal Authority: 40 USC 486(c) Sec. 205(c), 63 Stat. 390

CFR Citation: 48 CFR 546

Legal Deadline: None

Abstract: GSA to issue a GSAR amendment to implement and supplement the FAR Subpart 46.7 by providing agency policies and procedures on the use of Warranties.

Timetable:

Action	Date	FR Cite
Final Action	06/00/86	

Small Entity: Not Applicable

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Sts., NW Room 4028, Washington, DC 20405, 202 523-3822

RIN: 3090-AB82

2932. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION, CHANGE RECEIPT OF PROPOSALS AND QUOTATIONS

Legal Authority: 40 USC 486(c) Sec. 205(c), 63 Stat. 390

CFR Citation: 48 CFR 515; 48 CFR 552

Legal Deadline: None

Abstract: GSA to issue a GSAR amendment which will (1) revise Section 515.411, Receipt of Proposals and Quotations, to require the use of the appropriate Business Service Center for receipt and safeguarding of proposals or quotations (except small purchases) unless an exemption is obtained; (2) amend Part 515 to establish a special Late Proposals provision for Multiple Award Federal Supply Schedules that will preclude an offeror from adding additional items to an offer after the time set for submission of offer; and (3) revise clause 552.210-78, Charges for Packaging and Packing.

Timetable:

Action	Date	FR Cite
Final Action	06/00/86	

Small Entity: Not Applicable

Agency Contact: Margorie Ashby, Management Analyst Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Sts., NW Room 4028, Washington, DC 20405, 202 523-3822

RIN: 3090-AB83

2933. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION CHANGE PART 501

Legal Authority: 40 USC 486(c) Sec. 205(c), 63 Stat. 390

CFR Citation: 48 CFR 501

Legal Deadline: None

Abstract: To issue a GSAR amendment to implement the requirements of the Competition Enhancement Act of 1984 (Pub. L. 98-577) regarding publicizing proposed regulations in Part 501, General Services Administration Acquisition Regulations System.

Timetable:

Action	Date	FR Cite
Final Action	04/00/86	

Small Entity: Not Applicable

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC45

OFFICE OF THE COMPTROLLER

2935. COLLECTION OF CLAIMS OWED THE UNITED STATES

Legal Authority: PL 97-365, Sec 10

CFR Citation: 41 CFR 105-55, (New)

Legal Deadline: None

Abstract: The regulations will implement the Debt Collection Act of 1982 within the General Services Administration. The regulations are required by Section 10 of the Act and by means of these regulations GSA will be better equipped to pursue claims owed to the Government arising out of GSA activities. Although the benefit will be improved claims collections, there is no way to precisely quantify the costs or benefits at this time.

Timetable:

Action	Date	FR Cite
NPRM	07/26/84	49 FR 30080
NPRM Comment Period End	08/27/84	49 FR 30080
Next Action Undetermined		

Small Entity: No

Agency Contact: David C. Fisher, Jr., Chief Counsel - Administration, General Services Administration, Office of General Counsel, General Law Division, 18th & F Sts., NW, Washington, DC 20405, 202 566-1469

RIN: 3090-AB45

2934. ● PAYMENT DUE DATE CLAUSES FOR CONSTRUCTION AND BUILDING CONTRACTS (GSAR 5-84)

Legal Authority: 40 USC 486(c)

CFR Citation: 48 CFR 532; 48 CFR 552

Legal Deadline: None

Abstract: The General Services Administration Acquisition Regulation (GSAR) will permanently incorporate the contents of Acquisition Circular AC-85-1 on payment due dates for construction contracts into the regulation. The proposed change will also establish an alternate "Discount" provision and an alternate "Payment Due Date" clause for use in recurring building service contracts. In addition, the "Payment Due Date" clause for architect-engineer and other professional or technical service contracts has been revised to establish an approval period for purposes of determining due dates for payment.

Timetable:

Action	Date	FR Cite
NPRM	11/25/85	50 FR 48447
NPRM Comment Period End	12/26/85	50 FR 48447
Final Action	04/00/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Marjorie Ashby, Management Analyst, General Services Administration, GSA Acquisition Policy and Regulations, 18th & F Streets, NW, Washington, DC 20405, 202 523-3822

RIN: 3090-AC45

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2936. REVISION OF PUBLIC VOUCHER FOR TRANSPORTATION CHARGES, STANDARD FORM 1113

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Legal Deadline: None

Abstract: This rule revises Public Voucher for Transportation Charges, Standard Form 1113, to eliminate various information blocks because certain agency fiscal control numbers are no longer required. This change will reduce the amount of time agencies spend in processing these documents.

Timetable:

Action	Date	FR Cite
Final Action	05/09/86	

Small Entity: No

Agency Contact: Betty Brown, Transportation Specialist, General Services Administration, Regulations and Procedures Section (FWCP/R), Washington, DC 20405, 202 786-3811

RIN: 3090-AB69

2937. REVISION OF VOUCHER AND SCHEDULE OF PAYMENTS STANDARD FORM 1166 INSTRUCTIONS

Legal Authority: 31 USC 3726; 40 USC 486(c)

CFR Citation: 41 CFR 101-41

Legal Deadline: None

Abstract: This rule provides explicit instructions for handling voucher schedules to minimize payment accounting problems and ensure that proper payment information accompanies payment checks to carriers.

Timetable:

Action	Date	FR Cite
NPRM	04/25/85	50 FR 16316
Final Action	05/00/86	

Small Entity: No

Agency Contact: John W. Sandfort, Chief, General Services Administration, Regulations, Procedures and Review Branch, (FWCP), Washington, DC 20405, 202 786-3814

RIN: 3090-AB97

2938. AUDIT PROCEDURES FOR COMMERCIAL BILLS OF LADING-COST-REIMBURSEMENT-TYPE CONTRACTS

Legal Authority: 31 USC 3726; 40 USC 486 (c)

CFR Citation: 41 CFR 101-41

Legal Deadline: None

Abstract: This rule requires contractors doing business with the United States Government to submit cost reimbursement-type contract commercial bills of lading to GSA for audit.

Timetable:

Action	Date	FR Cite
NPRM	07/05/85	50 FR 27625
Final Action	05/00/86	

Small Entity: No

Agency Contact: John W. Sandfort, Chief, Regulations, Procedures & Review, General Services Administration, FWCP, Washington, DC 20405, 202 786-3814

RIN: 3090-AC20

2939. REVISION OF STANDARD FORM 1203 - US GOVERNMENT BILL OF LADING - PRIVATELY OWNED PERSONAL PROPERTY

Legal Authority: 31 USC 3726; 40 USC 486 (c)

CFR Citation: 41 CFR 101-41

Legal Deadline: None

Abstract: This amendment will reduce the number of parts in the Standard Form 1203, US Government Bill of Lading-Privately Owned Personal Property set from nine to six. The increased use of state of the art printers that can print only six copies necessitates this change.

Timetable:

Action	Date	FR Cite
NPRM	07/05/85	50 FR 27626
Final Action	05/00/86	

Small Entity: No

Agency Contact: John W. Sandfort, Chief, Regulations, Procedures & Review, General Services Administration, FWCP, Washington, DC 20405, 202 786-3814

RIN: 3090-AC21

FEDERAL PROPERTY RESOURCES SERVICE

2940. NATIONAL DEFENSE STOCKPILE DISPOSAL REGULATIONS

Legal Authority: 50 USC 98 et seq Strat. & Crit. Materials Stock Piling Act; EO 12155

CFR Citation: 41 CFR 101-14.4

Legal Deadline: None

Abstract: These regulations indicate the procedures for disposing of strategic and critical materials that are excess to National Defense Stockpile needs and have been authorized for disposal by Congress, pursuant to the Stock Piling Act of 1979 50 USC 98 et seq. These regulations will be responsive to public sector, intergovernment and intragovernment comments reflecting on the lack of published regulations governing GSA's stockpile disposal policies and procedures.

Timetable:

Action	Date	FR Cite
Final Action	05/01/86	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1983

Government Levels Affected: Federal

Agency Contact: J. Wayne Kulig, Assistant Commissioner, General Services Administration, Office of National Defense Stockpile (DN), Washington, DC 20405, 202 535-7671

RIN: 3090-AA40

2941. NEGOTIATED SALES TO PUBLIC AGENCIES

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.304-9

Legal Deadline: None

Abstract: In order to eliminate the possibility of windfall profits and establish uniformity of the terms and conditions in all such negotiated sales of real property, GSA proposes to include a requirement for an excess profits clause in all negotiated sales to public bodies. The excess profits clause will run with the land for a period of three years.

Timetable:

Action	Date	FR Cite
NPRM	07/12/84	
NPRM Comment Period End	08/13/84	49 FR 28420

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Action	Date	FR Cite
Final Action	04/00/86	

Small Entity: No

Government Levels Affected: Local, State

Agency Contact: James H. Pitts, Director, General Services Administration, Special Programs Division (DRP), Washington, DC 20405, 202 535-7867

RIN: 3090-AB09

2942. DISPOSALS TO PUBLIC AGENCIES

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.303-2; 41 CFR 101-47.303-2(b)(1)(2)(3) and (4); 41 CFR 101-47.303-2(d); 41 CFR 101-47.303-2(e) and (e)(1); 41 CFR 101-47.303-2(h); 41 CFR 101-47.303-2(g); 41 CFR 101-47.4908; 41 CFR 101-47.4908-2

Legal Deadline: None

Abstract: Executive Order 12372 superseded OMB Circular A-95 and established new procedures for intergovernmental consultation on certain Federal programs and activities. The E.O. places certain requirements on GSA to notify and respond to state review process comments or recommendations concerning real property disposals to public agencies.

Timetable:

Action	Date	FR Cite
Final Action	04/00/86	

Small Entity: No

Government Levels Affected: State

Agency Contact: James H. Pitts, Director, Special Programs Division (DRP), General Services Administration, 18th & F Sts., NW, Washington, DC 20405, 202 535-7867

RIN: 3090-AB55

2943. PROPERTY FOR CORRECTIONAL FACILITIES

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-47.308-9

Legal Deadline: None

Abstract: In order to implement Section 701 of P.L. 98-473 to transfer or convey to the several states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, or any political subdivision or instrumentality thereof surplus real and related personal property determined by the Attorney General to be required for correctional facility use. Transfers or conveyance under this authority shall be made by the Administrator without monetary consideration to the United States.

Timetable:

Action	Date	FR Cite
Final Action	09/00/86	

Small Entity: Undetermined

Government Levels Affected: Local, State

Agency Contact: James H. Pitts, Director, General Services Administration, Special Programs Division, Washington, DC 20405, 202 535-7867

RIN: 3090-AB72

2944. SUBMISSION OF REPORTS OF EXCESS REAL PROPERTY

Legal Authority: 40 USC 486 (c)

CFR Citation: 41 CFR 101-47.202-3(c)

Legal Deadline: None

Abstract: All reports of excess from the military services shall bear the certification "this property has been screened against the known needs of the holding agency".

Timetable:

Action	Date	FR Cite
Final Action	05/00/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: James H. Pitts, Director, Special Programs Division, General Services Administration, 18th & F Streets, NW, Washington, DC 20405, 202 535-7067

RIN: 3090-AC12

FEDERAL SUPPLY AND SERVICES

2945. ACQUISITION AND USE OF EXCESS PERSONAL PROPERTY

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-43

Legal Deadline: None

Abstract: A number of miscellaneous changes will be made to clarify procedures for the acquisition and use of excess personal property by federal agencies and other authorized recipients.

Timetable:

Action	Date	FR Cite
Final Action	06/01/86	

Small Entity: No

Agency Contact: Mr. Stanley M. Duda, Director, General Services Administration, Property Management Division (FBP), Washington, DC 20406, 703 557-0807

RIN: 3090-AA30

2946. UTILIZATION, DONATION, SALE, ABANDONMENT OR DESTRUCTION OF HAZARDOUS MATERIALS

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-43; 41 CFR 101-44; 41 CFR 101-45; 41 CFR 101-46; 41 CFR 101-48; 41 CFR 101-49

Legal Deadline: None

Abstract: Revisions and additions to existing rules are proposed to establish a separate regulatory section concerning the utilization, donation, sale, abandonment or destruction of hazardous materials.

Timetable:

Action	Date	FR Cite
End Review	12/01/84	
Final Action	11/01/86	

Small Entity: No

Additional Information: Proposals are to be circulated among Federal agencies on an information basis before rulemaking consideration.

Agency Contact: Mr. Stanley M. Duda, Director, General Services Administration, Property Management Division (FBP), Washington, DC 20406, 703 557-0807

RIN: 3090-AA42

2947. TRANSPORTATION AND TRAFFIC MANAGEMENT

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-40, Amendment G

Legal Deadline: None

Abstract: The revision to 41 CFR 101-40 will update policy and procedures that apply to the management of

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transportation matters affecting the Federal civilian executive agencies.

Timetable:

Action	Date	FR Cite
Final Action	03/00/86	

Small Entity: No

Agency Contact: John B. Millington, Supervisory Traffic Management Specialist, General Services Administration, Regulations and Policy Division (FFY) (FTA), Federal Supply and Service, Washington, DC 20406, 703 557-1256

RIN: 3090-AA73

2948. COST EFFECTIVE PROCUREMENT OF PERSONAL PROPERTY

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-26.100-2; 41 CFR 101-26.102; 41 CFR 101-26.3; 41 CFR 101-26.4; 41 CFR 101-26.5; 41 CFR 101-26.39; 41 CFR 101-40; 41 CFR 101-43; 41 CFR 101-45

Legal Deadline: None

Abstract: In considering cost effectiveness, the effects of Gram-Rudman will be evaluated with respect to resource impact both on GSA and other Federal agencies. The potential effects of delegating procurement and/or logistics support authority to any agency will be carefully balanced against the Government's need for quality products and services at the lowest cost (price and other factors considered), delivered in a timely manner. Heads of potentially affected agencies will be consulted and made a part of the decision-making process before a determination is made by GSA to redelegate to an agency any functions assigned by law to the Administrator of General Services.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/18/85	51 FR 1793
Final Action	06/30/87	

Small Entity: No

Agency Contact: Donna M. Stright, Director, Regulations and Policy Division, General Services Administration, Regulations and Policy Division (FFY), Office of Policy and Agency Liaison, Washington, DC 20406, 703 557-1253

RIN: 3090-AA95

2949. MOTOR EQUIPMENT MANAGEMENT

Legal Authority: 40 USC 491; 40 USC 486(c)

CFR Citation: 41 CFR 101-38

Legal Deadline: None

Abstract: The revision to 41 CFR 101-38 updates policy and procedures that apply to the management of the Federal Motor Vehicle Fleet affecting the Federal executive agencies and incorporates certain paragraphs from 101-25, 101-26, and 101-39 that apply to the Federal fleet.

Timetable:

Action	Date	FR Cite
NPRM	04/11/85	50 FR 14260
NPRM Comment Period End	06/10/85	50 FR 14260
Final Action	03/00/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: John B. Millington, Supervisory Traffic Management Specialist, General Services Administration, Regulations and Policy Division (FFY), Washington, DC 20406, 703 557-1256

RIN: 3090-AB00

2950. INTERAGENCY FLEET MANAGEMENT SYSTEMS

Legal Authority: 40 USC 491; 40 USC 486(c)

CFR Citation: 41 CFR 101-39

Legal Deadline: None

Abstract: The revision to 41 CFR 101-39 updates policy and procedures that apply to the operation and management of Interagency Fleet Management Systems.

Timetable:

Action	Date	FR Cite
NPRM	04/11/85	50 FR 14260
NPRM Comment Period End	06/10/85	50 FR 14260
Final Action	03/00/86	

Small Entity: No

Agency Contact: John B. Millington, Supervisory Traffic Management Specialist, General Services Administration, Regulations and Policy Division (FFY), Washington, DC 20406, 703 557-1256

RIN: 3090-AB02

2951. CHANGE TO FEDERAL TRAVEL REGULATIONS (FTR), FPMR 101-7 SUPPLEMENT (UNASSIGNED)

Legal Authority: 40 USC 486(c); 5 USC 5707

CFR Citation: 41 CFR 101-7

Legal Deadline: None

Abstract: FTR Change transmitted by GSA Bulletin FPMR A-40, Supplement (unassigned). This FTR change will implement those provisions of OMB Circular A-126 which pertain to use of Government aircraft for official travel. Also included will be revised policies and procedures for use of rental cars in lieu of Government-contract rental vehicles under GSA Federal Supply Schedule Contracts.

Timetable:

Action	Date	FR Cite
Final Action	06/00/86	

Small Entity: No

Agency Contact: Audrey E. Rish, Supervisory Traffic Management Specialist, General Services Administration, Regulations and Policy Division (FFY), Federal Supply Service, Washington, DC 20406, 703 557-1253

RIN: 3090-AC00

2952. CHANGE TO FEDERAL TRAVEL REGULATIONS (FTR), FPMR 101-7 SUPPLEMENT (UNASSIGNED)

Legal Authority: 40 USC 486(c); 5 USC 5724c; EO 11609; EO 12466

CFR Citation: 41 CFR 101-7

Legal Deadline: None

Abstract: FTR change transmitted by GSA Bulletin FPMR A-40, Supplement (unassigned). FTR change will implement Presidential regulatory authority governing agency authority to contract with third party relocation companies to provide relocation services for transferred employees. Will replace guidelines issued by GSA and published in the Federal Register, August 27, 1984 (49 FR 33937-33940).

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(Transmitted by GSA Bulletin FPMR A-40, Supplement 11.)

Timetable:

Action	Date	FR Cite
Final Action	05/00/86	

Small Entity: No

Agency Contact: Audrey E. Rish, Supervisory Traffic Management Specialist, General Services Administration, Regulations and Policy Division (FFY), Federal Supply Service, Washington, DC 20406, 703 557-1253

RIN: 3090-AC01

2953. REVISION OF STANDARD FORM 121, ANNUAL REPORT OF UTILIZATION AND DISPOSAL OF EXCESS AND SURPLUS PERSONAL PROPERTY

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-43

Legal Deadline: None

Abstract: This proposed regulation provides for miscellaneous revisions to the Standard Form 121, Annual Report of Utilization and Disposal of Excess and Surplus Personal Property. Instructions for preparing the form have been revised to reflect the changes in the form.

Timetable:

Action	Date	FR Cite
Final Action	05/01/86	

Small Entity: No

Agency Contact: Mr. Stanley M. Duda, Director, General Services Administration, Property Management Division (FBF), Washington, DC 20406, 703 557-0807

RIN: 3090-AC09

2954. ADDITIONAL CRITERIA FOR EXCHANGE OR SALE

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-46

Legal Deadline: None

Abstract: This proposed regulation would introduce a definition of replacement, expand the one year use requirement for exchange/sale property, and introduce a special authorization for Federal museums to exchange historical items.

Timetable:

Action	Date	FR Cite
Final Action	12/01/86	

Small Entity: No

Agency Contact: Mr. Stanley M. Duda, Director, General Services Administration, Property Management (FBP), Washington, DC 20406, 703 557-0807

RIN: 3090-AC05

2955. CHANGE TO FEDERAL TRAVEL REGULATIONS (FTR) FPMR 101-7 SUPPLEMENT 20

Significance: Agency Priority

Legal Authority: 40 USC 486 (c); 5 USC 5707

CFR Citation: 41 CFR 101-7

Legal Deadline: Statutory, July 1, 1986

Abstract: FTR change transmitted by GSA Bulletin FPMR A-40, Supplement 20. FTR change implements provisions of Pub. L. 99-234 enacted January 2, 1986. This supplement change to the FTR will implement:

a. New lodgings-plus per diem payment system to cover subsistence expenses for all domestic travel of Federal civilian employees and maximum reimbursement rates established administratively by GSA. (Replaces $50 and $75 statutory ceilings and the HRGA travel reimbursement concept upon implementation.)

b. Authority for reimbursement of emergency travel expenses during official travel and for necessary living accommodations for law enforcement employees and/or their families in life threatening situations from employee's assigned duties.

c. Relocation entitlements for USPS employees transferring to other Federal agencies.

(cont)

Timetable:

Action	Date	FR Cite
Final Action	05/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT:

d. A statutory reporting requirement to collect certain travel, transportation, and relocation payments data from agencies spending over $5 million annually on these payments. (Note: These provisions may be implemented in a separate regulation.)

Agency Contact: Audrey E. Rish, Supervisory Traffic Management Specialist, General Services Administration, Regulations and Policy Division (FFY), Federal Supply Service, Washington, DC 20406, 703 557-1253

RIN: 3090-AC22

2956. CHANGE TO FEDERAL TRAVEL REGULATIONS (FTR) FPMR 101-7 SUPPLEMENT (UNASSIGNED)

Legal Authority: 40 USC 486 (c); 5 USC 5724c; EO 11609; EO 12466

CFR Citation: 41 CFR 101-7

Legal Deadline: None

Abstract: FTR change transmitted by GSA Bulletin FPMR A-40, Supplement (unassigned). FTR change implements new tables for determining the Federal and State marginal tax rate for use in calculating the relocation income tax (RIT) allowance covering relocation expense reimbursements received during the 1985 tax year.

Timetable:

Action	Date	FR Cite
Final Action	02/00/86	

Next Action Undetermined

Small Entity: No

Agency Contact: Audrey E. Rish, Supervisory Traffic Management Specialist, General Services Administration, Travel & Transportation Regulations, Division, Washington, DC 20406, 703 557-1253

RIN: 3090-AC23

2957. ● CHANGE TO FEDERAL TRAVEL REGULATIONS (FTR), FPMR 101-7, SUPPLEMENT 18

Legal Authority: 40 USC 486(c); 5 USC 5707

CFR Citation: 41 CFR 101-7

Legal Deadline: None

Abstract: FTR change transmitted by GSA Bulletin FPMR A-40, (Supplement 18). FTR change implements an increase in the mileage rate from 20.5 cents per mile to 21 cents per mile for use of privately owned automobiles when such use is advantageous to the Government.

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Timetable:

Action	Date	FR Cite
Final Action	04/00/86	

Small Entity: No

Agency Contact: Audrey E. Rish, Supervisory Traffic Management Specialist, General Services Administration, Regulations and Policy Division (FFY), Federal Supply Service, Washington, DC 20406, 703 557-1253

RIN: 3090-AC36

2958. ● CHANGE TO FEDERAL TRAVEL REGULATION (FTR), FPMR 101-7 SUPPLEMENT (UNASSIGNED)

Legal Authority: 40 USC 486(c); 5 USC 572(b); EO 11609; EO 12466

CFR Citation: 41 CFR 101-7

Legal Deadline: None

Abstract: FTR change transmitted by GSA Bulletin FPMR A-40, Supplement (unassigned). FTR change implements new tables for determining the Federal and State marginal tax rate for use in calculating the relocation income tax (RIT) allowance covering relocation expense reimbursements received during the 1986 tax year.

Timetable:

Action	Date	FR Cite
Final Action	12/00/86	

Small Entity: No

Agency Contact: Audrey E. Rish, Supervisory Traffic Management Specialist, General Services Administration, Regulations and Policy Division (FFY), Federal Supply Service, Washington, DC 20406, 703 557-1253

RIN: 3090-AC42

2959. ● CHANGE TO FEDERAL TRAVEL REGULATIONS (FTR), FPMR 101-7. SUPPLEMENT (UNASSIGNED)

Legal Authority: 40 USC 486(c); 5 USC 5724(a)(4); EO 11609; EO 12466

CFR Citation: 41 CFR 101-7

Legal Deadline: None

Abstract: FTR change transmitted by GSA Bulletin FPMR A-40, Supplement (unassigned). FTR change will implement amendments to Chapter 2, Part 6, regarding reimbursement of the loan origination fee incurred when buying a residence at the new official station and to adjust according to CPI change the maximum dollar amounts for reimbursement of allowable real estate sale and purchase expenses incident to a change of official station.

Timetable:

Action	Date	FR Cite
Final Action	06/00/86	

Small Entity: No

Additional Information: Provisions related to loan origination fees were previously included under RIN 3090-AC24

Agency Contact: Audrey E. Rish, Supervisory Traffic Management Specialist, General Services Administration, Regulations and Policy Division (FFY), Federal Supply Service, Washington, DC 20406, 703 557-1253

RIN: 3090-AC43

OFFICE OF INFORMATION RESOURCES MANAGEMENT

2960. FIRMR IMPLEMENTATION OF THE ADP DISPUTE RESOLUTION SECTION OF THE COMPETITION IN CONTRACTING ACT OF 1984 - PROJECT 84.63

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 201-32

Legal Deadline: None

Abstract: This project will add coverage to the FIRMR to address Federal agency responsibilities under the ADP dispute resolution section of Public Law 98-369, the competition in Contracting Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	10/24/85	50 FR 43258
NPRM Comment Period End	12/23/85	50 FR 43258
Final Action	04/00/86	

Small Entity: No

Additional Information: This regulatory proposal was delayed pending issuance of GSBCA and FAR implementing regulations.

Agency Contact: William R. Loy, Procurement Analyst, General Services Administration, Policy Branch(KMPP), Information, Resources Management Services, Washington, DC 20405, 202 566-0194

RIN: 3090-AB64

2961. IMPLEMENTATION OF FEDERAL INFORMATION PROCESSING STANDARDS (FIPS) FEDERAL TELECOMMUNICATIONS STANDARDS (FED-STDS) AND JOINT FIPS/FED-STDS IN THE FPMR. PROJECT 85-20A

Legal Authority: 40 USC 486 (c)

CFR Citation: 41 CFR 201-8

Legal Deadline: None

Abstract: This regulation updates implementation provisions for a number of Federal Information Processing Standards, Federal Telecommunications Standards to provide associated standard terminology that shall be used in solicitation documents, including requirements documents, where the standard is applicable. The standard terminology for Governmentwide use brings to the attention of potential offerors on specific solicitations the requirement for compliance with the pertinent standard or standards. The intended effect of this regulation is to enhance economy and efficiency in the acquisition of automatic data processing/telecommunications equipment and services.

Timetable:

Action	Date	FR Cite
NPRM	08/27/85	50 FR 34723
NPRM Comment Period End	09/26/85	50 FR 34723
Final Action	04/00/86	

Small Entity: No

Additional Information: This issuance implements:

(1) Four revised FIPS PUBS - 1-1 and 1-7 on information exchange, 8-5 on statistical area and 33-1 on handprinting OCR;

(2) Three new FIPS PUBS - 107 on local area networks, 108 on alphanumeric computer output, and 111 on storage module interfaces;and

(3) Three new FED-STDS - 1015 on analog to digital conversion of voice, 1026 and 1028 on interpretability and security with data encryption.

Agency Contact: Phillip R. Patton, Procurement Analyst, General Services Administration, Policy Branch (KMPP), Information Resources Management Service, Washington,DC 20405, 202 566-0194

RIN: 3090-AC13

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OFFICE OF ORGANIZATION AND PERSONNEL

2962. FEDERAL ADVISORY COMMITTEE MANAGEMENT

Significance: Agency Priority

Legal Authority: EO 12024

CFR Citation: 41 CFR 101-6.10; 41 CFR 101-11.12

Legal Deadline: None

Abstract: This regulation provides administrative and interpretive guidelines and management controls for Federal agencies concerning the implementation of the Federal Advisory Committee Act (FACA), as amended. It fulfills GSA's responsibilities under FACA and Executive Order 12024 and replaces OMB Circular A-63.

Timetable:

Action	Date	FR Cite
ANPRM	11/22/79	44 FR 66852
NPRM - Previous	08/21/80	45 FR 55769
Interim Final Rule	04/28/83	48 FR 19324

Next Action Undetermined

Small Entity: No

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Ronald L. Martinson, Special Assistant, General Services Administration, Committee Management Secretariat, Washington, DC 20405, 202 523-1343

RIN: 3090-AA62

PUBLIC BUILDINGS SERVICE

2963. FEDERAL EMPLOYEE PARKING

Legal Authority: 40 USC 486(c)

CFR Citation: 41 CFR 101-20

Legal Deadline: None

Abstract: This regulation will revise procedures for the assignment of parking spaces at federally controlled facilities.

Timetable:

Action	Date	FR Cite
Temporary Regulation D-69	04/15/83	48 FR 16272
Final Action	03/31/86	
Extend D-69 expiration date	03/31/87	49 FR 9724

Small Entity: No

Agency Contact: Judy A. Kraft, Acting Director, General Services Administration, Assignment Division (PRS), Washington, DC 20405, 202 566-0059

RIN: 3090-AA68

GENERAL SERVICES ADMINISTRATION (GSA) — Completed Actions

2964. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION, CHANGE PART 515

CFR Citation: 48 CFR 515

Completed:

Reason	Date	FR Cite
Withdrawn	07/01/85	

Small Entity: Not Applicable

Agency Contact: Margorie Ashby 202 523-3822

RIN: 3090-AB84

2965. GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATION, CHANGE PART 516

CFR Citation: 48 CFR 516

Completed:

Reason	Date	FR Cite
Final Action	10/29/85	50 FR 43713

Small Entity: Not Applicable

Agency Contact: Marjorie Ashby 202 523-3822

RIN: 3090-AB96

2966. PROTESTS TO THE GENERAL ACCOUNTING OFFICE (GAO)

CFR Citation: 48 CFR 533

Completed:

Reason	Date	FR Cite
Final Action	07/01/85	50 FR 26998

Small Entity: No

Agency Contact: Marjorie Ashby 202 523-3822

RIN: 3090-AC14

2967. SOURCE SELECTION

CFR Citation: 48 CFR 515.612

Completed:

Reason	Date	FR Cite
Withdrawn	07/01/85	

Small Entity: No

Agency Contact: Marjorie Ashby 202 523-3822

RIN: 3090-AC16

2968. ●RESTRICTIONS ON PROCUREMENT OF HAND AND MEASURING TOOLS AC-85-3, SUPPLEMENT 1

CFR Citation: 48 CFR 525; 48 CFR 525

Completed:

Reason	Date	FR Cite
Final Action	10/25/85	50 FR 43395
Final Action Effective	10/18/85	

Small Entity: No

Agency Contact: Marjorie Ashby 202 523-3822

RIN: 3090-AC27

2969. ●THRESHOLD FOR APPLICATION OF TRADE AGREEMENTS ACT ACQUISITION CIRCULAR (AC-85-5)

CFR Citation: 48 CFR 525

Completed:

Reason	Date	FR Cite
Final Action	12/26/85	50 FR 2760
Final Action Effective	01/01/86	

Small Entity: No

Agency Contact: Marjorie Ashby 202 523-3822

RIN: 3090-AC28

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2970. ◎INCREASE IN IMPREST FUND AND CERTIFIED INVOICE THRESHOLDS ACQUISITION CIRCULAR AC-86-1

CFR Citation: 48 CFR 513

Completed:

Reason	Date	FR Cite
Final Action	01/15/86	

Small Entity: No

Agency Contact: Marjorie Ashby 202 523-3822

RIN: 3090-AC29

2971. ◎REPEAL OF DAILY OVERTIME REQUIREMENT - ACQUISITION CIRCULAR (AC-86-2)

CFR Citation: 48 CFR 552; 48 CFR 522

Completed:

Reason	Date	FR Cite
Final Action	01/15/86	

Small Entity: No

Agency Contact: Marjorie Ashby 202 523-3822

RIN: 3090-AC30

2972. ◎MISCELLANEOUS REVISIONS TO IMPLEMENT TIME COMPETITION IN CONTRACTING ACT OF 1984 (GSAR CHANGE 16)

CFR Citation: 48 CFR 501; 48 CFR 502; 48 CFR 504; 48 CFR 505; 48 CFR 506; 48 CFR 507; 48 CFR 508; 48 CFR 510; 48 CFR 514; 48 CFR 515; 48 CFR 525; 48 CFR 532; 48 CFR 549

Completed:

Reason	Date	FR Cite
Final Action	09/05/85	50 FR 36062
Final Action Effective	09/16/85	

Small Entity: No

Agency Contact: Marjorie Ashby 202 523-3822

RIN: 3090-AC31

2973. ◎PURCHASE UNDER THE TRADE AGREEMENTS ACT OF 1979 (GSAR CHANGE 17)

CFR Citation: 48 CFR 525

Completed:

Reason	Date	FR Cite
Final Action	09/19/85	50 FR 38005
Final Action Effective	09/11/85	

Small Entity: No

Agency Contact: Marjorie Ashby 202 523-3822

RIN: 3090-AC32

2974. ◎BASIS OF AWARD - CONSTRUCTION CONTRACT (GSAR CHANGE 19)

CFR Citation: 48 CFR 536; 48 CFR 552

Completed:

Reason	Date	FR Cite
Final Action	12/09/85	50 FR 50179
Final Action Effective	11/27/85	

Small Entity: No

Agency Contact: Marjorie Ashby 202 523-3822

RIN: 3090-AC33

2975. ◎TERMINATION FOR CONVENIENCE OF GOVERNMENT AND TERMINATION LIABILITIES (GSAR CHANGE 20)

CFR Citation: 48 CFR 549; 48 CFR 552

Completed:

Reason	Date	FR Cite
Final Action	01/03/86	51 FR 194
Final Action Effective	11/27/85	

Small Entity: No

Agency Contact: Marjorie Ashby 202 523-3822

RIN: 3090-AC34

2976. ◎REVISED GSA FORMS (GSAR CHANGE 22)

CFR Citation: 48 CFR 513; 48 CFR 553

Completed:

Reason	Date	FR Cite
Final Action	12/17/85	50 FR 51394
Final Action Effective	12/06/85	

Small Entity: No

Agency Contact: Marjorie Ashby 202 523-3822

RIN: 3090-AC41

2977. ◎PROMPT PAYMENT DISCOUNTS AND PAYMENT TERMS (GSAR CHANGE 21)

CFR Citation: 48 CFR 514

Completed:

Reason	Date	FR Cite
Final Action	12/09/85	50 FR 50180
Final Action Effective	11/27/85	

Small Entity: No

Agency Contact: Marjorie Ashby 202 523-3822

RIN: 3090-AC44

2978. INTEREST ASSESSMENT ON OVERCHARGES (RECEIVABLES)

CFR Citation: 41 CFR 101-41

Completed:

Reason	Date	FR Cite
Final Action	12/05/85	50 FR 49845

Small Entity: No

Agency Contact: John W. Sandfort 202 786-3014

RIN: 3090-AA74

2979. ADMINISTRATIVE OFFSET AND INTEREST ASSESSMENT ON DELINQUENT REFUNDS FOR TOTALLY UNUSED TICKETS

CFR Citation: 41 CFR 101-41

Completed:

Reason	Date	FR Cite
Final Action	12/05/85	50 FR 49845

Small Entity: No

Agency Contact: John W. Sandfort 202 786-3014

RIN: 3090-AB12

2980. REVISION OF STANDARD FORM 1170 AND GENERAL SERVICES ADMINISTRATION FORM 7958

CFR Citation: 41 CFR 101-41

Completed:

Reason	Date	FR Cite
Final Action	12/05/85	50 FR 49845

Small Entity: No

Agency Contact: John W. Sandfort 202 786-3014

RIN: 3090-AB66

2981. SUBPART 101-47.8 - IDENTIFICATION OF UNNEEDED FEDERAL REAL PROPERTY AND SUBPART 101-47.49 -- ILLUSTRATIONS

CFR Citation: 41 CFR 101-47.800; 41 CFR 101-47.802; 41 CFR 101-47.4914

Completed:

Reason	Date	FR Cite
Final Action	01/03/86	51 FR 193

Small Entity: No

Agency Contact: James H. Pitts 202 535-7067

RIN: 3090-AC11

2982. CHANGE TO FEDERAL TRAVEL REGULATIONS (FTR), FPMR 101-7 SUPPLEMENT 15

CFR Citation: 41 CFR 101-7

Completed:

Reason	Date	FR Cite
Final Action	10/28/85	50 FR 43607
Final Action Effective	11/03/85	50 FR 43607

Small Entity: No

Agency Contact: Audrey E. Rish 703 557-1253

RIN: 3090-AB99

2983. INSTRUCTIONS FOR PREPARING STANDARD FORM 120

CFR Citation: 41 CFR 101-43

Completed:

Reason	Date	FR Cite
Final Action	08/02/85	50 FR 31370

Small Entity: No

Agency Contact: Mr. Stanley M. Duda 703 557-0607

RIN: 3090-AC04

2984. CHANGE TO FEDERAL TRAVEL REGULATIONS (FTR) FPMR 101-7 SUPPLEMENT 16

CFR Citation: 41 CFR 101-7

Completed:

Reason	Date	FR Cite
Final Action	01/14/86	51 FR 1560
Final Action Effective	10/01/85	51 FR 1560

Small Entity: No

Agency Contact: Audrey E. Rish 202 557-1253

RIN: 3090-AC24

2985. EXEMPTION OF ADP PROCUREMENT AUTHORITY BASED ON THE DEFENSE AUTHORIZATION ACT OF 1982 - PROJECT 82.23T

CFR Citation: 41 CFR 201-1; 41 CFR 201-32

Completed:

Reason	Date	FR Cite
Withdrawn	11/18/85	

Small Entity: No

Agency Contact: Roger W. Walker 202 566-0194

RIN: 3090-AA16

2986. OBSOLESCENCE, OF FEDERAL ADP EQUIP. PROJECT 82.06A

Significance: Regulatory Program

CFR Citation: 41 CFR 201-11; 41 CFR 201-30; 41 CFR 201-32; 41 CFR 201-33; 41 CFR 201-2; 41 CFR 201-23; 41 CFR 201-24

Completed:

Reason	Date	FR Cite
Final Action	03/24/86	51 FR 9957

Small Entity: No

Agency Contact: Phillip R. Patton 202 566-0194

RIN: 3090-AA19

2987. AGENCY PLANNING - PROJECT 84.32A

CFR Citation: 41 CFR 201-16; 41 CFR 201-17

Completed:

Reason	Date	FR Cite
Withdrawn Analysis indicated value added can not be developed now.	11/18/85	

Small Entity: No

Agency Contact: Phillip R. Patton 202 566-0194

RIN: 3090-AB58

[FR Doc. 86-8769 Filed 04-18-86; 8:45 am]

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Part XXV

United States International Development Cooperation Agency/Agency for International Development

Semiannual Regulatory Agenda

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IDCA

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Ch. II

Federal Regulations; Agency Regulatory Agenda Semiannual Summary

AGENCY: Agency for International Development, IDCA.

ACTION: Agency regulations agenda.

SUMMARY: The Agency for International Development (A.I.D.) is publishing this Agenda as required by section 5(a) of Executive Order 12291, Federal Regulation (46 FR 13193, February 19, 1981) and by the Regulatory Flexibility Act (Pub. L. 96-354, September 30, 1980). This agenda reports the status of those regulations currently under review and gives A.I.D.'s plan for the issuance of proposed regulations during the next twelve months. It is expected that the information provided in this agenda will enable the public to be more aware of and more effectively participate in A.I.D.'s rulemaking process.

FOR FURTHER INFORMATION CONTACT:

General: For further information on the agenda or the review list, in general, contact: Mr. Fred D. Allen, Office of Information Resources Management, Agency for International Development, Washington, D.C. 20523, Telephone (202) 632-3378.

Specific: For further information about any particular item on the agenda, contact the individual listed as the contact for that item.

Regulatory Flexibility Act (RFA)

The Agency does not have any rulemaking activity that falls within the requirements of RFA and does not anticipate any during the next reporting period.

Ain H. Kivimae,

Acting Assistant to the Administrator for Management.

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY/AGENCY FOR INTERNATIONAL DEVELOPMENT (IDCA)

Prerule Stage

2988. NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT – EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Legal Authority: 22 USC 2402

CFR Citation: 22 CFR 209

Legal Deadline: None

Abstract: The regulation will address the problem of discrimination on the basis of race, color, or national origin in any program or activity receiving assistance from the Agency for International Development. The regulation provides that no person in the United States on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance from AID. The regulation provides procedures for 1) assuring that such discrimination does not occur and 2) effecting compliance. The Agency is not considering any alternatives for addressing the problem. There will be some minor costs in administering the regulation; there are potential benefits to individuals who might otherwise be discriminated against.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: Nancy Frame, United States International Development Cooperation Agency/Agency for International Development, Office of the General Counsel, Washington, DC 20523, 202 647-8218

RIN: 0412-AA01

2989. PUBLIC INFORMATION

Legal Authority: PL 89-487; 5 USC 552

CFR Citation: 22 CFR 212

Legal Deadline: None

Abstract: The regulation is being reviewed within the Agency to determine whether a modification is necessary. Further action will be determined by congressional determination on the future requirements of the Act.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: Mr. Rhea Johnson, United States International Development Cooperation Agency/Agency for International Development, Bureau for External Affairs, Washington, DC 20523, 202 647-9614

RIN: 0412-AA02

2990. NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITTING FROM FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 20 USC 1681 to 1683; 20 USC 1686

CFR Citation: 22 CFR 219, (New)

Legal Deadline: None

Abstract: This regulation will address the problem of discrimination on the basis of sex in education programs and activities receiving or benefitting from financial assistance from the Agency for International Development. The regulation is intended to implement title IX of the Education Amendments of 1972, as amended. The regulation provides procedures for 1) assuring that such discrimination does not occur and 2) effecting compliance. The Agency is not considering any alternatives for addressing the problem. There will be some minor costs in administering the regulation; there are potential benefits to individuals who might otherwise be discriminated against.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Nancy D. Frame, Assistant General Counsel, United States International Development Cooperation Agency/Agency for International Development, Office of the General Counsel, A.I.D., Washington, DC 20523, 202 647-8218

RIN: 0412-AA04

IDCA

Prerule Stage

2991. TRANSFER OF FOOD COMMODITIES FOR USE IN DISASTER RELIEF AND ECONOMIC DEVELOPMENT AND OTHER ASSISTANCE

Legal Authority: 7 USC 1705; 7 USC 1721 to 1723; 7 USC 1693

CFR Citation: 22 CFR 211

Legal Deadline: None

Abstract: This regulation prescribes the terms and conditions governing the transfer of agricultural commodities to foreign governments, U.S. voluntary agencies, or intergovernmental organizations. The regulation is being reviewed to assess its current procedures and requirements with an intent to improve its effectiveness and efficiency. There will be internal administrative and operational costs. There are potential benefits to aid-receiving countries.

Timetable:

Action	Date	FR Cite
Begin Review	12/15/83	
End Review	06/00/89	

Small Entity: No

Agency Contact: Jessie C. Vogler, Progam Officer, United States International Development Cooperation Agency/Agency for International Development, Office of Food For Peace, Bureau For Food, For Peace and Voluntary Assistance, Washington, DC 20523, 703 235-9193

RIN: 0412-AA06

2992. PER DIEM PAYMENTS TO AND ON BEHALF OF PARTICIPANTS IN NONMILITARY ECONOMIC DEVELOPMENT TRAINING PROGRAMS

Legal Authority: 22 USC 2396

CFR Citation: 22 CFR 205

Legal Deadline: None

Abstract: This regulation prescribes the terms and conditions governing the payments to and on behalf of participants in nonmilitary economic development training programs.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: Richard F. Calhoun, Asst. Director for Resources & Support, United States International Development Cooperation Agency/Agency for International Development, Office of Participant Training Bureau for Science and Technology, Washington, DC 20523, 703 235-1984

RIN: 0412-AA07

2993. AGENCY FOR INTERNATIONAL DEVELOPMENT ACQUISITION REGULATION (AIDAR)

Legal Authority: 22 USC 2381; 22 USC 2396 (a)(3); EO 12163

CFR Citation: 48 CFR 7, Appendix D

Legal Deadline: None

Abstract: The proposed revisions will update the Agency's coverage on contracting with U.S. citizens and U.S. resident aliens for personal services abroad; the coverage supplements FAR Part 37 – Services contracting (48 CFR 37).

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: John F. Owens, Procurement Executive, United States International Development Cooperation Agency/Agency for International Development, M/AAA/SER, Washington, DC 20523, 703 235-1865

RIN: 0412-AA12

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY/AGENCY FOR INTERNATIONAL DEVELOPMENT (IDCA)

Proposed Rule Stage

2994. REGULATION FOR IMPLEMENTATION OF PRIVACY ACT OF 1974

Legal Authority: PL 93-579; 5 USC 552a

CFR Citation: 22 CFR 215

Legal Deadline: None

Abstract: The regulation is in the clearance process within the Agency and will be published for public comment.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Mr. Rhea Johnson, United States International Development Cooperation Agency/Agency for International Development, Bureau for External Affairs, Washington, DC 20523, 202 647-9614

RIN: 0412-AA03

2995. DONATION OF DAIRY

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IDCA — Proposed Rule Stage

PRODUCTS TO ASSIST NEEDY PERSONS OVERSEAS (416 PROGRAM)

Legal Authority: 7 USC 1431; PL 97-253, Sec 110

CFR Citation: 22 CFR 210, (New)

Legal Deadline: None

Abstract: This regulation sets forth provisions of the Agency for International Development (A.I.D.), acting as an Agent for the USDA/Commodity Credit Corporation (CCC), to carry out part of the responsibilities for selecting, approving, administering and implementing the Section 416 program of the Agricultural Act of 1949, as amended. This program will assist needy persons overseas and reduce surplus stocks of dairy and wheat products in CCC inventory. The donation of commodities under this new authority will be coordinated with, but not replace, assistance provided under the Agricultural Trade Development and Assistance Act of 1954, as amended, Pub. L. 83-480. The Agency is not considering any alternatives for addressing the problem. There are some minor costs in administering the regulation. The potential benefits will go to needy persons overseas.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/24/84	49 FR 22024

Next Action Undetermined

Small Entity: No

Agency Contact: Jessie C. Vogler, Program Officer, United States International Development Cooperation Agency/Agency for International Development, Office of Food for Peace, Bureau for Food for Peace and Voluntary Assistance, Washington, DC 20523, 703 235-9193

RIN: 0412-AA05

2996. ● COLLECTIONS OF CLAIMS

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 213

Legal Deadline: None

Abstract: These regulations prescribe the procedures to be used by the Agency for International Development ("AID") in the collection of claims owed to AID and to the United States. It supplements the Federal Claims Collections Standards, 4 CFR Parts 101-105. The regulations are being amended to add procedures for salary offset.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Jan W. Miller, United States International Development Cooperation Agency/Agency for International Development, Office of the General Counsel, Washington, DC 20523, 202 647-9434

RIN: 0412-AA09

UNITED STATES INTERNATIONAL DEVELOPMENT COOPERATION AGENCY/AGENCY FOR INTERNATIONAL DEVELOPMENT (IDCA) — Completed Actions

2997. DEBARMENT, SUSPENSION AND INELIGIBILITY

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 208

Legal Deadline: None

Abstract: These regulations currently apply to debarment and suspension of AID-financed suppliers of commodities and commodity-related services. The amendment expands the coverage to include direct AID agreements (e.g. grants and cooperative agreements) and all AID-financed agreements (e.g., host country contracts).

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	05/20/85	50 FR 15884
Final Action	10/01/85	50 FR 39995
Final Action Effective	10/01/85	50 FR 39995

Small Entity: No

Agency Contact: Jan W. Miller, United States International Development Cooperation Agency/Agency for International Development, Office of the General Counsel, Washington, DC 20523, 202 647-3348

RIN: 0412-AA08

2998. COLLECTION OF CLAIMS

Legal Authority: 22 USC 2381

CFR Citation: 22 CFR 213

Legal Deadline: None

Abstract: These regulations prescribe the procedures to be used by the Agency for International Development ("AID") in the collection of claims owed to AID and to the United States. It supplements the Federal Claims Collections Standards, 4 CFR Parts 101-105. This part sets forth procedures for a) collections, including administrative offset, of claims owed the United States, b) interest, penalties and administrative charges; c) disclosure to consumer reporting agencies and contracts with collection agencies.

Timetable:

Action	Date	FR Cite
NPRM	06/02/85	
NPRM Comment Period End	07/23/85	50 FR 25720
Final Action	09/23/85	50 FR 38521
Final Action Effective	09/23/85	50 FR 38521

Small Entity: No

Additional Information: Being sent to OMB for clearance prior to issuing as final rule.

Agency Contact: Jan W. Miller, United States International Development Cooperation Agency/Agency for International Development, Office of the General Counsel, Washington, DC 20523, 202 647-9434

RIN: 0412-AA09

2999. AGENCY FOR INTERNATIONAL DEVELOPMENT ACQUISITION REGULATION (AIDAR)

Legal Authority: 22 USC 2381; EO 12163; PL 98-577

CFR Citation: 48 CFR 701; 48 CFR 727; 48 CFR 723

IDCA — Completed Actions

Legal Deadline: None

Abstract: The proposed revisions will implement Federal Acquisition Circular 84-6, concerning the Small Business and Federal Procurement Enhancement Act of 1984, and supplemented by FAR Case 85-39 (50 FR 32871, dated August 15, 1985).

Timetable:

Action	Date	FR Cite
Withdrawn no further actions to be taken	02/03/86	

Small Entity: No

Agency Contact: John F. Owens, Procurement Executive, United States International Development Cooperation Agency/Agency for International Development, M/AAA/SER, Washington, DC 20523, 703 235-1885

RIN: 0412-AA10

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Part XXVI

Merit Systems Protection Board

Semiannual Regulatory Agenda

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MSPB

MERIT SYSTEMS PROTECTION BOARD

5 CFR Ch. II

Regulatory Agenda

AGENCY: Merit Systems Protection Board.

ACTION: Semiannual agenda of regulations.

SUMMARY: The following Merit Systems Protection Board regulations are scheduled for review or development from April 1986 through March 1987. This agenda carries out the MSPB's responsibility to publish a semiannual agenda under E.O. 12291, Federal Regulation, and the Regulatory Flexibility Act [5 U.S.C. Chapter 6].

Regulatory action in addition to the items listed is not precluded.

FOR FURTHER INFORMATION CONTACT: Paul D. Mahoney, Assistant Managing Director for Management, (202) 653-8900.

DATES: January 29, 1986.

Merit Systems Protection Board.

Herbert E. Ellingwood,

Chairman.

MERIT SYSTEMS PROTECTION BOARD (MSPB) — **Prerule Stage**

3000. HEARING PROCEDURES FOR APPELLATE CASES

Legal Authority: 5 USC 1205(g); 5 USC 7701

CFR Citation: 5 CFR 1201.1 to 1201.222

Legal Deadline: None

Abstract: The proposed changes in these regulations are the result of a comprehensive review of the Board's experience with processing and adjudicating cases since January 1979. The proposed changes are intended to clarify existing rules and to improve the operating efficiency and effectiveness of the Board and the parties who practice before the Board.

Timetable:

Action	Date	FR Cite
ANPRM	03/00/86	
ANPRM Comment Period End	03/00/86	
Final Action	06/00/86	
Final Action Effective	06/00/86	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Paul D. Mahoney, Assistant Managing Director for Management, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419, 202 653-8900

RIN: 3124-AA00

MERIT SYSTEMS PROTECTION BOARD (MSPB) — **Proposed Rule Stage**

3001. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS CONDUCTED BY THE MERIT SYSTEMS PROTECTION BOARD

Legal Authority: 29 USC 791

CFR Citation: 5 CFR 1207.1 to 1207.99, (New)

Legal Deadline: None

Abstract: To effectuate Section 119 of the Rehabilitation, Comprehensive Services, and Developmental Disabilities Amendments of 1978, amending Section 504 of P.L. 95-602.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
NPRM Comment Period End	06/00/86	
Final Action	10/00/86	
Final Action Effective	10/00/86	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: John H. Taylor, Director, Office of Equal Employment, Merit Systems Protection Board, 1120 Vermont Avenue, NW, Washington, DC 20419, 202 653-6180

RIN: 3124-AA01

[FR Doc. 86-8634 Filed 04-18-86; 8:45 am]
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Part XXVII

National Aeronautics and Space Administration

Semiannual Regulatory Agenda

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NASA

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Ch. V

Regulatory Agenda

AGENCY: National Aeronautics and Space Administration.

ACTION: Regulatory agenda.

SUMMARY: This regulatory agenda describes the proposed regulations being considered for development or amendment by NASA, the need and legal basis for the actions being considered, the name and telephone number of a knowledgeable official, whether a regulatory analysis is required, and the status of regulations previously reported.

ADDRESS: Director, Logistics Management and Information Programs Division (Code NI), Office of Management, NASA Headquarters, Washington, D.C. 20546.

FOR FURTHER INFORMATION CONTACT: Margaret M. Herring, 202/453-2922.

SUPPLEMENTARY INFORMATION: OMB Bulletin 86-4, "Regulatory Program of the United States Government" (April 1, 1986—March 31, 1987) and "Unified Agenda of Federal Regulations" for April 1986, Executive Order 12291, "Federal Regulation," and NASA Management Instruction 1410.10E, "Federal Register: Delegation of Authority and Requirements for Publication of NASA Documents," require a regulatory agenda of proposed regulations under development and review be published in the Federal Register each April and October.

Richard L. Daniels,

Acting Director, Logistics Management and Information Programs Division.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3002	General Provisions Regarding Flight of Reimbursable Payloads Aboard the Space Shuttle	2700-AA14
3003	NASA Seal, Insignia, Logotype Insignia, Program and Astronaut Badges, and Flags	2700-AA15
3004	Nondiscrimination on the Basis of Handicap	2700-AA24
3005	Standards of Conduct	2700-AA30
3006	Security Adjudication Procedures	2700-AA31
3007	Major System Acquisitions	2700-AA38
3008	Source Evaluation Board Manual	2700-AA39
3009	Data and Copyrights	2700-AA40
3010	Space Transportation System; Reimbursement for Shuttle Services Provided to Non-U.S. Government Users; Reimbursement for Shuttle Services Provided to Civil U.S. Government Users and Foreign ETC	2700-AA45
3011	Delegation of Authority of Certain Civil Rights Functions to the Department of Health, Education, and Welfare	2700-AA47
3012	Availability of Agency Records to Members of the Public	2700-AA49
3013	Nondiscrimination in Federally-Assisted Programs of NASA: Effectuation of Title VI of the Civil Rights Act of 1964	2700-AA50
3014	Nondiscrimination on the Basis of Handicap; Program Accessibility	2700-AA51
3015	Payload Specialists for NASA or NASA Related Payloads	2700-AA52
3016	Extraterrestrial Exposure	2700-AA53
3017	Policy Concerning Data Obtained from Space Science Flight Investigations	2700-AA54
3018	Release of Information to News and Information Media	2700-AA58

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3019	Space Transportation System; Insurance and Indemnification of NASA Space Vehicle Users	2700-AA00
3020	Space Transportation System; Reimbursement for Spacelab Services	2700-AA01
3021	Patent Waiver Regulations	2700-AA10
3022	Monetary Claims (General); Collection of Civil Claims and Offset	2700-AA22
3023	Implementation of the Equal Access to Justice Act in Agency Proceedings	2700-AA42
3024	Development Work for Industry in NASA Wind Tunnels	2700-AA48
3025	Delegations of Authority to the Corps of Engineers, U.S. Army, Concerning NASA Land Acquisition Activities	2700-AA55
3026	Delegation of Authority to the Corps of Engineers Board of Contract Appeals	2700-AA56
3027	Delegations and Designations	2700-AA57

NASA

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3028	Space Transportation System; Payload Specialists	2700-AA12
3029	Processing of Monetary Claims (General); Employee's Personal Property Claims	2700-AA27
3030	Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally-Assisted Programs	2700-AA32
3031	Awards for Reported Scientific and Technical Contributions -- NASA and Contractor Employees	2700-AA41
3032	Awards for Scientific and Technical Contributions	2700-AA43
3033	Inventions and Contributions Board	2700-AA44
3034	Use of NASA Airfield Facilities by Aircraft Not Operated for the Benefit of the Federal Government	2700-AA46

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Proposed Rule Stage

3002. GENERAL PROVISIONS REGARDING FLIGHT OF REIMBURSABLE PAYLOADS ABOARD THE SPACE SHUTTLE

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214, Subpart 1

Legal Deadline: None

Abstract: Sets forth the general provisions regarding flight of reimbursable payloads aboard the NASA Space Shuttle. Incorporates pricing principles for the Second Phase of STS operations.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: No

Additional Information: RIN = 2700-AA13 merged with RIN = 2700-AA14.

Agency Contact: Lowell E. Friese, National Aeronautics and Space Administration, Office of Space Flight, Code MC, NASA Headquarters, Washington, DC 20546, 202 453-1252

RIN: 2700-AA14

3003. ● NASA SEAL, INSIGNIA, LOGOTYPE INSIGNIA, PROGRAM AND ASTRONAUT BADGES, AND FLAGS

Legal Authority: 42 USC 2473(a), (b)(1)

CFR Citation: 14 CFR 1221, Subpart 1

Legal Deadline: None

Abstract: Sets forth NASA policy, procedures, and guidelines for use of NASA Logotype Insignia.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	

Small Entity: No

Agency Contact: Robert Schulman, Office of External Relations (Code LFF), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8327

RIN: 2700-AA15

3004. NONDISCRIMINATION ON THE BASIS OF HANDICAP

Legal Authority: 29 USC 794

CFR Citation: 14 CFR 1260

Legal Deadline: None

Abstract: Implements agency's policy and procedures for implementing Section 504 of the Rehabilitation Act of 1973, as amended, concerning nondiscrimination on the basis of handicap in programs or activities conducted by Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Roger D. Hamby, National Aeronautics and Space Administration, Office of General Counsel, Code GG, NASA Headquarters, Washington, DC 20546, 202 453-2955

RIN: 2700-AA24

3005. ● STANDARDS OF CONDUCT

Legal Authority: EO 11222; PL 95-521, Titles II and IV as amended by PL 96-19; PL 96-28; PL 96-150

CFR Citation: 14 CFR 1207

Legal Deadline: None

Abstract: This proposed revision will incorporate the latest Public Laws on Federal employees ethics.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: No

Agency Contact: Elizabeth N. Siegel, Office of General Counsel (Code GG), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2955

RIN: 2700-AA30

3006. SECURITY ADJUDICATION PROCEDURES

Legal Authority: 5 USC 7532

CFR Citation: 14 CFR 1208

Legal Deadline: None

Abstract: Sets forth the general provisions regarding the implementation of 5 USC 7532, Suspension and Removal.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

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Agency Contact: Jerome Verbe, National Aeronautics and Space Administration, NASA Security Office, NASA Headquarters (Code NIS), Washington, DC 20546, 202 453-2946

RIN: 2700-AA31

3007. MAJOR SYSTEM ACQUISITIONS

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 00

Legal Deadline: None

Abstract: Revise and update procedures for major systems acquisition.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Agency Contact: John E. Horvath, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters (Code HS), Washington, DC 20546, 202 453-2082

RIN: 2700-AA38

3008. SOURCE EVALUATION BOARD MANUAL

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 00

Legal Deadline: None

Abstract: Revise and update procedures for conduct of Source Evaluation Boards.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Agency Contact: Charles R. Yetter, Office of Procurement, National Aeronautics and Space Administration, NASA Headquarters (Code HS), Washington, DC 20546, 202 453-2074

RIN: 2700-AA39

3009. DATA AND COPYRIGHTS

Legal Authority: 42 USC 2473(c)(1)

CFR Citation: 48 CFR 00

Legal Deadline: None

Abstract: Change to conform regulations with Federal Acquisition Regulations changes.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: Not Applicable

Agency Contact: Jerome Verbe, National Aeronautics and Space Administration, NASA Security Office, NASA Headquarters (Code NIS), Washington, DC 20546, 202 453-2946

RIN: 2700-AA40

3010. SPACE TRANSPORTATION SYSTEM; REIMBURSEMENT FOR SHUTTLE SERVICES PROVIDED TO NON-U.S. GOVERNMENT USERS; REIMBURSEMENT FOR SHUTTLE SERVICES PROVIDED TO CIVIL U.S. GOVERNMENT USERS AND FOREIGN ETC

Legal Authority: PL 85-568, Sec 203; 72 Stat 429; 42 USC 2473; PL 87-624, Sec 201(b); 76 Stat 421; 47 USC 721(b)

CFR Citation: 14 CFR 1214, Subpart 1; 14 CFR 1214, Subpart 2

Legal Deadline: None

Abstract: This revision will incorporate provisions for scheduled shared-flight retrieval service and for equitable charging for use of the downweight capability of the shuttle.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Additional Information: TITLE CONT: Users Who Have Made Substantial Investment in the STS Program

Agency Contact: Lowell E. Primm, Office of Space Flight, National Aeronautics and Space Administration, NASA Headquarters (Code MC), Washington, DC 20546, 202 453-1252

RIN: 2700-AA45

3011. ● DELEGATION OF AUTHORITY OF CERTAIN CIVIL RIGHTS FUNCTIONS TO THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Legal Authority: 42 USC 2473(b)(1), (3), (5), (6), and (14); 14 CFR 1250.111(c)

CFR Citation: 14 CFR 1204.508

Legal Deadline: None

Abstract: Amends existing NASA regulation to reflect changes in the Federal sector and to include new civil rights laws enacted since the original regulation was published.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: No

Agency Contact: Lewin S. Warren, Office of Equal Opportunity Programs, (Code U), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2163

RIN: 2700-AA47

3012. ● AVAILABILITY OF AGENCY RECORDS TO MEMBERS OF THE PUBLIC

Legal Authority: 42 USC 2473; 5 USC 552 as amended by PL 93-502; 5 USC 552 as amended; PL 93-502

CFR Citation: 14 CFR 1206

Legal Deadline: None

Abstract: The purpose of this proposed revision is to identify the current costs for obtaining materials.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: No

Agency Contact: Rosemarie R. Vitagliano, Office of the Administrator (Code AEM), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8555

RIN: 2700-AA49

3013. ● NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF NASA: EFFECTUATION OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

Legal Authority: TITLE IX of the Education Amendments of 1972; 20 USC 1681 et seq.

CFR Citation: 14 CFR 1250

Legal Deadline: None

Abstract: Establishes agency's policies and procedures for implementing Title IX of the Education Amendments of 1972 to the end that no person in the United States shall on the basis of sex be excluded from participation in, be denied benefit of, or be otherwise subjected to discrimination under any program or activity receiving Federal financial assistance from NASA.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: No

Agency Contact: Lewin S. Warren, Office of Equal Opportunity Programs, (Code U), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2163

RIN: 2700-AA50

3014. ● NONDISCRIMINATION ON THE BASIS OF HANDICAP; PROGRAM ACCESSIBILITY

Legal Authority: Sec 504 Rehabilitation Act of 1973; PL 93-112; 29 USC 794; EO 11914; 87 Stat 374

CFR Citation: 14 CFR 1251, Subpart 302

Legal Deadline: None

Abstract: Amends regulation to conform to Uniform Federal Accessibility Standards as required by the Department of Justice.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Lynda Sampson, Office of Equal Opportunity Programs, (Code U), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2177

RIN: 2700-AA51

3015. ● PAYLOAD SPECIALISTS FOR NASA OR NASA RELATED PAYLOADS

Legal Authority: PL 85-568, Sec 203; 42 USC 2473 72 Stat 429 as amended; PL 87-624, Sec 201(b); 47 USC 721(b) 76 Stat 421

CFR Citation: 14 CFR 1214, Subpart 3

Legal Deadline: None

Abstract: Revises existing regulation to reflect current practices.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: No

Agency Contact: John F. Devlin, Office of Space Science and Applications, (Code EPS), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1630

RIN: 2700-AA52

3016. ● EXTRATERRESTRIAL EXPOSURE

Legal Authority: Secs 203, 304, 72 Stat 429, 433; 42 USC 2455; 42 USC 2456; 42 USC 2473; 18 USC 799

CFR Citation: 14 CFR 1211

Legal Deadline: None

Abstract: Revision updates the existing regulation to conform to current agency practices.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: No

Agency Contact: John F. Devlin, Office of Space Science and Applications, (Code EPS), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1630

RIN: 2700-AA53

3017. ● POLICY CONCERNING DATA OBTAINED FROM SPACE SCIENCE FLIGHT INVESTIGATIONS

Legal Authority: 42 USC 2454

CFR Citation: 14 CFR 1205, Subpart 1

Legal Deadline: None

Abstract: Amends regulation to reflect current agency practices.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: No

Agency Contact: John F. Devlin, Office of Space Science and Applications, (Code EPS), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1630

RIN: 2700-AA54

3018. ● RELEASE OF INFORMATION TO NEWS AND INFORMATION MEDIA

Legal Authority: 42 USC 2473(a)(3), Sec 203(a)(3)

CFR Citation: 14 CFR 1213, Subpart 1

Legal Deadline: None

Abstract: Sets forth NASA policy governing the release of information in any form to news and information media.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: James W. McCulla, Office of External Relations (Code LFD), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-8368

RIN: 2700-AA58

3019. SPACE TRANSPORTATION SYSTEM; INSURANCE AND INDEMNIFICATION OF NASA SPACE VEHICLE USERS

Legal Authority: PL 85-568, Sec 203; 42 USC 2473, Sec 308 of the Space Act as amended; 42 USC 2458(b)

CFR Citation: 14 CFR 1214, Subpart 13

Legal Deadline: None

Abstract: Describes the policy on when users of the Space Transportation System must obtain financial protection against third-party claims and the conditions under which NASA will provide insurance or indemnification of users. Comments on the proposed rule were received from several individuals.

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NASA — Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	11/10/88	45 FR 74888
Final Action	00/00/00	

Small Entity: No

Agency Contact: Robert J. Wojtal, National Aeronautics and Space Administration, Office of General Counsel, Code GK, Washington, DC 20546, 202 453-2448

RIN: 2700-AA09

3020. SPACE TRANSPORTATION SYSTEM; REIMBURSEMENT FOR SPACELAB SERVICES

Legal Authority: 42 USC 2473

CFR Citation: 14 CFR 1214, Subpart 8

Legal Deadline: None

Abstract: Describes the policy for Spacelab services provided by NASA to users during the Second Phase of STS operations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/30/85	50 FR 30807
Final Action	04/00/86	

Small Entity: No

Agency Contact: Lowell E. Primm, National Aeronautics and Space Administration, Office of Space Flight, Code MC, NASA Headquarters, Washington, DC 20546, 202 453-1252

RIN: 2700-AA01

3021. PATENT WAIVER REGULATIONS

Legal Authority: 42 USC 2457 et seq

CFR Citation: 14 CFR 1245, Subpart 1

Legal Deadline: None

Abstract: To adopt Presidential Memorandum on Government Patent Policy of 02/18/83.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/17/83	48 FR 22132
Final Action	00/00/00	

Small Entity: No

Agency Contact: Robert F. Kempf, Asst. Gen. Counsel for Patent Matters, National Aeronautics and Space Administration, Code GP, NASA Headquarters, Washington, DC 20546, 202 453-2424

RIN: 2760-AA10

3022. MONETARY CLAIMS (GENERAL); COLLECTION OF CIVIL CLAIMS AND OFFSET

Legal Authority: 42 USC 2473(c); 5 USC 5514; 31 USC 3701

CFR Citation: 14 CFR 1261

Legal Deadline: None

Abstract: Proposed regulation to implement the claims collection and offset standards of the Debt Collection Act in accordance with the GAO/DOJ joint regulations and the salary offset OPM regulation.

Timetable:

Action	Date	FR Cite
NPRM	04/03/85	50 FR 13228
NPRM Comment Period End	06/03/85	
Interim Final Rule	06/00/86	

Small Entity: No

Agency Contact: Sara Najjar, National Aeronautics and Space Administration, Office of General Counsel, Code GS, NASA Headquarters, Washington, DC 20546, 202 453-2432

RIN: 2700-AA22

3023. IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Legal Authority: 5 USC 504, et al; 42 USC 2473(c)(1)

CFR Citation: 14 CFR 1292

Legal Deadline: None

Abstract: Amends existing regulation to reflect statutory changes and procedures for the award of attorney fees and other expenses in agency adversary adjudication.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/86	

Small Entity: No

Agency Contact: Sara Najjar, Office of General Counsel, National Aeronautics and Space Administration, NASA Headquarters (Code GS), Washington, DC 20546, 202 453-2432

RIN: 2700-AA42

3024. ● DEVELOPMENT WORK FOR INDUSTRY IN NASA WIND TUNNELS

Legal Authority: 42 USC 2473(c)(5) and (6); 50 USC 511 to 515

CFR Citation: 14 CFR 1210

Legal Deadline: None

Abstract: Amends existing regulation to reflect current practices at the aeronautical centers.

Timetable:

Action	Date	FR Cite
Final Action	06/00/86	

Small Entity: No

Agency Contact: Arthur Henderson, Jr., Office of Aeronautics and Space Technology, (Code RI), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-2770

RIN: 2700-AA48

3025. ● DELEGATIONS OF AUTHORITY TO THE CORPS OF ENGINEERS, U.S. ARMY, CONCERNING NASA LAND ACQUISITION ACTIVITIES

Legal Authority: 42 USC 2473(b)(1), (3), (5), (6) and (14)

CFR Citation: 14 CFR 1204.502

Legal Deadline: None

Abstract: Removes existing NASA regulation from the CFR because the subject acquisition projects have been completed.

Timetable:

Action	Date	FR Cite
Final Action	06/00/86	

Small Entity: No

Agency Contact: Gitta G. Haber, Office of Management (Code NXG), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1958

RIN: 2700-AA55

NASA — Final Rule Stage

3026. ● DELEGATION OF AUTHORITY TO THE CORPS OF ENGINEERS BOARD OF CONTRACT APPEALS

Legal Authority: 42 USC 2473(b)(1), (3), (5), (6), and (14)

CFR Citation: 14 CFR 1204.507

Legal Deadline: None

Abstract: Removes regulation from CFR to eliminate requirement for Army Board of Contract Appeals to be substituted by NASA Board of Contract Appeals.

Timetable:

Action	Date	FR Cite
Final Action	08/00/86	

Small Entity: No

Agency Contact: Gitta G. Haber, Office of Management (Code NXG), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1958

RIN: 2700-AA56

3027. ● DELEGATIONS AND DESIGNATIONS

Legal Authority: 42 USC 2473(b)(1), (3), (5), (6), and (14)

CFR Citation: 14 CFR 1204, Subpart 5

Legal Deadline: None

Abstract: Regulation is being revised to incorporate organizational changes.

Timetable:

Action	Date	FR Cite
Final Action	08/00/86	

Small Entity: No

Agency Contact: Gitta G. Haber, Office of Management (Code NXG), National Aeronautics and Space Administration, NASA Headquarters, Washington, DC 20546, 202 453-1958

RIN: 2700-AA57

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA) — Completed Actions

3028. SPACE TRANSPORTATION SYSTEM; PAYLOAD SPECIALISTS

CFR Citation: 14 CFR 1214, Subpart 3

Completed:

Reason	Date	FR Cite
Withdrawn - no revision to existing regulation	02/03/86	

Small Entity: No

Agency Contact: Lowell E. Primm 202 453-1252

RIN: 2700-AA12

3029. PROCESSING OF MONETARY CLAIMS (GENERAL); EMPLOYEES'S PERSONAL PROPERTY CLAIMS

CFR Citation: 14 CFR 1261, Subpart 1

Completed:

Reason	Date	FR Cite
Final Action	10/24/85	50 FR 43127

Small Entity: No

Agency Contact: Sara Najjar 202 453-2432

RIN: 2700-AA27

3030. UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION FOR FEDERAL AND FEDERALLY-ASSISTED PROGRAMS

CFR Citation: 14 CFR 1208

Completed:

Reason	Date	FR Cite
Final Action	02/27/86	51 FR 7000

Small Entity: No

Agency Contact: Gitta Haber 202 453-1958

RIN: 2700-AA32

3031. AWARDS FOR REPORTED SCIENTIFIC AND TECHNICAL CONTRIBUTIONS – NASA AND CONTRACTOR EMPLOYEES

CFR Citation: 14 CFR 1240, Subpart 2

Completed:

Reason	Date	FR Cite
Final Action	01/31/86	50 FR 3946

Small Entity: No

Agency Contact: Joseph Labow 202 453-2892

RIN: 2700-AA41

3032. AWARDS FOR SCIENTIFIC AND TECHNICAL CONTRIBUTIONS

CFR Citation: 14 CFR 1240, Subpart 1

Completed:

Reason	Date	FR Cite
Final Action	01/31/86	50 FR 3947

Small Entity: No

Agency Contact: Joseph Labow 202 453-2892

RIN: 2700-AA43

3033. INVENTIONS AND CONTRIBUTIONS BOARD

CFR Citation: 14 CFR 1209, Subpart 4

Completed:

Reason	Date	FR Cite
Final Action	01/31/86	50 FR 3945

Small Entity: No

Agency Contact: Joseph Labow 202 453-2892

RIN: 2700-AA44

3034. ●USE OF NASA AIRFIELD FACILITIES BY AIRCRAFT NOT OPERATED FOR THE BENEFIT OF THE FEDERAL GOVERNMENT

CFR Citation: 14 CFR 1204, Subpart 14

Completed:

Reason	Date	FR Cite
Final Action	10/24/85	50 FR 43125

Small Entity: No

Agency Contact: Gerald T. McCarthy 202 453-1981

RIN: 2700-AA46

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Part XXVIII

National Archives and Records Administration

Semiannual Regulatory Agenda

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NARA

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Ch. XII

Unified Agenda of Federal Regulations

AGENCY: National Archives and Records Administration.

ACTION: Semiannual agenda.

SUMMARY: This agenda announces the proposed regulatory actions that the National Archives and Records Administration (NARA) plans for the next 12 months and those actions that have been completed since October 1985. This agenda was developed under the guidelines in OMB Bulletin No. 86-4, dated December 23, 1985. NARA's purpose in publishing this agenda is to allow interested persons an opportunity to have more comprehensive documentation of NARA's regulatory plans and to provide a systematic means of monitoring regulatory activity in NARA. None of the regulations listed in the agenda are considered major under Executive Order 12291, Federal Regulation.

FOR FURTHER INFORMATION CONTACT: John A. Constance, Acting Chief, Information Management and Directives Branch, (202) 523-3214.

Frank G. Burke,

Acting Archivist of the United States.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3035	Adequate and Proper Documentation	3095-AA07
3036	Transfers to the National Personnel Records Center	3095-AA15

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3037	Public Use of the National Archives Building	3095-AA06
3038	Transfers to the National Personnel Records Center	3095-AA16
3039	Declassification Regulations	3095-AA17
3040	Audiovisual Records Management	3095-AA18
3041	Membership on State Historical Records Advisory Boards	3095-AA20
3042	Restrictions on Access to Archival Records	3095-AA21
3043	Micrographics Records Management	3095-AA22
3044	Implementation of Revised OMB Circular A-102	3095-AA23
3045	NARA Implementation of Presidential Records Act	3095-AA24
3046	NARA Standards of Conduct	3095-AA25
3047	Statistical Research in Records Containing Personal Information	3095-AA26

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3048	Preservation and Protection and Access to the Presidential Historical Materials of the Nixon Administration	3095-AA13
3049	Use of NARA Research Rooms	3095-AA19

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3050	Fee Schedule	3095-AA03

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Prerule Stage

3035. ADEQUATE AND PROPER DOCUMENTATION

Legal Authority: 44 USC 2104(a) as added by Sec. 102 of PL 98-497; 44 USC 2901 to 2909; 44 USC 3101; 44 USC 3102; 44 USC 3105; 44 USC 3106

CFR Citation: 44 CFR 101-11.202; 36 CFR 1220.20

Legal Deadline: None

Abstract: The head of each Federal agency is required to make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency. The introduction of modern technology into Federal records systems presents problems in meeting this requirement because of the erasable storage media and complex storage formats. The Archivist of the United States is required to provide guidance and standards to agencies. Thus, the National Archives and Records Administration is reviewing the regulations regarding proper and adequate documentation to determine if they are sufficient to insure proper retention and retrievability of the information until its authorized disposition under an approved records control schedule. If this review determines agencies need different or new guidance, consideration is being given to providing such information through the Bulletin structure.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/83	
End Review	03/00/87	

Small Entity: No

Additional Information: This regulation was carried in the October 1984 Unified Agenda of Federal Regulations as RIN 3090-AB03.

Agency Contact: Charles Dollar, Act. Dir., Documentation Standards Staff, (NSD), National Archives and Records Administration, Washington, DC 20408, 202 724-1616

RIN: 3095-AA07

3036. TRANSFERS TO THE NATIONAL PERSONNEL RECORDS CENTER

Legal Authority: 44 USC 3101

CFR Citation: 36 CFR 1228.154

Legal Deadline: None

Abstract: Consideration is being given to acceptance of individual earnings and pay cards and comprehensive payrolls in microfiche or computer output microfilm format only.

Timetable:

Action	Date	FR Cite
Begin Review	03/00/86	
End Review	09/00/86	

Small Entity: Not Applicable

Agency Contact: David F. Peterson, Asst. Archivist for Federal Records Centers, National Archives and Records Administration, Washington, DC 20408, 202 724-1596

RIN: 3095-AA15

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Proposed Rule Stage

3037. PUBLIC USE OF THE NATIONAL ARCHIVES BUILDING

Legal Authority: 44 USC 2104(a) as added by Sec. 102 of PL 98-497

CFR Citation: 36 CFR 1280

Legal Deadline: None

Abstract: Existing regulations on public use of the National Archives Building do not cover all areas of the building to which the public has access. This rule will revise procedures under which outside organizations may request the use of National Archives Building public areas for lectures, meetings and other activities.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	
Final Action	02/00/87	

Small Entity: No

Additional Information: This regulation was carried in the October 1984 Unified Agenda of Federal Regulations as RIN 3090-AA83.

Agency Contact: Adrienne C. Thomas, Dir., Program Policy and Eval. Div. (NAA), National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095-AA06

3038. TRANSFERS TO THE NATIONAL PERSONNEL RECORDS CENTER

Legal Authority: 44 USC 3101

CFR Citation: 36 CFR 1228.154

Legal Deadline: None

Abstract: As a result of FPM Letter 293-20 which established an Employee Medical Folder (EMF) for all civilian employees, this regulation will be expanded to include the EMF. In addition, a separate request form will be developed similar to the SF 127, Request for Official Personnel Folder.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
NPRM Comment Period End	08/00/86	
Final Action	09/00/86	

Small Entity: Not Applicable

Agency Contact: David F. Peterson, Asst. Archivist for Federal Records Centers, National Archives and Records Administration, Washington, DC 20408, 202 724-1614

RIN: 3095-AA16

3039. DECLASSIFICATION REGULATIONS

Legal Authority: 44 USC 2104(a); EO 12356

CFR Citation: 36 CFR 1254; 36 CFR 1260

Legal Deadline: None

Abstract: This regulation will consolidate records declassification regulations affecting the public (Part 1254) and other agencies (Part 1260). The existing regulations are overlapping. Consolidation will aid public use of the regulations and will reduce CFR printing costs.

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Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
NPRM Comment Period End	05/00/86	
Final Action	06/00/86	
Final Action Effective	06/00/86	

Small Entity: Not Applicable

Agency Contact: Adrienne C. Thomas, Dir., Program Policy and Eval. Div. (NAA), National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095-AA17

3040. AUDIOVISUAL RECORDS MANAGEMENT

Legal Authority: 44 USC 2104(a)

CFR Citation: 36 CFR 1232

Legal Deadline: None

Abstract: This rule will revise records management regulations concerning the storage and handling of audiovisual records by Federal agencies.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
NPRM Comment Period End	05/00/86	
Final Action	06/00/86	
Final Action Effective	06/00/86	

Small Entity: Not Applicable

Agency Contact: Adrienne C. Thomas, Dir., Program Policy and Eval. Div. (NAA), National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095-AA18

3041. MEMBERSHIP ON STATE HISTORICAL RECORDS ADVISORY BOARDS

Legal Authority: 44 USC 2505

CFR Citation: 36 CFR 1206

Legal Deadline: None

Abstract: This regulation will restructure the State Historical Records Advisory Boards and redefine their functions in the grant review process.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
NPRM Comment Period End	08/00/86	
Final Action	09/00/86	

Small Entity: Not Applicable

Agency Contact: George L. Vogt, Director, Records Program (NP), National Archives and Records Administration, Washington, DC 20408, 202 523-5386

RIN: 3095-AA20

3042. RESTRICTIONS ON ACCESS TO ARCHIVAL RECORDS

Legal Authority: 44 USC 2104(a)

CFR Citation: 36 CFR 1256.40

Legal Deadline: None

Abstract: This rule will add specific agency restrictions on the use of certain accessioned archival records. The restrictions will be in conformity with the Freedom of Information Act.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
NPRM Comment Period End	08/00/86	
Final Action	09/00/86	

Small Entity: Not Applicable

Agency Contact: Edwin A. Thompson, Act. Dep. Dir., Office of National Archives, National Archives and Records Administration, Washington, DC 20408, 202 523-3130

RIN: 3095-AA21

3043. MICROGRAPHICS RECORDS MANAGEMENT

Legal Authority: 44 USC 2907; 44 USC 3302; 44 USC 3312

CFR Citation: 36 CFR 1230

Legal Deadline: None

Abstract: This rule will update existing regulations on micrographics records management to correct references to Federal and industry micrographics standards.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
NPRM Comment Period End	05/00/86	
Final Action	06/00/86	
Final Action Effective	06/00/86	

Small Entity: No

Agency Contact: Adrienne C. Thomas, Dir., Program Policy and Eval. Div. (NAA), National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095-AA22

3044. IMPLEMENTATION OF REVISED OMB CIRCULAR A-102

Legal Authority: 44 USC 2104; 44 USC 2504

CFR Citation: 36 CFR 1208

Legal Deadline: None

Abstract: NARA will join other agencies in the common rule for implementing revised OMB Circular A-102, Uniform Requirements for Grants to State and Local Governments.

Timetable:

Action	Date	FR Cite
Awaiting joint rule	00/00/00	

Small Entity: Not Applicable

Agency Contact: Adrienne C. Thomas, Dir., Program Policy and Eval. Div. (NAA), National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095-AA23

3045. NARA IMPLEMENTATION OF PRESIDENTIAL RECORDS ACT

Legal Authority: 44 USC 2206

CFR Citation: 36 CFR 1270

Legal Deadline: None

Abstract: 44 USC 2206 requires that the Archivist promulgate regulations to carry out the Presidential Records Act. The law requires that the regulations provide for:

1. advance public notice of intention to dispose of valueless records;

2. notice to the former President of impending opening of otherwise restrictable records in response to judicial process, a request from the incumbent President, or request from Congress;

3. notice to the former President when disclosure of documents may adversely affect any rights or privileges he may have; and

4. establishment of procedures for consultation between the Archivist and appropriate Federal agencies regarding Presidential records which may be restricted as investigatory records compiled for law enforcement purposes.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
NPRM Comment Period End	06/00/86	
Final Action	08/00/86	
Final Action Effective	08/00/86	

Small Entity: No

Agency Contact: Gary Brooks, Act. Dir., Legal Services Staff (NSL), National Archives and Records Administration, Washington, DC 20408, 202 523-3618

RIN: 3095-AA24

3046. NARA STANDARDS OF CONDUCT

Legal Authority: 5 CFR 735; 44 USC 2104(a)

CFR Citation: 36 CFR 1204

Legal Deadline: None

Abstract: These regulations will establish standards of conduct for NARA employees.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
NPRM Comment Period End	07/00/86	
Final Action	08/00/86	

Small Entity: Not Applicable

Agency Contact: Gary Brooks, Act. Designated Agency Ethics Official, National Archives and Records Administration, Washington, DC 20408, 202 523-3618

RIN: 3095-AA25

3047. ● STATISTICAL RESEARCH IN RECORDS CONTAINING PERSONAL INFORMATION

Legal Authority: 44 USC 2104

CFR Citation: 36 CFR 1256

Legal Deadline: None

Abstract: The National Archives of the United States includes certain records containing information of a highly personal nature about living individuals. Use of these records by researchers is limited by 36 CFR 1256.16 to researchers conducting statistical or quantitative research. This rule will provide procedures for granting access to these records for statistical or quantitative purposes and for ensuring the protection of the privacy of the individual whose record is disclosed.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
NPRM Comment Period End	05/00/86	
Final Action	06/00/86	
Final Action Effective	06/00/86	

Small Entity: No

Agency Contact: Adrienne C. Thomas, Director, Program Policy and Evaluation Div., (NAA), National Archives and Records Administration, Washington, DC 20408, 202 523-3214

RIN: 3095-AA26

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Final Rule Stage

3048. PRESERVATION AND PROTECTION AND ACCESS TO THE PRESIDENTIAL HISTORICAL MATERIALS OF THE NIXON ADMINISTRATION

Legal Authority: 44 USC 2104(a) as added by Sec. 102 of PL 98-497

CFR Citation: 36 CFR 1228

Legal Deadline: Judicial, February 28, 1986

Abstract: This rule provides for preserving and protecting the Presidential historical materials of the Nixon Administration and for providing access to these materials. The Archivist of the United States is required by law to issue these regulations.

Timetable:

Action	Date	FR Cite
NPRM	03/29/85	50 FR 12575
NPRM Comment Period End	05/28/85	
Final Action	06/00/86	

Small Entity: No

Additional Information: This regulation was carried in the October 1984 Unified Agenda of Federal Regulations as RIN 3090-AB52.

Agency Contact: Gary L. Brooks, Acting Director, Legal Services Staff (NSL), National Archives and Records Administration, Washington, DC 20408, 202 523-3618

RIN: 3095-AA13

3049. USE OF NARA RESEARCH ROOMS

Legal Authority: 44 USC 2104(a)

CFR Citation: 36 CFR 1254

Legal Deadline: None

Abstract: This revision will modify NARA regulations on the use of personal copiers in research rooms and on other types of personal items that can be brought into research rooms. These changes are being made to enhance the security of the records being used by the public and to ensure proper handling of records while they are being reproduced.

Timetable:

Action	Date	FR Cite
NPRM	12/17/85	50 FR 51414
NPRM Comment Period End	02/18/86	
Final Action	03/00/86	
Final Action Effective	03/00/86	

Small Entity: No

Agency Contact: Edwin A. Thompson, Act. Dep. Dir., Office of National Archives, National Archives and Records Administration, Washington, DC 20408, 202 523-3130

RIN: 3095-AA19

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NATIONAL ARCHIVES AND RECORDS ADMINISTRATION (NARA) — Completed Actions

3060. FEE SCHEDULE
CFR Citation: 36 CFR 1258

Completed:

Reason	Date	FR Cite
Final Action	12/13/85	50 FR 50904
Final Action Effective	01/02/86	50 FR 50904

Small Entity: Not Applicable

Agency Contact: Adrienne C. Thomas
202 523-3214
RIN: 3095-AA03

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Part XXIX

National Capital Planning Commission

Semiannual Regulatory Agenda

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NCPC

NATIONAL CAPITAL PLANNING COMMISSION

1 CFR Part 457

Semiannual Regulatory Agenda

AGENCY: National Capital Planning Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: Pursuant to Executive Order 12291 and the Regulatory Flexibility Act, the Commission is publishing its regulatory agenda.

FOR FURTHER INFORMATION CONTACT: Katherine Barns Soffer, General Counsel, National Capital Planning Commission, 1325 G Street, N.W., Washington, D.C. 20576, (202) 724-0170.

February 18, 1986.

Katherine Barns Soffer,

General Counsel.

NATIONAL CAPITAL PLANNING COMMISSION (NCPC) — Final Rule Stage

3051. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN THE NATIONAL CAPITAL PLANNING COMMISSION PROGRAMS

Legal Authority: 20 USC 794 Sec. 504 of the Rehabilitation Act of 1973, as amend

CFR Citation: 1 CFR 47

Legal Deadline: None

Abstract: These regulations are designed to implement section 504 of the Rehabilitation Act of 1973, as amended, which requires each Executive agency to promulgate such regulations. The regulations are patterned on prototype regulations provided by the Department of Justice, under Executive Order 12250 (45 F.R. 72995, 3 CFR, 1980 Comp., p. 298).

Timetable:

Action	Date	FR Cite
NPRM	08/26/84	49 FR 34132
Final Action Awaiting Department of Justice (DOJ is coordinator)	00/00/00	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: Katherine Barns Soffer, General Counsel, National Capital Planning Commission, 1325 G Street, NW, Washington, DC 20576, 202 724-0170

RIN: 3125-AA02

[FR Doc. 86-8780 Filed 04-18-86; 8:45 am]

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Part XXX

National Endowment for the Arts

Semiannual Regulatory Agenda

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NEA

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

45 CFR Ch. XI

Semiannual Agenda of Regulations

AGENCY: National Endowment for the Arts.

ACTION: Publication of the semiannual agenda.

SUMMARY: Pursuant to Executive Order 12291 and the Regulatory Flexibility Act (5 U.S.C. 605), the National Endowment for the Arts publishes this regulatory agenda describing agency regulations under development or review.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Warren, Acting General Counsel, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506 or call (202) 682-5418.

Peter J. Basso,

Deputy Chairman for Management, National Endowment for the Arts.

NATIONAL ENDOWMENT FOR THE ARTS (NEA)

Proposed Rule Stage

3052. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR OR NATIONAL ORIGIN IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM NEA

Significance: Agency Priority

Legal Authority: 42 USC 2000d et seq Title VI of the Civil Rights Act of 1964; EO 12250

CFR Citation: 45 CFR 1110

Legal Deadline: None

Abstract: This regulation will be applicable only to the National Endowment for the Arts grantees. Modifications will be made in procedures and definitions. The draft notice of proposed rulemaking is currently under review within the Endowment. It will be published after completion of that review and review by the Department of Justice and the Office of Management and Budget.

Timetable:

Action	Date	FR Cite
NPRM	02/09/81	
NPRM Comment Period End	04/10/81	
NPRM	06/00/86	

Small Entity: Not Applicable

Agency Contact: Mr. Arthur Warren, Assistant General Counsel, National Endowment for the Arts, Office of the General Counsel, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202 682-5418

RIN: 3135-AA00

3053. COLLECTION OF CLAIMS

Significance: Agency Priority

Legal Authority: PL 97-365; 31 USC 3711; 31 USC 3716 to 3718; 5 USC 5514; 5 USC 552a

CFR Citation: 45 CFR 1150

Legal Deadline: None

Abstract: The proposed rule amends the National Endowment for the Arts regulation for collecting debts. Principally, the amendments implement the Debt Collection Act of 1982 (PL 97-365), which amended the Federal Claims Collection Act of 1966 (31 USC 3711, 3716-3718) to authorize among other things, charging of interest penalties and administrative costs, and the use of administrative offset, private collection agencies and credit agencies by the Government. The amendments also implement government-wide regulations issued by the Department of Justice and the General Accounting Office (49 FR 8889) and Office of Personnel Management (49 FR 27470).

Timetable:

Action	Date	FR Cite
NPRM	04/01/86	
NPRM	06/00/86	
NPRM Comment Period End	08/00/86	

Small Entity: Not Applicable

Agency Contact: Mr. Arthur Warren, Assistant General Counsel, National Endowment for the Arts, Office of the General Counsel, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202 682-5418

RIN: 3135-AA01

NATIONAL ENDOWMENT FOR THE ARTS (NEA)

Final Rule Stage

3054. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY CONDUCTED PROGRAMS

Significance: Agency Priority

Legal Authority: 29 USC 754

CFR Citation: 45 CFR 1153

Legal Deadline: None

Abstract: This final regulation provides for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in programs or activities conducted by the National Endowment for the Arts. This regulation has been developed jointly by a number of Federal agencies under the auspices of the Department of Justice.

Timetable:

Action	Date	FR Cite
NPRM	08/28/84	49 FR 34132
NPRM Comment Period End	12/26/84	
Final Action	00/00/00	

Small Entity: No

NEA

Final Rule Stage

Agency Contact: Mr. Arthur Warren, Assistant General Counsel, National Endowment for the Arts, Office of the General Counsel, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202 682-5418

RIN: 3135-AA02

3055. NONDISCRIMINATION ON THE BASIS OF AGE

Significance: Agency Priority

Legal Authority: 42 USC 6101 et seq

CFR Citation: 45 CFR 1154

Legal Deadline: None

Abstract: This final rule prohibits discrimination on the basis of age in programs and activities receiving assistance from the National Endowment for the Arts. These regulations are issued pursuant to the requirements of the Age Discrimination Act and consistent with the general government-wide regulations issued by the Department of Health and Human Services.

Timetable:

Action	Date	FR Cite
NPRM	10/02/79	44 FR 56725
NPRM Comment Period End	11/15/79	44 FR 56725
Internal Review of NPRM	00/00/00	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Mr. Arthur Warren, Assistant General Counsel, National Endowment for the Arts, Office of the General Counsel, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202 682-5418

RIN: 3135-AA03

[FR Doc. 86-8787 Filed 04-18-86; 8:45am]

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Part XXXI

National Endowment for the Humanities

Semiannual Regulatory Agenda

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NEH

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES-

National Endowment for the Humanities

45 CFR Ch. XI

Semiannual Agenda of Regulations

AGENCY: National Endowment for the Humanities.

ACTION: Publication of the semiannual agenda of regulations.

SUMMARY: Pursuant to the Regulatory Flexibility Act, Pub. L. 96-354, and Executive Order 12291, "Federal Regulations," dated February 17, 1981 the National Endowment for the Humanities is required to publish proposed regulations that the Endowment has issued or expects to issue and current rules that are under agency review.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen J. McCleary, Deputy General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, (202) 786-0322.

John Agresto,
Acting Chairman.

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Prerule Stage

3056. NONDISCRIMINATION ON THE BASIS OF RACE, COLOR OR NATIONAL ORIGIN WITHIN NEH FUNDED PROGRAMS

Legal Authority: 42 USC 2000d et seq Title VI of the Civil Rights Act of 1964; EO 12250

CFR Citation: 45 CFR 1175; 45 CFR 1110

Legal Deadline: None

Abstract: The regulation will be applicable only to National Endowment for the Humanities grantees. Modifications will be made in procedures and definitions. The draft notice of proposed rulemaking is currently under review within the Endowment. It will be published after completion of that review and review by the Department of Justice, and the Office of Management and Budget.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Additional Information: LEGAL AUTHORITY: 28 CFR 42 subpart F and Section 50.3 also apply.

Agency Contact: Ms. Carol M. Gordon, Director, Office of Equal Opportunity, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202 786-0410

RIN: 3136-AA02

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Proposed Rule Stage

3057. CLAIMS COLLECTION

Legal Authority: 31 USC 3711 Federal Claims Collection Act of 1966; 5 USC 552a Privacy Act; PL 97-365 Debt Collection Act of 1982

CFR Citation: 4 CFR 101 to 105

Legal Deadline: None

Abstract: This regulation will implement the Debt Collection Act of 1966 and the Debt Collection Act of 1982 and will improve the ability of the National Endowment for the Humanities to collect money it is owed. The regulations provide that the National Endowment for the Humanities may disclose information concerning an outstanding debt to a consumer reporting agency from a system or records. The regulations also provide for the agency to contract for private debt collection services. The regulations will provide for administrative offset as a means of collecting money owed to the Government. The regulations will require that debtors be given notice of claims, interest charges and the options available to the agency for recovery of outstanding debts.

Timetable:

Action	Date	FR Cite
NPRM	03/18/86	51 FR 9228
NPRM Comment Period End	04/17/86	
Final Action	06/00/86	

Small Entity: No

Agency Contact: Stephen J. McCleary, Deputy General Counsel, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202 786-0322

RIN: 3136-AA05

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Final Rule Stage

3058. NONDISCRIMINATION ON THE BASIS OF AGE IN PROGRAMS OR ACTIVITIES RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM NEH

Legal Authority: 42 USC 6101 et seq Age Discrimination Act of 1975

CFR Citation: 45 CFR 1172

Legal Deadline: None

Abstract: This regulation will prohibit discrimination on the basis of age in programs or activities receiving financial assistance from the National Endowment for the Humanities.

Timetable:

Action	Date	FR Cite
NPRM	10/04/79	44 FR 57130

Next Action Undetermined

Small Entity: No

Agency Contact: Ms. Carol M. Gordon, Director, National Endowment for the Humanities, Office of Equal Opportunity, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202 786-0410

RIN: 3136-AA00

3059. NONDISCRIMINATION ON THE BASIS OF SEX

Legal Authority: 20 USC 1681 et seq Title IX of the Education Amendments of 1972

CFR Citation: 45 CFR 1171

Legal Deadline: None

Abstract: This regulation will prohibit discrimination on the basis of sex under any education program or activity receiving financial assistance from the National Endowment for the Humanities. The final regulation is being drafted and will need approval by the Department of Justice before it can be published.

Timetable:

Action	Date	FR Cite
NPRM	06/20/80	

Next Action Undetermined

Small Entity: No

Agency Contact: Ms. Carol M. Gordon, Director, National Endowment for the Humanities, Office of Equal Opportunity, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202 786-0410

RIN: 3136-AA01

3060. STATEMENT FOR THE GUIDANCE OF THE PUBLIC - ORGANIZATION, PROCEDURES AND AVAILABILITY OF INFORMATION

Legal Authority: 5 USC 552(a)(4)(A) Freedom of Information Act

CFR Citation: 45 CFR 1100

Legal Deadline: None

Abstract: The revised regulation will clarify the fees charged for document search and duplication. Information on the organization will be updated.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Mr. Stephen J. McCleary, Deputy General Counsel, National Endowment for the Humanities, Office of the General Counsel, 1100 Pennsylvania Avenue, NW, Washington, DC 20506, 202 786-0322

RIN: 3136-AA03

NATIONAL ENDOWMENT FOR THE HUMANITIES (NEH) — Completed Actions

3061. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN FEDERALLY CONDUCTED PROGRAMS

CFR Citation: 45 CFR 1175

Completed:

Reason	Date	FR Cite
Final Action	02/05/86	51 FR 4577

Small Entity: No

Agency Contact: Ms. Carol M. Gordon 202 786-0410

RIN: 3136-AA04

[FR Doc. 86-8788 Filed 04-18-86; 8:45 am]
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Part XXXII

National Science Foundation

Semiannual Regulatory Agenda

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NSF

NATIONAL SCIENCE FOUNDATION

45 CFR Ch. VI

Federal Regulation; Semiannual Regulations Agenda

AGENCY: National Science Foundation.

ACTION: Publication of semiannual regulations agenda.

SUMMARY: The National Science Foundation (NSF) publishes its semiannual agenda of regulations under development or review as required by Executive Order 12291, Federal Regulation (46 FR 13193, February 17, 1981). This agenda has been prepared in accordance with OMB Bulletin No. 86-4, "Unified Agenda of Federal Regulations."

FOR FURTHER INFORMATION CONTACT: For additional information regarding any particular regulatory action contained in the agenda, contact the individual identified as the contact person in the agenda. Comments or inquiries of a general nature about the agenda should be directed to Sukari S. Smith, Office of the General Counsel, National Science Foundation, Washington, D.C. 20550, (202) 357-9580.

February 26, 1986.

Sukari S. Smith,

Regulatory Contact.

NATIONAL SCIENCE FOUNDATION (NSF)

Prerule Stage

3062. CIVIL RIGHTS - TITLE VI REGULATIONS

Legal Authority: Section 11 of the NSF Act; Title VI of the Civil Rights Act of 1964

CFR Citation: 45 CFR 611

Legal Deadline: None

Abstract: These regulations prohibit discrimination on the basis of race, color, or national origin in all NSF-assisted programs.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Brenda Brush, Director, National Science Foundation, Office of Equal Opportunity, Washington, DC 20550, 202 357-9619

RIN: 3145-AA01

3063. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN NATIONAL SCIENCE FOUNDATION

Legal Authority: 29 USC 794; PL 95-602, Sec 504

CFR Citation: 45 CFR 606, (New); 45 CFR 86

Legal Deadline: None

Abstract: This regulation provides for the enforcement of Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to programs or activities conducted by the National Science Foundation. Potential costs are not known. Any benefits derived will be to ensure that the handicapped will not be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity conducted by the National Science Foundation.

Timetable:

Action	Date	FR Cite
ANPRM	05/01/86	
ANPRM Comment Period End	07/01/86	

Small Entity: No

Agency Contact: Brenda Brush, Director, Office of Equal Opportunity, National Science Foundation, 1800 G Street, NW, Washington, DC 20550, 202 357-9619

RIN: 3145-AA05

3064. EFFECTUATION OF TITLE IX OF THE EDUCATION AMENDMENTS OF 1982 (SEX DISCRIMINATION)

Legal Authority: 20 USC 1681; PL 93-568, Sec 901 to 902; PL 93-380, Sec 844

CFR Citation: 45 CFR 620, (New)

Legal Deadline: None

Abstract: This regulation is to effectuate Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in connection with education programs and activities receiving Federal financial assistance from the National Science Foundation. Costs, if any, should be nominal since most NSF recipients are also covered by HHS regulations. Potential benefits are to ensure that any educational program or activity receiving financial assistance from NSF does not, on the basis of sex (1) exclude any person from participation in, (2) deny any person the benefits of, or subject any such person to discrimination under that program or activity.

Timetable:

Action	Date	FR Cite
Clearance with EEOC and Justice under Executive Order 12250	05/01/86	
ANPRM	07/01/86	
ANPRM Comment Period End	09/01/86	

Small Entity: No

Agency Contact: Brenda Brush, Director, Office of Equal Opportunity, National Science Foundation, 1800 G Street, NW, Washington, DC 20550, 202 357-9619

RIN: 3145-AA06

NATIONAL SCIENCE FOUNDATION (NSF)

Final Rule Stage

3065. PATENTS

Legal Authority: 42 USC 1870(a) The Natl. Sci. Found. Act of 1950, as amended; 35 USC 200 et seq The Bayh-Dole Act, as amended

CFR Citation: 45 CFR 650

Legal Deadline: None

Abstract: The Bayh-Dole Act (34 USC 200 et seq) was amended by title V of PL 98-620 (98 Stat. 3364, 3368). The Department of Commerce is preparing a Government-wide implementing regulation. When that regulation is completed, the Foundation's Patents regulation (45 CFR 650) will be conformed to it. Because the revision to the NSF Patents regulation will merely echo a Government-wide regulation on which the public will have had an opportunity to comment, the Foundation expects that the revision will be published as a final rule. No additional costs will be imposed on the public as a result of the revision.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: No

Additional Information: The notable changes to be made in the revision of the NSF Patents regulation will be: elimination of restrictions on the licensing of NSF-supported inventions by nonprofit organizations, including universities; modification of the criteria and procedures for determining that "exceptional circumstances" warrant restricting a grantee's right to retain principal patent rights to its employees' NSF-supported inventions; and elimination of the Foundation's authority to waive the Government license and "march-in" rights in awards not subject to the Bayh-Dole Act. All these changes are required by amendments to the Bayh-Dole Act.

Agency Contact: John Chester, Intellectual Property Attorney, National Science Foundation, Office of the General Counsel, Room 501, Washington, DC 20550, 202 357-9447

RIN: 3145-AA07

[FR Doc. 86-5799 Filed 04-18-86; 8:45 am]

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Part XXXIII

Office of Management and Budget

Semiannual Regulatory Agenda

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OMB

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Ch. III

Federal Regulations; OMB Directives Included in the Semiannual Agenda of Upcoming Activities

AGENCY: Office of Management and Budget.

ACTION: Publication of semiannual agenda.

SUMMARY: The Office of Management and Budget (OMB) is publishing its semiannual agenda of upcoming activities on OMB Circulars and Office of Federal Procurement Policy Letters (OFPP Policy Letters). This action is in accordance with OMB's internal procedures for implementing Executive Order No. 12291. OMB directives are issued under authority derived from several sources including: Subtitles I, II, and V of Title 31, "United States Code," Executive Order No. 11541, and other specific authority as cited. The agenda includes actions on issuances which are not regulations, but which are of public interest.

OMB Circulars and OFPP Policy Letters are directives that communicate significant government-wide policy of a continuing nature. For purposes of this agenda, we have included Circulars and Policy Letters which are designed to implement, interpret, or prescribe law or policy, or describe the procedure or practice requirements of an agency. Excluded are directives that outline procedures to be followed in connection with the President's budget and legislative programs, and directives that affect only the internal functions, management, or personnel of Federal agencies.

FOR FURTHER INFORMATION CONTACT: See agency person listed for each entry in the agenda, c/o Office of Management and Budget, Washington, D.C. 20503. On the overall agenda, contact Darrell A. Johnson at the above address.

Darrell A. Johnson,

Assistant Director for Administration.

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Prerule Stage

3066. POLICIES ON CONSTRUCTION OF FAMILY HOUSING (CIRCULAR NO. A-18)

Legal Authority: Budget and Accounting Act of 1921; See preamble

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: OMB Circular A-18, last revised in August 1927, sets forth policies for budgeting, planning, and undertaking the construction of federally-owned housing (exclusive of military barracks) for Federal personnel and for employees of Government contractors. Housing standards, concepts of living space requirements, the housing market and economic factors bearing on it have changed significantly since the Circular was last issued; and updating and revision may be appropriate.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/86	
End Review	11/01/86	

Small Entity: No

Agency Contact: David F. Baker, Assoc. Admin. for Management Controls, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-7207

RIN: 0348-AA08

3067. FEDERAL GOVERNMENT USER CHARGES POLICY (CIRCULAR NO. A-25)

Legal Authority: Budget and Accounting Act of 1921; PL 93-344; See preamble

CFR Citation: Not applicable

Legal Deadline: None

Abstract: General policies for Federal agencies on administering user charges and formulating legislative proposals regarding user charges are set forth in OMB Circular No. A-25. This Circular is under review. It is expected that modifications will be considered reflecting current policies, enacted legislation, and court decisions.

Timetable:

Action	Date	FR Cite
Preliminary Review	05/15/86	

Small Entity: Yes

Agency Contact: Ellen Balis, Financial Economist, Office of Management and Budget, Fiscal Analysis Branch, Budget Review Division, Washington, D.C. 20503, 202 395-4574

RIN: 0348-AA41

3068. MAJOR SYSTEM ACQUISITIONS (CIRCULAR NO. A-109)

Legal Authority: PL 93-400; See preamble

CFR Citation: Not applicable

Legal Deadline: None

Abstract: Some agencies report difficulty working under the Circular. A review, in light of experience gained, is warranted with a goal of revision and simplification while maintaining the current general policy thrust of A-109.

Timetable:

Action	Date	FR Cite
End Review	12/31/86	

Small Entity: Yes

Agency Contact: Robert Cooper, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-3300

RIN: 0348-AA12

3069. UNIFORM ADMINISTRATIVE REQUIREMENTS FOR GRANTS AND AGREEMENTS WITH INSTITUTIONS OF HIGHER EDUCATION, HOSPITALS AND OTHER NONPROFIT ORGANIZATIONS (CIRCULAR NO. A-110)

Legal Authority: 31 USC 65 et seq; 41 USC 401 et seq; See preamble

CFR Citation: Not applicable

Legal Deadline: None

Abstract: The review will develop proposed changes to the Circular needed to call for "single audit" of universities.

OMB — Prerule Stage

Timetable:

Action	Date	FR Cite
Preliminary Review Completed	06/30/86	

Small Entity: No

Agency Contact: John Lordan, Deputy Assoc. Dir. for Financial Management, Office of Management and Budget, Financial Management Division, Washington, D.C. 20503, 202 395-6823

RIN: 0348-AA05

3070. BOARD OF CONTRACT APPEALS - POSITION ALLOCATION PURSUANT TO PUBLIC LAW 95-563 (OFPP POLICY LETTER 79-2, SUPPLEMENT NO. 1)

Legal Authority: 41 USC 401 et seq; See preamble

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: The Contract Disputes Act provides for establishment of Boards of Contract Appeals (BCAs) in the various executive agencies; initial allocation of positions was made by the Administrator, OFPP, based on workload studies of existing BCAs. The Act provides for update of workload studies every three years; update of the Policy Letter appears necessary, due to update of workload studies.

Timetable:

Action	Date	FR Cite
Begin Review	06/00/86	
End Review	09/00/86	
Draft Policy Letter for comment	01/01/87	

Small Entity: No

Agency Contact: William S. Coleman, Jr., Acting Associate Administrator for Procurement Law and Legislation, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-3301

RIN: 0348-AA16

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Proposed Rule Stage

3071. WRITING AND ADMINISTERING PERFORMANCE WORK STATEMENTS (PART II OF SUPPLEMENT TO CIRCULAR NO. A-76)

Legal Authority: PL 93-244, as amended; See preamble

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This document describes a systematic means for developing Performance Work Statements and Quality Assurance Surveillance plans for Government management of commercial activities. It also includes procedures for contracting personnel who develop, review, award, and administer service contracts.

Timetable:

Action	Date	FR Cite
Draft for public comment	04/01/86	
Final Action	08/15/86	

Small Entity: Yes

Agency Contact: David L. Muzio, Dep. Assoc. Adm. for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-6810

RIN: 0348-AA34

3072. PERFORMANCE OF COMMERCIAL ACTIVITIES (CIRCULAR NO. A-76)

Legal Authority: PL 93-244, as amended; PL 93-244; See preamble

CFR Citation: Not applicable

Legal Deadline: None

Abstract: OMB Circular No. A-76, last revised in August 1983, sets forth the policy of acquiring commercial products and services from the private sector, and provides guidance on the development of performance work statements and on comparing the cost of Government performance with contractor performance. This Circular is currently under revision to incorporate changes to provide more management flexibility to directly contract certain functions and to emphasize productivity enhancement as a major theme.

Timetable:

Action	Date	FR Cite
Begin Review	09/15/84	
Draft for public comment	04/01/86	
Final Action	08/15/86	

Small Entity: Yes

Agency Contact: David L. Muzio, Dep. Assoc. Admin. for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-6810

RIN: 0348-AA45

3073. UNIFORM REQUIREMENTS FOR ASSISTANCE TO STATE AND LOCAL GOVERNMENTS (CIRCULAR NO. A-102)

Legal Authority: 31 USC 65 et seq; 42 USC 4212 et seq; 41 USC 401 et seq; See preamble

CFR Citation: Not applicable

Legal Deadline: None

Abstract: The purpose of the review is to develop changes to administrative policies which will further reduce the regulatory burden on state and local governments.

Timetable:

Action	Date	FR Cite
Advance Notice of Policy Review	06/18/84	49 FR 24958
Notice of Proposed Policy	06/30/86	
Final Policy	03/28/87	

Small Entity: No

Agency Contact: Barbara F. Young-Kahlow, Grants Management Projects Director, Office of Management and Budget, Financial Management Division, Washington, D.C. 20503, 202 395-3950

RIN: 0348-AA11

3074. STATISTICAL POLICY DIRECTIVES

Legal Authority: 31 USC 1104 Budget & Accounting Procedures Act 1950 (Sec 103);

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OMB — Proposed Rule Stage

PL 96-511 Paperwork Reduction Act of 1980; See preamble

CFR Citation: Not applicable

Legal Deadline: None

Abstract: The Directives give general policies for the gathering, compiling, analyzing, publishing, and dissemination of statistical information by the agencies in the Executive Branch of the Federal Government. The Directives are currently under review and may be replaced by an OMB circular. Affected agencies will be consulted on proposed changes as provided in E.O. 10253.

Timetable:

Action	Date	FR Cite
Proposed Revisions for public comment	11/01/86	

Small Entity: No

Agency Contact: Mark Winer, Policy Analyst, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503, 202 395-3087

RIN: 0348-AA43

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Final Rule Stage

3075. OFFICE OF MANAGEMENT AND BUDGET'S DIRECTIVES SYSTEM TO EXECUTIVE DEPARTMENTS AND AGENCIES (CIRCULAR NO. A-1)

Legal Authority: See preamble

CFR Citation: Not applicable

Legal Deadline: None

Abstract: OMB Circular A-1, last revised in August 1952, describes the OMB directives system used to convey policy, provide guidance, and communicate instruction to executive departments and agencies.

Timetable:

Action	Date	FR Cite
Final Action	07/01/86	

Small Entity: No

Agency Contact: Darrell A. Johnson, Assistant Director for Administration, Office of Management and Budget, Washington, D.C. 20503, 202 395-7258

RIN: 0348-AA33

3076. ✱ OMB CIRCULAR A-21 COST PRINCIPLES FOR EDUCATIONAL INSTITUTIONS

Significance: Agency Priority

Legal Authority: See Preamble

CFR Citation: Not applicable

Legal Deadline: None

Abstract: OMB Circular A-21 establishes Governmentwide accounting principles for the direct and indirect (allocated overhead) costs of Federal grants and contracts with colleges and universities. The Circular divides allocated overhead costs into seven "cost pools" that form the basis of a university's indirect cost rate. Four of these pools are for administrative costs. In Fiscal Year (FY) 1984 estimated Federal payments for university overhead were about $1.7 billion or 46% of an estimated $3.7 billion for direct scientific research. The problem of rising overhead costs has been the subject of continuing and extensive debate. A fixed rate for administrative costs will go a long way towards solving the problem of rising indirect costs and at the same time reduce paperwork for the institutions.

Timetable:

Action	Date	FR Cite
Revision published for comment	02/12/86	51 FR 5287
Finalize revision	06/30/86	

Small Entity: No

Agency Contact: Carole J. Dineen, Associate Director for Management, Office of Management and Budget, 202 395-4657

RIN: 0348-AA61

OFFICE OF MANAGEMENT AND BUDGET (OMB) — Completed Actions

3077. USE OF MANAGEMENT AND OPERATING CONTRACTS (CIRCULAR NO. A-49)

Legal Authority: PL 93-400; See preamble

CFR Citation: Not applicable

Legal Deadline: None

Abstract: General policy on the use of management and operating contracts has been incorporated in the Federal Acquisition Regulation, subpart 17.6. Notice of recission was published in the Federal Register to cancel this circular. (FR Vol. 50, No. 219, p. 46849)

Timetable:

Action	Date	FR Cite
End Review	06/00/85	
Preliminary Notice of Recission	11/13/85	50 FR 46849
Final Notice of Recission	02/05/86	51 FR 4584

Small Entity: Yes

Agency Contact: Robert Cooper, Dep. Assoc. Admin. for Policy Development, Office of Management and Budget, Office of Federal Procurement Policy, Washington, D.C. 20503, 202 395-3300

RIN: 0348-AA10

3078. PLANNING AND CONDUCT OF THE UNITED STATES PROGRAM IN ANTARCTICA (CIRCULAR NO. A-51)

Legal Authority: See preamble

CFR Citation: Not applicable

OMB — Completed Actions

Legal Deadline: None

Abstract: Since 1971 when Circular A-51 was last revised, major reviews of the U.S. Antarctic program and policies have resulted in Presidential directives that have now superseded A-51. It has been determined that there is no longer a need for this Circular and it will be rescinded.

Timetable:

Action	Date	FR Cite
Circular rescinded	12/12/85	

Small Entity: No

Agency Contact: Norine Noonan, Program Analyst, Office of Management and Budget, Energy and Science Division, Washington, D.C. 20503, 202 395-3534

RIN: 0348-AA46

3079. OMB CIRCULAR NO. A-130, MANAGEMENT OF FEDERAL INFORMATION RESOURCES

Legal Authority: 44 USC 35; 5 USC 552a; 40 USC 759; 31 USC 1 et seq; EO 12046; See preamble

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This Circular establishes policy for the management of Federal information resources. Procedural and analytic guidelines for implementing specific aspects of these policies are included as appendices. The Circular supersedes and rescinds OMB Circulars No. A-71, A-90, A-108, and A-121, and all Transmittal Memoranda to those Circulars. The Circular implements OMB authority under the Paperwork Reduction Act with respect to 44 U.S.C. 3504(b), (e),(f), and (g); the Privacy Act (5 U.S.C. 552a); Sections 111 and 254 of the Federal Property and Administrative Services Act (40 U.S.C. 759); and Executive Order 12046.

Timetable:

Action	Date	FR Cite
Notice soliciting comments published	09/12/83	48 FR 40964
Proposed Policy published for comment	03/15/85	50 FR 10734
Circular published in final form	12/12/85	50 FR 52730

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Timothy Sprehe, Office of Management and Budget, Information Policy Branch, Office of Information and Regulatory Affairs, Washington, D.C. 20503, 202 395-4814

RIN: 0348-AA31

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Part XXXIV

Office of Personnel Management

Semiannual Regulatory Agenda

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OPM

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Ch. I

Regulatory Agenda

AGENCY: Office of Personnel Management.

ACTION: Semiannual agenda of regulations.

SUMMARY: The following Office of Personnel Management regulations are scheduled for development or review from April 1, 1986, through March 31, 1987. This agenda carries out OPM's responsibilities to publish a semiannual agenda under E.O. 12291, Federal Regulation, and the Regulatory Flexibility Act (5 U.S.C. chapter 6). This publication in the **Federal Register** does not impose a binding obligation on the Office of Personnel Management with regard to any specific item on the agenda. Regulatory action in addition to the items listed is not precluded.

FOR FURTHER INFORMATION CONTACT: JoAnn G. Blackler, Issuance System Manager, Office of Executive Administration, (202) 653-7252.

U.S. Office of Personnel Management.

Constance Horner,

Director.

OFFICE OF PERSONNEL MANAGEMENT (OPM)

Prerule Stage

3080. PERSONNEL RECORDS - PERSONNEL RECORDS SUBJECT TO THE PRIVACY ACT

Legal Authority: 5 USC 552a; EO 12107; 5 USC 1302; EO 9830

CFR Citation: 5 CFR 293, Subpart B

Legal Deadline: None

Abstract: Review of records subject to the Privacy Act. Regulatory action may be needed to maintain consistency with proposed changes in Privacy Act regulations, 5 CFR 297. (5 CFR 297 is being amended to reflect case law.)

Timetable:

Action	Date	FR Cite
Begin Review	03/15/85	
End Review	03/01/86	

Small Entity: No

Agency Contact: George Woloshyn, Associate Director, Office of Personnel Management, Compliance and Investigations Group, 1900 E Street, N.W., Washington, D.C. 20415, 202 632-4426

RIN: 3206-AC00

3081. EXECUTIVE ASSIGNMENT SYSTEM

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 3324; EO 10577

CFR Citation: 5 CFR 305

Legal Deadline: None

Abstract: Review of regulations on executive assignment system (GS-16/18). Regulations need to be reviewed in light of the establishment of the Senior Executive Service, which incorporated most GS-16/18 positions, and delegations to agencies under the CSRA.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/85	
End Review	03/31/86	

Small Entity: No

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW; Washington, DC 20415, 202 632-4625

RIN: 3206-AC03

3082. APPOINTMENT, REASSIGNMENT, TRANSFER AND REINSTATEMENT IN THE SENIOR EXECUTIVE SERVICE

Legal Authority: 5 USC 3397; PL 95-454, Sec 413(k)

CFR Citation: 5 CFR 317, Subparts B and C

Legal Deadline: None

Abstract: Review of regulations on general provisions pertaining to the Senior Executive Service and conversion to the SES. Regulations may need to be revised to take into account legislative changes to the Senior Executive Service since the 1979 conversion.

Timetable:

Action	Date	FR Cite
Begin Review	10/01/85	
End Review	03/31/86	

Small Entity: No

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW; Washington, DC 20415, 202 632-4625

RIN: 3206-AC06

3083. EXECUTIVE AND MANAGEMENT DEVELOPMENT

Legal Authority: 5 USC 3397

CFR Citation: 5 CFR 412, Subparts A and E

Legal Deadline: None

Abstract: Review of executive and management development program authority for possible reconstructing.

Timetable:

Action	Date	FR Cite
Begin Review	03/15/85	
End Review	04/30/86	

Small Entity: No

Agency Contact: Frank Masterson, Chief, Policy Branch, Office of Training and Development, Office of Personnel Management, Workforce Effectiveness & Development Group, 1121 Vermont Avenue, NW, P.O. Box 7230, Washington, D.C. 20044, 202 632-8660

RIN: 3206-AC12

3084. PERSONNEL MANAGEMENT RESEARCH PROGRAMS AND DEMONSTRATION PROJECTS

Legal Authority: 5 USC 4701; 5 USC 4703; 5 USC 4705; 5 USC 4706

CFR Citation: 5 CFR 470

Legal Deadline: None

OPM

Prerule Stage

Abstract: Review of OPM oversight responsibility for administering demonstration projects. The review will address possible clarification of OPM's oversight role.

Timetable:

Action	Date	FR Cite
Begin Review	09/19/85	
End Review	09/30/86	

Small Entity: No

Agency Contact: Kathleen Connelly, Chief, Research and Demonstration Staff, Office of Personnel Management, Workforce Effectiveness & Development Group, 1900 E Street, N.W., Washington, D.C. 20415, 202 653-9457

RIN: 3206-AC13

3085. PAY UNDER THE GENERAL SCHEDULE; PAY ADJUSTMENTS FOR SUPERVISORS

Legal Authority: 5 USC 5333(b)

CFR Citation: 5 CFR 531, Subpart C

Legal Deadline: None

Abstract: Under current regulations, General Schedule supervisors of wage employees may receive an adjustment in basic pay to exceed the rate paid wage employees under their supervision. This adjustment, however, is permanent. No reduction is permitted even if the conditions prompting the adjustment no longer exist. OPM is reviewing the current regulations to determine whether revisions are appropriate.

Timetable:

Action	Date	FR Cite
Begin Review	08/01/85	
End Review	03/31/86	

Small Entity: No

Agency Contact: Ronald Clark, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AC37

3086. PREVAILING RATE SYSTEMS

Legal Authority: 5 USC 5343; 5 USC 5346

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: Review of existing wage schedule for U.S. citizens overseas to ensure currency of wage rates.

Timetable:

Action	Date	FR Cite
Begin Review	01/00/86	
End Review	04/00/86	

Small Entity: No

Agency Contact: Richard J. Carney, Chief, Wage Systems Division, Office of Personnel Management, Office of Pay Programs, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-7830

RIN: 3206-AC17

3087. SUITABILITY -- SUITABILITY DISQUALIFICATIONS

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7301; EO 10577; EO 11222

CFR Citation: 5 CFR 731, Subpart B

Legal Deadline: None

Abstract: Comprehensive review of suitability standards. Current revision of personnel security program by Presidentially directed task force will likely result in the need for conforming changes in personnel suitability standards.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/85	
End Review	07/01/86	

Small Entity: No

Agency Contact: George Woloshyn, Associate Director, Office of Personnel Management, Compliance and Investigations Group, 1900 E Street, NW, Washington, DC 20415, 202 632-4426

RIN: 3206-AC19

3088. SUITABILITY -- SUITABILITY RATING ACTIONS

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7301; EO 10577; EO 11222

CFR Citation: 5 CFR 731, Subpart C

Legal Deadline: None

Abstract: Review of subject-to-investigation time limit to determine whether the time limit is inadequate.

Timetable:

Action	Date	FR Cite
Begin Review	03/15/85	
End Review	07/01/86	

Small Entity: No

Agency Contact: George Woloshyn, Associate Director, Office of Personnel Management, Compliance and Investigations Group, 1900 E Street, NW, Washington, DC 20415, 202 632-4426

RIN: 3206-AC20

3089. ● PERSONNEL SUITABILITY

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7301; EO 10577; EO 11222; Defense Authorization Act of 1986, Sec 1622

CFR Citation: 5 CFR 731

Legal Deadline: None

Abstract: Review to determine changes needed to debar applicants from Federal employment who must register for the military draft but have not done so.

Timetable:

Action	Date	FR Cite
Begin Review	12/01/85	
End Review	04/01/86	

Small Entity: No

Agency Contact: George Woloshyn, Associate Director, Office of Personnel Management, Compliance and Investigations Group, 1900 E Street, NW, Washington, DC 20415, 202 632-4426

RIN: 3206-AC74

3090. PERSONNEL SECURITY AND RELATED PROGRAMS

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 7312; 50 USC 403; EO 10450; EO 10577

CFR Citation: 5 CFR 732

Legal Deadline: None

Abstract: Review of suitability security distinctions. Evidence of inconsistent application of security/suitability standards among agencies points up the need for clarifying regulations.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/85	
End Review	07/01/86	

Small Entity: No

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OPM — Prerule Stage

Agency Contact: George Woloshyn, Associate Director, Office of Personnel Management, Compliance and Investigations Group, 1900 E Street, NW, Washington, DC 20415, 202 632-4426

RIN: 3206-AC21

3091. EMPLOYEE CONDUCT AND RESPONSIBILITIES

Legal Authority: EO 11222

CFR Citation: 5 CFR 735

Legal Deadline: None

Abstract: Review of Part 735 for purposes of (a) removing sections that are not part of the authorized functions of the Office of Government Ethics, but are the responsibilities of other offices in the Office of Personnel Management or individual agencies; and (b) adding to the new part a prohibition against unauthorized tape recording of the conversations of employees by any other employee within departments and agencies.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/85	
End Review	03/31/86	

Small Entity: No

Agency Contact: W. Scott Burke, General Counsel, Office of Personnel Management, Office of the General Counsel, 1900 E Street, NW, Washington, DC 20415, 202 632-4632

RIN: 3206-AC22

3092. INVESTIGATIONS

Legal Authority: PL 93-579; 5 USC 522a

CFR Citation: 5 CFR 736

Legal Deadline: None

Abstract: Review of enforcement procedures for Governmentwide background investigations standards. The review will focus on the need for clarification and greater consistency in application of agency background investigation standards.

Timetable:

Action	Date	FR Cite
Begin Review	11/01/85	
End Review	07/01/86	

Small Entity: No

Agency Contact: George Woloshyn, Associate Director, Office of Personnel Management, Compliance and Investigations Group, 1900 E Street, N.W., Washington, D.C. 20415, 202 632-4426

RIN: 3206-AB92

3093. ● SUITABILITY DISQUALIFICATION ACTIONS

Legal Authority: 5 USC 1302; 5 USC 3301; 5 USC 3302; 5 USC 7701; EO 10577; EO 11491

CFR Citation: 5 CFR 754

Legal Deadline: None

Abstract: Review of entitlement to be retained in pay status pending results of appeal to identify any need for change.

Timetable:

Action	Date	FR Cite
Begin Review	01/02/86	
End Review	07/01/86	

Small Entity: No

Agency Contact: George Woloshyn, Associate Director, Office of Personnel Management, Compliance and Investigations Group, 1900 E Street, NW, Washington, DC 20415, 202 632-4426

RIN: 3206-AC75

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Proposed Rule Stage

3094. PROTECTION OF PRIVACY AND PERSONNEL RECORDS

Legal Authority: 5 USC 552a

CFR Citation: 5 CFR 297

Legal Deadline: None

Abstract: The Privacy Act (5 U.S.C. 552a) requires agencies to issue regulations to implement the Act. OPM's regulations also require that agencies follow OPM's rule for those records maintained by them that are under OPM's control. These regulations have remained unchanged since 1979 and thus need revision to reflect any changes resulting from case law or OPM policy and to remove unnecessary material.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Agency Contact: John Sanet, Information Specialist, Office of Personnel Management, Office of Workforce Information, Compliance and Investigations Group, 1900 E St., NW, Washington, DC 20415, 202 632-4455

RIN: 3206-AA70

3095. EMPLOYMENT (GENERAL); EMPLOYMENT PRACTICES

Legal Authority: 5 USC 3301; 5 USC 3302; 5 USC 3304

CFR Citation: 5 CFR 300

Legal Deadline: None

Abstract: Clarification of the policy and appeal procedures used in developing and implementing employment practices in the recruitment, measurement and selection of individuals for appointments and promotion within the competitive service. The proposed amendments would remove a non-statutory appeal procedure which was created to provide a simple, streamlined administrative review procedure but which has, instead, become a time-consuming, convoluted process. Additionally, the proposed changes would avoid a duplicative enforcement procedure currently subject to review by OPM and MSPB, which is, more properly, within the sole jurisdiction of the EEOC.

OPM — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
EEOC Coordination	02/01/86	
NPRM	03/00/86	

Small Entity: No

Agency Contact: James S. Green, Assistant General Counsel, Office of Personnel Management, Office of the General Counsel, 1900 E Street, NW, Washington, DC 20415, 202 632-5524

RIN: 3206-AB41

3096. EMPLOYMENT (GENERAL); TIME-IN-GRADE RESTRICTIONS

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 300, Subpart F

Legal Deadline: None

Abstract: Regulations based on review of time-in-grade restrictions. Regulations will address inconsistencies and clarify certain provisions.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Donald L. Holum, Chief, Staffing Policy Analysis Division, Office of Personnel Management, Staffing Group, 1900 E Street, NW, Washington, D.C. 20415, 202 632-6817

RIN: 3206-AC01

3097. APPOINTMENT, REASSIGNMENT, TRANSFER, AND REINSTATEMENT IN THE SENIOR EXECUTIVE SERVICE

Legal Authority: 5 USC 3392; 5 USC 3393; 5 USC 3394; 5 USC 3397

CFR Citation: 5 CFR 317

Legal Deadline: None

Abstract: Interim regulations to govern appointment actions in the SES, including establishment of qualifications standards, agency recruitment and selection procedures for career appointments, operations of OPM Qualifications Review Boards, and completion of the one-year probationary period for career appointees. Regulations are intended to set forth basic staffing requirements to assure compliance with merit system provisions and to implement staffing provisions of Pub. L. 98-615, November 8, 1984.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Additional Information: Regulatory Program RIN 3206-AC81 combines this item with RINs 3206-AA21, 3206-AA23, 3206-AB29, and 3206-AA50.

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW, Washington, DC 20415, 202 632-4625

RIN: 3206-AA09

3098. ● EMPLOYMENT IN THE SENIOR EXECUTIVE SERVICE

Significance: Regulatory Program

Legal Authority: 5 USC 3392; 5 USC 3393; 5 USC 3394; 5 USC 3397; 5 USC 1302; 5 USC 3595; 5 USC 3596; 5 USC 5383; 5 USC 5385; 5 USC 7543

CFR Citation: 5 CFR 317; 5 CFR 359; 5 CFR 534; 5 CFR 752

Legal Deadline: None

Abstract: This is a Regulatory Program entry that combines RINs 3206-AA09, 3206-AA21, 3206-AA23, 3206-AB29, and 3206-AA50.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Charles K. Dutcher, Assistant Director, Office of Executive Administration, Office of Personnel Management, 1900 E St., NW, Washington, DC 20415, 202 632-6104

RIN: 3206-AC81

3099. GENERAL RECRUITMENT/PLACEMENT PRINCIPLES

Legal Authority: 5 USC 1302; 5 USC 3302; 5 USC 3315; 5 USC 3502

CFR Citation: 5 CFR 330; 5 CFR 351

Legal Deadline: None

Abstract: Proposed regulations based on review of Reemployment Priority List and Displaced Employee Program authorities. Regulations would focus on the need to provide assistance to employees in cutbacks.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Agency Contact: Donald L. Holum, Chief, Staffing Policy Analysis Div., Office of Personnel Management, Staffing Group, 1900 E Street, NW, Washington, D.C. 20415, 202 632-6817

RIN: 3206-AC07

3100. PROMOTION AND INTERNAL PLACEMENT

Significance: Regulatory Program

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 335

Legal Deadline: None

Abstract: Proposed regulations to revise the Federal Merit Promotion Program to strengthen management rights, and clarify important concepts.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Analyze comments	07/00/86	
Final Action	09/00/86	

Small Entity: No

Agency Contact: Raleigh M. Neville, Personnel Staffing Specialist, Office of Personnel Management, Policy Analysis Division, Staffing Group, 1900 E Street, NW, Washington, DC 20415, 202 632-6817

RIN: 3206-AA90

3101. QUALIFICATIONS REQUIREMENTS (MEDICAL)

Legal Authority: 5 USC 3301; 5 USC 3304; 5 USC 3312

CFR Citation: 5 CFR 339

Legal Deadline: None

Abstract: Proposed regulations to clarify procedures for establishing physical requirements for jobs and for documenting and processing disabilities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Raleigh Neville, Personnel Management Specialist, Office of Personnel Management, Policy Analysis Division, Staffing Group, 1900 E Street, NW, Washington, DC 20415, 202 632-6817

RIN: 3206-AA91

3102. REDUCTION IN FORCE, IDENTIFICATION OF EMPLOYEES FOR TRANSFER OF FUNCTION

Legal Authority: 5 USC 1302; 5 USC 3503

CFR Citation: 5 CFR 351

Legal Deadline: None

Abstract: Changes needed to clarify OPM policy pertaining to a transfer of function and reflect pertinent MSPB decisions.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Tom Glennon, Personnel Staffing Specialist, Office of Personnel Management, Policy Analysis Division, Staffing Group, 1900 E St., NW; Washington, DC 20415, 202 632-6817

RIN: 3206-AC33

3103. RESTORATION TO DUTY FROM MILITARY SERVICE AND INJURY COMPENSATION

Legal Authority: 38 USC 2021 et seq; 5 USC 8151

CFR Citation: 5 CFR 353

Legal Deadline: None

Abstract: Complete revision of Part 353 to update, simplify, and clarify the regulations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Raleigh Neville, Personnel Staffing Specialist, Office of Personnel Management, Policy Analysis Division, Staffing Group, 1900 E St., NW; Washington, DC 20415, 202 632-6817

RIN: 3206-AC34

3104. REMOVAL FROM THE SENIOR EXECUTIVE SERVICE; GUARANTEED PLACEMENT IN OTHER PERSONNEL SYSTEMS

Legal Authority: 5 USC 1302; 5 USC 3596

CFR Citation: 5 CFR 359

Legal Deadline: None

Abstract: Revised interim regulations on (1) the removal of SES career appointees during probation or for less than fully successful executive performance, (2) the removal of other than career appointees, (3) placement rights in other personnel systems of certain SES career appointees. These actions are authorized by law. The regulations establish procedures for implementing previous law and the new Pub. L. 98-615, November 8, 1984.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/31/79	44 FR 44815
NPRM	04/00/86	

Small Entity: No

Additional Information: Regulatory Program RIN 3206-AC81 combines this item with RINs 3206-AA09, 3206-AA23, 3206-AB29, and 3206-AA50.

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW, Washington, DC 20415, 202 632-4625

RIN: 3206-AA21

3105. REMOVAL FROM THE SENIOR EXECUTIVE SERVICE; GUARANTEED PLACEMENT IN OTHER PERSONNEL SYSTEMS

Legal Authority: 5 USC 3595; 5 USC 3596

CFR Citation: 5 CFR 359

Legal Deadline: None

Abstract: Interim regulations to add a new subpart to implement Pub. L. 97-35, August 13, 1981, as amended by Pub.L. 97-348, October 15, 1982, and Pub. L. 98-615, November 8, 1984, which added provisions to Title 5 to govern SES reduction-in-force actions affecting career executives. Regulations are needed to cover certain areas not in the law, such as notification to employees and retention of records, and to implement the provisions in the law dealing with OPM's responsibility to help place career executives identified for reduction in force and with "fallback" rights following a RIF.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Additional Information: Regulatory Program RIN 3206-AC81 combines this item with RINs 3206-AA09, 3206-AA21, 3206-AB29, and 3206-AA50.

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW, Washington, DC 20415, 202 632-4625

RIN: 3206-AA23

3106. TRAINING

Legal Authority: 5 USC 4118

CFR Citation: 5 CFR 410

Legal Deadline: None

Abstract: Revision of regulations on determining the source of training to reflect revision by Office of Management and Budget of Circular No. A-76 "Performance of Commercial Activities."

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: Frank Masterson, Chief, Policy Branch, Office of Personnel Management, Office of Training and Development, 1121 Vermont Avenue, NW; P.O. Box 7230, Washington, DC 20044, 202 632-6666

RIN: 3206-AB23

3107. ● EXECUTIVE AND MANAGEMENT DEVELOPMENT

Legal Authority: 5 USC 3397

CFR Citation: 5 CFR 412

Legal Deadline: None

Abstract: Removal of a provision exempting smaller agencies (those with 150 or fewer Senior Executive Service positions) from a requirement to recruit at least Government-wide for their Senior Executive Service candidate development programs.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: Constance Guitian, Employee Development Specialist, Office of Personnel Management, Office of Training and Development, 1121 Vermont Avenue, NW, PO Box 7230; Washington, DC 20044, 202 254-3240

RIN: 3206-AC79

3108. REDUCTION IN GRADE AND REMOVAL BASED ON UNACCEPTABLE PERFORMANCE

Legal Authority: 5 USC 4303; 5 USC 4305

CFR Citation: 5 CFR 432

Legal Deadline: None

Abstract: Proposed regulations to clarify certain aspects of existing regulations pertaining to procedures to follow in removing or reducing in grade employees whose performance is unacceptable.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	07/00/86	

Small Entity: No

Agency Contact: Tim Dirks, Chief, Office of Personnel Management, Appellate Policies Division, 1900 E Street, NW, Washington, DC 20415, 202 653-8551

RIN: 3206-AB21

3109. PRODUCTIVITY GAINSHARING

Significance: Regulatory Program

Legal Authority: 5 USC Ch 45; 5 USC Ch 54

CFR Citation: 5 CFR 451

Legal Deadline: None

Abstract: Provides agencies a regulatory framework for establishing productivity gainsharing programs. Provides that employees may be awarded up to 50 percent of the documented savings generated from a gainsharing program not to exceed 30 percent of an employee's annual rate of pay.

Timetable:

Action	Date	FR Cite
NPRM	04/01/86	

Small Entity: No

Agency Contact: Terry W. Culler, Associate Director, Workforce Effectiveness & Development Group, Office of Personnel Management, Office of Performance Management, 1900 E St., NW, Washington, DC 20415, 202 632-5786

RIN: 3206-AC71

3110. PAY UNDER THE GENERAL SCHEDULE; DETERMINING RATE OF BASIC PAY

Legal Authority: 5 USC 5305(a); 5 USC 5334(a); 5 USC 5336; EO 11721

CFR Citation: 5 CFR 531, Subpart B

Legal Deadline: None

Abstract: Under current regulations, agencies may use an employee's highest previous rate as a Federal employee, updated to account for intervening pay adjustments, as the basis for paying a higher rate than otherwise would be required by law or regulation upon promotion, demotion, reassignment, transfer, or reemployment -- without regard to the recency of the employee's previous Federal work experience. Proposed regulations would limit the use of an employee's highest previous rate by establishing a reasonable relationship between the recency of an employee's previous work experience and the current employment situation. In addition, proposed regulations would revise the current regulations to conform to the principles of the Performance Based Incentive System and correct certain longstanding basic pay administration problems. Revision may also include technical and conforming changes in 5 CFR Parts 530 and 536.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Jan Karicher, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW, Washington, DC 20415, 202 632-4634

RIN: 3206-AA32

3111. PAY UNDER THE GENERAL SCHEDULE; GRADE AND PAY RETENTION

Legal Authority: 5 USC 5334(a); 5 USC 5338; 5 USC 5365

CFR Citation: 5 CFR 531; 5 CFR 536

Legal Deadline: None

Abstract: Under current regulations, numerous pay administration problems exist in movements between Federal pay systems. For example, the method of determining entitlement to grade retention in movements between pay systems results in unnecessary expenditures of Federal funds and false expectations for affected employees. Proposed regulations would revise definitions of "promotion" and "demotion" to improve pay administration and minimize the number of employees entitled to grade retention in movements between pay systems. Revisions may also include technical and conforming changes in 5 CFR Parts 210 and 532.

Timetable:

Action	Date	FR Cite
NPRM	04/30/86	

Small Entity: No

Agency Contact: Bobby G. Williams, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E Street, NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AC36

3112. PREVAILING RATE SYSTEMS

Legal Authority: 5 USC 5343; 5 USC 5346

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: Comprehensive revision of regulations to ensure prevailing rates are consistent with the intent of the law, and to make necessary technical, terminological, and conforming changes.

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OPM — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: Richard J. Carney, Chief, Wage Systems Division, Office of Personnel Management, Office of Pay Programs, 1900 E Street, NW, Washington, DC 20415, 202 632-7830

RIN: 3206-AC36

3113. ● PREVAILING RATE SYSTEMS

Legal Authority: 5 USC 5343; 5 USC 5346

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: Revision of Virgin Islands agency special schedules to modify schedule adjustment procedures and to ensure interagency consistency.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
Final Action	06/00/86	

Small Entity: No

Agency Contact: Richard J. Carney, Chief, Wage Systems Division, Office of Personnel Management, Office of Pay Programs, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-7830

RIN: 3206-AC77

3114. ● PREVAILING RATE SYSTEMS

Legal Authority: 5 USC 5343; 5 USC 5346

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: Revision of special rate authority to strengthen OPM's role and to assure a more cost-effective approach in dealing with Federal Wage System staffing problems.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: Richard J. Carney, Chief, Wage Systems Division, Office of Personnel Management, Office of Pay Programs, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-7830

RIN: 3206-AC78

3115. ● PREVAILING RATE SYSTEMS

Significance: Regulatory Program

Legal Authority: 5 USC 5342; 5 USC 5346

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: Revision of Monroney regulations so that only non-Department of Defense employment is considered. Legislation has removed DOD employees from Monroney.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: James W. Morrison, Jr., Associate Director, Compensation Group, Office of Personnel Management, Office of Pay Programs, 1900 E St., NW, Washington, DC 20415, 202 632-7830

RIN: 3206-AC82

3116. PAY UNDER OTHER SYSTEMS (PAY UNDER THE SENIOR EXECUTIVE SERVICE)

Legal Authority: 5 USC 5383; 5 USC 5385

CFR Citation: 5 CFR 534

Legal Deadline: None

Abstract: Proposed regulations on setting individual basic pay under the SES. Regulations are needed to clarify the intent and application of 5 USC 5383(a) on changes in SES pay rates and to implement provisions in Pub. L. 98-615, November 8, 1984, on aggregate compensation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Additional Information: Regulatory Program RIN 3206-AC81 combines this item with RINs 3206-AA09, 3206-AA21, 3206-AA23, and 3206-AA50.

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW, Washington, DC 20415, 202 632-4625

RIN: 3206-AB29

3117. GRADE AND PAY RETENTION

Legal Authority: 5 USC 5365

CFR Citation: 5 CFR 536

Legal Deadline: None

Abstract: Under current regulations, Federal agencies have considerable discretion in determining whether to grant grade or pay retention to employees who are or might be affected by a reduction in force, reorganization, or other management action. Proposed regulations would limit and more clearly define those situations in which grade or pay retention appropriately may be used by agencies as a management tool,

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Bobby G. Williams, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AC39

3118. PAY ADMINISTRATION (GENERAL); SEVERANCE PAY

Legal Authority: 5 USC 5595; EO 11228

CFR Citation: 5 CFR 550, Subpart G

Legal Deadline: None

Abstract: Proposed regulations would make eligibility for involuntary retirement and severance pay parallel, since the same circumstances give rise to both. Proposed regulations would also address questions about how to handle severance pay in contracting-out situations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

OPM — Proposed Rule Stage

Agency Contact: Jan Karicher, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AC41

3119. PAY ADMINISTRATION (GENERAL); BACK PAY

Legal Authority: 5 USC 5596(c)

CFR Citation: 5 CFR 550, Subpart H

Legal Deadline: None

Abstract: The authority of Federal agencies to deduct from back pay awards the amount of State unemployment compensation received during periods covered by the award is clarified to require such a deduction to satisfy the "make-whole" purpose of the back pay law. In addition, proposed regulations would clarify the definition of other "erroneous payments" to be deducted from back pay awards.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Jan Karicher, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AC44

3120. PAY ADMINISTRATION UNDER THE FLSA: COMPLIANCE

Legal Authority: 29 USC 204(f); 5 USC 1103(a)(5)

CFR Citation: 5 CFR 551, Subpart F

Legal Deadline: None

Abstract: Proposed new regulation to implement the FLSA Compliance Program and simplify the FLSA claims handling process.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: No

Agency Contact: Terry Evans, Personnel Management Specialist, Office of Personnel Management, Compliance and Investigations Group, Agency Compliance and Evaluation, 1900 E St., NW, Washington, DC 20415, 202 632-5691

RIN: 3206-AA40

3121. PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT

Legal Authority: 29 USC 204(f)

CFR Citation: 5 CFR 551

Legal Deadline: None

Abstract: Technical and conforming amendments to bring current regulations up to date by correcting reference errors, deleting obsolete provisions, etc.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Dwight W. Brown, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AC45

3122. PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR ALIMONY

Legal Authority: 42 USC 659; 42 USC 661 to 662; 15 USC 1673; EO 12105

CFR Citation: 5 CFR 581

Legal Deadline: None

Abstract: Update regulation in response to ongoing suggestions and corrections, especially changes to Appendix A which contains an obsolete list of agents designated to accept legal process.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Murray Meeker, Attorney, Office of Personnel Management, Office of the General Counsel, 1900 E Street, NW, Room 5H30, Washington, DC 20415, 202 632-4518

RIN: 3206-AB42

3123. ABSENCE AND LEAVE; ANNUAL AND SICK LEAVE

Legal Authority: 5 USC 6311

CFR Citation: 5 CFR 630, Subparts A to E

Legal Deadline: None

Abstract: Revision of annual and sick leave regulations is necessary to update, improve, and refine the current regulations to ensure appropriate and consistent application of leave administration policies within all Federal agencies. Proposed rules would (1) add new rules to improve leave administration, (2) revise the current rules for clarification and consistency, and (3) reorganize the sections with the subparts in a more logical sequence. These and other changes, such as regulating a consistent and equitable method of liquidating leave indebtedness and revising the requirement to forgive leave indebtedness, would resolve some troublesome leave issues, improve leave administration, and result in cost savings.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: June Goodell, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW, Washington, DC 20415, 202 632-4634

RIN: 3206-AA44

3124. ABSENCE AND LEAVE; HOME LEAVE

Legal Authority: 5 USC 6311

CFR Citation: 5 CFR 630, Subpart F

Legal Deadline: None

Abstract: Proposed regulations to (1) clarify and eliminate discrepancies in application, (2) incorporate changes required by the Foreign Service Act of 1980, and (3) revise the accrual rates. Under current regulations, employees

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with desirable overseas assignments receive the same benefits as those on hardship assignments. Proposed regulations would relate home leave to the degree of hardship.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: No

Agency Contact: June Goodell, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AB64

3125. ABSENCE AND LEAVE; SHORE LEAVE

Legal Authority: 5 USC 6311

CFR Citation: 5 CFR 630, Subpart G

Legal Deadline: None

Abstract: Proposed regulations would recognize changed conditions since enactment of the shore leave law, prohibit inappropriate use of terminal shore leave, and eliminate discrepancies in application.

Timetable:

Action	Date	FR Cite
NPRM	03/00/87	

Small Entity: No

Agency Contact: June Goodell, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AB65

3126. AFFIRMATIVE EMPLOYMENT PROGRAMS

Significance: Regulatory Program

Legal Authority: 5 USC 7201; PL 89-554; PL 95-454; 5 USC 7151; 38 USC 2014

CFR Citation: 5 CFR 720

Legal Deadline: None

Abstract: Revises Part 720 to reflect: elimination of any requirement that is not specifically required by law and is administratively burdensome; less emphasis on paperwork/plan and statistical reporting requirements and more on implementing effective recruiting efforts; and more emphasis on agency accountability and flexibility for the development, implementation, and evaluation of agency recruiting programs.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	09/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Robert Franco, Chief, Technical Assistance & Operations Division, (202) 632-5607.

Agency Contact: Don A. Smith, Chief, Evaluation Division, Office of Personnel Management, Office of Affirmative Employment Programs, Workforce Effectiveness & Development Group, 1900 E St., NW, Washington, DC 20415, 202 632-7662

RIN: 3206-AB06

3127. POLITICAL ACTIVITY OF FEDERAL EMPLOYEES

Legal Authority: 5 USC 1308; 5 USC 3301; 5 USC 3302; 5 USC 7301; 5 USC 7321 to 7325; 5 USC 7327; 42 USC 2729; EO 10577 3 CFR, 1954-1958 Comp. p. 218; 5 USC 7701 et seq; EO 12107

CFR Citation: 5 CFR 733

Legal Deadline: None

Abstract: Prescribes (1) regulations under the Hatch Act and related provisions of law that restrict the political activity of Federal employees; (2) definitional and structural revisions; and (3) possible addition and/or recision of partial exceptions by the Director for municipalities or political subdivisions.

Timetable:

Action	Date	FR Cite
NPRM	03/31/86	

Small Entity: No

Agency Contact: JoAnn Chabot, Attorney, Office of Personnel Management, Office of the General Counsel, 1900 E St., NW, Room 5H22, Washington, DC 20415, 202 632-7746

RIN: 3206-AA47

3128. EXECUTIVE PERSONNEL FINANCIAL DISCLOSURE REQUIREMENTS

Significance: Regulatory Program

Legal Authority: 5 USC App 207(a); PL 95-521

CFR Citation: 5 CFR 734

Legal Deadline: None

Abstract: Proposed new regulation to supersede portions of 5 CFR Part 735 dealing with confidential financial disclosure for grades below GS-16.

Timetable:

Action	Date	FR Cite
NPRM	06/01/86	
Final Action	07/31/86	

Small Entity: No

Agency Contact: David H. Martin, Director, Office of Government Ethics, Office of Personnel Management, P.O. Box 14108, Washington, DC 20044, 202 632-2792

RIN: 3206-AA93

3129. EMPLOYEE RESPONSIBILITIES AND CONDUCT

Legal Authority: EO 11222; PL 95-521

CFR Citation: 5 CFR 735

Legal Deadline: None

Abstract: Amends portions of final regulation, 5 CFR Part 735, to clarify and update general provisions dealing with employee conduct.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: Jane Ley, Staff Attorney, Office of Personnel Management, Office of Government Ethics, P.O. Box 14108, Washington, DC 20044, 202 632-6569

RIN: 3206-AB66

3130. POST EMPLOYMENT CONFLICT OF INTEREST

Legal Authority: 18 USC 207; PL 95-521

CFR Citation: 5 CFR 737

Legal Deadline: None

Abstract: Proposed technical and conforming regulations to clarify the post employment rules.

Timetable:

Action	Date	FR Cite
NPRM	06/15/86	

Small Entity: No

Agency Contact: Gary Davis/Jane Ley, Staff Attorneys, Office of Personnel Management, Office of Government Ethics, P.O. Box 14108, Washington, DC 20044, 202 632-7642

RIN: 3206-AB12

3131. ADVERSE ACTIONS

Legal Authority: 5 USC 7504; 5 USC 7514

CFR Citation: 5 CFR 752

Legal Deadline: None

Abstract: Revisions to clarify certain aspects of existing regulations pertaining to the coverage of certain actions and employees under 5 USC chapter 75.

Timetable:

Action	Date	FR Cite
NPRM	03/30/86	
Final Action	06/30/86	

Small Entity: No

Agency Contact: Tim Dirks, Chief, Appellate Policies Division, Office of Personnel Management, Workforce Effectiveness & Development Group, 1900 E Street, N.W., Washington, D.C. 20415, 202 653-8551

RIN: 3206-AC23

3132. ADVERSE ACTIONS (REGULATORY REQUIREMENTS FOR TAKING ADVERSE ACTIONS UNDER THE SENIOR EXECUTIVE SERVICE)

Legal Authority: 5 USC 7543

CFR Citation: 5 CFR 752, Subpart F

Legal Deadline: None

Abstract: Revised interim regulations on (1) suspensions for more than 14 days and (2) removal from the civil service of SES career appointees. These actions were authorized by Pub. L. 95-454 (October 13, 1978), which was amended by Pub. L. 97-35 (August 13, 1981) and Pub. L. 98-615 (November 6, 1984). The regulations establish procedures for implementing the law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/31/79	44 FR 44818
NPRM	04/00/86	

Small Entity: No

Additional Information: Regulatory Program RIN 3206-AC81 combines this item with RINs 3206-AA09, 3206-AA21, 3206-AA23, and 3206-AB29.

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW, Washington, DC 20415, 202 632-4625

RIN: 3206-AA50

3133. RETIREMENT; ORDER OF PRECEDENCE FOR APPLICATION OF SERVICE CREDIT DEPOSITS

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831

Legal Deadline: None

Abstract: Current regulations do not state the order in which service credit deposits will be applied. Proposed regulations would specify an order of precedence for applying such deposits.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Mary Angel, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-1285

RIN: 3206-AB79

3134. RETIREMENT

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831

Legal Deadline: None

Abstract: Technical and conforming amendments to bring current regulations up to date by correcting reference errors, deleting obsolete provisions, etc.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Additional Information: Incorporates previous RIN 3206-AB69, "Retirement; Definitions."

Agency Contact: John Landers, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-1285

RIN: 3206-AC28

3135. RETIREMENT; ORDER OF PRECEDENCE FOR STATUTORY WITHHOLDINGS FROM ANNUITY

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart A

Legal Deadline: None

Abstract: Regulations to improve administration of the Civil Service Retirement and Disability Fund by establishing a uniform order of precedence for purposes of offsetting civil service annuity benefits to satisfy statutory obligations, such as state income tax withholding requests and court orders directing apportionment or garnishment of such benefits. Proposed regulations would consolidate disparate rules and practices which have developed for determining the net annuity available for offset for various purposes.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Doris Reeves, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-1285

RIN: 3206-AB70

3136. RETIREMENT; CREDIT FOR SERVICE

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart C

Legal Deadline: None

Abstract: Proposed regulations would specify the conditions for finding that an individual is a Federal employee for civil service retirement purposes, including the very limited exceptions to the general rule that a contract with the Government does not confer "employment" rights.

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Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: John Landers, Chief, Technical Analysis Branch, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-1285

RIN: 3206-AB71

3137. RETIREMENT; CREDIT FOR UNUSED SICK LEAVE

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart C

Legal Deadline: None

Abstract: Unused sick leave at time of retirement is added to service credit for computation of annuity. Full-time employees receive one day of credit for eight hours of sick leave. Part-time employees receive more than one day of credit for eight hours of sick leave, on a prorated basis. Proposed regulations would treat full-time and part-time employees equally. All employees would receive one day of retirement credit for eight hours of unused sick leave.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: John Landers, Chief, Technical Analysis Branch, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-1285

RIN: 3206-AB72

3138. RETIREMENT; CREDIT AND DEPOSITS FOR MILITARY SERVICE

Legal Authority: PL 97-253, Sec 308(b); PL 98-94, Sec 1257; PL 98-369, Sec 2205

CFR Citation: 5 CFR 831, Subparts C and U

Legal Deadline: None

Abstract: Public Laws 97-253, 98-94, and 98-369 amend the provisions of the retirement law that deal with crediting military service and making deposits for military service. Proposed regulations would revise the affected regulations to implement these laws.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Mary Angel, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-1285

RIN: 3206-AB73

3139. RETIREMENT; SURVIVOR BENEFITS

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart F

Legal Deadline: None

Abstract: Regulations to require a retiring employee or Member, who elects a reduced annuity with survivor benefit for a person having an insurable interest, to pay the cost of providing medical evidence to show such employee or Member is in good health. Under past practice, OPM paid for these medical examinations.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Jane Lohr, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-1285

RIN: 3206-AB74

3140. RETIREMENT; LAW ENFORCEMENT OFFICERS AND FIREFIGHTERS

Legal Authority: 5 USC 8347; 5 USC 8336(c)

CFR Citation: 5 CFR 831, Subpart I

Legal Deadline: None

Abstract: Current regulations do not adequately articulate the criteria for determining whether an employee meets the statutory definition of "law enforcement officer" or "firefighter." Proposed regulations would clarify the criteria used by OPM to establish eligibility of employees under the special retirement provisions for law enforcement officers and firefighters.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Agency Contact: Ray Kirk, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E Street, NW; Washington, DC 20415, 202 632-1285

RIN: 3206-AB09

3141. RETIREMENT; DISABILITY RETIREMENT

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart L

Legal Deadline: None

Abstract: Comprehensive revision of disability retirement regulations to clarify (1) OPM'S authority to find a disability annuitant recovered from a disability when the annuitant is reemployed in the Federal service in a position equivalent in grade to the one from which he or she retired, and (2) the rules used to determine whether a disability annuitant has been restored to earning capacity.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Agency Contact: Raymond Sparmon, Paralegal Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-1285

RIN: 3206-AB77

3142. RETIREMENT; RECOVERY OF ANNUITY OVERPAYMENTS

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart M

Legal Deadline: None

Abstract: Proposed regulations to add further guidelines on debt collection activities under the Debt Collection Act of 1982. Current regulations need to be expanded to (1) exclude collections made by Treasury under 31 CFR 210.10 from OPM procedures for recovery of debts, and (2) add provisions for collecting debts due the Civil Service

Retirement Fund from a deceased debtor.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Patricia A. Rochester, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-1285

RIN: 3206-AB78

3143. FEDERAL EMPLOYEES GROUP LIFE INSURANCE

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870

Legal Deadline: None

Abstract: Deletes obsolete provision that automatically cancels designation of beneficiaries (1) when employee transfers (except by mass transfer) from one agency to another, and (2) 31 days after employee's insurance coverage terminates.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Agatha Gray, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E Street,NW; Washington DC, 20415, 202 632-0003

RIN: 3206-AC85

3144. FEDERAL EMPLOYEES GROUP LIFE INSURANCE

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870; 5 CFR 871; 5 CFR 872; 5 CFR 873

Legal Deadline: None

Abstract: Technical and conforming amendments to bring current regulations up to date by correcting reference errors, deleting obsolete provisions, etc.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	

Small Entity: No

Agency Contact: Agatha W. Gray, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-0003

RIN: 3206-AB80

3145. FEDERAL LIFE INSURANCE AND HEALTH BENEFITS; REIMBURSEMENT FOR UNDERDEDUCTIONS

Legal Authority: 5 USC 8716; 5 USC 8913

CFR Citation: 5 CFR 870; 5 CFR 871; 5 CFR 872; 5 CFR 873; 5 CFR 890

Legal Deadline: None

Abstract: Proposed regulations to require reimbursement to the health benefits and life insurance funds for any underdeductions from pay, annuity, or compensation.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Agatha Gray, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E Street, NW; Washington, DC 20415, 202 632-0003

RIN: 3206-AC87

3146. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890

Legal Deadline: None

Abstract: Technical and conforming amendments to bring current regulations up to date by correcting errors, deleting obsolete provisions, etc.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: Barbara Myers, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-0003

RIN: 3206-AB83

3147. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; TERMINATION OF ENROLLMENT

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890, Subpart A

Legal Deadline: None

Abstract: Proposed regulations to extend OPM'S authority to terminate an individual's enrollment in an FEHB group practice comprehensive medical plan to include individual practice comprehensive medical plans and mixed-model medical plans.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: Barbara Myers, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-0003

RIN: 3206-AB84

3148. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; HEALTH BENEFITS PLANS

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890, Subpart B

Legal Deadline: None

Abstract: Proposed regulations to clarify the criteria used by OPM in reviewing applications from comprehensive medical plans seeking to participate in the Federal Employees Health Benefits Program. Regulations would focus on the plan's compliance with state licensing and operating requirements and with Federal procurement regulations, health plan management, marketing, quality of the health care delivery system, and financial condition.

Timetable:

Action	Date	FR Cite
NPRM	04/30/86	

Small Entity: No

Agency Contact: John Ray, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-0003

RIN: 3206-AB86

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3149. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; REGISTRATION AND ENROLLMENT

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890, Subpart C

Legal Deadline: None

Abstract: Proposed regulations to allow an employee or annuitant to change to self and family coverage if a non-federally employed spouse or former spouse loses non-Federal health insurance coverage under certain conditions.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: Barbara Myers, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-8663

RIN: 3206-AB87

3150. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; CONTINUATION OF ENROLLMENT

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890, Subpart C

Legal Deadline: None

Abstract: Proposed regulations to reflect established OPM practice of allowing surviving family members to continue FEHBP participation under multiple enrollments in split-award survivor annuity cases. If multiple enrollments are not allowed, certain eligible family members might lose FEHBP coverage.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: John Ray, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-8663

RIN: 3206-AB66

3151. ◎ FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; RESERVE MANAGEMENT

Significance: Regulatory Program

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890.503

Legal Deadline: None

Abstract: Amendments to current regulations to reduce the target level of special reserves held by health benefits carriers.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
Final Action	10/00/86	

Small Entity: No

Additional Information: Margaret Sears, Pay and Benefits Specialist, (202) 632-0003.

Agency Contact: James W. Morrison, Jr., Associate Director for Compensation, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415, 202 632-1854

RIN: 3206-AC79

3152. PROGRAMS FOR SPECIFIC POSITIONS AND EXAMINATIONS (MISCELLANEOUS) ADMINISTRATIVE LAW JUDGES

Legal Authority: 5 USC 553-9; 5 USC 1104(a)(2); 5 USC 1305; 5 USC 3105; 5 USC 3344; 5 USC 4301(2)(d); 5 USC 5336(a)(3)(3); 5 USC 5372; 5 USC 7521

CFR Citation: 5 CFR 930, Subpart B

Legal Deadline: None

Abstract: Update and clarification of OPM regulations governing examining and employment of Administrative Law Judges. These regulations have not been reviewed as a whole for many years and contain out-of-date terminology.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Craig B. Pettibone, Assistant Director for, Administrative Law Judges, Office of Personnel Management, Staffing Group, 1900 E Street, N.W., Washington, D.C. 20415, 202 632-5977

RIN: 3206-AB91

3153. FEDERAL EMPLOYEES HEALTH BENEFITS ACQUISITION REGULATIONS

Significance: Regulatory Program

Legal Authority: 40 USC 486(c); 5 USC 8913

CFR Citation: 48 CFR 16

Legal Deadline: None

Abstract: Regulations to reflect contracting policy and procedures for the Federal Employees Health Benefits Program (FEHBP) that deviate from the Federal Acquisition Regulations (FAR) or that are needed to supplement the FAR to satisfy special program needs.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
Final Action	12/00/86	

Small Entity: No

Agency Contact: Mary Ann Mercer, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-8003

RIN: 3206-AB07

3154. OPM PROCUREMENT REGULATIONS

Legal Authority: 48 CFR Chapter 1

CFR Citation: 48 CFR 17

Legal Deadline: None

Abstract: Regulations to implement and supplement the Federal Acquisition Regulations (FAR). The FAR were effective April 1, 1984.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Robert Lawaba, Chief, Acquisition Branch, Office of Personnel Management, Acquisition Branch, Room 1468, 1900 E Street, NW, Washington, DC 20415, 202 254-8462

RIN: 3206-AB26

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Final Rule Stage

3155. ORGANIZATION OF THE GOVERNMENT FOR PERSONNEL MANAGEMENT; PERSONNEL MANAGEMENT IN AGENCIES

Legal Authority: 5 USC 1104; 5 USC 1302; 5 USC 3301; 5 USC 3302; EO 10577

CFR Citation: 5 CFR 230; 5 CFR 250

Legal Deadline: None

Abstract: Deletes Part 230 and transfers its regulations to Part 250, to maintain parallel structure with 5 U.S.C. Combines material formerly in Part 230 with regulations now found in Part 250 to present all regulations on agencies' authorities for personnel management in a single part of the Code of Federal Regulations. Changes improve the technical integrity of the CFR by eliminating redundancies and improving the efficiency of OPM's regulations. No change in the coverage or substance of affected regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/20/83	48 FR 22726
Final Action	04/30/86	

Small Entity: No

Agency Contact: Walter Townsend, Program Analyst, Office of Personnel Management, Analysis and Evaluation Division, Office of Budget and Management, 1900 E St., NW, Washington, DC 20415, 202 653-6341

RIN: 3206-AA66

3156. PERSONNEL RECORDS

Legal Authority: 5 USC 552a; 5 USC 4305; 5 USC 4314; EO 12107 (December 28, 1978); 5 USC 1103; 5 USC 1104; 5 USC 1302; 3 CFR 1954 to 1958 Comp; 5 CFR 7.2; EO 9830; 3 CFR 1943 to 1948 Comp

CFR Citation: 5 CFR 293

Legal Deadline: None

Abstract: Requires agencies to send a transferring employee's performance ratings, 3 years old or less, to his or her "gaining" agency, along with the employee's Official Personnel Folder (OPF).

Timetable:

Action	Date	FR Cite
NPRM	08/30/85	50 FR 35505
Final Action	06/00/86	

Small Entity: No

Agency Contact: Allen B. Levan, Chief, Policy and Operations Division, Office of Personnel Management, Office of Performance Management, Workforce Effectiveness & Development Group, 1900 E St., NW, Washington, DC 20415, 202 632-5653

RIN: 3206-AB27

3157. PERSONNEL RECORDS

Legal Authority: 5 USC 2951(2); EO 12107; EO 12196

CFR Citation: 5 CFR 293

Legal Deadline: None

Abstract: The Office recently established an Employee Medical File System for Federal employees that will include an Employee Medical Folder (EMF). This folder will be separate from but a companion folder to the Official Personnel Folder (OPF). These regulations, like the regulations on the OPF, provide minimal requirements on agencies with regard to use and maintenance of the EMF.

Timetable:

Action	Date	FR Cite
NPRM	04/17/85	50 FR 15156
Final Action	04/00/86	

Small Entity: No

Agency Contact: William H. Lynch, Information Specialist, Office of Personnel Management, Office of Workforce Information, Compliance and Investigations Group, 1900 E St., NW; Washington, DC 20415, 202 632-5453

RIN: 3206-AC31

3158. AVAILABILITY OF OFFICIAL INFORMATION

Legal Authority: 5 USC 552

CFR Citation: 5 CFR 294

Legal Deadline: None

Abstract: Agencies are required to publish fee schedules of charges for information under the Freedom of Information Act. We plan to review our fee schedule and update it to more accurately reflect the current costs of providing the information.

Timetable:

Action	Date	FR Cite
NPRM	10/19/82	47 FR 46516
Final Action	06/30/86	

Small Entity: No

Agency Contact: William C. Duffy, Chief, Information Systems Plans & Policies, Office of Personnel Management, Administration Group, Room 6410, 1900 E St., NW, Washington, DC 20415, 202 632-7714

RIN: 3206-AA05

3159. PERFORMANCE MANAGEMENT SYSTEM

Significance: Regulatory Program

Legal Authority: 5 USC 552; 5 USC 552a; 5 USC 3301; 5 USC 3302; 5 USC Ch 43; 5 USC Ch 45; 5 USC Ch 53; 5 USC Ch 54

CFR Citation: 5 CFR 300; 5 CFR 335; 5 CFR 430; 5 CFR 431; 5 CFR 531; 5 CFR 532; 5 CFR 771

Legal Deadline: None

Abstract: Proposed modifications to Performance Management System regulations that were published October 25, 1983, and implemented July 3, 1985. The regulations will be updated to make them more consistent with the regulations established for the Performance Management and Recognition System, mandated by title II of the Civil Service Retirement Spouse Equity Act of 1984, effective October 1, 1984.

Timetable:

Action	Date	FR Cite
NPRM	08/30/85	50 FR 35513
Final Action	05/00/86	

Small Entity: No

Agency Contact: Terry W. Culler, Associate Director, Workforce Effectiveness & Development Group, Office of Personnel Management, Office of Performance Management, 1900 E St., NW, Washington, DC 20415, 202 632-5796

RIN: 3206-AC02

3160. OVERSEAS EMPLOYMENT

Legal Authority: 5 USC 3301; 5 USC 3302

CFR Citation: 5 CFR 301

Legal Deadline: None

Abstract: Deletes prohibition on agency use of overseas limited appointments in certain circumstances.

Timetable:

Action	Date	FR Cite
NPRM	08/20/85	50 FR 33548
Final Action	05/00/86	

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Small Entity: No

Agency Contact: Ed McHugh, Personnel Staffing Specialist, Office of Personnel Management, Policy Analysis Division, Staffing Group, 1900 E St., NW, Washington, DC 20415, 202 632-6817

RIN: 3206-AA71

3161. APPOINTMENT, REASSIGNMENT, TRANSFER AND REINSTATEMENT IN THE SENIOR EXECUTIVE SERVICE (SES CAREER APPOINTMENT BY REINSTATEMENT)

Legal Authority: 5 USC 3593; 5 USC 3595

CFR Citation: 5 CFR 317, Subpart G

Legal Deadline: None

Abstract: Revised interim regulations on reinstatement to an SES career appointment following (a) voluntary separation from SES, or (b) separation from a Presidential appointment of a former SES career appointee. These reinstatements are authorized by law. The regulations set the procedures for implementing the law.

Timetable:

Action	Date	FR Cite
Interim Final Rule	12/05/80	45 FR 80468
Revised Interim Rule	04/00/86	

Small Entity: No

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW, Washington, DC 20415, 202 632-4625

RIN: 3206-AA11

3162. REEMPLOYMENT RIGHTS FOR SES PERSONNEL

Legal Authority: 5 USC 3131; 5 USC 3301

CFR Citation: 5 CFR 352

Legal Deadline: None

Abstract: This regulation would extend reemployment rights under this part to SES personnel. The regulation is needed to correct an oversight which has resulted in the exclusion of SES members from coverage.

Timetable:

Action	Date	FR Cite
NPRM	12/27/85	50 FR 52928
Final Action	06/00/86	

Small Entity: No

Agency Contact: John Schultz, Personnel Staffing Specialist, Office of Personnel Management, Policy Analysis Division, Staffing Group, 1900 E St., NW, Washington, DC 20415, 202 632-6817

RIN: 3206-AA18

3163. PREVAILING RATE SYSTEMS

Legal Authority: 5 USC 5343; 5 USC 5346

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: Revision of Monroney regulations to limit the use of private sector specialized industry data obtained outside a wage area.

Timetable:

Action	Date	FR Cite
NPRM	10/08/85	50 FR 40979
Final Action	12/00/86	

Small Entity: No

Agency Contact: Richard J. Carney, Chief, Wage Systems Division, Office of Personnel Management, Office of Pay Programs, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-7830

RIN: 3206-AC59

3164. ● PREVAILING RATE SYSTEMS

Legal Authority: 5 USC 5343; 5 USC 5346

CFR Citation: 5 CFR 532

Legal Deadline: None

Abstract: Corrects erroneous information in current regulations regarding available avenues of appeal.

Timetable:

Action	Date	FR Cite
NPRM	09/16/85	50 FR 37537
Final Action	05/00/86	

Small Entity: No

Agency Contact: Richard J. Carney, Chief, Wage Systems Division, Office of Personnel Management, Compensation Group, Room 3353, 1900 E St., NW, Washington, DC 20415, 202 632-7830

RIN: 3206-AC83

3165. PAY UNDER OTHER SYSTEMS (PAY UNDER THE SES)

Legal Authority: 5 USC 5385

CFR Citation: 5 CFR 534, Subpart D

Legal Deadline: None

Abstract: Revised interim regulations on the payment of performance awards to career appointees in the Senior Executive Service to implement Pub. L. 98-615, November 8, 1984.

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/16/83	48 FR 52025
Revised Interim Rule	09/24/85	50 FR 38634
Final Action	04/00/86	

Small Entity: No

Agency Contact: Neal Harwood, Personnel Management Specialist, Office of Personnel Management, Office of Executive Personnel, Office of Executive Administration, 1900 E St., NW, Washington, DC 20415, 202 632-4625

RIN: 3206-AB20

3166. GRADE AND PAY RETENTION; EFFECT OF GOVERNMENTWIDE REDUCTION IN SCHEDULED RATES

Legal Authority: 5 USC 5361 to 5366

CFR Citation: 5 CFR 536

Legal Deadline: None

Abstract: Under current regulations it is not clear whether an employee is entitled to pay retention if there is a Governmentwide reduction in scheduled rates, either by statute or as the result of an alternative plan submitted by the President under 5 U.S.C. 5305(c). Final regulations would specifically prohibit pay retention in this situation.

Timetable:

Action	Date	FR Cite
NPRM	05/16/85	50 FR 20422
Final Action	04/00/86	

Small Entity: No

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Agency Contact: Jan B. Karicher, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AC60

3167. PAY ADMINISTRATION, ADJUSTMENT OF WORK SCHEDULES FOR RELIGIOUS OBSERVANCES

Legal Authority: 5 USC 5550a

CFR Citation: 5 CFR 550, Subpart J

Legal Deadline: None

Abstract: Under current law, Federal employees may request adjustment of work schedules if personal religious beliefs require abstention from work. The interim regulations published in 1978 are too broad and do not provide agencies with the authority and guidance necessary for proper administration of the law. Final regulations will (1) define key terms in the law, (2) establish administrative procedures for processing employee requests and for adjusting employee work schedules, and (3) provide administrative procedures for the proper payment and/or crediting of compensatory overtime work and compensatory time off for religious observances.

Timetable:

Action	Date	FR Cite
NPRM	10/24/83	48 FR 49023
Final Action	04/00/86	

Small Entity: No

Agency Contact: Dwight W. Brown, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW, Washington, DC 20415, 202 632-4634

RIN: 3206-AA36

3168. PAY ADMINISTRATION (GENERAL); COLLECTIONS BY OFFSET FROM INDEBTED GOVERNMENT EMPLOYEES

Legal Authority: 5 USC 5514

CFR Citation: 5 CFR 550, Subpart K

Legal Deadline: None

Abstract: Final regulations would amend the definition of "Agency" for salary offset purposes to clarify the application of salary offset to legislative and judicial branch employees, as well as those employees in the executive branch.

Timetable:

Action	Date	FR Cite
NPRM	04/30/85	50 FR 18267
Final Action	04/00/86	

Small Entity: No

Agency Contact: Patricia A. Rochester, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-1285

RIN: 3206-AC42

3169. PAY ADMINISTRATION (GENERAL); COLLECTIONS BY OFFSET FROM INDEBTED GOVERNMENT EMPLOYEES; HEARINGS

Legal Authority: 5 USC 5514

CFR Citation: 5 CFR 550, Subpart K

Legal Deadline: None

Abstract: Some agencies have had difficulty arranging for a salary offset hearing official "not under the control of the head of the agency." Final regulations would prescribe a process for requesting hearing officers for salary offset hearings when agencies have not been able to make other arrangements.

Timetable:

Action	Date	FR Cite
NPRM	10/31/84	49 FR 43619
Final Action	04/00/86	

Small Entity: No

Agency Contact: Patricia A. Rochester, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-1285

RIN: 3206-AC43

3170. PAY ADMINISTRATION (GENERAL); COLLECTIONS BY OFFSET FROM INDEBTED GOVERNMENT EMPLOYEES

Legal Authority: 5 USC 5514

CFR Citation: 5 CFR 550, Subpart K

Legal Deadline: None

Abstract: Final regulations would amend procedures for requesting salary offset when the creditor agency and the current paying agency are not the same. The change is necessary to permit agencies to proceed with the collection of debts that have been duly certified and are awaiting collection.

Timetable:

Action	Date	FR Cite
NPRM	11/25/85	50 FR 48421
Final Action	04/00/86	

Small Entity: No

Agency Contact: Frank Derby, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AC64

3171. ALLOWANCES AND DIFFERENTIALS; COST OF LIVING ALLOWANCE AND POST DIFFERENTIAL--NONFOREIGN AREAS

Legal Authority: 5 USC 5941; EO 10000

CFR Citation: 5 CFR 591, Subpart B

Legal Deadline: None

Abstract: Comprehensive revision of regulations to reflect new methodology used to establish nonforeign cost-of-living allowances. (See Alaniz v. Office of Personnel Management, 728 F. 2d 1460 (Fed. Cir. 1984).)

Timetable:

Action	Date	FR Cite
NPRM	10/21/85	50 FR 42531
Final Action	06/00/86	

Small Entity: No

Agency Contact: Barry E. Shapiro, Chief, Allowances and Special Rates Division, Office of Personnel Management, Compensation Group, 1900 E Street, NW, Washington, DC 20415, 202 632-7858

RIN: 3206-AB34

3172. ABSENCE AND LEAVE; COVERAGE OF D.C. GOVERNMENT EMPLOYEES

Legal Authority: 5 USC 6311; DC Law 2-139, as amended

CFR Citation: 5 CFR 630

Legal Deadline: None

Abstract: Current regulations contain obsolete references to D.C. government employees, who are no longer covered by chapter 63 of title 5 of the United

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States Code. Final regulations would delete these obsolete references.

Timetable:

Action	Date	FR Cite
NPRM	02/27/85	50 FR 7922
Final Action	06/00/86	

Small Entity: No

Agency Contact: Clarence Mathews, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AC47

3173. ABSENCE AND LEAVE; RECREDIT OF LEAVE

Legal Authority: 5 USC 6311

CFR Citation: 5 CFR 630, Subpart E

Legal Deadline: None

Abstract: Proposed regulations to extend the 3-year limitation on recrediting sick leave for dependents of civilian and military personnel who leave Federal employment to accompany their sponsors on overseas assignments. This amendment would alleviate the hardship and inequity many career employees suffer because of the limited number of Federal positions that are available to dependents overseas. This change would complement E.O. 12362, which authorizes certain placement benefits for dependents when they return from overseas.

Timetable:

Action	Date	FR Cite
NPRM	11/14/85	50 FR 47080
Final Action	04/00/86	

Small Entity: No

Agency Contact: Jim Matteson, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-4634

RIN: 3206-AB63

3174. POST EMPLOYMENT CONFLICT OF INTEREST; 1985 DESIGNATION OF CERTAIN POSITIONS AND AGENCIES

Legal Authority: 18 USC 207(b)(1)(c); PL 95-521

CFR Citation: 5 CFR 737

Legal Deadline: None

Abstract: Final regulation to meet the annual requirement to designate senior employees (for CY 1985) who are subject to the conflict-of-interest provisions of the Ethics in Government Act.

Timetable:

Action	Date	FR Cite
Final Action	03/00/86	

Small Entity: No

Agency Contact: Gary Davis/Bob Flynn, Staff Attorney/Management Analyst, Office of Personnel Management, Office of Government Ethics, P.O. Box 14108, Washington, D.C. 20044, 202 632-7642

RIN: 3206-AC57

3175. RETIREMENT; EXCLUSIONS FROM RETIREMENT COVERAGE

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart B

Legal Deadline: None

Abstract: Regulations to eliminate confusion among agencies on certain exceptions to the exclusions from civil service retirement coverage. Regulations would amend the current exceptions to exclusions from civil service retirement coverage to permit such coverage in all cases of career and career-conditional appointment, regardless of whether the employee would otherwise be excluded from coverage, i.e., an intermittent employee.

Timetable:

Action	Date	FR Cite
NPRM	01/28/86	51 FR 3470
Final Action	05/00/86	

Small Entity: No

Agency Contact: Doris Reeves, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., N.W.; Washington, D.C. 20415, 202 632-1265

RIN: 3206-AC72

3176. RETIREMENT; IMPLEMENTING REGULATIONS FOR CIVIL SERVICE RETIREMENT SPOUSE EQUITY ACT OF 1984

Legal Authority: 5 USC 8347; PL 98-615

CFR Citation: 5 CFR 831, Subparts F, Q, and T

Legal Deadline: None

Abstract: The Civil Service Retirement Spouse Equity Act of 1984 includes provisions for new benefits available to former spouses of deceased Federal employees and provisions governing survivor benefits for current spouses. These regulations are necessary to implement the Act.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/13/85	50 FR 20064
Revised Interim Rule	04/00/86	
Final Action	09/00/86	

Small Entity: No

Additional Information: Harold Siegelman, Pay and Benefits Specialist, (202) 632-1265.

Agency Contact: James W. Morrison, Jr, Associate Director for Compensation, Office of Personnel Management, 1900 E Street, NW, Washington, DC 20415, 202 632-1854

RIN: 3206-AB75

3177. RETIREMENT; AGENCY REQUESTS TO OPM FOR RECOVERY OF A DEBT FROM THE CIVIL SERVICE RETIREMENT AND DISABILITY FUND

Legal Authority: 5 USC 8347; 31 USC 3716

CFR Citation: 5 CFR 831, Subpart R

Legal Deadline: None

Abstract: Final regulations to prescribe procedures for submitting agency claims for recovery of an indebtedness against benefits due from the Civil Service Retirement System. Regulations are required as part of resolution of Rhinehart v. Seneca, et al., which recognized the need to give debtors due process rights.

Timetable:

Action	Date	FR Cite
NPRM	01/04/85	50 FR 473
Final Action	04/00/86	

Small Entity: No

Additional Information: LEGAL AUTHORITY: 4 CFR Sec. 101.1 et seq also applies.

OPM — Final Rule Stage

Agency Contact: Patricia A. Rochester, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW, Washington, DC 20415, 202 632-1265

RIN: 3206-AA52

3178. RETIREMENT; DEPOSITS FOR MILITARY SERVICE

Legal Authority: 5 USC 8347

CFR Citation: 5 CFR 831, Subpart U

Legal Deadline: None

Abstract: Final regulations to extend eligibility to make deposits for military service to separated individuals who were prevented from making a timely deposit due to administrative error or misinformation.

Timetable:

Action	Date	FR Cite
Interim Final Rule	05/16/84	49 FR 20631
Final Action	06/00/86	

Small Entity: No

Agency Contact: Mary Angel, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-1265

RIN: 3206-AB35

3179. FEDERAL EMPLOYEES GROUP LIFE INSURANCE; CANCELLATION OF WAIVER

Legal Authority: 5 USC 8716

CFR Citation: 5 CFR 870; 5 CFR 871; 5 CFR 872

Legal Deadline: None

Abstract: Elimination of the under-age-50 requirement for cancellation of a waiver of insurance coverage under the Federal Employees Group Life Insurance program. Under the proposed regulations, an employee who has waived insurance coverage may cancel the waiver and become insured at any age if at least one year has elapsed since the effective date of the waiver and if the employee provides satisfactory evidence of insurability.

Timetable:

Action	Date	FR Cite
NPRM	08/27/85	50 FR 34707
Final Action	06/00/86	

Small Entity: No

Agency Contact: Mary Ann Mercer, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 254-7052

RIN: 3206-AC61

3180. FEDERAL EMPLOYEES GROUP LIFE INSURANCE PROGRAM; ASSIGNMENT OF LIFE INSURANCE BY FEDERAL JUDGES

Legal Authority: PL 98-353, Sec 208

CFR Citation: 5 CFR 870; 5 CFR 871; 5 CFR 872; 5 CFR 873; 5 CFR 874

Legal Deadline: None

Abstract: Regulations to implement section 208 of Pub. L. 98-353, which permits Federal judges to assign their Federal Employees Group Life Insurance.

Timetable:

Action	Date	FR Cite
Interim Final Rule	02/28/85	50 FR 8095
Final Action	04/00/86	

Small Entity: No

Agency Contact: Mary Ann Mercer, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-0003

RIN: 3206-AB82

3181. FEDERAL LIFE INSURANCE AND HEALTH BENEFITS; RESTORED DISABILITY ANNUITANTS

Legal Authority: 5 USC 8716; 5 USC 8913

CFR Citation: 5 CFR 870; 5 CFR 871; 5 CFR 872; 5 CFR 873; 5 CFR 890

Legal Deadline: None

Abstract: Final regulations to implement the provisions of Pub. L. 99-53, which restores health benefits and life insurance coverage to restored disability annuitants.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/17/85	50 FR 42005
Final Action	04/00/86	

Small Entity: No

Agency Contact: Agatha Gray, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E Street, NW; Washington, DC 20415, 202 632-0003

RIN: 3206-AC66

3182. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; DISPUTED CLAIMS

Legal Authority: 5 USC 8913

CFR Citation: 5 CFR 890, Subpart A

Legal Deadline: None

Abstract: Regulations to improve the administrative process used by the FEHBP to resolve disputed health insurance claims. The regulations would strengthen OPM's control over the disputed claims process and would result in more efficient plan and OPM reviews.

Timetable:

Action	Date	FR Cite
NPRM	12/26/84	49 FR 50404
Final Action	04/00/86	

Small Entity: No

Agency Contact: Mary Ann Mercer, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., NW; Washington, DC 20415, 202 632-0003

RIN: 3206-AB37

3183. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; IMPLEMENTING REGULATIONS FOR CIVIL SERVICE RETIREMENT SPOUSE EQUITY ACT OF 1984

Legal Authority: 5 USC 8913; PL 98-615

CFR Citation: 5 CFR 890, Subparts C and H

Legal Deadline: None

Abstract: Regulations to implement amendments to the Federal Employees Health Benefits (FEHB) law under the Civil Service Retirement Spouse Equity Act of 1984. This law allows certain former spouses of civil service employees and retirees to enroll in an FEHB plan, provided the former spouse agrees to pay the full cost of such health insurance coverage.

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OPM — Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/13/85	50 FR 24757
Final Action	04/09/86	

Small Entity: No

Agency Contact: Mary Ann Mercer, Pay and Benefits Specialist, Office of Personnel Management, Office of Pay and Benefits Policy, Compensation Group, 1900 E St., N.W., Washington, D.C. 20415, 202 632-6883

RIN: 3206-AB69

3184. SOLICITATION OF FEDERAL CIVILIAN AND UNIFORMED SERVICES PERSONNEL FOR CONTRIBUTIONS TO PRIVATE VOLUNTARY CHARITABLE ORGANIZATIONS

Legal Authority: EO 12353; EO 12404

CFR Citation: 5 CFR 950

Legal Deadline: None

Abstract: The regulation published in 1984 would be amended to conform to Executive Order 12404, Charitable Fund-Raising, recently upheld in Cornelius v. NAACP Legal Defense and Educational Fund, Inc., No. 84-312 (U.S., July 2, 1985). The new regulation simplifies campaign administration and should enable charitable solicitation to be conducted efficiently in the Federal workplace.

Timetable:

Action	Date	FR Cite
NPRM	08/22/85	50 FR 33960
Final Action	03/00/86	

Small Entity: No

Agency Contact: Richard A. Ong, Deputy Assistant General Counsel, Office of Personnel Management, Office of the General Counsel, 1900 E Street, NW, Washington, DC 20415, 202 632-4632

RIN: 3206-AC58

OFFICE OF PERSONNEL MANAGEMENT (OPM) — Completed Actions

3185. POLITICAL ACTIVITY OF STATE OR LOCAL OFFICERS OR EMPLOYEES

CFR Citation: 5 CFR 151

Completed:

Reason	Date	FR Cite
End Review	02/28/86	

Small Entity: No

Agency Contact: W. Scott Burke 202 632-4632

RIN: 3206-AB93

3186. ADMINISTRATIVE CLAIMS UNDER THE FEDERAL TORT CLAIMS ACT

CFR Citation: 5 CFR 177

Completed:

Reason	Date	FR Cite
Withdrawn	12/16/85	

Small Entity: No

Agency Contact: W. Scott Burke 202 632-4632

RIN: 3206-AB84

3187. EMPLOYEES' PERSONAL PROPERTY CLAIMS

CFR Citation: 5 CFR 160

Completed:

Reason	Date	FR Cite
Withdrawn	12/06/85	

Small Entity: No

Agency Contact: W. Scott Burke 202 632-4632

RIN: 3206-AB95

3188. SENIOR EXECUTIVE SERVICE

CFR Citation: 5 CFR 214

Completed:

Reason	Date	FR Cite
End Review No regulatory action to be taken.	12/31/85	

Small Entity: No

Agency Contact: Neal Harwood 202 632-6825

RIN: 3206-AB98

3189. VETERANS READJUSTMENT APPOINTMENTS

CFR Citation: 5 CFR 307

Completed:

Reason	Date	FR Cite
Final Action	10/21/85	50 FR 42509
Final Action Effective	11/20/85	

Small Entity: No

Agency Contact: Don A. Smith 202 632-7082

RIN: 3206-AB26

3190. TEMPORARY AND TERM EMPLOYMENT

CFR Citation: 5 CFR 316

Completed:

Reason	Date	FR Cite
Final Action	10/21/85	50 FR 42509
Final Action Effective	11/20/85	

Small Entity: No

Agency Contact: Don A. Smith 202 632-7082

RIN: 3206-AB25

3191. TEMPORARY AND TERM EMPLOYMENT

CFR Citation: 5 CFR 316

Completed:

Reason	Date	FR Cite
End Review	12/09/85	

Small Entity: No

Agency Contact: Donald L. Holum 202 632-6817

RIN: 3206-AC83

3192. REDUCTION IN FORCE

CFR Citation: 5 CFR 351

Completed:

Reason	Date	FR Cite
Final Action	01/03/86	51 FR 318
Final Action Effective	02/03/86	

Small Entity: No

OPM — Completed Actions

Agency Contact: Donald L. Holum 202 632-6817

RIN: 3206-AC69

3193. OVERSIGHT OF TRAINING PROGRAMS

CFR Citation: 5 CFR 410

Completed:

Reason	Date	FR Cite
Withdrawn	03/17/86	

Small Entity: No

Agency Contact: Constance Guitian 202 254-3240

RIN: 3206-AC35

3194. CLASSIFICATION UNDER THE GENERAL SCHEDULE

Significance: Regulatory Program

CFR Citation: 5 CFR 511, Subparts A and B

Completed:

Reason	Date	FR Cite
End Review	01/02/86	

Small Entity: No

Agency Contact: Donald L. Holum 202 632-6817

RIN: 3206-AC29

3195. APPEAL RIGHTS FOR DENIAL OF WITHIN-GRADE INCREASES AND TERMINATION OF GRADE AND PAY RETENTION

CFR Citation: 5 CFR 531; 5 CFR 536

Completed:

Reason	Date	FR Cite
Final Action	10/31/85	50 FR 45389

Small Entity: No

Agency Contact: Jan B. Karicher 202 632-4634

RIN: 3206-AC80

3196. PAY ADMINISTRATION (GENERAL) AND HOURS OF DUTY

CFR Citation: 5 CFR 550; 5 CFR 610

Completed:

Reason	Date	FR Cite
Withdrawn	03/19/86	

Small Entity: No

Agency Contact: Edward I. Magee 202 632-4634

RIN: 3206-AC40

3197. PAY ADMINISTRATION UNDER THE FAIR LABOR STANDARDS ACT: EXEMPTIONS

CFR Citation: 5 CFR 551

Completed:

Reason	Date	FR Cite
Final Action	03/04/86	

Small Entity: No

Agency Contact: Michael Clogston 202 632-5691

RIN: 3206-AC70

3198. HOURS OF DUTY; FLEXIBLE AND COMPRESSED WORK SCHEDULES

CFR Citation: 5 CFR 610, Subpart D

Completed:

Reason	Date	FR Cite
Withdrawn	01/10/86	

Small Entity: No

Agency Contact: Edward I. Magee 202 632-4634

RIN: 3206-AC46

3199. RETIREMENT, FEDERAL EMPLOYEES' GROUP LIFE INSURANCE, AND FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

CFR Citation: 5 CFR 831; 5 CFR 870; 5 CFR 871; 5 CFR 872; 5 CFR 873; 5 CFR 890

Completed:

Reason	Date	FR Cite
Withdrawn	01/10/86	

Small Entity: No

Agency Contact: Mary Angel 202 632-1285

RIN: 3206-AB67

3200. RETIREMENT; ADMINISTRATION AND GENERAL PROVISIONS

Significance: Regulatory Program

CFR Citation: 5 CFR 831, Subpart A

Completed:

Reason	Date	FR Cite
Withdrawn No longer a viable change.	12/09/85	

Small Entity: No

Agency Contact: Donald L. Holum 202 632-6817

RIN: 3206-AC24

3201. FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM; RESERVE MANAGEMENT

CFR Citation: 5 CFR 890.503

Completed:

Reason	Date	FR Cite
Final Action	03/04/86	52 FR 7428
Final Action Effective	04/03/86	

Small Entity: No

Agency Contact: Margaret Sears 202 632-0003

RIN: 3206-AC25

[FR Doc. 86-5884 Filed 04-18-86; 8:45 am]

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Part XXXV

Panama Canal Commission

Semiannual Regulatory Agenda

VOL 51 ISS 76 AP 21 1986 UMI

PANAMA

PANAMA CANAL COMMISSION

35 CFR Ch. I

Unified Agenda of Federal Regulations

AGENCY: Panama Canal Commission.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Panama Canal Commission. This information will allow the public to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: For information about a particular regulatory project, contact the person listed in the subheading "Agency Contact" for that project. For general information, contact Michael Rhode, Jr., Secretary, Panama Canal Commission, 2000 L Street, N.W., Suite 550, Washington, D.C. 20036, (202) 634-6441; or John L. Haines, Jr., Esquire, General Counsel, Panama Canal Commission, APO Miami 34011.

SUPPLEMENTARY INFORMATION: Executive Order 12291, Federal Regulation, and the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. require that executive agencies publish in the **Federal Register** a semiannual notice of regulations which are under development or review or for which action has been completed. The Panama Canal Commission agenda contains certain regulations which are limited in public impact, but they are included to increase public awareness of Commission activities and to allow for increased public participation in the agency's regulatory review and development process. This agenda was prepared under the guidelines established by OMB Bulletin No. 86-4.

DATED: February 24, 1986.

Michael Rhode, Jr.,

Secretary, Panama Canal Commission.

PANAMA CANAL COMMISSION (PANAMA) — Proposed Rule Stage

3202. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PANAMA CANAL COMMISSION PROGRAMS

Legal Authority: 29 USC 794

CFR Citation: 35 CFR 257

Legal Deadline: None

Abstract: These regulations are designed to implement Section 504 of the Rehabilitation Act of 1974, as amended. The prototype regulation provided by the Department of Justice under Executive Order 12250 has been modified to accommodate the special circumstances of the agency. The regulation will be published after it has been reviewed by the Department of Justice and the Equal Employment Opportunity Commission, as required by Executive Order 12250 and 12067 respectively.

Timetable:

Action	Date	FR Cite
NPRM	03/01/86	
Final Action	06/01/86	

Small Entity: No

Agency Contact: John L. Haines, Jr., General Counsel, Panama Canal Commission, Office of General Counsel, APO Miami, Florida 34011, 202 634-6441

RIN: 3207-AA08

3203. PANAMA CANAL COMMISSION ACQUISITION REGULATIONS

Significance: Agency Priority

Legal Authority: 22 USC 3712(c) to 3712(d); PL 96-369

CFR Citation: 48 CFR Chapter 35

Legal Deadline: None

Abstract: These proposed regulations will provide guidelines for the procurement of goods, services and construction for the Panama Canal Commission within the framework of the Federal Acquisition Regulations.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Undetermined

Agency Contact: R. D. Morgan, Procurement Executive, Panama Canal Commission, APO Miami FL 34011, 202 634-6441

RIN: 3207-AA10

3204. ● PILOTAGE

Significance: Agency Priority

Legal Authority: 22 USC 3811; EO 12215

CFR Citation: 35 CFR 105.2

Legal Deadline: None

Abstract: The Panama Amendments Act of 1985 added a subsection to section 1411 regarding injuries to a vessel or its cargo when the navigation or movement of the vessel is not under the control of a Panama Canal pilot. A distinction needs to be made between a canal pilot and a transit advisor who might be put aboard the vessel. No additional costs to the agency will result from this regulation, but the statute sets a ceiling of $50,000 on claims where there is not a pilot on board, and does not provide for judicial review. Thus, the definition is critical for the agency's administrative process in adjudicating claims and assessing possible lawsuits.

Timetable:

Action	Date	FR Cite
NPRM	07/01/86	

Small Entity: No

Agency Contact: John L. Haines, Jr., General Counsel, Panama Canal Commission, Office of General Counsel, APO Miami, Florida 34011-0005, 202 634-6441

RIN: 3207-AA12

PANAMA CANAL COMMISSION (PANAMA) — Final Rule Stage

3205. HEALTH, SANITATION AND QUARANTINE

Significance: Agency Priority

Legal Authority: 22 USC 3801 to 3823 Panama Canal Act of 1979

CFR Citation: 35 CFR 61, (revision)

Legal Deadline: None

Abstract: Subpart E of 35 CFR 61 is being revised to more accurately reflect the division of responsibility in the health and sanitation fields which has resulted from the implementation of the Panama Canal Treaty of 1977 and the Panama Canal Act of 1979. Due to treaty and legislative requirement several functions previously performed by the canal entity are currently the responsibility of the Republic of Panama.

Timetable:

Action	Date	FR Cite
NPRM	11/26/85	50 FR 48604
Final Action	03/00/86	

Small Entity: No

Agency Contact: John L. Haines, Jr., General Counsel, Panama Canal Commission, APO Miami 34011, 202 634-6441

RIN: 3207-AA11

PANAMA CANAL COMMISSION (PANAMA) — Completed Actions

3206. CLASSIFIED INFORMATION

CFR Citation: 35 CFR 60

Completed:

Reason	Date	FR Cite
Withdrawn Commission has postponed revision indefinitely.	03/01/86	

Small Entity: No

Agency Contact: Thomas C. Duty 202 634-6441

RIN: 3207-AA01

3207. RULES FOR MEASUREMENT OF VESSELS

CFR Citation: 35 CFR 135

Completed:

Reason	Date	FR Cite
Withdrawn Board of Directors has postponed indefinitely any further action.	03/01/86	

Small Entity: No

Agency Contact: Michael Rhode, Jr. 202 634-6441

RIN: 3207-AA03

3208. COLLECTION BY SALARY OFFSET FROM FEDERAL EMPLOYEES INDEBTED TO THE UNITED STATES

CFR Citation: 35 CFR 256, (New)

Completed:

Reason	Date	FR Cite
Final Action	08/23/85	50 FR 34123

Small Entity: No

Agency Contact: Michael Rhode, Jr. 202 634-6441

RIN: 3207-AA09

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Part XXXVI

Peace Corps

Semiannual Regulatory Agenda

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PEACE

PEACE CORPS

22 CFR Ch. III

Executive Order 12291, Federal Regulations, Semiannual Agenda of Regulations

AGENCY: Peace Corps.

ACTION: Publication of semiannual agenda.

SUMMARY: This agenda announces the regulations the Peace Corps will have under development during the 12-month period from April 1, 1986 through March 31, 1987. The purpose for publishing this agenda is to give notice of any regulatory activity by the Agency in order to allow the public an opportunity to participate in the rulemaking process.

FOR FURTHER INFORMATION CONTACT: The public is encouraged to contact the Agency official listed for the particular agenda item. For other information concerning Peace Corps' regulations or this semiannual agenda, contact Robert Martin, Associate General Counsel, Peace Corps, 806 Connecticut Avenue, N.W., Washington, D.C. 20526, (202) 254-3114.

SUPPLEMENTARY INFORMATION: In accordance with Executive Order 12291, Federal Regulations, and the Regulatory Flexibility Act (5 U.S.C. 605) executive agencies are required to publish in the Federal Register semiannual regulatory agendas in April and October of each year.

The regulations being considered by Peace Corps are not "major" rules within the meaning of E.O. 12291 and no Regulatory Impact Analysis is required. Peace Corps has determined that the regulations under consideration will not impose compliance costs or reporting burdens on the public; and that the regulations will not have a significant economic impact on a substantial number of small entities. Accordingly, no Regulatory Analysis is required under 5 U.S.C. 602.

John K. Scales,
General Counsel.

PEACE CORPS (PEACE)

Prerule Stage

3209. IMPLEMENTATION OF REHABILITATION ACT OF 1973, PART 504 - HANDICAPPED DISCRIMINATION PROHIBITION

Legal Authority: 29 USC 794

CFR Citation: 22 CFR 311

Legal Deadline: None

Abstract: The regulation implements section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) which prohibits discrimination on the basis of handicap in programs or activities conducted by Executive agencies or the Postal Service.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/86	

Small Entity: No

Agency Contact: John Scales, General Counsel, Peace Corps, 806 Connecticut Avenue, NW, Room M-1207, Washington, DC 20526, 202 254-3114

RIN: 0420-AA03

PEACE CORPS (PEACE)

Proposed Rule Stage

3210. COLLECTION OF CLAIMS BY ADMINISTRATIVE OFFSET

Legal Authority: 31 USC 3701 et seq; 4 CFR 102

CFR Citation: 22 CFR 309

Legal Deadline: None

Abstract: Regulation prescribes the procedures and requirements for collection of debts owed to Peace Corps by administrative offset in accordance with the Federal Claims Collection Act of 1966 (80 Stat. 309) and Debt Collection Act of 1982 (PL 97-365).

Timetable:

Action	Date	FR Cite
NPRM	06/30/86	

Small Entity: Not Applicable

Agency Contact: Richard M. Brewer, Dir., Accounting Division, Off. of Fin. Mgt., Peace Corps, 806 Connecticut Avenue, NW, Room P-203, Washington, DC 20526, 202 254-6794

RIN: 0420-AA00

3211. EMPLOYEE DISCRIMINATION COMPLAINT PROCEDURE

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 22 CFR 310

Legal Deadline: None

Abstract: Comprehensive regulations for processing individual and class EEO complaints of Peace Corps employees. Under development.

Timetable:

Action	Date	FR Cite
NPRM	12/01/86	

Small Entity: Not Applicable

Agency Contact: H. Zeke Rodriguez, Equal Opportunity Manager, Peace Corps, 806 Connecticut Avenue, NW, Washington, DC 20526, 202 254-8320

RIN: 0420-AA01

3212. VOLUNTEER DISCRIMINATION COMPLAINT PROCEDURES

Legal Authority: 42 USC 2000e-16 Title VII of the Civil Rights Act; 29 USC 701 Rehabilitation Act of 1973, as amended; 29 USC 621 et seq Age Discrimination in Employment Act

CFR Citation: 22 CFR 308

Legal Deadline: None

PEACE

Proposed Rule Stage

Abstract: Comprehensive regulations for processing individual and class EEO complaints of Peace Corps Volunteers. Under development.

Timetable:

Action	Date	FR Cite
ANPRM	12/01/85	
NPRM	12/01/86	

Small Entity: Not Applicable

Agency Contact: H. Zeke Rodriguez, Equal Opportunity Manager, Peace Corps, 806 Connecticut Avenue NW, Room M-1107, Washington, DC 20526, 202 254-8320

RIN: 0420-AA02

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Part XXXVII

Pennsylvania Avenue Development Corporation

Semiannual Regulatory Agenda

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PADC

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

36 CFR Ch. IX

Unified Agenda of Federal Regulations

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Unified Agenda of Federal Regulations.

SUMMARY: This document sets forth the Pennsylvania Avenue Development Corporation's regulatory agenda issued under Executive Order 12291 and the Regulatory Flexibility Act. The Agenda lists regulations currently under rulemaking review that PADC expects to have as a final rule during the next twelve months.

FOR FURTHER INFORMATION CONTACT: Mr. James A. Alexander, Attorney, Office of the General Counsel, Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue, N.W., Washington, D.C. 20004; (202) 724-9088.

DATED: January 27, 1986.

M. J. Brodie,

Executive Director.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION (PADC) — Prerule Stage

3213. PROCEDURES AND UNIFORM STANDARDS FOR PUBLIC USE OF PARKS AND PLAZAS

Legal Authority: 40 USC 875(5)

CFR Citation: 36 CFR 912

Legal Deadline: None

Abstract: The Pennsylvania Avenue Development Corporation (PADC) has received an increasing number of requests for public use of parks and plazas within the Pennsylvania Avenue Development Area. The proposed regulations would ensure equality of opportunity for use of PADC parks and plazas while protecting public property, safety, and tranquility.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Madeleine B. Schaller, Attorney, Pennsylvania Avenue Development Corporation, Suite 1220 North, 1331 Pennsylvania Avenue, NW, Washington, DC 20004, 202 724-9088

RIN: 3208-AA01

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION (PADC) — Final Rule Stage

3214. ● ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAM OR ACTIVITIES CONDUCTED BY THE PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

Legal Authority: 29 USC 794

CFR Citation: 36 CFR 909

Legal Deadline: None

Abstract: This regulation requires that the Pennsylvania Avenue Development Corporation operate all of its programs and activities to ensure nondiscrimination against qualified handicapped persons. It sets forth standards for what constitutes discrimination on the basis of mental or physical handicap, provides a definition for handicapped person and qualified handicapped person, and establishes a complaint mechanism for resolving allegations of discrimination. This regulation is issued under the authority of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap in programs or activities conducted by Federal executive agencies.

Timetable:

Action	Date	FR Cite
Regs submitted to DOJ for review	01/27/86	
Final Action	00/00/00	

Small Entity: No

Agency Contact: James A. Alexander, Attorney, Pennsylvania Avenue Development Corporation, 1331 Pennsylvania Avenue, NW, Suite 1220 North, Washington, DC 20004, 202 724-9088

RIN: 3208-AA03

3215. ● PRIVACY ACT UPDATE; DISCLOSURES OF PERSONAL INFORMATION DURING LITIGATION

Legal Authority: 5 USC 552(a); 40 USC 870

CFR Citation: 36 CFR 903

Legal Deadline: None

Abstract: These regulations adopt rules regarding the routine use of records contained in PADC record systems for disclosure to the Department of Justice and to PADC during the course of litigation. The regulations are intended to make nonconsensual disclosure of personal information routinely used in litigation more consistent with the requirements of the Privacy Act.

Timetable:

Action	Date	FR Cite
ANPRM	11/04/85	50 FR 45841
Comment Period End		
NPRM	11/04/85	50 FR 45841
Final Action	00/00/00	

Small Entity: No

Agency Contact: James A. Alexander, Attorney, Pennsylvania Avenue Development Corporation, 1331 Pennsylvania Avenue, NW, Suite 1220 North, Washington, DC 20004, 202 724-9088

RIN: 3208-AA04

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION (PADC) — Completed Actions

3216. POLICY AND PROCEDURES TO FACILITATE SUCCESSFUL RELOCATION OF BUSINESS AND RESIDENTS WITHIN PENNSYLVANIA AVENUE DEVELOPMENT AREA

CFR Citation: 36 CFR 908

Completed:

Reason	Date	FR Cite
Final Action	02/27/86	51 FR 7000

Small Entity: No

Agency Contact: Mr. Jerry Smedley 202 724-9068

RIN: 3208-AA00

3217. RESTRICTIONS ON THE PLACEMENT AND MAINTENANCE OF NEWSPAPER VENDING MACHINES

CFR Citation: 36 CFR 911

Completed:

Reason	Date	FR Cite
Withdrawn	02/27/86	

Small Entity: No

Agency Contact: Madeleine B. Schaller 202 724-9088

RIN: 3208-AA02

[FR Doc. 86-8536 Filed 04-18-86; 8:45 am]
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Part XXXVIII

Pension Benefit Guaranty Corporation

Semiannual Regulatory Agenda

VOL 51 ISS 76 AP 21 1986 UMI

PBGC

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Ch. XXVI

Agenda of Regulations Under Development

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Agenda of regulations.

SUMMARY: This document sets forth the Pension Benefit Guaranty Corporation's regulatory agenda issued under Executive Order 12291 and the Regulatory Flexibility Act. The agenda lists regulations that are currently under development or that PBGC expects to have under development during the next twelve months and regulations that are currently under review for possible amendment. The effect of this agenda is to advise the public of PBGC's current and future regulatory activities.

ADDRESS: Corporate Policy and Regulations Department, Code 35100, Pension Benefit Guaranty Corporation, 2020 K Street, N.W., Washington, D.C. 20006.

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact Renae R. Hubbard, Special Counsel, Corporate Policy and Regulations Department, 202-956-5050. For information about a specific regulation project listed on the agenda, contact the person designated in the agenda for that regulation.

SUPPLEMENTARY INFORMATION: Under the President's Order on Federal Regulation, Executive Order 12291, 46 FR 13193, each agency is required to publish in April and October an agenda of regulations currently or soon to be under development. The Executive Order requires that the agenda also include those currently effective regulations that are being reviewed by the agency pursuant to the Executive Order. The Regulatory Flexibility Act, 5 U.S.C. 601, Pub. L. 96-354, 94 Stat. 1164, has a similar agenda requirement. Under that law, the agenda must list any regulation that is likely to have a significant economic impact on a substantial number of small entities.

The Office of Management and Budget has issued guidelines (OMB Bulletin No. 86-4) prescribing the form and content of the regulatory agenda. Under those guidelines, the agenda must list all regulatory activities being conducted or reviewed in the next twelve months and provide certain specified information on each regulation. Most of the items on this agenda are current or projected rulemakings. One item is an existing regulation currently under review pursuant to the Executive Order.

The guidelines also require an indication of whether or not an item is included in the Administration's Regulatory Program for 1985 and, if not, whether the agency considers it a priority item. The PBGC believes that each of the regulatory activities listed in this agenda is necessary to the effective implementation of the insurance program. However, the PBGC has determined that certain of the items have priority status and has designated them as such. None of the items is included in the Administration's Regulatory Program for 1986.

Finally, the guidelines require a description of the potential costs and benefits of each regulation: The regulations listed on the agenda fall into three general categories. Some lessen statutory requirements, thereby lowering costs to the public and minimizing burden on plans and plan sponsors. Others simply implement statutory requirements and, although costs may be imposed because of these statutory requirements, the public is benefited by clear and unambiguous rules that lessen the probability of disputes, litigation and public confusion. Others of the regulations in the agenda reallocate costs necessarily imposed by the statute so that, although certain contributing employers may experience greater costs, others will experience an equivalent reduction in costs resulting in a net effect of zero. Where applicable, additional costs and benefits are stated separately in the item relating to the particular regulation.

Unless otherwise indicated, all citations in the agenda are to sections of the Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, 88 Stat. 829, as amended by the Multiemployer Pension Plan Amendments Act of 1980 ("the Multiemployer Act"), Pub. L. No. 96-364, 94 Stat. 1208 ("ERISA"), 29 U.S.C. 1001 et seq. (1982).

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Prerule Stage

3218. EMPLOYER LIABILITY FOR SINGLE-EMPLOYER PLAN TERMINATIONS; RULES PERTAINING TO WITHDRAWALS FROM AND TERMINATIONS OF PLANS TO WHICH MORE THAN ONE EMPLOYER CONTRIBUTES OTHER THAN (CONT)

Legal Authority: 29 USC 1302; 29 USC 1362; 29 USC 1363; 29 USC 1364; 29 USC 1367; 29 USC 1368

CFR Citation: 29 CFR 2622

Legal Deadline: None

Abstract: The PBGC's regulation on Employer Liability prescribes rules for the determination and payment of employer liability that is due under ERISA if a plan lacks sufficient assets to pay for guaranteed benefits. Employer liability is due as of the date of plan termination, but often is not paid in a timely fashion. The PBGC has initiated a review of this regulation in order to determine what, if any, amendments could be adopted to provide employers with greater incentive to make timely payments of employer liability owed to the PBGC.

Timetable:

Action	Date	FR Cite
Begin Review	05/15/85	
End Review	00/00/00	

Small Entity: No

Additional Information: TITLE CONT: Multiemployer Plans

PBGC — Prerule Stage

Agency Contact: Mrs. Renae R. Hubbard, Special Counsel, Pension Benefit Guaranty Corporation, Corporate Policy and Regulation Department, (35100), 2020 K St., NW, Washington, DC 20006, 202 956-5050

RIN: 1212-AA33

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Proposed Rule Stage

3219. RULES UNDER SECTIONS 4041A AND 4281 FOR PLANS TERMINATED BY MASS WITHDRAWAL

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1341a ERISA; 29 USC 1441(d) ERISA

CFR Citation: 29 CFR 2675

Legal Deadline: None

Abstract: Section 4041A of ERISA provides rules with respect to the termination of multiemployer plans and the payment of benefits under those plans. Under section 4041A(f)(2), PBGC is authorized to prescribe rules for the administration of those plans that are appropriate to protect the interests of plan participants and beneficiaries or to prevent unreasonable loss to the insurance system. Under section 4281(b), the plan sponsor of a plan that has terminated by mass withdrawal is required annually to determine the value of the plan's nonforfeitable benefits and assets. If the value of the benefits exceeds the value of the assets, the sponsor must amend the plan to eliminate benefits not eligible for PBGC's guarantee under section 4022A(b), to the extent necessary to insure that the plan assets are sufficient to pay all nonforfeitable benefits. This determination of sufficiency is to be made in accordance with rules prescribed by PBGC. This regulation would establish the rules for administering plans that have terminated by mass withdrawal, including the rules for determining sufficiency in the circumstances described above. The primary purpose (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: and benefit of this regulation will be to establish rules that encourage the efficient administration of these plans. By thus helping to preserve plan assets, these rules will, in the first instance, benefit plan participants and beneficiaries and secondarily, the multiemployer insurance system and premium payers. PBGC lacks adequate data to be able to quantify these benefits.

Agency Contact: Mr. Steven Rothenberg, Attorney, Pension Benefit Guaranty Corporation, Corporate Policy and Regulations Department, (35100), 2020 K St., NW, Washington, DC 20006, 202 956-5050

RIN: 1212-AA19

3220. TRANSFERS FROM MULTIEMPLOYER PLANS TO SINGLE-EMPLOYER PLANS

Legal Authority: 29 USC 1302(b)(3); 29 USC 1412; 29 USC 1414

CFR Citation: 29 CFR 2678

Legal Deadline: None

Abstract: Sections 4232 and 4234 of ERISA prescribe rules governing the transfer of liabilities and assets from a multiemployer plan to a single-employer plan and prohibit certain transfers unless approved by PBGC. The regulation will establish procedures for requesting and criteria for PBGC approval of transfers which require approval and guidelines for satisfying the statutory requirements pertaining to other transfers. The regulation will also establish standards for the PBGC's waiver of a multiemployer plan's contingent liability arising from the transfer of unfunded vested benefits to a single-employer plan.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Mr. John Foster, Attorney, Pension Benefit Guaranty Corporation, Corporate Policy and Regulations Department, (35100), 2020 K St., NW, Washington, DC 20006, 202 956-5050

RIN: 1212-AA20

3221. REDUCTION OR WAIVER OF PARTIAL WITHDRAWAL LIABILITY

Significance: Agency Priority

Legal Authority: 29 USC 1302(b) (3); 29 USC 1388(e) (3)

CFR Citation: 29 CFR 2646

Legal Deadline: None

Abstract: Section 4208 of ERISA provides for the reduction or elimination under certain circumstances of an employer's partial withdrawal liability arising from a 70 percent reduction in contribution base units. That section also authorizes the PBGC to prescribe rules for the reduction or elimination of partial withdrawal liability under other conditions. The regulation will provide for the abatement of partial withdrawal arising from the cessation of the obligation to contribute under a collective bargaining agreement or with respect to a facility. Section 4208 also requires the PBGC to issue a regulation under which a multiemployer plan may adopt rules for the reduction or elimination of partial withdrawal liability. This regulation will allow plans to ease the statutory partial withdrawal liability rules where, for example, the rules are harmful to the plan because they discourage an employer from increasing its participation under the plan, or where the statutory rules create administrative burdens which outweigh the protections afforded by the rules.

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Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: No

Agency Contact: Mr. Steven Rothenberg, Attorney, Pension Benefit Guaranty Corporation, Corporate Policy and Regulations Department, (35100), 2020 K St., NW, Washington, DC 20006, 202 956-5059

RIN: 1212-AA22

3222. ● ADJUSTMENT OF WITHDRAWAL LIABILITY FOR A WITHDRAWAL SUBSEQUENT TO A PARTIAL WITHDRAWAL

Significance: Agency Priority

Legal Authority: 29 USC 1302(b)(3); 29 USC 1386(b)

CFR Citation: 29 CFR 2649

Legal Deadline: None

Abstract: Under section 4208(b) of ERISA, if an employer partially or completely withdraws from a multiemployer plan subsequent to an earlier partial withdrawal from that plan, the employer's liability for the second withdrawal must be reduced by the amount of its liability for the earlier partial withdrawal. The purpose of this credit is to avoid plans double-charging employers for the same unfunded liabilities. Section 4208(b) also requires the PBGC to prescribe regulations adjusting this credit to ensure that the employer's liability for its second withdrawal properly reflects the employer's share of liability with respect to the plan.

The need for this adjustment to the credit can be seen from the following example. In a plan that uses the rolling-5 allocation method, an employer's withdrawal liability is based on its last five years' participation in the plan. If an employer's second withdrawal occurs more than five years after its partial withdrawal, the liability for the second withdrawal is based solely on plan participation subsequent to the partial (cont)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: ABSTRACT CONT: withdrawal. Thus, there is no double-charging with respect to the old liabilities and no reason to give the employer a credit against its liability for the second withdrawal. However, without this regulation, the employer would get that credit under the statute. There are many other possible situations in which the employer's credit should similarly be reduced in order to ensure equitable treatment of the withdrawing employer vis-a-vis the other employers still contributing to the plan.

This regulation will result in some shifting of liabilities among employers contributing to a multiemployer plan. An employer that has another withdrawal following a partial withdrawal may incur greater liability for the second withdrawal because of the reduction in the credit for the prior partial withdrawal. However, this increase in liability would reduce the unfunded vested benefits allocable to other employers that withdraw thereafter. In the aggregate, the regulation will impose no new costs.

Agency Contact: Mr. Steven Rothenberg, Attorney, Pension Benefit Guaranty Corporation, Corporate Policy and Regulations Department, (35100), 2020 K St., NW, Washington, DC 20006, 202 956-5059

RIN: 1212-AA37

3223. ● PLAN RULES FOR REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

Significance: Agency Priority

Legal Authority: 29 USC 1302(b)(3); 29 USC 1387(b)

CFR Citation: 29 CFR 2647, (Amendment)

Legal Deadline: None

Abstract: Under section 4207(a) of ERISA, the PBGC is required to issue a regulation providing for the reduction or waiver of an employer's liability for a complete withdrawal upon the employer's resumption of participation under the plan from which it withdrew. (The PBGC expects this regulation to be issued shortly.) The statute also requires the PBGC to prescribe procedures and standards under which multiemployer plans may adopt their own rules abating complete withdrawal liability upon an employer's return to the plan (section 4207(b)).

The purpose of letting plans adopt their own abatement rules is obvious: a specific rule adopted by a plan may well work better under the facts and circumstances of that particular plan than the broad rules adopted by the PBGC. This regulation will permit a plan to fashion the rules it needs to encourage the return of withdrawn employers, while at the same time protecting the plan from the loss of withdrawal liability payments without a compensating resumption of contributions to the plan by a formerly withdrawn employer. The PBGC is unable to (cont)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: ABSTRACT CONT: quantify the benefits and costs of this regulation because it cannot predict how many plans will exercise the authority conferred by this regulation.

Agency Contact: Mr. Steven Rothenberg, Attorney, Pension Benefit Guaranty Corporation, Corporate Policy & Regulations Department, (35100), 2020 K St., NW, Washington, DC 20006, 202 956-5059

RIN: 1212-AA38

3224. ● DETERMINATION OF WITHDRAWAL LIABILITY FOLLOWING A MERGER

Significance: Agency Priority

Legal Authority: 29 USC 1302(b)(3); 29 USC 1391(f)

CFR Citation: 29 CFR 2642, (Amendment)

Legal Deadline: None

Abstract: The merger of two multiemployer plans creates a problem as to how the successor plan's unfunded vested benefits are to be allocated in order to determine withdrawal liability for post-merger withdrawals. Frequently, the two plans will have been using different allocation methods prior to the merger. Even if they were using the same method, if they had different plan years, that would create different allocations.

For this reason, section 4211(c) of ERISA requires the PBGC to issue regulations prescribing rules for the post-merger allocation of unfunded vested benefits. The PBGC proposes to establish rules that parallel the statutory allocation methods: i.e., there would be a presumptive allocation method that would apply to plans unless they chose otherwise, and plans would be permitted to adopt certain modifications to this presumptive method without the PBGC's approval and other more significant modifications with the PBGC's approval. (cont)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Additional Information: ABSTRACT CONT: This regulation will remove a significant impediment to multiemployer plan mergers by eliminating employers' concern and confusion over how their withdrawal liability would be calculated after a merger. Plan mergers are generally to be encouraged since a larger plan is typically a stronger plan because of its broader contribution base, and because portability of benefits is increased. This regulation will impose no new costs.

Agency Contact: Mr. John Foster, Attorney, Pension Benefit Guaranty Corporation, Corporate Policy & Regulations Department, (35100), 2020 K St., NW, Washington, DC 20006, 202 956-5059

RIN: 1212-AA39

3225. VALUATION OF PLAN BENEFITS IN NON-MULTIEMPLOYER PLANS

Legal Authority: 29 USC 1302; 29 USC 1341; 29 USC 1344; 29 USC 1362

CFR Citation: 29 CFR 2619

Legal Deadline: None

Abstract: This rule would amend PBGC's regulation on Valuation of Plan Benefits in Non-Multiemployer Plans, 29 CFR Part 2619. That regulation sets forth the rules for valuing benefits in terminating plans that are covered by the insurance program under ERISA, which valuation is needed to determine if plan assets are sufficient to provide for plan benefits and to properly allocate assets to those benefits. After review of this regulation pursuant to Executive Order 12291, the PBGC is amending the rules for valuing benefits payable as lump sums upon termination. The effect of this amendment is to prescribe the range of interest rates that may be used to value lump sums that are paid in lieu of annuities. The amendment, in the form of an interim final rule, is needed to protect recipients of lump sum distributions from loss of benefit value resulting from the use of inappropriate interest rates to compute the lump sum amounts.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Mrs. Renae R. Hubbard, Special Counsel, Pension Benefit Guaranty Corporation, Corporate Policy and Regulations Department, (35100), 2020 K St., NW, Washington, DC 20006, 202 956-5050

RIN: 1212-AA26

3226. ● IMPLEMENTATION GUIDELINES (TRANSACTIONS INVOLVING REVERSIONS OF RESIDUAL ASSETS)

Legal Authority: 29 USC 1302; 29 USC 1321; 29 USC 1322; 29 USC 1341; 29 USC 1344

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: On May 23, 1984, the PBGC announced that it, along with the Treasury Department and the Department of Labor, had adopted implementation guidelines for processing defined benefit pension plan terminations involving asset reversions to the plan sponsor. This regulation will implement those principles and provide more detailed rules concerning the requirements that certain types of transactions must satisfy in order to be recognized as valid terminations under Title IV of ERISA. The regulation also will detail rules concerning the use of participating annuity contracts to close out a plan that has residual assets at the time of its termination, and the circumstances under which a plan is a "successor" to a terminated plan.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Ms. Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, (35100), 2020 K Street, NW, Washington, DC 20006, 202 956-5059

RIN: 1212-AA27

3227. VALUATION OF PLAN BENEFITS IN NON-MULTIEMPLOYER PLANS

Legal Authority: 29 USC 1302; 29 USC 1341; 29 USC 1344; 29 USC 1362

CFR Citation: 29 CFR 2619

Legal Deadline: None

Abstract: The PBGC's regulation on Valuation of Plan Benefits in Non-Multiemployer Plans, 29 CFR Part 2619, prescribes actuarial assumptions and methods to be used in valuing benefits in terminated single-employer pension plans. The PBGC intends to amend this regulation to adopt the approach to valuation employed in proposed regulation on valuation of benefits in multiemployer plans terminated by mass withdrawal, 29 CFR Part 2676 that was published on February 19, 1985 (50 FR 6956), in order to conform more precisely to generally accepted actuarial practice. The proposed amendment would enable PBGC valuations to more accurately reflect interest and other assumptions that underlie the insurance annuity market place.

Timetable:

Action	Date	FR Cite
NPRM	03/25/86	51 FR 10334
NPRM Comment Period End	05/27/86	
Final Action	03/00/87	

Small Entity: No

Agency Contact: Ms. Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Corporate Policy and Regulation Department, (35100), 2020 K St., NW, Washington, DC 20006, 202 956-5059

RIN: 1212-AA32

3228. PAYMENT OF BENEFITS IN PBGC-TRUSTEED PLANS

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322; 29 USC 1342

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: When the PBGC assumes trusteeship of a terminated pension plan pursuant to sections 4041 and 4042

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of ERISA, it pays benefits to participants pursuant to plan provision and section 4022 of ERISA. This regulation will contain rules and policies relating to the payment of such benefits. The regulation will enable the PBGC to process and administer PBGC-trusteed plans more efficiently with resultant cost savings. It also will reduce costs to the public and the PBGC by providing payment rules, thereby reducing the number of requests for administrative review.

Timetable:

Action	Date	FR Cite
NPRM	01/00/87	

Small Entity: No

Agency Contact: Ms. Ellan H. Spring, Pension Benefit Guaranty Corporation, Corporate Policy and Regulations Department, (35100) 2020 K St., NW, Washington, DC 20006, 202 956-5059

RIN: 1212-AA35

3229. RETIREMENT EQUITY ACT AMENDMENTS

Legal Authority: 29 USC 1302(b)(3); 29 USC 1322; 29 USC 1341; 29 USC 1344

CFR Citation: 29 CFR 2613; 29 CFR 2617; 29 CFR 2618

Legal Deadline: None

Abstract: Title IV of ERISA established rules for the allocation and distribution of plan assets to provide benefits in a terminating pension plan. Those rules are interpreted in the PBGC's regulations on Guaranteed Benefits, 29 CFR Part 2613, Determination of Plan Sufficiency and Termination of Sufficient Plans, 29 CFR Part 2617, and Allocation of Assets in Non-Multiemployer Plans, 29 CFR Part 2618. The Retirement Equity Act of 1984 ("REA") provides that certain early retirement benefits or retirement-type subsidies, or optional benefit forms, will be treated as accrued benefits, and that their elimination will be treated as an impermissible reduction in accrued benefits under certain circumstances. REA also revised the rules governing mandatory distributions from pension plans. These amendments will conform PBGC's regulations to the provisions of REA. The amendments will impose no new costs on plans and may alleviate administrative burdens by providing definitive rules.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: No

Agency Contact: Mrs. Renee R. Hubbard, Special Counsel, Pension Benefit Guaranty Corporation, Corporate Policy and Regulations Department, (35100), 2020 K St., NW, Washington, DC 20006, 202 956-5050

RIN: 1212-AA36

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Final Rule Stage

3230. ALLOCATING UNFUNDED VESTED BENEFITS

Legal Authority: 29 USC 1302(b)(3); 29 USC 1391(c)

CFR Citation: 29 CFR 2642

Legal Deadline: None

Abstract: On January 19, 1981, PBGC issued an interim regulation dealing with alternative methods for allocating unfunded vested benefits in multiemployer pension plans. PBGC now plans to re-promulgate that regulation in order to correct ambiguities that have arisen under it, to conform the procedures contained in it to other PBGC regulations, and to reduce the information reporting requirements in the regulation. The regulation will impose no new costs on the public and may reduce costs for plans adopting certain alternative allocation rules by reducing the reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/09/85	50 FR 36603
NPRM Comment Period End	11/08/85	
Final Action	10/00/86	

Small Entity: No

Agency Contact: Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Corporate Policy and Regulations Department, (35100), 2020 K St., NW, Washington, DC 20006, 202 956-5059

RIN: 1212-AA21

3231. RULES FOR VALUING GROUP INSURANCE CONTRACTS (AMENDMENT TO THE VALUATION OF PLAN ASSETS REGULATION)

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1341 ERISA; 29 USC 1344 ERISA; 29 USC 1362(b)(1) ERISA

CFR Citation: 29 CFR 2620

Legal Deadline: None

Abstract: This amendment to the existing PBGC regulation on valuing plan assets, 29 CFR Part 2620, will set forth rules for valuing group insurance contracts as plan assets. This regulation applies to single-employer plans. This rule is necessary to provide uniform standards for plan administrators and employers to use in valuing insurance contracts. The rule will enable plans which are funded through insurance contracts to have clear guidance on how this asset should be treated in the plan termination context, and alleviate time-consuming costly delays due to uncertainty on how this commonly used plan funding vehicle should be valued.

Timetable:

Action	Date	FR Cite
NPRM	05/08/85	50 FR 19386
NPRM Comment Period End	07/08/85	50 FR 19386
Final Action	10/00/86	

Small Entity: Not Applicable

Agency Contact: Mr. John Foster, Attorney, Pension Benefit Guaranty Corporation, Corporate Policy and Regulations Department, (35100), 2020 K St., NW, Washington, DC 20006, 202 956-5050

RIN: 1212-AA01

PENSION BENEFIT GUARANTY CORPORATION (PBGC) — Completed Actions

3232. REDUCTION OR WAIVER OF COMPLETE WITHDRAWAL LIABILITY

Significance: Agency Priority

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1387(a) ERISA

CFR Citation: 29 CFR 2647

Legal Deadline: None

Abstract: Section 4207(a) of ERISA requires the PBGC to establish rules for reducing or waiving the liability of an employer who has completely withdrawn from a multiemployer plan and subsequently resumes covered operations or renews the obligation to contribute under the plan. This regulation will prescribe the circumstances under which an employer's liability will be reduced or waived and the rules for computing the employer's liability for a complete or partial withdrawal after it has reentered the plan. This regulation will benefit multiemployer plans by encouraging some employers who have withdrawn from these plans to renew their participation in the plans. By the same token these employers will benefit by having some or all of their withdrawal liability waived. While the plans will incur the cost of foregoing collection of some of the withdrawal liability owed them, the assumption underlying this statutory provision is that these costs will be offset by the contributions employers will make to the plans after their reentry. PBGC is unable to quantify these benefits and costs, because it cannot predict the number of employers who will avail themselves of this rule.

Timetable:

Action	Date	FR Cite
NPRM	03/05/84	49 FR 8036
NPRM Comment Period End	05/04/84	49 FR 8036
Final Action	03/25/86	51 FR 10300
Final Action Effective	04/24/86	51 FR 10300

Small Entity: No

Agency Contact: Mr. Steven Rothenberg, Attorney, Pension Benefit Guaranty Corporation, Corporate Policy and Regulations Department, (35100), 2020 K St., NW, Washington, DC 20006, 202 956-5050

RIN: 1212-AA14

3233. REDETERMINATION OF WITHDRAWAL LIABILITY UPON MASS WITHDRAWAL

Significance: Agency Priority

Legal Authority: 29 USC 1302(b)(13) ERISA; 29 USC 1389(c) ERISA; 29 USC 1389(d) ERISA; 29 USC 1399(c)(1)(D) ERISA

CFR Citation: 29 CFR 2648

Legal Deadline: None

Abstract: The rules for determining an employer's withdrawal liability do not necessarily allocate a plan's total unfunded vested benefits because of the rules reducing or eliminating withdrawal liability, such as the de minimis rule. Therefore, if all or substantially all the employers in a plan withdraw, there may be large unallocated amounts that would constitute a potential claim on the insurance system. In order to avoid this result, section 4219(c)(1)(D) requires the determination or redetermination of withdrawal liability, in order to fully allocate a plan's unfunded vested benefits, upon either the termination of the plan through the withdrawal of every employer, or the withdrawal of substantially all the employers pursuant to an agreement or arrangement to withdraw. This regulation will set forth rules implementing this requirement. This regulation primarily benefits the multiemployer insurance program and the plans that are required to pay premiums under it, by insuring that in the event of a mass withdrawal (or the withdrawal of substantially all the employers pursuant to an agreement to withdraw), the liability for all unfunded vested benefits is allocated to the (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/14/84	49 FR 45018
NPRM Comment Period End	01/14/85	49 FR 45019
Final Action	03/25/86	51 FR 10314
Final Action Effective	04/24/86	51 FR 10314

Small Entity: No

Additional Information: ABSTRACT CONT: withdrawing employers. In addition, in the case of the withdrawal of substantially all employers, the rule will benefit the employers remaining in the plan by preventing them from being left with more than their fair share of the plan's unfunded vested benefits.

Agency Contact: Mr. J. Ronald Goldstein, Attorney, Pension Benefit Guaranty Corporation, Corporate Policy and Regulations Department, (35100), 2020 K St., NW, Washington, DC 20006, 202 956-5059

RIN: 1212-AA16

3234. VALUATION OF PLAN ASSETS AND PLAN BENEFITS FOLLOWING MASS WITHDRAWAL

Significance: Agency Priority

Legal Authority: 29 USC 1302(b)(3) ERISA; 29 USC 1441(b) ERISA

CFR Citation: 29 CFR 2676

Legal Deadline: None

Abstract: A plan that has terminated by mass withdrawal is required under section 4281(b) of ERISA to perform an annual valuation of the plan's nonforfeitable benefits and assets (including outstanding claims for withdrawal liability). This valuation is to be done in accordance with PBGC regulations. In addition, when a plan experiences a mass withdrawal, section 4219(c)(1)(D) requires the plan sponsor to allocate fully the plan's unfunded vested benefits to all withdrawing employers. In order to do this allocation, the plan sponsor must first value the plan's benefits and assets. This regulation will prescribe the rules for these valuations. The regulation on valuing outstanding claims for withdrawal liability listed on previous PBGC agendas (RIN 1212-AA17) has been merged into this regulation.

Timetable:

Action	Date	FR Cite
NPRM	02/19/85	50 FR 6956
NPRM Comment Period End	04/16/85	50 FR 6956
Final Action	03/25/86	51 FR 10322
Final Action Effective	04/24/86	51 FR 10322

Small Entity: No

Agency Contact: Ms. Deborah Murphy, Attorney, Pension Benefit Guaranty Corporation, Corporate Policy and Regulations Department, (35100), 2020 K St., NW, Washington, DC 20006, 202 956-5050

RIN: 1212-AA18

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3235. NON-STATUTORY ALLOCATION METHODS NOT REQUIRING PRIOR PBGC APPROVAL

Significance: Agency Priority

Legal Authority: 29 USC 1302(b) (3); 29 USC 1391(c) (5) (B)

CFR Citation: 29 CFR 2642

Legal Deadline: None

Abstract: This regulation will set forth alternative approaches that multiemployer plans may use in reallocating otherwise nonassessable withdrawal liability to employers in the plan. Plans currently using the presumptive method or the modified presumptive method must reallocate certain of these amounts because of the provisions in the Deficit Reduction Act of 1984 (DEFRA) concerning retroactive withdrawal liability. Under this regulation, a plan using the presumptive method will be permitted to adopt an amendment either to allocate, in the plan year in which DEFRA was effective, the unamortized balance of amounts otherwise allocable to employers that withdrew before DEFRA, or to treat the last plan year ending before DEFRA's effective date as the initial year for purposes of computing annual changes. The regulation also will permit a plan using the modified presumptive method to adopt an amendment that maintains the allocation fraction that the plan used before DEFRA. This regulation is intended to ease the administrative costs that the recomputations required by DEFRA would otherwise impose on affected multiemployer plans.

Timetable:

Action	Date	FR Cite
Final Action	12/03/85	50 FR 49539
Final Action Effective	12/03/85	50 FR 49539

Small Entity: No

Agency Contact: Mr. John Foster, Attorney, Pension Benefit Guaranty Corporation, Corporate Policy and Regulations Department, (35100), 2020 K St., NW, Washington, DC 20006, 202 956-5050

RIN: 1212-AA31

3236. TRANSACTIONS INVOLVING REVERSIONS OF RESIDUAL ASSETS

Legal Authority: 29 USC 1302; 29 USC 1322; 29 USC 1322B; 29 USC 1341; 29 USC 1344

CFR Citation: 29 CFR 2613; 29 CFR 2617; 29 CFR 2618; 29 CFR 2621

Legal Deadline: None

Abstract: On May 23, 1984, the PBGC announced that it, along with the Treasury Department and the Department of Labor, had adopted implementation guidelines for processing defined benefit pension plan terminations involving asset reversions to the plan sponsor. The PBGC has initiated a review of its regulations on Guaranteed Benefits (formerly RIN 1212-AA28), 29 CFR Part 2613, Allocation of Assets in Non-Multiemployer Plans, 29 CFR Part 2618, Determination of Plan Sufficiency and Termination of Sufficient Plans, 29 CFR Part 2617, and Limitation on Guaranteed Benefits, 29 CFR Part 2621, in order to determine what amendments may be needed to reflect the conclusions of the May 23, 1984 guidelines concerning the legal effect of certain transactions that result in reversions of pension plan assets to the sponsors of terminated plans. The review also covers the types of annuity contract that may be purchased to close out a plan that has residual assets at the time of its termination.

Timetable:

Action	Date	FR Cite
End Review	11/15/85	

Small Entity: No

Agency Contact: Mrs. Renee R. Hubbard, Special Counsel, Pension Benefit Guaranty Corporation, Corporate Policy and Regulations Department, (35100), 2020 K St., NW, Washington, DC 20006, 202 956-5050

RIN: 1212-AA27

[FR Doc. 86-3782 Filed 04-18-86; 8:45 am]

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federal register

Monday
April 21, 1986

Part XXXIX

Railroad Retirement Board

Semiannual Regulatory Agenda

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RRB

RAILROAD RETIREMENT BOARD

20 CFR Ch. II

Semiannual Agenda of Regulations Under Development or Review

AGENCY: Railroad Retirement Board.

ACTION: Agenda of regulations under development or review.

SUMMARY: This agenda contains lists of regulations that the Board is developing or proposes to develop in the next twelve months and regulations that are scheduled to be reviewed in that period.

ADDRESS: 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Steven A. Bartholow, Deputy General Counsel, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4935 (FTS 387-4935).

SUPPLEMENTARY INFORMATION: Regulations that are routine in nature or pertain solely to internal agency management have not been included in the agenda. Current regulations that are proposed to be modified based on a completed review of the regulations are listed in the agenda.

DATED: February 25, 1986.
By Authority of the Board.
For the Board.

Beatrice Ezerski,
Secretary to the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3237	Part 220 Disability Determinations	3220-AA01
3238	Computing the Employee and Spouse Annuity	3220-AA03
3239	Initial Determinations Under the Railroad Unemployment Insurance Act and Reviews of and Appeals from such Determinations	3220-AA11
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3241	Evidence Required for Payment	3220-AA14
3242	Eligibility for an Annuity	3220-AA15
3243	Application for Annuity or Lump Sum	3220-AA16
3244	Enforcement of Nondiscrimination on the Basis of Handicapped in Programs or Activities Conducted by the Railroad Retirement Board	3220-AA22
3245	Railroad Employers Reports and Responsibilities	3220-AA25
3246	Creditable Railroad Service	3220-AA26
3247	Creditable Railroad Compensation	3220-AA27
3248	Jurisdiction Determinations	3220-AA28
3249	Family Relationship	3220-AA29
3250	Survivor Annuity Computations	3220-AA30
3251	Social Security Overall Minimum Annuity	3220-AA31
3252	Deductions for Work	3220-AA32
3253	Federal Health Insurance Benefits for the Aged and Disabled	3220-AA33
3254	Eligibility for Federal Health Insurance Benefits	3220-AA34
3255	Premium Collection for Federal Health Insurance Supplementary Medical Insurance Benefits	3220-AA35
3256	Federal Health Insurance Benefits Coverage Outside the United States	3220-AA36
3257	Withholding Payment	3220-AA41
3258	Waiver of Annuity	3220-AA42
3259	Transfer or Assignment of Payments	3220-AA43
3260	Erroneous Payments	3220-AA44
3261	Sickness Benefits and Maternity Benefits	3220-AA45
3262	Debt Collection	3220-AA47
3263	Administration of Estates	3220-AA48

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3264	Primary Insurance Amount Determinations	3220-AA02
3265	Railroad Retirement Annuities	3220-AA19
3266	Reopening of Decisions Regarding Railroad Retirement Annuities	3220-AA46

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Completed Actions

Sequence Number	Title	Regulation Identifier Number
3267	Lump-sum Payments	3220-AA18

RAILROAD RETIREMENT BOARD (RRB)

Proposed Rule Stage

3237. PART 220 DISABILITY DETERMINATIONS

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 220

Legal Deadline: None

Abstract: The Board's regulations with respect to disability determinations have not been updated for several years and they are, in certain respects, obsolete. When revised, this regulation should ease the administration of disability benefits and result in greater consistency in disability determinations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: FTS 387-4793

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Grace Koester, Regulations Project Director, Railroad Retirement Board, Bureau of Hearings and Appeals, 844 Rush Street, Chicago, IL 60611, 312 751-4793

RIN: 3220-AA01

3238. COMPUTING THE EMPLOYEE AND SPOUSE ANNUITY

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 226

Legal Deadline: None

Abstract: The Board's regulations on the computation of employee and spouse annuities must be updated to conform to the Railroad Retirement Act of 1974 and to amendments to the Act made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	01/00/87	

Small Entity: Not Applicable

Additional Information: FTS 387-4818

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Roger L. Flood, Regulations Project Director, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush Street, Chicago, IL 60611, 312 751-4818

RIN: 3220-AA03

3239. INITIAL DETERMINATIONS UNDER THE RAILROAD UNEMPLOYMENT INSURANCE ACT AND REVIEWS OF AND APPEALS FROM SUCH DETERMINATIONS

Legal Authority: 45 USC 355(b); 45 USC 362(l)

CFR Citation: 20 CFR 320; 20 CFR 340

Legal Deadline: None

Abstract: The Board's regulation setting forth the procedures to be followed in rendering initial decisions and in requesting and handling reconsiderations and appeals from these decisions has been reviewed and a proposal to make certain revisions in Part 320 is being developed. The proposed regulation would conform the procedures more closely to those applicable under the Railroad Retirement Act. The proposed amendment to Part 340 explains when and under what circumstances waiver of recovery of erroneous payments may occur.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: Not Applicable

Additional Information: FTS 387-4810

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Walter Witkovich, Chief of Adjudication, Railroad Retirement Board, Bureau of Unemployment & Sickness Insurance, 844 Rush Street, Chicago, IL 60611, 312 751-4810

RIN: 3220-AA11

3240. ANNUITY BEGINNING AND ENDING DATES

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 218

Legal Deadline: None

Abstract: Part 218 is being revised to incorporate changes required as a result of amendments to the Railroad Retirement Act of 1974 made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: Not Applicable

Additional Information: FTS 387-4818

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Roger L. Flood, Regulations Project Director, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush Street, Chicago, IL 60611, 312 751-4818

RIN: 3220-AA13

3241. EVIDENCE REQUIRED FOR PAYMENT

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 219

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Legal Deadline: None

Abstract: Part 219 is being revised to incorporate changes required as a result of amendments to the Railroad Retirement Act of 1974 made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Not Applicable

Additional Information: FTS 387-4818

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Roger L. Flood, Regulations Project Director, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush Street, Chicago, IL 60611, 312 751-4818

RIN: 3220-AA14

3242. ELIGIBILITY FOR AN ANNUITY

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 216

Legal Deadline: None

Abstract: Part 216 is being revised to incorporate changes required as a result of amendments to the Railroad Retirement Act of 1974 made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: Not Applicable

Additional Information: FTS 387-4941

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Karl Blank, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4941

RIN: 3220-AA15

3243. APPLICATION FOR ANNUITY OR LUMP SUM

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 217

Legal Deadline: None

Abstract: Part 217 is being revised to incorporate changes required as a result of amendments to the Railroad Retirement Act of 1974 made by the Omnibus Budget Reconciliation Act of 1981 and the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Not Applicable

Additional Information: FTS 387-4818

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Roger L. Flood, Regulations Project Director, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush Street, Chicago, IL 60611, 312 751-4818

RIN: 3220-AA16

3244. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAPPED IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE RAILROAD RETIREMENT BOARD

Legal Authority: 29 USC 791; 29 USC 792; 29 USC 794 Rehabilitation Act of 1973; 42 USC 4151 to 4157; EO 12067; EO 12250; PL 95-602, Sec 119

CFR Citation: 20 CFR 364; 28 CFR 41; 28 CFR 41.3(f); 28 CFR 41.5(b)(2); 28 CFR 41.31; 28 CFR 41.32; 28 CFR 41.51; 28 CFR 41.56 to .58; 29 CFR 1613; 41 CFR 101-19.600 to .607

Legal Deadline: None

Abstract: The proposed regulation provides for the enforcement of Section 504 of the Rehabilitation Act of 1973, as amended (29 USC 794), which prohibits discrimination on the basis of handicap, as it applies to programs or activities conducted by the Railroad Retirement Board.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: FTS 387-4025

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Lawrence D. Smith I, Equal Employment Opportunity Officer, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4625

RIN: 3220-AA22

3245. RAILROAD EMPLOYERS REPORTS AND RESPONSIBILITIES

Legal Authority: 45 USC 231f(b)(5) to 231f(b)(9); 45 USC 231h; 45 USC 231l

CFR Citation: 20 CFR 209

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to amend 20 CFR 209 to comply with changes required by the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: FTS 387-4877

Affected Sectors: None

Agency Contact: Robert Elling, Chief-Coverage, Procedures & Admin Services, Railroad Retirement Board, Compensation and Certification, 844 Rush Street, Chicago, IL 60611, 312 751-4877

RIN: 3220-AA25

3246. CREDITABLE RAILROAD SERVICE

Legal Authority: 45 USC 231(d) to 231(f); 45 USC 231(i); 45 USC 231f(b)(5)

CFR Citation: 20 CFR 210

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to amend 20 CFR 210 to comply with changes required by the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: FTS 387-4877

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Robert Elling, Chief-Coverage, Procedures & Admin. Services, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4877

RIN: 3220-AA26

3247. CREDITABLE RAILROAD COMPENSATION

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 211

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to amend 20 CFR 211 to comply with the changes required by the Railroad Retirement Solvency Act of 1983.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Not Applicable

Additional Information: FTS 387-4877

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Robert Elling, Chief-Coverage, Procedures & Admin. Section, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4877

RIN: 3220-AA27

3248. JURISDICTION DETERMINATIONS

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 221

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to amend 20 CFR Part 221 to conform with current law.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: Not Applicable

Additional Information: FTS 387-4818

Affected Sectors: None

Agency Contact: Roger L. Flood, Regulations Project Director, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush Street, Chicago, IL 60611, 312 751-4818

RIN: 3220-AA23

3249. FAMILY RELATIONSHIP

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 222

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to add 20 CFR Part 222 to define any family relationship requirements needed to establish eligibility and entitlement for any monthly annuity or lump-sum payment under the Railroad Retirement Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	

Small Entity: Not Applicable

Additional Information: FTS 387-4818

Affected Sectors: None

Agency Contact: Roger L. Flood, Regulations Project Director, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush Street, Chicago, IL 60611, 312 751-4818

RIN: 3220-AA29

3250. SURVIVOR ANNUITY COMPUTATIONS

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 228

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to add 20 CFR 228 to describe how survivor annuities are computed in accordance with the Railroad Retirement Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	03/00/87	

Small Entity: Not Applicable

Additional Information: FTS 387-4818

Affected Sectors: None

Agency Contact: Roger L. Flood, Regulations Project Director, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush Street, Chicago, IL 60611, 312 751-4818

RIN: 3220-AA30

3251. SOCIAL SECURITY OVERALL MINIMUM ANNUITY

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 229

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to add 20 CFR Part 229 to describe when the social security overall minimum annuity computation applies and how it is computed for retirement annuities under the Railroad Retirement Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	07/00/88	

Small Entity: Not Applicable

Additional Information: FTS 387-4818

Affected Sectors: None

Agency Contact: Roger L. Flood, Regulations Project Director, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush Street, Chicago, IL 60611, 312 751-4818

RIN: 3220-AA31

3252. DEDUCTIONS FOR WORK

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 230

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to amend 20 CFR Part 230 to explain how annuity deductions for work are assessed in accordance with current law.

Timetable:

Action	Date	FR Cite
NPRM	09/00/87	

Small Entity: Not Applicable

Additional Information: FTS 387-4818

Affected Sectors: None

Agency Contact: Roger L. Flood, Regulations Project Director, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush Street, Chicago, IL 60611, 312 751-4818

RIN: 3220-AA32

3253. FEDERAL HEALTH INSURANCE BENEFITS FOR THE AGED AND DISABLED

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 270

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to add 20 CFR Part 270 to describe the rights of aged and disabled persons for Federal Health

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Insurance Benefits under the Railroad Retirement Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	11/00/87	

Small Entity: Not Applicable

Additional Information: FTS 387-4818

Affected Sectors: None

Agency Contact: Roger L. Flood, Regulations Project Director, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush Street, Chicago, IL 60611, 312 751-4818

RIN: 3220-AA33

3254. ELIGIBILITY FOR FEDERAL HEALTH INSURANCE BENEFITS

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 271

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to add 20 CFR Part 271 to describe when a person is eligible for Federal Health Insurance Benefits under the Railroad Retirement Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	01/00/88	

Small Entity: Not Applicable

Additional Information: FTS 387-4818

Affected Sectors: None

Agency Contact: Roger L. Flood, Regulations Project Director, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush Street, Chicago, IL 60611, 312 751-4818

RIN: 3220-AA34

3255. PREMIUM COLLECTION FOR FEDERAL HEALTH INSURANCE SUPPLEMENTARY MEDICAL INSURANCE BENEFITS

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 272

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to add 20 CFR Part 272 to describe when and how premiums are collected from persons eligible for Federal Health Insurance Supplementary Medical Insurance Benefits under the Railroad Retirement Act of 1974.

Timetable:

Action	Date	FR Cite
NPRM	03/00/88	

Small Entity: Not Applicable

Additional Information: FTS 387-4818

Affected Sectors: None

Agency Contact: Roger L. Flood, Regulations Project Director, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush Street, Chicago, IL 60611, 312 751-4818

RIN: 3220-AA35

3256. FEDERAL HEALTH INSURANCE BENEFITS COVERAGE OUTSIDE THE UNITED STATES

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 273

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to add 20 CFR Part 273 to describe when and how Federal Health Insurance Benefits coverage is provided under the Railroad Retirement Act of 1974 for persons residing outside the United States.

Timetable:

Action	Date	FR Cite
NPRM	05/00/88	

Small Entity: Not Applicable

Additional Information: FTS 387-4818

Affected Sectors: None

Agency Contact: Roger L. Flood, Regulations Project Director, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush Street, Chicago, IL 60611, 312 751-4818

RIN: 3220-AA36

3257. ● WITHHOLDING PAYMENT

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 241

Legal Deadline: None

Abstract: Part 241 will group the various regulations, currently found in several parts of the Board's regulations, that concern situations where payments may be withheld.

Timetable:

Action	Date	FR Cite
NPRM	11/00/86	

Small Entity: Not Applicable

Additional Information: FTS 387-4513

Agency Contact: Thomas W. Sadler, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA41

3258. ● WAIVER OF ANNUITY

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 242; 20 CFR 262

Legal Deadline: None

Abstract: The new Part 242 would include in a separate part the provisions for waiver of annuity which currently are contained in sections 262.6 and 262.7.

Timetable:

Action	Date	FR Cite
NPRM	05/00/87	

Small Entity: Not Applicable

Additional Information: FTS 387-4513

Agency Contact: Thomas W. Sadler, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4513

RIN: 3220-AA42

3259. ● TRANSFER OR ASSIGNMENT OF PAYMENTS

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 243; 20 CFR 295, (when adopted); 20 CFR 262.5; 20 CFR 350

Legal Deadline: None

Abstract: Currently, regulations concerning this subject matter appear in several parts of the Board's regulations. The new Part 243 will bring together or cross-reference the several related regulatory sections.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: Not Applicable

Additional Information: FTS 387-4929

RRB — Proposed Rule Stage

Agency Contact: Michael C. Litt, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4929

RIN: 3220-AA43

3260. ● ERRONEOUS PAYMENTS

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 255

Legal Deadline: None

Abstract: Part 255 is being revised to clarify when and how erroneous payments under the Railroad Retirement Act must be recovered.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Not Applicable

Additional Information: FTS 387-4568

Agency Contact: Stanley Jay Shuman, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4568

RIN: 3220-AA44

3261. ● SICKNESS BENEFITS AND MATERNITY BENEFITS

Legal Authority: 45 USC 362; 45 USC 355

CFR Citation: 20 CFR 335

Legal Deadline: None

Abstract: Part 355 will be amended to simplify and clarify the language of that Part.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: Not Applicable

Additional Information: FTS 387-4810

Agency Contact: Walter Witkovich, Chief of Adjudication, Bureau of Unemployment & Sickness Ins., Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4810

RIN: 3220-AA45

3262. ● DEBT COLLECTION

Legal Authority: 31 USC 3711; 31 USC 3717

CFR Citation: 4 CFR 102.13; 20 CFR 200

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to amend 20 CFR 200 to provide for assessment of interest, penalties, and collection costs, as authorized by the Debt Collection Act of 1982, in connection with the collection of certain debts arising from erroneous benefit payments under the several Acts administered by the Board. Section 11 of the Debt Collection Act of 1982 (Pub. L. 97-365) amended section 3(e) of the Federal Claims Collection Act of 1966 to provide that the head of an agency shall charge interest on claims owed the agency, assess penalties on delinquent debts, and assess charges to cover the costs of processing delinquent claims. Section 11 imposes a mandatory requirement that interest, penalties, and charges be assessed except as specifically provided in that section.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Not Applicable

Additional Information: FTS 387-4946

Agency Contact: James A. Evans, Assistant Chief, Systems and Procedures Division, Railroad Retirement Board, Bureau of Fiscal Operations, 844 Rush Street, Chicago, IL 60611, 312 751-4946

RIN: 3220-AA47

3263. ● ADMINISTRATION OF ESTATES

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 236

Legal Deadline: None

Abstract: The Railroad Retirement Board proposes to update Part 236 of its regulations, which concerns payments to estates in cases where the estates are not administered.

Timetable:

Action	Date	FR Cite
NPRM	01/00/87	

Small Entity: Not Applicable

Additional Information: FTS 387-4941

Agency Contact: Karl T. Blank, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4941

RIN: 3220-AA48

RAILROAD RETIREMENT BOARD (RRB) — Final Rule Stage

3264. PRIMARY INSURANCE AMOUNT DETERMINATIONS

Legal Authority: 45 USC 231f(b)(5)

CFR Citation: 20 CFR 225

Legal Deadline: None

Abstract: The computation of benefits under the Railroad Retirement Act of 1974 is quite complex and is not easily understood by beneficiaries. This proposed regulation would explain primary insurance amount determinations in a manner that will enable claimants and beneficiaries to more easily understand this phase of benefit computations.

Timetable:

Action	Date	FR Cite
NPRM	09/07/83	48 FR 40390
Final Action	03/00/86	

Small Entity: Not Applicable

Additional Information: FTS 387-4818

Affected Sectors: None

Government Levels Affected: Federal

Agency Contact: Roger L. Flood, Regulations Project Director, Railroad Retirement Board, Bureau of Retirement Claims, 844 Rush Street, Chicago, IL 60611, 312 751-4818

RIN: 3220-AA02

3265. RAILROAD RETIREMENT ANNUITIES

Legal Authority: 45 USC 231f; 45 USC 231m

CFR Citation: 20 CFR 295

Legal Deadline: None

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Abstract: Section 419 of Public Law 98-76 amended section 14 of the Railroad Retirement Act of 1974 to make certain portions of annuities subject to division in connection with court decrees of divorce, annulment or legal separation. Part 295 will implement this amendment.

Timetable:

Action	Date	FR Cite
NPRM	09/03/85	50 FR 35568
NPRM Comment Period End	10/03/85	
Final Action	04/00/86	

Small Entity: Not Applicable

Additional Information: FTS 387-4941

Affected Sectors: None

Government Levels Affected: Local, State, Federal

Agency Contact: Karl T. Blank, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4941

RIN: 3220-AA19

3266. ● REOPENING OF DECISIONS REGARDING RAILROAD RETIREMENT ANNUITIES

Legal Authority: 45 USC 231f

CFR Citation: 20 CFR 261

Legal Deadline: None

Abstract: The Railroad Retirement Board has adopted regulations with respect to the reopening of Board decisions pertaining to the award or denial of benefits under the Railroad Retirement Act.

Timetable:

Action	Date	FR Cite
NPRM	11/26/85	50 FR 48602
NPRM Comment Period End	12/26/85	50 FR 48602
Final Action	05/00/86	

Small Entity: Not Applicable

Additional Information: FTS 387-4929

Agency Contact: Michael C. Litt, Bureau of Law, Railroad Retirement Board, 844 Rush Street, Chicago, IL 60611, 312 751-4929

RIN: 3220-AA46

RAILROAD RETIREMENT BOARD (RRB) — Completed Actions

3267. LUMP-SUM PAYMENTS

CFR Citation: 20 CFR 234

Completed:

Reason	Date	FR Cite
Final Action	01/23/86	51 FR 3035
Final Action Effective	01/23/86	51 FR 3035

Small Entity: Not Applicable

Agency Contact: Roger L. Flood 312 751-4818

RIN: 3220-AA18

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Part XL

Selective Service System

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SELECTIVE SERVICE SYSTEM

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Regulatory Agenda

AGENCY: Selective Service System.

ACTION: Regulatory agenda.

SUMMARY: The purpose of this agenda is to report the proposed rulemaking activities of the Selective Service System that might affect the processing of registrants under the Military Selective Service Act (50 U.S.C. App. 451 et seq.). This information will allow the public to participate in the System's decision-making at an early stage.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Selective Service System, Washington, D.C. 20435, telephone (202) 724-1167.

SUPPLEMENTARY INFORMATION: The agenda is published in accord with the requirements of E.O. 12291. Selective Service Regulations appear in 32 CFR Chapter XVI.

DATED: March 11, 1986.

Thomas K. Turnage,

Director of Selective Service.

SELECTIVE SERVICE SYSTEM (SSS)

Final Rule Stage

3268. SELECTIVE SERVICE REGULATIONS; DEFERMENT OR EXEMPTION FROM MILITARY SERVICE

Legal Authority: 50 USC App. 451 et seq Military Selective Service Act; EO 11623

CFR Citation: 32 CFR Chapter XVI

Legal Deadline: None

Abstract: Various sections in 32 CFR Chapter XVI will be revised to increase clarity or expression and make them consistent with 32 CFR Part 1656 which was added at 48 FR 16675 (April 19, 1983). 32 CFR Parts 1662 and 1665 were published as final rules at 47 FR 7223 (February 18, 1982). The remainder of 32 CFR Chapter XVI (except 32 CFR Part 1660 which appears in 32 CFR Part 1660 (July 1, 1981)) was published as final rules at 47 FR 4640 (February 1, 1982).

Timetable:

Action	Date	FR Cite
NPRM	12/27/85	50 FR 52955
NPRM Comment Period End	02/27/86	51 FR 3635
Final Action	00/00/00	

Small Entity: No

Agency Contact: Henry N. Williams, General Counsel, Selective Service System, 1023 31st Street, NW, Washington, DC 20435, 202 724-1167

RIN: 3240-AA01

[FR Doc. 86-8365 Filed 04-18-86; 8:45 am]

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federal register

Monday
April 21, 1986

Part XLI

Small Business Administration

Semiannual Regulatory Agenda

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SBA

SMALL BUSINESS ADMINISTRATION

13 CFR Ch. I

Improving Government Regulations; Semiannual Agenda

AGENCY: Small Business Administration.

ACTION: Publication of the semiannual agenda of regulations under review or development by the Small Business Administration.

SUMMARY: This is SBA's 14th semiannual agenda of regulations. Although not a regulatory Agency, SBA has attempted to draft agendas that met both the criteria and the spirit of the regulatory review process. This agenda is published pursuant to Executive Order 12291 and the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., Pub. L. 96-354, effective January 1, 1981.

FOR FURTHER INFORMATION CONTACT: For further information on agenda items, the public is encouraged to contact the individual Agency official listed for the particular item.

For information concerning SBA overall Regulatory Review and Development Program or general semiannual agenda questions, contact Martin D. Teckler, Deputy General Counsel, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, 202/653-6642.

SUPPLEMENTARY INFORMATION: The SBA agenda will contain many regulations which are limited in public impact, but they are included to increase public knowledge of all SBA regulatory activities and allow for increased public participation in the review and development process.

Public comments on SBA's previous agendas have been general, and all were positive. None were directed at specific contents, nor were any changes suggested or recommended.

The agenda format has four parts. Part I, Pre-Rulemakings, includes investigations and reviews to be conducted prior to deciding whether or not to propose a rule or rule change. Part II, Proposed Rules, includes rulemaking which will be proposed during the six-month period covered by the agenda. Part III, Final Rules, includes proposed rules which will be finalized during the period covered by the agenda. Part IV, Completed Actions, includes regulations completed or withdrawn, and reviews completed since the preceding agenda.

Publication of this agenda does not impose any binding obligation on SBA with regard to any specific item in the agenda. Additional regulatory action not listed on the agenda is not precluded.

DATED: February 5, 1986.

James C. Sanders,

Administrator.

SMALL BUSINESS ADMINISTRATION (SBA) — Prerule Stage

3269. PROCUREMENT ASSISTANCE

Legal Authority: PL 98-577

CFR Citation: 13 CFR 125

Legal Deadline: None

Abstract: Review to ensure compliance with Pub. L. 98-577, the Competition in Contracting Act.

Timetable:

Action	Date	FR Cite
Begin Review	04/00/85	
End Review	03/00/86	

Small Entity: Yes

Agency Contact: Gene VanArsdale, Director, Office of Policy and Liaison, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6588

RIN: 3245-AA76

3270. ● SIZE STANDARDS: DREDGING

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6); 15 USC 632

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: To examine the requirement that to be considered small, a firm must perform the dredging of at least 40 percent of the yardage with its own dredging equipment or equipment owned by another small dredging concern to see if it should be amended.

Timetable:

Action	Date	FR Cite
ANPRM	04/00/86	
ANPRM Comment Period End	06/00/86	

Small Entity: Yes

Agency Contact: Andrew Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Room 500, Washington, DC 20416, 202 653-6373

RIN: 3245-AB02

3271. ● SIZE STANDARDS; CERTAIN RETAIL AND SERVICE INDUSTRIES

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6); 15 USC 632

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: To review and revise, as necessary, the small business size standards for certain retail and service industries.

Timetable:

Action	Date	FR Cite
Begin Review	04/00/86	
End Review	10/00/86	

Small Entity: Yes

Agency Contact: Andrew Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Room 500, Washington, DC 20416, 202 653-6373

RIN: 3245-AB03

SMALL BUSINESS ADMINISTRATION (SBA) — Proposed Rule Stage

3272. SIZE PROTESTS FOR SUBCONTRACTORS

Legal Authority: 15 USC 662(e)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Procedures for Size Protests for subcontractors.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Yes

Agency Contact: Ruben E. Weatherholtz III, Associate Administrator, Small Business Administration, Office of Procurement & Technical Assistance, 1441 L Street, NW, Washington, DC 20416, 202 653-6635

RIN: 3245-AA25

3273. SIZE STANDARDS; TRAVEL AGENCIES

Significance: Regulatory Program

Legal Authority: 15 USC 632; 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Review of Size Standards necessitated by GSA awards of travel contracts resulted in decision to modify proposed standard.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: Yes

Agency Contact: Andrew Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6373

RIN: 3245-AA58

3274. PROCUREMENT ASSISTANCE BREAK-OUT PROCUREMENT CENTER REPRESENTATIVES

Legal Authority: PL 98-577

CFR Citation: 13 CFR 125

Legal Deadline: None

Abstract: Revise regulations dealing with Break-out Procurement Center Representatives and Break-out procedures.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Undetermined

Agency Contact: Ruben E. Weatherholtz III, Associate Administrator for PTA, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6635

RIN: 3245-AA73

3275. CERTIFICATE OF COMPETENCY

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 125.5

Legal Deadline: None

Abstract: Overall revision to COC regulations.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Yes

Agency Contact: Robert Moffitt, Director, Office of Industrial Support Serv., Small Business Administration, 1441 L Street, NW, Room 626, Washington, DC 20416, 202 653-6582

RIN: 3245-AA74

3276. SIZE STANDARDS, EXPORT TRADING COMPANIES

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6); 15 USC 632

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Propose size standard for Export Trading Companies.

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: Yes

Agency Contact: Andrew Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6373

RIN: 3245-AA83

3277. REGULATIONS APPLYING SMALL BUSINESS SIZE STANDARDS

Significance: Regulatory Program

Legal Authority: 15 USC 632(a)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Revision of substantive rules governing compliance with small business size standards.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
NPRM Comment Period End	07/00/86	

Small Entity: Yes

Agency Contact: David R. Kolder, Associate General Counsel, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6379

RIN: 3245-AA84

3278. ● SIZE STANDARDS FOR CERTAIN INDUSTRIES (REVISION)(INCLUDING STANDARDS FOR REAL ESTATE AGENCIES, DREDGING, TRAVEL AGENCIES, WHOLESALE TRADE, CONSTRUCTION, EXPORT TRADING, ENGINEERING ETC

Significance: Regulatory Program

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Revision of various size standards.

Timetable:

Action	Date	FR Cite
Actions will be published as needs arise and as reviews of existing size standards are concluded.	00/00/00	

Small Entity: Yes

Additional Information: TITLE CONT: Services.

Agency Contact: Andrew Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Room 500, Washington, DC 20416, 202 653-6373

RIN: 3245-AA85

3279. POLLUTION CONTROL BONDS

Legal Authority: 15 USC 694-1; 15 USC 694-2; 15 USC 634(b)(6)

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SBA

Proposed Rule Stage

CFR Citation: 13 CFR 111

Legal Deadline: None

Abstract: Amendments to the Pollution Control Bond Program concerning eligibility policy. (Waste disposal concerns are ineligible.)

Timetable:

Action	Date	FR Cite
NPRM	01/09/86	50 FR 966
NPRM Comment Period End	03/10/86	

Small Entity: Yes

Agency Contact: Robert Lineberry, Deputy Associate Administrator/Investment, Small Business Administration, 1441 L Street, NW, Room 808, Washington, DC 20416, 202 653-6848

RIN: 3245-AA93

3280. SIZE STANDARDS: CONSTRUCTION

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Establishing an updated size standard for the construction industry.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Yes

Agency Contact: Andrew Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Room 500, Washington, DC 20416, 202 653-6373

RIN: 3245-AA95

3281. AMENDMENTS TO SECONDARY MARKET REGULATIONS

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 122

Legal Deadline: None

Abstract: Minor revision to Secondary Market regulations to correct administrative inefficiencies.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
NPRM Comment Period End	07/00/86	

Small Entity: Yes

Agency Contact: Edwin T. Holloway, Associate Administrator/Finance & Investment, Small Business Administration, 1441 L Street, NW, Room 800, Washington, DC 20416, 202 653-6832

RIN: 3245-AA96

3282. ● NONDISCRIMINATION IN FEDERALLY ASSISTED PROGRAMS: RETENTION OF RECORDS

Legal Authority: 15 USC 634(b)(6); 42 USC 2000d-1

CFR Citation: 13 CFR 112; 13 CFR 113

Legal Deadline: None

Abstract: Amendments to Parts 112 and 113 of 13 C.F.R. to direct the reader to SBA Form 793 for specifics on which records to retain and for what length of time. Also, other technical corrections such as replacing the in cite to H.E.W. with a cite to H.H.S.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
NPRM Comment Period End	06/00/86	

Small Entity: Yes

Agency Contact: Doris Dockett, Acting Chief, Office of Civil Rights Compliance, Small Business Administration, 1441 L Street, NW, Room 501, Washington, DC 20416, 202 653-6054

RIN: 3245-AB01

SMALL BUSINESS ADMINISTRATION (SBA)

Final Rule Stage

3283. MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT

Significance: Agency Priority

Legal Authority: 15 USC 637(a)

CFR Citation: 13 CFR 124

Legal Deadline: None

Abstract: These regulations would completely revise eligibility and program management for the SBA's Minority Enterprise Program.

Timetable:

Action	Date	FR Cite
NPRM	12/22/83	48 FR 56886
Comment Period extended to 3/21/84	02/17/84	49 FR 6103
Final Action	03/00/86	

Small Entity: Yes

Agency Contact: Wilfredo J. Gonzalez, Associate Administrator, Small Business Administration, 1441 L Street, NW, Room 317, Washington, DC 20416, 202 653-6407

RIN: 3245-AA12

3284. ● SURETY BOND GUARANTEE REGULATIONS

Legal Authority: 15 USC 634(b)(6); 15 USC 694b(d)

CFR Citation: 13 CFR 115

Legal Deadline: None

Abstract: Revision of the existing regulations for SBA's Surety Bond Guarantee Program. These changes will allow SBA to vary the percentage of its guarantee depending upon SBA's experience with the surety company requesting the guarantee. It also makes the fee which SBA charges for its guarantee negotiable.

SBA

Final Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	08/19/83	48 FR 37656
ANPRM Comment Period End	10/19/83	
NPRM	08/21/85	50 FR 33766
NPRM Comment Period End	10/21/85	
Final Action	05/00/86	
Final Action Effective	07/00/86	

Small Entity: Yes

Agency Contact: Howard F. Huegel, Acting Director, Office of Special Guarantees, Small Business Administration, 4040 N. Fairfax Drive, Arlington, VA 22203, 703 235-2900

RIN: 3245-AA20

3285. CIVIL RIGHTS COMPLIANCE: DISCRIMINATION ON THE BASIS OF HANDICAP

Legal Authority: 42 USC 2000d-1

CFR Citation: 13 CFR 136

Legal Deadline: None

Abstract: Prohibition of discrimination in SBA programs on the basis of handicap.

Timetable:

Action	Date	FR Cite
NPRM	07/02/84	49 FR 27164
NPRM Comment Period End	10/30/84	
Final Action	05/00/86	

Small Entity: No

Agency Contact: George H. Robinson, Director, Small Business Administration, Office of EEO&C, 1441 L Street, NW, Washington, DC 20416, 202 653-6050

RIN: 3245-AA21

3286. SMALL BUSINESS DEVELOPMENT CENTER REGULATIONS

Legal Authority: 15 USC 634(b); 15 USC 637(b)(1)

CFR Citation: 13 CFR 129

Legal Deadline: None

Abstract: Authorization of professional and trade associations as identified volunteer programs under section 8(b)(1)(B) of the Small Business Act, 15 USC 637(b)(1)(B).

Timetable:

Action	Date	FR Cite
NPRM	08/09/84	49 FR 31899
NPRM Comment Period End	09/24/84	
Final Action	07/00/86	

Small Entity: Yes

Agency Contact: Barbara Jackson, Program Manager, Office of MA, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6287

RIN: 3245-AA45

3287. SIZE STANDARDS; WHOLESALE TRADE

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6); 15 USC 632

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Review of wholesale size standard as a result of February 9, 1984 general revision of size standards.

Timetable:

Action	Date	FR Cite
NPRM	10/01/85	50 FR 40032
NPRM Comment Period End	12/02/85	
Final Action	05/00/86	

Small Entity: Yes

Agency Contact: Andrew Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6373

RIN: 3245-AA64

3288. BUSINESS LOAN POLICY

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 120

Legal Deadline: None

Abstract: Elimination of exception from media policy rule for radio and TV stations.

Timetable:

Action	Date	FR Cite
NPRM	04/11/85	50 FR 14248
NPRM Comment Period End	06/10/85	
Final Action	04/00/86	

Small Entity: Yes

Agency Contact: Charles R. Hertzberg, Deputy Associate Administrator for FA, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6574

RIN: 3245-AA65

3289. SMALL BUSINESS INVESTMENT COMPANIES; COMPUTATION OF NET GAIN IN MARKETABLE SECURITIES

Legal Authority: 15 USC 634(b)(6); 15 USC 686(a)

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: Clarifies the meaning of "marketable securities" by excluding any securities which are restricted in any manner or form from the definition set forth in 13 CFR 107.303(b)(1).

Timetable:

Action	Date	FR Cite
NPRM	11/27/84	49 FR 46553
NPRM Comment Period End	12/27/84	49 FR 46553
Final Action	06/00/86	

Small Entity: No

Agency Contact: Robert G. Lineberry, Deputy Associate Administrator/Investment, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6848

RIN: 3245-AA79

3290. SMALL BUSINESS INVESTMENT COMPANIES; LIMITATIONS ON PORTFOLIO INVESTMENTS

Legal Authority: 15 USC 687

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: Limitations on Portfolio Investments of SBIC's.

Timetable:

Action	Date	FR Cite
NPRM	11/01/84	49 FR 44062
NPRM Comment Period End	12/03/84	49 FR 44062
Comment period extended to 12/17/84	12/11/84	49 FR 46201
Final Action	06/00/86	

Small Entity: No

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Agency Contact: Robert G. Lineberry, Deputy Associate Administrator/Investment, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6948

RIN: 3245-AA80

3291. SIZE STANDARD: REAL ESTATE AGENTS

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Establishing a size standard for the real estate agents industry for the first time.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/85	50 FR 27418
Final Action	05/00/86	

Small Entity: Yes

Agency Contact: Andrew Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Room 500, Washington, DC 20416, 202 653-6373

RIN: 3245-AA88

3292. SMALL BUSINESS INVESTMENT COMPANY ACCOUNTING STANDARDS

Legal Authority: 15 USC 687(b)

CFR Citation: 13 CFR 107

Legal Deadline: None

Abstract: Accounting Standards and Financial Reporting Requirements for Small Business Investment Companies.

Timetable:

Action	Date	FR Cite
ANPRM	02/10/84	49 FR 5230
ANPRM Comment Period End	03/10/84	
NPRM	07/19/85	50 FR 29532
NPRM Comment Period End	08/19/85	
Final Action	04/00/86	

Small Entity: Yes

Agency Contact: Thomas Brennan, Staff Accountant, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6782

RIN: 3245-AA92

3293. LOANS TO STATE AND LOCAL DEVELOPMENT COMPANIES

Significance: Regulatory Program

Legal Authority: 15 USC 687(c)

CFR Citation: 13 CFR 108

Legal Deadline: None

Abstract: Revision of rules governing development companies in general and, specifically, Section 503 certified development companies.

Timetable:

Action	Date	FR Cite
NPRM	07/05/85	50 FR 27751
NPRM Comment Period End	09/03/85	
Final Action	04/00/86	
Final Action Effective	04/00/86	

Small Entity: Yes

Agency Contact: LeAnn M. Oliver, Financial Analyst, Small Business Administration, 1441 L Street, NW, Room 720, Washington, DC 20416, 202 653-6076

RIN: 3245-AA97

3294. ● DISASTER LOAN PROGRAM

Legal Authority: 15 USC 634; 15 USC 636

CFR Citation: 13 CFR 123

Legal Deadline: None,

Abstract: Delete requirement that at least 5 businesses in a county have suffered substantial economic injury before a Governor requests a disaster designation. Remove requirement that disaster loan funds not be used to pay certain tax delinquencies. Remove requirement that all members of board of directors or other governing body of a small agricultural cooperative qualify as small under SBA size standards.

Timetable:

Action	Date	FR Cite
Interim Final Rule	01/31/85	50 FR 04614
Final Action	04/00/86	
Final Action Effective	05/00/86	

Small Entity: Yes

Agency Contact: Bernard Kulik, Deputy Associate Administrator, Disaster Assistance, Small Business Administration, 1441 L Street, NW, Room 820, Washington, DC 20416, 202 653-6879

RIN: 3245-AA96

3295. ● BUSINESS LOANS; INTEREST RATES

Legal Authority: 15 USC 634(b)(6); 15 USC 636(a)(4)

CFR CRation: 13 CFR 122

Legal Deadline: None

Abstract: Clarification to allow all loans with fluctuating interest rates to fluctuate on a monthly basis so long as the borrower consents to the monthly fluctuation.

Timetable:

Action	Date	FR Cite
NPRM	11/15/85	50 FR 47227
NPRM Comment Period End	12/16/85	
Final Action	07/00/86	
Final Action Effective	08/00/86	

Small Entity: Yes

Agency Contact: Robert Wise, Financial Analyst, Office of Portfolio Management, Small Business Administration, 1441 L Street, NW, Room 816, Washington, DC 20416, 202 653-6900

RIN: 3245-AA99

3296. ● SMALL BUSINESS SIZE STANDARDS: COMMERCIAL FISHING

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6); 15 USC 632

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Size standard for commercial fishing firms.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/15/85	50 FR 15411
Final Action	08/00/86	
Final Action Effective	07/00/86	

Small Entity: Yes

SBA — Final Rule Stage

Agency Contact: Andrew Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Room 500, Washington, DC 20416, 202 653-6373

RIN: 3245-AB00

3297. ● SMALL BUSINESS SIZE STANDARDS: ENGINEERING, ARCHITECTURAL AND SURVEYING SERVICES

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6); 15 USC 632

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Size standard for engineering, architectural and surveying firms.

Timetable:

Action	Date	FR Cite
NPRM	09/16/85	50 FR 37539
NPRM Comment Period End	11/15/85	
Extension of Comment Period to 12/16/85	11/29/85	50 FR 49055
Final Action	06/00/86	
Final Action Effective	07/00/86	

Small Entity: Yes

Agency Contact: Andrew Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6373

RIN: 3245-AB04

3298. ● TIME OF SIZE DETERMINATION

Significance: Agency Priority

Legal Authority: 15 USC 632(a); 15 USC 634(b)(6)

CFR Citation: 13 CFR 121.4(d) and (g)

Legal Deadline: None

Abstract: Amendment of SBA Size Regulations to require that self-certification that a concern is small must occur after SBA has accepted the procurement in support of an 8(a) firm. Size will be determined for contract purposes at the time of the cost proposal after SBA acceptance of the procurement. Subsequent changes after that point in time, except for affiliation, will not affect the size determinations.

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/00/86	
Final Action	06/00/86	
Final Action Effective	07/00/86	

Small Entity: Yes

Agency Contact: David R. Kohler, Associate General Counsel, Small Business Administration, 1441 L Street, NW, Room 706, Washington, DC 20416, 202 653-6660

RIN: 3245-AB06

SMALL BUSINESS ADMINISTRATION (SBA) — Completed Actions

3299. ELIGIBILITY REQUIREMENTS FOR CERTIFICATE OF COMPETENCY APPLICANTS

Legal Authority: 15 USC 637(b)(7)

CFR Citation: 13 CFR 125.5

Legal Deadline: None

Abstract: Revision of the conditions under which SBA will provide a certificate of competency relative to a small concern's ability to perform a government contract.

Timetable:

Action	Date	FR Cite
Interim Final Rule	06/12/82	47 FR 34972
Final Action	03/27/85	
Final Action Effective	03/27/85	50 FR 11994

Small Entity: No

Agency Contact: Robert J. Moffitt, Director, Office of Industrial Support Serv., Small Business Administration, Office of Industrial Assistance, 1441 L Street, NW, Washington, DC 20416, 202 653-7035

RIN: 3245-AA03

3300. SIZE STANDARDS: DREDGING

Significance: Regulatory Program

Legal Authority: 15 USC 632(a); 15 USC 634(b)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Size Standard for Dredging.

Timetable:

Action	Date	FR Cite
ANPRM	12/04/84	49 FR 47414
NPRM	12/04/84	49 FR 47412
ANPRM Comment Period End	01/18/85	49 FR 47414
NPRM Comment Period End	01/18/85	
Final Action	11/08/85	50 FR 46418
Final Action Effective	12/09/85	

Small Entity: Yes

Agency Contact: Andrew Canellas, Director, Small Business Administration, Office of Size Standards, 1441 L Street, NW, Washington, DC 20416, 202 653-6373

RIN: 3245-AA29

3301. SIZE STANDARD FOR MARINE ENGINEERING AND NAVAL ARCHITECTURE

Significance: Regulatory Program

Legal Authority: 15 USC 632(a)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Revising small business size standard for the marine engineering and naval architecture industry.

Timetable:

Action	Date	FR Cite
Begin Review	06/01/84	
End Review	05/01/85	

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SBA — Completed Actions

Small Entity: Yes

Agency Contact: Andrew A. Canellas, Director, Office of Size Standards, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6373

RIN: 3245-AA50

3302. SIZE STANDARDS; SHIPBUILDING AND REPAIR

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6); 15 USC 632

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Whether ship repair component of the industry should have a separate size standard.

Timetable:

Action	Date	FR Cite
End Review	01/06/85	
Begin Review	03/01/85	
Notice to inform public of results of review	03/00/86	

Small Entity: Undetermined

Agency Contact: Andrew Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6373

RIN: 3245-AA66

3303. PROCUREMENT ASSISTANCE - DISPOSITION OF LOGS FROM SET-ASIDE SALES

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 125

Legal Deadline: None

Abstract: Disposition of logs from set-aside sales.

Timetable:

Action	Date	FR Cite
Begin Review	04/01/85	
End Review	08/01/85	

Small Entity: Undetermined

Agency Contact: Joseph Kernan, Director, Office of Natural Resource Sales, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6078

RIN: 3245-AA77

3304. SIZE STANDARD; CONSTRUCTION

Significance: Regulatory Program

Legal Authority: 15 USC 632; 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Revision of standard for construction industry.

Timetable:

Action	Date	FR Cite
Begin Review	02/01/85	
End Review	01/06/86	

Small Entity: Yes

Agency Contact: Andrew Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Washington, DC 20416, 202 653-6373

RIN: 3245-AA82

3305. SMALL BUSINESS SIZE STANDARD: FARMING

Legal Authority: 15 USC 634(b)(5)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Size standard for the farming industry.

Timetable:

Action	Date	FR Cite
Decision not to change rule	08/00/85	

Small Entity: Yes

Agency Contact: Andrew Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Room 500, Washington, DC 20416, 202 653-6373

RIN: 3245-AA89

3306. NONDISCRIMINATION IN FEDERALLY-ASSISTED PROGRAMS OF SBA

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 117

Legal Deadline: None

Abstract: Effectuation of Age Discrimination Act of 1975.

Timetable:

Action	Date	FR Cite
NPRM	10/17/79	44 FR 60032
NPRM Comment Period End	12/16/79	
Final Action	10/11/85	50 FR 41646
Final Action Effective	10/11/85	

Small Entity: No

Agency Contact: George Robinson, Director, EEO&C, Small Business Administration, 1441 L Street, NW, Room 501, Washington, DC 20416, 202 653-6059

RIN: 3245-AA91

3307. SIZE STANDARD: TUNA FISHING

Significance: Regulatory Program

Legal Authority: 15 USC 634(b)(6)

CFR Citation: 13 CFR 121

Legal Deadline: None

Abstract: Size standard to recognize the detrimental oceanographic effect of "El Nino" on tuna fishers.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/85	
End Review	03/01/85	

Small Entity: Yes

Agency Contact: Andrew Canellas, Director, Size Standards Staff, Small Business Administration, 1441 L Street, NW, Room 500, Washington, DC 20416, 202 653-6373

RIN: 3245-AA94

[FR Doc. 86-8827 Filed 04-18-86; 8:45 am]

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federal register

Monday
April 21, 1986

Part XLII

Tennessee Valley Authority

Semiannual Regulatory Agenda

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TVA

TENNESSEE VALLEY AUTHORITY

18 CFR Ch. XIII

Regulatory Agenda

AGENCY: Tennessee Valley Authority.

ACTION: Regulatory agenda.

SUMMARY: As a nonregulatory agency, TVA originates very few regulations and thus does not ordinarily have agenda items to announce. However, TVA has one regulation under development and is therefore publishing a regulatory agenda in voluntary compliance with Executive Order No. 12291.

FOR FURTHER INFORMATION CONTACT: For further information please contact the person listed.

W. F. Willis,

General Manager.

TENNESSEE VALLEY AUTHORITY (TVA)

Proposed Rule Stage

3308. PROTECTION OF ARCHAEOLOGICAL RESOURCES

Legal Authority: 16 USC 470aa to 470ll

CFR Citation: 18 CFR 1312

Legal Deadline: None

Abstract: The planned regulations will implement provisions of the Archaeological Resources Protection Act of 1979 by providing protection of archaeological resources on public lands in TVA custody and control. TVA will seek to protect such resources through permits authorizing excavation or removal of resources, through civil penalties for unauthorized excavation or removal, through preservation of archaeological resource collections and data, and through assuring confidentiality of information about resources when disclosure would threaten the resources. The planned regulations will supplement existing uniform regulations by assigning specific responsibilities within TVA.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Maxwell D. Ramsey, Program Manager, Cultural Resources, Tennessee Valley Authority, 241 Natural Resources Building, Norris, Tennessee 37828, 615 632-6450

RIN: 3316-AA02

[FR Doc. 86-8880 Filed 04-18-86; 8:45am]

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Monday
April 21, 1986

Part XLIII

Veterans Administration

Semiannual Regulatory Agenda

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VA

VETERANS ADMINISTRATION

38 CFR Ch. I

Agenda of Federal Regulations

AGENCY: Veterans Administration.

ACTION: Publication of agenda of regulations.

SUMMARY: This agenda announces the regulations that the Veterans Administration will have under review, development or revision during the 12 month period from April 1986 to April 1987. The purpose in publishing this Agency's regulatory development activities is to allow all interested persons the opportunity to participate in the rulemaking process.

ADDRESSES: Interested persons are invited to comment on the regulations listed in the agenda by contacting the individual agency contact listed for each regulation, or by writing to: Paperwork Management and Regulations Service (731), Veterans Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

FOR FURTHER INFORMATION CONTACT: Celia Winter (202) 389-2340.

SUPPLEMENTARY INFORMATION: Executive Order 12291, Federal Regulation, and the Regulatory Flexibility Act (Pub. L. 96-354) require that executive agencies publish in the Federal Register in April and October of each year, an agenda of regulations under development and review.

The Veterans Administration has no regulations considered major under the terms of Executive Order 12291; however all of this agency's proposed rules and current rules under review except those considered to be internal agency policy management or routine regulations have been listed in accordance with section 5.(a) of the Executive Order. This agenda incorporates those categories of information required pursuant to 5 U.S.C. 602(a) and 610(c) (Regulatory Flexibility Act).

The Veterans Administration has found that all rules listed in this agenda, if promulgated, will not have a significant economic impact on a substantial number of small entities as they are defined in 5 U.S.C. 601-612.

The agenda has been prepared in accordance with OMB Bulletin 86-4.

DATED: February 14, 1986.

Everett Alvarez, Jr.

Acting Administrator.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3309	Evidence of Inability to Defray Necessary Expenses	2900-AA12
3310	Extensions to Community Nursing Home Care	2900-AB21
3311	Standards of Nursing Home Care for State Veterans Homes	2900-AB31
3312	Community Residential Care	2900-AB32
3313	Readjustment Counseling and Related Mental Health Services	2900-AB55
3314	Telecaption Television Decoders	2900-AB56
3315	Medical Service in the Philippines	2900-AB57
3316	Disposition of Veteran's Personal Funds and Effects on Station upon Death, or Discharge, or Unauthorized Absence, and of Funds and Effects Found on Station	2900-AB61
3317	Grants to States for Construction and Acquisition of State Home Facilities	2900-AB62
3318	Charges for Care or Medical Services	2900-AB80
3319	Adult Day Health Care	2900-AB89
3320	Use of Community Nursing Home	2900-AC04
3321	Treatment of Veterans in Non-Contiguous States, Territories and Possessions	2900-AC21
3322	Veterans Administration Federal Radiation Guidelines for Radiologic Prosedures (PL 97-35)	2900-AC23
3323	Grants to States for Construction and Acquisition of State Home Facilities	2900-AC25
3324	Confidential Quality Assurance Program Records and Documents	2900-AC27
3325	Veterans Education; Foreign Medical Schools	2900-AB09
3326	Incarcerated Veterans; Commencing Dates of Subsistence Allowance; Reduction or Termination Dates of Subsistence Allowance	2900-AB26
3327	Acquisition of Property	2900-AB34
3328	Employee Fiduciaries	2900-AB50
3329	Federal Fiduciary Commissions	2900-AB52
3330	Temporary Program of Vocational Training for Certain New Pension Recipients	2900-AB53
3331	Reservists Education; New Education Program for Members of the Selected Reserve	2900-AB69
3332	Veterans Education; New Education Program for Veterans	2900-AB70
3333	1. Veterans Services Officer to Select and Appoint or Recommend for Appointment the Person or Legal Entity to Receive Veterans Administration Benefits in a Fiduciary Capacity 2. Direct Payment	2900-AB75
3334	1. Payment to the Wife or Husband of an Incompetent Veteran; 2. Legal Custodian	2900-AB76
3335	Investments by Legal Custodians	2900-AB77
3336	1. Veterans Services Officer's Action When Veteran's Estate Equals or Exceeds $1,500 2. Determination of Value of Estate; 38 USC 3203(b)(1)	2900-AB78
3337	Eligibility for Employment Services, Employment Handicap, Employment Assistance, Overview of Employment Services	2900-AB89
3338	Accountability for Authorization and Payment of Training and Rehabilitation Services	2900-AB92
3339	Applicant Status, Interrupted Status, Discontinued Status, Duties of the Vocational Rehabilitation Panel	2900-AB93
3340	Veterans Education; Effective Date of Refund Upon Disenrollment From VEAP	2900-AB96

VA

Proposed Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3341	Definition of Fraud	2900-AC01
3342	Interest and Penalties on Untimely Submission of Funding Fees by Lenders	2900-AC03
3343	Increased Coverage for Servicemen's and Veteran's Group Life Insurance	2900-AC06
3344	Computation of Entitlement Under Chapter 31	2900-AC08
3345	1. Apportionment of Benefits to Dependents; 2. Payment of Cost of Veteran's Maintenance in Institution	2900-AC10
3346	End of Flight Training in VEAP (Post-Vietnam ERA Educational Assistance Program)	2900-AC14
3347	Nonduplication - 38 U.S.C. Chapters 31, 32, 34 and 35	2900-AC16
3348	Commencing Dates of Subsistence Allowance	2900-AC18
3349	Use of Credit Reports for Refinancing and Rescheduling of VA-Guaranteed Loans and Claim Submissions	2900-AC19
3350	Appeals Regulations and Rules of Practice	2900-AC09
3351	Appeals Regulations and Rules of Practice	2900-AC11
3352	Enforcement of Nondiscrimination on the Basis of Handicap in VA Programs	2900-AA87
3353	Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance	2900-AB87
3354	Revision of Fees for Copies of VA Records	2900-AB18
3355	Effect of General Counsel Opinions	2900-AB22
3356	Inventions by Employees of Veterans Administration as Coinventors under Funding Agreements	2900-AB47
3357	Administrator's Delegations of Authority to Certain Officials (38 U.S.C. 212(a))	2900-AC05
3358	Claims for Cost of Medical Care and Services	2900-AC28
3359	Environmental Effects of VA Actions	2900-AB17
3360	Protection of Archeological Resources	2900-AC26
3361	Veterans Administration Acquisition Regulations	2900-AC12

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3362	Amend VA Regulations for the Purpose of Correcting Certain Specific Technical Points and to Make Certain Editorial Changes	2900-AB59
3363	Medical Care for Veterans Receiving Vocational Training under Chapter 15	2900-AB60
3364	Outpatient Medical Services for Eligible Persons	2900-AC20
3365	Veterans Education; Educational Assistance Test Program	2900-AA01
3366	Veterans Education; Certifications of Enrollment	2900-AA58
3367	Social Security Numbers in Veterans Benefits Matters	2900-AA95
3368	Veterans Education; Programs of Education at More Than One School	2900-AB41
3369	Veterans Education; VEAP Eligibility	2900-AB43
3370	Temporary Program for Trial Work Periods and Vocational Rehabilitation for Certain Veterans with Total Disability Ratings	2900-AB54
3371	Veterans Education; Miscellaneous Administrative Adjustments	2900-AB67
3372	Subsistence Allowance	2900-AB79
3373	Veterans Education: Entitlement Charges for Overpayments	2900-AB91
3374	Veterans Education; Limit on Reimbursement of Wages Under the Emergency Veterans' Job Training Act	2900-AB94
3375	Veterans Education; Waiver of the Two-Year Operation Requirement	2900-AB95
3376	Veterans Education: Assuring Compliance with Civil Rights Laws	2900-AC07
3377	Veterans Education; Nonmatriculated Students	2900-AC13
3378	Veterans Education; Amendments to the Veterans' Job Training Act	2900-AC15
3379	Veterans Education: Extension of the Veteran's Job Training Act	2900-AC17
3380	Appeals Regulations and Rules of Practice	2900-AB88
3381	Nondiscrimination on the Basis of Sex under Federal Assisted Education Programs and Activities	2900-AB51

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3382	Extension of Default Reporting Requirement	2900-AB35
3383	Veterans Education; Retroactive Approval of Courses	2900-AB42
3384	Veterans Education; Cancellation of Unnecessary Regulations	2900-AB44

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Completed Actions—Continued

Sequence Number	Title	Regulation Identifier Number
3385	Temporary Vocational Rehabilitation Programs and Automobile and Adaptive Equipment Allowance	2900-AB65
3386	Incompetent-Estate Over $1500 and Hospitalized	2900-AB66
3387	Veterans Education; Delegation of Authority	2900-AB71
3388	Veterans Education; Right to Initially Enroll in VEAP Suspended	2900-AB73
3389	Veterans Education; Measurement of Undergraduate Courses	2900-AB90
3390	Veterans Education; Technical Changes	2900-AB97
3391	Frequency of Payment of Improved Pension	2900-AC02
3392	Appeals Regulations and Rules of Practice	2900-AB29
3393	Waiver of Overpayments; Waiver - Third Persons; Standards for Claims Collections	2900-AB33
3394	Recognition of Organizations, Representatives, Agents and Attorneys	2900-AA36
3395	Employee Acceptance of Food and Refreshments	2900-AB86

VETERANS ADMINISTRATION (VA)

Proposed Rule Stage

DEPARTMENT OF MEDICINE AND SURGERY

3309. EVIDENCE OF INABILITY TO DEFRAY NECESSARY EXPENSES

Significance: Regulatory Program

Legal Authority: 38 USC 610; 38 USC 622

CFR Citation: 38 CFR 17

Legal Deadline: None

Abstract: Legislation is pending in Congress which would amend 38 U.S.C. 610 and 622 to provide authority for an income means test for certain nonservice-connected veterans, linked to an applicant's ability to demonstrate with evidence that his/her gross annual family income is below a certain level. Under proposed legislation, these individuals would be considered unable to defray the costs of needed medical care.

Timetable:

Action	Date	FR Cite
NPRM one month following enactment	00/00/00	
Final Action four months following enactment	00/00/00	

Small Entity: No

Agency Contact: Jerome Hanes, Medical Admin. Program Specialist, Veterans Administration, Department of Medicine and Surgery(136F), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2337

RIN: 2900-AA12

3310. EXTENSIONS TO COMMUNITY NURSING HOME CARE

Legal Authority: 38 USC 620

CFR Citation: 38 CFR 17.51a

Legal Deadline: None

Abstract: Existing regulations that permit an extension to an approved 6-month period of Community Nursing Home Care at VA expense are not definitive enough regarding the circumstances of an unusual nature which provide the impetus for granting such extensions. The proposed change will correct that deficiency.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Stuart E. Mount, Medical Administration Specialist, Veterans Administration, Department of Medicine & Surgery, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2851

RIN: 2900-AB21

3311. STANDARDS OF NURSING HOME CARE FOR STATE VETERANS HOMES

Legal Authority: 38 USC 642(a)

CFR Citation: 38 CFR 17.165d

Legal Deadline: None

Abstract: The existing regulation now only refers to standards of care prescribed by the Administrator for State Veterans Homes. The proposed change will elaborate upon these standards of care in relation to State Veterans Homes.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: F. Brent Baker, Assistant State Home Program Coordinator, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3679

RIN: 2900-AB31

3312. COMMUNITY RESIDENTIAL CARE

Legal Authority: 38 USC 630

CFR Citation: 38 CFR Not yet determined

Legal Deadline: None

Abstract: These regulations will clarify the legal status of the Community Residential Care program, setting standards and criteria for health and safety, facility resources, guidelines for costs of care, conditions under which

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Proposed Rule Stage

the agency may cease referrals to non-complying facilities.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: J. R. Kelly, Chief, Community Care Programs, Veterans Administration, Department of Medicine and Surgery, Washington, DC 20420, 202 389-3692

RIN: 2900-AB32

3313. READJUSTMENT COUNSELING AND RELATED MENTAL HEALTH SERVICES

Legal Authority: 38 USC 612A

CFR Citation: 38 CFR 17.57

Legal Deadline: None

Abstract: 38 CFR 17.57 is being amended to remove any reference to a date by which a Vietnam era veteran must request readjustment counseling. This technical amendment is necessary because of changes made by PL 99-166 to Title 38 USC.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Jerome J. Hanes, Medical Administration Program Specialist, Department of Medicine and Surgery (136F), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2143

RIN: 2900-AB55

3314. TELECAPTION TELEVISION DECODERS

Legal Authority: PL 98-526

CFR Citation: 38 CFR 17.115b; 38 CFR 17.115c

Legal Deadline: None

Abstract: This law authorizes the VA to furnish assistive devises to overcome the handicap of deafness, including telecaption television decoders, to any veteran who is profoundly deaf and is entitled to compensation on account of hearing impairment. As for telecaption TV decoders, VA policy previously limited the provision of this device to veterans who suffered an aberrant or morbid mental condition as a result of deafness. The law specifically authorizes the VA to provide this device but limits the provision to profoundly deaf veterans who are entitled to compensation for a hearing impairment.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: Yes

Agency Contact: Donald N. Babb, Program Analyst, Veterans Administration, Department of Medicine & Surgery (121), 810 Vermont Ave., NW, Washington, DC 20420, 202 389-2011

RIN: 2900-AB56

3315. MEDICAL SERVICE IN THE PHILIPPINES

Legal Authority: 38 USC 624; 38 USC 632

CFR Citation: 38 CFR 17.30 to 17.40

Legal Deadline: None

Abstract: These amendments specify for whom hospital, nursing home and intermediate care, and medical services may be provided in the Republic of the Philippines.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Stuart Mount, Medical Administration Program Specialist, Veterans Administration, Department of Medicine & Surgery (136F), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2143

RIN: 2900-AB57

3316. DISPOSITION OF VETERAN'S PERSONAL FUNDS AND EFFECTS ON STATION UPON DEATH, OR DISCHARGE, OR UNAUTHORIZED ABSENCE, AND OF FUNDS AND EFFECTS FOUND ON STATION

Legal Authority: 38 USC 210c

CFR Citation: 38 CFR 12.0 to 12.24

Legal Deadline: None

Abstract: Section 208 of Public Law 94-581 provides that unclaimed property or funds and effects left by a dependent or survivor of a veteran receiving medical care at a VA facility as a CHAMPVA beneficiary will be disposed of in the same or similar manner as such property left by a veteran. Also, estates of dependents or survivors of a veteran who dies intestate and without legal heirs while a patient in any VA facility or any hospital, while being furnished care or treatment therein by the VA will escheat to the U.S. Government. Some of these regulations have not been updated since 1946, therefore, editorial changes will be made which will not affect policy.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Paul Tryhus, Medical Administration Program Specialist, Veterans Administration, Department of Medicine & Surgery (136F), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2143

RIN: 2900-AB61

3317. GRANTS TO STATES FOR CONSTRUCTION AND ACQUISITION OF STATE HOME FACILITIES

Legal Authority: 38 USC 5031 to 5037; PL 98-528

CFR Citation: 38 CFR 17.170 to 17.177

Legal Deadline: None

Abstract: The existing regulation contains construction standards which need updating. P.L. 98-528 provides for the acquisition of property for use as State Veterans Homes. The proposed revised regulations will accomplish these changes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: F. Brent Baker, State Home Program Coordinator, Veterans Administration, Department of Medicine & Surgery (182C), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3679

RIN: 2900-AB62

3318. CHARGES FOR CARE OR MEDICAL SERVICES

Significance: Regulatory Program

Legal Authority: 38 USC 629

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CFR Citation: 38 CFR 17

Legal Deadline: None

Abstract: Legislation is pending in the Congress which would amend 38 USC 629 to allow the VA to recover the cost of medical care furnished to nonservice-connected veterans from third party health insurance policies carried by these veterans and would prohibit such insurance policies from containing clauses disallowing reimbursement to Federal (VA) hospitals. No attempt will be made by the VA to collect deductibles or co-insurance payments from the veteran.

Timetable:

Action	Date	FR Cite
NPRM one month following enactment	00/00/00	
Final Action four months following enactment	00/00/00	

Small Entity: No

Agency Contact: Karen Walters, Medical Admin. Program Specialist, Veterans Administration, Department of Medicine & Surgery (136F), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2337

RIN: 2900-AB80

3319. ADULT DAY HEALTH CARE

Significance: Agency Priority

Legal Authority: 38 USC 620a

CFR Citation: 38 CFR 17.51c; 38 CFR 17.51d; 38 CFR 17.51e

Legal Deadline: None

Abstract: The VA plans to contract for adult day health care services. Standards for care safety criteria and eligibility criteria must be established before contracts can be negotiated.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: No

Agency Contact: James R. Kelly, Chief, Community Care Programs, Veterans Administration, 181, Department of Medicine and Surgery, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3692

RIN: 2900-AB99

3320. ● USE OF COMMUNITY NURSING HOME

Legal Authority: 38 USC 620(a)

CFR Citation: 38 CFR 17.51

Legal Deadline: None

Abstract: This amendment authorizes the direct transfer to a non-VA nursing home of (1) a veteran who has received VA nursing home or domiciliary care who requires long-term nursing home care and (2) a veteran who has been discharged from a hospital under the direct jurisdiction of the VA and who is currently receiving VA hospital based home health services. It also eliminates the six month limitation for veterans admitted direct from the community for service-connected disabilities. Allows for placement to community nursing homes in Alaska and Hawaii from hospitals and domiciliaries.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Paul Tryhus, Medical Administration Program Specialist, Department of Medicine and Surgery (136F), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2143

RIN: 2900-AC04

3321. ● TREATMENT OF VETERANS IN NON-CONTIGUOUS STATES, TERRITORIES AND POSSESSIONS

Legal Authority: 38 USC 601(4)(c)(v)

CFR Citation: 38 CFR 17.50b

Legal Deadline: None

Abstract: This amends and removes the Virgin Islands from any delimiting restrictions regarding contract care. Extend for 3 years, from September 30, 1985, to September 30, 1988 the authority to provide contract-care for the Commonwealth of Puerto Rico. Such care is modified for each of 3 fiscal years covered by the extension to limit obligations to a percentage of the 1985 expenditure level.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Paul Tryhus, Medical Administration Program Specialist, Department of Medicine and Surgery (136F), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2143

RIN: 2900-AC21

3322. ● VETERANS ADMINISTRATION FEDERAL RADIATION GUIDELINES FOR RADIOLOGIC PROCEDURES (PL 97-35)

Legal Authority: 38 USC 101(b) (1)

CFR Citation: 38 CFR 17, (Revision)

Legal Deadline: None

Abstract: The Veterans Administration is developing regulations for the establishment of minimum standards for the accreditation of education programs for, and certification of, persons who administer radiologic procedures. This will ensure that medical and dental radiologic procedures are consistent with rigorous safety precautions and standards. These regulations are required by (PL 97-35). They will improve the quality of patient care by reducing the need for retakes of diagnostic radiologic procedures. They will also provide for the elimination of unproductive screening programs and for optimum diagnostic information with minimum radiologic exposure. They will also assure the appropriate application of radiation to patients undergoing therapeutic treatment of disease, including nuclear medicine applications.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Arthur D. Graham, M.D., Director, Radiology Service, Department of Medicine and Surgery (114), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2434

RIN: 2900-AC23

3323. ● GRANTS TO STATES FOR CONSTRUCTION AND ACQUISITION OF STATE HOME FACILITIES

Legal Authority: 38 USC 5035; PL 99-166

CFR Citation: 38 CFR 17.173

Legal Deadline: None

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Abstract: Public Law 99-166 provides a requirement for the Administrator to defer approving an application if, by July 1 following receipt of a VA notice of availability of funds, adequate State financial support has not been provided. Funds intended for a deferred application will be applied to the next nursing home project(s) on the list that has met VA requirements and has adequate financial support and that the Administrator determines to be most in need. The deferred application will be accorded priority for approval the next fiscal year.

Timetable:

Action	Date	FR Cite
NPRM	12/00/86	

Small Entity: No

Agency Contact: F. Brent Baker, State Home Program Coordinator, Department of Medicine and Surgery (182C), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3679

RIN: 2900-AC25

3324. ● CONFIDENTIAL QUALITY ASSURANCE PROGRAM RECORDS AND DOCUMENTS

Legal Authority: 38 USC 3305; 38 USC 4151; 38 USC 4152

CFR Citation: 38 CFR 17, (Revision)

Legal Deadline: None

Abstract: Final regulations implementing 38 USC 3305 were made effective Oct. 22, 1982. Those regulations govern the VA's QA (quality assurance) program activities and records and documents which are made confidential and privileged. Sec. 3305 prohibits the VA from designating any QA program activity, for the purpose of confidentiality, unless such activity has been specified in regulation. PL 99-166 amends 38 USC 4151 and 4152 to require that QA program activities include an evaluation of the quality of surgical care in DM&S, as evidenced by outcome measures of mortality and morbidity; a report to Congress indicating deficiencies in the quality of care is required. 38 USC 3305 was amended to clarify that aggregate statistical data is not to be made confidential provided individuals are not identified. The definitions and descriptions of the QA program are outdated; unreflective of a systems' approach, and too restrictive to accommodate periodic policy developments or redirections within DM&S. No alternatives are being considered. There are no potential costs to the action. The benefits would be in the form of programmatic improvements.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Robert Lubran, Health System Specialist, Department of Medicine and Surgery (10Q), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2600

RIN: 2900-AC27

DEPARTMENT OF VETERANS BENEFITS

3325. VETERANS EDUCATION; FOREIGN MEDICAL SCHOOLS

Legal Authority: 38 USC 1676

CFR Citation: 38 CFR 21.4260

Legal Deadline: None

Abstract: Provides additional criteria a foreign medical school must meet before a veteran's enrollment in the school's courses may be approved. The Veterans Administration is considering whether to require a foreign medical school to meet all or some of the criteria it must meet in order to participate in the Guaranteed Student Loan Program.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: June C. Schaeffer, Ass't Dir. for Policy and Program Admin., Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2082

RIN: 2900-AB09

3326. INCARCERATED VETERANS; COMMENCING DATES OF SUBSISTENCE ALLOWANCE; REDUCTION OR TERMINATION DATES OF SUBSISTENCE ALLOWANCE

Legal Authority: 38 USC 1506; 38 USC 1780; 38 USC 3012

CFR Citation: 38 CFR 21.276; 38 CFR 21.322; 38 CFR 21.324

Legal Deadline: None

Abstract: The regulations implement provisions of 1506 & 1780 which change the condition under which payment of subsistence allowance may be made to an incarcerated veteran pursuing a program of vocational rehabilitation under chapter 31, title 38, U.S. Code. The regulations implementing provisions of 3012 implement provisions establishing new dates for terminating payment of additional amounts of subsistence allowance for dependents of veterans in vocational rehabilitation programs under chapter 31. Issuance of regulations is required. There are no significant cost increases or savings as a result of these changes.

Timetable:

Action	Date	FR Cite
NPRM	01/16/86	51 FR 2408
NPRM Comment Period End	03/17/86	
Final Action	05/00/86	

Small Entity: No

Agency Contact: Dr. Karen Boies, Asst. Dir., Policy & Program Development, Veterans Administration, Dept. of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2866

RIN: 2900-AB26

3327. ACQUISITION OF PROPERTY

Significance: Regulatory Program

Legal Authority: 38 USC 210(c); 38 USC 1816(a); PL 98-369, Sec 2512

CFR Citation: 36 CFR 36.4320; 38 CFR 36.4319(f); 38 CFR 36.4321(a); 38 CFR 36.4300

Legal Deadline: None

Abstract: There are currently no specific regulatory requirements as to when the VA may or may not accept conveyance of a property on which the VA-guaranteed loan securing it has been foreclosed. Pursuant to PL 98-369 the changed regulation will provide formulas and specifically define when the VA may acquire a property. The changed regulations will also clarify establishment of a cut off date for claim computation in cases in which liquidation of a loan is unduly delayed.

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VA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Raymond Brodie, Assistant Director for Loan Management, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3668

RIN: 2900-AB34

3328. EMPLOYEE FIDUCIARIES

Legal Authority: 38 USC 210

CFR Citation: 38 CFR 0.735-21

Legal Deadline: None

Abstract: The existing regulation falls under the general rules of conduct for employees. The intended change will bar most employees from becoming fiduciaries for beneficiaries of VA benefits and establish an exemption to the bar under a limited number of circumstances such as when the employee is a close relative.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: William B. Saliski, Jr., Program Analyst, Veterans Administration, Department of Veterans Benefits (274), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3644

RIN: 2900-AB50

3329. FEDERAL FIDUCIARY COMMISSIONS

Legal Authority: PL 98-223, Sec 207; 38 USC 3202(a)

CFR Citation: 38 CFR 13.64

Legal Deadline: None

Abstract: This is a new regulation which gives the Veterans Services Officer authority to allow certain fiduciaries to obtain a modest fee from the incompetent beneficiary's estate for fiduciary services rendered.

Timetable:

Action	Date	FR Cite
NPRM	02/07/86	51 FR 4774
NPRM Comment Period End	03/24/86	
Final Action	07/00/86	

Small Entity: No

Agency Contact: William B. Saliski, Jr., Program Analyst, Veterans Administration, Department of Veterans Benefits (274), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3644

RIN: 2900-AB52

3330. TEMPORARY PROGRAM OF VOCATIONAL TRAINING FOR CERTAIN NEW PENSION RECIPIENTS

Significance: Regulatory Program

Legal Authority: PL 98-543, Sec 301

CFR Citation: 38 CFR 21.6000, series (new)

Legal Deadline: None

Abstract: The pilot program is directed to evaluating the effectiveness of vocational training and related services in restoring veterans to gainful employment and realizing cost benefits. During the period February 1, 1985, through January 31, 1989, veterans awarded pension may be eligible for up to 24 months or more of vocational training to prepare for and enter employment. Under this program every veteran under age 50 who begins to receive a pension award on or after February 1, 1985, will participate in a vocational evaluation to be arranged by the VA. Veterans who are age 50 and older and are awarded pension after February 1, 1985, may apply for an evaluation of their ability to profit from vocational training. Vocational training for up to 24 months or more and up to 18 months of employment services will be provided for program participants. A veteran will continue to receive pension during the period of training and employment services. Pension will be reduced or terminated following adjustment in employment when work income exceeds the annual income limitation applicable to pension.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: No

Agency Contact: Dr. Karen G. Boles, Asst. Director, Policy & Program Development, Veterans Administration, Department of Veterans Benefits (282), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2866

RIN: 2900-AB53

3331. RESERVISTS EDUCATION; NEW EDUCATION PROGRAM FOR MEMBERS OF THE SELECTED RESERVE

Legal Authority: 10 USC 2131 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: A new education program for members of the Selected Reserve has been established by law. Regulations are needed so that the new program may be properly administered.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: Undetermined

Agency Contact: June C. Schaeffer, Ass'st Dir. for Policy and Program Admin., Veterans Administration, Department of Veterans Benefits (225), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AB69

3332. VETERANS EDUCATION; NEW EDUCATION PROGRAM FOR VETERANS

Legal Authority: 38 USC 1401 et seq

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: A new education program for veterans and service members has been established by law. Regulations are needed so that the new program may be properly administered.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: Undetermined

Agency Contact: June C. Schaeffer, Ass'st Director for Policy and Program Admin, Veterans Administration, Department of Veterans Benefits (225), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AB70

VA — Proposed Rule Stage

3333. 1. VETERANS SERVICES OFFICER TO SELECT AND APPOINT OR RECOMMEND FOR APPOINTMENT THE PERSON OR LEGAL ENTITY TO RECEIVE VETERANS ADMINISTRATION BENEFITS IN A FIDUCIARY CAPACITY 2. DIRECT PAYMENT

Legal Authority: 38 USC 3202(a)

CFR Citation: 38 CFR 13.55; 38 CFR 13.56

Legal Deadline: None

Abstract: 38 CFR 13.55 authorizes the VSO to select and appoint a fiduciary and defines the types of payees authorized to receive payments in fiduciary cases. The intended change updates the authority language to more closely reflect changes to 38 USC 3202; removes gender specific terminology and reference to mental illness; and, further clarifies the types of payees available for selection.

38 CFR 13.56 defines classes of beneficiaries who may be paid directly. The intended change clarifies the conditions for direct payment.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: William B. Saliski, Jr., Program Analyst, Veterans Administration, Department of Veterans Benefits (274), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3644

RIN: 2900-AB75

3334. 1. PAYMENT TO THE WIFE OR HUSBAND OF AN INCOMPETENT VETERAN 2. LEGAL CUSTODIAN

Legal Authority: 38 USC 3202

CFR Citation: 38 CFR 13.57; 38 CFR 13.58

Legal Deadline: None

Abstract: 38 CFR 13.57 specifies types of VA benefits that may be paid to spouse payee. The intended change broadens the class of payments to include VA insurance.

38 CFR 13.58 explains in part duties expected of a legal custodian. The intended change will clarify the custodian's authority to purchase a burial agreement for the incompetent beneficiary.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: William B. Saliski, Jr., Program Analyst, Veterans Administration, Department of Veterans Benefits (274), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3644

RIN: 2900-AB76

3335. INVESTMENTS BY LEGAL CUSTODIANS

Legal Authority: 38 USC 3202

CFR Citation: 38 CFR 13.103

Legal Deadline: None

Abstract: The regulation gives Federally appointed legal custodian fiduciaries authority to invest surplus VA funds in savings bonds, or interest or dividend-paying accounts in State or Federally insured institutions. The intended regulation will give authority for investments in pre-need burial plans.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: William B. Saliski, Jr., Program Analyst, Veterans Administration, Department of Veterans Benefits (274), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3644

RIN: 2900-AB77

3336. 1. VETERANS SERVICES OFFICER'S ACTION WHEN VETERAN'S ESTATE EQUALS OR EXCEEDS $1,500 2. DETERMINATION OF VALUE OF ESTATE; 38 USC 3203(B)(1)

Legal Authority: 38 USC 3203(b)(1); PL 98-543, Sec 402

CFR Citation: 38 CFR 13.106; 38 CFR 13.109

Legal Deadline: None

Abstract: 38 CFR 13.106 defines the VSO's action and responsibility when a veteran is subject to discontinuance of payments under 38 USC 3203(b)(1). The intended change simplifies the title, updates the language of subsection (a) and further defines the VSO responsibilities regarding waiver of discontinuance under PL 98-543.

38 CFR 13.109 defines estate for purposes of the $1,500 limitation. The intended change further defines assets and incorporates two new exclusions on the basis of PL 98-543 and an unpublished General Counsel's opinion.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: William B. Saliski, Jr., Program Analyst, Veterans Administration, Department of Veterans Benefits (274), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3644

RIN: 2900-AB78

3337. ELIGIBILITY FOR EMPLOYMENT SERVICES, EMPLOYMENT HANDICAP, EMPLOYMENT ASSISTANCE, OVERVIEW OF EMPLOYMENT SERVICES

Legal Authority: 38 USC 1501; 38 USC 1502; 38 USC 1505(b); 38 USC 1516; 38 USC 1517

CFR Citation: 38 CFR 21.47; 38 CFR 21.51; 38 CFR 21.73; 38 CFR 21.250

Legal Deadline: None

Abstract: The VA has determined that employment assistance may be provided a veteran eligible for chapter 31, if the veteran though trained and qualified for suitable employment, has an employment handicap that prevents him or her from obtaining such employment, even if he or she is not a prior participant in a vocational rehabilitation program. It has previously been held that eligibility for employment services was limited to veterans who were current or prior participants under chapter 31.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: No

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Agency Contact: Dr. Karen Boies, Assistant Dir., Policy and Program Dev., Veterans Administration, 282, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2886

RIN: 2900-AB89

3338. ACCOUNTABILITY FOR AUTHORIZATION AND PAYMENT OF TRAINING AND REHABILITATION SERVICES

Legal Authority: 38 USC 1515(a) (4)

CFR Citation: 38 CFR 21.430(c)(1) and (2)

Legal Deadline: None

Abstract: The VA is proposing to increase the amounts which VR&C (Vocational Rehabilitation and Counseling) staff may approve for training and rehabilitation services. The change reflects increases in cost of training and rehabilitation services which have occurred since 1981 and administrative expenses. The change will improve program administration by allowing VR&C Officers and Directors to focus on those cases in which additional review is appropriate.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Dr. Karen Boies, Assistant Dir., Policy and Program Dev., Veterans Administration, 282, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2886

RIN: 2900-AB92

3339. APPLICANT STATUS, INTERRUPTED STATUS, DISCONTINUED STATUS, DUTIES OF THE VOCATIONAL REHABILITATION PANEL

Legal Authority: 38 USC 1502; 38 USC 1506; 38 USC 1507; 38 USC 1508; 38 USC 1510; 38 USC 1511

CFR Citation: 38 CFR 21.62; 38 CFR 21.982; 38 CFR 21.197; 38 CFR 21.198

Legal Deadline: None

Abstract: Current policies require follow-up of veterans who have previously clearly indicated they are not interested in vocational rehabilitation services. The VA is proposing to eliminate the provisions requiring such follow-up.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: No

Agency Contact: Dr. Karen Boies, Assistant Dir., Policy and Program Dev., Veterans Administration, 282, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2886

RIN: 2900-AB93

3340. VETERANS EDUCATION; EFFECTIVE DATE OF REFUND UPON DISENROLLMENT FROM VEAP

Legal Authority: 38 USC 1602; 38 USC 1623; 38 USC 1632

CFR Citation: 38 CFR 21.5064(b)

Legal Deadline: None

Abstract: The law provides a few veterans with the opportunity to choose between receiving benefits under the Vietnam Era G.I. Bill or VEAP. Once such a veteran begins receiving benefits under the Vietnam Era G.I. Bill, he or she may never receive benefits under VEAP. Current regulations do not provide for a refund of the veteran's contributions to the VEAP fund when this situation occurs unless the veteran asks for a refund. The VA is considering permitting a refund even if the veteran did not apply for one.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: June C. Schaeffer, Assist. Dir. for Policy & Program Admin., Veterans Administration, 225C, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3982

RIN: 2900-AB98

3341. DEFINITION OF FRAUD

Legal Authority: 38 USC 210(c)

CFR Citation: 38 CFR 3.1(aa), New; 38 CFR 3.901

Legal Deadline: None

Abstract: The definition of fraud for veterans' benefits purposes is being placed in the general definitions section and is being amended to include acts of omission as well as acts of commission. This action will allow a finding of fraud in certain cases where a beneficiary receives or retains benefits based on a knowing failure to provide necessary information.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Robert M. White, Chief, Regulations Staff, Veterans Administration, 211B, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3005

RIN: 2900-AC01

3342. INTEREST AND PENALTIES ON UNTIMELY SUBMISSION OF FUNDING FEES BY LENDERS

Legal Authority: 38 USC 210(c); 38 USC 1803(c)(1)

CFR Citation: 38 CFR 36

Legal Deadline: None

Abstract: Public Law 97-253, the Omnibus Budget Reconciliation Act of 1982 (38 U.S.C. 1829) establishes that a funding fee will be collected on VA loans but the law does not establish any time limits within which it must be paid to the VA. Current VA Loan Guaranty procedures allow lenders up to 60 days from the loan closing date to remit loan funding fees and this delay in their collection and deposit has resulted in a significant amount of potential interest lost to the Federal government. The proposed regulation would require lenders to submit the fees to the VA within a 15 day period from the loan closing date and would implement penalty charges and interest assessments on delinquent submissions. Adoption of this regulation should improve collection timeliness and result in the collection of the interest income that is currently being lost as well as income from interest and penalty charges.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: George D. Moerman, Assistant Director for Loan Policy, Veterans Administration, 264, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3042

RIN: 2900-AC03

3343. ● INCREASED COVERAGE FOR SERVICEMEN'S AND VETERAN'S GROUP LIFE INSURANCE

Legal Authority: 38 USC 767; 38 USC 777; PL 99-166, Sec 401

CFR Citation: 38 CFR 9.1 to 9.8, (Revision); 38 CFR 9.16, (Revision); 38 CFR 9.22, (Revision); 38 CFR 9.27, (Revision); 38 CFR 9.36, (Revision)

Legal Deadline: None

Abstract: Section 401 of PL 99-166 increases the maximum amount of coverage available under the Servicemen's and Veteran's Group Life Insurance programs to $50,000. It also extends eligibility for Veteran's Group Life Insurance to members of the Individual Ready Reserves and Inactive National Guard. Regulations are being amended to reflect these changes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Paul F. Koons, Assistant Director for Insurance, Department of Veterans Benefits (290A), Veterans Administration, Veterans Administration Insurance Center, P.O. Box 8079, Philadelphia, PA 19101, 215 951-5360

RIN: 2900-AC06

3344. ● COMPUTATION OF ENTITLEMENT UNDER CHAPTER 31

Legal Authority: 38 USC 1505

CFR Citation: 38 CFR Not yet determined

Legal Deadline: None

Abstract: To establish a specific method for determining entitlement changes under chapter 31. In view of the number of education and training programs now authorized under title 38, a specific statement of chapter 31 policy for determining entitlement changes is needed.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Dr. Karen G. Boies, Assistant Director, Policy and Program Development, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2886

RIN: 2900-AC08

3345. ● 1. APPORTIONMENT OF BENEFITS TO DEPENDENTS 2. PAYMENT OF COST OF VETERAN'S MAINTENANCE IN INSTITUTION

Legal Authority: 38 USC 210; 38 USC 3202; 38 USC 3203; PL 98-543, Sec 402

CFR Citation: 38 CFR 13.70; 38 CFR 13.71

Legal Deadline: None

Abstract: 38 CFR 13.70 defines the conditions under which the Veterans Services Officer may recommend an apportionment of benefits to dependents. The proposed amendment will clarify these conditions. The amendment will also remove a reference to mental illness as the sole criteria for a rating of incompetency.

38 CFR 13.71 is to be amended to make clear that the signing of an institutional award agreement does not waive an institution's right to claim payments under 38 USC 641. This action is the result of an unpublished General Counsel opinion.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Government Levels Affected: State

Agency Contact: William Saliski, Program Analyst, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3644

RIN: 2900-AC10

3346. ● END OF FLIGHT TRAINING IN VEAP (POST-VIETNAM ERA EDUCATIONAL ASSISTANCE PROGRAM)

Legal Authority: PL 97-35, Sec 2003

CFR Citation: 38 CFR 21.5021; 38 CFR 21.5072; 38 CFR 21.5132; 38 CFR 21.5137; 38 CFR 21.5138; 38 CFR 21.5250

Legal Deadline: None

Abstract: The Omnibus Budget Reconciliation Act of 1981 provided that people eligible for educational assistance under VEAP could not enroll in flight training for the first time after Sept. 30, 1981. Those people who enrolled in flight training during September 1981 could receive educational assistance only during that month. A person who enrolled in flight training before September 1, 1981 could receive educational assistance only if the continuity of his or her enrollment was not broken. No one has received educational assistance for flight training under VEAP during fiscal year 1985. Consequently, the continuity of everyone's enrollment has been broken. Educational assistance may no longer be paid for flight training under VEAP. This proposal eliminates all reference to flight training under VEAP.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Veterans Administration, Education Service (225), Dept. of Vet. Ben., 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AC14

3347. ● NONDUPLICATION - 38 U.S.C. CHAPTERS 31, 32, 34 AND 35

Legal Authority: 38 USC 1781

CFR Citation: 38 CFR 21.21

Legal Deadline: None

Abstract: 38 USC 1781(b) provides that no veteran may receive benefits concurrently for pursuit of the same program of education under chapter 30, 31, 32, 34 and 35 of this title. This does not preclude receipt of benefits for different programs of education pursued under different chapters. 38 CFR 21.21 is being amended to reflect this change in the law.

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VA

Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Dr. Karen G. Boies, Assistant Director, Policy and Program Development, Veterans Administration, Department of Veterans Benefits, 810 Vermont Ave., NW, Washington, DC 20420, 202 389-2886

RIN: 2900-AC16

3348. ● COMMENCING DATES OF SUBSISTENCE ALLOWANCE

Legal Authority: 38 USC 1506

CFR Citation: 38 CFR 21.322

Legal Deadline: None

Abstract: The regulation is being revised to specify that payment for dependents may not be made earlier than the date of the dependent's existence in those cases in which dependency benefits are to be paid after the veteran enters or reenters the rehabilitation program. This represents a clarification of current policy, rather than a change in policy.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: No

Agency Contact: Dr. Karen G. Boies, Assistant Director, Policy and Program Development, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2886

RIN: 2900-AC18

3349. ● USE OF CREDIT REPORTS FOR REFINANCING AND RESCHEDULING OF VA-GUARANTEED LOANS AND CLAIM SUBMISSIONS

Legal Authority: 38 USC 210(c) (1); 38 USC 1803(c) (1); 38 USC 1819(g); OMB Circular A-129

CFR Citation: 38 CFR 36.4200; 38 CFR 36.4300

Legal Deadline: None

Abstract: OMB Circular A-129 requires agencies managing Federal credit programs to obtain credit reports for all new applicants, when refinancing, and when loans are rescheduled in order to verify the information presented in the application. The circular further provides that rescheduling or reamortization shall be permitted only when it is in the best interest of the Government and where the agency has determined that recovery of all or a portion of the amount owed is reasonably assured. Credit reports must also be required in connection with claims on defaulted guaranteed loans to facilitate agency determinations of the next collection steps to be pursued. These revisions will enable VA to better determine whether a proposed loan reamortization is in the best interest of the government and will facilitate improvements in debt collection practices.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Agency Contact: George D. Moerman, Assistant Director for Loan Policy, Veterans Administration, Department of Veterans Benefits (264), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3042

RIN: 2900-AC19

BOARD OF VETERANS APPEALS

3350. ● APPEALS REGULATIONS AND RULES OF PRACTICE

Legal Authority: 38 USC 4002(b); 38 USC 4005

CFR Citation: 38 CFR 19.168, (Revision); 38 CFR 19.170, (Revision)

Legal Deadline: None

Abstract: These regulations are being amended to provide appellants with a copy of the tape recording of hearing proceedings. The Board would continue to provide written transcripts when the case is remanded and when good cause has been shown.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Jan Donsbach, Special (Legal) Assistant, Board of Veterans Appeals (OIC), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2978

RIN: 2900-AC09

3351. ● APPEALS REGULATIONS AND RULES OF PRACTICE

Legal Authority: 38 USC 3401; 38 USC 3404; 38 USC 4005(b)(2)

CFR Citation: 38 CFR 19.152, (Revision); 38 CFR 19.156, (Revision)

Legal Deadline: None

Abstract: These regulations will be amended to allow attorneys to be employed by service organizations and to allow legal interns, law students and paralegals to work with attorneys who are presenting appeals in any capacity.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	

Small Entity: No

Agency Contact: Jan Donsbach, Special (Legal) Assistant, Board of Veterans Appeals (OIC), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2978

RIN: 2900-AC11

EQUAL OPPORTUNITY STAFF

3352. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN VA PROGRAMS

Legal Authority: 29 USC 794

CFR Citation: 38 CFR 15

Legal Deadline: None

Abstract: Provides for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, as it applies to programs or activities conducted by the VA. Section 504 prohibits discrimination on the basis of handicap. There is no other alternative to the issuance of this regulation since it implements a legislative mandate. Qualified handicapped individuals will be assured of equal participation in programs or activities conducted by the VA.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

VA

Proposed Rule Stage

Agency Contact: Ana M. del Toro, Equal Opportunity Specialist, Veterans Administration, Office of Equal Opportunity (006B), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2150

RIN: 2900-AA87

3353. NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

Legal Authority: 29 USC 794

CFR Citation: 38 CFR 18.423(c); 38 CFR 18.401 to 18.426, App. A

Legal Deadline: None

Abstract: To incorporate a reference to the Uniform Federal Accessibility Standards (UFAS) and update the list of Federal financial assistance programs administered by the VA. The existing regulations require that new construction and alteration of facilities be made in an accessible manner. The regulations provide that new construction or alteration of facilities in conformance with the American National Standard Specifications for Making Building and Facilities Accessible to, and Usable by, the Physically Handicapped (ANSI A117.1-1961 (B 1971)) shall constitute compliance with the accessibility requirements for new construction and alteration of facilities. The proposed revision will replace the current standard with the UFAS, published under the Architectural Barriers Act of 1968. Because some facilities subject to the accessibility requirements of section 504 of the Rehabilitation Act of 1973 are also subject to the accessibility requirements of the Architectural Barriers Act, this proposal would eliminate any potential conflict between standards enforced under the two statutes.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	

Small Entity: No

Agency Contact: Ana M. Del Toro, Equal Employment Specialist, Veterans Administration, Office of Equal Opportunity (006B), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2150

RIN: 2900-AB87

OFFICE OF THE GENERAL COUNSEL

3354. REVISION OF FEES FOR COPIES OF VA RECORDS

Legal Authority: 38 USC 3302; 5 USC 552(a)(4)(A); 5 USC 552a(f)(5)

CFR Citation: 38 CFR 1.526; 38 CFR 1.555; 38 CFR 1.577(f)

Legal Deadline: None

Abstract: Revises VA fee schedules currently in effect for the Privacy Act, the Freedom of Information Act, and 38 U.S.C. Sec 3301 to remove inconsistencies and establish a comprehensive uniform fee schedule. The alternative would be to leave the regulations unchanged. This would result in continued confusion in their application and loss of revenue to the Government since an increase in the fees is contemplated. There is no increased cost to the Government due to these changes.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: David N. Stone, Director, Veterans Administration, Paperwork Management and Regulations Service, Office of Information Management & Statistic, 810 Vermont Ave., NW, Washington, DC 20420, 202 389-3616

RIN: 2900-AB18

3355. EFFECT OF GENERAL COUNSEL OPINIONS

Legal Authority: 38 USC 210(c)(1); 38 USC 4004(c)

CFR Citation: 38 CFR 14.507

Legal Deadline: None

Abstract: Clarifies the effect of General Counsel opinions with respect to binding and precedential legal interpretations. No alternatives are being considered. The change will assist VA personnel in understanding the effect of General Counsel opinions. It will benefit the public by enhancing the accessibility of General Counsel opinions.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: No

Agency Contact: Andrew J. Mullen, Deputy Assistant General Counsel, Veterans Administration, Office of the General Counsel, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2440

RIN: 2900-AB22

3356. INVENTIONS BY EMPLOYEES OF VETERANS ADMINISTRATION AS COINVENTORS UNDER FUNDING AGREEMENTS

Legal Authority: 35 USC 200 to 207

CFR Citation: 38 CFR 1.635 to 1.643

Legal Deadline: None

Abstract: Under affiliation agreements between VA Medical Centers and local Colleges or Universities, VA employees and University employees are sometimes coinventors. Universities have requested VA to assign its interest in any such inventions to the University. Pub. L. No. 96-517 authorizes the VA to so assign its interest in certain circumstances, provided the invention was made under a funding agreement between the agency and the coinventing entity. These regulations will set forth the procedure and criteria for determination of patent right ownership in these situations. No costs will be imposed on the public. The public will benefit from consolidation of patent rights on one entity because this facilitates licensing and marketing of the invention, and thereby makes the invention available for public use.

Timetable:

Action	Date	FR Cite
Awaiting DOC action	00/00/00	

Small Entity: No

Agency Contact: Diana M. Bloss, Deputy Assistant General Counsel (024B), Veterans Administration, Office of General Counsel, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3651

RIN: 2900-AB47

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VA — Proposed Rule Stage

3357. ● ADMINISTRATOR'S DELEGATIONS OF AUTHORITY TO CERTAIN OFFICIALS (38 U.S.C. 212(A))

Legal Authority: 38 USC 629

CFR Citation: 38 CFR 2.6(e)

Legal Deadline: None

Abstract: Legislation is pending in the Congress which would amend 38 USC 629 to allow the VA to recover the cost of medical care furnished to nonservice-connected veterans from third party health insurance policies carried by these veterans and would prohibit such insurance policies from containing clauses disallowing reimbursement to Federal (VA) hospitals. The amendment will also clarify the Administrator's authority to compromise, settle or waive a claim to recover such costs. If enacted, this regulation will be amended to delegate the Administrator's compromise authority to the Office of General Counsel.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: E. Douglas Bradshaw, Jr., Deputy Assistant General Counsel, Office of the General Counsel (021B), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2252

RIN: 2900-AC05

3358. ● CLAIMS FOR COST OF MEDICAL CARE AND SERVICES

Legal Authority: 38 USC 629

CFR Citation: 38 CFR 14.619(c)

Legal Deadline: None

Abstract: Legislation is pending in the Congress which would amend 38 USC 629 to allow the VA to recover the cost of medical care furnished to nonservice-connected veterans from third party health insurance policies carried by these veterans and would prohibit such insurance policies from containing clauses disallowing reimbursement to Federal (VA) hospitals. If enacted this regulation will be amended to cite the new statutory authority.

Timetable:

Action	Date	FR Cite
NPRM one month following enactment	00/00/00	
Final Action four months following enactment	00/00/00	

Small Entity: No

Agency Contact: E. Douglas Bradshaw, Jr., Deputy Assistant General Counsel, Office of the General Counsel (021B), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2252

RIN: 2900-AC28

OFFICE OF CONSTRUCTION

3359. ENVIRONMENTAL EFFECTS OF VA ACTIONS

Legal Authority: 42 USC 4231 et seq; EO 11514; EO 11991; 40 CFR 1500 to 1508

CFR Citation: 38 CFR 26

Legal Deadline: None

Abstract: To implement provisions of National Environmental Policy Act of 1969 and EO 11514, as amended by EO 11991, and to provide policy and procedures for VA officials regarding environmental considerations when authorizing any VA action that affects the environment in the United States.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Jon Baer, Director, Land Management Service, Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2922

RIN: 2900-AB17

3360. ● PROTECTION OF ARCHEOLOGICAL RESOURCES

Legal Authority: 16 USC 470ii Archeological Resources Protection Act

CFR Citation: 38 CFR Not yet determined

Legal Deadline: None

Abstract: The Act requires that Federal land managers promulgate rules and regulations consistent with Uniform Regulations as may be appropriate to carry out his/her function and authorities under the Act to protect archeological resources on Federal lands. This rule making will enable the VA to protect archeological resources on VA-managed public lands by issuing permits for authorized excavations and/or removal of archeological resources, by imposing civil penalties for unauthorized excavation, removal, alteration, damage or defacement of archeological resources, by providing for the preservation of archeological collections and data, and by ensuring confidentiality of information about archeological resources when disclosure would threaten the resources.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0; Base Year for Dollar Estimates: 1986

Affected Sectors: None

Agency Contact: Gjore J. Mollenhoff, Historic Preservation Officer, Office of Construction (08A1), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3447

RIN: 2900-AC26

OFFICE OF PROCUREMENT AND SUPPLY

3361. ● VETERANS ADMINISTRATION ACQUISITION REGULATIONS

Legal Authority: 38 USC 210; 40 USC 486(c); PL 98-369

CFR Citation: 48 CFR 802, (Revision); 48 CFR 805, (Revision); 48 CFR 806, (New); 48 CFR 813, (Revision); 48 CFR 814, (Revision); 48 CFR 815, (Revision); 48 CFR 833, (Revision); 48 CFR 852, (Revision)

Legal Deadline: Statutory, April 1, 1985

Abstract: This proposed VA Acquisition Regulation provides necessary implementation and supplementation of the Federal Acquisition Regulation provisions implementing the Competition in Contracting Act. The Federal Acquisition provisions include significant restructuring of the FAR system and requires agency development of pertinent coverage in their respective regulations. This VA Acquisition Regulation will comply with the FAR requirements.

VA — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	08/00/86	

Small Entity: No

Agency Contact: Chris A. Figg, Chief, Policy Division, Office of Procurement & Supply (91), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2334

RIN: 2900-AC12

VETERANS ADMINISTRATION (VA) — Final Rule Stage

DEPARTMENT OF MEDICINE AND SURGERY

3362. AMEND VA REGULATIONS FOR THE PURPOSE OF CORRECTING CERTAIN SPECIFIC TECHNICAL POINTS AND TO MAKE CERTAIN EDITORIAL CHANGES

Legal Authority: 38 USC 628

CFR Citation: 38 CFR 17.61; 38 CFR 17.80 to 17.85

Legal Deadline: None

Abstract: To clearly reflect the action to be taken when a patient breaks a treatment appointment. Increase the maximum allowance for prosthetic repairs and more clearly define the eligibility requirement for the benefit.

Timetable:

Action	Date	FR Cite
NPRM	07/23/85	50 FR 29990
NPRM Comment Period End	08/22/85	
Final Action	04/00/86	

Small Entity: No

Agency Contact: Stuart Mount, Medical Administration Program Specialist, Veterans Administration, Department of Medicine and Surgery (136F), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2143

RIN: 2900-AB59

3363. MEDICAL CARE FOR VETERANS RECEIVING VOCATIONAL TRAINING UNDER CHAPTER 15

Legal Authority: 38 USC 524; 38 USC 525; PL 98-543

CFR Citation: 38 CFR 17.56

Legal Deadline: None

Abstract: Section 301 of P.L. 98-543 authorizes the VA to provide certain benefits to those nonservice-connected veterans entitled to VA pension who are participating in a VA program of vocational training. Medical benefits authorized are analogous to those authorized to service-connected veterans participating in a VA vocational rehabilitation program under 38 USC Chapter 31, such as hospital care and medical services.

Timetable:

Action	Date	FR Cite
NPRM	01/09/86	51 FR 992
Final Action	06/00/86	

Small Entity: No

Agency Contact: Paul Tryhus, Medical Administration Program Specialist, Veterans Administration, Department of Medicine & Surgery (136F), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2143

RIN: 2900-AB60

3364. ● OUTPATIENT MEDICAL SERVICES FOR ELIGIBLE PERSONS

Legal Authority: 38 USC 612 (f) (1)

CFR Citation: 38 CFR 17.60(f)

Legal Deadline: None

Abstract: This extends follow-up medical services on an outpatient or ambulatory basis to a veteran who has received nursing home or domiciliary care and who requires such services for a period generally not to exceed 12 months following discharge, to complete treatment incident to such care.

Timetable:

Action	Date	FR Cite
Final Action	06/00/86	

Small Entity: No

Agency Contact: Paul Tryhus, Medical Administration Program Specialist, Department of Medicine and Surgery (136F), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2143

RIN: 2900-AC20

DEPARTMENT OF VETERANS BENEFITS

3365. VETERANS EDUCATION; EDUCATIONAL ASSISTANCE TEST PROGRAM

Legal Authority: PL 98-342

CFR Citation: 38 CFR 21.5701 to 5744, (new)

Legal Deadline: None

Abstract: Some provisions in The Department of Defense Authorization Act, 1981 established an educational program for some veterans who enlisted or reenlisted in the Army, Navy, Marine Corps or Air Force after September 30, 1980 and before October 1, 1981. The VA is implementing this program, and will issue regulations to implement it.

Timetable:

Action	Date	FR Cite
NPRM	12/11/85	50 FR 50632
Final Action	06/00/86	

Small Entity: No

Agency Contact: June C. Schaeffer, Assist. Dir. for Policy & Program Admin., Veterans Administration, 225C, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AA01

3366. VETERANS EDUCATION; CERTIFICATIONS OF ENROLLMENT

Legal Authority: PL 98-466

CFR Citation: 38 CFR 21.4137; 38 CFR 21.4203; 38 CFR 21.4204

Legal Deadline: None

Abstract: Limits certifications of enrollment to one term, quarter or semester at a time. This will prevent overpayments which the VA is making because of late reports of reductions or terminations in training.

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Timetable:

Action	Date	FR Cite
NPRM	06/30/83	48 FR 30151
NPRM Comment Period End	08/01/83	
Final Action	09/00/86	

Small Entity: No

Agency Contact: June Schaeffer, Ass't Dir. for Policy & Prog Administration, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AA58

3367. SOCIAL SECURITY NUMBERS IN VETERANS BENEFITS MATTERS

Legal Authority: 38 USC 210(c); PL 97-365, Sec 4

CFR Citation: 38 CFR 1.575

Legal Deadline: None

Abstract: Authorizes the collection and disclosure to the IRS, of the social security numbers from applicants for guaranteed, direct, or vendee loans, and from other program participants. This amendment is required by section 4 of Pub. L. 97-365, the Debt Collection Act of 1982, and by OMB Circular A-129, in order to increase the efficiency of Government-wide efforts to collect debts owed the United States and to improve credit management procedures.

Timetable:

Action	Date	FR Cite
NPRM	08/02/84	49 FR 30980
NPRM Comment Period End	09/04/84	
Final Action	04/00/86	

Small Entity: No

Agency Contact: George D. Moorman, Assistant Director for Loan Policy, Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-3042

RIN: 2900-AA95

3368. VETERANS EDUCATION; PROGRAMS OF EDUCATION AT MORE THAN ONE SCHOOL

Legal Authority: 38 USC 1652

CFR Citation: 38 CFR 21.4252

Legal Deadline: None

Abstract: The VA wishes to amend this regulation to recognize that the first portion of the subjects or courses in a baccalaureate program beyond those necessary for an associate degree may be given at a private as well as a public 2-year college. The amendment will also address the fact that the remainder of these programs may be offered at private as well as a public 4-year college or university.

Timetable:

Action	Date	FR Cite
NPRM	01/06/86	51 FR 764
Final Action	06/00/86	

Small Entity: No

Agency Contact: June C. Schaeffer, Ass't Director for Policy & Program Admin., Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AB41

3369. VETERANS EDUCATION; VEAP ELIGIBILITY

Legal Authority: PL 96-223

CFR Citation: 38 CFR 21.5022; 38 CFR 21.5040; 38 CFR 21.5058; 38 CFR 21.5080

Legal Deadline: None

Abstract: These regulations implement those provisions of the Veterans' Compensation and Program Improvements Amendments of 1984 which affect the Post-Vietnam Era Veterans' Educational Assistance Program (VEAP). The most far-reaching provision permits those veterans who are eligible for both VEAP and the G.I. Bill to elect which one they will receive benefits under.

Timetable:

Action	Date	FR Cite
NPRM	09/17/85	50 FR 37700
Final Action	03/00/86	

Small Entity: No

Agency Contact: June C. Schaeffer, Asst. Dir. for Policy & Program Admin., Veterans Administration, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AB43

3370. TEMPORARY PROGRAM FOR TRIAL WORK PERIODS AND VOCATIONAL REHABILITATION FOR CERTAIN VETERANS WITH TOTAL DISABILITY RATINGS

Significance: Regulatory Program

Legal Authority: PL 98-543, Sec 111

CFR Citation: 38 CFR 21.6500, series (new)

Legal Deadline: None

Abstract: The pilot program is directed at evaluating the effectiveness of a program of employment and/or vocational rehabilitation services in enabling veterans in receipt of disability ratings by virtue of individual unemployability to become employed. During the period from February 1, 1985, through January 31, 1989, the veteran with a total disability rating due to IU (Individual Unemployability) who wishes to return to work will be protected for 12 consecutive months of employment. The VA will provide vocational rehabilitation and/or employment services to assist veterans to train for or to secure employment. A veteran with an IU rating prior to February 1, 1985, may choose to use these employment services or be considered for training under the VA vocational rehabilitation program. In either case, the veteran's IU rating remains protected for 12 months if he or she secures employment. For veterans receiving an IU rating from February 1, 1985, and through January 31, 1989, an evaluation to determine if a vocational goal is feasible is required, and if it is, lack of participation will be considered in the veteran's next review of eligibility.

Timetable:

Action	Date	FR Cite
NPRM	10/22/85	50 FR 42726
NPRM Comment Period End	12/23/85	
Final Action Effective	03/00/86	

Small Entity: No

Agency Contact: Dr. Karen G. Boies, Asst. Director, Policy & Program Development, Veterans Administration, Department of Veterans Benefits (282), 810 Vermont Ave, NW, Washington, DC 20420, 202 389-2086

RIN: 2900-AB54

3371. VETERANS EDUCATION; MISCELLANEOUS ADMINISTRATIVE ADJUSTMENTS

Legal Authority: PL 98-525

CFR Citation: 38 CFR 21.1022; 38 CFR 21.5022; 38 CFR 21.4005; 38 CFR 21.4009; 38 CFR 21.4020; 38 CFR 21.4022; 38 CFR 21.4134; 38 CFR 21.4153; 38 CFR 21.4201; 38 CFR 21.4206; 38 CFR 21.4207; 38 CFR 21.4209; 38 CFR 21.4250

Legal Deadline: None

Abstract: The Veterans' Educational Assistance Act of 1984 established a new educational program for veterans and service members, and a new educational program for members of the Selected Reserves. Some of the provisions of the new programs affect the administration of the GI Bill for Vietnam Era veterans. The affected regulations will be brought into agreement with the law.

Timetable:

Action	Date	FR Cite
NPRM	11/14/85	50 FR 47066
NPRM Comment Period End	12/12/85	
Final Action	06/00/86	

Small Entity: No

Agency Contact: June C. Schaeffer, Ass't Director for Policy and Program Admin, Veterans Administration, Department of Veterans Benefits (225), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AB67

3372. SUBSISTENCE ALLOWANCE

Legal Authority: PL 98-543, Sec 201

CFR Citation: 38 CFR 21.260

Legal Deadline: None

Abstract: Public Law 98-543 increased the rate for payment of subsistence allowance by 10 percent effective October 1, 1984. Issuance of regulations is required. There are no significant cost savings or increases as a result of this change.

Timetable:

Action	Date	FR Cite
Final Action Effective	10/01/84	
NPRM	09/25/85	50 FR 38662
NPRM Comment Period End	10/25/85	
Final Action	04/00/86	

Small Entity: No

Agency Contact: Dr. Karen G. Boies, Asst. Director, Policy & Program Development, Veterans Administration, Department of Veterans Benefits (282), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2086

RIN: 2900-AB79

3373. VETERANS EDUCATION; ENTITLEMENT CHARGES FOR OVERPAYMENTS

Legal Authority: 38 USC 1671

CFR Citation: 38 CFR 21.1045(h)

Legal Deadline: None

Abstract: Interest, administrative costs of collection, and marshal fees are charged to veterans or eligible persons with outstanding overpayments of educational assistance allowance. The pertinent sections of the Code of Federal Regulations will be amended to state that when such an overpayment is discharged in bankruptcy, the unrecovered portion of interest, administrative costs of collection, court costs and marshal fees will not result in a charge against a veteran's or eligible person's entitlement.

Timetable:

Action	Date	FR Cite
NPRM	11/01/85	50 FR 45629
NPRM Comment Period End	12/03/85	
Final Action	05/00/86	

Small Entity: No

Agency Contact: June C. Schaeffer, Assist. Dir. for Policy & Program Admin., Veterans Administration, 225C, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AB91

3374. VETERANS EDUCATION; LIMIT ON REIMBURSEMENT OF WAGES UNDER THE EMERGENCY VETERANS' JOB TRAINING ACT

Legal Authority: PL 98-77

CFR Citation: 38 CFR 21.4632(e); 38 CFR 21.4634

Legal Deadline: None

Abstract: A few employers have been circumventing the intent of the Emergency Veterans' Job Training Act in order to receive more than 50% of the wages paid to veterans training under the Act. An additional limitation will be placed on the amount payable on behalf of a veteran. The limitation will prevent this abuse.

Timetable:

Action	Date	FR Cite
Final Action Effective	09/09/80	
NPRM	12/11/85	50 FR 50642
NPRM Comment Period End	01/10/86	
Final Action	05/00/86	

Small Entity: Undetermined

Agency Contact: June C. Schaeffer, Assist. Dir. for Policy & Program Admin., Veterans Administration, 225C, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AB94

3375. VETERANS EDUCATION; WAIVER OF THE TWO-YEAR OPERATION REQUIREMENT

Legal Authority: 38 USC 1788(b)

CFR Citation: 38 CFR 21.4251(g)

Legal Deadline: None

Abstract: The law generally requires a course to be in operation for two years before it can be approved for VA training. There are several exceptions to this general rule and a provision for waiver. This change will make a waiver easier to obtain for a course offered pursuant to a contract with the Department of Transportation at a Coast Guard station.

Timetable:

Action	Date	FR Cite
NPRM	08/26/85	50 FR 34722
NPRM Comment Period End	09/25/85	50 FR 34722
Final Action	04/00/86	

Small Entity: No

Agency Contact: June C. Schaeffer, Assist. Dir. for Policy & Program Admin., Veterans Administration, 225C, Department of Veterans Benefits, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AB95

3376. ● VETERANS EDUCATION; ASSURING COMPLIANCE WITH CIVIL RIGHTS LAWS

Legal Authority: 42 USC 2000; 20 USC 1681; 29 USC 794; 42 USC 6101

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VA — Final Rule Stage

CFR Citation: 38 CFR 21.4256; 38 CFR 21.4303

Legal Deadline: None

Abstract: This proposal will set forth the responsibility State approving agencies have regarding implementation of the nation's equal opportunity laws. State approving agencies have been carrying out their responsibilities in regard to Title VI, Civil Rights Act of 1964 under contract with the VA. The VA intends to modify the contract to cover other equal opportunity laws.

Timetable:

Action	Date	FR Cite
NPRM	12/11/85	50 FR 50641
Final Action	05/00/86	

Small Entity: No

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program, Administration, Veterans Administration, Education Service (225), Department of Veterans Benefits, 810 Vermont Ave. NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AC07

3377. ● VETERANS EDUCATION; NONMATRICULATED STUDENTS

Legal Authority: 38 USC 1652

CFR Citation: 38 CFR 21.4252

Legal Deadline: None

Abstract: The law forbids payment of GI Bill benefits to veterans who are not in a program of education. For several years the VA has had rules for determining whether or not veterans are in a program of education if they are planning on taking courses at two colleges or universities sequentially, but have not matriculated at either one. The VA has found that these rules are too restrictive. This proposal will liberalize those rules.

Timetable:

Action	Date	FR Cite
NPRM	01/08/86	51 FR 00764
Final Action	07/00/86	
Effective		

Small Entity: No

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Veterans Administration, Education Service (225), Dept. of Vet. Ben. (225), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AC13

3378. ● VETERANS EDUCATION; AMENDMENTS TO THE VETERANS' JOB TRAINING ACT

Legal Authority: PL 99-238, Sec 201

CFR Citation: 38 CFR 21.4600; 38 CFR 21.4610; 38 CFR 21.4632

Legal Deadline: None

Abstract: The Veterans' Job Training Act has been amended by the Veterans' Compensation Rate Increase and Job Training Amendments of 1985. The Regulations implementing the Veterans' Job Training Act must be amended accordingly.

Timetable:

Action	Date	FR Cite
Final Action	05/00/86	

Small Entity: No

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Veterans Administration, Education Service (225), Dept. of Vet. Ben., 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2092

RIN: 2900-AC15

3379. ● VETERANS EDUCATION: EXTENSION OF THE VETERAN'S JOB TRAINING ACT

Legal Authority: PL 99-108

CFR Citation: 38 CFR 21.4632

Legal Deadline: None

Abstract: As provided by PL 99-108, this amended regulation changes the deadline for beginning a training program under the Veteran's Job Training Act from September 1, 1985 to July 1, 1986.

Timetable:

Action	Date	FR Cite
Final Action	04/00/86	

Small Entity: No

Agency Contact: June C. Schaeffer, Assistant Director for Policy and Program Administration, Veterans Administration, Education Service (225), Department of Veterans Benefits, 810 Vermont Avenue, NW Washington, DC 20420, 202 389-2092

RIN: 2900-AC17

BOARD OF VETERANS APPEALS

3380. APPEALS REGULATIONS AND RULES OF PRACTICE

Legal Authority: 38 USC 4002(b); 38 USC 4005(d)(3); PL 98-144

CFR Citation: 38 CFR 19.129(c),(New); 38 CFR 19.132,(Revision)

Legal Deadline: None

Abstract: The Board of Veterans Appeals Plans to: (1) add a new subparagraph to 38 CFR 19.129 to explain that a response to a Supplemental Statement of the Case is optional, (2) add Martin Luther King, Jr.'s birthday to a list of legal holidays cited in 38 CFR 19.132.

Timetable:

Action	Date	FR Cite
NPRM	12/11/85	50 FR 50632
NPRM Comment Period End	01/10/86	
Final Action	04/00/86	

Small Entity: No

Agency Contact: Jan Donsbach, Special (Legal) Assistant, Veterans Administration, Board of Veterans Appeals, 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2978

RIN: 2900-AB88

EQUAL OPPORTUNITY STAFF

3381. NONDISCRIMINATION ON THE BASIS OF SEX UNDER FEDERAL ASSISTED EDUCATION PROGRAMS AND ACTIVITIES

Legal Authority: 20 USC 1681 et seq; 38 USC 210(a); EO 12250

CFR Citation: 38 CFR 18

Legal Deadline: None

Abstract: To establish standards and procedures for enforcing Title IX of the Education Amendments of 1972 in educational programs and activities receiving Federal financial assistance from the VA. Title IX prohibits discrimination on the basis of sex. There are no alternatives to the issuance of the regulations.

VA — Final Rule Stage

Participants, potential participants and the public in general will benefit from Federally assisted programs provided free from prohibited discrimination based on sex.

Timetable:

Action	Date	FR Cite
NPRM	04/25/79	44 FR 24320
NPRM Comment Period End	05/25/79	
Final Action	07/00/86	

Small Entity: Undetermined

Agency Contact: Ana M. del Toro, Equal Opportunity Specialist, Veterans Administration, Office of Equal Opportunity (006B), 810 Vermont Avenue, NW, Washington, DC 20420, 202 389-2150

RIN: 2900-AB51

VETERANS ADMINISTRATION (VA) — Completed Actions

3382. EXTENSION OF DEFAULT REPORTING REQUIREMENT

CFR Citation: 38 CFR 36.4600(c)(1)

Completed:

Reason	Date	FR Cite
Final Action	02/06/86	51 FR 4596
Final Action Effective	01/10/86	

Small Entity: No

Agency Contact: Raymond Brodie 202 389-3668

RIN: 2900-AB35

3383. VETERANS EDUCATION; RETROACTIVE APPROVAL OF COURSES

CFR Citation: 38 CFR 21.4131; 38 CFR 21.4132

Completed:

Reason	Date	FR Cite
Final Action	11/26/85	50 FR 48580
Final Action Effective	12/26/85	

Small Entity: No

Agency Contact: June C. Schaeffer 202 389-2092

RIN: 2900-AB42

3384. VETERANS EDUCATION; CANCELLATION OF UNNECESSARY REGULATIONS

CFR Citation: 38 CFR 21.4136; 38 CFR 21.4137; 38 CFR 21.4235; 38 CFR 21.4237

Completed:

Reason	Date	FR Cite
Final Action	09/09/85	50 FR 36578
Final Action Effective	06/15/85	

Small Entity: No

Agency Contact: June C. Schaeffer 202 389-2092

RIN: 2900-AB44

3385. TEMPORARY VOCATIONAL REHABILITATION PROGRAMS AND AUTOMOBILE AND ADAPTIVE EQUIPMENT ALLOWANCE

CFR Citation: 38 CFR 3.341; 38 CFR 3.342; 38 CFR 3.343

Completed:

Reason	Date	FR Cite
Final Action	12/26/85	50 FR 52774
Final Action Effective	02/01/85	

Small Entity: No

Agency Contact: Robert M. White 202 389-3005

RIN: 2900-AB65

3386. INCOMPETENT-ESTATE OVER $1500 AND HOSPITALIZED

CFR Citation: 38 CFR 3.556; 38 CFR 3.557; 38 CFR 3.558

Completed:

Reason	Date	FR Cite
Final Action	12/11/85	50 FR 50615
Final Action Effective	10/24/84	

Small Entity: No

Agency Contact: Robert M. White 202 389-3005

RIN: 2900-AB66

3387. VETERANS EDUCATION; DELEGATION OF AUTHORITY

CFR Citation: 38 CFR 21.4001

Completed:

Reason	Date	FR Cite
Final Action	11/13/85	50 FR 46763
Final Action Effective	11/05/85	

Small Entity: No

Agency Contact: June C. Schaeffer 202 389-2092

RIN: 2900-AB71

3388. VETERANS EDUCATION; RIGHT TO INITIALLY ENROLL IN VEAP SUSPENDED

CFR Citation: 38 CFR 21.5054

Completed:

Reason	Date	FR Cite
Final Action	01/21/86	51 FR 2694
Final Action Effective	10/19/84	

Small Entity: No

Agency Contact: June C. Schaeffer 202 389-2092

RIN: 2900-AB73

3389. VETERANS EDUCATION; MEASUREMENT OF UNDERGRADUATE COURSES

CFR Citation: 38 CFR 21.4272(f)

Completed:

Reason	Date	FR Cite
Final Action	02/21/86	

Small Entity: No

Agency Contact: June C. Schaeffer 202 389-2092

RIN: 2900-AB90

3390. VETERANS EDUCATION; TECHNICAL CHANGES

CFR Citation: 38 CFR 21.4136(g); 38 CFR 21.4253(e); 38 CFR 21.4270(b)

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VA — Completed Actions

Completed:

Reason	Date	FR Cite
Final Action	10/24/85	50 FR 43134
Final Action Effective	10/17/85	

Small Entity: No

Agency Contact: June C. Schaeffer 202 389-2692

RIN: 2900-AB97

3391. FREQUENCY OF PAYMENT OF IMPROVED PENSION

CFR Citation: 38 CFR 3.30

Completed:

Reason	Date	FR Cite
Final Action	01/15/86	51 FR 1789
Final Action Effective	12/01/85	

Small Entity: No

Agency Contact: Robert M. White 202 389-3005

RIN: 2900-AC02

3392. APPEALS REGULATIONS AND RULES OF PRACTICE

CFR Citation: 38 CFR 19.2; 38 CFR 19.157; 38 CFR 19.176; 38 CFR 19.179

Completed:

Reason	Date	FR Cite
Final Action	09/11/85	50 FR 36892
Final Action Effective	10/11/85	

Small Entity: No

Agency Contact: Jan Donsbach 202 389-2978

RIN: 2900-AB29

3393. WAIVER OF OVERPAYMENTS WAIVER - THIRD PERSONS STANDARDS FOR CLAIMS COLLECTIONS

CFR Citation: 38 CFR 1.962; 38 CFR 1.963(c); 38 CFR 1.900, series (new)

Completed:

Reason	Date	FR Cite
Final Action	09/25/85	50 FR 38802
Final Action Effective	09/03/85	

Small Entity: No

Agency Contact: Peter T. Mulhern 202 389-3405

RIN: 2900-AB33

3394. RECOGNITION OF ORGANIZATIONS, REPRESENTATIVES, AGENTS AND ATTORNEYS

CFR Citation: 38 CFR 14.664; 38 CFR 14.627 to 14.637

Completed:

Reason	Date	FR Cite
Withdrawn	12/16/85	

Small Entity: No

Agency Contact: Andrew J. Mullen 202 389-2449

RIN: 2900-AA38

3395. EMPLOYEE ACCEPTANCE OF FOOD AND REFRESHMENTS

CFR Citation: 38 CFR 0.735-11(b)(2)

Completed:

Reason	Date	FR Cite
Withdrawn	01/28/86	

Small Entity: No

Agency Contact: Audley Hendricks 202 389-3671

RIN: 2900-AB86

[FR Doc. 86-8794 Filed 04-18-86; 8:45 am]
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federal register

Monday
April 21, 1986

Part XLIV

Department of Defense/General Services Administration/ National Aeronautics and Space Administration

Federal Acquisition Regulation; Semiannual Regulatory Agenda

VOL 51 ISS 76 APR 21 1986 UMI

FAR

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Ch. 1

Unified Agenda of Federal Regulations

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Semiannual agenda.

SUMMARY: This agenda provides summary descriptions of regulations being developed by the Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council, in compliance with Executive Order 12291, Federal Regulation. This agenda is being published to allow interested persons an opportunity to participate in the rulemaking process.

The FAR Secretariat has attempted to list all regulations pending at the time of publication, except for minor and routine or repetitive actions, however, unanticipated requirements may result in the issuance of regulations that are not included in this agenda. There is no legal significance to the omission of an item from this listing. Also, the dates shown for the steps of each action are estimated and are not commitments to act on or by the dates shown.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, (202) 523-4755.

SUPPLEMENTARY INFORMATION: DOD, GSA, and NASA, under their several statutory authorities, jointly issue and maintain the Federal Acquisition Regulation (FAR) and prescribe the FAR system. Revisions to the FAR are made through periodic issuance of Federal Acquisition Circulars (FAC's). None of the regulations listed in this agenda are considered major under Executive Order 12291, Federal Regulation.

DATED: March 6, 1986.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Proposed Rule Stage

3396. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 83-7)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 22

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to provide Governmentwide acquisition policy with respect to labor standards for contracts involving construction.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA12

3397. AMENDMENT TO FEDERAL ACQUISITION (FAR CASE 83-9)

Legal Authority: 40 USC 486 (c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 53

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to revise SF 295, Summary Subcontracting Report, and related instructions to clarify Labor Surplus Area Subcontracting Program reporting instructions.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA21

3398. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-31)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 32

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to implement the Debt Collection Act.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA26

3399. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-32)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 13; 48 CFR 52

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to include, for use in small purchases, a clause on federal, state, and local taxes.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA29

FAR

Proposed Rule Stage

3400. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-45)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 35

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to implement OFPP Letter 84-1 on Federally Funded Research and Development Centers.

Timetable:

Action	Date	FR Cite
NPRM	05/15/86	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Steets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA29

3401. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-33)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 3

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to exclude debarred and suspended contractors from conducting business with the Government as agents or representatives of other contractors.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA39

3402. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-30)

Legal Authority: 40 USC 486 (c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 32

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to implement the Prompt Payment Act and OMB Circular A-125.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA40

3403. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-75

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 45; 48 CFR 52

Legal Deadline: None

Abstract: Amend the FAR to clarify the contractor's responsibility for Government-furnished property under service contracts performed at Government installations.

Timetable:

Action	Date	FR Cite
NPRM	05/15/86	

Small Entity: Yes

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA61

3404. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-58

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: Amend the FAR to adjust customary progress payment rates commensurate with recent trends in interest rates in the private sector, and to promote uniformity throughout the FAR system on these rates.

Timetable:

Action	Date	FR Cite
NPRM	05/15/86	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA84

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Final Rule Stage

3405. FEDERAL ACQUISITION REGULATION (FAR) - FEDERAL ACQUISITION CIRCULAR 84-10

Legal Authority: 40 USC 486 (c); 42 USC 2453 (c); 10 USC Chapter 137

CFR Citation: 48 CFR 7; 48 CFR 15; 48 CFR 19; 48 CFR 34; 48 CFR 52

Legal Deadline: Statutory, May 1, 1985

Abstract: (1) Implement Sec. 1213 of Pub. L. 98-525 and Sec. 201 of Pub. L. 98-577 by (a) requiring that the contracting officer, prior to contracting, review the acquisition history of the supplies or services and the description of the supplies, and (b) specifying new requirements applicable to planning for the solicitation of a major system production contract; (2) Implement Sec. 1245 of Pub. L. 98-525 and Sec. 501 of Pub. L. 98-577 by specifying that offerors/contractors (a) are required to distribute costs within contracts on a basis that ensures that unit prices of supplies are in proportion to the item's base cost, (b) may be required to identify supplies that they will not manufacture or to which they will not contribute significant value, and (c) are required to flow the requirement down to subcontractors; (3) Implement Sec.

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FAR — Final Rule Stage

1216 of Pub. L. 98-525 and Sec. 204 of Pub. L. 98-577 by requiring offerors/contractors in certain acquisitions to certify that the prices offered for those items of supply that the contractor offers for sale to the public are no higher than any lower price charged to any other customer during the preceding 60 days, or submit a written justification for any (cont)

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/85	
Final Action	00/00/00	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: differences: (4) Implement Sec. 402 of Pub. L. 98-577 by (a) widening the area where subcontracting possibilities are considered to exist, (b) further specifying the types of acquisitions that are to be considered for contracting and subcontracting with small and small disadvantaged business concerns, and (c) stating the policy of the United States that its prime contractors establish procedures to ensure timely payments to small and small disadvantaged subcontractors; and (5) Implement Sec. 1211 of Pub. L. 98-525 and Sec. 102 of Pub. L. 98-577 by specifying a definition of "major system."

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA00

3406. FEDERAL ACQUISITION REGULATION (FAR) - FEDERAL ACQUISITION CIRCULAR 84-9

Legal Authority: 40 USC 486(c); 42 USC 2453(c); 10 USC Chapter 137

CFR Citation: 48 CFR 12; 48 CFR 33; 48 CFR 52

Legal Deadline: None

Abstract: To revise the FAR to comply with revised Department of Justice advice concerning the General Accounting Office (GAO) "stay" provisions in 31 U.S.C. 3553(c) and (d) and the GAO "damages" provision in 31 U.S.C. 3554(c) regarding payment of costs of filing and pursuing a protest and preparing the bid and proposal.

Timetable:

Action	Date	FR Cite
Interim Final Rule	09/30/85	
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA02

3406. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-20)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 36; 48 CFR 53

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to add a definition and guidance regarding the acquisition of architect-engineer services.

Timetable:

Action	Date	FR Cite
NPRM	03/15/85	50 FR 10516
NPRM Comment Period End	04/14/85	50 FR 10516
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA11

3408. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-39)

Legal Authority: 40 USC 486 (c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 27; 48 CFR 52

Legal Deadline: Statutory, October 19, 1985

Abstract: Amend the Federal Acquisition Regulation to provide Governmentwide acquisition policy with respect to rights in data and copyrights.

Timetable:

Action	Date	FR Cite
NPRM	08/15/85	50 FR 32870
NPRM Comment Period End	09/30/85	50 FR 32870
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA14

3410. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-14)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None

FAR — Final Rule Stage

Abstract: Amend the Federal Acquisition Regulation to revise the contract clause entitled "Women-Owned Small Businesses" to (a) define "small business concern", (b) expand the definition of "women-owned small businesses are small business concerns", and (c) to specify that the contractor, acting in good faith, may rely on written representations by its subcontractors regarding their status as women-owned small businesses.

Timetable:

Action	Date	FR Cite
NPRM	03/22/85	50 FR 11523
NPRM Comment Period End	05/21/85	50 FR 11523
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA15

3411. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-27)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 3

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to add a new subpart (Subpart 3.7) on voiding and rescinding contracts.

Timetable:

Action	Date	FR Cite
NPRM	05/31/85	50 FR 23157
NPRM Comment Period End	07/01/85	50 FR 23157
Final Action	06/15/86	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA16

3412. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-7)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: Statutory, April 7, 1986

Abstract: Amend the Federal Acquisition Regulation to resolve certain problems associated with establishing the reasonableness of the cost of corporate aircraft.

Timetable:

Action	Date	FR Cite
NPRM	03/05/85	50 FR 8752
NPRM Comment Period End	05/06/85	50 FR 8752
Final Action	04/07/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA18

3413. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-3)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 19; 48 CFR 52

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to raise the threshold of applicability from $10,000 to $25,000 with respect to the contract clause on "Utilization of Women-Owned Small Businesses" in order to reflect a corresponding increase in the Small Purchase limitation.

Timetable:

Action	Date	FR Cite
NPRM	01/30/85	50 FR 4241
NPRM Comment Period End	04/01/85	50 FR 4241
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA19

3414. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-54)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: Statutory, April 7, 1986

Abstract: Amend the Federal Acquisition Regulation to provide coverage in the contract cost principles with respect to the allowability of public relations costs.

Timetable:

Action	Date	FR Cite
NPRM	02/21/85	50 FR 7199
NPRM Comment Period End	04/22/85	50 FR 7199
Final Action	04/07/86	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA22

3415. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-53)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 9; 48 CFR 19

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to bring the FAR into conformance with section 8(b)(7) of the Small Business Act with the award of a contract to a small business pending final determination of its eligibility for award under the Walsh-Healey Public Contracts Act.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA24

3416. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-26)

Legal Authority: 40 USC 486 (c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

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Abstract: Public comment was solicited as to–

(a) The manner in which the language in the changes clauses in the Federal Acquisition Regulation is being applied; and

(b) Whether the clauses are consistently understood or need to be revised and clarified.

Timetable:

Action	Date	FR Cite
ANPRM	05/23/85	50 FR 21313
ANPRM Comment Period End	07/22/85	50 FR 21313
Final Action	05/15/86	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA31

3417. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-39)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 8

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to conform with revisions in Part 51 of 41 U.S.C. 46-48c regarding Purchases from the Blind and Other Severely Handicapped.

Timetable:

Action	Date	FR Cite
Final Action	05/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA32

3418. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-16)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to revise the contract cost principle on allowability of costs for compensated personal absences.

Timetable:

Action	Date	FR Cite
NPRM	07/13/84	49 FR 28571
NPRM Comment Period End	09/11/84	49 FR 28571
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA33

3419. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-40)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 14; 48 CFR 15; 48 CFR 16

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to require inclusion of contract identification codes on Standard Form 26, Award/Contract, and Standard Form 33, Solicitation, Offer, and Award.

Timetable:

Action	Date	FR Cite
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA34

3420. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-16)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 14; 48 CFR 52

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to provide guidance under the rules of sealed bidding with respect to acceptable evidence in establishing the date of mailing of a late bid.

Timetable:

Action	Date	FR Cite
NPRM	03/22/85	50 FR 11522
NPRM Comment Period End	05/21/85	50 FR 11522
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA35

3421. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-22)

Legal Authority: 40 USC 486 (c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 49; 48 CFR 52

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to reinstate, in the termination clause for cost reimbursement contracts, certain language that was used in the Defense Acquisition Regulation and the Federal Procurement Regulations.

Timetable:

Action	Date	FR Cite
Final Action	05/15/86	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA36

3422. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-13)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 15

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to reinstate rules that were in the Defense Acquisition Regulation regarding items or work efforts to be included in make or buy programs.

Timetable:

Action	Date	FR Cite
NPRM	07/12/84	49 FR 28421
NPRM Comment Period End	09/10/84	49 FR 28421
Final Action	06/15/86	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA37

3423. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-26)

Legal Authority: 40 USC 486 (c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 32; 48 CFR 52

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to provide a greater degree of flexibility with respect to retainage of funds from construction contract progress payments.

Timetable:

Action	Date	FR Cite
NPRM	02/21/85	50 FR 7200
NPRM Comment Period End	04/22/85	50 FR 7200
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA43

3424. ● FEDERAL ACQUISITION REGULATION (FAR) FAR CASE 85-28

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453 (c)

CFR Citation: 48 CFR 15; 48 CFR 52

Legal Deadline: Statutory, May 1, 1985

Abstract: Amend the FAR to implement Section 1245 of Pub L 98-525 and Sec 501 of Pub L 98-577 by specifying that offerors/contractors are (a) required to distribute costs within contracts on a basis that ensures that unit prices of supplies are in proportion to the item's base cost, (b) may be required to identify supplies that they will not manufacture or to which they will not contribute significant value and (c) are required to flow the requirement down to subcontractors.

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/85	50 FR 27560
Final Action	04/00/86	

Small Entity: No

Agency Contact: MARGARET A. WILLIS, FAR SECRETARIAT, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18TH & F STREETS, NW, WASHINGTON, DC 20405, 202 523-4755

RIN: 9000-AA45

3425. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-62

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453 (c)

CFR Citation: 48 CFR 8; 48 CFR 38

Legal Deadline: None

Abstract: Amend the FAR to include coverage concerning the International Federal Supply Schedule program developed by the General Services Administration to provide sources of supply to US Government activities located overseas.

Timetable:

Action	Date	FR Cite
Final Action	05/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA46

3426. ● FEDERAL ACQUISITION REGULATION (FAR) FAR CASE 85-63

Legal Authority: 40 USC 486 (c); 10 USC Chapter 137; 42 USC 2453 (c)

CFR Citation: 48 CFR 31

Legal Deadline: Statutory, April 7, 1986

Abstract: Amend the FAR to provide that any cost made specifically unallowable under FAR 31.205, Selected costs, cannot be allowed under any other section of FAR Subpart 31.2, Contracts with Commercial Organizations.

Timetable:

Action	Date	FR Cite
NPRM	12/19/85	50 FR 51776
NPRM Comment Period End	01/21/86	
Final Action	04/07/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA49

3427. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-64

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: Statutory, April 7, 1986

Abstract: Amend the FAR to clarify the contract cost principle applicable to contractor costs of company - furnished automobiles.

Timetable:

Action	Date	FR Cite
NPRM	12/19/85	50 FR 51776
NPRM Comment Period End	01/21/86	
Final Action	04/07/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA50

3428. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-65

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 40 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: Statutory, April 7, 1986

Abstract: Amend the FAR to implement Congressional direction regarding the costs of membership in social, dining, and country clubs.

Timetable:

Action	Date	FR Cite
NPRM	12/19/85	50 FR 51777
NPRM Comment Period End	01/21/86	
Final Action	04/07/86	

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Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Street, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA51

3429. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-66

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: Statutory, April 7, 1986

Abstract: Amend the FAR to define those costs which are unallowable under covered contracts with respect to professional and consulting services, including legal services.

Timetable:

Action	Date	FR Cite
NPRM	12/19/85	50 FR 51778
NPRM Comment Period End	01/21/86	
Final Action	04/07/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA52

3430. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-67

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: Statutory, April 7, 1986

Abstract: Amend the FAR to define those costs which are unallowable under covered contracts with respect to executive branch lobbying.

Timetable:

Action	Date	FR Cite
NPRM	12/19/85	50 FR 51778
NPRM Comment Period End	01/21/86	
Final Action	04/07/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA53

3431. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-68

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: Statutory, April 7, 1986

Abstract: Amend the FAR to add a new contract cost principle to prohibit Government reimbursement of the costs of alcoholic beverages.

Timetable:

Action	Date	FR Cite
NPRM	12/19/85	50 FR 51779
NPRM Comment Period End	01/21/86	
Final Action	04/07/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Street, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA54

3432. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-69

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 46

Legal Deadline: None

Abstract: Amend the FAR to clarify the prescriptive language with respect to the use of the contract clause entitled "Inspection of Research and Development (Short Form)."

Timetable:

Action	Date	FR Cite
Final Action	06/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA55

3433. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-70

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 13; 48 CFR 14; 48 CFR 15; 48 CFR 43; 48 CFR 53

Legal Deadline: None

Abstract: Amend the FAR to convert Standard Form 36, Continuation Sheet, to an Optional Form.

Timetable:

Action	Date	FR Cite
Final Action	06/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA56

3434. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-71

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: Statutory, April 7, 1986

Abstract: Amend the FAR to limit allowable selling costs to market planning costs and direct selling.

Timetable:

Action	Date	FR Cite
NPRM	12/24/85	50 FR 52727
NPRM Comment Period End	02/10/86	
Final Action	04/07/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, Dc 20405, 202 523-4755

RIN: 9000-AA57

3435. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-72

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 15

Legal Deadline: None

Abstract: Amend the FAR to add a requirement that oral requests for best and final offers be confirmed in writing.

Timetable:

Action	Date	FR Cite
Final Action	05/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA58

3436. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-74

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: Amend the FAR to clarify terminology in the small business concern representation concerning the source of manufactured supplies.

Timetable:

Action	Date	FR Cite
Final Action	05/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Street, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA60

3437. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 86-4

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 9; 48 CFR 36

Legal Deadline: None

Abstract: Amend the FAR to provide appropriate cross references with respect to construction contractor performance evaluation reports.

Timetable:

Action	Date	FR Cite
Final Action	07/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Street, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA63

3438. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 86-5

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 1

Legal Deadline: None

Abstract: Amend the FAR to state that the FAR system is in accordance with Office of Federal Procurement Policy Letter 85-1 and that the FAR system does not include internal agency guidance as described in FAR 1.301(a)(2).

Timetable:

Action	Date	FR Cite
Final Action	06/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Street, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA64

3439. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 86-6

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 46; 48 CFR 52

Legal Deadline: None

Abstract: Amend the FAR to correct the contract clause entitled "Inspection of Construction."

Timetable:

Action	Date	FR Cite
Final Action	06/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, Dc 20405, 202 523-4755

RIN: 9000-AA65

3440. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 86-7

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 13

Legal Deadline: None

Abstract: Amend the FAR to incorporate the Treasury Department's increase in the imprest fund limitation from $150 to $500.

Timetable:

Action	Date	FR Cite
Final Action	05/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, Dc 20405, 202 523-4755

RIN: 9000-AA66

3441. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 86-8

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 15

Legal Deadline: None

Abstract: Amend the FAR to clarify the coverage with respect to waiver of the requirement for submission of subcontractor certified cost or pricing data.

Timetable:

Action	Date	FR Cite
Final Action	07/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, Dc 20405, 202 523-4755

RIN: 9000-AA67

3442. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-32

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 15; 48 CFR 52

Legal Deadline: Statutory, May 1, 1985

Abstract: Amend the FAR to implement Sec 1216 of Pub L 98-525 and Sec 204 of Pub L 98-577 by requiring offerors/contractors in certain acquisitions to certify that the prices offered for those items of supply that the contractor offers for sale to the public are no higher than any lower price charged to any other customer during the preceding 60 days or submit a written justification for any differences.

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FAR

Final Rule Stage

Timetable:

Action	Date	FR Cite
Interim Final Rule	07/03/85	50 FR 27560
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA68

3443. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-43

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 47; 48 CFR 52

Legal Deadline: None

Abstract: Amend the FAR to alleviate inequities in contract clauses regarding FOB origin.

Timetable:

Action	Date	FR Cite
NPRM	11/22/85	50 FR 48332
NPRM Comment Period End	01/21/86	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA69

3444. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-44

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: Amend the FAR to revise the contract cost principle on compensation for personal services to make unallowable under Government contracts the amount of rebates and purchase discounts granted to employees on contractor produced products or services.

Timetable:

Action	Date	FR Cite
NPRM	10/09/85	50 FR 41179
NPRM Comment Period End	12/09/85	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA70

3445. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-45

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 45

Legal Deadline: None

Abstract: Amend the FAR to include the term "contractor-acquired property" in the FAR definition of Government property.

Timetable:

Action	Date	FR Cite
Final Action	05/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Street, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA71

3446. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-46

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 8

Legal Deadline: None

Abstract: Amend the FAR to provide current instructions concerning the purchase of identical items from commercial sources at prices lower than their Multiple Award Schedule counterparts.

Timetable:

Action	Date	FR Cite
Final Action	05/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA72

3447. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-47

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 27; 48 CFR 52

Legal Deadline: Statutory, November 1, 1985

Abstract: Amend the FAR to implement Pub L 98-525 and Pub L 98-577 concerning the validation of restrictive markings on technical data delivered by a contractor to the Government.

Timetable:

Action	Date	FR Cite
NPRM	10/03/85	50 FR 40416
NPRM Comment Period End	01/09/86	50 FR 45442
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA73

3448. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-48

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: Amend the FAR to revise the contract cost principle on insurance and indemnification to make premiums for retroactive or backdated insurance expressly unallowable on Government contracts.

Timetable:

Action	Date	FR Cite
NPRM	10/21/85	50 FR 42657
NPRM Comment Period End	11/20/85	
Final Action	00/00/00	

Small Entity: No

FAR

Final Rule Stage

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Street, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA74

3449. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-49

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 52

Legal Deadline: Statutory, April 7, 1986

Abstract: Amend the FAR to revise language in the contract clauses entitled "Cost Accounting Standards" and "Disclosure and Consistency of Cost Accounting Practices" concerning changes in the interest rate charged contractors, predicated on the passage of the 1986 Defense Authorization Act.

Timetable:

Action	Date	FR Cite
NPRM	10/28/85	50 FR 43643
NPRM Comment Period End	11/27/85	
Final Action	04/07/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA75

3450. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-50

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 19

Legal Deadline: None

Abstract: Amend the FAR to provide guidance to contracting officers concerning Small Business Administration breakout procurement center representatives.

Timetable:

Action	Date	FR Cite
Final Action	05/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA76

3451. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-51

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: Amend the FAR to revise the contract cost principle on advance agreements to highlight training and education costs as an example of costs for which advance agreements may be particularly important.

Timetable:

Action	Date	FR Cite
NPRM	11/01/85	50 FR 45708
NPRM Comment Period End	12/31/85	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Street, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA77

3452. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-52

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 12; 48 CFR 52

Legal Deadline: None

Abstract: Amend the FAR to update coverage on Priorities and Allocations to conform with Department of Commerce regulations on the subject.

Timetable:

Action	Date	FR Cite
Final Action	05/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Street, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA78

3453. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-53

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: Amend the FAR to revise the contract cost principle on relocation costs to clarify language defining the time requirement for a permanent change of station, correct the list of allowable relocation costs, and clarify the allowability of relocation costs of employees who are hired, relocated, and returned to their point of hire in connection with specific contracts or long-term field projects.

Timetable:

Action	Date	FR Cite
NPRM	11/26/85	50 FR 48735
NPRM Comment Period End	01/27/86	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA79

3454. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-54

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: Statutory, April 7, 1986

Abstract: Amend the FAR to provide (a) an evaluation tool for judging the reasonableness of compensation costs for personal services under Government contracts and (b) a framework for dealing with possible Government challenges of cost reasonableness.

Timetable:

Action	Date	FR Cite
NPRM	12/03/85	50 FR 49662
NPRM Comment Period End	02/03/86	
Final Action	04/07/86	

Small Entity: No

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FAR — Final Rule Stage

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Street, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA80

3455. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-55

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: Statutory, April 7, 1988

Abstract: Amend the FAR to revise the contract cost principle on employee morale, health, welfare, food services, and dormitory costs and credits to expand the areas to be considered in the administration of the cafeteria and dormitory break-even requirement of the regulation.

Timetable:

Action	Date	FR Cite
NPRM	12/03/85	50 FR 49662
NPRM Comment Period End	02/03/86	
Final Action	04/07/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA81

3456. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-56

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 15; 48 CFR 52

Legal Deadline: None

Abstract: Amend the FAR to prescribe a new solicitation provision entitled "Evaluation of Offers for Multiple Awards."

Timetable:

Action	Date	FR Cite
Final Action	05/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Street, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA82

3457. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-57

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 45

Legal Deadline: None

Abstract: Amend the FAR to add coverage on contractor use and rental of Government property.

Timetable:

Action	Date	FR Cite
Final Action	05/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Street, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA83

3458. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASES 85-59

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 8; 48 CFR 52

Legal Deadline: None

Abstract: Amend the FAR to prescribe a new contract clause entitled "Tagging of Leased Vehicles."

Timetable:

Action	Date	FR Cite
Final Action	05/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA85

3459. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-60

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 15

Legal Deadline: None

Abstract: Amend the FAR to provide internal procedures to be used by the Government when cost or pricing data is deficient or when the contractor denies access to cost or pricing data or records essential to the review of the proposal.

Timetable:

Action	Date	FR Cite
Final Action	05/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA86

3460. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-73

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: Statutory, April 7, 1988

Abstract: Amend the FAR to implement section 911 of Pub L 99-145 concerning contract cost principles on contributions and donations, fines and penalties, and defense of fraud proceedings.

Timetable:

Action	Date	FR Cite
NPRM	12/27/85	50 FR 53088
NPRM Comment Period End	01/27/86	
Final Action	04/07/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA88

3461. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-76

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 36

Legal Deadline: None

Abstract: Amend the FAR to include in coverage on presolicitation notices in construction contracting, a cross reference to pertinent relevant guidance on disclosure of the magnitude of construction projects.

Timetable:

Action	Date	FR Cite
Final Action	05/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA89

FAR — Final Rule Stage

3462. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 85-61

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 19

Legal Deadline: None

Abstract: Amend the FAR to relocate guidance concerning long standing contractual relationships as a factor in determinations concerning subcontracting possibilities.

Timetable:

Action	Date	FR Cite
Final Action	05/15/86	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS - FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA90

DEPARTMENT OF DEFENSE/GENERAL SERVICES ADMINISTRATION/NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (FAR)

Completed Actions

3463. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-34)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to delete unnecessary verbiage from the contract clause entitled "Government Property (Cost Reimbursement, Time-and-Material, or Labor-Hour Contracts)."

Timetable:

Action	Date	FR Cite
Final Action	01/20/86	51 FR 2648

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA10

3464. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-42)

Legal Authority: 40 USC 486 (c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 52

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to correct an inappropriate cross reference in the contract clause entitled Payments Under Time-and-Materials and Labor-Hour Contracts, and provide a necessary alternate to the clause to tailor it for use in labor-hour contracts.

Timetable:

Action	Date	FR Cite
Final Action	01/20/86	51 FR 2648

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA13

3465. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-35)

Legal Authority: 40 USC 486 (c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 31

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to ensure that foreign selling costs are not reimbursed on contracts for U.S. Government requirements, and comply with Sec. 8102 of the FY 1985 Continuing Resolution pertaining to the Department of Defense.

Timetable:

Action	Date	FR Cite
Final Action	01/20/86	51 FR 2648

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat); 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA17

3466. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-21)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 4

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to clarify the terms "classified information" and "information" and reference "Executive Order 12356" in the definition in Subpart 4.4, "Safeguarding Classified Information Within Industry."

Timetable:

Action	Date	FR Cite
Final Action	01/20/86	51 FR 2648

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA20

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3467. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 84-20)

Legal Authority: 40 USC 486 (c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 53

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to discontinue Standard Form 36, Continuation Sheet.

Timetable:

Action	Date	FR Cite
Withdrawn	12/12/85	

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA23

3468. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-33)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 45

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to bring the dollar ceiling specified with respect to records of Government property into alignment with the corresponding dollar ceiling in the pertinent contract clause prescription.

Timetable:

Action	Date	FR Cite
Final Action	01/20/86	51 FR 2648

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA25

3469. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-29)

Legal Authority: 40 USC 486 (c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 53

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to illustrate the revised SF 279, FPDS Individual Contract Action Report (Over $10,000), which has been revised to reflect the requirements of Pub. L. 98-369.

Timetable:

Action	Date	FR Cite
Final Action	01/20/86	51 FR 2648

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA27

3470. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-24)

Legal Authority: 40 USC 486 (c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 14; 48 CFR 15; 48 CFR 52

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to convert to contract clauses the solicitation provisions entitled "Order of Precedence."

Timetable:

Action	Date	FR Cite
Final Action	01/20/86	51 FR 2648

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA30

3471. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-19)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 25

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to correct an inappropriate cross reference in Part 25, Foreign Acquisition.

Timetable:

Action	Date	FR Cite
Final Action	01/20/86	51 FR 2648

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA36

3472. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASES 84-7, 84-48, 85-22, AND 85-40)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 19

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to incorporate revised small business size standards, add pertinent definitions, and accommodate the Small Business Administration's revisions to 13 CFR 121, as published in the Federal Register on February 15, 1985.

Timetable:

Action	Date	FR Cite
Final Action	01/20/86	51 FR 2648

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA41

3473. AMENDMENT TO FEDERAL ACQUISITION REGULATION (FAR CASE 85-41)

Legal Authority: 40 USC 486(c); 10 USC Chapter 137; 42 USC 2453(c)

CFR Citation: 48 CFR 36

Legal Deadline: None

Abstract: Amend the Federal Acquisition Regulation to reference SF 1420, Performance Evaluation (Construction), in the paragraph of the text that specifies the conditions under which such construction performance evaluations are to be accomplished.

Timetable:

Action	Date	FR Cite
Final Action	01/20/86	51 FR 2648

Small Entity: No

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA42

3474. ● FEDERAL ACQUISITION REGULATION (FAR) - FAR CASE 84-52

Legal Authority: 40 USC 486(E)486(e); 10 USC Chapter 137; 42 USC 245(c)

CFR Citation: 48 CFR 4; 48 CFR 5; 48 CFR 6; 48 CFR 7; 48 CFR 10; 48 CFR 13; 48 CFR 15; 48 CFR 17; 48 CFR 19; 48 CFR 34; 48 CFR 52

Legal Deadline: Statutory, April 1, 1985

Abstract: Amend the Federal Acquisition Regulation to implement the Competition in Contracting Act of 1984.

Timetable:

Action	Date	FR Cite
Final Action	12/23/85	50 FR 52428

Small Entity: Yes

Agency Contact: Margaret A. Willis, FAR Secretariat, DOD/GSA/NASA (FAR), GSA (VRS-FAR Secretariat), 18th & F Streets, NW, Washington, DC 20405, 202 523-4755

RIN: 9000-AA44

[FR Doc. 86-5857 Filed 04-18-86; 8:45am]

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Part XLV

Commodity Futures Trading Commission

Semiannual Regulatory Agenda

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CFTC

COMMODITY FUTURES TRADING COMMISSION

17 CFR Ch. I

Regulatory Flexibility Agenda

AGENCY: Commodity Futures Trading Commission.

ACTION: Publication of regulatory flexibility agenda.

SUMMARY: The Commodity Futures Trading Commission, in accordance with the requirements of the Regulatory Flexibility Act, is publishing a semiannual agenda of significant rules which the Commission expects to propose or promulgate over the next year. The Commission welcomes comments from small entities and others upon the subject area of the agenda.

ADDRESS: Comments should be sent to: Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581, Attention: Secretariat.

FOR FURTHER INFORMATION CONTACT: Harold L. Hardman, Esquire, Office of the General Counsel, Commodity Futures Trading Commission, 2033 K Street, N.W., Washington, D.C. 20581 (202) 254-9880.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act, 5 U.S.C. 601, et seq. ("RFA"), sets forth a number of requirements for agency rulemaking. Among other things, the RFA requires that:

(a) During the months of October and April of each year, each agency shall publish in the **Federal Register** a regulatory flexibility agenda which shall contain:

(1) A brief description of the subject area of any rule which the agency expects to propose or promulgate which is likely to have a significant economic impact on a substantial number of small entities;

(2) A summary of the nature of any such rule under consideration for each subject area listed in the agenda pursuant to paragraph (1), the objectives and legal basis for the issuance of the rule, and an approximate schedule for completing action on any rule for which the agency has issued a general notice of proposed rulemaking; and

(3) The name and telephone number of an agency official knowledgeable concerning the items listed in paragraph (1).

5 U.S.C. 602(a). Accordingly, the Commission has prepared an agenda of significant rules which it presently expects may be considered during the course of the next year. The agenda lists all significant rules which may be considered by the Commission within the next year, irrespective of their potential impact on small entities.[1]

The Commission's agenda represents its best estimate at this time of significant rules which will be considered sometime over the next twelve months.[2] In this regard, section 602(d) of the RFA, 5 U.S.C. 602(d), provides: "Nothing in [section 602] precludes an agency from considering or acting on any matter not included in a regulatory flexibility agenda, or requires an agency to consider or act on any matter listed in such agenda."

The Commission is publishing its April 1986 Regulatory Flexibility Agenda as part of the April 1986 "Unified Agenda of Federal Regulations." The "Unified Agenda of Federal Regulations" is coordinated by the Office of Management and Budget pursuant to Executive Order 12291. While participation by executive agencies in the Agenda is mandatory, independent agencies, such as the Commission, participate in the Unified Agenda on a voluntary basis.

The Commission's April 1986 Regulatory Flexibility Agenda is set forth below.

Issued in Washington, D.C., on March 6, 1986, by the Commission.

Jean A. Webb,

Secretary of the Commission.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3475	Regulations Governing the Offer and Sale of Foreign Futures and Option Contracts in the United States	3038-AA33
3476	Review of Exchange Disciplinary Actions	3038-AA49

[1] The Commission has published its definitions of small entity to be used by the Commission in connection with rulemaking proceedings. 47 FR 18618 (Apr. 30, 1982). Pursuant to those definitions, the Commission is not required to list many of the agenda items contained in this regulatory flexibility agenda. *See* 5 U.S.C. 602(a)(1). Moreover, the Commission has previously certified, pursuant to section 605 of the RFA, 5 U.S.C. 605, that certain items contained in this agenda will not have a significant economic impact on a substantial number of small entities. Accordingly, listing of an event in this regulatory flexibility agenda should not, in any event, be taken as a determination that a rule, when proposed or promulgated, will in fact require a regulatory flexibility analysis. However, the Commission hopes that the publication of an agenda which includes significant rules, regardless of their potential impact on small entities, may serve the public generally by providing an early and meaningful opportunity to participate in and comment on the formulation of new or revised regulations.

[2] In addition to publishing the regulatory flexibility agenda, the Commission also makes available to the public, on a monthly basis, a calendar listing rules that the Commission intends to consider that month.

CFTC

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3477	Regulations Permitting the Grant, Offer and Sale of Options on Physical Commodities (Dealer Options)	3038-AA03
3478	Minimum Financial and Related Reporting Requirements for Futures Commission Merchants	3038-AA10
3479	Commodity Options; Margins	3038-AA34
3480	Activities of Persons Possessing Material, Nonpublic Information	3038-AA39
3481	Margining of Exchange - Traded Commodity Option Positions	3038-AA43
3482	Transfer or Liquidation of Open Commodity Contracts Carried by a Clearing Member Futures Commission Merchant	3038-AA44
3483	Domestic Exchange-Traded Commodity Options: Expansion of the Pilot Program for Options on Agricultural Futures Contracts	3038-AA47
3484	Domestic Exchange-Traded Commodity Options: Revisions to Pilot Programs for Non-Agricultural Options Contracts	3038-AA48
3485	Commission Records and Information; Records Maintained on Individuals	3038-AA50
3486	Transfer of Registration Processing Functions	3038-AA51

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3487	Regulation of Leverage Transactions	3038-AA04
3488	Reporting Requirements for Contract Markets, Futures Commission Merchants, Clearing Members, and Traders	3038-AA38
3489	Trade Time-Sequencing Standards and Exchange Audit Trail Systems	3038-AA40
3490	Domestic Exchange-Traded Commodity Options: Expansion of the Pilot Program for Options on Non-Agricultural Futures Contracts	3038-AA46

COMMODITY FUTURES TRADING COMMISSION (CFTC)

Proposed Rule Stage

3475. REGULATIONS GOVERNING THE OFFER AND SALE OF FOREIGN FUTURES AND OPTION CONTRACTS IN THE UNITED STATES

Legal Authority: 7 USC 2; 7 USC 6(b); 7 USC 6c

CFR Citation: Not yet determined

Abstract: The Division of Trading and Markets will prepare for Commission consideration proposed rules governing the domestic offer and sale of futures contracts and options traded on or subject to the rules of a foreign board of trade. The proposed rules are intended to implement the provisions of Sections 2(a)(1)(A), 4(b) and 4c of the Commodity Exchange Act which invest the Commission with exclusive jurisdiction over the offer and sale of such instruments in the United States.

Timetable:

Action	Date	FR Cite
ANPRM	07/25/84	
NPRM	06/00/86	

Small Entity: Undetermined

Agency Contact: Jane C. Kang, Esquire, Commodity Futures Trading Commission, Division of Trading and Markets, 2033 K Street, NW, Washington, DC 20581, 202 254-8955

RIN: 3038-AA33

3476. ● REVIEW OF EXCHANGE DISCIPLINARY ACTIONS

Legal Authority: 7 USC 12a; 7 USC 12c

CFR Citation: 17 CFR 9

Abstract: The Division of Trading and Markets ("Division") intends to propose amendments to the Commission's Part 9 rules governing Commission review of exchange disciplinary, access denial, and other adverse actions to facilitate the review of such actions. The proposed amendments are intended to (1) streamline the procedures, (2) clarify the types of actions for which the Commission will accept review and (3) establish standards pursuant to which the Commission will affirm, reverse or otherwise affect an exchange action.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Phillip V. McGuire, Esquire, Commodity Futures Trading Commission, Division of Trading and Markets, 2033 K St., NW, Washington, DC 20581, 202 254-8955

RIN: 3038-AA49

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COMMODITY FUTURES TRADING COMMISSION (CFTC)

Final Rule Stage

3477. REGULATIONS PERMITTING THE GRANT, OFFER AND SALE OF OPTIONS ON PHYSICAL COMMODITIES (DEALER OPTIONS)

Legal Authority: 7 USC 6c(b) Commodity Exchange Act, Sec 4c(b); 7 USC 6c(d) Commodity Exchange Act, Sec 4c(d); 7 USC 12a(5) Commodity Exchange Act, Sec 8a(5)

CFR Citation: 17 CFR 1; 17 CFR 3; 17 CFR 32

Abstract: Congress has directed the Commission to issue regulations permitting grantors and futures commission merchants to grant, offer and sell so-called "dealer options" on certain physical commodities subject to certain conditions specified by statute and such other uniform and reasonable requirements as the Commission may prescribe. At present, the only persons who may lawfully grant dealer options are United States domiciles who, on May 1, 1978, were in the business of buying, selling, producing or otherwise using that commodity. The Commission has reproposed rules, principally concerning registration of dealer option grantors, requirements for the segregation of customer funds, disclosure to customers and prospective customers, and minimum financial requirements. The Commission intends to re-evaluate the proposed rules in light of regulatory changes that have occurred since 1980.

Timetable:

Action	Date	FR Cite
NPRM	12/20/78	43 FR 59396
NPRM	04/27/81	46 FR 23469
ANPRM	05/17/85	50 FR 10786
Final Action	00/00/00	

Small Entity: No

Affected Sectors: Multiple

Agency Contact: Robert H. Rosenfeld, Esquire, Commodity Futures Trading Commission, Division of Trading and Markets, 2033 K Street, NW, Washington, DC 20581, 202 254-8955

RIN: 3038-AA03

3478. MINIMUM FINANCIAL AND RELATED REPORTING REQUIREMENTS FOR FUTURES COMMISSION MERCHANTS

Legal Authority: 7 USC 6d Commodity Exchange Act, Sec 4d; 7 USC 6f Commodity Exchange Act, Sec 4f; 7 USC 12a Commodity Exchange Act, Sec 8a

CFR Citation: 17 CFR 1.17

Abstract: The Commission has revised the proposed amendments to the Commission's minimum financial and related reporting requirements which had been pending final action. As revised, the proposed amendments would: (1) clarify the treatment to be accorded to securities in current assets, whether or not such securities are subject to repurchase agreements; (2) require FCMs to calculate a concentration charge in computing their adjusted net capital; (3) change the treatment of debit/deficit accounts; and (4) clarify the requirements for and the treatment of a guaranteed account.

Timetable:

Action	Date	FR Cite
NPRM	06/25/80	45 FR 42633
NPRM	12/01/80	45 FR 79498
NPRM	08/06/85	50 FR 31612
Final Action	00/00/00	

Small Entity: No

Agency Contact: Lawrence Patent or Gary Miller, Assoc. Chief Counsel and Asst. Chief Acct., Commodity Futures Trading Commission, Division of Trading and Markets, 2033 K Street, NW, Washington, DC 20581, 202 254-8955

RIN: 3038-AA10

3479. COMMODITY OPTIONS; MARGINS

Legal Authority: 7 USC 6c Commodity Exchange Act, Sec 4c; 7 USC 6d Commodity Exchange Act, Sec 4d; 7 USC 6f Commodity Exchange Act, Sec 4f; 7 USC 7 Commodity Exchange Act, Sec 5; 7 USC 7a Commodity Exchange Act, Sec 5a; 7 USC 12a(5) Commodity Exchange Act, Sec 8a(5)

CFR Citation: 17 CFR 1; 17 CFR 33

Abstract: The Commission is proposing to amend Commission regulation 33.4(a)(2), which currently provides that a contract market applying for designation to trade commodity option contracts must require full payment of option premiums by the contract market's clearing organization. Under the proposed rule amendment, a contract market could choose instead to adopt rules permitting its members to make a deposit with respect to the option premium, subject to certain proposed requirements. In addition, the Commission is proposing to amend regulations 1.3, 1.12 and 1.17 to reflect in its minimum financial requirements for futures commission merchants the margin treatment which may be accorded option positions under proposed amendments to regulation 33.4(a)(2).

Timetable:

Action	Date	FR Cite
ANPRM	05/15/83	48 FR 10857
Rule-related Notice	10/31/83	48 FR 50078
NPRM	03/09/84	49 FR 8937
Final Action	12/31/86	

Small Entity: Undetermined

Agency Contact: Robert H. Rosenfeld, Esquire, Commodity Futures Trading Commission, Division of Trading and Markets, 2033 K Street, NW, Washington, DC 20581, 202 254-8955

RIN: 3038-AA34

3480. ACTIVITIES OF PERSONS POSSESSING MATERIAL, NONPUBLIC INFORMATION

Legal Authority: 7 USC 5 Commodity Exchange Act, Sec 3; 7 USC 6b Commodity Exchange Act, Sec 4b; 7 USC 7 Commodity Exchange Act, Sec 5; 7 USC 7a Commodity Exchange Act, Sec 5a; 7 USC 8 Commodity Exchange Act, Sec 6; 7 USC 13a Commodity Exchange Act, Sec 6b; 7 USC 12 Commodity Exchange Act, Sec 8; 7 USC 12a Commodity Exchange Act, Sec 8a; 7 USC 13 Commodity Exchange Act, Sec 9

CFR Citation: 17 CFR 1

Abstract: The Commission has proposed to adopt regulation 1.59 which would require designated self-regulatory organizations to adopt rules that prohibit their employees from trading certain futures or options contracts which are related to their employment responsibilities and from divulging material, nonpublic information obtained as a result of employment at the self-regulatory organization. It also would be a violation of proposed regulation 1.59 for an employee to divulge material, nonpublic information obtained by reason of employment at a self-regulatory organization.

Timetable:

Action	Date	FR Cite
ANPRM Comment Period End	06/11/85	50 FR 24533
Final Action	06/00/86	

Small Entity: No

CFTC

Final Rule Stage

Agency Contact: De'Ana Hamilton-Brown, Attorney, Commodity Futures Trading Commission, Division of Trading and Markets, 2033 K Street, NW, Washington, DC 20581, 202 254-8955

RIN: 3038-AA39

3481. MARGINING OF EXCHANGE - TRADED COMMODITY OPTION POSITIONS

Legal Authority: 7 USC 2 Commodity Exchange Act, Sec. 2(a)(1)(A); 7 USC 2a Commodity Exchange Act, Sec. 2(a)(1)(B); 7 USC 6c(c) Commodity Exchange Act, Sec. 4c(c); 7 USC 6d Commodity Exchange Act, Sec. 4d; 7 USC 7 Commodity Exchange Act, Sec. 5; 7 USC 7a Commodity Exchange Act, Sec. 5a; 7 USC 12a(5) Commodity Exchange Act, Sec. 8a(5)

CFR Citation: 17 CFR 33

Abstract: The Commission has proposed to adopt a guideline pursuant to which the Commission will review and approve the rules of designated contract markets relating to the margining of option positions. The proposed guideline is intended to serve as a basis for ensuring, to the extent possible, that the margin assessed by contract markets on option positions both long and short, is commensurate with the risk assumed.

Timetable:

Action	Date	FR Cite
NPRM	08/05/85	50 FR 31625
Final Action	00/00/00	

Small Entity: No

Agency Contact: Kevin M. Foley, Chief Counsel, Commodity Futures Trading Commission, Division of Trading and Markets, 2033 K Street, NW, Washington, DC 20581, 202 254-8955

RIN: 3038-AA43

3482. TRANSFER OR LIQUIDATION OF OPEN COMMODITY CONTRACTS CARRIED BY A CLEARING MEMBER FUTURES COMMISSION MERCHANT

Legal Authority: 7 USC 2 Commodity Exchange Act, Sec. 2(a)(1)(A); 7 USC 2a Commodity Exchange Act, Sec. 2(a)(1)(B); 7 USC 6c(c) Commodity Exchange Act, Sec. 4c(c); 7 USC 6d Commodity Exchange Act, Sec. 4d; 7 USC 7 Commodity Exchange Act, Sec. 5; 7 USC 7a Commodity Exchange Act, Sec. 5a; 7 USC 12a(5) Commodity Exchange Act, Sec. 8a(5); 7 USC 24 Commodity Exchange Act, Sec. 24

CFR Citation: 17 CFR 1; 17 CFR 190

Abstract: The Commission has requested comment on whether it should propose rules requiring each contract market and its related clearing association to adopt regulations governing the procedure pursuant to which the open commodity contracts carried by a clearing member futures commission merchant ("FCM") which has defaulted on a margin obligation are transferred or liquidated. The Commission also has requested comment on whether it should amend its rules relating to liquidation of open positions in the event of a commodity broker bankruptcy. Comments will assist the Commission in determining whether it should propose rules which would provide express general guidelines to contract markets and their related clearing organizations for addressing similar default situations and thereby eliminate ad hoc procedures.

Timetable:

Action	Date	FR Cite
ANPRM	08/05/85	50 FR 31623
Final Action	00/00/00	

Small Entity: No

Agency Contact: Kevin M. Foley, Chief Counsel, Commodity Futures Trading Commission, Division of Trading and Markets, 2033 K Street, NW, Washington, DC 20581, 202 254-8955

RIN: 3038-AA44

3483. ● DOMESTIC EXCHANGE-TRADED COMMODITY OPTIONS: EXPANSION OF THE PILOT PROGRAM FOR OPTIONS ON AGRICULTURAL FUTURES CONTRACTS

Legal Authority: 7 USC 2; 7 USC 6c(a); 7 USC 6c(c); 7 USC 12a

CFR Citation: 17 CFR 33.4

Abstract: On January 17, 1984, the Commission adopted rules establishing a three year pilot program for the trading of options on futures contracts in domestic agricultural commodities. 49 FR 2752 (Jan. 23, 1984). This pilot program provides that a board of trade may be designated as an option contract market on not more than two domestic agricultural futures contracts. In the spring of 1985, the Commission received two petitions to amend Commission rule 33.4(a)(6)(i) in order to expand the pilot program for options on futures contracts on domestic agricultural commodities from the current level of two per exchange to five per exchange. The Commission published for comment the substance of the rule suggested by the petitioner as a proposed rule amendment on April 15, 1985. 50 FR 14178. The Commission now is considering the comments received, and whether to adopt the proposed rules as final.

Timetable:

Action	Date	FR Cite
NPRM	04/15/85	50 FR 14718
Final Action	06/30/86	

Small Entity: No

Agency Contact: Paul M. Architzel, Chief Counsel, Commodity Futures Trading Commission, Division of Economic Analysis, 2033 K St., NW, Washington, DC 20581, 202 254-8955

RIN: 3038-AA47

3484. ● DOMESTIC EXCHANGE-TRADED COMMODITY OPTIONS: REVISIONS TO PILOT PROGRAMS FOR NON-AGRICULTURAL OPTIONS CONTRACTS

Legal Authority: 7 USC 2; 7 USC 4; 7 USC 6c(a); 7 USC 6c(b); 7 USC 6c(c); 7 USC 7; 7 USC 7a; 7 USC 8; 7 USC 12a

CFR Citation: 17 CFR 1; 17 CFR 5; 17 CFR 16; 17 CFR 21; 17 CFR 33

Abstract: In late 1981 the Commission published final rules governing a three-year pilot program for exchange-traded commodity options. Options trading began on October 1, 1982 following the designation of the first option contract markets. That three-year period expired on October 1, 1985. The Commission is reevaluating the option rules, including whether to make permanent exchange trading of options on non-agricultural futures contracts or to retain the program's current pilot status.

Timetable:

Action	Date	FR Cite
NPRM	08/30/85	50 FR 35247
Final Action	06/30/86	

Small Entity: No

Additional Information: Additional Agency Contact: Kenneth M. Rosenzweig, Associate Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K St., N.W., Washington, D.C. 20581.

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Agency Contact: Paul M. Architzel, Chief Counsel, Commodity Futures Trading Commission, Division of Economic Analysis, 2033 K St., NW, Washington, DC 20581, 202 254-8955

RIN: 3038-AA48

3485. ● COMMISSION RECORDS AND INFORMATION; RECORDS MAINTAINED ON INDIVIDUALS

Legal Authority: 7 USC 4a(j); 5 USC 552; 5 USC 552a

CFR Citation: 17 CFR 145; 17 CFR 146

Abstract: The Commission has proposed to revise its regulations governing requests for Commission records under the Freedom of Information Act ("FOIA") and petitions for confidential treatment of records submitted to the Commission. These revisions are designed to clarify the procedures for submitting and processing FOIA and confidential treatment requests and to reflect recent developments in federal case law. The Commission also is proposing to make one amendment to its Privacy Act regulations.

Timetable:

Action	Date	FR Cite
NPRM	11/04/85	50 FR 45633
Final Action	03/31/86	

Small Entity: Not Applicable

Agency Contact: Daniel Goodman, Esq. or Tess Friery, Commodity Futures Trading Commission, Office of the General Counsel, 2033 K St., NW, Washington, DC 20581, 202 254-8955

RIN: 3038-AA50

3486. ● TRANSFER OF REGISTRATION PROCESSING FUNCTIONS

Legal Authority: 7 USC 12a(10); 7 USC 12a(5)

CFR Citation: 17 CFR 3

Abstract: The Commission previously has issued Orders authorizing the National Futures Association ("NFA"), pursuant to section 8a(10) of the Commodity Exchange Act ("Act"), to perform various portions of the Commission's registration functions and responsibilities under the Act. 49 FR 39518 (Oct. 9, 1984), 50 FR 34885 (Aug. 28, 1985). The Division of Trading and Markets ("Division") now intends to develop a plan for the transfer of the Commission's registration processing functions with respect to floor brokers to one or more self-regulatory organizations in order to convert Commission registration activities in this regard to oversight and review of certain administrative actions. The Division has identified alternatives for the transfer of these registration processing functions to the National Futures Association and, in connection therewith, has forwarded to NFA a proposed plan for its consideration before seeking the views of the several contract markets. Upon approval of the transfer plan, the Division will proceed with its implementation.

Timetable:

Action	Date	FR Cite
Final Action	10/00/86	

Small Entity: No

Agency Contact: Kevin Foley and Phillip McGuire, Chief Counsel and Esq., Commodity Futures Trading Commission, Division of Trading and Markets, 2033 K St., NW, Washington, DC 20581, 202 254-8955

RIN: 3038-AA51

COMMODITY FUTURES TRADING COMMISSION (CFTC) — Completed Actions

3487. REGULATION OF LEVERAGE TRANSACTIONS

CFR Citation: 17 CFR 1; 17 CFR 3; 17 CFR 4; 17 CFR 31; 17 CFR 145; 17 CFR 147; 17 CFR 190

Completed:

Reason	Date	FR Cite
Final Action	08/06/85	50 FR 36405

Small Entity: No

Agency Contact: Lawrence B. Patent 202 254-8955

RIN: 3038-AA04

3488. REPORTING REQUIREMENTS FOR CONTRACT MARKETS, FUTURES COMMISSION MERCHANTS, CLEARING MEMBERS, AND TRADERS

CFR Citation: 17 CFR 16; 17 CFR 17; 17 CFR 18; 17 CFR 21

Completed:

Reason	Date	FR Cite
Final Action	02/07/86	51 FR 4712

Small Entity: No

Agency Contact: Lamont L. Reese 202 254-8310

RIN: 3038-AA36

3489. TRADE TIME-SEQUENCING STANDARDS AND EXCHANGE AUDIT TRAIL SYSTEMS

CFR Citation: 17 CFR 1

Completed:

Reason	Date	FR Cite
Final Action	01/15/86	51 FR 2684

Small Entity: Not Applicable

Agency Contact: Thomas M. McGivern 202 254-8955

RIN: 3038-AA40

3490. ●DOMESTIC EXCHANGE-TRADED COMMODITY OPTIONS: EXPANSION OF THE PILOT PROGRAM FOR OPTIONS ON NON-AGRICULTURAL FUTURES CONTRACTS

CFR Citation: 17 CFR 33.4

Completed:

Reason	Date	FR Cite
Final Action	11/04/85	50 FR 45811

Small Entity: No

Agency Contact: Paul M. Architzel 202 254-8955

RIN: 3038-AA46

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Monday
April 21, 1986

Part XLVI

Consumer Product Safety Commission

Semiannual Regulatory Agenda

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CPSC

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Ch. II

Regulatory Flexibility Act; Semiannual Regulatory Flexibility and Unified Agendas

AGENCY: Consumer Product Safety Commission.

ACTION: Publication of regulatory flexibility and unified agendas.

SUMMARY: The Regulatory Flexibility Act (RFA) requires each Federal agency to publish twice each year a regulatory flexibility agenda listing for a 12-month period rules expected to be proposed or promulgated which may have a significant economic impact on a substantial number of small entities. In this document, the Commission publishes its eleventh semiannual regulatory flexibility agenda.

Additionally, although not required to do so, the Commission has elected to comply voluntarily with those provisions of Executive Order 12291 which require executive agencies to publish an agenda of regulatory actions under development or review during the succeeding 12 months by the agency and which further provide that such an agenda may be combined with an agency's regulatory flexibility agenda published in accordance with the RFA.

DATE: The Commission welcomes comments from small entities, including small businesses, small organizations, and small governmental units, upon each subject area of the agenda. Written comments concerning the agenda should be received in the Office of the Secretary by June 30, 1986.

ADDRESS: Comments on the regulatory flexibility agenda should be sent to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492-6800, and should be titled "Regulatory Flexibility Agenda."

FOR FURTHER INFORMATION CONTACT: For further information on the agenda in general, contact: Allen F. Brauninger, Office of the General Counsel, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (301) 492-6980. All inquiries from the press and broadcast media should be directed to Lou Brott, Office of Public Affairs, Consumer Product Safety Commission, Washington, D.C. 20207, telephone (202) 634-7780. For further information regarding a particular item on the agenda, consult the individual listed in the column headed "Contact" for that particular item.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601 et seq.), contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small businesses, small governmental organizations, and other small entities. Section 602 of the Act (5 U.S.C. 602) requires each agency to publish twice each year a regulatory flexibility agenda containing a brief description of any rule expected to be proposed or promulgated which may have a "significant economic impact" on a "substantial number" of small entities. The agency must also provide a summary of the objectives and legal basis for each agenda item and a schedule for acting on each item, as well as the name and address of the agency official knowledgeable about the items listed. Further, agencies are required to provide notice of their agendas to small entities and solicit their comments by direct notification or by inclusion in publications likely to be obtained by such entities.

In addition, President Reagan's Executive Order 12291 requires executive agencies to publish, twice each year, a regulatory agenda of proposed regulations under development or review and further states that such an agenda may be combined with an agenda published under the RFA. While the Commission, as an independent regulatory agency, is not required to follow Executive Order 12291, the Commission is complying voluntarily with those provisions concerning publication of a regulatory agenda.

The eleventh semiannual regulatory flexibility agenda, published below, lists for a 12-month period anticipated regulatory activities under development or review. These include all such activities, not only those which may have a significant economic impact on a substantial number of small entities.

The agenda contains a brief description and summary of each regulatory activity, including the objectives and legal basis for each; an approximate schedule of target dates, subject to revision, for the development or completion of each activity; and the name and telephone number of a knowledgeable agency official concerning particular items on the agenda. All agency contacts have the same address: Consumer Product Safety Commission, Washington, D.C. 20207.

The Commission received one comment in response to the regulatory agenda published in the **Federal Register** of October 29, 1985 (50 FR 44882). That comment concerned the review of a rule exempting certain toy caps from classification as "banned hazardous substances" under provisions of the Federal Hazardous Substances Act if specified conditions are met. The staff is preparing a briefing package on its review of this rule for consideration by the Commission, and will include this comment in the briefing package.

DATED: March 21, 1986.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3491	Upholstered furniture cigarette flammability standard	3041-AA01
3492	Petition CP 82-6. Petition to initiate a mandatory standard to limit the formaldehyde that could be released from pressed wood products made with urea-formaldehyde resins	3041-AA03
3493	Asbestos in selected consumer products	3041-AA11
3494	Rule review	3041-AA19

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Prerule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3495	Rule review	3041-AA20
3496	Requirements for the special packaging of household substances; advance notice of proposed rulemaking and notice of opportunity for oral presentations	3041-AA22
3497	Rule review	3041-AA24
3498	Rule review	3041-AA25
3499	Exemption from classification as a banned toy or other banned article for use by children – caps (paper or plastic)	3041-AA35
3500	Petition HP 84-1. Petition to request amendment to the regulations on electrical toys to exempt electronic video games	3041-AA41
3501	Petition HP 84-2. Petition to request amendments to electrical toy regulations (16 CFR 1505)	3041-AA49
3502	All-Terrain Vehicles	3041-AA53
3503	Petition PP 85-1. Petition for exemption of certain effervescent tablets containing aspirin from requirements for child-resistant packaging	3041-AA55
3504	Petition PP 85-2. Petition for rule to make disposable lighters child-resistant	3041-AA56
3505	Petition HP 85-1. Petition requesting ban of household products containing methylene chloride	3041-AA58

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3506	Flammability classification regulations	3041-AA05
3507	Federal Hazardous Substances Act regulations for first aid labeling of products containing more than 5 percent of benzene or 10 percent of toluene, xylene, or petroleum distillates	3041-AA52
3508	Supplemental definition for the Federal Hazardous Substances Act definition of "strong sensitizer"	3041-AA54
3509	Substantial product hazard reports	3041-AA57
3510	Declaration that certain household substances (paint strippers and spray paints) containing methylene chloride are hazardous substances	3041-AA59

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3511	Petition AP 83-1. Petition to require labeling of constrained-spring twist-on connectors with aluminum wire	3041-AA21
3512	Petition AP 83-2. Petition to require a labeling rule for crimp type electrical connectors	3041-AA26

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Prerule Stage

3491. UPHOLSTERED FURNITURE CIGARETTE FLAMMABILITY STANDARD

Legal Authority: 15 USC 1193 FFA; 15 USC 1194 FFA

CFR Citation: 16 CFR 1633

Abstract: The Commission continued cooperative efforts with the upholstered furniture industry to improve the cigarette ignition resistance of upholstered furniture. In 1981, the Commission voted to defer mandatory regulatory action on upholstered furniture in order to work with manufacturers participating in the Voluntary Action Program (VAP) of the Upholstered Furniture Action Council (UFAC) on improvements in the cigarette ignition resistance of upholstered furniture. A 1984 evaluation of upholstered furniture produced by UFAC participating companies indicated that these changes can be expected to result in a significant improvement in the cigarette ignition resistance of upholstered furniture. These tests also indicated that furniture without box welts and furniture covered with predominantly cellulosic fabrics ignited relatively easily, and represented a continuing problem. A new fire retardant treatment for polyurethane foam currently under evaluation may provide the needed improvement.

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Prerule Stage

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Yes

Affected Sectors: 25 FURNITURE AND FIXTURES

Agency Contact: James Hoebel, Program Manager, Consumer Product Safety Commission, Office of Program Management, Washington, DC 20207, 301 492-6554

RIN: 3041-AA01

3492. PETITION CP 82-6, PETITION TO INITIATE A MANDATORY STANDARD TO LIMIT THE FORMALDEHYDE THAT COULD BE RELEASED FROM PRESSED WOOD PRODUCTS MADE WITH UREA-FORMALDEHYDE RESINS

Legal Authority: 5 USC 553(e) Administrative Procedure Act; 15 USC 2051 Consumer Product Safety Act; 15 USC 2058 Consumer Product Safety Act

CFR Citation: Not yet determined

Abstract: The Commission staff completed a study on consumer exposure to formaldehyde emissions from pressed-wood products in February 1986. The Commission will consider this study in determining whether any further action by the Commission is warranted to address any hazard to consumers which may be associated with exposure to formaldehyde from pressed-wood products. The Commission will also consider this study in deciding whether to grant or deny a petition from Consumer Federation of America requesting the Commission to issue a mandatory consumer product safety standard to limit the amount of formaldehyde which can be released from pressed-wood products made with urea-formaldehyde resin. A decision is anticipated in April 1986.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: James Hoebel, Program Manager, Consumer Product Safety Commission, Office of Program Management, Washington, DC 20207, 301 492-6554

RIN: 3041-AA03

3493. ASBESTOS IN SELECTED CONSUMER PRODUCTS

Legal Authority: 15 USC 1261 et seq FHSA; 15 USC 2058 CPSA; 15 USC 2080(b) CPSA

CFR Citation: Not yet determined

Abstract: Hazard information shows that asbestos presents a risk of cancer and respiratory disease. The staff is compiling information for the use of the Commission in deciding whether additional regulatory action with regard to asbestos in consumer products may be appropriate. The staff is scheduled to brief the Commission on this topic in May 1986. The Commission has tested several consumer products for release of asbestos fibers, and is a charter member of the Federal Asbestos Task Force.

Timetable:

Action	Date	FR Cite
ANPRM	10/17/79	44 FR 60057
Notice of availability of CHAP report	05/25/83	48 FR 23473

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Abbie Gerber, Project Manager, Consumer Product Safety Commission, Office of Program Management, Washington, DC 20207, 301 492-6554

RIN: 3041-AA11

3494. RULE REVIEW

Legal Authority: 5 USC 610 Regulatory Flexibility Act; 15 USC 2051 et seq CPSA

CFR Citation: 16 CFR 1099; 16 CFR 1019; 16 CFR 1115; 16 CFR 1201; 16 CFR 1202; 16 CFR 1205; 16 CFR 1207; 16 CFR 1209; 16 CFR 1212; 16 CFR 1301; 16 CFR 1302; 16 CFR 1303; 16 CFR 1304; 16 CFR 1305; 16 CFR 1401; ...

Abstract: In June of 1985, The staff transmitted to the Commission a report concerning the economic impact on small businesses of seventeen (17) rules and standards issued under provisions of the Consumer Product Safety Act. This report was prepared as part of a review of existing rules required by the Regulatory Flexibility Act. The staff is revising the report in response to comments received from the Commission. The staff anticipates that the revised report will be sent to the Commission in April 1986.

Timetable:

Action	Date	FR Cite
Notice to solicit comments	10/22/82	47 FR 46861
Publication in Federal Register - Completion of review activity	10/22/82	
Public Comment Period Ends	12/27/82	
Commission vote to approve Final Action	04/00/86	

Small Entity: Yes

Agency Contact: Allen Brauninger, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, DC 20207, 301 492-6980

RIN: 3041-AA19

3495. RULE REVIEW

Legal Authority: 5 USC 610 RFA; 15 USC 1193 FFA; 15 USC 1194 FFA; 15 USC 2079 CPSA

CFR Citation: 16 CFR 1608; 16 CFR 1610; 16 CFR 1611; 16 CFR 1615; 16 CFR 1616; 16 CFR 1630; 16 CFR 1631; 16 CFR 1632

Abstract: On February 2, 1984, the Commission published a Federal Register Notice listing eight (8) rules and standards issued under the Flammable Fabrics Act, and soliciting comments on those rules. The Commission will review these rules under the provisions of the Regulatory Flexibility Act to determine if the rules should be revoked, amended, or continued in effect without change.

Timetable:

Action	Date	FR Cite
Notice to solicit comments	02/02/84	49 FR 4103
Public Comment Period Ends	04/02/84	49 FR 4103

Next Action Undetermined

Small Entity: Yes

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Agency Contact: Allen Brauninger, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, DC 20207, 301 492-6980

RIN: 3041-AA20

3496. REQUIREMENTS FOR THE SPECIAL PACKAGING OF HOUSEHOLD SUBSTANCES; ADVANCE NOTICE OF PROPOSED RULEMAKING AND NOTICE OF OPPORTUNITY FOR ORAL PRESENTATIONS

Legal Authority: 15 USC 1472 PPPA; 15 USC 1473 PPPA

CFR Citation: 16 CFR 1700.20

Abstract: On January 19, 1983 the Commission published an Advanced Notice of Proposed Rulemaking soliciting comments on ways to amend the existing child resistant packaging requirements to improve the effectiveness and efficiency of these requirements. In June, 1985, the Commission staff completed testing to determine the feasibility of using some of the alternate procedures for evaluation of child resistant packaging described in the ANPR. The staff anticipates transmittal of a briefing package to the Commission in May, 1986, which will include an analysis of comments received in response to the ANPR and recommendations regarding revision of existing requirements for child resistant packaging.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/83	48 FR 2389
ANPRM Comment Period End	03/21/83	48 FR 2389

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Virginia A. White, Project Manager, Consumer Product Safety Commission, Office of Program Management, Washington, DC 20207, 301 492-6554

RIN: 3041-AA22

3497. RULE REVIEW

Legal Authority: 5 USC 610 Regulatory Flexibility Act; 15 USC 1471 PPPA

CFR Citation: 16 CFR 1700; 16 CFR 1701; 16 CFR 1702; 16 CFR 1704

Abstract: The Commission plans to publish a Federal Register Notice listing four (4) rules and standards issued under the Poison Prevention Packaging Act, and soliciting comments on those rules. The Commission will review these rules under the provisions of the Regulatory Flexibility Act to determine if the rules should be revoked, amended, or continued in effect without change.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Yes

Agency Contact: Allen Brauninger, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, DC 20207, 301 492-6980

RIN: 3041-AA24

3498. RULE REVIEW

Legal Authority: 5 USC 610 Regulatory Flexibility Act; 15 USC 1261 FHSA

CFR Citation: 16 CFR 1500; 16 CFR 1501; 16 CFR 1505; 16 CFR 1507; 16 CFR 1508; 16 CFR 1509; 16 CFR 1510; 16 CFR 1511; 16 CFR 1512

Abstract: On February 22, 1984, the Commission published a Federal Register Notice listing nine (9) rules and standards issued under the Federal Hazardous Substances Act, soliciting comments on those rules. The Commission will review these rules under provisions of the Regulatory Flexibility Act to determine if the rules should be revoked, amended, or continued in effect without change.

Timetable:

Action	Date	FR Cite
Notice to solicit comments	02/22/84	49 FR 6504
Public Comment Period Ends	04/23/84	49 FR 6504

Next Action Undetermined

Small Entity: Yes

Agency Contact: Allen Brauninger, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, DC 20207, 301 492-6980

RIN: 3041-AA25

3499. EXEMPTION FROM CLASSIFICATION AS A BANNED TOY OR OTHER BANNED ARTICLE FOR USE BY CHILDREN -- CAPS (PAPER OR PLASTIC)

Legal Authority: 15 USC 1261(f)1(D); 15 USC 1262(e)(1); 15 USC 2079(a); 15 USC 1261(q)(1)(a); 15 USC 1261(s)

CFR Citation: 16 CFR 1500.18(a)(5); 16 CFR 1500.86(a)(6)

Abstract: For more than ten years a regulation has existed under the Federal Hazardous Substances Act that was an "interim" regulation. Caps producing sound levels in the range of 138-158 decibels have been banned, but are exempt from the ban if they are properly labeled and if firms producing them report to the Commission on programs to reduce the sound levels. In the near future, the staff will send a memorandum to the Commission discussing whether the rule should be continued in its present form, modified, or revoked. The memorandum will also present the staff's recommendations for Commission action with regard to the rule.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Government Levels Affected: Local, State, Federal

Agency Contact: Linda Glatz, Project Manager, Consumer Product Safety Commission, Office of Program Management, Washington, DC 20207, 301 492-6554

RIN: 3041-AA35

3500. PETITION HP 84-1, PETITION TO REQUEST AMENDMENT TO THE REGULATIONS ON ELECTRICAL TOYS TO EXEMPT ELECTRONIC VIDEO GAMES

Legal Authority: 15 USC 1261 FHSA; 15 USC 1262 FHSA

CFR Citation: 16 CFR 1505

Abstract: In correspondence dated December 21, 1983, the Consumer Electronic Group of the Electronic Industries Association petitioned the Commission to request an amendment to the regulation on electrical toys that would exempt electronic video games from coverage. If the Commission

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grants the petition it will proceed to develop an exemption to the standard.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Melvin Spencer, Assistant Program Manager, Consumer Product Safety Commission, Office of Program Management, Washington, DC 20207, 301 492-6554

RIN: 3041-AA41

3501. PETITION HP 84-2. PETITION TO REQUEST AMENDMENTS TO ELECTRICAL TOY REGULATIONS (16 CFR 1505)

Legal Authority: 15 USC 1261 FHSA; 15 USC 1262 FHSA

CFR Citation: 16 CFR 1505

Abstract: In correspondence dated March 8, 1984, the Toy Manufacturers of America petitioned the Commission to amend the requirements for electronically operated toys or other articles electronically operated and intended for use by children. If the Commission grants the petition it will begin a rulemaking proceeding to amend the regulation as requested by the petitioner.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Melvin Spencer, Assistant Program Manager, Consumer Product Safety Commission, Office of Program Management, Washington, D. C. 20207, 301 492-6554

RIN: 3041-AA49

3502. ALL-TERRAIN VEHICLES

Significance: Agency Priority

Legal Authority: 15 USC 2051 et seq CPSA; 15 USC 1262(f) FHSA

CFR Citation: Not yet determined

Abstract: On May 31, 1985, the Commission published an advance notice of proposed rulemaking (ANPR) to announce its preliminary determination that an unreasonable risk of injury may be associated with all-terrain vehicles. An all-terrain vehicle (ATV) is a motorized machine intended to be ridden by one person and designed for off-road use for recreational and other purposes. ATVs are manufactured in three-wheel and four-wheel designs. The ANPR solicited written comments concerning risks of injury which may be associated with ATVs, rulemaking and other actions authorized by the Consumer Product Safety Act and the Federal Hazardous Substances Act to address such risks of injury; and alternatives to regulatory action, including voluntary standards. The ANPR also announced that the Commission would conduct public hearings to obtain information related to the safety of ATVs. Hearings were conducted in five cities during the months of May through October 1985. A sixth hearing is scheduled for March 25, 1986 in Anchorage, Alaska.

Timetable:

Action	Date	FR Cite
ANPRM	05/31/85	50 FR 23139
ANPRM Comment Period End	09/30/85	50 FR 31391
On 08/02/85 (50 FR 31391) the ANPRM Comment Period was extended to	09/30/85	
Commission will receive regulatory briefing	09/00/86	

Small Entity: Undetermined

Additional Information: Commission will receive a regulatory options briefing package in late September, 1986.

Agency Contact: Nick Marchica, Chairman, ATV Task Force, Consumer Product Safety Commission, Office of Program Management, Washington, D. C. 20207, 301 492-6554

RIN: 3041-AA53

3503. PETITION PP 85-1. PETITION FOR EXEMPTION OF CERTAIN EFFERVESCENT TABLETS CONTAINING ASPIRIN FROM REQUIREMENTS FOR CHILD-RESISTANT PACKAGING

Legal Authority: 15 USC 1471 et seq. PPPA

CFR Citation: 16 CFR 1700.14(a)(1)(i)

Abstract: By letter dated March 25, 1985, Miles Laboratories, Inc. petitioned the Commission to amend existing provisions of 16 CFR 1700.14(a)(1)(i) which exempt certain effervescent tablets containing aspirin from requirements for child-resistant packaging. The amendment requested by this petition would increase the percentage of aspirin allowed in products eligible for the exemption from 10 per cent to 15 per cent and would specify the required carbon dioxide content in terms of the quantity per tablet rather than the quantity per grain of aspirin. The staff expects to transmit a briefing package concerning the petition to the Commission in April, 1986. If the Commission grants this petition, it will publish a proposed amendment in the Federal Register to solicit written comments from all interested parties.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Virginia White, Senior Project Manager, Consumer Product Safety Commission, Office of Program Management, Washington, D. C. 20207, 301 492-6554

RIN: 3041-AA55

3504. PETITION PP 85-2. PETITION FOR RULE TO MAKE DISPOSABLE LIGHTERS CHILD-RESISTANT

Legal Authority: 15 USC 1471 et seq. PPPA

CFR Citation: Not yet determined

Abstract: On May 3, 1985, the Commission received a petition from Diane L. Denton, R.N., requesting the Commission to initiate a rulemaking proceeding to establish requirements applicable to disposable lighters to make those products child-resistant. Information available to the Commission staff indicates that a significant number of young children die each year from fires involving disposable lighters. However, this information is not adequate to determine what action, if any, could be taken to reduce this hazard. In February, 1986, the Commission directed the staff to acquire information about possible means of addressing risks of death and injury to young children associated with disposable lighters. When the staff obtains this information, the Commission will consider the petition.

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Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: L. J. Sharman, Project Manager, Consumer Product Safety Commission, Office of Program Management, Washington, D. C. 20207, 301 492-6554

RIN: 3041-AA56

3505. ● PETITION HP 85-1. PETITION REQUESTING BAN OF HOUSEHOLD PRODUCTS CONTAINING METHYLENE CHLORIDE

Legal Authority: 15 USC 1261(q)(1)(B) FHSA; 15 USC 1262(a) FHSA

CFR Citation: 16 CFR 1500

Abstract: On September 3, 1985, the Consumer Federation of America (CFA) petitioned the Commission to begin a proceeding for issuance of a rule under provisions of section 3(a) of the Federal Hazardous Substances Act (FHSA) to declare that household products containing methylene chloride are hazardous substances. By letter dated December 20, 1985, CFA amended the petition to request initiation of a proceeding to declare household products containing methylene chloride to be "banned hazardous substances" under provisions of section 2(q)(1)(B) of the FHSA upon issuance of the rule to classify such products as hazardous substances. Methylene chloride is a solvent used in paint strippers, spray paints, and other consumer products. On February 27, 1986, the Commission voted to propose a rule to declare household products containing methylene chloride to be hazardous substances. This decision has the effect of granting CFA's request of September 3, 1985. If the Commission grants the remainder of the petition, it will publish an advance notice of proposed rulemaking under provisions of the FHSA.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Sandra Eberle, Program Manager, Consumer Product Safety Commission, Office of Program Management, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA58

CONSUMER PRODUCT SAFETY COMMISSION (CPSC) — Proposed Rule Stage

3506. FLAMMABILITY CLASSIFICATION REGULATIONS

Legal Authority: 15 USC 1261(l) FHSA; 15 USC 1269(a) FHSA

CFR Citation: 16 CFR 1500.3(b)(10); 16 CFR 1500.3(c)(6); 16 CFR 1500.43

Abstract: On April 26, 1984, the Commission published in the Federal Register a proposal to amend its regulations for classifying extremely flammable, flammable and combustible hazardous substances which release ignitible vapors. The staff has completed its analysis of issues raised by comments on the proposal and a briefing package for the Commission. The staff briefed the Commission and presented options for final action on April 3, 1986. If issued on a final basis, the proposed amendments would bring the Commission's test method and flammability classification procedures into general conformity with the practices of other federal agencies and voluntary standards setting organizations.

Timetable:

Action	Date	FR Cite
NPRM	04/26/84	49 FR 17956
NPRM Comment Period End	06/24/84	49 FR 17956
Next Action Undetermined		

Small Entity: No

Agency Contact: Allen Brauninger, Attorney, Consumer Product Safety Commission, Office of General Counsel, Washington, DC 20207, 301 492-6980

RIN: 3041-AA05

3507. FEDERAL HAZARDOUS SUBSTANCES ACT REGULATIONS FOR FIRST AID LABELING OF PRODUCTS CONTAINING MORE THAN 5 PERCENT OF BENZENE OR 10 PERCENT OF TOLUENE, XYLENE, OR PETROLEUM DISTILLATES

Legal Authority: 15 USC 1261(p)(1) FHSA

CFR Citation: 16 CFR 1500.14(b)(3)

Abstract: On December 13, 1985, the Commission proposed a regulation to amend the FHSA regulations for first aid labeling of products containing more than 5 per cent of benzene or 10 per cent of toluene, xylene, or petroleum distillates by eliminating the current requirement that such labeling must contain the direction "if swallowed, do not induce vomiting." Current expert opinion is that the decision of whether to induce vomiting as a first aid treatment should be made on a case-by-case basis, depending on the toxicity of the individual product and the amount ingested. In May, 1986, the staff expects to send a briefing package to the Commission with an analysis of comments on the proposed amendment.

Timetable:

Action	Date	FR Cite
NPRM	12/13/85	50 FR 50918
NPRM Comment Period End	02/11/86	50 FR 50918
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Virginia A. White, Project Manager, Consumer Product Safety Commission, Office of Program Management, Washington, D. C.20207, 301 492-6554

RIN: 3041-AA52

3508. SUPPLEMENTAL DEFINITION FOR THE FEDERAL HAZARDOUS SUBSTANCES ACT DEFINITION OF "STRONG SENSITIZER"

Legal Authority: 15 USC 1261 FHSA; 15 USC 1269 FHSA

CFR Citation: 16 CFR 1500.3(c)(5)

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Abstract: On November 7, 1985, the Commission proposed a regulation to define the term "strong sensitizer" to supplement the the definition of that term set forth in the Federal Hazardous Substances Act. The supplemental definition explains how the statutory definition will be applied, and provides criteria to be used by the Commission in designating substances as "strong sensitizers" for purposes of the FHSA. The Commission received no comments on the proposed amendment. The staff anticipates that the draft of a final amendment will be transmitted to the Commission in April, 1986.

Timetable:

Action	Date	FR Cite
NPRM	11/07/85	50 FR 46300
NPRM Comment Period End	01/06/86	50 FR 46300

Next Action Undetermined

Small Entity: No

Agency Contact: Virginia White, Senior Project Manager, Consumer Product Safety Commission, Office of Program Management, Washington, D. C. 210207, 301 492-6554

RIN: 3041-AA54

3508. ● SUBSTANTIAL PRODUCT HAZARD REPORTS

Legal Authority: 15 USC 2064

CFR Citation: 16 CFR 1115

Abstract: On December 28, 1984, the Commission published a notice in the Federal Register to invite written comments on a statement of enforcement policy concerning substantial product hazard reports which the Commission had published on April 6, 1984. The policy statement clarified the Commission's interpretation of requirements for reporting substantial product hazards established by section 15 of the Consumer Product Safety Act. The staff has completed an analysis of issues raised by the comments, and has drafted a Federal Register notice to respond to comments. In March 1986, the staff briefed the Commission on issues presented by the comments. In April, 1986, the Commission is expected to decide whether to approve publication of the draft Federal Register notice.

Timetable:

Action	Date	FR Cite
Enforcement policy statement	04/06/84	49 FR 13820
Notice of opportunity to submit written comments on policy	12/28/84	49 FR 50373
Comment period extended to 3/15/85	02/14/85	50 FR 6157

Next Action Undetermined

Small Entity: Not Applicable

Agency Contact: David Thome, Director, Division of Corrective Actions, Consumer Product Safety Commission, Directorate for Compliance and, Administrative Litigation, Washington, D.C. 20207, 301 492-6608

RIN: 3041-AA57

3510. ● DECLARATION THAT CERTAIN HOUSEHOLD SUBSTANCES (PAINT STRIPPERS AND SPRAY PAINTS) CONTAINING METHYLENE CHLORIDE ARE HAZARDOUS SUBSTANCES

Legal Authority: 15 USC 1261 FHSA; 15 USC 1262 FHSA

CFR Citation: 16 CFR 1500.12(a)(2)

Abstract: On February 27, 1986, the Commission decided to propose a rule declaring household products that contain methylene chloride to be hazardous substances under the Federal Hazardous Substances Act. These products include some paint strippers and spray paints. The Commission's concern arises from animal tests showing that methylene chloride is a carcinogen by inhalation, and studies indicating a significant human exposure as a result of reasonably foreseeable use of products containing methylene chloride. If issued on a final basis, this rule would resolve uncertainty about whether these products are hazardous substances. The Commission directed the staff to prepare a draft of a proposed rule for consideration by the Commission. The initiation of this rulemaking proceeding grants one part of a petition (HP 85-1) from the Consumer Federation of America. The Commission has not yet acted on a second part of that petition which requests a ban of household products containing methylene chloride. A rule declaring the products in question to be hazardous substances would have the effect of requiring cautionary labeling under provisions of the Federal (cont.)

Timetable:

Action	Date	FR Cite
NPRM	05/29/86	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: Hazardous Substances Act. The Commission also decided to work with industry and consumer groups to develop appropriate labeling and other voluntary actions to reduce consumer exposure to methylene chloride.

Agency Contact: Sandra Eberle, Program Manager, Consumer Product Safety Commission, Office of Program Management, Washington, D.C. 20207, 301 492-6554

RIN: 3041-AA59

CONSUMER PRODUCT SAFETY COMMISSION (CPSC)

Completed Actions

3511. PETITION AP 83-1. PETITION TO REQUIRE LABELING OF CONSTRAINED-SPRING TWIST-ON CONNECTORS WITH ALUMINUM WIRE

CFR Citation: Not yet determined

Completed:

Reason	Date	FR Cite
Final Action - Commission decision - petition denied	12/04/85	

Small Entity: Undetermined

Agency Contact: Melvin Spencer 301 492-6554

RIN: 3041-AA21

CPSC

Completed Actions

3512. PETITION AP 83-2. PETITION TO REQUIRE A LABELING RULE FOR CRIMP TYPE ELECTRICAL CONNECTORS

CFR Citation: 00 CFR Not Yet Determined

Completed:

Reason	Date	FR Cite
Final Action - Commission decision - petition denied	12/04/85	

Small Entity: Undetermined

Agency Contact: Melvin Spencer 301 492-6554

RIN: 3041-AA26

[FR Doc. 86-8915 Filed 04-18-86; 8:45 am]
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Part XLVII

Farm Credit Administration

Semiannual Regulatory Agenda

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FCA

FARM CREDIT ADMINISTRATION

12 CFR Ch. VI

Unified Agenda of Federal Regulations

AGENCY: Farm Credit Administration.

ACTION: Department Unified Agenda of Regulations and review list.

SUMMARY: The Farm Credit Administration, as an independent regulatory agency in voluntary compliance with Executive Order 12291, sets forth the following agenda of regulations which it will have under development and review during the period of April 1986 through October 1986.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Peoples, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, (703-883-4020).

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (5 U.S.C. 601, et seq.), contains several provisions intended to reduce unnecessary and disproportionate regulatory requirements on small entities. Farm Credit Administration ("FCA") regulations which apply to Farm Credit System banks and associations do not and will not have a substantial impact on small entities. None of the entities regulated by the FCA fall within the definition of small entities in the Regulatory Flexibility Act. While many associations through which banks lend are smaller in size than their banks, they are not independently operated, as they are closely supervised by the banks, which must approve most of their operating policies. The associations rely exclusively on their supervising banks for their source of funds. Furthermore, the associations do not compete with each other since, as with their supervising banks, each serves only a particular geographic area.

While FCA is an independent Agency exempt from Executive Order 12291, we believe that participating in this joint publication will further the public interest by including FCA in a single source of information concerning current and projected rulemaking and reviews of existing regulations.

On December 23, 1985, the President signed Pub. L. 99-205, the Farm Credit Amendments Act of 1985, which will require an extensive reorganization and rewriting of a major portion of the regulations of the FCA. The FCA is at the very beginning stages of this process. Therefore, many anticipated changes are not fully reflected in this submission but will be reflected in the October agenda.

DATED: March 13, 1986.

Donald E. Wilkinson,

Acting Chairman.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3513	Farm Credit Administration	3052-AA00
3514	Senior Deputy Governor, Deputy Governors and General Counsel	3052-AA01
3515	Other Administrative Units	3052-AA02
3516	Farm Credit Districts and Institutions	3052-AA03
3517	Part 601 - Employee Responsibilities and Conduct	3052-AA04
3518	Part 602 - Releasing Information	3052-AA05
3519	Part 602 - Releasing Information	3052-AA06
3520	Part 603 - Privacy Act Regulations	3052-AA07
3521	Part 604 - Meetings of the Federal Farm Credit Board	3052-AA08
3522	Limitation on Special Assignments	3052-AA09
3523	Cooperative Eligibility	3052-AA11
3524	Part 614 - Loan Policies and Operations	3052-AA12
3525	Loans Outside of Bank's Territory - Banks for Cooperatives	3052-AA13
3526	Methods of Financing	3052-AA36
3527	Obligations Eligible for Discount or Purchase	3052-AA37
3528	Part 615 - Funding and Fiscal Affairs, Loan Policies and Operations, and Funding Operations	3052-AA38
3529	Overall Review of 12 CFR Parts 611 - 618	3052-AA48
3530	Part 602 - Releasing Information	3052-AA50
3531	Banks for Cooperatives	3052-AA51
3532	Part 614 - Loan Policies and Operations Subpart Q – Banks for Cooperatives Financing International Trade	3052-AA52
3533	Part 601 - Employee Responsibilities and Conduct	3052-AA53
3534	Banks for Cooperatives	3052-AA54
3535	Part 603 - Privacy Act Regulations	3052-AA55
3536	Part 611 - Organization	3052-AA56
3537	Part 612 - Personnel Administration, Subpart A – Human Resources Management	3052-AA57
3538	Part 614 - Loan Policies and Operations	3052-AA58
3539	Part 615 - Funding and Fiscal Affairs	3052-AA80
3540	Part 615 - Funding and Fiscal Affairs	3052-AA81
3541	Equal Housing Lender Poster	3052-AA62
3542	Part 617 - Examination, Audits and Investigations	3052-AA64
3543	Publication of Reports	3052-AA65
3544	Part 606 - Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Farm Credit Administration	3052-AA67

FCA

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3545	Disclosure of Information on Reports to Shareholders– Parts 602, 620 and 621	3052-AA49
3546	Incorporation of Service Organizations	3052-AA66
3547	General	3052-AA69
3548	Real and personal property	3052-AA70

FARM CREDIT ADMINISTRATION (FCA) — Prerule Stage

3513. FARM CREDIT ADMINISTRATION

Legal Authority: PL 92-181; PL 96-592; 12 USC 1141(b)

CFR Citation: 12 CFR 600.1

Abstract: Technical amendment - change of address for Farm Credit Administration.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Mary K. Mathews, Director, Administrative Division, Office of Administration, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 (703-883-4116)

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA00

3514. SENIOR DEPUTY GOVERNOR, DEPUTY GOVERNORS AND GENERAL COUNSEL

Legal Authority: PL 92-181; PL 96-592; 12 USC 2211; 12 USC 2252(a)(16)

CFR Citation: 12 CFR 600.4

Abstract: Technical amendment - correct various titles and reference incorporation of Fiscal Agency.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Mary K. Mathews, Director, Administrative Division, Office of Administration, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 (703-883-4116)

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA01

3515. OTHER ADMINISTRATIVE UNITS

Legal Authority: PL 92-181; 12 USC 2252(a)(16)

CFR Citation: 12 CFR 600.5

Abstract: Technical amendment - to reflect current organizational divisions and sections.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Mary K. Mathews, Director, Administrative Division, Office of Administration, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 (703-883-4116)

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA02

3516. FARM CREDIT DISTRICTS AND INSTITUTIONS

Legal Authority: PL 92-181; 12 USC 2252(a)(16)

CFR Citation: 12 CFR 600.10

Abstract: Technical amendment - to correct address of various district banks.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Mary K. Mathews, Director, Administrative Division, Office of Administration, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 (703-883-4116)

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

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FCA — Prerule Stage

RIN: 3052-AA03

3517. PART 601 - EMPLOYEE RESPONSIBILITIES AND CONDUCT

Legal Authority: PL 92-181; 12 USC 2252(a)(16)

CFR Citation: 12 CFR 601.101; 12 CFR 601.126; 12 CFR 601.127; 12 CFR 601.140; 12 CFR 601.176

Abstract: Technical amendments - to correct division and agency name changes.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Mary K. Mathews, Director, Administrative Division, Office of Administration, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 (703-883-4116)

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA04

3518. PART 602 - RELEASING INFORMATION

Legal Authority: PL 92-181; 12 USC 2246; 12 USC 2252(a)(16)

CFR Citation: 12 CFR 602.200 to 602.245; 12 CFR 604.4015; 12 CFR 617.7080; 12 CFR 618.8300 to 618.8350

Abstract: Clarify existing policies and procedures with respect to the release of information and/or documents obtained in or resulting from the conduct of official business by employees of the Farm Credit Administration and the Farm Credit System.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Mary K. Mathews, Director, Administrative Division, Office of Administration, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 (703-883-4116)

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA05

3519. PART 602 - RELEASING INFORMATION

Legal Authority: PL 92-181; 12 USC 2252(a)(16)

CFR Citation: 12 CFR 602.260; 12 CFR 602.261

Abstract: Technical amendments to correct division and agency name changes.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Mary K. Mathews, Director, Administrative Division, Office of Administration, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 (703-883-4116)

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA06

3520. PART 603 - PRIVACY ACT REGULATIONS

Legal Authority: PL 92-181; 12 USC 2252(a)(16)

CFR Citation: 12 CFR 603.300; 12 CFR 603.310; 12 CFR 603.340

Abstract: Technical amendments - to indicate agency, division and address changes.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Mary K. Mathews, Director, Administrative Division, Office of Administration, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 (703-883-4116)

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA07

3521. PART 604 - MEETINGS OF THE FEDERAL FARM CREDIT BOARD

Legal Authority: 12 USC 2252(a)(16); PL 92-181

CFR Citation: 12 CFR 604.300; 12 CFR 604.305; 12 CFR 604.310; 12 CFR 604.315; 12 CFR 604.320; 12 CFR 604.325; 12 CFR 604.330; 12 CFR 604.335; 12 CFR 604.340

Abstract: Technical amendments - renumber entire Part to coincide with numbering system used on other Parts. Sections 604.325 and 604.340 will reflect agency, division and address changes.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Mary K. Mathews, Director, Administrative Division, Office of Administration, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 (703-883-4116)

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA08

3522. LIMITATION ON SPECIAL ASSIGNMENTS

Legal Authority: PL 92-181; PL 96-592; 12 USC 2211

CFR Citation: 12 CFR 611.1031

Abstract: Technical amendment - to indicate incorporation of Fiscal Agency.

FCA — Prerule Stage

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Mary K. Mathews, Director, Administrative Division, Office of Administration, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 (703-883-4116)

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA09

3523. COOPERATIVE ELIGIBILITY

Legal Authority: PL 92-181; 12 USC 2129

CFR Citation: 12 CFR 613.3110

Abstract: Amend eligibility standards for cooperatives, and reference services of cooperatives.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Mary K. Mathews, Director, Administrative Division, Office of Administration, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 (703-883-4116)

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA11

3524. PART 614 - LOAN POLICIES AND OPERATIONS

Legal Authority: PL 92-181; PL 96-592; 12 USC 2211

CFR Citation: 12 CFR 614.4710; 12 CFR 614.4900

Abstract: Technical amendments - to indicate Fiscal Agency incorporation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Mary K. Mathews, Director, Administrative Division, Office of Administration, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 (703-883-4116)

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA12

3525. LOANS OUTSIDE OF BANK'S TERRITORY - BANKS FOR COOPERATIVES

Legal Authority: PL 92-181; PL 96-592; 12 USC 2128

CFR Citation: 12 CFR 614.4080

Abstract: Amend international trade financing regulations to eliminate statutory conflict and address the issue of which bank will finance particular international transactions.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Mary K. Mathews, Director, Administrative Division, Office of Administration, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 (703-883-4116)

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA13

3526. METHODS OF FINANCING

Legal Authority: PL 92-181; PL 96-592; 12 USC 2075

CFR Citation: 12 CFR 614.4600

Abstract: Loan qualification to be qualified as to eligibility requirements.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Mary K. Mathews, Director, Administrative Division, Office of Administration, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 (703-883-4116)

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA36

3527. OBLIGATIONS ELIGIBLE FOR DISCOUNT OR PURCHASE

Legal Authority: PL 92-181; PL 96-592; 12 USC 2075

CFR Citation: 12 CFR 614.4610

Abstract: Loan participations to be qualified as to eligibility requirements.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Mary K. Mathews, Director, Administrative Division, Office of Administration, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 (703-883-4116)

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA37

3528. PART 615 - FUNDING AND FISCAL AFFAIRS, LOAN POLICIES AND OPERATIONS, AND FUNDING OPERATIONS

Legal Authority: PL 92-181; PL 96-592; 12 USC 2211

CFR Citation: 12 CFR 615.5010; 12 CFR 615.5103; 12 CFR 615.5105

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FCA — Prerule Stage

Abstract: Technical amendments - to indicate Fiscal Agency incorporation.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Mary K. Mathews, Director, Administrative Division, Office of Administration, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090 (703-883-4116)

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA38

3529. OVERALL REVIEW OF 12 CFR PARTS 611 - 618

Legal Authority: 12 USC 2252(a)(16); PL 92-181; 12 USC 2227; 12 USC 2183; 12 USC 2129; 12 USC 2253; 12 USC 2226; 12 USC 2071; 12 USC 2011

CFR Citation: 12 CFR 611.1010(c); 12 CFR 611.1140; 12 CFR 612.2110; 12 CFR 612.2120(b); 12 CFR 612.2080; 12 CFR 612.2090; 12 CFR 613.3020(c); 12 CFR 613.3040; 12 CFR 613.3110(a)(4); 12 CFR 613.3110(b)(2); 12 CFR 614.4015; 12 CFR 614.4051; 12 CFR 614.4070; 12 CFR 614.4130; 12 CFR 614.4160(c); ...

Abstract: Under review by FCA staff to determine whether to recommend the elimination or retention of existing FCA regulatory approval requirements affecting the operations of Farm Credit System institutions or replacement with regulatory guidelines.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Additional Information: ADDITIONAL CFR CITATIONS: 12 CFR 614.4165(f); 12 CFR 614.4190(b); 12 CFR 614.4190(c); 12 CFR 614.4281; 12 CFR 614.4330(a); 12 CFR 614.4354(a)(4); 12 CFR 614.4354(e); 12 CFR 614.4460; 12 CFR 614.4511; 12 CFR 614.4630(a); 12 CFR 614.4630(b); 12 CFR 615.5040; 12 CFR 615.5102; 12 CFR 615.5103; 12 CFR 615.5104; 12 CFR 615.5105; 12 CFR 615.5135; 12 CFR 615.5330(a); 12 CFR 615.5340; 12 CFR 615.5370; 12 CFR 615.5420; 12 CFR 615.5453; 12 CFR 615.5550; 12 CFR 615.5160; 12 CFR 615.5220; 12 CFR 615.5290; 12 CFR 615.5320; 12 CFR 614.4345; 12 CFR 614.4450; 12 CFR 614.4455; 12 CFR 615.5100; 12 CFR 615.5140(a)(15); 12 CFR 613.3045; 12 CFR 614.4080; CFR 614.4120; 12 CFR 614.4210; 12 CFR 614.4220; 12 CFR 614.4261; 12 CFR 614.4334(c); 12 CFR 614.4770; 12 CFR 614.4710; 12 CFR 614.4720; 12 CFR 614.4800; 12 CFR 614.4900; 12 CFR 615.5151; 12 CFR 615.5320(b)(1); 12 CFR 615.5400; 12 CFR 616.6020

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA48

3530. PART 602 - RELEASING INFORMATION

Legal Authority: 12 USC 2246; 12 USC 2252(a)(16); PL 92-181

CFR Citation: 12 CFR 602.200; 12 CFR 602.205; 12 CFR 602.215; 12 CFR 602.285

Abstract: Technical amendments to correct division and agency title changes and agency address.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA50

3531. BANKS FOR COOPERATIVES

Legal Authority: 12 USC 2252(a)(16); PL 92-181

CFR Citation: 12 CFR 614.4354

Abstract: Changes in lending limits for banks for cooperatives.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA51

3532. PART 614 - LOAN POLICIES AND OPERATIONS SUBPART Q -- BANKS FOR COOPERATIVES FINANCING INTERNATIONAL TRADE

Legal Authority: 12 USC 2128; 12 USC 2252(a)(16); PL 92-181

CFR Citation: Not yet determined

Abstract: Regulation to define "substantial benefit" as it refers to banks for cooperatives ability to enter into international financing agreements.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA52

3533. PART 601 - EMPLOYEE RESPONSIBILITIES AND CONDUCT

Legal Authority: 12 USC 2252(a)(16); PL 92-181

CFR Citation: 12 CFR 601.130; 12 CFR 601.150; 12 CFR 601.165; 12 CFR 601.170; 12 CFR 601.180

Abstract: Technical amendments to correct division names and agency titles. Correct reference to OPM.

FCA — Prerule Stage

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA53

3534. BANKS FOR COOPERATIVES

Legal Authority: 12 USC 2243; PL 92-181; 12 USC 2252(a)(16)

CFR Citation: 12 CFR 600.60

Abstract: Technical amendment to correct reference to location of Central Bank for Cooperatives.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA54

3535. PART 603 - PRIVACY ACT REGULATIONS

Legal Authority: 12 USC 2246; 12 USC 2252(a)(16); PL 92-181

CFR Citation: 12 CFR 603.315; 12 CFR 603.320; 12 CFR 603.325; 12 CFR 603.330; 12 CFR 603.335

Abstract: Technical amendments to indicate agency title and address changes.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA55

3536. PART 611 - ORGANIZATION

Legal Authority: 12 USC 2252(a)(16); PL 92-181

CFR Citation: 12 CFR 611.300; 12 CFR 611.500; 12 CFR 611.1031; 12 CFR 611.1100

Abstract: Technical amendments to indicate agency title, division and address changes.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA56

3537. PART 612 - PERSONNEL ADMINISTRATION, SUBPART A -- HUMAN RESOURCES MANAGEMENT

Legal Authority: 12 USC 2252(a)(16); PL 92-181

CFR Citation: 12 CFR 612.2000; 12 CFR 612.2080; 12 CFR 612.2120

Abstract: Technical amendments to indicate agency names and division changes.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA57

3538. PART 614 - LOAN POLICIES AND OPERATIONS

Legal Authority: 12 USC 2252(a)(16); PL 92-181

CFR Citation: 12 CFR 614.4051; 12 CFR 614.4530; 12 CFR 614.4710; 12 CFR 614.4900

Abstract: Technical amendments to indicate title and division changes.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA58

3539. PART 615 - FUNDING AND FISCAL AFFAIRS

Legal Authority: 12 USC 2252(a)(16); PL 92-181

CFR Citation: 12 CFR 615.5135; 12 CFR 615.5140; 12 CFR 615.5143; 12 CFR 615.5150; 12 CFR 615.5151; 12 CFR 615.5160; 12 CFR 615.5136; 12 CFR 615.5141; 12 CFR 615.5142; 12 CFR 615.5144

Abstract: Amendments to broaden, yet control, types of eligible investments.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA60

3540. PART 615 - FUNDING AND FISCAL AFFAIRS

Legal Authority: 12 USC 2252(a)(16); PL 92-181

CFR Citation: 12 CFR 615.5495; 12 CFR 615.5496

Abstract: Technical amendments to reflect current organizational, division, and section changes and to correct

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FCA — Prerule Stage

reference to Fiscal Agency.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA61

3541. EQUAL HOUSING LENDER POSTER

Legal Authority: 12 USC 2252(a)(16); PL 92-181

CFR Citation: 12 CFR 613.3170

Abstract: Technical amendment to indicate agency, division, and address changes.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA62

3542. PART 617 - EXAMINATION, AUDITS AND INVESTIGATIONS

Legal Authority: 12 USC 2252(a)(16); PL 92-181

CFR Citation: 12 CFR 617.7000; 12 CFR 617.7010; 12 CFR 617.7020; 12 CFR 617.7030; 12 CFR 617.7050; 12 CFR 617.7080; 12 CFR 617.7100; 12 CFR 617.7110; 12 CFR 617.7120

Abstract: Technical amendments to reflect organizational changes.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA64

3543. PUBLICATION OF REPORTS

Legal Authority: 12 USC 2252(a)(16); PL 92-181

CFR Citation: 12 CFR 618.8200

Abstract: Technical amendment to change dates combined financial statements are published.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA65

3544. PART 608 - ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE FARM CREDIT ADMINISTRATION

Legal Authority: 12 USC 2252(a)(16); PL 92-181; 29 USC 794

CFR Citation: 12 CFR 601.601-699

Abstract: Provide enforcement of section 504 of the Rehabilitation Act of 1973 to prohibit discrimination on the basis of handicap, as it applies to the programs or activities conducted by the Farm Credit Administration.

Timetable:

Action	Date	FR Cite
NPRM	12/18/85	50 FR 51540
NPRM Comment Period End	02/17/86	50 FR 51540

Next Action Undetermined

Small Entity: No

Additional Information: For additional information contact: Gary L. Norton Office of General Counsel Farm Credit Administration 1501 Farm Credit Drive McLean, VA 22102-5090 (703) 883-4020

Agency Contact: Kenneth L. Peoples, Senior Attorney, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090, 703 883-4020

RIN: 3052-AA67

FARM CREDIT ADMINISTRATION (FCA) — Completed Actions

3545. DISCLOSURE OF INFORMATION ON REPORTS TO SHAREHOLDERS--PARTS 602, 620 AND 621

CFR Citation: 12 CFR 602.250; 12 CFR 620.1; 12 CFR 620.2; 12 CFR 620.3; 12 CFR 620.10; 12 CFR 620.11; 12 CFR 621.1; 12 CFR 621.2; 12 CFR 621.3; 12 CFR 621.4; 12 CFR 621.5; 12 CFR 621.6; 12 CFR 621.7; 12 CFR 621.10; 12 CFR 621.11; ...

Completed:

Reason	Date	FR Cite
Final Action	03/13/86	51 FR 8644

Small Entity: No

Agency Contact: Kenneth L. Peoples 703 883-4020

RIN: 3052-AA49

3546. INCORPORATION OF SERVICE ORGANIZATIONS

CFR Citation: 12 CFR 611.1150

Completed:

Reason	Date	FR Cite
Final Action	11/08/85	50 FR 46417
Final Action Effective	12/15/85	51 FR 2472

Small Entity: No

Agency Contact: Kenneth L. Peoples 703 883-4020

RIN: 3052-AA66

3547. GENERAL

CFR Citation: 12 CFR 614.4330

Completed:

Reason	Date	FR Cite
Final Action	11/14/85	50 FR 47043
Final Action Effective	01/21/86	51 FR 4891

Small Entity: No

FCA — Completed Actions

Agency Contact: Kenneth L. Peoples 703 883-4020

RIN: 3052-AA69

3548. REAL AND PERSONAL PROPERTY

CFR Citation: 12 CFR 615.5150(a); 12 CFR 615.5150(b)

Completed:

Reason	Date	FR Cite
Final Action	11/26/85	50 FR 48553
Final Action Effective	01/31/86	51 FR 4891

Small Entity: No

Agency Contact: Kenneth L. Peoples 703 883-4020

RIN: 3052-AA70

[FR Doc. 86-8283 Filed 04-18-86; 8:45 am]
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Federal Communications Commission

Semiannual Regulatory Agenda

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FCC

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

Unified Agenda of Federal Regulations; April 1986

AGENCY: Federal Communications Commission.

ACTION: Publication of the Unified Agenda of Federal Regulations.

SUMMARY: The Commission publishes in the "Unified Agenda of Federal Regulations" to provide the public with adequate notice of major and other significant proceedings under development or review. The agenda also provides the CFR Citations and Legal Authorities which govern these proceedings. Because we are in the process of developing a more efficient way of disseminating FCC agenda information to the public, we have reduced submission of the agenda to the Federal Register to include only those items that pertain to the Regulatory Flexibility Act, as amended by 94 Stat. 1167, 5 U.S.C. 605. We will shortly make a decision as how best to disseminate FCC agenda information other than that pertaining to the Regulatory Flexibility Act. Any information required on previously submitted items can be obtained by contacting Miss Claudette Pride on (202) 632-3906.

ADDRESS: Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Claudette Pride, Management Planning and Program Evaluation Office, (202) 632-3906.

SUPPLEMENTARY INFORMATION:

Unified Agenda of major and other significant proceedings

The Commission encourages public participation in the FCC rulemaking process. To help keep the public informed of significant rulemaking proceedings, the Commission has prepared an agenda of important proceedings now in progress. OMB will publish the Unified Agenda in the Federal Register in April and October of each year.

The following terms may be helpful in understanding the status of the proceedings included in this report:

A Docket Number - is assigned to a proceeding if the Commission has issued either a Notice of Proposed Rulemaking or a Notice of Inquiry in regard to the matter under consideration. Since January 1, 1978, the Commission has used docket numbers which consist of the last two digits of the calendar year in which the docket was established plus a sequential number which begins at 1 with the first docket initiated during a calendar year (e.g., Docket 80-1 or Docket 83-1). The abbreviation for the responsible Bureau usually precedes the docket number, as in "Docket 79-164." When a docket number consists of only five digits (e.g., Docket 29622), this indicates that the docket was established before January 1, 1978.

Notice of Inquiry (NOI) - issued by the Commission when it is seeking information on a broad subject or trying to generate ideas on a given topic. A comment period is specified during which all interested parties may submit comments.

Notice of Proposed Rulemaking (NPRM) - issued by the Commission when it is proposing a specific change to the FCC Rules and Regulations. Before any changes are actually made, interested parties may submit written comments on the proposals.

Memorandum Opinion and Order (MO&O) - issued by the Commission to deny a petition for rulemaking, conclude an inquiry, modify a decision, or deny a petition for reconsideration of a decision.

Rulemaking (RM) Number - assigned to a proceeding after the appropriate Bureau/Office has reviewed a petition for rulemaking, but before the Commission has taken action on the petition.

Report & Order (R&O) - issued by the Commission to state a new or amended rule or state that the FCC Rules will not be changed.

William J. Tricarico,

Secretary, Federal Communications Commission.

COMMON CARRIER BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3549	Cellular Radio Licensing Procedures for Small Markets	3060-AD38

COMMON CARRIER BUREAU—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3550	Jurisdictional Separations: Central Office Equipment and Interexchange Plant	3060-AD37

FCC

MASS MEDIA BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3551	Technical Deregulation: Part 73 - FM	3060-AD04
3552	FM vs. Aviation: Interference Problems	3060-AD06
3553	Single Majority Shareholder (Attribution)	3060-AD12
3554	Distress Sale Policy	3060-AD48

MASS MEDIA BUREAU—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3555	DBS: Receiver Standards	3060-AD50

MASS MEDIA BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3556	Comparative Preferences Within Metropolitan Areas	3060-AB61
3557	AM Antenna Proofs	3060-AD07
3558	Cable Bill Implementation: EEO	3060-AD13
3559	Transfers and Takeovers: Proxy Contests	3060-AD46

OFFICE OF GENERAL COUNSEL—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3560	Amending Environmental Rules in Response to New Rules Issued by the Council on Environmental Quality (C.E.Q.)	3060-AB30

PRIVATE RADIO BUREAU—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3561	900 MHz Allocation to the Private Land Mobile Radio Services	3060-AD29

PRIVATE RADIO BUREAU—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3562	Telephone Maintenance Radio Service (TMRS)	3060-AD44

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PRIVATE RADIO BUREAU—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3563	Interconnection in the Private Land Mobile Radio Services in the Frequency Bands Below 800 MHz	3060-AB74

OFFICE OF SCIENCE AND TECHNOLOGY—Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3564	Allocation of Additional Spectrum for Private Land Mobile Radio (LMCC Petition)	3060-AC91
3565	Utilization Policy - Fixed and Mobile Services 1-40 GHz (Reconsideration)	3060-AC92
3566	Additional Sharing of UHF TV Channels by Private LM Services	3060-AC93
3567	Technical Standards, Medical Ultrasonic Equipment - Part 18	3060-AC95
3568	DORCMA - Remote Control Security Devices	3060-AC96
3569	SEIA - Remote Control/Security Devices	3060-AC97

OFFICE OF SCIENCE AND TECHNOLOGY—Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3570	Technical Flexibility in the Mobile Communication Services	3060-AD00

OFFICE OF SCIENCE AND TECHNOLOGY—Completed Actions

Sequence Number	Title	Regulation Identifier Number
3571	KNOGO - Field Disturbance Sensors	3060-AC98
3572	Land Mobile Use of 421-430 MHz	3060-AD35
3573	18168 kHz Mobile Allocations	3060-AD41

FEDERAL COMMUNICATIONS COMMISSION (FCC)—COMMON CARRIER BUREAU

Proposed Rule Stage

3549. CELLULAR RADIO LICENSING PROCEDURES FOR SMALL MARKETS

Significance: Agency Priority

Legal Authority: 47 USC 151; 47 USC 301; 47 USC 303; 47 USC 307; 47 USC 308; 47 USC 309

CFR Citation: 47 CFR 22.900

Abstract: Modification of licensing procedures for cellular mobile radio systems in smaller markets to make cellular radio service available more rapidly.

Timetable:

Action	Date	FR Cite
R&O	06/00/86	

Small Entity: Undetermined

Agency Contact: Steven A. Weiss, Attorney, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554, 202 632-6450

RIN: 3060-AD36

FEDERAL COMMUNICATIONS COMMISSION (FCC)—COMMON CARRIER BUREAU

Final Rule Stage

3550. JURISDICTIONAL SEPARATIONS: CENTRAL OFFICE EQUIPMENT AND INTEREXCHANGE PLANT

Legal Authority: 47 USC 08

CFR Citation: 47 CFR 67

Abstract: Proceeding to examine the need for changes in the jurisdictional separations procedures for central office equipment and interexchange plant.

Timetable:

Action	Date	FR Cite
NPRM	04/30/84	49 FR 18395
OIC (Joint Board)	08/06/85	50 FR 31747
OIC planned (Joint Board)	09/00/86	

Small Entity: Undetermined

Agency Contact: C. Pabo, Federal Communications Commission, 1919 M St., N.W., Rm. 544, Washington, D.C. 20554, 202 632-6363

RIN: 3060-AD37

[FR Doc. 86-8041 Filed 04-18-86; 8:45 am]

BILLING CODE 6712-01-T

FEDERAL COMMUNICATIONS COMMISSION (FCC)—MASS MEDIA BUREAU

Proposed Rule Stage

3551. TECHNICAL DEREGULATION: PART 73 - FM

Legal Authority: 47 USC 154; 47 USC 303

CFR Citation: 47 CFR 73.317; 47 CFR 73.319; 47 CFR 73.322; 47 CFR 73.558; 47 CFR 73.597

Abstract: This item reviews the technical and operational requirements of Subparts B and C, Part 73, for FM stations.

Timetable:

Action	Date	FR Cite
NPRM	10/31/85	
R&O	06/00/86	

Small Entity: Yes

Additional Information: DOCKET NUMBER: mm-116

Agency Contact: Michael Lewis, Federal Communications Commission, 2025 M St., N.W., Rm. 8120, Washington, D.C. 20554, 202 632-9660

RIN: 3060-AD04

3552. FM VS. AVIATION: INTERFERENCE PROBLEMS

Significance: Agency Priority

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 73

Abstract: This item addresses a continuing problem of interference to aviation receivers because of high powered FM stations. The Commission will consider ending this issue with an R&O adopting compatibility standards.

Timetable:

Action	Date	FR Cite
NPRM	04/11/85	
R&O	09/00/86	

Small Entity: Yes

Additional Information: DOCKET NUMBER: mm-85-108

ASSOCIATED ITEMS: mmb-124 NPRM

Agency Contact: Katy Hosford, Federal Communications Commission, 2025 M St., N.W., Rm. 8112, Washington, D.C. 20554, 202 632-9660

RIN: 3060-AD08

3553. SINGLE MAJORITY SHAREHOLDER (ATTRIBUTION)

Legal Authority: 47 USC 151 et seq

CFR Citation: 47 CFR 73.3555

Abstract: A R&O to review the single majority stockholder provision of the Commission's attribution rules (12-12-12).

Timetable:

Action	Date	FR Cite
NPRM	06/07/85	
R&O	09/00/86	

Small Entity: Yes

Additional Information: DOCKET NUMBER: mm-85-192

ASSOCIATED ITEMS: mmb-175 NPRM

Agency Contact: Laurel Bergold, Federal Communications Commission, 2025 M St., N.W., Rm. 8338, Washington, D.C. 20554, 202 632-7792

RIN: 3060-AD12

3554. DISTRESS SALE POLICY

Legal Authority: 47 USC 309; 47 USC 310

CFR Citation: 47 CFR 73.4140

Abstract: NPRM will explore distress sale policy to determine whether to expand by (1) making election permissible at any time prior to final order and (2) scaling price as percentage of fair market value depending upon when notice of intent to utilize distress sale is given. NABOB petition for rulemaking.

Timetable:

Action	Date	FR Cite
Interim Final Rule	10/08/85	
R&O	06/00/86	

Small Entity: Yes

Additional Information: DOCKET NUMBER: mmb-207

Agency Contact: Belford Lawson, Federal Communications Commission, 2025 M St., N.W., Rm. 8328, Washington, D.C. 20554, 202 632-7792

RIN: 3060-AD48

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FEDERAL COMMUNICATIONS COMMISSION (FCC)—MASS MEDIA BUREAU

Final Rule Stage

3555. DBS: RECEIVER STANDARDS

Legal Authority: 47 USC 00

CFR Citation: 47 CFR 100

Abstract: This item considers adoption of standards for DBS receivers.

Timetable:

Action	Date	FR Cite
NPRM	02/06/85	
R&O	09/00/86	

Small Entity: Yes

Additional Information: DOCKET NUMBER: mm-85-36

ASSOCIATED ITEMS: mmb-123 NPRM

Agency Contact: Bernard Gorden, Federal Communications Commission, 2025 M St., N.W., Rm. 6114, Washington, D.C. 20554, 202 632-9660

RIN: 3060-AD50

FEDERAL COMMUNICATIONS COMMISSION (FCC)—MASS MEDIA BUREAU

Completed Actions

3556. COMPARATIVE PREFERENCES WITHIN METROPOLITAN AREAS

CFR Citation: 47 CFR 00

Completed:

Reason	Date	FR Cite
Withdrawn	02/25/86	

Small Entity: Yes

Agency Contact: Joel Rosenberg 202 634-6530

RIN: 3060-AB61

3557. AM ANTENNA PROOFS

CFR Citation: 47 CFR 73.61; 47 CFR 73.68; 47 CFR 73.154

Completed:

Reason	Date	FR Cite
R&O adopted	10/31/85	

Small Entity: Yes

Agency Contact: John Reiser 202 632-9660

RIN: 3060-AD07

3558. CABLE BILL IMPLEMENTATION: EEO

Significance: Agency Priority

CFR Citation: 47 CFR 76

Completed:

Reason	Date	FR Cite
R&O adopted	09/18/85	

Small Entity: Yes

Agency Contact: Marcia Glauberman 202 632-6302

RIN: 3060-AD13

3559. TRANSFERS AND TAKEOVERS: PROXY CONTESTS

CFR Citation: 47 CFR 00

Completed:

Reason	Date	FR Cite
Policy Statement adopted	01/30/86	

Small Entity: Yes

Agency Contact: Steve Sewell 202 632-6963

RIN: 3060-AD46

[FR Doc. 86-8841 Filed 04-18-86; 8:45 am]
BILLING CODE 6712-01-T

FEDERAL COMMUNICATIONS COMMISSION (FCC)—OFFICE OF GENERAL COUNSEL

Proposed Rule Stage

3560. AMENDING ENVIRONMENTAL RULES IN RESPONSE TO NEW RULES ISSUED BY THE COUNCIL ON ENVIRONMENTAL QUALITY (C.E.Q.)

Legal Authority: 47 USC 303(r); 47 USC 154(i)

CFR Citation: 47 CFR 1, Subpart I

Abstract: The Commission's existing environmental rules are being revised to comply with guidelines issued by the Council for Environmental Quality (C.E.Q.).

Timetable:

Action	Date	FR Cite
NPRM	07/03/79	44 FR 38913
NPRM Comment Period End	08/02/79	
R&O	09/00/86	

Small Entity: Yes

Additional Information: GEN DOCKET - 79-163.

Affected Sectors: None

Agency Contact: Holly Kaufman, Attorney-Advisor, Federal Communications Commission, 1919 M St., N.W., Washington, D.C. 20554, 202 632-6990

RIN: 3060-AB30

[FR Doc. 86-8841 Filed 04-18-86; 8:45 am]
BILLING CODE 6712-01-T

FEDERAL COMMUNICATIONS COMMISSION (FCC)—PRIVATE RADIO BUREAU

Proposed Rule Stage

3561. 900 MHZ ALLOCATION TO THE PRIVATE LAND MOBILE RADIO SERVICES

Significance: Agency Priority

Legal Authority: 47 USC 154(i); 47 USC 303(r)

CFR Citation: 47 CFR 2; 47 CFR 90

Abstract: The FCC has adopted a Notice of Proposed Rule Making proposing the allocation of 12 MHz from the land mobile reserve for private land mobile use.

Timetable:

Action	Date	FR Cite
NPRM adopted	11/21/84	
NPRM published	01/11/85	50 FR 1582
Reply comments closed	06/05/86	
R&O	06/00/86	

Small Entity: Yes

Additional Information: Docket Number: pr 84-1233

Agency Contact: Stuart Overby, Federal Communications Commission, 2025 M St., N.W., Rm. 5114, Washington, D.C. 20554, 202 634-2443

RIN: 3060-AD29

FEDERAL COMMUNICATIONS COMMISSION (FCC)—PRIVATE RADIO BUREAU

Final Rule Stage

3562. TELEPHONE MAINTENANCE RADIO SERVICE (TMRS)

Legal Authority: 47 USC 154(i); 47 USC 403

CFR Citation: 47 CFR 90

Abstract: The FCC has proposed amending the rule governing the TMRS to eliminate the division of frequencies between wireline carriers and microwave carriers. Eligibility requirements and interservice frequency coordination are not altered.

Timetable:

Action	Date	FR Cite
NPRM adopted	08/05/85	
NPRM published	08/16/85	50 FR 33072
Comments on NPRM due	10/15/85	
Replies on NPRM due	11/15/85	
R&O	06/00/86	

Small Entity: Yes

Additional Information: Docket Number: pr 84-884

Agency Contact: Harold Salters, Federal Communications Commission, 2025 M St., N.W., Rm. 5202, Washington, D.C. 20554, 202 632-7597

RIN: 3060-AD44

FEDERAL COMMUNICATIONS COMMISSION (FCC)—PRIVATE RADIO BUREAU

Completed Actions

3563. INTERCONNECTION IN THE PRIVATE LAND MOBILE RADIO SERVICES IN THE FREQUENCY BANDS BELOW 800 MHZ

CFR Citation: 47 CFR 90

Completed:

Reason	Date	FR Cite
M&O adopted	08/12/85	

Small Entity: Yes

Agency Contact: Nia Cresham 202 634-2443

RIN: 3060-AB74

[FR Doc. 86-8841 Filed 04-18-86; 8:45 am]
BILLING CODE 6712-01-T

FEDERAL COMMUNICATIONS COMMISSION (FCC)—OFFICE OF SCIENCE AND TECHNOLOGY

Proposed Rule Stage

3564. ALLOCATION OF ADDITIONAL SPECTRUM FOR PRIVATE LAND MOBILE RADIO (LMCC PETITION)

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 22; 47 CFR 90

Abstract: Amendment of Pts. 2, 22 and 90 of the Rules to provide an additional allocation for present land mobile use, including private and cellular. LMCC petitions for allocation of all of the 900 MHz reserve bands plus investigation of future use of UHF-TV spectrum and the 216-225 MHz band.

Timetable:

Action	Date	FR Cite
NPRM	11/30/84	
NPRM	12/31/84	
R&O	09/30/86	

Small Entity: Yes

Additional Information: RM-4829.

Agency Contact: Fred Thomas, Federal Communications Commission, 2025 M St., N.W., Rm. 7320, Washington, D.C. 20554, 202 653-8112

RIN: 3060-AC91

3565. UTILIZATION POLICY - FIXED AND MOBILE SERVICES 1-40 GHZ (RECONSIDERATION)

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 2; 47 CFR 21; 47 CFR 74; 47 CFR 78; 47 CFR 94

Abstract: Develop third R&O which will establish expanded access/sharing of the 1.8, 1.9, 6, 7, 13 and 23 GHz band.

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FCC—OST — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
R&O	07/30/86	

Small Entity: Undetermined

Additional Information: 82-334

Agency Contact: Don Campbell, Federal Communications Commission, 2025 M St., N.W., Rm. 7328, Washington, D.C. 20554, 202 653-8136

RIN: 3060-AC92

3566. ADDITIONAL SHARING OF UHF TV CHANNELS BY PRIVATE LM SERVICES

Significance: Agency Priority

Legal Authority: 47 USC 301; 47 USC 303; 47 USC 332

CFR Citation: 47 CFR 2; 47 CFR 90

Abstract: Accommodation of projected requirements of private LM services would be partially through further sharing of certain UHF-TV channels in the major markets.

Timetable:

Action	Date	FR Cite
NPRM	06/30/85	
R&O	09/30/86	

Small Entity: Yes

Agency Contact: Julius Knapp, Federal Communications Commission, 2025 M St., N.W., Rm. 7310, Washington, D.C. 20554, 202 653-8108

RIN: 3060-AC93

3567. TECHNICAL STANDARDS, MEDICAL ULTRASONIC EQUIPMENT - PART 18

Significance: Agency Priority

Legal Authority: 47 USC 302

CFR Citation: 47 CFR 18.71 to 84

Abstract: Rulemaking to relax the technical standards for medical ultrasonic equipment.

Timetable:

Action	Date	FR Cite
NPRM	09/30/85	
R&O	06/30/86	

Small Entity: Yes

Additional Information: Docket No. 85-303

Agency Contact: Liliane Volcy, Federal Communications Commission, 2025 M St., N.W., Rm. 8302, Washington, D.C. 20554, 202 653-7316

RIN: 3060-AC95

3568. DORCMA - REMOTE CONTROL SECURITY DEVICES

Significance: Agency Priority

Legal Authority: 47 USC 302

CFR Citation: 47 CFR 15.201 to 215

Abstract: The Door Operators and Remote Control Manufacturers Association requests what amounts to a complete review and overhaul of the technical standards for remote control and security devices in Part 15.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	

Small Entity: Yes

Additional Information: RM-4637.

Agency Contact: John Reed, Federal Communications Commission, 2025 M St., N.W., Rm. 8302, Washington, D.C. 20554, 202 653-7313

RIN: 3060-AC96

3569. SEIA - REMOTE CONTROL/SECURITY DEVICES

Significance: Agency Priority

Legal Authority: 47 USC 302

CFR Citation: 47 CFR 15.201 to 215

Abstract: The Security Equipment Industry Association requests review and overhaul of the technical standards and measurement methods for remote control and security devices in Part 15.

Timetable:

Action	Date	FR Cite
NPRM	06/30/86	

Small Entity: Yes

Additional Information: RM-4613.

Agency Contact: John Reed, Federal Communications Commission, 2025 M St., N.W., Rm. 8302, Washington, D.C. 20554, 202 653-7313

RIN: 3060-AC97

FEDERAL COMMUNICATIONS COMMISSION (FCC)—OFFICE OF SCIENCE AND TECHNOLOGY — Final Rule Stage

3570. TECHNICAL FLEXIBILITY IN THE MOBILE COMMUNICATION SERVICES

Significance: Agency Priority

Legal Authority: 47 USC 303

CFR Citation: 47 CFR 22; 47 CFR 90

Abstract: Review of technical standards dealing with mobile communications services.

Timetable:

Action	Date	FR Cite
NPRM	03/29/85	
R&O	00/00/00	

Small Entity: Yes

Agency Contact: Mike Marcus, Federal Communications Commission, 2025 M St., N.W., Rm. 7202, Washington, D.C. 20554, 202 632-7048

RIN: 3060-AD00

FEDERAL COMMUNICATIONS COMMISSION (FCC)—OFFICE OF SCIENCE AND TECHNOLOGY — Completed Actions

3571. KNOGO - FIELD DISTURBANCE SENSORS

Significance: Agency Priority

CFR Citation: 47 CFR 15.305

Completed:

Reason	Date	FR Cite
R&O	12/23/85	

Small Entity: Yes

Agency Contact: Liliane Volcy 202 653-8247

RIN: 3060-AC98

3572. LAND MOBILE USE OF 421-430 MHZ

Significance: Agency Priority

CFR Citation: 47 CFR 2

Completed:

Reason	Date	FR Cite
R&O	09/11/85	

Small Entity: Undetermined

Agency Contact: Don Precure 202 653-8170

RIN: 3060-AD35

3573. 18168 KHZ MOBILE ALLOCATIONS

Significance: Agency Priority

CFR Citation: 47 CFR 2

Completed:

Reason	Date	FR Cite
R&O	12/20/85	

Small Entity: Undetermined

Agency Contact: Fred Thomas 202 653-8162

RIN: 3060-AD41

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Monday
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Part XLIX

Federal Deposit Insurance Corporation

Semiannual Regulatory Agenda

VOL 51 ISS 76 AP 21 1986 UMI

FDIC

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Semiannual Agenda of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Publication of semiannual agenda of regulations.

SUMMARY: The Federal Deposit Insurance Corporation ("FDIC") is hereby publishing items for the April 1986 Regulatory Agenda. The agenda contains information about FDIC's current and projected rulemakings, existing regulations under review, and completed rulemakings.

FOR FURTHER INFORMATION CONTACT: Persons identified under regulations listed in the agenda. The address for all FDIC staff identified in the agenda is Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: Twice each year, the FDIC publishes an agenda of regulations to inform the public of its regulatory actions and to enhance public participation in the rulemaking process. Publication of the agenda is in accordance with both the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and the FDIC statement of policy entitled "Development and Review of FDIC Rules and Regulations" (44 FR 31007, May 30, 1979; 44 FR 32353, June 6, 1979; 44 FR 76858, December 28, 1979; 49 FR 7288, February 28, 1984).

FDIC amends its regulations under the general rulemaking authority prescribed in section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and under specific authority granted by the Act and other statutes.

Interested persons may petition the FDIC for the issuance, amendment or repeal of any regulation by submitting a written petition to the Executive Secretary, Federal Deposit Insurance Corporation, Washington, D.C. 20429. Petitioners should include complete and concise statements of their interest in the subject matter and reasons why the petitions should be granted.

DATED: March 3, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

Prerule Stage

Sequence Number	Title		Regulation Identifier Number
3574	12 CFR 335	Securities of Insured Nonmember Banks	3064-AA45
3575	12 CFR 308	Rules of Practice and Procedures: Subpart B --Rules of Practice Generally	3064-AA64
3576	12 CFR 309	Disclosure of Information	3064-AA65
3577	12 CFR 311	Rules Governing Public Observation of Meetings of the Corporation's Board of Directors	3064-AA66
3578	12 CFR 330	Clarification and Definition of Deposit Insurance Coverage	3064-AA68

Proposed Rule Stage

Sequence Number	Title		Regulation Identifier Number
3579	12 CFR 344	Securities Recordkeeping and Confirmations	3064-AA30
3580	12 CFR 329	Interest on Deposits	3064-AA32

Final Rule Stage

Sequence Number	Title		Regulation Identifier Number
3581	12 CFR 332	Powers Inconsistent with Purposes of Federal Deposit Insurance Law	3064-AA29
3582	12 CFR 352	Nondiscrimination on the Basis of Handicap	3064-AA39
3583	12 CFR 353	Reports of Apparent Crimes Affecting Insured Nonmember Banks; Notification of Change in Fidelity Bond Coverage	3064-AA60
3584	12 CFR 303	Disclosure of Change in Bank Control Notices	3064-AA70
3585	12 CFR 330	Recordkeeping Requirements for Deposits Placed by Deposit Brokers	3064-AA59

FDIC

Completed Actions

Sequence Number	Title		Regulation Identifier Number
3586	12 CFR 338	Fair Housing	3064-AA50
3587	12 CFR 337	Unsafe and Unsound Banking Practices	3064-AA71
3588	12 CFR 303	Applications, Requests, Submittals, Delegations of Authority, and Notices of Acquisition of Control	3064-AA51
3589	12 CFR 304	Forms, Instructions, and Reports	3064-AA61
3590	12 CFR 329	Interest on Deposits	3064-AA67
3591	12 CFR 330	Brokered Deposits, Limitations on Deposit Insurance	3064-AA26

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Prerule Stage

3574. SECURITIES OF INSURED NONMEMBER BANKS

Legal Authority: 12 USC 1819 Federal Deposit Insurance Act; 15 USC 78l(i) Securities Exchange Act of 1934

CFR Citation: 12 CFR 335

Legal Deadline: None

Abstract: The Securities Exchange Act of 1934 requires the FDIC to issue regulations substantially similar to regulations of the Securities and Exchange Commission, or publish reasons for not doing so. The staff will likely propose such conforming amendments for public comment following rulemaking actions by the Commission.

Timetable:

Action	Date	FR Cite
Awaiting SEC Rulemaking Action	00/00/00	

Small Entity: No

Agency Contact: Lawrence H. Pierce, Securities Activities Officer, Federal Deposit Insurance Corporation, Division of Bank Supervision, Washington, DC 20429, 202 898-6885

RIN: 3064-AA45

3575. RULES OF PRACTICE AND PROCEDURES: SUBPART B -- RULES OF PRACTICE GENERALLY

Legal Authority: 5 USC 504; 12 USC 1819; 12 USC 1972; 15 USC 78w

CFR Citation: 12 CFR 308

Legal Deadline: None

Abstract: Subpart B to Part 308 prescribes rules of practice and procedures followed by the FDIC in hearings pursuant to the provisions of the Federal Deposit Insurance Act or other applicable law pertaining to involuntary termination of the insured status of any bank; issuance of cease-and-desist orders against any nonmember bank or its official; assessment of civil penalties against a bank or its official; issuance of orders that remove or suspend from office a director or officer of an insured nonmember bank; disapproval of a proposed acquisition of control of an insured nonmember bank; and imposition of sanctions upon a municipal securities dealer or a person associated with such a dealer.

This regulation has been selected for review under the FDIC's Regulation Review Program. See 50 FR 14247, April 11, 1985.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: Eugene A. Miller, Counsel, Federal Deposit Insurance Corporation, Legal Division, Washington, DC 20429, 202 898-3705

RIN: 3064-AA64

3576. DISCLOSURE OF INFORMATION

Legal Authority: 5 USC 552; 12 USC 1819

CFR Citation: 12 CFR 309

Legal Deadline: None

Abstract: Part 309 sets forth the basic policies of the FDIC regarding the information it maintains and the procedures for obtaining access to such information.

This regulation has been selected for review under the FDIC's Regulation Review Program. See 50 FR 14247, April 11, 1985.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: James R. Dudine, Chief, Special Activities Section, Federal Deposit Insurance Corporation, Division of Bank Supervision, Washington, DC 20429, 202 898-6750

RIN: 3064-AA65

3577. RULES GOVERNING PUBLIC OBSERVATION OF MEETINGS OF THE CORPORATION'S BOARD OF DIRECTORS

Legal Authority: 5 USC 552b; 12 USC 1819

CFR Citation: 12 CFR 311

Legal Deadline: None

Abstract: Part 311 implements the policy of the "Government in the Sunshine Act," section 552b of Title 5, United States Code, which is to provide the public with as much information as possible regarding the decision-making processes of certain Federal agencies, including the FDIC, while preserving the rights of individuals and the ability of the agency to carry out its responsibilities.

This regulation has been selected for review under the FDIC's Regulation Review Program. See 50 FR 14247, April 11, 1985.

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Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, Washington DC 20429, 202 898-3813

RIN: 3064-AA66

3578. CLARIFICATION AND DEFINITION OF DEPOSIT INSURANCE COVERAGE

Legal Authority: 12 USC 1813; 12 USC 1817; 12 USC 1821; 12 USC 1822

CFR Citation: 12 CFR 330

Legal Deadline: None

Abstract: Part 330 provides for the determination by the FDIC of the insured depositors of an insured bank and the amount of their insured deposit accounts. It sets forth the rules for determining the insurance coverage of deposit accounts maintained by depositors.

This regulation has been selected for review under the FDIC's Regulation Review Program. See 50 FR 14247, April 11, 1985.

Timetable:

Action	Date	FR Cite
End Review	00/00/00	

Small Entity: No

Agency Contact: J. William Via, Jr., Counsel, Federal Deposit Insurance Corporation, Legal Division, Washington, DC 20429, 202 898-3733

RIN: 3064-AA68

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Proposed Rule Stage

3579. SECURITIES RECORDKEEPING AND CONFIRMATIONS

Legal Authority: 12 USC 1817; 12 USC 1818; 12 USC 1819

CFR Citation: 12 CFR 344

Legal Deadline: None

Abstract: After several years of experience with Part 344, the FDIC believes that some changes to these regulations are desirable. Part 344 requires insured State nonmember banks effecting securities transactions for customers to maintain chronological and account records of transactions and provide customers with timely specified information, and establish written policies and procedures applicable to the securities activities performed for customers. The regulation serves to assure that customers are provided with adequate information about their securities transactions effected by the bank and that banks are maintaining adequate business records. It was issued through the Federal Financial Institutions Examination Council on an interagency basis in 1979.

Timetable:

Action	Date	FR Cite
NPRM	09/00/86	

Small Entity: No

Agency Contact: John F. Harvey, Review Unit Chief, Federal Deposit Insurance Corporation, Division of Bank Supervision, Washington, DC 20429, 202 898-6762

RIN: 3064-AA30

3580. INTEREST ON DEPOSITS

Legal Authority: 12 USC 1819; 12 USC 1828(g); 12 USC 1832(a)

CFR Citation: 12 CFR 329

Legal Deadline: None

Abstract: The Federal Deposit Insurance Corporation has proposed revising and simplifying Part 329 of its regulations, 12 CFR 329. The proposed regulation reflects changes made in the Federal Deposit Deposit Insurance Act, 12 USC 1811-1831d. The changes are being proposed due to the expiration of the Depository Institutions Deregulation Committee (DIDC) and its rules on April 1, 1986. Both the FDIC and the Federal Reserve Board must substitute appropriate rules by that date. The FDIC rules will apply only to state-charted banks that are not members of the Federal Reserve System.

Timetable:

Action	Date	FR Cite
NPRM	02/04/86	51 FR 4376
NPRM Comment Period End	03/06/86	
Final Action	04/01/86	

Small Entity: No

Agency Contact: Jules Bernard, Senior Attorney, Federal Deposit Insurance Corporation, Legal Division, Washington, DC 20429, 202 898-3731

RIN: 3064-AA32

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Final Rule Stage

3581. POWERS INCONSISTENT WITH PURPOSES OF FEDERAL DEPOSIT INSURANCE LAW

Legal Authority: 12 USC 1816; 12 USC 1818(a); 12 USC 1818(b); 12 USC 1819; 12 USC 1821(f); 12 USC 1828(j)(2)

CFR Citation: 12 CFR 332

Legal Deadline: None

Abstract: The FDIC is proposing to amend Part 332 of its regulations to: (1) subject to certain exceptions, prohibit any insured bank (including insured nonmember banks, national banks, state banks that are members of the Federal Reserve System, insured branches of foreign banks, and federally chartered saving banks insured by the FDIC) from directly engaging in the following: underwriting insurance, developing real estate, reinsurance, guaranteeing or becoming surety upon the obligations of others, insuring the fidelity of others, or engaging in a surety business, (2) require any subsidiary of an insured bank that conducts any of the prohibited activities to meet the criteria for a bona fide subsidiary set out in the regulation, (3) require notice to the FDIC of intent to invest in such subsidiary or become affiliated with any company that engages in such activities, (4) place certain restrictions on the affiliation of an insured bank with a company that engages in any of the prohibited activities, (5) place certain restrictions on extensions of credit and other transactions between insured banks and their subsidiaries or affiliates that engage in any of the prohibited (cont)

FDIC — Final Rule Stage

Timetable:

Action	Date	FR Cite
ANPRM	09/12/83	48 FR 40900
ANPRM Comment Period End	11/14/83	48 FR 40900
NPRM	12/13/84	49 FR 48552
NPRM Comment Period End	02/11/85	49 FR 48552
NPRM- Revised	06/07/85	50 FR 23964
Revised NPRM Comment Period Begin	06/07/85	50 FR 23964
Revised NPRM Comment Period End	07/22/85	
Final Action	09/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: activities, (6) require all insured banks that prior to the publication of this proposal established or acquired a subsidiary or became affiliated with a company that engages in the prohibited activities to conform to the regulation (with certain exceptions) within one year from the effective date of the regulation, (7) require any insured bank that as of the publication date of the proposal is directly engaging in any of the prohibited activities to conform to the regulation within one year of the effective date of the regulation with the exception that ongoing real estate developments may be completed, and (8) exclude a bank's direct investment in a subsidiary that engages in prohibited activities from the bank's consolidated capital.

The FDIC has extended the deadline for final agency action to September 8, 1986.

Analysis: Regulatory Impact Analysis; Revised Preliminary RIA 06/07/85 (50 FR 23964)

Agency Contact: Pamela E. F. LeCren, Senior Attorney, Federal Deposit Insurance Corporation, Legal Division, Washington, DC 20429, 202 898-3730

RIN: 3064-AA29

3582. NONDISCRIMINATION ON THE BASIS OF HANDICAP

Legal Authority: 29 USC 504 Rehabilitation Act of 1973; 12 USC 1819 Federal Deposit Insurance Act

CFR Citation: 12 CFR 352

Legal Deadline: None

Abstract: This proposed regulation implements the spirit of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, as it applies to the programs or activities conducted by various Executive agencies. Although the FDIC does not believe that Congress contemplated coverage of non-appropriated, independent regulatory agencies such as the FDIC, it has chosen to promulgate this proposed regulation to ensure that, to the extent practicable, handicapped persons are provided with equal access to FDIC programs and activities.

The FDIC gave notice on January 17, 1986 (51 FR 2519), that it was extending the period for publishing the final rule to March 31, 1986.

Timetable:

Action	Date	FR Cite
NPRM	04/18/85	50 FR 15453
NPRM Comment Period End	06/17/85	
Final Action	03/00/86	

Small Entity: No

Agency Contact: Anne Marie Kohlligian, Attorney, Federal Deposit Insurance Corporation, Legal Division, Washington, D C 20429, 202 898-3711

RIN: 3064-AA39

3583. REPORTS OF APPARENT CRIMES AFFECTING INSURED NONMEMBER BANKS; NOTIFICATION OF CHANGE IN FIDELITY BOND COVERAGE

Legal Authority: 12 USC 1816; 12 USC 1819; 12 USC 1828

CFR Citation: 12 CFR 353

Legal Deadline: None

Abstract: The FDIC is proposing to add Part 353 to its regulations to require insured nonmember banks to report, on a prescribed form, criminal violations of the United States Code that involve or affect such banks to the appropriate investigatory and prosecuting authorities, as well as to the FDIC. Robberies, burglaries and nonemployee larcenies, which are subject to the requirements of 12 CFR 326.5(c), are exempt from the requirements of the proposed rule. The central purpose of the report form requirement is to assure that the information needed by the investigators and prosecutors for effective law enforcement is provided in an orderly and timely fashion. Also, the FDIC, by receiving a copy of the reports, will be better able to monitor, and to act to reduce, losses to insured nonmember banks as a result of criminal activity. The proposed rule also requires,in the interest of reducing losses, that an insured nonmember bank notify the FDIC if its fidelity bond against defalcations and similar losses is cancelled or if the coverage is changed significantly.

Timetable:

Action	Date	FR Cite
NPRM	10/24/85	50 FR 43209
NPRM Comment Period End	11/25/85	
Final Action	04/00/86	

Small Entity: No

Agency Contact: James R. Dudine, Chief, Special Activities Section, Federal Deposit Insurance Corporation, Division of Bank Supervision, Washington, DC 20429, 202 898-6750

RIN: 3064-AA60

3584. ● DISCLOSURE OF CHANGE IN BANK CONTROL NOTICES

Legal Authority: 12 USC 1817(j); 15 USC 78; 5 USC 552(b)(4); 5 USC 552(b)(6)

CFR Citation: 12 CFR 303; 12 CFR 309

Legal Deadline: None

Abstract: The FDIC has proposed amendments to its regulations to provide greater public disclosure of information relating to change in Bank Control Notices. One amendment would permit disclosure, upon request, of the fundamental elements of the proposed acquisition of control upon acceptance of a Notice of Acquisition of Control by the FDIC. Another amendment would require the acquiring parties to publish.

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in the business section of a newspaper having general circulation in the community where the institution's home office is located, an announcement of their intent to acquire control of a particular institution.

Timetable:

Action	Date	FR Cite
NPRM	10/10/85	50 FR 41361
NPRM Comment Period End	11/12/85	
Final Action	04/00/86	

Small Entity: No

Agency Contact: Francis X. Grady, Attorney, Federal Deposit Insurance Corporation, Legal Division, Washington, DC 20429, 202 898-3714

RIN: 3064-AA70

3585. RECORDKEEPING REQUIREMENTS FOR DEPOSITS PLACED BY DEPOSIT BROKERS

Legal Authority: 12 USC 1813; 12 USC 1817; 12 USC 1821; 12 USC 1822; 12 USC 1823

CFR Citation: 12 CFR 330

Legal Deadline: None

Abstract: The FDIC is proposing to amend certain recordkeeping requirements affecting the manner in which insurance coverage on brokered deposits is determined. The amendments would require disclosure in the account records of the bank of the identity of each person having a beneficial ownership interest in such accounts in order for those persons to obtain insurance coverage. The primary purpose of the amendment is to enable the FDIC to determine quickly and efficiently the extent of insurance coverage on brokered deposits for supervisory and regulatory reasons and to make informed decisions regarding the costs of alternatives considered in handling insured banks which are failing.

Timetable:

Action	Date	FR Cite
NPRM	08/02/85	50 FR 31360
NPRM Comment Period End	09/03/85	50 FR 31360
Final Action	00/00/00	

Small Entity: No

Agency Contact: Patti C. Fox, Attorney, Federal Deposit Insurance Corporation, Legal Division, Washington, DC 20429, 202 898-3719

RIN: 3064-AA59

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC) — Completed Actions

3586. FAIR HOUSING

Legal Authority: 12 USC 1817; 12 USC 1818; 12 USC 1819; 12 USC 1820; 15 USC 1691 et seq; 42 USC 3605; 42 USC 3606

CFR Citation: 12 CFR 338

Legal Deadline: None

Abstract: The FDIC has amended its Fair Housing regulation, 12 CFR 338, to revise the recordkeeping exemption threshold. The rule ended the log sheet requirement for log sheet banks that have $50 million or less in assets and have received fewer than 25 home loan applications in the prior calendar year. Raising the threshold improved the efficiency and effectiveness of consumer affairs examiners through more productive use of examination time and, additionally, reduced the recordkeeping burden on banks.

Timetable:

Action	Date	FR Cite
NPRM	03/18/85	50 FR 10784
NPRM Comment Period End	05/17/85	50 FR 10784
Final Action	10/01/85	50 FR 39966

Small Entity: No

Agency Contact: Rex J. Morthland, Director, Office of Consumer Programs, Federal Deposit Insurance Corporation, Division of Bank Supervision, Washington, DC 20429, 202 898-3543

RIN: 3064-AA50

3587. ● UNSAFE AND UNSOUND BANKING PRACTICES

Legal Authority: 12 USC 1819; 12 USC 1828; PL 97-320, Sec 442

CFR Citation: 12 CFR 337

Legal Deadline: None

Abstract: The FDIC amended its regulations to extend the period during which insured nonmember banks that prior to December 28, 1984, became affiliated with a securities company or prior to that date established or acquired a subsidiary that engages in securities activities must comply with the "common name or logo" and "separate office entrance" restrictions of 12 CFR 337.4. The compliance period with respect to these restrictions is extended from December 28, 1985, until June 30, 1986.

Timetable:

Action	Date	FR Cite
Final Action	01/09/86	51 FR 880

Small Entity: No

Agency Contact: Pamela E. F. LeCren, Senior Attorney, Federal Deposit Insurance Corporation, Legal Division, Washington, DC 20429, 202 898-3730

RIN: 3064-AA71

3588. APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES OF ACQUISITION OF CONTROL

Legal Authority: 12 USC 1815; 12 USC 1816; 12 USC 1817(j); 12 USC 1818; 12 USC 1819; 12 USC 1826; 12 USC 1829; 15 USC 1607

CFR Citation: 12 CFR 303

Legal Deadline: None

Abstract: Part 303 sets forth the requirements and procedures to be followed by State nonmember banks in making application to the FDIC on such matters as obtaining deposit insurance, establishing a branch or moving a main office or branch, establishing remote service facilities, merging or consolidating, extending corporate or charter powers, reducing or retiring capital, providing notice of change in bank control, and various other matters. The regulation also describes the authority delegated by the FDIC Board of Directors to certain officials and committees of the Corporation to act on such matters as applications, notices of acquisition of control, requests for relief

FDIC — Completed Actions

from reimbursement, and other related matters.

This regulation has been selected for review under the FDIC's Regulation Review Program. See 50 FR 14247, April 11, 1985.

Timetable:

Action	Date	FR Cite
Begin Review	06/13/85	
End Review	11/29/85	

Small Entity: No

Agency Contact: Charles J. Magyar, Review Examiner, Federal Deposit Insurance Corporation, Division of Bank Supervision, Washington, DC 20429, 202 898-6752

RIN: 3064-AA51

3589. FORMS, INSTRUCTIONS, AND REPORTS

Legal Authority: 12 USC 1819

CFR Citation: 12 CFR 304

Legal Deadline: None

Abstract: Part 304 identifies the forms and reports used for submitting information to the FDIC, describes the circumstances under which a particular form or report should be used, identifies sources for obtaining preprinted forms, and prescribes the required contents of a report for which there is no preprinted form. The forms and reports serve various supervisory functions.

This regulation has been selected for review under the FDIC's Regulation Review Program. See 50 FR 14247, April 11, 1985.

Timetable:

Action	Date	FR Cite
Begin Review	06/13/85	
End Review	11/01/85	

Small Entity: No

Agency Contact: John R. Keiper, Jr., Assistant Executive Secretary (Admin), Federal Deposit Insurance Corporation, Washington, DC 20429, 202 898-3810

RIN: 3064-AA61

3590. INTEREST ON DEPOSITS

Legal Authority: 12 USC 1819; 12 USC 1828; 12 USC 1832

CFR Citation: 12 CFR 329

Legal Deadline: None

Abstract: The provisions of Part 329 apply to the advertisement and payment of interest or dividends on deposits in insured nonmember banks and insured State branches of foreign banks.

This regulation has been selected for review under the FDIC's Regulation Review Program. See 50 FR 14247, April 11, 1985.

Timetable:

Action	Date	FR Cite
Begin Review	10/25/85	
End Review	11/25/85	

Small Entity: No

Agency Contact: J. William Via, Jr., Counsel, Federal Deposit Insurance Corporation, Legal Division, Washington DC 20429, 202 898-3733

RIN: 3064-AA67

3591. BROKERED DEPOSITS, LIMITATIONS ON DEPOSIT INSURANCE

Significance: Agency Priority

Legal Authority: 12 USC 1819 Federal Deposit Insurance Act; 12 USC 1813 Federal Deposit Insurance Act; 12 USC 1817 Federal Deposit Insurance Act; 12 USC 1821 Federal Deposit Insurance Act; 12 USC 1822 Federal Deposit Insurance Act

CFR Citation: 12 CFR 330

Legal Deadline: None

Abstract: On June 20, 1984, the United States District Court for the District of Columbia entered an Order declaring the Final Rule published by the FDIC at 49 FR 13003 (April 2, 1984) on limiting insurance coverage for brokered deposits to be unlawful, enjoining the Rule's implementation and directing that the Order be published. The FDIC published the Order, as directed by the Court, at 49 FR 27294 (July 3, 1984). On January 30, 1985, the U.S. Court of Appeals upheld the U.S. District Court's ruling that the FDIC did not have authority to limit insurance coverage on brokered deposits. The FDIC gave notice on January 8, 1986 (51 FR 731), that it has withdrawn its final rule published at 49 FR 13003 (April 2, 1984).

Timetable:

Action	Date	FR Cite
ANPRM	11/01/83	48 FR 50339
ANPRM Comment Period End	11/28/83	48 FR 50339
NPRM	01/23/84	49 FR 2787
NPRM Comment Period End	03/06/84	49 FR 2787
Final Action	04/02/84	49 FR 13003
Withdrawn	01/08/86	51 FR 731

Small Entity: No

Agency Contact: Patti C. Fox, Attorney, Federal Deposit Insurance Corporation, Legal Division, Washington, DC 20429, 202 898-3719

RIN: 3064-AA26

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Federal Energy Regulatory Commission

Semiannual Regulatory Agenda

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FERC

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Energy Regulatory Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: In response to Office of Management and Budget Bulletin No. 86-4 the Federal Energy Regulatory Commission voluntarily submits information about rulemakings under development. Of the 28 rulemakings listed, 18 are current and projected rulemakings, 8 are completed actions, and 2 have been withdrawn.

DATES: The dates provided represent goals, not commitments, and may be revised due to shifts in workload, changes in priorities, or extensive public comments. See various dates listed for each specific rulemaking.

ADDRESS: Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Person listed for each specific rulemaking.

Kenneth F. Plumb,

Secretary.

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Prerule Stage

3592. NOI - REGULATION OF ELECTRICITY SALES - FOR RESALES AND TRANSMISSION SERVICE

Significance: Agency Priority

Legal Authority: 16 USC 2601 to 2645 PURPA; 15 USC 791a to 828c FPA

CFR Citation: 18 CFR 290; 18 CFR 35

Legal Deadline: None

Abstract: The Notice of Inquiry seeks information on the pricing and risk allocation for electric wholesale requirements service. RM85-17-000

Timetable:

Action	Date	FR Cite
Notice of Inquiry Phase I	06/04/85	50 FR 23446
Notice of Inquiry Phase II	07/05/85	50 FR 27604
End Review	00/00/00	

Small Entity: No

Agency Contact: David Goroff, Acting Assistant General Counsel Electric Rates and Corporate Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8488

RIN: 1902-AA68

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Proposed Rule Stage

3593. RETIREMENT UNITS OF NUCLEAR REACTOR PLANT EQUIPMENT

Significance: Agency Priority

Legal Authority: 16 USC 825 to 825h Federal Power Act; 42 USC 7101 DOE Organization Act

CFR Citation: 18 CFR 35

Legal Deadline: None

Abstract: Proposed rule would establish list of retirement units for nuclear reactor plants for purposes of the Commission's Uniform Systems of Accounts. Docket No. RM83-39-000.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: David Goroff, Acting Assistant General Counsel Electric Rates and Corporate Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8488

RIN: 1902-AA43

3594. FEES FOR HYDROPOWER PROJECTS

Significance: Agency Priority

Legal Authority: 31 USC 9701 Independent Offices Appropriations Act; 16 USC 803 Federal Power Act; 42 USC 7101 to 7352 DOE Organization Act; EO 12009

CFR Citation: 18 CFR 381

Legal Deadline: None

Abstract: The rulemaking would establish a fee for services performed by the Commission under the FPA for hydropower projects. The rule would cover permits, licenses and exemptions. Docket No. RM83-33-000

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Kristina Nygaard, Asst. General Counsel - Hydroelectric Lic., Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA48

3595. REVISIONS TO PGA REGULATIONS

Significance: Agency Priority

Legal Authority: 15 USC 717c Natural Gas Act; 42 USC 7101 to 7352 DOE Organization Act; EO 12009

CFR Citation: 18 CFR 157

Legal Deadline: None

Abstract: In view of the deregulation on January 1, 1985, the rulemaking addresses whether the Commission's PGA regulations should be revised to accommodate unexpected fluctuations in pipelines' purchased gas costs, and whether the PGA regulations should be revised to update them, standardize procedures, or codify Commission policy. Docket No. RM84-12-000

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: Colette Bohatch, Asst. General Counsel - Pipeline Rates, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8497

RIN: 1902-AA50

FERC — Proposed Rule Stage

3596. NUCLEAR FUEL ACCOUNTING REGULATIONS

Significance: Agency Priority

Legal Authority: 16 USC 825; 16 USC 825(c)(1); 16 USC 825(h) Federal Power Act; 42 USC 7101 Department of Energy Organization Act; EO 12009

CFR Citation: 18 CFR 101

Legal Deadline: None

Abstract: This rule would revise and add accounts to treat nuclear fuel stock when a plant is deferred or cancelled. The rule will codify existing practice. Docket No. RM83-28-000

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: David Goroff, Acting Assistant General Counsel Electric Rates and Corporate Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8488

RIN: 1902-AA52

3597. EXEMPTION FROM THE LICENSING REQUIREMENTS OF PART I OF THE FEDERAL POWER ACT OF CERTAIN CATEGORIES OF SMALL HYDROELECTRIC POWER PROJECTS WITH AN INSTALLED CAPACITY OF 5 MW OR LESS

Significance: Agency Priority

Legal Authority: 16 USC 823a Federal Power Act; 16 USC 2708 PURPA; 42 USC 7101 to 7352 DOE Organization Act; EO 12009

CFR Citation: 18 CFR 4.109; 18 CFR 4.110; 18 CFR 4.111; 18 CFR 4.112

Legal Deadline: None

Abstract: The Commission has requested a remand from the U.S. Court of Appeals for the D.C. Circuit of its categorical exemptions rule for small hydroelectric power projects in order to determine whether or not to repeal the categorical exemption regulations. Docket No. RM81-7-000

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Kristina Nygaard, Asst. General Counsel - Hydroelectric Lic., Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA59

3598. HIGH COST GAS PRODUCED FROM TIGHT FORMATIONS

Legal Authority: 15 USC 3012; 15 USC 3013; 15 USC 3017 Natural Gas Policy Act

CFR Citation: 18 CFR 271.703

Legal Deadline: None

Abstract: A petition filed by the Citizens Labor Energy Coalition raised the issue of whether tight formation gas pricing circumvents NGPA ceilings by (1) permitting price exceeding market clearing price level for natural gas; (2) diverting exploration and production away from lower section 102 and 103 gas; and (3) perverse incentives not being examined. Docket No. RM82-33-000

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Howard Schneider, Asst General Counsel - Producer Regulations, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8511

RIN: 1902-AA60

3599. ACCOUNTING AND RATEMAKING TREATMENT FOR NUCLEAR PLANT DECOMMISSIONING COSTS

Significance: Agency Priority

Legal Authority: 16 USC 791 to 828c Federal Power Act; 42 USC 7101 to 7352 DOE Organization Act; EO 12009

CFR Citation: 18 CFR 35; 18 CFR 101; 18 CFR 141

Legal Deadline: None

Abstract: Rulemaking would establish appropriate accounting and ratemaking treatment for nuclear plant decommissioning costs that public utilities are beginning to incur. Docket No. RM85-5-000

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: No

Agency Contact: David Goroff, Acting Assistant General Counsel Electric Rates and Corporate Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20246, 202 357-8468

RIN: 1902-AA64

3600. ● REVISIONS TO THE BILLING PROCEDURES FOR ANNUAL CHARGES FOR ADMINISTERING PART I OF THE FEDERAL POWER ACT AND TO THE METHODOLOGY FOR ASSESSING FEDERAL LAND USE CHARGES

Significance: Agency Priority

Legal Authority: 16 USC 803 Federal Power Act; 42 USC 7107 DOE Organization Act; EO 12009

CFR Citation: 18 CFR 11.20; 18 CFR 11.21

Legal Deadline: None

Abstract: The Proposed Rule would amend Part 11 of the Commission's regulations to revise the billing procedures for annual charges for administering Part I of the Federal Power Act and the methodology for assessing Federal land use charges. This Proposed Rule would also change the timing for licensees' submission of the data necessary for the computation of charges for administrative costs. In addition, under the rule proposed, hydropower licensees would be required to compute generation data on a fiscal year basis, instead of on a calendar-year basis, and to file these reports by November 1 instead of February 1. This Notice also proposes to change the Commission's system for

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computing land use charges. Docket No. RM86-2.

Timetable:

Action	Date	FR Cite
NPRM	12/30/85	51 FR 00211
NPRM Comment Period End	03/04/86	51 FR 00211
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Kristina Nygaard, Assistant General Counsel Hydroelectric Licensing, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA71

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Final Rule Stage

3601. REVISION TO FERC RULES OF PRACTICE, PART 3, DISCOVERY

Significance: Agency Priority

Legal Authority: 16 USC 791 to 828c Federal Power Act; 15 USC 717 to 717w Natural Gas Act; 15 USC 3301 to 3432 Natural Gas Policy Act; 42 USC 7101 to 7352 DOE Organization Act; EO 12009; 16 USC 2601 to 2645 PURPA

CFR Citation: 18 CFR 1.23; 18 CFR 1.26

Legal Deadline: None

Abstract: This will establish a uniform set of rules governing discovery in FERC trial-type hearings. Docket No. RM83-41-000.

Timetable:

Action	Date	FR Cite
NPRM	07/26/84	49 FR 30519
NPRM Comment Period End	10/01/84	
Final Action	00/00/00	

Small Entity: No

Agency Contact: C. Stephen Angle, Acting Asst. Gen. Counsel Hydroelec. & Elec., Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8425

RIN: 1902-AA13

3602. REVISION OF FERC RULES OF PRACTICE, SEPARATION OF FUNCTIONS AND EX PARTE RULES FOR TRIAL-TYPE PROCEEDINGS

Legal Authority: 5 USC 557

CFR Citation: 18 CFR 385.2201; 18 CFR 385.2202

Legal Deadline: None

Abstract: Rule would establish uniform ex parte and separation of functions rules for all trial-type proceedings. Docket No. RM80-60-000.

Timetable:

Action	Date	FR Cite
NPRM	05/29/80	45 FR 36094
Final Action	00/00/00	

Small Entity: No

Agency Contact: Ellen Schall, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8002

RIN: 1902-AA31

3603. CALCULATION OF CASH WORKING CAPITAL ALLOWANCE FOR PUBLIC UTILITIES

Significance: Agency Priority

Legal Authority: 16 USC 79 to 828c

CFR Citation: 18 CFR 35

Legal Deadline: None

Abstract: Proposed rule would provide that a public utility that files electric rate schedules may include in rate base no cash working capital allowance, unless it is demonstrated that the payment of certain current operating expenses by that utility is not, on the average, closely timed with the receipt of revenues from ratepayers, producing a significant "lead" or "lag" in revenue collection in relation to the payment of expenses. The new section would prescribe the expense elements includable in cash working capital, the parameters of the presumption against a cash working capital allowance, and the nature of the studies that may be submitted in support of, or in opposition to, any request for a cash working capital allowance. Docket No. RM84-9.

Timetable:

Action	Date	FR Cite
NPRM	04/05/84	49 FR 14384
NPRM Comment Period End	07/05/84	
Final Action	00/00/00	

Small Entity: No

Agency Contact: David Goroff, Acting Assistant General Counsel Electric Rates and Corporate Regulation, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8848

RIN: 1902-AA33

3604. TEMPORARY EMERGENCY TRANSPORTATION, SALES AND DELIVERY OF NATURAL GAS

Significance: Agency Priority

Legal Authority: Natural Gas Act, Sec 7(c)

CFR Citation: 18 CFR 2; 18 CFR 157; 18 CFR 284

Legal Deadline: None

Abstract: The rule would update the Commission's regulations regarding emergency transportation, sales, and delivery of natural gas, and would eliminate unnecessary reporting requirements. Docket No. RM83-31.

Timetable:

Action	Date	FR Cite
NPRM	08/15/84	49 FR 35135
NPRM Comment Period End	11/15/84	
Final Action	03/31/86	

Small Entity: No

Agency Contact: Robert Christin, Asst. Gen. Counsel - Pipeline Certificates, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8522

RIN: 1902-AA35

3605. PAYMENTS FOR BENEFITS FROM HEADWATER IMPROVEMENTS

Significance: Agency Priority

Legal Authority: 16 USC 803 Federal Power Act; 42 USC 7101 to 7352 DOE Organization Act; EO 12009

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CFR Citation: 18 CFR 11.25; 18 CFR 11.26; 18 CFR 11.27; 18 CFR 11.30

Legal Deadline: None

Abstract: This rulemaking addresses the issues of whether to adopt a generic formula to govern the assessment of headwater benefits charges according to a formula first announced in the Roanoke decision, and whether to specify certain procedural steps in the determination of headwater benefits charge that would make these procedures more consistent with the Commission's rules of practice and procedure. Docket No. RM83-57-000

Timetable:

Action	Date	FR Cite
NPRM	12/29/83	49 FR 1067
NPRM Comment Period End	03/09/84	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Kristina Nygaard, Asst. General Counsel - Hydroelectric Lic., Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA55

3606. PROCEDURES FOR COMPLIANCE WITH THE FEDERAL WATER POLLUTION ACT IN HYDROELECTRIC LICENSING

Significance: Agency Priority

Legal Authority: 16 USC 791 to 828c Federal Power Act; 42 USC 7101 to 7352 DOE Organization Act; EO 12009; 33 USC 1251 to 1376 Federal Water Pollution Control Act

CFR Citation: 18 CFR 4

Legal Deadline: None

Abstract: Rulemaking would clarify the Commission requirements and applicants' responsibilities in satisfying section 401 certification requirements under the Federal Water Pollution Control Act. Docket No. RM85-6-000

Timetable:

Action	Date	FR Cite
NPRM	06/09/85	50 FR 32229
NPRM Comment Period End	10/08/85	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Kristina Nygaard, Asst. General Counsel - Hydroelectric Lic., Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8033

RIN: 1902-AA56

3607. REVISION OF FERC FORM NO. 73, OIL PIPELINE RATES FOR DEPRECIATION ANALYSIS

Significance: Agency Priority

Legal Authority: 49 USC 1 to 27 (1976) Interstate Commerce Act; 42 USC 7101 to 7352 DOE Organization Act; EO 12009

CFR Citation: 18 CFR 352

Legal Deadline: None

Abstract: Rulemaking will revise and update FERC Form No. 73, which collects service line data from oil pipelines for use in depreciation analysis. Docket No. RM85-11-000

Timetable:

Action	Date	FR Cite
NPRM	09/04/85	50 FR 36601
NPRM Comment Period End	10/24/85	50 FR 36601
Final Action	00/00/00	

Small Entity: No

Agency Contact: Colette Bohatch, Asst. General Counsel - Pipeline Rates, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, 202 357-8497

RIN: 1902-AA57

3608. ● CEILING PRICES; OLD GAS PRICING STRUCTURE

Significance: Agency Priority

Legal Authority: 15 USC 3301 to 3432 Natural Gas Policy Act; 42 USC 7101 to 7352 Doe Organization Act; 15 USC 717 to 717w Natural Gas Act; EO 12009

CFR Citation: 18 CFR 271

Legal Deadline: Statutory, June 1, 1986

Abstract: The Secretary of Energy proposed, under section 403 of the DOE Organization Act, that the Commission exercise its authority: 1. Under sections 104 and 106 of the NGPA, to establish just and reasonable prices for "flowing" old gas; and 2. Under section 107 of the NGPA, to establish incentive prices for certain categories of old gas.

Under the Secretary's proposal, the Commission would also act to eliminate vintaging and replace the different old gas ceiling prices with a single ceiling price. According to the Secretary, adoption of its proposal would establish incentive prices for certain categories of old gas, in order to increase significantly the production of old gas and to encourage long-term investment in natural gas exploration, development, and production. Docket No. 86-3.

Timetable:

Action	Date	FR Cite
NPRM	12/20/85	50 FR 52935
NPRM Comment Period End	02/25/86	50 FR 52935
Final Action	06/01/86	

Small Entity: No

Agency Contact: Kenneth F. Plumb, Secretary, Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol St., NE, Washington, DC 20426, 202 357-8400

RIN: 1902-AA69

3609. ● REGULATION OF NATURAL GAS PIPELINES AFTER PARTIAL WELLHEAD DECONTROL; PART D

Significance: Agency Priority

Legal Authority: 42 USC 7101 to 7352 DOE Organization Act; EO 12009; 15 USC 717 to 717w Natural Gas Act; 15 USC 3301 to 3432 Natural Gas Policy Act

CFR Citation: 18 CFR 154

Legal Deadline: None

Abstract: The Commission seeks additional comment on its block billing procedures. In the original notice, the Commission proposed: -A three-part gas rate for pipeline gas sales, to preserve the benefits of "old" gas for existing firm sales customers and to mitigate competitive distortions resulting from the lingering effects of existing wellhead price controls; -A first block containing "old gas" under sections 104, 106(a) and 109 of the NGPA; -That after a pipeline permitted its firm sales customers to reduce 100 percent of their contract demands and offered those customers non-discriminatory self-implementing transportation, then the sales price assigned to the second block was presumed to be just and reasonable. The revised proposal is as follows: -Eliminating "Block 3" with revisions to clarify that the "as-billed" principle continues to apply to fixed costs; -Extending the base period to include the period between December 1,

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1978, to December 31, 1984; including interruptible purchases for purposes of determining block 1 allocation factors; Clarifying that the presumption of justness and reasonableness for block 2 gas; Various clarifications regarding implementation

Timetable:

Action	Date	FR Cite
NPRM	10/09/85	50 FR 42408
NPRM Comment Period End	11/18/85	50 FR 42408
Final Action	06/01/86	

Small Entity: No

Agency Contact: Kenneth Plumb, Secretary, Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, 202 357-8400

RIN: 1902-AA30

FEDERAL ENERGY REGULATORY COMMISSION (FERC) — Completed Actions

3610. APPLICATION FOR AUTHORITY TO HOLD INTERBOCKING POSITIONS REQUIRING APPROVAL UNDER SECTION 305(B) OF THE FEDERAL POWER ACT

Significance: Agency Priority

CFR Citation: 18 CFR 45; (Revision)

Completed:

Reason	Date	FR Cite
Final Action	02/06/86	51 FR 04900
Final Action Effective	04/11/86	51 FR 04900

Small Entity: No

Agency Contact: David Goroff 202 357-8448

RIN: 1902-AA62

3611. FEES APPLICABLE TO NATURAL GAS PIPELINE CERTIFICATES

Significance: Agency Priority

CFR Citation: 18 CFR 2; 18 CFR 152; 18 CFR 154; 18 CFR 156; 18 CFR 157; 18 CFR 281; 18 CFR 284; 18 CFR 381

Completed:

Reason	Date	FR Cite
Final Action	09/30/85	50 FR 40332
Final Action Effective	11/04/85	50 FR 40332

Small Entity: No

Agency Contact: Robert Christin 202 357-8527

RIN: 1902-AA40

3612. ACCOUNTING FOR SPENT NUCLEAR FUEL DISPOSED OF BY THE DEPARTMENT OF ENERGY

CFR Citation: 18 CFR 35; 18 CFR 101; 18 CFR 141

Completed:

Reason	Date	FR Cite
Withdrawn	01/21/86	

Small Entity: No

Agency Contact: David Goroff 202 357-8448

RIN: 1902-AA46

3613. REVISIONS TO FPC FORM NO. 8 AND FERC FORM NO. 16

Significance: Agency Priority

CFR Citation: 18 CFR 260.12; 18 CFR 260.11

Completed:

Reason	Date	FR Cite
Final Action	11/22/85	50 FR 49031
Final Action Effective	12/30/85	50 FR 49091

Small Entity: No

Agency Contact: Robert Christin 202 357-8522

RIN: 1902-AA47

3614. FEES FOR OIL PIPELINES

CFR Citation: 18 CFR 346

Completed:

Reason	Date	FR Cite
Withdrawn	11/30/85	

Small Entity: No

Agency Contact: Colette Bobatch 202 357-8497

RIN: 1902-AA48

3615. REVISED PROCEDURES FOR WELL CATEGORY DETERMINATIONS UNDER THE NGPA

Significance: Agency Priority

CFR Citation: 18 CFR 271.804; 18 CFR 274.206

Completed:

Reason	Date	FR Cite
Final Action	01/28/86	51 FR 04306
Final Action Effective	04/21/86	51 FR 04306

Small Entity: Undetermined

Agency Contact: Howard Schneider 202 357-8511

RIN: 1902-AA53

3616. TREATMENT OF INVESTMENT TAX CREDITS BY NATURAL GAS PIPELINE COMPANIES

Significance: Agency Priority

CFR Citation: 18 CFR 2.67a

Completed:

Reason	Date	FR Cite
Final Action	11/27/85	50 FR 49679
Final Action Effective	01/01/86	50 FR 49679

Small Entity: No

Agency Contact: Colette Bobatch 202 357-8497

RIN: 1902-AA61

3617. FEES APPLICABLE TO ELECTRIC UTILITIES, COGENERATORS AND SMALL POWER PRODUCERS

Significance: Agency Priority

CFR Citation: 18 CFR 32; 18 CFR 381; 18 CFR 385

Completed:

Reason	Date	FR Cite
Final Action	09/30/85	50 FR 40347
Final Action Effective	11/04/85	50 FR 40347

Small Entity: No

Agency Contact: David Goroff 202 357-8448

RIN: 1902-AA62

FERC — Completed Actions

3618. GENERIC DETERMINATION OF RATE OF RETURN ON COMMON EQUITY FOR PUBLIC UTILITIES

CFR Citation: 18 CFR 37

Completed:

Reason	Date	FR Cite
Final Action	12/26/85	51 FR 00343
Final Action Effective	02/01/86	51 FR 00343

Small Entity: No

Agency Contact: David Goroff 202 357-8448

RIN: 1902-AA66

3619. REGULATION OF NATURAL GAS PIPELINES AFTER PARTIAL WELLHEAD DECONTROL (PARTS A, B, AND C)

Significance: Agency Priority

CFR Citation: 18 CFR 2; 18 CFR 154; 18 CFR 157; 18 CFR 161; 18 CFR 284

Completed:

Reason	Date	FR Cite
Final Action	10/09/85	50 FR 42408
Final Action Effective	11/01/85	50 FR 42408

Small Entity: No

Agency Contact: Kenneth J. Malloy 202 357-8100

RIN: 1902-AA67

[FR Doc. 86-8798 Filed 04-18-86; 8:45 am]
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Federal Home Loan Bank Board

Semiannual Regulatory Agenda

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FHLBB

FEDERAL HOME LOAN BANK BOARD

12 CFR Ch. V

[No. 86-64]

Agenda of Federal Regulations

AGENCY: Federal Home Loan Bank Board.

ACTION: Publication of agenda items.

SUMMARY: The Federal Home Loan Bank Board is hereby publishing items for the April "Unified Agenda of Federal Regulations."

ADDRESS: Information Services Division, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, N.W., Washington, D.C. 20552.

FOR FURTHER INFORMATION CONTACT: See persons listed below for specific agenda items.

DATED: January 27, 1986.

By the Federal Home Loan Bank Board.
Nadine Y. Penn,
Acting Secretary.

FEDERAL HOME LOAN BANK BOARD (FHLBB) — Final Rule Stage

3620. ● VOLUNTARY SUPERVISORY CONVERSIONS AND MODIFIED CONVERSIONS

Legal Authority: 12 USC 1464(i) (1) to (2); 12 USC 1464(o); 12 USC 1464(p); 12 USC 1725(j); PL 99-120, Sec 6

CFR Citation: 12 CFR 563b; 12 CFR 563b.20 to 33; 12 CFR 563b.34(a); 12 CFR 563b.35 to 36; 12 CFR 563b.36 to 40

Legal Deadline: None

Abstract: The Board proposes to adopt technical amendments to its regulations governing voluntary supervisory conversions and modified conversions of mutual insured institutions to stock form. The purposes of the proposed amendments are to clarify several of the policies and interpretations of the Federal Home Loan Bank Board relating to the voluntary supervisory conversion process, to expedite the processing of voluntary supervisory conversion and modified conversion applications, and to facilitate the voluntary supervisory conversion and modified conversion procedures and encourage their use by inaured institutions as capital-raising tools. In addition, the Board is proposing to remove the requirement that the offer and sale of capital stock in a voluntary supervisory conversion must constitute a non-public offering. The Board believes that by allowing insured institutions the option to publicly offer conversion stock, the use of the voluntary supervisory conversion procedure as a means of capitalizing and rehabilitating insolvent and financially troubled insured institutions will be encouraged.

Alternatives to the proposed regulation, which may or (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/17/85	50 FR 45414
Publication of Board Action	10/31/85	50 FR 45414
NPRM Comment Period End	11/25/85	

Next Action Undetermined

Small Entity: No

Additional Information: ABSTRACT CONT: may not be considered by the Board, include rules such as the present rules, which have a tendency to limit the utility of the voluntary supervisory conversion and modified conversion procedures. More liberal alternatives could lead to questions of statutory authority.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

Agency Contact: Donna R. Gunther, Assistant Director, Corporate and Securities, Division, O.G.C., Federal Home Loan Bank Board, 1700 G St. NW, Washington, DC 20552, 202 377-6427

RIN: 3068-AA06

3621. ● CONSERVATORS AND RECEIVERS

Legal Authority: 12 USC 1464; 12 USC 1724(d); 12 USC 1729; PL 99-120, Sec 6

CFR Citation: 12 CFR 547; 12 CFR 548; 12 CFR 549; 12 CFR 563.8-3, (proposed new section); 12 CFR 563.39(a); 12 CFR 569a; 12 CFR 569b, (proposed new Part); 12 CFR 569c, (proposed new Part)

Legal Deadline: None

Abstract: The Board is proposing extensive revisions to its regulations governing the conservatorship and receivership of associations chartered by the Board or the accounts of which that are insured by the Federal Savings and Loan Insurance Corporation. The Board will unify the appointment of receiver procedures for state and federal institutions; adopt procedures for appointment of receivers under section 406(c)(1)(B) of the National Housing Act; and address the priorities in liquidation and participation interests in liquidation, which are absent from or inadequately covered in the present regulations. The Board is also proposing that its regulations cover topics such as the effect of the receivership appointment on executory contracts, employment agreements, certain "Golden Parachute" agreements, participation agreements, repurchase agreements, and on agreements relating to secured and unsecured borrowings by an insured institution, including agreements providing for prepayment or default penalties. The proposed regulations provide for new rules of general applicability in the areas previously mentioned, clarify existing provisions, and reorganize and recodify all the (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/08/85	50 FR 46970
Publication of Board Action	11/27/85	50 FR 48970
NPRM Comment Period End	01/22/86	
Final Action	00/00/00	

Small Entity: No

Additional Information: ABSTRACT CONT: regulations governing conservatorships and receiverships.

There are no alternatives being considered by the Board in lieu of the proposed regulation that would have less impact on small institutions.

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consistent with the intended result, than the concerns expressed in the supplementary information to the proposed rule and the existing statutory requirements concerning receiverships and conservatorships.

The potential costs and benefits of the proposed regulation on the industry have not been quantified.

Agency Contact: Lawrence W. Hayes, Deputy General Counsel for FSLIC, O.G.C., Federal Home Loan Bank Board, 1700 G St. NW, Washington, DC 20552, 202 377-6428

RIN: 3068-AA07

FEDERAL HOME LOAN BANK BOARD (FHLBB) — Completed Actions

3622. SECURITIES OFFERINGS

CFR Citation: 12 CFR 563.7-4; 12 CFR 563.8; 12 CFR 563.8-1; 12 CFR 563.8-4; 12 CFR 563c.1; 12 CFR 563g, (Proposed new Part)

Completed:

Reason	Date	FR Cite
Final Action	12/31/85	50 FR 53284
Final Action Effective	03/01/86	

Small Entity: No

Agency Contact: Scott E. Bartel 202 377-6963

RIN: 3068-AA04

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Federal Maritime Commission

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FEDERAL MARITIME COMMISSION

46 CFR Ch. IV

Unified Regulatory Agenda

AGENCY: Federal Maritime Commission.

ACTION: Unified Agenda of Federal Regulations.

SUMMARY: Pursuant to section 5 of E.O. 12291 and the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) the Commission anticipates having under consideration during the period from April 1, 1986, to March 31, 1987, actions in the areas listed below.

FOR FURTHER INFORMATION CONTACT: For further information concerning Commission rulemaking proceedings or the status of any matter listed below, contact: John Robert Ewers, Secretary, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: Section 602 of the Regulatory Flexibility Act (5 U.S.C. 602) requires the publication of an agenda of items for which regulatory agencies may propose or promulgate a rule which is likely to have a significant economic impact on a substantial number of small entities. Section 5 of Executive Order 12291 also requires executive agencies to publish a regulatory agenda; the Commission voluntarily complies with this section. The agendas include information on regulatory activities being conducted or reviewed during the succeeding 12 months by the Commission.

The following is the Commission's Unified Regulatory Agenda. The agenda does not necessarily include petitions for rulemakings which are under staff review.

In addition, the Commission is publishing a compilation of the status of pending rulemaking proceedings and a listing of rules that have become final since the publication of the most recent regulatory agenda (October 29, 1985, 50 FR 44942). This list will be made available to the press and interested groups.

John Robert Ewers,

Secretary.

FEDERAL MARITIME COMMISSION (FMC)

Prerule Stage

3623. PUBLIC INFORMATION - FREEDOM OF INFORMATION ACT

Legal Authority: 5 USC 552(b)(4); 46 USC app 841(a)

CFR Citation: 46 CFR 503

Legal Deadline: None

Abstract: Amendments to current rules governing treatment of FOIA requests will provide for notification to filers of "business confidential" information to permit responses before a decision to release or not to release information requested under the Act.

Timetable:

Action	Date	FR Cite
End Review	07/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA12

3624. INFORMATION REQUIRED FOR SECTION 18 STUDY

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1714; 46 USC app 1716; 46 USC app 1717(a)

CFR Citation: 46 CFR , (New)

Legal Deadline: Statutory, September 20, 1989. Legal deadline applies to information to be compiled, not necessarily by a rulemaking.

Abstract: Section 18(a) of the Shipping Act of 1984 requires the Commission to collect information concerning the impact of the Act upon the international ocean shipping industry for a period of 5 years ending on March 20, 1989. To the extent such data are not available, this review will consider Commission rules or orders to develop such information from the regulated industry.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/84	
End Review	01/00/87	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA50

3625. INDEPENDENT ACTION - MISCELLANEOUS PROVISIONS

Legal Authority: 46 USC 553; 46 USC app 1704; 46 USC app 1709; 46 USC app 1716

CFR Citation: 46 CFR 572

Legal Deadline: None

Abstract: Section 5(b)(8) of the Shipping Act of 1984 requires that conference members be allowed to take independent rate action under certain conditions. The Commission is considering a rule to require accurate reporting and to clarify other situations with regard to this statutory right.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	04/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA53

3626. INFORMATION FORM FOR AGREEMENTS: MISCELLANEOUS AMENDMENTS

Legal Authority: 5 USC 553; 46 USC app 1703 to 1705; 46 USC app 1716

CFR Citation: 46 CFR 572.405; 46 CFR 572, Appendix A

Legal Deadline: None

Abstract: The information form that must accompany certain types of agreements filed under 46 CFR Part 572 may need to be amended to ensure Commission jurisdiction and to show the affiliates of the filing parties.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	07/00/86	

Small Entity: No

FMC

Prerule Stage

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA55

3627. AUTOMATED TARIFF FILING

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 816; 46 USC app 817; 46 USC app 841a; 46 USC app 1707; 46 USC app 1708; 46 USC app 1715; 46 USC app 1716; 46 USC app 1717

CFR Citation: 46 CFR 515; 46 CFR 550; 46 CFR 580

Legal Deadline: None

Abstract: The Commission is considering the development of a fully automated system whereby tariff matters can be made available to the public and to the Commission through automatic data processing in order to reduce paperwork and other burdens. An Industry Advisory Committee is assisting the Commission in the project.

Timetable:

Action	Date	FR Cite
Begin Review	09/01/84	
Notice of Intent to form Advisory Committee	04/12/85	50 FR 14453
End Review	01/00/87	

Small Entity: Undetermined

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA61

3628. COMMON AND CONTRACT CARRIAGE - MISCELLANEOUS PROVISION

Legal Authority: 5 USC 553; 46 USC app 801; 46 USC app 841a; 46 USC app 1702; 46 USC app 1716

CFR Citation: 46 CFR 510; 46 CFR 515; 46 CFR 525; 46 CFR 550; 46 CFR 552; 46 CFR 553; 46 CFR 560; 46 CFR 572; 46 CFR 580

Legal Deadline: None

Abstract: This review will attempt to clarify the status of common carriers vis-a-vis contract carriers and provide reasonable regulations for operations by common carriers subject to the shipping statutes.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	04/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA63

3629. INDEX OF DOCUMENTS FOR AGREEMENTS

Legal Authority: 5 USC 553; 46 USC app 1703 to 1706; 46 USC app 1709; 46 USC app 1712; 46 USC app 1714; 46 USC app 1716; 46 USC app 1717

CFR Citation: 46 CFR 572.704

Legal Deadline: None

Abstract: Section 572.704 of Title 46 Code of Federal Regulations requires agreement parties who are required to file minutes to maintain an index of certain reports, studies and documents used for certain decisions, and to file such an index quarterly with the Commission. This requirement is being considered along with requirements to file minutes and other reports and with record retention provisions.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	04/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA64

3630. TERMINAL OPERATOR TARIFFS-EXCULPATORY PROVISIONS

Legal Authority: 5 USC 553; 46 USC app 816; 46 USC app 817; 46 USC app 841a; 46 USC app 1707; 46 USC app 1709(d)(1); 46 USC app 1716

CFR Citation: 46 CFR 515

Legal Deadline: None

Abstract: The Commission has had a number of formal adjudication proceedings involving the legality of certain tariff clauses which exculpate, indemnify or save harmless the terminal operator for negligence. This action would provide needed clarification and specific guidelines for such clauses.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	04/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA67

3631. REGULATION OF AGREEMENTS OF DOMESTIC CARRIERS - MISCELLANEOUS AMENDMENTS

Legal Authority: 5 USC 553; 46 USC app 801 et seq

CFR Citation: 46 CFR 556 to 569

Legal Deadline: None

Abstract: The Shipping Act, 1916, after amendment by the Shipping Act of 1984, applies only to domestic operations. In order to properly implement the 1984 Act, the Commission made the essential, limiting changes to its domestic regulations of agreements within the deadline established by the 1984 Act. This review will now determine what further, substantive changes in the domestic agreements may be desirable.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	11/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA66

3632. USER FEES TO RECOVER AGENCY COSTS

Significance: Agency Priority

Legal Authority: 5 USC 552 to 553

CFR Citation: 46 CFR 503.43

Legal Deadline: None

Abstract: The Commission is reviewing existing fees for services in order to determine whether they are adequate to recover costs.

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FMC — Prerule Stage

Timetable:

Action	Date	FR Cite
Begin Review	01/25/86	
End Review	06/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA70

3633. ● MANDATORY AGREEMENT PROVISIONS

Legal Authority: 5 USC 553; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717

CFR Citation: 46 CFR 572

Legal Deadline: None

Abstract: Review would determine need for clarifying regulations implementing the provisions of the Shipping Act of 1984 relating to mandatory provisions in certain agreements.

Timetable:

Action	Date	FR Cite
Begin Review	01/10/86	
End Review	06/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA74

3634. ● MISCELLANEOUS AMENDMENTS TO REGULATIONS IMPLEMENTING SECTION 19 OF THE MERCHANT MARINE ACT OF 1920

Legal Authority: 5 USC 553; 46 USC app 876(1)(b); 46 USC app 1714; 46 USC app 1716

CFR Citation: 46 CFR 585

Legal Deadline: None

Abstract: Review would determine necessity of updating the regulations to implement Section 19 of the Merchant Marine Act of 1920.

Timetable:

Action	Date	FR Cite
Begin Review	01/10/86	
End Review	05/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA75

3635. ● FINANCIAL RESPONSIBILITY OF PASSENGER VESSEL OPERATORS FOR NON-PERFORMANCE

Legal Authority: 5 USC 553; 46 USC app 817e; 46 USC app 841a; 46 USC app 1716

CFR Citation: 46 CFR 540

Legal Deadline: None

Abstract: Review would attempt to develop a formula for the amount of bond required to ensure financial responsibility of passenger vessel operators for non-performance.

Timetable:

Action	Date	FR Cite
Begin Review	01/10/86	
End Review	09/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA78

3636. ● TRUCK DETENTION AT THE PORT OF NEW YORK - INCREASE IN PENALTIES

Legal Authority: 5 USC 553; 46 USC app 816; 46 USC app 841a; 46 USC app 1709; 46 USC app 1716

CFR Citation: 46 CFR 530

Legal Deadline: None

Abstract: Review would determine necessity of increasing certain penalties for truck detention at the Port of New York as requested by petition.

Timetable:

Action	Date	FR Cite
Petition noticed in FR	12/27/85	50 FR 53012
Begin Review	01/10/86	
End Review	04/00/86	

Small Entity: Undetermined

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA79

3637. ● FILING OF TARIFFS IN THE FOREIGN COMMERCE OF THE UNITED STATES - MISCELLANEOUS PROVISIONS

Legal Authority: 5 USC 553; 46 USC app 1702 to 1705; 46 USC app 1707; 46 USC app 1709; 46 USC app 1712; 46 USC app 1714 to 1716; 46 USC app 1718

CFR Citation: 46 CFR 580

Legal Deadline: None

Abstract: Review would identify changes desirable in foreign tariff regulations.

Timetable:

Action	Date	FR Cite
Begin Review	01/10/86	
End Review	07/00/86	

Small Entity: Undetermined

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA82

3638. ● INDEPENDENT ACTION - MISCELLANEOUS PROVISIONS

Legal Authority: 5 USC 553; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717; 46 USC app 1718

CFR Citation: 46 CFR 572; 46 CFR 580

Legal Deadline: None

Abstract: Review would attempt to analyze certain conference practices to ensure that they do not unduly inhibit the right of individual members to take independent action as provided by the Shipping Act of 1984.

Timetable:

Action	Date	FR Cite
Begin Review	01/10/86	
End Review	04/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA83

3639. ● PUBLIC INFORMATION - MISCELLANEOUS AMENDMENTS

Legal Authority: 5 USC 552; 5 USC 552a; 5 USC 552b; 5 USC 553; EO 12356

CFR Citation: 46 CFR 503

FMC — Prerule Stage

Legal Deadline: None

Abstract: Review would determine need to update regulations relating to Information, Privacy and Sunshine Acts.

Timetable:

Action	Date	FR Cite
Begin Review	07/00/86	
End Review	09/00/86	

Small Entity: Undetermined

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA84

3640. ● RATES QUOTED SUBJECT TO BOOKING

Legal Authority: 5 USC 553; 46 USC app 812; 46 USC app 814 to 845; 46 USC app 817(a); 46 USC app 820; 46 USC app 833a; 46 USC app 841a; 46 USC app 843 to 847; 46 USC app 1702 to 1705; 46 USC app 1707; 46 USC app 1709; 46 USC app 1712; 46 USC app 1714 to 1716; 46 USC app 1718

CFR Citation: 46 CFR 550; 46 CFR 580

Legal Deadline: None

Abstract: Review would determine the necessity of regulations governing the parties of quoting rates subject to booking. Related to FMC Spec. Dkt. 1343.

Timetable:

Action	Date	FR Cite
Begin Review	02/14/86	
End Review	06/00/86	

Small Entity: Undetermined

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA86

3641. ● DEFINITION OF "SHIPPER"

Legal Authority: 5 USC 553; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717; 46 USC app 1718

CFR Citation: 46 CFR 510; 46 CFR 572; 46 CFR 580

Legal Deadline: None

Abstract: Review would determine if the term "shipper" needs clarification in various regulations, especially for service contracts, as requested by petition.

Timetable:

Action	Date	FR Cite
Petition noticed in FR	02/13/86	51 FR 5402
Begin Review	03/00/86	
End Review	05/00/86	

Small Entity: Undetermined

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA89

FEDERAL MARITIME COMMISSION (FMC) — Proposed Rule Stage

3642. RULES OF PRACTICE AND PROCEDURE - MISCELLANEOUS AMENDMENTS

Legal Authority: 5 USC 556; 46 USC app 822; 46 USC app 841a; 46 USC app 1710 to 1711; 46 USC app 1716

CFR Citation: 46 CFR 502

Legal Deadline: None

Abstract: The Commission's Rules on Practice and Procedure are being reviewed to accommodate special situations such as requirements for filing appeals and requests for oral argument, petitions outside the scope of present Part 502 and special dockets, especially with regard to the date of shipment.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
NPRM Comment Period End	04/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA46

3643. SERVICE CONTRACTS

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1702; 46 USC app 1708; 46 USC app 1712; 46 USC app 1714 to 1716; 46 USC app 1718

CFR Citation: 46 CFR 581; 46 CFR 580.7

Legal Deadline: None

Abstract: Service Contract Rule at 46 CFR 580.7 is being reviewed to: clarify ambiguities and legal distinctions; provide for rational limitations to properly implement the Shipping Act of 1984 and to allow the maximum flexibility of use by carriers so as to promote wider use of service contracts in foreign commerce.

Timetable:

Action	Date	FR Cite
Begin Review	01/01/85	
End Review	09/00/85	
NPRM	02/18/86	
NPRM Comment Period End	04/21/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA62

3644. OCEAN FREIGHT FORWARDERS - MISCELLANEOUS AMENDMENTS

Legal Authority: 5 USC 553; 46 USC app 1716; 46 USC app 1718

CFR Citation: 46 CFR 510

Legal Deadline: None

Abstract: Various amendments to 46 CFR Part 510 are being considered to clarify Ocean Freight Forwarder regulations and to better implement the Shipping Act of 1984.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	02/00/86	
NPRM	05/00/86	

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Action	Date	FR Cite
NPRM Comment Period End	07/00/86	

Small Entity: Undetermined

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA69

3645. ATTORNEYS FEES IN REPARATION PROCEEDINGS

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 821; 46 USC app 841a; 46 USC app 1710(g)

CFR Citation: 46 CFR 502

Legal Deadline: None

Abstract: Section 11(g) of the Shipping Act of 1984 provides for reasonable attorneys' fees in Commission reparation proceedings. The action here would establish Commission policy with regard to eligibility, reasonableness and when to award.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review	05/00/85	
NPRM	06/00/86	
NPRM Comment Period End	08/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA72

3646. ● DEFINITION OF "JOINT SERVICE/CONSORTIUM"

Legal Authority: 5 USC 553; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717

CFR Citation: 46 CFR 572

Legal Deadline: None

Abstract: Clarifies the definition of "Joint Service/Consortium" for purposes of agreement filing regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
NPRM Comment Period End	06/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA76

3647. ● CONFERENCE MEMBERSHIP REGULATIONS

Legal Authority: 5 USC 553; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717

CFR Citation: 46 CFR 572

Legal Deadline: None

Abstract: Rule would ensure applicants for conference membership would be treated fairly.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
NPRM Comment Period End	07/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA77

3648. ● FINANCIAL REPORTS OF TUG AND BARGE OPERATORS IN DOMESTIC TRADE

Legal Authority: 5 USC 553; 46 USC app 817(a); 46 USC app 820; 46 USC app 841a; 46 USC app 843; 46 USC app 844; 46 USC app 845; 46 USC app 845a; 46 USC app 847

CFR Citation: 46 CFR 552

Legal Deadline: None

Abstract: Makes changes to systems of accounts required as a result of ICC's elimination of their system of accounts for tug and barge operators. Related to AA-47.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
NPRM Comment Period End	04/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA80

3649. ● COMBINING ANTI-REBATE CERTIFICATION FORMS FOR NON-VESSEL-OPERATING COMMON CARRIERS AND FREIGHT FORWARDERS

Legal Authority: 5 USC 553; 46 USC app 817(a); 46 USC app 820; 46 USC app 841a; 46 USC app 843; 46 USC app 844; 46 USC app 845; 46 USC app 845a; 46 USC app 847

CFR Citation: 46 CFR 510; 46 CFR 582

Legal Deadline: None

Abstract: Will result in the requirement of only one anti-rebate certification from firms which are freight forwarders and NVOs. Related to FMC Dkt. 85-5.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
NPRM Comment Period End	05/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA81

3650. ● CONFERENCE SERVICE CONTRACT AUTHORITY

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1701 to 1707; 46 USC app 1709 to 1710; 46 USC app 1712; 46 USC app 1714 to 1717

CFR Citation: 46 CFR 572

Legal Deadline: None

Abstract: Clarifies steamship conference authority over the use of service contracts under the Shipping Act of 1984.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	
NPRM Comment Period End	06/00/86	

Small Entity: Undetermined

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA87

3651. ● RULES IMPLEMENTING THE EQUAL ACCESS TO JUSTICE ACT

Legal Authority: 5 USC 504; 5 USC 553 28 USC 2412

FMC — Proposed Rule Stage

CFR Citation: 46 CFR 502

Legal Deadline: None

Abstract: Rule would incorporate model provisions developed by the Adminjstrative Conference of the United States into the Commission's regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/00/86	
NPRM Comment Period End	07/00/86	

Small Entity: Undetermined

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA89

FEDERAL MARITIME COMMISSION (FMC) — Final Rule Stage

3652. COSTS OF PROCEEDINGS

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1716; 46 USC app 1717(a)(4)

CFR Citation: 46 CFR 502

Legal Deadline: Statutory, September 20, 1989

Abstract: Section 18(a)(4) of the Shipping Act requires the Commission to collect and analyze data concerning the impact of the Act on the costs of major types of regulatory proceedings before the Commission. This action will provide the regulations needed to obtain this information.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA45

3653. MARINE TERMINAL AGREEMENTS

Legal Authority: 5 USC 553; 46 USC app 801; 46 USC app 814; 46 USC app 832a; 46 USC app 841a; 46 USC app 1701 to 1705; 46 USC app 1706; 46 USC app 1715 to 1716

CFR Citation: 46 CFR 516, (New); 46 CFR 558 to 560; 46 CFR 572

Legal Deadline: None

Abstract: The Shipping Act of 1984 created new procedures for agreements required to be filed with the Commission. This action institutes a new part 516 to accommodate terminal agreements which may involve both domestic and foreign commerce and establish exemptions for those types of terminal agreements which are not likely to have anti-competitive effects. (Docket 85-10)

Timetable:

Action	Date	FR Cite
NPRM	04/05/85	50 FR 13617
NPRM Comment Period End	05/10/85	
Correction	05/10/85	50 FR 19727
Final Action	05/00/86	
Final Action Effective	06/00/86	

Small Entity: No

Additional Information: This action treats one of the issues in former Docket 83-38 Notice of Inquiry and Intent to Review Regulation of Ports and Marine Terminal Operators (RIN - 3072-AA30).

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA48

3654. INQUIRY CONCERNING INTERPRETATIONS OF SECTIONS 8(A) AND 8(C), SHIPPING ACT OF 1984; EXCEPTED COMMODITIES

Legal Authority: 5 USC 553; 46 USC app 1702 to 1707; 46 USC app 1709; 46 USC app 1715; 46 USC app 1716

CFR Citation: 46 CFR 572; 46 CFR 580

Legal Deadline: None

Abstract: Section 8(a)(1) of The Shipping Act of 1984 exempts from tariff filing certain commodities such as bulk cargo, forest products, recycled metal scrap, waste paper and paper waste. This review will clarify the legal consequences of conferences which agree to fix rates on such commodities. (Docket 85-6)

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
ANPRM	03/18/85	50 FR 10807
Extend comment time to 05/17/85	04/10/85	50 FR 14122
ANPRM Comment Period End	04/17/85	50 FR 10807
End Review	04/00/85	
Final Action	08/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA65

3655. INDEPENDENT ACTION: NOTICE AND MEETING PROVISIONS IN CONFERENCE AGREEMENTS (DOCKET NO. 85-77)

Significance: Agency Priority

Legal Authority: 5 USC 553; 46 USC app 1701; 46 USC app 1702; 46 USC app 1703; 46 USC app 1704; 46 USC app 1705; 46 USC app 1706; 46 USC app 1707; 46 USC app 1716

CFR Citation: 46 CFR 572.502

Legal Deadline: None

Abstract: Section 5(b)(8) of the Shipping Act of 1984 provides that a conference member may take independent rate action upon not more than ten days' notice. By this review, the Commission intends to ensure that the law is properly complied with and that no unreasonable restrictions inhibit the statutory right of independent action.

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FMC — Final Rule Stage

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
NPRM	03/18/85	50 FR 10610
Extend comment time to 05/17/85	04/11/85	50 FR 14264
NPRM Comment Period End	04/17/85	50 FR 10610
End Review	04/00/85	
Final Action	05/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA66

3656. TARIFF PUBLICATION OF FREE TIME AND DETENTION CHARGES APPLICABLE TO CARRIER EQUIPMENT INTERCHANGED WITH SHIPPERS OR THEIR AGENTS (DOCKET 85-19)

Legal Authority: 5 USC 553; 46 USC app 817(a); 46 USC app 841a; 46 USC app 844; 46 USC app 1707; 46 USC app 1708; 46 USC app 1709; 46 USC app 1716

CFR Citation: 46 CFR 550.5; 46 CFR 580.5; 46 CFR 580.7

Legal Deadline: None

Abstract: Docket 85-19 - Clarification of requirement that terms and conditions, including free time and detention, governing use of carrier-provided equipment by shippers or their agents be published in tariffs and service contracts. (Formal Rulemaking)

Timetable:

Action	Date	FR Cite
NPRM	08/08/85	50 FR 32097
NPRM Comment Period End	09/23/85	50 FR 32097
Final Action	01/00/87	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA73

3657. ● PROCUREMENT REGULATIONS

Legal Authority: 41 USC 414; EO 12352

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: Review would determine need to establish internal and interagency guidelines for procurement by the FMC.

Timetable:

Action	Date	FR Cite
Final Action	06/00/86	

Small Entity: Undetermined

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA85

3658. ● AGREEMENTS BY OCEAN COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT OF 1984

Legal Authority: 5 USC 553; 5 USC app 1701 to 1707; 5 USC app 1709 to 1710; 5 USC app 1712; 5 USC app 1714 to 1717

CFR Citation: 46 CFR 572.103

Legal Deadline: None

Abstract: Rule would provide that agreements subject to the Shipping Act of 1984 would affect only future or prospective activities and may not affect past activities or events. FMC Dkt. 85-22.

Timetable:

Action	Date	FR Cite
NPRM	12/17/85	50 FR 51418
NPRM Comment Period End	02/18/86	50 FR 51418
Final Action	06/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA86

FEDERAL MARITIME COMMISSION (FMC) — Completed Actions

3659. COORDINATE PROVISIONS IN TARIFFS, SERVICE CONTRACTS AND AGREEMENTS

Legal Authority: 5 USC 553; 46 USC app 1704 to 1705; 46 USC app 1707; 46 USC app 1709; 46 USC app 1716

CFR Citation: 46 CFR 572; 46 CFR 580

Legal Deadline: None

Abstract: Certain provisions of tariffs, service contracts and agreements cover the same matters. This action will consider whether or not such provisions can be better coordinated through, for example, standardization, cross-referencing, etc.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review no rulemaking necessary	02/00/86	

Small Entity: No

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA60

3660. DOMESTIC RATE CASES - PROCEDURAL AMENDMENTS

Legal Authority: 5 USC 553; 46 USC app 841a; 46 USC app 843-848

CFR Citation: 46 CFR 502.67

Legal Deadline: None

Abstract: This action would amend 46 CFR 502.67 to take into account proceedings commencing after the effective date of rates.

Timetable:

Action	Date	FR Cite
Begin Review	01/25/85	
End Review No rulemaking necessary	02/00/86	

Small Entity: No

FMC — Completed Actions

Agency Contact: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, DC 20573, 202 523-5725

RIN: 3072-AA71

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Federal Reserve System

Semiannual Regulatory Agenda

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FRS

FEDERAL RESERVE SYSTEM

12 CFR Ch. II

Semiannual Regulatory Flexibility Agenda

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Semiannual agenda.

SUMMARY: The Board is issuing this Agenda under the Regulatory Flexibility Act and the Board's Statement of Policy Regarding Expanded Rulemaking Procedures. The Board anticipates having under consideration regulatory matters as indicated below during the period from April 1 through October 1, 1986. The next Semiannual Agenda will be published in October 1986.

DATE: Comments about the form or content of the Agenda may be submitted any time during the next six months.

ADDRESS: Comments should be addressed to William W. Wiles, Secretary of the Board, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

FOR FURTHER INFORMATION CONTACT: A staff contact for each item is indicated with the regulatory description below.

SUPPLEMENTARY INFORMATION: The Board is publishing its April 1986 Agenda as part of the April 1986 "Unified Agenda of Federal Regulations," which is coordinated by the Office of Management and Budget under Executive Order 12291.

Participation by the Board in the Unified Agenda is on a voluntary basis.

The Board's Agenda is divided into three sections. The first, Proposed Rule Stage, reports on matters the Board may consider for public comment during the next six months. The second section, Final Rule Stage, reports on matters that have been proposed and are under Board consideration. A third section, Completed Actions, reports on regulatory matters the Board has completed or is not expected to consider further.

A dot (●) preceding an entry indicates a new matter that was not a part of the Board's previous Agenda, and which the Board has not completed.

Barbara R. Lowrey,

Associate Secretary of the Board.

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3661	Regulation: E - Electronic Fund Transfers	7100-AA60
3662	Regulation: H - Membership of State Banking Institutions in the Federal Reserve System	7100-AA61
3663	Regulation: Y - Bank Holding Companies and Change in Bank Control	7100-AA41
3664	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0537)	7100-AA52

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3665	Regulation: D - Reserve Requirements of Depository Institutions	7100-AA62
3666	Regulation: D - Reserve Requirements of Depository Institutions and Regulation: Q - Interest on Deposits (Docket Number: R-0565 and R-0566)	7100-AA57
3667	Regulation: J - Collection of Checks and Other Items and Wire Transfers of Funds (Docket Number: R-0544)	7100-AA55
3668	Regulation: J - Collection of Checks and Other Items and Wire Transfers of Funds (Docket Number: R-0552)	7100-AA63
3669	Regulation: J - Collection of Checks and Other Items and Wire Transfers of Funds (Docket Number: R-0558)	7100-AA64
3670	Regulation: K - International Banking Operations (Docket Number: R-0550)	7100-AA58
3671	Regulation: Q - Interest on Deposits (Docket Number R-0514)	7100-AA56
3672	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0511)	7100-AA17
3673	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0491)	7100-AA40
3674	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0536)	7100-AA51
3675	Regulation: Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0557)	7100-AA65
3676	Regulation Y - Bank Holding Companies and Change in Bank Control (Docket Number: R-0567)	7100-AA66
3677	Regulation: Z - Truth in Lending (Docket Number R-0545)	7100-AA50
3678	Further Proposals to Reduce Risks on Large-Dollar Wire Transfer Systems (Docket Number: R-0515A, R-0515B, R-0515C)	7100-AA59

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Completed Actions

Sequence Number	Title	Regulation Identifier Number
3679	Regulation: B - Equal Credit Opportunity (Docket Number: R-0541)	7100-AA28
3680	Regulation: Q - Interest on Deposits (Docket Number: R-0514)	7100-AA36
3681	Regulation: U - Credit by Banks for the Purpose of Purchasing or Carrying Margin Stocks (Docket Number: R-0510)	7100-AA29
3682	Regulatory Improvement Project	7100-AA14

FEDERAL RESERVE SYSTEM (FRS)

Proposed Rule Stage

3661. ● REGULATION: E - ELECTRONIC FUND TRANSFERS

Legal Authority: 15 USC 1693 et seq Electronic Fund Transfer Act

CFR Citation: 12 CFR 205

Abstract: The Board will consider issuing for comment proposed amendments to Regulation E to address issues that have arisen regarding the responsibilities of persons that issue access devices and provide electronic fund transfer services to consumers absent an agreement with the financial institution holding the consumers' accounts. The amendments would clarify the responsibilities of these service-providers and the institutions holding the consumer accounts with respect to electronic fund transfers initiated through the service-providers. The amendments may (1) eliminate the requirement that service-providers furnish periodic statements to consumers; (2) require service-providers to provide detailed transaction identification that would allow the account-holding institutions to comply with the periodic statements requirements of Regulation E; and (3) require account-holding institutions to identify electronic fund transfers initiated through the service-provider on periodic statements in accordance with Regulation E.

If the Board proposes these amendments to Regulation E, it is not expected that the amendments would (cont)

Timetable:

Action	Date	FR Cite
Board will consider issuing for comment a proposal to amend Regulation E by	04/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: have a significant economic impact on a substantial number of small entities.

Agency Contact: Gerald P. Hurst, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-3667

RIN: 7100-AA60

3662. ● REGULATION: H - MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

Legal Authority: 42 USC 4001 et seq

CFR Citation: 12 CFR 208.8(e)

Abstract: The Board will consider issuing for comment two amendments to the flood insurance provisions of Regulation H. The proposals are designed to provide a decrease of 20,000 burden hours in paperwork, as required by OMB. The regulation would be amended to delete the requirements that: (1) state member banks maintain compliance records; and (2) a borrower acknowledge in writing receipt of the notification required to be made by state member banks under the flood insurance regulations. Banks, however, would continue to be required to make these notifications. This action would diminish burdens on all sizes of state member banks; therefore, it is not expected that the proposals would have a significant adverse effect on small banks.

Timetable:

Action	Date	FR Cite
Board will consider issuing for comment a proposal to amend Regulation H by	05/00/86	

Small Entity: No

Agency Contact: Daniel L. Rhoads, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3711

RIN: 7100-AA61

3663. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

Legal Authority: 12 USC 1843 Bank Holding Company Act; 12 USC 1844(b) Bank Holding Company Act

CFR Citation: 12 CFR 225

Abstract: A provision of Regulation Y permits a state bank subsidiary of a bank holding company to engage through a nonbank subsidiary in any activity that is permissible under state law for the bank subsidiary itself, subject to the same limits as if the bank engages in the activity directly. (A similar rule applies to national bank subsidiaries regarding activities permissible for such banks under federal law.) The Board received comments on this provision in connection with its general request for comments in May 1983 regarding the proposed revision of Regulation Y. Some of the commenters challenged the

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FRS — Proposed Rule Stage

Board's authority to issue this provision, although it has been part of Regulation Y since 1971. In taking final action on the revision of Regulation Y, the Board deferred consideration of the comments on this provision and allowed the existing rule to remain in effect in the interim (49 FR 794, January 5, 1984).

The Board plans to review this provision of the regulation in the near future. A determination to reverse the rule could have an adverse impact on many small banks that are subsidiaries of holding companies because they might be required to (cont)

Timetable:

Action	Date	FR Cite
Board requested comments	05/25/83	48 FR 23520
Board allows existing rule to remain in effect	01/05/84	49 FR 794
Board will review further by	06/00/86	

Small Entity: Yes

Additional Information: ABSTRACT CONT: restructure their nonbanking activities or to take other action.

Agency Contact: J. Virgil Mattingly, Deputy General Counsel, Federal Reserve System, Legal Division, 202 452-3430

RIN: 7100-AA41

3664. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0537)

Legal Authority: 12 USC 1841 Bank Holding Company Act; 12 USC 221 Federal Reserve Act; 12 USC 3901 International Lending Supervision Act of 1983

CFR Citation: 12 CFR 225

Abstract: In January 1985, the Board requested comment regarding whether, and to what extent, the Board should exercise its authority under the Bank Holding Company Act, the Federal Reserve Act, and the International Lending Supervision Act to authorize or limit the conduct of real estate investment activities by bank holding companies and their nonbank subsidiaries (50 FR 4519, January 31, 1985). The Board has not proposed a specific regulation at this time, and has only requested comment on the general question of whether, and in what direction Board regulation in this area is appropriate. If the Board determines to propose a regulation, the public will be invited to comment. Comment in this area was requested in response to enactment of a number of state laws that have recently authorized state banks to conduct a broad array of nonbanking activities that previously were not authorized for state banks or bank holding companies, including real estate investment activities. Until the Board reviews the comments, it is unclear whether the Board will act in this area or what specific action it may take. Therefore, the effect on small entities cannot be (cont)

Timetable:

Action	Date	FR Cite
ANPRM	01/31/85	50 FR 4519
Further Board action by	06/00/86	

Small Entity: Yes

Additional Information: ABSTRACT CONT: accurately predicted. However, if the Board should take restrictive measures, bank holding companies of all sizes and their subsidiaries participating in this activity would be affected.

Agency Contact: J. Virgil Mattingly, Deputy General Counsel, Federal Reserve System, Legal Division, 202 452-3430

RIN: 7100-AA52

FEDERAL RESERVE SYSTEM (FRS) — Final Rule Stage

3665. ● REGULATION: D - RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS

Legal Authority: 12 USC 248(k); 12 USC 461(a)

CFR Citation: 12 CFR 204

Abstract: In February 1986, the Board proposed to clarify the definition of "deposit" in Regulation D to include the interest or liability associated with a borrowing in the form of certain sales of assets and related transactions by a depository institution (FR cite unavailable). These transactions include a sale of assets that involves a full guarantee by the institution that, in effect, substitutes the institution's credit standing for that of the ultimate borrower and in which the institution retains the risk of borrower default after the asset is sold. Further, the regulation currently treats obligations of an affiliate as deposits of the depository institution to the extent the proceeds are provided to the depository institution. The Board proposes to exclude proceeds received from a sale of assets without recourse to the affiliate.

The proposal also would clarify the application of Regulation D to certain of these transactions involving organizations effectively controlled by the depository institution even though not formally affiliated. (cont)

Timetable:

Action	Date	FR Cite
Board proposed revisions to Regulation D	02/00/86	
Further Board action by	10/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: Finally, the proposal would clarify how the Board measures the "maturity" of an obligation for the purposes of Regulation D.

The proposal requests comment on any alternatives that the public believes may be preferable to the Board's proposed amendments. Suggested alternatives will be considered when comments are analyzed.

The proposed rule would apply to all depository institutions. It is not anticipated that the proposal will have a negative impact on the ability of small depository institutions to attract deposits.

The Board will review the comments and take further action within the next six months.

FRS — Final Rule Stage

Agency Contact: John Harry Jorgenson, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3778

RIN: 7100-AA62

3666. REGULATION: D - RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS AND REGULATION: Q - INTEREST ON DEPOSITS (DOCKET NUMBER: R-0565 AND R-0566)

Legal Authority: 12 USC 371b; 12 USC 461(b)

CFR Citation: 12 CFR 204; 12 CFR 217

Abstract: On March 31, 1986, the authority transferred to the Depository Institutions Deregulation Committee expires, and interest paid on deposits will generally no longer be subject to regulation. The Board, therefore, in January 1986 proposed for comment amendments to its Regulations D and Q to reflect this expiration and to make other technical changes (51 FR 27, January 2, 1986). It is expected that any changes in the regulations will not have a significant adverse effect on small entities.

The Board will review the comments and take further action within the next month.

Timetable:

Action	Date	FR Cite
Board issued for comment proposals to amend Regulations D and Q	01/02/86	51 FR 27
Futher Board action by	03/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Patrick McDivitt, Attorney, Legal Division, (202) 452-3818.

Agency Contact: John Harry Jorgenson, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3778

RIN: 7100-AA57

3667. REGULATION: J - COLLECTION OF CHECKS AND OTHER ITEMS AND WIRE TRANSFERS OF FUNDS (DOCKET NUMBER: R-0544)

Legal Authority: 12 USC 342 Federal Reserve Act; 12 USC 248(o) Federal Reserve Act; 12 USC 360 Federal Reserve Act; 12 USC 248(i) Federal Reserve Act

CFR Citation: 12 CFR 210

Abstract: In March 1986, the Board issued for public comment proposed amendments to Regulation J intended to clarify certain issues that have arisen regarding Federal Reserve payments mechanism activities (50 FR 12319, March 28, 1985). The proposed amendments include (1) permitting the owner or other subsequent holder injured by a Reserve Bank's alleged failure to exercise ordinary care in handling a check to bring suit against the Reserve Bank; (2) establishing a two-year limitation for actions against a Reserve Bank for alleged mishandling of the collection of checks or processing wire transfers and for actions against payor institutions for failure to follow the notification of nonpayment requirements; (3) permitting Reserve Banks to require any prior indorsee to defend a suit even if the Reserve Bank has not been sued directly; (4) authorizing depository institutions to deposit with Reserve Banks for collection checks drawn on institutions in foreign countries where Reserve Banks have made arrangements for their collection; (5) clarifying that Reserve Banks are not liable for consequential damages in handling wire transfers; (6) adding the northern Mariana Islands to the Twelfth (cont)

Timetable:

Action	Date	FR Cite
Board requested comment	03/28/85	50 FR 12310
Further Board action by	04/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: District for check collection purposes; and (7) clarifying the definitions in subpart A by incorporating by reference definitions of the Uniform Commercial Code.

It is not expected that the proposals will have a significant economic impact on a substantial number of small entities. The Board will review the public comments and take further action within the next two months.

Agency Contact: Joseph R. Alexander, Attorney, Federal Reserve System, Legal Division, 202 452-2489

RIN: 7100-AA55

3668. ● REGULATION: J - COLLECTION OF CHECKS AND OTHER ITEMS AND WIRE TRANSFERS OF FUNDS (DOCKET NUMBER: R-0552)

Legal Authority: 12 USC 342 Federal Reserve Act; 12 USC 248(o) Federal Reserve Act; 12 USC 360 Federal Reserve Act; 12 USC 248(i) Federal Reserve Act

CFR Citation: 12 CFR 210

Abstract: In October 1985, the Board adopted a temporary amendment to Regulation J creating a standard holiday schedule to be applied to the recently adopted notification of nonpayment provision (50 FR 41335, October 10, 1985). Although the rule was effective immediately, the Board has requested public comment prior to adopting the rule permanently.

The regulation is not expected to have a significant impact on a substantial number of small entities.

The Board will review the comments and is expected to take further action within the next two months.

Timetable:

Action	Date	FR Cite
Board requested comment	10/10/85	50 FR 41335
Further Board action by	04/00/86	

Small Entity: No

Agency Contact: Joseph R. Alexander, Attorney, Federal Reserve System, Legal Division, 202 452-2489

RIN: 7100-AA63

3669. ● REGULATION: J - COLLECTION OF CHECKS AND OTHER ITEMS AND WIRE TRANSFERS OF FUNDS (DOCKET NUMBER: R-0558)

Legal Authority: 12 USC 342 Federal Reserve Act; 12 USC 248(o) Federal Reserve Act; 12 USC 360 Federal Reserve Act; 12 USC 248(i) Federal Reserve Act

CFR Citation: 12 CFR 210

Abstract: In November 1985, the Board proposed several measures to reduce Federal Reserve float (50 FR 47752, November 20, 1985). The proposals would: (1) amend Subpart A of the Board's Regulation J which governs the collection of checks and other items, to require paying banks that close voluntarily on days that are banking days for their Reserve Banks to pay on such days for cash items that Reserve

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Banks make available to them on such days; (2) modify the procedures used by Reserve Banks to recover the value of float generated in automated clearing house ("ACH") operations due to nonstandard holiday closings; (3) reduce financial risks to the Federal Reserve by changing procedures in handling ACH credit transactions on days that the originator is closed; and (4) establish a uniform holiday schedule to be followed by the Reserve Banks.

It is not expected that the proposals would result in any significant economic impact on a substantial number of small entities.

The Board will review the comments and is expected to (cont)

Timetable:

Action	Date	FR Cite
Board requested comment	11/20/85	50 FR 47752
Board extended comment period until	02/03/86	51 FR 613
Further Board action by	06/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: take further action within the next four months.

Agency Contact: Florence Young, Advisor, Federal Reserve System, Division of Federal Reserve Bank Operations, 202 452-3955

RIN: 7100-AA64

3670. REGULATION: K - INTERNATIONAL BANKING OPERATIONS (DOCKET NUMBER: R-0550)

Legal Authority: 12 USC 611 et seq

CFR Citation: 12 CFR 211

Abstract: In August 1985, the Board published for comment proposed regulations that would restrict lending by an Edge Corporation to its affiliates where the Edge Corporation is not subject to the restrictions of section 23A of the Federal Reserve Act (12 USC 371c) because it is owned by a U.S. insured bank (50 FR 35238, August 30, 1985. In taking this action, the Board noted the increasing number of owners of Edge Corporations that are not subject to federal banking supervision and the potential adverse effects that might result from such affiliations, such as the impairment of the Edge's ability to act as an impartial arbiter of credit. The Board requested comment on the effect of the proposal on existing Edge Corporations, especially those owned by foreign banks and whether any exemptions from the restrictions are appropriate.

It is not expected that the proposal would have a significant economic impact on a substantial number of small businesses, because it applies only to organizations involved in international banking.

The Board will review the comments and take further (cont)

Timetable:

Action	Date	FR Cite
Board proposed revisions to Regulation K	08/30/85	50 FR 35238
Further Board action by	05/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: action within the next three months.

Agency Contact: Kathleen O'Day, Senior Counsel, Federal Reserve System, Legal Division, 202 452-3786

RIN: 7100-AA58

3671. REGULATION: Q - INTEREST ON DEPOSITS (DOCKET NUMBER R-0514)

Legal Authority: 12 USC 371b

CFR Citation: 12 CFR 217

Abstract: In January 1986, the Board issued for comment proposals to clarify, update, and simplify the advertising provisions of Regulation Q (51 FR 1379, January 13, 1986). The revisions incorporate and supersede the proposals of March 1984 concerning advertising of split-rate deposits and IRA/Keogh (HR 10) Plan accounts. The proposal is not expected to have a significant adverse effect on small banks.

The Board will review the comments and is expected to take further action within the next two months.

It is also anticipated that the Board will consider at that time various options with regard to providing written disclosures to consumers about their accounts.

Timetable:

Action	Date	FR Cite
Board proposed revisions	01/13/86	51 FR 1379
Further Board action by	04/00/86	

Small Entity: No

Agency Contact: Daniel L. Rhoads, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3711

RIN: 7100-AA56

3672. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0511)

Legal Authority: 12 USC 1843(c)(8) Bank Holding Company Act

CFR Citation: 12 CFR 225

Abstract: In March 1984, the Board proposed for comment an amendment to Regulation Y that would list certain additional nonbanking activities as generally permissible for bank holding companies under section 4(c)(8) of the Bank Holding Company Act and in which they may seek Board approval to engage (49 FR 9215, March 12, 1984). The activities proposed to be included in Regulation Y for the first time include: (1) commodity trading advisory services; (2) check guaranty services; (3) consumer financial counseling; (4) armored car services; (5) tax planning and tax preparation; and (6) operating a credit agency and credit bureau.

Consumer financial counseling, check guaranty services and limited types of tax preparation have been permitted previously by Board order on individual applications.

In addition the Board has proposed to expand the activities of property appraisal and providing advice in connection with future commission merchant activities. These activities have been included previously in the list of permissible activities (cont)

Timetable:

Action	Date	FR Cite
Board requested comment	03/12/84	49 FR 9215
Further Board action by	04/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: in Regulation Y, although in a more restricted manner.

The Board has also proposed to define and clarify the insurance agency and underwriting activities generally permissible for bank holding companies so as to conform the regulation to Title VI of the Garn-St. Germain Depository Institutions Act, which was adopted in October 1982.

Adoption of the proposal would enable bank holding companies to engage in additional activities and would impose no additional burden on any bank holding company.

The Board will review the comments and is expected to take further action within the next two months.

Agency Contact: James Scott, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3513

RIN: 7100-AA17

3673. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0491)

Legal Authority: 12 USC 1843(c)(8) Bank Holding Company Act

CFR Citation: 12 CFR 225

Abstract: In November 1983, the Board published for comment a proposal to eliminate the requirement in Regulation Y that bank holding companies engaging in credit life and credit accident and health insurance underwriting provide rate reductions or increased policy benefits in order to engage in this activity (48 FR 53125, November 25, 1983). The Board took this action as a result of the suggestions of several commenters to the Board's recent revision of Regulation Y, who advocated elimination of the rate reduction requirement from the regulation because, in their view, the requirement puts bank holding companies at a competitive disadvantage with other providers of this service, and because the potential adverse effects on the public that prompted the Board to impose this requirement in 1972 have not been realized.

This proposal, if adopted, would relax the regulatory requirements on bank holding companies that engage in this activity.

The Board will review the comments and is expected to take further action within the next month.

Timetable:

Action	Date	FR Cite
Board requested comment	11/25/83	48 FR 53125
Further Board action by	05/00/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Michael J. O'Rourke, Attorney, Legal Division, (202) 452-3288.

Agency Contact: J. Virgil Mattingly, Deputy General Counsel, Federal Reserve System, Legal Division, 202 452-3430

RIN: 7100-AA40

3674. REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0536)

Legal Authority: 12 USC 1841 et seq Bank Holding Company Act

CFR Citation: 12 CFR 225

Abstract: In January 1985, the Board requested comment as to whether it should permit bank holding companies that own nonbank banks to provide them with internal administrative services and to establish management interlocks with them (50 FR 2057, January 15, 1985). ("Nonbank banks" are institutions that are chartered as banks but either do not accept demand deposits or do not make commercial loans.) The Board took this action to resolve a number of questions that had been raised regarding the appropriate scope of relationships between nonbank banks and their affiliates. It is likely that any action the Board might take would primarily affect larger bank holding systems and would relax a requirement or prohibition. Therefore, it is expected that any Board action would not have a significant economic impact on a substantial number of small entities.

In view of recent litigation involving the legality of nonbank banks, the Board has suspended further consideration of nonbank bank applications by bank holding companies pending a definitive resolution of the status of nonbank banks. Final action on the proposal for comment thus is not likely until this issue (cont)

Timetable:

Action	Date	FR Cite
Board requested comment	01/15/85	50 FR 2057
Awaiting Court Action	00/00/00	

Small Entity: No

Additional Information: ABSTRACT CONT: is resolved.

Agency Contact: Melanie Fein, Senior Counsel, Federal Reserve System, Legal Division, 202 452-3594

RIN: 7100-AA51

3675. ● REGULATION: Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0557)

Legal Authority: 12 USC 3907; 12 USC 3909 International Lending Supervision Act of 1983

CFR Citation: 12 CFR 225, Appendix A

Abstract: In November 1985, the Board proposed for comment an amendment to its Capital Guidelines that would define as primary capital perpetual debt securities issued by state member banks and bank holding companies (50 FR 47754, November 20, 1985). To qualify as primary capital, such perpetual debt securities would have to meet specific criteria intended to make perpetual debt the functional equivalent, for capital purposes, of preferred stock.

The Board also proposed to limit the amount of preferred stock, perpetual debt, and mandatory convertible securities that could qualify as primary capital to 33-1/3 percent of primary capital exclusive of such instruments.

The proposal is not expected to have a significant effect on small banking organizations that do not rely on preferred stock to any significant degree and that are not likely to issue perpetual debt.

The Board will review the comments and is expected to take further action within the next six months.

Timetable:

Action	Date	FR Cite
Board requested comment	11/20/85	50 FR 47754
Further Board action by	10/00/86	

Small Entity: No

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Agency Contact: James E. Scott, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3513

RIN: 7100-AA65

3676. ● REGULATION Y - BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL (DOCKET NUMBER: R-0567)

Legal Authority: 12 USC 3907; 12 USC 3909 International Lending Supervision Act of 1983

CFR Citation: 12 CFR 225, Appendix A

Abstract: In January 1986, the Board proposed for comment an amendment to its Capital Guidelines that would provide for a supplemental adjusted capital measure designed to be more systematically and explicitly sensitive to the risk exposure of individual banking organizations (51 FR 3976, January 31, 1986). This measure would be based on a ratio of primary capital to total assets adjusted to account for certain types of risks, including many kinds of off-balance-sheet risk. The Board is considering replacement of the total capital zones in its current Guidelines with zones based upon the proposed supplemental adjusted capital ratio.

These new zones would apply only to large banking organizations with assets in excess of $1 billion. Consequently the proposal is not likely to have a significant impact on smaller banking organizations.

The Board will review the comments and is expected to take further action within the next six months.

Timetable:

Action	Date	FR Cite
Board requested comment	01/31/86	51 FR 3978
Further Board action by	10/00/86	

Small Entity: No

Agency Contact: James E. Scott, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3513

RIN: 7100-AA66

3677. REGULATION: Z - TRUTH IN LENDING (DOCKET NUMBER R-0545)

Legal Authority: 15 USC 1604, as amended Truth in Lending Act

CFR Citation: 12 CFR 226

Abstract: Regulation Z currently requires that creditors provide information to consumers regarding variable rate features in credit transactions. Concern has been expressed in Congress and elsewhere as to whether Truth in Lending disclosures adequately convey to consumers the terms and potential costs of adjustable rate mortgages.

The Board has proposed that creditors make more extensive disclosure of the variable rate feature in transactions secured by the consumer's home (50 FR 20221, May 15, 1985). The proposal would amend the regulation to require that creditors make available to consumers general descriptive material about adjustable rate mortgages as well as provide a more detailed description of their variable rate feature along with an example showing the effect of a rate increase of two percentage points for each of the first three years of the transaction. Finally, the proposal would eliminate a provision of the regulation that currently permits creditors to substitute the disclosures required by other federal agencies for those required by Regulation Z. The Board is concerned about (cont)

Timetable:

Action	Date	FR Cite
Board proposed amendment	05/15/85	50 FR 20221
Further Board action by	05/00/86	

Small Entity: Yes

Additional Information: ABSTRACT CONT: creditor burdens of compliance with the overlapping and duplicative disclosures in this area, and believes that eliminating substitution could encourage the agencies to develop uniform disclosure requirements.

If the Board adopts this proposal, mortgage creditors, including small businesses engaged in mortgage lending, could incur some costs in revising and reprinting forms, and changing certain procedures to comply with the requirement. Before any final action, the Board would consider appropriate actions to minimize the burdens and costs of compliance.

The Federal Financial Institutions Examination Council (FFIEC) is considering the proposal in an effort to seek uniformity among the agencies' disclosure requirements. The Board is expected to take further action after the next meeting of the FFIEC in March.

Agency Contact: Susan Werthan, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-3667

RIN: 7100-AA50

3678. FURTHER PROPOSALS TO REDUCE RISKS ON LARGE-DOLLAR WIRE TRANSFER SYSTEMS (DOCKET NUMBER: R-0515A, R-0515B, R-0515C)

Legal Authority: 12 USC 221 et seq

CFR Citation: 00 CFR None

Abstract: In May 1985, the Board adopted a statement of its policy on reducing risks on large-dollar wire transfer systems (50 FR 21120, May 22, 1985). The Board determined, however, that certain aspects of this topic require further study and issued the following three requests for comments: (1) Book-entry securities transfer (R-0515A). In formulating its policy on risk reduction, the Board has been concerned about the impact that overdraft restrictions could have in the U.S. government securities market, which is vital to the conduct of monetary policy and the funding of the federal debt. Consequently, the Board has exempted daylight overdrafts resulting from the transfer of such securities from these restrictions. Instead, the Board is seeking comment on a proposal to reduce risks associated with transfers of book-entry securities that would require institutions to choose between treating book-entry related overdrafts the same as funds overdrafts or pledging collateral to secure book-entry overdrafts. (2) Automated Clearing Houses (R-0515B). The Board has previously regarded automatic clearing houses (ACHs) as low-dollar networks. Recently, however, ACHs have begun (cont)

Timetable:

Action	Date	FR Cite
Board requested comment	05/22/85	50 FR 21130
Board extended comment period until	09/30/85	
Further Board action by	10/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: processing large-dollar payments, thus presenting many of the same risks as large-dollar networks. Accordingly, the Board is requesting comment on risks associated with ACH payments and how such risks can be controlled. (3) Net Settlement Arrangements (R-0515C). The Board did not consider risks associated with the many net settlement services offered by the Federal Reserve (ATM, POS, check, and credit cards). The Board has determined to consider these risks, and requested comment on various aspects of these services, and the risks they entail, to aid it in its study.

It is not expected that these proposals, if adopted, would have a significant economic impact on a substantial number of small entities, because small entities do not usually participate in large-dollar wire transfer systems.

The Board will review the comments and take further action within the next six months.

Agency Contact: Edward C. Ettin, Deputy Director, Federal Reserve System, Division of Research and Statistics, 202 452-3368

RIN: 7100-AA59

FRS — Final Rule Stage

FEDERAL RESERVE SYSTEM (FRS) — Completed Actions

3679. REGULATION: B - EQUAL CREDIT OPPORTUNITY (DOCKET NUMBER: R-0541)

Legal Authority: 15 USC 1691b Equal Credit Opportunity Act

CFR Citation: 12 CFR 202

Abstract: In March 1985, the Board published for comment proposed revisions to Regulation B (50 FR 10890, March 18, 1985). The proposal stems from the Board's commitment to review its regulations every five years. The review of Regulation B focussed on how the regulation could be clarified, and whether any burdens on creditors could be reduced without diminishing consumer protections.

After considering the comments, the Board adopted the proposal with some changes (50 FR 48018, November 20, 1985). The final revisions include a streamlined procedure dealing with incomplete applications and a broader selection of sample forms for informing applicants of the reasons for credit denial. The revisions also change the data notation requirements applicable to residential mortgage transactions and revise the definition of "applicant" to give a guarantor (who already has certain protections under Regulations B) legal standing in the courts when there is an alleged violation of the regulation. The Board also published an official staff commentary that replaces existing staff and Board interpretations. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	06/21/83	48 FR 28285
Board proposed specific amendments for comment	03/18/85	50 FR 10890
Board adopted amendments	11/20/85	50 FR 48018

Small Entity: No

Additional Information: ABSTRACT CONT:

The revisions apply to all creditors equally. Small creditors will incur some additional burden in complying with the expanded monitoring data requirements, but the shortening of the regulation and the clarification and streamlining of other rules such as treatment of incomplete applications, should reduce some burdens and the addition of a staff commentary and sample notice forms should make compliance easier for small creditors.

Agency Contact: John Wood, Senior Attorney, Federal Reserve System, Division of Consumer and Community Affairs, 202 452-2412

RIN: 7100-AA28

3680. REGULATION: Q - INTEREST ON DEPOSITS (DOCKET NUMBER: R-0514)

Legal Authority: 12 USC 371b

CFR Citation: 12 CFR 217

Abstract: The Board's proposed amendments, in March 1984, concerning advertisements for split rate time deposits and for deposits used as Individual Retirement Account (IRA) investments (49 FR 11642, March 27, 1984), have been incorporated in the zero-based revision of Regulation Q (51 FR 1379, January 13, 1986). See Regulation Q entry in Section 2.

Timetable:

Action	Date	FR Cite
Board proposed amendments	03/27/84	49 FR 11642
Amendments included in new proposal	01/13/86	51 FR 1379

Small Entity: No

Agency Contact: Daniel L. Rhoads, Senior Attorney, Federal Reserve System, Legal Division, 202 452-3711

RIN: 7100-AA36

3681. REGULATION: U - CREDIT BY BANKS FOR THE PURPOSE OF PURCHASING OR CARRYING MARGIN STOCKS (DOCKET NUMBER: R-0510)

Legal Authority: 15 USC 78g Securities Exchange Act of 1934, as amended; 15 USC 78w Securities Exchange Act of 1934, as amended

CFR Citation: 12 CFR 221

Abstract: In the October Agenda the Board indicated that it might review a proposal submitted by a bank calling for an amendment to Regulation U that would permit banks to extend credit for options transactions in the same manner permitted brokers-dealers under Regulation T (Credit by Brokers and Dealers). The proposal was viewed as tentative because of litigation involving Securities and Exchange Commission (SEC) Rule 3b-9 (17 CFR 240.3b-9), which would require banks to conduct the activities involved through a broker-dealer subject to Regulation T. The courts allowed the SEC Rule 3b-9 to become effective on January 1, 1986 and the petitioner, therefore, has withdrawn the request. It is not expected that the Board will consider the subject further.

Timetable:

Action	Date	FR Cite
Board review not expected	02/28/86	

Small Entity: No

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FRS — Completed Actions

Agency Contact: Laura Homer, Securities Credit Officer, Federal Reserve System, Div. of Banking Supervision and Regulation, 202 452-2781

RIN: 7100-AA38

3582. REGULATORY IMPROVEMENT PROJECT

Legal Authority: 12 USC 3501 Financial Regulation Simplification Act of 1980; 5 USC 605 Regulatory Flexibility Act

CFR Citation: 00 CFR None

Abstract: The Board's Regulatory Planning & Review Section, formerly the Regulatory Improvement Project, coordinates the substantive, zero-based review of all Federal Reserve regulations that affect the public. Each review determines: (1) the fundamental objectives of the regulation and the extent to which it is meeting current policy goals, (2) nonregulatory alternatives that would accomplish the objectives, (3) costs and benefits of the regulation, (4) unnecessary burdens imposed by the regulation, and (5) the clarity of the regulation. Because of a change in format of the Unified Agenda, each Federal Reserve regulation that will be subject to a zero-based review during the upcoming year will be listed as a separate entry under section 1 of this agenda.

The Section also participates in the development of other proposals listed in this agenda to ensure that the objectives of the Regulatory Flexibility Act and the Board's Policy Statement on Expanded Rulemaking are met.

Since publication of the last semi-annual Agenda, a revised Regulation B ("Equal Credit Opportunity") has been (cont)

Timetable:

Action	Date	FR Cite
Board adopted Regulation B proposals	11/20/85	50 FR 48018
Board proposed revisions to Regulation Q	01/13/86	51 FR 1379

Small Entity: No

Additional Information: ABSTRACT CONT: adopted. (See Entry RIN 7100-AA28.) A proposed revision of Regulation Q ("Interest on Deposits") has also been issued for comment. (See Entry RIN 7100-AA56.)

Agency Contact: Barbara R. Lowrey, Associate Secretary, Federal Reserve System, Office of the Secretary, 202 452-3742

RIN: 7100-AA14

[FR Doc. 86-8797 Filed 04-18-86; 8:45 am]
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federal register

Monday
April 21, 1986

Part LIV

Federal Trade Commission

Semiannual Regulatory Agenda

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FTC

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Semiannual Regulatory Agenda

AGENCY: Federal Trade Commission.

ACTION: Semiannual regulatory agenda.

SUMMARY: The following agenda of Commission proceedings is published in accordance with section 22(d)(1) of the Federal Trade Commission Act, 15 U.S.C. 57b-3(d)(1), section 610(c) of the Regulatory Flexibility Act, 5 U.S.C. 610(c). Each projected event reflects the FTC staff's assessment of events that it expects will occur in the listed proceedings during the coming year. No Commission determination on the need for or the substance of a trade regulation rule or any other procedural option should be inferred from the projected events included in this agenda.

Several agenda items concern proceedings that may affect a substantial number of small businesses as that term is used in the Regulatory Flexibility Act. Whether any such proceeding will result in a rule which is likely to have a significant economic impact on such entities depends upon final Commission determinations on the need for or on the substance of a trade regulation rule.

Except for notice of completed actions, the information in this agenda represents judgments of the FTC staff, based upon information now available. These views should not be regarded as a final staff position, nor should they be attributed to the Commission itself. The Commission will address the issues presented on the rulemaking record in the final consideration of each proceeding.

Agenda items include the projected timing of any future Commission action. In most instances the dates of future events are listed by month, not a specific day. Further details may be obtained from the agency contact responsible for a particular proceeding. Discovery of new information, changes in circumstances, or in the law may alter the information set forth in this agenda.

FOR FURTHER INFORMATION CONTACT: Further details may be obtained from the agency contact responsible for a particular proceeding.

By direction of the Commission.

Emily H. Rock,

Secretary.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3683	Cooling-Off Period for Door-to-Door Sales	3084-AA18
3684	Mail Order Merchandise	3084-AA19
3685	Franchising and Business Opportunities	3084-AA25
3686	Informal Dispute Settlement Procedures	3084-AA30
3687	Negative Option Rule	3084-AA33
3688	Care Labeling Rule	3084-AA34

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3689	Ophthalmic Practice Rules (formerly Eyeglasses II)	3084-AA03
3690	Amendment to Trade Regulation Rule Concerning Preservation of Consumers Claims and Defenses ("Holder-in-Due Course Rule")	3084-AA08
3691	Amendment to Labeling and Advertising of Home Insulation Rule	3084-AA09
3692	Mobile Home Sales and Service	3084-AA10
3693	Proprietary Vocational and Home Study Schools	3084-AA11
3694	Pre-Sale Availability of Written Warranty Terms (Existing Regulation; Modifications under Consideration)	3084-AA15
3695	Retail Food Store Advertising and Marketing Practices	3084-AA17
3696	Review of the Premerger Notification Rules and Report Form	3084-AA23
3697	Games of Chance in the Food Retailing and Gasoline Industries Rule	3084-AA24
3698	Appliance Labeling Rule -- Energy Policy and Conservation Act	3084-AA26

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3699	Health Spas	3084-AA06
3700	Octane Certification and Posting Rule--Petroleum Marketing Practices Act	3084-AA32

FEDERAL TRADE COMMISSION (FTC) — **Prerule Stage**

3683. COOLING-OFF PERIOD FOR DOOR-TO-DOOR SALES

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 429

Abstract: The rule states that sellers of consumer goods or services with a purchase price of $25.00 or more who sell away from their place of business must furnish to the buyer certain information regarding the buyer's right to cancel sales within three business days and must give the buyer a full refund of any down payment upon the buyer's cancellation. The rule requires a seller to furnish the buyer with a complete receipt or copy of a contract, along with a notice informing the buyer of the right to cancel the transaction, to furnish the buyer with a completed Notice of Cancellation. The rule is intended to benefit consumers by permitting them to reflect on their purchase and the terms of any contract, to compare the purchase with offerings of other sellers, and to ascertain the accuracy of any representations made. The resulting costs to sellers include the costs associated with cancellation (processing cancelled orders, returning downpayments, retrieving delivered goods, and returning traded-in merchandise) and the additional cost of printing the required cancellation notices. Since the rule affects all door-to-door sellers, it may have a significant economic effect on a (cont)

Timetable:

Action	Date	FR Cite
Begin Reg Flex Act Review	03/00/83	
End Reg Flex Review	12/00/85	
Staff Recommendations to Commission	02/00/86	
Commission Consideration of Staff Recomendations	05/00/86	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: substantial number of small entities. The Commission is continuing its review of the rule in accordance with Section 610 of the Regulatory Flexibility Act. Staff is exploring non-substantive changes in the notices required by the rule.

Agency Contact: Lewis Franke, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 376-2891

RIN: 3084-AA18

3684. MAIL ORDER MERCHANDISE

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 435

Abstract: The Commission's rule concerning mail order merchandise was promulgated on October 22, 1975. The rule requires mail order sellers to possess a reasonable basis for any claims made concerning shipping date or, in the absence of any specifically stated date, to ship the ordered merchandise within thirty (30) days of receipt of an order. In the event of delays in shipment, the rule establishes notification procedures whereby buyers have the option either to agree to the delay or to cancel the order and receive a prompt refund. The Commission's rule is designed to address a number of significant consumer problems described on the record of the rulemaking proceeding, including failure to deliver ordered merchandise, unexplained delays in delivery, failure to make prompt (or any) refunds upon cancellation of an order, and inability to obtain responses to inquiries about pending orders. The rule enables consumers to obtain ordered merchandise within a reasonable time period or, if delays occur, to cancel the order and obtain a prompt refund, so that losses due to undelivered merchandise, delays, and inadequate or nonexistent refunds can be avoided. By subjecting sellers (cont)

Timetable:

Action	Date	FR Cite
Rule Promulgated	10/22/75	40 FR 49492
Initiation of Reg Flex Act Review	10/20/83	
Final Report to Commission	10/00/86	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: who solicit orders they cannot fill within a reasonable time to the risk of cancellation, the rule may provide competitive benefits, since buyers may shift their business to more efficient merchants. Costs relating to the rule may include the cost of establishing a system for monitoring and recording orders, deliveries, delays, cancellations, consents to delays, and refunds; the costs of complying with the rule's notification requirements regarding delays (printing, postage, etc.); the cost of processing refunds; and additional inventory costs. Pursuant to Sec. 610 of the Regulatory Flexibility Act, the Commission is undertaking a review of this rule to determine whether the rule has had a significant economic impact on a substantial number of small entities and, if so, whether the rule should be amended to minimize any such impact. The rule applies to all members of the mail order industry, including small firms. In addition, the staff is considering whether the rule should be amended to cover orders placed by telephone or other electronic means.

Agency Contact: Raymond L. Rhine, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 376-2863

RIN: 3084-AA19

3685. FRANCHISING AND BUSINESS OPPORTUNITIES

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 436

Abstract: The franchise trade regulation rule was adopted in response to evidence of deceptive and unfair practices in connection with the sale of the types of businesses covered by the rule. In some instances prospective franchisees lack a ready means of obtaining essential and reliable information about their proposed business investment. This lack of information reduces the ability of prospective franchisees either to make an informed investment decision or otherwise verify the representations of the business' salespersons. The rule attempts to deal with these problems by requiring franchisors and franchise brokers to furnish prospective franchisees with information about the franchisor, the franchise business and the terms of the franchise agreement. Franchisors and franchise brokers must furnish additional information if they have made any claim about actual or potential earnings, either to the prospective franchisee or in the media. All disclosures must be made (i) before

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any sale is made and (iii) by means of disclosure documents whose form and content are set forth in the rule. The rule requires disclosure of (cont)

Timetable:

Action	Date	FR Cite
Rule promulgated	12/21/78	43 FR 59614
Begin Reg Flex Act Review	03/00/84	
Request for Comment on Reg Flex Review	02/00/86	
End Reg Flex Review	05/00/86	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: certain information. It does not regulate the substantive terms of the franchisor-franchisee relationship. It does not require registration of the offering or the filing of any documents with the Federal Trade Commission in connection with the sale of franchises. In accordance with Section 610 of the Regulatory Flexibility Act, the Commission will review this rule to examine its impact on small entities and assess whether any modifications are needed.

Agency Contact: John M. Tifford, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 376-2905

RIN: 3084-AA25

3686. INFORMAL DISPUTE SETTLEMENT PROCEDURES

Legal Authority: 15 USC 2309; 15 USC 2310(a)(2) Magnuson-Moss Warranty--FTC Improvements Act

CFR Citation: 16 CFR 703

Abstract: The Magnuson-Moss Warranty act, enacted on January 4, 1975, requires that the Federal Trade Commission promulgate a rule prescribing the minimum requirements for any informal dispute settlement procedure which is incorporated into the terms of a written warranty subject to the Act. Because warrantors are not required to incorporate such procedures into warranties, the rule applies only to warrantors who voluntarily choose to do so. The present rule sets forth detailed procedural, recordkeeping, and reporting requirements for dispute settlement mechanisms designed to insure their fairness. In accordance with Section 610 of the Regulatory Flexibility Act, The Commission has begun a review of the rule to examine whether the rule has had a significant economic impact on a substantial number of small entities and to assess whether any changes are needed. As part of that review, the Commission is considering whether to begin a negotiated rulemaking, in which all affected interests would have an opportunity to agree to recommend to the Commission revisions to the rule that would facilitate the Congressional (cont)

Timetable:

Action	Date	FR Cite
Promulgation of Original Rule	12/31/75	
Begin Reg Flex Act Review	09/00/85	
Initial Notice of Intent to Form Advisory Committee	02/12/86	51 FR 5205
Convene Advisory Committee (if appropriate)	04/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: objective of encouraging warrantors to establish and participate in informal dispute settlement mechanisms.

Agency Contact: Joseph Kattan, Federal Trade Commission, Division of Marketing Practices, Federal Trade Commission, Washington, D.C. 20580, 202 523-3980

RIN: 3084-AA30

3687. NEGATIVE OPTION RULE

Legal Authority: 15 USC 41 Federal Trade Commission Act

CFR Citation: 16 CFR 425

Abstract: The Trade Regulation Rule concerning negative option plans was promulgated on February 15, 1973. The rule imposes specific requirements concerning procedures that must be followed in the operation of negative option methods of merchandising. The rule requires that all covered advertisements clearly disclose the material terms of the plan; that the subscriber be given a minimum of 10 days in which to instruct the seller not to mail a selection; and that the seller must give full credit, and guarantee return postage, for merchandise returned by subscribers who were not obligated to receive it. The rule is designed to address a number of significant consumer problems described in the record of the rulemaking proceeding, including denying subscribers sufficient time to respond to the negative option cards sent under these plans, thereby denying subscribers the opportunity to make an informed decision; delivering unordered merchandise without prior consent of subscribers; and placing the burden and expense of correcting "errors" on the subscriber.

Timetable:

Action	Date	FR Cite
Rule Promulgated	02/15/73	38 FR 4896
Begin Reg Flex Review	03/31/86	51 FR 10883
End Reg Flex Review	07/00/86	

Small Entity: Undetermined

Additional Information: EFFECTS ON SMALL BUSINESS AND OTHER ENTITIES: The rule applies to all sellers that use negative option plans, some of which are small businesses as defined by the Regulatory Flexibility Act. 5U.S.C. 601(6). To assess the possible impact of the rule on such small entities, the Commission has scheduled a review of the rule during fiscal 1986, in accordance with Section 610 of the Regulatory Flexibility Act.

Agency Contact: Lew Franke, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, D.C. 20580, 202 376-2891

RIN: 3084-AA33

3688. CARE LABELING RULE

Legal Authority: 15 USC 41 et seq. Federal Trade Commision Act

CFR Citation: 16 CFR 423

Abstract: The Trade Regulation Rule concerning care labeling of textile wearing apparel and certain piece goods used to make wearing apparel was promulgated on December 16, 1971. The rule requires manufacturers and importers to provide labels for covered items which disclose information for cleaning and care of the product. The rule is intended to assist consumers in making informed purchase decisions concerning the care characteristics of competing products and to enable consumers and cleaners to avoid product damage caused by the use of improper cleaning procedures. The rule was amended on May 20, 1981. The amendments require a more complete statement of the same procedures and establish a standard for the accuracy of each care procedure on a label. The amendments also provide a glossary of standardized care terminology that can be used. With the clarification of the rule's requirements provided by the amendments, manufacturers and importers will be able to minimize inadvertent violations and avoid unnecessary compliance costs.

Timetable:

Action	Date	FR Cite
Rule Promulgated	12/16/71	36 FR 23883
Amendments Promulgated	05/20/83	48 FR 22733
Begin Reg Flex Review	01/07/86	51 FR 614
End Reg Flex Review	04/00/86	

Small Entity: Undetermined

Additional Information: EFFECTS ON SMALL BUSINESSES AND OTHER ENTITIES: The rule applies to textile wearing apparel and certain piece goods manufacturers and importers, some of which are small businesses as defined by the Regulatory Flexibility Act, 5 U.S.C. 601(6). To assess the possible impact of the rule on such small entities, the Commission has scheduled a review of the rule during fiscal 1986, in accordance with Section 610 of the Regulatory Flexibility Act.

Agency Contact: Earl Johnson, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Ptotection, Washington, D.C. 20580, 202 376-2891

RIN: 3084-AA34

FEDERAL TRADE COMMISSION (FTC) Proposed Rule Stage

3689. OPHTHALMIC PRACTICE RULES (FORMERLY EYEGLASSES II)

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 456, (Revision)

Abstract: The staff of the FTC's Bureau of Consumer Protection has identified several state and private restrictions on the delivery of eye care goods and services which may decrease consumer access to vision care services, increase the cost of those services, and impede the growth of alternative methods of organizing eye-care practices. The principal question the Commission is exploring is the impact of such restrictions on the price, quality and availability of vision care. The Commission's investigation has sought, through the development of empirical market research, to determine whether higher prices result from these restrictions and, if so, whether offsetting consumer benefits also result. The primary impact of a rule on small businesses could stem from the increased competition in the vision care industry which can be anticipated as a result of deregulatory effect of the rule. Rule provisions removing certain restraints on commercial ophthalmic practice could enhance competition by permitting small entities (i.e., optometrists and opticians) to engage in alternate modes of practice; or to expand, should they desire to do so. The affirmative requirements of a rule could impose additional (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/01/80	45 FR 79823
ANPRM Comment Period End	02/02/81	
NPRM	01/04/85	50 FR 598
NPRM Comment Period End	04/05/85	
Public Hearings Begin	05/20/85	
Public Hearings End	07/12/85	
Rebuttal Period Ends	09/18/85	
Staff Report	09/00/86	
Presiding Officer Report	10/00/86	
Comment Period Ends	12/00/86	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: record-keeping, postage, and photocopying costs. The alternatives to an FTC trade regulation rule include: a formal complaint against a professional association or an ophthalmic board alleged to have engaged in illegal acts or practices; a voluntary guide defining unfair acts or practices; legislative recommendations to Congress or to the States; or the release of a public report setting forth the findings of the staff. The Commission is postponing the Regulatory Flexibility Act review of the existing Advertising of Ophthalmic Goods and Services Trade Regulation Rule (Eyeglasses Rule) because that Rule will be modified by the current rulemaking. The Eyeglasses Rule requires eye doctors to furnish copies of spectacle prescriptions to consumers after eye examinations. The advertising portions of the Eyeglasses Rule are not in effect, pursuant to the decision in American Optometric Association v. FTC, 626 F. 2d 896 (D.C. Cir. 1980).The court in that case remanded the Eyeglasses Rule's advertising provisions for further consideration in light of the Supreme Court decision in Bates v. State Bar of Arizona, 433 U.S. 350 (1977).

Government Levels Affected: Local, State

Agency Contact: Renate Kinsheck, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 523-3377

RIN: 3084-AA03

3690. AMENDMENT TO TRADE REGULATION RULE CONCERNING PRESERVATION OF CONSUMERS CLAIMS AND DEFENSES ("HOLDER-IN-DUE COURSE RULE")

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 433

Abstract: The objective of the proposed amendment is to ensure that a purchaser's duty to pay is not separated from sellers' duty to perform when consumer sales are financed by third party creditors or purchase money lenders. The original rule requires sellers to ensure that credit contracts used in consumer installment sales and

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purchase money loans contain a provision that makes any holder of the contract subject to all legal claims and defenses related to the sale transaction which the buyer may have against the seller. The proposed amendment would extend to creditors the obligation to ensure that credit contracts contain the required provision. Benefits from the proposed amendments may include improvement in the retail market due to increased scrutiny by creditors of the sellers with whom they do business and availability to consumers of additional claims and defenses against creditors. Some creditors may have increased costs associated with screening contracts and monitoring the reputations of retailers with whom they deal. Alternatives considered by the Commission include: rejection of the amendment; postponement of decision pending additional information on (cont)

Timetable:

Action	Date	FR Cite
Notice of Proposed Amendment	11/18/75	40 FR 53530
Rule & Statement of Basis & Purpose	11/18/75	40 FR 53506
Final Notice of Proposed Amendment	02/05/76	41 FR 5305
Guidelines on TRR	05/14/76	41 FR 20022
Statement of Enforcement Policy	08/16/76	41 FR 34594
Open End Consumer Credit Contracts	09/16/77	42 FR 46509
Presiding Officer's Report	02/16/78	43 FR 6810
Staff Report	11/24/78	43 FR 54950
Tentative Cmsn Approval and Request for Comment	11/15/79	44 FR 65771
Staff Recommendation to Commission	09/00/86	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: compliance with the original rule; adoption of the amendment extending the rule to creditors and also making additional technical amendments. The amendment would shift some compliance costs from small businesses to creditors that control the contract form. Otherwise, because the existing rule already applies to retail sellers, the amendment should have no appreciable effect on other small businesses. The Regulatory Flexibility Act review for the original Holder-in-Due-Course Rule has been postponed, pending resolution of the proceeding to amend the rule.

Agency Contact: Jonathan D. Jorison, Federal Trade Commission, Division of Credit Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 724-1169

RIN: 3084-AA09

3691. AMENDMENT TO LABELING AND ADVERTISING OF HOME INSULATION RULE

Legal Authority: 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 460.10; 16 CFR 460.16; 16 CFR 460.19; 16 CFR 460, Appendix B

Abstract: The Commission's home insulation trade regulation rule became effective on September 29, 1980. Among other things, it requires advertisers to disclose specific additional information in advertisements or other promotional materials when they make energy savings claims about an insulation product or refer to the product's thickness, R-Value or price. The Commission temporarily stayed the effective date of those disclosure requirements as they applied to television ads pending completion of these amendment proceedings. The Commission has announced its intention to reopen the rulemaking proceeding to consider whether it should amend the rule's disclosure requirements insofar as they apply to television advertising. (ANPR, 46 FR 47236, Sept. 25, 1981.) The TV ad disclosure requirements in the rule benefit consumers by ensuring that they have an opportunity to understand and evaluate claims that may otherwise lead to misguided purchasing decisions. The major cost to consumers is the possible displacement of other valuable information in advertisements by the required disclosures. The major cost to industry members is the (cont)

Timetable:

Action	Date	FR Cite
Final Rule Published	08/29/79	44 FR 50218
Rule Promulgated	08/31/79	
Temp. stay of certain requirements	08/15/80	45 FR 54702
Rule effective except requirmt stay	09/29/80	
ANPRM	09/25/81	46 FR 47236
Lift test requirement stay	08/24/82	47 FR 36806
Commission consideration of TV disclosure requirements	06/00/86	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: time necessary to make the required disclosures. Possible alternatives to the disclosure requirements include: amended disclosures or disclosure language; shortened disclosures; no disclosures; and different requirements as to the manner in which required disclosures must be made.

Agency Contact: Kent Howerton, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 376-2934

RIN: 3084-AA09

3692. MOBILE HOME SALES AND SERVICE

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 47(a) Federal Trade Commission Act

CFR Citation: 16 CFR 441, (New)

Abstract: Almost all mobile homes are sold with a manufacturer's warranty but many buyers may not receive adequate and timely service under the warranty. The rule would address possibly inadequate performance of mobile home warranties through a number of possible remedies: setting specific service deadlines, prohibiting exclusion of set-up and transportation from warranty coverage, requiring written service agreements between warrantors and their service agents, and requiring maintenance of service records. Compliance costs estimated by staff will be approximately $145 per home for most firms affected, and could be less, depending on what provisions are actually adopted. An estimated 20% of buyers would benefit by saving about $242 for warranty repairs they would otherwise not get; another 15% of buyers would have service time cut by an estimated 4 months. The incidence of warranted defects could be reduced, increasing the useful life of homes. Buyers could also receive better financing terms due to lowering the incidence of defects that diminish resale value. Consumers might benefit from better information, if warranties accurately reflected what service is included (cont)

Timetable:

Action	Date	FR Cite
NPRM - Previous	05/29/75	40 FR 23334
NPRM	05/23/77	42 FR 26396
Presiding Officer's Report	09/11/79	
Staff Report	08/13/80	
Staff Recommendation to Commission	04/00/86	

Small Entity: Yes

Additional Information: ABSTRACT CONT: in the purchase price of the home. The proposed rule will have an impact on 200 mobile home manufacturers and 12,000 mobile home dealers, most of which are small businesses. There are alternatives to rule provisions. Instead of specific time deadlines for warranty repairs, manufacturers and dealers could set their own deadlines as long as they are disclosed in their warranties; instead of requiring manufacturers to disseminate consumer questionnaires, to monitor effectiveness of factory and dealer warranty repairs, manufacturers could select their own monitoring devices; some responsibilities and duties of the manufacturers may not be needed (e.g., pre-occupancy inspection, set-up and transportation damage).

Agency Contact: Allen Hile, Federal Trade Commission, Division of Marketing Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 523-1670

RIN: 3084-AA10

3693. PROPRIETARY VOCATIONAL AND HOME STUDY SCHOOLS

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 438, (New)

Abstract: In 1979, the Second Circuit Court of Appeals set aside the rule as originally issued by the Commission, citing problems with some of the remedies that the rule provided to purchasers of proprietary vocational training. The Staff has prepared recommendations as to how the Commission should respond to the Court's decision. Alternatives under consideration include a rule that would give schools the option of providing either a strict pro rata refund remedy or a track record disclosure, a rule requiring some refunds but not on a strict pro rata basis, and a rule with no refund requirements at all. Alternatives to rulemaking include case-by-case enforcement, and FTC intervention before other state and federal agencies having jurisdiction over vocational schools to prevent deceptive practices. The rule may benefit consumers by enabling them to avoid expenditures on inappropriate courses and increasing the effectiveness of the vocational school industry in training and placing people in productive jobs. The cooling-off, track record disclosures, and refund components of the rule variations under consideration would impose real social costs on schools covered (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/15/74	39 FR 29385
Final Rule previously published	12/18/78	43 FR 60798
Rule set aside & remanded by Court	12/13/79	
New Staff Recommendation published	07/10/81	46 FR 35668
Staff Recommendations to Commission	05/00/86	

Small Entity: Yes

Additional Information: ABSTRACT CONT: including administrative costs associated with processing and collecting and disseminating information. Price increases may result from these costs as well as the possibility of paying out increased refunds. The rule should be most costly to schools that use unfair or deceptive practices to induce students to enroll in their courses. Schools that do not use these practices may not incur significant cost increases. The rule seeks to deter deceptive sales practices by requiring schools to provide material information to prospective students, and to provide students with contractual remedies which they can use to protect themselves when necessary. Most of the 6,000 schools that would be affected by the rule are small businesses.

Agency Contact: Walter Gross, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 523-3626

RIN: 3084-AA11

3694. PRE-SALE AVAILABILITY OF WRITTEN WARRANTY TERMS (EXISTING REGULATION; MODIFICATIONS UNDER CONSIDERATION)

Legal Authority: 15 USC 2302(b)(1)(A); 15 USC 2309(a) Magnuson-Moss Warranty--FTC Improvements Act

CFR Citation: 16 CFR 702

Abstract: The Magnuson-Moss Warranty Act (15 U.S.C. 2302(b)(1)(A)) requires that the Federal Trade Commission promulgate a rule to require that the terms of written warranties for consumer products be made available to consumers prior to purchase. The Rule modifications approved by the Commission currently being considered are intended to achieve the Congressional objective more effectively by making the Rule requirements more flexible and thus lessening the costs and burdens of compliance while still ensuring consumers access to warranties prior to purchase. The rule previously required that retailers of consumer products costing more than $15 make warranty texts available to consumers prior to purchase by placing the warranty text in one or a combination of four specified locations; (1) on the product, (2) in a binder, (3) on the package, or (4) on a sign. Both the former and the amended versions of the Rule require manufacturers to provide materials sufficient for retailers to meet their obligations. The Rule modifications will reduce retailers' obligations by requiring only that warranties

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accompany the product or be made readily available on request prior (cont)

Timetable:

Action	Date	FR Cite
Promulgation of Original Rule	12/31/75	45 FR 60108
Begin Review	11/84/81	
End Review	01/17/85	
NPRM	05/01/85	50 FR 18495
NPRM Comment Period End	08/17/85	
Rule Amended	03/05/86	
Publication of Amended Rule	06/00/86	

Small Entity: Yes

Additional Information: ABSTRACT CONT: to sale, and that retailers using the latter means of making warranties available post signs advising consumers that warranties are available. These changes have been submitted to OMB for review under the Paperwork Reduction Act. Changes in the Rule will produce benefits by reducing the total costs of compliance with the present rule for retailers.

Agency Contact: Michael Solinsky, Federal Trade Commission, Division of Marketing Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 523-3355

RIN: 3084-AA15

3695. RETAIL FOOD STORE ADVERTISING AND MARKETING PRACTICES

Legal Authority: 15 USC 41 et seq Federal Trade Commission Act

CFR Citation: 16 CFR 424

Abstract: The Commission's Rule on Retail Food Store Advertising and Marketing Practices states that it is a violation of Section 5 of the Federal Trade Commission Act for grocery stores to advertise products at a particular price unless such products are in stock and conspicuously and readily available for sale at the advertised price during the effective period of the advertisement. If a store runs out of advertised products, it is in violation of the rule even if the store noted the limitations on availability in its advertisement and even if the store provides rainchecks or substitute items. The rule is intended to benefit consumers by ensuring that advertised items are available, that advertising-induced purchasing trips are not fruitless, and that store prices accurately reflect the prices appearing in the ads. The rule may cause costs to be incurred in maintaining sufficient inventory to meet anticipated demand, and costs associated with the monitoring of price changes, changing marked prices, training employees to comply with the rule and keeping records to prove compliance. (cont)

Timetable:

Action	Date	FR Cite
Comment on Reg Flex Act Review	12/00/83	
ANPRM	12/10/84	49 FR 48059
ANPRM Comment Period End	02/08/85	
Staff Recommendation to Commission	07/09/85	
NPRM	10/24/85	50 FR 43224
NPRM Comment Period End	01/24/86	
Hearings End	03/00/86	
Rebuttal Period Ends	05/00/86	
Staff Report	09/00/86	
Presiding Officer Report	10/00/86	

Small Entity: Yes

Additional Information: ABSTRACT CONT: The rule may also discourage the advertising of certain kinds of products, such as perishables or goods that are available to the store only in limited supply. The staff has concluded from a careful review of the rule's effects that the costs the rule imposes on consumers in the form of higher grocery prices significantly exceeds its benefits. Consequently, staff has recommended that the rule be modified in such a way that a store could comply with the rule by clearly and adequately disclosing in its advertisements that there are limitations on availability, or by offering rainchecks or substitute items if supplies run out. Staff has concluded that modifying the rule in this way will maintain any benefits it provides to consumers while substantially reducing or eliminating its costs. The Commission has authorized publication of a Notice of Proposed Rulemaking to begin the amendment process.

Agency Contact: Walter Cross, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 523-3626

RIN: 3084-AA17

3696. REVIEW OF THE PREMERGER NOTIFICATION RULES AND REPORT FORM

Significance: Agency Priority

Legal Authority: 15 USC 18a Clayton Act

CFR Citation: 16 CFR 801; 16 CFR 802; 16 CFR 803; 16 CFR 803, Appendix

Abstract: The Premerger Notification Rules and the Antitrust Improvements Act Notification and Report Form were adopted pursuant to Section 7A of the Clayton Act. Section 7A requires firms of a certain size contemplating mergers or acquisitions of a specified size to file notification with the Federal Trade Commission (FTC) and the Department of Justice (DOJ) and to wait a designated period before consummating the transaction. It also requires the FTC, with the concurrence of the Assistant Attorney General for Antitrust, to promulgate rules requiring that notification be in a form and contain information necessary to enable the FTC and DOJ to determine whether the proposed acquisition may, if consummated, violate the antitrust laws. Review of these rules and the Form focuses on reducing the paperwork burden imposed on the business community. On July 29, 1981, the Commission proposed several changes in the current premerger rules (46 Fed. Reg. 38710). These proposed changes, with some modification, were adopted in July 1983. On July 2, 1982, the Commission requested comments on several approaches to reduce further the burden imposed by the premerger rules and the Form. (cont)

Timetable:

Action	Date	FR Cite
Begin Review	09/30/81	
Notice of Request for Comments	07/02/82	47 FR 29182
NPRM Proposed Rule Changes	09/24/85	50 FR 38742
Staff Proposal to Commision on Use of 1982 Revenue Data	01/30/86	

Action	Date	FR Cite
Final Action on Use of 1982 Revenue Data	02/28/86	
Staff Recommendation to Commission: Proposed Rule Changes	03/00/86	

Small Entity: No

Additional Information: SMALL ENTITY CONT: The Premerger Notification Rules do not affect nonbusiness entities or small businesses. A firm must have sales or assets of at least $10 million to be subject to any reporting obligation. Moreover, any transaction is exempt under the rules if it is valued at less than $15 million and will not result in the acquiring person's holding 50% of the voting securities of a corporation with sales or assets of $25 million or more.

ABSTRACT CONT: On September 24, 1985 the Commission proposed amendments to the Premerger rules that pertain for the most part to the burden reduction initiative and that affect the scope of the reporting requirement. In January, 1986, the staff submitted to the Commission a recommendation to promulgate a final rule amendment requiring persons filing notification to submit revenue data for 1982 rather than 1977 in response to certain questions on the Form relating to product lines.

Agency Contact: John M. Sipple, Jr., Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Washington, DC 20580, 202 523-3404

RIN: 3084-AA23

3697. GAMES OF CHANCE IN THE FOOD RETAILING AND GASOLINE INDUSTRIES RULE

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 419.1

Abstract: The Commission's trade regulation rule concerning games of chance became effective on October 17, 1980. The rule establishes requirements for food and gasoline retailers in conducting and advertising games of chance by requiring disclosure of odds-of-winning and prize information in broadcast and print advertisements, as well as in point of sale information. During January, 1986, the Commission granted a temporary partial exemption to allow supermarkets and gas stations to advertise their games on radio and television without disclosing full information on prizes and odds-of-winning. In addition, the Commission also published an advance notice of proposed rulemaking on whether to make the broadcast exemption permanent. Finally, the Commission has proposed to reduce the recordkeeping requirements of the rule from three years to one year in keeping with the goals of the Paperwork Reduction Act, and requests public comment on other possible areas where amendments to the rule may be appropriate. The rule benefits consumers by allowing contestants to enter games of chance with full knowledge of all material information to enable equal competition for (cont)

Timetable:

Action	Date	FR Cite
Promulgation of Original Rule	08/19/69	34 FR 13302
ANPRM	01/04/83	48 FR 265
Temporary Partial Exemption	01/10/83	48 FR 1046
Submit Staff Analysis to Commission	05/00/86	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: prizes. The major costs to industry are the possible burdensomeness of the electronic media disclosure and recordkeeping provisions of the rule, both of which are currently being reconsidered. Possible alternatives include different disclosures, reduced disclosures, or no disclosures.

Agency Contact: John M. Mendenhall, Federal Trade Commission, Cleveland Regional Office, Suite 500- Mall Building, 118 St. Clair Ave, Cleveland, Ohio 44114, 216 522-4207

RIN: 3084-AA24

3698. APPLIANCE LABELING RULE -- ENERGY POLICY AND CONSERVATION ACT

Legal Authority: 42 USC 6294 National Energy Conservation Policy Act; PL 94-163 Energy Policy and Conservation Act, Sec 324, 1975

CFR Citation: 16 CFR 305

Abstract: The Energy Policy and Conservation Act (EPCA) required the Commission to consider labeling rules for the disclosure of energy information, based on standard test procedures prescribed by the Department of Energy, for at least 13 categories of major household appliances. The Commission adopted a labeling rule for seven appliance categories: (1) refrigerators and refrigerator- freezers; (2) freezers; (3) dishwashers; (4) clothes washers; (5) water heaters; (6) room air conditioners; and (7) furnaces. The Commission exempted five other categories of appliances. Following DOE's adoption of final test procedures for central air conditioners (and heat pumps), the Commission initiated a rulemaking to consider including these products. The Commission is also considering including two new types of furnaces in the rule's current coverage of furnaces.

The rule mandates that specific energy costs or efficiency information be disclosed in catalogs and on a label (fact sheets are required for furnaces). The label must include a highlighted energy cost or efficiency disclosure, a range indicating the highest and lowest energy costs or (cont)

Timetable:

Action	Date	FR Cite
NPRM (Air Conditioners)	08/11/80	45 FR 53340
NPRM (Furnaces)	07/24/81	46 FR 38105
Begin Reg Flex Act Review	04/08/85	50 FR 13820
Final Reg Flex Rec. to Commission	02/00/86	
Consideration of Staff Rec. (Air Cond. & Furn.)	03/00/86	
Consideration of Amendments	04/00/86	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: efficiencies for all similar appliance models, and a chart that permits an individual to estimate how much it will cost to run the appliance each year based on local utility rates. The primary purpose of the rule is to permit consumers to compare the energy usage of competing appliances and to weigh that information along with other product features.

Since the Commission's rule implements the statutory directives in EPCA, most

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of the costs imposed on industry members may not be attributable to the rule. The rule applies mainly to manufacturers of household appliances, but does impose some burdens on distributors and retailers. Some of these entities may be small businesses pursuant to Section 610 of the Regulatory Flexibility Act; therefore, the Commission has begun a review of the rule to determine whether the rule has had a significant economic impact on a substantial number of small entities and, if so, whether the rule should be amended.

Agency Contact: James Mills, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 376-8834

RIN: 3084-AA26

FEDERAL TRADE COMMISSION (FTC) — Completed Actions

3699. HEALTH SPAS

Legal Authority: 15 USC 45 Federal Trade Commission Act; 15 USC 57(a) Federal Trade Commission Act

CFR Citation: 16 CFR 443, (New)

Abstract: The rule originally proposed would have required that health spa membership contracts provide consumers with a right to cancel and receive a full refund during a three-day cooling-off period. If a seller's facilities were not yet fully operational, the consumer would have had 10 days to cancel after notice that the spa facilities were fully operational. After this period, the consumer would have had a right to cancel by paying up to a 5% cancellation fee plus a pro-rated portion of the contract price. Other provisions of the proposed rule prescribed the form of cancellation notices,limited contracts to two years, and prohibited the receipt of more than 5 percent of the contract price from consumers if a spa were not fully operational and available for use at the time the contract was signed. All industry members would have incurred costs for printing new contracts to comply with the proposed rule. Membership cancellations due to the requirements of the proposed rule would have adversely affected the cash flow of health spas. Consumers would have benefited from the proposed rule's unlimited cancellation rights to the extent (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/18/75	40 FR 34615
Presiding Officer's Report	04/00/79	
Staff Report	01/22/85	50 FR 2629
Written Comment Period On Staff Report Ends	06/07/85	
Staff Recommendation to Commission	11/00/85	
Commission Determination to End Rulemaking	12/18/85	
Withdrawn	12/18/85	

Small Entity: Yes

Additional Information: ABSTRACT CONT: that they are not currently granted by the industry. The proposed rule would have had a significant economic impact on a substantial number of small entities by varying required contract terms and imposing monetary refund requirements where none previously existed. The Commission determined that the evidence in the rulemaking record did not demonstrate industrywide abuses and that the record, therefore, did not support the imposition of such costly and intrusive remedies as those contained in the proposed rule.

Agency Contact: Walter Gross, Federal Trade Commission, Division of Service Industry Practices, Bureau of Consumer Protection, Washington, DC 20580, 202 523-3628

RIN: 3084-AA06

3700. OCTANE CERTIFICATION AND POSTING RULE--PETROLEUM MARKETING PRACTICES ACT

Legal Authority: 15 USC 2801 et seq Petroleum Marketing Practices Act

CFR Citation: 16 CFR 306

Abstract: The Federal Trade Commission, in accordance with the Regulatory Flexibility Act and publication of a Plan for the Periodic Review of Commission Rules, 46 FR 35118 (July 7, 1981), is soliciting comments and data on whether the Octane Certification and Posting Rule, 16 CFR Part 306 ("the Rule"), has had a significant economic impact on small entities, and if it has, whether the Rule should be amended to minimize any such significant economic impact on small entities.

The Rule establishes standard procedures for determining, certifying and posting (by means of a label on the fuel dispenser) the octane rating of automotive gasoline intended for sale to consumers. In addition, the Rule contains recordkeeping requirements that require gasoline refiners and importers to retain octane rating test records and gasoline distributors and retailers to retain octane certification records pertaining to the gasoline they sell in commerce for one year.

The Rule is intended to enable consumers to buy gasoline with an octane rating that is high enough to prevent (cont)

Timetable:

Action	Date	FR Cite
Previous Rule promulgated	03/30/79	44 FR 19160
Previous Rule effective	06/01/79	
Begin Reg Flex Review	04/02/85	50 FR 13048
Comment Period Closed	05/02/85	
End Reg Flex Review	03/25/86	51 FR 10186

Small Entity: Yes

Additional Information: ABSTRACT CONT: inefficient and harmful "engine knock" and to help consumers to avoid buying gasoline with an octane rating that is needlessly higher than the requirements of their automobiles.

The purpose of this review is limited to determining whether the Rule should be continued without change, or should be amended or rescinded, consistent with

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the stated objectives of applicable statutes, to minimize any significant economic impact of the Rule upon a substantial number of small entities.

Agency Contact: James Mills, Federal Trade Commission, Division of Enforcement, Bureau of Consumer Protection, Washington, DC 20580, 202 376-8834

RIN: 3084-AA32

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Part LV

Interstate Commerce Commission

Semiannual Regulatory Agenda

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ICC

INTERSTATE COMMERCE COMMISSION

49 CFR Ch. X

[Ex Parte No. 420 (Sub-No. 10)]

Semiannual Regulatory Agenda

AGENCY: Interstate Commerce Commission.

ACTION: Notice of semiannual regulatory agenda to be part of a Unified Agenda of Federal Regulations.

SUMMARY: Pursuant to OMB Bulletin No. 86-4, issued under section 6(b) of E.O. 12291 to implement the provisions of section 5 of the Executive Order concerning Regulatory Agendas, the Commission is publishing an agenda of (1) current and projected rulemakings, and (2) existing regulations being reviewed to determine whether to propose modifications through rulemaking. Listed below are the regulatory actions to be developed or reviewed during the next 12 months. Following each rule identified is a brief description of the rule including its purpose and legal basis.

FOR FURTHER INFORMATION CONTACT: A contact person is identified for each of the rules listed below.

SUPPLEMENTARY INFORMATION: A list of proceedings appears below, containing information about subject areas in which the Commission is currently conducting rulemaking proceedings or may institute such proceedings in the near future. It also contains information about existing regulations being reviewed to determine whether to propose modifications through rulemaking.

The agenda also identifies regulations likely to have a significant economic impact on a substantial number of "small entities." Accordingly, this information will satisfy the requirements of section 602 of the Regulatory Flexibility Act, 5 U.S.C. 602.

Finally, this agenda will comprise part of a "Unified Agenda of Federal Regulations" compiled by the Office of Management and Budget which is to be published in a single issue of the Federal Register in April 1986. The purpose of the Unified Agenda is to provide the public with more comprehensive documentation of the Federal government's current regulatory plans, and to provide a systematic means of monitoring regulatory activity in each agency.

This notice is issued pursuant to 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: February 21, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,

Secretary.

INTERSTATE COMMERCE COMMISSION (ICC) — Prerule Stage

3701. REVIEW OF CAR-HIRE REGULATION, EX PARTE NO. 334 (SUB-NO. 6)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10706; 49 USC 10734; 49 USC 11122; 5 USC 553

CFR Citation: 49 CFR 1033; 49 CFR 1036

Legal Deadline: None

Abstract: The Commission is considering whether regulation of railroad car-hire charges (except charges for boxcars) should be retained, modified, or eliminated.

Timetable:

Action	Date	FR Cite
ANPRM	04/29/85	50 FR 16724
ANPRM Comment Period End	08/28/85	50 FR 27031
Supplemental Comment Period	02/07/86	50 FR 52972
Comments under Internal Review	00/00/00	

Small Entity: No

Additional Information: This proceeding embraces the proposals and record developed in Zone of Reasonableness for Car-Hire Charges, Ex Parte No. 334 (Sub-No. 5), RIN 3120-AA13.

In a related proceeding, Ex Parte No. 334 (Sub-No. 7), Suspension of Car-Hire Updates, all further updates of car-hire charges have been suspended pending completion of Review of Car-Hire Regulation, Ex Parte No. 334 (Sub-No. 6). Notice of suspension appeared at 51 FR 283 on 01/03/86.

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Room 5417, Washington, DC 20423, 202 275-7245

RIN: 3120-AA13

3702. TRANSFERS OF OPERATING RIGHTS, EX PARTE NO. MC-111 (SUB-NO. 1)

Legal Authority: 49 USC 10101; 49 USC 10926; 5 USC 553; 5 USC 559

CFR Citation: 49 CFR 1045.11; 49 CFR 1132; 49 CFR 1133; 49 CFR 1141; 49 CFR 1151

Legal Deadline: None

Abstract: When motor carriers, water carriers, brokers, and freight forwarders seek to transfer their operating rights, they must follow Commission procedures. Proposed regulations will seek to consolidate the various regulations, streamline them, and simplify the entire procedure.

Timetable:

Action	Date	FR Cite
Draft NPRM under internal evaluation	00/00/00	

Small Entity: Yes

Agency Contact: Suzanne Higgins, Attorney Adviser, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7181

RIN: 3120-AA81

3703. ELECTRONIC FILING OF TARIFFS, EX PARTE NO. 444

Legal Authority: 49 USC 10321; 49 USC 10762

CFR Citation: 49 CFR 1312

Legal Deadline: None

Abstract: Commission regulations require filing of tariffs in printed form. The Commission is considering establishing rules and procedures to permit carriers to file tariffs electronically. The advance notice of proposed rulemaking seeks comments from interested parties.

Timetable:

Action	Date	FR Cite
ANPRM	03/06/83	
ANPRM Comment Period End	06/22/83	48 FR 18861
Presently under internal evaluation	00/00/00	

Small Entity: Undetermined

Agency Contact: Charles E. Langyher, III, Chief, Section of Tariffs, Interstate Commerce Commission, Bureau of Traffic, Washington, DC 20423, 202 275-7739

RIN: 3120-AA99

ICC — Prerule Stage

3704. ● EXEMPTION OF DEMURRAGE FROM REGULATION, EX PARTE NO. 462

Significance: Agency Priority

Legal Authority: 49 USC 10505; 49 USC 10750; 49 USC 11121 to 11122; 5 USC 553

CFR Citation: 49 CFR 1033

Legal Deadline: None

Abstract: The Commission is considering whether to exempt in whole or in part rail demurrage from regulation.

Timetable:

Action	Date	FR Cite
ANPRM	12/18/85	50 FR 51565
ANPRM Comment Period End	01/17/86	50 FR 51566
Extension of Public Comment Period	01/21/86	51 FR 2740
Comment Period End	03/18/86	51 FR 2740
Internal Review of Comments	00/00/00	

Small Entity: No

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Room 5417, Washington, DC 20423, 202 275-7245

RIN: 3120-AB35

3705. ● NATIONAL INDUSTRIAL TRANSPORTATION LEAGUE - PETITION TO INSTITUTE RULEMAKING ON NEGOTIATED MOTOR COMMON CARRIER RATES, EX PARTE NO. MC-177

Legal Authority: 5 USC 553; 49 USC 10321; 49 USC 10701; 49 USC 10704

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: Proposal to provide shippers with a limited judicial defense to a claim for undercharges, in circumstances where the shipper has been billed a negotiated rate and is later billed at the higher published rate due to the carrier's failure to file the negotiated rate with the Commission.

Timetable:

Action	Date	FR Cite
ANPRM	09/13/85	50 FR 37391
ANPRM Comment Period End	10/15/85	50 FR 37391
Comments under review	00/00/00	

Small Entity: Undetermined

Agency Contact: Leo Arnaiz, Attorney Adviser, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7831

RIN: 3120-AB40

INTERSTATE COMMERCE COMMISSION (ICC) — Proposed Rule Stage

3706. PETITION TO EXPAND PASSENGER MOTOR CARRIER SUPERHIGHWAY AND DEVIATION RULES, EX PARTE NO. MC-65 (SUB-NO. 6)

Legal Authority: 49 USC 10321; 5 USC 553

CFR Citation: 49 CFR 1042

Legal Deadline: None

Abstract: Proposal to expand the amount by which a motor carrier of passengers may deviate from its certificated route in order to perform authorized service in an efficient and timely way.

Timetable:

Action	Date	FR Cite
NPRM	02/01/79	44 FR 6560
NPRM Supplemental	04/01/86	

Small Entity: Not Applicable

Agency Contact: S. David Berger, Supervising Attorney Adviser, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7980

RIN: 3120-AA24

3707. HANDLING OF C.O.D. SHIPMENTS, EX PARTE NO. MC-42

Legal Authority: 49 USC 10101; 49 USC 10321; 49 USC 10762; 49 USC 11101; 5 USC 553

CFR Citation: 49 CFR 1052

Legal Deadline: None

Abstract: The Commission is considering whether to revise its existing regulations to authorize individual carriers to establish their own nondiscriminatory C.O.D. collection and remittance rules and to eliminate the requirement in existing recordkeeping.

Timetable:

Action	Date	FR Cite
NPRM	03/19/81	46 FR 17814
NPRM Comment Period End	05/04/81	
Draft Decision under internal evaluation	00/00/00	

Small Entity: No

Agency Contact: Tom Barry, Attorney Adviser, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7540

RIN: 3120-AA42

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3708. PROCEDURES FOR REQUESTING RAIL VARIABLE COST AND REVENUES DETERMINATION FOR JOINT RATES SUBJECT TO SURCHARGE OR CANCELLATION, EX PARTE NO. 369

Legal Authority: 49 USC 10321; 49 USC 10705a; 5 USC 553

CFR Citation: 49 CFR 1051A

Legal Deadline: None

Abstract: The Commission has proposed procedures for obtaining relevant revenue and variable cost data under 49 USC 10705a.

Timetable:

Action	Date	FR Cite
NPRM - previous	11/03/80	45 FR 72065
NPRM	03/30/81	46 FR 19238
NPRM Comment Period End	04/29/81	46 FR 19238
Presently under internal evaluation	00/00/00	

Small Entity: No

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Washington, DC 20423, 202 275-7245

RIN: 3120-AA57

3709. PROCEDURES GOVERNING THE PROCESSING, INVESTIGATION, AND DISPOSITION OF OVERCHARGE, DUPLICATE PAYMENT, OR OVERCOLLECTION CLAIMS

Legal Authority: 49 USC 10741; 49 USC 10761(a)

CFR Citation: 49 CFR 1008

Legal Deadline: None

Abstract: This action is considering the modification of rules governing processing of overcharge, duplicate payment, and overcollection claims to lessen burdens on small shippers.

Timetable:

Action	Date	FR Cite
NPRM	09/29/86	
NPRM Comment Period End	10/29/86	

Small Entity: Yes

Agency Contact: Linda F. Mitchler, Transportation Industry Analyst, Interstate Commerce Commission, Office of Compliance and Consumer Assistance, Washington, DC 20423, 202 275-6569

RIN: 3120-AA95

3710. RAIL GENERAL EXEMPTION AUTHORITY - MISCELLANEOUS PROCESSED AND MANUFACTURED COMMODITIES

Legal Authority: 49 USC 10505

CFR Citation: 49 CFR 1039

Legal Deadline: None

Abstract: 49 USC 10505 requires that the Commission exempt from regulation the movement by rail of traffic for which it finds continued regulation no longer necessary to serve the Nation's transportation policy objectives and to protect shippers from abuse of market power by the railroads. In examining the transportation characteristics and markets of various commodities moving by rail, there appear to be many products for which sufficient competition exists among transportation alternatives so that regulation may no longer be necessary. Exemption of such commodities should provide increased rate and service flexibility for railroads to meet shippers' needs and to compete more effectively for the subject traffic. Anticipated benefits include lower rates and improved service, at a possible "cost" of increased price instability and competition to alternative transport firms.

Timetable:

Action	Date	FR Cite
NPRM	04/00/86	

Small Entity: Undetermined

Agency Contact: Robert Lundy, Economist, Interstate Commerce Commission, Washington, DC 20423, 202 275-6858

RIN: 3120-AB06

3711. PRACTICES OF MOTOR COMMON CARRIERS OF HOUSEHOLD GOODS (REVISION OF OPERATIONAL REGULATIONS), EX PARTE NO. MC-19 (SUB-NO. 26)

Legal Authority: 49 USC 11110

CFR Citation: 49 CFR 1056

Legal Deadline: None

Abstract: This proceeding involves a plenary review of the household goods regulations in which the Commission invites public comment and proposals which would minimize the regulatory burden on movers to the maximum extent consistent with the protection of individual shippers.

Timetable:

Action	Date	FR Cite
ANPRM	10/26/83	48 FR 49561
ANPRM Comment Period End	01/12/84	48 FR 49561
NPRM	09/29/86	
NPRM Comment Period End	10/29/86	

Small Entity: Yes

Agency Contact: Patricia M. Schulze, Transportation Industry Analyst, Interstate Commerce Commission, OCCA, Washington, DC 20423, 202 275-7841

RIN: 3120-AB17

3712. BOX CAR HIRE AND CAR SERVICE, EX PARTE NO. 346 (SUB-NO. 18)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10505; 5 USC 553

CFR Citation: 49 CFR 1039

Legal Deadline: None

Abstract: This proceeding considers alternatives to present car-hire and car service rules effecting boxcars and to the proposals made in Ex Parte No. 346 (Sub-No. 8), Exemption From Regulation - Boxcar Traffic (48 FR 20412, May 6, 1983).

Timetable:

Action	Date	FR Cite
ANPRM	06/27/84	49 FR 26745
ANPRM Comment Period End	11/20/84	49 FR 26745
Supplemental ANPRM comment period	07/24/85	50 FR 28015
NPRM	12/03/85	50 FR 49576
NPRM Comment Period End	02/03/86	50 FR 52973
Comments under review	00/00/00	

Small Entity: Undetermined

ICC — Proposed Rule Stage

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Room 5417, Washington, DC 20423, 202 275-7245

RIN: 3120-AB19

3713. POLICY ON RELEASE OF DATA FROM THE ICC WAYBILL SAMPLE

Legal Authority: 49 USC 10321; 49 USC 11144; 5 USC 552; 5 USC 553

CFR Citation: 49 CFR 1244.8

Legal Deadline: None

Abstract: The Commission, in recognition of the sensitivity of unaggregated waybill data and the potential for competitive harm to shippers and railroads, proposes to establish a policy for the release of waybill sample data. The policy will balance the need of the users of the data and assure that confidential carrier or shipper information is not disclosed. The policy will be added to 49 C.F.R. 1244 as Section 1244.8.

Timetable:

Action	Date	FR Cite
NPRM	01/08/86	51 FR 767
NPRM Comment Period End	02/24/86	
Comments Under Evaluation	00/00/00	

Small Entity: No

Agency Contact: James A. Nash, Transportation Industry Analyst, Interstate Commerce Commission, Washington, DC 20423, 202 275-6864

RIN: 3120-AB20

3714. ● LEASE OF EQUIPMENT AND DRIVERS TO PRIVATE CARRIERS - PETITIONS FOR MODIFICATION, EX PARTE NO. MC-122 (SUB-NO. 2)

Legal Authority: 5 USC 553

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: Proposal to eliminate the requirement of a 30-day lease in leases of equipment and drivers to private carriers.

Timetable:

Action	Date	FR Cite
NPRM	06/02/85	50 FR 31439
NPRM Comment Period End	09/03/85	50 FR 31439
Comment period extended (comment period end 10/03/85)	09/09/85	50 FR 36680
Comments under review	00/00/00	

Small Entity: Undetermined

Agency Contact: Robert Rothstein, Supervising Attorney Adviser, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7912

RIN: 3120-AB36

3715. ● RAIL CONSOLIDATION PROCEDURES - CONTINUANCE IN CONTROL OF A NONCONNECTING CARRIER, EX PARTE NO. 282 (SUB-NO. 11)

Significance: Agency Priority

Legal Authority: 49 USC 10321; 49 USC 10505; 5 USC 553

CFR Citation: 49 CFR 1180.2(d)(2), (Revision)

Legal Deadline: None

Abstract: The Commission is considering whether to include in the class exemption from the prior approval requirements of 49 U.S.C. 11343, the continuance in control by one rail carrier of a nonconnecting carrier.

Timetable:

Action	Date	FR Cite
NPRM	01/15/86	51 FR 1828
NPRM Comment Period End	03/17/86	51 FR 1828
Internal Review of Comments	00/00/00	

Small Entity: No

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Room 5417, Washington, DC 20423, 202 275-7245

RIN: 3120-AB37

3716. ● INVESTIGATION OF MOTOR CARRIER INSURANCE RATES, EX PARTE NO. MC-178

Significance: Agency Priority

Legal Authority: 49 USC 10101; 49 USC 10321; 49 USC 10927; 49 USC 11701

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Investigation of escalating insurance costs facing the motor carrier industry and the increasing difficulty in obtaining required insurance, the causes of this insurance crisis, and what, if any, action is appropriate to alleviate the problems.

Timetable:

Action	Date	FR Cite
Notice of Investigation (Public comment period end 12/02/85)	11/01/85	50 FR 45672
Notice of proposed guidelines	03/00/86	

Small Entity: Undetermined

Agency Contact: Mark Shaffer, Principal Attorney, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7292

RIN: 3120-AB30

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INTERSTATE COMMERCE COMMISSION (ICC)

Final Rule Stage

3717. REVOCATION PROCEDURES FOR FAILURE TO FILE AND MAINTAIN INSURANCE (MOTOR CARRIERS), OR SURETY BONDS (MOTOR CARRIERS, BROKERS AND FREIGHT FORWARDERS), EX PARTE NO. MC-5 (SUB-NO. 3)

Legal Authority: 49 USC 10925; 49 USC 10927

CFR Citation: 49 CFR 1043.7(f); 49 CFR 1084.6(g)

Legal Deadline: None

Abstract: Motor carriers, brokers and forwarders are required to file evidence of security for public protection in prescribed amounts. This proceeding involves improvement of the procedures by which revocation of certificates, licenses and permits is accomplished for failure to file or maintain the required security.

Timetable:

Action	Date	FR Cite
NPRM	12/13/82	47 FR 55980
NPRM Comment Period End	01/13/83	47 FR 55980
Final Action	09/29/86	

Small Entity: No

Agency Contact: Margaret Ginyard, Transportation Industry Analyst, Interstate Commerce Commission, Office of Compliance & Consumer Assistance, Washington, DC 20423, 202 275-6749

RIN: 3120-AA39

3718. IMPROVEMENT OF TOFC/COFC REGULATION (RAILROAD AFFILIATED MOTOR CARRIERS AND OTHER MOTOR CARRIERS), EX PARTE NO. 230 (SUB-NO. 6)

Significance: Agency Priority

Legal Authority: 49 USC 10321(a); 49 USC 10505; 5 USC 553; 5 USC 559

CFR Citation: 49 CFR 1039

Legal Deadline: None

Abstract: The Commission has voted to extend to non-rail affiliated motor carriers its exemption from 49, Subchapter IV of the U.S. Code motor transportation of trailers and of containers used in continuous intermodal movements (TOFC and COFC service). The date the exemption will become effective is not yet determined.

Timetable:

Action	Date	FR Cite
ANPRM	08/22/79	44 FR 49279
ANPRM Comment Period End	10/22/79	44 FR 49279
NPRM	02/27/81	46 FR 14365
NPRM Comment Period End	03/30/81	46 FR 14365
Vote of the Commission	09/20/84	
Draft Final Decision under internal evaluation	00/00/00	

Small Entity: No

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Washington, DC 20423, 202 275-7245

RIN: 3120-AA47

3719. STANDARDS FOR RAILROAD REVENUE ADEQUACY, EX PARTE NO. 393 AND EX PARTE NO. 393 (SUB-NO. 1)

Significance: Agency Priority

Legal Authority: 49 USC 10704(a)(2)

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: To assist the Commission in determining whether railroads are revenue adequate as prescribed by the IC Act. A final decision in the lead proceeding was issued on 03/30/81. The present NPRM (Sub-No. 1) is to resolve several issues left outstanding in the earlier decision.

Timetable:

Action	Date	FR Cite
NPRM	11/26/80	
NPRM	02/28/83	
NPRM Comment Period Begins	03/01/83	
NPRM Comment Period Ends	04/15/83	
Comment Period Extended to	09/16/83	48 FR 29964
Comments due	09/23/83	48 FR 42876
Final Action	04/00/86	
Draft Decision under internal evaluation	00/00/00	

Small Entity: Undetermined

Agency Contact: Ward L. Glan, Jr., Chief, Section of Financial Analysis, Interstate Commerce Commission, 12th & Constitution Avenue, NW, Washington, DC 20423, 202 275-7488

RIN: 3120-AA61

3720. ADOPTION OF UNIFORM RAIL COSTING SYSTEM FOR DETERMINING VARIABLE COST FOR JURISDICTIONAL THRESHOLD AND SURCHARGE PURPOSES (URCS), EX PARTE NO. 431

Significance: Agency Priority

Legal Authority: 49 USC 10705(a); 49 USC 10709

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: Develops new cost methodology applicable to the rail industry as mandated in the 1976 4-R Act and the 1980 Staggers Rail Act.

Timetable:

Action	Date	FR Cite
NPRM	01/31/83	48 FR 4562
NPRM Comment Period End	09/28/83	48 FR 25290
Decision to hold in abeyance until further notice	11/13/84	49 FR 45080
Final Action	01/00/87	

Small Entity: Yes

Agency Contact: William T. Bono, Chief, Section of Cost Development, Interstate Commerce Commission, 12th & Constitution Avenue, NW, Washington, DC 20423, 202 275-7354

RIN: 3120-AA63

3721. AGRICULTURAL COOPERATIVE EXEMPTION

Legal Authority: 49 USC 10529

CFR Citation: 49 CFR 1047.21 to 1047.23

Legal Deadline: None

Abstract: The draft final rules would modify existing regulations to enhance the Commission's enforcement powers over cooperatives. Cooperatives would be required to compile simple reports and maintain certain records in one location. Non-resident cooperatives would have to make such reports and records available in the United States, and the Notice Form OCP 102 required to be filed with the Commission would expire one year from the filing date.

ICC

Final Rule Stage

Timetable:

Action	Date	FR Cite
NPRM	06/10/81	49 FR 30668
NPRM Comment Period End	07/27/81	49 FR 30668
Final Action	09/29/86	

Small Entity: Yes

Agency Contact: Lee C. Payne, Transportation Industry Analyst, Interstate Commerce Commission, OCCA, Washington, DC 20423, 202 275-0025

RIN: 3120-AA74

3722. SPECIAL INTERMODAL AUTHORITY, EX PARTE NO. 282 (SUB-NO. 7)

Legal Authority: 49 USC 11344(e)

CFR Citation: 49 CFR 1111.11

Legal Deadline: None

Abstract: The rules will implement a provision allowing special applications to provide the motor portion of a motor-rail movement as a substitute for impaired rail service.

Timetable:

Action	Date	FR Cite
NPRM	10/18/80	
Interim Final Rule	10/18/80	
NPRM Comment Period End	11/18/80	
Presently under internal evaluation	00/00/00	

Small Entity: No

Government Levels Affected: Federal

Agency Contact: Louis E. Gitomer, Deputy Director, Rail Section, Interstate Commerce Commission, Room 5417, Washington, DC 20423, 202 275-7245

RIN: 3120-AA62

3723. REVISION OF ACCOUNTING AND REPORTING REQUIREMENTS FOR MOTOR CARRIERS OF PROPERTY, DOCKET NO. 38904

Significance: Agency Priority

Legal Authority: 49 USC 11142

CFR Citation: 49 CFR 1207; 49 CFR 1249

Legal Deadline: None

Abstract: This rule would eliminate all the Commission's accounting and reporting rules for Class I and II common and contract motor carriers of property.

Timetable:

Action	Date	FR Cite
NPRM	02/21/85	50 FR 7201
NPRM Comment Period End	04/08/85	
Final Action	04/30/86	

Small Entity: No

Agency Contact: Andrew J. Lee, Assistant Chief, Interstate Commerce Commission, Section of Accounting and Reporting, 12th & Constitution Avenue, NW, Washington, DC 20423, 202 275-7510

RIN: 3120-AA84

3724. REVISION TO THE UNIFORM SYSTEM OF ACCOUNTS FOR RAILROADS

Significance: Agency Priority

Legal Authority: 49 USC 11166

CFR Citation: 49 CFR 1201

Legal Deadline: None

Abstract: The purpose of this regulation is to update the uniform system of accounts for railroads. This includes incorporating various suggestions from users and carriers and recommendations from Commission staff. It also addresses such areas as compliance with GAAP, clarity of presentation, and logic for level of detail in account classifications. Further, the operating expense account explanations will be revised for clarity.

Timetable:

Action	Date	FR Cite
NPRM	06/13/84	49 FR 24554
NPRM Comment Period End	07/30/84	49 FR 24554
Final Action	04/30/86	

Small Entity: No

Agency Contact: William F. Moss, III, Chief, Section of Audit and Accounting, Interstate Commerce Commission, 12th & Constitution Avenue, NW, Washington, DC 20423, 202 275-7510

RIN: 3120-AA86

3725. ● REGULATIONS GOVERNING FEES FOR SERVICES PERFORMED IN CONNECTION WITH LICENSING AND RELATED SERVICES, EX PARTE NO. 246 (SUB-NO. 2)

Legal Authority: 5 USC 553; 31 USC 9701; 49 USC 10321

CFR Citation: 49 CFR 1002

Legal Deadline: None

Abstract: In a decision published at 49 FR 18490 (May 1, 1984), the Commission adopted a major revision of its user fee regulations. On review the District of Columbia Circuit Court of Appeals affirmed the Commission's user fee regulations in most respects. See Central & Southern Motor Freight Tariff Ass'n, Inc. v. ICC 777 F 2nd 722 (D.C. Cir 1985). However, the court did remand the proceeding for further explanation of certain costing issues. This decision will reopen the May 1, 1984 decision. In this decision the Commission will provide further explanation to the Court and make any necessary adjustment to the fee regulations.

Timetable:

Action	Date	FR Cite
NPRM	02/17/84	49 FR 6118
Reopening of Proceeding as a result of court remand	00/00/00	

Small Entity: No

Agency Contact: Kathleen M. King, Assistant Secretary, Interstate Commerce Commission, Office of the Secretary, 12th & Constitution Avenue, NW, Washington, DC 20423, 202 275-7428

RIN: 3120-AA90

3726. ACCEPTABLE FORMS OF REQUESTS FOR OPERATING AUTHORITY FOR MOTOR CARRIERS AND BROKERS OF PROPERTY, EX PARTE NO. MC-55 (SUB-NO. 43A)

Significance: Agency Priority

Legal Authority: 5 USC 553; 49 USC 10101; 49 USC 10321; 49 USC 10922; 49 USC 10923; 49 USC 10924; 49 USC 11102

CFR Citation: 49 CFR 1160

Legal Deadline: None

Abstract: To permit applications for any reasonably broad commodity description.

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Timetable:

Action	Date	FR Cite
NPRM	08/08/83	
NPRM Comment Period End	09/26/83	
Most rules effective	05/18/84	49 FR 15205
NPRM Supplemental (bulk commodities only)	07/02/84	49 FR 27182
Comments Due	08/16/84	
Final Action	04/01/86	

Small Entity: No

Agency Contact: Suzanne Higgins, Attorney Adviser, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7181

RIN: 3120-AB05

3727. MOTOR CARRIER RATE BUREAUS - EXPANSION OF COLLECTIVE RATEMAKING TERRITORY, EX PARTE NO. 297 (SUB-NO. 7)

Legal Authority: 49 USC 10321; 49 USC 10706; 5 USC 553

CFR Citation: 00 CFR None

Legal Deadline: None

Abstract: Proposal to allow motor carrier rate bureaus to expand the territorial scope of collective ratemaking activities beyond that presently authorized.

Timetable:

Action	Date	FR Cite
Notice of proposed consolidation of petitions and request for comments	03/20/84	49 FR 10381
Notice of oral argument	11/09/84	49 FR 44818
Interim decision	08/19/85	50 FR 33421
Final decision (pending completion of individual rate bureau agreements)	00/00/00	

Small Entity: Undetermined

Additional Information: Decision served 8/16/85 withholds disposition of proceeding and holds matter in abeyance pending disposition of MC-82 rate bureau agreements; certified copies of record sent to appropriate Congressional committees.

Agency Contact: Robert Rothstein, Supervising Attorney Adviser, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-7912

RIN: 3120-AB25

3728. SHORT NOTICE EFFECTIVENESS FOR INDEPENDENTLY FILED SINGLE-FACTOR MOTOR-WATER RATES, EX PARTE NO. MC-170 (SUB-NO. 1)

Legal Authority: 49 USC 10321; 49 USC 10762; 5 USC 553

CFR Citation: 49 CFR 1312

Legal Deadline: None

Abstract: Proposal to reduce the notice period for independently filed single-factor domestic motor-water rates for transportation of property to one day for rate decreases and seven days for rate increases.

Timetable:

Action	Date	FR Cite
NPRM	05/21/85	50 FR 20920
NPRM Comment Period End	06/21/85	50 FR 20920
Open Special Conference	03/12/86	51 FR 07664
Final Action	05/01/86	

Small Entity: No

Agency Contact: Ardith Horne, Attorney Adviser, Interstate Commerce Commission, Motor Section, Washington, DC 20423, 202 275-1764

RIN: 3120-AB26

3729. ELIMINATION OF ACCOUNTING AND REPORTING REQUIREMENTS FOR MOTOR CARRIERS OF PASSENGERS, NO. 39953

Significance: Agency Priority

Legal Authority: 49 USC 11142; 49 USC 11145

CFR Citation: 49 CFR 1206; 49 CFR 1249

Legal Deadline: None

Abstract: This rule would eliminate the Uniform System of Accounts and revise the periodic reporting requirements for Class I motor common and contract carriers of passengers. The Commission believes these provisions are no longer necessary for Commission oversight of the ratemaking process. The Commission is proposing a new condensed report, applicable only to Class I motor carriers of passengers, to replace the current comprehensive annual and quarterly report forms. These changes should significantly reduce the carriers' accounting and reporting costs and burden.

Timetable:

Action	Date	FR Cite
NPRM	06/26/85	50 FR 26594
NPRM Comment Period End	10/08/85	50 FR 26594
NPRM Comment Period Extended 10/8/85 to	12/09/85	50 FR 38559
Final Action Effective	01/01/86	
Final Action	04/30/86	

Small Entity: No

Agency Contact: Andrew J. Lee, Assistant Chief, Interstate Commerce Commission, Section of Accounting & Reporting, 12th & Constitution Ave., NW, Washington, DC 20423, 202 275-7510

RIN: 3120-AB31

3730. ADOPTION OF NET SALVAGE FOR DEPRECIABLE RAILROAD PROPERTY, NO. 39325

Significance: Agency Priority

Legal Authority: 49 USC 10321

CFR Citation: 49 CFR 1201

Legal Deadline: None

Abstract: This rule would modify the accounting rules for recognizing the costs of dismantling, removing and retiring depreciable assets. The objective is to assure that all operating expenses associated with long term depreciable assets are recognized and written off during the useful lives of the assets. The proposal would require the separate maintenance of three components: (1) the usual write-off of the cost of the asset, (2) the write-off of the estimated cost of removing the asset from service, (3) the recognition of the estimated salvage value of the asset when removed from service.

Timetable:

Action	Date	FR Cite
Final Action	09/00/86	
Final Action Effective	09/00/86	

Small Entity: No

ICC — Final Rule Stage

Agency Contact: Andrew J. Lee, Assistant Chief, Interstate Commerce Commission, Section of Accounting & Reporting, 12th & Constitution Ave., NW, Washington, DC 20423, 202 275-7510

RIN: 3120-AB33

INTERSTATE COMMERCE COMMISSION (ICC) — Completed Actions

3731. SPECIAL TEMPORARY AUTHORITY PROCEDURES, EX PARTE NO. MC-64 (SUB-NO. 2A)

CFR Citation: 49 CFR 1131

Completed:

Reason	Date	FR Cite
Discontinued	03/12/86	51 FR 8573

Small Entity: Not Applicable

Agency Contact: Howell I. Sporn 202 275-7691

RIN: 3120-AA19

3732. DORMANCY, DIVISION OF OPERATING RIGHTS, AND NEW COMPETITIVE SERVICE IN MOTOR CARRIER ACQUISITION CASES, EX PARTE NO. MC-155

CFR Citation: 49 CFR 1132; 49 CFR 1134

Completed:

Reason	Date	FR Cite
Discontinued	01/24/86	

Small Entity: Undetermined

Agency Contact: Warren Wood 202 275-7977

RIN: 3120-AA27

3733. INTERCHANGE POLICIES AT INTERNATIONAL BOUNDARY LINES, EX PARTE NO. MC-73 (SUB-NO. 1)

CFR Citation: 49 CFR 1004; 49 CFR 1057

Completed:

Reason	Date	FR Cite
Withdrawn Discontinued by Decision Svd. 2/7/86	02/10/86	51 FR 4944

Small Entity: Undetermined

Agency Contact: Andrew L. Lyon 202 275-7805

RIN: 3120-AA36

3734. REGULATIONS GOVERNING THE ADEQUACY OF INTERCITY MOTOR COMMON CARRIER PASSENGER SERVICE, EX PARTE NO. MC-95 (SUB-NO. 3)

CFR Citation: 49 CFR 1063

Completed:

Reason	Date	FR Cite
Discontinued	03/06/86	51 FR 7838

Small Entity: Not Applicable

Agency Contact: James Brown 202 275-7898

RIN: 3120-AA40

3735. STAGGERS RAIL ACT OF 1980 - CONFERENCE OF INTERESTED PARTIES, EX PARTE NO. 456

Significance: Agency Priority

CFR Citation: 00 CFR None

Completed:

Reason	Date	FR Cite
Conference Terminated	03/14/85	

Small Entity: No

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AB23

3736. REGULATIONS GOVERNING FEES FOR SERVICES PERFORMED IN CONNECTION WITH LICENSING AND RELATED SERVICES - 1985 UPDATE, EX PARTE NO. 246 (SUB-NO. 3)

Significance: Agency Priority

CFR Citation: 49 CFR 1002

Completed:

Reason	Date	FR Cite
Final Action	10/01/85	50 FR 40024
Final Action Effective	11/04/85	

Small Entity: No

Agency Contact: Kathleen M. King 202 275-7428

RIN: 3120-AB24

3737. INTRAMODAL RAIL COMPETITION, EX PARTE NO. 445 (SUB-NO. 1)

Significance: Agency Priority

CFR Citation: 49 CFR 1144.1 to 1144.6

Completed:

Reason	Date	FR Cite
Final Action	11/06/85	50 FR 46066
Final Action Effective	10/31/85	50 FR 46066

Small Entity: No

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AB27

3738. EXEMPTION OF RAILROADS FROM SECURITIES REGULATION UNDER 49 U.S.C. 11301, EX PARTE NO. 397

CFR Citation: 49 CFR 1175

Completed:

Reason	Date	FR Cite
Final Action	02/10/86	51 FR 4927
Final Action Effective	03/12/86	51 FR 4927

Small Entity: No

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AB28

3739. EXEMPTION FROM REGULATION - SHIPMENTS SUBSEQUENTLY MADE SUBJECT TO A CONTRACT RATE, EX PARTE NO. 387 (SUB-NO. 956)

Significance: Agency Priority

CFR Citation: 49 CFR 1039.19; 49 CFR 1039.2(e)

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Completed:

Reason	Date	FR Cite
Final Action	12/27/85	50 FR 52926
Final Action Effective	01/27/86	50 FR 52926

Small Entity: No

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AB29

3740. CERTIFICATION OF RAILROAD ANNUAL REPORT R-1 BY INDEPENDENT ACCOUNTANT, EX PARTE NO. 460

Significance: Agency Priority

CFR Citation: 49 CFR 1241

Completed:

Reason	Date	FR Cite
Final Action	10/16/85	50 FR 41899
Final Action Effective	01/01/86	50 FR 41899

Small Entity: No

Agency Contact: William F. Moss, III 202 275-7510

RIN: 3120-AB30

3741. INTERNATIONAL JOINT THROUGH RATES INVOLVING OCEAN CARRIERS - REVISION OF TARIFF FILING REQUIREMENTS, EX PARTE NO. MC-175

CFR Citation: 49 CFR 1312

Completed:

Reason	Date	FR Cite
Final Action	01/23/86	51 FR 3071
Final Action Effective	02/24/86	51 FR 3071

Small Entity: No

Agency Contact: Marc Lerner 202 275-7150

RIN: 3120-AB32

3742. ●CLASS EXEMPTION FOR THE ACQUISITION AND OPERATION OF RAIL LINES UNDER 49 U.S.C. 10901, EX PARTE NO. 392 (SUB-NO. 1)

CFR Citation: 49 CFR 1150.31 to 1150.34

Completed:

Reason	Date	FR Cite
Final Action	01/17/86	51 FR 2503
Final Action Effective	02/17/86	51 FR 2503

Small Entity: No

Agency Contact: Louis E. Gitomer 202 275-7245

RIN: 3120-AB38

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Part LVI

National Credit Union Administration

Semiannual Regulatory Agenda

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NCUA

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

Semiannual Agenda of Regulations

AGENCY: National Credit Union Administration (NCUA).

ACTION: Semiannual agenda of regulations.

SUMMARY: Pursuant to its ongoing policy of reviewing regulations, NCUA is publishing a list of pending and recently completed actions as of January 16, 1986. NCUA will also include this Agenda in the "Unified Agenda of Federal Regulations."

DATE: This information is current as of January 16, 1986.

ADDRESS: National Credit Union Administration, 1776 G Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: On a particular regulation, contact the person(s) named in the listing for that regulation at the above address.

SUPPLEMENTARY INFORMATION: The purpose of this Agenda is to enable credit unions and the public to track regulatory development and review at NCUA and to enable interested parties to more effectively participate in that process. This year, NCUA has added Interpretive Rulings and Policy Statements to its Agenda.

The Agenda is published pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) and NCUA's statement of policy concerning development and review of regulations (IRPS 81-4, 46 FR 2948).

NCUA will voluntarily include this Agenda in the Office of Management and Budget's next publication of its "Unified Agenda of Federal Regulations." The NCUA Board believes that participation in this joint publication will further the public interest by including NCUA in a single source of information concerning current and projected rulemaking and reviews of existing regulations.

Approved by the NCUA Board this 16th day of January, 1986.

Rosemary Brady,

Secretary of the Board.

Prerule Stage

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3743	Reserves	3133-AA12
3744	Nondiscrimination Requirements	3133-AA17
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3747	Loan Participation	3133-AA49
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3751	Borrowed Funds From Natural Persons	3133-AA54
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Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3760	Requirements for Insurance	3133-AA09
3761	Advertisement of Insured Status	3133-AA10
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3764	Refund of Interest	3133-AA36
3765	Rules of Board Procedure	3133-AA39
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Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3770	Community Development Credit Union Program	3133-AA37
3771	Credit Union Service Organizations	3133-AA46

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3772	Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the National Credit Union Administration	3133-AA29
3773	Loan Interest Rates	3133-AA62
3774	Employee Responsibility and Conduct - Financial Interest	3133-AA63
3775	Interpretive Ruling and Policy Statement 85-2 Repurchase Agreements of Depository Institutions with Securities Dealers and Others	3133-AA66
3776	Interpretive Ruling and Policy Statement 85-1-Trustees and Custodians of Pension Funds	3133-AA69
3777	Interpretive Ruling and Policy Statement 85-3 Assumption of Real Estate Loans by Nonmembers	3133-AA70
3778	Report of Crime or Catastrophic Act	3133-AA71

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Prerule Stage

3743. RESERVES

Legal Authority: 12 USC 1762; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 702.1; 12 CFR 702.2

Legal Deadline: None

Abstract: These regulations set forth the requirements for the establishment and maintenance of a regular reserve (as provided by the Federal Credit Union Act) and set forth procedures for applications for approval to decrease reserves.

Timetable:

Action	Date	FR Cite
End Review	12/31/86	

Small Entity: No

Additional Information: ADDITIONAL AGENCY CONTACT: Michael Riley, Director, Office of Programs, (202) 357-1140.

Agency Contact: Robert Fenner, General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA12

3744. NONDISCRIMINATION REQUIREMENTS

Legal Authority: 12 USC 1757; 12 USC 1759; 12 USC 1766; 12 USC 1786; 12 USC 1789; 24 USC 3601 to 3610; 24 USC 1981; 15 USC 1601 et seq

CFR Citation: 12 CFR 701.31

Legal Deadline: None

Abstract: This regulation sets forth prohibitions against discrimination by Federal credit unions in making real estate related loans and appraisals. The regulation also sets forth guidelines for compliance with the Fair Housing Act and court decisions rendered thereunder.

Timetable:

Action	Date	FR Cite
End Review	12/31/86	

Small Entity: No

Agency Contact: Hattie M. Ulan, Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA17

3745. DESCRIPTION OF OFFICE, DISCLOSURE OF OFFICIAL RECORDS, AVAILABILITY OF INFORMATION, PROMULGATION OF REGULATIONS

Legal Authority: 12 USC 1752a

CFR Citation: 12 CFR 790

Legal Deadline: None

Abstract: These regulations set forth the organizational format of the central and regional offices, information which may or may not be made available to the public and the procedures and costs for obtaining such information, procedures for the promulgation of agency rules and regulations, and National Security Information procedures.

Timetable:

Action	Date	FR Cite
End Review	06/30/86	

Small Entity: No

Agency Contact: Benny R. Henson, National Credit Union Administration, Administrative Office, 1776 G Street, NW, Washington, DC 20456, 202 357-1055

RIN: 3133-AA32

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Prerule Stage

3746. FINANCIAL AND STATISTICAL AND OTHER REPORTS

Legal Authority: 12 USC 1756; 12 USC 1766; 12 USC 1782; 12 USC 1789

CFR Citation: 12 CFR 701.13

Legal Deadline: None

Abstract: This regulation sets forth reporting requirements for Federal credit unions. The regulation will be reviewed for accuracy and consistency with other regulations.

Timetable:

Action	Date	FR Cite
Initial staff review to be completed by	12/31/86	

Small Entity: No

Agency Contact: Hattie M. Ulan, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA48

3747. LOAN PARTICIPATION

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.22

Legal Deadline: None

Abstract: This regulation sets forth definitions and requirements for Federal credit unions that wish to participate in making loans with other credit unions, credit union organizations or financial organizations. The regulation will be reviewed to determine the need to update, revise and simplify it.

Timetable:

Action	Date	FR Cite
Initial staff review to be completed by	12/31/86	

Small Entity: No

Agency Contact: Yvonne Gilmore, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA49

3748. PURCHASE, SALE AND PLEDGE OF ELIGIBLE OBLIGATIONS

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.23

Legal Deadline: None

Abstract: This regulation sets forth definitions and requirements for Federal credit unions that wish to purchase, sell or pledge a loan or group of loans. The regulation will be reviewed to determine the need to update, review and simplify it.

Timetable:

Action	Date	FR Cite
Initial staff review to be completed by	12/31/86	

Small Entity: No

Agency Contact: Yvonne Gilmore, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA50

3749. COMPENSATION OF OFFICIALS

Legal Authority: 12 USC 1761; 12 USC 1761a; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.33

Legal Deadline: None

Abstract: This regulation sets out the restrictions on compensation to Federal credit union directors and credit and supervisory committee members. The regulation will be reviewed for accuracy and consistency with the Federal Credit Union Act.

Timetable:

Action	Date	FR Cite
Initial staff review to be completed by	12/31/86	

Small Entity: No

Agency Contact: Hattie M. Ulan, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA51

3750. FEDERAL CREDIT UNIONS ACTING AS DEPOSITORIES AND FINANCIAL AGENTS OF THE GOVERNMENT

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1767; 12 USC 1787; 12 USC 1789

CFR Citation: 12 CFR 701.37-2

Legal Deadline: None

Abstract: This regulation sets out the authority for and requirement of federally insured credit unions when they serve as depositories and financial agents of the United States government. It also lists the functions credit unions may perform in this capacity. The regulation will be reviewed for clarification and simplification.

Timetable:

Action	Date	FR Cite
Initial staff review to be completed by	12/31/86	

Small Entity: No

Agency Contact: Steven R. Bisker, Assistant General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA53

3751. BORROWED FUNDS FROM NATURAL PERSONS

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 701.38

Legal Deadline: None

Abstract: This regulation sets forth the requirements a Federal credit union must meet when it borrows funds from natural persons. The regulation will be reviewed to determine whether clarification or simplification is necessary.

Timetable:

Action	Date	FR Cite
Initial staff review to be completed by	12/31/86	

Small Entity: No

Agency Contact: Steven R. Bisker, Assistant General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA54

3752. CLARIFICATION AND DEFINITION OF ACCOUNT INSURANCE COVERAGE

Legal Authority: 12 USC 1781; 12 USC 1782; 12 USC 1783; 12 USC 1784; 12 USC 1785; 12 USC 1786; 12 USC 1787; 12 USC 1788; 12 USC 1789; 12 USC 1790; 12 USC 1766

NCUA

Prerule Stage

CFR Citation: 12 CFR 745

Legal Deadline: None

Abstract: This regulation sets forth definitions, general principles, and types of accounts that are insured by the National Credit Union Share Insurance Fund. This regulation will be reviewed for any necessary clarification and simplification in conjunction with Parts 740 and 741.

Timetable:

Action	Date	FR Cite
Initial staff review to be completed by	04/30/86	

Small Entity: No

Agency Contact: D. Michael Riley, Director, National Credit Union Administration, Office of Examination and Insurance, 1776 G Street, NW, Washington, DC 20456, 202 357-1140

RIN: 3133-AA55

3753. RECORDS PRESERVATION PROGRAMS

Legal Authority: 12 USC 1766; 12 USC 1789

CFR Citation: 12 CFR 749

Legal Deadline: None

Abstract: This regulation mandates that Federal credit unions maintain a records preservation program. It sets forth program implementation procedures and also lists what records must be stored. This regulation will be reviewed to determine the need to update, revise and simplify.

Timetable:

Action	Date	FR Cite
Initial staff review to be completed by	12/31/86	

Small Entity: No

Agency Contact: Hattie M. Ulan, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA56

3754. DIVISION OF ASSETS, LIABILITIES AND CAPITAL

Legal Authority: 12 USC 1766 to 1789

CFR Citation: 12 CFR 709

Legal Deadline: None

Abstract: This regulation prescribes the procedures to enable members of a Federal credit union who are in a separately identifiable group to undertake an equitable division of their assets, liabilities and capital and to charter a new Federal credit union.

Timetable:

Action	Date	FR Cite
Initial staff review complete Further action will be taken by	06/30/86	

Small Entity: No

Additional Information: This is the result of a splitting of two regulations which appeared together in the previous computer printout. The previous RIN was 3133-AA06. The previous title was Mergers of Credit Unions, Division of Assets, Liabilities and Capital.

Agency Contact: Wilmer A. Theard, National Credit Union Administration, Office of Examination and Insurance, 1776 G Street, NW, Washington, DC 20456, 202 357-1065

RIN: 3133-AA60

3755. ● CONFLICTS OF INTEREST AND SELF-DEALING

Legal Authority: 12 USC 1766(a); 12 USC 1789

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: The NCUA Regulations presently contain various sections (i.e., lending regulation 12 C.F.R. 701.21(c)(8), and investment regulation 12 C.F.R. 703.4(e)), dealing with conflicts of interest on particular issues. Staff is currently reviewing this subject, to evaluate both the regulation and NCUA's enforcement procedures.

Timetable:

Action	Date	FR Cite
End Review	06/30/86	

Small Entity: No

Agency Contact: Steven R. Bisker/Yvonne Gilmore, Assistant General Counsel/Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA61

3756. ● EMPLOYEE RESPONSIBILITY AND CONDUCT

Legal Authority: EO 11222; 5 CFR 735.104; 12 USC 1766

CFR Citation: 12 CFR 792

Legal Deadline: None

Abstract: Legal and regulatory requirements concerning employee ethics are currently found in Part 792 of the NCUA Regulations, the NCUA Examiners Guide, the Office of Personnel Management's Regulations, and various Federal statutes. Staff is attempting to consolidate and explain all essential provisions in either a proposed rule or policy statement.

Timetable:

Action	Date	FR Cite
Initial recommendation to be made by	06/30/86	

Small Entity: No

Agency Contact: James J. Engel/Hattie M. Ulan, Deputy General Counsel/Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA64

3757. ● CONSERVATORSHIPS AND LIQUIDATIONS

Legal Authority: 12 USC 1766(a); 12 USC 1786; 12 USC 1789

CFR Citation: Not yet determined

Legal Deadline: None

Abstract: NCUA does not presently have a comprehensive regulation on conservatorship and liquidation procedures. NCUA was granted conservatorship authority in 1982. An Involuntary Liquidation Manual exists, but has not been updated for several years. A task force has been formed to evaluate what measures should be taken to assure that uniform conservatorship and liquidation procedures are in place.

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Timetable:

Action	Date	FR Cite
End Review	06/30/86	

Small Entity: No

Agency Contact: Timothy Hornbrook/Allan Meltzer, Director of Risk Management/Assistant, General Counsel, National Credit Union Administration, Office of Examination and Insurance, 1776 G Street, NW, Washington, DC 20456, 202 357-1065

RIN: 3133-AA65

3758. ● COMMERCIAL LOANS/CONCENTRATION OF ASSETS

Legal Authority: 12 USC 1757(5); 12 USC 1766(a); 12 USC 1789

CFR Citation: 12 CFR 701.21(c)(5)

Legal Deadline: None

Abstract: Section 701.21(c)(5) implements the statutorily imposed limit of lending no more than ten percent of a credit union's unimpaired shares and surplus to any one credit union member. Staff is currently reviewing whether further guidelines are necessary to avoid safety and soundness problems associated with a credit union making large loans (usually of a commercial nature) relative to the credit union's assets.

Timetable:

Action	Date	FR Cite
End Review	06/30/86	

Small Entity: No

Agency Contact: Robert M. Fenner, General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA67

3759. ● CORPORATE CREDIT UNIONS

Legal Authority: 12 USC 1762; 12 USC 1766(a); 12 USC 1781; 12 USC 1789

CFR Citation: 12 CFR 704

Legal Deadline: None

Abstract: Staff is currently reviewing various aspects of this regulation, including reserve requirements and permissible activities for corporate credit unions.

Timetable:

Action	Date	FR Cite
End Review	06/30/86	

Small Entity: No

Agency Contact: D. Michael Riley, Director, Office of Examination and, Insurance, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1140

RIN: 3133-AA68

NATIONAL CREDIT UNION ADMINISTRATION (NCUA) — Proposed Rule Stage

3760. REQUIREMENTS FOR INSURANCE

Legal Authority: 12 USC 1781 to 1790

CFR Citation: 12 CFR 741

Legal Deadline: None

Abstract: These regulations set forth criteria for determining the insurability of a credit union which makes application for insurance of its accounts pursuant to Title II of the Federal Credit Union Act. The rule also prescribes requirements for continuing implementation of the capitalization of the National Credit Union Share Insurance Fund through credit union deposits and, if necessary, insurance premiums. The review of this regulation will determine the need to update, revise and simplify these requirements. This regulation will be reviewed in conjunction with Parts 740 and 745. (See 3133-AA10 and 3133-AA55.)

Timetable:

Action	Date	FR Cite
Staff expects to make a recommendation by	04/30/86	

Small Entity: No

Agency Contact: D. Michael Riley, Director, National Credit Union Administration, Office of Examination and Insurance, 1776 G Street, NW, Washington, DC 20456, 202 357-1140

RIN: 3133-AA09

3761. ADVERTISEMENT OF INSURED STATUS

Legal Authority: 12 USC 1785; 12 USC 1789

CFR Citation: 12 CFR 740

Legal Deadline: None

Abstract: This regulation prescribes requirements with regard to the official sign which insured credit unions must display and also pertains to requirements for advertising. The regulations will be reviewed to determine whether mandatory requirements are necessary and to update, simplify and revise, if necessary. They will be reviewed in conjunction with Parts 741 and 745.

Timetable:

Action	Date	FR Cite
Staff expects to make a recommendation by	04/30/86	

Small Entity: No

Agency Contact: D. Michael Riley/James J. Engel, Director/Deputy General Counsel, National Credit Union Administration, Office of Examination and Insurance, 1776 G Street, NW, Washington, DC 20456, 202 357-1140

RIN: 3133-AA10

3762. PAYOUT PRIORITIES FOR INVOLUNTARY LIQUIDATION OF FEDERALLY INSURED CREDIT UNIONS

Legal Authority: 12 USC 1766(a); 12 USC 1766(b); 12 USC 1787(a)(2); 12 USC 1787(d); 12 USC 1789(11)

CFR Citation: 12 CFR 744

Legal Deadline: None

Abstract: This proposed rule would implement a change in the manner in which NCUA currently makes payouts as the liquidating agent of Federally insured credit unions.

Timetable:

Action	Date	FR Cite
NPRM	11/21/83	48 FR 52588
NPRM Comment Period End	01/20/84	48 FR 52588
Further Board action expected by	12/31/86	

Small Entity: No

Additional Information: Subsequent actions including recapitalization of the National Credit Union Share Insurance Fund and review of involuntary liquidation procedures have caused internal delay and a reevaluation of this proposal.

Agency Contact: James J. Engel, Deputy General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA26

3763. ESTABLISHMENT OF A CASH FUND

Legal Authority: 12 USC 1757(12)

CFR Citation: 12 CFR 701.10

Legal Deadline: None

Abstract: This rule provides the regulatory authority to cash checks and money orders.

Timetable:

Action	Date	FR Cite
Further action expected by	12/31/86	

Small Entity: No

Agency Contact: Steven R. Bisker, Asst. General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA34

3764. REFUND OF INTEREST

Legal Authority: 12 USC 1766(a); 12 USC 1761b(9)

CFR Citation: 12 CFR 701.24

Legal Deadline: None

Abstract: This rule provides the conditions and limitations on an FCU making interest payment refunds to members who paid interest on loans during a dividend period.

Timetable:

Action	Date	FR Cite
Further action will be taken by	06/30/86	

Small Entity: No

Agency Contact: Hattie M. Ulan, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA36

3765. RULES OF BOARD PROCEDURE

Legal Authority: 12 USC 1752a(d)

CFR Citation: 12 CFR 791

Legal Deadline: None

Abstract: This regulation sets forth the rules of procedure governing how the Board will conduct its business.

Timetable:

Action	Date	FR Cite
Further action will be taken by	06/30/86	

Small Entity: No

Agency Contact: Rosemary Brady, Secretary of the NCUA Board, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1100

RIN: 3133-AA39

3766. OPERATIONAL PROCEDURES FOR SHARE DRAFT PROGRAMS; FEDERALLY INSURED STATE CHARTERED CREDIT UNIONS

Legal Authority: 12 USC 1766(a); 12 USC 1785(f)(1)

CFR Citation: 12 CFR 761

Legal Deadline: None

Abstract: The rule provides the regulatory authority for federally insured state chartered credit unions to offer share draft accounts.

Timetable:

Action	Date	FR Cite
Initial Staff review complete - further action will be taken by	12/31/86	

Small Entity: No

Agency Contact: Hattie M. Ulan, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA42

3767. OTHER APPLICATIONS

Legal Authority: 12 USC 1766(a)

CFR Citation: 12 CFR 701.5

Legal Deadline: None

Abstract: This rule specifies the manner in which applications, requests, or submittals to NCUA, not addressed in other sections shall be presented to the Agency.

Timetable:

Action	Date	FR Cite
Recommendation to be made to NCUA Board	06/30/86	

Small Entity: No

Agency Contact: Steven R. Bisker, Assistant General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA44

3768. DEFINITIONS

Legal Authority: 12 USC 1752(5); 12 USC 1757(6); 12 USC 1766(a)

CFR Citation: 12 CFR 700.1

Legal Deadline: None

Abstract: This regulation sets forth basic definitions applicable in all of NCUA's regulations. The definitions will be reviewed for accuracy and simplification.

Timetable:

Action	Date	FR Cite
Initial staff review to be completed by	12/31/86	

Small Entity: No

Agency Contact: Hattie M. Ulan, Staff Attorney, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA47

3769. MERGERS OF CREDIT UNIONS

Legal Authority: 12 USC 1766 to 1789

NCUA — Proposed Rule Stage

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Proposed Rule Stage

CFR Citation: 12 CFR 708

Legal Deadline: None

Abstract: The proposed rule sets forth procedural requirements for a credit union to merge with another credit union and sets forth needed time frames.

Timetable:

Action	Date	FR Cite
Initial staff review complete will be presented to NCUA Board by	11/30/85	
NPRM	01/16/86	
NPRM Comment Period End	03/16/86	

Small Entity: No

Additional Information: This is the result of a splitting of two regulations which appeared together in the previous computer printout. The previous RIN was 3133-AA08. The previous title was Mergers of Credit Unions, Division of Assets, Liabilities and Capital.

Agency Contact: Harvey Saine, Regional Director, Region II (Capital), National Credit Union Administration, 1776 G Street, NW, Washington, DC 20006, 202 682-1900

RIN: 3133-AA59

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

Final Rule Stage

3770. COMMUNITY DEVELOPMENT CREDIT UNION PROGRAM

Legal Authority: 12 USC 1754; 12 USC 1758; 12 USC 1759; 12 USC 1766(i); 42 USC 2981; 42 USC 2985(e)

CFR Citation: 12 CFR 705

Legal Deadline: None

Abstract: This rule implements a demonstration program called the Community Development Credit Union (CDCU) Program. The program provides for seed capital funds and technical assistance to strengthen a limited number of credit unions and thereby enable them to deliver improved services to, and to aid in the revitalization and the economic development of, their communities. The funds dispersed under the program are scheduled for complete repayment by the end of fiscal year 1986. At that time the regulation will no longer be necessary.

Timetable:

Action	Date	FR Cite
Initial staff review complete - staff will make a recommendation to the Board by	06/30/86	

Small Entity: No

Agency Contact: Wilmer A. Theard, National Credit Union Administration, Office of Examination and Insurance, 1776 G Street, NW, Washington, DC 20456, 202 357-1065

RIN: 3133-AA37

3771. CREDIT UNION SERVICE ORGANIZATIONS

Legal Authority: 12 USC 1757; 12 USC 1766; 12 USC 1784

CFR Citation: 12 CFR 701.27

Legal Deadline: None

Abstract: The NCUA Board has proposed a substantial revision of the rules implementing the authority of Federal credit unions to invest in and make loans to credit union service organizations (CUSO's). The proposal clarifies FCU's authority, expands the list of permissible activities for CUSO's, and addresses basic safety and soundness concerns in areas such as accounting standards and insider dealing.

Timetable:

Action	Date	FR Cite
NPRM	09/05/85	50 FR 36898
NPRM Comment Period End	11/08/85	
Final Action	03/31/86	

Small Entity: No

Agency Contact: Robert M. Fenster, General Counsel, National Credit Union Administration, Office of General Counsel, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA46

NATIONAL CREDIT UNION ADMINISTRATION (NCUA)

Completed Actions

3772. ENFORCEMENT OF NONDISCRIMINATION ON THE BASIS OF HANDICAP IN PROGRAMS OR ACTIVITIES CONDUCTED BY THE NATIONAL CREDIT UNION ADMINISTRATION

Legal Authority: 12 USC 1766(a)

CFR Citation: 12 CFR 794

Legal Deadline: None

Abstract: The proposed rule is a uniform rule to be adopted by Federal agencies which provides for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended. The Act prohibits discrimination on the basis of handicap as it applies to programs or activities conducted by the NCUA.

Timetable:

Action	Date	FR Cite
NCUA Board approved a Proposed Rule	01/16/84	
NPRM Comment Period End	12/26/84	
End Review	12/26/84	

Small Entity: No

NCUA

Completed Actions

Additional Information: Comments received have been forwarded to the Department of Justice for their review and further action.

Agency Contact: Benny R. Henson, Department of Administration, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, TDD contact number 202 357-1050, 202 357-1055

RIN: 3133-AA29

3773. ● LOAN INTEREST RATES

Legal Authority: 12 USC 1757(5)(A)(vi)(I); 12 USC 1757(5)(A)(ix); 12 USC 1766

CFR Citation: 12 CFR 701.21(c)(7)

Legal Deadline: None

Abstract: This rule continues the 21 percent FCU loan rate ceiling through May 14, 1987.

Timetable:

Action	Date	FR Cite
Final Action Effective	11/14/85	50 FR 48075
Final Action	11/21/85	50 FR 48075

Small Entity: No

Agency Contact: D. Michael Riley/Steven Bisker, Director, Office of Examination and Insurance/Office of General Counsel, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1140

RIN: 3133-AA62

3774. ● EMPLOYEE RESPONSIBILITY AND CONDUCT - FINANCIAL INTEREST

Legal Authority: 12 USC 1766

CFR Citation: 12 CFR 792.106

Legal Deadline: None

Abstract: This rule exempts member accounts in and loans from credit unions that are subject to supervision, regulation, and examination by the NCUA, from the type of financial interest that might otherwise be prohibited for Agency employees.

Timetable:

Action	Date	FR Cite
Final Action Effective	10/07/85	50 FR 41673
Final Action	10/15/85	50 FR 41673

Small Entity: No

Agency Contact: James J. Engel, Deputy General Counsel, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA63

3775. ● INTERPRETIVE RULING AND POLICY STATEMENT 85-2 REPURCHASE AGREEMENTS OF DEPOSITORY INSTITUTIONS WITH SECURITIES DEALERS AND OTHERS

Legal Authority: 12 USC 1757(7); 12 USC 1757(8)

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This Policy Statement adopts the Federal Financial Institutions Examination Council's Supervisory Policy setting forth guidelines for FCU investments in repurchase transactions and reverse repurchase transactions.

Timetable:

Action	Date	FR Cite
Final Action	11/14/85	50 FR 48372

Small Entity: No

Agency Contact: Donald W. Sorrels/Steven R. Bisker, Office of Examination and Insurance/ Assistant General Counsel, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1140

RIN: 3133-AA66

3776. ● INTERPRETIVE RULING AND POLICY STATEMENT 85-1-TRUSTEES AND CUSTODIANS OF PENSION FUNDS

Legal Authority: 12 USC 1787(c)(3); 26 USC 401(d); 26 USC 408(a); 26 USC 408(h)

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This new Interpretive Ruling clarifies that FCU's may offer self-directed Individual Retirement Accounts and Keogh accounts and act as the custodians of such accounts.

Timetable:

Action	Date	FR Cite
Final Action	11/14/85	50 FR 48176

Small Entity: No

Agency Contact: Steven Bisker/Yvonne Gilmore, Assistant General Counsel/Staff Attorney, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA69

3777. ● INTERPRETIVE RULING AND POLICY STATEMENT 85-3 ASSUMPTION OF REAL ESTATE LOANS BY NONMEMBERS

Legal Authority: 12 USC 1757(5)(A)(i)

CFR Citation: Not applicable

Legal Deadline: None

Abstract: This Interpretive Ruling allows FCU's to authorize a nonmember to assume the outstanding balance and maturity of a mortgage loan in conjunction with the purchase of the member's principal residence.

Timetable:

Action	Date	FR Cite
Final Action	12/12/85	50 FR 51840

Small Entity: No

Agency Contact: Steven R. Bisker, Assistant General Counsel, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1030

RIN: 3133-AA70

3778. ● REPORT OF CRIME OR CATASTROPHIC ACT

Legal Authority: 12 USC 1766

CFR Citation: 12 CFR 748

Legal Deadline: None

Abstract: The revised rule provides a new criminal referral form for use by federally insured credit unions in reporting suspected criminal activity to Federal authorities.

Timetable:

Action	Date	FR Cite
Final Action	12/31/85	50 FR 53294

Small Entity: No

Agency Contact: D. Michael Riley, Director, Office of Examination and Insurance, National Credit Union Administration, 1776 G Street, NW, Washington, DC 20456, 202 357-1140

RIN: 3133-AA71

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Nuclear Regulatory Commission

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NRC

NUCLEAR REGULATORY COMMISSION

10 CFR Ch. I

Regulatory Agenda

AGENCY: Nuclear Regulatory Commission.

ACTION: Semiannual publication of NRC regulatory agenda.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing its semiannual Regulatory Agenda in accordance with Pub. L. 96-354, "the Regulatory Flexibility Act," and Executive Order 12291, "Federal Regulations." The Agenda is a compilation of all rules on which the NRC has recently completed action or has proposed, or is considering action. This issuance updates any action occurring on rules since publication of the last semiannual Agenda on October 29, 1985 (50 FR 44992).

ADDRESSES: Comments on any rule in the Agenda may be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Comments may also be hand delivered to Room 1131, 1717 H Street, N.W., Washington, D.C. between 8:15 a.m. and 5:15 p.m. Comments received on rules for which the comment period has closed will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before the closure dates specified in the Agenda.

The Agenda and any comments received on any rule listed in the Agenda are available for public inspection, and copying at a cost of five cents per page, at the Nuclear Regulatory Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555. Single copies of the NRC Quarterly Agenda can be purchased from the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, D.C. 20013-7082. Customers may call (202) 275-2060 or (202) 275-2171.

FOR FURTHER INFORMATION CONTACT: For further information concerning NRC rulemaking procedures or the status of any rule listed in this Agenda, contact John D. Philipe, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone (301) 492-7086. Persons outside the Washington, D.C. metropolitan area may call toll-free: (800) 368-5642. For further information on the substantive content of any rule listed in the Agenda, contact the individual listed under the heading "Agency Contact" for that rule.

SUPPLEMENTARY INFORMATION: Although publication of the Agenda is only required semiannually in April and October, the NRC has chosen to update and publish its Agenda each quarter. However, the information contained in this semiannual publication is updated to reflect any action which has occurred on rules since publication of the last NRC semiannual Agenda on October 29, 1985 (50 FR 44992).

Organization of the Agenda

The information in this Agenda has been updated through March 14, 1986. The date included under the heading "timetable," for next scheduled action indicates the date the rule is scheduled to be published in the **Federal Register**. The date is considered tentative and is not binding on the Commission or its staff. This Regulatory Agenda is intended to provide increased notice and opportunity for public participation in the NRC rulemaking process. The NRC may, however, consider or act on any rulemaking even if it is not included in the Regulatory Agenda.

Rulemakings Approved by the Executive Director for Operations (EDO)

The Executive Director for Operations (EDO) initiated a procedure for the review of the regulations being prepared by staff offices that report to him to ensure that staff resources were being allocated to achieve most effectively NRC's regulatory priorities. This procedure requires EDO approval before staff resources may be expended on the development of any new rulemaking. Furthermore, all existing rules must receive EDO approval prior to the commitment of additional resources.

Rules that have received EDO approval to date are identified by the symbol (+) at the beginning of the title. As additional rules receive EDO approval, they will be identified in subsequent editions of this Agenda. Those unpublished rules whose further development has been terminated will be noted in this edition of the Agenda and deleted from subsequent editions. Rules whose termination was directed subsequent to publication of a notice of proposed rulemaking will be removed from the Agenda after publication of a notice of withdrawal.

The NRC Agenda lists rulemaking actions. Of these, no rulemaking items are considered to be priority or major as defined in section 1(b) of Executive Order 12291.

Nine rules potentially will have a "significant economic impact on a substantial number of small entities" as defined in the Regulatory Flexibility Act.

Dated at Bethesda, Maryland this 14th day of March 1986.

For the Nuclear Regulatory Commission.

Donnie H. Grimsley,

Director, Division of Rules and Records, Office of Administration.

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3779	+ Definition of High-Level Radioactive Waste (HLW) in 10 CFR Part 60	3150-AB69

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Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3780	Revision to Ex Parte and Separation of Functions Rules Applicable to Formal Adjudicatory Proceedings	3150-AC18
3781	Revised Rules of Practice for Domestic Licensing Proceedings	3150-AB88
3782	Regulatory Reform of the Rules of Practice and Rules for Licensing of Production and Utilization Facilities	3150-AB04
3783	Rules of Practice for Domestic Licensing Proceedings: Role of NRC Staff in Adjudicatory Licensing Hearings	3150-AB42
3784	+ Licensing Requirements for the Storage of Spent Fuel and High- Level Radioactive Waste	3150-AB70
3785	Availability of Official Records	3150-AC07
3786	Security Requirements for Category II Material at Fixed Sites	3150-AC10
3787	Rules of Practice for Domestic Licensing Proceedings-- Procedural Changes in Hearing Process	3150-AC22
3788	Retention Periods for Records	3150-AB43
3789	+ Standards for Protection Against Radiation	3150-AA38
3790	Effectiveness of an Initial Decision Directing Issuance or Amendment of a Power Reactor License or Permit	3150-AC15
3791	Residual Radioactive Contamination Limits for Decommissioning	3150-AC21
3792	+ Proposed Revisions to the Criteria and Procedures for the Reporting of Defects and Noncompliance	3150-AA68
3793	+ Posting Requirements for the Protection of Contractor Employees and Extension of Criminal Penalties	3150-AC06
3794	+ Access Authorization for Licensee Personnel: Implementation of National Security Decision Directive (NSDD) 84, "Safeguarding National Security Information"	3150-AB80
3795	+ Emergency Preparedness for Fuel Cycle and Other Radioactive Materials Licensees	3150-AA41
3796	Licensing of Sources and Devices	3150-AB34
3797	+ Financial Responsibility of Materials Licensees for Cleanup After Accidental and Unexpected Releases	3150-AB58
3798	Informal Hearing Procedures for Materials Licenses Proceedings	3150-AB83
3799	Requirements for Notification of NRC of Cases of Bankruptcy Filing	3150-AC16
3800	Safety Requirements for Industrial Radiographic Exposure Devices	3150-AC12
3801	+ Uranium Mill Tailings Regulations: Ground Water Protection and Other Issues	3150-AB56
3802	+ Emergency Core Cooling Systems; Revisions to Acceptance Criteria	3150-AA44
3803	Modification of the Policy and Regulatory Practice Governing the Siting of Nuclear Power Reactors	3150-AA49
3804	Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors	3150-AA86
3805	Radon 222 Estimate for Table S-3	3150-AA87
3806	Station Blackout	3150-AB38
3807	Deletion of the Unusual Event Emergency Classification	3150-AB84
3808	Safety Related and Important to Safety in 10 CFR Part 50	3150-AB88
3809	Broad Scope Modification of General Design Criterion 4 Requirements For Protection Against Dynamic Effects of Postulated Pipe Ruptures	3150-AC05
3810	Part 51; Conforming Amendments	3150-AC04
3811	+ Elimination of Inconsistencies between NRC Regulations and EPA Standards	3150-AC03
3812	+ Financial Responsibility Standards for Long Term Care for Low Level Waste Disposal Sites	3150-AB57
3813	+ Special Nuclear Material Physical Inventory Summary Reports	3150-AB26
3814	+ Rule to Amend the Transportation Provisions Pertaining to the Shipment of Low Specific Activity (LSA) Material	3150-AB33
3815	Seismic and Geologic Siting Criteria for Nuclear Power Plants	3150-AA51
3816	+ Nuclear Regulatory Commission Acquisition Regulations	3150-AC01
3817	Disposal of Low-Level Radioactively Contaminated Waste Oil from Nuclear Power Plants	3150-AC14

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3818	Procedures Involving the Equal Access to Justice Act: Implementation	3150-AA01
3819	Separation of Functions and Ex Parte Communications in On-the-Record Adjudications	3150-AA00
3820	Licensing and Regulatory Policy and Procedures for Environmental Protection; Alternative Site Reviews	3150-AA03
3821	Possible Amendments to "Immediate Effectiveness" Rules	3150-AA04
3822	Modifications to the NRC Hearing Process (Limited Interrogatories and Factual Basis for Contentions)	3150-AA05
3823	Commission Review Procedures for Power Reactor Construction Permits; Immediate Effectiveness Rule	3150-AA55
3824	Adjudications -- Special Procedures for Resolving Conflicts Concerning the Disclosure or Nondisclosure of Information	3150-AB78
3825	Criteria for Reopening Records in Formal Licensing Proceedings	3150-AB79
3826	+ Nondiscrimination on Basis of Age in Federally Assisted Commission Programs	3150-AA06
3827	+ Nondiscrimination on the Basis of Sex - Title IX of the Education Amendments of 1972, as Amended	3150-AB53
3828	+ Nondiscrimination on the Basis of Handicap in Nuclear Regulatory Commission Programs	3150-AB54
3829	+ Improved Personnel Dosimeter Processing	3150-AA39
3830	Adjustment to Fee Schedule Publication	3150-AC00
3831	Residual Contamination in Smelted Alloys	3150-AA10

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Final Rule Stage—Continued

Sequence Number	Title	Regulation Identifier Number
3832	Decommissioning Criteria for Nuclear Facilities	3150-AA40
3833	+ Radiation Surveys and In-House Inspection Systems in Radiography	3150-AB12
3834	+ Medical Use of Byproduct Material	3150-AA73
3835	+ Licenses and Radiation Safety Requirements for Well-logging Operations	3150-AB35
3836	+ Material Balance Reports	3150-AB82
3837	Fitness for Duty of Personnel with Access to Nuclear Power Plants	3150-AA27
3838	+ Safeguards Requirements for Nonpower Reactor Licensees Possessing Formula Quantities of Strategic Special Nuclear Material	3150-AA30
3839	+ Mandatory Property Insurance for Decontamination of Nuclear Facilities	3150-AA47
3840	Notice and Comment on, Procedures for State Consultation on, and Standards for Making Determinations about Whether License Amendments Involve No Significant Hazards Considerations	3150-AA61
3841	Operators' Licenses	3150-AA88
3842	Personnel Access Authorization Program (Part of Insider Package)	3150-AA90
3843	Protection of Contractor Employees	3150-AB07
3844	+ Communications Procedures Amendments	3150-AB61
3845	Consideration of Earthquakes in the Context of Emergency Preparedness	3150-AB75
3846	+ Limited Scope Modification to GDC 4 Requirements for Protection Against Postulated Pipe Ruptures	3150-AB76
3847	Explanation to Table S-3 Uranium Fuel Cycle Environmental Data	3150-AA31
3848	+ Disposal of High Level Radioactive Wastes in Geologic Repositories: Procedural Amendments	3150-AB47
3849	Material Control and Accounting Requirements for Licensees Possessing Formula Quantities of Strategic Special Nuclear Material	3150-AA50
3850	+ Miscellaneous Amendments Concerning Physical Protection of Nuclear Power Plants (Part of Insider Rule Package)	3150-AA36
3851	+ Modification of Protection Requirements for Spent Fuel Shipments	3150-AA96
3852	+ Searches of Individuals at Power Reactor Facilities (Part of Insider Package)	3150-AB17
3853	+ Reporting Requirements for Safeguards Events	3150-AB46
3854	+ Criteria for an Extraordinary Nuclear Occurrence	3150-AB01
3855	Export and Import of Nuclear Equipment and Material	3150-AC20

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3856	Change in Region II Telephone Number	3150-AC13
3857	Regional Licensing Program; Fort St. Vrain Nuclear Generating Station	3150-AC23
3858	Statement of Organization and General Information	3150-AC19
3859	Hybrid Hearing Procedures for Expansions of Onsite Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors	3150-AB19
3860	Production or Disclosure in Response to Subpoenas or Demands of Courts or Other Authorities	3150-AB63
3861	Minor Clarifying Amendments	3150-AC06
3862	Miscellaneous Amendments	3150-AC11
3863	+ Revised Criteria and Procedures for Determining Eligibility for Access or Control Over Special Nuclear Material	3150-AB99
3864	+ Conforming Amendments to Prenotification, Quality Assurance, and Package Monitoring Requirements	3150-AB51
3865	Residual Radioactive Contamination Limits for Decommissioning	3150-AB52
3866	General Statement of Policy and Procedure for Enforcement Actions	3150-AC09
3867	Certification of Industrial Radiographers	3150-AA43
3868	Patient Dosage Measurement	3150-AA12
3869	+ Uranium Mill Tailings Regulations: Conforming NRC Requirements to EPA Standards	3150-AB50
3870	Technical Specifications for Nuclear Power Reactors	3150-AA22
3871	Design and Other Changes in Nuclear Power Plant Facilities After Issuance of Construction Permit	3150-AA46
3872	Revision of Backfitting Process for Power Reactors	3150-AA59
3873	Extension of Criminal Penalties	3150-AA80
3874	Codes and Standards for Nuclear Power Plants (1983 Edition, Winter 1982 through Summer 1984 Addenda)	3150-AA83
3875	General Design Criterion on Human Factors	3150-AB13
3876	Refinement of Emergency Planning Regulations	3150-AB48
3877	Limiting The Use of Highly Enriched Uranium in Domestic Research and Test Reactors	3150-AB60
3878	Specific Exemptions	3150-AB93
3879	Physical Protection Requirements for Independent Spent Fuel Storage Installations (ISFSI's)	3150-AB27

NUCLEAR REGULATORY COMMISSION (NRC) — Prerule Stage

3779. + DEFINITION OF HIGH-LEVEL RADIOACTIVE WASTE (HLW) IN 10 CFR PART 60

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 60

Abstract: This advance notice of proposed rulemaking (ANPRM) seeks to revise the definition of HLW in Part 60 to reflect certain changes in the legal definition of HLW contained in the Nuclear Waste Policy Act of 1982. Because of the complex issues involved in revising the definition of HLW, which affects virtually the entire radioactive waste management system, the staff is proposing an ANPRM rather than a proposed rule. A revision of the definition of HLW would affect DOE's plans for a geologic repository, State plans for regional compacts to manage low-level waste, Federal vs. State responsibility for some above Class C wastes, costs of waste disposal for certain waste generators, and the development of new technologies and facilities to dispose of certain types of wastes. A definition of HLW which reduces uncertainty about responsibility for different types of wastes would benefit the radioactive waste management system. NRC staff time for processing this rule is estimated to be 4 staff years. Alternatives to rulemaking would be to take no action or request Congress to amend the NWPA. The rulemaking would eliminate uncertainty and reduce costs for the public, industry, and NRC.

Timetable:

Action	Date	FR Cite
ANPRM	03/01/86	

Small Entity: No

Agency Contact: Clark Prichard, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 427-4506

RIN: 3150-AB89

NUCLEAR REGULATORY COMMISSION (NRC) — Proposed Rule Stage

3780. ● REVISION TO EX PARTE AND SEPARATION OF FUNCTIONS RULES APPLICABLE TO FORMAL ADJUDICATORY PROCEEDINGS

Legal Authority: 5 USC 554 (d); 5 USC 557(d)

CFR Citation: 10 CFR 0; 10 CFR 2

Abstract: The proposed rule would amend the Commission's regulations dealing with ex parte communications and separation of adjudicatory and nonadjudicatory functions in formal adjudicatory proceedings to update the agency's rules of practice and to incorporate requirements imposed by the Government in the Sunshine Act. Changes are proposed in both the form and the substance of the existing rules to clarify their meaning and to aid agency adjudicatory officials to maintain effective communication with NRC staff personnel and persons outside the agency while at the same time ensuring that proceedings will be conducted fairly and impartially. This proposed rule would supersede a prior proposed rule entitled, "Ex Parte Communications and Separation of Adjudicatory and Non Adjudicatory Functions," (3150-AA00) published March 7, 1979 (44 FR 12428).

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: No

Agency Contact: Paul Bollwerk, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 202 634-3224

RIN: 3150-AC18

3781. REVISED RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 5841; 5 USC 552

CFR Citation: 10 CFR 0; 10 CFR 1; 10 CFR 2; 10 CFR 9; 10 CFR 50

Abstract: The Nuclear Regulatory Commission is proposing an amendment that would revise its procedural rules governing the conduct of all adjudicatory proceedings, with the exception of export licensing proceedings. The proposed rule would comprehensively restate current practice, retitle the hearing office, and revise and reorganize the Commission's procedural rules. The changes set out in this proposed rule are intended to enable the Commission to render decisions in a more timely fashion and reduce the burden and expense to the parties participating in the proceedings.

Timetable:

Action	Date	FR Cite
NPRM	05/01/86	
Final Action	09/01/86	

Small Entity: No

Agency Contact: B. Paul Cotter, Jr., Nuclear Regulatory Commission, Atomic Safety and Licensing Board Panel, Washington, DC 20555, 301 492-7787

RIN: 3150-AB66

3782. REGULATORY REFORM OF THE RULES OF PRACTICE AND RULES FOR LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 2; 10 CFR 50

Abstract: This proposed rule would amend thirty-three sections of two parts affecting the hearing process associated with the issuance of all NRC licenses. Streamlining the hearing process would ultimately provide cost savings to all participants in the process. However, intervenors may initially be required to provide more information than is now required at some added expense.

In the screening process, the most significant changes would (1) establish a screening Atomic Safety and Licensing Board (ASLB) to act as a clearinghouse for all requests for hearings, petitions for leave to intervene, and proposed contentions, (2) require a participant in a hearing to show that he or she has an interest to protect in the proceeding, and (3) require evidence of a factual dispute for a contention to be admitted.

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During the conduct of hearings, the most significant changes would (1) not hear discovery requests requiring the staff to support positions other than its own, (2) permit the ASLB to decide the case on the basis of written material, (3) permit the ASLB to appoint a panel of technical experts if needed, (cont)

Timetable:

Action	Date	FR Cite
ANPRM	04/12/84	49 FR 14690
ANPRM Comment Period End	06/11/84	49 FR 14690

Next Action Undetermined

Small Entity: No

Additional Information: ABSTRACT CONT: (4) allow presiding officers to raise issues on their own motion (sua sponte) only in unusual cases, (5) allow summary disposition motions to be filed at any stage of the proceeding, (6) allow the Commission to designate a hearing examiner in lieu of a three-member ASLB, and (7) require the filing of cross examination plans.

During the decision-making process, the most significant changes would (1) remove the ASLB as an independent appeal board but place it organizationally directly under the Commission to review, as before, ASLB decisions, and give its recommendations to the Commission, (2) allow any generic issue resolved in an initial licensing proceeding to be codified, allowing a 45 day comment period (3) allow an intervenor to participate in discussing only those items he or she introduced, and (4) reinstate the immediate effectiveness of an ASLB decision on an operating license, construction permit, or work authorization. The proposals, submitted by the Commission's Regulatory Reform Task Force suggest ways to improve the reactor licensing process.

Agency Contact: James R. Tourtellotte, Nuclear Regulatory Commission, Regulatory Reform Task Force, Washington, DC 20555, 202 634-1461

RIN: 3150-AB04

3783. RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS: ROLE OF NRC STAFF IN ADJUDICATORY LICENSING HEARINGS

Legal Authority: 42 USC 2201; 42 USC 2231

CFR Citation: 10 CFR 2

Abstract: The role of the NRC staff in initial proceedings was among the issues discussed in an enclosure to a January 2, 1985, memorandum to the Chairman of the House Subcommittee on Energy and Water Development from Chairman Palladino. This discussion stated that the Commission has decided that the NRC's role in these proceedings should not be changed. Therefore, the action proposed by this advance notice of proposed rulemaking will be terminated.

The Commission is considering amending its Rules of Practice concerning what role the NRC staff should have in adjudicatory licensing hearings to most effectively contribute to the protection of the public health and safety. This notice invites public comments and suggestions on four options and related questions, briefly described below. Option 1 would limit staff participation in contested initial licensing proceedings to only those controverted factual issues it disagrees with on a technical basis or rationale. Option 2 would require (cont)

Timetable:

Action	Date	FR Cite
ANPRM	11/02/83	48 FR 50550
ANPRM Comment Period Extended	01/03/84	48 FR 54243
ANPRM Comment Period End	01/03/85	48 FR 50550

Next Action Undetermined

Small Entity: No

Additional Information: ABSTRACT CONT: the NRC staff to supply the Commission and the Licensing Board with its view and analyses on every substantive issue raised in an initial licensing proceeding but would prohibit the staff's participation in any procedural matter. Option 3 would retain status quo, i.e., the NRC staff would participate as full party on all issues. Option 4 would expand public involvement in the prehearing stage of initial licensing proceedings, and this option could be used in conjunction with any of the first three options. The staff would subsequently address each substantive issue raised in the Safety Evaluation Report.

Alternatives to rulemaking could include a policy statement or no action, depending on the option chosen. The possible means of addressing this issue through rulemaking are discussed above. The effects of the rulemaking, including benefits and costs, will depend on the option chosen. NRC resources needed for this rulemaking are estimated at 500 staff hours.

Agency Contact: James R. Tourtellotte, Nuclear Regulatory Commission, Regulatory Reform Task Force, Washington, DC 20555, 301 492-7678

RIN: 3150-AB42

3784. + LICENSING REQUIREMENTS FOR THE STORAGE OF SPENT FUEL AND HIGH- LEVEL RADIOACTIVE WASTE

Legal Authority: 42 USC 2021; 42 USC 2071; 42 USC 2073; 42 USC 2077; 42 USC 2093; 42 USC 2095; 42 USC 2099; 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2234; 42 USC 2236; 42 USC 2237; 42 USC 2282

CFR Citation: 10 CFR 2; 10 CFR 19; 10 CFR 20; 10 CFR 21; 10 CFR 51; 10 CFR 70; 10 CFR 72; 10 CFR 73; 10 CFR 75; 10 CFR 150

Abstract: The proposed rule will revise existing regulations to cover specific licensing requirements for the storage of spent nuclear fuel and high-level radioactive waste in a monitored retrievable storage installation (MRS). This revision, required by the Nuclear Waste Policy Act, is intended to ensure that the Commission has in place the appropriate regulations to fulfill the requirements contained in the Nuclear Waste Policy Act of 1982 concerning the licensing of facilities which could be part of the MRS program.

Paragraph (d) of Section 141 of the NWPA provides that any monitored retrievable storage installation pursuant to Section 141 shall be subject to licensing by the Commission. The Commission could await further development of the MRS option before proposing its MRS rules. However, this approach could result in unnecessary delay in reviewing a license application if congress authorizes construction of an MRS. The Department of Energy (DOE) is required to complete a detailed study of the need for and feasibility of a MRS installation. In a proposal to be submitted to Congress on or before June 1, 1985, DOE must (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/31/86	
Final Action	10/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: include the establishment of a federal program for the siting, development, construction, and operation of facilities capable of storing spent fuel and high-level radioactive waste. Site specific designs, specifications, and cost estimates must also be included in the proposal.

Agency Contact: William R. Pearson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7663

RIN: 3150-AB70

3785. AVAILABILITY OF OFFICIAL RECORDS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2

Abstract: The proposed amendment would conform the NRC's regulations pertaining to the availability of official records to existing case law and agency practice. The purpose of the amendment is to reaffirm that the terms of 10 CFR 2.790 (c) provide submitters of information a qualified right to have their information returned upon request. This amendment informs the public of three exceptions to the right to withdraw pursuant to 10 CFR 2.790 (c) of the NRC's regulations, i.e., information submitted in a rulemaking proceeding that subsequently forms the basis for the final rule, information which has been made available to an advisory committee or was received at an advisory committee meeting, and information that is subject to a pending Freedom of Information Act request.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Paul Bollwerk, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 202 634-3224

RIN: 3150-AC07

3786. ● SECURITY REQUIREMENTS FOR CATEGORY II MATERIAL AT FIXED SITES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2; 10 CFR 70; 10 CFR 73

Abstract: The proposed rule would amend the physical protection requirements for special nuclear material of moderate strategic significance (Category II) at fixed sites. Since the publication of Category II safeguards regulations in 1979, there have been several terrorist acts which involved coordinated actions against separate targets, showing an ability and willingness by at least some adversary groups to plan their attacks in advance and to closely coordinate and execute simultaneous acts by geographically separated parties. While there is no available evidence of such acts being directed against US nuclear facilities, multiple thefts of Category II material could result in the accumulation of a quantity of material of high strategic significance.

The proposed amendments would increase physical protection requirements for those Category II licensees who possess SSNM, including those licensees who possess a formula quantity but implement only Category II requirements because their fuel is irradiated to at least 100 rem/hr at three feet. The amendments also limit the use of the 100 rem/hr exemption to a (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/28/86	
Final Action	12/31/86	

Small Entity: No

Additional Information: ABSTRACT CONT: reduction of one physical protection category with no reduction below the requirements of low strategic significance (Category III). In addition, minor conforming amendments are also being proposed for Parts 2 and 70. The alternatives considered were requiring improvements for only one or two of the three major functions of the security system and continuing with status quo.

The benefit of the proposed rule is that it is designed to make the measures used to protect Category II quantities of high enriched uranium, plutonium, and uranium-233 more resistant to attempted theft of material by external adversaries as well as by a single internal adversary. The proposed requirements will result in an estimated cost of $6,700 to $11,600 to each affected licensee initially and $1,600 to $2,900 annually thereafter. About 0.8 staff years will be expended in completing the proposed rule.

Agency Contact: Carl Withee, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safe guards, Washington, DC 20555, 301 492-4768

RIN: 3150-AC10

3787. RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS-- PROCEDURAL CHANGES IN HEARING PROCESS

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 5841

CFR Citation: 10 CFR 2

Abstract: The Nuclear Regulatory Commission (NRC) is proposing amendments to its rules of practice which address the following aspects of the hearing process: admission of contentions, discovery against NRC staff, use of cross examination plans, timing of motions for summary disposition and limitations on matters and issues that may be included in proposed findings of fact or conclusions of law or in an appellate brief submitted by a person who does not have the burden of proof or who has only a limited interest in the proceeding. These proposals were initially developed by the Regulatory Reform Task Force and published for public comment. The NRC is also proposing related amendments on the process of intervention that were developed by Commissioner Asselstine.

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Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: George Eysmontt, Nuclear Regulatory Commission, Regulatory Reform Task Force, Washington, DC 20555, 202 634-3362

RIN: 3150-AC22

3788. RETENTION PERIODS FOR RECORDS

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 4; 10 CFR 11; 10 CFR 21; 10 CFR 25; 10 CFR 30; 10 CFR 31; 10 CFR 32; 10 CFR 34; 10 CFR 35; 10 CFR 40; 10 CFR 50; 10 CFR 60; 10 CFR 61; 10 CFR 70; 10 CFR 71; ...

Abstract: This proposed rule would establish a specific retention period for certain NRC-required records. It would also provide a uniform standard acceptable to the NRC for the condition of a record throughout a specified retention period. Further, the rule would establish throughout NRC regulations, with some exceptions, uniform retention periods of three years, five years, ten years, and the life of a license. This rule would bring NRC regulations into compliance with the Office of Management and Budget's (OMB) regulation (5 CFR 1320.6) that requires a specified retention period for each required record. It also implements NRC's 1982 commitment to OMB to establish a record retention period of determinable length for each required record.

Amending twenty one parts of NRC regulations to specify clearly what records to retain, how long to retain them, and the condition of a record useful for NRC inspection, will be mutually beneficial to applicants and licensees and to the NRC.

Recordkeeping labor for NRC's approximately 6,700 licensees who would be affected by the rule can be divided into four functions: (1) preparing the report, (2) storing the report, (3)

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	08/00/87	

Small Entity: No

Additional Information: ABSTRACT CONT: files, and (4) retrieving the report information.

The principal savings to the licensee, dispersed over the period licensed, would be in physical storage space and associated storage equipment and materials. The burden of recordkeeping would be reduced approximately 10 percent annually for these licensees by the proposed rule. An estimated 466,323 hours associated with recordkeeping or $28,000,000 annually would be saved. Preparing and publishing this rule would cost NRC approximately 500 hours of staff time at $60 per hour for an estimated total of $30,000.

Agency Contact: R. Stephen Scott, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-8585

RIN: 3150-AB43

3789. + STANDARDS FOR PROTECTION AGAINST RADIATION

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2095; 42 USC 2111; 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2273; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 20

Abstract: Radiation protection philosophy and technology have changed markedly since the present Part 20 was promulgated nearly thirty years ago. Since Part 20 contains the NRC standards for protection against radiation which are used by all licensees and affects exposures of workers and members of the public, it should be the most basic of the NRC regulations. However, because the present Part 20 has become outdated, most radiation protection actions occur through licensing actions independent of Part 20. A complete revision is necessary to provide better assurance of protection against radiation; establish a clear health protection basis for the limits; reflect current information on health risk, dosimetry, and radiation protection practices and experience; provide NRC with a health protection base from which it may consider other regulatory actions taken to protect public health; be consistent with recommendations of world authorities (ICRP); and apply to all licensees in a consistent manner.

Alternatives to the complete revision considered were no action delay for further guidance; and partial revision of the standards. They were rejected as ignoring scientific (cont)

Timetable:

Action	Date	FR Cite
ANPRM	03/20/80	45 FR 18023
ANPRM Comment Period End	06/18/80	45 FR 18023
NPRM	12/20/85	50 FR 51992
NPRM Comment Period End	05/12/86	51 FR 1092
Final Action	04/00/88	

Small Entity: Yes

Additional Information: ABSTRACT CONT: advancements; being unresponsive to international and national guidance; and correcting only some of the recognized problems with the present Part 20. Benefits would include updating the regulations to reflect contemporary scientific knowledge and radiation protection philosophy; implementing regulations which reflect the ICRP risk-based rationale; reducing lifetime doses to individuals receiving highest exposures; implementing provisions for summation of doses from internal and external exposures; providing clearly identified dose limits for the public; providing understandable health-risk base for protection; and placing constraints on collective dose evaluations at levels where risks are trifles.

Initial estimates of the cost of implementing the revision is about $23 million the initial year and about $7 million in subsequent years. This cost does not include any savings which might also be realized by the revision.

Agency Contact: Robert E. Alexander, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 427-4370

RIN: 3150-AA38

3790. ● EFFECTIVENESS OF AN INITIAL DECISION DIRECTING ISSUANCE OR AMENDMENT OF A POWER REACTOR LICENSE OR PERMIT

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 5841

CFR Citation: 10 CFR 2

Abstract: The Nuclear Regulatory Commission proposed to amend its regulation that specifies when an initial adjudicatory decision authorizing the issuance or amendment of a license or

permit becomes effective. Changes are proposed to simplify the existing rule and to delete language in the regulations emanating from Three Mile Island related regulatory policies, action upon which has not been completed. This proposed rule will supersede two prior proposed rules entitled "Possible Amendments to "Immediate Effectiveness' Rules," published May 22, 1980 (45 FR 34279), and "Commission Review Procedures for Power Reactor Construction Permits; Immediate Effectiveness Rule," published October 25,1982 (47 FR 47260).

Timetable:

Action	Date	FR Cite
NPRM	03/01/87	

Small Entity: No

Agency Contact: Paul Bollwerk, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 202 634-3224

RIN: 3150-AC15

3791. RESIDUAL RADIOACTIVE CONTAMINATION LIMITS FOR DECOMMISSIONING

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 20

Abstract: The proposed rule would establish residual radioactive contamination limits (including induced and other volumetric radioactivity as well as removable and fixed surface contamination) which must be met before structures and lands can be released on an unrestricted, unregulated basis. Structures and lands with residual radioactive contamination below these limits would be eligible for unrestricted release without regulatory restrictions from a radioactivity standpoint.

The proposed amendments are necessary to provide licensees with quantitative criteria to use during decommissioning relative to cleanup of structures and lands intended to ensure that structures and lands used in NRC licensed facilities and activities will be decontaminated in a manner that adequately protects public health before being released on an unrestricted, unregulated basis.

Timetable:

Action	Date	FR Cite
NPRM	12/31/86	
Final Action	12/31/87	

Small Entity: Undetermined

Agency Contact: Don F. Harmon, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 427-4566

RIN: 3150-AC21

3792. +PROPOSED REVISIONS TO THE CRITERIA AND PROCEDURES FOR THE REPORTING OF DEFECTS AND NONCOMPLIANCE

Legal Authority: 42 USC 2201; 42 USC 2282; 42 USC 5841; 42 USC 5846

CFR Citation: 10 CFR 21; 10 CFR 50

Abstract: This proposed rule would amend Part 21 and sec. 50.55(e) both of which require the reporting of safety defects by licensees. This effort was prompted by TMI Action Plan Task II.J.4 and has as its main objectives: (1) elimination of duplicate reporting among all requirements, (2) consistent reporting among all reporting requirements, (3) establishment of uniform and clear definitions for defects which need to be reported, (4) establishment of uniform time limits within which a defect must be reported and evaluated and, (5) establishment of uniform content for reporting of defects.

Approximately 450 to 500 reports are issued annually under Part 21 and sec. 50.55 (e) respectively. The reports identify plant-specific safety concerns and potential generic safety concerns for further NRC followup. These reports form the basis for numerous NRC bulletins and information notices.

This proposed rulemaking will reduce the potential for duplicate reporting and evaluation that now exists and will establish a more coherent regulatory framework that is expected to reduce industry and NRC burden in this area without(cont)

Timetable:

Action	Date	FR Cite
NPRM	03/01/86	
Final Action	09/01/86	

Small Entity: No

Additional Information: ABSTRACT CONT: sacrificing safety effectiveness. Alternatives to this approach varied from establishment of a single rule for all reporting to maintaining a status quo for defect reporting. All alternatives were rejected since they would not result in any substantial improvement to the present regulatory framework.

Current costs of reporting under Part 21 and section 50.55 (e) are estimated at $12,400,000 annually for industry and $2,900, 000 annually for NRC evaluations . It is anticipated that industry reporting burden with the proposed rulemaking will be reduced by 36,800 hours or $2,208,000 while NRC burden should be increased by $100,000. Additional burden to industry and NRC, while minimal, is anticipated in the areas of adherence to time schedules, and enforcement, recordkeeping respectively.

Agency Contact: Robindra N. Singh, Nuclear Regulatory Commission, Office of Inspection and Enforcement, Washington, DC 20555, 301 492-4149

RIN: 3150-AA68

3793. + POSTING REQUIREMENTS FOR THE PROTECTION OF CONTRACTOR EMPLOYEES AND EXTENSION OF CRIMINAL PENALTIES

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 21

Abstract: The proposed rule would combine the Extension of Criminal Penalties and Protection of Employees Who Provide Information into the above titled proposed rule. The proposed rule would require the posting of the provisions of section 223 (b) of the Atomic Energy Act of 1954, as amended, and section 210 of the Energy Reorganization Act which notify any individual director, officer, and employee of a firm constructing or supplying the components of a nuclear power plant of the provisions of section 223(b) and 210.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	06/00/87	

Small Entity: No

Agency Contact: Stanley P. Turel, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7925

RIN: 3150-AC08

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3794. + ACCESS AUTHORIZATION FOR LICENSEE PERSONNEL: IMPLEMENTATION OF NATIONAL SECURITY DECISION DIRECTIVE (NSDD) 84, "SAFEGUARDING NATIONAL SECURITY INFORMATION"

Legal Authority: 42 USC 2165; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 25

Abstract: The proposed rule would adopt revised National policy, initiated by the National Security Council and approved by the President, which prescribes that a new, standardized form titled "Classified Information Nondisclosure Agreement" (SF-189) be completed by all licensees who request NRC access authorization under Part 25. The proposed rule also requires that a security indoctrination be given to the affected individuals prior to completing the new form. These amendments are necessary in order to comply with National Security Decision Directive (NSDD) 84, "Safeguarding National Security Information."

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	
Final Action	05/00/86	

Small Entity: No

Agency Contact: Richard A. Dopp, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 427-4549

RIN: 3150-AB80

3795. + EMERGENCY PREPAREDNESS FOR FUEL CYCLE AND OTHER RADIOACTIVE MATERIALS LICENSEES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 70

Abstract: The proposed rule would require about 30 fuel cycle and other radioactive materials licensees to submit an emergency plan that would among other actions, require the notification of local authorities in case of an accident and that the licensee recommend protective actions for the public. The proposed rule is intended to further protect the public from accidental exposure to radiation. The affected licensees are those whose possession limits indicate the potential for an accident that could deliver a radiation dose offsite exceeding one rem effective dose equivalent or 5 rems to the thyroid or could cause a soluble uranium inhalation of 2 milligrams (a chemical toxicity hazard).

Timetable:

Action	Date	FR Cite
ANPRM	06/03/81	46 FR 29712
ANPRM Comment Period End	08/03/81	46 FR 29712
NPRM	03/01/86	
Final Action	01/31/87	

Small Entity: No

Analysis: Regulatory Impact Analysis

Agency Contact: Stephen A. McGuire, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7836

RIN: 3150-AA41

3796. LICENSING OF SOURCES AND DEVICES

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2071; 42 USC 2092

CFR Citation: 10 CFR 30; 10 CFR 32; 10 CFR 40; 10 CFR 70

Abstract: The NRC regulations clearly provide for pre-marketing approval of certain sealed sources of radioactive material and devices which incorporate those sources. Examples are: smoke detectors used under an exemption from regulations, gauges used under a general license, and certain medical devices used under specific license. The regulations are less clear with respect to pre-marketing approval of other products, e.g., industrial radiographic devices and in-plant gauging devices which are used under specific license. The proposed rule would clarify and formalize the procedures for manufacturers and distributors of sealed sources and devices to obtain pre-marketing approval of these other products. Consistent with present practice, the rule would require the applicant for approval to submit specified radiation safety information about the product for NRC's consideration. The proposed rulemaking would assure that all manufacturers/distributors (vendors) are informed of NRC's program for pre-marketing approval of sources and devices used under specific license. The rule, by improving communications with vendors, would assist timely and efficient (cont)

Timetable:

Action	Date	FR Cite
Final Action	06/00/87	

Small Entity: Yes

Additional Information: ABSTRACT CONT: consideration of radiation safety features of products and thus cause savings, primarily of an administrative nature, for vendors, users, and the NRC.

The EDO approved transfer from RES to NMSS, and continued activity on the rulemaking on November 29, 1985. The rule would require one staff year of effort.

Agency Contact: Vandy L. Miller, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4002

RIN: 3150-AB34

3797. + FINANCIAL RESPONSIBILITY OF MATERIALS LICENSEES FOR CLEANUP AFTER ACCIDENTAL AND UNEXPECTED RELEASES

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 61; 10 CFR 70; 10 CFR 72

Abstract: The advance notice of proposed rulemaking (ANPRM) seeks comments on the advisability of having NRC require a mechanism to assure financial capability on the part of certain NRC materials licensees (e.g., fuel fabricators and users of sealed radiation sources) to undertake prompt cleanup of accidental releases or contamination, both on and off site. Estimates for cleanup costs in the recent past have ranged up to $2 million for a single event. To date, cleanup has been conducted by the State or Federal government, but frequently public monies are used only after lengthy delays.

Use of an alternative, i.e., the 1980 Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), is effectively blocked by EPA policy. CERCLA provides funds for cleanup if the owner or operator is unable to do so and if the release is not covered by "Price-Anderson" provisions, which address liability and do not provide funds for cleanup per se. EPA maintains that NRC has full authority to require cleanup of accidental releases by licensees; thus, CERCLA public funds should not be used for this purpose. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	06/07/85	50 FR 20906
ANPRM Comment Period End	10/05/85	50 FR 20906
NPRM	04/01/87	
Final Action	04/30/88	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT:

Cost to licensees of the possible different financial assurance mechanisms is based on proprietary information. Staff is inviting comments in response to the ANPRM to address costs aspects, as well as scope of coverage and availability of alternative mechanisms. After evaluating the comments, the staff will recommend to the Commission if the rulemaking should continue. The estimated NRC resources necessary for the ANPRM in FY86 is 1.2 FTE.

Agency Contact: Mary Jo Seeman, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4647

RIN: 3150-AB58

3798. INFORMAL HEARING PROCEDURES FOR MATERIALS LICENSES PROCEEDINGS

Legal Authority: 42 USC 2201; 42 USC 2111

CFR Citation: 10 CFR 30; 10 CFR 32; 10 CFR 33; 10 CFR 34; 10 CFR 35; 10 CFR 40; 10 CFR 70; 10 CFR 71; 10 CFR 50; 10 CFR 61; 10 CFR 72

Abstract: This proposed rule, being prepared at Commission direction, would provide comprehensive treatment of hearing procedures to be implemented by the Commission for materials licensing proceedings. In addition, the proposed rule would encompass the objective of the proposed rule, "Jurisdiction of Adjudicatory Boards," identified as 3150-AA53 which is being deleted from OMB's Unified Agenda. There are no reasonable alternatives to rulemaking for implementing these informal hearing procedures. The procedures are expected to reduce the economic burden imposed on a participant in a proceeding.

Timetable:

Action	Date	FR Cite
NPRM	03/00/86	

Small Entity: No

Agency Contact: Paul Bollwerk, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 202 634-3224

RIN: 3150-AB83

3799. ● REQUIREMENTS FOR NOTIFICATION OF NRC OF CASES OF BANKRUPTCY FILING

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 50; 10 CFR 61; 10 CFR 70; 10 CFR 72

Abstract: The proposed rule would require licensees to notify the appropriate regional office of the NRC within a certain time period in the event of a bankruptcy proceeding involving the licensee. There is no action required of a licensee by these amendments unless and until a bankruptcy petition is filed. Notification of the NRC in cases of bankruptcy would alert the Commission so that it may deal with potential hazards to the public health and safety posed by a licensee that does not have the resources to properly handle licensed radioactive material or clean up possible contamination. Cases have occurred in which materials licensees have filed for bankruptcy and NRC has not generally been aware of this.

The net overall impact on industry of this rule should be negligible since this rule only consists of one additional notification beyond that already required by the United States Code and that is simply a notification of NRC by mail. The net effect on NRC should be a reduction in staff resources since it would put NRC in a better reactive mode for proceeding with(cont)

Timetable:

Action	Date	FR Cite
NPRM	05/15/86	
Final Action	04/30/87	

Small Entity: Yes

Additional Information: ABSTRACT CONT: necessary enforcement actions.

The benefit of the rule is that it will assist in protection of the public health and safety by reducing the risk of radiation exposure to the public and workers by enabling NRC to be aware of potential licensee problems in handling and disposing of radioactive materials caused by severe economic problems.

Agency Contact: Frank Cardile, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7815

RIN: 3150-AC16

3800. ● SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC EXPOSURE DEVICES

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233

CFR Citation: 10 CFR 34

Abstract: The proposed rule would amend the present regulations to establish performance standards for industrial radiography exposure devices. Overexposures of radiographers (and occasionally the general public) are more than double that of other radiation workers and have been a concern to the NRC for some time. Approximately 25-35% of the radiography overexposures are associated with equipment malfunction. The issue of safety requirements for these devices is a primary concern since the devices use relatively high intensity, high energy gamma-ray emitting sources with the potential for serious overexposures. Although a consensus standard for radiographic exposure devices was published in 1981, (American National Standard N432) it is not clear that all manufacturers are adopting the standard. The alternatives considered were to take no action at this time, adopt the consensus standard in the regulations, endorsing the consensus standard by a regulatory guide, and endorsing the consensus standard by reference in the regulations along with such other performance standards deemed necessary (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/31/88	

Small Entity: Yes

Additional Information: ABSTRACT CONT: and simultaneously issuing a regulatory guide in support of the proposed regulation.

The proposed rule would require licensees to modify radiographic

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devices to meet the performance standards through design changes and quality control procedures. Costs of incorporating the proposed standards are estimated to be of the order of $250,000 per year or approximately $230.00 per year per licensee. Determination of the monetary value of the benefits gained are difficult, but in view of the potential hazards involved in radiography incidents, the safety benefits far outweigh the costs involved. NRC resources required for processing this rule to final publication are estimated to be 0.4 person-years.

Agency Contact: Donald O. Nellis, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 427-4588

RIN: 3150-AC12

3801. + URANIUM MILL TAILINGS REGULATIONS: GROUND WATER PROTECTION AND OTHER ISSUES

Legal Authority: 42 USC 2201; 42 USC 5841; 42 USC 7901 Note

CFR Citation: 10 CFR 40

Abstract: The advance notice of proposed rulemaking seeks comment on NRC's tentative approach to making further amendments to its uranium mill tailings regulations. The contemplated rulemaking proceeding is intended to incorporate groundwater provisions and other requirements established by the Environmental Protection Agency for similar hazardous wastes into NRC regulations. This action is necessary to make NRC regulations consistent with EPA standards as required by the Uranium Mill Tailings Radiation Control Act. Alternatives to this action involve timing and scope.

Comments on th ANPRM will help define the nature and scope of the action. EPA has estimated that compliance with their groundwater standards and with the stability, radon release, and other requirements recently promulgated will cost the industry from about $310 million to $540 million for all tailings generated by the year 2000. The range depends on the eventual cost of groundwater protection for future tailings. The EPA regulations are binding on NRC licensees in the interim. Estimates of NRC resources are still being developed.

Timetable:

Action	Date	FR Cite
ANPRM	11/26/84	49 FR 46425
ANPRM Comment Period End	03/01/85	50 FR 2293
NPRM	05/23/86	
Final Action	04/22/87	

Small Entity: No

Agency Contact: Kitty S. Dragonette, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, D.C. 20555, 301 427-4300

RIN: 3150-AB56

3802. + EMERGENCY CORE COOLING SYSTEMS; REVISIONS TO ACCEPTANCE CRITERIA

Legal Authority: 42 USC 2132; 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2236; 42 USC 2239; 42 USC 2282; 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The proposed rule would amend regulations concerning acceptance criteria for emergency core cooling systems (ECCS) by changing the methods used to demonstrate that an ECCS would protect the nuclear reactor core during a loss-of-coolant accident. This action is proposed because research has shown that calculations performed under current requirements result in estimates of cooling system performance are significantly worse than estimates based on the improved knowledge gained from this research and because the operation of some nuclear reactors is being unnecessarily restricted. This results in increased cost of electricity generation. The proposed rule would allow use of the best information currently available to demonstrate that the ECCS would protect the reactor core during a loss-of-coolant accident. The proposed rule would apply to all applicants for and holders of construction permits for light water reactors.

Because the proposed rule represents a significant change in a regulatory requirement, the staff is currently preparing a summary of ECCS research performed over the last 10 years which will serve as the technical basis for the proposed rule (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/06/78	43 FR 57157
ANPRM Comment Period End	02/05/79	43 FR 57157
NPRM	06/00/86	
Final Action	06/00/87	

Small Entity: No

Additional Information: ABSTRACT CONT: and a regulatory guide which will provide definition of what constitutes an acceptable best estimate model and acceptable methods of performing the uncertainty evaluation. The estimated cost to the NRC of this rulemaking is 2-3 staff years and $200,000 of contractor support.

Agency Contact: L.M. Shotkin, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 427-4254

RIN: 3150-AA44

3803. MODIFICATION OF THE POLICY AND REGULATORY PRACTICE GOVERNING THE SITING OF NUCLEAR POWER REACTORS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 5842

CFR Citation: 10 CFR 50; 10 CFR 51; 10 CFR 100

Abstract: This rulemaking is intended to review and revise the Commission's siting regulations to reflect experience gained since the Commission's current reactor siting regulations were published on April 12, 1962 (27 FR 3509). Many developments in this period including work to establish a Commission safety goal and the ongoing review of reactor accident source terms, have brought into question both the existing regulations and their technical support. This rulemaking will resolve those questions.

In the present circumstances a lack of applications for new plants argue that these changes are not needed. However, the new information that is being developed and the lead time between the decision to site and the time when a reactor begins producing power commercially make it prudent for the Commission to address these changes in a timely manner.

The alternatives to rulemaking in this case are restricted to no action. If action is taken based on the new and more reliable data now becoming available, the regulations themselves must be changed. Intermediate remedies such as policy statements and regulatory guides would not have adequate authority to (cont)

Timetable:

Action	Date	FR Cite
ANPRM	07/29/80	45 FR 50350
NPRM	10/00/87	

Small Entity: No

Additional Information: ABSTRACT CONT: supplant existing regulations.

An advance notice of rulemaking was published seeking public comment on various approaches to this rulemaking. A proposed rule will be structured to achieve resolution of these comments and reflect information from the reactor accident source term review and the trial implementation period for the Safety Goal. These revised regulations will make the siting and review of power plants more predictable through application of clearer requirements.

There is no indication that the criteria would increase costs or have a significant adverse affect on safety. On the contrary, clear requirements will allow for more informed and more efficient siting decisions. This rulemaking would require additional NRC resources of approximately two staff years and minimal contract support. This rulemaking is presently on hold pending completion of the reactor accident source term review. A schedule for resumption of this activity is to be developed upon completion of the accident source term review.

Agency Contact: William R. Ott, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 427-4631

RIN: 3150-AA49

3804. PRIMARY REACTOR CONTAINMENT LEAKAGE TESTING FOR WATER-COOLED POWER REACTORS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 5841

CFR Citation: 10 CFR 50, Appendix J

Abstract: The proposed rule would update and revise the 1973 criteria for preoperational and periodic pressure testing for leakage of primary containment boundaries of water-cooled power reactors Problems have developed in application and interpretation of the existing rule. These result from changes in testing technology, test criteria, and a relevant national standard that needs to be recognized. It is proposed to revise the rule as noted to make it current and improve its usefulness.

The revision is urgently needed to resolve continuing conflicts between licensees and NRC inspectors over interpretations, current regulatory practice which is no longer being reflected accurately by the existing rule, and endorsement in the existing regulation of an obsolete national standard that was replaced in 1981.

The benefits anticipated include elimination of inconsistencies and obsolete requirements, and the addition of greater usefulness and a higher confidence in the leak-tight integrity of containment system boundaries under post-loss of coolant accident conditions. The majority of the effort needed by NRC to(cont)

Timetable:

Action	Date	FR Cite
NPRM	04/15/86	
Final Action	04/00/87	

Small Entity: No

Additional Information: ABSTRACT CONT: Issue the rule has already been expended.

Still remaining are presentation of the proposed rule for public comment and integration of appropriate public comments.

A detailed analysis of costs, benefits, and occupational exposures is available in the Public Document Room, and indicates possible savings to industry of $14 million to $300 million and an increase in occupational exposure of less than one percent per year per plant due to increased testing.

Agency Contact: Gunter Arndt, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7893

RIN: 3150-AA86

3805. RADON 222 ESTIMATE FOR TABLE S-3

Legal Authority: 42 USC 2201; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 50; 10 CFR 51

Abstract: In a Federal Register notice published on April 14, 1979, the Commission deleted the radon-222 value from Table S-3 because it was recognized to be underestimated. Pending rulemaking action to provide a new estimate for radon-222 in Table S-3, the environmental effects of radon are subject to litigation in individual nuclear power plant licensing proceedings. The purpose of the proposed rule would be to deal with this question generically for all nuclear power plants, thus saving the time and cost of repetitive consideration of the effects of radon-222 in individual power plant licensing proceedings.

The only alternative to generic treatment of the environmental impact of radon-222 is to continue to allow these environmental impacts to be brought into litigation in individual licensing cases. By the proposed rulemaking action, new estimates for the environmental releases of radon-222 will be added to Table S-3 and the narrative explanation of Table S-3 will be modified accordingly. By memorandum from the Secretary dated August 23, 1985, the Commission directed the staff to combine this rulemaking with the final rule to add the narrative explanation

Timetable:

Action	Date	FR Cite
U. S. Court of Appeals D.C. Circuit Invalidates Table S-3	04/27/85	

Next Action Undetermined

Small Entity: No

Additional Information: ABSTRACT CONT: Table S-3 and to incorporate technetium-99 into rulemaking effort. This will complete Table-S-3 and will remove all environmental impacts of the uranium fuel cycle from further consideration and litigation in individual nuclear power plant licensing cases.

However, the rulemaking to add a new radon-222 estimate could not proceed until EPA's new radon standards were established and NRC's uranium milling regulations were modified to conform to the new standards. On October 7, 1984, EPA promulgated new radon standards for inactive uranium mill sites and in October 1985, NRC published revised uranium milling regulations conforming

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to the new EPA standards. However, the matter is not yet completely settled, because EPA received in August 1985, a court order requiring them to establish radon standards for active uranium mills. Considering this further delay in making final estimates of total radon releases from uranium milling, the staff is preparing a Commission paper recommending that this rulemaking be dropped.

Agency Contact: William E. Thompson, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-8926

RIN: 3150-AA87

3806. STATION BLACKOUT

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: NRC is proposing to amend its regulations to require light water nuclear power plants to be capable of withstanding a total loss of alternating current (AC) electrical power, called Station Blackout, to the essential and nonessential switchgear buses for a specified duration. A proposed regulatory guide, to be issued at the same time as the proposed rule, would provide guidance on how to determine the duration.

The proposed requirements were developed in response to information generated by the Commission's study of Unresolved Safety Issue A-44, Station Blackout. The proposed rule is intended to provide further assurance that a loss of both off-site and emergency on-site electric AC power systems will not adversely affect the public health and safety.

A regulatory analysis has been prepared for the proposed rule. The estimated public risk reduction is 80,000 person-rem over 25 years, and the estimated total cost for industry to comply with the proposed rule is $40 million. This results in an overall cost benefit ratio of about 2,000 person-rem per million dollars.

The alternatives to this proposed rulemaking are to (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/31/86	
Final Action	12/30/86	

Small Entity: Not Applicable

Additional Information: ABSTRACT CONT: take no action or to provide only guidance for plants to be able to cope with a station blackout period. To take no action would not yield any reduction in public risk from station blackout events. To provide guidance only, since there is presently no requirement for nuclear power plants to be able to cope with a total loss of AC power, would not result in any basis for enforcement. The proposed rule is the recommended alternative based on its enforceability and, in part, on the favorable cost/benefit ratio.The staff discussed this proposal on 09/11/85 and 11/14/85 with the Commission. A decision by the Commission is necessary before the proposed rule can be issued for public comment.

Agency Contact: Alan Rubin, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-8365

RIN: 3150-AB36

3807. DELETION OF THE UNUSUAL EVENT EMERGENCY CLASSIFICATION

Legal Authority: 42 USC 2133; 42 USC 2234; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: The proposed rule would delete the "Unusual Events" emergency class from the Commission's emergency classification scheme. The current emergency classifications are: (1) notification of unusual events, (2) alert, (3) site area emergency and (4) general emergency. This emergency classification scheme has been used by the NRC, FEMA, licensees and State and local governments for at least four years. During this time, the Commission has noted that the reporting of unusual events not only significantly strains the NRC resources, but tends to establish a "cry wolf" syndrome with State and local governments. The NRC emergency operations center receives approximately 20 notifications of unusual events per week. The purposes of the unusual events offsite notifications are to (1) assure that the first step in any response later found to be necessary has been carried out, (2) bring the operating staff to a state of readiness, and (3) provide systematic handling of unusual events information and decision-making. All of these purposes are redundant to the purposes and required licensee actions associated with the "alert" classification. (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/31/86	
Final Action	06/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: One alternative to the proposed rule would be to not remove the unusual events classification. Another alternative simply would be to delete the unusual event from NUREG-0654. These alternatives would not satisfactorily accomplish the staff's objectives. The staff believes that the deletion of the "unusual events" classification would not impair or decrease the state of preparedness at nuclear power plants. The proposed change would require the NRC to approve revised emergency plans. However, the staff believes that the deletion of "unusual events" will represent a substantial savings to the industry both in dollars and in human resources, approximately one-half staff year per plant. The NRC resources expended through 1985 in order to develop this rulemaking will be approximately two staff-years, or $120,000 per year.

Agency Contact: Michael Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7815

RIN: 3150-AB84

3808. SAFETY RELATED AND IMPORTANT TO SAFETY IN 10 CFR PART 50

Legal Authority: 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The Nuclear Regulatory Commission proposes to clarify its regulations on the use of the terms "important to safety" and "safety related" by adding two new definitions to 10 CFR Part 50 and by discussing how these definitions will be applied in NRC licensing reviews. Significant issues concerning the meaning of these terms as they are used in this part have arisen in Commission licensing proceedings. This proposed rule would define these terms and clarify the nature and extent of their effect on quality assurance requirements, thereby resolving these issues. The rulemaking should not impact licensees or the public because it clarifies existing requirements. The additional burden on NRC to prepare and implement this rule will be very nominal because current practices will not be changed.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Stephen M. Goldberg, Nuclear Regulatory Commission, Office of Inspection and Enforcement, Washington, DC 20555, 301 492-4968

RIN: 3150-AB98

3809. BROAD SCOPE MODIFICATION OF GENERAL DESIGN CRITERION 4 REQUIREMENTS FOR PROTECTION AGAINST DYNAMIC EFFECTS OF POSTULATED PIPE RUPTURES

Legal Authority: 42 USC 2201; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The proposed broad scope modification of General Design Criterion 4 (GDC 4) would allow demonstration of piping integrity by analyses to serve as a basis for excluding consideration of dynamic effects associated with pipe ruptures. A proposed rule published July 1, 1985 (50 FR 27008) was limited to the primary loops of pressurized water reactors (PWRs), whereas this proposed rule would cover all high energy piping in all light water reactors (LWRs). The modification will permit the general but selective removal of pipe whip restraints and jet impingement shields from operating plants, plants under construction and future plant designs, but will not impact other design requirements.

The only alternatives to rulemaking would be the granting of partial exemptions to GDC 4 or reinterpretation of the text of the existing rule. The staff has, however expressed that extensive use of exemptions to authorize the elimination of pipe whip restraints is inappropriate. Therefore, it appears most appropriate to undertake rulemaking at this time.

Timetable:

Action	Date	FR Cite
NPRM	07/00/86	
Final Action	12/00/86	

Small Entity: No

Agency Contact: John A. O'Brien, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7854

RIN: 3150-AC05

3810. PART 51; CONFORMING AMENDMENTS

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 51; 10 CFR 60

Abstract: The proposed rule would provide procedures for performing an environmental review of High Level Waste geologic repositories. Part 51 contains no provisions for the environmental review of a license application for a HLW repository. The Nuclear Waste Policy Act of 1982 established requirements for environmental reviews which are at variance with the environmental review which NRC perform in licensing other types of nuclear facilities. This issue must be addressed in order to avoid delay in the U.S. HLW Program. The proposed rule would benefit the public, industry, and NRC by clarifying licensing procedures, thus avoiding case determinations and possible litigation during HLW geologic repository licensing. Minor revisions to Part 60 will be necessary to conform to the environmental requirements of the NWPA. Alternatives are to take no action, issue an ANPRM, or ask Congress for additional legislation.

Timetable:

Action	Date	FR Cite
NPRM	10/00/86	
Final Action	06/01/87	

Small Entity: No

Agency Contact: James R. Wolfe, Nuclear Regulatory Commission, Office of the Executive Legal Director, Washington, DC 20555, 301 492-8694

RIN: 3150-AC04

3811. + ELIMINATION OF INCONSISTENCIES BETWEEN NRC REGULATIONS AND EPA STANDARDS

Legal Authority: 42 USC 10101

CFR Citation: 10 CFR 60

Abstract: The Nuclear Waste Policy Act of 1982 directs NRC to promulgate criteria for the licensing of HLW geologic repositories. By section 121 (c), these criteria must not be inconsistent with standards to be developed by EPA for the disposal of HLW in deep geologic repositories. This proposed rule is needed in order to eliminate several inconsistencies with the EPA standards, thus fulfilling the statutory requirement. The EPA Standard is scheduled to be promulgated in August, 1985. The alternative is to ask Congress to amend the NWPA. The public, industry, and NRC will benefit from eliminating inconsistencies in Federal HLW regulations.

Timetable:

Action	Date	FR Cite
NPRM	05/01/86	
Final Action	01/15/87	

Small Entity: No

Agency Contact: Clark Prichard, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 427-4586

RIN: 3150-AC03

3812. + FINANCIAL RESPONSIBILITY STANDARDS FOR LONG TERM CARE FOR LOW LEVEL WASTE DISPOSAL SITES

Legal Authority: 42 USC 10171

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 61; 10 CFR 70; 10 CFR 72

Abstract: The proposed rule is designed to provide standards to ensure that each licensee responsible for the disposal of low-level radioactive waste possesses an adequate bond, surety, or other financial arrangement to insure completion of all requirements established by the Commission for decontamination, decommissioning, and site closure. Section 151 of the Nuclear Waste Policy Act authorizes the NRC to develop standards for financial arrangements for low-level radioactive waste site closure. Comments on the NPRM will define the nature and scope of the action.

Timetable:

Action	Date	FR Cite
NPRM	06/30/86	
Final Action	05/19/87	

Small Entity: No

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Agency Contact: Mary Jo Seeman, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4847

RIN: 3150-AB57

3813. + SPECIAL NUCLEAR MATERIAL PHYSICAL INVENTORY SUMMARY REPORTS

Legal Authority: 42 USC 5841

CFR Citation: 10 CFR 70

Abstract: With this proposed rule, previously entitled "Material Status Reports", the NRC is amending its regulations on special nuclear material control and accounting to require the reporting of summary results of physical inventories. These amendments would codify reporting of physical inventory data that has been provided voluntarily by licensees since 1975.

Since the affected licensees are already supplying this information voluntarily, there will be not additional costs to these licensees.

Timetable:

Action	Date	FR Cite
NPRM	03/31/86	
Final Action	10/00/86	

Small Entity: No

Agency Contact: Sandra Frattali, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7690

RIN: 3150-AB26

3814. + RULE TO AMEND THE TRANSPORTATION PROVISIONS PERTAINING TO THE SHIPMENT OF LOW SPECIFIC ACTIVITY (LSA) MATERIAL

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2111; 42 USC 2232; 42 USC 2233; 42 USC 2273; 42 USC 5842

CFR Citation: 10 CFR 71

Abstract: The proposed rule would define two classes of LSA materials with specified shipping or packaging requirements. The two classes represent a consolidation of five classes of LSA materials and surface contaminated objects (SCO) now in the 1985 regulations of the International Atomic Energy Agency (IAEA). In addition, the proposed rule provides special consideration for the inherent safety associated with the shipment of solid, nonflammable objects which are not dispersible in water. A new requirement of the amended rule would impose a dose rate limit on LSA materials. This requirement, which is philosophically consistent with the proposed IAEA regulations, is considered necessary to keep current and future LSA shipments within the envelope of safety originally conceived for such materials. This proposed rule would be responsive to PRM-71-1, PRM-71-2 and PRM-71-4. A new regulatory analysis is currently being developed by the staff which evaluated the financial impacts of having to close heavily traveled roads as a result of a large spill of LSA material.

Timetable:

Action	Date	FR Cite
NPRM	06/00/86	
Final Action	05/31/87	

Small Entity: Yes

Agency Contact: Donald R. Hopkins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7878

RIN: 3150-AB33

3815. SEISMIC AND GEOLOGIC SITING CRITERIA FOR NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 5842

CFR Citation: 10 CFR 100

Abstract: The advance notice of proposed rulemaking was published to solicit public comment on the need for a reassessment of the Commission's criteria for the siting of nuclear power plants. The Commission determined that this action was necessary as a result of experience gained with application of current criteria and the rapid advancement in the state of the art of earth sciences. The NRC staff was particularly interested in finding out about problems that have arisen in the application of existing siting criteria. The public was invited to state the nature of the problems encountered and describe them in detail. The public was also asked to submit proposed corrective actions. Two petitions for rulemaking filed with the Commission, PRM-50-20 and PRM-100-2 will be addressed as part of this rulemaking. The staff has initiated paperwork to withdraw this rulemaking.

Timetable:

Action	Date	FR Cite
ANPRM	01/19/78	43 FR 2729
NPRM	12/00/87	

Small Entity: No

Agency Contact: Leon L. Beratan, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 427-4378

RIN: 3150-AA51

3816. + NUCLEAR REGULATORY COMMISSION ACQUISITION REGULATIONS

Legal Authority: 42 USC 2201

CFR Citation: 48 CFR 20

Abstract: The proposed rule would implement and supplement 48 CFR, Federal Acquisition Regulation (FAR) System and specify those agency policies, procedures, contract clauses, solicitation provisions, and forms governing the contracting process. In publishing the proposed rule, the NRC will comply with P.L. 98-577 and the FAR 1.303 which requires that agency regulations be published in the Federal Register and codified in 48 CFR. The proposed rule will enable prospective contractors to become familiar with NRC contracting regulations and enable the preparation of contractual documents which protect the interest of the NRC. NRC resources needed for this rulemaking are estimated at 1,120 staff hours at an estimated cost of $67,200.

Timetable:

Action	Date	FR Cite
NPRM	03/31/86	
Final Action	09/30/86	

Small Entity: No

Agency Contact: Edward L. Halman, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-4219

RIN: 3150-AC01

3817. ● DISPOSAL OF LOW-LEVEL RADIOACTIVELY CONTAMINATED WASTE OIL FROM NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 20

Abstract: The proposed rule, which is in partial response to a petition filed by Edison Electric Institute and Utility Nuclear Waste Management Group (PRM-20-15) would amend NRC regulations to specify the criteria and limits to allow on-site incineration of waste oil. Currently, the only approved disposal method for low-level radioactively contaminated waste oil from nuclear power plants involves absorption or solidification, transportation to, and burial at a licensed disposal site. There is an urgent need for alternative disposal methods which are most cost-effective from a radiological health and safety standpoint and, at the same time, conserve limited disposal capacity at low-level waste burial sites. Both the public and industry, increased savings to ratepayers without undue risk to the public health, and conservation of limited disposal capacity at low-level waste burial sites. Alternatives to rulemaking are to maintain the status quo or to wait until the Environmental Protection Agency develops Federal guidance on acceptable levels of residual radioactivity which may be released on an unrestricted basis. There would be an (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/30/86	
Final Action	12/31/87	

Small Entity: No

Additional Information: ABSTRACT CONT: estimated industry-wide economic savings of approximately $1.3 million to $2.6 million per year. It is estimated that approximately 0.3 person years of NRC staff time will be required to process this proposed rule.

Agency Contact: Don F. Harmon, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 427-4566

RIN: 3150-AC14

NUCLEAR REGULATORY COMMISSION (NRC) — Final Rule Stage

3818. PROCEDURES INVOLVING THE EQUAL ACCESS TO JUSTICE ACT: IMPLEMENTATION

Legal Authority: 5 USC 504

CFR Citation: 10 CFR 1; 10 CFR 2

Abstract: The proposed rule provides new provisions intended to implement the Equal Access to Justice Act (EAJA). The provisions would provide for the payment of fees and expenses to certain eligible individuals and businesses that prevail in adjudications with the agency when the agency's position is determined not to have been substantially justified. The basis for these proposed regulations is a set of model rules issued by the Administrative Conference of the United States (ACUS) that have been modified to conform to NRC's established rules of practice. The proposed rule would further the EAJA's intent by insuring the development of government-wide "uniform" agency regulations and by providing NRC procedures and requirements for the filing and disposition of EAJA applications. A final draft rule was sent to the Commission in June 1982, but Commission action has been suspended pending a decision by the Comptroller General on the availability of funds to pay awards to intervenor parties. The decision from the Comptroller General has been rendered and is currently the subject of litigation.(cont)

Timetable:

Action	Date	FR Cite
NPRM	10/29/81	46 FR 53189
NPRM Comment Period End	11/28/81	46 FR 53189

Next Action Undetermined

Small Entity: No

Additional Information: ABSTRACT CONT:

Additionally, in August 1985, the President signed into law an enactment renewing the EAJA after its expiration under a statutory sunset requirement. This legislation, Pub. L. No. 99-80 contains revisions to the EAJA that are being evaluated to determine whether further conforming changes may be necessary in the proposed rule.

Agency Contact: Paul Bollwerk, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 202 634-3224

RIN: 3150-AA01

3819. SEPARATION OF FUNCTIONS AND EX PARTE COMMUNICATIONS IN ON-THE-RECORD ADJUDICATIONS

Legal Authority: 5 USC 554; 5 USC 557

CFR Citation: 10 CFR 2

Abstract: The proposed rule would amend the Commission's rules of practice regarding the separation of functions and ex-parte communications in on-the-record adjudications. The proposed rule would allow the Commission greater flexibility in communicating with its staff by relaxing the restrictions on Commission-staff communications in initial licensing cases. The proposal would permit Commissioners to consult with staff members who were not personally involved in the proceeding and who did not consult privately with interested persons outside the agency. The proposed rule is intended to provide the Commission with better access to the expertise of its staff. It would conform the Commission's rules to those of the Administrative Procedures Act. It would also supersede a prior proposed rule entitled "Ex Parte Communications and Separation of Adjudicatory and Non-Adjudicatory Functions" published in the Federal Register on March 7, 1979 (44 FR 12428).

The issues encompassed in this rule were considered in the "Regulatory Reform Proposal Concerning the Rules of Practice and Rules for Licensing of Production and Utilization Facilities" (49 FR 14698). As a result of staff evaluation of comments (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/07/79	44 FR 12428

Next Action Undetermined

Small Entity: No

Additional Information: ABSTRACT CONT: received on this proposal and further staff review, a rule addressing

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these issues is being proposed for Commission consideration.

NRC resources needed for this rulemaking are estimated at 500 staff hours. This proposed rule and other regulatory reform hearing process should ultimately provide cost savings to all participants in the process.

Agency Contact: James R. Tourtellotte, Nuclear Regulatory Commission, Regulatory Reform Task Force, Washington, DC 20555, 202 634-1461

RIN: 3150-AA00

3820. LICENSING AND REGULATORY POLICY AND PROCEDURES FOR ENVIRONMENTAL PROTECTION; ALTERNATIVE SITE REVIEWS

Legal Authority: 42 USC 2201; 42 USC 4332; 42 USC 5841

CFR Citation: 10 CFR 2; 10 CFR 50; 10 CFR 51

Abstract: The proposed rule would focus on six major issues associated with alternative site selection for nuclear power plants: (1) information requirements, (2) timing, (3) region of interest, (4) selection of candidate sites, (5) comparison of the proposed sites with alternative sites, and (6) reopening of the alternative site decision. The proposed rule would provide procedures and performance criteria for reviewing alternative sites for nuclear power plants under the National Environmental Policy Act of 1969 (NEPA). The proposal is intended to stabilize alternative site review of a license application by codification of the lessons learned in past and recent review of nuclear power plant sites into an environmentally sensitive rule. The proposed rule would develop understandable written NRC review and decision making criteria to permit a rational and timely decision concerning the sufficiency of the alternative site analysis.

Alternatives to this rulemaking would include publishing a policy statement or regulatory guide or withdrawing the proposed rule. Each of these alternatives would be less efficient than completing the rulemaking. The provisions of the proposed (cont)

Timetable:

Action	Date	FR Cite
NPRM	04/09/80	45 FR 24168
NPRM Comment Period End	06/09/80	45 FR 24168
Final Action	03/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: rule provide a flexible and reasoned approach to siting that would facilitate license review and make decisions more predictable. Confusion and controversy over this issue would be reduced. There would be no significant impact on costs other than savings that would result from greater certainty regarding the Commissions requirements. NRC resources necessary to complete this rulemaking are minimal. Approximately two-man months of staff time will be required to finalize this rule if the Commission decides to complete the rulemaking.

After considering the comments on the proposed rule, the Commission published a final rule on May 28, 1981 (46 FR 28630). That final rule addressed the sixth issue, reopening the construction permit or early site review stages insofar as it relates to operating license proceedings. The proposed rule is being withdrawn from the agenda.

Agency Contact: William R. Ott, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 427-4615

RIN: 3150-AA03

3821. POSSIBLE AMENDMENTS TO "IMMEDIATE EFFECTIVENESS" RULES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2; 10 CFR 50

Abstract: The proposed rule indicates that the Commission is considering five alternative amendments to the "immediate effectiveness" rule for construction permit proceedings. Under the original "immediate effectiveness" rule (36 FR 828, January 19, 1971) construction of a nuclear power plant could begin on the basis of an initial decision by the Atomic Safety and Licensing Board (ASLB) even though that decision was subject to further review by the Commission. The Commission is concerned that the rule often prevented it from reviewing a case until construction was well underway and that this might have (1) allowed commitment of large sums of money to altering sites before a final decision was made on site-related issues and (2) promoted piecemeal review rather than promoting early resolution of all licensing issues to be considered. Present rules provide for limited review of ASLB decisions by the Atomic Safety and Licensing Appeal Board (ASLAB) and the Commission prior to issuance of construction permits.

This proposed rule would help to determine whether NRC should return to the former "immediate effectiveness" rule or adopt one of the following alternatives:(1) require the ASLAB (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/22/80	45 FR 34279
Interim Final Rule	03/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: to make a separate ruling on the question of effectiveness, or (2) require final ASLAB and Commission decisions on the merits of certain construction-related issues prior to authorizing issuances of the construction permit; (3) require final ASLAB and Commission decisions on the merits of all issues prior to authorizing issuances of the construction permit; and, return to the former "immediate effectiveness" rule, but relax the standards for obtaining a stay of the ASLAB decisions.

The public comment period on the "Regulatory Reform Proposal Concerning the Rules of Practice and Rules for Licensing of Production and Utilization Facilities" (49 FR 14698) closed June 11, 1984. As a result of staff evaluation of these comments and further staff review of the "immediate effectiveness" issues, a rule is being proposed that will supersede this proposed rule and another entitled, "Commission Review Procedures for Power Reactor Construction Permits; Immediate Effectiveness Rule."

Agency Contact: Paul Bollwerk, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 202 634-3224

RIN: 3150-AA04

3822. MODIFICATIONS TO THE NRC HEARING PROCESS (LIMITED INTERROGATORIES AND FACTUAL BASIS FOR CONTENTIONS)

Legal Authority: 42 USC 2239

CFR Citation: 10 CFR 2

Abstract: The proposed rule would expedite conduct of NRC adjudicatory proceedings by requiring intervenors in formal NRC hearings to set forth the facts on which contentions are based and the sources or documents used to establish those facts and limit the number of interrogatories that a party may file in an NRC proceeding. The proposed rule would expedite the hearing process by, among other things, requiring intervenors to set forth at the outset the facts upon which their contention is based and the supporting documentation to give other parties early notice of intervenor's case so as to afford opportunity for early dismissal of contentions where there is no factual dispute. Expediting the hearing process should ultimately provide cost savings to all participants in the process. The content of this rule is being considered as part of the regulatory reform rulemaking package.

Timetable:

Action	Date	FR Cite
NPRM	06/08/81	46 FR 30349
ANPRM Regulatory Reform Rule	04/12/84	49 FR 14698

Next Action Undetermined

Small Entity: No

Agency Contact: James Tourtellotte, Nuclear Regulatory Commission, Regulatory Reform Task Force, Washington, DC 20555, 202 634-1461

RIN: 3150-AA05

3823. COMMISSION REVIEW PROCEDURES FOR POWER REACTOR CONSTRUCTION PERMITS; IMMEDIATE EFFECTIVENESS RULE

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 2

Abstract: The proposed rule would amend the immediate effectiveness rule with regard to rules of practice for granting a power reactor construction permit to conform to those for granting an operating license. It (1) would retain the requirement that the Commission conduct a limited review of an Atomic Safety and Licensing Board's decision to grant a construction permit pending completion of administrative appeals and (2) would delete the requirement that an Atomic Safety and Licensing Appeal Board conduct a similar review. The proposed rule would not affect the separate Appeal Board and Commission appellate reviews of the merits of Licensing Board decisions. It would reduce somewhat the time required for administrative review of construction permit decisions while retaining direct Commission oversight prior to permit issuance.

The comment period closed November 24, 1982. Nine comments were received. Half of the comments favored the proposed rule while half opposed it. This proposed rule does not preclude further action on five alternatives for amending the "Immediate effectiveness" rule presented in an earlier notice on (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/25/82	47 FR 47260
NPRM Comment Period End	11/24/82	47 FR 47260

Next Action Undetermined

Small Entity: No

Additional Information: ABSTRACT CONT: May 22, 1980 (45 FR 34279).

The public comment period on the "Regulatory Reform Proposal Concerning the Rules of Practice and Rules for Licensing of Production and Utilization Facilities" (49 FR 14698) closed June 11, 1984. As a result of staff evaluation of these comments and further staff review of the "immediate effectiveness" issues, a rule is being proposed that will supersede this proposed rule and another entitled, "Possible Amendments to 'Immediate Effectiveness' Rules."

Agency Contact: Paul Bollwerk, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 202 634-1465

RIN: 3150-AA55

3824. ADJUDICATIONS -- SPECIAL PROCEDURES FOR RESOLVING CONFLICTS CONCERNING THE DISCLOSURE OR NONDISCLOSURE OF INFORMATION

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 5841

CFR Citation: 10 CFR 2

Abstract: The Nuclear Regulatory Commission is considering amending its rules of practice to provide special procedures for resolving conflicts concerning the disclosure or nondisclosure of information relating to an NRC investigation or inspection or provided by a confidential source and deemed relevant and material to an adjudication. Prepared at the express direction of the Commission, the proposed amendments apply to all NRC offices that have information relevant and material to an adjudication.

The proposed amendments provide for ex parte in camera presentations and follow guidance contained in the Commission's recent statement of policy on investigations, inspections, and adjudicatory proceedings.

Timetable:

Action	Date	FR Cite
NPRM	05/22/85	50 FR 21036
NPRM Comment Period End	08/23/85	50 FR 30446
Final Action	05/00/87	

Small Entity: No

Agency Contact: Jane R. Mapes, Nuclear Regulatory Commission, Office of the Executive Legal Director, Washington, DC 20555, 301 492-8695

RIN: 3150-AB78

3825. CRITERIA FOR REOPENING RECORDS IN FORMAL LICENSING PROCEEDINGS

Legal Authority: 42 USC 2201; 42 USC 2231; 42 USC 2241; 42 USC 5841

CFR Citation: 10 CFR 2

Abstract: The Nuclear Regulatory Commission is considering amending its regulations to codify and refine NRC case law criteria for reopening a closed evidentiary record in a formal licensing proceeding. This rulemaking would affect any party who wishes to reopen an evidentiary record .

Timetable:

Action	Date	FR Cite
NPRM	12/27/84	49 FR 50189
NPRM Comment Period End	02/11/85	49 FR 50189
Final Action	03/00/86	

Small Entity: No

Agency Contact: Carole F. Kagan, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 202 634-1483

RIN: 3150-AB79

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3826. + NONDISCRIMINATION ON BASIS OF AGE IN FEDERALLY ASSISTED COMMISSION PROGRAMS

Legal Authority: 42 USC 6101

CFR Citation: 10 CFR 4

Abstract: The proposed rule would implement the provisions of the Age Discrimination Act of 1975, as amended. The proposed amendment makes it unlawful for any recipient of Federal financial assistance to discriminate on the basis of age in programs or activities receiving Federal financial assistance from the NRC. The Act also contains certain exceptions that permit, under limited circumstances, continued use of age distinctions or factors other than age that may have a disproportionate effect on the basis of age. The Act applies to persons of all ages. The proposed rule is necessary to comply with the Age Discrimination Act of 1975, which directs that all Federal agencies empowered to provide Federal financial assistance issue rules, regulations, and directives consistent with standards and procedures established by the Secretary of Health and Human Services (HHS). NRC's proposed and final regulations have been modeled after those HHS guidelines as published in 45 CFR 90. (cont)

Timetable:

Action	Date	FR Cite
NPRM	09/21/81	46 FR 46582
NPRM Comment Period End	11/20/81	

Next Action Undetermined

Small Entity: No

Additional Information: ABSTRACT CONT: A copy of the draft final regulations was transmitted to the Office of the General Counsel of the Civil Rights Division, HHS to comply with the requirement that final agency regulations not be published until the Secretary of HHS approved them. HHS has indicated its approval of the draft final rule in a letter transmitted to the NRC.

Public Compliance Cost: Initial Cost: $0; Yearly Recurring Cost: $0

Agency Contact: Edward E. Tucker, Nuclear Regulatory Commission, Office of Small and Disadvantaged Business Utilization/Civil Rights, Washington, DC, 301 492-7697

RIN: 3150-AA06

3827. + NONDISCRIMINATION ON THE BASIS OF SEX - TITLE IX OF THE EDUCATION AMENDMENTS OF 1972, AS AMENDED

Legal Authority: 42 USC 2201; 42 USC 5841; 20 USC 1681; 20 USC 1682; 20 USC 1683; 20 USC 1685; 20 USC 1686

CFR Citation: 10 CFR 4

Abstract: The proposed rule would implement the provisions of Title IX of the Education Amendments of 1972, as amended, that prohibit discrimination on the basis of sex in programs and activities receiving Federal financial assistance from the Nuclear Regulatory Commission. The proposed rule sets out the requirements necessary to comply with the legislation and the procedures to be followed by appropriate officials within the NRC in enforcing the requirements. The requirements of the proposed rule would apply to each recipient of Federal financial assistance from the NRC.

Timetable:

Action	Date	FR Cite
Final Action	06/00/87	

Small Entity: No

Analysis: Regulatory Analysis 02/00/84

Agency Contact: Edward E. Tucker, Nuclear Regulatory Commission, Office of Small and Disadvantaged Business Utilization, Civil Rights, Washington, DC 20555, 301 492-7697

RIN: 3150-AB53

3828. + NONDISCRIMINATION ON THE BASIS OF HANDICAP IN NUCLEAR REGULATORY COMMISSION PROGRAMS

Legal Authority: 42 USC 2021; 42 USC 2201; 42 USC 5841; 29 USC 794; 29 USC 706

CFR Citation: 10 CFR 4

Abstract: The proposed rule would provide for the enforcement of section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of handicap, in programs or activities conducted by the Nuclear Regulatory Commission. The proposed rule would make it unlawful for the NRC to discriminate, on the basis of handicap, in employment or the conduct of its activities. The proposed rule would place the same obligations on the NRC that are placed on the recipients of Federal financial assistance.

Timetable:

Action	Date	FR Cite
Final Action	06/00/87	

Small Entity: No

Agency Contact: Edward E. Tucker, Nuclear Regulatory Commission, Office of Small and Disadvantaged Business Utilization, Civil Rights, Washington, DC 20555, 301 492-7697

RIN: 3150-AB54

3829. + IMPROVED PERSONNEL DOSIMETER PROCESSING

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2095; 42 USC 2111; 42 USC 2134; 42 USC 2201; 42 USC 2273; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 20

Abstract: The notice of proposed rulemaking seeks comment on a proposal to add amendments to 10 CFR Part 20 that would improve the accuracy and consistency of reported occupational radiation dose measurement by requiring proficiency tests of dosimetry processors who perform dosimetry for NRC licensees. The proposed amendments would require NRC licensees to have personnel dosimeters (devices carried or worn by each radiation worker to measure radiation exposure received during work) processed by a dosimetry service that is accredited by NBS/NVLAP. The Commission considered five alternatives for establishing a regulatory program intended to improve personnel dosimetry processing. These alternatives included: no change in current requirements; requiring licensees to participate in performance testing without specifying a testing laboratory; requiring licensees to participate in performance testing conducted by an NRC-specified testing laboratory; a request from Congress for the authority for NRC to license personnel dosimetry processors directly; and requiring licensees to obtain dosimetry services from an NRC-operated or contracted dosimetry service. (cont)

Timetable:

Action	Date	FR Cite
ANPRM	03/28/80	45 FR 20493
ANPRM Comment Period End	06/27/80	45 FR 31118
NPRM	01/10/84	49 FR 1205
NPRM Comment Period End	03/12/84	49 FR 1205
Final Action	05/30/86	

Small Entity: Yes

Additional Information: ABSTRACT CONT:

An evaluation of estimated annual costs to the dosimetry processing industry resulting from an NRC rule requiring licensees to utilize dosimetry processors accredited under an NBS/NVLAP program was projected to be about $717,000. This would result in an estimated net annual increase in the cost of providing monitoring for each worker per year of $0.51, a 2.1% annual increase. The major benefit of the proposed rule would be increased accuracy and reliability of dose measurement to workers in licensed installations. Other benefits include continued assurance of personnel dosimeter processor competence with minimal NRC staff and resource allocation; formulation of a program that can easily be utilized by other agencies; value to the industrial licensee through legal credibility of a nationally-recognized accreditation program; and value to the worker through more accurate assignment of dose. The staff is currently analyzing the comments received on the NPRM.

Agency Contact: Don Nellis, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 427-4588

RIN: 3150-AA39

3830. ADJUSTMENT TO FEE SCHEDULE PUBLICATION

Legal Authority: 42 USC 2201; 42 USC 2165; 42 USC 5841; 31 USC 9701

CFR Citation: 10 CFR 25

Abstract: The final rule revises current regulatory requirements regarding the frequency of formal publication of changes to the Access Authorization Fees charged by NRC. Currently, section 25.17 states that revised fees will be published in the Federal Register during July of each year. A more accurate and efficient regulatory requirement would be to revise the access authorization fee schedule concurrent with the Office of Personnel Management's (OPM) notification to NRC of its background investigation rate changes since NRC's fees are wholly dependent on the rate charged by OPM.

Timetable:

Action	Date	FR Cite
Final Action	04/00/86	

Small Entity: No

Agency Contact: Richard A. Dopp, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-4124

RIN: 3150-AC00

3831. RESIDUAL CONTAMINATION IN SMELTED ALLOYS

Legal Authority: 42 USC 2021; 42 USC 2073; 42 USC 2077; 42 USC 2111; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 30; 10 CFR 32; 10 CFR 70; 10 CFR 150

Abstract: The proposed rule would exempt from licensing and regulatory requirements technetium-99 and low-enriched uranium as residual contamination in any smelted alloy. The proposed rule would remove the Commission's present specific licensing requirement that has the effect of inhibiting trade in and recycling of metal scrap contaminated with small amounts of these radioactive materials. This requirement also prevents recycling by the secondary metals industry of smelted alloys containing these two radioactive materials. The NRC issued the proposed rule in response to a Department of Energy request. A draft environmental statement for this action has been prepared.

Timetable:

Action	Date	FR Cite
NPRM	10/27/80	45 FR 70874
NPRM Comment Period End	12/11/80	45 FR 70874
Final Action	03/00/86	

Small Entity: No

Analysis: Draft Environmental Statement 10/27/80 (45 FR 20874)

Agency Contact: D. R. Hopkins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7878

RIN: 3150-AA10

3832. DECOMMISSIONING CRITERIA FOR NUCLEAR FACILITIES

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 30; 10 CFR 40; 10 CFR 50; 10 CFR 51; 10 CFR 70; 10 CFR 72

Abstract: The advance notice of proposed rulemaking sought comment on a proposal to develop a more explicit policy for decommissioning nuclear facilities. The proposal would provide more specific guidance on decommissioning criteria for production and utilization facility licensees and byproduct, source, and special nuclear material licenses. This action is intended to protect public health and safety and to provide the applicant or licensee with appropriate regulatory guidance for implementing and accomplishing nuclear facility decommissioning. Although it is planned to provide additional guidance through regulatory guides, it is necessary to amend the regulations in order to achieve appropriate assurances that funds for decommissioning will be available.

The major cost impact of the proposed rule would involve proper planning at all stages of nuclear facility operation. Proper planning includes providing for (1) financial assurance that funding will be available for decommissioning, (2) maintenance of records that could affect decommissioning, and (3) careful(cont)

Timetable:

Action	Date	FR Cite
ANPRM	03/13/78	43 FR 10370
NPRM	02/11/85	50 FR 5600
NPRM Comment Period End	07/12/85	50 FR 23025
Final Action	10/30/87	

Small Entity: Yes

Additional Information: ABSTRACT CONT: planning of procedures at the time of decommissioning. For non-reactor facilities affected by financial assurance requirements, it is estimated that the major impact will result in an aggregate expenditure of 21 staff-years ($1.6 million) spread over 5 years (or $320,000 per year).

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For the approximately 69 operating reactors plus 75 research and test reactors, it is estimated that the major impact will result in an aggregate expenditure of 3.8 staff-years ($266,000) spread over 3 years. These expenditures will ensure that adequate measures have been taken to protect the health and safety of occupational workers, the public, and the environment within the confines of optimum cost benefit consideration.

Analysis: Draft Environmental Statement 02/10/81 (46 FR 11666)

Agency Contact: Keith G. Steyer/Catherine Mattsen, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7910

RIN: 3150-AA40

3833. + RADIATION SURVEYS AND IN-HOUSE INSPECTION SYSTEMS IN RADIOGRAPHY

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 5841

CFR Citation: 10 CFR 34

Abstract: The proposed rule would require that the in-house inspection description in a radiography license application specify a method for inspecting each radiographer and radiographer's assistant's knowledge of applicable regulations, license conditions, and performance of established procedures at intervals not exceeding three months. This action is intended to further ensure that radiographic operations are conducted safely.

The cost of performing the inspection is estimated to be $120.00 per worker or $432,960 per year for the entire industry. There is no impact on the NRC staff. The proposed rule would also require a licensee to perform and record a radiation survey of a radiographic exposure device made when storing the device after use instead of recording the results of the radiation survey made after the last exposure. This action, which is taken in response to a petition for rulemaking (PRM-34-3) is intended to provide an acceptable propedure for assuring that the sealed source has been properly stored within the device.

Alternatives to rulemaking included the preparation of guidance recommending a time-of-storage survey in (cont)

Timetable:

Action	Date	FR Cite
NPRM	10/04/84	49 FR 39168
NPRM Comment Period End	11/18/84	49 FR 39168
Final Action	06/15/86	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: license condition. These approaches would not have a regulatory basis and also would not be adaptable by agreement states. Requiring an additional radiation survey at the time of storage provides additional assurance that accidental exposures will not occur to members of the public as well as workers.

The cost of this survey requirement to the entire industry is estimated to be $541,200 annually ($150.00 per radiographer). There are no additional recordkeeping costs. Impact on NRC staff is negligible since inspectors will review the time-of-storage survey record rather than the last use survey record. NRC staff time for processing this rule to final publication is estimated to be 0.4 staff years.

Twenty comments were received on the proposed rule, most of which were opposed to the three month inspection of radiographers with a roughly 50-50 split on the storage survey issue.

Agency Contact: Don F. Harmon, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 427-4506

RIN: 3150-AB12

3834. + MEDICAL USE OF BYPRODUCT MATERIAL

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 2232; 42 USC 2233

CFR Citation: 10 CFR 35

Abstract: The proposed rule would revise Part 35 to modify the process for licensing and regulating the medical use of radioactive byproduct material. Requirements that apply to medical licensees are scattered in the regulations, license conditions, the individual licensee's application, and licensing branch policy statements. The purpose of the proposed rule is to consolidate and codify the requirements in the regulation. This rule will result in a clearer understanding of NRC requirements for all medical licensees. This revision is necessary in order to provide a clear consolidated statement of requirement. The only way to impose requirements on all licensees is by license condition or regulation; therefore no alternative action was considered. Because most of the requirements contained in this regulation are currently imposed by regulation or license condition, there will be no significant cost savings or additional burden; the industry and NRC will benefit by having a clear, concise, complete regulation. The Commission approved publication of the proposed revision, but has some comments that need to be resolved before the proposed rule can be published for public comment. (cont)

Timetable:

Action	Date	FR Cite
NPRM	07/26/85	50 FR 30616
NPRM Comment Period End	11/18/85	50 FR 30616
Final Action	06/31/86	

Small Entity: Yes

Additional Information: ABSTRACT CONT:

A previously published proposed rule requiring that the activity of each radiopharmaceutical dosage be measured before it is administered to a patient has been incorporated into this proposed revision of Part 35. (See 46 FR 43840; September 1, 1981 - RIN 3150-AA12 Patient Dosage Measurement).

Analysis: Regulatory Impact Analysis

Agency Contact: Norman L. McElroy, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4108

RIN: 3150-AA73

3835. + LICENSES AND RADIATION SAFETY REQUIREMENTS FOR WELL-LOGGING OPERATIONS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 39

Abstract: The proposed rule would establish specific radiation safety requirements applicable to licensees who perform operations such as well-logging, mineral-logging, and subsurface use of radioactive materials in tracer studies. The proposed rule is necessary because current NRC regulations address these operations in a general way without providing the specific guidance necessary to ensure that these operations are performed safely. As an alternative to the status quo, the proposed rule would adopt the requirements similar to those in the suggested State Regulations for Control of Radiation Part W as new NRC regulations. The potential costs for industry to implement these requirements would be about $1,300,000/yr. However, because most of the requirement is already imposed by license conditions, the net increase in cost would be about $350,000 per year for the industry or about $2000 per licensee. The rule would establish a consistent, comprehensive set of the requirements that would minimize the effort required to obtain reciprocity for NRC licensees to operate in Agreement States or vice versa. The rule would require about one staff-year effort.

Timetable:

Action	Date	FR Cite
NPRM	04/08/85	50 FR 13797
NPRM Comment Period End	07/08/85	50 FR 13797
Final Action	06/30/86	

Small Entity: No

Agency Contact: Stephen McGuire, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7901

RIN: 3150-AB35

3836. + MATERIAL BALANCE REPORTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 40; 10 CFR 70; 10 CFR 150

Abstract: The rule amendments have been revised in response to public comments. The proposal to have licensees check and verify NRC generated inventory reports has been abandoned on the basis of licensee comments that such a system would be more burdensome to licensees and more susceptible to error. The revisions eliminate statements of material balance by licensees of source material unless the licensee possesses source material of foreign origin or reports under the US/IAEA Safeguards Agreement. The revised rules continue to eliminate the requirement for SNM licensees other than reactor licensees and those reporting under the agreement to submit composition of inventory reports (Form 742c). The reduction in burden for licensees is expected to total 1480 hours per year.

Timetable:

Action	Date	FR Cite
NPRM	05/10/85	50 FR 19695
NPRM Comment Period End	07/09/85	50 FR 19695
Final Action	03/00/86	

Small Entity: No

Agency Contact: June Robertson, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC, 301 427-4004

RIN: 3150-AB82

3837. FITNESS FOR DUTY OF PERSONNEL WITH ACCESS TO NUCLEAR POWER PLANTS

Legal Authority: 42 USC 2236; 42 USC 2237

CFR Citation: 10 CFR 50

Abstract: At a Commission meeting, October 17, 1984, the Commission directed the staff to draft a policy statement on programs for training and qualification in lieu of publishing this proposed "Fitness for Duty" rule and other proposed training and qualification amendments. On December 10, 1984, the NRC decided to separate the policy statement on fitness for duty from the policy statement on training and qualifications. Therefore, this proposed rule is being withdrawn. The policy is being established to allow power reactor applicants and licensees to develop and implement their own fitness-for-duty programs during a 2-year period. Nothing in the policy statement limits NRC's authority or responsibility to follow up on operational events or its enforcement authority when regulatory requirements are not met.

A proposed policy statement was submitted to the Commission on January 1, 1985, as SECY 85-21. A proposed fitness for duty withdrawal statement was submitted to the Commission on April 12, 1985, as SECY 85-21A. Finally, a staff position paper reaffirming the proposed policy statement was submitted to the Commission on August 26, 1985, as SECY 85-21B. SECY 85-21, 85-21A, and (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/05/82	47 FR 33980
NPRM Comment Period End	10/04/82	47 FR 33980

Next Action Undetermined

Small Entity: No

Additional Information: ABSTRACT CONT: and 85-21B await disposition by the Commission.

Agency Contact: Loren Bush, Nuclear Regulatory Commission, Office of Inspection and Enforcement, Washington, DC 20555, 301 492-9000

RIN: 3150-AA27

3838. + SAFEGUARDS REQUIREMENTS FOR NONPOWER REACTOR LICENSEES POSSESSING FORMULA QUANTITIES OF STRATEGIC SPECIAL NUCLEAR MATERIAL

Legal Authority: 42 USC 2071; 42 USC 2073; 42 USC 2133; 42 USC 2134; 42 USC 2152; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2236; 42 USC 2239; 42 USC 2273; 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50; 10 CFR 70; 10 CFR 73

Abstract: When the Commission approved the set of final physical protection requirements for fuel cycle facilities possessing formula quantities (five formula kilograms or more) of strategic special nuclear material (SSNM), they exempted nonpower reactors from these requirements and, instead specified a set of interim requirements. At that time the staff was directed to develop a set of permanent physical protection requirements for this class of nonpower reactors.

This rulemaking is needed: (1) to replace current interim regulations and establish permanent physical security requirements for nonpower reactor licensees who possess a nonexempt formula quantity of SSNM, (2) to provide protection against insiders, and (3) to arrange for a response by local law enforcement or other agencies in time to prevent a theft of a formula quantity.

The staff is using a performance-oriented regulatory approach which would give affected licensees flexibility in designing cost-effective measures for implementing the requirements of the

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final rule by allowing licensees to take advantage of existing

Timetable:

Action	Date	FR Cite
Interim Final Rule	11/26/79	44 FR 68199
NPRM	07/27/83	48 FR 34056
NPRM Comment Period End	11/28/83	48 FR 34056

Next Action Undetermined

Small Entity: No

Additional Information: ABSTRACT CONT: requirements at an estimated cost increase of $1,100 to $5,100 for improvements and $300 to $7,900 for annual operating costs per facility. Public comments on the new NPRM have been received and analyzed. Further action on this rule has been defaured based on a February 23, 1984 memorandum from the Office of the Secretary.

Public Compliance Cost: Initial Cost: $12,000; Yearly Recurring Cost: $21,000; Base Year for Dollar Estimates: 1983

Agency Contact: Carl J. Withee, Nuclear Regulatory Commission, Office of Nuclear Materials Safety and Safeguards, Washington, DC 20555, 301 427-4768

RIN: 3150-AA30

3839. + MANDATORY PROPERTY INSURANCE FOR DECONTAMINATION OF NUCLEAR FACILITIES

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 50

Abstract: The proposed rule would require an increase in the amount of on-site property damage insurance from the current minimum of $585 million to $1.02 billion. The NRC believes that such insurance should be required so that the financing and pace of cleanup following an accident does not become a public health and safety problem. Recent studies indicate that as much $1.00 billion may be required to cover on-site cleanup of the worst reactor accidents if inflation and other factors are included. Other issues addressed in the proposed rule are whether the Federal government can preempt State law that prohibits certain public utilities from buying insurance offered by mutual companies or requiring payment of a retrospective premium and whether a priority of payment of insurance proceeds for decontamination and cleanup can be imposed. Action in these areas is required for the same reason as imposition of general insurance requirements, i.e. to remove the financial aspects of recovery after an accident from having an adverse impact on public health and safety.

Alternatives to the proposed rule that were considered included (1) requiring a lower dollar amount and (2) not explicitly(cont)

Timetable:

Action	Date	FR Cite
ANPRM	06/24/82	47 FR 27371
ANPRM Comment Period End	09/22/82	47 FR 27371
NPRM	11/06/84	49 FR 44645
NPRM Comment Period End	02/07/85	49 FR 44645
Final Action	03/31/86	

Small Entity: No

Additional Information: ABSTRACT CONT: requiring insurance above that currently required but rather allowing the necessity for additional insurance to be determined by economic regulators at the State level.

The impact of the proposed rule on licensees would probably not be large. Most licensees currently purchase insurance in excess of $1.02 billion. Approximately 10 licensees would be required to carry more insurance than they otherwise would for an annual incremental premium cost of roughly $1 million per year. Thus the total impact of the rule would be approximately $10 million per year. The impact on the public would generally be positive in that public health and safety would be better protected. The impact on the NRC would be minimal with respect to increasing the amount of insurance. A decontamination priority, if it were invoked, could require additional hearings with attendant costs. One-half of a staff-year is required by OSP to continue the rulemaking, with minimal impact on other offices expected.

Agency Contact: Robert S. Wood, Nuclear Regulatory Commission, Office of State Programs, Washington, DC 20555, 301 492-8885

RIN: 3150-AA47

3840. NOTICE AND COMMENT ON, PROCEDURES FOR STATE CONSULTATION ON, AND STANDARDS FOR MAKING DETERMINATIONS ABOUT WHETHER LICENSE AMENDMENTS INVOLVE NO SIGNIFICANT HAZARDS CONSIDERATIONS

Legal Authority: 42 USC 2201; PL 97-415

CFR Citation: 10 CFR 2; 10 CFR 50

Abstract: The NRC is publishing a single final rule that combines the two interim final rules implementing, in part, PL 97-415. Modifications to the final rule are based on further staff review and evaluation of public comments received on the two rules. The rules were published on April 6, 1983 (48 FR 14868). They specify criteria for notice and public comment on, procedures for State consultation on, and standards for making determinations about whether amendments to operating licenses for certain facilities involve no significant hazards considerations. In addition, the rules specify procedures for consultation on these determinations with the State in which the facility of the licensee requesting the amendment is located. The rules permit the Commission to act expeditiously if circumstances surrounding a request for an amendment require prompt response and to issue an amendment before holding any required hearing, unless a significant hazards consideration is involved.

NRC has been receiving about 1,000 amendment requests per year. Since promulgation of the two interim final rules, about 98 percent of these have been deemed to involve no significant

Timetable:

Action	Date	FR Cite
Interim Final Rule	04/06/83	48 FR 14676
Final Action	03/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: rules have increased a licensee's burden in preparing an amendment request by an average of four to eight hours. The additional burden has usually been no more than four to eight hours. The additional burden has usually been no more than four hours. The rules have increased NRC's burden by an average of eight to sixteen hours on an amendment request. The additional burden has normally been no more than eight hours. Most of NRC's time is spent on reviewing a request and the rest on administrative tasks involved in preparing the request for publication in the Federal Register. Thus, implementation of the two rules has cost NRC per year about five or six professional staff years or about $300,000 to $360,000 not counting Federal Register publication costs.

Agency Contact: Thomas F. Dorian, Nuclear Regulatory Commission, Office of the Executive Legal Director, Washington, DC 20555, 301 492-8690

RIN: 3150-AA61

3841. OPERATORS' LICENSES

Legal Authority: 42 USC 2137; 42 USC 2201; 42 USC 5841; 42 USC 10226

CFR Citation: 10 CFR 50; 10 CFR 55

Abstract: The Nuclear Regulatory Commission was proposing to amend its regulations to (1) require each holder of and each applicant for a license to operate a commercial nuclear power plant to establish and use a systems approach in developing training programs and establishing qualifications requirements for civilian nuclear power plant operators, supervisors, technicians, and, as appropriate, operating personnel; (2) clarify the regulations for the issuance of licenses to operators and senior operators; (3) revise the requirements and scope of written examinations and operating tests for operators and senior operators; (4) codify procedures for the administration of requalification examinations; and (5) describe the form and content for operator license applications.

The proposed rulemaking was in response to Section 306 of the Nuclear Waste Policy Act of 1982. A regulatory analysis showed a public risk reduction of 268,000 person-rem at a cost of $240.4 million dollars resulting in a value/impact ratio of 1,100 person-rem/$million. Coordinated industry objections to the rulemaking were the subject of a Commission meeting on (cont)

Timetable:

Action	Date	FR Cite
NPRM	11/26/84	49 FR 46428
NPRM Comment Period End	02/24/85	
Final Action	05/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: April 9, 1984. Industry requested that the NRC issue a policy statement rather than a rule. Consequently, at an October 17, 1984, Commission meeting, the Commission directed the staff to publish the portion of the proposed rule revising 10 CFR Part 55 "Operators' Licenses," and to draft a Policy Statement on programs for training and qualification of nuclear power plant personnel. The proposed revision was published for comment on November 26, 1984, and the effective Policy Statement was published March 20,1985.

The Policy Statement replaces the portion of this proposed rule that would have added requirements to 10 CFR Part 50 on training and qualification of plant personnel. The training programs are to be developed and implemented by industry during a two-year period. The policy statement provides guidance regarding NRC's support of the industry-managed training accreditation program and states NRC's continuing responsibility to independently evaluate applicants' and licensees' implementation of training programs.

Agency Contact: Bruce Boger, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-4868

RIN: 3150-AA88

3842. PERSONNEL ACCESS AUTHORIZATION PROGRAM (PART OF INSIDER PACKAGE)

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50; 10 CFR 73

Abstract: The proposed rule would establish a personnel screening program for individuals requiring unescorted reactor facility access, thus providing increased assurance of the trustworthiness and emotional stability of a reactor site population. Study has indicated that disoriented or disgruntled employees (especially ones who might also be psychotic) at nuclear reactors are of primary safeguards concern because of their inside position. While the Commission has stated that at present it is satisfied with the level of safeguards in place at reactors, it approved publication of the proposed rule for public comment (49 FR 30728) as one means of further assuring protection of public health and safety. The public comment period concluded March 7, 1985. Extensive comments were received and analyzed.

Alternatives to rulemaking that were investigated, included endorsing an ANSI standard through a regulatory guide, issuing a policy statement that endorses industry developed guidelines, using staff position papers, and implementing license conditions. These alternatives were rejected because some would not produce and industry standardized program while other lacked (cont)

Timetable:

Action	Date	FR Cite
NPRM	06/01/84	49 FR 30726
NPRM Comment Period End	03/07/85	
Final Action	03/31/86	

Small Entity: No

Additional Information: ABSTRACT CONT: regulatory authority.

The proposed regulation will protect against the "insider" threat at reactors through the use of three components: (1) a background investigation to determine past history, (2) a psychological assessment to determine current emotional stability, and (3) a continual behavioral observation program to detect behavioral changes in an individual once granted unescorted access.

Primary benefit to the public and licensees is an increased assurance of the trustworthiness and emotional suitability of individuals working in a nuclear reactor environment. Benefits to the NRC result from the use of a codified program that assures that a uniform approach, meeting minimum requirements, will be applied in screening reactor personnel.

The net increase in cost per applicant and licensee in implementing this requirement is estimated to be $91,800 initially and $280,500 per annum thereafter. The net increase in cost to the NRC due to estimated time in reviewing proposed

Agency Contact: Priscilla A. Dwyer, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington DC 20555, 301 427-4773

RIN: 3150-AA90

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3843. PROTECTION OF CONTRACTOR EMPLOYEES

Legal Authority: 42 USC 2236; 42 USC 2282; 42 USC 5851

CFR Citation: 10 CFR 50

Abstract: The proposed rule would require 10 CFR Part 50 licensees, permittees, and applicants to ensure that procurement documents they issue or modify, specify that contractors and subcontractors post a notice to employees related to employee protection. The required notice would contain information notifying employees that an employer is prohibited from discriminating against an employee engaging in protected activities and that an employee may seek a remedy for prohibited discrimination by filing a complaint with the Department of Labor.

The proposed amendment would affect licensees, permittees, applicants, and their contractors and subcontractors who are contractually responsible for construction of basic components or production and utilization facilities. Although there is no health and safety reason for addressing the issue, NRC is interested in protecting employees from discrimination. However, because Section 210 of the Energy Reorganization Act does not give the NRC direct authority over contractors and subcontractors and it clearly envisioned that the Department of Labor would be the principal agency in ensuring the rights of nuclear industry

Timetable:

Action	Date	FR Cite
NPRM	07/06/83	48 FR 31050
NPRM Comment Period End	09/06/83	48 FR 31050
Final Action	06/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: employees; the NRC plans to withdraw this proposed rulemaking and incorporate the issues into a new proposed rule on "Posting Requirements for the Protection of Contractor Employees and Extension of Criminal Penalties (RIN 3150-AC08)."

Agency Contact: Anthony J. DiPalo, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7613

RIN: 3150-AB07

3844. + COMMUNICATIONS PROCEDURES AMENDMENTS

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 50

Abstract: This proposed rule would amend the regulations which establish the procedures for submitting correspondence, reports, applications, or other written communications pertaining to the domestic licensing of production and utilization facilities.

The proposed amendments are expected to resolve confusion regarding submittal procedures and improve the communication process with the affected applicants and licensees.

The proposed amendments would (1) simplify the procedures for making Part 50 submittals to the NRC; (2) facilitate the timely dissemination of Part 50 submittals to NRC staff; (3) reduce postage and copying costs for applicants and licensees by requiring fewer copies of submittals; (4) establish a central NRC receipt point for Part 50 submittals; (5) include the NRC Resident Inspectors in the formal communications; and (6) supersede all outdated submittal directions contained in other sources of submittal guidance, such as Regulatory Guide 10.1 (Revision 4) and NRR Generic Letter 82-14. Although these documents addressed the problem, they did not entirely resolve the confusion. Moreover, subsequent changes in the (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/26/85	50 FR 11884
NPRM Comment Period End	05/28/85	
Final Action	03/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: organizational structure of NRC were not reflected in the guidance documents.

The current regulations also cause unnecessary delays in the dissemination of information to NRC staff. For example, any document submitted to an NRC Regional Office will not usually be disseminated to NRC Headquarters staff until two weeks later.

These problems can be resolved only by amending 10 CFR Part 50, since the current regulations are the source of the problems. The proposed rule is expected to reduce postage and copying costs for licensees and applicants subject to 10 CFR Part 50. An annual savings of $140,000 is estimated. In addition, the NRC is expected to realize a small savings in postage costs. Preparing and publishing this rule would cost NRC approximately 320 hours of staff time at $60 per hour for a total of $19,200.

Agency Contact: Steve Scott, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-8585

RIN: 3150-AB61

3845. CONSIDERATION OF EARTHQUAKES IN THE CONTEXT OF EMERGENCY PREPAREDNESS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: The proposed rule would consider the need to take into account the complicating effects of earthquakes on emergency preparedness. Existing regulations require that nuclear power plants be designed to safely shut down for most earthquakes. The probability of earthquakes large enough to cause major onsite damage that would result in a significant radiological release from the plant is low; and for large earthquakes, offsite damage could make prior offsite emergency plans premised on normal conditions marginally useful.

One alternative to the proposed rule change would be to require that the emergency plans specifically address the impact of earthquakes. Another alternative would be to adjudicate the issue on a case by case basis.

The proposed amendment will not greatly affect the industry since licensees are required to have approve emergency response plans which are flexible enough to assure that appropriate protective measures can be taken to mitigate the consequences of a nuclear emergency. The public will not be affected as adequate emergency preparedness at nuclear reactors will be (cont)

Timetable:

Action	Date	FR Cite
NPRM	12/21/84	49 FR 49640
NPRM Comment Period End	01/22/85	49 FR 49640
Final Action	03/31/86	

Small Entity: No

Additional Information: ABSTRACT CONT: assured.

The staff anticipates that there will be no increase in cost to the NRC, State, and local governments and to licensees associated with the proposed rule change because it is interpretative in nature.

Agency Contact: Michael Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7615

RIN: 3150-AB75

3846. + LIMITED SCOPE MODIFICATION TO GDC 4 REQUIREMENTS FOR PROTECTION AGAINST POSTULATED PIPE RUPTURES

Legal Authority: 42 USC 2201; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The proposed rule would permit licensees and applicants to use newly developed analytical methods involving widely accepted advanced fracture mechanics theories for determining that certain pipe ruptures need not be treated in the design basis for dynamic effects. Implementing of the rule would facilitate the removal of unnecessary pipe whip restraints and jet shields from existing nuclear power plants and plants under construction as well as future plant designs. This would reduce inservice inspection cost and, in addition, would reduce inspector radiation exposure.

The need and urgency for addressing the issue stems from the widespread acceptance of the analysis results and the research findings pertaining to pipe rupture coupled with increasing confidence in its applicability.

Prior to the last few years, there was no sound technical basis for excluding certain pipe ruptures from the design basis. Now it is clear that it is possible taken to defend the exclusion of PWR primary loop double ended guillotine pipe ruptures, and that the scope may be extended to other piping. A benefit derived from the rule would be avoidance of extensive exemptions to General Design

Timetable:

Action	Date	FR Cite
NPRM	07/01/85	50 FR 27006
NPRM Comment Period End	09/02/85	50 FR 27006
Final Action	03/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT: which would be the only acceptable alternatives to the proposed rule. The rule only requires minimum addition and/or modification of the existing text of GDC 4. Two staff years will be needed to complete this rulemaking.

Agency Contact: John A. O'Brien, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7854

RIN: 3150-AB76

3847. EXPLANATION TO TABLE S-3 URANIUM FUEL CYCLE ENVIRONMENTAL DATA

Legal Authority: 42 USC 2011; 42 USC 4321

CFR Citation: 10 CFR 51

Abstract: The proposed rule provides a narrative explanation of the numerical values established in Table S-3, "Table of Uranium Fuel Cycle Environmental Data," that appears in the Commission's environmental protection regulations. The proposed rule describes the basis for the values contained in Table S-3, the significance of the uranium fuel cycle data in the table, and the conditions governing the use of the table. The narrative explanation also addresses important fuel cycle impacts and the cumulative impacts of the nuclear fuel cycle for the whole nuclear power industry so that it may be possible to consider these impacts generically rather than repeatedly in individual licensing proceedings, thus reducing litigation time and costs for both NRC and applicants.

The proposed rule was published for public review and comment (49 FR 15154, March 4, 1981), but the final rulemaking was deferred pending the outcome of a suit (Natural Resources Defense Council, et al. v NRC, NO. 74-1486) in the U.S. Court of Appeals. The U.S. Court of Appeals (D.C. Circuit) decision of April 27, 1982, invalidated the entire Table S-3 rule. The Supreme Court reversed this decision on June 6, 1983. (cont)

Timetable:

Action	Date	FR Cite
NPRM	03/04/81	46 FR 15154
NPRM Comment Period End	05/04/81	46 FR 15154
Final Action	03/31/86	

Small Entity: No

Additional Information: ABSTRACT CONT:

The proposed rule to provide a narrative explanation for Table S-3 was revised to reflect new developments and the passage of time while the rulemaking was deferred. However, final action on the Table S-3 rule was held in abeyance until new values for radon-222 and technetium-99 can be added to the table and covered in the narrative explanation. On October 7, 1984, EPA promulgated new radon standards for inactive uranium mill sites and in October 1985 NRC published revised uranium milling regulations conforming to the new EPA standards. However, EPA received, in August 1985, a court order requiring them to establish radon standards for active uranium mills. Considering this further delay in making final estimates of total radon releases from uranium milling and the fact that there are no open licensing cases involving issues which would be covered by the narrative explanation of Table S-3 of the new values for radon-222 and technetium-99, the staff is preparing a Commission Paper recommending this rulemaking be withdrawn.

Agency Contact: Glenn A. Terry, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4283

RIN: 3150-AA31

3848. + DISPOSAL OF HIGH LEVEL RADIOACTIVE WASTES IN GEOLOGIC REPOSITORIES: PROCEDURAL AMENDMENTS

Legal Authority: 42 USC 2021a; 42 USC 2071; 42 USC 2111; 42 USC 2201; 42 USC 2201(o); 42 USC 2232; 42 USC 2273; 42 USC 4332; 42 USC 5842; 42 USC 5846; 42 USC 5851; 42 USC 10141

CFR Citation: 10 CFR 60

Abstract: The proposed rule would revise procedures regarding NRC reviews of license applications for

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disposal of high-level radioactive wastes in geologic repositories. The procedures are being revised principally to conform to the provisions of the Nuclear Waste Policy Act of 1982. Specifically, the proposed rule would clarify that NRC begins its review in this licensing process after DOE provides NRC a site characterization plan and that usual rules of practice apply to licensing of these repositories. It would also provide that the NRC may publish a notice of receipt of a site characterization plan and a notice inviting comments on its analysis of a plan.

The proposed rule would also change some of the procedures for the participation of States and Indian tribes in the licensing process. Without the proposed rule, there would be major incongruities between the Nuclear Waste Policy Act and 10 CFR Part 60. Alternatives to the proposed rule would be changing the Nuclear Waste Policy Act or doing nothing and allowing incongruities to exist, with subsequent risk of litigation against NRC.(cont)

Timetable:

Action	Date	FR Cite
NPRM	01/17/85	49 FR 2579
NPRM Comment Period End	03/18/85	49 FR 2579
Final Action	03/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT:

State and Indian tribes will be affected in that procedures for their participation in the licensing process for geologic repositories will be changed. This should not result in any additional costs or expenditures of resources on the part of the public, NRC, or the nuclear waste management system. The public, and especially States and Indian tribes, will benefit from increased clarity in procedures for licensing.

Agency Contact: Clark Prichard, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 427-4586

RIN: 3150-AB47

3849. MATERIAL CONTROL AND ACCOUNTING REQUIREMENTS FOR LICENSEES POSSESSING FORMULA QUANTITIES OF STRATEGIC SPECIAL NUCLEAR MATERIAL

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 70

Abstract: The proposed rulemaking would replace existing material control and accounting (MC&A) requirements for fuel cycle facilities that are authorized to possess and use formula quantities of strategic special nuclear material (SSNM).

It would establish a performance oriented regulation that emphasizes timely detection of formula quantity SSNM losses and provides for more conclusive resolution of discrepancies than is currently achievable. Experience with existing regulations has demonstrated weaknesses in the area of alarm resolution principally because of a lack of timely detection of anomalies and poor loss localization capabilities. The rulemaking would alleviate these liabilities by requiring tests on a more timely basis on small plant subdivisions.

An alternative to the rule would be to implement the concepts through license amendments for the four involved licensees; however, such an action would be inconsistent with the Administrative Procedures Act and the direction provided in NRC's Policy and Program Guidance document. The protection of the public health and safety will be enhanced through earlier (cont)

Timetable:

Action	Date	FR Cite
ANPRM	11/18/81	46 FR 45144
ANPRM Comment Period End	02/09/82	46 FR 56625
NPRM	02/02/84	49 FR 4091
NPRM Comment Period End	09/05/84	49 FR 4091
Final Action	02/00/87	

Small Entity: No

Additional Information: ABSTRACT CONT: detection and more prompt resolution of anomalies potentially indicative of an SSNM loss.

In response to public comments, the staff has re-evaluated certain technical provisions of the proposed rule and concluded that some modifications were warranted. Concurrent with the rule modifications, the acceptance criteria and regulatory analysis are being revised. The cost to the NRC to complete this rulemaking is estimated to be four staff years which includes time for the review of the plans submitted in response to the rule.

Public Compliance Cost: Initial Cost: $2,300,000; Yearly Recurring Cost: -$800,000

Agency Contact: C. W. Emeigh, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4769

RIN: 3150-AA50

3850. + MISCELLANEOUS AMENDMENTS CONCERNING PHYSICAL PROTECTION OF NUCLEAR POWER PLANTS (PART OF INSIDER RULE PACKAGE)

Legal Authority: 42 USC 2101; 42 USC 5841

CFR Citation: 10 CFR 73

Abstract: The proposed rule would require in Nuclear Power Plants (1) access control to vital areas,(2) the protection of certain physical security equipment, (3) revised requirements for key and lock controls, and (4) revised authority to suspend safeguards measures during emergencies. (Years of operating revealed a need for clarification and refinement.) The requirements will clarify policy in these areas and reduce unnecessary burden on the industry while maintaining plant protection. This rule is a revision of the proposed rule entitled, "Access Controls to Nuclear Power Plant Vital Areas." Initial development of a final rule produced significant changes, particularly in the criteria for personnel access controls to vital areas, resulting in the need to publish a revised rule. This proposed rule and the other components of the insider rule package were reviewed by the NRC Safety/Safeguards Review Committee which considered a number of alternative approaches to vital areas and provided recommendations that are reflected in the proposed rule.

Since requirements for protecting Nuclear Power Plant (cont)

Timetable:

Action	Date	FR Cite
NPRM	08/01/84	49 FR 30726
NPRM Comment Period End	03/07/85	
Final Action	03/31/86	

Small Entity: No

Additional Information: ABSTRACT CONT: vital areas have been in effect for some time, and modifications to those requirements are needed, alternatives to this rulemaking such as revised guidance would be inappropriate in that they would carry the force of a regulation.

Implementation cost for these improvements is $10,200 per site; however, a net annual savings of $15,000 per site is anticipated in the cost of industry operations because of reduced key and local control requirements. The impact on NRC operations will occur in the area of licensing review of amended licensee security plans and Inspection and Enforcement staff support time. Initial cost to the NRC is estimated to be $175,700. There is no significant NRC operational costs resulting from this rule.

Agency Contact: Priscilla A. Dwyer, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4773

RIN: 3150-AA36

3851. + MODIFICATION OF PROTECTION REQUIREMENTS FOR SPENT FUEL SHIPMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 73

Abstract: A proposed rule has been issued to moderate the present interim requirements for the protection of shipments of irradiated reactor fuel cooled for 150 days or more. Recent research shows that the quantity of radioactive material that would be released as a result of successful sabotage is much smaller than was supposed at the time that the interim rule was issued. The alternatives considered during the development of the proposal were: (1) let the current interim requirements continue in force; (2) moderate the current requirements; and (3) eliminate all interim requirements. The alternative of moderating the requirements was selected. The moderated requirements would provide for (1) shipments to be accompanied by an unarmed escort, who may be driver or carrier employee and may have other duties, (2) on-board communications, and (3) immobilization capability for trucked shipments. Present interim requirements will continue to be effective for shipments of irradiated fuel cooled less than 150 days. The benefit of the proposed rule would be the elimination of unnecessarily strict requirements which presently apply to spent fuel shipments.(cont)

Timetable:

Action	Date	FR Cite
NPRM	06/06/84	49 FR 23867
NPRM Comment Period End	09/10/84	
Final Action	06/30/86	

Small Entity: No

Additional Information: ABSTRACT CONT:

The modified requirements will result in an estimated savings to licensees of about $20,000 to $30,000 annually, assuming the present rate of 135 shipments annually. Adoption of the proposed amendments would reduce NRC travel cost by about $8,000 annually. Public comments are being considered and a final rule is being drafted.

Agency Contact: Carl B. Sawyer, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4186

RIN: 3150-AA96

3852. + SEARCHES OF INDIVIDUALS AT POWER REACTOR FACILITIES (PART OF INSIDER PACKAGE)

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 73

Abstract: The proposed rule would revise the search requirements for individuals entering the protected area of nuclear power plants. Under the proposed requirements, all persons would be subject to equipment searches for firearms, explosives and incendiary devices. Physical searches would be required only when search equipment is not working properly or when the licensee suspects that an individual is attempting to carry into the plant prohibited devices or material. Random searches were considered as an alternative, but were dismissed as being possibly disruptive. Since licensees already possess the necessary equipment, this rule will affect only licensee procedures at negligible additional cost.

Since requirements for searches have been in effect for some time, and modifications to those requirements are needed, alternatives to this rulemaking such as revised guidance would be inappropriate in that they would not carry the force of a regulation.

The most expensive items in the industry cost(cont)

Timetable:

Action	Date	FR Cite
NPRM	08/01/84	49 FR 30726
NPRM Comment Period End	03/07/85	49 FR 30726
Final Action	03/31/86	

Small Entity: No

Additional Information: ABSTRACT CONT: have already been absorbed, equipment and search personnel; thus cost to the industry is minimal. This impact on NRC operations will occur in the area of licensing review of amended licensee security plans. Initial cost to the NRC is estimated to be $58,600. There are no significant NRC operational costs resulting from this rule.

Agency Contact: Priscilla A. Dwyer, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4773

RIN: 3150-AB17

3853. + REPORTING REQUIREMENTS FOR SAFEGUARDS EVENTS

Legal Authority: 42 USC 2201; 42 USC 5842

CFR Citation: 10 CFR 70; 10 CFR 72; 10 CFR 73; 10 CFR 74

Abstract: The proposed rule would amend reporting requirements of section 73.71 for reports of unaccounted for shipments, suspected thefts, unlawful diversion, and other safeguards events. (Conforming amendments are included for 10 CFR Parts 70, 72, and 74). The staff has found the present requirements confusing to licensees and therefore,

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difficult for licensees to properly implement. These difficulties have contributed to safeguards event reports that lack uniformity and contain insufficient data for analysis.

Safeguards event reporting requirements are necessary to permit timely response by the NRC to safeguards incidents and to identify possible generic deficiencies in safeguards systems. Until the requirements for reporting are clarified and simplified, the problems identified above will continue to exist. This is considered to be a matter of moderate urgency. An alternative to rulemaking is issuance of additional or revised guidance on the present requirement. However, such guidance would lack regulatory authority. Since the problems have arisen over the abstract nature of the present requirement, it appears the best solution is to correct the source of the problem by amending

Timetable:

Action	Date	FR Cite
NPRM	08/27/85	50 FR 34706
NPRM Comment Period End	12/31/85	50 FR 48220
Final Action	07/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT:

The proposed amendments redefine, in clearer terms, the events to be reported and classify certain of these events into different reporting categories. The current 24 hour telephonic notification is deleted. All events would be either telephonically reported within one hour or logged in licensee records to be submitted to the NRC quarterly. Concurrent with the rule revision, a revised regulatory guide is being developed which provides a format for reporting to the NRC and gives examples of what types of events should be reported.

There is expected to be no cost impact to the public. Benefits to licensees will be clearer, simpler regulations, and a reduction in telephonic and written report making. While the proposed regulations will require more detailed, standardized written reports, the reduction in the number of telephone and written reports is expected to result in a net cost decrease to industry of $641,600 incurred on an annual basis.

Agency Contact: Priscilla A. Dwyer, Nuclear Regulatory Commission, Office of Nuclear Safety and Safeguards, Washington, DC 20555, 301 427-4773

RIN: 3150-AB46

3854. + CRITERIA FOR AN EXTRAORDINARY NUCLEAR OCCURRENCE

Legal Authority: 42 USC 2201; 42 USC 2210; 42 USC 5841; 42 USC 5842

CFR Citation: 10 CFR 140

Abstract: The proposed rule would revise the criteria the Commission currently follows in determining an extraordinary nuclear occurrence (ENO), in order to overcome the problems that were encountered following the Three Mile Island (TMI) accident when the present criteria were applied. The proposed criteria would focus on items that can be readily counted or estimated within a relatively short time following an accident (i.e., substantial release of radioactive material or radiation offsite and substantial exposure levels). The revised criteria will provide for speedy satisfaction of legitimate claims in the event of an ENO. Because ENO criteria are administrative criteria for use by the Commission, they do not impose any requirement upon a licensee.

Timetable:

Action	Date	FR Cite
NPRM	04/09/85	50 FR 13978
NPRM Comment Period End	08/13/85	
Final Action	10/31/86	

Small Entity: No

Agency Contact: Harold Peterson, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 427-4353

RIN: 3150-AB01

3855. ● EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

Legal Authority: 42 USC 2201; 42 USC 5841; 42 USC 2153

CFR Citation: 10 CFR 110

Abstract: The final rule would amend regulations pertaining to the export of nuclear material by requiring certain holders of export licenses to notify the Commission in writing at least 40 days prior to reexporting Canadian-origin nuclear material or equipment, expanding the general license for byproduct material to allow the export of Americium-241 contained in industrial process control equipment, and to update the list of countries in the provisions setting out restricted destinations. The final rule is necessary to implement portions of the United States/ Canada Agreement for Cooperation, to correct an oversight in the current regulations, and to continue the policy of facilitating nuclear cooperation with countries sharing the non-proliferation goals of the United States.

Timetable:

Action	Date	FR Cite
Final Action	03/00/86	

Small Entity: Not Applicable

Agency Contact: Elaine O. Hemby, Nuclear Regulatory Commission, Office of International Programs, Washington, DC 20555, 301 492-7639

RIN: 3150-AC20

NUCLEAR REGULATORY COMMISSION (NRC) — Completed Actions

3856. ● CHANGE IN REGION II TELEPHONE NUMBER

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 20; 10 CFR 21; 10 CFR 73

Abstract: The final rule indicates a change in the commercial telephone number for NRC's Region II Office. The final rule is necessary to inform NRC licensees and the public of current NRC practice and procedures.

Timetable:

Action	Date	FR Cite
Final Action	11/25/85	50 FR 48630
Final Action Effective	11/25/85	50 FR 48630

Small Entity: Not Applicable

Agency Contact: John Philips, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-7088

RIN: 3150-AC13

3857. ● REGIONAL LICENSING PROGRAM; FORT ST. VRAIN NUCLEAR GENERATING STATION

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: The final rule amends NRC's regulations concerning the domestic licensing of utilization facilities to provide information concerning the NRC's regional licensing program. This amendment states that authority and responsibility for implementing NRC's nuclear reactor licensing program for the Fort St. Vrain Nuclear Generation Station will be carried out by the Director of Nuclear Reactor Regulations and specifies where communications and applications relating to that facility should be sent. The amendment is necessary to inform the licensee and the public of current NRC practice and organization.

Timetable:

Action	Date	FR Cite
NPRM	01/15/85	
Final Action	10/09/85	50 FR 41128
Final Action Effective	11/04/85	50 FR 41128

Small Entity: No

Additional Information: ABSTRACT CONT:

Agency Contact: Hugh L. Thompson, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-9585

RIN: 3150-AC23

3858. ● STATEMENT OF ORGANIZATION AND GENERAL INFORMATION

Legal Authority: 42 USC 2033; 42 USC 2201; 42 USC 2039; 42 USC 2241; 42 USC 5841; 42 USC 5843; 42 USC 5844; 42 USC 5845; 42 USC 5849

CFR Citation: 10 CFR 1

Abstract: The Nuclear Regulatory Commission is amending its regulations to grant additional rulemaking authority to its Executive Director for Operations (EDO). The amendment affects internal agency procedure and practice and will not impact NRC applicants, licensees, or the public. The EDO may now issue rules under 10 CFR Parts 0, 2, and 110 that do not raise significant questions of policy, i.e., rules that do not involve a major change in existing Commission policy, present a major new issue, are corrective in nature, or will not result in a major commitment of resources. The new authority will also extend to issuing proposed and final rules under 10 CFR Parts 7, 8, and 9, Subpart C, that are corrective or of a nonpolicy nature. Prior to this amendment, the EDO did not have authority to issue rules affecting 10 CFR Parts 0,2,7, 8, 9, Subpart C, or 110.

Timetable:

Action	Date	FR Cite
Final Action	10/18/85	50 FR 42145
Final Action Effective	10/18/85	50 FR 42145

Small Entity: No

Agency Contact: Trip Rothschild, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 202 634-1465

RIN: 3150-AC19

3859. HYBRID HEARING PROCEDURES FOR EXPANSIONS OF ONSITE SPENT FUEL STORAGE CAPACITY AT CIVILIAN NUCLEAR POWER REACTORS

Legal Authority: 42 USC 2201; 42 USC 2239

CFR Citation: 10 CFR 2; 10 CFR 72

Abstract: The final rule contains two options for implementing the hybrid hearing process in Section 134 of the Nuclear Waste Policy Act of 1982. That section sets forth a hybrid hearing process for certain contested proceedings on applications for a license or a license amendment to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor. Either version of the final rule would provide for an oral argument in the early stage of the hearing process and would designate only genuine and substantial issues for resolution in an adjudicatory hearing. Option 1 adds a new Subpart K to Part 2. Subpart K requires the use of hybrid procedures in all proceedings to which section 134 applies. It also changes the initial stages of the existing hearing process by allowing a person whose interest is affected to participate as a party and to obtain discovery without the need to plead contentions. Option 2 permits the use of hybrid procedures at the request of any party to the proceeding. It will be implemented by means of an alternative form of summary disposition under a new Sec. 2.749a.

Timetable:

Action	Date	FR Cite
NPRM	12/05/83	48 FR 54490
NPRM Comment Period End	02/20/84	49 FR 414
Final Action	10/15/85	50 FR 41662
Final Action Effective	11/14/85	

Small Entity: No

Agency Contact: Linda S. Gilbert, Nuclear Regulatory Commission, Office of Executive Legal Director, Washington, DC 20555, 301 492-7678

RIN: 3150-AB19

3860. PRODUCTION OR DISCLOSURE IN RESPONSE TO SUBPOENAS OR DEMANDS OF COURTS OR OTHER AUTHORITIES

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 9

Abstract: The final rule adds Subpart D to 10 CFR Part 9 to prescribe procedures with respect to the production of documents or disclosure of information in response to subpoenas or demands of courts or other judicial or quasi-judicial authorities in state and Federal proceedings. The final rule clarifies the procedures to be followed by Commission employees in responding to demands for testimony, information, or documents and would ensure that the responsibility for determining the response to the demands is placed on the appropriate Commission official. The rule will allow the Office of General Counsel more control over Commission information and documents subpoenaed in litigation to which the NRC is not a party. There is no alternative to rulemaking for this issue. This rule will require those who seek to use current or former NRC

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employees in their litigation to submit certain information to the NRC; however, the Commission has decided that this slight inconvenience is warranted in these circumstances.

Timetable:

Action	Date	FR Cite
NPRM	07/10/84	49 FR 28012
NPRM Comment Period End	08/09/84	49 FR 28012
Final Action	09/17/85	50 FR 37642
Final Action Effective	10/17/85	50 FR 37642

Small Entity: No

Agency Contact: Theresa W. Hajost, Nuclear Regulatory Commission, Office of the General Counsel, Washington, DC 20555, 301 634-1498

RIN: 3150-AB63

3861. MINOR CLARIFYING AMENDMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 9

Abstract: The NRC is proposing to amend its regulations pertaining to the availability of records under the Freedom of Information Act to clarify and conform them to existing case law and to reflect long-standing agency practice. In addition, the NRC is proposing to amend its regulations to conform the reproduction costs for Privacy Act records to those currently charged at the NRC's Public Document Room and other NRC offices for publicly available documents.

Timetable:

Action	Date	FR Cite
NPRM	06/01/85	50 FR 31192
NPRM Comment Period End	09/02/85	50 FR 31192
Final Action	10/09/85	50 FR 41127
Final Action Effective	10/09/85	

Small Entity: No

Agency Contact: J.M. Felton, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-7211

RIN: 3150-AC06

3862. ● MISCELLANEOUS AMENDMENTS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 9

Abstract: The final rule amends the NRC's regulations pertaining to public records to indicate that Executive Order 12356 governs classified documents and to remove references to a now defunct NRC Committee. The amendments are necessary to inform the public of these administrative changes to NRC regulations.

Timetable:

Action	Date	FR Cite
Final Action	12/10/85	50 FR 50283
Final Action Effective	12/10/85	50 FR 50283

Small Entity: No

Agency Contact: John Philips, Nuclear Regulatory Commission, Office of Administration, Washington, DC 20555, 301 492-7986

RIN: 3150-AC11

3863. + REVISED CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS OR CONTROL OVER SPECIAL NUCLEAR MATERIAL

Legal Authority: 42 USC 2201(i); 42 USC 5841

CFR Citation: 10 CFR 11

Abstract: The final rule amends the requirements for applications for initial access authorization and for their renewal by allowing utilization of information on file with the government on individuals who possess current active clearances based upon equivalent investigations. The final changes eliminate unnecessary duplication of administrative costs to licensees for individuals who possess comparable clearances and also eliminate certain NRC administrative costs. The objective of this rulemaking action is to provide an effective program for the Commission to grant special nuclear material access authorizations without imposing unnecessary administrative burdens on licensees. This can be achieved by effecting the foregoing changes to the existing rule, which will allow the Commission to grandfather certain cleared licensee employees into the program and to accept application forms and investigative data provided by other Federal agencies, thereby eliminating the $1560.00 investigation fee.

Timetable:

Action	Date	FR Cite
Final Action	09/27/85	50 FR 39076
Final Action Effective	10/28/85	50 FR 39076

Small Entity: No

Agency Contact: Russel R. Rentschler, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4761

RIN: 3150-AB90

3864. + CONFORMING AMENDMENTS TO PRENOTIFICATION, QUALITY ASSURANCE, AND PACKAGE MONITORING REQUIREMENTS

Legal Authority: 42 USC 2073; 42 USC 2093; 42 USC 2111; 42 USC 2232; 42 USC 2233; 42 USC 2273; 42 USC 5842

CFR Citation: 10 CFR 20; 10 CFR 71

Abstract: The unpublished rule is being withdrawn because of a lack of resources to proceed with an administrative rulemaking that is not expected to result in any substantive increase in protection of the the public health and safety. The proposed amendments would have revised the requirement for advance notification of waste shipments to provide a more uniform level of hazard at which the report is required. The proposed level of hazard was expected to conform to the level at which the Department of Transportation imposes motor vehicle routing requirements. The proposed amendments would have also clarified which of the general licenses in 10 CFR Part 71 require quality assurance programs.

Timetable:

Action	Date	FR Cite
NPRM	11/00/85	
Withdrawn	12/31/85	

Small Entity: No

Agency Contact: Donald R. Hopkins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7878

RIN: 3150-AB51

3865. RESIDUAL RADIOACTIVE CONTAMINATION LIMITS FOR DECOMMISSIONING

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 20

Abstract: This unpublished rule is being withdrawn pending initiation of a new proposed rulemaking to establish residual radioactive contamination limits for structures and lands. The proposed rule would have established residual radioactive contamination limits that must be met before buildings, structures, equipment, materials, and lands may be released for use on an unrestricted basis.

Timetable:

Action	Date	FR Cite
Withdrawn	12/00/85	

Small Entity: No

Agency Contact: Don F. Harmon, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 427-4566

RIN: 3150-AB52

3866. ● GENERAL STATEMENT OF POLICY AND PROCEDURE FOR ENFORCEMENT ACTIONS

Legal Authority: 42 USC 2014; 42 USC 2111; 42 USC 2114; 42 USC 2167; 42 USC 2273; 42 USC 2282; 42 USC 2901

CFR Citation: 10 CFR 2

Abstract: The NRC is publishing minor revisions to its enforcement policy to describe how its enforcement policy applies to vendors of products or services that are supplied to the nuclear industry for ultimate use in facilities or activities that are licensed by the NRC. The policy statement is intended to inform licensees, vendors and the public of the bases for taking various enforcement actions. The policy is codified as Appendix C to Part 2 of Title 10 of the Code of Federal Regulations.

Timetable:

Action	Date	FR Cite
Final Action	11/20/85	50 FR 47716
Final Action Effective	02/18/86	

Small Entity: No

Agency Contact: Jane A. Axelrad, Nuclear Regulatory Commission, Office of Inspection and Enforcement, Washington, DC 20555, 301 492-9669

RIN: 3150-AC09

3867. CERTIFICATION OF INDUSTRIAL RADIOGRAPHERS

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 34

Abstract: The advance notice of proposed rulemaking would have required all individuals who use byproduct material in the conduct of industrial radiography to be certified by a third party. Radiography licensees account for over 60 percent of the reported overexposures greater than five rems to the whole body. NRC regulations permit industrial radiographers to perform radiography independently. The NRC grants radiography licensees the authority to train and designate individuals competent to act as radiographers. The advance notice of proposed rulemaking sought comment on a proposal that would enable NRC to verify the effectiveness of this training, thereby assuring that all radiographers possess adequate training and experience to operate radiographic equipment safely.

Following a series of public meetings, many comments were received. The thrust of the comments was that current training programs and examination procedures administered by licensees were adequate for determining the competence of individuals to be industrial radiographers. An ad hoc Radiography Steering Committee formed to improve radiation safety in the (cont)

Timetable:

Action	Date	FR Cite
ANPRM	05/04/82	47 FR 19152
ANPRM Comment Period End	09/03/82	47 FR 19152
Withdrawn	09/19/85	50 FR 38011

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: performance of industrial radiography agreed that the costs associated with a third party certification program would not result in significant benefits through a reduction of accidents that would not result in overexposures to individuals. Therefore, the staff is recommending that the Commission terminate this rulemaking action.

Agency Contact: Nathan Bassin, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-9827

RIN: 3150-AA43

3868. PATIENT DOSAGE MEASUREMENT

Legal Authority: 42 USC 2111; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 35

Abstract: Each specific NRC medical licensee is currently required by license condition to measure radiopharmaceutical dosage before it is administered to a patient. This proposed rule is intended to ensure the consistent application of the requirement and to simplify licensing by replacing the individual license conditions with a single regulatory requirement that would apply to all current and future medical licensees. The proposed rule will require licensees to measure each dosage and make a record of each measurement. Because the requirement is currently imposed by license condition, there will not be cost savings or additional burden; however, the industry and NRC will benefit by having a clear, concise requirement in the regulation.

The proposed rule is being incorporated into a proposed revision of 10 CFR Part 35 (See RIN-3150-AA-73 Medical Use of Byproduct Material).

Timetable:

Action	Date	FR Cite
NPRM	09/01/81	46 FR 43840
NPRM Comment Period End	11/30/81	46 FR 43840
Withdrawn	12/00/85	

Small Entity: No

Public Compliance Cost: Initial Cost: $690,000; Yearly Recurring Cost: $690,000; Base Year for Dollar Estimates: 1981

Analysis: Regulatory Impact Analysis

Agency Contact: Norman L. McElroy, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4108

RIN: 3150-AA12

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3869. + URANIUM MILL TAILINGS REGULATIONS: CONFORMING NRC REQUIREMENTS TO EPA STANDARDS

Legal Authority: 42 USC 2014; 42 USC 2092; 42 USC 2093; 42 USC 2094; 42 USC 2095; 42 USC 2111; 42 USC 2113; 42 USC 2114; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2236; 42 USC 2282; 42 USC 2021; 42 USC 5841

CFR Citation: 10 CFR 40

Abstract: The final rule revises the Nuclear Regulatory Commission's regulations governing the disposal of uranium mill tailings to conform them to regulations recently published by the Environmental Protection Agency that set standards for protecting the environment from these wastes. The final rule would remove inconsistencies between NRC and EPA requirements and incorporate in NRC regulations the stability, radon release, and other provisions of the EPA standard not related to groundwater. This action is necessary to comply with provisions of the Uranium Mill Tailings Radiation Control Act and the NRC Authorization Act for FY 1983; therefore no alternatives to this action need to be considered. EPA has estimated that compliance with their recently published regulations would cost the uranium milling industry from about $310 million to $540 million to dispose of all existing tailings and tailings to be generated by the year 2000. This includes the costs of the groundwater protection provisions which are to be addressed in future NRC rule changes. The EPA regulations are binding on NRC licensees in the interim.

Timetable:

Action	Date	FR Cite
NPRM	11/26/84	49 FR 46418
NPRM Comment Period End	02/10/85	50 FR 2293
Final Action	10/16/85	50 FR 41852
Final Action Effective	11/15/85	50 FR 41852

Small Entity: No

Agency Contact: Kitty S. Dragonette, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4900

RIN: 3150-AB50

3870. TECHNICAL SPECIFICATIONS FOR NUCLEAR POWER REACTORS

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 50

Abstract: The Executive Director for Operation approved the termination of this rule on March 5, 1986. The proposed rule would have amended current regulations pertaining to technical specifications for nuclear power reactors. Specifically, the proposed rule would (1) establish a standard for deciding which items derived from the safety analysis report must be incorporated into technical specifications, (2) modify the definitions of categories of technical specifications to focus more directly on reactor operations, (3) define a new category of requirements that would be of lesser immediate significance to safety than technical specifications, and (4) establish appropriate conditions that must be met by licensees to make changes to the requirements in the new category without prior NRC approval.

Timetable:

Action	Date	FR Cite
ANPRM	07/06/80	45 FR 45916
ANPRM Comment Period End	09/06/80	45 FR 45916
NPRM	03/30/82	47 FR 13369
NPRM Comment Period End	06/01/82	47 FR 13369
Withdrawn	03/00/86	

Small Entity: No

Additional Information: ABSTRACT CONT:

Agency Contact: Edward Butcher, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-8807

RIN: 3150-AA22

3871. DESIGN AND OTHER CHANGES IN NUCLEAR POWER PLANT FACILITIES AFTER ISSUANCE OF CONSTRUCTION PERMIT

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 50

Abstract: The Executive Director for Operations has decided to discontinue activity on this rulemaking and thus recommends that it be withdrawn. The basis for this recommendation is two-fold. First, the notice of withdrawal would inform the public that comments on the advance notice of proposed rulemaking have been considered in the NRC's decision not to proceed with this rulemaking. Second, it is the NRC's judgement that completed and proposed rulemakings since 1979, e.g., 10 CFR 50.34 (f) (CP/ML Rule), 10 CFR 50-34 (g) (Conformance with SRP), and 10 CFR 50.55 (f) (QA Commitments), plus cancellations and indefinite postponements of nuclear power plants (all construction permit holders are now operating license applicants), have rendered moot the need for further staff response to the Commission's request for identifying design and other changes that a construction permit holder may make after the NRC issues a construction permit.

The proposed rule would have prescribed improved approaches for reducing and better controlling the level of change in reactor design and construction.

Timetable:

Action	Date	FR Cite
ANPRM	12/11/80	45 FR 81602
ANPRM Comment Period End	02/09/81	45 FR 81602
Withdrawn	12/31/85	

Small Entity: No

Agency Contact: Wayne Scott, Nuclear Regulatory Commission, Office of Inspection and Enforcement, Washington, DC 20555, 301 492-4220

RIN: 3150-AA46

3872. REVISION OF BACKFITTING PROCESS FOR POWER REACTORS

Legal Authority: 42 USC 2021; 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 2232; 42 USC 2233; 42 USC 2239; 42 USC 4332; 42 USC 4334; 42 USC 4335; 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The final rule establishes requirements for long-term management of the Commission's review process for the imposition of new regulatory requirements on power reactors. More specifically, the objective of the rulemaking is to address "backfitting", a process which can include both plant specific changes and generic changes as applied to one or more classes of power reactors. This rulemaking would revise 10 CFR 50.54, 50.109, 2.204, and add a conforming amendment to Appendix O. The rule is intended to reduce costs of "backfitting" for licensees through better management of this review process.

Timetable:

Action	Date	FR Cite
ANPRM	09/28/83	48 FR 44217
ANPRM Comment Period End	10/26/83	
NPRM	11/30/84	49 FR 47034
NPRM Comment Period End	01/29/85	49 FR 47034
Final Action	09/20/85	50 FR 38097
Final Action Effective	10/21/85	50 FR 38097

Small Entity: No

Agency Contact: James Tourtellotte, Nuclear Regulatory Commission, Regulatory Reform Task Force, Washington, DC 20555, 202 634-1461

RIN: 3150-AA59

3873. EXTENSION OF CRIMINAL PENALTIES

Legal Authority: 42 USC 2201

CFR Citation: 10 CFR 50

Abstract: The proposed rule, in accordance with the provisions of the NRC Authorization Act for Fiscal Year 1980, would extend the application of the criminal penalties provision of the Atomic Energy Act (AEA) of 1954, as amended, to any individual director, officer, or employee of a firm constructing or supplying the components of a nuclear power plant who knowingly and willfully violates any NRC regulation, order, or license condition during construction of a nuclear power plant. Section 223(b) of the AEA essentially directs the Commission to establish a limit for potential unplanned off-site releases of radioactive material which would trigger consideration of possible criminal penalties. As directed in Section 223(b)(3), the proposed rule establishes in its definition of a "basic component," the limits for potential unplanned releases of radioactive material that could trigger application of criminal penalties.

This unpublished rule is being withdrawn because it has been incorporated into a new proposed rule on posting requirements for the protection of contractor employees and extension of criminal penalties.

Timetable:

Action	Date	FR Cite
Withdrawn	12/31/85	

Small Entity: No

Agency Contact: Donald R. Hopkins, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7878

RIN: 3150-AA80

3874. CODES AND STANDARDS FOR NUCLEAR POWER PLANTS (1983 EDITION, WINTER 1982 THROUGH SUMMER 1984 ADDENDA)

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: The final rule incorporates by reference the Winter 1982 Addenda, Summer 1983 Addenda, Winter 1983 Addenda, Summer 1984 Addenda, and the 1983 Edition of Section III, Division I, of the American Society of Mechanical Engineers Boiler and Pressure Vessel Code (ASME Code), and the Winter 1982 Addenda, Summer 1983 Addenda, and the 1983 Edition of Section XI, Division I, of the ASME Code. The ASME Code sets standards for the construction of light-water-reactor nuclear power plant components in Section III, Division 1, and specifies requirements for the inservice inspection of those components in Section XI, Division I. The proposed rule would update the existing reference to the ASME Code and would thereby permit the use of improved methods for the construction and inservice inspection of nuclear power plant components.

Incorporating by reference the latest edition and addenda of the ASME Code will save applicants/licensees and the NRC staff both time and effort by providing uniform detailed criteria against which the staff can review any single submission. Revisions to the ASME code are achieved through the (cont)

Timetable:

Action	Date	FR Cite
NPRM	05/17/85	50 FR 20574
NPRM Comment Period End	07/16/85	50 FR 20574
Final Action	09/26/85	50 FR 38970
Final Action Effective	10/28/85	50 FR 38970

Small Entity: No

Additional Information: ABSTRACT CONT: process to which the NRC contributes. This consensus process ensures a proper balance between utility, regulatory, and other interests concerned with the code and ensures that the value of any revisions to the code is consistent with its impact.

Agency Contact: Gilbert C. Millman, Nuclear Regulatory Commission, Office Of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7562

RIN: 3150-AA83

3875. GENERAL DESIGN CRITERION ON HUMAN FACTORS

Legal Authority: 42 USC 2201; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The Executive Director for Operation approved the termination of this rule on March 5, 1986. The proposed rule would have established a new general design criterion on human factors considerations. The specific factors to be addressed would have included operability, surveillance, maintainability, and human engineering criteria.

Timetable:

Action	Date	FR Cite
Withdrawn	03/05/86	

Small Entity: Not Applicable

Agency Contact: Ann Ramey-Smith, Nuclear Regulatory Commission, Office of Nuclear Reactor Regulation, Washington, DC 20555, 301 492-4522

RIN: 3150-AB13

3876. REFINEMENT OF EMERGENCY PLANNING REGULATIONS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: The proposed rule would have amended the Commissions's emergency planning regulations to reflect experience gained since 1980 and reorganize the emergency planning requirements for clarity. Research studies on reactor risk and practical emergency planning experience have led to a refined portrayal of reactor risks and consequences. The proposed rule would have required a graduated emergency response capability to reflect a more realistic program for dealing with radiological emergencies at nuclear power plants.

The unpublished rule is being withdrawn pending reevaluation of source term and risk information

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(NUREG-1150) scheduled to be completed in June 1988. At that time, the staff will undertake a review of the impact of the risk information on regulations governing the licensing of nuclear power plants including emergency planning requirements.

Timetable:

Action	Date	FR Cite
Withdrawn	12/31/85	

Small Entity: Undetermined

Agency Contact: Michael Jamgochian, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7815

RIN: 3150-AB48

3877. LIMITING THE USE OF HIGHLY ENRICHED URANIUM IN DOMESTIC RESEARCH AND TEST REACTORS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 50

Abstract: The final rule requires that non-power reactors use only low-enriched uranium fuel (LEU), with certain exceptions. The final rule reduces the high-enriched uranium fuel (HEU) in the United States and thereby reduces the potential for theft or diversion. The majority of licensees affected by the final rule are universities operating research and training reactors. To date, four of the 25 affected universities have made the decision to curtail the operation of their research/training reactors.

Timetable:

Action	Date	FR Cite
NPRM	07/06/84	49 FR 27769
NPRM Comment Period End	11/02/84	
Final Action	02/25/86	51 FR 6515
Final Action Effective	03/27/86	51 FR 6515

Small Entity: Not Applicable

Agency Contact: M. L. Ernst, Nuclear Regulatory Commission, Office of Nuclear Regulatory Research, Washington, DC 20555, 301 443-7836

RIN: 3150-AB60

3878. SPECIFIC EXEMPTIONS

Legal Authority: 42 USC 2133; 42 USC 2134; 42 USC 2201; 42 USC 5841; 42 USC 5842; 42 USC 5846

CFR Citation: 10 CFR 50

Abstract: The Nuclear Regulatory Commission is amending its regulations to clarify standards that will be applied when it considers whether to grant exemptions from the regulatory requirements codified in 10 CFR Part 50. Staff experience and several recent adjudicatory proceedings have shown that clarifying these standards would improve understanding of situations warranting an exemption for the applicants, licensees, public, and the staff.

Timetable:

Action	Date	FR Cite
NPRM	04/26/85	50 FR 16506
NPRM Comment Period End	05/28/85	50 FR 16506
Final Action	12/12/85	50 FR 50764
Final Action Effective	01/13/86	

Small Entity: No

Agency Contact: F.X. Cameron, Nuclear Regulatory Commission, Office of the Executive Legal Director, Washington, DC 20555, 301 492-9689

RIN: 3150-AB93

3879. PHYSICAL PROTECTION REQUIREMENTS FOR INDEPENDENT SPENT FUEL STORAGE INSTALLATIONS (ISFSI'S)

Legal Authority: 42 USC 2201; 42 USC 5841

CFR Citation: 10 CFR 73

Abstract: The Executive Director for Operations approved termination of this rule on February 20, 1985. The proposed rule would have provided safeguards requirements in place that would have been commensurate with the risk of storing spent nuclear fuel in dry casks at reactor sites.

Timetable:

Action	Date	FR Cite
Withdrawn	02/20/86	

Small Entity: No

Agency Contact: Russel R. Rentschler, Nuclear Regulatory Commission, Office of Nuclear Material Safety and Safeguards, Washington, DC 20555, 301 427-4761

RIN: 3150-AB27

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Monday
April 21, 1986

Part LVIII

Securities and Exchange Commission

Semiannual Regulatory Agenda

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SEC

SECURITIES AND EXCHANGE COMMISSION

17 CFR Ch. II

[Release No. 33-6832, 34-23016, 35-24049, 39-1068, IC-14990, and IA-1016; File No. S7-9-86]

Regulatory Flexibility Agenda and Rules Scheduled for Review

AGENCY: Securities and Exchange Commission.

ACTION: Publication of regulatory flexibility agenda and rules scheduled for review.

SUMMARY: The Securities and Exchange Commission is today publishing an agenda of its open and anticipated rulemaking actions, pursuant to Chapter Six of the Administrative Procedure Act and Office of Management and Budget Bulletin 86-4. The agenda is a general announcement to the public intended to provide advance notice of rulemaking actions which may have a significant economic impact on a substantial number of small entities. The Commission is also publishing a list of rule reviews anticipated to be completed during the next twelve months. The Commission invites questions and public comment on individual agenda entries.

DATE: Public Comments are due by June 30, 1986.

ADDRESSES: Persons wishing to submit written views should file three copies with John Wheeler, Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Room 6184, Stop 6-9, Washington, D.C. 20549. All submissions should refer to File No. S7-9-86, and will be available for public inspection at the Commission's Public Reference Room, Room 1024, at the same address.

FOR FURTHER INFORMATION CONTACT: Joseph A. Meiburger, Jr., Directorate of Economic and Policy Analysis, Securities and Exchange Commission, 450 5th Street, N.W., Room 7169, Stop 7-6, Washington, D.C. 20549 (202-272-7110). Additional names of persons to contact are identified with each entry.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act ("RFA") (Pub. L. No. 96-354, 94 Stat. 1164 [September 19, 1980]) requires each federal agency during April and October of each year to publish in the Federal Register a regulatory flexibility agenda identifying rules which the agency expects to propose, adopt or review which are likely to have a significant economic impact on a substantial number of small entities (the "significant impact criterion").[1]

The RFA also requires the review of existing rules.[2] The Commission published in June 1981 a plan for the periodic review of all rules issued by the agency which may meet the significant impact criterion.[3] The plan provides for the review of all such rules in effect on January 1, 1981 within ten years of that date and for the review of such rules adopted thereafter within ten years of their adoption as final rules. The RFA further requires publication each year of a list of those rules which are to be reviewed during the succeeding twelve months.[4] Part II of the agenda contains four of these entries.

The Commission's continuing review of its rules, begun before the effective date of the statute (January 1, 1981), extends beyond the requirements of the RFA. Consequently, some rules listed in this part of the agenda may not be required to be reviewed. The Commission is identifying them here in order to inform the public of its intention to review them. Part III of the agenda identifies the 8 rulemaking actions and 8 rule reviews which have been completed since the last RFA release was approved by the Commission on August 28, 1985.[5] The agenda relies on the definitions of the term "small entity" for purposes of the RFA which were adopted by the Commission for the various categories of regulated entities.[6]

The statute specifically provides that the agenda does not preclude the Commission from considering or acting on any matter not included, nor is the Commission required to consider or act on any matter which is included.[7] Furthermore, the inclusion of a rule in the Commission's agenda reflects only the staff's preliminary judgment that the rule, if adopted or as it exists, may have a significant economic impact on a substantial number of small entities. This preliminary judgment may be changed upon further analysis.

With this issue, the Regulatory Information Service Center is making changes to the format of the Unified Agenda. The entries will now be categorized as "Prerule" on the basis of the characteristics of the next action. The "Prerule" category will now include rule reviews and rulemaking actions where the next action is identified as an Advance Notice of Proposed Rulemaking (or a concept release rather than a rule proposal). The "Proposed" category will contain entries where the next action is expected to be a rule proposal or amendments to an existing rule. The "Final" category will now include both open actions already proposed but not yet adopted as well as completed actions.

Below is an index of the Commission's entries to this April 1986 "Unified Agenda of Federal Regulations." The agenda contains new entries as well as items carried over from the October 1985 publication. New entries are marked with an asterisk. Copies of this preamble and a list of the entries (including next action dates and identifying a staff contact) are available from the Commission's Office of Public Affairs (Room 1015). The entries themselves are also available for inspection and copying in the Public Reference Room (Room 1024) (File S-7-9-86), as noted above.

The Commission invites public comment on the individual entries in its agenda of rulemaking actions and rules scheduled for review in 1986.

By the Commission.

March 14, 1986.

Shirley E. Hollis,

Assistant Secretary.

[1] 5 U.S.C. 602(a).

[2] 5 U.S.C. 610(a).

[3] Securities Act Release No. 6363 (June 24, 1981) [46 FR 33287].

[4] 5 U.S.C. 610(c).

[5] Securities Act Release No. 6601 (August 28, 1985) [50 FR 35894].

[6] Securities Act Release No. 6380 (January 28, 1982) [47 FR 5215].

[7] 5 U.S.C. 602(d).

SEC

Prerule Stage

Sequence Number	Title	Regulation Identifier Number
3880	17 CFR 240.14d-1 to 240.14d-101 Proposed Tender Offer Rule Amendments	3235-AA50
3881	17 CFR 240.10a-1 Short Sales	3235-AC18
3882	17 CFR 240.10a-2 Requirements for Covering Purchases	3235-AC19
3883	17 CFR 240.15c2-5 Rule 15c2-5: Disclosure and Other Requirements When Extending Credit in Certain Transactions	3235-AC20

Proposed Rule Stage

Sequence Number	Title	Regulation Identifier Number
3884	17 CFR 210 Request for Comments on "Opinion Shopping"	3235-AC02
3885	17 CFR Not yet determined Allocation of Expenses and Related Disclosure in Financial Statements of Subsidiaries, Divisions or Lesser Business Components of Another Entity	3235-AB17
3886	17 CFR 210.9 Specific Disclosure Requirements for Savings and Loan Holding Companies	3235-AB85
3887	17 CFR 210.9-03(7)(e) Financial Statement Disclosure by Bank Holding Companies About Loans to Related Parties	3235-AB45
3888	17 CFR 231 Standards for Disclosure Regarding Foreign Public Sector Debt	3235-AB69
3889	17 CFR Not yet determined Registration of Partnership Interests	3235-AB47
3890	17 CFR 230.100 to 230.180 General Rules under the Securities Act of 1933--The "100 Series"-- Rules 100 through 180 (excluding Rules 137, 138 and 139)	3235-AA52
3891	17 CFR 230.134 Rule 134 under the Securities Act of 1933	3235-AB80
3892	17 CFR 230.501 Form D of Regulation D	3235-AB77
3893	17 CFR 239.16b Form S-8 Registration Statement under the Securities Act of 1933	3235-AB79
3894	17 CFR 240. (not available presently) "Chinese Wall" Exemption under the Securities Exchange Act of 1934, as amended by the Insider Trading Sanctions Act of 1984	3235-AC14
3895	17 CFR 240.14a-1 to 240.14a-12 Regulation 14A -- Rules Relating to Proxy Contests	3235-AA03
3896	17 CFR 240.14a-13 Regulation 14A: Solicitation of Proxies Rule 14a-13 obligation of registrants. Rule 14b-2 obligation of banks, association and other fiduciary entities	3235-AC35
3897	17 CFR 240.3a12-10 Exemption of Sales of Certain Interests and Participations Issued in Connection with H.R. 10 Plans from Section 15(a)	3235-AC16
3898	17 CFR 240.11Ab2-1 Rule 11Ab2-1 of the Securities Exchange Act of 1934	3235-AC31
3899	17 CFR 240.15b1-2 Rule 15b1-2 of the Securities Exchange Act of 1934	3235-AC33
3900	17 CFR 240.15c2-4 Rule 15c2-4 -- Transmission or Maintenance of Payments Received in Connection with Underwritings	3235-AB57
3901	17 CFR 240.17Ad-1 Rule 17AD-1 of the Securities Exchange Act of 1934	3235-AC30
3902	17 CFR 240.17ad.6 Rule 17ad-6 of the Securities Exchange Act	3235-AC29
3903	17 CFR 249.1001 Form SIP	3235-AC32
3904	17 CFR 230.174 Rule 174 Amendment - Prospectus Delivery During Quite Period	3235-AC34
3905	17 CFR 239.14 Prospectus Simplification Amendments to Form N-2	3235-AB40
3906	17 CFR 240.14a-1 to 240.14a-102 Revision of Investment Company Proxy Rules	3235-AA89
3907	00 CFR Not yet determined Mutual Fund Governance	3235-AA44
3908	17 CFR 270.3a-4 Proposed Rule 3a-4 -- Individualized Investment Management Services	3235-AA12
3909	17 CFR 270.3a-5 Exemption for Foreign Banks	3235-AC37
3910	17 CFR 270.3c-5 Proposed Rule 3c-5 under the Investment Company Act	3235-AC03
3911	17 CFR 270.10f-3 Exemption of Acquisition of Securities During the Existence of Underwriting Syndicate	3235-AC28
3912	17 CFR 270.11a-3 Proposed Rules 11a-3 and 11a-4 Under the Investment Company Act	3235-AA14
3913	17 CFR 12b-1 Proposed amendments to Rule 12b-1 proposed Rules 2a32-1 and 2a35-1	3235-AC11
3914	17 CFR 270.12d3-2 Proposed Rule 12d3-2	3235-AC36
3915	17 CFR 270.17j-1 Rule 17j-1 under the Investment Company Act of 1940	3235-AA68
3916	17 CFR 270.24f-2 Registration Under The Securities Act of 1933 of an Indefinite Number of Certain Investment Company Securities	3235-AC10
3917	17 CFR 274.11A NIA Housekeeping Amendments	3235-AC25
3918	17 CFR 275.206(3)-3 Method for Compliance with Section 206(3) of the Investment Advisers Act of 1940 with respect to Certain Transactions	3235-AB74
3919	17 CFR 275.206(4)-1 Advertising by Investment Advisers	3235-AC09
3920	17 CFR 275.206(4)-4 Disclosure of Legal and Disciplinary Proceedings	3235-AC06

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SEC

Final Rule Stage

Sequence Number	Title	Regulation Identifier Number
3921	17 CFR 210 Off-Balance Sheet Financing Arrangements	3235-AB68
3922	17 CFR 210.3A-02 (Revision) Proposal Regarding Revision of Rule 3A-02 of Regulation S-X Concerning Consolidated Statement of the Registrant and its Subsidiaries	3235-AC04
3923	17 CFR 210.5-02 Proposals Regarding Industry Segment and Other Interim Financial Reporting Matters, Management's Discussion and Analysis, and Off Balance Sheet Financing Disclosures	3235-AB15
3924	17 CFR 229.304 Disagreements With Accountants on Accounting and Financial Disclosure	3235-AB63
3925	00 CFR Not yet determined Small Issuer Periodic Reports	3235-AA91
3926	17 CFR 240.14d-10 Proposed Tender Offer Rule Amendments	3235-AC15
3927	17 CFR 240.16a-1 to 240.16a-11 Reports of Directors, Officers and Principal Stockholders	3235-AB14
3928	17 CFR 260 Trust Indenture Act Rules	3235-AB43
3929	17 CFR 240.3a12-9 Exemption of Certain Direct Participation Program Interests from Sections 7(c) and 11(d)(1)	3235-AB51
3930	17 CFR 240.9b-1 Rule 9b-1 of the Securities Exchange Act of 1934	3235-AC12
3931	17 CFR 240.11A-1 Proposed Rule 11A-1-- Customer Order Exposure	3235-AA39
3932	17 CFR 240.17Ad-5 Rule 17Ad-5 -- Response to Inquiries	3235-AB12
3933	17 CFR 240.2b-3 Definition of "Short Sale"	3235-AC17
3934	17 CFR 270.6-07 Accounting for Distribution Expenses	3235-AC07
3935	17 CFR 230.134 Disclosure of Security Ratings in Registration Statements of Money Market Funds	3235-AC24
3936	17 CFR 230.180 Amendment to Rule 180 -- Exemption from Registration of Certain Interests and Participations in Certain H.R. 10 Plans	3235-AA08
3937	17 CFR 239.15A Revisions to Expense-Related Disclosure Requirements of Form N-1A	3235-AB73
3938	17 CFR 239.16 Simplification of Registration Statements Filed by Unit Investment Trusts	3235-AA47
3939	17 CFR 270.17g-1 Proposed Amendment to Rule 17g-1 Under the Investment Company Act	3235-AA16

Completed Actions

Sequence Number	Title	Regulation Identifier Number
3940	17 CFR 210 Advance Notice of Possible Rulemaking Regarding Financial Assets and Transactions	3235-AC21
3941	17 CFR 249.4-08 Proposed Disclosure Regarding Repurchase and Reverse Repurchase Transactions and Advance Notice of possible Rulemaking Regarding Financial Assets and Transactions	3235-AC05
3942	17 CFR 210 Rescission of Obsolete Rules and Technical Revisions and Corrections	3235-AA74
3943	17 CFR 230.159 Rule 159, Definition of "Commission or other Remuneration" in Section 3(a)(9), for Certain Transactions	3235-AC38
3944	17 CFR 239.25, (New) Proposed Form S-4 and Other Rules	3235-AA01
3945	17 CFR 240.14a-1 to 240.14a-12 Regulation 14A -- Solicitation of Proxies	3235-AA23
3946	17 CFR 240.14a-13 Regulation 14a: Solicitation of Proxies - Rule 14a-13 obligation of registrants. Rule 14b-2 obligation of banks, association and other fiduciary entities	3235-AB78
3947	17 CFR 240.14c-1 to 240.14c-7 Regulation 14C -- Distribution of Information Pursuant to Section 14(c)	3235-AA24
3948	17 CFR 230.142 Rule 142, Definition of "Has Purchased," Sells For," Participation," and Participation," as Used in Section 2(11)	3235-AC39
3949	17 CFR 230.145 Rule 145, Persons Not Deemed to be Underwriters of Securities Issued or Sold in Connection with Bankruptcy Proceedings	3235-AC40
3950	17 CFR 230.148 Rule 148, Definition of "Exchanged" is Section 3(a)(9), for Certain Transaction	3235-AC23
3951	17 CFR 230.149 Rule 100, Definition of Terms Used in the Rules and Regulations	3235-AC41
3952	17 CFR 230.150 Rule 145 -- Reclassifications of Securities, Mergers, Consolidations and Acquisitions of Assets	3235-AC42
3953	17 CFR 240.10b-10 Rule 10b-10 -- Confirmation Disclosure for Reported Securities	3235-AB81
3954	17 CFR 240.17Ac 2-1(a) SEC Supplement to Form TA-1	3235-AC13
3955	17 CFR 210.3-05 Registration of Investment Company Securities Issued in Business Combination Transactions	3235-AB42
3956	17 CFR 250.45 (b)(6), (New) Loans, Extensions of Credit, Donations and Capital Contributions to Associate Companies	3235-AB98
3957	17 CFR 250.70 Exemptions from Section 17(c) of the Act	3235-AB99
3958	17 CFR 270 Standardized Formula for Calculating Investment Company Performance Data in Advertisements	3235-AC08
3959	17 CFR 270.2a-7 Proposed amendments to Rules 2a-7 and 12d3-1 and proposed Rule 2a41-1 under the Investment Company Act	3235-AB38
3960	17 CFR 275.205-3 Proposed Rule 205-3 Under the Investment Advisers Act of 1940	3235-AB70
3961	17 CFR 279.1 Amendments to Form ADV	3235-AB71

SECURITIES AND EXCHANGE COMMISSION (SEC) — Prerule Stage

Disclosure Rules

3880. PROPOSED TENDER OFFER RULE AMENDMENTS

Legal Authority: 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 78c(b); 15 USC 78n(d); 15 USC 78n(e); 15 USC 78w(a)

CFR Citation: 17 CFR 240.14d-1 to 240.14d-101; 17 CFR 240.14e-1 to 240.14e-3

Abstract: On January 9, 1986, the Commission authorized the staff to draft a release seeking public comment on three concepts relating to the regulatory corporate takeovers: (1) whether substantial acquisitions of securities effects during the pendency of, or subsequent to the termination of, a tender offer for such securities present issues with respect to takeover practice and, if so, whether a regulatory response such as one described herein is appropriate; second, on the need to establish a shareholder approval requirement for the adoption of "poison pill" security plans; (3) whether to establish provisions in the proposed all holders rule or other tender offer rules by which issuers may "opt-out" of the requirements of such rules through the adoption of charter amendments by shareholders. The Commission will review comments made in response to this release with a view towards determining whether future rulemaking or legislative proposals are necessary and appropriate.

Timetable:

Action	Date	FR Cite
ANPRM	06/29/84	49 FR 26751
ANPRM Comment Period End	09/28/84	49 FR 26751

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Gregory E. Struxness, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-3097

RIN: 3235-AA50

Securities Markets and Securities Industry Rules

3881. SHORT SALES

Legal Authority: 15 USC 78a; 15 USC 78b; 15 USC 78c; 15 USC 78i(a)(6); 15 USC 78j(a); 15 USC 78j(b); 15 USC 78o(c); 15 USC 78w(a)

CFR Citation: 17 CFR 240.10a-1

Abstract: Rule 10a-1 regulates short sales of certain securities. The rule provides generally that short sales of exchange-listed reported securities (i.e., securities as to which last sale information is reported in the consolidated system) may be effected only at a price above the price at which the immediately preceding sale was effected ("plus tick"), or at a price equal to the last sale price if the last preceding transaction at a different price was at a lower price ("zero-plus tick"), established by reference to the last sale price reported from any market in the consolidation system. The general purpose of Rule 10a-1 is to prevent manipulative sales of a security for the purpose of accelerating a decline in the price of such security.

Timetable:

Action	Date	FR Cite
End Review	09/30/86	

Small Entity: Undetermined

Agency Contact: Nancy J. Burke, Branch Chief, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2848

RIN: 3235-AC18

3882. REQUIREMENTS FOR COVERING PURCHASES

Legal Authority: 15 USC 78o(b); 15 USC 78j(a); 15 USC 78w(a)

CFR Citation: 17 CFR 240.10a-2

Abstract: Rule 10a-2 regulates covering transactions for short sales. If on the due date of delivery of a security sold pursuant to an order marked "long" the broker or dealer has not received the security from the customer, he must cover the open position unless he knows or has been informed by the seller either (1) that the security sold has been forwarded to the account for which the sale was effected; or (2) that the seller owns the security sold, that it is then impracticable to deliver to such account the security owned and that he will deliver such security to such account as soon as is possible without undue inconvenience or expense.

Timetable:

Action	Date	FR Cite
End Review	09/30/86	

Small Entity: Undetermined

Agency Contact: Nancy J. Burke, Branch Chief, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2848

RIN: 3235-AC19

3883. RULE 15C2-5: DISCLOSURE AND OTHER REQUIREMENTS WHEN EXTENDING CREDIT IN CERTAIN TRANSACTIONS

Legal Authority: 15 USC 78o(c)(2); 15 USC 78k(d)(1); 15 USC 78q(c); 15 USC 78w(a)

CFR Citation: 17 CFR 240.15c2-5

Abstract: Rule 15c2-5 under the Securities Exchange Act of 1934 would make it a fraudulent, deceptive or manipulative act or practice as used in Section 15(c)(2) of the Act for any broker-dealer to offer, sell or attempt to induce the purchase of any security by any person if the broker-dealer arranges a loan for such person unless, before the transaction is entered into, the broker-dealer (1) delivers to such person a written statement setting forth the exact nature and extent of his obligations, the risks involved, and the commissions and other remuneration to be received by the broker-dealer and by other persons in a control relationship to broker-dealer, and (2) obtains from such person information concerning his financial situations and needs, reasonably determines that the entire transaction including the loan arrangement is suitable for such person, and retains in his files a written statement setting forth the basis upon which the broker-dealer made the determination.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Michael A. Macchiaroli, Assistant Director, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2904

RIN: 3235-AC20

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SECURITIES AND EXCHANGE COMMISSION (SEC) — Proposed Rule Stage

Accounting Rules

3884. REQUEST FOR COMMENTS ON "OPINION SHOPPING"

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w; 15 USC 79o; 15 USC 79n; 15 USC 79t; 15 USC 80a-8; 15 USC 80a-29

CFR Citation: 17 CFR 210

Abstract: The Commission requested comments on the practice of registrants who seek an auditor who is willing to support a proposed accounting treatment which is intended to accomplish the registrant's reporting objectives, but which is not necessarily in accordance with generally accepted accounting principles.

Timetable:

Action	Date	FR Cite
ANPRM	07/01/85	50 FR 26219
ANPRM Comment Period End	10/09/85	50 FR 26219

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Robert E. Burns, Chief Counsel, Office of Chief Accountant, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, NW, Washington, D.C. 20549, 202 272-2130

RIN: 3235-AC02

3885. ALLOCATION OF EXPENSES AND RELATED DISCLOSURE IN FINANCIAL STATEMENTS OF SUBSIDIARIES, DIVISIONS OR LESSER BUSINESS COMPONENTS OF ANOTHER ENTITY

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77a(25); 15 USC 77a(26); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a)

CFR Citation: 17 CFR Not yet determined

Abstract: The staff is considering whether to recommend that the Commission propose rules regarding the allocation of expenses and related disclosure in financial statements of subsidiaries, divisions or lesser business components of another entity.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Robert Lavery, Staff Accountant, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2130

RIN: 3235-AB17

3886. SPECIFIC DISCLOSURE REQUIREMENTS FOR SAVINGS AND LOAN HOLDING COMPANIES

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77aa(25); 15 USC 77aa(26); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78w(a); 15 USC 79e; 15 USC 79n; 15 USC 79t; 15 USC 80a-29

CFR Citation: 17 CFR 210.9; 17 CFR 231; 17 CFR 241

Abstract: The staff is considering whether to propose amendments to Industry Guide 3, statistical disclosure by bank holding companies and Article 9 of Regulation S-X. The formation of savings and loans holding companies has increased during the past several years to the point where approximately 60 savings and loan holding companies file with the Commission. In addition, a number of other registrants own savings institutions. The Commission's regulations do not specifically address the filing requirements for savings and loans, which have certain practices peculiar to the industry. The amendments, if proposed, would focus on disclosure requirements to enhance the comparability among registrants.

Timetable:

Action	Date	FR Cite
NPRM	06/30/86	
Final Action	12/31/86	

Small Entity: Undetermined

Agency Contact: Laurel R. Bond, Staff Accountant, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2130

RIN: 3235-AB65

3887. FINANCIAL STATEMENT DISCLOSURE BY BANK HOLDING COMPANIES ABOUT LOANS TO RELATED PARTIES

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77a(25); 15 USC 77a(26); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o(d); 15 USC 78w(a)

CFR Citation: 17 CFR 210.9-03(7)(e)

Abstract: The staff is considering whether to recommend that the Commission propose amendments to its rules in Article 9 of Regulations S-X requiring disclosure by bank holding companies about loans to related parties. Assertions have been made that accumulation of the required information may be unreasonably costly.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: No

Agency Contact: Wayne Pentrack, Professional Accounting Fellow, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2130

RIN: 3235-AB45

3888. STANDARDS FOR DISCLOSURE REGARDING FOREIGN PUBLIC SECTOR DEBT

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 77aa(25); 15 USC 77aa(26); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78w(a)

CFR Citation: 17 CFR 231; 17 CFR 241

Abstract: The staff is considering whether to propose an amendment to Industry Guide 3, statistical disclosure by bank holding companies. Since 1982, a number of foreign countries have restructured significant portions of their debt owed to multinational consortiums of financial institutions. These restructurings can impact individual bank holding companies differently because of the relative exposures to these foreign countries. The amendment, if proposed, would focus on uniform disclosures of the terms of the restructurings and the impact to the bank holding company. This disclosure would enhance the comparability between registrants.

Timetable:

Action	Date	FR Cite
NPRM	06/30/86	
Final Action	12/31/86	

Small Entity: Undetermined

Agency Contact: Wayne Pentrack, Professional Accounting Fellow, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, N.W., Washington, DC 20549, 202 272-2130

RIN: 3235-AB69

SEC — Proposed Rule Stage

Disclosure Rules

3889. REGISTRATION OF PARTNERSHIP INTERESTS

Legal Authority: 15 USC 77g; 15 USC 77j; 15 USC 77s(a)

CFR Citation: 17 CFR Not yet determined

Abstract: Currently, there are no disclosure requirements specially tailored for issuers of partnership interests. Thus, they currently must refer to requirements which have been designed for use by corporations. Special disclosure requirements have developed as a matter of administrative practice. These requirements differ depending upon the type of partnership interest involved. This project will involve development of uniform disclosure requirements for all varieties of partnership offerings, with a focus on those characteristics common to all or most limited partnerships, such as tax implications. It also will involve codification of informal practices and streamlining of registration to the extent appropriate. These efforts are expected to facilitate the preparation of registration statements concerning such interests and to improve the disclosure provided to investors.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Yes

Agency Contact: Leslie Murphy, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-2589

RIN: 3235-AB47

3890. GENERAL RULES UNDER THE SECURITIES ACT OF 1933--THE "100 SERIES"-- RULES 100 THROUGH 180 (EXCLUDING RULES 137, 138 AND 139)

Legal Authority: 15 USC 77s Securities Act

CFR Citation: 17 CFR 230.100 to 230.180

Abstract: The Commission is conducting a "sunset" review of the thirty-nine rules contained in the "100 series" of general rules under the Securities Act. Generally, these rules define key terms used in the Securities Act. The object of this review is to eliminate any inconsistencies, to delete unnecessary, outmoded or duplicative rules and to update and revise the remaining provisions. This project is in addition to the separate project to review Rules 137, 138 and 139.

Timetable:

Action	Date	FR Cite
NPRM	05/31/86	

Small Entity: Undetermined

Additional Information: CFR cite excludes 17 CFR 230.137, .138 and .139.

Agency Contact: Thomas E. Sweeney, Jr., Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-2589

RIN: 3235-AA52

3891. RULE 134 UNDER THE SECURITIES ACT OF 1933

Legal Authority: 15 USC 77b(10); 15 USC 77s(a)

CFR Citation: 17 CFR 230.134

Abstract: The rule is being examined in response to informal requests from the public that its scope be broadened. The Commission is considering changes which would permit the inclusion in communications under the rule of information that is relevant in informing investors of the existence of certain types of securities, while ensuring that any efforts to sell such securities are conducted by means of a prospectus meeting the requirements of Section 10 of the Securities Act of 1933. In the context of this rule-making action, Rule 134 is being fully reviewed.

Timetable:

Action	Date	FR Cite
NPRM	03/31/86	

Small Entity: Undetermined

Agency Contact: Ann M. Glickman, Special Counsel, Securities and Exchange Commission, Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2573

RIN: 3235-AB60

3892. FORM D OF REGULATION D

Legal Authority: 15 USC 77c(b); 15 USC 77d(2); 15 USC 77s(a); 15 USC 77c(3)

CFR Citation: 17 CFR 230.501; 17 CFR 230.502; 17 CFR 230.503; 17 CFR 230.504; 17 CFR 230.505; 17 CFR 230.506; 17 CFR 239.500

Abstract: The Securities Act of 1933 ("Securities Act") requires securities to be registered with the Securities and Exchange Commission ("SEC") prior to an offer or sale unless an appropriate exemption from registration exists. Section 3(b) and 4(2) of the Securities Act provide for exemption from registration and Regulation D was promulgated thereunder. Regulation D requires the filing of a Form D 15 days after the first sale pursuant to the Regulation D exemption. The Commission plans to revise Form D to eliminate certain information currently required by the Form and to clarify other questions therein in order to minimize the filing burdens on issuers using the Regulation. In the context of this rulemaking, Form D will be fully reviewed for purposes of the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
NPRM	12/31/85	

Next Action Undetermined

Small Entity: Yes

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Agency Contact: Mary M. Jackley, Special Counsel, Securities and Exchange Commission, Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2844

RIN: 3235-AB77

3893. FORM S-8 REGISTRATION STATEMENT UNDER THE SECURITIES ACT OF 1933

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78w(a)

CFR Citation: 17 CFR 239.16b

Abstract: The Commission intends to revise the disclosure requirements under the federal securities laws relating to registration under the Securities Act of 1933 of securities to be offered to employees of an issuer pursuant to certain plans. Such registration currently is made on Form S-8 (17 CFR 239.16b). The Commission is developing proposals in this area and considering alternative approaches to the problem of reducing burdens while ensuring the availability of sufficient information to employees, particularly where they already have access to much of the required information under ERISA. In the context of this rulemaking, Form S-8 will be fully reviewed for purposes of the Regulatory Flexibility Act.

Timetable:

Action	Date	FR Cite
NPRM	03/31/86	

Small Entity: Undetermined

Agency Contact: John C. Brousseau, Staff Attorney, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AB79

3894. "CHINESE WALL" EXEMPTION UNDER THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED BY THE INSIDER TRADING SANCTIONS ACT OF 1984

Legal Authority: 15 USC 78(u); 15 USC 78(w)

CFR Citation: 17 CFR 240. (not available presently)

Abstract: The Commission intends to propose a rule under section 21(d)(2)(A)of the Securities Exchange Act of 1934 to exempt from liability for purposes of that section trading by multiservice firms under certain circumstances. The rule proposal will be similar in intent and design to Rule 14e-3(b) which establishes an exception from liability under Rule 14e-3(a) of the Exchange Act where an institution or other non-natural person has implemented reasonable procedures to ensure that individuals within the institution who make investment decisions on behalf of such person would not know or would not use material, non-public information within the possession of such person and that such individuals did not in fact know the information.

Timetable:

Action	Date	FR Cite
NPRM	05/31/86	

Small Entity: Undetermined

Agency Contact: Larisa Dobriansky, Attorney Adviser, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AC14

3895. REGULATION 14A -- RULES RELATING TO PROXY CONTESTS

Legal Authority: 15 USC 78n(a) Exchange Act

CFR Citation: 17 CFR 240.14a-1 to 240.14a-12; 17 CFR 240.14a-101; 17 CFR 240.14a-102

Abstract: As part of its proxy review program, the Commission intends to review the rules governing proxy contests, which are contained in Regulation 14A, promulgated under Section 14(a) of the Exchange Act. Regulation 14A regulates the solicitation of proxies in regard to securities registered under Section 12 of the Exchange Act. In general, Regulation 14A specifies the information required to be disclosed to security holders to enable them to make informed decisions concerning authorization of proxies. This review focuses only on regulations concerning proxy contests. Rules 14a-3 through 14a-10 prescribe certain filing, dissemination and disclosure requirements with respect to all proxy solicitations, including proxy contests. Rule 14a-11 prescribes special requirements relating only to contested elections of directors. The number of proxy contests has risen in recent years and the rules relating to them have not been reexamined in some time. The Commission's goal in this review is to make sure that the rules pertaining to proxy contests still operate effectively in addressing this dynamic area, thus benefiting shareholders and issuers.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-2589

RIN: 3235-AA03

3896. ● REGULATION 14A: SOLICITATION OF PROXIES RULE 14A-13 OBLIGATION OF REGISTRANTS. RULE 14B-2 OBLIGATION OF BANKS, ASSOCIATION AND OTHER FIDUCIARY ENTITIES

Legal Authority: 15 USC 781; 15 USC 78n; 15 USC 78g; 15 USC 78w

CFR Citation: 17 CFR 240.14a-13; 17 CFR 240.14b-2; 17 CFR 240.14c-7

Abstract: Proposed Rule 14b-2 and proposed amendments in Rules 14a-13 and 14c-7 are designed to improve the progress by which registrants communicate with the beneficial owners of securities registered in the name of a bank, association or other fiduciary entity.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Sarah A. Miller, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 Fifth Street, N. W., Washington, D.C. 20549, 202 272-2589

SEC — Proposed Rule Stage

RIN: 3235-AC35

Securities Markets and Securities Industry Rules

3897. EXEMPTION OF SALES OF CERTAIN INTERESTS AND PARTICIPATIONS ISSUED IN CONNECTION WITH H.R. 10 PLANS FROM SECTION 15(A)

Legal Authority: 15 USC 78c(a)(12); 15 USC 78o; 15 USC 78w; 15 USC 77c(a)(12); 15 USC 77s(a)

CFR Citation: 17 CFR 240.3a12-10; 17 CFR 230.180

Abstract: The proposed rule would specify certain conditions under which persons engaged in the sale of interests and participation issued in connection with certain tax-qualified retirement plans ("H.R.10" or "Keogh" plans) would not be required to register as broker-dealers under Section 15(a) of the Securities Exchange Act of 1934. In 1961, the Commission adopted Rule 180 under the Securities Act of 1933 exempting from the registration requirements of that Act interests and participations issued in connection with H.R. 10 plans. The proposed rule provides a parallel exemption from broker-dealer registration for sales of such interests and participations in H.R. 10 plans. As an alternative the staff could consider granting no-action or exemptive requests on a case-by-case basis. However, such procedure would be inefficient and needlessly expensive for both the public and the Commission staff. In addition, the Commission is proposing to amend Rule 180 to clarify that, under paragraph (a)(3)(ii) of that Rule, the employer only needs to obtain investment advice prior to the investment of plan assets. This proposal codifies a previous staff position.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: staff position.

Agency Contact: Susan J. Walters, Branch Chief, Legal Interpretations, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2417

RIN: 3235-AC16

3898. ● RULE 11AB2-1 OF THE SECURITIES EXCHANGE ACT OF 1934

Legal Authority: 15 USC 78(b); 15 USC 78(c); 15 USC 78(s); 15 USC 78(w)

CFR Citation: 17 CFR 240.11Ab2-1

Legal Deadline: None

Abstract: Rule 11Ab2-1 implement mandatory registration of securities information processors required by Section 11A(b)(1) of the Act. The Rule requires an application for registration as a securities information processor to be filed on Form SIP. The Rule related Form SIP establish the procedure by which securities information processors may apply to the Commission for registration.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Lee Goss, Attorney, Securities and Exchange Commission, Division of Market Regulation, 450 Fifth Street, N. W., Washington, DC 20549, 202 272-2827

RIN: 3235-AC31

3899. ● RULE 15B1-2 OF THE SECURITIES EXCHANGE ACT OF 1934

Legal Authority: 15 USC 780; 15 USC 78(w)

CFR Citation: 17 CFR 240.15b1-2

Legal Deadline: None

Abstract: Rule 15b1-2 requires every broker or dealer who file an application to register on Form BD to include a financial statement disclosing the amount and nature of assets and liabilities and the net worth of the broker-dealer, as well as a computation of aggregate indebtedness and net capital, which generally must comply with Rule 15c3-1. In addition, the Rule states that a schedule of securities which must be furnished with the statement of financial condition will generally be kept confidential if bound separately. The Rule also requires that an applicant for registration provide representations that capital contributed to the broker-dealer will continue to be devoted to that business and that arrangements have been made to establish and maintain adequate facilities for business, including a discussion of personnel, physical facilities, maintenance and preservation of books and records, procedures to be utilized in supervising associated persons, and a statement describing the source of funds for the operation of the business during its first year.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Edward L. Pittman, Attorney, Securities and Exchange Commission, Division of Market Regulation, 450 Fifth Street, N. W., Washington, DC 20549, 202 272-2848

RIN: 3235-AC33

3900. RULE 15C2-4 -- TRANSMISSION OR MAINTENANCE OF PAYMENTS RECEIVED IN CONNECTION WITH UNDERWRITINGS

Legal Authority: 15 USC 78c; 15 USC 78w

CFR Citation: 17 CFR 240.15c2-4

Abstract: Rule 15c2-4 applies to best-efforts distributions of securities that are conducted on any basis where payment will not be made to the issuer until some further event or contingency occurs. It requires a broker-dealer participant either to promptly deposit investor's funds into a separate bank account, or to promptly transmit such funds to a bank escrow agent, until the contingency occurs. The purpose of the rule is to insulate offering proceeds from unlawful activities by, or the financial reverses of, the broker-dealer, pending the occurrence of the contingency. Amendments to the rule are being considered that would resolve ambiguities and would codify interpretive positions taken by the staff since the rule's adoption in 1982. An interpretive release is being considered as an alternative. Neither action would increase the costs of complying with the rule since either action would simply clarify, not change, the application of the rule. The benefits of either action would be eliminating confusion and ambiguity, more clearly defining a broker-dealer's

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responsibilities under the rule, and providing greater uniformity in industry practice.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Nancy J. Burke, Branch Chief, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2848

RIN: 3235-AB57

3901. ● RULE 17AD-1 OF THE SECURITIES EXCHANGE ACT OF 1934

Legal Authority: 15 USC 78k; 15 USC 78q; 15 USC 78q-1; 15 USC 78w

CFR Citation: 17 CFR 240.17Ad-1

Legal Deadline: None

Abstract: Currently, Rule 17Ad-1 provides definitions for terms that apply to Rules 17Ad-2 through 17Ad-7, which, among other things, establish minimum performance standards, recordkeeping and record retention requirements for registered transfer agents. The proposed amendments would modify the definition of "item" as that term relates to depository shipment control lists. Under the proposed definition, each line of a depository shipment control list would be considered a separate item. The modification is being considered to increase the weight accorded depository transfer requests by transfer agents in meeting the requirements in Rule 17Ad-2 to turnaround ninety percent of all routine items within specified time frames.

Timetable:

Action	Date	FR Cite
NPRM	01/28/86	
NPRM Comment Period End	03/01/86	

Small Entity: Undetermined

Agency Contact: Joseph M. Furey, Attorney, Securities and Exchange Commission, Division of Market Regulation, 450 Fifth Street, N.W., Washington, DC 20549, 202 272-2428

RIN: 3235-AC30

3902. ● RULE 17AD-8 OF THE SECURITIES EXCHANGE ACT

Legal Authority: 15 USC 17b; 15 USC 78q-1; 15 USC 78w(a)

CFR Citation: 17 CFR 240.17ad.8

Legal Deadline: None

Abstract: Rule 17Ad-8 requires a registered clearing agency, at the request of an issuer, to provide the issuer with a "securities position listing." A securities position listing is a list of the clearing agency's participants on whose behalf the clearing agency holds the issuer's securities as well as participants' position as of a specified date. The Rule further provides that the clearing agency may charge a reasonable fee for providing the list.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: No

Agency Contact: Christine Sakach, Attorney, Securities and Exchange Commission, Division of Market Regulation, 450 Fifth Street, N.W., Washington, DC 20549, 202 272-7393

RIN: 3235-AC29

3903. ● FORM SIP

Legal Authority: 15 USC 78(b); 15 USC 78(c); 15 USC 78(q); 15 USC 78(w)

CFR Citation: 17 CFR 249.1001

Legal Deadline: None

Abstract: Pursuant to Rule 11Ab2-1, a securities information processor which is required to be registered with the Commission in accordance with Section 11A(b)(l) is required to apply for registration on Form SIP.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Lee Goss, Attorney, Securities and Exchange Commission, Division of Market Commission, 450 Fifth Street, N. W., Washington, DC 20549, 202 272-2827

RIN: 3235-AC32

Investment Management Rules

3904. ● RULE 174 AMENDMENT - PROSPECTUS DELIVERY DURING QUITE PERIOD

Legal Authority: 15 USC 77s; 15 USC 77d

CFR Citation: 17 CFR 230.174

Legal Deadline: None

Abstract: The proposed amendment to Rule 174 would reduce the prospectus delivery period for dealers in connection with transactions in certain securities that are registered for initial public offerings.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Larisa Dobriansky, Attorney Adviser, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N.W., Washington, D.C. 20549, 202 272-2107

RIN: 3235-AC34

3905. PROSPECTUS SIMPLIFICATION AMENDMENTS TO FORM N-2

Legal Authority: 15 USC 80a-8 Investment Company; 15 USC 77g Securities Act; 15 USC 77j Securities Act

CFR Citation: 17 CFR 239.14; 17 CFR 274.11a-1

Abstract: Form N-2 is the registration statement form under the Investment Company Act of 1940 and the Securities Act of 1933 for closed-end management investment companies other than small business investment companies and companies which issue periodic payment plan certificates or which are sponsors or depositors of companies issuing such certificates. Included within the registration statement are the companies' prospectuses used in offering their securities to the public. The Commission believes a simplified prospectus is necessary because current prospectuses have become too cumbersome for the average investor to understand and because current requirements result in the disclosure of much information that is not necessarily material to an investment decision. Simplification will, therefore, make disclosure easier for investors to understand and reduce the costs and burdens of of preparing and distributing prospectuses. Accordingly, the Commission is proposing a new form N-2A that most likely would be structured as a three-part form, one part of which would be a new simplified prospectus. There does not currently exist (cont)

SEC — Proposed Rule Stage

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: a basis upon which to quantify the reduced costs and burdens of such action on those registrants affected. The contemplated amendments are still in the developmental stage and have not yet been formally proposed by the Commission. Thus, the extent of the simplification of investment companies' prospectuses actually proposed and the attendant reductions in costs and burdens are as yet largely unknown, but are expected to reduce the cost of registration for both the industry and government.

Agency Contact: Stephen C. Beach, Attorney, Securities and Exchange Commission, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3040

RIN: 3235-AB40

3906. REVISION OF INVESTMENT COMPANY PROXY RULES

Legal Authority: 15 USC 78n; 15 USC 78w; 15 USC 80a-20; 15 USC 80a-37

CFR Citation: 17 CFR 240.14a-1 to 240.14a-102; 17 CFR 240.14b-1; 17 CFR 240.14c-1 to 240.14c-101; 17 CFR 270.20a-1; 17 CFR 270.20a-2; 17 CFR 270.20a-3

Abstract: Absent an exception, every solicitation of a proxy, authorization or consent in respect of any security with respect to which a registered investment company is the issuer, is subject to rules adopted pursuant to the Securities Exchange Act of 1934 and the Investment Company Act of 1940 concerning solicitations of proxies. Solicitations to which the rules apply may not commence unless each person solicited is furnished or has previously been furnished with a proxy statement containing specified information prepared in accordance with certain rules and the material has been filed with the Commission. The existing proxy rules were adopted in piecemeal fashion and have been the subject of frequent changes. This has led to certain duplicative and, in certain cases, complex requirements. To the extent that a proxy statement contains repetitive material or is overly complicated and difficult to read, it may not effectively perform its intended function of communicating meaningful information to security holders in order that they may make informed voting decisions. In order to update the proxy regulations and, in doing so, improve the (cont)

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: readability of proxy statements and eliminate unnecessary disclosure costs, the Commission has commenced a comprehensive review of the proxy regulations as they relate to investment companies. There does not currently exist a basis upon which to quantify the reduced costs and burdens of such action on those registrants affected. Since the action will apply to all registered investment companies soliciting proxies, unless the solicitation is excepted, the Action is expected to have a significant impact on a substantial number of small entities. However, the contemplated revisions are still in the developmental stage and have not yet been formally proposed by the Commission. Thus, the extent of the revision actually proposed and the attendant reductions in costs and burdens are as yet largely unknown, but are anticipated to be significant.

Agency Contact: Stephen C. Beach, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3040

RIN: 3235-AA69

3907. MUTUAL FUND GOVERNANCE

Legal Authority: 15 USC 80a-16(c); 15 USC 80a-35; 15 USC 80a-6(c)

CFR Citation: Not yet determined

Abstract: On December 10, 1982, the Commission issued an advance concept release (Investment Company Act Release No. 12888, (47 FR 56509)) soliciting public comment on whether the Commission should propose rules or recommend legislation which would provide for an alternative form of mutual fund governance. Specifically, this release requests comment on whether mutual funds should be exempted from shareholder voting and/or director requirements under the Investment Company Act of 1940 (the "Act") and, if so, whether conditions could be fashioned which would adequately insure against loss of investor protection. Although such changes might be effected through rulemaking, the Commission has indicated that, in its preliminary judgment, changes of this magnitude should be effected through legislative rather than administrative action. Since the costs and benefits of providing for an alternative scheme of mutual fund governance cannot be estimated at the present time, the release solicits specific comment on the costs and benefits which would result from such changes. Extension of comment period until April 18, 1983 was announced in Investment Company Act Release No. 13012 (cont)

Timetable:

Action	Date	FR Cite
ANPRM	12/10/82	47 FR 56509
Ext'n of Comment Period to 4/18/83	02/07/83	48 FR 6354
ANPRM Comment Period End	04/18/83	48 FR 6354

Next Action Undetermined

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: (February 7, 1983) 48 FR 6354.

Agency Contact: Elizabeth M. Knoblock, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3936

RIN: 3235-AA44

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3909. PROPOSED RULE 3A-4 -- INDIVIDUALIZED INVESTMENT MANAGEMENT SERVICES

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a); Investment Company Act, Sec 6(c); Investment Company Act, Sec 38(a)

CFR Citation: 17 CFR 270.3a-4

Abstract: In Investment Company Act Release No. 11361 (October 10, 1980) (45 FR 68479) the Commission proposed for public comment Rule 3a-4, which would deem investment management services providing their clients with individualized treatment not to be investment companies for purposes of the Act. The rule provides a "safe harbor" for any investment manager providing its clients with treatment based on the needs and goals of each client. Under such circumstances, regulation of investment management services under the Act appears unnecessary. The proposed rule was intended to clarify the Commission's position on the question of "mini-accounts" by providing a safe harbor for certain investment management services and thereby provide some certainty to the public. The Commission does not expect any final action taken on the proposal to significantly affect the cost of providing investment management services. The public comment letters on the proposal have been reviewed and alternatives for final action are being formulated.

Timetable:

Action	Date	FR Cite
NPRM	10/10/80	45 FR 68479
NPRM Comment Period End	01/31/81	45 FR 68479

Next Action Undetermined

Small Entity: Undetermined

Additional Information: NPRM is Release No. IC-11391 (10/10/80)

Agency Contact: Elizabeth Knoblock, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235-AA12

3908. ● EXEMPTION FOR FOREIGN BANKS

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.3a-5; 17 CFR 270.3a-6

Abstract: Foreign banks and their finance subsidiaries are considered investment companies under the Investment Company Act of 1940. The regulation will provide an exemption from the Act for foreign banks and their finance subsidiaries that issue securities in the United States under certain conditions.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Philip J. Niehoff, Attorney Advisor, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N.W. (Stop 5-2), Washington, DC 20549, 202 272-7322

RIN: 3235-AC37

3910. PROPOSED RULE 3C-5 UNDER THE INVESTMENT COMPANY ACT

Legal Authority: 15 USC 80a-6c; 15 USC 80a-37

CFR Citation: 17 CFR 270.3c-5

Abstract: The Commission is considering whether to propose a rule that would provide exemptive relief from all provisions of the ICA to limited purpose finance subsidiaries that own or hold mortgage-related securities. This would obviate the necessity of these subsidiaries filing applications for exemptive relief.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Elizabeth M. Knoblock, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2048

RIN: 3235-AC03

3911. ● EXEMPTION OF ACQUISITION OF SECURITIES DURING THE EXISTENCE OF UNDERWRITING SYNDICATE

Legal Authority: 15 USC 80a-10(f); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.10f-3

Abstract: The conditions in existing Rule 10f-3, which allow purchases from affiliated underwriters during the existence of an underwriting syndicate, may no longer be appropriate in today's financial markets. The Commission is investigating possible alternative provisions and soliciting comment on these alternatives.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Philip J. Niehoff, Attorney/Advisor, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, NW (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235-AC28

3912. PROPOSED RULES 11A-3 AND 11A-4 UNDER THE INVESTMENT COMPANY ACT

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-11(a); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.11a-3; 17 CFR 270.11a-4

Abstract: The Commission is considering whether to propose a Rule 11a-3 and a Rule 11a-4 which would exempt certain persons from the requirements of Section 11(a) of the Investment Company Act. That section generally prohibits any registered open-end investment company and the principal underwriter of its shares from making an offer to a shareholder to exchange his security for another security on any basis other than the net asset values of the securities to be exchanged without approval of the Commission. Section 11(c) extends the prohibitions of Section 11(a) to offers of the securities of unit investment trusts. The Commission has issued numerous orders permitting open-end management companies and the principal underwriter(s) of their shares to make exchange offers on the basis of the relative net asset value of the securities being exchanged plus a sales load equal to the difference between the sales load which would otherwise be charged on the securities to be acquired and on the securities to be exchanged. The Commission has also issued orders permitting unit investment trusts and their sponsors to make offers of exchange based on the relative net asset (cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: value of the respective securities plus a fixed fee to cover expenses. The proposed rules would codify such orders (Rule 11a-3 for management companies; Rule 11a-4 for unit investment trusts) thereby eliminating the cost for small companies of preparing applications seeking the orders. Thus, the proposed rules would have a beneficial economic impact on such companies. The proposed rules would contain several conditions to assure the protection of investors. Any such conditions would be included in the rule in order to adequately protect investors against the abuses addressed by Section 11.

Agency Contact: Elizabeth M. Knoblock, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3636

RIN: 3235-AA14

3913. PROPOSED AMENDMENTS TO RULE 12B-1 PROPOSED RULES 2A32-1 AND 2A35-1

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37; 15 USC 80a-12(b)

CFR Citation: 17 CFR 12b-1; 17 CFR 2a35-1

Abstract: The Commission is considering whether to propose amendments to Rule 12b-1 under the Investment Company Act to redefine the circumstances under which investment companies may pay for distribution expenses out of investment company assets. The Commission is also considering whether to propose Rule 2a35-1 under the Investment Company Act to allow investment companies to charge contingent deferred sales loads and to include such contingent deferred sales loads within the definition of a sales load under the Act. These actions would abrogate the need for investment companies to file applications for exemptive relief.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Jack Murphy, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2048

RIN: 3235-AC11

3914. ● PROPOSED RULE 12D3-2

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-37

CFR Citation: 17 CFR 270.12d3-2

Abstract: The Commission is considering whether to propose a rule that would set forth the conditions under which registered investment companies may engage in repurchase agreement transactions with persons engaged in securities related businesses.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Jack W. Murphy, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N.W. (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235-AC36

3915. RULE 17J-1 UNDER THE INVESTMENT COMPANY ACT OF 1940

Legal Authority: 15 USC 80a-17(j); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17j-1

Abstract: Rule 17j-1 requires every access person of a registered investment company, or of an investment adviser of or principal underwriter for the investment company to report to the investment company certain of his securities transactions. The Commission is considering whether to propose an amendment to this rule which would reduce the reporting requirement for investment company directors who are interested persons with respect to the investment company by reason of their affiliation with a registered broker-dealer. Members of the industry have characterized these reporting requirements as unnecessarily burdensome in some instances. Any such rule amendment would have the effect of lessening the reporting requirements currently imposed by the rule. As a result, the staff believes that the costs, which should be insignificant, of complying with any amendment would be significantly less than the benefits it would provide. The staff is concurrently reviewing similar reporting requirements for investment advisers under Rule 204-2(a)(12) and (13) under the Investment Advisers Act, in order to (cont)

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: harmonize the provisions of Rule 17j-1 and Rule 204-2 to the extent possible.

Agency Contact: Elizabeth M. Knoblock, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2048

RIN: 3235-AA66

3916. REGISTRATION UNDER THE SECURITIES ACT OF 1933 OF AN INDEFINITE NUMBER OF CERTAIN INVESTMENT COMPANY SECURITIES

Legal Authority: 15 USC 80a-37; 15 USC 80a-24

CFR Citation: 17 CFR 270.24f-2

Abstract: Rule 24f-2 allows certain investment companies to register an indefinite number of their securities under the Securities Act of 1933. The rule was adopted by the Commission in 1977 in order to address the problem of oversales by investment companies. Although the rule is relied on by unit investment trusts, provisions of the rule regarding the payment of fees and the filing of notices may be unnecessarily burdensome for unit trusts under certain circumstances. The Commission is considering a rule which would

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streamline the procedures to be followed by unit investment trusts relying on the indefinite registration provisions of rule 24f-2. Because the proposed rule is in the developmental stages, its potential costs and benefits as a whole and the potential effect on small entities are uncertain at this time.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Jay B. Gould, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2810

RIN: 3235-AC10

3917. ● NIA HOUSEKEEPING AMENDMENTS

Legal Authority: 15 USC 80a-8(b)

CFR Citation: 17 CFR 274.11A

Legal Deadline: None

Abstract: The Commission is considering several modifications to Form N1A which would reduce the number of copies that must be filed with the Commission, clarify the operation of item 15(c) of the Statement of Additional information with respect to senes companies, and confirm the procedures for requesting the statement of additional information to those contained in Forms N-3 and N-4.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Debra Kertzman, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 Fifth street, N. W., Washington, DC 20549, 202 272-2107

RIN: 3235-AC25

3918. METHOD FOR COMPLIANCE WITH SECTION 206(3) OF THE INVESTMENT ADVISERS ACT OF 1940 WITH RESPECT TO CERTAIN TRANSACTIONS

Legal Authority: 15 USC 80b-11(a)

CFR Citation: 17 CFR 275.206(3)-3

Abstract: Section 206(3) of the Investment Advisers Act of 1940 makes it unlawful for any investment adviser, by use of the mail or any means or instrumentality of interstate commerce, directly or indirectly, knowingly to effect a securities transaction (a) with a client while acting as principal or (b) for a client while acting as broker for a person other than such client, without disclosing in writing to such client before the completion of the transaction the capacity on which he is acting and obtaining the consent of the client to the transaction. The Commission is considering whether to propose a rule that would provide a nonexclusive method for compliance with the provisions of Section 206(3) of the Investment Advisers Act of 1940 in connection with purchases of securities from an underwriting syndicate for an advisory client under specified conditions. Because the proposed rule is still in the developmental stages, its potential effect on small entities and its potential costs and benefits as a whole are unknown at this time.

Timetable:

Action	Date	FR Cite
NPRM	00/00/00	

Small Entity: Undetermined

Agency Contact: Stephen C. Beach, Attorney, Securities and Exchange Commission, Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-3040

RIN: 3235-AB74

3919. ADVERTISING BY INVESTMENT ADVISERS

Legal Authority: 15 USC 80b-11(a)

CFR Citation: 17 CFR 275.206(4)-1

Abstract: Rule 206(4)-1 contains a wide range of restrictions on advertising by investment advisers including prohibitions on the use of testimonials. The rule was adopted in 1962 and has not been revised since. The Commission is considering whether to amend the rule in a manner which would permit greater flexibility to investment advisers in their advertising and protect the investing public from potential abuse. Because the proposed amendments to the rule are still in the developmental stages, the potential effect on small entities and its potential costs and benefits as a whole are uncertain at this time.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Robert E. Plaze, Attorney Advisor, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2068

RIN: 3235-AC09

3920. DISCLOSURE OF LEGAL AND DISCIPLINARY PROCEEDINGS

Legal Authority: 15 USC 80b-11a

CFR Citation: 17 CFR 275.206(4)-4

Abstract: Section 206 of the Investment Advisers Act of 1940 prohibits a wide range of fraudulent activity by investment advisers. The Commission has interpreted this section to require that advisers disclose disciplinary and legal proceedings in which they have been involved which are material to an evaluation of the adviser's integrity and ability. The Commission is considering proposing a rule under Section 206(4) of the Advisers Act, which would clarify the disclosure requirements of advisers who have been involved in disciplinary and legal proceedings. The Commission also is considering codifying in the rule its interpretation of the adviser's fiduciary duty under Section 206 to disclose serious financial conditions which might impair the ability of the adviser to meet its contractual commitments. Because the rule is in its developmental stages, the potential impact on small entities and its potential costs and benefits as a whole are unknown at this time.

Timetable:

Action	Date	FR Cite
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: Debra J. Kertzman, Staff Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W.(Stop 5-2), Washington, D.C. 20549, 202 272-2107

RIN: 3235-AC06

SECURITIES AND EXCHANGE COMMISSION (SEC) — Final Rule Stage

Accounting Rules

3921. OFF-BALANCE SHEET FINANCING ARRANGEMENTS

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78w(a); 15 USC 79e; 15 USC 79n; 15 USC 79t; 15 USC 80a-8; 15 USC 80a-29

CFR Citation: 17 CFR 210

Abstract: The staff is considering whether to recommend that the Commission propose rules calling for increased disclosure of off-balance sheet financing arrangements. During recent years off-balance sheet financing arrangements have increased in number and complexity, and disclosure of such arrangements may currently appear in various places throughout the financial statement footnotes. The identification and analysis of the aggregate impact of the various types of arrangements may therefore be difficult. The staff is considering various alternatives - including possible centralized footnote disclosure - to provide for improved disclosure of the effects of off-balance sheet financing arrangements. The concept for such improved disclosure was announced in Securities Act Release No. 6514 (49 FR 6737; February 23, 1984).

Timetable:

Action	Date	FR Cite
ANPRM	02/15/84	49 FR 7637
ANPRM Comment Period End	05/15/84	
Next Action Undetermined		

Small Entity: Undetermined

Agency Contact: John W. Albert, Assistant Chief Accountant, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2130

RIN: 3235-AB68

3922. PROPOSAL REGARDING REVISION OF RULE 3A-02 OF REGULATION S-X CONCERNING CONSOLIDATED STATEMENT OF THE REGISTRANT AND ITS SUBSIDIARIES

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s; 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78o; 15 USC 78w; 15 USC 79e; 15 USC 79n; 15 USC 79t; 15 USC 80a-8; 15 USC 80a-29

CFR Citation: 17 CFR 210.3A-02 (Revision)

Abstract: The Commission proposed amendments to Rule 3A-02 of Regulation S-X to clarify when a registrant should file with the Commission the consolidated financial statements of the registrant and its subsidiaries.

Timetable:

Action	Date	FR Cite
NPRM	04/23/85	50 FR 19035
NPRM Comment Period End	06/29/85	50 FR 19035
Final Action	03/31/86	

Small Entity: Undetermined

Agency Contact: Robert Lavery, Staff Accountant, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2130

RIN: 3235-AC04

3923. PROPOSALS REGARDING INDUSTRY SEGMENT AND OTHER INTERIM FINANCIAL REPORTING MATTERS, MANAGEMENT'S DISCUSSION AND ANALYSIS, AND OFF BALANCE SHEET FINANCING DISCLOSURES

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77h; 15 USC 77j; 15 USC 77s(a); 15 USC 77aa(25) and (26); 15 USC 78l; 15 USC 78m; 15 USC 78o(d); 15 USC 78w(a); 15 USC 79e(b); 15 USC 79n; 15 USC 79t(a); 15 USC 80a-8; 15 USC 80-29

CFR Citation: 17 CFR 210.5-02; 17 CFR 210.10-01; 17 CFR 210.11-02; 17 CFR 229.303

Abstract: The Commission proposed amendments to require (1) presentation of certain industry segment information for interim periods; (2) a discussion of reportable segments in management's discussion and analysis; and (3) modifications of other miscellaneous interim reporting requirements. The release also provides advance notice of possible future rulemaking regarding (1) additional segment reporting disclosures and (2) uniform disclosure of off balance sheet financing arrangements. The proposals are designed to enhance analysis of financial information. They may entail some new recordkeeping but any such costs have not been determined. The Commission's interim reporting rules will be reviewed as a part of this action.

Timetable:

Action	Date	FR Cite
NPRM	02/15/84	49 FR 6737
NPRM Comment Period End	05/15/84	
Final Action	00/00/00	

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Small Entity: Undetermined

Additional Information: This entry replaces the following three entries from the October 1983 agenda. RIN 3235-AA53 -- Off Balance Sheet Obligations. RIN 3235-AA54 -- Segment Information. RIN 3235-AA55 -- Quarterly Financial Reporting.

Agency Contact: John W. Albert, Assistant Chief Accountant, Securities and Exchange Commission, 450 5th Street, NW, Washington, DC 20549, 202 272-2130

RIN: 3235-AB15

3924. DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

Legal Authority: 15 USC 77f; 15 USC 77g; 15 USC 77j; 15 USC 77s(a); 15 USC 77aa(25); 15 USC 77aa(26); 15 USC 78l; 15 USC 78m; 15 USC 78n; 15 USC 78w(a); 15 USC 79t(a); 15 USC 80a-38; 15 USC 80b-11

CFR Citation: 17 CFR 229.304; 17 CFR 239.26; 17 CFR 240.14a-101; 17 CFR 240.14c-101; 17 CFR 240.308; 17 CFR 249.308a

Abstract: The Staff is considering whether to recommend that the Commission propose amendments to Item 304 of Regulation S-K and related forms and schedules to remove the dependence of that item on the prior filing of a Form 8-K. Presently, certain registrants who had no Form 8-K filing requirement at the time a change in accountants occurred are not specifically required to provide Item 304 disclosure regarding disagreements with their former accountants. The amendments, if proposed, would provide for such disclosure in initial public offerings among other filings.

Timetable:

Action	Date	FR Cite
NPRM Comment Period End	09/17/85	50 FR 29409

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Robert Burns, Chief Counsel, Securities and Exchange Commission, Office of the Chief Accountant, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2130

RIN: 3235-AB63

Disclosure Rules

3925. SMALL ISSUER PERIODIC REPORTS

Legal Authority: 15 USC 77s(a)

CFR Citation: Not yet determined; 17 CFR 230; 17 CFR 240; 17 CFR 244; 17 CFR 260

Abstract: The Securities Exchange Act of 1934 (the "Exchange Act") imposes periodic reporting requirements on companies subject to Sections 13(a) and 15(d) of the Exchange Act. Because these reporting requirements may not be entirely appropriate for companies of all sizes, the Commission has reviewed the Exchange Act reporting system as it pertains to small businesses and has proposed that the total asset reporting threshold be raised from $3 million to $5 million, thereby relieving certain small issuers of the burden of complying with such registration and reporting requirements.

Timetable:

Action	Date	FR Cite
NPRM	09/30/85	50 FR 41162
NPRM Comment Period End	12/06/85	
Final Action	06/30/86	

Small Entity: Undetermined

Agency Contact: Mary M. Jackley, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-2644

RIN: 3235-AA91

3926. PROPOSED TENDER OFFER RULE AMENDMENTS

Legal Authority: 15 USC 78(a) et seq

CFR Citation: 17 CFR 240.14d-10; 17 CFR 240.14e-1; 17 CFR 240.14d-7

Abstract: Proposed Rule 14d-10 under the Securities and Exchange Act of 1934 would make explicit that a bidder's tender offer must be open to all holders of the class of securities subject to the tender offer, and that all security holders must be paid the highest consideration paid to any other security holders. The Commission also proposed to amend Rule 14e-1 under the Act to provide that a tender offer must remain open for ten business days upon the announcement of increase or decrease in the percentage of securities being sought or consideration offered by the offeror. The Commission proposed to amend Rule 14d-7 under the Act in one of two ways. The first approach provides that,upon announcement of a decrease in the percentage being sought or consideration offered additional withdrawal rights attach for ten business days. The second approach provides that withdrawal rights extend throughout the offer and the extensions of withdrawal rights upon the commencement of a competing bid is eliminated.

Timetable:

Action	Date	FR Cite
NPRM	01/24/86	51 FR 3186
NPRM Comment Period End	02/24/86	

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Sarah A. Miller, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2589

RIN: 3235-AC15

3927. REPORTS OF DIRECTORS, OFFICERS AND PRINCIPAL STOCKHOLDERS

Legal Authority: 15 USC 78m(d); 15 USC 78p(a); 15 USC 78p(b); 15 USC 78p(c); 15 USC 78p(e); 15 USC 78w(a)

CFR Citation: 17 CFR 240.16a-1 to 240.16a-11; 17 CFR 240.16b-1 to 240.16b-11; 17 CFR 240.16c-1 to 240.16c-3; 17 CFR 240.16e-1; 17 CFR 240.13d-3; 17 CFR 240.14d-1; 17 CFR 229.403; 17 CFR 249.103; 17 CFR 249.104

Abstract: The Commission will review the existing rules and reporting forms intended to implement the provisions of Section 16 of the Securities Exchange Act. Section 16 seeks to deter misuse of inside information by imposing certain periodic and transactional reporting requirements on the officers, directors and principal beneficial shareholders of companies registered under that Act as well as certain limitations on equity transactions by those persons. Over the years the Commission has adopted a number of rules to clarify the applicability of Section 16's requirements to particular circumstances. The Commission will examine their current suitability in light of the purposes of the statute.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: The Commission believes that these actions will result in savings to persons subject to these provisions with no reduction in investor protection. This initiative is a consolidation of five projects that were previously listed separately in the October 1983 agenda.

Agency Contact: Patricia Magee Daly, Special Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW (Stop 2-10), Washington, DC 20549, 202 272-2589

RIN: 3235-AB14

3928. TRUST INDENTURE ACT RULES

Legal Authority: 15 USC 77s

CFR Citation: 17 CFR 260

Abstract: The Trust Indenture Act and the rules promulgated thereunder are being examined comprehensively in order to update their requirements in light of current commercial and business practices. The Commission is considering both rule changes and proposed amendments to the Act itself. The primary areas of the Commission's focus are the qualifications for eligibility of, the duties imposed on and the procedures for qualification of indenture trustees.

Timetable:

Action	Date	FR Cite
NPRM	12/31/84	

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: William Morley, Chief Counsel, Securities and Exchange Commission, Division of Corporation Finance, 450 5th Street, NW, Washington, DC 20549, 202 272-2573

RIN: 3235-AB43

Securities Markets and Securities Industry Rules

3929. EXEMPTION OF CERTAIN DIRECT PARTICIPATION PROGRAM INTERESTS FROM SECTIONS 7(C) AND 11(D)(1)

Legal Authority: 15 USC 78c(a)(12); 15 USC 78g; 15 USC 78k; 15 USC 78w

CFR Citation: 17 CFR 240.3a12-9

Abstract: Proposed Rule 3a12-9 would provide an exemption from Sections 7(c) and 11(d)(1) of the Exchange Act for public offerings of direct participation interests with installment payment features. This rule is being proposed, in part, as a response to a proposal made by the National Association of Securities Dealers and has the concurrence of the staff of the Federal Reserve Board. If adopted, the rule would enhance investor protection by encouraging registration of interests in direct participation programs that are sold on an installment basis and by requiring that these programs become subject to and remain in compliance with the reporting requirements of Section 12(g) of the Exchange Act until the total purchase price of the program security is discharged.

Timetable:

Action	Date	FR Cite
NPRM	11/27/84	49 FR 46556

Next Action Undetermined

Small Entity: No

Agency Contact: Edward L. Pittman, Attorney-Adviser, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, NW, Washington, DC 20549, 202 272-2848

RIN: 3235-AB51

3930. RULE 9B-1 OF THE SECURITIES EXCHANGE ACT OF 1934

Legal Authority: 15 USC 77b; 15 USC 78w(a); 15 USC 77g; 15 USC 78l; 15 USC 77j; 15 USC 78o; 15 USC 77s(a)

CFR Citation: 17 CFR 240.9b-1

Abstract: Currently, Rule 9b-1 provides that an options disclosure document containing information specified in paragraph (c) of the Rule must be filed with the Commission by an options market at least 60 days prior to the date definitive copies are furnished to customers. Paragraph (c) of the Rule specifies that the document must contain, among other things, a discussion of the mechanics of buying, writing and exercising the options; the risks of trading, and the uses of, the options; the market for the options; and the tax consequences of options trading. Proposed modifications to the Rule would eliminate the requirement that the document contain a discussion of the uses of options. This modification is being considered because a discussion of uses is no longer believed to be necessary for the protection of investors, and the projected cost savings by eliminating this discussion from the document is significant. The modification may benefit investors by making the document less lengthy and complex, and thereby focusing attention on the risk disclosure aspects of the document.

Timetable:

Action	Date	FR Cite
NPRM	10/15/85	
NPRM Comment Period End	11/15/85	

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Holly H. Smith, Attorney, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, N.W., Washington, D.C. 20549, 202 272-2415

RIN: 3235-AC12

3931. PROPOSED RULE 11A-1--CUSTOMER ORDER EXPOSURE

Legal Authority: 15 USC 78b Exchange Act; 15 USC 78c Exchange Act; 15 USC 78f Exchange Act; 15 USC 78i Exchange Act; 15 USC 78j Exchange Act; 15 USC 78k Exchange Act; 15 USC 78k-1 Exchange Act; 15 USC 78o Exchange Act; 15 USC 78o-3 Exchange Act; 15 USC 78q Exchange Act; 15 USC 78w Exchange Act

CFR Citation: 17 CFR 240.11A-1

Abstract: In connection with the partial removal of exchange off-board trading restrictions through Rule 19c-3, the Commission has proposed a revised rule, Rule 11A-1, to address order exposure concerns. Proposed Rule 11A-1 would require exchange and over-the-counter market makers in Rule 19c-3 securities, prior to executing an order as principal, to hold the order out for 30 seconds, thereby allowing other market makers to compete for that order. Alternatively, the proposed rule would permit the market maker to compete for orders by maintaining competitive quotations in the National Association of Securities Dealers' Computer Assisted Execution System or the Cincinnati Stock Exchange's National Securities Trading System, and routing orders to those systems. The proposed rule also contains a number of specific exceptions to order exposure requirements. The Commission will

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consider public comment on the impact of the proposed rule on small broker-dealers in connection with its final rulemaking.

Timetable:

Action	Date	FR Cite
NPRM	12/30/82	47 FR 58287
NPRM Comment Period End	03/01/83	

Next Action Undetermined

Small Entity: Undetermined

Additional Information: The Commission deferred adopting the Rule on an indefinite basis on July 28, 1983.

Agency Contact: Andrew E. Feldman, Staff Attorney, Securities and Exchange Commission, Division of Market Regulation, 450 5th Street, NW, Washington, DC 20549, 202 272-2398

RIN: 3235-AA39

3932. RULE 17AD-5 -- RESPONSE TO INQUIRIES

Legal Authority: 15 USC 78q-1(d) Exchange Act

CFR Citation: 17 CFR 240.17Ad-5

Abstract: The proposed amendment to Rule 17Ad-5 would require registered transfer agents to respond to securityholder inquiries respecting dividend and interest claims within ten business days of receipt of current claims and within twenty business days of receipt of aged claims. This amendment is designed to accelerate the time frame within which dividend claims are researched and settled. the proposed amendment will be evaluated in light of the relative costs and benefits to the public and the transfer agent industry.

Timetable:

Action	Date	FR Cite
NPRM	06/10/83	48 FR 26109
NPRM Comment Period End	09/01/83	48 FR 26109
Reproposed Amendments	09/30/84	

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Sandra Sciala, Branch Chief, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549, 202 272-2775

RIN: 3235-AB12

3933. DEFINITION OF "SHORT SALE"

Legal Authority: 15 USC 78c(b); 15 USC 78j(a); 15 USC 78w(a)

CFR Citation: 17 CFR 240.3b-3

Abstract: Rule 3b-3 defines the term "short sale" as any sale of a security which the seller does not own or any sale which is consummated by the delivery of a security borrowed by, or for the account of, the seller. The rule also indicates several circumstances when a person is deemed to own a security. See also 17 CFR 240.10a-1, 17 CFR 240.10a-2, and 17 CFR 240.10b-4.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Nancy J. Burke, Branch Chief, Securities and Exchange Commission, Division of Market Regulation, 450 Fifth Street, N.W., Washington, D.C. 20549, 202 272-2848

RIN: 3235-AC17

Investment Management Rules

3934. ACCOUNTING FOR DISTRIBUTION EXPENSES

Legal Authority: 15 USC 77f; 15 USC 80a-37

CFR Citation: 17 CFR 210.6-07

Abstract: On July 10, 1985, the Commission proposed for public comment an amendment to Regulation S-X to require that registered investment companies account for net costs incurred as a result of 12b-1 plan as expenses. The amendment would achieve consistent accounting for 12b-1 expenditures thereby ensuring greater uniformity in the accounting practices of investment companies and allowing investors to more accurately compare investment results among investment companies. See Investment Company Act Release No. IC-14623, 50 FR 28953, July 17, 1985.

Timetable:

Action	Date	FR Cite
NPRM	07/17/85	50 FR 28953
NPRM Comment Period End	09/30/85	
Final Action	06/01/86	

Small Entity: No

Agency Contact: Forrest R. Foss, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-7218

RIN: 3235-AC07

3935. ● DISCLOSURE OF SECURITY RATINGS IN REGISTRATION STATEMENTS OF MONEY MARKET FUNDS

Legal Authority: 15 USC 77(g); 15 USC 77(i); 15 USC 77(s)(a)

CFR Citation: 17 CFR 230.134; 17 CFR 230.436; 17 CFR 230.482

Legal Deadline: None

Abstract: The Commission is considering publishing for public comment amendments to Rule 134, 436, and 482 under the Securities Act of 1933. The amendments would, if adopted, permit certain investment companies to use in their statutory and omitting prospectuses security ratings assigned by a nationally recognized statistical rating organization (NRSRO) without first obtaining the NRSRO'S consent to being named as an expert pursuant to Section 7 of the Securities Act. Without these amendments, eligible investment companies would need to continue to obtain the consent of the NRSRO. NRSRO's have refused to give this consent thereby making the use of ratings prohibitively expensive.

Timetable:

Action	Date	FR Cite
Final Action	03/12/86	

Small Entity: Undetermined

Agency Contact: Jay Gould, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-2107

RIN: 3235-AC24

3936. AMENDMENT TO RULE 180 -- EXEMPTION FROM REGISTRATION OF CERTAIN INTERESTS AND PARTICIPATIONS IN CERTAIN H.R. 10 PLANS

Legal Authority: 15 USC 77c(a)(2); 15 USC 77s(a)

CFR Citation: 17 CFR 230.180

Abstract: Rule 180 provides an exemption from the registration requirements of the Securities Act for

interests and participations issued in connection with certain qualified H.R. 10 plans. In order for interests in funding media issued to plans established by financially inexperienced employers to qualify for the rule's exemption, the rule, as adopted, requires those employers to obtain financial advice from an independent expert prior to adopting the H.R. 10 plan. Among other things, the Commission is considering proposing an amendment to Rule 180 that would codify a present "no-action" position regarding the situation where a financially unsophisticated employer has already established a plan for its employees without obtaining advice from an independent expert, and intends either to change the funding medium or add another funding medium to the choices already available to employees. The issuer of the funding medium in such a case would be in compliance with the rule if the issuer has reasonable grounds to believe and, after having made reasonable inquiry, does believe, that an independent financial expert reviewed the funding medium prior to the investment of the (cont)

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Additional Information: ABSTRACT CONT: plan's assets in that funding medium. The type of amendment being considered would impose no additional compliance cost, and would increase the flexibility of existing plans and the number of investment choices available to participating employees.

Agency Contact: Elizabeth M. Knoblock, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 Fifth Street, N. W. (Stop 5-2), Washington, DC 20549, 202 272-2048

RIN: 3235-AA06

3937. REVISIONS TO EXPENSE-RELATED DISCLOSURE REQUIREMENTS OF FORM N-1A

Legal Authority: 15 USC 77g; 15 USC 77j; 15 USC 77s

CFR Citation: 17 CFR 239.15A; 17 CFR 274.11A

Abstract: On November 9, 1984, the Commission issued a release (Investment Company Act Release No. 14230; 49 FR 45172) soliciting public comment on proposed revisions to Item 5, Management of the Fund, of Form N-1A, the registration form under the Securities Act of 1933 and the Investment Company Act of 1940 used by open-end, management investment companies other than registered separate accounts of insurance companies. The revised Item 5 would require a consolidation of all narrative information in the prospectus concerning significant expenses of the registrant and would add a tabular presentation setting forth the major types of expenses, the names of the payees, and the amount of the expense, expressed as a percentage of average net assets.

Timetable:

Action	Date	FR Cite
NPRM	11/09/84	49 FR 45172
NPRM Comment Period End	01/14/85	
Final Action	00/00/00	

Small Entity: No

Agency Contact: Stephen C. Beach, Attorney, Securities and Exchange Commission, Investment Management, 450 5th Street, N.W. (Stop 5-2), Washington, D.C. 20549, 202 272-3040

RIN: 3235-AB73

3938. SIMPLIFICATION OF REGISTRATION STATEMENTS FILED BY UNIT INVESTMENT TRUSTS

Legal Authority: 15 USC 80a-8; 15 USC 77g; 15 USC 77j

CFR Citation: 17 CFR 239.16; 17 CFR 274.12

Abstract: On May 14, 1985, the Commission issued a release (Investment Company Act Release NO.14513 (50 FR 21282) soliciting public comment on proposed Form N-7, a form for registration of unit Investment Trusts and their securities under the Investment Act of 1940 and the Securities Act of 1933, and certain related rules and rule amendments. The Commission also published staff guidelines for the preparation of Form N-7. The proposed form would establish a two-part format for disclosure to prospective investors consisting of a simplified prospectus that can be use to satisfy the prospectus delivery requirements of the Securities Act of 1933 and a statement of additional information that would be available to prospective investors upon request and without charge. The Commission is proposing Form N-7 in order to (I) integrate the reporting and disclosure requirements of the Securities Act of 1933 and the investment trusts in one document; (II) codify in the form and guidelines the disclosure standards that have been developed for unit investment trusts; and (III) shorten and simplify the prospectus while making available on request more extensive information not of routine(cont)

Timetable:

Action	Date	FR Cite
NPRM	05/23/85	50 FR 21282
Final Action Effective	05/31/86	

Small Entity: Yes

Additional Information: ABSTRACT CONT: interest to most investor.

Agency Contact: Stephen C. Beach, Attorney, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3040

RIN: 3235-AA47

3939. PROPOSED AMENDMENT TO RULE 17G-1 UNDER THE INVESTMENT COMPANY ACT

Legal Authority: 15 USC 80a-6(c); 15 USC 80a-17(g); 15 USC 80a-37(a)

CFR Citation: 17 CFR 270.17g-1

Abstract: The Commission is considering whether to adopt an amendment to Rule 17g-1 under the Investment Company Act. The amendment was proposed for public comment in Investment Company Act Release No. 11193 (June 2, 1980) (45 FR 38407). Rule 17g-1 requires every registered investment company to provide and maintain a bond against larceny and embezzlement covering officers and employees of the company. In some circumstances, the officers and employees of a company's depositor, trustee, investment adviser or other manager and various affiliates of such persons, because they have access to the company's assets, function as officers and employees of the investment company. The proposed amendment to the rule would clarify the scope of the rule by explicitly

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requiring the bonding of such persons. The principal cost associated with this rule would be the cost of a bond. That cost would vary according to the persons required to be bonded by the rule. In this regard, before adopting any amendment to the rule, the Commission will carefully consider what persons should be bonded to protect investors adequately, weighing the benefits of the protection against the cost of a bond.

Timetable:

Action	Date	FR Cite

Next Action Undetermined

Small Entity: Undetermined

Agency Contact: Elizabeth Knobleck, Special Counsel, Securities and Exchange Commission, Division of Investment Management, 450 5th Street, NW (Stop 5-2), Washington, DC 20549, 202 272-3042

RIN: 3235-AA16

SECURITIES AND EXCHANGE COMMISSION (SEC) — Completed Actions

3940. ◉ADVANCE NOTICE OF POSSIBLE RULEMAKING REGARDING FINANCIAL ASSETS AND TRANSACTIONS

CFR Citation: 17 CFR 210

Completed:

Reason	Date	FR Cite
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Laurel R. Bond 202 272-2130

RIN: 3235-AC21

3941. PROPOSED DISCLOSURE REGARDING REPURCHASE AND REVERSE REPURCHASE TRANSACTIONS AND ADVANCE NOTICE OF POSSIBLE RULEMAKING REGARDING FINANCIAL ASSETS AND TRANSACTIONS

CFR Citation: 17 CFR 210.4-08

Completed:

Reason	Date	FR Cite
Final Action	01/21/86	
Final Action Effective	02/28/86	

Small Entity: Undetermined

Agency Contact: Laurel R. Bond 202 272-2130

RIN: 3235-AC05

3942. RESCISSION OF OBSOLETE RULES AND TECHNICAL REVISIONS AND CORRECTIONS

CFR Citation: 17 CFR 210

Completed:

Reason	Date	FR Cite
Final Action	11/21/85	50 FR 48529
Final Action Effective	12/03/85	50 FR 48529

Small Entity: Undetermined

Agency Contact: John W. Albert 202 272-2130

RIN: 3235-AA74

3943. ◉RULE 150, DEFINITION OF "COMMISSION OR OTHER REMUNERATION" IN SECTION 3(A)(9), FOR CERTAIN TRANSACTIONS

CFR Citation: 17 CFR 230.100

Completed:

Reason	Date	FR Cite
End Review	02/13/86	

Small Entity: Undetermined

Agency Contact: 202 272-2589

RIN: 3235-AC36

3944. PROPOSED FORM S-4 AND OTHER RULES

CFR Citation: 17 CFR 239.25, (New)

Completed:

Reason	Date	FR Cite
Final Action On May 3, 1985, new Form S-4 was adopted by the Commission	05/03/85	49 FR 20833
Final Action Effective	07/01/85	

Small Entity: Yes

Agency Contact: Patricia B. Magee 202 272-2589

RIN: 3235-AA01

3945. REGULATION 14A – SOLICITATION OF PROXIES

CFR Citation: 17 CFR 240.14a-1 to 240.14a-12; 17 CFR 240.14a-101; 17 CFR 240.14a-102

Completed:

Reason	Date	FR Cite
Final Action This entry has been combined with 02/86/86 with RIN 3235-aa-24.	00/00/00	

Small Entity: Undetermined

Agency Contact: Sarah A. Miller 202 272-2589

RIN: 3235-AA23

3946. REGULATION 14A: SOLICITATION OF PROXIES - RULE 14A-13 OBLIGATION OF REGISTRANTS. RULE 14B-2 OBLIGATION OF BANKS, ASSOCIATION AND OTHER FIDUCIARY ENTITIES

CFR Citation: 17 CFR 240.14a-13; 17 CFR 240.14b-2; 17 CFR 240.14c-7

Completed:

Reason	Date	FR Cite
Final Action	10/15/85	50 FR 42672

Small Entity: Undetermined

Agency Contact: Sarah A. Miller 202 272-2589

RIN: 3235-AB78

SEC — Completed Actions

3947. REGULATION 14C – DISTRIBUTION OF INFORMATION PURSUANT TO SECTION 14(C)

CFR Citation: 17 CFR 240.14c-1 to 240.14c-7; 17 CFR 240.14c-101

Completed:

Reason	Date	FR Cite
This entry has been combined with RIN 3235-AA24	02/05/86	

Small Entity: Undetermined

Agency Contact: Sarah A. Miller 202 272-2589

RIN: 3235-AA24

3948. ◉RULE 143, DEFINITION OF "HAS PURCHASED," SELLS FOR," PARTICIPATION," AND PARTICIPATION," AS USED IN SECTION 2(11)

CFR Citation: 17 CFR 230.143

Completed:

Reason	Date	FR Cite
End Review	02/13/86	

Small Entity: No

Agency Contact: 202 272-2589

RIN: 3235-AC39

3949. ◉RULE 148, PERSONS NOT DEEMED TO BE UNDERWRITERS OF SECURITIES ISSUED OR SOLD IN CONNECTION WITH BANKRUPTCY PROCEEDINGS

CFR Citation: 17 CFR 230.145

Completed:

Reason	Date	FR Cite
End Review	02/13/86	

Small Entity: Undetermined

Agency Contact: 202 272-2589

RIN: 3235-AC40

3950. ◉RULE 149, DEFINITION OF "EXCHANGED" IS SECTION 3(A)(9), FOR CERTAIN TRANSACTION

CFR Citation: 17 CFR 230.148

Completed:

Reason	Date	FR Cite
End Review	02/13/86	

Small Entity: Undetermined

Agency Contact: 202 272-2589

RIN: 3235-AC23

3951. ◉RULE 100, DEFINITION OF TERMS USED IN THE RULES AND REGULATIONS

CFR Citation: 17 CFR 230.149

Completed:

Reason	Date	FR Cite
End Review	02/13/86	

Small Entity: Undetermined

Agency Contact: 202 272-2589

RIN: 3235-AC41

3952. ◉RULE 145 – RECLASSIFICATIONS OF SECURITIES, MERGERS, CONSOLIDATIONS AND ACQUISITIONS OF ASSETS

CFR Citation: 17 CFR 230.150

Completed:

Reason	Date	FR Cite
End Review	02/13/86	

Small Entity: Undetermined

Agency Contact: 202 272-2589

RIN: 3235-AC42

3953. RULE 10B-10 – CONFIRMATION DISCLOSURE FOR REPORTED SECURITIES

CFR Citation: 17 CFR 240.10b-10

Completed:

Reason	Date	FR Cite
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Leland Goss 202 272-2827

RIN: 3235-AB81

3954. SEC SUPPLEMENT TO FORM TA-1

CFR Citation: 17 CFR 240.17Ac 2-1(a); 17 CFR 249b.100

Completed:

Reason	Date	FR Cite
Final Action	10/01/85	
Final Action Effective	03/01/86	

Small Entity: Undetermined

Agency Contact: Randy G. Goldberg 202 272-2385

RIN: 3235-AC13

3955. REGISTRATION OF INVESTMENT COMPANY SECURITIES ISSUED IN BUSINESS COMBINATION TRANSACTIONS

CFR Citation: 17 CFR 210.3-05; 17 CFR 230; 17 CFR 240.14a-3; 17 CFR 240.14a-6; 17 CFR 239; 17 CFR 274

Completed:

Reason	Date	FR Cite
Final Action	11/25/85	50 FR 48379
Final Action Effective	02/01/86	50 FR 48379

Small Entity: Undetermined

Agency Contact: Mary Podesta 202 272-2107

RIN: 3235-AB42

3956. LOANS, EXTENSIONS OF CREDIT, DONATIONS AND CAPITAL CONTRIBUTIONS TO ASSOCIATE COMPANIES

CFR Citation: 17 CFR 250.45 (b)(6), (New)

Completed:

Reason	Date	FR Cite
Withdrawn no present plans	01/24/86	

Small Entity: No

Agency Contact: Lewis B. Reich 202 272-7699

RIN: 3235-AB98

3957. EXEMPTIONS FROM SECTION 17(C) OF THE ACT

CFR Citation: 17 CFR 250.70

Completed:

Reason	Date	FR Cite
Final Action	02/28/86	

Small Entity: No

Agency Contact: Denis R. Mollerr 202 272-2073

RIN: 3235-AB99

3958. STANDARDIZED FORMULA FOR CALCULATING INVESTMENT COMPANY PERFORMANCE DATA IN ADVERTISEMENTS

CFR Citation: 17 CFR 270

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Completed:

Reason	Date	FR Cite
Final Action	00/00/00	

Small Entity: Undetermined

Agency Contact: Robert E. Plaze 202 272-2866

RIN: 3235-AC08

3959. PROPOSED AMENDMENTS TO RULES 2A-7 AND 12D3-1 AND PROPOSED RULE 2A41-1 UNDER THE INVESTMENT COMPANY ACT

CFR Citation: 17 CFR 270.2a-7; 17 CFR 270.12d3-1; 17 CFR 270.2a41-1

Completed:

Reason	Date	FR Cite
Final Action consideration by Commission of final rule and rule amendments	03/01/86	

Small Entity: No

Agency Contact: Jack W. Murphy 202 272-2048

RIN: 3235-AB36

3960. PROPOSED RULE 206-3 UNDER THE INVESTMENT ADVISERS ACT OF 1940

CFR Citation: 17 CFR 275.206-3

Completed:

Reason	Date	FR Cite
Final Action adoption of rule	11/26/85	50 FR 48556
Final Action Effective	11/26/85	50 FR 48556

Small Entity: Yes

Agency Contact: Forrest R. Foss 202 272-7318

RIN: 3235-AB70

3961. AMENDMENTS TO FORM ADV

CFR Citation: 17 CFR 279.1

Completed:

Reason	Date	FR Cite
Final Action adoption	10/15/85	50 FR 42903
Final Action Effective	01/01/86	

Small Entity: Undetermined

Agency Contact: Mary Podesta 202 272-2107

RIN: 3235-AB71

[FR Doc. 86-8294 Filed 04-18-86; 8:45 am]

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Tuesday
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Briefings on How To Use the Federal Register—
For information on briefings in Dallas, TX, and Washington, DC, see announcement on the inside cover of this issue.

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Environmental Protection Agency

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Federal Aviation Administration

Animal Drugs
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Federal Energy Regulatory Commission

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

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Health Care
Veterans Administration
Loan Programs—Housing and Community Development
Farmers Home Administration
Pipeline Safety
Research and Special Programs Administration
Public Lands—Mineral Resources
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Radio
Federal Communications Commission
Radio Broadcasting
Federal Communications Commission
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Federal Communications Commission
Securities
Securities and Exchange Commission
Television Broadcasting
Federal Communications Commission
Wages
Personnel Management Office
Watches and Jewelry
Interior Department
International Trade Administration

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

DALLAS, TX

WHEN: April 23; at 1:30 pm.

WHERE: Room 7A23,
Earl Cabell Federal Building,
1100 Commerce Street, Dallas, TX.

RESERVATIONS: local numbers:
Dallas 214-767-6556
Ft. Worth 817-334-3624
Austin 512-472-5494
Houston 713-229-2552
San Antonio 512-224-4471,
for reservations

WASHINGTON, DC

WHEN: May 15; at 9 am.

WHERE: Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.

RESERVATIONS: Laurence Davey 202-523-3517

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Presidential Documents

Title 3—

The President

Proclamation 5462 of April 18, 1986

National Garden Week, 1986

By the President of the United States of America

A Proclamation

During spring, the season of renewal, millions of Americans turn joyfully to gardening.

America's gardens produce an abundance of fruits and vegetables to enliven our tables and a stunning variety of flowers and shrubs brighten our lives with their beauty.

Gardening is a wholesome avocation that encourages appreciation for nature and concern for the preservation and enhancement of our environment. It prompts a genuine respect for those who work in agriculture today. Gardening, above all, provides a special source of fulfillment when foresight, patience, and collaboration with soil and sunlight finally are repaid by lovely flowers and luscious harvests.

The Congress, by Senate Joint Resolution 136, has authorized and requested the President to issue a proclamation designating the week beginning April 13, 1986, as "National Garden Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning April 13, 1986, as National Garden Week, and I call upon all Federal, State and local governments, private organizations, and all Americans to join in educational efforts, ceremonies, and other appropriate activities to show our appreciation for the efforts and contributions of gardeners.

IN WITNESS WHEREOF, I have hereunto set my hand this eighteenth day of April, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-8980
Filed 4-18-86; 4:14 pm]
Billing code 3195-01-M

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Presidential Documents

Proclamation 5463 of April 19, 1986

Education Day, U.S.A., 1986

By the President of the United States of America

A Proclamation

From earliest colonial days, Americans have always known that education is the golden key that opens the door to achievement and progress. This Administration has placed renewed emphasis on excellence in education, and already the results are encouraging. By setting high standards we challenge the young to stretch their mental muscles and strive to achieve the best that is in them. Such an education succeeds because it makes learning an adventure.

Education is like a diamond with many facets: it includes the basic mastery of numbers and letters that give us access to the treasury of human knowledge, accumulated and refined through the ages; it includes technical and vocational training as well as instruction in science, higher mathematics, and humane letters. But no true education can leave out the moral and spiritual dimensions of human life and human striving. Only education that addresses this dimension can lead to that blend of compassion, humility, and understanding that is summed up in one word: wisdom.

"Happy the man," Scripture tells us, "who finds wisdom. . . . Her ways are ways of pleasantness, and all her paths are peace. She is a tree of life to those who come to possess her."

The Congress has sought to call attention to these durable values by adopting resolutions that pay tribute to the example of Rabbi Menachem Mendel Schneerson, a man who has dedicated his life to the search for wisdom and to guiding others along its pathways. He exemplifies the rich tradition of the Seven Noahide Laws, which have been the lodestar of the Lubavitch movement from its inception.

In recognition of Rabbi Schneerson's noble achievements and in celebration of his 84th birthday, the Congress, by House Joint Resolution 582, has designated April 20 as "Education Day, U.S.A." and authorized and requested the President to issue an appropriate proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim Sunday, April 20, 1986, as Education Day, U.S.A., and I call upon the people of the United States, and in particular our teachers and other educational leaders, to observe that day with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of April, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-8134
Filed 4-21-86; 10:26 am]
Billing code 3195-01-M

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 1001

Employee Responsibilities and Conduct; Safeguarding the Examination Process

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is amending its internal regulations at 5 CFR 1001.735–206(a) to require OPM employees to notify their supervisors when they intend, or someone close to them intends, to take an Armed Services entrance examination. These regulations will further safeguard the examination process by adding the Armed Service entrance examination to our current regulations.

EFFECTIVE DATE: May 22, 1986.

FOR FURTHER INFORMATION CONTACT: Stuart D. Rick, Attorney, Office of the General Counsel, Office of Personnel Management. (202) 632–7746.

SUPPLEMENTARY INFORMATION: In our current internal regulations setting forth standards of conduct and ethics for OPM employees, there is a provision pertaining to the safeguarding of the examination process. Because some OPM employees take part in the construction of written tests, or have access to test material, or are involved in the examination rating process, all OPM employees are required to notify their supervisors when they intend to file for a competitive examination or an internal noncompetitive examination, or when they know that a close relative, a household member, or a roommate intends to take a competitive examination. In this manner, appropriate measures can be taken when necessary to ensure test security.

Certain OPM employees now have access to Department of Defense entrance examination material. An unfair advantage could occur if these employees were to take the examination, or if they were to pass along information about the examination to other persons. Therefore, these regulations will also require supervisory notification by employees planning to take an Armed Service entrance exam.

Implementation of OPM regulations is subject to 5 U.S.C. 1103(b) and 1105; specifically excluded from this process are regulations that apply solely to OPM or its employees. Likewise, the regulations of an agency that are solely internal in applicability are not subject to Executive Order 12291, Federal Regulation; or the Regulatory Flexibility Act.

List of Subjects in 5 CFR Part 1001

Conflict of interests; Government employees.

Office of Personnel Management.

Constance Horner,

Director.

Accordingly, the Office of Personnel Management is amending 5 CFR Part 1001 as follows:

PART 1001—EMPLOYEE RESPONSIBILITIES AND CONDUCT

1. The authority citation for Part 1001 is revised to read as set forth below and the authority citation following Section 1001.735–203 is removed:

Authority: E.O. 11222, 30 FR 6469, 3 CFR 1964–65 Comp. p. 306; 5 CFR 735.101 et seq.; Section 1001.735–203 also issued under Pub. L. 95–454; Reorganization Plan No. 2 of 1978.

2. In § 1001.735–206, paragraph (a) is revised to read as follows:

§ 1001.735–206 Safeguarding the examination process.

(a) An employee shall notify his supervisor when he intends to file for a competitive examination, an internal noncompetitive examination, or an Armed Services entrance examination. He must give similar notice if he knows that a close relative, a member of his household, or a roommate intends to take any one of these examinations.

* * * * *

[FR Doc. 86–8950 Filed 4–21–86; 8:45 am]
BILLING CODE 6325–01–M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Revision 2; Amdt. 43]

SBA Seal

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This final rule reflects the authority for the Inspector General to use the SBA seal. The Inspector General is among those SBA officials authorized to certify and authenticate as true, originals and copies of any books, records, papers or other documents on file within the SBA.

EFFECTIVE DATE: April 22, 1986.

FOR FURTHER INFORMATION CONTACT: Cleo Verbillis, Acting Chief, Records and Micrographics Management Section, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416. Telephone No. (202) 653–6446.

SUPPLEMENTARY INFORMATION: Part 101 consists of rules to the Agency's organization and procedures; therefore, notice of proposed rulemaking and public participation therein as prescribed in 5 U.S.C. 553 are not required and this amendment to Part 101 is adopted without resort to those procedures.

List of Subjects in 13 CFR Part 101

Authority delegations (Government agencies), Administrative practice and procedures, Organization and functions (Government agencies).

PART 101—(AMENDED)

For the reason set forth in the preamble and pursuant to authority in section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, Part 101 is amended as set forth below:

The authority citation for 13 CFR 101 continues to read as follows:

Authority: Secs. 4 and 5, Pub. L. 85–536, 72 Stat. 384 and 385 (15 U.S.C. 633 and 634, as amended); sec. 308, Pub. L. 85–699, 72 Stat. 694 (15 U.S.C. 687, as amended); sec. 5(b)(11), Pub. L. 93–386 (Aug. 23, 1974); and 5 U.S.C. 552, unless otherwise noted.

2. § 101.5 is revised to read as follows:

§ 101.5 Seal.

The Administrator, Assistant Administrator for Administration, Inspector General, Regional and District

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Directors, and Branch Managers are authorized to certify and authenticate as true, originals and copies of any books, records, papers, or other documents on file within the Small Business Administration; to certify and authenticate as true, originals, and copies of extracts from such material; to certify and authenticate as true, originals and copies of extracts from such material; to certify the nonexistence of records on file; and to cause the Seal of the Small Business Administration to be affixed to all such certifications for all purposes, including the purposes authorized by 28 U.S.C. 1733. This authority applies to any books, records, papers, or other documents on file within their respective jurisdictions.

Dated: April 9, 1986.

Charles L. Heatherly,

Acting Administrator.

[FR Doc. 86-8741 Filed 4-21-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of Territorial and International Affairs

15 CFR Part 303

[Docket No. 51185-6041]

Limit on Duty-Free Insular Watches in Calendar Year 1986

AGENCY: Import Administration, International Trade Administration, Department of Commerce; Office of Territorial and International Affairs, Department of the Interior.

ACTION: Final rule.

SUMMARY: This action establishes the total quantity of duty-free insular watches and watch movements for 1986 at 6,500,000 units and divides this amount among the three insular possessions of the United States and the Northern Mariana Islands. We have done this by amending § 303.14(e), which now permits a total of only 5,500,000 units distributed among the three insular possessions and the Northern Mariana Islands.

EFFECTIVE DATE: April 22, 1986.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 377-1660.

SUPPLEMENTARY INFORMATION: We published these revisions in proposed form on January 13, 1986 (51 FR 1386) and invited comments. Although we did not receive any comments, a relevant new circumstance arose during the comment period. We received an application for a new entrant allocation from a firm wishing to start production in the Virgin Islands. To provide for this development while reserving a portion for other potential new entrant applications this year, we have decided to raise the final quantity from the proposed amount of 4,000,000 to 4,500,000 units for the Virgin Islands and the amount for all four territories from 6,000,000 to 6,500,000.

Accordingly, we are establishing for calendar year 1986 a total quantity and respective territorial shares as shown in the following table:

Virgin Islands	4,500,000
Guam	1,000,000
American Samoa	500,000
Northern Mariana Islands	500,000
Total	6,500,000

We find that it is in the public interest to make this rule effective immediately for the following reasons: (1) The existing amount of the duty-exemption for the Virgin Islands is 3,500,000 units. (2) The total allocations to be made to existing firms and to the new entrant firm under this rule exceed 3,500,000 units. Thus, this rule relieves a restriction and is exempt from the delayed effectiveness requirement of the Administrative Procedure Act, 5 U.S.C. 553(d)(1).

In accordance with Executive Order 12291 dated February 17, 1981, the Departments of Commerce and the Interior have determined that this rule does not constitute a "major rule" as defined by section 1(b) of the Order. It is not likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Therefore, preparation of a Regulatory Impact Analysis is not required.

This regulation was submitted to the Office of Management and Budget for review, as required by Executive Order 12291.

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., the General Counsel of the Department of Commerce has certified that this action will not have a significant economic impact on a substantial number of small entities. Fewer than ten entities are directly affected by this action. The commercial benefits of the program governed by these regulations, for entities both directly and indirectly affected, are less ten $10 million per year.

This rule does not contain information collection requirements subject to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

List of Subjects in 15 CFR Part 303

Imports, Customs duties and inspection, Watches and jewelry, Marketing quotas, Administrative practice and procedure, Reporting and recordkeeping requirements, American Samoa, Guam, Virgin Islands, Northern Mariana Islands.

PART 303—[AMENDED]

For reasons set forth above, we amend Part 303 as follows:

1. The authority citation for Part 303 continues to read as follows:

Authority: Pub. L. 97-446, 96 Stat. 2329 (19 U.S.C. 1202); Pub. L. 94-241, 90 Stat. 263 (48 U.S.C.A. 1681, note).

2. Section 303.14 is amended by revising paragraph (e).

§ 303.14 Allocation factors and miscellaneous provisions.

* * * * *

(e) *Territorial shares.* The shares of the total duty exemption are 4,500,000 for the Virgin Islands, 1,000,000 for Guam, 500,000 for American Samoa, and 500,000 for the Northern Mariana Islands.

Dated: April 15, 1986.

Kittie J. Baier,

Deputy Assistant Secretary for Territorial and International Affairs.

John L. Evans,

Deputy to the Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-8835 Filed 4-21-86; 8:45 am]

BILLING CODE 3510-DS, 4310-10-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-23115; File No. S7-41-85]

Amendment Relating to the Options Disclosure Document

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission announced today the adoption of an amendment to Rule 9b-1 under the Securities Exchange Act of 1934 which deletes from the Rule the requirement that an options disclosure document contain information regarding the uses of the options classes covered by the document. The amendment is designed to make the disclosure provided investors regarding standardized options less lengthy and complex, thereby focusing investor attention on the risk disclosure aspects of the document.

EFFECTIVE DATE: The amendment becomes effective on May 1, 1986.

FOR FURTHER INFORMATION CONTACT: Holly Hasley Smith, Esq., (202) 272-2415, Division of Market Regulation, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission ("Commission") announced today the adoption of an amendment to Rule 9b-1 ("Rule") under the Securities Exchange Act of 1934 ("Act")[1] which eliminates paragraph (c)(4) from the Rule, thereby making it unnecessary to include discussions concerning the uses of standardized options in an options disclosure document. In addition, the Commission is clarifying the meaning of paragraphs (c) (6), (7) and (8) of the Rule, which require the disclosure document to contain information regarding, respectively, transaction costs, margin requirements and the tax consequences of options trading.

I. Discussion

The Commission received two letters in response to its request for comments on the proposal to delete from Rule 9b-1 the requirement that an options disclosure document contain information regarding the uses of the options classes covered by the document.[2] Both commentators support the proposal and believe it will have a positive effect on investor understanding of standardized options trading. In addition, one commentator suggested Rule 9b-1 further be amended to require that a "brief reference" to transaction costs, margin requirements and tax consequences be included in disclosure documents prepared under the Rule.

[1] 17 CFR 240.9b-1 (1985).

[2] Securities Exchange Act Release No. 22419 (September 17, 1985), 50 FR 38673 ("Proposal Release").

A. Deletion of the Uses Requirement

Rule 9b-1 originally was adopted in 1982 in an effort to foster better investor understanding of standardized options trading and reduce the burdens on registrants and others of complying with the registration requirements of the Securities Act of 1933 ("Securities Act").[3] Specifically, the Commission believed that the development of an options disclosure document would provide investors with information concerning options trading in a manner easily understandable by investors lacking a technical or financial background. Since the adoption of Rule 9b-1, the Commission has noted, in the Proposal Release, that the options markets have developed to the point where a generalized discussion of the "uses" of options in a disclosure document is unnecessary because the various options markets and broker-dealers undertake to inform investors of the "uses" of options as part of their ongoing marketing efforts.[4] Accordingly, the Commission proposed to delete the "uses" discussion requirement in an effort to further streamline the disclosure document and further the Commission's goal of providing investors with adequate disclosure of the risks of options trading in a readily understandable format. Indeed, the most recent edition of the options disclosure document, published in September 1985 and entitled "Characteristics and Risks of Standardized Options," does not contain detailed description of the uses of the various options covered by the document which were included in previous editions.[5]

Both commentators support the deletion of the "uses" requirement from the Rule. The OCC, which has participated in the preparation of standardized options registration materials and options disclosure documents since 1973, states that in its opinion the elimination of the uses discussions has had the positive effect of making the discussions concerning the risks of options trading more prominent "than when these statements were juxtaposed with descriptions of various uses."[6] In addition, the OCC points out that the "uses" discussions previously included in the disclosure documents were of necessity elementary, due to the size and level of complexity appropriate to a document designed for mass distribution. Another commentator, the American Bar Association ("ABA"), states that the multiplicity of disclosure documents which have been produced in recent years to explain the risks and uses of each new options product "has tended to confuse, distract and deter investors from reading the document."[7] Both the ABA and the OCC point out that, since 1982, when Rule 9b-1 was adopted, numerous alternative sources of information concerning the uses of options have become widely available to options investors, thereby obviating the need to include detailed discussions of a myriad of options strategies in the disclosure document.

The Commission continues to believe that the elimination of the "uses" requirement from Rule 9b-1 will benefit public investors by focusing increased attention on the risk disclosure aspects of the document, and will also prove less burdensome on the options markets and the OCC, who currently share responsibility for preparing the document. Accordingly, the Commission is amending the Rule as proposed.[8]

B. Treatment of Transaction Costs, Margin Requirements and Tax Consequences

Rule 9b-1 currently requires that, with respect to the options classes covered by the document, an options disclosure document must contain information regarding the transaction costs, margin requirements and tax consequences of options trading. In its comment letter, the OCC suggests that the Rule be amended to provide that only a "brief reference" to these items be included in disclosure documents prepared under the Rule. In OCC's view, this requirement would be satisfied by disclosure providing at a minimum a

[3] Proposal Release, *supra* note 2, 50 FR at 38674.

[4] In addition, Rule 134a of the Securities Act requires that any written materials relating to standardized options make a balanced, explanatory presentation of information concerning any option strategy addressed in the material, in order for the material not to be deemed a prospectus.

[5] In connection with proposing that Rule 9b-1 be amended, the Commission exempted the Options Clearing Corporation ("OCC") and the options markets from the uses requirement of the Rule prior to the distribution of the 1985 edition of the document. *See* Securities Exchange Act Release No. 22415 (September 17, 1985), 50 FR 38732.

[6] *See* letter from Marc L. Berman, Executive Vice President, General Counsel and Secretary, OCC, to John Wheeler, Secretary, SEC, dated October 8, 1985 ("OCC Letter").

[7] *See* letter from Richard M. Phillips, Chairman, Federal Regulation of Securities Committee, and Mahlon M. Frankhauser, Chairman, Subcommittee on Financial Futures and Options, American Bar Association, to John Wheeler, Secretary, SEC, dated October 22, 1985, at 2.

[8] Of course, because paragraph (c)(3) of the Rule continues to require that an options disclosure document discuss "[t]he risks of trading the options", such a document will continue to involve some discussion of "uses" but only to the extent necessary to make the risk discussion required by paragraph (c)(3) understandable.

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statement expressing the significance of the subject to options investors, noting any impact on the economic consequences of options trading and containing a generic description of sources from which additional detailed information may be obtained. The OCC notes that this limited type of disclosure is all that has ever been provided by the disclosure documents, and believes that the amendment is appropriate "in order to eliminate any unintended implication that more detailed disclosure of these complicated and frequently changing subjects is required." [9]

The Commission believes that the clarification suggested by the OCC is consistent with the intended purpose of the Rule. In 1982, when the Commission initially proposed the adoption of Rule 9b-1, it addressed the issue of how detailed the discussions should be with regard to each of the items enumerated in paragraph (c) of the Rule. The Commission stated that information which would not change materially over time "should be described with particularity," but other information, "such as . . . margin requirements, . . . which may change with frequency, can be described generically." [10] With regard to this latter type of information, the Commission stated:

> usually it would be sufficient for an options market to disclose that there are exchange rules or other provisions relating to these subjects and that interested investors may obtain information concerning current specific standards or restrictions from their broker-dealer. [11]

Regarding the tax consequences of options trading, the Commission balanced "the need for tax disclosure with the goal of producing a simplified document that [does not] require . . . frequent updating". [12] Accordingly, when the Commission adopted Rule 9b-1, it concluded that the document need contain only a generic description of the tax consequences of options trading, noting that "tax treatment is always relevant and often critical to the success or failure of a particular options strategy". [13] The Commission stated that the document should reference the fact that different tax treatment may result from different dispositions of options positions and, with respect to call writers, whether the writer is covered or uncovered. Finally, the Commission found that the document should inform investors of the importance of consulting with their tax advisers. [14]

Although the 1982 releases do not specifically address the subject of transaction costs, [15] the Commission notes that transaction costs, like margin and taxes, are both subject to change and difficult in a document of general circulation to describe with particularity. The disclosure documents have historically discussed these subjects in a generic manner. The Commission therefore believes that it is appropriate for the disclosure document to treat this subject in a manner similar to the discussions of margin requirements and tax consequences. Accordingly, the Commission is amending the Rule to provide that the document need contain only a "brief reference" to the transaction costs, margin requirements and tax consequences of options trading. The term "brief reference" shall include, but shall not be limited to, the disclosures discussed above. Because the language changes regarding transaction costs, margin requirements and tax consequences merely clarify the Commission's original intent with regard to the Rule and reflect actual practice thereunder, the Commission does not believe that publication of the Rule for additional notice and comment is necessary.

II. Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Chairman of the Commission has certified that the amendment deleting the "uses" requirement from paragraph (c)(4) of the rule proposed herein will not have a significant economic impact on a substantial number of small entities. The Commission did not receive any comments concerning the Chairman's certification. The other amendments to the Rule that are adopted herein do not affect the basis of the certification.

List of subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

III. Text of Final Amendment

Title 17, Chapter II of the *Code of Federal Regulations* is amended as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority for Part 240 is amended by adding the following citations: (citations before * * * indicate general rulemaking authority)

Authority: Sec. 23, 48 Stat. 901, as amended; 15 U.S.C. § 78w, unless otherwise noted. * * * § 240.9b-1 is also issued under (Sec. 2, 7, 10, 19(a), 48 Stat. 74, 78, 81, 85; secs. 201, 205, 209, 120, 48 Stat. 905, 906, 906; secs. 1-4, 8, 68 Stat. 683, 685; sec. 12(a), 73 Stat. 143; sec. 7(a), 74 Stat. 412; sec. 27(a), 84 Stat. 1433; sec. 308(a)(2), 90 Stat. 57; sec. 505, 94 Stat. 2292; secs. 9, 15, 23(a), 48 Stat. 889, 895, 901; sec. 230(a), 49 Stat. 704; secs. 3, 8, 49 Stat. 1377, 1379; sec. 2, 52 Stat. 1075; secs. 6, 10, 78 Stat. 570-574, 580; sec. 11(d), 84 Stat. 121; sec. 18, 89 Stat. 155; sec. 204, 91 Stat. 1500; 15 U.S.C. 77b, 77g, 77j, 77s(a), 78l, 78o, 78w(a))

2. By amending § 240.9b-1 as follows:

(a) Deleting paragraphs (c) (4), (6), (7), and (8)

(b) Redesignating paragraph (c)(5) as (c)(4)

(c) Revising new paragraph (c)(5) to read as follows:

§ 240.9b-1 Options disclosure document.

* * * * *

(c) * * *

(5) A brief reference to the transaction costs, margin requirements and tax consequences of options trading;

* * * * *

(d) Redesignating paragraphs (c)(9)-(c)(12) as paragraphs (c)(6)-(c)(9).

By the Commission.

Dated: April 10, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-8967 Filed 4-21-86; 8:45 am]

BILLING CODE 8010-01-M

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[9] OCC Letter, *supra* note 6, at 2.

[10] *See* Securities Exchange Act Release No. 18838 (June 24, 1982), 47 FR 28868 at 28891.

[11] Id.

[12] *See* Securities Exchange Act Release No. 19055 (September 16, 1982), 47 FR 41260 at 41263.

[13] *Id.*

[14] *Id.*

[15] The Commission notes, however, that the Options Study, which recommended the development of a simplified disclosure document, included transactions costs, with margin and taxes, as one of the items appropriate for a "simplified discussion." *See* SEC, *Report of the Special Study of the Options Market*, 96th Cong., 1st Sess., (Comm. Print No. 96-IFC3, 1979) at 40 and 301.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 37

[Docket No. RM85-19-000]

Generic Determination of Rate of Return on Common Equity for Public Utilities

April 16, 1986.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule, update to Benchmark Rate of Return on Common Equity for Public Utilities.

SUMMARY: In accordance with § 37.5, the Commission issues the update to the "advisory" benchmark rate of return on common equity applicable to rate filings made during the period May through July 1986. This rate is set at 12.89 percent.

EFFECTIVE DATE: May 1, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Rattey, Office of Regulatory Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426 (202) 357-8293.

SUPPLEMENTARY INFORMATION:

Generic Determination of Rate of Return on Common Equity for Public Utilities; Benchmark Rate of Return of Common Equity for Public Utilities

April 16, 1986

On December 26, 1985, the Commission issued a final rule which amended the quarterly indexing procedure for establishing and updating the benchmark rate of return on common equity applicable to electric rate filings. [1] Based on this amended procedure, the Commission determines that the benchmark rate of return on common equity applicable to rate filings made during the period May 1 through July 31, 1986 is 12.89 percent.

According to the amended § 37.9, the quarterly benchmark rates of returns are set equal to ratemaking rates of return on common equity [2] subject to a 50 basis point limitation on the quarter-to-quarter changes. The ratemaking rates of return used in establishing the quarterly benchmarks are based on the average of the median dividend yield for the two most recent calendar quarters for a sample of 100 utilities and are calculated through a three step process. First, given the dividend yield value, the average effective required rate of return on common equity is determined using a particular discounted cash flow model. Second, an adjustment is made to this effect required rate to reflect industry average annual flotation costs and obtain an estimate of the industry average cost of common equity. Finally, this cost estimate is adjusted through a formula that reflects the manner in which the rate base is determined for the cost of service to obtain the average ratemaking rate of return.

The median dividend yield for the sample of utilities for the last quarters of 1985 and the first quarter of 1986 are 8.92 and 7.82 percent, respectively, for an average of 8.37 percent. Using the latter yield produces an average effective required rate of return on common equity of 13.47 percent, an average cost of common equity of 13.51 percent, and an average ratemaking rate of return on common equity of 12.74 percent. [3] Since this is the second quarter to which the results of the annual proceeding are applicable, the change in the benchmark rate of return is subject to the 50 basis point gap. Thus the Commission finds the benchmark rate of return applicable to rate filings made from May 1, 1986 through July 31, 1986 is 12.89 percent. The attached appendix provides the underlying data on dividends and market prices supporting this update.

Generally, a rule becomes effective not less than 30 days after it is published in the **Federal Register**. A rule may become effective sooner if the agency finds that there is good cause to do so. 5 U.S.C. 553(d) (1982). The Commission finds good cause to make this rule effective May 1, 1986. Specifically, this notice is intended to supplement the generic rate of return rule announced in Order No. 442, issued December 26, 1985 and effective on February 1, 1986, by applying the method adopted in that rule to data which was not available. In addition, the benchmark rate of return established by this rule is effective on an advisory basis only.

List of Subjects contained in 18 CFR Part 37

Electric power rates, Electric utilities, Rate of return.

In consideration of the foregoing, the Commission revises Chapter I, Title 18 of the *Code of Federal Regulations*, as set forth below, effective May 1, 1986.

By direction of the Commission.

Kenneth F. Plumb,

Secretary.

PART 37—[AMENDED]

1. The authority citation for Part 37 continues to read as follows:

Authority: Federal Power Act, 16, U.S.C. 791a-825r (1982); Department of Energy Organization Act, 42 U.S.C. 7101-7352 (1982).

2. In paragraph (d) of § 37.9, the table is revised to read as follows:

§ 37.9 Quarterly Indexing Procedure.

* * * * *

(d) * * *

Benchmark applicability period (t)	Expected dividend growth (g)	Flotation cost adjustment (f)	Current dividend yield (Y_t)	Average ratemaking rate of return (r_t)	Benchmark rate of return
2/1/86 to 4/30/86	.045	.0004	.0809	.1339	.1339
5/1/86 to 7/31/86	.045	.0004	.0837	.1274	.1289
8/1/86 to 10/31/86	.045	.0004			
11/1/86 to 1/31/87	.045	.0004			

Note.—The following Appendix will not appear in the Code of Federal Regulations.

Appendix

Exhibit No. and Title

1 Initial Sample of Utilities
2 Utilities Excluded From the Sample for the Indicated Quarters due to Either Zero Dividends or a Cut in Dividends for Those Quarters or the Prior Three Quarters
3 Quarterly Dividend Yields for the Indicated Quarters for Utilities Retained in the Sample

Source of Data: Standard and Poor's Compustat Services Inc., Utility COMPUSTAT® II Quarterly Data Base.

EXHIBIT 1.—INITIAL SAMPLE OF UTILITIES

Utility	Ticker symbol
Allegheny Power System	AYP
American Electric Power	AEP
Atlantic City Electric	ATE
AZP Group Inc	AZP
Baltimore Gas & Electric	BGE
Black Hills Power & Light Co	BHP
Boston Edison Co	BSE
Carolina Power & Light	CPL
Central & South West Corp	CSR
Central Hudson Gas & Elec	CNH
Central Ill Public Service	CIP
Central Louisiana Electric	CNL
Central Main Power Co	CTP
Central Vermont Pub Serv	CV
Citcorp Inc	CER
Cincinnati Gas & Electric	CIN
Cleveland Electric Illum	CVX
Commonwealth Edison	CWE
Commonwealth Energy System	CES
Consolidated Edison of NY	ED
Consumers Power Co	CMS
Dayton Power & Light	DPL
Delmarva Power & Light	DEW

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[1] Generic Determination of Rate of Return on Common Equity for Public Utilities, 51 FR 343 (January 6, 1986) (Docket No. RM85-19-000 (Final Rule) (Order No. 442).

[2] Defined in § 37.3 and calculated according to § 37.9(a)(3).

[3] These values are determined according to the formula given in § 37.9(a) (1) through (3). *See* "Source Data and Calculations Used in Final Rule and Quarterly Updates," dated January 1986.

EXHIBIT 1.—INITIAL SAMPLE OF UTILITIES—Continued

Utility	Ticker symbol
Detroit Edison Co	DTE
Dominion Resources Inc-VA	D
Duke Power Co	DUK
Duquesne Light Co	DQU
Eastern Utilities Assoc	EUA
Empire District Electric Co	EDE
Fitchburg Gas & Elec Light	FGE
Florida Progress Corp	FPC
FPL Group Inc	FPL
General Public Utilities	GPU
Green Mountain Power Corp	GMP
Gulf States Utilities Co	GSU
Hawaiian Electric Inds	HE
Houston Industries Inc	HOU
Idaho Power Co	IDA
Illinois Power Co	IPC
Interstate Power Co	IPW
Iowa Electric Light & Pwr	IEL
Iowa Resources Inc	IOR
Iowa-Illinois Gas & Elec	IWG
Ipalco Enterprises Inc	IPL
Kansas City Power & Light	KLT
Kansas Gas & Electric	KGE
Kansas Power & Light	KAN
Kentucky Utilities Co	KU
Long Island Lighting	LIL

EXHIBIT 1.—INITIAL SAMPLE OF UTILITIES—Continued

Utility	Ticker symbol
Louisville Gas & Electric	LOU
Maine Public Service	MAP
Middle South Utilities	MSU
Midwest Energy Co	MWE
Minnesota Power & Light	MPL
Montana Power Co	MTP
Nevada Power Co	NVP
New England Electric System	NES
New York State Elec & Gas	NGE
Newport Electric Corp	NPT
Niagara Mohawk Power	NMK
Northeast Utilities	NU
Northern Indiana Public Serv	NI
Northern States Power-MN	NSP
Ohio Edison Co	OEC
Oklahoma Gas & Electric	OGE
Orange & Rockland Utilities	ORU
Pacific Gas & Electric	PCG
PacifiCorp	PPW
Pennsylvania Power & Light	PPL
Philadelphia Electric Co	PE
Portland General Electric Co	PGN
Potomac Electric Power	POM
Public Service Co of Colo	PSR
Public Service Co of Ind	PIN
Public Service Co of NH	PNH

EXHIBIT 1.—INITIAL SAMPLE OF UTILITIES—Continued

Utility	Ticker symbol
Public Service Co of N Mex	PNM
Public Service Elec & Gas	PEG
Puget Sound Power & Light	PSD
Rochester Gas & Electric	RGS
San Diego Gas & Electric	SDO
Savannah Elec & Power	SAV
Scana Corp	SCG
Sierra Pacific Resources	SRP
Southern Calif Edison Co	SCE
Southern Co	SO
Southern Indiana Gas & Elec	SIG
St Joseph Light & Power	SAJ
Texas Energy Inc	TE
Texas Utilities Co	TXU
TNP Enterprises Inc	TNP
Toledo Edison Co	TED
Tucson Electric Power Co	TEP
Union Electric Co	UEP
United Illuminating Co	UIL
Utah Power & Light	UTP
UtiliCorp United Inc	UCU
Washington Water Power	WWP
Wisconsin Electric Power	WPC
Wisconsin Power & Light	WPL
Wisconsin Public Service	WPS

EXHIBIT 2.—UTILITIES EXCLUDED FROM THE SAMPLE FOR THE INDICATED QUARTER DUE TO EITHER ZERO DIVIDENDS OR A CUT IN DIVIDENDS FOR THIS QUARTER OR THE PRIOR THREE QUARTERS

Ticker symbol	Utility	Reason for exclusion
	Year 1985 Quarter 4	
CMS	Consumers Power Co	Dividend rate was zero for the quarter ending 12/31/85.
FGE	Fitchburg Gas & Elec Light	Dividend rate was zero for the quarter ending 12/31/85.
GPU	General Public Utilities	Dividend rate was zero for the quarter ending 12/31/85.
KGE	Kansas Gas & Electric	Dividend rate reduced in the quarter ending 12/31/85.
LIL	Long Island Lighting	Dividend rate was zero for the quarter ending 12/31/85.
MAP	Maine Public Service	Dividend rate was zero for the quarter ending 12/31/85.
MSU	Middle South Utilities	Dividend rate reduced in the quarter ending 09/31/85.
MTP	Montana Power Co	Dividend rate was zero for the quarter ending 12/31/85.
NI	Northern Indiana Public Serv	Dividend rate was zero for the quarter ending 12/31/85.
PNH	Public Service Co of NH	
	Year 1986 Quarter 1	
CMS	Consumers Power Co	Dividend rate was zero for the quarter ending 03/31/86.
FGE	Fitchburg Gas & Elec Light	Dividend rate was zero for the quarter ending 03/31/86.
GPU	General Public Utilities	Dividend rate was zero for the quarter ending 03/31/86.
KGE	Kansas Gas & Electric	Dividend rate reduced in the quarter ending 03/31/86.
LIL	Long Island Lighting	Dividend rate was zero for the quarter ending 03/31/86.
MAP	Maine Public Service	Dividend rate was zero for the quarter ending 03/31/86.
MSU	Middle South Utilities	Dividend rate was zero for the quarter ending 03/31/86.
NI	Northern Indiana Public Serv	Dividend rate was zero for the quarter ending 03/31/86.
PNH	Public Service Co of Ind	

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ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE — 18:38 FRIDAY, APRIL 4, 1986

YEAR=85 QUARTER=4

TICKER SYMBOL	PRICE, 1ST MONTH OF QRTR-HIGH	PRICE, 1ST MONTH OF QRTR-LOW	PRICE, 2ND MONTH OF QRTR-HIGH	PRICE, 2ND MONTH OF QRTR-LOW	PRICE, 3RD MONTH OF QRTR-HIGH	PRICE, 3RD MONTH OF QRTR-LOW	DIVIDENDS: ANNUAL RATE	ANNUALIZED DIVIDEND YIELD
AEP	23.000	20.500	24.250	22.000	24.625	22.500	2.260	9.907
ATE	28.000	26.000	29.250	27.625	29.750	28.000	2.580	9.188
AYP	31.500	28.250	33.125	29.500	34.125	32.000	2.700	8.594
AZP	25.625	22.750	26.625	23.875	27.375	25.500	2.720	10.755
BGE	22.625	20.375	24.500	22.000	25.500	23.000	1.700	7.391
BHP	33.750	32.125	35.500	33.000	40.750	35.250	1.920	5.476
BSE	39.875	36.625	42.250	39.375	46.250	41.125	3.440	8.407
CER	25.625	23.625	26.250	24.500	27.000	24.750	2.220	8.778
CES	27.875	26.250	29.000	27.250	30.875	28.125	2.520	8.927
CIN	18.750	17.500	19.625	18.125	22.250	19.000	2.160	11.245
CIP	19.375	17.375	19.875	18.625	20.500	19.375	1.640	8.547
CNH	27.000	24.625	28.375	26.625	30.500	27.250	2.960	10.805
CNL	27.500	24.875	27.750	26.125	30.250	27.000	2.000	7.633
CPL	27.875	25.125	29.125	27.000	30.875	28.250	2.600	9.272
CSR	25.750	24.125	26.625	25.125	28.125	25.625	2.020	7.800
CTP	13.375	12.375	13.250	12.750	14.375	13.000	1.480	10.616
CV	20.500	19.125	20.500	19.125	22.125	20.000	1.900	9.392
CVX	23.500	22.000	24.250	22.375	25.625	23.000	2.640	11.254
CWE	29.750	27.000	30.000	27.625	30.625	28.625	3.000	10.367
D	32.250	28.875	33.500	31.500	36.750	32.250	2.840	8.733
DEW	25.375	22.625	26.000	24.625	28.250	25.625	1.920	7.554
DPL	19.125	17.125	20.000	18.250	20.875	19.625	2.000	10.435
DQU	15.875	14.250	17.250	15.250	17.125	16.000	2.060	12.909
DTE	15.375	14.125	15.750	14.875	16.375	15.125	1.680	11.001
DUK	34.750	31.375	34.750	33.125	36.875	33.875	2.600	7.619
ED	36.250	33.500	36.625	34.250	39.625	36.125	2.480	6.655
EDE	21.375	20.375	23.375	21.125	24.500	22.875	1.880	8.442
EUA	22.875	20.375	24.625	21.500	26.875	24.500	2.060	8.782
FPC	28.625	25.375	30.125	27.250	31.000	26.375	2.280	8.187
FPL	25.750	22.875	28.875	24.625	29.000	24.750	1.960	7.545
GMP	19.250	17.125	19.750	18.500	21.000	19.500	1.760	9.173
GSU	13.125	12.125	15.500	12.250	13.875	12.500	1.640	12.397
HE	22.125	20.125	23.750	21.375	25.375	22.625	1.720	7.623
MOU	28.375	25.375	29.375	27.000	29.125	27.125	2.640	9.521
IDA	21.750	20.625	21.875	20.750	23.500	21.250	1.720	7.954
IEL	19.750	18.000	21.000	19.125	21.625	19.000	1.940	9.823
IOR	33.875	31.000	34.125	32.375	36.500	33.875	3.080	9.160
IPC	23.750	21.375	25.250	22.375	24.375	22.750	2.640	11.324
IPL	36.250	33.000	36.875	35.500	38.375	35.125	3.060	8.479
IPW	20.000	19.250	21.625	19.750	22.750	21.000	1.900	9.166
IWG	32.500	30.375	33.875	31.625	36.250	33.500	2.740	8.298
KAN	38.125	35.000	39.250	37.125	41.375	38.000	2.960	7.760
KLT	22.000	19.250	23.125	21.000	22.875	21.000	2.360	10.956
KU	28.250	26.125	29.500	27.750	31.250	27.625	2.440	8.587
LOU	27.750	26.000	29.500	27.375	32.250	28.375	2.520	8.829
MPL	37.750	33.500	39.000	36.750	40.750	38.375	2.760	7.592
MWE	30.625	28.625	31.125	29.750	33.125	30.750	2.760	9.000
NES	44.250	40.500	48.625	43.875	51.500	47.875	3.840	8.329
NGE	27.625	23.875	27.375	25.250	28.750	25.000	2.560	9.729
NMK	19.125	17.625	20.625	18.750	21.000	18.375	2.080	10.805
NPT	17.000	15.750	17.750	16.500	17.375	16.500	1.500	8.922

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ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE

18:38 FRIDAY, APRIL 4, 1986 6

YEAR=85 QUARTER=4

TICKER SYMBOL	PRICE, 1ST MONTH OF QRTR-HIGH	PRICE, 1ST MONTH OF QRTR-LOW	PRICE, 2ND MONTH OF QRTR-HIGH	PRICE, 2ND MONTH OF QRTR-LOW	PRICE, 3RD MONTH OF QRTR-HIGH	PRICE, 3RD MONTH OF QRTR-LOW	DIVIDENDS: ANNUAL RATE	ANNUALIZED DIVIDEND YIELD
NSP	48.000	45.125	50.500	47.625	54.750	49.500	3.520	7.147
NU	16.875	14.500	18.000	16.625	18.750	17.000	1.580	9.317
NVP	31.625	30.125	32.375	31.375	33.625	31.500	2.840	8.939
OEC	15.875	14.500	16.500	15.375	16.750	15.250	1.880	11.966
OGE	24.250	22.000	25.000	23.625	27.625	24.375	2.000	8.170
ORU	26.250	24.875	27.625	25.500	28.250	26.625	2.140	8.069
PCG	18.750	17.375	19.875	18.250	20.375	19.250	1.840	9.695
PE	15.875	14.000	15.875	14.875	17.625	15.000	2.200	14.155
PEG	29.125	26.625	31.875	28.000	33.125	29.375	2.840	9.566
PGN	28.750	18.000	21.875	20.500	23.250	21.750	1.900	9.039
PIN	9.375	8.500	9.000	7.125	7.875	6.875	1.000	12.308
PNM	28.500	26.625	29.000	27.250	30.750	26.750	2.920	10.375
POM	31.375	28.500	33.125	31.250	34.750	32.125	2.160	6.781
PPL	26.000	23.750	27.875	25.625	29.000	26.000	2.560	9.706
PPW	29.250	27.875	29.875	28.125	31.500	29.000	2.400	8.199
PSD	15.125	14.000	15.375	14.625	16.375	14.750	1.760	11.447
PSR	21.125	18.875	20.875	19.875	21.875	20.125	2.000	9.776
RGS	22.125	19.125	23.125	21.625	24.625	22.500	2.200	9.915
SAJ	20.875	20.000	22.375	20.375	23.750	22.000	1.720	7.977
SAV	20.375	19.375	21.875	20.000	23.375	21.125	1.600	7.611
SCE	25.250	22.750	25.375	24.000	28.500	24.625	2.160	8.611
SCG	26.000	23.875	27.375	25.500	28.000	25.375	2.160	8.301
SDO	24.875	25.000	27.000	26.125	28.250	25.875	2.240	8.446
SIG	24.375	23.000	26.500	24.000	27.750	25.250	1.880	7.158
SO	20.625	19.125	21.750	20.125	23.750	20.500	2.040	9.724
SRP	18.125	17.250	19.125	17.875	20.250	18.500	1.660	8.963
TE	33.375	30.875	33.875	32.625	35.125	32.750	2.360	7.129
TED	20.250	19.375	21.375	19.875	22.125	20.125	2.520	12.280
TEP	40.250	37.375	43.625	39.750	45.500	41.750	3.000	7.251
TNP	18.875	17.000	19.750	17.625	20.375	18.750	1.250	6.674
TXU	28.500	26.125	30.125	28.375	31.375	28.000	2.520	8.765
UCU	21.814	20.588	24.250	20.185	27.500	22.375	1.372	6.024
UEP	19.625	16.875	21.375	19.500	21.875	19.500	1.840	9.297
UIL	24.125	21.500	26.500	22.875	27.125	25.750	2.320	9.413
UTP	25.125	23.375	26.500	25.000	26.000	24.375	2.320	9.257
WPC	36.875	35.000	38.875	36.125	40.375	37.875	2.480	6.610
WPL	37.000	34.750	39.625	36.000	40.500	38.375	2.760	7.319
WPS	38.375	35.750	39.625	38.000	40.750	38.500	2.860	7.429
WWP	22.625	21.375	26.375	22.250	25.125	22.625	2.480	10.600

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ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE — 18:30 FRIDAY, APRIL 4, 1986 — 7

YEAR=86 QUARTER=1

TICKER SYMBOL	PRICE, 1ST MONTH OF QRTR-HIGH	PRICE, 1ST MONTH OF QRTR-LOW	PRICE, 2ND MONTH OF QRTR-HIGH	PRICE, 2ND MONTH OF QRTR-LOW	PRICE, 3RD MONTH OF QRTR-HIGH	PRICE, 3RD MONTH OF QRTR-LOW	DIVIDENDS: ANNUAL RATE	ANNUALIZED DIVIDEND YIELD
AEP	25.875	22.750	26.625	23.875	28.125	25.625	2.260	8.870
ATE	30.875	28.250	33.125	30.750	36.250	33.250	2.580	8.042
AYP	35.250	31.625	38.250	34.875	39.250	36.500	2.800	7.787
AZP	28.125	26.000	29.750	26.000	30.125	28.000	2.720	9.714
BGE	25.750	23.000	28.250	24.625	28.250	26.625	1.700	6.518
BHP	22.375	18.563	24.813	21.063	29.000	22.500	1.140	4.945
BSE	47.250	42.375	51.750	45.500	53.250	49.500	3.440	7.126
CER	29.125	26.500	29.750	28.000	31.250	28.750	2.280	7.898
CES	32.250	29.250	34.250	32.625	37.250	34.250	2.520	7.565
CIN	22.500	20.375	24.375	21.875	24.625	23.000	2.160	9.477
CIP	21.375	19.750	22.875	20.875	24.250	22.125	1.640	7.497
CNH	30.500	28.000	33.375	30.000	35.125	31.625	2.960	9.416
CNL	30.500	28.500	31.500	29.000	33.500	31.000	2.080	6.783
CPL	31.000	27.750	33.500	30.125	35.750	32.500	2.680	8.435
CSR	29.750	26.500	31.125	28.250	31.875	29.875	2.140	7.239
CTP	15.000	13.375	15.875	14.750	18.000	15.500	1.400	9.881
CV	22.875	21.125	23.500	21.000	25.750	23.250	1.900	8.291
CVX	27.000	24.750	27.875	24.500	28.750	27.000	2.640	9.988
CWE	30.500	28.625	35.000	29.875	35.750	32.875	3.000	9.345
D	37.250	33.750	40.750	36.875	40.500	38.000	2.840	7.502
DEW	27.875	25.375	30.000	27.000	30.750	29.500	2.020	7.109
DPL	21.500	19.500	22.875	20.875	23.625	21.750	2.000	9.222
DQU	17.500	16.000	19.500	17.125	19.000	17.625	2.060	11.578
DTE	17.750	15.375	19.125	16.875	19.375	17.250	1.680	9.532
DUK	38.875	34.875	39.875	38.000	41.875	38.375	2.600	6.728
ED	40.875	37.625	42.375	39.750	42.625	40.000	2.680	6.610
EDE	25.000	23.250	27.125	24.125	26.750	25.250	1.880	7.446
EUA	27.875	25.750	30.000	27.750	33.750	29.875	2.060	7.063
FPC	33.125	30.250	37.000	32.625	37.125	34.750	2.280	6.677
FPL	29.250	26.375	31.250	28.375	33.500	28.875	1.960	6.621
GMP	21.500	19.375	22.750	20.500	24.125	22.625	1.760	8.069
GSU	15.000	12.625	15.000	13.125	13.875	10.625	1.640	12.262
HE	27.375	24.500	30.625	26.500	30.500	27.500	1.720	6.180
HOU	29.875	27.250	31.125	29.125	33.125	30.000	2.640	8.776
IDA	24.375	22.750	25.000	23.125	26.125	24.875	1.720	7.056
IEL	22.000	20.000	23.625	20.625	24.750	22.000	1.940	8.752
IOR	37.375	34.625	40.875	37.125	40.875	38.750	3.160	8.257
IPC	26.250	23.125	28.000	24.625	29.000	27.125	2.640	10.017
IPL	39.625	37.125	44.000	39.125	45.750	41.500	3.040	7.381
IPW	22.500	21.125	23.125	22.000	24.500	22.875	1.900	8.375
IWG	36.375	34.750	37.500	34.500	41.125	37.125	2.900	7.860
KAN	41.625	39.625	45.625	41.125	47.500	44.625	3.160	7.289
KLT	24.375	21.125	26.125	23.500	29.250	25.625	2.340	9.440
KU	32.875	30.000	34.000	31.750	38.875	33.375	2.520	7.527
LOU	30.875	29.000	33.375	30.500	35.250	32.000	2.520	7.916
MPL	42.500	38.375	49.375	42.250	58.000	45.750	3.040	6.800
MTP	34.250	31.375	34.375	32.250	36.625	32.875	2.400	7.138
MWE	33.875	31.125	34.625	32.750	37.375	33.750	2.760	8.138
NES	26.313	25.000	27.750	25.750	27.625	24.375	1.920	7.346
NGE	29.625	27.125	30.500	28.000	32.000	29.375	2.560	8.696
NMK	22.125	19.625	22.500	21.000	24.875	21.250	2.080	9.500

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ANNUALIZED DIVIDEND YIELDS FOR THE INDICATED QUARTER FOR UTILITIES RETAINED IN THE SAMPLE

18:30 FRIDAY, APRIL 4, 1986 8

YEAR=86 QUARTER=1

TICKER SYMBOL	PRICE, 1ST MONTH OF QRTR-HIGH	PRICE, 1ST MONTH OF QRTR-LOW	PRICE, 2ND MONTH OF QRTR-HIGH	PRICE, 2ND MONTH OF QRTR-LOW	PRICE, 3RD MONTH OF QRTR-HIGH	PRICE, 3RD MONTH OF QRTR-LOW	DIVIDENDS: ANNUAL RATE	ANNUALIZED DIVIDEND YIELD
HPT	17.750	16.250	18.125	17.125	19.250	17.875	1.500	8.461
HSP	55.500	50.000	59.250	53.875	63.000	57.250	5.520	6.232
NU	19.875	17.375	22.000	18.000	22.250	20.000	1.680	8.435
NVP	34.250	32.125	38.250	33.250	39.375	36.875	2.840	7.958
OEC	17.875	15.875	19.500	17.125	19.875	18.250	1.920	10.618
OGE	28.375	26.125	30.500	28.125	30.625	29.375	2.080	7.289
ORU	29.125	26.250	30.125	27.125	31.875	29.750	2.140	7.369
PCG	20.500	18.750	22.875	20.125	23.625	20.750	1.840	8.719
PE	19.500	16.875	20.500	18.875	20.500	18.250	2.200	11.528
PEG	36.000	30.750	38.125	33.125	38.000	35.000	2.840	8.153
PGH	25.625	21.875	27.500	24.375	28.500	25.000	1.900	7.457
PNM	31.375	28.000	32.000	30.125	35.875	31.375	2.920	9.282
POM	37.375	33.750	39.500	37.000	40.625	37.625	2.360	6.269
PPL	29.875	27.625	33.250	28.875	33.125	31.000	2.560	8.359
PPW	33.250	30.125	33.000	31.625	35.500	32.125	2.400	7.361
PSD	19.250	17.625	20.500	18.375	22.250	20.125	1.760	8.940
PSR	21.375	20.375	22.375	20.000	22.375	20.750	2.000	9.438
RGS	24.000	22.375	25.625	23.625	28.000	24.875	2.200	8.889
SAJ	23.500	22.250	28.875	22.625	28.375	26.000	1.820	7.202
SAV	23.750	21.625	25.375	22.250	30.000	25.000	1.760	7.135
SCE	27.750	24.750	29.750	26.750	31.875	28.750	2.160	7.648
SCG	29.625	27.125	33.125	28.750	33.250	31.375	2.240	7.334
SDO	29.875	26.750	32.000	28.875	34.250	30.625	2.240	7.369
SIG	28.000	25.500	30.500	28.000	34.250	29.625	1.960	6.687
SO	22.750	21.375	23.625	21.625	24.500	22.250	2.040	8.992
SRP	21.375	19.125	22.750	20.000	23.875	22.375	1.660	7.691
TE	37.500	34.000	39.250	34.750	40.625	38.375	2.360	6.307
TED	23.375	21.125	25.125	22.375	27.375	24.000	2.520	10.546
TEP	45.000	41.000	51.000	44.250	51.750	48.000	3.380	7.046
THP	20.750	19.375	21.625	20.250	21.375	19.875	1.320	6.426
TXU	31.875	29.500	34.750	30.875	34.625	32.250	2.680	8.294
UCU	23.500	22.500	25.625	23.125	32.750	24.000	1.400	5.545
UEP	22.875	20.875	25.500	22.125	25.375	22.000	1.840	7.957
UIL	32.125	26.875	32.250	29.625	33.250	30.500	2.320	7.540
UTP	26.750	23.375	29.250	26.375	29.750	26.000	2.320	8.619
WPC	43.625	38.375	46.000	41.375	49.750	43.750	2.480	5.618
WPL	42.250	39.000	45.875	41.875	46.875	43.000	2.840	6.532
WPS	40.750	38.375	45.500	40.375	46.500	43.250	2.860	6.736
WWP	25.875	24.250	27.375	25.625	28.875	26.625	2.480	9.381

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[FR Doc. 86-8921 Filed 4-21-86; 8:45 am]
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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Colloidal Ferric Oxide Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations by removing the regulation that reflected approval of a new animal drug application (NADA) sponsored by Boehringer Ingelheim Animal Health, Inc., providing for use of colloidal ferric oxide injection in baby pigs for preventing and treating iron deficiency anemia. In a notice published elsewhere in this issue of the Federal Register, the agency is withdrawing approval of the subject NADA at the request of the sponsor.

EFFECTIVE DATE: May 2, 1986.

FOR FURTHER INFORMATION CONTACT: Vitolis E. Vengris, Center for Veterinary Medicine (HFV–214), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3183.

SUPPLEMENTARY INFORMATION: In a notice published elsewhere in this issue of the Federal Register, the agency is withdrawing approval of Boehringer Ingelheim Animal Health, Inc., NADA 80–281 which covers use of Top Hand Iron Injection (colloidal ferric oxide in a dextrin solution) in baby pigs for preventing and treating iron deficiency anemia. This document removes the regulation that reflected approval of the NADA.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and Under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 522 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

§ 522.940 [Amended]

2. Section 522.940 *Colloidal ferric oxide injection* is amended by removing paragraph (d).

Dated: April 15, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86–8933 Filed 4–21–86; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Halofuginone and Virginiamycin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by American Hoechst Corp. The NADA provides for the use of halofuginone hydrobromide in combination with virginiamycin in Type C broiler feeds for the prevention of coccidiosis, increased rate of weight gain, and improved feed efficiency.

EFFECTIVE DATE: April 22, 1986.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–128), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4317.

SUPPLEMENTARY INFORMATION: American Hoechst Corp., Animal Health Division, Route 202–206 North, Somerville, NJ 08876, has filed NADA 139–473 providing for use of approved 2.72-gram-per-pound halofuginone Type A articles to be mixed with approved 10-, 20-, 50-, or 227-gram-per-pound virginiamycin Type A articles to prepare Type C broiler feeds containing virginiamycin at 5 or 5 to 15 grams per ton in combination with halofuginone hydrobromide at 3 parts per million. The Type C feed containing 5 grams per ton virginiamycin with 3 parts per million halofuginone is used for the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima,* and for improved feed efficiency and increased rate of weight gain. The Type C feed containing 5 to 15 grams per ton virginiamycin with 3 parts per million halofuginone is used for the prevention of coccidiosis and improved feed efficiency. The application is approved and the regulations are amended accordingly. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(ii) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. In § 558.265 by adding new paragraphs (c) (3) and (4) to read as follows:

§ 558.265 Halofuginone hydrobromide.

* * * * *

(c) * * *

(3) *Amount per ton.* Halofuginone 3 parts per million plus virginiamycin 5 grams.

(i) *Indications for use.* For the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix , E. acervulina, E. brunetti, E. mivati,* and *E. maxima;* for increased rate of weight gain and improved feed efficiency.

(ii) *Limitations.* Feed continuously as sole ration; withdraw 6 days before slaughter; do not feed to layers.

(4) *Amount per ton.* Halofuginone 3 parts per million plus virginiamycin 5 to 15 grams.

(i) *Indications for use.* For the prevention of coccidiosis caused by *Eimeria tenella, E. necatrix, E. acervulina, E. brunetti, E. mivati,* and *E. maxima;* for increased rate of weight gain.

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(iii) *Limitations.* Feed continuously as sole ration; withdraw 0 days before slaughter; do not feed to layers.

2. In § 558.625 by adding new paragraph (f)(3)(v) to read as follows:

§ 558.625 Virginiamycin.

* * * * *

(f) * * *

(3) * * *

(v) Histologic as in § 558.205.

Dated: April 15, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86-8961 Filed 4-21-86; 8:45 am]

BILLING CODE 4160-01-M

VETERANS ADMINISTRATION

38 CFR Part 17

Readjustment Counseling and Related Mental Health Services

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans Administration is amending its medical regulations (38 CFR Part 17) to remove any reference to a date by which Vietnam era veterans must request readjustment counseling. This change is authorized by Pub. L. 99-166, "Veterans Administration Health-Care Amendments of 1985."

EFFECTIVE DATE: This amendment is effective May 27, 1986.

FOR FURTHER INFORMATION CONTACT: Karen O. Walters, Chief, Policies and Procedures Division (136F), Department of Medicine and Surgery, Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389-2143.

SUPPLEMENTARY INFORMATION: Section 108 of Pub. L. 99-166 made a technical amendment to Title 38 U.S.C. 612A(g)(1)(B) to remove the reference to a date by which Vietnam era veterans must request readjustment counseling. Prior to this change these veterans were required to request such counseling before September 30, 1988.

The Administrator has determined that this amendment to VA regulations is considered nonmajor under the criteria of Executive Order 12291, Federal Regulation. It will not have an annual effect on the economy of $100 million or more; it will not result in major increases in costs for consumers, individual industries, Federal, State or local government agencies, or geographic regions, nor will it have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign based enterprises in domestic or export markets.

The VA finds that advance publications for public notice and comments is unnecessary and not required. This change is primarily an interpretive rule conforming the regulations to a change made by Pub. L. 99-166 and will not have independent effect. Therefore, the changes come within exceptions to the general VA policy of prior publication for public notice and comment, contained in 38 CFR 1.12. Accordingly, these changes are now public as final regulations.

Since a proposed rule will not be published, these amendments do not come within the term "rule" as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2). Therefore, these changes are not subject to that act. In any case, the changes will not have a significant economic impact on a substantial number of small entities because they concern the entitlement of individual veterans and their beneficiaries, and do not have independent effect.

Catalog of Federal Domestic Assistance Numbers: 64.009 and 64.011.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental health, Drug abuse, Foreign relations, Government contracts, Grants programs—health, health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing home, Philippines, Veterans.

Approved: March 25, 1986.

By direction of the Administrator:

Everett Alvarez, Jr.,

Deputy Administrator.

PART 17—[AMENDED]

38 CFR Part 17, MEDICAL, is amended by revising § 17.57(a) to read as follows:

§ 17.57 Readjustment counseling and related mental health services.

(a) Readjustment counseling, including a general mental and psychological assessment to ascertain whether an individual has mental or psychological problems associated with readjustment to civilian life, and, if indicated, related mental health services will be furnished, under the conditions stated, to veterans who have served on active duty during the Vietnam era. (38 U.S.C. 612A; Pub. L. 99-166)

* * * * *

[FR Doc. 86-8941 Filed 4-21-86; 8:45 am]

BILLING CODE 8320-01-M

POSTAL RATE COMMISSION

39 CFR Part 3001

[Docket No. RM85-1; Order No. 676]

Rules of Practice and Procedure Relating to Documentation of Statistical and Computer-Generated Evidence; Order of Rulemaking

Issued: March 6, 1986.

AGENCY: Postal Rate Commission.

ACTION: Final rule.

SUMMARY: The Commission is amending § 3001.31(k)(3)(i) of its Rules of Practice governing computer-generated evidence to provide that where a simulation model is offered in evidence, testing and validation are presumptively necessary to lay an adequate foundation for admission into evidence. We are also making technical revisions to § 3001.31(k)(2) and § 3001.54(f)(3)(iii)(c).

DATE: These revisions to our Rules will become effective April 22, 1986.

FOR FURTHER INFORMATION CONTACT: David F. Stover, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street, NW., Washington, DC 20268 (telephone: 202/789-6828).

SUPPLEMENTARY INFORMATION: In Docket No. RM85-2, the Commission adopted several proposals to amend our Rules of Practice that dealt with workpaper citations, the "roll-forward" computer model, and technical conferences for computer-generated evidence. The Notice of Proposed Rulemaking in Docket No. RM85-2 was issued on June 18, 1985 (50 FR 27368-13), and the amended Rules were adopted upon their publication in the Federal Register on October 25, 1985 (50 FR 43368-93). Time, Inc., and Dow Jones & Co. filed comments in Docket No. RM85-2 on August 2, 1985, and August 9, 1985, respectively. In their comments, they advanced some proposals that were not directly related to the Commission's proposals in Docket No. RM85-2. Their indirectly-related proposals were deferred for consideration in this docket.

Comments on these indirectly-related proposals were solicited in this docket in our Notice of Proposed Rulemaking, issued October 21, 1985 (50 FR 43414-15). Perhaps the most significant of these proposals is the one advanced by Time, Inc. relating to computer-generated simulation models. Time, Inc. proposed that we make information on testing and validation presumptively necessary for laying a foundation for such models. It proposed that we do this by adding the following paragraph to Rule 31(k)(3)(i):

(*f*) Computer simulation models [that seek to describe the operations of the Postal Service, in whole or in part, or any postal related activity,] offered in evidence or relied upon as support for other evidence, shall be bound by all applicable provisions of paragraph (k)(3) and the separate requirements of paragraph (k)(2) [(statistical studies)], to the extent that portions of the simulation model utilize or rely upon such [separate or integrated] studies. Information that compares the simulation model output results to the actual operations(s) being modelled, using data other than those from which the model was developed, shall be separately identified and submitted as evidence supporting the test and validation of the simulation model. Separate statements concerning the model limitations, including limiting model design assumptions and range of data input utilized in model design, shall be provided. Where test and validation of the entire simulation model are not possible, test and validation information shall be provided for disaggregate portions of the model. If disaggregate testing and validation are not possible, separate statements to that effect and statements regarding operational experts' review of model validity shall be provided.

Time, Inc., notes that such a requirement is implicit in Rule 31(k)(3)(i)(e), which, by example, incorporates generally accepted software documentation standards that contain test and validation documentation. Time, Inc., contends, however, that these requirements should be made explicit in our Rule in order to be effective. Comments of Time, Inc., filed August 2, 1985, in Docket No. RM85-2, at 2. We agree. Dow Jones & Co. endorses the addition (Comments of Dow Jones & Co., November 25, 1985), and the Postal Service does not oppose it. (Comments of the United States Postal Service, November 25, 1985.)

Time, Inc., is correct in contending that validation is at least as important as authentication and replication in establishing a foundation for computer-generated simulation models. As Time, Inc., explains, to build a simulation model it is necessary to collect data on the real-world phenomena being studied and then to develop mathematical formulae that represent the relationships among that data. Since this involves a "curve fitting" process, it cannot be thought to be a valid model of observed phenomena unless the formulae developed are tested in one of two ways. One is a test of historical validity. In such a test, the formulae are applied to a set of historical data separate from the set used to develop the model, to see if the results are consistent. The other is a test of face validity. In such a test, operations experts judgmentally evaluate how accurately the formulae developed reflect real-world relationships. It is used when historical validation is not possible. Time, Inc.'s proposed addition allows face validation where historical validation is not possible. Therefore, it is flexible enough to serve as a practical foundational requirement for our proceedings.

We therefore adopt new paragraph 31(k)(3)(i)(*f*) as it appears below. Its language differs slightly from that proposed by Time, Inc., quoted above. We have deleted the phrase "that seek to describe the operations of the Postal Service, in whole or in part, or any postal related activity," bracketed above, because we deem it advisable to apply the rule to simulation models in general, not just those that model postal operations. The other bracketed language, although it accurately expresses the intent of the new rule, is deleted as unnecessary elaboration.

In this docket, we also solicited public comment on several proposals made by Dow Jones, Inc., in its comments filed August 9, 1985, in Docket No. RM85-2. These include its proposal to strengthen the current requirement in Rule 54(o)(3) that workpapers be "neat and legible" to counteract what it contends is a common problem of participants' workpapers failing to meet this standard. It proposed that our rules place the burden on the filing party to ensure that workpapers are legible. It proposed that the party who fails to meet the standard be required, upon request, to provide legible replacement pages, by overnight delivery. Comments of Dow Jones & Co., Inc., filed August 9, 1985, in Docket No. RM85-2, at 2-3. The Postal Service opposed this proposal, arguing that the problems that lead to filing illegible workpapers are the kind that need to be dealt with by informal negotiation, rather than by added formalities in the Rule. Comments of the Postal Service, November 25, 1985, at 2-3.

We agree with Dow Jones & Co., that the burden should be on the filing party to ensure that their workpapers meet the legibility standard in the Rule. That, in fact, is what the current rule does. But we also agree with the Postal Service that noncompliance with the Rule is likely to be due to causes that are best dealt with through informal accommodation among parties. Should this appear to be inadequate in any particular proceeding, the presiding officer will fashion an appropriate special rule of practice to correct the problem. Accordingly, we have not revised Rule 54(o)(3) as Dow Jones & Co. requests.

Rule 31(k)(2) sets forth standard statistical significance tests and other documentation requirements for statistical studies on which hearing participants rely. Dow Jones & Co. proposes that these be made mandatory rather than provided "upon proper request," as the Rule now requires. In particular, Dow Jones proposes that the information concerning statistical methodology contained in paragraph 31(k)(2)(iv) of our rules become a mandatory requirement. Comments of Dow Jones & Co., filed August 9, 1985, in Docket RM85-2, at 5.

Dow Jones argues that the documentation of statistical studies that is specified in this Rule is the kind that should accompany all statistical studies as a matter of course. To require that such documentation accompany the filing of such evidence would, it contends, avoid an unnecessary round of interrogatories. We agree with Dow Jones. We note that the Postal Service has no objection to this proposal. Comments of the Postal Service, November 25, 1985, at 4. Accordingly we are revising Rule 32(k)(2) by deleting the phrase "[u]pon proper request" that currently introduces paragraph "(2)." This will make provision of the documentation specified therein mandatory at the time of filing, except for particular subparagraphs in which we retain the phrase "upon request." We are adding the phrase "upon request" at the beginning of subparagraph "(ii)(b)" because we do not believe that it is appropriate to make that item of documentation mandatory.

On our own initiative, we are making a technical correction involving paragraph 31(k)(2) that will improve the organization of Rule 31 generally. Paragraph 31(k)(2)(iv)(*e*) states the general principle that designating a document as a library reference in our proceedings does not confer any particular evidentiary status upon that document. This is a general statement that applies not only to the narrow category of documentation that comes within 31(k)(2)(iv), but applies with equal force to all documentary evidence governed by Rule 31. Accordingly, we revise Rule 31 by deleting paragraph 31(k)(2)(iv)(e), and placing the language of that subparagraph at the end of paragraph 31(b).

Dow Jones, Inc., proposed that we make some technical corrections elsewhere in our Rules of Practice. It suggests that Rule 54(h)(4), which currently requires the Postal Service to "identify the methodology used to attribute or assign each type of cost," should also require an explanation of how that methodology works, and set forth the calculations underlying the use

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of that methodology. Comments of Dow Jones & Co. filed August 9, 1985, in Docket No. RM85-2, at 8. A similar requirement that underlying calculations be provided should be added to Rule 54(o)(2)(v), according to Dow Jones, Inc. This would require that the Postal Service show, in addition to "results" of special studies used to modify, expand, project, or audit routinely collected data, the calculations underlying those results.

We note that explanations of how analytical methods were applied to achieve results offered in evidence, including underlying calculations, are requirements that are implicit in both of these rules. They are also requirements inherent in our workpaper rule. Paragraph 54(o)(4) of our workpaper rule requires the Postal Service to show the derivation of all quantitative data offered in evidence in such a way that it can be traced to primary data sources. Complying with this general rule necessarily encompasses the underlying calculation which Dow Jones seeks in the specific areas covered by Rules 54(h)(4) and (o)(2)(v). It would therefore add nothing to these rules to make the additions proposed by Dow Jones. Moreover, to explicitly require underlying calculations in some, but not all, of Rule 54 would raise a negative inference in other parts of that Rule that underlying calculations are not required. For these reasons, we will not make these revisions proposed by Dow Jones & Co.

Dow Jones, Inc., also notes that current Rule 54(f)(3)(iii)(*c*) requires assignment and distribution of costs "to functions set forth in f(3)(iii)(*b*) of this section" but that f(3)(iii)(*b*) contains only examples, not an exhaustive list, of functions. It suggests that the reference back to f(3)(iii)(*b*) be reworded to avoid the inference that the examples listed there are exhaustive. Comments of Dow Jones & Co. filed August 9, 1985, in Docket No. RM85-2, at 6-7. We note that the same criticism applies to the reference back to f(3)(iii)(*a*) that is made in the subparagraph. We agree that both references back can be clarified by rewording them. Accordingly, we revise the language of Rule 54(f)(iii)(*c*) as appears below.

Impact of Changes

The Commission finds that these rule changes do not, individually or collectively, constitute a major rule. They affect only rules of practice governing hearing procedures and their economic impact will be negligible, including their impact on the costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. Additionally, these rule changes will have no measurable effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The above analysis that these rule changes do not constitute a major rule applies, as well, to the Regulatory Flexibility Act.

List of Subjects in 39 CFR Part 3001

Administrative practice and procedure, Postal Service.

List of Changes

1. The authority citation for 39 CFR Part 3001 continues to read as follows:

Authority: 39 U.S.C. 404(b), 3603, 3622-3624, 3661, 3662, 84 Stat. 759-762, 764, 90 Stat. 1303; (5 U.S.C. 553), 80 Stat. 383.

PART 3001—RULES OF PRACTICE AND PROCEDURE

2. In § 3001.31, paragraph (b) is revised to read as follows:

§ 3001.31 Evidence.

* * * * *

(b) *Documentary.* Documents and detailed data and information shall be presented as exhibits. Where relevant and material matter offered in evidence is embraced in a document containing other matter not material or relevant or not intended to be put in evidence, the participant offering the same shall plainly designate the matter offered excluding the immaterial or irrelevant parts. If other matter in such document is in such bulk or extent as would unnecessarily encumber the record, such document may be marked for identification, and, if properly authenticated, the relevant and material parts thereof may be read into the record, or, if the Commission or the presiding officer so directs, a true copy of such matter in proper form shall be received in evidence as an exhibit. Copies of documents shall be delivered by the participant offering the same to the other participants or their attorneys appearing at the hearing, who shall be afforded an opportunity to examine the entire and relevant portions thereof. Designation of a document as a library reference is a procedure for facilitating reference to the document in Commission proceedings and does not, by itself, confer any particular evidentiary status upon the document. The evidentiary status of the document is governed by this section.

§ 3001.31 [Amended]

3. Paragraph (k)(2) of § 3001.31 is revised to read as follows:

(k) *Introduction and reliance upon studies and analyses—* * * *

(2) *Statistical studies.* All statistical studies offered in evidence in hearing proceedings or relied upon as support for other evidence shall be described in a summary statement with supplementary details added in appendices so as to give a comprehensive description of the assumptions made, the study plan utilized and the procedures undertaken. For example, for each of the following types of statistical studies, the indicated information should be furnished:

(i) *Sample surveys. (a)* A clear description of the survey design, including the definition of the universe under study, the sampling frame and units, and the validity and confidence limits than can be placed on major estimates; and

(*b*) An explanation of the method of selecting the sample and the characteristics measured or counted.

(ii) *Econometric investigations.* (*a*) A complete description of the econometric model and reasons for each assumption and statistical specification;

(*b*) Upon request, a clear statement as to the effects on the final result of changes in the assumptions; and

(*c*) Upon request, make available alternative studies which may have been made, which employed alternative models and variables.

(iii) *Experimental analyses.* (*a*) A complete description of the experimental design, including a specification of the controlled conditions and how the controls were realized;

(*b*) A complete description of the methods of making observations and the adjustments, if any, to observed data.

(iv) *All studies involving statistical methodology.* (*a*) The formula used for statistical estimates;

(*b*) The standard errors of each component estimated;

(*c*) Test statistics and the description of statistical tests and all related computations, and final results; and

(*d*) Summary descriptions of input data, and, upon request, the actual input data shall be made available at the offices of the Commission.

4. Paragraph (k)(3)(i)(*f*) of § 3001.31 is added to read as follows:

(k) * * *

(3) *Computer analyses.* (i) * * *

* * * * *

(*f*) Computer simulation models offered in evidence or relied upon as support for other evidence, shall be bound by all applicable provisions of paragraph (k)(3) and the separate requirements of paragraph (k)(2), to the extent that portions of the simulation model utilize or rely upon such studies. Information that compares the simulation model output results to the actual phenomena being modelled, using data other than those from which the model was developed, shall be separately identified and submitted as evidence supporting the test and validation of the simulation model. Separate statements concerning the model limitations, including limiting model design assumptions and range of data input utilized in model design, shall be provided. Where test and validation of the entire simulation model are not possible, test and validation information shall be provided for disaggregate portions of the model. If disaggregate testing and validation are not possible, separate statements to that effect and statements regarding operational experts' review of model validity shall be provided.

* * * * *

5. In § 3001.54, paragraph (f)(3)(iii) (*c*) is revised to read as follows:

§ 3001.54 Contents of formal requests.

(*f*) *Total functionalized accrued costs.*

* * * * *

(3) (iii)

* * * * *

(*c*) An assignment and distribution of the costs by account, exemplified in paragraph (f)(3)(iii) (*a*) of this section, together with related mail volumes, to the functions exemplified in paragraph (f)(3)(iii) (*b*) of this section;

* * * * *

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 86-8955 Filed 4-21-86; 8:45 am]

BILLING CODE 7715-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[A-4-FRL-3006-5]

Air Pollution; Standards of Performance for New Stationary Sources; Supplemental Delegation of Authority to South Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of delegation of authority.

SUMMARY: The State of South Carolina requested delegation of authority for the implementation and enforcement of several additional categories of National Standards of Performance for New Stationary Sources (NSPS). EPA's review of South Carolina's laws, rules, and regulations showed them to be adequate for the implementation and enforcement of these federal standards, and the Agency made the delegation as requested.

EFFECTIVE DATE: These requests for delegation of authority to South Carolina were effective March 27, 1985, and February 18, 1986.

ADDRESSES: Copies of the requests for delegation of authority and EPA's letters of delegation are available for public inspection at EPA's Region IV Office, 345 Courtland Street, NE., Atlanta, Georgia 30365.

All reports required pursuant to the newly delegated standards should not be submitted to the EPA Region IV Office, but should instead be submitted to the following address: Mr. Otto Pearson, Bureau of Air Quality Control, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Beverly A. Thomas of the EPA Region IV Air Programs Branch, 345 Courtland Street, NE., Atlanta, Georgia 30365, telephone 404/347-2864 (FTS 257-2864).

SUPPLEMENTARY INFORMATION: Sections 101, 110, and 111 of the Clean Air Act authorize the Administrator to delegate his authority to implement and enforce the National Standards of Performance for New Stationary Sources (NSPS) to any State which has submitted adequate implementation and enforcement procedures.

On October 26, 1976, EPA delegated to the State of South Carolina, the authority to implement the NSPS. Subsequent NSPS delegations were made on March 17, 1982, March 28, 1982, April 28, 1983, April 9, 1984 and May 10, 1984. On February 8, 1985, March 5, 1985, and January 23, 1986, South Carolina requested that EPA delegate authority for the NSPS categories that had been promulgated since the May 10, 1984, delegation.

The NSPS categories requested are as follows:

1. *Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels in Steel Plants, 40 CFR Part 60, Subpart AAa,* as promulgated on October 21, 1984.

2. *Flexible Vinyl and Urethane Coating and Printing, 40 CFR Part 60, Subpart FFF,* as promulgated on June 29, 1984.

3. *Equipment Leaks of VOC in Petroleum Refineries, 40 CFR Part 60, Subpart GGG,* as promulgated on May 30, 1984.

4. *Petroleum Dry Cleaners, 40 CFR Part 60, Subpart JJJ,* as promulgated on September 21, 1984.

5. *Secondary Emissions from Basic Oxygen Process Steelmaking Facilities, 40 CFR Part 60, Subpart Na,* as promulgated on January 2, 1986.

6. *Equipment Leaks of VOC from Onshore Natural Gas Processing Plants, 40 CFR Part 60, Subpart KKK,* as promulgated on June 24, 1985.

7. *Onshore Natural Gas Processing: SO_2 Emissions,* 40 CFR Part 60, Subpart LLL, as promulgated on October 1, 1985.

8. *Nonmetallic Mineral Processing Plants, 40 CFR Part 60, Subpart OOO,* as promulgated on August 1, 1985.

9. *Wool Fiberglass Insulation Manufacturing Plants, 40 CFR Part 60, Subpart PPP,* as promulgated on February 25, 1985.

ACTION: Since review of the pertinent South Carolina laws, rules, and regulations showed them to be adequate for the implementation and enforcement of the aforementioned categories of NSPS, I delegated to the State of South Carolina my authority for the source categories listed above on March 27, 1985, and February 18, 1986.

The Office of Management and Budget has exempted this regulation from the requirements of Section 3 of Executive Order 12291.

This notice is issued under the authority of sections 101, 110, 111, and 301 of the Clean Air Act, as amended (42 U.S.C. 7401, 7410, 7411, 7412 and 7601).

Dated: April 11, 1986.

Jack E. Ravan,

Regional Administrator.

[FR Doc 86-8957 Filed 4-21-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, and 90

[PR Docket No. 83-737; FCC 86-143]

Frequency Coordination in the Private Land Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts rules and policies revising frequency coordination procedures in the Private Land Mobile Radio Services. Such action was encouraged by Congress in

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amendments to the Communications Act of 1934 and will facilitate application processing, maximize spectrum utilization, provide a more reliable data base, and allow for the introduction of new technology with minimum disruption to existing operations in these services.

EFFECTIVE DATE: October 22, 1986.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson or Herb Zeiler, Private Radio Bureau, (202) 634–2443.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 0

Organization and functions (Government agencies).

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 90

Radio.

This is a summary of the Commission's Report and Order, PR Docket 83–737, adopted April 3, 1986, and released April 15, 1986.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets branch (room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service (202) 857–3800, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of Report and Order

1. On October 17, 1984, the Commission adopted a Notice of Proposed Rule Making (Notice) which proposed new rules and policies to govern frequency coordination and coordinators. The Notice was premised on two fundamental concepts: (1) To use to the maximum extent possible the capabilities of private coordinating groups to provide better service to the public and (2) to allow the Commission to do more licensing with diminishing resources. The Notice proposed to have coordinators review most private land mobile applications before they are filed with the Commission. Further, the Notice proposed that only one coordinator be certified for each radio service or frequency group. Finally, the Notice proposed revised procedures designed to streamline the coordination and licensing processes.

2. This Report and Order adopts rules and procedures, as indicated in Appendix C, for applicants applying for frequencies in the private land mobile radio services. It sets forth criteria for determining which applications require or do not require coordination, and establishes requirements to which coordinators must conform. The Commission states that the rules and procedures adopted will improve the quality of frequency selections, expedite licensing, and improve spectrum efficiency, all to the benefit of private land mobile radio users. To achieve these objectives, certified frequency coordinators will be required to:

(1) Provide coordination services on a non-discriminatory basis;

(2) Review the Form 574 application for completeness and review items 1–25 for general correctness;

(3) Process applications in order of receipt;

(4) File coordinated applications with the Commission;

(5) Handle post-licensing conflicts involving frequency selection;

(6) Respond to coordination requests and applications in a timely manner;

(7) Recommend the most appropriate frequency;

(8) Handle interservice sharing requests;

(9) Maintain reasonable and uniform fees;

(10) Establish a single point of contact nationally; and

(11) Facilitate the use of new technologies.

3. The Report and Order discusses the issue of single versus multiple coordinators per radio service. The Commission indicated that certifying only one coordinator per service would obviate the need to develop a system for ensuring that the independent actions of competing coordinators would be both consistent and harmonious. It concluded that the designation of a single coordinator for each radio service would substantially simplify the coordination process and would result in more reliable frequency recommendations. Accordingly, coordinators were certified for each radio service or specialized groups of frequencies listed in Part 90 of the Commission's rules.

Final Regulatory Flexibility Analysis

4. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 604, a final regulatory flexibility analysis has been prepared. It is available for public viewing as part of the full text of this decision, which may be obtained from the Commission or its copy contractor.

Paperwork Reduction Act Statement

5. The decision contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980. We recognize that there are possibly some recordkeeping and reporting requirements imposed upon certified coordinators that cannot be fully defined at this time. Accordingly, when the staff fully develops the procedures for implementing the adopted coordination process, any such recordkeeping and reporting requirements that are identified will be submitted to the Office of Management and Budget for appropriate clearance.

Effective Dates

6. In order to give coordinators sufficient opportunity to meet the requirements put forth here, we are making the rules and procedures adopted effective six months from the date the summary of this item is published in the Federal Register. All applications filed after the date will have to follow the new coordination procedures as prescribed herein. This effective date will not apply, however, to the capability of the coordinator to access the Commission's data base. We will require coordinators to be able to access the Commission's data base three months after notice is given that such a service is available. We expect each of the certified coordinators to meet the functions and requirements in the time frame specified. Coordinators not meeting the terms of their certification are subject to Commission review and, if necessary, decertification as discussed above.

Ordering Clause

7. Accordingly, it is ordered, that effective October 22, 1986, Parts 0, 1, and 90 of the Commission's Rules, 47 CFR, are amended as set forth and this proceeding is terminated. Authority for this action is found in section 4(i), 303, and 331 of the Communcations Act of 1934, as amended 47 U.S.C. 154(i), 303, and 332.

8. For further information on this proceeding contact Eugene Thomson, or Herb Zeiler, Rules Branch, Land Mobile and Microwave Division, Private Radio Bureau, Federal Communcations Commission, Washington, DC 20554, telephone (202) 634–2443.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Parts 0, 1, and 90 of the Commission's Rules and Regulations are amended as follows:

The authority citation for Part 0 continues to read:

Authority: Sec. 5, 48 Stat. 1066 as amended; 47 U.S.C. 155, unless otherwise noted.

The authority citation for Part 1 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, Implement 5 U.S.C. 552, unless otherwise noted.

The authority citation for Part 90 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303 unless otherwise noted.

PART 0—[AMENDED]

1. Section 0.131 is amended by adding a new paragraph (g) to read as follows:

§ 0.131 Functions of the Bureau.

* * * * *

(g) Certifies frequency coordinators in the Private Land Mobile Radio Services, considers petitions seeking review of coordinator actions, and engages in oversight of coordinator actions and practices.

2. Section 1.912 is amended by adding a new paragraph (b) to read as follows:

§ 1.912 Where applications are to be filed.

* * * * *

(b) All applications for private land mobile licenses which require frequency coordination and all correspondence relating thereto shall be first sent to the certified frequency coordinator for the radio service or frequency group concerned. After the appropriate frequency coordination, such applications shall be forwarded by the coordinator to the Federal Communications Commission, Gettysburg, PA. 17325.

* * * * *

3. In § 90.7, the term of Frequency advisor is changed to Frequency coordinator and the definition is revised to read as follows:

§ 90.7 Definitions.

* * * * *

Frequency coordinator. An entity or organization that has been certified by the Commission to recommend frequencies for use by licensees in the Private Land Mobile Radio Services.

* * * * *

4. Section 90.17 is amended by revising paragraph (c)(3) to read as follows:

§ 90.17 Local Government Radio Service.

* * * * *

(c) * * *

(3) The maximum output power of any transmitter authorized to operate on this frequency shall not exceed 2 watts.

* * * * *

5. Section 90.53 is amended by revising the bands 155.160–155.400 in the Table in paragraph (a), removing and reserving paragraph (b)(8), and revising paragraph (b)(31).

§ 90.53 Frequencies available.

* * * * *

(a) * * *

SPECIAL EMERGENCY RADIO SERVICE
FREQUENCY TABLE

Frequency or band	Class of station	Limitations
*	*	*
155.160	Base or mobile	25
155.175	do	25
155.205	do	25
155.220	do	25
155.235	do	25
155.265	do	25
155.280	do	25
155.295	do	25
155.325	do	9, 25, and 29
155.340	do	10, 29
155.355	do	9, 25, and 29
155.385	do	9, 25, and 29
155.400	do	9, 25, and 29

(b) * * *

(8) (Reserved)

* * * * *

(31) This frequency is removed by 22.5 kHz from frequencies assigned to other radio services. Utilization of this frequency may result in, as well as be subject to, interference under certain operating conditions. In considering the use of this frequency, adjacent channel operations should be taken into consideration. If interference occurs, the licensee may be required to take the necessary steps to resolve the problem. See § 90.173(b).

* * * * *

6. Section 90.63 is amended by revising paragraph (d)(15) to read as follows:

§ 90.63 Power Radio Service.

* * * * *

(d) * * *

(15) This frequency is available on a shared basis in the Power, Petroleum, Forest Products, Manufacturers, and Telephone Maintenance Radio Services. It may be assigned only when all of the frequencies in the 450–470 MHz band allocated to the service in which the applicant is primarily eligible are assigned within 56 km. (35 mi) of the proposed base station.

* * * * *

7. Section 90.65 is amended by revising paragraph (c)(37) to read as follows:

§ 90.65 Petroleum Radio Service.

* * * * *

(c) * * *

(37) This frequency is shared with the Special Industrial Radio Service and is available for assignment in the Petroleum Radio Service only in the states of Texas and Louisiana within 75 miles of the Gulf of Mexico and in adjacent offshore waters. Mobile relay stations will not be authorized.

* * * * *

8. Section 90.67 is amended by revising paragraphs (c)(18) and (c)(29) to read as follows:

§ 90.67 Forest Products Radio Service.

* * * * *

(c) * * *

(18) This frequency is available on a shared basis in the Power, Petroleum, Forest Products, Manufacturers, and Telephone Maintenance Radio Services. It may be assigned only when all of the frequencies in the 450–470 MHz band allocated to the service in which the applicant is primarily eligible are assigned within the 56 km. (35 mi) of the proposed base station.

* * * * *

(29) This frequency is shared with the Taxicab and Special Industrial Radio Services. Use of this frequency is limited to stations located at least 80.5 km (50 miles) from the center of any urbanized area of 600,000 or more population (U.S. Census of Population, 1970). All operations on this frequency are limited to a maximum transmitter output power of 75 watts.

* * * * *

9. Section 90.73 is amended by revising paragraphs (d)(28), (30), (32), and (e)(4) except table, to read as follows:

§ 90.73 Special Industrial Radio Service.

* * * * *

(d) * * *

(28) This frequency is shared with the Taxicab and Forest Products Radio Services. Use of this frequency is limited to stations located at least 80.5 km (50 miles) from the center of any urbanized area of 600,000 or more population (U.S. Census of Population, 1970). All operations on this frequency are limited to a transmitter output power of 75 watts.

* * * * *

(30) This frequency is shared with other Industrial Radio Services and is available for assignment in the Special Industrial Radio Service only in the States of North Dakota, South Dakota, Iowa, Nebraska, Kansas, and Missouri beyond 50 miles from St. Louis and Kansas City; Wyoming and Colorado east of Longitude 106 degrees except within a 50 mile radius of Denver; and

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Minnesota south of Latitude 47 degrees except within a 50 mile radius of St. Paul, Minnesota. The maximum transmitter output power may not exceed 110 watts.

* * * * *

(32) This frequency is shared with other Industrial Radio Services and is available for assignment in the Special Industrial Radio Service only in the States of North Dakota, South Dakota, Iowa, Nebraska, Kansas, Missouri, Colorado, and Wyoming east of Latitude 106 degrees; and Minnesota south of Latitude 47 degrees. The maximum transmitter output power may not exceed 110 watts.

* * * * *

(c) * * *

(4) The following frequencies are available only in Puerto Rico and the Virgin Islands. These "Base and Mobile" and "Mobile only" frequencies are available on a shared basis in the Forestry-Conservation and Railroad Radio Services respectively. These "Mobile only" frequencies may be assigned to a control station associated with a mobile relay system if it is also assigned to the associated mobile station.

* * * * *

10. Section 90.79 is amended by revising paragraphs (d)(4) and (d)(13) to read as follows:

§ 90.79 Manufacturers Radio Service.

* * * * *

(d) * * *

(4) This frequency is available on a shared basis in the Manufacturers, Special Industrial and Railroad Radio Services.

* * * * *

(13) This frequency is available on a shared basis in the Power, Petroleum, Forest Products, Manufacturers, and Telephone Maintenance Radio Services. It may be assigned only when all of the frequencies in the 450–470 MHz band allocated to the service in which the applicant is primarily eligible are assigned within 56 km. (35 mi) of the proposed base station.

* * * * *

11. Section 90.81 is amended by revising paragraph (d)(4) to read as follows:

§ 90.81 Telephone Maintenance Radio Service.

* * * * *

(d) * * *

(4) This frequency is available on a shared basis in the Power, Petroleum, Forest Products, Manufacturers, and Telephone Maintenance Radio Services. Except for assignments made to non-wire line radiocommunications common carriers authorized in the Point-to-Point Microwave Radio Service under Part 21 it may be assigned only when all of the base and mobile frequencies in the 450–470 MHz band for which the applicant is primarily eligible are assigned within 56 km. (35 mi.) of the proposed base station.

* * * * *

12. Section 90.89 is amended by revising paragraph (c)(10) to read as follows:

§ 90.89 Motor Carrier Radio Service.

* * * * *

(c) * * *

(10) This frequency is shared in the Motor Carrier and Railroad Radio Services. It may be assigned only when all of the frequencies in the 450–470 MHz band allocated to the service in which the applicant is primarily eligible are assigned within 56 km. (35 mi.) of the proposed base station.

* * * * *

13. Section 90.91 is amended by revising paragraph (c)(10) to read as follows:

§ 90.91 Railroad Radio Service.

* * * * *

(c) * * *

(10) This frequency is shared in the Motor Carrier and Railroad Radio Services. It may be assigned only when all of the frequencies in the 450–470 MHz band allocated to the service in which the applicant is primarily eligible are assigned within 56 km. (35 mi.) of the proposed base station.

* * * * *

14. Section 90.93 is amended by revising paragraph (c)(11) to read as follows:

§ 90.93 Taxicab Radio Service.

* * * * *

(c) * * *

(11) This frequency is shared with the Forest Products and Special Industrial Radio Services. Use of this frequency is limited to stations located at least 80.5 km. (50 miles) from the center of any urbanized area of 600,000 or more population (U.S. Census of Population, 1970).

* * * * *

15. Section 90.111 is revised to read as follows:

§ 90.111 Scope.

This subpart contains the procedures and requirements for the submission or filing of applications for authority to operate radio facilities under this part. The procedures described as those utilized by the Commission after receiving filed applications.

16. Section 90.119 is amended by revising paragraph (a)(2)(ii) to read as follows:

§ 90.119 Application forms.

* * * * *

(a) * * *

(2) * * *

(ii) If the control station(s) will operate on the same frequency as the mobile station, and if the height of the control station(s) antenna(s) will not exceed 6.1 meters (20 feet) above ground or an existing man-made structure (other than an antenna structure), there is no limit on the number of such stations which may be authorized. Items 1 through 5 or Form 574 shall be completed showing the frequency, the station class, the total number of control stations, the emission, and the output power of the highest powered control station. Applicants for all control stations in the 470–512 MHz band must furnish the information requested in Items 1–11 of Form 574.

* * * * *

17. Section 90.127 is amended by revising the section heading and paragraph (a) to read as follows:

§ 90.127 Submission and filing of applications.

(a) All applications for station authorizations which require frequency coordination in accordance with § 90.175 and any correspondence relating thereto, must initially be submitted to the certified frequency coordinator for the radio service or frequency group involved. After the completion of frequency coordination, these applications shall be forwarded by the coordinator to the Federal Communications Commission, Gettysburg, Pennsylvania, 17325. All other applications shall be filed by the applicant directly with the Federal Communications Commission, Gettysburg, PA, 17325. A listing of the certified frequency coordinators may be obtained from the Federal Communications Commission, Gettysburg, PA 17325.

* * * * *

18. In § 90.129, the introductory paragraph is revised to read as follows:

§ 90.129 Supplemental information to be routinely submitted with applications.

Each application received by the Commission must be accompanied by the applicable information listed below:

* * * * *

19. Section 90.135 is revised to read as follows:

§ 90.135 Modification of license.

(a) The following changes in authorized stations require an application for modification of license:

(1) Change in frequency.

(2) Change in the type of emission.

(3) Change in power from that authorized.

(4) Change in antenna height from that authorized.

(5) Change in the location or number of base stations, fixed, control, or mobile transmitters from that authorized, including area of mobile operations.

(6) Change in the class of a land station, including changing from multiple licensed to cooperative use, and from shared to unshared use.

(7) Any change in ownership, control, or corporate structure.

(b) The following changes in authorized stations do not require an application for modification of license.

(1) Change in mailing address of licensee.

(2) Change of name only of licensee, without changes in ownership, control, or corporate structure.

(3) Change in the number and location of station control points or of control stations operating below 470 or above 800 MHz meeting the requirements of § 90.119(a)(2)(ii).

(4) Change in the number of mobile units operated by Radiolocation Service licensees.

(5) Any other changes not listed in paragraph (a) of this section.

(c) Unless specifically exempted in § 90.175, requests for modifications listed in paragraph (a) of this section must be submitted on Form 574 to the applicable frequency coordinator.

(d) In case of a change listed in paragraph (b)(1) or (b)(2) of this section, the licensee must notify the Commission immediately. Notification may be by Form 405–A or by letter. The letter must contain the name and address of the licensee as they appear in the Commission's records, the new name or address, the call signs and classes of all radio stations authorized to the licensee under this part and the radio service in which each station is authorized. The completed and signed Form 405–A or the letter must be sent to: Federal Communication Commission, Gettysburg, Pennsylvania 17325. Licensees whose licenses are due for renewal and who have received the renewal Form 574–R in the mail from the Commission must use the appropriate boxes on that form to notify the Commission of a change listed in paragraph (b)(1) or (b)(2) of this section.

(e) In the case of a change listed in paragraphs (b)(3), (b)(4), and (b)(5) of this section, the licensee must notify the Commission within 30 days of the change. The notice may be filed on FCC Form 574 or may be contained in a letter specifying the nature of the change, the name and address of the licensee as appearing on Commission records, and the call sign, class, and radio service of the station. The notice must be sent to: Federal Communications Commission, Gettysburg, Pennsylvania 17325.

20. Section 90.137 is amended by revising paragraph (a) introductory text and adding paragraph (a)(3) to read as follows:

§ 90.137 Applications for operation at temporary locations.

(a) An application for authority to operate a base or a fixed transmitter at temporary locations shall be filed in accordance with the following:

(3) Applications for operation at temporary locations exceeding 180 days must be accompanied by evidence of frequency coordination.

* * * * *

21. Section 90.139 is amended by revising the section heading and paragraph (b) as follows:

§ 90.139 Commission processing of applications.

* * * * *

(b) Applications which are incomplete with respect to answers, supplementary statements, execution, or other matters of a formal character shall be deemed defective and may be dismissed. In addition, if an applicant is requested to file any additional documents or information not included in the prescribed application form, failure to comply with such request will render the application defective and it may be dismissed. Applications will also be deemed to be defective and be dismissed in the following cases:

(1) Statutory disqualification of applicant;

(2) Proposed use or purpose of station would be unlawful;

(3) Requested frequency is not allocated for assignment for the service proposed.

* * * * *

22. Section 90.141 is revised to read as follows:

§ 90.141 Resubmitted applications.

Any application received by the Commission for frequencies below 470 MHz which has been returned by the Commission to the applicant for correction will be processed in its original position in the processing line if it is resubmitted and received by the Commission within 60 days from the date on which it was returned to the applicant. Otherwise it will be treated as a new application for the purpose of processing considerations. An application received by the Commission for frequencies above 470 MHz which has been returned by the Commission to the applicant will be processed in its original position in the processing line if it is resubmitted and received by the Commission within 30 days (45 days outside the continental United States) from the date on which it was returned to the applicant. Otherwise it will be treated as a new application for the purpose of processing considerations.

23. Section 90.145 is amended by adding a new paragraph (c) to read as follows:

§ 90.145 Special temporary authority.

* * * * *

(c) Requests for special temporary authority to operate for periods exceeding 180 days require evidence of frequency coordination. Requests for shorter periods do not require coordination and, if granted will be authorized on a secondary, non-interference basis.

24. In § 90.151, paragraphs (a) and (d) are revised to read as follows:

§ 90.151 Requests for waiver.

(a) Requests for waiver of the rules in this part shall state the nature of the waiver or exception desired, and set forth reasons in support thereof including a showing that unique circumstances are involved and that there is no reasonable alternative solution within existing rules. When related to a specific application the submission and filing procedures of § 90.127 also apply.

* * * * *

(d) Requests for waiver of the rules not related to a specific application shall be submitted to the Federal Communications Commission, Gettysburg, PA 17325.

25. Section 90.159 is revised to read:

§ 90.159 Temporary permit.

An applicant for a private land mobile station license utilizing an already authorized facility may operate the radio station(s) for a period of up to 180 days under a temporary permit evidenced by a properly executed temporary license certificate (Form 572) after submitting or filing a formal application for station license in accordance with § 90.127, provided that all the antennas employed by control stations are twenty feet or less above ground or twenty feet or less above a man-made structure other than an

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antenna tower to which it is affixed. When required by § 90.175, applications must be accompanied by evidence of frequency coordination. The temporary operation of stations, other than mobile stations within the Canadian coordination zone is limited to stations with a maximum of 5 watts effective radiated power and a maximum antenna height of 6.1 meters (20 ft.) above average terrain.

26. Section 90.175 is revised to read as follows:

§ 90.175 Frequency coordination requirements.

Except for applications listed in paragraph (f) of this section, each application for a new frequency assignment, for a change in existing facilities as listed in § 90.135 (a), for a reinstatement of an authorization expired for more than 6 months, or for operation at temporary locations in accordance with § 90.137, must include a showing of frequency coordination as set forth below. When frequencies are shared by more than one service, concurrence must be obtained from the other applicable certified coordinators.

(a) For frequencies between 25 and 470 MHz. A statement from the applicable frequency coordinator recommending the most appropriate frequency. The coordinator's recommendation may appropriately include comments on technical factors such as power, antenna height and gain, terrain, and other factors which may serve to mitigate potential interference. Except for narrowband operations, the coordinator must not recommend any adjacent channel frequency 15 kHz removed to existing stations which would result in a separation of less than 10 miles, or 7 miles in the Taxicab Radio Service. If the frequency recommended is in the 150–170 MHz band, and is 17.5 kHz or less removed from a frequency which is available to another radio service, the coordinator's statement must show that approval has been received from the coordinator for the other service. Coordination with another service is not required, however, for narrowband assignments more than 5 kHz removed from other narrowband assignments.

(b) For frequencies between 470 and 512 MHz and 806–821/851–866 MHz. A statement from the applicable coordinator recommending specific frequencies which are available for assignment in accordance with the loading standards and mileage separations applicable to the specific radio service or category of user involved.

(c) For frequencies in the 928–960 MHz band. A statement from the coordinator recommending the most appropriate frequency.

(d) Any recommendation submitted in accordance with paragraphs (a), (b) or (c) of this section is advisory in character and is not an assurance that the Commission will grant a license for operation on that frequency. Therefore, applicants are strongly advised not to purchase radio equipment operating on specific frequencies until a valid authorization has been obtained from the Commission.

(e) Applications for facilities near the Canadian border north of line A or east of line C in Alaska may require coordination with the Canadian government. See Section 1.955 of this chapter.

(f) The following applications need not be accompanied by evidence of frequency coordination:

(1) Applications for frequencies below 25 MHz.

(2) Applications for a Federal Government frequency.

(3) Applications for frequencies in the 72–76, 216–220, and 1427–1435 MHz bands.

(4) Applications for a frequency to be used for developmental purposes.

(5) Applications in the Special Industrial Radio Service or the Business Radio Service requesting a frequency designated for itinerant operation only.

(6) Applications in the Radiolocation Service.

(7) Application for 800 MHz trunked frequencies listed in § 90.362 of this part.

(8) Applications for 800 MHz SMRS pool frequencies listed in § 90.617(d) and § 90.619.

(9) Applications indicating license assignments such as change in ownership, control or corporate structure if there is no change in technical parameters.

(10) Applications for mobile stations operating in the 470–512 and 800 MHz bands if the frequency pair is assigned to a single system on an exclusive basis in the proposed area of operation.

(11) Applications for add-on base stations in multiple licensed systems operating in the 470–512 and 800 MHz bands if the frequency pair is assigned to a single system on an exclusive basis.

(12) Applications for control stations operating below 470 or above 800 MHz and meeting the requirements of § 90.119(a)(2)(ii).

27. Section 90.178 is amended by revising paragraphs (a)(1), (a)(3), (b)(1), and (b)(3) to read as follows:

§ 90.178 Intraservice sharing of frequencies in the 150–174 and 450–470 MHz bands.

(a) * * *

(1) A determination by the applicable frequency coordinator that there are no satisfactory frequencies available within the applicant's own radio service in the area of desired operation;

* * * * *

(3) A statement from the frequency coordinator having responsibility for coordination in the radio service or group in which the frequency is assigned concurring in its assignment in the manner requested. In cases where concurrence is not given, the coordinator must provide an explanation of why the requested sharing is inappropriate.

* * * * *

(b) * * *

(1) A determination by the applicable frequency coordinator that there are no satisfactory frequencies available within the applicant's own radio service in the area of desired operation;

* * * * *

(3) A statement from the frequency coordinator having responsibility for coordination in the radio service or group in which the frequency in question is assigned concurring in its assignment in the manner proposed. In cases where concurrence cannot be given, the coordinator must provide an explanation of why sharing is inappropriate.

* * * * *

28. In § 90.237, the introductory paragraph is revised to read as follows:

§ 90.237 Interim provisions for operations of radioteleprinter and radiofacsimile devices.

These provisions authorize and govern the use of radioteleprinter and radiofacsimile devices for base station use (other than on mobile-only or paging-only frequencies) in the radio services (except in the Radiolocation and Special Emergency Radio Services) in this part.

* * * * *

29. Section 90.477 is amended by revising paragraph (a) to read as follows:

§ 90.477 Interconnected systems.

(a) Applicants for new land stations to be interconnected with the public switched telephone network must indicate on their applications (class of station code) that their stations will be interconnected. Licensees of land stations that are not interconnected may interconnect their stations with the public switched telephone network only after modifying their license. See § 90.135. In all cases a detailed description of how interconnection is accomplished must be maintained by licensees as part of their station records. See § 90.433.

* * * * *

30. Section 90.494 is amended by revising paragraph (b) to read as follows:

§ 90.494 One-way paging operations in the 928–930 MHz band.

* * * * *

(b) All applications for these frequencies must comply with the frequency coordination requirements of § 90.175(c).

* * * * *

31. Section 90.605 is revised to read as follows:

§ 90.605 Forms to be used.

Applications for conventional and trunked radio facilities must be prepared on FCC Forms 574 and 574A and must be submitted or filed in accordance with § 90.127.

32. Section 90.607 is amended by adding a new paragraph (e) to read as follows:

§ 90.607 Supplemental information to be furnished by applicants for facilities under this subpart.

* * * * *

(e) Except for applicants requesting frequencies in the SMRS category listed in § 90.617(d) and § 90.619, all applicants for frequencies governed by this subpart must comply with the frequency coordination requirements of § 90.175(b).

33. Section 90.621 is amended by revising paragraphs (a) and (c) to read as follows:

§ 90.621 Selection and assignment of frequencies.

(a) Applications in the Public Safety/Special Emergency, Industrial/Land Transportation, and Business categories and for frequencies in the conventional category must specify the frequencies on which the proposed system will operate pursuant to a recommendation by the applicable frequency coordinator. Applicants for SMRS trunked frequencies may either request specific frequencies by including in their applications justification for the frequencies requested or may request the Commission to select frequencies for the system.

* * * * *

(c) Trunked systems authorized on frequencies in the Public Safety, Industrial/Land Transportation, and Business Categories will be protected solely on the basis of predicted contours. Coordinators will attempt to provide a 40 dBu contour and to limit co-channel interference levels to 30 dBu over an applicant's requested service area. This would result in a mileage separation of 70 miles for typical system parameters. Separations will be less than 70 miles where the requested service areas, terrain or other factors warrant reduction. In the event that the separation, is less than 70 miles, the coordinator must indicate that the protection criteria have been preserved or that the affected licensees have agreed in writing to the proposed system. Only co-channel interference between base station operations will be taken into consideration. Adjacent channel and other types of possible interference will not be taken into account.

* * * * *

34. Section 90.657 is revised to read as follows:

§ 90.657 Temporary permit.

An applicant for a Subpart S radio station license utilizing an already authorized facility may operate the radio station(s) for a period of up to 180 days under a temporary permit evidenced by a properly executed certification of FCC Form 572 after filing a formal application for station license together with evidence of frequency coordination (when required), provided that the antenna(s) employed by the control station(s) is (are) twenty feet or less above ground or twenty feet or less above a man-made structure other than an antenna tower to which it is affixed.

[FR Doc. 86-8012 Filed 4-21-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Parts 1, 21, 63, 90 and 94

[Gen. Docket No. 79-163; FCC 85-626]

Environmental Rules in Response to New Regulations Issued by the Council on Environmental Quality

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends §§ 1.1301–1.1319 of the Commission's environmental rules.

This action is taken by the Commission to conform its environmental rules to the regulations issued by the Council on Environmental Quality.

EFFECTIVE DATE: July 21, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: A. Holly Kaufman, Office of General Counsel, (202) 632-6990.

SUPPLEMENTARY INFORMATION:

Amendment of Environmental Rules in Response to New Regulations Issued by the Council on Environmental Quality, Gen. Docket 79-163.

This is a summary of the Commission's Report and Order adopted November 25, 1985, and released March 26, 1986. Additional information is contained in the complete Commission decision which is available for viewing and copying during normal business hours in the FCC Dockets Branch (Room 239) 1919 M Street, NW., Washington DC 20554. The full text may also be purchased from the Commission's copy contractor, International Transcription Service, 2100 M St., NW., Suite 140, Washington, DC (202) 857-3800. The public should also be aware that the full text of the Commission's decision is available in the FCC Reports, Pike and Fischer Radio Regulations, as well as other commercial research and copying vendors.

Summary of Report and Order:

1. The Commission has revised its rules to conform to the regulations issued by the Council on Environmental Quality (CEQ), 40 CFR 1500–1508.28, which administers the National Environmental Policy Act, 42 U.S.C. 4321–4361.

2. Based upon the Commission's experience, we have determined that the telecommunications industry does not generally raise environmental concerns. The comments filed in this proceeding support the Commission's determination. Thus, we have categorically excluded most Commission actions from environmental processing requirements. The Commission has reduced to three general areas the types of actions that may have a significant environmental impact to include cases in which facilities: (1) Will be located in sensitive areas (e.g. wildlife preserves); (2) will involve high intensity lighting in residential areas; and/or (3) will expose workers or the general public to levels of radiofrequency radiation which would exceed the applicable health and safety standards set forth in § 1.1307(b) of our rules. Actions that may have a significant environmental impact are subject to environmental processing requirements. In addition, the rules include a "safety valve" provision,

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which permits the Commission to require environmental processing on a case-by-case basis. Finally, the Commission's revised rules also adopt the CEQ uniform terminology and procedural requirements.

3. The Commission's revised rules will streamline environmental processing by reducing unnecessary paperwork and burdens upon the administration and the public, as well as ensure that environmental considerations are given appropriate consideration in our decision-making.

4. *Ordering Clause.*

Accordingly, it is ordered, that, effective 90 days after publication in the Federal Register, that Parts 1, 23, 63, 90 and 94 of the Rules and Regulations (47 CFR Parts 1, 23, 63, 90 and 94) are amended as set forth below.

List of Subjects

47 CFR Part 1

Administrative practice and procedure. Reporting and recordkeeping requirements. Environmental Rules.

47 CFR Part 21

Reporting and recordkeeping requirements.

47 CFR Part 63

Reporting and recordkeeping requirements.

47 CFR Part 90

Reporting and recordkeeping requirements.

47 CFR Part 94

Reporting and recordkeeping requirements.

William J. Tricarico,

Secretary.

Parts 1, 21, 63, 90, and 94 of Chapter 1 of Title 47 of the Code of Federal Regulations are amended as follows:

1. The authority citation for Part 1 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Section 1.1301 is revised to read:

§ 1.1301 Basis and purpose.

The provisions of this subpart implement Subchapter I of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321–4335.

3. Section 1.1302 is added to read:

§ 1.1302 Cross-Reference; Regulations of the Council on Environmental Quality.

A further explanation regarding implementation of the National Environmental Policy Act is provided by the regulations issued by the Council on Environmental Quality, 40 CFR 1500–1508.28.

4. Section 1.1303 is revised to read:

§ 1.1303 Scope.

The provisions of this subpart shall apply to those Commission actions which may or will have a significant impact on the quality of the human environment.

5. Section 1.1304 is added to read:

§ 1.1304 Information and assistance.

For general information and assistance concerning the provisions of this subpart, the Office of General Counsel may be contacted, (202) 632–6990. For more specific information, the Bureau responsible for processing a specific application should be contacted.

6. Section 1.1305 is revised to read:

§ 1.1305 Actions which normally will have a significant impact upon the environment, for which Environmental Impact Statements must be prepared.

Any Commission action deemed to have a significant effect upon the quality of the human environment requires the preparation of a Draft Environmental Impact Statement (DEIS) and Final Environmental Impact Statement (FEIS) (collectively referred to as EISs) (*see* §§ 1.1314, 1.1315 and 1.1317). The Commission has reviewed representative actions and has found no common pattern which would enable it to specify actions that will thus automatically require EISs.

Note.—Our current application forms refer applicants to § 1.1305 to determine if their proposals are such that the submission of environmental information is required (*see* § 1.1311). Until the application forms are revised to reflect our new environmental rules, applicants should refer to § 1.1307. Section 1.1307 now delineates those actions for which applicants must submit environmental information.

7. Section 1.1306 is added to read:

§ 1.1306 Actions which are categorically excluded from environmental processing.

(a) Except as provided in § 1.1307 (c) and (d), Commission actions not covered by § 1.1307 (a) and (b) are deemed individually and cumulatively to have no significant effect on the quality of the human environment and are categorically excluded from environmental processing.

(b) Specifically, any Commission action with respect to any new application, or minor or major modifications of existing or authorized facilities or equipment, will be categorically excluded, provided such proposals do not:

(1) Involve a site location specified under § 1.1307(a) (1)–(5), or

(2) Involve high intensity lighting under § 1.1307(a)(6).

(3) Result in human exposure to radiofrequency radiation in excess of the applicable safety standards specified in § 1.1307(b).

Note 1.—The provisions of § 1.1307(a) do not encompass the mounting of antennas on an existing building or antenna tower, unless the antenna(s) to be mounted is (are) subject to the provisions of § 1.1307(b) and would result in human exposure to radiofrequency radiation in excess of the applicable health and safety guidelines cited in § 1.1307(b). Otherwise, the use of existing buildings and towers is an environmentally desirable alternative to the construction of new towers and is encouraged.

Note 2.—The specific height of an antenna tower or supporting structure, as well as the specific diameter of a satellite earth station, in and of itself, will not be deemed sufficient to warrant environmental processing. *see* §§ 1.1307 and 1.1308.

Note 3.—The construction of an antenna tower or supporting structure in an established "antenna farm": (i.e., an area in which similar antenna towers are clustered, whether or not such area has been officially designated as an antenna farm), will be categorically excluded unless one or more of the antennas to be mounted on the tower or structure are subject to the provisions of § 1.1307(b) and the additional radiofrequency radiation from the antenna(s) on the new tower or structure would cause human exposure in excess of the applicable health and safety guidelines cited in § 1.1307(b).

8. Section 1.1307 is added to read:

§ 1.1307 Actions which may have a significant environmental effect, for which environmental assessments (EAs) must be prepared.

(a) Commission actions with respect to the following types of facilities may significantly affect the environment and thus require the preparation of EAs by the applicant (see §§ 1.1308 and 1.1311) and may require further Commission environmental processing (*see* §§ 1.1314, 1.1315 and 1.1317):

(1) Facilities that are to be located in an officially designated wilderness area.

(2) Facilities that are to be located in an officially designated wildlife preserve.

(3) Facilities that will affect districts, sites, buildings, structures or objects, significant in American history, architecture, archeology or culture, that are listed in the National Register of Historic Places or are eligible for listing. (*See* 36 CFR §§ 60, 63 and 800).

Note: The National Register is updated and re-published in the Federal Register each year in February.

(4) Facilities to be located in a floodplain. (*See* Executive Order 11988).

(5) Facilities whose construction will involve significant change in surface features (e.g., wetland fill, deforestation or water diversion). (In the case of wetlands on Federal property, *see* Executive Order 11990).

(6) Antenna towers and/or supporting structures that are to be equipped with high intensity white lights which are located in residential neighborhoods, as defined by the applicable zoning law.

(b) In addition to the actions listed in paragraph (a) Commission actions granting construction permits, licenses to transmit or renewals thereof, or Commission actions authorizing modifications in existing facilities, will require the preparation of an EA if the particular facility or operation would cause exposure of workers or the general public to levels of radiofrequency radiation in excess of the "Radio Frequency Protection Guides" recommended in "American National Standard Safety Levels with Respect to Human Exposure to Radio Frequency Electromagnetic Fields, 300 kHz to 100 GHz," (ANSI C95.1–1982), issued by the American National Standards Institute (ANSI), 1430 Broadway, New York, New York 10018, Copyright 1982 by the Institute of Electrical and Electronics Engineers, Inc., 345 East 47th Street, New York, New York 10017.

Note.—The provisions of paragraph (b) shall only apply to facilities and services licensed or authorized under Parts 5, 25, 73, and 74 (Subparts A and G only) of the FCC Rules and Regulations.

(c) If an interested person alleges that a particular action, otherwise categorically excluded, will have a significant environmental effect, the person shall submit to the Bureau responsible for processing that action a written petition setting forth in detail the reasons justifying or circumstances necessitating environmental consideration in the decision-making process. (*See* § 1.1313). The Bureau shall review the petition and consider the environmental concerns that have been raised. If the Bureau determines that the action may have a significant environmental impact, the Bureau will require the applicant to prepare an EA (*see* §§ 1.1308 and 1.1311), which will serve as the basis for the determination to proceed with or terminate environmental processing.

(d) If the Bureau responsible for processing a particular action, otherwise categorically excluded, determines that the proposal may have a significant environmental impact, the Bureau, on its own motion, shall require the applicant to submit an EA. The Bureau will review and consider the EA as in paragraph (c) of this section.

9. Section 1.1308 is added to read:

§ 1.1308 Consideration of environmental assessments (EAs); findings of No significant impact.

(a) Applicants shall prepare EAs for actions that may have a significant environmental impact (*see* § 1.1307). An EA is described in detail in § 1.1311 of this part of the Commission rules.

(b) The EA is a document which shall explain the environmental consequences of the proposal and set forth sufficient analysis for the Bureau or the Commission to reach a determination that the proposal will or will not have a significant environmental effect. To assist in making that determination, the Bureau or the Commission may request further information from the applicant, interested persons, and agencies and authorities which have jurisdiction by law or which have relevant expertise.

(c) If the Bureau or the Commission determines, based on an independent review of the EA, that the proposal will have a significant environmental impact upon the quality of the human environment, it will so inform the applicant. The applicant will then have an opportunity to amend its application so as to reduce, minimize or eliminate environmental problems, *see* § 1.1309. If the environmental problem is not eliminated, the Bureau will publish in the Federal Register a Notice of Intent (*see* 1§ 1.1314) that EISs will be prepared (*see* §§ 1.1315 and 1.1317), or

(d) If the Bureau or Commission determines, based on an independent review of the EA that the proposal would not have a significant impact, it will make a finding of no significant impact. Therefore, the application will be processed without further consideration of environmental effect. Pursuant to CEQ regulations, *see* 40 CFR 1501.4 and 1501.6, the applicant must provide the community notice of the Commission's finding of no significant impact.

10. Section 1.1309 is added to read:

§ 1.1309 Application amendments.

Applicants are permitted to amend their applications to reduce, minimize or eliminate potential environmental problems. As a routine matter, an applicant will be permitted to amend its application within thirty (30) days after the Commission or the Bureau informs the applicant that the proposal will have a significant impact upon the quality of the human environment (*see* § 1.1308(c)). The period of thirty (30) days may be extended upon a showing of good cause.

11. Section 1.1311 is revised to read:

§ 1.1311 Environmental information to be included in the environmental assessment (EA).

(a) The applicant shall submit an EA with each application that is subject to environmental processing (*see* § 1.1307). The EA shall contain the following information:

(1) For antenna towers and satellite earth stations, a description of the facilities as well as supporting structures and appurtenances, and a description of the site as well as the surrounding area and uses. If high intensity white lighting is proposed or utilized within a residential area, the EA must also address the impact of this lighting upon the residents.

(2) A statement as to the zoning classification of the site, and communications with, or proceedings before and determinations (if any) made by zoning, planning, environmental or other local, state or federal authorities on matters relating to environmental effect.

(3) A statement as to whether construction of the facilities has been a source of controversy on environmental grounds in the local community.

(4) A discussion of environmental and other considerations which led to the selection of the particular site and, if relevant, the particular facility; the nature and extent of any unavoidable adverse environmental effects, and any alternative sites or facilities which have been or might reasonably be considered.

(5) Any other information that may be requested by the Bureau or Commission.

(b) The information submitted in the EA shall be factual (not argumentative or conclusory) and concise with sufficient detail to explain the environmental consequences and to enable the Commission or Bureau, after an independent review of the EA, to reach a determination concerning the proposal's environmental impact, if any. The EA shall deal specifically with any feature of the site which has special environmental significance (*e.g.*, wilderness areas, wildlife preserves, natural migration paths for birds and other wildlife, and sites of historic, architectural, or archeological value). In the case of historically significant sites, it shall specify the effect of the facilities on any district, site, building, structure or object listed in the National Register of Historic Places. 30 FR 6402 (February 19, 1974). It shall also detail any substantial change in the character of the land utilized (*e.g.*, deforestation, water diversion, wetland fill, or other extensive change of surface features). In the case of wilderness areas, wildlife preserves, or other like areas, the

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statement shall discuss the effect of any continuing pattern of human intrusion into the area (e.g., necessitated by the operation and maintenance of the facilities).

(c) The EA shall also be accompanied with evidence of site approval which has been obtained from local or federal land use authorities.

(d) To the extent that such information is submitted in another part of the application, it need not be duplicated in the EA, but adequate cross-reference to such information shall be supplied.

(e) An EA need not be submitted to the Commission if another agency of the Federal Government has assumed responsibility for determining whether of the facilities in question will have a significant effect on the quality of the human environment and, if it will, for invoking the environmental impact statement process.

12. Section 1.1312 is added to read:

§ 1.1312 Facilities For which no Construction permit is required.

In the case of facilities for which no construction permit is required or for which a waiver request for a construction permit has been granted under 47 U.S.C. 319(d), the information required by § 1.1311 shall be submitted and ruled on by the Commission, and the environmental processing (if invoked) shall be completed before authorization of the facilities is granted.

13. Section 1.1313 is revised to read:

§ 1.1313 Objections.

(a) In the case of an application to which section 309(b) of the Communications Act applies, objections based on environmental considerations shall be filed as petitions to deny.

(b) Informal objections which are based on environmental considerations must be filed prior to grant of the construction permit, or prior to authorization for facilities that do not require construction permits, or pursuant to the applicable rules governing services subject to lotteries.

14. Section 1.1314 is added to read:

§ 1.1314 Environmental impact statements (EISs).

(a) Draft Environmental Impact Statements (DEISs) (§ 1.1315) and Final Environmental Impact Statements (FEISs) (referred to collectively as EISs) (§ 1.1317) shall be prepared by the Bureau responsible for processing the proposal when the Commission's or the Bureau's analysis of the EA (§ 1.1308) indicates that the proposal will have a significant effect upon the environment and the matter has not been resolved by an amendment.

(b) As soon as practically feasible, the Bureau will publish in the Federal Register a Notice of Intent to prepare EISs. The Notice shall briefly identify the proposal, concisely describe the environmental issues and concerns presented by the subject application, and generally invite participation from affected or involved agencies, authorities and other interested persons.

(c) The EISs shall not address non-environmental considerations. To safeguard against repetitive and unnecessarily lengthy documents, the Statements, where feasible, shall incorporate by reference material set forth in previous documents, with only a brief summary of its content. In preparing the EISs, the Bureau will identify and address the significant environmental issues and eliminate the insignificant issues from analysis.

(d) To assist in the preparation of the EISs, the Bureau may request further information from the applicant, interested persons and agencies and authorities, which have jurisdiction by law or which have relevant expertise. The Bureau may direct that technical studies be made by the applicant and that the applicant obtain expert opinion concerning the potential environmental problems and costs associated with the proposed action, as well as comparative analyses of alternatives. The Bureau may also consult experts in an effort to identify measures that could be taken to minimize the adverse effects and alternatives to the proposed facilities that are not, or are less, objectionable. The Bureau may also direct that objections be raised with appropriate local, state or federal land use agencies or authorities (if their views have not been previously sought).

Note.—The Advisory Council on Historic Preservation has adopted formal procedures for such consultation. *See* 36 CFR Part 800.

(e) The Bureau responsible for processing the particular application and, thus, preparing the EISs shall draft supplements to Statements where significant new circumstances occur or information arises relevant to environmental concerns and bearing upon the application.

(f) The Application, the EA, the DEIS, and the FEIS and all related documents, including the comments filed by the public and any agency, shall be part of the administrative record and will be routinely available for public inspection.

(g) If EISs are to be prepared, the applicant must provide the community with notice of the availability of environmental documents and the scheduling of any Commission hearings in that action.

(h) The timing of agency action with respect to applications subject to EISs is set forth in 40 CFR 1506.10. No decision shall be made until ninety (90) days after the Notice of Availability of the Draft Environmental Impact Statement is published in the Federal Register, and thirty (30) days after the Notice of Availability of the Final Environmental Impact Statement is published in the Federal Register, which time period may run concurrently. *See* 40 CFR § 1506.10(c); *see also* §§ 1.1315(b) and 1.1317(b).

(i) Guidance concerning preparation of the Draft and Final Environmental Statements is set out in 40 CFR Part 1502.

15. Section 1.1315 is revised to read:

§ 1.1315 The Draft Environmental Impact Statement (DEIS); Comments.

(a) The DEIS shall include:

(1) A concise description of the proposal, the nature of the area affected, its uses, and any specific feature of the area that has special environmental significance;

(2) An analysis of the proposal, and reasonable alternatives exploring the important consequent advantages and/or disadvantages of the action and indicating the direct and indirect effects and their significance in terms of the short and long-term uses of the human environment.

(b) When a DEIS and supplements, if any, are prepared, the Commission shall send five copies of the Statement, or a summary, to the Office of Federal Activities, Environmental Protection Agency. Additional copies, or summaries, will be sent to the appropriate regional office of the Environmental Protection Agency. Public Notice of the availability of the DEIS will be published in the Federal Register by the Environmental Protection Agency.

(c) When copies or summaries of the DEIS are sent to the Environmental Protection Agency, the copies or summaries will be mailed with a request for comment to federal agencies having jurisdiction by law or special expertise, to the Council on Environmental Quality, to the applicant, to individuals, groups and state and local agencies known to have an interest in the environmental consequences of a grant, and to any other person who has requested a copy.

(d) Any person or agency may comment on the DEIS and the environmental effect of the proposal described therein within 45 days after notice of the availability of the statement is published in the Federal Register. A copy of those comments shall be mailed to the applicant by the person who files them pursuant to 47 CFR 1.47. An original and one copy shall be filed with the Commission. If a person submitting comments is especially qualified in any way to comment on the environmental impact of the facilities, a statement of his or her qualifications shall be set out in the comments. In addition, comments submitted by an agency shall identify the person(s) who prepared them.

(e) The applicant may file reply comments within 15 days after the time for filing comments has expired. Reply comments shall be filed with the Commission in the same manner as comments, and shall be served by the applicant on persons or agencies which filed comments.

(f) The preparation of a DEIS and the request for comments shall not open the application to attack on other grounds.

16. Section 1.1317 is revised to read:

§ 1.1317 The Final Environmental Impact Statement (FEIS).

(a) After receipt of comments and reply comments, the Bureau will prepare a FEIS, which shall include a summary of the comments, and a response to the comments, and an analysis of the proposal in terms of its environmental consequences, and any reasonable alternatives, and recommendations, if any, and shall cite the Commission's internal appeal procedures (*See* 47 CFR 1.101–1.120).

(b) The FEIS and any supplements will be distributed and published in the same manner as specified in § 1.1315. Copies of the comments and reply comments, or summaries thereof where the record is voluminous, shall be attached to the FEIS.

17. Section 1.1319 is revised to read:

§ 1.1319 Consideration of the environmental impact statements.

(a) If the action is subject to a hearing:

(1) In rendering his initial decision, the Administrative Law Judge shall utilize the FEIS in considering the environmental issues, together with all other non-environmental issues. In a comparative context, the respective parties shall be afforded the opportunity to comment on the FEIS, and the Administrative Law Judge's decision shall contain an evaluation of the respective applications based on environmental and non-environmental public interest factors.

(2) Upon review of an initial decision, the Review Board and/or the Commission will consider and assess all aspects of the FEIS and will render its decision, giving due consideration to the environmental and nonenvironmental issues.

(b) In all non-hearing matters, the Commission, as part of its decision-making process, will review the FEIS, along with other relevant issues, to ensure that the environmental effects are specifically assessed and given comprehensive consideration.

18. The authority citation for Part 21 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, as amended; 47 U.S.C. 154,303, unless otherwise noted.

19. Section 21.13(e) is revised to read:

§ 21.13 General application requirements.

* * * * *

(e) All applicants are required to indicate at the time their application is filed whether an authorization of the facilities is categorically excluded as defined by § 1.1306 of the Commission's rules. If answered affirmatively, an Environmental Assessment as described by § 1.1311, need not be filed with the application.

* * * * *

20. The authority citation for Part 63 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended 47 U.S.C. 154. Interpret or apply sec. 214, 48 Stat. 1075, as amended; 47 U.S.C. 214, unless otherwide noted.

21. Section 63.01(q) is revised to read:

§ 63.01 Contents of applications.

* * * * *

(q) A statement whether an authorization of the facilities is categorically excluded as defined by § 1.1306 of the Commission's rules. If answered affirmatively, an environmental assessment as described in § 1.1311 need not be filed with the application.

22. The authority citation for Part 90 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154,303, unless otherwise noted.

23. Section 90.129(g) is revised to read:

§ 90.129 Supplemental information to be routinely submitted with applications.

* * * * *

(g) The environmental assessment required by §§ 1.1307 and 1.1311 of the rules, if applicable.

* * * * *

24. The authority citation for Part 94 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154,303, unless otherwise noted.

25. Section 94.31(i) is revised to read:

§ 94.31 Supplemental information to be submitted with application.

* * * * *

(i) The environmental assessment required by §§ 1.1307 and 1.1311 of the rules, if applicable.

* * * * *

[FR Doc. 86–8913 Filed 4–21–86; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 69

[CC Docket No. 86–1]

WATS-Related and Other Amendments of Part 69

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This erratum corrects a typographical error contained in the Report and Order in this proceeding concerning WATS-Related and other amendments of Part 69 (FCC 86–115).

FOR FURTHER INFORMATION CONTACT: Sandra Eskin, Common Carrier Bureau, (202) 632–9342.

In FR Doc. 86–6838, on page 10841, in the Federal Register of March 31, 1986, item 11 is corrected to indicate that paragraph (h) is being added to § 69.203 instead of paragraph (g).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–8900 Filed 4–21–86; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 85–262; RM–4822]

FM Broadcast Station in King City, CA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes Class B1 FM Channel 230 for Channel 221A at King City, California, and modifies the Class A license of Station KLFA(FM), in response to a petition filed by Ralin Broadcasting Corporation. Additionally, Channel 271B is allocated to King City as that community's second local FM broadcast service, in response to an expression of interest by King City Communications Corporation.

EFFECTIVE DATE: May 23, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

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FOR FURTHER INFORMATION CONTACT:
Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended. 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (King City, California); MM Docket No. 85–362, RM–4922.

Adopted: April 8, 1986.
Released: April 16, 1986.

By the Chief, Policy and Rules Division

1. Before the Commission for consideration is the *Notice of Proposed Rule Making*, 50 FR 35576, published September 3, 1985, issued in response to a petition filed by Ralin Broadcasting Corporation ("petitioner"), licensee of Station KLFA(FM) (Channel 221A), King City, California, proposing the substitution of Channel 230B1 for Channel 221A at its present site and modification of its license accordingly. Additionally, petitioner offered that Channel 238B1 could also be allotted to King City to accommodate any other expressions of interest. Petitioner filed supporting comments reiterating its intention to apply for the channel. Comments and an expression of interest were also filed by King City Communications Corporation ("KCC"), licensee of Station KRKC(AM), King City, to which petitioner responded.

2. In its comments, KCC avers that the substitution of Channel 230B1 for Channel 221A at petitioner's present site would be an inefficient use of the frequency since Channel 230 could be utilized as a full Class B channel with a site restriction 7.8 kilometers (4.8 miles) southeast of the community. KCC contends that from such restricted site, Channel 230B could provide service to 76% more population in an area 122% greater within the 70 dBu contour, and a population 12% greater, in an area 93% larger, within the 60 dBu contour than could its implementation as a B1, as petitioner proposes.[1]

3. On the basis of the foregoing, KCC advises that it will apply for Channel 230, if allotted as a Class B channel. Accordingly, KCC adds that consistent with the Commission's *Cheyenne, Wyoming* policy, 62 F.C.C. 2d 63 (1976), in light of its expressed interest in Channel 230B, Station KLFA(FM) cannot be modified on Channel 230B1. In further support of its position, KCC states that KLFA's modification proposal on Channel 230B1 must also fail since petitioner has not provided another equivalent or superior channel to 230B for the benefit of other interests, citing *Modification of FM and TV Station Licenses*, 98 F.C.C. 2d 916 (1984). Rather, KCC asserts, Channel 230B, if allotted, must be open to competing applicants, citing *Ashbacker Radio Corporation* v. *FCC*, 326 U.S. 327 (1945).

4. However, KCC adds that petitioner's expressed desire to provide expanded coverage as a B1 facility can be fully accommodated by substituting Channel 238B1 for Channel 221A at a restricted site southeast of King City. Thus, KCC requests that the license for Station KLFA(FM) be modified to specify operation on Channel 238B1 in lieu of Channel 230B1.

5. In response, petitioner agrees with KCC that Channel 230B at a restricted site southeast of King City could provide greater service than would Channel 230B1 at its present site.[2] However, petitioner advises that because it would be difficult to achieve a full Class B1 height of 100 meters (328 feet) at its present location, it intends to relocate to a site 20.0 kilometers (12.4 miles) northeast of the community. Petitioner claims that on the basis of a study conducted similar to that of KCC, from such proposed area, Channel 230B1 could serve 77,837 more persons within the 60 dBu contour than would 230B from a restricted site 7.8 kilometers (4.8 miles) southeast of the community.

6. Further, according to petitioner's engineering statement, a study was conducted with respect to Channel 238B1 at a randomly selected site 27.7 kilometers (17.2 miles) northwest of King City. Petitioner claims that service therefrom could be provided to 172,925 more persons within the 60 dBu contour than could be served by 230B at a restricted site southeast of King City. Although petitioner adds it believes Channel 238B1 would be superior to Channel 230B at KCC's suggested site,[3] it could not be utilized at KLFA's intended site due to spacing constraints.

7. In view of the foregoing, petitioner supports its original proposal and concludes that since it believes Channel 230B1 and 238B1 could serve considerably more population than would Channel 230B at a restricted site south of King City, that it be modified to specify operation on Channel 230B1 and that Channel 238B1 or another available Class B1 channel be allotted to satisfy KCC's expression of interest.

8. Although it may be feasible that two Class B1 stations at King City, as suggested by petitioner, could be superior to KCC's proposal, we cannot so conclude on the basis of the information before us. The fact that a Class B station, operating at full values of 50 kW and an antenna height of 150 meters (492 feet), has a service radius (to the 54 dBu contour) of 64 kilometers (40 miles) versus a Class B1, operating with 25 kW at 100 meters (328 feet), having a service radius (to the 57 dBu contour) of 45 kilometers (28 miles), is persuasive on its face. Petitioner has not demonstrated whether its superior service claim is based on the ability of two B1 channels to provide any first or second aural service, or whether shadowing considerations or other restrictive factors are inherent in KCC's proposal to such an extent to derogate coverage potential of the Class B channel. Thus, absent such compelling showings, the Commission is not obligated to restrict a community to a minimum signal which constitutes service if a superior signal can be made available consistent with the requirements of section 307(b) of the Communications Act and our present modification policy, *supra*.

9. A staff study reveals that Channel 230 can be allotted as a Class B facility at a site 4.0 kilometers (2.5 miles) south of King City, as proposed by KCC, or as a B1 substitute for Channel 221A at petitioner's intended site 20.0 kilometers (12.4 miles) northwest of the community.[4] Further, we have determined that no Class B channel is available to accommodate petitioner's proposal. Therefore, its modification request is limited to consideration as a B1 channel only. Although Channel 238B1 could be allotted with a site restriction south of King City,[5] as suggested by KCC for other expressions of interest, it cannot be used at petitioner's present nor intended site since it would contravene the minimum spacing requirements of § 73.207 of the Commission's Rules with respect to Station KYNO(FM) (Channel 239B), Fresno, California.[6] Therefore, we believe that the substitution of Channel 230B1 for Channel 221A, as proposed by petitioner, is the best choice in this instance. Since we have no interest from any party in pursuing Channel 238B1, no further discussion as to its availability is warranted.

10. In view of the above determination, and in an effort to accommodate KCC's expressed interest in applying for a Class B channel at King City, we have determined that Channel 271B is available to that community. However, the transmitter therefor must be located in an area approximately 22.2 kilometers (13.8 miles) southeast of King City to negate a short-spacing to Station KDFC(FM) (Channel 271B), San Francisco, California, as well as Channel 272A, Mendota, California, allotted in MM Docket No. 84–231. We believe that proposed Channel 271B is justified as representing a more efficient utilization of the frequency and conforms with our present modification policy contained in § 1.420(g) of the Commission's Rules.

11. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204 and 0.283 of the Commission's Rules, it is ordered, That effective May 23, 1986, the FM Table of Allotments, § 73.202(b) of the Commission's Rules, is amended with respect to the community listed below, as follows:

City	Channel No.
King City, CA	230B1, 271

12. It is further ordered, That pursuant to section 316(a) of the Communications Act of 1934, as amended, the license of Ralin Broadcasting Corporation for Station KLFA(FM), King City, California, is modified effective May 23, 1986, to specify operation on Channel 230B1 in lieu of Channel 221A. The license modification for Station KLFA(FM) is subject to the following conditions:

(a) The licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facilities.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620.

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

13. It is further ordered, That the Secretary of the Commission shall send a copy of this Order by certified mail, return receipt requested, to Ralin Broadcasting Corporation, 124 N. 2d Street, King City, California 93930, and also a copy thereof, by regular mail to its counsel, Dan J. Alpert, Jr., Fletcher, Heald and Hildreth, 1225 Connecticut Avenue, NW., Suite 400, Washington, D.C. 20036.

14. It is further ordered, That this proceeding is terminated.

15. The filing window for applications on Channel 271B will open on May 27, 1986, and close on June 26, 1986.

16. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–8907 Filed 4–21–86; 8:45 am]

BILLING CODE 6712–01–M

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[1] KCC advises the source of data used in its study was computed according to methods outlined in F.C.C. publication FB–269144, *Field Strength Calculations for TV and FM Broadcasting*, and from information contained in *Elevation Data for North America* as published by the Department of Commerce. Its population figures were taken from the 1980 U.S. Census.

[2] Petitioner advises that for allocation purposes, to demonstrate conformity with § 73.207 of the Commission's Rules, it used its present site. Also, petitioner acknowledges that because of the required site restriction, Channel 230B could not be used at its present site.

[3] Petitioner advises that in addition to Channel 238B1, there are several other Class B1 channels available to satisfy KCC's expressed interest in operating from an area south of King City.

[4] Channel 230B cannot be substituted at petitioner's present nor intended site due to spacing constraints to Station KHIP(FM) (Channel 229A), Hollister, California, and Channel 229A, Modesto, California, allocated in MM Docket 84–231.

[5] Petitioner also suggested that Channel 238B1 could be utilized for other interests at a site 27.7 km (17.2 miles) northwest of King City. However, the furthest distance a B1 channel can usually be located for provision of city grade coverage is 22.0 kilometers (14 miles).

[6] Channel 239B1 at petitioner's site would meet our spacing requirements to a modification application by KYNO(FM) (BMPH–760501AC). However, that application was dismissed April 23, 1986, for which reconsideration is pending.

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 195

[Docket No. PS–86, Amdt. 195–36]

Transportation of Hazardous Liquids; Gathering Lines in Rural Areas

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: The Federal hazardous liquid pipeline safety standards do not apply to gathering lines in rural areas. The lack of specificity in this exception makes it difficult to apply the standards to intrastate pipeline, which include a large number of rural gathering lines. This final rule adopts new definitions for the terms "gathering line," "production facility," and "rural area" to clearly identify the gathering lines that are not subject to the standards.

EFFECTIVE DATE: This final rule takes effect August 20, 1986.

FOR FURTHER INFORMATION CONTACT:
L.M. Furrow, (202) 426–2392, regarding the content of this final rule, or the Dockets Branch (202) 426–3148, regarding copies of this final rule or other information in the docket.

SUPPLEMENTARY INFORMATION:

Background

Gathering lines in rural locations are excepted from regulation by the Hazardous Liquid Pipeline Safety Act of 1979 (HLPSA) (49 U.S.C. 2001 *et seq.*), the statute under which Part 195 is issued. In Part 195 the exception for rural gathering lines is provided by § 195.1(b)(4), which states that Part 195 does not apply to "[t]ransportation of a hazardous liquid in those parts of an onshore pipeline system that are located in rural areas between a production facility and an operator trunkline reception point."

In a notice of proposed rulemaking published March 26, 1984 (49 FR 11226, Docket No. PS–80), concerning the extension of Part 195 to intrastate hazardous liquid pipelines, RSPA discussed the need to make § 195.1(b)(4) easier to apply. The problem of distinguishing a gathering line from a trunkline and rural from nonrural was recognized. Comments on this issue by the public and by members of the Technical Hazardous Liquid Pipeline Safety Standards Committee led in the final rule (Amendment 195–33; 50 FR 15895, April 23, 1985) to inclusion of flow lines as part of onshore production facilities, which are also exempt from Part 195 and the HLPSA. (See § 195.1(b)(6)). However, because of the diversity of views expressed by commenters and the Committee, it became clear that further rulemaking would be needed to clarify § 195.1(b)(4).

In developing a proposed definition of "gathering line," RSPA considered the concepts expressed in comments to the March 26, 1984, notice by the Railroad Commission of Texas, the West Central Texas Oil and Gas, the Pennsylvania Oil and Gas Association, the Texas Mid-Continental Oil and Gas Association, the American Petroleum Institute and others as well as various members of

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the Technical Hazardous Liquid Pipeline Safety Standards Committee. Generally, the concepts represented the usage of the term by RSPA in administering § 195.1(b)(4). However, the commenters' recommended language did not adequately distinguish the downstream end of a gathering line at its junction with a trunkline, since the recommended definitions of "gathering line" and "trunkline" each referenced the other. RSPA did not believe that defining "gathering line" necessarily required use of the term "trunkline." Therefore, RSPA proposed in Notice 1 (50 FR 48811; November 27, 1985) a definition of "gathering line" that did not refer to trunkline. Under the proposed definition, a "production facility" marked one end of a gathering line and the point where a line joins a line exceeding 8 inches in nominal diameter marked the other end, as follows:

"Gathering line" means a pipeline 8 inches or less in nominal diameter that transports petroleum from a production facility.

The proposed definition was based on the concepts of size (8 inches or less) and function (transports petroleum from a production facility).

Size was selected in the belief that petroleum pipelines 8 inches or less in nominal diameter are generally considered by the industry to be gathering lines rather than trunklines. Petroleum pipelines of this size are generally those to which RSPA has applied the § 195.1(b)(4) exclusion. Further, size has the considerable advantage of being simple and easily identified.

The function concept (transports petroleum from a production facility) was selected to be consistent with the current language of § 95.1(b)(4) as well as to capture the generally understood concept of a gathering line.

At a meeting in Washington, DC, on September 18, 1985, the Technical Hazardous Liquid Pipeline Safety Standards Committee (THLPSSC) approved the proposed definition of "gathering line," as well as proposed definitions of "production facility" and "non-rural," as being technically feasible, reasonable, and practical. The Committee's report, dated October 25, 1985, is available in the docket for review.

The proposed gathering line definition required that the term "production facility" be defined. The RSPA proposed the following definition:

"Production facility" means piping or equipment used in the extraction, recovery, lifting, stabilization, separation or treating of petroleum or associated storage or measurement.

This definition was based on the concept that "production" is the process of extracting petroleum from the ground and preparing it for transportation by pipeline. Hence, production facilities are those facilities necessary to perform those tasks of extracting (extraction, lifting, recover) and preparing the petroleum for transportation by pipeline (stabilization, separation, treating, storage, measurement).

Under this definition of "production facility," a "gathering line" would begin at its connection to facilities associated with extracting petroleum from the ground and preparing it for transportation by pipeline. The preamble to the agency's proposal stated that only those facilities associated with extracting petroleum from the ground and preparing if for transportation by pipeline are "production facilities." RSPA has revised the language of the final rule to clarify this point. For example, storage and measurement facilities in use in a pipeline system are not production facilities. Further, pipelines transporting petroleum from a point of origin other than a production facility, such as a refinery or manufacturing facility, would not qualify as gathering lines.

RSPA proposed to define a "rural area" as "outside the limits of any incorporated or unincorporated city, town, or village or any other designated residential or commercial area such as a subdivision, business or shopping center, or community development." This definition was based on language in the gas pipeline regulations (i.e., 49 CFR 192.1(b)(2) (i) and (ii)) and in section 2(3) of the Natual Gas Pipeline Safety Act of 1968, which outlines a rural area. Both the gas regulations and the statute exclude from coverage gathering lines located in rural areas.

Public Comments

Only a few comments were received on Notice 1. Four pipeline companies and the American Petroleum Institute, a trade association representing operators of petroleum and natural gas gathering systems, supported the RSPA proposal without change.

The remaining comments and their disposition in the final rule are discussed according to the proposed definition to which they pertain.

Gathering Line

One pipeline company thought the proposed definition was contrary to the intent of Congress because it was arbitrarily based on size instead of the *function* the pipeline serves. A rather extensive presentation of the legislative history of the Natural Gas Pipeline Safety Act of 1968 was used to support this argument. In general terms, the function that Congress was said to have had in mind for gathering pipelines was their use in the field to gather gas from various wells, through pipes of various sizes, to a central point where it might be processed or transferred to the pipeline purchaser.

Putting aside the question of whether this legislative history is appropriate for use in explaining the meaning of terms under the HLPSA, RSPA does not dispute the commenter's portrayal of what Congress considered the general sense of a gathering line to be. The problem remains, however, that this general sense is not definitive enough for proper administration and application of the statute and regulations. Clear beginning and end points of a gathering line are needed. RSPA believes its proposed definition provides these needed features without straying from the general concept Congress had in mind. The definition speaks of pipelines that carry petroleum from production facilities. This concept agrees with the function Congress considered gathering lines to provide. Although the 8-inch limit admittedly is not explicitly addressed in the statute, it is a reasonable administrative compromise, given the uncertainty of where gathering ends and a trunkline begins and the need for a specific termination point. The 8-inch limit is based on RSPA's assessment of the historic size of gathering lines and the differences in size, generally speaking, between gathering lines and trunk lines. This assessment has been supported by the views of the THLPSSC and commenters.

Three commenters were concerned about the impact of the proposed definition on pipelines larger than 8-inches that some operators have in the past considered gathering lines under § 195.1(b)(4) and, thus, exempt from regulation. The number of these cases should be small because RSPA has fashioned the new definition consistent with the current application of § 195.1(b)(4), and also because pipelines that operate at 20 percent or less of specified minimum yield strength (which include most gathering lines) are excepted from Part 195 by § 195.1(b)(3). Nevertheless, RSPA addressed this potential problem in Notice 1 by indicating that such operators can seek waivers of particular rules in Part 195 that they feel are not appropriate to apply because of a pipeline's past operation as a gathering line. However, the affected operators will need time to assess the extent of compliance difficulties they may face now that a "gathering line" has been specifically defined. To allow time for operators to assess the impact of the new definition on pipelines previously considered as not subject to Part 195, and either bring the lines into compliance or, if necessary, prepare and submit a waiver request under section 203(h) of the HLPSA (49 U.S.C. 2002(h)), RSPA has delayed the effective date of the new definitions for 4 months. If this time proves insufficient on an individual basis to achieve full compliance, additional time may be sought under the same waiver provisions.

One commenter requested that the definition of gathering line be revised to include pipelines that begin at rail, truck, or barge unloading facilities in addition to production facilities. RSPA believes that this view of gathering does not fit the common understanding of the gathering process. Further, such a change would be outside the general concept of gathering now provided by § 195.1(b)(4). Thus, this comment was not adopted.

Two commenters were concerned that under the proposed gathering line definition a pipeline might lose its gathering status after it connects to an in-line surge tank or other facility (e.g., a lateral pipeline) because any pipeline downstream of that connection arguably would not be directly connected to a production facility. One of these commenters suggested that this unintended application of the definition would be avoided if the definition were amended to include a pipeline that transports petroleum from a "gathering line to another gathering line."

RSPA does not believe such a modification is needed. So long as the nominal pipe size remains 8 inches or less and the function of transporting petroleum from a production facility is maintained, an in-line surge tank, block valve, or other facility will not change the character of the downstream line from gathering.

Further, the presence of a surge tank should not cause a misapplication of the definition any more so than, for example, a pump, because both pumping units and breakout tanks, which are defined to include tanks used to relieve surges, are among the facilities included within the Part 195 definition of "pipeline." In Part 195, the term "pipeline" is defined in a generic sense to include all jurisdictional facilities through which a hazardous liquid flows. Thus, a gathering line is not interrupted upon reaching a tank or any other facility, including a lateral line, covered by the definition of "pipeline." Successive downstream connections with facilities that are "pipelines" under the Part 195 definition and that continue the transportation of petroleum which starts at a production facility are merely linkages of facilities that are each gathering lines. The only cause for a gathering line to terminate would be upon connection with a non-pipeline facility (e.g., a refinery) or a pipeline larger than 8 inches in nominal diameter. Therefore, the proposed definition is adopted without change.

Production Facility

One commenter thought RSPA should make it clear that a "production facility" includes commingled facilities, or facilities handling hydrocarbons produced on several small leases in close proximity to each other. Under the proposed definition, the number of interconnected leases from which hydrocarbons are produced is not a factor in identifying a facility as a production facility. Facilities are designated as production facilities according to their usage, not the location of wells from which hydrocarbons are being produced. Therefore, no change has been made to the final definition.

Another commenter asked that the proposed definition of "production facility" be revised to include the processes of "gas sweetening or liquids extraction from gas." RSPA believes the terms "separation" and "treating," which are included in the definition, carry a broad enough connotation to include these processes, and, thus, the final definition need not be changed.

Rural Area

Two commenters suggested that "rural area" should be defined on a population density basis (as indicated by buildings and occupancy levels) rather than the political or other subdivision basis used in the proposed definition. The main argument to support this change was that population density provides a better indication of the risk a gathering line poses along its route and, thus, the areas in which Part 195 should apply. Although RSPA does not necessarily disagree with this argument, it believes the proposed definition is more manageable than one based on population density. A similar definition has long been in effect for gas gathering lines, and many of the operators and State agencies that use the gas definition can simply apply the same concept to petroleum gathering lines. Also, monitoring a pipeline for changes in population density is a more onerous task than watching for changes in subdivision boundaries, which should occur less frequently. In addition, the proposed definition does relate to risk, considering that higher levels of population are found inside political and other subdivisions. Therefore, the proposed definition is adopted without change.

Classification. These final definitions are considered to be nonmajor under Executive Order 12291 and nonsignificant under DOT regulatory policies and procedures (44 FR 11034, February 26, 1979) because they are consistent with the manner in which RSPA now applies Part 195 to interstate and intrastate gathering lines. The economic impact of this document has been found to be so minimal that further evaluation is unnecessary. Further, because small entities do not own or operate interstate pipelines or intrastate pipelines that would be affected by this final rule, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 195

Interstate pipeline, Intrastate pipeline, Pipeline safety, Gathering line, Rural area, Production facility.

PART 195—[AMENDED]

In view of the above, RSPA amends 49 CFR Part 195 in the following manner:

1. The authority citation for Part 195 continues to read as set forth below.

Authority: 49 U.S.C. 2002; 49 CFR 1.53 and Appendix A to Part 1.

2. Section 195.1(b)(4) is revised to read as follows:

§ 195.1 Applicability.

* * * * *

(b) * * *

(4) Transportation of petroleum in onshore gathering lines in rural areas.

* * * * *

3. Section 195.2 is amended by adding three definitions in alphabetical order as follows:

§ 195.2 Definitions.

* * * * *

"Gathering line" means a pipeline 8 inches or less in nominal diameter that transports petroleum from a production facility.

* * * * *

"Production facility" means piping or equipment used in the production, extraction, recovery, lifting, stabilization, separation or treating of petroleum or associated storage or measurement. (To be a production facility under this definition, piping or equipment must be used in the process of extracting petroleum from the ground

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and preparing it for transportation by pipeline).

* * * * *

"Rural area" means outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commerical area such as a subdivision, a business or shopping center, or community development.

* * * * *

4. Section 195.401(c)(2) is revised as follows:

§ 195.401 General requirements.

* * * * *

(c) * * *

(2) An interstate offshore gathering line on which construction was begun after July 31, 1977.

* * * * *

Issued in Washington, DC, on April 17, 1986.

M. Cynthia Douglass,

Administrator, Research and Special Programs Administration.

[FR Doc. 86-8003 Filed 4-21-86; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1043

[Ex Parte No. MC-178]

Investigation into Motor Carrier Insurance Rates

AGENCY: Interstate Commerce Commission.

ACTION: Interim rule and request for comments.

SUMMARY: In response to a preliminary review of the initial comments received in this proceeding, and to provide contemporary guidance to applicants who wish to apply to self-insure against bodily injury and property damage claims under 49 CFR 1043.5(a), the Commission proposes to amend § 1043.5(a) to include guidelines as to the type of information applicants for self-insurance should submit with the Form B.M.C. 40 application. These proposed changes should help provide the Commission with relevant information about a carrier-applicant's ability to indemnify claimants under insurance plans that do not rely primarily on commercial insurers. Because of the emergency nature of insurance crisis facing the motor carrier industry today, we will adopt the proposed changes as interim rules. They will be effective immediately because the rules are largely interpretive and because notice and public procedure would be impractical and contrary to the public interest in view of the need to respond as promptly as possible to the cost and availability problems facing motor carriers seeking insurance. See 5 U.S.C. 553(b) (A) and (B). The Commission will adopt final rules as expeditiously as possible after evaluating the comments received. However, carriers authorized to self-insure by us must also seek requisite authority to self-insure from the Department of Transportation.

DATES: Effective April 22, 1986. Comments are due May 21, 1986.

ADDRESSES: The original and, if possible, 15 copies of the comments should be sent to: Ex Parte No. MC-178, Case Control Branch, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Mark S. Shaffer, (202) 275-7292

or

Howell I. Sporn, (202) 275-7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Energy and Environmental Considerations

This action does not appear to significantly affect either the quality of the human environment or conservation of energy resources. Comments are welcome on these issues.

Regulatory Flexibility Analysis

The Commission certifies that adoption of these interim rules will not have a significant impact on a substantial number of small entities. They do not require small entities to do anything substantially different in applications under 49 CFR 1043.5 than already is required. The interim rules suggest the types of evidence that should be presented, and clarify the approach the Commission will take in evaluating self-insurance applications. To the extent that the revised approach to reviewing self-insurance applications encourages use of this alternative security mechanism by small carriers, this proceeding may have a beneficial impact on their ability to meet the required financial security obligations.

List of Subjects in 49 CFR Part 1043

Insurance, Motor Carriers, and Surety Bonds.

Decided: April 9, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Vice Chairman Simmons commented with a separate expression. Commissioner Sterrett dissented in part. Commissioner Lamboley dissented in part with a separate expression.

James H. Bayne,

Secretary.

Appendix

Title 49 of the CFR is amended by interim rules as follows:

PART 1043—[AMENDED]

1. The authority citation for 49 CFR Part 1043 is revised to read as follows:

Authority 49 U.S.C. 10101, 10321, 11701, 10927; 5 U.S.C. 553.

2. Paragraph (a) of § 1043.5 is revised as follows:

§ 1043.5 Qualifications as a self-insurer and other securities or agreements.

(a) *As a self-insurer.* The Commission will give consideration to and will approve the application of a motor carrier to qualify as a self-insurer if such carrier furnishes a true and accurate statement of its final financial condition and other evidence which will establish to the satisfaction of the Commission the ability of such motor carrier to satisfy its obligation for bodily injury liability, property damage liability, or cargo liability. Applicant Guidelines: In addition to filing Form B.M.C. 40, applicants for authority to self-insure against bodily injury and property damage claims should submit evidence that will allow the Commission to determine:

(1) The adequacy of the net worth of the motor carrier in relationship to the size of operations and the extent of its request for self-insurance authority. Applicant should demonstrate that it will maintain a net worth that will ensure that it will be able to meet its statutory obligations to the public to indemnify all claimants in the event of loss.

(2) The existence of a sound self-insurance program. Applicant should demonstrate that is has established, and will maintain, an insurance program that will protect the public against all claims to the same extent as the minimum security limits applicable to applicant under § 1043.2 of this part. Such a program may include, but not be limited to, one or more of the following: reserves; sinking funds; third party financial guarantees, parent company or affiliate sureties; excess insurance coverage; or other similar arrangements.

(3) The existence of an adequate safety program. Applicant must submit evidence of a "satisfactory" safety rating by the Bureau of Motor Carrier Safety continously for the three years immediately prior to the date of its application or the date on which its initial safety rating was assigned, whichever time period is shorter.

* * * * *

[FR Doc. 86-8053 Filed 4-21-86; 8:45 am]

BILLING CODE 7035-01-M

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Proposed Rules

Federal Register
Vol. 51, No. 77
Tuesday, April 22, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Ch. III

Agencies' Use of Alternative Dispute Resolution Techniques

Correction

In FR Doc. 86-7675 beginning on page 11928 in the issue of Tuesday, April 8, 1986, make the following corrections:

1. On page 11928:

a. In the first column, in the fourteenth line from the bottom, "statutory" was misspelled.

b. In the third column, in the fourth line, "agencies" should read "agencies' ".

c. In the same column, in the first complete paragraph, in the eleventh line, "disputes" was mispelled.

2. On page 11929:

a. In the first column, in the fourth line, "specified" should read "specific".

b. In the same column, paragraph 2, the first line should read- "2. Congress and the courts should give".

c. In the same column, paragraph 4, in the fifth line "Procedures" should read "Procedure".

d. In the second column, paragraph (e), in the fourth line, "conclusion" should read "conclusions".

e. In the same column, in paragraph 5(a)(3), first line, "decisionmaking" should read "decisionmaker".

f. In the third column, paragraph 7, in the eighth line, "outweighed" was misspelled.

g. In the same column and paragraph, in the tenth line, "of" should read "or".

3. On page 11930:

a. In the third column, in the eighth line, "opinion" was misspelled.

BILLING CODE 1505-01-M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

Prevailing Rate Systems

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) proposes to revise its regulations on the establishment and adjustment of appropriated and nonappropriated fund wage schedules in foreign areas and certain U.S. possessions. Specifically, we are proposing to delete the provisions which require that rates be published in the **Federal Register**. These revisions will eliminate procedural delays in issuing the overseas schedule.

DATE: Comments must be submitted on or before June 23, 1986.

ADDRESS: Send or deliver written comments to the Office of Personnel Management, Compensation Group, Wage Systems Division, Room 3353, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Allan Summers, (202) 632-7830.

SUPPLEMENTARY INFORMATION: The regulations which administer the overseas schedule are contained in §§ 532.233 and 532.235 of Title 5, Code of Federal Regulations. We are proposing to revise our regulations to delete provisions contained in §§ 532.233 and 532.235 which require that rates for the overseas schedule be published in the **Federal Register**. Following the requirements of the Administrative Procedure Act (5 U.S.C. 553) has only served to delay the implementation date of the overseas schedule because there is insufficient time to publish the rates between the effective date of the last regular schedule used in its computation (December) and the normal effective date of the overseas schedule (January).

Passage of Pub. L. 99-251, "Federal Employees Benefits Improvement Act of 1986," specifically removed the requirement to follow notice-and-comment procedures when establishing any schedules or rates of basic pay when the underlying procedures, methodology, or criteria used to establish such schedules or rates were earlier codified in accordance with administrative procedures. In view of this statutory change, we are proposing to remove the cited provisions from our regulations so we can issue the overseas schedule in a timely manner.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they are changes which will affect only employees of the Federal Government.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Government employees, Wages.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is proposing to amend 5 CFR Part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for Part 532 continues to read as follows:

Authority: 5 U.S.C. 5342, 5346.

§ 532.233 [Amended]

2. In § 532.233, paragraph (f) is removed.

§ 532.235 [Amended]

3. In § 532.235, paragraph (e) is removed.

[FR Doc. 86-8949 Filed 4-21-86; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1944

Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to revise its regulations regarding its section 502 Rural Housing program. The action is being taken to implement provisions of the Rural Housing Amendments Act of 1983 which amends Title V of the Housing Act of 1949 and to revise certain sections to further simplify and clarify the regulations. The intended effect of this action is to more equitably provide the financial assistance to those most in need of housing and to expedite the processing of loans for such assistance.

DATE: Comments must be received within 60 days of the date of publication.

ADDRESS: Submit written comments in duplicate to the Office of the Chief, Directives Management Branch, Farmers Home Administration, USDA, Room 6348, South Agriculture Building, Washington, DC 20250. All written comments pursuant to this notice will be available for public inspection during regular hours at the above address.

FOR FURTHER INFORMATION CONTACT: Frank Colon, Chief, Homeownership Branch, Room 5342, Telephone (202) 382-1482 or Nancy Monesson, Room 5334, Telephone (202) 382-1474, at the following address: Single Family Housing Processing Division, Farmers Home Administration, USDA, South Agriculture Building; 14th and Independence Ave., SW., Washington, DC 20250.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291 and has been determined to be "nonmajor" since the annual effect on the economy is less than $100 million and there will be no increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The proposed revisions are necessary to incorporate provisions of the Rural Housing Amendments of 1983 and to update and clarify several sections of the regulation.

The major changes and additions in this proposed rule are as follows:

1. The process used for rural area designation (§ 1944.10) for the program must be standardized for all field offices. The current regulation does not provide enough detail to resolve the many problems involved in the process. The revision clarifies the regulation, eliminates areas of controversy in interpreting terms such as open spaces, contiguous boundaries, etc., and adds details to the rural area designation process.

2. Rates, terms, and source of funds (§ 1944.25) is revised to increase the maturity of the regular section 502 loan, where needed, to a period not to exceed 38 years as authorized by the Rural Housing Amendments of 1983, and to itemize all other loan types funded with section 502 loan funds.

3. The section for conditional commitments is revised, to clarify construction contract requirements in § 1944.45(f)(3)(ii) and for editorial changes and to refer completion and review to the proper approval official in § 1944.45(f)(5).

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that the proposed action does not constitute a major Federal action which significantly affects the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an environmental impact statement is not required.

This program/activity is listed in the Catalog of Domestic Assistance under No. 10.410. For the reasons set forth in the Final Rule related notice to 7 CFR Part 3015, Subpart V, 48 FR 29115, June 24, 1983, this program/activity is excluded from the scope of Executive Orde 12372 which requires intergovernmental consultation with State and local officials.

List of Subjects in 7 CFR, Part 1944

Home improvement, Loan programs—Housing and community development; low and moderate income housing—Rental; Mobile homes; Mortgages, Rural housing, Subsidies.

Therefore, it is proposed that Subpart A of Part 1944, Chapter XVIII of Title 7, Code of Federal Regulations be amended as follows:

PART 1944—HOUSING

1. The authority citation for Part 1944 continues to read as follows:

Authority: 42 USC 1480; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Section 502 Rural Housing Loan Policies, Procedures and Authorizations

2. In § 1944.10, paragraph (g) is redesignated as (i) and the rest of the section is revised to read as follows:

§ 1944.10 Rural area designation.

(a) For the purpose of this Subpart, a rural area is:

(1) Open country which is not part of or associated with an urban area.

(2) Any town, village, city or place, including the immediately adjacent densely settled area, which is not part of or associate with an urban area and which:

(i) Has a population not in excess of 10,000 if it is rural in character, or

(ii) Has a population in excession 10,000 but not in excess of 20,000, and

(A) Is not contained within an MSA, and

(B) Has a serious lack of mortgage credit for low-and moderate-income households as determined by the Secretary of Agriculture and the Secretary of Housing and Urban Development.

(b) A determination that open country, or any town, village, city, or place is not part of or associated with an urban area must include a finding that any densely populated section of the area in question is separated from the densely populated section of any adjacent urban area by open spaces. Open spaces include undeveloped, agricultural, or sparsely settled areas. Other spaces such as physical barriers (e.g., rivers, canals), public parks, commercial and industrial developments, areas reserved for recreational purposes, recognized open spaces for which the existence of plans for development in the near future (3 to 5 years) are known, and similar nonresidential areas, are not considered open spaces for the purpose of this program.

(c) Two or more towns, villages, cities, and places may have contiguous boundaries, and each be considered separately if they are not otherwise assoicated with each other, and their densely populated areas are not contiguous, as determined after consideration of paragraphs (a) and (b) of this section.

(d) Population count in any area will be taken from the decennial U.S. Census of Population, national population updates published by the Bureau of the Census, any more recent census conducted by the local government, recent maps and aerial photographs, and the following:

(1) Significant new development on the periphery of ineligible areas which require change in boundaries, and

(2) Redesignation of corporate limits by local authorities which affect the elegibility status of an area.

(e) In determining population count for area eligibility, consideration must also be given to developed areas in

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counties or states which are contiguous to and, therefore, a part of developed areas in other counties or states. This determination must be made in agreement between the States Directors concerned.

(f) In order to ensure that the rural housing program is limited to eligible rural areas, the County Supervisor, in consultation with the District Director will conduct a review of all areas under his/her jurisdiction, every 5 years. More frequent reviews may be conducted as needed. The following criteria will apply:

(1) The review will be based on the considerations set forth in paragraphs (a) through (e) of this section. A report on the review with recommendations will be signed by the County Supervisor and the District Director and submitted to the State Director on or before February 28 of the review year.

(2) Based on the recommended changes provided by the County Supervisor and the District Director, the State Director will:

(i) Make the public aware that a study will be conducted for those areas that may change from rural to nonrural. The State Director should, where the State Director determines it practicable, publish in local newspapers, prenotices of the review actions for the information of interested parties, at least 180 days prior to final determination. It can be anticipated that the study may take 6 months before a decision will be made.

(ii) Limit the rural housing program in that area after the date of the decision, to the loan purposes prescribed in paragraph (f)(2)(i) of this section, if the study shows that an area is not rural.

(iii) Request authorization from the National Office (Attention: Chief Homeownership Branch, (SFH/PD) for changes, if the study shows new areas exceeding 10,000 but not exceeding 20,000 (as defined in paragraph (a)(2)(ii) of this section) that will be identified as eligible rural areas.

(iv) Upon completion of the study, and prior to September 30 of the review year, update, establish, and issue by State Supplement, lists and maps of all eligible rural areas under his/her jurisdiction.

(g) In addition to the review of eligible areas prescribed by this section, the State Director is responsible for the implementation of changes in all areas under his/her jurisdiction resulting from the decennial Census of Population (including biannual updates, if available). The State Director will take immediate action on these changes after receipt of the information from the Bureau of the Census through FmHA. These changes and other emergency changes directed by the Administrator must be implemented without delay, since advance notice to the public is impracticable.

(h) Current maps and lists of *eligible areas* approved by the State Director, shall be displayed in the County Supervisor's office. A State Office file also shall be maintained to include copies of the most recent maps and lists of eligible areas and the County Offices' area reviews and recommendations. The State Office will also prepare and distribute to the county offices an adequate number of copies of maps and lists of *ineligible areas*, to be used as handouts, as requested, to further inform the public of those areas not served by the Agency. These will be sections of maps showing only the ineligible area and the immediate eligible area surrounding the outside of the ineligible area boundary.

* * * * *

3. In § 1944.25, paragraphs (a) and (c) are revised to read as follows:

§ 1944.25 Rates, terms, and source of funds.

(a) *Source of funds.* All loans financed under this program will be funded from the Rural Housing Insurance Fund (RHIF).

* * * * *

(c) *Amortization.* Loans will be scheduled for repayment over a period that will not exceed the expected useful life of the property as a dwelling to assure the loans are adequately secured. Only one of the amortization periods listed in this paragraph may be used for a borrower. Each loan will be scheduled for repayment from the date of the promissory note, for a period not to exceed one of the following:

(1) 33 years for initial and subsequent loans; except as otherwise indicated in this section.

(2) 38 years for initial loans (subsequent loans may be made for a period not to exceed the remaining years of the initial loan) to applicants whose adjusted annual incomes do not exceed 60 percent of the median income for the area, if necessary to show repayment ability (as reflected by comparing the annual installment for repayment at 1 percent interest with the resulting repayment ability figure of a completed Form FmHA 1944–3, "Household Finance Statement and Budget"). Adjusted in come limits for eligibility for the 38-year term appear in Exhibit C of FmHA Instruction 1944–A (available in any FmHA office).

(3) 25 years for Repair and Rehabilitation loans as set forth in § 1944.34(f)(6)(iii) of this subpart.

(4) 10 years for loans not exceeding $2,500 which are not secured by a real estate mortgage.

* * * * *

4. Section 1944.45 is amended by revising paragraphs (f)(3)(ii) and (f)(5), to read as follows:

§ 1944.45 Conditional commitments.

* * * * *

(f) * * *

(3) * * *

(ii) Determine whether the dwelling and site meet the requirements of this Subpart and Subpart A of Part 1924 of this Chapter and will comply with all local codes and ordinances. The use of construction contracts with conditional commitments is optional. The property must meet the requirements of Subpart D of Part 1804 of this Chapter (FmHA Instruction 424.5).

* * * * *

(5) *Conditional commitment approval.* The State Director, District Director, County and Assistant County Supervisors are authorized to approve conditional commitments provided the commitment price does not exceed the loan approval authority for Section 502 RH loans as outlined in Subpart A of Part 1901 of this Chapter. If the conditional commitment is granted, the loan approval official will complete and sign Form FmHA 1944–11, "Conditional Commitment." When a qualified applicant applies for a loan to buy a dwelling on which a conditional commitment has been issued, the application file will be transferred to the conditional commitment folder.

* * * * *

Dated: March 14, 1986.

Vance L. Clark,

Administrator, Farmers Home Administration.

[FR Doc. 86–8987 Filed 4–21–86; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 24967; Notice No. 86–4]

Portland International Airport, Portland, OR, Special Airport Traffic Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to delete the special airport traffic area (ATA) at Portland International Airport, Portland, OR. An Airport Radar Service Area (ARSA) was established at Portland International effective January 16, 1986, and makes the special ATA unnecessary.

DATE: Comments must be received on or before June 6, 1986.

ADDRESS: Send comments on the proposal in triplicate to: Director, FAA, Northwest Mountain Region, Attention: Manager, Air Traffic Division, Docket No., Federal Aviation Administration, 17900 Pacific Highway South, C–68966, Seattle, WA 98168.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Robert G. Burns, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 24967." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

Background

The Portland International Airport, Portland OR, Special ATA was established September 6, 1967 (32 FR 12747), under 14 CFR Part 93 93.101 and 103, and amended February 6, 1976 (41 FR 5386). Section 93.105 was added November 6, 1980 (45 FR 73653). Together these sections, organized as Subpart H of Part 93, establish certain traffic patterns to be flown for arrivals and departures operating at Pearson Airpark, Portland, OR, and establish certain communications requirements for those operations.

On December 9, 1985 (50 FR 50254), the FAA designated an ARSA at Portland International Airport, Portland, OR, which became effective January 16, 1986. The configuration of the Portland ARSA in the vicinity of Pearson Airpark coupled with the requirement for pilots to establish two-way radio communications with Portland Approach Control prior to entering designated ARSA airspace supplants the need for the special ATA.

The Proposal

In consideration of the foregoing, the FAA is confident that the provisions of the ARSA program utilized at Portland International Airport provide an adequate level of safety with respect to arrival and departure air traffic at Pearson Airpark. Therefore, the FAA proposes to delete the rules and procedures specified in Part 93, Subpart H.

Regulatory Flexibility Determination

The FAA has determined that this action: (1) Is not a major rule under Executive Order 12291; (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 93

Airport traffic area; Traffic patterns.

The Proposed Amendment

PART 93—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 93 of the Federal Aviation Regulations (14 CFR Part 93) as follows:

1. The authority citation for Part 93 continues to read:

Authority. 49 U.S.C. 1302, 1303, 1348, 1354(a), 1421(a), 1424, 2402 and 2424; 49 U.S.C. 108(g) (Revised Pub. L. 97–449, January 12, 1983).

2. Part 93, Subpart H is removed.

3. Part 93, Subpart H is reserved.

Issued in Washington, DC, on April 14, 1986.

John R. Ryan,

Director, Air Traffic Operations Service.

[FR Doc. 86–8992 Filed 4–21–86; 8:45 am]

BILLING CODE 4910–13–M

VETERANS ADMINISTRATION

38 CFR Part 1

Salary Offset; Federal Claims Collection

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The Veterans Administration is hereby proposing new regulations to govern the collection of debts owed to the United States from Federal employees. These regulations are intended to implement the Debt Collection Act of 1982 (Pub. L. 97–365) which permits Federal agencies to collect debts by means of offset from current Federal salaries without an employee's consent, provided the employee is properly notified and given the opportunity to exercise certain administrative rights.

DATES: Comments must be received on or before May 21, 1986.

ADDRESSES: Interested persons are invited to send written comments to:

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Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. Comments will be available for inspection only in room 132, Veterans Services Unit, at the above address between the hours of 8 a.m. to 4:30 p.m. Monday through Friday (except holidays) until June 8, 1986.

FOR FURTHER INFORMATION CONTACT: Peter Mulhern, (202) 389-2405.

SUPPLEMENTARY INFORMATION: Section 5 of the Debt Collection Act of 1982 amended section 5514 of Title 5, United States Code to permit Federal agencies to collect debts by means of offset from current Federal salaries without an employee's consent, provided the employee is properly notified and given the opportunity to exercise certain administrative rights. Prior to enactment of this legislation, it was not possible to deduct general debts owed by Federal employees to the United States from current salary without the employee's consent. In addition to the offset provisions at 5 U.S.C. 5514, each agency's offset regulations must be consistent with the Office of Personnel Management's salary offset regulations.

Prior to salary offset, an employee must be given the opportunity for a hearing on the existence or the amount of the debt or the terms of the repayment schedule (5 U.S.C. 5514(a)(2)). Such a hearing must be conducted by an administrative law judge or a hearing official not under the control of the creditor agency. However, 38 U.S.C. 211(a) states that the decisions of the VA providing benefits for veterans and their dependents or survivors shall be final and conclusive and no other official or any court of the U.S. shall have power or jurisdiction to review such decisions. We do not believe Congress intended its amendment of 5 U.S.C. 5514 to override this provision. Thus, if the VA renders a decision on any aspect of an indebtedness arising out of participation in a VA benefits program, such decision cannot be reviewed by an administrative law judge or an official outside of the VA. Construing the two statutes together, we believe reliance on the hearing procedures of the BVA (Board of Veterans Appeals), the functions of which are largely independent of the VA, will fully satisfy the agency's obligations under section 5 of the Debt Collection Act while preserving the finality of VA decisions. The BVA's procedures found in 38 CFR 19.1 through 19.200 will provide adequate due process protection for those employees who have debts which arise out of participation in a benefits program administered under Title 38, United States Code. For hearings on nonbenefit debts and proposed offset schedules of all debts, our salary offset regulations set forth procedures to be used for paper and oral hearings before administrative law judges and hearing officials not under the control of the VA.

The Administrator hereby certifies that these proposed rules will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), because they only concern individual Federal employees indebted to the U.S. Government. Pursuant to 5 U.S.C. 605(b), this proposed rule is therefore exempt from the initial and final regulatory flexibility analyses requirements of section 603 and 604.

These proposed rules have also been reviewed under E.O. 12291 and have been determined to be nonmajor because they will not have a $100 million annual effect on the economy and will not have any adverse economic impact on, or increase costs or prices for consumers, individual industries, Federal, State and local government agencies or geographic regions.

There is no Catalog of Federal Domestic Assistance Number involved.

List of Subjects in 38 CFR Part 1

Claims, Administrative practice and procedure, Veterans.

Approved: March 24, 1986.

Everett Alvarez, Jr.,

Acting Administrator.

38 CFR Part 1, General, is amended by adding new §§ 1.980 through 1.994 to read as follows:

PART 1—[AMENDED]

Salary Offset Provisions

Sec.

1.980 Scope.
1.981 Definitions.
1.982 Salary offsets of debts involving benefits under the laws administered by the VA.
1.983 Notice requirements before salary offsets of debts not involving benefits under the laws administered by the VA.
1.984 Request for a hearing.
1.985 Form, notice of, and conduct of hearing.
1.986 Result if employee fails to meet deadlines.
1.987 Review by hearing official or administrative law judge.
1.988 Written decision following a hearing requested under § 1.984.
1.989 Review of VA records related to the debt.
1.990 Written agreement to repay debt as alternative to salary offset.
1.991 Procedures for salary offset: when deductions may begin.
1.992 Procedures for salary offset.
1.993 Non-waiver of rights.
1.994 Refunds.

Salary Offset Provisions

§ 1.980 Scope.

(a) The provisions set forth in §§ 1.980 through 1.994 implement the VA's (Veterans Administration's) authority for the use of salary offset to satisfy certain debts owed to the government.

(b) These regulations apply to offsets by the VA from the salaries of current employees of the VA or any other agency who owe debts to the VA. Offsets by the VA from salaries of current employees of the VA who owe debts to other agencies shall be processed under 5 CFR 550.1106.

(c) These regulations do not apply to debts or claims arising under the Internal Revenue Code of 1954, as amended, the Social Security Act, the tariff laws of the United States, or to any case where collection of a debt by salary offset is explicitly provided for (e.g. travel advances in 5 U.S.C. 5705 and employee training expenses in 5 U.S.C. 4108) or prohibited by another statute.

(d) These regulations do not preclude an employee from requesting waiver of an overpayment under 38 U.S.C. 3102, 5 U.S.C. 5584, or any other similar provision of law, or in any way questioning the amount or validity of a debt not involving benefits under the laws administered by the VA by submitting a subsequent claim to the General Accounting Office in accordance with procedures prescribed by that office.

(e) These regulations do not apply to any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay if the amount to be recovered was accumulated over four pay periods or less.

(f) These regulations do not preclude the compromise, suspension, or termination of collection actions where appropriate under the standards implementing the Federal Claims Collection Act (31 U.S.C. 3711 et seq., 4 CFR Parts 101–105, 38 CFR 1.1900 et seq.).

(g) The procedures and requirements of these regulations do not apply to salary offset used to recoup a Federal employee's debt where a judgment has been obtained against the employee for the debt.

(5 U.S.C. 5514)

§ 1.981 Definitions.

(a) "Agency" means:

(1) An executive agency as defined in 5 U.S.C. 105, including the U.S. Postal Service, and the U.S. Postal Rate Commission, and

(2) A military department as defined in 5 U.S.C. 102.

(b) "Debt" means an amount owed to the United States from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures (except those arising under the Uniform Code of Military Justice), and all other similar sources.

(c) "Disposable pay" means that part of current basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an employee not entitled to basic pay, other authorized pay remaining after the deduction of any amount required by law to be withheld. Excluded from this definition are deductions described in 5 CFR 581.105 (b) through (f).

(d) "Employee" means a current employee of the VA or other Federal agency including a current member of the Armed Forces or a Reserve of the Armed Forces (Reserves).

(e) "Salary offset" means an attempt to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

(f) "Waiver" means the cancellation, remission, forgiveness, or non-recovery of a debt owed by an employee to the VA or another Federal agency as permitted or required by 5 U.S.C. 5584 or 38 U.S.C. 3102, or other similar statutes.

(g) "Extreme hardship to an employee" means an employee's inability to provide himself or herself and his or her dependents with the necessities of life such as food, housing, clothing, transportation, and medical care.

(5 U.S.C. 5514)

§ 1.982 Salary offsets of debts involving benefits under the laws administered by the VA.

(a) The VA will not collect a debt involving benefits under the laws administered by the VA by salary offset unless the Administrator or designee provides the employee with written notice.

(b) If the employee has not previously appealed the amount or existence of the debt under §§ 19.1 through 19.200 of this title and time for pursuing such an appeal has not expired (§ 19.129), the Administrator or designee will provide the employee with written notice of the debt. The written notice will state that the employee may appeal the amount and existence of the debt in accordance with the procedures set forth in §§ 19.1 through 19.200 of this title and will contain the determinations and information required by § 1.983(b) (1)–(5), (7), (9), (10), and (12)–(14). The notice will also state that the employee may request a hearing on the offset schedule under the procedures set forth in § 1.984 and such a request will stay the commencement of salary offset.

(c) If the employee previously appealed the amount or existence of the debt and the Board of Veterans Appeals decided the appeal on the merits or if the employee failed to pursue an appeal within the time provided by regulations, the Administrator or designee shall provide the employee with written notice prior to collecting the debt by salary offset. The notice will state:

(1) The determinations and information required by § 1.983(b) (1)–(5), (7), and (12)–(14);

(2) That the employee's appeal of the existence or amount of the debt was determined on the merits or that the employee failed to pursue an appeal within the time provided, and the VA's decision is final except as otherwise provided in agency regulations;

(3) That the employee may request a waiver of the debt pursuant to § 1.911a(c)(2) subject to the time limits of 38 U.S.C. 3102;

(4) That the employee may request an oral or paper hearing on the offset schedule and receive a decision within 60 days of such request under the procedures and time limit set forth in § 1.984 and that such a request will stay the commencement of salary offset.

(d) If the employee has appealed the existence or amount of the debt and the Board of Veterans Appeals has not decided the appeal on the merits, collection of the debt by salary offset will be suspended until the appeal is decided or the employee ceases to pursue the appeal.

(5 U.S.C. 5514)

§ 1.983 Notice requirements before salary offsets of debts not involving benefits under the laws administered by the VA.

(a) For a debt not involving benefits under the laws administered by the VA, the Administrator or designee will review the records relating to the debt to assure that it is owed prior to providing the employee with a notice of the debt.

(b) Except as provided in § 1.980(e), salary offset of debts not involving benefits under the laws administered by the VA will not be made unless the Administrator or designee first provides the employee with a minimum of 30 calendar days written notice. This notice will state:

(1) The Administrator or designee's determination that a debt is owed;

(2) The amount of the debt owed and the facts giving rise to the debt;

(3) The Administrator or designee's intention to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest and associated costs are paid in full;

(4) The amount, frequency, approximate beginning date, and duration of the intended deductions;

(5) An explanation of the VA's requirements concerning interest, administrative costs, and penalties;

(6) The employee's right to inspect and copy VA records relating to the debt or, if the employee or his or her representative cannot personally inspect the records, to request and receive a copy of such records;

(7) The employee's right to enter into a written agreement with the Administrator or designee for a repayment schedule differing from that proposed by the Administrator or designee, so long as the terms of the repayment schedule proposed by the employee are agreeable to the Administrator or designee;

(8) The employee's right to request an oral or paper hearing, conducted by an administrative law judge or a hearing official of the VA or another agency, on the Administrator or designee's determination of the existence of the debt, the amount of the debt, or the percentage of disposable pay to be deducted each pay period, so long as a request is filed by the employee as prescribed by the Administrator;

(9) The method and time period for requesting a hearing;

(10) That the timely filing of a request for a hearing (oral or paper) will stay the commencement of salary offset;

(11) That a final decision after the hearing will be issued at the earliest practical date, but no later than 60 calendar days after the filing of the request for the hearing, unless the employee requests and the hearing officer grants a delay in the proceedings;

(12) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(i) Disciplinary procedures appropriate under 5 U.S.C. ch. 75, 5 CFR Part 752, or any other applicable statutes or regulations;

(ii) Penalties under the False Claims Act, 31 U.S.C. 3729–3731, or any other applicable statutory authority; or

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(iii) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002 or any other applicable statutory authority.

(13) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made; and

(14) Unless there are applicable contractual or statutory provisions to the contrary, that amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee.

(5 U.S.C. 5514)

§ 1.984 Request for a hearing.

(a) Except as provided in paragraph (b) of this section and in § 1.982, an employee wishing a hearing on the existence or amount of the debt or on the proposed offset schedule must send such a request to the office which sent the notice of the debt. The employee must also specify whether an oral or paper hearing is requested. If an oral hearing is requested, the request should explain why the matter cannot be resolved by review of the documentary evidence. The request must be received by the office which sent the notice of the debt not later than 20 calendar days from the date of the notice.

(b) If the employee files a request for a hearing after the expiration of the 20 day period provided for in paragraph (a) of this section, the VA may accept the request if the employee shows that the delay was because of circumstances beyond his or her control or because of failure to receive the written notice of the filing deadline (unless the employee has actual notice of the filing deadline).

(5 U.S.C. 5514)

§ 1.985 Form, notice of, and conduct of hearing.

(a) After an employee requests a hearing, the hearing official or administrative law judge shall notify the employee of the form of the hearing to be provided. If the hearing will be oral, the notice shall set forth the date, time, and location for the hearing. If the hearing will be paper, the employee shall be notified that he or she should submit his or her position and arguments in writing to the hearing official or administrative law judge by a specified date after which the record shall be closed. This date shall give the employee reasonable time to submit this information.

(b) An employee who requests an oral hearing shall be provided an oral hearing if the hearing official or administrative law judge determines that the matter cannot be resolved by review of documentary evidence, for example, when an issue of credibility or veracity is involved. If a determination is made to provide an oral hearing, the hearing official or administrative law judge may offer the employee the opportunity for a hearing by telephone conference call. If this offer is rejected or if the hearing official or administrative law judge declines to offer a telephone conference call hearing, the employee shall be provided an oral hearing permitting the personal appearance of the employee, his or her personal representative, and witnesses. A record or transcript of every oral hearing shall be made. Witnesses shall testify under oath or affirmation.

(c) In all other cases where an employee requests a hearing, a paper hearing shall be provided. A paper hearing shall consist of a review of the written evidence of record by the administrative law judge or hearing official.

(d) In any hearing under this section, the administrative law judge or hearing official may exclude from consideration evidence or testimony which is irrelevant, immaterial, or unduly repetitious.

(5 U.S.C. 5514)

§ 1.986 Result if employee fails to meet deadline.

An employee waives the right to a hearing, and will have his or her disposable pay offset in accordance with the offset schedule, if the employee:

(a) Fails to file a request for a hearing as prescribed in § § 1.982, 1.984, or 19.1 through 19.200, whichever is applicable, unless such failure is excused as provided in § 1.984(b); or

(b) Fails to appear at an oral hearing of which he or she had been notified unless the administrative law judge or hearing official determines that failure to appear was due to circumstances beyond the employee's control.

(5 U.S.C. 5514)

§ 1.987 Review by hearing official or administrative law judge.

(a) The hearing official or administrative law judge shall uphold the VA's determination to the existence and amount of the debt unless determined to be erroneous by preponderance of the evidence.

(b) The hearing official or administrative law judge shall uphold the VA's offset schedule unless the schedule would result in extreme hardship to the employee.

(5 U.S.C. 5514)

§ 1.988 Written decision following a hearing requested under §1.984.

(a) The hearing official or administrative law judge must issue a written decision not later than 60 days after the employee files a request for the hearing.

(b) Written decisions provided after a hearing requested under §1.984 will include:

(1) A statement of the facts presented to support the nature and origin of the alleged debt;

(2) The hearing official or administrative law judge's analysis, findings and conclusions concerning as applicable:

(i) The employee's or VA's grounds;

(ii) The amount and validity of the alleged debt; and

(iii) The repayment schedule.

(c) The decision in a case where a paper hearing was provided shall be based upon a review of the written record. The decision in a case where an oral hearing was provided shall be based upon the hearing and the written record.

(5 U.S.C. 5514)

§ 1.989 Review of VA records related to the debt.

(a) *Notification by employee.* An employee who intends to inspect or copy VA records related to the debt as permitted by a notice provided under §1.983 must send a letter to the office which sent the notice of the debt stating his or her intention. The letter must be received by that office within 20 calendar days of the date of the notice.

(b) *VA response.* In response to timely notice submitted by the debtor as described in paragraph (a) of this section, the VA will notify the employee of the location and time when the employee may inspect and copy records related to the debt.

(5 U.S.C. 5514)

§ 1.990 Written agreement to repay debt as alternative to salary offset.

(a) *Notification by employee.* The employee may propose, in response to a notice under §1.983, a written agreement to repay the debt as an alternative to salary offset. Any employee who wishes to do this must submit a proposed written agreement to repay the debt which is received by the office which sent the notice of the debt within 20 calendar days of the date of the notice.

(b) *VA's response.* In response to timely notice by the debtor as described in paragraph (a) of this section, the VA will notify the employee whether the employee's proposed written agreement for repayment is acceptable. It is within the VA's discretion to accept a repayment agreement instead of proceeding by offset. In making this determination, the VA will balance its interest in collecting the debt against the hardship to the employee. The VA will accept a repayment agreement instead of offset only if the employee is able to establish that offset would result in extreme hardship.

(5 U.S.C. 5514)

§ 1.991 Procedures for salary offset: when deductions may begin.

(a) Deductions to liquidate an employee's debt will be by the method and in the amount stated in the notice to collect from the employee's current pay as modified by a written decision issued under §§ 1.982, 19.1 through 19.200 or § 1.988 or by written agreement between the employee and the VA under § 1.990.

(b) If the employee filed a request for a hearing as provided by § 1.984 before the expiration of the period provided for in that section, deductions will not begin until after the hearing official or administrative law judge has provided the employee with a hearing, and has rendered a final written decision.

(c) If the employee failed to file a timely request for a hearing, deductions will begin on the date specified in the notice of intention to offset, unless a hearing is granted pursuant to § 1.984(b).

(d) If an employee retires or resigns or his or her employment ends before collection of the amount of the indebtedness is completed, the remaining indebtedness will be collected according to procedures for administrative offset (see 4 CFR 101.1 through 105.5 and 5 CFR 831.1601 through 831.1607)

(5 U.S.C. 5514)

§ 1.992 Procedures for salary offset.

(a) *Types of collection.* A debt will be collected in a lump-sum or in installments. Collection will be in a lump-sum unless the employee is financially unable to pay in one lump-sum, or if the amount of the debt exceeds 15 percent of the employee's disposable pay. In these cases, deduction will be by installments.

(b) *Installment deductions.*

(1) A debt to be collected in installments will be deducted at officially established pay intervals from an employee's curent pay account unless the employee and the Administrator agree to alternative arrangements for repayment. The alternative arrangement must be in writing and signed by both the employee and administrator or designee.

(2) Installment deductions will be made over a period not greater than the anticipated period of employment. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted for any period will not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount. If posible, the installment payment will be sufficient in size and frequency to liquidate the debt in three years. Installment payments of less than $25 per pay period or $50 a month will be accepted only in the most unusual circumstances.

(c) Imposition of interest, penalties, and administrative costs. Interest, penalties, and administrative costs will be charged in accordance with § 1.919 and 4 CFR 102.13.

(5 U.S.C. 5514)

§ 1.993 Non-waiver of rights.

So long as there are not statutory or contractural provisions to the contrary, an employee's involuntary payment (of all or a portion of a debt) under these regulations will not be interpreted as a waiver of any rights that the employee may have under 5 U.S.C. 5514.

(5 U.S.C. 5514)

§ 1.994 Refunds.

The VA will refund promptly to the appropriate individual amounts offset under these regulations when:

(a) A debt is waived or otherwise found not owed the United States (unless expressly prohibited by statute or regulation); or

(b) The VA is directed by an administrative or judicial order to refund amounts deducted from the employee's current pay.

(5 U.S.C. 5514)

[FR Doc. 86-8940 Filed 4-21-86; 8:45 am]

BILLING CODE 8320-01-M

[8320-01-M]

38 CFR Part 19

Appeals—General; Rules of Practice

AGENCY: Veterans Administration.

ACTION: Proposed regulations.

SUMMARY: The Board of Veterans Appeals proposes to amend its regulations dealing with tape recordings and written transcripts of personal hearings conducted before the Board. The proposal would amend provisions of the existing regulations in 38 CFR 19.168 and 38 CFR 19.170. It has been determined that instead of providing appellants and their representatives with a written copy of hearing proceedings, it would be more convenient for them and more effective for the Board to provide them with a copy of the tape recording of the hearing. Providing a copy would allow swift service when a record of a hearing proceedings held before a section of the Board is requested. The Board would continue to provide written transcripts when the case is remanded and when good cause has been shown.

DATE: Comments must be received by May 21, 1986.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420. All written comments received will be available for inspection in the Veterans Services Unit, room 132, at the above address only between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday (except holidays) until June 5, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Jan Donsbach, Special (Legal) Assistant to the Chairman, Board of Veterans Appeals, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420 (202-389-2978).

SUPPLEMENTARY INFORMATION: The VA is proposing to amend its existing regulation concerning providing a written transcript or a copy of the tape recording of proceedings at personal hearings without cost to the appellant or representative if requested at the time of or prior to the hearing; otherwise a charge may be made in accordance with 38 CFR 1.577. The other regulation will need to be amended because it fails to make clear that the official record of hearing proceedings may consist of either the tape recording of the hearing or the transcript of that recording made by the Board.

In essence, the revised regulations will provide that requests for a record of personal hearing proceedings before the Board will be honored by furnishing a copy of the tape recording of the proceedings under normal circumstances. A written transcript will

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be provided when testimony and argument is presented at the hearing concerning an issue remanded by the Board to the agency of original jurisdiction or when an appellant or his/her representative have shown good cause why a written transcript should be prepared.

The proposed amendment is necessary because it will (1) reduce the backlog of tapes awaiting transcription; (2) reduce the cost of typing hearing proceedings; and (3) provide more swift and efficient service to appellants. The Board intends to continue to provide a paper transcript where suit is filed in those cases, such as some insurance matters, which are subject to judicial review. This proposed amendment will be cost effective both in labor and copying.

The Administrator has certified that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), this regulation therefore is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. It will have no significant direct impact on small entities (i.e., small businesses, small private and nonprofit organizations, and small governmental jurisdictions).

The Agency has also determined that these regulations are nonmajor in accordance with Executive Order 12291, Federal Regulation. They will not result in any significant affect onthe economy, they will not have any significant impact upon private or governmental costs, and they will not affect business enterprises or otherwise have any adverse effect on the economy.

There is no Catalog of Federal Domestic Assistance number involved.

Lists of Subjects in 38 CFR Part 19

Administrative practice and procedures, Claims, Veterans.

Approved: April 11, 1986.

Thomas K. Turnage,
Administrator.

PART 19—[AMENDED]

38 CFR Part 19, Board of Veterans Appeals, is amended as follows:

1. Section 19.166 is revised to read as follows:

§ 19.166 Rule 66; Recorded hearing.

(a) *Board of Veterans Appeals.* A hearing before Members of the Board will be recorded. A written transcript will be prepared and a copy of the completed transcript will be incorporated as a permanent part of the claims folder if: (1) Testimony and argument has been presented at the hearing pertaining to an issue which is remanded to the agency or original jurisdiction for further development or (2) the appellant or representative has shown good cause why such a written transcript should be prepared. Requests that recordings of hearing proceedings be transcribed should be in writing and should explain why transcription is necessary. They should be filed with: Chief, Hearing Section (014B), Board of Veterans Appeals, 810 Vermont Avenue, NW, Washington, DC 20420. In those instances where a complete written transcript is prepared, that transcript will be the permanent record of the hearing and the tape recording may be destroyed after a period of 12 months following the date of the hearing; otherwise, the tape recording shall be kept on file by the Board of Veterans Appeals as the permanent record of the hearing.

(b) *Field offices.* The hearing proceedings before field office personnel after the filing of a notice of disagreement shall be recorded and a copy of the complete written transcript incorporated as a permanent part of the claims folder.

(c) *Copy of hearing tape recording or written transcript.* A copy of the tape recording of hearing proceedings before the Board of Veterans Appeals, or the written transcript of such proceeding when such a transcript has been prepared in accordance with the provisions of paragraph (a) of this section, and/or a copy of the written transcript of field office appellate hearing proceedings may be furnished without cost to the appellant or representative is a request is made at the time of or prior to the hearing; otherwise a charge may be made in accordance with § 1.577 of this title.

(38 U.S.C. 4002)

2. Section 19.170 is revised to read as follows:

§ 19.170 Rule 70; Official transcript.

The tape recording on file at the Board of Veterans Appeals or a transcript prepared by the Board of Veterans Appeals in lieu thereof, is the only official record of hearings conducted before the Board.

(38 U.S.C. 4002)

[FR Doc. 86–8939 Filed 4–21–86; 8:45 am]
BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[SW–6; FRL–3006–8]

California; Final Authorization of the State Hazardous Waste Management Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative determination on the State of California's application for final authorization, public hearing, and public comment period.

SUMMARY: The State of California has applied for final authorization under the Resource Conservation and Recovery Act (RCRA). EPA has made a tentative determination that the state's hazardous waste program meets the requirements to qualify for final authorization. However, before EPA issues a final decision to authorize California, California must take certain actions to demonstrate its program capability and make certain clarifying changes to its application. California's application for final authorization is available for public review and comment. Two public hearings will be held by EPA.

DATES: EPA Region 9 has scheduled its public hearings for June 3rd and 4th, 1986. The hearing on June 3rd will be held beginning at 10:00 a.m. in the Hawaii-Trust Territories Room, EPA Region 9, 215 Fremont Street, San Francisco, California. The hearing on June 4th will be held beginning at 10:00 a.m. in the auditorium, Room 1138, Depártment of Health Services, 107 South Broadway, Los Angeles, California. In addition to EPA, representatives from the California Department of Health Services will participate in the hearings. All public comments must be received by the close of business on June 4th.

ADDRESSES: Copies of California's final authorization application are available for inspection and copying from 8:00 a.m. to 4:30 p.m. at the following locations: California Department of Health Services, 1219 K Street, Sacramento, CA, Phone: (916) 323–0042 and 4250 Power Inn Road, Sacramento, CA, Phone: (916) 739–3145; California Department of Health Services, 5850 Shellmound Suite 360, Emeryville, CA, Phone: (415) 540–2043; California Department of Health Services, 107 South Broadway, Los Angeles, CA, Phone: (213) 620–2380; U.S. EPA Headquarters Library, 401 M Street SW., Washington, DC, Phone: (202) 382–5926; U.S. EPA Region 9 Library, 215 Fremont Street, San Francisco, CA, Phone: (415) 974–8076. Written comments should be sent to Karen Ueno, EPA Region 9, Toxics and Waste Management Division (T–2–5), 215 Fremont Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: Karen Ueno, EPA Region 9, Toxics and Waste Management Division (T–2–5), 215 Fremont Street, San Francisco, CA 94105; Phone: (415) 974–8160 (FTS: 454–8160).

SUPPLEMENTARY INFORMATION:

A. Background

Section 3006 of the Resource Conservation and Recovery Act (RCRA) allows EPA to authorize state hazardous waste program to operate in lieu of the federal hazardous waste program, subject to the limitations imposed by the Hazardous and Solid Waste Amendments of 1984 (HSWA). Under section 3006, EPA may grant two types of authorization. The first type, "interim authorization," is a temporary authorization which is granted if EPA determines that the state program is substantially equivalent to the federal program (Section 3006(c), 42 U.S.C. 6926(c)). EPA's implementing regulations in 40 CFR 271.121–271.137 establishes a phased approach to interim authorization:

- Phase I, covering the EPA regulations in 40 CFR Parts 260–263, and 265 (the universe of hazardous waste and standards for hazardous waste generators, transporters and interim status facilities), and
- Phase II, covering the EPA regulations in 40 CFR Parts 124, 264, and 270 (the procedures and standards for permitting hazardous waste management facilities).

Phase II, in turn, has three components. Phase IIA covers permitting of containers and tanks. Phase IIB covers permitting of incinerator facilities. Phase IIC covers permitting of landfills, land treatment units, surface impoundments, and waste piles.

By statute, interim authorization expired on January 31, 1986. Responsibility for the hazardous waste program reverted to EPA on that date if the state did not receive final authorization, as described below.

The second type of authorization, "final authorization," is a permanent authorization which is granted if EPA determines that the state program is (1) equivalent to the federal program, (2) consistent with the federal program and other state programs, and (3) provides for adequate enforcement (Section 3006(b), 42 U.S.C. 6926(b)). States need not have obtained interim authorization in order to qualify for final authorization. EPA regulations for final authorization appear at 40 CFR 271.1–271.23.

B. California

California received Phase I interim authorization on June 4, 1981 and Phase IIA on January 11, 1983. California did not apply for Phases IIB and IIC interim authorization.

After soliciting public comments and holding a public hearing on June 6, 1985, California submitted an application for final authorization to EPA on November 7, 1985. The application reflects the federal program that was in effect one year prior to California's submission, or on November 7, 1984. At this time, California is not seeking authorization for any portion of HSWA.

As California did not receive final authorization by January 31, 1986, responsibility for the hazardous waste program reverted to EPA.

EPA has reviewed California's application and has identified a number of concerns. California has resolved these concerns by revising, and by committing to revise, the application. The major concerns with the application are as follows:

- The organization and management of the Department of Health Services' program, primarily in the areas of compliance monitoring, enforcement reporting, and enforcement at RCRA land disposal (ground water monitoring) facilities;
- The process and paper flow for approving closures and issuing permits, and
- The discussion of state statutes and regulations.

The concerns raised by EPA, and the application revisions and proposed revisions are available for public review at the locations identified in "Addresses."

EPA's tentative determination to authorize the state is based on California's commitment to incorporate the proposed revisions in the application (e.g., in the Attorney General's Statement, Program Description, Memorandum of Agreement, etc.) before EPA's final decision. California expects to make these revisions on or before the dates of the public hearings.

In addition to reviewing the application, EPA has also assessed California's capability to operate the RCRA program upon final authorization. In March 1985, as part of the mid-year grant evaluation, EPA reviewed the state's capability and identified problem areas in the state's performance. To assist the state in addressing these problem areas, EPA developed a Capability Assessment Action Plan (CAAP) in June 1985. The CAAP identified the critical capability issues, and specified the actions California needed to take to improve program performance.

The "June 1985" CAAP has allowed EPA to measure the state's performance in recent months. The state has successfully completed many of the CAAP actions. However, performance in several program areas remains of concern, particularly in compliance monitoring and enforcement reporting, and in taking timely and appropriate enforcement actions.

EPA has modified the "June 1985" CAAP to identify the remaining program areas where capability must be demonstrated before EPA can grant final authorization to California. The state is committed to completing the actions in the CAAP. The CAAP, the state's commitment to complete the CAAP actions, and EPA's concerns with the state's recent performance are available for public review at the locations identified in "Addresses."

The significant actions which the state is committed to completing, are as follows:

- Thorough, complete, consistent, and timely documentation of inspections;
- Completion of quality inspections;
- Completion of grant commitments for inspections; and
- Timely and appropriate enforcement action at facilities with Class I violations.

Based on the state's commitment to improve program capability, EPA has tentatively determined that the state should be granted final authorization. EPA expects the state to complete the CAAP actions before a final decision is issued. In accordance with Section 3006 of RCRA and 40 CFR 271.20(d), EPA will hold public hearings on California's application and the Agency's tentative determination. The public may also submit written comments.

In making its final decision to authorize California's program, EPA will consider all public comments received. Issues raised by these comments may be the basis for a decision to deny final authorization to California. EPA will give notice of its final decision in the Federal Register. The notice will include a summary of the reasons for the decision and a response to all major comments.

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C. Effect of HSWA on California Authorization

Prior to the November 1984 Hazardous and Solid Waste Amendments to RCRA, a state with final authorization would have administered its hazardous waste program entirely in lieu of EPA. The federal requirements no longer applied in the authorized state, and EPA could not issue permits to any facilities the State was authorized to permit. When new, more stringent federal requirements were promulgated or enacted, the state was obligated to enact equivalent authority within specified time frames. New federal requirements did not take effect in an authorized state until the state adopted the requirements as state law.

In contrast, under section 3006(g) of RCRA, 42 U.S.C. 6926(g), new requirements and prohibitions imposed by HSWA take effect in authorized states at the same time as they take effect in nonauthorized states. EPA is directed to carry out those requirements and prohibitions in authorized states, including the issuance of full or partial federal permits, until the state is granted authorization to do so. While states must still adopt HSWA-related provisions as state law to retain full authorization, the HSWA applies in authorized states in the interim.

As a result of HSWA, there will be a dual state/federal regulatory program in California if final RCRA authorization is granted. To the extent the authorized state program is unaffected by HSWA, the state's program will operate in lieu of the federal program. Where HSWA-related requirements apply, EPA will administer and enforce those portions of HSWA in California until the state receives authorization to do do.

Any state requirement that is more stringent than a federal HSWA provision will also remain in effect; thus, the universe of the more stringent provisions in HSWA and the approved state program define the applicable Subtitle C requirements in California.

Today's tentative determination does not include authorization for any requirement implementing HSWA. Once the state is authorized to implement a HSWA requirement or prohibition, the state program in that area will operate in lieu of the federal program. Until that time, the state may assist EPA's implementation of HSWA under a Cooperative Agreement.

EPA has published a **Federal Register** notice that explains in detail HSWA and HSWA's effect on authorized states. That notice was published at 50 FR 28702 through 28755, July 15, 1985.

Compliance With Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization effectively suspends the applicability of certain federal regulations in favor of California's program, thereby eliminating duplicative requirements for handlers of hazardous waste in the state. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and record-keeping requirements, Water pollution control, Water supply.

Authority: This notice is issued under the authority of section 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended. 42 U.S.C. 6912(a), 6926, 6974(b), EPA Delegations 7.

Dated: April 3, 1986.

John Wise,

Acting Regional Administrator.

[FR Doc. 86-8047 Filed 4-21-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 65

[CC Docket 86-127, FCC 86-157]

Common Carrier Services; Reporting Requirements for Interstate Rates of Return

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes the adoption of quarterly reporting requirements for certain telephone companies. If adopted the carriers will be required to report interstate rates of return called for in Part 65 of our Rules. This proposal is made to enable the Commission to implement its decision to enforce maximum rate of return prescriptions and to monitor the carrier's actual performance on an access element-by-element basis.

DATES: Comments must be submitted on or before May 15 and reply comments on or before May 30, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Alan Feldman, Common Carrier Bureau, Industry Analysis Division, Washington, DC 20554, (202) 632-4047.

SUPPLEMENTARY INFORMATION: This is a summary of the Commissions notice of proposed rulemaking, CC Docket 86-127, adopted April 8, 1986, and released April 16, 1986.

The full text of this Commission notice is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this proposal may be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

The collection of information requirement contained in this proposed rule has been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons wishing to comment on this collection of information requirement should direct their comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for Federal Communications Commission.

Summary of Notice of Proposed Rulemaking

The Commission is seeking public comment on a proposal to establish FCC Form 492, a quarterly rate of return report, which would be required from local exchange carriers that file individual access tariffs with the Commission. Form 492 shall consist of two parts. The first part shall contain rates of return on a cumulative basis from the start of the enforcement period to the end of the quarter being reported. The second part shall contain information only for the quarter being reported. Also, the National Exchange Carrier Association would provide a quarterly report similar to the one proposed for the local exchange carriers, for the results of the pooled tariffs that it administers. The Commission is also proposing that AT&T be required to submit quarterly filings of individual category earnings based upon the Interim Cost Allocation Manual's principles.

The rulemaking serves three purposes. The Commission is proposing to adopt rules to establish the reports that are required to implement its decision to enforce maximum rate of return prescriptions. The Commission is also proposing to establish some interim quarterly reporting requirements for the local exchange carriers to enable it to monitor carrier's actual performance on an access element-by-element basis. We believe such reports will be assistance in the tariff review process and that the reports will provide us and the carriers with an early warning system if rate adjustments are necessary to correct a significant targeting error. When the Commission's automated reporting and management information system becomes operational, it should obviate the need for the quarterly reports (interim reports) that are used for monitoring purposes. The automated system will not, however, obviate the need for the reports that are filed at the end of a review period and that will be used for rate of return enforcement purposes. Finally, the Commission is proposing to clarify and set time limits for rate base and interperiod adjustments.

The Commission believes this proposal would impose minimal burdens upon both the Commission and the carriers while still providing the agency information it needs to support its regulatory requirements.

Ordering Clauses

Accordingly, it is ordered, That pursuant to the provisions of sections 4(i), 4(j); and 205 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and (j), and 205, there is hereby instituted a notice of proposed rulemaking into the foregoing matters.

It is further ordered, That interested persons may file comments on the specific proposals discussed in this Notice on or before May 15, 1986. Reply comments shall be filed on or before May 30, 1986. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, 47 CFR 1.419, an original and five (5) copies of all comments shall be furnished to the Commission. Copies of the comments will be available for public inspection in the Commission's Docket Reference Room, 1919 M Street, NW., Washington, D.C.

It is further ordered, That the Secretary shall serve a copy of this Notice on each state commission.

List of Subjects

47 CFR Part 1

Communications common carriers, Reporting and recordkeeping requirements, Telephone, Rate of return.

47 CFR Part 65

Communications common carriers, Reporting and recordkeeping requirements, Telephone, Rate of return.

William J. Tricarico,

Secretary.

[FR Doc. 86-8001 Filed 4-21-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 83-266; RM-4283]

TV Broadcast Station in Fresno, CA

AGENCY: Federal Communications Commission.

ACTION: Order, Dismissal of proposal.

SUMMARY: Action taken herein denies an action to assign UHF Television Channel 69 to Fresno, California, filed by Millard V. Oakley.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order

(Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Fresno, California).

Adopted: April 2, 1986.

Released: April 16, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration its *Notice of Proposed Rule Making*, 48 FR 14692, published April 5, 1983, which proposed the assignment of UHF TV Channel 69 to Fresno, California, at the request of Millard V. Oakley ("petitioner"). The assignment would represent the seventh commercial service to Fresno. Petitioner submitted comments reiterating his intention to apply for the channel, if assigned. Opposing comments were filed by Motorola, Inc. ("Motorola"), the National Association of Business and Educational Radio, Inc. ("NABER"), and Pappas Telecasting Incorporated ("Pappas"). Reply comments were filed by the petitioner, Pappas, and the Association of Maximum Service Telecasters ("MST").

2. Fresno (population 218,202),[1] the seat of Fresno County (population 514,621), is located in central California, approximately 260 kilometers (160 miles) northeast of San Francisco.

3. Motorola is an equipment supplier and systems designer of private land mobile radio systems. NABER is a national association which represents licensees in the Business Radio Service and other private land mobile radio services. Both groups base their opposition to the use of Channel 69 at Fresno on the adverse impact they state the assignment would have on area licensees in the private land mobile services. Motorola states that there are approximately 350 mobile units currently operating on channels adjacent to Channel 69 (800-806 MHz) within 35 miles of the transmitter coordinates used by Oakley, and half of those are mobile units which operate on systems located within 20 miles of that site. In order to avoid the serious interference problems which Motorola and NABER state are unavoidable if Channel 69 is used, they request that another, lower, television channel be allocated.

4. It is noted by MST that the land mobile interests were fully aware when they applied for use of the frequencies adjacent to 806 MHz that Channel 69 would remain available for television broadcasting.

5. On March 1, 1982, the Commission issued a Public Notice, *Channel 14 and 69 Television Permittees' Obligation to Protect Existing Land Mobile Facilities on Adjacent Frequencies from Objectionable Interference*, Mimeo No. 2526. In that release, the Commission has advised all potential applicants for those channels that the grant of their construction permits would be conditioned to provide that, prior to being granted program test authority, they would be required to take adequate measures to provide protection against objectionable interference to existing land mobile radio facilities in the adjacent bands. The ultimate permittee for Channel 69 at Fresno would be required to comply with the interference

[1] Population figures are taken from the 1980 U.S. Census.

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protection conditions stated by the Commission prior to its being given program test authority.

6. Pappas states that Fresno already has a plethora of television services, it being assigned seven channels which provide programming from affiliates of each of the three major networks, two independents, one Spanish language and one noncommercial educational station. In addition, it is said to receive service from nearby Hanford and Visalia stations as well as area cable television systems. Therefore, according to Pappas, the Fresno market is already adequately served, and the assignment of an additional channel would only jeopardize the economic viability of both the existing and new service. Pappas further questions the qualifications of petitioner's consultant as well as the motives and financial qualifications of the petitioner in seeking a full service television assignment. Pappas alleges that Oakley's consultant has advertised that by applying for the allotment of full service television channels and then applying for use of such frequency with the minimum power allowed, those persons stymied by the Commission's current freeze on low power television applications can still become involved in television broadcasting. It further states that according to Commission records, the petitioner is involved in no less than eight television proposals and therefore cannot validly state its intention to apply for each facility in conformance with the Commission's multiple ownership rules. These rules limit one party's ownership to no more than seven television stations, with no more than five being VHF. See, § 73.636 of the Commission's Rules.

7. In reply to the allegations of Pappas and NABER, petitioner states that NABER seeks the conversion of the UHF allocations to land mobile use, and the issue should be raised in a separate rule making. The basis for Pappas' objections, he alleges, are simply the desire to avoid further competition to its existing station and its aversion to use of a consultant who "markets its' services."

8. The objections of Pappas are not issues which can be decided in a rule making proceeding. The Commission does not oversee the choice of consultants to represent an interested party before the agency. It is incumbent upon a petitioner to be aware of the requirements which will be imposed upon him should be become a Commission licensee and be prepared to fulfill such requirements. Likewise, the financial ability of a petitioner to follow through with an application and construction of broadcast facility is an issue which is more properly handled at the application stage. Although it was true that a party could not own more than seven [3] facilities in each of the broadcast services, those limits have been raised to twelve. Further, the Commission does not guarantee that the party petitioning for the assignment of a frequency will become the ultimate licensee. Therefore, even though he may not apply for authorization to operate more than twelve stations, he may petition to have a reasonable number of additional channels assigned to particular communities in the belief that he may not be awarded the license for each of his prior-requested channels. It is expected, however, that should a party receive permits for the maximum number of stations, he would then notify the Commission of that fact and seek dismissal of any pending rule makings seeking assignments for which he could not apply.

9. The Commission recognizes that operation of a television station on Channel 69 can lead to objectionable interference to land mobile users operating on adjacent spectrum (800–806 MHz).[5] In this regard, the Commission ordered changes in the operations of various land mobile stations in order to eliminate interference caused by a Channel 69 station in Atlanta, Georgia.[6] Such action was taken after various other attempts to correct the problem such as reducing the television licensee's daytime operating power to six percent of full power (166 kw) proved ineffectual. The Commission does not believe that the referenced Atlanta situation is unique. Thus, it is suspending all Channel 69 assignments until it can find an adequate solution to the problems caused by electromagnetic emissions from new television stations on adjacent land mobile facilities.

10. Accordingly, in light of the above, It Is Ordered, That the Petition for Rule Making filed by Millard V. Oakley IS DENIED.

11. It is Further Ordered, That this proceeding IS TERMINATED.

12. For further information concerning the above, contact Joel Rosenberg, Mass Media Bureau, (202) 634–6530.

[3] See: Amendment of § 73.3555 (formerly §§ 73.35, 73.240, and 73.636) of the Commission's Rules Relating to Multiple Ownership of AM, FM and Television Broadcast Stations, 100 F.C.C. 2d 74 (1984).

[5] See: Channel 14 and 69 Television Permittees' Obligation to Protect Existing Land Mobile Facilities on Adjacent Frequencies from Objectionable Interference, supra.

[6] Broadcast Corporation of Georgia (WVEU–TV), Atlanta, Georgia F.C.C. 84–38, Mimeo No. 34227, released March 8, 1984.

Federal Communications Commission

Ralph A. Haller,

Acting Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–8906 Filed 4–21–86; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 86–136; RM–5204]

FM Broadcast Station in Brooksville, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the allotment of Channel 225A to Brooksville, Florida, as a first FM service, in response to a petition filed by Radio Development Laboratories.

DATES: Comments must be filed on or before June 9, 1986, and reply comments on or before June 24, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 308, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Brooksville, Florida); MM Docket No. 86–136, RM–5204.

Adopted: April 8, 1986.

Released: April 16, 1986.

By the Chief, Policy and Rules Division.

1. A petition for rule making was filed by Radio Development Laboratories ("petitioner") requesting the allotment of Channel 225A to Brooksville, Florida, as its first FM service. Petitioner stated its intention to apply for the channel.

2. We believe that the proposal warrants consideration. The channel can be allotted in compliance with the distance separation requirements provided a site restriction of 6.8 km (4.2 miles) is imposed. In view of the foregoing, the Commission seeks comments on the proposal to amend the FM Table of Allotments, § 73.202(b) of the Rules, with regard to the community listed below:

City	Channel No.	
	Present	Proposed
Brooksville, FL		225A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before June 9, 1986, and reply comments on or before June 24, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

William B. Maggio, Radio Development Laboratories, 27316 Hickory Hill Road, Brooksville, Florida 33512, (petitioner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 86–8904 Filed 4–21–86; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 86–132; RM–5145]

TV Broadcast Station in Warner Robins, GA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF television Channel 35 to Warner Robins, Georgia, as its first television service in response to a petition filed by Steven D. King.

DATES: Comments must be filed on or before June 9, 1986, and reply comments on or before June 24, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634–6530

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73:

Television broadcasting.

The authority citation for Part 73 continue to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

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Notice of Proposed Rule Making

In the matter of amendment of §73.606(b), Table of Assignments, Television Broadcasting Stations (Warner Robins, Georgia); MM Docket No. 86-132, RM 5145.

Adopted: April 7, 1986.
Released: April 10, 1986.

By the Chief, Policy and Rules Division.

1. The Commision herein considers a petition for rule making filed by Steven D. King ("petitioner") requesting the assignment of UHF Television Channel 35 to Warner Robins, Georgia. Petitioner stated his intention to apply for the channel.

2. Warner Robins (population 39,893) in Houston County (population 77,605) [1] is located in central Georgia, approximately 95 miles southeast of Atlanta. Warner Robins is currently without local television service. The proposed assignment of Channel 35 to Warner Robins would require a site restriction 1.4 miles southeast of the city to avoid short spacing to unused Channel 35 at Lafayette, Georgia.

3. In view of the fact that the proposed assignment could provide a first local television service to Warner Robins, comments are invited on the proposal to amend the Television Table of Assignments, §73.606(b) of the Rules, as it pertains to the following community:

City	Channel No.	
	Present	Proposed
Warner Robins, GA		35

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before June 9, 1986, and reply comments on or before June 24, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Larry G. Fuss, Sr., Contemporary Communications, Post Office Box 3976, Jackson, Georgia 30233 (consultant to the petitioner)

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(e)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 86-8906 Filed 4-21-86; 8:45 am]

BILLING CODE 6712-01-M

[1] Population figures are taken from the 1980 U.S.Census.

47 CFR Part 73

[MM Docket No. 86-137; RM-5176]

FM Broadcast Station in Montauk, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allocation of Channel 284A to Montauk, New York, as the community's first local FM service, at the request of MarkKey Broadcasting Company.

DATES: Comments must be filed on or before June 9, 1986, and reply comments on or before June 24, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-653C.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73.

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Montauk, New York); MM Docket No. 86-137, RM-5176.

Adopted: April 8, 1986.
Released: April 16, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making submitted on behalf of MarKey Broadcasting Company ("petitioner") requesting the allocation of Channel 284A to Montauk, New York, as the community's first local FM service. Petitioner states that it will apply for the channel, if allocated. Channel 284A can be allocated in compliance with the Commission's minimum distance separation and other technical requirements.

2. Petitioner describes Montauk as an unincorporated community which is not listed in the U.S. Census reports. Petitioner states that Montauk, located at the southeastern tip of Long Island's eastermmost peninsula, is a resort area with a year-round population of 1,300-2,000 persons and a summertime population which ranges from 25,000 to 30,000 persons. Further, it states that Montauk has its own Chamber of Commerce, post office and zip code, fire department, public library, school system, and local businesses which identify with the community. Based on this information, petitioner contends that Montauk is a geographically identifiable population grouping and thus can be considered a community within the meaning of section 307(b) of the Communications Act of 1934 as amended.

3. We agree with the petitioner that Montauk is a "community" and thus eligible for a broadcast allotment. Montauk is, in fact, listed in the U.S. Census as a Census Designated Place ("CDP") and attributed with a fulltime population of 2,828 persons. As defined by the Census Bureau, CDP's consist of closely settled population centers without corporate limits, the boundaries of which are delineated by the Census Bureau. These communities have been included in the previous Census reports and identified as "unincorporated places" ("U"). While the Commission has held that a listing in the U.S. Census may not be sufficient in itself to determine that an area meets the "community" criteria mandated by section 307(b) of the Act, the demographic data supplied by the petitioner also convinces us that Montauk does indeed qualify as a "community" for allotment purposes.

4. We believe the public interest would be served by proposing to allocate Channel 284A to Montauk, New York, as it would provide the community with its first local FM service. Accordingly, we propose to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, with respect to the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Montauk, NY		284A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. **Note:** A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before June 9, 1986, and reply comments on or before June 24, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Russell D. Lukas, Esq., Lukas, McGowan, Nace & Gutierrez, Chartered, 1090 Vermont Avenue, NW., Suite 650, Washington, D.C. 20005.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communication Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to

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file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the peititioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 86-8905 Filed 4-21-86; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 74

[MM Docket No. 86-112; RM-5219; FCC 86-147]

Radio Broadcasting; Satellite and Terrestrial Microwave Feeds to Noncommercial Educational FM Translators

AGENCY: Federal Communications Commission.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This Notice of Proposed Rule Making requests comments on a proposal to permit noncommercial educational FM translators to rebroadcast programming they receive by microwave or satellite feeds from their commonly-owned noncommercial educational FM broadcast stations. This authority would apply only in cases where the translator is assigned to reserved noncommercial channels. This Notice is issued in response to a petition for rule making filed by the Moody Bible Institute of Chicago. The proposed change to the Commission's rules would make more reliable and higher quality signals available to areas that are currently unserved or underserved by noncommercial radio service.

DATES: Comments are due on or before July 1, 1986, and reply comments on or before August 1, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Marcia Glauberman, Mass Media Bureau, (202) 632-6302.

SUPPLEMENTARY INFORMATION:

List of Subjects 47 CFR Part 74

FM Broadcast Translator Stations, Radio broadcasting.

[MM Docket No. 86-112, RM-5219; FCC 86-147]

This is a summary of the Commission's notice of proposed rule making in MM docket No. 86-112, RM-5219, adopted April 3, 1986, and released April 16, 1986.

The full text of this Commission Decision is available for inspection and copying during normal business hours in the FCC dockets branch (room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rule Making

1. On October 31, 1985, the Moody Bible Institute of Chicago (Moody) petitioned the Commission to amend its rules to permit noncommercial educational FM translators to receive signals fed by satellite or terrestrial microwave facilities. Moody proposes that this expanded authority be limited to the rebroadcast of the parent station on its owned and operated translators. The petitioner also proposes that the authority for use of microwave and satellite feeds be limited translators assigned to noncommercial educational reserved channels (Channels 200–220). Comments filed by Family Stations, Inc., Northern Michigan University and KPSI Radio Corp. generally support Moody's petition. The National Association of Broadcasters, National Radio Broadcasters Association and National Public Radio filed oppositions to Moody's petition.

2. The Commission believes that it is now appropriate to consider Moody's proposal. We have recently concluded several related radio proceedings in Docket Nos. 80-90, 84-231 and 20735 that, while still unresolved, had led in part to our 1984 denial of a similar petition filed by Moody in 1981.[1] We believe that this proposal for limited expansion of FM translator authority may offer technical and public interest benefits to licensees and to radio audiences, especially those in remote areas that are currently underserved by noncommercial radio services. The proposed revision to our rules would alleviate a number of FM translator technical problems that are inherent in over-the-air reception of signals. The use of microwave and satellite technology would permit a higher quality signal to be received and permit the signal to reach more remote areas that those that can be reached currently with traditional over-the-air broadcast technology. Further, we believe that in some instances the cost of service per listener would decrease so that noncommercial educational stations would have more resources for programming. On this basis, we believe that the proposal could promote better service for those currently receiving noncommercial FM radio via translators and extend radio service to understand areas.

[1] *See*, the Commission's denial of Moody's 1981 petition by *Memorandum Opinion and Order* in Docket 19010, 98 FCC 2d 26 (1984). *See*, also, *Report and Order* in BC Docket No. 80-90, 46 FR 20488 (1983), recon. *Memorandum Opinion and Order* in BC Docket No. 80-90, 49 FR 10320 (1984) and *First Report and Order* in MM Docket 84-231, 50 FR 3514 (1985).

3. Accordingly, we propose to amend § 74.1231 of our rules, as set forth in the attached Appendix, to authorize the use of microwave and satellite distribution of noncommercial educational radio signals by qualified stations. In order to qualify for this authority, the broadcast station and its authorized noncommercial translator must be commonly-owned and the translator station would have to be assigned to the noncommercial educational reserved channels. We also propose to amend §§ 74.501, 74.531, 74.532 and 74.1250 of our rules, as set forth in the Appendix, to make noncommercial educational FM station licensees eligible for licenses for the aural broadcast intercity relay stations necessary to relay their programming by microwave to their translator stations.

4. This is a non-restrictive notice and comment rule making proceeding. *See* § 1.1231 of the Commission's rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

5. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, this proceeding will benefit licensees and radio audiences by extending noncommercial educational signals to underserved areas. Public comment is requested on the initial regulatory flexibility analysis set out in full in the Commission's complete decision.

6. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and except for the additional applications expected to be received, the proposed rules would not increase or decrease burden hours imposed on the public.

7. Pursuant to the applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before July 1, 1986, and reply comments on or before August 1, 1986. All relevant and timely comments will be considered by the Commission before final aciton is taken in this proceeding.

8. This Notice of Proposed Rule Making is issued pursuant to authority contained in sections 4(i) and 303 of the Communications Act of 1934, as amended.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 74 of Title 47 of the Code of Federal Regulations is proposed to be amended to read as follow:

The authority citation for Part 74 would continue to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. 47 CFR 74.501 is proposed to be amended by revising paragraph (b) to read as follows:

§ 74.501 Classes of aural broadcast auxiliary stations.

* * * * *

(b) *Aural broadcast intercity relay station.* A fixed station for the transmission of aural program material between radio broadcast stations, other than international broadcast stations, and between noncommercial educational FM radio broadcast stations and their co-owned noncommercial educational FM translator stations.

* * * * *

3. 47 CFR 74.531 is proposed to be amended by redesignating paragraphs (c) through (f) as (d) through (g) and adding new paragraph (c) to read as follows:

§ 74.531 Permissible service.

* * * * *

(c) An aural broadcast intercity relay station is authorized to transmit aural program material between a noncommercial educational FM station and a noncommercial educational FM translator station operating on a NCE reserved channel (Channels 200 to 220) and owned, operated, and controlled by the licensee of the originating NCE FM station.

* * * * *

4. 47 CFR 74.532 is proposed to be amended by revising paragraph (a) to read as follows:

§ 74.532 Licensing Requirements.

(a) An aural broadcast STL or intercity relay station will be licensed only to the licensee or licensees of broadcast stations other than international broadcast stations, and for use with broadcast stations or noncommercial educational FM translator stations owned entirely by or under common control of the licensee or licensees.

* * * * *

5. 47 CFR 74.1231 is proposed to be amended by revising paragraph (b) to read as follows:

§ 74.1231 Purpose and permissible service.

* * * * *

(b) Except as set forth in paragraph (f) and (g) of this section, an FM translator may be used only for the purpose of retransmitting the signals of a primary FM broadcast station or another FM translator station which have been received directly through space, converted, and suitably amplified. A noncommercial educational FM translator station operating on a NCE reserved FM channel (Channel 200 to 220) licenced to the licensee of a NCE-FM station may additionally retransmit the signals of such a primary NCE-FM station which have been received by satellite or terrestrial microwave link.

* * * * *

6. 47 CFR 74.1250 is proposed to be amended by revising paragraph (a) to read as follows:

§ 74.1250 Transmitters and associated equipment.

(a) FM translator and booster transmitting apparatus used by stations authorized under the provisions of this subpart may only use transmitting apparatus that has been type accepted for such use in accordance with Subpart J of Part 2. Translator stations authorized for transmitter output power of 10 watts may also use FM broadcast transmitters notified or type accepted to operate with an output power not exceeding 10 watts under the provisions of Part 73 of the Rules for broadcast stations.

* * * * *

[FR Doc. 86-8900 Filed 4-21-86; 8:45 am]
BILLING CODE 6712-01-M

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Notices

Federal Register
Vol. 51, No. 77
Tuesday, April 22, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Adjudication; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of a meeting of the Committee on Adjudication of the Administrative Conference of the United States, to be held at 10:00 a.m., Wednesday, April 30, 1986, at 2120 L Street, NW., FTC Hearing Room #1 (Lower Level), Washington, D.C. The committee will meet to consider reports and recommendations from Professor George Johnson of George Mason University School of Law on the OSHA–OSHRC enforcement model and Professor Richard Pierce of the University of Pittsburgh School of Law on the use of the Federal Rules of Evidence in Federal agency adjudications. For further information, call Richard K. Berg, 202–254–7065.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least one day in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the committee before, during or after the meeting. Minutes of the meeting will be available on request.

Richard K. Berg,
General Counsel.
April 18, 1986.

[FR Doc. 86-9107 Filed 4-21-86; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

National Plant Genetic Resources Board Meeting

According to the Federal Advisory Committee Act of October 1972 (Pub. L. 92–463, 86 Stat. 770–776), the USDA, Science and Education, announces the following meeting:

Name: National Plant Genetic Resources Board.

Date: May 14–15, 1986.

Time: 8:30 a.m.–4:30 p.m., May 14; 8:30 a.m.–4:30 p.m., May 15.

Place: Room 104–A, Williamsburg Room, Administration Building, Department of Agriculture, Washington, DC.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permits.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: To review matters that pertain to plant germplasm in the United States and possible impacts on related national and international programs; and discuss other initiatives of the Board.

Contact Person: C.F. Murphy, Executive Secretary, National Plant Genetic Resources Board, U.S. Department of Agriculture, BARC-West, Room 239, Building 005, Beltsville, Maryland 20705. Telephone (301) 344–1560.

Done at Beltsville, Maryland, this 27th day of April 1986.

Charles F. Murphy,
Executive Secretary, National Plant Genetic Resources Board.

[FR Doc. 86-8947 Filed 4-21-86; 8:45 am]
BILLING CODE 3410-09-M

Cooperative State Research Service

Committee of Nine; Open Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Cooperative State Research Service announces the following meeting:

Name: Committee of Nine.

Date & Time: May 22–23, 1986; 8:30 a.m.–4:30 p.m., 8:30 a.m.–2:00 p.m.

Place: Room 336–A Administration Building, Department of Agriculture, Washington, DC. 20251.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations.

Contact Person for Agenda and More Information: Dr. Edward M. Wilson, Recording Secretary, U.S. Department of Agriculture, Cooperative State Research Service, Room 206 Justin Smith Morrill Building Washington, DC. 20251; telephone 202/447–4587.

Done at Washington, DC, this 10th day of April 1986.

John Patrick Jordan,
Administrator, Cooperative State Research Service.

[FR Doc. 86-8968 Filed 4-21-86; 8:45 am]
BILLING CODE 3410-22-M

Soil Conservation Service

Station Hill RC&D Flood Prevention Measure, Ft. Kent, ME

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Station Hill RC&D Flood Prevention Measure, Aroostook County, Maine.

FOR FURTHER INFORMATION CONTACT: Ron E. Hendricks, State Conservationist, Soil Conservation Service, USDA Office Building, University of Maine, Orono, Maine 04473, telephone 207–866–2132.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings Ron E. Hendricks, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for a water control and disposal system which provides flood protection to residences and town roads. The planned system consists of the installation of 2 diversions with a reinforced concrete pipe outlet.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Ron E. Hendricks.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with state and local officials)

Dated: April 14, 1986.

Charles Whitmore,
Deputy State Conservationist.

[FR Doc. 86-8979 Filed 4-21-86; 8:45 am]
BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 13-86]

Foreign-Trade Zone 84, Harris County, TX (Houston POE); Amendment of Zone Plan

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Houston Authority (PHA), grantee of Foreign-Trade Zone 84, requesting an amendment to its zone plan by adding 5 warehousing and business park sites in Harris County, Texas, within the Houston Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 USC 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on March 7, 1986.

PHA received authority from the Board to establish a multisite foreign-trade zone in Harris County, Texas, on July 15, 1983 (Board Order 214, 48 FR 34792, 8/1/83). While 5 PHA sites were approved as conventional ones, the remaining sites were approved for 5 years subject to special conditions. The zone plan was amended in 1985 to delete 8 and add 10 non-PHA sites subject to the same time limitations and conditions as the original ones (Board Order 303, 50 FR 20252). The proposed amendment of the plan would also be subject to the same time limitation and conditions as the other non-PHA sites.

The proposed amendment would involve adding three warehousing operations and two business park sites to the zone project; the Care Shipping, Inc. facility, located on a 34-acre site on Peninsula Blvd. Near the intersection with Sheldon Road in the Jacintoport area, Harris County: the Mirrer's Warehouse and Storage Co, Inc. operation, located on a 26-acre site at 6833 City Park Loop, Houston; the Manchester Terminal Corporation facility, located on a 73-acre site at 10000 Manchester Blvd., Houston; Easley Investment Corporation's 13-ace Interpark-Rankin development on 1920 Rankin Road, Houston; and, the Transcentral Business Park on McAulty Road, Houston.

In accordance with the regulations, an examiners committee has been appointed to investigate the application and report to the board. The committee consists of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Donald Gough, Deputy Assistant Regional Commissioner, U.S. Customs Service, Southwest Region 5850 San Felipe Street, Houston, TX 77057; and Colonel Gordon M. Clarke, District Engineer, U.S. Army Engineer District Galveston, P.O. Box 1229, Galveston, TX 77553.

Comments concerning the proposed amendment of zone plan are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before May 19, 1986.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, 2625 Federal Courthouse, 515 Rusk Street, Houston, Texas 77002

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Dept. of Commerce, Room 1529, 14th. and Pennsylvania NW., Washington, D.C. 20230

Dated April 16, 1986.

John J. Da Ponte, Jr.,
Executive Secretary.

[FR Doc. 86-8980 Filed 4-21-86; 8:45 am]
BILLING CODE 3510-DS-M

[A-122-506]

Antidumping; Oil Country Tubular Goods From Canada; Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We have determined that oil country tubular goods (OCTG) from Canada are being, or are likely to be, sold in the United States at less than fair value. Welded Tube of Canada, Ltd., is excluded from this determination. We have notified the U.S. International Trade Commission (ITC) of our determination, and we are directing the U.S. Customs Service to suspend the liquidation of all entries of oil country tubular goods from Canada that are entered, or withdrawn from warehouse, for consumption, on or after April 20, 1986 and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: April 22, 1986.

FOR FURTHER INFORMATION CONTACT: Steven Lim or Charles E. Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–1776 or (202) 377–5288.

Final Determination

Based upon our investigation, we have determined that OCTG from Canada are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) (the Act). We made fair value comparisons on approximately 83 percent of the sales of the class or kind of merchandise to the United States during the period of investigation. Comparisons were based on the United States price and foreign market value. The company-specific margins are: Algoma Steel Corp., Ltd. (Algoma), 14.26 percent; Ipsco, Inc. (Ipsco), 40.85 percent; Sonoc Steel Tube, Ltd. (Sonco), 3.35 percent; and Welded Tube of Canada, Ltd. (Welded Tube), 0 percent.

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Since Welded Tube had no sales at less than fair value, that company is excluded from this final determination of sales at less than fair value.

Case History

On July 22, 1985, we received a petition from the Lone Star Steel Company (Lone Star) and CF&I Steel Corporation (CF&I) on behalf of the domestic OCTG industry. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of OCTG from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a U.S. industry. The petition also alleged that sales of the subject merchandise were being made at less than the cost of production and that critical circumstances exist. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigation on August 19, 1985 (50 FR 33387). On September 11, 1985, the ITC determined that there is reasonable indication that imports of OCTG from Canada are materially injuring a U.S. industry (50 FR 37086).

We presented antidumping duty questionnaires to counsel for Ipsco and to counsel for Algoma, Sonco, and Welded Tube, Canadian producers and exporters of the products under investigation, on September 5, 1985. The responses were received on October 22, 1985.

On January 7, 1986, we published a preliminary determination of sales at less than fair value with respect to this merchandise (51 FR 600). The notice stated that if the investigation proceeded normally, we would make our final determination by March 17, 1986.

On January 15, 1986, counsels for the respondents requested a postponement of the final determination. We granted this request and postponed the final determination until not later than April 16, 1986 (51 FR 3369). In accordance with section 774(a) of the Act, a public hearing was held on March 5, 1986.

Scope of Investigation

The products covered by this investigation are "oil country tubular goods" which are hollow steel products of circular cross section intended for use in the drilling for oil or gas. These products include oil well casing, tubing and drill pipe of carbon or alloy steel, whether welded or seamless, manufactured to either American Petroleum Institute (API) or non-API (such as proprietary) specifications as currently provided for in the *Tariff Schedules of the United States, Annotated* (TSUSA) under item numbers 610.3216, 610.3218, 610.3233, 610.3234, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.3258, 610.3262, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4210, 610.4220, 610.4225, 610.4230, 610.4235, 610.4240, 610.4310, 610.4320, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4955, 610.4956, 610.4957, 610.4958, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, and 610.5244. This investigation includes OCTG that are in both finished and unfinished condition.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

Where the merchandise was sold to unrelated U.S. purchasers prior to its importation into the United States, we used the purchase price of the subject merchandise, as provided in section 772(b) of the Act, to represent the United States price. We calculated the purchase price based on the delivered, packed, duty paid price to unrelated U.S. purchasers. We deducted brokerage charges, U.S. duty and inland freight.

We used exporter's sale price (ESP) as the United States price where the merchandise was sold to unrelated purchasers after importation, as provided for in section 772(c) of the Act. We deducted brokerage charges, U.S. duty, inland freight, U.S. processing expenses, credit, warranty, and other selling expenses, where appropriate. With respect to Algoma, we made additions for import duties, paid by Canadian producers on imports of raw materials, which were rebated or not collected by reason of the exportation of the merchandise to the United States, pursuant to section 772(d)(1)(B) of the Act.

Foreign Market Value

The petitioners alleged that sales in the home market were at prices below the cost of production. We examined costs of production which included all appropriate costs for materials, fabrication and general expenses.

In accordance with section 773(a)(1)(A) of the Act, for Algoma, Ipsco and Welded Tube, where we found sufficient sales above the cost of production in the home market, we used home market prices to determine foreign market value. Where there were insufficient sales of such or similar merchandise in the home market, or where there were insufficient sales above the cost of production, we used constructed value as the basis for comparison.

Where foreign market value was based on home market prices, we made comparisons of such or similar merchandise based on type, grade, dimension and end finish as selected by Commerce Department industry experts. Where foreign market value was based on constructed value, we used appropriate production costs for the period under investigation as the basis for the constructed value for each product group.

We calculated the market prices for each product on the basis of delivered prices to unrelated purchasers. From these prices, we deducted foreign inland freight. We made adjustments, where appropriate, for differences in circumstances of sale related to commissions, warranties and credit expenses pursuant to § 353.15 of our regulations. We also made adjustments for differences in the physical characteristics of the merchandise pursuant to § 353.16 of our regulations. We disallowed a claimed adjustment for differences in level of trade between U.S. and Canadian markets.

In addition, when comparing exporter's sales price to the home market price, we deducted indirect selling expenses from the home market price but limited the deduction to the amount of the U.S. indirect selling expenses in accordance with § 353.15 of our regulations. We also allowed quantity discounts in accordance with § 353.14 of our regulations, and we made adjustments, where appropriate, for differences in packing costs.

In accordance with section 773(e) of the Act, we calculated foreign market value for Sonco based on constructed value. For Sonco, there were no sales of such or similar merchandise in the home market or in third country markets.

We calculated the constructed value by totaling the costs of materials used in producing such or similar merchandise, fabrication, general expenses, profit, and packing costs for shipments to the United States. Where the amount for general expenses was less than ten percent of the cost of materials and fabrication, we adjusted it to the statutory minimum of ten percent. Where the amount for profit was less than eight percent of the sum for the costs of materials, fabrication and general expenses, we adjusted it to the statutory minimum of eight percent. In certain instances, where information in the submissions of respondents was insufficient, the best information available was used. Where appropriate for constructed value, adjustments were made under §353.15 of the Commerce Regulations for differences in circumstances of sale between the two markets. These adjustments were for differences in credit and warranty expenses. Also, where appropriate for exporter's sales price transactions, adjustments were made to foreign market value under § 353.15(c) to account for indirect selling expenses incurred in the home market sales of the "same class or kind of merchandise," up to the amount of indirect selling expenses incurred on U.S. sales.

For comparisons involving purchase price transactions, when calculating foreign market value, we made currency conversions from Canadian dollars to U.S. dollars in accordance with § 353.56(a) of our regulations, using the Federal Reserve certified daily exchange rates. For comparisons involving exporter's sales price transactions, we used the official exchange rate for the date of purchase pursuant to section 615 of the Trade and Tariff Act of 1984 (1984 Act). We followed section 615 of the 1984 Act rather than § 353.56(a) of our regulations, as it supersedes that section of the regulations.

Final Negative Determination of Critical Circumstances

Counsel for petitioners alleged that imports of OCTG from Canada present "critical circumstances" within the meaning of section 733(e)(1) of the Act. Critical circumstances exist when the Department has a reasonable basis to believe or suspect that: (1) There have been massive imports of the merchandise under investigation over a relatively short period; and (2)(a) there is a history of dumping in the United States or elsewhere of the merchandise under investigation, or (b) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise under investigation at less than its fair value.

We generally consider the following concerning massive imports: (1) Volume and value of imports (2) seasonal trends, and (3) the share of domestic consumption accounted for by the imports.

In considering this question, we analyzed recent trade statistics on import levels, import penetration ratios for OCTG from Canada for equal periods immediately preceding and following the filing of the petition, and seasonal factors. Based on our analysis of recent trade data, we found that imports of OCTG from Canada during the period subsequent to receipt of the petition have not been massive when compared to recent import levels and import penetration ratios. For the reasons described above, we determine that "critical circumstances" do not exist with respect to OCTG from Canada.

Verification

As provided in section 776(a) of the Act, we verified the information provided by the respondents by using standard verification procedures, including examination of relevant sales and accounting records of the company.

Issues

The major issues raised at our public hearing of March 5, 1986, and in the written comments submitted are as follows:

Petitioner's Comments

Comment 1: The petitioner and a domestic interested party (with regard to Sonco) assert that the Department should reject the responses submitted by Algoma, Sonco, and Welded Tube as inadequate and, therefore, should use the best information available.

DOC Position: We have examined the responses in this case and have determined that there are no grounds for disregarding, in total, the responses of Algoma, Sonco and Welded Tube as unresponsive. Generally, the Department will examine a respondent's questionnaire response to determine if it provides a reasonable amount of information upon which a determination can be made. Where such a response is clearly inadequate for such purposes, the Department disregards it and uses best information available. Where responses are deficient in certain areas, respondents are allowed the opportunity to clarify those areas. The Department will use best information available with regard to those areas where clarifications by respondents have not been adequate or timely enough to make an informed determination.

The Department does not feel that the responses submitted in this investigation are so clearly deficient as to warrant disregarding them. We have sought clarification of certain issues and have made our findings and calculations based upon the information available to us which we believe was most dependable for purposes of fair value comparisons. In certain instances, where information in the found to be insufficient, we used the best information available.

Comment 2: The petitioner contends that Algoma failed to provide specific costs for the production costs during the period of investigation in its response. Therefore, the Department should reject the cost data submitted by the producer and use the best information available.

DOC Position: The information in the response reflected the form in which the company's accounting system complies such data. Additionally, more detailed information was presented for one product, as an example of the specific costs included in the total amount. Under these circumstances, the Department concluded that the information presented in the response was reasonable.

Comment 3: Petitioner contends that Algoma submitted data representing cost of goods sold as opposed to production costs and, thus, the Department should use the best information available to determine the cost of production.

DOC Position: The Department concluded, after its review, that the cost of goods sold, as adjusted, included all costs, appropriately valued, related to the production of OCTG.

Comment 4: Petitioner contends that the Department should not deduct interest income from Algoma's selling, general and administrative expenses (SG&A).

DOC Position: The Department followed the usual practice and offset the interest expense with only the interest income from incidental investment related to the ordinary course of business.

Comment 5: Petitioner argues that the Department should not allow Algoma's adjustments to the cost of goods sold. These adjustments depart from Algoma's normal accounting procedures, and violate the Department practice of relying on a respondent's normal accounting practices in calculating the constructed value.

DOC Position: We agree. These adjustments were disallowed.

Comment 6: Petitioner claims that Algoma improperly reclassified certain manufacturing expenses as part of SG&A. Each of these expenses is associated with the production of OCTG and, therefore, properly considered a manufacturing expense.

DOC Position: We agree. The final determination treated the general works expenses as manufacturing overhead.

Comment 7: Petitioner argues that Algoma improperly shifted allocations of certain expenses from regular casing to high strength casing. Furthermore, they argue that Algoma improperly allocated certain expenses based on man-

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hours per ton, rather than based on tons produced, their normal accounting practice. The Department should not allow such adjustments.

DOC Position: We agree. Algoma's reallocations were disallowed for the final determination.

Comment 8: Petitioner argues that because Algoma made improper adjustments to its costs, the Department should not rely on Algoma's submitted cost data. However, if the Department does use Algoma's data in its final determination, the Department should adjust that data to properly allocate overhead and depreciation expenses to OCTG.

DOC Position: The submitted cost data was used. Adjustments were made to depreciation and overhead areas.

Comment 9: Petitioner argues Algoma's interest on long-term debt must be included in SG&A expense. The respondent's rationale for excluding the expense ignores that the steel for OCTG is produced in-house and that debt is fungible.

DOC Position: We agree. Interest on long-term debt was included for the final determination.

Comment 10: Petitioner argues that Algoma's depreciation, fixed overhead costs and SG&A expenses should be included in the U.S. manufacturing cost adjustment.

DOC Position: We agree. These costs were included for the final determination.

Comment 11: Petitioner argues that information submitted by Ipsco on March 4, 1986, regarding Ipsco's costs for prime and limited service production costs should be disregarded.

DOC Position: The calculations submitted by Ipsco on March 4, 1986, were not used as the basis for this final determination.

Comment 12: Petitioner claims that Ipsco's bad debt expense adjustment to FMV should be disallowed since it was not written off as a loss during the period of investigation. Further, Ipsco improperly considered this to be a direct selling expense, contrary to the Departmental practice of treating such items as indirect selling expenses.

DOC Position: We agree that we should disallow this claim. Normally, we consider bad debt losses when the company writes them off in accordance with their own practices. In Ipsco's case, the debt in question is to be settled in court and is not considered a loss. Therefore, the claim is disallowed.

Comment 13: Petitioner claims that Ipsco overstated its warranty expenses by including secondary costs that should not be treated as direct warranty adjustments; instead, they should be treated as indirect selling expenses.

DOC Position: During the verification, Department officials established from Ipsco's source documents that the included expenses were directly related to the warranty costs of the pipes. Therefore, such expenses were considered as part of warranty expenses in the circumstances of sales adjustments.

Comment 14: Petitioner claims that in calculating Ipsco's freight costs the Department should use average freight costs rather than the actual freight cost, because these are the only costs that have been verified for all markets.

DOC Position: We agree and have used the verified average freight costs.

Comment 15: Petitioner contends that the Department should use Ipsco's actual production costs rather than the calculated "normalized" costs proposed by Ipsco. Contrary to Ipsco's assertions, its actual cost are not extraordinary within the Department's definition of the term and therefore are the appropriate costs to use the final determination. Further, the "normalized" costs submitted by Ipsco were untimely, hypothetical, and unsubstantiated.

DOC Position: Ipsco incurred abnormally high costs for certain products which it recently started producing. However, the normalized cost data submitted by Ipsco was not sufficiently substantiated. At verification, information was gathered regarding yield rates during and after the period of investigation. Where such information was available, the low yield rates in the period of investigation were normalized, in keeping with the Department's policy of amortizing start-up costs over future production.

Comment 16: Petitioner claims that Ipsco failed to account for research and development costs. The Department should adjust Ipsco's cost of production to reflect unreported research and development costs.

DOC Position: Ipsco reported research and development costs as part of general and administrative expenses. However, petitioner refers to Ipsco's argument that certain expenses incurred in initial production runs of experimental products, which in Ipsco's cost accounting system are classified as production costs, should be excluded from the "normalized" costs of these products. In the calculation of "normalized" costs for these products, the Department amortized these costs over present and estimated future production.

Comment 17: Petitioner argues that the Department should not classify Ipsco's off-specification OCTG as a by-product. There is significant demand for off-spec OCTG and, therefore, its production is desirable. Further, classifying off-spec OCTG as a by-product and not attributing any cost of production to it would encourage firms to circumvent the antidumping order by merely ceasing to test pipe for compliance with API standards.

DOC Position: We treated Ipsco's production of off-specification pipe as a full-costed product by spreading the cost of production equally over prime production and production off-spec products.

Comment 18: Petitioner argues that Welded Tube's cost of production data should be adjusted to reflect the differential in costs of producing casing of different dimensions.

DOC Position: We agree. For the final determination, we reallocated labor and overhead costs to accurately account for the differences in costs among different casing diameters.

Comment 19: Petitioner argues that Welded Tube's second quality tube should be included as a yield loss and the production costs offset by the sale of scrap.

DOC Position: We agree. The second quality product was treated as a by-product. Revenues from the sale of scrap were offset against production costs.

Comment 20: Petitioner argues that Welded Tube's slitting costs should be recalculated, first by allocating this expense among the proper mills, and then by allocating the costs among the products produced in that mill.

DOC Position: We agree. This was done for the final determination.

Comment 21: Petitioner argues that the following income items should not be allowed as deductions from Welded Tube's factory overhead and SG&A expenses: "storage income," "sundry income," and "dividend income."

DOC Position: We agree. These were not included in the final determination.

Comment 22: Petitioner argues that the factory overhead costs that Sonco reclassified to SG&A expense for purposes of the antidumping investigation should be included as a manufacturing cost.

DOC Position: We agree. These costs were included in manufacturing overhead for the final determination.

Comment 23: Petitioner argues that the reallocation of Sonco's electricity, water and gas costs among mills for the purposes of this antidumping investigation should be disallowed.

DOC Position: The reallocation was disallowed.

Comment 24: Petitioner claims that Sonco's accrued warranty expenses should be included as an overhead expense.

DOC Position: Accrued warranty expense was included in SG&A expense for the final determination because it is a selling expense.

Comment 25: Petitioner claims that any overstatement in submitted yield rates by Sonco should be corrected and production costs adjusted accordingly.

DOC Position: The Department used the verified yield rates except for limited service casing. The yield and, accordingly, the costs were revised for the limited service pipe.

Comment 26: Petitioner argues that the production costs of limited service casing should be increased to reflect the scrap cost of producing this casing.

DOC Position: We agree. The costs were increased to include estimated scrap and rejected casing.

Domestic Interested Party

Comment 1: Counsel for interested party claims that Sonco's raw material supplier, Algoma, is a related party. Interested party further claims that Algoma has an option to purchase 50 to 100 percent of Sonco's shares. Because of this relationship, the Department should not presume that sales of raw material to Sonco were at arm's length prices. Accordingly, interested party argues that data used to substantiate sales of raw material by Algoma to Sonco should be disregarded and that the Department should use best information available to calculate these costs.

DOC Position: During the verification, the Department reviewed the raw material prices and found that the validity of the transaction prices were supported by the company's records. We found no evidence that any elements of the values were missing. Therefore, we determine that the purchases from Algoma were made at arm's length prices.

Comment 2: Counsel for interested party claims that Sonco's scrap loss was too low, and that the Department should disregard it and use the best information available to calculate the production cost.

DOC Position: After careful review of verification document, we believe that, except for the limited service products discussed within, submitted yield rates for the six-month period used for the final determination were reasonable.

Comment 3: Counsel for the interested party claims Sonco's overhead costs should be allocated on the basis of mill run time.

DOC Position: We reviewed allocations of overhead items which were computed based on tonnage and determined that the difference in costs between use of run time and tonnage bases was not significant.

Comment 4: Counsel for interested party claims that the SG&A reported by Sonco are too low due to the underallocation of such items as warehousing expenses and inventory carrying charges. Sonco's actual SG&A expense should be equal to or higher than that of Ferrum Inc., Sonco's parent company. Allocation of SG&A expenses based on sales tonnage will underallocate expenses to OCTG.

DOC Position: See our responses to Sonco's Comments number 4 and 7.

Comment 5: Counsel for the interested party argues that the Department should not accept Sonco's cost allocations because they do not reflect the respondent's usual cost allocation practices and should use best information available.

DOC Position: We agree that the respondent's reallocations should not be accepted. Such reallocations were disallowed for the final determination.

Comment 6: Counsel for the interested party argues that Sonco's accrued warranty expense should be allocated to the production cost.

DOC Position: Accrued warranty expense was allocated as part of SG&A expense for the final determination.

Comment 7: Counsel for the interested party argues that Sonco's actual profit margin on the OCTG was not specific and it prevents the interested party from checking to see if Sonco under-reported its cost of goods sold and SG&A.

DOC Position: The Department verified the actual elements of cost related to Sonco's costs of production to determine if the costs were appropriately valued.

Comment 8: Counsel for the interested party argues that Sonco's cost for further manufacturing in the United States was understated.

DOC Position: We agree. Certain SG&A and manufacturing expenses were reallocated for the final determination.

Comment 9: Counsel for the interested party and petitioner argues the constructed value information provided by Sonco is inconsistent and unreliable.

DOC Position: For the final determination, the constructed values were based on the verified amounts.

Respondents Comments

Sonco Comment 1: Sonco argues that the U.S. sales of API products constitute the majority of its sales, and sales of the limited service product are so small that they should be excluded from the fair value comparison because they were not in the ordinary course of trade.

DOC Position: We have included "limited service" products in the fair value comparison. We rejected Sonco's argument of treating "limited service" products as not in the ordinary course of trade. Ordinary course of trade is not applicable to U.S. sales.

Comment 2: Sonco argues that the credit expenses incurred in both markets were the same and no adjustment for credit expenses required.

DOC Position: We agree.

Comment 3: Sonco argues that a cash discount offered U.S. customers should not be treated as a reduction in price, but rather as an offset to credit expenses.

DOC Position: It is long established practice that the Department treats such discounts as reductions of price not as part of a credit expense equation.

Comment 4: Sonco argues that if the Department does not use Sonco's total credit expense calculation, then the discount given for early payment should be treated as a circumstance of sale adjustment. If the Department makes this circumstances of sales adjustment, it should be made for all comparison using either home market sales or constructed value.

DOC Position: A reduction for an early payment discount from the price has been a longstanding administrative practice. A discount represents a reduction in the price paid by the customer and must be deducted in calculating the U.S. price. It is not a circumstance of sale adjustment.

Comment 5: Sonco claims that the Department should use the daily exchange rate rather than the quarterly exchange rate for its currency conversion.

DOC Position: We agree and have done so.

Comment 6: Sonco claims that the Department should allocate the costs of producing scrap, rejects, and limited service OCTG to the production of the prime and non-prime merchandise. To calculate those costs, the Department should offset the cost of production by revenue earned in the selling of the scrap, reject and by-product material. this is consistent with Departmental practice.

DOC Position: We treated scrap and rejects as by-products. The limited service OCTG, which has the same use as the prime quality product, was not treated as a by-product.

Comment 7: Sonco claims that it properly classified consulting fees, general plant administration and salaries, and insurance as SG&A expenses rather than the cost of manufacturing. Therefore, the

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Department should include them in Sonco's SG&A rather than in its cost of manufacture.

DOC Position: We disagree. We believe that the expenses were more appropriately classified as overhead.

Comment 8: Sonco claims that the Department overstated the SG&A expenses by using the Sonco parent company's financial statement rather than expenses specific to Sonco. Ferrum Inc.'s, financial statement includes SG&A attributable soley to products other than OCTG. Including these expenses is contrary to the Department's practice of attributing only those SG&A expenses related to the products under investigation.

DOC Position: We agree. Only SG&A expenses related to the production of OCTG were used for the final determination.

Comment 9: Sonco should not include accrued pipe warranty expenses in its submitted overhead costs because it has never had a warranty claim against its OCTG products.

DOC Position: An allocation of this expense was included in SG&A expense for the final determination.

Comment 10: Sonco has properly allocated its electricity, water and gas costs between the two mills at the Van Kirk facility on the basis of an engineering study that measured actual usage. The Department should use this allocation.

DOC Position: We disagree. The allocation used in Sonco's internal accounting system, produced in the normal course of business, was used for the final determination.

Comment 11: Sonco properly allocated its plant depreciation and electricity costs on the basis of tons produced because these costs are a function of production.

DOC Position: We disagree. However, since the difference in the amount of plant deprecition and electricity costs between the allocation based on run time and based on tonnage was insignificant, we accepted the submitted amounts.

Comment 12: Sonco has properly accounted for all costs incurred in further processing its material in the United States.

DOC Position: We disagree. We believe that several expenses were allocated using inappropriate allocation bases, resulting in an understatement of costs. These included general and administrative expenses and certain manufacturing costs. We reallocated these for the final determination.

Comment 13: SG&A expenses reported in the financial statements of Ferrum Inc., Sonco's parent, should not be used since they include expenses of the Lyman Tube Division which are completely unrelated to OCTG production.

DOC Position: We agree. Only SG&A expenses related to the production of OCTG were used for the final determination.

Comment 14: Sonco claims that their SG&A expenses should not be allocated as a percentage of cost of goods sold. This methodology overstates the expense because a large portion of Sonco's business is the conversion of pipe for other companies using customer-supplied coil.

DOC Position: We agree. SG&A expenses for the final determination were allocated to the products under investigation on a tonnage basis, a basis we believe to be more appropriate than the cost of goods sold basis under the circumstances for this company.

Comment 15: Sonco claims that the Department should offset the amount of the U.S. selling expenses from its ESP sales in the amount of its selling expenses for comparable merchandise in the home market. Such an offset is in accordance with Departmental practice and should be allowed whether the foreign market value is based on home market sales or constructed value.

DOC Position: We agree and have done so.

Algoma Comment 1: Algoma argues that the Department should exclude the amount for "depreciation and amortization" which was included in the preliminary determination from its calculation of Algoma's SG&A expenses because this amount was already included in the submitted cost of production.

DOC Position: We agree. Since these costs were included in respondent's submission, no adjustment was made by the Department for its final determination.

Comment 2: Algoma argues that the Department should exclude the long-term interest expense because none of Algoma's long-term debt was incurred to purchase the assets used in manufacturing the merchandise under consideration.

DOC Position: We disagree. Since the debt was incurred as part of the corporate long-term capitalization, we included an allocation of the expense in the final determination.

Comment 3: Algoma argues that the Department should reduce Algoma's short-term interest expense by the short-term interest income Algoma earned in 1984, before including the interest expense in SG&A. This interest income was earned in the normal course of business. Such an offset is consistent with Departmental practice.

DOC Position: We agree. The Department followed its usual practice and offset interest expense by ordinary interest income associated with incidential investments related to the ordinary course of business.

Comment 4: Algoma argues that the foreign exchange losses and deferred exchange losses shown in Algoma's Financial Statement are merely paper losses (not actual current expenses to Algoma) and are thus not properly attributable to Algoma's SG&A expense.

DOC Position: We disagree. These were allocated as part of SG&A expense.

Comment 5: Algoma argues that the Department should exclude "seconds" sales of clearance merchandise from its fair value commparison because they were not made in the ordinary course of trade. Algoma states that Departmental policy is to include such clearance sales only if home market sales are otherwise inadequate or the clearance sales represent a significant portion of the U.S. sales under investigation. Alternatively, Algoma suggests that if the Department does include clearance sales, it should compare clearance sales in both markets.

DOC Position: We disagree. We do not believe that these sales of overruns and downgraded API specification material qualify as "clearance merchandise" outside the ordinary course of trade since they were of prime quality and of standard API sizes.

Comment 6: Algoma claims that, in its preliminary determination, the Department failed to adjust the constructed value for physical differences despite its stated position that Algoma was entitled to this adjustment.

DOC Position: We have adjsuted the constructed value for physical differences in reaching this final determination.

Comment 7: Algoma was consistent with Department standards in reclassifying certain "general works" expenses from overhead to SG&A expenses for the submission.

DOC Position: We disagree. For the final determination, these were included in the cost of manufacture.

Comment 8: Algoma correctly modified its ESP U.S. manufacturing expenses adjustments to reflect the price per ton for plain-end OCTG.

DOC Position: We agree. The submission methodology was accepted.

Comment 9: Algoma argues that taxes and royalty payments on iron-ore properties not in production should be excluded from cost of production because such costs do not relate to OCTG production.

DOC Position: We disagree. Since the company is an intergrated producer these expenses would relate to the production of OCTG. For the final determination, the taxes and royalty payments were included in SG&A expense.

Comment 10: Algoma states that it properly treated raw material purchases from related parties as 100 percent variable costs in its calculation of difference in merchandise adjustments.

DOC Position: We agree with Algoma's treatment of the material purchase as 100 percent variable cost.

Comment 11: Algoma contends that it properly excluded the capital tax from SG&A expense in Algoma's submission because this tax is essentially a form of income tax.

DOC Position: We disagree. The tax is based on capital and not income. In addition, the normal treatment of this capital tax in Canada is a general expense. We therefore included it in SG&A expense for the final determination.

Comment 12: Algoma argues that its cost of production should not include an allocation of the general costs of CP Enterprises Limited, Algoma's parent company, because CP Enterprises provides no services to Algoma.

DOC Position: We agree. CP Enterprises Limited is essentially a holding company and, as such, acts as only an investor in Algoma.

Comment 13: Algoma's selling, general and administrative expenses should be allocated on the basis of tons sold.

DOC Position: We disagree. For the final determination, the cost of goods sold allocation basis was used because it takes into account differences in product costs.

Comment 14: Algoma maintains that the Department should make an adjustment for the differences of price due to differing levels of trade between distributor and end-users. Precedent requires the Department, in situations where there are sales to differing levels of trade in both markets, to adjust for differences in prices between the two levels of trade in the Canadian market.

DOC Position: Departmental practice is that, in establishing whether there are differences in sales at varying levels of trade that affect price comparability, information substantiating that the differences in the price are the result of differences in the cost of selling at one level of trade as compared to the other must be submitted and verified. Algoma was unable to substantiate information on cost differences. Therefore, we made no adjustment for differeing levels of trade.

Comment 15: Algoma argues that we should make an adjustment for quantity discounts.

DOC Position: We agree. The verified data indicates that quantity discounts did exist for certain product. Therefore, we included the discount in our calculations for those products.

Comment 16: Algoma argues that, in its preliminary determination, the Department improperly excluded from its foreign market value sales made at below cost if these sales comprised more than 10 percent of Algoma's total sales of that product. The Department may not disregard any of Algoma's home market sales because there is no evidence on the record to show that sales of the entire class or kind of OCTG were "made over an extended period of time and in substantial quantities" at below cost.

DOC Position: In calculating weighted average home market prices, the Department took into consideration the provisions of section 773(b) of the Act which directs that home market sales below cost which are made over an extended period of time and in substantial quantities at prices which do not permit recovery of all costs over a reasonable period of time will be disregarded in the determination of foreign market value.

Thus, there are two stages in the calculation of foreign market value where there are sales below costs. First, the Department must determine whether to disregard below cost sales. Second, if it does disregard them, it must determine whether the remaining above cost sales provide an adequate basis for comparison.

In determining whether to disregard below cost sales, we have followed the precedent set in the antidumping cases involving carbon steel plate from Japan (43 FR 2033) and welded stainless pipe and tubing from Japan (48 FR 1206) in which sales below-cost were disregarded when they amounted to 10 percent or more of the total home market sales. In the case of Algoma, there were a few products that had more than 10 percent of the home market sales which were below cost. These below-cost sales were disregarded in the computation of foreign market value. In certain instances where a product had less than 10 percent of the total home market sales below cost, none of the below-cost sales were disregarded in the computation of foreign market value.

Welded Tube Comment 1: Welded Tube claims that their home market sales were at prices above the cost of production and, therefore, should be used as the basis of comparison for foreign market value.

DOC Position: We agree and have done so.

Comment 2: Welded Tube argues that, in its preliminary determination, the Department overstated the SG&A expenses attributable to OCTG because it included charges reported elsewhere and costs unrelated to OCTG production. The SG&A expenses submitted by Welded Tube accurately calculate those costs for OCTG production, and the Department should use them to determine Welded Tube's cost of production.

DOC Position: We agree. We used the verified SG&A expenses for the final determination.

Comment 3: Welded Tube claims that the Department should use its skelp cost because all purchases of skelp were arm's length transactions made at market prices.

DOC Position: We agree. The supplier's equity interest is under 20 percent and the information provided to the Department indicated that the Skelp price represented market prices. Therefore, these prices were used for the final determination.

Comment 4: Welded Tube has provided the Department with accurate yield loss amounts, The Department has sufficient information with which to calculate Welded Tube's net yield loss for the period of investigation.

DOC Position: During the verification, the Department reviewed Welded Tube's yields and related costs for each product for the period of investigation. These yields were used for the final determination.

Comment 5: Welded Tube's slitting labor and overhead costs should be computed by first allocating the cost to the mill that produces OCTG and then by dividing by that mill's finished tube production output. The submission methodology of allocating the cost to finished production based on total tons slit should not be used.

DOC Position: We agree. The allocation method based on finished tube production tonnage by mill was used for the final determination.

Comment 6: Welded Tube argues that it has accurately reported SG&A expenses. Commission, warehousing expenses, and bad debt expenses were correctly excluded from the submission. Welded Tube provided worksheets at verification which corrected SG&A expenses for the first quarter of 1985.

DOC Position: We agree that the

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above expenses were properly excluded because such expenses were not related to OCTG. However, SG&A expenses were allocated based on production. We used cost of goods sold as the allocation basis for SG&A expenses for the final determination.

Ipsco Comment 1: Ipsco argues that the Department should adjust the foreign market value to reflect rebates provides in the home market.

DOC Position: We agree. Such rebates were verified and allowed.

Comment 2: Ipsco argues that the Department should make a circumstance of sale adjustment for commissions that Ipsco pays to distributors when it sells directly to end-users. These commissions were verified and are appropriately considered a circumstance of sale.

DOC Position: We agree and the adjustments were made for the final determination.

Comment 3: Ipsco contends that the Department should adjust its foreign market value to reflect bad debt expenses directly related to sales of the product under investigation.

DOC Position: We disagree. See our response to Petitioner's Comment 12.

Comment 4: Ipsco states that the Department should adjust for warranty expenses now that it has verified those expenses. Further, that adjustment should cover all warranty expenses claims by Ipsco.

DOC Position: We agree. See our response to Petitioner's Comment 13.

Comment 5: Ipsco argues that, in adjusting United States price for Canadian inland freight, the Department should use actual freight costs rather than average costs. These freight costs are easily ascertainable and would prevent over-or understatement of the costs.

DOC Position: We disagree. See our response to Petitioner's Comment 14.

Comment 6: Ipsco argues that all extraordinary costs attributable to equipment start-up, product development, and limited test runs should be amortized over the useful life of the equipment or technology involved, rather than fully assessed against products produced in this start-up phase. Ipsco provides and urges the Department to use this normalized cost instead of the actual production costs.

DOC Position: The normalized cost information submitted by Ipsco is based on standard costs contained in Ipsco's annual management budget adjusted for inflation using a broad index of price levels. The standard costs contained in the budget are not used by Ipsco in its cost accounting sytem. This information is not sufficient to substantiate the level of production costs under normal operating conditions. However, as stated in our response to Petitioner's Comment 16, we have amortized costs related to low yield rates on initial production runs over present and estimated future production, where yield rates for subsequent production were available and were lower.

Comment 7: Ipsco offers two possible methods of determining foreign market value for comparison purposes for its sale of off-spec merchandise. First, Ipsco suggests the Department use the uniform per ton value which Ipsco ascribes to such by-products in calculating the cost of prime material. If not, the Department should use the actual selling price for such off-spec merchandise. In either case, Department practice, generally accepted accounting principles, and industry practice require that the cost of production of the prime product should reflect the costs of all production net of the reject value.

DOC Position: Because the off-spec merchandise is used as OCTG and can be very similar to prime merchandise, we have included it in this investigation and made comparisons of United States price with foreign market value for sales of off-spec merchandise. In order to allow such comparisons, we rejected Ipsco's methodology of treating off-spec production as a by-product.

Comment 8: Ipsco contains that the Department improperly excluded sales of oilwell tubing from its calculations of foreign market value in the preliminary determination. The Department should correct this error for the final determination.

DOC Position: We agree and have done so.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to continue to suspend liquidation of all entries of OCTG from Canada (with the exception of those OCTG produced by Welded Tube) that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the **Federal Register**. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
Algoma	14.28
Ipsco	40.65
Sonco	3.35
Welded Tube	0
All others	19.38

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided that the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry, within 45 days after our final determination.

If the ITC determines that material injury, or threat of material injury, does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that such injury does exist, we will issue an antidumping duty order on the subject merchandise which was entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value of the merchandise exceeds the United States price.

This notice is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

April 16, 1986.

[FR Doc. 86-8862 Filed 4-21-86; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-479-502]

Termination of Antidumping Duty Investigation; Welded Carbon Steel Pipe and Tube Products From Yugoslavia

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On March 27, 1986, the Standard Pipe and Tube Subcommittee of the Committee on Pipe and Tube Imports (CPTI), withdrew its antidumping petition, filed on July 16, 1985, on certain welded carbon steel pipe and tube products from Yugoslavia. Based on the withdrawal, we are terminating the investigation.

EFFECTIVE DATE: April 22, 1986.

FOR FURTHER INFORMATION CONTACT: Mary Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1769.

SUPPLEMENTARY INFORMATION:

Case History

On July 16, 1985, we received a petition from the Standard Pipe and Tube Subcommittee of the Committee on Pipe and Tube Imports (CPTI) filed on behalf of the U.S. industry producing certain standard pipe and tube and line pipe.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated the investigation on August 5, 1985, (50 FR 32248). On August 30, 1985, the ITC determined that there is a reasonable indication that imports of standard pipe and tube from Yugoslavia are materially injuring a United States industry. On August 30, 1985, the ITC also determined pursuant to section 733(a) of the Act (19 U.S.C. 1673b(a)) that there is no reasonable indication that an industry in the United States is materially injured, or threatened with material injury by imports of line pipe. On December 23, 1985, we made a preliminary determination that certain welded carbon steel pipe and tube products from Yougoslavia were being, or were likely to be, sold in the United States at less than fair value. On March 10, 1986, we made a final determination that certain welded carbon steel pipe and tube products from Yugoslavia were being, or were likely to be, sold at less than fair value (51 FR 8863).

Scope of Investigation

The merchandise covered by this investigation is welded carbon steel pipe and tube products with an outside diameter of 0.375 inch or more but not over 16 inches, of any wall thickness, currently classifiable in the *Tariff Schedules of the United States Annotated* (TSUSA) under items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925.

Withdrawal of Petition

On March 27, 1986, petitioner notified us that it was withdrawing its petition and requested that the investigation be terminated. Under section 734(a) of the Act, as amended by section 604 of the Trade and Tariff Act of 1984, upon withdrawal of a petition, the administering authority may terminate an investigation after giving notice to all parties to the investigation. This withdrawal is based on arrangements with the Government of Yugoslavia to limit the volume of imports of this product. We have assessed the public interest factors set out in section 734(a)(2) of the Act and consulted with potentially affected producers, workers, and consuming interests. On the basis of our assessment of the public interest factors and our consultations with affected interests, we have determined that termination would be in the public interest.

We have notified all parties to the investigation of petitioner's withdrawal and our intention to terminate. For these reasons we are terminating our investigation.

Dated: April 16, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-8861 Filed 4-21-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-122-505]

Final Affirmative Countervailing Duty Determination; Oil Country Tubular Goods From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters of oil country tubular goods (OCTG) in Canada. The estimated net subsidy is 0.72 percent *ad valorem* for all companies except those specifically excluded from this detefmination. In addition, we determine that "critical circumstances" do not exist with respect to the subject merchandise.

We have notified the United States International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of OCTG from Canada that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, except for companies that have been excluded from this determination, and to require a cash deposit or bond on entries of this product in an amount equal to the estimated net subsidy as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: April 22, 1986.

FOR FURTHER INFORMATION CONTACT: Steven Morrison or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-1248 (Morrison) or (202) 377-2438 (Tillman).

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers or exporters of OCTG in Canada. For purposes of this investigation, the following programs are found to confer subsidies:

- Certain Types of Investment Tax Credits;
- Regional Development Incentives Program; and
- General Development Agreement/ Canada-Saskatchewan Subsidiary Agreement on Iron, Steel and Other Related Metal Industries.

We determine the estimated net subsidy for OCTG to be 0.72 percent *ad valorem* for all companies except those specifically excluded from this determination.

Case History

On July 22, 1985, we received a petition filed in proper form by the Lone Star Steel Company and CF&I Steel Corporation, producers of OCTG. In compliance with the filing requirements of §355.26 of our regulations (19 CFR 355.26), the petition alleged that manufacturers, producers or exporters of OCTG in Canada directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry. In addition, the petition alleged that "critical circumstances" exist within the meaning of section 703(e)(1) of the Act. We found that the petition contained

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sufficient grounds upon which to initiate a countervailing duty investigation, and on August 12, 1985, we initiated the investigation (50 FR 33369).

Since Canada is a "Country under the Agreement" within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Canada materially injure, or threaten materials injury to, a U.S. industry. Therefore, we notified the ITC of our initiation. On September 5, 1985, the ITC determined that there is a reasonable indication that these imports materially injure a U.S. industry (50 FR 37066).

On August 21, 1985, we presented a questionnaire concerning the petitioners' allegations to the government of Canada. Responses to the questionnaire were received on September 23 and 24, 1985, from the government of Canada, the provinces of Alberta, Ontario and Saskatchewan and from producers who account for substantially all exports of OCTG from Canada to the United States.

There are eleven known producers and/or exporters of OCTG to the United States from Canada. These are Siegfried Kreiser Pipe and Tube; IPSCO, Inc.; Stelco Inc.; Sonco Steel Tube (a division of Ferrum, Inc.); Algoma Steel Corp. Ltd.; Welded Tube of Canada, Ltd.; Prudential Steel, Ltd.; Frank Pipe Co.; Christianson Pipe, Ltd.; Dominion Steel Export Co., Ltd.; and Matthew Tube & Pipe Supply Inc. We received timely requests for exclusion from these companies. We sent them copies of the detailed questionnaire. We verified that eight respondents received no benefits. In addition, Algoma Steel Corporation received benefits which we determine are *de minimis*. Therefore, these nine companies are excluded from this final determination. IPSCO received countervailable benefits above the *de minimis* rate of 0.50 percent. Siegfried Kreiser Pipe and Tube did not respond to our questionnaire.

On September 23, 1985, we received a timely request by petitioners for a extension of the deadline date for the preliminary determination. An extension was granted on September 26, 1985 (50 FR 40209). We made our preliminary determination on December 19, 1985 (50 FR 53172).

Verification was conducted in Canada from October 23, 1985 to November 14, 1985. After verification, supplemental responses were received revising and adding information as requested at verification. Prehearing briefs were submitted on January 9, 1986. The hearing was held on January 14, 1986. Post-hearing briefs were received by the Department on February 3, 1986.

On February 7, 1986, we received a request from petitioners to extend the final countervailing duty determination on OCTG from Canada to coincide with the final antidumping duty determination on a simultaneously initiated investigation of the same merchandise from the same country. This request was made pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended. Pursuant to petitioners' request we extended the date of the final countervailing duty determination on OCTG from Canada until not later than April 16, 1986, to correspond to the date of the final antidumping duty determination (51 FR 7977).

Under Article 5.3 of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement of Tariffs and Trade (1979), we would have to terminate the suspension of liquidation of countervailing duties if the final injury determination date, as extended, was more than four months after the date of publication of the preliminary affirmative countervailing duty determination, December 30, 1985 (50 FR 53172). Therefore, we will terminate the suspension of liquidation ordered in our preliminary affirmative countervailing duty determination on May 1, 1986. We will reinstate the suspension of liquidation if the ITC makes a final affirmative injury determination in this investigation.

Because of the extension of the final determination, we were able to conduct a supplemental verification of information submitted by IPSCO after our preliminary determination. This suplemental verification was conducted in Washington, D.C. on March 21, 1986.

Scope of Investigation

The products covered by this investigation are "oil country tubular goods," which are hollow steel products of circular cross-section intended for use in drilling for oil or gas. These products include oil well casings, tubing and drill pipe of carbon or alloy steel, whether welded or seamless, manufactured to either American Petroleum Institute (API) or non-API (such as proprietary) specifications as currently provided for in the *Tariff Schedules of the United States Annotated* (TSUSA), under items 610.3218, 610.3219, 610.3233, 610.3234, 610.3242, 610.3243, 610.3249, 610.3252, 610.3254, 610.3256, 610.3258, 610.3262, 610.3264, 610.3721, 610.3722, 610.3751, 610.3925, 610.3935, 610.4025, 610.4035, 610.4210, 610.4220, 610.4225, 610.4230, 610.4235, 610.4240, 610.4310, 610.4320, 610.4325, 610.4335, 610.4942, 610.4944, 610.4946, 610.4954, 610.4955, 610.4956, 610.4957, 610.4966, 610.4967, 610.4968, 610.4969, 610.4970, 610.5221, 610.5222, 610.5226, 610.5234, 610.5240, 610.5242, 610.5243, 610.5244. This investigation includes OCTG that are in both finished and unfinished condition.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published on April 20, 1984 (49 FR 16008).

For purposes of this final determination, the period for which we are measuring subsidies (the review period) is calendar year 1984. Based upon our analysis of the petition, the responses to our questionnaires submitted by the federal and provincial governments as well as those of the ten responding companies as amended, the verifications, and comments submitted by the petitioners and the respondents, we determine the following:

I. Programs Determined To Confer Subsidies

We determine that subsidies are being provided to manufacturers, producers or exporters of OCTG in Canada under the following programs:

A. Certain Types of Investment Tax Credits

There are several categories of Investment Tax Credits (ITCs) in Canada. Two ITC programs are directed at encouraging capital investment in certain regions of the country. One category of ITC is for investment in "qualified property," such as new plant and equipment used for manufacturing or processing. The basic ITC for investment in qualified property is seven percent. An additional three or 13 percent is available for qualified property used in certain regions. IPSCO and Algoma each claimed the additional three percent ITC for qualified property used in Saskatchewan and Sault Ste. Marie, respectively.

We verified that the basic seven percent rate for "qualified property" is not limited to a specific industry or region. We, therefore, determine that it is not countervailable. However, because the additional rate of three percent for qualified property can only be claimed on investments in assets used in certain regions, we determine that this additional benefit is countervailable. We also verified that the additional 13 percent rate was not used by manufacturers, producers or exporters of OCTG in Canada.

A second category of ITC is for investment in "certified property." The distinguishing factor between "certified property" and "qualified property" is that the former must be located in prescribed regions characterized by high levels of unemployment and low per capita income. The ITC rate for certified property is 50 percent. We verified that no manufacturer, producer or exporter of OCTG in Canada used certified property ITCs in the review period.

A third category of ITC is for scientific research. Eligible expenditures under this category include the cost of capital equipment used for scientific research and expenses attributable to scientific research. A basic 20 percent ITC rate is available for qualifying scientific research expenditures to all companies in Canada. For small Canadian-controlled private corporations, the rate is 35 percent. For all other corporations, the rate is 30 percent, if the expenditure is made in certain regions. From April 1983 to May 1985, manufacturers incurring scientific research expenses, receiving scientific research and operating at a tax loss could sell these ITCs to companies owing taxes. Algoma and Stelco used 20 percent scientific research ITCs. We determine that 20 and 35 percent scientific research ITCs, whether sold or used by the company performing the research, do not confer domestic subsidies because they are not limited to a specific enterprise or industry, or group of enterprises or industries, or to companies in specific regions. We did not discover any corporations manufacturing, producing, or exporting OCTG in Canada that were eligible for the 30 percent regional benefit. We verified that the 35 percent scientific research ITC for small business was not used.

A fourth category of ITC is for qualified transportation and construction equipment. It is also a nationwide program. We verified that no manufacturer, producer or exporter of OCTG used this particular tax credit.

In our "Final Affirmative Countervailing Duty Determination: Certain Fresh Atlantic Groundfish from Canada" ("Groundfish") (51 FR 10041), we stated that there were four categories of ITCs. We have since become aware of a fifth category which is for research and development. During the review period, a company could receive ITCs for ten percent of its research and development expenses (20 percent for small businesses). This provision is available to companies nationwide. IPSCO received tax deductions under this provision in 1984. We determine that research and development ITCs do not confer domestic subsidies because they are not limited to a specific enterprise or industry, or group of enterprises or industries, or to companies in specific regions.

Canadian tax law provides that ITCs may be subtracted from taxes owed, but if no taxes are owed (either because a company is initially in a tax loss position or because only some of the ITCs have been used to satisfy all tax liability), those excess ITCs earned after April 19, 1983, have a refundable, one-time cash value of equal to 20 percent of the initial, face value of the ITC (40 percent for small businesses). We verified that Algoma did get refunds for some post-April 19, 1983 qualified property ITCs for cash on tax returns filed in 1984.

To calculate the benefit from the "qualified property" ITCs, we followed our standard tax methodology. Under our tax methodology, we allocate an income tax benefit to the year in which the tax return was filed. Thus, we looked at the tax return filed in 1984, covering fiscal year 1983. We examined IPSCO's and Algoma's tax returns filed during the review period and found the value of "qualified property" ITCs in excess of the seven percent threshold. We then divided that amount by each company's total sales to calculate a net subsidy of 0.01 percent *ad valorem* for Algoma and 0.01 percent *ad valorem* for IPSCO.

B. Regional Development Incentive Program (RDIP)

The RDIP, which was the predecessor of the Industrial and Regional Development Program, was administered by the Department of Regional Economic Expansion (DREE) for the purpose of creating stable employment opportunities in areas of Canada where employment and economic opportunities were chronically low. The program provided development incentive (usually grants) to manufacturers whose capital investment projects for establishing new facilities or expanding or modernizing existing facilities would create jobs and economic opportunities in areas designated as economically disadvantaged.

Because benefits were limited to companies located within specific regions in Canada, we determine that grants provided through the RDIP program of DREE are countervailable. We verified that the only manufacturers, producers or exporters of OCTG located in regions of Canada eligible for RDIP were IPSCO and Algoma.

Each company received one RDIP grant for facilities not used in the production of OCTG. Consistent with our methodology, when a grant is tied specifically to a production not under investigation, we do not include it in our calculation of benefits. In addition, we verified that one RDIP grant, reported by the government of Canada as paid to IPSCO, was actually paid to a scrap metal company subsequently acquired by IPSCO. The money was paid to the scrap metal company more than a year before its assets were acquired by IPSCO. We verified that IPSCO did not receive any funds under this grant.

IPSCO also received a large grant under RDIP and a Saskatchewan subsidiary agreement which is discussed in the next section of this notice. The benefit from this joint grant is included in the subsidy calculation for this RDIP program. Finally, IPSCO and Algoma each received RDIP grants which were used for several facilities producing both OCTG and other products. Since these grants were used in the production of OCTG, among other products, we included the full amount of these grants in our calculations.

To calculate the benefits from these RDIP grants, we used the methodology for grants outlined in the Subsidies Appendix. Because RDIP grants are not provided automatically every year, we allocate the benefits received over time. The average useful life of equipment in the steel industry is 15 years as determined by standard Internal Revenue Service tables. Thus, for all grants received by each company in the past 15 years, we aggregated all grants received by each company in each year and divided by the company's total sales in that year. If the result was less than 0.50 percent (*de minimis*), we expensed the full amount of the grant(s) in the year of receipt. If the result was 0.50 percent or greater, we allocated the grant over the average useful life of equipment using our declining balance methodology.

We applied the methodology outlined in the Subsidies Appendix. Using this methodology, we determine the estimated net subsidy to be 0.71 percent *ad valorem* for IPSCO and 0.04 percent *ad valorem* for Algoma. The amount calculated for IPSCO includes the full amount of a grant jointly funded by RDIP and a subsidiary agreement discussed below.

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C. General Development Agreement (GDA) and the Canada-Saskatchewan Subsidiary Agreement on Iron, Steel and Other Related Metal Industries

GDAs, which were umbrella agreements stating general economic development goals, provided the legal basis for departments of the federal and provincial governments to cooperate in the establishment of economic development programs. Ten-year GDAs were signed with all the provinces in 1974, except P.E.I., which had signed its own Comprehensive Development Plan in 1969. Five-year GDAs were signed with the Yukon Territory in 1977 and with the Northwest Territories in 1979.

Pursuant to GDAs, subsidiary agreements were signed. The subsidiary agreements were generally between particular federal and provincial government departments (*e.g.*, DREE and the Ministry of Industry and Commerce in Saskatchewan). These agreements established various individual programs, delineated administrative procedures and set out the relative funding commitments of the federal and provincial governments. Subsidiary agreements were typically directed at establishing traditional government programs (*i.e.*, extension services, developing infrastructure, providing for economic development assistance for certain regions within the province and creating programs for specific industries).

The iron and steel subsidiary agreement in Saskatchewan was intended to enhance the viability of the existing iron and steel industry in the province, to expand and diversify iron and steel production, and to increase employment opportunities in the iron, steel and other related metal industries in Saskatchewan. IPSCO was and still is the only producer in Saskatchewan of pipe (including OCTG) in addition to being the sole steel producer in the province. IPSCO received most of the funds the province budgeted for primary and secondary steel facilities under the subsidiary agreement. As such, we determine this subsidiary agreement to be countervailable because it provided direct financial assistance that was limited to a specific enterprise or industry, or group of enterprises or industries.

IPSCO received two grants under the subsidiary agreement. These two grants were jointly approved and funded through RDIP and the subsidiary agreement. IPSCO received funds under one grant in 1976 and 1978. These were the only grant funds IPSCO received in each of those years. The funds received under this grant were less than 0.50 percent of total IPSCO sales in each of those years. Thus, we expensed the amount of each of these grants to the year of receipt. IPSCO received funds under the other grant in 1980, 1981, 1982 and 1983. The amount of these disbursements exceeded 0.50 percent of total IPSCO sales in each of those four years. Therefore, we allocated each of these disbursements over time and have included the benefits in our calculation of the estimated net subsidy under RDIP.

II. Programs Determined Not To Confer Subsidies

We determine that subsidies are not being provided to manufacturers, producers or exporters of OCTG in Canada under the following programs:

A. Grant Under the Enterprise Development Program (EDP)

The EDP was established to provide loans, loan guarantees and contributions to those engaged in manufacturing or processing. In the "Final Negative Countervailing Duty Determinations: Certain Softwood Products from Canada" ("Softwood") (48 FR 24159 (1983)), we found EDP grants not countervailable and EDP loan programs not used. Based on that determination, we initiated an investigation only on EDP loan programs and not EDP grants. However, IPSCO's 1984 annual report stated that the company was being assisted by an EDP grant for research on a new alloy while the government of Canada response said the EDP program was terminated in 1983. Because of this inconsistency in the information provided in the two responses, we asked for additional information in order to determine whether a new EDP program has been established.

We verified that companies could continue to receive funds for projects approved prior to the termination of the EDP program and that there was no new EDP program. In addition, although project funding for the grant has been approved, we verified that IPSCO has not yet received any funding under this program. Accordingly, we have no information changing our prior conclusion that EDP grants are not limited to a specific enterprise or industry, or group of enterprises or industries, or to companies in specific regions. EDP loan programs were not used as explained in section III. I. of this notice.

B. Employment Development Fund (EDF)

The Employment Development Fund (EDF), which was terminated in 1982, was an Ontario provincial grant program intended to increase long-term investment and employment in the province. In its response, one OCTG manufacturer reported receipt of an EDF grant. During verification, we saw that as part of the application procedure, applicants are required to predict the growth of production and exports. However, the default provisions of the application form are not triggered if the projected export goals are not met.

We determine that EDF was not an export subsidy because these grants were provided to producers for the domestic market as well as to exporters, and receipt of EDF grants was not contingent on export performance. Based on our examination of a report on recipients of EDF, funding was provided to a wide range of industries in Ontario including general manufacturing, automotive, high-technology electrical products, wood products, tourism, textiles, transport, chemicals, agriculture, and pulp and paper. Therefore, we also determine that EDF grants do not confer domestic subsidies because they are not limited to a specific enterprise or industry, or group of enterprises or industries, or to companies in specific regions.

C. Alberta Opportunity Loan to IPSCO

The Alberta Opportuntiy Company (AOC), a crown corporation, issues loans and loan guarantees to companies in Alberta in order to stimulate new businesses and assist expansion of existing enterprises when financing from other sources is unavailable. In *Softwood*, we determined that AOC loans were not limited to a specific enterprise or industry, or group of enterprises or industries, or to companies in specific regions. However, we initiated an investigation on this program because we had information that AOC loans may be intended for export promotion. According to the responses, IPSCO had a loan outstanding from the AOC during the review period.

IPSCO's AOC loan is not a part of normal loan program; it is part of a settlement reached in court for IPSCO's purchase of physical assets of Ram Steel (Ram), a company placed into receivership by its primary secured creditor. Thus, even though we found no linkage of this loan to exports, we examined whether the loan was granted on terms inconsistent with commercial considerations.

Normally, we determine this by comparing the interest rate and other charges to comparable, commercial loans. To find comparable, commerical loans, we look first to the company's debt experience. If it has no comparable, commercial debt outstanding, we look to the national experience. The circumstances surrounding this loan were unusual. The lending institution faced large losses, absent a favorable resolution of Ram's financial difficulties. Because of this, normal loans from a commercial bank that is not exposed in a similar manner are not comparable. We were unable to find comparable, commercial loans to determine the appropriate benchmark.

Thus, we had to determine whether a commercial lender would act as AOC did. AOC was the secondary, secured creditor of Ram at the time the court placed Ram in receivership. The court assigned an officer of Peat Marwick, Ltd. (a neutral, private party) as the receiver to negotiate the best deal possible on behalf of Ram's creditor and storkholders. According to the receiver, the company could not be operated by the receiver or by Ram at a profit, and the price offered by IPSCO was the highest price they could obtain (it was also the only offer they received). It included payoff of the primary creditor which was a pre-condition of AOC receiving anything at all. The assets of Ram were appraised by an independent appraiser acting on behalf of the Court. The appraiser evaluated the assets of Ram, purchaser by IPSCO, as if they were used in a profitable business. The final price offered by IPSCO was seven percent more than the value that the appraisor placed on the assets. IPSCO made its offer to buy contingent upon receiving a loan from AOC to cover part of the purchaser price. The receiver determined that IPSCO' offer, including the AOC loan terms, was in the best interest of all of Ram's creditors, including AOC. By granting that loan, AOC was able to recover most of the money owed it by Ram and to receive the full principal and interest of this loan to IPSCO on deferred terms, as was a condition of IPSCO's offer.

Given the above information, we determine that AOC's loan to IPSCO was not inconsistent with commercial considerations. It is commercially reasonable to accept deferred repayment terms on a portion of the purchase price in this situation, whether or not the lender is a government-funded company, especially if acceptance of such terms is part of a settlement recommended by a court-appointed receiver. By accepting deferred repayment on the remainder of the price, the lender avoided major financial losses, otherwise reasonably expected, had it not accepted the deferral. (We note that banks, in particular, are willing to renegotiate loan terms in order to avoid having to write off large amounts of bad debt.)

Additionally, it is commercially reasonable for IPSCO to negotiate the best terms possible for itself when borrowing. In a situation where IPSCO make the only offer for Ram's assets, it is reasonable for IPSCO to look for credit from the lender who stands to lose the most if the purchase falls through. IPSCO is still required to repay interest and principal on this loan and has made all payments required thus far.

Therefore, since we have determined that the AOC loan was not provided on terms inconsistent with commercial considerations, we determine that this loan does not confer a subsidy.

III. Programs Determined Not To Be Used

We determine that the following programs are not used by manufacturers, producers, or exporters of OCTG in Canada:

A. Loans Under Subsidiary Agreements

Petitioners allege that under the GDA and federal-provincial subsidiary agreement, loans were provided on terms inconsistent with commercial considerations. We verified that the GDA was not itself a program and that none of the companies had outstanding loans under the subsidiary agreements during the review period.

B. Defense Industry Productivity Program (DIPP)

The DIPP, administered by the Department of Regional and Industrial Expansion (DRIE), has several purposes. Among these purposes are the stimulation of exports of military hardware and the provision of assistance to upgrade equipment, processes and facilities to make companies more competitive in bidding for military hardware contracts.

We verified that Algoma is the only manufacturer, producer or exporter of OCTG that received a DIPP grant. The grant was for a facility to desulfurize steel, which is used in producing OCTG and other steel products. DIPP funds were paid to Algoma in 1980 and 1981. Although the Department may determine that DIPP grants serve as export subsidies in other cases, we verified that there were no conditions in the Algoma DIPP grant agreement which were tied to export performance or which made the grant contingent upon exporting. Algoma has a large home market for desulfurized steel and products made from desulfurized steel. This DIPP grant benefits Algoma's entire production, and not exports alone. Thus, we determine that this grant was not an export subsidy.

Although we have determined that this program is not an export subsidy, we must still determine whether any benefits were received during the review period and, if so, whether this program is limited to a specific enterprise or industry, or group of enterprises of industries. Consistent with the Subsidies Appendix, we divide the sum of all grants received in each year by the total sales of the company in the same year. Algoma received no other grants in the two years DIPP funds were received. The calculated benefits in each year were *de minimis*; therefore we expensed them in the year of receipt. Because the DIPP grants received by Algoma were expensed prior to the review period and because no DIP grants were received by Algoma during the review period, we determine this program was not used.

C. Community-Based Industrial Adjustment Program of the Industry and Labor Adjustment Program (CIAP/ILAP)

This program, now terminated, provided loans and grants to firms in designated communities affected by high unemployment. We verified that 12 identified communities were eligible for CIAP during the life of the program. None of the OCTG respondents were located in these communities.

D. Promotional Projects Program (PPP)

The PPP is run by the Department of External Affairs. At selected foreign trade shows, the government of Canada rents space, furniture, and facilities which it subleases at minimal charge to Canadian exhibitors. The government of Canada reported that one OCTG respondent, Stelco, used the PPP in 1983 and 1985 (but not 1984) at a trade show in the United States. This benefit was received outside the review period. We verified that no benefit was received by OCTG companies during the review period.

E. Program for Export Market Development (PEMD)

The PEMD program is also run by the Department of External Affairs. One PEMD subprogram was reportedly used by Stelco, Algoma and IPSCO to recover certain transportation expenses incurred in selling specific products in potential markets. We verified that none of these trips were for selling OCTG in the United States. Therefore, we determine that this program was not used.

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F. Industrial and Regional Development Program (IRDP)

Under the administration of DRIE, IRDP was established in 1983 as the successor to the RDIP. Its purpose is to increase industrial development and improve the overall economic climate in Canada. To accomplish this goal, grants are provided for four major purposes: (1) To encourage the development of new products and new processes and to increase industrial productivity and industrial competitiveness; (2) to assist in the establishment of new production facilities in less developed areas; (3) to increase industrial productivity through the improvement, modernization and expansion of existing manufacturing and processing operations; and (4) for marketing purposes. Each census district in Canada is classified into one of four tiers based on its level of economic development. The level of benefit varies inversely with employment, population density, and existing facilities.

The petitioners alleged that DRIE provides discretionary grants, interest-free loans and loan guarantees under IRDP. We verified that no IRDP loans or loan guarantees were provided to manufacturers, producers or exporters of OCTG. We have, however, verified that IPSCO and Siegfried Kreiser have been approved for specific IRDP grants, but have not yet received any funds. Therefore, we determine that this program was not used in the review period. We will examine any future provisions of money under IRDP in any section 751 review that may be requested.

G. Saskatchewan Economic Development Commission (SEDCO)

SEDCO issues loans, loan guarantees and in some cases invests in Saskatchewan industries and commerce. We verified from company financial records that, in the review period, none of the OCTG respondents had any outstanding loans, loan guarantees, investments or other assistance from SEDCO.

H. Ontario Development Corporation (ODC) Export Support Loans, Other Loans and Loan Guarantees

The ODC controls, approves and administers loan and loan guarantee programs in addition to administering, but not approving, grant programs (such as the Employment Development Fund, discussed earlier in this notice). We verified that no OCTG producer has received assistance under these programs.

I. Enterprise Development Program (EDP) Loans

Petitioners alleged that loans were provided on terms inconsistent with commercial considerations under EDP. Based on information in the records we inspected, none of the manufacturers, producers or exporters of OCTG had EDP loans outstanding during the review period.

J. Interest-Free Loans and Below-Commercial Rate Loans

Petitioners alleged that loans have been provided on terms inconsistent with commercial considerations by the government or at the direction of the government. We have verified that no government-funded or directed loan programs were used by manufacturers, producers or exporters of OCTG other than those programs already addressed in this notice.

K. Government Grants for Purchase of Fixed Assets

Petitioners alleged that government grants have been provided to IPSCO for purchase of fixed assets. We have verified that IPSCO and Algoma received grants for acquisition of fixed assets under the RDIP, DIPP and a subsidiary agreement. These grant programs are addressed elsewhere in this notice. The verified financial records of the governments and the companies indicate that there are no other government grant programs used by manufacturers, producers or exporters of OCTG, other than those previously discussed.

Negative Determination of Critical Circumstances

Petitioners alleged that imports of OCTG from Canada present "critical circumstances." Under section 703(e)(1) of the Act, critical circumstances exist when the Department has a reasonable basis to believe or suspect that (1) the alleged subsidy is inconsistent with the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement of Tariffs and Trade ("the Subsidies Code"), and (2) there have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period. Based upon our analysis, there were no export subsidies bestowed upon OCTG in Canada during the review period. Accordingly, we determine that the subsidies received are not inconsistent with the Subsidies Code.

Since we have determined that the subsidies are not inconsistent with Code commitments, we need not determine whether there have been massive imports. Accordingly, we determine that "critical circumstances" do not exist with respect to OCTG from Canada.

Petitioners' Comments

Comment 1: Petitioners argue the original AOC loan to Ram Steel provided a countervailable benefit to IPSCO. Petitioners have two major concerns. First, they argue that the loan to Ram was given on terms inconsistent with commercial considerations. Second, they argue that AOC provided another countervailable subsidy through its apparent forgiveness of two million dollars of Ram's outstanding debt. In both situations, petitioners argue that since the funds were provided to Ram, the subsidies accure to Ram's assets. Therefore, by purchasing Ram's subsidized assets, IPSCO is benefitting from those subsidies. Petitioners argue that the Department should find that AOC's subsidization of Ram's assets did not cease to confer a benefit to those assets once IPSCO purchased them.

DOC Position: Petitioners are asking the Department to determine that AOC loans to Ram conferred a subsidy that was passed through to IPSCO. We looked at the pass-through issue first.

Funds for the AOC loan were received by Ram Steel in January 1983, well after Ram had acquired its plant and equipment and was manufacturing steel pipe. As a factual matter, the loan was not tied to purchase of specific assets. In fact, Ram was manufacturing pipe before it obtained the loan. Further, IPSCO's purchase of Ram's assets was an arm's length transaction. IPSCO purchased Ram's assets at a price above the appraised value. The appraisal of the assets was conducted independently for the Court as part of the receivership proceedings. In an arm's length transaction, such as this one, subsidies, if there are any, are not passed through.

Finally, the other possibility is that IPSCO, in some way, benefitted from a reduction of Ram's liabilities through a forgiveness of debt. IPSCO purchased only Ram's physical assets; it did not purchase Ram itself. Since IPSCO was not responsible to Ram's creditors (Ram's stockholders were), it could not benefit from a reduction in Ram's liabilities.

Thus, since any subsidy to Ram was not passed through to IPSCO, the question of whether Ram received any subsidies is moot.

Comment 2: The petitioners note that the AOC loan to IPSCO, which financed part of the IPSCO purchase price for Ram Steel's plant and equipment, was provided on deferred repayment terms. Therefore, the loan was on terms inconsistent with commercial considerations. Petitioners suggest that we compare the actual payments terms to the payment terms normally offered by commercial banks.

DOC Position: We disagree. See section II.C., "Alberta Opportunity Company Loan to IPSCO," of this notice.

Comment 3: Petitioners note that for one IPSCO grant, approved in 1972, the Department allocated the benefit using a rate of interest on debt applicable to a long-term commercial loan taken out by IPSCO in 1972. They point out that IPSCO also issued bonds at a higher rate of interest in the same year in addition to the commercial loan. Petitioners suggest that we allocate the 1972 grant based on the bond interest rate.

DOC Position: While it is inappropriate to use only the higher interest rate on the bonds in the weighted cost of capital calculation, we have now included this higher interest rate in calculating the average long-term debt rate for the year in which the grant was approved. However, using this average long-term debt rate in IPSCO's weighted cost of capital had no effect on the *ad valorem* subsidy rate.

Respondents' Comments

Comment 1: The government of Canada and other respondents have observed that most of the OCTG manufacturers, producers or exporters received no countervailable subsidies and one company received subsidies which we calculated ad *de minimis*. (All these companies had requested exclusion from the determination.) One company, IPSCO, received countervailable subsidies. They claim that the Department incorrectly determined that the country-wide rate was the same rate applicable to the non-excluded company, and argue that the Department should have divided all subsidies to all companies by sales from these companies, including those not receiving subsidies, to determine the country-wide rate. If this were done, the country-wide rate would be *de minimis*. Only after determining whether there will be an order should companies be excluded.

DOC Position: The purpose of our determination is to find a bonding or deposit rate equal to the average level of subsidization of imports subject to an order, assuming that average rate is above *de minimis*. The way we calculate this country-wide average is to take the subsidies found and divide by either the value of export sales of all firms subject to the investigation, or their total sales (depending on whether it is an export or a domestic subsidy). We do not normally calculate specific rates for each company.

In the case on OCTG, all the respondent firms requested exclusion from the determination. Kreiser chose not to respond to our questionnaire; therefore it could not be excluded and we had to use best information as representing its level of subsidization (*i.e.*, the highest subsidy found for other companies, in this case, IPSCO). The other exclusion requests required us to look at each company individually. All the respondents except IPSCO qualified for exclusion. Their imports will not be subject to a countervailing duty order, if the ITC issues an affirmative injury determination. Thus, IPSCO became the basis for our country-wide average.

Section 701 of the Act directs the Department (upon determination that a subsidy exists) to impose a countervailing duty equal to the amount of the net subsidy. If the Department averaged benefits to companies which are excluded from the collection of countervailing duties, as the government of Canada requests, with countervailing duties collected only from companies which are receiving subsidies, the aggregate amount of countervailing duties collected would be less than the net subsidy. Therefore, the Department will continue its practice of only using rates applicable to firms receiving more than *de minimis* benefits when computing country-wide rates.

Comment 2: The government of Canada and IPSCO state that the provincial portion of the GDA grant is "not targeted at specific regions or industries." Within Saskatchewan, the scope of this and other subsidiary agreements under the GDA and its successor act means that the entire economy of Saskatchewan has access to such funding under very general eligibility criteria.

DOC Position: As we stated in *Groundfish*, GDAs are not programs *per se*. They do not establish government programs, nor do they provide for the administration and funding of government programs. They are merely legal agreements under which departments of the federal and provincial governments may cooperate in establishing and administering joint economic development programs in spheres of dual or conflicting jurisdiction. The implementation, administration, and funding of industry and regional-specific programs occurs exclusively through subsidiary agreements. Therefore, we decided that in determining whether a subsidiary agreement is limited to specific enterprises or industries, the proper level of analysis is the subsidiary agreement.

In this case, the Saskatchewan Iron, Steel and Other Related Metal Industries Subsidiary Agreement in question was targeted specifically to the iron, steel, and other related metal industries. Even more specifically, in Saskatchewan, only one company, IPSOC, constitutes the entire industry which could have availed itself of a major portion of the subsidiary agreement benefits, those targeted at primary and at secondary steel producers. As such, the subsidiary agreement is clearly limited to a specific enterprise or industry.

Comment 3: IPSCO claims that the Department's method for apportioning the value of grants used by IPSCO for the capital improvement of its steel facilities (by sales value rather than by weight) unfarily biases the subsidy to products, such as OCTG, with a relatively high unit value per ton. IPSCO suggests that since the money was granted for steel making capital equipment, it would be fairer to allocate the benefits on the basis of weight rather than value.

DOC Position: Except in certain involving agricultural products, the Department has consistently allocated the value of grants received based on the value of products sold. We cannot determine, *a priori*, if a cash grant is more beneficial to the volume than the value of the goods produced. Therefore, we utilize a standard method to avoid biasing the outcome.

Comment 4: The Department of Commerce calculated the value of the benefit of an IPSCO grant based on the published debt to equity ratio for IPSCO in the year that the grant was approved. IPSCO contends that we should have used IPSCO's average debt to equity ratio between IPSCO's first year of operation and the year the grant was provided.

DOC Position: As we stated in the Subsidies Appendix, the discount rate applied in our grant methodology is a measure of the company's time preference for money. We further stated that a company's time preference for money is determined by its expected rate of return on investments at the time the subsidy was received. Since that rate of return is not easily quantifiable, we considered the company's actual cost of raising money (weighted cost of capital) at the time the grant was bestowed. Using a debt to equity ratio affected by other time periods would not reflect the cost to the company of raising money at the time the subsidy was

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approved. Furthermore, the proposed method does not use standardized times over which one company's time preference for money could be compared to another.

Comment 5: IPSCO argues that the Department was incorrect to use national average cost of debt in calculating the value of a benefit for an IPSCO grant. IPSCO argues that we should use IPSCO's short-term interest rate that it would have paid in the year the grant was approved. IPSCO further argues that without the grant, it would have used short-term financing and it would have received the same rate as for other short-term borrowings that year.

DOC Position: The project, partially funded by the grant, was built over several successive years. It was a major capital expansion. During the years that the project was being built, IPSCO floated two 15-year debenture issues at higher interest rates than IPSCO suggests we use for calculation purposes. To say that this large capital expansion project would have been financed by short-term borrowings is purely speculative and unsupported by any verified facts. In general, firms use long-term debt or equity to finance such long-term projects.

Comment 6: IPSCO claims that DOC should have used 25 years rather than 15 years as the period over which to amortize the grants. It claims that it uses 25 years for financial reporting purposes, that this period has been accepted by its external auditors and that the steel industry in Canada generally writes off its capital assets in this time.

DOC Position: In the Subsidies appendix, we state that we will allocate grants over the average useful life of a company's renewable physical assets as determined by the U.S. Internal Revenue Service (IRS) in the 1977 Class Life Asset Depreciation Range System. That is the source of the 15-year allocation period used in this case. We feel the use of the IRS tables provides a consistent and predictable standard for allocating grants. If we were to use different countries' tax tables or different companies' amortization periods for allocating grant benefits, we might arrive at different subsidy rates for equal grants due solely to the different periods of allocation. (In addition, this method provides petitioners, before filing a petition, with a consistent and publicly-available standard for determining whether programs potentially provide countervailable benefits.)

In this case we have found that, while IPSCO and other Canadian primary and secondary steel producers may amortize capital equipment expenditures over 25 years, we are aware of nothing that requres them to do so. Accepting that IPSCO depreciates capital equipment for financial statement purposes over a 25-year period, the majority of this equipment is depreciated for tax purposes by IPSCO over a two-year period with the remainder depreciated for tax purposes over other intervals. The Canadian government accepts these various methods. So even if we did attempt to find a company-or country-specific allocation period, there is often no clear choice of what that period should be. Therefore, we continue to rely on the IRS tables as a reasonable measure of the average life of a company's renewable physical assets.

Comment 7: IPSCO argues that the Department should reduce the value of the grants by the tax savings which IPSCO gave up in accepting grants. IPSCO states that it does not receive a capital cost allowance (depreciation) on grant money. If it had paid for the assets out of company funds instead of accepting a grant, it would have received a non-countervailable capital cost allowance which could have been deducted from taxable income. Using an incremental tax rate, IPSCO contends that it would have reduced its taxes owed by a percentage of the full capital cost allowance that it would have receive if the full value of the assets purchased by the grant money had been subject to capital cost allowance.

DOC Position: It has been our consistent policy not to take into account the secondary effects, including tax effects, of subsidies. Any offsets to a countervailable subsidy are strictly limited by section 771(6) of the Act. Furthermore, the review period for this investigation was calendar year 1984. During the review period, IPSCO filed its fiscal year 1985 tax return. IPSCO had negative taxable income on its 1985 tax return. Thus, assuming the facts as IPSCO presents them, additional capital cost allowance would not result in tax savings during the review period.

Comment 8: IPSCO argues that if it had invested its own money in lieu of grant funds on the project, it would have had to borrow the money. If it had borrowed the money, it would have incurred an interest expense, which it could have taken as a tax deduction. The tax deduction (which IPSCO did not get because it accepted the grant), IPSCO postulates, would have resulted in a tax savings which they contend should be used to reduce the value of the grant.

DOC Position: As stated above, we do not consider the secondary effects of subsidy. Since IPSCO did, indeed, accept the grant funds, the hypothesis it poses is speculative.

Comment 9: IPSCO argues that the use of the Subsidies Appendix, published in 1984, may have been warranted in the case for which it was first published since the parties to that case had opportunity to present their views on the proposed methodologies. They contend that the use of the Subsidies Appendix in subsequent cases constitutes rulemaking and is in violation of the Administrative Procedure Act (APA). Since the parties in this investigation did not have an opportunity to submit comments and be heard prior to publication of the Subsidies Appendix, they argue that it should not be applied to the present case.

DOC Position: IPSCO is in error when it states that it had no notice or opportunity to comment on the methodologies from the Subsidies Appendix that were employed in the present case. It admits that notice and comment are adequately provided for in the case where the methodologies are formulated. However, IPSCO fails to recognize that the same justification applies to subsequent cases where such methodology may be employed. In this case, IPSCO has been provided with notice and opportunity to comment on the methodologies used even though they were first formulated in an earlier case. It has, in fact, commented on them in its prehearing brief, at the hearing and in its post-hearing brief.

Furthermore, an investigative agency such as the Department of Commerce, has the discretion to develop general policies on a case-by-case basis rather than through rulemaking procedures. (See *NLRB* v. *Bell Aerospace Company*, 416 U.S. 267, 290–295 (1973)). IPSCO seeks to have the Department follow a fairly rigid standard with regard to all methodologies used. The responsibilities of the Department preclude strict compliance with the APA. Because of the large number of government programs that confer subsidies, the Department needs the flexibility to formulate and adjust methodologies that are applicable to the various government programs. Strict compliance with the APA formal rulemaking procedures, including the requirement that rules go into effect at least 30 days after publication, would severely retard the Department's ability to meet its obligations with regard to the countervailing duty law. Such a result could not have been intended by Congress. Therefore, the Department does not consider formulation of methodology to be formal rulemaking.

Congressional authority for this position is apparent in the legislation governing the Department's duties in the area of countervailing duties. Congress has provided strict requirements in every countervailing duty investigation or review proceeding for notice and opportunity for comment from all parties, as well as a hearing, if requested. Further evidence of Congressional intent can be found in 19 U.S.C. 1677(c)(b), where adherence to the APA is waived for these hearings. Congress would not have waived the APA requirements for hearings, where the parties are invited to comment, if it expected compliance with the APA concerning the methodology employed. It is clear that Congress, recognizing the nature of countervailing duty proceedings, provided a system of notice and comment that protects the same rights protected under the APA, without hampering the work of the Department.

Comment 10: IPSCO claims that the application of the procedures published in the Subsidies Appendix, for grants approved in 1978 and received between 1980 and 1983, amounts to the imposition of a retroactive tax. IPSCO feels that the Subsidies Appendix should apply only to grants received after its publication. IPSCO claims that it studied our past countervailing duty practices and would never have applied for or accepted a grant which it understood to be countervailable when it chose to apply for the grants in question.

DOC Position: We disagree. Since at least 1974, we have been allocating the value of Canadian subsidies over time. The Subsidies Appendix altered our prior valuation method of a subsidy, not our determination of its countervailability. Grants approved in 1978 and received in 1980, 1981, 1982 and 1983 would be countervailable according to the 1973 methodology we used for Michelin Tires from Canada (3 ITRD 1177 (CIT, 1981)) or the latter method published in the Subsidies Appendix. There is no evidence that IPSCO relied on past practices, as it claimed. If IPSCO has relied on past practices, the subsidy it received would still have been countervailable.

The countervailing duty imposed is prospective, affecting merchandise entered or withdrawn from warehouse after the date of the preliminary determination or order. IPSCO has confused the method of valuation of a subsidy, which is necessarily based on activities in an earlier period, with the merchandise on which the countervailing duty is imposed.

The Trade Agreement Act of 1979 redefined the term "subsidy" in relation to the General Agreement on Tariffs and Trade. It did not constrain us to apply this new standard only to subsidies received after the date of enactment. To do so would have vitiated the effective use of the countervailing duty law for several years. This was clearly not the Congressional intent.

Comment 11: The respondents request that the Department take steps to subdivide the TSUSA classification numbers to segregate non-OCTG pipe and tube products now in mixed classifications with OCTG. Otherwise, liquidation of these non-OCTG products would be unfairly delayed by U.S. Customs.

DOC Position: The prime responsibility for establishing TSUSA classifications is that of the ITC. We see no reason for the ITC to make the requested breakouts in the TSUSA. We have had affirmative antidumping and/or countervailing duty determinations on OCTG from other countries. These have been administered using the existing TSUSA. Based on this experience, there is no need for the proposed modifications.

Verification

In accordance with section 776(a) of the Act, we verified the information used in making our final determination. During verification, we followed standard verification procedures, including meeting with government officials, inspection of documents and ledgers, and tracing the information in the responses to source documents, accounting records, and financial statements.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all unliquidated entries of OCTG from Canada which are entered, or withdrawn from warehouse, for consumption, on or after December 30, 1985 and before May 1, 1986. On May 1, 1986, the suspension of liquidation, ordered in our preliminary affirmative countervailing duty determination, will be terminated. As of the date of publication of this notice in the **Federal Register**, The Customs Service should require a cash deposit or bond for each such entry of this merchandise equal to 0.72 percent *ad valorem* except for OCTG from Stelco Inc., Sonco Steel Tube (a division of Ferrum Inc.), Algoma Steel Corp., Ltd., Welded Tube of Canada, Ltd., Prudential Steel Ltd., Frank Pipe Co., Christianson Pipe, Ltd., Dominion Steel Export Co., Ltd., and Matthew Tube & Pipe Supply Inc. We will reinstate the suspension of liquidation if the ITC makes a final affirmative injury determination in this investigation.

ITC Notification

In accordance with section 705(c) of the Act, we will notify the ITC of our determination In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will determine whether these imports materially injure, or threaten material injury to a U.S. industry within 45 days after the date of publication of this notice. If the ITC determines that material injury, or the threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that injury exists, we will issue a countervailing duty order, directing Customs officers not to assess a countervailing duty on shipments from the nine firms with zero or *de minimis* assessment rates during the period of review, and to assess a countervailing duty on all other oil country tubular goods from Canada entered, or withdrawn from warehouse, for consumption, on or after the date of the suspension of liquidation, as indicated in the "Suspension of Liquidation" section of this notice.

This notice is published pursuant to section 705(d) of the Act [19 U.S.C. 1671d(d)].

Paul Freedenberg,

Assistant Secretary for Trade Administration.

April 16, 1986.

[FR Doc. 86–8959 Filed 4–21–86; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Financial Assistance Application Announcement; Louisiana

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for a *three (3) year period*, subject to

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available funds and satisfactory performance. The cost of performance for the first *twelve (12) months* is estimated at *$154,547* for the project's performance period of *September 1, 1986 to August 31, 1987*. The MBDC will operate in the *Shreveport, Louisiana Metropolitan Statistical Area (MSA)*.

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organizations, local and state governments, American Indian Tribes and educational institutions.

The MBDC will provide management and technical assistance (M&TA) to eligible clients for the establishment and operation of businesses. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance (M&TA); and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance (M&TA); the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a three (3) year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA, based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

Closing date: The closing date for application is May 19, 1986. Applications must be postmarked *on* or *before* May 19, 1986.

ADDRESS: MBDA—Dallas Regional Office, 1100 Commerce Street, Suite 7B23, Dallas, Texas, 75242–0790.

FOR FURTHER INFORMATION, CONTACT: Marie Hearne, Business Development Clerk, Dallas Regional Office, 214/767–8001.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Dated: April 15, 1986.

Maida Cabezon,

Acting Regional Director, Minority Business Development Agency, Dallas Regional Office.

[FR Doc. 86–8973 Filed 4–21–86; 8:45 am]

BILLING CODE 3510–21–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in Romania

April 17, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on April 23, 1986. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On December 20, 1985 a notice was published in the **Federal Register** (50 FR 52829), which announced establishment, under the Bilateral Wool and Man-Made Fiber Textile Agreement of November 7 and 16, 1984, between the Governments of the United States and the Socialist Republic of Romania, of the import limits for certain specified categories of wool and man-made fiber textile products, including man-made fiber sweaters in Category 645/646, produced or manufactured in Romania and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. Under the terms of the bilateral agreement the limit for Category 645/646 is being reduced from 220,154 dozen (corrected limit) to 208,750 dozen to account for 11,755 dozen of carryforward used in 1985.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19824), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26822), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44762), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

April 17, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 20, 1985, which directed you to prohibit entry of certain wool and man-made fiber textile products, produced or manufactured in Romania.

Effective on April 23, 1986, the directive of December 20, 1985 is hereby amended to include an adjusted restraint limit of 208,750 dozen [1] for man-made fiber textile products in Category 645/646.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–8937 Filed 4–21–86; 8:45 am]

BILLING CODE 3510–DR–M

Import Limits for Certain Wool and Man-Made Fiber Textile Products From the Socialist Republic of Romania Effective on January 1, 1986

April 16, 1986.

On December 20, 1985 a notice was published in the **Federal Register** (50 FR 52829) which announced the import limits for specified categories of cotton and wool textile products, produced or manufactured in Romania and exported to the United States during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. The limit for man-made fiber textile products in Category 645/646 in the letter to the Commissioner of Customs which followed that notice should have been 220,514 dozen.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–8936 Filed 4–21–86; 8:45 am]

BILLING CODE 3510–DR–M

[1] The limit has not been adjusted to reflect any imports exported after December 31, 1985.

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Open Meeting

April 16, 1986

The USAF Scientific Advisory Board Ad Hoc Committee on Review of Air Force Current and Long-Term Responses to Hazardous Materials/Waste Issues will meet May 6–7, 1986 at the Aeronautical Systems Division, Wright-Patterson AFB OH from 9:00 a.m. to 5:00 p.m. each day. The purpose of the meeting will be to review Air Force use of hazardous materials as pertains to system development and acquisition.

The meeting will be open to the public.

For further information contact the Scientific Advisory Board Secretariat at (202) 697–4811.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–9123 Filed 4–21–86; 10:44 am]

USAF Scientific Advisory Board; Meeting

April 14, 1986.

The USAF Scientific Advisory Board Ad Hoc Committee on Appropriate Air Force Technology efforts to Complement the Strategic Defense Initiative Program will meet at Peterson AFB, CO, on May 14, 1986, from 8:30 am to 5:00 pm and on May 15, 1986, from 8:00 am to 3:30 pm.

The purpose of the meeting will be for the Sensors/Kinetic Energy Subpanel to review, in detail, Air Force Space requirements and programs to satisfy them.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–8935 Filed 4–21–86; 8:45 am]

BILLING CODE 3910–01–M

DEPARTMENT OF THE ARMY

Military Traffic Management Command, Military Personal Property Symposium; Notice of Open Meeting

Announcement is made of meeting of the Military Personal Property Symposium. This meeting will be held on 15 May 1986 at the Stouffer Concourse Hotel, Crystal City, Arlington, Virginia, and will convene at 0830 hours and adjourn at approximately 1500 hours.

Proposed Agenda

The purpose of the symposium is to provide an open discussion and free exchange of ideas with the public on procedural changes to Personal Property Traffic Management Regulation (DoD 4500.34–R), and the handling of other matters of mutual interest concerning the Department of Defense Personal Property Movement and Storage Program.

All interested persons desiring to submit topics to be discussed should contact the Commander, Military Traffic Management Command, ATTN: MT–PPM, at telephone number 756–1600, between 0800–1530 hours. Topics to be discussed should be received on or before 2 May 1986.

Dated: April 1, 1986.

Joseph R. Marotta,

Colonel, GS, Director of Personal Property.

[FR Doc. 86–8897 Filed 4–21–86; 8:45 am]

BILLING CODE 3710–08–M

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Notice was published April 11, 1986, at 51 FR 12541, that the Naval Research Advisory Committee Panel on Soviet Submarine Threat will meet on April 28–29, 1986. The meeting location in the afternoon of April 29 has been changed to PRESEARCH, INC., 6500 Executive Park Avenue, Fairfax, Virginia 22031. All other information in the previous notice remains effective.

Dated: April 17, 1986.

William F. Rose, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 86–8865 Filed 4–21–86; 8:45 am]

BILLING CODE 3810–AE–M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delware River Basin Commission will hold a public hearing on Tuesday, April 29, 1986 beginning at 1:30 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey. The hearing will be part of the Commission's regular business meeting which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. at the same location.

The subjects of the hearing will be as follows:

Current Expense and Capital Budgets. A proposed current expense budget for the fiscal year beginning July 1, 1986, in the aggregate amount of $2,161,000 and a capital budget for the same period in the amount of $837,500 in revenue and $716,800 in expenditures. Copies of the current expense and capital budget are available from the Commission on request. This hearing continues that of March 26, 1986.

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact:

1. *Holdover Project: Hatfield Packing Company D–83–24.* A ground water withdrawal project to supply approximately 0.16 million gallons per day (mgd) of water to the applicant's meat packing facility in Hatfield Township, Montgomery County, Pennsylvania. Well Nos. 1, 2, 3 and 4, located in Hatfield Township, were previously placed in service and have collectively withdrawn in excess of 100,000 gallons per day (gpd) without approval of the Delaware River Basin Commission. Ground water from the wells is used in conjunction with water purchased from the North Penn Water Authority. This hearing continues that of March 26, 1986.

2. *Cressona Aluminum Company D–82–5 RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 21.6 million gallons (mg)/30 days of water to the applicant's industrial facility from Well Nos. 1 and 3. Commission approval on June 23, 1982 was limited to five years and will expire unless renewed. The applicant requests that the total withdrawal from all wells remain limited to 21.6 mg/30 days. The project is located in Cressona Borough, Schylkill County, Pennsylvania.

3. *Upper Saucon Township D–85–57 CP.* A ground water withdrawal project to supply up to 1.0 mgd of water to the applicant's distribution system from the abandoned New Jersey Zinc Company mine shaft. The project is located in Upper Saucon Township, Lehigh County, Pennsylvania.

4. *U.S. Steel Corporation—Fairless Hills Works D–85–72.* A 40,000 gpd wastewater treatment package plant is proposed to serve an industrial park now under construction by U.S.S. Realty Development, a division of U.S. Steel. The proposed plant would be installed

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adjacent to the existing 20,000 gpd plant within the U.S. Steel Fairless Works site in Falls Township, Bucks County, Pennsylvania. The plant would treat domestic wastewater only. The effluent would flow to the existing outfall line, which discharges to an unnamed tributary of Biles Creek.

5. *U.S. Army Corps of Engineers, Philadelphia District (Wilmington Harbor South) D–85–88 CP.* Approval is sought to convert a 326-acre riverine site into a disposal area for material dredged during the Wilmington Harbor Federal Navigation Project. The site (Wilmington Harbor South) extends from near the mouth of the Christina River to Pigeon Point, New Castle County, Delaware. Utilization of the proposed site in conjunction with the existing disposal sites on nearby Cherry Island would provide capacity for dredged materials at least until the year 2040. The site consists of 87 acres of uplands, 12 acres of vegetated wetlands, 85 acres of intertidal mudflats and 142 acres of shallow water. Twelve acres of wetland vegetation would be planted at the site and artificial reefs would be established off Slaughter Beach in Delaware Bay to mitigate the filling of wetland habitat.

6. *Magnesium Elektron, Inc. D–86–1.* An application for modification of an existing wastewater discharge at the Magnesium Elektron, Inc. (MEI) facility in Kingwood Township, Hunterdon County, New Jersey. Presently, wastewaters containing excessive dissolved solids are stored in holding basins and then discharged in proportion to streamflow in Wickecheoke Creek. The applicant is proposing to install a reverse osmosis treatment system to concentrate the dissolved solids in the wastewater and thereby increase the length of time that the production facility can operate with no discharge. The concentration of dissolved solids in the effluent would increase from 30,000 mg/1 to 60,000 mg/1. However, the effluent will continue to be proportioned with streamflow to meet existing requirements on Wickecheoke Creek and in the Delaware and Raritan Canal.

7. *Honesdale Borough D–86–9 CP.* A sewage treatment project to serve the Borough of Honesdale and a portion of Texas Township in Wayne County, Pennsylvania. The application consists of a proposal to expand the capacity of the existing sewage treatment facility's chlorine contact tank and to rerate the plant's capacity from 0.92 mgd to 1.18 mgd. The treatment effluent will continue to be discharged to the Lackawaxen River.

8. *Borough of Stroudsburg D–86–11 CP.* A sewage treatment project to serve the Borough of Stroudsburg and Stroud Township in Monroe County, Pennsylvania. The existing plant will be expanded to 2.5 mgd and upgraded to tertiary level treatment by constructing several new facilities. Treated effluent will continue to discharge to McMichaels Creek at River Mile 213.0–4.0–0.2.

9. *Cranberry Hill Corporation/Penn Estates D–86–16.* An application for expansion of the applicant's sewage treatment plant serving a housing development located in Stroud Township, Monroe County, Pennsylvania. The existing 50,000 gpd plant will have a design capacity of 100,000 gpd. The treated effluent will continue to be discharged to an unnamed tributary of Brodhead Creek.

10. *Draper King Cole, Inc. D–86–18.* An application to replace the withdrawal of water from Well No. 12 in the appliant's water supply system which has become an unreliable source of supply. The applicant requests that the withdrawal from replacement Well No. 12A be limited to 11.7 mg/30 days, and that the total withdrawal from all wells remain limited to 75 mg/30 days. The project is located in the Town of Milton, Sussex County, Delaware.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact David B. Everett. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

Susan M. Weisman,
Secretary.
April 14, 1986.
[FR Doc. 86–8978 Filed 4–21–86; 8:45 am]
BILLING CODE 6360–01–M

DEPARTMENT OF EDUCATION

Office of Educational Research and Improvement

Research and Development Centers Program

AGENCY: Department of Education.

ACTION: Application notice for new award under the Research and Development Centers Program for fiscal year 1987.

Programmatic and Fiscal Information

The Secretary of Education announces a competition for a cooperative agreement to operate a Reading Research and Education Center. The contract for the current Center for the Study of Reading, funded by the Office of Educational Research and Improvement (OERI), is scheduled to expire in fiscal year 1988. In order to ensure a continued focus on reading beyond that date, Congress has recommended that OERI conduct an open competition to support a research center whose primary focus is research on and the study of reading. See the Committee Report accompanying Pub. L. 99–178 (H.R. Rep. No. 289, 99th Cong., 1st Sess. 137 (1985)). To complement the research program engaged in by the Reading Research and Education Center, OERI will hold a grants competition for research on other, related topics in reading and literacy. The announcement for the grants competition is published elsewhere in this issue of the Federal Register.

The Secretary of Education has selected reading as the absolute priority for this competition from among the priorities listed in 34 CFR 706.12. Only those applications that propose a research center for the study of reading will be considered.

The Secretary is particularly interested in research in the following areas. However, applications that address these invitational priorities will not be given competitive advantage over other applications to establish a research center for the study of reading.

1. *Acquisition of Knowledge and Skills:* how students learn the skills that enable them to acquire knowledge from textbooks in different academic subjects.

2. *Instruction in Reading:* how teachers can become more effective in helping students learn to read.

3. *Text Structure:* how textbooks can be improved to optimize student learning.

4. *Testing of Reading Proficiency and Evaluation of Instruction:* how reading proficiency can be better measured and how various instructional approaches can be validated.

OERI expects to collaborate with the recipient in carrying out the mission of the Reading Research and Education Center. This collaboration will include some involvement in developing the research agenda, specifying anticipated outcomes, setting research priorities, altering research objectives on the basis of preliminary findings, and reviewing final results. The intent of the collaboration is to reach mutually agreeable decisions on these research matters, with the recipient being given full opportunity to express its views.

Research and development centers established by institutions of higher education or by interstate agencies established by compact which operate subsidiary bodies established to conduct postsecondary educational research and development are eligible to apply for a cooperative agreement for institutional operations.

The Secretary anticipates that one cooperative agreement in the amount of $1.2 million will be awarded. The project period is expected to be five (5) years, with the first year beginning no earlier than November 15, 1986, and with four (4) continuation years thereafter. The Secretary anticipates that the total award will not exceed $6.0 million. These estimates are based on anticipated Congressional appropriations and on the assumption that an application of satisfactory quality will be received. These estimates do not bind the U.S. Department of Education to a specific number of cooperative agreements or to the amount of any cooperative agreement, unless that amount is otherwise specified by statute or regulations.

Closing Date for Transmittal of Applications

Applications for the new award must be mailed or hand-delivered on or before July 21, 1986.

Applications sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: CFDA No. 84.117, 400 Maryland Avenue SW., Washington, DC 20202.

Each late applicant will be notified that its application will not be considered.

Applications that are hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building #3, 7th and D Streets SW., Washington, DC. The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, DC, time) daily, except Saturdays, Sundays, and Federal holidays.

Applicable Regulations

Regulations applicable to this program include the following:

(a) The regulations governing the Research and Development Centers Program in 34 CFR Parts 706 and 708.

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78.

Application Forms

Application forms and program information packages are available. These may be obtained by writing to Research and Development Centers Program, Office of Educational Research and Improvement, U.S. Department of Education, 2100 19th Street NW., Washington, DC 20208.

Questions regarding the application notice and the information package will be answered on Wednesday, May 21, 1986, 1:00 p.m. to 4:30 p.m., at the Brown Building, Room 832B, 1200 19th Street NW., Washington, DC. This session will answer any question and clarify any issue regarding information already made available to applicants, in particular, the information in this application notice and in the program information package. For this reason, prospective applicants are urged to read the application notice and the program information package provided by OERI before attending the session. *Potential applicants who are unable to attend the information session are invited to contact Anne Sweet (telephone: (202) 254–5706) after June 4, 1986, for a written summary of the proceedings.*

Further Information

For further information, contact Anne Sweet, Office of Educational Research and Improvement, 1200 19th Street NW., Washington, DC 20208. Telephone: (202) 254–5706.

Authority: 20 U.S.C. 1221e (c) and (f).

(Catalog of Federal Domestic Assistance Number 84.117, Research and Development Centers Program)

Dated: April 17, 1986.

William J. Bennett,
Secretary of Education.
[FR Doc. 86–9005 Filed 4–21–86; 8:45 am]
BILLING CODE 4000–01–M

Office of Elementary and Secondary Education

Indian Education Programs—Formula Grants—Local Educational Agencies and Tribal Schools

AGENCY: Department of Education.

ACTION: Notice of Extension of Closing Date for Transmittal of New Applications for Fiscal Year 1986 Assistance under the Formula Grants—Local Educational Agencies and Tribal Schools Program.

SUMMARY: This notice extends the closing date of February 13, 1986 to May 22, 1986, for the transmittal of new applications under the Formula Grants—Local Educational Agencies and Tribal Schools Program (84.060A). The application notice for this program published in the Federal Register on October 16, 1985 (50 FR 41934) provides detailed information concerning this program.

SUPPLEMENTARY INFORMATION: Section 453(a) of the Indian Education Act establishes eligibility requirements for participation in programs funded under Part A of the Indian Education Act. The Department has addressed this provision by requiring that local educational agencies participating in the Part A program keep on file completed Indian Student Certification forms for each Indian child claimed for purposes of payment.

On April 10, 1986, the Department informed districts that submitted applications under this program by the February 13, 1986 deadline that they may continue to count eligible students for whom the district is seeking to obtain completed forms to generate fiscal year 1986 funds for use in the 1986–1987 academic year.

The Department has determined that many eligible school districts were unaware that they may include students for whom they are in the process of obtaining information in the count for fiscal year 1986 funds, and as a consequence, did not submit applications by the February 13, 1986 closing date. The extension of the closing date to May 22, 1986, will enable all eligible applicants to apply or to amend their applications at their discretion. This extension will not substantially alter the schedule for issuance of grant awards.

FOR FURTHER INFORMATION: Inquiries concerning this extension should be addressed to Ervin Keith, Indian Education Programs, U.S. Department of Education, Office of Elementary and Secondary Education, Room 2177, FOB–6, 400 Maryland Avenue SW., Washington, DC 20202. Telephone (202) 732–1887.

(Catalog of Federal Domestic Assistance No. 84.060, Formula Grants to Local Educational Agencies and Tribal Schools)

(20 U.S.C. 241aa–241ff)

Dated: April 17, 1986

Lawrence F. Davenport,
Assistant Secretary for Elementary and Secondary Education.
[FR Doc. 86–9006 Filed 4–21–86; 8:45 am]
BILLING CODE 4000–01–M

Education Statistics Advisory Council; Meeting

AGENCY: Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of

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the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: May 12, 1986.

ADDRESS: 1200 19th Street NW., Room 823, Washington, DC, 20208.

FOR FURTHER INFORMATION CONTACT: Iris Silverman, Executive Director, Advisory Council on Education Statistics, 1200 19th Street NW., (Brown Building) Room 600–D, Washington, D.C. 20208. Telephone: (202) 254–5284.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics is established under section 406(c)(1) of the Education Amendments of 1974, Pub. L. 93–380. The Council is established to review general policies for the operation of the Center for Statistics (CS) in the Office of Educational Research and Improvement and is responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

The meeting of the Council is open to the public. The proposed agenda includes the following:

- The Director's report.
- Technical decisions in two major surveys: (1) National Education Longitudinal Study: 1988, and (2) Remedial education (Fast Response Survey System).

A discussion of elementary/secondary data redesign issues.

Records are kept of all Council proceedings and are avaiable for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 1200 19th Street NW. (Brown Building), Room 600–D, Washington, DC 20208.

Dated: April 14, 1986.

Chester E. Finn, Jr.,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 86–8944 Filed 4–21–86; 8:45 am]

BILLING CODE 4000–01–M

Education Statistics Advisory Council; Meeting

AGENCY: Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: May 13, 1986.

ADDRESS: 1200 19th Street NW., Room 823, Washington, DC 20208.

FOR FURTHER INFORMATION CONTACT: Iris Silverman, Executive Director, Advisory Council on Education Statistics, 1200 19th Street NW. (Brown Building), Room 600–D, Washington, DC 20208. Telephone: (202) 254–5284.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics is established under section 406(c)(1) of the Education Amendments of 1974, Pub. L. 93–380. The Council is established to review general policies for the operation of the Center for Statistics (CS) in the Office of Educational Research and Improvement and is responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

The meeting of the Council is open to the public. The proposed agenda includes the following:

- The Council's role in setting standards.
- Council's suggestions on efficiencies and economies in design issues.
- Such old and new business as the Presiding Officer or membership may put before the Council.

Records are kept of all Council proceedings and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 1200 19th Street NW. (Brown Building), Room 600–D, Washington, DC 20208.

Dated: April 14, 1986.

Chester E. Finn, Jr.,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 86–8945 Filed 4–21–86; 8:45 am]

BILLING CODE 4000–01–M

Office of Education Research and Improvement

Application Notice for New Awards Under the Educational Research Grant Program for Fiscal Year 1987

Programmatic and Fiscal Information

The Secretary of Education announces a competition, under the Educational Research Grant Program, for educational research grants in reading and literacy. The purpose of the awards is to support studies that will further our knowledge about the acquisition and development of the skills necessary to help us become a more literate American society. This competition is intended to yield research projects that will complement the work of the Reading Research and Education Center. The announcement for the research center competition is published elsewhere in this issue of the **Federal Register**.

A Notice of Proposed Rulemaking (NPRM) for the Educational Research Grant Program (ERGP) was published in the **Federal Register** on March 12, 1985 (50 FR 9970). From the broader priority "English literacy, including reading, writing, and language skills," section 700.12(a)(18) of the NPRM for the ERGP, the Secretary has chosen English literacy and, in particular, reading as absolute priorities for this grants competiton. Only applications proposed research projects on literacy and reading will be considered.

The Secretary particularly invites applications for funding for the following activities. However, as these are not required activities, applications that propose these activities will not be given competitive advantage over other applications that address the priorities, English literacy and reading, cited above.

1. *Literacy Research, Programs, and Practices:* syntheses and analyses of research and of activities pertaining to literacy. Purpose: to help define the "proficient reader," identify effective teaching practices, describe and examine obstacles to universal reading proficiency, and project literacy requirements for the future.

2. *Adult Literacy:* comparative analyses of how adults and children acquire literacy skills and investigations into the literacy needs of adults. Purpose: to provide insight into the ways in which adults can strengthen their literacy skills as well as to give direction for the improvement of adult learning programs.

3. *Reading Achievement of Students from Low Socio-economic Backgrounds:* investigations into the relationship between the reading achievement of children from the lower socio-economic backgrounds, particularly those in grades 2 through 6, and the degree to which these children may lack both specific literacy-related knowledge and other background knowledge that students from middle and upper socio-economic backgrounds are more apt to possess. Purpose: to suggest more effective ways to teach literacy-related skills to all students.

4. *Implementation of Current Research Knowledge of Reading and Literacy:* examinations of the degree to which teachers use current research knowledge of reading and literacy and of the factors that prevent their doing so; investigations into the ways in which the use of current research knowledge affects reading achievement, particularly of students in the elementary grades who are from middle socio-economic backgrounds. Purpose: to suggest more effective teaching strategies and more effective methods of training teachers.

Public or private organizations, institutions, agencies, or individuals are eligible to apply for the research grants.

In accordance with section 700.10(b) of the NPRM for the ERGP, the Secretary has chosen to establish separate competitions for small and large grants. The maximum amount for a small grant is $50,000. An application requesting more than $50,000 in funding will be considered to be an application for a large grant. The Secretary anticipates making no award greater than $150,000.

The Secretary plans to award three (3) small grants and three (3) large grants. The Secretary suggest that an applicant who seeks funding for activities under invitational priority #1 (Literacy Research, Program, and Practices) apply for a small grant. An applicant who seeks funding for activities under invitational priorities #2, #3, and #4 (Adult Literacy; Reading Achievement of Students from Low Socio-economic Background; and Implementation of Current Research Knowledge of Reading and Literacy) should apply for a large grant.

The project periods will vary, from no more than twelve (12) months for small grants to up to three (3) years for large grants. The first year for both small and large grants will begin no earlier than February 1, 1987, with up to two (2) continuation years thereafter for large grants.

These estimates are based on anticipated Congressional appropriations and on the assumption that applications of satisfactory quality will be received. These estimates do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant, unless that amount is otherwise specificed by statute or regulations.

Closing Date for Transmittal of Applications

Applications for new awards must be mailed or hand-delivered on or before November 7, 1986.

Applications sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: CFDA No. 84.117, 400 Maryland Avenue SW., Washington, DC 20202.

Each late applicant will be notified that it application will not be considered.

Applications that are hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building #3, 7th and D Streets SW., Washington, DC. The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, DC, time) daily, except Saturday, Sundays, and Federal holidays.

Applicable Regulations

Regulations applicable to this program include the following:

(a) The regulations governing the Educational Research Grant Program, proposed to be codified in 34 CFR Part 700. The proposed regulations were published on March 12, 1985, at 50 FR 9970. If any substantive changes are made in the final regulations for this program, applicants will be given an opportunity to revise or resubmit their applications.

(b) The Education Department General Administration Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78.

Application Forms

Application forms and program information packages are expected to be available by August 8, 1986. These may be obtained by writing to Educational Research Grant Program, Office of Educational Research and Improvement, U.S. Department of Education, 555 New Jersey Avenue, NW., Washington, DC 20208.

Further Information

For further information, contact Eleanor Chiogioji, Office of Educational Resarch and Improvement, U.S. Department of Education, 555 New Jersey Avenue NW., Washington, DC 20208. Telephone (202) 254–5766.

(Catalog of Federal Domestic Assistance Number 84.117, Educational Research Grant Program

Authority: 20 U.S.C. 1221e (b) and (e).

Dated: April 17, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86–9004 Filed 4–21–86; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA C&E–86–30; OFP Case No. 51209–9309–20, 21–24]

Powerplant and Industrial Fuel Use; Gulf States Utilities Co.

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice of Order Granting to Gulf States Utilities Company Exemption From the Prohibition of the Powerplant and Industrial Fuel Use Act of 1978, for its Louisiana Station, Baton Rouge, Louisiana, and a Rescission of a Prior Order Granting a Permanent Peakload Exemption for a Portion of That Facility.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby notice that it has granted a permanent cogeneration exemption from the prohibitions of Title II of the Powerplant and Industrial Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), to Gulf State Utilities Co. (GSU), Louisiana Station, Baton Rouge, Louisiana. The permanent cogeneration exemption permits the use of natural gas as the primary energy source for a 258 net megawatts (MW) combined cycle cogeneration facility designed to produce electricity and process steam at the Louisiana Station powerplant, Baton Rouge, Louisiana. The final exemption order and detailed information on the proceeding are provided in the **SUPPLEMENTARY INFORMATION** section, below.

DATE: The order shall take effect on June 23, 1986.

The proposed powerplant for which the petition was filed and which GSU is planning to construct is a cogeneration facility at the existing Louisiana Station powerplant in Baton Rouge, Louisiana. The facility will consist of two gas turbine electric generating units, each with an associated heat recovery steam generator (HRSG). The fuels for the gas turbine/HSRG units will be natural gas and process gas from the adjacent Exxon refinery/chemical plant complex. The units will provide electric energy and steam to the Exxon Complex. The cogeneration facility is referred to as the "Gas Turbine/HSRG Project."

One of the gas turbine units for the project will be an existing Westinghouse Model 501D5 gas turbine unit, which will be moved from its current location at GSU's Roy S. Nelson Station in Westlake, Calcasieu Parish, Louisiana. This turbine was installed in 1982 as a new peakload powerplant and was

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granted a Permanent Peakload Exemption under the Fuel Use Act (Docket No. ERA-PC-80-002; ERA Case No. 51209-1393-27-22). At this time, the second turbine unit has not been selected but is expected to be similar in size and configuration. The Gas Turbine/HSRG Project will generate up to 258 megawatts (MW) of electric power (two units, each generating 129 MW) and up to 1,200,000 lb/hr of steam for use at the Exxon Baton Rouge Complex.

The petition for exemption was filed with a request that ERA, pursuant to 10 CFR 501.100 et seq., rescind a permanent peakload exemption granted by ERA to GSU on May 18, 1981, applicable to their Roy S. Nelson Station in Westlake, Louisiana. GSU's request for rescission was contingent upon the granting by ERA of the permanent exemption for its Louisiana Station pursuant to 10 CFR § 508.32.

The public file containing a copy of the order, other documents, and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independents Avenue, SW, Room 1E-190, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

George G. Blackmore, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-045, Washington, DC 20585, Telephone (202) 252-1774

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building—Room 6A-113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 252-6947.

SUPPLEMENTARY INFORMATION: On January 14, 1986, GSU petitioned ERA under section 212(c) of FUA and 10 CFR 503.37 for a permanent cogeneration exemption to permit the use of natural gas in a 258 MW (net) combined cycle cogeneration facility.

Basis for Permanent Exemption Order

The permanent exemption order is based upon evidence in the record including GSU's certification to ERA, in accordance with 10 CFR 508.32(a)(1), that:

1. The oil or natural gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of such cogeneration facility, in accordance with 10 CFR 503.37(a)(1)(i); and

2. The use of a mixture of natural gas and coal or oil and coal in the cogeneration facility, will not be technically feasible, in accordance with 10 CFR 503.37(a)(1)(ii).

Procedural Requirements

In accordance with the procedural requirements of section 701(c) of FUA and 10 CFR 503.3(b), ERA published its Notice of Acceptance of Petition and Availability of Certification in the Federal Register on February 28, 1986, (51 FR 7108), commencing a 45-day public comment period.

A copy of the petition was provided to the Environmental Protection Agency for comments as required by section 701(f) of the Act. During the comment period, interested persons were afforded an opportunity to request a public hearing. The comment period closed on April 14, 1986; no comments were received and no hearing was requested.

NEPA Compliance

After review of the petitioner's environmental impact analysis, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act (NEPA).

Order Granting Permanent Cogeneration Exemption

Based upon the entire record of this proceeding, ERA has determined that GSU has satisfied the eligibility requirements for the requested permanent cogeneration exemption, as set forth in 10 CFR 503.37. Therefore, pursuant to section 212(c) of FUA, ERA hereby grants a permanent cogeneration exemption to GSU to permit the use of natural gas as the primary energy source for its cogeneration facility at its Louisiana Station, Baton Rouge, Louisiana.

Rescission request

ERA hereby grants GSU's request for Rescission of a Permanent Peakload Exemption applicable to GSU's Roy S. Nelson Station Unit 7. GSU's request for rescission was based on its determination that significantly changed circumstances as defined in 10 CFR 501.102(b) exist with respect to the applicability of the peakload exemption to GSU. Accordingly, pursuant to 10 CFR 501.101(f), GSU submitted documentation supporting its Request for Rescission.

The Rescission Order is to take effect when physical disassembly is begun on Nelson Unit 7 to prepare it for movement to Louisiana Station. ERA feels that this is necessary to protect GSU's right to operate this unit in the event plans for the Louisiana Station project change unexpectedly.

Pursuant to section 702(c) of the Act and 10 CFR 501.69, any person aggrieved by this order may petition for judicial review thereof at any time before the 60th day following the publication of this order in the Federal Register.

Issued in Washington, DC, on April 15, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-8997 Filed 4-21-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Hydroelectric Application Filed With the Commission

April 18, 1986.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection:

a. Type of Application: Amendment of License.

b. Project No.: 6058-002.

c. Date Filed: February 19, 1986.

d. Applicant: Hydro Development Group inc.

e. Name of Project: Hailesboro No. 4.

f. Location: Oswegatchie River, St. Lawrance County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. John T. Bedard, Vice President, Hydro Development Group, Inc., P.O. Box 58, Dexter, NY 13634, (315) 639-6700.

i. Comment Date: May 22, 1986.

j. Description of Amendment: Hydro Development Group inc., the licensee for the Hailesboro No. 4 project, proposes to amend the license by (1) changing the project description (Exhibit A) to reflect the seasonal use of 22-inch-high flashboards on Dam #1 and 24-inch-high flashboards on Dam #2; (2) changing the environmental exhibit (Exhibit E) to describe the use and impact of flashboards; and (3) changing the project drawings (Exhibit F) to show the flashboards.

The licensee states that the flashboards have been used for at least the past nine years and that the flashboard description was inadvertently omitted when the application for license was made. The licensee further states that the flashboard design has been modified from earlier practice in response to flooding that occurred in December, 1984, and January, 1985.

k. This notice also consists of the following standard paragraphs: B,C, and D2.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "Comments", "Notice of Intent To File Competing Application", "Competing Application", "Protest" or "Motion to Intervene", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203-RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-8919 Filed 4-21-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA85-4-001]

Apache Powder Co.; Petition for Exemption and Interim Relief

Issued: April 16, 1986.

On March 13, 1986, Apache Powder Company (Apache) filed a peition pursuant to section 208(d) of the Natural Gas Policy Act of 1978 (NGPA) [1] and § 282.208(b) of the Federal Energy Regulatory Commission's regulations,[2] for interim and temporary relief from the Commission's incremental pricing regulations issued under Title II of the NGPA.[3] Apache was previously granted temporary relief from incremental pricing surcharges on the basis of severe hardship for the nonexempt use of gas at its industrial chemicals and explosives manufacturing facility near Benson, Arizona, for a period of twelve months, terminating with the March 1986 billing period.[4] In its instant petition, Apache seeks continuance of the temporary relief previously granted for an additional twelve months, and interim relief pending the Commission's action on its request.

In support of its petition, Apache cites a severe and continuing depression in a major market for its explosives, the domestic copper mining industry, as well as in other mining industries for which Apache is a supplier. It further states that economic problems in Mexico have "shut off" its market for mining products there, that lower oil prices have adversely affected its sales to oil exploration firms, and that the market for its agricultural fertilizer is also depressed. Apache states that these factors have prevented its financial performance from improving significantly during 1985, even though it had undertaken a number of cost and efficiency improvement measures.

The procedures applicable to the conduct of this proceeding are set forth in Subpart K of the Commission's Rules of Practice and Procedure.[5] Any person desiring to participate in this proceeding must file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene in accordance with Subpart K within 15 days after publication of this notice in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-8914 Filed 4-21-86; 8:45 am]

BILLING CODE 6717-01-M

[1] 15 U.S.C. 3346(d) (1982).
[2] 18 CFR 282.208(b) (1985).
[3] 15 U.S.C. 3341-3346 (1982).
[4] 31 FERC ¶ 62,008 (1985).
[5] CFR 385.1101-.1117 (1985).

[Docket No. RP86-52-002]

Kentucky West Virginia Gas Co.; Proposed Changes in FERC Gas Tariff

April 16, 1986.

Take notice that on April 10, 1986, Kentucky West Virginia Gas Company ("Kentucky West") tendered for filing proposed changes to the following tariff sheets of its FERC Gas Tariff First Revised Volume No. 1:

Substitute First Revised Sheet No. 6
Superseding First Revised Sheet No. 6
Substitute First Revised Sheet No. 7
Superseding First Revised Sheet No. 7
Substitute Ninth Revised Sheet No. 8
Superseding Ninth Revised Sheet No. 8
Substitute Thirty-Fifth Revised Sheet No. 27
Superseding Thirty-Fifth Revised Sheet No. 27
Substitute Thirty-Sixth Revised Sheet No. 27
Superseding Thirty-Sixth Revised Sheet No. 27 (Tariff sheet reflected in Kentucky West's PGA filing for rates effective May 1, 1986)
Substitute Eighteenth Revised Sheet No. 27A
Superseding Eighteenth Revised Sheet No. 27A

The proposed changes are filed in compliance with ordering paragraph (C) of the Commission's order issued March 28, 1986, in the referenced proceeding.

Kentucky West Further states that copies of its filing have been served upon each of its customers and the Public Service Commissions of Kentucky, Pennsylvania and West Virginia.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before April 23, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-8910 Filed 4-21-86; 8:45 am]

BILLING CODE 6717-01-M

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[Project No. 6511-000]

Seaward Development-Red Rock Associates; Availability of Environmental Assessment and Finding of No Significant Impact

April 15, 1986.

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

LICENSEES

Project No.	Project name	State	Water body	Nearest town	Applicant
6511-000	Red Rock Hydro-electric	VA	Dan Moines River	Marion County	Seaward Development-Red Rock Associates.

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements for these projects will not be prepared. Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NW., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-8617 Filed 4-21-86 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6278-003]

Town of Grafton, MA; Surrender of Exemption

April 10, 1986.

Take notice that the Town of Grafton, Massachusetts, Exemptee for the proposed Lake Ripple Project No. 6278, requested by letter dated March 19, 1986, that its exemption be terminated. The exemption was issued on October 6, 1982. The project would be located on the Quinsigamond River in Worcester County, Massachusetts.

The Exemptee filed the request on March 24, 1986, and the exemption for Project No. 6278 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-8615 Filed 4-21-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-300-000 and ER84-571-001]

Utah Power and Light Co.; Order Accepting for Filing and Suspending Rates, Noting Intervention, Granting Waiver of Notice Requirement, Establishing Hearing Procedures, and Consolidating Dockets

Issued: April 15, 1986.

Electric Rates: Suspension; Waiver of Notice, Consolidation; Change in Rate.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

On February 14, 1986, Utah Power and Light Company (UP&L) tendered for filing three agreements: the Bonanza Wheeling Agreement, the Mona Substation Agreement, and the Bonanza Interconnection Agreement.[1] These agreements would amend the existing wheeling arrangements between UP&L and the Deseret Generation and Transmission Cooperative (Deseret) to account for the entitlements of Deseret in the Bonanza Power Project and the Intermountain Power Project. The agreements would also revise the billing and scheduling procedures for all Deseret resources wheeled by UP&L to: (1) schedule and bill for power separately for each of the twenty-seven Deseret delivery points instead of as if the power were delivered to a single delivery point, as is now the case; and (2) consider power to be delivered first from the Hunter II generating station, second from Bonanza, third from Intermountain, and fourth from Western Area Power Administration. UP&L requested waiver of the 60-day notice requirement in order to allow the proposed rate schedule changes to become effective as of the date on which they are accepted for filing.[2]

Notice of UP&L's filing was published in the **Federal Register**, [3] with comments due on or before March 10, 1986. The Intermountain Consumer Power Association, Deseret Generation & Transmission Cooperative, and Utah Associated Municipal Power System (referred to jointly as "Deseret") jointly filed a timely motion to intervene. Deseret requests that the filing be suspended for one day and that a hearing be ordered to permit it to file evidence in support of its position. It requests that the Agreements be made effective coincident with the dates on which service began or begins under them.[4] Deseret states that UP&L does not object to these effective dates. Deseret also requests consolidation of this docket with UP&L's pending wheeling rate case in Docket No. ER84-571-001. In support of its request for suspension, Deseret raises a number of specific objections.[5]

On March 10, 1986, UP&L filed an answer. While not opposing the motion to intervene, the request for consolidation, the request for expedited consideration, or the requested effective dates, UP&L disputes Deseret's substantive allegations.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure,[6] the timely, unopposed motion to intervene serves to make Deseret a party to this proceeding.

We note initially that UP&L has characterized its submittal as an initial rate schedule filing. However, it is clearly a rate schedule change inasmuch as it would provide for additional transmission service and would supplement or amend contracts already on file. 18 CFR 35.1(c).

Our preliminary examination of UP&L's submittal and the pleadings indicates that the submittal has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the submittal for filing and suspend it as ordered below.

In *West Texas Utilities Company*, 18 FERC ¶ 61,189 (1982), we explained that, where our preliminary review indicates that proposed rates may be unjust and unreasonable, but not be substantially excessive as defined in *West Texas*, we would generally impose a nominal suspension. We also stated that a nominal suspension may be warranted when the customers specifically request such a suspension. 18 FERC ¶ 61,189 at 61,376 n.6. Here, Deseret supports UP&L's request for a waiver of notice and asks for only a one day suspension in order that the additional wheeling may be promptly available. Given this affirmative customer concurrence, we find that good cause exists to waive the notice requirements and to suspend the submittals for a nominal period. It is not clear from the pleadings exactly when service commenced or will commence under each of the three Agreements. Therefore, in order to ensure that the Agreements are available when they are needed, each Agreement shall become effective, subject to refund, on the earlier of (1) the date on which service under that Agreement commenced, or (2) the date of this order. UP&L shall inform the Commission as to when service commenced or commences under each Agreement.

We find that common questions of law and fact may be presented in Docket Nos. ER86-300 and ER84-571. As a result, we shall consolidate these proceedings for purposes of hearing and decision.

The Commission orders:

(A) UP&L's request for waiver of the notice requirements is hereby granted.

(B) UP&L's submittal is hereby accepted for filing and is suspended, with each Agreement to become effective, subject to refund, on the earlier of (1) the date on which service under that Agreement commenced, or (2) the date of this order. UP&L shall inform the Commission as to the dates when service commenced or commences under each Agreement within 15 days after (1) issuance of this order or (2) service begins under each Agreement.

(C) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of UP&L's submittal.

(D) Subdocket -000 in Docket No. ER86-300-000 is hereby terminated. The evidentiary hearing established herein is assigned Docket No. ER86-300-001.

(E) Docket No. ER86-300-001 is hereby consolidated with Docket No. ER84-571-001 for purposes of hearing and decision.

(F) The administrative law judge designated to preside in Docket No. ER84-571-001 shall determine procedures, including the submission of a case-in-chief by UP&L, best suited to accommodate consolidation of this docket with the pending proceeding.

(G) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.

Kenneth F. Plumb,

Secretary.

UTAH POWER AND LIGHT COMPANY

[Docket No. ER86-300-000]

Rate Schedule Designations

Designation	Description
(1) Supplement No. 2 to Service Agreement No. 18 under FERC Electric Tariff, Fourth Revised Volume No. 1.	Bonanza Transmission Agreement.
(2) Supplement No. 3 to Service Agreement No. 18 under FERC Electric Tariff, Fourth Revised Volume No. 1.	Preliminary Mona Substation Interconnection Agreement.
(3) Supplement No. 4 to Service Agreement No. 18 under FERC Electric Tariff, Fourth Revised Volume No. 1.	Bonanza Interconnection Agreement.

[FR Doc. 86-8618 Filed 4-21-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-406-000, et al.]

Natural Gas Certificate Filings; Transcontinental Gas Pipe Line Corporation, et al.

Take notice that the following filings have been made with the Commission:

1. Transcontinental Gas Pipe Line Corporation

[Docket No. CP86-406-000]

April 15, 1986.

Take notice that on March 28, 1986, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP86-406-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon partially certain service to Union Gas Company (Union), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that under a service agreement dated November 2, 1970, it presently renders natural gas service to Union under Rate Schedule CD-3 in the quantity of 19,560 dt equivalent per day, delivered at five separate points on Applicant's Leidy line in Pennsylvania. Applicant further states that due to the loss by Union of two large industrial loads on its system, Union has requested that effective January 1, 1986 its allocation of CD-3 gas from Applicant be reduced from 19,560 dt equivalent per day to 10,350 equivalent dt per day.

Applicant avers that such partial abandonment of service to Union would not result in the abandonment of any of Applicant's facilities presently in use.

Comment date: May 9, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. Trunkline Gas Company

[Docket No. CP86-410-000]

April 16, 1986.

Take notice that on March 31, 1986, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP86-410-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a transportation agreement between Applicant and Transco dated July 5, 1985, Applicant explains that it has agreed to transport up to 7,000 Mcf of gas per day on an interruptible basis on behalf of Transco.

[1] *See* Attachment for rate schedule designations.

[2] As discussed below, UP&L has evidently agreed to make the proposed changes effective as of the dates on which service began or begins under each Agreement.

[3] 51 FR 7,320 (March 3, 1986).

[4] Deseret said that service has already begun under the Bonanza Interconnection Agreement.

[5] The issues raised include: (1) Allegations that UP&L forced Deseret to sign the Bonanza Interconnection Agreement under duress; (2) arguments that the terms of the Bonanza Interconnection Agreement are unjust and unreasonable because of the point-by-point scheduling and the order in which power from the different generating plants is considered to be delivered; and (3) arguments that the rate under the Bonanza Wheeling Agreement is based on an excessive return on equity, includes an improper cash working capital allowance, allocates general plant improperly, and should not be on a "Postage-stamp" basis.

[6] 18 CFR 385.214.

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It is explained that such gas is purchased by Transco from Arco, pursuant to an agreement dated November 25, 1985. Applicant states that Transco intends to use the gas to meet its system requirements. Applicant states it would receive volumes for Transco's account, utilizing its capacity in the system of Tarpon Transmission Company, at an existing point of receipt in Eugene Island Block 361, offshore Louisiana and would redeliver such volumes at an existing point of interconnection with Transco in Beauregard, Louisiana. Applicant states that Transco would pay a unit charge of 26 cents per Mcf of the proposed service. Applicant explains that the transportation charge is based on the applicable costs underlying its currently effective rates as established in Docket No. RP83-93-000.

Comment date: May 9, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. Freeport Interstate Pipeline Company

[Docket No. CP86-420-000]

April 15, 1986.

Take notice that on April 8, 1986, Freeport Interstate Pipeline Company (Freeport Interstate), P.O. Box 61520, New Orleans, Louisiana 70161, filed in Docket No. CP86-420-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas in order to make a direct sale of 700 million Btu's of natural gas per day to Freeport Sulphur Company (Freeport Sulphur) and the acquisition and operation of line looping facilities for the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Freeport Interstate states that the natural gas would be used for emergency maintenance operations of Freeport Sulphur at its Caminada Mine, which is located in the Guld of Mexico, in the Federal domain, offshore of Grand Isle, Louisiana. Freeport Interstate further states that there is no other natural gas pipeline connection at the Caminada Mine and the subject direct sale is necessary to replace the emergency assignment and incidental transportation whcih Freeport Interstate is presently performing for the Caminada Mine pursuant to § 157.45 through 157.52 of the Commission's Regulations (18 CFR 157.45-157.52).

Freeport Interstate indicates that it would acquire the gas supply with which to make the proposed sale and incidental transportation from Louisiana Intrastate Gas Corporation (LIG) acting under authority of section 311(b) of the Natural Gas Policy Act (NGPA). Freeport Interstate further indicates that the sale price to Freeport Sulphur would consist of the LIG sale price under NGPA section 311(b); plus Freeport Interstate's transportation rate, as provided in its special rate schedule authorized in *Freeport Interstate Pipeline Company*, Docket No. CP85-874-000, January 17, 1985 [34 FERC ¶61,030]; plus any assessed charge, of which there is none, assessed by Freeport Pipeline Company for transportation of the sale volumes, on behalf of Freeport Interstate, from the LIG point of sale to Freeport Interstate.

Freeport Interstate states that it proposes to acquire from Freeport Minerals Company (Freeport Minerals) and to operate a line which is 5⅝s inches in diameter and approximately 9 miles in length. Freeport Interstate further states that such line would be purchased at Freeport Minerals' original cost, less depreciation, which was estimated to be $85,585 as of February 28, 1986. Freeport Interstate indicates that the acquisition and operation of the looping line would increase the reliability of its natural gas service to the Caminada Mine.

Comment date: May 9, 1986, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR doc. 86-8991-Filed 4-21-86; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 8085-001, et al.]

Surrender of preliminary permits; Birch Power Company, Inc., et al.

Take notice that the following preliminary permits have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. Birch Power Company, Inc.

[Project No. 8085-001]

April 16, 1986.

Take notice that Birch Power Company, Inc., permittee for the proposed Grey's River Water Power Project No. 8085, has requested that its preliminary permit be terminated. The preliminary permit was issued on August 2, 1984, and would have expired on July 31, 1987. The project would have been located on Grey's River in Lincoln County, Wyoming. The permittee states that a preliminary permit study found that the project would not be economically feasible to develop at this time.

The permittee filed the request on March 17, 1986.

2. Lewis County Public Utility District No. 1

[Project No. 6013-001]

April 15, 1986.

Take notice that Lewis County Public Utility District No. 1, permittee for the Summit/Carlton Creeks Project No. 6013, has requested that its preliminary permit be terminated. The preliminary permit for Projet No. 6013 was issued on February 3, 1986, and would have expired on January 31, 1989. The project would have been located on Summit and Carlton Creeks in Lewis County, Washington.

The permittee filed the request on March 28, 1986.

Standard Paragraphs:

I. The preliminary permit shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-8990 Filed 4-21-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF86-661-000, et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc., FSC Paper Corporation, et al.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. FSC Paper Corporation

[Docket No. QF86-661-000]

April 15, 1986.

On March 27, 1986, FSC Paper Corporation (Applicant), of 13101 South Pulaski Road, Alsip, Illinois 60658, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at Applicant's Alsip plant in Alsip, Illinois. The facility will consist of a combustion turbine generator with a supplementary-fired waste heat recovery boiler and necessary auxiliary equipment. The primary energy source will be natural gas. The maximum electric power production capacity of the facility will be 10 MW. The process steam will be utilized at Applicant's paper plant.

2. Chevron U.S.A., Inc.

[Docket No. QF86-662-000]

April 16, 1986.

On March 31, 1986, Chevron U.S.A., Inc. (Applicant), of P.O. Box 1392, Bakersfield, California 93302, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located two miles west northwest of Coalinga, California. The facility will consist of two topping cycle units, each consisting of a gas turbine-driven 2,400 kilowatt electric generator and a 55,000 lb/hr waste heat recovery steam generator. The steam is injected for tertiary petroleum production. The primary energy source will be natural gas. Construction of the facility was scheduled to begin in the first quarter of 1986.

3. Pacific Lighting Energy Systems

[Docket No. QF86-666-000]

April 16, 1986.

On April 4, 1986, Pacific Lighting Energy Systems (Applicant), of 6055 East Washington Boulevard, Suite 600, City of Commerce, California 90040, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located at Casa Diablo, Mammoth Lakes, California. The primary energy source will be geothermal resources. The electric power production capacity will be 15,000 kilowatts. No use of natural gas, oil, or coal is planned in this facility.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-8989 Filed 4-21-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000 (Parts A-D)]

Order Granting Requests for Clarification

Issued: April 15, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

Regulation of Natural Gas Pipelines after partial wellhead decontrol (Monterey Pipeline Co.) (Rosewood Resources, Inc.)

On March 25, 1986, Monterey Pipeline Company (Monterey) and Rosewood Resources, Inc. (Rosewood) each filed a request for clarification of § 284.125 of the regulations adopted in Order No. 436.[1] Monterey and Rosewood outlined the same facts and circumstances in their respective petitions. We are granting their requests.

On November 16, 1984, Monterey, an intrastate pipeline, entered into a transportation agreement with Columbia Gulf Transmission Company (Columbia) whereby Monterey agreed to transport gas on behalf of Columbia from Rosewood's E.A. Mouton No. 1 Well (Mouton well) under section 311(a)(2) of the Natural Gas Policy Act. Transportation pursuant to the agreement commenced on December 10, 1984. The transportation agreement is for an indefinite term.

In its petition, Rosewood states that the level of production from the Mouton well has been significantly reduced by production-related and drainage problems at the well location. As a result of these engineering problems, Rosewood must shut-in the Mouton well on April 15, 1986, the date on which state permits relating to the engineering problems expire.

On April 11, 1985, Rosewood began drilling the Edia H. Richard No. 1 Well (Richard well) as a replacement for the Mouton well, since it was known at that time that engineering problems existed at the Mouton well. Rosewood expended substantial funds on drilling expenses prior to October 9, 1985. The Richard well and the Mouton well are both located in the Marg Tex Reservoir A, Sand Unit B, West Ridge Field (Marg Tex Unit), in Lafayette Parish, Louisiana.

Monterey and Rosewood seek clarification that the transportation agreement between Monterey and Columbia can be amended to substitute the Richard well as the source of gas under the transitional provisions of Order No. 436.

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[1] 33 FERC ¶ 61,007 50 FR. 42408 (October 18, 1985).

The transportation service under the November 16 contract, upon commencement of delivery from the Richard well, will remain essentially unchanged. The gas will be transported between the same points of delivery and receipt at the same transportation rate and at the same maximum daily quantities (30,000 Mcf/day). Indeed, the only change contemplated by the parties will be that the gas will be produced from the Richard well at a location which will hopefully avoid the production-related problems encountered by the Mouton well. Additionally, under Louisiana state law, the Richard well will be subject to the same allowable applicable to the Mouton well prior to its being shut-in.

Substitution of the Richard well for the Mouton well is technical in nature [2] and would not affect the qualifying of the transportation under the transitional provisions of Order No. 436. Accordingly, we grant Monterey's and Rosewood's requests for clarification.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-8620 Filed 4-21-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Energy Research

High Energy Physics Advisory Panel; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: High Energy Physics Advisory Panel (HEPAP).

Date and time: Thursday, May 15, 1986, 8:00 am-5:00 pm; Friday, May 16, 1986, 8:00 am-12:00 noon.

Place: Lawrence Berkeley Laboratory, Building 50A, Room 5132, Berkeley, CA 94720.

Contact: Dr. P.K. Williams, Executive Secretary, High Energy Physics Advisory Panel, U.S. Department of Energy, ER-221, Washington, DC 20545, Telephone: 301/353-4529.

Purpose of panel: To provide advice and guidance on a continuing basis with respect to the high energy physics research program.

Tentative Agenda

Thursday, May 15, 1986

—Discussion of the National Science Foundation/Elementary Particle Physics FY 1987 Budget Status
—Discussion of the Department of Energy/High Energy Physics FY 1987 Budget Status
—Discussion of the National Academy of Sciences Physics Survey Committee Report on High Energy Physics (Brinkman Report)
—Discussion of the Conceptual Design Report for the Superconducting Super Collider (SSC)
—HEPAP Review of the SSC Conceptual Design and R&D Program of the Central Design Group (CDG)
5—HEPAP Review of the High Energy Physics Program at Lawrence Berkeley Laboratory (LBL)
—Public Comment (10-minute rule)

Friday, May 16, 1986

—Discussion on International Collaboration
—Further Discussion on HEPAP Reviews of CDG and LBL/HEP Programs
—Public Comment (10-minute rule)

Public Participation

The meeting is open to the public. The Chairperson of the panel is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to make oral statements pertaining to agenda items should contact the Executive Secretary at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda.

Minutes

Minutes are available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on April 17, 1986.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 86-8696 Filed 4-17-86; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $2,500 obtained as a result of a consent order which the DOE entered into with Reynolds Oil Company, a reseller-retailer of petroleum products located in Kremmling, Colorado. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the Federal Register and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to case number HEF-0164.

FOR FURTHER INFORMATION CONTACT: Walter J. Marullo, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth procedures and standards that the DOE has tentatively formulated to distribute to adversely affected parties $2,500 plus accrued interest obtained by the DOE under the terms of a consent order entered into with Reynolds Oil Company (Reynolds). The funds were provided to the DOE by Reynolds to settle all claims and disputes between the firm and the DOE regarding the manner in which the firm applied the federal price regulations with respect to its sales of motor gasoline during the period September 1, 1979, through November 30, 1979.

OHA proposes that a two-stage refund process be followed. In the first stage, OHA has tentatively determined that a portion of the consent order funds should be distributed to firms and individuals that made wholesale purchases of motor gasoline from Reynolds during the consent order period. Subsequent repurchasers are also eligible to claim a portion of the escrow funds. In order to obtain a refund, each claimant will be required to submit a schedule of its monthly purchases of Reynolds motor gasoline during the consent order period. Since the consent order amount in this case is itself less than the small claims threshold, all applicants that were not spot purchasers will be presumed to have been injured by Reynolds' pricing practices. Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Some residual funds may remain after all meritorious first-stage claims have been satisfied. OHA invites interested parties to submit their views concerning alternative methods of distributing any remaining funds in a subsequent proceeding.

Any member of the public may submit written comments regarding the proposed refund procedures. Such parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in this proceeding will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: April 15, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

April 15, 1986.

Name of Firm: Reynolds Oil Company.

Date of Filing: October 13, 1983.

Case Number: HEF-0164.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Reynolds Oil Company (Reynolds).

I. Background

Reynolds is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31 and is located in Kremmling, Colorado. A DOE audit of Reynolds' records revealed possible violations of the Mandatory Petroleum Price Regulations. 10 CFR Part 212, Subpart F. The audit alleged that between September 1, 1979, and November 30, 1979, Reynolds committed possible pricing violations amounting to $7,961.38 with respect to its sales of motor gasoline.

In order to settle all claims and disputes between Reynolds and the DOE regarding the firm's sales of motor gasoline during the period covered by the audit, Reynolds and the DOE entered into a consent order on October 28, 1980. The consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. Additionally, the consent order states that Reynolds does not admit that it violated the regulations.

Under the terms of the consent order, Reynolds was required to directly refund $798.58, plus interest, to its retail customers.

In addition, as settlement of the alleged overcharges to its wholesale customers, the firm agreed to deposit $2,500 into an interest-bearing escrow account for ultimate distribution by the DOE. Reynolds remitted this sum to the DOE on January 16, 1981.[1]

II. Proposed Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 8 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 9, DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

Our experience with Subpart V cases leads us to believe that the distribution of refunds in this proceeding should take place in two stages. In the first stage, we will accept claims from wholesale puchasers of motor gasoline that may have been injured by Reynolds' pricing practices during the period September 1, 1979, through November 30, 1979. If any funds remain after all meritorious first-stage claims have been paid, they may be distributed in a second-stage proceeding. *See, e.g., Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (*Amoco*).

A. Refunds to Wholesale Purchasers

In the first stage of the Reynolds refund proceeding, we propose to distribute the funds currently in escrow to wholesale purchasers who demonstrate that they were injured by Reynolds' alleged overcharges. As we have done in many prior refund cases, we propose to utilize certain presumptions which will help to determine the extent of a purchaser's alleged injury.

The presumptions we plan to adopt are also used to permit claimants to participate in the refund process without incurring inordinate expenses and to enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. First, we plan to adopt a presumption that the alleged overcharges were dispersed evenly in all of Reynolds' sales of motor gasoline made to wholesale customers during the consent order period. In the past, we have referred to a refund process that uses this presumption as a volumetric method. Second, we propose to adopt a presumption that claimants seeking small refunds ($5,000 or less) were injured by the alleged overcharges. Finally, we plan to adopt a presumption that spot purchasers were not injured by Reynolds' pricing practices.

The pro rata, or volumetric, refund presumption assumes that alleged overcharges by a consent order firm were spread equally over all gallons of product covered by the consent order. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. This presumption is rebuttable, however. A claimant which believes that it incurred a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. *See, e.g., Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 at 88,164 (1984), and cases cited therein.

[2] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Entrade Corporation) 33 FERC ¶ 61,370 (issued December 13, 1985). *Cf.* Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Sohio Petroleum Company and Sohio Chemical Company, *et al.*) 33 FERC ¶ 61,448 (issued December 30, 1985), 51 FR. 440. (The addition of a well behind a central delivery point qualified under the transitional provisions of Order No. 436, where the transportation contract did not have to be amended to accommodate the change).

[1] The total value of the Reynolds escrow account stood at $4,373.11 as of March 31, 1986.

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Under the volumetric method we plan to adopt, a claimant will be eligible to receive a refund equal to the number of gallons of Reynolds motor gasoline that it purchased during the consent order period times the volumetric factor. The volumetric factor is the average per gallon refund and in this case equals $0.015222 per gallon.[2] In addition, successful claimants will receive a proportionate share of the accrued interest.

The second presumption we plan to use is that purchasers of Reynolds motor gasoline seeking small refunds were injured by the firm's pricing practices. There are a variety of reasons for adopting this presumption. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). These firms were in the chain of distribution where the alleged overcharges occurred and therefore bore some impact of the alleged overcharges, at least initially. In order to support a specific claim of injury, a firm would have to compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive. With small claims, the cost to the firm of gathering the necessary information and the cost to OHA of analyzing it could exceed both the expected refund and the benefits from any additional precision. As a result, without simplified procedures injured parties could effectively be denied the opportunity to receive a refund.

Under the small-claims presumption, a claimant who is a reseller or retailer would not be required to submit any additional evidence of injury beyond volumes of Reynolds motor gasoline purchased if its refund claim is below a certain sum. Several factors determine the value of this threshold. For example, the cost to the applicant and the government of compiling and analyzing information sufficient to show injury should not exceed the amount of any relevant refund. As in previous cases, we are setting the threshold at $5,000. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,210 (1984); *Office of Special Counsel*, 11 DOE ¶ 85,228 (1984) (*Conoco*), and cases cited therein. Since the consent order amount in this case is itself less than this sum, all applicants will be filing small claims.

If a reseller, or retailer made only spot purchases, we propose that it should not receive a refund since it is unlikely to have been injured. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396–97. The same rationale applies in the present case. Therefore, we propose that firms which made only spot purchases of Reynolds motor gasoline not receive refunds unless they present evidence which rebuts the spot purchaser presumption and establishes the extent to which they were injured as a result of their purchases of Reynolds motor gasoline during the consent order period.

As in other cases, only claims for at least $15 will be processed. This minimum has been adopted in prior refund cases because the cost of processing claims for refunds of less than $15 outweighs the benefits of restitution in those situations. *See, e.g., Uban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b). The same principle applies here.

If valid claims exceed the funds available in the escrow account, all refunds will be reduced proportionately. Actual refunds will be determined after analyzing all appropriate claims.

B. Applications for Refund

Any wholesale purchaser claiming a portion of the consent order funds will be required to file an Application for Refund pursuant to 10 CFR 205.283. In its application, a claimant must include a schedule of its monthly purchases of Reynolds motor gasoline during the consent order period as well as all relevant information necessary to support its claim in accordance with the presumptions outlined above. A claimant must also state whether it has previously received a refund, from any source, with respect to the alleged overcharges underlying this proceeding. Each applicant must also state whether there has been a change in ownership of the firm since the audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Finally, an applicant must report whether it is or has been involved as a party in DOE enforcement or private actions filed under section 210 of the Economic Stabilization Act. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its Application for Refund is pending. *See* 10 CFR 205.9(d).

C. Distribution of Remaining Consent Order Funds

In the event that money remains after all meritorious claims have been satisfied, residual funds could be distributed in a number of ways in a subsequent proceeding. However, we will not be in a position to decide what should be done with any remaining funds until the initial stage of this refund proceeding has been completed. We encourage the submission by interested parties of proposals which address alternative methods of distributing any remaining funds.

It is Therefore Ordered That:

The refund amount remitted to the Department of Energy by Reynolds Oil Company pursuant to the Consent Order executed on October 28, 1980, will be distributed in accordance with the foregoing decision.

[FR Doc. 86-8994 Filed 4-21-86; 8:45 am]
BILLING CODE 6450-01-M

[2] This figure is computed by dividing the $2,800 received from Reynolds by the 184,222 gallons of motor gasoline sold by the firm to its wholesale customers during the consent order period.

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for filing Applications for Refund from a fund of $1,800,000 obtained from GCO Minerals Company in settlement of enforcement proceedings brought by DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Applications for refund must be filed by July 21, 1986, should conspicuously display a reference to case number HEF–0570, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585 (202) 252–2094.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order establishes procedures to distribute funds obtained as a result of settlement between GCO Minerals Company and DOE. The Consent Order entered in the case settled all disputes between DOE and GCO Minerals Company concerning possible violations of DOE price regulations with respect to the firm's sales of petroleum products to its customers, and possible violations of the regulations governing the Crude Oil Entitlements program, during the period August 1973 through June 1979.

Any members of the public who believe that they are entitled to a refund in this proceeding may file Applications for Refund. All Applications should be filed by July 21, 1986, and should be sent to the address set forth at the beginning of this notice. Applications for refunds must be filed in duplicate and these applications will be made available for public inspection between the hours of 1:00 and 5:00 p.m, Monday through Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Dated: April 15, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

April 15, 1986.

Name of Firm: GCO Minerals Company.

Date of Filing: March 11, 1985.

Case Number: HEF–0570.

On March 11, 1985, the Economic Regulatory Administration (ERA) filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) pursuant to the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V. The petition requests that the OHA formulate and implement procedures for distributing funds obtained pursuant to a consent order entered into with GCO Minerals Company to remedy the effects of alleged violations of DOE regulations.

I. Background

GCO Minerals Company (GCO), formerly known as General Crude Oil Company, was a gas plant owner and operator within the meaning of 10 CFR 212.162, and a refiner as defined in 10 CFR 212.31. The Company was a subsidiary of International Paper during the period covered by the consent order. GCO sold various covered products, including crude oil, condensate, natural gas liquids, (NGLs), and natural gas liquid products (NGLPs); therefore it was subject to the Mandatory Petroleum Price and Allocation regulations set forth in 6 CFR Part 150 and 10 CFR Part 212.[1] Those regulations, in effect from August 19, 1973 until January 27, 1981, governed prices charged in first sales of crude oil, including condensate, by defining ceiling prices for various tier classifications of crude oil.[2] They also governed the pricing of refined petroleum products, including NGLs and NGLPs. *See* 10 CFR Part 212, Subparts E and K.

A DOE audit of GCO's records revealed possible regulatory violations with respect to the firm's pricing of NGLs, NGLPs, and condensate during the period August 19, 1973 through June 30, 1979 (hereinafter referred to as the consent order period). The audit disclosed the possibility that condensate prices at two of GCO's plants exceeded the old/lower tier prices and were not justified based on base production control level computations.[3] The alleged NGL/NGLP overcharges related to GCO's calculation and reporting of increased costs and its calculation of allowable cost recoveries. *See id.*

In order to settle all claims and disputes between GCO and the DOE regarding the firm's compliance with the regulations; the two parties entered into a consent order on June 7, 1984. Pursuant to the consent order, GCO remitted $1,800,000 to the DOE on November 20, 1984. These funds have been held in an interest-bearing escrow account pending a determination by the OHA of their final distribution. This Decision concerns the distribution of those funds, which totaled $1,999,511.34, including interest, as of February 28, 1986.

On June 13, 1985, we issued a Proposed Decision and Order which set forth a tentative plan for distributing the GCO settlement funds. *See* 50 FR 25771 (June 21, 1985). In the Proposed Decision, we described a two-stage process for disbursing refunds. Specifically, we proposed to destribute funds in the first stage to identifiable purchasers of GCO covered products who could demonstrate that they were injured by the firm's pricing practices during the consent order period. We further stated that if funds remain after these meritorious claims have been paid, a second-stage refund procedure may become necessary. *See generally Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (hereinafter cited as *Amoco*).

The purpose of this Decision and Order is to establish the final procedures to be used for filing and processing claims in the first stage of the GCO refund proceeding. This Decision sets forth the information that a purchaser of GCO products should submit in order to establish eligibility for a portion of the consent order fund. Because our determination concerning the final disposition of any remaining funds will necessarily depend on the size of the fund, we will not establish second-stage procedures in this Decision. *See Office of Enforcement*, 9 DOE ¶ 82,508 (1981) (hereinafter cited as *Coline*). Accordingly, it would be premature for us to address at this time issues raised by commenters concerning second-stage refunds.[4]

II. Jurisdiction

The Subpart V regulations set forth general guidelines by which the OHA may formulate and implement a plan to

[1] For the purposes of the mandatory petroleum price regulations, the term "crude oil" included condensate recovered by mechanical separation. 10 CFR 212.31. Thus, condensate was to be treated as crude oil under Subpart D of the price regulations, rather than as NGLs of NGLPs, which were treated under Subpart K of the price regulations. DOE Ruling 1975–16, 40 FR 55820 (December 2, 1975).

[2] The regulations generally required crude oil producers to determine the first sale price of crude oil on the basis of the level of production from a property during a specified base period, i.e., the base production control level (BPCL). *See* 6 CFR 150.354; 10 CFR 212.72 and 212.76. Crude oil production that did not exceed the BPCL for a particular property was generally subject to the lower tier ("old" oil) ceiling price rule. 6 CFR 150.354; 10 CFR 212.73. Crude oil production that exceeded the BPCL ("new" oil) could generally be sold without regard to the ceiling price rule prior to February 1, 1976, and at the upper tier ceiling price after that date. 6 CFR 150.354(c)(2); 10 CFR 212.74(a). In addition, during most of the price control period, crude oil produced from a "stripper well property" was exempt from price controls. 6 CFR 150.54(5); 10 CFR 212.54. A stripper well property was a property whose average daily production of crude oil did not exceed ten barrels per well. 10 CFR 210.32(b) and 212.54(c).

[3] In order for plant condensate to qualify for prices in excess of the old/lower tier price, the volumes were to be allocated on a proportional basis to the producing property and compared to the recorded BPCL. If condensate volumes exceeded the BPCL, new/upper tier prices were justified. Or, if the average daily production rate of an existing property was no more than 10 barrels a day, stripper oil prices were allowed. *See* note 2, *supra*, and accompanying text.

[4] We received comments from nine states in response to the Proposed Decision and Order, all concerning second-stage procedures. The commenters were the States of Arkansas, California, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, Texas, and West Virginia.

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distribute funds received as a result of an enforcement proceeding. The Subpart V process may be used in situations where the DOE is unable to identify readily the persons who may eligible to receive refunds or to ascertain readily the amounts that such persons should receive. 10 CFR 205.280. For a more detailed discussion of Subpart V and the OHA's authority to fashion procedures to distribute refunds, *see Coline* and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (hereinafter cited as *Vickers*).

We have reviewed the record in the present case and have determined that a Subpart V proceeding is an appropriate mechanism for distributing the GCO consent order fund. We therefore grant the ERA's petition and assume jurisdiction over this fund.

III. Refund Procedures

The Proposed Decision noted that the GCO Consent Order resolves possible regulatory violations concerning all of GCO's products, including both crude oil and refined products. Therefore, we proposed to divide the consent order fund into separate crude oil and non-crude oil pools of refund monies. Accordingly, a pool of $864,000 has been set aside to satisfy claims filed by NGL and NGLP customers of GCO. In addition, a crude oil pool of $936,000 has been set aside and will be disposed of as discussed below.[5]

A. Crude Oil Claims

In the Proposed Decision, we proposed that the crude oil pool be set aside to satisfy claims filed by participants in the Crude Oil Entitlements Program and their downstream customers. We announced our intention to implement refund procedures for crude oil claims modeled on those outlined in *A. Johnson & Co.*, 12 DOE ¶ 85,102 (1984); *Office of Enforcement*, 9 DOE ¶ 82,521 (1982) (*Alkek*); and *Office of Enforcement*, 9 DOE ¶ 82,553 (9182) (*Adams*). Specifically, we proposed to require an applicant to demonstrate that it was injured by the alleged overcharges.

After the Proposed Decision was issued, we issued a report in the *Stripper Well* proceeding. *See Report of the Office of Hearings and Appeals, In re The Department of Energy Stripper Well Exemption Litigation*, MDL No. 378 (D. Kan., filed June 21, 1985), Fed. Energy Guidelines ¶ 90,507 (1985) (hereinafter cited as the OHA Stripper Well Report). Because of our findings in that case and subsequent developments in DOE's policy regarding refunds in crude oil overcharge cases, we have determined that it is appropriate to revise the refund procedures which we previously had proposed in this case.

Inder the Mandatory Petroleum Price Regulations, when a producer sold crude oil, it was required to certify in writing to the purchaser the respective volumes of crude oil belonging to each tier classification in each purchase. 10 CFR 212.31. When a refiner processed the crude oil, it was required to report these certifications to the DOE to enable the agency to administer the Crude Oil Entitlements Program, 10 CFR 211.67. To the extent that GCO miscertified old crude oil as new or stripper well crude oil, the impact of the violations was spread throughout the domestic refining industry by the operation of the Entitlements Program 10 CFR 211.67. *See, e.g., Union Oil Co. v. DOE*, 688 F.2d 797 (Temp. Emer. Ct. App. 1982), *cert. denied*, 459 U.S. 1202 (1983).

As a result of the findings in the OHA Stripper Well Report, the DOE issued a Statement of Restitutionary Policy for crude oil overcharge funds, 50 FR 27400 (July 2, 1985), Fed. Energy Guidelines ¶ 90,508 (1985). The policy statement announced that no claims for direct restitution would be accepted, and the Department would maintain such overcharge funds in escrow to afford the Congress the opportunity to select the means for distributing the funds.

In light of the DOE policy statement, we issued an order announcing that we intended to apply the policy in special refund proceedings involving overcharge funds attributable to Entitlements-period crude oil certification violations. 50 FR 27402 (July 2, 1985). After soliciting comments from potentially aggrieved parties regarding our application of the policy to pending refund proceedings, we stated in *Amber Refining, Inc.*, 13 DOE ¶ 85,217 (1985), that we will apply the DOE policy in all crude oil refund cases.

Accordingly, the crude oil portion of the funds obtained from CGO will be pooled with other crude oil consent order funds for distribution in accordance with department policies. *See* 50 FR 27402 (July 2, 1985); 50 Fed. Reg. 27460 (July 2, 1985); 50 FR 1919 (January 14, 1985).

B. Refunds to NGL and NGLP Purchasers

During the first stage of the refund process, the remainder of the GCO consent order funds, $864,000 plus accrued interest, will be distributed to GCO's NGL and NGLP customers who satisfactorily demonstrate that they were injured by CGO's alleged pricing violations. As we stated in the Proposed Decision, we do not have the names and addresses of all of the firm's customers.[6] However, from our experience we believe that the claimants in this proceeding will fall into the following categories: (1) Resellers and retailers of NGLs and NGLPs, (2) petroleum refiners who used NGLs and NGLPs as a fuel source or a blending stock, and (3) firms, individuals, or organizations who were consumers of those products (end-users). The refined petroleum products must have been purchased either directly from GCO or in a chain of distribution leading back to GCO.

As in many prior special refund cases, we will adopt certain presumptions and make certain findings which will permit claimants to participate in the refund process without incurring inordinate expense and will enable OHA to process the refund applications in the most efficient manner possible.[7]

We are adopting a presumption that the alleged overcharges were dispersed equally in all sales of products made by GCO during the consent order period and that refunds should therefore be made on a pro-rata or volumetric basis. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. However, we also recognize that the impact on an individual purchaser might have been greater. Therefore, any purchaser may file a refund application based on a claim that it suffered a disproportionate share of the alleged overcharges. *See, e.g., Standard Oil Company (Indiana)/ Army and Air Force Exchange Service*, 12 DOE ¶ 85,014 (1984).

Under the volumetric refund approach, a successful refund applicant will receive a refund equal to the total number of gallons purchased times the volumetric refund amount, plus a pro rata share of accrued interest. The volumetric refund amount is calculated by dividing the amount of money in the NGL/NGLP pool by our estimate of the total gallonage of NGLs and NGLPs sold by GCO during the consent order period. This results in a volumetric refund amount of $.004729 ($864,000 divided by 182,697,290 gallons). As of February 28, 1986, accrued interest increased the volumetric refund amount to $.005253.

[5] The amounts in each pool differ from those indicated in the Proposed Decision. Upon further analysis of the file in this case, we have concluded that a fairer and more equitable allocation of the consent order funds results by splitting the fund according to percentage of alleged overcharges, rather than according to percentage of total production *See, e.g.*, VGS Corp., 13 DOE ¶ 85,155 (1985); Bayou State Oil Corp., 12 DOE ¶ 85,197 (1985). *See generally*, Mobil Oil Corp., 13 DOE ¶ 85,339 (1985). In this case, 48% of the total dollar amount of the alleged overcharges concerned NGLs and NGLPs. The remaining 52% of the alleged overcharges concerned condensate. Notice of Proposed Consent Order, 49 Fed. Reg. 32788, 32797 (August 16, 1984)

[6] The Appendix to this Decision contains a list of GCO customers who were identified in the case file.

[7] The Subpart V regulations specifically authorize the use of presumptions in special refund proceedings. *See* 10 CFR Part 205, Subpart V.

1. Specific Application Requirements for Each Category of Refined Product Refund Applicant

a. *End-users.* In addition to the presumptions we are adopting in this proceeding, we are adopting our proposed finding that end-users or ultimate consumers whose businesses are unrelated to the petroleum industry were injured by the alleged overcharges settled by the GCO consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period and were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the increased cost of refined petroleum products on the final price of non-petroleum goods and services would be beyong the scope of a special refund proceeding. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,099 (1984); *Office of Enforcement*, 10 DOE ¶ 85,072 (1983) (*PVM Oil Associates*). We have therefore concluded that end-users of GCO NGLPs need only document their purchase volumes from GCO in order to make a sufficient showing that they were injured by the alleged overcharges.

However, crude oil refiners who purchased NGLs or NGLPs that were consumed as fuel or as raw material in a refining process will not be considered to be "consumers" for this purpose. Rather, the exception from the requirement of a separate, detailed showing of injury for end-users or ultimate consumers wil be limited to those whose business operations were unrelated to the petroleum industry and whose prices were therefore not subject to the DOE regulatory scheme. A refund applicant who was subject to the DOE regulatory program will be required to provide a detailed demonstration of injury with respect to the purchase of NGLs and NGLPs of which it was an end-user. *See People's Energy Corp.*, 12 DOE ¶ 85,129 (1984).

b. *Regulated Firms or Cooperatives.* In addition, we are adopting the presumption that agricultural cooperatives and regulated firms, such as public utilities, that are required to pass on to their customers the benefit of any refund received will be exempted from the requirement that they make a detailed showing of injury. *See Office of Special Counsel*, 9 DOE ¶ 82,538 (1982) (*Tenneco*); *Tenneco Oil Company/ Farmland Industries, Inc.*, 9 DOE ¶ 82,597 (1982). Instead, those firms and cooperative groups should provide with their applications a full explanation of the manner in which refunds would be passed through to their customers and how the appropriate regulatory body or membership group will be advised of the applicant's receipt of refund money. We note, however, that a cooperative's sales of GCO products to non-members will be treated in the same manner as sales by other resellers.

c. *Refund Applications by Refiners, Resellers, and Retailers.*—(i) *Spot Purchasers.* If a claimant made only spot purchases, we believe that in most circumstances it shoud not receive a refund since it is unlikely to have experienced injury. Spot purchasers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of GCO products at increased prices unless they were able to pass through the full amount of the quoted selling price at the time of purchase to their own customers. *See Vickers*, 8 DOE at 85,396–97. Therefore, a firm which made only spot purchases from GCO will not receive a refund unless it presents evidence rebutting the spot purchaser presumption and establishes the extent to which it was injured as a result of its purchases of GCO products during the consent order period. *See Amoco*, 10 DOE at 88,200.

(ii) *Refiners, Resellers, Retailers, Seeking Refunds of $5,000 or less.* We are also adopting the presumption that purchasers of GCO NGLs or NGLPs seeking small refunds were injured by GCO's pricing practices. *See, e.g., Uban Oil Co.*, 9 DOE ¶82,541 (1982) (hereinafter cited as *Uban*). With small claims, the cost to the firm of gathering evidence of injury to support a refund claim could exceed the expected refund. Consequently, without simplified procedures, some injured parties would be effectively denied an opportunity to obtain a refund. Under the small-claims presumption, a claimant seeking a refund of $5,000 or less will not be required to submit any evidence of injury beyond establishing the volume of GCO products it purchased during the consent order period.[8] *See Texas Oil & Gas Corp.*, 12 DOE at 88,210; *Marion Corp.*, 12 DOE ¶85,014 (1984).

(iii) *Refiners, Resellers and Retailers Seeking Refunds greater than $5,000.* Unlike small-claims applicants, a reseller or retailer who claims a refund in excess of $5,000 will be required to establish that it was injured by the alleged overcharges. To make this showing, a reseller or retailer claimant will first be required to show that it maintained "banks" of unrecovered increased product costs in order to demonstrate that it did not subsequently recover those costs by increasing its prices. *See Ada, supra* note 8, 10 DOE at 88,125.

The maintenance of a bank will not, however, automatically establish injury. *See Coline Gasoline Corp./Petrolane, Inc.*, 12 DOE ¶85,029 (1984). In addition to showing it maintained banks, a claimant must show that it experienced a competitive disadvantage because GCO's prices were higher than the prevailing price for the same products in the market area. *See Texaco Oil & Gas Corp.; National Helium Corp./Atlantic Richfield Corp.*, 11 DOE ¶85,257 (1984).

IV. How To Apply for a Refund

Applications for refund will now be accepted from parties who purchased GCO NGLs or NGLPs during the consent order period, August 19, 1973 through June 30, 1979. In addition to the specific requirements outlined above, all refund applicants should furnish the information set forth below.

A. An application must be in writing, signed by the applicant, and specify that it pertains to the GCO Minerals Company Consent Order Fund, Case No. HEF–0570.

B. Each applicant should furnish its name, street or post office address, and its telephone number. If the applicant is a business firm, it should furnish all other names under which it operated during the period for which the claim is being filed.

C. Each applicant should specify how it used the product(s)—i.e., whether it was a refiner, reseller, retailer, or an end-user.

D. Each applicant should submit a schedule which shows the volumes of GCO NGLs and NGLPs purchased during each month for which the applicant is claiming a refund.

[8] Claimants whose monthly purchases during the period for which a refund is claimed result in a volumetric refund of greater than $5,000 but who cannot establish that they did not pass through the price increases to their customers, or who limit their claims to the threshold amount, will be eligible for a refund of the $5,000 threshold amount without being required to submit additional evidence of injury. *See* Office of Enforcement, 10 DOE ¶85,029 at 88,122 (1982) (hereinafter cited as Ada); Vickers, 8 DOE at 85,396.

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E. If an applicant purchased GCO products from a reseller, it must establish its basis for belief that the producers originated with GCO and identify the reseller from whom the product was purchased. Indirect purchasers who either fall within a class of applicant whose injury is presumed, or who can prove injury, may be eligible for a refund if the reseller of GCO products passed through the alleged GCO overcharges to its own customers.

F. The application for refund should contain the name, address, and telephone number of the person who prepared the application. If the preparer was someone other than the applicant, the applicant should furnish us with the name and telephone number of a contact person familiar with the facts set forth in the application who we may contact for additional information concerning the application. Unless otherwise specified, the refund check will be issued to the preparer.

G. If the applicant is affiliated or associated with GCO in any manner, it must so indicate and provide information explaining the nature of its relationship with GCO.

H. Each applicant should report whether it is or has been involved as a party in any DOE or private section 210 enforcement actions. If these actions have terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should briefly describe the action and its current status. Of course, the applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its application for refund. *See* 10 CFR 205.9(d).

I. Each application must also include the following statement: I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief. *See* 10 CFR 205.283(c); 18 U.S.C. 1001.

J. All applications for refund must be filed in duplicate. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Room 1E–234, 1000 Independence Avenue SW., Washington, D.C. Any claimant whose application contains confidential information must so indicate on the first page of its application and submit two additional copies of its application from which the information which the applicant claims is confidential has been deleted, together with a statement specifying why any such information is believed to be privileged or confidential.

K. All applications should be sent to: GCO Minerals Company Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

L. Applications must be postmarked within 90 days after publication of this Decision and Order in the Federal Register. *See* 10 CFR 205.286. All applications for refund received within the time limit specified will be processed pursuant to 10 CFR 205.284 and the procedures set forth in this Decision and Order.

It Is Therefore Ordered That:

(1) Applications for Refunds from the fund remitted to the Department of Energy by GCO Minerals Company pursuant to the Consent Order executed on June 7, 1984 may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the Federal Register.

Dated: April 15, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Appendix—Identified GCO Customers

Arco
Conoco
Dow Chemical
Enterprise Products Company
Exxon
International Petroleum
Mapco
Marathon
Marion Company
Murphy Oil Co.
Petrolane Gas Service, Inc.
Shell
Skelly
Suburban Propane Gas Co.
Texas Petro Gas Co.
Wanda Petroleum

[FR Doc. 86–8985 Filed 4–21–86; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

[FRL–3008–6]

Fuels and Fuel Additives; Reconsideration of Waiver Granted Under Section 211(f) of the Clean Air Act

AGENCY: Environmental Protection Agency.

ACTION: Reconsideration of Waiver.

SUMMARY: The Environmental Protection Agency (EPA) is granting a petition to reconsider a conditional waiver granted under section 211(f) of the Clean Air Act to E.I DuPont de Nemours and Company, Inc. (DuPont) on January 10, 1985. This reconsideration is based on EPA's analysis of relevant data and information in light of a petition for reconsideration by the Oxygenated Fuels Association (OFA) received on March 18, 1985.

DATE: Comments should be submitted on or before May 22, 1986.

ADDRESS: Copies of the non-confidential information relative to this waiver application and subsequent submissions are available for inspection in public docket EN–84–06 at the Central Docket Section (LE–131) of EPA, Gallery 1—West Tower, 401 M Street, SW., Washington, D.C. 20460, (202) 382–7548 between the hours of 8:00 a.m and 4:00 p.m. Any comments from interested parties should be addressed to this docket, with a copy forwarded to Richard G. Kozlowski, Director, Field Operations and Support Division (EN–397), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying materials in the docket.

FOR FURTHER INFORMATION CONTACT: Sylvia I. Correa, Attorney/Advisor, Field Operations and Support Division (EN–397F), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 382–2835.

SUPPLEMENTARY INFORMATION:

I. Background

Section 211(f)(1) of the Clean Air Act, 42 U.S.C. 7545(f)(1), states that effective March 31, 1977, it shall be unlawful for any manufacturer of any fuel or fuel additive to first introduce into commerce or to increase the concentration in use of any fuel or fuel additive for general use in light-duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act. Section 211(f)(4) of the Act, 42 U.S.C. 7545(f)(4), provides that the Administrator of EPA upon application of any manufacturer of any fuel or fuel additive may waive the prohibitions established under section 211(f)(1), if the Administrator determines that the applicant has established that such fuel or fuel additive or a specified concentration thereof, or the emission products of such fuel or additive or specified concentration thereof, will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emission standards with respect to which it has been certified pursuant to

section 206 of the Act. If the Administrator does not act to grant or deny an application within 180 days of receipt of the application, the waiver authorized by section 211(f)(4) shall be treated as granted.

DuPont submitted an application for a waiver fuel on July 16, 1984. A Federal Register notice was published August 9, 1984, acknowledging receipt of the application and soliciting comments. 49 FR 31947. On January 10, 1985, the Administrator granted the waiver, subject to certain conditions. A Federal Register notice of this decision was published on January 17, 1985. 50 FR 2615.

On March 18, 1985, OFA on behalf of its member companies filed timely petitions for reconsideration and for judicial review of the conditional waiver grant with the EPA and with the U.S. Court of Appeals for the District of Columbia Circuit, respectively. Subsequently, OFA also requested that EPA immediately stay a particular condition of the waiver—the Evaporative Index (EI) condition. Over the next several months, OFA and EPA discussed approaches to resolve the outstanding issues. On November 29, 1985, OFA petitioned the same Court of Appeals for a stay of the EI condition pending judicial review of the waiver decision.

On January 22, 1986, however, EPA and OFA filed a joint motion to defer further proceedings in the Court of Appeals for 120 days and OFA withdrew its motion for a stay of the EI condition pending review.

II. EPA's January 10, 1985 Decision

DuPont submitted an application to EPA requesting a waiver for the introduction into commerce of a gasoline-alcohol fuel consisting of a maximum of 3.7 weight percent fuel oxygen with a maximum of 5.0 percent by volume methanol and a minimum of 2.5 percent by volume cosolvent(s), with a proprietary corrosion inhibitor, or its equivalent, to be used in unleaded gasoline. The application specified that the blend would have to conform to American Society for Testing and Materials (ASTM) standard D439 for automotive gasoline volatility, including the June 1984 proposed revision.

At the time of the DuPont application, EPA had information concerning the relationship between evaporative emissions and fuel volatility. In evaluating DuPont's application in light of this information, the Agency concluded that control of volatility only to ASTM specifications appeared to provide insufficient control to assure that a methanol blend would not cause or contribute to excessive evaporative emissions. Moreover, evidence gathered in connection with the proposed revocation of the Petrocoal waiver tended to contradict DuPont's proposition that controlling volatility to ASTM specifications only would hold evaporative emissions to the levels obtained with conventional gasoline. *See* Proposed Revocation of Petrocoal waiver, 49 FR 11879 (March 28, 1984).

The Agency therefore believed that producing that blend in accordance with only the requirements specified by DuPont (ASTM specifications) would require a denial of the application since those specifications alone would not provide sufficient control of the volatility of the final fuel to warrant a finding that the fuel would not cause or contribute to failures of the evaporative emission standard.

However, in its application, DuPont had developed a tool to correlate the fuel volatility characteristics and the evaporative emissions of gasoline-alcohol fuels, the Evaporative Index,[1] which DuPont claimed would control the volatility of the blend so that its evaporative emissions levels would not be significantly different from those of commercial gasoline. Since the Agency believed that ASTM D439 would not adequately control evaporate emissions of the DuPont blend, the Administrator decided to grant the waiver on the condition that the finished fuel be blended to meet volatility specifications determined by the EI to ensure that the fuel would be no more volatile than the commercial gasoline it would displace from the market. The Administrator also placed limits on the maximum EI levels according to the ASTM schedule of seasonal and geographic volatility classes. 50 FR 2615; DuPont Decision Document at pp. 22–23.

Two other conditions were placed on the DuPont waiver. The first was the limitation that only DuPont's DGOI–100 corrosion inhibitor be used in the final fuel, with no allowance for an equivalent corrosion inhibitor. The second was the requirement that the methanol used in the blend meet a 99.85 percent purity level. 50 FR 2615.

As to the corrosion inhibitor formulation, although DuPont had requested the use of DGOI–100 or its equivalent in the waiver application, no information was provided to EPA by DuPont or any commenter on a procedure for determining equivalency. Given this lack of information, the agency had no recourse but to limit the corrosion inhibitor to that which had been tested by the applicant. Decision Document at pp. 25–26.

As to the specification for methanol purity, DuPont had stated in section XV of its application that the properties of the alcohols used could have important effects on the properties of the finished fuel. In response to queries from the Agency regarding the necessity to control the alcohols used in the blend, DuPont submitted the alcohol purity specifications referred to in the decision. Since alcohols meeting these specifications were used in the test fuel, the Agency had no basis for adopting less restrictive alcohol specifications, and thus adopted the specifications recommended by DuPont, Decision Document at page 30.

III. Discussion

A. OFA Petition

In its petition for administrative reconsideration of the DuPont waiver conditional grant, OFA sought removal of the EI condition as a volatility control. OFA argued that the removal of the EI limitation was essential to opening the market place to alcohol fuels. OFA asserted that the EI was unfair and discriminatory, since no other automotive fuel had to meet this stringent volatility control. Further, OFA believed that the EI condition placed the DuPont blend at a significant competitive disadvantage, so severe as to be tantamount to a denial of the waiver.

OFA argued that there is a limited "window" of opportunity for marketing DuPont blends as a result of EPA's lead phasedown regulations. OFA claimed that refiners were examining alternative octane enhancers to use in place of lead, and that refiners were, in general, already making decisions about how to replace the octane capability lost as a result of the lowered lead standard.

OFA also argued that ASTM specifications were sufficient to control volatility of the blend, reasoning that since ASTM included the basic control parameter for volatility, the Reid Vapor Pressure (RVP), the EI was unnecessary to control the vehicle's evaporative emissions.

OFA also claimed that EPA gave no weight to the difference in chemical reactivity of methanol blends. It claimed that methanol is significantly less reactive than gasoline, and thus would, even with equal total evaporative

[1] The Evaporative Index is defined by DuPont in Section X of its waiver application as: EI = 0.65 RVP + 0.14 (percent evaporated at 200° F) — 0.32 (percent evaporated at 158° F); where RVP = Reid Vapor Pressure as measured by Annex A3 of ASTM's "Proposed Specification for Automotive Spark-Ignition Fuel" (Dry Method).

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emissions, result in less environmental harm.

In addition, OFA claimed that the DuPont blend would reduce hydrocarbon (HC) tailpipe emissions by 10 to 25 percent and reduce carbon monoxide emissions by 25 to 40 percent compared to commercial gasoline. Thus, OFA argued that EPA should have given some weight to the claimed substantial reductions in tailpipe emissions from the DuPont blend. When both evaporative emissions and tailpipe emissions (particularly for open-loop, carbureted vehicles) are considered, OF claims the use of DuPont waiver fuels would produce significantly lower HC emissions than use of commercial gasoline.

Moreover, OFA claimed that the DuPont blend (without the EI condition) would be limited to a three percent share of the total gasoline market, and that such a small share would have little, if any, net effect on the environment. It is also OFA's position that there are no available data indicating the DuPont blend fuels would result in greater evaporative emissions than commercial fuels of equivalent volatility (as measured by ASTM D–439).

Finally, OFA argued that the EI is unusable. OFA asserted that the EI's reproducibility is poor. Moreover, according to OFA, the EI is an unsuitable manufacturing parameter because it cannot be reliably measured or controlled. The practical effect of this uncertainty, OFA argued, was that the refiner would have to produce a product with an RVP about 1.0 to 1.4 pounds per square inch (psi) less than allowed. This reduces the potential market for DuPont blends to between the tenth and 25th percentile of fuels in use, and a refiner would not produce a product serving such a minor fraction of the refinery market.

OFA also challenged two other conditions of the DuPont waiver—the requirement for use of the DuPont proprietary corrosion inhibitor (DGOI–100) and the alcohol purity specifications for methanol. As to the corrosion inhibitor, OFA argued that EPA should have established specific criteria for the demonstration of the equivalency of other corrosion inhibitors to DuPont's proprietary formulation.

With regard to the alcohol purity specifications, OFA argued that a level of 90 to 95 percent purity for methanol (which it claimed was the normal methanol specification for use as an automotive fuel) would be sufficient to meet the requirements of the Clean Air Act, rather than the 99.85 percent level specified in the waiver decision.

OFA also raised some legal issues regarding the requirements of section 211(f) of the Clean Air Act. It pointed out that EPA's regulations require that vehicles certified under the evaporative emission standard have to be tested with Indolene 07 (which meets the fuel specifications in the certification regulations). Thus, OFA asserted, there is no standard to violate when other fuels are used, and it is unnecessary to demonstrate that a vehicle can pass the emission test while using the waiver fuel. OFA's other legal argument was that section 211(f) was aimed only at those fuels or fuel additives that cause physical damage to emission control systems, such that the vehicle could not meet emission standards if subsequently retested using Indolene, and that those fuels that cause excess emissions in use without such damage are to be regulated only under section 211(c).

B. EPA's Decision to Reconsider

1. Basic Assumptions

At the time of the original decision, the Administrator had concluded that the DuPont blend would be approvable only if the average volatility of fuels sold under the waiver were equal to the average volatility of the fuels they displaced, with the measure of volatility defined so that equality of evaporative emissions was ensured. *See* DuPont Decision Document, pg. 15. In this manner, the DuPont fuel would not cause more vehicles to exceed the applicable emissions standard.

Since the DuPont waiver was granted on January 10, 1985, however, information has been obtained which has a bearing on at least two of the basic assumptions made by the Agency at that time. First, in order to determine the EI values, the Agency originally analyzed data from the 1981, 1982 and 1983 Motor Vehicle Manufacturers' Association (MVMA) surveys of summer grade gasoline. Data from the 1984 survey were not available for analysis. Recently, summer MVMA data have been obtained for both 1984 and 1985. On the basis of MVMA's 1984 and 1985 data, EPA has determined that the average RVP of in-use gasolines is very close to the ASTM maximum limits for RVP. For example, for Class C cities, the average RVP numbers for *all* in-use gasolines (as opposed to only that percentage that actually met ASTM standards, as used in the DuPont waiver decision) in 1984 was 10.9 psi. Preliminary analysis of the MVMA summer 1985 data indicates that the average RVP of all in-use gasolines for Class C cities is 11.3 psi (the ASTM RVP limit for this class is 11.5).

Since the upper limit set by ASTM is not very far above the mean or median volatility of gasolines now being marketed, the question is whether a removal of the EI, and substitution of ASTM D439 in its place, would cause more vehicles to exceed the applicable emission standards.

Second, EPA's November 1985 Study of Gasoline Volatility and Hydrocarbon Emissions from Motor Vehicles (Notice of Availability published November 21, 1985, 50 FR 48100) has generated questions regarding the theoretical basis for the EI as a tool for predicting evaporation emissions. This study considered RVP as possibly the single most important parameter in assessing evaporative emissions.

Moreover, previous gasoline-alcohol waivers approved by EPA contained ASTM limitations, rather than the more stringent EI. The Agency is now involved in preliminary proceedings under section 211(c), which may result in promulgation of more uniform volatility limitations for all fuel types, including ones which have been granted waivers under section 211(f)(4).

2. Other Issues Related to Reconsideration

In arguing for the removal of the EI, OFA asserted that even if there were higher total evaporative emissions with the DuPont blend, the net environmental impact was minimal because those evaporative increases were first, less photochemically reactive and thus less dangerous to the environment; second, set off by the 10 to 25 percent decreases in tailpipe hydrocarbon emissions; and third, unimportant because of the small market share it protected for the DuPont blend.

EPA agrees that the general assumption has been that methanol is relatively low in photochemical reactivity. However, the measured decrease in ractivity have been estimated from photochemical modeling projections and smog chamber experiments based on data from a single day. There are some indications that the reactivity of methanol may increase the second or third day. Further, the industry-wide test used, Flame Ionization Detector (FID), does not measure all of the methanol molecules present. Thus, any consideration given to the lower reactivity of methanol emissions would have to take into acount the errors associated with the FID test as well as the uncertainties of the second and third day measurements.

As to the decrease in hydrocarbon tailpipe emissions, although there is evidence to suggest that there is some lowering of such emissions with blends, it is not clear that the reduction is as high as 10 to 25 percent. EPA's present estimate is that it would be a 3 percent reduction. Also, available data suggest that this reduction occurs primarily on cars built before 1981. Further, there is a question as to whether the Act allows EPA to grant a waiver if any standard (i.e., the evaporative HC standard) is violated, even if the net emissions of the pollutant are reduced.

OFA also argued that the market share of the blend would be only about three percent, and thus, that any environmental impact would be minimal. Such estimates are, of course, uncertain and EPA believes the share could be in excess of three percent, perhaps as much as six percent nationwide, (based on the share of other gasoline-alcohol blends presently sold). Further, because of current private restrictions on the pipeline shipment of alcohol-containing fuels and on the trading of such fuels, and because of the need for carefully prepared and supervised shipment and storage facilities, it is likely that a refiner or blender using the DuPont waiver would market in a narrow geographic area. If so, localized market shares could go well above the three percent envisioned by OFA. Finally, there is a question as to whether the Act allows EPA to grant a waiver that would cause violations of a standard even if the number of vehicles affected were small.

With regard to the other two conditions of the DuPont waiver challenged by OFA, the corrosion inhibitor formulation and the alcohol purity specifications, EPA has the following observations.

OFA's position regarding the alcohol purity specifications was that a 99.85 percent level of purity for the methanol was unnecessary to assure that the requirements of section 211(f) were met. OFA argued that the normal methanol specification for use as an automotive fuel was a 90 to 95 percent purity level, and pointed out that the 90 to 95 purity level was deemed adequate for the cosolvents. EPA requests additional information on this subject. Specifically, EPA requests information on whether, in light of DuPont's reliance on highly purified methanol in its test fuel, a lower purity level would affect the emissions product of the final fuel.

As to the corrosion inhibitor formulation, OFA sought the creation of a procedure by which the equivalency of other corrosion inhibitors could be established. As stated in the January 10, 1985 DuPont decision document, EPA agrees that the arguments for the use of other such formulations have merit. *See* DuPont Decision Document, p. 25. However, the Agency is unaware of a methodology for establishing such equivalency, but would welcome information as to how to establish such a methodology.

IV. Today's Action

Although EPA believes that the original DuPont waiver decision was correct based on the record existing at that time, for the reasons discussed in Part III above, the Agency is granting OFA's administrative petition for reconsideration of the waiver. The issues that have been raised, and which the Agency is today requesting comments on, are as follows:

1. Whether the EI should be adjusted or removed to respond to the rise in gasoline volatility since the original waiver grant. That is, is the EI still necessary or appropriate (vs. ASTM) given:
   - –The rise in volatility causing the difference between EI and ASTM to be greatly reduced;
   - —EPA's preliminary actions under section 211(c) which ultimately may deal with the volatility issue across the board;
   - —Questions raised by EPA's volatility study.

2. The prospective usage of the DuPont blend.

3. The environmental impact of using the waiver blend without an EI, including the issues raised by OFA regarding the emissions factor of the blend, such as:
   - —Lowered tailpipe hydrocarbon emissions,
   - —Lowered photochemical reactivity of methanol emissions.

4. Whether the specifications for methanol purity should be modified.

5. Whether an allowance should be provided for the demonstration of equivalency of other corrosion inhibitor formulations to DuPont's DGOI–100. If such allowance is made, should material testing alone (without vehicle mileage accumulation tests) suffice.

All information received pursuant to this notice will be placed in the docket.

Because there are still open quesions on the issues described above, however, I have decided to deny OFA's request for an immediate stay of the EI condition. In any event, I believe it would be inappropriate under the circumstances of this case to stay that condition without prior public participation.

In taking these actions, I have concluded that the decision of the District of Columbia Circuit Court of Appeals in the Petrocoal case—*American Methyl Corp.* v. *EPA*, 749 F.2d 826 (1984)—does not restrict my authority to reconsider the DuPont waiver under the present circumstances. In the *American Methyl* case, the court held that EPA did not have authority to reconsider or revoke the Petrocoal waiver under section 211(f) of the Act.[2] However, in that case EPA had not proposed revocation until several years after the waiver was granted and the fuel was already on the market, and after the waiver holder had invested substantial resources in developing and marketing the fuel. Moreover, the waiver applicant in that case vigorously opposed the proposed revocation.

The court apparently believed that Congress meant to protect the waiver holder's expectations and investments in such a situation by requiring EPA to regulate such a fuel in the same way it regulated other fuels already in the market—i.e., by rulemaking under section 211(c) of the Act.

In the present case, however, the changes OFA seeks and that EPA is considering would be beneficial to the parties most interested in producing DuPont fuel. Moreover, to the best of our knowledge, the fuel that would be permitted under the waiver has not yet been introduced into commerce, and neither the waiver holder, DuPont, nor any other interested party has invested in the marketing of this additive fuel. Indeed, the parties most interested in relying on the waiver, those represented by OFA, have urged EPA in a timely manner to reconsider the waiver. For these and similar reasons, I do not believe that the holding in *American Methyl* applies to facts such as these and, thus, does not limit my authority under section 211(f) in this case.

Dated: April 10, 1986

Lee M. Thomas

Administrator.

[FR Doc. 86–8958 Filed 4–21–86; 8:45 am]

BILLING CODE 6560–50–M

[2] In a later opinion, the court itself vacated the Petrocoal waiver and remanded for new proceedings under section 211(f) Motor Vehicle M'frs A'ssn v. EPA, 768 F.2d 385 (1985), *cert. don.*, ——— U.S. ———.

FEDERAL COMMUNICATIONS COMMISSION

Routine Licensing of Large Networks of Small Antenna Earth Stations Operating in the 12/14 GHz Frequency Bands

AGENCY: Federal Communications Commission.

BEST COPY AVAILABLE

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ACTION: Declaratory order.

SUMMARY: This document sets out processing procedures for applications requesting authorization of satellite communications networks operating in the 12/14 GHz frequency bands and employing large numbers of technically identical earth station antennas less than 5 meters in diameter. It also sets technical criteria for the routine licensing of antennas as small as 1.2 meters in diameter in these bands.

EFFECTIVE DATE: This order is effective upon release.

ADDRESS: Federal communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Rosalee C. Gorman or Joe Harcarufka, Common Carrier Bureau, (202) 634–1824.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Declaratory Order, adopted April 3, 1986, and released April 9, 1986.

The full text of this Commission decision is available for inspection and copying during normal business hours in the Domestic Facilities Public Reference Room, (Room 6220), 2025 M Street NW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

The Chief, Common Carrier Bureau, acting pursuant to delegated authority, has adopted a Declaratory Order which sets out processing procedures for applications requesting authorization of satellite communications networks operating in the 12/14 GHz frequency bands which employ large numbers of technically identical earth station antennas. In addition, this declaratory order sets initial technical criteria for the routine authorization of the particular class of earth station antennas as small as 1.2 meters in these bands for narrowband data rate transmissions.

Pursuant to the conditions and procedures established by this order, several pending applications will be granted by separate authorization in which a blanket license will be issued for the overall network without requiring site specific information on each individual antenna. Future applications for networks of this type or any other requests for authorization of a large number of technically identical facilities using antennas of less than 5 meters in diameter must include the information listed below. In addition, applications requesting authorization of "hub" networks must also comply with the technical specifications given below.

The following information is required: a general narrative statement describing the applicant and overall system operation, including Form 430; a Form 403 and associated technical specifications for each large (i.e., 5 meters or more in diameter) hub station; one Form 403 and associated technical specifications for each representative type of small (i.e., diameter of less than 5 meters) earth station; designation of a point of contact to maintain records of location and frequency use; and description of a safety interlock system if remote control authority is requested.

To be routinely authorized, a "hub" network authorized on a blanket basis in the 12/14 GHz band must not exceed the following parameters: power density of −14.0 dBW/4 KHz into a 1.2 meter earth station and a gross bit rate of 512 Kbps for the inbound uplink; for the outbound link, a maximum satellite carrier EIRP density of +8.0 dBW/4 KHz, a gross bit rate of 3.088 Mbps from a central hub earth station with at least a 5.0 meter antenna and an EIRP of 78.3 dBW. Other antennas 1.2 meters or greater in diameter will also be routinely licensed for transmissions in the 14 GHz band if the earth station and satellite parameters do not exceed those for a blanket hub network authorization. Any application for a system exceeding these parameters must make a showing that its operations will not cause interference under conditions of uniform 2° satellite orbital spacing.

Each pending and future applicant will be authorized to construct and operate a specified number of earth stations with construction to be completed within 48 months of the date of authorization. The license term for a blanket authorization will be ten years and licensees will be required to specify the number of stations actually constructed on a yearly basis. Requests for authority to construct additional stations for networks given a blanket authorization will be treated as minor modifications and will be given a corresponding extension of time to complete construction, but the license will not be extended beyond the original ten year term.

Accordingly, pursuant to Section 0.291 of the Commission's rules on delegations of authority, it is ordered that the foregoing procedures will be applied to the grant of pending applications for networks of the type described herein. Future applications for these types of systems or others employing large numbers of technically identical facilities will be processed routinely in accord with these procedures.

It is further ordered that earth station antennas 1.2 meters and larger will be routinely licensed in the domestic Fixed-Satellite Service for transmission in the 14.0–14.5 GHz band in accordance with the conditions specified above.

Albert Halprin,
Chief, Common Carrier Bureau.

[FR Doc. 86-8883 Filed 4-21-86; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: New Information Collection
Title: Civil Rights Higher Education and Rehabilitation Act Survey

Abstract: Annually evaluates compliance with nondiscrimination regulations by State emergency management agencies. Administered by FEMA program personnel. Areas covered: administrative procedures, training, construction, and planning. Will be used to provide technical assistance to accomplish voluntary compliance and as basis for budgetary recommendations to the Director of FEMA.

Type of Respondents: State or Local Governments
Number of Respondents: 55
Burden Hours: 138

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646–2624, 500 C Street, SW., Washington D.C. 20472.

Comments should be directed to Mike Weinstein, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Rm. 3235, New Executive Office Building, Washington, D.C. 20503.

Walter A. Girtenstas,
Director, Administrative Support.

[FR Doc. 86-8922 Filed 4-21-86; 8:45 am]
BILLING CODE 6718-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in section 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 021–000661–004.
Title: The Port Authority of New York and New Jersey Terminal Agreement.
Parties:
The Port Authority of New York and New Jersey
Universal Maritime Service Corporation

Synopsis: The proposed amendment would: (1) Provide for an addition to the leased premises: (2) provide for the use of the "Second Additional Crane" upon completion; and (3) provide for the use of areas prior to the completion of construction work. The parties have requested a shortened review period.

Agreement No.: 202–010025–007
Title: Red Sea Rate Agreement.
Parties:
A.P. Moller-Maersk Line NedLloyd Lijnen, B.V.
Barber Blue Sea.

Synopsis: The proposed amendment would modify the scope of the agreement to eliminate ports in Saudi Arabia. The parties have requested a shortened review period.

By order of the Federal Maritime Commission.

Dated: April 17, 1986.

Tony P. Kominoth,
Assistant Secretary.

[FR Doc. 86-8946 Filed 4-21-86; 8:45 am]
BILLING CODE 6730-01-M

Peruvian Cargo Reservation, Supreme Decree No. 009–86–TC: Request for Comments

April 17, 1986.

The Federal Maritime Commission has received a number of letters and telexes from shippers and shipper organizations expressing concern about the impact of the Government of Peru's Supreme Decree No. 009–86–TC (Decree) on shipping in the United States trades with Peru. The Decree was issued on February 28, 1986 and, *inter alia*, reserves to Peruvian-flag vessels 100 percent of import or export cargo generated by Peru's foreign trade. Some reduction of the amount of cargo reserved is apparently contemplated under certain circumstances for shipping lines of the "flag of reciprocity," and with specific authorization by the Peruvian Office of Aquatic Transport when no national-flag vessel is available.

Union Carbide Corporation has, by telex dated March 12, 1986, expressed grave concern regarding the effect of this Decree upon the level of shipping service and rates in the U.S./Peru trade and asked the Commission to institute an investigation into possible conditions unfavorable to shipping in the U.S. foreign trade resulting from this Decree, pursuant to section 19(1)(b) of the Merchant Marine Act, 1920, 46 U.S.C. app. 876(1)(b).[1] Similar concerns and requests for Commission action have been received from Shippers for Competitive Ocean Transportation, the New York Chamber of Commerce and Industry, the National Export Traffic League, and the Monsanto Corporation. These communication allege that the Peruvian Decree prevents competition among shipping lines, denies the shipping public the ability to use the carriers of their choice, and has created a great deal of current confusion among shippers as to which vessels they may use and whether they may be subject to substantial penalties for use of non-Peruvian-flag vessels. Copies of these letters and telexes are available for examination at the Washington, DC office of the Commission, 1100 L Street NW., Washington, DC, Room 11101.

On its face, Supreme Decree No. 009–86–TC would preclude the use of U.S.-flag vessels or third-flag vessels for shipments between Peru and the United States by American importers and exporters. To that extent, at least, the Decree appears to create conditions unfavorable to shipping in the U.S. trade with Peru. In order for the Commission to make a thorough evaluation of conditions in the trade and assess the actual impact of Peruvian Supreme Decree 009–86–TC, interested persons are requested to submit views, arguments or data relating to this matter no later than May 18, 1986. Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573 in an original and 15 copies.

The Commission has also requested that the Department of State continue and intensify its efforts to reach a resolution of this matter through diplomatic channels with the Government of Peru, and to inform the Commission within 30 days of the prospects for such a resolution. Based upon the comments received and the response of the Department of State, the Commission will promptly consider what, if any, further action should be taken in this matter. Such further action could include the promulgation of appropriate rules to meet any conditions unfavorable to shipping in the U.S. trade with Peru which may be found to exist as a result of Supreme Decree 009–86–TC.

By the Commission.

Tony P. Kominoth,
Assistant Secretary.

[FR Doc. 86-8982 Filed 4-21-86; 8:45 am]
BILLING CODE 6730-01-M

[1] Section 19(1)(b) of the Merchant Marine Act, 1920 authorizes and directs the Federal Maritime Commission to "make rules and regulations affecting shipping in the foreign trade not in conflict with law in order to adjust or meet general or special conditions unfavorable to shipping in the foreign trade, . . . which arise out of or result from foreign laws, rules, or regulations . . ."

[Docket No. 86–13]

Application of Tariff Filing Requirements to the Carriage of Forest Products Under the Shipping Act of 1984; Notice of Filing of Petition for Declaratory Order, U.S. Atlantic and Gulf/Australia-New Zealand Conference

Notice is given that a petition for declaratory order has been filed by the U.S. Atlantic & Gulf/Australia-New Zealand Conference seeking that the Commission determine the applicability of the tariff-filing exemption for forest products in section 8 of the Shipping Act of 1984, 46 USC app. 1707(a)(1), as it relates to the movement of such cargoes in containers.

Interested persons may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L. Street, NW., Room 11101. Interested persons may submit replies to the Secretary, Federal Maritime Commission, Washington, DC 20573 on or before May 14, 1986. An original and fifteen copies of such replies shall be submitted and a copy thereof served on the filing party, Marc J. Fink, Billig, Sher & Jones, P.C., Suite 300, 2033 K Street, NW., Washington, DC 20006. Replies shall contain the complete factual and legal

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presentation of the replying party as to the desired resolution of the petition.

Tony P. Kominoth,
Assistant Secretary.

[FR Doc. 86-8880 Filed 4-21-86; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM

Applications To Engage de Novo in Permissible Nonbanking Activities; Algemene Bank Netherland N.V. et al.

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and section 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in section 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 12, 1986.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Algemene Bank Netherland N.V.*, Amsterdam, The Netherlands, *A.B.N.—Stichting*, Amsterdam, The Netherlands, *ABN Company, Inc.*, Wilmington, Delaware, and *LaSalle National Corporation*, Chicago, Illinois; to engage *de novo*, through their subsidiary LaSalle Brokerage Services, Inc., Chicago, Illinois, in discount securities brokerage activities pursuant to section 225.25(b)(15) of the Board's Regulation Y.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *San Diego Financial Corporation*, San Diego, California; to engage through its subsidiary SDT Discount Brokerage, Inc., San Diego, California, in discount securities brokerage activities and underwriting and dealing in government obligations and money market instruments pursuant to §§ 225.25(b) (15) and (16) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 17, 1986.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 86-8877 Filed 4-21-86; 8:45 am]

BILLING CODE 6210-01-M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Investors Trust Financial Corporation et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 16, 1986.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Investors Trust Financial Corporation*, Duluth, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of Investors Trust Bank, Duluth, Georgia (currently, the Investors Trust Savings & Loan Association, Duluth, Georgia).

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Illinois Corporation*, Evanston, Illinois; to merge with First Burlington Corporation, LaGrange, Illinois, thereby indirectly acquiring LaGrange Bank and Trust Company, LaGrange, Illinois, and First Burlington Bank, Willowbrook, Willowbrook, Illinois.

2. *First Wilmington Corp.*, Wilmington, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of Wilmington, Wilmington, Illinois.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Ben Wheeler Bancshares, Inc.*, Ben Wheeler, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank of Ben Wheeler, Ben Wheeler, Texas.

2. *Texas Community Bancshares, Inc.*, Dallas, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of BancTexas Sulphur Springs, N.A., Sulphur Springs, Texas.

Board of Governors of the Federal Reserve System, April 17, 1986.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 86-8878; Filed 4-21-86 8:45 am]

BILLING CODE 6210-01-M

Ameritrust Corp. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 14, 1986.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Ameritrust Corporation*, Cleveland, Ohio, and *First Indiana Bancorp*, Elkhart, Indiana; to acquire 100 percent of the voting shares of State Bank of Lima, Howe, Indiana.

B. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Spurgeon Financial Corporation*, Spurgeon, Indiana; to merge with Pike Bancshares, Inc., Petersburg, Indiana, thereby indirectly acquiring Pike County Bank, Petersburg, Indiana.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Eastern Bancshares of Texas, Inc.*, Eustace, Texas; to become a bank holding company by acquiring 89.6 percent of the voting shares of First State Bank, Eustace, Texas.

Board of Governors of the Federal Reserve System, April 16, 1986.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 86-8875; Filed 4-21-86; 8:45 am]

BILLING CODE 6210-01-M

The Central Bancorporation, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 5, 1986.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *The Central Bancorporation, Inc.*, Cincinnati, Ohio; to acquire 100 percent of the voting shares of Citizens National Bank, Fort Wright, Kentucky.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *MarBanc Financial Corporation*, Markle, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Markle, Markle, Indiana. Comments on this application must be received not later than April 16, 1986.

2. *Heartland Bancorp, Inc.*, El Paso, Illinois; to acquire 100 percent of the voting shares of The First National Bank, Washington, Illinois.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Caldwell Capital Corporation*, Caldwell, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank in Caldwell, Caldwell, Texas.

2. *First La Grange Bancshares, Inc.*, La Grange, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of The First National Bank of La Grange, La Grange, Texas.

3. *Greater Texas Bancshares, Inc.*, Georgetown, Texas; to acquire 100 percent of the voting shares of Greater Texas Bank North, N.A., Austin, Texas, thereby indirectly acquiring Greater Texas Bank Leander, Leander, Texas.

Board of Governors of the Federal Reserve System, April 16, 1986.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 86-8923 Filed 4-21-86; 8:45 am]

BILLING CODE 6210-01-M

First Commerce Corp. et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 14, 1986.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Commerce Corporation*, New Orleans, Louisiana; to engage *de novo* through its subsidiary First Commerce

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Service Corporation, New Orleans, Louisiana, in data processing and data transmission services pursuant to § 225.25(b)(7) of the Board's Regulation Y.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Victoria Bankshares, Inc.*, Victoria, Texas; to expand the geographic scope of its subsidiary Transact Financial Corporation, Victoria, Texas, to include the entire United States. Transact Financial Corporation engages in lending activities pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 10, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-8624 Filed 4-21-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

NIOSH Board of Scientific Counselors; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control (CDC) announces the following National Institute for Occupational Safety and Health (NIOSH) committee meeting:

Name: Board of Scientific Counselors.
Date: May 13-14, 1986.
Place: Auditoriums A and B, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333.
Time and Type of Meeting:
Closed: 9:00 a.m.—12:00 noon, May 13, 1986—Auditorium A
Open: 1:00 p.m.—4:30 p.m., May 13, 1986—Auditorium A
Open: 9:00 a.m.—Adjournment, May 14, 1986—Auditorium B.

Contact Person: Elliott S. Harris, Ph.D., Executive Secretary, NIOSH Board of Scientific Counselors, NIOSH, CDC, Building 1, Room 3007, 1600 Clifton Road, NE, Atlanta, Georgia 30333. Phone: (404) 329-3773.

Purpose: The Board is charged with advising the Director of the National Institute for Occupational Safety and Health on the scientific quality and efficacy of the Institute's research as related to the Institute's goals.

Agenda: Agenda items for the meeting will include announcements, consideration of minutes of the previous meeting, report of the Subcommittee appointed to evaluate the NIOSH grants program, NIOSH cooperative agreements, NIOSH health promotion activities, and subjects for future Board agendas. Beginning at 9:00 a.m. through 12 noon, May 13, Bard members will discuss certain NIOSH program resources (both financial and personnel) and the allocation thereof. This portion of the meeting will be closed to the public in accordance with the provisions set forth in Sections 552b(c)(6) and (c)(9)(B), Title 5 U.S. Code, and the Determination of the Director, Centers for Disease Control, pursuant to Pub. L. 92-463.

The portion of the meeting so indicated is open to the public for observation and participation. Anyone wishing to make an oral presentation should notify the contact person listed above as soon as possible before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the presentation. Oral presentations will be scheduled at the discretion of the Chairperson and as time permits. Anyone wishing to have a question answered during the meeting by a scheduled speaker should submit the question in writing, along with his or her name and affiliation, through the Executive Secretary to the Chairperson. At the discretion of the Chairperson, and as time permits, appropriate questions will be asked of the speakers.

Agenda items are subject to change as priorities dictate.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: April 11, 1986.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 86-8668 Filed 4-21-86; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

Top Hand Iron Injection; Withdrawal of Approval of NADA

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of a new animal drug application (NADA) sponsored by Boehringer Ingelheim Animal Health, Inc., providing for use of Top Hand Iron Injection (colloidal ferric oxide in dextrin solution) for prevention and treatment of iron deficiency anemia in baby pigs. The sponsor requested the withdrawal of approval.

EFFECTIVE DATE: May 2, 1986.

FOR FURTHER INFORMATION CONTACT: Vitolis E. Vengris, Center for Veterinary Medicine (HFV-214), Food and drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3163.

SUPPLEMENTARY INFORMATION: Boehringer Ingelheim Animal Health, Inc., 2621 North Belt Highway, St. Joseph, MO 64502, is sponsor of NADA 39-281 which provides for use of Top Hand Iron Injection (colloidal ferric oxide in dextrin solution) for prevention and treatment of iron deficiency anemia in baby pigs. The application was originally approved January 10, 1969. In a letter dated January 29, 1986, the firm requested withdrawal of approval of the NADA because the drug product is no longer being marketed and waived an opportunity for hearing.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(e), 82 Stat. 345-347 (21 U.S.C. 360b(e)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.84), and in accordance with § 514.115 *Withdrawal of approval of applications* (21 CFR 514.115), notice is given that approval of NADA 39-281 and all supplements thereto for Top Hand Iron Injection is hereby withdrawn, effective May 2, 1986.

In a final rule published elsewhere in this issue of the **Federal Register**, the regulation reflecting this approval is removed.

Dated: April 15, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86-8634 Filed 4-21-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

School Construction Priority List, FY 1987

April 17, 1986.

SUMMARY: This notice is published in exercise of authority delegated by the Secretary of Interior to the Assistant Secretary—Indian Affairs by 209 DM8. The school construction priority list has been revised for FY 1987 as required by Pub. L. 95-561 (92 Stat. 2319 section 1125(O)) which requires that: At the time any budget request for school construction is presented, the Secretary shall publish in the **Federal Register** and submit with the budget request the current list of all school construction priorities.

This notice for FY 1987 provides the current revised list of proposed construction projects.

Construction of these projects is subject to the availability of funds and/or the status of currently committed construction projects approved by Congress. Committed projects are Two Eagle River Indian High School, Montana, and Rocky Boy High School, Montana.

The current list of school construction projects applies to FY 1987 based upon the Bureau's criteria for ranking projects using "unhoused" students. A revised list is developed and published for each succeeding fiscal year. The BIA, Contract and Previously Private School Construction Ranking—FY 1987 is:

1. St. Francio Indian School, SD.
2. Turtle Mountain Middle School, ND.

A reivew of the Oglala Community High School is underway, as directed by Congress, to determine whether or not it should be ranked. No other applications are ranked pending the development of a master plan for the Bureau of Indian Affairs Education. The plan will be developed during FY 1987 so that new applications for construction can be considered for FY 1988.

FOR FURTHER INFORMATION CONTACT: Deputy Director, Office of Facility Management, Box 1248, Albuquerque, New Mexico 87103, (505) 766-2825.

Ross O. Swimmer,

Assistant Secretary—Indian Affairs.

[FR Doc. 86-8664 Filed 4-21-86; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

New Mexico; Availability of Draft Roswell Resource Area Management Framework Plan Amendment (MFPA)/ Environmental Assessment (EA)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of draft MFPA/EA.

SUMMARY: Pursuant to section 102(2) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, Roswell Resource Area, Roswell, New Mexico, has prepared a Draft EA to amend the Fort Stanton MFP.

The Draft MFPA/EA analyzes the environmental impacts that would result from designating a right-of-way corridor for facilities associated with a new regional airport, and from designating a site for a community material pit. A no-action alternative is also analyzed in the document.

FOR FURTHER INFORMATION CONTACT: Copies of the document are being made available to the public who are invited to express their comments on the Draft MFPA/EA. Written comments must be received by June 20, 1986.

Comments should be sent to: Phil Kirk, Area Manager, BLM, Roswell Resource Area, P.O. Box Drawer 1857, Roswell, NM 88201.

Dated: April 14, 1986.

Monte G. Jordon,

Associate State Director.

[FR Doc. 86-8690 Filed 4-21-86; 8:45 am]

BILLING CODE 4310-FB-M

Carson City District Advisory Council; Meeting

DATE: May 22, 1986.

ADDRESS: 1535 Hot Springs Road, Suite 300, Carson City, Nevada.

SUMMARY: The Council will meet at 9:00 a.m. The agenda will include election of officers, multiple-use resource management, and comments from the public (11:00 a.m.). A field trip of public firewood cutting areas near Carson City will follow in the afternoon. Anyone may attent the meeting and field trip but must provide their own transportation.

FOR FURTHER INFORMATION CONTACT: Steve Weiss, BLM Public Affairs Officer, 1535 Hot Springs Road, Suite 300, Carson City, NV, (702) 882-1631.

Dated: April 11, 1986.

Thomas J. Owen,

District Manager.

[FR Doc. 86-8675 Filed 4-21-86; 8:45 am]

BILLING CODE 4310-HC-M

Bureau of Reclamation

Mid-Pacific Region, CA; Intent To Prepare an Environmental Statement/ Environmental Impact Report

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 and the provisions of the California Environmental Quality Act, the Department of the Interior and the Stockton East Water District, Central Joaquin Water Conservation District and Oakdale Irrigation District will prepare a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) on the Farmington Canal Project located in Stanislaus, Calaveras and San Joaquin Counties, California. The EIS/EIR is being prepared in response to a request by Stockton East and Central San Joaquin for Pub.L. 84-984 loans for the Bureau of Reclamation. The loan will be used to construct storage and conveyance facilities to deliver 305,000 acre-feet of water per year from the Stanislaus River to agricultural, municipal and industrial water users in the Districts. Stockton East would get 75,000 acre-feet; Central San Joaquin, 80,000 acre-feet; and Oakdale 150,000 acre-feet. The joint environmental document would address the impacts of construction and operating the project.

The purpose of the proposed project for Stockton East and Central San Joaquin would be to substitute surface water for groundwater, currently being drawn from over-drafted ground-water basins. Oakdale would use the project to divert its own Stanislaus River water rights water in place of its North Main flume to an existing distribution system serving 25,500 acres. Water captured in New Melones Reservoir, would be diverted from the Stanislaus River at Goodwin Dam and conveyed to the service area. Facilities which would be constructed include a diversion at Goodwin Dam, approximately 3 miles of tunnel to convey water for all three districts, and 8 miles of joint-use canal to convey water to a 12,000 acre-foot storage reservoir located at Shirley Gulch from which Central San Joaquin will distribute water to its 30,000 acre service area. Another 12 miles of canal and a small section of tunnel would be built to transport Stockton East's water from Shirley Gulch to the Calaveras River. An ancillary system would then distribute the water to users in the 22,500-acre service area.

Alternatives which are under consideration in the EIS/EIR include various canal and tunnel alignments, designs, sources of water supplies, and types of storage requirements.

A workshop to solicit information from public entities and persons for determining the scope of the environmental document and the significant issues related to the proposed action will be held at the Farmington Elementary School, 25233 East Highway 4, Farmington, California, on May 21, 1986, at 7:30 p.m. Persons unable to attend the meeting are invited to submit written comments by May 26, 1986, to any of the addresses listed below. For further information on the meeting or the project, please contact:

William D. Payne, Environmental Specialist, Bureau of Reclamation, Mid-Pacific Region, MP-750, 2800 Cottage Way, Sacramento, CA 95825-1898, Telephone: 916/978-4954

Reid W. Roberts, Secretary, Central San Joaquin Water Conservation District, 311 East Main Street, Suite 203, Stockton, CA 95202, Telephone: 209/941-6714

Edward M. Steffani, General Manager, Stockton East Water District, P.O. Box 5157, Stockton, CA 95205-0157, Telephone: 209/948-0333.

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Dated: April 17, 1986.

C. Dale Duvall,

Commissioner.

[FR Doc. 86-8956 Filed 4-21-86; 8:45 am]

BILLING CODE 4310-86-M

National Park Service

Mining Plan of Operations at Bering Land Bridge National Preserve; Notice of Availability

Notice is hereby given that pursuant to the provisions of section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of § 9.17 of 36 CFR Part 9A, Cheryl Jong has filed a plan of operations in support of proposed mining operations on lands embracing the Humboldt Creek Group Placer Mining Claims within the Bering Land Bridge National Preserve. These plans are available for inspection during normal business hours at the Alaska Regional Office, National Park Service, 2525 Gambell Street, Anchorage, Alaska.

M.V. Finley,

Acting Regional Director, Alaska Region.

[FR Doc. 86-9010 Filed 4-21-86; 8:45 am]

BILLING CODE 4310-70-M

Mining Plan of Operations at Wrangell-St. Elias National Park and Preserve; Notice of Availability

Notice is hereby given that pursuant to the provisions of Section 2 of the Act of September 28, 1976, 16 U.S.C. 1901 et seq., and in accordance with the provisions of Section 9.17 of 36 CFR Part 9A, Russell Hoffman has filed a plan of operations in support of proposed mining operations on lands embracing the Edison Association Placer Mining Claim within the Wrangell-St. Elias National Park and Preserve. This plan is available for inspection during normal business hours at the Alaska Regional Office, National Park Service, 2525 Gambell Street, Anchorage, Alaska.

M.V. Finley,

Acting Regional Director, Alaska Region.

[FR Doc. 86-9009 Filed 4-21-86; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 12, 1986. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by May 7, 1986.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Choctaw County

Mount Sterling, *Mount Sterling Methodist Church*, Near jct. of CR 43 and CR 27

Colbert County

Leighton, *Pruit Oaks*, Cotton Town Rd.

DeKalb County

Fort Payne, *Alabama Builders' Hardware Manufacturing Company*, 204 Eighth St., NE

Etowah County

Gadsden, *Hood, Colonel O.R. House*, 862 Chestnut St.

Marshall County

Arab, *Hotel Thompson*, 104 First Ave. NE

ALASKA

Valdez-Chitina-Whittier Division

Chitina vicinity, *Bremner Mining Camp, Historic District*, W side of Golconda Creek

Chitina vicinity, *North Midas Mining Camp Historic District*, Near Berg and McDougall Creeks

McCarthy vicinity, *Green Butte Mining Camp Historic District*, E Side of McCarthy Creek and on face of Green Butte

ARIZONA

Coconino County

Grand Canyon vicinity, *Trans-Canyon Telephone Line, Grand Canyon National Park*, Grand Canyon

along Bright Angel and North Kaibab Trails from South Rim to Roaring Springs and South Kaibab Trail to Tipoff

ARKANSAS

Washington County

Lafayetteville, *Happy Hollow Farm*, CR 10

CALIFORNIA

San Francisco County

San Francisco, *Ship KING PHILIP—Schooner REPORTER (Shipwreck Site)*, Foot of Ortega St.

IDAHO

Fremont County

Island Park vicinity , *Bishop Mountain Lookout*, Forest Rd. 80120

KANSAS

Woodson County

Yates Center, *Yates Center Courthouse Square Historic District*, Courthouse Sq.

KENTUCKY

Elliott County

Conley-Greene Rockshelter (15EL4)

LOUISIANA

Terrebonne Parish

Gibson, *Gibson Methodist Episcopal Church*, S. Bayou Black Dr.

MARYLAND

Howard County

Ellicott City vicinity, *Enniscorthy*, 3412 Folly Quarter Rd.

MASSACHUSETTS

Hampshire County

Ware, *Church Street Historic District*, Church ST. between Park Ave., and Highland St.

Ware, *Ware Center Historic District*, MA 9 and Greenwich Plains Rd.

Ware, *Ware-Hardwick Covered Bridge*, Old Gibertville Rd. and Bridge St. (also in Worchester County)

Ware, *Ware Millyard Historic District*, Roughly bounded by South St., Ware River, Upper Dam Complex, Park St., Otis Ave. and Church St.

Ware, *Ware Town Hall*, Main and West Sts.

Norfolk County

Quincy, *United States Post Office—Quincy Main*, Washington St.

MICHIGAN

Cheboygan County

Cheboygan, *Cheboygan County Courthouse*, 229 Court St.

Lapeer County

Almont, *West Saint Clair Street Historic District*, 211–325, 128–328 W. Saint Clair St.

NEBRASKA

Fillmore County

Geneva, *Smith, George W., House*, Twelfth St.

NEVADA

Pershing County

Lovelock, *Pershing County Courthouse*, 400 Main St.

NEW YORK

Madison County

Lenox, *Canal Town Museum (Canastota Village MRA)*, 122 Canal St.

Lenox, *Canastota Methodist Church (Canastota Village MRA)*, Main and New Boston Sts.

Lenox, *Canastota Public Library (Canastota Village MRA)*, 102 W. Center St.

Lenox, *House at 107 Stroud Street (Canastota Village MRA)*, 107 Stroud St.

Lenox, *House at 115 South Main Street (Canastota Village MRA)*, 115 S. Main St.

Lenox, *House at 205 North Main Street (Canastota Village MRA)*, 205 N. Main St.

Lenox, *House at 233 James Street (Canastota Village MRA)*, 233 James St.

Lenox, *House at 313 North Main Street (Canastota Village MRA)*, 313 N. Main St.

Lenox, *House at 326 North Peterboro Street (Canastota Village MRA)*, 326 N. Peterboro St.

Lenox, *House at 328 North Peterboro Street (Canastota Village MRA)*, 328 N. Peterboro St.

Lenox, *Peterboro Street Elementary School (Canastota Village MRA)*, 220 N. Peterboro St.

Lenox, *South Peterboro Street Commercial Historic District (Canastota Village MRA)*, Roughly bounded by NY 70, Diamond and Center Sts., Penn Central RR, Depot St. and Commerce Ave.

Lenox, *South Peterboro Street Residential Historic District (Canastota Village MRA)*, Roughly bounded by James, Terrace, S. Peterboro, Reaback, and Hickory Sts.

Lenox, *United Church of Canastota (Canastota Village MRA)*, 144 W. Center St.

OKLAHOMA

Carter County

Ardmore, *Colt—Franklin Home (Historic Homes of Ardmore Petroleum Executives TR)*, 400 Country Club Rd.

Ardmore, *Johnson Home (Historic Homes of Ardmore Petroleum Executives TR)*, 400 Country Club Rd.

Lincoln County

Stroud, *Southwestern Bell Telephone Building*, 301 W. Seventh St.

Seminole County

Seminole, *Home Stake Oil and Gas Company Building*, 315 E. Broadway

Wewoka, *Hotel Aldridge*, Third and Wewoka Sts.

Stephens County

Duncan, *Johnson Hotel and Boarding House*, 314 W. Mulberry

SOUTH DAKOTA

Codington County

Kranzburg, *Holy Rosary Church*, Minnesota Ave.

Potter County

Seneca vicinity, *North Canton School—District #12*, Off SD 47

Union County

Beresford, *Bulow, Governor William J., House*, 207 W. Hemlock St.

Walworth County

Mobridge, *Mobridge Auditorium*, 212 Main St.

UTAH

Box Elder County

Hogup Cave (42Bo36)

VERMONT

Addison County

Cornwall, *Cornwall Town Hall*, VT 30

Windham County

Townsend vicinity, *Wheelock House*, CR 30

WYOMING

Albany County

Laramie, *Bath Row*, 155, 157 and 159 N. Sixth St. and 611 University Ave.

Laramie, *Vee Bar Ranch Lodge*, 2057 WY 130

Carbon County

Elk Mountain, *Elk Mountain Hotel*, Bridge St. and CR 402

Saratoga vicinity, *Jack Creek Guard Station*, Off FDR No. 452

[FR Doc. 86-9008 Filed 4-21-86; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30803]

Southwestern Michigan Railroad Co., Inc., d/b/a Kalamazoo, Lake Shore & Chicago Railway; Acquisition and Operation Exemption; Chesapeake and Ohio Railway Co.

Southwestern Michigan Railroad Company, Inc., d/b/a Kalamazoo, Lake Shore & Chicago Railway (KLSC) has filed a notice of exemption to acquire and operate the line of The Chesapeake and Ohio Railway Company between MP 17.27, east of Hartford, and MP 30.55 at Paw Paw, a distance of 13.28 miles in Van Buren County, MI. KLSC has also acquired incidental trackage rights over 1.6 miles of track between its line and Hartford for connection with the C&O's Chicago-Grand Rapids main line. Any comments must be filed with the Commission and served on John D. Heffner, Esq., Gerst & Heffner, 1133 15th Street NW., Suite 1100, Washington, DC 20005.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: April 4, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86-8954 Filed 4-21-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30725]

Indiana Hi-Rail Corp.;—Exemption

AGENCY: Intestate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts: (a) The Garden Spot & Ohio (HS&O) from the requirements of 49 U.S.C. 10901 for its acquisition of certain rail lines now owned by Illionis Central Gulf Railroad Company (ICG) in Illinois, Indiana, and Kentucky; (b) Indiana Hi-Rail Corporation (IHR) from the requirements of 49 U.S.C. 11343 for its acquisition of these lines from ICG and its control (if any) of GS&O after GS&O aquires carrier property; and (c) IHR from the requirements of 49 U.S.C. Subtitle IV, except sections 10903–10906, for its operation of the lines after transfer of ownership to GS&O. The lines extend from: milepost 204.90 at Browns, IL to milepost 246.22 in Evansville, IN; from milepost 0.0 milepost 3.32 in Evansville; and from milepost 10.4 at Henderson, KY to milepost 15.85 at Wilson, KY. IHR will grant ICG trackage rights over that portion of the line between Browns and Grayville, IL, and IHR will acquire from Seaboard System Railroad, Inc. trackage rights between Evansville and Henderson. These transactions are exempt under the class exemption in 49 CFR 1180.2(d)(7).

DATES: The exemption for the purchase by IHR will be effective May 2, 1986. Petitions to reopen must be filed by May 12, 1986.

ADDRESSES: Send pleadings referring to Finance Docket No. 30725 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission Washington, DC 20423.

(2) Petitioners' Representative: Richard A. Allen, Suite 300, 2033 K Street NW., Washington, DC. 20006.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free, (800) 424–5403.

Decided: April 1, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley concurred in part and dissented in part with a separate expression.

James H. Bayne,

Secretary.

[FR Doc. 86-8952 Filed 4-21-86; 8:45 am]

BILLING CODE 7035-01-M

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[Docket No. AB-166 (Sub-5X)]

Montour Railroad Co., Abandonment Exemption; in Allegheny and Washington Counties, PA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 10903, et seq., the abandonment by Montour Railroad Company of its entire line of railroad in Allegheny and Washington Counties, PA.

DATES: This exemption will be effective on May 22, 1986. Petitions to stay must be filed by May 7, 1986, and petitions for reconsideration must be filed by May 19, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB-166 (Sub-No. 5X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative: Fritz R. Kahn, Suite 1000, 1660 L Street NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free, (800) 424-5403.

Decided: April 3, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley dissented with a separate expression.

James H. Bayne,

Secretary.

[FR Doc. 86-8051 Filed 4-21-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30819]

Hillsdale County Railway Co., Inc.; Trackage Rights; Exemption; Norfolk and Western Railway Co.

Norfolk and Western Railway Company has agreed to grant overhead trackage rights to Hillsdale County Railway Company, Inc. between Fergo, OH (milepost 98.66), and Montpelier, OH (milepost 97). The trackage rights will be effective on April 8, 1986.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption any employee affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry. Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: April 9, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86-9039 Filed 4-21-86; 8:45 am]

BILLING CODE 7035-01-M

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Advisory Committee on Actuarial Examinations; Meeting

Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in Room 3313, Internal Revenue Service Building, 1111 Constitution Avenue, NW. in Washington, DC on May 20, 1986, beginning at 8:30 a.m.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, section 1242(a)(1)(B).

A determination as required by section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that the subject of the meeting falls within the exceptions to the open meeting requirements set forth in Title 5 U.S. Code, section 552b(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: April 16, 1986.

Leslie S. Shapiro,

Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 86-8928 Filed 4-21-86; 8:45 am]

BILLING CODE 4810-25-M

DEPARTMENT OF JUSTICE

Office of Justice Programs

President's Child Safety Partnership; Meeting

AGENCY: Office if Justice Programs, Justice.

ACTION: Notice of Hearings.

SUMMARY: The Office for Victims of Crime announces the second in a series of hearings to be held by the President's Child Safety Partnership.

SUPPLEMENTARY INFORMATION: The President's Child Safety Partnership (hereafter referred to as the Partnership) will hold a series of five public hearings on the issue of child safety. The Partnership, which was announced by the President on April 28, 1985, and which held its initial meeting on January 16, 1986, consists of 26 members from the public, private (both corporate and nonprofit), state and local, and Federal sectors, and includes a wide range of expertise in fields related to child safety. It's first public hearing was held on April 15-16 in New York City.

The Partnership functions solely as an advisory committee in full compliance with the provisions of the Federal Advisory Committee Act.

The Partnership members recognize the magnitude and complexity of the child safety problem, and realize that the only way to effectively address it is through the help and support of a wide group of organizations, agencies, and individuals. Consequently, the Partnership will seek the input of these groups on a broad range of issues. The input received through both written and oral testimony will be used by the Partnership to make recommendations to the President on ways in which we can both prevent the victimization of our country's children and more fully involve the private sector in responding to the problem.

The scope of the Partnership inquiry and the recommendations the Partnership will make will be concerned with a broad range of offenses against children, specifically: Child physical abuse and neglect; child sexual abuse and molestation; theft, assault, robbery, and murder of children; parental and stranger abduction of children; exploitation of children (prostitution, pornography), runaway children (recognizing the extreme vulnerability of runaways to victimization); and drug abuse.

The hearing will seek to examine child safety initatives involving or supported by the private sector and to idendify specific issues of child safety requiring priority attention. The hearing will also examine model program approaches to prevent and respond to child victimization as well as legislative and Federal coordination issues.

Oral and written testimony will be solicited from the public. The estimony will be used as a basis for making recommendations to the President.

Location/Dates

The second public hearing of the Partnership will be held:

May 1, 1986, at the Dr. Martin Luther King Unit of the Chicago Boys and Girls Clubs, 2950 West Washington Boulevard, Chicago, Illinois 60612
Seats available to the public: 200
The hearing will be held from 9:00 a.m. to approximately 6:00 p.m.

Additional regional hearings will be held in Austin, Texas (late May), Denver, Colorado (mid-June), and Seattle, Washington (mid-July). Specific hearing locations and dates for these hearings will be announced in a subsequent Federal Register Notice.

Procedure

The Partnership invites all interested parties to submit written testimony or program information regarding any of the aforementioned aspects of child safety. Persons interested in providing written testimony should submit it to: Lois Haight Herrington, Assistant Attorney General, Office of Justice Programs, 633 Indiana Avenue NW., Washington, DC 20531. If possible, all written testimony should be typed and submitted in duplicate. All written testimony is due not later than September 30, 1986, but should be submitted as soon as possible for maximum consideration.

Persons interested in providing oral testimony at the hearing in Chicago should notify Assistant Attorney General Herrington in writing (same address as above), as soon as possible, and in no event later than April 25, 1986. The Partnership will make the final determinations as to what persons/organizations will be invited to provide oral testimony.

Conduct of Hearings

The hearings, which will be open to the public, will begin at 9:00 a.m. The Chairman of the Partnership, or his designee, will preside at the hearings. Other members of the partnership will join the Chairman. These will not be judicial or evidentiary-type hearings and there will not be any cross-examination. However, clarifying questions and discussion by Partnership members may follow each presentation. There will be time set aside at the conclusion of the hearings for brief comments by members of the public.

Any further precedural rules needed for the proper conduct of the hearings will be annouced by the presiding official.

A transcript of the hearings will be made. The entire record of the hearings, including transcript, will be retained by the Partnership, and will be available to the public. Any person may purchase a copy of the transcript from the transcribing organization.

For further general information of the Partnership hearings contact: Mr. William Modzeleski, President's Child Safety Partnership, 633 Indiana Avenue, NW., Washington, DC 20531. Phone: (202) 272-6500.

Dated: April 17, 1986.

Lois Haight Herrington,

Assistant Attorney General, Office of Justice Programs.

[FR Doc. 86-9092 Filed 4-21-86; 9:22 am]

BILLING CODE 4410-18-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-16,328]

Black & Decker Company, Inc., Allentown, PA; Negative Determination Regarding Application for Reconsideration

By an application dated March 18, 1986, counsel for the United Electrical Workers of America, Local 128, requested administrative reconsideration of the Department of Labor's notice of determinations of trade adjustment assistance to workers of Black & Decker Company, Inc., Allentown, Pennsylvania. The notice of determinations was published in the Federal Register on January 28, 1986 (51 FR 3524).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted when:

(1) if it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) if it appears that the determination complained of was based on a mistake in the determination of facts previously considered; or

(3) if, in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

Counsel for the union claims that the Allentown workers cannot be separately identified by product. Counsel also claims that toasters and toaster ovens are not different products and that foreign competition which impacts on toasters would impact on toaster ovens as well. Counsel asserts that the Department's investigation should have considered U.S. exports of toastes ovens and waffle irons. Finally, its claimed that production of waffle irons and toaster oven components will be moved overseas.

Findings in the investigative case file show that all of the statutory criteria of the Trade Act of 1974 were met for workers producing coffee percolators and toasters at Black & Decker's Allentown, Pennsylvania plant. However, the findings did not substantiate that increased imports of toaster ovens and waffle irons contributed importantly to worker separations.

The primary product manufactured at the Allentown plant was toaster ovens. The production of coffee percolators and toasters did not represent a significant portion of Allentown's production and, therefore, workers producing components for these products would not have qualified under worker eligibility requirements of the Trade Act of 1974 for trade adjustment assistance.

Toaster ovens and toasters are not the same product especially with regards to the impact of foreign competition. Workers producing toaster ovens were denied because the findings showed that increased imports did not contribute importantly to worker separations at Allentown. The "contributed importantly" test is generally demonstrated through the Department's survey of the subject firm's customers. The Department's survey showed that responding customers did not increase imports of toaster ovens while reducing purchases from Black & Decker in 1984 compared to 1983 or in the first eight months of 1985 compared to the same period in 1984.

The survey also showed that respondents accounting for the preponderant share of the subject firm's sales decline of waffle irons in 1985 compared to 1984 reported no import purchases during that period. The few customers who reported import purchases of waffle irons accounted for an insignificant amount of the survey group's purchase decline from Black & Decker in 1984 compared to 1983.

U.S. exports of toaster ovens and waffle irons were not addressed in the investigation, since exports are not a criterion for group certification.

Findings show that the overseas transfer of heating elements and waffle iron production from Allentown occurred in March, 1985 and November, 1985, respectively. As of this date no company imports of heating elements or waffle irons have occurred. Toaster oven production was transferred from Allentown to North Carolina in 1985.

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Conclusion

After review of the application and the investigative file, I conclude that there has been no error or misinterpretation of the law which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.
Signed at Washington, DC., this 14th day of April 1986.

Carolyn M. Golding,

Director, Unemployment Insurance Service, UIS.

[FR Doc. 86-8968 Filed 4-21-86; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 2, 1986.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 2, 1986.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC this 14th day of April 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Rubber Manufacturing Co., Inc. (URW)	Oakland, CA	4-8-86	4-4-86	TA-W-17,334	Conveyor belting.
American Smelting and Refining Co. (ASARCO) (ICWU)	Mascot, TN	4-8-86	4-7-86	TA-W-17,335	Zinc concentrates.
Andrews Knitwear, Inc. (ILGWU)	West New York, NJ	4-4-86	3-31-86	TA-W-17,336	Sweaters and dresses.
Beckley Lick Run (workers)	Mt. Hope, WV	4-7-86	3-31-86	TA-W-17,337	Coal.
Bershop Co., Mini Dress Co., Arjay Manufacturing (workers)	New York, NY	4-8-86	3-28-86	TA-W-17,338	Childrens dresses.
Burlington Industries, Burlington Blended Fabrics (workers)	Asheville, NC	4-8-86	4-3-86	TA-W-17,339	Broadwoven apparel fabrics.
Duquesne Lights Co. (IBEW)	Pittsburgh, PA	4-8-86	4-4-86	TA-W-17,340	Electric power to steel mills.
Heckett, Division of Harsco (workers)	Aliquippa, PA	4-8-86	3-28-86	TA-W-17,341	Slag or metal reclamations.
Iron River Plant of Coleman Products (workers)	Iron River, MI	4-8-86	3-24-86	TA-W-17,342	Electronic wire harnesses.
Oberdorfer & Co., Inc. (ACTWU)	Dawson Springs, KY	4-8-86	4-8-86	TA-W-17,343	Fashions uniforms.
Ronan's Inc. (ACTWU)	Scranton, PA	4-7-86	4-3-86	TA-W-17,344	Ladies suits and blazers.
St. Joe Resources #2, 3, 4, and Flemsport Mines (USWA)	Belmont, NY	4-7-86	4-3-86	TA-W-17,345	Mine and mill zinc ore.
Stewart-Warner Corp., Division I (UAW-IUE)	Chicago, IL	4-8-86	4-8-86	TA-W-17,346	Lubrication equipment for autos, speedometers gauges and communication equipment.
Stewart-Warner Corp., Division V (UAW-IUE)	Chicago, IL	4-8-86	4-8-86	TA-W-17,347	Automotive and electrical products.
J.D. Basic Sports-wear, Inc. (ILGWU)	Brooklyn, NY	3-21-86	3-19-86	TA-W-17,348	Ladies sportswear.
Dolly Martin, Inc. (ILGWU)	New York, NY	3-21-86	3-19-86	TA-W-17,349	Ladies blouses.
Hamilton Sportswear Co. (ILGWU)	Stroudsburg, PA	3-21-86	3-19-86	TA-W-17,350	Ladies blouses.
Stackpole Corp (The) (IUE)	St. Marys, PA	4-8-86	4-4-86	TA-W-17,351	Pump seals, electrical contacts and relays, molded graphite and copper brush.
Tab Sportswear, Inc. (ILGWU)	Bronx, NY	3-21-86	3-19-86	TA-W-17,352	Ladies sportswear.

[FR Doc. 86-8965 Filed 4-21-86; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-17,002]

Warner Brothers, Incorporated Music Professional Department New York, NY; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on January 21, 1986 in response to a worker petition received on November 20, 1985 which was filed by the International Alliance of Theatrical and Stage Employees on behalf of workers at Warner Brothers, Incorporated, Music Professional Department, New York, New York.

All workers were separated from the subject firm more than one year prior to the date of the petition. Section 223 of the Act specifies that no certification may apply to any worker whose last separation occurred more than one year before the date of the petition. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC. this 14th day of April 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-8964 Filed 4-21-86; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-16,485]

Washington Overall Manufacturing Company Scottsville, KY; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administration reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Washington Overall Manufacturing Company, Scottsville, Kentucky. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-16,485; Washington Overall Manufacturing Company Scottsville, Kentucky (April 14, 1986)

Signed at Washington, D.C., this 14th day of April 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-8966 Filed 4-21-86; 8:45 am]

BILLING CODE 4510-30-M

MERIT SYSTEMS PROTECTION BOARD

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

Special Panel; Oral Argument; Edward J. Lynch, Jr. v. Department of Education

Oral Argument in the case of *Edward J. Lynch, Jr.* v. *Department of Education.*

Date and Time: Thursday, April 24, 1986, 8 a.m.

Place: Hearing Room, Eighth Floor, 1120 Vermont Avenue, NW, Washington, DC 20419.

Status: Open.

Summary: On April 24, 1986, a Special Panel, as provided by 5 U.S.C. 7702(d) will be convened at 8 a.m. to hear argument in the appeal of *Edward J. Lynch, Jr.* v. *Department of Education*, MSPB Docket Nos. DC07528210746 and DC531D8211379 and EEOC Petition No. 0383003.

FOR FURTHER INFORMATION CONTACT: Ada R. Kimsey, (202) 653-7133.

Dated: April 17, 1986.

Robert E. Taylor,

Clerk of the Board.

[FR Doc. 86-9007 Filed 4-21-86; 8:45 am]

BILLING CODE 7400-1-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Humanities Panel; Meetings

AGENCY: National Endowment for the Humanities, NFAH.

ACTION: Notice of Meetings.

SUMMARY: Pursuant to the provisons of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that the following meetings of the Humanities Panel will be held at the Old Post Office, 1100 Pennsylvania Avenue, NW., Washington, DC 20508.

1. Date: May 5-6, 1986.
Time: 8:30 to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for the Public Humanities Projects and Humanities Projects in Libraries Programs, Divisions of General Programs, for projects beginning after October 1, 1986.

2. Date: May 1-2, 1986.
Time: 8:30 to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for the Public Humanities Projects Program, Division of General Programs, for projects beginning after October 1, 1986.

3. Date: May 16, 1986.
Time: 8:30 to 5:00 p.m.
Room: M-14.
Program: This meeting will review applications submitted for the "Humanities Instruction in Elementary and Secondary Schools" programs, for projects beginning after September 1986.

4. Date: May 15, 1986.
Time: 9:00 to 5:00 p.m.
Room: 316-2.
Program: This meeting will review Fellowships for Faculty Graduate Study applications submitted to the Division of Fellowships and Seminars, for projects beginning after January 1, 1988.

5. Date: May 12, 1986.
Time: 8:30 to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Seminars for College Teachers in Politics and Society, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1986.

6. Date: May 13, 1986.
Time: 8:30 to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Seminars for College Teachers in Foreign and Comparative Languages and Literatures, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1986.

7. Date: May 14, 1986.
Time: 8:30 to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Seminars for College Teachers in British and American Literature, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1986.

8. Date: May 15, 1986.
Time: 8:30 to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Seminars for College Teachers in Philosophy and Religion, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1986.

9. Date: May 16, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Seminars for College Teachers in History, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1986.

10. Date: May 19, 1986.
Time: 8:30 a.m. to 5:30 p.m.
Room: 315.
Program: This meeting will review Summer Seminars for College Teachers in Arts, submitted to the Division of Fellowships and Seminars, for projects beginning after June 1, 1986.

11. Date: May 19-20, 1986.
Time: 9:00 a.m. to 5:00 p.m.
Room: M-14.
Program: This meeting will review applications submitted for Central Disciplines in Undergraduate Education—Improving Introductory Courses, Division of Education, for projects beginning after April 1, 1986.

12. Date: May 22-23, 1986.
Time: 9:00 a.m. to 5:00 p.m.
Room: 315.
Program: This meeting will review applications submitted for Central Disciplines in Undergraduate Education—Promoting Excellence in a Field, and Fostering Coherence Throughout an Institution, Nontraditional Learners, for projects beginning after April 1, 1986.

13. Date: May 5-6, 1986.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for the Humanities Projects in Media, Division of General Programs, for projects beginning after October 1, 1986.

14. Date: May 13-14, 1986.
Time: 8:30 a.m. to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for the Humanities Projects in Media, Division of General Programs, for projects beginning after October 1, 1986.

15. Date: May 19-20, 1986.
Time: 8:30 to 5:00 p.m.
Room: 415.
Program: This meeting will review applications submitted for the Humanities Projects in Media, Division of General Programs, for projects beginning after October 1, 1986.

The proposed meetings are for the purpose of panel review, discussion, evaluation and recommendation on applications for financial, assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. Because the proposed meetings will consider information that is likely to disclose: (1) Trade secrets and commercial or financial information obtained from a person and privileged or confidential; (2) information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and (3) information the disclosure of which would significantly frustrate implementation of proposed agency action; pursuant to authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated January 15, 1978, I have determined that these meetings will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

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Further information about these meetings can be obtained from Mr. Stephen J. McCleary, Advisory Committee Management Officer, National Endowment for Humanities, Washington, DC 20506, or call (202) 786–0322.

Susan H. Metts,

Acting Advisory Committee Management Officer.

[FR Doc. 86–8628 Filed 4–21–86; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Proposed Meetings

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittee and meetings of the full Committee, the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published March 25, 1986 (51 FR 10287). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the Federal Register approximately 15 days (or more) prior to the meeting. It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 A.M. and Subcommittee meetings usually begin at 8:30 A.M. The time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the May 1986 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone: 202/634–3265, ATTN: Barbara Jo White) between 8:15 A.M. and 5:00 P.M., Eastern Time.

ACRS Subcommittee Meetings

Waste Management, April 24 and 25, 1986, Washington, DC. The Subcommittee will review various topics in the High-Level and Low-Level Radioactive Waste Programs. Topics currently identified for review at the April meeting are: (1) Modeling Strategy for HLW performance assessment, (2) Quality Assurance (addressing safety issues of geologic repositories), (3) the NRC LLW program, (4) several research efforts, including international programs and cooperative agreements, results of modeling,workshop, and setting priorities for HLW research, and (5) the Salvaging of Contaminated Smelted Alloys.

Thermal Hydraulic Phenomena, April 29 and 30, 1986, Washington, DC. The Subcommittee will: (1) Continue its review of the NRC's proposal to revise 10 CFR 50.46 and Appendix K, and (2) continue discussions on defining the thermal hydraulic safety issues of most importance that need to be addressed in the future.

Severe (Class 9) Accidents, May 1, 1986, Albuquerque, NM. The Subcommittee will review rebaselining studies for four or five reference plants; part of studies for NUREG–1150, "Nuclear Power Plant Risks and Regulatory Applications."

Scram Systems Reliability, May 6, 1986, Washington, DC. The Subcommittee will continue its review of the ATWS Rule implementation effort.

Safety Research Program, May 7, 1986, Washington, DC. The Subcommittee will discuss the proposed NRC Safety Research Program and Budget for FY 1988 and 1989, and gather information for use by the ACRS in its preparation of the annual report to the Commission on the related matter.

Safety Philosophy, Technology, and Criteria, May 7, 1986, Washington, DC. The Subcommittee will review the NRC Staff's proposed resolution of USI A–17, "Systems Interactions in Nuclear Power Plants."

Babcock and Wilcox (B&W) Reactor Plants, May 19, 1986, Washington, DC. The Subcommittee will consider the B&W Owners Group plan to reassess the long-term safety of B&W reactors, including the implications of operating experience on the adequacy of B&W plant designs. The Subcommittee will also be briefed on the NRC Staff's Incident Investigation Team's (IIT) findings related to the 12/26/85 loss of integrated control system power and overcooling transient at the Rancho Seco nuclear power plant.

Ad Hoc Subcommittee on TVA, May 20, 1986, Washington, DC. The Subcommittee will discuss TVA reorganization and related technical and management issues.

Regulatory Policies and Practices, May 27, 1986, Washington, DC. The Subcommittee will discuss the IIT Process after the issuance of the San Onofre and Davis-Besse IIT reports and the report of the Ad Hoc Independent Review Group on the Davis-Besse Incident.

South Texas Units 1 and 2, May 29 and 30, 1986, Bay City, TX. The Subcommittee will review Houston Lighting and Power Company's application for an operating license.

Reactor Operations, June 2, 1986, Washington, DC. The Subcommittee will review recent events at operating plants.

Severe (Class 9) Accidents, June 3, 1986, Washington, DC. The Subcommittee will review a final draft of NUREG–0956, "Reassessment of the Technical Bases for Estimating Source Terms."

Safety Research Program, June 4, 1986, Washington, DC. The Subcommittee will continue its discussion on the proposed NRC Safety Research Program and Budget for FY 1988 and 1989. It will discuss also a Draft ACRS report to the Commission on this matter.

Long Range Plan for the NRC, June 4, 1986, Washington, DC. The Subcommittee will continue discussions related to long range planning for the NRC. Portions of this meeting may be closed to discuss internal ongoing draft documents.

Westinghouse Reactor Plants, June 26 1986 (tentative), Washington, DC. The Subcommittee will continue discussions and comment on NRC Staff actions taken with respect to the SONGS–1 water hammer/loss of AC power event which occurred on November 21, 1985. This is a follow-up meeting to the February 12, 1986 Subcommittee meeting on the same subject.

Auxiliary Systems, June 26, 1986, Washington, DC. The Subcommittee will discuss: (1) The status of the Appendix R compliance, (2) differing technical views among the Staff, (3) proposed research and associated budget for FY 1988 and 1989 in the fire protection area, and (4) updates on the progress being made in the Sandia experimental program on fire protection.

Davis-Besse, June 27, 1986, Washington, DC. The Subcommittee will review start-up activities for Davis-Besse.

Joint Occupational and Environmental Protection Systems and Auxiliary Systems, June 27, 1986, Washington, DC. The Subcommittees will: (1) Review a draft AEOD report on the effects of ambient temperature on I&C Systems, (2) be briefed on the status of various control room HVAC Systems problems and the Staff's control room habitability improvement effort, (3) discuss with the Staff the 1 mrem/yr "cutoff" dose rate for the calculation of collective population doses, and (4) be briefed on the Staff's evaluation of the Shearon Harris Chilled Water Systems.

Reliability Assurance, July 8, 1986, Washington, DC. The Subcommittee will review the final resolution of USI A–46, "Seismic Qualification of Equipment in Operating Plants."

Extreme External Phenomena, August 5 and 6, 1986, Washington, DC. The Subcommittee will conduct a workshop to review the importance of seismic risk to nuclear power plants.

Spent Fuel Storage, Date to be determined (May/June), Washington, DC. The Subcommittee will continue its review of 10 CFR Part 72 and Monitored Retrievable Storage (MRS).

Decay Heat Removal Systems, Date to be determined (June), Washington, DC. The Subcommittee will review NRR's Action Plan to address concerns with the reliability of certain plants' AFW systems.

Metal Components, Date to be determined (June, tentative), Pittsburgh, PA or Charlotte, NC. The Subcommittee will review the status of NDE of cast stainless steel.

Gas Cooled Reactor Plants, Date to be determined (June), Washington, DC. The Subcommittee will review the applicability of NRC requirements for equipment qualification and cable testing to Fort St. Vrain, an HTGR.

Thermal Hydraulic Phenomena, Date to be determined (June/July), Washington, DC. The Subcommittee will review General Electric's application for use of the SAFER/CORECOOL ECCS Code on BWR nonjet pump plants.

Metal Components, Date to be determined (June/July), Richland, WA. The Subcommittee will visit and review steam generator, degraded piping, and NDE facilities and programs.

Structural Engineering, Date to be determined (June/July), Albuquerque, NM. The Subcommittee will visit and review containment integrity and Category I structures, facilities, and programs.

Decay Heat Removal Systems, Date to be determined (July), Washington, DC. The Subcommittee will begin its review of NRR's proposed resolution position for USI A–45, "Shutdown Decay Heat Removal System."

Seabrook Units 1 and 2, Date to be determined (late summer/early fall), Washington, DC. The Subcommittee will review the application for a full power operating license for Seabrook 1 and 2.

Probabilistic Risk Assessment, Date and location to be determined. The Subcommittee will review the probabilistic risk assessment for Millstone 3.

ACRS Full Committee Meeting

May 8–10, 1986: Items are *tentatively* scheduled

*A *Meeting with NRC Commissioners*—discuss ACRS reports on Implementation of Quantitative Safety Goals and the General Electric Standard Safety Analysis Report (GESSAR–II) (tentative).

*B. *Meeting with Representatives of the Federal Republic of Germany (closed)*—discuss proposed standards, models and plans for the management and disposal of high-level wastes.

*C. *NRC Safety Research Program*—discuss the proposed scope format and schedule for the annual ACRS report to the NRC on the proposed NRC safety research budget for FY 1988 and 1989.

*D. *Reactor Operating Experience*—report of ACRS subcommittee and representatives of the NRC Staff regarding recent incidents and events at nuclear facilities (tentative).

*E. *Systems Interaction*—discuss proposed NRC action plan for resolution of USI A–17, Systems Interactions.

*F. *Decay Heat Removal*—discuss ACRS consideration of activities regarding use of a system making use of bleed and feed operations to remove decay heat directly from the primary coolant systems of PWRs.

*G. *Management and Disposal of Radioactive Waste*—discuss several matters relating to the management and disposal of radioactive waste including salvage of contaminated alloys, modeling strategy for HLW performance assessment, quality assurance for geologic repositories, research efforts and international programs for HLW and LLW. Representatives of the NRC Staff will participate as appropriate.

H. *New ACRS Member (closed)*—discuss qualifications, non ACRS activities and availability of candidates proposed for membership on the ACRS.

*I. *Report of ACRS Subcommittee Activities*—hear and discuss reports of designated ACRS subcommittees regarding related activities including proposed revisions to 10 CFR 50.46, Acceptance Criteria for ECCS for Light Water Nuclear Power Reactors and Appendix K, ECCS Evaluation Models; scram system reliability/implementation of corrective action for ATWS; report of ACRS Management Group regarding meetings on April 9, 1986 and May 7, 1986; and proposed risk rebaselining study for selected nuclear plants.

*J. *Emergency Operating Procedures and Safety Parameter Display Systems*—discuss proposed ACRS comments/recommendations to the NRC regarding these matters.

*K. *Future Activities*—discuss anticipated ACRS activities and proposed items for full committee consideration.

L. *Activities of ACRS Members (closed)*—discuss non-ACRS activities of ACRS members and their impact on Committee activities as appropriate.

June 5–7, 1986—Agenda to be announced.

July 10–12, 1986—Agenda to be announced.

Dated: April 17, 1986.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 86–8980 Filed 4–21–86; 8:45 am]

BILLING CODE 7590–01–M

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, CE 306–4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Standard Format and Content for a Topical Safety Analysis Report for a Dry Spent Fuel Storage Cask" and is intended for Division 3, "Fuels and Materials Facilities." It is being developed to provide guidance on the type of information needed by the NRC staff for its evaluation of a Topical Safety Analysis Report for a spent fuel storage cask. The guide also provides a format for submitting this information.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory

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Commission, Washington, DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. Comments will be most helpful if received by June 23, 1986.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 15th day of April 1986.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director, Division of Engineering Technology, Office of Nuclear Regulatory Research.

[FR Doc. 86-8982 Filed 4-21-86; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-15053; 812-6317]

State Mutual Life Assurance Co. et al.; Application for Order Pursuant to Sections 6(c) and 17(d) of the Act, and Rule 17d-1 Thereunder, Amending Prior Order Permitting Certain Joint Transactions

April 15, 1986.

Notice is hereby given that State Mutual Life Assurance Company of America ("State Mutual"), a Massachusetts mutual life insurance company, SMA Life Assurance Company ("SMA"), a Delaware stock life insurance company and a wholly-owned subsidiary of State Mutual, The Hanover Insurance Company ("Hanover"), a New Hampshire stock insurance company 81%-owned by State Mutual, Citizens Insurance Company of America ("Citizens"), a Michigan Insurance Company and a wholly-owned subsidiary of Hanover, (together, "Insurance Companies"), and State Mutual Securities, Inc. ("Fund"), registered under the Investment Company Act of 1940 ("Act"), as a diversified, closed-end management investment company (together, "Applicants"), 440 Lincoln Street, Worcester, Massachusetts 01605, filed an application on March 13, 1986, for an order of the Commission pursuant to sections 6(c) and 17(d) of the Act, and Rule 17d-1 thereunder, amending the conditions prescribed in a prior blanket order originally issued in 1973, and subsequently amended by orders issued in 1976 and 1981 (the "Order"). All interested persons are referred to the application on file with Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the pertinent statutory provisions.

Applicants state that as amended on July 8, 1981, the Order permits State Mutual, subject to certain conditions, to invest concurrently for its general account in each issue of securities purchased by the Fund at direct placement, and to exercise warrants, conversion privileges and other rights concurrently with the Fund. The Order presently does not apply to SMA, Hanover, or Citizens, and therefore Applicant's amendatory request would necessarily include the extension of the scope of the Order to encompass these insurance affiliates of State Mutual. The conditions contained in the Order now require, among other things, that State Mutual offer one-half of all appropriate direct placement investments to the Fund. If the Fund wishes to participate in such investments, it must either participate equally, or obtain an order of the Commission allowing the Fund to acquire a lesser (or greater) than equal percentage than State Mutual. Applicants assert that this advance filing requirement could result in the loss of appropriate investment opportunities because of the substantial time and expense involved in obtaining a Commission exemptive order. On the other hand, Applicants believe that if the Fund were to be able to participate in direct placement opportunities by purchasing less than the entire amount of securities offered to it, the Fund would be able to make investments of a size appropriate for its portfolio.

In order to allow the Fund to continue to participate in appropriate joint investments, while ensuring that the Fund's investment portfolio remains in compliance with diversification requirements, Applicants desire to amend the conditions contained in the Order to allow the Fund to participate in direct placements on a less-than-equal percentage basis with State Mutual and the other Insurance Companies. The Insurance Companies would continue to offer one-half of all appropriate investments to the Fund, and a further order of the Commission would be required specifically allowing the Fund to acquire a percentage of any investment greater than that of the Insurance Companies.

Applicants submit that the order so amended would continue adequately to effectuate the purposes of the Act, and Rule 17d-1 thereunder. Therefore, Applicants request that the Order be amended to rescind all conditions presently set forth therein, and substitute, in lieu thereof, the following conditions:

1. Each time an Insurance Company proposes to participate in a direct placement involving purchase of securities the purchase of which would be consistent with the investment policies of the Fund, the Fund will be offered the opportunity to purchase an amount of each class of such direct placement securities equal to the amount of such direct placement securities proposed to be purchased by the Insurance Company. The Fund may choose to purchase none of such direct placement securities, or any amount of such direct placement securities up to the entire amount of direct placement securities offered to it.

2. If the Fund chooses to participate in such direct placement with such Insurance Company, the Fund may purchase such securities at the same times and at the same unit prices without further order of the Commission. If the Fund chooses to participate in such direct placement but to purchase less than the entire amount of securities offered to it, the Fund's decision must be approved by the board of directors of the Fund, including a majority of the directors who are not "interested persons" of the Fund. The Fund's determination to purchase none or less than all of such direct placement securities and the reasons therefor will be recorded and become a part of the permanent records of the Fund.

3. From time to time two or more Insurance Companies may wish to invest concurrently in a direct placement of securities the purchase of which would be consistent with the investment policies of the Fund. In such cases the Fund will be offered the opportunity to purchase an amount of each class of such direct placement securities equal to the aggregate amount purchased by the Insurance Companies. If the Fund chooses to invest an amount in such securities which is less than the amount invested by the Insurance Companies, the investment transaction may proceed under (2) above without further order of the Commission. Unless otherwise permitted by special order of the Commission, the Fund will not participate in a direct placement by investing an amount greater than the aggregate amount invested by the Insurance Companies.

4. Unless otherwise permitted by special order of the Commission, neither the Insurance Companies nor the Fund will exercise warrants of a class held by both the Fund and the Insurance Companies, or conversion privileges, or other rights relating to direct placement securities of a class concurrently acquired and held by the Fund and the Insurance Companies, except at the same times and in amounts proportionate to their respective holdings of such securities.

5. Unless otherwise permitted by special order of the Commission, neither the Insurance Companies nor the Fund will sell, exchange, or otherwise dispose of any interest in any direct placement security of a class concurrently acquired and held by both the Fund and the Insurance Companies, unless such dispositions are made at the same times, for the same unit consideration, and in amounts proportionate to their respective holdings of such direct placement securities.

6. The expenses, if any, of the distribution of any securities registered for sale under the Securities Act of 1933 and sold by the Insurance Companies and the Fund at the same time will be shared by the Insurance Companies and the Fund in proportion to the respective amounts they are selling.

For purposes of the Order, any direct placement securities purchased or held by Applicants which are identical in all aspects except for the fact that only the Fund's securities have voting rights shall be considered to be of the same class of securities.

Applicants submit that Order as they propose to amend it will provide the Fund with the necessary flexibility to invest in direct placement securities on an other than equal basis with the Insurance Companies. Applicants submit that it is in the best interest of the Fund to have the flexibility to acquire up to one-half of all direct placement investment opportunities offered to it and the Insurance Companies. If the Fund has the discretion to invest a lesser percentage than the Insurance Companies, it may immediately take advantage of any such opportunity while insuring that its investment in any one issuer is in compliance with diversification requirements and is otherwise prudently proportionate to its own asset base. Since any decision to invest in a lesser percentage than the Insurance Companies must be approved by the board of directors of the Fund, including a majority of the directors who are not interested persons of the Fund, and since the Insurance Companies will always have the same or a greater amount as the Fund "at risk" in each investment, Applicants submit that there are ample safeguards to assure that any participation by the Fund in such direct placements will not be on a basis less advantageous than that of the Insurance Companies.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 9, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate), shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-8972 Filed 4-21-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23131; File No. SR-Amex-86-4]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on February 19, 1986, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange is proposing to amend its schedule of approved member firm charges for handling proxy solicitations (Rule 576) to: (1) Add the second of a two-part start-up cost reimbursement "surcharge" and (2) fix the reimbursement rate for the periodic furnishing of shareholder information, in connection with the new SEC Shareholder Identification Rule. The text of the proposed rule change is available at the Exchange, care of the Office of the Secretary, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

The new SEC Shareholder Identification Rule (Rule 14b-1(c)) became effective on January 1 of this year. The rule requires broker-dealers, upon request and assurance of reimbursement of reasonable expenses, to provide issuers with the names, addresses, and security positions of their non-objecting customers whose securities are held in "street name". The rule is intended to improve the process by which issuers identify and communicate with their "street name" shareholders.[1]

An ad hoc committee composed of corporate, banking, and brokerage firm representatives under the direction of the New York Stock Exchange, Inc. ("NYSE") was formed to consider the

[1] *See* note 4, *infra.*

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issue of compensating brokers for the costs incurred in obtaining and furnishing the required shareholder information to issuers. In December 1984, the Ad Hoc Committee recommended that broker start-up costs for soliciting consents from "street name" holders and establishing the basic data files, estimated at between $18 to $25 million, be recouped at least in part through a surcharge on issuers of $.20 for each set of proxy materials processed by member firms during 1985 and 1986 proxy seasons. To provide for this surcharge, the NYSE and Amex were asked to amend their schedules of approved member firm charges for handling proxy solicitations (NYSE Rule 451 and Amex Rule 576). The Amex Board approved the two-part surcharge last February.

After review, the Commission agreed to approve the first stage of the proposed surcharge ($.20 for 1985),[2] but asked for further supporting evidence of start-up costs before approving the second stage surcharge for 1986. A survey was conducted for the Ad Hoc Committee by the NYSE to obtain the latest available data on start-up costs incurred by member firms as well as the amount of these costs recouped by firms through the initial 1985 proxy surcharge. Following its review of the study, the Committee recommended a second (and final) surcharge of 18¼¢ per proxy for the 1986 proxy season, rather than the 20¢ charge originally recommended. It is believed that the aggregate surcharge of 38½¢ for both 1985 and 1986 will be sufficient to reimburse the brokerage industry as a whole.

The Ad Hoc Committee also considered the reimbursement of brokers' reasonable costs for maintaining and providing beneficial owner data to issuers on an on-going basis. The Committee recommended that the charge for providing beneficial owner information to requesting issuers be set at 6¼¢ per customer name. Again, this amount is expected to provide fair reimbursement to the industry.[3]

[2] The Amex's initial $.20 surcharge on proxy materials was approved by the Commission in Securities Exchange Act Release No. 34-21915 (April 1, 1985), 50 FR 14009 (File No. SR-Amex-85-2).

[3] The Independent Election Corporation of America ("IECA") has been approved by the Ad Hoc Committee to serve as the primary intermediary between issuers and brokers in supplying beneficial owner information. The fee the intermediary charges the issuer will be in addition to the 6¼¢ fee charged by the broker.

The Ad Hoc Committee's recommendations, both the 18¼¢ surcharge and the 6¼¢ recurring fee, have been endorsed by the Securities Industry Association ("SIA") and the American Society of Corporate Secretaries, and an amendment to the applicable NYSE rule was approved by that exchange's Board in December. A proposed amendment to Amex Rule 576 incorporating these recommendations is now being presented to the SEC for its approval.

(2) Basis

The statutory basis for the proposed rule change in section 6(b)(5) of the Securities Exchange Act of 1934 as amended ("the Act") which, among other things requires exchange rules to be designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by this title matters not related to the purposes of this title or the administration of the Exchange.

In addition, the rule change is intended to enhance the requirements of Rules 17a-3(a)(9)(ii) and 14b-1(c) under the Act concerning the reimbursement to brokers of costs associated with those rules, including start-up and overhead costs and the costs of providing beneficial ownership information to requesting issuers.

B. Self-Regulatory Organizations's Statement on Burden on Competition

The proposed rule change will have no adverse impact on competition.

C. Self-Regulatory Organizations Statement on Comments on the Proposed Rule change Receive from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 13, 1986.

IV. Date of Effectiveness of the Proposed Rule Change

On February 11, 1986, the Commission approved a proposal by the NYSE to implement charges by member organizations to issuers in connection with their compliance with the requirements of Rules 14b-1(c) and 17a-3(a)(9)(ii) under the Act.[4] In that proposal the NYSE sought authorization for a second and final $.185 surcharge on proxy solicitations to complete recoupment of startup costs incurred in connection with complying with shareholder notification requirements and also sought approval for a rate of reimbursement for costs incurred in providing beneficial ownership information to requesting issuers of $.065 per name. In reviewing the basis for these proposed charges, the Commission considered that data collected for the Ad Hoc Committee by the NYSE in support of a final surcharge of $.185 to reimburse brokers for startup costs and the estimate given by representatives of the SIA to the Ad Hoc Committee of a cost of $.065 per name for providing beneficial ownership information to requesting issuers. The Commission determined that the need for the second and final surcharge was supported by the data and that the estimates from the SIA would provide a reasonable rate of reimbursement for brokers providing beneficial ownership information to requesting issuers.

The Amex proposal would implement the same types of charges in the same amounts that the Commission approved in the prior NYSE proposal. Further, in support of its proposed charges, Amex uses the same cost data and estimates relied upon by the NYSE in its proposal. The Commission continues to believe that the cost data developed by the NYSE and the cost estimates of the SIA support the requested second and final proxy surcharge and establish a reasonable rate of reimbursement for brokers providing beneficial ownership information to requesting issuers.

The Commission therefore finds that the proposed rule change is consistent with the requirements of the act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6, and the rules and regulations thereunder.

The Commission further finds good cause for approving the proposed rule change prior tothe thirtieth day afte rthe date of publication of notice of filing thereof, in that the Commission, as discussed above, already has approved a similar proposal from the NYSE and it is necessary and appropriate for the proposed proxy surcharge to be implemented in time to accmmodate proxy activity of the current proxy season.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rules change be, and hereby is, approved.

[4] Securities Exchange Act Release No. 22989 (February 11, 1986) 51 FR 5023 (File No. SR-NYSE-85-49). The Commission approved an initial one year $.20 surcharge for annual meeting proxy solicitations in Securities Exchange Act Release No. 21900, March 20, 1985, 50 FR 13297.

In July, 1983, the Commission adopted new paragraph (c) of Rule 14b-1 under the Act to improve the process whereby issuers communicate with shareholders whose securities are held in street name. Securities Exchange Act Release No. 20021 (July 28, 1983), 48 FR 35082. New paragraph (c) required brokers to provide issuers, upon request and assurance of reimbursement of reasonable expenses (direct and indirect), with the names, addresses and securities positions of customers who are beneficial owners of the issuers' securities and who have not objected to such disclosure. The Commission also adopted a corresponding amendment to Rule 17a-3(a)(9) under the Act to require that the customer records maintained by brokers for street name holders include whether the beneficial owner has objected to the disclosure to issuers of his or her identity, address, and securities positions.

In October 1985, the Commission further amended the shareholder communication rules. Rule 14b-1 was amended to allow a broker or dealer to employ an intermediary to act as its designated agent in performing its obligations under the rules. The amendments further specified the time frames within which brokers must perform these actions requested by the issuer as required under the rules. *See e.g.*, Rule 14b-1 (a), (b), (c). New Rule 14b-1(d) makes clear that, without assurance of reimbursement by the issuer of reasonable direct and indirect expenses incurred in connection with performing its obligations under the rules, a broker or dealer need not satisfy its obligations under Rule 14b-1 (b) or (c). These amendments become effective January 1, 1986. Securities Exchange Act Release No. 22539 (October 15, 1985), 50 FR 42672.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 15, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-8966 Filed 4-21-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23128; File No. SR-OCC-86-06]

Self-Regulatory Organizations; Options Clearing Corporation; Proposed Rule Change Amending Stock Option and Index Option Escrow Receipt Forms

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 24, 1986, Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission the proposed rule change described below. The proposal would amend OCC's index option and stock option escrow receipt forms[1] to provide an alternative formula for calculating the amount of escrow receipts that a custodian bank may have outstanding at any one time. The proposal also would update the stock option escrow receipt form adopting improved language from the more recently drafted index option escrow receipt form. OCC requested that the Commission approve the proposal on an accelerated basis under section 19(b)(2) of the Act. The Commission is publishing this notice to solicit comment.

I. Description of the Proposal

To place an outer limit on OCC's known financial exposure if a bank issuing escrow receipts for OCC Clearing Members should fail, OCC currently requires OCC-approved escrow banks, when issuing an escrow receipt, to warrant that the total value of collateral, *i.e.*, cash, cash equivalents and securities (at market value), deposited under all outstanding escrow receipts and option guarantee letters does not exceed 25% of the bank's shareholders' equity.[2] Escrow banks agree to this limitation, among others, by executing an OCC Escrow Receipt Form.[3]

OCC's proposal would revise its escrow receipt forms to provide escrow banks an alternative, less restrictive formula for limiting the amount of escrow receipts that they may have outstanding. Specifically, new clause (c)(ii) would use the escrow-related option's "intrinsic" value *i.e.*, the "in-the-money" amount, as the formula's basis. Thus, escrow banks could continue to issue escrow receipts until the "in-the-money" value of the escrow-related short options reach 25% of shareholders' equity. Banks choosing to use the new formula would be required to calculate daily the percentage of the aggregate "in-the-money" amount of the escrow-related options to shareholders' equity and to provide the results of the calculations to OCC each month.

The proposal also would make several technical revisions in OCC's stock option escrow receipt. Specifically, the proposal expressly recognizes that: (i) An escrow bank can be authorized to act on behalf of a customer's agent (the form currently provides that the bank is authorized by the customer); (ii) a short options position covered by an escrow receipt may be assigned in part; and (iii) an escrow bank may issue escrow receipts on securities held in its account at a financial intermediary (*e.g.*, a securities depository). Finally, the amended form would expressly prohibit an escrow bank from asserting any lien or right of offset with respect to securities underlying escrow receipts, and would require the bank to notify OCC and other interested parties if any third party asserts a claim against those securities.

II. OCC's Rationale for the Proposal

OCC states in its filing that covered index call writing among institutional customers has become popular, largely due to the introduction of the index

[1] *See* Securities Exchange Act Release No. 22324 (August 13, 1985), 50 FR 33443 (August 19, 1985) amending OCC Rule 1801 to permit, on a pilot basis, OCC Clearing Members to deposit with OCC escrow receipts, collateralized by any combination of cash, cash equivalents, and exchange-listed or OTC margin stocks, in lieu of OCC margin on short index call option positions carried for customer accounts. Under the terms of the escrow receipt, the customer on whose behalf a Clearing Member makes a deposit authorizes the liquidation of the deposit to the extent necessary to perform the issuing bank's obligations to OCC. The bank must monitor the value of deposited property and notify OCC if the property's value falls to less than 50% of the number of option contracts covered by the deposit times the aggregate current index value of the underlying index. At that time, OCC may disregard the escrow receipt and require the Clearing Member to deposit OCC margin regarding the short positions previously covered by the escrow receipt. *See also* OCC Rule 610 which governs generally the deposit of underlying securities for margin purposes.

[2] In calculating the value of deposited property, cash equivalents and common stocks are valued at their closing sale prices (if subject to last sale reporting) or closing bid prices (if not subject to last sale reporting) on the day the bank issues an escrow receipt.

[3] OCC currently has two Escrow Receipt Forms: one for index option escrows and another for stock option escrows. The proposal amends both forms.

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option escrow receipt in 1985.[4] This popularity, in turn, has led to a substantial increase in escrow deposits. OCC represents that, because of this increased activity, some escrow banks have exhausted their capacity for issuing escrow receipts under OCC's present "gross collateral valuation" formula. OCC designed that formula to limit OCC's exposure in the event an escrow issuing bank were to fail without properly segregating collateral underlying its outstanding escrow receipts. OCC now believes that its exposure in this circumstance would be measured more accurately by using the intrinsic value, *i.e.*, the "in-the-money" amount of the options covered by the escrow receipt, rather than the gross value of the deposited collateral. Because the proposed formula is more complex than the existing formula, some escrow banks may be unable or unwilling to modify their automated systems to perform the necessary calculations. Therefore, OCC is proposing the new formula as an alternative to the original formula. Thus, escrow banks wishing to stay with the existing formula and lower ceiling on their escrow activity may do so.

OCC believes the proposal is consistent with the purposes and requirements of section 17A of the Act because it would increase escrow banks' capacity for issuing escrow receipts, thereby facilitating greater institutional participation in the index options markets, while providing reasonable safeguards for OCC's protection. OCC further states that the proposed changes in the stock option escrow receipt form would eliminate unnecessary inconsistancies between the language of OCC's two forms of escrow receipt.

III. Request for Comment.

Within 35 days of the date of the publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will by order approve such proposed change or institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons can submit written comments about the proposal by filing six copies of their comments with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the filing, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the filing also will be available for inspection and coping at OCC's principal office. All comments should refer to the file number in the caption above and should be submitted by May, 13, 1986.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: April 15 1986.

John Wheeler,

Secretary.

[FR Doc. 86-8969 Filed 4-21-86; 8:45 am]

BILLING CODE 8010-01-M

[4] *See* note *supra*. The ability to cover short index options positions with escrow receipts has enabled institutional investors with diversified stock portfolios to adopt large-scale covered index call writing programs. In this manner, institutional investors not only have increased their returns on their portfolios, but their call writing strategies have served as a limited hedge against downward portfolio price movements.

[Release No. 34-23129; File No. SR-Phlx-86-12]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Change by Philadelphia Stock Exchange, Inc. Relating to Extension of the Pilot Program for Procedures for Pricing Standard Odd-Lot Market Orders of the American Telephone and Telegraph Divestiture Issues

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), ("Act") notice is hereby given that on April 2, 1986, the Philadelphia Stock Exchange, Inc. ("Phlx") filed with the Securities Exchange Commission the proposed rule change, described in Items I, II and III below. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of an extension of a pilot program relating to procedures regarding the pricing of standard odd-lot market orders in American Telephone and Telegraph Co. divestiture issues. The pilot program was approved originally for nine months, commencing November 21, 1983, and extended another six months to February 21, 1985.[1] At this time, the Phlx is requesting an additional eighteen month extension of the pilot to August 21, 1987.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose.

The Exchange requests the extended period in order to further assess the results of the pilot pricing system under actual market conditions.

(2) Statutory Basis for Proposed Rule Change.

Extension of the pilot program will be consistent with those provisions of the Act, which encourage the use of new data processing and communications techniques which create the opportunity for more efficient and effective market operations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange states that the proposed rule change will not impose any burden on competition that is not justified in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received writtten comments on the proposed rule change.

[1] *See* Securities Exchange Act Release Nos. 20398 (November 16, 1983), 48 FR 5377 and 21337 (September 20, 1984), 49 FR 37886. The Exchange did not file a proposed rule change with the Commission for an extension of the pilot program after the original extension expired on February 21, 1985.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the Phlx. All submissions should refer to the file number in the caption above and should be submitted by May 13, 1986.

IV. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the notice of filing thereof, in that further extension of the pilot will permit the program to continue uninterrupted and will permit the Phlx to evaluate the need for specific systems enhancements to the odd-lot execution process in connection with any future proposals to the Commission for changes to the Phlx odd-lot procedures. Further, the Commission notes that it has approved, on an accelerated basis, a substantially similar proposal for the New York Stock Exchange.[2]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[2] *See* Securities Exchange Act Release No. 23063 (March 7, 1986), 51 FR 8731.

Dated: April 15, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-8970 Filed 4-21-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23130; File No. PHLX 86-11]

Self-Regulatory Organizations; Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Minor Disciplinary Action Plan

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 21, 1986, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("Exchange") proposes to revise its disciplinary procedures for the disposition of violations of Options Floor Procedure Advices ("Advices"). A summary of the revised procedure is set forth below.

Under the Exchange's proposed minor rule violation plan, the Advices will be deemed to be minor rules. Alleged violations of any of these Advices may result in the staff of the Exchange Market Surveillance Department serving the alleged violator with notice of the alleged violation.[1] The form for notice of violations will set forth the name of the member or member organization, or any partner, officer, director or person employed by or associated with any member or member organization, alleged to have violated any such Advice, the date of the notice to such alleged violator, the violation at issue, and the fine for such violation.[2]

The alleged violator will be provided not less than seven business days to decide whether to contest the violation or pay the fine. If the alleged violator decides not to contest such violation, under the Commission's amendments to Rule 19d-1 and the minor rule violations plan, these violations will not be deemed "final" disciplinary action for the purpose of Rule 19d-1 and the violator's own records. If the alleged violator decides to contest the violation, the matter will be referred to the Business Conduct Committee ("Committee") for their consideration and determination.

The Committee may then (a) decide that the matter be dismissed and the notice of alleged violation be rescinded; (b) decide that the notice, as issued, is valid, whereupon the alleged violator could either pay the fine or contest the matter before a hearing panel; (c) decide that the notice, as issued, should be modified to specify either a higher or lower fine than the one on the notice as issued, whereupon the alleged violator could either pay the new fine or contest the matter before a hearing panel; or (d) decide that the matter merits formal disciplinary action and authorize issuance of a Complaint, pursuant to Exchange Rule 960.2.

If a disciplinary proceeding thereafter results, and the Hearing Panel determines that the alleged violator has violated the Advice(s), the Hearing Panel shall (a) be free to impose any disciplinary sanction provided for in Exchange Rules 960.1-960.12 and (b) determine whether the violation is minor in nature. If determined to be minor in nature, the violation(s) giving rise to the penalty shall not be publicly reported by the Exchange to its membership, except as may be required pursuant to Rule 19d-1, or as may be required by any other regulatory authority; if determined not to be minor in nature, the decision of the Hearing Panel and any penalty imposed shall be publicly reported to the Exchange membership, in addition to any filing required by Rule 19d-1, or any other regulatory authority, once such decision becomes "final" under Exchange Rules 960.1-960.12.

Under this plan, before notice is given of the alleged violation to the alleged violator on said form, the Exchange staff will reserve the right to recommend to the Committee in any given matter that the violation at issue should not be deemed "minor," in the context of this plan, but should rather be formal disciplinary action authorized by the Committee under Exchange Rule 960.2. The Committee may, in turn, accept or reject this recommendation. If the

[1] The Exchange submitted, in conjunction with the Proposed Rule Change, the complete text of the revised procedure, a complete list of the Options Floor Procedure Advices and the proposed form for notice of alleged violations of the Advices. These forms are available for inspection and copying at the places specified in Item IV of this notice.

The Exchange anticipates adding other minor rules to this list of Advices and fines from time to time. After such additions have been appropriately approved by the Exchange, such additions will be submitted to the Commission as amendments to this filing for Commission review.

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Committee rejects the recommendation, the staff will serve the said notice; if the Committee accepts the recommendation, it will authorize that a formal Complaint be issued for such violation as prescribed by Exchange Rule 960.2.

If the alleged violator decides to pay the fine imposed under said disciplinary notice, his violation will be deemed to have been minor in nature and the violation will be reported to the Commission on a quarterly basis on the reporting form.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

The purpose of the minor rule violation plan is to provide for the fair, effective, and expeditious dispoaition of violations of said Advices. The implementation of such a plan would benefit the Exchange in several ways: (a) Violators of such Advices could be summarily cited for violations without the Business Conduct Committee having to exercise its discretion on a case-by-case basis (though in every case this Committee would maintain discretion to authorize formal disciplinary action under Exchange Rule 960.2); (b) the imposition of pre-set sanctions for violation of these Advices would promote fair treatment of violators; and (c) if the alleged violator of an Advice did not contest the allegation and the sanction imposed were a fine of less than $2,500, the Exchange could report these violations to the Commission quarterly and in abbreviated fashion.

B. Self-Regulatory Organizations Statement on Burden on Competition

The minor rule violation plan is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b) (1) and (7), in particular, in that it enhances the effectiveness and fairness of its procedures for the disciplining of members and member firms.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The plan has been approved by the Exchange's Options and Business Conduct Committees as well as the Exchange Board of Governors.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or,

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 13, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

April 15, 1986.

[FR Doc. 86-8971 Filed 4-21-86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Incorporated

April 16, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

BANC One Corp.
Common Stock, No Par Value (File No. 7-8911)

Glenfed, Inc.
Common Stock, $0.01 Par Value (File No. 7-8912)

Herman's Sporting Goods, Inc.
Common Stock, $0.01 Par Value (File No. 7-8913)

Morgan Stanley Group, Inc.
Common Stock, $1.00 Par Value (File No. 7-8914)

L.F. Rothschild, Uterberg, Towbin Holding, Inc.
Common Stock, $1.00 Par Value (File No. 7-8915)

Triton Energy Corporation
Convertible Exchange Preferred, No Par Value (File No. 7-8916)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 7, 1986, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549.

Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-8969 Filed 4-21-86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Inc.

April 18, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

AM International, Inc.
Preferred Stock, $0.01 Par Value [File No. 7-8917]

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaciton reporting system.

Interested persons are invited to submit on or before May 7, 1986 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-9002 Filed 4-21-86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

April 18, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Ausimont Compo N.V.
Dutch Guilderf Stock (File No. 7-8923)

Triton Energy Corporation
Convertible Exchangeable Preferred Stock (File No. 7-8924)

R.J. Financial Corporation
Common Stock, $0.10 Par Value [File No. 7-8925]

Cannon Group Inc.
Common Stock, $0.01 Par Value [File No. 7-8926]

Trammell Crow Real Estate Investors
Shares of Beneficial Interest, $0.01 Par Value (File No. 7-8927)

British Telecommunications PLC
Final American Depositary Receipt (File No. 7-8928)

Portland General Corporation (Holding Company)
Common Stock, $3.75 Par Value (File No. 7-8929)

York International Corporation
Common Stock, $.001 Par Value (File No. 7-8930)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 7, 1986 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-9000 Filed 4-21-86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Inc.

April 16, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Norfolk Southern Company
Common Stock, $1.00 Par Value [File No. 7-8918]

Healtamerica Corporation
Common Stock, $.01 Par Value (File No. 7-8919)

Rexnord, Inc.
Common Stock, $1.00 Par Value (File No. 7-8920)

American General Corporation
Warrants to Purchase Common Stock [File No. 7-8921]

Snap-on Tools Corporation
Common Stock, $1.00 Par Value (File No. 7-8922)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 7, 1986, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549.

Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-9001 Filed 4-21-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

ACTION: Notice of Reporting Requirements Submitted for Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments should be submitted within 21 days of this publication in the **Federal Register**. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Copies of forms, request for clearance (S.F. 83), supporting

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statements, instructions, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Submit comments to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Richard Vizachero, Small Business Administration, 1441 L Street, NW., Room 200, Washington, DC 20416, Telephone: (202) 653–6538

OMB Reviewer: Patricia Aronsson, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503, Telephone: (202) 395–7231

Title: Governor's Request for Disaster Declaration
Frequency: On occasion
Description of Respondents: The Governor of the affected states makes a written request stating the incident that occurred, the time and place and certify that SBA criteria have been met.
Annual Responses: 110
Annual Burden Hours: 2200
Type of Request: Extension
Title: Annual Update of 8(a) Application and Business Plan
Form no. SBA 1450
Frequency: Annually
Description of Respondents: Program participants are required to update their personal and business eligibility statements and business plan on an annual basis as a condition of program participation.
Annual Responses: 2400
Annual Burden Hours: 24,000
Type of Request: Reinstatement

Dated: April 15, 1986.

Richard Vizachero,

Chief, Administrative Procedures and Documentation Section; Small Business Administration.

[FR Doc. 86–8963 Filed 4–21–86; 8:45 am]

BILLING CODE 8025–01–M

Business Loans; Change of FTA Contractor and Announcement of New Fee Schedule

AGENCY: Small Business Administration.

ACTION: Notice of new contractor and fee schedule.

SUMMARY: The Small Business Administration has permitted Fidata Trust Company of New York (Fidata) to assign the fiscal and transfer agency contract for the secondary market in guaranteed portions of loans made pursuant to section 7(a) of the Small Business Act to Colson Acquisitions Corporation (Colson). The effective date of the assignment was April 7, 1986.

SBA agreed as a condition of acceptance of the Contract by Colson Acquisitions Corporation to a new fee schedule. The new schedule is effective immediately upon publication in the Federal Register and is described below.

FOR FURTHER INFORMATION CONTACT: Jim Hammersley (202) 653–6064 or Alan Mandel (202) 653–6696, Room 800, 1441 L St. NW., Washington, DC 20416.

SUPPLEMENTARY INFORMATION: SBA has agreed to the imposition of the new fee schedule as a condition of its contract with Colson, a result of the problems generated by the current fee schedule. Service has deteriorated to a level considered unacceptable by SBA and the lending and investment community.

The current contractor, Fidata Trust Company, has indicated that the company has suffered significant losses on the contract during the past year. Neither SBA nor the contractor was able to locate an assignee that would accept the contract on its current terms. Acceptance of the contract by Colson was conditioned upon negotiation of new terms with SBA. It should be noted that while SBA did have to grant approval for assignment of the contract, Fidata had the responsibility for selecting a proposed assignee. SBA has met with the principals of Colson and is convinced that the company can provide a superior level of service at a fair price. The new fee shcedule is as follows:

(a) For individual guaranteed interests sold using the FTA system prior to January 7, 1985.

(i) an original issuance fee of 1/16th of 1% of the Guaranteed Interest as of the date of sale to the purchaser, payable by the Purchaser or Holder, as the case may be, at the time of presentation to the FTA of each SBA form 1085 or 1086, as the case may be, with request to issue a Certificate;

(ii) a servicing fee of ⅛ of 1% per annum computed on the unpaid balance of the Guaranteed Interests for the period of actual services performed by the FTA, which fee is to be deducted by the FTA from the amount remitted by the lender to the FTA; and

(iii) A Certificate issuance fee payable by the transferee not to exceed $20.00 per transfer.

(b) For individual Guaranteed Interests in which the initial sale by the lender or the first transfer in which the transferor was required to register the guaranteed interest on the FTA system occurred between January 7, 1985 and prior to April 22, 1986, the FTA is authorized to collect the following fees:

(i) a Certificate issuance fee payable by the transferee not to exceed $20.00 per transfer.

(ii) a servicing fee of ⅛ of 1% per annum computed on the unpaid balance of any such Guaranteed Interest transferred on or after April 22, 1986, for the period of actual services performed by the FTA, which fee is to be deducted by the FTA from the amount remitted by the lender to the FTA;

(c) For individual Guaranteed Interests in which the initial sale by the lender or the first transfer in which the transferor was required to register the guaranteed interest on the FTA system occurs on or after April 22, 1986, the FTA is authorized to collect the following fees:

(i) an original issuance fee of $75.00, payable by the Purchaser or Holder, as the case may be, at the time of presentation to the FTA of each SBA form 1085 or 1086, as the case may be, with request to issue a Certificate;

(ii) a servicing fee of ⅛ of 1% per annum computed on the unpaid balance of the Guaranteed Interests for the period of actual services performed by the FTA, which fee is to be deducted by the FTA from the amount remitted by the lender to the FTA; and

(iii) a Certificate issuance fee payable by the transferee not to exceed $20.00 per transfer.

(d) For Guaranteed Interests included in pools, the FTA is authorized to collect the following fees:

(i) an application/pool formation fee of $30.00 per Guaranteed Interest for each Guaranteed Interest included in a particular pool, up to a maximum of $900 per pool for any pool application submitted on or after April 22, 1986; and

(ii) a servicing fee of ⅛ of 1% per annum computed on the unpaid balance of the Guaranteed Interests for the period of actual services performed by the FTA, which fee is to be deducted by the FTA from the amount remitted by the lender to the FTA, however, in no case will such FTA fee exceed ⅛ of 1% per annum for an individual guaranteed interest. If a servicing fee is being collected on a Guaranteed Interest prior to its inclusion in a pool, no additional servicing fee will be permitted when the Guaranteed Interest is put in a pool; and

(iii) a Certificate issuance fee payable by the transferee not to exceed $20.00 per certificate per transfer. Such $20.00 fee will be charged for all certificates issued, including dividing an existing certificate."

SBA will accept comments on this new fee schedule. They should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, Room 800, 1441 L St. NW., Washington, DC 20416.

(Catalog of Federal Domestic Assistance Programs, 59.012 Small Business Loans)

Dated: March 26, 1986.

James C. Sanders,

Administrator.

[FR Doc. 86–8257 Filed 4–21–86; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice 960]

Agency Forms Submitted for OMB Review

AGENCY: Department of State.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted proposed collections of information to the Office of Management and Budget for review.

SUMMARY: The following summarizes the information collection proposals submitted to OMB:

(1) *Title of information collection*—Application for Immigrant Visa and Alien Registration (OMB No. 1405–0015)
Form Number—OF–230
Type of request—Extension
Frequency—On occasion
Respondents—Foreign nationals
Estimated number of responses—350,000
Estimated number of hours needed to respond—116,666.

(2) *Title of information collection*—Notification of Appointment of Foreign Diplomatic Officer
Form Number—1497
Type of request—New
Frequency—On occasion
Respondents—Foreign government personnel
Estimated number of responses—800
Estimated number of hours needed to respond—200

(3) *Title of information collection*—Notice of Final Departure of Foreign Diplomatic Officer
Form Number—DS–1497A
Type of request—New
Frequency—On occasion
Respondents—Foreign government personnel
Estimated number of responses—800
Estimated number of hours needed to respond—67

(4) *Title of information collection*—Notification of Appointment of Foreign Government Employee
Form Number—DS–304
Type of request—New
Frequency—On occasion
Respondents—Foreign government personnel
Estimated number of responses—5,000
Estimated number of hours needed to respond—1,250

(5) *Title of information collection*—Notice of Termination of Employment with a Foreign Government.
Form Number—DS–394A
Type of request—New
Frequency—On occasion
Respondents—Foreign government personnel
Estimated number of responses—5,000
Estimated number of hours needed to respond—417.

(6) *Title of information collection*—Notification of Appointment of Foreign Consular Officer
Form Number—DSP–98
Type of request—New
Frequency—On occasion
Respondents—Foreign government personnel
Estimated number of responses—850
Estimated number of hours needed to respond—213

(7) Title of information collection—Notice of Termination of Employment of Foreign Consular Officer
Form Number—DSP–98A
Type of request—New
Frequency—On occasion
Respondents—Foreign government personnel
Estimated number of responses—850
Estimated number of hours needed to respond—71.

Section 3504(h) of Pub. L. 96–511 does not apply.

Additional Information or Comments: Copies of the proposed forms and supporting documents may be obtained from Gail J. Cook (202) 647–3538. Comments and questions should be directed to (OMB) Francine Picoult (202) 395–7231.

Dated: April 10, 1986.

Donald J. Bouchard,

Assistant Secretary for Administration.

[FR Doc. 86–8899 Filed 4–21–86; 8:45 am]

BILLING CODE 4710–24–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Radio Technical Commission for Aeronautics (RTCA); Special Committee 156—Potential Interference to Aircraft Electronic Equipment From Devices Carried Aboard; Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 156 on Potential Interference to Aircraft Electronic Equipment from Devices Carried Aboard, to be held on May 13–14, 1986, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Ninth Meeting's Minutes; (3) Review of Task Assignments: a. Validation, refinement and substantiation of path loss data, b. Report on further liaison with FCC, c. Vulnerable frequency selection, d. Review RTCA Paper No. 436–85/SC156–110 with regard to SATCOM, Glide Slope, TACAN and MLS data relative to how this information integrates with other collected material, e. Incorporate material from RTCA Paper No. 82–86/SC156–134 on comparison of RTCA and VDE standards into an appendix, f. Report on electric shavers, g. Provide a Part 15 FCC regulation briefing, h. Describe how the likely "vulnerable" communications and navigation frequencies were selected and why some frequencies were not included, i. Identify the tolerance of aircraft communications and navigation system to the type of spurious radiation that might be expected from passenger-operated devices, j. Develop a chart comparing FCC/DO–160B and VDE/B for frequencies of interest; (4) Integrate assigned sections into a first draft of the committee report; (5) Other business; and (6) Date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued In Washington, DC, on April 16, 1986.

S.B. Portisky,

Designated Officer.

FR Doc. 86–8901 Filed 4–21–86; 8:45 am]

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Radio Technical Commission for Aeronautics (RTCA), RTCA Executive Committee; Notice of Meeting

Pursuant to section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Executive Committee to be held on May 16, 1986, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of Meeting Held March 25, 1986; (3) Executive Director's Report; (4) Special Committee Activities Report for March-April 1986; (5) Consideration of Proposals to Establish New Special Committees; (6) Consideration of Approval of Reports by Special Committees: a. SC-137 Proposed "Minimum Operational Performance Standards for Airborne Area Navigation Equipment Using Omega/VLF Inputs." b. SC-154 Proposed "Minimum Operational Performance Standards for Airborne Thunderstorm Detection Equipment"; (7) Other Business; (8) Date and place of next meeting.

Attendance is open to the interested public but limited to space available.

With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present at written statement to the committee at any time.

Issued in Washington, DC, on April 16, 1986.

S.B. Poritsky,

Designated Officer.

[FR Doc. 86-8868 Filed 4-21-86; 8:45 am]

BILLING CODE 4910-13-M

Sunshine Act Meetings

Federal Register

Vol. 51, No. 77

Tuesday, April 22, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [To be published]

STATUS: Open/close meetings.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Thursday, April 10, 1986.

CHANGE IN THE MEETING: Deletion/additional items.

An open meeting scheduled for Thursday, April 17, 1986, at 2:30 p.m. was cancelled.

Oral argument on appeals by Rooney Pace, Inc., a registered broker-dealer, Randolph K. Pace, its president, and the Commission's Division of enforcement, from an administrative law judge's initial decision. For further information, please contact R. Moshe Simon at (202) 272-7400.

A closed meeting scheduled for Thursday, April 17, 1986, following the 2:30 p.m. open meeting, was cancelled.

Post oral argument discussion.

The following item will be considered at an open meeting scheduled for Thursday, Aapril 22, 1986, at 2:30 p.m.

The Commission will consider accounting for oil price declines. For further information, please contact Howard Hodges at (202) 272-2553.

Commission Peters, as Duty Officer, determined that Commission business required the above changes and that not earlier notice thereof was possible.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kathryn Natale at, (202) 272-3195.

Dated: April 18, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-9043- Filed 4-18-86; 12:49 pm]

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federal register

Tuesday
April 22, 1986

Part II

Environmental Protection Agency

40 CFR Part 720
Toxic Substances; Revisions of Premanufacture Notification Regulations; Final Rule

40 CFR Part 721
Toxic Substances; Significant New Use Rules; Proposed Amendments to General Provisions and Individual Rules; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 720

[OPTS-59093L; FRL 2960-6]

Toxic Substances; Revisions of Premanufacture Notification Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule revises certain premanufacture regulations that, under the Toxic Substances Control Act (TSCA), require any person who intends to manufacture or import a new chemical substance to notify EPA at least 90 days before manufacture or import begins. The revisions clarify and eliminate ambiguities in the stayed provisions of the rule (48 FR 41132; September 13, 1983), particularly the exemption for research and development, and they revise certain language in the rule to simplify the provisions affecting compliance and enforcement.

DATES: This rule shall be promulgated for purposes of judicial review at 1 p.m. eastern time on May 6, 1986. This rule is effective June 5, 1986.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Toll-free: (800-424-9065). In Washington, DC: (202-554-1404). Outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION: EPA is revising certain provisions in 40 CFR Part 720 concerning premanufacture notification requirements, most notably the exemption for research and development.

I. Background

Under section 5 of TSCA, any person who intends to manufacture or import a new chemical substance for commercial purposes must notify EPA at least 90 days before manufacture or import begins. This requirement has been in effect since July 1, 1979. Since then, EPA has received and reviewed more than 6,000 notices on such new substances.

EPA promulgated a final premanufacture notice (PMN) rule in the Federal Register of May 13, 1983 (48 FR 21722). After receiving comments from the public, EPA postponed the effective date of the rule so that it could review several provisions. In the Federal Register of September 13, 1983 (48 FR 41132), EPA stated that the rule would become effective on October 26, 1983, with the exception of four provisions: (1) § 720.3(y) (the definition of "possession or control"); (2) § 720.38 (procedural requirements concerning new chemical substances manufactured under the section 5(h)(3) exemption for R&D); (3) § 720.78(b) (recordkeeping requirements for R&D); and (4) § 720.50(c) (data requirements on related chemicals). It also issued a non-substantive amendment to § 720.102(b)(1) (timing of submission of the notice of commencement of manufacture). On December 27, 1984, EPA proposed modifications of the stayed provisions in the Federal Register (49 FR 50201), and proposed a modified definition of "manufacture solely for export" (§ 720.3(s)). EPA is now issuing these provisions as a final rule. It is also issuing a non-substantive amendment to § 720.102(a) to further clarify the timing of submission of the notification of commencement of manufacture.

II. Provisions of Final Rule

A. Exemption for Research and Development

1. *Summary of rule.* Section 5(h)(3) of TSCA exempts the manufacture or import of small quantities of new chemical substances produced solely for research and development (R&D) from the PMN requirements if the manufacturer or importer notifies persons engaged in R&D of any health risks that the company or EPA has reason to believe may be associated with the chemical substance.

The provisions promulgated in this notice, together with §§ 720.3(cc) and 720.3(ee), promulgated on May 13, 1983, define the scope of the R&D exemption and establish the requirements associated with it. Section 720.3(cc) defines the phrase "small quantities" as those quantities no greater than necessary for R&D purposes, and § 720.3(ee) provides a definition of the "technically qualified individual" who must supervise the R&D. Sections 720.36 and 720.78(b), issued as part of the rule published with this notice, clarify specific requirements associated with the section 5(h)(3) exemption for R&D.

Under § 720.36, manufacturers and importers must evaluate information in their possession or control to determine whether a new chemical substance manufactured under the section 5(h)(3) exemption poses a risk to health, and they must notify employees who are exposed to the substance of the risks associated with it. However, § 720.36(b)(2) exempts R&D conducted entirely in laboratories under prudent laboratory practices from the requirement for risk evaluation. Section 720.36(c)(2) provides that, if manufacturers and importers distribute an R&D substance to other persons, they must provide those persons with written notification of known hazards and of the requirement that the substance be used solely for R&D. Section 720.36(d) prohibits the processing, use, sale, or distribution for non-R&D uses of R&D substances and mixtures containing R&D substances without submission of a PMN and completion of PMN review. Sections 720.36 (d) and (e) do permit, however, the sale of articles containing the R&D substance and chemical substances containing the R&D substance as an impurity, disposal of the substance, and certain forms of commercial recycling, assuming that other requirements of the R&D exemption are met.

Section 720.78(b) establishes recordkeeping requirements for manufacturers and importers taking advantage of the R&D exemption.

The R&D exemption of section 5(h)(3) also applies to persons who manufacture, import, or process a chemical substance for a significant new use designated in a rule under section 5(a)(2). Section 5(a)(1)(B) requires submission of a notice to EPA at least 90 days before a person manufactures, imports, or processes a substance for a designated significant new use. However, section 5(h)(3) exempts the person if the substance is manufactured, imported, or processed in small quantities solely for R&D. Thus, such persons can conduct R&D concerning a significant new use without submitting a notice. Pending promulgation of the revisions of §§ 720.36 and 720.78(b), EPA did not promulgate specific rules applicable to the R&D exemption for significant new use rules (SNUR's) because EPA intended to make the R&D provisions for SNUR's as similar as possible to those for PMN's. Accordingly, now that §§ 720.36 and 720.78(b) have been revised, EPA intends to amend 40 CFR Part 721, Subpart A (the general provisions for SNUR's) to incorporate provisions similar to §§ 720.36 and 720.78(b). These provisions would cover manufacturers, importers, and processors of substances for significant new uses and would be altered as necessary to address the SNUR situation. EPA is soliciting comment on any modifications that may be needed to accommodate §§ 720.36 and 720.78(b) to R&D for SNUR's.

On December 31, 1984, EPA published a proposed policy regarding certain microbial products, focusing on the products of genetic engineering (49 FR 50880). In that proposed policy EPA discussed the need to alter the definition of "small quantities" for R&D to address the problem of release of microorganisms to the environment as part of R&D (field testing). EPA is still considering the need to amend the definition in § 720.3(cc), as well as the provisions of §§ 720.36 and 720.78(b), to meet the concerns about R&D activities conducted with microorganisms. These concerns have not been taken into account in promulgating §§ 720.36 and 720.78(b). Any such amendments to address R&D with microorganisms will be the subject of a future proposal with an opportunity for public comment.

2. *Scope of R&D.* a. *Definition.* In its notice of December 27, 1984, EPA proposed retaining the qualitative approach to defining "small quantities" solely for research and development used in § 720.2(cc) of the PMN Rule. EPA stated that there is no single quantitative limit that would allow for the variety of research taking place in the chemical industry, and commenters on the rule unanimously agreed. Therefore, this rule does not amend the definition of "small quantities" solely for R&D.

EPA has previously published considerable guidance on the scope of activities that fall within R&D, most recently in the notice in the Federal Register of December 27, 1984 (49 FR 50202). The Agency understands R&D activities to include tests of the physical, chemical, production, and performance characteristics of a chemical substance. The substance must be used directly by, or under the supervision of, a technically qualified individual, who must carefully monitor the tests and measure or assess their results. Chemical substances produced for R&D may be distributed in commerce, as long as the buyer uses them solely for purposes of R&D. However, distribution of a chemical substance to consumers removes it from the category of R&D.

EPA and TSCA also differentiate R&D from test marketing activities. The latter usually involve limited sale or distribution of a substance within a predetermined period of time to determine its competitive value when its market is uncertain. Test marketing activities require a manufacturer or importer to submit a PMN or an application for a test market exemption under § 720.38 of the PMN Rule.

EPA intends to summarize guidance on the definition of R&D in an information bulletin to be issued in the near future.

b. *Residual R&D material.* EPA recognizes that in some cases manufacturers and importers will have a surplus of a material produced for R&D after the R&D activities are complete. Section 720.36(d) of this rule prohibits the non-R&D commercial use or sale of this substance or of mixtures containing this substance before a PMN has been submitted and reviewed. If the manufacturer or importer intends to manufacture or import further quantities of the substance for non-R&D purposes, it can submit a PMN, a polymer exemption PMN under 40 CFR 723.250, or a low volume exemption notice under 40 CFR 723.500, as appropriate. Unless EPA acts to prevent manufacture or import, the manufacturer or importer would be free, upon completion of the relevant review period, to use the surplus R&D material for non-R&D purposes, as well as any additional quantities manufactured or imported afterwards.

In some situations, the manufacturer or importer does not intend to manufacture or import any additional quantities of the substance for non-R&D purposes. Rather, it seeks only to use up the material already produced during the R&D activities. Several commenters requested that EPA develop an expedited review procedure under section 5(h)(4) for such one-time use of R&D substances. EPA is not developing such a rule at this time because it believes that is not possible to make for all activities involving such R&D substances the "will not present an unreasonable risk" finding necessary for an exemption under section 5(h)(4). However, EPA has concluded that it is appropriate to allow manufacturers and importers in such situations to submit a PMN, a polymer exemption PMN, or a low volume exemption notice, as appropriate, to allow EPA to review the intended activities. If necessary, EPA could use its authority under section 5(e) or (f), or under the terms of the exemption rules, to prevent the intended activities if they may present an unreasonable risk. Substances described in such PMN's or exemption notices would not go on the inventory because they would not be manufactured or imported for nonexempt commercial purposes (see unit II.E. below for discussion of notice of commencement of manufacture or import).

Although persons conducting R&D may not sell or use R&D substances or mixtures for non-R&D purposes, § 720.36(d) permits the non-R&D use or sale of substances containing the R&D material as an impurity. For example, an R&D substance tested for its effectiveness as a process aid (e.g., a catalyst or a reagent) or an intermediate may exist as an impurity in the final product resulting from the R&D. If the final product is an existing chemical, it may be used for non-exempt commercial purposes without a PMN being submitted on the R&D substance, as long as the product was produced in the course of legitimate R&D, and the manufacturer or importer meets all the requirements of the exemption for R&D and the PMN rule. If the final product is not on the TSCA inventory, a PMN is necessary for that quantity of the substance before it can be sold or used in commerce, but no PMN is necessary for the R&D intermediate unless further non-R&D production is required.

In addition, § 720.36(d) permits manufacturers or importers to use or sell articles incorporating an R&D chemical substance without the submission of a PMN, as long as the article was produced in the course of legitimate R&D. EPA has received questions about the interpretation of the term "article," as defined in § 720.3(c). The Agency considers an item to meet the definition of an "article" if it is manufactured in a specified shape or design for a particular end-use application, and this design is maintained as an essential feature in the finished product. The item must have no change of chemical composition during its end-use, or only incidental changes. If an item is manufactured in a particular shape for the purpose of shipping convenience and the shape of the item has no function in the end-use, it would not be viewed as an article. Therefore, the category of articles includes an automobile painted with a coating containing an R&D pigment, and a moldable plastic sheet which incorporates an R&D stabilizer, but it does not include substances distributed in containers, e.g., paint containing an R&D pigment in a can, or such items as ingots, billets and blooms. Manufacturers and importers who use or sell articles produced for R&D should assess these activities for potential risks in accordance with the risk evaluation provision of § 720.36(b)(1). In addition, they must keep appropriate records of the disposition of R&D chemicals in articles, as required by § 720.78(b)(2).

Section 720.36(d) of the proposed rule, which specified commercial methods of recycling and disposal permissible under the R&D exemption, caused some confusion among commenters. EPA has reorganized the section and created § 720.36(e) to state more clearly that the rule does not prohibit disposal of wastes from R&D activities, and that it allows certain commercial uses of surplus R&D substances. However, all forms of disposal of waste from research and development activities must follow

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local, state, and Federal regulations, and those wastes which meet the criteria for hazardous wastes under the Resource Conservation and Recovery Act must follow the procedures it requires. In addition, § 720.36(e) identifies other permissible commercial uses of surplus R&D substances: (1) Burning them as fuel, and (2) reacting or processing them to form other chemical substances.

Several commenters on the proposal raised specific questions about permissible methods of recycling or disposal of surplus R&D substances, including the recycling of small amounts of R&D substances into refinery feedstocks and the thermal oxidation of R&D substances to form commercially valuable substances. EPA has already clarified that small quantities of R&D fuels can be disposed of by blending small amounts into refinery streams without triggering PMN requirements (48 FR 7636). This constitutes disposal exempt under § 720.36(e)(1). In addition, EPA has modified the proposed rule to broaden the range of methods by which manufacturers may process chemical substances which remain after R&D activities are complete. In contrast to the proposal, which limited processing to extraction, the final rule, in addition, allows manufacturers and importers to react or otherwise process residual R&D substances to form other chemical substances for commercial use.

c. *Pesticides and pesticide intermediates.* In the Federal Register of December 27, 1984 (49 FR 50201), EPA stated that it considered chemical substances that were in the process of R&D as pesticides to be subject to TSCA, and therefore subject to the R&D rule. It referred to the Comment and Response Document accompanying the Inventory Reporting Requirements of December 23, 1977 (42 FR 64572), which stated the presumption that these chemical substances are subject to TSCA until their manufacturers or importers demonstrate intent to create a pesticide by submitting an application for an experimental use permit (EUP) or an application for registration under the Federal Insecticide, Fungicide, Rodenticide, and Insecticide Act (FIFRA).

Public comments on the R&D revision argued that FIFRA defines a pesticide as any chemical substance intended for pest control, and contended that R&D devoted solely to such pest control constituted evidence of intent to create a substance for pesticidal use. In addition, the comments indicated that it was unreasonable to subject pesticide R&D activities to TSCA R&D requirements when the final product would not be subject to TSCA.

EPA believes that the interpretation embodied in comment responses for the inventory reporting rule remains valid and that pesticide R&D activities are generally subject to TSCA jurisdiction until submission of an application for an EUP or a registration. While EPA recognizes that other activities may also evidence the "intent" to make a pesticide, it is very difficult to define such activities. Further, such activities take place after the substance is first manufactured—the event that triggers an obligation under section 5. However, EPA recognizes that requiring persons conducting strictly pesticide-oriented R&D to comply with §§ 720.36 and 720.78(b) for the period of time until an application for an EUP or a registration is submitted, but not after, may place an unnecessary burden on such activities. In general EPA believes that persons engaged in exclusively pesticide R&D activities are aware of the potential toxicity of the substances and that applying the specific requirements §§ 720.36 and 720.78(b) will not provide any additional protection. Further, the alternative to complying with the requirements of the rule would be the submission of a PMN. But in the case of a substance undergoing R&D for ultimate development of a pesticide, a PMN would be contradictory. Accordingly, EPA has decided, as a matter of policy, to exclude from the application of §§ 720.36 and 720.78(b) manufacture of a new chemical substance where the exclusive intention of the subsequent R&D activities of the person manufacturing the new substance and conducting the R&D activities is to develop the substance as a pesticide. This would apply even if the potential properties of the substance as a pesticide are unknown at the time it is first manufactured—a likely situation. The Agency considers the existence of a patent relating to use as a pesticide or the manufacture of the substance by a company or a laboratory wholly devoted to pesticide R&D and marketing as evidence of exclusive pesticide intent. In contrast, exclusive pesticide intent would not be conveyed by the manufacture of a substance by a company or in a laboratory whose R&D and marketing efforts ranged beyond pest control, unless the manufacturer or importer could present other positive evidence of express and exclusive pesticide intent for the substance. In such non-exclusive cases, R&D activities for the substance would be subject to §§ 720.36 and 720.78(b) until the submission of an application for an EUP or registration under FIFRA, or other activities begin which provide evidence of exclusive pesticide intent. Thus any R&D activities would be conducted in accordance with § 720.36 until the event evidencing exclusive pesticide intent occurs.

The other provisions of TSCA still apply to pesticide-oriented R&D activities, in particular the provisions of section 8(e) which require notice to EPA of information concerning substantial risks of such substances.

In addition, EPA has received several inquiries about the relevance of the R&D exemption to intermediates and inerts used in the production of pesticides. These chemical substances fall within the jurisdiction of TSCA and are eligible for the R&D exemption. A new chemical substance used in small quantities as a pesticide intermediate or inert is eligible for an R&D exemption (1) if research and development is conducted on the intermediate or inert substance itself, or (2) if the substance is used to produce a pesticide which is used only for R&D. In the latter case, the R&D status of the pesticide intermediate or inert depends on the commercial purpose of the pesticide it is used to produce.

If manufacturers or importers produce the final pesticide in small quantities, solely for purposes of R&D, the intermediate qualifies for the R&D exemption. If the pesticide falls outside the TSCA definition of R&D, EPA requires a PMN for the intermediates involved in its manufacture (unless, of course, the intermediates themselves are the subject of R&D activities).

In reaching a decision on whether a pesticide is manufactured for R&D purposes only, the manufacturer must consider the specifics of the use. Submission of an application for an experimental use permit on a pesticide does not automatically mean that the pesticide remains within the scope of R&D or has gone beyond it for TSCA purposes. If the purpose of the experimental use is to determine customer acceptance or economic viability, or if the pesticide is distributed to consumers, the pesticide would fall outside the scope of R&D under TSCA.

d. *Research for non-commercial purposes.* As EPA proposed on December 27, 1984, research conducted for non-commercial purposes, as described in § 720.30(i), lies outside the scope of section 5 and is not subject to the requirements of the R&D exemption. EPA considers non-commercial purposes to be research activities conducted by academic, government, or independent not-for-profit research organizations, unless the activity is intended for commercial use. If the research is funded by contract, joint venture, or other financial arrangement with the purpose of eventually producing a commercial product, the organization is not exempt from the requirements of section 5 for that substance. For example, research conducted under a research contract between a company and a university, where patent rights or trade secrets are held by the company, would be considered commercial R&D. In contrast, research funded by an outright gift from a company to a university, with no limitations on either the purpose for which the funds are to be used or the use to be made of the results of the research conducted, would be considered non-commercial R&D.

3. *Requirements.* a. *Evaluation and notification of risks.* Section 720.36(a)(2) of the proposed rule would have required manufacturers and importers to perform a risk evaluation of substances used for R&D, and to notify persons engaged in the R&D of any risks identified. Companies reviewing risks would have to consider information in their possession or control (see discussion in unit II.C.) and all proposed or final rules issued under sections 4, 5, or 6 of TSCA. EPA has retained this provision in the final rule, with one modification: Manufacturers are not required to consider proposed rules in their evaluation of risks. EPA has revised this provision because of the tentative nature of many proposals, and because of the difficulty manufacturers may have in ascertaining whether a specific substance is the subject of a proposal. However, those manufacturing chemical substances under the exemption for R&D should nevertheless consider all available information on potential health and environmental risks, including information accompanying proposed EPA rules and advanced notices of proposed rulemaking.

Section 720.36(b)(2) of this rule, like the proposal, exempts manufacturers of chemical substances used solely in laboratories operating according to prudent laboratory practices from the requirement to evaluate risks. EPA has defined the term laboratory for the purposes of this rule as a contained research facility where relatively small quantities of chemical substances are used on a non-production basis, and where activities involve the use of containers for reactions, transfers, and other handling of substances designed to be easily manipulated by a single individual. The Agency discussed the nature of prudent laboratory practices in the Federal Register notice of December 27, 1984 (49 FR 50204).

Several commenters on the proposed rule have asked about the application of this definition to particular circumstances. The definition emphasizes the controlled use of small quantities, and certainly applies to laboratory work conducted by a team of researchers using prudent laboratory practices. The definition does not apply to R&D conducted in pilot plants, because such activities involve relatively large quantities of new chemical substances in situations where workers may operate under reduced controls. Some commenters have inquired as to whether the definition of laboratory and the exclusion from risk assessment include the activities of workers who dispose of the chemical substance for a laboratory. In that case, no chemical-specific risk assessment is necessary, but disposal must follow prudent laboratory practice.

Other commenters asked EPA to clarify whether R&D substances transferred from one laboratory to another were subject to the requirement for risk evaluation. As long as the substance is transferred to a laboratory operating under prudent laboratory practices, no chemical-specific risk evaluation is required. However, the distributing laboratory is required, in accordance with § 720.36(c)(2), to notify the person receiving the R&D substance that the substance is to be used only for purposes of R&D.

b. *Recordkeeping.* In the Federal Register of December 27, 1984, EPA proposed a two-tiered system for recordkeeping to document compliance with the requirements of the exemption for R&D. It has decided to retain the proposed system, which divides the equired records into two categories: those which must be kept for all new substances produced for R&D, and those which must be kept for chemical substances produced in larger volumes. It has, however, modified the requirements to reduce the burden of recordkeeping as much as possible while still ensuring effective documentation of compliance. EPA also retains the requirement that manufacturers or importers keep the specified records for 5 years, a period consistent with other PMN requirements and necessary for the Agency to monitor compliance effectively.

All persons producing chemical substances under the exemption for R&D, regardless of the amount, must document compliance with requirements for evaluation and notification of risks. The proposed regulation would have required manufacturers and importers to maintain copies of information reviewed and evaluated, but the final rule allows them to keep citations to this information, such as references to internal files or unpublished data, and to keep a record of the nature and method of the notifications given to workers. Those manufacturers or importers who use chemical substances in laboratories must document the prudent laboratory practices that excuse them from the requirements for risk evaluation. EPA considers the use and presence of codes of laboratory standards or handbooks such as those cited in the Federal Register of December 27, 1984 (49 FR 50201) to constitute evidence of prudent laboratory practices. Finally, if a manufacturer or importer distributes a chemical substance for purposes of R&D to another person in any quantity, EPA requires a record of the identity of the substance to the extent known, the names and addresses of persons to whom the substance is distributed, documentation of the quantities distributed, and copies of the notifications required under § 720.36(c)(2).

EPA has restructured the second set of records required from certain manufacturers or importers of an R&D substance. If the total quantity of the R&D substance produced in a year exceeds 100 kg, the manufacturer or importer must record the identity of the substance to the extent known, the volumes produced, and the disposition of the substance.

In the proposed rule, companies were required to keep records of the "identity" of R&D substances, unless less than 100 kg per year were produced or the substances were distributed to other persons. Several commenters pointed out that in certain circumstances manufacturers or processors may not know the specific identity of an R&D substance. To address this concern, EPA has modified the recordkeeping provision to require that the identity of the substance be kept to the extent it is known. Where the specific substance of the substance is not known, the company may identify it by company code, generic name, or some other indicator or they are in the articles or products.

The provision in the proposed rule that manufacturers and importers record the "method of disposal" of substances used for R&D led to some confusion. To clarify its intent, EPA has modified the final rule to require records of the "disposition" of R&D substances, rather than of their "methods of disposal." Companies are responsible for

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documenting their own activities. They are not required by this rule to maintain records documenting what becomes of an R&D substance after their own activities are complete and they no longer have control of the substance.

The provision that manufacturers retain specific records when an R&D substance is distributed to other persons does not apply if the substance is incorporated into an article or exists in a final product as an impurity. If an R&D substance produced at more than 100 kg per year is incorporated into articles in the course of R&D or is included in a product as an impurity, manufacturers must record the disposition of the substance in the article or the final product (assuming the substance is produced at more than 100 kg per year), but they are not specifically required to document the disposition of the articles or products themselves, or the names and addresses of the persons to whom they are distributed. In addition, the specific quantities involved are not subject to the notification requirements of § 720.36(c)(2).

Beyond the specific records required by the rule, manufacturers and importers who conclude they are exempt from PMN requirements for a chemical substance used for purposes of R&D should be prepared to justify the nature and scope of their activities. EPA notes here that, although the final rule does not require manufacturers and importers of R&D substances to maintain records demonstrating that their activities constitute legitimate R&D, the burden of proving eligibility for the R&D exemption, as for any specific exemption from an otherwise applicable general statutory requirement, rests with the person claiming the exemption. EPA advises manufacturers and importers of R&D substances to be prepared to meet this responsibility should a question arise concerning their compliance with the general requirements for PMN or the exemption for R&D.

B. Data on Related Chemicals

EPA has reexamined the proposed requirement in § 720.50(c), published in the Federal Register notice of December 27, 1984 (49 FR 50209), that persons submitting a PMN provide the Agency with unpublished data on the health and environmental effects of chemicals, such as byproducts and feedstocks, which are related in the course of production to the new chemical substance which is the focus of the PMN. While section 5(d)(1)(B) and (C) of TSCA grants the EPA broad authority to require such data, EPA finds that it is not necessary to exercise this authority in the case of every new chemical substance. For most reviews of new substances, published data on the health and environmental effects of related substances and data submitted under section 8(e) will suffice to enable EPA to evaluate risks.

Should the Agency determine that data on related chemicals are essential to its review of a particular new chemical substance, it will request the additional data from the submitter, a procedure recommended by the Chemical Manufacturers Association (CMA). In a comment on the proposed rule, CMA wrote that in the event EPA required unpublished data on related chemicals, "EPA could ask the PMN submitter to search for the data the Agency needed to complete its review. If such data are available, the PMN submitter could provide them to EPA on request." This approach will provide a flexible method of securing information necessary to conduct premanufacture reviews. Accordingly, the requirements of § 720.50(c) have been deleted. EPA points out, however, that it is in the interest of submitters to provide the Agency with a full description of all available data relevant to a risk assessment of the chemical substance that is the focus of the PMN. Failure to provide this information, where it is important to assessing risk, may unnecessarily delay review of the PMN, potentially leading to extension of the review period and possible action.

EPA also reminds manufacturers and importers that existing provisions of the PMN rule still require them to submit certain information about related chemicals. Under § 720.45 of the PMN rule, paragraph (b) requires reporting of the identity and volume of impurities, and paragraph (d) requires descriptions of byproducts resulting from the manufacture, processing, and use of the new chemical substance. In addition, section 8(e) of TSCA requires manufacturers and importers to provide EPA with any information which they obtain which supports the conclusion that a substance or mixture presents a substantial risk to health or the environment.

C. Possession or Control

Section 5(b)(1)(B) of TSCA and § 720.50 of the PMN rule require manufacturers and importers to submit all health and environmental effects test data on the new chemical substance in their "possession or control." In addition, § 720.36(b)(1)(i) requires manufacturers or importers of R&D substances to evaluate certain information in their "possession or control" to meet the requirements for the exemption for R&D. EPA has made a slight change in the language of § 720.3(y) from the proposed rule to clarify that data in a manufacturer's or importer's possession or control include data in the files of its agents who are engaged in R&D, test marketing, or commercial marketing of the substance to the extent that the files are kept in that person's capacity as an agent. EPA considers these selected groups of individuals, who work under contract or special arrangement for a manufacturer or importer on a specific project, to be under that company's control for the scope of the project. Companies must request that the files of the agents engaged in such work be searched for data on health and environmental effects relevant to the activities they are under contract to pursue. EPA also includes within the scope of data in "possession or control" the files of persons engaged in research, development, test marketing or commercial marketing of a new chemical substance, and who are employed by companies associated with the submitter of the PMN but which are located outside the United States, unless the laws of the foreign nation forbid such a search.

D. Export-Only Chemicals

Section 12(a) of TSCA exempts from PMN new chemical substances which are manufactured or processed for export only and will not be used in the U.S. The proposed revision of § 720.3(s) would have limited processing to activities occurring under the control of the manufacturer or importer. In this final rule, EPA modifies the definition of the term "manufacture solely for export" to include processing which is not under the direct control of a manufacturer or importer, as long as it occurs solely for export. (The rule cross-references the definition of "process solely for export" in 40 CFR 721.3.) However, the manufacturer must know, by means of a contract or some other evidence, that the processing is occurring for export only. For substances to qualify as export-only chemicals, their processing must also be limited to activities which do not involve use. For example, formulating a mixture constitutes a legitimate form of processing for export-only chemicals, but their use as intermediates in chemical production does not.

E. Notification of Commencement of Manufacture

As discussed earlier in this notice, EPA allows a manufacturer or importer to use R&D material for non-R&D commercial purposes only after completion of the PMN review period, except as described in § 720.36 (d) and (e). EPA has received queries about the timing of notification of commencement of manufacture in cases where PMN review has been completed, but the manufacturer intends to begin non-exempt commercial activities with quantities of the new chemical substance previously produced for purposes of R&D.

EPA requires persons to submit a notification of commencement of manufacture within thirty days of the start of non-exempt commercial manufacture of a new substance. If amounts of the new chemical produced for R&D already exist, a manufacturer or importer may use them for non-exempt commercial purposes as soon as the PMN review is complete, but that person may not submit a notification of commencement of manufacture until actual non-exempt manufacture begins. Section 720.102(a) has been revised to reflect this. In addition, even after the PMN review period ends, the new substance may be manufactured solely for R&D or solely for export. In that case, the manufacturer or importer should submit no notice of commencement of manufacture until non-exempt manufacture occurs.

III. Rulemaking Record

EPA has established a record for this rulemaking (docket number OPTS-50002L), which is available for inspection in Rm. E-107, 401 M St., SW., Washington, DC 20460, from 8 a.m. to 4 p.m. Monday through Friday, except legal holidays. Persons who do not have access to the record in the public reading room should contact Edward A. Klein, Director, TSCA Assistance Office (TS-799), at the above address for assistance.

The record includes information EPA considered in developing this rule. The record includes:

1. This notice and PMN documents cited in this notice.
2. Public comments.
3. Summaries of meetings with trade associations, public interest groups, and other groups.
4. Economic support documents.
5. Survey of research and development activities conducted by chemical firms.
6. All communications between EPA and persons outside the Agency pertaining to the development of the rule.
7. A document responding to public comments.

IV. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must determine whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this rule is not major because it would not have an effect of $100 million or more on the economy. The rule will not have a significant effect on competition, costs, or prices. EPA submitted this rule to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

As required by the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has assessed the impact of this rule on small businesses. EPA has determined that since the rulemaking involves relatively minor revisions to the final PMN rule, it will not create additional impacts on small businesses over those already identified in the final PMN rule, 48 FR 21722.

C. Paperwork Reduction Act

The information provisions in this rule are a subset of the information collection requirements of the PMN rule, which has already been cleared by OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* OMB control number is 2070-0012.

List of Subjects in 40 CFR Part 720

Chemicals, Environmental protection, Premanufacture notification, Hazardous materials, Recordkeeping and reporting requirements.

Dated: April 7, 1986.

Lee M. Thomas,
Administrator.

PART 720—[AMENDED]

Therefore, 40 CFR Part 720 is amended as follows:

1. The authority citation for Part 720 is revised to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2613.

2. In § 720.3, paragraphs (s) and (y) are revised to read as follows:

§ 720.3 Definitions.

* * * * *

(s) "Manufacture solely for export" means to manufacture or import for commercial purposes a chemical substance solely for export from the United States under the following restrictions on activities in the United States:

(1) Distribution in commerce is limited to purposes of export or processing solely for export as defined in § 721.3 of this chapter.

(2) The manufacturer or importer, and any person to whom the substance is distributed for purposes of export or processing solely for export (as defined in § 721.3 of this chapter), may not use the substance except in small quantities solely for research and development in accordance with § 720.36.

* * * * *

(y) "Possession or control" means in possession or control of the submitter, or of any subsidiary, partnership in which the submitter is a general partner, parent company, or any company or partnership which the parent company owns or controls, if the subsidiary, parent company, or other company or partnership is associated with the submitter in the research, development, test marketing, or commercial marketing of the chemical substance in question. (A parent company owns or controls another company if the parent owns or controls 50 percent or more of the other company's voting stock. A parent company owns or controls any partnership in which it is a general partner). Information is included within this definition if it is:

(1) In files maintained by submitter's employees who are:

(i) Associated with research, development, test marketing, or commercial marketing of the chemical substance in question.

(ii) Reasonably likely to have such data.

(2) Maintained in the files of other agents of the submitter who are associated with research, development, test marketing, or commercial marketing of the chemical substance in question in the course of their employment as such agents.

* * * * *

3. In § 720.30, paragraph (e) is revised and paragraph (i) is added to read as follows:

§ 720.30 Chemicals not subject to notification requirements.

* * * * *

(e) Any new chemical substance manufactured solely for export if, when the substance is distributed in commerce:

(1) The substance is labeled in accordance with section 12(a)(1)(B) of the Act.

(2) The manufacturer knows that the person to whom the substance is being distributed intends to export it or process it solely for export as defined in § 721.3 of this chapter.

* * * * *

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(i) Any chemical substance which is manufactured solely for non-commercial research and development purposes. Non-commercial research and development purposes include scientific experimentation, research, or analysis conducted by academic, government, or independent not-for-profit research organizations (e.g., universities, colleges, teaching hospitals, and research institutes), unless the activity is for eventual commercial purposes.

* * * * *

4. Section 720.36 is revised to read as follows:

§ 720.36 Exemption for research and development.

(a) This Part does not apply to a chemical substance if the following conditions are met:

(1) The chemical substance is manufactured or imported only in small quantities solely for research and development.

(2) The manufacturer or importer notifies all persons in its employ or to whom it directly distributes the chemical substance, who are engaged in experimentation, research, or analysis on the chemical substance, including the manufacture, processing, use, transport, storage, and disposal of the substance associated with research and development activities, of any risk to health, identified under paragraph (b) of this section, which may be associated with the substance. The notification must be made in accordance with paragraph (c) of this section.

(3) The chemical substance is used by, or directly under the supervision of, a technically qualified individual.

(b)(1) To determine whether notification under paragraph (a)(2) of this section is required, the manufacturer or importer must review and evaluate the following information to determine whether there is reason to believe there is any potential risk to health which may be associated with the chemical substance:

(i) Information in its possession or control concerning any significant adverse reaction by persons exposed to the chemical substance which may reasonably be associated with such exposure.

(ii) Information provided to the manufacturer or importer by a supplier or any other person concerning a health risk believed to be associated with the substance.

(iii) Health and environmental effects data in its possession or control concerning the substance.

(iv) Information on health effects which accompanies any EPA rule or order issued under sections 4, 5, or 6 of the Act that applies to the substance and of which the manufacturer or importer has knowledge.

(2) When the research and development activity is conducted solely in a laboratory and exposure to the chemical substance is controlled through the implementation of prudent laboratory practices for handling chemical substances of unknown toxicity, and any distribution, except for purposes of disposal, is to other such laboratories for further research and development activity, the information specified in paragraph (b)(1) of this section need not be reviewed and evaluated. (For purposes of this paragraph, a laboratory is a contained research facility where relatively small quantities of chemical substances are used on a non-production basis, and where activities involve the use of containers for reactions, transfers, and other handling of substances designed to be easily manipulated by a single individual.)

(c)(1) The manufacturer or importer must notify the persons identified in paragraph (a)(2) of this section by means of a container labeling system, conspicuous placement of notices in areas where exposure may occur, written notification to each person potentially exposed, or any other method of notification which adequately informs persons of health risks which the manufacturer or importer has reason to believe may be associated with the substance, as determined under paragraph (b)(1) of this section.

(2) If the manufacturer or importer distributes a chemical substance manufactured or imported under this section to persons not in its employ, the manufacturer or importer must in written form:

(i) Notify those persons that the substance is to be used only for research and development purposes.

(ii) Provide the notice of health risks specified in paragraph (c)(1) of this section.

(3) The adequacy of any notification under this section is the responsibility of the manufacturer or importer.

(d) A chemical substance is not exempt from reporting under this Part if any amount of the substance, including as part of a mixture, is processed, distributed in commerce, or used, for any commercial purpose other than research and development, except where the chemical substance is processed, distributed in commerce, or used only as an impurity or as part of an article.

(e) Quantities of the chemical substance, or of mixtures or articles containing the chemical substance, remaining after completion of research and development activities may be:

(1) Disposed of as a waste in accordance with applicable Federal, state, and local regulations, or

(2) Used for the following commercial purposes:

(i) Burning it as a fuel.

(ii) Reacting or otherwise processing it to form other chemical substances for commercial purposes, including extracting component chemical substances.

(f) Quantities of research and development substances existing solely as impurities in a product or incorporated into an article, in accordance with paragraph (d) of this section, and quantities of research and development substances used solely for commercial purposes listed in paragraph (e) of this section, are not subject to the requirements of paragraphs (a), (b), and (c) of this section, once research and development activities have been completed.

(g) A person who manufactures or imports a chemical substance in small quantities solely for research and development is not required to comply with the requirements of this section if the person's exclusive intention is to perform research and development activities solely for the purpose of determining whether the substance can be used as a pesticide.

5. Section 720.50 is amended by removing and reserving paragraph (c) to read as follows:

§ 720.50 Submission of test data and other data concerning the health and environmental effects of a substance.

* * * * *

(c) [Reserved]

* * * * *

6. In § 720.78, paragraph (b) is revised to read as follows:

§ 720.78 Recordkeeping.

* * * * *

(b)(1) Persons who manufacture or import a chemical substance under § 720.36 must retain the following records:

(i) Copies of, or citations to, information reviewed and evaluated under § 720.36(b)(1) to determine the need to make any notification of risk.

(ii) Documentation of the nature and method of notification under § 720.36(c)(1) including copies of any labels or written notices used.

(iii) Documentation of prudent laboratory practices used instead of notification and evaluation under § 720.36(b)(2).

(iv) The names and addresses of any persons other than the manfacturer or importer to whom the substance is distributed, the identity of the substance to the extent known, the amount distributed, and copies of the notifications required under § 720.36(c)(2). These records are not required when substances are distributed as impurities or incorporated into an article, in accordance with paragraph (d) of this section.

(2) A person who manufactures or imports a chemical substance under § 720.36 and who manufactures or imports the substance in quantities greater than 100 kilograms per year must retain records of the identity of the substance to the extent known, the production volume of the substance, and the person's disposition of the substance. The person is not required to maintain records of the disposition of products containing the substance as an impurity or of articles incorporating the substances.

(3) Records under this paragraph must be retained for 5 years after they are developed.

* * * * *

7. In § 720.102, paragraph (a) is revised to read as follows:

§ 720.102 Notice of commencement of manufacture or import.

(a) *Applicability.* Any person who commences the manufacture or import of a new chemical substance for a nonexempt commercial purpose for which that person previously submitted a section 5(a) notice under this Part must submit a notice of commencement of manufacture or import.

* * * * *

[FR Doc. 86-8626 Filed 4-21-86; 8:45 am]
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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPTS-50527; FRL-2929-8]

Toxic Substances; Significant New Use Rules; Proposed Amendments to General Provisions and Individual Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing amendments to 40 CFR Part 721 and to four significant new use rules (SNURs) currently codified in Subpart B of Part 721, under section 5(a)(2) of the Toxic Substances Control Act (TSCA, 15 U.S.C. 2604(a)(2)). The Agency is proposing these amendments in order to clarify specific existing provisions, and to incorporate new sections developed in response to public comments.

DATE: Written comments should be submitted by June 23, 1986.

ADDRESS: Since some comments may contain confidential business information, all comments should be sent in triplicate to: Document Control Officer (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460.

Comments should include the docket control number OPTS-50527. Nonconfidential comments and sanitized versions of confidential comments received on this proposal will be available for reviewing and copying from 8 a.m to 4 p.m., Monday through Friday, excluding legal holidays, in Rm. E-107 at the address given above.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460. Toll free: (800-424-9065). In Washington, DC: (554-1404). Outside the USA: (Operator 202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Authority

Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a chemical substance is a significant new use. EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B), submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use.

II. Background

On September 5, 1984 (49 FR 35011), the Agency promulgated 40 CFR Part 721, Subpart A—General Provisions. Subpart A contains general reporting provisions that apply to all SNURs. In addition, the Agency has promulgated SNURs in the current Subpart B to Part 721, covering a number of specific chemical substances.

The Agency has received public comments on the general provisions in Subpart A and on certain SNURs in Subpart B (listed in Unit III of this preamble). EPA also has received comments proposing adoption in certain SNURs of the Occupational Safety and Health Administration (OSHA) Hazard Communication Standard (29 CFR 1900.1200). This rule is being proposed in response to all of these comments.

III. Summary of This Proposed Rule

The Agency is proposing the following amendments to 40 CFR Part 721: (1) Substantive revisions of §§ 721.5 and 721.10; (2) the addition of a new § 721.12 that would establish a mechanism whereby persons subject to SNURs in which worker exposure controls or environmental release controls are identified may seek an equivalency determination for alternative worker exposure and/or environmental release controls; (3) the redesignation of § 721.19 as § 721.18 and addition of a new paragraph that would establish procedures for advance compliance with SNURs; (4) the addition of a new § 721.19 that would establish risk evaluation, notification, and recordkeeping requirements applicable to the section 5(h)(3) research and development exemption for SNURs; (5) the addition of four sections that set forth hazard communication requirements for certain significant new uses, to be codified as a new Subpart B to be designated as Generic Requirements for Certain Significant New Uses; and (6) the redesignation of the existing Subpart B as Subpart C, and revisions of the following SNURs in that Subpart:

P-83-304 (§ 721.160, 49 FR 43653);
P-83-255 (§ 721.290, 49 FR 43064);
P-83-23, P-83-24, P-83-49, P-83-75, and P-83-272 (§ 721.615, 49 FR 50396);
P-82-664 (§ 721.975, 49 FR 42932).

IV. Agency Rationale

A. Persons Who Must Report

Section 721.5 describes those persons who must submit a significant new use notice. Paragraph (a)(2) requires each person who intends to manufacture, import, or process a SNUR substance for commercial purposes and who intends to distribute the substance in commerce to submit a significant new use notice. However, persons subject to paragraph (a)(2) currently are exempt from SNUR reporting requirements if they satisfy two requirements: (1) The person must not have a reasonable belief at the time of commercial distribution that customers intend to engage in a significant new use without submitting a notice to EPA, and (2) the person must be able to document that customers were notified in writing of the SNUR.

Subsequent to the promulgation of Subpart A, the Agency received comments requesting clarification of the responsibility of manufacturers, importers, and processors to submit significant new use notices as specified under the provisions of section 5(a)(1)(B) of TSCA and § 721.5(a)(2). Specifically questioned were the provisions of paragraph (a)(2). Concern was expressed that, as currently phrased, paragraph (a)(2) "might infer" an affirmative obligation upon manufacturers, importers, and processors to monitor or familiarize themselves with the activities of their customers. The Agency's intent, under this paragraph, was not the creation of an affirmative obligation for manufacturers, importers, and processors of SNUR substances to monitor or familiarize themselves with their customers' activities, when they would not do so as a normal course of business. The Agency simply intended to require a manufacturer, importer, or processor of a SNUR substance to submit a significant new use notice when that person has a reasonable belief that a customer intends to engage in a significant new use without submitting a notice to EPA.

Although the Agency believes this paragraph clearly exempts a manufacturer of a SNUR substance who has a reasonable belief that a customer does not intend to engage in a significant new use, there may be some ambiguity as to the circumstances when EPA will deem a manufacturer to have formed this "reasonable belief." To clarify its intent, the Agency is proposing to delete the phrase "reasonable belief" from § 721.5 and amend paragraph (a)(2) to specify that the Agency allows optional methods for SNUR compliance. Thus, a manufacturer, importer, or processor of a SNUR substance need not submit a significant new use notice if they do not intend to engage in the significant new use themselves, *and* they can document

(1) that they have provided all recipients of the substance with notice of the SNUR, (2) all recipients of the substance know of the SNUR, or (3) it is technically or otherwise infeasible for recipients of the substance to engage in the significant new use.

Under the revised § 721.5, then, the manufacturer, importer, or processor of a SNUR substance would have the flexibility of choice either to submit a significant new use notice, as required by TSCA (because recipients of the substance may engage in the significant new use) or to adopt EPA's optional method of compliance (by notifying recipients or by documenting that recipients otherwise know about the SNUR or cannot engage in the significant new use). The revised § 721.5 does not require customer notification, but instead offers an alternative means of compliance.

To provide consistency, the Agency is proposing to amend paragraphs (b), (c), (c)(1), and (2) of § 721.5 to reflect the changes in paragraph (a)(2). It is proposed that the phrase "reasonable belief" be deleted and replaced with the word "knowledge," and the word "customer" be deleted and replaced with the word "recipient."

B. Notice Requirements and Procedures

Section 721.10(d) provides that "any person submitting a significant new use notice in response to the requirements of this Part 721 shall not commence manufacture, import, or processing. . . ." Because a notice could be submitted under § 721.5 after manufacture, import, or processing has begun, the Agency intended that such manufacture, import, or processing not go on during the notice review period. Deleting the word "commence" clarifies this intention. The Agency is, therefore, proposing a technical amendment to § 721.10(d) to delete the word "commence" to clarify the meaning of this section.

C. Equivalency Determination

The Agency's approach to SNURs in which worker exposure or environmental release controls are identified for specific chemical substances is to ensure that: (1) Adequate measures are utilized to limit worker exposure and environmental release to reduce risk, or (2) EPA will receive notice of those circumstances when these controls may not be provided, and will have an opportunity to review the data in the notice before the significant new use occurs. These two Agency goals are attained when controls are employed which the Agency has previously reviewed and identified in a SNUR or when a SNUR notice is submitted and EPA has reviewed and acted upon the notice.

Comments to proposed SNURs which would require reporting for the failure to employ specific worker exposure controls or environmental release controls indicated a desire for EPA to create a means by which persons who manufacture, import, or process substances identified in SNURs could select alternative methods of controlling worker exposure or environmental releases (other than the methods identified in the SNUR). It was suggested that if alternative exposure or release control measures provided an "equivalent level of protection," such exposure or release controls might be allowed to begin without waiting 90 days for review of a SNUR notice.

There may be instances when alternative exposure or release controls that EPA has not considered are available to a manufacturer, importer, or processor. These exposure or release controls may provide protection from exposure or release that is substantially equivalent to or better than the controls identified in the SNUR. In those instances, the Agency is willing to evaluate those methodologies in an abbreviated fashion and possibly allow the substantially equivalent approach if it believes it reasonable to do so.

The Agency is proposing to amend certain SNURs and to add a new § 721.12 to the General Provisions for SNURs which would establish a mechanism by which manufacturers, importers, or processors of substances subject to SNURs may propose alternative exposure or release controls. Under this proposal, alternative controls which EPA determines provide substantially the same degree of protection against exposure or release would not constitute a significant new use because increased releases or exposure will not occur. The Agency would determine in each instance whether the alternative exposure or release controls provide protection substantially equivalent to those controls identified in the specific SNUR.

The Agency's new § 721.12 contains procedures for a manufacturer, importer, or processor to seek an EPA determination that the person's alternative exposure or release controls provide substantially the same degree of protection against exposure or release as the identified exposure or release controls in a specific SNUR—an "equivalency determination." The person would provide EPA information on the proposed exposure or release controls, and EPA would make a determination within 45 days. If EPA determined that the proposed alternative exposure or release controls provided substantially the same degree of protection as the specific controls in the SNUR, EPA would notify the person in writing, and the person could begin the activities using the alternative exposure or release controls. The person would not be in violation of the SNUR as long as the person continued to use those approved alternative exposure or release control measures.

A person asking EPA to determine whether alternative exposure or release controls provide substantially the same degree of protection as those in the SNUR would also be required to submit any test data in their possession or control or other data known to or reasonably ascertainable by them as they would in an SNUR notice (see § 750.50 (a) and (b) of the PMN rule). The person would not be required to submit any data which had already been submitted to the Office of Toxic Substances, for example, in a previous Premanufacture Notice (PMN) or SNUR notice or in a notice under section 8(e). EPA would not use this particular information to make the equivalency determination under the proposed § 721.12. Rather, the data would enable EPA to review whether the specific SNUR requires modification or whether other regulatory action might be necessary with respect to the specific chemical substance.

In addition, EPA is proposing that each provision of the affected SNURs which provides for specific controls to prevent worker exposure or environmental release be amended to include additional language which takes into account the new equivalency provision, § 721.12. These individual SNURs would identify the significant new use as the failure to use either the specified controls in the original SNURs or other exposure or release controls which EPA has determined provide substantially the same degree of protection against exposure or release as the original controls.

D. Research and Development Exemption

Section 5(h)(3) of TSCA exempts the manufacturer, importer, or processor of a chemical substance for a significant new use from the SNUR notification requirements if the substance is manufactured, imported, or processed only in small quantities solely for research and development (R&D), provided the manufacturer, importer, or processor notifies persons engaged in the R&D of any health risks that the company or EPA has reason to believe

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may be associated with the chemical substance.

On May 13, 1983, EPA promulgated its general PMN rule (48 FR 21722) including § 720.3(cc) which defines "small quantities solely for research and development," § 721.0(ee) which defines "technically qualified individual," § 720.36 which set out the requirements to evaluate health risks and to notify persons engaged in the R&D activities of the risks, and § 720.78(b) which set out the associated recordkeeping requirements. After receiving comments from the public, EPA stayed §§ 720.36 and 720.78(b) pending further rulemaking. EPA proposed revisions of §§ 720.36 and 720.78(b) on December 27, 1984 (49 FR 50201), and is publishing these two provisions in a final rule elsewhere in this issue of the Federal Register.

Since §§ 720.36 and 720.78(b) were stayed at the time the general SNUR provisions were published in September 1984, EPA did not include specific requirements for SNUR-related R&D activities, pending the outcome of the PMN rulemaking activity. Now that the PMN rulemaking has been completed, EPA is proposing to redesignate § 721.19 as § 712.18, to modify § 721.18(b), and to add a new § 721.19 to specify the requirements that manufacturers, importers, and processors of a SNUR substance for a significant new use must meet to qualify for the section 5(h)(3) R&D exemption.

The proposed new § 721.19 is worded very closely to §§ 720.78 and 721.36. It applies only to persons who manufacture, import, or process a substance identified in a specific SNUR for a designated significant new use in small quantities solely for R&D. Proposed paragraphs (a), (b), and (c) relating to evaluation of risks and notification of persons conducting R&D activities and paragraph (e) containing recordkeeping requirements are virtually the same as §§ 721.36 (a), (b), and (c) and 721.78(b), respectively. A discussion of §§ 720.36 (a), (b), and (c) and 720.78 can be found in the final PMN rule preamble in this Federal Register.

No provision comparable to § 720.36(d) would be included in the new § 721.19 because the use of the substance would already be restricted by the other provisions of § 721.20 and the underlying SNUR.

Proposed § 721.19(d) would be comparable to § 720.36(e) but modified to allow quantities of the chemical substance, or of mixtures or articles containing the substance, to be disposed of, or used for commercial purposes other than R&D provided the disposal activity or use would not itself constitute a significant new use. If the disposal activity or the use would be a significant new use, a notice would be required.

No provision comparable to § 720.36(g) has been included. It is not necessary in a SNUR context because pesticide-related R&D activities would not constitute a significant new use.

The close correspondence between §§ 720.36 and 720.78(b) and the proposed new § 721.19 would ensure that persons engaging in R&D activities related to new chemical substances and to substances identified in SNURs would be able to conduct their risk evaluation, notification, and recordkeeping activities in the same manner, regardless of the type of substance, simplifying compliance.

E. Applicability of Proposed Rules to Uses Occurring Before Promulgation of Final Rules

In the preambles to previously proposed SNURs, the Agency described its finding that section 5(a)(1)(B) of TSCA is best served by determining whether a use is a significant new use as of the date of proposal. The Agency continues to maintain that this interpretation of section 5 reflects the intent of Congress with regard to SNURs; if uses begun during the proposal period of the SNUR were not considered to be significant new uses, it would be difficult for the Agency to establish SNUR notice requirements, because any person could defeat the SNUR by initiating a proposed significant new use before the rule became final.

Persons who engage in a proposed significant new use prior to promulgation of a final SNUR would be required to cease production and submit a SNUR notice as of the effective date of the final rule. However, it is not the intent of the Agency to unnecessarily disrupt the commercial activities of these persons. EPA therefore is proposing that such persons be allowed to comply with a SNUR before the rule is promulgated. If a company were to meet all of the conditions of advance compliance, as specified in the proposed new § 721.19(h) in Subpart A, the company would be exempt from the requirements of the final SNUR for those activities. It should be emphasized that EPA intends to use its full TSCA authority to control the company's activities should the Agency determine that such activities will present an unreasonable risk to human health or the environment.

The first requirement for advance compliance with a SNUR would be to submit a complete significant new use notice to EPA. Any person that submits an advance SNUR notice for a subject chemical substance would be required to follow the general notification requirements of § 721.10, except that the company would not have to submit the notice to the Agency at least 90 days before it begins manufacturing, importing, or processing. However, should the final SNUR be promulgated prior to completion of the Agency's review, the company would be required to cease manufacturing, importing, or processing for the remaining portion of the 90-day period. The notice would have to contain all requisite SNUR data, with limitations described in the applicable proposed SNUR.

EPA's procedures for the receipt, handling, and evaluation of advance significant new use notices under this rule generally would be the same as for any other significant new use notices. The Agency would publish a notice of receipt in the Federal Register, as required by section 5(d)(2) of TSCA. Nonconfidential data from the advance notice would be added to EPA's public file for SNUR notices. The Agency then would conduct an evaluation of all data from the advance SNUR notice, together with any other relevant data in EPA's possession. The Agency would determine whether the intended significant new use would adequately control exposure to and/or release of the substance (thus, preventing a potential unreasonable risk to health or the environment), and whether further regulatory action would be required.

There are four possible situations which may occur after EPA completes its review of an advance significant new use notice.

1. If there is sufficient information for EPA to conclude that the activities described in the notice would represent no unreasonable risk to human health or the environment under any reasonably foreseeable circumstances, the Agency would take no further regulatory action with regard to the proposed activities of the company. Under this option, EPA would notify the manufacturer, importer, or processor of its intent not to take further action. The company would be allowed to undertake the significant new use after the final SNUR became effective, without delay or the need to comply further with the rule for the activities described in the notice.

2. If there is not sufficient information for EPA to reasonabley determine whether the activities described in the notice would present an unreasonable risk under any reasonably foreseeable circumstances, but the Agency believes that the intended activities would not pose such a risk if certain procedures or restrictions are followed (until additional data demonstrated them to be unnecessary), the Agency would attempt to negotiate a section 5(e) consent order with the company. The consent order would specify that the manufacturer, importer, or processor must follow the restrictions or procedures while undertaking the activities. If a consent order is signed, it would go into effect on the effective date of the final rule. The company would not be able to deviate from the terms of the consent order after the effective date without being in violation of TSCA.

3. If there is not sufficient information for EPA to reasonably determine whether the activities described in the notice would present an unreasonable risk under any reasonably foreseeable circumstances, and EPA and the company are not able to negotiate acceptable terms of a section 5(e) consent order, the manufacturer, importer, or processor would not qualify for an advance compliance exemption under the SNUR. The company therefore would be subject to the requirements of the final SNUR as though it had not submitted an advance significant new use notice, including ceasing the activities until it complies with the notice requirements.

4. If there is sufficient information for EPA to reasonably conclude that the activities described in the notice will present an unreasonable risk to human health and the environment, the manufacturer, importer, or processor would not have met all of the conditions of the advance compliance exemption. The Agency would not pursue a section 5(e) consent order in this case. Instead, the company would be required to cease the significant new use (if not already done) on the effective date of the final SNUR, submit a significant new use notice, and wait until completion of the statutory review period before resuming the activities. If the Agency believes that the risk requires immediate control, EPA could take action under TSCA section 6(a) (made immediately effective under section 5(f)) or section 7 to control the risk.

The Agency believes that its approach to advance SNUR compliance is an acceptable means of accomplishing its risk assessment and risk management objectives regarding possible significant new uses, without causing members of the regulated community to suffer unnecessary delays in their business activities. The advance compliance exemption in this rule would not waive EPA's enforcement authority with regard to any SNUR notice submitter.

F. Hazard Communication Requirements

The Agency is proposing amendments intended to establish certain generic hazard communication requirements that can be incorporated subsequently, by cross-reference, into individual SNUR notice requirements. In particular, certain SNURs could require the submission of significant new use notices for the failure to implement a communication program that includes, among other things, the labeling of packages containing certain substances, the creation and maintenance of material safety data sheets (MSDSs) for substances, and employee information and training programs.

This proposal is in response to comments received on certain SNURs which contained hazard communication requirements. Commenters suggested that EPA adopt the OSHA Hazard Communication Standard rather than promulgate communication requirements unique to each rule. Because these comments were not submitted in a timely fashion, and the Agency believed it to be in the public interest not to delay promulgation of potentially affected SNURs, these SNURs were promulgated without the suggested changes. However, at this time the Agency is proposing to amend these and other SNURs to make specific aspects consistent, to the extent appropriate under TSCA, with the relevant provisions of the recently promulgated OSHA standard.

These proposed amendments of individual SNURs would, in effect, substitute uniform hazard communication requirements for those similar elements now contained in the individual SNUR reporting triggers. For example, the segments of the SNUR covering the substance F–83–304 (§ 721.180, 49 FR 43653), which pertain to informing workers of the reasons for the specified worker protection equipment, would be altered under the proposed amendments. The rule would require the submission of a significant new use notice by manufacturers (excluding importers) and processors of the substance if they fail to provide workers with the requisite information in accordance with the proposed § 721.27 of Subpart B.

OSHA's Hazard Communication Standard places the burden of identifying hazards and the appropriate protective measures on the employer; however, under these SNUR amendments EPA would specify which potential hazards must be communicated and what protective measures must be employed.

For the purposes of SNURs incorporating the proposed hazard communication requirements, manufacturers, importers, and processors subject to such a SNUR would have the option to either comply with these requirements or submit a significant new use notice prior to manufacturing, importing, or processing. EPA's hazard communication requirements would apply regardless of whether the manufacturer, importer, or processor is subject to the OSHA Hazard Communication Standard.

G. Recordkeeping

The Agency has two goals for recordkeeping provisions contained in SNURs. They are: (1) To encourage conscientious compliance with these rules, and (2) to provide written records for compliance monitoring activities.

Comments have indicated that certain sectors of the chemical industry would prefer a more flexible approach to recordkeeping than that contained in certain SNURs. The comments have stated that requiring the maintenance of records which would "demonstrate compliance" would allow that flexibility. In particular, persons would have the option of incorporating recordkeeping for substances subject to SNURs into their present recordkeeping systems, rather than having to implement a completely different method of recordkeeping to comply with specific requirements of the Agency's present SNURs.

The Agency agrees, in part, with these comments and has investigated alternative recordkeeping strategies. The Agency has not, however, arrived at a final position with regard to this issue. In lieu of proposing recordkeeping amendments at this time, the Agency is choosing instead to solicit additional public comment. The Agency encourages persons to provide comments regarding recordkeeping, and is particularly interested in receiving comments that address recordkeeping strategies for previously published significant new uses, i.e., waste disposal, employee training, use of protective equipment, etc.

H. Conforming Changes

EPA is proposing minor changes to §§ 721.1, 721.5, 721.6, 721.7, and 721.10 to conform to the other elements of this proposal.

Economic Analysis

Promulgation of these amendments will result in costs to both EPA and

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industry. However, as will be addressed below, the costs are not expected to be more than without the proposed amendments, and in some cases may be less. Where quantification is possible, the costs associated with each proposed amendment are discussed. In some cases, only a qualitative discussion is possible. The costs of the relevant sections of previously proposed SNURs (in the absence of the proposed amendments) are also discussed.

1. *Section 721.5 Persons who must report.* Companies involved in the manufacture, import, or processing of a SNUR substance would incur costs of compliance with this section. The costs could range from those costs associated with a letter notifying the customer of the existence of the SNUR, up to the costs of filing a SNUR notice. The Agency has estimated the costs of filing a SNUR notice to be $1,400 to $8,000. Additional costs of filing a SNUR notice could be incurred up to a 3.2 percent reduction in profits due to delays in manufacturing or processing and the costs of regulatory follow-up, if any.

The actual costs of notifying customers of the existence of a SNUR are expected to be minimal, e.g., the cost of a letter to the customer. The Agency believes that most companies will choose to document that customers know of the rule via a notification letter as it is the least costly alternative.

This proposed amendment will not result in any additional cost to future proposed SNURs; rather it clarifies an existing section in Subpart A.

2. *Section 721.12 Equivalency determination.* Based on comments to proposed SNURs which would require reporting for failure to employ specific worker exposure or environmental release controls, the Agency believes that most companies seeking an equivalency determination would either already have or will have access to the alternative controls for which they are seeking an equivalency, such companies would either have to submit a SNUR notice ($1,400 to $8,000 plus up to a 3.2 percent reduction in profits) and/or incur the cost of instituting the control as specified in the SNUR.

The cost to companies of this proposed amendment would be the costs associated with the development of the data submitted to the Agency, i.e., justification that the alternative exposure or release controls provide at least the same degree of protection. The Agency cannot estimate the exact costs at this time. Other costs associated with equivalency determination involve filing the request for equivalency determination, and delay costs during Agency review. The Agency expects the costs of filing the equivalency notice to be equal to or less than the costs of filing a SNUR notice, since the data required in a request for an equivalency determination are less than that required in a SNUR notice. In addition, any potential loss in profits due to delays associated with Agency review would be less. Delay costs are estimated to be a 3.2 percent reduction in profits due to delays in manufacturing and processing during the 90-day Agency review of SNUR notices. Delay costs associated with an equivalency determination would be half of delay cost for a SNUR notice, or a 1.6 percent reduction in profits due to delays during the 45-day Agency review.

Therefore, while the Agency cannot quantify the exact costs, the total costs are expected to be less for an equivalency determination than for submitting a SNUR notice.

3. *Section 721.19 Advance compliance.* The procedures for advance compliance are generally the same as for any SNUR notice. The manufacturer, importer, or processor must submit a complete SNUR notice. This notice would not, however, need to be submitted 90 days prior to commencing manufacture, import, or processing but could be submitted anytime between proposal and promulgation of the SNUR. The costs to the company for filing a SNUR notice are estimated to be between $1,400 and $8,000.

The major difference is that if the Agency negotiates with the company to control or limit the significant new use, or does not ban, the company can continue production of the chemical without interruption when the SNUR is promulgated, thereby avoiding any loss in profits usually attributed to delays in manufacturing or processing during Agency review.

If the Agency takes action or is unable to negotiate a control or limit, or would ban the chemical, the effect of the request for advance compliance is little more than advance notice to the company or the Agency's intention should the company pursue the significant new use after promulgation.

4. *Subpart B: Hazard communication requirements.* Manufacturers, importers, and processors subject to a SNUR incorporating the proposed hazard communication requirements have the option of complying with these requirements or submitting a SNUR notice. The costs of complying with these requirements would not differ from the costs previously assumed in each proposed SNUR; these costs are summarized below. It is important to note that EPA would specify which potential hazards must be communicated and what protective measures must be employed, unlike OSHA's Hazard Communication Standard which places the burden of identifying the hazards and the appropriate protective measures on the employer.

The proposed amendment contains requirements for employee information, labeling containers, and MSDSs. As in previously proposed SNURs, the Agency has not separated the cost of informing employees of the potential hazards associated with the use of one chemical from the employee training program assumed to be already in place. The initial labeling costs are estimated to be between $135 and $500, which is the development cost of the label. Other labeling costs are expected to be minimal. An MSDS has been estimated to cost $20 (this cost is for preparation of the form only).

To the extent the proposed amendments would allow employers to merge the SNUR requirements with the employers system to comply with the OSHA Hazard Communication Standard, the overall costs of compliance with the SNURs may be reduced.

VI. Confidential Business Information

Any person who submits comments which the person claims as confidential business information (CBI) must mark the comments as "confidential," "trade secret," or other appropriate designation. Any comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR Part 2. EPA requests that any party submitting confidential comments prepare and submit a sanitized version of the comments which EPA can place in the public file.

VII. Rulemaking Record

EPA has established a record for this proposal (docket control number OPTS-50527). A public version of this record from which CBI has been deleted is available to the public from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the OTS Reading Room, Rm. E-107, 401 M St. SW., Washington, DC.

The record includes basic information considered by the Agency in developing this proposed rule. The record now includes the following:

1. The public comments which have prompted this action.

2. This proposal.

3. The economic analysis in support of this proposed rule.

VIII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore requires a Regulatory Impact Analysis. EPA has determined that these proposed amendments are not "Major Rules" because they will not have an effect on the economy of $100 million or more and will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the potential annual cost of this proposal, for the reasons explained in this preamble, EPA believes that the cost will be low. In addition, because of the nature of the proposed amendments and the substances subject to them, EPA believes that there will be few significant new use notices and requests for equivalency determinations submitted.

These amendments were submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that these amendments will not have a significant economic impact on a substantial number of small businesses. The Agency cannot determine whether parties affected by these amendments are likely to be small businesses. However, EPA believes that the number of small businesses affected by this proposed rule would not be substantial even if all the potential new uses were developed by small companies. EPA expects to receive few SNUR notices for the substances subject to the amendments.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in the proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. and has assigned OMB control number 2070-0012. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked Attention: Desk Officer for EPA. The final rule package will respond to any OMB or public comments on the information collection requirements.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Recordkeeping and reporting requirements, Significant new uses.

Dated: April 10, 1986.

J. A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 721—[AMENDED]

Therefore, it is proposed that 40 CFR Part 721 be amended as follows:

1. The authority citation for Part 721 would continue to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

2. In § 721.1 by revising paragraphs (a) and (b) to read as follows:

§ 721.1 Scope and applicability.

(a) This Part identifies uses of chemical substances which EPA has determined are significant new uses under the authority of section 5(a)(2) of the Toxic Substances Control Act. In addition, it specifies procedures for manufacturers, importers, and processors to report on those significant new uses. This Subpart A contains general provisions applicable to this Part. Subpart B of this Part identifies generic requirements for certain significant new uses cross referenced in specific provisions of Subpart C of this Part. Subpart C of this Part identifies chemical substances and their significant new uses.

(b) This Subpart A contains provisions governing submission and review of notices for the chemical substances and significant new uses identified in Subpart C of this Part. The provisions of this Subpart A apply to the chemical substances and significant new uses identified in Subpart C of this Part except to the extent they are specifically modified or supplanted by specific requirements in Subpart C of this Part. In the event of a conflict between the provisions of this Subpart A and the provisions of Subpart C of this Part, the provisions of Subpart C of this Part shall govern.

* * * * *

3. In § 721.5 by revising the entire section to read as follows:

§ 721.5 Persons who must report.

(a) The following persons must submit a significant new use notice as specified under the provisions of section 5(a)(1)(B) of the Act, Part 720 of this chapter, and § 721.10.

(1) A person who intends to manufacture, import, or process for commercial purposes a chemical substance identified in a specific section in Subpart C of this Part, and intends to engage in a significant new use of the substance identified in that section.

(2) A person who intends to manufacture, import, or process for commercial purposes a chemical substance identified in a specific section in Subpart C of this Part, and intends to distribute the substance in commerce. A person described in this paragraph is not required to submit a significant new use notice if that person can document one of the following:

(i) That the person has notified all recipients of the substance, in writing, of the specific section in Subpart C of this Part which identifies the substance and its designated significant new uses.

(ii) That the recipients have knowledge of the specific section in Subpart C of this Part which identifies the substance and its designated significant new uses.

(iii) That the recipients cannot undertake any significant new use described in the specific section in Subpart C of this Part.

(b) A person described in paragraph (a)(2) of this section must submit a significant new use notice if that person has knowledge at the time of commercial distribution of the substance identified in the specific section in Subpart C of this Part that a recipient intends to engage in a designated significant new use of that substance without submitting a notice under this Part.

(c) A person who processes a chemical substance identified in a specific section in Subpart C of this Part for a significant new use of that substance is not required to submit a significant new use notice if that person can document the following:

(1) That the person does not know the specific chemical identity of the chemical substance being processed, and

(2) That the person is processing the chemical substance without knowledge that the substance is identified in Subpart C of this Part.

(d) If at any time after commencing distribution in commerce of a chemical substance identified in a specific section in Subpart C of this Part a person described in paragraph (a)(2) of this section has knowledge that a recipient of the substance is engaging in a significant new use of that substance designated in that section without submitting a notice under this Part, the person is required to cease supplying the chemical substance to that recipient and to submit a significant new use notice for that chemical substance and significant new use, unless the person is able to document the following:

(1) That the person has ceased supplying the chemical substance to the

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recipient when the person had knowledge that the recipient is engaging in a significant new use or processing the substance for a significant new use without submitting a notice under this Part.

(2) That the person has promptly notified EPA enforcement authorities that the recipient is engaging in a significant new use or processing the substance for a significant new use without submitting a notice under this Part.

(3) That the person has not resumed supplying the chemical substance to the recipient until all notices required under this Part have been submitted to EPA and the notice review periods have ended without regulatory action by EPA.

(e) Any significant new use notice relating to import of a substance must be submitted by the principal importer.

4. In § 721.6 by revising paragraphs (a) and (e) to read as follows:

§ 721.6 Applicability determination when the specific chemical identity is confidential.

(a) A person who intends to manufacture, import, or process a chemical substance which is described by a generic chemical name in Subpart C of this Part may ask EPA whether the substance is subject to the requirements of this Part. EPA will answer such an inquiry only if EPA determines that the person has a bone fide intent to manufacture, import, or process the chemical substance for commercial purposes.

* * * * *

(e) If the manufacturer, importer, or processor has shown a bond fide intent to manufacture, import, or process the substance and has provided sufficient unambiguous chemical identity information to enable EPA to make a conclusive determination as to the identity of the substance, EPA will inform the manufacturer, importer, or processor whether the chemical substance is subject to this Part and, if so, which section in Subpart C of this Part applies.

* * * * *

5. In § 721.7 by revising the entire section to read as follows:

§ 721.7 Exports and imports.

Persons who intend to export a substance identified in Subpart C of this Part, or in any proposed rule which would amend Subpart C of this Part, are subject to the export notification provisions of TSCA section 12(b). The regulations that interpret section 12(b) appear at 40 CFR Part 707. Persons who import a substance identified in a specific section in Subpart C of this Part are subject to the TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. The EPA policy in support of the import certification rquirements appears at 40 CFR Part 707b.

6. In § 721.10 by revising paragraphs (a), (b), and (d) to read as follows:

§ 721.10 Notice requirements and procedures.

(a) Each person who is required to submit a significant new use notice under this Part must submit the notice at least 90 calendar days before commencing manufacture, import, or processing of a chemical substance identified in Subpart C of this Part for a significant new use. The submitter must comply with any applicable requirement of section 5(b) of the Act, and the notice must include the information and test data specified in section 5(d)(1) of the Act. The notice must be submitted on the notice form in Appendix A to Part 720 of this chapter and must comply with the requirements of Part 720, except to the extent that they are inconsistent with this Part 721.

(b) If two or more persons are required to submit a significant new use notice for the same chemical substance and significant new use identified in Subpart C of this Part, they may submit a joint notice to EPA. Persons submitting a joint notice must individually complete the certification section of Part I of the required notification form. Persons who are required to submit individually, but elect to submit jointly, remain individually liable for the failure to submit required information which is known to or reasonably ascertainable by them and test data in their possession or control.

* * * * *

(d) Any person submitting a significant new use notice in response to the requirements of this Part 721 shall not manufacture, import, or process a chemical substance identified in Subpart C of this Part for a significant new use until the notice review period, including all extensions and suspensions, has expired.

7. By adding a new § 721.12 to read as follows:

§ 721.12 EPA approval of alternative control measures.

(a) In certain sections in Subpart C of this Part, significant new uses for the identified substances are described as the failure to establish and implement programs providing for the use of either: specific measures to control worker exposure to or environmental release of substances which are identified in such sections, or alternative measures to control worker exposure or environmental release, which EPA has determined provide substantially the same degree of protection as the specified control measures. Persons who manufacture, import, or process a chemical substance identified in such sections and who intend to employ alternative measures to control worker exposure or environmental release must submit a request to EPA for a determination of equivalency before commencing manufacture, import, or processing involving the alternative control measures.

(b) A request for a determination of equivalency must be submitted in writing and must contain:

(1) The name of the submitter.

(2) The specific chemical identity of the substance.

(3) The citation for the specific section in Subpart C of this Part which pertains to the substance for which the request is being submitted.

(4) A detailed description of the activities involved.

(5) The specifications of the alternative worker exposure control measures or environmental release control measures.

(6) An analysis justifying why such alternative control measures provide substantially the same degree of protection as the specific control measures identified in the specific section in Subpart C of this Part which pertains to the substance for which the request is being submitted.

(7) The data and information described in § 720.50 (a) and (b) of this chapter unless such data and information have already been submitted to the Office of Toxic Substances, EPA.

(c) Requests for determinations of equivalency will be reviewed by EPA within 45 days. Notice of the results of such determinations will be mailed to the submitter.

(d) If EPA notifies the submitter under paragraph (c) of this section that the Agency has determined that the alternative control measures provide substantially the same degree of protection as the specific control measures identified in the specific section of Subpart C of this Part which pertains to the substance for which the request is being submitted, then the submitter may commence manufacture, import, or processing in accordance with the specifications for alternative worker exposure control measures or environmental release control measures identified in the submitter's request, and may alter any corresponding notification to workers to reflect such alternative controls. Deviations from the activities described in the EPA notification constitute a significant new use and are subject to the requirements of this Part.

8. By redesignating § 721.19 as § 721.18, by revising the introductory text and paragraphs (a) and (b), and by adding a new paragraph (h), to read as follows:

§ 721.18 Exemptions.

The persons identified in § 721.5 are not subject to the notification requirements of § 721.10 for a chemical substance identified in Subpart C of this Part if:

(a) The person has applied for and has been granted an exemption for test marketing the substance for a significant new use identified in Subpart C of this Part in accordance with section 5(h)(1) of the Act and § 720.38 of this chapter.

(b) The person manufactures, imports, or processes the substance for a significant new use identified in Subpart C of this Part in small quantities solely for research and development in accordance with § 721.19.

* * * * *

(h) The person submits a significant new use notice for the substance prior to the promulgation date of the section in Subpart C of this Part which identifies the substance, and the person receives written notification of compliance from EPA prior to the effective dates of such section. The notice submitter must comply with any applicable requirement of section 5(b) of the Act. The notice must include the information and test data specified in section 5(d)(1) of the Act and must be submitted on the notice form in Appendix A to Part 720 of this chapter. For purposes of this exemption, the specific section in Subpart C of this Part which identifies the substance and §§ 721.1, 721.3, 721.6, 721.13, and 721.17 apply; after the effective date of the section in Subpart C of this Part which identifies the substance, §§ 721.5 and 721.7 also apply. EPA will provide the notice submitter with written notification of compliance only if one of the following occurs:

(1) EPA is unable to make the finding that the activities described in the significant new use notice will or may present an unreasonable risk of injury to health or the environment under reasonably foreseeable circumstances.

(2) EPA and the person negotiate a consent order under section 5(e) of the Act, such order to take effect on the effective date of the section in Subpart C of this Part which identifies the substances.

9. By adding a new § 721.19 to read as follows:

§ 721.19 Conditions for research and development exemption.

(a) A person who manufactures, imports, or processes a chemical substance identified in Subpart C of this Part for a significant new use identified in Subpart C of this Part is not subject to the notification requirements of § 721.10 if the following conditions are met:

(1) The person manufactures, imports, or processes the substance for the significant new use in small quantities solely for research and development.

(2) The manufacture, importer, or processor notifies all persons in its employ or to whom it directly distributes the chemical substance, who are engaged in experimentation, research, or analysis on the chemical substance, including the manufacture, processing, use, transport, storage, and disposal of the substance associated with research and development activities, of any risk to health, identified under paragraph (b) of this section, which may be associated with the substance. The notification must be made in accordance with paragraph (c) of this section.

(3) The chemical substance is used by, or directly under the supervision of, a technically qualified individual.

(b)(1) To determine whether notification under paragraph (a)(2) of this section is required, the manufacturer, importer, or processor must review and evaluate the following information to determine whether there is reason to believe there is any risk to health which may be associated with the chemical substance:

(i) Information in its possession or control concerning any significant adverse reaction by persons exposed to the chemical substance which may reasonably be associated with such exposure.

(ii) Information provided to the manufacturer, importer, or processor by a supplier or any other person concerning a health risk believed to be associated with the substance.

(iii) Health and environmental effects data in its possession or control concerning the substance.

(iv) Information on health effects which accompanies any EPA rule or order issued under sections 4, 5, or 6 of the Act that applies to the substance and of which the manufacturer, importer, processor has knowledge.

(2) When the research and development activity is conducted solely in a laboratory and exposure to the chemical substance is controlled through the implementation of prudent laboratory practices for handling chemical substances of unknown toxicity, and any distribution, except for purposes of disposal, is to other such laboratories for further research and development activity, the information specified in paragraph (b)(1) of this section need not be reviewed and evaluated. (For purposes of this paragraph (b)(2), a laboratory is a contained research facility where relatively small quantities of chemical substances are used on a non-production basis, and where activities involve the use of containers for reactions, transfers, and other handling of substances designed to be easily manipulated by a single individual.)

(c)(1) The manufacturer, importer, or processor must notify the persons identified in paragraph (a)(2) of this section by means of a container labeling system, conspicuous placement of notices in areas where exposure may occur, written notification to each person potentially exposed, or any other method of notification which adequately informs persons of health risks which the manufacturer, importer, or processor has reason to believe may be associated with the substance, as determined under paragraph (b)(1) of this section.

(2) If the manufacturer, importer, or processor distributes a chemical substance manufactured, imported, or processed under this section to persons not in its employ, the manufacturer, importer, or processor must in written form:

(i) Notify those persons that the substance is to be used only for research and development purposes.

(ii) Provide the notice of health risks specified in paragraph (c)(1) of this section.

(3) The adequacy of any notification under this section is the responsibility of the manufacturer, importer, or processor.

(d) Quantities of the chemical substance, or of mixtures or articles containing the chemical substance, remaining after completion of research and development activities may be:

(1) Disposed of as a waste in accordance with applicable Federal, State, and local regulations, to the extent the disposal activity is not identified as a significant new use in Subpart C, or

(2) Used for a commercial purpose, to the extent the use is not identified as a significant new use in Subpart C of this Part.

(e)(1) Persons who manufacture, import, or process a chemical substance under this section must retain the following records:

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(i) Copies of or citations to information reviewed and evaluated under paragraph (b)(1) of this section to determine the need to make any notification of risk.

(ii) Documentation of the nature and method of notification under paragraph (c)(1) of this section including copies of any labels or written notices used.

(iii) Documentation or prudent laboratory practices used instead of notification and evaluation under paragraph (b)(2) of this section.

(iv) The names and addresses of any persons other than the manufacturer, importer, or processor to whom the substance is distributed, the identity of the substance, the amount distributed, and copies of the notifications required under paragraph (C)(2) of this section.

(2) [Reserved]

10. By redesignating existing Subpart B as Subpart C, without any change in existing section numbers, and by adding a new Subpart B to read as follows:

Subpart B—Generic Requirements for Certain Significant New Uses

Sec.

721.20 Applicability.
721.27 Employee information.
721.30 Labeling for distribution in commerce.
721.32 Labeling for use in the workplace.
721.35 Material safety data sheets.

Subpart B—Generic Requirements for Certain Significant New Uses

§ 721.20 Applicability.

This Subpart B identifies generic requirements for certain significant new uses of specific chemical substances identified in Subpart C of this Part. The provisions of this Subpart apply only when referenced in specific sections of Subpart C of this Part.

§ 721.27 Employee information.

Whenever referenced in a specific section in Subpart C of this Part, the requirements for providing employees with information on the identified chemical substance are as follows:

(a) The manufacturer, importer, or processor shall ensure that employees are provided with information, either in writing or through training, on the substance identified in the specific section in Subpart C of this Part, at the time of their initial assignment to a work area where the substance is present, and whenever the substance is introduced into their work area.

(b) Information provided to employees shall include:

(1) The potential human health and/or environmental hazards, as specified in the specific section in Subpart C of this Part.

(2) The personal protective equipment, engineering controls, and other measures to control worker exposure and/or environmental release identified in the specific section of Subpart C of this Part, or alternative control measures which EPA has determined under § 721.12 provide substantially the same degree of protection as the specified control measures.

(3) Identification of all operations in the employee's work areas where the substance is present.

(4) The location and availability of any material safety data sheets required for the substance by the specific section in Subpart C of this Part in accordance with § 721.35.

(5) Methods and observations that may be used to detect the presence or release of the substance in the employee's work area (such as monitoring conducted by the employer, continuous monitoring devices, visual appearance, or odor).

§ 721.30 Labeling for distribution in commerce.

Whenever referenced in a specific section of Subpart C of this Part, the requirements for labeling containers of the chemical substance for distribution in commerce are as follows:

(a) The manufacturer, importer, or processor shall ensure that each container of the substance leaving the workplace is labeled in accordance with this section.

(b) The label shall contain the following information:

(1) The first word on the label shall be the word "WARNING."

(2) The name of the substance as identified in the specific section in Subpart C of this Part and the trade name or names by which may be commonly recognized.

(3) The potential human health and/or environmental hazards as identified in the specific section in Subpart C of this Part.

(4) The personal protective equipment, engineering controls, and other measures to control worker exposure and/or environmental release identified in the specific section of Subpart C of this Part, or alternative control measures which EPA has determined under § 721.12 provide substantially the same degree of protection as the specified control measures.

(c) The first word on the label shall be capitalized, and the type size of the first word shall be no smaller than 6 point type for a label 5 square inches or less in area, 10 point type for a label above 5 but no greater than 10 square inches in area, 12 point type for a label above 10 but no greater than 15 square inches in area, 14 point type for a label above 15 but no greater than 30 square inches in area, or 18 point type for a label over 30 square inches in area, and the type size of the remainder of the warning statement shall be no smaller than 6 point type.

(d) The label shall not conflict with the requirements of the Hazardous Materials Transportation Act (18 U.S.C. 1801 et seq.) and regulations issued under that Act by the Department of Transportation.

(e) If the label is to be applied to a mixture containing a substance identified in a specific section in Subpart C of this Part, in combination with another substance identified in a specific section in Subpart C of this Part and/or a substance defined as a "hazardous chemical" for the purposes of the Occupational Safety and Health Administration's Hazard Communication Standard (29 CFR 1900.1200), the manufacturer, importer, or processor may prescribe on the label the measures to control worker exposure or environmental release which the manufacturer, importer, or processor determines provide the greatest degree of protection. However, should these control measures differ from those identified in the specific sections in Subpart C of this Part, the manufacturer, importer, or processor must seek a determination of equivalency for such alternative control measures pursuant to § 721.12 before prescribing them on a label.

(f) The label shall be in English and shall be prominently displayed on the container. The label may be in languages other than English as long as the information is presented in English as well.

(g) The label shall be made available, upon request, to designated representatives of EPA.

§ 721.32 Labeling for use in the workplace.

Whenever referenced in a specific section in Subpart C of this Part, the requirements for labeling containers for the use of the chemical substance in the workplace are as follows:

(a) The manufacturer, importer, or processor shall ensure that each container of the substance which is in the workplace is labeled, tagged, or marked in accordance with this section.

(b) The label, tag, or other method of warning shall contain the following information:

(1) The first word shall be the word "WARNING."

(2) The name of the substance as identified in the specific section of Subpart C of this Part and the trade name or names by which it may be commonly recognized.

(3) The potential human health and/or environmental hazards identified in the specific section in Subpart C of this Part.

(4) Any personal protective equipment, engineering controls, or other measures to control worker exposure and/or environmental release identified in the specific section in Subpart C of this Part, or alternative control measures which EPA has determined under § 721.12 provide substantially the same degree of protection as the specified control measures.

(c) If the label or alternative method of warning is to be applied to a mixture containing a substance identified in a specific section in Subpart C of this Part, in combination with another substance identified in a specific section in Subpart C of this Part and/or a substance defined as a "hazardous chemical" for the purposes of the Occupational Safety and Health Administration's Hazard Communication Standard (29 FR 1900.1200), the manufacturer, importer, or processor may prescribe on the label or alternative method of warning the measures to control worker exposure or environmental release which the manufacturer, importer, or processor determines provide the greatest degree of protection. However, should these control measures differ from those identified in the specific sections in Subpart C of this Part, the manufacturer, importer, or processor must seek a determination of equivalency for such alternative control measures pursuant to § 721.12 before prescribing them under this paragraph.

(d) Manufacturers, importers, and processors subject to this section may use signs, placards, process sheets, batch tickets, operating procedures, or other such written materials in lieu of affixing labels to individual stationary process containers, as long as the chosen method of warning identifies the containers to which it is applicable and conveys the information required by paragraph (b) (1) through (4) of this section. The written materials shall be readily accessible to the employees in their work area throughout each work shift.

(e) Manufacturers, importers, and processors subject to this section are not required to label portable containers into which substances identified in Subpart C of this Part are transferred from labeled containers, as long as the method chosen under paragraph (d) of this section identifies the containers to which it is applicable and conveys the information required by paragraph (b) (1) through (4) of this section.

(f) The manufacturer, importer, or processor subject to this section shall ensure that the label or other form of warning is legible, in English, and prominently displayed on the container, or readily available in the work area throughout each work shift. Employers with employees who speak languages other than English may provide the information in the employee's language, as long as the information is presented in English as well.

(g) The label or other form of warning shall be made available, upon request, to designated representatives of the EPA.

§ 721.35 Material safety data sheets.

Whenever referenced in a specific section in Subpart C of this Part, the requirements for obtaining or developing a material safety data sheet (MSDS) for the chemical substance are as follows:

(a) Each MSDS shall be in English and shall contain at least the following information:

(1) The name of the substance as identified in the specific section in Subpart C of this Part and the trade name or names by which it may be commonly recognized.

(2) The potential human health and/or environmental hazards as identified in the specific section in Subpart C of this Part.

(3) Any personal protective equipment, engineering controls, or other measures to control worker exposure and/or environmental release identified in the specific section in Subpart C of this Part, or alternative control measures which EPA has determined under § 721.12 provide substantially the same degree of protection as the specified control measures.

(4) Any time weighted average, threshold limit value, or other exposure limit identified in the specific section in Subpart C of this Part.

(b) If the MSDS is to be associated with a mixture that contains a substance identified in a specific section in Subpart C of this Part, in combination with another substance identified in a specific section in Subpart C of this Part and/or a substance defined as a "hazardous chemical" for the purposes of the Occupational Health and Safety Administration Hazard Communication Standard (29 CFR 1900.1200), the manufacturer, importer, or processor may prescribe in the MSDS the measures to control worker exposure or environmental release which the manufacturer, importer, or processor determines provide the greatest degree of protection. However, should these control measures differ from those identified in the specific sections in Subpart C of this Part, the manufacturer, importer, or processor must seek a determination of equivalency for such alternative control measures pursuant to § 721.12 before prescribing them under this paragraph.

(c) Manufacturers, importers, and processors subject to this section shall ensure that the information recorded in the MSDS accurately reflects the applicable terms and conditions provided in the specific section in Subpart C of this Part during the time that they manufacture, import, or process the substance identified in such section. Whenever the terms in the specific section of Subpart C of this Part are amended during the time that the manufacturer, importer, or processor is engaging in that activity, the manufacturer, importer, or processor shall revise the MSDS within 3 months of the effective date of such amendment.

(d) Manufacturers, importers, and processors subject to this section shall ensure that recipients of the substance identified in the specific section in Subpart C of this Part are provided an appropriate MSDS with their initial shipment and with the first shipment following the revision of an MSDS. The manufacturer, importer, or processor shall either provide the MSDS with the shipped containers or send the MSDS to the recipient prior to or at the time of shipment.

(e) The MSDS may be kept in any form, including operating procedures, and may be designated to cover groups of substances in a work area where it may be more appropriate to address the potential hazards of a process rather than individual substances. However, the manufacturer, importer, or processor shall ensure that, in all cases, the required information is provided for each substance and is readily accessible during each work shift to employees when they are in their work areas.

(f) The MSDS shall be made available, upon request, to designated representatives of EPA.

10. In § 721.160 by revising the introductory text of paragraph (a)(2) (ii) and (ii) (A), and (B), and (C) to read as follows:

§ 721.160 Substituted polyglycidyl benzenemine.

(a) * * *

(2) * * *

(ii) Manufacture (excluding import) or processing without:

(A) Requiring, during all stages of manufacture and processing of the

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substance, and during response to emergencies or spills involving the substance, that any person employed by or under the control of the manufacturer or processor wear the following protective equipment, or employ other measures to control worker exposure which EPA has determined, in accordance with § 721.12, provide substantially the same degree of protection against exposure to the substance as the control measures described in this paragraph (a)(2)(ii)(A):

* * * * *

(B) Providing each employee described in paragraph (a)(2)(ii)(A) of this section with the following information in accordance with § 721.27: They should avoid all contact with this substance; structurally similar chemicals have been found to cause cancer and reproductive, kidney, and liver effects in laboratory animals, and allergic reactions in humans; this substance is a severe skin and eye irritant; and the use of impervious gloves, face shields, and other clothing to cover exposed areas of the arms, legs, and torso is required.

(C) Labeling containers for distribution of the chemical substance in commerce in accordance with § 721.30 to convey the information described in paragraph (a)(2)(ii)(B) of this section.

* * * * *

11. In § 721.290 by revising paragraph (a) (2)(ii) and (iii), to read as follows:

§ 721.290 Dicarboxylic acid monoester.

(a) * * *

(ii) Failure to require the use of gloves determined to be impervious to the substance, and/or failure to require the use of clothing to prevent dermal contact for any person involved in any processing or use operation where dermal contact may occur, or other measures to control worker exposure which EPA has determined, in accordance with § 721.12, provide substantially the same degree of protection against dermal exposure to the substance as the control measures described in this paragraph (a)(2)(ii). (Gloves may be determined to be impervious to the substance either by testing the gloves under the conditions of use or by relying on the manufacturer's specifications.)

(iii) Distribution in commerce without labeling containers in accordance with § 721.30 with the following information:

(A) The substance may be harmful if inhaled or absorbed through the skin.

(B) Persons must not breathe vapor, mist, spray, or dust containing the substance.

(C) Persons must not get any of the substance in the eyes, on skin, or on clothing.

(D) The substance is to be used only with adequate ventilation.

(E) Persons potentially exposed to the substance must wear impervious gloves and protective equipment to prevent contact or exposure and that contaminated non-impervious clothing must be promptly removed and washed before reuse.

(F) Contaminated leather shoes must be discarded.

(G) Persons exposed to the substance must wash thoroughly after handling the substance, and before eating, drinking, or smoking.

(H) All containers of the substance must be kept closed when not in use.

(I) The following first aid measures should be taken when necessary:

(*1*) In case of contact with eyes, immediately flush with water for at least 15 minutes.

(*2*) In case of contact with skin, promptly wash thoroughly with mild soap and water.

(*3*) In case of inhalation, remove the exposed person to fresh air. If breathing is difficult, give oxygen.

(*4*) In case of ingestion, and if conscious, give water and induce vomiting.

* * * * *

12. In § 721.615 by revising the entire section to read as follows:

§ 721.615 Substituted methylpyridine and substituted 2-phenoxypyridine.

(a) *Chemical substances and significant new uses subject to reporting.* (1) The following chemical substances referred to by generic chemical names and premanufacture notice numbers are subject to reporting under this section for the significant new uses listed in paragraph (a)(2) of this section: substituted methylpyridine (P–83–24, P–83–49, and P–83–272) and substituted 2-phenoxypyridine (P–83–23, and P–83–75).

(2) The significant new uses for P–83–49 and P–83–272 are manufacturing, importing, or processing without:

(i) Requiring use of the following personal protective equipment, or other measures to control worker exposure which EPA has determined, in accordance with § 721.12, provide substantially the same degree of protection against exposure to the substances as the control measures described in this paragraph (a)(2)(i), for persons involved in any operation where dermal contact and/or inhalation may occur, and where local exhaust ventilation is present at the site of the operation:

(A) Chemical cartridge respirator, approved by the National Institute for Occupational Safety and Health for protection from organic vapors, and used and fitted according to 29 CFR 1910.134 and 30 CFR Part 11.

(B) Chemical worker gloves and aprons or other equivalent personal protective clothing determined to be impervious to the particular substance in its conditions of use. (Equipment may be determined to be impervious either by testing under the conditions of use, including the duration of exposure, or by evaluating the specifications supplied by the supplier of the equipment.)

(ii) Requiring use of the following personal protective equipment, or other measures to control worker exposure which EPA has determined, in accordance with § 721.12, provide substantially the same degree of protection against exposure to the substances as the control measures described in this paragraph (a)(2)(ii), for persons involved in and in the immediate area of any operation where dermal contact and/or inhalation of the substances may occur, and where local exhaust ventilation is not present at the site of the operation:

(A) Full facepiece, positive pressure air-supplied respirator, approved by the Bureau of Mines, Department of Interior or by the National Institute for Occupational Safety and Health and fitted according to procedures established at 29 CFR 1910.134.

(B) Chemical worker gloves and aprons, or other equivalent personal protective clothing determined to be impervious to the particular substance in its conditions of use. (Equipment may be determined to be impervious either by testing under the conditions of use, including the duration of exposure, or by evaluating the specifications supplied by the supplier of the equipment.)

(iii) Providing each employee required to use the protective equipment described in paragraph (a)(2)(ii) of this section with the following information in accordance with § 721.27: Each of the substances may elicit liver, kidney, and nervous system effects in humans; P–83–23 and P–83–24 may cause skin and eye effects; P–83–23 and P–83–75 may cause reproductive effects; and the protective equipment described in paragraph (a)(2)(ii) of this section must be worn.

* * * * *

13. In § 721.975 by revising the introductory text of paragraph (a)(2)(i), and paragraph (a)(2)(i)(B) to read as follows:

§ 721.975 Derivative of tetrachloroethylene.

(a) * * *

(2) The significant new uses are:

(i) Manufacturing, importing, or processing without requiring use of the following protective equipment, or other measures to control worker exposure which EPA has determined, in accordance with § 721.12, provide substantially the same degree of protection against exposure to the substance as the control measures described in this paragraph (a)(3)(i), for persons involved in any operation where dermal contact may occur.

(A) Chemical goggles.

(B) Chemical worker gloves and aprons, or other equivalent personal protective clothing determined to be impervious to the particular substance in its conditions of use. (Equipment may be determined to be impervious either by testing under the conditions of use, including the duration of exposure, or by the supplier of the equipment.)

(ii) Providing each employee required to use the protective equipment described in paragraph (a)(3)(i) of this section with the following information in accordance with § 721.27: Each of the substances may elicit liver, kidney, and nervous system effects in humans; P–83–23 and P–83–24 may cause skin and eye effects; P–83–23 and P–83–75 may cause reproductive effects; and the protective equipment described in paragraph (a)(3)(i) of this section must be worn.

* * * * *

13. In § 721.975 by revising the introductory text of paragraph (a)(2)(i), and paragraph (a)(2)(i)(B) to read as follows:

§ 721.975 Derivative of tetrachloroethylene.

(a) * * *

(2) The significant new uses are:

(i) Manufacturing, importing, or processing without requiring use of the following protective equipment, or other measures to control worker exposure which EPA has determined, in accordance with § 721.12, provide substantially the same degree of protection against exposure to the substance as the control measures described in this paragraph (a)(2)(i), for persons employed by or under the control of the manufacturer, importer, or processor who are in the immediate area of any operation where dermal contact and/or inhalation of the substance may occur:

* * * * *

(B) Labeled for use of the substance in the workplace in accordance with § 721.32 to convey the following information:

(*1*) The substance should be handled only while using a NIOSH approved respirator and impervious gloves.

(*2*) [Reserved]

* * * * *

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Part III

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

Section 8 Housing Assistance Payments Program; Fair Market Rent Schedules for Use in the Existing Housing Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program, and Housing Voucher Program; Final Notice.

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. N-86-1573; FR-2133]

Section 8 Housing Assistance Payments Program; Fair Market Rent Schedules For Use in the Existing Housing Certificate Program, Loan Management and Property Disposition Programs, Moderate Rehabilitation Program, and Housing Voucher Program

AGENCY: Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final notice.

SUMMARY: The Department published proposed Fair Market Rents on January 2, 1986, and solicited public comment. Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to publish Fair Market Rents periodically, but not less frequently than annually. The Department indicated in the proposed Notice that effective Fair Market Rents may be announced in one or more publications. Today's document is the first of two announcements of effective Fair Market Rents, which establishes Fair Market Rents for 2328 of the 2756 rent market areas in the country.

EFFECTIVE DATE: These Fair Market Rents are effective on April 22, 1986.

FOR FURTHER INFORMATION CONTACT: Cecelia D. Livingston, Existing Housing Division, Office of Elderly and Assisted Housing, telephone (202) 755-6477. For technical information on the development of schedules for specific areas or the method used for the rent calculations, contact Michael R. Allard, Economic and Market Analysis Division, Office of Economic Affairs, telephone (202) 755-5577. (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

Section 8 of the United States Housing Act of 1937 (the Act) (42 U.S.C. 1437f) authorizes a housing assistance program to aid lower income families in renting decent, safe, and sanitary housing. Assistance payments are limited by Fair Market Rents (FMRs) established by HUD for 2756 different rent market areas in the country. The final FMRs contained in this document amend portions of the schedules previously in effect for the Section 8 Existing Housing Certificate Program, including space rentals by owners of manufactured homes (Part 882, Subparts A, B, and F), for the Moderate Rehabilitation Program (Part 882, Subparts D and E), and for existing housing assisted under Part 886, Subparts A and C. FMRs also are used in determining the amount of subsidy for a family under the Section 8 Housing Voucher Program.

Proposed Fair Market Rents

The Department proposed fiscal year 1986 FMRs on January 2, 1986 (51 FR 75) [1], which reflect estimated rent levels as of April 1, 1986. The criteria and methodology used by HUD in developing the proposed FMRs are the same as those appearing at 24 CFR Part 888, Subpart A, which have been used since 1983. They include: (1) The 45th percentile rent (the rent below which 45 percent of the standard quality rental housing units in a market area are distributed); (2) Rents based on units occupied by recent movers (households who moved within two years before the date of the survey data used in these calculations); and (3) Exclusion from the data base of all public housing units and recently completed housing (units built within two years of the survey dates).

The Department used 1980 Census data for the first time when developing the 45th percentile standard FMRs for fiscal year 1986. These data resulted in proposed FMRs that were higher than the fiscal year 1985 FMRs in approximately 81 percent of the metropolitan FMR areas and 70 percent of the nonmetropolitan areas. The 1980 Census data also resulted in proposed reductions in the fiscal year 1985 FMRs in approximately 19 percent of the metropolitan areas and 30 percent of the nonmetropolitan areas. (In addition to the proposed FMRs published on January 2, 1986, see a correction document reproposing rents for 148 nonmetropolitan market areas published in the **Federal Register** on February 18, 1986, 51 FR 5804.)

In the January 2, 1986 proposed Notice, the Department indicated that it may announce fiscal year 1986 FMRs in one or more subsequent publications. The FMRs published for effect today do not constitute the complete listing of FMRs. The Department intends to publish another notice announcing final FMRs for *all* market areas. To help decided which FMRs could be published for effect in an expedited fashion, the Department requested that anyone planning to comment submit a Notice of Intent to Comment by February 18, 1986. The Department used these Notices to assist in determining which Fair Market Rents could be published for effect without waiting to complete the analysis of all the submitted comments. Any area which is not included in today's document will continue to use the FMRs previously published for effect pending the second final Notice announcing FMRs for all market areas.

[1] This notice was published in the "Notices" section of the **Federal Register** It should have appeared in the "Proposed Rule" section.

Fair Market Rent Schedules in This Document

This document announces FMRs for effect for 2328 market areas. All FMRs appearing in today's document are effective upon publication. The FMRs are listed in four parts—three in Schedule B (Fair Market Rents for Existing Housing) and one in Schedule D (Final Fair Market Rents for Manufactured Home Spaces in the Section 8 Existing Housing Certificate Program).

Schedule B, Part 1 contains FMRs for all areas for which no Notice of Intent was submitted by any party, including areas proposed for decreases as well as increases. Part 1 does *not* contain FMRs for any area for which a Notice of Intent or a comment was submitted (but see Part 2 and Part 3, which list FMRs for some areas for which Notices of Intent have been submitted).

Part 2 of Schedule B consists of FMRs for all market areas for which Notices of Intent have been received and that were proposed by HUD for no change or for increases for all bedroom sizes. These FMRs are now being made effective as proposed, although the Department may approve further changes, as warranted, in response to the comments and publish those changes in the second Notice of FMRs for effect.

Part 3 of Schedule B consists of FMRs for all market areas for which Notices of Intent have been received and for which the FMRs proposed by HUD consisted of a mixture of increases and decreases for the various bedroom sizes. For example, the Department may have proposed, for a single market area, an increase in the zero-bedroom FMR, but decreases in all other bedroom sizes. If a Notice of Intent to Comment was submitted for the area, FMRs for the area are included in Part 3, with the proposed increases published as final (in this case, the proposed zero-bedroom) and with FMRs for all other bedroom sizes remaining at the 1985 levels pending review of the public comment.

The areas omitted from Parts 1, 2, and 3 of Schedule B are those areas that submitted Notices of Intent to Comment and for which decreases (or a combination of decreases and no change) were proposed by HUD for all bedroom sizes. The 1985 FMRs will remain in effect until the Department reviews all comments and publishes the second Notice of FMRs for effect.

In addition, for purposes of publishing FMRs for effect, the Department considers the 148 areas that were the subject of the February 18, 1986 correction document (see 51 FR 5804) as market areas with proposed FMRs decreases for which Notices of Intent to Comment have been filed. Accordingly, none of the areas listed in the February 18, 1986 **Federal Register** Notice appear in final form in today's document. They will be processed and published as final with the second Notice of FMRs for effect.

Schedule D contains the Fair Market Rents for Manufactured Home Spaces in the Section 8 Existing Housing Program. Since all FMRs were proposed for an increase, the Department is publishing the entire schedule for effect today. There may be further changes for some market areas based on analysis of the comments submitted for specific market areas.

Applicability of Fair Market Rent Schedules

The final FMRs are used to determine assistance amounts for several HUD housing assistance programs. FMRs for the Moderate Rehabilitation Program are 120 percent of the Schedule B Existing Housing Fair Market Rents (see 24 CFR 882.408(a) and 888.113(e)(1)). FMRs for Single Room Occupancy (SRO) units are 75 percent of the applicable zero-bedroom FMR for the Existing Housing Certificate Program and the Moderate Rehabilitation Program. For the Housing Voucher Program, the Payment Standard for SRO units is between 75 and 100 percent of the applicable zero-bedroom FMR or exception rent. For example, the FMR limitation for an SRO unit in the Existing Housing Certificate program is 75 percent of the zero-bedroom FMR listed in Schedule B. The FMR limitation for an SRO unit in the Moderate Rehabilitation program is 75 percent of the Moderate Rehabilitation FMR for a zero-bedroom unit. For Housing Vouchers, the PHA may request an amount for HUD approval, within the range of 75 and 100 percent of the zero-bedroom FMR or exception rent, based on the presence or absence of kitchen and sanitary facilities.

Administrative Fees

The FMRs published for effect will be used to calculate the administrative fee in two phases. For a PHA administering a Section 8 program in a jurisdiction where the two-bedroom FMR has increased, the PHA's administrative fee will be adjusted as of the first day of the first month following the effective date (today) of the FMRs appearing in this document. For a PHA administering a Section 8 program in a jurisdiction where the two-bedroom FMR is decreased, the PHA's administrative fee will be adjusted as of the first day of the PHA's fiscal year that begins after the effective date (today) of the FMRs appearing in this document.

The Department is aware that comments being submitted under the notice and comment procedure for establishing the Fair Market Rents have raised the issue of changing the timing procedure for computing the administrative fee. The review of the public comments is proceeding, but the Department has decided to discuss all comments and the Department's response to the comments in the second final FMR notice. Accordingly, the procedure identified above should be used pending any modification in a future publication.

Future Publications

The Department will publish a second Notice announcing final FMRs for effect. This Notice will contain a complete listing of all FMRs for effect, as well as an analysis of and response to all public comments received.

In addition, the Department anticipates publishing another series of FMR documents this fiscal year (FY 86). Data received from HUD Field Offices seems to indicate localized changes in some housing markets. Accordingly, the Department may propose new FMRs, subject to public comment, for specific areas where it believes this new data provides a more accurate estimate of the 45th percentile rent level of standard quality rental units occupied by recent movers, excluding public housing units and units less than two years old.

Other Matters

A Finding of No Significant Impact with respect to the environment required by the National Environmental Policy Act (42 U.S.C. 4321-4374) is unnecessary, since the Section 8 Existing Housing program is categorically excluded under HUD regulations at 24 CFR 50.20(d).

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this Notice does not have a significant economic impact on a substantial number of small entities because FMRs reflect the rents for similar quality units in the area. Therefore, FMRs do not change the rent from that which would be charged if the project were not in the Section 8 program.

The Catalog of Federal Domestic Assistance program number is 14.156, Lower-Income Housing Assistance Program (Section 8).

Accordingly, the Fair Market Rent Schedules are amended as follows:

Dated: April 15, 1986.

Silvio DeBartolomeis,

Acting General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

Fair Market Rents for Existing Housing—Schedules B&D—General Explanatory Notes

1. Geographic Coverage

a. FMRs for Existing Housing (Schedule B) are established for all Metropolitan Statistical Areas (MSAs), Primary Metropolitan Statistical Areas (PMSAs), nonmetropolitan counties, and county equivalents in the United States, District of Columbia, Puerto Rico, the Virgin Islands, and Guam. FMRs also are established for nonmetropolitan parts of counties in the New England States.

b. FMRs for Manufactured Home spaces in the Section 8 Certificate Program (Schedule D) are established for all MSAs, PMSAs, selected nonmetropolitan counties, and the residual nonmetropolitan portion of each State.

c. The current 337 MSAs and PMSAs are those established by the Office of Management and Budget effective on or before June 30, 1985.

2. Arrangement of FMR Areas and Identification of Constituent Parts

a. The FMR areas in Schedules B and D are listed alphabetically by MSA-PMSA and nonmetropolitan county within each State.

b. The constituent counties (and New England towns and cities) included in each MSA and PMSA are listed immediately following the MSA-PMSA names in each State listed in Schedule B. All of the constituent parts of an MSA that are in more than one State can be identified by consulting the listings for each applicable State.

c. Two nonmetropolitan counties are listed alphabetically on each line of the nonmetropolitan county listings.

d. The New England towns and cities included in a nonmetropolitan part of a county are listed immediately following the county name.

e. The FMRs are listed by dollar amount on the first line beginning with the FMR area name.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

STATE: ALABAMA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANNISTON, AL MSA COUNTY(IES): CALHOUN	218	264	311	389	436
BIRMINGHAM, AL MSA COUNTY(IES): BLOUNT, JEFFERSON, ST CLAIR, SHELBY, WALKER	286	310	365	458	510
DOTHAN, AL MSA COUNTY(IES): DALE, HOUSTON	254	308	363	453	508
FLORENCE, AL MSA COUNTY(IES): COLBERT, LAUDERDALE	231	281	332	411	460
GADSDEN, AL MSA COUNTY(IES): ETOWAH	201	245	288	360	403
HUNTSVILLE, AL MSA COUNTY(IES): MADISON	256	311	366	457	512
MOBILE, AL MSA COUNTY(IES): BALDWIN, MOBILE	265	321	378	473	530
MONTGOMERY, AL MSA COUNTY(IES): AUTAUGA, ELMORE, MONTGOMERY	238	286	336	420	471
TUSCALOOSA, AL MSA COUNTY(IES): TUSCALOOSA	246	299	352	440	493

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BIBB	178	218	257	321	359	BULLOCK	174	211	249	311	349
BUTLER	174	211	249	311	349	CHAMBERS	183	222	261	327	366
CHEROKEE	183	222	261	327	366	CHILTON	178	218	257	321	359
CHOCTAW	201	245	288	360	403	CLARKE	201	245	288	360	403
CLAY	183	222	261	327	366	CLEBURNE	183	222	261	327	366
CONECUH	201	245	288	360	403	COOSA	183	222	261	327	366
CRENSHAW	174	211	249	311	349	CULLMAN	223	271	319	399	447
DALLAS	201	245	288	360	403	DE KALB	210	255	300	375	421
FAYETTE	178	218	257	321	359	GREENE	178	218	257	321	359
HALE	178	218	257	321	359	JACKSON	210	255	300	375	421
LAMAR	178	218	257	321	359	LAWRENCE	223	271	319	399	447
LEE	229	278	327	409	458	LIMESTONE	190	231	272	340	381
LOWNDES	174	211	249	311	349	MARENGO	201	245	288	360	403
MARSHALL	197	240	280	348	388	MONROE	201	245	288	360	403
MORGAN	223	271	319	399	447	PERRY	201	245	288	360	403
PICKENS	178	218	257	321	359	PIKE	174	211	249	311	349
RANDOLPH	183	222	261	327	366	SUMTER	201	245	288	360	403
TALLADEGA	183	222	261	327	366	TALLAPOOSA	183	222	261	327	366
WASHINGTON	201	245	288	360	403	WILCOX	201	245	288	360	403

STATE: ALASKA NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALEUTIAN I.	532	646	760	950	1064	BETHEL	532	646	760	950	1064
BRISTOL BAY	532	646	760	950	1064	DILLINGHAM	532	646	760	950	1064
HAINES	532	646	760	950	1064	JUNEAU	532	646	760	950	1064
KENAI-PENIN	438	532	626	783	877	KETCH-GATEWY	532	646	760	950	1064
KOBUK	532	646	760	950	1064	KODIAK ISLND	532	646	760	950	1064
MATANUSKA-SU	438	532	626	783	877	NOME	532	646	760	950	1064
NORTH SLOPE	532	646	760	950	1064	P.WLS-O.KTCH	532	646	760	950	1064
SITKA	532	646	760	950	1064	SKGWY-YKT-AN	532	646	760	950	1064
SE FAIRBANKS	438	532	626	783	877	VALDEZ-CORDO	438	532	626	783	877
WADE HAMPTON	532	646	760	950	1064	WRNGLL-PTRSB	532	646	760	950	1064
YKN-KOYKK	532	646	760	950	1064						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

STATE: ARIZONA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PHOENIX, AZ MSA	345	415	490	615	685
COUNTY(IES): MARICOPA					
TUCSON, AZ MSA	327	398	468	585	656
COUNTY(IES): PIMA					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
APACHE	238	290	342	427	478	COCHISE	244	296	348	435	488
COCONINO	303	368	433	541	606	GILA	246	299	352	440	492
GRAHAM	244	296	348	435	488	GREENLEE	244	296	348	435	488
MOHAVE	308	374	440	550	616	NAUAJO	238	290	342	427	478
PINAL	246	299	352	440	492	SANTA CRUZ	244	296	348	435	488
YAVAPAI	303	368	433	541	606	YUMA	308	374	440	550	616

STATE: ARKANSAS	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
FAYETTEVILLE-SPRINGDALE, AR MSA	238	289	340	425	476
COUNTY(IES): WASHINGTON					
FORT SMITH, AR-OK MSA	231	281	331	414	463
COUNTY(IES): CRAWFORD, SEBASTIAN					
LITTLE ROCK-NORTH LITTLE ROCK, AR MSA	278	334	393	491	550
COUNTY(IES): FAULKNER, LONOKE, PULASKI, SALINE					
MEMPHIS, TN-AR-MS MSA	245	300	358	448	498
COUNTY(IES): CRITTENDEN					
PINE BLUFF, AR MSA	229	278	328	410	459
COUNTY(IES): JEFFERSON					
TEXARKANA, TX-TEXARKANA, AR MSA	227	276	326	406	455
COUNTY(IES): MILLER					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ASHLEY	185	224	264	330	370	BAXTER	220	268	315	394	441
BENTON	220	276	322	398	441	BOONE	220	268	315	394	441
BRADLEY	185	224	264	330	370	CALHOUN	186	229	267	334	372
CARROLL	220	268	315	394	441	CHICOT	185	224	264	330	370
CLARK	203	247	290	363	407	CLAY	208	251	295	369	413
CLEBURNE	216	263	309	386	433	COLUMBIA	186	229	267	334	372
CONWAY	190	231	272	340	380	CROSS	195	238	281	347	388
DALLAS	186	229	267	334	372	DESHA	185	224	264	330	370
DREW	186	224	264	330	370	FULTON	216	263	309	386	433
GARLAND	203	247	290	363	407	GREENE	208	251	295	369	413
HEMPSTEAD	189	229	270	338	378	HOTSPRING	203	247	290	363	407
HOWARD	189	229	270	338	378	INDEPENDENCE	216	263	309	386	433
IZARD	216	263	309	386	433	JACKSON	216	263	309	386	433
JOHNSON	190	231	272	340	380	LAFAYETTE	189	229	270	338	378
LAWRENCE	208	251	295	369	413	LEE	195	238	281	347	388
LINCOLN	185	224	264	330	370	LITTLE RIVER	189	229	270	338	378
MADISON	220	268	315	394	441	MARION	220	268	315	394	441
MISSISSIPPI	224	272	320	400	448	MONTGOMERY	203	247	290	363	407
NEVADA	189	229	270	338	378	NEWTON	220	268	315	394	441
OUACHITA	188	226	265	332	372	PERRY	190	231	272	340	380
PHILLIPS	195	238	281	347	388	PIKE	203	247	290	363	407
POINSETT	208	251	295	369	413	POPE	190	231	272	340	380
RANDOLPH	208	251	295	369	413	ST FRANCIS	195	238	281	347	388
SEARCY	220	268	315	394	441	SEVIER	189	229	270	338	378
SHARP	216	263	309	386	433	STONE	216	263	309	386	433
UNION	186	229	267	334	372	VAN BUREN	216	263	309	386	433
WHITE	216	263	309	386	433	WOODRUFF	216	263	309	386	433
YELL	190	231	272	340	380						

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 18 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.18 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

STATE: CALIFORNIA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BAKERSFIELD, CA MSA					
COUNTY(IES): KERN	331	402	473	591	662
CHICO, CA MSA					
COUNTY(IES): BUTTE	290	353	415	518	581
FRESNO, CA MSA					
COUNTY(IES): FRESNO	302	367	432	540	605
MODESTO, CA MSA					
COUNTY(IES): STANISLAUS	318	386	455	569	637
REDDING, CA MSA					
COUNTY(IES): SHASTA	302	367	432	540	605
SALINAS-SEASIDE-MONTEREY, CA MSA					
COUNTY(IES): MONTEREY	362	440	517	647	725
SANTA BARBARA-SANTA MARIA-LOMPOC, CA MSA					
COUNTY(IES): SANTA BARBAR	409	497	585	732	819
SANTA CRUZ, CA PMSA					
COUNTY(IES): SANTA CRUZ	443	538	633	791	887
SANTA ROSA-PETALUMA, CA PMSA					
COUNTY(IES): SONOMA	390	473	557	696	780

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALPINE	331	402	473	591	662
CALAVERAS	331	402	473	591	662
DEL NORTE	302	367	432	540	605
HUMBOLDT	311	378	445	556	623
KINGS	273	332	390	488	547
LASSEN	277	336	395	494	554
MARIPOSA	331	402	473	591	662
MONO	331	402	473	591	662
SISKIYOU	277	336	396	494	554
TRINITY	302	367	432	540	605
AMADOR	331	402	473	591	662
COLUSA	281	306	359	449	503
GLENN	281	306	359	449	503
INYO	331	402	473	591	662
LAKE	302	367	432	540	605
MADERA	273	332	390	490	547
MODOC	277	336	396	494	554
SAN LUIS OBI	376	455	536	670	750
TEHAMA	277	336	396	494	554
TUOLUMNE	331	402	473	591	662

STATE: COLORADO	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLORADO SPRINGS, CO MSA					
COUNTY(IES): EL PASO	272	330	389	486	544
FORT COLLINS-LOVELAND, CO MSA					
COUNTY(IES): LARIMER	313	380	447	559	626
GREELEY, CO MSA					
COUNTY(IES): WELD	271	329	387	484	542
PUEBLO, CO MSA					
COUNTY(IES): PUEBLO	270	327	385	482	540

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALAMOSA	270	327	385	482	540
BACA	236	284	330	413	463
CHAFFEE	299	363	427	534	598
CLEAR CREEK	299	363	427	534	598
COSTILLA	270	327	385	482	540
CUSTER	299	363	427	534	598
DELORES	270	327	385	482	540
ELBERT	231	281	330	413	463
GARFIELD	339	412	488	606	679
GRAND	386	432	508	635	712
HINSDALE	386	432	508	635	712
JACKSON	386	432	508	635	712
KIT CARSON	231	281	330	413	463
LAS ANIMAS	270	327	385	482	540
LOGAN	231	281	330	413	463
MINERAL	270	327	385	482	540
MONTEZUMA	270	327	385	482	540
MORGAN	231	281	330	413	463
OURAY	386	432	508	635	712
PHILLIPS	231	281	330	413	463
RIO BLANCO	339	412	488	606	679
ROUTT	386	432	508	635	712
SAN JUAN	270	327	385	482	540
SEDGWICK	231	281	330	413	463
TELLER	299	363	427	534	598
YUMA	231	281	330	413	463
ARCHULETA	270	327	385	482	540
BENT	236	284	330	413	463
CHEYENNE	231	281	330	482	540
CONEJOS	270	327	385	413	463
CROWLEY	236	284	330	635	712
DELTA	356	432	508	635	712
EAGLE	356	432	508	635	712
FREMONT	299	363	427	534	598
GILPIN	299	363	427	635	712
GUNNISON	386	432	508	482	540
HUERFANO	270	327	385	413	463
KIOWA	236	284	330	534	598
LAKE	299	363	427	413	463
LINCOLN	236	284	330	606	679
MESA	339	412	488	606	679
MOFFAT	339	412	488	635	712
MONTROSE	356	432	508	413	463
OTERO	236	284	330	534	598
PARK	299	363	427	635	712
PITKIN	356	432	508	482	540
RIO GRANDE	270	327	385	482	540
SAGUACHE	270	327	385	635	712
SAN MIGUEL	356	432	508	635	712
SUMMIT	356	432	508	413	463
WASHINGTON	231	281	330		

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

STATE: CONNECTICUT	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DANBURY, CT PMSA COUNTY: FAIRFIELD TOWNS OF BETHEL, BROOKFIELD, DANBURY, NEW FAIRFIEL, NEWTOWN, REDDING, RIDGEFIELD, SHERMAN COUNTY: LITCHFIELD TOWNS OF BRIDGEWATER, NEW MILFORD	386	469	552	690	773
HARTFORD, CT PMSA COUNTY: HARTFORD TOWNS OF AVON, BLOOMFIELD, CANTON, EAST GRANBY, EAST HARTFOR, EAST WINDSOR, ENFIELD, FARMINGTON GLASTONBURY, GRANBY, HARTFORD, MANCHESTER, MARLBOROUGH, NEWINGTON, ROCKY HILL, SIMSBURY, SOUTH WINDSO SUFFIELD, WEST HARTFOR, WETHERSFIELD, WINDSOR, WINDSOR LOCK COUNTY: LITCHFIELD TOWNS OF BARKHAMSTED, NEW HARTFORD COUNTY: MIDDLESEX TOWNS OF EAST HADDAM COUNTY: NEW LONDON TOWNS OF COLCHESTER COUNTY: TOLLAND TOWNS OF ANDOVER, BOLTON, COLUMBIA, COVENTRY, ELLINGTON, HEBRON, SOMERS, STAFFORD, TOLLAND, VERNON WILLINGTON	365	445	520	665	730
MIDDLETOWN, CT PMSA COUNTY: MIDDLESEX TOWNS OF CROMWELL, DURHAM, EAST HAMPTON, HADDAM, MIDDLEFIELD, MIDDLETOWN, PORTLAND	308	374	440	551	617
NEW HAVEN-MERIDEN, CT MSA COUNTY: MIDDLESEX TOWNS OF CLINTON, KILLINGWORTH COUNTY: NEW HAVEN TOWNS OF BETHANY, BRANFORD, CHESHIRE, EAST HAVEN, GUILFORD, HAMDEN, MADISON, MERIDEN, NEW HAVEN NORTH BRANFO, NORTH HAVEN, ORANGE, WALLINGFORD, WEST HAVEN, WOODBRIDGE	336	408	481	601	673
NORWALK, CT PMSA COUNTY: FAIRFIELD TOWNS OF NORWALK, WESTON, WESTPORT, WILTON	410	499	587	733	821
STAMFORD, CT PMSA COUNTY: FAIRFIELD TOWNS OF DARIEN, GREENWICH, NEW CANAAN, STAMFORD	429	522	614	767	859

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HARTFORD COUNTY TOWNS OF HARTLAND	304	369	434	543	608
LITCHFIELD COUNTY TOWNS OF CANAAN, COLEBROOK, CORNWALL, GOSHEN HARWINTON, KENT, LITCHFIELD, MORRIS, NORFOLK, NORTH CANAAN, ROXBURY, SALISBURY, SHARON, TORRINGTON, WARREN WASHINGTON, WINCHESTER	304	369	434	543	608
NEW LONDON COUNTY TOWNS OF LEBANON, LYME, VOLUNTOWN	270	328	386	483	541

STATE: FLORIDA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BRADENTON, FL MSA COUNTY(IES): MANATEE	317	385	454	567	635
DAYTONA BEACH, FL MSA COUNTY(IES): VOLUSIA	307	372	438	548	614
FORT MYERS-CAPE CORAL, FL MSA COUNTY(IES): LEE	326	396	466	583	653
FORT PIERCE, FL MSA COUNTY(IES): MARTIN, ST LUCIE	326	396	466	583	653
GAINESVILLE, FL MSA COUNTY(IES): ALACHUA, BRADFORD	276	336	396	494	553
JACKSONVILLE, FL MSA COUNTY(IES): CLAY, DUVAL, NASSAU, ST JOHNS	289	351	413	517	579
MELBOURNE-TITUSVILLE-PALM BAY, FL MSA COUNTY(IES): BREVARD	299	366	421	527	590
MIAMI-HIALEAH, FL PMSA COUNTY(IES): DADE	372	445	520	655	730
NAPLES, FL MSA COUNTY(IES): COLLIER	335	406	478	598	670
PANAMA CITY, FL MSA COUNTY(IES): BAY	232	282	332	415	464
SARASOTA, FL MSA COUNTY(IES): SARASOTA	343	417	491	613	687
TALLAHASSEE, FL MSA COUNTY(IES): GADSDEN, LEON	272	330	389	486	544

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHARLOTTE	316	383	451	563	631	CITRUS	241	292	344	430	482
COLUMBIA	194	236	278	347	389	DE SOTO	227	275	324	405	454
FLAGLER	243	295	347	434	486	GILCHRIST	194	236	278	347	389
GLADES	316	383	451	563	631	HARDEE	227	275	324	405	454
HENDRY	316	383	451	563	631	HIGHLANDS	227	275	324	405	454
HOLMES	178	216	254	318	356	INDIAN RIVER	326	396	466	583	653
LAKE	254	308	362	453	508	LEVY	241	294	344	430	482
OKEECHOBEE	227	275	324	405	454	PUTNAM	243	295	347	434	486
SUMTER	241	292	344	430	482	WASHINGTON	178	216	254	318	356

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

S T A T E: GEORGIA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALBANY, GA MSA COUNTY(IES): DOUGHERTY, LEE	241	292	344	430	482
AUGUSTA, GA-SC MSA COUNTY(IES): COLUMBIA, MCDUFFIE, RICHMOND	254	305	367	446	499
CHATTANOOGA, TN-GA MSA COUNTY(IES): CATOOSA, DADE, WALKER	270	328	386	483	541
SAVANNAH, GA MSA COUNTY(IES): CHATHAM, EFFINGHAM	254	308	363	454	508

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
APPLING	208	253	298	372	417
BARTON	211	257	302	378	423
BERRIEN	206	250	294	368	412
BROOKS	206	250	294	368	412
BULLOCH	208	253	298	372	417
CAMDEN	230	279	329	411	460
CHARLTON	203	246	287	354	391
CLAY	203	247	287	359	402
COOK	206	250	294	368	412
DECATUR	203	247	287	359	402
DOOLY	203	247	287	359	402
ECHOLS	206	250	294	368	412
FANNIN	226	274	322	403	452
GORDON	211	257	302	378	423
HANCOCK	203	247	287	359	397
HARRIS	206	250	290	360	402
IRWIN	206	250	294	368	412
JEFF DAVIS	206	253	298	372	417
LANIER	206	250	294	368	412
LONG	230	279	329	411	460
MACON	203	247	287	359	402
MERIWETHER	223	271	319	399	447
MITCHELL	203	247	287	359	402
MURRAY	226	274	322	403	452
POLK	211	259	302	378	423
PUTNAM	203	247	287	359	397
RANDOLPH	203	247	287	359	402
SCREVEN	208	251	294	362	402
STEWART	206	250	290	360	402
TAYLOR	203	247	287	359	402
TERRELL	203	247	287	359	402
TOWNS	190	234	272	338	375
TROUP	226	275	323	402	448
UNION	190	234	272	338	375
WAYNE	208	253	298	372	417
WHEELER	203	247	287	359	397
WHITFIELD	226	274	322	403	452
WILKINSON	203	247	287	359	397
BAKER	203	247	287	359	402
BEN HILL	206	250	294	368	412
BLECKLEY	203	247	287	359	397
BRYAN	240	278	329	411	460
CALHOUN	203	247	287	359	402
CANDLER	208	253	298	372	417
CHATTOOGA	211	257	302	378	423
CLINCH	195	237	279	348	391
DAWSON	180	234	272	338	378
DODGE	203	247	287	359	397
EARLY	203	247	287	359	402
EVANS	208	253	298	372	417
GILMER	226	274	322	403	452
GRADY	203	247	287	359	402
HARALSON	211	257	302	378	423
HEARD	223	271	319	399	447
JASPER	203	247	287	359	397
JOHNSON	203	247	287	359	397
LIBERTY	230	279	329	411	460
LUMPKIN	190	234	272	338	375
MARION	208	250	290	362	402
MILLER	203	247	287	359	402
MONTGOMERY	208	251	294	362	402
PICKENS	226	274	322	403	452
PULASKI	203	247	287	359	397
RABUN	190	234	272	338	378
SCHLEY	206	250	290	360	402
SEMINOLE	203	247	287	359	402
TATTNALL	208	253	298	372	417
TELFAIR	203	247	287	359	397
TOOMBS	208	253	298	372	417
TREUTLEN	203	247	287	359	397
TURNER	206	250	294	368	412
WASHINGTON	203	247	287	359	397
WEBSTER	206	250	290	360	402
WHITE	190	234	272	338	378
WILCOX	203	247	287	359	397
WORTH	203	247	287	359	402

S T A T E: HAWAII

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HONOLULU, HI MSA COUNTY(IES): HONOLULU	398	480	565	710	795

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HAWAII	380	461	542	678	760
MAUI	380	461	542	678	760
KAUAI	380	461	542	678	760

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

S T A T E: IDAHO

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOISE CITY, ID MSA	317	388	463	566	634
COUNTY(IES): ADA					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	247	300	353	441	494
BENEWAH	256	311	366	458	513
BLAINE	262	318	375	468	525
BONNER	256	311	366	458	513
BOUNDARY	256	311	366	458	513
CAMAS	262	318	375	468	525
CASSIA	262	318	375	468	525
CLEARWATER	256	311	366	458	513
ELMORE	247	300	353	441	494
FREMONT	276	335	395	493	553
GOODING	262	318	375	468	525
JEFFERSON	276	335	395	493	553
KOOTENAI	256	311	366	458	513
LEMHI	276	335	395	493	553
LINCOLN	262	318	375	468	525
MINIDOKA	262	318	375	468	525
ONEIDA	256	311	366	458	513
POWER	258	314	368	458	513
TETON	276	335	395	493	553
VALLEY	247	300	353	441	494

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BEAR LAKE	256	311	366	458	513
BINGHAM	256	314	368	458	513
BOISE	247	300	353	441	494
BONNEVILLE	276	335	395	493	553
BUTTE	276	335	395	493	553
CARIBOU	258	314	368	458	513
CLARK	276	335	395	493	553
CUSTER	276	335	395	493	553
FRANKLIN	256	311	366	458	513
GEM	247	300	353	441	494
IDAHO	256	311	366	458	513
JEROME	262	318	375	468	525
LATAH	256	311	366	458	513
LEWIS	256	311	366	458	513
MADISON	276	335	395	493	553
NEZ PERCE	256	311	366	458	513
OWYHEE	247	300	353	441	494
SHOSHONE	256	311	366	458	513
TWIN FALLS	262	318	375	468	525

S T A T E: ILLINOIS

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BLOOMINGTON-NORMAL, IL MSA	278	338	389	498	559
COUNTY(IES): MCLEAN					
CHAMPAIGN-URBANA-RANTOUL, IL MSA	272	330	389	486	544
COUNTY(IES): CHAMPAIGN					
DAVENPORT-ROCK ISLAND-MOLINE, IA-IL MSA	299	363	427	534	598
COUNTY(IES): HENRY, ROCK ISLAND					
DECATUR, IL MSA	272	330	389	486	544
COUNTY(IES): MACON					
KANKAKEE, IL MSA	269	326	384	480	538
COUNTY(IES): KANKAKEE					
PEORIA, IL MSA	314	382	449	562	629
COUNTY(IES): PEORIA, TAZEWELL, WOODFORD					
ROCKFORD, IL MSA	285	347	408	510	571
COUNTY(IES): BOONE, WINNEBAGO					
SPRINGFIELD, IL MSA	286	348	409	512	573
COUNTY(IES): MENARD, SANGAMON					

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	213	258	304	380	426
BOND	234	285	336	419	469
BUREAU	259	315	371	464	519
CARROLL	241	292	344	430	482
CHRISTIAN	248	299	351	439	492
CLAY	220	267	314	393	440
CRAWFORD	220	267	314	393	440
DE KALB	280	340	400	501	561
DOUGLAS	234	285	335	419	469
EDWARDS	213	258	304	380	426
FAYETTE	220	267	314	393	440
FRANKLIN	249	302	356	445	498
GALLATIN	197	239	282	352	394
HAMILTON	213	258	304	380	426
HARDIN	197	239	282	352	394
IROQUOIS	244	296	348	435	488
JO DAVIESS	241	292	344	430	482
KNOX	252	306	360	451	505
LAWRENCE	220	267	314	393	440
LIVINGSTON	244	296	348	436	488
MCDONOUGH	234	284	332	412	457
MARION	220	267	314	393	440
MASON	244	293	348	427	478
MERCER	228	277	326	408	457
MORGAN	244	293	348	427	478
OGLE	241	292	344	430	482
PIATT	234	285	335	419	469
POPE	197	239	282	352	394
PUTNAM	259	315	371	464	519

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALEXANDER	197	239	282	352	394
BROWN	213	258	304	380	426
CALHOUN	238	289	340	425	476
CASS	244	293	346	427	479
CLARK	234	285	335	419	469
COLES	234	285	335	419	469
CUMBERLAND	234	285	335	419	469
DE WITT	234	285	335	419	469
EDGAR	234	285	335	419	469
EFFINGHAM	220	267	314	393	440
FORD	244	296	348	435	488
FULTON	259	315	371	464	519
GREENE	238	289	340	425	476
HANCOCK	228	277	326	408	457
HENDERSON	228	277	326	408	457
JASPER	220	267	314	393	440
JOHNSON	197	239	282	352	394
LA SALLE	294	357	420	525	588
LEE	294	357	420	525	588
LOGAN	244	293	346	427	478
MACOUPIN	246	299	351	439	492
MARSHALL	259	315	371	464	519
MASSAC	197	239	282	352	394
MONTGOMERY	248	299	351	439	492
MOULTRIE	248	299	351	439	492
PERRY	234	285	335	419	469
PIKE	213	259	304	380	426
PULASKI	197	239	282	352	394
RANDOLPH	234	288	335	419	469

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

STATE: ILLINOIS

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHLAND	220	287	314	393	440
SCHUYLER	213	258	304	380	426
SHELBY	240	299	351	439	492
STEPHENSON	241	292	344	430	482
VERMILION	244	296	348	436	488
WARREN	234	284	332	413	457
WAYNE	213	258	304	380	426
WHITESIDE	294	357	420	525	588
SALINE	197	239	282	352	394
SCOTT	244	293	345	427	476
STARK	259	315	371	464	519
UNION	197	239	282	352	394
WABASH	213	258	304	380	426
WASHINGTON	234	285	335	419	469
WHITE	213	258	304	380	426
WILLIAMSON	249	302	356	445	498

STATE: INDIANA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANDERSON, IN MSA COUNTY(IES): MADISON	238	286	336	420	471
BLOOMINGTON, IN MSA COUNTY(IES): MONROE	254	308	363	454	508
ELKHART-GOSHEN, IN MSA COUNTY(IES): ELKHART	248	301	354	443	496
EVANSVILLE, IN-KY MSA COUNTY(IES): POSEY, VANDERBURGH, WARRICK	261	310	364	456	510
FORT WAYNE, IN MSA COUNTY(IES): ALLEN, DE KALB, WHITLEY	262	314	367	460	510
GARY-HAMMOND, IN PMSA COUNTY(IES): LAKE, PORTER	293	355	418	521	586
INDIANAPOLIS, IN MSA COUNTY(IES): BOONE, HAMILTON, HANCOCK, HENDRICKS, JOHNSON, MARION, MORGAN, SHELBY	285	310	365	455	510
KOKOMO, IN MSA COUNTY(IES): HOWARD, TIPTON	269	315	370	463	519
LAFAYETTE-WEST LAFAYETTE, IN MSA COUNTY(IES): TIPPECANOE	274	333	391	489	548
LOUISVILLE, KY-IN MSA COUNTY(IES): CLARK, FLOYD, HARRISON	240	291	340	425	475
SOUTH BEND-MISHAWAKA, IN MSA COUNTY(IES): ST JOSEPH	256	309	361	448	498
TERRE HAUTE, IN MSA COUNTY(IES): CLAY, VIGO	232	282	330	408	454

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	231	279	326	407	456
BENTON	221	269	317	396	443
BROWN	261	317	373	467	523
CASS	214	260	306	383	429
DAVIESS	218	281	306	385	431
DUBOIS	191	232	273	342	383
FOUNTAIN	221	269	317	396	443
GIBSON	248	301	354	443	496
GREENE	218	281	308	386	431
HUNTINGTON	228	277	326	407	456
JASPER	231	280	330	413	462
JEFFERSON	248	301	354	443	496
KNOX	221	268	308	385	431
LAGRANGE	237	287	338	422	473
MARSHALL	231	280	330	413	462
MIAMI	214	260	306	383	429
NEWTON	231	280	330	413	462
OHIO	248	301	354	443	496
OWEN	253	307	361	452	506
PERRY	191	232	273	342	383
PULASKI	231	280	330	413	462
RIPLEY	248	301	354	443	496
SPENCER	191	232	273	342	383
STEUBEN	236	287	338	422	473
SWITZERLAND	248	301	354	443	496
VERMILLION	229	277	324	403	446
WARREN	221	269	317	396	443
WAYNE	226	272	319	398	443
WHITE	221	268	317	396	443
BARTHOLOMEW	261	317	373	467	523
BLACKFORD	209	254	299	373	418
CARROLL	221	269	317	396	443
CRAWFORD	191	232	273	342	383
DECATUR	261	317	373	467	523
FAYETTE	225	271	317	398	443
FRANKLIN	225	271	317	396	443
GRANT	209	254	299	373	418
HENRY	209	254	299	373	418
JACKSON	261	317	373	467	523
JAY	209	254	299	373	418
JENNINGS	261	317	373	467	523
KOSCIUSKO	237	286	337	418	462
LA PORTE	261	306	388	448	502
MARTIN	218	261	308	385	431
MONTGOMERY	221	269	317	396	443
NOBLE	236	287	338	422	473
ORANGE	191	232	273	342	383
PARKE	221	269	317	396	443
PIKE	248	301	354	443	496
RANDOLPH	209	254	299	373	418
RUSH	221	269	317	396	443
STARKE	231	280	330	413	462
SULLIVAN	221	269	317	396	443
UNION	225	271	317	398	428
WABASH	214	260	306	383	429
WASHINGTON	256	311	366	458	513
WELLS	233	283	327	409	466

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

S T A T E: IOWA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CEDAR RAPIDS, IA MSA					
COUNTY(IES): LINN	291	353	415	519	582
DAVENPORT-ROCK ISLAND-MOLINE, IA-IL MSA					
COUNTY(IES): SCOTT	299	363	427	534	598
DES MOINES, IA MSA					
COUNTY(IES): DALLAS, POLK, WARREN	290	352	414	518	580
DUBUQUE, IA MSA					
COUNTY(IES): DUBUQUE	269	326	384	480	538
IOWA CITY, IA MSA					
COUNTY(IES): JOHNSON	305	371	436	546	611
OMAHA, NE-IA MSA					
COUNTY(IES): POTTAWATTAMI	265	321	378	473	530
SIOUX CITY, IA-NE MSA					
COUNTY(IES): WOODBURY	262	319	375	469	525
WATERLOO-CEDAR FALLS, IA MSA					
COUNTY(IES): BLACK HAWK, BREMER	292	354	417	521	584

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAIR	221	268	316	395	442
ALLAMAKEE	233	283	333	417	467
BOONE	266	323	380	476	532
BUENA VISTA	229	278	327	409	459
CALHOUN	234	285	335	419	469
CASS	240	291	342	428	480
CERRO GORDO	231	281	330	413	463
CHICKASAW	233	283	333	417	467
CLAY	229	278	327	409	459
CLINTON	260	316	372	465	521
DECATUR	221	268	316	395	442
DES MOINES	246	297	350	437	490
EMMET	229	278	327	409	459
FLOYD	231	281	330	413	463
FREMONT	240	291	342	428	480
GRUNDY	233	283	333	417	467
HAMILTON	234	285	335	419	469
HARDIN	243	295	347	434	488
HENRY	246	297	350	437	490
HUMBOLDT	234	285	335	419	469
JACKSON	260	316	372	465	521
KOSSUTH	231	281	330	413	463
LOUISA	246	297	350	437	490
MADISON	247	300	353	441	494
MARION	247	300	353	441	494
MILLS	240	291	342	428	480
MONONA	234	285	335	419	469
MONTGOMERY	240	291	342	428	480
O BRIEN	229	278	327	409	459
PAGE	240	291	342	428	480
PLYMOUTH	234	285	335	419	469
POWESHIEK	243	295	347	434	488
SAC	234	285	335	419	469
SIOUX	229	278	327	409	459
TAMA	243	295	347	434	488
UNION	221	268	316	395	442
WINNEBAGO	231	281	330	413	463
WORTH	231	281	330	413	463
ADAMS	221	268	316	395	442
AUDUBON	234	285	335	419	469
BUCHANAN	233	283	333	417	467
BUTLER	233	283	333	417	467
CARROLL	234	285	335	419	469
CEDAR	260	316	372	465	521
CHEROKEE	234	285	335	419	469
CLARKE	221	268	316	395	442
CLAYTON	233	283	333	417	467
CRAWFORD	234	285	335	419	469
DELAWARE	260	316	372	465	521
DICKINSON	229	278	327	409	459
FAYETTE	233	283	333	417	467
FRANKLIN	231	281	330	413	463
GREENE	234	285	335	419	469
GUTHRIE	234	285	335	419	469
HANCOCK	231	281	330	413	463
HARRISON	240	291	342	428	480
HOWARD	233	283	333	417	467
IDA	234	285	335	419	469
JASPER	247	300	353	441	494
LEE	248	287	350	437	490
LYON	229	278	327	409	459
MAHASKA	221	268	316	395	442
MARSHALL	243	295	347	434	488
MITCHELL	231	281	330	413	463
MONROE	221	268	316	395	442
MUSCATINE	245	297	350	437	490
OSCEOLA	229	278	327	409	459
PALO ALTO	229	278	327	409	459
POCAHONTAS	234	285	335	419	469
RINGGOLD	221	268	316	395	442
SHELBY	240	291	342	428	480
STORY	266	323	380	476	532
TAYLOR	221	268	316	395	442
WEBSTER	234	285	335	419	469
WINNESHIEK	233	283	333	417	467
WRIGHT	234	285	335	419	469

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART I - FINAL FMRS, NO INTENTS TO COMMENT

S T A T E: KANSAS

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KANSAS CITY, MO-KS MSA COUNTY(IES): JOHNSON, LEAVENWORTH, MIAMI, WYANDOTTE	280	340	400	500	550
LAWRENCE, KS MSA COUNTY(IES): DOUGLAS	292	354	417	521	584
TOPEKA, KS MSA COUNTY(IES): SHAWNEE	265	322	378	473	530
WICHITA, KS MSA COUNTY(IES): BUTLER, SEDGWICK	286	345	410	510	570

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLEN	185	224	264	330	370
ATCHISON	213	258	304	380	426
BARTON	214	260	306	382	428
BROWN	213	258	304	380	426
CHAUTAUQUA	185	224	264	330	370
CHEYENNE	187	227	267	334	374
CLAY	233	284	334	417	467
COFFEY	233	284	334	417	467
COWLEY	185	224	264	330	370
DECATUR	187	227	267	334	374
DONIPHAN	213	258	304	380	426
ELK	185	224	264	330	370
ELLSWORTH	231	281	331	414	463
FORD	220	267	314	393	440
GOVE	187	227	267	334	374
GRANT	220	267	314	393	440
GREELEY	220	267	314	393	440
HAMILTON	220	267	314	393	440
HARVEY	246	299	352	440	492
HODGEMAN	220	267	314	393	440
JEWELL	231	281	331	414	463
KINGMAN	214	260	306	382	428
LABETTE	196	238	280	350	393
LINCOLN	231	281	331	414	463
LOGAN	187	227	267	334	374
MCPHERSON	246	299	352	440	492
MARSHALL	233	284	334	417	467
MITCHELL	231	281	331	414	463
MORRIS	233	284	334	417	467
NEMAHA	213	258	304	380	426
NESS	220	267	314	393	440
OSBORNE	187	227	267	334	374
PAWNEE	214	260	306	382	428
POTTAWATOMIE	233	284	334	417	467
RAWLINS	187	227	267	334	374
REPUBLIC	231	281	331	414	463
RILEY	233	284	334	417	467
RUSH	214	260	306	382	428
SALINE	231	281	331	414	463
SEWARD	220	267	314	393	440
SHERMAN	187	227	267	334	374
STAFFORD	214	260	306	382	428
STEVENS	220	267	314	393	440
THOMAS	187	227	267	334	374
WABAUNSEE	233	284	334	417	467
WASHINGTON	231	281	331	414	463
WILSON	185	224	264	330	370
ANDERSON	185	224	264	330	370
BARBER	214	260	306	382	428
BOURBON	185	224	264	330	370
CHASE	233	284	334	417	467
CHEROKEE	196	238	280	350	393
CLARK	220	267	314	393	440
CLOUD	231	281	331	414	463
COMANCHE	214	260	306	382	428
CRAWFORD	196	238	280	350	393
DICKINSON	233	284	334	417	467
EDWARDS	214	260	306	382	428
ELLIS	187	227	267	334	374
FINNEY	220	267	314	393	440
GEARY	233	284	334	417	467
GRAHAM	187	227	267	334	374
GRAY	220	267	314	393	440
GREENWOOD	233	284	334	417	467
HARPER	214	260	306	382	428
HASKELL	220	267	314	393	440
JACKSON	213	258	304	380	426
KEARNY	220	267	314	393	440
KIOWA	214	260	306	382	428
LANE	220	267	314	393	440
LINN	185	224	264	330	370
LYON	233	284	334	417	467
MARION	233	284	334	417	467
MEADE	220	267	314	393	440
MONTGOMERY	196	238	280	350	393
MORTON	220	267	314	393	440
NEOSHO	196	238	280	350	393
NORTON	187	227	267	334	374
OTTAWA	231	281	331	414	463
PHILLIPS	187	227	267	334	374
PRATT	214	260	306	382	428
RENO	246	299	352	440	492
RICE	246	299	352	440	492
ROOKS	187	227	267	334	374
RUSSELL	187	227	267	334	374
SCOTT	220	267	314	393	440
SHERIDAN	187	227	267	334	374
SMITH	187	227	267	334	374
STANTON	220	267	314	393	440
SUMNER	214	260	306	382	428
TREGO	187	227	267	334	374
WALLACE	187	227	267	334	374
WICHITA	220	267	314	393	440
WOODSON	185	224	264	330	370

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT
S T A T E: KENTUCKY

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
EVANSVILLE, IN-KY MSA COUNTY(IES): HENDERSON	262	310	364	456	510
HUNTINGTON-ASHLAND, WV-KY-OH MSA COUNTY(IES): BOYD, CARTER, GREENUP	266	323	380	475	533
LEXINGTON-FAYETTE, KY MSA COUNTY(IES): BOURBON, CLARK, FAYETTE, JESSAMINE, SCOTT, WOODFORD	280	340	400	501	561
LOUISVILLE, KY-IN MSA COUNTY(IES): BULLITT, JEFFERSON, OLDHAM, SHELBY	240	291	340	425	476
OWENSBORO, KY MSA COUNTY(IES): DAVIESS	258	314	369	462	517

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAIR	206	251	293	361	404
ANDERSON	257	313	368	460	515
BARREN	174	211	248	310	348
BELL	224	272	320	400	448
BRACKEN	206	250	295	369	413
BRECKINRIDGE	203	247	290	363	406
CALDWELL	221	269	317	396	443
CARLISLE	211	256	301	376	422
CLAY	190	231	271	339	380
CRITTENDON	231	269	317	396	443
EDMONSON	174	211	248	310	348
FLEMING	206	250	295	369	413
FRANKLIN	257	313	368	460	515
GARRARD	250	303	357	446	500
GRAYSON	203	247	290	363	406
HARDIN	230	280	329	411	461
HART	174	211	248	310	348
HOPKINS	221	269	317	396	443
JOHNSON	225	273	321	402	450
LARUE	203	247	290	363	406
LEE	212	257	303	378	424
LETCHER	212	257	303	378	424
LINCOLN	250	303	357	446	500
MCCRACKEN	221	268	308	376	422
MADISON	250	303	360	446	500
MARION	203	247	290	363	406
MARTIN	225	273	321	402	450
MEADE	230	280	329	411	461
MERCER	257	313	368	460	515
MONROE	174	211	248	310	348
MORGAN	206	251	295	369	413
NELSON	203	247	290	363	406
PERRY	212	257	303	378	424
PULASKI	206	251	293	361	404
ROCKCASTLE	190	231	271	339	380
RUSSELL	203	246	289	361	404
TAYLOR	206	251	293	361	404
WASHINGTON	203	247	290	363	406
WHITLEY	224	272	320	400	448
ALLEN	174	211	248	310	348
BALLARD	211	256	301	376	422
BATH	206	250	295	369	413
BOYLE	250	303	357	446	500
BREATHITT	212	257	303	378	424
BUTLER	174	211	248	310	348
CALLOWAY	211	256	301	376	422
CASEY	202	246	289	361	404
CLINTON	206	251	293	361	404
CUMBERLAND	206	251	293	361	404
ESTILL	250	303	357	446	500
FLOYD	225	273	321	402	450
FULTON	211	256	301	376	422
GRAVES	211	256	301	376	422
GREEN	206	251	293	361	404
HARLAN	224	272	320	400	448
HICKMAN	211	256	301	375	422
JACKSON	190	231	271	339	380
KNOTT	212	257	303	378	424
LAUREL	190	231	271	339	380
LESLIE	212	257	303	378	424
LEWIS	206	250	295	368	413
LOGAN	222	270	318	398	446
MCCREARY	206	251	293	361	404
MAGOFFIN	225	273	321	402	450
MARSHALL	221	268	308	376	422
MASON	206	250	295	369	413
MENIFEE	206	251	295	369	413
METCALFE	174	211	248	310	348
MONTGOMERY	206	250	295	368	413
MUHLENBERG	221	269	317	396	443
OWSLEY	212	257	303	378	424
PIKE	225	273	321	402	450
ROBERTSON	206	250	295	369	413
ROWAN	206	250	295	369	413
SIMPSON	222	270	318	398	446
WARREN	222	270	318	398	446
WAYNE	206	251	293	361	404
WOLFE	212	257	303	378	424

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

STATE: LOUISIANA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALEXANDRIA, LA MSA					
COUNTY(IES): RAPIDES	236	285	336	470	470
BATON ROUGE, LA MSA					
COUNTY(IES): ASCENSION, E BATON ROUG, LIVINGSTON, W BATON ROUG	295	358	421	526	590
HOUMA-THIBODAUX, LA MSA					
COUNTY(IES): LAFOURCHE, TERREBONNE	281	317	373	466	522
LAFAYETTE, LA MSA					
COUNTY(IES): LAFAYETTE, ST MARTIN	295	358	421	526	590
LAKE CHARLES, LA MSA					
COUNTY(IES): CALCASIEU	238	286	334	416	466
MONROE, LA MSA					
COUNTY(IES): OUACHITA	234	284	334	418	468
NEW ORLEANS, LA MSA					
COUNTY(IES): JEFFERSON, ORLEANS, ST BERNARD, ST CHARLES, ST JOHN THE, ST TAMMANY	325	395	465	580	650
SHREVEPORT, LA MSA					
COUNTY(IES): BOSSIER, CADDO	266	323	381	476	533

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ACADIA	203	247	289	362	405
BIENVILLE	209	254	299	373	418
CLAIBORNE	209	254	299	373	418
DE SOTO	209	254	299	373	418
IBERIA	238	291	342	428	479
LINCOLN	209	254	299	373	418
RED RIVER	209	254	299	373	418
ST MARY	238	291	342	428	479
WINN	200	243	286	358	401
AVOYELLES	200	243	286	358	401
CATAHOULA	200	243	286	358	401
CONCORDIA	200	243	286	358	401
GRANT	200	243	286	358	401
LA SALLE	200	243	286	358	401
NATCHITOCHES	209	254	299	373	418
SABINE	209	254	299	373	418
VERMILION	203	247	289	362	406

STATE: MARYLAND

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DORCHESTER	265	322	379	474	531
WORCESTER	267	326	379	474	531
SOMERSET	265	322	379	474	531

STATE: MICHIGAN

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BENTON HARBOR, MI MSA					
COUNTY(IES): BERRIEN	271	329	387	484	542
MUSKEGON, MI MSA					
COUNTY(IES): MUSKEGON	238	290	341	426	477
SAGINAW-BAY CITY-MIDLAND, MI MSA					
COUNTY(IES): BAY, MIDLAND, SAGINAW	265	320	378	470	526

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALGONA	213	259	306	382	427
ANTRIM	266	323	380	475	532
BARAGA	218	264	311	389	436
BENZIE	266	323	380	475	532
CASS	242	293	345	432	484
CHEBOYGAN	213	259	306	382	427
GRATIOT	267	324	381	477	534
ISABELLA	267	324	381	477	534
KEWEENAW	218	264	311	389	436
LEELANAU	266	323	380	475	532
MANISTEE	266	323	380	475	532
MASON	245	297	350	437	490
MENOMINEE	238	323	380	475	532
MONTCALM	247	300	353	441	494
NEWAYGO	245	297	350	437	490
OGEMAW	234	286	338	419	469
OSCODA	213	259	306	382	427
ST JOSEPH	249	302	356	445	498
SCHOOLCRAFT	219	266	301	376	421
VAN BUREN	242	293	345	432	484
ALLEGAN	247	300	353	441	494
ARENAC	234	286	336	419	468
BARRY	249	302	356	445	498
BRANCH	249	302	356	445	498
CHARLEVOIX	266	323	380	475	532
EMMET	266	323	380	475	532
HURON	240	291	342	428	480
KALKASKA	266	323	380	475	532
LAKE	245	297	350	437	490
LENAWEE	265	321	378	473	530
MARQUETTE	266	323	380	475	532
MECOSTA	245	297	350	437	490
MISSAUKEE	266	323	380	475	532
MONTMORENCY	213	259	306	382	427
OCEANA	257	288	339	424	475
OSCEOLA	245	297	350	437	490
PRESQUE ISLE	213	259	306	382	427
SANILAC	240	291	342	428	480
TUSCOLA	240	291	342	428	480
WEXFORD	266	323	380	475	532

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

STATE: MINNESOTA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DULUTH, MN-WI MSA COUNTY(IES): ST LOUIS	270	322	378	474	531
FARGO-MOORHEAD, ND-MN MSA COUNTY(IES): CLAY	272	331	388	487	545
ROCHESTER, MN MSA COUNTY(IES): OLMSTED	286	347	409	511	572
ST. CLOUD, MN MSA COUNTY(IES): BENTON, SHERBURNE, STEARNS	273	331	389	487	545

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
AITKIN	245	298	351	439	491	BECKER	244	297	349	437	489
BELTRAMI	235	286	336	420	471	BIG STONE	218	265	312	391	437
BROWN	232	282	332	415	464	CARLTON	247	300	351	439	491
CASS	230	279	329	411	460	CHIPPEWA	218	265	312	391	437
CLEARWATER	235	286	336	420	471	COOK	245	298	351	439	491
COTTONWOOD	218	265	312	391	437	DOUGLAS	244	297	349	437	489
FILLMORE	226	274	323	404	452	FREEBORN	266	323	381	476	533
GRANT	244	297	349	437	489	HOUSTON	228	274	323	404	452
HUBBARD	235	286	336	420	471	ITASCA	247	300	351	439	491
JACKSON	225	271	317	394	438	KANABEC	245	298	351	439	491
KANDIYOHI	257	312	367	459	514	KITTSON	235	286	336	420	471
KOOCHICHING	245	298	351	439	491	LAC QUI PARL	218	265	312	391	437
LAKE	245	298	351	439	491	LAKE OF WOOD	235	286	336	420	471
LE SUEUR	266	310	364	455	510	LINCOLN	225	271	317	394	438
LYON	226	271	317	394	438	MCLEOD	257	312	367	459	514
MAHNOMEN	235	286	336	420	471	MARSHALL	235	286	336	420	471
MARTIN	232	282	332	415	464	MEEKER	257	312	367	459	514
MILLE LACS	245	298	351	439	491	MORRISON	230	279	329	411	460
MOWER	226	274	323	404	452	MURRAY	225	271	317	394	438
NICOLLET	266	310	364	455	510	NOBLES	226	271	317	394	438
NORMAN	235	286	336	420	471	OTTER TAIL	244	297	349	437	489
PENNINGTON	235	286	336	420	471	PINE	245	298	351	439	491
PIPESTONE	226	271	317	394	438	POPE	244	297	349	437	489
RED LAKE	235	286	336	420	471	REDWOOD	218	265	312	391	437
RENVILLE	257	312	367	459	514	RICE	266	323	381	476	533
ROCK	226	271	317	394	438	ROSEAU	235	286	336	420	471
SIBLEY	266	310	364	455	510	STEELE	266	323	381	476	533
STEVENS	244	297	349	437	489	SWIFT	218	265	312	391	437
TODD	230	279	329	411	460	TRAVERSE	244	297	349	437	489
WADENA	230	279	329	411	460	WASECA	232	282	332	415	464
WATONWAN	232	282	332	415	464	WILKIN	244	297	349	437	489
WINONA	227	274	323	404	452	YELLOW MEDIC	218	265	312	391	437

STATE: MISSISSIPPI	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSON, MS MSA COUNTY(IES): HINDS, MADISON, RANKIN	298	362	426	533	597
MEMPHIS, TN-AR-MS MSA COUNTY(IES): DE SOTO	246	300	355	440	496

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
AMITE	171	207	244	305	342	ATTALA	172	209	245	307	344
BENTON	192	234	276	344	385	BOLIVAR	188	240	283	354	396
CALHOUN	226	273	322	402	454	CARROLL	172	209	245	307	344
CHICKASAW	232	273	322	405	451	CHOCTAW	222	258	303	379	425
CLAIBORNE	171	207	244	305	342	CLARKE	223	270	318	395	442
CLAY	222	258	303	379	425	COAHOMA	207	251	295	369	414
FORREST	223	271	319	398	446	FRANKLIN	171	207	244	305	342
GRENADA	172	209	245	307	344	HOLMES	172	209	245	307	344
HUMPHREYS	198	240	283	354	398	ISSAQUENA	188	240	283	354	396
ITAWAMBA	211	256	302	377	422	JASPER	223	270	318	395	442
JEFFERSON	171	207	244	305	342	JEFFERSON DA	174	211	249	311	348
KEMPER	223	270	318	395	442	LAFAYETTE	228	273	322	402	451
LAMAR	223	271	319	398	446	LAUDERDALE	221	268	316	395	442
LAWRENCE	171	207	244	305	342	LEAKE	190	231	272	340	381
LINCOLN	171	207	244	305	342	MARION	223	271	319	398	446
MARSHALL	192	234	276	344	385	MONROE	211	256	302	377	422
MONTGOMERY	172	209	245	307	344	NESHOBA	190	231	272	340	381
NEWTON	190	231	272	340	381	NOXUBEE	212	258	303	379	425
PANOLA	207	251	295	369	414	PONTOTOC	232	273	322	405	451
PRENTISS	192	234	276	344	385	QUITMAN	207	251	295	369	414
SCOTT	190	231	272	340	381	SHARKEY	188	240	283	354	396
SMITH	190	231	272	340	381	SUNFLOWER	188	240	283	354	396
TALLAHATCHIE	207	251	295	369	414	TATE	207	251	295	369	414

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 16 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.16 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT
STATE: MISSISSIPPI

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
TIPPAH	192	234	278	344	388
TUNICA	207	251	295	369	414
WALTHALL	171	207	244	305	342
WASHINGTON	188	240	283	354	396
WILKINSON	171	207	244	305	342
YALOBUSHA	172	209	245	307	344
TISHOMIGO	192	234	276	344	388
UNION	232	273	322	405	451
WARREN	251	305	359	449	503
WEBSTER	222	258	303	378	425
WINSTON	222	258	303	378	425
YAZOO	251	305	359	449	503

STATE: MISSOURI

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COLUMBIA, MO MSA COUNTY(IES): BOONE	267	324	382	477	535
JOPLIN, MO MSA COUNTY(IES): JASPER, NEWTON	206	251	295	369	413
KANSAS CITY, MO-KS MSA COUNTY(IES): CASS, CLAY, JACKSON, LAFAYETTE, PLATTE, RAY	280	340	400	500	560
ST. JOSEPH, MO MSA COUNTY(IES): BUCHANEN	219	266	313	391	438
SPRINGFIELD, MO MSA COUNTY(IES): CHRISTIAN, GREENE	229	279	328	410	459

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANDREW	219	266	313	391	438
AUDRAIN	232	281	331	414	464
BARTON	188	228	268	335	376
BENTON	188	228	268	335	376
BUTLER	182	221	260	329	368
CALLAWAY	232	281	331	414	464
CAPE GIRARDE	221	269	316	395	443
CARTER	182	222	264	329	369
CHARITON	203	247	291	363	407
COLE	232	281	331	414	464
CRAWFORD	202	246	289	362	406
DALLAS	193	234	276	345	386
DE KALB	198	241	283	354	397
DOUGLAS	182	222	261	326	366
GASCONADE	202	246	289	362	406
GRUNDY	209	253	298	373	418
HENRY	188	228	268	335	376
HOLT	198	241	283	354	397
HOWELL	182	222	261	326	366
LACLEDE	211	256	301	376	422
LEWIS	207	250	295	368	408
LIVINGSTON	209	253	298	373	418
MADISON	221	269	316	395	443
MARION	207	250	295	368	408
MILLER	211	256	301	376	422
MONITEAU	232	281	331	414	464
NEW MADRID	182	222	261	326	366
OREGON	182	222	261	326	366
OZARK	182	222	261	326	366
PERRY	221	269	316	395	443
PIKE	202	246	289	362	406
PULASKI	211	256	301	376	422
RALLS	207	250	295	368	408
RIPLEY	182	222	264	329	369
STE GENEVIEV	221	269	316	395	443
SALINE	203	247	291	363	407
STODDARD	182	222	261	326	366
SULLIVAN	209	253	298	373	418
VERNON	188	228	268	335	376
WAYNE	182	222	264	329	369
WORTH	198	241	283	354	397
ATCHISON	188	241	283	354	397
BARRY	193	234	276	345	386
BATES	188	228	268	335	376
BOLLINGER	221	269	316	395	443
CALDWELL	198	241	284	354	397
CAMDEN	211	256	301	376	422
CARROLL	203	247	291	363	407
CEDAR	188	228	268	335	376
CLINTON	198	241	283	354	397
COOPER	232	281	331	414	464
DADE	193	234	276	345	386
DAVIESS	198	241	284	354	397
DENT	202	246	289	362	406
DUNKLIN	182	222	261	326	366
GENTRY	198	241	284	354	397
HARRISON	198	241	284	354	397
HICKORY	188	228	268	335	376
HOWARD	232	281	331	414	464
IRON	221	269	316	395	443
LAWRENCE	193	234	276	345	386
LINN	209	253	298	373	418
MCDONALD	193	234	276	345	386
MARIES	202	246	289	362	406
MERCER	198	241	284	354	397
MISSISSIPPI	182	222	261	326	366
MORGAN	211	256	301	376	422
NODAWAY	208	241	291	363	407
OSAGE	232	281	331	414	464
PEMISCOT	182	222	261	326	366
PETTIS	203	247	291	363	407
POLK	193	234	276	345	386
PUTNAM	209	253	298	373	418
REYNOLDS	182	222	261	326	366
ST CLAIR	188	228	268	335	376
ST FRANCOIS	221	269	316	395	443
SHANNON	182	222	261	326	366
STONE	193	234	276	345	386
TANEY	193	234	276	345	386
WASHINGTON	202	246	289	362	406
WEBSTER	193	234	276	345	386
WRIGHT	182	222	261	326	366

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
STATE: MONTANA					
BILLINGS, MT MSA COUNTY(IES): YELLOWSTONE	308	371	437	548	611
GREAT FALLS, MT MSA COUNTY(IES): CASCADE	263	320	377	471	527

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BEAVERHEAD	262	319	375	469	525
BLAINE	245	297	350	437	490
CARBON	247	300	353	442	495
CHOUTEAU	245	297	350	437	490
DANIELS	245	297	350	437	490
DEER LODGE	262	319	375	469	525
FERGUS	247	300	353	442	495
GARFIELD	247	300	353	442	495
GOLDEN VALLE	247	300	353	442	495
HILL	245	297	350	437	490
JUDITH BASIN	247	300	353	442	495
LEWIS+ CLARK	262	319	375	469	525
LINCOLN	268	326	383	479	537
MADISON	262	319	375	469	525
MINERAL	268	326	383	479	537
MUSSELSHELL	247	300	353	442	495
PETROLEUM	247	300	353	442	495
PONDERA	245	297	350	437	490
POWELL	262	319	375	469	525
RAVALLI	268	326	383	479	537
ROOSEVELT	245	297	350	437	490
SANDERS	268	326	383	479	537
SILVER BOW	262	319	375	469	525
SWEET GRASS	247	300	353	442	495
TOOLE	245	297	350	437	490
VALLEY	245	297	350	437	490
WIBAUX	247	300	353	442	495
BIG HORN	247	300	353	442	495
BROADWATER	262	319	375	469	525
CARTER	247	300	353	442	495
CUSTER	247	300	353	442	495
DAWSON	247	300	353	442	495
FALLON	247	300	353	442	495
FLATHEAD	268	326	383	479	537
GLACIER	245	297	350	437	490
GRANITE	262	319	375	469	525
JEFFERSON	262	319	375	469	525
LAKE	268	326	383	479	537
LIBERTY	248	297	350	437	490
MCCONE	247	300	353	442	495
MEAGHER	262	319	375	469	525
MISSOULA	268	326	383	479	537
PARK	262	319	375	469	525
PHILLIPS	245	297	350	437	490
POWDER RIVER	247	300	353	442	495
PRAIRIE	247	300	353	442	495
RICHLAND	247	300	353	442	495
ROSEBUD	247	300	353	442	495
SHERIDAN	245	297	350	437	490
STILLWATER	247	300	353	442	495
TETON	245	297	350	437	490
TREASURE	247	300	353	442	495
WHEATLAND	247	300	353	442	495
YL-ST-NT-PK	262	319	375	469	525

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
STATE: NEBRASKA					
LINCOLN, NE MSA COUNTY(IES): LANCASTER	269	327	385	482	539
OMAHA, NE-IA MSA COUNTY(IES): DOUGLAS, SARPY, WASHINGTON	265	321	378	473	530
SIOUX CITY, IA-NE MSA COUNTY(IES): DAKOTA	262	319	375	469	525

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	241	293	345	431	483
ARTHUR	204	248	291	364	408
BLAINE	198	240	282	353	396
BOYD	198	240	282	353	396
BUFFALO	241	293	345	431	483
BUTLER	213	259	305	381	427
CEDAR	234	284	335	418	469
CHERRY	198	240	282	353	396
CLAY	241	293	345	431	483
CUMING	216	263	309	387	433
DAWES	198	240	282	353	396
DEUEL	198	240	282	353	396
DUNDY	204	248	291	364	408
FRANKLIN	241	293	345	431	483
FURNAS	204	248	291	364	408
GARFIELD	198	240	282	353	396
GRANT	204	248	291	364	408
HALL	241	293	345	431	483
HARLAN	241	293	345	431	483
HITCHCOCK	204	248	291	364	408
HOOKER	204	248	291	364	408
JEFFERSON	213	259	305	381	427
KEARNEY	241	293	345	431	483
KEYA PAHA	202	247	290	360	402
KNOX	234	284	335	418	469
LOGAN	204	248	291	364	408
MCPHERSON	204	248	291	364	408
MERRICK	241	293	345	431	483
NANCE	216	263	309	387	433
NUCKOLLS	241	293	345	431	483
ANTELOPE	234	284	335	418	469
BANNER	198	240	282	353	396
BOONE	216	263	309	387	433
BROWN	198	240	282	353	396
BURT	216	263	309	387	433
CASS	213	259	305	381	427
CHASE	204	248	291	364	408
CHEYENNE	198	240	282	353	396
COLFAX	216	263	309	387	433
CUSTER	198	240	282	353	396
DAWSON	204	248	291	364	408
DIXON	234	284	335	418	469
FILLMORE	213	259	305	381	427
FRONTIER	204	248	291	364	408
GARDEN	198	240	282	353	396
GOSPER	204	248	291	364	408
GREELEY	198	240	282	353	396
HAMILTON	241	293	345	431	483
HAYES	204	248	291	364	408
HOLT	202	247	290	360	402
HOWARD	241	293	345	431	483
JOHNSON	213	259	305	381	427
KEITH	204	248	291	364	408
KIMBALL	198	240	282	353	396
LINCOLN	204	248	291	364	408
LOUP	198	240	282	353	396
MADISON	234	284	335	418	469
MORRILL	198	240	282	353	396
NEMAHA	213	259	305	381	427
OTOE	213	259	305	381	427

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART I - FINAL FMRS, NO INTENTS TO COMMENT

STATE: NEBRASKA

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PAWNEE	213	259	305	381	427
PHELPS	241	293	345	431	483
PLATTE	216	263	309	387	433
RED WILLOW	204	248	291	364	408
ROCK	202	247	290	360	402
SAUNDERS	213	259	305	381	427
SHERIDAN	198	240	282	353	396
SIOUX	198	240	282	353	396
THAYER	213	259	305	381	427
THURSTON	216	263	309	387	433
WAYNE	234	284	335	418	469
WHEELER	198	240	282	353	396
PERKINS	204	248	291	364	408
PIERCE	234	284	335	418	469
POLK	213	259	305	381	427
RICHARDSON	213	259	305	381	427
SALINE	213	259	305	381	427
SEWARD	213	259	305	381	427
SHERMAN	198	240	282	353	396
STANTON	234	284	335	418	469
THOMAS	204	248	291	364	408
VALLEY	198	240	282	353	396
WEBSTER	241	293	345	431	483
YORK	213	259	305	381	427

STATE: NEVADA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LAS VEGAS, NV MSA COUNTY(IES): CLARK	367	445	524	655	734
RENO, NV MSA COUNTY(IES): WASHOE	482	549	646	808	905

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHURCHILL	322	388	456	570	639
ELKO	322	388	456	570	639
EUREKA	319	388	456	570	639
LANDER	322	388	456	570	639
LYON	322	388	456	570	639
NYE	319	388	456	570	639
STOREY	322	388	456	570	639
CARSON CITY	322	388	456	570	639
DOUGLAS	322	388	456	570	639
ESMERALDA	319	388	456	570	639
HUMBOLDT	322	388	456	570	639
LINCOLN	319	388	456	570	639
MINERAL	322	388	456	570	639
PERSHING	322	388	456	570	639
WHITE PINE	319	388	456	570	639

STATE: NEW JERSEY

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTIC CITY, NJ MSA COUNTY(IES): ATLANTIC, CAPE MAY	324	394	463	579	649
BERGEN-PASSAIC, NJ PMSA COUNTY(IES): BERGEN, PASSAIC	445	540	640	800	898
TRENTON, NJ PMSA COUNTY(IES): MERCER	388	471	554	693	776
VINELAND-MILLVILLE-BRIDGETON, NJ PMSA COUNTY(IES): CUMBERLAND	311	378	445	556	623

STATE: NEW MEXICO

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALBUQUERQUE, NM MSA COUNTY(IES): BERNALILLO	308	374	440	550	616
LAS CRUCES, NM MSA COUNTY(IES): DONA ANA	244	297	349	437	489
SANTA FE, NM MSA COUNTY(IES): LOS ALAMOS, SANTE FE	358	436	512	640	717

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CATRON	221	268	316	395	442
COLFAX	228	277	326	407	456
DE BACA	228	277	326	407	456
GRANT	221	268	316	395	442
HARDING	228	277	326	407	456
LEA	264	321	378	472	529
LUNA	221	268	316	395	442
MORA	228	277	326	407	456
QUAY	228	277	326	407	456
SAN JUAN	306	372	438	548	613
SIERRA	240	291	343	428	480
TORRANCE	228	277	326	407	456
VALENCIA	221	268	316	395	442
CHAVES	240	291	343	428	480
CURRY	228	277	326	407	456
EDDY	264	321	378	472	529
GUADALUPE	228	277	326	407	456
HIDALGO	221	268	316	395	442
LINCOLN	240	291	343	428	480
MCKINLEY	306	372	438	548	613
OTERO	240	291	343	428	480
ROOSEVELT	228	277	326	407	456
SAN MIGUEL	228	277	326	407	456
SOCORRO	240	291	343	428	480
UNION	228	277	326	407	456

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786

PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

STATE: NEW YORK

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
UTICA-ROME, NY MSA					
COUNTY(IES): HERKIMER, ONEIDA	226	276	324	405	453
NONMETROPOLITAN COUNTIES					
CORTLAND	208	323	380	478	532
FULTON	211	257	302	378	423

STATE: NORTH CAROLINA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ASHEVILLE, NC MSA					
COUNTY(IES): BUNCOMBE	242	296	347	433	486
BURLINGTON, NC MSA					
COUNTY(IES): ALAMANCE	249	282	343	429	481
CHARLOTTE-GASTONIA-ROCK HILL, NC-SC MSA					
COUNTY(IES): CABARRUS, GASTON, LINCOLN, MECKLENBURG, ROWAN, UNION	270	326	381	476	533
HICKORY, NC MSA					
COUNTY(IES): ALEXANDER, BURKE, CATAWBA	222	269	317	396	444
JACKSONVILLE, NC MSA					
COUNTY(IES): ONSLOW	230	280	329	412	461
WILMINGTON, NC MSA					
COUNTY(IES): NEW HANOVER	242	296	347	433	486

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLEGHANY	219	264	309	386	424
ASHE	219	264	309	386	424
BEAUFORT	242	296	347	433	485
CAMDEN	235	281	327	407	453
CASWELL	220	267	314	393	440
CLEVELAND	219	264	309	386	424
CRAVEN	228	277	326	408	457
EDGECOMBE	228	277	326	408	457
GREENE	212	257	303	379	424
HARNETT	212	257	303	379	424
HERTFORD	242	295	347	433	486
IREDELL	220	267	314	389	435
LENOIR	196	238	280	350	392
MADISON	239	291	342	428	479
MITCHELL	219	264	309	386	424
MOORE	221	265	309	387	433
NORTHAMPTON	228	277	326	408	457
PASQUOTANK	235	281	327	407	453
PITT	242	295	347	433	485
RICHMOND	221	265	309	387	433
RUTHERFORD	219	264	309	386	424
STANLY	217	264	311	389	435
TYRRELL	235	281	327	407	453
WASHINGTON	235	281	327	407	453
WAYNE	212	257	303	379	424
WILSON	234	284	334	418	468

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANSON	221	266	309	387	433
AVERY	219	264	309	386	424
BERTIE	242	296	347	433	486
CARTERET	228	277	326	408	457
CHOWAN	235	281	327	407	453
COLUMBUS	201	244	287	359	403
DARE	235	281	327	407	453
GATES	238	281	327	407	453
HALIFAX	228	277	326	408	457
HENDERSON	239	291	342	428	479
HYDE	235	281	327	407	453
JONES	228	277	326	408	457
MCDOWELL	219	264	309	386	424
MARTIN	242	296	347	433	486
MONTGOMERY	221	266	309	387	433
NASH	234	284	334	418	468
PAMLICO	228	277	326	408	457
PERQUIMANS	235	281	327	407	453
POLK	219	264	309	386	424
ROCKINGHAM	220	267	314	393	440
SCOTLAND	196	238	281	350	392
TRANSYLVANIA	239	291	342	428	479
VANCE	210	255	300	375	420
WATAUGA	219	264	309	386	424
WILKES	219	264	309	386	424
YANCEY	219	264	309	386	424

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART I - FINAL FMRS, NO INTENTS TO COMMENT

STATE: NORTH DAKOTA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BISMARCK, ND MSA COUNTY(IES): BURLEIGH, MORTON	273	332	391	488	547
FARGO-MOORHEAD, ND-MN MSA COUNTY(IES): CASS	272	331	389	487	545
GRAND FORKS, ND MSA COUNTY(IES): GRAND FORKS	260	315	371	464	520

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	231	281	331	414	463	BARNES	237	288	338	423	474
BENSON	237	288	338	423	474	BILLINGS	231	281	331	414	463
BOTTINEAU	231	281	331	414	463	BOWMAN	231	281	331	414	463
BURKE	231	281	331	414	463	CAVALIER	237	288	338	423	474
DICKEY	237	288	338	423	474	DIVIDE	231	281	331	414	463
DUNN	231	281	331	414	463	EDDY	237	288	338	423	474
FOSTER	237	288	338	423	474	GOLDEN VALLY	231	281	331	414	463
GRIGGS	237	288	338	423	474	HETTINGER	231	281	331	414	463
LA MOORE	237	288	338	423	474	LOGAN	237	288	338	423	474
MCHENRY	231	281	331	414	463	MCINTOSH	237	288	338	423	474
MCKENZIE	231	281	331	414	463	MOUNTRAIL	231	281	331	414	463
NELSON	237	288	338	423	474	PEMBINA	237	288	338	423	474
PIERCE	231	281	331	414	463	RAMSEY	237	288	338	423	474
RENVILLE	231	281	331	414	463	ROLETTE	237	288	338	423	474
SLOPE	231	281	331	414	463	STUTSMAN	237	288	338	423	474
TOWNER	237	288	338	423	474	WALSH	237	288	338	423	474
WELLS	237	288	338	423	474						

STATE: OHIO	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
AKRON, OH PMSA COUNTY(IES): PORTAGE, SUMMIT	271	330	388	486	543
CLEVELAND, OH PMSA COUNTY(IES): CUYAHOGA, GEAUGA, LAKE, MEDINA	283	344	404	505	566
COLUMBUS, OH MSA COUNTY(IES): DELAWARE, FAIRFIELD, FRANKLIN, LICKING, MADISON, PICKAWAY, UNION	270	325	385	480	540
HUNTINGTON-ASHLAND, WV-KY-OH MSA COUNTY(IES): LAWRENCE	266	323	380	475	533
LIMA, OH MSA COUNTY(IES): ALLEN, AUGLAIZE	251	308	359	449	503
LORAIN-ELYRIA, OH PMSA COUNTY(IES): LORAIN	267	325	382	478	535
PARKERSBURG-MARIETTA, WV-OH MSA COUNTY(IES): WASHINGTON	247	300	353	442	495
STEUBENVILLE-WEIRTON, OH-WV MSA COUNTY(IES): JEFFERSON	254	308	362	453	508
TOLEDO, OH MSA COUNTY(IES): FULTON, LUCAS, WOOD	288	350	412	515	577
WHEELING, WV-OH MSA COUNTY(IES): BELMONT	250	304	358	448	501
YOUNGSTOWN-WARREN, OH MSA COUNTY(IES): MAHONING, TRUMBULL	251	305	359	449	503

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	228	271	317	396	443	ASHLAND	248	302	355	444	497
ASHTABULA	265	322	378	474	531	BROWN	225	271	317	395	443
CHAMPAIGN	240	291	343	429	480	CLINTON	229	279	328	410	459
COLUMBIANA	236	286	336	420	470	CRAWFORD	232	277	327	408	457
DARKE	229	278	328	410	459	DEFIANCE	256	310	366	457	512
ERIE	259	314	370	462	518	FAYETTE	229	278	328	410	459
GALLIA	247	300	353	442	495	GUERNSEY	242	294	346	433	485
HANCOCK	243	295	347	434	487	HARDIN	243	295	347	434	487
HARRISON	228	277	327	408	457	HENRY	256	310	366	457	512
HIGHLAND	225	271	317	396	443	HOCKING	218	265	312	390	436
HOLMES	241	293	344	431	482	HURON	229	277	327	408	457
JACKSON	221	269	316	396	443	KNOX	221	269	316	396	443
LOGAN	243	295	347	434	487	MARION	221	269	316	396	443
MEIGS	218	265	312	390	436	MERCER	229	279	328	410	459
MONROE	248	298	350	438	491	MORGAN	248	298	350	438	491
MORROW	221	269	316	396	443	NOBLE	248	298	350	438	491
OTTAWA	259	314	370	462	518	PAULDING	256	310	366	457	512
PERRY	218	265	312	390	436	PIKE	221	269	316	396	443
PREBLE	249	303	356	446	499	PUTNAM	247	300	353	442	495
ROSS	229	279	328	410	459	SANDUSKY	259	314	370	462	518
SCIOTO	221	269	316	396	443	SENECA	228	277	327	408	457
SHELBY	229	279	328	410	459	TUSCARAWAS	241	293	344	431	482

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

STATE: OHIO

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
VAN WERT	247	300	353	442	495
WAYNE	248	302	358	444	497
WYANDOT	228	277	327	408	457

S T A T E: OKLAHOMA

ENID, OK MSA
COUNTY(IES): GARFIELD

FORT SMITH, AR-OK MSA
COUNTY(IES): SEQUOYAH

LAWTON, OK MSA
COUNTY(IES): COMANCHE

TULSA, OK MSA
COUNTY(IES): CREEK, OSAGE, ROGERS, TULSA, WAGONER

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAIR	186	227	266	332	365
BEAVER	211	257	302	377	423
BLAINE	211	257	302	377	423
CADDO	196	237	279	348	390
CHEROKEE	186	227	266	332	369
COTTON	196	237	279	348	390
CUSTER	206	250	294	368	412
DEWEY	211	257	302	377	423
GARVIN	196	238	280	350	392
GREER	206	250	294	368	412
HARPER	211	257	302	377	423
JACKSON	206	250	294	368	412
JOHNSTON	196	238	280	350	392
KINGFISHER	244	296	348	436	488
LINCOLN	233	283	333	416	466
MCINTOSH	189	230	271	339	379
MAYES	245	297	350	438	490
MUSKOGEE	189	230	271	339	379
NOWATA	236	287	338	422	473
OKMULGEE	189	230	271	339	379
PAWNEE	233	283	333	416	466
PONTOTOC	196	238	280	350	392
SEMINOLE	194	236	278	344	389
TILLMAN	195	237	278	348	390
WASHITA	206	250	294	368	412
WOODWARD	211	257	302	377	423

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
VINTON	247	300	353	442	495
WILLIAMS	286	310	386	457	512

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
	277	337	396	496	555
	231	281	331	414	463
	238	289	341	426	477
	301	366	431	538	603

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALFALFA	211	257	302	377	423
BECKHAM	206	250	294	368	412
BRYAN	196	238	280	350	392
CARTER	196	238	280	350	392
CIMARRON	211	257	302	377	423
CRAIG	236	287	338	422	473
DELAWARE	184	224	263	329	369
ELLIS	211	257	302	377	423
GRANT	244	296	348	436	488
HARMON	206	250	294	368	412
HUGHES	169	230	271	339	379
JEFFERSON	195	237	279	348	390
KAY	244	296	348	436	488
KIOWA	206	250	294	368	412
LOVE	196	238	280	350	392
MAJOR	211	257	302	377	423
MURRAY	196	238	280	350	392
NOBLE	244	296	348	436	488
OKFUSKEE	189	230	271	339	379
OTTAWA	236	287	338	422	473
PAYNE	233	283	333	416	466
ROGER MILLS	206	250	294	368	412
TEXAS	211	257	302	377	423
WASHINGTON	236	287	338	422	473
WOODS	211	257	302	377	423

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

STATE: OREGON

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
EUGENE-SPRINGFIELD, OR MSA COUNTY(IES): LANE	321	390	459	574	642
SALEM, OR MSA COUNTY(IES): MARION, POLK	300	364	429	536	601

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BAKER	292	355	417	522	584
CLATSOP	284	345	406	507	568
CROOK	309	376	442	553	619
DOUGLAS	305	370	436	545	610
GRANT	292	355	417	522	584
HOOD RIVER	309	376	442	553	619
JOSEPHINE	305	370	436	545	610
LAKE	279	339	399	499	559
LINN	298	362	426	532	598
MORROW	292	355	417	522	584
TILLAMOOK	284	345	406	507	568
UNION	292	355	417	522	584
WASCO	309	376	442	553	619
BENTON	298	362	426	532	596
COLUMBIA	284	345	406	507	568
DESCHUTES	309	376	442	553	619
GILLIAM	292	355	417	522	584
HARNEY	279	339	399	499	559
JEFFERSON	309	376	442	553	619
KLAMATH	279	339	399	499	559
LINCOLN	284	345	406	507	568
MALHEUR	279	339	399	499	559
SHERMAN	309	376	442	553	619
UMATILLA	292	355	417	522	584
WALLOWA	292	355	417	522	584
WHEELER	292	355	417	522	584

STATE: PENNSYLVANIA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALTOONA, PA MSA COUNTY(IES): BLAIR	242	294	346	432	484
BEAVER COUNTY, PA PMSA COUNTY(IES): BEAVER	267	322	378	474	531
ERIE, PA MSA COUNTY(IES): ERIE	278	339	398	498	558
HARRISBURG-LEBANON-CARLISLE, PA MSA COUNTY(IES): CUMBERLAND, DAUPHIN, LEBANON, PERRY	288	348	408	510	571
JOHNSTOWN, PA MSA COUNTY(IES): CAMBRIA, SOMERSET	236	286	336	420	471
PITTSBURGH, PA PMSA COUNTY(IES): ALLEGHANY, FAYETTE, WASHINGTON, WESTMORELAND	286	346	406	508	569
READING, PA MSA COUNTY(IES): BERKS	272	331	389	486	545
SHARON, PA MSA COUNTY(IES): MERCER	258	313	369	461	517
STATE COLLEGE, PA MSA COUNTY(IES): CENTRE	311	378	445	556	623
WILLIAMSPORT, PA MSA COUNTY(IES): LYCOMING	236	286	336	420	471
YORK, PA MSA COUNTY(IES): ADAMS, YORK	262	318	375	469	525

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ARMSTRONG	270	328	386	483	541
BUTLER	269	327	384	481	538
CLARION	222	270	318	397	445
CLINTON	228	278	323	403	451
ELK	228	277	325	407	456
FRANKLIN	249	303	356	446	499
GREENE	232	282	332	415	464
INDIANA	270	328	386	483	541
JUNIATA	226	274	322	403	451
MCKEAN	228	277	325	407	456
MONTOUR	232	282	332	415	464
SNYDER	226	274	322	403	451
VENANGO	222	270	318	397	445
WAYNE	250	304	358	448	501
BEDFORD	218	266	313	391	438
CAMERON	328	277	326	407	456
CLEARFIELD	232	282	332	415	464
CRAWFORD	230	279	329	411	460
FOREST	222	270	318	397	445
FULTON	218	266	313	391	438
HUNTINGDON	218	266	313	391	438
JEFFERSON	232	282	332	415	464
LAWRENCE	230	279	329	411	460
MIFFLIN	226	274	328	403	451
POTTER	228	277	326	407	456
SULLIVAN	224	273	321	401	448
WARREN	230	279	329	411	460

STATE: SOUTH CAROLINA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANDERSON, SC MSA COUNTY(IES): ANDERSON	220	267	314	393	440
AUGUSTA, GA-SC MSA COUNTY(IES): AIKEN	254	305	357	446	498
CHARLESTON, SC MSA COUNTY(IES): BERKELEY, CHARLESTON, DORCHESTER	272	331	389	486	545
CHARLOTTE-GASTONIA-ROCK HILL, NC-SC MSA COUNTY(IES): YORK	270	328	381	476	533
COLUMBIA, SC MSA COUNTY(IES): LEXINGTON, RICHLAND	278	338	394	492	551
FLORENCE, SC MSA	223	271	318	389	447

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 16 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.16 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

STATE: SOUTH CAROLINA

COUNTY(IES): FLORENCE

GREENVILLE-SPARTANBURG, SC MSA
COUNTY(IES): GREENVILLE, PICKENS, SPARTANBURG

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ABBEVILLE	194	236	279	344	382
BAMBERG	202	246	289	362	405
BEAUFORT	280	304	358	447	501
CHEROKEE	194	235	277	346	386
CHESTERFIELD	193	234	275	344	386
COLLETON	280	304	358	447	501
DILLON	193	234	275	344	386
FAIRFIELD	190	231	272	340	381
GREENWOOD	194	236	279	344	382
HORRY	234	284	334	418	468
KERSHAW	218	264	311	389	436
LEE	218	264	311	389	436
MARION	193	234	275	344	386
NEWBERRY	190	231	272	340	381
ORANGEBURG	202	246	289	362	405
SUMTER	218	264	311	389	436
WILLIAMSBURG	234	284	334	418	468

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLENDALE	202	246	289	362	405
BARNWELL	202	246	289	362	405
CALHOUN	207	252	299	368	409
CHESTER	194	236	277	348	388
CLARENDON	218	264	311	389	436
DARLINGTON	193	234	275	344	386
EDGEFIELD	190	231	272	340	381
GEORGETOWN	234	284	334	418	468
HAMPTON	250	304	358	447	501
JASPER	250	304	358	447	501
LAURENS	194	236	278	344	382
MCCORMICK	190	231	272	340	381
MARLBORO	193	234	275	344	386
OCONEE	239	291	342	428	479
SALUDA	190	231	272	340	381
UNION	194	236	277	346	388

STATE: SOUTH DAKOTA

RAPID CITY, SD MSA
COUNTY(IES): PENNINGTON

SIOUX FALLS, SD MSA
COUNTY(IES): MINNEHAHA

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
AURORA	225	271	317	396	444
BENNETT	204	248	291	364	408
BRULE	222	269	317	396	444
BUTTE	243	295	347	434	488
CHARLES MIX	222	269	317	396	444
CLAY	222	269	317	396	444
CUSTER	243	295	347	434	488
DAY	216	263	309	387	433
DEWEY	204	248	291	364	408
EDMUNDS	216	263	309	387	433
FAULK	216	263	309	387	433
HAAKON	204	248	291	364	408
HAND	225	271	317	394	438
HARDING	243	295	347	434	488
HYDE	204	248	291	364	408
JERAULD	225	271	317	394	438
KINGSBURY	193	235	276	346	387
LAWRENCE	249	295	347	434	488
LYMAN	204	248	291	364	408
MCPHERSON	219	263	309	387	433
MEADE	250	301	350	434	486
MINER	193	235	276	346	387
PERKINS	204	248	291	364	408
ROBERTS	216	263	309	387	433
SHANNON	204	248	291	364	408
SULLY	204	248	291	364	408
TRIPP	204	248	291	364	408
UNION	222	269	317	396	444
YANKTON	222	269	317	396	444

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BEADLE	225	271	317	394	438
BON HOMME	222	269	317	396	444
BUFFALO	204	248	291	364	408
CAMPBELL	204	248	291	364	408
CLARK	199	239	285	353	392
CORSON	204	248	291	364	408
DAVISON	226	271	317	396	444
DEUEL	199	239	285	353	392
DOUGLAS	222	269	317	396	444
FALL RIVER	243	295	347	434	488
GREGORY	204	248	291	364	408
HAMLIN	199	239	286	353	392
HANSON	225	271	317	396	444
HUTCHINSON	222	269	317	396	444
JACKSON	204	248	291	364	408
JONES	204	248	291	364	408
LAKE	193	235	276	346	387
LINCOLN	225	271	317	396	444
MCCOOK	193	235	276	346	387
MARSHALL	216	263	309	387	433
MELLETTE	204	248	291	364	408
MOODY	193	235	276	346	387
POTTER	204	248	291	364	408
SANBORN	225	271	317	396	444
SPINK	216	263	309	387	433
TODD	204	248	291	364	408
TURNER	225	271	317	396	444
WALWORTH	204	248	291	364	408
ZIEBACH	204	248	291	364	408

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

STATE: TENNESSEE

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHATTANOOGA, TN-GA MSA COUNTY(IES): HAMILTON, MARION, SEQUATCHIE	270	328	386	483	541
KNOXVILLE, TN MSA COUNTY(IES): ANDERSON, BLOUNT, GRAINGER, JEFFERSON, KNOX, SEVIER, UNION	249	303	356	446	499
MEMPHIS, TN-AR-MS MSA COUNTY(IES): SHELBY, TIPTON	248	300	356	440	495
NASHVILLE, TN MSA COUNTY(IES): CHEATHAM, DAVIDSON, DICKSON, ROBERTSON, RUTHERFORD, SUMNER, WILLIAMSON, WILSON	296	360	423	529	593

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BEDFORD	213	267	303	378	423
BLEDSOE	222	270	318	397	445
CARROLL	200	243	287	358	401
CLAY	174	214	253	316	351
DECATUR	219	266	313	391	438
FAYETTE	209	255	299	374	418
GILES	213	267	303	378	423
GRUNDY	222	270	318	397	445
HARDEMAN	219	266	313	391	438
HAYWOOD	209	261	299	374	418
HENRY	200	243	287	358	401
JACKSON	174	214	253	316	351
LAUDERDALE	209	261	299	374	418
LEWIS	211	257	302	378	423
MCMINN	222	270	318	397	445
MARSHALL	213	267	303	378	423
MEIGS	222	270	318	397	445
MOORE	213	267	303	378	423
PERRY	211	257	302	378	423
RHEA	222	270	318	397	445
VAN BUREN	206	250	294	368	412
WEAKLEY	200	243	287	358	401
BENTON	200	243	287	358	401
BRADLEY	222	270	318	397	445
CHESTER	219	266	313	391	438
COFFEE	213	267	303	378	423
DYER	204	247	291	364	408
GIBSON	204	247	291	364	408
GREENE	198	241	283	354	397
HANCOCK	198	241	283	354	397
HARDIN	219	266	313	391	438
HENDERSON	219	266	313	391	438
HICKMAN	213	267	303	378	423
LAKE	204	247	291	364	408
LAWRENCE	213	267	303	378	423
LOUDON	213	261	305	382	427
MCNAIRY	219	266	313	391	438
MAURY	213	267	303	378	423
MONROE	213	261	305	382	427
OBION	207	258	291	366	408
POLK	222	270	318	397	445
ROANE	213	261	305	382	427
WAYNE	211	257	302	378	423

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

S T A T E: TEXAS	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ABILENE, TX MSA COUNTY(IES): TAYLOR	269	327	386	481	539
AMARILLO, TX MSA COUNTY(IES): POTTER, RANDALL	247	301	354	442	496
AUSTIN, TX MSA COUNTY(IES): HAYS, TRAVIS, WILLIAMSON	317	381	448	560	627
BEAUMONT-PORT ARTHUR, TX MSA COUNTY(IES): HARDIN, JEFFERSON, ORANGE	284	345	406	508	569
BRAZORIA, TX PMSA COUNTY(IES): BRAZORIA	314	381	449	561	628
BROWNSVILLE-HARLINGEN, TX MSA COUNTY(IES): CAMERON	252	306	360	450	504
BRYAN-COLLEGE STATION, TX MSA COUNTY(IES): BRAZOS	334	406	477	597	669
CORPUS CHRISTI, TX MSA COUNTY(IES): NUECES, SAN PATRICIO	291	353	416	520	582
EL PASO, TX MSA COUNTY(IES): EL PASO	249	302	355	444	498
FORT WORTH-ARLINGTON, TX PMSA COUNTY(IES): JOHNSON, PARKER, TARRANT	285	350	410	515	575
GALVESTON-TEXAS CITY, TX PMSA COUNTY(IES): GALVESTON	283	356	419	524	587
HOUSTON, TX PMSA COUNTY(IES): FORT BEND, HARRIS, LIBERTY, MONTGOMERY, WALLER	280	340	400	500	560
KILLEEN-TEMPLE, TX MSA COUNTY(IES): BELL, CORYELL	245	298	351	438	491
LAREDO, TX MSA COUNTY(IES): WEBB	232	282	332	415	465
LONGVIEW-MARSHALL, TX MSA COUNTY(IES): GREGG, HARRISON	280	340	400	500	560
MC ALLEN-EDINBURG-MISSION, TX MSA COUNTY(IES): HIDALGO	251	305	358	448	502
MIDLAND, TX MSA COUNTY(IES): MIDLAND	322	391	460	576	645
ODESSA, TX MSA COUNTY(IES): ECTOR	320	389	457	572	640
SAN ANGELO, TX MSA COUNTY(IES): TOM GREEN	271	329	388	485	543
SAN ANTONIO, TX MSA COUNTY(IES): BEXAR, COMAL, GUADALUPE	275	330	390	490	545
SHERMAN-DENISON, TX MSA COUNTY(IES): GRAYSON	246	299	352	440	493
TEXARKANA, TX-TEXARKANA, AR MSA COUNTY(IES): BOWIE	227	276	326	408	455
TYLER, TX MSA COUNTY(IES): SMITH	285	344	405	506	567
VICTORIA, TX MSA COUNTY(IES): VICTORIA	346	420	494	618	692
WACO, TX MSA COUNTY(IES): MCLENNAN	238	290	330	409	466
WICHITA FALLS, TX MSA COUNTY(IES): WICHITA	285	310	365	456	511

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANDERSON	215	261	307	384	430
ARANSAS	238	288	340	425	476
ARMSTRONG	224	272	320	400	448
AUSTIN	254	308	363	454	508
BANDERA	221	269	317	396	443
BAYLOR	206	251	296	369	413
BLANCO	203	247	290	363	407
BREWSTER	184	223	262	328	368
BROOKS	238	289	340	425	476
BURNET	203	247	290	363	407
CALLAHAN	213	259	304	380	426
CARSON	224	272	320	400	448
CASTRO	224	272	320	400	448
CHILDRESS	206	251	296	369	413
COCHRAN	208	254	300	371	414
COLLINGSWORT	224	272	320	400	448
COMANCHE	213	259	304	380	426
COTTLE	206	251	296	369	413
CROSBY	208	254	300	371	414
DALLAM	224	272	320	400	448
DELTA	227	276	324	406	454

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANDREWS	184	223	262	328	368
ARCHER	206	251	296	369	413
ATASCOSA	221	269	317	396	443
BAILEY	208	254	300	371	414
BASTROP	219	266	313	392	439
BEE	238	289	340	425	476
BOSQUE	189	230	270	338	378
BRISCOE	224	272	320	400	448
BROWN	208	254	300	371	414
CALDWELL	219	266	313	392	439
CAMP	198	240	283	353	396
CASS	227	276	324	406	454
CHEROKEE	215	261	307	384	430
CLAY	206	251	296	369	413
COLEMAN	208	254	300	371	414
COLORADO	254	308	363	454	508
COOKE	237	287	338	423	474
CRANE	184	223	262	328	368
CULBERSON	184	223	262	328	368
DEAF SMITH	224	272	320	400	448
DICKENS	208	254	300	371	414

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 18 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.18 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT
STATE: TEXAS

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BIMMIT	200	243	286	387	400	DONLEY	224	272	320	400	448
DUVAL	238	289	340	425	476	EASTLAND	213	259	304	380	426
EDWARDS	205	251	294	362	402	ERATH	213	259	304	380	426
FALLS	189	230	270	338	378	FANNIN	237	287	338	423	474
FAYETTE	219	266	313	392	439	FISHER	213	259	304	380	426
FLOYD	208	254	300	371	414	FOARD	206	251	295	369	413
FRANKLIN	227	276	324	406	454	FREESTONE	186	226	270	338	378
FRIO	221	268	317	398	443	GAINES	184	223	262	328	368
GARZA	208	254	300	371	414	GILLESPIE	221	268	317	396	443
GRAY	224	272	320	400	448	HALE	208	254	300	371	414
HALL	224	272	320	400	448	HANSFORD	224	272	320	400	448
HARDEMAN	206	251	295	369	413	HARTLEY	224	272	320	400	448
HASKELL	213	259	304	380	426	HEMPHILL	224	272	320	400	448
HENDERSON	215	261	307	384	430	HOCKLEY	206	251	295	369	413
HOOD	254	308	363	454	508	HOPKINS	227	276	324	406	454
HUDSPETH	184	223	262	328	368	HUNT	237	287	338	423	474
HUTCHINSON	224	272	320	400	448	JACK	206	251	295	369	413
JEFF DAVIS	184	223	262	328	368	JIM WELLS	238	289	340	425	476
JONES	213	259	304	380	426	KENDALL	221	268	317	396	443
KENEDY	238	289	340	425	476	KENT	213	259	304	380	426
KERR	221	268	317	396	443	KING	206	254	300	371	414
KINNEY	205	251	294	362	402	KLEBERG	238	289	340	425	476
KNOX	208	254	300	371	414	LAMAR	227	276	324	406	454
LAMB	208	254	300	371	414	LA SALLE	200	243	286	357	400
LEE	219	266	313	392	439	LIMESTONE	188	230	270	338	378
LIPSCOMB	224	272	320	400	448	LIVE OAK	238	289	340	425	476
LLANO	203	247	290	363	407	LOVING	184	223	262	328	368
LYNN	208	254	300	371	414	MCMULLEN	238	289	340	425	476
MARION	188	240	283	353	396	MATAGORDA	264	308	363	454	508
MAVERICK	205	251	294	362	402	MEDINA	221	268	317	396	443
MILAM	219	266	313	392	439	MILLS	208	254	300	371	414
MITCHELL	213	259	304	380	426	MONTAGUE	206	251	295	369	413
MOORE	224	272	320	400	448	MORRIS	227	276	324	406	454
MOTLEY	208	254	300	371	414	NAVARRO	188	230	270	338	378
NOLAN	213	259	304	380	426	OCHILTREE	224	272	320	400	448
OLDHAM	224	272	320	400	448	PALO PINTO	213	259	304	380	426
PANOLA	215	261	307	384	430	PARMER	224	272	320	400	448
PECOS	184	223	262	328	368	PRESIDIO	184	223	262	323	368
RAINS	204	250	292	361	398	REAL	208	251	294	362	402
RED RIVER	227	276	324	406	454	REEVES	184	223	262	328	368
REFUGIO	238	289	340	425	476	ROBERTS	224	272	320	400	448
RUNNELS	208	254	300	371	414	RUSK	215	261	307	384	430
SAN SABA	208	254	300	371	414	SCURRY	213	259	304	380	426
SHACKLEFORD	213	259	304	380	426	SHERMAN	224	272	320	400	448
SOMERVELL	189	230	270	338	378	STEPHENS	213	259	304	380	426
STONEWALL	213	259	304	380	426	SWISHER	224	272	320	400	448
TERRELL	184	223	262	328	368	TERRY	208	254	300	371	414
THROCKMORTON	213	259	304	380	426	TITUS	227	276	324	406	454
UPSHUR	198	240	283	353	396	UVALDE	205	251	294	362	402
VAL VERDE	205	251	294	362	402	VAN ZANDT	204	250	292	361	398
WALKER	259	315	371	464	519	WARD	184	223	262	328	368
WHARTON	254	308	363	454	508	WHEELER	224	272	320	400	448
WILBARGER	206	251	295	369	413	WILLACY	238	289	340	425	476
WINKLER	184	223	262	328	368	WISE	254	308	363	454	508
WOOD	198	240	283	353	396	YOAKUM	208	254	300	371	414
YOUNG	206	251	295	369	413	ZAVALA	205	251	294	362	402

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786

PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

STATE: UTAH

PROVO-OREM, UT MSA
COUNTY(IES): UTAH

SALT LAKE CITY-OGDEN, UT MSA
COUNTY(IES): DAVIS, SALT LAKE, WEBER

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
	251	305	368	448	502
	293	350	415	515	580

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BEAVER	274	333	392	490	549
CACHE	253	307	362	452	507
DAGGETT	313	380	447	559	626
EMERY	313	380	447	559	626
GRAND	313	380	447	559	626
JUAB	274	333	392	490	549
MILLARD	274	333	392	490	549
PIUTE	274	333	392	490	549
SAN JUAN	313	380	447	559	626
SEVIER	274	333	392	490	549
TOOELE	253	307	362	452	507
WASATCH	313	380	447	559	626

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOX ELDER	253	307	362	452	507
CARBON	313	380	447	559	626
DUCHESNE	313	380	447	559	626
GARFIELD	274	333	392	490	549
IRON	274	333	392	490	549
KANE	274	333	392	490	549
MORGAN	313	380	447	559	626
RICH	253	307	362	452	507
SANPETE	274	333	392	490	549
SUMMIT	313	380	447	559	626
UINTAH	313	380	447	559	626
WAYNE	274	333	392	490	549

STATE: VIRGINIA

CHARLOTTESVILLE, VA MSA
COUNTY(IES): ALBEMARLE, FLUVANNA, GREENE, CHARLOTTESVI

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
	314	382	449	582	629

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ACCOMACK	238	286	333	411	459
AMELIA	208	252	297	371	416
AUGUSTA	251	305	358	448	502
BLAND	212	257	303	378	424
BUCHANAN	240	292	343	430	494
CAROLINE	297	361	424	530	594
CHARLOTTE	208	252	297	371	416
CULPEPER	262	318	374	468	524
DICKENSON	228	261	308	388	431
FLOYD	250	304	357	447	500
GILES	250	304	357	447	500
GREENSVILLE	197	239	281	352	394
HIGHLAND	251	305	358	448	503
KING GEORGE	297	361	424	530	594
LEE	218	261	308	385	431
LUNENBURG	208	252	297	371	416
MATHEWS	228	278	328	410	459
MIDDLESEX	228	278	328	410	459
NORTHUMBERLD	228	278	328	410	459
ORANGE	268	321	374	468	524
PATRICK	217	264	311	388	436
RAPPAHANNOCK	262	318	374	468	524
ROCKBRIDGE	251	305	358	448	503
RUSSELL	240	292	343	428	481
SMYTH	212	257	303	378	424
SPOTSLYVANIA	297	361	424	530	594
TAZEWELL	240	292	343	428	481
WESTMORELAND	228	278	328	410	459
BUENA VISTA	251	305	358	448	503
COVINGTON	251	305	358	448	503
FRANKLIN	197	239	281	352	394
GALAX	212	257	303	378	424
LEXINGTON	251	305	358	448	503
STAUNTON	251	305	358	448	503
WINCHESTER	262	318	374	468	524

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLEGHANY	251	305	358	448	503
APPOMATTOX	254	305	357	447	500
BATH	251	305	358	448	503
BRUNSWICK	197	239	281	352	394
BUCKINGHAM	208	252	297	371	416
CARROLL	212	257	303	378	424
CLARKE	262	318	374	468	524
CUMBERLAND	208	252	297	371	416
FAUQUIER	262	318	374	468	524
FREDERICK	262	305	360	451	505
GRAYSON	212	257	303	378	424
HALIFAX	208	252	297	371	416
ISLE OFWIGHT	203	247	287	359	394
LANCASTER	229	279	328	410	459
LOUISA	268	321	374	468	524
MADISON	268	321	374	468	524
MECKLENBURG	197	239	281	352	394
NORTHAMPTON	238	286	333	411	459
NOTTOWAY	208	252	297	371	416
PAGE	253	305	360	451	505
PRINCEEDWARD	208	252	297	371	416
RICHMOND	229	278	328	410	459
ROCKINGHAM	251	305	358	448	503
SHENANDOAH	252	305	360	451	505
SOUTHAMPTON	203	247	297	359	394
SURRY	203	247	287	359	394
WARREN	252	305	360	451	505
BEDFORD	217	264	311	388	436
CLIFTON FORG	251	305	358	448	503
EMPORIA	197	239	281	352	394
FREDERICKBUR	287	351	414	539	594
HARRISONBURG	251	305	358	448	503
SOUTH BOSTON	208	252	297	371	416
WAYNESBORO	251	305	358	448	503

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 18 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.18 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART I - FINAL FMRS, NO INTENTS TO COMMENT

S T A T E: WASHINGTON

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BELLINGHAM, WA MSA COUNTY(IES): WHATCOM	303	368	433	552	607
OLYMPIA, WA MSA COUNTY(IES): THURSTON	315	382	450	563	630
RICHLAND-KENNEWICK-PASCO, WA MSA COUNTY(IES): BENTON, FRANKLIN	355	432	508	636	711
SEATTLE, WA PMSA COUNTY(IES): KING, SNOHOMISH	325	396	460	595	655
YAKIMA, WA MSA COUNTY(IES): YAKIMA	277	336	398	494	554

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	226	274	322	403	453
CLALLAM	294	357	420	526	588
COWLITZ	273	332	390	488	547
GARFIELD	292	354	417	521	584
ISLAND	300	364	428	536	600
KITTITAS	249	302	356	445	498
LEWIS	273	332	390	488	547
MASON	294	357	420	526	588
PACIFIC	294	357	420	526	588
SKAGIT	300	364	428	536	600
WAHKIAKUM	273	332	390	488	547
ASOTIN	292	354	417	521	584
COLUMBIA	292	354	417	521	584
FERRY	226	274	322	403	452
GRAYS HARBOR	294	357	420	526	588
JEFFERSON	294	357	420	526	588
KLICKITAT	273	332	390	488	547
LINCOLN	226	274	322	403	452
OKANOGAN	249	302	356	445	498
SAN JUAN	300	364	428	536	600
SKAMANIA	273	332	390	488	547

S T A T E: WEST VIRGINIA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHARLESTON, WV MSA COUNTY(IES): KANAWHA, PUTNAM	328	394	464	580	650
HUNTINGTON-ASHLAND, WV-KY-OH MSA COUNTY(IES): CABELL, WAYNE	286	323	380	475	533
PARKERSBURG-MARIETTA, WV-OH MSA COUNTY(IES): WOOD	247	300	353	442	496
STEUBENVILLE-WEIRTON, OH-WV MSA COUNTY(IES): BROOKE, HANCOCK	264	308	362	453	508
WHEELING, WV-OH MSA COUNTY(IES): MARSHALL, OHIO	250	304	358	448	501

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BARBOUR	204	248	292	365	409
BRAXTON	204	248	292	365	409
FAYETTE	214	260	306	382	428
GRANT	224	272	320	400	448
HAMPSHIRE	224	272	320	400	448
HARRISON	228	277	326	407	456
LEWIS	204	248	292	365	409
LOGAN	228	272	320	400	448
MARION	278	334	393	491	550
MERCER	320	388	315	394	441
MONONGALIA	275	334	393	491	550
MORGAN	224	272	320	400	448
PENDLETON	324	272	320	400	448
PRESTON	278	334	393	491	550
RANDOLPH	204	248	292	365	409
TAYLOR	228	277	326	407	456
UPSHUR	204	248	292	365	409
WYOMING	228	270	311	388	436
BERKELEY	224	272	320	400	448
DODDRIDGE	228	277	326	407	456
GILMER	204	248	292	365	409
GREENBRIER	214	260	306	382	428
HARDY	224	272	320	400	448
JEFFERSON	224	272	320	400	448
LINCOLN	228	272	320	400	448
MCDOWELL	217	264	310	388	435
MASON	228	272	320	400	448
MINGO	228	272	320	400	448
MONROE	226	270	315	394	441
NICHOLAS	214	260	306	382	428
POCAHONTAS	214	260	306	383	428
RALEIGH	226	270	311	388	435
SUMMERS	226	270	315	394	441
TUCKER	204	248	292	365	409
WEBSTER	214	260	306	382	428

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

S T A T E: WISCONSIN

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DULUTH, MN-WI MSA COUNTY(IES): DOUGLAS	270	322	379	474	531
EAU CLAIRE, WI MSA COUNTY(IES): CHIPPEWA, EAU CLAIRE	244	287	349	437	489
GREEN BAY, WI MSA COUNTY(IES): BROWN	246	299	354	440	493
JANESVILLE-BELOIT, WI MSA COUNTY(IES): ROCK	272	331	389	487	545
KENOSHA, WI PMSA COUNTY(IES): KENOSHA	284	345	406	508	569
LA CROSSE, WI MSA COUNTY(IES): LA CROSSE	290	352	415	519	581
RACINE, WI PMSA COUNTY(IES): RACINE	281	341	401	502	562
SHEBOYGAN, WI MSA COUNTY(IES): SHEBOYGAN	252	306	360	450	504
WAUSAU, WI MSA COUNTY(IES): MARATHON	246	299	352	440	493

NONMETROPOLITAN COUNTIES

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ADAMS	251	304	358	448	502
BARRON	238	290	342	427	479
BUFFALO	227	275	324	406	454
CLARK	238	290	342	427	479
DODGE	228	278	327	409	458
FLORENCE	216	263	309	386	433
GRANT	236	274	322	403	452
GREEN LAKE	246	298	352	440	493
IRON	220	268	315	394	441
JEFFERSON	262	318	375	468	525
KEWAUNEE	226	272	319	394	440
LANGLADE	234	284	334	418	468
MANITOWOC	226	272	319	394	440
MARQUETTE	220	268	315	394	441
MONROE	227	275	324	406	454
ONEIDA	234	284	334	418	468
PIERCE	227	276	324	405	454
PORTAGE	251	304	358	448	502
RICHLAND	226	274	322	403	452
SAUK	229	278	327	409	458
SHAWANO	220	268	315	394	441
TREMPEALEAU	227	276	324	406	454
WALWORTH	262	318	375	468	525
WAUPACA	220	268	315	394	441
WOOD	251	304	358	448	502
ASHLAND	220	268	315	394	441
BAYFIELD	220	268	315	394	441
BURNETT	220	268	315	394	441
COLUMBIA	229	278	327	409	458
DUNN	239	290	342	427	479
FOREST	234	284	334	418	468
GREEN	234	284	332	412	457
IOWA	228	276	322	403	452
JACKSON	227	275	324	405	454
JUNEAU	251	304	358	448	502
LAFAYETTE	226	274	322	403	452
LINCOLN	234	284	334	418	468
MARINETTE	220	268	311	388	433
MENOMINEE	220	268	315	394	441
OCONTO	218	263	309	386	433
PEPIN	227	276	324	405	454
POLK	239	290	342	427	479
PRICE	220	268	315	394	441
RUSK	220	268	315	394	441
SAWYER	220	268	315	394	441
TAYLOR	220	268	315	394	441
VILAS	234	284	334	418	468
WASHBURN	220	268	315	394	441
WAUSHARA	220	268	315	394	441

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 16 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.16 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B -- FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 1 - FINAL FMRS, NO INTENTS TO COMMENT

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
S T A T E: WYOMING					
CASPER, WY MSA					
COUNTY(IES): NATRONA	350	425	500	625	700
CHEYENNE, WY MSA					
COUNTY(IES): LARAMIE	290	350	415	520	580

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALBANY	228	275	325	405	450
CAMPBELL	228	275	325	405	450
CONVERSE	228	275	325	405	450
FREMONT	225	275	325	405	450
HOT SPRINGS	230	280	330	410	460
LINCOLN	228	275	325	405	450
PARK	230	280	330	410	460
SHERIDAN	310	380	445	555	625
SWEETWATER	228	275	325	405	450
UINTA	228	275	325	405	450
WESTON	230	280	330	410	460

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BIG HORN	230	280	330	410	460
CARBON	225	275	325	405	450
CROOK	225	280	330	410	460
GOSHEN	225	275	325	405	450
JOHNSON	225	275	325	405	450
NIOBRARA	225	275	325	405	450
PLATTE	225	275	325	405	450
SUBLETTE	225	275	325	405	450
TETON	295	355	420	525	590
WASHAKIE	230	280	330	410	460

STATE: GUAM	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NONMETROPOLITAN COUNTIES					
GUAM	368	440	520	650	730

S T A T E: PUERTO RICO	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
AQUADILLA, PR MSA					
COUNTY(IES): AQUADELLA	225	275	325	405	455
ARECIBO, PR MSA					
COUNTY(IES): ARECIBO	330	400	470	590	660
CAGUAS, PR PMSA					
COUNTY(IES): CAGUAS	275	330	390	490	545
MAYAGUEZ, PR MSA					
COUNTY(IES): MAYAGUEZ	225	275	325	405	455
PONCE, PR MSA					
COUNTY(IES): PONCE	320	390	460	575	645
SAN JUAN, PR PMSA					
COUNTY(IES): SAN JUAN	320	390	460	575	645

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALL OTHER	215	265	310	390	435

STATE: VIRGIN ISLANDS	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NONMETROPOLITAN COUNTIES					
-CHAR.AMALIE	368	438	510	640	715
ST. THOMAS	336	410	480	600	670

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ST. CROIX	300	368	430	540	600

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 2 - FINAL FMRS, PENDING REVIEW OF PUBLIC COMMENT

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
STATE: CALIFORNIA					
ANAHEIM-SANTA ANA, CA PMSA COUNTY(IES): ORANGE	440	535	630	790	885
OAKLAND, CA PMSA COUNTY(IES): ALAMEDA, CONTRA COSTA	411	490	588	735	823
OXNARD-VENTURA, CA PMSA COUNTY(IES): VENTURA	394	478	562	703	788
SACRAMENTO, CA MSA COUNTY(IES): EL DORADO, PLACER, SACRAMENTO, YOLO	296	360	425	530	590
SAN DIEGO, CA MSA COUNTY(IES): SAN DIEGO	378	460	540	675	755
SAN FRANCISCO, CA PMSA COUNTY(IES): MARIN, SAN FRANCISC, SAN MATEO	496	600	710	885	990
STOCKTON, CA MSA COUNTY(IES): SAN JOAQUIN	278	339	399	499	558

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SAN BENITO	273	332	390	488	547

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
STATE: COLORADO					
DENVER, CO PMSA COUNTY(IES): ADAMS, ARAPAHOE, DENVER, DOUGLAS, JEFFERSON	366	420	495	618	690

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS	
LA PLATA	270	327	385	482	540	PROWERS
	236	284	330	413	463	

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
STATE: CONNECTICUT					
BRIDGEPORT-MILFORD, CT PMSA COUNTY: FAIRFIELD TOWNS OF BRIDGEPORT, EASTON, FAIRFIELD, MONROE, SHELTON, STRATFORD, TRUMBULL	317	386	464	667	838
COUNTY: NEW HAVEN TOWNS OF ANSONIA, BEACON FALLS, DERBY, MILFORD, OXFORD, SEYMOUR	304	369	434	643	808
BRISTOL, CT PMSA COUNTY: HARTFORD TOWNS OF BRISTOL, BURLINGTON COUNTY: LITCHFIELD TOWNS OF PLYMOUTH	282	343	403	804	864
NEW BRITAIN, CT PMSA COUNTY: HARTFORD TOWNS OF BERLIN, NEW BRITAIN, PLAINVILLE, SOUTHINGTON	302	366	431	639	804
NEW LONDON-NORWICH, CT-RI MSA COUNTY: NEW LONDON TOWNS OF BOZRAH, EAST LYME, FRANKLIN, GRISWOLD, GROTON, LEDYARD, LISBON, MONTVILLE, NEW LONDON NORTH STONIN, NORWICH, OLD LYME, PRESTON, SALEM, SPRAGUE, STONINGTON, WATERFORD					
COUNTY: WINDHAM TOWNS OF CANTERBURY	289	342	403	800	858
WATERBURY, CT MSA COUNTY: LITCHFIELD TOWNS OF BETHLEHEM, THOMASTON, WATERTOWN, WOODBURY COUNTY: NEW HAVEN TOWNS OF MIDDLEBURY, NAUGATUCK, PROSPECT, SOUTHBURY, WATERBURY, WOLCOTT	270	328	386	483	541

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
WINDHAM COUNTY TOWNS OF ASHFORD, BROOKLYN, CHAPLIN, EASTFORD, HAMPTON NILLINGLY, PLAINFIELD, POMFRET, PUTNAM, SCOTLAND, STERLING, THOMPSON, WINDHAM, WOODSTOCK	304	367	432	540	608

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS	
STATE: DELAWARE						
WILMINGTON, DE-NJ-MD PMSA COUNTY(IES): NEW CASTLE						
KENT	256	311	366	462	512	SUSSEX
	256	311	366	462	512	

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
STATE: DIST. OF COLUMBIA					
WASHINGTON, DC-MD-VA MSA COUNTY(IES): WASHINGTON	370	460	630	668	748

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B. - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 2 - FINAL FMRS, PENDING REVIEW OF PUBLIC COMMENT

STATE: FLORIDA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LAKELAND-WINTER HAVEN, FL MSA COUNTY(IES): POLK	261	317	373	467	523
OCALA, FL MSA COUNTY(IES): MARION	241	294	344	430	482
ORLANDO, FL MSA COUNTY(IES): ORANGE, OSCEOLA, SEMINOLE	310	378	445	555	620
TAMPA-ST. PETERSBURG-CLEARWATER, FL MSA COUNTY(IES): HERNANDO, HILLSBOROUGH, PASCO, PINELLAS	286	347	408	511	573

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MONROE	326	396	466	583	653

STATE: GEORGIA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATLANTA, GA MSA COUNTY(IES): BARROW, BUTTS, CHEROKEE, CLAYTON, COBB, COWETA, DE KALB, DOUGLAS, FAYETTE, FORSYTH, FULTON, GWINNETT, HENRY, NEWTON, PAULDING, ROCKDALE, SPALDING, WALTON	310	378	440	550	615

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATKINSON	198	237	279	349	391
MCINTOSH	230	278	329	411	460

STATE: IDAHO											
BANNOCK	258	314	386	458	513	CANYON	247	300	353	441	494
PAYETTE	247	300	353	441	494	WASHINGTON	247	300	353	441	494

STATE: INDIANA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CINCINNATI, OH-KY-IN PMSA COUNTY(IES): DEARBORN	250	305	360	450	500
MUNCIE, IN MSA COUNTY(IES): DELAWARE	226	272	319	398	443

STATE: IOWA											
NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
APPANOOSE	221	268	316	395	442	DAVIS	221	268	316	395	442
JEFFERSON	221	268	316	395	442	KEOKUK	221	268	316	395	442
LUCAS	221	268	316	395	442	VAN BUREN	221	268	316	395	442
WAYNE	221	268	316	395	442						

STATE: KENTUCKY	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CINCINNATI, OH-KY-IN PMSA COUNTY(IES): BOONE, CAMPBELL, KENTON	250	305	360	450	500

STATE: MAINE	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PORTSMOUTH-DOVER-ROCHESTER, NH-ME MSA COUNTY: YORK TOWNS OF BERWICK, ELIOT, KITTERY, NORTH BERWIC, SOUTH BERWIC, WELLS, YORK	305	370	431	531	595

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CUMBERLAND COUNTY TOWNS OF BALDWIN, BRIDGTON, BRUNSWICK, CASCO HARPSWELL, HARRISON, NAPLES, NEW GLOUCEST, POWNAL, SEBAGO	280	340	400	490	553
HANCOCK COUNTY	286	315	370	461	515
KENNEBEC COUNTY	261	307	361	452	508
PENOBSCOT COUNTY TOWNS OF ALTON, ARGYLE, BRADFORD, BRADLEY, BURLINGTON CARMEL, CARROLL, CHARLESTON, CHESTER, CLIFTON, CORINNA, CORINTH, DEXTER, DIXMONT, DREW, EAST MILLINO, EDINBURG ENFIELD, ETNA, EXETER, GARLAND, GRAND FALLS, GREENBUSH, GREENFIELD, HOWLAND, HUDSON, KINGMAN, LAGRANGE, LAKEVILLE LEE, LEVANT, LINCOLN, LOWELL, MATTAWAMKEAG, MAXFIELD, MEDWAY, MILFORD, MILLINOCKET, MOUNT CHASE, NEWBURGH, NEWPORT NORTH PENOBS, PASSADUMKEAG, PATTEN, PLYMOUTH, PRENTISS, SEBOEIS, SPRINGFIELD, STACYVILLE, STETSON, SUMMIT, TWOMBLY WEBSTER, WHITNEY, WINN, WOODVILLE	261	315	367	459	515
WALDO COUNTY TOWNS OF BELFAST, BELMONT, BROOKS, BURNHAM, FRANKFORT FREEDOM, ISLESBORO, JACKSON, KNOX, LIBERTY, LINCOLNVILLE, MONROE, MONTVILLE, MORRILL, NORTHPORT, PALERMO, PROSPECT SEARSMONT, SEARSPORT, STOCKTON SPR, SWANVILLE, THORNDIKE, TROY, UNITY, WALDO	257	312	367	459	515
WASHINGTON COUNTY	257	312	367	459	515

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 2 - FINAL FMRS, PENDING REVIEW OF PUBLIC COMMENT

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
STATE: MARYLAND					
COLUMBIA, MD MSA					
COUNTY(IES): COLUMBIA	400	485	570	690	765
WASHINGTON, DC-MD-VA MSA					
COUNTY(IES): CALVERT, CHARLES, FREDERICK, MONTGOMERY, PRINCE GEORG	370	450	530	665	745
WILMINGTON, DE-NJ-MD PMSA					
COUNTY(IES): CECIL	304	367	432	540	605

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CAROLINE	258	310	365	456	511

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
STATE: MASSACHUSETTS					
BOSTON, MA PMSA					
COUNTY: BRISTOL TOWNS OF MANSFIELD, NORTON, RAYNHAM					
COUNTY: ESSEX TOWNS OF LYNN, LYNNFIELD, NAHANT, SAUGUS					
COUNTY: MIDDLESEX TOWNS OF ACTON, ARLINGTON, ASHLAND, AYER, BEDFORD, BELMONT, BOXBOROUGH, BURLINGTON, CAMBRIDGE, CARLISLE CONCORD, EVERETT, FRAMINGHAM, GROTON, HOLLISTON, HOPKINTON, HUDSON, LEXINGTON, LINCOLN, LITTLETON, MALDEN MARLBOROUGH, MAYNARD, MEDFORD, MELROSE, NATICK, NEWTON, NORTH READIN, READING, SHERBORN, SHIRLEY SOMERVILLE, STONEHAM, STOW, SUDBURY, TOWNSEND, WAKEFIELD, WALTHAM, WATERTOWN, WAYLAND, WESTON, WILMINGTON WINCHESTER, WOBURN	400	485	570	715	800
COUNTY: NORFOLK TOWNS OF BELLINGHAM, BRAINTREE, BROOKLINE, CANTON, COHASSET, DEDHAM, DOVER, FOXBOROUGH, FRANKLIN, HOLBROOK MEDFIELD, MEDWAY, MILLIS, MILTON, NEEDHAM, NORFOLK, NORWOOD, QUINCY, RANDOLPH, SHARON, STOUGHTON, WALPOLE WELLESLEY, WESTWOOD, WEYMOUTH, WRENTHAM					
COUNTY: PLYMOUTH TOWNS OF CARVER, DUXBURY, HANOVER, HANSON, HINGHAM, HULL, KINGSTON, LAKEVILLE, MARSHFIELD, MIDDLEBOROUG NORWELL, PEMBROKE, PLYMOUTH, PLYMPTON, ROCKLAND, SCITUATE					
COUNTY: SUFFOLK TOWNS OF BOSTON, CHELSEA, REVERE, WINTHROP					
COUNTY: WORCESTER TOWNS OF BERLIN, BOLTON, HARVARD, HOPEDALE, LANCASTER, MENDON, MILFORD, SOUTHBOROUGH, UPTON	388	431	507	633	710
BROCKTON, MA PMSA					
COUNTY: BRISTOL TOWNS OF EASTON					
COUNTY: NORFOLK TOWNS OF AVON					
COUNTY: PLYMOUTH TOWNS OF ABINGTON, BRIDGEWATER, BROCKTON, EAST BRIDGEW, HALIFAX, WEST BRIDGEW, WHITMAN	336	408	480	601	673
LAWRENCE-HAVERHILL, MA-NH PMSA					
COUNTY: ESSEX TOWNS OF AMESBURY, ANDOVER, BOXFORD, GEORGETOWN, GROVELAND, HAVERHILL, LAWRENCE, MERRIMAC, METHUEN, NEWBURY NEWBURYPORT, NORTH ANDOVE, SALISBURY, WEST NEWBURY					

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BRISTOL COUNTY TOWNS OF BERKLEY, DIGHTON, TAUNTON	295	358	422	527	590
HAMPDEN COUNTY TOWNS OF BLANDFORD, BRIMFIELD, CHESTER, GRANVILLE HOLLAND, TOLLAND, WALES	293	356	419	523	586

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
STATE: MICHIGAN					
ANN ARBOR, MI PMSA					
COUNTY(IES): WASHTENAW	351	426	502	627	702
BATTLE CREEK, MI MSA					
COUNTY(IES): CALHOUN	244	296	348	436	488
DETROIT, MI PMSA					
COUNTY(IES): LAPEER, LIVINGSTON, MACOMB, MONROE, OAKLAND, ST CLAIR, WAYNE	287	348	403	502	560
GRAND RAPIDS, MI MSA					
COUNTY(IES): KENT, OTTAWA	240	296	345	430	485
JACKSON, MI MSA					
COUNTY(IES): JACKSON	268	325	383	473	536
KALAMAZOO, MI MSA					
COUNTY(IES): KALAMAZOO	280	336	398	485	542
LANSING-EAST LANSING, MI MSA					
COUNTY(IES): CLINTON, EATON, INGHAM	293	352	412	511	571

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALGER	210	258	301	376	421
HILLSDALE	268	321	378	473	530
IOSCO	234	288	335	418	469
GLADWIN	234	285	335	419	469
IONIA	250	301	358	442	494
SHIAWASSEE	264	320	377	471	528

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
STATE: MINNESOTA					
MINNEAPOLIS-ST. PAUL, MN-WI MSA					
COUNTY(IES): ANOKA, CARVER, CHISAGO, DAKOTA, HENNEPIN, ISANTI, RAMSEY, SCOTT, WASHINGTON, WRIGHT	335	405	480	600	670

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
POLK	336	386	336	420	471

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 2 - FINAL FMRS, PENDING REVIEW OF PUBLIC COMMENT

STATE: MISSISSIPPI										
PEARL RIVER	223	271	319	398	449	STONE	223	272	319	404	446
STATE: MISSOURI										
CLARK	209	253	298	373	418	JOHNSON	205	247	291	363	407
LINCOLN	202	246	289	362	405	MONTGOMERY	202	246	289	362	405
WARREN	202	246	289	362	405						
STATE: NEBRASKA										
DODGE	216	263	309	387	433						

STATE: NEW HAMPSHIRE	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LAWRENCE-HAVERHILL, MA-NH PMSA	336	408	480	601	673
COUNTY: ROCKINGHAM TOWNS OF ATKINSON, BRENTWOOD, DANVILLE, DERRY, EAST KINGSTO, HAMPSTEAD, KINGSTON, NEWTON, PLAISTOW SALEM, SANDOWN, SEABROOK, WINDHAM					
NASHUA, NH PMSA	388	471	554	693	776
COUNTY: HILLSBOROUGH TOWNS OF AMHERST, BROOKLINE, HOLLIS, HUDSON, LITCHFIELD, MERRIMACK, MILFORD, MONT VERNON, NASHUA WILTON					
COUNTY: ROCKINGHAM TOWNS OF LONDONDERRY					
PORTSMOUTH-DOVER-ROCHESTER, NH-ME MSA	305	370	431	531	596
COUNTY: ROCKINGHAM TOWNS OF EXETER, GREENLAND, HAMPTON, NEW CASTLE, NEWFIELDS, NEWINGTON, NEWMARKET, NORTH HAMPTO PORTSMOUTH, RYE, STRATHAM					
COUNTY: STRAFFORD TOWNS OF BARRINGTON, DOVER, DURHAM, FARMINGTON, LEE, MADBURY, MILTON, ROCHESTER, ROLLINSFORD SOMERSWORTH					

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BELKNAP COUNTY	288	359	418	518	580
COOS COUNTY	274	333	392	490	548
GRAFTON COUNTY	298	359	418	518	580
HILLSBOROUGH COUNTY TOWNS OF ANTRIM, BENNINGTON, DEERING, FRANCESTOWN GREENFIELD, GREENVILLE, HANCOCK, HILLSBOROUGH, LYNDEBOROUGH, MASON, NEW BOSTON, NEW IPSWICH, PETERBOROUGH, SHARON TEMPLE, WEARE, WINDSOR	293	355	419	523	586
SULLIVAN COUNTY	298	359	419	523	586

STATE: NEW JERSEY	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JERSEY CITY, NJ PMSA	298	358	422	528	591
COUNTY(IES): HUDSON					
MIDDLESEX-SOMERSET-HUNTERDON, NJ PMSA	370	480	529	662	741
COUNTY(IES): HUNTERDON, MIDDLESEX, SOMERSET					
MONMOUTH-OCEAN, NJ PMSA	338	411	484	605	678
COUNTY(IES): MONMOUTH, OCEAN					
PHILADELPHIA, PA-NJ PMSA	310	375	440	550	615
COUNTY(IES): BURLINGTON, CAMDEN, GLOUCESTER					
WILMINGTON, DE-NJ-MD PMSA	304	367	432	540	605
COUNTY(IES): SALEM					

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 2 - FINAL FMRS, PENDING REVIEW OF PUBLIC COMMENT

STATE: NEW YORK	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALBANY-SCHENECTADY-TROY, NY MSA COUNTY(IES): ALBANY, GREENE, MONTGOMERY, RENSSELAER, SARATOGA, SCHENECTADY	278	330	390	490	545
ELMIRA, NY MSA COUNTY(IES): CHEMUNG	251	305	359	449	503
GLENS FALLS, NY MSA COUNTY(IES): WARREN, WASHINGTON	259	315	370	463	519
NASSAU-SUFFOLK, NY PMSA COUNTY(IES): NASSAU, SUFFOLK	403	490	576	720	807
NEW YORK, NY PMSA COUNTY(IES): BRONX, KINGS, NEW YORK, PUTNAM, QUEENS, RICHMOND, ROCKLAND, WESTCHESTER	330	400	470	590	660
ORANGE COUNTY, NY PMSA COUNTY(IES): ORANGE	303	368	433	541	606
POUGHKEEPSIE, NY MSA COUNTY(IES): DUTCHESS	333	404	476	595	666
ROCHESTER, NY MSA COUNTY(IES): LIVINGSTON, MONROE, ONTARIO, ORLEANS, WAYNE	295	360	425	530	590
SYRACUSE, NY MSA COUNTY(IES): MADISON, ONONDAGA, OSWEGO	280	311	364	455	510

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLEGANY	222	266	311	389	436	CATTARAUGUS	218	265	311	389	436
CAYUGA	259	315	370	463	519	CHAUTAUQUA	233	283	333	416	466
CHENANGO	256	311	366	457	512	COLUMBIA	244	296	349	436	488
ESSEX	236	288	336	420	471	FRANKLIN	236	286	336	420	471
GENESEE	241	292	344	430	482	HAMILTON	238	289	339	423	474
JEFFERSON	263	307	361	451	506	LEWIS	253	307	361	451	506
OTSEGO	238	290	341	426	477	ST LAWRENCE	241	292	344	430	482
SCHUYLER	244	296	349	436	488	STEUBEN	244	296	349	436	488
ULSTER	304	369	434	542	608	WYOMING	243	295	344	430	482

STATE: NORTH CAROLINA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GREENSBORO--WINSTON-SALEM--HIGH POINT, NC MSA COUNTY(IES): DAVIDSON, DAVIE, FORSYTH, GUILFORD, RANDOLPH, STOKES, YADKIN	253	308	362	453	507
RALEIGH-DURHAM, NC MSA COUNTY(IES): DURHAM, FRANKLIN, ORANGE, WAKE	290	353	415	519	581

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CALDWELL	219	265	312	391	437	GRANVILLE	210	255	300	375	420

STATE: OHIO	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CANTON, OH MSA COUNTY(IES): CARROLL, STARK	237	288	338	423	474
CINCINNATI, OH-KY-IN PMSA COUNTY(IES): CLERMONT, HAMILTON, WARREN	250	305	360	450	500
HAMILTON-MIDDLETOWN, OH PMSA COUNTY(IES): BUTLER	280	341	401	501	561
MANSFIELD, OH MSA COUNTY(IES): RICHLAND	227	277	328	408	455

STATE: OKLAHOMA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
OKLAHOMA CITY, OK MSA COUNTY(IES): CANADIAN, CLEVELAND, LOGAN, MCCLAIN, OKLAHOMA, POTTAWATOMIE	300	361	424	520	588

STATE: OREGON	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
MEDFORD, OR MSA COUNTY(IES): JACKSON	319	387	466	569	636

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS		0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
COOS	305	370	436	545	610	CURRY	305	370	436	545	610

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 2 - FINAL FMRS, PENDING REVIEW OF PUBLIC COMMENT

STATE: PENNSYLVANIA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PHILADELPHIA, PA-NJ PMSA COUNTY(IES): BUCKS, CHESTER, DELAWARE, MONTGOMERY, PHILADELPHIA	310	375	440	550	615

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NORTHUMBRLND	242	282	332	415	464

STATE: RHODE ISLAND

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEW LONDON-NORWICH, CT-RI MSA COUNTY: WASHINGTON TOWNS OF HOPKINTON, WESTERLY	302	366	431	539	604
PROVIDENCE, RI PMSA COUNTY: BRISTOL TOWNS OF BARRINGTON, BRISTOL, WARREN COUNTY: KENT TOWNS OF COVENTRY, EAST GREENWI, WARWICK, WEST WARWICK COUNTY: NEWPORT TOWNS OF JAMESTOWN COUNTY: PROVIDENCE TOWNS OF CRANSTON, EAST PROVIDE, FOSTER, GLOCESTER, JOHNSTON, NORTH PROVID, PROVIDENCE, SCITUATE COUNTY: WASHINGTON TOWNS OF EXETER, NARRAGANSETT, NORTH KINGST, RICHMOND, SOUTH KINGST	278	330	390	490	545

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
KENT COUNTY TOWNS OF WEST GREENWI	293	356	419	523	586

STATE: TEXAS

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DALLAS, TX PMSA COUNTY(IES): COLLIN, DALLAS, DENTON, ELLIS, KAUFMAN, ROCKWALL	285	350	410	515	575
LUBBOCK, TX MSA COUNTY(IES): LUBBOCK	294	367	430	525	589

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ANGELINA	250	303	357	446	500
NACOGDOCHES	250	303	357	446	500
SABINE	182	222	261	326	365
SAN JACINTO	259	315	371	464	519
TRINITY	259	315	371	464	519

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
HOUSTON	259	315	371	464	519
POLK	259	315	371	464	519
SAN AUGUSTIN	182	222	261	326	365
SHELBY	182	222	261	326	365

STATE: VERMONT

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHITTENDEN COUNTY TOWNS OF BOLTON, BUELS, HUNTINGTON, UNDERHILL WESTFORD	324	394	484	580	648

STATE: VIRGINIA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
RICHMOND-PETERSBURG, VA MSA COUNTY(IES): CHARLES CITY, CHESTERFIELD, DINWIDDIE, GOOCHLAND, HANOVER, HENRICO, NEW KENT, POWHATAN, PRINCEGEORGE COLONIAL HEI, HOPEWELL, PETERSBURG, RICHMOND	287	349	404	505	566
WASHINGTON, DC-MD-VA MSA COUNTY(IES): ARLINGTON, FAIRFAX, LOUDOUN, PRINCEWILLIA, STAFFORD, ALEXANDRIA, FAIRFAX, FALLS CHURCH, MANASSAS MANASSAS PRK	370	450	536	668	748

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
FRANKLIN	217	264	311	388	438

STATE: WASHINGTON

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SPOKANE, WA MSA COUNTY(IES): SPOKANE	266	318	371	474	528

STATE: WISCONSIN

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
APPLETON-OSHKOSH-NEENAH, WI MSA COUNTY(IES): CALUMET, OUTAGAMIE, WINNEBAGO	246	299	352	449	493
MADISON, WI MSA COUNTY(IES): DANE	280	340	400	506	560
MILWAUKEE, WI PMSA COUNTY(IES): MILWAUKEE, OZAUKEE, WASHINGTON, WAUKESHA	296	359	425	528	582
MINNEAPOLIS-ST. PAUL, MN-WI MSA COUNTY(IES): ST CROIX	338	408	480	600	670

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
DOOR	226	272	319	394	440

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
FOND DU LAC	249	302	352	440	493

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 3 - FINAL FMRS, PENDING REVIEW OF PUBLIC COMMENTS (INCREASES FOR SELECTED BEDROOM SIZES)

STATE: ALASKA

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
FAIRBKS-N.ST	438	544	676	886	941

S T A T E: CALIFORNIA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOS ANGELES-LONG BEACH, CA PMSA COUNTY(IES): LOS ANGELES	416	490	570	741	851
SAN JOSE, CA PMSA COUNTY(IES): SANTA CLARA	480	532	616	782	876
VALLEJO-FAIRFIELD-NAPA, CA PMSA COUNTY(IES): NAPA, SOLANO	366	413	501	709	771
VISALIA-TULARE-PORTERVILLE, CA MSA COUNTY(IES): TULARE	282	343	404	546	593
YUBA CITY, CA MSA COUNTY(IES): SUTTER, YUBA	256	307	387	461	520

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS	
MENDOCINO	302	367	432	571	622	MERCED
PLUMAS	286	336	397	518	572	

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
	285	346	407	523	593

S T A T E: COLORADO	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BOULDER-LONGMONT, CO PMSA COUNTY(IES): BOULDER	402	473	582	630	747

S T A T E: FLORIDA	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
FORT LAUDERDALE-HOLLYWOOD-POMPANO BEACH, FL PMSA COUNTY(IES): BROWARD	372	440	512	636	712

S T A T E: ILLINOIS	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ST. LOUIS, MO-IL MSA COUNTY(IES): CLINTON, JERSEY, MADISON, MONROE, ST CLAIR	277	336	386	496	666

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JACKSON	249	302	383	448	525

STATE: MAINE					
KNOX COUNTY	271	312	387	459	515
LINCOLN COUNTY	271	312	386	452	506
SOMERSET COUNTY	271	312	386	452	506

S T A T E: MASSACHUSETTS	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOWELL, MA-NH PMSA COUNTY: MIDDLESEX TOWNS OF BILLERICA, CHELMSFORD, DRACUT, DUNSTABLE, LOWELL, PEPPERELL, TEWKSBURY, TYNGSBOROUGH, WESTFORD	341	389	451	564	631
PAWTUCKET-WOONSOCKET-ATTLEBORO, RI-MA PMSA COUNTY: BRISTOL TOWNS OF ATTLEBORO, NORTH ATTLEB, REHOBOTH, SEEKONK COUNTY: NORFOLK TOWNS OF PLAINVILLE COUNTY: WORCESTER TOWNS OF BLACKSTONE, MILLVILLE	279	319	376	468	519
SALEM-GLOUCESTER, MA PMSA COUNTY: ESSEX TOWNS OF BEVERLY, DANVERS, ESSEX, GLOUCESTER, HAMILTON, IPSWICH, MANCHESTER, MARBLEHEAD, MIDDLETON, PEABODY ROCKPORT, ROWLEY, SALEM, SWAMPSCOTT, TOPSFIELD, WENHAM	396	459	540	675	756

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
FRANKLIN COUNTY	305	358	419	523	586

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 3 - FINAL FMRS, PENDING REVIEW OF PUBLIC COMMENTS (INCREASES FOR SELECTED BEDROOM SIZES)

STATE: MICHIGAN

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CLARE	234	288	350	419	469
GRD TRAVERSE	283	323	380	475	539
ROSCOMMON	234	288	350	419	469

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
GOGEBIC	234	288	317	389	436
ONTONAGON	234	288	317	389	436

STATE: MISSISSIPPI

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PASCAGOULA, MS MSA COUNTY(IES): JACKSON	256	320	387	474	512

STATE: MISSOURI

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ST. LOUIS, MO-IL MSA COUNTY(IES): FRANKLIN, JEFFERSON, ST CHARLES, ST LOUIS, ST. LOUIS	277	335	396	486	555

STATE: NEW HAMPSHIRE

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
LOWELL, MA-NH PMSA COUNTY: HILLSBOROUGH TOWNS OF PELHAM	341	389	481	564	631
MANCHESTER, NH MSA COUNTY: HILLSBOROUGH TOWNS OF BEDFORD, GOFFSTOWN, MANCHESTER COUNTY: MERRIMACK TOWNS OF ALLENSTOWN, HOOKSETT COUNTY: ROCKINGHAM TOWNS OF AUBURN, CANDIA	308	363	424	525	588

STATE: NEW JERSEY

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLENTOWN-BETHLEHEM, PA-NJ MSA COUNTY(IES): WARREN	278	330	388	485	540
NEWARK, NJ PMSA COUNTY(IES): ESSEX, MORRIS, SUSSEX, UNION	328	385	450	565	630

STATE: NEW YORK

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CLINTON	249	298	346	428	471

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
SENECA	275	320	377	463	519

STATE: OHIO

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ATHENS	218	277	346	422	467

STATE: OREGON

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PORTLAND, OR PMSA COUNTY(IES): CLACKAMAS, MULTNOMAH, WASHINGTON, YAMHILL	265	320	378	506	544

STATE: PENNSYLVANIA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
ALLENTOWN-BETHLEHEM, PA-NJ MSA COUNTY(IES): CARBON, LEHIGH, NORTHAMPTON	278	330	388	485	540
LANCASTER, PA MSA COUNTY(IES): LANCASTER	273	332	384	505	547

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE B - FAIR MARKET RENTS FOR EXISTING HOUSING (INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAM) 032786
PART 3 - FINAL FMRS, PENDING REVIEW OF PUBLIC COMMENTS (INCREASES FOR SELECTED BEDROOM SIZES)

STATE: RHODE ISLAND

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PAWTUCKET-WOONSOCKET-ATTLEBORO, RI-MA PMSA	270	310	376	468	519

COUNTY: PROVIDENCE TOWNS OF BURRILLVILLE, CENTRAL FALL, CUMBERLAND, LINCOLN, NORTH SMITHF, PAWTUCKET, SMITHFIELD WOONSOCKET

NONMETROPOLITAN COUNTIES OR PARTS OF COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
NEWPORT COUNTY TOWNS OF MIDDLETOWN, NEWPORT, PORTSMOUTH	316	357	420	525	588
WASHINGTON COUNTY TOWNS OF CHARLESTOWN, NEW SHOREHAM	304	356	419	523	586

STATE: TENNESSEE

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA MSA	230	287	334	410	494

COUNTY(IES): CARTER, HAWKINS, SULLIVAN, UNICOI, WASHINGTON

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
PUTNAM	207	255	294	378	418
WHITE	207	255	294	378	418

STATE: VIRGINIA

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA MSA	230	287	334	410	494

COUNTY(IES): SCOTT, WASHINGTON, BRISTOL

NORFOLK-VIRGINIA BEACH-NEWPORT NEWS, VA MSA	301	361	418	511	572

COUNTY(IES): GLOUCESTER, JAMES CITY, YORK, CHESAPEAKE, HAMPTON, NEWPORT NEWS, NORFOLK, POQUOSON, PORTSMOUTH, SUFFOLK VIRGINIA BEA, WILLIAMSBURG

STATE: WASHINGTON

	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
BREMERTON, WA MSA	304	370	436	585	672

COUNTY(IES): KITSAP

TACOMA, WA PMSA	270	328	381	518	661

COUNTY(IES): PIERCE

NONMETROPOLITAN COUNTIES	0 BEDROOMS	1 BEDROOM	2 BEDROOMS	3 BEDROOMS	4 BEDROOMS
CHELAN	249	307	376	504	558
PEND OREILLE	226	278	337	426	478
WHITMAN	292	364	417	584	660
DOUGLAS	249	307	376	504	558
WALLA WALLA	292	364	423	567	594

NOTE: THE FMRS FOR UNIT SIZES LARGER THAN FOUR-BEDROOMS ARE CALCULATED BY ADDING 15 PERCENT TO THE FOUR-BEDROOM FMR FOR EACH ADDITIONAL BEDROOM. TO ILLUSTRATE, THE FMR FOR A FIVE-BEDROOM UNIT IS 1.15 TIMES THE FOUR-BEDROOM FMR, AND THE CALCULATION OF THE FMR FOR A SIX-BEDROOM UNIT IS 1.30 TIMES THE FOUR-BEDROOM FMR, ETC.

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SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 031786

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NON METRO STATE: ALABAMA	82	70
MSA: ANNISTON, AL	85	71
MSA: BIRMINGHAM, AL	90	99
MSA: COLUMBUS, GA-AL	82	90
MSA: DOTHAN, AL	80	68
MSA: FLORENCE, AL	71	77
MSA: GADSDEN, AL	85	71
MSA: HUNTSVILLE, AL	90	99
MSA: MOBILE, AL	72	78
MSA: MONTGOMERY, AL	72	77
MSA: TUSCALOOSA, AL	84	95
EXCEPTION COUNTY: LIMESTONE	81	89
EXCEPTION COUNTY: MARSHALL	81	89
NON METRO STATE: ALASKA	202	202
MSA: ANCHORAGE, AK	224	224
EXCEPTION COUNTY: KETCHIKAN	202	214
NON METRO STATE: ARIZONA	83	106
MSA: PHOENIX, AZ	115	137
MSA: TUCSON, AZ	83	115
NON METRO STATE: ARKANSAS	36	40
MSA: FAYETTEVILLE-SPRINGDALE, AR	57	61
MSA: FORT SMITH, AR-OK	33	36
MSA: LITTLE ROCK-NORTH LITTLE ROCK, AR	48	50
MSA: MEMPHIS, TN-AR-MS	83	83
MSA: PINE BLUFF, AR	26	28
MSA: TEXARKANA, TX-TEXARKANA, AR	98	110
EXCEPTION COUNTY: BENTON	83	85
EXCEPTION COUNTY: LITTLE RIVER	88	99
NON METRO STATE: CALIFORNIA	130	170
PMSA: ANAHEIM-SANTA ANA, CA	253	253
MSA: BAKERSFIELD, CA	122	185
MSA: CHICO, CA	130	170
MSA: FRESNO, CA	185	208
PMSA: LOS ANGELES-LONG BEACH, CA	144	240
MSA: MODESTO, CA	193	208
PMSA: OAKLAND, CA	199	260
PMSA: OXNARD-VENTURA, CA	180 ★	278 ★

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: REDDING, CA	130	170
PMSA: RIVERSIDE-SAN BERNARDINO, CA	122	193
MSA: SACRAMENTO, CA	149	178
MSA: SALINAS-SEASIDE-MONTEREY, CA	185	232
MSA: SAN DIEGO, CA	185	232
PMSA: SAN FRANCISCO, CA	214	278
PMSA: SAN JOSE, CA	230	289
MSA: SANTA BARBARA-SANTA MARIA-LOMPOC, CA	153	282
PMSA: SANTA CRUZ, CA	185	232
PMSA: SANTA ROSA-PETALUMA, CA	185	233
MSA: STOCKTON, CA	193	206
PMSA: VALLEJO-FAIRFIELD-NAPA, CA	176 *	200 *
MSA: VISALIA-TULARE-PORTERVILLE, CA	130	170
MSA: YUBA CITY, CA	130	170
EXCEPTION COUNTY: SAN LUIS OBI	177	206
NON METRO STATE: COLORADO	N/A	N/A
PMSA: BOULDER-LONGMONT, CO	186	214
MSA: COLORADO SPRINGS, CO	122	137
PMSA: DENVER, CO	199	229
MSA: FORT COLLINS-LOVELAND, CO	115	130
MSA: GREELEY, CO	115	130
MSA: PUEBLO, CO	115	130
EXCEPTION COUNTY: ALAMOSA	97	115
EXCEPTION COUNTY: ARCHULETA	115	130
EXCEPTION COUNTY: BACA	97	115
EXCEPTION COUNTY: BENT	97	115
EXCEPTION COUNTY: CHAFFEE	115	130
EXCEPTION COUNTY: CHEYENNE	97	115
EXCEPTION COUNTY: CLEAR CREEK	115	130
EXCEPTION COUNTY: CONEJOS	97	115
EXCEPTION COUNTY: COSTILLA	97	115
EXCEPTION COUNTY: CROWLEY	97	115
EXCEPTION COUNTY: CUSTER	115	130
EXCEPTION COUNTY: DELTA	115	130
EXCEPTION COUNTY: DELORES	115	130
EXCEPTION COUNTY: EAGLE	186	208
EXCEPTION COUNTY: ELBERT	97	115
EXCEPTION COUNTY: FREMONT	115	130
EXCEPTION COUNTY: GARFIELD	186	208
EXCEPTION COUNTY: GILPIN	164	189
EXCEPTION COUNTY: GRAND	115	130
EXCEPTION COUNTY: GUNNISON	115	130
EXCEPTION COUNTY: HINSDALE	115	130
EXCEPTION COUNTY: HUERFANO	97	115

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: JACKSON	115	130
EXCEPTION COUNTY: KIOWA	97	115
EXCEPTION COUNTY: KIT CARSON	115	130
EXCEPTION COUNTY: LAKE	115	130
EXCEPTION COUNTY: LA PLATA	97	115
EXCEPTION COUNTY: LAS ANIMAS	97	115
EXCEPTION COUNTY: LINCOLN	97	115
EXCEPTION COUNTY: LOGAN	115	130
EXCEPTION COUNTY: MESA	97	115
EXCEPTION COUNTY: MINERAL	186	208
EXCEPTION COUNTY: MOFFAT	115	130
EXCEPTION COUNTY: MONTEZUMA	115	130
EXCEPTION COUNTY: MONTROSE	97	115
EXCEPTION COUNTY: MORGAN	97	115
EXCEPTION COUNTY: OTERO	115	130
EXCEPTION COUNTY: OURAY	115	130
EXCEPTION COUNTY: PARK	97	115
EXCEPTION COUNTY: PHILLIPS	186	208
EXCEPTION COUNTY: PITKIN	97	115
EXCEPTION COUNTY: PROWERS	186	208
EXCEPTION COUNTY: RIO BLANCO	97	115
EXCEPTION COUNTY: RIO GRANDE	186	208
EXCEPTION COUNTY: ROUTT	97	115
EXCEPTION COUNTY: SAGUACHE	115	130
EXCEPTION COUNTY: SAN JUAN	115	130
EXCEPTION COUNTY: SAN MIGUEL	97	115
EXCEPTION COUNTY: SEDGWICK	186	208
EXCEPTION COUNTY: SUMMIT	101	115
EXCEPTION COUNTY: TELLER	97	115
EXCEPTION COUNTY: WASHINGTON	97	115
EXCEPTION COUNTY: YUMA		
NON METRO STATE: CONNECTICUT	113	113
PMSA: BRIDGEPORT-MILFORD, CT	141	141
PMSA: BRISTOL, CT	113	113
PMSA: DANBURY, CT	108	108
PMSA: HARTFORD, CT	123	123
PMSA: MIDDLETOWN, CT	123	123
PMSA: NEW BRITAIN, CT	110	110
MSA: NEW HAVEN-MERIDEN, CT	105	105
MSA: NEW LONDON-NORWICH, CT-RI	132	132
PMSA: NORWALK, CT	132	132
PMSA: STAMFORD, CT	113	113
MSA: WATERBURY, CT		
NON METRO STATE: DELAWARE	63	63

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
PMSA: WILMINGTON, DE-NJ-MD	103	103
NON METRO STATE: DIST. OF COLUMBIA	143	143
MSA: WASHINGTON, DC-MD-VA	143	143
NON METRO STATE: FLORIDA	77	77
MSA: BRADENTON, FL	110	110
MSA: DAYTONA BEACH, FL	98	98
PMSA: FORT LAUDERDALE-HOLLYWOOD-POMPANO BEACH, FL	164	164
MSA: FORT MYERS-CAPE CORAL, FL	103	103
MSA: FORT PIERCE, FL	75	75
MSA: FORT WALTON BEACH, FL	77	77
MSA: GAINESVILLE, FL	77	77
MSA: JACKSONVILLE, FL	71	83
MSA: LAKELAND-WINTER HAVEN, FL	77	77
MSA: MELBOURNE-TITUSVILLE-PALM BAY, FL	90	90
PMSA: MIAMI-HIALEAH, FL	130	130
MSA: NAPLES, FL	77	77
MSA: OCALA, FL	77	77
MSA: ORLANDO, FL	90	90
MSA: PANAMA CITY, FL	77	77
MSA: PENSACOLA, FL	77	77
MSA: SARASOTA, FL	103	103
MSA: TALLAHASSEE, FL	71	71
MSA: TAMPA-ST. PETERSBURG-CLEARWATER, FL	103	103
MSA: WEST PALM BEACH-BOCA RATON-DELRAY BEACH, FL	130	130
EXCEPTION COUNTY: BAKER	69	81
EXCEPTION COUNTY: WAKULLA	69	81
NON METRO STATE: GEORGIA	56	56
MSA: ALBANY, GA	49	52
MSA: ATHENS, GA	56	56
MSA: ATLANTA, GA	81	87
MSA: AUGUSTA, GA-SC	75	77
MSA: CHATTANOOGA, TN-GA	49	71
MSA: COLUMBUS, GA-AL	82	90
MSA: MACON-WARNER ROBINS, GA	50	55
MSA: SAVANNAH, GA	63	71
EXCEPTION COUNTY: BRYAN	57	64
EXCEPTION COUNTY: TWIGGS	49	54
NON METRO STATE: HAWAII	N/A	N/A

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: HONOLULU, HI	N/A	N/A
NON METRO STATE: IDAHO	97	97
MSA: BOISE CITY, ID	104	121
NON METRO STATE: ILLINOIS	93	99
PMSA: AURORA-ELGIN, IL	178	191
MSA: BLOOMINGTON-NORMAL, IL	104	104
MSA: CHAMPAIGN-URBANA-RANTOUL, IL	85	85
PMSA: CHICAGO, IL	187	200
MSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL	113	119
MSA: DECATUR, IL	113	113
PMSA: JOLIET, IL	187	200
MSA: KANKAKEE, IL	83	83
PMSA: LAKE COUNTY, IL	178	191
MSA: PEORIA, IL	153	166
MSA: ROCKFORD, IL	150	161
MSA: ST. LOUIS, MO-IL	86	99
MSA: SPRINGFIELD, IL	99	106
NON METRO STATE: INDIANA	51	66
MSA: ANDERSON, IN	57	57
MSA: BLOOMINGTON, IN	54	54
PMSA: CINCINNATI, OH-KY-IN	99	104
MSA: ELKHART-GOSHEN, IN	74	74
MSA: EVANSVILLE, IN-KY	67	72
MSA: FORT WAYNE, IN	64	85
PMSA: GARY-HAMMOND, IN	90	105
MSA: INDIANAPOLIS, IN	80	91
MSA: KOKOMO, IN	74	84
MSA: LAFAYETTE-WEST LAFAYETTE, IN	88	100
MSA: LOUISVILLE, KY-IN	73	80
MSA: MUNCIE, IN	55	62
MSA: SOUTH BEND-MISHAWAKA, IN	54	68
MSA: TERRE HAUTE, IN	54	66
EXCEPTION COUNTY: ADAMS	57	75
EXCEPTION COUNTY: BLACKFORD	58	66
EXCEPTION COUNTY: GIBSON	60	66
EXCEPTION COUNTY: GRANT	58	66
EXCEPTION COUNTY: HENRY	58	66
EXCEPTION COUNTY: JAY	58	66
EXCEPTION COUNTY: MARSHALL	74	78
EXCEPTION COUNTY: RANDOLPH	58	66

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: SULLIVAN	52	63
EXCEPTION COUNTY: VERMILLION	52	63
EXCEPTION COUNTY: WAYNE	58	66
EXCEPTION COUNTY: WELLS	57	75
NON METRO STATE: IOWA	80	86
MSA: CEDAR RAPIDS, IA	91	106
MSA: DAVENPORT-ROCK ISLAND-MOLINE, IA-IL	113	119
MSA: DES MOINES, IA	97	104
MSA: DUBUQUE, IA	91	112
MSA: IOWA CITY, IA	91	104
MSA: OMAHA, NE-IA	86	99
MSA: SIOUX CITY, IA-NE	88	88
MSA: WATERLOO-CEDAR FALLS, IA	91	106
NON METRO STATE: KANSAS	70	80
MSA: KANSAS CITY, MO-KS	87	106
MSA: LAWRENCE, KS	72	82
MSA: TOPEKA, KS	70	80
MSA: WICHITA, KS	82	87
EXCEPTION COUNTY: JEFFERSON	67	77
EXCEPTION COUNTY: OSAGE	67	77
NON METRO STATE: KENTUCKY	68	74
PMSA: CINCINNATI, OH-KY-IN	99	104
MSA: CLARKSVILLE-HOPKINSVILLE, TN-KY	71	77
MSA: EVANSVILLE, IN-KY	67	73
MSA: HUNTINGTON-ASHLAND, WV-KY-OH	77	77
MSA: LEXINGTON-FAYETTE, KY	84	98
MSA: LOUISVILLE, KY-IN	73	80
MSA: OWENSBORO, KY	78	92
NON METRO STATE: LOUISIANA	72	84
MSA: ALEXANDRIA, LA	71	83
MSA: BATON ROUGE, LA	83	98
MSA: HOUMA-THIBODAUX, LA	70	82
MSA: LAFAYETTE, LA	77	90
MSA: LAKE CHARLES, LA	82	96
MSA: MONROE, LA	71	83
MSA: NEW ORLEANS, LA	87	101
MSA: SHREVEPORT, LA	77	90
EXCEPTION COUNTY: GRANT	69	81

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: WEBSTER	72	84
NON METRO STATE: MAINE	100	115
MSA: BANGOR, ME	100	115
MSA: LEWISTON-AUBURN, ME	77	77
MSA: PORTLAND, ME	124	141
MSA: PORTSMOUTH-DOVER-ROCHESTER, NH-ME	100	115
NON METRO STATE: MARYLAND	111	111
MSA: BALTIMORE, MD	159	159
MSA: CUMBERLAND, MD-WV	111	111
MSA: HAGERSTOWN, MD	139	139
MSA: WASHINGTON, DC-MD-VA	143	143
PMSA: WILMINGTON, DE-NJ-MD	103	103
EXCEPTION COUNTY: ST MARYS	152	152
NON METRO STATE: MASSACHUSETTS	123	123
PMSA: BOSTON, MA	114	122
PMSA: BROCKTON, MA	114	114
PMSA: FALL RIVER, MA-RI	77	77
MSA: FITCHBURG-LEOMINSTER, MA	92	92
PMSA: LAWRENCE-HAVERHILL, MA-NH	108	115
PMSA: LOWELL, MA-NH	108	115
MSA: NEW BEDFORD, MA	106	106
PMSA: PAWTUCKET-WOONSOCKET-ATTLEBORO, RI-MA	105	108
MSA: PITTSFIELD, MA	114	114
PMSA: SALEM-GLOUCESTER, MA	114	123
MSA: SPRINGFIELD, MA	90	90
MSA: WORCESTER, MA	79	79
NON METRO STATE: MICHIGAN	99	111
PMSA: ANN ARBOR, MI	134	145
MSA: BATTLE CREEK, MI	86	99
MSA: BENTON HARBOR, MI	99	111
PMSA: DETROIT, MI	131	140
MSA: FLINT, MI	121	121
MSA: GRAND RAPIDS, MI	91	86
MSA: JACKSON, MI	99	99
MSA: KALAMAZOO, MI	105	108
MSA: LANSING-EAST LANSING, MI	116	134
MSA: MUSKEGON, MI	91	93
MSA: SAGINAW-BAY CITY-MIDLAND, MI	106	106

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: BARRY	82	95
EXCEPTION COUNTY: IONIA	103	118
EXCEPTION COUNTY: OCEANA	87	89
EXCEPTION COUNTY: SHIAWASSEE	115	115
EXCEPTION COUNTY: VAN BUREN	99	103
NON METRO STATE: MINNESOTA	72	72
MSA: DULUTH, MN-WI	74	83
MSA: FARGO-MOORHEAD, ND-MN	112	127
MSA: MINNEAPOLIS-ST. PAUL, MN-WI	141	141
MSA: ROCHESTER, MN	103	103
MSA: ST. CLOUD, MN	91	91
EXCEPTION COUNTY: POLK	86 *	106 *
NON METRO STATE: MISSISSIPPI	72	84
MSA: BILOXI-GULFPORT, MS	83	98
MSA: JACKSON, MS	90	110
MSA: MEMPHIS, TN-AR-MS	83	83
MSA: PASCAGOULA, MS	71	83
EXCEPTION COUNTY: STONE	76	88
NON METRO STATE: MISSOURI	56	83
MSA: COLUMBIA, MO	80	86
MSA: JOPLIN, MO	86	83
MSA: KANSAS CITY, MO-KS	87	106
MSA: ST. JOSEPH, MO	82	88
MSA: ST. LOUIS, MO-IL	86	88
MSA: SPRINGFIELD, MO	58	84
EXCEPTION COUNTY: ANDREW	78	84
NON METRO STATE: MONTANA	N/A	N/A
MSA: BILLINGS, MT	144	160
MSA: GREAT FALLS, MT	122	137
EXCEPTION COUNTY: BEAVERHEAD	115	130
EXCEPTION COUNTY: BIG HORN	115	130
EXCEPTION COUNTY: BLAINE	83	97
EXCEPTION COUNTY: BROADWATER	115	130
EXCEPTION COUNTY: CARBON	115	130
EXCEPTION COUNTY: CARTER	83	97
EXCEPTION COUNTY: CHOUTEAU	83	97
EXCEPTION COUNTY: CUSTER	115	130
EXCEPTION COUNTY: DANIELS	83	97

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: DAWSON	115	130
EXCEPTION COUNTY: DEER LODGE	115	130
EXCEPTION COUNTY: FALLON	83	97
EXCEPTION COUNTY: FERGUS	83	97
EXCEPTION COUNTY: FLATHEAD	115	130
EXCEPTION COUNTY: GALLATIN	115	130
EXCEPTION COUNTY: GARFIELD	83	97
EXCEPTION COUNTY: GLACIER	83	97
EXCEPTION COUNTY: GOLDEN VALLE	83	97
EXCEPTION COUNTY: GRANITE	115	130
EXCEPTION COUNTY: HILL	83	97
EXCEPTION COUNTY: JEFFERSON	115	130
EXCEPTION COUNTY: JUDITH BASIN	83	97
EXCEPTION COUNTY: LAKE	115	130
EXCEPTION COUNTY: LEWIS+ CLARK	115	130
EXCEPTION COUNTY: LIBERTY	83	97
EXCEPTION COUNTY: LINCOLN	115	130
EXCEPTION COUNTY: MCCONE	83	97
EXCEPTION COUNTY: MADISON	115	130
EXCEPTION COUNTY: MEAGHER	115	130
EXCEPTION COUNTY: MINERAL	115	130
EXCEPTION COUNTY: MISSOULA	115	130
EXCEPTION COUNTY: MUSSELSHELL	115	130
EXCEPTION COUNTY: PARK	115	130
EXCEPTION COUNTY: PETROLEUN	83	97
EXCEPTION COUNTY: PHILLIPS	83	97
EXCEPTION COUNTY: PONDERA	83	97
EXCEPTION COUNTY: POWDER RIVER	115	130
EXCEPTION COUNTY: POWELL	115	130
EXCEPTION COUNTY: PRAIRIE	83	97
EXCEPTION COUNTY: RAVALLI	115	130
EXCEPTION COUNTY: RICHLAND	83	97
EXCEPTION COUNTY: ROOSEVELT	83	97
EXCEPTION COUNTY: ROSEBUD	115	130
EXCEPTION COUNTY: SANDERS	115	130
EXCEPTION COUNTY: SHERIDAN	83	97
EXCEPTION COUNTY: SILVER BOW	115	130
EXCEPTION COUNTY: STILLWATER	83	97
EXCEPTION COUNTY: SWEET GRASS	83	97
EXCEPTION COUNTY: TETON	83	97
EXCEPTION COUNTY: TOOLE	83	97
EXCEPTION COUNTY: TREASURE	115	130
EXCEPTION COUNTY: VALLEY	83	97
EXCEPTION COUNTY: WHEATLAND	83	97
EXCEPTION COUNTY: WIBAUX	83	97
EXCEPTION COUNTY: YL-ST-NT-PK	115	130

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
NON METRO STATE: NEBRASKA	73	89
MSA: LINCOLN, NE	98	104
MSA: OMAHA, NE-IA	86	99
MSA: SIOUX CITY, IA-NE	88	88
NON METRO STATE: NEVADA	92	106
MSA: LAS VEGAS, NV	193	215
MSA: RENO, NV	193	215
NON METRO STATE: NEW HAMPSHIRE	91	100
PMSA: LAWRENCE-HAVERHILL, MA-NH	108	115
PMSA: LOWELL, MA-NH	108	115
MSA: MANCHESTER, NH	104	113
PMSA: NASHUA, NH	123	123
MSA: PORTSMOUTH-DOVER-ROCHESTER, NH-ME	100	115
NON METRO STATE: NEW JERSEY	94	94
MSA: ALLENTOWN-BETHLEHEM, PA-NJ	92	92
MSA: ATLANTIC CITY, NJ	143	143
PMSA: BERGEN-PASSAIC, NJ	190	191
PMSA: JERSEY CITY, NJ	183	183
PMSA: MIDDLESEX-SOMERSET-HUNTERDON, NJ	215	215
PMSA: MONMOUTH-OCEAN, NJ	165	199
PMSA: NEWARK, NJ	178	183
PMSA: PHILADELPHIA, PA-NJ	163	163
PMSA: TRENTON, NJ	145	145
PMSA: VINELAND-MILLVILLE-BRIDGETON, NJ	128	128
PMSA: WILMINGTON, DE-NJ-MD	103	103
NON METRO STATE: NEW MEXICO	87	99
MSA: LAS CRUCES, NM	87	99
MSA: ALBUQUERQUE, NM	97	112
MSA: SANTA FE, NM	87	99
EXCEPTION COUNTY: SANDOVAL	92	104
NON METRO STATE: NEW YORK	108	108
MSA: ALBANY-SCHENECTADY-TROY, NY	123 ★	123★
MSA: BINGHAMTON, NY	81	81
PMSA: BUFFALO, NY	108	108
MSA: ELMIRA, NY	87	87

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: GLENS FALLS, NY	108	108
PMSA: NASSAU-SUFFOLK, NY	145	187
PMSA: NEW YORK, NY	151	151
PMSA: NIAGARA FALLS, NY	104	104
PMSA: ORANGE COUNTY, NY	104	104
MSA: POUGHKEEPSIE, NY	139	139
MSA: ROCHESTER, NY	123	123
MSA: SYRACUSE, NY	100	100
MSA: UTICA-ROME, NY	92	92
NON METRO STATE: NORTH CAROLINA	50	63
MSA: ASHEVILLE, NC	71	83
MSA: BURLINGTON, NC	71	83
MSA: CHARLOTTE-GASTONIA-ROCK HILL, NC-SC	71	83
MSA: FAYETTEVILLE, NC	71	83
MSA: GREENSBORO--WINSTON-SALEM--HIGH POINT, NC	71	83
MSA: HICKORY, NC	50	63
MSA: JACKSONVILLE, NC	50	63
MSA: RALEIGH-DURHAM, NC	71	83
MSA: WILMINGTON, NC	71	83
EXCEPTION COUNTY: BRUNSWICK	64	76
EXCEPTION COUNTY: CURRITUCK	101	101
EXCEPTION COUNTY: MADISON	64	76
NON METRO STATE: NORTH DAKOTA	90	104
MSA: BISMARCK, ND	128	141
MSA: FARGO-MOORHEAD, ND-MN	112	127
MSA: GRAND FORKS, ND	97	120
NON METRO STATE: OHIO	65	65
PMSA: AKRON, OH	99	99
MSA: CANTON, OH	70	70
PMSA: CINCINNATI, OH-KY-IN	99	104
PMSA: CLEVELAND, OH	106	106
MSA: COLUMBUS, OH	91	108
MSA: DAYTON-SPRINGFIELD, OH	70	70
PMSA: HAMILTON-MIDDLETOWN, OH	80	83
MSA: HUNTINGTON-ASHLAND, WV-KY-OH	77	77
MSA: LIMA, OH	91	91
PMSA: LORAIN-ELYRIA, OH	113	113
MSA: MANSFIELD, OH	86	86
MSA: PARKERSBURG-MARIETTA, WV-OH	77	77
MSA: STEUBENVILLE-WEIRTON, OH-WV	68	68

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	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: TOLEDO, OH	113	153
MSA: WHEELING, WV-OH	71	71
MSA: YOUNGSTOWN-WARREN, OH	86	86
EXCEPTION COUNTY: CHAMPAIGN	65	78
EXCEPTION COUNTY: OTTAWA	100	134
EXCEPTION COUNTY: PREBLE	65	65
EXCEPTION COUNTY: PUTNAM	81	81
EXCEPTION COUNTY: VAN WERT	81	81
NON METRO STATE: OKLAHOMA	69	75
MSA: ENID, OK	69	75
MSA: FORT SMITH, AR-OK	33	36
MSA: LAWTON, OK	70	77
MSA: OKLAHOMA CITY, OK	72	80
MSA: TULSA, OK	77	83
EXCEPTION COUNTY: LE FLORE	32	35
EXCEPTION COUNTY: MAYES	70	76
NON METRO STATE: OREGON	123	130
MSA: EUGENE-SPRINGFIELD, OR	144	148
MSA: MEDFORD, OR	123	130
PMSA: PORTLAND, OR	169	187
MSA: SALEM, OR	144 *	148 *
NON METRO STATE: PENNSYLVANIA	65	65
MSA: ALLENTOWN-BETHLEHEM, PA-NJ	92	92
MSA: ALTOONA, PA	84	84
PMSA: BEAVER COUNTY, PA	77	77
MSA: ERIE, PA	84	84
MSA: HARRISBURG-LEBANON-CARLISLE, PA	95	95
MSA: JOHNSTOWN, PA	84	84
MSA: LANCASTER, PA	88	88
PMSA: PHILADELPHIA, PA-NJ	163	163
PMSA: PITTSBURGH, PA	80	80
MSA: READING, PA	88	88
MSA: SCRANTON--WILKES-BARRE, PA	84	84
MSA: SHARON, PA	65	65
MSA: STATE COLLEGE, PA	65	65
MSA: WILLIAMSPORT, PA	65	65
MSA: YORK, PA	88	88
EXCEPTION COUNTY: SUSQUEHANNA	70	70
NON METRO STATE: RHODE ISLAND	100	100

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B
* FINAL FMRS, PENDING REVIEW OF PUBLIC COMMENT

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SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 031786

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
PMSA: FALL RIVER, MA-RI	77	77
MSA: NEW LONDON-NORWICH, CT-RI	105	105
PMSA: PAWTUCKET-WOONSOCKET-ATTLEBORO, RI-MA	105	105
PMSA: PROVIDENCE, RI	105	105
NON METRO STATE: SOUTH CAROLINA	56	56
MSA: ANDERSON, SC	56	56
MSA: AUGUSTA, GA-SC	75	77
MSA: CHARLESTON, SC	71	71
MSA: CHARLOTTE-GASTONIA-ROCK HILL, NC-SC	71	83
MSA: COLUMBIA, SC	68	71
MSA: FLORENCE, SC	56	56
MSA: GREENVILLE-SPARTANBURG, SC	63	63
NON METRO STATE: SOUTH DAKOTA	77	90
MSA: RAPID CITY, SD	77	90
MSA: SIOUX FALLS, SD	108	121
NON METRO STATE: TENNESSEE	56	56
MSA: CHATTANOOGA, TN-GA	49	71
MSA: CLARKSVILLE-HOPKINSVILLE, TN-KY	71	77
MSA: JACKSON, TN	56	56
MSA: JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA	77	77
MSA: KNOXVILLE, TN	63	63
MSA: MEMPHIS, TN-AR-MS	83	83
MSA: NASHVILLE, TN	83	98
NON METRO STATE: TEXAS	61	75
NON METRO STATE: TEXAS	61	75
MSA: ABILENE, TX	52	58
MSA: AMARILLO, TX	90	101
MSA: AUSTIN, TX	87	103
MSA: BEAUMONT-PORT ARTHUR, TX	90	103
PMSA: BRAZORIA, TX	106	124
MSA: BROWNSVILLE-HARLINGEN, TX	71	83
MSA: BRYAN-COLLEGE STATION, TX	87	98
MSA: CORPUS CHRISTI, TX	75	98
PMSA: DALLAS, TX	77	98
MSA: EL PASO, TX	100	113
PMSA: FORT WORTH-ARLINGTON, TX	77	98

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 031786

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
PMSA: GALVESTON-TEXAS CITY, TX	103	116
PMSA: HOUSTON, TX	110	129
MSA: KILLEEN-TEMPLE, TX	90	98
MSA: LAREDO, TX	63	77
MSA: LONGVIEW-MARSHALL, TX	83	95
MSA: LUBBOCK, TX	95	98
MSA: MC ALLEN-EDINBURG-MISSION, TX	82	96
MSA: MIDLAND, TX	96	108
MSA: ODESSA, TX	96	103
MSA: SAN ANGELO, TX	88	90
MSA: SAN ANTONIO, TX	71	83
MSA: SHERMAN-DENISON, TX	77	90
MSA: TEXARKANA, TX-TEXARKANA, AR	98	110
MSA: TYLER, TX	77	81
MSA: VICTORIA, TX	61	75
MSA: WACO, TX	80	90
MSA: WICHITA FALLS, TX	56	63
EXCEPTION COUNTY: CALLAHAN	51	57
EXCEPTION COUNTY: CLAY	55	61
EXCEPTION COUNTY: HOOD	70	88
EXCEPTION COUNTY: JONES	51	57
EXCEPTION COUNTY: WISE	70	88
NON METRO STATE: UTAH	N/A	N/A
MSA: PROVO-OREM, UT	118	130
MSA: SALT LAKE CITY-OGDEN, UT	130	144
EXCEPTION COUNTY: BEAVER	83	97
EXCEPTION COUNTY: BOX ELDER	83	97
EXCEPTION COUNTY: CACHE	88	97
EXCEPTION COUNTY: CARBON	115	130
EXCEPTION COUNTY: DAGGETT	83	97
EXCEPTION COUNTY: DUCHESNE	83	97
EXCEPTION COUNTY: EMERY	118	130
EXCEPTION COUNTY: GARFIELD	83	97
EXCEPTION COUNTY: GRAND	116	130
EXCEPTION COUNTY: IRON	83	97
EXCEPTION COUNTY: JUAB	83	97
EXCEPTION COUNTY: KANE	83	97
EXCEPTION COUNTY: MILLARD	83	97
EXCEPTION COUNTY: MORGAN	83	97
EXCEPTION COUNTY: PIUTE	83	97
EXCEPTION COUNTY: RICH	83	97
EXCEPTION COUNTY: SAN JUAN	83	97
EXCEPTION COUNTY: SANPETE	83	97
EXCEPTION COUNTY: SEVIER	83	97

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 031786

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
EXCEPTION COUNTY: SUMMIT	83	97
EXCEPTION COUNTY: TOOELE	108	120
EXCEPTION COUNTY: UINTAH	115	130
EXCEPTION COUNTY: WASATCH	83	97
EXCEPTION COUNTY: WASHINGTON	83	97
EXCEPTION COUNTY: WAYNE	83	97
NON METRO STATE: VERMONT	94	108
MSA: BURLINGTON, VT	94	108
NON METRO STATE: VIRGINIA	80	80
MSA: CHARLOTTESVILLE, VA	80	80
MSA: DANVILLE, VA	80	80
MSA: JOHNSON CITY-KINGSPORT-BRISTOL, TN-VA	77	77
MSA: LYNCHBURG, VA	71	71
MSA: NORFOLK-VIRGINIA BEACH-NEWPORT NEWS, VA	112	112
MSA: RICHMOND-PETERSBURG, VA	110	110
MSA: ROANOKE, VA	77	77
MSA: WASHINGTON, DC-MD-VA	143	143
EXCEPTION COUNTY: APPOMATTOX	69	69
EXCEPTION COUNTY: CRAIG	75	75
NON METRO STATE: WASHINGTON	106	123
MSA: BELLINGHAM, WA	106	136
MSA: BREMERTON, WA	106	136
MSA: OLYMPIA, WA	106	136
MSA: RICHLAND-KENNEWICK-PASCO, WA	144	144
PMSA: SEATTLE, WA	137	193
MSA: SPOKANE, WA	115	130
PMSA: TACOMA, WA	122	144
PMSA: VANCOUVER, WA	157	174
MSA: YAKIMA, WA	115	122
NON METRO STATE: WEST VIRGINIA	77	77
MSA: CHARLESTON, WV	83	83
MSA: CUMBERLAND, MD-WV	111	111
MSA: HUNTINGTON-ASHLAND, WV-KY-OH	77	77
MSA: PARKERSBURG-MARIETTA, WV-OH	77	77
MSA: STEUBENVILLE-WEIRTON, OH-WV	68	68
MSA: WHEELING, WV-OH	71	71
EXCEPTION COUNTY: WIRT	75	75
NON METRO STATE: WISCONSIN	80	86

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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SCHEDULE D- FAIR MARKET RENTS FOR MANUFACTURED HOME SPACES (SECTION 8 EXISTING HOUSING PROGRAM) 031786

	SINGLE WIDE SPACE	DOUBLE WIDE SPACE
MSA: APPLETON-OSHKOSH-NEENAH, WI	99	106
MSA: DULUTH, MN-WI	74	83
MSA: EAU CLAIRE, WI	93	100
MSA: GREEN BAY, WI	97	104
MSA: JANESVILLE-BELOIT, WI	97	104
PMSA: KENOSHA, WI	104	110
MSA: LA CROSSE, WI	88	96
MSA: MADISON, WI	146	152
PMSA: MILWAUKEE, WI	113	119
MSA: MINNEAPOLIS-ST. PAUL, MN-WI	141	141
PMSA: RACINE, WI	105	112
MSA: SHEBOYGAN, WI	80	86
MSA: WAUSAU, WI	80	86
NON METRO STATE: WYOMING	N/A	N/A
MSA: CASPER, WY	193	208
MSA: CHEYENNE, WY	115	138
EXCEPTION COUNTY: ALBANY	115	138
EXCEPTION COUNTY: BIG HORN	115	138
EXCEPTION COUNTY: CAMPBELL	193	208
EXCEPTION COUNTY: CARBON	193	208
EXCEPTION COUNTY: CONVERSE	193	208
EXCEPTION COUNTY: CROOK	115	138
EXCEPTION COUNTY: FREMONT	193	208
EXCEPTION COUNTY: GOSHEN	115	138
EXCEPTION COUNTY: HOT SPRINGS	115	138
EXCEPTION COUNTY: JOHNSON	115	138
EXCEPTION COUNTY: LARAMIE	115	138
EXCEPTION COUNTY: LINCOLN	115	138
EXCEPTION COUNTY: PARK	115	138
EXCEPTION COUNTY: PLATTE	193	208
EXCEPTION COUNTY: SHERIDAN	115	138
EXCEPTION COUNTY: SUBLETTE	193	208
EXCEPTION COUNTY: SWEETWATER	115	138
EXCEPTION COUNTY: TETON	115	138
EXCEPTION COUNTY: UINTA	115	138
EXCEPTION COUNTY: WASHAKIE	115	138
EXCEPTION COUNTY: WESTON	115	138

NOTE: TO IDENTIFY COUNTIES (AND NEW ENGLAND TOWNS) IN EACH MSA, SEE SCHEDULE B

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Tuesday
April 22, 1986

Part IV

Department of Housing and Urban Development

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

Section 8 Housing Assistance Payments Program; Proposed Fair Market Rents for New Construction and Substantial Rehabilitation; Proposed Notice

VOL 51 ISS 77 AP 22 1986 UMI

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 888

[Docket No. N-86-1596; FR-2161]

Section 8 Housing Assistance Payments Program; Proposed Fair Market Rents for New Construction and Substantial Rehabilitation; All Markets

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Proposed notice.

SUMMARY: Section 8(c)(1) of the United States Housing Act of 1937 requires the Secretary to develop Fair Market Rents periodically, but not less frequently than annually. This document proposes Fiscal Year 1986 Fair Market Rents for the Section 8 New Construction Program and the Section 8 Substantial Rehabilitation Program. These proposed Fair Market Rents are based primarily on the level of rentals paid for recently completed or newly-constructed dwelling units of modest design within each market area as determined by HUD Field Office staff. They also reflect the Department's cost containment efforts in relation to housing assistance provided in the Section 8 New Construction and Substantial Rehabilitation Programs.

DATE: Comment due date: May 22, 1986.

ADDRESS: Interested persons are invited to submit comments to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Each comment should include the commenter's name and address; must refer to the docket number indicated in the heading of this document and should give reasons for any recommendation. A copy of each comment submitted to the Rules Docket Clerk will be available for public inspection during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Edward M. Winiarski, Chief Appraiser, Valuation Branch, Technical Support Division, Office of Insured Multifamily Housing Development, 451 Seventh Street, SW., Washington, D.C. 20410-8000, telephone (202) 426-7624. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (the Act) authorizes a system of housing assistance payments to aid lower income families in renting decent, safe and sanitary housing. These programs, known collectively as the Section 8 Housing Assistance Payments Program, provide assistance payments for lower income families for a variety of housing options, including new construction and substantial rehabilitation.

Under these programs, HUD or public housing agencies (PHAs) make rental assistance payments on behalf of eligible families to owners. Total housing expense represents the total monthly cost of housing an eligible family, which is the sum of the contract rent and any utility allowance for the assisted unit occupied by the family. Where the unit is leased to an eligible family, the housing assistance payment represents the difference between the total housing expense and the total family contribution. Initial contract rents plus any allowances for utilities generally may not exceed area-wide Fair Market Rents (FMRs) established by the Department.

Section 8(c)(1) of the Act states that the Secretary shall establish FMRs periodically, but not less than annually. Section 8(c)(1) further provides that the Department shall publish FMRs in the Federal Register, with reasonable time for public comment and that the FMRs will become effective upon publication in final form in the Federal Register.

In previous years, the Department has issued FMRs in rulemaking documents. The Department recently determined that publication by rulemaking is not necessary and has delayed timely publication of the FMRs. Accordingly, the Department published a final rule on September 25, 1985 (see 50 FR 38791) changing the FMR publication procedure to a Notice procedure, effective October 30, 1985. Under this new procedure, FMRs are published in proposed form in a Notice with a minimum of 30 days for comment and then are published in final form in a Notice for immediate effect. This means FMRs may be effective the same day they appear in final form in the Federal Register.

This Notice

Today's document proposes the Fiscal Year 1986 FMRs for new construction and substantial rehabilitation and would apply to section 8 New Construction under Part 880, Substantial Rehabilitation under Part 881, Housing Finance and Development Agencies under Part 883, New Construction Set-Aside for section 515 Rural Rental Housing Projects under Part 884, Housing for the Elderly and Handicapped under Part 885 and Disposition of HUD-owned Projects under Part 886, Subpart C.

Fair Market Rents are based primarily on the levels of rent paid for recently completed or newly constructed dwelling units of modest design within each market area, as determined by HUD Field Office Staff, trended ahead to October 1, 1987, to allow for the period of construction or rehabilitation of the projects involved. They are estimates of rentals that prospective tenants who are not receiving Federal rent subsidies would be willing and able to pay for recently completed or newly constructed dwelling units of modest design, with suitable amenities. They do not necessarily represent rents needed to support construction and operating costs.

This proposed Notice includes Fair Market Rents for 0, 1, 2, 3, and 4 or more bedroom units in five structural categories (detached, semi-detached/row, walkup, 2-4 story elevator, and 5-plus story elevator buildings). Construction or rehabilitation of elevator projects for families with children is prohibited unless there is no practical alternative. Fair Market Rents for family units in elevator structures are proposed for appropriate market areas. However, the determination that there is "no practical alternative" must be made on project-by-project basis.

In addition, regulations provide that high-rise elevator projects *for the elderly* may be approved *only* if HUD determines that high-rise construction is appropriate after taking into account land costs, safety and security factors.

For the section 202/section 8 assistance program, the applicable Fair Market Rents are those in effect on the date that the proposal or application for assistance was submitted to HUD (or, in the case of assistance under Part 884, by FmHA, and in the case of assistance under Part 883, by the State Agency). The following exceptions apply:

1. For all projects where the FMRs are increased after the completion date of a processing stage, the increased FMRs will apply to all subsequent processing in reviewing contract rents and utilities. (This does not apply when the borrower agrees to limit the rents to 100 percent of the FMRs in effect at the time of fund reservation in order to enter into a negotiated construction contract, as permitted under the section 202 competitive bid procedure.) The decision concerning appropriate FMRs to use in project processing will be based upon an entire schedule, rather than selectively choosing the highest unit rents from the currently effective FMR schedule or a previously published schedule for that area.

2. For all projects where the FMRs are decreased after the completion date of a processing stage, the applicable FMR will be the higher of:

(a) The FMR set forth in Schedule A of the annual publication of Fair Market Rents or

(b) The FMR set forth in a previously published schedule that was in effect at the time that the application was submitted.

Interested persons will have a 30-day comment period after publication of this Notice in which to submit comments on the revised Fair Market Rents contained in Schedule A. All comments submitted during this period will be carefully considered and Fair Market Rents will be revised as appropriate.

Proposals may be submitted that involve combinations of structural types and unit sizes for which FMRs are not proposed in this document or for which there are not FMRs already in effect. However, no proposal of this type will be approved until the FMRs in this Notice have been published for effect.

In addition, interested persons may submit comments or other information (with adequate documentation) on Fair Market Rents at any time, even after expiration of the 30-day comment period provided in this Notice. Any data submitted will be considered in initiating interim revisions to the Fair Market Rent schedules. In order to expedite consideration of your submission, please send a copy to the HUD Field Office having jurisdiction for the market area involved, as well as to the Rules Docket Clerk.

HUD regulations in 24 CFR Part 50, implementing section 102(2)(C) of the National Environmental Policy Act of 1969, contain categorical exclusions from their requirements for the actions, activities and programs specified in § 50.20. Since the amendments made by this rule are within the exclusion set forth in § 50.20(*1*), no environmental assessment is required for this rule, and no environmental finding has been prepared.

The Catalog of Federal Domestic Assistance Program number and title for the activities covered by this Notice are 14.156, Lower Housing Assistance Program (section 8).

Dated: April 15, 1986.

Silvio J. DeBartolomeis,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

Schedule A—Proposed Fair Market Rents for New Construction—Substantial Rehabilitation

Notes

Special Category Computations

(1) FMRs for dwelling units designed for the elderly or handicapped are those for appropriate size units, not to exceed two bedrooms for the elderly, multiplied by 1.05.

(2) Congregate housing dwelling unit FMRs are the same as for non-congregate units.

(3) Single room occupancy dwelling unit FMRs (applicable only for Substantial Rehabilitation projects) are 75 percent of those for zero-bedroom units of the same structural type.

(4) FMRs for living units in a group home developed with a direct loan under section 202 of the Housing Act of 1959 are those for zero-bedroom or a one-bedroom unit of the walk-up structural type (or if the group home contains an elevator, of the 2-4 story elevator structural type). Each living unit in a group home is composed of a bedroom plus a proportionate part of common living space ordinarily included in a living unit. One-bedroom FMRs may be applied only when the bedroom space plus the proportionate part of the common space totals at least 450 square feet.

(5) Manufactured home (unit and space) FMRs shall be 95 percent of the rents for detached units of the appropriate bedroom size (except that where a manufactured home FMR is specified in the schedule for an area, the amount on the schedule shall be the FMR).

(6) FMRs for manufactured home spaces in newly constructed or substantially rehabilitated manufactured home parks are determined by multiplying by 1.25 the FMR for the spaces published for the Existing Housing Program. (For currently effective FMRs for the Existing Housing Program, see Federal Register documents published on July 5, 1984 (49 FR 27658); April 16, 1985 (50 FR 14922); and April 25, 1985 50 FR 16229.)

BILLING CODE 4210-27-M

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SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 1

BOSTON REGIONAL OFFICE

	MARKET: BOSTON NUMBER OF BEDROOMS					MARKET: WORCESTER NUMBER OF BEDROOMS					MARKET: FALL RIVER NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			764	980	1098			709	909	963			732	880	896
SEMI-DETACHED/ROW	538	643	794	891	987	965	970	701	818	938	563	587	717	868	880
WALKUP	568	627	751	839	940	909	942	680	771	886	528	547	677	775	813
ELEVATOR 2-4 STY	575	699	807	1048	1196	920	997	718			546	567	692		
ELEVATOR 5+ STY	575	699	807	1138	1245	949	639	753			549	597	723		
MANUFACTURED HOME															
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

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HARTFORD OFFICE

	MARKET: HARTFORD NUMBER OF BEDROOMS					MARKET: NEW HAVEN NUMBER OF BEDROOMS					MARKET: NEW LONDON NUMBER OF BEDROOMS					MARKET: NEW MILFORD NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			676	752	774			657	742	793			654	730	762			610	680	698
SEMI-DETACHED/ROW	548	599	644	730	752	536	541	608	717	771	480	485	621	693	738	520	525	605	675	693
WALKUP	484	536	612	691	713	483	518	587	668	691	433	465	611	687	711	436	506	575	648	670
ELEVATOR 2-4 STY	470	546	616			475	533	624			436	479	634			441	513	579		
ELEVATOR 5+ STY	488	564	684			493	588	695			463	530	654			456	558	643		
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

	MARKET: WINDHAM NUMBER OF BEDROOMS					MARKET: BRIDGEPORT NUMBER OF BEDROOMS					MARKET: RIDGEFIELD NUMBER OF BEDROOMS					MARKET: NORWICH NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			561	621	644			656	700	731			781	815	844			610	680	698
SEMI-DETACHED/ROW	473	478	535	596	624	537	542	625	677	708	624	629	725	793	821	529	534	606	675	693
WALKUP	392	456	511	567	584	450	521	591	657	680	521	606	689	771	794	444	517	587	649	669
ELEVATOR 2-4 STY	415	474	522			456	545	598			530	615	696			451	524	592		
ELEVATOR 5+ STY	432	503	574			474	576	664			548	648	769			467	561	654		
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

PREPARED ON 021286

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 1

MANCHESTER OFFICE

	MARKET: MAINE STATEWIDE NUMBER OF BEDROOMS					MARKET: VERMONT STATE NUMBER OF BEDROOMS					MARKET: NEW HAMPSHIRE ST. NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			556	627	715	830			578	674	757	855			554	620	714	830
SEMI-DETACHED/ROW	437	513	586	674	781	479	538	634	711	803	470	524	590	676	784
WALKUP	392	476	558	633	714	429	502	597	673	742	415	466	535	609	693
ELEVATOR 2-4 STY	438	524	660			487	556	659			438	531	611		
ELEVATOR 5+ STY	487	585	734			540	616	732			487	589	679		
MANUFACTURED HOME															
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

PREPARED ON 021286

PROVIDENCE OFFICE

	MARKET: PROVIDENCE NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			680	792	886
SEMI-DETACHED/ROW	413	496	577	639	690
WALKUP	371	484	556	628	674
ELEVATOR 2-4 STY	376	499	648		
ELEVATOR 5+ STY	381	504	655		
MANUFACTURED HOME					
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

PREPARED ON 021286

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 2

BUFFALO OFFICE

	MARKET: BUFFALO NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			566	640	722
SEMI-DETACHED/ROW	408	426	497	564	675
WALKUP	324	383	461	541	578
ELEVATOR 2-4 STY	428	467	619		
ELEVATOR 5+ STY	482	504	656		
MANUFACTURED HOME					
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: ELMIRA NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			534	616	685
	334	388	487	578	642
	290	335	441	548	619
	356	434	557		
	392	470	593		
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: JAMESTOWN NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			559	628	704
	411	438	509	584	667
	337	397	471	541	625
	413	487	598		
	450	524	634		
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: ROCHESTER NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			546	611	678
	427	430	502	584	660
	332	386	464	526	593
	428	487	584		
	465	524	624		
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: ALBANY NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			537	649	719
SEMI-DETACHED/ROW	391	396	474	576	638
WALKUP	337	385	452	532	603
ELEVATOR 2-4 STY	337	415	525		
ELEVATOR 5+ STY	367	454	566		
MANUFACTURED HOME					
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: PLATTSBURGH NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			546	644	711
	456	461	502	580	647
	362	397	459	537	.613
	403	477	580		
	440	515	622		
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: SYRACUSE NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			554	638	730
	404	409	486	585	657
	319	382	466	532	612
	319	425	538		
	359	463	578		
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: BINGHAMTON NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			534	644	712
	388	393	474	567	630
	335	383	450	538	597
	335	417	530		
	372	443	569		
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

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NEW YORK REGIONAL OFFICE

	MARKET: NEW YORK CITY NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	641	646	890	1056	1290
WALKUP	580	606	826	988	1194
ELEVATOR 2-4 STY	620	797	852	1074	1261
ELEVATOR 5+ STY	808	984	1093	1388	1586
MANUFACTURED HOME					
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: SUFFOLK NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			786	952	1061
	594	629	745	779	928
	476	555	668	728	804
	612	719	876		
	661	737	921		
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: WESTCHESTER NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			891	1041	1140
	632	637	748	919	1000
	498	594	711	859	943
	616	706	866	1013	
	667	782	922		
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: ORANGE NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			651	739	806
	459	464	589	701	767
	333	460	558	655	724
	536	580	733		
	576	659	808		
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: ROCKLAND NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			881	956	1027
SEMI-DETACHED/ROW	547	631	786	915	993
WALKUP	458	594	742	862	954
ELEVATOR 2-4 STY	530	638	792		
ELEVATOR 5+ STY	579	690	834		
MANUFACTURED HOME					
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: NASSAU NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			941	1074	1180
	662	667	861	976	1082
	516	642	779	895	991
	531	657	817		
	537	754	871		
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: PUTNAM NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			821	944	1027
	548	553	704	845	922
	447	524	604	756	877
	628	711	778		
	672	773	859		
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: POUGHKEEPSIE NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			683	798	911
	469	499	594	683	750
	398	475	592	634	704
	605	707	814		
	633	734	879		
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

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REGION 2

NEWARK- OFFICE

	MARKET: NEWARK NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED		1086	1213	1290	
SEMI-DETACHED/ROW	614	683	866	1004	1092
WALKUP	540	604	774	898	964
ELEVATOR 2-4 STY	624	694	884	1030	1112
ELEVATOR 5+ STY	701	786	1003	1175	1266
MANUFACTURED HOME					
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: NORTH BERGEN NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			1079	1207	1283
	674	742	861	996	1085
	598	661	767	891	977
	681	751	877	1022	1106
	758	844	997	1168	1258
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: FREEHOLD NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			999	1124	1203
	605	674	783	917	1004
	531	592	693	810	898
	612	682	796	942	1023
	690	775	915	1066	1180
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: CAMDEN NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			952	1073	1147
	583	588	716	873	954
	434	503	616	798	886
	559	627	763	915	998
	638	719	896	1061	1150
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: ATLANTIC CITY NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			917	1038	1099
SEMI-DETACHED/ROW	610	615	700	835	919
WALKUP	489	547	620	742	820
ELEVATOR 2-4 STY	589	656	739	879	958
ELEVATOR 5+ STY	667	749	859	1023	1114
MANUFACTURED HOME					
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: BURLINGTON NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			952	1073	1147
	580	588	736	873	954
	461	519	656	778	856
	560	627	775	915	996
	638	719	896	1061	1150
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: GLOUCESTER NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			952	1073	1147
	536	588	726	873	954
	444	517	624	775	856
	560	627	773	915	996
	638	719	896	1061	1150
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: TRENTON NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			972	1092	1166
	643	661	754	891	973
	503	573	675	797	876
	628	702	795	934	1014
	718	801	914	1078	1171
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: VINELAND NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			835	956	1030
SEMI-DETACHED/ROW	523	542	620	754	837
WALKUP	387	462	538	661	739
ELEVATOR 2-4 STY	517	589	659	798	878
ELEVATOR 5+ STY	602	682	778	943	1034
MANUFACTURED HOME					
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: ASBURY PARK NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			958	1085	1161
	554	622	740	877	966
	477	540	646	771	857
	561	631	757	902	983
	638	730	876	1046	1140
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

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CARIBBEAN OFFICE

	MARKET: SAN JUAN NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			511	572	628
SEMI-DETACHED/ROW	405	410	491	550	577
WALKUP	337	368	458	519	570
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY					
MANUFACTURED HOME					
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: MAYAGUEZ NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			485	570	638
	425	430	475	561	637
	321	381	428	487	560
	360	408	507	584	629
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: PONCE NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			473	555	601
	426	431	468	550	596
	321	381	425	487	560
	360	408	507	584	629
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: ARECIBO NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			485	570	638
	425	430	475	561	637
	321	381	428	487	560
	360	408	507	584	629
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: ST. CROIX NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			630	688	799
SEMI-DETACHED/ROW	403	471	553	639	728
WALKUP	343	403	481	552	615
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY					
MANUFACTURED HOME					
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: ST. THOMAS NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			667	729	822
	456	499	571	658	747
	365	422	515	575	645
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

	MARKET: OLD SAN JUAN NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
	635	640	711	734	875
	532	589	662	728	791
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

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REGION 3

BALTIMORE OFFICE

	MARKET: BALTIMORE NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			705	796	938
SEMI-DETACHED/ROW	439	495	571	677	870
WALKUP	382	490	563	672	795
ELEVATOR 2-4 STY	413	516	611		
ELEVATOR 5+ STY	486	543	667		
MANUFACTURED HOME					
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: HAGERSTOWN NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			644	716	826
	411	480	538	636	812
	361	455	523	631	865
	378	473	536		
	432	521	662		
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: SALISBURY NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			599	961	775
	418	423	487	984	726
	323	418	481	956	636
	334	458	901		
	389	481	912		
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

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CHARLESTON OFFICE

	MARKET: CHARLESTON NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			825	823	707
SEMI-DETACHED/ROW	387	388	502	606	702
WALKUP	304	388	487	498	562
ELEVATOR 2-4 STY	398	489	552		
ELEVATOR 5+ STY	409	496	559		
MANUFACTURED HOME					
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: BLUEFIELD NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			499	553	615
	304	371	461	517	556
	291	360	420	469	516
	395	469	525		
	402	475	533		
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: HUNTINGTON NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			478	577	628
	309	377	468	548	602
	248	367	465	520	569
	373	443	532		
	379	450	537		
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: PARKERSBURG NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			448	517	568
	294	356	421	488	537
	277	345	396	463	510
	384	463	561		
	393	469	568		
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: WHEELING NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			492	545	610
SEMI-DETACHED/ROW	303	356	459	531	586
WALKUP	275	351	448	492	536
ELEVATOR 2-4 STY	369	441	535		
ELEVATOR 5+ STY	374	448	540		
MANUFACTURED HOME					
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: MARTINSBURG NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			464	545	610
	282	343	429	514	586
	288	320	425	492	556
	418	460	511		
	425	465	518		
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: FAIRMONT NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			520	577	646
	385	434	490	553	620
	323	403	471	520	572
	441	485	540		
	449	491	546		
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: POINT PLEASANT NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			447	515	562
	283	333	417	485	534
	242	329	409	456	507
	382	456	511		
	387	465	519		
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

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REGION 3

PHILADELPHIA REGIONAL OFFICE

	MARKET: PHILADELPHIA NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	666	671	718	848	927
WALKUP	448	504	637	745	826
ELEVATOR 2-4 STY	544	606	736		
ELEVATOR 5+ STY	620	672	793		
MANUFACTURED HOME					
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: ALLENTOWN NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
	472	477	584	698	767
	407	449	559	653	729
	481	507	595		
	495	543	666		
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: BELLEFONTE NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
	480	483	591	686	748
	384	470	550	650	699
	418	488	606		
	465	524	647		
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: HARRISBURG NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
	482	487	596	683	748
	384	449	510	640	697
	436	506	559		
	472	547	608		
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: LANCASTER NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	448	453	557	685	711
WALKUP	374	437	545	657	684
ELEVATOR 2-4 STY	454	525	682		
ELEVATOR 5+ STY	477	548	705		
MANUFACTURED HOME					
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: YORK NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
	448	453	557	685	711
	374	437	545	657	684
	454	525	682		
	477	548	705		
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: READING NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
	472	477	571	687	764
	380	456	548	648	711
	434	512	694		
	470	562	659		
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: SCRANTON NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
	444	506	588	668	731
	412	485	559	641	711
	476	553	624		
	506	589	664		
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: WELLSBORO NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	391	483	591	668	748
WALKUP	384	470	550	650	699
ELEVATOR 2-4 STY	418	488	606		
ELEVATOR 5+ STY	465	524	647		
MANUFACTURED HOME					
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

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PITTSBURGH OFFICE

	MARKET: PITTSBURGH NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			640	711	833
SEMI-DETACHED/ROW	462	548	609	687	803
WALKUP	408	483	560	667	803
ELEVATOR 2-4 STY	497	556	640		
ELEVATOR 5+ STY	512	579	681		
MANUFACTURED HOME					
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: ERIE NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			599	666	779
	432	519	570	634	742
	345	426	505	587	657
	487	540	628		
	508	557	674		
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: ALTOONA NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			521	627	757
	352	424	511	597	721
	334	412	506	582	669
	487	545	577		
	497	562	614		
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

	MARKET: JOHNSTOWN NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			536	637	762
	368	436	510	600	726
	337	416	500	575	656
	452	486	582		
	461	522	613		
	EFFECTIVE DATE		100185		
	TRENDED DATE		100187		

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REGION 3

RICHMOND OFFICE

MARKET: NORTON
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	340	351	422	511	599
WALKUP	259	321	407	506	636
ELEVATOR 2-4 STY	282	354	440		
ELEVATOR 5+ STY	320	396	526		
MANUFACTURED HOME					

EFFECTIVE DATE 100186
TRENDED DATE 100187

MARKET: HARRISONBURG
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	360	392	496	626	799
WALKUP	308	364	481	621	779
ELEVATOR 2-4 STY	338	397	485		
ELEVATOR 5+ STY	386	456	606		

EFFECTIVE DATE 100186
TRENDED DATE 100187

MARKET: NEWPORT NEWS
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	388	391	490	661	810
WALKUP	307	348	430	902	980
ELEVATOR 2-4 STY	340	390	452		
ELEVATOR 5+ STY	459	519	633		

EFFECTIVE DATE 100186
TRENDED DATE 100187

MARKET: NORFOLK
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	413	418	498	661	814
WALKUP	359	404	478	661	807
ELEVATOR 2-4 STY	392	437	511		
ELEVATOR 5+ STY	458	558	690		

EFFECTIVE DATE 100186
TRENDED DATE 100187

MARKET: CHARLOTTESVILLE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	433	438	518	612	690
WALKUP	360	407	486	548	608
ELEVATOR 2-4 STY	393	440	521		
ELEVATOR 5+ STY	436	526	662		
MANUFACTURED HOME					

EFFECTIVE DATE 100186
TRENDED DATE 100187

MARKET: RICHMOND
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	398	404	469	548	598
WALKUP	329	385	460	642	991
ELEVATOR 2-4 STY	362	417	492		
ELEVATOR 5+ STY	409	498	643		

EFFECTIVE DATE 100186
TRENDED DATE 100187

PREPARED ON 021286

WASHINGTON D.C. OFFICE

MARKET: WASHINGTON D.C.
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	543	610	658	743	838
WALKUP	437	517	588	681	760
ELEVATOR 2-4 STY	472	569	734		
ELEVATOR 5+ STY	529	609	790		
MANUFACTURED HOME					

EFFECTIVE DATE 100186
TRENDED DATE 100187

PREPARED ON 021286

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 3

WILMINGTON

MARKET: WILMINGTON, DEL
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			616	773	808
SEMI-DETACHED/ROW	444	449	548	659	723
WALKUP	371	430	507	590	682
ELEVATOR 2-4 STY	409	478	603		
ELEVATOR 5+ STY	435	555	616		
MANUFACTURED HOME					

EFFECTIVE DATE 100186
TRENDED DATE 100187

MARKET: DOVER, DEL
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			589	706	798
SEMI-DETACHED/ROW	407	412	498	610	668
WALKUP	363	392	445	631	673
ELEVATOR 2-4 STY	389	453	536		
ELEVATOR 5+ STY	392	500	595		
MANUFACTURED HOME					

EFFECTIVE DATE 100186
TRENDED DATE 100187

PREPARED ON 021286

REGION 4

ATLANTA REGIONAL OFFICE

MARKET: ATLANTA
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	435	465	527	636	676
WALKUP	424	450	515	623	662
ELEVATOR 2-4 STY	451	477	541		
ELEVATOR 5+ STY	505	538	616		
MANUFACTURED HOME					

EFFECTIVE DATE 100186
TRENDED DATE 100187

MARKET: ALBANY
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			460	527	560
SEMI-DETACHED/ROW	314	351	410	477	521
WALKUP	303	340	400	467	510
ELEVATOR 2-4 STY	328	365	425		
ELEVATOR 5+ STY	378	415	475		
MANUFACTURED HOME					

EFFECTIVE DATE 100186
TRENDED DATE 100187

MARKET: AUGUSTA
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			432	507	551
SEMI-DETACHED/ROW	329	364	408	487	523
WALKUP	319	349	394	471	511
ELEVATOR 2-4 STY	347	376	421		
ELEVATOR 5+ STY	387	419	484		

EFFECTIVE DATE 100186
TRENDED DATE 100187

MARKET: BRUNSWICK
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			469	552	587
SEMI-DETACHED/ROW	340	379	431	500	557
WALKUP	329	367	426	489	534
ELEVATOR 2-4 STY	357	394	454		
ELEVATOR 5+ STY	409	445	508		

EFFECTIVE DATE 100186
TRENDED DATE 100187

MARKET: COLUMBUS
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			440	536	580
SEMI-DETACHED/ROW	318	354	398	507	545
WALKUP	304	340	383	495	533
ELEVATOR 2-4 STY	331	368	409		
ELEVATOR 5+ STY	386	425	463		

EFFECTIVE DATE 100186
TRENDED DATE 100187

MARKET: MACON
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			450	487	541
SEMI-DETACHED/ROW	341	374	419	464	521
WALKUP	337	357	408	449	500
ELEVATOR 2-4 STY	366	396	433		
ELEVATOR 5+ STY	417	449	483		

EFFECTIVE DATE 100186
TRENDED DATE 100187

MARKET: ROME
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			400	472	508
SEMI-DETACHED/ROW	264	304	348	419	466
WALKUP	253	293	348	407	454
ELEVATOR 2-4 STY	279	320	374		
ELEVATOR 5+ STY	332	372	426		

EFFECTIVE DATE 100186
TRENDED DATE 100187

MARKET: SAVANNAH
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			501	561	617
SEMI-DETACHED/ROW	351	387	466	528	572
WALKUP	338	374	453	516	561
ELEVATOR 2-4 STY	365	405	479		
ELEVATOR 5+ STY	417	458	532		

EFFECTIVE DATE 100186
TRENDED DATE 100187

MARKET: VALDOSTA
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			422	483	583
SEMI-DETACHED/ROW	294	333	397	475	521
WALKUP	283	315	387	452	509
ELEVATOR 2-4 STY	309	348	415		
ELEVATOR 5+ STY	360	400	465		
MANUFACTURED HOME					

EFFECTIVE DATE 100186
TRENDED DATE 100187

PREPARED ON 021286

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REGION 4

BIRMINGHAM OFFICE

MARKET: BIRMINGHAM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			563	745	826
SEMI-DETACHED/ROW	355	361	429	519	556
WALKUP	319	359	416	500	536
ELEVATOR 2-4 STY	330	373	440		
ELEVATOR 5+ STY	342	392	466		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: DOTHAN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			491	629	707
SEMI-DETACHED/ROW	315	345	398	473	516
WALKUP	306	338	389	458	498
ELEVATOR 2-4 STY	319	356	413		
ELEVATOR 5+ STY	331	386	438		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: FLORENCE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			548	699	786
SEMI-DETACHED/ROW	319	344	408	497	537
WALKUP	299	336	396	477	520
ELEVATOR 2-4 STY	312	351	418		
ELEVATOR 5+ STY	325	363	430		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: HUNTSVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			544	689	785
SEMI-DETACHED/ROW	373	378	451	533	579
WALKUP	315	372	445	519	571
ELEVATOR 2-4 STY	361	401	484		
ELEVATOR 5+ STY	372	420	508		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MOBILE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			527	674	756
SEMI-DETACHED/ROW	338	365	438	521	559
WALKUP	312	353	424	501	545
ELEVATOR 2-4 STY	334	371	449		
ELEVATOR 5+ STY	348	389	472		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MONTGOMERY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			908	647	726
SEMI-DETACHED/ROW	343	348	442	524	575
WALKUP	318	342	424	519	568
ELEVATOR 2-4 STY	330	361	448		
ELEVATOR 5+ STY	341	378	473		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: TUSCALOOSA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			946	698	778
SEMI-DETACHED/ROW	368	371	431	536	572
WALKUP	329	386	418	518	557
ELEVATOR 2-4 STY	350	384	442		
ELEVATOR 5+ STY	363	402	467		

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

COLUMBIA OFFICE

MARKET: GREENVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED		458	516	600	649
SEMI-DETACHED/ROW	370	428	481	565	609
WALKUP	360	418	466	550	589
ELEVATOR 2-4 STY	454	521	591		
ELEVATOR 5+ STY	478	545	618		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GREENWOOD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED		410	464	518	561
SEMI-DETACHED/ROW	331	383	433	489	528
WALKUP	322	375	420	477	512
ELEVATOR 2-4 STY	414	475	529		
ELEVATOR 5+ STY	436	497	551		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MYRTLE BEACH

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED		443	567	669	719
SEMI-DETACHED/ROW	382	425	548	643	692
WALKUP	353	416	523	626	670
ELEVATOR 2-4 STY	448	520	642		
ELEVATOR 5+ STY	471	543	666		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ORANGEBURG

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED		416	468	523	574
SEMI-DETACHED/ROW	322	400	452	508	559
WALKUP	314	392	441	497	544
ELEVATOR 2-4 STY	399	484	537		
ELEVATOR 5+ STY	419	492	556		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ROCKHILL

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED		484	545	614	672
SEMI-DETACHED/ROW	392	462	527	594	650
WALKUP	382	445	508	578	630
ELEVATOR 2-4 STY	443	502	606		
ELEVATOR 5+ STY	467	527	630		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: COLUMBIA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED		489	563	630	689
SEMI-DETACHED/ROW	385	488	545	609	667
WALKUP	378	456	521	593	646
ELEVATOR 2-4 STY	454	521	611		
ELEVATOR 5+ STY	478	545	638		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: AIKEN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED		466	521	567	620
SEMI-DETACHED/ROW	375	447	502	547	602
WALKUP	365	437	489	534	582
ELEVATOR 2-4 STY	443	502	602		
ELEVATOR 5+ STY	467	527	624		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ANDERSON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED		444	498	561	614
SEMI-DETACHED/ROW	326	378	413	489	528
WALKUP	318	369	401	477	512
ELEVATOR 2-4 STY	407	467	504		
ELEVATOR 5+ STY	429	489	525		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BEAUFORT

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED		505	580	669	719
SEMI-DETACHED/ROW	415	484	560	647	696
WALKUP	404	467	539	626	670
ELEVATOR 2-4 STY	467	534	642		
ELEVATOR 5+ STY	491	558	666		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: CHARLESTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED		481	562	663	714
SEMI-DETACHED/ROW	382	461	561	635	684
WALKUP	371	451	539	620	664
ELEVATOR 2-4 STY	467	534	642		
ELEVATOR 5+ STY	491	558	666		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: FLORENCE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED		435	488	548	599
SEMI-DETACHED/ROW	337	418	472	530	583
WALKUP	328	410	460	518	567
ELEVATOR 2-4 STY	418	502	562		
ELEVATOR 5+ STY	439	527	582		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SPARTANBURG

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED		429	485	547	592
SEMI-DETACHED/ROW	347	401	434	515	556
WALKUP	337	392	421	502	538
ELEVATOR 2-4 STY	434	498	531		
ELEVATOR 5+ STY	457	521	553		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: NORTH AUGUSTA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED		466	521	567	620
SEMI-DETACHED/ROW	378	447	502	547	602
WALKUP	368	437	489	534	582
ELEVATOR 2-4 STY	443	502	498		
ELEVATOR 5+ STY	467	527	624		

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

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REGION 4

GREENSBORO OFFICE

MARKET: GREENSBORO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			472	539	639
SEMI-DETACHED/ROW	361	386	461	507	609
WALKUP	327	381	456	502	606
ELEVATOR 2-4 STY	348	415	482		
ELEVATOR 5+ STY	466	533	645		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ASHEVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			451	550	629
SEMI-DETACHED/ROW	384	389	434	528	609
WALKUP	310	364	419	523	604
ELEVATOR 2-4 STY	345	398	453		
ELEVATOR 5+ STY	451	507	599		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: CHARLOTTE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			513	596	668
SEMI-DETACHED/ROW	403	408	463	559	645
WALKUP	345	403	478	554	640
ELEVATOR 2-4 STY	389	431	512		
ELEVATOR 5+ STY	498	534	640		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: DURHAM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			504	579	660
SEMI-DETACHED/ROW	379	384	473	568	649
WALKUP	356	379	468	562	644
ELEVATOR 2-4 STY	389	413	500		
ELEVATOR 5+ STY	495	538	655		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GREENVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			438	504	599
SEMI-DETACHED/ROW	330	352	424	482	557
WALKUP	284	348	416	477	552
ELEVATOR 2-4 STY	315	369	439		
ELEVATOR 5+ STY	425	493	591		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: RALEIGH

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			508	605	707
SEMI-DETACHED/ROW	423	426	499	555	638
WALKUP	356	422	493	550	632
ELEVATOR 2-4 STY	384	443	515		
ELEVATOR 5+ STY	539	606	719		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: WINSTON-SALEM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			460	547	651
SEMI-DETACHED/ROW	380	371	434	506	588
WALKUP	302	369	429	503	582
ELEVATOR 2-4 STY	330	391	458		
ELEVATOR 5+ STY	474	507	608		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: FAYETTEVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			437	511	596
SEMI-DETACHED/ROW	340	345	409	476	547
WALKUP	301	344	405	471	542
ELEVATOR 2-4 STY	331	376	439		
ELEVATOR 5+ STY	416	467	555		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: WILMINGTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			452	534	607
SEMI-DETACHED/ROW	356	361	434	493	559
WALKUP	306	356	429	488	559
ELEVATOR 2-4 STY	337	376	460		
ELEVATOR 5+ STY	442	491	590		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ELIZABETH CITY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			468	555	667
SEMI-DETACHED/ROW	310	328	415	505	594
WALKUP	277	323	409	500	589
ELEVATOR 2-4 STY	302	369	467		
ELEVATOR 5+ STY	463	540	657		

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

JACKSON OFFICE

MARKET: JACKSON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			497	599	679
SEMI-DETACHED/ROW	363	394	491	580	654
WALKUP	345	394	445	527	589
ELEVATOR 2-4 STY	451	524	614		
ELEVATOR 5+ STY	462	538	631		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: CORINTH

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			406	515	594
SEMI-DETACHED/ROW	284	332	395	497	575
WALKUP	269	322	390	490	556
ELEVATOR 2-4 STY	365	460	532		
ELEVATOR 5+ STY	377	474	549		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GREENVILLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			492	521	598
SEMI-DETACHED/ROW	363	402	466	505	588
WALKUP	327	371	444	470	541
ELEVATOR 2-4 STY	422	471	591		
ELEVATOR 5+ STY	434	485	608		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GREENWOOD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			457	496	582
SEMI-DETACHED/ROW	339	384	442	473	572
WALKUP	302	356	419	439	504
ELEVATOR 2-4 STY	434	494	556		
ELEVATOR 5+ STY	449	510	569		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GULFPORT

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			462	541	620
SEMI-DETACHED/ROW	381	396	456	534	572
WALKUP	315	365	415	507	567
ELEVATOR 2-4 STY	468	541	617		
ELEVATOR 5+ STY	480	555	634		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: HATTIESBURG

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			445	528	604
SEMI-DETACHED/ROW	311	364	428	504	575
WALKUP	273	338	410	463	516
ELEVATOR 2-4 STY	390	439	534		
ELEVATOR 5+ STY	401	453	551		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SOUTHAVEN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			485	561	639
SEMI-DETACHED/ROW	328	405	467	547	629
WALKUP	315	387	462	535	602
ELEVATOR 2-4 STY	429	475	578		
ELEVATOR 5+ STY	437	488	595		

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

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REGION 4

JACKSONVILLE OFFICE

MARKET: JACKSONVILLE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			566	662	700
SEMI-DETACHED/ROW	400	450	543	602	658
WALKUP	358	406	506	580	651
ELEVATOR 2-4 STY	423	471	580		
ELEVATOR 5+ STY	478	525	662		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: PENSACOLA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		526	585	684
377	422	496	554	610
320	363	443	520	576
370	425	513		
418	479	573		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: KEY WEST
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		707	781	860
525	586	650	739	820
422	482	569	678	739
490	541	673		
556	619	769		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MIAMI
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		707	781	860
525	586	650	739	820
422	482	569	678	739
490	541	673		
556	619	769		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: TAMPA
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			541	615	730
SEMI-DETACHED/ROW	406	467	536	603	675
WALKUP	362	414	497	590	644
ELEVATOR 2-4 STY	453	508	623		
ELEVATOR 5+ STY	534	593	713		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ORLANDO
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		618	690	734
396	454	559	624	696
370	429	507	575	647
454	517	630		
527	588	696		

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

LOUISVILLE OFFICE

MARKET: LOUISVILLE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			546	620	695
SEMI-DETACHED/ROW	430	456	523	588	657
WALKUP	376	410	482	559	609
ELEVATOR 2-4 STY	409	443	513		
ELEVATOR 5+ STY	491	538	642		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: COVINGTON
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		520	622	715
410	426	488	569	655
348	386	441	543	603
416	450	512		
487	544	632		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: OWENSBORO
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		519	614	684
372	399	480	567	631
321	364	435	510	566
408	430	513		
453	513	617		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: PADUCAH
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		519	615	686
372	399	480	567	631
321	364	435	510	566
408	443	513		
452	511	616		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: PIKEVILLE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			571	651	714
SEMI-DETACHED/ROW	430	448	534	604	664
WALKUP	381	424	488	559	610
ELEVATOR 2-4 STY	427	457	548		
ELEVATOR 5+ STY	492	539	655		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 4

KNOXVILLE OFFICE

MARKET: KNOXVILLE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			450	525	580
SEMI-DETACHED/ROW	355	390	435	515	550
WALKUP	340	365	425	505	540
ELEVATOR 2-4 STY	365	385	450		
ELEVATOR 5+ STY	385	410	460		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: CHATTANOOGA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		461	545	582
410	413	450	530	567
378	402	434	519	556
402	424	461		
424	450	487		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: JOHNSON CITY
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		440	510	545
335	360	430	500	530
328	345	420	490	520
360	380	440		
380	406	465		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: KINGSPORT
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		440	510	545
335	360	430	500	530
330	350	420	485	500
360	380	440		
380	406	465		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: OAKRIDGE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			450	525	580
SEMI-DETACHED/ROW	355	390	435	515	550
WALKUP	340	365	425	505	540
ELEVATOR 2-4 STY	365	385	450		
ELEVATOR 5+ STY	385	410	460		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

NASHVILLE OFFICE

MARKET: NASHVILLE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			478	558	599
SEMI-DETACHED/ROW	366	406	462	545	586
WALKUP	334	387	454	539	582
ELEVATOR 2-4 STY	345	406	462		
ELEVATOR 5+ STY	352	421	478		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

NO MARKET CODE MATCH IN PRT 44306

MARKET: CLARKSVILLE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		430	516	556
315	349	419	502	545
287	328	414	486	539
310	355	419		
316	376	438		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: COLUMBIA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		405	500	548
300	329	382	493	527
268	316	371	478	521
275	334	379		
286	358	414		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MEMPHIS
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		430	483	565
310	353	410	459	524
277	310	362	436	489
323	387	456		
363	429	498		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: JACKSON
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			410	478	560
SEMI-DETACHED/ROW	287	328	385	444	517
WALKUP	269	310	374	433	493
ELEVATOR 2-4 STY	316	355	445		
ELEVATOR 5+ STY	335	393	485		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

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SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 5

CHICAGO REGIONAL OFFICE

MARKET: CHICAGO	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			762	906	1044
SEMI-DETACHED/ROW	557	619	689	821	910
WALKUP	467	539	644	772	810
ELEVATOR 2-4 STY	498	567	692	822	824
ELEVATOR 5+ STY	540	676	804	834	882
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BELLEVILLE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			646	732	815
	405	457	547	636	742
	370	443	519	596	647
	409	476	555		
	475	522	606		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MOLINE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			666	815	904
	439	476	587	716	803
	391	455	539	676	714
	414	483	572		
	467	532	655		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SPRINGFIELD	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			665	768	871
	377	429	520	607	704
	345	405	484	575	657
	370	441	534		
	439	490	586		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: EAST ST. LOUIS	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			546	643	724
SEMI-DETACHED/ROW	391	441	506	551	668
WALKUP	349	408	479	548	606
ELEVATOR 2-4 STY	371	430	519		
ELEVATOR 5+ STY	449	509	597		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

CINCINNATI OFFICE

MARKET: CINCINNATI	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			679	840	975
SEMI-DETACHED/ROW	416	482	548	658	734
WALKUP	337	397	500	569	657
ELEVATOR 2-4 STY	379	496	591		
ELEVATOR 5+ STY	517	608	692		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: DAYTON	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			586	773	885
	410	415	482	577	650
	324	404	473	541	606
	378	501	599		
	523	614	664		

EFFECTIVE DATE 100185
TRENDED DATE 100187

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SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 5

CLEVELAND OFFICE

MARKET: CLEVELAND	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			717	786	851
SEMI-DETACHED/ROW	487	508	578	658	699
WALKUP	365	420	487	568	642
ELEVATOR 2-4 STY	374	444	554		
ELEVATOR 5+ STY	426	453	568		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: AKRON	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			697	771	795
	469	492	562	643	684
	360	410	482	565	612
	357	400	451		
	368	428	485		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: FINDLAY	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			587	666	723
	386	417	464	563	603
	321	347	407	496	550
	321	347	453		
	367	421	518		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LORAIN	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			567	665	733
	375	380	450	526	566
	275	302	371	466	508
	347	365	434		
	365	370	462		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MANSFIELD	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			588	639	707
SEMI-DETACHED/ROW	435	440	486	559	622
WALKUP	322	348	393	488	525
ELEVATOR 2-4 STY	358	390	466		
ELEVATOR 5+ STY	361	415	476		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: TOLEDO	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			661	733	815
	413	459	525	602	642
	340	378	447	545	579
	362	393	481		
	397	402	490		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: YOUNGSTOWN	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			582	649	695
	396	401	464	541	557
	288	325	386	484	528
	323	340	424		
	330	348	432		

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

COLUMBUS OFFICE

MARKET: COLUMBUS	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			513	628	638
SEMI-DETACHED/ROW	363	393	453	526	575
WALKUP	311	382	444	505	566
ELEVATOR 2-4 STY	346	422	502		
ELEVATOR 5+ STY	392	474	565		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ATHENS	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			474	549	609
	267	353	414	469	519
	266	333	402	447	497
	297	375	441		
	337	425	445		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LIMA	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			492	571	619
	253	358	403	491	529
	238	306	402	447	497
	269	347	462		
	329	397	522		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: NEWARK	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			507	577	647
	297	335	447	497	557
	255	322	427	491	541
	296	364	485		
	336	414	566		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SPRINGFIELD	NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			513	608	663
SEMI-DETACHED/ROW	303	375	453	508	562
WALKUP	299	366	427	492	543
ELEVATOR 2-4 STY	330	408	488		
ELEVATOR 5+ STY	378	458	560		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SIDNEY	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			476	546	606
	268	336	416	467	507
	249	316	386	436	486
	280	358	446		
	320	408	506		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ZANESVILLE	NUMBER OF BEDROOMS				
	-0-	-1-	-2-	-3-	-4+
			507	577	633
	295	355	447	497	557
	272	339	408	453	503
	303	381	468		
	363	461	551		

EFFECTIVE DATE 100185
TRENDED DATE 100187

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REGION 5

DETROIT OFFICE

MARKET: DETROIT
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			642	708	827
SEMI-DETACHED/ROW	408	413	526	616	713
WALKUP	326	408	479	568	661
ELEVATOR 2-4 STY	359	443	498		
ELEVATOR 5+ STY	364	474	571		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: FLINT
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		565	638	758
344	374	467	597	634
321	361	421	552	629
321	379	445		
333	440	523		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SAGINAW
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		545	646	685
344	346	467	622	662
338	336	404	527	587
301	369	410		
304	382	449		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ANN ARBOR
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		628	708	746
360	388	510	612	674
318	390	479	529	587
357	420	498		
356	457	519		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: YPSILANTI
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			628	708	746
SEMI-DETACHED/ROW	390	396	510	612	674
WALKUP	318	390	479	525	587
ELEVATOR 2-4 STY	357	420	498		
ELEVATOR 5+ STY	356	457	519		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

GRAND RAPIDS OFFICE

MARKET: MT PLEASANT
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			574	680	725
SEMI-DETACHED/ROW	376	424	488	604	653
WALKUP	258	345	395	478	515
ELEVATOR 2-4 STY	286	361	402		
ELEVATOR 5+ STY	433	493	571		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GRAND RAPIDS
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		570	674	707
393	398	491	581	628
289	360	457	501	636
306	379	473		
417	486	539		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BENTON HARBOR
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		547	650	684
398	401	500	601	634
280	328	401	491	522
297	341	418		
404	464	531		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BATTLE CREEK
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		596	681	717
393	398	492	613	660
279	358	440	536	568
297	375	458		
428	496	586		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LANSING
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			572	703	744
SEMI-DETACHED/ROW	395	400	478	591	636
WALKUP	307	361	437	527	559
ELEVATOR 2-4 STY	326	378	454		
ELEVATOR 5+ STY	387	437	513		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MUSKEGON
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		578	682	716
445	450	534	627	666
294	371	439	521	532
312	391	457		
429	496	551		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: TRAVERSE CITY
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		619	724	758
459	464	543	667	704
297	395	435	534	573
313	401	452		
469	542	601		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MARQUETTE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		537	643	677
384	388	490	590	624
221	307	398	495	532
237	324	415		
432	508	520		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: JACKSON
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			560	682	734
SEMI-DETACHED/ROW	382	387	468	578	623
WALKUP	300	372	426	523	551
ELEVATOR 2-4 STY	308	390	443		
ELEVATOR 5+ STY	444	507	574		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

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REGION 5

INDIANAPOLIS OFFICE

MARKET: INDIANAPOLIS
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			567	632	697
SEMI-DETACHED/ROW	373	412	496	578	620
WALKUP	340	382	458	514	545
ELEVATOR 2-4 STY	371	405	488		
ELEVATOR 5+ STY	498	506	592		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BLOOMINGTON
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		550	616	687
364	396	472	536	584
324	367	437	496	545
359	385	466		
446	493	580		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: EVANSVILLE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		537	601	665
361	398	477	548	602
318	361	437	496	536
350	384	466		
428	476	570		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: FORT WAYNE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		542	604	673
305	398	472	524	588
321	362	430	482	530
355	385	458		
444	492	575		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: HAMMOND
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			584	651	715
SEMI-DETACHED/ROW	401	452	530	591	667
WALKUP	372	421	491	555	593
ELEVATOR 2-4 STY	413	443	518		
ELEVATOR 5+ STY	478	537	628		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LAFAYETTE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		548	615	686
368	404	481	551	602
329	374	441	499	546
361	397	468		
451	501	585		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SOUTH BEND
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		566	632	705
379	421	496	566	636
333	379	444	502	554
372	403	474		
486	515	597		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: TERRE HAUTE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		543	613	688
354	404	483	552	612
324	373	452	518	560
358	395	480		
433	490	582		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GARY
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			584	651	715
SEMI-DETACHED/ROW	401	452	527	591	667
WALKUP	372	421	491	555	593
ELEVATOR 2-4 STY	413	443	518		
ELEVATOR 5+ STY	474	526	599		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

MILWAUKEE OFFICE

MARKET: MADISON
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			650	739	780
SEMI-DETACHED/ROW	369	470	555	674	717
WALKUP	390	412	497	608	
ELEVATOR 2-4 STY	376	430	518		
ELEVATOR 5+ STY	516	562	677		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: REEDSVILLE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		593	664	720
318	417	509	623	663
313	364	454	566	
331	382	472		
480	510	632		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SUPERIOR
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		573	672	712
303	410	481	606	647
298	355	430	551	
315	372	447		
456	508	616		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MILWAUKEE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		703	770	845
402	517	609	736	778
397	456	535	661	
418	473	553		
554	616	736		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: EAU CLAIRE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			574	665	702
SEMI-DETACHED/ROW	284	382	436	557	597
WALKUP	278	328	386	499	
ELEVATOR 2-4 STY	299	348	406		
ELEVATOR 5+ STY	427	478	568		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GREEN BAY
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		526	604	645
302	399	465	604	645
297	346	436	547	
315	364	453		
443	492	614		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: WAUSAU
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		558	662	698
320	417	481	601	641
315	364	432	544	
332	382	453		
460	510	610		

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

VOL 51 ISS 77 AP 22 1986 UMI

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 5

MINNEAPOLIS-ST. PAUL OFFICE

	MARKET: MINNEAPOLIS NUMBER OF BEDROOMS					MARKET: DULUTH NUMBER OF BEDROOMS					MARKET: MANKATO NUMBER OF BEDROOMS					MARKET: ROCHESTER NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED																				
SEMI-DETACHED/ROW	411	419	557	640	715	377	396	527	600	669	412	424	533	606	676	437	444	537	623	696
WALKUP	330	390	468	564	615	344	371	446	545	579	333	372	464	535	666	340	390	466	539	571
ELEVATOR 2-4 STY	376	447	560			356	426	532			368	408	478			371	412	486		
ELEVATOR 5+ STY	384	507	640			374	450	572			382	524	631			401	544	616		
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

	MARKET: ST. CLOUD NUMBER OF BEDROOMS					MARKET: WORTHINGTON NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED										
SEMI-DETACHED/ROW	359	363	486	551	619	318	323	448	509	569
WALKUP	301	337	419	504	535	276	303	391	471	500
ELEVATOR 2-4 STY	327	401	456			293	359	428		
ELEVATOR 5+ STY	327	466	550			298	416	507		
MANUFACTURED HOME										
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187				

PREPARED ON 021286

REGION 6

FORT WORTH REGIONAL OFFICE

	MARKET: DALLAS NUMBER OF BEDROOMS					MARKET: SHERMAN NUMBER OF BEDROOMS					MARKET: TYLER NUMBER OF BEDROOMS					MARKET: WACO NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			584	681	727			450	540	612			486	606	674			468	564	622
SEMI-DETACHED/ROW	401	425	537	633	688	310	316	410	484	556	310	344	424	537	627	321	337	426	502	577
WALKUP	331	398	510	589	669	256	303	390	460	524	270	319	402	500	582	265	324	404	466	543
ELEVATOR 2-4 STY	349	439	554			267	335	422			282	364	436			276	347	439		
ELEVATOR 5+ STY	490	566	718			374	440	566			398	475	617			389	466	609		
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

	MARKET: WICHITA FALLS NUMBER OF BEDROOMS					MARKET: SAN ANGELO NUMBER OF BEDROOMS					MARKET: ABILENE NUMBER OF BEDROOMS					MARKET: LUBBOCK NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			482	569	641			511	636	707			494	676	748			479	585	656
SEMI-DETACHED/ROW	316	328	429	526	590	329	334	455	550	641	316	350	431	547	638	306	339	417	529	607
WALKUP	274	321	398	506	582	264	329	425	511	595	275	325	409	508	592	266	314	396	492	573
ELEVATOR 2-4 STY	286	359	443			299	381	472			287	360	444			278	349	430		
ELEVATOR 5+ STY	401	482	627			426	493	675			402	493	628			389	468	608		
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

	MARKET: AMARILLO NUMBER OF BEDROOMS					MARKET: EL PASO NUMBER OF BEDROOMS					MARKET: MIDLAND NUMBER OF BEDROOMS					MARKET: ODESSA NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			484	571	642			450	561	629			437	612	672			429	601	659
SEMI-DETACHED/ROW	351	366	448	527	609	287	318	392	497	580	280	310	381	484	564	274	304	374	475	553
WALKUP	276	319	425	490	572	250	295	372	462	538	243	287	362	450	524	238	282	358	441	514
ELEVATOR 2-4 STY	291	368	461			261	327	404			264	319	393			249	312	385		
ELEVATOR 5+ STY	406	483	612			366	439	571			366	427	536			349	419	545		
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

	MARKET: ALBUQUERQUE NM NUMBER OF BEDROOMS					MARKET: SANTA FE NM NUMBER OF BEDROOMS					MARKET: SILVER CITY NM NUMBER OF BEDROOMS					MARKET: TAOS NM NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			507	592	661			561	729	801			492	574	641			517	603	673
SEMI-DETACHED/ROW	357	362	460	540	626	352	388	489	576	672	363	388	469	547	607	352	357	450	533	622
WALKUP	285	333	433	502	588	304	380	464	536	625	300	350	452	523	589	279	334	428	495	577
ELEVATOR 2-4 STY	299	374	470			318	399	503			318	385	487			293	368	464		
ELEVATOR 5+ STY	419	489	648			447	536	713			419	474	629			413	495	659		
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

PREPARED ON 021286

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 6

FORT WORTH REGIONAL OFFICE

	MARKET: CLOVIS NM NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			497	576	741
SEMI-DETACHED/ROW	335	373	434	534	623
WALKUP	293	346	412	496	578
ELEVATOR 2-4 STY	308	383	447		
ELEVATOR 5+ STY	428	513	633		
MANUFACTURED HOME					
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

PREPARED ON 021286

HOUSTON OFFICE

	MARKET: HOUSTON NUMBER OF BEDROOMS					MARKET: BEAUMONT NUMBER OF BEDROOMS					MARKET: BRYAN NUMBER OF BEDROOMS					MARKET: LUFKIN NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			630	771	894			589	692	825			546	723	838			521	611	708
SEMI-DETACHED/ROW	370	431	548	666	750	344	406	481	589	697	349	411	521	641	723	310	364	473	560	633
WALKUP	349	411	528	634	724	324	377	463	561	664	329	391	503	597	703	294	347	449	525	616
ELEVATOR 2-4 STY	408	473	607			381	450	553			383	451	578			338	399	524		
ELEVATOR 5+ STY	533	622	719			527	560	456			508	610	763			487	530	650		
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

	MARKET: EL CAMPO NUMBER OF BEDROOMS					MARKET: TEXAS CITY NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			537	629	729			624	711	824
SEMI-DETACHED/ROW	336	370	495	595	668	355	427	534	674	754
WALKUP	318	361	467	567	650	334	419	532	642	734
ELEVATOR 2-4 STY	369	433	562			424	497	622		
ELEVATOR 5+ STY	450	531	656			533	622	719		
MANUFACTURED HOME										
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187				

PREPARED ON 021286

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SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 6

LITTLE ROCK OFFICE

MARKET: FAYETTEVILLE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			491	572	647
SEMI-DETACHED/ROW	332	397	468	564	617
WALKUP	319	380	451	537	598
ELEVATOR 2-4 STY	339	407	482		
ELEVATOR 5+ STY	416	486	561		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LITTLE ROCK
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		513	588	672
344	418	485	565	636
316	403	450	550	615
346	435	490		
419	490	572		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: TEXARKANA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		432	501	656
322	374	454	556	615
316	364	449	553	606
344	393	485		
416	486	562		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: FORT SMITH
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		464	548	624
311	361	445	515	576
292	339	410	474	531
321	369	452		
422	490	576		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: JONESBORO
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			468	562	637
SEMI-DETACHED/ROW	320	371	454	557	606
WALKUP	301	357	430	525	573
ELEVATOR 2-4 STY	333	387	477		
ELEVATOR 5+ STY	408	478	560		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

NEW ORLEANS OFFICE

MARKET: NEW ORLEANS
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			433	508	597
SEMI-DETACHED/ROW	321	328	422	497	581
WALKUP	298	318	414	488	567
ELEVATOR 2-4 STY	310	329	425		
ELEVATOR 5+ STY	459	483	625		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LAKE CHARLES
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		382	484	574
307	308	370	472	557
240	287	346	444	513
251	298	357		
399	450	583		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LAFAYETTE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		334	418	508
240	249	322	406	489
193	240	312	396	467
204	251	323		
381	402	522		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BATON ROUGE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		415	500	591
305	331	401	488	575
252	298	362	442	508
263	307	373		
417	467	579		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: HOUMA
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			393	504	594
SEMI-DETACHED/ROW	273	327	380	492	579
WALKUP	267	315	368	479	553
ELEVATOR 2-4 STY	278	328	379		
ELEVATOR 5+ STY	427	480	580		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SHREVEPORT
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		483	574	667
325	357	460	551	638
278	327	427	511	578
319	393	447		
422	482	616		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ALEXANDRIA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		428	503	585
289	340	400	473	562
276	323	385	452	527
295	352	405		
416	471	591		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MONROE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		440	554	633
265	327	403	515	586
282	348	422		
421	476	592		

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 6

OKLAHOMA CITY OFFICE

MARKET: OKLAHOMA CITY
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			549	660	721
SEMI-DETACHED/ROW	371	406	450	561	627
WALKUP	317	346	445	540	600
ELEVATOR 2-4 STY	334	369	480		
ELEVATOR 5+ STY	400	436	549		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ADA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		513	606	661
346	392	499	590	646
285	332	430	495	537
302	356	461		
358	392	506		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ARDMORE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		511	603	658
343	385	496	585	643
285	329	430	495	537
302	356	456		
358	392	506		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ENID
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		510	586	657
373	419	489	566	637
267	333	394	463	512
300	356	429		
325	422	499		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GUYMON
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			449	550	621
SEMI-DETACHED/ROW	297	350	428	529	600
WALKUP	233	273	342	437	484
ELEVATOR 2-4 STY	250	296	377		
ELEVATOR 5+ STY	316	363	447		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LAWTON
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		522	590	676
378	405	500	577	662
284	327	416	500	567
301	351	452		
369	420	524		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SHAWNEE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		450	495	545
361	367	438	482	530
275	305	370	403	441
286	323	409		
332	369	443		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: STILLWATER
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		469	536	604
362	384	451	522	585
272	323	384	447	493
295	344	421		
331	390	458		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: WOODWARD
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			447	549	620
SEMI-DETACHED/ROW	295	348	426	529	599
WALKUP	233	273	342	437	484
ELEVATOR 2-4 STY	250	296	377		
ELEVATOR 5+ STY	316	363	447		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BARTLESVILLE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		452	532	590
331	361	436	517	575
263	303	378	453	495
280	326	387		
316	349	439		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MC ALESTER
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		449	521	574
323	328	436	507	560
230	260	361	422	467
242	277	380		
288	323	429		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MUSKOGEE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		408	471	534
353	362	394	456	519
256	295	328	406	440
273	312	340		
323	357	390		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: TULSA
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			514	663	734
SEMI-DETACHED/ROW	306	346	431	581	633
WALKUP	264	301	419	557	604
ELEVATOR 2-4 STY	281	324	455		
ELEVATOR 5+ STY	347	391	525		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

SAN ANTONIO OFFICE

MARKET: SAN ANTONIO
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			605	708	780
SEMI-DETACHED/ROW	402	448	546	629	695
WALKUP	366	402	483	543	593
ELEVATOR 2-4 STY	426	472	592		
ELEVATOR 5+ STY	527	599	785		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: AUSTIN
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		679	858	947
435	499	639	785	875
398	451	568	691	773
462	524	678		
568	656	875		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: CORPUS CHRISTY
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		623	690	756
386	480	596	632	697
348	431	523	539	583
414	502	632		
523	638	835		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: EAGLE PASS
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		552	675	753
363	413	509	601	717
325	359	427	493	580
398	433	541		
505	571	746		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: HARLINGEN
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			569	658	778
SEMI-DETACHED/ROW	340	390	526	627	722
WALKUP	302	333	436	514	585
ELEVATOR 2-4 STY	361	398	551		
ELEVATOR 5+ STY	474	543	757		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LAREDO
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		552	675	753
363	413	509	601	717
325	359	427	493	580
398	433	541		
505	571	746		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: VICTORIA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		623	690	756
386	480	596	632	697
348	431	523	539	583
414	502	632		
523	638	835		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: DEL RIO
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		552	675	753
363	413	509	601	717
325	359	427	493	580
398	433	541		
505	571	746		

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

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SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 7

DES MOINES OFFICE

MARKET: DES MOINES
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			601	694	795
SEMI-DETACHED/ROW	410	433	520	585	669
WALKUP	392	381	443	499	569
ELEVATOR 2-4 STY	400	443	524		
ELEVATOR 5+ STY	431	481	570		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BETTENDORF
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		534	628	719
342	398	488	631	636
287	338	408	490	561
371	422	512		
407	464	564		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: CEDAR RAPIDS
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		576	670	765
353	411	510	582	670
293	345	439	507	575
380	432	532		
429	477	580		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: COUNCIL BLUFF
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		548	636	735
388	414	495	557	638
310	357	420	469	520
393	445	512		
427	483	571		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: DUBUQUE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			555	650	742
SEMI-DETACHED/ROW	368	415	488	565	657
WALKUP	302	354	423	510	577
ELEVATOR 2-4 STY	362	435	528		
ELEVATOR 5+ STY	417	477	577		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MASON CITY
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		577	670	762
360	418	508	583	678
303	350	424	488	557
384	438	525		
431	481	577		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SIOUX CITY
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		594	677	773
378	436	524	592	678
314	351	426	488	568
402	449	528		
434	487	576		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: DAVENPORT
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		534	628	719
342	398	468	531	635
287	338	408	490	561
371	422	512		
407	464	564		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: WATERLOO
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			491	581	669
SEMI-DETACHED/ROW	334	388	427	500	589
WALKUP	281	330	389	448	571
ELEVATOR 2-4 STY	357	407	465		
ELEVATOR 5+ STY	390	447	515		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

KANSAS CITY REGIONAL OFFICE

MARKET: KANSAS CITY
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	406	448	536	603	643
WALKUP	330	389	473	584	623
ELEVATOR 2-4 STY	363	406	535		
ELEVATOR 5+ STY	459	506	649		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: JOPLIN
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
302	342	444	527	572
252	300	385	496	538
318	365	455		
414	466	598		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ST. JOSEPH
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
309	335	405	496	534
289	332	394	485	523
327	376	469		
426	482	617		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SEDALIA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
278	319	405	498	537
273	315	400	479	523
332	381	476		
432	488	626		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SPRINGFIELD
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	284	307	413	498	545
WALKUP	237	287	369	469	534
ELEVATOR 2-4 STY	283	325	406		
ELEVATOR 5+ STY	369	417	535		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: TOPEKA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
318	375	456	560	598
299	322	421	493	531
346	400	497		
414	466	609		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GARDEN CITY
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
368	373	445	552	608
295	346	440	500	555
337	390	487		
402	453	593		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: PITTSBURG
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
314	353	427	523	559
266	305	376	474	512
331	384	479		
395	445	584		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SALINA
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	297	336	422	508	550
WALKUP	270	313	401	481	545
ELEVATOR 2-4 STY	337	394	487		
ELEVATOR 5+ STY	402	453	593		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: WICHITA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
339	377	457	557	593
272	311	404	492	523
344	397	497		
409	462	604		

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 7

OMAHA OFFICE

MARKET: OMAHA
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	337	373	476	542	597
WALKUP	289	349	430	532	562
ELEVATOR 2-4 STY	296	392	471		
ELEVATOR 5+ STY	325	405	488		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GRAND ISLAND
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
312	352	460	532	560
289	348	427	501	537
296	387	471		
328	405	488		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LINCOLN
NUMBER OF BEDRDOMS

-0-	-1-	-2-	-3-	-4+
351	385	462	530	584
288	349	430	525	578
296	394	471		
337	405	488		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: NORFOLK
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
312	352	460	532	560
289	348	427	501	537
296	387	471		
328	405	488		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: NORTH PLATTE
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED					
SEMI-DETACHED/ROW	294	340	431	495	528
WALKUP	270	336	398	472	506
ELEVATOR 2-4 STY	283	358	451		
ELEVATOR 5+ STY	309	383	471		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SCOTTS BLUFF
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
308	347	454	526	553
288	343	426	494	530
300	381	481		
323	408	501		

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

ST. LOUIS OFFICE

MARKET: ST. LOUIS
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			606	713	767
SEMI-DETACHED/ROW	411	488	577	683	752
WALKUP	359	454	541	613	676
ELEVATOR 2-4 STY	390	489	585		
ELEVATOR 5+ STY	434	564	762		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: CAPE GIRARDEAU
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		423	508	556
290	335	407	503	551
251	316	374	444	462
278	348	420		
306	378	459		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: COLUMBIA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		395	519	566
298	342	377	514	561
265	336	367	494	544
287	361	440		
320	427	589		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: KIRKSVILLE
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		431	529	578
295	347	410	520	573
260	329	403	502	554
283	355	448		
315	420	599		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ROLLA
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			441	532	585
SEMI-DETACHED/ROW	295	344	435	527	580
WALKUP	256	324	408	493	540
ELEVATOR 2-4 STY	278	349	440		
ELEVATOR 5+ STY	310	406	581		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 8

DENVER, COLORADO REGIONAL OFFICE

MARKET: DENVER, CO
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			696	827	922
SEMI-DETACHED/ROW	444	498	587	692	781
WALKUP	360	421	483	614	697
ELEVATOR 2-4 STY	378	429	544		
ELEVATOR 5+ STY	498	467	606		
MANUFACTURED HOME					

EFFECTIVE DATE 100186
TRENDED DATE 100187

MARKET: GRAND JUNCT.CO
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		549	638	680
314	361	442	557	639
285	343	404	508	584
353	404	493		
377	429	518		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ASPEN/VAIL
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		578	661	700
356	409	498	607	653
328	387	458	564	613
380	447	497		
392	457	506		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: FARGO, ND
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		545	638	704
329	373	463	579	643
376	332	427	478	614
322	377	466		
329	387	476		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BISMARK, ND
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			515	621	662
SEMI-DETACHED/ROW	319	353	433	535	609
WALKUP	293	338	398	491	558
ELEVATOR 2-4 STY	311	358	436		
ELEVATOR 5+ STY	319	368	447		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: DICKINSON, ND
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		478	587	664
284	327	396	496	568
261	291	361	453	519
311	355	436		
319	368	447		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: HELENA, MT
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		448	530	569
287	341	423	520	560
258	316	384	493	551
318	384	451		
331	400	464		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BILLINGS, MT
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		536	608	647
342	400	492	598	638
313	378	454	562	628
347	409	530		
360	424	549		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GREAT FALLS,MT
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			475	547	588
SEMI-DETACHED/ROW	297	346	439	535	578
WALKUP	269	315	395	504	568
ELEVATOR 2-4 STY	325	379	477		
ELEVATOR 5+ STY	339	394	491		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MISSOULA, MT
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		461	542	586
265	317	400	521	575
238	304	361	471	552
305	361	454		
331	388	482		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SALT LAKE CITY
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		532	668	734
348	391	469	603	660
288	378	444	530	613
336	442	499		
371	474	554		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: CEDAR CITY, UT
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		473	519	564
335	360	424	474	509
280	352	404	469	490
330	397	458		
347	441	506		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: VERNAL, UT
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			475	600	699
SEMI-DETACHED/ROW	229	304	428	507	600
WALKUP	203	252	333	440	527
ELEVATOR 2-4 STY	273	329	424		
ELEVATOR 5+ STY	291	349	446		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SIOUX FALLS,SD
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		493	534	578
318	361	448	503	550
293	336	413	489	530
327	367	448		
334	382	459		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: PIERRE, SD
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		503	546	594
249	310	407	524	572
243	294	364	485	546
292	350	431		
318	356	442		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: RAPID CITY, SD
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		528	641	682
328	400	495	609	662
301	376	458	567	630
334	392	495		
339	400	500		

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

DENVER, COLORADO REGIONAL OFFICE

MARKET: CASPER, WY
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			539	661	751
SEMI-DETACHED/ROW	307	356	436	547	634
WALKUP	281	326	409	503	582
ELEVATOR 2-4 STY	343	395	483		
ELEVATOR 5+ STY	367	421	509		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: CHEYENNE, WY
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		559	675	769
329	376	454	561	639
304	347	419	517	589
365	416	502		
389	441	529		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: CODY, WY
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		539	661	751
307	356	436	547	634
281	326	400	503	582
343	395	483		
367	421	509		

EFFECTIVE DATE 100185
TRENDED DATE 100187

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 9

HONOLULU OFFICE

MARKET: HONOLULU
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			829	1073	1219
SEMI-DETACHED/ROW	559	580	793	948	1089
WALKUP	487	559	646	941	1059
ELEVATOR 2-4 STY	540	626	674		
ELEVATOR 5+ STY	555	744	917		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: GUAM
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		644	738	829
519	522	599	864	782
362	416	496	864	

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: KAUAI
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		840	976	1086
668	743	930	964	1056
496	626	867	942	1082
525	657	697		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MAUI
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		759	940	998
627	708	743	929	986
459	593	716	836	893
489	623	747		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MILO
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			691	738	857
SEMI-DETACHED/ROW	479	498	580	728	847
WALKUP	404	448	552	700	826
ELEVATOR 2-4 STY	496	476	584		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: KONA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		724	861	949
576	632	713	849	939
468	534	623	760	894
497	563	653		

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

LOS ANGELES OFFICE

MARKET: LOS ANGELES
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			791	890	1002
SEMI-DETACHED/ROW	591	633	730	828	949
WALKUP	484	558	673	802	873
ELEVATOR 2-4 STY	523	601	726	832	901
ELEVATOR 5+ STY	658	748	963		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BAKERSFIELD
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		624	737	843
427	448	572	699	782
344	422	546	674	732
361	441	573		
516	606	782		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SANTA BARBARA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		791	879	998
620	625	760	946	957
442	493	637	722	783
460	516	659		
598	667	854		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: VENTURA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		748	847	943
332	551	612	747	814
473	518	580	711	780
495	539	603		
644	700	807		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: PASO ROBLES
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			723	806	876
SEMI-DETACHED/ROW	481	486	604	736	807
WALKUP	404	456	568	699	724
ELEVATOR 2-4 STY	424	476	585		
ELEVATOR 5+ STY	575	642	795		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LANCASTER
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		595	685	799
462	466	582	690	760
364	438	538	622	709
395	463	562		
547	626	778		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: OXNARD
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		748	848	943
535	551	612	747	814
473	518	580	711	780
495	539	603		
644	700	807		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SANTA ANA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		766	951	1026
661	668	772	934	1014
523	626	719	863	914
535	644	742		
682	804	944		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SAN DIEGO
NUMBER OF BEDROOMS

STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			658	781	884
SEMI-DETACHED/ROW	526	531	633	717	841
WALKUP	428	488	591	693	743
ELEVATOR 2-4 STY	463	534	644		
ELEVATOR 5+ STY	554	646	791		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: EL CAJON
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		658	781	884
526	531	633	717	841
428	488	591	693	743
463	534	644		
554	646	791		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SANTA MARIA
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		871	762	874
502	561	640	730	833
398	447	518	575	833
417	468	539		
540	626	740		

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SAN BERNARDINO
NUMBER OF BEDROOMS

-0-	-1-	-2-	-3-	-4+
		868	726	811
468	492	567	682	795
418	471	554	560	729
447	491	574		
603	654	780		

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

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SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 9

PHOENIX OFFICE

	MARKET: PHOENIX NUMBER OF BEDROOMS					MARKET: CASA GRANDE NUMBER OF BEDROOMS					MARKET: FLAGSTAFF NUMBER OF BEDROOMS					MARKET: SAFFORD NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			576	696	787			508	586	669			616	706	789			483	573	665
SEMI-DETACHED/ROW	416	477	571	662	726	340	389	474	556	622	414	460	550	615	698	328	381	455	542	627
WALKUP	397	456	544	637	679	329	384	463	519	575	397	445	541	600	664	307	363	441	520	575
ELEVATOR 2-4 STY	427	488	574			367	412	488			423	471	567			335	391	461		
ELEVATOR 5+ STY	523	597	717								543	599	700							
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

	MARKET: TUCSON NUMBER OF BEDROOMS					MARKET: YUMA NUMBER OF BEDROOMS					MARKET: KINGMAN NUMBER OF BEDROOMS					MARKET: DOUGLAS NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			527	636	692			539	638	732			520	582	675			502	570	688
SEMI-DETACHED/ROW	348	408	491	568	668	371	424	516	601	688	378	415	497	551	633	367	408	472	536	647
WALKUP	328	380	456	553	634	357	406	508	567	630	360	410	487	547	600	350	405	463	522	613
ELEVATOR 2-4 STY	358	408	516			385	433	534			398	436	513			376	431	489		
ELEVATOR 5+ STY	519	585	744																	
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

	MARKET: NOGALES NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			488	573	662
SEMI-DETACHED/ROW	311	370	452	534	633
WALKUP	290	353	441	518	594
ELEVATOR 2-4 STY	313	379	467		
ELEVATOR 5+ STY					
MANUFACTURED HOME					
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

PREPARED ON 021286

SACRAMENTO OFFICE

	MARKET: SACRAMENTO NUMBER OF BEDROOMS					MARKET: REDDING NUMBER OF BEDROOMS					MARKET: PLACERVILLE NUMBER OF BEDROOMS					MARKET: YREKA NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			864	998	887			523	647	626			567	629	721			525	614	660
SEMI-DETACHED/ROW	468	471	538	592	650	423	444	492	541	607	488	494	564	622	683	400	440	506	565	630
WALKUP	359	427	487	565	650	329	381	441	486	607	370	442	504	614	683	345	375	450	555	615
ELEVATOR 2-4 STY	417	464	550			374	428	529			458	523	592			368	395	470		
ELEVATOR 5+ STY	582	680	739																	
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

	MARKET: S. LAKE TAHOE NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+
DETACHED			633	733	798
SEMI-DETACHED/ROW	530	535	612	710	782
WALKUP	408	478	545	653	716
ELEVATOR 2-4 STY	475	535	619		
ELEVATOR 5+ STY					
MANUFACTURED HOME					
	EFFECTIVE DATE 100185				
	TRENDED DATE 100187				

PREPARED ON 021286

SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 9

SAN FRANCISCO REGIONAL OFFICE

	MARKET: SAN FRANCISCO NUMBER OF BEDROOMS					MARKET: FRESNO NUMBER OF BEDROOMS					MARKET: MODESTO NUMBER OF BEDROOMS					MARKET: SAN JOSE NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED																				
SEMI-DETACHED/ROW	802	807	1046	1209	1292	387	392	505	663	728	359	364	436	532	588	540	545	665	808	887
WALKUP	554	640	837	1020	1120	330	388	475	607	694	339	358	431	527	584	450	540	642	766	826
ELEVATOR 2-4 STY	809	735	940			414	492	613			438	492	616			482	560	849		
ELEVATOR 5+ STY	774	899	1138																	
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

	MARKET: OAKLAND NUMBER OF BEDROOMS					MARKET: MARIN NUMBER OF BEDROOMS					MARKET: EUREKA NUMBER OF BEDROOMS					MARKET: SANTA ROSA NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED																				
SEMI-DETACHED/ROW	619	624	794	908	1003	619	624	794	908	1003	331	390	530	694	785	511	516	631	785	851
WALKUP	512	596	739	837	928	512	596	739	837	928	326	382	525	687	779	438	511	631	779	837
ELEVATOR 2-4 STY	551	603	813			551	603	813			415	505	650			542	632	787		
ELEVATOR 5+ STY	752	822	1070			752	822	1070												
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

	MARKET: SANTA CRUZ NUMBER OF BEDROOMS					MARKET: RENO NUMBER OF BEDROOMS					MARKET: LAS VEGAS NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED															
SEMI-DETACHED/ROW	464	469	632	808	888	461	468	571	698	768	375	430	535	658	710
WALKUP	391	465	594	766	835	402	461	546	635	704	368	413	522	648	702
ELEVATOR 2-4 STY	482	596	717			518	597	755			457	518	682		
ELEVATOR 5+ STY															
MANUFACTURED HOME															
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

PREPARED ON 021286

REGION 10

ANCHORAGE OFFICE

	MARKET: ANCHORAGE NUMBER OF BEDROOMS					MARKET: FAIRBANKS NUMBER OF BEDROOMS					MARKET: JUNEAU NUMBER OF BEDROOMS					MARKET: KETCHIKAN NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			750	830	857			738	805	878			782	891	927			687	782	870
SEMI-DETACHED/ROW	639	644	718	783	809	542	632	709	797	860	622	627	759	849	891	456	557	655	745	829
WALKUP	410	526	619	732	759	424	535	681	747	843	413	561	689	787	857	431	506	594	678	752
ELEVATOR 2-4 STY	431	531	680			528	632	818			510	607	729			481	572	691		
ELEVATOR 5+ STY	456	556	705			553	657	843			535	632	759			506	597	710		
MANUFACTURED HOME																				
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187					TRENDED DATE 100187				

	MARKET: KENAI PENINSULAR NUMBER OF BEDROOMS					MARKET: SITKA NUMBER OF BEDROOMS				
STRUCTURE TYPE	-0-	-1-	-2-	-3-	-4+	-0-	-1-	-2-	-3-	-4+
DETACHED			873	1025	1203			673	816	978
SEMI-DETACHED/ROW	447	584	721	858	1021	301	407	530	665	812
WALKUP	391	464	535	599	742	291	380	495	598	700
ELEVATOR 2-4 STY	481	581	759			390	489	669		
ELEVATOR 5+ STY	506	606	784			440	539	719		
MANUFACTURED HOME										
	EFFECTIVE DATE 100185					EFFECTIVE DATE 100185				
	TRENDED DATE 100187					TRENDED DATE 100187				

PREPARED ON 021286

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SCHEDULE A- FAIR MARKET RENTS FOR NEW CONSTRUCTION AND SUBSTANTIAL REHABILITATION
(INCLUDING HOUSING FINANCE AND DEVELOPMENT AGENCIES PROGRAMS)

REGION 10

PORTLAND OFFICE

MARKET: PORTLAND

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			466	575	624
SEMI-DETACHED/ROW	298	306	422	519	562
WALKUP	296	352	406	471	548
ELEVATOR 2-4 STY	297	365	430		
ELEVATOR 5+ STY	359	426	575		
MANUFACTURED HOME					

EFFECTIVE DATE 100186
TRENDED DATE 100187

MARKET: BEND

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			356	457	510
SEMI-DETACHED/ROW	266	276	322	396	443
WALKUP	202	261	302	373	418
ELEVATOR 2-4 STY	215	280	320		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: COOS BAY

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			356	418	463
SEMI-DETACHED/ROW	243	275	324	386	440
WALKUP	216	262	319	382	428
ELEVATOR 2-4 STY	227	275	328		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MEDFORD

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			406	474	531
SEMI-DETACHED/ROW	278	319	373	435	502
WALKUP	258	305	348	406	441
ELEVATOR 2-4 STY	269	318	360		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: ONTARIO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			373	444	496
SEMI-DETACHED/ROW	225	277	331	408	451
WALKUP	208	253	321	404	439
ELEVATOR 2-4 STY	219	268	334		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: WEST SALEM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			375	463	514
SEMI-DETACHED/ROW	217	266	346	415	470
WALKUP	199	250	303	396	437
ELEVATOR 2-4 STY	212	263	320		
ELEVATOR 5+ STY	293	360	444		
MANUFACTURED HOME					

EFFECTIVE DATE 100186
TRENDED DATE 100187

MARKET: PENDLETON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			400	463	520
SEMI-DETACHED/ROW	267	294	368	412	462
WALKUP	229	281	349	393	432
ELEVATOR 2-4 STY	242	293	363		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BOISE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			443	552	593
SEMI-DETACHED/ROW	309	334	366	475	527
WALKUP	267	317	360	453	494
ELEVATOR 2-4 STY	297	327	373		
ELEVATOR 5+ STY	360	427	489		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: EUGENE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			375	472	526
SEMI-DETACHED/ROW	227	280	351	428	469
WALKUP	208	253	316	411	443
ELEVATOR 2-4 STY	221	269	336		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: IDAHO FALLS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			333	378	418
SEMI-DETACHED/ROW	244	249	297	347	390
WALKUP	183	231	276	333	375
ELEVATOR 2-4 STY					
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: MCCALL

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			371	447	483
SEMI-DETACHED/ROW	208	253	329	397	432
WALKUP	184	232	311	368	412
ELEVATOR 2-4 STY	198	245	335		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: POCATELLO

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			386	487	522
SEMI-DETACHED/ROW	248	268	367	443	488
WALKUP	201	251	333	402	433
ELEVATOR 2-4 STY	216	262	357		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: TWIN FALLS

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			363	483	530
SEMI-DETACHED/ROW	249	257	321	381	426
WALKUP	203	245	310	367	404
ELEVATOR 2-4 STY	219	264	335		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: LEWISTON

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			334	426	497
SEMI-DETACHED/ROW	248	253	313	373	410
WALKUP	197	236	288	357	393
ELEVATOR 2-4 STY	229	265	306		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100186
TRENDED DATE 100187

MARKET: COEUR D'ALEN

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			373	462	509
SEMI-DETACHED/ROW	250	280	337	394	434
WALKUP	223	238	298	374	407
ELEVATOR 2-4 STY	244	253	316		
ELEVATOR 5+ STY					
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

SEATTLE REGIONAL OFFICE

MARKET: SEATTLE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			587	653	736
SEMI-DETACHED/ROW	329	404	494	586	679
WALKUP	321	399	489	556	571
ELEVATOR 2-4 STY	359	429	530		
ELEVATOR 5+ STY	403	501	566		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: BELLINGHAM

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			447	558	603
SEMI-DETACHED/ROW	287	328	397	489	539
WALKUP	245	313	387	472	525
ELEVATOR 2-4 STY	262	330	404		
ELEVATOR 5+ STY	392	464	573		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: OLYMPIA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			426	510	606
SEMI-DETACHED/ROW	323	341	367	460	546
WALKUP	246	314	362	435	519
ELEVATOR 2-4 STY	263	331	403		
ELEVATOR 5+ STY	391	463	557		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: YAKIMA

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			419	525	606
SEMI-DETACHED/ROW	278	320	395	477	564
WALKUP	230	299	356	452	522
ELEVATOR 2-4 STY	246	321	372		
ELEVATOR 5+ STY	382	450	553		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: SPOKANE

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			441	547	642
SEMI-DETACHED/ROW	269	311	388	477	561
WALKUP	236	289	357	443	502
ELEVATOR 2-4 STY	253	323	373		
ELEVATOR 5+ STY	391	442	536		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

MARKET: KENNEWICK

STRUCTURE TYPE	NUMBER OF BEDROOMS -0-	-1-	-2-	-3-	-4+
DETACHED			387	458	560
SEMI-DETACHED/ROW	267	274	309	388	476
WALKUP	234	261	304	361	448
ELEVATOR 2-4 STY	276	307	380		
ELEVATOR 5+ STY	336	387	462		
MANUFACTURED HOME					

EFFECTIVE DATE 100185
TRENDED DATE 100187

PREPARED ON 021286

[FR Doc. 86-8707 Filed 4-21-86; 8:45 am]
BILLING CODE 4210-27-C

federal register

Tuesday
April 22, 1986

Part V

Department of the Interior

Bureau of Land Management

43 CFR Parts 3500, 3510, 3520, 3530, 3540, 3550, 3560, 3570, 3580 and 3590

Revision of Regulations Covering Leasing of Solid Minerals Other Than Coal and Oil Shale; Final Rulemaking

VOL 51 ISS 77 AP 22 1986 UMI

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 3500, 3510, 3520, 3530, 3540, 3550, 3560, 3570, 3580 and 3590

[Circular No. 2580]

Leasing of Solid Minerals Other Than Coal and Oil Shale; Revision of Regulations Covering Leasing of Solid Minerals Other Than Coal and Oil Shale

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking totally revises the provisions of 43 CFR Group 3500 concerning leasing of solid minerals other than coal and oil shale, to reduce the regulatory burden imposed on the public, to streamline and clarify the existing provisions, to change the format in order to address specific minerals individually and to achieve a number of miscellaneous purposes under the authority granted the Secretary of the Interior by various statutes.

EFFECTIVE DATE: May 22, 1986.

ADDRESS: Any suggestions or inquiries should be sent to: Director (650), Bureau of Land Management, Room 3600, Main Interior Bldg., 1800 C Street NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Zareh Mozian, (202) 343-2458.

SUPPLEMENTARY INFORMATION: A proposed rulemaking containing a revision of 43 CFR Group 3500 was published in the Federal Register on April 12, 1985 (50 FR 14512) with a 60-day comment period. During the comment period, which included an extension of 45 days, comments were received from 277 sources, with 194 coming from individuals, 38 from businesses, 7 from industry associations, 31 from Federal agencies, 4 from State and local governmental entities and 3 from attorneys. All of the comments were given careful consideration and will be addressed in the preamble in connection with the section commented upon. Only those sections that were the subject of comments are discussed in the preamble.

In general, the comments were favorable to the changes made by the proposed rulemaking, with a special endorsement for the proposed rulemaking's treatment of the minerals individually.

One comment requested that the final rulemaking contain a provision stating that the final rulemaking is only applicable to new or revised leases. This request has not been adopted by the final rulemaking. Nothing in the final relemaking is intended to change any specific terms and conditions of an existing lease, and in fact, many existing leases have an express provision to that effect. However, this final rulemaking contains many procedural and organizational statements which the Department of the Interior expects all lessees to follow.

Section 3500.0-3 Authorities.

Three comments were received on § 3500.0-3 of the proposed rulemaking. One comment questioned the listing of the Act of March 4, 1917 (16 U.S.C. 520) and recommended that the Act of March 1, 1911 (36 Stat. 961), be used instead because that was the authority for the purchase of Weeks Act lands. This recommendation was not adopted because except for the Act of June 28, 1952, the laws listed in the proposed rulemaking are identical to the laws listed in Reorganization Plan No. 3 (5 U.S.C. Appendix). It is under this cited authority that the Department of the Interior administers mineral leasing on these lands; the 1911 Act is not such authority for the Department. The Act of June 28, 1952, is listed because it refers back to Reorganization Plan No. 3. A second comment recommended that the Act of June 28, 1944 (58 Stat. 483, 483-485), relating to asphalt in Oklahoma be added to the special acts listed in the proposed rulemaking by the final rulemaking. This recommendation was not adopted because the Act of June 28, 1944, amended and supplemented the Mineral Leasing Act of 1920, although it has never been so codified. The final comment on this section of the proposed rulemaking questioned the elimination of a listing of conditions under which mineral leasing is permissible in those units of the National Park System where leasing is specifically authorized. The listing of conditions was eliminated by the proposed rulemaking and the final rulemaking because it has been moved to § 3582.3, where it is more appropriate. The final rulemaking adopts without substantive change § 3500.0-3 of the proposed rulemaking.

Section 3500.0-5 Definitions.

A general comment on § 3500.0-5 of the proposed rulemaking suggested the addition of the definitions of several terms to the section. All of the terms recommended for addition by the comment are defined in parts of the proposed rulemaking covering specific minerals if those terms are used in that part. The suggestion has not been adopted by the final rulemaking.

One comment questioned why the proposed rulemaking removed the definition of the term "rule of approximation" from the existing regulations. The definition of the term "rule of approximation" was removed by the proposed rulemaking because experience over the past several years has shown that it is no longer needed and its purpose can be accomplished administratively. The final rulemaking continues the exclusion of the definition of the term "rule of approximation."

One comment recommended that the final rulemaking make a change in the definition of the term "proper BLM office" as it appeared in the proposed rulemaking. The recommendation was not adopted by the final rulemaking because the change would have dealt with only a small portion of the extensive functions of a Bureau of Land Management office and those functions, as they relate to an applicant, are covered throughout the provisions of group 3500.

A comment questioned the addition of the phrase "and others specifically identified by Congress as part of the public domain" to the definition of the term "public domain lands" contained in the proposed rulemaking. This phrase, which is included in the final rulemaking, was used to indicate that Congress can designate reacquired lands as part of the public domain and if such an action is taken by the Congress, the fact that lands have been added to the public domain would be reflected on the official land records maintained by the Bureau of Land Management and open for public inspection.

One comment noted that the definition of the term "acquired lands" contained in the proposed rulemaking and adopted by the final rulemaking included the mineral estate of those lands and questioned how proof of ownership of the mineral estate would be shown. The document conveying the acquired lands to the United States would contain a recital of what interests were being conveyed and that document would be the basis of the interest of the United States.

A comment pointed out that the proposed rulemaking repeated the definition of the term "chiefly valuable" contained in the existing regulations (which was adopted in the Federal Register of April 25, 1984 (49 FR 17900)) and recommends that it be changed by the final rulemaking. After careful consideration of the recommended change, it was not adopted by the final rulemaking because the definition used in the proposed rulemaking is clearer than the recommended change.

Two final comments on this section of the proposed rulemaking suggested that the definition of the term "hardrock minerals" was confusing and recommended a change. The final rulemaking makes a change that clarifies the term.

Section 3500.5 Filing of documents.

Several comments questioned the need for paragraph (b) of the proposed rulemaking, with some of those making comments being concerned that the paragraph granted too much confidentiality. The section was carefully reviewed and the final rulemaking revises paragraph (b) to make it conform more precisely to the Freedom of Information Act requirements.

Section 3500.6 Multiple development.

One comment recommended that this section of the proposed rulemaking be changed by removing the ultimate phrase because it appears to broaden the requirement of the existing regulations. The final rulemaking has not adopted the recommendation because the language emphasizes the need for users of the same lands to not unreasonably interfere with the operations or other authorized uses of those lands.

Section 3500.7 Environmental considerations.

This section of the proposed rulemaking has been revised by the final rulemaking in response to a comment. The comment suggested that the proposed rulemaking failed to mention that leases and permits issued under group 3500 must conform to an approved land use plan.

Finally, the final rulemaking, in response to a comment, adds a new paragraph (c) that states that leasing will be consistent with unsuitability designations in accordance with the land use planning regulations and the Surface Mining and Reclamation Act.

Section 3500.8 Lands not subject to leasing.

One comment suggested that paragraph (a) of the proposed rulemaking did not conform with the provisions of the National Park Service Act of 1970, as amended (16 U.S.C. 1(c)). The final rulemaking has adopted a change to paragraph (a) that clearly states that lands within the National Park System are not subject to lease except as specifically authorized by law.

The final rulemaking has not adopted two changes suggested in the comments on this section of the proposed rulemaking because the references in this section are self explanatory and will eliminate far more confusion than they cause. The reference to lands acquired under the Act of March 1, 1911 (16 U.S.C. 513-519), was deleted because the lands, although not subject to leasing under the Mineral Leasing Act of 1920, are subject to leasing under the acquired lands authorities set forth elsewhere in the final rulemaking. The scope of paragraph (e) of the proposed and final rulemaking is based on the clear intent of the Congress as expressed in Senate Report No. 161, 80th Cong., 1st Sess. 3 (1947) and House Report No. 550, 80th Cong., 1st Sess. 3 (1947).

Section 3500.9-1 Consent and consultation.

There were several comments on this section of the proposed rulemaking. Some of the comments suggested that the specific status requiring consent be added to the final rulemaking. Other comments were of the view that the final rulemaking should include all surface management agencies, within, as well as outside, the Department of the Interior. Paragraphs (a) and (b) of the proposed and final rulemaking are advisory, while paragraph (c) is for the purpose of establishing a procedure for applicants to use in pursuing administrative remedies in agencies outside of the Department of the Interior. The requirement for consent on public domain lands is contained in numerous statutes that affect only a small amount of acreage, such as recreation areas within National Forest System lands. The most significant agency with statutory consent authority for public domain lands is the Department of Defense (43 U.S.C. 158). The final rulemaking would not be improved by listing all of these statutes. The final rulemaking adopts with only minor changes the language of the proposed rulemaking except that paragraph (b) pertaining to acquired lands has been amended to include permits in the requirement for consent by the surface management agency.

Section 3500.9-2 Ownership of surface overlying Federally-owned minerals by a State or charitable organization.

The final rulemaking has retitled this section for clarity.

Section 3500.9-3 Management of Federal minerals from reserved mineral estates.

In response to a comment, the final rulemaking has added a new section covering the right to prospect for, mine and remove minerals reserved to the United States under statutes set out in the section. This section is needed to clarify when those reserved minerals are subject to permitting or leasing.

Section 3501.1-1 Public domain.

Four comments were received on this section of the proposed rulemaking. The final rulemaking has not adopted the suggestion in one comment that would require an applicant to submit maps on unsurveyed public domain lands because such a requirement would place an unnecessary burden on the applicant. The final rulemaking has reinstated as a clarification the suggestion in one of the comments that unsurveyed public domain lands must be surveyed prior to the issuance of a lease.

One comment suggested that the provision of the final rulemaking adopt the provisions of the existing regulations for describing unsurveyed lands in Alaska. Such a provision has not been adopted by the final rulemaking because the lands in Alaska which have not been surveyed under the rectangular system of survey are covered by approved protraction surveys.

A final comment questioned whether omission of the 6-mile rule in the proposed rulemaking was intentional. The 6-mile rule has been omitted by both the proposed and final rulemaking because the requirement for reasonably compact form is sufficient.

Section 3501.1-2 Acquired lands.

One comment on this section of the proposed rulemaking suggested that the final rulemaking be changed to require an applicant for unsurveyed acquired lands to make application for only entire tracts. This suggestion has not been adopted by the final rulemaking because the final rulemaking requires the applicant to furnish an adequate description of the lands sought. Requiring the applicant to file an application for an entire tract would require the Bureau of Land Management to provide a description if only part of the lands in the tract are leased.

Section 3502.1 Who may hold leases.

A few of the comments on paragraph (a) of this section of the proposed rulemaking correctly stated that the Mineral Leasing Act of 1920 permits municipalities to hold mineral leases only for coal, oil, oil shale or gas. Therefore, the final rulemaking deletes the reference to municipalities in this section. A comment suggesting that the last sentence of paragraph (a) of the proposed rulemaking be moved to paragraph (b) was not adopted because paragraph (a) applies to all leases but

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paragraph (b) applies only to leases of leasable minerals.

Section 3502.2 Qualifications and holding statements.

The concerns of one comment addressing the need for qualifications and holding statements have been carefully considered. Applications for a lease under group 3500 are not made on a form on which the applicant may simply sign a certification of his/her qualifications to hold a lease as is the situation for applications filed under group 3100 of this title. Moreover, the regulations in group 3100 were changed due to the burden created by the vast number of applications filed, as well as with the expressed intent of replacing the disclosure requirements with selective audits to verify compliance (47 FR 8544, February 26, 1982). In recognition of the above set out discussion, the final rulemaking does not adopt the comment's suggestion to delete the requirement for qualification and holding statements. The limited number of lease applications filed under group 3500 does not justify the expense of implementing the kind of changes devised for use in connection with the massive filings under group 3100. In response to a suggestion in a comment to delete § 3502.2–4(e) of the proposed rulemaking concerning aggregate foreign stockholding, the final rulemaking has limited the provision to instances where the holdings are greater than 10 percent. The change makes citizenship disclosures consistant with other provisions of the regulations, while allowing the Bureau of Land Management to obtain sufficient information to enable it to respond to concerns over foreign investment in Federal minerals.

Section 3503.1–2 Where remitted.

The final rulemaking has adopted a suggestion of one comment that the address for the Minerals Management Service should be set out in the regulations. The additional suggestion that the addresses of the proper BLM offices should be listed in the regulations was not adopted by the final rulemaking because those addresses for State offices are already set out in § 1821.2–1.

Section 3503.2–2 Minimum production and royalty.

Five comments on this section of the proposed rulemaking indicate some misunderstanding expressing the view that the section had been changed to require the payment of minimum royalty beginning with the first lease year instead of the sixth lease year as provided in the existing regulations. No such change was intended. The final rulemaking contains a revised section to eliminate any chance of misunderstanding.

Two comments objected to the requirement of the proposed rulemaking for written consent of the authorized officer before the lessee would be allowed to pay minimum royalty in lieu of production on an annual basis. The comments expressed concern that the proposed rulemaking appears to give the authorized officer the authority to force minimum production or relinquishment of their lease, placing a lessee's reserves in jeopardy, but felt that any such decision as to whether to produce from the lease or pay advance royalties should rest with the lessee. The final rulemaking has been amended to require minimum production or the payment of advance minimum royalty. The prior consent requirement has been eliminated. The Department of the Interior agrees with the view expressed in a comment that the decision whether to produce or pay minimum royalty is one that is primarily with the lessee. However, the final rulemaking does not adopt the view that this decision is an absolute right of the lessee.

One comment requested that any minimum royalty payment be recoverable from production royalties when production begins. The proposed rulemaking provides that minimum royalties paid for any year are to be credited only to that year. The final rulemaking has not adopted this request because allowing the minimum royalties to be credited to later years would defeat the purpose of requiring a minimum royalty, which is to encourage production, and because crediting is not authorized by the Mineral Leasing Act of 1920.

Section 3503.2–3 Limitation of overriding royalties.

Four comments opposed the inclusion in this section of the proposed rulemaking of the 1 percent limitation on overriding royalties. After a careful review of the comments, the final rulemaking has adopted the language of the proposed rulemaking with clarifying changes. However, the Department of the Interior will study the continuing need for these provisions and if a decision is made to eliminate them, the elimination will be the subject of a future rulemaking which will allow public comment.

Section 3503.3–4 Waiver, suspension or reduction of rental, minimum royalty or royalties.

One comment on this section of the proposed rulemaking recommended the elimination of the waiver and reduction of overriding royalty by the final rulemaking. The final rulemaking has not adopted the recommendation because the experience of the Department of the Interior in connection with the leasing of minerals on the public lands show that an excessive overriding royalty reduces the incentive of a lessee to produce from the lease. The excessive overriding royalty reduces the benefit the lessee obtains from production and can lead to an early abandonment of the lease. As the owner of the minerals covered by a lease, the United States is interested in obtaining maximum production and royalties from a lease and has an economic interest in all activities, including the imposition of an excessive overriding royalty that might reduce the level of production and benefit enjoyed by the public from the public lands and their resources. As discussed in the previous section, the issue of overriding royalty will be the subject of a study by the Department of the Interior.

Section 3503.3–1 Suspension of operations and production.

Three comments were received on this section of the proposed rulemaking. The comments questioned the authority for initiation of suspension of operations on a lease by the lessor. The authority to order or agree to a suspension of operations and production in the interest of conservation is found in 30 U.S.C. 209. Therefore, the final rulemaking adopts, without change, the language of the proposed rulemaking.

Section 3503.3–2 Suspension of operations.

Three comments on this section of the proposed rulemaking suggested that the final rulemaking add language that makes it clear that a suspension of operations is initiated by the lessee and such action is responded to by the authorized officer within 60 days. The final rulemaking has adopted this suggestion in part and amends the section to clarify who initiates the request for a suspension of operations and the response to be made by the authorized officer. The final rulemaking does not adopt the suggestion that the authorized officer must respond within 60 days. Under normal circumstances, an application will be processed in less than 60 days, but the processing work for very complex applications could require more than 60 days, thus no purpose would be served by placing the 60-day requirement in the regulations for such cases.

Subpart 3504—Bonds

Eight comments, including a comment under § 3562.7 of the proposed rulemaking, address bonding in the proposed rulemaking. One comment questioned the need for bonds, recommending instead that those permittees or lessees who default on the terms and conditions of a lease be prosecuted. Three comments requested that bonds not be required until after issuance of the permit or lease, but prior to entry on the lands covered by the permit or lease because of their view that no liability occurs until after surface disturbance has occurred. These comments also expressed the view that until an exploration plan or mining plan has been filed, the authorized officer does not have sufficient information on which to base the amount of the bond. Two comments suggested that the final rulemaking expand the bonding provisions of the proposed rulemaking to include self bonding similar to that permitted by the regulations of the Office of Surface Mining (30 CFR 800.5(c)). Another comment correctly pointed out that the proposed rulemaking erroneously shows the minimum nationwide bond amount as $150,000 rather than $75,000 now required by the existing regulations. A suggestion made by another comment was that the language of the proposed rulemaking covering termination of liability be changed to require the release of existing bonds within 30 days of filing an acceptable alternative bond(s). A final comment expressed the view that the final rulemaking should provide that bond liability would not be terminated without notification from the surface management agency that reclamation requirements have been met.

All of these comments were carefully considered during the decisionmaking process on the final rulemaking. Bonds are required to protect the United States in the event the permittee or lessee defaults in the performance or observance of any of the terms, conditions or stipulations of the permit or lease and the permittee or lessee is either financially unable, or otherwise refuses, to correct the default, e.g., if a lessee refuses to pay royalty, the United States can collect from the surety. Thus, to ensure that the United States is protected, the final rulemaking adopts the provisions of the proposed rulemaking requiring that a bond be filed prior to issuance of a permit or lease. However, the authorized officer will use sound judgment in not setting bond amounts over and above that which is necessary to adequately protect the United States. The authorized officer will be able to adjust bond amounts when it is deemed necessary because § 3504.1–4(b) has been changed by the final rulemaking to allow lowering of bond amounts, as well as increasing bond amounts, when conditions warrant. In order to clearly show the applicability to statewide and nationwide, as well to individual permit and individual lease bonds, the final rulemaking places § 3504.1–4(b) of the proposed rulemaking in a new § 3504.1–6.

The suggestion to include self bonding has not been adopted by the final rulemaking because the adoption of the requirements of the Office of Surface Management regulations, even with much lower dollar amounts for "tangible net worth" and "fixed assets" would permit qualification by only very large companies, thus excluding most individual companies and lessees. The bonding issue is presently being reviewed by a Bureau of Land Management task force and any changes made as a result of that review will be incorporated into group 3500 through the rulemaking process.

The final rulemaking amends the proposed rulemaking to show that the minimum nationwide bond is $75,000, the same amount as in the existing regulations.

The suggestion to require the authorized officer to release bonds within 30 days of the filing of an acceptable alternative bond, the phrase used in the proposed rulemaking, has not been adopted by the final rulemaking because the existing surety's period of liability is merely terminated as of the date of an acceptable replacement bond, the phrase that has been adopted by the final rulemaking, is filed. The permittee or lessee and the existing surety continue to be responsible for any and all obligations that may have accrued on the permit or lease prior to the filing of the acceptable replacement bond. Only when an acceptable replacement bond which has been conditioned to accept all outstanding obligations under a permit or lease is filed can an existing bond be released.

The final rulemaking has not adopted the suggestion that the surface management agency must be notified prior to the termination of bond liability. This change is not needed because under standard Bureau of Land Management procedures, the period of bonded liability is not terminated until the authorized officer is assured that all terms and conditions, including any special stipulations, such as reclamation requirements, have been met.

Section 3508.3–3 Overriding royalty interests.

At the suggestion of one comment, the final rulemaking expands the provisions of the proposed rulemaking to clearly show that a filing fee is required with the filing of an overriding royalty assignment.

Section 3508.4 Permit or lease account status.

The proposed rulemaking provided that an assignment cannot be approved unless the account is in good standing. The current position of the Minerals Management Service is that it cannot provide the current financial status of an account without an audit. One comment, in recognition of this situation, pointed out that the requirement for an audit will not permit timely processing of assignments. For this reason, the final rulemaking expands the proposed rulemaking to provide a procedure which allows an assignee and his/her surety to accept all outstanding liabilities of an assignor in order to facilitate the timely approval of an assignment.

Subpart 3507 Fractional and Future Interest Permits and Leases.

A couple of comments were received on this subpart of the proposed rulemaking. The comments indicated some confusion about these provisions. After careful review of the provisions of the proposed rulemaking, the final rulemaking has adopted several clarifying amendments. The principal clarification allows noncompetitive leasing of future interests for lands which are part of an existing mining operation upon payment of the fair market value of the minerals at the time of vesting of title of the minerals in the United States because it would be unfair to allow the possibility of loss of reserves where a party has expended money and effort in developing a mine. Protection of the public interest is assured by requiring the payment of the fair market value of the minerals as a condition for receiving a lease.

Subpart 3508 Mineral Lease Exchange.

One comment on this subpart of the proposed rulemaking suggested that the final rulemaking include a statement requiring surface management agency consultation/consent. The comment was not adopted by the final rulemaking

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because this subpart has been clarified to provide that a lease will be issued only in accordance with the regulations in group 3500 which includes the surface management agency consent requirements. Another comment on this subpart of the proposed rulemaking suggested the addition of language dealing with the presence of hazardous waste on lands proposed for an exchange. The final rulemaking has adopted this suggestion and added language that would prohibit a proposed exchange of lands found to contain hazardous waste.

Section 3509.1–1 Prospecting permits.

Two comments on this section of the proposed rulemaking requested clarification of this section. The final rulemaking amends the last sentence of the section to clarify that lands covered by a relinquishment are available for new applications upon the notation of the relinquishment on the official status records. One comment wanted to know why relinquished lands are not available until notation of the relinquishment on the official status records. The reason for this requirement is to give everyone equal notice of the availability of the lands.

Section 3509.1–2 Leases.

A comment on this section of the proposed rulemaking suggested that the final rulemaking specify that lands subject to a relinquishment shall be available for lease sale by application or motion of the Bureau of Land Management immediately upon notation of the relinquishment on the official status records. This comment has not been adopted by the final rulemaking because it is not needed in instances of competitive leasing.

Section 3509.3–1 Prospecting permits.

One comment on this section of the proposed rulemaking suggested that the final rulemaking should, for consistency, provide for notation of the expiration of a prospecting permit on the official status records. The official status records show the presence of a prospecting permit or an extension of such a permit. Since all prospecting permits have an initial term of two years and the extension, if any, is set by statute or regulation, an applicant for a prospecting permit can determine the date of expiration of a prospecting permit or extension by reviewing the official status records and case file. Further, the Bureau of Land Management's regulations provide a 60-day period to allow the holder of a prospecting permit sufficient time to file an application for a preference right lease. During that 60-day period, the expiration of an existing prospecting permit or extension will be noted on the official status records, giving the public adequate time to file on the lands if no application for a preference right lease is filed.

Section 3509.4–1 Prospecting permits.

This section of the proposed rulemaking was the subject of two comments. The first comment suggested that the final rulemaking amend the first sentence of this section if a companion comment on section 3509.4–2 is adopted by the final rulemaking. The comment has not been adopted by the final rulemaking because the companion comment has not been adopted.

The second comment on this section of the proposed rulemaking, which has been adopted by the final rulemaking, suggested the addition of a new paragraph that provides for notation of the official status records of the cancellation of an outstanding prospecting permit to give the public notice of the availability of the lands for application for a like prospecting permit.

Section 3509.4–2 Leases.

This section of the proposed rulemaking was the subject of two comments. One comment recommended that final rulemaking insert the phrase "rents and royalties." This comment has not been adopted by the final rulemaking because rents and royalties are a term and condition of a lease and are covered by that phrase in this section. At the suggestion in a second comment on this section, the final rulemaking has been expanded to include a new paragraph (c) that includes the cancellation authority of the Secretary of the Interior. The administrative cancellation of leases improperly issued, e.g., a lease mistakenly issued for lands in a designated wilderness area, was recognized as proper by the Supreme Court in *Boesche* v. *Udall*, 373 U.S. 472 (1963).

Section 3509.4–3 Bona fide purchaser.

One comment on this section of the proposed rulemaking expressed the view that the bona fide purchaser provision of the Mineral Leasing Act of 1920 is not applicable to asphalt in Oklahoma or hardrock minerals. The law authorizing the leasing of asphalt in Oklahoma, the Act of June 28, 1944 (58 Stat. 483, 483), makes the general provisions of section 27 of the Mineral Leasing Act of 1920 (30 U.S.C. 184), applicable. This reference includes later amendments of section 27. With regard to hardrock minerals, the Secretary of the Interior may establish any reasonable procedures for the management of leases for these minerals. This comment has not been adopted by the final rulemaking.

The language of the proposed rulemaking that conditioned the assignee's status as a bona fide purchaser upon approval of the assignment by the Bureau of Land Management has been deleted by the final rulemaking because it is inconsistent with judicial interpretation of section 27(h) of the Mineral Leasing Act of 1920 (30 U.S.C. 184(H)) (e.g., *Winkler* v. *Andrus*, 614 F.2d 707, 711–712).

Section 3510.1 Leasing procedures.

One comment on this section of the proposed rulemaking suggested the deletion of the word "entities" and its replacement with the word "applicants." This suggestion has been adopted by the final rulemaking because it clarifies the intent of the section. The final rulemaking has adopted this suggestion in §§ 3520.1, 3530.1, 3540.1, 3550.1, 3560.1 and 3570.1 to make the related sections consistent.

Section 3511.4 Readjustment.

Several comments on this and related sections of the proposed rulemaking recommended the deletion of the requirement for a 2-year notification prior to the end of the 20-year lease period. The comments also suggested the final rulemaking add language that would make readjustment effective, unless the authorized officer determines otherwise, during the pendency of an objection or appeal. The comments further requested that the final rulemaking clarify that a lessee must pay rental, minimum royalties and royalties, during the pendency of an objection or appeal. The payments would be those required by the terms and conditions of the lease prior to readjustment. As a result of the review of the comments on this section, the final rulemaking totally revises this section and the related sections on readjustment to incorporate the changes suggested in the comments.

Section 3511.7 Special stipulations.

One comment requested the deletion of this section of the proposed rulemaking on the basis that it gives the authorized officer a "blank check" to require stipulations in a lease, stipulations that should be required only in the mining plan. This comment has not been adopted by the final rulemaking because this section is intended to provide maximum flexibility to the authorized officer because he/she is the official that is most knowlegeable on specific issues relating to a specific lease. Although the Bureau of Land Management also has the authority to place appropriate stipulations in a mining plan, including stipulations in a lease contract will condition the rights granted the lessee and provide greater protection to the resources involved.

Section 3512.1 Areas subject to prospecting.

Two comments on this section of the proposed rulemaking suggested that the final rulemaking retain the language of the existing regulations on this subject because of their view that the section in the existing regulations more adequately expresses the intent of the law. The final rulemaking has adopted a change in this section and related sections of the proposed rulemaking that clarifies which public domain and acquired lands are available for prospecting permits.

Section 3512.3–3 Exploration plans.

Several comments on this section and related sections of the proposed rulemaking recommended that the final rulemaking retain the provisions of the existing regulations which do not require the filing of an exploration plan until after issuance of the permit, but prior to entry on the lands covered by the prospecting permit. One comment suggested compromise language which has been adopted for this section and related sections by the final rulemaking.

The compromise requires the filing of the exploration plan when requested by the authorized officer, but only after preliminary adjudication of the application for the prospecting permit has been completed in order to determine such issues as the qualifications of the applicant, the availability of the lands covered by the application and the proper completion of the permit application form. Under this compromise, an applicant will not have to expend labor and money for developing an exploration plan until there is reasonable assurance that the permit can issue, but will allow the authorized officer to obtain the information needed for development of environmental studies. This process will also allow for the exploration plan and the prospecting permit to be approved simultaneously. In addition, the final rulemaking makes several changes for clarity.

Section 3512.8 Terms and conditions of permits.

Section 3512.8–1 of the proposed rulemaking has been amended by the final rulemaking to clarify that exploration operations that are part of an approved existing exploration plan may continue if the permittee has timely filed an application for extension of the permit. This change is necessary to comply with the law (see Solicitor's Opinion M–36943, 89 I.D. 173, 179 (1982); *Rosebud Coal Sales Co.* v. *Andrus*, Civil No. 78–281 (D. Wyo. October 17, 1979). This clarifying change is also made to the sections of the final rulemaking covering the duration of a permit for appropriate minerals to reflect this principle and to allow approved exploration activity to continue until the permit has been extended. Of course, any information obtained during this period may be used to support a preference right lease application.

This legal principle is also applicable to sodium, sulphur, asphalt and hardrock leases which reach their expiration date while a timely filed application for renewal is pending.

Section 3513.1–2 Contents of application.

One comment on this section of the proposed rulemaking recommended an amendment that would limit the application for a preference right lease to those lands reasonably needed to develop the discovery. The final rulemaking has not adopted the recommendation in this section or any of the related sections because the Mineral Leasing Act of 1920 and the regulations provide that a preference right lease applicant may have any or all of the lands covered by the prospecting permit that is the basis of the preference right lease, but no additional lands.

Subpart 3514—Exploration License

One comment on this subpart of the proposed rulemaking expressed concern that the rulemaking might be broadly applicable and recommended that the final rulemaking limit its applicability if this interpretation was correct. The final rulemaking has not adopted the recommended change in this subpart or any of the related subparts because they are only applicable to lands under the jurisdiction of the Bureau of Land Management and would not involve lands under the jurisdiction of another surface management agency.

Three comments on this subpart of the proposed rulemaking were directed to § 3514.5. One suggested that the information submitted in connection with an exploration license should remain proprietary for a period of 5 years. The other comment expressed the view that the final rulemaking should not require the submission of any information obtained in connection with an exploration license until the lease has issued or until one year after the expiration of the exploration license. The final rulemaking has not adopted either of the suggestions but does amend the proposed rulemaking in this and all related sections to make them consistent with the provisions of the Freedom of Information Act.

Section 3515.4 Bid opening.

One comment on this section of the proposed rulemaking suggested that the final rulemaking amend this section and all related sections to specifically include procedures for both sealed bids and public auctions. The final rulemaking has not adopted this suggestion because the rulemaking allows the authorized officer to determine what would be the best procedure to be used in connection with a lease sale and to set forth in the notice of competitive sale the bidding methods and the procedure that he/she determines to be the best bidding method for that particular sale.

Section 3517.1 Use permits.

One comment on this section of the proposed rulemaking indicated that the final rulemaking needed to clarify that the section is not applicable to lands within the boundaries of the National Forest System. The final rulemaking has adopted the recommended change and the section clearly states that it is not applicable to lands within the National Forest System

Section 3517.1–2 Rental.

A comment on this section of the proposed rulemaking, which has been adopted by the final rulemaking, expressed the view that the section could be clarified and suggested language to that end.

Section 3521.2–1 Rental.

The final rulemaking has adopted the suggestion of one comment on this section of the proposed rulemaking to clearly show that the rental for a lease is due annually on or before January 1. This same change has been made by the final rulemaking in the other related sections.

Section 3521.2–2 Production royalty.

A comment on this section of the proposed rulemaking expressed the view that the minimum production royalty required by the section was too high. The final rulemaking has adopted the language of the proposed rulemaking because the minimum production royalty required for a lease for sodium is set by the minimum production royalty required for a lease for sodium is set by

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the Mineral Leasing Act of 1920 (30 U.S.C. 202) at a minimum of 2 percent. After the lease is issued, the lessee can apply under § 3508.2–4 for waiver, suspension or reduction of rental or minimum royalty or reduction of royalty.

Subpart 3536 Noncompetitive Leasing—Fringe Acreage Leases and Lease Modifications

One comment on this subpart of the proposed rulemaking suggested that modified or fringe acreage lease applications be made public in the same manner as competitive leases to ensure that the final result of private negotiations in connection with such leases would be available to the public just as the conditions of competitive leases are known to the public. The final rulemaking has not adopted this suggestion because the case files on all leases and lease applications are open and available for public review. Further, the sales under this section are not negotiated sales, but are based on the payment of the fair market value of the mineral covered by the lease.

Section 3526.1 Applications.

There comments on this section and related sections of the proposed rulemaking questioned the need for the requirement to file an application for renewal at least one year before lease expiration. The final rulemaking has adopted this suggestion in this section and all related sections and requires the filing of the application at least 90 days before lease expiration, rather than the one year required by the proposed rulemaking.

Section 3530.3 Allowable acreage holdings.

The Bureau of Land Management received two hundred and twenty-three comments in response to its request for public comment on this section. All of the comments requested an increase in the allowable acreage for potassium. Two hundred six of the comments requested an increase in lease holdings to 51,200 acres in any one state in order to allow current lessees to obtain new leases while retaining their present lease holdings. This would permit them to be competitive with foreign markets. Seventeen comments requested the acreage be increased to 153,600 acres in any one state to allow adequate acreage for extraction from concentrated brines. These comments have been adopted in part by the final rulemaking, in that it allows 51,200 acres to be held under lease and prospecting permits. To provide for adequate acreage for extraction from concentrated brines, the final rulemaking permits the authorized officer to allow additional holdings, the acreage to be determined on a case-by-case basis.

Section 3533.3 Issuance of lease.

The comment on this section of the proposed rulemaking indicated that the proposed rulemaking contained a phrase that was not part of the existing regulations and requested that the final rulemaking delete it. A careful review of the comment and the existing regulations shows that the phrase in question is part of the existing regulations. Therefore, the final rulemaking has adopted the proposed rulemaking without change.

Part 3580—Asphalt in Oklahoma and Gilsonite (Including all Vein-Type Hydro-Carbons).

This part of the proposed rulemaking was the subject of five comments.The proposed rulemaking provided for all competitive leasing program for "Gilsonite" because of the assumption that all "Gilsonite" deposits were already known. Although most of the unleased Federal lands in the Uintah Basin near Bonanza, Utah, embrace known deposits of "Gilsonite," the comments received on this part indicate that there are other lands in Utah and Colorado which may contain "Gilsonite" deposits, but exploratory work is needed to determine their existence and workability. For this reason, the prospecting permit/preference right lease system used in other sections of the proposed rulemaking is being reinstituted by the final rulemaking in the revised part 3550. The provisions covering asphalt in Oklahoma have been moved to part 3570.

The preamble of the proposed rulemaking stated that as of the date of the publication of the proposed rulemaking, the Bureau of Land Management would no longer issue prospecting permits for "Gilsonite." This statement was the subject of several comments, all of which asked that all existing applications for prospecting permits be reviewed on a case-by-case basis and if the lands do not contain a known deposit of "Gilsonite," that the permits be issued, all else being proper. In response to these comments, the Bureau of Land Management will process all outstanding applications for prospecting permits under the procedures provided by the final rulemaking.

Two comments on this part of the proposed rulemaking were of the view that the maximum acreage set for a fringe acreage lease or lease modification for "Gilsonite" was excessive. The view expressed in the comments was not adopted by the final rulemaking because the maximum lease size for "Gilsonite" is set by statute and this limitation, together with the other requirements of this part for a fringe acreage lease and lease modification should prevent excessive lease acreage holdings. In addition, several comments pointed out that the acreage for a fringe acreage lease or a modified lease for asphalt was incorrect in the proposed rulemaking. The final rulemaking, in recognition of this error, changes the acreage figure to 640 acres for asphalt.

One of the comments pointed out the term "Gilsonite" is a registered trademark name. The owner of the trademark indicated in their comments that they would not object to the use of the term in the regulations if it were recognized as a registered trademark. The trademark registration papers indicate that the trademarked term is for a commercial product rather than for ore in the bround as the Congress used the term in the Combined Hydrocarbon Leasing Act of 1981 and in other statutes at least as far back as the Act of June 7, 1897 (30 Stat. 62, 87). The final rulemaking, when using the term "Gilsonite," capitalizes the word and sets it off in quotes to avoid controversy over the registered status of the term.

Part 3560—Hardrock minerals

The existing regulations on hardrock mineral leasing provide that the discovery of a valuable mineral deposit within the term of a prospecting permit entitles the permittee to a preference right lease. The proposed rulemaking reorganized and reformatted this provision but did not change the sense of that provision. A comment requested that the final rulemaking change this provision so that discovery of a valuable mineral deposit during the term of a prospecting permit would entitle the permittee to be preferentially considered for a lease only. The comment also requested that the final rulemaking provide for rejection of a preference right lease for lands under the jurisdiction of a surface management agency outside of the Department of the Interior if that agency withholds its consent to lease. The existing regulations and the proposed rulemaking both provide for prospecting permits, as well as preference right leases, to be stipulated so that lease issuance, exploration and/or development of any anticipated valuable mineral deposit are accomplished in an environmentally acceptable way and to ensure the adequate utilization of the lands for the primary purposes for which they have been acquired or are being administered. The concerns expressed in the comment were given careful consideration and the Bureau of Land Management determined that nothing in the proposed rulemaking was intended to change the current practice of requiring the inclusion of conditional stipulations in prospecting permits in appropriate cases. Because of the existence of this stipulation authority, the recommended changes contained in this comment have not been adopted by the final rulemaking.

Several comments on § 3560.3–1 of the proposed rulemaking pointed out that the citation of the Weeks Act was incorrect. The final rulemaking has amended the citations in paragraph (a) and set them off in quotes to show that they are a direct quotation from Reorganization Plan No. 3 of 1946.

The final rulemaking has adopted the suggestion from one comment on § 3560.3–3 of the proposed rulemaking to add the word "Alaska" to the title of the section to eliminate any possible confusion between lands with similar titles in Alaska and in New Hampshire.

Several comments on § 3560.4 of the proposed rulemaking objected to the proposed rulemaking's elimination of the phrase "in any one state" that appeared in the existing regulations. The final rulemaking has added this phrase which was inadvertently omitted by the proposed rulemaking.

Several comments on § 3560.7 of the proposed rulemaking objected to the section because it appeared to have broad application. This section of the proposed rulemaking was not intended to authorize specimen collection on Federal lands but to recognize that this activity is regulated by the appropriate surface management agency. A change has been adopted by the final rulemaking to reflect this intent.

A comment on § 3560.3–1 of the proposed rulemaking, as well as other related sections, suggested that the annual rental payments for prospecting permits be moved to part 3500. The final rulemaking has not adopted the suggestion because it is a logical portion of the filing requirements for a prospecting permit which is set forth in the part for each individual mineral.

Two comments on the acreage limitation provisions of § 3562.3–2 of the proposed rulemaking suggested that the acreage for a single prospecting permit be increased. The final rulemaking has not adopted this suggestion because a permittee can hold any number of permits as long as the total acreage of all leases and permits does not exceed 20,480 acres in any one state.

One comment on § 3562.8–4 of the proposed rulemaking expressed the view that a provision that appears in § 3501.2–6(b) of the existing regulations should be added to this section by the final rulemaking. The final rulemaking has not adopted this suggestion because the language discussed in the comment appears in § 3500.9–2 of the final rulemaking and does not belong in this section.

Several comments on § 3562.9–1 of the proposed rulemaking expressed the view that the requirement for proof for entitlement to an extension of a prospecting permit is too specific. The final rulemaking has not made any change in this section because the primary term of the prospecting permit allows sufficient time to begin exploration and any extension is discretionary and should only be granted upon an adequate showing that steps are being taken to determine the existence or workability of a valuable mineral deposit.

A few comments on § 3563.1–2 of the proposed rulemaking requested that the allowable acreage for a single hardrock preference right lease be increased to 5,120 acres. The final rulemaking has not adopted this request because a preference right lease holder can hold any number of leases as long as the total acreage for all leases and permits does not exceed 20,480 acres.

One comment on § 3563.2 of the proposed rulemaking, which was improperly numbered, suggested the addition of language permitting the Secretary of Agriculture to request from a preference right lease applicant supplemental data for use in preparing environmental analyses and special stipulations. The final rulemaking, in addition to properly numbering the section, has added language that adopts the comment's suggestions.

One comment specifically requested that subpart 3505 of the existing regulations be retained by the final rulemaking. Since subpart 3505 of the existing regulations affects only hardrock minerals, the proposed and final rulemakings have revised those provisions and moved them to subpart 3567, which is entitled "Development contracts."

Part 3570—Special leasing areas

The final rulemaking has renumbered this part as part 3580 in order to accommodate the addition of a new part 3550 for "Gilsonite," which has been included in part 3550 with asphalt in Oklahoma. The final rulemaking has moved asphalt in Oklahoma to a new part 3570.

Two comments on the part of the proposed rulemaking suggested that the leasing provisions for gold and silver in confirmed private land grants and the reserved minerals in certain lands patented to the State of California may no longer be needed. The comments requested figures on the number of applications filed under these provisions during the past 25 years. It is possible that the special leasing provisions are no longer needed. However, the final rulemaking continues the provisions in the event that an application is filed.

One comment on § 3572.3 of the proposed rulemaking requested that exploration licenses be included in the consent provisions of this part. The final rulemaking has not adopted this request because exploration licenses are only issued for lands under the jurisdiction of the Bureau of Land Management and no consent is required.

Two comments on § 3573.2 of the proposed rulemaking recommended that the phrase "or permit" be deleted. The final rulemaking has not adopted this recommendation in recognition of the fact that prospecting permits may be issued for leasable minerals in the Shasta and Trinity Units of the Whiskeytown—Shasta—Trinity National Recreation Area.

One comment on § 3573.4–3 of the proposed rulemaking suggested that the reference to the National Park Service in this section is incorrect. The final rulemaking has removed the reference to the National Park Service and replaced it with a reference to the United States Forest Service.

One comment on § 3575.3 of the proposed rulemaking requested that the special status afforded holders of unperfected mining claims in the White Mountains National Recreation Area—Alaska be recognized by the final rulemaking. The final rulemaking has adopted a number of changes in subpart 3575 to recognize the special status afforded holders of unperfected mining claims.

One comment on § 3575.3–2 of the proposed rulemaking expressed particular concern about the two-year time limit on the filing of mining claimant preference right lease applications. The final rulemaking has adopted a change to this section which makes it clear that the two-year period for filing of applications for mining claimant preference right leases commences on the date the Secretary of the Interior opens the lands to permit the removal of minerals, consistent with the provisions of the Alaska National Interest Lands Conservation Act. The Bureau of Land Management expects

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that the lands will be opened in 1986 by publication of a public land order in the Federal Register, which order also will be posted in the Bureau's Alaska offices.

One comment on § 3575.4–1 of the proposed rulemaking expressed the view that the survey required for exploration licenses was excessive. The proposed rulemaking did not intend to require a survey for exploration licenses, but only for mining claim preference right leases because those leases may include only lands within mining claims. The proposed rulemaking has been adopted without change by the final rulemaking.

A comment on § 3575.5–6 of the proposed rulemaking opposed the requirement for publication and posting of the notice of participation and requested its deletion. The final rulemaking has not adopted this request in this or any of the related sections because the Bureau of Land Management, in meeting its responsibility for protecting the public lands and their resources, takes responsible steps to limit the number of entities that are engaged in activities that can cause needless damage to those lands and resources. Reducing, where possible, the number of individuals or corporations entering the same public lands for similar or identical exploration purposes assist in this effort.

Subpart 3576 Nevada

A comment on § 3576.1–1 of the proposed rulemaking requested that the final rulemaking allow the processing of all applications for sand and gravel in Nevada on file on April 12, 1985, the date of publication of the proposed rulemaking, be processed. The final rulemaking has adopted this request and all applications for sand and gravel in Nevada pending on April 12, 1985, will be processed under § 3563.2 of the existing regulations. Any leases issued as a result of these applications, will be subject to the provisions of this final rulemaking.

Two comments on § 3576.1–2 of the proposed rulemaking questioned the provision limiting the assignability of existing sand and gravel leases. The final rulemaking, in recognition of the question raised in the comments, deletes the language on limitation on assignments and adopts language which limits lease renewals to those leases producing sand and gravel or which are a part of an existing sand and gravel operation at the expiration of the lease term. The adoption of this language by the final rulemaking authorizes the renewal of a producing lease when the lessee agrees to any additional terms and conditions, a discretionary authority that was reserved to the authorized officer in § 3563.2–4(g) of the existing regulations.

In recognition of the addition of a new separate part for "Gilsonite," the final rulemaking has amended paragraph A of the first provision of the proposed rulemaking by deleting the phrase "part 3570 as part 3586" and replacing it with the phrase "part 3570 as part 3580". It also amends paragraph B of the proposed rulemaking by deleting the phrase "adding a new part 3570" and replacing it with the phrase "adding new parts 3570 and 3580".

Editorial and grammatical corrections have been made as needed.

The principal author of this final rulemaking is Marcia E. Rohn, Division of Solid Mineral Leasing, assisted by the staff of the Office of Legislation and Regulatory Management, both of the Bureau of Land Management, and the staff of the Office of the Solicitor, Department of the Interior.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The final rulemaking is a revision of existing regulations and will not change in any substantive manner the procedures imposed by the existing regulations. The principal purpose of the final rulemaking is to streamline and simplify the procedures contained in the existing regulations. This will benefit all users equally.

The information collection requirements in this final rulemaking have already been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1004–0030, 1004–0121 and 1004–0142.

List of Subjects

43 CFR Part 3500

Mineral royalties, Public lands—classification, Public lands—mineral resources, Surety bonds.

43 CFR Part 3510

Administrative practice and procedure, Mines, Public lands—mineral resources, Surety bonds.

43 CFR Part 3520

Administrative practice and procedure, Mines, Public lands—mineral resources, Surety bonds.

43 CFR Part 3530

Administrative practice and procedure, Mines, Public lands—mineral resources, Surety bonds.

43 CFR Part 3540

Administrative practice and procedure, Mines, Public lands—mineral resources, Surety bonds.

43 CFR Part 3550

Administrative practice and procedure, Mines, Public lands—mineral resources, Surety bonds.

43 CFR Part 3560

Administrative practice and procedure, Mines, Public lands—mineral resources, Surety bonds.

43 CFR Part 3570

Administrative practice and procedure, Mines, Public lands—mineral resources, Surety bonds.

43 CFR Part 3580

Administrative practice and procedure, Mines, Public lands—mineral resources, Surety bonds.

43 CFR Part 3590

Mineral royalties, Public lands—mineral resources.

Under the authority of the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359), the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), the Independent Offices Appropriation Act of 1952 (31 U.S.C. 483a), Reorganization Plan No. 3 of 1946 (16 U.S.C. 520), and the Alaska National Interest Lands Conservation Act (16 U.S.C. 460mm–2—460mm–4), Parts 3500, 3510, 3520, 3530, 3540, 3550, 3560, 3570, 3580 and 3590, Group 3500, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations are amended as set forth below.

J. Steven Griles,

Assistant Secretary of the Interior.

March 24, 1986.

Group 3500—[Revised]

1. Group 3500 is revised:

A. By redesignating Part 3570 as part 3590;

B. By Revising Parts 3500, 3510, 3520, 3530, 3540, 3550, and 3560, and adding new Parts 3570 and 3580 to read as follows:

Group 3500—Leasing of Solid Minerals Other than Coal and Oil Shale

Note.—The information collection requirements contained in Parts 3500, 3510, 3520, 3530, 3540, 3550, 3560, and 3570 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004–0030, 1004–0121 and 1004–0142. The information is being collected to permit the authorized officer to determine whether an applicant is qualified to hold a lease for exploration, development and utilization of leasable minerals other than coal and oil shale on the public lands. The information will be used to make this determination. A response is required to obtain a benefit.

PART 3500—LEASING OF SOLID MINERALS OTHER THAN COAL AND OIL SHALE

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Authority: The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359); the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); Reorganization Plan No. 3 of 1946 (5 U.S.C. Appendix); Section 3 of the Act of September 1, 1949 (30 U.S.C. 192c); the Act of June 30, 1950 (16 U.S.C. 508(b)); the Act of June 8, 1926 (30 U.S.C. 291–293); the Act of March 3, 1933, as amended (47 Stat. 1487); Section 10 of the Act of August 4, 1939 (43 U.S.C. 387); the Act of October 8, 1964 (16 U.S.C. 460n et seq.); the Act of November 8, 1965 (16 U.S.C. 460q et seq.); the Act of October 2, 1968 (16 U.S.C. 90c et seq.); the Act of October 27, 1972 (16 U.S.C. 460dd et seq.); the Alaska National Interest Lands Conservation Act (16 U.S.C. 460mm–2–460mm–4); the Independent Offices Appropriations Act (31 U.S.C. 9701).

Subpart 3500—Leasing of Solid Minerals Other Than Coal and Oil Shale—General

§ 3500.0–3 Authority.

The statutory authority for the regulations in this group is as follows:

(a) *Leasable minerals.*—(1) *Public domain.* The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181–287), including the Act of February 7, 1927 (30 U.S.C. 281–287), the Act of April 17, 1926 (30 U.S.C. 271–276), and the Act of June 28, 1944 (58 Stat. 483–485), and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(2) *Acquired lands.* The Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

(b) *Hardrock minerals.* (1) Section 402, Reorganization Plan No. 3 of 1946 (5 U.S.C. Appendix) transferred the functions of the Secretary of Agriculture relative to the leasing or other disposal of minerals to the Secretary of the Interior for lands acquired under the following statutes: (i) the Act of March 4, 1917 (16 U.S.C. 520); (ii) Title II of the National Industrial Recovery Act of June 16, 1933 (40 U.S.C. 401, 403(a) and 408); (iii) the 1935 Emergency Relief Appropriation Act of April 8, 1935 (48 Stat. 115, 118); (iv) section 55 of Title I of the Act of August 24, 1935 (49 Stat. 750, 781); (v) the Act of July 22, 1937 (50 Stat. 522, 525, 530), as amended July 28, 1942 (7 U.S.C. 1011(c) and 1018); and (vi) section 3 of the Act of June 28, 1952 (66 Stat. 285).

(2) Section 3 of the Act of September 1, 1949 (30 U.S.C. 192c) authorized the issuance of mineral leases or permits for the exploration, development and utilization of minerals, other than those covered by the Mineral Leasing Act for Acquired Lands, in certain lands added to the Shasta National Forest by the Act of March 19, 1948 (62 Stat. 83).

(3) The Act of June 30, 1950 (16 U.S.C. 508(b)) authorizes leasing of the hardrock minerals on National Forest lands in Minnesota.

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(c) *Special acts.* (1) Gold, silver or quicksilver in confirmed private land grants are covered by the Act of June 8, 1926 (30 U.S.C. 291–293).

(2) Reserved minerals in lands patented to the State of California for parks or other purposes are covered by the Act of March 3, 1933 (47 Stat. 1487), as amended by the Act of June 5, 1936 (49 Stat. 1482) and the Act of June 20, 1936 (49 Stat. 2028).

(3) *National Park Service Areas.* Congress authorized mineral leasing, including the leasing of nonleaseable minerals in the manner prescribed by section 10 of the Act of August 4, 1939 (43 U.S.C. 387), in the following national recreation areas: (i) Lake Mead National Recreation Area—The Act of October 8, 1964 (16 U.S.C. 460n–4 et seq.) Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area—The Act of November 8, 1965 (16 U.S.C. 460q–et seq.); (iii) Ross Lake and Lake Chelan National Recreation Areas—The Act of October 2, 1968 (16 U.S.C. 90c–et seq.) Glen Canyon National Recreation Area—The Act of October 27, 1972 (16 U.S.C. 460dd et seq.).

(4) *Shasta-Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area.* Section 6 of the Act of November 8, 1965, (16 U.S.C. 460q–et seq.) authorizes mineral leasing, including the leasing of nonleasable minerals in the manner prescribed by section 3 of the Act of September 1, 1949, (30 U.S.C. 192c), on lands within the Shasta-Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area.

(5) *White Mountains National Recreation Area.* Sections 403, 404, and 1312 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 460mm–2 through 460mm–4) authorize the Secretary of the Interior to permit the removal of the nonleasable minerals from lands or interests in lands within the recreation area in the manner described by section 10 of the Act of August 4, 1939, as amended (43 U.S.C. 387), and the removal of leasable minerals from lands or interest in lands within the recreation area in accordance with the mineral leasing laws.

(6) The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) authorizes the management and use of the public lands.

(7) The Independent Offices Appropriation Act (31 U.S.C. 9701) authorizes agencies to charge fees to recover the costs of providing services or things of value.

§ 3600.0–5 Definitions.

As used in Group 3600, the term:

(a) "Secretary" means the Secretary of the Interior.

(b) "Director" means the Director, Bureau of Land Management.

(c) "State Director" means an employee of the Bureau of Land Management who has been designated as the chief administrative officer of one of the Bureau's 12 administrative areas designated as "States".

(d) "Authorized officer" means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in group 3600 of this title.

(e) "Proper BLM office" means the Bureau of Land Management office having jurisdiction over the lands subject to the regulations in group 3600 of this title (see 43 CFR subpart 1821).

(f) "Public domain lands" means lands, including mineral estates, which never left the ownership of the United States, lands which were obtained by the United States in exchange for public domain lands, lands which have reverted to the ownership of the United States through the operation of the public land laws, and others specifically identified by Congress as part of the public domain.

(g) "Acquired lands" means lands, including mineral estates, which are not public domain lands and which the United States obtained through purchase, gift, or condemnation, and includes lands previously disposed of under the public land laws including the mining laws.

(h) "Leasable minerals" means the chlorides, sulphates, carbonates, borates, silicates or nitrates of potassium or sodium and related products; sulphur in the States of Louisiana and New Mexico and on all acquired lands; phosphate, including associated and related minerals; asphalt in certain lands in Oklahoma; and gilsonite (including all vein-type solid hydrocarbons).

(i) "Valuable deposit" means a mineral occurrence where minerals have been found and the evidence is of such a character that a person of ordinary prudence would be justified in the further expenditure of his/her labor and means, with a reasonable prospect of success, in developing a valuable mine.

(j) "Chiefly valuable" means a valuable deposit where there is no significant conflict between the extraction of sodium, sulphur or potassium and any non-mineral disposition of lands. Where such extraction conflicts with other disposition, the lands shall be deemed chiefly valuable for sodium, sulphur or potassium extraction if the economic value of the lands for extraction of such minerals exceeds its economic value for any non-mineral disposition.

(k) "Act" means the Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.).

(l) "Service" means the Minerals Management Service.

(m) "Bureau" means the Bureau of Land Management.

(n) "Hardrock minerals" means those locatable minerals for which a mineral patent may be obtained under the Mining Law of 1872 and which are not leasable minerals as defined in paragraph (h) of this section and oil, gas, coal and oil shale or mineral materials disposable under Group 3600 of this title. Hardrock minerals include, but are not limited to, copper, lead, zinc, magnesium, nickel, tungsten, gold, silver, bentonite, uranium, barite, feldspar and fluorspar.

§ 3600.1 Nondiscrimination.

Any person acquiring a lease under Group 3500 shall comply fully with the equal opportunity provisions of Executive Order 11246 of September 24, 1965, as amended, and the regulations and relevant orders of the Secretary of Labor (41 CFR Chapter 60) and 43 CFR Part 17.

§ 3600.2 False statements.

Under the provisions of 18 U.S.C. 1001, it is a crime punishable by 5 years imprisonment or a fine of up to $10,000, or both, for anyone knowingly and willfully to submit or cause to be submitted to any agency of the United States any false or fraudulent statement(s) as to any matter within the agency's jurisdiction.

§ 3600.3 Unlawful interests.

No member of, or delegate to, Congress, or Resident Commissioner, and no employee of the Department of the Interior, except as provided in part 20 of this title, shall be entitled to acquire or hold any Federal lease, or interest therein. (Officer, agent or employee of the Department—See 43 CFR Part 20; Member of Congress—See R.S. 3741; 41 U.S.C. 22; 18 U.S.C. 431–433)

§ 3600.4 Appeals.

Any party adversely affected by a decision of the authorized officer made pursuant to the provisions of Group 3500 of this title shall have a right of appeal pursuant to part 4 of this title.

§ 3600.5 Filing of documents.

(a) All necessary documents shall be filed in the proper BLM office. A document shall be considered filed when it is received in the proper BLM office.

(b) All information which is submitted to the Bureau under the regulations in this group shall be available to the public unless exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552), or unless otherwise provided in this group.

§ 3600.6 Multiple development.

The granting of a permit or lease for the prospecting, development or production of deposits of any particular mineral shall not preclude the issuance of other permits or leases for the same lands for deposits of other minerals with suitable stipulations for simultaneous operation, or the allowance of applicable entries, locations or selections of leased lands with a reservation of the mineral deposits to the United States. Each permit or lease shall reserve the right to allow any other uses, or to allow disposal, of the leased lands that will not unreasonably interfere with the exploration and mining operations of the permittee or lessee and the permittee/lessee shall make all reasonable efforts to avoid interference with such authorized uses.

§ 3600.7 Land use plans and environmental considerations.

(a) Any lease or permit issued under Group 3500 of this title shall be issued in conformance with the decisions, terms and conditions of a comprehensive land use plan for the mineral deposit in question.

(b) Before a lease or permit is issued, the authorized officer or the appropriate surface management agency shall comply with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(c) Leases and permits shall be issued in a manner consistent with any unsuitability designation made under § 1610.7–1(b) of this title.

§ 3600.8 Lands not subject to leasing.

The following lands are not subject to leasing under the provisions of group 3500:

(a) Lands within the boundaries of any unit of the National Park System, except as authorized by law;

(b) Lands within Indian Reservations, except the Uintah and Ouray Indian Reservation, Hillcreek Extension, State of Utah;

(c) Lands within incorporated cities, towns and villages;

(d) Lands within the National Petroleum Reserve—Alaska and oil shale reserves and within the national petroleum reserves;

(e) Lands acquired by the United States for development of helium, fissionable material deposits or other minerals essential to the defense of the country, except leasable minerals;

(f) Lands acquired by foreclosure or otherwise for resale;

(g) Acquired lands reported as surplus under the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.); and

(h) Any tidelands or submerged coastal lands within the continental shelf adjacent or littoral to any part of lands within the jurisdiction of the United States.

§ 3600.9 Consent and consultation.

§ 3600.9–1 Federal lands administered by agencies outside of the Department of the Interior.

(a) Unless consent is required by law, public domain lands, the surface of which is administered by an agency outside of the Department of the Interior, shall be permitted or leased only after Bureau of Land Management has consulted with the surface management agency.

(b) Acquired lands shall only be permitted or leased with the written consent of the head or other appropriate official of the surface management agency.

(c) An applicant may pursue the administrative remedies provided by a particular surface management agency where such agency has required special stipulations in the lease or permit, or has refused consent to issuance of the lease or permit. If the applicant notifies the authorized officer within 30 days of receipt of the Bureau's decision that he/she has requested the surface management agency to reconsider its decision, the time for filing an appeal under part 4 of this title is suspended until a decision is reached by such agency.

§ 3600.9–2 State's or charitable organization's ownership of surface overlying Federally-owned minerals.

Where the United States has conveyed title to, or otherwise transferred the control of the surface of lands to any State or political subdivision, agency or instrumentality thereof, or a college or any other educational corporation or association, or a charitable or religious corporation or association, such party shall be given written notification by certified mail of the application for permit or lease and shall be given a reasonable time, not to exceed 90 days, within which to suggest any lease stipulations deemed necessary for the protection of existing surface improvements or uses, to set forth the facts supporting the necessity of the stipulations or file any objections it may have to the issuance of the lease or permit. Where a party controlling the surface opposes the issuance of a lease or permit or wishes to place such restrictive stipulations, but the facts submitted in opposition to issuance or concerning the necessity for restrictive stipulations expressed by the party controlling the surface do not provide adequate basis for such action, the final decision as to whether to issue the lease or permit shall be based on a determination by the authorized officer as to whether or not the interests of the United States would best be served thereby.

§ 3600.9–3 Management of Federal minerals from reserved mineral estates.

Where nonmineral public land disposal statutes provide in conveyances of title that all or certain minerals shall be reserved to the United States together with the right to prospect for, mine and remove the minerals under applicable law and regulations as the Secretary may prescribe, the lease, sale or disposal and administration and management of the use of such minerals shall be accomplished under the regulations of subchapter C of this title. Such mineral estates include, but are not limited to, those that have been or will be reserved under the authorities of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.), the Small Tract Act of June 1, 1938, as amended (43 U.S.C. 682(b)) and the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.).

Subpart 3601—Descriptions and Acreage

§ 3601.1 Land descriptions.

§ 3601.1–1 Public domain.

Each application shall contain a complete and accurate description of the lands for which the lease or permit is desired. The lands applied for shall be in reasonably compact form.

(a) If the lands have been surveyed under the public land rectangular system, each application shall describe the lands by legal subdivision, section, township and range. Generally, a quarter-quarter section or a lot is the smallest legal subdivision for which an application may be made.

(b) When protracted surveys have been approved and the effective date thereof published in the Federal Register, all applications for lands shown on such approved protracted surveys shall describe the lands in the same manner as provided in paragraph

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(a) of this section for officially surveyed lands.

(c) If the lands have neither been surveyed on the ground nor shown on the records as protracted surveys, each application shall describe the lands by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, in cardinal directions except where the boundaries of the lands are in irregular form, and connected by courses and distances to an official corner of the public land surveys.

(d)(1) Prior to the issuance of a lease, all unsurveyed lands in the lease shall be surveyed.

(2) On a noncompetitive lease, the survey for unsurveyed lands shall be at the expense of the applicant.

(3) On a competitive lease, the survey of unsurveyed lands shall be at the expense of the United States.

§ 3501.1–2 Acquired lands.

(a)(1) If the lands have been surveyed under the rectangular system of public land surveys, the description shall conform to that system and the lands shall be described by legal subdivision, section, township, and range. Generally, a quarter-quarter section of a lot is the smallest legal subdivision for which an application may be made.

(2) Where the description cannot conform to the public land surveys, any boundaries which do not so conform shall be described by metes and bounds, giving courses and distances between the successive angle points with appropriate ties to the nearest existing official survey corner. If not surveyed but within the area of the public land surveys, the lands shall be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected to a reasonably nearby official survey corner by courses and distances. Each application shall be accompanied by a map upon which the desired lands are clearly marked showing their location with respect to the administrative unit or project of which they are a part.

(b) If the lands have not been surveyed under the rectangular system of public land surveys, and the tract is not within the area of the public land surveys, it shall be described as in the deed or other document by which the United States acquired title to the lands or minerals. If the desired lands constitute less than the entire tract acquired by the United States, they shall be described by courses and distances between successive angle points on the boundary of the tract, tying by course and distance into the description in the deed or other document by which the United States acquired title to the lands. In addition, if the description in the deed or other document by which the United States acquired title to the lands does not include the courses and distances between the successive angle points on the boundary of the desired tract, the description in the application shall be expanded to include such courses and distances. Each application shall be accompanied by a map upon which the desired lands are clearly marked showing their location with respect to the administrative unit or project of which they are a part.

(c) If an acquisition tract number has been assigned by the acquiring agency to the identical tract desired, a description by such tract number shall be accepted in lieu of the description required in paragraphs (a)(2) and (b) of this section. However, such application shall be accompanied by the map required by paragraphs (a)(2) and (b) of this section.

§ 3501.1–3 Accreted lands.

Where an application includes any accreted lands that are not described in the deed to the United States, such accreted lands shall be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract, and connected by courses and distances to an angle point on the perimeter of the acquired tract to which the accretions belong.

§ 3501.2 Computing acreage holdings.

(a) In computing acreage holdings or control, the accountable acreage of a party owning any interest, either directly or indirectly, shall be such party's proportionate part of the total lease and permit acreage. Likewise, the accountable acreage of a party owning an interest in a corporation or association shall be such party's proportionate part of the corporation's or association's accountable acreage, except that no party shall be charged with its pro rata share of any acreage holdings of any association or corporation, unless it is the beneficial owner of more than 10 percent of the stock or other instruments of ownership or control of such association or corporation.

(b) The amount of acquired lands acreage for leasable minerals that may be held under lease or permit may not be in excess of the amount of public domain acreage for the same minerals permitted to be held under the Act. Public domain lease holdings shall not be charged against acquired lands lease holdings and vice versa; such respective holdings shall not be interchangeable.

(c) Where the United States owns only a fractional interest in the mineral resources of the lands involved, only that part of the total acreage involved in the lease which is proportionate to the ownership by the United States of the mineral resources therein shall be charged as acreage holdings. The acreage embraced in a future interest lease is not to be charged as acreage holdings until the lease for the future interest takes effect.

Subpart 3502—Qualification Requirements

§ 3502.1 Who may hold leases and permits.

(a) Leases and permits may be held only by citizens of the United States, associations (including partnerships and trusts) of such citizens, corporations organized under the laws of the United States or of any State or territory thereof. Citizens of a foreign country may only hold interest in leases or permits through stock ownership, stock holding or stock control.

(b) Citizens of a foreign country may only hold interests in leases and permits for leasable minerals if the laws, customs or regulations of their country do not deny similar or like privileges to citizens or corporations of the United States. A list of those countries denying similar or like privileges is available from any Bureau office.

(c) A mineral lease or permit shall not be issued to a minor. Leases or permits may be issued to a legal guardian or trustee of a minor.

§ 3502.2 Qualifications and holdings statements.

§ 3502.2–1 Filing of evidence.

Evidence of qualifications required by this section may be filed separately in the proper BLM Office. Thereafter, a reference by serial number to the record in which such evidence is filed, together with a statement as to any amendments, shall be acceptable in lieu of resubmitting the evidence with each application. It is the responsibility of applicants and lessees to assure that such evidence is current and accurate. An application referring to the serial number may be submitted only to the Bureau office where the evidence of qualifications is on file.

§ 3502.2–2 Individuals.

To qualify to hold a Federal prospecting permit, lease or license, an individual shall submit a signed statement showing:

(a) He/she is a U.S. citizen; and

(b) That his/her acreage holdings for the particular mineral concerned do not exceed the acreage holdings allowed for that mineral.

§ 3502.2–3 Associations, including partnerships and trusts.

(a) For an association, such as a partnership, to qualify to hold a prospecting permit, lease or exploration license, or any interest therein, a member or authorized attorney-in-fact shall submit the following:

(1) A signed statement setting forth: (i) The names, addresses, and citizenship of all members owning or controlling 10 percent or more of the association or partnership; (ii) the names of the members authorized to act on behalf of the association or partnership; (iii) that the association or partnership's acreage holdings for the particular mineral concerned do not exceed the acreage holdings for that mineral; and (iv) that the acreage holdings of any member owning more than 10 percent of the association or partnership do not exceed that allowed.

(2) A copy of the articles of the association or partnership.

(b) In order for a trust to hold prospecting permits or leases or any interest therein on behalf of a beneficiary, the guardian or trustee shall submit the following:

(1) A signed statement setting forth: (i) the citizenship of the beneficiary; (ii) the guardian or trustee's own citizenship; (iii) the grantor's citizenship, if the trust is revocable; and (iv) that the acreage holdings of the beneficiary, the guardian or trustee, or the grantor, if the trust is revocable, do not exceed that allowed.

(2) A copy of the court order or other document authorizing or creating the trust or guardianship.

§ 3502.2–4 Corporations.

For a corporation to qualify to hold a prospecting permit, lease, or exploration license, or any interest therein, an officer or authorized attorney-in-fact shall submit a signed statement setting forth:

(a) The State in which the corporation is incorporated;

(b) The names and citizenship of any stockholder owning or controlling more than 10 percent of the stock of the corporation;

(c) The names of the officers authorized to act on behalf of the corporation;

(d) That the corporation's acreage holdings, and those of any stockholder identified under paragraph (b) of this section, do not exceed that allowed; and

(e) The percentage of stock owned, held or controlled by citizens of a foreign country or persons with addresses outside the United States, if greater than 10 percent.

§ 3502.2–5 Heirs and devisees.

(a) If an applicant for a permit, an applicant for a preference right lease or a successful bidder to a competitive lease dies before the permit or lease is issued, the permit or lease shall be issued to the executor or administrator of the estate if probate of the estate has not been completed; if probate has been completed, or is not required, to the heirs or devisees; and if there are minor heirs or devisees, to their legal guardian or trustee in his/her name, provided there is filed in all cases the following information:

(1) Where probate of the estate has not been completed:

(i) Evidence that the person, who as executor or administrator submits forms of lease and bond, has authority to act in that capacity and to sign such forms;

(ii) Evidence that the heirs or devisees are the heirs or devisees of the deceased and are his/her only heirs or devisees; and

(iii) A statement over the signature of each heir or devisee concerning citizenship and holdings similar to that required by § 3502.2–2 of this title.

(2) Where the executor or administrator has been discharged or no probate proceedings are required:

(i) A certified copy of the will or decree of distribution, if any, and if not, a statement signed by the heirs that they are the only heirs and citing the provisions of the law of the deceased's last domicile showing that no probate is required; and

(ii) A statement over the signature of each of the heirs or devisees with reference to citizenship and holdings similar to that required by § 3502.2–2 of this title, except that if the heir or devisee is a minor, the statement shall be over the signature of the guardian or trustee.

(b) If a permittee or lessee dies, the executor or administrator of the estate shall be recognized as the record title holder of the permit or lease if probate has not been completed; and if probate has been completed, or is not required, the heirs or devisees shall be so recognized, provided that in all cases, the evidence required in paragraph (a) of this section has been filed.

§ 3502.2–6 Attorneys-in-fact.

An attorney-in-fact shall submit evidence of his/her authority to act on behalf of the applicant. The applicant shall submit a separate statement as to qualifications and acreage holdings unless the power of attorney specifically authorizes and empowers the attorney-in-fact to make or to execute such statements.

§ 3502.3 Other parties in interest.

If the applicant is not the sole party in interest to a permit or lease, he/she shall submit with his/her application the names of all other parties who hold or will hold any interest in the application or in the permit or lease, when issued. All interested parties shall furnish appropriate evidence of their qualifications to hold such permit or lease interest.

Subpart 3503—Fees, Rentals and Royalties

§ 3503.1 Payments.

§ 3503.1–1 Form of remittance.

All remittances shall be by U.S. currency, postal money order or negotiable instrument payable in U.S. currency and shall be made payable to the Department of the Interior—Bureau of Land Management or the Department of the Interior—Minerals Management Service, as appropriate. In the case of payments made to the Service, such payments may also be made by electronic funds transfer.

§ 3503.1–2 Where remitted.

(a)(1) All filing fees and all first-year rentals and all bonuses for leases issued under Group 3500 of this title shall be paid to the proper BLM office.

(2) All second-year and subsequent rentals and all other payments for leases shall be paid to the Service.

(b) All royalties on producing leases and all payments under leases in their minimum production period shall be paid to the Service.

(c) All payments paid to the Service shall be sent to: Minerals Management Service, Royalty Management Program/ BRASS, Box 5640, Denver, Colorado 80217.

§ 3503.2 Production royalties, minimum royalties and overriding royalties.

§ 3503.2–1 Production royalty rates.

Production royalty rates shall be set out in a separate schedule attached to and made a part of all leases and shall be determined on an individual case basis by the authorized officer prior to lease offering. For leases offered competitively, the rates shall be set out in the notice of lease sale. For leases issued noncompetitively, the schedule shall be sent to the prospective lessee for concurrence and signature prior to lease issuance.

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§ 3503.2-2 Minimum production and minimum royalty.

(a) Each lease issued on or after the effective date of these regulations shall require a minimum annual production or the payment of minimum royalty in lieu of production for any particular lease year, beginning with the sixth lease year. Minimum royalty payments shall be credited to production royalties for that year only.

(b) Leases renewed or readjusted on or after the effective date of these regulations shall require a minimum annual production or the payment of minimum royalty in lieu of production for any particular lease year, beginning with the first full year of the readjusted or renewed lease. Minimum royalty payments shall be credited to production royalties for that year only.

(c) On or after the effective date of these regulations, the rate of the minimum royalty in lieu of production described in paragraphs (a) and (b) of this section shall be $3 per acre or fraction thereof per year, payable in advance.

(d) Hardrock mineral leases or development or operating agreements which are subject to escalating rentals are exempt from these minimum production and minimum royalty requirements.

§ 3503.2-3 Overriding royalties.

(a) Any overriding royalty interest created by assignment or otherwise shall be subject to the requirement, that if the total of the overriding royalty interest at any time exceeds 1 percent of the gross value of the output at the point at which royalty is assessed, it shall be subject to reduction or suspension by the authorized officer to a total of not less than 1 percent of such gross value, whenever, in the interest of conservation, it appears necessary to do so in order to: (1) prevent premature abandonment; or (2) make possible the economic mining of marginal or low grade deposits. Where there is more than 1 overriding royalty interest, any such suspension or reduction shall be applied to the respective interests in the manner agreed upon by the holders thereof or, in the absence of such agreement, in the inverse order of the dates of creation of such interests.

(b) No overriding royalties shall be paid at a rate in excess of the rate to which they have been so reduced until otherwise authorized by the authorized officer.

§ 3503.2-4 Waiver, suspension, or reduction of rental, minimum royalty or royalties.

(a) In order to encourage the greatest ultimate recovery of the leased minerals, and in the interest of conservation, whenever the authorized officer determines it is necessary to promote development or finds that leases cannot be successfully operated under the terms provided therein, the rental or minimum royalty payments may be waived, suspended or reduced, or the rate of royalty reduced.

(b) An application for any of the above benefits shall be filed in duplicate in the proper BLM office. The application shall contain the serial number of the lease, the name of the record title holder, the operator or sublessee and a description of the lands by legal subdivision in addition to the following information:

(1) Each application shall show the number and location of each mine, a map showing the extent of the mining operations, a tabulated statement of the minerals mined and subject to royalty for each month covering a period of not less than 12 months immediately preceding the date of filing of the application, and the average production per day mined for each month and complete information as to why the minimum production was not attained.

(2) Each application shall contain a detailed statement of expenses and costs of operating the entire lease, the income from the sale of any leased products and all facts showing whether the mines can be successfully operated under the royalty or rental fixed in the lease. Where the application is for a reduction in royalty, full information shall be furnished as to whether royalties or payments out of production are paid to anyone other than the United States, the amounts so paid and efforts made to reduce them.

(3) The applicant shall also file agreements of the holders of the lease and of the royalty holders to a permanent reduction of all other royalties from the leasehold to aggregate not in excess of one-half the royalties paid to the United States.

§ 3503.3 Suspensions.

§ 3503.3-1 Suspension of operations and production.

(a) The authorized officer may, in the interest of conservation, order or agree to a suspension of operations and production.

(b) Applications by lessees for suspensions of operations and production shall be filed in duplicate in the proper BLM office and shall set forth why it is in the interest of conservation to suspend operations and production.

(c) The term of any lease shall be extended by adding thereto any period of suspension of operations and production during such term.

(d) A suspension shall take effect as of the date specified by the authorized officer. Rental and minimum annual production shall be suspended during any period of suspension of operations and production beginning with the first day of the lease month on which the suspension of operations and production becomes effective, or, if the suspension of operations and production becomes effective on any date other than the first day of a lease month, beginning with the first day of the lease month following such effective date. The suspension of rental and minimum annual production shall end on the first day of the lease month in which operations or production is resumed, or upon expiration of the suspension, whichever occurs first. Where rentals are creditable against royalties and have been paid in advance, proper credit shall be allowed on the next rental or royalty due under the lease.

(e) The minimum annual production requirements of a lease shall be proportionately reduced for that portion of a lease year for which a suspension of operations and production is directed or granted by the authorized officer.

§ 3503.3-2 Suspension of operations.

(a) The authorized officer may, upon application of the lessee, suspend operations on a lease issued under the regulations in group 3500 of this title when marketing conditions are such that leases cannot be operated except at a loss.

(b) Application for suspension shall be submitted in duplicate to the proper BLM office and shall contain sufficient information to establish that the lease cannot be operated except at a loss.

(c) A suspension of operations does not affect the term of the lease or the annual rental payment.

(d) A suspension shall take effect as of the date specified by the authorized officer. Minimum annual production shall be suspended during any period of suspension of operations beginning with the first day of the lease month on which the suspension becomes effective, or, if the suspension becomes effective on any date other than the first day of a lease month, beginning with the first day of the lease month following such effective date. The suspension of minimum annual production shall end on the first day of the lease month in which operations are resumed, or upon expiration of the suspension, whichever occurs first.

(e) The minimum annual production requirements of a lease shall be proportionately reduced for that portion of a lease year for which a suspension of operations is granted by the authorized officer.

Subpart 3504—Bonds

§ 3504.1 Bonding requirements.

§ 3504.1-1 When filed.

Prior to the issuance of a permit or lease, the applicant shall be required to submit a surety or personal bond as described in this subpart.

§ 3504.1-2 Where filed.

All bonds shall be filed in the proper BLM office on an approved form. A single copy executed by the principal or, in the case of surety bonds, by both the principal and an acceptable surety is sufficient. Nationwide bonds may be filed in any Bureau State office.

§ 3504.1-3 Surety bonds and personal bonds.

(a) Only those surety bonds issued by qualified surety companies approved by the Department of the Treasury shall be accepted. (See Department of the Treasury Circular No. 570, any supplemental circulars or any replacements).

(b) Personal bonds shall be accompanied by: (1) cash; (2) cashier's check; (3) certified check; or (4) negotiable U.S. Treasury bonds of a value equal to the amount specified in the bond. Negotiable Treasury bonds shall be accompanied by a proper conveyance to the Secretary of full authority to sell such securities in case of default in the performance of the terms and conditions of the lease or permit.

§ 3504.1-4 Individual permit and lease bonds.

Individual permit and lease bond amounts shall be established on a case by case basis by the authorized officer. Minimum bonding requirements are set forth in the pertinent regulations for specific minerals.

§ 3504.1-5 Statewide and nationwide bonds.

(a) In lieu of separate bonds for each lease or permit, a lessee or permittee may furnish a bond in an amount of not less than $25,000, as determined by the authorized officer, to cover all leases and permits for a specific mineral in any 1 State.

(b) In lieu of separate bonds for each lease or permit, a lessee or permittee may furnish a bond in the amount of not less than $75,000, as determined by the authorized officer, to cover all leases and permits for a specific mineral nationwide.

§ 3504.1-6 Change in bond coverage.

The authorized officer may elect to increase or decrease the amount of any bond to be issued or any outstanding bond when a change in coverage is determined appropriate, except no bond may be reduced below the established minimum amount for that mineral.

§ 3504.2 Default.

(a) Where, upon a default, the surety makes a payment to the United States of an obligation incurred under a lease, the face amount of the surety bond or personal bond and the surety's liability thereunder shall be reduced by the amount of such payment.

(b) After default, upon penalty of cancellation of all of the leases or permits covered by such bond, the principal shall within 6 months after notice, or within such shorter period as may be fixed by the authorized officer, either post a new bond or increase the existing bond to the amount previously held. In lieu thereof, the principal may within that time file separate or substitute bonds for each lease or permit.

§ 3504.3 Termination of period of liability.

The authorized officer shall not give consent to termination of the period of liability of any bond unless an acceptable replacement bond has been filed or until all the terms and conditions of the lease or permit have been met.

Subpart 3506—Assignments and Subleases

§ 3506.1 Permits and leases subject to assignment or sublease.

Any prospecting permit or lease may be assigned or subleased in whole or in part to any person, association, or corporation qualified to hold such lease or permit.

§ 3506.2 Filing fees.

To be accepted for filing, each instrument of assignment of record title, operating rights and overriding royalty assignments shall be accompanied by a nonrefundable filing fee of $25. Any instrument not accompanied by the filing fee shall not be accepted.

§ 3506.3 Filing requirements.

§ 3506.3-1 Record title assignments.

(a) A separate instrument of assignment shall be filed in triplicate for each permit or lease. The instrument shall be filed within 90 days of final execution and shall contain:

(1) Name and current address of assignee;

(2) Interest held by assignor and interest to be assigned;

(3) The serial number of the affected permit or lease and a description of the lands to be assigned as described in the permit or lease;

(4) Percentage of overriding royalties retained; and

(5) Date and signature of assignor.

(b) The assignee shall provide a single copy of the request for approval of assignment which shall contain:

(1) Statement of qualifications and holdings as required by subpart 3502 of this title;

(2) Date and signature of assignee; and

(3) Filing fee as required by § 3506.2 of this title;

(c) The approval of an assignment of all interests in a specific portion of the lands in a lease shall create a separate lease which shall be given a current serial number.

§ 3506.3-2 Operating rights.

One copy of a sublease or an operating rights assignment shall be filed within 90 days from the date of final execution and shall contain the operating agreement between the lessee and operator. The operator shall file a request for approval as described in § 3506.3-1(b) of this title. The agreement shall be approved by formal decision.

§ 3506.3-3 Overriding royalty interests.

All overriding royalty interest assignments shall be filed for record purposes within 90 days from the date of execution, but no formal approval shall be given. Any such assignment shall be deemed to be valid provided it is accompanied by the assignee's statement of qualifications as provided for in subpart 3502 of this title, and filing fee as required by § 3506.2 of this title.

§ 3506.4 Permit or lease account status.

The authorized officer shall not approve an assignment of a permit or lease unless the account under the permit or lease is in good standing, or the assignee and his/her surety accepts, in writing, all outstanding liabilities of the assignor which have accrued, whether known or unknown, under the permit or lease.

§ 3506.5 Bonds.

§ 3506.5-1 Coverage.

If the permittee or lessee has been required to maintain a bond, then prior to approval of the assignment, the assignee shall be required to furnish a new bond in the same amount, or, in lieu

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thereof, consent of the surety on the present bond to the substitution of the assignee as principal. (See Subpart 3504)

§ 3506.5-2 Continuing responsibility.

The assignor and his/her surety shall continue to be responsible for the performance of any obligation under the permit or lease until the effective date of the approval of the assignment. If the assignment is not approved, the assignor's obligation to the United States shall continue as though no such assignment had been filed for approval. After the effective date of approval the assignee and his/her surety shall be responsible for the performance of all permit or lease obligations notwithstanding any terms in the assignment to the contrary, or after the effective date of approval of the sublease, the sublessor and sublessee shall be jointly and severally liable for the performance of all permit or lease obligations, notwithstanding any terms in the sublease to the contrary.

§ 3506.6 Effective date.

An assignment or sublease shall take effect so far as the United States as lessor is concerned the first day of the month following its final approval by the Bureau, or if the assignee requests, the first day of the month of the approval.

§ 3506.7 Extensions.

The approval of an assignment or sublease shall not extend the life of the permit or the readjustment or renewal periods of the lease.

Subpart 3507—Fractional and Future Interest Permits and Leases

§ 3507.1 Issuance of prospecting permits and leases.

§ 3507.1-1 Prospecting permits.

A prospecting permit for a present fractional interest in mineral deposits acquired by the United States may be issued by the authorized officer.

§ 3507.1-2 Leases.

(a) Noncompetitive leases for future or fractional interests in lands believed, but not known, to contain mineral deposits, may be issued by the authorized officer whenever he/she finds it to be in the public interest.

(b) Noncompetitive leases for any future interest(s) in lands which are a part of an existing mining operation may be issued to the mine owner or operator by the authorized officer whenever he/she finds it to be in the public interest. Such leases shall be conditioned upon payment by the lessee of the fair market value of the mineral deposit at the time of vesting of title to the mineral in the United States.

§ 3507.2 Forms and applications.

No specific application form is required, but the application shall contain the same information required of an applicant for the specific mineral concerned.

§ 3507.3 Terms and conditions.

Permit and lease terms and conditions shall be those provided in this group for the particular mineral.

§ 3507.4 Consent of agency or bureau.

A prospecting permit for a present fractional interest in mineral deposits, or a lease for a fractional or future interest in mineral deposits acquired by the United States, may be issued by the authorized officer only with the consent of the surface management agency.

§ 3507.5 Where filed and filing fee.

The application shall be filed in triplicate in the proper BLM office and shall be accompanied by a nonrefundable filing fee of $25.

§ 3507.6 Qualifications.

Compliance with Subpart 3502 of this title is required.

§ 3507.7 Evidence of ownership.

§ 3507.7-1 Present fractional interest.

An applicant for a present fractional interest permit or lease shall have a present interest in the minerals. If the applicant does not own all of the mineral interests not owned by the United States or all of the operating rights therein, the application shall show the extent of the applicant's rights and the names of the other owners of such rights.

§ 3507.7-2 Future interest.

An application for a whole or fractional future interest prospecting permit or lease shall include evidence of title to the present interest in the mineral deposit, which may be in the form of a certified abstract of title or certificate of title. If the applicant is the owner of the operating rights to the non-federal minerals and acquired such rights under a lease or contract with the owner of such minerals, the application shall be accompanied by 3 copies of such lease or contract. A whole or fractional future interest lease shall be issued only to an applicant who owns all or substantially all of the present operating rights to the non-federal minerals as fee owner, lessee or operator holding such rights.

§ 3507.8 Effective date of future interest leases.

Future interest leases shall become effective on the date of vesting of title to the minerals in the United States as stated in the lease.

§ 3507.9 Rejection of application.

(a) An application for a future interest lease filed less than 1 year prior to the date of the vesting in the United States of the present interest in the minerals shall be rejected. Upon the vesting in the United States of the present possessory interest in the minerals, all applications for future interest leases outstanding at the time shall automatically lapse and thereafter only applications for a present interest lease shall be considered.

(b) Unless the authorized officer determines it to be in the public interest to do otherwise, a lease or prospecting permit shall not issue to one who, with the Federal interest applied for, would control less than 50 percent of the operating rights, and the application for such a lease or permit shall be rejected.

Subpart 3508—Mineral Lease Exchange

§ 3508.0-1 Purpose.

This subpart authorizes a mineral prospecting permittee, or mineral lessee, to relinquish the lease to be acquired under preference right, or an existing mineral lease, in exchange for a mineral lease of other lands of comparable value for any leasable or hardrock mineral when the Secretary concludes that operations on the preference right or outstanding lease would not be in the public interest, and that operations on the lands leased in exchange would be in the public interest.

§ 3508.0-7 Scope.

(a) The regulations in this subpart and Subpart 3435 of this title, which cover provisions related to exchanges involving the issuance of coal leases, coal lease bidding rights or coal lease modifications, may be used in exchanges of one mineral for another.

(b) In the case of a conflict between this subpart and the provisions of Subpart 3435 of this title, the provisions governing the lease or lease interest to be issued shall control.

§ 3508.1 When exchange provisions apply.

(a) The provisions of this subpart shall be invoked by the authorized officer notifying the preference right lease applicant or lessee that he/she is prepared to consider exchange of a mineral lease for relinquishment of

leasing rights on the lands described in the notice.

(b) The authorized officer may seek the exchange of any part or all of the lands under preference right lease application or lease. More than 1 preference right lease application or lease may be considered. The effect of a partial or multiple exchange shall be taken into account by the authorized officer in determining whether such an exchange is in the public interest.

(c) An exchange mineral lease shall not be issued unless the authorized officer finds, after completing the procedures in this subpart, that the exchange is in the public interest.

(d) For the purposes of this subpart, an exchange shall be considered in the public interest if the authorized officer finds that the benefits of production from the lease or preference right lease would not outweigh the adverse effects, or threat of damage or destruction to agricultural production potential, or scenic, biological, geologic, historic or other public interest values from lease operations, and if the authorized officer finds the lands proposed for exchange free from hazardous waste as defined under the authorities of the Clean Water Act, Resource Conservation and Recovery Act and the Comprehensive Environmental Response, Compensation and Liability Act. In exercising his/her discretion to exchange mineral leasing values in the public interest, the authorized officer shall consider, but is not limited to consideration of, these elements of the public interest; recreational use; archeological or historic values; threatened or endangered species; proximity of residential or urban areas; study for potential inclusion in the wilderness or wild and scenic rivers systems; and value for public uses, including public highways, airports and rights-of-way.

§ 3508.2 Exchange procedures.

(a) The authorized officer shall notify the preference right lease applicant or lessee when he/she is prepared to consider an exchange or other mineral leasing values for a tract under lease application or lease. The exchange notice shall:

(1) State why the authorized officer believes an exchange would be in the public interest;

(2) Provide that the lease applicant or lessee shall respond by indicating whether he/she is willing to negotiate for an exchange under this subpart; and

(3) Contain a description of the lands for which the authorized officer would offer exchange terms. The preference right lease applicant's or lessee's reply may describe the lands on which the lease applicant or lessee would accept an exchange lease.

(b) A preference right lease applicant shall show the timely submittal of a mineral preference right lease application.

(c) If the preference right lease applicant demonstrates to the Secretary that the applicant has a preference right to a lease, the authorized officer may, in lieu of issuing a lease on the preference right, negotiate for the selection of appropriate exchange lands and establish lease terms on the lands to be leased in exchange.

(d)(1) The lands leased in exchange shall, to the satisfaction of the preference right lease applicant or lessee and the authorized officer, be a lease tract containing a deposit of leasable or hardrock minerals of comparable value. A lease tract shall be determined "of comparable value" for exchange purposes when the authorized officer concludes that the value of the more valuable tract is less than 10 percent greater than the value of the less valuable tract.

(2) The lands covered by an exchange lease shall be subject to leasing under the authorities contained in § 3500.0-3 of this title.

(e) The exchange right shall be equal to the fair market value of the preference right or lease to be relinquished. A reply to the authorized officer's notice by the preference right lease applicant or lessee which indicates a willingness to consider an exchange also shall indicate a willingness to provide geologic and economic data to enable the authorized officer to determine the fair market value of the relinquished preference right or lease.

(f) After the prospective exchange lessee and the authorized officer agree on the lands to be leased in exchange, a notice of the proposed exchange shall be published in the **Federal Register** and in a newspaper(s) in the county(s) where both the preference right or lease lands and the proposed exchange lease lands are located. The notice shall include:

(1) The time and place of a public hearing(s);

(2) The authorized officer's preliminary findings that the exchange is in the public interest; and

(3) A request for public comments on the merits of the proposed exchange.

§ 3508.3 Issuance of lease.

(a) If, after public hearing, the authorized officer determines by written decision that issuance of the exchange lease is in the public interest, he/she shall establish stipulations for operations on the exchange lease.

(b) The exchange lease shall be subject to the relevant provisions of group 3500 and standard lease terms thereunder and shall contain:

(1) A statement that the lessee quitclaims and relinquishes any right or interest in the preference right lease application or lease exchanged; and

(2) A statement setting forth the authorized officer's finding that the lease issuance is in the public interest.

Subpart 3509—Relinquishment, Termination, Expiration, and Cancellation

§ 3509.1 Relinquishment.

§ 3509.1-1 Prospecting permits.

The permittee may relinquish the entire prospecting permit or any legal subdivision thereof. A partial relinquishment shall clearly describe the lands surrendered and give the exact acreage relinquished. A relinquishment shall be filed in the proper BLM office. Upon its acceptance by the authorized officer, the relinquishment shall be effective as of the date it is filed. Such lands, if otherwise available, shall be subject to the filing of new applications immediately upon notation of the relinquishment on the official status records.

§ 3509.1-2 Leases.

Upon a satisfactory showing that the public interest will not be impaired, the lessee may relinquish the entire lease or any legal subdivision thereof. A partial relinquishment shall clearly describe the lands surrendered and the exact area thereof. A relinquishment shall be filed in the proper BLM office. Upon its acceptance by the authorized officer, the relinquishment shall be effective as of the date it is filed, subject to the continued obligation of the lessee and his/her surety to make payment of all accrued rentals and royalties and to provide for the preservation of any mines or productive works or permanent improvements on the leased lands in accordance with the regulations and terms of the lease.

§ 3509.2 Termination of prospecting permits.

A prospecting permit shall automatically terminate for failure to pay rental on or before the anniversary date of the permit. The termination of the permit for failure to pay rental shall be noted on the official status records of the proper BLM office. Until such notation is made, the lands covered by the permit shall not be available for filing of any new permit applications.

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Applications for such permits filed prior to such notation shall be rejected.

§ 3509.3 Expiration.

§ 3509.3–1 Prospecting permits.

The permit shall expire at the end of its initial or extended term, as applicable, without notice to the permittee. However, a permit may be extended if the permittee timely files an application for extension (See §§ 3512.9–2, 3532.9–2, 3552.9–2 and 3562.9–2). Upon expiration, the lands, if otherwise available and if no preference right lease application has been filed by the prior permit holder, shall be subject to filing of new applications for prospecting permits 60 days thereafter.

§ 3509.3–2 Leases.

(a) Hardrock, sodium, sulphur and asphalt leases shall expire either at the end of the lease term, if a timely application for lease renewal is not timely filed in accordance with applicable regulations, or at the time a timely application for renewal is rejected.

(b) Potassium, phosphate and gilsonite leases continue for so long as the lessee complies with the lease terms and conditions which are subject to periodic readjustment in accordance with applicable regulations.

§ 3509.4 Cancellation.

§ 3509.4–1 Prospecting permits.

(a) Except as provided for in § 3509.2 of this title, if a permittee fails to comply with the provisions of the law or the regulations issued thereunder, or defaults with respect to any of the terms or stipulations of the permit and such failure or default continues for 30 days after service of written notice thereof by the authorized officer, the permit may be cancelled. A waiver of any particular cause for cancellation shall not prevent the cancellation of the permit for any other cause, or for the same cause occurring at any other time.

(b) The cancellation of a permit for cause shall be noted on the official status records of the proper BLM office. Until such notation is made, the lands covered by the permit shall not be available for filing of like applications for a permit. Applications for such permits filed prior to such notation shall be rejected.

§ 3509.4–2 Leases.

(a) If the lessee fails to comply with the provisions of the Act, or of the general regulations promulgated and in force on the date of the lease, or at the effective date of any readjustment of the terms and conditions thereof, or defaults in the performance or observance of any of the terms, covenants, and stipulations of the lease and such failure or default continues for 30 days after service of written notice thereof by the lessor, then the lessor may institute appropriate proceedings in a court of competent jurisdiction for the forfeiture and cancellation of the lease as provided in section 31 of the Act. A waiver of any particular cause of forfeiture shall not prevent the cancellation and forfeiture of the lease for any other cause of forfeiture, or for the same cause occurring at any other time.

(b) If any interest in any lease is owned or controlled directly or indirectly in violation of any of the provisions of the Act, the authorized officer shall give the lessee 30 days to remedy the violation or to show cause why the Attorney General should not be requested to institute proceedings in a court of competent jurisdiction to:

(1) Cancel the lease;

(2) Forfeit the interest so owned; or

(3) Compel disposal of the interest so owned or controlled.

(c) If a lease is issued improperly, it shall be subject to administrative cancellation.

§ 3509.4–3 Bona fide purchasers.

(a) A lease or interest therein shall not be cancelled to the extent that such action adversely affects the title or interest of a bona fide purchaser even though such lease or interest, when held by a predecessor in title, may have been subject to cancellation. All purchasers shall be charged with constructive notice as to all pertinent regulations and all Bureau records pertaining to the lease and the lands covered by the lease.

(b) Prompt action shall be taken to dismiss, as a party to any proceedings with respect to a violation by a predecessor of any provisions of the Act, any person who shows the holding of an interest as a bona fide purchaser without having violated any provisions of the Act. No hearing shall be necessary upon such showing unless prima facie evidence is presented that the purchaser is not a bona fide purchaser. If, during any such proceeding, a party thereto files a waiver of his/her rights under the lease to drill or to assign his/her lease interests, or if such rights are suspended by order of the Secretary pending a decision, payments or rentals and the running of time against the term of the lease involved shall be suspended as of the first day of the month following the filing of the waiver or of the Secretary's suspension until the first day of the month following the final decision in the proceeding or the revocation of the waiver for suspension.

PART 3510—PHOSPHATE

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Subpart 3510—Phosphate Leasing—General

§ 3510.0–3 Authority.

Authority for leasing phosphate is shown under § 3500.0–3 (a) and (c) of this title.

§ 3510.1 Leasing procedures.

The regulations in this part provide the procedures for qualified applicants to obtain rights to develop deposits of phosphate, including associated and related minerals, found on lands available for leasing. The regulations provide for this in the following manner:

(a) "Prospecting permits" allow the permittee to explore for deposits of phosphate.

(b) "Preference right leases" are issued to holders of prospecting permits who demonstrate the discovery of a valuable deposit of phosphate under the permit.

(c) "Exploration licenses" allow the licensee to explore known deposits of phosphate to obtain data but do not grant the licensee any preference or other right to a lease.

(d) "Competitive leases" are issued for known deposits of phosphate and allow the lessee to mine the deposit.

(e) "Fringe acreage leases" are issued noncompetitively for known deposits of phosphate on Federal lands adjacent to existing mines on non-Federal lands which can only be mined as part of the existing mining operation.

(f) "Lease modifications" are used to add known deposits of phosphate to an adjacent Federal lease which contains an existing mine provided the deposits can only be mined as part of the existing mining operation.

§ 3510.2 Other applicable regulations.

§ 3510.2–1 General leasing regulations.

Part 3500 of this title contains the general regulations governing the leasing of solid minerals other than coal and oil shale and supplements, as applicable, the regulations in this part. The Part 3500 regulations include, but are not limited to, such matters as multiple mineral development, environmental review, other agency consent and consultation, and lands not available for leasing. Cross-reference to specific regulations in part 3500 is provided in this part as an aid to the reader and is not intended to limit the applicability of Part 3500 of this title only to the cross-referenced regulations.

§ 3510.2–2 Special areas.

Part 3580 of this title contains regulations specific to certain national recreation areas and to certain lands patented to the State of California, and as applicable, supplements this part. Except where specific regulations in Part 3580 of this title are applicable, the regulations in this part and Part 3500 of this title shall govern the leasing of phosphate in those national recreation areas and those patented lands.

§ 3510.3 Allowable acreage holdings.

No person, company, association or corporation may hold at any particular time, directly or indirectly, more than 20,480 acres under prospecting permit and lease in the United States.

Subpart 3511—Lease Terms and Conditions

§ 3511.1 Applicability of lease terms and conditions.

The lease terms and conditions set out under this section apply to all leases issued or readjusted under Part 3510 of this title. Each lease shall be issued on a form approved by the Director and shall be dated as of the first day of the month after its approval by the authorized officer unless the applicant requests in writing that it be dated the first day of the month in which it is approved. Each lease shall authorize in accordance with its terms and conditions the mining of phosphate, phosphate rock and associated or related minerals.

§ 3511.2 Rental and royalty.

§ 3511.2–1 Rental.

(a) Each lease shall provide for the payment of rental annually on or before the anniversary date of the lease. The rental for each acre or fraction thereof shall be at the rate of not less than 25 cents for the first lease year, 50 cents for the second and third lease years, and $1 for each and every year thereafter. The annual rental payment shall not be less than $20. The rental paid for any year shall be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

(b) If the annual rental is not timely remitted, the lessee shall be notified by the authorized officer that, unless payment is made within 30 days from receipt of such notification, action shall be taken to cancel the lease. (See § 3509.4–2)

(c) Remittances of rental shall be made in accordance with § 3503.1 of this title.

§ 3511.2–2 Production royalty.

All leases shall be conditioned upon the payment to the United States of such royalties as may be specified in the lease, which shall be fixed by the authorized officer in advance as provided under § 3503.2–1 of this title but not less than 5 per centum of the gross value of the output of phosphates or phosphate rock and associated or related minerals.

§ 3511.3 Duration of lease.

The lease shall be issued for an indeterminate period subject to the Secretary's right of reasonable readjustment of lease terms and conditions at the end of each 20-year period.

§ 3511.4 Readjustment.

(a) The terms and conditions of a lease are subject to reasonable readjustment at the end of each 20-year period following the effective date of the lease unless otherwise provided by law at the time of expiration of such period. Prior to the expiration of each 20-year period, the authorized officer shall transmit proposed readjusted terms and

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conditions to the lessee. If the authorized officer fails to transmit the proposed readjusted terms and conditions prior to the expiration of the 20-year period, the right to readjust the lease shall have been waived until the expiration of the next 20-year term.

(b) The lessee is deemed to have agreed to the readjusted terms and conditions unless within 60 days after receiving them, the lessee files an objection to the readjusted terms and conditions or relinquishes the lease. The authorized officer shall issue a decision responding to the objections, and if the response is adverse to the lessee, the decision shall grant the right of appeal under part 4 of this title. The effective date of the readjustment shall not be affected by the filing of objections or the filing of a notice of appeal.

(c) Except as provided in this paragraph, the readjusted terms and conditions shall be effective pending a response to the objections or the outcome of the appeal provided for in paragraph (b) of this section unless the authorized officer provides otherwise. Upon the filing of an objection or appeal, the obligation to pay any increased readjusted royalties, minimum royalties and rentals shall be suspended pending the outcome of the objection or appeal. However, any such increased royalties, minimum royalties and rentals shall accrue during the pendency of the objection or appeal, commencing with the effective date of the readjustment. If the increased royalties, minimum royalties and rentals are sustained by the decision on the objection or on appeal, the accrued balance, plus interests at the rate specified for late payment by the Service shall be payable (See Part 3590). Pending the decision on the objection or the appeal, the royalties, minimum royalties and rentals shall be payable as specified by the lease terms and conditions in effect prior to the end of the 20-year period.

§ 3511.5 Use of other minerals.

Any phosphate lease issued pursuant to this subpart shall provide that the lessee may use deposits of silica, limestone or other rock on the leased lands in the processing or refining of the phosphates, phosphate rock and associated or related minerals mined from the leased lands upon payment of royalty as set forth in the royalty schedule attached to the lease.

§ 3511.6 Bonds.

Prior to issuance of a lease, the applicant shall furnish a bond in an amount to be determined by the authorized officer, but not less than $5,000. (See Subpart 3504)

§ 3511.7 Special stipulations.

To insure adequate utilization and protection of the lands and their resources, leases shall contain such stipulations as may be prescribed by the authorized officer or the responsible official of the surface management agency if the surface is not under Bureau jurisdiction as described in § 3500.9 of this title. (See also Part 3580)

§ 3511.8 Other applicable regulations.

Leases issued under this part shall also be subject to the conditions set forth in other regulations, including, but not limited to, the following:

(a) Minimum annual production and minimum royalty are covered by § 3503.2–2 of this title.

(b) Suspension of operations and production and suspension of operations are covered by § 3503.3 of this title.

(c) Assignments and subleases are covered by subpart 3506 of this title.

(d) Cancellation and relinquishment are covered by subpart 3509 of this title.

(e) Exploration and mining are covered by Part 3590 of this title.

(f) Royalty management is covered by 30 CFR Chapter II, Subchapter A.

Subpart 3512—Phosphate Prospecting Permits

§ 3512.1 Areas subject to prospecting.

A prospecting permit may be issued for any unclaimed, undeveloped area of available public domain or acquired lands subject to leasing where prospecting or exploratory work is necessary to determine the existence or workability of deposits of phosphate. Discovery of a valuable deposit of phosphate within the term of the permit entitles the permittee to a preference right lease.

§ 3512.2 Rights conferred by issuance of prospecting permits.

A permit shall grant the permittee the exclusive right to prospect on and explore the lands to determine the existence of a valuable deposit of phosphate in accordance with the terms and conditions of the permit. The permittee may remove only such material as is necessary to demonstrate the existence of a valuable mineral deposit.

§ 3512.3 Application for prospecting permit.

§ 3512.3–1 Filing requirements.

(a) An application shall be filed on a form approved by the Director or an exact reproduction of such form.

(b) An application shall be filed in triplicate with the proper BLM office.

(c) The application shall be accompanied by a nonrefundable filing fee of $25, and rental for the first year at the rate of 50 cents per acre, or fraction thereof made payable to the Department of the Interior—Bureau of Land Management. The rental payment shall be for the total acreage if known, and if not known, for the total acreage computed on the basis of 40 acres for each smallest subdivision. The rental payment shall not be less than $20.

§ 3512.3–2 Contents of applications.

Each application shall be typewritten, or printed plainly in ink; manually signed in ink and dated by the applicant or applicant's duly authorized attorney-in-fact, and shall contain the following:

(a) The name and address of the applicant;

(b) A statement of the applicant's qualifications and holdings. (See Subpart 3502); and

(c) A complete and accurate land description in compliance with subpart 3501 of this title. The application shall not include more than 2,560 acres in a reasonably compact form.

§ 3512.3–3 Exploration plans.

After an initial review and clearance of the application indicates that the application is in compliance with the requirements of this subpart, the authorized officer shall require the applicant to file an exploration plan in triplicate, reasonably designed to determine the existence or workability of the deposit. The exploration plan shall, insofar as possible, including the following:

(a) The names, addresses and telephone numbers of persons responsible for operations under the plan and to whom notices and orders are to be delivered;

(b) A brief description, including maps, of geologic, water, vegetation and other physical factors, and the distribution, abundance and habitat of fish and wildlife, particularly threatened and endangered species, that may be affected by the proposed operation within the area where exploration is to be conducted, and the present land use within and adjacent to the area;

(c) A narrative description showing:

(1) The method of exploration and types of equipment to be used;

(2) The measures to be taken to prevent or control fire, soil erosion, pollution of surface and ground water, pollution of air, damage to fish and wildlife or their habitat and other natural resources and hazards to public health and safety, including specific actions necessary to meet all applicable laws and regulations;

(3) The method for plugging drill holes; and

(4) The measures to be taken for surface reclamation, which shall include as appropriate:

(i) A reclamation schedule;

(ii) The method of grading, backfilling, soil stabilization, compacting and contouring;

(iii) The method of soil preparation and fertilizer application;

(iv) The type and mixture of shrubs, trees, grasses, forbs or other vegetation to be planted; and

(v) The method of planting, including approximate quantity and spacing.

(d) The estimated timetable for each phase of the work and for final completion of the program;

(e) Suitable topographic maps or aerial photographs showing existing bodies of surface water, topographic, cultural and drainage features, and the proposed location of drill holes, trenches and roads; and

(f) Such other data as may be required by the authorized officer.

§ 3512.3–4 Rejection of application.

Any application for a prospecting permit which does not comply with the requirements of this subpart shall be rejected. If the applicant files a new application for the same lands within 30 days of receipt of the rejection, the nonrefundable filing fee and rental payment submitted with the original application shall be applied to the new application, provided the serial number of the original application is shown on the new application. If a new application is not filed within the 30-day period, the advance rental shall be refunded. Priority for the permit shall be established as of the date the corrected application is filed.

§ 3512.4 Determination of priorities.

§ 3512.4–1 Regular filings.

Priority of application shall be determined in accordance with the time of filing.

§ 3512.4–2 Simultaneous filings.

Where more than 1 application is filed at the same time for the same lands, priority shall be determined in accordance with Subpart 1821.2–3 of this title.

§ 3512.5 Amendment to application.

An amendment to an application for a prospecting permit to include additional lands shall receive priority for such additional lands from the date of the filing of the amended application. The amended application shall be accompanied by the required advance rental. No additional filing fees are required.

§ 3512.6 Withdrawal of application.

An application for permit may be withdrawn in whole or in part before the permit is signed on behalf of the United States. Upon acceptance of the withdrawal, the advance rental submitted with the application shall be refunded.

§ 3512.7 Permit bonds.

Prior to issuance of the permit, the applicant shall furnish a bond in an amount determined by the authorized officer, but not less than $1,000. (See Subpart 3504)

§ 3512.8 Terms and conditions of permit.

§ 3512.8–1 Duration of permit.

Prospecting permits are issued for an initial term of 2 years, and may be extended for an additional period not to exceed 4 years as provided in § 3512.9 of this title. No exploration activities other than those approved as part of an existing exploration plan shall be conducted following expiration of the initial term unless and until the permit has been extended by the authorized officer.

§ 3512.8–2 Dating of permits.

The permit shall be dated as of the first day of the month after its approval by the authorized officer unless the applicant requests in writing that it be dated the first day of the month in which it is approved.

§ 3512.8–3 Annual rental.

Rental at the rate of 50 cents per acre or fraction thereof shall be paid annually on or before the anniversary date of the permit. The rental payment shall not be less than $20.

§ 3512.8–4 Special stipulations.

To insure adequate protection of the lands and their resources, permits shall contain such stipulations as may be prescribed by the authorized officer or the responsible official of the surface management agency if the surface is not under Bureau jurisdiction as described in § 3500.9 of this title. (See Part 3580)

§ 3512.9 Prospecting permit extensions.

§ 3512.9–1 Conditions for, and duration of, extensions.

A permit may be extended for a maximum of 4 years at the discretion of the authorized officer provided that:

(a) The permittee has been unable, with reasonable diligence, to determine the existence or workability of valuable deposits covered by the permit and desires to continue the prospecting or exploration program. Reasonable diligence means that, in the opinion of the authorized officer, the permittee has drilled a sufficient number of core holes on the permit area or performed other comparable prospecting to explore the permit area within the time allowed; or

(b) The permittee's failure to perform diligent prospecting activities was due to conditions beyond his/her control.

§ 3512.9–2 Application for extension.

(a) Filing requirements.

(1) No specific application form is required.

(2) Application for extension shall be filed in the proper BLM office at least 90 days prior to expiration of the permit.

(3) Applications for extension shall be accompanied by a nonrefundable filing fee of $25, and advance rental of 50 cents per acre, or fraction thereof made payable to the Department of the Interior—Bureau of Land Management. The rental payment shall not be less than $20.

(b) The application for extension shall:

(1) Demonstrate that the permittee has met the conditions for extension set out in § 3512.9–1 of this title;

(2) Demonstrate the permittee's diligent prospecting activities; and

(3) Show how much additional time is necessary to complete prospecting work.

§ 3512.9–3 Effective date.

The permit extension shall become effective as of the date of approval.

Subpart 3513—Preference Right Lease

§ 3513.1 Application for preference right lease.

§ 3513.1–1 Filing requirements.

(a) No specific application form is required.

(b) An application shall be filed in triplicate with the proper BLM office no later than 60 days after the prospecting permit expires.

(c) The application shall be accompanied by the first year's rental at the rate of 25 cents per acre or fraction thereof made payable to the Department of the Interior—Bureau of Land Management. The rental payment shall not be less than $20. (See subpart 3503)

§ 3513.1–2 Contents of application.

(a) The application shall contain a statement of qualification and holdings in compliance with Subpart 3502 of this title.

(b) The application shall contain a complete and accurate description of the lands in accordance with § 3501.1 of this

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title. The lands shall have been included in the prospecting permit and shall not exceed 2,560 acres.

(c) The application shall be accompanied by a map(s) which shows utility systems, the location of any proposed development or mining operations and facilities incidental thereto, including the approximate locations and the extent of the areas to be used for pits, overburden and tailings, and the location of water sources or other resources which may be used in the proposed operations or facilities incidental thereto.

(d) The application shall include a narrative statement setting forth:

(1) The anticipated scope, method and schedule of development operations, including the types of equipment to be used;

(2) The method of mining anticipated, including the best available estimate of the mining sequence and production rate to be followed; and

(3) The relationship, if any, between the mining operations anticipated on the lands applied for and existing or planned mining operations, or facilities incidental thereto, on adjacent Federal or non-Federal lands.

§ 3513.2 Review of application.

§ 3513.2–1 Preference right determination.

The authorized officer shall determine whether the permittee has discovered a valuable deposit of phosphate. The determination shall be based on the data furnished to the authorized officer by the permittee as required by Part 3590 of this title during the life of the permit and supplemental data submitted at the request of the authorized officer to determine the extent and character of the deposit, the anticipated mining and processing methods, the anticipated location, kind and extent of necessary surface disturbance and measures to be taken to reclaim that disturbance.

§ 3513.2–2 Surface management agency.

The surface management agency, if other than the Bureau, shall review the application for preference right lease in accordance with § 3500.9 and Part 3580 of this title, as applicable. The appropriate surface management agency may request supplemental data regarding surface disturbance and reclamation if not otherwise submitted under § 3513.1–2 of this title.

§ 3513.3 Issuance of lease.

The authorized officer shall issue a lease to the holder of a prospecting permit who shows that, within the term of the permit, a valuable deposit of phosphate was discovered.

§ 3513.4 Rejection of application.

(a) The authorized officer shall reject an application for a preference right lease if the authorized officer determines:

(1) That the applicant did not discover a valuable deposit of phosphate;

(2) The applicant did not submit in a timely manner requested information; or

(3) The applicant did not otherwise comply with the requirements of this subpart.

(b) On alleging in an application facts sufficient to show entitlement to a lease, an applicant shall have a right to a hearing before an Administrative Law Judge in the Office of Hearings and Appeals.

(c) At the hearing, the lease applicant shall have both the burden of going forward and the burden of proof by a preponderance of the evidence that a valuable deposit of phosphate was discovered.

Subpart 3514—Exploration License

§ 3514.0–3 Authority.

Section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)).

§ 3514.1 Exploration license.

Private parties, jointly or severally, may apply for exploration licenses to explore known, unleased phosphate deposits to obtain geologic, environmental and other pertinent data concerning such deposits.

§ 3514.2 Regulations applicable.

Except as otherwise specifically provided in this subpart, the regulations pertaining to land use authorizations under Part 2920 of this title shall govern the issuance of exploration licenses.

§ 3514.3 Exploration plan.

All applications for exploration licenses shall include an exploration plan which is in full compliance with § 3512.3–3 of this title. The exploration plan, as approved, shall be attached to, and made a part of, the license.

§ 3514.4 Notice of exploration.

Applicants for exploration licenses shall be required to publish a Notice of Exploration inviting other parties to participate in exploration under the license on a pro rata cost sharing basis.

§ 3514.4–1 Contents of notice.

The Notice of Exploration prepared by the authorized officer and furnished to the applicant shall contain:

(a) The name and address of the applicant;

(b) A description of the lands;

(c) The address of the Bureau office where the exploration plan shall be available for inspection; and

(d) An invitation to the public to participate in the exploration under the license.

§ 3514.4–2 Publication and posting of notice.

(a) The applicant shall publish the Notice of Exploration once a week for 3 consecutive weeks in at least 1 newspaper of general circulation in the area where the lands are located.

(b) The authorized officer shall post the notice in the proper BLM office for 30 days.

§ 3514.4–3 Notice of participation.

Any person who seeks to participate in the exploration program shall notify the authorized officer and the applicant in writing within 30 days after posting.

§ 3514.4–4 Decision on plan and participation.

The authorized officer may issue the license naming participants and acreage covered, establishing core hole spacing and resolving any other issue necessary to minimize surface disturbance and inconsistencies between proposed exploration plans.

§ 3514.5 Submission of data.

The licensee shall furnish the authorized officer copies of all data obtained during exploration. All data shall be considered confidential and not made public until the areas involved have been leased or until the authorized officer determines that the data are not exempt from disclosure under the Freedom of Information Act, whichever occurs first.

§ 3514.6 Modification of exploration plan.

Upon application therefor, a modification of the exploration plan may be approved by the authorized officer.

Subpart 3515—Competitive Leasing

§ 3515.1 Lands subject only to competitive leasing.

Lands available for leasing where prospecting or exploratory work is unnecessary to determine the existence or workability of a valuable phosphate deposit may be leased only through competitive sale to the qualified bidder who offers the highest acceptable bonus bid, except as provided in Subparts 3506 and 3516 of this title. A competitive lease sale may be initiated either through an expression of interest or on Bureau motion.

§ 3515.2 Surface management agency.

Prior to competitive lease offering, the surface management agency shall be consulted in accordance with § 3500.9 and Part 3580 of this title, as applicable.

3515.3 Sale procedures.

§ 3515.3–1 Publication and posting of notice.

Prior to a lease offering, the authorized officer shall publish a notice of lease sale for at least 3 consecutive weeks in a newspaper of general circulation in the area in which the lands are situated. The notice of lease sale shall be posted for 30 days in the public room of the proper BLM office.

§ 3515.3–2 Contents of notice.

The lease sale notice shall include:

(a) The time and place of sale;

(b) The bidding method;

(c) A description of the tract being offered;

(d) A description of the phosphate deposit being offered;

(e) The minimum bid to be considered; and

(f) Information on where a detailed statement of the terms and conditions of the lease sale and of the proposed lease may be obtained.

§ 3515.3–3 Detailed statement.

The authorized officer shall also prepare and make available a detailed statement of sale containing:

(a) The proposed lease on a form approved by the Director with terms and conditions, including the rental, royalty rates, bond amount, and special stipulations for the particular tract;

(b) An explanation of the manner in which bids may be submitted;

(c) A notice that each bid shall be accompanied by the bidder's qualifications (See Part 3502) and one-fifth of the amount bid;

(d) A notice that the successful bidder(s) shall be required, prior to lease issuance, to pay their proportionate share of the total cost of the publication of the sale notice;

(e) A warning to all bidders concerning 18 U.S.C. 1860 which prohibits unlawful combination or intimidation of bidders;

(f) A statement that the Secretary reserves the right to reject any and all bids, and the right to offer the lease to the next qualified bidder if the successful bidder fails to obtain the lease for any reason; and,

(g) Any other information deemed appropriate.

§ 3515.4 Bid opening.

All bids shall be opened and announced at the time and date specified in the notice of lease sale, but no bids shall be accepted or rejected at that time. Bids received after the time specified in the notice of sale shall not be considered. A bid may be withdrawn or modified prior to the time specified in the notice of sale.

§ 3515.5 Award of lease.

After the authorized officer has determined that the highest qualified bid meets or exceeds fair market value, copies of the lease on the form attached to the detailed statement shall be sent to the successful bidder who shall, within a specified time, sign and return the lease form, pay the balance of the bonus bid, pay the first year's rental, pay the publication costs and furnish the required lease bond.

§ 3515.6 Rejection of bid.

(a) If the high bid is rejected for failure of the successful bidder to sign the lease form and pay the balance of the bonus bid, or otherwise comply with the regulations of this subpart, the one-fifth bonus accompanying the bid shall be forfeited to the United States.

(b) If the lease cannot be awarded for reasons determined by the authorized officer to be beyond the control of the successful bidder, the authorized officer shall reject the bid and the deposit submitted with the bid shall be returned.

Subpart 3516—Noncompetitive Leasing—Fringe Acreage Leases and Lease Modifications

§ 3516.1 Lands subject to lease.

Lands available for leasing which are known to contain a phosphate deposit that extends from an adjoining Federal lease or from privately held lands may be leased noncompetitively either by a issuance of a new lease for these lands or by adding such lands to an existing Federal lease.

§ 3516.2 Special requirements.

Before a fringe acreage lease may be issued or a lease modified under this subpart, the authorized officer shall determine the following:

(a) The lands are contiguous to an existing Federal lease or to non-Federal lands owned or controlled by the applicant;

(b)(1) The new lease for the fringe acreage is not in excess of 2,560 acres; or

(2) The acreage of the modified lease, including additional lands, is not in excess of 2,560 acres;

(c) The mineral deposit is not in an area of competitive interest to holders of other active phosphate mining units in the area;

(d) The lands applied for lack sufficient reserves of the mineral resource to warrant independent development; and

(e) Leasing the lands will result in conservation of natural resources and will provide for economical and efficient recovery as part of a mining unit.

§ 3516.3 Filing requirements.

(a) An application shall be filed in triplicate with the proper BLM office. No specific application form is required.

(b) The application shall be accompanied by a nonrefundable filing fee of $25, and an advance rental payment of 25 cents per acre or fraction thereof for a new lease or at the rental rate set forth in the base lease for a modification made payable to the Department of the Interior—Bureau of Land Management. The rental payment shall not be less than $20.

(c) The application shall:

(1) Make reference to the serial number of the lease if the lands adjoin an existing Federal lease;

(2) Contain a complete and accurate description of the lands desired;

(3) Include a showing that a phosphate deposit extends from the applicant's adjoining lease or from private lands owned or controlled by the applicant; and

(4) Include proof of ownership or control of the mineral deposit in the adjoining lands if not under a Federal lease.

§ 3516.4 Surface management agency.

The surface management agency, if other than the Bureau, shall be consulted in accordance with § 3500.9 and Part 3580 of this title, as applicable.

§ 3516.5 Payment of bonus.

Prior to the issuance of a new lease or a modification of an existing lease, the applicant shall be required to pay a bonus in an amount determined by the authorized officer based on an appraisal. In no event, shall such payment be less than $1 per acre or fraction thereof.

§ 3516.6 Terms and conditions of lease.

New leases shall be issued subject to the terms and conditions set out under Subpart 3511 of this title. The terms and conditions of modified leases shall be the same as in the existing leases.

Subpart 3517—Use Permits

§ 3517.1 Use permits.

A lessee or permittee may be granted a right to use the surface of unappropriated and unentered public lands, not exceeding 80 acres, not

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included within the boundaries of a national forest if necessary for the proper extraction, treatment or removal of the mineral deposits. This provision is not applicable to National Forest System lands.

§ 3517.1–1 Applications.

Applications for permits to use additional lands shall be filed in triplicate in the proper BLM office. Each application shall be accompanied by a nonrefundable $25 filing fee and the first year's rental. The rental payment shall not be less than $20.

§ 3517.1–2 Rental.

(a) The annual rental charge for use of such lands shall not be less than $1 an acre or fraction thereof. Payment of the rental shall be made on or before the anniversary date of the permit and also shall be required on all use permits issued prior to the effective date of this section.

(b) Any use permit shall terminate if the permittee or lessee fails to pay the rental within 30 days after service of written notice thereof by the authorized officer.

§ 3517.1–3 Additional requirements.

Applications shall set forth the specific reasons why the permittee or lessee needs any additional lands for the use named, describe the lands desired in accordance with Subpart 3501 of this title and also set forth the reasons why the lands are desirable and adapted to the use named, either in point of location, topography or otherwise, and shall assure that they are unoccupied and unappropriated. The application shall also contain an agreement to pay the annual charge prescribed in the permit.

§ 3517.2 Approval.

A use permit shall be issued on a form approved by the Director and dated as of the first day of the month after its issuance unless the applicant requests, in writing, that it be dated the first day of the month of issuance.

PART 3520—SODIUM

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Subpart 3520—Sodium Leasing—General

§ 3520.0–3 Authority

Authority for leasing deposits of chlorides, sulphates, carbonates, borates, silicates or nitrates of sodium, hereinafter referred to as deposits of sodium or any sodium compound, is shown under § 3500.0–3 (a) and (c) of this title.

§ 3520.1 Leasing procedures.

The regulations in this part provide the procedures for qualified applicants to obtain rights to develop deposits of sodium or any sodium compound found on lands available for leasing. The regulations provide for this in the following manner:

(a) "Prospecting permits" allow the permittee to explore for deposits of sodium or any sodium compound.

(b) "Preference right leases" are issued to the holders of prospecting permits who demonstrate the discovery of a valuable deposit of sodium or any sodium compound under the permit and that the lands covered by the permit are chiefly valuable therefore.

(c) "Exploration licenses" allow the licensee to explore known deposits of sodium or any sodium compound to obtain data but do not grant the licensee any preference or other right to a lease.

(d) "Competitive leases" are issued for known deposits of sodium or any sodium compound and allow the lessee to mine the deposit.

(e) "Fringe acreage leases" are issued noncompetitively for known deposits of sodium or any sodium compound adjacent to existing mines on non-Federal lands which can only be mined as part of the existing mining operation.

(f) "Lease modifications" are used to add known deposits of sodium or any sodium compound to an adjacent Federal lease which contains an existing mine provided the deposits can only be mined as part of the existing mining operation.

§ 3520.2 Other applicable regulations.

§ 3520.2–1 General leasing regulations.

Part 3500 of this title contains the general regulations governing the leasing of solid minerals other than coal and oil shale and supplements, as applicable, the regulations in this part. The regulations in Part 3500 of this title include, but are not limited to, such matters as multiple mineral development, environmental review, other agency consent and consultation, and lands not available for leasing. Cross-reference to specific regulations in Part 3500 of this title is provided in this part as an aid to the reader and is not intended to limit the applicability of Part 3500 of this title only to the cross-referenced regulations.

§ 3520.2–2 Special areas.

Part 3580 of this title contains regulations specific to certain national recreation areas and to certain lands patented to the State of California, and as applicable, supplements this part. Except where specific regulations in Part 3580 of this title are applicable, the regulations in this part and Part 3500 of this title shall govern the leasing of deposits of sodium or any sodium compound in those national recreation areas and those patented lands.

§ 3520.3 Allowable acreage holdings.

No person, company, association or corporation may hold at any particular time, directly or indirectly, more than 5,120 acres under prospecting permit and lease in any 1 State, except that, where the Secretary determines pursuant to 30 U.S.C. 184(b)(2) that it is necessary to secure the economic mining of sodium compounds, holdings may equal 15,360 acres.

Subpart 3521—Lease Terms and Conditions

§ 3521.1 Applicability of lease terms and conditions.

The lease terms and conditions set out under this section apply to all leases issued or renewed under Part 3520 of this title. Each lease shall be issued on a form approved by the Director and shall be dated as of the first day of the month after its approval by the authorized officer unless the applicant requests in writing that it be dated the first day of the month in which it is approved. Each lease shall authorize, in accordance with its terms and conditions, the mining of sodium, sodium compounds and other related products, including, but not limited to, potassium and potassium compounds.

§ 3521.2 Rental and royalty.

§ 3521.2–1 Rental.

(a) Each lease shall provide for the payment of rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate of 25 cents for the first calendar year or fraction thereof, 50 cents for the second, third, fourth and fifth calendar years and $1 for each and every year thereafter. Rental is payable annually on or before January 1. The rental paid for any year shall be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

(b) If the annual rental is not timely remitted, the lessee shall be notified by the authorized officer that, unless payment is made within 30 days from receipt of such notification, action shall be taken to cancel the lease. (See § 3509.4–2)

(c) Remittances of rental shall be made in accordance with § 3503.1 of this title.

§ 3521.2–2 Production royalty.

All leases shall be conditioned upon the payment to the United States of such royalties as may be specified in the lease, which shall be fixed by the authorized officer in advance as provided under § 3503.2–1 of this title, but at not less than 2 per centum of the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market.

§ 3521.3 Duration of lease.

The lease shall be issued for an initial term of 20 years subject to a preferential right in the lessee to renew for a 10-year term at the end of the initial term and at the end of each 10-year period thereafter. (See Subpart 3528)

§ 3521.4 Bonds.

Prior to issuance of a lease under this part, the applicant shall furnish a bond in an amount to be determined by the authorized officer but not less than $5,000. (See Subpart 3504)

§ 3521.5 Special stipulations.

To insure adequate utilization and protection of the lands and their resources, leases shall contain such stipulations as may be prescribed by the authorized officer or the responsible official of the surface management agency if the surface is not under Bureau jurisdiction as described in § 3500.9 of this title. (See also Part 3580)

§ 3521.6 Other applicable regulations.

Leases issued under this part shall also be subject to the conditions set forth in other regulations, including, but not limited to, the following:

(a) Minimum annual production and minimum royalty are covered by § 3503.2–2 of this title.

(b) Suspension of operations and production and suspension of operations are covered by § 3503.3 of this title.

(c) Assignments and subleases are covered by part 3506 of this title.

(d) Cancellation and relinquishment are covered by part 3509 of this title.

(e) Exploration and mining are covered by Part 3500 of this title.

(f) Royalty management is covered by 30 CFR Chapter II, Subchapter A.

Subpart 3522—Sodium Prospecting Permits

§ 3522.1 Areas subject to prospecting.

A prospecting permit may be issued for any area of available public domain or acquired lands subject to leasing where prospecting or exploratory work is necessary to determine the existence or workability of deposits of sodium or any sodium compound. If, within the term of the permit, the permittee makes a discovery of a valuable deposit of any of these sodium compounds, and the lands are determined to be chiefly valuable therefor, the permittee is entitled to a preference right lease.

§ 3522.2 Rights conferred by issuance of prospecting permits.

A permit shall grant the permittee the exclusive right to prospect on and explore the lands to determine the existence of a valuable deposit of sodium or any sodium compound in accordance with the terms and conditions of the permit. The permittee may remove only such material as is necessary to demonstrate the existence of a valuable mineral deposit.

§ 3522.3 Application for prospecting permit.

§ 3522.3–1 Filing requirements.

(a) An application shall be filed on a form approved by the Director or an exact reproduction of that form.

(b) An application shall be filed in triplicate with the proper BLM office.

(c) The application shall be accompanied by a nonrefundable filing fee of $25, and rental for the first year at the rate of 50 cents per acre, or fraction

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thereof, made payable to the Department of the Interior—Bureau of Land Management. The rental payment shall be for the total acreage if known, and if not known, for the total acreage computed on the basis of 40 acres for each smallest subdivision. The rental payment shall not be less than $20.

§ 3522.2–2 Contents of applications.

Each application shall be typewritten, or printed plainly in ink; manually signed in ink and dated by the applicant or applicant's duly authorized attorney-in-fact, and shall contain the following:

(a) The name and address of the applicant;

(b) A statement of the applicant's qualifications and holdings. (See Subpart 3502); and

(c) A complete and accurate land description in compliance with subpart 3501 of this title. The application shall not include more than 2,560 acres in a reasonably compact form.

§ 3522.2–3 Exploration plans.

After initial review and clearance of the application, but prior to issuance of the prospecting permit, the authorized officer shall require the applicant to file an exploration plan in triplicate, reasonably designed to determine the existence or workability of the deposit. The exploration plan shall, insofar as possible, include the following:

(a) The names, addresses and telephone numbers of persons responsible for operations under the plan and to whom notices and orders are to be delivered;

(b) A brief description, including maps, of geologic, water, vegetation, and other physical factors, and the distribution, abundance, and habitat of fish and wildlife, particularly threatened and endangered species, that may be affected by the proposed operation within the area where exploration is to be conducted, and the present land use within and adjacent to the area;

(c) A narrative description showing:

(1) The method of exploration and types of equipment to be used;

(2) The measures to be taken to prevent or control fire, soil erosion, pollution of surface and ground water, pollution of air, damage to fish and wildlife or their habitat and other natural resources and hazards to public health and safety, including specific actions necessary to meet all applicable laws and regulations;

(3) The method for plugging drill holes; and,

(4) The measures to be taken for surface reclamation, which shall include as appropriate:

(i) A reclamation schedule;

(ii) The method of grading, backfilling, soil stabilization, compacting and contouring;

(iii) The method of soil preparation and fertilizer application;

(iv) The type and mixture of shrubs, trees, grasses, forbs or other vegetation to be planted; and,

(v) The method of planting, including approximate quantity and spacing.

(d) The estimated timetable for each phase of the work and for final completion of the program;

(e) Suitable topographic maps or aerial photographs showing existing bodies of surface water, topographic, cultural and drainage features and the proposed location of drill holes, trenches and roads; and,

(f) Such other data as may be required by the authorized officer.

§ 3522.2–4 Rejection of application.

Any application for a prospecting permit which does not comply with the requirements of this subpart shall be rejected. If the applicant files a new application for the same lands within 30 days of receipt of the rejection, the nonrefundable filing fee and rental payment submitted with the original application shall be applied to the new application, provided the serial number of the original application is shown on the new application. If a new application is not filed within the 30-day period, the advance rental shall be refunded. Priority for the permit shall be established as of the date the corrected application is filed.

§ 3522.4 Determination of priorities.

§ 3522.4–1 Regular filings.

Priority of application shall be determined in accordance with the time of filing.

§ 3522.4–2 Simultaneous filings.

Where more than 1 application is filed at the same time for the same lands, priority shall be determined in accordance with Subpart 1821 of this title.

§ 3522.5 Amendment to application.

An amendment to an application for a prospecting permit to include additional lands shall receive priority for such additional lands from the date of the filing of the amended application. The amended application shall be accompanied by the required advance rental. No additional filing fees are required.

§ 3522.6 Withdrawal of application.

An application for permit may be withdrawn in whole or in part before the permit is signed on behalf of the United States. Upon acceptance of the withdrawal by the authorized officer, the advance rental submitted with the application shall be refunded.

§ 3522.7 Permit bonds.

Prior to issuance of the permit, the applicant shall furnish a bond in an amount determined by the authorized officer, but not less than $1,000. (See Subpart 3504)

§ 3522.8 Terms and conditions of permit.

§ 3522.8–1 Duration of permit.

Prospecting permits are issued for a term of 2 years, and may not be extended.

§ 3522.8–2 Dating of permits.

The permit shall be dated as of the first day of the month after its approval by the authorized officer unless the applicant requests in writing that it be dated the first day of the month in which it is approved.

§ 3522.8–3 Annual rental.

Rental at the rate of 50 cents per acre or fraction thereof shall be paid annually on or before the anniversary date of the permit. The rental payment shall not be less than $20.

§ 3522.8–4 Special stipulations.

To insure adequate protection of the lands and their resources, permits shall contain such stipulations as may be prescribed by the authorized officer or the responsible official of the surface management agency if the surface is not under Bureau jurisdiction as described in § 3500.9 of this title. (See also Part 3580)

Subpart 3523—Preference Right Lease

§ 3523.1 Application for preference right lease.

§ 3523.1–1 Filing requirements.

(a) No specific application form is required.

(b) An application shall be filed in triplicate with the proper BLM office no later than 60 days after the prospecting permit expires.

(c) The application shall be accompanied by the first year's rental at the rate of 25 cents per acre or fraction thereof made payable to the Department of the Interior—Bureau of Land Management. (See Subpart 3503)

§ 3523.1–2 Contents of application.

(a) The application shall include a statement of qualifications and holdings in accordance with Subpart 3502 of this title;

(b) The application shall contain a complete and accurate description of the lands in accordance with § 3501.1 of this title. The lands shall have been included in the prospecting permit and shall not exceed 2,560 acres;

(c) The application shall be accompanied by a map(s) which shows utility systems; the location of any proposed development or mining operations and facilities incidental thereto, including the approximate locations and the extent of the areas to be used for pits, overburden and tailings; and the location of water sources or other resources which may be used in the proposed operations or facilities incidental thereto; and

(d) The application shall include a narrative statement setting forth:

(1) The anticipated scope, method and schedule of development operations, including the types of equipment to be used;

(2) The method of mining anticipated, including the best available estimate of the mining sequence and production rate to be followed; and

(3) The relationship, if any, between the mining operations anticipated on the lands applied for and existing or planned mining operations, or facilities incidental thereto, on adjacent Federal or non-Federal lands.

§ 3523.2 Review of application.

§ 3523.2–1 Preference right determination.

The authorized officer shall determine whether the permittee has discovered a valuable deposit of sodium or any sodium compound and whether the lands are chiefly valuable therefor. The determination shall be based on data furnished to the authorized officer by the permittee as required by Part 3590 of this title during the life of the permit and supplemental data submitted at the request of the authorized officer to determine the extent and character of the deposit, the anticipated mining and processing methods, the anticipated location, kind and extent of necessary surface disturbance and measures to be taken to reclaim that disturbance.

§ 3523.2–2 Surface management agency.

The surface management agency, if other than the Bureau, shall review the application for preference right lease in accordance with § 3500.9 and Part 3580 of this title, as applicable. The appropriate surface management agency may request supplemental data regarding surface disturbance and reclamation if not otherwise submitted under § 3523.1–2 of this title.

§ 3523.3 Issuance of lease.

The authorized officer shall issue a lease to the holder of a prospecting permit who shows that, within the term of the permit, a valuable deposit of sodium or any sodium compound was discovered and that the lands are chiefly valuable therefor.

§ 3523.4 Rejection of application.

(a) The authorized officer shall reject the application for a preference right lease if the authorized officer determines:

(1) That the applicant did not discover a valuable deposit of sodium and/or the lands are not chiefly valuable therefor;

(2) The applicant did not submit requested information in a timely manner; or

(3) The applicant did not otherwise comply with the requirements of this subpart.

(b) On alleging in an application facts the applicant believes to be sufficient to show entitlement to lease, a permittee shall have the right to a hearing before an Administrative Law Judge in the Office of Hearings and Appeals.

(c) At the hearing, the permittee shall have both the burden of going forward and the burden of proof by a preponderance of the evidence that a valuable deposit of sodium or any sodium compound was discovered and that the lands are chiefly valuable therefor.

Subpart 3524—Exploration License

§ 3524.0–3 Authority.

Section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)).

§ 3524.1 Exploration license.

Private parties, jointly or severally, may apply for exploration licenses to explore known, unleased deposits of sodium or any sodium compound to obtain geologic, environmental and other pertinent data concerning such deposits.

§ 3524.2 Regulations applicable.

Except as otherwise specifically provided in this subpart, the regulations pertaining to land use authorizations under Part 2920 of this title shall govern the issuance of exploration licenses.

§ 3524.3 Exploration plan.

All applications for exploration licenses shall include an exploration plan which is in full compliance with § 3522.2–3 of this title. The exploration plan, as approved, shall be attached to, and made a part of, the license.

§ 3524.4 Notice of exploration.

Applicants for exploration licenses shall be required to publish a Notice of Exploration inviting other parties to participate in exploration under the license on a pro rata cost sharing basis.

§ 3524.4–1 Contents of notice.

The Notice of Exploration prepared by the authorized officer and furnished to the applicant shall contain:

(a) The name and address of the applicant;

(b) A description of the lands;

(c) The address of the Bureau office where the exploration plan shall be available for inspection; and

(d) An invitation to the public to participate in the exploration under the license.

§ 3524.4–2 Publication and posting of notice.

(a) The applicant shall publish the Notice of Exploration once a week for 3 consecutive weeks in at least 1 newspaper of general circulation in the area where the lands are located.

(b) The authorized officer shall post the notice in the proper BLM office for 30 days.

§ 3524.4–3 Notice of participation.

Any person who seeks to participate in the exploration program shall notify the authorized officer and the applicant in writing within 30 days after posting.

§ 3524.4–4 Decision on plan and participation.

The authorized officer may issue the license naming participants and acreage covered, establishing core hole spacing and resolving any other issue necessary to minimize surface disturbance and inconsistencies between proposed exploration plans.

§ 3524.5 Submission of data.

The licensee shall furnish the authorized officer copies of all data obtained during exploration. All data shall be considered confidential and not made public until the areas involved have been leased or until the authorized officer determines that the data are not exempt from disclosure under the Freedom of Information Act, whichever occurs first.

§ 3524.6 Modification of exploration plan.

Upon application therefor, a modification of the exploration plan may be approved by the authorized officer.

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Subpart 3525—Competitive Leasing

§ 3525.1 Lands subject only to competitive leasing.

Lands available for leasing where prospecting or exploratory work is unnecessary to determine the existence or workability of valuable deposits of sodium or any sodium compound may be leased only through competitive sale to the qualified bidder who offers the highest acceptable bonus bid, except as provided in Subparts 3506 and 3526 of this title. A competitive lease sale may be initiated either through an expression of interest or on Bureau motion.

§ 3525.2 Surface management agency.

Prior to competitive lease offering, the surface management agency shall be consulted in accordance with § 3500.9 and Part 3580 of this title, as applicable.

§ 3525.3 Sale procedures.

§ 3525.3-1 Publication and posting of notice.

Prior to a lease offering, the authorized officer shall publish a notice of lease sale for at least 3 consecutive weeks in a newspaper of general circulation in the area in which the lands are situated. The notice of lease sale also shall be posted for 30 days in the public room of the proper BLM office.

§ 3525.3-2 Contents of notice.

The lease sale notice shall include:

(a) The time and place of sale;

(b) The bidding method;

(c) A description of the tract being offered;

(d) A description of the sodium deposit or any sodium compound deposit being offered;

(e) The minimum bid to be considered; and

(f) Information on where a detailed statement of the terms and conditions of the lease sale and of the proposed lease may be obtained.

§ 3525.3-3 Detailed statement.

The authorized officer shall also prepare and make available a detailed statement of sale containing:

(a) The proposed lease on a form approved by the Director with terms and conditions, including the rental, royalty rates, bond amount and special stipulations for the particular tract;

(b) An explanation of the manner in which bids may be submitted;

(c) A notice that each bid shall be accompanied by the bidder's qualifications (See Subpart 3502) and one-fifth of the amount bid;

(d) A notice that the successful bidder(s) shall be required, prior to lease issuance, to pay their proportionate share of the total cost of the publication of the sale notice;

(e) A warning to all bidders concerning 18 U.S.C. 1860 which prohibits unlawful combination or intimidation of bidders;

(f) A statement that the Secretary reserves the right to reject any and all bids, and the right to offer the lease to the next qualified bidder if the successful bidder fails to obtain the lease for any reason; and

(g) Any other information deemed appropriate.

§ 3525.4 Bid opening.

All bids shall be opened and announced at the time and date specified in the notice of lease sale, but no bids shall be accepted or rejected at that time. Bids received after the time specified in the notice of sale shall not be considered. A bid may be withdrawn or modified prior to the time specified in the notice of sale.

§ 3525.5 Award of lease.

After the authorized officer has determined that the highest qualified bid meets or exceeds fair market value, copies of the lease on the form attached to the detailed statement shall be sent to the successful bidder who shall, within a specified time, sign and return the lease form, pay the balance of the bonus bid, pay the first year's rental, pay the publication costs and furnish the required lease bond.

§ 3525.6 Rejection of bid.

(a) If the high bid is rejected for failure of the successful bidder to sign the lease form and pay the balance of the bonus bid, or otherwise comply with the regulations of this subpart, the one-fifth bonus accompanying the bid shall be forfeited to the United States.

(b) If the lease cannot be awarded for reasons determined by the authorized officer to be beyond the control of the successful bidder, the authorized officer shall reject the bid and the deposit submitted with the bid shall be returned.

Subpart 3526—Noncompetitive Leasing—Fringe Acreage Leases and Lease Modifications

§ 3526.1 Lands subject to lease.

Lands available for leasing which are known to contain a deposit of sodium or any sodium compound that extends from an adjoining Federal lease or from privately held lands may be leased noncompetitively either by issuance of a new lease for these lands or by adding such lands to an existing Federal lease.

§ 3526.2 Special requirements.

Before a fringe acreage lease may be issued or a lease modified under this subpart, the authorized officer shall determine the following:

(a) The lands are contiguous to an existing Federal lease or to non-Federal lands owned or controlled by the applicant;

(b)(1) The new lease for the fringe acreage is not in excess of 2,560 acres; or

(2) The acreage of the modified lease, including additional lands, is not in excess of 2,560 acres;

(c) The mineral deposit is not in an area of competitive interest to holders of other active mining units in the area;

(d) The lands applied for lack sufficient reserves of the mineral resource to warrant independent development; and

(e) That leasing the lands will result in conservation of natural resources and will provide for economical and efficient recovery as part of a mining unit.

§ 3526.3 Filing requirements.

(a) An application shall be filed in triplicate with proper BLM office. No specific application form is required.

(b) The application shall be accompanied by a nonrefundable filing fee of $25, and an advance rental payment of 25 cents per acre or fraction thereof for a new lease or at the rental rate set forth in the base lease for a modification made payable to the Department of the Interior—Bureau of Land Management.

(c) The application shall:

(1) Make reference to the serial number of the lease if the lands adjoin an existing Federal lease;

(2) Contain a complete and accurate description of the lands desired;

(3) Include a showing that a sodium deposit or any sodium compound deposit extends from the applicant's adjoining lease or from private lands owned or controlled by the applicant; and

(4) Include proof of ownership or control of the mineral deposit in the adjoining lands if not under a Federal lease.

§ 3526.4 Surface management agency.

The surface management agency, if other than the Bureau, shall be consulted in accordance with § 3500.9 and Part 3580 of this title.

§ 3526.5 Payment of bonus.

Prior to the issuance of a new lease or a modification of an existing lease, the applicant shall be required to pay a bonus in an amount determined by the authorized officer based on an appraisal. In no event shall such payment be less than $1 per acre or fraction thereof.

§ 3526.6 Terms and conditions of lease.

New leases shall be issued subject to the terms and conditions set out under Subpart 3521 of this title. The terms and conditions of a modified lease shall be the same as in the existing lease.

Subpart 3527—Use Permits

§ 3527.1 Use permits.

A permittee or lessee may be granted a right to use, during the life of the permit or lease, the surface of unoccupied non-mineral public lands, not to exceed 40 acres, that are not included within the boundaries of a national forest, for camp sites, refining works and other purposes connected with, if necessary to, the proper development and use of the deposits covered by the permit or lease.

§ 3527.1-1 Applications.

Applications for permits to use additional lands shall be filed in triplicate in the proper BLM office. No specific form is required. Each application shall be accompanied by a nonrefundable $25 filing fee and the first year's rental. The rental payment shall not be less than $20.

§ 3527.1-2 Rental.

(a) The annual rental charge for use of such lands shall not be less than $1 an acre or fraction thereof. Payment of the rental shall be made on or before the anniversary date of the permit and also shall be required on all use permits issued prior to the effective date of this section.

(b) Any use permit shall terminate if the permittee or lessee fails to pay the required rental within 30 days after service of written notice thereof by the authorized officer.

§ 3527.1-3 Additional requirements.

Applications shall set forth the specific reasons why the permittee or lessee needs the additional lands for the use named, describe the lands desired in accordance with Subpart 3501 of this title and also set forth the reasons why the lands are desirable and adapted to the use named, either in point of location, topography or otherwise, and shall assure that they are unoccupied and unappropriated. The application shall also contain an agreement to pay the annual charge prescribed in the permit.

§ 3527.2 Approval.

A use permit shall be issued on a form approved by the Director and dated as of the first day of the month after its issuance unless the applicant requests in writing that it be dated the first day of the month of issuance.

Subpart 3528—Lease Renewals

§ 3528.1 Applications.

An application for lease renewal shall be filed at least 90 days prior to the expiration of the lease term. No specific form is required. All applications shall be filed in triplicate in the proper BLM office together with a nonrefundable $25 filing fee and an advance rental payment of $1 per acre or fraction thereof.

§ 3528.2 Bonds.

Prior to the issuance of a renewal lease, the lessee may be required to furnish a new bond as prescribed by Subpart 3504 of this title.

§ 3528.3 Failure to apply for renewal.

If the holder of a lease fails to apply for renewal as provided in § 3528.1 of this title, the lease shall expire on the last day of the current lease term.

§ 3528.4 Lease terms and conditions.

Each lease, if renewed, shall be issued on a form approved by the Director and shall be effective the first day of the month following its approval by the authorized officer or the first day of the month following the expiration of the current lease, whichever is later, and shall otherwise be subject to the terms and conditions set forth under Subpart 3521 of this title.

PART 3530—POTASSIUM

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Authority: The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359); the Federal Land Policy and Management Act of 1976 (43 U.S.C.1701 et seq.); the Act of March 3, 1933, as amended

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(47 Stat. 1497); section 10 of the Act of August 4, 1939 (43 U.S.C. 387); the Act of October 6, 1964 (16 U.S.C. 460n et seq.); the Act of November 9, 1965 (16 U.S.C. 460q et seq.); the Act of October 2, 1968 (16 U.S.C. 90c et seq.); the Act of October 27, 1972 (16 U.S.C. 460dd et seq.); the Alaska National Interest Lands Conservation Act (16 U.S.C. 460mm–2–460mm–4); the Independent Offices Appropriations Act (31 U.S.C 9701).

Subpart 3530—Potassium Leasing—General

§ 3530.0–3 Authority.

Authority for leasing deposits of chlorides, sulphates, carbonates, borates, silicates or nitrates of potassium, hereinafter referred to as deposits of potassium or any potassium compound, is shown under § 3500.0–3 (a) and (c) of this title.

§ 3530.1 Leasing procedures.

The regulations in this part provide the procedures for qualified entities to obtain rights to develop deposits of potassium or any potassium compound found on lands available for leasing. The regulations provide for this in the following manner:

(a) "Prospecting permits" allow the permittee to explore for deposits of potassium or any potassium compound.

(b) "Preference right leases" are issued to the holders of prospecting permits who demonstrate the discovery of a valuable deposit of potassium or any potassium compound under the permit and the lands covered by the permit are chiefly valuable for potassium or any potassium compound.

(c) "Exploration licenses" allow the licensee to explore known deposits of potassium or any potassium compound to obtain data but do not grant the licensee any preference or other right to a lease.

(d) "Competitive leases" are issued for known deposits of potassium or any potassium compound and allow the lessee to mine the deposit.

(e) "Fringe acreage leases" are issued noncompetitively for known deposits of potassium or any potassium compound adjacent to existing mines on non-Federal lands which can only be mined as part of the existing mining operation.

(f) "Lease modifications" are used to add known deposits of potassium or any potassium compound to an adjacent Federal lease which contains an existing mine, provided the deposits can only be mined as part of the existing mining operation.

§ 3530.2 Other applicable regulations.

§ 3530.2–1 General leasing regulations.

Part 3500 of this title contains the general regulations governing the leasing of solid minerals other than coal and oil shale and supplements, as applicable, the regulations in this part. The Part 3500 regulations include, but are not limited to, such matters as multiple mineral development, environmental review, other agency consent and consultation, and lands not available for leasing. Cross-reference to specific regulations in Part 3500 is provided in this part as an aid to the reader and is not intended to limit the applicability of Part 3500 only to the cross-referenced regulations.

§ 3530.2–2 Special areas.

Part 3580 of this title contains regulations specific to certain national recreation areas and to certain lands patented to the State of California, and as applicable, supplements this part. Except where specific regulations in Part 3580 of this title are applicable, the regulations in this part and Part 3500 of this title shall govern the leasing of deposits of potassium or any potassium compound in those national recreation areas and those patented lands.

§ 3530.3 Allowable acreage holdings.

No person, association or corporation shall hold at any particular time, either directly or indirectly, more than 51,200 acres in permits and leases in any 1 State, except, the authorized officer may authorize additional acreage if he/she finds, upon a satisfactory showing by the applicant, that the additional acreage is needed for the economic and efficient extraction of potassium from concentrated brines in connection with the lessee's existing mining operations.

Subpart 3531—Lease Terms and Conditions

§ 3531.1 Applicability of lease terms and conditions.

The lease terms and conditions set out under this section apply to all leases issued or readjusted under Part 3530 of this title. Each lease shall be issued on a form approved by the Director and shall be dated as of the first day of the month after its approval by the authorized officer unless the applicant requests in writing that it be dated the first day of the month in which it is approved. Each lease shall authorize, in accordance with its terms and conditions, the mining of potassium, potassium compounds and other related products, including, but not limited to, sodium and sodium compounds.

§ 3531.2 Rental and royalty.

§ 3531.2–1 Rental.

(a) Each lease shall provide for the payment of rental at the rate of 25 cents per acre or fraction thereof for the first calendar year or fraction thereof, 50 cents for the second, third, fourth and fifth years and $1 for the sixth and each succeeding year during the continuance of the lease. Rental is payable annually on or before January 1. The rental paid for any year shall be credited against the first royalties that accrue under the lease during the year for which the rental was paid.

(b) If the annual rental is not timely remitted, the lessee shall be notified by the authorized officer that, unless payment is made within 30 days from receipt of such notification, action shall be taken to cancel the lease. (See § 3509.4–2)

(c) Remittances of rental shall be made in accordance with § 3503.1 of this title.

§ 3531.2–2 Production royalty.

All leases shall be conditioned upon the payment of such royalties as may be specified in the lease as fixed by the authorized officer in advance as provided under § 3503.2–1 of this title, but shall not be less than 2 per centum of the quantity or gross value of the output of potassium compounds and other related products, except sodium, at the point of shipment to market.

§ 3531.3 Duration of lease.

The lease shall be issued for an indeterminate period subject to the Secretary's right of reasonable readjustment of lease terms and conditions at the end of each 20-year period.

§ 3531.4 Readjustment.

(a) The terms and conditions of a lease are subject to reasonable readjustment at the end of each 20-year period following the effective date of the lease unless otherwise provided by law at the time of expiration of such period. Prior to the expiration of each 20-year period, the authorized officer shall transmit proposed readjusted terms and conditions to the lessee. If the authorized officer fails to transmit the proposed readjusted terms and conditions prior to the expiration of the 20-year period, the right to readjust the lease shall have been waived until the expiration of the next 20-year term.

(b) The lessee is deemed to have agreed to the readjusted terms and conditions unless, within 60 days after receiving them, the lessee files an objection to the readjusted terms or relinquishes the lease. The authorized officer shall issue a decision responding to the objections, and if the response is adverse to the lessee, the decision shall grant the right of appeal under Part 4 of this title. The effective date of the readjustment shall not be affected by the filing of objections or by the filing of a notice of appeal.

(c) Except as provided in this paragraph, the readjusted lease terms and conditions shall be effective pending the outcome of the objections of the appeal provided for in paragraph (b) of this section unless the authorized officer provides otherwise. Upon the filing of an objection or appeal, the obligation to pay any increased readjusted royalties, minimum royalties and rentals shall be suspended pending the outcome of the objection or appeal. However, any such increased royalties, minimum royalties and rentals shall accrue during the pendency of the appeal, commencing with the effective date of the readjustment. If the increased royalties, minimum royalties and rentals are sustained by the decision on the objection or on appeal, the accrued balance, plus interest at the rate specified for late payment by the Service shall be payable (See Part 3590). Pending the decision on the objection or the appeal, the royalties, minimum royalties and rentals shall be payable as specified by the lease terms and conditions in effect prior to the end of the 20-year period

§ 3531.5 Bonds.

Prior to issuance of a lease under this part, the applicant shall furnish a bond in an amount to be determined by the authorized officer but not less than $5,000. (See Subpart 3504)

§ 3531.6 Special stipulations.

To insure adequate utilization and protection of the lands and their resources, leases shall contain such stipulations as may be prescribed by the authorized officer or the responsible official of the surface management agency if the surface is not under Bureau jurisdiction.

§ 3531.7 Other applicable regulations.

Leases issued under this part shall also be subject to the conditions set forth in other regulations, including, but not limited to, the following:

(a) Minimum annual production and minimum royalty are covered by § 3503.2–2 of this title.

(b) Suspension of operations and production and suspension of operations are covered by § 3503.3 of this title.

(c) Assignments and subleases are covered by Subpart 3506 of this title.

(d) Cancellation and relinquishment are covered by Subpart 3500 of this title.

(e) Exploration and mining are covered by Part 3600 of this title.

(f) Royalty management is covered by 30 CFR Chapter II, Subchapter A.

Subpart 3532—Potassium Prospecting Permits

§ 3532.1 Areas subject to prospecting.

A prospecting permit may be issued for any area of available public domain and acquired lands subject to leasing where prospecting or exploratory work is necessary to determine the existence or workability of deposits of potassium or any potassium compound, except prospecting permits may not be issued for lands in or adjacent to Searles Lake, California. If, within the term of the permit, the permittee makes a discovery of a valuable deposit of potassium or any potassium compound, and the lands are determined to be chiefly valuable therefor, the permittee is entitled to a preference right lease.

§ 3532.2 Rights conferred by issuance of prospecting permits.

A permit shall grant the permittee the exclusive right to prospect on and explore the lands to determine the existence of a valuable deposit of potassium or any potassium compound in accordance with the terms and conditions of the permit. The permittee may remove only such material as may be necessary to demonstrate the existence of a valuable mineral deposit.

§ 3532.3 Application for prospecting permit.

§ 3532.3–1 Filing requirements.

(a) An application shall be filed on a form approved by the Director or an exact reproduction of such form.

(b) An application shall be filed in triplicate with the proper BLM office.

(c) The application shall be accompanied by a nonrefundable filing fee of $25, and rental for the first year at the rate of 50 cents per acre, or fraction thereof made payable to the Department of the Interior—Bureau of Land Management. The rental payment shall be for the total acreage if known, and if not known, for the total acreage computed on the basis of 40 acres for each smallest subdivision, but shall not be less than $20.

§ 3532.3–2 Contents of applications.

Each application shall be typewritten, or printed plainly in ink; manually signed in ink and dated by the applicant or applicant's duly authorized attorney-in-fact, and shall contain the following:

(a) The name and address of the applicant;

(b) A statement of the applicant's qualifications and holdings. (See Subpart 3502); and

(c) A complete and accurate land description in compliance with Subpart 3501 of this title. The application shall not include more than 2,560 acres in a reasonably compact form.

§ 3532.3–3 Exploration plans.

After initial review and clearance of the application, but prior to issuance of the prospecting permit, the authorized officer shall require the applicant to file an exploration plan in triplicate, reasonably designed to determine the existence or workability of the deposit. The exploration plan shall, insofar as possible, include the following:

(a) The names, addresses and telephone numbers of persons responsible for operations under the plan and to whom notices and orders are to be delivered;

(b) A brief description, including maps, of geologic, water, vegetation, and other physical factors, and the distribution, abundance and habitat of fish and wildlife, particularly threatened and endangered species, that may be affected by the proposed operation within the area where exploration is to be conducted, and the present land use within and adjacent to the area;

(c) A narrative description showing:

(1) The method of exploration and types of equipment to be used;

(2) The measures to be taken to prevent or control fire, soil erosion, pollution of surface and ground water, pollution of air, damage to fish and wildlife or their habitat and other natural resources, and hazards to public health and safety, including specific actions necessary to meet all applicable laws and regulations;

(3) The method for plugging drill holes; and

(4) The measures to be taken for surface reclamation, which shall include as appropriate:

(i) A reclamation schedule;

(ii) The method of grading, backfilling, soil stabilization, compacting and contouring;

(iii) The method of soil preparation and fertilizer application;

(iv) The type and mixture of shrubs, trees, grasses, forbs or other vegetation to be planted; and

(v) The method of planting, including approximate quantity and spacing;

(d) The estimated timetable for each phase of the work and for final completion of the program;

(e) Suitable topographic maps or aerial photographs showing existing bodies of surface water, topographic, cultural and drainage features, and the proposed location of drill holes, trenches and roads; and

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(f) Such other data as may be required by the authorized officer.

§ 3532.3-4 Rejection of application.

Any application for a prospecting permit that does not comply with the requirements of this subpart shall be rejected. If the applicant files a new application for the same lands within 30 days from receipt of the rejection, the nonrefundable filing fee and rental payment submitted with the original application shall be applied to the new application, provided the serial number of the original application is shown on the new application. If a new application is not filed within the 30-day period, the advance rental shall be refunded. Priority for the permit shall be established as of the date the corrected application is filed.

§ 3532.4 Determination of priorities.

§ 3532.4-1 Regular filings.

Priority of application shall be determined in accordance with the time of filing.

§ 3532.4-2 Simultaneous filings.

Where more than 1 application is filed at the same time for the same lands, priority shall be determined in accordance with Subpart 1821 of this title.

§ 3532.5 Amendment to application.

An amendment to an application for a prospecting permit to include additional lands shall receive priority for such additional lands from the date of the filing of the amended application. The amended application shall be accompanied by the required advance rental. No additional filing fees are required.

§ 3532.6 Withdrawal of application.

An application for permit may be withdrawn in whole or in part before the permit is signed on behalf of the United States. Upon acceptance of the withdrawal by the authorized officer, the advance rental submitted with the application shall be refunded.

§ 3532.7 Permit bonds.

Prior to issuance of the permit, the applicant shall furnish a bond in an amount determined by the authorized officer, but not less than $1,000. (See Subpart 3504)

§ 3532.8 Terms and conditions of permit.

§ 3532.8-1 Duration of permit.

Prospecting permits are issued for a term of 2 years, and may be extended for an additional 2 year period. No exploration activities other than those approved as part of an existing exploration plan shall be conducted following expiration of the initial term unless and until the permit has been extended by the authorized officer.

§ 3532.8-2 Dating of permits.

The permit shall be dated as of the first day of the month after its approval by the authorized officer unless the applicant requests in writing that it be dated the first day of the month in which it is approved.

§ 3532.8-3 Annual rental.

Rental at the rate of 50 cents per acre or fraction thereof shall be paid annually on or before the anniversary date of the permit. The rental payment shall not be less than $20.

§ 3532.8-4 Special stipulations.

To insure adequate protection of the lands and their resources, permits shall contain such stipulations as may be prescribed by the authorized officer or the responsible official of the surface management agency if the surface is not under Bureau jurisdiction as described in §3500.9 of this title. (See also Part 3580)

§ 3532.9 Prospecting permit extensions.

§ 3532.9-1 Conditions for, and duration of, extensions.

A permit may be extended for a maximum of 2 years by the authorized officer provided that:

(a) The permittee has been unable, with reasonable diligence, to determine the existence or workability of valuable deposits covered by the permit and desires to continue the prospecting or exploration program. Reasonable diligence means that, in the opinion of the authorized officer, the permittee has drilled a sufficient number of core holes on the permit area or performed other comparable prospecting to explore the permit area within the time allowed; or

(b) The permittee's failure to perform diligent prospecting activities was due to conditions beyond his/her control.

§ 3532.9-2 Application for extension.

(a) Filing requirements.

(1) No specific application form is required.

(2) Application for extension shall be filed in the proper BLM office at least 90 days prior to expiration of the permit.

(3) Applications for extension shall be accompanied by a nonrefundable filing fee of $25, and advance rental of 50 cents per acre or fraction thereof made payable to the Department of the Interior—Bureau of Land Management. The rental payment shall not be less than $20.

(b) The application for extension shall, if applicable:

(1) Demonstrate that the permittee has met the conditions for extension set forth in § 3532.9-1 of this title;

(2) Demonstrate the permittee's diligent prospecting activities; and

(3) Show how much additional time is necessary to complete prospecting work.

§ 3532.9-3 Effective date.

The permit extension shall become effective as of the date of approval.

Subpart 3533—Preference Right Lease

§ 3533.1 Application for preference right lease.

§ 3533.1-1 Filing requirements.

(a) No specific application form is required.

(b) An application shall be filed in triplicate with the proper BLM office no later than 60 days after the prospecting permit expires.

(c) The application shall be accompanied by the first year's rental at the rate of 25 cents per acre or fraction thereof made payable to the Department of the Interior—Bureau of Land Management. (See Subpart 3503)

§ 3533.1-2 Contents of application.

(a) The application shall include a statement of qualifications and holdings in accordance with Subpart 3502 of this title.

(b) The application shall contain a complete and accurate description of the lands in accordance with § 3501.1 of this title. The lands shall have been included in the prospecting permit and shall not exceed 2,560 acres.

(c) The application shall be accompanied by a map(s) which shows utility systems; the location of any proposed development or mining operations and facilities incidental thereto, including the approximate locations and the extent of the areas to be used for pits, overburden and tailings; and the location of water sources or other resources which may be used in the proposed operations or facilities incidental thereto.

(d) The application shall include a narrative statement setting forth:

(1) The anticipated scope, method and schedule of development operations, including the types of equipment to be used;

(2) The method of mining anticipated, including the best available estimate of the mining sequence and production rate to be followed; and

(3) The relationship, if any, between the mining operations anticipated on the lands applied for and existing or planned mining operations, or facilities incidental thereto, on adjacent Federal or non-Federal lands.

§ 3533.2 Review of application.

§ 3533.2-1 Preference right determination.

The authorized officer shall determine whether the permittee has discovered a valuable deposit of potassium or any potassium compound and whether the lands are chiefly valuable therefor. The determination shall be based on data furnished to the authorized officer by the permittee as required by Part 3590 of this title during the life of the permit and supplemental data submitted at the request of the authorized officer to determine the extent and character of the deposit, the anticipated mining and processing methods, the anticipated location, kind and extent of necessary surface disturbance and measures to be taken to reclaim that disturbance.

§ 3533.2-2 Surface management agency.

The surface management agency, if other than the Bureau, shall review the application for preference right lease in accordance with § 3500.9 and Part 3580 of this title, as applicable. The appropriate surface management agency may request supplemental data regarding surface disturbance and reclamation if not otherwise submitted under § 3533.1-2 of this title.

§ 3533.3 Issuance of lease.

The authorized officer shall issue a lease to the holder of a prospecting permit who shows that, within the term of the permit, a valuable deposit of potassium or any potassium compound was discovered and that the lands are chiefly valuable therefor.

§ 3533.4 Rejection of application.

(a) The authorized officer shall reject an application for a preference right lease if the authorized officer determines:

(1) That the applicant did not discover a valuable deposit of potassium and/or the lands are not chiefly valuable therefor;

(2) The applicant did not submit in a timely manner requested information; or

(3) The applicant did not otherwise comply with the requirements of this subpart.

(b) On alleging in an application facts the applicant believes to be sufficient to show entitlement to a lease, a permittee shall have the right to a hearing before an Administrative Law Judge in the Office of Hearings and Appeals.

(c) At the hearing, the permittee shall have both the burden of going forward and the burden of proof by a preponderance of the evidence that a valuable deposit of potassium or any potassium compound was discovered and that the lands are chiefly valuable therefor.

Subpart 3534—Exploration License

§ 3534.0-3 Authority.

Section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)).

§ 3534.1 Exploration license.

Private parties, jointly or severally, may apply for exploration licenses to explore known, unleased deposits of potassium or any potassium compound to obtain geologic, environmental and other pertinent data concerning such deposits.

§ 3534.2 Regulations applicable.

Except as otherwise specifically provided in this subpart, the regulations pertaining to land use authorizations under Part 2920 of this title shall govern the issuance of exploration licenses.

§ 3534.3 Exploration plan.

All applications for exploration licenses shall include an exploration plan which is in full compliance with § 3532.3-3 of this title. The exploration plan, as approved, shall be attached to, and made a part of, the license.

§ 3534.4 Notice of exploration.

Applicants for exploration licenses shall be required to publish a Notice of Exploration inviting other parties to participate in exploration under the license on a pro rata cost sharing basis.

§ 3534.4-1 Contents of notice.

The Notice of Exploration prepared by the authorized officer and furnished to the applicant shall contain:

(a) The name and address of the applicant;

(b) A description of the lands;

(c) The address of the Bureau office where the exploration plan shall be available for inspection; and

(d) An invitation to the public to participate in the exploration under the license.

§ 3534.4-2 Publication and posting of notice.

(a) The applicant shall publish the Notice of Exploration once a week for 3 consecutive weeks in at least 1 newspaper of general circulation in the area where the lands are located.

(b) The authorized officer shall post the notice in the proper BLM office for 30 days.

§ 3534.4-3 Notice of participation.

Any person who seeks to participate in the exploration program shall notify the authorized officer and the applicant in writing within 30 days after posting of the Notice of Exploration.

§ 3534.4-4 Decision on plan and participation.

The authorized officer may issue the license naming participants and acreage covered, establishing core hole spacing and resolving any other issue necessary to minimize surface disturbance and inconsistencies between proposed exploration plans.

§ 3534.5 Submission of data.

The licensee shall furnish the authorized officer copies of all data obtained during exploration. All data shall be considered confidential and not made public until the areas involved have been leased or until the authorized officer determines that the data are not exempt from disclosure under the Freedom of Information Act, whichever occurs first.

§ 3534.6 Modification of exploration plan.

Upon application therefor, a modification of the exploration plan may be approved by the authorized officer.

Subpart 3535—Competitive Leasing

§ 3535.1 Lands subject only to competitive leasing.

(a) Lands available for leasing where prospecting or exploratory work is unnecessary to determine the existence or workability of a valuable deposit of potassium or any potassium compound may be leased only through competitive sale to the qualified bidder who offers the highest acceptable bonus bid, except as provided in Parts 3508 and 3536 of this title. A competitive lease sale may be initiated either through an expression of interest or on Bureau motion.

(b) Leases may be offered for lands in or adjacent to Searles Lake, California, without regard to the quantity or quality of the potassium deposit that may be present therein.

§ 3535.2 Surface management agency.

Prior to competitive lease offering, the surface management agency shall be consulted in accordance with § 3500.9 and Part 3580 of this title, as applicable.

§ 3535.3 Sale procedures.

§ 3535.3-1 Publication and posting of notice.

Prior to a lease offering, the authorized officer shall publish a notice of lease sale for at least 3 consecutive weeks in a newspaper of general circulation in the area in which the lands are situated. The notice of lease

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sale also shall be posted for 30 days in the public room of the proper BLM office.

§ 3536.3-2 Contents of notice.

The lease sale notice shall include:

(a) The time and place of sale;

(b) The bidding method;

(c) A description of the tract being offered;

(d) A description of the deposit of potassium or any potassium compound being offered;

(e) The minimum bid to be considered; and

(f) Information on where a detailed statement of the terms and conditions of the lease sale and of the proposed lease may be obtained.

§ 3536.3-3 Detailed statement.

The authorized officer shall also prepare and make available a detailed statement of sale containing:

(a) The lease form approved by the Director with terms and conditions, including the rental, royalty rates, bond amount and special stipulations;

(b) An explanation of the manner in which bids may be submitted;

(c) A notice that each bid shall be accompanied by the bidder's qualifications (See Subpart 3508) and one-fifth of the amount bid;

(d) A notice that the successful bidder(s) shall be required, prior to lease issuance, to pay their proportionate share of the total cost of the publication of the sale notice;

(e) A warning to all bidders concerning 18 U.S.C. 1860 which prohibits unlawful combination or intimidation of bidders;

(f) A statement that the Secretary reserves the right to reject any and all bids, and the right to offer the lease to the next qualified bidder if the successful bidder fails to obtain the lease for any reason; and

(g) Any other information deemed appropriate.

§ 3536.4 Bid opening.

All bids shall be opened and announced at the time and date specified in the notice of lease sale, but no bids shall be accepted or rejected at that time. Bids received after the time specified in the notice of sale shall not be considered. A bid may be withdrawn or modified prior to the time specified in the notice of sale.

§ 3536.5 Award of lease.

After the authorized officer has determined that the highest qualified bid meets or exceeds fair market value, copies of the lease on the form attached to the detailed statement shall be sent to the successful bidder who shall, within a specified time, sign and return the lease form, pay the balance of the bonus bid, pay the first year's rental, pay the publication costs and furnish the required lease bond.

§ 3536.6 Rejection of bid.

(a) If the high bid is rejected for failure of the successful bidder to sign the lease form and pay the balance of the bonus bid, or otherwise comply with the regulations of this subpart, the one-fifth bonus accompanying the bid shall be forfeited to the United States.

(b) If the lease cannot be awarded for reasons determined by the authorized officer to be beyond the control of the successful bidder, the authorized officer shall reject the bid and the deposit submitted with the bid shall be returned.

Subpart 3536—Noncompetitive Leasing—Fringe Acreage Leases and Lease Modifications

§ 3536.1 Lands subject to lease.

Lands available for leasing which are known to contain a deposit of potassium or any potassium compound that extends from an adjoining Federal lease or from privately held lands may be leased noncompetitively either by issuance of a new lease for these lands or by adding such lands to an existing Federal lease.

§ 3536.2 Special requirements.

Before a fringe acreage lease may be issued or a lease modified under this subpart, the authorized officer shall determine the following:

(a) The lands are contiguous to an existing Federal lease or to non-Federal lands owned or controlled by the applicant;

(b)(1) The new lease for the fringe acreage is not in excess of 2,560 acres; or

(2) The acreage of the modified lease, including additional lands, is not in excess of 2,560 acres;

(c) The mineral deposit is not in an area of competitive interest to holders of other active mining units in the area;

(d) The lands applied for lack sufficient reserves of the mineral resource to warrant independent development; and

(e) That leasing the lands will result in conservation of natural resources and will provide for economical and efficient recovery as part of a mining unit.

§ 3536.3 Filing requirements.

(a) An application shall be filed in triplicate with the proper BLM office. No specific application form is required.

(b) The application shall be accompanied by a nonrefundable filing fee of $25, and an advance rental payment of 25 cents per acre or fraction thereof for a new lease or at the rental rate set forth in the base lease for a modification made payable to the Department of the Interior—Bureau of Land Management.

(c) The application shall:

(1) Make reference to the serial number of the lease if the lands adjoin an existing Federal lease;

(2) Contain a complete and accurate description of the lands desired;

(3) Include a showing that a deposit of potassium or any potassium compound extends from the applicant's adjoining lease or from private lands owned or controlled by the applicant; and

(4) Include proof of ownership or control of the mineral deposit in the adjoining lands if not under a Federal lease.

§ 3536.4 Surface management agency.

The surface management agency, if other than the Bureau, shall be consulted in accordance with § 3500.9 and Part 3580 of this title, as applicable.

§ 3536.5 Payment of bonus.

Prior to the issuance of a new lease or a modification of an existing lease, the applicant shall be required to pay a bonus in an amount determined by the authorized officer based on an appraisal. In no event shall such payment be less than $1 per acre or fraction thereof.

§ 3536.6 Terms and conditions of lease.

New leases shall be issued subject to the terms and conditions set out under Subpart 3531 of this title. The terms and conditions of a modified lease shall be the same as in the existing lease.

PART 3540—SULPHUR

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Authority: The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359); the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); the Act of March 3, 1909, as amended (47 Stat. 1487); section 10 of the Act of August 4, 1939 (43 U.S.C. 387); the Act of October 6, 1964 (16 U.S.C. 460n et seq.); the Act of November 8, 1965 (16 U.S.C. 460q et seq.); the Act of October 2, 1968 (16 U.S.C. 90c et seq.); the Act of October 27, 1972 (16 U.S.C. 460dd et seq.); the Alaska National Interest Lands Conservation Act (16 U.S.C.C 460mm–2–460mm–4); the Independent Offices Appropriations Act (31 U.S.C. 9701).

Subpart 3540—Sulphur Leasing—General

§ 3540.0-3 Authority.

Authority for leasing deposits of sulphur is shown under § 3500.0–3 (a) and (c) of this title.

§ 3540.1 Leasing procedures.

The regulations in this part provide the procedures for qualified applicants to obtain rights to develop deposits of sulphur found on public domain lands in New Mexico and Louisiana and on all acquired lands which are available for leasing. The regulations provide for this in the following manner:

(a) "Prospecting permits" allow the permittee to explore for deposits of sulphur.

(b) "Preference right leases" are issued to holders of prospecting permits who demonstrate the discovery of a valuable deposit of sulphur under the permit and demonstrate that the lands covered by the permit are chiefly valuable for sulphur.

(c) "Exploration licenses" allow the licensee to explore known deposits of sulphur to obtain data but do not grant the licensee any preference or other right to a lease.

(d) "Competitive leases" are issued for known deposits of sulphur and allow the lessee to mine the deposit.

(e) "Fringe acreage leases" are issued noncompetitively for known deposits of sulphur adjacent to existing mines on non-Federal lands which can only be mined as part of the existing mining operation.

(f) "Lease modifications" are used to add known deposits of sulphur to an adjacent Federal lease which contains an existing mine provided the deposits can only be mined as part of the existing mining operation.

§ 3540.2 Other applicable regulations.

§ 3540.2-1 General leasing regulations.

Part 3500 of this title contains the general regulations governing the leasing of solid minerals other than coal and oil shale and supplements, as applicable, the regulations in this part. The regulations in Part 3500 of this title include, but are not limited to, such matters as multiple mineral development, environmental review, other agency consent and consultation, and lands not available for leasing. Cross-reference to specific regulations in Part 3500 of this title is provided in this part as an aid to the reader and is not intended to limit the applicability of Part 3500 of this title only to the cross-referenced regulations.

§ 3540.2-2 Special areas.

Part 3580 of this title contains regulations specific to certain national recreation areas and to certain lands patented to the State of California, and as applicable, supplements this part. Except where specific regulations in Part 3580 of this title are applicable, the regulations in this part and Part 3500 of this title shall govern the leasing of sulphur in those national recreation areas and those patented lands.

§ 3540.3 Allowable acreage holdings.

No person, company, association or corporation may hold at any particular time, more than 1,920 acres in the aggregate in 3 prospecting permits and leases in any 1 State.

Subpart 3541—Lease Terms and Conditions

§ 3541.1 Applicability of lease terms and conditions.

The lease terms and conditions set out under this section apply to all leases issued or renewed under Part 3540 of this title. Each lease shall be issued on a form approved by the Director and shall be dated as of the first day of the month after its approval by the authorized officer unless the applicant requests in writing that it be dated the first day of the month in which it is approved. Each lease shall authorize, in accordance with its terms and conditions, the mining of sulphur.

§ 3541.2 Rental and royalty.

§ 3541.2-1 Rental.

(A) Each lease shall provide for the payment of rental annually and in advance during the continuance of the lease at the rate of 50 cents per acre or fraction thereof. The rental for any year shall be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

(b) If the annual rental is not timely remitted, the lessee shall be notified by the authorized officer that, unless payment is made within 30 days from receipt of such notification, action shall be taken to cancel the lease. (See § 3509.4–2)

(c) Rental remittances shall be made in accordance with § 3503.1 of this title.

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§ 3541.2-2 Production royalty.

All leases shall be conditioned upon the payment to the United States of a royalty of 5 percent of the quantity or gross value of the output of sulphur at the point of shipment to market.

§ 3541.3 Duration of lease.

The lease shall be issued for an initial term of 20 years subject to a preferential right in the lessee to renew for a 10-year term at the end of the initial term and at the end of each 10-year period thereafter. (See Subpart 3547)

§ 3541.4 Bonds.

Prior to issuance of a lease, the applicant shall be required to furnish a bond in an amount to be determined by the authorized officer but not less than $5,000. (See Subpart 3504)

§ 3541.5 Special stipulations.

To insure adequate utilization and protection of the lands and their resources, leases shall contain such stipulations as may be prescribed by the authorized officer or the responsible official of the surface management agency if the surface is not under Bureau jurisdiction as described in § 3500.9 of this title. (See also Part 3580)

§ 3541.6 Other applicable regulations.

Leases issued under this part shall also be subject to the conditions set forth in other regulations, including, but not limited to, the following:

(a) Minimum annual production and minimum royalty are covered by § 3503.2-2 of this title.

(b) Suspension of operations and production and suspension of operations are covered by § 3503.3 of this title.

(c) Assignments and subleases are covered by Subpart 3506 of this title.

(d) Cancellation and relinquishment are covered by Subpart 3509 of this title.

(e) Exploration and mining are covered by Part 3580 of this title.

(f) Royalty management is covered by 30 CFR Chapter II, Subchapter A.

Subpart 3542—Sulphur Prospecting Permits

§ 3542.1 Areas subject to prospecting.

A prospecting permit may be issued for any area of available public domain lands in Louisiana and New Mexico and any acquired lands subject to leasing where prospecting or exploratory work is necessary to determine the existence or workability of sulphur deposits. If, within the term of the permit, the permittee makes a discovery of a valuable deposit of sulphur and the lands are determined to be chiefly valuable therefor, the permittee is entitled to a preference right lease.

§ 3542.2 Rights conferred by issuance of prospecting permits.

A permit shall grant the permittee the exclusive right to prospect on and explore the lands to determine the existence of a valuable deposit of sulphur in accordance with the terms and conditions of the permit. The permittee may remove only such material as is necessary to demonstrate the existence of a valuable mineral deposit.

§ 3542.3 Application for prospecting permit.

§ 3542.3-1 Filing requirements.

(a) An application shall be filed on a form approved by the Director or an exact reproduction of such form.

(b) An application shall be filed in triplicate with the proper BLM office.

(c) The application shall be accompanied by a nonrefundable filing fee of $25, and rental for the first year at the rate of 50 cents per acre, or fraction thereof made payable to the Department of the Interior—Bureau of Land Management. The rental payment shall be for the total acreage if known, and if not known, for the total acreage computed on the basis of 40 acres for each smallest subdivision. The rental payment shall not be less than $20.

§ 3542.3-2 Contents of applications.

Each application shall be typewritten, or printed plainly in ink; manually signed in ink and dated by the applicant or applicant's duly authorized attorney-in-fact, and shall contain the following:

(a) The name and address of the applicant;

(b) A statement of the applicant's qualifications and holdings. (See Subpart 3502); and

(c) A complete and accurate land description in compliance with subpart 3501 of this title. The application shall not include more than 640 acres in a reasonably compact form.

§ 3542.3-3 Exploration plans.

After initial review and clearance of the application, but prior to approval of the prospecting permit, the authorized officer shall require the applicant to file an exploration plan in triplicate, reasonably designed to determine the existence or workability of the deposit. The exploration plan shall, insofar as possible, include the following:

(a) The names, addresses and telephone numbers of persons responsible for operations under the plan and to whom notices and orders are to be delivered;

(b) A brief description, including maps, of geologic, water, vegetation, and other physical factors, and the distribution, abundance and habitat of fish and wildlife, particularly threatened and endangered species, that may be affected by the proposed operation within the area where exploration is to be conducted, and the present land use within and adjacent to the area;

(c) A narrative description showing:

(1) The method of exploration and types of equipment to be used;

(2) The measures to be taken to prevent or control fire, soil erosion, pollution of surface and ground water, pollution of air, damage to fish and wildlife or their habitat and other natural resources, and hazards to public health and safety, including specific actions necessary to meet all applicable laws and regulations;

(3) The method for plugging drill holes; and,

(4) The measures to be taken for surface reclamation, which shall include as appropriate:

(i) A reclamation schedule;

(ii) The method of grading, backfilling, soil stabilization, compacting and contouring;

(iii) The method of soil preparation and fertilizer application;

(iv) The type and mixture of shrubs, trees, grasses, forbs or other vegetation to be planted; and

(v) The method of planting, including approximate quantity and spacing;

(d) The estimated timetable for each phase of the work and for final completion of the program;

(e) Suitable topographic maps or aerial photographs showing existing bodies of surface water, topographic, cultural and drainage features, and the proposed location of drill holes, trenches and roads; and

(f) Such other data as may be required by the authorized officer.

§ 3542.3-4 Rejection of application.

Any application for a prospecting permit that does not comply with the requirements of this subpart shall be rejected. If the applicant files a new application for the same lands within 30 days of receipt of the rejection, the nonrefundable filing fee and rental payment submitted with the original application shall be applied to the new application, provided the serial number of the original application is shown on the new application. If a new application is not filed within the 30-day period, the advance rental shall be refunded. Priority for the permit shall be established as of the date the corrected application is filed.

§ 3542.4 Determination of priorities.

§ 3542.4-1 Regular filings.

Priority of application shall be determined in accordance with the time of filing.

§ 3542.4-2 Simultaneous filings.

Where more than 1 application is filed at the same time for the same lands priority shall be determined in accordance with Subpart 1821 of this title.

§ 3542.5 Amendment to application.

An amendment to an application for a prospecting permit to include additional lands, not to exceed 640 acres in total, will receive priority for such additional lands from the date of the filing of the amended application. The amended application shall be accompanied by the required advance rental. No additional filing fees are required.

§ 3542.6 Withdrawal of application.

An application for permit may be withdrawn in whole or in part before the permit is signed on behalf of the United States. Upon acceptance of the withdrawal, the advance rental submitted with the application shall be refunded.

§ 3542.7 Permit bonds.

Prior to issuance of the permit, the applicant shall furnish a bond in an amount determined by the authorized officer, but not less than $1,000. (See Subpart 3504)

§ 3542.8 Terms and conditions of permit.

§ 3542.8-1 Duration of permit.

Prospecting permits are issued for a term of 2 years, and may not be extended.

§ 3542.8-2 Dating of permits.

The permit shall be dated as of the first day of the month after its approval by the authorized officer unless the applicant requests in writing that it be dated the first day of the month in which it is approved.

§ 3542.8-3 Annual rental.

Rental at the rate of 50 cents per acre or fraction thereof shall be paid annually on or before the anniversary date of the permit. The rental payment shall not be less than $20.

§ 3542.8-4 Special stipulations.

To insure adequate protection of the lands and their resources, permits shall contain such stipulations as may be prescribed by the authorized officer or the responsible official of the surface management agency if the surface is not under Bureau jurisdiction as described in § 3500.9 of this title. (See Part 3580)

Subpart 3543—Preference Right Lease

§ 3543.1 Application for preference right lease.

§ 3543.1-1 Filing requirements.

(a) No specific application form is required.

(b) An application shall be filed in triplicate with the proper BLM office no later than 60 days after the prospecting permit expires.

(c) The application shall be accompanied by the first years' rental at the rate of 50 cents per acre or fraction thereof made payable to the Department of the Interior—Bureau of Land Management. (See Subpart 3503)

§ 3543.1-2 Contents of application.

(a) The application shall include a statement of qualifications and holdings in accordance with Subpart 3502 of this title.

(b) The application shall contain a complete and accurate description of the lands in accordance with § 3501.1 of this title. The lands shall have been included in the prospecting permit and shall not exceed 640 acres.

(c) The application shall be accompanied by a map(s) which shows utility systems; the location of any proposed development or mining operations and facilities incidental thereto, including the approximate locations and the extent of the areas to be used for pits, overburden and tailings; and the location of water sources or other resources which may be used in the proposed operations or facilities incidental thereto.

(d) The application shall include a narrative statement setting forth:

(1) The anticipated scope, method and schedule of development operations, including the types of equipment to be used;

(2) The method of mining anticipated, including the best available estimate of the mining sequence and production rate to be followed; and

(3) The relationship, if any, between the mining operations anticipated on the lands applied for and existing or planned mining operations, or facilities incidental thereto, on adjacent Federal or non-Federal lands.

§ 3543.2 Review of application.

§ 3543.2-1 Preference right determination.

The authorized officer shall determine whether the permittee has discovered a valuable deposit of sulphur and whether the lands are chiefly valuable therefor. The determination shall be based on data furnished to the authorized officer by the permittee as required by Part 3590 of this title during the life of the permit and supplemental data submitted at the request of the authorized officer to determine the extent and character of the deposit, the anticipated mining and processing methods, the anticipated location, kind and extent of necessary surface disturbance and measures to be taken to reclaim that disturbance.

§ 3543.2-2 Surface management agency.

The surface management agency, if other than the Bureau, shall review the application for preference right lease in accordance with § 3500.9 and Part 3560 of this title, as applicable. The appropriate surface management agency may request supplemental data regarding surface disturbance and reclamation if not otherwise submitted under § 3543.1-2 of this title.

§ 3543.3 Issuance of lease.

The authorized officer shall issue a lease to the holder of a prospecting permit who shows that, within the term of the permit, a valuable deposit of sulphur was discovered and that the lands are chiefly valuable therefor.

§ 3543.4 Rejection of application.

(a) The authorized officer shall reject an application for a preference right lease if the authorized officer determines:

(1) That the applicant did not discover a valuable deposit of sulphur and/or the lands are not chiefly valuable therefor;

(2) The applicant did not submit in a timely manner requested information; or

(3) The applicant did not otherwise comply with the requirements of this subpart.

(b) On alleging in an application facts the applicant believes to be sufficient to show entitlement to a lease, a permittee shall have the right to a hearing before an Administrative Law Judge in the Office of Hearings and Appeals.

(c) At the hearing, the permittee shall have both the burden of going forward and the burden of proof by a preponderance of the evidence that a valuable deposit of sulphur was discovered and that the lands are chiefly valuable therefor.

Subpart 3544—Exploration License

§ 3544.0-3 Authority.

Section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)).

§ 3544.1 Exploration license.

Private parties, jointly and severally, may apply for exploration licenses to

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explore known, unleased sulphur deposits to obtain geologic, environmental, and other pertinent data concerning such deposits.

§ 3544.2 Regulations applicable.

Except as otherwise specifically provided in this subpart, the regulations pertaining to land use authorizations under Part 2920 of this title shall govern the issuance of exploration licenses.

§ 3544.3 Exploration plan.

All applications for exploration licenses shall include an exploration plan which is in full compliance with § 3542.3–3 of this title. The exploration plan, as approved, shall be attached to, and made a part of, the license.

§ 3544.4 Notice of exploration.

Applicants for exploration licenses shall be required to publish a Notice of Exploration inviting other parties to participate in exploration under the license on a pro rata cost sharing basis.

§ 3544.4–1 Contents of notice.

The Notice of Exploration prepared by the authorized officer and furnished to the applicant shall contain:

(a) The name and address of the applicant;

(b) A description of the lands;

(c) The address of the Bureau office where the exploration plan shall be available for inspection; and

(d) An invitation to the public to participate in the exploration under the license.

§ 3544.4–2 Publication and posting of notice.

(a) The applicant shall publish the Notice of Exploration once a week for 3 consecutive weeks in at least 1 newspaper of general circulation in the area where the lands are located.

(b) The authorized officer shall post the notice in the proper BLM office for 30 days.

§ 3544.4–3 Notice of participation.

Any person who seeks to participate in the exploration program shall notify the authorized officer and the applicant in writing within 30 days after posting.

§ 3544.4–4 Decision on plan and participation.

The authorized officer may issue the license naming the participants and acreage covered, establishing core hole spacing and resolving any other issue necessary to minimize surface disturbance and inconsistencies between exploration plans.

§ 3544.5 Submission of data.

The licensee shall furnish the authorized officer copies of all data obtained during exploration. All data shall be considered confidential and not made public until the areas involved have been leased or until the authorized officer determines that the data are not exempt from disclosure under the Freedom of Information Act, whichever occurs first.

§ 3544.6 Modification of exploration plan.

Upon application therefor, a modification of the exploration plan may be approved by the authorized officer.

Subpart 3545—Competitive Leasing

§ 3545.1 Lands subject only to competitive leasing.

Lands available for leasing where prospecting or exploratory work is unnecessary to determine the existence or workability of a valuable sulphur deposit may be leased only through competitive sale to the qualified bidder who offers the highest acceptable bonus bid, except as provided in Subparts 3508 and 3546 of this title. A competitive lease sale may be initiated either through an expression of interest or on Bureau motion.

§ 3545.2 Surface management agency.

Prior to competitive lease offering, the surface management agency shall be consulted in accordance with § 3500.9 and Part 3560 of this title, as applicable.

§ 3545.3 Sale procedures.

§ 3545.3–1 Publication and posting of notice.

Prior to a lease offering, the authorized officer shall publish a notice of lease sale for at least 3 consecutive weeks in a newspaper of general circulation in the area in which the lands are situated. The notice of lease sale shall be posted for 30 days in the public room of the proper BLM office.

§ 3545.3–2 Contents of notice.

The lease sale notice shall include:

(a) The time and place of sale;

(b) The bidding method;

(c) A description of the tract being offered;

(d) A description of the sulphur deposit being offered;

(e) The minimum bid to be considered; and

(f) Information on where a detailed statement of the terms and conditions of the lease sale and of the proposed lease may be obtained.

§ 3545.3–3 Detailed statement.

The authorized officer shall also prepare and make available a detailed statement of sale containing:

(a) The lease form approved by the Director with terms and conditions, including the rental, royalty rates, bond amount and special stipulations;

(b) An explanation of the manner in which bids may be submitted;

(c) A notice that each bid shall be accompanied by the bidder's qualifications (See Subpart 3502) and one-fifth of the amount bid;

(d) A notice that the successful bidder(s) shall be required, prior to lease issuance, to pay their proportionate share of the total cost of the publication of the sale notice.

(e) A warning to all bidders concerning 18 U.S.C. 1860 which prohibits unlawful combination or intimidation of bidders;

(f) A statement that the Secretary reserves the right to reject any and all bids, and the right to offer the lease to the next qualified bidder if the successful bidder fails to obtain the lease for any reason; and

(g) Any other information deemed appropriate.

§ 3545.4 Bid opening.

All bids shall be opened and announced at the time and date specified in the notice of lease sale, but no bids shall be accepted or rejected at that time. Bids received after the time specified in the notice of sale shall not be considered. A bid may be withdrawn or modified prior to the time specified in the notice of sale.

§ 3545.5 Award of lease.

After the authorized officer has determined that the highest qualified bid meets or exceeds fair market value, copies of the lease on the form attached to the detailed statement shall be sent to the successful bidder who shall, within a specified time, sign and return the lease form, pay the balance of the bonus bid, pay the first year's rental, pay the publication costs and furnish the required lease bond.

§ 3545.6 Rejection of bid.

(a) If the high bid is rejected for failure of the successful bidder to sign the lease form and pay the balance of the bonus bid, or otherwise comply with the regulations of this subpart, the one-fifth bonus accompanying the bid shall be forfeited to the United States.

(b) If the lease cannot be awarded for reasons determined by the authorized officer to be beyond the control of the successful bidder, the authorized officer shall reject the bid and the deposit submitted with the bid shall be returned.

Subpart 3546—Noncompetitive Leasing—Fringe Acreage Leases and Lease Modifications

§ 3546.1 Lands subject to lease.

Lands available for leasing which are known to contain a sulphur deposit that extends from an adjoining Federal lease or from privately held lands may be leased noncompetitively either by issuance of a new lease for these lands or by adding such lands to an existing Federal lease.

§ 3546.2 Special requirements.

Before a fringe acreage lease may be issued or a lease modified under this subpart, the authorized officer shall determine the following:

(a) The lands are contiguous to an existing Federal lease or to non-Federal lands owned or controlled by the applicant;

(b)(1) The new lease for the fringe acreage is not in excess of 640 acres; or

(2) The acreage of the modified lease, including additional lands, is not in excess of 640 acres;

(c) The mineral deposit is not in an area of competitive interest to holders of other active mining units in the area;

(d) The lands applied for lack sufficient reserves of the mineral resources to warrant independent development; and

(e) That leasing the lands will result in conservation of natural resources and will provide for economical and efficient recovery as part of a mining unit.

§ 3546.3 Filing requirements.

(a) An application shall be filed in triplicate with the proper BLM office. No specific application form is required.

(b) The application shall be accompanied by a nonrefundable filing fee of $25, and an advance rental payment of 50 cents per acre or fraction thereof for a new lease or at the rental rate set forth in the base lease for a modification made payable to the Department of the Interior—Bureau of Land Management.

(c) The application shall:

(1) Make reference to the serial number of the lease if the lands adjoin an existing Federal lease;

(2) Contain a complete and accurate description of the lands desired;

(3) Include a showing that a sulphur deposit extends from the applicant's adjoining lease or from private lands owned or controlled by the applicant; and

(4) Include proof of ownership or control of the mineral deposit in the adjoining lands if not under a Federal lease.

§ 3546.4 Surface management agency.

The surface management agency, if other than the Bureau, shall be consulted in accordance with § 3500.9 and Part 3560 of this title, as applicable.

§ 3546.5 Payment of bonus.

(a) Prior to the issuance of a new lease or a modification of an existing lease, the applicant shall be required to pay a bonus in an amount determined by the authorized officer based on an appraisal. In no event shall such payment be less than $1 per acre or fraction thereof.

§ 3546.6 Terms and conditions of lease.

New leases shall be issued subject to the terms and conditions set out under Subpart 3541 of this title. The terms and conditions of a modified lease shall be the same as in the existing lease.

Subpart 3547—Lease Renewals

§ 3547.1 Applications.

An application for lease renewal shall be filed at least 90 days prior to the expiration of the lease term. No specific form is required. All applications shall be filed in triplicate in the proper BLM office together with a nonrefundable $25 filing fee and an advance rental payment of 50 cents per acre or fraction thereof.

§ 3547.2 Bonds.

Prior to the issuance of a renewal lease, the lessee may be required to furnish a new bond as prescribed by Subpart 3504 of this title.

§ 3547.3 Failure to apply for renewal.

If the holder of a lease fails to apply for renewal as provided in § 3547.1 of this title, the lease shall expire on the last day of the current lease term.

§ 3547.4 Lease terms and conditions.

Each renewal lease shall be issued on a form approved by the Director and shall be dated effective the first day of the month following its approval by the authorized officer or the first day of the month following the expiration of the current lease, whichever is later, and shall otherwise be subject to the terms and conditions set forth under Subpart 3541 of this title.

PART 3550—"GILSONITE" (INCLUDING ALL VEIN-TYPE SOLID HYDROCARBONS)

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Authority: The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.), the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359); the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); the Independent Offices Appropriations Act (31 U.S.C. 9701).

Subpart 3550—"Gilsonite" Leasing—General

§ 3550.0–3 Authority.

(a) Authority for leasing "Gilsonite" (including all vein-type solid hydrocarbons) is shown under § 3500.0–3(a) of this title.

(b) In 1981, Congress amended the Act by including tar sand within the meaning of oil and retaining separate leasing authority for vein-type solid hydrocarbons such as "Gilsonite". Fluid and gaseous hydrocarbons are leased as oil and gas, while bedded deposits are leased either as coal, oil shale or as oil (tar sand). The leasing authority for vein-type solid hydrocarbons, hereinafter referred to as "Gilsonite", is implemented by the regulations in this part.

§ 3550.1 Leasing procedures.

The regulations in this part provide the procedures for qualified applicants to obtain rights to develop deposits of "Gilsonite", found on lands available for leasing. The regulations provide for this in the following manner:

(a) "Prospecting permits" allow the permittee to explore for deposits of "Gilsonite".

(b) "Preference right leases" are issued to holders of prospecting permits who demonstrate the discovery of a valuable deposit of "Gilsonite" under the permit.

(c) "Exploration licenses" allow the licensee to explore known deposits of "Gilsonite" to obtain data but do not grant the licensee any preference or other right to a lease.

(d) "Competitive leases" are issued for known deposits of "Gilsonite" and allow the lessee to mine the deposit.

(e) "Fringe acreage leases" are issued noncompetitively for known deposits of "Gilsonite" adjacent to existing mines on non-Federal lands which can only be mined as part of the existing mining operation.

(f) "Lease modifications" are used to add known deposits of "Gilsonite" to an adjacent Federal lease which contains an existing mine provided the deposits can only be mined as part of the existing mining operation.

§ 3550.2 Other applicable regulations.

§ 3550.2–1 General leasing regulations.

Part 3500 of this title contains the general regulations governing the leasing of solid minerals other than coal and oil shale and supplements, as applicable, the regulations in this part. The regulations in Part 3500 of this title include, but are not limited to, such matters as multiple mineral development, environmental review, other agency consent and consultation, and lands not available for leasing. Cross-reference to specific regulations in Part 3500 of this title is provided in this part as an aid to the reader and is not intended to limit the applicability of Part 3500 of this title only to the cross-referenced regulations.

§ 3550.2–2 Special areas.

Part 3580 of this title contains regulations specific to certain national recreation areas and to certain lands patented to the State of California, and, as applicable, supplements this part. Except where specific regulations in Part 3580 of this title are applicable, the regulations in this part and Part 3500 of this title shall govern the leasing of "Gilsonite" in those national recreation areas and those patented lands.

§ 3550.3 Allowable acreage holdings.

No person, company, association or corporation may hold at any particular time, directly or indirectly, more than 7,680 acres under prospecting permit and lease in any one state.

Subpart 3551—Lease Terms and Conditions

§ 3551.1 Applicability of lease terms and conditions.

The lease terms and conditions set out under this section apply to all leases issued or readjusted under Part 3550 of this title. Each lease shall be issued on a form approved by the Director and shall be dated as of the first day of the month after its approval by the authorized officer unless the applicant requests in writing that it be dated the first day of the month in which it is approved. Each lease shall authorize in accordance with its terms and conditions the mining of "Gilsonite".

§ 3551.2 Rental and royalty.

§ 3551.2–1 Rental.

(a) Each lease shall provide for the payment of rental annually and in advance at the rate of 50 cents per acre or fraction thereof. The annual rental payment shall not be less than $20. The rental paid for any year shall be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

(b) If the annual rental is not timely remitted, the lessee shall be notified by the authorized officer that, unless payment is made within 30 days from receipt of such notification, action shall be taken to cancel the lease (See § 3509.4–2).

(c) Remittances of rental shall be made in accordance with § 3503.1 of this title.

§ 3551.2–2 Production royalty.

All leases shall be conditioned upon the payment to the United States of such royalties as may be specified in the lease, which shall be fixed by the authorized officer in advance as provided under § 3503.2–1 of this title.

§ 3551.3 Duration of lease.

The lease shall be issued for 20 years and for so long thereafter as "Gilsonite" is produced in paying quantities subject to the Secretary's right of reasonable readjustment of lease terms and conditions at the end of each 20-year period.

§ 3551.4 Readjustment.

(a) The terms and conditions of a lease are subject to reasonable readjustment at the end of each 20-year period following the effective date of the lease unless otherwise provided by law at the time of expiration of such period. Prior to the expiration of each 20-year period, the authorized officer shall transmit proposed readjusted terms and conditions to the lessee. If the authorized officer fails to transmit the proposed readjusted terms and conditions prior to the expiration of the 20-year period, the right to readjust the lease shall have been waived until the expiration of the next 20-year term.

(b) The lessee is deemed to have agreed to the readjusted terms and conditions unless, within 60 days after receiving them, the lessee files an objection to the readjusted terms or relinquishes the lease. The authorized officer shall issue a decision responding to the objections, and if the response is adverse to the lessee, the decision shall grant the right of appeal under Part 4 of this title. The effective date of the readjustment shall not be affected by the filing of objections or by the filing of a notice of appeal.

(c) Except as provided in this paragraph, the readjusted lease terms and conditions shall be effective pending a response to the objections or the outcome of the appeal provided for in paragraph (b) of this section unless the authorized officer provides otherwise. Upon the filing of an objection or appeal, the obligation to pay any increased readjusted royalties, minimum royalties and rentals shall be suspended pending the outcome of the objection or appeal. However, any such increased royalties, minimum royalties and rentals shall accrue during the pendency of the objection or appeal, commencing with the effective date of the readjustment. If the increased royalties, minimum royalties and rentals are sustained by the decision on the objection or on appeal, the accrued balance, plus interest at the rate specified for late payment by the Service shall be payable (See Part 3590). Pending the decision on the objection or the appeal, the royalties, minimum royalties and rentals shall be payable as specified by the lease terms and conditions in effect prior to the end of the 20-year period.

§ 3551.5 Bonds.

Prior to issuance of a lease, the applicant shall furnish a bond in an amount to be determined by the authorized officer, but not less than $5,000 (See Subpart 3504).

§ 3551.6 Special stipulations.

To insure adequate utilization and protection of the lands and their resources, leases shall contain such stipulations as may be prescribed by the authorized officer or the responsible official of the surface management agency if the surface is not under Bureau jurisdiction as described in § 3500.9 of this title (See also Part 3580).

§ 3551.7 Other applicable regulations.

Leases issued under this part shall also be subject to conditions set forth in other regulations, including, but not limited to, the following:

(a) Minimum annual production and minimum royalty are covered by § 3503.2–2 of this title;

(b) Suspension of operations and production and suspension of operations are covered by § 3503.3 of this title;

(c) Assignments and subleases are covered by Subpart 3506 of this title;

(d) Cancellation and relinquishment are covered by Subpart 3509 of this title;

(e) Exploration and mining are covered by Part 3590 of this title; and

(f) Royalty management is covered by 30 CFR Chapter II, Subchapter A.

Subpart 3552—"Gilsonite" Prospecting Permits

§ 3552.1 Areas subject to prospecting.

A prospecting permit may be issued for any area of available public domain or acquired lands subject to leasing where prospecting or exploratory work is necessary to determine the existence or workability of "Gilsonite". Discovery of a valuable deposit of "Gilsonite" within the terms of the permit entitles the permittee to a preference right lease.

§ 3552.2 Rights conferred by issuance of prospecting permits.

A permit shall grant the permittee the exclusive right to prospect on and explore the lands to determine the existence of a valuable deposit of "Gilsonite" in accordance with the terms and conditions of the permit. The permittee may remove only such material as is necessary to demonstrate the existence of a valuable mineral deposit.

§ 3552.3 Application for prospecting permit.

§ 3552.3–1 Filing requirements.

(a) An application shall be filed on a form approved by the Director or an exact reproduction of such form.

(b) An application shall be filed in triplicate with the proper BLM office.

(c) The application shall be accompanied by a nonrefundable filing fee of $25, and rental for the first year at the rate of 50 cents per acre, or fraction thereof made payable to the Department of the Interior-Bureau of Land Management. The rental payment shall be for the total acreage if known, and if not known, for the total acreage computed on the basis of 40 acres for each smallest subdivision. The rental payment shall not be less than $20.

§ 3552.3–2 Contents of applications.

Each application shall be type-written, or printed plainly in ink; manually signed in ink and dated by the applicant or applicant's duly authorized attorney-in-fact, and shall contain the following:

(a) The name and address of the applicant;

(b) A statement of the applicant's qualifications and holdings (See subpart 3502); and

(c) A complete and accurate land description in compliance with subpart 3501 of this title. The application shall not include more than 5120 acres in a reasonably compact form.

§ 3552.3–3 Exploration plans.

After initial review and clearance of the application, but prior to issuance of the prospecting permit, the authorized officer shall require the applicant to file in triplicate, an exploration plan reasonably designed to determine the existence or workability of the deposit. The exploration plan shall, insofar as possible, include the following:

(a) The names, addresses and telephone numbers of persons responsible for operations under the plan and to whom notices and orders are to be delivered:

(b) A brief description, including maps, of geologic, water, vegetation and other physical factors, and the distribution, abundance and habitat of fish and wildlife, particularly threatened and endangered species, that may be affected by the proposed operation within the area where exploration is to be conducted, and the present land use within and adjacent to the area:

(c) A narrative description showing:

(1) The method of exploration and types of equipment to be used:

(2) The measures to be taken to prevent or control fire, soil erosion, pollution of surface and ground water, pollution of air, damage to fish and wildlife or their habitat and other natural resources and hazards to public health and safety, including specific actions necessary to meet all applicable laws and regulations:

(3) The method for plugging drill holes; and

(4) The measures to be taken for surface reclamation, which shall include as appropriate:

(i) A reclamation schedule;

(ii) The method of grading, backfilling, soil stabilization, compacting and contouring;

(iii) The method of soil preparation and fertilizer application;

(iv) The type and mixture of shrubs, trees, grasses, forbs or other vegetation to be planted; and

(v) The method of planting, including approximate quantity and spacing.

(d) The estimated timetable for each phase of the work and for final completion of the program;

(e) Suitable topographic maps or aerial photographs showing existing bodies of surface water, topographic, cultural and drainage features, and the proposed location of drill holes, trenches and roads; and

(f) Such other data as may be required by the authorized officer.

§ 3552.3–4 Rejection of application.

Any application for a prospecting permit which does not comply with the

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requirements of this subpart shall be rejected. If the applicant files a new application for the same lands within 30 days of receipt of the rejection, the nonrefundable filing fee and rental payment submitted with the original application shall be applied to the new application, provided the serial number of the original application is shown on the new application. If a new application is not filed within the 30-day period, the advance rental shall be refunded. Priority for the permit shall be established as of the date the corrected application is filed.

§ 3552.4 Determination of priorities.

§ 3552.4–1 Regular filings.

Priority of application shall be determined in accordance with the time of filing.

§ 3552.4–2 Simultaneous filings.

Where more than 1 application is filed at the same time for the same lands, priority shall be determined in accordance with Subpart 1821 of this title.

§ 3552.5 Amendment to application.

An amendment to an application for a prospecting permit to include additional lands shall receive priority for such additional lands from the date of the filing of the amended application. The amended application shall be accompanied by the required advance rental. No additional filing fees are required.

§ 3552.6 Withdrawal of application.

An application for permit may be withdrawn in whole or in part before the permit is signed on behalf of the United States. Upon acceptance of the withdrawal, the advance rental submitted with the application shall be refunded.

§ 3552.7 Permit bonds.

Prior to issuance of the permit, the applicant shall furnish a bond in an amount determined by the authorized officer, but not less than $1,000 (See Subpart 3504).

§ 3552.8 Terms and conditions of permit.

§ 3552.8–1 Duration of permit.

Prospecting permits are issued for an initial terms of 2 years, and may be extended for a period not to exceed 2 years as provided in § 3552.9 of this title. No exploration activities other than those approved as part of an existing exploration plan shall be conducted following expiration of the initial term unless and until the permit has been extended by the authorized officer.

§ 3552.8–2 Dating of permits.

The permit shall be dated as of the first day of the month after its approval by the authorized officer unless the applicant requests in writing that it be dated the first day of the month in which it is approved.

§ 3552.8–3 Annual rental.

Rental at the rate of 50 cents per acre or fraction thereof shall be paid annually on or before the anniversary date of the permit. The rental payment shall not be less than $20.

§ 3552.8–4 Special stipulations.

To insure adequate protection of the lands and their resources, permits shall contain such stipulations as may be prescribed by the authorized officer or the responsible official of the surface management agency if the surface is not under Bureau jurisdiction as described in § 3509.9 of this title (See also Part 3580).

§ 3552.9 Prospecting permit extensions.

§ 3552.9–1 Conditions for, and duration of, extensions.

A permit may be extended for a maximum of 2 years at the discretion of the authorized officer provided that:

(a) The permittee has been unable, with reasonable diligence, to determine the existence or workability of valuable deposits covered by the permit and desires to continue the prospecting or exploration program. Reasonable diligence means that, in the opinion of the authorized officer, the permittee has drilled a sufficient number of core holes on the permit area or performed other comparable prospecting to explore the permit area within the time allowed; or

(b) The permittee's failure to perform diligent prospecting activities was due to conditions beyond his/her control.

§ 3552.9–2 Application for extension.

(a) Filing requirements.

(1) No specific application form is required.

(2) Application for extension shall be filed in the proper BLM office at least 90 days prior to expiration of the permit.

(3) Application for extension shall be accompanied by a nonrefundable filing fee of $25, and advance rental of 50 cents per acre, or fraction thereof made payable to the Department of the Interior—Bureau of Land Management. The rental payment shall not be less than $20.

(b) The application for extension shall:

(1) Demonstrate that the permittee has met the conditions for extension set out in § 3552.9–1 of this title;

(2) Demonstrate the permittee's diligent prospecting activities; and

(3) Show how much additional time is necessary to complete prospecting work.

§ 3552.9–3 Effective date.

The permit extension shall become effective as of the date of approval.

Subpart 3553—Preference Right Lease

§ 3553.1 Application for preference right lease.

§ 3553.1–1 Filing requirements.

(a) No specific application form is required.

(b) An application shall be filed in triplicate with the proper BLM office no later than 60 days after the prospecting permit expires.

(c) The application shall be accompanied by the first year's rental at the rate of 50 cents per acre or fraction thereof made payable to the Department of the Interior—Bureau of Land Management. The rental payment shall not be less than $20 (see Subpart 3503).

§ 3553.1–2 Contents of application.

(a) The application shall contain a statement of qualifications and holdings in compliance with Subpart 3502 of this title.

(b) The application shall contain a complete and accurate description of the lands in accordance with § 3501.1 of this title. The lands shall have been included in the prospecting permit and shall not exceed 5,120 acres.

(c) The application shall be accompanied by a map(s) which shows utility systems, the location of any proposed development or mining operations and facilities incidental thereto, including the approximate locations and the extent of the areas to be used for pits, overburden and tailings, and the location of water sources or other resources which may be used in the proposed operations or facilities incidental thereto.

(d) The application shall include a narrative statement setting forth:

(1) The anticipated scope, method and schedule of development operations, including the types of equipment to be used;

(2) The method of mining anticipated, including the best available estimate of the mining sequence and production rate to be followed; and

(3) The relationship, if any, between the mining operations anticipated on the lands applied for and existing or planned mining operations, or facilities incidental thereto, on adjacent Federal or non-Federal lands.

§ 3553.2 Review of application.

§ 3553.2–1 Preference right determination.

The authorized officer shall determine whether the permittee has discovered a valuable deposit of "Gilsonite". The determination shall be based on the data furnished to the authorized officer by the permittee as required by Part 3590 of this title during the life of the permit and supplemental data submitted at the request of the authorized officer to determine the extent and character of the deposit, the anticipated mining and processing methods, the anticipated location, kind and extent of necessary surface disturbance and measures to be taken to reclaim that disturbance.

§ 3553.2–2 Surface management agency.

The surface management agency, if other than the Bureau, shall review the application for preference right lease in accordance with § 3509.9 and Part 3580 of this title, as applicable. The appropriate surface management agency may request supplemental data regarding surface disturbance and reclamation if not otherwise submitted under § 3553.1–2 of this title.

§ 3553.3 Issuance of lease.

The authorized officer shall issue a lease to the holder of a prospecting permit who shows that, within the term of the permit, a valuable deposit of "Gilsonite" was discovered.

§ 3553.4 Rejection of application.

(a) The authorized officer shall reject an application for a preference right lease if the authorized officer determines:

(1) That the applicant did not discover a valuable deposit of "Gilsonite";

(2) The applicant did not submit in a timely manner requested information; or

(3) The applicant did not otherwise comply with the requirements of this subpart.

(b) On alleging in an application facts sufficient to show entitlement to a lease, a permittee shall have a right to a hearing before an Administrative Law Judge in the Office of Hearings and Appeals.

(c) At the hearing, the permittee shall have both the burden of going forward and the burden of proof by a preponderance of the evidence that a valuable deposit of "Gilsonite" was discovered.

Subpart 3554—Exploration License

§ 3554.0–3 Authority.

Section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)).

§ 3554.1 Exploration License.

Private parties, jointly or severally, may apply for exploration licenses to explore known, unleased "Gilsonite" deposits to obtain geologic, environmental and other pertinent data concerning such deposits.

§ 3554.2 Regulations applicable.

Except as otherwise specifically provided in this subpart, the regulations pertaining to land use authorizations under Part 2920 of this title shall govern the issuance of exploration licenses.

§ 3554.3 Exploration plan.

All applications for exploration licenses shall include an exploration plan which is in full compliance with § 3552.8–3 of this title. The exploration plan, as approved, shall be attached to, and made a part of, the license.

§ 3554.4 Notice of exploration.

Applicants for exploration licenses shall be required to publish a Notice of Exploration inviting other parties to participate in exploration under the license on a pro rata cost sharing basis.

§ 3554.4–1 Contents of Notice.

The Notice of Exploration prepared by the authorized officer and furnished to the applicant shall contain:

(a) The name and address of the applicant;

(b) A description of the lands;

(c) The address of the Bureau office where the exploration plan shall be available for inspection; and

(d) An invitation to the public to participate in the exploration under the license.

§ 3554.4–2 Publication and posting of notice.

(a) The applicant shall publish the Notice of Exploration once a week for 3 consecutive weeks in at least 1 newspaper of general circulation in the area where the lands are located.

(b) The authorized officer shall post the notice in the proper BLM office for 30 days.

§ 3554.4–3 Notice of participation.

Any person who seeks to participate in the exploration program shall notify the authorized officer and the applicant in writing within 30 days after posting.

§ 3554.4–4 Decision on plan and participation.

The authorized officer may issue the license naming participants and acreage covered, establishing core hole spacing and resolving any other issue necessary to minimize surface disturbance and inconsistencies between proposed exploration plans.

§ 3554.5 Submission of data.

The licensee shall furnish the authorized officer copies of all data obtained during exploration. All data shall be considered confidential and not made public until the areas involved have been leased or until the authorized officer determines that the data are not exempt from disclosure under the Freedom of Information Act, whichever occurs first.

§ 3554.6 Modification of Exploration Plan.

Upon application by the participants, a modification of the exploration plan may be approved by the authorized officer.

Subpart 3555—Competitive Leasing

§ 3555.1 Lands subject only to competitive leasing.

Lands available for leasing that have surface and/or subsurface evidence to reasonably assure the existence of a valuable deposit of "Gilsonite" may be leased only through competitive sale to the qualified bidder who offers the highest acceptable bonus bid, except as provided in Subparts 3506 and 3590 of this title. A competitive lease sale may be initiated either through an expression of interest or on Bureau motion.

§ 3555.2 Surface management agency.

Prior to competitive lease offering, the surface management agency shall be consulted in accordance with § 3500.9 and Part 3580 of this title, as applicable.

§ 3555.3 Sale procedures.

§ 3555.3–1 Publication and posting of notice.

Prior to a lease offering, the authorized officer shall publish a notice of lease sale for at least 3 consecutive weeks in a newspaper of general circulation in the area in which the lands are situated. The notice of lease sale shall be posted for 30 days in the public room of the proper BLM office.

§ 3555.3–2 Contents of notice.

The lease sale notice shall include:

(a) The time and place of sale;

(b) The bidding method;

(c) A description of the tract being offered;

(d) A description of the "Gilsonite" deposit being offered;

(e) The minimum bid to be considered; and

(f) Information on where a detailed statement of the terms and conditions of the lease sale and of the proposed lease may be obtained.

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§ 3555.3-3 Detailed statement.

The authorized officer shall also prepare and make available a detailed statement of sale containing:

(a) The proposed lease on a form approved by the Director with terms and conditions including the rental, royalty rates, bond amount, and special stipulations;

(b) An explanation of the manner in which bids may be submitted;

(c) A notice that each bid shall be accompanied by the bidder's qualifications (See Part 3502) and one-fifth of the amount bid;

(d) A notice that the successful bidder(s) shall be required, prior to lease issuance, to pay its proportionate share of the total cost of the publication of the sale notice;

(e) A warning to all bidders concerning 18 U.S.C. 1860 which prohibits unlawful combination or intimidation of bidders;

(f) A statement that the Secretary reserves the right to reject any and all bids, and the right to offer the lease to the next qualified bidder if the sucessful bidder fails to obtain the lease for any reason; and,

(g) Any other information deemed appropriate.

§ 3555.4 Bid opening.

All bids shall be opened and announced at the time and date specified in the notice of lease sale, but no bids shall be accepted or rejected at that time. Bids received after the time specified in the notice of sale shall not be considered. A bid may be withdrawn or modified prior to the time specified in the notice of sale.

§ 3555.5 Award of lease.

After the authorized officer has determined that the highest qualified bid meets or exceeds fair market value, copies of the proposed lease attached to the detailed statement shall be sent to the successful bidder who shall, within a specified time, sign and return the lease form, pay the balance of the bonus bid, pay the first year's rental, pay the publication costs and furnish the required lease bond.

§ 3555.6 Rejection of bid.

(a) If the high bid is rejected for failure of the successful bidder to sign the lease form and pay the balance of the bonus bid, or otherwise comply with the regulations of this subpart, the one-fifth bonus accompanying the bid shall be forfeited to the United States.

(b) If the lease cannot be awarded for reasons determined by the authorized officer to be beyond the control of the successful bidder, the authorized officer shall reject the bid and the deposit submitted with the bid shall be returned.

Subpart 3556—Noncompetitive Leasing—Fringe Acreage Leases and Lease Modifications

§ 3556.1 Lands subject to lease.

Lands available for leasing which are known to contain a "Gilsonite" deposit that extends from an adjoining Federal lease or from privately held lands may be leased noncompetitively either by an issuance of a new lease for these lands or by adding such lands to an existing Federal lease.

§ 3556.2 Special requirements.

Before a fringe acreage lease may be issued or a lease modified under this subpart, the authorized officer shall determine the following:

(a) The lands are contiguous to an existing Federal lease or to non-Federal lands owned or controlled by the applicant;

(b)(1) The new lease for the fringe acreage is not in excess of 5120 acres; or

(2) The acreage of the modified lease, including additional lands, is not in excess of 5120 acres;

(c) The mineral deposit is not in an area of competitive interest to holders of other active mining units in the area;

(d) The lands applied for lack sufficient reserves of the mineral resource to warrant independent development; and

(e) Leasing the lands will result in conservation of natural resources and will provide for economical and efficient recovery as part of a mining unit.

§ 3556.3 Filing requirements.

(a) An application shall be filed in triplicate with the proper BLM offfice. No specific application form is required.

(b) The application shall be accompanied by a nonrefundable filing fee of $25, and an advance rental payment of 25 cents per acre or fraction thereof for a new lease or at the rental rate set forth in the base lease for a modification made payable to the Department of the Interior—Bureau of Land Management. The rental payment shall not be less than $20.

(c) The application shall:

(1) Make reference to the serial number of the lease if the lands adjoin an existing Federal lease;

(2) Contain a complete and accurate description of the lands desired;

(3) Include a showing that a "Gilsonite" deposit extends from the applicant's adjoining lease or from private lands owned or controlled by the applicant; and

(4) Include proof of ownership or control of the mineral deposit in the adjoining lands if not under a Federal lease.

§ 3556.4 Surface management agency.

The surface management agency, if other than the Bureau, shall be consulted in accordance with § 3500.9 and Part 3580 of this title, as applicable.

§ 3556.5 Payment of bonus.

Prior to the issuance of a new lease or a modification of an existing lease, the applicant shall be required to pay a bonus in an amount determined by the authorized officer based on an appraisal. In no event, shall such payment be less than $1 per acre or fraction thereof.

§ 3556.6 Terms and conditions of lease.

New leases shall be issued subject to the terms and conditions set out under Subpart 3551 of this title. The terms and conditions of modified leases shall be the same as the existing leases.

PART 3560—HARDROCK MINERALS

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Authority: The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); Reorganization Plan No. 3 of 1946 (5 U.S.C. Appendix); Section 3 of the Act of September 1, 1949 (30 U.S.C. 192c); the Act of June 30, 1960 (16 U.S.C. 508(b)); the Act of March 3, 1909, as amended (47 Stat. 1487); Section 10 of the Act of August 4, 1939 (43 U.S.C. 387); the Act of October 8, 1964 (16 U.S.C. 460n et seq.); the Act of November 2, 1965 (16 U.S.C. 460q et seq.); the Act of October 2, 1968 (16 U.S.C. 90c et seq.); the Act of October 27, 1972 (16 U.S.C. 460dd et seq.); the Alaska National Interest Lands Conservation Act (16 U.S.C. 460mm-2—460mm-4); the Independent Offices Appropriations Act (31 U.S.C. 9701).

Subpart 3560—Hardrock Minerals Leasing—General

§ 3560.0-3 Authority.

Authority for leasing hardrock minerals are shown under § 3560.0-3 (b) and (c) of this title.

§ 3560.1 Leasing procedures.

The regulations in this part provide the procedures for qualified applicants to obtain rights to develop deposits of hardrock minerals found on certain lands available for leasing. The regulations provide for this in the following manner:

(a) "Prospecting permits" allow the permittee to explore for deposits of hardrock minerals.

(b) "Preference right leases" are issued to holders of prospecting permits who demonstrate the discovery of a valuable deposit of a hardrock mineral(s) under the permit.

(c) "Competitive leases" are issued for known deposits of hardrock minerals and allow the lessee to mine the deposit.

(d) "Fringe acreage leases" are issued noncompetitively for known deposits of hardrock minerals adjacent to existing mines on non-Federal lands which can only be mined as part of the existing mining operation.

(e) "Lease modifications" are used to add known deposits of hardrock minerals to an adjacent Federal lease which contains an existing mine provided the deposits can only be mined as part of the existing mining operation.

§ 3560.2 Other applicable regulations.

§ 3560.2-1 General leasing regulations.

Part 3500 of this title contains the general regulations governing the leasing of solid minerals other than coal and oil shale and supplements, as applicable, the regulations in this part. The Part 3500 regulations include, but are not limited to, such matters as multiple mineral development, environmental review, other agency consent and consultation and lands not available for leasing. Cross-reference to specific regulations in Part 3500 is provided in this part as an aid to the reader and is not intended to limit the applicability of Part 3500 only to the cross-referenced regulations.

§ 3560.2-2 Special areas.

Part 3580 of this title contains regulations specific to certain national recreation areas and to certain lands patented to the State of California, and as applicable, supplements this part. Except where specific regulations in Part 3580 of this title are applicable, the regulations in this part and Part 3580 shall govern the leasing of hardrock minerals in those national recreation areas and those patented lands.

§ 3560.3 Lands subject to lease.

§ 3560.3-1 Department of Agriculture lands.

With the consent of the Secretary of Agriculture and subject to such conditions as he/she may prescribe, the hardrock minerals in the following lands administered by the Secretary of Agriculture are subject to lease:

(a) Lands acquired pursuant to the laws set out in Reorganization Plan No. 3 of 1946: (1) "The Act of March 4, 1917 (39 Stat. 1134; 16 U.S.C. 520); (2) Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 195, 200, 202, 205; 40 U.S.C. 401, 403a and 406); (3) The 1935 Emergency Relief Appropriations Act of April 8, 1935 (48 Stat. 115, 118); (4) Section 55 of Title I of the Act of August 24, 1935 (49 Stat. 750, 781); and, (5) The Act of July 22, 1937 (50 Stat. 522, 525, 530), as amended by the Act of July 28, 1942 (56 Stat. 725; 7 U.S.C. 1011(c) and 1018)."

(b) Lands added to the Shasta National Forest by the Act of March 19, 1948 (62 Stat. 83).

(c) Portions of Juan Jose Lobato Grant (North Lobato) and of the Anton Chica Grant (El Pueblo) in New Mexico (66 Stat. 285) described in section 1 of the Act of June 28, 1952.

(d) Public domain lands within National Forest lands in Minnesota.

(e) Lands in Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area, subject to the regulations in Subpart 3583 of this title.

§ 3560.3-2 National Park Service Recreation areas.

With the consent of the Regional Director, National Park Service, and subject to such conditions as may be prescribed by the Regional Director, the following national recreation areas administered by the National Park Service are available for leasing subject to the regulations in Subpart 3582 of this title:

(a) Lake Mead National Recreation Area;

(b) Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area;

(c) Ross Lake and Lake Chelan National Recreation Areas; and

(d) Glen Canyon National Recreation Area.

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§ 3560.3-9 White Mountains National Recreation Area—Alaska.

The lands within White Mountains National Recreation Area are available for lease subject to the regulations in Subpart 3585 of this title.

§ 3560.3-4 Lands patented to the State of California for park purposes.

The reserved hardrock minerals in certain lands patented to the State of California are available for lease subject to the regulations in Subpart 3574 of this title.

§ 3560.4 Allowable acreage holdings.

No person, company, association or corporation may hold at any particular time, directly or indirectly, more than 20,480 acres in any 1 state under prospecting permit and lease for a particular hardrock mineral or an associated group of hardrock minerals, of which not more than 10,240 acres may be held under lease. However, the authorized officer may authorize a lessee to hold an additional 10,240 acres under lease if he/she finds, upon a satisfactory showing submitted by the lessee, that such additional acreage is necessary to promote the orderly development of the mineral resource, and does not result in undue control of the mineral to be mined, removed and marketed. In any case, the aggregate chargeable acreage held under permit and lease shall not exceed 20,480 acres in any 1 state.

§ 3560.5 Identity of mineral or minerals required.

All applications under this section shall specify the mineral or minerals for which the lease or permit is sought. A permit, if granted, shall be for the mineral or minerals requested and any associated minerals. A preference right lease shall be issued for the mineral(s) specified in the permit for which a valuable deposit has been discovered and for any associated minerals. (See also Subpart 3563 and 3565)

§ 3560.6 Multiple development.

The granting of a hardrock permit or lease for the prospecting, development, or production of deposits for a specific mineral shall not preclude the issuance of other permits or leases for the same lands for deposits of other minerals with suitable stipulations for simultaneous operation. It is recognized, however, that multiple permits or leases for solid hardrock minerals on the same lands would not be compatible in most cases. For this reason, multiple permits or leases for such minerals generally shall not be issued for the same lands.

§ 3560.7 Hardrock mineral specimen collection.

The surface management agency having jurisdiction over the lands shall determine which areas and under what conditions mineral specimens may be collected for non-commercial purposes (e.g., recreation, hobby collecting, scientific or research specimens, etc), and whether an approved permit shall be required prior to entry on the lands by the collector. If such a permit is necessary, it shall be obtained from the responsible official of the surface management agency who shall have the discretionary authority to issue the permit, determine the permit fee, if any, and specify the terms and conditions of the permit.

Subpart 3561—Lease Terms and Conditions

§ 3561.1 Applicability of lease terms and conditions.

The lease terms and conditions set out under this section apply to all leases issued or renewed under Part 3560 of this title. Each lease shall be issued on a form approved by the Director and shall be dated as of the first day of the month after its approval by the authorized officer unless the applicant requests in writing that it be dated the first day of the month in which it is approved. Each lease shall authorize in accordance with its terms and conditions the mining of the hardrock mineral(s) for which the lease issued, including any associated minerals.

§ 3561.2 Rental and royalty.

§ 3561.2-1 Rental.

(a) Each lease shall provide for the payment of rental at the rate of $1 per acre or fraction thereof each year on or before the anniversary date of the lease. The rental payment shall not be less than $20. The rental paid for any year shall be credited against any royalties which may accrue under the lease during the year for which the rental was paid.

(b) If the annual rental is not timely remitted, the lessee shall be notified by the authorized officer that, unless payment is made within 30 days from receipt of such notification, action shall be taken to cancel the lease. (See § 3509.4-2)

(c) Remittances of rental shall be made in accordance with § 3503.1 of this title.

§ 3561.2-2 Production royalty.

The production royalty shall be determined by the authorized officer on a case-by-case basis as provided in § 3503.2-1 of this title. If hardrock minerals other than those specified in the issued lease should be discovered and mined by the lessee, an applicable royalty rate shall be established by the authorized officer for such mineral(s).

§ 3561.3 Duration of lease.

The lease shall be issued for a period not exceeding 20 years as determined by the authorized officer with a preference right in the lessee to renew for a term not to exceed 10 years at the end of the initial term and at the end of each 10-year period thereafter.

§ 3561.4 Bonds.

Prior to issuance of a lease under this part, the applicant shall furnish a bond in an amount to be determined by the authorized officer but not less than $5,000. (See Subpart 3504)

§ 3561.5 Special stipulations.

To insure adequate utilization and protection of the lands and their resources, leases shall contain such stipulations as may be prescribed by the authorized officer or the responsible official of the surface management agency if the surface is not under Bureau jurisdiction as described in §3500.9 of this title. (See also Part 3580).

§ 3561.6 Other applicable regulations.

Leases issued under this part shall also be subject to the conditions set forth in other regulations, including, but not limited to, the following:

(a) Minimum annual production and minimum royalty are covered by §3503.2-2 of this title.

(b) Suspension of operations and production and suspension of operations are covered by § 3503.3 of this title.

(c) Assignments and subleases are covered by Subpart 3506 of this title.

(d) Cancellation and relinquishment are covered by Subpart 3509 of this title.

(e) Exploration and mining are covered by Part 3500 of this title.

(f) Royalty management is covered by 30 CFR Chapter II, Subchapter A.

Subpart 3562—Hardrock Minerals Prospecting Permits

§ 3562.1 Areas subject to prospecting.

(A) prospecting permit may be issued for any area of available public domain and acquired lands subject to hardrock mineral leasing where prospecting or exploratory work is necessary to determine the existence or workability of a particular hardrock mineral(s). Discovery of a valuable deposit of any such mineral(s) within the term of the permit entitles the permittee to a preference right lease.

§ 3562.2 Rights conferred by issuance of prospecting permits.

A permit shall grant the permittee the exclusive right to prospect on and explore the lands to determine the existence of a valuable deposit of the mineral(s) for which the permit was issued, such right to be in accordance with the terms and conditions of the permit. The permittee may remove only such material as is necessary to demonstrate the existence of a valuable mineral deposit.

§ 3562.3 Application for prospecting permit.

§ 3562.3-1 Filing requirements.

(a) An application shall be filed on a form approved by the Director or an exact reproduction of that form.

(b) An application shall be filed in triplicate with the proper BLM office.

(c) The application shall be accompanied by a nonrefundable filing fee of $25, and rental for the first year at the rate of 50 cents per acre or fraction thereof made payable to the Department of the Interior-Bureau of Land Management. The rental payment shall be for the total acreage if known, and if not known, for the total acreage computed on the basis of 40 acres for each smallest subdivision. The rental payment shall not be less than $20.

§ 3562.3-2 Contents of applications.

Each application shall be typewritten, or printed plainly in ink; manually signed in ink and dated by the applicant or applicant's duly authorized attorney-in-fact, and shall contain the following:

(a) The name and address of the applicant;

(b) A statement of the applicant's holdings in accordance with Subpart 3502 of this title;

(c) A complete and accurate land description in compliance with subpart 3501 of this title. The application shall not include more than 2,560 acres in a reasonably compact form; and

(d) The name of mineral(s) for which the permit is sought. (See § 3560.5)

§ 3562.3-3 Exploration plans.

After initial review and clearance of the application, but prior to issuance of the prospecting permit, the authorized officer shall require the applicant to file an exploration plan in triplicate, reasonably designed to determine the existence or workability of the deposit. The exploration plan shall, insofar as possible, include the following:

(a) The names, addresses and telephone numbers of persons responsible for operations under the plan and to whom notices and orders are to be delivered;

(b) A brief description, including maps, of geologic, water, vegetation, and other physical factors, and the distribution, abundance and habitat of fish and wildlife, particularly threatened and endangered species, that may be affected by the proposed operation within the area where exploration is to be conducted, and the present land use within and adjacent to the area;

(c) A narrative description showing:

(1) The method of exploration and types of equipment to be used;

(2) The measures to be taken to prevent or control fire, soil erosion, pollution of surface and ground water, pollution of air, damage to fish and wildlife or their habitat and other natural resources, and hazards to public health and safety, including specific actions necessary to meet all applicable laws and regulations;

(3) The method for plugging drill holes; and

(4) The measures to be taken for surface reclamation, which shall include as appropriate:

(i) A reclamation schedule;

(ii) The method of grading, backfilling, soil stabilization, compacting and contouring;

(iii) The method of soil preparation and fertilizer application;

(iv) The type and mixture of shrubs, trees, grasses, forbs and other vegetation to be planted; and

(v) The method of planting, including approximate quantity and spacing;

(d) The estimated timetable for each phase of the work and for final completion of the program;

(e) Suitable topographic maps or aerial photographs showing existing bodies of surface water, topographic, cultural and drainage features, and the proposed locations of drill holes, trenches and roads; and

(f) Such other data as may be reasonably required by the authorized officer.

§ 3562.3-4 Rejection of application.

Any application for a prospecting permit that does not comply with the requirements of this subpart shall be rejected. If the applicant files a new application for the same lands within 30 days of receipt of the rejection, the nonrefundable filing fee and rental payment submitted with the original application shall be applied to the new application, provided the serial number of the original application is shown on the new application. If a new application is not filed within the 30-day period, the advance rental shall be refunded. Priority for the permit shall be established as of the date the corrected application is filed.

§ 3562.4 Determination of priorities.

§ 3562.4-1 Regular filings.

Priority of application shall be determined in accordance with the time of filing.

§ 3562.4-2 Simultaneous filings.

Where more than 1 application is filed at the same time for the same lands and for the same mineral, priority shall be determined in accordance with Subpart 1821 of this title.

§ 3562.5 Amendment to application.

An amendment to an application for a prospecting permit to include additional lands shall receive priority for such additional lands from the date of the filing of the amended application. The amended application shall be accompanied by the required advance rental. No additional filing fees are required.

§ 3562.6 Withdrawal of application.

An application for permit may be withdrawn in whole or in part before the permit is signed on behalf of the United States. Upon acceptance of the withdrawal by the authorized officer, the advance rental submitted with the application shall be refunded.

§ 3562.7 Permit bonds.

Prior to issuance of the permit, the applicant shall furnish a bond in an amount determined by the authorized officer, but not less than $1,000. (See Subpart 3504)

§ 3562.8 Terms and conditions of permit.

§ 3562.8-1 Duration of permit.

Prospecting permits are issued for an initial term of 2 years, and may be extended for a period not to exceed 4 years as provided in § 3562.9 of this title. No exploration activities other than those approved as part of an existing exploration plan shall be conducted following expiration of the initial term unless and until the permit has been extended by the authorized officer.

§ 3562.8-2 Dating of permits.

The permit shall be dated as of the first day of the month after its approval by the authorized officer unless the applicant requests in writing that it be dated the first day of the month in which it is approved.

§ 3562.8-3 Annual rental.

Rental at the rate of 50 cents per acre or fraction thereof shall be paid annually on or before the anniversary date of the permit. The rental payment shall not be less than $20.

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§ 3562.9–4 Special stipulations.

To insure adequate protection of the lands and their resources, permits shall contain such stipulations as may be prescribed by the authorized officer or the surface management agency if the surface is not under Bureau jurisdiction as described in § 3568.0. (See also Part 3580)

§ 3562.9 Prospecting permit extensions.

§ 3562.9–1 Conditions for, and duration of, extensions.

A permit may be extended for a maximum of 4 years by the authorized officer provided that:

(a) The permittee has been unable with reasonable diligence to determine the existence or workability of valuable deposits of any mineral(s) covered by the permit and desires to continue the prospecting or exploration program. Reasonable diligence means that in the opinion of the authorized officer the permittee has drilled a sufficient number of core holes on the permit area or performed other comparable prospecting to explore the permit area within the time allowed; or

(b) The permittee's failure to perform diligent prospecting activities was due to conditions beyond his/her control.

§ 3562.9–2 Application for extension.

(a)(1) An application for extension shall be filed in the proper BLM office at least 90 days prior to expiration of the permit. No specific application form is required.

(2) Applications for extension shall be accompanied by a nonrefundable filing fee of $25 and the advance rental of 50 cents per acre or fraction thereof made payable to the Department of the Interior—Bureau of Land Management. The rental payment shall not be less than $20.

(b) The application for extension shall:

(1) Demonstrate that the permittee has met the conditions for extension set forth in § 3562.9–1 of this title;

(2) Demonstrate the permittee's diligent prospecting activities; and

(3) Show how much additional time is necessary to complete prospecting work.

§ 3562.9–3 Effective date.

The permit extension shall become effective as of the date of approval.

Subpart 3563—Preference Right Lease

§ 3563.1 Application for preference right lease.

§ 3563.1–1 Filing requirements.

(a) An application shall be filed in triplicate with the proper BLM office no later than 60 days after the prospecting permit expires. No specific form is required.

(b) The application shall be accompanied by the first year's rental at the rate of $1 per acre or fraction thereof made payable to the Department of the Interior—Bureau of Land Management. The rental payment shall not be less than $20. (See Subpart 3503)

§ 3563.1–2 Contents of application.

(a) The application shall include a statement of the applicant's holdings in accordance with Subpart 3502 of this title.

(b) The application shall contain a complete and accurate description of the lands in accordance with § 3501.1 of this title. The lands shall have been included in the prospecting permit and shall not exceed 2,560 acres.

(c) The application shall identify the mineral(s) of which a valuable deposit(s) was discovered.

(d) The application shall be accompanied by a map(s) which shows utility systems; the location of any proposed development or mining operations and facilities incidental thereto, including the approximate locations and extent of the areas to be used for pits, overburden and tailings; and the location of water sources or other resources which may be used in the proposed operations or facilities incidental thereto.

(e) The application shall include a narrative statement setting forth:

(1) The anticipated scope, method and schedule of development operations, including the types of equipment to be used;

(2) The method of mining anticipated, including the best available estimate of the mining sequence and production rate to be followed; and

(3) The relationship, if any, between the mining operations anticipated on the lands applied for and existing or planned mining operations, or facilities incidental thereto, on adjacent Federal or non-Federal lands.

§ 3563.2 Review of application.

§ 3563.2–1 Preference right determination.

The authorized officer shall determine whether the permittee has discovered a valuable deposit of any mineral covered by the prospecting permit. The determination shall be based on data furnished the authorized officer by the permittee as required by Part 3590 of this title during the life of the permit and supplemental data submitted at the request of the authorized officer to determine the extent and character of the deposit, the anticipated mining and processing methods, the anticipated location, kind and extent of necessary surface disturbance and measures to be taken to reclaim that disturbance.

§ 3563.2–2 Surface management agency.

The surface management agency, if other than the Bureau, shall review the application for preference right lease in accordance with § 3500.9 and Part 3580 of this title, as applicable. The appropriate surface management agency may request supplemental data regarding surface disturbance and reclamation if not otherwise submitted under § 3563.1–2 of this title. On acquired lands administered by the Secretary of Agriculture, supplemental data in addition to that submitted under § 3563.1–2 of this title may be required. Such data will be used in the development of environmental analyses and special stipulations.

§ 3563.3 Issuance of lease.

The authorized officer shall issue a lease to the holder of a prospecting permit who shows that, within the terms of the permit, a valuable deposit of any mineral(s) covered by the prospecting permit was discovered.

§ 3563.4 Rejection of application.

(a) The authorized officer shall reject an application for a preference right lease if the authorized officer determines:

(1) That the applicant did not discover a valuable deposit of any mineral covered by the prospecting permit;

(2) The applicant did not submit in a timely manner requested information; or

(3) The applicant did not otherwise comply with the requirements of this subpart.

(b) On alleging in an application facts the applicant believes to be sufficient to show entitlement to a lease, a permittee shall have a right to a hearing before an Administrative Law Judge in the Office of Hearings and Appeals.

(c) At the hearing, the permittee shall have both the burden of going forward and the burden of proof by a preponderance of the evidence that a valuable deposit of the mineral(s) was discovered.

Subpart 3564—Competitive Leasing

§ 3564.1 Lands subject only to competitive leasing.

Lands where prospecting or exploratory work is unnecessary to determine the existence or workability of a valuable deposit of a particular hardrock mineral may be leased only through competitive sale to the qualified bidder who offers the highest acceptable bonus bid. A competitive lease sale may

be initiated either through an expression of interest or on Bureau motion.

§ 3564.2 Surface management agency.

Prior to competitive lease offering, the surface management agency, if other than the Bureau, shall be consulted in accordance with § 3500.9 and Part 3580 of this title, as applicable. (See also § 3560.3)

§ 3564.3 Sale procedures.

§ 3564.3–1 Publication and posting of notice.

Prior to a lease offering, the authorized officer shall publish a notice of lease sale for at least 3 consecutive weeks in a newspaper of general circulation in the area in which the lands are situated. The notice of lease sale shall be posted for 30 days in the public room of the proper BLM office.

§ 3564.3–2 Contents of notice.

The lease sale notice shall include:

(a) The time and place of sale;

(b) The bidding method;

(c) A description of the tract being offered;

(d) A description of the mineral deposit being offered;

(e) The minimum bid to be considered; and

(f) Information on where a detailed statement of the terms and conditions of the lease sale and of the proposed lease may be obtained.

§ 3564.3–3 Detailed statement.

The authorized officer shall also prepare and make available a detailed statement of sale containing:

(a) The proposed lease on a form approved by the Director with terms and conditions, including the rental, royalty rates, bond amount and special stipulations;

(b) An explanation of the manner in which bids may be submitted;

(c) A notice that each bid shall be accompanied by the bidder's statement of holdings (See Subpart 3502) and one-fifth of the amount bid;

(d) A notice that the successful bidder(s) shall be required, prior to lease issuance, to pay his/her proportionate share of the total cost of the publication of the sale notice;

(e) A warning to all bidders concerning 18 U.S.C. 1860 which prohibits unlawful combination or intimidation of bidders;

(f) A statement that the Secretary reserves the right to reject any and all bids, and the right to offer the lease to the next qualified bidder if the successful bidder fails to obtain the lease for any reason; and

(g) Any other information deemed appropriate.

§ 3564.4 Bid opening.

All bids shall be opened and announced at the time and date specified in the notice of lease sale, but no bids shall be accepted or rejected at that time. Bids received after the time specified in the notice of sale shall not be considered. A bid may be withdrawn or modified prior to the time specified in the notice of sale.

§ 3564.5 Award of lease.

After the authorized officer has determined that the highest qualified bid meets or exceeds fair market value, copies of the lease on the form attached to the detailed statement shall be sent to the successful bidder who shall, within a specified time, sign and return the lease form, pay the balance of the bonus bid, pay the first year's rental, pay the publication costs and furnish the required lease bond.

§ 3564.6 Rejection of bid.

(a) If the high bid is rejected for failure of the successful bidder to sign the lease form and pay the balance of the bonus bid, or otherwise comply with the regulations of this subpart, the one-fifth bonus accompanying the bid shall be forfeited to the United States.

(b) If the lease cannot be awarded for reasons determined by the authorized officer to be beyond the control of the successful bidder, the authorized officer shall reject the bid and the deposit submitted with the bid shall be returned.

Subpart 3565—Noncompetitive Leasing—Fringe Acreage Leases and Lease Modifications

§ 3565.1 Lands subject to lease.

Lands available for leasing which are known to contain a hardrock mineral deposit that extends from an adjoining Federal lease or from privately held lands may be leased noncompetitively either by issuance of a new lease for these lands or by adding such lands to an existing Federal lease.

§ 3565.2 Special requirements.

Before a fringe acreage lease may be issued or a lease modified under this subpart, the authorized officer shall determine the following:

(a) The lands are contiguous to an existing Federal lease or to non-Federal lands owned or controlled by the applicant;

(b)(1) The new lease for fringe acreage is not in excess of 2,560 acres; or

(2) The acreage of the modified lease, including additional lands, is not in excess of 2,560 acres;

(c) The mineral deposit is not in an area of competitive interest to holders of other active mining units in the area;

(d) The lands applied for lack of sufficient reserves of the mineral resource to warrant independent development; and

(e) That leasing the lands will result in conservation of natural resources and will provide for economical and efficient recovery as part of a mining unit.

§ 3565.3 Filing requirements.

(a) An application shall be filed in triplicate with the proper BLM office. No specific application form is required.

(b) The application shall be accompanied by a nonrefundable filing fee of $25 and an advance rental payment of $1 per acre or fraction thereof for a new lease or at the rental rate set forth in the base lease for a modification made payable to the Department of the Interior—Bureau of Land Management. The rental payment shall not be less than $20.

(c) The application shall:

(1) Make reference to the serial number of the lease if the land adjoin an existing Federal lease;

(2) Contain a complete and accurate description of the land desired;

(3) Include a showing that a hardrock mineral deposit extends from the applicant's adjoining lease or from private lands owned or controlled by the applicant; and

(4) Include proof of ownership or control of the mineral deposit in the adjoining lands if not under a Federal lease.

§ 3565.4 Surface management agency.

The surface management agency shall be consulted in accordance with § 3500.9 and Part 3580 of this title, as applicable. (See also § 3560.3)

§ 3565.5 Payment of bonus.

Prior to the issuance of a new lease or a modification of an existing lease, the applicant shall be required to pay a bonus in an amount determined by the authorized officer based on an appraisal. In no event shall such payment be less than $1 per acre or fraction thereof.

§ 3565.6 Terms and conditions of lease.

New leases shall be issued subject to the terms and conditions set out under Subpart 3561 of this title. The terms and conditions of a modified lease shall be the same as in the existing lease.

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Subpart 3566—Lease Renewals

§ 3566.1 Applications.

An application for lease renewal shall be filed at least 90 days prior to the expiration of the lease term. No specific form is required. All applications shall be filed in triplicate in the proper BLM office together with a nonrefundable $25 filing fee and an advance rental payment of $1 per acre or fraction thereof. The rental payment shall not be less than $20.

§ 3566.2 Bonds.

Prior to the issuance of a renewal lease, the lessee may be required to furnish a new bond as prescribed by Subpart 3504 of this title.

§ 3566.3 Failure to apply for renewal.

If the holder of a lease fails to apply for renewal as provided in § 3566.1 of this title, the lease shall expire on the last day of the lease term.

§ 3566.4 Lease terms and conditions.

Each lease, if renewed, shall be issued on a form approved by the Director and shall be dated effective the first day of the month following its approval by the authorized officer or the first day of the month following the expiration of the current lease, whichever is later, and shall otherwise be subject to the terms and conditions set forth under Subpart 3561 of this title.

Subpart 3567—Development Contracts

§ 3567.1 Development contracts and processing and milling arrangements.

Development contracts and processing and milling arrangements by 1 or more lessees with 1 or more persons, associations or corporations to justify operations on a large scale for the discovery, development, production or transportation of ores may be approved by the authorized officer without regard to the acreage limitation set forth in § 3560.4 of this title.

§ 3567.2 Acreage chargeability.

Leases and permits committed to an approved development contract or to a processing or milling arrangment shall not be included in computing accountable acreage.

§ 3567.3 Applications.

All applications shall be filed in triplicate in the proper BLM office. No specific form is required. An application shall include the following:

(a) Copies of the contract affecting the Federal leases and/or permits;

(b) A statement showing the nature and reasons for the requested contract;

(c) A statement showing all of the interests held in the contract area by the designated contractor; and

(d) The proposed or agreed upon plan of operation or development of the leased lands.

§ 3567.4 Approval.

Development contracts may be approved by the authorized officer when, in his/her judgment, conservation of natural resources or the public interest shall be best served thereby. The contract shall be signed and agreed upon by the parties prior to final approval by the Bureau.

PART 3570—ASPHALT IN OKLAHOMA

Subpart 3570—Asphalt in Oklahoma—General

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3575.1 Lands subject to lease.
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Subpart 3576—Lease Renewals

3576.1 Applications.
3576.2 Bonds.
3576.3 Failure to apply for renewal.
3576.4 Lease terms and conditions.

Authority: The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.); the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); the Independent Offices Appropriations Act (31 U.S.C. 9701).

Subpart 3570—Asphalt in Oklahoma—General

§ 3570.0-3 Authority.

Authorities for leasing asphalt in Oklahoma are cited under § 3500.0-3(a) of this title.

§ 3570.1 Leasing procedures.

The regulations in this part provide the procedures for qualified applicants to obtain rights to develop deposits of asphalt on certain lands in Oklahoma. The regulations provide for this in the following manner:

(a) "Competitive leases" are issued for deposits of asphalt in Oklahoma without regard to the quantity or quality of the mineral deposit and allow the lessee to mine the deposit.

(b) "Fringe acreage leases" are issued noncompetitively for known deposits of asphalt in Oklahoma adjacent to existing mines on non-Federal lands which can be mined only as part of the existing mining operation.

(c) "Lease modifications" are used to add known deposits of asphalt in Oklahoma to an adjacent Federal lease which contains an existing mine, provided the deposits can only be mined as part of the existing mining operation.

§ 3570.2 Minerals and lands subject to leasing.

By the Act of June 28, 1944 (58 Stat. 463, 483–485), Congress authorized the Secretary to acquire certain lands and mineral deposits in Oklahoma and amended the Act to authorize leasing of the asphalt on those lands. The lands and mineral deposits covered by the 1944 law are those reserved from allotment in accordance with the provisions of section 58 of the Supplemental Agreement of 1902 (32 Stat. 654) with the Choctaw-Chickasaw Nation of Indians. Congress ratified the purchase contract in the Act of June 24, 1948 (62 Stat. 598), and appropriated funds for the purchase in the Act of May 24, 1949 (63 Stat. 76).

§ 3570.3 Other applicable regulations.

Part 3500 of this title contains the general regulations governing the leasing of solid minerals other than coal and oil shale and supplements, as applicable, the regulations in this part. The regulations in Part 3500 of this title include, but are not limited to, such matters as multiple mineral development, environmental review, other agency consent and consultation, and lands not available for leasing. Cross-reference to specific regulations in Part 3500 of this title is provided in this part as an aid to the reader and is not intended to limit the applicability of Part 3500 of this title only to the cross-referenced regulations.

§ 3570.4 Allowable acreage holdings.

No person, company, association or corporation may hold, at any one time, either directly or indirectly, leases exceeding in the aggregate 2,560 acres.

Subpart 3571—Lease Terms and Conditions

§ 3571.1 Applicability of lease terms and conditions.

Except as otherwise specifically stated, all lease terms and conditions set out under this section apply to all leases issued under Part 3570 of this title. Each lease shall be issued on a form approved by the Director and shall be dated as of the first day of the month after its approval by the authorized officer unless the applicant requests in writing that it be dated the first day of the month in which it is approved. Each lease shall authorize in accordance with its terms and conditions the mining of asphalt.

§ 3571.2 Rental and royalty.

3571.2-1 § Rental.

(a) Each lease shall provide for the payment of rental annually and in advance for each acre or fraction thereof during the continuance of the lease at the rate of 25 cents per acre or fraction thereof for the first calendar year, 50 cents for the second, third, fourth and fifth calendar years, and $1 for each calendar year thereafter. Rental is payable annually on or before January 1. The rental paid for any year shall be credited against the first royalties as they accrue under the lease during the year for which rental was paid.

(b) If the annual rental is not timely remitted, the lessee shall be notified by the authorized officer that, unless payment is made within 30 days from receipt of such notification, action shall be taken to cancel the lease. (See § 3509.4–2).

(c) Remittances of rental shall be made in accordance with § 3503.1 of this title.

§ 3571.2–2 Production royalty.

All leases shall be conditioned upon the payment to the United States of such royalties as may be specified in the lease, which shall be fixed by the authorized officer in advance as provided under § 3503.2–1 of this title, but shall not be less than 25 cents per ton of 2,000 pounds of marketable production.

§ 3571.3 Duration of lease.

The lease shall be issued for an initial term of 20 years subject to a preferential right in the lessee to renew for a 10-year term at the end of the initial term and at the end of each 10-year period thereafter.

§ 3571.4 Bonds.

Prior to issuance of a lease, the applicant shall furnish a bond in an amount to be determined by the authorized officer, but not less than $5,000 (See Subpart 3504).

§ 3571.5 Special stipulations.

To insure adequate utilization and protection of the lands and their resources, leases shall contain such stipulations as may be prescribed by the authorized officer or the responsible official of the surface management agency if the surface is not under Bureau jurisdiction as described in § 3500.9 of this title (See also Part 3580).

§ 3571.6 Other applicable regulations.

Leases issued under this part shall also be subject to the conditions set forth in other regulations, including, but not limited to, the following:

(a) Minimum annual production and minimum royalty are covered by § 3503.2–2 of this title;

(b) Suspension of operations and production and suspension of operations are covered by § 3508.3 of this title;

(c) Assignments and subleases are covered by Subpart 3506 of this title;

(d) Cancellation and relinquishment are covered by Subpart 3509 of this title;

(e) Exploration and mining are covered by Part 3590 of this title; and

(f) Royalty management is covered by 30 CFR Chapter II, Subchapter A.

Subpart 3574—Competitive Leasing

§ 3574.1 Lease by competitive bidding.

Leases may be offered competitively under this part without regard to the quantity or quality of the mineral deposit in the lands subject to the lease. A competitive lease sale may be initiated either through an expression of interest or on Bureau motion.

§ 3574.2 Surface management agency.

Prior to competitive lease offering, the surface management agency shall be consulted in accordance with § 3500.9 of this title, as applicable.

§ 3574.3 Sale procedures.

§ 3574.3–1 Publication and posting of notice.

Prior to a lease offering, the authorized officer shall publish a notice of lease sale for at least 3 consecutive weeks in a newspaper of general circulation in the area in which the lands are situated. The notice of lease sale shall be posted for 30 days in the public room of the proper BLM office.

§ 3574.3–2 Contents of notice.

The lease sale notice shall include:

(a) The time and place of sale;

(b) The bidding method;

(c) A description of the tract being offered;

(d) A description of the deposit being offered;

(e) The minimum bid to be considered; and

(f) Information on where a detailed statement of the terms and conditions of the lease sale and of the proposed lease may be obtained.

§ 3574.3–3 Detailed statement.

The authorized officer shall also prepare and make available a detailed statement of sale containing:

(a) The proposed lease on a form approved by the Director with terms and conditions, including the rental, royalty rates, bond amount, and special stipulations;

(b) An explanation of the manner in which bids may be submitted;

(c) A notice that each bid shall be accompanied by the bidder's qualifications (See Part 3502) and one-fifth of the amount bid;

(d) A notice that the successful bidder(s) shall be required, prior to lease issuance, to pay its proportionate share of the total cost of the publication of the sale notice;

(e) A warning to all bidders concerning 18 U.S.C. 1860 which prohibits unlawful combination or intimidation of bidders;

(f) A statement that the Secretary reserves the right to reject any and all bids, and the right to offer the lease to the next qualified bidder in the successful bidder fails to obtain the lease for any reason; and,

(g) Any other information deemed appropriate.

§ 3574.4 Bid opening.

All bids shall be opened and announced at the time and date specified in the notice of lease sale, but no bids shall be accepted or rejected at that time. Bids received after the time specified in the notice of sale shall not be considered. A bid may be withdrawn or modified prior to the time specified in the notice of sale.

§ 3574.5 Award of lease.

After the authorized officer has determined that the highest qualified bid meets or exceeds fair market value,

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copies of the proposed lease attached to the detailed statement shall be sent to the successful bidder who shall, within a specified time, sign and return the lease form, pay the balance of the bonus bid, pay the first year's rental, pay the publication costs and furnish the required lease bond.

§ 3574.6 Rejection of bid.

(a) If the high bid is rejected for failure of the successful bidder to sign the lease form and pay the balance of the bonus bid, or otherwise comply with the regulations of this subpart, the one-fifth bonus accompanying the bid shall be forfeited to the United States.

(b) If the lease cannot be awarded for reasons determined by the authorized officer to be beyond the control of the successful bidder, the authorized officer shall reject the bid and the deposit submitted with the bid shall be returned.

Subpart 3575—Noncompetitive Leasing—Fringe Acreage Leases and Lease Modifications

§ 3575.1 Lands subject to lease.

Lands available for leasing which are known to contain a deposit of asphalt that extends from an adjoining Federal lease or from privately held lands may be leased noncompetitively either by issuance of a new lease for these lands or by adding such lands to an existing Federal lease.

§ 3575.2 Special requirements.

Before a fringe acreage lease may be issued or a lease modified under this subpart, the authorized officer shall determine the following:

(a) The lands are contiguous to an existing Federal lease or to non-Federal lands owned or controlled by the applicant;

(b)(1) The new lease for the fringe acreage is not in excess of 640 acres; or

(2) The acreage of the modified lease, including additional lands, is not in excess of 640 acres;

(c) The mineral deposit is not in an area of competitive interest to holders of other active mining units in the area;

(d) The lands applied for lack sufficient reserves of the mineral resource to warrant independent development; and

(e) Leasing the lands will result in conservation of natural resources and will provide for economical and efficient recovery as part of a mining unit.

§ 3575.3 Filing requirements.

(a) An application shall be filed in triplicate with the proper BLM office. No specific application form is required.

(b) The application shall be accompanied by a nonrefundable filing fee of $25, and an advance rental payment of 25 cents per acre or fraction thereof for a new lease or at the rental rate set forth in the base lease for a modification made payable to the Department of the Interior—Bureau of Land Management.

(c) The application shall:

(1) Make reference to the serial number of the lease if the lands adjoin an existing Federal lease;

(2) Contain a complete and accurate description of the lands desired;

(3) Include a showing that an asphalt deposit extends from the applicant's adjoining lease or from private lands owned or controlled by the applicant; and

(4) Include proof of ownership or control of the mineral deposit in the adjoining lands if not under a Federal lease.

§ 3575.4 Surface management agency.

The surface management agency, if other than the Bureau, shall be consulted in accordance with § 3500.9 of this title, as applicable.

§ 3575.5 Payment of bonus.

Prior to the issuance of a new lease or a modification of an existing lease, the applicant shall be required to pay a bonus in an amount determined by the authorized officer based on an appraisal. In no event, shall such payment be less than $1 per acre or fraction thereof.

§ 3575.6 Terms and conditions of lease.

New leases shall be issued subject to the terms and conditions set out under subpart 3571 of this title. The terms and conditions of modified leases shall be the same as in the existing leases.

Subpart 3576—Lease Renewals

§ 3576.1 Applications.

An application for lease renewal shall be filed at least 90 days prior to the expiration of the lease term. There is no specific form required. All applications shall be filed in triplicate in the proper BLM office together with a nonrefundable filing fee of $25 and an advance rental payment of $1 per acre or fraction thereof.

§ 3576.2 Bonds.

Prior to the issuance of a renewal lease, the lessee may be required to furnish a new bond as prescribed by Subpart 3504 of this title.

§ 3576.3 Failure to apply for renewal.

If the holder of a lease fails to apply for renewal timely, the lease shall expire on the last day of the lease term.

§ 3576.4 Lease terms and conditions.

Each renewal lease shall be issued on a form approved by the Director and shall be effective the first day of the month following its approval by the authorized officer or the first day of the month following the expiration of the current lease, whichever is later, and shall otherwise be subject to the terms and conditions set forth under Subpart 3571 of this title.

PART 3580—SPECIAL LEASING AREAS

Subpart 3581—Gold, Silver or Quicksilver in Confirmed Private Land Grants

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3581.0–3 Authority.
3581.1 Lands to which applicable.
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Subpart 3586—Sand and Gravel in Nevada

3586.1 Sand and gravel.
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3586.1–2 Existing leases.
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Authority: The Mineral Leasing Act of 1920, as amended and supplemented (30 U.S.C. 181 et seq.); the Mineral Leasing Act for Acquired Lands of 1947, as amended (30 U.S.C. 351–359); the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); the Act of June 8, 1926 (30 U.S.C. 291–293); the Act of March 3, 1909, as amended (47 Stat. 1487); Section 10 of the Act of August 4, 1939 (43 U.S.C. 387); the Act of October 8, 1964 (16 U.S.C. 460n et seq.); the Act of November 8, 1965 (16 U.S.C. 460q et seq.); the Act of October 2, 1968 (16 U.S.C. 90c et seq.), the Act of October 27, 1972 (16 U.S.C. 460dd et seq.); the Alaska National Interest Lands Conservation Act (16 U.S.C. 460mm–3—460mm–4); the Independent Offices Appropriations Act (31 U.S.C. 9701).

Subpart 3581—Gold, Silver, or Quicksilver in Confirmed Private Land Grants

§ 3581.0–3 Authority.

Authority for leasing gold, silver, or quicksilver in confirmed private land grants is shown in § 3580.0–3(c)(1) of this title.

§ 3581.1 Lands to which applicable.

The regulations in this subpart apply to lands in private land claims patented pursuant to decrees of the Court of Private Land Claims where the grant did not convey the rights to deposits of gold, silver and quicksilver and where the grantee has not otherwise become entitled in law or in equity to the deposits.

§ 3581.2 Who may obtain a lease.

Applications shall only be filed by, and leases issued to, the owner of the lands under the confirmed land grant; that is, the original grantee or his/her record transferee or successor in title.

§ 3581.3 Application for lease.

(a) Applications for leases shall be filed in triplicate in the proper BLM office and may include all or any part of the grant for which the applicant holds title on the date of the application. No specific form is required.

(b) Applications shall set forth the name and address of the applicant, describe the lands in which the deposits occur by legal subdivision of the public surveys, if so surveyed, otherwise by metes and bounds; or if for the entire area in the grant, the name of the grant, area and date of patent shall suffice. The mineral deposits also shall be fully described, giving character, mode of occurrence, nature of the formation, kind and character of associated minerals, if any, proposed mining methods, estimate of amount of investment necessary for successful operation of the mine(s) contemplated, estimated amount of production of gold, silver and quicksilver, or any of them, and such other pertinent information as the applicant may desire to set forth, including what he/she considers a reasonable royalty rate under the lease.

(c) The applicant also shall file with his/her application a duly authenticated abstract of title showing present ownership of the lands or a certificate of the county recorder of deeds that the record title stands in the applicant's name.

§ 3581.4 Leases.

§ 3581.4–1 Lease terms.

The lease shall be issued for a period of 20 years with a preference right in the lease to renew for a 10-year term at the end of the initial term and at the end of each 10-year period thereafter.

§ 3581.4–2 Rate of royalty; investment determined.

If the authorized officer finds the application sufficient to authorize the issuance of a lease, he/she shall establish a rate of royalty of not less than 5 percent or more than 12½ percent of the value of the output of gold, silver or quicksilver at the mine and also shall establish the amount of investment required under the lease.

§ 3581.4–3 Lease form and execution.

A lease on a form approved by the Director shall be furnished to the applicant, who shall be allowed 30 days from notice within which to execute and return the lease to the proper BLM office and to furnish the required bond.

§ 3581.5 Bond.

Prior to lease issuance, the lessee shall furnish a bond of not less than $2,000 conditioned upon compliance with all terms and conditions of the lease, including the prescribed investment requirement. The authorized officer reserves the right to increase the bond amount.

Subpart 3582—National Park Service Areas

§ 3582.0–3 Authority.

Authority for leasing mineral deposits within certain national recreation areas administered by the National Park Service is found in § 3500.0–3(c)(3) of this title.

§ 3582.1 Other applicable regulations.

§ 3582.1–1 Leasable minerals.

Except as otherwise specifically provided in this subpart, leasing of deposits of leasable minerals shall be governed by regulations in Parts 3500, 3510, 3520, 3530, 3540 and 3550 of this title.

§ 3582.1–2 Hardrock minerals.

Except as otherwise specifically provided in this subpart, leasing of deposits of hardrock minerals shall be governed by regulations in Parts 3500 and 3560 of this title.

§ 3582.2 Lands to which applicable.

§ 3582.2–1 Boundary maps.

The areas subject to the regulations in this subpart are those areas of lands and water which are shown on the following maps on file and available for public inspection in the Office of the Director of the National Park Service and in the Superintendent's office of each area. The boundaries of these areas may be revised by the Secretary as authorized in the Acts cited under § 3500.0–3(c)(3) of this title.

(a) Lake Mead National Recreation Area—the map identified as "boundary map 8360—80023.A, revised December 1979."

(b) Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area—the map identified as "Proposed Whiskeytown-Shasta-Trinity National Recreation Area," numbered BOR–WEST 100%, dated July 1963.

(c) Ross Lake and Lake Chelan National Recreation Areas—the map identified as "Proposed Management Units, North Cascades, Washington," numbered MP–CAS—7002, dated October 1967.

(d) Glen Canyon National Recreation Area—the map identified as "Boundary Map Glen Canyon National Recreation Area," numbered GLC—91,008, dated August 1972.

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§ 3582.2–2 Excepted areas.

The following areas shall not be opened to mineral leasing:

(a) Lake Mead National Recreation Area.

(1) All waters of Lakes Mead and Mohave and all lands within 300 feet of those lakes measured horizontally from the shoreline at maximum water surface elevations.

(2) All lands within the area of supervision of the Bureau of Reclamation around Hoover and Davis Dams and all lands within any developed and/or concentrated public use area or other area of outstanding recreational significance as designated by the Superintendent on the map (NRA–L.M. 2291A, dated July 1986) of Lake Mead National Recreation Area which is available for inspection in the Office of the Superintendent.

(b) Whiskeytown Unit of the Whiskeytown-Shasta-Trinity National Recreation Area.

(1) All waters of Whiskeytown Lake an all lands within 1 mile of that lake measured from the shoreline at maximum surface elevation.

(2) All lands classified as high density recreation, general outdoor recreation, outstanding natural and historic, as shown on the map numbered 611–20, 004B, dated April 1976 entitled "Land Classification, Whiskeytown Unit, Whiskeytown-Shasta-Trinity National Recreation Area." This map is available for public inspection in the Office of the Superintendent.

(3) All lands within section 34 of Township 33 north, Range 7 west, Mt. Diablo Meridian.

(c) Ross Lake and Lake Chelan National Recreation Areas.

(1) All of Lake Chelan National Recreation Area.

(2) All lands within one-half mile of Gorge, Diablo and Ross Lakes measured from the shoreline at maximum surface elevation.

(3) All lands proposed for or designated as wilderness.

(4) All lands within one-half mile of State Highway 20.

(5) Pyramid Lake Research Natural Area and all lands within one-half mile of its boundaries.

(d) Glen Canyon National Recreation Area.

Those areas closed to mineral disposition within the natural zone, development zone, cultural zone and portions of the recreation and resource utilization zone as shown on the map numbered 80,002A, dated March 1980, entitled "Mineral Management Plan—Glen Canyon National Recreation Area." This map is available for public inspection in the Office of the Superintendent and the Office of the State Directors, Bureau of Land Management, Arizona and Utah.

§ 3582.3 Consent and consultation.

Any mineral lease or permit shall be issued or renewed only with the consent of the Regional Director, National Park Service. Such consent shall be granted only upon a determination by the Regional Director that the activity permitted under the lease or permit shall not have significant adverse effect upon the resources or administration of the area pursuant to the authorizing legislation for the area. Any lease or permit issued shall be subject to such conditions as may be prescribed by the Regional Director to protect the surface and significant resources of the area, to preserve their use for public recreation and subject to the condition that site specific approval of any activity on the leasse or permit shall be given only upon a concurrence by the Regional Director. All lease applications for reclamation withdrawn lands also shall be submitted to the Bureau of Reclamation for review.

Subpart 3583—Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area

§ 3583.0–3 Authority.

Authority for leasing mineral deposits within the Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area administered by the Forest Service is cited in § 3500.0–3(c)(4) of this title.

§ 3583.1 Other applicable regulations.

§ 3583.1–1 Leasable minerals.

Except as otherwise specifically provided in this subpart, leasing of deposits of leasable minerals shall be governed by regulations in Parts 3500, 3510, 3520, 3530, 3540 and 3550 of this title.

§ 3583.1–2 Hardrock minerals.

This subpart governs the leasing of hardrock minerals in the Shasta and Trinity Units of the Whiskeytown-Shasta-Trinity National Recreation Area. The terms and conditions of hardrock leases issued under this subpart shall be the same as those set out for hardrock leases in subpart 3561 of this title, except as specifically modified in this subpart.

§ 3583.2 Consent of Secretary of Agriculture.

Any mineral lease for lands subject to this subpart shall be issued only with the consent of the Secretary of Agriculture and subject to such conditions as he/she may prescribe after he/she finds that such disposition would not have significant adverse effects on the purpose of the Central Valley Project or the administration of the recreation area.

§ 3583.3 Applications for hardrock mineral leases.

No specific form is required. An application shall include the applicant's name and address, a statement of holdings in accordance with Subpart 3502 of this title, a description of the lands in accordance with Subpart 3501 of this title, and the name of the mineral for which the lease is desired. The applicant shall state whether the mineral applied for can be developed in paying quantities, stating the reasons therefor, and shall furnish such facts as are available to him/her respecting the known occurrence of the mineral, the character of such occurrence and its probable value as evidencing the existence of a workable deposit of such mineral. Each application shall be filed in triplicate in the proper BLM office and shall be accompanied by a nonrefundable filing fee of $25.

§ 3583.4 Hardrock mineral leases.

§ 3583.4–1 Leasing units.

Leasing units may not exceed 640 acres consisting, if the lands are surveyed, of legal subdivisions in reasonably compact form or, if the lands are not surveyed, of a square or rectangular area with north and south and east and west boundaries so as to approximate legal subdivisions, described by metes and bounds and connected to a corner of the public survey by courses and distances. The authorized officer may prescribe a lesser area for any mineral deposit if such lesser area is adequate for an economic mining operation.

§ 3583.4–2 Royalties, rentals and minimum royalties.

Rentals and royalties shall be determined by the authorized officer on the basis of the fair market value, but in no event shall be less than:

(a) A rental of 50 cents per acre or fraction thereof payable in advance until production is obtained.

(b) A minimum royalty of $1 per acre or fraction thereof payable in advance after production is obtained.

(c) A production royalty of 2 percent of the amount or value of the minerals mined, the exact amount of royalty to be fixed prior to the issuance of the lease.

§ 3583.4–3 Special terms and conditions.

Each lease shall contain provisions for the following:

(a) Diligent development of the leased property, except when operations are interrupted by strikes, the elements or casualties not attributable to the lessee, unless operations are suspended upon a showing that the lease cannot be operated except at loss because of unfavorable market conditions;

(b) Occupation and use of the surface shall be restricted to that which is reasonably necessary for the exploration, development and extraction of the leased minerals, subject to any special rules to protect the values of the recreation area;

(c) No vegetation shall be destroyed or disturbed except where necessary to mine and remove the minerals;

(d) Operations shall not be conducted in such a manner as to adversely affect the purpose of the Central Valley Project through dumping, drainage or otherwise;

(e) Structures shall not be erected or roads or vehicle trails opened or constructed without first obtaining written permission from an authorized officer or employee of the Forest Service. The permit for a road or trail may be conditioned upon the permittee's maintaining the road or trail in passable condition satisfactory to the officer in charge of the area so long as it is used by the permittee or his/her successor;

(f) Reservation of the right to add additional terms to the lease when deemed necessary by the authorized officer or employee of the Forest Service for the protection of the surface, its resources and use for recreation.

§ 3583.4–4 Duration of lease.

Leases shall be issued for period of 5 years. Any lease in good standing, upon which production in paying quantities has been obtained, shall be subject to renewal for successive 5 year terms on such reasonable terms as may be prescribed by the Secretary. An application for renewal shall be filed in triplicate in the proper BLM office at least 90 days prior to the expiration of the current lease term unless the lands included in the lease have been withdrawn at the expiration of such term.

§ 3583.4–5 Lease by competitive bidding.

Leases may be offered competitively for any lands applied for under this subpart without regard to the quantity or quality of the mineral deposit that may be present therein.

§ 3583.5 Disposal of materials.

Materials within the public lands covered by regulations in this subpart which are not subject to the provisions of §§ 3583.1–1 and 3583.1–2 of this title shall be subject to disposal under the Material Act of 1947, as amended (30 U.S.C. 601 et seq.), subject to the conditions and limitations on occupancy and operations prescribed for leases in this subpart.

Subpart 3584—Reserved Minerals in Lands Patented to the State of California for Park or Other Public Purposes

§ 3584.0–3 Authority.

Authority for leasing reserved minerals in certain lands patented to the State of California for park or other purposes is cited under § 3500.0–3(c)(2) of this title.

§ 3584.1 Lands to which applicable.

The regulations in this subpart apply to certain lands patented to the State of California for park and other public purposes.

§ 3584.2 Minerals to be leased.

Leasable and hardrock minerals are subject to lease under this subpart.

3584.3 Other applicable regulations.

Subject to regulations in this subpart, the regulations in Parts 3500, 3510, 3520, 3530, 3540, 3550 and 3560 of this title shall govern the leasing of all leasable and hardrock minerals within this area.

§ 3584.4 Notice of application.

The authorized officer shall notify the surface owner of each application received. Notice of any proposed competitive lease sale shall be given to the surface owner prior to publication of notice of sale. Should the surface owner object to leasing of any tract for reasons determined by the authorized officer to be satisfactory, the application shall be rejected and the lands shall not be offered for lease sale.

§ 3584.5 Protection of surface.

All leases issued pursuant to this subpart shall be conditioned upon compliance by the lessee with all the laws, rules and regulations of the State of California for the safeguarding and protection of plant life, scenic features and park or recreational improvements on the lands, where not inconsistent with the terms of the lease or this section. The lease also shall provide that any mining work performed upon the lease shall be located in accordance with any requirements of the State necessary for the protection of the surface rights and uses and so conducted as to result in the least possible injury to plant life, scenic features and improvements and that, upon completion of the mining operation, all excavations, including wells, shall be closed and the property shall be conditioned for abandonment to the satisfaction of the surface owner. The lease shall further provide that any use of the lands for ingress to and egress from the mine shall be on a route approved in writing by the State's authorized representative.

§ 3584.6 Terms of lease.

Leases for hardrock minerals shall issue for a period of 5 years with a preference in the lessee for renewal for a term of 5 years at the end of the initial term and at the end of each 5 year period thereafter (See Subpart 3566).

Subpart 3585—White Mountains National Recreation Area—Alaska

§ 3585.0–3 Authority.

(a) Authority for leasing minerals in the White Mountains National Recreation Area—Alaska is found in § 3500.0–3(c)(5) of this title.

(b) Authority for approving exploration licenses is section 302(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732(b)).

§ 3585.1 Lands to which applicable.

The lands subject to the regulations in this subpart are within the White Mountains National Recreation Area—Alaska which have been opened to mineral leasing and development pursuant to the findings in the land use plan for the area that such use and development would be compatible with, or would not significantly impair, public recreation and conservation of the scenic, scientific, historic, fish and wildlife or other values contributing to public enjoyment. The land use plan is on file and available for public inspection in the Bureau's Fairbanks District Office.

§ 3585.2 Other applicable regulations.

§ 3585.2–1 Leasable minerals.

Leasing of deposits of leasable minerals shall be governed by the applicable regulations in Parts 3500, 3510, 3520, 3530, 3540 and 3550 of this title.

§ 3585.2–2 Hardrock minerals.

Expect as otherwise specifically provided in §§ 3585.3 and 3585.4 of this

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title for mining claimant preference right leases, the regulations in Parts 3500 and 3560 of this title shall govern the leasing of hardrock minerals.

§ 3585.3 Mining claimant preference right leases.

§ 3585.3-1 Who may obtain a mining claimant preference right lease.

Where, consistent with the land use plan, the Secretary has opened the area to mineral leasing and development, the holder of an unperfected mining claim within the White Mountains National Recreation Area—Alaska which was, prior to November 16, 1978, located, recorded and maintained in accordance with applicable Federal and State laws on lands located within the recreation area is entitled to a lease for the removal of the hardrock minerals from the mining claim(s), provided such mining claimant submits a timely application.

§ 3585.3-2 Application.

(a) An application for a mining claimant preference right lease shall be filed in triplicate in the Fairbanks District Office, Bureau of Land Management, P.O. Box 1150, Fairbanks, Alaska 99707, by the holder of an unperfected mining claim(s), within 2 years from the date the lands are opened to mineral leasing and development.

(b) No specific form is required.

(c) Each application shall be signed in ink by the applicant and shall include the following:

(1) The applicant's name and address;

(2) The serial number for each claim for which the application is made;

(3) The name of the mineral(s) for which the lease is sought; and

(4) A separate map on which the claim(s) is clearly marked.

(d) A single application may embrace any number of unperfected mining claims provided that, in the aggregate, the claims do not exceed 640 acres. The claims shall be contiguous and shall be located entirely within an area 6 miles square. Multiple applications may be submitted.

§ 3585.4 Leases.

§ 3585.4-1 Survey for leasing.

Prior to the issuance of a lease under their subpart, the applicant, at his/her own expense, shall be required to have a correct survey made under authority of a cadastral engineer, such survey to show the exterior surface boundaries of the entire lease tract, not each individual mining claim where more than one claim is involved, which boundaries are to be distinctly marked by monuments on the ground. Application for authorization of survey shall be made in accordance with Subpart 1821 of this title.

§ 3585.4-2 Terms and conditions.

Leases shall be issued on a form approved by the Director and under such terms and conditions as prescribed in the lease form and Subpart 3561 of this title. Where deemed necessary by the authorized officer, special lease stipulations also shall be included for the protection of the surface, its resources and use for recreation.

§ 3585.4-3 Relinquishment of claims.

Prior to the issuance of a lease, the applicant shall relinquish in writing any right or interest in his/her mining claim(s) as of the date the lease covering such claim(s) becomes effective.

§ 3585.5 Exploration license.

§ 3585.5-1 Exploration license.

Private parties, jointly or severally, may apply for exploration licenses to explore known hardrock mineral deposits which are not under lease or within an area subject to application and lease under § 3585.3 of this title to obtain geologic, environmental and other pertinent data concerning such deposits. Exploration licenses do not grant the licensee any preference right to a lease.

§ 3585.5-2 Other applicable regulations.

Except as otherwise specifically provided in this subpart, the regulations pertaining to land use authorizations under Part 2920 of this title shall govern the issuance of exploration licenses.

§ 3585.5-3 Exploration plan.

All applications for exploration licenses shall include an exploration plan which is in full compliance with § 3562.3-3 of this title. The approved exploration plan shall be attached to, and made a part of, the license.

§ 3585.5-4 Notice of exploration.

Applicants for exploration licenses shall publish a Notice of Exploration inviting other parties to participate in exploration under license on a pro rata cost sharing basis.

§ 3585.5-5 Contents of notice.

The Notice of Exploration prepared by the authorized officer and furnished to the applicant shall contain:

(a) The name and address of the applicant;

(b) A description of the lands;

(c) The address of the Bureau office where the exploration plan will be available for inspection; and

(d) An invitation to the public to participate in the exploration under the license.

§ 3585.5-6 Publication and posting of notice.

(a) The applicant shall publish the Notice of Exploration once a week for 3 consecutive weeks in at least 1 newspaper of general circulation nearest the area where the lands are located.

(b) The authorized officer shall post the notice in the Bureau's Alaska State Office and in the Fairbanks District Office for 30 days.

§ 3585.5-7 Notice of participation.

Any person who seeks to participate in the exploration program shall notify the authorized officer and the applicant in writing within 30 days after posting of the Notice of Exploration.

§ 3585.5-8 Decision on plan and participation.

(a) The authorized officer may issue the exploration license naming participants and acreage covered, establishing core hole spacing and resolving any other issue necessary to minimize surface disturbance and inconsistencies between the exploration plan.

(b) Upon application by the participants, a modification of the exploration plan may be approved by the authorized officer.

§ 3585.5-9 Submission of data.

The licensee shall furnish the authorized officer with copies of all data obtained during exploration. All data shall be considered confidential and not made public until the areas have been leased or until the authorized officer determines that public access to the data is not exempt from disclosure under the Freedom of Information Act, whichever occurs first.

Subpart 3586—Sand and Gravel in Nevada

§ 3586.1 Applicable laws and regulations.

The Act of June 8, 1926 (44 Stat. 708), authorizes the Secretary to dispose of the reserved minerals in certain lands patented to the State of Nevada under such conditions and under such rules and regulations as he/she may prescribe. Mineral materials, including deposits of sand and gravel, in such lands shall, except for leases granted and renewed under this subpart, be subject to disposal only under the regulations in group 3600 of this title which implement the Materials Act of 1947, as amended (30 U.S.C. 601 et seq.).

§ 3586.2 Existing leases.

Existing sand and gravel leases may be renewed at the expiration of their initial term, and at the end of each successive 5-year period thereafter, for an additional term of 5 years, under such terms and conditions as the authorized officer determines to be reasonable. An application for renewal shall be filed in triplicate in the proper BLM office within 90 days prior to the expiration of the lease term and be accompanied by a nonrefundable filing fee of $25. Prior to renewal of a lease, the lessee shall be required to file a new bond and remit advance rental for the first year of the renewal lease at the rate prescribed by the authorized officer. The rental payment shall not be less than $20. The lease shall be renewed only upon application of the lessee of record. The authorized officer shall not renew any lease that is not producing sand and gravel or is not part of an existing sand and gravel mining operation.

§ 3586.3 Transfers of lease.

Leases may be transferred in whole or in part. The regulations in Subpart 3506 of this title shall govern all such transfers.

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Part VI

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Parts 15 and 31

Federal Acquisition Regulation (FAR); Price Negotiation Memorandum and Construction and Architect-Engineer Contracts; Proposed Rules

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 15

Federal Acquisition Regulation (FAR); Price Negotiation Memorandum

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a change to Federal Acquisition Regulation (FAR) 15.808, Price negotiation memorandum.

COMMENTS: Comments should be submitted to the FAR Secretariat at the address shown below on or before May 22, 1986, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 86–19 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

The recommended revision to FAR 15.808(a)(8) expands the existing requirements to summarize proposed recommended and negotiated amounts by specifically requiring that the summary be in terms of major cost elements. Also specifically required is the summary of the Government's negotiation objective and the "considered negotiated" amounts. This additional set of requirements applies only where cost analysis is used to determine price reasonableness. The recommended coverage does not define or list "major cost element" because of the many varied titles and descriptions of cost elements used by the thousands of contractors who are required to submit cost data to the Government in support of contract prices.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (Pub. L. 96–354) does not apply because the proposed revision is not a "significant revision" as defined in FAR 1.501–1; i.e., it does not alter the substantive meaning of any coverage in the FAR having a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of the issuing agencies. Accordingly, and consistent with section 1212 of Pub. L. 98–525 and section 302 of Pub. L. 98–577 pertaining to publication of proposed regulations (as implemented in FAR Subpart 1.5, Agency and Public Participation), solicitation of agency and public views on the proposed revision is not required. Since such solicitation is not required, the Regulatory Flexibility Act does not apply. Althoug such solicitation is not required, comments are invited.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because the proposed change to FAR 15.808(a)(8) does not impose any additional reporting or recordkeeping requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 15

Government procurement.

Dated: April 16, 1986.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Part 15 be amended as follows:

PART 15—CONTRACTING BY NEGOTIATION

1. The authority citation for Part 15 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

2. Section 15.808 is amended by revising paragraphs (a)(8) and (a)(9) to read as follows:

15.808 Price negotiation memorandum.

* * * * *

(a) * * *

(8) A summary of the contractor's proposal, the field pricing report recommendations, and the reasons for any pertinent variances from the field pricing report recommendation. Where the determination of price reasonableness is based on cost analysis, the summary shall address each major cost element (i) proposed by the contractor, (ii) recommended by the field pricing assistance report (if any), (iii) contained in the Government's negotiation objective, and (iv) considered negotiated as a part of the price.

(9) The most significant facts or considerations controlling the establishment of the prenegotiation price objective and the negotiated price including an explanation of any significant differences between the two positions. To the extent such direction is received, the PNM shall discuss and quantify the impact of direction given by Congress, other agencies, and higher level officials (i.e., officials who would not normally exercise authority during the award and review process for the instant contract action) if the direction has had a significant effect on the action.

* * * * *

[FR Doc. 86–8889 Filed 4–21–86; 8:45 am]

BILLING CODE 6820–61–M

48 CFR Part 31

Federal Acquisition Regulation (FAR); Construction and Architect-Engineer Contracts

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a change to Federal Acquisition Regulation (FAR) 31.105, Construction and architect-engineer contracts, concerning the exclusion of unallowable costs from cost submissions that are based on the use of construction equipment cost schedules.

Comments: Comments should be submitted to the FAR Secretariat at the address shown below on or before May 22, 1986, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 86–21 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

At the present time, contractors are permitted to use construction equipment ownership and operating cost schedules to determine equipment costs when actual costs cannot be determined from their accounting records. A change is being proposed which specifically precludes the acceptance of unallowable costs as the result of using such a schedule. The proposal is being made because one of the more prominent industry supported schedules was found to include some unallowable cost factors.

B. Regulatory Flexibility Act

The proposed revision of FAR 31.105 is not expected to have a significant impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601, et seq.) because it represents no change in existing policy. FAR 31.109(c) already prohibits contracting officers from agreeing to a treatment of costs inconsistent with FAR Part 31. The revised wording of FAR 31.105 merely clarifies a policy which might be overlooked when predetermined equipment rate schedules are authorized for determining construction equipment ownership and operating costs.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because the proposed revision to FAR 31.105 does not impose any additional reporting or recordkeeping requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 31

Government procurement.

Dated: April 16, 1986.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Part 31 be amended as set forth below:

PART 31—CONTRACT COST PRINCIPLES AND PROCEDURES

1. The authority citation for Part 31 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

2. Section 31.105 is amended by revising paragraph (d)(2)(i)(A) to read as follows:

31.105 Construction and architect-engineer contracts.

* * * * *

(d) * * *

(2) * * *

(i) * * *

(A) Actual cost data shall be used when such data can be determined for both ownership and operating costs for each piece of equipment, or groups of similar serial or series equipment, from the contractor's accounting records. When such costs cannot be so determined, the contracting agency may specify the use of a particular schedule of predetermined rates or any part thereof to determine ownership and operating costs of contruction equipment (see subdivisons (B) and (C) below). However, costs otherwise unallowable under this Part shall not become allowable through the use of any schedule (see 31.109(c)). For example, schedules need to be adjusted for Government contract costing purposes if they are based on replacement cost, include unallowable interest costs, or use improper cost of money rates or computations. Contracting officers should review the computations and factors included within the specified schedule and ensure that unallowable or unacceptably computed factors are not allowed in cost submissions.

* * * * *

[FR Doc. 86–8888 Filed 4–21–86; 8:45 am]

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Part VII

International Development Cooperation Agency

Agency for International Development

48 CFR Chapter 7

Acquisition Regulation Concerning Direct AID Contracts With U.S. Citizens or U.S. Resident Aliens for Personal Services Abroad; Final Rule

BEST COPY AVAILABLE

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INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Ch. 7, Appendix D

[AIDAR Notice 86-2]

Acquisition Regulation Concerning Direct AID Contracts With U.S. Citizens or U.S. Resident Aliens for Personal Services Abroad

AGENCY: Agency for International Development (AID).

ACTION: Final rule.

SUMMARY: The AID Acquisition Regulation (AIDAR) is being amended by revising and updating in its entirety, Appendix D, Direct AID Contracts With U.S. Citizens or U.S. Resident Aliens for Personal Services Abroad.

EFFECTIVE DATE: April 22, 1986.

FOR FURTHER INFORMATION CONTACT: M/SER/PPE, Mrs. Patricia L. Bullock, telephone (703) 235-1822.

SUPPLEMENTARY INFORMATION: The AIDAR Appendix D is being amended specifically to include: (1) The addition of a pay comparability adjustment for Personal Services Contractors (PSCs) not to exceed that amount set out in each Executive Order which authorizes pay comparability adjustments to direct hire employees, (2) new health and life insurance coverage, (3) additional annual leave coverage for PSC's, (4) new salary setting procedures, (5) the requirement to use the Standard Form 171, "Personal Qualifications Statement" instead of AID Form 1420-17, "Contractor Employee Biographical Data Sheet" for each PSC, and (6) to add appropriate AIDAR clauses as well as FAR clauses.

This AIDAR Notice is not a major rule and is exempt from the requirements of Executive Order 12291 by OMB Bulletin 85-7. Therefore, the change is not considered "significant" under FAR 1.301 or FAR 1.501, and public comments have not been solicited. This Notice will not have an impact on a substantial number of small entities or require any information collection, as contemplated by the Regulatory Flexibility Act or the Paperwork Reduction Act respectively.

List of Subjects in 48 CFR Ch. 7, Appendix D,

Government procurement.

1. The Authority citation in Chapter 7, Appendix D is unchanged and continues to read as follows:

Authority: Sec. 621, 75 Stat. 445 (22 U.S.C. 2381) as amended: E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

2. Appendix D is revised to read as follows:

Appendix D—Direct AID Contracts With U.S. Citizens or U.S. Resident Aliens for Personal Services Abroad

1. General

(a) *Purpose.* This appendix sets forth the authority, policy, and procedures under which AID contracts with U.S. citizens or U.S. resident aliens for personal services abroad.

(b) *Definitions.* For the purpose of this appendix:

(1) "Personal services" means an employer-employee relationship (see FAR 37.104).

(2) "Nonpersonal services" means an independent contractor relationship (see FAR 37.101).

(3) "U.S resident alien" means a non-U.S. citizen lawfully admitted for permanent residence in the United States.

(4) "Abroad" means outside the United States and its possessions (see FAR Subpart 2.1).

(5) "AID direct-hire employees" means civilian employees appointed under AID Handbook 25 procedures.

2. Legal Basis

(a) Section 635(b) of the Foreign Assistance Act of 1961, as amended (hereinafter referred to as the "FAA"), provides the Agency's basic contracting authority for nonpersonal services.

(b) Section 636(a)(3) of the FAA (22 U.S.C. 2396(a)(3)) authorizes the Agency to enter into personal services contracts with individuals for personal services abroad and provides further that such individuals" . . . shall not be regarded as employees of the U.S. Government for the purpose of any law administered by the Civil Service Commission."[1]

3. Applicability

(a) This appendix applies to all personal services contracts with U.S. citizens or U.S. resident aliens to provide assistance abroad under Section 636(a)(3) of the FAA. (The various sections of this appendix define the employer-employee relationship.)

(b) This appendix does not apply to:

(1) Nonpersonal services contracts with U.S. citizens or U.S. resident aliens; such contracts are covered by the basic text of the FAR and the AIDAR.

(2) Personal services contracts with individual cooperating country nationals (CCNs) or third-country nationals (TCNs); such contracts are covered by Appendix J of this chapter.

(3) Other personal services arrangements covered by *AID Handbook 25—Employment and Promotion.*

(4) Interagency agreements (e.g., PASAs and RSSAs) covered by *AID Handbook 12—Use of Federal Agencies.*

4. Policy

(a) *General.* AID may finance, with either program or operating expense (OE) funds, the cost of personal services as part of the Agency's program of foreign assistance by entering into a direct contract with an individual U.S. citizen or U.S. resident alien for personal services abroad.

(b) *Limitations on personal services contracts.*

(1) Personal services contracts may only be used when adequate supervision is available.

(2) Personal services contracts may be used for commercial activities. Commercial activities provide a product or service which could be obtained from a commercial source. See Attachment A of OMB Circular A-76 for a representative list of such activities.

(3) Personal services contracts may be used for Governmental functions (defined by OMB Circular A-76 as functions so intimately related to the public interest as to mandate performance by Government employees) *except:*

(i) Negotiating on behalf of the United States with foreign governments and public international organizations. Note: Negotiating on behalf of the United States with private individuals and entities is permitted.

(ii) Entering into any agreement (e.g., loan, grant, contract) on behalf of the United States.

(iii) Making decisions involving governmental functions such as planning, budget, programming and personnel selection. Services will be limited to making recommendations with final decision-making authority reserved for authorized AID direct-hire employees.

(iv) Supervision of AID direct-hire U.S. citizen employees.

(c) *Withholdings and Fringe Benefits.*

(1) Personal services contractors (PSCs) are Government employees and are therefore subject to social security (FICA) and Federal income tax (FIT) withholdings. As employees, they are ineligible for the "foreign earned income" exclusion under the IRS regulations (see 26 CFR 1.911-3(c)(3)).

(2) Personal Services Contractors are treated on par with other Government employees, *except* for programs based on any law administered by the Federal Office of Personnel Management (e.g., incentive awards, life insurance, health insurance, and retirement programs covered by 5 CFR Parts 530, 531, 831, 870, 871, and 880). While PSCs are ineligible to participate in any of these programs, the following fringe benefits are provided as a matter of policy:

(i) The employer's FICA contribution for retirement purposes;

(ii) A contribution against the actual costs of the PSC's annual health insurance costs. Such contribution: (1) Shall not exceed 50% of the actual costs of the PSC's annual health insurance and (2) shall not exceed the maximum U.S. Government contribution for direct-hire personnel as announced annually by the Office of Personnel Management.

(iii) A maximum contribution of up to 50% against the actual costs of the PSC's annual life insurance costs, not to exceed $500.00 per year.

(iv) PSCs shall receive the same percentage pay comparability adjustment as U.S. Government employees;

(v) PSCs shall receive the following allowances and differentials provided in the State Department's Standardized Regulations (Government Civilians Foreign Areas) on the same basis as U.S. Government employees:

(A) temporary lodging allowance (Section 120),[2]

(B) living quarters allowance (Section 130),[2]

(C) post allowance (Section 220),[2]

(D) supplemental post allowance (Section 230),[2]

(E) separate maintenance allowance (Section 260),[2]

(F) education allowance (Section 270),[2]

(G) educational travel (Section 280),[2]

(H) post differential (Chapter 500),

(I) payments during evacuation/authorized departure (Section 600), and

(J) danger pay (Section 650).

Any allowance or differential that is not *expressly stated* in this paragraph is not authorized for any PSC;

(vi) PSCs and their authorized dependents shall be entitled to health room services of the same type that are normally provided to AID direct-hire U.S. citizen employees. See General Provision entitled "Post of Assignment Privileges."

(vii) PSCs are eligible to receive benefits for injury, disability, or death under the Federal Employees' Compensation Act since the law is administered by the Department of Labor, not the Office of Personnel Management.

(viii) PSCs are eligible to earn four hours of annual leave and four hours of sick leave for each two week period. However, PSCs with previous PSC service (not previous U.S. Government civilian or military service) earn *either* six hours of annual leave for each two week period if their previous PSC service exceeds 3 years, *or* eight hours of annual leave for each two week period if their previous PSC service exceeds 15 years.

(d) A PSC who is a spouse of current or retired Civil Service, Foreign Service, or Military Service member and who is covered by their spouse's Government health or life insurance policy is ineligible for the contribution under paragraph 4(c)(2)(ii) or (2) (iii) of this appendix.

(e) Retired U.S. Government employees may be awarded personal services contracts without any reduction in or offset against their Government annuity.

(f) *Salary Setting.*

(1) Salaries for personal services contractors shall be based on the salary established for the position being recruited for or the PSC's current earnings (as adjusted under (f)(2) and (f)(3) below), except as provided in paragraphs (f)(4) through (f)(7) below. Current earnings must be certified by the contractor on the SF 171, "Personal Qualifications Statement" (see paragraph 6(b)(3) of this appendix); the form must be retained in the permanent contract file.

(2) As a rule, up to a 3 percent increase above current earnings may be given. However, a 3 percent increase is awarded only to a PSC whose earnings are based on a period of twelve months or more; 2 percent for established earnings of less than twelve months but not less than four months; or 1 percent for established earnings during the past four months.

(3) Additional percentages may be given for the following factors. If a PSC has worked in a developing country for more than two years, an additional 1 percent is awarded. Education related to the area of specialization and above the minimum qualification required warrants an additional 1 percent, and those specialties for which there is keen competition in the employment market or a serious shortage category nationwide are awarded an additional 2 percent. In addition, related technical experience over 5 years increases the percentage by 1 and over ten years by 3.

(4) When an applicant has no current earnings history (e.g., a person returning to the workforce after an absence of a number of years) or when an applicant's current earnings history doesn't accurately reflect the applicant's job market worth (e.g., a Peace Corps volunteer), the salary set for the position should be used, notwithstanding the lack of a current earnings history, provided that the applicant has the full qualifications for the job and could command a similar salary in the open job market.

(5) All requests for an initial rate of pay above 10 percent over current earnings must be approved in writing by the appropriate Regional Assistant Administrator or Mission Director. Current earnings are actual earnings for work reasonably related to the position for which the applicant is being considered.

(6) Salaries in excess of the FS-1 level must also be approved by the appropriate Regional Assistant Administrator or Mission Director, as provided for in Appendix G of this chapter.

5. Soliciting for Personal Services Contracts [Reserved]

6. Negotiating a Personal Services Contract [Reserved]

7. Executing a Personal Services Contract

Contracting activities, whether AID/W or Mission, may execute personal services contracts, provided that the amount of the contract does not exceed the contracting authority that has been redelegated to them under Delegation of Authority No. 148, "To the Assistant to the Administrator for Management, Concerning Acquisition Functions" (50 FR 23642), as amended.

In executing a contract, the Contracting Officer shall ensure that:

(a) The following clearances, approvals and forms have been obtained and placed in the contract file before the contract is signed by both parties:

(1) Security clearance, including the completed SF 86, to the extent required by AID Handbook 6, *Security;*

(2) Mission and host country clearance, as appropriate;

(3) Medical clearance(s) based on a full medical examination(s) and certification of same by a licensed physician (medical clearance requirements apply to the contractor and to each dependent who is authorized to travel to the overseas post);

(4) An executed IRS Form W-4 (2 copies) (one copy of the executed W-4 shall be sent to the Controller of the Paying Office);

---

[1] The Civil Service Commission is now the Federal Office of Personnel Management.

[2] Mission Directors may authorize per diem in lieu of these allowances.

[3] These allowances are not authorized for short tours (i.e., less than a year).

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(5) The approval for any salary in excess of PS-1, in accordance with appendix G of this chapter;

(6) Appropriate explanation and support required by AIDAR 706.302-70, if applicable;

(7) Any deviation to the policy or procedures of this appendix, processed and approved under AIDAR 701.470;

(8) A fully executed SF 171;

(9) The memorandum of negotiation;

(10) The Contract Negotiator's Checklist;

(b) Funds for the contract are properly obligated to preclude violation of the Anti-Deficiency Act, 31 U.S.C. 665 (the contracting officer ensures that the contract has been properly recorded by the appropriate accounting office prior to its release for the signature of the selected contractor);

(c) The Contractor receives and understands Attachment 2C of Chapter 2, AID Handbook 24, *General Personnel Policy*, entitled "Employee Responsibilities and Conduct," and a copy is attached to each Contract, as provided for in paragraph 2(c) of the General Provision (Section 11);

(d) Agency conflict of interest requirements, as set out in Chapter 2D and 2F of AID Handbook 24, are met by the contractor prior to his/her reporting for duty;

(e) The contract is modified by deleting from the general provisions (Sections 11, and 12 of this appendix) the inapplicable portion(s) of the provisions entitled "Allowances", "Travel and Transportation Expenses" and the medical clearance of dependents residing with the contractor at post if the contractor is a resident of the cooperating country (resident hire employee) when the contract is awarded; specifically, resident hire employees are not eligible for:

(1) The accrual and granting of home leave and home leave travel;

(2) Rest and Recuperation (R&R) travel, except as a dependent of a U.S. Government employee, or an AID participating agency employee who is eligible for travel (see HB 22, Attachment 1);

(3) Separation travel and transportation of efforts; and

(4) Storage of household and personal effects; and

(f) The block entitled, "Project No." on the cover page of the Contract format is completed by inserting the four-segment project number as prescribed in AID Handbook 18, *Information Services*.

8. Post Audit

The Inspector General, or his/her designee, audits the personal services contracts of all contracting activities for the purpose of ensuring conformance to applicable policy and regulations.

9. Contracting Format

The prescribed Contract Cover Page, Contract Schedule, General Provisions, and Additional General Provisions for personal services contracts covered by this appendix are included as follows:

10. Form AID 1420-36, "Cover Page" and "Schedule"

11. "General Provisions"

12. "Additional Provisions"

13. FAR Clauses to be incorporated by reference in personal services contracts.

BILLING CODE 6116-01-M

SECTION 10

OMB No. 0412-0520
Expiration Date: 05/31/87

AGENCY FOR INTERNATIONAL DEVELOPMENT
WASHINGTON, D.C. 20523

CONTRACT WITH A U.S. CITIZEN OR U.S. RESIDENT FOR PERSONAL SERVICES ABROAD

Negotiated Pursuant to Section 636(a)(3) of the Foreign Assistance Act of 1961, as Amended, and Executive Order 11223	Contract Number
Country of Performance	Amount Obligated $
	Total Estimated Contract Cost $
Contract For	Project Number
Contracting Office *(name and address)*	Contractor *(name, street, city, state, zip code)*
Administered By *(if other than Contracting Office)*	Effective Date / Estimated Completion Date
Cognizant Scientific/Technical Office *(name, office symbol, address)*	Accounting and Appropriation Data PIO/T Number Appropriation Number Budget Plan Code Social Security Number
This is a Consulting Services Contract *(AIDAR 737.272)* ☐ YES ☐ NO	Type of Advance ("X" appropriate box) ☐ INITIAL ☐ NONE AUTHORIZED
Payment Will Be Made By	

The United States of America, hereinafter called the Government, represented by the Contracting Officer executing this contract, and the Contractor agree that the Contractor shall perform all the services set forth in the attached Schedule, for the consideration stated therein. The rights and obligations of the parties to this contract shall be subject to and governed by the Schedule and the General Provisions. To the extent of any inconsistency between the Schedule or the General Provisions and any specifications or other provisions which are made a part of this contract, by reference or otherwise, the Schedule and the General Provisions shall control. To the extent of any inconsistency between the Schedule and the General Provisions, the Schedule shall control.

SPECIAL NOTE: As an employee under 22 U.S.C. 2396(a)(3), the Contractor is subject to both FICA and Federal Income Tax withholding.

(Fill in appropriate spaces)

This Contract consists of this Cover Page, the Schedule of _____ pages, including the Table of Contents, the General Provisions (Section 11, dated _____), the Additional General Provisions (Section 12, dated _____), and Section 13 FAR Clauses, dated _____.

	UNITED STATES OF AMERICA AGENCY FOR INTERNATIONAL DEVELOPMENT
Signature of Contractor	By *(signature of Contracting Officer)*
Typed or Printed Name	Typed or Printed Name
Date	Date

AID 1420-36A (7-86)
BILLING CODE 6116-01-C

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Privacy Act Statement

This information is provided pursuant to Public Law 93–579 (Privacy Act of 1974), December 31, 1974, for individuals who complete this form.

The Executive Office of the President, Office of Management and Budget has required that all departments and agencies comply with the reporting requirements of Section 6041 of the Internal Revenue Code. Section 6041 states that all departments and agencies making payments totalling $600.00 or more in one year to a recipient for services provided must be reported to the Internal Revenue Service (IRS). The SSN and all financial numbers will be disclosed to Agency for International Development (AID) payroll office personnel and personnel in the Department of the Treasury, Division of Disbursements. AID will use this SSN to complete Form W–2 of the Code on employee compensation. Disclosure by the personal services contractor of the SSN is necessary to obtain the services, benefits or processes provided by this contract. Disclosure of the SSN may be made outside AID (a) pursuant to any applicable routine use listed in AID's Notice for implementing the Privacy Act as published in the Federal Register, or (b) when disclosure by virture of a contract being a public document after signatures is authorized under the Freedom of Information Act.

TABLE OF CONTENTS

Schedule

The Schedule on pages 2 through 5 consists of this Table of Contents and the following Articles:

Articles:
Article I—Statement of Duties
Article II—Period of Service Overseas
Article III—Contractor's Compensation and Reimbursement in U.S. Dollars
Article IV—Costs Reimbursable and Logistic Support
Article V—Precontract Expenses
Article VI—Additional Clauses

General Provisions

The following provisions numbered as shown below omitting number(s) ———, are the General Provisions (GPs) of this Contract:

1. Definitions
2. Laws and Regulations Applicable Abroad
3. Physical Fitness
4. Workweek and Compensation (Pay Comparability Adjustments)
5. Leave and Holidays
6. Differential and Allowances
7. Social Security and Federal Income Tax
8. Advance of Dollar Funds
9. Insurance
10. Travel and Transportation Expenses
11. Preference for U.S.-Flag Air Carriers (FAR 52.247–63)
12. Payment
13. Conversion of U.S. Dollars To Local Currency
14. Post of Assignment Privileges
15. Security Requirements
16. Contractor-Mission Relationships
17. Termination (FAR 52.249–2)
18. Disputes (FAR 52.233–1 Alternate I)
19. Release of Information
20. Officials Not to Benefit
21. Convenant Against Contingent Fees
22. Notices
23. Reports
24. Use of Pouch Facilities

For a tour of duty of 1 year or more, "Additional General Provisions (AGP)" will be attached and be applicable to this contract. References to individual clauses should specify for example, "GP 9" (insurance), or "AGP 34" (termination).

Schedule

Note.—Use of the following Schedule articles are not mandatory. They are intended to serve as guidelines for contracting offices in drafting contract schedules. Article language may be changed to suit the needs of the particular contract.

Article I—Statement of Duties

(The statement of duties shall include:

A. General statement of the purpose of the contract.

B. Statement of duties to be performed.

C. Any AID Consultation or orientation.)

Article II—Period of Service Overseas

Within ——— days after written notice from the Contracting Officer that all clearances, including the doctor's certificate required under General Provisions Clause 3, have been received or unless another date is specified by the Contracting Officer in writing, the contractor shall proceed to ——— where he/she shall promptly commence performance of the duties specified above. The contractor's period of service overseas shall be approximately ——— in ———. (Specify time of duties in each location as well as authorized stopovers with purpose of each.)

Article III—Contractor's Compensation and Reimbursement in U.S. Dollars

A. Except to the extent reimbursement therefor is payable in the currency of the Cooperating Country pursuant to Article IV, AID shall pay the contractor compensation after it has accrued and reimburse him/her in U.S. dollars for necessary and reasonable costs actually incurred by him/her in the performance of this contract within the categories listed in paragraph C, below, and subject to the conditions and limitations applicable thereto as set out herein and in the attached General Provisions (GP).

B. The amount budgeted and available as personal compensation to the contractor is calculated to cover a calendar period of approximately ——— (days) (weeks) (months) (years) (which is to include (1) vacation, sick, and home leave which may be earned during the contractor's tour of duty (GP Clause No. 5, AGP Clause No. 29), (2) ——— days for authorized travel (GP Clause 10(b)), and (3) ——— days for orientation and consultation in the United States.

C. Allowable Costs:

1. Compensation at the rate of $——— per (year) (month) (week) (day). Adjustments in compensation (pay) for periods when the contractor is not in compensable pay status shall be calculated as follows: Rate of $——— per (day) (hour).

Contingency for Compensation (Pay Comparability) Adjustments. $———.

2. Overtime (Unless specifically authorized in the Schedule of this contract, no overtime hours shall be allowed hereunder.) $———

*3. Overseas Differential (Ref. GP Clause No. 6.) Rate ——— and Contingency $——— $———

**4. Allowances in Cooperating Country (Ref. GP Clause 6 and AGP Clause 30.) $———

**5. Travel and Transportation (Ref. GP Clause 10 and AGP Clause 31.) (Includes the value of GTRs furnished by the Government, not payable to Contractor). $———

a. United States $———
b. International $———
c. Cooperating and Third Country $———

Subtotal Item 5 $———

**6. Subsistence or Per Diem (Ref. GP Clause 10 and AGP Clause 31.)

a. United States $———
b. International $———
c. Cooperating and Third Country $———

Subtotal Item 6 $———

7. Other Direct Costs.

a. Health and Life Insurance Ref. GP (Clause 9–b.) $———
b. Precontract Costs, passport, visa, inoculations, etc. (Ref. GP Clause 8.) $———
c. Physical Examination (Ref. GP Clause 3 and AGP Clause 23.) $———
d. Communications, Miscellaneous. $———

Subtotal Item 7 $———

8. F.I.C.A.—U.S.C. contribution (not payable to contractor). $———

*If post differential is applicable to the assigned post, a contingency for the adjusted amount of differential resulting from compensation (pay comparability) adjustment should be included.

**Do not include the value of any costs to be paid or reimbursed in local currency.

Total estimated costs (lines 1 thru 8). $———

D. Maximum U.S.-Dollar Obligation:

In no event shall the maximum U.S.-dollar obligation under this contract exceed $———. Contractor shall keep a close account of all obligations he/she incurs and accrues hereunder and promptly notify the Contracting Officer whenever in his/her opinion the said maximum is not sufficient to cover all compensation and costs reimbursable in U.S. dollars which he/she anticipates under the contract.

Article IV—Costs Reimbursable and Logistic Support

A. General:

The contractor shall be provided with or reimbursed in local currency ( ) for the following:

[Complete]

B. Method of Payment of Local Currency Costs:

Those contract costs which are specified as local currency costs in paragraph A above, if not furnished in kind by the cooperating government or the Mission, shall be paid to the contractor in a manner adapted to the local situation, based on vouchers submitted in accordance with General Provision Clause 12. The documentation for such costs shall be on such forms and in such manner as the Mission Director shall prescribe.

Article V—Precontract Expenses

No expense incurred before execution of this contract will be reimbursed unless such expense was incurred after receipt and acceptance of a precontract expense letter issued to the contractor by the Contracting Officer, and then only in accordance with the provisions and limitations contained in such letter. The rights and obligations created by such letter shall be considered as merged into this contract.

Article VI—Additional Clauses

(Additional Schedule clauses may be added such as the implementation of General Provisions or Additional General Provisions clauses.)

Section 11. General Provisions

Contract With a U.S. Citizen or a U.S. Resident Alien for Personal Services Abroad

The following clauses are to be used for tours of duty of less than 1 year. For tours of duty of 1 year or more these "General Provisions" will be supplemented by the "Additional General Provisions", Section 12.

Index of Clauses

1. Definitions (DEC 1985)
2. Laws and Regulations Applicable Abroad (DEC 1985)
3. Physical Fitness (DEC 1985)
4. Workweek and Compensation (Pay Comparability Adjustments) (DEC 1985)
5. Leave and Holidays (DEC 1985)
6. Differential and Allowances (DEC 1985)
7. Social Security and Federal Income Tax (DEC 1985)
8. Advance of Dollar Funds (DEC 1985)
9. Insurance (DEC 1985)
10 Travel and Transportation Expenses (DEC 1985)
11. Preference for U.S.-Flag Air Carriers (APR 1984) (FAR 52.247–63)
12. Payment (DEC 1985)
13. Conversion of U.S. Dollars to Local Currency (DEC 1985)
14. Post of Assignment Privileges (DEC 1985)
15. Security Requirements (DEC 1985)
16. Contractor-Mission Relationships (DEC 1985)
17. Termination (APR 1984) (FAR 52.249–12)
18. Disputes (APR 1984) [(FAR 52.233–1) (Alternate I)]
19. Release of Information (DEC 1985)
20. Officials Not to Benefit [(APR 1984) (FAR 52.203–5)]
21. Covenant Against Contingent Fees [(DEC 1985) (FAR 52.203–5)]
22. Notices (DEC 1985)
23. Reports (DEC 1985)
24. Use of Pouch Facilities (DEC 1985)

1. Definitions (Dec. 1985)

(a) "Administrator" shall mean the Administrator or the Deputy Administrator of AID.

(b) "AID" shall mean the Agency for International Development.

(c) "Contracting Officer" shall mean a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.

(d) "Contractor" shall mean the individual engaged to serve in the Cooperating Country under this Contract.

(e) "Cooperating Country" shall mean the foreign country in or for which services are to be rendered hereunder.

(f) "Cooperating Government" shall mean the government of the Cooperating Country.

(g) "Economy class" air travel (also known as jet-economy, air coach, tourist-class, etc.) shall mean a class of travel which is less than first class.

(h) "Government" shall mean the United States Government.

(i) "Local currency" shall mean the currency of the Cooperating Country.

(j) "Mission" shall mean the United States AID Mission to, or principal AID office in, the Cooperating Country.

(k) "Mission Director" shall mean the principal officer in the Mission in the Cooperating Country, or his/her designated representative.

(l) "Tour of duty" shall mean the Contractor's period of service under this Contract and shall include orientation in the United States (less language training), authorized leave, and international travel.

(m) "Traveler" shall mean the Contractor in authorized travel status.

(n) "Project Officer" shall mean the AID official to whom the Contractor reports, and who is responsible for monitoring the Contractor's performance.

(o) "U.S. Resident alien" as used in this contract shall mean an alien immigrant, legally resident in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States, and having a valid "Alien Registration and Receipt Card" (Immigration and Naturalization Service forms I–151 or I–551).

2. Laws and Regulations Applicable Abroad (Dec. 1985)

(a) Conformity to Laws and Regulations of the Cooperating Country.

Contractor agrees that, while in the cooperating country, he/she shall abide by all applicable laws and regulations of the cooperating country and political subdivision thereof.

(b) Purchase or Sale of Personal Property or Automobiles.

To the extent permitted by the cooperating country, the purchase, sale, import, or export of personal property or automobiles in the cooperating country by the Contractor shall be subject to the same limitations and prohibitions which apply to Mission U.S.-citizen direct-hire employees.

(c) Code of Conduct.

The Contractor shall, during his/her tour of duty under this Contract, be

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considered an "employee" (or if his/her tour of duty is for less than 130 days, a "special Government employee") for the purposes of, and shall be subject to, the provisions of 22 CFR 10, "Employee Responsibilities and Conduct" (Attachment 2C to Chapter 2 of AID Handbook 24). The Contractor acknowledges receipt of a copy of said provisions by his/her acceptance of this Contract.

3. Physical Fitness (Dec. 1985)

The Contractor shall be required to be examined by a licensed doctor of medicine, and the Contractor shall obtain from the doctor a certificate that, in the doctor's opinion, the Contractor is physically qualified to engage in the type of activity for which he/she is to be employed under the Contract and is physically qualified to reside in the cooperating in the cooperating country. A copy of the certificate shall be provided to the Contracting Officer prior to the Contractor's departure for the cooperating country, or if this Contract is entered into in the cooperating country, the Contractor shall provide the certificate before he/she starts work under the Contract. The Contractor shall be reimbursed not to exceed $100 for the cost of the physical examination, plus reimbursement of charges for immunizations if such costs are not covered by the Contractor's health insurance policy.

4. Workweek and Compensation (Pay Comparability Adjustments) (Dec. 1985)

(a) Workweek.

The Contractor's workweek shall not be less than 40 hours, unless otherwise provided in the Contract Schedule, and shall coincide with the workweek for those employees of the Mission or the cooperating country agency most closely associated with the work of this Contract. If the Contract is for less than full time (40 hours weekly), the annual and sick leave earned shall be prorated (see the General Provision of this Contract entitled Leave and Holidays).

(b) Compensation (Pay Comparability) Adjustments.

The Contractor's compensation shall be adjusted to reflect the pay comparability adjustments which are granted from time to time to U.S. direct-hire employees by Executive Order for the statutory pay systems. Any adjustments authorized shall not exceed that percentage stated in the Executive Order granting the adjustment. Further, the adjusted compensation may not exceed the maximum FS–1 annual compensation (or the equivalent daily rate).

5. Leave and Holidays (Dec. 1985)

(a) Vacation Leave.

(1) The Contractor shall earn vacation leave at the rate of 13 workdays per annum or 4 hours every 2 weeks. However, no vacation shall be earned if the tour of duty is less than 90 days.

(2) Notwithstanding paragraph (a)(1) of this provision, if the Contractor has had previous PSC service (i.e., has served under other personal services contracts (PSCs) covered by Sec. 636(a)(3) of the FAA), the Contractor shall earn vacation leave at the rate of either 6 hours every two weeks for cumulative PSC service exceeding 3 years or 8 hours every two weeks for cumulative PSC service exceeding 15 years. Former Civil Service, Foreign Service, or a Military Service experience is not creditable towards PSC service for annual leave purposes.

(3) It is understood that vacation leave is provided under this Contract primarily for the purposes of affording necessary rest and recreation during the tour of duty in the cooperating country. The Contractor in consultation with the AID Mission shall develop a vacation leave schedule early in his/her tour of duty taking into consideration project requirements, employee preference and other factors. All vacation leave earned by the Contractor must be used during the his/her tour of duty. All vacation leave earned by the Contractor but not taken by the end of the his/her tour of duty will be forfeited unless otherwise approved in writing by the Contracting Officer or Mission Director.

(b) Sick Leave.

Sick leave is earned at a rate not to exceed 13 work-days per annum or 4 hours every 2 weeks. Unused sick leave may be carried over under an extension of this Contract but the Contractor will not be compensated for unused sick leave at the completion of this Contract.

(c) Leave Without Pay.

Leave without pay may be granted only with the written approval of the Contracting Officer or Mission Director.

(d) Holidays.

The Contractor, while serving abroad, shall be entitled to all holidays granted by the Mission to U.S.-citizen direct-hire employees.

(e) Leave Records.

The Contractor shall maintain current leave records for himself/herself and make them available, as requested by the Mission Director or the Contracting Officer.

6. Differential and Allowances (Dec. 1985)

(a) The following differential and allowances will be granted to the Contractor to the same extent and on the same basis as they are granted to U.S.-citizen direct-hire employees at the Mission by the Standardized Regulations (Government Civilians, Foreign Areas), as from time to time amended, except as noted to the contrary below:

Applicable Reference to Standardized Regulations

(1) Post Differential—Chapter 500 and Tables in Chapter 900
(2) Living Quarters Allowance—Section 130
(3) Temporary Lodging Allowance—Section 120
(4) Post Allowance—Section 220
(5) Supplemental Post Allowance—Section 230
(6) Payments During Evacuation—Section 600

(i) Post differential.

Post differential is an additional compensation for service at places in foreign areas where conditions of environment differ substantially from conditions of environment in the continental United States and warrant additional compensation as a recruitment and retention incentive. In areas where post differential is paid to AID direct-hire employees, post differential not to exceed the percentage of salary as is provided such AID employees in accordance with the Standardized Regulations (Government Civilians, Foreign Areas) Chapter 500 (except the limitation contained in Section 552, "Ceiling on Payment") Tables-Chapter 900, as from time to time amended, will be reimbursable hereunder for employees in respect to amounts earned during the time such employees actually spend overseas on work under this contract. When such post differential is provided to the Contractor, it shall be payable beginning on the date of arrival at the post of assignment and continue, including periods away from post on official business, until the close of business on the day of departure from post of assignment en route to the United States. Sick or vacation leave taken at or away from the post of assignment will not interrupt the continuity of the assignment or require a discontinuance of such post differential payments, provided such leave is not taken within the United States or the territories of the United States. Post differential will not be payable while the employee is away from his/her post of assignment for purposes of home leave. Short-term employees shall be entitled to post differential beginning with the forty-third (43rd) day at post.

(ii) Living quarters allowance.

Living quarters allowance is an allowance granted to reimburse an employee for substantially all of his/her cost for either temporary or residence quarters whenever Government-owned or Government-rented quarters are not provided to him/her at his/her post without charge. Such costs are those incurred for temporary lodging (temporary lodging allowance) or one unit of residence quarters (living quarters allowance) and include rent, plus any cost not included therein for heat, light, fuel, gas, electricity and water. The temporary lodging allowance and the living quarters allowance are never both payable to an employee for the same period of time. The Contractor will receive living quarters allowance for payment of rent and utilities if such facilities are not supplied. Such allowance shall not exceed the amount paid AID employees of equivalent rank in the Cooperating Country, in accordance with either the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 130, as from time to time amended, or other rates approved by the Mission Director. Subject to the written approval of the Mission Director, short-term employees may be paid per diem (in lieu of living quarters allowance) at rates prescribed by the Federal Travel Regulations, as from time to time amended, during the time such short-term employees spend at posts of duty in the Cooperating Country under this contract. In authorizing such per diem rates, the Mission Director shall consider the particular circumstances involved with respect to each such short-term employee including the extent to which meals and/or lodging may be made available without charge or at nominal cost by an agency of the United States Government or of the Cooperating Government, and similar factors.

(iii) Temporary lodging allowance.

Temporary lodging allowance is a quarters allowance granted to an employee for the reasonable cost of temporary quarters incurred by the employee and his/her family for a period not in excess of: (i) Three months after first arrival at a new post in a foreign area or a period ending with the occupation of residence (permanent) quarters, if earlier, and (ii) one (1) month immediately preceding final departure from the post subsequent to the necessary vacating of residence quarters. The Contractor will receive temporary lodging allowance for himself/herself and authorized dependents, in lieu of living quarters allowance, not to exceed the amount set forth in the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 120, as from time to time amended.

(iv) Post allowance.

Post allowance is a cost-of-living allowance granted to an employee officially stationed at a post where the cost of living, exclusive of quarters cost, is substantially higher than in Washington, D.C. The Contractor will receive post allowance payments not to exceed those paid AID employees in the Cooperating Country, in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 220, as from time to time amended.

(v) Supplemental post allowance.

Supplemental post allowance is a form of post allowance granted to an employee at his/her post when it is determined that assistance is necessary to defray extraordinary subsistence costs. The Contractor will receive supplemental post allowance payments not to exceed the amount set forth in the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 230, as from time to time amended.

(vi) Payments during evacuation.

The Standardized Regulations (Government Civilians, Foreign Areas) provide the authority for efficient, orderly, and equitable procedure for the payment of compensation, post differential and allowances in the event of an emergency evacuation of employees or their dependents, or both, from duty stations for military or other reasons or because of imminent danger to their lives. If evacuation has been authorized by the Mission Director, the Contractor will receive payments during evacuation for himself/herself and authorized dependents evacuated from their post of assignment in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 600, and the Federal Travel Regulations, as from time to time amended.

The allowances provided in paragraphs (a)(1) through (a)(6) of this provision shall be paid to the Contractor in dollars or in the currency of the cooperating country in accordance with the practice prevailing at the Mission, or the Mission Director may direct that the Contractor be paid a per diem in lieu thereof as prescribed by the Standardized Regulations (Government Civilians, Foreign Areas), as from time to time amended.

(b) The Contractor shall not be eligible for any allowance, differential, or other employment benefit that is not expressly authorized by AIDAR Appendix D.

7. Social Security and Federal Income Tax (Dec. 1985)

(a) Since the Contractor is an employee, F.I.C.A. contributions and U.S. Federal Income Tax withholding shall be deducted in accordance with regulations and rulings of the Social Security Administration and the U.S. Internal Revenue Service, respectively.

(b) As an employee, the Contractor is not eligible for the "foreign earned income" exclusion under the IRS regulations (see 26 CFR 1.911–3(c)(3)).

8. Advance of Dollar Funds (Dec. 1985)

If requested by the Contractor and authorized in writing by the Contracting Officer, AID will arrange for an advance of funds to defray the initial cost of travel, travel allowances, authorized precontract expenses, and shipment of personal property. The advance shall be granted on the same basis as to an AID U.S.-citizen direct-hire employee in accordance with AID Handbook 22, Chapter 4.

9. Insurance (Dec. 1985)

(a) Worker's Compensation Benefits.

The Contractor shall be provided worker's compensation benefits in accordance with the Federal Employees Compensation Act.

(b) Health and Life Insurance.

(1) The Contractor shall be provided a maximum contribution of up to 50% against the actual costs of the Contractor's annual health insurance costs, provided that such costs may not exceed the maximum U.S. Government contribution for direct-hire personnel as announced annually by the Office of Personnel Management.

(2) The Contractor shall be provided a contribution of up to 50% against the actual costs of annual life insurance not to exceed $500.00 per year.

(3) A Contractor who is a spouse of a current or retired Civil Service, Foreign Service, or Military Service member and who is covered by their spouse's Government health or life insurance policy is ineligible for the contribution under paragraphs (a)(1) or (a)(2) of this provision. Proof of insurance coverage shall be submitted to the Contracting Officer before any contribution is paid.

(c) Insurance on Private Automobiles.

If the Contractor or his/her dependents transport, or cause to be transported, privately owned automobile(s) to the cooperating country, or any of them purchase an automobile within the cooperating country, the Contractor agrees to ensure

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that all such automobile(s) during such ownership within the cooperating country will be covered by a paid-up insurance policy issued by a reliable company providing the following minimum coverages, or such other minimum coverages as may be set by the Mission Director, payable in U.S. dollars or its equivalent in the currency of the cooperating country: injury to persons, $10,000/$20,000; property damage, $5,000. The Contractor further agrees to deliver, or cause to be delivered to the Mission Director, the insurance policies required by this clause or satisfactory proof of the existence thereof, before such automobile(s) is operated within the cooperating country. The premium costs for such insurance shall not be a reimbursable cost under this Contract.

(d) Claims for Private Personal Property Losses.

The Contractor shall be reimbursed for private personal property losses in accordance with AID Handbook 23, Chapter 10.

10. Travel and Transportation Expenses (Dec. 1985)

(a) General.

AID/Washington Office of Management Operations, or such other office as may be designated by that office, may furnish Transportation Requests (TR's) to the Contractor for transportation originating in the United States authorized by this Contract, and the executive or administrative officer at the Mission may furnish TR's for such authorized transportation which is payable in local currency or is to originate overseas. When transportation is not provided by the Government-issued TR, the Contractor shall procure his/her own transportation, the costs of which will be reimbursed in accordance with the following.

(b) Travel and Transportation.

(1) U.S. Travel and Transportation.

The Contractor shall be reimbursed for actual transportation costs and travel allowances in the United States as authorized in the Contract Schedule or approved in advance by the Contracting Officer or the Mission Director. Transportation costs and travel allowances shall not be reimbursed in any amount greater than the cost of, and time required for, economy-class commercially scheduled air travel by the most expeditious route except as otherwise provided in paragraph (b)(2)(vi) of this provision unless economy air travel is not available and the Contractor certifies to this in his/her voucher or other documents submitted for reimbursement.

(2) International Travel.

(i) The Contractor shall be reimbursed for actual transportation costs and travel allowances from place of residence in the United States (or other location, provided that the cost of such travel does not exceed the cost of travel from the place of residence) to post of duty in the cooperating country and return to place of residence in the United States (or other location, provided that the cost of such travel does not exceed the cost of travel from the post of duty to the place of residence) upon completion of his/her duties. Such transportation costs shall not be reimbursed in an amount greater than economy-class commercially scheduled air travel by the most expeditious route, except as otherwise provided in paragraph (b)(2)(vi) of this provision, unless economy air travel or economy air space are not available and the Contractor certifies to the facts in the voucher or other document he/she submits for reimbursement. When travel to or from the cooperating country is by economy-class accommodations, the Contractor will be reimbursed for the cost of transporting up to 44 pounds gross weight of accompanied personal baggage in addition to that regularly allowed with the economy ticket, provided that the total number of pounds of baggage does not exceed that regularly allowed for first-class travelers. Travel allowances shall be at the rate of $6 per day for not more than the travel time required by scheduled economy-class commercial air carrier using the most expeditious route and computed in accordance with the Federal Travel Regulations, as from time to time amended. One stopover en route for a period not to exceed 24 hours is allowable when the Contractor uses economy-class accommodations for a trip of 14 hours or more of scheduled duration. Such stopover shall not be authorized when travel is by indirect route for the convenience of the Contractor. Per diem during authorized stopover shall be paid in accordance with the Federal Travel Regulations, as from time to time amended.

(ii) Unaccompanied Baggage.

Except as provided in the Contract Schedule or approved by the Contracting Officer, the Contractor who is on a tour of duty of 90 days or more under this Contract shall be reimbursed for the cost of unaccompanied personal effects not to exceed 250 pounds gross weight via airfreight from place of residence in the United States (or other location, provided that the cost of such shipment does not exceed the cost of shipment from the place of residence) to post of duty in the cooperating country and return to place of residence in the United States (or other location, provided that the cost of such shipment does not exceed the cost of shipment from the post of duty to the place of residence) upon completion of duties.

(iii) Local Travel.

The Contractor shall be reimbursed at the rates established by the Mission Director for authorized travel in the cooperating country in connection with duties directly referable to work under this Contract. In the absence of such established rates, the Contractor shall be reimbursed for actual costs of authorized travel in the cooperating country if not provided by the cooperating government or the Mission in connection with duties directly referable to work hereunder, including travel allowances at rates precribed by the Standardized Regulations (Government Civilians, Foreign Areas), as from time to time amended.

(iv) Special International Travel and Third-Country Travel.

For special travel which (A) advances the purpose of the Contract, (B) is not otherwise provided by the cooperating government; and (C) has the prior written approval of the Contracting Officer or the Mission Director, the Contractor shall be reimbursed for (*1*) the cost of international transportation other than between the United States and the cooperating country and for local transportation within other countries, and (*2*) travel allowances while in official travel status and while performing services under the Contract in such other countries at rates prescribed by the Standardized Regulations (Government Civilians, Foreign Areas), as from time to time amended.

(v) Indirect Travel for Personal Convenience.

(A) When travel is performed by an indirect route for the personal convenience of the traveler, the allowable costs of such travel will be computed on the basis of the cost of economy class air fare via the direct usually traveled route between the authorized points of departure and destination.

(B) If such costs include fares for air or ocean transportation by foreign-flag carriers, approval for indirect travel by such foreign-flag carrier must be obtained from the Contracting Officer or Mission Director, *before* such travel is undertaken, otherwise only that portion of travel accomplished by U.S.-flag carriers will be reimbursable under this contract.

(vi) Delays En Route.

The Contractor may be granted reasonable delays en route, provided that such delays are caused by events beyond the control of the Contractor and are not due to circuitous routing. It is understood that if the delay is caused by physical incapacitation, the Contractor shall be eligible for such sick leave as is provided under paragraph (b) of the General Provision of this Contract entitled Leave and Holidays.

(vii) Privately Owned Automobiles (POV).

(A) If travel by POV is authorized in the Contract Schedule or approved by the Contracting Officer, the Contractor shall be reinbursed for the cost of travel in his/her privately owned automobile at the rate per mile equal to the rate authorized a U.S. Government employee in equivalent circumstances, plus authorized per diem, if the automobile is being driven in connection with: (1) Authorized orientation, (2) authorized duties under this Contract, or (3) en route to or from the cooperating country provided that the total cost of the mileage and the per diem to the Contractor shall not exceed the total constructive cost of fare and normal per diem by (i) surface common carrier or (ii) economy class air, whichever is the lesser.

(B) Cost of the shipment of automobiles for Contract tours of duty of less than 1 year is not reimbursable under this Contract.

(viii) Emergency and Irregular Travel and Transportation.

Actual transportation costs and travel allowances while en route, as provided in this section, shall be reimbursed under the following conditions:

(A) Subject to the prior written approval of the Mission Director, the costs of going from post of duty in the cooperating country to the United States or other approved location for the Contractor when, because of reasons or conditions beyond his/her control, the Contractor has not completed his/her required service in the cooperating country. The Mission Director may also authorize the return to the cooperating country of such Contractor.

(B) It is agreed that paragraph (b)(2)(viii)(A) of this provision includes, but is not necessarily limited to, the following:

(*1*) Need for medical care beyond that available within the areas to which the Contractor is assigned, or serious effect on physical or metal health if residence is continued at assigned post of duty, subject in either case, to the limitations stated in the provision of this contract entitled "Physical Fitness." The Mission Director may authorize a medical attendant to accompany the employee at contract expense if, based on medical opinion, such an attendant is necessary.

(*2*) Serious illness, injury, or death of a member of the Contractor's immediate family. Travel shall be authorized in accordance with emergency visitation travel granted to U.S.-citizen direct-hire employees.

(*3*) Emergency evacuation when ordered by the principal U.S. Diplomatic Officer in the cooperating country. Allowances at safe haven when authorized by the Mission Director, shall be payable in accordance with established Government Regulations.

(*4*) Preparation and return of the remains of a deceased Contractor.

11. Preference for U.S.-Flag Air Carriers (Apr. 1984) (FAR 52.247-63)

(a) "International air transportation," as used in this clause, means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

"United States," as used in this clause, means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and possessions of the United States.

"U.S.-flag air carrier," as used in this clause, means an air carrier holding a certificate under Section 401 of the Federal Aviation Act of 1958 (49 U.S.C. 1371).

(b) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 1517) (Fly America Act) requires that all Federal agencies and Government contractors and subcontractors use U.S.-flag carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

(c) The Contractor agrees, in performing work under this contract, to use U.S.-flag air carriers for international air transportation of personnel (and their personal effects) or property to the extent that service by those carriers is available.

(d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a certification on vouchers involving such transportation essentially as follows:

Certification of Unavailability of U.S.-Flag Air Carriers

I hereby certify that international air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons (see section 47.403 of the Federal Acquisition Regulation) (State reasons—see Note):

(End of certification)

(e) The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

Note.—Availability and unavailability of U.S.-flag air carrier service. (FAR 47.403-1)

(a) If a U.S.-flag air carrier cannot provide the international air transportation needed or if the use of U.S.-flag air carrier service would not accomplish an agency's mission, foreign-flag air carrier service may be deemed necessary.

(b) U.S.-flag air carrier service is considered available even though:

(1) Comparable or a different kind of service can be provided at less cost by a foreign-flag air carrier;

(2) Foreign-flag air carrier service is preferred by, or is more convenient for, the agency or traveler; or

(3) Service by a foreign-flag air carrier can be paid for in excess foreign currency (unless U.S.-flag air carriers decline to accept excess or near excess foreign currencies for transportation payable only out of such monies).

(c) Except as provided in paragraph 47.403-1(a), U.S.-flag air carrier service shall be used for U.S. Government-financed commercial foreign air travel if service provided by U.S.-flag air carriers is available. In determining availability of a U.S.-flag air carrier, the following scheduling principles shall be followed unless their application would result in the last or first leg of travel to or from the United States being performed by a foreign-flag air carrier:

(1) U.S.-flag air carrier service available at point of origin shall be used to destination or, in the absence of direct or through service, to the farthest interchange point on a usually traveled route.

(2) When an origin or interchange point is not served by a U.S.-flag air carrier, foreign-flag air carrier service shall be used only to the nearest interchange point on a usually traveled

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route to connect with U.S.-flag air carrier service.

(3) When a U.S.-flag air carrier involuntarily reroutes the traveler via a foreign-flag air carrier, the foreign-flag air carrier may be used notwithstanding the availability of alternative U.S.-flag air carrier service.

(d) For travel between a gateway airport in the United States and a gateway airport abroad, passenger service by U.S.-flag air carrier shall not be considered available if:

(1) The gateway airport abroad is the traveler's origin or destination airport and the use of U.S.-flag air carrier service would extend the time in a travel status, including delay at origin and accelerated arrival at destination, by at least 24 hours more than travel by a foreign-flag air carrier; or

(2) The gateway airport abroad is an interchange point and the use of U.S.-flag air carrier service would require the traveler to wait 6 hours or more to make connections at that point, or if delayed departure from, or accelerated arrival at, the gateway airport in the United States would extend time in a travel status by at least 6 hours more than travel by a foreign-flag air carrier.

(e) For travel between two points outside the United States, the rules in paragraphs 47.403–1(a), (b), and (c) shall be applicable, but passenger service by a U.S.-flag air carrier shall not be considered to be reasonably available if:

(1) Travel by a foreign-flag air carrier would eliminate two or more aircraft changes en route;

(2) One of the two points abroad is the gateway airport en route to or from the United States and the use of a U.S.-flag air carrier would extend the time in a travel status by at least 6 hours more than travel by a foreign-flag air carrier, including accelerated arrival at the overseas destination or delayed departure from the overseas origin, as well as delay at the gateway airport or other interchange point abroad; or

(3) The travel is not part of the trip to or from the United States and use of a U.S.-flag air carrier would extend the time in a travel status by a least 6 hours more than travel by a foreign-flag air carrier including the delay at origin, delay en route, and accelerated arrival at destination.

(f) For all short-distance travel under either paragraph (d) or paragraph (e) of 47.403–1 U.S. air carrier service shall not be considered available when the elapsed traveltime on a scheduled flight from origin to destination airport by foreign-flag air carrier is 3 hours or less and service by a U.S.-flag air carrier would involve twice such traveltime.

12. Payment (Dec. 1985)

(a) Once each month (or at more frequent intervals, if approved by the paying office indicated on the Cover Page), the Contractor may submit to such office form SF 1034 Public Voucher for Purchases and Services Other Than Personal (original) and SF 1034–A (three copies), each voucher identified by the AID contract number properly executed in the amount of dollars claimed during the period covered. The voucher forms shall be supported by:

(1) The Contractor's detailed invoice, in original and two copies, indicating for each amount claimed the paragraph of the Contract under which payment is to be made, supported when applicable as follows:

(i) For compensation—a statement showing period covered, days worked, and days when Contractor was in authorized travel, leave, or stopover status for which compensation is claimed. All claims for compensation will be accompanied by, or will incorporate, a certification signed by the Project Officer covering days or hours worked, or authorized travel or leave time for which compensation is claimed.

(ii) For travel and transportation—a statement of itinerary with attached carrier's receipt and/or passenger's coupons, as appropriate.

(iii) For reimbursable expenses—an itemized statement supported by original receipts.

(2) The first voucher submitted shall include a fully executed Form W–4, Employees Withholding Exemption Certificate, to permit required withholding by AID, such as Federal Income Tax, F.I.C.A. deductions, and when applicable, state income tax. The first voucher shall also account for, and liquidate the unexpended balance of, any funds advanced to the Contractor.

(b) A final voucher shall be submitted by the Contractor promptly following completion of the duties under this Contract but in no event later than 120 days (or such longer period as the Contracting Officer may in his/her discretion approve in writing) from the date of such completion. The Contractor's claim, which includes his/her final settlement of compensation, shall not be paid until after the performance of the duties required under the terms of this Contract has been approved by AID. On receipt and approval of the voucher designated by the Contractor as the "final voucher" submitted on form SF 1034 (original) and SF 1034–A (three copies), together with a refund check for the balance remaining on hand of any funds which may have been advanced to the Contractor, the Government shall pay any amounts due and owing the Contractor.

Interest on Overdue Payments

(a) The Prompt Payment Act, Public Law 97–177 (96 Stat. 85.31; U.S.C. 1801) is applicable to payments under this contract and requires the payment to the contractor of interest on overdue payments and improperly taken discounts.

(b) Determinations of interest due will be made in accordance with the provisions of the Prompt Payment Act and Office of Management and Budget Circular A–125.

Payment Due Dates

(a) Unless otherwise specifically provided in this contract, payments under this contract will be due as follows:

(1) When the designated paying office identified in the contract or purchase order is located in the U.S.: 30 calendar days after the date of actual receipt of a proper invoice in the designated paying office or 30 days after a designated AID official or authorized representative accepts the property or services, whichever is later.

(2) When the designated paying office identified in the contract or purchase order is at a foreign location: 45 calendar days after the date of actual receipt of a proper invoice in the designated paying office or 45 days after a designated AID official or authorized representative accepted the property or services, whichever is later.

13. Conversion of U.S. Dollars to Local Currency (Dec. 1985)

Upon arrival in the Cooperating Country, and form time to time as appropriate, the Contractor shall consult with the Mission Director or his/her authorized representative who shall provide, in writing, the policy the Contractor shall follow in the conversion of U.S. dollars to local currency.

This may include, but not be limited to the conversion of said currency through the cognizant U.S. Disbursing Officer, or Mission Controller, as appropriate.

14. Post of Assignment Privileges (Dec. 1985)

(a) Health room services of the same type that are normally provided to AID direct-hire U.S. citizen employees shall be available for U.S. citizen contractors and their authorized dependents (regardless of citizenship) at the post of duty. These services do not include hospitalization, or predeparture or end of tour medical examinations. The services do not include such medications as may be available, immunizations and preventive health measures, diagnostic examinations and advice, emergency treatment, and home visits as medically indicated.

(b) Privileges such as the use of APO, PX's, commissaries and officer's clubs are established at posts abroad under agreements between the U.S. and host governments. These facilities are intended for and usually limited to members of the official U.S. establishment including the Embassy, AID Mission, U.S. Information Service and the Military. Normally, the agreements do not permit these facilities to be made available to non-official Americans.

15. Security Requirements (Dec. 1985)

(a) This entire provision shall apply to the extent that this Contract involves access to classified information ("Confidential", "Secret", or "Top Secret") or access to administratively controlled information ("Limited Official Use"). Contractors that are not U.S. citizens shall not have access to classified or administratively controlled information.

(b) The Contractor: (1) Shall be responsible for safeguarding all classified or administratively controlled information in accordance with appropriate instructions furnished by AID Office of Security (IG/SEC), as referenced in paragraph (d) of this provision and shall not supply, disclose, or otherwise permit access to classified information or administratively controlled information to any unauthorized person; (2) shall not make or permit to be made any reproductions of classified information or administratively controlled information except with the prior written authorization of the Contracting Officer or Mission Director; (3) shall submit to the Contracting Officer, at such times as the Contracting Officer may direct, an accounting of all reproductions of classified or administratively controlled information; and (4) shall not incorporate in any other project any matter which will disclose classified and/or administratively controlled information except with the prior written authorization of the Contracting Officer.

(c) The Contractor shall not permit any alien access to classified or administratively controlled information. The Contractor shall not permit any individual to have access to classified information or administratively controlled information without the prior written authorization of the Contracting Officer or Mission Director.

(d) The Contractor shall follow the procedures for classifying, marking, handling, transmitting, disseminating, storing, and destroying official material in accordance with the regulations in the Foreign Affairs Manual, Chapter 5 (5 FAM 900), a copy of which will be furnished by the Contracting Officer or Mission Director.

(e) The Contractor agrees to submit immediately to the Mission Director or Contracting Officer a complete detailed report, appropriately classified, of any information which the Contractor may have concerning existing or threatened espionage, sabotage, or subversive activity.

(f) The Government agrees that, when necessary, it shall indicate by security classification or administratively controlled designation, the degree of importance to the national defense of information to be furnished by the Contractor to the Government or by the Government to the Contractor, and the Government shall give written notice of such security classification or administratively controlled designation to the Contractor and of any subsequent changes thereof. The Contractor is authorized to rely on any letter or other written instrument signed by the Contracting Officer changing a security classification or administratively controlled designation of information.

(g) The Contractor agrees to certify after completion of his/her assignment under this Contract that he/she has surrendered or disposed of all classified and/or administratively controlled information in his/her custody in accordance with applicable security instructions.

16. Contractor-Mission Relationships (Dec. 1985)

(a) The Contractor acknowledges that this Contract is an important part of the U.S. Foreign Assistance Program and agrees that his/her duties will be carried out in such a manner as to be fully commensurate with the responsibilities which this entails.

(b) While in the cooperating country, the Contractor is expected to show respect for the conventions, customs, and institutions of the cooperating country and not interfere in its political affairs.

(c) If the Contractor's conduct is not in accordance with paragraph (b) of this provision, the Contract may be terminated under General Provision 17 of this contract. The Contractor recognizes the right of the U.S. Ambassador to direct his/her immediate removal from any country when, in the discretion of the Ambassador, the interests of the United States so require.

(d) The Mission Director is the chief representative of AID in the cooperating country. In this capacity, he/she is responsible for the total AID Program in the cooperating country including certain administrative responsibilities set forth in this Contract and for advising AID regarding the performance of the work under the Contract and its effect on the U.S. Foreign Assistance Program. The Contractor will be responsible for performing his/her duties in accordance with the statement of duties called for by the Contract. However, he/she shall be under the general policy guidance of the Mission Director, and shall keep the Mission Director or his/her designated representative currently informed of the progress of the work under this Contract.

17. Termination (Apr. 1985) (FAR 52.249–12)

The Government may terminate this contract at any time upon at least 15 days' written notice by the Contracting Officer to the Contractor. The Contractor, with the written consent of the Contracting Officer, may terminate this contract upon at least 15 days' written notice to the Contracting Officer.

18. Disputes (Apr. 1984) (FAR 52.233–1 [Alternate I]

(a) This contract is subject to the Contract Disputes Act of 1978 (41 U.S.C. 601–613) (the Act).

(b) Except as provided in the Act, all disputes arising under or relating to this contract shall be resolved under this clause.

(c) "Claim," as used in this clause, means a written demand or written assertion by one of contracting parties seeking, as a matter of right, the payment of money in a sum certain, the adjustment or interpretation of contract terms, or other relief arising under or relating to his/her contract. A claim arising under a contract, unlike a claim relating to that contract, is a claim that can be resolved under a contract clause that provides for the relief sought by the claimant. However, a written demand or written assertion by the Contractor seeking the payment of money exceeding $50,000 is not a claim under the Act until certified as required by subparagraph (d)(2) below. A voucher, invoice, or other routine request for payment that is not in dispute when submitted is not a claim under the Act. The submission may be converted to a claim under the Act, by complying with the submission and certification requirements of this clause, if it is disputed either as to liability or amount

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or is not acted upon in a reasonable time.

(d)(1) A claim by the Contractor shall be made in writing and submitted to the Contracting Officer for a written decision. A claim by the Government against the Contractor shall be subject to a written decision by the Contracting Officer.

(2) For Contractor claims exceeding $50,000, the Contractor shall submit with the claim a certification that:

(i) The claim is made in good faith;

(ii) Supporting data are accurate and complete to the best of the Contractor's knowledge and belief; and

(iii) The amount requested accurately reflects the contract adjustment for which the Contractor believes the Government is liable.

(3)(i) If the Contractor is an individual, the certification shall be executed by that individual.

(ii) If the Contractor is not an individual, the certification shall be executed by:

(A) A senior company official in charge at the Contractor's plant or location involved; or

(B) An officer or general partner of the Contractor having overall responsibility for the conduct of the Contractor's affairs.

(e) For Contractor claims of $50,000 or less, the Contracting Officer must, if requested in writing by the Contractor, render a decision within 60 days of the request. For Contractor-certified claims over $50,000, the Contracting Officer must, within 60 days, decide the claim or notify the Contractor of the date by which the decision will be made.

(f) The Contracting Officer's decision shall be final unless the Contractor appeals or files a suit as provided in the Act.

(g) the Government shall pay interest on the amount found due and unpaid from: (1) The date the Contracting Officer receives the claim (properly certified if required), or (2) the date payment otherwise would be due, if that date is later, until the date of payment. Simple interest on claims shall be paid at the rate, fixed by the Secretary of the Treasury as provided in the Act, which is applicable to the period during which the Contracting Officer receives the claim and then at the rate applicable for each 6-month period as fixed by the Treasury Secretary during the pendency of the claim.

(h) The Contractor shall proceed diligently with performance of this contract, pending final resolution of any request for relief, claim, appeal, or action arising under or relating to the Contract, and comply with any decision of the Contracting Officer.

19. Release of Information (Dec. 1985)

All rights in data and reports shall become the property of the U.S. Government. All information gathered under this Contract by the Contractor and all reports and recommendations hereunder shall be treated as confidential by the Contractor and shall not, without prior written approval of the Contracting Officer, be made available to any person, party, or government, other than AID, except as otherwise expressly provided in this Contract.

20. Officials Not To Benefit (Apr. 1984)

No member of or delegate to the Congress or resident commissioner shall be admitted to any share or part of this Contract or to any benefit that may arise therefrom.

21. Covenant Against Contingent Fees (Apr. 1984) (FAR 52.203-5)

(a) The Contractor warrants that no person or agency has been employed or retained to solicit or obtain this contract upon an agreement or understanding for a contingent fee, except a bona fide employee or agency. For breach or violation of this warranty, the Government shall have the right to annul this contract without liability or, in its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of the contingent fee.

(b) "Bona fide agency," as used in this clause, means an established commercial or selling agency, maintained by a contractor for the purpose of securing business, that neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds itself out as being able to obtain any Government contract or contracts through improper influence.

"Bona fide employee," as used in this clause, means a person, employed by a contractor and subject to the contractor's supervision and control as to time, place, and manner of performance, who neither exerts nor proposes to exert improper influence to solicit or obtain Government contracts nor holds out as being able to obtain any Government contract or contracts through improper influence.

"Contingent fee," as used in this clause, means any commission, percentage, brokerage, or other fee that is contingent upon the success that a person or concern has in securing a Government contract.

"Improper influence," as used in this clause, means any influence that induces or tends to induce a Government employee or officer to give consideration or to act regarding a Government contract on any basis other than the merits of the matter.

22. Notices (Dec. 1985)

Any notice, given by any of the parties hereunder, shall be sufficient only if in writing and delivered in person or sent by telegraph, telegram, registered, or regular mail as follows:

To AID: Administrator, Agency for International Development, Washington, D.C. 20523.

Attention: Contracting Officer (name of the cognizant Contracting Officer with a copy to the appropriate Mission Director).

To Contractor:

At his/her post of duty while in the cooperating country and at the Contractor's address shown on the Cover Page of this Contract or to such other address as either of such parties shall designate by notice given as herein required. Notices hereunder shall be effective in accordance with this clause or on the effective date of the notice, whichever is later.

23. Reports (Dec. 1985)

(a) The Contractor shall prepare and submit three copies of each technical report required by the schedule (e.g., progress reports, final report, etc.) to the Development Information Utilization Service, Bureau for Program and Policy Coordination (PPC/DIU), Agency for International Development, Washington, D.C. 20523. The title page of all reports forwarded shall include the contract number, the project number and the project title which are set forth on the Cover Page of this Contract.

(b) When preparing reports, the Contractor shall refrain from using elaborate art work, multicolor printing and expensive paper/binding, unless it is specifically authorized in the Contract Schedule. Wherever possible, pages should be printed on both sides using single spaced type.

24. Use of Pouch Facilities (Dec. 1985)

(a) Use of diplomatic pouch is controlled by the Department of State. The Department of State has authorized the use of pouch facilities for AID Contractors as a general policy, as detailed in paragraph (a)(1) through (a)(6) of this provision. However, the final decision regrading use of pouch facilities rests with the Embassy or AID Mission. In consideration of the use of pouch facilities as hereinafter stated, the Contractor agrees to indemnify and hold

harmless the Department of State and AID for loss or damage occurring in pouch transmission.

(1) Contractors are authorized use of the pouch for transmission and receipt of up to a maximum of 2 pounds per shipment of correspondence and documents needed in the administration of foreign assistance programs.

(2) U.S. citizen or U.S. resident alien Contractors are authorized use of the pouch for personal mail up to a maximum of one pound per shipment (but see (a)(3) below). Non-U.S. citizen Contractors are not permitted use of the pouch for personal mail except to the extent that such use may be authorized by the Chief of Mission.

(3) Merchandise, parcels, magazines, or newspapers are not considered to be personal mail for purposes of this clause, and are not authorized to be sent or received by pouch.

(4) Official and personal mail under paragraphs (a)(1) and (2) of this provision, sent by pouch, should be addressed as follows:

Name of individual (followed by letter symbol "C")
Name of post (USAID/), Agency for International Development, Washington, D.C. 20523.

(5) Mail sent via the diplomatic pouch may not be in violation of U.S. Postal laws and may not contain material ineligible for pouch transmission.

(6) AID Contractors are not authorized use of military postal facilities (APO/FPO). This is an Adjutant General's decision based on existing laws and regulations governing military postal facilities and is being enforced worldwide. Posts having access to APO/FPO facilities and using such for diplomatic pouch dispatch may, however, accept official and personal mail for the pouch provided, of course, adequate postage is affixed when onward transmission (mail to other than AID/W) through U.S. postal channels is required.

(b) The Contractor shall be responsible for compliance with these guidelines and limitations on use of pouch facilities.

(c) Specific additional guidance on use of pouch facilities in accordance with this clause is available from the Post Communication Center at the Embassy or AID Mission.

Section 12. Additional General Provisions

Contract With a U.S. Citizen or a U.S. Alien Resident for Personal Services Abroad

The following clauses are to be used along with the General Provisions (Section 11) for a tour of duty of 1 year or more.

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26. Definitions (Long Tour) (Dec. 1985)

(a) "Dependents" means:

(1) Spouse.

(2) Children (including step and adopted children) who are unmarried and under 21 years of age, or regardless of age, are incapable of self-support.

(3) Parents (including step and legally adoptive parents) of the employee or of the spouse, when such parents are least 51 percent dependent on the Contractor for support.

(4) Sisters and brothers (including step or adoptive sisters or brothers) of the Contractor, or of the spouse, when such sisters and brothers are at least 51 percent dependent on the Contractor for support, unmarried and under 21 years of age, or regardless of age, are incapable of self-support.

(b) "Traveler" also means dependents of the Contractor who are in authorized travel status.

27. Laws and Regulations Applicable Abroad (Dependents) (Dec. 1985)

(a) Conformity to Laws and Regulations of the Cooperating Country.

While in the cooperating country, the Contractor agrees he/she will make every effort to assure that his/her authorized dependents shall abide by all applicable laws and regulations of the cooperating country and political subdivisions thereof.

(b) Purchase, Sale, Import, or Export of Personal Property or Automobiles.

To the extent permitted by the cooperating country, the purchase, sale, import, or export of personal property or automobiles by the Contractor's authorized dependents in the cooperating country shall also be subject to the same limitations and prohibitions which apply to U.S.-citizen direct-hire employee dependents.

28. Physical Fitness (Long Tour) (Dec. 1985)

(a) Predeparture.

The Contractor's authorized dependents shall also be required to be examined by a licensed doctor of medicine. The Contractor shall require the doctor to certify that, in the doctor's opinion, the Contractor's authorized dependents are physically qualified to reside in the cooperating country. A copy of the certificate shall be provided to the Contracting Officer prior to the dependent's departure for the cooperating country.

(b) End of Tour.

The Contractor and his/her authorized dependents are authorized physical examinations within 60 days after completion of the Contractor's tour of duty.

(c) Reimbursement.

The Contractor shall be reimbursed for the physical examinations mentioned in paragraphs (a) and (b) above as follows: (1) Not to exceed $100 per examination for the Contractor's dependents of 12 years of age and over and (2) $40 per examination for Contractor's dependents under 12 years of age. The Contractor shall also be reimbursed for the cost of immunizations.

29. Leave and Holidays (Long Tour) Dec. 1985)

(a) Vacation Leave.

(1) With the approval of the Mission Director, and if the circumstances warrant, a Contractor may be granted advance vacation leave in excess of that earned, but in no case shall a Contractor be granted advance vacation leave in excess of that which he/she will earn over the life of the Contract. The Contractor agrees to reimburse AID for leave used in excess of the amount earned during the Contractor's assignment under the Contract.

(2) Leave taken during the concluding weeks of an employee's tour shall be included in the established leave schedule and be limited to that amount of leave which can be earned during a twelve month period unless approved in accordance with paragraph (a)(3) of this clause.

(3) Vacation leave earned but not taken by the end of the employee's tour pursuant to paragraphs (a)(1) and (2) of this clause will be forfeited, unless the requirements of the project precluded the employee from taking such leave

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and the Contracting Officer, with the endorsement of the Mission, approves one of the following as a alternative:

(i) Taking, during the concluding weeks of the employee's tour, leave not permitted under (a)(2) of this clause, or

(ii) Lump-sum payment for leave not taken provided such leave does not exceed the number of days which can be earned by the employee during a twelve month period.

(b) Military Leave.

Military leave of not more than 15 calendar days in any calendar year may be granted to a Contractor who is a reservist of the Armed Forces, provided that such military leave has been approved in advance by the Contracting Officer or the Mission Director. A copy of any such approval shall be provided to the Contracting Officer.

(c) Home Leave.

(1) Home leave is leave earned for service abroad for use only in the United States, in the Commonwealth of Puerto Rico, or in the possessions of the United States.

(2) A Contractor who is a U.S. citizen or U.S. resident alien and has served at least 2 years overseas, as defined in paragraph (c)(4) below, under this Contract, and has not taken more than 30 workdays leave (vacation, sick, or leave without pay) in the United States, may be granted home leave of not more than 15 calendar days for each such year of service overseas; provided, that the Contractor agrees to return overseas upon completion of home leave under an additional 2 year appointment, or for such shorter period of not less than 1 year of overseas service under the Contract as the Mission Director may approve in advance. Home leave must be taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States, and any days spent elsewhere will be charged to vacation leave or leave without pay.

(3) Notwithstanding the requirement in paragraph (c)(2) above, that the Contractor must have served 2 years overseas under this Contract to be eligible for home leave, the Contractor may be granted advance home leave subject to all of the following conditions:

(i) Granting of advance home leave would in each case serve to advance the attainment of the objectives of this Contract;

(ii) The Contractor shall have served a minimum of 18 months in the cooperating country on his/her current tour of duty under this Contract; and

(iii) The Contractor shall have agreed to return to the cooperating country to serve out the remainder of his/her current tour of duty and an additional 2 year appointment under this Contract, or such other additional appointment of not less than 1 year of overseas service as the Mission Director may approve.

(4) The period of service overseas required under paragraph (c)(2), or paragraph (c)(3) above, shall include the actual days in orientation in the United States (less language training) and the actual days overseas beginning on the date of departure from the U.S. port of embarkation on international travel and continuing, inclusive of authorized delays en route, to the date of arrival at the U.S. port of debarkation from international travel. Allowable vacation and sick leave taken while overseas, but not leave without pay, shall be included in the required period of service overseas. An amount equal to the number of days of vacation and sick leave taken in the United States, the Commonwealth of Puerto Rico, or the possessions of the United States will be added to the required period of service overseas.

(5) Salary during travel to and from the United States for home leave will be limited to the time required for travel by the most expeditious air route. The Contractor will be responsible for reimbursing AID for payments made during home leave if, in spite of the undertaking of the new appointment, the Contractor, except for reasons beyond his/her control as determined by the Contracting Officer, does not return overseas and complete the additional required service. Unused home leave is not reimbursable under this Contract.

(6) To the extent deemed necessary by the Contracting Officer, a Contractor in the United States on home leave may be authorized to spend not more than 5 days in work status for consultation at AID/Washington before returning to post of duty. Consultation at locations other than AID/Washington as well as any time in excess of 5 days spent for consultation, must be approved by the Mission Director or the Contracting Officer.

30. Differential and Allowances (Long Tour) (Dec. 1985)

The following allowances shall also be granted to the Contractor and his/her authorized dependents to the same extent, and on the same basis as, they are granted to AID employees and their dependents by the Standardized Regulations (Government Civilians, Foreign Areas) as from time to time amended:

	Applicable reference to standardized regulations (Chapter)
Educational Allowance	270
Educational Travel	280
Separate Maintenance Allowances	280
Danger Pay Allowance	650

(a) Educational Allowance.

Educational allowance is an allowance to assist the Contractor in meeting the extraordinary and necessary expenses, not otherwise compensated for, incurred by reason of his/her service in a foreign area in providing adequate elementary and secondary education for his/her children. The Contractor will receive educational allowances payments for his/her dependent children in amounts not to exceed those set forth in (Standardized Regulations Government Civilians, Foreign Areas), Chapter 270, as from time to time amended.

(b) Educational travel. Educational travel is travel to and from a school in the United States for secondary education (in lieu of an educational allowance) and for college education. The Contractor will receive educational travel payments for his/her dependent children provided such payment does not exceed that which would be payable in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 280, as from time to time amended. Educational travel shall not be authorized for Contractors whose assignment is less than two years.

(c) Separate maintenance allowance. Separate maintenance allowance is an allowance to assist an employee who is compelled by reason of dangerous, notably unhealthful, or excessively adverse living conditions at his/her post of assignment in a foreign area, or for the convenience of the Government, to meet the additional expense of maintaining his/her dependents elsewhere than at such post. The Contractor will receive separate maintenance allowance payments not to exceed that made to AID employees in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 280, as from time to time amended.

(d) Danger pay allowance. Danger pay allowance is an allowance to provide additional compensation above basic compensation to employees in foreign areas where there exist conditions of civil insurrection, civil war, terrorism or wartime conditions which threaten physical harm or imminent danger to the health or well-being of an employee. The danger pay allowance is in lieu of that part of the hardship post differential rate at a post which is attributable to political violence. Consequently, the rate of post differential may be reduced while danger pay is in effect to avoid dual crediting for political violence. The contractor shall be allowed danger pay allowance not to exceed that paid AID employees in the cooperating country, in accordance with the Standardized Regulations (Government Civilians, Foreign Areas), Chapter 650, as from time to time amended.

The allowances provided in paragraph (a) through (d) above shall be paid to the Contractor in dollars or in the currency of the cooperating country in accordance with the practice prevailing at the Mission.

31. Travel and Transportation Expenses (Long Tour) (Dec. 1985)

(a) General.

Pursuant to paragraph (a) of Clause 10 of the General Provisions, when transportation is not provided by Government-issued TR for the items listed below, the Contractor shall procure his/her own transportation, the costs of which will be reimbursed in accordance with the following:

(1) International Travel.

(i) International travel costs and allowances and stopovers for authorized dependents shall be reimbursed on the same basis as for the Contractor under General Provision Clause No. 10(b)(2)(i) of this Contract except that travel allowances for such dependents shall be at the rate of $6 per day for persons 11 years of age or over and $3 per day for persons under 11 years of age payable for not more than the travel time required by scheduled economy class commercial air carrier using the most expeditious route and computed in accordance with the Federal Travel Regulations, as from time to time amended.

(ii) 1. All international ocean transportation of things which is to be reimbursed in U.S. dollars as authorized under this Contract shall be by U.S.-flag vessels to the extent they are available. When U.S.-flag vessels are not available, or their use would result in a significant delay, the Contractor may request a release from this requirement from M/SER/AAM, Transportation Division, Agency for International Development, Washington, DC 20523, giving the basis for the request.

2. All international air transportation of dependents shall be in accordance with General Provision 11, entitled "Preference for U.S. Flag Air Carriers.".

(b) Limitation on Travel Dependents.

Travel costs and allowances will be allowed for authorized dependents of the Contractor and such costs shall be reimbursed for travel from place of abode in the United States to assigned station in the cooperating country and return, only if the dependent remains in the cooperating country for at least 9 months or one-half of the required tour of duty of the Contractor, whichever is greater, except as otherwise authorized hereunder for education, medical, or emergency visitation travel.

(c) Delays En Route.

Dependents may be granted reasonable delays en route, not circuitous in nature, while in travel status, caused by events beyond the control of such dependents.

(d) Travel by Privately Owned Automobile (POV).

Notwithstanding paragraph (b)(2)(vii) of Clause 10 of the General Provisions, if travel by POV is authorized in the Schedule or approved by the Contracting Officer, the Contractor shall be reimbursed for the cost of travel in his/her privately owned automobile at the rate per mile equal to the rate authorized a U.S. Government employee in equivalent circumstances, plus authorized per diem for the Contractor and for each of the authorized dependents traveling in the automobile if the automobile is being driven in connection with (1) authorized orientation, (2) authorized duties under this Contract, or (3) en route to or from the cooperating country as authorized in the Schedule; provided that the total cost of the mileage and the per diem paid to all authorized travelers shall not exceed the total constructive cost of fare and normal per diem for all authorized travelers by (i) surface common carrier or (ii) less-than-first-class air, whichever is less.

(e) Emergency and Irregular Travel and Transportation.

Notwithstanding the provisions of paragraph (b)(2)(viii) of Clause 10 of the General Provisions, actual transportation costs and travel allowances while en route, as provided in this section, will also be reimbursed under the following conditions:

(1) Subject to the prior written approval of the Mission Director, the costs of going from post of duty in the cooperating country to the United States or other approved location for the Contractor and authorized dependents when, because of reasons or conditions beyond his/her control, the Contractor has not completed his/her required service in the cooperating country or the dependent must leave the cooperating country. The Mission Director may also authorize the return to the cooperating country of such Contractor and/or his/her authorized dependents.

(2) It is agreed that paragraph (e)(1) above, includes but is not necessarily limited to the following:

(i) Need for medical care beyond that available within the area to which Contractor is assigned.

(ii) Serious effect on physical or mental health if residence is continued at assigned post of duty.

(iii) Serious illness, injury, or death of a member of a Contractor's immediate family or a dependent. Travel may be authorized in accordance with emergency visitation travel granted to U.S.-citizen direct-hire employees and their dependents under Chapter 600 of the Standardized Regulations (Government Civilians, Foreign Areas).

(iv) Emergency evacuation when ordered by the principal U.S. Diplomatic Officer in the cooperating country. Transportation and travel allowances at safe haven and the transportation of household effects and automobile or storage thereof when authorized by the Mission Director, shall be payable in accordance with established Government regulations.

(v) Preparation and return of the remains of a deceased Contractor or his/her dependents.

(f) Transportation of Motor Vehicles, Personal Effects, and Household Goods.

(1) General.

Transportation, including packing and crating costs, will be paid for shipment from Contractor's residence in the United States or other location (provided that the cost of transportation does not exceed the cost from the Contractor's residence) to post of duty in the cooperating country and return to the Contractor's residence in the United States or other location (provided that the cost of transportation does not exceed the cost to the Contractor's residence), (i) of one privately owned motor vehicle for the Contractor subject to the restrictions contained in paragraph (h) below, (ii) of personal effects of the Contractor, and (iii) of household goods of Contractor not to exceed the following limitations:

	Basic household furniture not supplied (pounds net weight)	Basic household furniture supplied (pounds net weight)
Contractor with dependents in cooperating country	18,000	7,200
Contractor without dependents in cooperating country	18,000	7,200

Note.—For the purpose of this Clause, "net weight" and "gross weight" are defined and determined in accordance with the provisions of Section 102.1 of the Uniform Foreign

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Affairs Regulations, (for State/AID/USIA Commerce, and Agriculture).

The cost of transporting motor vehicles and household goods shall not exceed the cost of packing, crating, and transportation by surface common carrier. In the event that the carrier does not require boxing or crating of motor vehicles for shipment to the cooperating country, the cost of boxing or crating is not reimbursable. The transportation of a privately owned motor vehicle for a Contractor may be authorized as a replacement of the last such motor vehicle shipped under this Contract for such Contractor when the Mission Director determines, in advance, and so notifies the Contractor in writing, that the replacement is necessary for reasons not due to the negligence or malfeasance of the Contractor. The determination shall be made under the same rules and regulations that apply to authorized Mission U.S.-citizen direct-hire employees.

(2) Unaccompanied Baggage.

The Contractor will be reimbursed for costs of shipment of unaccompanied baggage (in addition to the weight allowance above for household effects) not to exceed the following:

	Gross weight (pounds)
Employee	250
First dependent traveling	200
Second dependent traveling	150
Each additional dependent traveling	100

This unaccompanied baggage may be shipped as air freight by the most direct route between authorized points of origin and destination regardless of the modes of travel used.

Unaccompanied baggage is considered to be those personal belongings needed by the traveler immediately upon arrival at destination.

(3) Reduced Rates on U.S.-Flag Carriers.

Reduced rates on U.S.-flag carriers are in effect for shipments of household goods and personal effects of AID Contractors between certain locations. These reduced rates are available provided the shipper furnishes to the carrier at the time of the issuance of the Bill of Lading documentary evidence that the shipment is for the account of AID. The Contracting Officer will, on request, furnish to the Contractor current information concerning the availability of a reduced rate with respect to any proposed shipment. The Contractor will not be reimbursed for shipments of household goods or personal effects in amounts in excess of the reduced rates which are available in accordance with the foregoing.

(g) Storage of Household Effects.

(1) The cost of storage charges (including packing, crating, and drayage costs) in the United States of household goods of the Contractor will be reimbursed, in lieu of transportation of all or any part of such goods to the cooperating country under paragraph (f) above, provided that (1) the total amount of household goods shipped to the cooperating country and stored in the United States shall not exceed 18,000 pounds net for each Contractor employee regardless of family status, and (2) at least 200 pounds net of household effects will be stored; quantities of less than 200 pounds net stored will not be reimbursed.

(2) Storage of items of high value (items that exceed $1,000 in value, that are irreplaceable or one of a kind, and that have a definite monetary or insurable value), such as clothing, rugs, tapestries, paintings, other works of art and that have special storage requirements, is also reimbursable. If requested by the Contractor and approved by the Contracting Officer, after receipt (from the Contractor), of an itemized inventory of the items to be stored, the request for reimbursement shall be processed on the same basis as for AID U.S. citizen direct-hire employees in accordance with Handbook 22, Appendix 9A.

(h) Transportation of Foreign-Made Motor Vehicles.

Reimbursement of the costs of transporting a foreign (non-U.S.) made motor vehicle will be made in accordance with the provisions of the Uniform State/AID/USIA Foreign Service Travel Regulations, as from time to time amended, on the same basis as a U.S. Government employee.

(i) Home Leave Travel.

The Contractor shall be reimbursed for the cost of travel performed by Contractor and dependents for purposes of home leave, provided that such reimbursement does not exceed that authorized by the Uniform State/AID/USIA Foreign Service Travel Regulations.

(j) Rest and Recuperation Travel.

If approved in writing by the Mission Director, the Contractor and his/her dependents shall be allowed rest and recuperation travel on the same basis as authorized U.S.-citizen direct-hire Mission employees and their dependents.

32. Orientation and Language Training (Long Tour) (Dec. 1985)

(a) Except as set forth in paragraph (b) (4) below, the Contractor shall receive a maximum of 2 weeks AID orientation before travel overseas. The dates of orientation shall be selected by the Contractor and approved by the Contracting Officer from the orientation schedule provided by AID.

(b) As either set forth in the Contract Schedule, or provided in writing by the Contracting Officer, the following may be authorized taking into consideration specific job requirements, Contractor's prior overseas experience, or unusual circumstances, in connection with orientation of individual Contractors:

(1) Modification orientation,

(2) Language training,

(3) Orientation for Contractor's dependents at Contract expense,

(4) Waiver of orientation for individual Contractor.

(c) Transportation costs and travel allowances not to exceed one round trip from the Contractor's residence to place of orientation and return will be reimbursed, pursuant to Clause 10 of the General Provisions, entitled "Travel and Transportation Expenses," if the orientation is more than 50 miles from the Contractor's residence. Allowable salary costs during the period of orientation are also reimbursable.

33. Post of Assignment Privileges (Dependents) (Dec. 1985)

(a) Health room services of the same type that are normally provided to AID direct-hire U.S. citizen employees shall be available for U.S. citizen contractor employees and their authorized dependents (regardless of citizenship) at the post of duty. These services do not include hospitalization, or predeparture or end of tour medical examinations. The services do include such medications as may be available, immunizations and preventive health measures, diagnostic examinations and advice, emergency treatment, and home visits as medically indicated.

(b) Privileges such as the use of APO, PX's, commissaries and officers' clubs are established at posts abroad pursuant to agreements between the U.S. and host governments. These facilities are intended for and usually are limited to members of the official U.S. establishment including the Embassy, AID Mission, USIA, and the Military. Normally, the agreements do not permit these facilities to be made available to non-official Americans.

34. Termination (Long Tour) (Apr. 1985) (FAR 52.249-12)

The Government may terminate this contract at any time upon at least 15 days' written notice by the Contracting Officer to the Contractor. The Contractor, with the written consent of the Contracting Officer, may terminate this contract upon at least 15 days' written notice to the Contracting Officer.

35. Section 13. FAR Clauses

The following FAR clauses are to be used along with the General Provisions, (Section 11), and when appropriate, the Additional General Provisions (Section 12), and shall be incorporated in each personal service contract by reference.

1. Inspection 52.246-5.
2. Examination of Records by Comptroller General 52.215-1.
3. Audit—Negotiation 52.215-2.
4. Privacy Act Notification 52.224-1.
5. Privacy Act 52.224-2.
6. Taxes—Foreign Cost Reimbursement Contracts 52.229-8.
7. Interest 52.232-17.
8. Assignment of Claims 52.232-23.
9. Protection of Government Buildings, Equipment, and Vegetation 52.237-2.
10. Notice of Intent to Disallow Costs 52.242-1.
11. Limitation of Cost 52.232-20.
12. Limitation of Funds 52.232-22.
13. Limitation of Liability—Services 52.246-25.

Dated: April 10, 1986.

John F. Owens,

Procurement Executive.

[FR Doc. 86-8653 Filed 4-21-86; 8:45 am]

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Part VIII

Department of Agriculture

Office of Grants and Program Systems

7 CFR Part 3201

Competitive Research Grants Program for Forest and Rangeland Renewable Resources; Administrative Provisions; Final Rule

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DEPARTMENT OF AGRICULTURE

Office of Grants and Program Systems

7 CFR Part 3201

Competitive Research Grants Program for Forest and Rangeland Renewable Resources; Administrative Provisions

AGENCY: Office of Grants and Program Systems, USDA.

ACTION: Final rule.

SUMMARY: This document establishes Part 3201 of Title 7, Subtitle B, Chapter XXXII of the Code of Federal Regulations, for the purpose of administering the Competitive Research Grants Program for Forest and Rangeland Renewable Resources conducted under authority of section 5 of the Forest and Rangeland Renewable Resources Research Act of 1978, as amended (16 U.S.C. 1644). The issuance of this rule establishes the procedures to be followed annually in the solicitation of research grant proposals, the evaluation of such proposals, and the award of competitive research grants under this program.

EFFECTIVE DATE: April 22, 1986.

FOR FURTHER INFORMATION CONTACT: Terry J. Pacovsky, Chief, Grants Administrative Management, Office of Grants and Program Systems, U.S. Department of Agriculture, Room 112, Justin Smith Morrill Building, 15th and Independence Avenue, SW., Washington, DC 20251. (Telephone: (202) 475–5024.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this rule has been approved under OMB Document No. 0525–0001.

Classification

This rule has been reviewed under Executive Order 12291, and it has been determined that it is not a major rule because it does not involve a substantial or major impact on the Nation's economy or on large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individual industries, Federal, State, or local governmental agencies, or geographic regions. It will not have a significant economic impact on competitive employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, it will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96–534 (5 U.S.C. 601).

Regulatory Analysis

Not required for this rulemaking.

Environmental Impact Statement

This regulation does not significantly affect the environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Catalog of Federal Domestic Assistance

This program/activity is scheduled to appear in the 1986 edition of the Catalog of Federal Domestic Assistance as 10.213, Competitive Research Grants Program for Forest and Rangeland Renewable Resources. For the reasons set forth in the Final rule related Notice to 7 CFR Part 3015, Subpart V, 48 CFR 29115, June 24, 1983, when the authority to administer this program resided in the Forest Service, this program/activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Background and Purpose

Under the authority of section 5 of the Forest and Rangeland Renewable Resources Research Act of 1978, as amended, the Secretary of Agriculture is authorized to make competitive research grants to further research activities related to the protection, management and utilization of forest and rangeland renewable resources to Federal, State, and other governmental agencies, public or private agencies, institutions, universities, and organizations, and businesses and individuals in the United States.

This rule establishes Part 3201 of Title 7, Subtitle B, Chapter XXXII of the Code of Federal Regulations, for the purpose of administering the Competitive Research Grants Program for Forest and Rangeland Renewable Resources.

On February 25, 1986, the Department published a Notice in the **Federal Register** (51 FR 6696) proposing the establishment of this regulation and inviting comments from interested individuals and organizations. Comments were requested by March 27, 1986. No comments were received.

List of Subjects in 7 CFR Part 3201

Grant programs—agriculture, Grant administration.

The Department therefore amends Title 7, Subtitle B, Chapter XXXII of the Code of Federal Regulations by adding Part 3201 to read as follows:

CHAPTER XXXII—OFFICE OF GRANTS AND PROGRAM SYSTEMS, DEPARTMENT OF AGRICULTURE

PART 3201—COMPETITIVE RESEARCH GRANTS PROGRAM FOR FOREST AND RANGELAND RENEWABLE RESOURCES

Sec.
3201.1 Applicability of regulations.
3201.2 General regulations.
3201.3 Eligibility requirements.
3201.4 Signatures required on grant application.

Authority: Sec. 5 of the Forest and Rangeland Renewable Resources Act of 1978, as amended (16 U.S.C. 1644).

§ 3201.1 Applicability of regulations.

(a) The regulations of this part apply to competitive research grants awarded under the provisions of section 5 of the Forest and Rangeland Renewable Resources Research Act of 1978, as amended (16 U.S.C. 1644), to Federal, State, or other governmental agencies, public or private agencies, institutions, universities, and organizations, and businesses and individuals in the United States. The Secretary, or his or her designee, shall determine and announce, through publication of a Notice in the **Federal Register** each year, research program areas for which proposals will be solicited to the extent that funds are available. Research under this program will be in those areas having a significant impact on the protection, management and utilization of forest and rangeland renewable resources.

(b) The regulations of this part do not apply to research grants awarded under any other authorization.

§ 3201.2 General regulations.

For purposes of this part, the provisions found at Part 3200 of this chapter, excluding the provisions listed in paragraphs (a) through (e) of this section, are applicable to the administration of this research program.

(a) Section 3200.1.
(b) Section 3200.3(a).
(c) Section 3200.4(c).
(d) The material found in the second sentence of § 3200.6(c)(3) beginning with "the results of which" and ending with "food and agricultural sciences."
(e) The parenthetical phrase in the last sentence of § 3200.7(c).

§ 3201.3 Eligibility requirements.

Except where otherwise prohibited by law, any Federal, State or other governmental agency, public or private agency, institution, university, or

organization, and business or individual in the United States shall be eligible to apply for and receive a project grant under this part, provided that the applicant qualifies as a responsible grantee under the criteria set forth in § 3200.3(b).

§ 3201.4 Signatures required on grant application.

(a) Any research proposal submitted by an agency, institution, university, organization, or business must be signed by the principal investigator(s) and endorsed by the authorized organizational representative who possesses the necessary authority to commit the organization's time and other relevant resources.

(b) Any research proposal submitted by an individual who lacks organizational affiliation need only be signed by the principal investigator.

Done at Washington, DC, this 15th day of April 1986.

John Patrick Jordan,
Acting Administrator, Office of Grants and Program Systems.

[FR Doc. 86–8870 Filed 4–21–86; 8:45 am]
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Part IX

Department of Education

34 CFR Parts 617 and 619

Postsecondary Education; Graduate Academic Facilities Program; Proposed Rule

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DEPARTMENT OF EDUCATION

34 CFR Parts 617 and 619

Graduate Academic Facilities Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes new regulations to govern the Graduate Academic Facilities Program. The regulations are needed to reflect statutory changes made in the program and to implement the program as authorized under Title VII–B of the Higher Education Act. The proposed regulations would establish eligibility conditions, selection criteria, and other terms and conditions for applicants or recipients of grants under this program.

DATE: Comments must be received on or before May 22, 1986.

ADDRESS: All comments concerning these proposed regulations should be addressed to Charles I. Griffith, Director, Division of Higher Education Incentive Programs, Office of Higher Education Programs, Office of Postsecondary Education, U.S. Department of Education, (Room 3022, ROB–3), 400 Maryland Avenue SW., Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Charles I. Griffith. Telephone (202) 245–3253.

SUPPLEMENTARY INFORMATION: This program was originally authorized by the Congress under Title II of the Higher Education Facilities Act of 1963. It has been reauthorized and re-established in Title VII–B of the Higher Education Act by the Education Amendments of 1972, 1976, and 1980. The Congress has not generally appropriated funds for this program since 1979. Essentially, Title VII–B of the Higher Education Act (20 U.S.C. 1132c) authorizes a program of construction assistance grants to graduate institutions of higher education. Recipients under this program use their grants for certain construction improvements of graduate academic facilities or for the acquisition of special research equipment at such facilities.

Current regulations for this program were promulgated in April 1980 (45 FR 28666–83) and are codified at 34 CFR Part 617, Subpart C. These regulations, however, were promulgated before the Congress made sweeping statutory changes in program operations when it enacted the Education Amendemnts of 1980 in October 1980. The Secretary proposed regulations for this program and its three other related construction assistance programs in December 1980, (45 FR 86341–59), when funds for these programs were appropriated by the Congress. These proposed regulations would have incorporated the statutory changes in the program made by the Education Amendments of 1980, but because the Congress later rescinded its appropriation, the Secretary decided not to issue final regulations.

In fiscal years 1985 and 1986, the Congress appropriated funds for this program, and in light of those appropriations, the Secretary has decided to propose new regulations for this program. Applicable legislation directs that construction assistance grants under this program chiefly enable eligible recipients to make construction improvements for new or existing facilities so that these facilities would—

- Economize on the use of energy resources;
- Comply with the Architectural Barriers Act of 1968, section 504 of the Rehabilitation Act of 1973, or other environmental protection or health and safety laws, if such requirements were not in effect at the time such facilities were constructed;
- Improve research facilities, including libraries, and acquire Special research equipment;
- Accommodate unusual increases in enrollment; or
- Detect, remove, or contain asbestos hazards.

As directed by applicable legislation, the Secretary has obtained the advice and recommendations of a panel of specialists from the higher education community. This panel issued a number of informal recommendations to the Secretary, respecting selection criteria and other matters, most of which have been incorporated in these proposed regulations.

Under the terms of the Department's Appropriation Acts for 1985 and 1986, the Congress directed the Secretary to make the appropriated funds available to both undergraduate and graduate institutions of higher education, not just graduate institutions. Although the proposed regulations are drafted on the basis of the "permanent" legislation which authorizes eligibility for graduate institutions only, the Secretary's competiton for fiscal year 1985 and 1986 grant funds will be open to all institutions of higher education. However, the Administration has requested that the funds for fiscal year 1986 be rescinded. Information about the grant competition for this program will be published in an application notice after the proposed regulations are promulgated in final form.

The Education Amendments of 1980 continue to authorize grants for the construction, reconstruction, and renovation of graduate academic facilities. However, as a result of changes in the statutory changes enacted by the Congress in October 1980 (20 U.S.C. 1132a and 1132c). The propose regulations, 34 CFR Part 619 replace Subpart C, 34 CFR Part 617 of the program's existing regulations published on April 29, 1980. Major changes in the proposed regulations include: the primary purposes for which grant funds may be used; the inclusion of a limitation of 12.5 per centum that can be made to institutions of higher education in a State, in any single fiscal year; the inclusion of a limitation on the amount of a grant which may not exceed 50 per centum of the project's development cost; the elimination of cooperative graduate center boards from program eligibility; the elimination of awards for model intercultural programs designed to integrate the educational requirements of substantive knowledge and language proficiency; changes in definitions of program terms; and, selection criteria for funding program applications. The proposed regulations also permit the Secretary to establish annual priorities for the program.

Executive Order 12291

These proposed regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for a major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. The small entities affected by these regulations are small institutions of postsecondary education. These regulations describe the program and establish minimal application requirements. They will not have a significant economic impact on the institutions affected.

Paperwork Reduction Act of 1980

These proposed regulations do not contain any information collection requirements and are, therefore, not subject to the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) which govern such requirements.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding the proposed regulations. The Secretary particularly invites comments on the definitions of terms (Subpart A, § 619.4) and on the selection criteria and related weighting factors (Subpart D, §§ 619.30 through 619.36). All comments submitted in response to these proposed regulations will be available for inspection, during and after the comment period, in Room 3022, Regional Office Building #3, 7th and D Streets SW., Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and their overall requirement of reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 619

Academic facilities, Colleges and universities, Construction, reconstruction, and renovation, Equipment, Research.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these proposed regulations.

(Catalog of Federal Domestic Assistance Number 84.172—Construction, Reconstruction, and Renovation of Academic Facilities)

Dated: April 18, 1986.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by removing Subpart C of Part 617, and adding a new Part 619 as follows:

PART 617—FINANCIAL ASSISTANCE FOR CONSTRUCTION, RECONSTRUCTION, OR RENOVATION OF HIGHER EDUCATION FACILITIES

1. The authority citation for Part 617 is revised to read as follows:

Authority: 20 U.S.C. 1132a–1132a–1, unless otherwise noted.

2. Part 617 is amended by removing Subpart C, and the table of contents of Part 617 is amended accordingly.

3. A new Part 619 is added to read as follows:

PART 619—GRANTS FOR CONSTRUCTION, RECONSTRUCTION, AND RENOVATION OF GRADUATE ACADEMIC FACILITIES.

Subpart A—General

Sec.

619.1 What is the Graduate Academic Facilities Program?
619.2 Who is eligible to apply for a grant under the Graduate Academic Facilities Program?
619.3 What regulations apply to the Graduate Academic Facilities Program?
619.4 What definitions apply to the Graduate Academic Facilities Program?

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

619.10 What kinds of projects are funded by the Program?
619.11 What are the funding priorities?

Subpart C—How Does One Apply for a Grant?

619.20 What limitations apply to the number of applications that may be submitted?

Subpart D—How Does the Secretary Make a Grant?

619.30 How are applications evaluated?
619.31 What selection criteria are used to evaluate existing academic facilities and financial need?
619.32 What selection criteria are used to evaluate energy conservation projects?
619.33 What selection criteria are used to evaluate the removal of architectural barriers, and environmental protection or health and safety programs mandated by law?
619.34 What selection criteria are used to evaluate the detection, removal, or containment of asbestos hazards?
619.35 What selection criteria are used to evaluate unusual increases in enrollment?
619.36 What selection criteria are used to evaluate research facilities, including libraries, and the acquisition of special research equipment?

Subpart E—How Does the Secretary Determine the Amount of the Grant Award?

619.40 What are the general rules for determining eligible development costs?
619.41 What are the specific rules for determining eligible development costs?

Subpart F—What Conditions Apply to Awards Under the Program?

619.50 What are the funding levels?
619.51 What are the financial considerations for approval or selection?
619.52 Must the grant award instrument be recorded?
619.53 What are the conditions for the recovery of payments?

Authority: 20 U.S.C. 1132a–1132a–1, unless otherwise noted.

Subpart A—General

§ 619.1 What is the Graduate Academic Facilities Program?

The Graduate Academic Facilities Program provides grants to graduate institutions of higher education for the construction, reconstruction, and renovation of graduate academic facilities or, in some cases for the acquisition of special research equipment. The grants may be used for new or existing academic facilities if the primary purpose of the project is to carry out one or more of the kinds of projects described in § 619.10.

(Authority: 20 U.S.C. 1132c)

§ 619.2 Who is eligible to apply for a grant under the Graduate Academic Facilities Program?

Graduate institutions of higher education are eligible to apply for grants under this program.

(Authority: 20 U.S.C. 1132c)

§ 619.3 What regulations apply to the Graduate Academic Facilities Program?

The following regulations apply to this program:

(a) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, (with the exception of § 75.217 and §§ 75.219 through 75.222), 77, and 78.

(b) The regulations in this Part 619.

(Authority: 20 U.S.C. 1132)

§ 619.4 What definitions apply to the Graduate Academic Facilities Program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in EDGAR, 34 CFR Part 77.1:

Applicant
Application
Award
Budget
Department
EDGAR
Facilities
Fiscal year
Grant
Grantee
Nonprofit
Private
Public
Recipient
Supplies
Secretary
Work of art.

(b) *Revised EDGAR definitions.* The following terms defined in EDGAR, 34 CFR Part 77.1, are redefined for this part as follows:

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"Acquisition" means taking ownership of property through purchase at fair market value.

"Equipment" means machinery, fixtures, and other items necessary for maintenance and operation of a facility, except books, computer software, instructional materials, and items involving current and operating expenses such as fuel, supplies, and serviceable parts. Equipment may consist of—

(1) "Built-in equipment", which includes permanent nonmovable fixtures to a facility;

(2) "Initial equipment", which includes items necessary for installation in connection with construction of a facility;

(3) "Movable equipment", which includes movable fixtures and furniture necessary and appropriate for the functioning of an academic facility taking into account the specific purposes of the facility; and

(4) "Special research equipment", which includes equipment used in connection with a research program at graduate institutions of higher education.

"Project" means the construction activity or the acquisition of special research equipment that is proposed for funding by an applicant for assistance under this program.

(c) *Other definitions that apply to this part.* The following definitions also apply to this part:

"Academic facilities" means buildings or structures necessary and appropriate for instruction of students, for research, or for administration of educational programs and student and faculty services at an institution of higher education. Academic facilities include instructional and library facilities, instruction-related facilities, and related supporting facilities, but do not include facilities, such as—

(1) Dormitories, residence halls, or similar facilities designed for residence or habitation;

(2) Infirmaries or similar facilities designed for outpatient care;

(3) Facilities intended for events for which admission is to be charged the general public;

(4) Gymnasiums, stadiums, swimming pools, student centers, or other similar facilities designed for athletic or recreational activities;

(5) Facilities used for religious worship or sectarian activities, or used in connection with a program conducted by a school or department of divinity; or

(6) Facilities used by a school of medicine, school of dentistry, school of osteopathy, school of pharmacy, school of optometry, school of podiatry, school of nursing, or school of public health, unless the facilities—

(i) Are owned, operated, and maintained by a parent or affiliated institution of higher education which exercises corporate control over the particular school;

(ii) Require conversion or modernization of energy utilization techniques to economize on the use of energy resources; and

(iii) Support activities, services, or structures maintained by a parent or an affiliated institution of higher education.

"Act" means the Higher Education Act of 1965, as amended. Unless otherwise indicated, references to titles in the regulations in this part are to titles of the Act.

"Assignable area" means the square footage of floor space in facilities which is designed and available for assignment to specific functional purposes, such as instruction, research, and administration, but does not include—

(1) Areas used for general circulation within a building;

(2) Areas for public washrooms;

(3) Areas for building maintenance or custodial services; or

(4) Areas in central maintenance and utility facilities that exist only to support the operation and use of other structures on the campus and that are not available for assignment to specific functional purposes.

"Branch campus" means, within an institution of higher education, a unit that—

(1) Is separately organized;

(2) Is located apart from the parent institution;

(3) Meets the definition of an institution of higher education under the Act as an independent unit; and

(4) Has its own Federal Interagency Committee on Education (FICE) identification number.

"Capacity/enrollment ratio" means—

(1) The ratio of the assignable area of instructional and library facilities to the total student clock-hour enrollment at the campus of an institution, and

(2) For purposes of this definition, "student clock-hour enrollment" means the aggregate clock hours (sometimes called contact hours) per week in classes or supervised laboratory or shop work of those students enrolled in credit courses—i.e., attending credit courses at the institution's campus. A campus having formally established independent study programs may include systematically determined equivalents of credit hours but only include those hours when the relevant facility is being used by those students.

"Construction" means the erection of new structures, the rehabilitation, conversion, or improvement of existing structures, or the acquisition of existing structures and land thereunder.

"Eligible development costs" means the amount of necessary and reasonable expenses that would be incurred by construction of a project and that would be subject to reimbursement under this program, excluding any expenses reimbursed under any other Federal construction grant and any non-Federal funds required to be expended as a condition for the grant.

"FTE student" means full-time-equivalent student, as that term is defined for the Higher Education General Information Survey (HEGIS).

"Graduate institution" means an institution of higher education within the meaning of section 1201(a) of the Act that provides at least one post-baccalaureate program of study leading to an advanced degree.

"Other facilities used by students" means, in connection with projects relating to asbestos hazards, any campus facilities used by students, even if those facilities are ineligible for Federal assistance under this program.

"Research facilities, including libraries" means academic facilities used in connection with research programs at graduate institutions of higher education.

"Research program" means an organized activity which has as its primary objective the creation, organization, and dissemination of new knowledge or technology. It embraces only those activities designed to produce research outcomes commissioned by an agency either external to the institution or authorized by an organizational unit within the institution. It does not include research funded from the instructional budget of the institution.

"Unusual increases in enrollment" means an increase in full-time-equivalent enrollment of at least 100 full-time-equivalent students and an increase of more than 10 percent of FTE enrollment over a period of three years going back to the fall term beginning three years prior to the filing date for applications.

(Authority: 20 U.S.C. 1132a, 1132d-1, 1132e, 1132e-1)

Subpart B—What Kinds of Projects Does the Secretary Assist Under This Program?

§ 619.10 What kinds of projects are funded under the program?

(a) Funds are awarded for projects which enable graduate institutions of higher education to—

(1) Economize on the use of energy resources;

(2) Comply with the requirements of—

(i) The Architectural Barriers Act of 1968;

(ii) Section 504 of the Rehabilitation Act of 1973; or

(iii) Other Federal, State or local laws dealing with environmental protection or health and safety, if the laws impact on facilities after they were constructed;

(3) Detect, remove, or contain asbestos hazards;

(4) Accommodate unusual increases in enrollment; or

(5) Improve research facilities, including library facilities, and acquire special research equipment.

(b) In order for facilities to be eligible for assistance under paragraph (a)(2)(iii) and (a)(3) of this section, the applicant must submit with its application satisfactory evidence to demonstrate that the degree of non-compliance with legal requirements, and the degree of threat from, and exposure to, asbestos hazards, pose a significant threat to the health and safety of the students.

(Authority: 20 U.S.C. 1132c)

§ 619.11 What are the funding priorities?

The Secretary may announce from among those categories listed in 34 CFR § 619.10 funding priorities under this program in any given fiscal year through a notice published in the Federal Register.

(Authority: 20 U.S.C. 1132a-1132-1)

Subpart C—How Does One Apply for a Grant?

§ 619.20 What limitations apply to the number of applications that may be submitted?

An applicant may submit only one application for assistance under this program in any given fiscal year. The Secretary considers as a separate applicant a branch campus of a multi-campus institution. If a project is funded by this program, the Secretary will not accept any future applications for funding for the same project.

(Authority: 20 U.S.C. 1132c)

Subpart D—How Does the Secretary Make a Grant?

§ 619.30 How are applications evaluated?

(a) The Secretary evaluates an application for a grant on the basis of—

(1) The general criteria in § 619.31 for all applicants; and

(2) The specific criteria in §§ 619.32 through 619.36 for applicants of particular categories of projects.

(b)(1) The Secretary awards up to a total of 100 points based on a maximum possible score of—

(i) 40 points for the general criteria in § 619.31; and

(ii) 60 points for the specific criteria in §§ 619.32 through 619.36, as applicable.

(2) The maximum possible score for each criterion is indicated in parentheses following the heading of that criterion.

(c) If a project includes two or more of the categories in § 619.10, the Secretary applies—

(1) The general criteria in § 619.31 (up to 40 points); and

(2) Each applicable set of specific criteria in §§ 619.32 through 619.36. The Secretary awards the average score (up to 60 points) received by the project under those sets of specific criteria.

The Secretary may award up to 25 additional points to each application that meets one or more priority categories established under §619.11. Subject to the 25-point limit, the Secretary may award a higher number of points to an application that addresses more than one priority category, and may award a lower number of points to an application that addresses both a priority and a nonpriority category. The Secretary announces the number of additional points for each priority category and type of application in a notice published in the Federal Register.

(e) The Secretary ranks all eligible applications in accordance with the total number of points each application receives in accordance with this section. Before making grants, the Secretary obtains the advice and recommendations of a panel of specialists who are competent in evaluating program applications. The Secretary may, based on the advice and recommendations of the panel, deviate from the initial rank order. Regular, full-time employees of the Federal Government may not be appointed as panel members.

(Authority: 20 U.S.C. 1132c)

§ 619.31 What selection criteria are used to evaluate existing academic facilities and financial need?

The Secretary evaluates each application for a grant under this program on the basis of the following criteria:

(a) *Use of existing academic facilities.* (Total: 10 points)

(1) The Secretary assesses the extent to which the applicant makes use of its existing academic facilities by considering the amount of assignable square feet in such facilities per FTE student.

(2) The Secretary assigns the highest scores to applicants with the smallest amount of square feet per FTE student.

(b) *Capacity/enrollment ratio.* (Total: 10 points)

(1) The Secretary further assesses the applicant's use of its existing academic facilities as reflected by the institution's capacity/enrollment ratio.

(2) The Secretary assigns the highest scores to applicants with the lowest capacity/enrollment ratio.

(c) *Financial Need.* (Total: 20 points)

(1) The Secretary considers the basic education and general annual expenditures per FTE student, based on data reported in the annual National Center for Education Statistics Survey, "Financial Statistics of Institutions of Higher Education," for the most recent year for which data are available.

(2) The Secretary assigns the highest scores to applicants with the lowest expenditure per FTE student.

(Authority: 20 U.S.C. 1132c)

§ 619.32 What selection criteria are used to evaluate conservation projects?

For projects based on energy conservation, the Secretary applies the following criteria:

(a) *Life cycle energy analysis.* (Total: 6 points)

(1) The Secretary considers whether the proposed project is based on a least-cost life cycle energy analysis that reflects the life cycle cost of the project over a twenty-year period.

(2) The Secretary awards six points for this criterion.

(b) *Integrated system design.* (Total: 6 points)

(1) The Secretary considers whether the proposed project exhibits an integrated system design, including a mix of energy sources and/or cogeneration systems, and/or other integrated system designs.

(2) The Secretary awards six points for this criterion.

(c) *Use of coal, solar energy, and renewable resources.* (Total: 8 points)

(1) The Secretary considers whether the proposed project promotes the use of coal, solar energy, or renewable resources.

(2) The Secretary awards eight points for this criterion.

(d) *Energy savings internal rate of return to the project.* (Total: 20 points)

(1) The Secretary considers the extent to which the proposed project is likely to provide a significant return in energy cost savings on the investment represented by the cost of the project.

(2) The internal rate of return is calculated on the basis of projected energy cost savings and the total cost of

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the project, except for interior finishing and furnishing expenses (i.e. seating, blackboards, laboratory fixtures, etc.).

(3) Projected energy cost savings for renovation projects of existing buildings are the difference between—

(i) The average routine energy costs over the last three years, adjusted to current prices; and

(ii) Projected annual energy cost resulting from completion of the project.

(4) Projected energy cost savings for new construction are the difference between—

(i) The projected annual energy costs of a conventionally-designed building of the same kind as the one proposed (as calculated by an architectural engineering firm or consulting services firm); and

(ii) Projected annual energy costs resulting from the completion of a least-cost energy design project.

(5) The Secretary assigns the highest scores to applicants demonstrating the highest projected internal rates of return in energy cost savings.

(e) *Energy savings internal rate of return to the Federal investment share.* (Total: 20 points)

(1) The Secretary considers the extent to which the Federal investment in the proposed project is likely to provide a significant return in energy savings.

(2) The internal rate of return is calculated on the basis of the projected energy cost savings as determined under paragraph (d) of this section and the total Federal investment in the project.

(3) The Secretary assigns the highest scores to projects demonstrating the highest energy cost saving internal rates of return on the Federal investment.

(Authority: 20 U.S.C. 1132c)

§ 619.33 What selection criteria are used to evaluate the removal of architectural barriers, and environmental protection or health and safety programs mandated by law?

(a) For projects to remove architectural barriers to meet accessibility requirements which were not in effect at the time the facilities were constructed, the Secretary applies the following criteria:

(1) *Amount of assignable square feet of academic facilities to be made accessible by the project.* (Total: 30 points)

(i) The Secretary considers the amount of assignable square feet of academic facilities per FTE student to be made accessible to the handicapped by the project.

(ii) The Secretary assigns the highest scores to applicants with the largest amount of square feet to be made accessible per FTE student.

(2) *Percentage of assignable square feet of academic facilities to be made accessible by the project.* (Total: 30 points)

(i) The Secretary considers the percentage of assignable square feet of academic facilities to be made accessible to the handicapped by the project.

(ii) The Secretary assigns the highest scores to applicants with the largest percentage of square feet to be made accessible by the project.

(b) For reconstruction or renovation projects mandated by Federal, State, or local law, if those rquirements were not in effect at the time the facilities were constructed, the Secretary applies the following criteria:

(1) *Cost per FTE student.* (Total: 30 points)

(i) The Secretary considers the cost per FTE student of the applicant's compliance with the law.

(ii) The Secretary assigns the highest scores to applicants with the highest cost per FTE student.

(2) *Impact of the project.* (Total: 20 points)

(i) The Secretary considers the number of FTE students affected by the project.

(ii) The Secretary assigns the highest scores to applicants with the largest number of FTE students affected by the project.

(3) *Relative impact of the project.* (Total: 10 points)

(i) The Secretary considers both the number of FTE students affected by the project and the FTE enrollment of the institution.

(ii) The Secretary measures the relative impact of the project by dividing the number of FTE students affected by the project by the total number of FTE students enrolled, and assigns the highest scores to applicants with the highest relative impact.

(Authority: 20 U.S.C. 1132c(b); 1132a(2)(A) and (B))

§ 619.34 What selection criteria are used to evaluate the detection, removal, or containment of asbestos hazards?

For projects to detect, remove, or contain asbestos hazards, the Secretary applies the following criteria:

(a) *Amount of gross square feet of academic or other facilities with known or suspected asbestos hazards used by students.* (Total: 30 points)

(1) The Secretary considers the amount of gross square feet of academic or other facilities with known or suspected asbestos hazards per FTE student.

(2) The Secretary assigns the highest scores to applicants with the largest amount of square feet with known or suspected asbestos hazards per FTE student.

(b) *Estimated cost of detecting, removing, or containing asbestos hazards.* (Total: 30 points)

(1) The Secretary considers the estimated cost per FTE student of one or more of the following: detecting, removing, or containing asbestos hazards.

(2) The Secretary assigns the highest scores to applicants with the highest cost per FTE student.

(Authority: 20 U.S.C. 1132c(b); 1132(a)(5))

§ 619.35 What selection criteria are used to evaluate unusual increases in enrollment?

For projects based on unusual increases in enrollment, the Secretary applies the following criteria:

(a) *Increase in enrollment.* (Total: 30 points)

(1) The Secretary considers the extent of the actual numerical and percentage increases in FTE student enrollment at the institution or branch campus where construction would occur.

(2) The Secretary considers the increases over a three-year period starting with the fall semester that began three years preceding the most recent fall semester.

(3) The Secretary awards up to 15 points for the actual numerical increase and up to 15 points for the percentage increase, and assigns the highest scores to applicants with the largest increases in FTE student enrollment.

(b) *Increase in capacity.* (Total: 30 points)

(1) The Secretary considers the amount and percentage by which the project increases the assignable square feet of academic facilities at an institution.

(2) The Secretary awards up to 15 points for the actual numerical increase and up to 15 points for the percentage increase, and assigns the highest scores to applicants with the largest increases of assignable square feet of academic facilities per FTE student.

(Authority: 20 U.S.C. 1132c)

§ 619.36 What selection criteria are used to evaluate research facilities, including libraries, and the acquisition of special research equipment?

For projects based on research facilities, including libraries, and the acquisition of special research equipment, the Secretary applies the following criteria:

(a) *Institutional commitment to research programs.* (Total: 10 points)

(1) The Secretary considers the applicant's expenditures for research programs as a percentage of the applicant's average annual educational and general expenditures for graduate programs, as reported in the annual National Center for Education Statistics Survey, "Financial Statistics of Institutions of Higher Education," for the three most recent years for which data are available.

(2) The Secretary assigns the highest scores to applicants with the largest percentage of expenditures for research programs.

(b) *Age of special research equipment.* (Total: 10 points)

(1) The Secretary considers the percentage of the applicant's special research equipment which is more than five years old as of the opening of the fall semester preceding the application closing date.

(2) The Secretary assigns the highest scores to applicants with the largest percentage of special research equipment which is more than five years old.

(c) *Quality of existing research programs.* (Total: 10 points)

(1) The Secretary considers the quality of the applicant's existing research programs, in particular the adequacy of the existing research facilities and special research equipment, and the relevance of the proposed project to current research programs.

(2) A panel of specialists evaluates the quality of existing programs.

(d) *Increase in research capacity.* (Total: 10 points)

(1) The Secretary considers the extent to which the proposed project will increase the applicant's capacity for research or improve its existing research capacity.

(2) A panel of specialists evaluates the increase in research capacity.

(e) *Funding priorities.* (Total: 10 points)

(1) The Secretary considers the extent to which the proposed project improves the applicant's capacity for research in those academic disciplines, such as physical sciences and mathematics, engineering and environmental sciences, biological sciences, social sciences and education, and arts and humanities, which the Secretary, through a notice published in the **Federal Register**, establishes as priorities for the program in any given fiscal year.

(2) A panel of specialists evaluates the extent to which the project meets the Secretary's funding priorities.

(f) *Impact of project.* (Total: 5 points)

(1) The Secretary considers the extent to which the proposed project is likely to increase the capacity of the applicant to supply highly qualified personnel critically needed by the community, industry, and government for research and teaching.

(2) A panel of specialists evaluates the potential impact of the project.

(g) *Scope of project.* (Total: 5 points)

(1) The Secretary considers the extent to which the proposed project is likely to contribute significantly to the distribution of research programs of high quality throughout the United States.

(2) A panel of specialists evaluates the scope of the project.

(Authority: 20 U.S.C. 1132(b), 1132c, 1132a(3))

Subpart E—How Does the Secretary Determine the Amount of the Grant Award?

§ 619.40 What are the general rules for determining eligible development costs?

The Secretary determines eligible development costs by assessing the reasonableness and appropriateness of expenses that would be incurred by the project taking into account—

(a) The timing of when certain expenses would be incurred by the applicant; and

(b) The applicant's compliance with the regulations in this part.

(Authority: 20 U.S.C. 1132a, 1132c, 1132e–1)

§ 619.41 What are the specific rules for determining eligible development costs?

(a) An applicant selected to receive a grant under this program shall obtain from the Secretary a determination of eligible development costs before it may award any contract for construction or purchase any equipment that may later be financed with assistance under this program.

(b) The Secretary approves costs only after the Secretary or the appropriate official of another Federal agency has approved Federal assistance for the construction.

(c) The Secretary excludes the following from eligible development costs:

(1) Any costs for land incurred before the applicant files the application.

(2) Any cost for the acquisition of a structure incurred before the applicant files the application.

(3) Any costs for equipment, including special research equipment, incurred before the date the applicant files the application.

(4) Any cost for construction or built-in equipment if the contract was entered into before the date the applicant files the application.

(5) Any cost for ineligible facilities included in the total development costs.

(Authority: 20 U.S.C. 1132–1(3))

Subpart F—What Conditions Apply to Awards under this Program?

§ 619.50 What are the funding levels?

(a) An award of a construction grant under this program may not exceed 50 percent of the total eligible development costs.

(b) The Secretary does not award a construction grant for less than $25,000.

(c) The Secretary awards to institutions of higher education in any one State not more than 12.5 percent of the total funds available for grants under this program in any fiscal year.

(Authority: 20 U.S.C. 1132c)

§ 619.51 What are the financial considerations for approval or selection?

(a) The Secretary does not approve or select applications from institutions that are in default on a construction loan previously made under Part C of Title VII of the Act or Title IV of the Housing Act of 1950, whether or not the Secretary has agreed to any deferment, or in default of any other obligation made under any other Federal program.

(b) The Secretary does not approve or select applications from institutions that are financially insolvent.

(Authority: 20 U.S.C. 1132c)

§ 619.52 Must the grant award instrument be recorded?

A grantee under this program shall record its grant award instrument in the appropriate land registry records.

(Authority: 20 U.S.C. 1132c)

§ 619.53 What are the conditions for the recovery of payments?

The recipient or its successor shall pay to the Secretary an amount which bears to the value of the facility at that time the same ratio as the amount of the grant bore to the original cost of the facility, if, within twenty years after completion of construction of an academic facility under this program, a grant recipient or its successor in title or possession ceases to be a public or nonprofit institution, or the facility ceases to be used as an eligible academic facility, unless the Secretary determines that there is good cause for releasing the recipient or its successor from its obligation.

(Authority: 20 U.S.C. 1132e)

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S.J. Res. 261/Pub. L. 99–274

To designate the week of April 14, 1986, through April 20, 1986, as "National Mathematics Awareness Week." (Apr. 17, 1986; 100 Stat. 393; 1 page) Price: $1.00

S.J. Res. 136/Pub. L. 99–275

To authorize and request the President to issue a proclamation designating the calendar week beginning with Sunday, April 13, 1986, as "National Garden Week." (Apr. 18, 1986; 100 Stat. 394; 1 page) Price: $1.00

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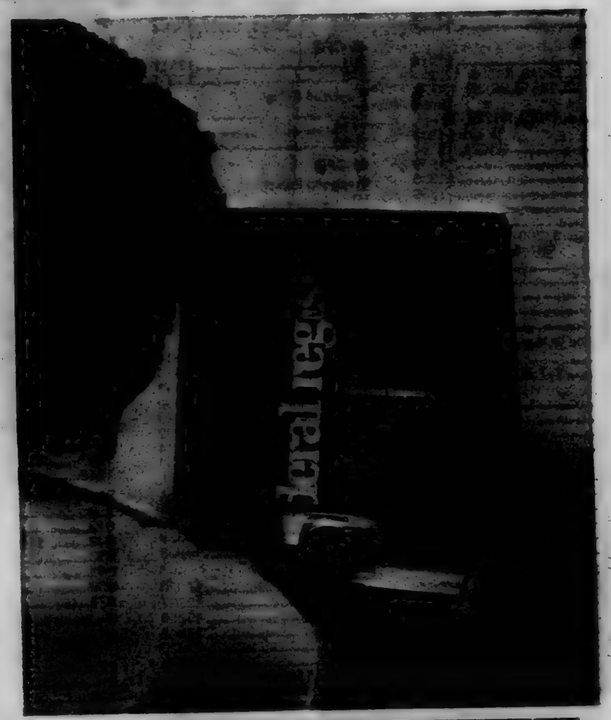
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For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

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Insurance
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Marketing Agreements
Agricultural Marketing Service

National Banks
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Pesticides and Pests
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WASHINGTON, DC

WHEN: May 15; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Laurence Davey 202-523-3517

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 985

Spearmint Oil Produced In the Far West; Establishment of Salable Quantities and Allotment Percentages for the 1986–87 Marketing Year

AGENCY: Agricultrual Maketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule establishes the quantity of spearmint oil produced in the Far West, by class, that may be purchased from, or handled for, producers by handlers during the 1986–87 marketing year which begins June 1, 1986. This action is designed to promote orderly marketing condjtons for spearmint oil produced in the Far West. The rule was recommended by the Spearmint Oil Administrative Committee established under this marketing order.

EFFECTIVE DATE: April 23, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, DC 20250. Telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been determined to be a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through the group actions of essentially small entities acting on their own behalf. Thus, both statues heve small entity orientation and compatibility.

It is estimated that approximately nine handlers of spearmint oil will be subject to regulation under the Marketing Order for Spearmint Oil Produced in the Far West during the course of the current season and that the great majority of this group may be classified as small entities. While regulations issued during the course of the season impose some costs on affected handlers, the added burden imposed on small entities by this regulation, if present at all, is not significant.

The salable quantity and allotment percentage for each class of spearmint oil is established in accordance with the provisions of Marketing Order No. 985, regulating the handling of spearmint oil produced in the Far West. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The rule was recommended by the Spearmint Oil Administrative Committee established under this marketing order.

The salable quantity and allotment percentage for each class of spearmint oil for the 1986–87 marketing year beginning June 1, 1986, is based upon recommendations of the committee and the following data and estimates:

(1) "Class 1" Oil (Scotch Spearmint)

(A) Estimated carrying on June 1, 1986—209,964 pounds.

(B) Estimated trade demand (domestic and export) for the 1986–87 marketing year, based on an average of producer sales for the five-year period beginning with the 1980–81 marketing year thorough the 1984–85 marketing year—737,049 pounds.

(C) Recommended desirable carryout on May 31, 1987—75,000 pounds.

(D) Salable quantity required from 1986 production—602,085 pounds.

(E) Total allotment bases for "Class 1" Oil—1,639,140 pounds.

(F) Computed allotment percentage—37.73 percent.

(G) The committee's recommended salable quantity—688,439 pounds.

(H) Recommended allotment percentage—42 percent.

(2) "Class 3" Oil (Native Spearmint)

(A) Estimated carryin on June 1, 1986—60,529 pounds.

(B) Estimated trade demand (domestic and export) for the 1986–87 marketing year, based on an average of sales for the past five marketing years beginning with the 1980–81 marketing year through the 1984–85 marketing year—870,516 pounds.

(C) Recommended desirable carryout on May 31, 1987—75,000 pounds.

(D) Salable quantity required from 1986 production—854,987 pounds.

(E) Total allotment bases for "Class 3" Oil—1,808,587 pounds.

(F) Computed allotment percentage—47.27 percent.

(G) The committee's recommended salable quantity—866,208 pounds.

(H) Recommended allotment percentage—49 percent.

The salable quantity is the total quantity of each class of oil which handlers may purchase from or handle on behalf of producers during a marketing year. Each producer is allotted a share of the salable quantity by applying the allotment percentage to the producer's allotment base for the applicable class.

Volume controls in effect under the order have aided in maintaining a stable market for each class of oil. The committee's objective for the 1986–87 marketing season is to promote orderly marketing and to continue to balance supply and demand in order to maintain stable market conditions and prices for each class of 1986–87 crop oil. The committee's recommendations are based on expectations of normal sales of spearmint oil during the 1986–87 marketing year.

Pursuant to the order, the committee issued additional allotment bases to both new and existing producers for the 1986–87 marketing year. New producers were issued allotment bases in units of 2,049 pounds for "Class 1" Oil and 2,261 pounds for "Class 3" Oil. Additional allotment bases for existing producers were divided equally, by class of oil, among all producers who reqested such additional base and demonstrated the ability to produce the additional spearmint oil referable to such base. The issuance of the additional allotment bases increased the total of "Class 1"

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Oil allotment bases by 16,336 pounds and "class 3" Oil by 18,054 pounds.

A proposed rule published in the February 4, 1986, issue of the Federal Register (51 FR 4373) provided a 15-day comment period which ended February 19. Five comments were received. Essentially, commenters suggested that the marketing order ensures that: (1) Small producers are being put out of business and that either the marketing order should be terminated, or the proposed salable quantities and allotment percentages should be increased for the 1986–87 marketing season; (2) that barriers to entry should be reduced as is required by the Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders (guidelines); and (3) that marketing order regulations limit the quantity of spearmint oil that domestic producers can export and increase the amount of imports that enter into the U.S., thus reducing the ability of domestic producers to compete in world markets.

Small producers are given the same opportunity as all producers under the marketing order, and the regulations are established for the benefit of all producers and consumers. Allotment regulations apply equally to producers of all levels of production. If the commenters' requests to increase the proposed salable quantities and allotment percentages for the 1986–87 season were adopted, producers would likely overplant which could result in increased stocks and depressed prices as occurred prior to issuance of this order.

Section 985.50 of the order requires that the committee consider at least the following items when establishing regulation: (1) The estimated quantity of salable oil of each class held by producers and handlers; (2) the estimated demand for each class of oil; (3) the prospective production of each class of oil for the current marketing year; (4) the estimated total of allotment bases of each class of oil for the ensuing marketing year; (5) the quantity of reserve oil, by class, in storage; (6) producer prices of oil including prices for each class of oil; and (7) the general marketing conditions for each class of oil, including whether the estimated season average price to producers is likely to exceed parity. As outlined in this document, the supply and demand factors bearing on the need for regulation have been carefully examined, and the necessary requirements for regulation as specified in § 985.50 have been met. Therefore, it is determined that regulation of spearmint oil for the 1986–87 season in the manner specified is necessary to effectuate the declared purposes of the act.

Consistent with the Department's guidelines,which require that allocation and reserve pool programs make available to the primary market at least 110 percent of prior years' sales, the committee has recommended the salable quantities for the 1986–87 season at 127 and 111 percent of average sales for Scotch and native spearmint oil, respectively, for the three year period beginning with the 1982–83 marketing year though the 1984–85 marketing year. The committee has also made additional base available to new and existing producers in order to facilitate entry into the industry and update producer bases as required by the guidelines.

Contrary to the comments, marketing order regulations have not substantially limited the quantity of spearmint oil that can be exported, or increased the amount of imports into the U.S. According to data from USDA's Foreign Agricultural Service, in 1984 and 1985 exports of spearmint oil from the U.S. were significantly greater than the amount of imported spearmint oil from other countries into the U.S. Such imports are insignificant when compared to U.S. production. USDA's Crop Reporting Board indicates that U.S. production for 1984 was 2,019,000 pounds, (1,536,000 pounds of which was produced in the regulated area) while total imports were only 75,340 pounds. In 1985, U.S. production was 2,317,000 pounds (1,946,000 of which was produced in the regulated area) and imports decreased from the previous year to a total of 12,167 pounds. In addition, exports of spearmint oil from the U.S. to foreign markets in 1984 and 1985 were 398,504 and 372,012 pounds, respectively. The remainder of the U.S. production was utilized in domestic markets or put into storage.

Based on the foregoing facts and information, it appears that marketing order regulations are not significantly reducing the U.S. producers' competitiveness in U.S. or world markets. Also, the 1986–87 recommended salable quantities and allotment percentages for spearmint oil produced in the Far West have increased salable quantities of spearmint oil from that offered in previous years and will provide ample quantities to meet current and prospective supply and demand conditions. Consequently, the comments in opposition to the proposed regulation are not adopted.

In order to ensure orderly marketing of spearmint oil during the 1986–87 marketing season, and to give growers adequate notice so they may develop or make any adjustments in their planting decisions (planting usually begins in March) for the ensuing marketing season, this rule is to become effective upon publication.

List of Subjects in 7 CFR Part 985

Marketing agreements and orders, Spearmint Oil, and Far West.

PART 985—[AMENDED]

1. The authority citation for 7 CFR Part 985 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new § 985.206 is added under Subpart—Salable Quantities and Allotment Percentages, to read as follows: (The following provisions will not be published in the Code of Federal Regulations).

§ 985.206 Salable quantities and allotment percentages—1986–87 marketing year.

The salable quantity and allotment percentage for each class of spearmint oil during the marketing year which begins June 1, 1986, shall be as follows:

(a) "Class 1" Oil—a salable quantity of 686,439 pounds and an allotment percentage of 42 percent.

(b) "Class 3" Oil—a salable quantity of 866,206 pounds and an allotment percentage of 49 percent.

Dated: April 16, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division.

[FR Doc. 86–9038 Filed 4–22–86; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 989

Raisins Produced From Grapes Grown in California; Changes to Procedural and Operational Details of the Raisin Diversion Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes procedural and operational details of the Raisin Diversion Program (RDP). The changes will: (1) Broaden the category of producer applicants receiving priority for program participation; (2) add authority for subjecting those approved applicants who fail to follow through with their intention to remove vines to legal and administrative sanctions; (3) clarify that order requirements are applicable to raisin handlers when redeeming diversion certificates just as

though the raisins were acquired as new crop raisins; and (4) allow the Raisin Administrative Committee (Committee) to release to handlers the entire tonnage represented by diversion certificates. These changes were recommended by the Committee, which works with the U.S. Department of Agriculture (USDA) in administering the marketing order for California raisins.

EFFECTIVE DATE: April 18, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Agricultural Marketing Service, USDA, Washington, DC 20250, Telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum No. 1512–1 and Executive Order 12291 and has been designated a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through the group action of essentially small entities for their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that approximately 23 handlers of raisins will be subject to regulation under the Marketing Order for Raisins Produced from Grapes Grown in California during the course of the current season and that the great majority of this group may be classified as small entities. While regulations issued under this order impose some costs on affected handlers and the number of such firms may be substantial, the added burden imposed on small entities, if present at all, is not significant.

The changes to the RDP are established in accordance with the provisions of Marketing Order No. 989, regulating the handling of raisins produced from grapes grown in California. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

It is found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the Federal Register (5 U.S.C. 553). The final rule needs to be effective by April 18, 1986, in order to provide producers with adequate notice of the changes to the RDP and so that they may be given the opportunity to withdraw prior to June 1, 1986. Under § 989.156(r) of the RDP rules and regulations, successful applicants have 10 days to withdraw from the program if they disagree with any program changes. June 1 is the date specified in § 989.156(h) of the RDP rules and regulations by which successful applicants must have removed their grapes or vines under the RDP.

Notice of this action was published in the Federal Register on March 24, 1986 (51 FR 9968). Interested persons were invited to submit written comments by April 3, 1986. One comment was received from the Committee.

The RDP, which was implemented for the first time in 1985, gives producers the means of voluntarily reducing the quantity of grapes grown for drying into raisins. Participating producers would be required to preclude grapes from being produced and harvested on the production unit involved in the program. In return, producers would receive a diversion certificate representing the quantity of raisins diverted from the involved production unit. Producers could then sell the diversion certificate to handlers as though the raisins were produced in the current crop year. Since the establishment of the RDP, the raisin industry has been working to bring raisin supplies more in line with demand. In 1985, 60,000 tons of raisins were diverted from production. The Committee has designated over 100,000 tons of Natural Seedless raisins for the 1986 diversion program because raisin supplies are expected to exceed market demand and normal carryover needs by that amount.

The first change in § 989.156(d) as proposed would have allowed producers, who agree to remove vines from a partial production unit, to receive the same priority as those who remove vines from an entire production unit. The Committee's comment suggested that the proposed rule should be revised to allow producers who remove vines from a partial production unit to receive second priority for program participation instead of the same priority as those producers who remove vines from a full production unit. Producers who remove a full production unit would no longer have the ability to produce raisins on that area, and would most likely convert the unit to other uses. Thus, this would permanently reduce the production of grapes to be dried into raisins. However, those producers who agree to remove the vines on a portion of their production unit would still be capable of producing grapes for raisins on the remainder of that production unit, and could continue to produce grapes on that area in the future. While removing vines from a partial production unit would also reduce grape production for raisins, such producers would be most likely to remove only low yielding portions of their production. Since it is the Committee's intention to encourage producers to remove vines under the RDP, which is the most effective method currently known for accomplishing program goals, the Committee's comment to give second priority to those producers who remove vines from a portion of a production unit is adopted into this final rule.

The second change will add legal and administrative remedies to § 989.156(h) for those approved applicants who fail to follow through with their intention to remove vines as specifically stated on their applications. Such producers shall not be issued a diversion certificate, may be subject to liquidated damages and interest charges as provided in paragraph (q) of § 989.150, and may be denied the opportunity to participate in future programs. This will discourage approved applicants from changing from vine removal to diversion by another method. In an oversubscription situation, when the production volume in such applications exceeds the amount of diversion tonnage available under the program, a lottery system would be required to allocate such diversion tonnage among the applicants. Producers who indicate vine removal on their diversion applications but later decide to divert by another means would avoid the lottery system and deny other producers the opportunity to participate in the program. Thus, these measures are necessary to foster compliance and more effectively enforce the provisions of the diversion program.

The third change is in § 989.156(p) and will clarify that order requirements are applicable to handlers when diversion certificates are redeemed. It is the Committee's intention to clarify that the raisin tonnage represented on diversion certificates be treated in the same manner as new crop raisins, and to protect the intereats of reserve pool equity holders. This includes any reserve pool obligations, payment of assessments, storing of reserve tonnage, and remedies in the event of handlers' failure to deliver reserve tonnage raisins. These requirements are applicable to reserve raisins released to handlers under the diversion program.

The last change is in § 989.156(k). It will allow the Committee to release to

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handlers the entire amount on the diversion certificate when certificates are redeemed. The current provisions only allow the Committee to release the free tonnage portion on the certificates to handlers. One year's program experience has shown that diversion certificates may be redeemed before free and reserve percentages have been computed and announced. Free and reserve percentages are recommended to the Secretary prior to February 15, of the crop year. The free percentage prescribes the portion of the crop that can be shipped immediately to any market. The reserve percentage prescribes the portion that must be held for delayed shipment. Releasing the entire amount of diversion tonnage, regardless of whether free and reserve percentages are established, will allow handlers to treat the reserve raisins represented by diversion certificates the same as if a crop was produced and delivered to the handler.

After consideration of all relevant matters presented, the information and recommendations submitted by the Committee, and other available information, it is further found that the changes to the procedural and operational details of the raisin diversion program will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 989

Marketing agreements and Orders, Grapes, Raisins, California

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR Part 989 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Paragraphs (d), (h), (k), and (p) of § 989.156 are revised, and the heading of paragraph (g) is revised to read as follows:

Subpart—Administrative Rules and Regulations

§ 989.156 Raisin diversion program.

* * * * *

(d) *Priority of applications and allocation of tonnage.* Those producer applicants indicating that the vines of the producing units or portions thereof will be removed, shall receive first and second priority, respectively, over other applicants when reserve tonnage under the program is to be allocated. Grafting vines of one varietal type to another varietal type does not constitute removal under the program. If the production volume in such applications exceeds the amount of diversion tonnage available under the program, a lottery will be held to allocate such diversion tonnage among the applicants. In conducting any lottery under this section, the Committee may group producer applications on a handler-by-handler basis, and separate lotteries will be held for each such group. The diversion tonnage of raisins available for each such group in each lottery may not exceed the percentage of total handler acquisitions acquired by the group's handler during the previous crop year. To the extent diversion tonnage exists after such group lotteries, such remaining diversion tonnage may be allocated by one lottery of all remaining producer applications. If reserve tonnage exists under the program after the allocation of diversion tonnage has been made to all eligible producer applicants who remove vines, all other applications shall be considered. If the production volume in such applications exceeds the amount of reserve raisin tonnage remaining under the program, a lottery will be held to allocate the remaining diversion tonnage in the manner described above.

* * * * *

(g) *Verification.*

* * * * *

(h) *Compliance.*—(1) *Methods of diversion.* An approved applicant shall be required to take the necessary measures to preclude grapes from being produced and harvested on the production unit involved in the program. These measures may include spur pruning the vines, chemically removing the crop before maturity, hand removing and destroying the bunches of grapes before maturity, removing the vines, or any other method which prevents the grapes from maturing and being harvested. Grafting vines of one varietal type to another varietal type does not constitute removal of the vines under the program.

(2) *Period of diversion.* An approved applicant must remove the grapes, or vines, indicated on the application within the production unit or portion thereof designated in the application not later than June 1 of the crop year when a raisin diversion program is implemented.

(3) *Failure to divert.* Any raisin producer who does not take the necessary measures to remove the grapes on an approved production unit by June 1, or any raisin producer who has indicated the removal of vines or the intent to remove the vines and who does not remove such vines on an approved production unit or portion thereof by June 1, shall not be issued a diversion certificate, may be subject to liquidated damages and interest charges as provided in paragraph (q) of this section, may be subject to an injunctive action under the act, and may be denied the opportunity to participate in future diversion programs.

* * * * *

(k) *Redemption of certificates.* Any handler holding diversion certificates may redeem such certificates for reserve pool raisins from the Committee. To redeem a certificate, a handler must present the diversion certificate to the Committee and pay the Committee an amount equal to the established harvest costs plus an amount equal to the payment for receiving, storing, fumigating, handling, and inspecting raisins as specified in § 989.401 for the entire tonnage shown on the certificate. Handlers who acquire diversion certificates from producers shall report acquisitions of such certificates and submit them for redemption in a manner and for the reporting periods provided in § 989.173(b) for the acquisition of raisins acquired from producers. The Committee shall issue a reserve release entitling the handler to an amount of reserve pool raisins equal to the entire tonnage shown on the certificate. Upon receipt of the diversion certificate, the Committee shall note on the certificate that it is cancelled. Diversion certificates will only be valid and honored by the Committee if presented to it for redemption on or before February 15 of the crop year for which they were issued.

* * * * *

(p) *Handling of reserve pool tonnage released when diversion certificates are redeemed.* Handlers shall comply with the applicable provisions of the order and administrative rules and regulations for the reserve pool tonnage released under the raisin diversion program in the same manner as raisins acquired from producers. Such provisions shall include, but not be limited to, reporting, satisfying reserve pool obligations, payment of assessments, storing reserve tonnage, and the remedies in the event of failure to deliver reserve tonnage raisins.

* * * * *

Dated: April 18, 1986.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 86–9222 Filed 4–22–86; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 32

[Docket No. 86–9]

National Banks' Lending Limits; Request for Comment

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Temporary rule; request for comment.

SUMMARY: The Office of the Comptroller of the Currency ("Office") has adopted an amendment to 12 CFR Part 32 creating a substitute lending limit for national banks with charged-off agricultural and oil and gas loans. This revision is intended to provide temporary relief from lending restrictions to national banks which have suffered reductions in capital as a result of problems in the agricultural and oil and gas sectors of the economy. Although the temporary rule is effective immediately, the Office is requesting comments from the public prior to adopting a final rule.

DATES: The temporary rule is effective on March 28, 1986. Comments must be received on or before May 23, 1986.

ADDRESS: Comments should be sent to Docket No. 86–9, Communications Division, 5th Floor, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219. Attention: Lynnette Carter. Telephone: (202) 447–1800. Comments will be available for inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: Rosemarie Oda, Senior Attorney, Legal Advisory Services Division, (202) 447–1880; Linda Gottfried, Attorney, Legal Advisory Services Division, (202) 447–1880; Alan Herlands, Special Assistant to the Chief National Bank Examiner, (202) 447–1646.

SUPPLEMENTARY INFORMATION:

Introduction

Section 401(a) of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97–320 (1982), amended R.S. § 5200, 12 U.S.C. 84, to raise the general limit on a national bank's lending to a single borrower from 10 to 15 percent of unimpaired capital and unimpaired surplus. It also provided express authority for the Office to issue regulations implementing the statute, including rules "to establish limits or requirements other than those specified." 12 U.S.C. 84(d)(1).

When Congress amended section 84, it expressed an intention to "substantially amend the arbitrary and inflexible laws affecting national bank lending." S. Rep. No. 97–536, 97th Cong., 2d Sess. 25 (1982). In granting the Office the authority to promulgate regulations to carry out the purposes of the section, Congress stated that the reason for permitting the Office to establish separate limitations was to enable it to respond to changes in "economic conditions and financial practices." S. Rep. at 60. Among the reasons Congress cited for the comprehensive changes to the existing lending limits statute was the following:

> Added flexibility is needed by smaller institutions, particularly in rural and agricultural communities, where too often small banks now have to turn away local borrowers. In fact, a recent ABA nationwide survey found that 6 percent of 2,400 rural bank respondents had loan applications from acceptable farm customers exceeding their lending limits. (S. Rep. at 25.)

Clearly, Congress was concerned about the availability of credit in farm communities when it relaxed lending limitations. The agricultural economy has vastly deteriorated in the four years since the statutory amendment, creating severe financial pressures on agricultural borrowers and their banks. Additionally, the oil and gas sector of the economy has been adversely affected by the worldwide plummet in the price of oil. The credit needs of these sectors cannot or will not be met because of the reduction in unimpaired capital and unimpaired surplus of national banks serving those communities resulting from losses due to economic problems beyond their control. The federal bank regulatory agencies recently testified before Congress and issued a joint statement that supervisory policies were necessary to assist basically sound, well-managed banks to weather the temporary strains in these troubled economic sectors.

On March 28, 1986, the Office announced a new enforcement policy, subsequently published as "Capital Forbearance Policies", elsewhere in this issue of the **Federal Register**. The enforcement policy is designed to benefit banks that have sufficient capital to absorb loan losses and have reasonable prospects to replenish capital. It will encourage banks to recognize losses in their agricultural and oil and gas loan portfolios without sacrificing the integrity of their financial statements. This new capital forbearance policy establishes a window period, from March 28, 1986, until December 31, 1987, for eligible banks to request that the Office forbear from imposing its usual capital standards and an expiration date of January 1, 1993, for the forbearance policy.

One of the stated purposes of the capital forbearance policy is to encourage work-out strategies between national banks and agricultural and oil and gas borrowers. This has been accomplished by providing an incentive to banks in these sectors of the economy to take losses without fear of enforcement action against them on charges that capital has not been maintained at adequate levels. It will also be accomplished by eliminating the fear of incurring personal liability on the part of the bank's directors for exceeding national bank lending limits in making new loans or meeting prior commitments to lend.

An essential component of the capital forbearance policy is the amendment of the call report for national banks to create a new memorandum item for charge-offs of special category, "agricultural" and "oil and gas," loans. This memorandum item has been designed for national banks with special category loan charge-offs whose capital has declined as a result of losses incurred on these loans; it will be used in part to provide the Office with information to evaluate whether to grant capital forbearance.

The capital forbearance policy statement also announced that the Office would amend the regulation implementing section 84, which is found at 12 CFR Part 32, 48 FR 15844 (April 12, 1983), to comport with the aims of the forbearance policy. In order to allow national banks which have suffered reductions in their capital as a result of problems in the agricultural and oil and gas sectors to substitute an increased lending limit to offset the decline in their unimpaired capital and unimpaired surplus, or total capital, the Office has created a temporary regulation at 12 CFR 32.6, "Substitute lending limit for banks with agricultural and oil and gas loans." The new provision will allow these banks with agricultural and oil and gas loans to continue lending to their creditworthy customers by using the special category loan charge-offs described above to calculate lending limits up to a maximum level of 20 percent of unimpaired capital and unimpaired surplus.

It must be emphasized that the substitute lending limit is not designed to increase a bank's lending capacity above that which existed prior to January 1, 1986. It also does not establish a flat new limit for all banks which have agricultural or oil and gas loans in their portfolios. Within the maximum level of 20 percent, the substitute lending limit may vary with each bank, because it will factor into the

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lending limit calculation the degree to which the bank has been affected by charge-offs of agricultural and oil and gas loans. The substitute lending limit does not affect the applicability or availability of any other statutory limitation or exception, such as the additional 10 percent limit for loans secured by readily marketable collateral at 12 U.S.C. 84(a)(2), 12 CFR 32.4.

Definitions

The definitional section of the new provision is intended to carry over the terminology used in the capital forbearance policy statement and for call report purposes and thereby ensure that the new limit is available only to banks which have loaned in the agricultural and oil and gas sectors. Accordingly, "agricultural loans" and "oil and gas" loans are defined in general terms in the regulation and are further described in the call report instructions and in the "Capital Forbearance Policies". The federal bank regulatory agencies have generally agreed upon these definitions, which are based on historical usages of these terms. It is anticipated that any subsequent interpretations of the definitions of "agricultural loans" or "oil and gas loans" will be issued in the form of banking circulars, call report instructions, other related issuances, and letter rulings. To minimize the necessity for further interpretation, however, the Office specifically invites comment on these definitions.

The term "special category loan charge-offs" is defined to incorporate the memorandum item for agricultural and oil and gas loan charge-offs referred to in the capital forbearance policy statement. The definition includes a reference to the window period for entries in this account, January 1, 1986 through December 31, 1987, established in the capital forbearance policy statement, thereby harmonizing the extent of relaxation in lending limitations with the extent of forbearance from administrative action.

The Temporary Substitute Lending Limit

The substitute lending limit will be available only to a national bank with the aforementioned special category loan charge-offs if its capital has declined and only for a limited period of time. Section (b) provides the maximum substitute lending limit of 20 percent of unimpaired capital and unimpaired surplus for banks whose capital has declined as a result of the aforementioned special category loan charge-offs and provides an expiration date for the regulation of January 1, 1993, which coincides with the date of termination of the capital forbearance policy. It also provides that even though a bank with reduced capital has agricultural or oil and gas loans covered by the capital forbearance policy, its substitute lending limit cannot exceed 15 percent of its unimpaired capital and unimpaired surplus as of December 31, 1985.

Below the maximum limit, the lending limit for each bank can be expected to differ, depending on the effect of including the factor for special category loan charge-offs in section (c). The Office has not made the maximum limit available in all instances because the substitute limit is not intended to grant affected national banks a higher limit than would have been afforded to them under the general statutory limit prior to January 1, 1986. A worksheet is provided at the end of this preamble as Exhibit A which will assist banks in computing their substitute limit.

Reasons for Adoption Without Prior Notice and Comment

Immediate adoption of this rule is required to accomplish the purposes of the capital forebearance policy. On March 26, 1986, the United States Senate Committee on Banking, Housing, and Urban Affairs endorsed the objectives of the joint statement and urged the federal bank regulatory agencies to move as rapidly as possible to provide assistance to banks now making lending decisions for the 1986 growing season. For these reasons, the Office finds that application of the notice and public participation provisions of 5 U.S.C. 553 to this action would be contrary to the public interest and that good cause exists for making this action effective immediately. Nevertheless, the Office believes that comment on alternate proposals may be beneficial and could result in a better final rule. Therefore, the Office has also requested post-promulgation comment on preferable alternatives for providing relief from national bank lending limits.

Regulatory Flexibility Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–602), it is certified that this regulation will not have a significant economic impact on a substantial number of small entities. The effect of the regulation is beneficial rather than adverse, and small entities are generally expected to benefit more than larger institutions.

Executive Order 12291

The Office has determined that this regulation does not constitute a "major rule" and, therefore, does not require a regulatory impact analysis. This regulation would ease burdens imposed by regulations and would have no adverse effect on the operations of national banks.

Exhibit A—General Lending Limitation Calculations

(For use until January 1, 1993)

Calculation date _____

1. Total capital on December 31, 1985	$_____
2. 15% of the amount on Line 1	$_____
3. Total capital on calculation date	$_____
4. 15% of the amount on Line 3	$_____

IF THE AMOUNT ON LINE 4 EQUALS OR EXCEEDS THE AMOUNT ON LINE 2, STOP HERE. THE BANK'S CURRENT GENERAL LENDING LIMITATION IS THE AMOUNT ON LINE 4.

5. Sum of Special Category Loan Charge-offs since December 31, 1985 (but only through December 31, 1987)	$_____
6. Sum of all recoveries since December 31, 1985 on all loans included in Line 5	$_____
7. Amount on Line 5 minus amount on Line 6	$_____
8. Amount on Line 3 plus amount on Line 7	$_____
9. 15% of the amount on Line 8	$_____
10. 20% of the amount on Line 3	$_____
11. Lesser of the amounts on Line 9 and Line 10	$_____
12. Lesser of the amounts on Line 2 and Line 11	$_____

THE BANK'S CURRENT GENERAL LENDING LIMITATION IS THE AMOUNT ON LINE 12.

List of Subjects in 12 CFR Part 32

National banks, Lending limits.

PART 32—LENDING LIMITS

For the reasons set forth in the preamble, the Comptroller of the Currency hereby amends 12 CFR Part 32 as follows:

1. The authority citation for Part 32 continues to read as follows:

Authority: 12 U.S.C. 1 *et seq.*, 12 U.S.C. 84 and 12 U.S.C. 93a.

2. Section 32.6 is added to read as follows:

§ 32.6 Substitute lending limit for banks with agricultural or oil and gas loans.

(a) *Definitions.* For purposes of this section:

(1) "Agricultural loans" include loans or extensions of credit secured by farmland, loans to finance agricultural production and other loans to farmers reported in the bank's call report of condition. The following are examples of such types of loans: For growing and storing of crops, breeding and marketing of livestock, financing fisheries, purchases of farm machinery and equipment, maintenance and operations of the farm, and discounted notes of farmers.

(2) "Oil and gas loans" include loans or extensions of credit to oil companies, petroleum refiners, and companies primarily engaged in the oil- and gas-related business, for example: Operating oil and gas field properties, contract drilling, performing exploration services on a contract basis, performing oil and gas field services, manufacturing or leasing of oil field machinery and equipment, pipeline transportation of petroleum, natural gas transmission or distribution, and investing in oil and gas royalties or leases.

(3) "Special category loan charge-offs" mean agricultural or oil and gas loans charged-off during the period from January 1, 1986 through December 31, 1987, which have been or will be reported in a special memorandum item in the bank's call report of condition in accordance with the Comptroller's capital forbearance policy.

(b) A national bank which has special category loan charge-offs resulting in a reduction in its unimpaired capital and unimpaired surplus since December 31, 1985, may substitute a lending limit calculated under this section for the general limitation provided at 12 U.S.C. 84(a)(1), up to a maximum amount of 20 percent of unimpaired capital and unimpaired surplus, until January 1, 1993.

(c) The substitute lending limit in section (b) is the lesser of the following amounts:

(1) 15 percent of unimpaired capital and unimpaired surplus on December 31, 1985; or

(2) 15 percent of the total of:

(i) The difference between the sum of special category loan charge-offs and the sum of recoveries on those charge-offs; plus

(ii) Unimpaired capital and unimpaired surplus; or

(3) 20 percent of unimpaired capital and unimpaired surplus.

Dated: April 4, 1986.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 86-9057 Filed 4-22-86; 8:45 am]

BILLING CODE 4810-33-M

12 CFR Part 32

[Docket No. 86-10]

National Banks; Capital Forbearance Policies

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Policy Statement on Capital Forbearance.

SUMMARY: Conditions in the farm and oil and gas sectors of the economy have created increasingly severe financial pressures on farm banks and their farmer borrowers and on oil and gas banks and their oil and gas borrowers. Many farmers are facing foreclosure, and others have developed serious problems. Likewise, the volatility of energy prices has created difficulties for oil and gas borrowers.

Recognizing these problems, the Office of the Comptroller of the Currency ("OCC") is publishing this policy statement which explains its intentions with regard to supervisory policies affecting national banks adversely affected by economic conditions in the agricultural and oil and gas sectors of the economy. This statement was issued in Banking Circular No. 212, dated March 28, 1986. The statement outlines a short term capital forbearance policy designed generally to benefit agricultural and oil and gas banks having sufficient capital to absorb loan losses and reasonable prospects to replenish capital; it reiterates previous OCC statements regarding loan restructuring and accounting therefore; it describes proposed call report changes expected to be effective with the call report for the quarter ending June 30, 1986; and it announces OCC's intention to amend 12 CFR Part 32 relating to lending limits to substitute a new lending limit to offset the impact lower capital ratios would otherwise have on lending limit computations at national banks making agricultural and oil and gas loans.

EFFECTIVE DATE: March 28, 1986.

FOR FURTHER INFORMATION CONTACT: Alan Herlands, Special Assistant to the Chief National Bank Examiner, (202) 447–1646, or Zane Blackburn, Director, Bank Accounting, (202) 447–0471, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219.

SUPPLEMENTARY INFORMATION:

I. Introduction

The last few years have proved to be a particularly difficult period for farm and oil and gas banks and their borrowers. Many farmers and others dependent on the agricultural economy have experienced, and continue to experience, financial difficulties. During this period, an historically large number of farm banks have failed and an even larger number have developed serious problems. Similarly, volatile energy prices have adversely impacted oil and gas borrowers and the banks that lend heavily to them.

In light of these problems, the Comptroller of the Currency, the Federal Reserve Board, and the Federal Deposit Insurance Corporation believe it appropriate to employ supervisory policies that will support basically sound, well-managed banks in weathering what is expected to be a difficult but transitional period. In connection with their recent testimony before Congress, the agencies released a Joint Policy Statement on March 11, 1986, outlining these policies. Although the statement refers only to agricultural banks, it has been extended to oil and gas banks by subsequent agreement among the agencies. A copy of the Joint Policy Statement is attached.

This Circular explains how the Office of the Comptroller of the Currency will implement the Joint Policy Statement. Implementation will be accomplished by encouraging banks to work with their troubled agricultural and oil and gas borrowers; by establishing a capital forbearance policy; by encouraging the use of generally accepted accounting principles which may permit loan restructurings without loss recognition; by changes to Call Reports; and by relaxing lending limits.

The Congress is considering legislation covering capital forbearance, Call Reports, and lending limits, among other matters. Modification of this Circular may be required if legislation is enacted.

Certain provisions contained in this Circular are subject to approval by the Office of Management and Budget, where they are currently under review.

II. Bank Relationships with Troubled Borrowers

Problems in the agricultural economy have directly affected the banks that provide financing for the agricultural sector. Severe financial pressures on borrowers dependent on the agricultural economy have resulted in an increase in loan delinquencies. As conditions have worsened, borrowers increasingly fear foreclosure, while bankers are increasingly concerned about supervisory actions that may result from

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reduction in their banks' capital as a consequence of loan losses.

In response to this situation, the OCC has encouraged bankers to develop work-out strategies with their agricultural borrowers. In a joint statement on April 23, 1985, the Federal bank regulatory agencies reiterated their policy of encouraging banks to enter into work-out plans with agricultural borrowers who are experiencing temporary difficulties in meeting their debt service obligations. The OCC renews that encouragement now.

Although OCC examiners will point out to management the weaknesses that may be present in loans, the OCC does not require foreclosure on collateral or the acceleration of the maturity of loans. The OCC recognizes that downturns in certain sectors of the economy are expected to be transitory. Therefore, lenders may find that the most prudent policy is to restructure the loan terms rather than to take more precipitous action such as foreclosure.

The volatility in energy prices has created a similar situation between oil and gas companies and the banks that lend to them. Accordingly, the OCC also encourages banks to develop appropriate work-out strategies with their oil and gas borrowers.

III. Capital Forbearance Policy

Despite the difficult problems facing many agricultural and oil and gas banks, the OCC believes that most have sound prospects for the future. Even with the losses suffered by these banks and the likelihood that losses will continue to occur, these banks retain substantial strength. Many of them possess strong capital to asset ratios and capable management that adheres to sound lending policies.

Accordingly, the OCC has adopted, effective immediately, a capital forbearance policy which will benefit basically well-managed banks that have sufficient capital to absorb loan losses and reasonable prospects to replenish capital. Capital forbearance formally acknowledges that capital should be used during periods of unusually heavy loan losses and that capital replenishment takes time. The capital forbearance policy should provide banks greater incentives to recognize promptly losses arising in their loan portfolios, work with borrowers to restructure loans, and rebuild bank capital in an orderly manner. This capital forebearance policy is temporary and will terminate on January 1, 1993.

Under the capital forbearance policy, the OCC will not take administrative action to enforce the minimum capital requirements in 12 CFR Part 3 against a bank whose primary capital ratio declines below 5⅓ percent to no less than 4 percent before December 31, 1987, provided the bank meets the following qualifications and conditions.

1. The bank must meet the definition of an agricultural/oil and gas bank. An agricultural/oil and gas bank is one whose agricultural and oil and gas loans, in the aggregate, are equal to or greater than 25 percent of the bank's total loans and leases, net of unearned income. Agricultural loans are defined as loans secured by farmland and loans to finance agricultural production and other loans to farmers from Schedule C on the bank's Call Report. A list of the kinds of loans qualifying as oil and gas loans for purposes of the capital forbearance policy is attached as Exhibit A.

2. The weakened capital position of the bank must be largely the result of problems in the agricultural and/or oil and gas sectors of the economy and not due to excessive bank operating expenses, insider abuse, excessive dividends or actions taken solely for the purpose of qualifying for capital forbearance.

3. The bank must be well-managed. In reaching determinations about the quality of a bank's management, the OCC will take into account existing management's past record of performance in guiding the bank, including its timely recognition of loan losses and other weaknesses. The OCC will also consider the bank's past compliance with any agreements with, commitments to, or orders from the OCC. Further, the OCC will consider the capability of management to develop and implement an acceptable rehabilitative plan.

4. The bank must submit an acceptable plan for restoring capital by January 1, 1993 to the minimums required by 12 CFR Part 3. The plan should describe the means and schedule by which capital will be increased. This plan should also specifically address reduced dividends levels; limitations on the compensation of directors, executive officers or individuals having a controlling interest; limits on asset growth; and payments for services or products furnished by affiliated companies.[1] The plan should provide for improvement in the bank's primary capital ratio on a continuous or periodic basis from earnings, capital injections, asset shrinkage, or a combination thereof. A plan which projects no significant improvement in capital until near the end of the forbearance period will not normally be acceptable. The OCC may require modification to a bank's plan in order for the bank to receive, or to continue to receive, capital forbearance.

5. The bank must commit to file annual progress reports regarding compliance with its capital plan. Depending on an individual bank's progress, more frequent reports may be required. Moreover, any contemplated actions that would represent a material variance from the capital plan must be submitted to the OCC for review.

Banks with capital below the minimums established in 12 CFR Part 3 seeking capital forbearance must file a written request no later than December 31, 1987 with the Deputy Comptroller for the District in which the bank is located. The request must include a certification and explanation of its eligibility to participate (covering items 1 through 3 above), its plan, and its commitment to file the required reports. Capital forbearance will be considered granted unless, within 60 days of receipt of the request, the District notifies the bank that its request has been denied or that additional information or time is required. Pursuant to 12 CFR 3.8, during the period covered by this capital forbearance policy, a bank granted capital forbearance and in compliance with an acceptable capital plan will not be considered in violation of the minimum capital ratios required by 12 CFR 3.6.

Upon the written request of an agricultural/oil and gas bank and at the discretion of the OCC, the capital forbearance policy may be extended, in special circumstances, to a bank with a primary capital ratio lower than 4 percent. In addition, the OCC will consider extending its capital forbearance policy to banks which do not meet the above definition of an agricultural/oil and gas bank, but nevertheless are suffering capital declines caused by problems in the agricultural or oil and gas sectors. Capital forbearance may be extended to these banks only on a case-by-case basis upon written request and explanation submitted to the District Deputy Comptroller. In both circumstances, capital forbearance will not be considered granted until the District so notifies the bank.

The OCC reserves the right to terminate capital forbearance for banks engaged in unsafe or unsound or other objectionable practices, or if it becomes apparent to the OCC that the bank is unwilling or unable to comply with an acceptable capital plan. Capital forbearance, once granted, will not be terminated solely on the basis of subsequent changes in a bank's percentage of loans to agricultural and/or oil and gas borrowers.

Some banks are at present subject to capital requirements higher than those specified in 12 CFR Part 3 by a capital directive, an effective order issued pursuant to 12 U.S.C. 1818, or a formal agreement between a bank and the OCC. Banks which have experienced agricultural or oil and gas losses and which are subject to a capital ratio higher than the minimums set forth in 12 CFR 3.6 may request a modification from the OCC. The OCC will reconsider the higher requirement in light of the capital forbearance policy.

In addition, the OCC capital forbearance policy extends to well-managed banks whose primary capital ratios decline, as a result of problems in the agricultural or oil and gas sectors of the economy, from historic levels to levels above the 5⅓ percent minimum primary capital ratio. These banks do not have to apply for capital forbearance, and the OCC will not require them to take any action solely on the basis of that decline in capital. These banks will be expected to maintain adequate capital for the nature of their operations and, if appropriate, to increase their capital over time back to historic levels. In addition, these banks must recognize that asset growth should be accompanied by appropriate increases in capital.

All banks which are operating with capital levels below those which would be expected under normal economic conditions should be aware that the OCC will be unlikely to approve applications by them to acquire other banks. Similarly, the OCC will be likely to object to changes in control or acquisitions of such banks unless the transaction will result in prompt restoration of capital to appropriate levels.

The implementation of the OCC's capital forbearance policy has no effect on balance sheet or income statement items reported in Call Reports or other financial statements, nor does it allow banks to report, as assets, loans (or portions thereof) considered losses. On the contrary, the policy retains existing financial presentation rules and creates no inconsistencies with generally accepted accounting principles. The OCC believes that maintaining the integrity of financial statements is vital to assuring confidence in the banking system.

IV. Accounting for Troubled Debt Restructurings

The OCC has followed, and will continue to follow, generally accepted accounting principles with respect to loans which have been formally restructured to enable the borrower to service the debt. Statement of Financial Accounting Standards No. 15 (FAS 15), Accounting by Debtors and Creditors for Troubled Debt Restructurings, governs the accounting for such restructurings. This Standard allows a loan to continue to be carried on the bank's books without any loss recognition if the loan is formally restructured in a manner so that it is probable and estimable that the borrower can repay the loan under the new terms, and that the total future cash payments by the borrower (principal and interest combined) at least equals the loan amount on the bank's books.

Accordingly, a bank which reasonably expects a borrower's future cash payments to equal or exceed the loan amount does *not* need to recognize a loss on the restructuring. In those situations where it is expected that the future cash payments on the restructured loan will be less than the loan amount, the loss recognized is limited to the expected cash flow deficiency.

[Banking Circular 195 includes more specific details of the accounting provisions.] Bankers are encouraged to familiarize themselves with the accounting treatment described in FAS 15.

V. Call Report Changes

Two changes are being made to the Call Reports, expected to be effective with the reports for the quarter ending June 30, 1986. One is needed to monitor the capital forbearance policy and potential changes to legal lending limits for national banks; the other is designed to prevent misconceptions about certain restructured loans.

Schedule RI–B, "Charge-offs and Recoveries and Changes in Allowance and Lease Losses," will be changed for national banks to provide information relative to capital forbearance and legal lending limits. Memorandum items will be added to this schedule to identify a bank's charge-offs and recoveries of Special Category Loans on a cumulative basis since January 1, 1986. Special Category Loans are defined as (a) loans secured by farmland and loans to finance agricultural production and other loans to farmers from Schedule C of the bank's Call Report and (b) the oil and gas loans listed on Exhibit A hereto. Should the definitions change, the OCC will provide national banks with revised definitions prior to the due date for the Call Report first affected by the change.

The second set of changes involves the reporting of renegotiated "troubled" debt. The existing Schedule RC–N ("Past Due, Nonaccrual, and Renegotiated Loans and Lease Financing Receivables"), will be modified by removing the column entitled "Renegotiated troubled debt." Renegotiated loans which are performing in compliance with the modified terms will be reported in the memorandum section of Schedule RC–C under a new heading "Loans Restructured and in Compliance with Modified Terms." Renegotiated loans that become past due or are otherwise placed in nonaccrual status will be reported in Schedule RC–N in the appropriate categories.

In addition, a new memorandum item will be added to Schedule RC–N to require reporting of total renegotiated "troubled" debt included in the categories 30–89 days past due and accruing, 90 days or more past due and accruing, and nonaccrual. This memorandum item will be maintained for supervisory purposes on a confidential basis.

VI. Lending Limits

The recognition by a bank of losses on loans reduces not only its capital, but also reduces the maximum amount the bank can lend by law to any single borrower. Lending limits are an important ingredient in protecting the safety and soundness of banks by requiring diversification of credit risks. Many banks have established internal controls limiting the size of loans to any single borrower to an amount less than the legal lending limit. In those banks that do make loans at the legal lending limit, such loans are generally small in number. However, the declines in capital attributable to the problems in the oil and gas and agricultural sectors of the economy may cause some banks to be unable to serve the normal credit needs of a greater number of their creditworthy customers. In order to reduce the impact of these loan losses on a bank's ability to meet the legitimate credit needs of its financially sound customers, the OCC believes it necessary and appropriate to relax lending limits during the period in which the capital forbearance policy is in effect.

The Federal statute governing national bank lending limits is 12 U.S.C. 84. The OCC has issued implementing regulations at 12 CFR Part 32. In general, national banks are subject to a *General* limitation of 15 percent of total capital

[1] Banks should also refer to Banking Circular No. 115, "Income Diversion Through Management and Other Fees", dated August 30, 1976, and Supplement No. 1 thereto, dated December 28, 1976.

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(i.e. unimpaired capital and unimpaired surplus), and may lend an additional 10 percent of total capital to the same borrower fully secured by readily marketable collateral. There are also a number of exceptions for specified types of loans. Under the statute, the OCC has the authority to establish limits other than those specified.

Under that authority, the OCC contemplates adopting as soon as possible a temporary amendment to 12 CFR Part 32 to be consistent with the purposes of the capital forbearance policy. It is anticipated at present that the amendment would substitute an increased general lending limit for national banks to offset the decline in capital resulting from losses attributable to problems in the agricultural and oil and gas sectors of the economy. As an offset, the new general lending limit would not increase any bank's lending limit above what if would have been had it not experienced losses attributable to these troubled economic sectors. The OCC also contemplates including in the amendment a maximum general lending limit of 20 percent to preserve the benefits of risk diversification. The change would cover losses occurring after January 1, 1986 and no later than December 31, 1987, but the effect of those losses on lending limits would continue until January 1, 1993.

The change would allow banks, whose capital declines by no more than 25 percent as a result of losses attributable to agricultural and oil and gas loans, a general lending limit of 15 percent of their capital as of December 31, 1985. For example, a bank with a 10 percent capital ratio, whose capital ratio at December 31, 1985 subsequently declines to 8 percent as a result of losses attributable to the agricultural or oil and gas sectors, would have no reduction in its general lending limit. For banks whose capital ratios are even more dramatically reduced, the effect of the new provision would be a general lending limit of as much as 20% of their reduced capital. The new general lending limit rule would expire simultaneously with the capital forbearance policy on January 1, 1993. Comment will be solicited on the temporary amendment.

Exhibit B hereto is a worksheet which would enable national banks to compute their general lending limits under the new rule. The Comptroller will send appropriate material to national banks relating to the formal adoption of the change to 12 CFR Part 32. *The new lending limit will not be effective until formal adoption of the rule.*

Dated: March 28, 1986.

Robert L. Clarke,

Comptroller of the Currency.

Exhibit A—Definitions of Oil and Gas Loans

The types of loans listed below regardless of purpose will be considered oil and gas loans for the purposes of qualifying for capital forebearance. Wherever "company" is referenced, the caption also assumes "individuals". SIC stands for Standard Industry Codes. See following pages for definitions.

A. Loans to the major integrated oil companies;

B. Loans to companies engaged in operating oil and gas field properties (SIC 1311) (production);

C. Loans to companies primarily engaged in contract drilling (SIC 1381);

D. Loans to companies primarily engaged in performing exploration services on a contract basis (SIC 1382);

E. Loans to companies primarily engaged in performing oil and gas field services (SIC 1389);

F. Loans to petroleum refiners (SIC 2911);

G. Loans to manufacturers and lessors of oil field machinery and equipment (SIC 3533, 7394);

H. Loans to companies primarily engaged in pipeline transportation of petroleum (SIC 4612, 4613);

I. Loans to companies primarily engaged in natural gas transmission or distribution (SIC 4922, 4923, 4924);

J. Loans to companies primarily engaged in investing in oil and gas royalties or leases (SIC 6792);

K. Loans to others engaged in oil and gas related activities.

Major Integrated Oil Companies

International Companies

British Petroleum Co.
Chevron Corp.
Exxon Corp.
Gulf Oil Corp.
Mobil Corp.
Royal Dutch/Shell Group
  Royal Dutch Petroleum Co.
  Shell Oil Co.
  Shell Canada Ltd.
  Shell Transport & Trading Co.
Texaco, Inc.

Domestic Companies

Amerada-Hess
Ashland Oil Co.
Atlantic Richfield Co.
Kerr McGee Corp.
Occidental Petroleum Co.
Pennzoil
Phillips Petroleum Co.
Standard Oil Co. of California
Standard Oil Co. (Indiana)
Standard Oil Co. (Ohio)
Sun Company, Inc.
Tenneco Co.
Unocal

SIC CODES

SIC 1311—Crude Petroleum and Natural Gas

Establishments primarily engaged in operating oil and gas field properties. Such activities include exploration for crude petroleum and natural gas; drilling, completing, and equipping wells; operation of separators, emulsion breakers, desilting equipment; and all other activities in the preparation of oil and gas up to the point of shipment from the producing property. Also includes the production of oil through the mining and extraction of oil from oil shale and oil sands.

SIC 1381—Drilling Oil and Gas Wells

Establishments primarily engaged in drilling wells for oil or gas field operations for others on a contract, fee, or similar basis. Includes contractors that specialize in "spudding in," "drilling in," redrilling, and directional drilling.

SIC 1382—Oil and Gas Field Exploration Services

Establishments primarily engaged in performing geophysical, geological, and other exploration services for oil and gas on a contract, fee or similar basis.

SIC 1389—Oil and Gas Field Services

Establishments primarily engaged in performing oil and gas field services, for others on a contract, fee, or similar basis, such as excavating slush pits and cellars; grading, and building of foundations at well locations; well surveying; running, cutting, and pulling casings, tubes, and rods; cementing wells; shooting wells; perforating well casing; acidizing and chemically treating wells; and cleaning out, bailing, and swabbing wells.

SIC 2911—Petroleum Refining

Establishments primarily engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants and other products from crude petroleum and its fractionation products, through straight distillation of crude oil, redistillation of unfinished petroleum derivatives, cracking or other processes.

SIC 3522—Oil Field Machinery and Equipment

Establishments primarily engaged in manufacturing machinery and equipment for use in oil and gas fields.

SIC 7394—Equipment Rental and Leasing Services

—Oil field equipment rental
—Oil well drilling equipment rental: Machinery, drilling bits, etc.

SIC 4612—Crude Petroleum Pipe Lines

Establishments primarily engaged in the pipe line transportation of crude petroleum.

SIC 4613—Refined Petroleum Pipe Lines

Establishments primarily engaged in the pipe line transportation of refined products of petroleum, such as gasoline and fuel oil.

SIC 4922—Natural Gas Transmission

Establishments engaged in the transmission and/or storage of natural gas for sale.

SIC 4923—Natural Gas Transmission and Distribution

Establishments engaged in both the transmission and distribution of natural gas for sale.

SIC 4924—Natural Gas Distribution

Establishments engaged in the distribution of natural gas for sale.

SIC 6792—Oil Royalty Traders

Establishments primarily engaged in investing in oil and gas royalties or leases, or fractional interest therein.

SIC 1321—Natural Gas Liquids Production

Establishments primarily engaged in producing liquid hydrocarbons from oil and gas field gases.

SIC 1623—Pipe Line Construction

—Distribution lines (oil and gas field construction)
—Pipe laying
—Pipe line construction
—Pipe line wrapping
—Pumping station construction

SIC 1629—Heavy Construction

—Oil refinery construction
—Petroleum refinery construction

SIC 3494—Values and Pipe Fittings

SIC 3498—Fabricated Pipe and Fabricated Pipe Fittings

SIC 3559—Special Industry Machinery

—Petroleum refinery equipment

SIC 4226—Special Warehousing and Storage

—Oil and gasoline storage caverns (for hire)
—Petroleum and chemical bulk stations and terminals for hire

SIC 4925—Mixed, Manufactured or Liquefied Petroleum Gas Production and/or Distribution

Establishments engaged in the manufacture and/or distribution of gas for sale, including mixtures of manufactured with natural gas.

SIC 5084—Industrial Machinery and Equipment

—Derricks (Wholesale)
—Drilling bits (Wholesale)
—Oil Refining machinery, equipment, and supplies (Wholesale)
—Oil well machinery, equipment, and supplies (Wholesale)
—Oil well supply houses (Wholesale)

SIC 5171—Petroleum Bulk Stations and Terminals

Establishments primarily engaged in wholesaling petroleum products, including liquefied petroleum gas, from bulk liquid storage facilities.

SIC 5172—Petroleum and Petroleum Products Wholesalers

Establishments primarily engaged in wholesaling petroleum and products. Included are packaged and bottled petroleum products distributors, truck jobbers, and other marketing petroleum and products at wholesale.

SIC 6211—Security Brokers, Dealers, and Flotation Companies

—Oil and gas lease brokers
—Dealers in oil royalties

SIC 8911—Engineering, Architectural, and Surveying Services

—Petroleum Engineering

Others

Establishments and individuals engaged primarily in oil and gas related activities. Examples of such loans would be mortgages and personnel loans to individuals whose sole source of repayment is from the profits of an oil or gas company or employment by an oil or gas company.

Exhibit B—General Lending Limitation Calculations

(For use until January 1, 1993)

Calculation date _____

1. Total capital on December 31, 1985.	____
2. 15% of the amount on Line 1	____
3. Total capital on calculation date	____
4. 15% of the amount on Line 3	____

IF THE AMOUNT ON LINE 4 EQUALS OR EXCEEDS THE AMOUNT ON LINE 2, STOP HERE. THE BANK'S CURRENT GENERAL LENDING LIMITATION IS THE AMOUNT ON LINE 4.

5. Sum of Special Category Loan Charge-offs since December 31, 1985 (but only through December 31, 1987).	____
6. Sum of all recoveries since December 31, 1985 on all loans included in Line 5.	____
7. Amount on Line 5 minus amount on Line 6.	____
8. Amount on Line 3 plus amount on Line 7.	____
9. 15% of the amount on Line 8	____
10. 20% of the amount on Line 3	____
11. Lesser of the amounts on Line 9 and Line 10.	____
12. Lesser of the amounts on Line 2 and Line 11.	____

THE BANK'S CURRENT GENERAL LENDING LIMITATION IS THE AMOUNT ON LINE 12.

[FR Doc. 86-9058 Filed 4-22-86; 8:45 am]

BILLING CODE 4810-33-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AGL-4]

Establishment of Transition Area; Paxton, IL

AGENCY: Federal Aviation Administration (FAA), DOT

ACTION: Final rule.

SUMMARY: The nature of this action is to establish the Paxton, Illinois transition area to accommodate a new VOR Runway 18 instrument approach procedure to Paxton Airport.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument conditions from other aircraft operating under visual weather conditions in controlled airspace.

EFFECTIVE DATE: 0901 U.T.C., July 3, 1986.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Air Traffic Division, Airspace Branch, AGL-520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360.

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SUPPLEMENTARY INFORMATION:

History

On Tuesday, March 11, 1986, the Federal Aviation Administration (FAA) proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish the Paxton, Illinois transition area (51 FR 8334).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes the Paxton, Illinois transition area to accommodate a new VOR Runway 18 instrument approach procedure to Paxton Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition Areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.181 is amended as follows:

Paxton, IL—[New]

That airspace extending upward from 700 feet above the surface, within a 5 mile radius of Paxton Airport (lat. 40°26'55" N., long. 88°07'40" W.) and within 3 miles each side of the Roberts, Illinois VORTAC 166 radial, extending from the 5 mile radius area to the Roberts VORTAC, excluding that portion which overlies the Gibson City, Illinois, transition area.

Issued in Des Plaines, Illinois, on April 11, 1986.

Teddy W. Burcham,

Manager, Air Traffic Division.

[FR Doc. 86-9014 Filed 4-22-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 85-AWA-48]

Realignment and Revocation of Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns Jet Routes J-4, J-104, J-169 and J-50. Also, this amendment revokes Jet Route J-181. These route changes are in conjunction with planned or future changes to the descriptions of several special use airspace areas located in Arizona and California. This action increases safety and improves air traffic control efficiency and service to users.

EFFECTIVE DATE: 0901 G.M.T., July 3, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-8526.

SUPPLEMENTARY INFORMATION:

History

On February 24, 1986, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign jet Routes J-4, J-104, J-169, J-50 and also, to revoke J-181 (51 FR 6420). These route changes are in conjunction with planned or future changes to the descriptions of several special use airspace areas located in Arizona and California. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for a minor change in the alignment in J-104 between Parker, CA, and Gila Bend, AZ, and for minor editorial changes, this amendment is the same as that proposed in the notice. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 75 of the Federal Aviation Regulations realigns J-4, J-104, J-169, J-50, and revokes J-181 located in Arizona and California. These changes increase safety, permit more efficient use of the airspace and allow more flexibility for military operations.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is amended, as follows:

PART 75—[AMENDED]

1. The authority citation for Part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. § 75.100 is amended as follows:

J-4 [Amended]

By removing the words "Twentynine Palms, CA; via intersection of Twentynine Palms 103° and Stanfield, AZ, 299° radials; Stanfield; San Simon, AZ;" and substituting the words "Twentynine Palms; Parker, CA; Buckeye, AZ; San Simon, AZ;"

J-104 [Amended]

By removing the words "Twentynine Palms; via intersection Twentynine Palms 103° and Gila Bend, AZ, 312° radials; Gila Bend," and substituting the words "Twentynine Palms; Parker, CA; INT Parker 112° and Gila Bend, AZ, 312° radials; Gila Bend;"

J-169 [Amended]

By removing the words "Blythe, CA" and substituting the words "Blythe, CA; INT Blythe 096° and Stanfield, AZ, 299° radials; to Stanfield."

J-50 [Amended]

By removing the words "Blythe; INT Blythe 096° and Gila Bend, AZ, 299° radials, Gila Bend," and substituting the words "Blythe, CA; INT Blythe 096° and Gila Bend, AZ, 312° radials; Gila Bend;"

J-181 [Revoked]

Issued in Washington, DC., on April 16, 1986.

James Burns, Jr.,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-9013 Filed 4-22-86; 8:45 am]

BILLING CODE 4910-13-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1262

Implementation of the Equal Access to Justice Act in Agency Proceedings

AGENCY: National Aeronautics and Space Administration.

ACTION: Interim rule with request for comments.

SUMMARY: The National Aeronautics and Space Administration (NASA) is amending its final rules governing the implementation of the Equal Access to Justice Act (Title 2 of Pub. L. 96-481, 94 Stat. 2325) in Agency proceedings. The Act was amended and reauthorized as permanent law by Pub. L. 99-80, 99 Stat. 183, on August 5, 1985. This interim rule reflects the changes in the law and establishes procedures for the submission and consideration of applications for awards of attorney fees and other expenses in adversary adjudication which may be conducted by NASA under 5 U.S.C. 554 and before the NASA Board of Contract Appeals pursuant to section 6 of the Contract Disputes Act of 1978, as amended (41 U.S.C. 605).

DATES: These rules are effective April 23, 1986. Comments must be received by June 23, 1986.

ADDRESS: Office of General Counsel, Code GS, National Aeronautics and Space Administration, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Sara Najjar, Telephone (202) 453-2432.

SUPPLEMENTARY INFORMATION: On August 5, 1985, Pub. L. 99-80, amended and permanently reauthorized the Equal Access to Justice Act (EAJA). The amendments made certain substantive changes in the Act, concerning covered proceedings to include the Board of Contract Appeals, required that the substantial justification determination be based on the underlying record, redefined position of the United States, confirmed that the agency makes the final administrative decision on fees but provided for no court appeal by the agency of fee awards, increased the net worth amount of the parties, barred recovery of fees where the party has unreasonably protracted the proceedings, clarified that awarded fees and expenses are payable out of the agency's appropriation, and repealed the sunset provisions and made the coverage of the Act conditionally retroactive. This revision of NASA's existing rules incorporates the changes in the law as amended. Miscellaneous.

This regulation does not constitute a major rule for the purposes of Executive Order 12291 (46 FR 13193, February 19, 1981).

Finally, this regulation will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (Pub. L. 96-354, September 19, 1980; 5 U.S.C. 601 et seq.).

List of Subjects in 14 CFR Part 1262.

Administrative practice and procedure, Adversary adjudication, Attorney fees, Board of Contract Appeals, Claims, Equal Access to Justice Act, Fees and expenses, Lawyers.

Accordingly, 14 CFR Part 1262 is revised to read as follows:

PART 1262—EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Subpart 1262.1—General Provisions

Sec.

1262.101 Purpose of these rules.
1262.102 When the Act applies.
1262.103 Proceedings covered.
1262.104 Eligibility of applicants.
1262.105 Standards for awards.
1262.106 Allowable fees and expenses.
1262.107 Rulemaking on maximum rates for attorney fees.
1262.108 Awards against other agencies.
1262.109 Delegations of authority.

Subpart 1262.2—Information Required From Applicants

1262.201 Contents of application.
1262.202 Net worth exhibit.
1262.203 Documentation of fees and expenses.
1262.204 When an application may be filed.

Subpart 1262.3—Procedures for Considering Applications

1262.301 Filing and service of documents.
1262.302 Answer to application.
1262.303 Reply.
1262.304 Comments by other parties.
1262.305 Settlement.
1262.306 Further proceedings.
1262.307 Decision.
1262.308 Agency review.
1262.309 Judicial review.
1262.310 Payment of award.

Authority: Sec. 203(a)(1), Pub. L. 96-481, 94 Stat. 2325 (Oct. 21, 1980); Pub. L. 99-80, 99 Stat. 183 (Aug. 5, 1985)—5 U.S.C. 504; Sec. 203(c)(1) of the National Aeronautics and Space Act of 1958, as amended—42 U.S.C. 2473(c)(1).

Subpart 1262.1—General Provisions

§ 1262.101 Purpose of these rules.

(a) The pertinent provisions of the Equal Access to Justice Act at 5 U.S.C. 504 (hereinafter "the Act") provide for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called "adversary adjudications"). An eligible party may receive an award when it prevails, unless it has unreasonably protracted the proceedings, or the Agency's position in the proceeding was substantially justified, or special circumstances make an award unjust. The rules in this part describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that the National Aeronautics and Space Administration (NASA) will use in determining awards.

(b) As used in this part:

(1) "*Adversary adjudication*" means an adjudication under 5 U.S.C. 554 in which the position of the United States is represented by counsel or otherwise, but excludes an adjudication for the purpose of establishing or fixing a rate or for the purpose of granting or renewing a license;

(2) "*Adjudicative officer*" means the deciding official, without regard to whether the official is designated an administrative law judge, a hearing officer or examiner, or otherwise, who presided at the adversary adjudication;

(3) "*Position of the agency*" means, in addition to the position taken by the agency in the adversary adjudication, the action or failure to act by the agency upon which the adversary adjudication is based;

(4) "*Party*", as defined in 5 U.S.C. 551(3), includes a person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in an agency

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proceeding, and a person or agency admitted by an agency as a party for limited purposes, and who meets the eligibility requirements of § 1262.104; and

(5) "*agency*" with a capital "A" denotes the NASA.

(c) Determination of "*Substantially justified*". Whether or not the position of the agency was substantially justified shall be determined on the basis of the administrative record, as a whole, which is made in the adversary adjudication for which fees and other expenses are sought.

§ 1262.102 When the Act applies.

The Act applies to any adversary adjudication pending or commenced before NASA on or after August 5, 1985. It also applies to any adversary adjudication commenced on or after October 1, 1984, and finally disposed of before August 5, 1985, provided that an application for fees and expenses, as described in Subpart 1262.2, had been filed with the Agency within 30 days after August 5, 1985, and to any adversary adjudication pending on or commenced on or after October 1, 1981, in which an application for fees and other expenses was timely filed and was dismissed for lack of jurisdiction.

§ 1262.103 Proceedings covered.

(a) The Act applies to adversary adjudications conducted by the Agency. These are:

(1) adjudications under 5 U.S.C. 554 in which the position of NASA or any other agency of the United States, or any component of an agency, is presented by an attorney or other representative who enters an appearance and participates in the proceedings; and

(2) appeals of decisions made pursuant to Section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) before the Agency's Board of Contract Appeals (BCA) as provided in Section 8 of that Act (41 U.S.C. 607). Any proceeding in which this Agency may prescribe a lawful present or future rate is not covered by the Act. Proceedings to grant or renew licenses are also excluded, but proceedings to modify, suspend, or revoke licenses are covered if they are otherwise adversary adjudications. The Act does not include proceedings which are covered by a compromise or settlement agreement, unless specifically consented to in such agreement. For NASA, the types of proceedings covered include those before the NASA BCA as described in paragraph (a)(2) of this section.

(b) NASA may also designate a proceeding as an adversary adjudication for purposes of the Act by so stating in an order initiating the proceeding or designating the matter for hearing. The Agency's failure to designate a proceeding as an adversary adjudication shall not preclude the filing of an application by a party who believes the proceeding is covered by the Act; whether the proceeding is covered will then be an issue for resolution in proceedings on the application.

(c) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

§ 1262.104 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses, the applicant must be a "party" to the adversary adjudication for which an award is sought. The applicant must show that it meets all conditions of eligibility set out in this subpart and in Subpart 1262.2.

(b) The types of eligible applicants are as follows:

(1) An individual with a net worth of not more than $2 million;

(2) Any owner of an unincorporated business who has a net worth of not more than $7 million, including both personal and business interests, and not more than 500 employees;

(3) A charitable or other tax-exempt organizaiton described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;

(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act 12 U.S.C. 1441j(a)) with not more than 500 employees; and

(5) Any other partnership, corporation, association, unit of local government, or organization with a net worth of not more than $7 million and not more than 500 employees.

(c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was initiated.

(d) An applicant who owns an unincorporated business will be considered as an "individual" rather than as a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather then to business interests.

(e) The employees of an applicant include all persons who regularly perform services for remuneration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation, or other entity that directly or indirectly controls or owns a majority of the voting shares or other interest of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the adjudicative officer determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the adjudicative officer may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

§ 1262.105 Standards for awards.

(a) A prevailing applicant may receive an award subject to paragraph (b) of this section, for fees and expenses incurred in connection with a proceeding, or in a significant and discrete substantive portion of the proceeding, unless the position of the agency over which the applicant has prevailed was substantially justified. No presumption arises that the agency's position was not substantially justified simply because the agency did not prevail. The burden of proof that an award should not be made to an eligible prevailing applicant is on the agency.

(b) An award, for any portion of the adversary adjudication, will be denied if the applicant has unreasonably protracted the proceedings, or denied or reduced if special circumstances make the award sought unjust.

§ 1262.106 Allowable fees and expenses.

(a) Awards will be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents, and expert witnesses, even if the services were made available without charge or at a reduced rate to the applicant.

(b) No award for the fee of an attorney or agent under these rules may exceed $75 per hour. No award to compensate an expert witness may exceed the highest rate at which this Agency pays expert witnesses, which is $20 an hour (5 hours maximum) or maximum daily rate of $100 (3 days maximum). However, an award may also include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent, or witness ordinarily charges clients separately for such expenses.

(c) In determining the reasonableness of the fee sought for an attorney, agent, or expert witness, the adjudicative officer shall consider the following:

(1) If the attorney, agent, or witness is in private practice, his or her customary fee for similar service, or, if an employee of the applicant, the fully allocated cost of the services;

(2) The prevailing rate for similar services in the community in which the attorney, agent, or witness ordinarily performs services;

(3) The time actually spent in the representation of the application;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(5) Such other factors as may bear on the value of the services provided.

(d) The reasonable cost of any study, analysis, engineering report, test, project, or similar mater prepared on behalf of a party may be awarded, to the extent that the charge for the service does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of the applicant's case.

§ 1262.107 Rulemaking on maximum rates for attorney fees.

(a) If warranted by an increase in the cost of living or by special circumstances (such as limited availability of attorneys qualified to handle certain types of proceedings), the Agency may adopt regulations providing that attorney fees may be awarded at a rate higher then $75 per hour in some or all of the types of proceedings covered by this part. This Agency will conduct any rulemaking proceedings for this purpose under the informal rulemaking procedures of the Administrative Procedure Act (5 U.S.C. 553).

(b) Any person may file with the Agency a petition for rulemaking to increase the maximum rate for attorney fees. The petition should be addressed to the General Counsel, NASA Headquarters, Washington, DC 20546; should identify the rate the petitioner believes the Agency should establish and the types of proceedings in which the rate should be used; and should also explain fully the reasons why the higher rate is warranted. The Agency will respond to the petition within 60 days after it is filed, by initiating a rulemaking proceeding or denying the petition, or taking other appropriate action.

§ 1262.108 Awards against other agencies.

If an applicant is entitled to an award because it prevails over another agency of the United States that participates in a proceeding before NASA, the award or an appropriate portion of the award shall be made against that agency, subject to § 1262.105(b), if it had taken a position that is not substantially justified.

§ 1262.109 Delegations of authority.

(a) The NASA Administrator hereby delegates authority to the General Counsel or designee to take final action on matters pertaining to the Act, other than the authority for final fee determination after Agency review pursuant to § 1262.308.

(b) The NASA Administrator may, in particularly specified matters under the Act, delegate authority to officials other than those designated in paragraph (a) of this section.

Subpart 1262.2—Information Required From Applicants

§ 1262.201 Contents of application.

(a) An application for an award of fees and expenses under the Act shall identify the applicant and the proceeding for which an award is sought. The application shall show that the applicant has prevailed and identify the position of an agency or agencies in the proceeding that the applicant alleges was not substantially justified. Unless the applicant is an individual, the application shall also state the number of employees of the applicant and describe briefly the type and purpose of its organization or business.

(b) The application shall also include a statement that the applicant's net worth does not exceed $2 million (if an individual) or $7 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if the applicant:

(1) Attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)), or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section; or

(2) States that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) The application shall state the amount of fees and expense for which an award is sought.

(d) The application may also include any other matters that the applicant wishes this Agency to consider in determing whether and in what amount an award should be made.

(e) The application shall be signed by the applicant or an authorized officer or attorney of the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

§ 1262.202 Net worth exhibit.

(a) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the net worth of the applicant and any affiliates (as defined in § 1262.104(f) when the proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The adjudicative officer may require an applicant to file additional information to determine its eligibility for an award.

(b) Ordinarily, the net worth exhibit will be included in the public records of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the adjudicative officer in a sealed envelope labeled "Confidential Financial Information," accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b)(1)–(9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The materials in question shall be served on counsel representing the agency against which the applicant seeks an award, but need not be served on any other party to the proceeding. If the adjudicative officer finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with the Agency's

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regulations under the Freedom of Information Act, at 14 CFR Part 1206.

§ 1262.203 Documentation of fees and expenses.

The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project, or similar matter for which an award is sought. A separate itemized statement, accompanied by an oath of affirmation under penalty of perjury (28 U.S.C. 1746), shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceeding bu each individual, a description of the specific services performed, the rate at which each fee has been computed, any expenses for which reimbursement is sought, the total amount paid or payable by the applicant or by any other person or entity for the services provided. The adjudicative officer may, in addition, require the applicant to provide vouchers, receipts, or other substantiation for any expenses claimed.

§ 1262.204 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the proceeding or in a significant and discrete substantive portion of the proceeding, but in no case later than 30 days after the Agency's final disposition of the proceeding.

(b) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy.

(c) For purposes of this rule, final disposition means the latter of:

(1) The date on which the last "initial decision", in a bifurcated proceeding, or other recommended disposition of the merits (both as to liability and amount, if applicable) of the proceeding, by an adjudicative officer or intermediate reviewer, becomes administratively final;

(2) The date on which an order is issued disposing of any petitions for reconsideration;

(3) If no petition for reconsideration is filed, the last date on which such a petition could have been filed; or

(4) The date of a final order or any other final resolution of the proceeding, such as a settlement or a voluntary dismissal, which is not subject to a petition for reconsideration.

Subpart 1262.3—Procedures for Considering Applications

§ 1262.301 Filing and service of documents.

Any application for an award or other pleading or document related to an application shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding, except as provided in § 1262.202(b) for confidential financial information.

§ 1262.302 Answer to application.

(a) Within 30 calendar days after service of an application, counsel representing the agency against which an award is sought may file an answer to the application. Unless agency counsel requests an extension of time for filing or files a statement of intent to negotiate under paragraph (b) of this section, failure to file an answer within the 30-day period may be treated as a consent to the award requested.

(b) If agency counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 calendar days, and further extensions may be granted by the adjudicative officer upon request by agency counsel and the applicant.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on in support of agency counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, agency counsel shall include with the answer either supporting affidavits or a request for further proceedings under § 1262.306.

§ 1262.303 Reply.

Within 15 calendar days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under § 1262.306.

§ 1262.304 Comments by other parties.

Any party to a proceeding other than the applicant and agency counsel may file comments about an application within 30 calendar days after it is served, or about an answer within 15 calendar days after it is served. A commenting party may not participate further in proceedings on the application unless the adjudicative officer determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

§ 1262.305 Settlement.

The applicant and agency counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded. If a prevailing party and agency counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

§ 1262.306 Further proceedings.

(a) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or agency counsel, or on his or her own initiative, the adjudicative officer may order further proceedings, such as an informal conference, oral argument, additional written submissions, or, as to issues other than substantial justification (such as the applicant's eligibility or substantiation of fees and expenses), pertinent discovery or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible.

(b) A request that the adjudicative officer order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 1262.307 Decision.

(a) The adjudicative officer (in the case of the NASA BCA, the administrative judge or panel who decided the contract appeal) shall issue an initial decision on the application within 90 calendar days after completion of proceedings on the application. The decision shall include written findings and conclusions on such of the following as are relevant to the decision:

(1) The applicant's eligibility and status as a prevailing party;

(2) Whether the Agency's position was substantially justified;

(3) Whether the applicant unreasonably protracted the proceedings, or whether special circumstances make an award unjust; and

(4) The amounts, if any, awarded for fees and expenses with an explanation of the reasons for any difference between the amount requested and the amount awarded. Further, if the applicant has sought an award against more than one agency, the decision shall allocate responsibility for payment of any award made among the agencies, and shall explain the reasons for the allocation made.

(b) When the Agency appeals the underlying merits of an adversary adjudication, no decision on an application for fees and other expenses in connection with that adversary adjudication shall be made until a final and unreviewable decision is rendered by the court on the appeal or until the underlying merits of the case have been finally determined pursuant to the appeal.

§ 1262.308 Agency review.

(a) Within 30 calendar days of the receipt of the adjudicative officer's initial decision on the fee application, either the applicant or agency counsel may seek Agency review of the decision; or, the NASA Administrator, upon the recommendation of the General Counsel or other designee, may decide to review the decision based on the record. Whether to review a decision is solely a matter within the discretion of the NASA Administrator. A 15-day notice of such review will be given the applicant and agency counsel, and a determination made not later than 45 days from the date of notice. The Administrator may make a final determination concerning the application or remand the application to the adjudicative officer for further proceedings.

(b) If neither the applicant nor agency counsel seek review, and the NASA Administrator does not on own initiative take a review, the adjudicative officer's initial decision on the fee application shall be the final administrative decision of the Agency 45 days after it is issued.

§ 1262.309 Judicial review.

Judicial review of final Agency decisions on awards may be sought under 5 U.S.C. 504(c)(2), which provides: If a party other than the United States is dissatisfied with a determination of fees and other expenses made under [this Part], that party may, within 30 days after the [final administrative] determination is made, appeal the determination to the court of the United States having jurisdiction to review the merits of the underlying decision of the agency adversary adjudication. The court's determination of any appeal heard under this [authority] shall be based solely on the factual record made before the agency. The court may modify the determination of fees and other expenses only if the court finds that the failure to make an award of fees and other expenses, or the calculation of the amont of the award, was unsupported by the substantial evidence.

§ 1262.310 Payment of award.

(a) An applicant seeking payment of an award shall submit to the paying agency a copy of the Agency's final decision granting the award, accompanied by a statement that the applicant will not seek review of the decision in the United States courts. The submission to NASA should be addressed as follows:

Director, Financial Management Division, NASA Headquarters, Washington, DC 20546

(b) The Agency will pay the amount awarded to the applicant within 60 days, if feasible, unless judicial review of the award or of the underlying decision of the adversary adjudication has been sought by the applicant or any other party to the proceeding.

William R. Graham,

Acting Administrator.

April 14, 1986.

[FR Doc. 86-9015 Filed 4-22-86; 8:45 am]

BILLING CODE 7510-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 379

[Docket No. 51197-5197]

Export of Technical Data; Commercial Agreements With Certain Countries

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Export Administration Amendments Act of 1985 (Pub. L. 99-64 of July 12, 1985) amended the Export Administration Act of 1979 by revising section 5(j), "Commercial Agreements With Certain Countries." Section 5(j), as revised, states that a U.S. firm, enterprise, or other nongovernmental entity entering into an agreement with an agency of the government of a controlled country that encourages technical cooperation and is intended to result in the export of U.S.-origin technical data, should report the agreement to the Secretary of Commerce. This rule amends Part 379 of the Export Administration Regulations (15 CFR Parts 368-399) to implement the revised section 5(j) provision.

EFFECTIVE DATE: April 23, 1986.

FOR FURTHER INFORMATION CONTACT: Joan Maguire, Regulations Branch, Export Administration, Department of Commerce, Washington, DC 20230 (Telephone: (202) 377-4479).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 12(a) of the Export Administration Act of 1979, as amended (5 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, like other Department of Commerce rules, comments from the public are always welcome. Written comments (six copies) should be submitted to: Betty Ferrell, Regulations Branch, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under section 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule does not contain a collection of information requirement under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 15 CFR Part 379

Exports, Science and technology.

PART 379—[AMENDED]

Accordingly, Part 379 of the Export Administration Regulations (15 CFR Parts 368-399) is amended as follows:

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1. The authority citation for 15 CFR Part 379 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223, 50 U.S.C. 1701 *et seq*; E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985).

§ 379.9 [Redesignated as § 379.10]

2. Section 379.9 is redesignated as new § 379.10.

3. New § 379.9 is added to read as follows:

§ 379.9 Commercial agreements with certain countries.

Pursuant to section 5(j) of the Export Administration Amendments Act of 1979, as amended, any non-governmental U.S. person or firm that enters into an agreement with any agency of the government of a controlled country (Country Groups Q, W, Y, and the People's Republic of China), which agreement encourages technical cooperation and is intended to result in the export from the U.S. to the other party of U.S.-origin technical data (except under General License GTDA or General License GTDR as provided under the provisions of § 379.4(b) (1) and (2) of this part), shall submit those portions of the agreement that include the statement of work and describe the anticipated exports of data to the Office of Technology and Policy Analysis, Room 4054, P.O. Box 273, Washington, DC 20044. This material shall be submitted no later than 30 days after the final signature on the agreement.

(a) This requirement does not apply to colleges, universities and other educational institutions.

(b) The submission required by this section does not relieve the exported from the licensing requirements for controlled technical data and goods.

(c) Acceptance of a submission does not represent a judgment as to whether Export Administration will or will not issue any authorization for export of technical data.

Dated: April 17, 1986.

Walter J. Olson,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 86–9075 Filed 4–22–86; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D. 86–52]

Customs Regulations Amendments Concerning Convention on Cultural Property Implementation Act

Correction

In FR Doc. 86–4025, beginning on page 6905 in the issue of Thursday, February 27, 1986, make the following correction:

On page 6907, in the third column, in the sixth line of § 12.104(b), delete the word "States".

BILLING CODE 1505–01–M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[PP 4H5444/R826; FRL–3007–6]

(Alpha RS,2R)-Fluvalinate [(RS)-Alpha-Cyano-3-Phenoxybenzyl (R)-2-[2-Chloro-4-(Trifluoromethyl) Anilino]-3-Methylbutanoate]; Feed Additive Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation permitting residues of the insecticide (alpha *RS*,2R)-fluvalinate [(*RS*)-alpha-cyano-3-phenoxybenzyl (*R*)-2-[2-chloro-4-(trifluoromethyl) anilino]-3-methylbutanoate] in or on cottonseed oil (crude and refined) and cottonseed hulls. This regulation was requested by the Zoecon Corp.

EFFECTIVE DATE: Effective on April 23, 1986.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: George T. LaRocca, Product Manager (PM) 15, Registration Division (TS/767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 204, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2400).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of December 5, 1984 (49 FR 47549), which announced that Zoecon Corp., a Sandoz company, 975 California Ave., Palo Alto, CA 95304–0859, had submitted a feed additive petition (FAP 4H5444) to EPA proposing to amend 21 CFR Part 561 by establishing a regulation permitting residues of the insecticide (alpha *RS*,2R)-fluvalinate [(*RS*)-alpha-cyano-3-phenoxybenzyl (*R*)-2-[2-chloro-4-(trifluoromethyl) anilino]-3-methylbutanoate] in or on cottonseed oil (crude and refined) at 0.75 part per million (ppm), cottonseed hulls at 0.3 ppm, and cottonseed meal and soapstock at 0.01 ppm. The tolerance level of 0.01 ppm for cottonseed meal and soapstock is being deleted since the proposed 1.0 ppm tolerance for the RAC cottonseed will adequately cover maximum anticipated residues in cottonseed meal and soapstock. The petition was subsequently amended by increasing the tolerance level for cottonseed oil to 1.0 ppm.

There were no comments received in response to the petition.

The data submitted in the petition and other relevant material have been evaluated. The toxicity and other relevant data pertaining to this insecticide are discussed and included in a related final rule document, [PP 4F3153/R827], establishing a tolerance in or on the raw agricultural commodity cottonseed and appearing elsewhere in this issue of the **Federal Register**.

The insecticide is considered useful for the purpose for which the feed additive regulation is sought, and it is concluded that the insecticide may be safely used in accordance with the prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act, as amended, (86 Stat. 973–999, 7 U.S.C. 136 et seq.) for a period of time extending to August 31, 1990, to cover residues existing from the conditional registration of fluvalinate. Therefore, the feed additive regulation is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the additive regulation is established as set forth below. **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a

hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

As required by Executive Order 12291, EPA has determined that this rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis. In addition, the Office of Management and Budget (OMB) has exempted this rule from the OMB review requirements of Executive Order 12291, pursuant to section 8(b) of that Order.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new food or feed additive levels, or conditions for safe use of additives, or raising such food or feed additive levels do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

List of Subjects in 21 CFR Part 561

Feed additives, Pesticides and pests.

Dated: March 28, 1986.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 561—[AMENDED]

Therefore, 21 CFR Part 561 is amended as follows:

1. The authority citation continues to read as follows:

Authority: 21 U.S.C. 348.

2. Section 561.437 is added, to read as follows:

§ 561.437 (Alpha RS,2R)-fluvalinate [(RS)-alpha-cyano-3phenoxybenzyl (R)-2-[2-chloro-4-(trifluoromethyl) anilino]-3-methylbutanoate].

A regulation is established permitting residues of the insecticide (alpha *RS*, 2R)-fluvalinate [(*RS*)-alpha-cyano-3-phenoxybenzyl (*R*)-2-[2-chloro-4-(trifluoromethyl) anilino]-3-methylbutanoate] in or on the following feed commodities:

Commodities	Parts per million
Cottonseed hulls	0.3
Cottonseed oil (crude and refined)	1.0

[FR Doc. 86–9189 Filed 4–22–86; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances, Changes in Definitions; Use of Administration Controlled Substances Code Numbers; Addition of an Emergency Scheduling Regulation

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This final rule is issued by the Administrator of the Drug Enforcement Administration and revises 21 CFR Part 1308 to reflect statutory changes necessitated by parts of the Comprehensive Crime Control Act of 1984 (Pub. L. 98–473). The Dangerous Drug Diversion Control Act of 1984, as part of the Comprehensive Crime Control Act of 1984 (Pub. L. 98–473), which became effective on October 12, 1984, amended portions of the Controlled Substances Act (CSA) pertaining to the schedules and scheduling of controlled substances. These amendments include a new definition of the term "isomer," a redefinition of the term "narcotic drug," and a revision of Schedule II (A)(4) to specifically list cocaine, ecgonine and their salts, isomers, derivatives and salts of isomers and derivatives. In addition, the Administrator of the Drug Enforcement Administration (DEA) is given an emergency authority to expeditiously and temporarily place new substances of abuse into Schedule I of the CSA in order to avoid an imminent hazard to the public safety. The Dangerous Drug Diversion Control Act of 1984 also amended portions of the Controlled Substances Import and Export Act which necessitates the use of the Administration Controlled Substances Code Number by registrants.

EFFECTIVE DATE: April 23, 1986.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION:

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

A notice published in the **Federal Register** on Thursday, February 13, 1985 (51 FR 5370–2) proposed several revisions to 21 CFR Part 1308. These changes reflect statutory amendments to the Controlled Substances Act (21 U.S.C. 801 et seq.) brought about by the enactment of the Comprehensive Crime Control Act of 1984 (Pub. L. 98–473).

All interested persons were given until March 17, 1985 to submit written comments or objections regarding this matter. No such comments or objections have been received by the Drug Enforcement Administration.

Therefore, pursuant to the authority vested in the Attorney General by 21 U.S.C. 871(b) and delegated to the Administrator of the Drug Enforcement Administration by 28 CFR 0.100, the Administrator hereby orders that 21 CFR Part 1308 be amended as follows:

PART 1308—[AMENDED]

1. The authority citation for Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b).

2. Section 1308.02 is amended by revising paragraph (c), adding a new paragraph (e), redesignating existing paragraphs (e) and (f) as (f) and (g) as follows:

§ 1308.02 Definitions.

* * * * *

(c) The term "isomer" means the optical isomer, except as used in § 1308.11(d) and § 1308.12(b)(4). As used in § 1308.11(d), the term "isomer" means the optical, positional, or geometric isomer. As used in § 1308.12(b)(4), the term "isomer" means the optical or geometric isomer.

* * * * *

(e) The term "narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

(1) Opium, opiates, derivatives of opium and opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers whenever the existence of such isomers, esters, ethers and salts is possible within the specific chemical designation. Such term does not include the isoquinoline alkaloids of opium.

(2) Poppy straw and concentrate of poppy straw.

(3) Coca leaves, except coco leaves and extracts of coca leaves from which cocaine, ecgonine and derivatives of ecgonine or their salts have been removed.

(4) Cocaine, its salts, optical and geometric isomers, and salts of isomers.

(5) Ecgonine, its derivatives, their salts, isomers and salts of isomers.

(6) Any compound, mixture, or preparation which contains any quantity

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of any of the substances referred to in subparagraphs (1) through (5).

* * * * *

3. Section 1308.03 is amended by revising paragraph (a) to read as follows:

§ 1308.03 Administration Controlled Substances Code Number.

(a) Each controlled substance, or basic class thereof, has been assigned an "Administration Controlled Substances Code Number" for purposes of identification of the substances or class on certain Certificates of Registration issued by the Administration pursuant to §§ 1301.44 and 1311.43 of this chapter and on certain order forms issued by the Administration pursuant to § 1305.05(d) of this chapter. Applicants for procurement and/or individual manufacturing quotas must include the appropriate code number on the application as required in §§ 1303.12(b) and 1303.22(a) of this chapter. Applicants for import and export permits must include the appropriate code number on the application as required in §§ 1312.12(a) and 1312.22(a) of this chapter. Authorized registrants who desire to import or export a controlled substance for which an import or export permit is not required must include the appropriate Administration Controlled Substances Code Number beneath or beside the name of each controlled substance listed on the DEA Form 236 (Controlled Substance Import/Export Declaration) which is executed for such importation or exportation as required in §§ 1312.18(c) and 1312.27(b) of this chapter.

4. Section 1308.12(b)(4) is revised to read as follows:

§ 1308.12 Schedule II.

* * * * *

(b) * * *

(4) Coca leaves (9040) and any salt, compound, derivative or preparation of coca leaves (including cocaine (9041) and ecgonine (9180) and their salts, isomers, derivatives and salts of isomers and derivatives), and any salt, compound, derivative, or preparation thereof which is chemically equivalent or identical with any of these substances, except that the substances shall not include decocainized coca leaves or extraction of coca leaves, which extractions do not contain cocaine or ecgonine.

* * * * *

5. A new § 1308.52 is added to read as follows:

§ 1308.52 Emergency Scheduling.

Pursuant to 21 U.S.C. 811(h) and without regard to the requirements of 21 U.S.C. 811(b) relating to the scientific and medical evaluation of the Secretary of Health and Human Services, the Administrator may place a substance into Schedule I on a temporary basis, if he determines that such action is necessary to avoid an imminent hazard to the public safety. An order issued under this section may not be effective before the expiration of 30 days from: (a) The date of publication by the Administrator of a notice in the Federal Register of his intention to issue such order and the grounds upon which such order is to be issued, and (b) the date the Administrator has transmitted notification to the Secretary of Health and Human Services of his intention to issue such order. An order issued under this section shall be vacated upon the conclusion of a subsequent rulemaking proceeding initiated under Section 201(a) (21 U.S.C. 811(a)) with respect to such substance or at the end of one year from the effective date of the order scheduling the substance, except that during the pendency of proceedings under section 201(a) (21 U.S.C. 811(a)) with respect to the substance, the Administrator may extend the temporary scheduling for up to six months.

Regulatory Flexibility and Paperwork Reduction

The Administrator hereby certifies that this rule will have no significant impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. These changes are predominantly clarifications of existing regulations. The new regulation regarding emergency scheduling applies only to clandestinely produced and harmful drugs of abuse which have no currently accepted medical use in the United States, and therefore does not impact upon the legitimate pharmaceutical industry.

Pursuant to Section 3(c)(3) and 3(e)(2)(B) of Executive Order 12291, this final rule has been submitted for review by the Office of Management and Budget, and approval of that office has been requested pursuant to the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.).

Dated: April 3, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-9016 Filed 4-22-86; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF STATE

22 CFR Part 7

[Department Regulations 108.848]

Board of Appellate Review; South Africa Fair Labor Standard Cases

AGENCY: Department of State.

ACTION: Final rule.

SUMMARY: The Board of Appellate Review is revising its regulations to reflect jurisdiction acquired pursuant to 22 CFR 64.1(b), which entitles any U.S. national operating in South Africa, who under 22 CFR 64.1(a), has been determined by the Department of State to have failed to comply with the Fair Labor Standards set forth in 22 CFR 6.2, to file a written appeal within 30 days of notification of the decision with the Board of Appellate Review.

EFFECTIVE DATE: April 8, 1986.

FOR FURTHER INFORMATION CONTACT: Alan G. James (Chairman), Board of Appellate Review. (202) 663-1364.

SUPPLEMENTARY INFORMATION: 22 CFR Parts 50 through 65 implement the Fair Labor provisions of Executive Order 12532 of September 9, 1985 (50 FR 36861), which provide that no department or agency of the United States may intercede after December 31, 1985 with any foreign government regarding the export marketing activities of certain U.S. firms operating in South Africa unless they adhere to the Fair Labor Standards set forth in the Executive Order.

22 CFR 64.1(b), provides that any U.S. national who has been determined by the Department of State to have failed to adhere to the principles specified in 22 CFR 61.2 shall be entitled to appeal the determination to the Board of Appellate Review within 30 days of receipt of notification of the decision.

The Board of Appellate Review is revising regulations to reflect this newly acquired jurisdiction.

List of Subjects in 22 CFR Part 7

Administrative practices and procedures, Citizenship and naturalization, Organization and functions (Government agencies), Passports and visas, South Africa.

PART 7—BOARD OF APPELLATE REVIEW

In consideration of the foregoing, Chapter I of Title 22, Code of Federal Regulations, Part 7, is amended as follows:

1. The authority citation for 22 CFR Part 7 is revised to read as follows:

Authority: Sec. 1, 44 Stat. 887, sec. 4, 63 Stat. 111, as amended, 22 U.S.C. 211a, 2658; secs. 104, 360, 66 Stat. 174, 273, 8 U.S.C. 1104, 1503; E.O. 11295, 36 FR 10603; 3 CFR 1966-1970 Comp., page 507; 22 CFR 60-65; E.O. 12532, 50 FR 36861 § 7.4 also issued under 22 U.S.C. 3926.

2. In § 7.3, paragraph (d) is redesignated as (e) and new (d) is added as follows:

§ 7.3 Jurisdiction.

* * * * *

(d) Appeals from administrative determinations under § 64.1(a) of this chapter, denying U.S. Government assistance to U.S. nationals who do not comply with the Fair Labor Standards in § 61.2 of this chapter.

3. In § 7.5, paragraph (b)(3) is redesignated as (b)(4) and a new (b)(3) is added as follows:

§ 7.5 Procedures.

* * * * *

(b) *Time limit on appeal* * * *

(3) A national who has been subject of an adverse decision under § 61.1(a) of this chapter shall be entitled to appeal the decision to the Board within 30 days after receipt of notice of such decision.

* * * * *

§§ 7.8-7.11 [Redesignated as §§ 7.9-7.12]

4. Sections 7.8 through 7.11 are redesignated as §§ 7.9 through 7.12 and a new § 7.8 is added as follows:

§ 7.8 South African Fair Labor Standards Cases.

(a) *Scope of review.* With respect to appeals taken from the Assistant Secretary for African Affairs denying assistance to U.S. nationals operating in South Africa which do not comply with the Fair Labor Standards outlined in §61.2 of the chapter, the Board's review except as provided in paragraph (b) of this section shall be limited to the record on which the Assistant Secretary's decision was based.

(b) *Admissibility of evidence.* The Board shall not receive or consider evidence or testimony not presented pursuant to § 63.3(a) or § 63.3(b) of this chapter unless it is satisfied that such evidence was not available or could not have been discovered by the exerciser of reasonable diligence prior to entry of the decision of the Assistant Secretary for African Affairs.

Dated: April 11, 1986.

Alan G. James,

Chairman, Board of Appellate Review.

[FR Doc. 86-9020 Filed 4-22-86; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8083]

Treatment of Non-Alternative Tax Itemized Deductions by Trusts and Estates

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document provides temporary regulations relating to the treatment of non-alternative tax itemized deductions by trusts and estates for purposes of the alternative minimum tax. Changes to the applicable tax law were made by the Tax Equity and Fiscal Responsibility Act of 1982. The regulations would affect trusts and estates which have non-alternative tax itemized deductions and their beneficiaries and would provide them with guidance needed to comply with that Act.

DATE: The amendment to the regulations is effective for taxable years beginning after December 31, 1982.

FOR FURTHER INFORMATION CONTACT: William A. Jackson of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (LR-5-86) (202) 566-4336, not a toll free call.

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to the treatment of non-alternative tax itemized deductions by trusts, estates, and their beneficiaries in determining the amount of their alternative minimum tax liability under section 55 of the Internal Revenue Code of 1954 (Code), as amended by section 201(d)(3)(B) of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248, 96 Stat. 419).

In General

Under section 55 of the Code, a noncorporate taxpayer (*i.e.*, an individual, estate, or trust) computes alternative minimum taxable income by reducing the taxpayer's adjusted gross income by the amount of alternative tax itemized deductions (as defined in section 55 (e)(1) of the Code) and adding to the resulting amount any items of tax preference (listed under section 57(a) of the Code). Certain itemized deductions, such as state and local income taxes, are not treated as alternative tax itemized deductions and therefore are not allowed as deductions in computing the taxpayer's alternative minimum taxable income. Thus, under the alternative minimum tax provisions, itemized deductions that are not alternative tax itemized deductions have the same tax effect as items of tax preference in that they reduce taxable income but not alternative minimum taxable income.

On April 11, 1984, the Internal Revenue Service published a news release (IR-84-52) which stated that itemized deductions, such as state and local income taxes, that are not alternative tax itemized deductions, should be apportioned between estates and their beneficiaries, and trusts and their beneficiaries, as if they were items of tax preference. The news release also stated that trusts that are required to distribute all their income currently and have no items of tax preference will not be liable for alternative minimum tax in taxable years beginning after 1982.

The temporary regulations are intended to clarify that for taxable years beginning after December 31, 1982, itemized deductions that are not alternative tax itemized deductions shall be treated as items of tax preference for purposes of section 58(c) and shall be properly apportioned between trusts and their beneficiaries, and estates and their beneficiaries. This treatment of non-alternative tax itemized deductions as items of tax preference applies to trusts and estates described in section 661 of the Code, as well as trusts described in section 651, and applies whether or not the trust or estate has other items of tax preference described in section 57. A beneficiary to whom a trust or estate allocates non-alternative tax itemized deductions must treat such allocated amounts as items of tax preference in determining its alternative minimum taxable income under section 55.

Need for Temporary Regulations

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Special Analyses

No general notice of proposed rulemaking is required by 5 U.S.C. 553(b) for temporary regulations. Accordingly, the Regulatory Flexibility Act does not

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apply and no Regulatory Flexibility Analysis is required for this rule. The Commissioner of Internal Revenue has determined that this temporary rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Drafting Information

The principal author of these temporary regulations is William A. Jackson of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

List of Subjects in 26 CFR 1.0-1—1.58-8

Income taxes, Tax liability, Tax rates, Credits.

Adoption of Amendments to the Regulations

PART 1—[AMENDED]

Accordingly, 26 CFR Part 1 is amended as follows:

Paragraph 1. The authority for Part 1 continues to read in part:

Authority: 26 U.S.C. 7805. * * *

Par. 2. New § 1.58-3T is added immediately following § 1.58-2 to read as set forth below.

§ 1.58-3T Treatment of non-alternative tax itemized deductions by trusts and estates and their beneficiaries in taxable years beginning after December 31, 1982.

For purposes of section 58(c), in taxable years beginning after December 31, 1982, itemized deductions of a trust or estate which are not alternative tax itemized deductions (as defined in section 55(e)(1)), shall be treated as items of tax preference and apportioned between trusts and their beneficiaries, and estates and their beneficiaries.

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason, it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: March 31, 1986.

J. Roger Mentz,
Assistant Secretary of the Treasury (Designate).

[FR Doc. 86-9108 Filed 4-22-86; 8:45 am]
BILLING CODE 4830-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2676

Valuation of Plan Assets and Plan Benefits Following Mass Withdrawal; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Assets and Plan Benefits Following Mass Withdrawal, which was published on March 25, 1986 (at 51 FR 10322), and is effective on April 24, 1986. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month ending after the effective date of the regulation, a series of interest rates to be used in valuing benefits and certain assets as of valuation dates that occur within that calendar month. This amendment establishes the first series of interest rates in that table.

EFFECTIVE DATE: April 24, 1986.

FOR FURTHER INFORMATION CONTACT: Deborah Murphy, Attorney, Corporate Policy and Regulations Department (35100), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; 202-956-5050 (202-956-5059 for TTY and TDD). (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Assets and Plan Benefits Following Mass Withdrawal establishes rules for valuing assets and benefits of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974, as amended. Section 2676.15 of the regulation prescribes an interest assumption to be used in performing these valuations Paragraph (c) of that section contains a table setting forth, for each calendar month ending after the effective date of the regulation, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month.

This amendment to the regulation establishes the first monthly rate series in the table in § 2676.15(c). This rate series is for the month of April 1986 and applies to valuation dates occurring on or after April 24 (the regulation's effective date) and before May 1, 1986. The PBGC intends to publish a new entry in the table each month, whether or not the new entry contains rates different from those prescribed for the preceding month. The PBGC will publish the rate series for each month before the beginning of the month. Beginning with the rates for June 1986, the PBGC expects to publish each month's rates on or about the fifteenth of the preceding month.

The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (*See* 5 U.S.C. 533 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans, Pensions.

In consideration of the foregoing, Part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for Part 2676 continues to read as follows:

Authority: Secs. 4002(b)(3), 4219(c)(1)(D), and 4281(b), Pub. L. 93-406, as amended by sections 403(1) and 104(2) (respectively), Pub. L. 96-364, 94 Stat. 1302, 1237-1238, and 1261 (1980) (29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1)).

2. In § 2676.15, paragraph (c) is revised to read as follows:

§ 2676.15 Interest.

* * * * *

(c) *Interest rates.*

For valuation dates occurring in the month—	The values of i_t are—															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_t
April 1986	.09875	.095	.09	.085	.08	.07375	.07375	.07375	.07375	.07375	.0675	.0675	.0675	.0675	.0675	.06

Issued at Washington, DC, on this 17th day of April, 1986.

Kathleen P. Utgoff,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86-8840 Filed 4-22-86; 8:45 am]
BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 735

Reporting Births and Deaths in Cooperation With Other Agencies

AGENCY: Naval Medical Command, Navy, DOD.

ACTION: Final rule.

SUMMARY: The Naval Medical Command promulgated this regulation to disseminate the latest information relative to the registration of births, deaths, and other vital statistics for such events occuring under the jurisdiction of Navy Medical Department facilities. Part 138 of this title on the registration of births occurring in overseas activities, disseminates in its entirety the Department of Defense Directive. This promulgation assures conformity with that Department of Defense directive.

EFFECTIVE DATE: January 10, 1986.

FOR FURTHER INFORMATION CONTACT: Herbert L. Pelham, Program Analyst, Naval Medical Command, Washington, DC 20372-5120 (202) 653-1179.

List of Subjects in 32 CFR Part 735

Military personnel, Health professions, Archives and records.

J.S. Cassells,
Commander, Naval Medical Command.

Accordingly, 32 CFR Part 735 is added to read as follows:

PART 735—REPORTING BIRTHS AND DEATHS IN COOPERATION WITH OTHER AGENCIES

Sec.
735.1 Purpose.
735.2 Background.
735.3 Action.

Authority: 70A Stat. 278; 60 Stat. 379, 383; 5 U.S.C. 301, 552; and 10 U.S.C. 5031.

§ 735.1 Purpose.

To promulgate latest guidance on reporting births and deaths, including births to which Part 138 of this title is applicable.

§ 735.2 Background.

For Armed Forces members and their dependents on duty overseas, registration of vital statistics with an appropriate foreign government may be a distinct advantage should documentary evidence, acceptable in all courts, be required at any future time. Department of Defense (DOD) policy is that military services will require their members to make official record of births, deaths, marriages, etc., with local civil authorities in whose jurisdiction such events occur.

§ 735.3 Action.

When a medical officer has knowledge of a birth or death occurring under the following conditions, he or she shall refer the matter to the commanding officer for assurance of compliance with DOD policy.

(a) *Births.* (1) In accordance with local health laws and regulations, the commanding officer of a naval hospital in the United States (U.S.) shall report to proper civil authorities all births, including stillbirths, occurring at the hospital. Medical officers on ships and aircraft operating within U.S. political boundaries, or at stations other than naval hospitals in the U.S., shall report all births occurring within their professional cognizance. It shall be the duty of the medical officer to determine the requirements of local civil authorities for these reports.

(2) When births occur on aircraft or ships operating beyond U.S. political boundaries, the medical officer responsible for delivery shall make a report to the commanding officer, master of the ship, or to the officer in command of any aircraft, in every case to be recorded in the ship or aircraft log. A report shall also be made to local civil authorities in the first port of entry if required by law and regulation of such authorities when births occur on a course inbound to the U.S. Additionally, the medical officer shall:

(i) Furnish the parents with appropriate certificates and shall, if the report is not accepted by the local registrar of vital statistics or other civil authority, or in any case in which local authority has indicated in writing that such a report will not be accepted,

(ii) Advise the parents to seek the advice of the nearest office of the U.S. Immigration and Naturalization Service (USINS), at the earliest practicable time. USINS offices are located in ports of entry and in major cities of the United States.

(iii) For births occurring on courses out-bound and beyond the continental limits of the U.S., report to the U.S. consular representative at the next appropriate foreign port. When the aircraft or ship does not enter a foreign port, procedures described in § 735.3(a)(2)(ii) shall be followed.

(3) Attention is invited to the fact that reports of birth may be forwarded to the Bureau of Health Statistics, Department of Health, Honolulu, Hawaii for any births occurring on courses destined for islands in the Pacific Ocean over which the United States has jurisdiction as well as for those births which are otherwise accepted by civil authorities for Hawaii.

(4) Part 138 of this title prescribes policy, responsibilities, and procedures on birth registration of infants born to U.S. citizens, in military medical facilities outside the United States and its possessions.

(b) *Deaths.* When a death occurs at a naval activity in any State, Territory, or insular possession of the United States, the commanding officer or designated representative shall report the death promptly to proper civil authorities in accordance with Naval Medical Command directives. If requested by these civil authorities, the civil death certificate may be prepared and signed by the cognizant naval medical officer. Local agreements concerning reporting and preparation of death certificates

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should be made between the naval facility and local civil authorities.

[FR Doc. 86-8866 Filed 4-22-86; 8:45 am]
BILLING CODE 3910-AE-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 110

[CGD12 84-07]

Anchorage Regulations; San Francisco Bay

Correction

In FR Doc. 86-8016 beginning on page 12314 in the issue of Thursday, April 10, 1986, make the following corrections on page 12318:

1. In the first column, in § 110.224(e)(17) and (18), in the first line of each paragraph, "N." should read "No.".

2. In the second column, in § 110.224(e)(19), in the last line, the longitude should read: 121° 55' 05" W.

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[A-6-FRL 3005-7]

Designation of Areas for Air Quality Planning Purposes; Redesignation of Portion of Tulsa County, OK, for Carbon Monoxide

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice approves the Oklahoma State Department of Health (OSDH) July 20, 1984, request to redesignate the carbon monoxide (CO) nonattainment area in Tulsa County to attainment. On May 22, 1985, and July 11, 1985, the OSDH submitted corrections to their submittal in support of their request.

EFFECTIVE DATE: This action will be effective on June 23, 1986 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Notice of adverse or critical comments may be submitted to Kathryn M. Griffith at the EPA Regional Office address listed below. Copies of the documents relevant to this action are available for inspection during normal business hours at the following locations:

Environmental Protection Agency:
Region 6; Air Programs Branch; 1201 Elm Street; Dallas, Texas 75270
Oklahoma State Department of Health; Air Quality Service; 1000 Northeast 10th Street; Oklahoma City; Oklahoma 73152

FOR FURTHER INFORMATION CONTACT: Kathryn M. Griffith; SIP New Source Section; Environmental Protection Agency; Region 6; Air, Pesticides and Toxics Division; Air Programs Branch; 1201 Elm Street; Dallas, Texas 75270; (214) 767-9857. Docket No. OK-85-6.

SUPPLEMENTARY INFORMATION: On July 20, 1984, the OSDH submitted a request to redesignate the CO nonattainment area in Tulsa County to attainment. On May 22, 1985, and July 11, 1985, the OSDH submitted corrections to their submittal. EPA reviewed the request and developed an evaluation report [1], which is available for inspection during normal business hours at the EPA Region 6 office and the other addresses listed above. The request satisfies all of the necessary criteria for redesignations which include valid, recent air quality data showing no violations and evidence of an implemented control strategy resulting in real and enforceable emission reductions.

A detailed description of the nonattainment area is as follows:

Those portions of Tulsa County that include Sections 30, 29, 31, 22, 33 of Township 20 N and Range 13 E; Sections 6, 5, 4, 7, 8, 9 of Township 19 N and Range 13 E; Sections, 1, 2, 11, 12 of Township 19 N and Range 12 E; and Sections 36, 35, 26, 25 of Township 20 N and Range 12 E.

Maps of the nonattainment area with the location of the monitors can be found in the evaluation report.

Tulsa County has two continuous CO monitors. Site 126 has had no violations of the CO standard in the last three years. Site 191 was established in October 1983, to replace site 112 which was discontinued in August 1983, due to construction of a 600 car parking lot which encompassed the site. Neither site 191 nor site 112 had any violations of the CO standard in the last three years.

Evaluated levels of carbon monoxide emissions usually occur in Tulsa County during the most adverse weather conditions when the County has ice or snow on the streets, traffic flow is severely impeded and the wind speeds are low. Even when these conditions occurred during December 1983, there were no exceedances of the CO standard.

[1] EPA Review of Oklahoma's Request to Redesignate Tulsa County to Attainment for CO.

The 1979 state implementation plan called for a reduction in emissions of CO of 21 percent in order to attain the ambient standard. According to the latest calculations, implementation of the Federal Motor Vehicle Control Program and Regulation 3.6 "Control of Emission of Carbon Monoxide" (approved November 28, 1980, at 45 FR 79051) have decreased CO emissions in Tulsa County by 28.7 percent.

Based upon EPA's review of the State's request, EPA is redesignating a portion of Tulsa County to attainment for CO.

Because EPA considers today's action to be noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on June 23, 1986. However, if we receive notice by (within 30 days) that someone wishes to submit critical comments *then* EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 23, 1986. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 81

Air pollution control, National Parks, Wilderness areas.

Dated: April 12, 1986.

Lee M. Thomas,
Administrator.

PART 81—[AMENDED]

Part 81 of Chapter I, Title 40, 40 CFR Part 81 is amended as follows:

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401-7642

2. In § 81.337 Oklahoma, the attainment status designation table for Oklahoma—CO is revised as follows:

§ 81.337 Oklahoma.

* * * * *

OKLAHOMA—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
AQCR 017		X
AQCR 164		X
AQCR 165		X
AQCR 166		X
AQCR 167		X
AQCR 168		X
AQCR 169		X

* * * * *

[FR Doc. 86-8839 Filed 4-22-86; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 5E3210/R824; FRL-3007-1]

Pesticide Tolerances for Norflurazon

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide norflurazon and its metabolite in or on the raw agricultural commodities asparagus and avocados. This regulation, to establish maximum permissible levels for residues of norflurazon in or on the commodities, was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on April 23, 1986.

ADDRESS: Written objections, identified by the document control number [PP 5E3210/R824], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:
By mail: Jack Housenger, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington DC 20460.
Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-1806).

SUPPLEMENTARY INFORMATION: The EPA issued a proposed rule, published in the Federal Register of March 12, 1986 (51 FR 8519), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, submitted pesticide petition 5E3210 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Stations of Michigan, Texas, and Washington and the United States Department of Agriculture proposing the establishment of tolerances for the combined residues of the herbicide norflurazon (4-chloro-5-(methylamino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3-(2*H*)-pyridazinone and its desmethyl metabolite 4-chloro-5-(amino)-2-(alpha, alpha, alpha-trifluoro-*m*-tolyl)-3-(2*H*)-pyridazinone in or on the raw agricultural commodities asparagus at 0.05 part per million (ppm) and avocados at 0.2 ppm; that use of the herbicide norflurazon on asparagus be limited to Michigan and Washington and on avocados to Florida only based on the geographical representation of the residue data submitted; and that additional residue data will be required to expand the area of usage.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. Based on the data and information considered, the Agency concludes that the tolerances would protect the public health. Therefore the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agriculture commodities, Pesticides and pests.

Dated: April 16, 1986.

Steven Schatzow,
Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Part 180 is amended in § 180.356 as follows:

§ 180.356 [Amended]

a. By removing the italicized headings "*Specific tolerances.*" and "*Indirect or inadvertent tolerances.*" in the introductory text to the tables in paragraphs (a) and (b) respectively.

b. By adding a new paragraph (c) to read as follows:

§ 180.356 Norflurazon; tolerances for residues.

* * * * *

(c) Tolerances with regional registration are established for the combined residues of the herbicide norflurazon and its desmethyl metabolite in or on the following commodities:

Commodities	Parts per million
Asparagus	0.05
Avocados	0.20

[FR Doc. 86-8850 Filed 4-22-86; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 4E3068/R828; FRL-3007-2]

Pesticide Tolerance for 1-(4-Chlorophenoxy)-3,3,-Dimethyl-1-(1H-1,2,4-Triazol-1-yl)-2-Butanone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the fungicide 1-(4-chlorophenoxy)-3,3,-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone and its metabolites in or on the raw agricultural commodity raspberries. The regulation to establish a maximum permissible level for residues of the fungicide in or on raspberries was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

EFFECTIVE DATE: Effective on April 23, 1986.

ADDRESS: Written objections, identified by the document control number [PP 4E3068/R828], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:
By mail: Jack Housenger, Emergency Response and Minor Use Section (TS-767C), Registration Division,

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Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.
Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1806).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of March 28, 1986 (51 FR 10411), which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, submitted pesticide petition 4E3088 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project and the Agricultural Experiment Station of California proposing the establishment of a tolerance for the combined residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4-triazol-1-yl)-2-butanone and its metabolites containing chlorophenoxy and triazole moieties (expressed as the fungicide) in or on the raw agricultural commodity raspberries at 2.0 parts per million (ppm); that the use of the fungicide be limited to California based on the geographical representation of the residue data submitted.

There were no comments or request for referral to an advisory committee received in response to the proposed rule.

Based on the information and data considered, and the fact that raspberries are not considered an animal feed commodity, secondary residues are not expected in meat, milk, poultry or eggs. The Agency concludes that the tolerance would protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 10, 1986.

Steven Schatzow,

Director, Office of Pesticide Programs.

Therefore, 40 CFR 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.410 is amended by designating the current paragraph and list of tolerances as paragraph (a) and adding paragraph (b) to read as follows:

§ 180.410 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1*H*-1,2,4,-triazol-1-yl)-2-butanone; tolerances for residues.

* * * * *

(b) Tolerances with regional registration are established for the combined residues of the fungicide 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone and its metabolites containing chlorophenoxy and triazole moieties (expressed as the fungicide) in or on the following raw agricultural commodities:

Commodities	Parts per million
Raspberries	2.0

[FR Doc. 86–9049 Filed 4–22–86; 8:45 am]
BILLING CODE 6560–50–M

40 CFR Part 180

[PP 3E2845, 3E2930/R807; FRL–3004–8]

Pesticide Tolerances for Glyphosate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide glyphosate and its metabolite in or on certain crop groups. The regulation to establish a maximum permissible level for residues of glyphosate in or on the crop groups was required in petitions submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on April 23, 1986.

ADDRESS: Written objections, identified by the document control number (PP 3E2845, 3E2930/R807), may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:
By mail: Jack Housenger, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.
Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–1806).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of November 26, 1985 (50 FR 48615), which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petitions (PP) to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project and the named Agricultural Experiment Stations proposing the establishment of tolerances for the combined residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine), and its metabolite aminomethylphosphonic acid in or on certain crop groups as follows:

1. *PP 3E2845* on behalf of the Agricultural Experiment Stations of Arkansas, Florida, Georgia, Louisiana, Michigan, Minnesota, Missouri, Puerto Rico, Texas, and Vermont, and the United States Department of Agriculture for the crop group cucurbit vegetables at 0.5 part per million (ppm).

2. *PP 3E2930* on behalf of the Agricultural Experiment Stations of Alaska, Arkansas, Connecticut, Forida, Georgia, Illinois, Louisiana, Maine, Maryland, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, North Carolina, Ohio, Oregon, Virginia, and West Virginia, and the U.S. Department of Agriculture for the crop group small fruits and berries at 0.2 ppm.

As stated in the proposed rule, the Agency was unable to fully assess the oncogenic potential of glyphosate in CD–1 male mice. The Agency, however, considers the evidence for oncogenicity to be extremely limited and based on available data does not expect any significant risk from the dietary level of glyphosate to which humans are likely to be exposed from the proposed and established uses of the pesticide. Although there were no comments or requests for referral to an advisory committee received in response to the proposed rule, the Agency delayed publication of the rule establishing tolerances for residues of glyphosate and its metabolite in or on the crop groups cucurbits and small fruits and berries pending an evaluation of the Agency's findings by the FIFRA Scientific Advisory Panel. The Panel's review, which was completed on February 11, 1986, concluded that existing data are insufficient to determine whether glyphosate is an oncogen. The Panel proposed that additional oncogenicity studies be conducted in rats and/or mice. The Agency will announce the data requirements for the continued registration of glyphosate in a registration standard which is scheduled for completion in June of 1986.

The data submitted in the petition and other relevant material have been evaluated in the proposed rulemaking. Based on the data and information considered, including the Scientific Advisory Panel's review, the Agency concludes that the tolerances would protect the public health.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 10, 1986.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.364(a) is amended by adding, and alphabetically inserting, the following crop groups to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * * * *	
Fruits, small, and Berries	0.2
* * * * *	
Vegetables, cucurbit	0.5
* * * * *	

[FR Doc. 86–8010 Filed 4–22–86; 8:45 am]
BILLING CODE 6560–50–M

40 CFR Part 180

[PP 3E2929/R801; FRL–3004–6]

Pesticide Tolerances for Glyphosate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the herbicide glyphosate and its metabolite in or on certain raw agricultural commodities. The regulation to establish a maximum permissible level for residues of the herbicide in or on the commodities was requested in petitions submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: Effective on April 23, 1986.

ADDRESS: Written objections, identified by the document control number (PP 3E2929/R801), may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:
By mail: Jack Housenger, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703–557–1806).

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of October 30, 1985 (50 FR 45121), which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition (PP) 3E2929 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project and the Agricultural Experiment Stations of California and Puerto Rico proposing the establishment of tolerances for the combined residues of the herbicide glyphosate (*N*-(phosphonomethyl)glycine), and its metabolite aminomethylphosphonic acid in or on the raw agricultural commodities acerola, figs, kiwifruit, and olives at 0.2 part per million (ppm).

As stated in the proposed rule, the Agency was unable to fully assess the oncogenic potential of glyphosate in CD–1 male mice. The Agency, however, considers the evidence for oncogenicity to be extremely limited and based on available data does not expect any significant risk from the dietary level of glyphosate to which humans are likely to be exposed from the proposed and established uses of the pesticide. Although there were no comments or requests for referral to an advisory committee received in response to the proposed rule, the Agency delayed publication of the rule establishing tolerances for residues of glyphosate and its metabolite in or on the raw agricultural commodities acerola, figs, kiwifruit, and olives pending an evaluation of the Agency's findings by the FIFRA Scientific Advisory Panel. The Panel's review, which was completed on February 11, 1986, concluded that existing data are insufficient to determine whether glyphosate is an oncogen. The Panel proposed that additional oncogenicity studies be conducted in rats and/or mice. The Agency will announce the data requirements for the continued registration of glyphosate in a registration standard which is scheduled for completion in June of 1986.

The data submitted in the petition and other relevant material have been evaluated in the proposed rulemaking. Based on the data and information considered, including the Scientific Advisory Panel's review, the Agency concludes that the toleranaces would protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

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List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 10, 1986.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.364(a) is amended by adding, and alphabetically inserting, the following raw agricultural commodities to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

(a) * * *

Commodities	Parts per million
Acerola	0.2
Figs	0.2
Kiwifruit	0.2
Olives	0.2

[FR Doc. 86-8609 Filed 4-22-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 4F3153/827; FRL-3007-8]

(Alpha RS,2R)-Fluvalinate [(RS)-Alpha-Cyano-3-Phenoxybenzyl (R)-2-[2-Chloro-4-(Trifluoromethyl) Anilino]-3-Methylbutanoate; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide (alpha *RS*,2R)-fluvalinate [(*RS*)-alpha-cyano-3-phenoxybenzyl (*R*)-2-[2-chloro-4-(trifluoromethyl) anilino]-3-methylbutanoate] in or on the raw agricultural commodities cottonseed, cattle, goats, hogs, horses, sheep, and poultry and eggs and milk. This regulation to establish the maximum permissible level for residues of the insecticide was requested by the Zoecon Corp.

EFFECTIVE DATE: Effective on April 23, 1986.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: George T. LaRocca, Product Manager (PM) 15, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 204, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2400).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of December 5, 1984 (49 FR 47549), which announced that Zoecon Corp., a Sandoz company, 975 California Ave., Palo Alto, CA 95304-0859, had submitted pesticide petition (PP) 4F3153 proposing to amend 40 CFR Part 180 by establishing a tolerance for residues of (alpha *RS*,2R)-fluvalinate [(*RS*)-alpha-cyano-3-phenoxybenzyl (*R*)-2-[2-chloro-4-(trifluoromethyl) anilino]-3-methylbutanoate] in or on the raw agricultural commodities (RAC) cottonseed at 0.1 part per million (ppm); meat, fat, and meat byproducts of cattle, goats, hogs, horses, and sheep at 0.01 ppm; meat, fat, and meat byproducts of poultry at 0.01 ppm; and milk at 0.01 ppm and eggs at 0.1 ppm.

EPA also issued a notice, published in the **Federal Register** of November 21, 1984 (49 FR 45923), which announced that Zoecon Corp. filed an application for amended registration of the subject pesticide on cotton to control various insects.

There were no comments received in response to those notices.

The Agency reviewed the data submitted in support of the application for amended registration and decided to conditionally accept the amendment under the authority of section 3(c)(7)(B) of FIFRA for use on cotton for a period through August 31, 1986. This related document appears elsewhere in this issue of the **Federal Register.**

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the proposed tolerance include an acute oral rat toxicity study with a median lethal dose (LD_{50}) of 282 milligrams (mg)/kilogram (kg) for male rats and 261 mg/kg for female rats; a 90-day rat and mouse feeding study with a no-observed-effect level (NOEL) of 3.0 mg/kg/day for both rats and mouse; a 180-day dog feeding study with a NOEL of 5.0 mg/kg/day; a 21-day delayed hen neurotoxicity study with a NOEL of 20,000 mg/kg/day, the highest dose tested (HDT); teratology studies (in rats and rabbits), with a NOEL of 50.0 mg/kg (HDT) for teratology in rats and a NOEL for teratology of 125.0 mg/kg in rabbits; a 2-generation rat reproduction study with a NOEL of 20.0 ppm; a 24-month mouse chronic feeding/oncogenicity study that resulted in a systemic NOEL of 10 mg/kg/day in which no oncogenic effects were noted at dosage levels of 2, 10, and 20 mg/kg/day (20 mg/kg/day being the highest dosage level tested) under the conditions of the study; a 24-month rat oral feeding/oncogenicity study with a NOEL of 1.0 mg/kg/day (HDT), no oncogenic effects noted under the conditions of the study at 2.5 mg/kg/day (HDT) or at the lowest dose tested; and the following mutagenicity studies: Ames' Salmonella Microsome Test, sister chromatid exchange assay, mouse lymphoma, unscheduled DNA synthesis, cell transformation (all negative except for the mouse lymphoma, which was positive with metabolic activation but negative without metabolic activation).

The acceptable daily intake (ADI) is calculated to be 0.01 mg/kg/day based on a 2-year rat feeding study and using a 100-fold safety factor. The maximum permissible intake (MPI) has been calculated to be 0.6 mg/kg/day for a 60-kg person. Approval of tolerances for cottonseed, meat, fat, and meat byproducts of cattle, goats, hogs, horses, sheep, poultry, eggs, and milk would result in a theoretical maximum residue contribution (TMRC) of 0.0504 mg/day (1.5 kg) and would utilize 8.40 percent of the ADI. Based on an analysis of current Agency approved and proposed tolerances on the tolerance assessment system (TAS), the ADI was not exceeded.

The nature of the residue is adequately understood for these tolerances. An adequate analytical method, gas chromatography, is available for enforcement purposes. There are currently no regulatory actions pending against the registration of this pesticide, and there are no other relevant considerations in establishing these tolerances.

Because of the long lead time from establishing this tolerance to publication of the enforcement methodology in the Pesticide Analytical Manual II, an interim analytical methods package is being made available to State pesticides enforcement chemists when requested from: By mail, Information Service Section (TS-757C), Program Management Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C., 20460. Office location and telephone number: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-3262).

A related document (PP 4H5444/R826) establishing a regulation permitting residues of this chemical in or on cottonseed oil (crude and refined) and cottonseed hulls appears elsewhere in this issue of the **Federal Register.**

Based on the above information, the Agency has determined that establishing tolerances for residues of the pesticide in or on the commodities will protect the public health. Therefore, as set forth below, the tolerances are established for a period extending to August 21, 1990, to cover residues existing from the conditional registration of fluvalinate.

Any person adversely affected by this regulation may within 30 days after publication of this document in the **Federal Register** file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant impact on a substantial number of small entities.

A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: March 28, 1986.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.427 is added to read as follows:

§ 180.427 (Alpha RS,2R)-fluvalinate [(RS)-alpha-cyano-3-phenoxybenzyl (R)-2-[2-chloro-4-(trifluoromethyl) anilino]-3-methylbutanoate].

Tolerances are established for residues of the insecticide (alpha *RS*,2R)-fluvalinate [(*RS*)-alpha-cyano-3-phenoxybenzyl (*R*)-2-[2-chloro-4-(trifluoromethyl) anilino]-3-methylbutanoate in or on the following raw agricultural commodities:

Commodities	Parts per million
Cottonseed	0.1
Cattle, fat	0.01
Cattle, mbyp	0.01
Cattle, meat	0.01
Eggs	0.01
Goat, fat	0.01
Goat, mbyp	0.01
Goat, meat	0.01
Hogs, fat	0.01
Hogs, mbyp	0.01
Hogs, meat	0.01
Horses, fat	0.01
Horses, mbyp	0.01
Horses, meat	0.01
Milk	0.01
Poultry, fat	0.01
Poultry, mbyp	0.01
Poultry, meat	0.01
Sheep, fat	0.01
Sheep, mbyp	0.01
Sheep, meat	0.01

[FR Doc. 86-8188 Filed 4-22-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

41 CFR Parts 114-38, 114-39

Personal Property Management Procedures; Repeal

AGENCY: Department of the Interior.

ACTION: Final rule.

SUMMARY: The Department of the Interior is repealing 41 CFR Part 114-38 (except §§ 114-38.53 and 114-48.55) and 41 CFR Part 114-39 which contain the internal regulations and procedures which govern motor equipment management and interagency motor vehicle pools and will incorporate those provisions in the Department's administrative manual.

EFFECTIVE DATE: May 23, 1986.

FOR FURTHER INFORMATION CONTACT: John Moresko, Personal Property Management, 202-343-2704.

SUPPLEMENTARY INFORMATION: On April 14, 1986, the Department of the Interior issued a revision of the Interior Property Management Regulations found at 41 CFR Part 114-38 (except §§ 114-38.53 and 114-38.55) and 41 CFR Part 114-39 in Part 412 of the Departmental Manual. This revision incorporates those provisions formerly included in 41 CFR Part 114-38 (except §§ 114-38.53 and 114-38.55) and 41 CFR Part 114-39, which establish requirements and guidelines for the acquisition, receipt, operation, storage, servicing, transfer, and disposal of motor vehicles. Additionally, the regulation contains procedures and requirements for use of the Interagency Fleet Management System. Periodic reports, recordkeeping and accidents and accident reporting are also covered.

The remaining parts of 41 CFR Part 114 will be revised as necessary, and upon revision, will also be incorporated in the Departmental Manual as appropriate.

The Departmental Manual is indexed and is available for inspection and copying in accordance with the Freedom of Information Act (5 U.S.C. 522(a)(2)(c)).

The Department is taking this action as means of both eliminating unnecessary rules from the Code of Federal Regulations and for consolidating the personal property management requirements in one logical place, the Departmental Manual.

Because the personal property management procedures govern only internal actions of the Department, this action is not expected to affect the public. The Department has determined that notice and public comment on the rule are unnecessary because the Department, by repeal of 41 CFR 114-38 (except §§ 114-38.53 and 114-38.55) and 41 CFR Part 114-39, is simply electing another method of issuance of revised internal instructions and procedures.

The primary author of this document is John Moresko, Personal Property Management Division, Office of Acquisition and Property Management (434-2704).

The Department of the Interior has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because the rule is procedural and has no economic impact on the public. For the same reasons, the Department has also determined that the rule will not have a significant economic effect on a substantial number of small entities and does not require a flexibility analysis under the Regulatory Flexibility Act.

Dated: April 14, 1986.

Joseph E. Doddridge, Jr.,

Deputy Assistant Secretary—Policy, Budget, and Administration.

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Accordingly, 41 CFR 114–38 and 41 CFR 114–39 are amended as follows:

PART 114–38—[AMENDED]

PART 114–39—[REMOVED]

1. The authority citation for Parts 114–38 and 114–39 continue to read as follows:

Authority: Sec. 205(c), 63 Stat. 390; 5 U.S.C. 301, 40 U.S.C. 486(c).

2. Accordingly, 41 CFR 114–38 (except §§ 114–38.53 and 114–38.55) and 41 CFR Part 114–39 are repealed and removed.

[FR Doc. 86–9032 Filed 4–22–86; 8:45 am]

BILLING CODE 4310–10–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 65

[CC Docket No. 84–800; Phase II]

Common Carrier Services; Interstate Service of AT&T Communications and Exchange Telephone Carriers

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This action corrects omissions in the Report and Order in this proceeding concerning Interstate Service of AT&T Communications, published in the **Federal Register** on January 15, 1986, 51 FR 1795.

FOR FURTHER INFORMATION CONTACT: Giovanna M. Longo, Common Carrier Bureau, (202) 634–1742.

Erratum

Authorized rates of return for the interstate services of AT&T Communications and Exchange Telephone Carriers (CC Docket No. 84–800, Phase II).

Released: April 15, 1982.

Several omissions were made in the *Report and Order* in CC Docket No. 84–800, Phase II (FCC 85–645, Mimeo Number 36337, released December 20, 1985). The Commission's Rules in Part 65 concerning service of certain submissions in rate of return prescription proceedings require clarification. Some documents are required to be served by hand in order to permit participants adequate time to prepare subsequent filings. In order to eliminate any confusion on this point, the phrase "by hand" will be inserted in the Rules at §§ 65.100(b), 65.103(d), 65.104(c), and 65.105(c) in the following manner.

Sections 65.100(b), 65.103(d), 65.104(c), and 65.105(c) are correctly added to read as follows:

§ 65.100 Participation and notice of appearance.

* * * * *

(b) In order to permit participants to complete service by hand on the filing dates when so required by Part 65, participants shall specify in their notice of appearance an agent for acceptance of service by hand in the District of Columbia. The participant may elect in its notice to receive service by mail and/or upon an agent at another location. When such an election is made, other participants are not required by any provision of Part 65 to complete service on the filing date, and requests for extension of time due to delays in completion of service will not be entertained.

§ 65.103 Discovery.

* * * * *

(d) Service of requests, oppositions, and responses shall be made upon all participants who have filed a notice of appearance pursuant to § 65.100(a). Service of requests upon participants who have filed a notice of appearance pursuant to § 65.100(a) shall be made by hand on the filing dates thereof.

§ 65.104 Oral cross examination of witnesses.

* * * * *

(c) An original and 8 copies of each request or opposition shall be filed with the Secretary. Service of requests and oppositions shall be made upon all participants who have filed a notice of appearance pursuant to § 65.100(a). Service of requests and oppositions shall be made by hand on the filing dates thereof upon all participants who have filed a notice of appearance pursuant to § 65.100(a)(1).

§ 65.105 Proposed findings of fact and conclusions.

* * * * *

(c) Participants shall file an original and 13 copies of their findings and conclusions with the Secretary. Service shall be made upon all participants who have filed a notice of appearance pursuant to § 65.100(a). Service shall be made by hand on the filing date upon all participants who have filed a notice of appearance pursuant to § 65.100(a)(1).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–8903 Filed 4–22–86; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF COMMERCE

48 CFR Parts 1301, 1302, 1306, 1309, 1314, 1319, 1333, 1349, and 1352

[Docket No. 50830–6003) (Amdt. 85–2)]

Acquisition Regulation Relating to Competition in Contracting and Miscellaneous Amendments

AGENCY: Department of Commerce.

ACTION: Final rule.

SUMMARY: This final rule amends the Commerce Acquisition Regulation (CAR) to implement the protest provisions of the Competition in Contracting Act of 1984, Pub. L. 98–369 (CICA), and amendments to the Federal Acquisition Regulation (FAR) which incorporate and reflect changes to Federal acquisition policy required by the protest provisions of the CICA.

This final rule also makes changes to the CAR unrelated to implementing the CICA and FAR revisions. Procedures are established for: expanding contracting and subcontracting opportunities for women-owned small businesses; conducting preaward surveys of prospective contractors for ship construction, ship alteration and ship repair; recovering administrative costs in the event of contractor default; and using Alternate I of the FAR prescribed disputes clause. This final rule also amends the CAR by adding citations to internal Department procedures for oversight reviews of contracting activities and reporting fraudulent claims and misrepresentations, and by making miscellaneous updates and corrections.

Public comments were requested on September 24, 1985 (50 FR 38677–83). No public comments were received. However, internal Department of Commerce comments were received during the comment period, some of which were incorporated into the final rule.

EFFECTIVE DATE: April 23, 1986.

FOR FURTHER INFORMATION CONTACT: John Dammeyer, Procurement Analyst, Office of Procurement Management, HCHB, Room H6424, U.S. Department of Commerce, 14th St. between Pennsylvania and Constitution Avenues, N.W., Washington, D.C. 20230, (202) 377–4248.

SUPPLEMENTARY INFORMATION:

Public Comments

On September 19, 1985 the Department of Commerce issued a proposed rule known as CAR Amendment 85–2 (50 FR 38677–83, September 24, 1985), requesting public comments by November 8, 1985. No public comments were received. However, comments were received from offices within the Department of Commerce during the comment period. The comments which resulted in changes to the proposed rule are described below.

The first comment addressed a reorganization within the Department's Office of General Counsel which occurred since the publication of the proposed rule. The Contract Law Division is no longer part of the Department's Office of the Assistant General Counsel for Administration. The Contract Law Division is now part of the Department's Office of the Assistant General Counsel for Finance and Litigation. The final rule reflects this change.

The second comment added the following example to the list of areas which might be of specific concern to a team conducting preaward surveys for ship construction, ship alteration, or ship repair contracts.

The depth of water in the navigable waterway and the pier where the vessel will be berthed.

The language was added to the final rule at 1309.106–70(c)(11). This is not a significant change because the same language was listed in the proposed rule at 1309.106(f)(1), as one of the items about which a surveying team must provide information.

The third comment suggested that we reconsider the proposed dollar threshold for Department use of formal source selection procedures. We agreed to withdraw this coverage, pending an overall review of the need for guidance on Department source selection procedures.

The fourth comment suggested that we indicate the result when a protest to the contracting activity is received after the prescribed time limit for receipt of such protests. We agreed to add language to make it clear that, unless the time limit for receiving the protest is extended for good cause, a protest to the contracting activity which is received after the time limit will not be considered.

Administrative Procedure Act and Small Business and Federal Procurement Competition Enhancement Act Requirements

Because this amendment involves matters of agency management, public property, and contracts, under subsection 553(a)(2) of the Administrative Procedure Act (APA) (5 U.S.C. 553(a)(2)), it is exempt from all requirements of section 553 including giving notice of proposed rulemaking, providing an opportunity for comment, and delaying the effective date until at least 30 days after publication or service.

However, section 302 of the Small Business and Federal Procurement Competition Enhancement Act of 1984, Pub. L. 98–577, added section 22 to the Office of Federal Procurement Policy Act which requires that notice of proposed rulemaking and at least 30 days opportunity for comment be given for acquisition regulations having a significant cost or administrative impact on contractors or offerors, and specifies that such regulations may not take effect until 30 days after such notice. Since it was determined that some of the changes that would be made to the CAR by the proposed amendment might have a significant cost or administrative impact on contractors or offerors, a notice of proposed rulemaking was published and written comments from the public were invited for consideration by November 8, 1985.

Regulatory Flexibility Act Requirements

The General Counsel of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that the rule would not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis was not prepared.

Executive Oder 12291 Requirements

As stated in the interim notice, this regulation is not a major rule as defined in Executive Order 12291 and therefore a regulatory impact analysis was not prepared. The rule was submitted to the Office of Management and Budget (OMB) for review in accordance with E.O. 12291 and OMB Bulletin 85–7.

Paperwork Reduction Act Requirements

The collection of information requirements imposed on the public by this rule were approved by the Office of Management and Budget under OMB control numbers 0605–0018 and 0690–0002 in accordance with the Paperwork Reduction Act.

List of Subjects in 48 CFR Parts 1301, 1302, 1306, 1309, 1314, 1319, 1333, 1349, and 1352

Government procurement.

Accordingly, Chapter 13 of Title 48 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., April 18, 1986.

Hugh L. Brennan,

Director, Office of Procurement and Administrative Services, U.S. Department of Commerce.

1. The authority citation for Parts 1301, 1302, 1306, 1309, 1314, 1319, 1333, and 1352 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486 (c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

PART 1301—GENERAL

1301.101 [Amended]

2. Section 1301.101 of Subpart 1301.1 is corrected by removing "CAP" and inserting "CAR" in its place.

3. Section 1301.104–3(b) of Subpart 1301.1 is revised to read as follows:

1301.104–3 Copies.

* * * * *

(b) Loose-leaf copies of the CAR are distributed within the Department by the Procurement Executive.

4. Section 1301.201–1(b) of Subpart 1301.2 is revised to read as follows:

1301.201–1 The two FAR councils.

(b) The Department representatives to the Civilian Agency Acquisition Council will be appointed by the Procurement Executive. The Procurement Executive will be responsible for coordinating and advocating Department proposed revisions to the FAR.

1301.301 [Amended]

5. Section 1301.301(c) of Subpart 1301.3 is amended by replacing the term "Office of Procurement and Federal Assistance" with the term "Procurement Executive" in the two sentences where it appears.

1301.402 [Amended]

6. Section 1301.402 of Subpart 1301.4 is amended by replacing the term "Office of Procurement and Federal Assistance" with the term "Procurement Executive" in the two sentences where it appears.

1301.501 [Amended]

7. Section 1301.501 of Subpart 1301.5 is amended by replacing the term "Office of Procurement and Federal Assistance" in the last sentence, with the term "Procurement Executive".

1301.601–70 [Amended]

8. Section 1301.601–70 of Subpart 1301.6 is amended by replacing the term "Office of Procurement and Federal Assistance" with the term "Procurement

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Executive" in the two sentences where it appears.

1301.601-71 [Amended]

9. Section 1301.601-71 of Subpart 1301.6 is amended by replacing the term "Office of Procurement and Federal Assistance" with the term "Procurement Executive" in the heading and in the two sentences where it appears.

10. Section 1301.601-71 of Subpart 1301.6 is further amended by adding the phrase "pursuant to the Department Administrative Order on Contracting (Procurement) Review and Approval Requirements (DAO 208-5)," before the word "to" in the second sentence.

11. Section 1301.601-71 of Subpart 1301.6 is further amended by replacing the term "OPFA" with the term "Department".

PART 1302—DEFINITIONS OF WORDS AND TERMS

1302.1-1 [Amended]

12. Section 1302.1-1 of Subpart 1302.1 is corrected by replacing "(DA) 208-2)" in the third sentence of the definition for "Head of the Agency" with "(DAO 208-2)".

13. Section 1302.1-1 of Subpart 1302.1 is further amended by adding the sentence "Procurement Executive also means the Senior Procurement Executive." after the first sentence in the definition for "Procurement Executive".

PART 1306—COMPETITION REQUIREMENTS

14. New sections 1306.303 and 1306.303-1 are added to Subpart 1306.3 to read as follows:

1306.303 Justifications.

1306.303-1 Requirements.

(d) Where the authority or FAR 6.302-3(a)(2)(i) or FAR 6.302-7 is cited as a basis for not providing full and open competition for any contract action subject to the Agreement on Government Procurement, the contracting officer shall send a copy of the justification to the Procurement Executive within 14 work days after contract award. The Procurement Executive shall send the copy of the justification to the Office of the United States Trade Representative.

PART 1309—CONTRACTOR QUALIFICATIONS

15. Part 1309 is amended to add a new Subpart 1309.1 as follows:

Subpart 1309.1—Responsible Prospective Contractors

1309.106 Preaward surveys. 1309.106-70 Preaward surveys for ship construction, ship alteration, and ship repair.

(a) *General.* The contracting officer shall request a preaward survey of a prospective contractor for contracts involving ship construction, ship alteration, or ship repair, where the cost or price of the contract is anticipated to be in excess of $100,000, and the information on hand is not sufficient to make a determination regarding responsibility. The contracting officer may request a preaward survey of a prospective contractor for contracts involving ship construction, ship alteration, or ship repair, where the cost or price of the contract is anticipated to be $100,000 or less, if the circumstances justify the cost of the survey.

(b) *Extent of preaward survey.* The contracting officer shall determine the manner and extent of the preaward survey based upon the specific requirements of the contract. At a minimum, the contracting officer shall request a preaward survey for contracts involving ship construction, ship alteration, and ship repair where the contracting officer cannot affirmatively determine that the prospective contractor's facility is adequate for the work to be performed. For the purpose of this section, the prospective contractor's facility includes the land, buildings, shop spaces, dock facilities, drydock or marine railways, and plant security and safety.

(c) *Examples of specific concern.* The contracting officer shall coordinate efforts with technical and requirements personnel to identify areas of specific concern for the preaward survey. The following examples illustrate areas which may be of specific concern to the preaward survey team, depending on the nature of the work to be performed:

(1) Acceptable facilities and equipment for special production techniques (e.g., unique welding procedures, special test fixtures, or production equipment);

(2) Adequate size and lift capacity for the drydock or marine railway;

(3) Well maintained drydock and lifting equipment and acceptable preventative maintenance of these items;

(4) Acceptable dock master and crew who are experienced in operating the equipment and lifting a vessel of comparable size and weight;

(5) Adequate drydock or pier utilities to support the vessel, including electrical power, steam, potable water, fire fighting capability, sewage disposal, and telephone service;

(6) Responsible subcontractors;

(7) Contractor's demonstrated ability to monitor and coordinate subcontractor performance;

(8) Contractor's demonstrated ability to conduct dock and sea trials;

(9) Contractor's demonstrated ability to protect the vessel and yard and vessel personnel, including safety and security programs or individual plans;

(10) Adequate secure storage facilities for Government property; and

(11) The depth of water in the navigable waterway and the pier where the vessel will be berthed.

(d) *Preaward survey team.* The contracting officer may use any of the following individuals to form the preaward survey team:

(1) A cost or price analyst or cognizant audit agency for review of the contractor's financial and accounting systems;

(2) Technical or requirements personnel from the cognizant marine center or office of marine operations, for technical, production, or quality assurance evaluations; and

(3) Representatives of the contracting officer for management and administrative evaluations.

(e) *On-site survey.* If it is necessary to conduct a survey at the proposed site where the work is to be performed, the contracting officer shall coordinate the visit with the prospective contractor or subcontractor.

(f) *Reports.* The surveying team shall comply with the applicable reporting requirements of FAR 9.106-4. When using the short-form preaward survey report prescribed in FAR 9.106-4(d), the surveying team shall provide information on the following at a minimum:

(1) The depth of water in the navigable waterway and the pier where the vessel will be berthed;

(2) The condition of the drydock or marine railway where the work is to be performed;

(3) Availability of adequate utilities and services for the vessel;

(4) Evidence of prospective contractor or subcontractor financial problems or poor past performance.

(g) Contracting officer determination. Upon completion of the preaward survey, the contracting officer shall determine whether the prospective contractor and subcontractors are responsible.

PART 1314—SEALED BIDDING

1314.407-8 [Removed]

16. Part 1314 is amended by removing section 1314.407-8.

PART 1319—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

17. A new Subpart 1319.70 is added to Part 1319 as follows:

Subpart 1319.70—Contracting Opportunities for Women-Owned Small Businesses

1319.7001 Policy.

The Department encourages the use of women-owned small businesses in its acquisition programs. Whenever practicable, Department contracting activities shall include women-owned small businesses in competitive solicitations and assist prime contractors in identifying women-owned small businesses for subcontracting opportunities.

1319.7002 Source identification and solicitation.

(a) The contracting officer shall include women-owned small businesses on the mailing list for each solicitation which is expected to result in an award in excess of the small purchase dollar threshold whenever there are women-owned small businesses known to be potential suppliers.

(b) The contracting officer should contact the Office of Small and Disadvantaged Business Utilization (OSDBU) for assistance in locating these sources through the Small Business Administration Procurement Automated Source System (PASS) and the Minority Vendor Profile System (MVPS). The contracting officer should also encourage technical and requirements personnel to identify women-owned small business sources.

1319.7003 Subcontracting opportunities.

(a) Contracting officers shall provide assistance to prime contractors to identify potential women-owned small businesses. Such assistance is intended to aid prime contractors in placing a fair proportion of subcontracts with women-owned small businesses.

(b) The contracting officer shall insert the clause at 1352.219-1, Women-Owned Small Business Sources, in solicitations and contracts where the clause prescribed by FAR 19.708(b) is required (see FAR 52.219-9).

PART 1333—PROTESTS, DISPUTES, AND APPEALS

18. The heading to Part 1333 is revised to read as set forth above.

19. Part 1333 is amended by adding new Subparts 1333.1 and 1333.2 as follows:

Subpart 1333.1—Protests

1333.102 General.

The Departmentwide contact point for protests to the GAO or to the GSBCA is the Assistant General Counsel for Finance and Litigation (AGC). The AGC represents the Department in protests filed with the GAO or the GSBCA. The AGC furnishes all necessary correspondence concerning protests to the GAO or the GSBCA, including the Department's report in response to a GAO or GSBCA protest.

1333.103 Protests to the agency.

(a) Protests must be received within ten work days after the basis for protest is known or should have been known unless good cause is shown to extend the time limit. However, protests based upon alleged improprieties in any type of solicitation which are apparent prior to bid opening or the closing time for receipt of initial proposals shall be filed prior to bid opening or the closing time for receipt of initial proposals. Unless the time limit for receiving the protest is extended for good cause, a protest to the contracting activity which is received after the time limit will not be considered. When a timely protest is filed only with the contracting activity, the contracting officer shall take prompt action towards resolution after consulting with the AGC, and notify the protestor in writing of the action taken.

(b) When a protest is filed only with the contracting activity before award, an award shall not be made until the matter is resolved unless the head of the contracting office makes the determination prescribed in FAR 33.103(a).

(c) When a protest is filed only with the contracting activity after award, the contracting officer need not notify the contractor if the protest can be promptly resolved. If it appears likely that the award may be invalidated or that a protest will be filed with the GAO or the GSBCA, the contracting officer should promptly notify the contractor in writing and consider suspending contract performance.

1333.104 Protests to GAO.

(a)(1) *General.* A protestor shall furnish a copy of its complete protest to the contracting officer designated in the solicitation and a copy of its complete protest to the Contract Law Division of the Office of the Assistant General Counsel for Finance and Litigation, no later than one day after the protest is filed with the GAO. The envelope containing the complete protest shall be clearly marked "GAO Protest".

(2) The GAO report shall be assembled and organized by the contracting office in accordance with rule 4(d) of the GSBCA Rules of Procedure (48 CFR Part 6101) except where rule 4(d) may conflict with GAO procedures.

(3) The contracting officer shall give the notice required in FAR 33.104(a)(3) (GAO 4 CFR 21.3).

(4)(i) The contracting officer shall submit a draft index of the GAO report to the Contract Law Division of the Office of the Assistant General Counsel for Finance and Litigation so that it is received within 10 work days after the contracting officer receives telephonic notice of the protest from the Contract Law Division.

(ii) The contracting officer shall submit the GAO report described in FAR 33.104(a)(2) to the Contract Law Division so that it is received within 13 work days after the contracting officer receives telephonic notice of the protest from GAO, or from the Contract Law Division, whichever notice is sooner. The GAO report shall be submitted with the appropriate number of copies for GAO, the AGC, the protestor, and all interested parties. The AGC will supplement the protest file with legal arguments to support the contracting officer's position and will submit the complete report to GAO and all interested parties within the time established by GAO.

(iii) The contracting officer shall submit a draft index of the GAO report to the Contract Law Division so that it is received within 4 work days after the contracting officer receives telephonic notice of a GAO determination to use the express option.

(iv) The contracting officer shall submit the GAO report to the Contract Law Division so that it is received within 6 work days after the contracting officer receives telephonic notice of a GAO determination to use the express option.

(b) *Protests before award.* When the contracting activity has received notice of a protest filed directly with GAO, a contract may not be awarded prior to a GAO decision on the protest, unless the Head of the Contracting Activity makes the written finding prescribed in FAR 33.104 (b)(1) after consulting with the AGC. The head of the contracting office shall notify the AGC when the written

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finding has been executed so that the AGC can notify GAO. The contracting activity is not authorized to award the affected contract until the AGC has notified GAO of the written finding.

(c) *Protests after award.* When the contracting activity receives notice of a protest filed directly with GAO within 10 calendar days after contract award, the contracting officer shall immediately suspend performance pending a GAO decision on the protest or terminate the awarded contract, unless the Head of the Contracting Activity makes the written finding prescribed in FAR 33.104 (c)(2) after consulting with the AGC. The head of the contracting office shall notify the AGC when the written finding has been executed so that the AGC can notify GAO. The contracting activity is not authorized to continue contract performance until the AGC has notified GAO of the written finding.

(f) *Notice to GAO.* The Head of the Contracting Activity shall report to the Comptroller General within 60 days of receipt of the GAO's recommendation if the contracting activity has decided not to comply with the recommendation. The Head of the Contracting Activity shall consult with, and send a draft report to, the Procurement Executive and the AGC prior to sending the report to the Comptroller General.

1333.105 Protests to GSBCA.

(a)(1) A protestor shall furnish a copy of its complete protest to the contracting officer designated in the solicitation and a copy of its complete protest to the Contract Law Division of the Office of the Assistant General Counsel for Finance and Litigation, on the same day the protest is filed with the GSBCA. The envelope containing the complete protest shall be clearly marked "GSBCA Protest".

(2) The contracting officer shall give the notice required in FAR 33.105(a)(2) (GSBCA Rule 5d, 48 CFR Part 6101).

(b)(1) The GSBCA protest file shall be assembled and organized by the contracting office in accordance with rule 4(d) of the GSBCA Rules of Procedure (48 CFR Part 6101).

(2) The contracting officer shall submit a draft index of the GSBCA protest file to the Contract Law Division so that it is received within 5 works days after the protest is filed with the GSBCA.

(3) The contracting officer shall submit the GSBCA protest file described in FAR 33.105 (b) and (c) (GSBCA Rule 4, 48 CFR Part 6102) to the Contract Law Division so that it is received within 8 work days after the protest is filed with the GSBCA. The protest file shall be submitted with the appropriate number of copies for GSBCA, the AGC, the protestor, and all interested parties. The AGC will supplement the protest file with legal arguments to support the contracting officer's position and will submit the complete protest file to GSBCA and all interested parties within the time established by GSBCA.

(d) If suspension of procurement authority was requested, but not considered appropriate due to the circumstances in FAR 33.105(d)(1), the Head of the Contracting Activity shall execute the determination and findings prescribed by FAR 33.105 after consulting with the AGC, so that the GSBCA may decide the issue.

1333.106 Solicitation provision and contract clause.

(a) The contracting officer shall insert the provision at 1352.233-2, Service of Protest (JAN 1985) (Deviation FAR 52.233-2), in lieu of the provision at FAR 52.233-2 in solicitations for other than small purchases.

Subpart 1333.2—Disputes and Appeals

1333.209 Suspected fraudulent claims.

The contracting officer shall report suspected fraudulent claims or misrepresentations of fact to the Office of Inspector General in accordance with the Department Administrative Order on Inspector General Investigations (DAO 207-10).

1333.213 Obligation to continue performance.

(a) The contracting officer may use Alternate I to the clause at FAR 52.233-1, Disputes, only after the Head of the Contracting Activity has determined in writing that—

(1) Continued performance is necessary pending resolution of any claim arising under or relating to the contract because of unusual circumstances which make continued performance essential to the public health or welfare;

(2) Financing is or will be available for the continued performance; and

(3) The Government's interest is or will be properly secured.

20. A new Part 1349 is added to Subchapter G to read as follows:

PART 1349—TERMINATION OF CONTRACTS

Sec.
1349.001 Definitions.

Subpart 1349.4—Termination for Default

1349.402-7 Other damages.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10-5 and Department Administrative Order 208-2.

1349.001 Definitions.

(a) "Administrative costs", as used in this part, means those costs other than excess costs, incurred by the Government as a result of the contractor's default. Administrative costs include but are not limited to:

(1) Salaries and fringe benefits paid to Government employees who are assigned to a work activity (e.g., reprocurement activities) as a result of the default;

(2) Preaward survey expenses incurred in qualifying reprocurement contractors; and

(3) Costs incurred in printing and distributing the reprocurement solicitation.

(b) "Excess costs", as used in this part, means any costs, other than administrative costs, incurred by the Government in reprocuring similar supplies or services or performing similar services as a result of the contractor's default.

Subpart 1349.4—Termination for Default

1349.402-7 Other damages.

(a) The contracting officer may recover administrative costs under the default clause when it is in the best interest of the Government. A contracting officer's decision to recover administrative costs must balance the expected cost to the Government of documenting and supporting the assessment with the expected recovery amount.

(b) Documents used to support an assessment of administrative costs must clearly demonstrate that the added costs incurred by the Government were a direct result of the default.

(1) To support administrative labor costs, the contracting officer should keep a record of:

(i) Name, position, and organization of each employee performing work activities as a consequence of the default;

(ii) Dates of work and time spent by each employee on the repurchase;

(iii) Specific tasks performed (e.g., solicitation preparation, clerical);

(iv) Hourly rates of pay (straight time or overtime); and

(v) Applicable fringe benefits.

(2) Travel vouchers, invoices, printing requisitions, and other appropriate evidence of expenditures may be used to support other administrative costs (e.g., travel, per diem, printing and distribution of the repurchase contract).

(c) If assessment of administrative costs is considered appropriate after review by the AGC, the contracting officer shall make a written demand on the contractor for administrative costs. The written demand shall describe the basis for the assessment and the cost computations. The same demand letter may be used to assess administrative costs and any excess costs. If the contractor fails to make payment after receiving a contracting officer's final decision, the contracting officer shall follow the procedures in Subpart 1332.6 and FAR Subpart 32.6 to collect the amount owed the Government.

(d) The recovery of excess or administrative costs does not preclude the Government from exercising other rights or remedies which it may have by law or under the terminated contract.

PART 1352—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

21. Part 1352 is amended by adding a new Subpart 1352.2 as follows:

Subpart 1352.2—Texts of Provisions and Clauses

1352.219-1 Women-owned small business sources.

As prescribed in 1319.7003, insert the following provision:

Women-Owned Small Busines Sources (May 1985)

The contractor agrees to develop a list of qualified bidders that are women-owned small businesses. The Small Business Administration Procurement and Automated Source System (PASS) and the Minority Vendor Profile System (MVPS) may be used for this purpose. The contractor may contact the Department of Commerce, Office of Small and Disadvantaged Business Utilization (OSDBU) for assistance.

The Contractor shall provide opportunities for women-owned small businesses to compete for subcontracts by making information on forthcoming opportunities available.

Where the clause "Small Business and Small Disadvantaged Business Subcontracting Plan" is required in accordance with FAR 19.708(b), the contractor shall include qualified women-owned small businesses in the subcontracting plan.

(End of Provision)

1352.233-2 Service of protest.

As prescribed in 1333.106, insert the following provision:

Service of Protest (Jan. 1985) (Deviation FAR 52.233-2)

Protests, as defined in § 33.101 of the Federal Acquisition Regulation, shall be served on the Contracting Officer and the Contract Law Division of the Office of the Assistant General Counsel for Finance and Litigation by obtaining written and dated acknowledgement of receipt from the Contracting Officer or the head of the contracting office or designee and from the Contract Law Division of the Office of the Assistant General Counsel for Finance and Litigation located at the U.S. Department of Commerce, Herbert C. Hoover Building, Room H5882, 14th St. between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

[Insert the address of the contracting officer or refer to the number of the block on the Standard Form 33 or 1442, etc., where the address of the contracting offfice is located.]

(End of Provision)

[FR Doc. 86-9053 Filed 4-22-86; 8:45 am]
BILLING CODE 3810-17-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 192 and 195

[Amdts. 192-51 and 195-37; Docket No. PS-86]

Transportation of Gas or Hazardous Liquid by Pipeline; Updating Steel Line Pipe Specifications

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Final rule.

SUMMARY: These amendments update the existing incorporation by reference of the American Petroleum Institute (API) specifications for steel line pipe, API 5L, 5LS, and 5LX, by adopting the 1985 edition of API Specification 5L for gas and hazardous liquid pipelines. API 5L, 5LS, and 5LX have been consolidated into one specification by the API. Editions prior to the 1985 edition are out of print, although provisions are made for their appropriate use.

EFFECTIVE DATE: May 23, 1986.

FOR FURTHER INFORMATION CONTACT: William A. Gloe (202) 426-2082, regarding the content of this amendment, or the Dockets Branch (202) 426-3148, regarding copies of the amendment or other information in the docket file for this proceeding.

SUPPLEMENTARY INFORMATION:

Background

RSPA published a Notice of Proposed Rulemaking in the **Federal Register** on November 27, 1985 (50 FR 48809), proposing to adopt the 1985 edition of API Specification 5L for line pipe and providing the following information:

Parts 192 and 195 incorporate by reference the 1980 editions of API Specifications 5L (Line Pipe), 5LS (Spiral-Weld Line Pipe), and 5LX (High-Test Line Pipe). In Part 192, each specification is included among "listed specifications" which must be followed in pipe manufacture to qualify steel pipe for use in gas pipelines. In Part 195, the specifications serve to denote allowable design factors for steel pipe. Under both parts the specifications are used for determining yield strength when specified minimum yield strength is unknown.

These API specifications have been the most predominantly used specifications for steel line pipe in the industry and have been maintained separately to identify different grades and types of pipe as they were originally developed. In 1963, the three specifications were consolidated into one by the API, using the identification, API Specification 5L, and the title, "API Specification for Line Pipe." All grades and types of steel line pipe are now combined in the one specification. Since 1963, API 5L has been revised to incorporate editorial changes in the 1964 edition, and recently in the 1985 edition, to provide requirements for a higher strength X80 grade (80,000 psi specified minimum yield strength).

Comments on the Notice

All comments received by RSPA in response to the notice were favorable for adoption of the 1985 edition of API Specification 5L without exception or condition. Comments were received from the Battelle Columbus Laboratories, the Champlin Petroleum Company, the Interstate Natural Gas Association of America, the Michigan Department of Commerce, Mountain Fuel Resources, Inc., Mountain Fuel Supply Company, the Northern Natural Gas Company, the Ohio Gas Association, Pacific Gas and Electric, the Southern California Gas Company, Tennessee Gas Pipeline Company, Texas Eastern Pipeline Company, the Transcontinental Gas Pipeline Company, Washington Gas, and the API. Commentary had also previously been provided by Battelle and the Bethlehem Steel Corporation in advisory committee meetings.

In the notice, RSPA had invited comments on increasing the yield/tensile (Y/T) ratio for the X80 grade in the 1985 edition of API 5L, stating:

Besides the inclusion of the X80 grade, other changes in the 1985 edition are (1) an increase in the yield/tensile ratio from .90 for X70 to .93 for X80, and (2) allowing supplementary fracture toughness requirements to replace the yield/tensile ratio by agreement between the purchaser and the manufacturer for any grade of pipe. Interested persons having experience and background qualifications in this area are invited to comment on the safety impact of these changes if any is perceived. RSPA is particularly interested in receiving comments

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on the .93 yield/tensile ratio for X80 steel line pipe because it represents a reduction, although small, of the margin between the maximum operating stress level (72 percent of the specified yield strength) and the ultimate tensile strength.

No commenter perceived a safety impact from the increase in the maximum Y/T ratio for the new X80 grade, although questions were raised with regard to the purpose and application of the ratio in the specification. The API states that it incorporated the Y/T ratio in the specification to limit the amount of cold expansion in the manufacture of lower strength grades of pipe, resulting in an increase in yield strength but no change in ultimate tensile strength. The API provided the following explanation:

When Y/T ratio first appeared in API 5LX in the early 1950's, the API Committee on Standardization of Tubular Goods believed that a limitation should be placed on the amount of cold expansion of pipe to enhance its yield strength. The method chosen to do this was a Y/T ratio limitation. The original Y/T ratio limitation was 0.85. When Grade X65 was first approved, a Y/T ratio of 0.90 was established for wall thicknesses greater than 0.375 inches. When Grade X70 was added, a Y/T ratio limitation was set at 0.90.

Tennessee Gas also commented on the history of the Y/T limitation, providing the following information.

The nature of steel is such that, as the strength increases, the ratio of yield strength to tensile strength becomes greater. Therefore, it was necessary for the Y/T ratio limitation to be increased for the higher strength grades. Otherwise, the pipe could not be manufactured and meet the specification.

In recent years, it has been necessary for pipe users to specify line pipe with high toughness properties. In order to provide pipe with greater toughness in an economical manner while maintaining acceptable weldability, pipe manufacturers developed specialized rolling procedures for the plate. These procedures resulted in pipe with a higher than normal Y/T ratio. Since one of the significant pipe properties affected by excessive cold expansion is fracture toughness, the Committee agreed that, for pipe that is made to a fracture toughness requirement, the Y/T ratio was unnecessary. The standards were then changed in 1981 to accommodate this problem.

It must be mentioned that none of this affected the specified minimum values for yield strength, tensile strength or ductility.

Also, the Michigan Department of Commerce stated that it supports the RSPA proposal, but expressed reservations as to whether X80 steel line pipe should be used for natural gas systems. The comment letter stated in part:

The reservations we have come from an article that appeared in the Wall Street Journal on January 16, 1984 regarding high strength steel. (See attached copy.) We request that RSPA and/or experts in metallurgy consider the contents of this article and determine if X80 line pipe has its place in the natural gas pipeline systems.

The article referred to discusses failures, such as the Alexander L. Kielland hotel platform in the North Sea, metal-in-the-body failures, hydrogen storage tank failures and problems with high strength steel vessel walls of nuclear reactors, as well as automobile and aircraft failures. RSPA has reviewed the article (noting that the cause for the Kielland platform failure was not related to the use of high strength steel) and has consulted with expert metallurgists who are either members of the API Tubular Goods Standardization Committee or are employed by the Committee. The problems discussed in the article should not arise in the operation of gas pipelines because of the additional inspection and testing requirements for the construction of gas pipelines (including hydrostatic testing) and because of the amount of testing and evaluation that is done before approval of a new steel pipe grade and inclusion of API Specification 5L. Failures of materials discussed are those that are related to improper practices or to the usage of nonstandard alloy or heat-treated steels that are not produced in accordance with the requirements of a stringent specification and that may be used in nonregulated applications. As a result, this final rule permits the use of X80 steel line pipe subject to meeting all of the requirements of API Specification 5L, including mandatory fracture toughness requirements. Persons having a further interest should specifically address the requirements of the specification.

Use of Other Editions

Three commenters pointed out a possible problem with regard to the removal of reference to the earlier editions of API 5LS and 5LX and suggested a change to § 192.7, Incorporation by reference. Because RSPA does not intend to prohibit the use of line pipe that may have been manufactured to formerly listed editions and stock-piled for later use, the language suggested to clarify § 192.7(c) is incorporated by this final rule as an editorial change.

Advisory Committee Review

Section 4(b) of the Natural Gas Pipeline Safety Act of 1968, as amended (49 U.S.C. 1673(b)), and section 204(b) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2003(b)) require that each proposed amendment to a safety standard established under these statutes be submitted to a 15-member advisory committee for its consideration. The Technical Pipeline Safety Standards Committee, composed of persons knowledgeable about transportation of gas by pipeline, considered the proposed amendments to §§ 192.55, 192.113, Appendix A, and Appendix B of Part 192 in a meeting on December 10, 1985, in Washington, D.C. The Technical Hazardous Liquid Pipeline Safety Standards Committee considered the proposed amendments to §§ 195.3 and 195.106 in a meeting on November 18, 1985, in Washington, D.C. Both committees found the proposed amendments to be technically feasible, reasonable, and practicable. A copy of the report of each committee is available in the docket for review.

Classification

This final rule is considered to be nonmajor under Executive Order 12291 and is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. The rule merely updates the incorporation by reference provisions of 49 CFR Parts 192 and 195 with regard to API specifications for line pipe.

Since the impact of this final rule is expected to be minimal, the agency certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Parts 192 and 195

Pipeline safety, Incorporation by reference, Line pipe.

PART 192—[AMENDED]

In view of the foregoing, RSPA amends 49 CFR Parts 192 and 195 as follows:

1. The authority citation for Part 192 continues to read as follows:

Authority: 49 U.S.C. 1672; 49 U.S.C. 1804; 49 CFR 1.53, and Appendix A of Part 1.

2. By revising § 192.7(c) to read:

§ 192.7 Incorporation by reference.

* * * * *

(c) The full titles for the publications incorporated by reference in this part are provided in Appendix A to this part. Numbers in parentheses indicate applicable editions. Earlier editions of documents listed or editions of documents formerly listed in previous editions of Appendix A may be used for materials and components

manufactured, designed, or installed in accordance with those earlier editions or earlier documents at the time they were listed. The user must refer to the appropriate previous edition of 49 CFR for a listing of the earlier listed editions or documents.

3. By revising § 192.55(e) to read:

§ 192.55 Steel pipe.

* * * * *

(e) New steel pipe that has been cold expanded must comply with the mandatory provisions of API Specification 5L.

§ 192.113 [Amended]

4. By amending § 192.113 to remove reference to API 5LX and API 5LS and related entries from the table of longitudinal joint factors.

5. By amending Appendix A to Part 192 to remove and reserve subdivisions II.A.(5) and II.A.(6) and by amending II.A.(4) by changing "(1980)" to "(1985)."

6. By amending subdivision I of Appendix B to Part 192 to remove "API 5LS-Steel pipe (1980)" and "API 5LX-Steel pipe (1980)" from the listed pipe specifications, and by removing the date "(1980)" following "API 5L-Steel pipe" and inserting in its place "(1985)."

7. By revising the introductory text of subdivision II.D. of Appendix B to Part 192 to read:

Appendix B—Qualification of Pipe

* * * * *

II. * * *

D. Tensile Properties. If the tensile properties of the pipe are not known, the minimum yield strength may be taken as 24,000 p.s.i. or less, or the tensile properties may be established by performing tensile tests as set forth in API Specification 5L. All test specimens shall be selected at random and the following number of tests must be performed:

* * * * *

PART 195—[AMENDED]

8. The authority citation of Part 195 continues to read as follows:

Authority: 49 U.S.C. 2002; 49 CFR 1.53, and Appendix A to Part 1.

9. By amending § 195.3 to remove paragraphs (c)(1)(iv) and (c)(1)(v) and by amending paragraph (c)(1)(iii) by changing "(1980)" to "(1985)".

10. By revising the introductory text of § 195.106(b) to read:

§ 195.106 Internal Design Pressure.

* * * * *

(b) The yield strength to be used in determining internal design pressure under paragraph (a) of this section is the specified minimum yield strength. If the specified minimum yield strength is not known, the yield strength is determined by performing all of the tensile tests of API Specification 5L on randomly selected test specimens with the following number of tests:

* * * * *

11. By amending § 195.106(e) to remove reference to API 5LX and API 5LS and related entries from the table of seam joint factors.

Issued in Washington, D.C., on April 17, 1986.

M. Cynthia Douglass,
Administrator, Research and Special Programs Administration.

[FR Doc. 86-9018 Filed 4-22-86; 8:45 am]
BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 533

[Docket No. FE-86-01, Notice 2]

Light Truck Average Fuel Economy Standards; Model Year 1988

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This notice establishes new light truck average fuel economy standards for model year 1988. The standards are required to be established at the maximum feasible level under section 502(b) of the Motor Vehicle Information and Cost Savings Act. Based on its analysis, the agency is establishing a combined average fuel economy standard of 20.5 mpg for model year 1988 light trucks. Optional separate standards of 21.0 mpg for two-wheel drive light trucks and 19.5 mpg for four-wheel drive light trucks are also established.

DATES: The amendments made by this rule to the Code of Federal Regulations are effective May 23, 1986. The standards are applicable to the 1988 model year. Petitions for reconsideration must be submitted within 30 days of publication.

ADDRESS: Petitions for reconsideration should be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Shelton, Office of Market Incentives, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202-755-9384).

SUPPLEMENTARY INFORMATION:

Background

On January 24, 1986, NHTSA published in the **Federal Register** (51 FR 3221) a notice of proposed rulemaking (NPRM) on the establishment of light truck average fuel economy standards for model years 1988 and 1989. The issuance of the standards for those years is required by section 502(b) of the Motor Vehicle Information and Cost Savings Act, 15 U.S.C. 2002(b). That provision requires the Secretary of Transportation to set light truck standards at the "maximum feasible average fuel economy level" for each model year after model year 1978. In determining the "maximum feasible" level, the Secretary is directed to consider four factors: technological feasibility, economic practicability, the effect of other Federal motor vehicle standards on fuel economy, and the need of Nation to conserve energy. See 15 U.S.C. 2002(e).

The agency's January 1986 NPRM proposed ranges of possible standards for all types of light trucks, with the 1988 combined standard to be set within the range of 20.5 mpg to 22.0 mpg, and the 1989 combined standard to be set within the range of 20.5 mpg to 22.5 mpg. As a compliance alternative to the combined standard, the agency also proposed separate standards for two- and four-wheel drive vehicles. The agency stated that in view of factual uncertainties, the setting of standards outside the proposed ranges was possible depending on the comments that might be submitted.

NHTSA received comments on the NPRM from General Motors, Ford, Chrysler, American Motors, Volkswagen, the National Automobile Dealers Association (NADA), the Center for Auto Safety (CFAS), numerous employees of light truck manufacturers, dealers, and private individuals. The issues raised by the commenters are discussed below.

Summary of Decision

At this time, the agency has concentrated its efforts on analyzing issues relating to the 1988 standard. Based on its analysis, NHTSA is establishing a combined average fuel economy standard of 20.5 mpg for model year 1988 light trucks. Optional separate standards of 21.0 mpg for two-wheel drive (2WD) light trucks and 19.5 mpg for four-wheel drive (4WD) light trucks are also established. Both the combined and optional separate standards are being set at the same levels as the MY 1987 light truck fuel economy standards.

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A decision will be reached at a later date with respect to the proposed model year 1989 standards.

Manufacturer Capabilities of MY 1988

As part of its consideration of technological feasibility and economic practicability, the agency has evaluated the manufacturers' fuel economy capabilities for MY 1988. In making this evaluation, the agency has analyzed manufacturers' current projections and underlying product plans and has considered what, if any, additional actions the manufacturers could take to improve their fuel economy.

A. Manufacturer Projections

General Motors: As discussed in the NPRM, General Motors (GM) projected in March 1985 that it could achieve a CAFE level of 22.6 mpg in MY 1988. That projection was 0.2 mpg higher than that company's 22.4 mpg projection for MY 1987. While GM's March 1986 submission indicated that program risks (the details of which are subject to a claim of confidentiality) could result in a decline in its projected MY 1987 CAFE of up to 1.3 mpg, the NPRM stated that the agency did not believe that particular risks affected GM's projection for MY 1988.

The NPRM noted that GM had emphasized the following in its March 1985 submission:

> All estimates and future product plans contained in this submission are but a "snapshot in time". As we have stated on a number of occasions . . ., changes in the economic outlook, in fuel availability, in fuel prices or in consumer preference significantly affect GM's CAFE. The unpredictability of the market, the unknown effect of future light duty truck emission regulations and the unproven results of future combinations of technology cause CAFE projections to be . . . tentative . . .

In GM's February 1986 comment on the NPRM, the company lowered its CAFE projections for MY 1987 and MY 1988 to levels no higher than 20.5 mpg and 20.7 mpg, respectively.

One reason for the reduced MY 1987 projection is the realization of the program risk noted above, which accounts for 0.9 mpg of the decline. Additional reasons, together accounting for another 0.9 mpg of the decline, include the achievement of lower-than-anticipated fuel economy from certain programs, the purchase by consumers of more options than expected and certain changes to meet consumer demand for higher performance. A small portion of the reduction, 0.1 mpg, is associated with increased sales of certain larger engines and heavier trucks.

(The details of the changes are subject to a claim of confidentiality as confidential business information whose release could cause competitive harm. This is also true with respect to this notice's discussion of GM's MY 1988 projection and to the projections of other manufacturers.)

These changes, other than the program risks, also affect GM's MY 1988 projection, together accounting for a 1.0 mpg decline in that projection. The company also identified a number of other reasons for the reduced projection. The company no longer plans to make certain product changes which it once planned for that model year. Reasons for not making the changes relate to such concerns as durability, cost, results of market research, and the unavailability of certain equipment it planned to use. GM also now expects to include additional standard equipment on certain vehicles. These changes together account for an additional 0.6 mpg of the decline. GM also identified an apparent error in its earlier projection, accounting for 0.2 mpg of the decline, and cited miscellaneous reasons for the remaining 0.1 mpg loss.

GM's comment on the NPRM indicated that uncertainties such as the future price of fuel, small truck sales by foreign competitors and potential less-than-anticipated gains through the use of technology could result in its MY 1988 CAFE level being below its current projection of 20.7 mpg.

GM presented three possible scenarios to illustrate how factors such as these could influence its MY 1988 CAFE. The first scenario assumes constant rather than rising fuel prices and an economic outlook which reflects the former price pattern instead of the latter. According to GM, there would be a reduced incentive under this scenario for customers to buy smaller vehicles with more fuel efficient powertrains, and the company would experience a model and powertrain mix change estimated to cause a 0.3 mpg to 0.4 mpg decline in its MY 1988 CAFE projection. GM's second scenario develops that company's sensitivity to an unanticipated increase in import light truck sales above its current forecasts. According to that company, this could result in a 0.2 mpg to 0.3 mpg decline in its MY 1988 CAFE projection. GM's third scenario focuses on the introduction of emission controls which will cause heavy duty engines in trucks over 8500 pounds gross vehicle weight rating (GVWR) to be equipped with catalytic converters and use unleaded gasoline just as the trucks with lower GVWR's have been. This regulatory change creates the potential for a shift in consumer purchases from vehicles which are just over 8500 pounds GVWR and thus not subject to the fuel economy standards to vehicles which are between 7000 pounds and 8500 pounds GVWR and within the ambit of those standards. According to GM, this potential increase in the sales of the high GVWR light trucks could reduce its CAFE projection below 20.7 mpg by approximately 0.1 mpg.

Ford: As discussed in the NPRM, Ford projected in February 1985 that it could achieve a CAFE level of up to 22.5 mpg in MY 1988. This number was adjusted in the NPRM to 22.2 mpg, however, in light of later technical information provided by Ford. The primary reason for the reduction was that actual test data regarding some programs had indicated smaller fuel economy improvements than projected. The 22.2 mpg level was 1.2 mpg higher than Ford's 21.0 mpg projection for MY 1987. The NPRM noted, however, that 0.4 mpg of the increase was attributable to mix shifts toward more fuel-efficient vehicles, which the agency considered unlikely given the recent and expected continued declines in gasoline prices. Thus, if these mix shifts were deleted, the upper end projection for MY 1988 would be 21.8 mpg.

The NPRM noted that Ford had identified several risks to its MY 1988 projection. These included both technological risks, i.e., risks that technological programs might not achieve expected fuel economy gains, and mix shift risks, i.e., risks that the sales mix of Ford's light truck fleet might shift toward less fuel-efficient vehicles. Ford identified additional technological risks totaling 0.9 mpg and mix shift risks totalling 0.6 mpg, for a total risk of 1.5 mpg. However, the agency had already incorporated 0.7 mpg in technological and sales mix risks in the 21.8 mpg figure, reducing the remaining risk to 0.8 mpg. Thus, if the events creating these risks occurred simultaneously, the lower end figure for MY 1988 would have been 21.0 mpg as of the time of the NPRM.

In Ford's February 1986 comment on the NPRM, the company lowered its CAFE projections for both MY 1987 and MY 1988. For MY 1987, Ford projected a CAFE level of 20.2 mpg to 20.4 mpg. For MY 1988, it projected a CAFE level of 20.2 mpg to 20.6 mpg. In explaining its lower projections, Ford stated that ". . . recent development testing of new hardware and technology has yielded lower levels of fuel economy benefit than had been predicted earlier in the program."

In the final rule for MY 1987, published in the Federal Register (50 FR 40398) on October 3, 1985, the agency noted that Ford's then latest projection for that year was for a CAFE level of no higher than 21.0 mpg. Even that figure was subject to possible adverse mix shifts of 0.4 mpg and technological risks totalling 0.3 mpg. The decline in Ford's upper end projection from 21.0 mpg to 20.4 mpg is attributable to technological reasons, almost entirely related to certain programs not achieving expected fuel economy. Of particular significance is a drop in projected fuel economy for the electronic fuel injection program for Ford's 4.9 liter I–6 engine. A very small portion of the decline, less than 0.1 mpg, is related to small increases in weight and performance. Technological risk explains the difference in Ford's low and high end current CAFE projections for MY 1987.

The drop in Ford's MY 1988 CAFE from the 21.8 mpg value used in the NPRM to the company's current maximum projection of 20.6 mpg is also attributable to technological reasons. The most significant factor in the decline is the drop in projected fuel economy for the 4.9 liter fuel injection program, which carries over from MY 1987. In addition, Ford no longer plans to make a certain technological change due to durability concerns. A number of small factors, primarily engine calibration issues, explain the remaining decline. Some of the engine calibration changes are being made to ensure compliance with emissions standards.

Ford's 20.6 mpg projection is subject to both further technological risks and mix shift risks. The company identified technological risks of 0.3 mpg, which are related to certain programs possibly not achieving projected fuel economy levels. Ford also presented a mix risk scenario in which sales were higher for standard trucks and lower for compact trucks, resulting in a potential 0.3 mpg CAFE loss. Ford's 20.2 mpg to 20.6 mpg range is explained by these risks. The company also indicated that its CAFE could decline an additional 0.2 mpg as a further mix shift risk if gasoline prices remain below $1.00 per gallon on a sustained basis.

Chrysler: As discussed by the NPRM, Chrysler projected in August 1985 that it could achieve a CAFE level of 22.3 mpg in MY 1988. This projection was 1.1 mpg higher than that company's then latest MY 1987 projection. The NPRM stated that the bulk of the improvement would be attributable to technological improvements, especially transmission improvements. The NPRM noted that Chrysler also expected slight mix shifts toward smaller, more fuel-efficient trucks.

In March 1986, Chrysler provided new projections of 20.4 mpg to 21.3 mpg for MY 1987 and 21.5 mpg to 22.3 mpg for MY 1988. The company stated the following:

> There is considerable uncertainty associated with predicting any specific single level of annual CAFE for the 1987–89 time frame because we are in the process of revising our long range plan. For this reason, our new estimate for model years 1987–89 are presented as ranges to indicate the effects of various marketing alternatives available to Chrysler. The high ends of our ranges represent Chrysler's fuel economy capabilities, given our current product plan. These numbers are similar to those previously submitted to [NHTSA], although 1987 estimates are now much firmer due to actual test data being available. The low ends of the ranges represent the results of a new analysis in which it was assumed we would sell our products in a completely free market with no attempt on our part to force the sales mix to a desired fuel economy target.
>
> Both product plans contain the same fuel economy improving technologies and our new Dakota N-Body truck previously described to you. Projected CAFE differences are solely a result of mix shifts . . . . Should international economic conditions continue to change, even the low end of these estimates may ultimately require market forcing and/or product limiting actions by Chrysler.

The 22.3 mpg estimate at the high end of Chrysler's projection for MY 1988 is thus the same mix of vehicles and technology as discussed in the NPRM. The 21.5 mpg estimate at the low end of that company's range for MY 1988 is based on mix shifts toward larger, less fuel-efficient trucks.

American Motors: In February 1985, American Motors (AMC) projected 4WD CAFE levels of 18.5 mpg to 22.2 mpg for MY 1987 and 19.0 mpg to 22.7 mpg for MY 1988. The company projected 2WD CAFE levels of 21.5 mpg to 24.3 mpg for MY 1987 and 21.5 mpg to 24.2 mpg for MY 1988. These projections, for which no supporting data were provided, were the latest available to the agency at the time the NPRM was issued. Since AMC had projected in its mid-model year report for MY 1985 that its CAFE levels for that model year would be 20.3 mpg for its 4WD fleet and 23.5 mpg for its 2WD fleet, the agency placed greater credence in the upper ends of the company's CAFE projections for MY 1987–88. The NPRM noted, however, that AMC had recently advised NHTSA that it was revising its projections.

In AMC's February 1986 comment on the NPRM, the company projected that its 4WD CAFE levels would be 19.2 mpg for MY 1987 and 19.3 mpg for MY 1988. AMC projected that its 2WD CAFE levels would be 21.3 mpg for both MY 1987 and MY 1988. With 4WD vehicles accounting for most of AMC's light truck fleet, these figures result in composite CAFE levels of 19.7 mpg for MY 1987 and 19.9 mpg for MY 1988.

AMC provided the following explanation for the decline in its CAFE projections:

> . . . As has been widely reported in the press, our Jeep products have experienced record sales, which have substantially changed our model mix projections. Lower-than-anticipated fuel economy performance for some future models, coupled with some administrative changes to reduce product complexity are also expected to measureably alter the fleet average values. In addition, our 2- and 4-wheel drive pickup trucks, which had not yet been introduced last February, are now on the market, giving us some actual sales information for developing future model mix projections.

NHTSA's analysis of the data provided by AMC indicated that most of the reason for the decline in that company's CAFE projections was a drop-off in average fuel economy for each truckline and not sales mix changes between trucklines. For 2WD vehicles, the fuel economy declines within each truckline caused all of the drop in the projections for both MY 1987 and MY 1988. For 4WD vehicles, the drop in the MY 1987 projection was attributable to both a shift in sales mix and lower fuel economy levels for individual trucklines. The drop in the MY 1988 projection, however, was attributable entirely to lower fuel economy levels for individual trucklines.

AMC's comment on the NPRM stated that uncertainties related to lower gasoline prices and market trends toward greater performance could significantly lower its CAFE beyond its projections. AMC stated that there is a level of uncertainty with respect to engine mix in Jeep XJ vehicles and a possibility that sales of larger model "senior Jeeps" such as the Grand Wagoneer and J-series pick-up trucks will escalate. That company also stated that sales of its smaller Commanche pick-ups could decline as buyers "move up" to larger trucks.

Volkswagen: Volkswagen (VW) currently offers only one light truck model, the Vanagon compact bus. In February 1985, VW projected a CAFE level of 21 mpg through MY 1990. In VW's March 1986 comment on the NPRM, the company provided a MY 1988 CAFE projection of 19.1 mpg. VW stated that, in response to consumer demand, it has had to make performance improvements in the

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Vanagon vehicles. The company also stated that it has introduced a new 4WD version of the Vanagon, to increase the utility of the vehicle to the consumer.

Other manufacturers: Foreign manufacturers other than VW compete only in the small vehicle portion of the light truck market and are therefore expected to achieve CAFE levels well above GM, Ford, and Chrysler, which offer full ranges of light truck models.

NHTSA is aware of one other domestic manufacturer, Lands Motor Company, whose light truck fuel economy capability is expected to be below that of GM, Ford, Chrysler and AMC. While that company did not submit comments on the NPRM, it has submitted a petition requesting that the agency establish a separate class of light truck for its Precedent model and provide a separate fuel economy standard for that class. (This issue and a similar one raised by Volkswagen are addressed below in the section entitled Setting the MY 1988 Standards.) Lands Motor Company has a production goal of 500 vehicles for MY 1988, with a CAFE level of 16.9 mpg.

B. Possible Additional Actions To Improve MY 1988 CAFE

The possible additional actions which manufacturers may be able to take to improve their MY 1988 CAFE above the levels which are currently projected may be divided into three categories: further technological changes to their product plans (beyond what they are already planning), increased marketing efforts, and product restrictions.

1. Further Technological Changes

Ford commented that it is unaware of any new technology which could be executed within available leadtime to improve its CAFE significantly. Chrysler commented that "(i)t is important to recognize that the leadtime required to implement improvements in engines, transmissions, aerodynamics and rolling resistance, is usually three to four years." That company argued that "as of today, it is too late in the engineering cycle to design, develop, and implement any further major technological CAFE improvements on 1988–89 model year light trucks."

In light of limited leadtime, the agency agrees that it is too late at this time to initiate further major technological improvements. Once a new design is established and tested as feasible for production, the leadtime necessary to design, tool, and test components such as new body sheet-metal subsystems for mass production is typically 22 to 29 months. Other potential major changes, such as those cited by Chrysler, often take longer. Leadtimes for new vehicles are typically at least three years.

However, there may be sufficient leadtime for manufacturers to make more minor technological changes, such as changes in axle ratios, refinement of engine calibrations, and changes in horsepower. In analyzing specific manufacturer capabilities below, the agency has considered whether manufacturers can make these types of changes.

2. Increased Marketing Efforts

As discussed in the NPRM, the agency believes that the ability to improve light truck CAFE by marketing efforts is relatively small. Light trucks are generally purchased for their work-performing capabilities. This is particularly true for the larger, less fuel-efficient light trucks. Since the small light trucks cannot meet the needs of many users, the manufacturers' abilities to use marketing efforts to encourage consumers to purchase smaller light trucks instead of larger light trucks are limited.

As a practical matter, marketing efforts to improve CAFE are largely limited to techniques which either make fuel-efficient vehicles less expensive or less fuel-efficient vehicles more expensive. Moreover, the ability of a manufacturer to increase sales of fuel-efficient light trucks depends in part on increasing its market share at the expense of competitors or pulling ahead its own sales from the future. The ability of domestic manufacturers to make such sales increases is also affected by the strong competition in that market from Japanese manufacturers. While Japanese manufacturers currently have an overall combined market share of about 20 percent of light trucks, their share for the smaller, more fuel-efficient pick-up trucks is about 50 percent.

The agency also notes that the improved fuel efficiency of all sizes of modern light trucks makes it more difficult to sell the small light trucks on the basis of significant operating cost savings. The reason for this is that there are diminishing returns in terms of fuel economy from purchasing smaller light trucks as the fuel efficiency of larger light trucks increases. The average fuel economy of large pickup trucks rose from 13.1 mpg in 1975 to 18.4 mpg in 1985, and the average fuel economy of large vans rose from 13.1 mpg to 17.5 mpg during this time period. The average fuel economy of small pickup trucks rose from 22.1 mpg to 28.2 mpg, and the average fuel economy of small vans rose from 20.7 mpg to 23.9 mpg. (SAE Paper No. 850550, "Light Duty Automotive Fuel Economy . . . Trends Thru 1985.") The fuel economy of large pickup trucks and vans has thus improved more than the fuel economy of small pickup trucks and vans, both in absolute and percentage terms.

Also, as gasoline prices have declined, there are diminishing returns from purchasing more fuel-efficient vehicles. For example, an improvement in fuel efficiency from 20 mpg to 25 mpg at a gasoline price of $1.50 per gallon would save a truck owner about $150.00 per year, assuming 10,000 miles driven annually. However, at a gasoline price of $1.00 per gallon, which more closely reflects today's market, the annual savings drop to about $100.00. The financial savings for smaller changes in fuel economy will, of course, be even lower. Hence, an economically rational consumer will not be as concerned with improving fuel efficiency as gasoline prices decline, making it more difficult for a manufacturer to market its most fuel-efficient vehicles.

A problem with pulling ahead sales is that the manufacturers' CAFE levels for subsequent years are reduced. For example, if a manufacturer increases its MY 1988 CAFE by pulling ahead sales of fuel-efficient light trucks from MY 1989, its MY 1989 CAFE will decrease, compared with the level it would have been in the absence of any pull-ahead sales attributable to marketing efforts. For this reason, a manufacturer cannot continually increase its CAFE simply by pulling ahead sales.

GM commented that "(i)t would be difficult, if not impossible, to predict any gains in CAFE through marketing incentivies based on present and future projections of consumer purchasing preferences, particulary in view of the uncertain future of world oil prices." Ford commented that "because of the number of competitive entries in the compact segment, potential countering actions by each competitor, and the price/cost advantage of imported models, . . . marketing actions cannot be relied upon to produce the desired effect."

Chrysler commented that "(t)ruck buyers are much more sensitive to functional needs in making their purchase decisions and in many cases they must consider their product selection as a longer term decision than a passenger car customer." That company stated that "(f)uel efficiency must often be downgraded in priority for many truck buyers because vehicle function is often paramount to the purchaser's livelihood." The National Automobile Dealers Association commented that because light trucks are most often purchased for capability and practicability reasons, a decision to buy a larger, more powerful vehicle cannot be changed by marketing incentives. That organization emphasized that there are no available alternatives at any price for a consumer that needs a heavier light truck.

Given all of these factors, the agency does not believe that the domestic manufacturers can significantly improve their CAFE levels by increasing marketing efforts.

3. Product Restrictions

As discussed in the NPRM, manufacturers could improve their CAFE by restricting their product offering, e.g., limiting or deleting particular larger light truck models or larger displacement engines. However, such product restrictions could have significant adverse economic impacts on the industry and the economy as a whole. In the final rule reducing the light truck fuel economy standard for MY 1985, the agency concluded that sales reductions to a manufacturer of 100,000 to 180,000 units, with resulting employment losses of 12,000 to 23,000, "go beyond the realm of 'economic practicability' as contemplated in the Act. . . ." 49 FR 41252, October 22, 1984. These impacts were believed by the agency to be a reasonable projection of the impacts to Ford of restricting the availability of larger trucks and engines in order to achieve a 1.5 mpg average fuel economy benefit.

In addition to the adverse impacts on the automotive industry, a wide range of businesses could be seriously affected to the extent they could not obtain the light trucks they need for business use. Also such product restrictions could run counter to the congressional intent that the CAFE program not unduly limit consumer choice. See H.R. Rep. No. 93-340, 94th Cong., 1st Sess. 87 (1975).

GM commented that CAFE standards that are set at too stringent a level could require full-line manufacturers to consider product restrictions as a last resort. GM stated that this would occur only after incentives had been applied and other reasonable steps taken, including the application of carryforward credits. That company stated that product restrictions would be harmful to the vehicle manufacturer, its employees and suppliers, to the consumer and the nation's economy. Ford commented that establishing truck fuel economy standards above manufacturers' capability could result in substantial sales decline, adverse employment effects, and a threat of substantial economic hardship. That company stated that should the MY 1988 standard be set above its capability, it may be forced to restrict the availability of certain V-8 engines in full-size light trucks, vans, Club Wagons and large utilities, and possibly delete some of its full-size products entirely. The company stated that market research data show that the vehicles that would most likely be restricted are used for a combination of commercial as well as personnel uses.

Given all of these considerations, NHTSA concludes that significant product restrictions should not be considered as part of manufacturers' capabilities to improve CAFE.

C. Manufacturer-Specific CAFE Capabilities

In analyzing manufacturer-specific CAFE capabilities, the agency has focused on GM, the largest domestic manufacturer and one of the two "least capable manufacturers" with a substantial share of 4WD sales; Ford, the "least capable manufacturer" with a substantial share of both combined light truck sales and 2WD sales; and AMC, the other "least capable manufacturer" with a substantial share of 4WD sales.

General Motors: As discussed above, while GM projected in March 1985 that it could achieve a CAFE level of 22.6 mpg for MY 1988, it now projects a CAFE level no higher than 20.7 mpg. The agency's analysis indicated that some of the reasons for the decline in GM's projected MY 1988 CAFE level were within that company's control. The company made a number of changes in its product plan which, in the agency's judgment, were not consistent with its long-range maximum fuel economy capability. Other reasons for the decline in GM's projected MY 1988 CAFE level were outside the company's control, including changing sales mixes of vehicles and engines due to consumer demand and achieving lower-than-anticipated gains from the introduction of new technologies.

Some of the product plan changes that were within GM's control canot be reversed within available leadtime. However, the agency's analysis has concluded that GM can still incorporate certain other of the product actions it identified in its March 1985 submission. The agency believes that GM has time to reverse its plans for increasing horsepower and that doing so would not have a significant effect on sales. While GM claimed that this action was necessary to compete in the marketplace, its supporting documentation did not provide a sufficient rationale for the agency to change its conclusion that reversing this action would not result in competitive or other economic harm. Achieving lower horsepower levels would have the effect of increasing GM's CAFE by an additional 0.2 mpg. In addition, GM indicated in its NPRM comments that two other planned actions (the details of which are subject to a claim of confidentiality) will reduce its CAFE by 0.2 mpg. However, the agency believes that those actions can be undertaken without adversely affecting CAFE.

NHTSA thus concludes that GM's MY 1988 CAFE could be as high as 21.1 mpg. However, the agency agrees with GM's comment that it faces a mix shift risk of 0.2 mpg to 0.3 mpg due to continued declines in gasoline prices and concomitant shifts toward larger trucks and engines for MY 1988. NHTSA is not including a risk associated with increased import light trucks in GM's capability. While manufacturers face a continuing challenge to meet possible increased light truck competition from abroad, the agency does not believe this issue, in the particular case of MY 1988 light truck sales, is likely to adversely affect domestic CAFE values. Moreover, the agency does not believe that mix shift risks and potential risks related to increased imports are additive, since lower fuel prices should enhance the domestic manufacturers' competitive positions. NHTSA believes that the issue should instead be recongized as a limitation on manufacturers' abilities to increase their market share of compact trucks beyond their present projections. NHTSA concludes that GM's MY 1988 fuel economy capability is 20.8 mpg to 21.1 mpg.

The agency has also evaluated GM's fuel economy capability for its 4WD fleet for MY 1988. The actions discussed above to raise GM's combined CAFE above its projection would also raise its 4WD CAFE. Taking these additional actions into account, NHTSA has concluded that GM's MY 1988 4WD capability could be as high as 19.5 mpg.

The agency has concluded that there is insufficient time for GM to introduce additional programs or technologies beyond those discussed above to improve its MY 1988 fuel economy level.

Ford: As discussed above, while at the time of the NPRM the agency believed that Ford might be able to achieve a MY 1988 CAFE level of as high as 21.8 mpg, the company now projects a CAFE level of 20.2 mpg to 20.8 mpg. The agency's analysis indicates that virtually all of the decline in Ford's CAFE was due to reasons beyond that company's control. The bulk of the decline in Ford's projected MY 1988 CAFE level is attributable to lower-than-anticipated fuel economy levels for the 4.9 liter fuel injection program. Given the aggressive fuel economy goals of the program when

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it was approved, the agency does not consider it surprising that the goal has not been, and is not likely to be, fully attained. More stringent EPA emissions requirements also added to the difficulty of meeting the original fuel economy goal. The only significant change in Ford's MY 1986 product plan that reduced its projected CAFE was the deletion of a certain confidential technological change due to durability concerns. The agency concurs with Ford's concern about this particular issue.

The agency does not consider it likely that Ford can achieve the 20.8 mpg upper end of its range of MY 1988 CAFE values. The sales mix included in Ford's 20.8 mpg projection for MY 1988 is comparable to the mix Ford now expects for MY 1986. The agency believes that Ford's actual My 1988 sales mix could experience some further shift toward larger trucks and engines, should gasoline prices continue to decline. Thus, the agency agrees with Ford's assessment that it faces mix shift risks of 0.3 to 0.5 mpg. As discussed above, Ford, also faces technological risks of 0.3 mpg. Taking all of these risks into account, Ford's maximum achievable CAFE could be as low as 20.0 mpg. The agency believes it likely that some but not all of these risks will occur and concludes that Ford's MY 1988 capability does not exceed 20.5 mpg.

The agency has also evaluated Ford's 2WD and 4WD fuel economy capabilities. Since the company's projected 2WD CAFE is higher than those projected by Chrysler, GM and AMC, the agency did not focus on Ford in establishing the separate 2WD standard. Ford's 4WD projection is slightly lower than those of those projected by Chrysler, GM and AMC. With the consideration of the risks to Ford's projected 2WD CAFE, the agency concluded that company's 2WD CAFE does not exceed 21.0 mpg.

As with GM, NHTSA concludes that there is insufficient leadtime for Ford to introduce additional new programs or technologies to increase its MY 1988 CAFE.

AMC: AMC projects that its 4WD CAFE will decline from 20.0 mpg for MY 1986 to 19.3 mpg for MY 1988. In analyzing AMC's fuel economy capability, NHTSA looked closely at the changes that are projected to lower that company's CAFE. The agency has concluded that certain changes related to that company's efforts to reduce product complexity, in an effort to improve its profitability, could be reversed within available leadtime, thereby raising AMC's 4WD CAFE by 0.2 mpg. The agency has also concluded that AMC could take certain development and refinement actions that would raise its 4WD CAFE by 0.1 mpg to 0.2 mpg. The agency therefore concludes that AMC's MY 1988 4WD CAFE could be as high as 19.7 mpg.

NHTSA believes that AMC faces some mix shift risks, as well as risks that it may not be able to achieve all of the additional gains identified by the agency's analysis. Because the agency believes that some but not all of these risks will occur, it concludes that 19.5 mpg is that company's maximum 4WD fuel economy capability. The agency concludes that there is insufficient leadtime for AMC to introduce additional new programs or technologies to increase its MY 1988 CAFE.

Other Federal Standards

A. Safety Standards

As discussed by the NPRM, several recent and proposed changes in Federal safety requirements may affect CAFE. These include several amendments to NHTSA's lighting standard, which permit reductions in aerodynamic drag and slight weight savings; an amendment to the agency's occupant crash protection standard to promote the comfort and convenience of safety belts, and a proposal to extend the applicability of the agency's standard concerning steering control rearward displacement to additional light trucks.

The NPRM stated that while the agency has estimated that passenger car fuel economy could be increased by 0.4 to 0.9 percent by using aerodynamic headlamps, it is likely that the potential fuel economy improvement for light trucks by adoption of this feature is less. The reason for this is that the basic shape of light trucks is often dictated by load carrying capability or other functional attributes, thereby making it more difficult to reduce aerodynamic drag. Ford commented that it agrees with the agency's conclusion in the PRIA that the potential for CAFE improvement from vehicle aerodynamics is minimal due to the higher frontal area and drag coefficients inherent in light trucks compared with passenger cars. GM commented that aerodynamics headlamps will not have an impact on light truck CAFE in the 1986–89 timeframe. That company also noted that truck designs which included improved aerodynamics through the use of lower profile headlamps and more rounded sheet metal were not well received by the public in recent design clinics.

The NPRM cited the PRIA's conclusion that the effect of the comfort and convenience requirements on light truck CAFE will be negligible, since both the number of affected vehicles and weight impact are small. GM and Ford agreed that these requirements will not significantly affect CAFE.

With respect to the proposal to extend the applicability of the agency's standard on steering control rearward displacement, the NPRM cited the PRIA's similar conclusion that CARE would not be significantly affected since the number of affected vehicles is believed to be small and the required modifications minimal. GM disagreed with this conclusion, stating that the standard would primarily affect the older model lines in its fleet and that significant mass increases may result from required vehicle changes. That company stated that the magnitude of the mass increases associated with the vehicle changes has not been determined, but may be relatively large and could negatively affect CAFE. Ford commented that the Econoline is its only vehicle anticipated to have significant potential for weight increase due to this proposal. It stated that since baseline testing has not been completed, specific corrective actions have not been identified and the weight effect of these changes remains an open issue. NHTSA currently anticipates that any final rule concerning this proposal would have an effective date of September 1, 1988, or later and therefore should not impact manufacturers' MY 1988 CAFE levels, significantly, if at all. The agency will address these comments to the extent necessary in establishing the MY 1989 light truck fuel economy standards.

B. Environmental Standards

The NPRM cited several final and proposed changes in environmental standards which may affect CAFE.

The Environmental Protection Agency (EPA) published a proposal on July 1, 1985 (50 FR 27168) to provide test adjustment credits to light truck manufacturers for changes made in test procedures. Assuming that EPA's final rule is along the lines of the proposal, the rulemaking is not likely to have any significant effect on the manufacturers' projections discussed above.

The EPA requirement for control of diesel particulate matter becomes more stringent in MY 1987. NHTSA's NPRM noted that in the preamble to the final rule establishing MY 1987 light truck fuel economy standards, the agency concluded that any impact of the diesel particulate requirement on fuel economy would be very small, i.e., much less than 0.1 mpg. GM commented that the standard will have a negative impact on its CAFE but that the impact will be small since diesel sales have declined. According to that company, the maximum impact on its MY 1988 CAFE is estimated to be 0.05 mpg. AMC commented that more stringent standards are reducing diesel engines, not solely because of technological difficulties, but because with the low sales volume it would be impossible to recover the engineering costs associated with development of control systems. That company argued that the impact on CAFE of a more stringent emissions standards is the total removal of a fuel-efficient engine from the market, not just an incremental loss in fuel economy due to meeting more stringent standards. After analyzing the comments, the agency continues to believe that there will be little CAFE effect from the more stringent particulate standard since manufacturers do not plan on offering significant volumes of diesel engines that would require changes. The agency agrees with AMC that when volumes for an engine family drop below certain levels, it may become economically unattractive to spend the money necessary to certify compliance with the emissions standards. However, this is a business decision and not a direct result of the more stringent requriements to control emissions.

The EPA requirement for control of oxides of nitrogen (NO_x) becomes more stringent in MY 1988. As noted in NHTSA's NPRM, EPA estimates that with the use of three-way catalyst technology, there will no net loss in fuel efficiency and possibly even small gains. Moreover, since the EPA regulation provides for averaging compliance with the more stringent particulate standard and the oxides of nitrogen standard, manufacturers have greater flexibility to help ensure that there are little or no attendant fuel economy penalties.

GM commented that the recalibration required to meet the 1988 NO_x standard decreases its light truck CAFE 0.3 mpg to 0.35 mpg from the level attainable if the standard were not changed. The company stated that this reduction assumes across-the-board use of closed loop throttle body injection and three way catalysts for gasoline vehicles, and has been factored into its CAFE projections. Ford stated that it does not believe that EPA's overall assessment that there will be no net loss in fuel efficiency associated with the NO_x standards is applicable to its vehicles. Ford argued that paired fuel economy data from its MY 1985 Federal and California vehicles show a fuel economy penalty of 1.3 percent to 5.3 percent (0.4 to 1.2 mpg) between the versions having the same control technologies. (California vehicles were required to meet a MY 1985 NO_x standard that was more stringent than either the current or MY 1988 Federal standard.) According to that company, these data are consistent with its conclusion presented earlier to the agency that a light truck fuel economy penalty of 0.5 mpg may be encountered from the new Federal standard. Ford stated that a reassessment of its 1988 capabilities indicates a fuel economy penalty of about 0.2 mpg for its fleet, and that it still anticipates some degree of risk that the penalty is understated. That company also stated that it does not see any benefit in using the NO_x averaging concept adopted by EPA in light of the restrictions imposed by the conditional certificates of conformity and the engine family emission limits provisions. Ford stated that it had included a fuel economy penalty of 0.2 mpg in its MY 1988 projection.

NHTSA believes that GM's and Ford's arguments about a fuel economy penalty associated with the more stringent NO_x standards are consistent with EPA's position presented in the NPRM. That position is that with the use of three-way catalyst technology, the new NO_x standard will not cause any net loss in fuel efficiency, compared to the fuel efficiency levels under the current NO_x standard. There might even be small gains as a result of the new standard. The losses to which GM and Ford refer are actually "gains foregone" in the context of EPA's analysis, i.e., the loss is the difference in fuel economy capability of a closed loop three-way catalyst system calibrated to meet the current and new NO_x standards. Thus, by adopting three-way catalyst technology, the manufacturers avoid any losses in fuel economy associated with the new NO_x standards but do not achieve the gains that would be associated with such technology in the absence of the new standards.

AMC commented that other emission-related considerations are the increase in the useful life interval, limited maintenance intervals, and warranty liability. That company argued that because of these restrictions, manufacturers must reduce compliance/warranty risks by utilizing current technology with proven durability in the field. AMC stated that this has a direct effect on decisions to adopt newer fuel-efficient technology, especially for the lower volume manufacturers, until after the technology has proven its durability in the field for 11 years/120,000 miles. AMC did not provide any data concerning how these types of considerations affect its CAFE. As a general matter, NHTSA believes it would be inappropriate to assume that manufacturers need to wait 11 years before deciding to adopt new technology for purposes of emissions and/or fuel economy.

NHTSA is not aware of any plans on the part of EPA to promulgate noise regulations applicable to MY 1988 light trucks and therefore does not anticipate any attendent fuel economy penalties.

GM and Ford cited several other standards which could potentially affect CAFE after MY 1988. The agency will address those comments to the extent necessary in establishing the MY 1989 light truck fuel economy standards.

Need to Conserve Energy

Since 1975, when the Energy Policy and Conservation Act was passed, this nation's energy situation has changed significantly. For example, oil markets have been deregulated and the Strategic Petroleum Reserve has been established.

In 1977, the United States imported 46.4 percent of its oil needs and the value of imported crude oil and refined petroleum products was $67 billion (stated in 1984 dollars). While the import share of total petroleum demand declined after that year, the cost continued to rise to a 1980 peak level of $93.2 billion (1984 dollars). By 1985, the import share had declined to 28.7 percent at a cost of $48.3 billion.

Moreover, imports from OPEC sources have declined, from a high of 6.2 million barrels per day and 70.3 percent of all imports in 1977 to 1.8 billion barrels per day and 36.2 percent of imports in 1985. As imports have shifted to non-OPEC sources, such as Mexico, Canada and the United Kingdom and as this country builds up its strategic stockpile, the United State's petroleum market has become less vulnerable to the political instabilities of some OPEC countries, as compared to the situation in the mid-1970's.

Overall, the nation is much more energy independent than it was a decade ago, when Congress established that fuel economy standards program. From 1975 to 1984, energy efficiency in the economy improved by 21 percent (*1984 Annual Energy Review*, Energy Information Administration (EIA), U.S. Department of Energy, p. 47). Domestic oil production is higher than it was in 1975, total imports have dropped 18 percent since then, the value of the nation's imported oil bill has declined 35 percent in the last five years, and the amount of imported oil from OPEC has dropped by 71 percent since the peak of

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1977. As a percentage share of GNP, the net oil import bill fell from 2.8 percent in 1980 to 1.2 percent in 1985. Future trends, as history has demonstrated, are subject to great uncertainty. However, the price of oil is now fully decontrolled, permitting consumers to make choices in response to market signals and allowing the market to adjust quickly to changing conditions. The Strategic Petroleum Reserve now contains approximately 500 million barrels that can be used to ameliorate the effect of supply interruptions. Thus, by any measure, the nation is in a stronger, and more efficient, energy position than it was a decade ago.

GM's comment on the NPRM stated that the effect of "the deregulation of the oil industry and the existence of the Strategic Petroleum Reserve as well as continued conservation and the development of alternative energy sources, such as methanol, has been to place the U.S. in a much more secure energy position. That commenter urged that it is "important that NHTSA take these developments into account in explaining the 'need of the nation to conserve energy.'

Chrysler commented that the need to conserve petroleum-based energy should remain a national priority, despite the transient period of falling fuel prices we are now experiencing. That company stated that there is every reason to expect that oil will again be in short supply, even within the lifetime of vehicles produced in the 1988–89 models years.

The Center for Auto Safety commented that the nation is facing a future of greater reliance on imported petroleum to fuel a vehicle fleet which includes an increasing share of light trucks. That organization argued that the Iraq-Iran war and other Middle East instabilities continue to threaten our national security, and cited a study by the National Academy of Sciences noting that the oil in the Strategic Petroleum Reserve will equal a decreasing number of days supply in future years.

Since the NPRM was prepared, world oil prices have dropped precipitously, from $28 to $30 a barrel late last year to close to $10 a barrel this year in some cases. While the fall in oil prices offers significant benefits to consumers and other users of oil, it may also result in decreased domestic production and increased reliance on foreign imports. The most recent available long term projection by EIA and Data Resources, Inc. (DRI), which are based on late 1985 data, indicate that domestic production could decline from a stable level of 10.8 MMB/D to about 8.2 MMB/D by 1995, and net imports could rise from 4.2 MMB/D to about 7.7 (EIA) to 9.1 (DRI) MMD/D by 1995. If this occurred, imports could reach 50 percent of U.S. petroleum use by 1995. As noted by the NPRM, however, experience has shown that future projections about petroleum supply, prices and imports are subject to great uncertainty.

MY 1988 light trucks meeting the 20.5 mpg standard established by this rule will be more fuel-efficient than the average vehicle in the current light truck fleet in service, thus making a positive contribution to petroleum conservation. Further, the agency believes that many of the changed conditions since 1975, including decontrol of oil, establishment of the Strategic Petroleum Reserve, and diversification of the sources of oil imports, ensure that the nation will remain in a strong energy position, even if imports should rise to earlier levels.

Determining the Maximum Feasible Average Fuel Economy Level

As discussed above, section 502(b) requires that light truck fuel economy standards be set at the maximum feasible average fuel economy level. In making this determination, the agency must consider the four factors of section 502(e): technological feasibility, economic practicability, the effect of other Federal motor vehicle standards on fuel economy, and the need of the nation to conserve energy.

A. Interpretation of "Feasible"

Based on dictionary definitions and judicial interpretations of similar language in other statutes, the agency has in the past interpreted "feasible" to refer to whether something is capable of being done. The agency has thus concluded in the past that a standard set at the maximum feasible average fuel economy level must: (1) Be capable of being done and (2) be at the highest level that is capable of being done, taking account of what manufacturers are able to do in light of available technology, economic practicability, how other Federal motor vehicle standards affect average fuel economy, and the need of the nation to conserve energy. In this rulemaking, as earlier rulemakings, NHTSA has considered and weighed all four statutory factors of section 502(e) and has not merely adopted a level based on what was technologically capable of being done.

B. Industrywide Considerations

The statute does not expressly state whether the concept of feasibility is to be determined on a manufacturer-by-manufacturer basis or on an industrywide basis. Legislative history may be used as an indication of congressional intent in resolving ambiguities in statutory language. The agency believes that the below-quoted language provides guidance on the meaning of "maximum feasible average fuel economy level."

The Conference Report to the 1975 Act (S. Rep. No. 94–516, 94th Cong., 1st Sess. 154–5 (1975)), states:

> Such determination [of maximum feasible average fuel economy level] should therefore take industrywide considerations into account. For example, a determination of maximum feasible average fuel economy should not be keyed to the single manufacturer which might have the most difficulty achieving a given level of average fuel economy. Rather, the Secretary must weigh the benefits to the nation of a higher average fuel economy standard against the difficulties of individual manufacturers. Such difficulties, however, should be given appropriate weight in setting the standard in light of the small number of domestic manufacturers that currently exist, and the possible implications for the national economy and for reduced competition association (sic) with a severe strain on any manufacturer. . . .

It is clear from the Conference Report that Congress did not intend that standards simply be set at the level of the least capable manufacturer. Rather, NHTSA must take industrywide considerations into account in determining the maximum feasible average fuel economy level. The focus, thus, must be on the manufacturers' collective ability to meet a standard, rather than any particular manufacturer's ability to meet it.

NHTSA has consistently taken the position that it has a responsibility to set light truck standards at a level that can be achieved by manufacturers whose vehicles constitute a substantial share of the market. See 49 FR 41251, October 22, 1984. The agency did set the MY 1982 light truck fuel economy standards at a level which it recognized might be above the maximum feasible fuel economy capability of Chrysler, based on the conclusion that the energy benefits associated with the higher standard would outweigh the harm to Chrysler (45 FR 20871, 20876; March 31, 1980). However, as the agency noted in deciding not to set the MY 1983–1985 light truck standards above Ford's level of capability, Chrysler had only 10–15 percent of the light truck domestic sales, while Ford had about 35 percent. (45 FR 81593, 81899); December 11, 1980).

C. Setting the MY 1988 Standards

Based on the analysis described above and on manufacturer projections, the agency concludes that

manufacturers can achieve the combined fuel economy levels in the following table:

Manufacturer	Approximate market share	Combined CAFE
Chrysler	13.0	21.5 mpg to 22.3 mpg.
GM	33.0	20.8 mpg to 21.1 mpg.
Ford	25.0	20.5 mpg.
AMC	5.0	19.9 mpg [1]
Volkswagen	0.5	19.1 mpg.
Lands	(*)	18.9 mpg.

[1] AMC's MY 1988 combined projection, unadjusted for the additional 4WD fuel-economy improving actions identified by NHTSA's analysis.
[*] Less than 0.01 percent.

As indicated above, foreign manufacturers other than Volkswagen only compete in the small vehicle portion of the light truck market and are therefore expected to achieve CAFE levels well above GM, Ford and Chrysler, which offer full ranges of light truck models.

NHTSA has concluded that among the manufacturers with a substantial share of combined light truck sales, Ford is the least capable manufacturer, with a maximum MY 1988 combined fuel economy capability no higher than 20.5 mpg. While AMC has a lower combined capability than Ford, due to AMC's model mix being heavy weighted toward 4WD vehicles, AMC does not have a substantial share of combined light truck sales. Further, the agency has again adopted the approach of setting optional separate 2WD and 4WD standards in light of model mixes that are heavily weighted toward 4WD vehicles. Since, as discussed below, AMC can meet both the 2WD and 4WD standards, it is unnecessary for it to be able to meet the combined standard.

NHTSA has concluded that 20.5 mpg is the maximum feasible combined standard for the 1988 model year. This level balances the potential petroleum savings associated with higher standards against the difficulties of individual manufacturers facing potentially higher standards.

The setting of maximum feasible fuel economy standards, based on consideration of the four required factors, is not a mere mathematical exercise but requires agency judgment. In setting the MY 1988 standards, the agency believes that the current plummeting of gasoline prices affects both the benefits of differing levels of average fuel economy standards and the difficulties of individual automobile manufacturers facing higher standards, i.e., both of the considerations NHTSA must balance in setting maximum feasible standards taking industrywide considerations into account. (See the language of the Conference Report quoted above.)

The main benefit from setting higher fuel economy standards is the potential additional petroleum savings which would result. Since rapidly falling gasoline prices result in reduced consumer demand for higher fuel economy, individual manufacturers whose maximum fuel economy capabilities may be above the level of the industrywide standard may have less incentive to achieve their maximum capabilities. This may explain GM's business decision to cancel some technological programs to improve fuel economy and Chrysler's current reconsideration of its product mix for future model years. There may, of course, be counterbalancing motivations for achieving higher fuel economy, such as a need or desire to earn credits for exceeding fuel economy standards.

The 20.5 mpg standard will be challenging for Ford, without causing significant economic distortion, and act as an incentive for that company to achieve its maximum fuel economy capability. Since Ford produces more than 25 percent of all light trucks subject to fuel economy standards, a standard set at its level can make a substantial contribution to petroleum conservation.

NHTSA believes there are serious questions whether a standard set at a level above Ford's capability would be consistent with the requirement that standards be set taking industrywide considerations into account, given that company's more than 25 percent market share. Even if the MY 1988 standard could be set at a level above Ford's capability, however, the agency believes that it clearly could not be set above both Ford's and GM's capabilities, since those companies' combined market share approaches 60 percent. As noted previously, the agency's estimate of GM's maximum capability for MY 1988 is 20.8 to 21.1 mpg. Thus, any higher standard than 20.5 mpg could not exceed that range.

The precise effects on petroleum conservation of a standard set at GM's projected capability are uncertain, although the effects can be bounded. The maximum theoretical additional energy savings associated with a standard set at that higher level can be determined by comparing hypothetical situations where GM and Ford would have combined average fuel economy levels of 21.0 mpg versus 20.5 mpg. Since most other manufacturers in the industry project MY 1988 CAFE above that of GM's capability, a standard set at 21.0 mpg would not be expected to affect the petroleum consumption of trucks manufactured by that part of the industry. The difference in total gasoline consumption between these two hypothetical situations, over the *lifetime* of the MY 1988 fleet, would be 419 million gallons. The maximum yearly impact on U.S. gasoline consumption would be 48.3 million gallons, or roughly five hundredths of one percent of total motor vehicle gasoline consumption.

The agency believes, however, that any actual gasoline savings associated with a higher standard would be much less. While GM would have an added incentive to achieve its maximum fuel economy capability, it is not clear in light of possible carryforward/carryback credits whether this would actually occur. Ford could not likely improve its CAFE other than by restricting sales of its larger light trucks and engines. To the extent that would-be purchasers of such vehicles and engines transferred their purchases to GM and Chrysler without those companies otherwise changing their product plans, there could be little or no effect on petroleum consumption.

While the agency recognizes that a higher standard could have some effect on gasoline consumption, it concludes that the effect would be much less than the theoretical maximum noted above and could be negligible.

A higher standard than 20.5 mpg could result in serious economic difficulties for Ford. NHTSA believes that the first potential fuel-efficiency enhancing actions that Ford or any other manufacturer would consider in response to a higher standard would primarily consist of marketing actions. For the reasons discussed earlier in this notice, however, the agency does not believe that marketing actions can be relied upon to significantly improve fuel economy. Assuming that such marketing actions were unsuccessful in whole or in part, Ford would likely have to engage in product restrictions, including limiting the sales of larger engines and/or vehicles to improve its fuel economy. Such product restrictions could result in adverse economic consequences for Ford, its employees, and the economy as a whole and unduly limit consumer choice, especially with regard to the load carrying needs of light truck purchasers.

The agency believes that the current situation of plummeting gasoline prices can create significant difficulties for individual manufacturers facing higher CAFE standards. As gasoline prices fall, consumer demand shifts toward larger vehicles and more power engines. While the magnitude of such shifts is limited to some extent by the fact that trucks are purchased largely with respect to work-

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performing capabilities, lower gasoline prices can nonetheless result in mix shifts which lower manufacturers' CAFE. The large magnitude of the recent drop in gasoline prices makes it particularly difficult for manufacturers such as Ford to attempt to use marketing efforts to overcome such shifts in consumer demand.

Given Ford's more than 25 percent share of the light truck market, its capability has a significant effect on the level of the industry's capability and, therefore, on the level of the standards. The agency believes that for Ford, the 20.5 mpg standard balances the potentially serious adverse economic consequences associated with market and technological risks against that company's opportunities as the least capable manufacturer with a substantial share of sales. The agency concludes, in view of the statutory requirement to consider several factors, that the relatively small and uncertain energy savings associated with setting a standard above Ford's capability would not justify the economic harm to that company and the economy as a whole.

The agency recognizes that a 20.5 mpg standard is above the capabilities of Volkswagen and Lands Motor Company. Given the limited remaining leadtime for both companies and the limited financial resources of Lands, the agency does not believe that either company could change its product plans to meet the 20.5 mpg standard. In the absence of some type of alternative light truck standard which these companies could meet (an issue which is addressed further below), the companies would therefore be limited to two options: paying the statutory penalties associated with failure to comply with fuel economy standards (to the extent credits are not available) or drastic product actions which, in the case of Lands, could include ceasing production. While the agency appreciates these difficulties, it also concludes that establishment of a standard less than 20.5 mpg would reduce or eliminate the incentives for Ford to achieve its maximum capability and essentially render meaningless any impact the light truck CAFE program has on petroleum conservation. Given that Volkswagen and Lands Motor Company together represent less than one-half of one percent of the light truck market and in light of the above factors, NHTSA believes that it would be inappropriate to set industrywide standards based on these manufacturers' capabilities. In light of the statutory criteria, NHTSA concludes that the petroleum savings associated with the 20.5 mpg standard outweigh the difficulties to these two companies.ge

A combined standard of 20.5 mpg was supported by some manufacturers. Ford's comment on the NPRM recommended a MY 1988 standard of 20.5 mpg. Ford noted that although the level of its recommended standard is higher than the low end of its estimated capability when all potential risks are taken into account, it believes that the 20.5 mpg level represents a reasonable balancing of the risks and opportunities facing the company and, therefore, reflects its best estimate of Ford's maximum feasible average fuel economy capability. Chrysler stated that given the present circumstances and uncertainties, it would not object if the agency sees fit to carry over the present 1987 light truck CAFE standard of 20.5 mpg to MY 1988.

GM commented that due to such uncertainties as potential further mix shifts and increased imports, beyond what it is currently projecting, a 20.5 mpg standard might be too stringent. That company stated that if its current forecasts prove to be unduly optimistic, it would then have to either petition for a lower standard or resort to product restrictions with attendant layoffs and negative impact on the economy in order to remain in compliance.

NHTSA disagrees with this comment of GM. As discussed above, the agency has concluded that GM can take additional technological actions beyond what it is now planning to achieve a MY 1988 CAFE of 20.8 mpg to 21.1 mpg. If that company now believes that there is a significant question concerning whether its current product plan can meet the 20.5 mpg standard, it can take the additional technological actions to ensure compliance. Moreover, as GM stated elsewhere in its comment and as noted above, product restrictions would occur only after incentives and available credits had been applied.

The Center for Auto Safety (CFAS) urged that the MY 1988 standard be set at 23.5 mpg. That commenter's request appears to have been based on the manufacturers' projections cited in the NPRM, on its assertion that the manufacturers' projections are "considerably below true manufacturing potential," and on its contention that changing market conditions will help light truck fuel-economy rather than cause it to deteriorate, as the percentage sales of compact and more fuel-efficient light trucks is expected to increase. CFAS also argued that GM and Ford have had at least five years leadtime to introduce new models and technologies for the 1988 standard.

NHTSA disagrees with CFAS's arguments supporting a 23.5 mpg standard. The agency's analysis of changes in the manufacturers' projections is fully discussed above. CFAS did not support its allegation concerning manufacturers' projections being below true manufacturing potential, other than to reference a comment it has made in the agency's ongoing passenger automobile fuel economy rulemaking. The agency has analyzed the data underlying the manufacturers' light truck CAFE projections and has no reason to give this allegation any credence. While it is true that the percentage sales of compact light trucks is expected to increase, the agency agrees with a comment by Ford that this shift is unlikely to cause any significant increase in its CAFE because estimated sales of its products are heavily weighted toward the larger vehicles. As stated by that company, significantly increasing its share of the compact truck market beyond projections would be difficult, since the Japanese manufacturers have emphasized that market. Ford also pointed out that competitive reports indicate that competition is expected to intensify in that market as the Japanese work to strengthen their market share at the expense of the domestic manufacturers. NHTSA also disagrees with CFAS's argument that GM and Ford have had at least five years leadtime for the 1988 standard. Unlike the situation with passenger automobile fuel economy standards, where a 27.5 mpg standard is in place indefinitely unless it is amended by the agency, no light truck fuel economy standard is in place until it is established by the agency.

As in past years, the agency has decided to continue setting 2WD and 4WD standards as an alternative to the combined standard. Separate 2WD/4WD standards allow manufacturers greater flexibility in planning to meet CAFE standards and do not discriminate against firms with truck fleets heavily weighted toward 4WD models.

NHTSA has concluded that AMC and GM are the least capable manufacturers with substantial shares of 4WD light trucks, and has focused on these manufacturers' capabilities in establishing the separate 4WD standard. As discussed earlier in the notice, the agency concluded that 19.5 mpg is AMC's maximum 4WD fuel economy capability and that GM's 4WD fuel economy capability could be as high as 19.5 mpg. The final 4WD standard is being established at 19.5 mpg.

AMC has traditionally been the manufacturer primarily concerned about separate standards due to the high percentage of 4WD light trucks in its fleet. AMC requested in its comment that the 4WD standard be set at 19.0 mpg. NHTSA has concluded, however, that AMC can achieve a MY 1988 4WD CAFE of 19.5 mpg by making relatively minor changes in its product plan and thereby meet the 19.5 standard. While the agency recognizes that the 19.5 mpg standard will be challenging for AMC, it believes that it is appropriate under the statutory requirement for "maximum feasible" standards.

The agency notes that Chrysler has a lower 4WD fuel economy capability than GM, AMC, or Ford. Chrysler projects that its 4WD CAFE could be as low as 17.4 mpg. However, in 1985, Chrysler's share of the 4WD market was less than five percent. Thus, that company did not have a substantial share of 4WD light truck sales. Moreover, since Chrysler can meet the combined standard, it is unnecessary for it to be able to meet the separate standards.

NHTSA has concluded that Ford is the least capable manufacturer with a substantial share of 2WD light trucks, and has focused on that manufacturer's capabilities in establishing the separate 2WD standard. As discussed earlier in the notice, the agency concluded that Ford's maximum 2WD fuel economy capability is 21.0 mpg. The final 2WD standard is being set at 21.0 mpg.

AMC requested in its comment that the 2WD standard be set at 20.3 mpg. The company projects its MY 1988 2WD CAFE at 21.3 mpg. NHTSA has concluded, based on its analysis of that company's projection, underlying product plan, and expected market conditions, that AMC can meet the 2WD separate standard of 21.0 mpg.

Volkswagen suggested as an alternative to establishing a combined standard within its capability that the agency consider alternate special consideration for limited product line truck manufacturers. In establishing the MY 1980–81 light truck CAFE standards, the agency did establish a separate standard in light of International Harvester's (IH) limited product line. See 43 FR 11995, March 23, 1978. The agency noted that IH had unique problems given its limited sales volume, restricted product line, the fact that its engines were derivatives of medium duty truck (above 10,000 pounds GVWR) engines, and the fact it did not have experience with state-of-the-art emission control technology which the other manufacturers had obtained in the passenger automobile market. The agency emphasized, however, that the separate class was being established for only two model years' duration, concluding that IH should be able to achieve levels of fuel efficiency in line with other manufacturers within that time period either through purchasing engines from outside sources or by making improvements to current engines. The agency does not believe that Volkswagen's situation is similar to that of IH. While IH's difficulties were related to being newly subject to the fuel economy program, Volkswagen's CAFE difficulties are not. Moreover, establishing a separate standard for Volkswagen would be outside the scope of notice of the NPRM.

The agency will address Lands Motor Company's petition requesting a separate fuel economy standard for its Precedent model in a separate notice.

Impact Analyses

1. Executive Order 12291

The agency considered the economic implications of the fuel economy standards established by this rule and determined that the rule is major within the meaning of Executive Order 12291 and significant within the meaning of the Department's regulatory procedures. The agency believes that many of the changed conditions since 1975, including decontrol of oil, establishment of the Strategic Petroleum Reserve, and diversification of the sources of oil imports, ensure that the nation will remain in a strong energy position, even if imports should rise to earlier levels. The agency believes also that the standards established by this notice can be met without significant economic distortion. The agency's detailed analysis of the economic effects is set forth in its regulatory impact analysis. The contents of that analysis are generally described in the above sections of this preamble.

2. Environmental Impacts

The agency has analyzed the potential environmental impacts of these light truck fuel economy standards in accordance with the requirements of the National Environmental Policy Act of 1969 and concluded that the rule it is adopting will not significantly affect the human environment. An Environmental Assessment (EA) was prepared and placed in the public docket in conjunction with the NPRM and made available to the public for comment. The EA analyzed the potential environmental effects for the range of standards proposed by the NPRM. The EA stated that the agency expected to make a finding that the rulemaking would not have a significant impact on the human environment. No comments were received on the EA.

As indicated in the EA, any fuel savings that might have resulted from the establishment of standards at the high end of the proposed range would have been minimal. With respect to any possible effects on air pollution, the agency notes that a recent letter to NHTSA from the Environmental Protection Agency (EPA), in another fuel economy rulemaking, discussed a number of considerations concerning why little change in air quality can be expected from different levels of fuel economy standards. (Docket No. FE–85–01, Notice 2, Item 121.) Among other things, the letter indicated that exhaust emissions will not change because EPA mobile source standards for oxides of nitrogen (NO_x), carbon monoxide (CO), and hydrocarbons (HC) are expressed in grams/mile. While the EPA mobile source standard for lead (Pb) is expressed in grams per gallons of gasoline, compliance with that standard would not be affected by a change in fuel consumption because MY 1988 light trucks must use unleaded fuel. NHTSA concludes that little change in air quality is expected as a result of the adoption of these regulations.

Based on all available information, including the analysis presented in the EA, the agency has determined that this rulemaking action will not have a significant effect upon the environment. The agency is therefore making a finding of no significant impact (FONSI).

3. Impacts on Small Entities

Pursuant to the Regulatory Flexibility Act, the agency has considered the impact this rulemaking action will have on small entities. I certify that this action will not have a significant economic impact on a substantial number of small entities. Therefore, a regulatory flexibility analysis is not required for this action. Only one light truck manufacturer, Lands Motor Company, might be classed as a "small business" under the Regulatory Flexibility Act. In the case of small businesses, organizations and governmental units which purchase light trucks, those entities which purchase a 1988 truck might achieve a gain in fuel economy as compared to a situation in which there was no standard. The cost impact of this rulemaking action is not

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high enough to reduce the ability of these groups to purchase new vehicles.

Department of Energy Review

In accordance with section 502(j) of the Act, the agency has submitted this rule to the Department of Energy for review. The Department made no unaccommodated comments.

List of Subjects in 49 CFR Part 533

Energy conservation, Gasoline, Imports, Motor vehicles.

PART 533—[AMENDED]

In consideration of the foregoing, 49 CFR Part 533 is amended as follows:

1. The authority citation for Part 533 continues to read as follows:

Authority: 49 U.S.C. 1657; 15 U.S.C. 2002; delegation of authority at 49 CFR 1.50.

2. Table II in § 533.5(a) is revised to read as follows:

§ 533.5 Requirements.

(a) * * *

TABLE II

Model year	Combined standard		2-wheel drive light trucks		4-wheel drive light trucks	
	Captive imports	Others	Captive imports	Others	Captive imports	Others
1982	17.5	17.5	18.0	18.0	16.0	16.0
1983	19.0	19.0	19.5	19.5	17.5	17.5
1984	20.0	20.0	20.3	20.3	18.5	18.5
1985	19.5	19.5	19.7	19.7	18.9	18.9
1986	20.0	20.0	20.5	20.5	19.5	19.5
1987	20.5	20.5	21.0	21.0	19.5	19.5
1988	20.6	20.5	21.0	21.0	19.5	19.5

* * * * *

3. Section 533.5(d) is revised to read as follows:

* * * * *

(d) For model years 1982–88, each manufacturer may:

(1) Combine its 2- and 4-wheel drive light trucks (segregating captive import and other light trucks) and comply with the combined average fuel economy standard specified in paragraph (a) of this section; or

(2) Comply separately with the 2-wheel drive standards and the 4-wheel drive standards (segregating captive import and other light trucks) specified in paragraph (a) of this section.

Issued on April 17, 1986.

Diane K. Steed,

Administrator.

[FR Doc. 86–9032 Filed 4–18–86; 12:00 pm]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 671

[Docket No. 60060–5182]

Tanner Crab off Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of season closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the *Chionoecetes opilio* Tanner crab fishery in the Southeastern Subdistrict of the Bering Sea District of Registration Area J (Westward) must be closed in order to protect all Tanner crab stocks. The Secretary of Commerce therefore issues this notice closing fishing for all Tanner crabs by vessels of the United States in the Southeastern subdistrict. This action is intended as a management measure to conserve Tanner crab stocks.

DATES: This notice is effective at noon, Alaska Standard Time (AST), April 21, 1986. Public comments on this notice of closure are invited until May 6, 1986.

ADDRESSES: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, AK 99802. During the 15-day comment period, the data on which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m., AST, weekdays) at the NMFS Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Raymond E. Baglin (Fishery Management Biologist, NMFS) 907–586–7230.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Commercial Tanner Crab Fishery off the Coast of Alaska (FMP), which governs this fishery in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act), provides for in season adjustments of area openings and closures. Implementing regulations at § 671.27(b) specify that notices of these adjustments will be issued by the Secretary of Commerce under criteria set out in that section.

Section 671.26(f) establishes six district within Registration Area J to independently manage individual Tanner crab stocks. One of these districts is the Bering Sea District, which is further divided into three subdistricts. The regularly scheduled 1986 fishing season for *C. opilio* in the Southeastern Subdistrict began on January 15, 1986 (50 FR 47549, November 19, 1985). A large portion of this subdistrict, south of 58° N. latitude and east of 164° W., longitude, was closed by emergency rule (51 FR 12857, April 16, 1986) to all fishing for Tanner and king crabs because of the depressed condition of *C. bairdi* Tanner crab and red king crab stocks.

Reasons for this closure follows:

As of April 7, approximately 46 vessels have delivered about 7.4 million pounds of *C. opilio* Tanner crab from the Southeastern Subdistrict. The catch per unit of effort (CPUE) fluctuated from 152 to 247 *C. opilio* Tanner crabs per pot during January. Beginning in February, effort remained constant enough to document trends in CPUE. The CPUE declined from 169 crabs per pot during the week ending February 9 to 66 crabs per pot during the week ending April 6. Currently, fishing vessels are transferring into the Pribilof Subdistrict because catches in the Southeastern Subdistrict are low. The drastic decline in CPUE indicates a rapid unanticipated depletion of the available *C. opilio* Tanner crab stock.

Based on the rapidly declining CPUE in the fishery, the Regional Director has determined that the condition of the *C. opilio* Tanner crab stocks in the Southeastern Subdistrict is substantially different from the condition anticipated on November 1, the beginning of the fishing year, and that this difference reasonably supports the need to protect the *C. opilio* Tanner crab stocks. The Southeastern Subdistrict, as defined in § 671.26(f)(1)(vi)(A), is closed by this notice until noon, Alaska Daylight Time, August 1, 1986, at which time the closure of this subdistrict prescribed in Table 1 of § 671.21(a) will begin.

This closure will become effective after this notice is filed for public inspection with the Office of the Federal Register and the closure is publicized for 48 hours through procedures of the Alaska Department of Fish and Game. Public comments on this notice of closure may be submitted to the Regional Director at the address above. If comments are received, the necessity of this closure will be reconsidered and a subsequent notice will be published in the **Federal Register**, either confirming this notice's continued effect, modifying it, or rescinding it.

Other Matters

Tanner crab stocks in the Southeastern Subdistrict of Registration Area J (Westward) will be subject to damage unless this closure takes effect promptly. NOAA therefore finds for good cause that advance opportunity for public comment on this notice is contrary to the public interest and that no delay should occur in its effective date.

This action is taken under 50 CFR Part 671 and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 671

Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 et seq.

Dated: April 18, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86–9067 Filed 4–21–86; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 672

[Docket No. 51180–5180]

Fishery Conservation and Management Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region NMFS (Regional Director), has determined that the share of the sablefish optimum yield (OY) allocated to hook-and-line gear in the Southeast Outside District and in the East Yakutat District of the Eastern Regulatory Area of the Gulf of Alaska will be achieved on April 17, 1986. A closure of the fishery for sablefish by hook-and-line gear is necessary to limit the harvest of sablefish by hook-and-line gear to the 95 percent of the OY that is permissible by Federal law in these districts. This closure is a management measure intended to allocate the sablefish resource between hook-and-line and trawl gear in the Southeast Outside and East Yakutat districts as required by Amendment 14 to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP).

DATES: This notice is effective at noon, Alaska Standard Time (AST), April 17, 1986, until midnight, AST, December 31, 1986. Public comments are invited on this closure until May 2, 1986.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m., Monday through Friday) at the Alaska Regional Office, NMFS, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Management Biologist, NMFS), 907–586–7230.

SUPPLEMENTARY INFORMATION: The FMP, which governs the groundfish fishery in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act) provides for inseason adjustments of fishing seasons and areas. Regulations at § 672.22(a) specify that these adjustments will be made by the Secretary of Commerce under procedures set out in that section.

Section 672.2 defines three regulatory areas in the Gulf of Alaska. One of these is the Eastern Regulatory Area, which is further divided into three regulatory districts for the purpose of better managing sablefish: West Yakutat, East Yakutat, and Southeast Outside. Current regulations at § 672.20, Table 1, specify the OYs in the Southeast Outside and East Yakutat Districts to be 470 to 1,435 mt and 850 to 1,135 mt, respectively. However, the North Pacific Fishery Management Council (Council), at its December 10–14, 1985, meeting, determined that the OYs in these two districts should be 2,346 mt and 1,104 mt, respectively. The Council recommended that NOAA promulgate an emergency rule under Magnuson Act section 305(e), to implement these new OYs, pending amendment of the FMP. The Alaska Region has submitted this emergency rule for review by the Secretary of Commerce; it is expected to be promulgated within the next month.

Section 672.24(b)(1) of the regulations allows directed fishing, defined at § 672.2, for sablefish in the Eastern Area with hook-and-line gear only to 95 percent of its OY. Fishing for other groundfish species with trawl gear is allowed until trawl vessels have harvested 5 percent of the sablefish OY as a bycatch. Thus, 95 percent and 5 percent of the new sablefish OYs are allocated to vessels using hook-and-line gear and trawl vessels, respectively.

In determining the 1986 sablefish shares between hook-and-line and trawl gear in the Southeast Outside and East Yakutat Districts under the sablefish allocation formula provided by Amendment 14, the NMFS Alaska Region is using 95 percent and 5 percent of the recommended 1986 OYs, respectively. The allocations, therefore, between hook-and-line and trawl gear are 2,229 mt and 117 mt in the Southeast Outside District; and 1,049 mt and 55 mt in the East Yakutat District.

An estimated 150 hook-and-line vessels have conducted a directed fishery for sablefish during the fishing season, which began on April 1, 1986. Except for a week of poor weather, many vessels have experienced good catches. On average, each of the vessels is harvesting an estimated 1.3 metric tons of sablefish per day. At the current catch rate, the hook-and-line shares of the OYs will be fully harvested on April 17, 1986, and further directed sablefish fishing with hook-and-line gear after noon on that date is prohibited. This closure is a management measure intended to implement the allocation of the sablefish resource as provided for by Amendment 14 to the FMP. Sablefish landings by hook-and-line vessels west of the East Yakutat District, i.e., west of 140° W. longitude, are expected to increase rapidly as part of the fleet moves west following notice of this closure.

One of the regulations implementing Amendment 14—§ 672.24(b)—requires the NMFS Regional Director to close all fishing for groundfish with a gear type in an area when the sablefish share allocated by Amendment 14 to that gear type in that area has been taken. At its January 15–17, 1986 meeting, however, the Council recommended that NOAA amend this regulation to allow the Regional Director to prohibit directed fishing for sablefish by that gear type in that area and thus leave a bycatch amount to support other directed groundfish fisheries. Fishing for other groundfish species could thus continue. If the sablefish share was nevertheless harvested before the end of that year, the Regional Director could allow fishing by that gear in that area for other groundfish species to continue, with sablefish being treated as a prohibited species, providing that overfishing of sablefish would not result. The Alaska Region has also submitted an emergency rule that would amend the regulation cited above to implement the Council's recommendation.

The requirement of § 672.20(b) that all groundfish fishing by a gear type in an area be closed when its sablefish allocation for that area has been taken conflicts with Amemdment 14 as interpreted by the Council and NMFS. The Regional Director is, therefore, not obliged even before promulgation of the new rule to impose such a closure, provided that continued fishing by that gear type will not cause overfishing of sablefish. The Regional Director has reviewed the bycatches of sablefish that might be taken in other directed

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groundfish hook-and-line fisheries in the Southeast Outside and East Yakutat Districts and finds that continued fishing for other groundfish species will not cause overfishing of sablefish.

This closure will be effective when this notice is filed for public inspection with the Office of the Federal Register and after it has been publicized for 48 hours through procedures of the Alaska Department of Fish and Game under § 672.22(a). Public comments on this notice of closure may be submitted to the Regional Director at the address above for 15 days following its effective date. If comments are received, the necessity of this closure will be reconsidered and a subsequent notice will be published in the **Federal Register**, either confirming this closure's continued effect, modifying it, or rescinding it.

Other Matters

Allocation of the sablefish resource between hook-and-line and trawl gear in the Southeast Outside and East Yakutat Districts, as required by Amendment 14, and the continued health of that resource will be jeopardized unless this closure takes effect promptly. NOAA therefore finds for good cause that advance opportunity for comment on this notice is contrary to the public interest and that its effective date should not be delayed.

This action is taken under §§ 672.22 and 672.24 and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

Authority: (16 U.S.C. 1801 *et seq.*)

Dated: April 18, 1986.

Carmen J. Blondin,

Deputy Assistant Administor For Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-9066 Filed 4-18-86; 3:44 pm]

BILLING 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 78
Wednesday, April 23, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 911

Limes Grown in Florida; Proposed Amendment to Container Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would permit lime handlers to make export shipments in 2.5 kilogram containers and eliminate five containers no longer used by the industry. The addition of the 2.5 kilogram container will allow U.S. shippers to compete more favorably in certain European markets. Elimination of the five containers currently authorized but no longer used will bring the container requirements into conformity with current handler packing practices.

DATE: Comments due May 23, 1986.

ADDRESS: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2069–S, U.S. Department of Agriculture, Washington, DC 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under Departmental Regulation 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules proposed thereunder, are unique in that they are brought about through the group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that approximtely 26 handlers of limes will be subject to regulation under the Florida Lime Marketing Order during the course of the current season and that the great majority of this group may be classified as small entities. While regulations issued during the season impose some costs on affected handlers, the added burden imposed on small entities by this amendment, if present at all, is not significant.

The proposed container requirement changes are pursuant to the marketing agreement and Marketing Order No. 911 regulating the handling of limes grown in Florida. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The Lime Administrative Committee, established under the program, is responsible for its local administration.

At its public meeting on February 12, 1986, the committee recommended adding a new container to be used for export shipments. The new container would have inside dimensions of 7⅛ by 12 by 4⅛ inches and contain 2.5 kilograms (approximately 5.5 pounds) of limes. Foreign shippers, notably those from Brazil, tend to adjust container sizes as the market price of limes changes. This can place U.S. shippers at a competitive disadvantage if they cannot use a container similar to those used by other shippers. The addition of the 2.5 kilogram container will make it easier for U.S. exporters to compete in certain European markets with shippers from other lime producing areas using the 2.5 kilogram container.

The committee also recommended eliminating five containers from the container regulation. These containers are of larger capacity, ranging from 38 to 42 pounds and 20 to 22 pounds of limes. The industry has been moving toward smaller containers over the years, and the ones to be eliminated are no longer used. The proposed change would lessen the number of large containers authorized and bring the container requirements into conformity with industry operating practices.

List of Subjects in 7 CFR Part 911

Marketing agreements and orders, Limes, Florida.

PART 911—LIMES GROWN IN FLORIDA

1. The authority citation for 7 CFR Part 911 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 911.329 (47 FR 22073, May 21, 1982; 47 FR 29647, July 8, 1982; and 47 FR 45865, October 14, 1982) is hereby amended by removing (a)(2)(i) through (a)(2)(v), adding a new (a)(2)(i), and redesignating (a)(2)(iv) through (a)(2)(xii) as (a)(2)(ii) through (a)(2)(viii), respectively, as follows:

§ 911.329 Lime regulation 27.

(a) * * *

(2) * * *

(i) Containers with inside dimensions of 7⅛ by 12 by 4⅛ inches; except that any such containier shall contain not less than 5 nor more than 6 pounds net weight of limes.

* * * * *

Dated: April 17, 1986.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86–9037 Filed 4–22–86; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 86–AWA–10]

Proposed Subdivision of R–6412, Camp Williams, UT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to subdivide Restricted Area R–6412, Camp Williams, UT, into R–6412A and R–6412B with changes in altitude

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structures and times of use. This action would provide the necessary airspace for the live-fire training of weaons by the Department of Army. This airspace is expected to be used approximately 38 days per year.

DATE: Comments must be received on or before June 9, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Northwest Mountain Region, Attention: Manager, Air Traffic Division, Docket No. 86–AWA–10, Federal Aviation Administration, 17900 Pacific Highway South, C–68966, Seattle, WA 98168.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC

An informal docket may also be examined during normal business hours at the office of the Regional Traffic Division.

FOR FURHTER INFORMATION CONTACT:

Andrew B. Oltmanns, Airspace and Aeronautical Information Requirements Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426–3128.

SUPPLEMENTARY INFORMATION:

Comment Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86–AWA–10." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability for NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to subdivide Restricted Area R–6412, Camp Williams, UT, into R–6412A and R–6412B with changes in altitude structures and times of use. The Department of the Army has requested these changes in airspace to accommodate the live-fire training of weapons. The ceiling of R–6412A will be 9,000 feet MSL. The designated altitudes of R–6412B will be from 9,000 feet MSL to and including 10,000 feet MSL. R–6412A and R–6412B will be used for two weeks in the month of June. In addition, R–6412A will be used for five weekends per year during the months of April, May, August, September, and October. Section 73.64 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule'" under DOT Regulatory Policies and Procedures (44 FR 11034: February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory flexibility Act.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority. 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 1069(g) (revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69

2. Section 73.64 is amended as follows:

R–6412 Camp Williams, UT—[Removed]

R–6412A Camp Williams, UT—[New]

Boundaries. Beginning at lat. 40°27'30" N., long. 111°56'24" W.; thence southerly along Redwood Road (Utah Highway 68) to lat. 40°23'30" N., long. 111°54'58" W.; to lat. 40°23'30" N., long. 112°06'00" W.; to lat. 40°27'30" N., long. 112°06'00" W.; to the point of beginning.

Designated altitudes. Surface to 9,000 feet MSL.

Time of designation. By NOTAM.

Controlling agency. FAA, Salt Lake City Tower.

Using agency. The Adjutant General, state of Utah.

R–6412B Camp Williams, UT—[New]

Boundaries. Beginning at lat. 40°27'30" N., long. 111°56'24" W.; thence southerly along Redwood Road (Utah Highway 68) to lat. 40°23'30" N., long. 111°54'58" W.; to lat. 40°23'30" N., long. 112°06'00" W.; to lat. 40°27'30" N., long. 112°06'00" W.; to the point of beginning.

Designated altitudes. 9,000 feet to 10,000 feet MSL.

Time of designation. By NOTAM.

Controlling agency. FAA, Salt Lake City Tower.

Using agency. The Adjutant General, state of Utah.

Issued in Washington, D.C., on April 17, 1986.

James Burns, Jr.,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–9011 Filed 4–22–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 73

[Airspace Docket No. 86–AWA–14]

Proposed Amendment to Hours of Operation for Restricted Areas; Quantico, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to increase, by two hours daily, the times of designation for Restricted Areas R–6608A and R–6608B, near Quantico, VA. The current times have proven inadequate to meet increased military requirements for these areas. To accommodate expanded use, the restricted areas are currently being activated outside the published hours through NOTAM action. Current and future requirements justify a permanent modification to the times of designation. This action will satisfy the increased user needs and enhance flight safety through publication of the actual hours of operation on the appropriate aeronautical charts.

DATE: Comments must be received on or before June 6, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Eastern Region, Attention: Manager, Air Traffic Division, Docket No. 86–AWA–14, Federal Aviation Administration, JFK International Airports, The Fitzgerald Federal Building, Jamaica, NY 11430.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Paul Gallant, Airspace and Aeronautical Information Requirements Branch (ATO–240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426–3656.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86–AWA–14." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to change the times of designation for Restricted Areas R–6608A and R–6608B, Quantico, VA, from 0700 to 2400 hours local time daily to 0500 to 2400 hours local time daily. The Department of the Navy has stated a need for an additional two hours of use daily to accommodate increased training requirements. Currently, the restricted areas are being activated for this additional time outside the published times by NOTAM. Present utilization and future requirements indicates a level of usuage that would justify modifying the times of designation as proposed. The proposal would make permanent the present actual times of use. Section 73.66 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority. 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. § 73.66 is amended as follows:

R–6608A Quantico, VA—[Amended]

By removing the words "Continuous, 0700 to 2400 hours, local time; other times by NOTAM issued at least 24 hours in advance." and substituting the words "0500 to 2400 local time daily; other times by NOTAM 24 hours in advance."

R–6608B Quantico, VA—[Amended]

By removing the words "Continuous, 0700 to 2400 hours, local time; other times by NOTAM issued at least 24 hours in advance." and substituting the words "0500 to 2400 local time daily; other times by NOTAM 24 hours in advance."

Issued in Washington, DC, on April 17, 1986.

James Burns, Jr.,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–9012 Filed 4–22–86; 8:45 am]

BILLING CODE 4910–13–M

BEST COPY AVAILABLE

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DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 807

Issuance of Air Force Publications and Forms Outside the Air Force

AGENCY: Department of the Air Force, Department of Defense.

ACTION: Proposed rule.

SUMMARY: On March 13, 1986, the Air Force published (at 50 FR 9671) a final rule to remove 32 CFR, Chapter VII, Part 807, Issuing Air Force Publications and Forms Outside the Air Force. Removal of Part 807 was in error. The source document, Air Force Regulation (AFR) 7-1 is being revised. The regulation provides Air Force procedures for issuing publications and forms to private citizens, organizations and commercial activities. The regulation informs the public sector to obtain administrative publications and forms from the local Air Force installation, or where not available from the local installation, the requests are referred to the proper source.

DATE: Comments must be received by May 23, 1986.

ADDRESS: HQ USAF/DAPD, Bolling AFB, DC 20332-6468.

FOR FURTHER INFORMATION CONTACT: Walter S. Frazer, HQ USAF/DAPD, Bolling AFB, DC 20332-6468, telephone (202) 767-6077.

SUPPLEMENTARY INFORMATION: The proposed revision updates references and adds information on Limited (L) distribution items pertaining to Automatic Data Processing (ADP) systems.

List of Subjects in 32 CFR Part 807

Government contracts, Government procurement.

It is proposed to amend 32 CFR, Chapter VII, by adding Part 807 as set forth below:

PART 807—ISSUING AIR FORCE PUBLICATIONS AND FORMS OUTSIDE THE AIR FORCE

Secs.

807.1 Issuing publications and forms to private citizens, private organizations, and commercial activities.
807.2 Issuing publications and forms free outside the Air Force.
807.3 Shipments made by contractors.

Authority: Sec. 8012, 70A Stat. 488, 10 U.S.C. 8012.

§ 807.1 Issuing publications and forms to private citizens, private organizations, and commercial activities.

(a) Classified publications, accountable forms, or forms requiring storage safeguards will not be released to private citizens, private organizations or commercial activities except as stated in § 807.2 and Part 808 of this chapter.

(b) Publications marked For Official Use Only (FOUO) and Limited (L) distribution will be processed as follows:

(1) FOUO publications will be processed in accordance with Part 808 of this chapter.

(2) Requests for limited (L) distribution will be referred to the Automatic Data Processing System (ADPS) manager.

(c) Except as stated in paragraphs (a) and (b) of this section, requests from private citizens and organizations will be processed as follows. The fee schedule and charges outlined in Part 813 of this chapter will be used. Non-user charge transactions, waiver or reduced charges, other special charges and exclusions will be processed in accordance with Part 812 of this chapter. Requests will be processed according to locally established procedures.

(1) If requested items are not immediately available from local stocks, the Publishing Distribution Office will obtain them from the Air Force Publishing Distribution Center for release to the requester. Where special release prohibitions are indicated on the cover or title page, the publication will be processed according to the instructions shown.

(2) If an item is not stocked by the Air Force Publishing Distribution Center, and the index indicates availability from another source, the request will be referred to that source and the requester advised of the referral.

(3) If the request is submitted under the Freedom of Information Act as defined in Part 806 of this chapter, it will be referred to the local Freedom of Information Act Office.

(4) If a request is received by HQ USAF or the Air Force Publishing Distribution Center, it will be referred to the Air Force installation nearest to the requester for processing.

(d) Publications and forms will be issued free to commercial activities only under the conditions set forth in § 807.2; otherwise, Parts 808, 812 and 813 of this chapter apply.

§ 807.2 Issuing publications and forms free outside the Air Force.

(a) If an Air Force publication or form requested concerns invitation for bid, then it is available for review by prospective bidders and may be obtained free from the Air Force procurement authority concerned.

(b) If an Air Force publication or form is needed in connection with contract performance, then it may be obtained free from the Air Force or Defense Logistics Agency (DLA) official responsible for administering the contract, as follows:

(1) One-time issue to contractor.

(2) Followup or recurring issue to contractors of Federal Supply Catalog handbooks and manual chapters when guaranteed by contract (otherwise contractor must purchase from Superintendent of Documents, GPO).

(3) Followup or recurring issue to contractor of Air Force publication or form when the Air Force contract administering official determines issue to be necessary to contract performance.

(c) If an Air Force publication or form is desired in small quantities, and is one-time issue to another federal, state, or local government agency, then it is available free subject to security regulations on classified material; Part 808 of this chapter for FOUO publications; release requirements on L distribution items; and special release statements on individual items. The publications may be obtained from the Publishing Distribution Office or other issuing activity. Recurring requests and requests for large quantities will be referred to the procuring headquarters for determination of whether reimbursement is required.

§ 807.3 Shipments made by contractors.

(a) Air Force activities responsible for printing and distribution contracts will ensure that contractors comply with this part to the extent it is incorporated into the contract. Appropriate shipping instructions must be included in printing contracts that require initial distribution of the publications being printed.

(b) Backup stock is generally shipped to storage points by freight. However, if the contract requires the contractor to make distribution by mail, the contracting activity is authorized to furnish the contractor with Air Force official mailing labels which carry the return address of the Air Force sponsor.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-8062 Filed 4-22-86; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD7 86-11]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, SC

Correction

In FR Doc. 86-8019, beginning on page 12342 in the issue of Thursday, April 10, 1986, make the following correction:

On page 12343, in the second column, the seventh and eighth lines of § 117.911(f) should read "open only at 7:30 a.m., 8:30 a.m., 4:30 p.m. and 5:30 p.m.".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[PP 5E3291/5E3292/P391; FRL-3004-8]

Pesticide Tolerances for Carbaryl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that tolerances be established for residues of the insecticide carbaryl in or on the raw agricultural commodities crop group pome fruits and avocadoes. The proposed regulation to establish a maximum permissible level for residues of the insecticide in or on the commodities was requested in petitions submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP 5E3291/5E3292/P391], must be received on or before May 23, 1986.

ADDRESSES:

By mail, submit written comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

In person, bring comments to: Rm 236, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Jack Housenger, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 716B, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA 22202. (703-557-1806).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted the pesticide petitions (PP) 5E3291 and PP 5E3292 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Station of California.

These petitions requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate) in or on the raw agricultural commodities pome fruits group (PP 5E3291) and avocados (PP 5E3292) at 10 parts per million (ppm). Tolerances are currently established for residues of the insecticide carbaryl (1-naphythl *N*-methylcarbamate) including its hydrolysis product 1-naphthol, calculated as 1-naphthyl *N*-methylcarbamate at 10.0 ppm in or on the representative commodities of the pome fruit group, apples and pears. Establishment of the proposed tolerance for residues of carbaryl per se in or on the crop group pome fruits complies with the Registration Standard for carbaryl of March 30, 1984, which states the Agency's intent to change U.S. tolerances for carbaryl to omit references to 1-naphthol. With the establishment of the proposed crop group tolerance, tolerances would also be established for residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate) in or on loquats, crabapples, oriental pears and quince at 10.0 ppm. The petition is not intended to extend the use of carbaryl, but to establish a pome fruit group tolerance relevant to the already established individual tolerances on apples and pears and to identify the residue of concern. Also, the petitioner proposed that use on avocados be limited to California based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the area of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

The data submitted in the petition and other relevant material have been evaluated. The pesticide is considered useful for the purpose for which the tolerances are sought. The toxicological data considered in support of the proposed tolerances include a three-generation rat reproduction study with a no-observed-effect level (NOEL) of 200 milligrams (mg) per kilogram (kg) and a rat feeding study with a NOEL of 200 ppm (10 mg/kg), which was negative for oncogenic effects at 400 ppm (highest level tested). Also, ten other studies were used to evaluate the oncogenic potential of carbaryl. No significant increase in the incidence of tumors was observed in these studies at levels as high as 400 ppm (the highest level tested). Although each study was found to contain some flaws in scientific design or reporting of data, the Agency believes that when the ten studies are examined collectively they provide sufficient evidence that carbaryl is not oncogenic in experimental animals and therefore does not pose an oncogenic risk to humans.

Twenty-four studies were used to evaluate the teratogenic potential of carbaryl. After evaluating these studies, the Agency has concluded that the available data do not indicate that carbaryl constitutes a potential human teratogen or reproductive hazard under the proper use. However, because certain teratology studies with dogs did not rule out teratogenic effects in that species, concern has been expressed for dogs treated with carbaryl to control fleas and ticks. The Registration Standard for carbaryl issued in March 1984 required that carbaryl registrants conduct an additional dog teratology study. In response to this requirement, Union Carbide has requested the Agency to consider the necessity of another teratology study in the dog. The Agency reevaluated the need for this study and concluded that it was needed. The carbaryl toxicology data base was previously evaluated when carbaryl was a candidate for Special Review (previously known as Rebutable Presumption Against Registration). The Agency published its determination and

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findings in the Federal Register of December 12, 1980 (45 FR 81699), that the data did not support allegations of unreasonable adverse effects to humans, and therefore a Special Review was not warranted. Essentially, the Agency concluded that the data do not indicate that carbaryl is oncogenic, teratogenic or a reproductive hazard under proper use. More recently, the Agency reexamined these data as part of the reregistration process for carbaryl. In the Guidance Document dated March 30, 1984, the Agency reaffirmed the conclusions reached in previous evaluation.

The acceptable daily intake (ADI), based on the 2-year rat feeding study with a NOEL of 10.0 mg/kg/day and using a 100-fold safety factor, is calculated to be 0.1 mg/kg of body weight (bw)/day. The maximum permitted intake (MPI) for a 60-kg human is calculated to be 6.0 mg/day. The theoretical maximum residue contribution (TMRC) from existing tolerances for a 1.5-kg daily diet is calculated to be 4.6776 mg/day; the current action will increase the TMRC by 0.0180 mg/day (0.38 percent). Published tolerances utilize 77.98 percent of the ADI; the current action will utilize an additional 0.30 percent.

The nature of the residues is adequately understood and an adequate analytical method, high pressure liquid chromatography, is available for enforcement purposes. There are presently no actions pending against the continued registration of carbaryl.

Based on the information and data considered by the Agency, and the fact that currently established tolerances for meat and milk are adequate to cover any residues resulting from use as animal feed, the Agency concludes that the proposed tolerances would protect the public health. Therefore, it is proposed that the tolerances be established as set forth below.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 30 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 5E3296/5E3292/P391]. All written comments filed in response to this petition will be available in the Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 11, 1986.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR Part 180 be amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.169 is amended by removing the commodities apples and pears from the table in paragraph (a), revising paragraph (d), and adding paragraph (e) to read as follows:

§ 180.169 Carbaryl; tolerances for residues.

(a) * * *

Commodities	Parts per million
* * *	* * *
Apples [Removed]	10.0 [Removed]
* * *	* * *
Pears [Removed]	10.0 [Removed]
* * *	* * *

(d) Tolerances are established for residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate) in or on the following raw agricultural commodities:

Commodities	Parts per million
Pineapples	2.0
Pome fruits	10.0

(e) Tolerances with regional registration are established for the insecticide carbaryl (1-naphthyl N-methylcarbamate) in or on the following raw agricultural commodities.

Commodities	Parts per million
Avocados	10.0

[FR Doc. 86-8811 Filed 4-22-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

14 CFR Part 34

Medical Examination of Aliens (AIDS)

AGENCY: Centers for Disease Control, Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: As of November 1985, approximately 15,000 cases of acquired immunodeficiency syndrome (AIDS) have been reported to the Center for Disease Control, and almost 8,000 deaths have occurred. The virus that causes AIDS is transmitted by sexual contact, by sharing needles with an infected person, through infected blood products, and perinatally. It is not transmitted by casual, nonintimate forms of contact or by food, air, water, and other inanimate objects. The Public Health Service proposes to amend the regulations concerning the medical examination of aliens to add AIDS to the list of "dangerous contagious diseases." This proposed action will allow the Department of State to deny visas and the Immigration and Naturalization Service to deny admission to aliens with AIDS who are subject to medical examination (generally immigrants and refugees).

DATE: Written comments are invited and must be received on or before June 23, 1986.

ADDRESS: Comments should be addressed in writing to the Director, Division of Quarantine, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333. Comments received will be available for public inspection between 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) in Room 201C, 1600 Tullie Circle, Atlanta, Georgia. All relevant comments received during the comment period will be considered in developing the final rule.

FOR FURTHER INFORMATION CONTACT: Dr. Laurence S. Farer, Director, Division of Quarantine, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 329-1286, or FTS 235-1286.

SUPPLEMENTARY INFORMATION: Section 212(a) of the Immigration and Nationality Act, 8 U.S.C. 1182(a), lists seven medical grounds for exclusion of aliens. The first five grounds pertain to certain mental conditions, narcotic drug addiction, and chronic alcoholism. The sixth ground excludes aliens with a "dangerous contagious disease." The seventh ground refers to any physical condition that would prevent an alien from earning a living.

The scope of the medical examination required of aliens seeking admission into the United States and the definition of dangerous contagious diseases are specified in "Medical Examination of Alien Regulations" contained in 42 CFR part 34. Medical examination is mandatory for applicants for permanent resident status (immigrant visas), fiance(e)s of U.S citizens and/or their children, and refugees. For aliens seeking temporary admission (nonimmigrant visas), medical examination may be required at the discretion of a consular officer overseas or an immigration inspection at a U.S port of entry if there is reason to suspect that an excludable condition exists. Currently, the regulations list seven diseases which qualify as dangerous contagious diseases under section 212(a) of the Immigration and Nationality Act; aliens with these diseases are excludable from the United States. The seven diseases are: chancroid, gonorrhea, granuloma inguinale, lymphogranuloma venereum, infectious syphilis, infectious leprosy, and active tuberculosis.

It is proposed that AIDS be added to the list of dangerous contagious diseases since it would be anomalous to have diseases such as chancroid and lymphogranuloma venereum on such a list and not include AIDS. AIDS is added to the list because it is a recently defined sexually transmitted disease of significant public health importance. This section will allow the Department of State to deny visas and the Immigration and Naturalization Service to deny admission to aliens with AIDS who are subject to medical examination.

The Secretary has determined that this proposed amendment will not significantly impact on a substantial number of small entities and therefore does not require preparation of a regulatory flexibility analysis under the Regulatory Flexibility Act, Pub. L. 96-354.

The Secretary has also determined that this proposed amendment is not a "major rule" usner Executive Order 12291. Thus, regulatory impact analysis is not required because it will not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Impose a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions; or

(3) Result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 14 CFR Part 34

Acquired immunodeficiency syndrome (AIDS)

It is therefore proposed to amend Title 42 of the Code of Federal Regulations as set forth below:

PART 34—MEDICAL EXAMINATION OF ALIENS

1. The authority citations for 42 CFR Part 34 continues to read as follows:

Authority: Sec. 58 Stat. 690, as amended, Sec. 234, 66 Stat. 198; 42 U.S.C. 216, 8 U.S.C 1224; Sec. 322, 325, 58 Stat. 666, as amended, 667 as amended, Sec. 212, 326, 66 Stat. as amended, 200; 42 U.S.C 249, 252, 8 U.S.C. 1182, 1226.

2. Section 34.2 is amended by adding paragraph (b)(8) to read as follows:

§ 34.2 Definitions.

* * * * *

(b) * * *

(8) Acquired Immunodeficiency Syndrome (AIDS).

* * * * *

Dated: November 15, 1985.

James O. Mason,

Acting Assistant Secretary for Health.

Approved: January 9, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-8041 Filed 4-22-86; 8:45 am]

BILLING CODE 4160-18-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 94

[PR Docket No. 86-125; RM-5202; FCC 86-156]

Commission's Rules Governing the Private Operational-Fixed Microwave Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has adopted a Notice of Proposed Rule Making in response to a petition for rulemaking, RM-5202, filed by the Harris Corporation—Farinon Division. This proposal would require applicants for facilities in the Private Operational-Fixed Microwave Service (OFS) to furnish information regarding the system's transmitter and antennas to the entity performing its frequency engineering analysis. This proposal would improve the efficiency and quality of microwave frequency engineering analyses.

DATES: Comments are due June 3, 1986; and Reply comments are due June 18, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR INFORMATION CONTACT:

Harold Salters, Land Mobile & Microwave Div., Private Radio Bureau, (202) 632-7597.

Mary Beth Hess, Rules Branch, Land Mobile & Microwave Div., Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 94

Radio broadcasting.

This is a summary of the Commission's notice of proposed rule making, adopted April 8, 1986, and released April 14, 1986.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rule Making

1. The Commission is proposing to change its Part 94 rules, which govern the Private Operational-Fixed Microwave Service (OFS), in response

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to a petition for rulemaking (RM–5202) filed by the Harris Corporation-Farinon Division.

2. Harris petitioned the Commission to require OFS applicants to include the FCC ID number of their microwave transmitter and the make and model numbers of their antennas with the frequency engineering analyses that accompany OFS applications. Part 94 requires OFS applications to include frequency engineering analyses in order to ensure that the OFS station being applied for will not cause harmful interference to existing or previously applied-for OFS stations. Harris claimed that transmitter and antenna performance characteristics, which are communicated by the transmitter's FCC ID number and the antennas's make and model numbers, are critical elements in the microwave frequency engineering process.

3. Information regarding the transmitter's FCC ID number and the make and model of the antennas is not used by the Commission staff to determine whether to grant a particular OFS application. Additionally, after authorization, an OFS licensee may change this equipment without notifying the Commission as long as the change does not result in a substantial modification to the station's facilities. Although this information is not used by the Commission, Harris' petition and the comments received unanimously supporting it highlight the value of this information to the microwave frequency coordination process. Accordingly, we propose, as detailed in the attached Appendix, to amend § 94.15 to require applicants to furnish this transmitter and antenna information to the frequency engineering firm or other entity performing its frequency engineering analysis.

4. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the proposed rules will not, if promulgated, have a significant economic impact on a substantial number of small entities.

5. The proposed rule has been analyzed with respect to the Paperwork Reduction Act of 1980 and may impose a modified information collection requirements on the public. Comments received in response to the Notice will assist the Commission in determining what the ultimate change in burden hours imposed on the public would be if the proposal were adopted. Implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

6. This is a non-restricted notice and comment rule making proceeding. *See* § 1.1231 of the Commission's rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

7. Pursuant to applicable procedures set forth in 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before June 3, 1986, and reply comments on or before June 16, 1986. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

8. Authority for issuance of the Notice of Proposed Rule Making is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(r).

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 94—PRIVATE OPERATIONAL-FIXED MICROWAVE SERVICE

Part 94 of Chapter I of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

The authority citation for Part 94 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303, unless otherwise noted.

In Section 94.15, paragraph (b) is revised to read as follows:

§ 94.15 Policy governing the assignment of frequencies.

* * * * *

(b) All applications for new or modified stations must contain an engineering analysis of the potential interference between the proposed facilities and previously authorized facilities and pending applications. The application must contain as supplemental information: (1) A certification that based upon frequency engineering analysis, the potential interference will not exceed that prescribed by the interference criteria in § 94.63; or (2) if the potential interference will exceed that prescribed by § 94.63, a statement to the effect that all parties affected have agreed to accept the higher level of interference. In either case, the application must contain the names of the licensees and the call signs of the stations that were considered in conducting the engineering analysis. Further, applicants and licensees will be expected to cooperate promptly and fully in the exchange of technical information necessary to performing frequency engineering analysis and, in the event of technical differences, cooperate in resolving these differences. Engineering analyses prepared pursuant to this section shall include consideration of the technical characteristics of the transmitting equipment that an applicant proposes to use, as indicated by the FCC ID number of the transmitter and the make and model numbers for all antennas the applicant proposes to use. Applicants shall provide this information to the entities responsible for performing the frequency engineering analysis.

* * * * *

[FR Doc. 86–8911 Filed 4–22–86; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

48 CFR Part 242

Department of Defense Federal Acquisition Regulation Supplement; Indirect Cost Rates

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule and request for comments.

SUMMARY: The Department of Defense is considering changes to DoD Federal Acquistion Regulation Supplement (DFARS) Subpart 242.7 which extend the auditor determination of final indirect costs rates procedure to all commercial contractor locations where DoD has the predominant interest.

DATE: Comments on the proposed rule should be submitted in writing to the DAR Council at the address shown below no later than (30 days from date of publication), to be considered in the formation of the final rule. Please cite DAR Case 85–250 in all correspondence related to this issue.

ADDRESS: Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, ODASD(P)/DARS, c/o OASD(A&L), Room 3C841, The Pentagon, Washington, DC 20301–3062.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, (202) 697–7266.

SUPPLEMENTARY INFORMATION:

A. Background

On 17 October 1985, the Deputy Secretary of Defense issued "Procedures for Implementation of Audit-Determined Indirect Cost Rates at all Contractor Locations." This proposed rule, if adopted, will implement the procedures directed by the Deputy Secretary of Defense.

B. Regulatory Flexibility Act Information

The proposed changes to DFARS Subpart 242.7 do not appear to have significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) because this coverage pertains only to large businesses. Small businesses are already audit determined. Therefore, the Regulatory Flexibility Act does not apply.

C. Paperwork Reduction Act Information

The proposed rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et seq.

List of Subjects in 48 CFR Part 242

Government procurement.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, it is proposed that 48 CFR Part 242 be amended as follows:

PART 242—CONTRACT ADMINISTRATION

1. The authority citation for 48 CFR Part 242 continues to read as follows:

Authority: 5 U.S.C. 301, 10 U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

2. Section 242.704 is added to read as follows:

242.704 Billing rates.

(a) The contracting officer is responsible for determining billing rates for those contractor locations listed at FAR 42.705–1(a) (1) through (6). If the contracting officer and the auditor agree, the auditor may determine the billing rates if any of the circumstances in FAR 42.705–2(a)(2) (i) through (iv) apply.

3. Section 242.705–1 is amended by adding paragraph (a), and by re-designating the existing paragraph (a)(1) as paragraph (1), as follows:

242.705–1 Contracting officer determination procedure.

(a) In accordance with Deputy Secretary of Defense decision of 17 October 1985, responsibility for determination of final indirect cost rates is being transitioned to DCAA. Contracting officer determination procedures will continue to apply at individual contractor locations until transitioned to DCAA responsibility.

* * * * *

4. Section 242.705–2 is amended by adding paragraphs (a), (b)(1), (b)(2)(i), and (b)(2)(ii); by revising paragraph (b)(2)(iii); by adding paragraph (b)(2)(iv), and by revising paragraph (b)(2)(v) to read as follows:

242.705–2 Auditor determination procedure.

(a) Auditor determination procedures will be used for commercial contractor locations where DoD has the predominant interest (on the basis of unliquidated dollar amount). Transition years for contractor locations will be published at a later date. This procedure, as it applies to DoD contractor locations meeting the FAR criteria for contracting officer determination, is a test. Results are to be evaluated at the end of FY 1988.

(b)(1) For multidivisional contractors, the proposal for each segment shall be submitted to the auditor responsible for conducting audits of that division and that divisional ACO, with a copy to the corporate ACO and auditor. The contractor's proposal must contain an executed Certificate of Overhead Costs.

(b)(2)(i) Upon completion of the audit, the auditor will issue to the contractor a written notification setting forth audit exceptions to the contractor's proposal. The notification will state that the contractor has 90 days to provide its agreement or rebuttal comments. A copy of the notification will be furnished to the cognizant ACO. The auditor may grant the contractor one 30-day extension upon receipt of a written request from the contractor. Upon receipt of the contractor's response to the written notification of audit exceptions, the auditor will evaluate the response and issue the audit report required in FAR 42.705–2(b)(2)(iv) to the cognizant ACO within 60 days. If the contractor fails to respond to the notification by the required date (initial or extended), the auditor will issue the audit report. Regardless of agreement or disagreement, the audit report will cover, as a minimum: (A) The contractor's indirect cost rate proposal; (B) the audit findings; (C) reconciliation of all costs questioned, with identification of all individual elements of cost and amounts allowed or disallowed in the final settlement if agreement was reached, or recommended for disallowance if agreement was not reached; (D) disposition of period costing or allocability issues; and (E) identification of cost or pricing data submitted and relied upon in reaching an agreement.

(ii) See paragraph (b)(2)(iii) of this section.

(iii) If the audit report details that agreement has been reached, the auditor will obtain from the contractor the Certificate of Current Cost or Pricing Data required in FAR 42.705–2(b)(2)(ii) and prepare an indirect cost rate agreement in accordance with FAR 42.705–2(b)(2)(iii). The agreement shall be signed by the contractor and the designated audit official.

(iv) See paragraph (b)(2)(i).

(v) If the audit report details that agreement with the contractor cannot be reached, the auditor will also issue DCAA Form 1 detailing the items of exception. Upon receipt of a DCAA Form 1, the contractor can submit a request, in writing, to the cognizant ACO to reconsider the auditor's determination and/or file a claim under the Disputes clause. Such request or claim shall be submitted within 60 days. In considering the contractor's request, the ACO will not resolve any questioned cost without obtaining adequate documentation and the opinion of the auditor. To the maximum extent practicable, the auditor should be present at any negotiation or meeting regarding the questioned costs. If agreement between the parties is reached, the ACO will obtain the Certificate of Current Cost or Pricing Data, prepare the indirect cost rate agreement, and prepare a negotiation memorandum containing the elements set forth in FAR 42.705–1(b)(5)(iii). Failure of the parties to reach agreement will be treated in accordance with FAR Subpart 33.2.

5. Section 242.706 is amended by revising paragraph (a), by removing paragraph (b)(1), and adding paragraph (b) to read as follows:

242.706 Distribution of documents.

(a) When the auditor executes the overhead rate agreement (see 242.705–2(b)(2)(iii)), copies of the agreement will be furnished to the contractor, the cognizant CACO (if assigned), and the cognizant ACO. In addition, copies will be distributed to other Departments, and (upon specific request) any other interested Government agencies. Departments may make further distrubition to activities within their Departments and shall insert one copy in each contractor general file (see S–101.2 and S2–102.4). When the ACO executes the overhead rate agreement (see § 242.705–2(b)(2)(v)), distribution is the same except that a copy will also be provided to the cognizant auditor.

(b) The audit report issued to the cognizant ACO pursuant to § 242.705–2(b)(2)(i) will also be furnished to the cognizant CACO (if assigned). If the ACO prepares a negotiation memorandum pursuant to § 242.705–2(b)(2)(v), copies will be furnished to the cognizant auditor and the cognizant

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CACO (if assigned). Upon specific request, a copy of the auditor's report and/or the contracting officer's negotiation memorandum will be furnished to other Departments or Government agencies.

[FR Doc. 86-9051 Filed 4-22-86; 8:45 am]
BILLING CODE 3810-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1003, 1043 and 1084

[Ex Parte No. MC-5 (Sub-3) and Ex Parte No. MC-159 (Sub-2)]

General Investigation and Revocation Procedures Governing Failure To File or Maintain Prescribed Insurance or Other Security for Public Protection—Motor Carriers, Brokers and Freight Forwarders

AGENCY: Interstate Commerce Commission.

ACTION: Discontinuance of proposed rulemaking proceeding.

SUMMARY: The Commission is discontinuing the proceeding in which it proposed an ongoing general investigation and revocation mechanism applicable to all motor carriers, brokers, and freight forwarders that fail to maintain the required amounts of insurance or other security for public protection.

The notice instituting this proceeding, 47 FR 55980, December 14, 1982, indicated that the proposed procedures were intended to encourage greater compliance with the Commission's insurance and surety requirements and to provide increased protection to the public and shippers by expediting authority revocation proceedings involving non-compliant carriers. However, upon further consideration, we have determined that existing compliance monitoring and enforcement measures are adequate to support increased mandatory security limits and that the proposed general investigation and revocation procedures are unnecessary to afford the required protections. In a decision denying a petition seeking similarly enhanced enforcement and revocation procedures, we concurrently announced discontinuance of this proceeding. *See* Ex Parte No. MC-178 (Sub-No. 2), *Petition for Rulemaking of the American Bus Association Concerning Enforcement of Minimum Insurance Standards* (Not printed), served April 23, 1986.

EFFECTIVE DATE: This decision will be effective on May 23, 1986.

FOR FURTHER INFORMATION CONTACT:
Howell I. Sporn, (202)275-7691;
or
Suzanne Higgins, (202) 275-7161.

SUPPLEMENTARY INFORMATION: Additional information concerning discontinuance of the general investigation and revocation proceeding is contained in the Commission's decision in ex Parte No. MC-178 (Sub-No. 2), *Petition for rulemaking of the American Bus Association Concerning Enforcement of Minimum Insurance Standards* (not printed), served April 23, 1986. To purchase a copy of the full decision, write the TS InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC, or call: 289-4357 in the DC metropolitan area or toll-free (800) 424-5403.

Environmental and Energy Considerations

Discontinuance of the general investigation and revocation proceeding will not affect significantly the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10321, 10927, and 5 U.S.C. 553)

List of Subjects

49 CFR Part 1003

Brokers, Freight forwarders, Maritime carriers, Motor carriers, Securities.

49 CFR Part 1043

Insurance, Motor carriers, Surety bonds.

49 CFR 1084

Freight forwarders, Insurance, Surety bonds.

Decided: April 9, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley, joined by Commissioner Sterrett, dissented with a separate expression.

James H. Bayne,
Secretary.

[FR Doc. 86-9040 Filed 4-22-86; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

King Mackerel and Spanish Mackerel; Public hearing

AGENCY: National Marine Fisheries Service (NFMS) NOAA, Commerce.

ACTION: Notice of public hearing.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold a public hearing on the Gulf group King and Spanish mackerel to discuss a total allowable catch for the King and Spanish mackerel for forthcoming seasons and possible changes in the permit system.

DATE: The hearing will begin at 6:30 p.m., and will adjourn at 8:00 p.m., on Monday April 28, 1986.

ADDRESS: The hearing will take place at the Inn on the Point, 7627 West Columbus Drive, Rocky Point Island, Tampa, Florida.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609, (813) 228-2815.

Dated: April 17, 1986.

Richard B. Roe,
Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-9093 Filed 4-22-86; 8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 51, No. 78
Wednesday, April 23, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee of Judicial Review, Notice of Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. No. 92-463), notice is hereby given of a meeting of the Committee on Judicial Review of the Administrative Conference of the United States, to be held at 9:00 a.m. on Monday, May 5, 1986, at the offices of Cadwalader, Wickersham & Taft, 7th floor conference room, 1333 New Hampshire Avenue, NW., Washington, DC.

The committee will meet to discuss public comments received concerning Professor Mark Gruewald's study on the feasibility of establishing an administrative tribunal for the resolution of disputes under the Freedom of Information Act and concerning other possible alternatives for improving the process of resolving FOIA disputes.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify the Office of the Chairman of the Administrative Conference at least two days in advance. The committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the committee before, during or after the meeting.

For further information concerning this meeting contact Mary Candace Fowler, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. (Telephone: 202-254-7065.) Minutes of the meeting will be available on request.

Richard K. Berg,
General Counsel.

April 21, 1986.

[FR Doc. 86-9241 Filed 4-22-86; 8:45 am]
BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 16, 1986.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from:

Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250, (202) 447-2118.

Comments on any of the items listed should be submitted directly to:

Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

New

- Economic Research Service

Nebraska and South Dakota Survey of Rental Practices
Once
Individuals or households; Farms; Businesses or other for-profit; 2,207 responses; 441 hours; not applicable under 3504(h)
Andy Bernat (202) 786-1425

- Food and Nutrition Service

Summer Food Service Evaluation
One-time data collection
State or local governments; Federal agencies or employees; Non-profit institutions; 448 responses; 436 hours; not applicable under 3504(h)
Jerry Burns (703) 756-3128

Revision

- Animal Plant and Health Inspection Service

Black Stem Rust Inspector's Report
PPQ Form 543
Annually
State or local governments; Farms; Businesses or other for-profit Federal agencies or employees; Small businesses or organizations; 600 responses; 600 hours; not applicable under 3504(h)
L. M. Sedgwick, Jr. (301) 436-8584

- Agricultural Stabilization and Conservation Service

7 CFR Part 760, Dairy Indemnity Payment Program
ASCS-373
Monthly
Farms; 480 responses; 240 hours; not applicable under 3504(h)
Susan Schneider (202) 447-5171

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 86-9076 Filed 4-22-86; 8:45am]
BILLING CODE 3410-01-M

Soil Conservation Service

Dry Fork Watershed, Oregon; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1960; the Council on Environmental Quality Guidelines (40

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CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Dry Fork Watershed, Gilliam and Morrow Counties, Oregon.

FOR FURTHER INFORMATION CONTACT: Jack P. Kanalz, State Conservationist, Soil Conservation Service, 1640 Federal Building, 1220 SW. Third Avenue, Portland, Oregon 97204, telephone 503–221–2751.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Jack P. Kanalz, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for the watershed. The planned works of improvement include accelerated technical assistance for land treatment on cropland and rangeland.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Jack P. Kanalz.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials)

Dean F. Fisher,

Deputy State Conservationist.

April 14, 1986.

[FR Doc. 86–9083 Filed 4–22–86; 8:45 am]

BILLING CODE 3410–16–M

Statistical Reporting Service

Modification of Program Reports

Notice is hereby given that the Statistical Reporting Service (SRS) plans a series of program reimbursements and a slight modification of the States included in the potato summer and fall seasonal groupings. The planned program reinstatements are in response to language in the Senate Committee on Agriculture report on fiscal year 1986 appropriations. These planned changes will be made during 1986.

SRS will work with commodity organizations and State agencies to expand these estimating programs (dry peas and lentils, white wheat, and bee and honey) being reinstated if funds for the collection, summarization, and publication can be provided.

Dry Peas and Lentils—Estimates discontinued after the 1981 crop have been reinstated on an annual basis only. Dry peas, lentils, and wrinkled seed peas will be estimated by Washington and Idaho and Austrian winter peas will be estimated by Idaho and Oregon. End-of-season estimates will be made for acreage planted and harvested, yield, production, prices received per ctw, and value of production. Acreage, yield and production data for 1986 dry peas, lentils and Austrian winter peas will be published in the October 10 *Crop Production* report. Wrinkled seed pea data will be collected later and published in the annual *Crop Production* summary scheduled for release in early 1987. Prices received and value of production will be published in *Crop Values* in February 1987.

Potatoes—Summer seasonal potato estimates for Indian and Ohio will be combined with the fall group beginning with the July 1986 acreage estimates. For a number of years, summer potatoes in these areas have been stored and marketed in competition with the fall crop making these changes necessary.

White Wheat—Estimates for the Pacific Northwest discontinued in 1982 have been reinstated on an annual basis only. End-of-season estimates of white wheat production will be made in Idaho, Oregon, and Washington. Data for 1986 will be published in each State's annual summary publication scheduled for release in early 1987. There will be no white wheat State level data published in the U.S. annual Crop Production summary.

Honey—An annual bee and honey survey which was discontinued in 1981 will be reinstated in 1986. Beekeepers with less than five colonies will be excluded. The survey will be conducted in mid-December with State and U.S. estimates published in January 1987. Items covered in the publication include colonies of bees and production, stocks and prices for honey and beeswax.

Comments regarding the proposed modifications outlined should be addressed to Richard D. Allen, Director, Estimates Division, Room 5847–S, SR/USDA, Washington, D.C. 20250.

Done at Washington, D.C. this 18th day of April 1986.

W.E. Kibler,

Administrator.

[FR Doc. 86–9077 Filed 4–22–86; 8:45 am]

BILLING CODE 3410–20–M

DEPARTMENT OF COMMERCE

National Bureau of Standards

National Voluntary Laboratory Accreditation Program

AGENCY: National Bureau of Standards, Commerce.

ACTION: Publication of NVLAP Directory Supplement.

SUMMARY: The National Bureau of Standards (NBS) announces laboratory accreditation actions taken during the first quarter of 1986.

FOR FURTHER INFORMATION CONTACT: Harvey W. Berger Manager, Laboratory Accreditation, ADMIN A531, National Bureau of Standards, Gaithersburg, MD 20899 (301) 921–3431.

SUPPLEMENTARY INFORMATION: This supplement to the 1985–86 NVLAP Directory of Accredited Laboratories (NBSIR 86–3315) is published pursuant to § 7.6(b) of the National Voluntary Laboratory Accreditation Program (NVLAP) Procedures (15 CFR 7.6(b)).

The following table summarizes NVLAP accreditation actions for the period January 1, 1986, through March 31, 1986.

	TIM	CON	CAR	STO	ACO	CPL	DOS	SEA	ECT	Totals
Initial accreditations						1	4			5
Renewed accreditations	1		1							2
Expired accreditations	1									1
Balance	37	29	22	11	8	5	39	1	0	151

TIM—Insulation LAP.
CON—Concrete LAP.
CAR—Carpet LAP.
STO—Stove LAP.
ACO—Acoustical Testing Services LAP.
CPL—Commercial Products LAP (Paint, Paper, Mattresses)
DOS—Dosimetry LAP.
SEA—Seals and Sealants LAP.
ECT—Electromagnetic Compatibility and Telecommunications.

The laboratories awarded initial accreditations are:

Commercial

Products

Weyerhaeuser Technology Center, Takoma, WA
T.S. Friberg (206–924–6207)

Dosimetry

Northeast Utilities Services Hartford, CT
Henry W. Siegrist (203–665–3591)
Commonwealth Edison, Chicago, IL
Eileen A. O'Conner (312–294–8520)
New Hampshire Yankee, Seabrook Sta. Seabrook, NJ
Priscilla J. Neault (603–474–9574)
Con Edison Indian Point, Buchanan, NY
Philip J. Gaudio (914–526–5248)

The laboratories whose accreditation were renewed are:

Insulation

Technical Micronics Control, Huntsville, AL
Bharathi Ujjani (205–837–4430)

Carpet

United States Testing, Hoboken, NJ
Carl B. Yoder (201–792–2400—

The laboratory whose accreditation has expired is:

Insulation

W.R. Grace & Company, Cambridge, MA

Dated April 17, 1986.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 86–9046 Filed 4–22–86; 8:45 am]

BILLING CODE 3510–13–M

National Oceanic and Atmospheric Administration

Gulf of Mexico and South Atlantic Fishery Management Councils; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico and South Atlantic Fishery Management Councils and their intercouncil mackerel management committee will convene joint public meetings at the Inn on the Point, 7627 West Columbus Drive, Rocky Point Island, Tampa, FL, as follows:

Joint Council—will discuss setting the total allowable catch for king and Spanish mackerel for the forthcoming fishing seasons, amendments to the fishery management plan for mackerel, and mackerel reports provided by the Southeast Fisheries Center's Laboratory Directors; will convene April 29, 1986, at 1:30 p.m., recess at 5 p.m., reconvene April 30, at 8:30 a.m. and adjourn at 5 p.m.

Joint Committee—will convene April 28 at 3 p.m., recess at 5 p.m., reconvene April 29 at 8:30 a.m. and adjourn at noon. The agenda is the same as that of the Joint Councils', above.

The Gulf of Mexico Council and its Committee also will convene public meetings at the above address, as follows:

Council—will convene on April 30, from 1:30 p.m. and will adjourn at 5 p.m., to discuss statistical catch information on red drum. During a closed session (not open to the public) from 1:45 p.m. to 2:30 p.m., the Council will discuss employment/personnel matters regarding advisory panel (AP) and scientific and statistical committee (SSC) membership appointments for next year.

Committee—will convene April 28, with the same agenda as the Council's above, including a closed session from 1 p.m. to 3 p.m.

For further information contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard, Suite 881, Tampa, FL 33609; telephone: (813) 228–2815.

Dated: April 18, 1986.

Richard B. Roe,

Director, Office of Fisheries Management National Marine Fisheries Service.

[FR Doc. 86–9064 Filed 4–22–86; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB).

Dates of Meeting: Thursday, May 8, 1986.

Times of Meeting: 0800–1700 hours.

Place: Pentagon, Washington, DC.

Agenda: The Army Science Board 1986 Summer Study Panel on C³I Requirements for AirLand Battle will meet to discuss Army Research Institute work dealing with tactical decision making. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86–9024 Filed 4–22–86; 8:45am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Friday, May 9, 1986.

Times of Meeting: 0800–1700 hours.

Place: Army Development and Employment Agency, Ft. Lewis, WA.

Agenda: The Army Science Board 1986 Summer Study Panel on C³I Requirements for Airland Battle will meet to discuss ADEA's functions, Division Combat Control System, and C³I systems work. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so intextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86–9025 Filed 4–22–86; 8:45 am]

BILLING CODE 3710–08–M

Coastal Engineering Research Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

Name of committee: Coastal Engineering Research Board (CERB).

Date of meeting: May 14–16, 1986.

Place: Captain Bartlett Inn, Fairbanks, Alaska, and Lakewood Inn, Homer, Alaska.

Time: 8:15 a.m. to 5:45 p.m. on May 14 in Fairbanks and Prudhoe Bay, Alaska; 8:00 a.m. to 4:00 p.m. on May 15 in Valdez and Homer, Alaska; 8:00 a.m. to 5:30 p.m. on May 16 in Homer, Alaska.

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Proposed agenda: The May 14 session will consist of presentations on Regulatory Functions in Alaska Coastal Areas, North Slope Hydraulic Modeling Activities, and Deep Draft Navigation Aspects of the Prince William Sound. A flight to Prudhoe Bay is also scheduled for May 14.

On May 15 a flight to Valdez, with a briefing and tour of the Valdez Terminal facilities is scheduled. A discussion of the field trips is planned at the Lakewood Inn in Homer, Alaska.

The May 16 session will consist of presentations and discussions on a review of previous CERB business, initiatives to meet the Chief of Engineers' charges to the CERB, updates on Duck 1986 experiment, Crescent City Dolos Monitoring, and Directional Spectral Wave Generator, Computer Aided Coastal Engineering, South Atlantic and North Pacific Divisions research needs, Floating Breakwaters, Anchorage Harbor Studies, St. George Harbor, (Alaska) Coastal Data Collection Program, Homer Spit Erosion, the Coastal Community in the State of Alaska, recommendations by members of the Board, and selection of date and place for the next CERB meeting.

There is an optional Chena Lakes tour scheduled on May 13 prior to the meeting and an optional Homer Harbor tour scheduled for the morning of May 17.

This meeting is open to the public; participation by the public is scheduled for 4:00 p.m. on May 16 in Homer, Alaska. The public may attend the tours on May 13, 14, 15, and 17, but must provide their own transportation.

The entire meeting is open to the public subject to the following:

1. Since seating capacity of the meeting room is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements for those wishing to attend.

2. Oral participation by public attendees is encouraged during the time scheduled on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

Inquiries and notice of intent to attend the meeting may be addressed to Colonel Allen F. Grum, Executive Secretary, Coastal Engineering Research Board, U.S. Army Engineer Waterways Experiment Station, P.O. Box 631, Vicksburg, Mississippi 39180-0631.

Patrick J. Kelly,

Brigadier General, U.S. Army, President, Coastal Engineering Research Board.

[FR Doc. 86-9034 Filed 4-22-86; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Navy Resale System Advisory Committee; Partially Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Navy Resale System Advisory Committee will meet on May 12, 1986, in the Riviera Room, Westgate Hotel, 1055 Second Avenue, San Diego, California. The meeting will consist of two sessions: The first from 8:00 a.m. to 9:00 a.m; and the second from 9:10 a.m. until 3:45 p.m. The purpose of the meeting is to examine policies, operations, and organization of the Navy Resale System and to submit recommendations to the Secretary of the Navy. The agenda will include discussions of the organization of the Resale System, planning, financial management, merchandising, field support, and industrial relations.

The Secretary of the Navy has determined in writing that the public interest requires that the second session of the meeting be closed to the public because it will involve discussions of information pertaining solely to trade secrets and confidential commercial or financial information. These matters fall within the exemptions listed in subsections 552b(c) (2), (4), and (9)(B) of title 5, United States Code. Therefore, the second session will be closed to the public.

For further information concerning this meeting, contact: Commander R. F. Hendricks, SC, USN, Naval Supply Systems Command, NAVSUP 09B, Room 516, Crystal Mall Building No. 3, Arlington, Virginia 22202, Telephone number: (202) 695-5457.

Dated: April 16, 1986.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 86-9055 Filed 4-22-86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Vocational Education Indian and Hawaiian Natives Program; Noncompeting Continuation Awards

AGENCY: Department of Education.

ACTION: Application Notice for *Noncompeting Continuation Awards* under the Vocational Education Indian and Hawaiian Natives Program (for Indians) for Fiscal Year 1987 projects.

Programmatic and Fiscal Information

Applications are invited for noncompeting continuation awards under the Vocational Education Indian and Hawaiian Natives Program. This application notice is only for Indian tribes that received grants for Fiscal Year 1986. The purpose of the awards is to provide Federal support to Indian tribes to plan, conduct, and administer projects or portions of projects that are authorized by and consistent with the Carl D. Perkins Vocational Education Act (the Act) (Pub. L. 98-524, 20 U.S.C. 2301 et seq.) Pursuant to 34 CFR 410.10, projects funded under this program are in addition to other programs, services, and activities made available to eligible Indians under other provisions of the Act.

Under this program, the Secretary may award grants to the tribal organizations of any Indian tribe that is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination and Education Assistance Act, Pub. L. 93-638 (25 U.S.C. 450 note) or the Act of April 16, 1934 (25 U.S.C. 452-457).

In accordance with 34 CFR 75.118, each applicant eligible for a continuation grant must submit a revised face page, revisions to other affected pages of the approved application, and new budget information. In addition, the applicant must submit a report of the project accomplishments to date, including documentation of the number of completers who have successfully obtained (1) employment (including place of employment), (2) service in military specialties related to their training, or (3) continuation of education in a field related to their training.

It is estimated that $3,436,721 from the Fiscal Year 1986 appropriation will be available for 19 noncompeting continuation awards for 12-month budget periods that will operate generally during 1987-88.

These estimates do not bind the Department of Education to a specific number of grants, or to the amount of any grants, unless that amount is otherwise specified by statute or regulations.

Closing Date for Transmittal of Applications

Applications for continuation awards should be mailed or hand delivered on or before July 15, 1986.

Applications sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: (CFDA No. 84.101B), Maryland Avenue SW., Washington, DC 20202.

If an application is late, the Department of Education may lack sufficient time to review it with other applications for noncompeting continuation awards and may decline to accept it.

Applications that are hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building No. 3, 7th & D Streets SW., Washington, DC.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays.

Applicable Regulations

Regulations applicable to this program include the following:

(a) The regulations governing the Indian and Hawaiian Natives Program in 34 CFR Parts 400 and 410.

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78.

Application Forms

Application forms and program information packages iwll be sent to eligible applicants on April 23, 1986. Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance under this program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations. (Approved under OMB control number 1830-0013.)

Further Information

For further information contact Harvey G. Thiel or Timothy D. Halnon, Program Specialists, Special Programs Branch, U.S. Department of Education, 400 Maryland Avenue, SW., 519 Reporters Building, Washington DC 20202-5516. Telephone: (202) 732-2380 or 732-2379.

Program Authority

20 U.S.C. 2313.

(Catalog of Federal Domestic Assistance No. 84.101, Vocational Education—Programs for Indian Tribes, Indian Organizations, and Hawaiian Natives)

Dated: April 16, 1986.

John K. Wu,

Acting Assistant Secretary for Vocational and Adult Education.

[FR Doc. 86-9059 Filed 4-22-86; 8:45 am]

BILLING CODE 4000-01-M

Vocational Education Indian and Hawaiian Natives Program; New Awards

AGENCY: Department of Education.

ACTION: Application Notice for New Awards under the Vocational Education Indian and Hawaiian Natives Program (for Indians) for Fiscal Year 1987 projects.

Programmatic and Fiscal Information

Applications are invited for new projects under the Vocational Education Indian and Hawaiian Natives Program. This application notice is for Indian tribes only and does not apply to organizations for Hawaiian Natives. The purpose of the awards is to provide Federal support to Indian tribes to plan, conduct, and administer projects or portions of projects that are authorized by and consistent with Carl D. Perkins Vocational Education Act (the Act) (Pub. L. 98-524, 20 U.S.C. 2301 et seq.) Pursuant to 34 CFR 410.10, projects funded under this program are in addition to other programs, services, and activities made available to eligible Indians under other provisions of the Act.

Eligible applicants are tribal organizations of Indian tribes that are eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination and Education Assistance Act, Pub. L. 93-638, (25 U.S.C. 450 note) or the Act of April 16, 1934 (25 U.S.C. 452-457). A group of eligible applicants may also apply for a grant. Joint applicants should pay specific attention to 34 CFR 75.127-75.129 of the Education Department General Administrative Regulations (EDGAR) and 34 CFR 41020.

The program regulations in section 410.30 authorized the Secretary to distribute an additional 15 points among the criteria described in the regulations in section 410.31 to bring the total to a maximum of 100 points. For the purposes of this competition, the Secretary assigns the reserved 15 points as follows:

Need—5 additional points
Plan of operation—5 additional points
Quality of key personnel—5 additional points

The total of 100 points is allocated among the selection criteria as follows:

(a) *Need* (20 points)
(b) *Plan of operation* (25 points)
(c) *Quality of key personnel* (15 points)
(d) *Budget and cost efectiveness* (10 points)
(e) *Evaluation plan* (5 points)
(f) *Adequacy of resources* (5 points)
(g) *Private sector involvement* (10 points)
(h) *Employment opportunities* (10 points)

The amount of funds currently available from the fiscal year 1986 appropriation for new awards under this program is $6,127,643. (This amount reflects a reduction of $429,750 from the fiscal year 1986 appropriation pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, Pub. L. 99-177). At an anticipated average award of $200,000, it is estimated that these funds could support up to 30 new projects.

Applicants sould be aware that the President has proposed budget rescissions that may reduce the amount available for new awards to $3,436,721. However, the deadline in this notice will not be extended and applicants should prepare and submit applications by the closing date.

These estimates do not bind the U.S. Department of Education to a specific number of grants, or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Closing Date for Transmittal of Applications

Applications for new awards must be mailed or hand delivered on or before June 16, 1986.

Applications sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: (CFDA No. 84.101A), 400 Maryland Avenue SW., Washington, DC 20202.

Each late applicant will be notified that its application will not be considered.

Applications that are hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building #3, 7th and D Streets SW., Washington, DC.

Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, DC, time) daily, except Saturdays, Sundays, and Federal holidays.

Application Regulations

Regulations applicable to this program include the following:

(a) The regulations governing the Indian and Hawaiian Natives Program in 34 CFR Parts 400 and 410.

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78.

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Application Forms

Application forms and program information packages are expected to be available by April 23, 1986. These may be obtained by writing to the Special Programs Branch, Room 519, Reporters Building, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information package is only intended to aid applicants in applying for assistance under the program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations (Approved under OMB control number 1830–0013).

The Secretary is soliciting applications for fully funded awards of up to 18 months duration.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages.

The Secretary further urges that applicants only submit required information.

Further Information

For further information contact Harvey Thiel or Timothy Halnon, Program Specialists, Special Programs Branch, Room 519, Reporters Building, Office of Vocational and Adult Education, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202–5516. Telephone: (202) 732–2380 or 732–2379.

Program Authority

20 U.S.C. 2313.

(Catalog of Federal Domestic Assistance No. 84.101, Vocational Education—Programs for Indian Tribes, Indian Organizations, and Hawaiian Natives)

Dated: April 18, 1986.

John K. Wu,

Acting Assistant Secretary for Vocational and Adult Education.

[FR Doc. 86–9060 Filed 4–22–86; 8:45 am]

BILLING CODE 4000-01-M

Meeting of the Elementary Education Study Group

AGENCY: Office of the Secretary of Education.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that the Secretary of Education will conduct a meeting on information and ideas about the improvement of elementary education in the United States.

DATE: April 28, 1986 at 9:00 a.m.–4:00 p.m.

ADDRESS: The Horace Mann Learning Center Auditorium, 400 Maryland Avenue SW., Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Nelson Smith, Staff Director, Elementary Education Study Group, Room 556, 1200 19th Street NW., Washington, DC 20208. Telephone (202) 254–0721.

SUPPLEMENTARY INFORMATION: This fourth and final public meeting of the Elementary Education Study Group will review topics being considered for inclusion in the Secretary's forthcoming report to the nation on elementary education.

Dated: April 18, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86–9054 Filed 4–22–86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER86–405–000 et al.]

Boston Edison Company et al.; Electric Rate and Corporate Regulation Filings

April 17, 1986.

Take notice that the following filings have been made with the Commission:

1. Boston Edison Company

[Docket No. ER86–405–000]

Take notice that on April 14, 1986, Boston Edison Company ("Edison") filed an agreement between itself and Cambridge Electric Light Company ("Cambridge") for the use by Cambridge of a 115/14 kv station in Brighton, Massachusetts, owned by Edison and known as Station 329. Edison requests that the agreement be made effective in accordance with its terms on June 1, 1985.

Cambridge and Edison had previously agreed that Cambridge would cease its use of Station 329 on notice from Edison which became effective on May 31, 1985; however, Cambridge notified Edison that it could not remove its load from the station for at least another two years. The agreement tendered for filing herewith permits Cambridge to continue to use Station 329 subject to payment to Edison of (1) an annual support charge developed according to a formula rate contained in Article II of the agreement, (2) a negotiated monthly charge of $41,667 to compensate Edison for the loss in service reliability as a result of Cambridge's continued use of Station 329 beyond May 31, 1985 and (3) costs of equipment modifications required by Edison to serve its own customers while continuing to serve Cambridge. The payments are treated as a revenue credit in Edison's retail rate filing currently pending before the Massachusetts Department of Public Utilities.

Edison requests waiver of the 60 day notice requirement in order to permit the agreement to become effective on June 1, 1985 in accordance with its terms. The negotiations could not be completed and the agreement executed in time to comply with the notice requirement.

Comment date: May 1, 1986, in accordance with Standard Paragragh E at the end of this notice.

2. Central Illinois Public Service Company

[Docket No. ER86–407–000]

Take notice that Central Illinois Public Service Company (CIPS) on April 14, 1986, tendered for filing Amendment No. 9 dated April 1, 1986 to the Interconnection Agreement between Commonwealth Edison (CE) and CIPS dated November 1, 1964.

Amendment No. 9 replaces Service Schedule B, Economy Energy, with a new Service Schedule B, Economy Energy; revises Service Schedule C, Short Term Power; replaces Service Schedule E, Non-Displacement Energy, with a new Service Schedule E, General Purpose Energy; and adds a Service Schedule F, Term Energy.

Copies of the filing were sent to Commonwealth Edison Company and the Illinois Commerce Commission.

Comment date: May 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Central Illinois Public Service Company

[Docket No. ER86–411–000]

Take notice that on April 15, 1986 Central Illinois Public Service Company ("CIPS") tendered for filing amended Rate Schedule W–2 (Flora) for Wholesale Electric Service to the City of Flora for Distribution and Retail Sale to Its Customers ("Rate Schedule W–2 (Flora)"). CIPS also tendered for filing an amendment to the supply contract between CIPS and the City of Flora ("City").

The tendered rate schedule and amendment to supply contract comprise integral parts of a comprehensive agreement between CIPS and the City, reached after negotiations, to continue and extend their long-term customer-supplier relationship.

CIPS requests an effective date of January 1, 1986, and therefore requests a waiver of the Commission's notice requirements.

Comment date: May 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Central Louisiana Electric Company, Inc.

[Docket No. ER86–313–000]

Take notice that on April 14, 1986, Central Louisiana Electric Company, Inc. ("CLECO") submitted for filing additional information relating to the executed contract for the sale of Replacement Energy by CLECO to the City of Alexandria.

Comment date: May 1, 1986, in accordance with Standard Paragraph E at the end of this document.

5. The Kansas Power and Light Company

[Docket No. ER86–404–000]

Take notice that on April 7, 1986, The Kansas Power and Light Company (KPL) tendered for filing a newly executed renewal contract dated March 4, 1986, with the City of Hillsboro, Kansas for wholesale service to that community. KPL states that this contract permits the City of Hillsboro to receive service under rate schedule WSM–12/83 designated Supplement No. 9 to R. S. FERC No. 166. The proposed effective date is October 1, 1986. The proposed contract change provides essentially for the ten year extension of the original terms of the presently approved contract. In addition, KPL states that copies of the contract have been mailed to the City of Hillsboro and the State Corporation Commission.

Comment date: May 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. The Kansas Power and Light Company

[Docket No. ER86–412–000]

Take notice that on April 14, 1986, the Kansas Power and Light Company (KPL) tendered for filing a newly executed renewal contract dated April 4, 1986, with the City of Sabetha, Kansas for wholesale service to that community. KPL states that this contract permits the City of Sabetha to receive service under rate schedule WSM–12/83 designated Supplement No. 9 to R. S. FERC No. 165. The proposed effective date is July 1, 1986. The proposed contract change provides essentially for the ten year extension of the original terms of the presently approved contract. In addition, KPL states that copies of the contract have been mailed to the City of Sabetha and the State Corporation Commission.

Comment date: May 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Public Service Company of Colorado

[Docket No. ER86–408–000]

Take notice that Public Service Company of Colorado (Public Service) on April 14, 1986, tendered for filing a Non-Firm Energy Agreement (Agreement) between Public Service and the City of Colorado Springs, Colorado (Colorado Springs).

Public Service states that the Agreement provides for the non-firm sale and purchase of electric energy between Public Service and Colorado Springs. The Agreement provides for establishing terms and conditions for such non-firm sales between the parties.

Public Service states that copies of the filing were served upon all parties to the Agreement and affected state commissions.

Comment date: May 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Company of New Mexico

[Docket No. ER86–409–000]

Take notice that on April 14, 1986, Public Service Company of New Mexico (PNM) submitted for filing Amendment No. 1 dated December 30, 1985, amending the PNM and City of Riverside (Riverside) Economy Energy Agreement, dated May 17, 1982. The Amendment permits the seller to offer economy energy at rates which permit the price to reflect the current market price of such energy or the seller's actual costs to generate such energy.

Copies of the filing have been served upon Riverside and the New Mexico Public Service Commission.

Comment date: May 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

9. Public Service Company of New Mexico

[Docket No. ER86–409–000]

Take notice that on April 14, 1986, Public Service Company of New Mexico (PNM) submitted for filing Amendment No. 1 dated December 30, 1985, amending the PNM and City of Anaheim (Anaheim) Economy Energy Agreement, dated June 15, 1982. The Amendment permits the seller to offer economy energy at rates which permit the price to reflect the current market price of such energy or the seller's actual costs to generate such energy.

Copies of the filing have been served upon Anaheim and the New Mexico Public Service Commission.

Comment date: May 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

10. San Diego Gas & Electric Company

[Docket No. ER86–410–000]

Take notice that on April 14, 1986, San Diego Gas & Electric Company (SDG&E) tendered for filing a revision to the Power Exchange and Sales Agreement between SDG&E and Washington Water Power Company (WWP).

Under the terms of the revision, points of delivery at Hot Springs, Montana, and Burke, Idaho will be added to the terms of the agreement.

SDG&E has requested an effective date of February 2, 1986 and, therefore, requests a waiver of the prior notice requirement.

Comment date: May 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE. Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–9084 Filed 4–22–86; 8:45 am]

BILLING CODE 6717-01-M

Bangor Hydro-Electric Co.; Notice of Application

April 16, 1986.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory

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Commission and is available for public inspection:

a. Type of Application: Amendment of License.

b. Project No: 2600-006.

c. Date Filed: March 21, 1986.

d. Applicant: Bangor Hydro-Electric Company.

e. Name of Project: West Enfield.

f. Location: On the Penobscot River in Penobscot County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Robert S. Briggs, Bangor Hydro-Electric Company, 33 State Street, Bangor, ME 04401, (207) 945-5621.

i. Comment Date: May 19, 1986.

j. Description of Project: The license for this project was issued on June 26, 1984. The project as licensed consists of a timber crib dam with 5.6-foot-high flashboards, an impoundment with a normal surface elevation of 151.1 feet mean sea level, an 800-foot-long canal, a powerhouse with 5 units with a total installed capacity of 13 MW, a 1,000-foot-long tailrace, an 800-foot-long transmission line, and fish passage facilities at the dam and at the powerhouse.

The licensee requests that the project description be amended as follows: (1) a 45-foot-high concrete dam composed of a 194-foot-long non-overflow spillway, a 107-foot-long gated spillway, and a 363-foot-long overflow spillway surmounted by 6-foot-high flashboards; (2) a reservoir with a storage capacity of 11,250 acre-feet and a normal surface elevation of 151.1 feet mean sea level; (3) a powerhouse at the dam with 2 turbine-generator units with a total installed capacity of 13 MW; (4) a vertical slot fish ladder at the powerhouse; (5) a 1,100-foot-long tailrace; (6) a 46-kV, 1,400-foot-long transmission line; and (7) other appurtenances.

k. This notice also consists of the following standard paragraphs: B, C, and D2.

B. *Comments, Protests, or Motions to Intervene.*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents.*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203-RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. *Agency Comments.*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9073 Filed 4-22-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-419-000 et al.]

Natural Gas Certificate Filings; ANR Pipeline Company et al.

April 17, 1986.

Take notice that the following filings have been made with the Commission:

1. ANR Pipeline Company

[Docket No. CP86-419-000]

Take notice that on April 8, 1986, ANR Pipeline Company (Applicant), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP86-419-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing, the construction and operation of natural gas pipeline and related facilities and related transportation services, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to construct and operate 18.2 miles of 8⅝-inch pipeline in Forest and Marinette Counties, Wisconsin, and 17.1 miles of 36-inch pipeline in Oconto County, Wisconsin. In addition, Applicant requests authorization to construct and operate appurtenant facilities in Wisconsin and Ohio. These facilities, costing approximately $16,658,000, would be constructed in two phases and according to Applicant would enable it to transport up to 211,400 Mcf of natural gas per day after Phase I construction and up to 425,000 Mcf per day after Phase II.

Applicant states that it would transport Canadian and domestic natural gas for Transco Gas Services Company, Inc. (Gas Services), for a fifteen-year period and deliver the gas to Erie Pipeline System (Erie) as proposed in Docket No. CP86-329-000. Applicant would receive Canadian gas from Great Lakes Gas Transmission Company near Crystal Falls and Farwell, Michigan, and Gulf coast gas from Texas Gas Transmission Company near Eunice, Louisiana. The above volumes would be delivered to Erie for Gas Services' account at Defiance County, Ohio, it is explained.

Pursuant to an April 7, 1986, agreement, Gas Services would pay Applicant the following rates for transportation:

Point of receipt	Demand rate/Mcf per month	Commodity rate/Mcf (cents)	Demand volume (Mcf per day)
Phase I:			
Farwell	$1.71	5.67	37,500
Crystal Falls	$2.19	7.27	37,500
Eunice	$4.11	13.52	142,400
Total			217,400
Phase II:			
Farwell	$1.69	5.59	90,000
Crystal Falls	$2.96	9.75	180,000
Eunice	$4.09	13.44	156,500
Total			426,500

Comment date: May 9, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. Southern Natural Gas Company

[Docket No. CP86-406-000]

Take notice that on March 31, 1986, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP86-406-000 an application pursuant to section 7 of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas for Atlanta Gas Light Company (Atlanta), acting as agent for Anglo-American Clays Corporation (Anglo-American), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 4.7 billion Btu of natural gas per day for Atlanta, as agent for Anglo-American, on an interruptible basis, for a one-year term. It is indicated that Anglo-American would purchase the gas from Diamond Shamrock Partners Limited Partnership. Applicant states that it would receive the gas for the account of Anglo-American at the Diamond Shamrock receiving station, offshore Louisiana. Applicant proposes to redeliver equivalent volumes of gas, less 3.25 percent for fuel and company-use gas, at an existing delivery point to Atlanta in Washington County, Georgia.

Applicant proposes to charge Atlanta a transportation rate of 48.2 cents per million Btu where the aggregate of the volumes transported by Applicant for Atlanta under any and all transportation agreements between Applicant and Atlanta, when added to the volumes of gas delivered under Applicant's Rate Schedule OCD, does not exceed Atlanta's daily contract demand from Applicant. For those volumes that exceed Atlanta's daily contract demand, Applicant proposes to charge 77.6 cents per million Btu. In addition Applicant proposes to collect the GRI surcharge of 1.35 cents per Mcf.

Applicant states that the proposed transportation arrangement would enable Anglo-American to diversify its natural gas supply sources and to obtain gas at competitive prices. In addition, Applicant indicates that it would obtain take-or-pay credit on all volumes transported under the arrangement.

Applicant also requests flexible authority to add delivery points in the event that Anglo-American obtains alternative sources of supply. It is stated that the redelivery point, the recipient and the maximum daily transportation volume would remain unchanged. It is further stated that Applicant would file a report providing certain information with regard to the addition of any delivery points.

Comment date: May 9, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP86-415-000]

Take notice that on April 2, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Appliant), Post Office Box 2511, Houston, Texas 77001, filed in Docket No. CP86-415-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon the transportation and delivery of natural gas for Southern Natural Gas Company (Southern), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that pursuant to a gas transportation agreement, dated March 5, 1979, between Applicant and Southern, it transports up to 1,800 Mcf of natural gas per day, on a best-efforts basis, to the Placid Oil Company's plant, located in St. Mary Parish, Louisiana, for the account of Southern. It is stated that Applicant receives said volumes from the "B" production platform in South Marsh Island Block 243, offshore Louisiana. It is further stated that Southern has informed Applicant, by letter dated August 27, 1985, of its election to terminate the transportation arrangement, effective September 1, 1986.

Comment date: May 9, 1986, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice, that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission of its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9065 Filed 4-22-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-325-000]

Samson Resources Co.; Application for Certificate of Public Convenience and Necessity and for an Order Permitting and Approving Limited-Term Abandonment and Pre-Granted Abandonment

April 16, 1986.

Take notice that on April 9, 1986, Samson Resources Company, (hereinafter referred to as Samson) filed an Application pursuant to sections 4 and 7 of the Natural Gas Act (NGA), the provisions of 18 CFR Parts 154 and 157 and 18 CFR 2.77(a)(1), seeking (i) a certificate of public convenience and necessity authorizing the sale for resale in interstate commerce of certain natural gas produced by Samson and its joint interest owners, and (ii) limited-term abandonment and pre-granted permanent abandonment of certain sales as described therein, to effectuate the sale and purchase of gas on the spot market, as more fully described in the Application which is on file with the Commission and open for public inspection. The term of the authorizations requested by Samson is two years. Alternatively, Samson requests that the Commission extend as to Samson for one year the blanker certificate and abandonment authority provided in *Tenneco Oil Company, et al.*, 33 FERC (CCH) ¶ 61.134 (1985), as extended for certain applicants in *Marathon Oil Company*, Docket Nos. CI85-651-001, *et al.* (March 31, 1986).

Samson states that the authority as requested is consistent with the Commission's rules and regulations and is necessary for Samson to continue making short-term and spot gas sales. Further, Samson states that, absent said authorization, the flexibility and efficiency necessary for successful operation in the spot market would be hindered.

Specifically, Samson requests that the Commission authorize Samson:

(i) To make sales for resale in interstate commerce for a period of two

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years, without supply or market limitations, of gas subject to the Commission's NGA jurisdiction that is produced from various interests owned by Samson;

(ii) To make sales for resale in interstate commerce for a period of two years, without supply or market limitations, of gas subject to the Commission's NGA jurisdiction, produced from various interests attributable to other owners having interests in the same wells as Samson, to the extent that such joint interest owners agree to same;

(iii) To abandon for a two-year term sales for resale of gas subject to the Commission's NGA jurisdiction and previously certificated by the Commission, to the extent that such gas is released by interstate pipelines for resale in the spot market to third parties; and

(iv) To abandon permanently (pre-granted abandonment) any sale for resale in the spot market authorized pursuant any certificate issued herein.

Sales proposed to be made by Samson on behalf of itself and its joint interest owners will not involve a dedication of reserves but will be based on periodic nomination, either by purchasers or by Samson. The sales volumes, prices, purchasers, delivery points, transporter, and supply source will vary. Samson proposes to sell and deliver to various short-term and spot gas purchasers all or a portion of the gas Samson determines is available for sale at terms acceptable to Samson for a particular month. Samson will not be obligated to sell gas pursuant to any nomination or proposed nomination until the exact volumes, terms and conditions, and prices are agreed to by Samson and a purchaser. The actual contract between Samson and the short-term and spot gas purchaser may be for all or any portion of the quantity which was set out in the nomination or proposed nomination. All contracts entered into by Samson and the short-term and spot gas purchaser will be subordinate to the requirements of Samson's current pipeline purchasers.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 12, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirments of the Commission's rules of practice and procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9082 Filed 4-22-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (ANR Production Company); Order Denying Request for Waiver

Issued: April 21, 1986

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt, and C.M. Naeve.

On February 18, 1986, ANR Production Company (ProdCo) filed a request for a waiver of the restrictions in the transitional provisions of Order No. 436 so as to permit Transcontinental Gas Pipeline Corporation (Transco) to transport gas for ProdCo from Mustang Island Block A-85, offshore Texas, without becoming subject to the requirements of Order No. 436.[1]

On January 13, 1982, ANR Pipeline Conpany (ANR) entered into a transportation agreement with Transco whereby Transco would transport ProdCo's gas from Mustang Island under Part 284 of the Commission's Regulations. The transportation commenced on January 15, 1982. On October 17, 1983, Transco filed an extension report to continue service for an additional two years, to January 15, 1986. Transco did not file any further extension reports, and the transportation service ceased on Janaury 15, 1986. A new transportation agreement was executed on January 27, 1986.

The Commission has, on occasion, granted waivers of the restrictions in the transitional provisions under circumstances in which significant construction or expenditure of funds had occurred prior to October 9, 1985, in reliance on a transportation agreement, although the transportation had not commenced on or before October 9, 1985. But those are not the facts before us here. The transportation agreement was executed, and transportation commenced, prior to October 9, 1985. Thereafter, the parties allowed the transportation agreement to terminate, and the transportation ceased. The new transportation agreement was executed in 1986. Thus, there is no extant transportation agreement that predates the issuance of Order No. 436. Under these circumstances, the parties do not have an agreement eligible for transition treatment. Accordingly, the request for waiver is denied.

By the Commission.

Kenneth F. Plumb

Secretary

[FR Doc. 86-9072 Filed 4-22-86; 8:45 am]

BILLING CODE 6717-01-M

[1] 33 FERC ¶ 61,007 (1985). 50 FR 42408 (October 18, 1985) [FERC Statutes and Regulations ¶ 30,665].

[Docket No. GP86-20-000]

Atlas Energy Group, Inc.; Petition To Reopen and Vacate Final Well Category Determinations and Request to Withdraw

Issued: April 18, 1986.

State of Ohio, Department of Natural Resources, Section 107 NGPA Determinations Atlas Energy Group, Inc., Callahan Unit No. 1 Well, FERC No. JD 81-28565, Metropolitan Homes Investmment Corporation No. 1 Well, FERC No. JD 81-28549.

Take notice that on February 24, 1986, Atlas Energy Group, Inc. (Atlas) filed pursuant to § 275.205 of the Commission's regulations a petition to reopen and vacate final well category determinations under section 107(c)(5) of the Natural Gas Policy Act of 1978 (NGPA) for the wells listed in the caption of this notice, both of which are located in Ohio, and to withdraw its applications for the determinations. The Ohio Department of Natural Resources (Ohio) issued determinations that the wells qualified under NGPA sections 103 and 107(c)(5) and such determinations became final on or about June 15, 1981. Atlas desires to retain the final NGPA section 103 well category determinations for the wells.

Atlas states that in its well category applications it stated that the wells were completed subsequent to July 16, 1979 and were thus eligible for NGPA section 107(c)(5) status. Atlas states that, based on the Commission's subsequent clarification of its recompletion tight formation regulations regarding when a well is completed, it concluded that the wells were actually completed prior to July 16, 1979 and accordingly do not qualify as NGPA section 107(c)(5) recompletion tight formation wells.

The question of whether refunds, plus interest calculated under § 154.102(c) of the regulations, will be required is a matter which will be considered by the commission in ruling on the subject petition.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with rules 214 or 211 of the Commission's rules of practice and procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, not later than 30 days following publication of this notice in the **Federal Register**. All protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with rule 214. Copies of this petition are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9086 Filed 4-22-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 8950-004]

James Caples; Surrender of Preliminary Permit

April 18, 1986.

Take notice that James Caples, Permittee for the Twelve Mile Creek Project No. 8950, has requested that his preliminary permit be terminated. The preliminary permit for Project No. 8950 was issued on September 27, 1985, and would have expired on August 31, 1988. The project would have been located on Twelve Mile Creek in Lemhi County, Idaho.

The Permittee filed the request on April 7, 1986, and the preliminary permit for Project No. 8950 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 28 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9087 Filed 4-22-86; 8:45 am]

BILLING CODE 6717-01-M

Citizens Energy Corp. and Citizens Resources Corp.; Application

[Docket No. CI86-56-001]

April 18, 1986.

Take notice that on April 14, 1986, Citizens Energy Corporation and Citizens Resources Corporation (jointly "Citizens") of 530 Atlantic Avenue, Boston, Massachusetts 02210, filed an application for extension for a one-year period of certificate and abandonment authority granted to them by the Commission on December 5, 1985, in Docket No. CI86-56-000.[1]

Any person desiring to be heard or to make any protests with reference to said application should on or before May 6, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR sections 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9079 Filed 4-22-86; 8:45am]

BILLING CODE 6717-01-M

[Docket No. CI86-22-001]

Fina Oil and Chemical Co., Petrofina Delaware, Inc., Fina Oil & Gas, Inc., Application

April 16, 1986.

Take notice that on March 31, 1986, Fina Oil and Chemical Company (FOCC), Petrofina Delaware, Incorporated (PDI), and Fina Oil & Gas, Inc. (FOGI) of 8350 N. Central Expressway, Suite 1866, Dallas, Texas 75221, filed an application pursuant to Sections 4 and 7 of the Natural Gas Act, 15 U.S.C. 717-717z (1982) (NGA) and Section 157 of the Commission's Regulations, 18 CFR 157 (1985), requesting for an extension of the blanket certificate of public convenience and necessity issued by the Commission in Docket No. CI86-22-000 on November 1, 1985.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 5, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9068 Filed 4-22-86; 8:45 am]

BILLING CODE 6717-01-M

[1] Citizens Gas Supply Corporation, a wholly-owned subsidiary of Citizens Energy Corporation, also requests the Commission to grant it certificate and abandonment authority identical to that granted Citizens on December 5, 1985. Citizens Gas Supply Corporation was not in existence at the time Citizens filed its application to initiate this proceeding, but now has obtained corporate authority to engage in the transactions contemplated in that application. Citizens Gas Supply Corporation will promptly furnish the Commission with any documentation necessary to grant the instant request.

[Project No. 3195-014]

Joseph M. Keating; Notice Denying Motion for Reconsideration

April 18, 1986.

On January 27, 1986, the Commission issued an order denying the appeal of Harriet La Flamme in Project No. 3195.[1] On February 27, 1986, Ms. La Flamme filed a request for rehearing of that order. On March 21, 1986, a notice was issued rejecting the request as late-filed.

On April 1, 1986, Ms. La Flamme filed a motion for reconsideration of the March 21 rejection. The motion is in essence a request for an extension of the thirty-day deadline for submitting rehearing requests. The rehearing deadline is statutorily imposed,[2] and the Commission is not authorized to extend or waive it. Therefore, the motion for

[1] 34 FERC ¶ 61,083 (1986).

[2] 16 U.S.C. 825/(1982).

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reconsideration filed April 1, 1986, by Harriet La Flamme is denied.

Kenneth F. Plumb,
Secretary.
[FR Doc. 86-9060 Filed 4-22-86; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 5652-001]

George and Melvin Osborne; Surrender of Exemption

April 18, 1986.

Take notice that George and Melvin Osborne, exemptees for the Fall Creek Power Project No. 5652, have requested that their exemption be terminated because construction and operation of the project is not feasible at this time. The exemption for Project No. 5652 was issued on April 18, 1982. The project would have been located on Fall Creek in Power County, Idaho. The exemptees have stated that no ground disturbing activity has taken place; therefore, no conditions are needed concerning the restoration of lands.

The exemptee filed the request on March 24, 1986, and the exemption for Project No. 5652 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385. 2007, in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,
Secretary.
[FR Doc. 86-9061 Filed 4-22-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. SA86-8-000]

Palo Duro Pipeline Co., Inc.; Petition For Adjustment

Issued: April 17, 1986.

On January 2, 1986, Palo Duro Pipeline Company, Inc. (Palo Duro) filed with the Federal Energy Regulatory Commission a petition for an adjustment from the requirements of 18 CFR 284.123(b), pursuant to section 502(c) of the Natural Gas Policy Act (NGPA). 15 U.S.C. 3412(c) (1982). Palo Duro seeks to establish a rate for NGPA section 311 transportation service by reference to the currently effective rate for comparable intrastate transportation on file with the Texas Railroad Commission. Palo Duro asserts that such relief is necessary to spare it the undue hardship of dual regulatory review.

In its petition, Palo Duro seeks an adjustment approving its transportation rate, as well as permission to file an Initial Full Report and a Termination Notice for the transportation. Palo Duro indicates that the rate of 20¢ per MMBtu, plus one percent of volumes for fuel costs, charged to industrial end-users, was determined by reference to the 30.88¢ currently effective rate for comparable intrastate service contained in a tariff on file with the Texas Railroad Commission. While noting that the rate used was not based on city gate service as required under § 284.123(b)(1)(ii) of the Commission's regulations, Palo Duro points out its petition that the rates used were on file with the Texas Railroad Commission and represent a discount of Palo Duro's filed rate. Palo Duro concludes that the relief is necessary to spare the company the burdens and undue hardship of unnecessary dual agency review, especially in view of the short-term nature of the transaction and the nonjurisdictional customers involved.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure. 18 CFR Part 385, Subpart K (1985). Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of Subpart K. All motions to intervene must be filed within fifteen days after publication of this notice in the Federal Register.

Kenneth F. Plumb,
Secretary.
[FR Doc. 86-9069 Filed 4-22-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CI86-307-000]

Sea Robin Pipeline Co.; Notice of Application for Abandonment Authorization

April 17, 1986.

Take notice that on April 7, 1986, Sea Robin Pipeline Company (Applicant), Post Office Box 1478, Houston, Texas 77251-1478, filed on behalf of Pogo Producing Company (Pogo) an application pursuant to § 7(b) of the Natural Gas Act and Section 157.30 of the Commission's Regulations for authorization to abandon Pogo's obligations established under certificates of public convenience and necessity issued in Docket Nos. CI76-653, CI76-648, CI76-706, CI78-935, CI78-938 and CI78-939. The reasons for the proposed abandonment are more fully set forth in the application, which is on file with the Commission and open to public inspection. Applicant states that Pogo is the producer and seller of natural gas. It received certificates of public convenience and necessity in the six (6) dockets identified above governing sales of natural gas to Applicant pursuant to six (6) sales contracts, all of which have expired by their own terms. The location, docket number, contract date, rate schedule and applicable price categories under each of the six sales are:

Location of sale	Authorized in docket No.	Contract date	Rate schedule No.	Applicable prices
East Cameron, block 334	CI76-653	06/17/76	12	§ 104 Post 1974, § 102(d).
East Cameron, block 335	CI76-648	06/17/76	11	§ 104 1973-1974 Biennium, § 104 Post 1974, and § 102(d).
South Marsh Island, block 128	CI76-706	07/02/76	13	§ 104 Post 1974, § 102(d).
Eugene Island, block 261	CI78-935	07/07/77	34	§ 104 Post 1974, § 102(d).
West Cameron, block 609	CI78-938	07/07/77	35	§ 104 1973-1974 Biennium, § 104 Post 1974, and § 102(d).
West Cameron, block 617	CI78-939	07/07/77	36	

Applicant states that all contracts have terminated, and the reserves previously covered by the contracts are no longer required by Applicant to meet the needs of its customers. Applicant further states that on November 21, 1984, Pogo filed in the Fifteenth Judicial District Court for the Parish of Vermilion, Louisiana, in Docket No. 84-48823, a petition seeking preliminary and permanent injunctive relief requiring Applicant to continue to purchase volumes of gas under the expired contracts. Applicant states that on March 26, 1985, the Court issued a preliminary injunction ordering Applicant to take and pay for both the monthly minimum take and pay quantity of approximately 55% of delivery capacity and the annual take-or-pay quantity of 85% of delivery capacity under the expired contracts. Applicant further states that under such contracts it is required to purchase 44,259 Mcf/d of gas from Pogo which has a weighted average cost of $3.04/Mcf, which is $0.68/Mcf higher than Applicant's total weighted average cost of gas of $2.36/Mcf.

Applicant states that the court's finding that it had any obligation to take gas from Pogo was based upon Section XI.06 of Article XI of the subject contracts and the court's belief that abandonment was not available to Pogo. According to Applicant, Section XI.06 states:

Section XI.06.—Deliveries After Termination of Contract

If Seller [Pogo] shall be required for any reason by an applicable law, rule, regulation or order to continue making deliveries to Buyer [Sea Robin] of the gas which is the subject matter of this Contract notwithstanding that this Contract shall have been terminated for any reason, whether by its own terms or by Seller or Buyer, it is expressly agreed and recognized by Seller and Buyer that Seller shall have no contractual obligations by reason of this Contract to Buyer in any such event, but Seller shall be entitled to enforce each and every provision of this contract against Buyer, such provisions being conclusively deemed, in the absence of a showing by Seller of a greater fair value, to be the fair value of the services performed and the subject matter delivered by Seller to Buyer under legal constraint, but without a contract. The obligation of Buyer under this Section XI.06 is absolute and unconditional and will remain in effect notwithstanding any event or circumstance whatsoever which might otherwise serve as a defense or relieve Buyer of any part of such obligation, *save and except that this obligation shall cease at such time as Seller shall become entitled in accordance with all applicable laws, rules, regulations and orders to cease once and for all making deliveries to Buyer of the gas which is the subject matter of this Contract.* (emphasis added.)

Applicant states that Pogo itself has not sought abandonment of these sales because Pogo is benefiting greatly by selling gas to Applicant far in excess of Applicant's needs at unrealistically high prices. Applicant states that while these purchases increase its average cost of gas and is therefore a significant detriment, such purchases also require it to reduce its purchases from other producers, thus increasing Applicant's potential take-or-pay exposure. Applicant states that the expeditious grant of the requested abandonment authorization on behalf of Pogo would remedy the above situation by removing the regulatory impediment that constitutes the foundation on which the injunction rests.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 6, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties of the proceeding. Any person wishing to become a party in the proceeding herein must file a petition to intervene in accordance with the Commission's Rules. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.
[FR Doc. 86-9070 Filed 4-22-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CI86-45-001]

Union Oil Company of California and Union Exploration Partners, LTD.; Application

April 16, 1986.

Take notice that on March 28, 1986, Union Oil Company of California and Union Exploration Partners, Ltd. (Union), of P.O. Box 7600, Los Angeles, California 90051, filed an application pursuant to Sections 4 and 7 of the Natural Gas Act, 15 U.S.C. sections 717c and 717f, and Part 157 of the Federal Energy Regulatory Commission's (Commission) Regulations, 18 CFR 157, requesting the Commission to amend its Order Permitting and Approving Limited-Term Abandonments and Granting Certificates in Vesta Energy Company, *et al.*, Docket Nos. CI85-400-001, *et al.* such that the term of the programs authorized by the Order may be continued for an additional one-year period, through March 31, 1987, or as may be otherwise extended.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 5, 1986, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,
Secretary.
[FR Doc. 86-9071 Filed 4-22-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP86-34-001]

Western Transmission Corporation Compliance Filing

April 18, 1986.

Take notice that on February 13, 1986, Western Transmission Corporation (Western) tendered for filing the following sheets to its FERC Gas Tariff, Original Volume No. 1: Twenty-Sixth Revised Sheet No. 3-A, Substitute Seventh Revised Sheet No. 4.

Western states that these sheets reflect rates based on an updated cost and revenue study and are filed pursuant to letter order dated January 29, 1986 in Docket No. RP86-34-000. Western further states that the cost and revenue study reflects removal of the cash working capital allowance and use of the current gas cost adjustment to develop an amount for fuel usage. Western requests an effective date of February 1, 1986.

The February 13, 1986 filing was not accompanied by a filing fee or a petition for waiver and could not be processed pursuant to § 381.106 of the Commission's regulations. On March 31, 1986, Western filed a Petition For Waiver Of Filing Fee requesting waiver of the filing fee on the grounds that a fee of equal amount was submitted with its December 30, 1985 filing and that the February 13, 1986 filing merely provided an additional tariff sheet and one substitute tariff sheet as the Commission ordered in the same proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR 385.214, 385.211 (1985)) All such motions or protests should be filed on or before April 25, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies

BEST COPY AVAILABLE

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of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-8983 Filed 4-22-86; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-66129; FRL-3004-4]

Pesticide Products Containing Carbon Tetrachloride; Notice of Intent To Cancel Registrations and Notice of Transmittal and Availability of Draft Notice To Cancel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Availability of Draft Notice of Intent to Cancel; Notice of Transmittal.

SUMMARY: This notice announces the availability for comment of a draft notice of intent to cancel the registrations of pesticide products containing carbon tetrachloride (CCl_4) used for grain fumigation pursuant to section 6(b) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). These products have the potential to cause oncogenic, mutagenic, and other chronic effects. The benefits of continued use of these products are limited. The remaining use on encased museum specimens will be allowed to continue because the current label instructions are sufficient to reduce applicator exposure and the risks from using this product are justified by the benefits.

DATE: Comments from the public on the draft notice must be received on or before [June 23, 1986, in the **Federal Register**].

ADDRESSES: Requests for copies of the draft intent to cancel should be submitted to:

Linda Zarow, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460;

Office location and telephone number: Rm. 711, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7453).

Submit three copies of written comments, identified with the document control number "OPP-66129," by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460;

In person, deliver comments to: Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTRACT: Linda Zarow (703-557-7453).

SUPPLEMENT INFORMATION: Legally to be sold and distributed in the United States, a pesticide product must be registered or exempt from registration pursuant to FIFRA. A pesticide product may remain registered only if it does not pose unreasonable adverse effects on the environment, that is, if it does not present any unreasonable risk to man and the environment, taking into account the economic, social, and environmental costs and benefits of the use of the pesticide. FIFRA sections 2(bb) and 6(b). If the Agency determines that a product no longer satisfies this requirement for registration, the Administrator may initiate the process for concelling its registration by issuing a notice of intent to cancel pursuant to section 6(b) of FIFRA. Section 6(b) and 25(d) of FIFRA require that the Environmental Protection Agency submit any proposed notice of intent to cancel pesticide registrations to the Secretary of Agriculture and to the Scientific Advisory Panel (SAP) at least 60 days prior to issuing a notice of intent to cancel. Accordingly, copies of a draft notice of intent to cancel pesticide products containing, $CC1_4$ have been sent to Secretary and the SAP for comment.

The Special Review (RPAR) of carbon tetrachloride was started by the publication of a notice in the **Federal Register** of October 15, 1980 (45 FR 68535). The Special Review was started because the Agency determined that continued use of carbon tetrachloride posed a risk of oncogenic, mutagenic, and other adverse effects and that it satisfied the criteria for commencing a Special Review set forth at 40 CFR 162.11(a) (3) (ii). Based on the information submitted and developed by the Agency in the course of the Special Review, as well as other information developed since 1980, EPA has concluded that exposure to products containing carbon tetrachloride continues to pose oncogenic, mutagenic, and other adverse effects.

To characterize better the risk attributable to continued use of carbon tetrachloride, the Agency required registrants to submit, pursuant to section 3(c) (2) (B) of FIFRA, the following: a reproduction study, teratology studies in two species, residue chemistry data, updated Confidential Statements of Formula, and product chemistry information. Many registrants chose to cancel voluntarily their carbon tetrachloride registrations rather than submit or commit to produce the required data. None of the remaining registrants of grain fumigant products have agreed to produce the data, and their registrations have now been suspended pursuant to section 3(c) (2) (B). Thus, there is now no registered pestcide product containing carbon tetrachloride for gain uses which registrants may legally sell or distribute in the United States.

A single product containing $CC1_4$ for use on encased museum specimens remains registered and unsuspended. EPA is now proposing to cancel the registrations of carbon tetrachloride products which have been suspended. These products include those registered for use as fumigants on stored grain, in flour milling and grain processing plants. All use of carbon tetrachloride for these purposes will soon cease and is now insignificant. There are altnatives readily available for all uses of carbon tetrachloride. Because alternatives are available and efficacious, there will be no significant impact resulting from cancellation of $CC1_4$. Moreover, the remaining registrants and potential users have elected not to comply with the requirements which would permit products to be marketed again. Accordingly, there are not significant benefits from continuing the registrations of carbon tetrachloride for these purposes.

Based on the potential oncogenic, mutagenic, and other adverse risks of products containing carbon tetrachloride and the limited benefits of continued registration of these products, EPA has concluded that the continued registration of food-use pesticide products containing carbon tetrachloride poses unreasonable adverse effects of the environment, including man. The risks attributable to the continued use of carbon tetrachloride are largely

associated with the exposure to residues in the diet. These residues cannot be eliminated by changes in the use pattern because any use of carbon tetrachloride for treatment of food must result in some contamination of the treated food product. Thus, the Agency is proposing to cancel the food-use registrations of all pesticide products containing the active ingredient, carbon tetrachloride.

The registration of products containing $CC1_4$ for use on encased museum specimens will be allowed to continue. The current label instructions for these products are sufficient to reduce applicator exposures and risks. Therefore, the Agency has concluded the risks from using this product are outweighed by the benefits.

Copies of the proposed notice of intent to cancel are available upon request. Although not required to do so by FIFRA, the Agency invites comments from the public on the proposal. Such comments must be submitted by June 23, 1986. The Agency does not anticipate granting any extensions of time to submit comments.

A limited number of comments were submitted in response to the notice of special review. Most of the information in these comments is not outdated. Therefore, the Agency has chosen to respond formally to these comments at this time. The Agency, however, will respond to any significant comments submitted in response to the proposed notice of intent to cancel when it issues a final determination. Commenters are invited to reiterate any comments which were previously submitted to the extent the commenters believe their 1980 comments are still relevant. In addition, all interested persons are invited to submit any additional comments.

Dated: April 10, 1986.

John A. Moore,
Assistant Administrator for Pesticides and Toxic Substances.

FR Doc. 86-8606 Filed 4-22-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30000/25F; FRL 3006-7]

Ethylene Dibromide; Amendment to EDB Registration for Postharvest Fumigation of Exported Citrus Fruit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has amended the registration under which ethylene dibromide (EDB) may be used to fumigate citrus fruit exported from the United States between now and the end of the 1988-1989 citrus harvest season. The label changes have imposed specific requirements on the fumigation of fruit and the shipping of fumigated fruit in an attempt to significantly reduce exposure to workers who fumigate, transport, and handle the treated crop. In addition, the amended label reduces the quality of EDB treated fruit to be shipped over the next 3 years.

FOR FURTHER INFORMATION CONTACT: By mail:

Linda K. Vlier, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW. Washington, DC 20460.

Office location and telephone number:

Rm. 711, CM No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7451).

An administrative file containing information used in development of this label amendment is available for public inspection from 8 a.m. to 4 p.m., Monday through Friday, except on legal holidays, in Rm. 236, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, Virginia.

SUPPLEMENTARY INFORMATION: On September 28, 1983, EPA issued a Notice of Intent to Cancer Registration of Pesticide Products Containing Ethylene Dibromide (EDB) which was published in the **Federal Register** of October 11, 1983 (48 FR 46234). The Notice proposed cancellation of the registrations for pesticide products containing EDB for use as a quarantine fumigant.

The Agency amended the Notice of Intent to Cancel to permit continued registration and use of EDB as a quarantine fumigant for exported citrus and papaya provided additional worker protection measures were instituted, as published in the **Federal Register** of April 10, 1984 (49 FR 14161). The amendment limited use of EDB on exported citrus to the months of October, November, December and January.

In August 1985, a request was made to the Agency to amend the EDB registration to eliminate the temporal restriction on application. On February 14, 1986, the Agency amended the registration to allow the use of EDB on exported citrus throughout the calendar year but replaced the limitation on the time of the season in which EDB may be used with a new limitation on quantities of fruit which can be fumigated. The label will expire in 3 years. The Agency is also issuing a Data Call-In Notice for additional worker exposure data. These data are being required to enable EPA to evaluate the effectiveness of the revised label requirements to reduce exposure of workers to EDB.

The label which expires at the end of the 1988/89 harvest season specifies: (1) Maximum volumes of citrus which may be treated with EDB each year; (2) a reduction in the maximum volume treated each harvest season; and (3) an increase in the use of containerized shipments to reduce worker exposure to EDB from treated citrus. The Agency will not consider amending this label to permit an increase in the volume of fruit treated or reduce the minumum percentage of fruit shipped containerized. However, the Agency may consider amending the label to modify workplace practices or equipment to further reduce worker exposure to EDB as new information becomes available. The label may also be amended to provide alternative programs for treatment of citrus.

The Agency may allow continued use of EDB past the 1988/89 harvest season if an evaluation of the relevant risk and benefit information shows an extension is warranted. The Agency is committed to reconsidering the continued availability of EDB for use on exported citrus before the June 30, 1989 expiration of the amended label.

The Agency will not extend the use of EDB if the exposure data indicate that any worker group is at significant risk when fumigating fruit, or handling treated fruit. The Agency however, may extend the use of EDB if the risks to workers are at relatively low levels and the economic impacts of eliminating EBD remain significant. Specifically, before an extension of EDB use will be permitted, the Agency will require:

1. Dramatic reductions in EDB exposure to workers.

2. Compliance with the requirements identified on the label.

3. Timely submission of all data required under the section 3(c)(2)(B) notice in full compliance with all quality assurance requirements.

The Agency commitment to reconsider and extension of use in no way precludes the Agency from taking either cancellation or suspension actions under section 6 of FIFRA prior to the expiration of the current label if such regulatory action is deemed appropriate.

Dated: April 14, 1986.

Susan H. Sherman,
Acting Director, Office of Pesticide Programs.

[FR Doc. 86-9048 Filed 4-22-86; 8:45 am]

BILLING CODE 6560-50-M

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[OPP-30246A; (FRL-3000-9)]

Zoecon Corp.; Approval of a Pesticide Product Registration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application submitted by Zoecon Corp. to register the pesticide product Mavrik® 2E Insecticide containing an active ingredient involving a changed use pattern pursuant to the provision of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide, and Rodenticide Act (FIFRA), as amended.

FOR FURTHER INFORMATION CONTACT:
By mail.
George LaRocca, Production Manager (PM) 15, Registration Division (TS-767C), Office of Pesticide Programs, 401 M St. SW., Washington, DC 20460.
Office of location and telephone number: Rm. 204, TS-767C, Environmental Protection Agency, 1921 Jefferson Davis Hwy, Arlington, VA. (703-557-2400).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of November 21, 1984 (49 FR 45923), which announced that Zeocon Corp., 975 California Ave., Palo Alto, Ca 94304, had submitted an application to conditionally register the pesticide product Mavrik® 2E Insecticide containing the active ingredient (alpha *RS, 2R*)-fluvalinate [(*RS*)-alpha-cyano-3-phenoxybenzyl (*R*)-2-[chloro-4-(trifluoromethyl)anilino]-3-methyl-butanoate] at 25 percent; involving a changed use pattern of the product.

The application was approved on March 31, 1986 for Mavrik® 2E Insecticide for use on cotton. The product was assigned EPA Registration No. 20954-115.

The Agency has considered all required data on the risks associated with the proposed use of alpha *RS,2R*)-fluvalinate [(*RS*)-alpha-cayano-3-phenoxybenzyl (*R*)-2-[chloro-4-(trifluoromethyl) anilino]-3-methyl-butanoate] and information on social, economic, and environmental benefits to be derived from use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of (alpha *RS, 2R*(-fluvalinate [(*RS*)-alpha-cyano-3-phenoxybenzyl (*R*)-2-[chloro-4-(trifluoromethyl)anilino]-3-methyl-butanoate] when used in accordance with widespread and commonly recognized practive, will not generally cause unreasonable adverse effects on the environment.

More detailed information on this registration is contained in a Chemical Fact Sheet on (alpha *RS, 2R*)-fluvalinate [(*RS*)-alpha-cyano-3-phenoxybenzyl (*R*)-2-[chloro-4(trifluoromethyl)anilino]-3-methyl-butanoate].

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position, rationale, and data gaps may be obtained from Registration Division (TS-767C), Environmental Protection Agency, Registration Support and Emergency Response Branch, 401 M St. SW., Washington, D.C. 20460. In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 236, CM#2, Arlington, VA 22202 (703-557-3262). Request for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St. SW., Washington, DC 20460.

Such requests should: (1) identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: April 14, 1986.

Susan H. Sherman,
Acting Director, Office of Pesticide Programs.

[FR Doc. 86-9033 Filed 4-22-86; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-53077; FRL-2996-5]

Premanufacture Notices; Monthly Status Report for August 1985

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the Federal Register each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for August 1985.

Nonconfidential portions of the PMNs may be seen in Rm. E-107 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53077]" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT:
Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-613, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: This monthly status report is published in the Federal Register pursuant to section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)). Effective with this notice, the following nonsubstantive changes in format are being initiated: (a) the chemical identity listings, the Federal Register citations, and the review period expiration date listings are being eliminated from categories II (PMNs received in previous months and still under review) and III (PMNs for which the review period ended this month); and (b) the monthly cumulative listing in category V of PMNs for which the review period has been suspended will be replaced with biannual cumulative listings (January and July) and monthly updates of those listings for the remaining ten months. These changes do not significantly affect the quantity of information presented in this monthly status report.

Dated: March 21, 1986.

Denise Devoe,
Acting Director, Information Management Division.

Premanufacture Notices Monthly Status Report August 1985

I. 149 Premanufacture Notices Received During the Month

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-1296	Generic name: Saturated and unsaturated alkylcarboxylic acid diethanolamine/triethanolamine salt	50 FR 32302 (32306) (8-9-85)	Oct. 29, 1985.
P 85-1297	Generic name: Poly-beta-fluoroalkylethyl acrylate and alkyl acrylate	50 FR 33630 (8-20-85)	Oct. 30, 1985.
P 85-1298	Generic name: Condensation product of an alkylphenol and alkylamine, and formaldehyde, calcium salt	50 FR 33630 (8-20-85)	Nov. 2, 1985.
P 85-1299	Generic name: Polymer from coconut fatty acids with alkanedioic acids and an alkanediol	50 FR 33630 (8-20-85)	Do.
P 85-1300	Generic name: Phenylene sulfide copolymer	50 FR 33630 (8-20-85)	Do.
P 85-1301	Generic name: Esterified polymeric acid	50 FR 33630 (8-20-85)	Do.
P 85-1302	Generic name: Functional alkyl methacrylate	50 FR 33630 (8-20-85)	Nov. 3, 1985.
P 85-1303	Generic name: Modified acrylic polymer	50 FR 33630 (33631) (8-20-85)	Do.
P 85-1304	Generic name: Modified acrylic polymer	50 FR 33630 (33631) (8-20-85)	Do.
P 85-1305	Generic name: Modified acrylic polymer	50 FR 33630 (33631) (8-20-85)	Do.
P 85-1306	Generic name: Substituted isothiazolanstirecene	50 FR 33630 (33631) (8-20-85)	Do.
P 85-1307	Generic name: Alkenoic acid, trisubstituted-benzyl disubstituted phenyl ester	50 FR 33630 (33631) (8-20-85)	Do.
P 85-1308	Generic name: Amine salt of a carboxyl terminated polyester urethane polymer	50 FR 33630 (33631) (8-20-85)	Do.
P 85-1309	Generic name: Amine salt of a carboxyl terminated polyester urethane polymer	50 FR 33630 (33631) (8-20-85)	Do.
P 85-1310	Generic name: Polyether urethane polymer	50 FR 33630 (33631) (8-20-85)	Do.
P 85-1311	Generic name: Polymer of tall oil rosin; phenolformaldehyde copolymer; calcium hydroxide; paraformaldehyde; acetic acid; p-tert-butylphenol-formaldehyde copolymer.	50 FR 33630 (33631) (8-20-85)	Do.
P 85-1312	Generic name: Isononanoic acid, sodium salt	50 FR 33630 (33631) (8-20-85)	Do.
P 85-1313	Polymer of tall oil rosin; phenolformaldehyde copolymer; calcium hydroxide; paraformaldehyde; acetic acid	50 FR 33630 (33631) (8-20-85)	Nov 4, 1985.
P 85-1314	Generic name: Substituted copper phthalocyanine	50 FR 33630 (33631) (8-20-85)	Do.
P 85-1315	Generic name: Nitrochlorophenylazo-N-ethyl-N-substituted aniline	50 FR 33630 (33631) (8-20-85)	Do.
P 85-1316	Generic name: 2-Naphthalenesulfonic acid, 6-acetamido-4-hydroxy-[substituted]azo, 1:2 metal complex, trisodium salt	50 FR 33630 (33631) (8-20-85)	Do.
P 85-1317	Hydrolyzed animal proteins	50 FR 33630 (33632) (8-20-85)	Do.
P 85-1318	Generic name: Functional polyurethane from polyalkylene oxide, aliphatic diisocyanate and substituted alkanol	50 FR 33630 (33632) (8-20-85)	Do.
P 85-1319	Generic name: Fatty acids, amides from alkanolamines	50 FR 33630 (33632) (8-20-85)	Do.
P 85-1320	Generic name: (Isocyanato oxazolidonyl) isocyanurate	50 FR 33630 (33632) (8-20-85)	Do.
P 85-1321	Generic name: Aromatic polyester resin	50 FR 33630 (33632) (8-20-85)	Do.
P 85-1322	Generic name: MDI-polyol prepolymer	50 FR 33630 (33632) (8-20-85)	Do.
P 85-1323	Generic name: Nitrogen containing alkyl phenol	50 FR 33630 (33632) (8-20-85)	Do.
P 85-1324	Generic name: Sulfurized ester	50 FR 33630 (33632) (8-20-85)	Do.
P 85-1325	Generic name: Alkyl phenol	50 FR 33630 (33632) (8-20-85)	Do.
P 85-1326	Generic name: Polysuccinimide amide	50 FR 33630 (33632) (8-20-85)	Nov. 5, 1985
P 85-1327	Generic name: Aromatic polyester resin	50 FR 34189 (8-23-85)	Nov. 6, 1985
P 85-1328	Generic name: Urethane polymer	50 FR 34189 (8-23-85)	Do
P 85-1329	Chromate (5-), bis[3-carboxy-1-[4-[[6-[(2-carboxyphenyl)azo]-5-hydroxy-7-sulfo-2-naphthalenyl]amino]-6-[[4-[[4-sulfo-phenyl]azo]phenyl]amino]-1,3,5-triazin-2-yl]pyridinemato(5-)]-, pentasodium dihydrate.	50 FR 34189 (34160) (8-23-85)	Do.
P 85-1330	Copper, [29H,31H-phthalocyaninato(2-)-N29,N30,N31,N32]-, aminosulfonyl[[2-[[4-(3-carboxypyridinio)-6-methoxy-1,3,5-triazin-2-yl]amino]ethyl]amino]sulfonyl sulfo derivs., hydroxides, sodium salts.	50 FR 34189 (34190) (8-23-85)	Nov. 9, 1985.
P 85-1331	Naphthalene, 1,2,3,4-tetrahydro-(1-phenylethyl)-	50 FR 34189 (34190) (8-23-85)	Do
P 85-1332	Mixture of diphenyl methane diisocyanate-2,4 and diphenyl methane diisocyanate-4,4 trimethlyol propene	50 FR 34189 (34190) (8-23-85)	Do
P 85-1333	Generic name: Polymer of acrylic acid esters and methacrylic acid esters with an aliphatic acid monomer and an aromatic vinyl monomer.	50 FR 34189 (34190) (8-23-85)	Do.
P 85-1334	Generic name: Polymer of acrylic acid esters and methacrylic acid esters with an aliphatic acid monomer and an aromatic vinyl monomer.	50 FR 34189 (34190) (8-23-85)	Nov. 10, 1985.
P 85-1335	Generic name: Functional acrylate type polymer	50 FR 34189 (34190) (8-23-85)	Do.
P 85-1336	Generic name: Oil modified polyester of aromatic and dibasic acids	50 FR 34189 (34190) (8-23-85)	Do.
P 85-1337	Generic name: Omega, omega'-diallyl polyglycol ethers	50 FR 34189 (34190) (8-23-85)	Nov. 11, 1985.
P 85-1338	Generic name: Polyurethane	50 FR 34189 (34190) (8-23-85)	Do.
P 85-1339	Generic name: Bisphenol A, epichlorohydrin, diethanolamine, polysubstituted alkane adduct polymer	50 FR 34189 (34190) (8-23-85)	Do.
P 85-1340	Generic name: Polyester resin	50 FR 34189 (34190) (8-23-85)	Do.
P 85-1341	Generic name: Sulfonates of ethoxylated alcohols	50 FR 34189 (34190) (8-23-85)	Do.
P 85-1342	Generic name: Substituted diazo compound	50 FR 34189 (34191) (8-23-85)	Do.
P 85-1343	Generic name: Silicon substituted organic amine	50 FR 34189 (34191) (8-23-85)	Do.
P 85-1344	Generic name: Alkali metal salt of substituted sulfo-aryl transition metal complex	50 FR 34189 (34191) (8-23-85)	Do.
P 85-1345	Generic name: Polysubstituted sulfo-aryl transition metal complex	50 FR 34189 (34191) (8-23-85)	Nov. 12, 1985.
P 85-1346	Generic name: Rosin maleated, fumarated ester with pentaerythritol, polypropylene glycol, and glycerine	50 FR 34189 (34191) (8-23-85)	Do.
P 85-1347	Generic name: Rosin maleated, fumarated ester with pentaerythritol and diethylene glycol	50 FR 34189 (34191) (8-23-85)	Do
P 85-1348	Generic name: Rosin maleated, fumarated ester with pentaerythritol, diethylene glycol, glycerine, ethylene glycol, and castor oil.	50 FR 34189 (34191) (8-23-85)	Do.
P 85-1349	Generic name: Polyamide	50 FR 34189 (34191) (8-23-85)	Do.
P 85-1350	Generic name: Polyamide	50 FR 34189 (34191) (8-23-85)	Do.
P 85-1351	Polymer of poly(oxy-1,4-butanediyl), alpha-hydro-omega-hydroxy-; 1,1'-biphenyl, 4,4'-diisocyanato-3,3'dimethyl; water; silicone surfactant; and 1,4-diazabicyclo-[2.2.2]octane.	50 FR 34189 (34191) (8-23-85)	Do.
P 85-1352	Polymer of poly(oxy-1,4-butanediyl), alpha-hydro-omega-hdroxy-, 1,1'biphenyl,4,4'-diisocyanato-3,3'-dimethyl, 1,4-butanediol, 1, 3-propanediol, 2-(hydroxy-methyl)-2-methyl, and 1,4-diazabicyclo-[2.2.2]octane.	50 FR 34189 (34191) (8-23-85)	Do.
P 85-1353	1,3-benzenedicarboxylic acid, polymer with 1,6-hexanediol and nonanedioic acid; naphthalene, 1,5-diisocyanato-; phenol, 4,4'-(methanetetrayldinitrilo)bis(3,5-bis (1-methylethyl)-; hexamethylene 1,6-diisocyidurethane, ethanol, 2,2'(1,4-phenylenebis(oxy)bis-1,4 butanediol.	50 FR 34189 (34191) (8-23-85)	Do
P 85-1354	Polymer of poly(oxy-1,4-butanediyl), alpha-hydro-omega-hydroxy-, 1,1'-biphenyl, 4,4'-diisocyanato-3,3'-dimethyl, 1,4-butanediol, 1,3-propanediol, 2-(hydroxymethyl)-2-methyl, and 1,4-diazabicyclo-[2.2.2]octane.	50 FR 34189 (3419) (8-23-85)	Do.
P 85-1355	Polymer of poly(oxy-1,4-butanediyl), alpha-hydro-omega-hydroxy-, 1,1'-biphenyl, 4,4'-diisocyanato-3,3'-dimethyl, 1,4-butanediol, 1,3-propanediol, 2-(hydroxymethyl)-2-methyl, and 1,4-diazabicyclo-[2.2.2]octane.	50 FR 34189 (34192) (8-23-85)	Do.
P 85-1356	Polymer of hexanedioic acid, polymer with 1,2-ethanediol; naphthalene, 1,5-diisocyanato-; castor oil; phenol, 4,4'-(methanetetrayldinitrilo)bis(3,5-bis(1-methylethyl)-; castor oil, sulfonated; sodium salt, water silcone additive, triethylene diamine catalyst.	50 FR 34189 (34192) (8-23-85)	Do.
P 85-1357	Polymer of E-caprolactone and trimethylol propane, castor oil, 1,1'-biphenyl, 4,4'-diisocyanato-3,3'-dimethyl, phenol, 4,4'-(methanetetrayldinitrilo)bis(3,5-bis(1-methylethyl)-, 1,4-butanediol; 1,3-propanediol, 2-(hydroxymethyl)-2-methyl, 1,4-diazabicyclo[2.2.2]octane.	59 FR 35314 (8-30-85)	Nov. 13, 1985.
P 85-1358	Generic name: Aromatic acetamide	50 FR 35314 (8-30-85)	Do.
P 85-1359	Generic name: Phenolic resin	50 FR 35314 (8-30-85)	Do.
P 85-1360	Generic name: Esterified polymeric acid	50 FR 35314 (8-30-85)	Do.
P 85-1361	Generic name: Titanium IV neoalkoxy bisneodecanoato	50 FR 35314 (8-30-85)	Do.
P 85-1362	Generic name: Titanium IV neoalkoxy, tris(dodecyl-benzenesulfonato-O	50 FR 35314 (8-30-85)	Do.
P 85-1363	Generic name: Titanium IV neoalkoxy, tris(3-amino)phenylato	50 FR 35314 (8-30-85)	Do.
P 85-1364	Generic name: Titanium IV neoalkoxy, triethylenediaminoethanolato	50 FR 35314 (35315) (8-30-85)	Do.
P 85-1365	Generic name: Titanium IV neoalkoxy, tris(diisooctyl)pyrophosphato-O	50 FR 35314 (35315) (8-30-85)	Do.
P 85-1366	Generic name: Titanium IV neoalkoxy, bis(dioctyl)phosphato-O	50 FR 35314 (35315) (8-30-85)	Do.
P 85-1367	Generic name: Titanium IV neoalkoxy tris(octyl		

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I. 149 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-1368	Generic name: Alkyl benzoic acid metal complex	50 FR 35314 (35315) (8-30-85)	Do.
P 85-1369	Generic name: Ethenyl silane ester	50 FR 35314 (35315) (8-30-85)	Nov. 17, 1985.
P 85-1370	Generic name: Alkyl(heterocyclicyl) phenylazoheteromonocyclicpolyons	50 FR 35314 (35315) (8-30-85)	Do.
P 85-1371	Generic name: Alkyl-heterocyclicquinazalone	50 FR 35314 (35315) (8-30-85)	Do.
P 85-1372	Generic name: Substituted polyhydronaphthalenol	50 FR 35314 (35315) (8-30-85)	Do.
P 85-1373	Generic name: 2-Hydroxyethyl trialkylacetate with carbon numbers of C_{11}-C_{28}	50 FR 35314 (35315) (8-30-85)	Do.
P 85-1374	Generic name: Amine-modified epoxy resin	50 FR 35314 (35315) (8-30-85)	Do.
P 85-1375	Generic name: Polypropylene toluene sulfonate	50 FR 35314 (35315) (8-30-85)	Do.
P 85-1376	Generic name: Polypropylene toluene	50 FR 35314 (35315) (8-30-85)	Do.
P 85-1377	Generic name: Alkyl fatty ester	50 FR 35314 (35315) (8-30-85)	Do.
P 85-1378	Generic name: Reaction product of bismaleimide with aminoaryl hydrazide	50 FR 35314 (35315) (8-30-85)	Do.
P 85-1379	Generic name: Alkyl benzoinazole	50 FR 35314 (35316) (8-30-85)	Nov. 18, 1985.
P 85-1380	Generic name: Ester-modified epoxy resin	50 FR 35314 (35316) (8-30-85)	Do.
P 85-1381	Generic name: Unsaturated polyester	50 FR 35314 (35316) (8-30-85)	Do.
P 85-1382	Generic name: Amine-modified epoxy resin	50 FR 35314 (35316) (8-30-85)	Do.
P 85-1383	Generic name: Amine-modified epoxy resin	50 FR 35314 (35316) (8-30-85)	Do.
P 85-1384	Generic name: Butyltin carboxylate derivative	50 FR 35314 (35316) (8-30-85)	Nov. 19, 1985.
P 85-1385	Generic name: Butylmercaptide	50 FR 35314 (35316) (8-30-85)	Do.
P 85-1386	Polymer of styrene; acrylonitrile; and maleic anhydride	50 FR 36669 (9-9-85)	Nov. 20, 1985.
P 85-1387	Generic name: Carboxy substituted aromatic sulfonamide	50 FR 36669 (9-9-85)	Do.
P 85-1388	Generic name: Vinyl chloride-vinyl acetate hydroxyl modified copolymer	50 FR 36669 (9-9-85)	Do.
P 85-1389	Generic name: Fluoro polyaryl ether ketone	50 FR 36669 (36670) (9-9-85)	Do.
P 85-1390	Generic name: (Dialkyl-substituted hydroxyphenyl)benzotriazole	50 FR 36669 (36670) (9-9-85)	Do.
P 85-1391	4-Isopropyl thioxanthone	50 FR 36669 (36670) (9-9-85)	Do.
P 85-1392	Generic name: Zinc salt of a carboxy substituted aromatic sulfonamide	50 FR 36669 (36670) (9-9-85)	Nov. 23, 1985.
P 85-1393	Generic name: Polymer of bisanhydride of bisphenol-A, and an aromatic diamine	50 FR 36669 (36670) (9-9-85)	Nov. 24, 1985.
P 85-1394	Benzenamine, N,N'-(1,4-phenylenedimethylidyne)bis[3-ethynyl]	50 FR 36669 (36670) (9-9-85)	Nov. 25, 1985.
P 85-1395	Generic name: Functionalized polyacrylate salt—acrylate ester	50 FR 36669 (36670) (9-9-85)	Do.
P 85-1396	Copolymer of 2-hydroxyethylmethacrylate and sodium styrenesulfonate	50 FR 36669 (36670) (9-9-85)	Do.
P 85-1397	Generic name: Acrylic copolymer latex	50 FR 36669 (36670) (9-9-85)	Do.
P 85-1398	Generic name: Aliphatic polyurethane aqueous dispersion	50 FR 36669 (36670) (9-9-85)	Do.
P 85-1399	Generic name: Substituted phenylazo benzenesulfonic acid	50 FR 36669 (36670) (9-9-85)	Do.
P 85-1400	Generic name: Disubstituted phenylazo disubstituted naphthalenesulfonic acid, salt	50 FR 36669 (36670) (9-9-85)	Do.
P 85-1401	Generic name: Disubstituted phenylazo, disubstituted naphthalenesulfonic acid, substituted alkyl amine salt	50 FR 36669 (36671) (9-9-85)	Do.
P 85-1402	Substituted phenylazo disubstituted naphthalenesulfonic acid, salt	50 FR 36669 (36671) (9-9-85)	Do.
P 85-1403	Generic name: Substituted phenylazo disubstituted naphthalenesulfonic acid, substituted alkylamine salt	50 FR 36669 (36671) (9-9-85)	Do.
P 85-1404	Generic name: Substituted phenylazo substituted phenylazo benzenesulfonic acid, salt	50 FR 36669 (36671) (9-9-85)	Do.
P 85-1405	Generic name: Substituted phenylazo substituted phenylazo benzenesulfonic acid, compound with substituted alkylamine.	50 FR 36669 (36671) (9-9-85)	Do.
P 85-1406	Generic name: Substituted aryl-substituted aryl heterocycle, carboxylate salt	50 FR 36669 (36670) (9-9-85)	Nov. 26, 1985.
P 85-1407	Generic name: Phosphorodithioic acid, dialkyl ester, alkylammonium salt	50 FR 36194 (36195) (9-20-85)	Nov. 27, 1985.
P 85-1408	Generic name: Substituted alkyl, alkyl oxazolidine	50 FR 36194 (36195) (9-20-85)	Do.
P 85-1409	Generic name: Unsaturated polyester	50 FR 36194 (36195) (9-20-85)	Do.
P 85-1410	Generic name: Unsaturated polyester polymer	50 FR 36194 (36195) (9-20-85)	Do.
P 85-1411	Generic name: Alkyl aluminoxanes	50 FR 36194 (36195) (9-20-85)	Do.
P 85-1412	Generic name: N-(beta-substituted propyl) benzenesulfonamide	50 FR 33628 (33629) (8-20-85)	Aug. 22, 1985.
Y 85-115	Generic name: Dimer acid polyamide	50 FR 33628 (33629) (8-20-85)	Do.
Y 85-116	Generic name: Dimer acid polyamide	50 FR 33628 (33629) (8-20-85)	Do.
Y 85-117	Generic name: Dimer acid polyamide	50 FR 33628 (33629) (8-20-85)	Do.
Y 85-118	Generic name: Dimer acid polyamide	50 FR 33628 (33629) (8-20-85)	Do.
Y 85-119	Generic name: Dimer acid polyamide	50 FR 33628 (33629) (8-20-85)	Do.
Y 85-120	Generic name: Dimer acid polyamide	50 FR 33628 (33629) (8-20-85)	Do.
Y 85-121	Generic name: Dimer acid polyamide	50 FR 33628 (33629) (8-20-85)	Do.
Y 85-122	Generic name: Dimer acid polyamide	50 FR 33628 (33629) (8-20-85)	Do.
Y 85-123	Generic name: Dimer acid polyamide	50 FR 33628 (33629) (8-20-85)	Do.
Y 85-124	Generic name: Dimer acid polyamide	50 FR 33628 (33629) (8-20-85)	Do.
Y 85-125	Generic name: Dimer acid polyamide	50 FR 33628 (33629) (8-20-85)	Do.
Y 85-126	Generic name: Dimer acid polyamide	50 FR 33628 (33629) (8-20-85)	Dó.
Y 85-127	Generic name: Dimer acid polyamide	50 FR 33628 (33629) (8-20-85)	Do.
Y 85-128	Generic name: Dimer acid polyamide	50 FR 33628 (33629) (8-20-85)	Do.
Y 85-129	Generic name: Aliphatic polyurethane aqueous dispersion	50 FR 33628 (33629) (8-20-85)	Aug. 25, 1985.
Y 85-130	Generic name: Acrylic copolymer latex	50 FR 33628 (33629) (8-20-85)	Aug. 26, 1985
Y 85-131	Generic name: Polyester resin	50 FR 33628 (33629) (8-20-85)	Aug. 27, 1985.
Y 85-132	Generic name: Copolyetheresteramide	50 FR 34192 (8-23-85)	Sept. 3, 1985.
Y 85-133	Generic name: Alkali metal salt of ester polyfunctional alkylene oxide polymer	50 FR 34192 (8-23-85)	Sept. 4, 1985.
Y 85-134	Generic name: Water soluble acrylate random copolymer	50 FR 35913 (9-30-85)	Sept. 9, 1985.
Y 85-135	Generic name: Water soluble acrylate random copolymer	50 FR 35913 (9-30-85)	Do.
Y 85-136	Generic name: Water soluble acrylate random copolymer	50 FR 35913 (9-30-85)	Do.
Y 85-137	Generic name: Cross-linked polymeric acrylic micro particles	50 FR 35913 (9-30-85)	Do.
Y 85-138	Generic name: Modified acrylate terpolymer	50 FR 35913 (9-30-85)	Do.
Y 85-139	Generic name: Polyurethane dispersion	50 FR 35913 (9-30-85)	Do.
Y 85-140	Generic name: Water-based polyurethane elastomer	50 FR 35913 (9-30-85)	Sept. 10, 1985.
Y 85-141	Generic name: Polymer from coconut fatty acids with alkanedioic acids and alkanediol	80 FR 36671 (9-9-85)	Sept. 12, 1985
Y 85-142	Generic name: Polyurethane polyester	50 FR 36671 (9-9-85)	Sept. 18, 1985.
Y 85-143	Generic name: Polyester of carbomonocyclic acid, sulfonated carbomonocyclic ester and alkylene glycol	50 FR 36671 (9-9-85)	Do.
Y 85-144	Generic name: Polyester of carbomonocyclic ester, sulfonated carbomonocyclic ester and alkylene glycol	50 FR 36671 (9-9-85)	Do.
Y 85-145	Generic name: Epoxy ester	50 FR 38194 (9-20-85)	Sept. 19, 1985.
Y 85-146	Generic name: Acrylate-styrene modified oil	50 FR 38194 (9-20-85)	Do.

II. 156 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH

PMN No.

P 85-1141, P 85-1142, P 85-1143, P 85-1144, P 85-1145, P 85-1146, P 85-1147, P 85-1148, P 85-1149, P 85-1150, P 85-1151, P 85-1152, P 85-1153, P 85-1154, P 85-1155, P 85-1156, P 85-1157, P 85-1158, P 85-1159, P 85-1160, P 85-1161, P 85-1162, P 85-1163, P 85-1164, P 85-1165, P 85-1166, P 85-1167, P 85-1168, P 85-1169, P 85-1170, P 85-1171, P 85-1172, P 85-1173, P 85-1174, P 85-1175, P 85-1176, P 85-1177, P 85-1178, P 85-1179, P 85-1180, P 85-1181, P 85-1182, P 85-1183, P 85-1184, P 85-1185, P 85-1186, P 85-1187, P 85-1188, P 85-1189, P 85-1190, P 85-1191, P 85-1192, P 85-1193, P 85-1194, P 85-1195, P 85-1196, P 85-1197, P 85-1198, P 85-1199, P 85-1200, P 85-1201, P 85-1202, P 85-1203, P 85-1204, P 85-1205, P 85-1206, P 85-1207, P 85-1208, P 85-1209, P 85-1210, P 85-1211, P 85-1212, P 85-1213, P 85-1214, P 85-1215, P 85-1216, P 85-1217, P 85-1218, P 85-1219, P 85-1220, P 85-1221, P 85-1222, P 85-1223, P 85-1224, P 85-1225, P 85-1226, P 85-1227, P 85-1228, P 85-1229, P 85-1230, P 85-1231, P 85-1232, P 85-1233, P 85-1234, P 85-1235, P 85-1236, P 85-1237, P 85-1238, P 85-1239, P 85-1240, P 85-1241, P 85-1242, P 85-1243, P 85-1244, P 85-1245, P 85-1246, P 85-1247, P 85-1248, P 85-1249, P 85-1250, P 85-1251, P 85-1252, P 85-1253, P 85-1254, P 85-1255, P 85-1256, P 85-1257, P 85-1258, P 85-1259, P 85-1260, P 85-1261, P 85-1262, P 85-1263, P 85-1264, P 85-1265, P 85-1266, P 85-1267, P 85-1268, P 85-1269, P 85-1270, P 85-1271, P 85-1272, P 85-1273, P 85-1274, P 85-1275, P 85-1276, P 85-1277, P 85-1278, P 85-1279, P 85-1280, P 85-1281, P 85-1282, P 85-1283, P 85-1284, P 85-1285, P 85-1286, P 85-1287, P 85-1288, P 85-1289, P 85-1290, P 85-1291, P 85-1292, P 85-1293, P 85-1294, P 85-1295

III. 186 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY)

PMN No.

P 83-418, P 83-875, P 83-876, P 84-15, P 84-17, P 84-18, P 84-38, P 84-80, P 84-597, P 84-609, P 84-713, P 84-796, P 84-881, P 84-954, P 85-16, P 85-203, P 85-383, P 85-428, P 85-466, P 85-527, P 85-567, P 85-627, P 85-630, P 85-631, P 85-632, P 85-633, P 85-634, P 85-732, P 85-733, P 85-734, P 85-783, P 85-897, P 85-911, P 85-912, P 85-913, P 85-914, P 85-915, P 85-916, P 85-917, P 85-918, P 85-919, P 85-920, P 85-921, P 85-922, P 85-923, P 85-924, P 85-925, P 85-926, P 85-927, P 85-928, P 85-929, P 85-930, P 85-931, P 85-932, P 85-933, P 85-934, P 85-935, P 85-936, P 85-937, P 85-938, P 85-939, P 85-940, P 85-941, P 85-942, P 85-943, P 85-944, P 85-945, P 85-946, P 85-947, P 85-948, P 85-949, P 85-950, P 85-951, P 85-952, P 85-953, P 85-954, P 85-955, P 85-956, P 85-957, P 85-958, P 85-959, P 85-960, P 85-961, P 85-962, P 85-963, P 85-964, P 85-965, P 85-966, P 85-967, P 85-968, P 85-969, P 85-970, P 85-971, P 85-972, P 85-973, P 85-974, P 85-975, P 85-976, P 85-977, P 85-978, P 85-979, P 85-980, P 85-981, P 85-982, P 85-983, P 85-984, P 85-985, P 85-986, P 85-987, P 85-988, P 85-989, P 85-990, P 85-991, P 85-992, P 85-993, P 85-994, P 85-995, P 85-996, P 85-997, P 85-998, P 85-999, P 85-1000, P 85-1001, P 85-1002, P 85-1003, P 85-1004, P 85-1005, P 85-1006, P 85-1007, P 85-1008, P 85-1009, P 85-1010, P 85-1011, P 85-1012, P 85-1013, P 85-1014, P 85-1015, P 85-1016, P 85-1017, P 85-1018, P 85-1019, P 85-1020, P 85-1021, P 85-1022, P 85-1023, P 85-1024, P 85-1025, P 85-1026, P 85-1027, P 85-1028, P 85-1029, P 85-1030, P 85-1031, P 85-1032, P 85-1033, P 85-1034, P 85-1035, P 85-1036, P 85-1037, P 85-1038, P 85-1039, P 85-1040, Y 85-109, Y 85-110, Y 85-111, Y 85-112, Y 85-113, Y 85-114, Y 85-115, Y 85-116, Y 85-117, Y 85-118, Y 85-119, Y 85-120, Y 85-121, Y 85-122, Y 85-123, Y 85-124, Y 85-125, Y 85-126, Y 85-127, Y 85-128, Y 85-129, Y 85-130, Y 85-131, Y 85-132

IV. 73 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE

PMN No.	Identity/generic name	Date of commencement
P 80-300	Cuprate(6-), [u-[[3,3'-[iminobis[(1-hydroxy-3-sulfo-6,2-naphthalenediyl)azo(5-hydroxy-2-methyl-4,1-phenylene)azo]] bis[1,5-naphthalene-disulfonato]](10-)]]di-hexasodium.	Aug. 5, 1985.
P 81-666	Generic name: Cycloalkyl aralkyl ether	Jan. 3, 1985.
P 82-296	Generic name: Polymer of alkyl acrylate and acrylamide	Aug. 20, 1984.
P 83-336	Methanesulfonic acid, tin (2+) salt	July 7, 1985.
P 83-337	Methanesulfonic acid, lead (2+) salt	July 22, 1985.
P 83-401	Generic name: Naphtalenetrisulfonic acid, chlorotriazinyl-amino-methoxymethylphenylazo,-	Aug. 1, 1985.
P 83-455	Generic name: Alkenoyl disubstituted cycloalkane	July 10, 1985.
P 83-616	Generic name: C. I. direct red 259	Aug. 5, 1985.
P 83-619	Cuprate(5-), [u-[2-[[1-[4-[2-[4-[[4-[[4-[2-[4-[4-[(2-carboxyphenyl)azo]-4,5-dihydro-3-methyl-5-oxo-1H-pyrazol-1-yl]-2-sulfophenyl]ethenyl]-3-sulfophenyl]amino]-6-(phenylamino)-1,3,5-triazin-2-yl]amino]-2-sulfophenyl]ethenyl]-3-sulfophenyl]-4,5-dihydro-3-methyl]-5-oxo-1H-pyrazol-4-yl]azo]-5-sulfobenzoato(6-)]]di-, pentasodium.	July 18, 1985.
P 83-620	Generic name: C. I. direct red 260	Aug. 5, 1985.
P 83-621	Benzoic acid, 2-[[1-[4-[2-[4-[[4-[[4-[2-[4-[4-[(2-carboxyphenyl)azo]-4,5-dihydro-3-methyl-5-oxo-1H-pyrazol-1-yl]-2-sulfophenyl]ethenyl]-3-sulfophenyl]amino]-6-(phenylamino)-1,3,5-triazin-2-yl]amino]-2-sulfophenyl]ethenyl]-3-sulfophenyl]-4,5-dihydro-3-methyl-5-oxo-1H-pyrazol-4-yl]azo]-5-sulfo-, pentasodium salt.	Aug. 5, 1985. July 18, 1985.
P 83-808	2-, 3-, and 4-pinanol mixture	Aug. 1, 1985.
P 83-920	Generic name: Phosphoro carboxylic acid derivative	July 29, 1985.
P 83-1012	Generic name: Bis(sulfophenyl)chlorotriazine amino sulfophenylazo) hydroxyamino disulfonaphthalene	Aug. 1, 1985.
P 83-1055	Generic name: Trisubstituted heteromonocycle	Aug. 5, 1985.
P 83-1279	Generic name: Water dispersed oligourethane	July 31, 1985.
P 83-1280	Generic name: Polyurethane prepolymer resin	Do.
P 84-27	Generic name: Polyol carboxylate ester	May 10, 1984.
P 84-56	1,3-Benzenedicarboxylic acid, polymer with 2,2-dimethyl-1,3-propanediol, 2-ethyl-2-(hydroxymethyl)-1,3-propanediol and 2,2,4-trimethyl-1,3-pentadiol	July 11, 1985.
P 84-164	Generic name: Fluorine substituted diesterane	July 1, 1985.
P 84-233	Silicon aluminum oxynitride	Aug. 15, 1985.
P 84-614	Generic name: Polysubstituted polyol	Aug. 5, 1985.
P 84-624	Generic name: Brominated aromatic	Aug. 19, 1985.

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IV. 73 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture—Continued

PMN No.	Identity/generic name	Date of commencement
P 84-884	1-methyl-1-phenylethyl peroxyneoheptanoate	July 26, 1985.
P 84-885	Generic name: Carboxylic acid chloride	Do.
P 84-1168	Generic name: Polysubstituted urethane	July 23, 1985.
P 85-83	1,2-Dimethyl-3-(1-methylethenyl)-cyclopentanol mixture	Aug. 1, 1985.
P 85-84	Generic name: Perfluoroalkyl substituted acrylate polymer	July 21, 1985.
P 85-108	Generic name: Acrylic copolymer	July 18, 1985.
P 85-126	Generic name: Unsaturated polyester	Aug. 28, 1985.
P 85-150	Generic name: Fluoranthenediamine-bis(substituted aminoanthraquinone)	July 16, 1985.
P 85-151	Generic name: Fluoranthenamine-substituted amino-anthraquinone	Do.
P 85-183	4,5-dihydro-5-ethyl-2-methyl-3-furane carboxylic acid ethyl ester	July 28, 1985.
P 85-316	Generic name: Aryl alkenyl aryl nitrile	July 29, 1985.
P 85-330	Generic name: Alkyl aryl ethoxylate sulfate, sodium salt	Do.
P 85-363	1,2-Dimethyl-3-(1-methylethenyl)-cyclo pentanol acetate mixture	Aug. 1, 1985.
P 85-508	9,10-Anthracenedione, 4-[(4-(1,1-dimethylethyl)phenyl)amino]-5-hydroxy-1-[(1-methylethyl)amino]-	Aug. 5, 1985.
P 85-510	Poly(oxy-1,2-ethanediyl), alpha-higher alkyl, C>30, omega-hydroxy	Aug. 15, 1985.
P 85-664	Generic name: Reaction product of metallic alkyls and polysiloxanes	Do.
P 85-666	Generic name: Reaction product of metallic alkyls, polysiloxanes and titanates	Do.
P 85-671	Generic name: Reacted modified cycloaliphatic diamine	Aug. 1, 1985.
P 85-695	Generic name: Acrylate copolymer	July 30, 1985.
P 85-696	Generic name: Acrylate copolymer	Do.
P 85-697	Generic name: Acrylate copolymer	Do.
P 85-698	Generic name: Acrylate copolymer	Do.
P 85-714	Generic name: Disubstituted urea	July 31, 1985.
P 85-736	Generic name: Modified rosin, calcium zinc salts	July 19, 1985.
P 85-797	Generic name: Diamine-polydimethylsiloxane	July 11, 1985.
P 85-799	Generic name: Modified polyacrylate polymer	Aug. 1, 1985.
P 85-801	Generic name: Adduct of polymeric 4,4'phenylmethane diisocyanate and hydroxyester of terephthalic acid	July 24, 1985.
P 85-819	Generic name: Tall oil fractions, unsaturated hydrocarbon resin, dienophile modified polymer with pentaerythritol	Aug. 16, 1985.
P 85-821	Generic name: Alkyd resin	Aug. 2, 1985.
P 85-823	Generic name: Alkene-methacrylate copolymer	Aug. 1, 1985.
P 85-864	Generic name: Dimethylhydrogen terminated polysiloxane	Aug. 12, 1985.
P 85-865	Generic name: Substituted acetonitrile	Aug. 2, 1985.
P 85-867	Indium orthoborate	July 31, 1985.
P 85-899	Generic name: Ethoxylated polyester	Aug. 9, 1985.
P 85-905	Sodium alumnum tetrahydride	Aug. 1, 1985.
P 85-913	Generic name: Polyol sulfate	Aug. 5, 1985.
P 85-927	Generic name: Modified essential oil	Aug. 13, 1985.
P 85-940	Generic name: Saturated branched chain secondary alcohol/ketone mixture having 12 carbon atoms	Aug. 8, 1985.
P 85-945	Generic name: Acrylic ester terpolymer	Aug. 13, 1985.
P 84-998	Generic name: Mixed esters of butane polyols	Aug. 16, 1985.
Y 85-21	Polymer of castor oil, succinic anhydride, and propylene glycol	Aug. 5, 1985.
Y 85-39	Generic name: Polyester polymer	June 28, 1985.
Y 85-40	Polymer of lactndecyl alcohol, trimellitic anhydride, maleic anhydride, neopentylglycol	Aug. 5, 1985.
Y 85-43	1,4-Benzenedicarboxylic acid polymer with Jeffamine ED 2001 and 2-oxepanone	July 1, 1985.
Y 85-57	Generic name: 1-substituted propene, 2-methyl-2-[(1-OXO-2-propenyl)amino]-, monosodium salt, polymer with 2-propenamide and 2 propenoic acid, sodium salt.	July 8, 1985.
Y 85-74	Adipic, azelaic, glutaric acids, copolymer with 1,4-butane diol and 2-ethylhexanol	Aug. 16, 1985.
Y 85-96	Polymer of 2-propenoic acid, 2-methyl-, methyl ester, ethenylbenzene and methyl-2-propenoate	July 22, 1985.
Y 85-99	Generic name: Dimethyl terephthalate, alkanediols and trimellitic anhydride polymer	July 25, 1985.
Y 85-101	Acid terminated prepolymer polyester	Aug. 5, 1985.
Y 85-131	Generic name: Polyester resin	Aug. 29, 1985.

V. 39 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No.	Identity/generic name	FR citation	Date suspended
P 84-587	Generic name: Blocked aliphatic polyisocyanate	49 FR 18835 (4-30-84)	Aug. 16, 1985.
P 84-713	Generic name: Acrylated alkoxylated aliphatic polyol	49 FR 22130 (5-25-84)	Aug. 7, 1985.
P 84-798	Generic name: Polyfunctional azindine	49 FR 24782 (6-15-84)	Do.
P 85-16	Generic name: Acrylamide unsaturated quaternary ammonium copolymer	49 FR 41102 (41103) (10-19-84)	Aug. 22, 1985.
P 85-609	Generic name: Functionally modified methacrylate polymer	50 FR 9504 (9508) (3-8-85)	Aug. 26, 1985.
P 85-611	Generic name: Copper complex of substituted-diazonaphthalenetrisulfonic acid	50 FR 9504 (9508) (3-8-85)	Do.
P 85-620	Generic name: Functionally substituted acrylic/methacrylic/styrene polymer	50 FR 9504 (9508) (3-8-85)	Do.
P 85-725	Generic name: Polymer of alkyl methacrylates, substituted alkyl methacrylate and styrene	50 FR 14439 (4-12-85)	Do.
P 85-854	Generic name: Triglycidyl ether of substituted tri(hydroxyphenyl)methane	50 FR 18915 (18916) (5-3-85)	Aug. 1, 1985.
P 85-855	Generic name: Triglycidyl ether of substituted tri(hydroxyphenyl)methane	50 FR 18915 (18916) (5-3-85)	Do.
P 85-875	Generic name: Alkylamidopropyl betaine	50 FR 19798 (19799) (5-10-85)	Aug. 24, 1985.
P 85-876	Generic name: Alkylamidopropyl betaine	50 FR 19798 (19800) (5-10-85)	Do.
P 85-877	Generic name: Alkylamidopropyl betaine	50 FR 19798 (19800) (5-10-85)	Do.
P 85-878	Generic name: Alkylamidopropyl betaine	50 FR 19798 (19800) (5-10-85)	Do.
P 85-879	Generic name: Alkylamidopropyl betaine	50 FR 19798 (19800) (5-10-85)	Do.
P 85-890	Generic name: Polypropylene glycol ether	50 FR 19798 (19800) (5-10-85)	Aug. 13, 1985.
P 85-891	Generic name: Polypropylene glycol ether	50 FR 19798 (19800) (5-10-85)	Do.
P 85-892	Generic name: Polypropylene glycol ether	50 FR 19798 (19800) (5-10-85)	Do.
P 85-929	Generic name: Alkylated aromatic diamine	50 FR 20598 (20599) (5-17-85)	Aug. 1, 1985.
P 85-932	Generic name: Disubstituted alkyltriazine	50 FR 20598 (20599) (5-17-85)	Aug. 21, 1985.
P 85-933	Generic name: Disubstituted alkyltriazine	50 FR 20598 (20599) (5-17-85)	Do.
P 85-941	Generic name: Substituted alkylamine salt	50 FR 21498 (21499) (5-24-85)	Aug. 22, 1985.
P 85-949	Generic name: Organosilane polymer	50 FR 21498 (21500) (5-24-85)	Aug. 12, 1985.
P 85-963	Generic name: Alkenylether-substituted polyester	50 FR 21498 (21501) (5-24-85)	Do.
P 85-966	3,9-diethyl tridecan-6-one	50 FR 21498 (21501) (5-24-85)	Aug. 9, 1985.
P 85-973	Generic name: Triglycidyl ether of a substituted tri(hydroxyphenyl)methane	50 FR 21498 (21502) (5-24-85)	Aug. 13, 1985.
P 85-976	Generic name: Reaction product of an organic polymer, silane, organosilanes and a functional organosilane	50 FR 21498 (21502) (5-24-85)	Aug. 12, 1985.
P 85-992	Generic name: Urethane acrylate	50 FR 23185 (23186) (5-31-85)	Aug. 18, 1985.
P 85-1042	Generic name: Amine salts of sulfonated, alkylated diphenyl oxide	50 FR 24938 (24940) (6-14-85)	Aug. 28, 1985.
P 85-1043	Generic name: Amine salts of sulfonated, alkylated diphenyl oxide	50 FR 24938 (24940) (6-14-85)	Do.
P 85-1044	Generic name: Amine salts of sulfonated, alkylated diphenyl oxide	50 FR 24938 (24940) (6-14-85)	Do.
P 85-1045	Generic name: Amine salts of sulfonated, alkylated diphenyl oxide	50 FR 24938 (24940) (6-14-85)	Do.
P 85-1046	Generic name: Amine salts of sulfonated, alkylated diphenyl oxide	50 FR 24938 (24940) (6-14-85)	Do.

V. 39 Premanufacture Notices for Which the Review Period Has Been Suspended—Continued

PMN No.	Identity/generic name	FR citation	Date suspended
P 85-1047	Generic name: Amine salts of sulfonated, alkylated diphenyl oxide	50 FR 24938 (24940) (6-14-85)	Do.
P 85-1048	Generic name: Amine salts of sulfonated, alkylated diphenyl oxide	50 FR 24938 (24940) (6-14-85)	Do.
P 85-1049	Generic name: Amine salts of sulfonated, alkylated diphenyl oxide	50 FR 24938 (24940) (6-14-85)	Do.
P 85-1053	Generic name: Perfluoroalkyl methacrylate	50 FR 25778 (6-21-85)	Do.
P 85-1054	Generic name: Perfluoroalkyl methacrylate	50 FR 25778 (6-21-85)	Do.
P 85-1058	Generic name: Alkylene bis-anthranilate ester	50 FR 25779 (25779) (6-21-85)	Aug. 29, 1985.

[FR Doc. 86-6996 Filed 4-22-86; 8:45 am]

BILLING CODE 6560-50

[OPTS-53078 FRL-2995-3]

Premanufacture Notices Monthly Status Report for September 1985

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for September 1985.

Nonconfidential portions of the PMNs may be seen in Rm. E-107 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53078]" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Room E-201, 401 M Street SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Contol Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-613, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during September; (b) PMNs received previously and still under review at the end of September; (c) PMNs for which the notice review period has ended during September; (d) chemical substances for which EPA has received a notice of commencement to manufacture during September and (e) PMNs for which the review period has been suspended. Therefore, the September 1985 PMN Status Report is being published.

Dated: March 21, 1986.

Denise Devoe,

Acting Director, Information Management Division.

Premanufacture Notices Monthly Status Report September 1985

I. 138 Premanufacture Notices Received During the Month

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-1413	Polymer of chlorinated dicarboxylic acid, aromatic anhydride, aliphatic ester and polyol	50 FR 38194 (38195) (9-20-85)	Dec. 1, 1985.
P 85-1414	Generic name: Substituted aromatic polymer	50 FR 38194 (38195) (9-20-85)	Do.
P 85-1415	Generic name: Modified acrylic copolymer	50 FR 38194 (38195) (9-20-85)	Do.
P 85-1416	Generic name: Oligomeric hydroxy amidoester resin	50 FR 38194 (38195) (9-20-85)	Do.
P 85-1417	Generic name: Phenolic polyester	50 FR 38194 (38195) (9-20-85)	Dec. 2, 1985.
P 85-1418	Generic name: Unsaturated polyester	50 FR 38194 (38196) (9-20-85)	Do.
P 85-1419	Polymer of glycerol, phthalic, anhydride, phenol-formaldehyde, resin CX-1634, rosin; tall oil fatty acids and trimethylol propane.	50 FR 38194 (38196) (9-20-85)	Do.
P 85-1420	Generic name: Substituted allyl aniline	50 FR 38194 (38196) (9-20-85)	Do.
P 85-1421	d,d,d'd'-tetramethyl-, dihexyl ester	50 FR 38197 (38198) (9-20-85)	Dec. 4, 1985.
P 85-1422	Generic name: Aliphatic polyester reacted with diisocyanate and diol acid, amine salt	50 FR 38197 (38198) (9-20-85)	Do.
P 85-1423	Generic name: Aliphatic polyester reacted with aromatic diisocyanate and iol acid, amine salt	50 FR 38197 (38198) (9-20-85)	Do.
P 85-1424	Generic name: Copolymer of methacrylic acid ester and substituted methacrylic acid derivatives	50 FR 38197 (38198) (9-20-85)	Dec. 7, 1985.
P 85-1425	Generic name: Unsaturated acid and heterocyclic modified epoxy resin	50 FR 38197 (38198) (9-20-85)	Do.
P 85-1426	Generic name: Mixture of aliphatic alcohols	50 FR 38197 (38198) (9-20-85)	Do.
P 85-1427	Generic name: Substituted naphthalene	50 FR 38197 (38198) (9-20-85)	Dec. 8, 1985.
P 85-1428	Generic name: Oxime capped polyurethane	50 FR 38197 (38198) (9-20-85)	Do.
P 85-1429	Polymer of soya fatty acid, pentaerythritol, benzoic acid, isophthalic acid, styrene, and methyl methacrylate	50 FR 38197 (38198) (9-20-85)	Do.
P 86-1430	Generic name: Isocyanate-terminated polyester polyurethane	50 FR 38197 (38198) (9-20-85)	Do.
P 85-1431	Generic name: Isocyanate-terminated polyurethane	50 FR 38197 (38198) (9-20-85)	Do.
P 85-1432	Generic name: Substituted N,N-diethyl-m-anisidine	50 FR 38197 (38199) (9-20-85)	Do.
P 85-1433	Generic name: Alkoxylated coconut glyceride	50 FR 38197 (38199) (9-20-85)	Do.
P 85-1434	Generic name: Halogenated peroxide	50 FR 38197 (38199) (9-20-85)	Dec. 10, 1985.
P 85-1435	Generic name: Polyester diol	50 FR 38197 (38199) (9-20-85)	Do.
P 85-1436	Generic name: Amine-boronhalide complex	50 FR 38197 (38199) (9-20-85)	Do.
P 85-1437	Generic name: Ethylene-vinyl fatty ester copolymer	50 FR 38197 (38199) (9-20-85)	Do.
P 85-1438	Generic name: Modified acrylate terpolymer	50 FR 39167 (39168) (9-27-85)	Dec. 11, 1985.
P 85-1439	Generic name: Reaction product of a substituted nitrile with a halogenated unsaturated compound	50 FR 39167 (39168) (9-27-85)	Do.
P 85-1440	Generic name: Polymer of benzene dicarboxylic acid, alkane diols, and alkane carboxylic acid	50 FR 39167 (39168) (9-27-85)	Do.
P 85-1441	Pyridinium,1,1'-[sulfonylbis[3,1-phenyleneamino[6-[[3-[[3-carboxy-4,5-dihydro-5-oxo-1-(4-sulfophenyl)-1H-pyrazol-4-yl]azo]-4-sulfophenyl]amino]1,3,5-triazine-4,2-diyl]]]bis [3-carboxy-, dihydroxide, tetrasodium salt.	50 FR 39167 (39168) (9-27-85)	Do.
P 85-1442	Benzoic acid, 2,5-bis[[4-[[4-[[4,8-disulfo-2-naphthalenyl] azo-3-methylphenyl] amino-6-(4-morpholinyl)-1,3,5-triazin 2-yl]amino]-, pentasodium salt.	50 FR 39167 (39168) (9-27-85)	Do.
P 85-1443	Chromate (7-), bis[1-[4-[[3-(acetylamino)-4-[(4,8-disulfo-2-naphthalenyl)azo] phenyl]amino]-6-[[6-[(2-carboxyphenyl)azo]-5-hydroxy-7-sulfo-3-naphthalenyl]amino]-1,3,5-triazin-2-yl]-3-carboxypyridinumato(6-)]-, heptasodium, dihydrate.		

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PMN No.	Identity/generic name	FR citation	Expiration date
P 85-1444	2,7-Naphalenedisulfonic acid, 5-[[4-chloro-6-[(2-sulfoethyl)amino]-1,3,5-triazin-2-yl]amino]-4-hydroxy-3-[(2-sulfophenyl)azo]-, tetrasodium salt.	50 FR 39167 (39168) (9-27-85)	Do.
P 85-1445	Generic name: Urethane-modified polyester-acrylic copolymer	50 FR 39167 (39168) (9-27-85)	Do.
P 85-1446	Generic name: Potassium salt of an alkoxylated fatty amine acid	50 FR 39167 (39168) (9-27-85)	Do.
P 85-1447	Polymer of methyl methacrylate, ethyl acrylate and 2-hydroxy ethyl acrylate	50 FR 39167 (39168) (9-27-85)	Do.
P 85-1448	Generic name: Amido amine	50 FR 39167 (39168) (9-27-85)	Dec. 14, 1985.
P 85-1449	Generic name: Polymer of bisanhydride of Bisphenol-A, aliphatic diamine and an aromatic diamine	50 FR 39167 (39169) (9-27-85)	Do.
P 85-1450	Ethylene glycol benzoate triethylacetate with carbon numbers C_{10}-C_{12}	50 FR 39167 (39169) (9-27-85)	Do.
P 85-1451	2,2',4-tris-(2-chlorophenyl)-5-(3,4-dimethoxyphenyl)-4',5'-diphenyl-1,1'bi-1H-imidazole	50 FR 39167 (39169) (9-27-85)	Do.
P 85-1452	Generic name: Blocked substituted-urea polyurethane	50 FR 39167 (39169) (9-27-85)	Do.
P 85-1453	Generic name: Blocked amino-epoxy resin	50 FR 39167 (39169) (9-27-85)	Do.
P 85-1454	Generic name: Polyurea polyurethane polymer	50 FR 39167 (39169) (9-27-85)	Do.
P 85-1455	Generic name: Fatty polyol	50 FR 39167 (39169) (9-27-85)	Do.
P 85-1456	Generic name: Substituted heterocyclic substituted triazinyl ester substituted arylidene-dione	50 FR 39167 (39169) (9-27-85)	Do.
P 85-1457	Generic name: Aliphatic ammonium salt of substituted aromatic acid	50 FR 39167 (39169) (9-27-85)	Do.
P 85-1458	Generic name: Acrylic polymer containing aromatic carboxyesters	50 FR 39167 (39169) (9-27-85)	Do.
P 85-1459	Generic name: Acrylic polymer containing aromatic carboxyesters	50 FR 39167 (39169) (9-27-85)	Do.
P 85-1460	Polymer of bis-(4-phenoxyphenyl) methanone and 1,4-benzenedicarbonyl dichloride	50 FR 39167 (39169) (9-27-85)	Dec. 15, 1985.
P 85-1461	Bis(4-phenoxyphenyl) methanone	50 FR 39167 (39169) (9-27-85)	Do.
P 85-1462	Generic name: Polyurethane elastomer	50 FR 39167 (39170) (9-27-85)	Do.
P 85-1463	Generic name: Polyurethane elastomer	50 FR 39167 (39170) (9-27-85)	Do.
P 85-1464	Generic name: Substituted pyrazol azo benzene sulfonic acid	50 FR 39167 (39170) (9-27-85)	Do.
P 85-1465	Generic name: (Dialkylamino, alkylaryl and N-(alkysulfonyl amino and halophenyl substituted oxopentanamide	50 FR 39167 (39170) (9-27-85)	Do.
P 85-1466	Generic name: (Dialkylphenoxy, (N-dialkylamino and alkylaryl and (cyanophenylureido) aryl substituted hexanamide	50 FR 39167 (39170) (9-27-85)	Do.
P 85-1467	Polymer of Spentol P48-A6-80 and diethyl toluene diamine	50 FR 39167 (39170) (9-27-85)	Dec. 16, 1985.
P 85-1468	Generic name: Modified alkanolamine, salt with organic acid	50 FR 39167 (39170) (9-27-85)	Do.
P 85-1469	Generic name: Modified alkanolamine, salt with inorganic acid	50 FR 39167 (39170) (9-27-85)	Do.
P 85-1470	Generic name: Methylene diphenylene diisocyanate polyol prepolymer	50 FR 39167 (39170) (9-27-85)	Do.
P 85-1471	Generic name: Methylene diphenylene diisocyanate polyol prepolymer	50 FR 39167 (39170) (9-27-85)	Do.
P 85-1472	Generic name: Methylene diphenylene diisocyanate polyol prepolymer	50 FR 39167 (39170) (9-27-85)	Do.
P 85-1473	Generic name: Methylene diphenylene diisocyanate polyol prepolymer	50 FR 39167 (39170) (9-27-85)	Do.
P 85-1474	Generic name: Polymeric diisocyanate polyol prepolymer	50 FR 39167 (39171) (9-27-85)	Do.
P 85-1475	Generic name: Methylene diphenylene diisocyanate polyol prepolymer	50 FR 39167 (39171) (9-27-85)	Do.
P 85-1476	Generic name: Methylene diphenylene diisocyanate polyol prepolymer	50 FR 39167 (39171) (9-27-85)	Do.
P 85-1477	Generic name: Methylene diphenylene diisocyanate polyol prepolymer	50 FR 39167 (39171) (9-27-85)	Do.
P 85-1478	Generic name: Acrylic polyamine	50 FR 39167 (39171) (9-27-85)	Do.
P 85-1479	Generic name: Mixed alkyl phosphate ester	50 FR 39167 (39171) (9-27-85)	Do.
P 85-1480	Generic name: Substituted bis(phenyl)-isobenzofuranone	50 FR 39167 (39171) (9-27-85)	Do.
P 85-1481	Generic name: Polyether triol	50 FR 39167 (39171) (9-27-85)	Dec. 17, 1985.
P 85-1482	Propylene glycol and propylene oxide	50 FR 39167 (39171) (9-27-85)	Do.
P 85-1483	Propylene glycol and propylene oxide	50 FR 39167 (39171) (9-27-85)	Do.
P 85-1484	Generic name: Amine terminated polyether polyol	50 FR 39167 (39171) (9-27-85)	Do.
P 85-1485	Generic name: Phosphorated polyether polyol	50 FR 39167 (39171) (9-27-85)	Do.
P 85-1486	Generic name: Phosphorated polyether polyol	50 FR 39167 (39171) (9-27-85)	Do.
P 85-1487	Generic name: Polypropylene glycol ether with sugar	50 FR 39167 (39171) (9-27-85)	Do.
P 85-1488	Generic name: Polypropylene glycol ether with sugar	50 FR 39167 (39171) (9-27-85)	Do.
P 85-1489	Generic name: Polyether triol	50 FR 39167 (39172) (9-27-85)	Do.
P 85-1490	Polymer of 2,2-dimethyl 1,3-propanediol, 2-butenedioic acid and dimethyl terephthalate	50 FR 40584 (40595) (10-4-85)	Dec. 18, 1985.
P 85-1491	Polymer of 1,2-ethanediol, 1,2-propanediol, 1,4-benzenedicarboxylic acid and 2,5-furandione	50 FR 40584 (40595) (10-4-85)	Do.
P 85-1492	Acetate capped alkyl ester grafted alkoxylated polyol	50 FR 40585 (40595) (10-4-85)	Do.
P 85-1493	Generic name: Hydrophobic cationic acrylic terpolymer	50 FR 40585 (40595) (10-4-85)	Do.
P 85-1494	Generic name: Hydrophobic cationic acrylic terpolymer	50 FR 40585 (40595) (10-4-85)	Do.
P 85-1495	Generic name: Hydrophobic cationic acrylic terpolymer	50 FR 40585 (40595) (10-4-85)	Do.
P 85-1496	Generic name: Hydrophobic cationic acrylic terpolymer	50 FR 40585 (40595) (10-4-85)	Do.
P 85-1497	Generic name: Hydrophobic cationic acrylic terpolymer	50 FR 40585 (40595) (10-4-85)	Do.
P 85-1498	Generic name: Hydrophobic cationic acrylic terpolymer	50 FR 40585 (40595) (10-4-85)	Do.
P 85-1499	Generic name: Hydrophobic cationic acrylic terpolymer	50 FR 40584 (40595) (10-4-85)	Do.
P 85-1500	Generic name: Hydrophobic cationic acrylic terpolymer	50 FR 40584 (40595) (10-4-85)	Do.
P 85-1501	Generic name: Hydrophobic cationic acrylic terpolymer	50 FR 40584 (40595) (10-4-85)	Do.
P 85-1502	Generic name: Silyl substituted amino carboxylate-potassium salt	50 FR 40584 (40595) (10-4-85)	Do.
P 85-1503	Generic name: Silyl substituted amino carboxylate-sodium salt	50 FR 40584 (40595) (10-4-85)	Do.
P 85-1504	Amine, hydrogenated tallow amine, reaction product with toluene diisocyanate and para-toluidine	50 FR 40584 (40595) (10-4-85)	Dec. 21, 1985.
P 85-1505	Generic name: Alumina organometallic compound	50 FR 40584 (40596) (10-4-85)	Dec. 22, 1985.
P 85-1506	Generic name: Water-based polyurethane elastomer	50 FR 40584 (40595) (10-4-85)	Do.
P 85-1507	(4-Sulfomanido-benzene-ethyl sulfanyl sulfuric ester-sodium salt) 1,4-(sulfonic acid sodium salt) 2,6 of nickel-phthalocyanine.	50 FR 40584 (40596) (10-4-85)	Do.
P 85-1508	Generic name: Polymeric diphenylmethane diisocyanate prepolymer	50 FR 40584 (40596) (10-4-85)	Do.
P 85-1509	Mixed C_6 and C_8 methyl ethers	50 FR 40584 (40596) (10-4-86)	Dec. 23, 1985.
P 85-1510	Generic name: Ethylene, vinyl acetate, methacrylic acid, hydroxy substituted hydrocarbon copolymer	50 FR 40584 (40596) (10-4-85)	Do.
P 85-1511	Generic name: Polyester resin of an aryl dicarboxylic acid plus an alkane diol	50 FR 40584 (40596) (10-4-86)	Do.
P 85-1512	Reaction product of tallow amine with bisphenol-A diglycidyl ether, ethoxylated	50 FR 40584 (40596) (10-4-85)	Do.
P 85-1513	Generic name: Toluene diisocyanate and mixed alkane diols	50 FR 40584 (40596) (10-4-85)	Dec. 24, 1985.
P 85-1514	Generic name: Phenolic polyester	50 FR 40584 (40596) (10-4-85)	Do.
P 85-1515	Generic name: Phenolic polyester resin	50 FR 40584 (40596) (10-4-85)	Do.
P 85-1516	Generic name: Polyester containing amide groups	50 FR 41580 (10-11-85)	Dec. 25, 1985.
P 85-1517	Generic name: Bis(substituted arylazo substituted sulfo aryl) transition metal complex	50 FR 41580 (10-11-85)	Do.
P 85-1518	Generic name: Isocyanate terminated polyester urethane	50 FR 41580 (10-11-85)	Do.
P 85-1519	Generic name: TDI-polyol prepolymer	50 FR 41580 (41581) (10-11-85)	Do.
P 85-1520	Generic name: Isocyanate terminated prepolymer	50 FR 41580 (41581) (10-11-85)	Do.
P 85-1521	Generic name: Polyester of adipic acid, isophthalic acid with alkyl diols	50 FR 41580 (41581) (10-11-85)	Do.
P 85-1522	Generic name: Modified polymer of rosin and polyol	50 FR 41580 (41581) (10-11-85)	Do.
P 85-1523	Generic name: Acrylate modified polyester of a carbomonocyclic acid, tall oil fatty acids and diols	50 FR 41580 (41581) (10-11-85)	Do.
P 85-1524	Generic name: Alpha-substituted-3-phenoxybenzyl alcohol	50 FR 41580 (41581) (10-11-85)	Do.
Y 85-147	Generic name: Saturated polyester resin from dibasic acids and diols	50 FR 38194 (9-20-85)	Sept. 24, 1985.
Y 85-148	Generic name: Aromatic-aliphatic ketone/formaldehyde resin modified with a cyclo-aliphatic diisocyanate	50 FR 38194 (9-20-85)	Do.
Y 85-149	Generic name: Styrenated vegetable oil	50 FR 38194 (9-20-85)	Sept. 25, 1985.
Y 85-150	Generic name: Styrene malemide	50 FR 38197 (9-20-85)	Sept. 30, 1985.
Y 85-151	Generic name: Sulfonated polystyrene imide	50 FR 38197 (9-20-85)	Oct. 1, 1985.
Y 85-152	Generic name: Oil free alkyd resin	50 FR 38197 (9-20-85)	Oct. 2, 1985.
Y 85-153	Generic name: Oil free alkyd resin	50 FR 38197 (9-20-85)	Do.
Y 85-154	Generic name: N-PMI styrenic terpolymer	50 FR 38197 (9-20-85)	Do.
Y 85-155	Generic name: Mixed alkyl phosphate ester	50 FR 38197 (9-20-85)	Do.

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PMN No.	Identity/generic name	FR citation	Expiration date
Y 85-156	Generic name: Polyurethane dispersion	50 FR 38197 (9-20-85)	Do.
Y 85-157	Generic name: Polyester of carbomonocyclic acid and alkylene glycols	50 FR 39166 (9-27-85)	Oct. 3, 1985.
Y 85-158	Generic name: Polyester of carbomonocyclic ester and alkylene glycols	50 FR 39166 (39167) (9-27-85)	Do.
Y 85-159	Generic name: Dimer acids, dicarboxylic acid, ethylenediamine, diamine polyamide resin	50 FR 39166 (39167) (9-27-85)	Oct. 7, 1985.
Y 85-160	Generic name: An ammonia/water soluble random copolymer of butyl acrylate and acrylic acid	50 FR 39166 (39167) (9-27-85)	Oct. 8, 1985.
Y 85-161	Generic name: Styrene-acrylate random emulsion copolymer	50 FR 39166 (39167) (9-27-85)	Do.
Y 85-162	Generic name: Ammonium salt solution of a terpolymer of styrene, alpha methyl styrene and acrylic acid	50 FR 39166 (39167) (9-27-85)	Do.
Y 85-163	Generic name: A terpolymer of 2-ethylhexyl acrylate, butyl acrylate, and hydroxyethyl methacrylate	50 FR 39166 (39167) (9-27-85)	Do.
Y 85-164	Polymer of propylene glycol and propylene oxide	50 FR 39166 (39167) (9-27-85)	Oct. 9, 1985.
Y 85-165	Polymer of propylene glycol and propylene oxide	50 FR 39166 (39167) (9-27-85)	Do.
Y 85-166	Generic name: Ethylene oxide-propylene oxide copolymer triol ether	50 FR 39166 (39167) (9-27-85)	Do.
Y 85-167	Generic name: Alkyd resin	50 FR 40586 (40597) (10-4-85)	Oct. 10, 1985.
Y 85-168	Generic name: Polyester of carbomonocyclic acid, alkylene glycol and alkanedioate	50 FR 40586 (40597) (10-4-85)	Oct. 15, 1985.
Y 85-169	Generic name: Polyester of carbomonocyclic acid, alkylene glycol and alkanedioate	50 FR 40586 (40597) (10-4-85)	Oct. 15, 1985.
Y 85-170	Generic name: Ethylene oxide-propylene oxide copolymer triol ether	50 FR 41583 (41584) (10-11-85)	Oct. 20, 1985.
Y 85-171	Generic name: Polypropylene oxide triol ether	50 FR 41583 (41584) (10-11-85)	Do.
Y 85-172	Generic name: Ethylene glycol-propylene oxide polymer	50 FR 41583 (41584) (10-11-85)	Do.

II. 149 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

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P 85-1296
P 85-1297
P 85-1298
P 85-1299
P 85-1300
P 85-1301
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Y 85-144
Y 85-145
Y 85-146

III. 152 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month. (Expiration of the Notice Review Period Does Not Signify That the Chemical Had Been Added to the Inventory.)

PMN No.

P 84-108
P 84-737
P 84-738
P 84-1005
P 85-10
P 85-16
P 85-141
P 85-143
P 85-198
P 85-290
P 85-298
P 85-360
P 85-444
P 85-459
P 85-612
P 85-680
P 85-693
P 85-703
P 85-813
P 85-814
P 85-815
P 85-816
P 85-817
P 85-998
P 85-1028
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P 85-1052

IV. 75 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture

PMN No.	Identity/generic name	Date of commencement
P 83-655	Generic name: Naphthalenesulfonic acid, derivative, ester hydroxybenzophenone	Sept. 27, 1984.
P 83-1007	7-[(6-[(4-[(3,6-disulfo-8-hydroxynaphthalene-1-yl)-azo]-2-methoxy-5-methylphenyl)amino-4-[(2-hydroxyethyl)amino)-1,3,5-triazin-2-yl)amino)-4-hydroxy-3-[(2-methoxy-5-sulfophenyl)azo]-2-naphthalene-sulfonic acid, tetrasodium salt.	Aug. 26, 1985.
P 83-1321	Generic name: Imide-amide polymer	Oct. 1, 1985.
P 83-1324	Generic name: Polyesteramide	Aug. 12, 1985.

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IV. 75 Chemical Substances for Which EPA Has Received Notices of Commencement to Manufacture—Continued

PMN No.	Identity/generic name	Date of commencement
P 84-61	Generic name: Copolyester polymer	June 22, 1986.
P 84-291	Generic name: Reaction product of alkenylsuccinic anhydride and substituted alcohol	Aug. 28, 1985.
P 84-555	Ethyltriphenylphosphonium chloride	Sept. 23, 1985.
P 84-596	2,7-Naphthalenedisulfonic acid, 4-amino-5-hydroxy-6-(2-hydroxy-5-sulfophenyl)azo, potassium salt	Aug. 28, 1985.
P 84-656	Generic name: Silicified lacocyanide	Sept. 6, 1985.
P 84-661	2((2-hydroxy-1,1-bis(hydroxymethyl)ethyl)-amino]-ethanesulfonic acid, sodium salt (3:1)	Jan. 22, 1985.
P 84-662	4-(2-hydroxyethyl)piperazine-1-ethanesulfonic acid, sodium salt (1:1)	Nov. 6, 1984.
P 84-812	Benzoxazolium, 5-chloro-2-[2-[[5-chloro-3-[4-sulfobutyl]-2 (3H)-benzoxazolylidene]methyl]-1-butenyl]-3-(4-sulfobutyl)-inethyl ammonium salt	Mar. 25, 1986.
P 84-913	Generic name: N,N'-bis[2-[2-(3-alkylthiazoline)vinyl]-1,4-phenylene diamine double salt	Aug. 16, 1985.
P 84-963	8-Nitro-2(3H)-benzoxazolone	Aug. 16, 1985.
P 84-1007	Generic name: 3-alkyl-2-[2-sulfo]vinyl thiazolinium salt	July 1, 1985.
P 84-1126	Generic name: Methanone, alkyl-substituted phenyl	Aug. 28, 1985.
P 84-1163	Generic name: Perfluoroalkyl substituted polyurethane	Aug. 28, 1985.
P 84-1171	Generic name: Perfluoroalkyl substituted polyurethane	Aug. 30, 1985.
P 84-1185	Generic name: Alkali metal salt of an unsaturated carbonylic acid	Sept. 9, 1985.
P 84-1198	Generic name: Polyester urethane polymer	Apr. 4, 1985.
P 85-195	Polymer of dehydrated castor oil fatty acids, pentaerythritol, isophthalic acid, linseed oil, dehydrated castor oil, dimethylethanolamine, isononanoic acid, maleic anhydride	Sept. 11, 1985.
P 85-312	Generic name: Complex polyether-esters	Aug. 30, 1985.
P 85-332	Generic name: Acrylic copolymer	July 3, 1985.
P 85-400	N-(3-ethyl-9H-carbazol-3-(E1)-9-octadecenamide	Aug. 14, 1985.
P 85-403	Generic name: Mixed amine/alkane polycarboxylate	Do.
P 85-404	Generic name: Mixed amine/alkane polycarboxylate	Aug. 19, 1985.
P 85-472	1,3,5-triisopropyl-phenylene-2,4-diisocyanate	Aug. 20, 1985.
P 85-473	Generic name: Alkylaluminum chloride	Sept. 9, 1985.
P 85-493	Ethanone, 1-(3-fluoro-phenyl)-	Aug. 20, 1985.
P 85-527	Generic name: Vinyl-epoxy ester	Aug. 16, 1985.
P 85-596	Generic name: Dinsubstitutedheteromonocyclic(carbomonocyclicsubstituted)heteropolycycle	Aug. 11, 1985.
P 85-603	Generic name: (3-alkylheteromonocyclic-4-hydroxyphenyl-substituted)-3'-substituted-4'-hydroxyphenylsubstituted)alkyl	Aug. 14, 1985.
P 85-604	Generic name: Di(trisubstitutedheteromonocyclic(carbomono-cyclicsubstituted))-heteropolycycle	Aug. 7, 1985.
P 85-605	Generic name: Trisubstituted phenol	Sept. 1, 1985.
P 85-624	Generic name: Amino-hydroxy-naphthalene disulfonic acid, [[(dichloro-triazinyl)amino]substituted phenyl azo]-[[substituted phenyl]azo]-alkali metal salt	Aug. 14, 1985.
P 85-650	Generic name: Mixed amine-alkane epihopolycarboxylate octaesters	Do.
P 85-651	Generic name: Mixed amine/alkane epihopolycarboxylate octaesters	July 30, 1985.
P 85-694	Generic name: 2-propenoic acid copolymer	Sept. 10, 1985.
P 85-715	Polyethylene-butyl acrylate-maleic anhydride	Aug. 12, 1985.
P 85-803	Generic name: 4,4' phenylmethane diisocyanate adduct of polyether polyol	Aug. 28, 1985.
P 85-806	Generic name: Polyester resin	Sept. 9, 1985.
P 85-816	Generic name: Benzenesulfonic acid, 4-[[4-substituted(-3-methyl-5-oxo-2-pyrazolin-1-yl)-, salt	Sept. 10, 1985.
P 85-863	Polymer of ethylene, ethylene acrylate and maleic anhydride	Sept. 3, 1985.
P 85-866	Generic name: Substituted acetonamide	Aug. 28, 1985.
P 85-871	Generic name: Hydroxyl-terminated polyurethane	Sept. 12, 1985.
P 85-885	Generic name: Unsaturated polyester resin	Do.
P 85-886	Generic name: Brominated unsaturated polyester resin	Aug. 29, 1985.
P 85-903	N,N,N-trimethyl-N-2-hydroxypropylammoniumhydroxide	Sept. 26, 1985.
P 85-917	Generic name: Copolyesters	Aug. 30, 1985.
P 85-928	Polymer of pentaerythritol, phthalic anhydride, benzoic acid, styrene, tall oil fatty acid, acrylic acid, neopentyl glycol, isophthalic acid	Sept. 6, 1985.
P 85-936	Benzenamide, N,N'-(14-chloro-5,6,7,12,13,17,22,23,25,26,-decahydro-5,7,12,17,22,25,26-heptaoxa-naphtho[2,3-C]benaphth[2',3',6,7]indolo[3,2-a;3',2',-i]acridino-1,18-diyl).	Aug. 28, 1985.
P 85-944	Generic name: Phenol formaldehyde resoles	Oct. 1, 1985.
P 85-954	Generic name: Polydimethylsiloxy, methyl ethane siloxane copolymer	Aug. 13, 1985.
P 85-971	Generic name: Tetrafunctional mercapto-ester reaction product with propylene dicarboxylic acid	Do.
P 85-972	Generic name: Hydroxy-terminated polyether diol reaction product with Benzophenone tetracarboxylic dianhydride and hydroxy ethyl methacrylate	Aug. 23, 1985.
P 85-975	Generic name: Substituted alkenol	Aug. 26, 1985.
P 85-987	Generic name: Substituted sultoaryl aryldioxazine	Sept. 10, 1985.
P 85-998	Generic name: Mixed esters of butene polyols	Aug. 21, 1985.
P 85-999	Generic name: Polyfunctional methacrylate of polyisocyanate adduct of alkoxylated polyol	Aug. 30, 1985.
P 85-1009	Generic name: Polyhydroxy ether diisocyanate acrylate polymer	Aug. 28, 1985.
P 85-1015	Vinyl chloride interpolymer containing hydroxyl and carboxyl groups	Sept. 15, 1985.
P 85-1026	Generic name: Mercaptoalkylsiloxane	Oct. 1, 1985.
P 85-1027	Generic name: Polydimethylsiloxy, methyl-mercaptoalkyl siloxane copolymer	Sept. 2, 1985.
P 85-1029	Generic name: Polymer of alkane polyols, aromatic carboxylic acid, benzene dicarboxylic acids, polyamide resin, vegetable oil, and vegetable oil acids	Sept. 6, 1985.
P 85-1032	Generic name: Epoxy modified polyol	Do.
P 85-1033	Generic name: Epoxy modified polyol	Oct. 9, 1985.
P 85-1057	Generic name: Alkathene	Sept. 11, 1985.
P 85-1072	Tetra isobutyl titanate	Aug. 7, 1985.
Y 85-55	Generic name: Polyoxyalkylene silsesquioxane	Aug. 27, 1985.
Y 85-100	Generic name: Polymer of an aromatic diisocyanate, alkane polyols, alkanolamine, alkanedioic acid, alkane alcohol	July 24, 1986.
Y 85-102	Ethylene-propylene-styrene copolymer	Aug. 29, 1985.
Y 85-114	Polymer of acrylamide-methylpropane sulfonic acid and acrylic acid sodium salt copolymer	Sept. 9, 1985.
Y 85-134	Generic name: Water soluble acrylate random copolymer	Do.
Y 85-135	Generic name: Water soluble acrylate random copolymer	Do.
Y 85-136	Generic name: Water soluble acrylate random copolymer	

V. 18 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No.	Identity/generic name	FR citation	Date suspended
P 85-730	Generic name: Substituted phosphate ester	50 FR 14439 (14440) (4-12-85)	Sept. 5, 1985.
P 85-875	Generic name: Alkylamidopropyl betaine	50 FR 19798 (19799) (5-10-85)	Sept. 26, 1985.
P 85-876	Generic name: Alkylamidopropyl betaine	50 FR 19798 (19800) (5-10-85)	Do.
P 85-877	Generic name: Alkylamidopropyl betaine	50 FR 19798 (19800) (5-10-85)	Do.
P 85-878	Generic name: Alkylamidopropyl betaine	50 FR 19798 (19800) (5-10-85)	Do.
P 85-879	Generic name: Alkylamidopropyl betaine	50 FR 19798 (19800) (5-10-85)	Do.
P 85-857	Generic name: Alkyl alkylpolyethyl ether	50 FR 21498 (21500) (5-24-85)	Sept. 23, 1985.
P 85-994	Generic name: Benzothiazolesulfonic acid, [(substituted-substituted-pyrimidinyl) azo]carbomonocyclo-, alkali metal salt	50 FR 23185 (23187) (6-31-85)	Sept. 20, 1985.
P 85-1063	Generic name: Acrylate modified heterocyclic urethane	50 FR 25778 (25779) (6-21-85)	Sept. 9, 1985.
P 85-1068	Generic name: Polyester polyurethane	50 FR 25778 (25779) (6-21-85)	Sept. 9, 1985.
P 85-1071	Generic name: Cationically modified acrylic copolymer	50 FR 25778 (25780) (6-21-85)	Sept. 4, 1985.

V. 18 Premanufacture Notices for Which the Review Period Has Been Suspended—Continued

PMN No.	Identity/generic name	FR citation	Date suspended
P 85-1149	Generic name: Hydroxylated aromatic epoxy acrylate ester	50 FR 28464 (28465) (7-12-85)	Sept. 24, 1985.
P 85-1167	Generic name: Dichloropropene	50 FR 28464 (28466) (7-12-85)	Sept. 23, 1985.
P 85-1168	Generic name: Epoxy acrylate	50 FR 28464 (28466) (7-12-85)	Sept. 26, 1985.
P 85-1169	Generic name: Acid modified acrylated epoxide	50 FR 28464 (28466) (7-12-85)	Do.
P 85-1170	Generic name: Acid modified acrylated epoxide	50 FR 28464 (28467) (7-12-85)	Do.
P 85-1202	2-Naphthalenecarboxaldehyde, 5,6,7,8-tetrahydro-1-methoxy-3,5,5,8,8-pentamethyl-	50 FR 30513 (30515) (7-26-85)	Sept. 24, 1985.
P 85-1203	1-Cyclopentene-1-propanol, beta, beta, 2-trimethyle-5-(1-methylethenyl)-,propanoate	50 FR 30513 (30515) (7-26-85)	Do.

[FR Doc. 86-8997 Filed 4-22-86; 8:45 am]

BILLING CODE 6561-50-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of Information Collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of information collection: Application for a Bank to (1) Establish a Branch, (2) Move its Main Office or Branch, and (3) Establish a Remote Service Facility (OMB No. 3064-0070).

Background: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget form SF-83, "Request for OMB Review," for the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to John Keiper, Assistant Executive Secretary (Administration), Federal Deposit Insurance Corporation, Washington, D.C. 20429.

Comments: Comments on this collection of information should be submitted on or before May 8, 1986.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Assistant Executive Secretary (Administration), Federal Deposit Insurance Corporation, Washington, D.C. 20429, telephone (202) 898-3810.

SUMMARY: The FDIC is requesting OMB approval for extending the expiration date of the procedure followed by insured State nonmember banks in making application for the consent of the FDIC to establish and operate a new branch or move a main office or a branch from one location to another. (A remote service facility is considered to be a type of branch.) The procedure requires the applicant bank to submit a letter application to the FDIC containing information needed for evaluating certain factors as required by section 18(d)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d)(1)) before giving consent. The application procedure is contained in FDIC regulation 12 CFR 303.2. It is estimated that it takes the average applicant seven hours to prepare the letter application.

Dated: April 15, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-9036 Filed 4-22-86; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-010636-013.

Title: U.S. Atlantic-North Europe Conference (ANEC).

Parties:
Atlantic Container Line (G.I.E.)
Dart-ML Limited
Hapag-Lloyd AG
Intercontinental Transport (ICT)
Sea-Land Service, Inc.
Trans Freight Lines
United States Lines, Inc.
Compagnie Generale Maritime (CGM)

Synopsis: The proposed amendment would specify that when a party to the agreement is also a member of the Gulf-European Freight Association (GEFA) and routes a through shipment of cargo overland from a U.S. interior/coastal point via U.S. Gulf port area to a U.S. South Atlantic port for oncarriage by sea, the tariffs and service contracts of GEFA and not those of ANEC will apply. The parties have requested a shortened review period.

Agreement No: 202-010637-011.

Title: North Europe-U.S. Atlantic Conference.

Parties:
Atlantic Container Line (G.I.E.)
Dart-ML Limited
Hapag-Lloyd AG
Intercontinental Transport (ICT)
Sea-Land Service, Inc.
Trans Freight Lines
United States Lines, Inc.
Compagnie Generale Maritime (CGM)

Synopsis: The proposed amendment would modify the scope of the agreement to specify that any party who may also be a party of the North Europe-U.S. Gulf Freight Association. FMC Agreement No. 202-010650, and routes a through shipment of cargo overland from U.S. Atlantic ports south of Cape Hatteras to U.S. interior/coastal points via U.S. Gulf port areas following pre-carriage by sea, shall be subject to the tariffs and service contracts of that association and not those of this conference. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: April 18, 1986.

Tony P. Kominoth,

Assistant Secretary.

[FR Doc. 86-9042 Filed 4-22-86; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 86-14]

Union Carbide Corp. v. Waterman Steamship Corp.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Union Carbide Corporation, Battery

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Division against the Waterman Steamship Corporation was served April 16, 1986. Complainant alleges that respondent has violated section 18(b) of the Shipping Act, 1916 and section 10(b) of the Shipping Act of 1984 by misapplying rates on various shipments of dry cell battery parts originating at U.S. Atlantic coast ports and destined for Port Sudan, Sudan.

This proceeding has been assigned to Administrative Law Judge Charles E. Morgan. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross examination in the direction of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions or other documents, or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by April 16, 1987, and the final decision of the Commission shall be issued by August 17, 1987.

Tony P. Kominoth,

Assistant Secretary.

[FR Doc. 86-8935 Filed 4-22-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; First West Virginia Bancorp, Inc. et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 16, 1986.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *First West Virginia Bancorp, Inc.*, Wheeling, West Virginia; to acquire 100 percent of the voting shares of First West Virginia Bank, National Association—Buckhannon, Buckhannon, West Virginia.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Bank of Virginia Company*, Richmond, Virginia; to acquire 100 percent of the voting shares of Security National Corporation, Washington, DC, thereby indirectly acquiring Security National Bank, Washington, DC.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Bank Corporation of Georgia*, Fort Valley, Georgia; to acquire 100 percent of the voting shares of The Citizens Bank of Ashburn, Ashburn, Georgia.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Spring Valley Bancorp, Inc.*, Spring Valley, Illinois; to acquire 100 percent of the voting shares of Spring Valley City Bank, Spring Valley, Illinois.

Board of Governors of the Federal Reserve System, April 18, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-8974 Filed 4-22-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Cooperative Agreements for Behavioral Risk Factor Surveillance Systems; Availability of Funds for Fiscal Year 1986

Introduction

The Centers for Disease Control (CDC) announces the availability of funds for Fiscal Year 1986, for cooperative agreements for State Behavioral Risk Factor Surveillance Systems (BRFSS).

Authority

These cooperative agreements are authorized by Section 301(a) of the Public Health Service Act (42 U.S.C. 241(a)), as amended. The Catalog of Federal Domestic Assistance Number is 13.283.

Program Objective/Purpose

The purpose of this cooperative agreement program is to assist States in monitoring the prevalence of major behavioral risks associated with the 10 leading causes of premature death in the United States, and through this monitoring process, assist in the development of programs designed to reduce major behavioral risks in the population and determine progress toward achieving prevention goals.

Cooperative Activities

A. Recipient Activities

1. Formulate a plan for the development, implementation, and conduct of the behavioral risk factor surveillance mechanisms. The plan should provide:

a. A timetable for the development and implementation of the surveillance system.

b. Identification and selection of appropriate staff for the surveillance program and provision of adequate supervisory personnel who will be responsible for the timeliness and quality control of data collection. In addition, supervisors will train new subordinate staff and edit completed questionnaires.

c. For acquisition of behavioral risk factor information.

2. Establish and maintain the behavioral risk factor surveillance system.

3. Develop a plan for using available risk factor prevalence information and other morbidity and mortality data for improving and refining State program priorities and goals and assessing their attainment.

B. Centers for Disease Control Activities

1. Collaborate in assessing State geographic, demographic, and economic characteristics and developing an overall surveillance strategy.

2. Collaborate with each State on the compilation of specified information in a periodic, standardized, and uniform manner on risk factors relating to leading causes of morbidity and mortality.

3. Collaborate in the training and development of staff to implement and conduct the program activities described herein.

4. Provide necessary statistical and epidemiological assistance for the compilation of risk factor prevalence information.

5. Provide technical assistance throughout the program implementation phase with special reference to development of quality control mechanisms appropriate to a State-level surveillance system.

6. Provide training for State personnel in data analysis and interpretation and develop State capacity for enhancing intervention strategy design and measuring program impact on the basis of statistically valid morbidity data.

7. Coordinate with other Federal agencies and organizations in both the public and private sector to ensure a coordinated, cooperative program for helping assess the attainment of the 1990 Objectives for the Nation.

8. Coordinate and facilitate the interchange of technical information with recipients.

Eligible Applicants

The official health agencies of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Trust Territories of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and American Samoa are eligible to apply for a cooperative agreement.

Availability of Funds

Approximately $450,000 will be available in Fiscal Year 1986 for the support of about 26 BRFSS cooperative agreements. The average award of the cooperative agreements is expected to be $17,000, with individual awards ranging from $15,000 to $20,000.

Behavioral risk factor cooperative agreements will be funded for a 12-month budget period and a 5-year project period. The funding estimates described above are subject to change.

Review and Evaluation Criteria

During Fiscal Year 1986, the funding criteria for competing continuations and new behavioral risk factor cooperative agreement applications will be based upon the applicant's experience and/or ability to provide evidence of resources available to design, implement, and manage the timely collection and analysis of behavioral risk factor information and the applicant's commitment to continue the surveillance system in future years with State resources contributed to the system. Specific review of new and continuation behavioral risk factor applications will be based on the following criteria:

A. Experience

1. Successful implementation of a BRFSS as evidenced by the:

a. Timely and periodic collection of data.

b. Designation of interviewing and supervisory staff or designation of a competent contractor for interviewing services.

c. Use of a standard questionnaire.

d. Completion of appropriate data processing activities including keypunching and error corrections.

e. Adherence to a statistically correct sampling plan.

f. Adherence to appropriate quality control procedures including survey administration, rules of replacement, refusal conversion, and monitoring or verification of interviews.

g. Demonstrated ability to reduce errors.

2. Extent of other experience with timely collection and analysis of behavioral risk factor prevalence information.

3. Other evidence of the capability of the applicant to perform the tasks required for a BRFSS.

B. Workplan and Personnel

1. Relevance of the proposal to the scope and objectives provided in this request for applications.

2. Soundness in describing how the BRFSS will be designed, implemented, and managed as evidenced by the:

a. Description of lead persons/departments.

b. Definition of action steps, time frames, and persons responsible for completion.

c. Inclusion of appropriate quality control measures.

d. Description of specific, measurable objectives such that progress can be evaluated based on the completion of the stated processes.

e. Assurance that interviewing will not be interrupted for any given month.

f. Processing of interviews in a timely fashion.

g. Provision of a sound sampling plan.

h. Clear delineation of CDC versus State responsibilities.

i. Clear description of the programmatic uses of the data.

C. Budget

1. Appropriateness of requested budget relative to the work proposed.

Applications

A. Copies—Place of Submission

There will be one annual review cycle for new and continuation applications.

The original and two copies of the application must be submitted on or before June 20, 1986 to:

Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, Room 321, 255 E. Paces Ferry Road, N.E., Atlanta, Georgia 30305.

B. Deadlines

Applications shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date, or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be acceptable as proof of timely mailing.)

Applications which do not meet the criteria in either paragraph B.1. or B.2. immediately above are considered late applications and will not be considered for review or funding.

C. Reviews

Applications are not subject to review as governed by Executive Order 12372; however, they are subject to review as governed by Regulations (42 CFR Parts 122 and 123) implementing the National Health Planning and Resource Development Act of 1974.

Information

Information on application procedures, copies of application forms, and other material may be obtained from Luther DeWeese, Grants Management Specialist, at the above address (404) 262-6575. Technical assistance for preparation of an application may be obtained from Gary C. Hogelin, Chief, Field Services Branch, Division of Nutrition, Center for Health Promotion and Education, Centers for Disease Control, 1600 Clifton Road, N.E., Atlanta, Georgia 30333. The telephone number is (404) 329-3075, or FTS 236-3075.

Dated: April 17, 1986.

William E. Muldoon,

Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 86-9019 Filed 4-22-86; 8:45 am]

BILLING CODE 4160-18-M

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Food and Drug Administration

[Docket No. 86E-0114]

Determination of Regulatory Review Period for Purposes of Patent Extension; Betagan

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (DFA) has determined the regulatory review period for Betagan and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continue until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Betagan, a solution of levobunolol hydrochloride, which is indicated for use in lowering intraocular pressure and may be use in patients with chronic open-angle glaucoma or ocular hypertension. Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Betagan from Allergan Pharmaceuticals, Inc., and requested FDA's assistance in determining the patent's eligibility for patent term restoration. FDA, in a letter dated March 21, 1986, advised the Patent and Trademark Office that the human drug product had undergone a regulatory review period and that its active ingredient, levobunolol hydrochloride, represented the first permitted commercial marketing or use of that active ingredient. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Betagan is 1,870 days. Of this time, 1,169 days occurred during the testing phase of the regulatory review period, while 701 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* November 7, 1980. The applicant claims that the notice of claimed investigational exemption (IND) was submitted on October 3, 1980. However, FDA did not receive the IND application until October 8, 1980. Therefore, under 21 CFR 312.1, the IND became effective on November 7, 1980.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* January 19, 1984. The applicant claims that the new drug application for the drug (NDA 19-219) was initially submitted on January 17, 1984, but FDA did not receive the application until January 19, 1984.

3. *The date the application was approved:* December 19, 1985. FDA has verified that NDA 19-219 was approved on December 19, 1985.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 730 days of patent extension.

Anyone with knowledge that any of the dates are published is incorrect may, on or before June 23, 1986, submit to the Dockets Management Branch (address above) written comments and ask for redetermination. Furthermore, any interested person may petition FDA, on or before October 20, 1986, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 15, 1986.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 86-9022 Filed 4-22-86; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Advisory Committee; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of May 1986:

Name: National Advisory Council On Nurse Training.

Date and Time: May 12-14, 1986, 10:30 a.m.

Place: Conference Room M, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Open on May 12, 10:30 a.m.—12:30 p.m.

Closed for remainder of meeting.

Purpose: The Council advises the Secretary and Administrator, Health Resources and Services Administration, concerning general regulations and policy matters arising in the administration of Title XXVII, National Health Service Corps, Health Professions Education, Nurse Training Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97-35). The Council also performs final review of grant applications for Federal assistance, and makes recommendations to the Administrator, HRSA.

Agenda: Agenda items for the open portion of the meeting will cover announcements; consideration of minutes of the previous meeting; reports by the Director, Bureau of Health Professions, the Financial Management Officer, BHPr., the Director, Division of Nursing, and staff reports. The meeting will be closed to the public on May 12, at 12:30 p.m. for the remainder of the meeting for the review of grant applications for advanced nurse training grants, nurse practitoner grants, special project grants, national research service awards, and research project grants. The closing is in accordance with the provision set forth in section 552b(c)(6), Title 5, U.S. Code and the Determination by the Administrator, Health Resources and Services Administration, pursuant to section 10(d) of Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meeting, or other relevant information should write to or contact Dr. Mary S. Hill, Bureau of Health Professions, Health Resources and Services Administration, Room 5C-04, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-6193.

Agenda items are subject to change as priorities dictate.

Dated: April 17, 1986.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 86-9023 Filed 4-22-86; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Statue of Liberty-Ellis Island Centennial Commission; Renewal

This notice is published in accordance with section 9(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is renewing the Statue of Liberty-Ellis Island Centennial Commission. The purpose of the Commission shall be to serve as the primary citizen advisory body to the Secretary and the National Park Service on all matters pertaining to the preservation of Ellis Island and the Statue of Liberty, as well as the centennial celebrations of each. It is anticipated that the Commission will advise the Secretary, without limitation, on the means and schedules of preservation, the projected uses of the facilities, the needs and uses of donated funds, property and services, the programs and activities associated with centennial celebrations and the ongoing programs and activities associated with both the Statue of Liberty and Ellis Island.

Further information regarding the committee may be obtained from the Deputy Under Secretary, Statue of Liberty-Ellis Island Commission, Department of the Interior, 18th & C Sts., NW., Room 6124, Washington, D.C. 20240.

The certificate of renewal is published below.

Certification

I hereby certify that the renewal of the Statue of Liberty-Ellis Island Centennial Commission is in the public interest in connection with the performance of duties imposed on the Department of the Interior by 16 U.S.C. 1a-2(c) and 16 U.S.C. 431.

Dated: April 17, 1986.

Donald Paul Hodel,

Secretary of the Interior.

[FR Doc. 86-9031 Filed 4-22-86; 8:45 am]

BILLING CODE 4310-10-M

President's Commission on Americans Outdoors; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the President's Commission on Americans Outdoors (Commission) will be held Friday, May 9, 1986, starting at 2:00 p.m., in the En Banc Court Room, Room 209, of the U.S. Fifth Circuit Court of Appeals, 600 Camp Street, New Orleans, LA 70130.

This will be a hearing to obtain information on the kinds of programs that are provided and opportunities afforded in recreation programs in this country. Attendees have been invited by the Commission for this public hearing; however interested parties may request time to testify by contacting the Commission.

This meeting is opened to the public, interested persons may attend. The Commission contact is Mr. James Gasser, and he may be contacted at the President's Commission on Americans Outdoors, P.O. Box 18547, 1111-20th Street NW., Washington, DC 20036-8547 (202) 634-7310.

Dated: April 17, 1986.

Victor H. Ashe,

Executive Director, President's Commission on Americans Outdoors.

[FR Doc. 86-9045 Filed 4-22-86; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Land Management

[OR 39468]

Realty Action; Exchange of Public Lands in Curry County, OR

SUMMARY: The following described public domain land located in Curry County, Oregon, has been examined and through the development of land use planning decisions based on public input and resource considerations, regulations, and Bureau policies, it has been determined that this public land is suitable for disposal by exchange under the authority of sections 205 and 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716):

Willamette Meridian, Oregon

SW¼NW¼ section 35, T. 39S., R. 14 W., containing 40 acres.

All minerals in these public lands will be included in the exchange. The patent, when issued, will be subject to a reservation of right-of-way thereon for ditches and canals constructed by the authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

The exchange proponent, Mr. Charles Toth, will receive title to the federal land noted above which will serve to block up his private ownership.

In exchange for this land the United States will acquire private lands of equal value, listed below, which will enhance its' management program by providing legal, public access to the New River, Area of Critical Environmental Concern (A.C.E.C.) and also serve to consolidate its land ownership pattern. The value of the lands to be exchanged are approximately equal and acreage will be adjusted or money will be used to equalize the values upon completion of the final appraisal of the lands.

The lands to be acquired, in priority order, are as follows:

Willamette Meridian, Oregon

T. 30S., R. 15 W., Portions of Lots 3 and 4 Sec. 2, containing 14.2 acres.

T. 40 S., R. 13 W., Lot 10 Sec. 9, containing 40.75 acres.

These 2 parcels are presently under third party ownership. Once the appraisals are finalized the exchange

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proponent will acquire all or a portion of these lands to trade to the United States to consummate the exchange.

This exchange is consistent with the management objectives of the Coos Bay Management Framework Plan, the Management Plan for New River A.C.E.C., local government zoning plans and Oregon's Coastal Zone Management Program. The public interest will be well served by making this exchange.

The publication of this notice in the **Federal Register** segregates the public lands described herein from all other forms of appropriation and entry under the public laws, including the mining laws, for a period of two years from the date of publication. The exchange is expected to be completed before the end of that period.

ADDRESSES: Detailed information concerning the exchange, including the environmental analysis, is available for review at the Bureau of Land Management's Coos Bay District Office, 333 South 4th Street, Coos Bay, OR 97420.

DATE: For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Coos Bay District Manager at the above address (Reference exchange number OR 39468). Objections will be reviewed by the Oregon State Director of the Bureau of Land Management who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

FOR FURTHER INFORMATION CONTACT: Thom Green or Bob Bierer, Coos Bay District Office, at (503) 269–5880.

Dated: April 15, 1986.

Robert T. Dale,

District Manager.

[FR Doc. 86–9061 Filed 4–22–86; 8:45 am]

BILLING CODE 4310-33-M

Colorado; Realty Action

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Serial No. C–40267, Determination of land suitable for exchange under the authority of Sections 205, 206, 302(b), and 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1715, 1716, 1732, and 1740).

SUMMARY: Approximately 549 acres of public land under the jurisdiction of the Bureau of Land Management have been determined suitable for exchange. The determination of suitability has been made in response to a Bureau-benefiting exchange proposal developed cooperatively between the Bureau and Double J Land and Cattle Company. In the proposal, Double J Land and Cattle Company have offered to exchange approximately 556 acres of private land. The exchange proposal has been made to facilitate the consolidation of land holdings, provide access to approximately 12,000 acres of unaccessible public land, and resolve unauthorized occupancy and enclosure of public lands. The consolidation would increase managerial efficiency and provide public access to natural resources on public land being managed by the Bureau.

The values of the land to be exchanged have been determined to be approximately equal. Upon completion of the final appraisal of the lands, the acreages will be adjusted or money will be used to equalize the exchange values.

Selected Public Land

Description of Land To Be Considered For Exchange in Garfield County, Colorado:

West Rifle Creek Area

Sixth Principal Meridian, Colorado

T. 4 S., R. 93 W.,
Sec. 16, NE¼NW¼;
Sec. 20, W½SE¼NW¼.

Description of Land To Be Considered For Exchange in Eagle County, Colorado:

Castle Peak Area

Sixth Principal Meridian, Colorado

T. 2 S., R. 84 W.,
Sec. 20, lots 1–3, E½NE¼, E½NW¼NE¼, SW¼NE¼, SE¼NW¼, E½SW¼NW¼;
Sec. 21, lot 2, SW¼NW¼, W½NW¼N W¼;
Sec. 28, lot 1 and 2.
Total selected: 549.24 acres.

Offered Private Land

Description of Land To Be Considered For Exchange in Eagle County, Colorado:

Sixth Principal Meridian, Colorado

T. 2 S., R. 84 W.,
Sec. 23, S½S½;
Sec. 25, lots 1 and 2, N½NW¼, SW¼NW¼, N½SW¼;
Sec. 26, N½NE¼, NW¼NW¼.
Total offered: 555.96 acres.

Terms and Conditions: The following reservations for existing uses and users would be made in a patent issued for public land.

1. The reservation to the United States of a right-of-way for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. The reservation to the United States of all mineral deposits in the land.

3. The reservation of Oil and Gas leases C–36936, C–36937, C–42897, C–18334.

4. The reservation of Power Transmission Line Right-of-Way C–16807.

5. The reservation of Telephone and Telegraph Right-of-Way C–30975, C–27649.

6. The reservation for access on Eagle County Road 41 and Garfield County Road 252.

7. The reservation for use of existing roads north of Alkali Creek, C–43071. The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. As provided by the regulations of 43 CFR 2201.1(b), any subsequently tendered application, allowance of which is discretionary, shall not be considered as filed and shall be returned to the applicant.

FURTHER INFORMATION AND PUBLIC COMMENT: Additional information concerning this exchange, including the planning documents and environmental assessment, is available for review in the Glenwood Springs Resource Area Office at 50629 Highway 6 and 24, Glenwood Springs, Colorado.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, Grand Junction District Office, Bureau of Land Management, 764 Horizon Drive, Grand Junction, Colorado 81506. Objections will be reviewed by the State Director who may sustain, vacate, or modify this action. In the absence of any objections, this Notice of Realty Action will become the final determination of the Department of the Interior.

Dated: April 10, 1986.

Dick Freel,

District Manager, Grand Junction District.

[FR Doc. 86–9021 Filed 4–22–86; 8:45 am]

BILLING CODE 4310-84-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–225]

Certain Multi-Level Touch Control Lighting Switches; Commission Decision Not To Review Initial Determination Terminating Respondent on The Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of an initial determination (ID) terminating a respondent on the basis of a settlement agreement.

SUMMARY: The U.S. International Trade Commission has determined not to review an ID terminating respondent Trivar, Inc. (Trivar), in the above-captioned investigation. On March 5, 1986, complainant Southwest Laboratories, Inc., and respondent Trivar filed a joint motion (Motion No. 225–36) for reconsideration of Order No. 17 which denied their earlier joint motion (Motion No. 225–20) to terminate Trivar as a respondent in the investigation on the basis of a settlement agreement. The presiding administrative law judge (ALJ) denied the joint motion for reconsideration during the March 3, 1986, prehearing conference. On March 17, 1986, the ALJ sua sponte issued an ID (Order No. 29) reversing Order No. 17 and granting Motion No. 225–20 terminating Trivar as a respondent. No petitions for review were received, nor were any comments received from other Government agencies or the public.

FOR FURTHER INFORMATION CONTACT: John Kingery, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1638.

SUPPLEMENTARY INFORMATION: This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C 1337) and Commission rule § 210.53 (19 CFR 210.53)

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Issued: April 17, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–9095 Filed 4–22–86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731–TA–286 (Final)]

Import Investigation; Anhydrous Sodium Metasilicate From the United Kingdom

AGENCY: United States International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: March 31, 1986.

FOR FURTHER INFORMATION CONTACT: Robert Carpenter (202–523–0399), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202–724–0002.

SUPPLEMENTARY INFORMATION: On March 3, 1986, the Commission instituted the subject investigation and established a schedule for its conduct (51 FR 9535). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from May 10, 1986 to July 9, 1986 (51 FR 10897, March 31, 1986). The Commission, therefore, is revising its schedule in the investigation to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than June 23, 1986; the prehearing conference will be held in room 117 of the U.S. International Trade Commission Building on June 26, 1986; the public version of the prehearing staff report will be placed on the public record on June 20, 1986; the deadline for filing prehearing briefs is July 3, 1986; the hearing will be held in room 331 of the U.S. International Trade Commission Building on July 10, 1986; and the deadline for filing all other written submissions, including posthearing briefs, is July 17, 1986.

For further information concerning this investigation see the Commission's notice of investigation cited above and the Commission's rules of practice and procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Issued: April 15, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–9097 Filed 4–22–86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–229]

Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

In the matter of certain jewelry and parts thereof.

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: Blair, Ltd. (Blair).

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on April 14, 1986.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Written comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street NW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential

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treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: April 14, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–9101 Filed 4–22–86; 8:45 am]

BILLING CODE 7020–02–M

[Docket No. 332–226]

Monthly Reports on the Status of the Steel Industry; Import Investigation

AGENCY: United States International Trade Commission.

ACTION: Institution of an investigation.

EFFECTIVE DATE: April 9, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Nita Kavalauskas (202–523–5413), Minerals and Metals Division, U.S. International Trade Commission, Washington, DC 20436.

Background and scope of investigation: The Commission instituted investigation No. 332–226, following receipt on March 14, 1986, of a letter from the Chairman, Subcommittee on Trade, Committee on Ways and Means, U.S. House of Representatives, requesting that the Commission conduct an investigation under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)) to provide monthly monitoring reports on the status of the U.S. steel industry through September 30, 1989. This coincides with the scheduled expiration of the President's program of voluntary restraint arrangements (VRA's).

The report will provide historic and current year-to-date data for the industry as a whole on item such as production, employment, shipments, trade, and financial performance.

With respect to trade, information on imports of major carbon and specialty steel products (such as plates and sheets and strip) will be provided on a country-by-country or regional basis for each of the countries or regions subject to VRA's, and for other major suppliers. The data will show how imports of semifinished steel and other steel products relate to overall VRA limits.

In addition, information on market penetration in major products will be provided, as will information which will track imports into five major U.S. customs regions. Finally, the report will provide data on the unit values of imported steel.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 724–0002.

By order of the Commission.

Issued: April 14, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–9100 Filed 4–22–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–234]

Certain Upper Body Protector Apparatus for Use in Motorsports; Commission Determination Not To Review Initial Determination Joining Respondents

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of an initial determination (ID) joining two respondents to the investigation.

SUMMARY: Notice is hereby given that the Commission has determined not to review the presiding administrative law judge's (ALJ) ID to join One Up, S.r.l. and Jim O'Neal Distributing, Inc. as repsondents in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Paul R. Bardos, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436, telephone 202–523–0375.

SUPPLEMENTARY INFORMATION: On February 21, 1986, complainants J.T. Racing, Inc. and John R. Gregory moved to amend the complaint and notice of investigation (Motion No. 234–3) to add two new respondents to the investigation: (1) One Up, S.r.l., of Italy, and (2) Jim O'Neal Distributing Inc., of California. The ALJ issued an ID granting the motion on February 18, 1986. No petition for review of the ID nor comments from other government agencies have been received.

Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW, Washington, DC 20436, telephone 202–523–0161.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Issued: April 17, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–9096 Filed 4–22–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–83]

Import Investigation of Certain Window Shades; Issuance of Advisory Opinion

AGENCY: U.S. International Trade Commission.

ACTION: Issuance of advisory opinion.

SUMMARY: The Commission has issued an advisory opinion in which it finds that certain window shades sought to be imported by McCrory Corp. are not covered by the exclusion order issued by the Commission at the conclusion of the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493. Hearing impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–724–0002.

SUPPLEMENTARY INFORMATION: At the conclusion of the above-captioned investigation, the Commission issued an order excluding from entry into the United States window shades or components thereof that infringe claims 1, 2, 7, 8, or 9 or U.S. Letters Patent 4,008,770 for the remaining term of the patent. By letter dated July 29, 1985, McCrory Corp. informed the Commission that the U.S. Customs Service had refused entry of certain window shades under the authority of the exclusion order and requested that the Commission advise Customs that the window shades are not encompassed by the exclusion order. The Commission instituted an advisory opinion proceeding to determine whether the window shades which McCrory seeks to import are subject to the exclusion order. The Commission has now determined that they are not.

Copies of the advisory opinion and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161.

By order of the Commission.

Issued: April 11, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–9099 Filed 4–22–86; 8:45 am]

BILLING CODE 7020–02–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Council on the Arts; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on May 2–3, 1986 from 9:00 a.m. to 5:30 p.m. and on May 4, 1986 from 9:00 a.m. to 1:00 p.m. in Room M–09 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

A portion of this meeting will be open to the public on Friday, May 2, 1986 from 9:00 a.m. to 5:30 p.m. and Saturday, May 3, 1986 from 9:00 a.m. to 12:30 p.m. The topics for discussion will include Program Review and Guidelines for State Programs, Arts In Education, Folk Arts, Literature, Dance, and Music; plus future options for the Advancement Program, and the future of Challenge/Long Term Enhancement.

The remaining sessions on Saturday, May 3 from 2:30 p.m. to 5:30 p.m. and on Sunday, May 4 from 9:00 a.m. to 1:00 p.m. are for the purpose of Council review, discussion, evaluation and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants, and for discussion and development of confidential budgetary projections and related plans to be submitted to the Office of Management and Budget and the Congress. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(B) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682–5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

April 17, 1986.

[FR Doc. 86–9017 Filed 4–22–86; 8:45 am]

BILLING CODE 7537–01–M

NUCLEAR REGULATORY COMMISSION

Bi-Weekly Notice; Applications and Amendments To Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (Pub. L.) 97–415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. Pub. L. 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on April 9, 1986 (51 FR 12222), through April 14, 1986.

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

By May 23, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with

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reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will service to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Branch Chief)*: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Alabama Power Company, Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, Houston County, Alabama

Date of amendments request: December 9, 1985, supplemented February 18, 1986.

Description of amendments request: The licensee proposes administrative changes to Technical Specifications (TS). These changes involve sixteen areas of the specifications described generally in the following groupings:

(1) Fire detection instruments of Table 3.3–12 contain smoke and heat detectors. TS 4.3.3.9.1 would be clarified by an administrative change to allow aerosol or heat, as appropriate, for testing. The numbers of detectors and room identification would also be corrected. New detectors would be added as an enhancement to the TS.

(2) TS 4.5.3.2 would be changed editorially to require the vertification of position of a breaker or disconnect device that is required to be locked open. Separate disconnect devices were added per NUREG–0737 for use in an emergency. Therefore, the change adds an administrative option and is considered as an editorial change.

(3) Editorial corrections would be made in surveillance (TS 4.7.7.b and 4.7.7.e.4) to reflect that heaters are only in the pressurization system of the control room ventilation system and are not also in the recirculation system.

(4) TS 4.7.11.1.3(c)(1) would be editorially corrected to delete "cell plates" from the 18-month visual inspection the 24-volt battery bank of the fire pump diesel. Plates are inside the battery and cannot be visually observed without destroying the integrity of the battery.

(5) TS Table 3.7–5 would be administratively corrected to add newly installed fire sprinkler systems in the Service Water Intake Structure.

(6) TS 4.7.11.3.2(b)(2) and 4.7.11.3.3(b)(2) would be clarified editorially to delete reference to nozzles for the "puff tests" during flow tests of high pressure CO_2 systems. The test will still be performed, and the administrative change would clarify how the surveillances are done to eliminate misinterpretations. Thus, a personnel hazard or an increase in the likelihood of plant transient would be reduced.

(7) TS Table 3.7–6 would be administratively corrected for room numbers and locations for fire hose stations and to reflect a newly installed hose storage locker inside containment.

(8) TS Table 3.7–7 would be editorially corrected to reverse hydrant numbers for the east and west Service Water intake structures in order to correct an existing error.

(9) TS 4.8.3.1. 3/4.8.3 and Table 3.8–1 (Unit 2 only) would be changed to eliminate periodic TS requirements for fuse testing. The NRC staff has indicated that surveillance testing of fuses is not meaningful and that additional handling of fuses during surveillance testing may compromise fuse integrity. Also, the change would renumber sections and delete the tabular listing of overcurrent protection devices. Thus, the Table 3.8–1 listing of overcurrent protection devices would be maintained by the licensee and controlled in accordance with 10 CFR 50.59 in a similar manner and consistent with NRC staff actions taken for Generic Letter 84–13 for the snubber listing.

(10 TS 3.9.14 Action 1 would be corrected administratively to show the correct valve size of the semi-purge isolation valves as 8 inches to agree with the existing plant design.

(11) TS Tables 4.11–1 and 4.11–2 for Radioactive Liquid and Gaseous Waste Sampling and associated table notations would be clarified. For Table 4.11–1 Notation b., and for Table 4.11–2 Notation i., a sentence is added to require reporting of deviations from

composite sampling requirements per TS 6.9.1.8. For Table 4.11–2 Item D "(I–131, Others)" is deleted to make the type of analysis consistent with Notation g.

(12) TS Figures 5.1–3 and 5.1–4 would be corrected editorially to reflect the Training/EOF Center as being complete. Previously figures reflected the Center as an incomplete information center.

(13) TS 6.9.1.10 would be corrected to show the Director, Office of Management and Program Analysis, as the proper NRC official to receive monthly operating reports.

(14) TS 6.10.2.i would be corrected as an editorial clarification to reflect retention of safety related quality assurance records to be maintained by the licensee for the life of the license.

Basis for proposed no significant hazards consideration determination: By letter dated February 18, 1986, the licensee supplemented the December 9, 1985, application for Technical Specification changes. By Attachment 1 of the February 18, 1986 letter, the licensee provided a detailed 10 CFR 50.92 significant hazards evaluation (thirty-three pages in length). The analyses utilized the three factor test for each of the sixteen proposed Technical Specification changes to determine that each change meets the standards of 10 CFR 50.92(c) and does not involve a significant hazards consideration.

We have reviewed the licensee's analyses and agree that the proposed changes would not increase the probability or consequences of an accident previously evaluated, would not create the possibility of a new or different kind of accident from any accident previously evaluated, or would not involve a reduction in a margin of safety.

Additionally, the Commission has provided examples likely to be found to involve no significant hazards considerations. The example which most likely fits the proposed changes is "(i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." Therefore, on the basis of our review of the licensee's 10 CFR 50.92 analyses and on the additional Commission guidance of example "(i)" cited above, or proposed determination is that the changes do not involve a significant hazards consideration.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Attorney for licensee: Ernest L. Blake, Jr., Esquire, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: Lester S. Rubenstein.

Arkansas Power & Light Company, Docket No. 50–368, Arkansas Nuclear One, Unit 2 Pope County, Arkansas

Date of Amendment Request: March 14, 1986.

Description of Amendment Request: The proposed amendment would delete license condition 2.C.(7) of Facility Operating License No. NPF–6 relating to the U.S./International Atomic Energy Agency (IAEA) Safeguards program. Under this program, the ANO–2 facility was subject to AEA inspections of nuclear material accounting and nuclear material control. The proposed amendment would not alter in any way the safeguards provisions required by NRC regulations.

The termination provisions of license condition 2.C.(7) provides that the IAEA program be terminated as of the date of such notice from the NRC. That notice was provided to the licensee in a letter dated January 21, 1986 and accordingly the IAEA inspection program was terminated at that time.

The proposed amendment would delete this license condition since it is no longer in effect.

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided guidance concerning the application of the no significant hazards consideration standards by providing certain examples (48 FR 14670). One of the examples of actions not likely to involve significant hazards consideration relates to a purely administrative change.

As explained above, the amendment will delete a license condition which is no longer in effect. Therefore, the proposed action is purely administrative in nature, and similar to the example cited.

Therefore, since the application for amendment involves a proposed change that is similar to an example of actions that are considered not likely to involve significant hazards considerations, the Commission has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room Location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Attorney for Licensee: Nicholas S. Reynolds, Esq., Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street, NW., Washington, DC 20036.

NRC Project Director: George W. Knighton.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request: February 28, 1986.

Description of amendment request: The proposed amendment would delete Technical Specification Section 6.15 which imposes an implementation date of June 30, 1982, for final qualification of all safety-related electrical equipment. That date and the need for this technical specification were rendered obsolete by Rule 10 CFR 50.49 which established March 31, 1985 as the qualification deadline, with extensions allowable to a date no later than November 30, 1985 under certain circumstances.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning application of the standards for determining whether license amendments involve significant hazards considerations by providing certain examples (48 FR 14870). One example of an amendment considered not likely to involve significant hazards considerations is "(i) a purely administrative change to technical specifications: for examaple, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." Since the proposed change involves only the removal of an obsolete requirement, the staff considers it to be similar to example (i). On that basis the staff has made an initial determination that the proposed amendment does not involve significant hazards considerations.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: John A. Zwolinski.

Boston Edison Company, Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request: February 28, 1986.

Description of amendment request: The proposed amendment would change the date for expiration of the Pilgrim Unit 1 Operating License, DPR–35, from August 26, 2008 to June 8, 2012. This change would add the plant construction time of 3 years 9½ months to the currently licensed term and, thus, extend the operating period to 40 years.

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Basis for proposed no significant hazards consideration determination: The licensee has evaluated the potential impacts associated with the proposed license extension and has performed an analysis, using the standards in 10 CFR 50.92, concerning the issue of no significant hazards consideration. The results of that analysis show that the reactor vessel is the only non-replaceable plant component which could limit the plant operating life because of its irreplaceable nature. The reactor vessel was designed using parameters listed in Combustion Engineering Report No. CENC 1139 of March 9, 1971, and included neutron fluences as the basis for a 40-year operating life. These design parameters are considered conservative by present standards. Additonal studies, described in Southwest Research Institute Report SWRI 02-5951 of July 1981 and in General Electric Report NDE 277-1285 of November 27, 1985, have also indicated that expected cumulative neutron fluences will not be a limiting consideration of vessel life. As a result, jusitification for adding the construction duration to the present expiration period now exists, assuming the design criteria are not exceeded during the 40-year operating life.

Aging analysis has been performed for safety-related electrical equipment in accordance with 10 CFR 50.49, "Environmental Qualification of Electrical Equipment Important to Safety for Nuclear Power Plants." Qualified lifetimes have been identified for this equipment as part of this analysis. These lifetimes will be incorporated into the Pilgrim Station maintenance and replacement procedures to ensure that all safety-related equipment remains qualified for the life of the plant regardless of the overall age of the plant.

The original design criteria for Pilgrim Station included many conservative, operating life-limiting assumptions. These resulted in analyses that supported a 40-year operating life at an 80% capacity factor. Since the cumulative capacity factor from plant inception is less than 60%, it is not likely to exceed 80% in the future and the conservative operating criteria will not be comprised.

Upon considering the above the information, the licensee concluded that the requested extension of the operating license would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the plant was originally designed for a full 40 years; (2) create the possibility of a new or different kind of accident from any accident previously evaluated because original design features were incorporated which maximize the inspectability of structures, systems and equipment; or (3) involve any reduction in the margin of safety because safety margins were considered and incorporated into the original 40-year design.

The staff has reviewed the licensee's analysis and agrees with the conclusions. Therefore, the staff has made an initial determination that the proposed amendment involves no significant hazards considerations.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W.S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: John A. Zwolinski.

Commonwealth Edison Company, Docket No. STN 50-454 Byron Station, Unit 1 Ogle County, Illinois

Date of application for amendment: March 18, 1986.

Description of amendment request: The amendment would revise Technical Specification Table 3.3-7 by changing the full scale range of the triaxial acceleration sensors which are part of the seismic monitoring instrumentation. This change has been requested because the instrumentation has been alarming although there is no other indication of a seismic event. This problem occurs because the alarm setpoint (0.02 g) is only 1% of the full scale range (2.0 g) of the sensors. The proposed amendment will reduce the full scale range of the sensors while maintaining the same alarm setpoint; thus, a larger signal will be required to actuate the alarm.

Basis for Proposed No Significant Hazards Consideration Determination: Based on the three criteria in 10 CFR 50.92 for defining a significant hazards consideration, operation of Byron Station, Unit 1 in accordance with the proposed amendment will not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or

(3) Involve a significant reduction in a margin of safety.

The proposed amendment revises the measurement range of instruments used to measure the acceleration of a seismic event. These instruments do not perform any protective function. With respect to the first criterion the probability of accidents previously evaluated is not affected by a change to the measurement range of these monitoring instruments. Since these instruments do not perform any protective function, the consequences of accidents previously evaluated remains the same.

The sole purpose of these instruments is to perform a monitoring function. Therefore, a revision to the range of these instruments will not create the possibly of a new or different kind of accident; thus, the second criterion is satisfied.

With respect to the third criteria, there is no margin of safety associated with these seismic monitoring instruments.

Therefore, the staff proposes to determine that the amendment does not involve a significant hazards consideration.

Local Public Document Room location: Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103.

Attorney for licensee: Michael Miller, Isham, Lincoln and Beal, One First National Plaza, 42nd Floor, Chicago, Illinois 60603.

NRC Project Director: Vincent S. Noonan.

Commonwealth Edison Company, Docket Nos. 50-237/249, Dresden Nuclear Power Station, Unit Nos. 2 and 3, Grundy County, Illinois

Date of amendment request: October 29, 1985.

Description of amendment request: The proposed amendments would (1) implement the coolant leak detection requirements of Generic Letter 84-11, Attachment 1, Section B for Dresden Unit 2 as requested by the staff, (2) revise the time-period requirement for conducting the in-service inspection (ISI) program to reflect the second 10-year ISI period for Dresden Units 2 and 3 and (3) correct typographical errors in the technical specifications for Dresden Unit 2.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c).

The licensee has presented a determination of no significant hazards consideration as follows:

The proposed amendments do not involve a significant increase in the probability or consequences of an accident previously evaluated because the changes reflect either a more restrictive limit on increases in coolant leakage and a more stringent plant shutdown requirement (Item 1) or administrative changes (Items 2 and 3). The proposed changes do not impact the current operation of plant equipment important to safety nor do they allow [for] any new equipment or new modes of operation.

The proposed amendments do not create the possibility of a new or different kind of accident from any accident previously evaluated because the changes are largely administrative and deal with monitoring requirements, action levels and surveillances. No new or different modes of operation or changes to plant equipment are allowed by the changes.

The proposed amendments do not involve a significant reduction in a margin of safety because the Item (1) change involves a more restrictive limit on coolant leakage increases, requires plant shutdown if this limit is exceeded regardless of the source of leakage and establishes reasonable equipment operability requirements consistent with previous NRC guidance. Items 2 and 3 reflect administrative changes which have no functional impact on operation of the plant and, therefore, no impact on the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Based on this review, the staff has made a proposed determination that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60451.

Attorney for licensee: Mr. Michael I. Miller; Isham, Lincoln and Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Project Director: John A. Zwolinski.

Commonwealth Edison Company, Docket No. 50-249, Dresden Nuclear Power Station, Unit No. 3, Grundy County, Illinois

Date of amendment request: March 31, 1986.

Description of amendment request: The proposed amendment would revise the high-flow isolation setpoint for the Dresden Unit 3 Isolation Condenser (ISCO) Return Line and clarify the bases for operation of the flow monitoring devices.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c).

The licensee has presented a determination of no significant hazards consideration as follows:

The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated because the trip level setting change is due to the installation of the new annubar on the ISCO return line, and corresponds to the design trip flow rate of 2508 GPM. This trip flow rate is General Electric's original design of 300 percent of normal flow (836 GPM) which causes the system to automatically isolate from the reactor due to a condensate return line break. The setpoint change is therefore merely a number change due to the nature of the new instrument and provides for the same mode of operation for which the system was designed. The LCO Bases is being rewritten for clarity reasons only and does not functionally impact the system's operation or isolation.

The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated because the original isolation function of the ISCO system is maintained, and the change is necessary only to accommodate the new instrument. The ISCO system will still automatically isolate as designed due to high flow of 2508 GPM in either direction on the condensate return line. This change does not affect the actual trip flow rate and therefore does not functionally impact the isolation mode of the system.

The proposed amendment does not involve a significant reduction in the margin of safety because the change does not affect the design flow rate at which the system will isolate. In the event of a condensate return line break the ISCO system will isolate at 14.8" H_2O differential which corresponds to the design flow of 2508 GPM (300 percent of normal flow, 836 GPM). This isolation will prevent uncovering the core and exceeding site limits, thus maintaining the margin of safety.

The staff has reviewed the technical analysis presented in the licensee's submittal and the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Based on this review, the staff has made a proposed determination that the requested amendment involves no significant hazards considerations.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Attorney for licensee: Mr. Michael I. Miller; Isham, Lincoln and Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Project Director: John A. Zwolinski.

Commonwealth Edison Company, Docket Nos. 50-254 and 50-265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request: September 26, 1984.

Description of amendment request: The amendments would add limiting conditions for operation and surveillance requirements to the Technical Specifications (TS) for certain plant modifications required by NUREG-0737 TMI Action Plan Items that are covered by Generic Letter 83-36. The licensee has proposed TS for (1) Post Accident Sampling (II.B.3), (2) Sampling and Analysis of Plant Effluents (II.F.1.2), (3) Containment High-Range Radiation Monitor (II.F.1.3), (4) Containment Pressure Monitor (II.F.1.4), (5) Containment Water Level Monitor (II.F.1.5), and (6) Containment Hydrogen Monitor (II.F.1.6). Of the other items covered by GL 83-36, Item II.B.1 on Reactor Coolant System venting does not apply to a boiling water reactor not having an isolation condenser such as the Quad Cities units; Item II.F.1.1 on Noble Gas Effluent Monitors has already been reviewed under the 10 CFR Part 50 Appendix I review of radiological effluent technical specifications; and Item III.D.3.4 on Control Room Habitability has been reviewed in a separate review. These three items of GL 83-36 are therefore not included in this notice.

Basis for proposed no significant hazards consideration determination: Generic Letter 83-36 (issued November 1, 1983) requested all boiling water reactor licensees to review their TS to determine if they are consistent with the guidance provided with the generic letter. For items where licensees identified deviations or the absence of a specification, they were requested to submit an application for a license amendment. In response to this request, Commonwealth Edison, the licensee, determined that there were not adequate provisions in the Quad Cities Units 1 and 2 TS to address the TMI items identified above. Therefore, the proposed amendment request was submitted.

The Commission has provided guidance concerning the application of the standards for determining whether a no significant hazards consideration exists by providing examples (April 6, 1983, 48 FR 14870). One of the examples (ii) of an action not likely to involve a significant hazards consideration is a change that constitutes an additional limitation, restriction, or control not presently included in the TS; for example, a more stringent surveillance requirement. As discussed in the licensee's submittal of the proposed amendments, the changes proposed for each of the TMI items would provide additional limiting conditions for operation and surveillance requirements not currently in the TS to assure the proper use of post-TMI modifications. Therefore, since all the proposed changes fall with the Commission guidance, the staff proposes to determine that the requested action would involve a no significant hazards consideration determination.

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Local Public Document Room location: Moline Public Library, 504–17th Street, Moline, Illinois 61265.

Attorney for licensee: Mr. Michael I. Miller; Isham, Lincoln, & Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Project Director: John A. Zwolinski.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of amendment request: August 29, 1983.

Description of amendment request: The proposed amendment would revise the Technical Specifications to provide relief from reactor coolant pump casing surface and visual examinations and updates the technical justification for deferring volumetric examinations of the pump casing welds.

Basis for proposed no significant hazards consideration determination: The Commission has provided criteria for determining whether a proposed amendment involves no significant hazards considerations in 10 CFR 50.92 (48 FR 14871). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident previously evaluated; or (3) involve a significant reduction in margin of safety.

The proposed revisions of the Technical Specifications will not involve a significant increase in the probability or consequences of an accident previously evaluated because Consolidated Edison will perform alternate inspections consisting of visual inspection of the pumps during inspection of system leakage and hydrostatic test per IWA 5000 and IWB 5000, plus a surface examination of the exterior portion of the welds on one pump during each inspection interval per IWA 2222 of ASME Section XI. These alternate examinations will substitute for the requirement for volumetric examination of the casing welds and visual examination of the casing interior as well as the requirement to visually and liquid penetrant examine the internal surface of one pump casing weld. These alternate examinations should provide reasonable assurance of component integrity.

The proposed revisions to the Technical Specifications will not create the possibility of a new or different kind of accident previously evaluated because the revision involves no changes to plant hardware or operating procedures. In addition and as discussed above, the alternative examination to be performed by the licensee will provide adequate assurance of component integrity.

The proposed revisions to the Technical Specifications will not involve a significant reduction in margin of safety because the licensee will perform adequate alternative testing.

Therefore, based on the above, the staff proposes to determine that the application does not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Attorney for licensee: Brent L. Brandenburg, Esq., 4 Irving Place, New York, New York 10003.

NRC Project Director: Steven A. Varga.

Florida Power and Light Company, Docket No. 50–335, St. Lucie Plant, Unit No. 1, St. Lucie County, Florida

Date of amendment request: April 2, 1986.

Description of amendment request: The amendment would change the Linear Heat Generation Rate Limiting Condition for Operation Technical Specification Figure 3.2–1 to permit an increase in the allowable linear heat generation rate at core heights above 0.6, specifically, increasing to 14.0 kw/ft from 13.4 kt/ft at a relative core height of 0.81 and increasing to 10.81 kw/ft from 10.07 kw/ft at the top of the core. In addition, Technical Specification Figure 3.2–2 would be expanded to reflect the increase of the linear heat generation rate.

Basis for no significant hazards consideration determination: The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92 this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The licensee provided a discussion of these standards as follows:

Standard (1): involve a significant increase in the probability or consequences of an accident previously evaluated.

St. Lucie 1 will be operated in the same manner as before and no change in plant design or configuration has occurred. Therefore, there is no increase in the probability of accidents previously evaluated. The large break Loss of Coolant Accident is the only accident that is affected by this increase in allowable Linear Heat Generation Rate and its reanalysis shows that the consequences of the accident are bounded by the acceptance criteria of 10 CFR 50.46. Therefore, there is no increase in the consequences of the accident.

Standard (2): create the possibility of a new or different kind of accident from any accident previously evaluated.

Since the proposed amendment will not affect the design, configuration or method of operation of the plant in any manner, it will not create the possibility of a new or different kind of accident.

Standard (3): involve a significant reduction in a margin of safety.

The Acceptance Criteria for emergency core cooling systems for light water nuclear power reactors are specified by 10 CFR 50.46. The safety analysis, accompanying the application, performed with accepted models and methods, shows that the input changes that result from this amendment provide results within the Acceptance Criteria of 10 CFR 50.46. Therefore, there is no reduction in safety margin.

The staff has conducted a preliminary review of the licensee's discussion of the standards and agrees that, since no change to the plant design, configuration or mode of operation will result from this change to Tables 3.2–1 and 3.2–2, there is no increase in the probability of accidents previously evaluated nor does it create the possibility of a new or different kind of accident previously evaluated. The staff also agrees that the large break Loss of Coolant Accident (LOCA) is the only accident that is affected by this increase in the allowable Linear Heat Generation Rate. The staff, as a result of its preliminary assessment, agrees that in using accepted models and methods in the reanalysis of the large break LOCA there is no increase in the consequences of this accident and the results are within the Acceptance Criteria of 10 CFR 50.46 and will not results in a reduction in a safety margin.

Based on the above discussion, the staff concludes that the proposed change to the Technical Specifications meets the criteria of 10 CFR 50.92 and, therefore, proposes to determine that the changes would involve no significant hazards consideration.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida.

Attorney for licensee: Harold F. Reis, Esquire, Newman and Holzinger, 1615 L Street, NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Georgia Power Company, Oglethorpe Power Corporation, Municipal; Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366 Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2, Appling County, Georgia

Date of amendment request: February 28, 1986.

Description of amendment request: These amendments would change the expiration date for the Unit 1 Operation License, DPR 57, from September 30, 2009 to August 6, 2014 and change the expiration date for the Unit 2 Operating License, NPF–5, from December 27, 2012 to June 13, 2018.

Basis for proposed no significant hazards consideration determination: The currently licensed term for Hatch Units 1 and 2 is 40 years commencing with issuance of the construction permit. Accounting for the time that was required for plant construction, this represents an effective operating license term of about 35 years for Unit 1 and about 34 years for Unit 2. The licensee's application requests a 40-year operating license term for Hatch Units 1 and 2.

The licensee request for extension of the operating licenses is based primarily on the fact that a 40-year service life was considered during the design and construction of the plant. Although this does not mean that some components will not wear out during the plant lifetime, design features were incorporated which maximize the inspectability of structures, systems and equipment. Surveillance and maintenance practices which are implemented in accordance with the ASME code and the facility Technical Specifications provide assurance that any unexpected degradation in plant equipment will be identified and corrected.

The design of the reactor vessel and its internals considered the effects of 40 years of operation at full power with a plant capacity factor of 80% (32 effective full power years). Analyses have demonstrated that expected cumulative neutron fluences will not be a limiting consideration. In addition to these calculation, surveillance capsules placed inside the reactor vessel provide a means of monitoring the cumulative effects of power operation.

Aging analyses have been performed for all safety-related electrical equipment in accordance with 10 CFR 50.49, "Environmental qualification of electrical equipment important to safety for nuclear plants," identifying qualified lifetimes for this equipment. These lifetimes will be incorporated into plant equipment maintenance and replacement practices to ensure that all safety-related electrical equipment remains qualified and available to perform its safety function regardless of the overall age of the plant. Based upon the above, it is concluded that extension of the operating licenses for Hatch Units 1 and 2 to allow a 40-year service life is consistent with the safety analysis in that all issues associated with planting aging have already addresses. Since the proposed amendment involves no changes in the Technical Specifications of safety analyses, we conclude that the proposed amendment would not: (i) Involve any significant increase in the probability or consequences of an accident previously evaluated; or (ii) create the possibility of a new or different kind of accident from any accident previously evaluated; or (iii) involve any reduction in the margin of safety.

Based upon the above the Commission proposes to determine that the proposed amendments, which provide for a 40-year operating life for Hatch Units and 1 and 2, involves no significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley Georgia.

Attorney for licensee: Bruce W Churchill Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: Daniel Muller.

GPU Nuclear Corporation, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: September 19, 1985.

Description of amendment request: Requests approval of an amendment to the license which would revise the requirement in Confirmatory Order dated March 14, 1983, to install interlocks on the recirculation pump loops at Oyster Creek to prevent isolating four recirculation loops. The licensee has proposed to install an alarm to indicate that a fourth recirculation loop has been isolated instead of its original design of electrical interlocks to prevent isolation of more than three recirculation loops. This revision does not change the schedule to implement the modification to the recirculation loops and the alarm must be installed, the procedures written to use the alarm and the operators trained before the resort from the Cycle 11 Refueling (Cycle 11R) outage which is scheduled for October 1986.

Basis for proposed no significant hazards consideration determination: By Confirmatory Order dated March 14, 1983, the licensee is required to implement NUREG–0737, TMI Action Plan, Item II.K.3.19 before the restart from the Cycle 11R outage. The licensee has requested a scope change for Recirculation Loop Interlock.

The staff's position on TMI Action Item II.K.3.19 in NUREG–0737 was that interlocks should be installed on nonjet pump plants (other than Humboldt Bay) to assure that at least two recirculation loops are open for recirculation flow for modes other than cold shutdown. This was to assure that the level measurements in the downcomer region are representative of the level in the core region. Isolation of all five recirculation loops results in inadequate communication of coolant between the downcomer and core regions in the reactor vessel.

The licensee presented that the Recirculation Loop Interlock requirement resulted from the evaluation of feedwater transients and small break loss of coolant accidents in General Electric boiling water reactors presented in NUREG–0626, "Generic Evaluation of Feedwater Transients and Small Break LOCA in GE-Design Operating Plants." For nonjet pump plants like Oyster Creek, isolation of all its five recirculation loops results in inadequate communication of coolant between the downcomer and core regions in the reactor vessel. Interlocks were recommended to assure that at least two recirculation loops are open for recirculation flow for modes other than cold shutdown so that level measurements in the downcomer region are representative of the level in the core region.

The licensee presented that the interlock, as originally proposed, consisted of an electrical interlock which would prevent closure of valves to isolate no more than three out of five recirculation loops. The modification also included an alarm to warn the operator that the interlock has been activated and a bypass switch and circuit to allow isolation of loops when conditions permit.

During the review of the interlock design, the licensee determined that by simplifying the modification to an alarm

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only the interlock functional requirements could be adequately met. The licensee stated the alarm provides positive active indication to the operator that a fourth loop has been isolated. Since isolation of a fourth loop does not cause any short-term problems with core inventory, the operator has adequate time to recognize and correct the problem indicated by the alarm, therefore, a preventive electrical interlock is not necessary.

The licensee presented that the reduced scope modification has the advantage (1) of not requiring an additional control switch for electrical interlock bypass and additional indications on the control board of a bypass condition, (2) of greatly reducing the complexity of the valve control circuitry thereby minimizing the effect on circuit reliability and (3) of simplifying training requirements and procedural changes for operators.

The licensee presented that the NRC staff evaluation, presented in NUREG–0626, did not take into consideration a fuel zone level monitoring system for Oyster Creek vintage plants. During the 1979–80 Cycle 9 refueling outage wide range fuel zone level indication and recorder were installed. With recirculation pumps tripped this instrumentation provides the reactor operator with level indication in the core region. Also, the lo-lo-lo water level trip for automatic depressurization system initiation, concurrent with drywell pressure, is sensed within the core region.

Oyster Creek Technical Specifications (TS) require that at least two recirculation loop suction valves and their associated discharge valves be in the full open position during all modes of operation except when the reactor head is off and the reactor is flooded to a level above the main steam nozzles. This requirement is addressed in plant operating procedures and licensed operator training.

The licensee also presented that the Human Factors review of this modification determined that the functional requirements of preventing core region isolation from the downcomer can be met by the reduced scope modification which adds alarm capabilities and that the electrical interlock provides additional complexity not justified by the benefit gained. The licensee stated that the reduced scope modification would be installed during the upcoming Cycle 11 Refueling outage in accordance with the NRC Confirmatory Order dated March 14, 1983.

The alarm would alert the operator that the Safety Limit has been exceeded and that procedures have been violated. In addition, an alarm reflash capability has been incorporated into the annunciator design to indicate closure of the isolation valves for the fifth recirculation loop.

In the control room, there is the following indication of the status of the recirculation pump loops to the operators: (1) Recirculation inlet/outlet valve indication being opened or closed, (2) flow indicating ammeter for each pump, (3) frequency meter for each motor generator set for each pump and (4) a tag on the board above the valve position indicators that states that the operators must have at least two recirculation loops open.

The alarm-only modification would provide an active warning of a potentially unsafe condition, thus preventing accidental isolation of the recirculation loops. Even with the addition of an electrical interlock, operators would still have the ability to isolate more than three of five recirculation loops. This could be done using the interlock bypass feature. The bypass would be necessary to allow isolation of more than three loops when conditions permit. With the alarm-only modifications, an operator would have to disregard his training, violate procedures and ignore the posted warning, and be unaware of the significance of the control switch covers in order to exceed the Safety Limit.

Therefore, based on the above, operation of Oyster Creek with this TSCR:

(1) *Does not involve a significant increase in the probability or consequences of a previously evaluated accident because:* The alarm-only modification meets the functional requirements of providing an active warning of the isolation of four recirculation loops. One open recirculation loop is sufficient to assure adequate communication between the core and downcomer regions. The TS requirements for having at least two recirculation loops open and the alarm and operator training should suffice to maintain one loop open. The operator has adequate time to recognize and correct the problem indicated by the alarm that fewer than two loops are open.

(2) *Does not create the possibility of a new or different kind of accident from any accident previously analyzed because:* The alarm-only modification meets the functional requirements of providing an active warning of the isolation of four recirculation loops. One open recirculation loop is sufficient to assure adequate communication between the core and downcomer regions. The operator has adequate time to recognize and correct the problem indicated by the alarm that fewer than two loops are open.

(3) *Does not involve a significant reduction in a margin of safety because:* The alarm-only modification meets the functional requirements of providing an active warning of the isolation of four recirculation loops. One open recirculation loop is sufficient to assure adequate communication between the core and downcomer regions.

Therefore, because the licensee's request meets the above three criteria in 10 CFR 50.92(c), the staff proposes to determine that the licensee's proposed change does not involve a significant hazards consideration.

Local Public Document Room location: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

Attorney for licensee: Ernest L. Blake Jr.; Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

GPU Nuclear Corporation, Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: March 11, 1986 (TSCR 145).

Description of amendment request: Request approval of a change to the Appendix A Technical Specifications (TS) pertaining to the operability of the Rod Worth Minimizer (RWM) during reactor startup. The licensee is proposing to add a note to TS 3.2.B.2.b in Section 3.2, Reactivity Control, of the TS. The note states that during Cycle 11 only, unlimited reactor startups are permitted without the RWM. The Control Pattern Templates (CRPT) must be used during Cycle 11 when the RWM is bypassed or inoperable until 50% control rod density (black and white pattern) is achieved or 10% power is reached whichever occurs first. All other provisions of TS 3.2.B.2.b would remain in effect.

The existing TS 3.2.B.2.b without the note states that should the RWM be inoperable before a startup is commenced or before the first 12 rods are withdrawn, one startup during each calendar year may be performed without the RWM provided that the second licensed operator verifies that the licensed operator at the reactor console is following the rod program and provided that a reactor engineer from the Core Engineering Group also

verifies that the rod program is being followed.

This proposed change to TS 3.2.B.2.b would require the use of a CRPT during control rod withdrawal with the reactor below 10% rated power and control rod insertion densities greater than 50% in a checkerboard withdrawal pattern when the RWM is inoperable. This is in addition to the current TS requirement for a second licensed operator and a core engineer to be present to verify that the operator at the reactor control console is following the rod program. In addition, this proposed change would alter the operability requirements for the RWM by eliminating the restriction of allowing only one reactor startup during each calendar year without the RWM. This proposed change would allow unlimited reactor startups without the RWM in Cycle 11 only.

Cycle 11 will run from the restart of the Cycle 11 Refueling (Cycle 11R) outage to the shutdown for the Cycle 12R outage. This Cycle 11 is expected to run from October 1986 to Summer of 1988.

Basis for proposed no significant hazards consideration determination: The licensee has proposed Technical Specification Change Request (TSCR) No. 145 to add a note to TS 3.2.B.2.b to allow an unlimited number of reactor startups without the RWM in Cycle 11. This would change the restriction in the TS from one startup during each calendar year to an unlimited number in Cycle 11 from Fall 1986 to Summer 1988. The plant should without operational problems run during Cycle 11 with only one startup, the startup from the Cycle 11R outage.

The RWM is discussed in Section 7.7.1.3 of the Oyster Creek Updated Final Safety Analysis Report. The RWM continuously monitors control rod positions, compares the operator selected rod movements and positions against a predetermined rod pattern, and prevents rod movements that are not in accordance with this pattern. The RWM consists of the following components: Digital Computer, Input/Output Control, Input Buffer, Output Buffer, Display and Control Panel, Teletypewriter, and Keylock Switch.

The desired control rod movements are stored in the computer memory together with the actual rod positions. The pre-established control rod pattern is entered into the computer by means of a punched tape; the actual rod-position data is received from the control rod position indicating system. Rod selection and rod drive motion are evaluated by the computer with reference to permissible and existing control rod patterns. If rod operation is in accordance with the selected withdrawal sequence, the RWM output is permissive. If the operator attempts a rod selection or movement that deviates significantly from the selected program, the RWM either alarms or blocks such action.

The present RWM hardware at Oyster Creek is original plant equipment. The licensee stated that, during the past several years, it has been increasingly difficult to maintain the RWM in an operable condition. This is due to the age of the equipment and lack of spare parts. In order to improve the reliability and availability of this system, a new RWM has been scheduled for installation during the upcoming Cycle 11R refueling outage. However, due to a delay in the projected delivery date for the new hardware, installation and startup testing will not be completed prior to the current plant restart date in October of 1986 from the Cycle 11R outage.

In anticipation of future problems with the old RWM during operating Cycle 11 and the possibility of an unplanned shutdown and subsequent restart during operating Cycle 11 while the changeover to the new RWM is in progress with neither the old or new RWM operable, the licensee is proposing a temporary change to the TS for Cycle 11 only, which will allow unlimited startups with an inoperable RWM. The licensee has stated that every effort will be made to maintain the old RWM in an operable status.

The design basis of the RWM is that it should serve as a backup for procedural control in limiting control rod worths so that, in the event of a control rod drop from the reactor core at a more rapid rate than can be achieved by the use of the control rod drive mechanism, the reactivity addition rate would not lead to damage of the Reactor Coolant System nor to significant fuel damage. The RWM is not intended by the licensee to replace operator selection of control patterns, but is intended simply to monitor and reinforce good procedures.

TS 3.2.B.2 addresses the RWM operability requirements during reactor startups. The basis in the TS addresses this as follows:

> The Rod Worth Minimizer provides automatic supervision of conformance to the specified control rod patterns. It serves as a back-up to procedural control of control rod worth. In the event that the RWM is out of service when required, a licensed operator can manually fulfill the control rod pattern conformance functions of the RWM in which case the normal procedural controls are backed up by independent procedural controls to assure conformance during control rod withdrawal.

The licensee started that the first barrier or line of defense in preventing the establishing of high worth control rods is the reactor operator and the control rod withdrawal sequence. By procedures, the reactor operator follows the rod-by-rod withdrawal sequence provided by the core engineer. This sequence, in addition to providing for an efficient startup, minimizes the reactivity worth of the control rods to be withdrawn. The RWM has been designed as a backup to the operator so that if procedures are violated, the RWM will block rod motion.

Given, however, that the RWM is out of service during operation at less than approximately 10% power, less favorable control rod patterns which contain high worth rods in the withdrawal sequence could be set up, but only if the reactor operator violates an operating procedure. If the reactor operator within the bounds established by procedures, whether the RWM is operational or not, the maximum control rod worths of in-sequence control rods are the same. There is nothing inherent in the RWM which, because it is operational, gives lower rod worths than when the operator is running the plant by the same rules without it.

If the RMW is out of service, normal startup procedure would still be followed but would not be automatically monitored. Additional personnel monitoring would be used instead, as discussed in paragraph 3.2.B.2.b of the TS. If no operational errors were committed, rod worths and accident potential would be exactly the same as if the RWM were in operation. Rod grouping in startup sequences utilized in the RWM are exactly those that are the basis for the detailed sequence employed in a normal startup whether monitored by the RWM or not. The question then becomes one of evaluation of the probability of significant operational errors occurring in a startup unmonitored by the RWM.

The mere existence in the core of a high worth rod presents no immediate safetly problem. If is required that a drive-to-blade coupling failure and drive withdrawal occur before an excursion potential exists.

The RWM ensures operator compliance with a predetermined rod withdrawal sequence. However, the functional intent of the RWM can be fulfilled using other methods. The method the licensee proposes in the requirement that the CRPT be employed with a second licensed operator and core engineer being present to verify

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that the operator at the reactor control console is following the rod program. The CRPT are fabricated from plastic sheets. A set of CRPT is comprised of four sheets which stack together atop the control rod selection switches. The topmost sheet contains cutouts which permit selection only of the group 1 control rods; the second sheet enables the selection of group 1 and 2 rods, etc., until the bottom sheet which enables the selection of any rod in the checkerboard or black-white pattern. Since the order of withdrawal of control rods within a group is unimportant, the CRPT performs one of the RWM functions by allowing withdrawal of only those rods which are members of the group being withdrawn.

Visual and mechanical features assure the proper stacking order of the various CRPT and correct orientation over the rod selection swithes. First, each panel is clearly and conspicuously marked by group number order. In addition, adjacent sheets are keyed by uniquely positioned cutouts and raised areas, which by matching together, ensure the correct stacking order. Finally, the proper orientation over the rod selection panel is guaranteed by asymmetrical pegs on the console over which the CRPT fit.

There are two basic withdrawal sequences (A and B) which lead to a 50% control rod density or checkboard pattern. Consequently, there is a set of CRPT for Sequence A and another set for Sequence B. Although there are several variations in the basic A and B sequences used to shape the core power distribution, these sequences remain the same in their approach to the 50% rod density. Thus, by the use of the CRPT, the probability of achieving a maximum out-of-sequence rod withdrawal error is effectively reduced to zero. This is because the maximum out-of-sequence control rod worth for a given withdrawal sequence (A or B) is always obtained by inadvertently withdrawing a control rod which is a member of the alternate sequence (B or A, respectively). For this reason only the proper set of templates is provided to the control room; the alternate set is stored in an area not readily accessible to the control room operators.

During those startups where 50% rod density is reached prior to 10% power, rod movement after 50% rod density must proceed without protection from the CRPT. However, the additional operator and core engineer who are verifying that the reactor operator is following the rod program is protection against withdrawal of an out-of sequence rod and in conjunction with relatively low rod worths after 50% rod density and the increase in required rod worths needed to exceed the 280 calories/gram design limit for the rod drop accident compensates for rod withdrawal in this region without the CRPT. Analysis shows that at a reactor power level as low as 2% with a single worst operator withdrawal error, the local energy deposition in the fuel is less than the 280 cal/gram design limit.

This TSCR is being made to allow for more than one reactor startup during each calendar year in Cycle 11 when the RWM is inoperable. This proposed change is an extension of an already existing TS provision. The function of the RWM is manually fulfilled with the addition of a second licensed operator, core engineer and the use of CRPT to ensure conformance to the control rod pattern sequence.

Therefore, based upon the above, operation of Oyster Creek in accordance with the proposed amendment will not:

1. *Involve a significant increase in the probability or consequences of an accident previously evaluated* because the TS allow for restart of the plant without the RWM and the licensee has proposed in its TSCR to follow the requirements in the TS with the additional restriction of using CRPT during startups. The number of restarts without the RWM may significantly increase from one in a calendar year to more than one, but the CRPT provides additional protection to prevent the operators from deviating from the proper withdrawal sequence and the TSCR would apply only for Cycle 11.

2. *Create the possibility of a new or different kind of accident from any accident previously evaluated* because the TS allow for restart of the plant without the RWM.

3. *Involve a significant reduction in a margin of safety* because the design basis of the RWM is to be a backup for the procedural control in limiting control rod worths in control rod withdrawals, the RWM is only required during reactor startup until reactor power reaches 10% of rated power and the licensee has proposed the additional restriction of CRPT to prevent the operators from deviating from the proper withdrawal sequence.

Local Public Document Room locations: Ocean County Library, 101 Washington Street, Toms River, New Jersey 08753.

Attorney for licensee: Ernest L. Blake, Jr.; Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW. Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

Indiana and Michigan Electric Company, Docket Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment request: February 28, 1986.

Description of amendment request: The proposed amandment would revise the Technical Specifications by removing the requirements for the sodium hydroxide as an additive to the spray system for inside containment.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for making a no significant hazards consideration determination by providing certain examples (48 FR 14870). One of the examples (vi) is a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. The proposed amendment is directly related to the example.

The sodium hydroxide in the containment sprays provides the required ph levels in the containment sump following an accident in order to control iodine levels inside containment. The caustic sump water also serves to minimize chloride-induced stress corrosion cracking of austennitic stainless steel components and to minimize the hydrogen produced by the corrosion of galvanized surfaces and zinc-based paints. At the D.C. Cook Nuclear Plant, the function of the sodium hydroxide in the sprays to control ph will be replaced by sodium tetreborate now in the containment ice for post-accident boration control. Although the removal of the sodium hydroxide can reduce the margin of safety now provided by both the sodium hydroxide and the sodium tetreborate, the required ph levels are maintained and the calculational methodologies have been previously found acceptable and the applicants calculated doses do not exceed those previously calculated for this facility. Therefore, the Commission proposes to find that the changes do not involve a significant hazards consideration.

Local Public Document Room location: Maude Reston Paleske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: B.J. Youngblood.

Kansas Gas and Electric Company, Kansas City Power and Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of application for amendment: March 27, 1986.

Brief description of amendment: This amendment request asks that the inservice visual inspection requirement for 130 out of 1210 snubbers (shock suppressors) be extended for 4 months until the beginning of the first refueling outrage in October 1986. Under the existing requirement these snubbers are scheduled to be inspected by July 1986. These snubbers are located in areas that are inaccessible during reactor operation. No reactor shutdown is scheduled prior to the refueling outage, therefore compliance with this surveillance would require a plant shutdown solely for the purpose of completing this surveillance.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing examples of amendments that are not likely to involve significant hazards considerations (48 FR 14870). Among these examples is, "A change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan:" the licensee has concluded and the NRC staff agrees that the proposed license amendment fits this example in that it reflects a four month extension of a visual surveillance requirement used to gather and establish baseline information on snubber assembly performance.

Wolf Creek Generating Station utilizes only mechanical snubbers with the exception of 16 large bore hydraulic snubbers used in conjunction with its four steam generators. Mechanical snubbers at Wolf Creek Generating Station were manufactured by Pacific Scientific and the hydraulic snubbers were manufactured by Paul Munroe.

Prior to initial installation in the power block, each snubber was visually inspected and mechanically tested to ensure their operability prior to installation. The mechanical portion of this test consisted in part of an acceleration test and a drag force test. Snubber assemblies were not actually installed in the power block until approximately one year prior to Hot Functional Testing. This served to preclude unnecessary exposure of the snubber assemblies to the construction environment present prior to this time. During installation, snubber assemblies were verified to have the correct pin-to-pin dimensions and appropriate swing clearance. A manual stroke test was also performed and verified.

Subsequent to installation, system walkdowns were performed by the constructor, KG&E and the Architect/Engineer to verify correct installation and appropriate configuration. Additionally, approximately 40 percent of the snubber assemblies were inspected to fulfill preservice inspection program requirements. Inspections were also performed during Hot Functional Testing and unit startup to assure snubber operability was not adversely affected by normal thermal expansion. The aforementioned comprehensive preservice testing and inspection program ensure that the snubber assemblies at Wolf Creek Generating Station were fully operational prior to the beginning of Commercial Operation.

In early September 1985, approximately three months after initial Power Operation at Wolf creek Generating Station, 238 snubbers were inspected by KG&E personnel to determine if any snubber assemblies were damaged during construction or unit startup. Although one anubber was found to be improperly oriented, no other anomalies were identified. The anomalous snubber was reoriented and all 238 snubber assemblies were determined to be fully operable.

Since initially entering Mode 3 (HOT STANDBY) on april 26, 1985, the Unit has not reentered Mode 4 (HOT SHUTDOWN). Wolf Creek Generating Station commenced POWER OPERATION on June 6, 1985. Although Wolf Creek Generating Station has experienced four inadvertent safety injections since initially loading fuel, its overall operating history has been exemplary for a first cycle unit, including a continuous run of 134 days. The good performance of the unit has served to minimize the number of cyclical loadings experienced by the snubber assemblies.

After a Unit trip on February 22, 1986, approximately 320 snubber assemblies inside containment were inspected. The majority of these had been categorized as inaccessible during POWER OPERATION. All inspected snubber assemblies were determined to be operable. One of the steam generator hydraulic snubbers was observed to be leaking some fluid, however, this did not impair its operability. The fluid reservoir level of this snubber is being monitored to assure it continued operability.

Since inspections of 64 percent of all safety related and special scope snubber assemblies and 70 percent of all inaccessible snubber assemblies confirmed that all inspected snubbers were visually acceptable and considered operable, it is probable that no inoperable snubbers will be identified during inspections of the remaining inaccesible snubbers. In addition, a period of continuous POWER OPERATION, is unlikely to have any effect on snubber assembly operability.

Technical Specifications require a visual inspection of all snubbers between four and ten months after initial POWER OPERATION. This requirement ensures that installed snubbers remain undamaged and in the appropriate configuration after plant thermal cycles, normally present during the early phase of Cycle 1 operation, have occurred. It further serves to provide baseline information upon which future visual snubbers assembly testing intervals can be established as provided in Technical Specifications. Since 70 percent of all inaccessible snubber assemblies have successfully passed an initial visual inspection, it is expected that any inaccessible snubber assemblies not yet inspected are fully capable of performing their design function as assumed in the FSAR accident analyses. Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident over previous evaluations.

The proposed amendment does not involve hardware modifications, introduces no new systems, modes of operation, failure modes or other plant perturbations. During the current snubber inspections 780 of the 1210 installed snubbers have been visually inspected and found to be acceptable. An additional 300 accessible snubbers will be inspected before the required 10 month surveillance interval expires. Therefore, since only 130 snubbers will remain to be inspected, there is a high level of assurance of snubber operability during the requested 4 month extension.

Therefore, the proposed amendment does not create a possibility of a new or different kind of accident over previous evaluations.

The requested amendment merely extends an existing surveillance interval to allow continued POWER OPERATION until Refuel 1. During

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periods of continuous operation at power, minimal cyclical wear of snubber assemblies occurs. The inspections performed to date indicate that the installed snubber assemblies have performed in a wholly satisfactory manner and can be expected to maintain that level of performance. Thus the proposed amendment does not involve a significant reduction in a margin of safety.

Based on the above analysis and the guidance provided by the Commission, it has been determined that the requested Technical Specification revision does not involve a significant increase in the probability of consequences of an accident or other adverse condition over previous evaluations; or create the possibility of a new or different kind of accident or condition over previous evaluations; or involve a significant reduction in a margin of safety. Therefore the requested license amendment does not present a significant hazard.

Accordingly the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: William Allen White Library, Emporia State University, Emporia, Kansas, and Washburn University School of Law, Topeka, Kansas.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts, and Trowbridge 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: B.J. Youngblood.

Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50-416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: March 21, 1986.

Description of amendment request: The amendment would make two changes in the Technical Specifications: (1) Add a strong motion accelerometer for reactor piping supports in Table 3.3.7.2-1, "Seismic Monitoring Instrumentation" and in Table 4.3.7.2-1, "Seismic Monitoring Instrumentation Surveillance Requirements;" and (2) add automatic depressurization system (ADS) actuation instrumentation, instrumentation set points and surveillance requirements in Tables 3.3.3-1, 3.3.3-2, and 4.3.3.1-1, respectively.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided an analysis of significant hazards considerations in its March 21, 1986, request for a license amendment. The licensee has concluded with appropriate bases, that the proposed amendment satisfies the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards considerations. The NRC staff has made a preliminary review of the licensee's submittal. A summary of staff's review follows.

Change (1), the addition of a strong motion accelerometer for reactor piping supports, resulted from a design change required by License Condition 2.C.(7). The accelerometers will be installed on a piping support for the high pressure core spray system. It will be used, together with five other strong motion accelerometers already installed in the plant, to record data on the seismic response of major structures and systems. The data will be used to confirm that assumptions and methods used in seismic analyses are adequate and that allowable stresses for earthquake loadings are not exceeded so that reactor operation can continue. The instruments are not used for accident mitigation. Change (1) does not involve a significant increase in the probability or consequences of an accident previously evaluated nor does it create the possibility of a new or different kind of accident from any accident previously evaluated because the instrumentation is not a part of plant control instruments nor engineered safety feature actuation circuits but is used solely for monitoring purposes. Change (1) does not involve a significant reduction in a margin of safety because the addition of a sixth accelerometer improves the capability for accurately assessing stresses that occur in structures and piping systems during an earthquake.

Change (2), the addition of automatic depressurization system (ADS) actuation instrumentation, setpoints and surveillance requirements, results from a design change required by License Condition 2.C.(33)(f). A bypass timer will be added to bypass the high drywell pressure permissive if reactor water level remains low for a specified time and a manual inhibit switch will be added to allow the operator to more easily close the ADS valves, when required by the emergency operating procedures. This addition to the ADS logic is designed to satisfy the criteria of NUREG-0737, TMI Action Item II.K.3.18, and will function as a backup for operator action if ADS is required and the drywell high pressure signal is not present. In this case, ADS would be initiated on a low reactor water level signal alone. The accident affected by this change is a main steam line break outside of containment assuming a failure of the high pressure core spray system. For a time delay of 10 minutes, the fuel element peak cladding temperature is calculated to be 1862° F for this accident. The acceptance criterion of 10 CFR 50.46 is that the calculated peak cladding temperature shall not exceed 2200° F. Change (2) does not involve a significant increase in the probability or consequences of an accident previously evaluated nor does it create the possibility of a new or different kind of accident from any accident previously evaluated because the addition of the ADS bypass timer makes accident mitigation more reliable by adding backup automatic ADS actuation for accidents which are presently mitigated by manual ADS actuation alone and because the ADS manual inhibit switch makes operator action required by the emergency operating procedures more reliable. Change (2) does not involve a significant reduction in a margin of safety because the procedures for mitigating the affected accident by manual ADS actuation are not changed and the backup automatic actuation results in a calculated peak cladding temperature for the affected accident that meets the acceptance criterion in 10 CFR 50.46.

Accordingly, the Commission proposes to determine that these changes do not involve a significant hazards consideration.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036.

Project Director: Walter R. Butler.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: December 31, 1985.

Description of amendment request: The proposed amendment would modify Technical Specification Section 3.1.1(f), by eliminating the reference to Section 6.9.2 reportability requirement pertaining to reactivity anomalies. Currently, if the difference between an observed and predicted control rod inventory exceeds the equivalent of one percent in reactivity, the "AEC" must be notified within 24 hours in accordance with Specification 6.9.2 Reference to Section 6.9.2 is an inappropriate requirement and unnecessary due to the AEC's reorganization, the reportability requirements of Sections 50.72 and 50.73 to 10 CFR Part 50 and the intent of Section 6.9.2 being for fire protection related matters only.

Sections 50.72 and 50.73 to 10 CFR Part 50 require that the licensee shall notify the NRC as soon as practical and in all cases within 1 hour if a Technical Specification required plant shutdown occurs. This reportability requirement is also located in Section 6.6.1 of the Technical Specifications. Therefore, if a plant shutdown were to occur due to the conditions stated above, it would be a plant shutdown required by Technical Specifications and thereby reportable in accordance with Section 6.6.1. The current Technical Specifications list two reportability requirements. Therefore, in order to clarify the existing Technical Specifications, an amendment to Section 3.1.1(f) of the Technical Specification has been proposed. Additionally, the referenced Section 6.9.2 outlines actions that must be taken with respect to Fire Protection Program Reports. The referenced section is therefore inapplicable to Section 3.1.1(f) Reactivity Anomalies.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c).

The licensee has presented its determination of no significant hazards consideration as follows:

10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide the Commission its analysis, using the standards in Section 50.92 about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the following analysis has been performed:

The proposed amendment in accordance with the operation of Nine Mile Point Unit 1 will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment will clarify the reportability event actions that should be taken if Section 3.1.1(f) becomes effective. Thus the overall performance of Nine Mile Point Unit 1 will be improved.

The proposed amendment in accordance with the operation of Nine Mile Point Unit 1 will not create the probability of a new or different kind of accident from any accident previously evaluated.

The proposed change is not a new procedure. It will eliminate a reportability event action that is obsolete and has since been replaced.

The proposed amendment in accordance with the operation of Nine Mile Point Unit 1 will not involve a significant reduction in a margin of safety.

The proposed amendment will not change the current requirements of our Technical Specifications. Currently, there exists two reportability event actions for the same occurrence. This amendment would eliminate the requirement that is inappropriate and ensure that the correct reportability requirements of 10 CFR 50.72 and 73 are followed.

As determined by the analysis above, this proposed amendment involves no significant hazards considerations.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner and Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: John A Zwolinski.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: January 23, 1986.

Description of amendment request: The proposed amendment to the Nine Mile Point Unit 1 Technical Specifications (TS) requests two principal changes. The first change would modify Section 4.2.6.a.2 to list systems containing nonconforming components, as defined in NUREG 0313 Rev. 1, covered under the augmented inservice inspection programs.

The second change would revise the bases to TS Sections 3.2.6 and 4.2.6 referencing the Inservice Inspection and Testing Programs which will be effective following the 1986 outage. In accordance with 10 CFR 50.55a, the inspection interval for both programs will last for 120 months.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c).

Niagara Mohawk Power Corporation (NMPC) has determined that the requested amendment does not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed TS amendment reflects changes to the Inservice Inspection and Inservice Testing Programs. These programs have been revised in accordance with 10 CFR 50.55a for the next 120-month interval beginning after the 1986 refuel and maintenance outage. The reference programs have been updated to a newer version of the ASME Section XI Codes, 1983 Edition through Summer 1983 Addendum. This latest code has been reviewed by the Nuclear Regulatory Commission, as indicated in 10 CFR 50.55a. Incorporation of this code into the Inservice Inspection and Inservice Testing Programs will help to assure proper inspection and testing of Nine Mile Point Unit 1.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated for the same reasons as stated in item 1.

3. Involve a significant reduction in the margin of safety because the Inservice Inspection and Inservice Testing Programs have been revised in accordance with 10 CFR 50.55a and are subject to staff review and approval. In addition, Section 4.2.6.a.2 adds more more conservatism by referencing systems which contain nonconforming components, as defined in NUREG 0313, Rev. 1, instead of only service sensitive components. As a result, the reactor cleanup system is now referenced.

Based on the above, NMPC has determined that the proposed amendment involves no significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: John A. Zwolinski.

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Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: March 4, 1986.

Description of amendment request: The proposed amendment would modify the bases to Technical Specification (TS) Sections 3.1.8 and 4.1.8 and the notes for Tables 3.6.2k and 4.6.2k regarding high pressure coolent injection.

During the 1984 refueling and maintenance outage, Niagara Mohawk modified the high pressure coolant injection/feedwater system instrumentation and control equipment to provide a high reactor coolant trip of the motor-driven feedwater pumps. This modification reduces the probability of a reactor overfill event, and fulfills a prior commitment to the Nuclear Regulatory Commission in a letter dated April 1, 1982 in response to NUREG-0737, Action Item II.D.1.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c).

The licensee has presented its determination of no significant hazards considerations as follows:

As required by 10 CFR 50.91, a licensee must provide to the Commission an analysis using the standards in 10 CFR 50.92 about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the following analysis has been performed.

1. *The proposed amendment in accordance with the operation of Nine Mile Point Unit 1 will not involve significant increase in the probability or consequences of an accident previously evaluated.*

The proposed change incorporates additional requirements on the limiting conditions of operation and surveillance requirements for the high pressure coolant injection system. These specifications place more stringent requirements assuring the proper operation of the high pressure coolant injection system (that is, protection against a reactor overfill event). Therefore, the proposed amendment will not result in a significant increase in the probability or consequences of a accident previously evaluated.

2. *The proposed amendment in accordance with the operation of Nine Mile Point Unit 1 will not create the possibility of a new or different kind of accident from any accident previously evaluated.*

As stated above, this technical specification amendment imposes more stringent limiting conditions and surveillance requirements. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

3. *The proposed amendment in accordance with the operation of Nine Mile Point Unit 1 will not involve a significant reduction in the margin of safety.*

The increased requirements within Tables 3.6.2k and 4.6.2k will provide more stringent requirements on the high pressure coolant injection system. As a result, the margin of safety will not be reduced.

As determined by the analysis above, this proposed amendment has no significant hazards considerations.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, N.W., Washington, D.C. 20006.

NRC Project Director: John A. Zwolinski.

Northeast Nuclear Energy Company, et al., Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: January 28, 1986

Description of amendment request: The proposed changes apply to the auxiliary electrical power system. The proposed amendment would change technical specification:

1. 3.9.A.3a by replacing "27.6 kv line" with "23 kv line" (postponed)

2. 3.9.B.2 by replacing "operating" with "operable" and eliminating "and the isolation condenser system is operable"

3. 3.9.B.3 by substituting a new requirement whenever power is unavailable from reserve station service transformer (RSST)

4. by renumbering existing T.S. 3.9.B.3 to 3.9.B.4 and changing 27.6 to 23 kv (postponed).

5. Base 3.9.B by replacing "operating" with "operable", eliminating the requirement for isolation condenser operability and adding a new paragraph relating to conditions for continued reactor operation without power from the RSST.

Basis for proposed no significant hazards consideration determination: Following telephone discussions on February 24, 26, March 3 and 21, 1986 between NRC and NNECO representatives, NNECO submittal dated January 28, 1986 was modified. On March 24, 1986, the licensee provided substitute technical specification pages ¾ 9-2 and 9-3 replacing page ¾ 9-2 and withdrew page ¾ 9-1 of the January 28, 1986 proposed technical specification revisions. Substitute Page ¾ 9-2 corrects a typographical error in section 3.9.B.3 (i.e. 3.4.F. changed to 3.5.F) and restores the 27 kv in the renumbered section 3.9.B.4. (consistent with withdrawal of TS page ¾ 9-1). T.S. page ¾ 9-3 with renumbered paragraph (3.9.B.3 to 3.9.B.4) was also provided. It was unintentionally omitted in the January 28, 1986 submittal.

NNECO has reviewed the proposed revisions in accordance with 10 CFR 50.92, and has concluded that they do not involve a significant hazards consideration. The basis for this conclusion is that the criteria of 10 CFR 50.92(c) are not compromised, a conclusion which is supported by the determinations made pursuant to 10 CFR 50.59. The proposed change is not precisely enveloped by the examples in 48 FR 14870 of amendments that are considered not likely to involve a significant hazards consideration. The licensee noted in a telecopy dated March 24, 1986 that the changes do not involve a significant hazards consideration because the changes would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated:

(a) Replacing "operating" with "operable" eliminates the requirement to operate the emergency power sources during reduced offsite power availability. The requirement for "operation" is an unnecessary challenge to the safety equipment. Frequent operation and testing of the emergency power sources increases the probability of failure of these power sources. In addition, operation of the diesel generator and gas turbine generator loaded increased this fault potential, reducing their reliability. Thus, this change is an improvement in terms of safety.

(b) Eliminating the requirement for isolation condenser availability would permit continued power operation with the plant condenser available as a heat sink. The existing FSAR analysis already discounts the availability of the isolation condenser and offsite power in the accident situation.

(c) The new paragraph in T.S. 3.9.B.3 adds more restrictions on plant operation without the RSST and has no impact on the design basis analysis.

Therefore, this change not increase the probability or consequences of an accident.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated:

(a) Unnecessary exposure of the emergency power sources to electrical and mechanical damage will be eliminated. No realistic failure modes are introduced by this change.

(b) Deleting the requirement for isolation condenser availability yields an improved plant response to the postulated set of failures.

(c) The new LCO addressing operation without the RSST provides specific requirements which are in accordance with Regulatory Guide 1.93, "Availability of Electric Power Sources."

This change does not create any new situations with regards to events previously evaluated in the FSAR, and therefore, the possibility of a new a or different kind of accident has not been created.

(3) Involve a significant reduction in a margin of safety:

(a) The restrictive requirement to operate the emergency power sources during reduced offsite power availability is an unnecessary challenge. Loading the generators requires that they be paralleled with the degraded offsite power system, subjecting the units to increased fault potential, and significantly increasing the probability of damaging the emergency power sources at a time when their reliability is very critical.

(b) The FSAR accident evaluation was performed without taking credit for an operating isolation condenser. This change will allow for continued power operation when the isolation condenser is unavailable for 24 hours, with more decay heat removal operations available (the main condenser). This is a more favorable condition than the currently required immediate shutdown in a loss of offsite power situation with loss of the isolation condenser.

(c) More restrictions on plant operation have been made and this is conservative with respect to the design basis assumption.

Therefore, the margin of safety is not significantly reduced.

Based on the information provided by the licensee, the staff proposes to determine that the license amendment request, as modified, involves no significant hazards considerations.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry, & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: Christopher I. Grimes.

Notheast Nuclear Energy Company, et al., Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of amendment request: February 27, 1986.

Description of amendment request: The proposed amendment clarifies functional testing requirements for the safety/relief valve (SRV) position indication system. The proposed change revises technical specification 4.6.E.5 to read per operating cycle instead of every 18 months and adds the statement "Due to the inaccessibility of the pressure switches in the drywell, the functional test shall consist of injection of a simulated signal into the monitoring channel rather than into the instrument" to technical specification 4.6.E.4.

Basis for proposed no significant hazards consideration determination: On March 21, and April 8, 1986, following NNECO/NRC telephone discussions related to the completeness of the NNECO technical specification change request considering Generic Letter 86-03, NNECO telecopied additional information as a supplemental to the February 27, 1986 submittal. NNECO has reviewed the proposed change, in accordance with 10 CFR 50.92, and has concluded that it does not involve a significant hazards consideration. Operation of Millstone Unit No. 1 in accordance with this change would not:

(1) *Involve a significant increase in the probability or consequences of an accident previously evaluated.* Changing the surveillance cycle from once per 18 months to once per operating cycle brings the surveillance in line with current 18-20 month cycle lengths while allowing some flexibility in meeting the surveillance requirement if the cycle length fluctuates such that it is more or less than 18 months. The probability of any accident is not increased by allowing the surveillance cycle to follow the normal fuel cycle which could be more or less than the previously prescribed 18 months, nor is the consequence or probability of an accident previously evaluated increased by the point of injection of a simulated signal into the circuitry of a channel for monitoring the valve position of the SRVs. The valve position indication system is isolated from both the SRV control circuitry and the reactor coolant system pressure. Thus, no mode exists by which either electrical or mechanical failure of the pressure switches could degrade operation of the SRVs being monitored.

(2) *Create the possibility of a new or different kind of accident from any previously analyzed.* It has been determined that a new or different kind of accident is not possible as a result of this change. The surveillance frequency and/or surveillance methods for systems that have only a passive monitoring function do not create the possibility of a new or different kind of accident.

(3) *Involve a significant reduction in a margin of safety.* The point of introduction of the test signal into the monitoring system is in keeping with maintaining the monitoring system as testable as possible during power operation. Because of the proven operational stability of the pressure switches used for this installation, the seismicity of sensor mountings and the annunciation of circuit failure should the pressure switches fail, no margin of safety is affected by the change.

Additionally, the Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870, April 6, 1983). The proposed change is most clearly enveloped by example (i) of examples considered not likely to involve a significant hazards consideration, a purely administrative change to technical specifications; for example, a change to achieve consistency throughout the technical specification, correction of an error or a change in nomenclature. The proposed change only clarifies functional testing and, therefore, is only administrative in nature.

Based on the information provided by the licensee and the staff safety evaluation for Amendment 98 to Provisional Operating License No. DPR-21 for Millstone Nuclear Power Station, Unit No. 1, which addresses functional testing requirements, the staff proposes to determine that the license amendment request involves no significant hazards consideration.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Attorney for licensee: Gerald Garfield, Esquire, Day, Berry, & Howard, Counselors at Law, City Place, Hartford, Connecticut 06103-3499.

NRC Project Director: Christopher I. Grimes.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: March 7, 1986.

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Description of amendment request: The proposed amendment would change the Technical Specifications (TS) necessary for the operation of Cycle 12. The changes are as follows: (1) Add four ARTS (Average Power Range Monitor, Rod Block Monitor and Technical Specification Improvements Program) curves to the TS, (2) Modify Table 3.11.1 to reflect the addition of Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) for the new BP8DRB299L fuel type; (3) Change the title of Table 3.11.2 and Minimum Critical Power Ratio (MCPR) limits for the fuel types listed in the table. The new title "Rated Minimum Critical Power Ratio" would be abbreviated as "MCPR(100)." And (4) Administrative changes to text and the tables for correct references to reflect the TS changes in the above three items.

Basis for proposed no significant hazards consideration determination: The Commission has provide standards for determining whether a significant hazards considerations determination exists as stated in 10 CFR 50.92(c). For Item (1) "Addition of ARTS curves", the licensee states the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated. This change has no effect on the probability or consequences of previously evaluated accidents, since the same information is being used to determine the limiting MAPLHGR and MCPR values as in the existing specifications and only the location of the curves is changing.

The proposed amendment would not create the possibility of a new or different kind of accident from any accident previously analyzed. This change would not create the possibility of a new or different kind of accident, since the same information is being used to determine the limiting MAPLHGR and MCPR values as in the existing specifications and only the location of the curves is changing.

The proposed amendment would not involve a significant reduction in the margin of safety. This change has no effect on margin of safety, since the same curves are being used to determine the limiting MAPLHGR and MCPR values as in the existing specifications and only the location of the curves is changing.

In Item 2 above, the licensee proposes use of a new fuel type (BP8DRB299L, GE–7 Barrier Fuel) for Cycle 12 operation. In addition, five columns of Table 3.11.2 have been combined into two and MAPLHGR limits for the P8DRB284LB fuel type are extended to 45,000 MWD/ST. The licensee's evaluation of the proposed changes states that the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated because the methods used to analyze the Loss of Coolant Accident response of the BP8DRB299L and P8DRB284LB fuel types conform to 10 CFR Part 50 Appendix K requirements and are identical to those previously used. The results of the Loss of Coolant Accident response for BP8DRB299L fuel demonstrate compliance with 10 CFR Part 50, Appendix K.

The proposed amendment would not create the possibility of a new or different kind of accident from any accident previously analyzed because the Loss of Coolant Accident response demonstrates the similarity of this fuel type to previously analyzed fuel.

The proposed amendment would not involve a significant reduction in the margin of safety because the Loss of Coolant Accident response demonstrates compliance with 10 CFR Part 50 Appendix K. The infinite multiplication factor for the new fuel type is 1.25 which would conform with the requirements in Section 5.5 of the Monticello TS. Therefore, the addition of BP8DRB299L fuel and MAPLHGR extension of the P8DRB284LB fuel type would not involve a significant reduction in the margin of safety. This change is the result of a reactor core reloading in which no fuel assemblies are significantly different from those found acceptable previously in Monticello reloads.

In Item (3) above, MCPR limits are changed for fuel types listed in Table 3.11.2. This is the result of the transient analysis performed for the Cycle 12 operation. The changes in the title of the table and the abbreviations are administrative in nature. The licensee has evaluated the proposed change and states that the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed changes are the result of evaluation of the Cycle 12 transient analyses. The results demonstrate that the transient analyses results are within all acceptable criteria.
Therefore, this change would not involve a significant increase in the probability or consequences of an accident previously evaluated. With respect to thermal-hydraulic stability, it was not necessary to perform a stability analysis for Cycle 12, since Cycle 12 is typical of previously evaluated cores which had an acceptable stability margin.

The proposed amendment would not create the possibility of a new or different kind of accident from any accident previously analyzed because this reload is very similar to previous reloads.

The proposed amendment would not involve a significant reduction in the margin of safety as demonstrated by the transient analyses. This change is the result of a reactor core reloading in which no fuel assemblies are significantly different from those found acceptable previously in Monticello reloads. For these reasons, the proposed changes do not involve a significant hazards consideration.

In addition to the above changes, there are several administrative changes (Item 4) associated with the TS changes described in Items 1 through 3 (e.g., correction of the references, table of contents, associated bases of TS changes, change in the title of the table, etc.). The Commission has provided guidance concerning the application of the standards for making a no significant hazards consideration determination by providing certain examples (48 FR 14870). One of these examples (i), is a change that constitutes a purely administrative change to TS: for example, a change to achieve consistency throughout the TS, correction of an error, or a change in nomenclature. The administrative changes associated with the changes proposed in Items 1, 2 & 3 and grouped together as Item 4 fall in this category and thus the staff proposes to determine that these changes involve no significant hazards considerations.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

Pacific Gas and Electric Company, Docket No. 50–133, Humboldt Bay Power Plant, Unit No. 3 Eureka, California

Date of amendment request: December 16, 1983, as revised March 7, 1986.

Description of amendment request: The licensee requests that license condition E.2.e be deleted. License condition E.2.e was established by the Order of the NRC dated May 21, 1976. The license condition required the reinstatement of a microseismic monitoring network to gather data for seismic studies as a part of the conditions for restarting Humboldt Bay Power Plant, Unit No. 3 (the facility). Since the above Order was issued the licensee has decided not to restart the facility and has submitted a decommissioning plan.

Basis for proposed no significant hazards consideration determination: License condition E.2.e was established to require a seismic data collection system as part of the conditions for restarting the facility following its shutdown on July 2, 1976. We have evaluated the proposed deletion of license condition E.2.e in accordance with 10 CFR Part 50.92. The proposed change would not:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated. The microseismic network was required to obtain seismic information for studies related to the restart of the facility. It does not provide any function related to facility operations or the present shutdown condition of the facility, nor is it used in conjunction with any safety related system. Thus, the probability of an accident previously evaluated could not be affected by discontinuing operation of the network. In addition, the network does not provide mitigation of the consequences of any accidents. Therefore, the proposed amendment would not increase the probability or consequences of an accident previously evaluated.

(2) Create the possibility of a new or different kind of accident from any previously evaluated because it was not installed for any safety related function and does not provide any function related to the operation or maintenance of the facility.

(3) Involve a significant reduction in the margin of safety because the monitoring network does not perform any safety related function and, therefore, could not contribute to the margin of safety. Thus, the deletion of the requirement for the microseismic monitoring network will not reduce the margin of safety.

Therefore, based on the above considerations and the fact that the facility is permanently shutdown the NRC Staff has determined that this proposed amendment will not involve a significant hazards consideration.

Local Public Document Room location: Eureka-Humboldt County Library, 421 I Street (County Court House) Eureka, California 95501.

Attorney for licensee: Phillip A. Crane, Jr., Pacific Gas and Electric Company, Post Office Box 7442, San Francisco, California 94120.

NRC Project Director: Herbert N. Berkow.

Power Authority of the State of New York, Docket No. 50–286, Indian Point Unit No. 3, Westchester County, New York

Date of amendment request: July 1, 1985, as revised March 10, 1986.

Description of amendment request: This notice describes a revision to an application dated July 1, 1985, which was noticed on August 15, 1985 (50 FR 32801). The subject of the application relates to the Low Temperature Overpressure Protection System (LTOPS).

The revision contained in this application is based on the results of a recent reevaluation concerning the simplified use of LTOPS by the control room operators by including plant specific instrument uncertainties into the related Technical Specifications. Accordingly, the values given for the maximum permissible temperature differential between steam generators and RCS were reduced to account for total instrument errors. These values appear in the action statements of Section 3.1.A.1.h. (Pages 3.1–1a and 3.1–1b) and the curve block notes on the related figures (Figures 3.1.A–1 through 3.1.A–4).

In addition, it should be noted that the errors associated with RCS pressure and pressurizer level were also reevaluated. It was verified that the indicated parameters, provided by control room readings, account for the related process measurement uncertainties.

The purpose of the revision is to enhance the operators' use of the LTOPS Technical Specifications. This result will be achieved by enabling the operators to use direct control room readings, rather than having to compensate for various instrument errors themselves.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new of different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

A discussion of these standards as they relate to this amendment follows:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Neither the probibility nor the consequences of an accident are increased since only the operating requirements for Reactor Coolant Pump RCP starts, in the LTOPS range of operation, are adjusted to compensate for temperature related instrument errors. The secondary to primary maximum allowable temperature differential is reduced, thereby minimizing a possible heat input into the reactor vessel following the start of an RCP.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluate?

The possibility of a new kind of accident is not created since the initiating event for the heat input case is not changed, nor are any physical plant modifications being made. The proposed change will simplify the operators's use of the LTOPS Technical Specifications.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

By incorporating the instrument errors in the LTOPS Technical Specfications, the margin of safety regarding the reactor vessel pressure-temperature limits is not decreased. The calculated LTOPS temperature related measurement uncertainties for the maximum temperature differential between the steam generators and RCS do not take credit for any of the Appendix G curve conservatisms.

Based on the above, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. Charles M. Pratt, 10 Columbus Circle, New York, New York 10019.

NRC Project Directorate: Steven A. Varga.

Southern California Edision Company et. al., Docket No. 50–206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: November 7, 1985.

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Description of amendment request: The proposed change will delete the requirement to obtain a gross activity sample of the reactor at least once every 72 hours while in operational modes 5 and 6 (cold shutdown and refueling). Currently, existing technical specification 4.1 and Table 4.1.2 require sampling of the reactor coolant system (RCS) at least once every 72 hours in all operational modes.

Basis for proposed no significant hazards consideration determination: In the November 7, 1985 submittal, Southern California Edison Company (the licensee) stated that the proposed change has been determined not to constitute a significant hazards consideration as defined by 10 CFR 50.92. The licensee stated the following:

The basis for obtaining gross activity samples of the RCS is to detect potential increase in primary coolant activity which could impact the site boundary dose consequences in the event of a transient or accident. The associated Limiting Condition for Operation (Specification 3.1.1.) provides time constraints for power operation with increased RCS activity, but not constraints are given for Modes 5 and 6 operation. The premise on which RCS activity limits exist is to limit the potential transfer of RCS inventory beyond the fission product barriers. The worst case accident scenario would be a steam generator tube rupture during power operation. Assuming significant failed fuel prior to the transient, 10 CFR Part 100 dose limits may be exceeded.

Since the proposed change will eliminate, requiring RCS gross activity sampling for Modes 5 and 6 only, at which time the RCS pressure is very low with little or no potenial for transfer of RCS activity beyond the fission product barrier, the consequences of a transient (for which sampling is intended to limit) will not be impacted by the change. Therefore, operation of the facility in accordance with the proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

As stated above, the proposed change involves sampling of the RCS during periods when the RCS is at very low or atmospheric pressure. Based on this low pressure, the probability of transfer of the RCS activity beyond the fission product barriers is very low. Since the premise for RCS activity is ultimately to mitigate the dose consequences of a transient during startup or power operation, the consequences of operation of the facility in accordance with the proposed change are bounded by the more limiting conditions experienced during startup of a new or different kind of accident from any accident previously evaluated.

The margin of safety for Specification 4.1 is established by the associated Limiting Condition for Operation (LCD) (Specification 3.1.1). This LCO contains provisions to continue startup or power operation for pre-established durations in accordance with the projected dose consequences for a transient during that period of time. Since the assumed transient requires a high pressure in the RCS, and the proposed change relates only to periods when the RCS is at very low or atmospheric pressure, the margin of safety will not be impacted by the proposed change. Therefore, operation of the facility in accordance with the proposed change will not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's submittal and agrees with the licensee's conclusion with respect to 10 CFR 50.92. Therefore, the staff proposes to determine that the proposed action involves no significant hazards consideration.

Local Public Document Room location: San Clemente Public Library, 242 Del Mar, San Clemente, California 92672.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800 Rosemead, California 91770.

NRC Project Director: George E. Lear.

Southern California Edison Company et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: December 17, 1985, and supplemented April 1, 1986 which revises a previous submittal dated June 8, 1984.

Description of amendment request: By letter dated December 17, 1985, Southern California Edison Company (SCE) modified Proposed Change No. 136 regarding fire protection equipment operability and surveillance requirements that had been previously requested on June 8, 1984 and noticed in the Federal Register on July 24, 1984 (49 FR 29922). The changes submitted on December 17, 1985 were requested as a result of the NRC staff's review of the June 8, 1984 submittal. The proposed changes are in seven general areas as described below.

Basis for proposed no significant hazards consideration determination: The first change deals with the concept of Fire Area accessibility for fire watches and patrols as a part of the Action requirements in the event that certain fire protection systems or equipment become inoperable. The concept of temporary inaccessibility of a fire area (due to radiation or other safety hazards) had been confused in the June 1984 submittal with the permanent inaccessibility during plant operation of certain other fire areas (e.g. containment). The ACTION statements which require the establishment of fire watches or fire patrols have been modified in the December 17, 1985 revised Technical Specifications (TS) to more clearly explain when such fire watches or patrols are required.

The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). Example (i) of actions not likely to involve a significant hazards consideration involves a purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The proposed change described above is consistent with Example (i) since it is a clarification of wording to correct a possible error and to achieve consistency throughout the fire protection TS. On this basis, the staff proposes to determine that the change does not involve a significant hazards consideration.

The second change is associated with the elimination of a proposed alternative to the fire watch patrols required by the ACTION statements. In the event of inoperability of certain fire suppression or detection systems, the June 1984 proposed TS allowed as an alternative in lieu of a fire watch patrol, the establishment of the operability of the detection system in a fire area if the suppression system was inoperable; or the establishment of the operability of the suppression system, if the detection system was operable. The NRC staff indicated that this alternative was unacceptable; thus it has been eliminated from the December 17, 1985 revised Technical Specifications.

The Commission's Example (ii) of actions not likely to involve a signficant hazards consideration relates to "a change that constitutes an additional limitation, restriction, or control not presently included in the Technical Specifications, for example, a more stringent surveillance requirement." The elimination of the above-described alternative actions allowed if fire suppression or detection systems became inoperable is a more stringent requirement than the original proposal of June 1984. Thus this change is similar to Example (ii) of the Commission's guidance and on this basis the staff proposes to determine that it does not involve a significant hazards consideration.

The third change is related to the surveillance frequency of fire doors. The June 1984 proposed TS would have reduced the frequency of this surveillance. The NRC staff indicated that this deviation from Standard Technical Specification (STS)

surveillance frequencies was unacceptable. Thus the surveillance requirements for fire doors in the December 17, 1985 proposal have been increased to be consistent with the STS. Since the surveillance requirements will become more stringent, this change is consistent with Example (ii) of Commission's guidance discussed above. On this basis, the staff proposes to determine that the change does not involve a significant hazards consideration.

The fourth change relates to the use of automatic suppression as a compensatory measure when fire barriers become inoperable. Technical Specification 3.14.VII proposed in June 1984 stated that in event a fire barrier separating redundant safe shutdown equipment becomes inoperable, required actions were to either establish the operability of the fire detectors or the automatic suppression system in the area, or to establish a continuous fire watch. The December 17, 1985 submittal revised this TS so that in the event a fire barrier becomes inoperable, both the operability of the fire detectors on one side of the barrier and an hourly patrol must be established; otherwise a continuous fire watch is required. However, in certain areas in lieu of operable fire detectors, the establishment of the operability of certain specified automatic suppression systems is allowed in conjunction with an hourly fire patrol. This change is an additional limitation since it requires that operability be established for both fire detectors (or suppression systems in certain specific cases), *and* an hourly fire patrol whereas the previous proposal only required that the operability of fire detectors *or* automatic suppression systems be established. Since this change is an additional limitation, it is similar to Example (ii) of the Commission's guidance and on this basis the staff proposes to determine that it does not involve a significant hazards consideration.

The fifth change made by the December 17, 1985 submittal is the revision of Table 3.14.3, "Fire Detection Instruments," to further update the listing of the detector configuration at the plant. TS 3.14 VII requires the fire detectors shown in Table 3.14.3 to be operable whenever equipment in the associated fire zones is required to be operable. As indicated in the June 1984 proposal, this table was updated to reflect the new detectors added since the last issuance of the table. The revised table provided on December 17, 1985 reflects additional changes made to the fire detection systems as documented in the Updated Fire Hazards Analysis.

The changes to detectors in the Control Room Administration Building areas proposed by the December 17, 1985 submittal result in an increased number of fire detectors, and therefore represent more stringent operability requirements. Consequently, this proposed change is similar to the Example (ii) of the Commission's guidance on change not likely to involve significant hazards considerations. On this basis, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

The changes to Table 3.14.3 relating to the Sphere Enclosure Building result in a reduction in the number of fire detectors in that area. By letter dated April 1, 1986, the licensee stated:

The reduced number of detectors in the Sphere Enclosure Building shown in Table 3.14.3 will not involve a significant increase in the probability or the consequences of an accident previously evaluated. This reduction is a result to plant modifications to replace the electrical penetrations. The old penetrations included a metal enclosure on the outboard side of containment which contained terminal blocks for penetration cabling. The enclosure contained thermal fire detectors which monitored the rate of temperature rise of the volume contained in the enclosure. The new replacement penetrations do not include the metal enclosures. Therefore, the thermal fire dectors would no longer be effective and have been removed. The remaining detectors in the fire zone will provide sufficient coverage to ensure timely detection of potential fires in the area.

Since the replacement penetrations are not enclosed, the detectors would not provide additional fire protection and their removal has been shown to be acceptable based on the ability of the existing instruments to detect a fire in the area in sufficient time to take appropriate action. Therefore, the removal of these detectors from Table 3.14.3 will not result in a new or different kind of accident that has not been previously evaluated.

The margin of safety for Technical Specification 3.14 and Table 3.14.3 is provided by early detection of a fire. The thermal detectors removed from Table 3.14.3 only provided detection in the penetration enclosures. Since detection for the replacement penetration will be adequately provided by existing detectors in the fine zone operation of the facility will not involve a significant reduction in th margin of safety.

The staff has reviewed the licensee's above statement and agrees with the licensee's conclusions. Therefore, the staff proposes to determine that the proposed action involves no significant hazards considerations.

The licensee's June 1984 proposal included a specification in all ACTION statements to note that if certain fire protection equipment was inoperable, the provisions of Technical Specification 3.0.A do not apply. TS 3.0.A states that reactor shutdown is required if the limiting conditions for operation are not met and the required action is not taken. However, License Amendment No. 83, issued on November 2, 1984 removed TS 3.0.A and replaced it with TSs 3.0.3 and 3.0.4, which are consistent with the NRC's Standard Technical Specifications. Thus, the licensee's December 17, 1985 proposed Technical Specifications were modified to state that neither TS 3.0.3 or TS 3.0.4 is applicable in the event that certain fire protection equipment is inoperable. This modification is consistent with the NRC's Standard Technical Specifications. TS 3.0.3 is identical to old TS 3.0.A. The staff concludes that the proposed change to renumber the references to old TS 3.0.A, which will be TS 3.0.3, is administrative in nature and is, therefore, consistent with Example (i) of the Commission's guidance discussed above. On this basis, the staff proposes to determine that the proposed change does not involve a significant hazards consideration.

Existing Technical Specification 3.0.4 prohibits entry into an operational mode unless all limiting conditions for operation (LCO) are met without reliance on the provisions contained in the action statements. The proposed change to add the statement that TS 3.0.4 is not applicable when fire protection equipment LCO's are not met is consistent with the Standard Technical Specifications. This change is acceptable since these action statements are designed to provide an equivalent level of fire protection as was provided by the original LCO. Hence, it is acceptable to change operational modes without meeting all fire protection LCO's, as long as the Action statements are met.

Therefore, the proposed change will not result in facility operation that will involve a significant increase in the probability or consequences of an accident previously evaluated, since operation in accordance with the fire protection action statements provides equivalent fire protection as does compliance with the limiting conditions for operation. Similarly, operation of the facility in accordance with the proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated and will not involve a significant reduction in a margin of safety. On this basis, the staff proposes to conclude that the

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proposed change does not involve a significant hazards consideration.

The final changes related to backup fire suppression capability required when a suppression system is inoperable. Existing TS 3.14.B(3) requires that if a fire hose station is inoperable, and additional equivalent capacity fire hose shall be routed to the area from an operable hose station within 1 hour.

The December 17, 1985 submittal proposes to replace this action with the establishment of backup means of fire suppression, if applicable, within 4 hours and within 4 hours posting of signs above the inoperable hose station and related valves.

The phrase "if applicable" refers to the licensee's intent to define backup fire suppression as the response of the station fire brigade if an operable water source is available within 300 feet. If an operable water source is not available within 300 feet, fire hoses will be run to establish this backup suppression capability. The existing action statements for the LCO's for the other fire suppression systems (foam, sprinklers, spray and Halon) also would be revised to include the phrase "if applicable."

These proposed changes reflect the overall improvement in fire protection capabilities including detection and suppression at the San Onofre 1 site. With improved detection and fire fighting capabilities, both automatic systems and manual, a slight increase (from 1 to 4 hours) in the time to take action in response to an inoperable fire hose will not significantly increase the probability or consequences of a fire on result in a significant decrease in margins of safety.

The intent of running a fire hose to an area with an inoperable suppression system is to ensure that any equipment needed for fire fighting would be available if required. The enhanced capabilities of the fire brigade, including two fire trucks with hoses and other equipment, provide assurance that prompt suppression will be provided. Routing a hose beforehand a backup suppression is needed only when the fire hose cannot be provided by the fire brigade truck, i.e., if the distance to the water source is longer than the hose carried on the truck (300 feet). The proposed definition of backup suppression, therefore, does not affect the probability of an accident already considered nor does it create the possibility of a new kind of accident. With the fire fighting capabilities of the San Onofre fire brigade, the lack of a routed fire hose in the area with an inoperable suppression system will not significantly affect the consequences of a fire or significantly reduce a margin of safety.

Therefore, the staff proposes to conclude that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800, Rosemead, California 91770.

NRC Project Director: George E. Lear.

Southern California Edison Company et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: December 19, 1985.

Description of amendment request: The proposed amendment contains four different changes described below.

(1) Existing Technical Specification 3.7.1.B states that if in Modes 1, 2, 3, or 4, with one or two offsite electrical power circuits inoperable or one or two diesel generators inoperable or a combination of one offsite circuit and one diesel generator inoperable, then the operability of the remaining A.C. power sources must be demonstrated (a) by verifying correct circuit breaker alignments and power availability of the remaining offsite circuits within one hour and at least once per eight (8) hours thereafter, and (b) by starting the remaining diesel generators within one hour and at least once each eight (8) hours thereafter. The proposed amendment would require that the initial diesel test start be performed with 24 hours for loss of either one offsite circuit or one diesel generator, and within 8 hours for loss of two offsite circuits or one offsite circuit and one diesel generator. The requirement to repeatedly start the diesel generator(s) every eight hours after a successful initial test would be eliminated.

(1) Existing Technical Specifications 3.7.1.B requires that if a diesel generator becomes inoperable, it must be restored to operable status within 72 hours or the plant be brought to cold shutdown within the next 36 hours. However, the existing Technical Specifications do not provide any limit on the frequency of diesel inoperability or the total number of days lost due to inoperability over a given period of time. The proposed change provides a limit of 800 hours on the combined out-of-service time available for the two diesel generators in one year (365 consecutive days). Should additional time be needed in a specific situation, the proposed change requires that the NRC be notified of the circumstances. Having thus established a minimum availability goal, this proposed change then increases the existing 72 hour individual out-of-service limit to 7 days (168 hours), thereby permitting greater flexibility in handling diesel generator malfunction and/or servicing needs without recourse to plant shutdown. Both of these proposed limits are applicable to Modes 1, 2, 3, and 4 only.

(3) In Items 1 through 5 of Technical Specification 3.7.1.B, the existing designation "Periodic Testing Requirement," for action statements A and B.1.A of Technical Specification 4.4, has been changed to "Surveillance Requirement."

(4) The first two paragraphs of the *Basis* to Technical Specification 3.7 have been revised to reflect the fact that four (instead of three) San Diego Gas & Electric Company high-voltage lines presently serve San Onofre. The last two paragraphs of the *Basis* have been revised to incorporate a discussion of the proposed out-of-service time limits and to add editorial clarifications.

Basis for proposed no significant hazards consideration determination: In the December 19, 1985 submittal, Southern California Edison Company (the licensee) stated that the proposed change has been determined not to constitute a significant hazards consideration as defined by 10 CFR 50.92. The licensee stated the following:

(a) *Surveillance Starts.* As noted under Description this proposed change affects only the surveillance requirements pertaining to the diesels and not those pertaining to the offsite circuits. Upon loss of required A.C. power, only one surveillance start is deemed necessary to confirm the operability of a diesel generator. By eliminating the repeat diesel surveillance starts as presently required at 8 hour intervals, this proposed change will prevent premature diesel engine degradation and contribute to enhanced plant safety over the long term. Whereas the existing Technical Specifications require demonstration of diesel generator operability within one hour of the initial power loss, this proposed change permits a delay of up to 24 hours after losing one source and 8 hours after losing two sources. These new time limits conform to Generic Letter 84-15 and are consistent with the philosophy to minimize wear on the diesel engine parts. These limits will permit the inoperable power source(s) to be repaired and restored if possible while avoiding and unscheduled diesel start. Although the new limits are a relaxation from the existing surveillance requirements, it is not considered a significant relaxation, in light of the requirement to test the offsite circuits within 1 hour of the inital power loss and every 8 hours thereafter for the duration of the loss. If the inoperable power source cannot be restored to service within a specified time interval, the Technical Specifications require plant shutdown within the next 36 hours. The specified time interval varies according to the type of loss and its safety significance: 2 hours for loss of two diesel generators, 12 hours for loss of one offsite circuit and one diesel generator, 24 hours for loss of two offsite circuits, (eight offsite circuits presently serve San Onofre) 72 hours for loss of one offsite circuit, and 7 days (168 hours) for loss of one diesel generator.

By emphasizing both long term diesel reliability and immediate plant safety requirements under different loss situations, a decrease in the probability or consequences of an accident is obtained.

(b) *Out of Service Time Limits.* Increasing the individual out of service limit from 72 hours to 7 days does not involve a significant increase in the probability or consequences of an accident previously evaluated, considering that

1. The Safety requirement to be in cold shutdown within 36 hours if the out-of-service limit has been exceeded and the inoperable power source remains inoperable is unchanged. (In practice, it takes about 12 hours to achieve cold shutdown from Model 1 temperature conditions).

2. The annual limit will insure that the actual out-of-service time is in all cases within reasonable limits and unnecessary diesel idle time is avoided.

3. In the history of San Onofre Unit 1, the switchyard has never been completely de-energized. Presently eight offsite transmission circuits serve San Onofre, whereas only two circuits are required by the Technical Specifications.

The proposed 800 hour limit on the total annually allowed diesel out of service time in Modes 1, 2, 3 and 4 will serve as an incentive in scheduling and completing all diesel maintenance in such a manner that diesel availability remains high. If downtime in excess of the 800 hour limit is needed, the Technical Specifications require notification to the NRC instead of requiring plant shutdown. This provision is based on the recognition that exceeding the 800 hour limit in itself does not represent an unsafe condition but each individual case should be evaluated in the light of all the relevant factors and concerns. Based on the above, it is concluded that the introduction of an annual out of service limit will not result in the probability or consequences of an accident previously evaluated being increased.

(c) *Periodic Testing Requirement.* The change from "Periodic Testing Requirement" to "Surveillance Requirement is editorial (no safety significance).

(d) *Basis to Technical Specification 3.7.* The various changes to the *Basis* are only for the purposes of updating and clarifying the text and including a discussion of the proposed out of service time limits. These changes do not affect the actual Technical Specifications.

These proposed changes do not change the configuration of the plant, or its manner of operation but rather, for sake of prolonging diesel engine life and providing better diesel maintenance, these changes reduce the amount of diesel testing and increase the time allowed for diesel repair and maintenance in individual cases. The safety requirement to complete cold shutdown within 36 hours if a limiting condition for operation is not met remains in place. Based on these considerations, these proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated. By preventing premature diesel generator degradation and by limiting the total amount of diesel engine downtime spent annually on repairs, maintenance, and servicing in Modes 1 through 4, the overall plant safety will actually be increased, without causing a significant reduction in any specific margin of safety.

The staff has reviewed the licensee's submittal and agrees with the licensee's conclusion with respect to 10 CFR 50.92. Therefore, the staff proposes to determine that the proposed action involves no significant hazards consideration.

Local Public Document Room Location: Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, James Beoletto, Esquire, Southern California Edison Company, P.O. Box 800 Rosemead, California 91770.

NRC Project Director: George E. Lear.

Southern California Edison Company et al., Docket No. 50-206, San Onofre Nuclear Generating Station, Unit No. 1, San Diego County, California

Date of amendment request: March 28, 1986.

Description of amendment request: Existing Technical Specification (TS) 4.10 delineates surveillance requirements for high energy fluid piping systems outside primary containment to monitor the continuing integrity of these systems. Periodic inservice inspection (ISI) of these piping systems provides a means for timely detection of flaws prior to failure of the piping. This inspection program henceforth referred to as the augmented ISI, is performed in areas where safety systems are not protected from any postulated breaks in the high energy fluid piping systems outside containment. A more comprehensive program, henceforth referred to as the overall ISI, establishes surveillance requirements for all Class 1, 2, and 3 pressure retaining components and their supports and is provided by Technical Specification 4.7, Inservice Inspection Requirements.

The purpose of the March 28, 1986 proposed change is to modify existing TS 4.10 to allow revision of the augmented ISI schedule to consistent with that of the overall ISI as delineated by Technical Specification 4.7. This revision will allow the consistent application of ISI techniques on a plant wide basis.

The existing TS 4.10 Part A. (2).b requires that the augmented ISI be conducted during successive 3 1/3 year periods (40 months) and shall be updated to comply, to the extent practical, with the requirements in editions of Section XI of the ASME Code and Addenda in effect no more than six months prior to the start of each 40 month period, with due consideration given to physical access. Accordingly, TS 4.10 requires that the licensee, at present, use the 1980 Edition through 1981 Winter Addenda of Section XI of the ASME Code, henceforth referred to as the 1980 Edition, on the limited scope of structures and components noted above. The overall ISI program, however, is based on the 1974 Edition through 1975 Summer Addenda of Section XI for the ASME Code, henceforth referred to as the 1974 Edition.

The program that San Onofre Unit 1 current implements for augmented ISI of high energy lines outside of containment specifies that welds in these lines be 100% volumetrically inspected. Application of the 1980 Edition would instead require that the licensee perform a volumetric inspection of the inner one-third of the weld and perform a surface examination of the weld to be inspected.

Basis for proposed no significant hazards consideration determination: In the March 28, 1986 submittal, Southern California Edison Company (the licensee) stated that the proposed change has been determined not to constitute a significant hazards consideration as defined by 10 CFR 50.92. The licensee stated the following:

This proposed change modifies the technical specifications for the augmented inservice inspection (ISI) of specific high energy lines outside containment to be consistent with the overall ISI program. The acceptability of consequences for the spectrum of accidents associated with the overall ISI program ensures that consistent application of ISI techniques will provide early detection of flaws and continued structural integrity of high energy lines. Therefore, it is concluded that operation of the facility in accordance with this proposed change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

This proposed change will modify the technical specifications to require revision of the augmented ISI program on a 120 month schedule, consistent with the remainder of

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the ISI program. It has been previously determined that the overall ISI program is appropriate for early detection of flaws in high energy lines. Further, this proposed change will allow continued application of an inspection technique currently being used at San Onofre Unit 1. Therefore, it is concluded that operation of the facility in accordance with this proposed change will not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed change will allow revision of the augmented ISI program on an appropriate schedule. The revised schedule will be consistent with the overall ISI program and will ensure continue structural integrity of the effected piping systems over their service lifetime. This change will not involve a revision to the frequency at which inservice inspections are performed nor will it revise the current inspection technique. Based on these considerations, this change will not impact the margin of safety of this technical specification as defined by the ability to detect a potential flaw in a timely manner. Therefore, it is concluded that operation of the facility in accordance with this proposed change will not involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's submittal and agrees with the licensee's conclusion with respect to 10 CFR 50.92. Therefore, the staff proposes to determine that the proposed action involves no significant hazards consideration.

Local Public Document Room location: Main Library, University of California, P.O. Box 19557, Irvine, CA 92713.

Attorney for licensee: Charles R. Kocher, Assistant General Counsel, James Beoletto, Esquire, Southern California Edison Company, P. O. Box 800 Rosemead, California 91770.

NRC Project Director: George E. Lear.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: December 19, 1985.

Description of Amendment Request: The proposed changes would revise the NA–1&2 Technical Specifications (TS) regarding Emergency Diesel Generator (EDG) surveillance testing. These changes would revise the present NA–1 TS surveillance test requirements by reducing the starting and loading practices for each test, and reducing the number of tests which apply to both routine surveillance and special tests. The proposed changes for NA–1 are in accordance with the appropriate recommendations provided in the Commission's Generic Letter 84–15, "Proposed Staff Actions to Improve and Maintain Diesel Generator Reliability" dated July 2, 1984. Additionally, the instant proposed changes for NA–1 are identical (except as noted below) to the Commission approved NA–2 Amendment No. 48 issued on April 25, 1985, which also addressed the subject of improving and maintaining EDG reliability.

A proposed change for NA–1 (which is different from the already approved NA–2 Amendment No. 48) would clarify the inconsistent usage of a defined termed that currently appears in the NA–2 TS in Surveillance Requirement (SR) 4.8.1.1.2.c Specifically, the proposed change would substitute the words "rotating test basis" for the words "STAGGERED TEST BASIS." The original intent of the SR was to require the fast starting and loading of the EDG's once every six months and to sequentially utilize one of three different initiating signals for each of these tests. This proposed change does not alter the original intent of the SR, but provides additional clarification of the requirement. This change is also being proposed for NA–2. Finally, administrative changes have been proposed for the NA–2 TS which correct three typographical errors.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR Part 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The probability of occurrence or the consequences of an accident or malfunction of equipment important to safety previously evaluated is not increased by the proposed changes. Reducing the test frequency and modifying starting and loading requirements consistent with Generic Letter 84–15 recommendations will enhance diesel reliability by minimizing severe test conditions which can lead to premature failures. Also, the possibility for an accident or malfunction of a type different than previously evaluated is not created since the proposed changes affect only testing frequency, starting and loading practices and have no actual impact on any previously analyzed accident in the Final Safety Analysis Report. Finally, the margin of safety as defined in the basis for any Technical Specification is not reduced. The changes in the testing requirements do not adversely affect the capability of the diesels to perform their function. Rather, the purpose of the changes is to increase overall diesel generator reliability. Therefore, based on these considerations and the criteria given above, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

Based on the above, the proposed amendments will not result in a significant hazards consideration as specified in 10 CFR Part 50.92(c). Therefore, the NRC staff proposes to determine that the standards for determining that the proposed amendments to the licenses involve no significant hazards consideration are met, and that operation of the facility in accordance with the proposed amendments would not involve a significant hazards consideration.

Local Public Document Room location: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Lester S. Rubenstein.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: January 3, 1986.

Description of Amendment Request: The proposed change would revise the NA–1&2 Technical Specifications (TS) by changing the negative end-of-cycle (EOC) moderator temperature coefficient (MTC) limit from the current value of -4.0×10^{-4} delta k/k°F to -4.4×10^{-4} delta k/k°F and change the corresponding 330 parts per million (ppm) equilibrium boron concentration value from -3.1×10^{-4} delta k/k°F to -3.3×10^{-4} delta k/k°F. In addition, because of the difficulty in performing MTC measurements near end of hot full power reactivity, the proposed changes would eliminate the MTC testing at EOC provided a measurement at less than or equal to ( ) 60 ppm is less negative than -4.0×10^{-4} delta k/k°F. The proposed changes would update the EOC MTC limits to reflect current plant operating conditions. In addition, the proposed changes conservatively envelope plant operating conditions for a proposed core uprate to 2893 Megawatts thermal (MWt).

The NA–1&2 TS require that the MTC be confirmed as the fuel cycle approaches the 0 ppm boron concentration end point of EOC conditions. The negative EOC MTC limit is currently -4.0×10^{-4} delta k/k°F in the NA–1&2 TS (Section 3.1.1.4.b). The value of the EOC MTC is measured upon reaching an equilibrium boron concentration of 300 ppm. The current TS value for this measurement point is -3.1×10^{-4} delta k/k°F (Section 4.1.1.4.b). If the measured MTC is within this value, no further checks of MTC against the EOC negative MTC limit are necessary. If the measured MTC at the 300 ppm boron check point violates the TS value, operation of the unit may continue if MTC measurements are taken at least every 14 effective full power days and found to be within the -4.0×10^{-4} delta k/k°F EOC limit.

Bases Section 3/4.1.1.4 of the NA–1&2 TS identifies the source for the MTC limit and the conversions used to derive the value for measurement comparison at the 300 ppm equilibrium boron concentration point. The most negative MTC value is based on the limiting moderator density coefficient (MDC), used in the NA–1&2 Chapter 15 Final Safety Analyses Report analyses.

The resulting EOC negative MTC limit and negative MTC value at the 300 ppm equilibrium boron concentration measurement point are -4.4×10^{-4} delta k/k/°F and -3.3×10^{-4} delta k/k/°F, respectively. The differences between these values and the current TS of limits of -4.0×10^{-4} delta k/k/°F and -3.1×10^{-4} delta k/k/°F are primarily due to a difference in the derivative of water density with respect to temperature at the current core operating conditions.

Once the equilibrium boron concentration falls below about 60 ppm, dilution operations take an extended amount of time due to the large required volume of dilution water. For example, dilution of the Reactor Coolant System from 50 ppm to 40 ppm requires charging of about 17,000 gallons of primary grade water and would require over 2 hours. These extended dilution times make reliable MTC measurements difficult to obtain due to any of a variety of fluctuations in the system conditions which could take place over this time interval.

As a result of this difficulty, the proposed change to TS 4:1.3.4.b would eliminate further MTC measurements provided a measurement of 60 ppm equilibrium boron (all rods withdrawn, rated thermal power conditions) is less negative than -4.0×10^{-4} delta k/k/°F. Calculations have shown that this condition the -4.4×10^{-4} delta k/k/°F limit will always be met at the licensed end of cycle, conservatively accounting for the effects of control rods, burnup, boron concentration and end of cycle coastdown.

The proposed TS continue to ensure that the acceptance criteria for the NA–1&2 UFSAR accident analyses are met. The current NA–1&2 UFSAR accident analyses were reviewed and it has been concluded that none of the accidents are impacted by this proposed change. The limiting value used in the UFSAR safety analysis is the positive MDC limit value, and this value is not changed by the proposed TS changes, thus, the current analyses remain bounding.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a signficant hazards consideration exists as stated in 10 CFR Part 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Based on the discussion above, the proposed change does not increase the probability of occurrence or the consequences of accidents important to safety as previously evaluated in the safety analysis. The limiting value of the MDC used in the transient analyses has not changed and the current accident analyses remain bounding. Also, the possibility for an accident or malfunction of a different type than any evaluated in the Safety Analysis Report is not created. This change does not affect any of the physical components in any of the plant systems and therefore does not produce any new or unique accident precursors. Finally, the margin of safety, as defined in the basis for the affected Technical Specifications, is not changed. Since the analyses remain bounding, there is no reduction in any of the plant safety margins involved.

Based on the above, the proposed amendment will not result in a significant hazards consideration as specified in 10 CFR Part 50.92(c). Therefore, the NRC staff proposes to determine that the standards for determining that the proposed amendments to the license involve no significant hazards consideration are met, and that operation of the facility in accordance with the proposed amendments would not involve a signficant hazards consideration.

Local Public Document Room location: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Lester S. Rubenstein.

Virginia Electric and Power Company, Docket No. 50–338, North Anna Power Station, Unit No. 1, Louisa County, Virginia

Date of amendment request: May 17, 1985, as superseded November 15, 1985.

Description of amendment request: The proposed change would correct erorrs in the Technical Specifications (TS) of seismic instrument range and testing requirements. The proposed change would also delete the functional test requirement for the Auxiliary Building Mat, Reactor Heat Removal (RHR) Pipe Support and Component Cooling Heat Exchanger Support. In addition, the proposed change would modify the scope of the semiannual channel functional test of the containment mat triaxial recorder.

As presently specified, TS Table 3.3–7 lists the instrument measurement range to be 0g to 34g for the triaxial response spectrum recorders. The correct range should be 1.0 H_z to 30 H_z and is consistent with the American National Standards Institute (ANSI)/American Nuclear Society (ANS).

The current surveillance requirements for seismic monitoring instrumentation require semi-annual functional tests for the four triaxial response recorders listed in TS Table 4.3–4. Three of these recorders (the Auxiliary Building Mat, RHR Pipe Support and Component Cooling Heat Exchanger Support) are passive devices with no remote indications. Guidance provided by NRC Regulatory Guide 1.12, 1974, and ANSI/ANS Standard 2.2, 1978, indicate that these recorders do not require a channel functional test. Table 1 of ANSI/ANS Standard 2.2 on frequency of maintenance specifically recommends that no channel functional test be performed for self contained, passive instruments. The proposed change

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would revise the specifications to be consistent with current regulatory guidance and also the manufacturer's recommendations.

The fourth of these triaxial response recorders is the Containment Mat triaxial response recorder. This recorder is an inaccessible, active device with a remote indication (annunciator). Present surveillance requirements as specified in the NA–1 TS require semiannual functional testing of this recorder. The containment mat triaxial response recorder is the only one of these passive devices with a remote indication (annunciator). The recorder itself is primarily a mechanical device, consisting of an event recording plate and a scriber. During a seismic event, the scriber will record scriber shank deflection by etching the motion on the plate. This plate would subsequently be removed for post-event analysis. The associated annunciator is used to alert the operator that the device has recorded scriber motion. Within the recorder, the annunciator circuitry consists of alarm contacts which interface with the scriber should significant motion occur. The current NA–1 TS require that this instrument be opened and the scriber be moved by hand until the contacts close and a light in the remote indicator illuminates to satisfy the channel functional test requirements.

Past semi-annual functional testing of the containment mat recorder has required containment entry (at power) which requires commensurate protective clothing self-contained breathing apparatus and limited access time because of ALARA concerns. Past semi-annual testing has also resulted in damage to the equipment such as a bent scriber shank or bent annunciator contacts since personnel must manipulate the scriber with bulky protective gloves. Also, based on past semi-annual testing, corrosion problems and broken contacts have occurred. It is postulated that the occurrence of corrosion within the recorder has been caused by the introduction of highly humidity environments into the internals of the containment mat triaxial device during functional testing.

The NRC staff finds the requirement to open the Containment Mat recorder and manipulate the scriber for the semi-annual Channel Functional Test to be unwarranted and, therefore, should be deleted. However, the proposed changes to the NA–1 TS would require a visual inspection and annunciator check (using the keyswitch) on a semi-annual basis. Finally, the TS, as presently specified, also require a calibration of the triaxial response recorder during refueling operations and include the Channel Functional Test.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of these standards by providing certain examples which were published in the Federal Register on April 6, 1983 (48 FR 14870). Examples of actions not likely to involve a significant hazard consideration include actions specified as (i) purely administrative changes to the TS to correct an error and (vii) changes made to conform with the regulations where the change results in very minor changes to facility operations clearly in keeping with the regulations. Also, the Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The portion of the proposed change which addressed the instrument measurement range is similar to example (i) in that it corrects an incorrectly specified frequency range for the triaxial response spectrum recorders. The correct range is specified in the North Anna Updated Final Safety Analysis Report and is also consistent with applicable ANSI standards. Therefore, this portion of the change is enveloped by example (i).

The portion of the proposed change which addresses the three triaxial response recorders (Auxiliary Building Mat, RHR Pipe Support and Component Cooling Heat Exchanger Support) is similar to example (vii) in that the proposed change for the deletion of the periodic functional testing for the components is clearly within the acceptable criteria (NRC Regulatory Guides, ANSI Standards and manufacturer's recommendations) for the components. In fact, both current regulatory guidance and the manufacturer's recommendations indicate that the functional test requirement may be detrimental to proper equipment functioning. Assurance that the equipment will perform its intended function continues to be provided through periodic calibration requirements. Thus, this portion of the change is enveloped by example (vii). The portion of the proposed change which addresses the Containment Mat triaxial response recorder will not increase the probability or consequences of a malfunction of equipment previously evaluated in the NA–1&2 UFSAR. Rather, this portion of the proposed change will enhance instrument availability by eliminating an instrument test which has a high probability of damaging the response recorder. Also, the possibility of a new or different kind of accident from that which was previously evaluated in the NA–1&2 UFSAR has not been created. The change only modifies a surveillance test without reducing the capability of the response recorder to perform its intended function. Finally, the proposed change for the response recorder does not involve a significant reduction in a safety margin since operability of the remote indication will be verified by functional test. Moreover, operability is enhanced by eliminating a potential damaging test of the response recorder. Therefore, based on the above, the proposed change involving the response recorder will not result in a significant increase in the probability or consequences of an accident previously considered, will not create the possibility of a new or different accident from any evaluated previously, and will not significantly reduce the margin of safety.

Thus, the proposed changes as discussed above are either enveloped by examples (i) and (vii) as published in the Federal Register (48 FR 14870) or the criteria specified in 10 CFR 50.92(c). Therefore, the NRC staff proposes to determine that the standards for determining that the proposed change in its entirety involves no significant hazards considerations are met, and that operation of the facility in accordance with the proposed changes would not involve a significant hazards consideration.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Lester S. Rubenstein.

Virginia Electric and Power Company, Docket No. 50–338, North Anna Power Station, Unit No. 1, Louisa County, Virginia

Date of amendment request: February 5, 1985.

Description of amendment request: The proposed change to the NA–1 Technical Specifications (TS) would revise Table 3.3.–1. Table 3.3.–1 identifies instrument operability requirements and associated action statements for Reactor Trip System Instrumentation.

The proposed changes to Table 3.3–1 correct a typographical error in the action statements for the Overtemperature Delta T and Overpower Delta T trip function instrumentation. Action statement number 2 is presently specified. The correct action statement number is 7. Correcting this error makes the NA–1 TS consistent with NA–2 and the Westinghouse Standard Technical Specifications.

The licensee believes that the presently specified number is the result of a typographical error which was introduced during initial plant licensing. Action statement number 2 is clearly not applicable as it refers to nuclear instrumentation inoperability.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of standards for determining whether a proposed action involves a significant hazards consideration by providing certain examples (See 48 FR 14870). Example (i) states: "A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." The proposed change falls within the envelope of example (i) since the change would achieve consistency between the NA–1&2 TS and correct a typographical error presently existing in the NA–1 TS.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Lester S. Rubenstein.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: December 13, 1985.

Description of amendment request: The proposed amendments to the Surry Power Station, Unit Nos. 1 and 2 licenses (DPR–32 and DPR–37, respectively) provide for the incorporation of the requirement to adhere to the Integrated Implementation Schedule Plan (the Plan). As stated to the NRC by letter dated December 13, 1985, Virginia Electric and Power Company (VEPCO) has conducted a comprehensive compilation and assessment of current and planned work issues, both regulatory and non-regulatory, and has developed a "schedule" for resolution of the issues. The proposed amendments would become effective on the date of issuance by the NRC for a period of three years, and may be renewed upon application by VEPCO.

The Plan describes the responsibilities and requirements associated with the process of incorporated the issues, initiated by the NRC or the licensee, into the Integrated Schedule. The "schedule" refers to the actual schedule of tasks/issues to be performed in the future. The proposed license condition specifies that the Plan shall be followed by the licensee from and after the effective date of the proposed amendments, and that changes to the dates for completion of issues may require a license amendment. In particular, all Schedule A issues, that is, issues established by existing rule, order, license condition, or technical specification, shall be changed only in accordance with applicable NRC procedures. Schedule B issues are comprised of:

(i) Regulatory issues of either a generic or plant specific nature identified by the NRC, which have dates committed to by the licensee, and which would result in either (a) plant modifications, (b) procedure revisions, or (c) changes in facility staffing requirements, and;

(ii) All other issues identified by VEPCO or other agencies.

Specifically, changes to the Plan and its issue resolutions and schedules shall be in accordance with the provisions of the Plan, and are summarized as follows:

(a) Changes to issue resolutions and/or schedules for Schedule A issues will continue to be sought through the applicable NRC approval process (e.g., license amendment, exemption or Order-date extension process).

(b) Changes to issue resolutions and/or schedules for Schedule B issues will require VEPCO to provide the NRC with prior notification of such changes to enable further explanation or discussion.

(c) Provisions have been established in the Plan for incorporating new regulatory issues into Schedules A and B as these are identified or formalized by rule, order or license condition by the NRC.

The objective of this program is to enable the licensee to utilize improved control of available resources and to perform required activities in a manner which would enhance plant safety. Concurrently, this program provides a method to assess, coordinate and schedule all necessary work at the facility including the performance of regulatory requirements. Periodic updating of the Integrated Implementation Schedule Plan for both Schedule A and B items shall occur semiannually. The revised Integrated Implementation Schedule Plan will include a progress summary, the identification of changes since the last update report, and a summary of the reasons for schedule changes associated with regulatory issues.

VEPCO recognizes that this proposed plan may require future modifications. Accordingly, the licensee will submit the proposed changes to the NRC as amendment applications.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a no significant hazards exists by providing certain examples (48 FR 14870). An example of an action not likely to involve a significant hazards consideration is Example (ii) which states in part "A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications . . . ." The entire proposed program plan places additional limitations and controls on activities to be performed for and at the facility. The proposed Plan is also designed to facilitate the licensee's action in satisfying regulatory issues more efficiently and effectively. All proposed revisions to the Plan must receive prior NRC approval. All changes to Schedule A items (as discussed above) must also receive prior NRC approval.

Therefore, since the incorporation of the Integrated Implementation Schedule Plan involves changes similar to those encompassed by Example (ii), the staff proposes to determine that the proposed

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application does not involve a significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Mr. Michael W. Maupin, Hunton and Williams, Post Office Box 1535, Richmond, Virginia 23213.

NRC Project Director: Lester S. Rubenstein.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Date of amendment request: January 17, 1986.

Description of amendment request: This proposed amendment, if approved, will modify the WNP-2 Technical Specifications by changing Technical Specification Table 3.6.4.3-1, "Motor Operated Valves Thermal Overload Protection" to add valves previously omitted, add valves as as result of system upgrades, and remove valves having no safety related function.

The valves previously omitted from the Technical Specifications Table were inadvertently left out of the original table when the Technical Specifications were created prior to licensing. The valves being added resulted from the fuel pool cooling modifications that were committed to prior to licensing and were recently effected. The valves being removed from the table were incorrectly inserted when the Table was created as they are not used in any safety related system.

Basis for no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined, and the staff agrees, that the requested amendment does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed changes and additions to the list do not deviate from the existing overload design criteria and the removal of non-safety related valves from the list has no affect on the probability or consequences of a previously evaluated addident; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated because the overload design criteria have not been changed, the additions have adhered to the criteria and the deletion of non-safety related valves does not introduce a new or different kind of accident; or (3) involve a significant reduction in a margin of safety because as discussed in (1) the added valves conform to the overload design criteria and hence do not challenge a safety margin and the removal of non-safety related valves can not impact a safety margin.

Based on our review of the proposed modification, the staff finds that there exists reasonable assurance that this proposed change will have little or no impact on the public health and safety. Accordingly, the Commission proposes to determine that the proposed change to the WNP-2 Technical Specifications involves no significant hazards considerations.

Local Public Document Room: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorney for the Licensee: Nicholas Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street NW, Washington, DC 20036.

NRC Project Director: E. Adensam.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Dates of Amendment Request: January 17, 1986 and February 18, 1986.

Description of Amendment Request: This proposed amendent, if approved, will modify the WNP-2 Technical Specification Table 3.6.3-1, "Primary Containment Isolation Valves" to reflect: (1) Corrections and additions to the Excess Flow Check Valve listings, Traversing Incore Probe System valve listings, and equipment qualification limits; (2) reidentify certain valves in accordance with current Supply System practices; (3) add valves previously omitted; (4) provide clarification to notes in the table; (5) correct typographical errors; and (6) delete maximum isolation time listings for valve not performing an automatic containment isolation function.

Table 3.6.3-1 is provided to list containment isolation valves and to ensure operability of these valves so that the containment atmosphere can be isolated from the outside environment in the event of a release of radioactive material to the containment. Section (a) of the table provides those valves and maximum isolation time limits allowed so that on an automatic isolation demand, the containment will be isolated from the outside environment consistent with the assumptions used in the Final Safety Analysis Report Design Base Accident LOCA analyses.

Basis for no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has determined, and the staff agrees, that the requested amendment does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the proposed isolation time deletions do not affect the response of the plant to a primary containment isolation demand and the remainder of the changes merely provide corrections to listings in the table that were previously evaluated in the Final Safety Analysis Report; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated because the changes are corrections and therefore can not introduce new or different accident scenarios and the deletion of isolation times for valves not required to isolate automatically does not alter systems or conditions previously evaluated; or (3) involve a significant reduction in a margin of safety because no safety related functions (limits for containment isolation) will be changed as a result of this proposed amendment.

Based on our review of the proposed modification, the staff finds that there exists reasonable assurance that this proposed change will have little or no

impact on the public health and safety. Accordingly, the Commission proposes to determine that the requested change to the WNP-2 Technical Specifications involves no significant hazards considerations.

Local Public Document Room: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorney for the Licensee: Nicholas Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street NW., Washington, DC 20036.

NRC Project Director: E. Adensam.

Washington Public Power Supply System, Docket No. 50-397, WNP-2, Richland, Washington

Date of amendment request: February 26, 1986.

Description of amendment request: The proposed amendment would revise the WNP-2 Technical Specifications (TS) to support the operation of WNP-2 at full rated power during the upooming Cycle 2. The proposed amendment request to support this reload changes the Technical Specifications in the following areas: (1) Establishes operating limits for all fuel types for the upooming Cycle 2 operation; (2) reflects the replacment of approximately 132 initial core fuel assemblies with Exxon Nuclear Company (ENC) fuel assemblies for the upcoming Cycle 2 operation; and (3) modifies the Bases section of the Technical Specification to account for the use of Exxon fuel assemblies.

To support the license amendment request for operation of WNP-2 during Cycle 2, the Supply System submitted as attachments to the application the following:

I. WNP-2 Cycle 2 Reload Summary Report (WPPSS-EANF-101) Includes the Startup Physics Program
II. WNP-2 Cycle 2 Reload Analysis (XN-NF-86-01, Rev 1)
III. WNP-2 Cycle 2 Plant Transient Analysis (XN-NF-85-143, Rev 1)
IV. WNP-2 LOCA-ECCS Analysis MAPLHGR Results (XN-NF-85-139)
V. Technical Specification Changes

During the first refueling outage approximately 132 General Electric (GE) initial fuel assemblies (approximately one fifth of the core) will be replaced with new but substantially similar Exxon, Type XN-1 (8 x 8 bundles, 2.72 (weight) percent enrichment), fuel assemblies.

Basis for proposed no significant hazards consideration determination: The proposed amendment to the WNP-2 Technical Specifications to support this reload is very similar to Example (iii) provided by the Commission (48 Federal Register 14870, April 6, 1983) of the types of amendments not likely to involve significant hazards considerations. Example (iii) is an amendment to reflect a core reload where:

(1) No fuel assembles significantly different from those found previously acceptable to the Commission for a previous core at the facility in question are involved;

(2) No significant changes are made to the acceptance criteria for the Technical Specifications;

(3) The analytical methods used to demonstrate conformance with the Technical Specifications and regulations are not significantly changed; and

(4) The NRC has previously found such methods acceptable.

This reload will consist of 764 assemblies, approximately 632 of which are once burned GE fuel assemblies and approximately 132 of which are new ENC, Type XN-1 fuel assemblies. The Exxon fuel assemblies are very similar to the GE fuel assemblies except for slight differences in the mechanical, thermal-hydraulic and nuclear design.

Although the Exxon fuel is very similar to the GE fuel, the slight differences in mechanical, thermal-hydraulic and nuclear design of the bundles, and the use of different analysis methodologies, required that a wide range of reanalyses be performed by Exxon. These reanalyses included reanalyzing for anticipated operational occurrences, performing LOCA and MAPLHGR analyses for the Exxon fuel and analyzing for the rapid drop of a high worth control rod to assure that excessive energy will not be deposited in the fuel. Analyses for normal operation of the reactor consisted of fuel evaluations in the areas of mechanical, thermal-hydraulic and nuclear design.

The use of the ENC type XN-1 fuel assemblies and the associated analytical methods used for the Cycle 2 reload analyses have been previously approved by the NRC Staff for use in other boiling water reactors (BWR's). Based on these prior reviews, the NRC staff has determined that there are only small differences between the use of Exxon and GE analytical methods.

Another difference between Cycle 1 core and the Cycle 2 core reload is the core loading pattern. Cycle 1 is a standard GE BWR/5 initial core configuration consisting of fuel assemblies of similar enrichments placed in a specific zone within the core. In constrast the Cycle 2 core will be based on the conventional scatter load principle where fresh reload assemblies are scatter loaded throughout the core except for the center region and the core periphery. Changing from a zone core loading pattern used during the first fuel cycle to a scatter loading pattern for the new reload assemblies during the second cycle is an accepted reload method that has been approved by the NRC staff for other BWR plant reloads.

Thus this core reload involves the use of fuel assemblies that are not significantly different from those found previously acceptable to the Commission for a previous core at this facility. The proposed amendment would change the Technical Specifications to reflect new operating limits associated with the fuel to be inserted into the core based on the new core physics and are within the acceptance criteria. In the analyses supporting this reload, there have been no significant changes in acceptance criteria for the Technical Specification and those analytical methods used have previously been found acceptable by the NRC.

The only difference between this reload and Example (iii) provided by the NRC is related to the use of the Exxon analytical methods which are slightly different from the GE methods used for Cycle 1 as noted above. The Exxon analytical results are not significantly different from those previously found acceptable to the NRC for the initial core at WNP-2 and the methods previously have been approved by the NRC staff for use in other BWR's.

In addition to the similarity between the proposed amendment and the Commission's Example (iii), the Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 59.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

On the basis of evaluation performed in accordance with 10 CFR 50.92, and the fact that the analytical methods used have been approved previously by the NRC staff and do not provide results significantly different, the Supply System has concluded, and the staff agrees, that operation of WNP-2 in accordance with the proposed reload amendment would not: (1) Involve a significant increase in the probability or

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consequences of an accident previously evaluated because the proposed changes to the Technical Specification reflect new operating limits associated with the fuel to be inserted in the core and which are based on reanalyses using the new core physics with results that remain within the previous acceptance criteria; (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the ENC fuel technology and the design of the fuel is not significantly different from that used in the initial core which previously has been found acceptable to the NRC staff; or (3) involve a significant reduction in the margin of safety because the calculated safety limit for the new core is identical to that for the initial core.

Based on our review of the proposed modification, the staff finds that there exists reasonable assurance that this proposed change will have little or no impact on the public health and safety. Accordingly, the Commission proposes to determine that the requested change to the WNP–2 Technical Specifications involves no significant hazards considerations.

Local Public Document Room: Richland Public Library, Swift and Northgate Streets, Richland, Washington 99352.

Attorney for the Licensee: Nicholas Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street NW, Washington, DC 20036.

NRC Project Director: E. Adensam.

Washington Public Power Supply System, Docket No. 50–397, WNP–2, Richland, Washington

Date of Amendment Request: March 28, 1986.

Description of Amendment Request: This proposed amendment, if approved, will change a license condition of the WNP–2 Operating License NPF–21. Attachment 2, Paragraph 3. (a) of License Condition 2.C (16), now requires that the licensee shall implement (install or upgrade) requirements of Regulatory Guide 1.97, Rev. 2, with the exception of flux monitoring, prior to startup following the first refueling outage. The licensee has requested that implementation of this requirement be delayed until the second refueling outage for two specific systems: Suppression Pool Level Monitoring and Post Accident Sampling System (PASS).

The Supply System has been unable to demonstrate that the installed suppression poll level monitoring system is able to meet the accuracy requirements under post accident environmental conditions as originally specified in the design specifications. This failure to demonstrate accuracy has required pursuit of alternative designs. The selection process requires extended lead time for material procurement (up to 52 weeks) which does not provide sufficient time to replace the existing system on the present refueling schedule. The currently installed system will remain in service until the new system is installed. The parameter sensed by this instrumentation (i.e., suppression pool water level) is relied upon to mitigate the consequences of an accident and used with the plant emergency procedures to determine actions necessary to maintain primary containment integrity, but other methods for determining suppression poll level are in place and will be made available for use prior to startup from the current refueling (R1) outage.

For the PASS system there are six Process Sampling Radioactive (PSR) valves that the Supply System has analytically determined may fail when exposed to post accident environmental conditions added to service conditions resulting from heat tracing and insulating. Heat tracing and insulating these valves is accomplished in order to prevent plate-out of radioiodine and moisture condensation from the containment air sample thereby providing a more representative sample. In the event these valves become inoperable, alternate methods utilizing other plant instrumentation are available to measure the containment gas composition and thereby follow the extent of core damage and other post accident conditions.

Basis for no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

With respect to the suppression pool level monitoring system, the Supply System has determined, and the staff agrees, that the requested amendment does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because the instrument signals are not used as control signals, perform no automatic mitigating function, and are duplicated by other instrumentation; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the alternate methods to be employed are sufficiently accurate and reliable to direct actions necessary to respond as required by the emergency procedures; or (3) involve a significant reduction in a margin of safety because no protective functions are affected.

With respect to the PASS PSR valves, the Supply System has determined, and the staff agrees, that the proposed amendment does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because these valves have no accident mitigation function; they provide a capability to determine the extent of an accident and that capability is also supported by other plant instrumentation; or (2) create the possibility of a new or different kind of accident from an accident previously evaluated because no system modifications are involved; or (3) involve a significant reduction in a margin of safety because, if the valves fail they will fail in the closed position thus preserving their primary containment isolation function; otherwise they provide no direct mitigating function as discussed in (1), above.

Based on our review of the proposed modifications, the staff finds that there exists reasonable assurance that this proposed change will have little or no impact on the public health and safety. Accordingly, the Commission proposes to determine that the requested change to the WNP–2 Technical Specifications involves no significant hazards considerations.

Local Public Document Room: Richland Public Library, Swift, and Nothgate Streets, Richland, Washington 99352.

Attorney for the Licensee: Nicholas Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street, NW., Washington, DC 20036.

NRC Project Director: E. Adensam.

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this bi-weekly notice. They are repeated here because the bi-weekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Arkansas Power and Light Company, Docket No. 50–368, Arkansas Nuclear One, Unit 2, Pope County Arkansas

Date of amendment request: December 20, 1985.

Brief description of amendment: Technical Specification changes to revise Section 6 (Administrative Controls).

Date of publication of individual notice in Federal Register: February 5, 1986 (51 FR 4545).

Expiration data of individual notice: March 6, 1986.

Local Public Document Room location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Duke Power Company, et al., Docket No. 50–413, Catawba Nuclear Station, Unit 1, York County, South Carolina

Date of amendment request: February 12, 1986, as supplemented March 3, 4, and 11, 1986.

Brief description of amendment: The amendment would extend, on a one-time basis, by a maximum of five months until the first refueling outage those 18-month Technical Specification surveillances associated with the Engineered Safety Features which can only be conducted with Unit 1 in COLD SHUTDOWN or REFUELING.

Date of publication of individual notice in Federal Register: March 21, 1986 (51 FR 9905).

Expiration date of individual notice: April 21, 1986.

Local Public Document Room location: York County Library, 138 East Black Street, Rock Hill, South Carolina, 29730.

Kansas Gas and Electric Company, Kansas City Power and Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: January 20, 1986.

Brief description of amendment: The proposed amendment would revise Tecnnical Specifications to implement the Relaxed Axial Offset Control (RAOC) mode of operation after fuel burnup of 8000 MWD/MTU (megawatt days/metric ton of uranium) is achieved.

Date of publication of individual notice in Federal Register: March 20, 1986 (51 FR 9728).

Expiration date of individual notice: April 21, 1986.

Local Public Document Room location: William Allen White Library, Emporia State University, Emporia, Kansas and the Washburn University School of Law, Topeka, Kansas.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the Federal Register as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22 (b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluation and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Baltimore Gas & Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of application for amendments: February 22, 1985 and October 25, 1985 (partial responses).

Brief description of amendments: The amendments change the Unit 1 and Unit 2 Technical Specifications (TS) to: (1) Revise the Basis for the Containment Isolation Signal (CIS)/Safety Injection Actuation Signal (SIAS) setpoint for containment high pressure in TS Basis 2.2.1, "Reactor Trip Setpoints"; (2) change the allowable scheduling for moderator temperature coefficient (MTC) determination as required by TS 4.1.1.4.2c, "Moderator Temperature Coefficient"; (3) require that two charging pumps, required to be operable above 80% power, each be provided with an independent power supply per TS 3.1.2.4, "Charging Pumps—Operable" (Unit 1 only); (4) provide for additional channels associated with measurement of containment water level and change the statement regarding implementation of remedial actions in TS 3/4.3.3.6, "Post-Accident Instrumentation"; (5) correct a syntax error in TS 3.4.4, "Pressurizer" and a spelling error in TS 3/4.6.1.1., "Containment Integrity"; (6) update and clarify the reporting requirements of TS 6.9.2, "Special Reports"; (7) delete the Surveillance Requirements of TS 4.5.2g, "ECCS Subsystems T_{avg} [greater than or equal to] 300 °F"—and redesignate the remaining Surveillance Requirements; (8) delete the reference to the 1971 Edition of the ASME Boiler and Pressure Vessel Code in TS Basis 3/4.7.1.1, "Safety Valves"; (9) delete a seismic sway arrester (snubber) from the operability and Surveillance Requirements of TS 3/4.7.8, "Snubbers" (Unit 1 only); (10) replace a reference in TS Basis 3/4.3.3.4, "Meteorological Instrumentation", with an alternate reference; (11) Allow the use of a containment atmosphere grab sampling capability as a backup to the hydrogen analyzers in TS 3.6.5.1, "Hydrogen Analyzers," and (12) incorporate additional reporting requirements in TS 6.9.2, "Special Reports."

The remaining issue associated with BG&E's applications dated February 22, 1985 and October 25, 1985 will be addressed in future correspondence.

Date of issuance: April 14, 1986.

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Effective date: April 14, 1986.
Amendment Nos.: 117 and 99.
Facility Operating License Nos. DPR–53 and DPR–69. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 12, 1986 (51 FR 8584 at 8587) and January 15, 1986 (51 FR 1868 at 1870).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 14, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Carolina Power & Light Company, Docket No. 50–324, Brunswick Steam Electric Plant, Unit 2, Brunswick County, North Carolina

Date of application for amendment: August 12, 1985.
Brief description of amendment request: The amendments change the Technical Specifications relating to the surveillance requirements for the suppression pool cooling mode of the Residual Heat Removal System.
Date of issuance: March 27, 1986.
Effective date: March 27, 1986.
Amendment Nos.: 97 and 122.
Facility Operating License Nos. DPR–71 and DPR–62: Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** September 25, 1985 (50 FR 38910).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 27, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: Southport, Brunswick County Library, 109 W. Moore Street, Southport, North Carolina 28461.

Commonwealth Edison Company, Docket No. 50–373, La Salle County Station, Unit 1, La Salle County, Illinois

Date of Amendment Request: October 2, 1985.
Brief Description of Amendment: This amendment revises the La Salle Unit 1 Technical Specifications to reflect the replacement of eight 26-inch and two 8-inch vent and purge isolation valves with valves manufactured by Clow Corporation. These new valves meet all the requirements for containment vent and purge isolation valves. Since the new valves are qualified to close from any position, including the full open (90°) position, the Technical Specification 3.6.1.8, 4.6.1.8.1, and associated basis 3/4.6.1.8 are revised to remove the 50° limit on valve opening. This limit was required until original valves were replaced by new valves capable of closing during a loss-of-coolant accident or a steam line break. In addition, the new Clow valves do not contain resilient seals; and therefore, the once per 92 days leakage surveillance is no longer required. Technical Specification 4.6.1.8.2 is deleted. The purpose of the accelerated leakage rate testing (every 92 days) was to provide an early indication of material seal degradation. Finally, since these Clow valves are air operated, no thermal overload bypass functions are required. Technical Specification 3.8.3.3 is revised to delete these valves from Table 3.8.3.3–1.
The above items addressed in this amendment will be completed prior to startup after the first refueling.
Date of Issuance: April 2, 1986.
Effective Date: Upon startup following the first refueling outage.
Amendment No.: 37.
Facility Operating License No. NPF–11: Amendment revised the Technical Specifications.
Date of Initial Notice in **Federal Register:** October 23, 1985 (50 FR 43023).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation date April 2, 1986.
No significant hazards consideration comments received: None.
Local Public Document Room Location: Public Library of Illinois Valley Community College Rural route No. 1, Oglesby, Illinois 61348.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, La Salle county Station, Units 1 and 2, La Salle County, Illinois

Dates of amendment requests: February 7, 1986, as supplemented by letter dated March 5, 1986.
Brief description of amendments: The amendments to Operating License NPF–11 and Operating License NPF–18 revise the La Salle Units 1 and 2 Technical Specifications to eliminate the chlorine monitoring system because of recent surveys indicating that chlorine is not and has not been shipped in bulk quantities by highway, railroad, or river near the La Salle County Station. This basis of elimination of the chlorine monitors is from Regulatory Guide 1.78, "Assumptions of Evaluating the Habitability of a Nuclear Power Plant Control Room during a Postulated Hazardous Chemical Release," which states that chlorine stored or situated at a distance greater than five miles from the control room need not be considered in evaluating the habitability of the control room. The closest industries to La Salle County Station, where chlorine is stored, are greater than five miles away and the railroad and highways are further than five miles. Only the Illinois River is approximately 4.7 miles north of the station; however, in recent surveys the indication is that shipments of bulk chlorine are extremely low.
Date of issuance: April 11, 1986.
Effective date: April 11, 1986.
Amendment Nos: 38 and 20.
Facility Operating Licenses Nos. NPF–11, and NPF–18. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 12, 1986 (51 FR 48588).
The Commission's related evaluation of the amendment is contained in a Safety Evaluaton dated April 11, 1986.
No significant hazards consideration comments received: No.
local Public Document Room Location: Public Library of Illinois valley Community College, Rural Route No. 1, Oglesby, Illinois 61346.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of appication of amendment: January 30, 1986.
Brief description of amendment: the license amendment revises the plant technical specifications by: (1) Reducing the allowable leakage rate of reactor coolant outside containment from six (6) liters/hr tothree (3) liters/hr; (2) identifying additional potential sources of reactor coolant leakage outside of containment, such as normal makeup, seal injection and loop fill lines; and (3) changing the value tag number designations for two check valves in the emergency core cooling system.
Date of issuance: April 14, 1986
Effective date: April 14, 1986.
Amendment No. 73.
Facility Operating License No. DPR–61. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 12, 1986 (51 FR 8589). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 14, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: Russell Library, 124 Broad Street, Middletown, Connecticut 06457.

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application for amendment: December 11, 1985.

Brief discription of amendment: The license amendment changes the technical specifications that are directly related to the fuel cycle design and safety analyses for plant operation during cycle 14. The technical specification change include: (1) The definition of quadrant power tilt ratio; (2) setpoints for protection instrumentation; (3) isothermal coefficient of reactivity; (4) limit heat generation rates; (5) power distribution monitoring and controls; and (6) reactor coolant system flow, temperature and pressure.
Date of issuance: April 14, 1986.
Effective date: April 14, 1986.
Amendment No. 74.
Facility Operating License No. DPR–61. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** January 29, 1986 (51 FR 3713).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 14, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: Russell Library, 124 Broad Street, Middletown, Connecticut 06457.

Dairyland Power Cooperative, Docket No. 50–409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of application for amendment: February 4, 1986.
Brief description of amendment: The amendment replaces the 1 KVA 1C inverter with a 5 KVA unit, adds a static transfer switch to the new inverter, and increases the generator plant battery's capacity from 480 amp-hours to 840 amp-hours.
Date of issuance: April 14, 1986.
Effective date: April 14, 1986.
Amendment No. 48.
Provisional Operating License No. DPR–45. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 12, 1986 (51 FR 8589).
The Commission's related evaluation for the license amendment is contained in a Safety Evaluation dated April 14, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendment: January 21, 1986, as revised March 17, 1986.
Brief description of amendments: The amendments revise a surveillance requirement associated with Technical Specification 3/4.6.1.2d to permit an alternate means of leak testing two containment penetrations associated with the ice condenser refrigeration system.
Date of issuance: April 1, 1986.
Effective date: April 1, 1986.
Amendment Nos.: 53 and 34.
Facility Operating License Nos. NPF–9 and NPF–17. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 24, 1986 (51 FR 6475).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 1, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenberg County, North Carolina

Date of application for amendments: July 22, 1985, as supplemented September 11, 1985.
Brief description of amendments: The amendments change Technical Specifications to increase the allowed out-of-service times for Reactor Trip System analog channels.
Date of issuance: April 7, 1986.
Effective date: April 7, 1986.
Amendment Nos.: 54 and 35.
Facility Operating License Nos. NPF–9 and NPF–17. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 18, 1985 (50 FR 51622).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 7, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Duquesne Light Company, Docket No. 50–334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: January 24, 1986.
Brief description of amendment: The amendment changes the Technical Specifications for Beaver Valley Unit No. 1 to (1) add "Mode 4" to Table 4.3–2 so it is consistent with Table 3.3–3, and (2) change Surveillance Requirement 4.4.6.3 by replacing "operational conditon 1" with "Mode 1" to provide consistency current nomenclature.
Date is issuance: April 14, 1986.
Effective date: April 14, 1986.
Amendment No.: 101.
Facility Operating License No. DPR–66. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 12, 1986 (51 FR 8590).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 14, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Iowa Electric Light and Power Company, Docket No. 50.331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: January 3, 1986.
Brief description of amendment: This amendment revises the Technical Specifications to change (a) Main Stream Line high radiation scram setpoint, (b) Main Stream tunnel high radiation setpoint, and (c) the associated bases explaining the rationale for the changes.
Date of issuance: March 27, 1986.
Effective date: March 27, 1986.
Amendment No: 131.
Facility Operating License No. DPR–49. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 26, 1986 (51 FR 6826).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 27, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, S.E., Cedar Rapids, Iowa 52401.

Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Clairborne County, Mississippi

Date of application for amendment: November 14, 1985, as revised March 21, 1986.

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Brief description of amendment: The amendment modifies the Technical Specifications relating to the offsite organization and the Nuclear Production Department and License Condition 2.C.(28).

Date of issuance: April 10, 1986.
Effective date: April 10, 1986.
Amendment No. 10.
Facility Operating License No. NPF-29. Amendment revised the Technical Specifications and License Condition 2.C.(28).

Date of initial notice in **Federal Register:** December 3, 1985 (50 FR 49633).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 10, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: April 22, 1985.

Brief description of amendment: The amendment changes the Technical Specifications to incorporate a section describing the conditions for peforming various special tests, and to outline in one place the conditions to be met for refueling.

Date of issuance: April 9, 1986.
Effective date: April 9, 1986.
Amendment No.: 97.
Facility Operating License No. DPR-62. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 17, 1985 (50 FR 29011).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 9, 1986.

No siginficant hazards consideration comments received: No.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: May 31, 1985 supplemented August 21, 1985.

Brief Description of amendment: The amendment changes the Technical Specifications to reflect the addition of a Halon fire suppression system and fire detectors in the station service water pump room as part of the Appendix R fire protection program.

Date of issuance: April 10, 1986.
Effective date: April 10, 1986.
Amendment No.: 96.
Facility Operating License No. DPR-62. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 25, 1985 (50 FR 28916).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 10, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Northeast Nuclear Energy Company, et al., Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: October 30, 1985.

Brief description of amendment: The amendment approves tachnical specifications to allow control rods to be either electrically or hydraulically disarmed when control rods are inserted and refuel interlocks or reactor protection system trip functions are inoperable.

Date of issuance: April 4, 1986.
Effective date: April 4, 1986.
Amendment No. 110.
Provisional Operating License No. DPR-21. This amendment revised the technical specifications and the license.

Date of initial notice in **Federal Register:** February 25, 1986 (51 FR 6827).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 4, 1986.

No significant hazards consideration comments received: None.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: June 27, 1985.

Brief description of amendment: The amendment revises the Technical Specifications to implement the requirements of NUREG-0737, Item II.K.3.16, "Improvement to Reduce Challenges and Failure of Safety/Relief Valves" requirements. The two changes are: (1) In Section 2.4.B, increase the safety/relief valve set-actuation setpoint from 1108 psig to 1120 psig (2). In Table 3.2.7, increase the low-low set logic opening and closing setpoints for Reactor Coolant System Pressure by 12 psig.

Date of issuance: April 8, 1986.
Effective date: June 1, 1986.
Amendment No.: 43.
Facility Operating License No. DPR-22. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** September 11, 1985 (50 FR 37087).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 8, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Northern States Power Company, Docket Nos. 50-282 and 50-306, Prairie Island Nuclear Generating Plant, Unit Nos. 1 and 2, Goodhue County, Minnesota

Date of application for amendment: January 13, 1986, supplemented by letter dated March 25, 1986.

Description of amendment request: The proposed amendments would: (1) Add reference to the WRB-1 DNB correlation for Westinghouse fuel and identify that the W-3 DNB correlation will be used for Exxon fuel. (2) Delete reference to the "moderator temperature coefficient" in Specification 3.1.F.1. In place of the existing restriction on isothermal temperature coefficient, require the isothermal temperature coefficient to be below 5 pcm/°F when below 70 percent power and negative above 70 percent power. Change the associated bases. Replace the existing action statement, specification 3.1.F.3, with the Standard Technical Specification action statements, specification 3.1.1.3, except the requirement to submit a special report in ten days has changed to allow 30 days to submit the report. (3) Change the volume requirement for the accumulators from "between 1250 and 1282.9 cubic feet to 1270 #20" cubic feet in specification 3.3A.1.b.(2). (4) Change the peaking factors limits in Section 3.10 as follows:

	Old value	New value
F_q	2.32	2.30
$F_{\Delta H}$	1.55	1.60
$F_{\Delta H}$ equation	$1+0.2(1-P)$	$1+0.3(1-P)$

Note: The old F_q for Westinghouse fuel was 2.21.

Revise the peaking factor equations on page TS.2.1-2. Delete definitions of

$BU(E_i)$ and E_i in the specification and references to them in the bases.

Increase the required high neutron flux trip setpoint reduction from 1 percent to 3.33 percent for each percent that measured $F_{\Delta H}$ exceeds the limit. Revise the bases of Section 3.10, as necessary, for the peaking factor changes. The bases have also been edited to remove some outdated information, e.g., deletion of the definition of the term $F_q(z)$, deletion of a description of the $F_{\Delta H}$ uncertainties and deletion of a discussion of rod bow. Delete Figure TS.3.10-7, renumber the next sequentially numbered curve and delete references to the curve. (5) On Figure TS.3.10-5, delete the third line segment and extend the second line segment to the 12 foot level. Change the associated bases.

Date of Issuance: April 3, 1986.
Effective date: April 3, 1986.
Amendment Nos.: 77 and 70.
Facility Operating License Nos. DPR-42 and 60. Amendments revise the Technical Specifications.

Date of initial notice in the **Federal Register:** February 26, 1986 (51 FR 6828).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1986.

No significant hazard consideration comments received: No.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota.

Pennsylvania Power and Light Company, Docket Nos. 50-387 and 50-388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: April 11, 1985 as supplemented on August 15, September 11, November 4, December 4, 1985, and March 27, 1986.

Brief description of amendments: These amendments revise the Susquehanna Unit 1 and Unit 2 Technical Specifications to support long term operation with one recirculation loop out of service (Single Loop Operation (SLO)). These changes incorporate a new SLO Technical Specification, 3.4.1.1.2.a.

These amendments which support long term SLO change the Technical Specifications in the following manner: (1) Limit the allowable pump speed during SLO; (2) increase the Minimum Critical Power Ratio (MCPR) Safety Limit by 0.01; (3) establish appropriate Average Power Range Monitor (APRM) Flow Biased Scram Trip setpoints; (4) revise the Maximum Average Planar Linear Heat Generation Rate (MAPLHGR) limits; and (5) revise the Rod Block Monitor (RBM)/APRM Control Rod Block setpoints. The licensee has additionally included as Applicability section and appropriately revised SURVEILLANCE REQUIREMENTS for long term SLO. The amendments also update the Bases section to reflect the addition of Technical Specification 3.4.1.1.2.a for SLO.

Date of Issuance: April 11, 1986.
Effective date: April 11, 1986.
Amendment Nos.: 56 and 26.
Facility Operating License Nos. NPF-14 and NPF-22: Amendment revised the Technical Specifications.

Dates of initial notice in the **Federal Register:** November 20, 1985 (50 FR 47867).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 11, 1986.

No significant hazard consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company, Docket No. 50-387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: January 16, 1986, as supplemented on March 18, 1986.

Brief description of amendments: This amendment revised the Unit 1 Technical Specification (TS) to support the operation of the Susquehanna Steam Electric Station (SSES), Unit 1 at full rated power during Cycle 3 operation. This amendment revises the Technical Specifications in the following areas: (1) Establishes new operating limits for all fuel types to be used during Cycle 3 operation; (2) establishes Average Power Range Monitor setpoints; (3) reflects the replacement of approximately two fifths of the core with Exxon 8×8/2.89 w/o U235 (Exxon fuel assemblies fuel type XN-2) for Cycle 3 operation; and (4) modifies the bases section.

Date of issuance: April 11, 1986.
Effective date: Upon startup following the Unit 1 second refueling outage.
Amendment No.: 57.
Facility Operating License No. NPF-14: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 12, 1986 (51 FR 8599).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 11, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Pennsylvania Power and Light Company, Docket Nos. 50-388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of application for amendment: October 10, 1985.

Brief description of amendment: In the licensee's submittal the licensee requested that: (1) Technical Specification 4.8.4.1.a.1 be modified to achieve a greater level of clarity for this surveillance, which was previously ambiguous in cases where no trip setpoint or response time was provided. The difference between the current Technical Specification and this revision is in specifying how acceptance criteria are met for each type of breaker, i.e., magnetic-only (HFB-M) and thermal-magnetic (HFB-TM-KB-TM). The degree of testing for a given breaker remains unchanged due to this revision; (2) Technical Specification Table 3.8.4.1-1 be revised to reflect the replacement of magnetic-only circuit breakers with thermal-magnetic circuit breakers. Changing the containment penetration over-current protection from magnetic-only to thermal-magnetic circuit breakers allows detection of substantially lower short circuit currents; and (3) Additional change to Table 3.8.4.1-1 involving deletion of: Frame Rating/UL, Trip Setpoints and Response Time from the table. Addtional editoral changes were also proposed.

Date of Issuance: April 1, 1986.
Effective date: Upon start-up following the Unit 2 first refueling outage.
Amendment No.: 24.
Facility Operating License No. NPF-22. Amendments revised the Technical Specifications.

Date of initial notice in the **Federal Register:** December 30, 1985 (50 FR 53234).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 1, 1986.

No significant hazard consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franking Street, Wilkes-Barre, Pennsylvania

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Pennsylvania Power and Light Company, Docket No. 50-388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of application for amendment: December 19, 1985.

Brief Description of Amendment: This amendment changes the Unit 2 Technical Specifications. The setpoint for MSIV isolation on reactor vessel water level has been changed from Level 2 to Level 1 in order to reduce the number of challenges to the Safety Relief Valves (SRV). The change is consistent with the NRC recommendations in Item 16 of NUREG-0737, Section II.K.3, "Reduction of Challenges and Failures of Relief Valves—Feasibility Study and System Modification."

Date of issuance: April 1, 1986.

Effective Date: Upon startup following the Unit 2 first refueling outage.

Amendment No.: 25.

Facility Operating License No. NPF-22: Amendment revised the Technical Specifications.

Dates of Initial Notice in **Federal Register:** February 26, 1986 (51 FR 6829).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 1, 1986.

No comments were received regarding the Commission's proposed no significant hazards consideration determination: No.

Local Public Document Room Location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Public Service Electric and Gas Company, Docket Nos. 50-272 and 50-311, Salem Nuclear Generating Station, Unit Nos. 1 and 2, Salem County, New Jersey

Date of Application for amendments: October 15, 1984.

Brief description of amendments: The amendments revise the operability requirements for the pressurizer safety valves during refueling.

Date of issuance: April 3, 1986.

Effective date: April 3, 1986.

Amendment Nos.: 74 and 49.

Facility Operating Licenses Nos. DPR-70 and DPR-75: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 31, 1985 (50 CFR 31071).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 3, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Salem Free Library, 112 West Broadway, Salem, New Jersey 08079.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: March 18, 1985, as supplemented by letter dated August 2, 1985.

Brief description of amendment: The amendment revises the minimum required boron concentration in the primary system while loading and unloading fuel from the reactor.

Date of issuance: April 8, 1986.

Effective date: April 8, 1986.

Amendment No.: 79.

Facility Operating License No. DPR-54. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:**

November 20, 1985 (50 FR 47869).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 8, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California 95814.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: November 25, 1986.

Brief description of amendment: This amendment adds operational criteria for several modifications which were incorporated in the facility as a direct consequence of lessons learned from the Three Mile Island accident. The operational criteria were promulgated by Generic Letter 83-37.

Date of issuance: April 14, 1986.

Effective date: April 14, 1986, to be implemented within 90 days, except for Technical Specification 6.18, which shall be implemented within 14 days.

Amendment No. 80.

Facility Operating License No. DPR-54. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 30, 1985 (50 FR 53236).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 14, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California 95814.

Southern California Edison Company, et al. Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Dates of Applicant of Amendments: October 9, 1985.

Brief Description of Amendments: The amendments change the technical specifications related to boric acid concentration and flow paths.

Date of Issuance: March 27, 1986.

Effective Date: The amendment for Unit 2 and one page (¾ 5-1) of the amendment for Unit 3 are effective March 27, 1986, to be fully implemented within 30 days; the remainder of the amendment for Unit 3 is effective on initial entry into the applicable MODE of cycle 3.

Amendment Nos.: 43 and 32.

Facility Operating License Nos. NPF-10 and NPF-15: Amendments revised the Technical Specifications.

Date of Initial Notice in **Federal Register:** December 18, 1985 (50 FR 51629).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 27, 1986.

No significant hazards consideration comments were received: No.

Local Public Document Room Location: General Library, University of California at Irvine, Irvine, California 92713.

Southern California Edison Company, et al. Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Dates of Application of Amendments: February 20, July 1, October 10, and October 22, 1985.

Brief Description of Amendments: The amendments change the Surveillance Requirements of Technical Specification 3/4.4.8.2, "Reactor Coolant System-Pressurizer-Heatup/Cooldown" and the associated table to incorporate additional thermal transient conditions for calculation of cumulative thermal cycle usage factors.

Date of Issuance: April 4, 1986.

Effective Date: April 4, 1986, to be fully implemented within 30 days of issuance.

Amendment Nos.: 44 and 33.

Facility Operating License Nos. NPF-10 and NPF-15: Amendments revised the Technical Specifications.

Date of Initial Notice in **Federal Register:** December 18, 1985 (50 FR 51627).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 4, 1986.

No significant hazards consideration comments were received: No.

Local Public Document Room Location: General Library, University of California at Irvine, Irvine, California 92713.

Tennessee Valley Authority, Docket Nos. 50-259, 50-260 and 50-296, Browns Ferry Nuclear Plant, Units 1, 2 and 3, Limestone County, Alabama

Date of application for amendment: October 1, 1985.

Brief description of amendment: The amendments change the Technical Specifications to correct inconsistencies and typographical errors and add new surveillance requirements.

Date of issuance: March 31, 1986.

Effective date: Within 90 days from the date of issuance.

Amendment Nos.: 128, 123 and 99.

Facility Operating License Nos. DPR-33, DPR-52 and DPR-68. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 20, 1985 (50 FR 47876).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 31, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Athens Public Library, South and Forrest, Athens, Alabama 35611.

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: December 16, 1984.

Brief description of amendment: The amendment revises immediate reporting requirements and incorporates the new reporting system for significant events at nuclear power plants to comply with 10 CFR 50.72 and 50.73.

Date of issuance: April 8, 1986.

Effective date: April 8, 1986.

Amendment No.: 93.

Facility Operating License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12166).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 8, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: November 15, 1985, as supplemented December 13, 1985, January 28, 1986, February 18, 1986, February 24, 1986, and February 28, 1986.

Brief description of amendment: The amendment modifies the Technical Specifications to support a transition from a Westinghouse 17x17 low-parasitic fueled core to a Westinghouse 17x17 optimized fuel assembly fueled core.

Date of issuance: April 8, 1986.

Effective date: April 8, 1986.

Amendment No.: 15.

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1986 (51 FR 6831).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 8, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: William Allen White Library, Emporia State University, Emporia, Kansas, and Washburn University School of Law, Topeka, Kansas.

Vermont Yankee Nuclear Power Corporation, Docket No. 50-271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of application for amendment: November 15, 1985.

Brief description of amendment: The amendment revises the Technical Specifications to delete Technical Specifications pertaining to the recirculation system equalizer valves, which have been removed.

Date of issuance: March 27, 1986.

Effective date: March 27, 1986.

Amendment No.: 92.

Facility Operating License No. DPR-28. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 29, 1986 (51 FR 3720).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated March 27, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Brooks Memorial Library, 224 Main Street, Brattleboro, Vermont 05301.

Virginia Electric and Power Company, et al., Docket No. 50-339, North Anna Power Station, Unit No. 2, Louisa County, Virginia

Date of application for amendment: February 6, 1986.

Brief description of amendment: The amendment revises the NA-2 TS Table 3.6.1, "Containment Isolation Valves," to reflect the installation of a new containment isolation valve in the letdown line for NA-2.

Date of issuance: April 4, 1986.

Effective date: April 4, 1986.

Amendment No.: 63.

Facility Operating License No. NPF-7: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 6, 1986 (51 FR 7863).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 4, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room locations: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia, 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Virginia Electric and Power Company, et al., Docket No. 50-339, North Anna Power Station, Unit No. 2, Louisa County, Virginia

Date of application for amendment: September 26, 1985, as amended January 16, 1986.

Brief description of amendment: The amendment changes the NA-2 TS to allow the widening of the axial flux difference bands from the current ±5% about a target value to +6% to −15% at 100% power and +20% to −28% at 50% power.

Date of issuance: April 14, 1986.

Effective date: April 14, 1986.

Amendment No.: 64.

Facility Operating License No. NPF-7: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1986 (51 FR 6816).

The Commission's related evaluation of the amendment is contained in a Safety Evluation dated April 14, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room locations: Board of Supervisors Office.

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Louise County Courthouse, Louisa, Virginia, 23093, and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22906.

Dated at Bethesda, Maryland, this 16th day of April 1986.

For the Nuclear Regulatory Commission.

R. Wayne Houston,

Deputy Director, Division of BWR Licensing.

[FR Doc. 86-8908 Filed 4-22-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-323]

Pacific Gas and Electric Co., Diablo Canyon Nuclear Power Plant, Unit 2; Exemption

Correction

In FR Doc. 86-5055, beginning on page 8055 in the issue of Friday, March 7, 1986, make the following corrections: On page 8056, in the third column, the third line from the bottom should read "February 21, 1986 and shall submit".

BILLING CODE 1505-01-M

Containment Performance Design Objective; Workshop Meeting

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Workshop.

SUMMARY: The safety goals for nuclear power plants, currently in the final stages of evaluation by the Nuclear Regulatory Commission, include two qualitative goals, supported by quantitative objectives with respect to mortality risks, core-melt frequency, and safety-cost trade-offs. In response to a recommendation by the Advisory Committee on Reactor Safeguards, the NRC staff has undertaken development of a containment performance design objective (CPDO) for the Commission's consideration for possible addition to the safety goals. The NRC staff will hold a workshop to obtain the views of experts on the issues inherent in the development and implementation of a CPDO. These views will be taken into account by staff in the CPDO formulation process. The invited experts will have diverse backgrounds with special knowledge of nuclear power plants in general, and containments in particular.

DATE AND TIME: May 12, 1986, 9:00 a.m. to approximately 6:00 p.m.; May 13, 8:30 a.m. to 12:00 noon.

ADDRESS: This meeting will be held at Cliffside Inn, Route 340, Harper's Ferry West Virginia 25425.

Send comments to John Philips, Rules and Procedures Branch, Division of Rules and Records, Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Pradyot K. Niyogi, Division of Risk Analysis and Operations, Office of Nuclear Regulatory Research, Washington, DC 20555, (301) 443-7512.

SUPPLEMENTARY INFORMATION: To assist in the efficient conduct of the workshop, participants will receive an information package, which includes: (a) Purpose and scope of the workshop; (b) background on the safety goals and their status; (c) a detailed agenda with guidelines for discussion objectives and scope; and (d) the report "containment Performance Design Objective: Options, Implementation, and Issues," which contains descriptions of some CPDO option seleted for evaluation with discussions of pros and cons, the outline of a CPDO implementation approach, and identification of recognized issues of CPDO structure and implementation.

The workshop will be designed to obtain expert views on issues such as the merits and drawbacks of adding a CPD to the safety goals, and the choice among options for a CPDO formulation approach.

Active participation in the workshop will be limited to invitees, but the workshop will be open to the public for attendance as observers. Members of the public may send written comments on topics related to the workshop; limited verbal comments will be permitted at the workshop at specified times. A verbatim record will be kept, and a highlights report will be published. Prospective attendees should notify Pradyot K. Niyogi at (301) 443-7512 by May 6, 1986, of their intention to attend, to facilitate planning for accommodations. The information package for the workshop will be sent to observers upon request and will be available in the Public Document room, 1717 H Street, Washington, DC 20555. While comments will be welcome at any time, these will be particularly useful if received by June 13, 1986.

Dated at Rockville, Maryland, this 16th day of April 1986.

For the Nuclear Regulatory Commission.

Malcolm L. Ernst,

Director, Division of Risk Analysis and Operations, Office of Nuclear Regulatory Research.

[FR Doc. 86-9105 Filed 4-22-86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Thermal Hydraulic Phenomena; Revised Agenda

The notice previously published on Monday, April 14, 1986 (51 FR 12663) concerning a meeting of the ACRS Subcommittee on Thermal Hydraulic Phenomena scheduled for April 29 and 30, 1986, Room 1046, 1717 H Street, NW., Washington, DC has been revised as noted below:

The agenda for the subject meeting shall be as follows:

Tuesday, April 29 1986—1:30 P.M. until 5:00 P.M.

Wednesday, April 30, 1986—8:30 A.M. until 5:00 P.M.

The Subcommittee will: (1) Continue its review of the NRC's proposal to revise 10 CFR 50.46 and Appendix K, and (2) continue discussions on defining the thermal hydraulic safety issues of most importance that need to be addressed in the future. All other items regarding this meeting remain the same as previously announced.

Dated April 18, 1986.

Thomas G. McCreless,

Assistant Executive Director for Technical Activities.

[FR Doc. 86-9103 Filed 4-22-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-336]

Northeast Nuclear Energy Co., et al.; Granting of Exemption From Fire Protection Program

The U.S. Nuclear Regulatory Commission (the Commission) has granted an Exemption from certain requirements of Appendix R to 10 CFR Part 50 to Northeast Nuclear Energy Company, et al. (the licensee). The Exemption relates to the fire protection program for the Millstone Nuclear Power Station, Unit No. 2 (the facility) located in the Town of Waterford, Connecticut. The Exemption is effective as of April 15, 1986.

A complete area-wide automatic fire suppression system will not be required for the Closed Cooling Water Pump Area, the Boric Acid Pumps Area, the Boric Acid Batch Tank-Chemical Addition Tank Area, the Cable Vault, the Main Control Room, the Intake Building, and the Charging Pump Room. The auxiliary feedwater pumps located in the Auxiliary Feed Pump Pit, the safe shutdown systems and related cables located in the Boric Acid Tank-Chemical Addition Tank Area and the service water pumps located in the Intake

Building will not be required to be separated by a complete 3-hour fire-rated barrier. Redundant shutdown related cables located in the Cable Vault and the charging pumps and related cables located in the Charging Pump Room will not be required to be separated by a complete 1-hour fire-rated barrier or by more than 20 feet with no intervening combustible material. Redundant shutdown divisions within the Control Room will not be required to have physical separation. Finally, the alternate shutdown capability will not be required to be independent of the Control Room. The Exemption is granted mainly on the basis that the existing fire protection, coupled with proposed modifications at Millstone Unit 2, is the most practical method for meeting the intent of Appendix R and literal compliance would not significantly enhance the fire protection capability. Details are provided in the Exemption.

The requests for the Exemption comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations which are set forth in the Exemption.

Pursuant to 10 CFR 51.32, the Commission has determined that the issuance of the Exemption will have not significant impact on the environment (51 FR 5120).

For further details with respect to this action, see (1) the requests for exemptions dated March 1 and July 2, 1982, April 15 and May 25, 1983, and January 31 and August 7, 1985, (2) the Commission's letter dated April 15, 1986 (3) the Exemption dated April 15, 1986, and (4) the staff's Safety Evaluation dated April 15, 1986. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC and at the Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut. A copy of items (2), (3), and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of PWR Licensing–B.

Dated at Bethesda, Maryland, this 15th day of April 1986.

For the Nuclear Regulatory Commission.

Ashok C. Thadani,

Director, PWR Project Directorate No. 6, Division of PWR Licensing–B.

[FR Doc. 86-9106 Filed 4-22-86; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Implementation of Modifications in Specialty Steel Import Relief

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: This notice modifies the Tariff Schedules of the United States (TSUS) to implement changes in allocations within the alloy tool steel category for Japan.

EFFECTIVE DATE: April 21, 1986.

FOR FURTHER INFORMATION CONTACT: Marie Haugen, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, (202) 377-4036.

SUPPLEMENTARY INFORMATION: Presidential Proclamation 5074 of July 19, 1983 (48 FR 32239), provided for the temporary imposition of increased tariffs and quantitative restrictions on certain stainless steel and alloy tool steel products imported into the United States, pursuant to section 203 of the Trade Act of 1974. Proclamation 5074 authorizes the U.S. Trade Representative to take such actions and perform such functions for the United States as may be necessary to administer and implement the relief, including negotiating orderly marketing agreements and allocating quota quantities on a country-by-country basis. The U.S. Trade Representative is also authorized to make modifications in the TSUS headnote or items proclaimed by the President in order to implement such actions.

Pursuant to the above authority, the U.S. Trade Representative has determined that certain quota quantities within the alloy tool steel category for Japan should be modified.

In confirmity with the above, subpart A, part 2 of Appendix to the TSUS is modified as follows:

(1) Item 926.22 is modified by increasing the quota quantity for "Japan" to "1633" short tons for the period of April 20, 1986 through July 19, 1986.

(2) Item 926.23 is modified by decreasing the quota quantity for "Japan" to "563" short tons for the period of April 20, 1987 through July 19, 1987.

Clayton Yeutter,

United States Trade Representative.

[FR Doc. 86-9271 Filed 4-23-86; 11:06 am]

BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-14963]

Application and Opportunity For Hearing; Citicorp

April 18, 1986.

Notice is hereby given that Citicorp (the "Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of United States Trust Company of New York (the "Trust Company") under four existing indentures, and two Pooling and Servicing Agreements (the "Agreements") each dated as of February 1, 1986 under which certificates evidencing interests in a pool of mortgage loans have been issued, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trust Company from acting as Trustee under either of such indentures or the Agreements.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such a conflicting interest, either eliminate the conflicting interest or resign as trustee. Subsection (1) of section 310(b) provides, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest in such trustee is trustee under another indenture under which securities of an obligor upon the indenture securities are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operaton of the subsection another indenture under which other securities of the same obligor are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under both the qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under one of such indentures.

The Applicant alleges that: (1) The Trust Company currently is acting as Trustee under four indentures in which the Applicant is the obligor. The indenture dated as of February 15, 1972 involved the issuance of Floating Rate

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Notes due 1988, the indenture dated as of March 15, 1977 involved the issuance of various series of unsecured and unsubordinated Notes, the indenture dated as of August 25, 1977 involved the issuance of Rising-Rate Notes, Series A and the indenture dated as of April 21, 1980 involved the issuance of various series of unsecured and unsubordinated Notes. Said indentures were filed as, respectively, Exhibits 4(a), 2(b), 2(b), and 2(a) to Applicant's respective Registration Statements Nos. 2–42915, 2–58355, 2–58396 and 2–64862 filed under the Securities Act of 1933, and have been qualified under the Trust Indenture Act of 1939. Said four indentures are hereinafter called the Indentures and the securities issued pursuant to the Indentures are hereinafter called the Notes.

(2) The Applicant is not in default in any respect under the Indentures or under any other existing indenture.

(3) On February 24, 1986, the Trust Company entered into a Pooling and Servicing Agreement dated as of February 1, 1986 (the "1986–A Agreement") with Citibank, N.A., Originator and Servicer, and Citicorp Homeowners, Inc., under which there were issued on February 24, 1986 Mortgage Pass-Through certificates, Series 1986–A 10.50% Pass-Through Rate (the "Series 1986–A Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the "1986–A Mortgage Pool") originated and serviced by Citibank, N.A. and having adjusted principal balances aggregating $104,826,271.22 at the close of business on February 1, 1986, which mortgage loans were assiged to the Trust Company as Trustee simultaneously with the issuance of the Series 1986–A Certificates. On February 24, 1986, Applicant, the parent of Citibank, N.A., entered into a guaranty of even date (the "1986-A Guaranty") pursuant to which applicant agreed, for the benefit of the holders of the Series 1986–A Certificates, to be liable for 5.5% of the initial aggregate principal balance of the 1986–A Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1986–A Guaranty. The 1986–A Guaranty states that Applicant's obligations thereunder rank *pari passu* with all unsecured and unsubordinated indebtedness of Applicant, and accordingly, if enforced against Applicant, the 1986–A Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1986–A Certificates were registered under the Securities Act of 1933 (Registration Statement on Forms S–11 and S–3, File No. 33–780) as part of a delayed or continuous offering of $1,000,000 aggregate amount of Mortgage Pass-Through Certificates pursuant to Rule 415 under the Act. The Series 1986–A Certificates were offered by a Prospectus Supplement Dated February 13, 1986, supplemental to a Prospectus dated October 9, 1985. The 1986–A Agreement has not been qualified under the Trust Indenture Act of 1939.

(4) On February 24, 1986, the Trust Company entered into a Pooling and Servicing Agreement dated as of February 1, 1986 (the "1986–B Agreement") with Citbank, N.A., Originator and Servicer, and Citicorp Homeowners, Inc., under which there were issued on February 24, 1986, Mortgage Pass-Through Certificates, Series 1986–B 10.00% Pass-Through Rates (the "Series 1986–B Certificates"), which evidence fractional undivided interests in a pool of conventional one-to-four-family mortgage loans (the "1986–B Mortgage Pool") originated and serviced by Citibank, N.A. and having adjusted principal balances aggregating $51,017,629.42 at close of business on February 1, 1986, which mortgage loans were assigned to the Trust Company as Trustee simultaneously with the issuance of the Series 1986–B Certificates. On February 24, 1986, Applicant, the parent of Citibank, N.A., entered into a Guaranty of even date (the "1986–B Guaranty) pursuant to which Applicant agreed, for the benefit of the holders of the Series 1986–B Certificates, to be liable for 5.5% of the initial aggregate principal balance of the 1986–B Mortgage Pool and for lesser amounts in later years pursuant to the provisions of the 1986–B Guaranty. The 1986–B Guaranty states that Applicant's obligations thereunder rank *pari passu* with all unsecured and unsubordinated indebtedness of Applicant, and accordingly, if enforced against Applicant, the 1986–B Guaranty would rank on a parity with the obligations evidenced by the Notes. The Series 1986–B Certificates were registered under the Securities Act of 1933 (Registration Statement on Forms S–11 and S–3, File No. 33–780) as part of a delayed or continuous offering of $1,000,000,000 aggregate amount of Mortgage Pass-Through Certificates pursuant to Rule 415 under the Act. The Series 1986–B Certificates were offered by a Prospectus Supplement dated February 14, 1986 supplemental to a Prospectus dated October 9, 1985. The 1986–B Agreement has not been qualified under the Trust Indenture Act of 1939.

The 1986–A Agreement and the 1986–B Agreement are hereinafter called the 1986 Agreements and the 1986–A Guaranty and the 1986–B Guaranty are hereinafter called the 1986 Guarantees.

(5) The obligations of Applicant under the Indentures and the 1986 Guarantees are wholly unsecured, are unsubordinated and rank *pari passu*. Any differences that exist between the provisions of the Indentures and the 1986 Guarantees are unlikely to cause any conflict of interest among the trusteeships of the Trust Company under the Indentures and the 1986 Agreements.

(6) The Applicant Company has waived notice of hearing, waived hearing, and waived any and all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application, File No. 22–14943, which is a public document on file in the office of the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC.

Notice is Further Given that any interested person may, not later than May 13, 1986, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of law or fact raised by said application which he desires to controvert, or may request that he be notified if the Commission should order a hearing thereon.

Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86–9089 Filed 4–22–86; 8:45 am]

BILLING CODE 8010–01–M

[File No. 81–728]

Application and Opportunity for Hearing: Dataserv, Inc.

April 18, 1986.

Notice is hereby given that Dataserv, Inc., ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting Applicant from the registration requirements under Section 12(g) of the 1934 Act.

For a detailed statement of the information presented, all persons are referred to the application which is on file at the offices of the Commission in the Public Reference Room, 450 Fifth Street NW., Washington, DC 20549.

Notice is further given that any interested person not later than May 13, 1986, may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof. At any time after that date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86–9088 Filed 4–22–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–24065]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

April 17, 1986.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated there under. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 12, 1986 to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit, or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Middle South Utilities, Inc., et al. (70–7119)

Middle South Utilities, Inc., ("Middle South"), a registered holding company, 225 Baronne Street, New Orleans, Louisiana 70112, has filed an amendment to the declaration filed pursuant to section 12(b) of the Act and Rule 45 thereunder.

A notice of the original declaration was issued on June 20, 1985, HCAR No. 23739. Middle South now proposes to guarantee the performance by Middle South Services, Inc. ("Services") of its lease obligations with respect to two new computer systems, and any upgrading thereof, without recourse to Services first being required. The leases are noncancellable during the initial 48-month terms thereof except in certain circumstances. Rental payments during the initial 48-month terms of the leases are being made by Services in monthly installments in the amounts of $175,893 and $170,737, respectively. Services may also subsequently determine to upgrade the new computer systems. Monthly rental payments by Services therefor would not be expected to exceed $137,500 and $127,000, respectively.

Eastern Utilities Associates (70–7761)

Eastern Utilities Associates ("EUA"), P.O. Box 2333, Boston, Massachusetts 02107, a registered holding company, has filed amendments to its application-declaration in this proceeding pursuant to sections 6(a), 7, 9(a), and 10 of the Act and Rule 50(a)(5) promulgated thereunder.

EUA, through Montaup Electric Company ("Montaup"), a wholly owned, generation and transmission company, presently has a 2.89989% joint ownership interest in the Seabrook nuclear generating project ("Seabrook Project"). There are fifteen other owners which are tenants in common with Montaup ("Participants") under an Agreement for Joint Ownership, Construction and Operation of New Hampshire Nuclear Units, dated as of May 1, 1973, as amended from time to time. On October 15, 1985 (HCAR No. 23866), notice was given of EUA's proposal, if necessary approvals are received, to acquire through a new, wholly owned, New Hampshire subsidiary, EUA Power Corporation ("EUA Power"), the interests of four Participants: Bangor Hydro-Electric Company ("Bangor") 2.17391%; Central Maine Power Company ("CMP") 6.04178%; Central Vermont Public Service Company ("Central Vermont") 1.59096%; and Maine Public Service Company ("MPSC") 1.46058%, (collectively, "Sellers").

Certain changes have been made in the proposed transactions, including the following: EUA will make additional payments aggregating $30.9 million as follows: $6.0 million to Bangor, $16.5 million to CMP, $4.4 million to Central Vermont, and $4.0 million to MPSC. EUA Power expects to make all payments (except in the case of CMP) in cash or immediately available funds but, if EUA and CMP (or any of the other Sellers) agree, it is proposed that payments to such Seller or Sellers may include one or more promissory notes secured by mortgages and security interests, or otherwise. It is further proposed that EUA Power issue $288 million of notes rather than $170 million. Certain changes have also been made in the terms of EUA Power's proposed preferred stock.

Southwestern Electric Power Company (70–7248)

Southwestern Electic Power Company ("Swepco"), P.O. Box 21106, Shreveport, Louisiana 71156, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed an application-declaration pursuant to sections 6(a), 7, 9(a), 10, and 12(c) of the Act and Rules 42 and 50 thereunder.

Swepco proposes to issue and sell up to $125,000,000 of its first mortgage bonds in one or more series with a maturity of up to 30 years in accordance with alternative competitive bidding procedures. The proceeds are to be used in connection with the following proposals by Swepco: (1) To repurchase for cash, through tender offers, the outstanding $5,166,000 principal amount of the company's First Mortgage Bonds, Series R, 15–1/2%, due May 1, 2012, and $80,000,000 principal amount of the company's First Mortgage Bonds, Series S, 11-3/8%, due August 1, 2015; (2) to redeem the outstanding 200,000 shares of the company's 8.64% Preferred Stock, par value $100.00 per share, at the

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general redemption price of $104.21 per share plus accrued and unpaid dividends to the redemption date; and (3) to provide funds for the defeasance of the outstanding $17,125,000 principal amount of Titus County Fresh Water Supply District No. 1, Pollution Control Revenue Bonds, 1981 Series A (Southwestern Electric Power Company Project), 12-1/8%, due August 1, 2011. Additional funds required for such proposed repurchases, redemption, and defeasance will be provided from internally generated funds or short-term borrowings. Open market and negotiated purchases are proposed to be made after the expiration of the tender offers with terms no more favorable to the holders than those of the tender offers.

Central Power and Light Company (70-7249)

Central Power and Light Company ("CPL"), P.O. Box 2121, Corpus Christi, Texas 78403, a subsidiary of Central and South West Corporation, a registered holding company, has filed an application-declaration pursuant to sections 6(a), 7, 9(a), 10, and 12(c) of the Act and Rules 42 and 50 thereunder.

CPL proposes to issue and sell up to $100 million of its first mortgage bonds and $100 million of its debentures in accordance with alternative competition bidding procedures. The proceeds are to be used in connection with CPL's proposed acquisition, for cash by tender offer, of up to $85 million aggregate principal amount of its outstanding first mortgage bonds and up to $100,742,000 aggregate principal amount of its outstanding debentures in two series. Open market and negotiated purchases are proposed to be made after the expiration of the tender offers with terms no more favorable to the holders than those of the tender offers.

West Texas Utilities Company (70-7250)

West Texas Utilities Company ("WTU"), 301 Cypress, Abilene, Texas 79601, a subsidiary of Central and South West Corporation, a registered holding company, has filed an application-declaration pursuant to sections 6(a), 7, 9(a), 10, and 12(c) of the Act and Rules 42 and 50 thereunder.

WTU proposes to issue and sell up to $80 million of its First Mortgage Bonds, Series O, in accordance with alternative competitive bidding procedure. The proceeds will be used, together with internally generated funds, if necessary, to repurchase for cash by tender offer ("Tender Offer") up to $50 million of its outstanding First Mortgage Bonds, Series M, and up to $815,000 of its 16-1/8% Debentures, Series 1982.

WTU presently intends to hold open the Tender Offer for up to ten days but, if market conditions require or particular security holders require, WTU requests authority to shorten or extend the Tender Offer period. In addition, WTU request authority to purchase securities from individual security holders after the expiration of the Tender Offer on terms no more favorable to such security holders than the terms extended pursuant to the Tender Offer.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-9091 Filed 4-22-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2231]; Amdt. #4]

Declaration of Disaster Area; California

The above-numbered Declaration (51 FR 7514), as amended (51 FR 8610, 51 FR 9912 and 51 FR 12256), is hereby further amended in accordance with the Notice of Amendment to the President's declaration, dated March 12, 1986, to include the adjacent Counties of Trinity and Nevada in the State of California because of damage from severe storms, landslides, mudslides and flooding beginning on or about February 12, 1986. All other information remains the same, i.e., the termination date for filing applications for physical damage is the close of business on April 24, 1986, and for economic injury until the close of business on September 2, 1986.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008.)

Dated: March 13, 1986.

Gerald J. Fico, Jr.,

Acting Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86-9027 Filed 4-22-86; 8:45 am]

BILLING CODE 8025-01-M

[Application No. 09/09-5369]

Application for License To Operate as a Small Business Investment Co.; Best Finance Corp.

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 (1986) by Best Finance Corporation, 2883 W. Olympic Boulevard, Los Angeles, California 90006, for a license to operate as a small business investment company (SBIC) under the Small Business Investment act of 1958 (the Act), as amended (15 U.S.C. 661 et seq.).

The proposed officers, directors and shareholders are:

Name	Title or relationship	Percentage of shares owned
Robert G. Brown, 13503 De Ancala Dr., La Mirada, CA 90638.	General Manager	0
Ray-Sek Yun, 831 5th Street, Los Angeles, CA 90006.	President/Director	25
In-Cho Hwang, 3763 North Prestwick Dr., Los Angeles, CA 90027.	Secretary/Director	25
Duk-Soo Yum, 19220 Fagen Ave., Cerritos, CA 90701.	Chief Financial Officer/Director.	25
Yeon-Yong Rong, 1112 Fairview Dr., La Canada, CA 91011.	Director	25

The Applicant will begin operations with a capitalization of $1,000,000 and will be a source of equity capital and long term loan funds for qualified small business concerns.

The Applicant will conduct its operations in the State of California.

As a small business investment company under section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act and will provide assistance solely to small concerns which will contribute to a well balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operations of the new company under their management including profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street NW., Washington, DC 20416.

A copy of the Notice will be published in a newspaper of general circulation in Los Angeles, California.

Dated: April 16, 1986.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-9108 Filed 4-22-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee CCITT) will meet on Tuesday, May 13, 1986, in Room 1107, Department of State, 2201 C Street, NW., Washington, DC. The meeting will begin at 1:00 p.m.

The National Committee assists in the resolution of administrative/procedural problems pertaining to U.S. CCITT activities; provides advice on matters of policy and positions in the preparation for CCITT Plenary Assemblies and meetings of the International Study Groups; provides advice and recommendations in regard to the work of the U.S. CCITT study Groups; and recommends the disposition of proposed U.S. contributions to the international CCITT which are submitted to the Committee for consideration.

The purpose of the meeting is to:

a. Discuss and adopt U.S. positions to upcoming CCITT Study Group Special "S";

b. Assess need for U.S./Canada meeting to discuss Special "S" and ISDN charging principles.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl Barbely, State Department, Washington, D.C.; telephone (202) 647-6700. All attendees must use the C Street entrance to the building.

Dated: April 11, 1986

Earl S. Barbely,

Acting Director, Office of Technical Standards and Development.

[FR Doc. 86-9084 Filed 4-22-86; 8:45 am]

BILLING CODE 4710-07-M

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group A of the U.S. Organizations for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on Tuesday, May 13, 1986 at 9:30 a.m. in Room 1107, Department of State, 2201 C Street NW., Washington, DC.

Study Group A deals with international telecommunications policy and services.

The purpose of this meeting is to:

a. Debrief of PTC-1 and CCITT Study Group I Working Party Meetings in Montevideo;

b. Finalize U.S. Delegation to CCITT Meeting, to be held in Kobe, Japan;

c. Review CCITT contributions, both U.S. and others, for Study Group III meeting in Kobe; and

d. Prepare future program for upcoming meetings of Study Group I, III, PC-WATTC, etc.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl Barbely, State Department, Washington, D.C.; telephone (202) 647-6700. All attendees must use the C Street entrance to the building.

Dated: April 16, 1986.

Earl S. Barbely,

Acting Director, Office of Technical Standards and Development.

[FR Doc. 86-9085 Filed 4-22-86; 8:45 am]

BILLING CODE 4710-07-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Certain Industry Advisory Committees; Determination of Closing of Meetings

The Industry Advisory Committees for Trade Policy Matters (including the Industry Policy Advisory Committee, the Committee of Chairmen of Industry of Advisory Committees, the Industry Sector Advisory Committees, and the Industrry Functional Advisory Committees) (the Advisory Committees) have been established to advise the United States Trade Representative and the Secretary of Commerce, in accordance with subsection 135(a) of the Trade Act of 1974, as amended. These groups will be providing advice on trade matters referred to in section 102 of the Trade Act of 1974; as amended: with respect to the operation of any trade agreement once entered into; and with respect to other matters arising in connection with the administration of the trade policy of the United States.

I, therefore, determine that meetings of the Advisory Committees will be concerned with matters the disclosure of which would seriously compromise the Government's negotiating objectives or bargaining positions and with matters listed in section 552b(c) of Title 5 of the United States Code. Therefore, meetings of the Advisory Committees will be closed to the public unless otherwise determined by the United States Trade Representatives or his designee.

Clayton Yeutter,

United States Trade Representative.

[FR Doc. 86-9029 Filed 4-22-86; 8:45 am]

BILLING CODE 3190-01-M

Trade Policy Staff Committee; Generalized System of Preferences (GSP) Subcommittee Notice of Results of Expedited Review of Certain Chemical Mixtures Containing Ethanol

This publication provides the disposition of the expedited review of certain chemical mixtures containing ethanol under the Generalized System of Preferences (GSP) initiated by the Trade Policy Staff Committee (TPSC) on February 7, 1986. The GSP is provided for in the Trade Act of 1974 (19 U.S.C. 2461-2465).

The President signed Proclamation 5452 on March 31, 1986 removing certain chemical mixtures containing ethanol from the list of GSP eligible items effective immediately. Proclamation 5452 appeared in the **Federal Register** of April 4, 1986.

Donald M. Phillips,

Chairman, Trade Policy Staff Committee.

[FR Doc. 86-9028 Filed 4-22-86; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 15-86]

Treasury Notes of April 30, 1988, Series Y-1988

Washington, April 17, 1986.

1. Invitation for Tenders

1.1. The Secretary of the Treasury,

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under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,750,000,000 of United States securities, designated Treasury Notes of April 30, 1988, Series Y-1988 (CUSIP No. 912827 TN 2), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities.

2. Description of Securities

2.1. The Notes will be dated April 30, 1986, and will accrue interest from that date, payable on a semiannual basis on October 31, 1986, and each subsequent 6 months on April 30 and October 31 through the date that the principal becomes payable. They will mature April 30, 1988, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Notes in registered definitive form will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Notes in book-entry form will be issued in multiples of those amounts. Notes will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Notes, exchanges of Notes between registered definitive and book-entry forms, and transfers will be permitted.

2.6. The Department of the Treasury's general regulations governing United States securities apply to the Notes offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Standard time, Wednesday, April 23, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, April 22, 1986, and received no later than Wednesday, April 30, 1986.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalists; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject all or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Wednesday, April 30, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Monday, April 28, 1986. In addition, Treasury Tax and Loan Note Option Depositories may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Wednesday, April 30, 1986. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted are not required to be assigned if the new Notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Notes are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Notes, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4. Registered definitive Notes will not be issued if the approriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employer identification number) is not furnished. Delivery of the Notes in registered definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Notes have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the Notes on full-paid allotments, and to maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not advesely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86-9109 Filed 4-21-86; 12:44 pm]

BILLING CODE 4810-40-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported For Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of June 27, 1985 (50 FR 27393, July 2, 1985), I here-by determine that the objects to be included in the exhibit, "Treasures of Hungary: Gold and Silver from the Ninth to Nineteenth Century" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the Smithsonian Institution Traveling Exhibition Services (SITES) and the Hungarian National Museum. I also determine that the temporary exhibition or display of the listed exhibit objects at the Cooper-Hewitt Museum, New York, New York, beginning on or about May 20, 1986, to on or about August 10, 1986; the Art Institute of Chicago, Chicago, Illinois, beginning on or about September 6, 1986, to on or about November 2, 1986; the Santa Barbara Museum of Art, Santa Barbara, California, beginning on or about December 6, 1986, to on or about February 1, 1987; the Blaffer Gallery, Houston, Texas; and at other nonprofit exhibitions beginning on or about May 23, 1987, to on or about January 3, 1988, is in the national interest.

Public notice of the determination is ordered to be published in the **Federal Register.**

Dated: April 17, 1986.

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 86-9052 Filed 4-22-86; 8:45 am]

BILLING CODE 8230-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document. A copy of this list may be obtained by contacting Mr. John Lindburg of the Office of the General Counsel of USIA. The telephone number is 202-485-7976, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547

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Sunshine Act Meetings

Federal Register
Vol. 51, No. 78
Wednesday, April 23, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

April 18, 1986.

TIME AND DATE: 10:00 a.m., Tuesday, April 22, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, D.C.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: In addition to the previously announced item, the Commission will consider and act upon the following:

2. Commission Procedural Rule 44, 29 CFR § 2700.44, dealing with temporary reinstatement of miners.

It was determined by a unanimous vote of Commissioners that this item be added to the meeting and that no earlier announcement of the addition was possible.

CONTACT PERSON FOR MORE INFO: Jean Ellen, 202-653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86-9170 Filed 4-21-86; 12:45 pm]

BILLING CODE 6735-01-M

2

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS)

TIME AND DATE: 11:00 a.m., Monday, April 28, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Compressed work week policy.

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 21, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-9122 Filed 4-21-86; 10:51 am]

BILLING CODE 6210-01-M

3

INTERNATIONAL TRADE COMMISSION

[USITC SE-86-12A/13/A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETINGS: 2:00 P.M., Monday, April 14, 1986; and 11:00 A.M., Friday, April 18, 1986.

CHANGES IN THE MEETINGS:

Meeting scheduled for Monday, April 14, 1986 is cancelled.

Addition of agenda items for Friday, April 18, 1986:

3. Agenda
4. Minutes
5. Ratification List
6. Any items left over from previous agenda.

In conformity with 19 CFR 201-37(b), Commissioners Stern, Eckes, Lodwick, and Rohr determined by unanimous vote that Commission business required the cancellation of the meeting scheduled for Monday, April 14, 1986, and required the change in subject matter of the meeting on April 18, 1986 by addition of the agenda items, and affirmed that no earlier announcement of the addition to the agenda was possible, and directed the issuance of this notice at the earliest practicable time. Commissioners Liebeler and Brunsdale were not present for the deliberations.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

April 14, 1986.

[FR Doc. 86-9098 Filed 4-18-86; 4:40 pm]

BILLING CODE 7020-02-M

4

INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, April 30, 1986.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, DC 20423.

STATUS: Open Special Conference.

MATTER TO BE DISCUSSED: Ex Parte No. 346 (Sub-No. 19)—Boxcar Car Hire and Car Service.

CONTACT PERSON FOR MORE INFORMATION: Alvin H. Brown, Office of Legislative and Public Affairs, Telephone: (202) 275-7252.

James H. Bayne,

Secretary.

[FR Doc. 86-9149 Filed 4-21-86; 11:44 am]

BILLING CODE 7035-01-M

5

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of April 21, 28, May 5, and 12, 1986.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of April 21

Wednesday, April 23

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for Palo Verde-2 (Public Meeting)

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Braidwood QA Contention (tentative)
b. Advanced Reactor Policy Statement
c. Final Rule Establishing Criteria for Reopening Records for Formal Licensing Proceedings

Week of April 28

Tentative

Thursday, May 1

9:30 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 and 6)

11:30 a.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of May 5

Tentative

Wednesday, May 7

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for Catawba-2 (Public Meeting)

Thursday, May 8

2:00 p.m.
Meeting with Advisory Committee on Reactor Safeguards on Safety Goal Policy (Public Meeting)

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of May 12

Tentative

Thursday, May 15

9:30 a.m.
Briefing by AIF on State of the Industry (Public Meeting)

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

ADDITIONAL INFORMATION: Affirmation of "Request for Hearing on Amendments to Source Materials Licenses" (Public Meeting) was held April 16.

Affirmation of "Perry Appeal Board Decision to Hold an Exploratory Hearing on Safety Significance of Issues Raised in Intervenor's Motion to Reopen" (Public Meeting) was held April 17.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: L. Ong (202) 634-1410.

L. Ong,

Office of the Secretary.

April 17, 1986.

[FR Doc. 86-9102 Filed 4-18-86; 4:40 pm]

BILLING CODE 7590-01-M

6

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

TIME AND DATE: 10:00 A.M., Thursday, May 1, 1986.

PLACE: Room 410, 1825 K Street, N.W., Washington, D.C. 20006.

STATUS: Open Meeting.

MATTERS TO BE CONSIDERED: Possible Revisions to the Commission's Rules of Procedure, Subpart D. Pre-hearing Procedures and Discovery. 29 CFR 2200.51 through 2200.59.

CONTACT PERSON FOR MORE INFORMATION: Mrs. Mary Ann Miller. (202) 634-4015.

Earl R. Ohman, Jr.,

General Counsel.

Date: April 21, 1986.

[FR Doc. 86-9179 Filed 4-21-86; 1:21 pm]

BILLING CODE 7600-01-M

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federal register

Wednesday
April 23, 1986

Part II

Environmental Protection Agency

40 CFR Part 60
Standards of Performance for New Stationary Sources; Calciners and Dryers in Mineral Industries; Proposed Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2939-8]

Standards of Performance for New Stationary Sources; Calciners and Dryers in Mineral Industries

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Rule and Notice of Public Hearing.

SUMMARY: The proposed standards would limit emissions of particulate matter (PM) from new, modified, and reconstructed calciners and dryers at mineral processing plants. The proposed standards implement section 111 of the Clean Air Act and are based on the Administrator's determination that emissions from the source categories that include mineral calciners and dryers, cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The intent is to require new, modified, and reconstructed mineral calciners and dryers to control emissions to the level achievable by the best demonstrated system of continuous emission reduction, considering costs, nonair quality health, and environmental and energy impacts.

A public hearing will be held, if requested, to provide interested parties an opportunity for oral presentations of data, views, or arguments concerning the proposed standards.

DATES: *Comments.* Comments and requests for a public hearing must be received on or before July 7, 1986.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by May 14, 1986, a public hearing will be held on June 9, 1986, beginning at 10:00 a.m. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541-5578 to verify that a hearing will be held.

Request To Speak at Hearing. Persons wishing to present oral testimony must contact EPA by May 14, 1986.

ADDRESSES: *Comments.* Comments should be submitted (in duplicate if possible) to: Central Docket Section (LE-131), Attention Docket Number OAQPS-A-82-39, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Public Hearing. If anyone contacts EPA requesting a public hearing, it will be held at EPA's Office of Administration Auditorium, Research Triangle Park, North Carolina. Persons interested in attending the hearing or wishing to present oral testimony should notify Ms. Shelby Journigan, Standards Development Branch (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone number (919) 541-5578.

Background Information Document. The Background Information Document (BID) for the proposed standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "Calciners and Dryers in Mineral Industries—Background Information for Proposed Standards" [EPA-450/3-85-025a].

Docket. Docket No. A-82-39, containing supporting information used in developing the proposed standards, is available for public inspection and copying between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section, West Tower Lobby, Gallery 1, Waterside Mall, 401 M Street SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Doug Bell or Mr. David Painter (919) 541-5624, Standards Development Branch, concerning regulatory decisions and the standard, or Mr. Kenneth Durkee (919) 541-5595, Industrial Studies Branch, concerning technical aspects of the industries and control technologies. The address for all parties is Emission Standards and Engineering Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. New Source Performance Standards—General

New source performance standards (NSPS) implement Section 111 of the Clear Air Act. The NSPS are issued for categories of sources which cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. They apply to new stationary sources of emissions, i.e., sources whose construction, reconstruction, or modification begins after a standard for them is proposed.

An NSPS requires these sources to control emissions to the level achievable by "best demonstrated technology," or "BDT," which is defined in item B.3 below.

B. NSPS Decision Scheme

An NSPS is the product of a series of decisions related to certain key elements for the source category being considered for regulation. The elements identified in this "decision scheme" are generally the following:

1. *Source category to be regulated.* Usually an entire industry but can be a process or group of processes within an industry.

2. *Pollutant(s) to be regulated.* The particular substance(s) emitted by the source that the standard will regulate.

3. *Best demonstrated technology.* The technology on which the Agency will base the standards, i.e.,

> • • • application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated. [Section 111(a)(1)].

For convenience, this will be referred to as "best demonstrated technology" or "BDT."

4. *Affected facility.* The pieces or groups of equipment that comprise the sources to which the standards will apply.

5. *Emission points to be regulated.* Within the affected facility, the specific physical location emitting pollutants (e.g., vents, stacks, and equipment leaks).

6. *Format for the standard.* The form in which the standards are expressed, i.e., as a percent reduction in emissions, as pollutant concentrations, or as equipment standards.

7. *Actual standards.* Based on what BDT can achieve, the maximum permissible emissions.

> Note.—In general, standards do not require that a specific technology be used to achieve them. The source owner/operator may select the method for achieving the pollution control required.

8. *Other possible considerations.* In addition, NSPS often include: standards for visible emissions, modification/reconstruction considerations, monitoring requirements, performance test methods, and reporting and recordkeeping requirements.

C. Overview of This Preamble

This preamble will:

1. Summarize the important features of the NSPS by discussing the conclusions reached with respect to each of the elements in the decision scheme.

2. Describe the environmental, energy, and economic impacts of the NSPS.

3. Present a rationale for each of the decisions in the decision scheme.

4. Discuss administrative requirements relevant to this action.

II. Summary of the NSPS

A. Source Category To Be Regulated

The proposed standards would apply to new, modified, and reconstructed calciners and dryers at mineral processing plants. For the purpose of the proposed standards, a mineral processing plant is any facility that processes or produces any of the following minerals or their concentrates: alumina, ball clay, bentonite, diatomite, feldspar, fire clay, fuller's earth, gypsum, industrial sand, kaolin, lightweight aggregate (clay, shale, and slate), magnesium compounds, perlite, roofing granules, talc, titanium dioxide, and vermiculite.

The affected facility for mineral processing plants in each of the industries listed above would be each calciner and each dryer. The types of dryers to which the proposed standards would apply include: rotary (direct), rotary (indirect), fluid bed, vibrating-grate, flash, and spray dryers. The types of calciners to which the proposed standards would apply include: rotary, flash, and kettle calciners; multiple hearth furnaces; and expansion furnaces.

The following processes and process units used at mineral processing plants would not be regulated under the NSPS: vertical shaft kilns in the magnesium compounds industry; the chlorination-oxidation process in the titanium dioxide industry; coating kilns, mixers, and aerators in the roofing granules industry; and tunnel kilns, tunnel dryers, apron dryers, and grinding equipment that also dries the process material used in any of the 17 mineral industries. The reasons for their exclusion are discussed in Section IV.A. of this preamble.

B. Pollutant(s) To Be Regulated

The proposed standards would limit emissions of PM from new, modified, and reconstructed mineral calciners and dryers.

C. Best Demonstrated Technology

The BDT is the technology for emission reduction on which the proposed emission standards are based. The BDT for controlling emissions from calciners and dryers in this source category is the use of a fabric filter, wet scrubber, or electrostatic precipitator (ESP). In cases where either of two control devices can be used on the same type of process unit and both devices are cost effective, both control devices are considered BDT.

Many of the control devices on existing calciner and dryer facilities are, or are capable of, achieving emission levels below the State implementation plan (SIP) level. This same control technology that is used at existing plants can also be used at new plants to achieve the NSPS. However, in most cases, facilities that become subject to the NSPS will only have to perform control device maintenance more frequently than is typical at existing plants, or modify control device operating parameters (i.e., increase the pressure drop on a wet scrubber) from those at existing facilities to ensure compliance with the NSPS. By requiring better operation and maintenance procedures, the NSPS will preclude the deterioration in performance of new source control devices to the PM SIP levels or to the allowable State opacity limits.

D. Affected Facility

The affected facility in each mineral industry is the calciner or dryer process unit. Feed and product conveyors are not considered part of the affected facility.

E. Format for the Standards

The format selected for these standards would be the concentration of PM emissions per standard unit of gas flow, i.e., grams of particulate per dry standard cubic meter of gas (g/dscm) (grains per dry standard cubic foot of gas [gr/dscf]).

F. Actual Standards

The proposed standards would limit the concentration of PM at the outlet of a control device to 0.09 g/dscm (0.04 gr/dscf) for calciners and for calciners and dryers installed in series and 0.057 g/dscm (0.025 gr/dscf) for dryers.

G. Standard for Visible Emissions

Stack emissions would also be limited to 10 percent opacity for process units controlled with dry control devices. The visible emissions standard would not apply to affected facilities that use wet scrubbers to control emissions. Instead, monitoring and reporting of the operating parameters of wet scrubbers (pressure drop and liquid flow rate) would be required to indicate that the control device is properly operated and maintained on a routine basis.

H. Modification/Reconstruction Considerations

According to the General Provisions (40 CFR 60.14), a modification is defined as certain physical or operational changes to an existing facility that would increase the PM emission rate to the atmosphere from that facility. If a raw material or fuel change occurs for which the calciner or dryer was originally designed, the change is not considered a modification. However, if a change is made that allows a unit to burn a fuel or process a new material for which it was not originally designed and any increase in PM emissions occurs because of this change, the change is considered to be a modification.

According to the General Provisions (40 CFR 60.15), reconstruction is defined as the replacement of the components of an existing facility to the extent that (1) the fixed capital cost of the new components exceeds 50 percent of the fixed capital cost required to construct a comparable new facility and (2) it is technically and economically feasible for the facility to meet the applicable standards. Because replacement or refurbishing of equipment parts subject to high temperatures, abrasion, and impact (e.g., end seals, flights refractory lining) is performed on a regular basis, it is considered routine maintenance rather than reconstruction or modification.

I. Compliance Testing

Under the proposed standards, compliance tests for PM emissions would be required for all air pollution control devices on new, modified, and reconstructed calciners and dryers. The PM emissions would be measured using EPA Reference Method 5 to determine compliance with the stack emissions standards. Visible emissions from dry control devices would be measured using EPA Reference Method 9.

J. Monitoring Requirements

With the exception of the four process unit/control device combinations discussed below, the owner or operator of a calciner or dryer who uses a fabric filter or a dry ESP control device to comply with the mass emissions standards would be required to install, calibrate, maintain, and operate a continuous monitoring system to measure and record the opacity of emissions discharged into the atmosphere from the control device. In lieu of a continuous opacity monitoring system, the owner or operator of a gypsum flash or kettle calciner or of a perlite rotary dryer or expansion furnace who uses a dry control device could have a certified observer record three 6-minute averages of the opacity of visible emissions from the control device, once per week of operation, in accordance with EPA Reference Method 9.

When a wet scrubber is used to comply with the calciner or dryer mass emission standard, the owner or operator would be required to install, calibrate, maintain, and operate

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monitoring devices that continuously measure and record the pressure loss of the gas stream through the scrubber and the scrubbing liquid flow rate to the scrubber. The pressure loss monitoring device must be certified by the manufacturer to be accurate within ±1 inch of water column (in. w.c.) gauge pressure and must be calibrated on a simiannual basis in accordance with manufacturer's instructions. The liquid flow rate monitoring device must be certified by the manufacturer to be accurate within ±5 percent of design scrubbing liquid flow rate and must be calibrated on a semiannual basis in accordance with the manufacturer's instructions.

K. Reporting and Recordkeeping

The proposed standards would require industry to provide the reports required under the General Provisions (40 CFR 60.7, 60.8 and 60.11). The General Provisions require the owner or operator of an affected facility to notify the Administrator or his designated representative of the construction, anticipated startup, actual startup, and control system performance test of an affected facility, including initial compliance testing for the visible emissions standards.

During the most recent performance test, an average value of each wet scrubber operating parameter will be determined for the control device. Exceedances of this value, defined as less than 90 percent or greater that 110 percent of the average pressure drop, or less than 80 percent or greater than 120 percent of the average liquid flow rate, will be required to be reported to the Administrator semiannually. All 6-minute periods during which the average opacity from dry devices is greater than 10 percent will also be required to be reported semiannually.

III. Impacts of the NSPS

At present, 48 industry/process unit combinations are known to exist. A total of 87 model facilities were developed to represent one to three production sizes for each industry/process unit combination. As a result, no single "typical facility" exists that can be used as the basis for analyzing the impacts of the proposed standards. Instead, impacts were determined for model facilities representative of the typical-size process unit for each of the 48 industry/process unit combinations. There are expected to be 198 affected facilities in the first 5 years after the NSPS would become applicable. Of the 198 affected facilities, 94 will be constructed to provide new production capacity and 104 will replace existing facilities. Impacts to the NSPS were based on this projection.

A. Air

In the fifth year after the NSPS would become applicable (1990), nationwide emissions of PM would decrease by 7,900 Mg (8,800 tons) compared to emissions allowed under typical SIP's. This represents a 78 percent reduction in emissions.

B. Water

The standards would not produce adverse water pollution impacts.

C. Solid Waste

The nationwide increase in solid waste (as a sludge containing 70 percent moisture) in 1990 would be 7,500 Mg (8,300 tons), compared to the SIP level.

D. Noise

The noise introduced by air pollution control devices at new or modified facilities (e.g., fan noise) would not significantly increase the noise levels beyond those already produced by processing equipment at the plant.

E. Radiation

There will be no radiation impacts resulting from the proposed standards.

F. Energy

In the fifth year after the NSPS would become applicable, the maximum increase in energy consumption for mineral calciner and dryer control devices nationwide would be 17,000 megawatt-hours (MWh), compared to the SIP level for typical facilities. This incremental energy requirement due to the NSPS to operate control equipment would be less than 1 percent of the energy demands to operate the calciner and dryer process units.

G. Control Costs

1. *Nationwide Costs.* Based on industry growth projections, it is estimated that 62 new calciners and 32 new dryers will be installed in the first 5 years that the NSPS is in effect. In addition, during this same time period it is expected that 60 calciners and 44 dryers will be replaced at existing facilities at the end of their useful lives.

The total nationwide incremental capital cost of pollution control equipment in 1990 would range from $2.2 to $3.0 million under the proposed standards compared to the SIP level. The variation in costs is due to those process units for which either a fabric filter or a wet scrubber could be installed. If only wet scrubbers were installed, the capital cost of installation would be lower than if only fabric filters were installed.

The total nationwide incremental annualized cost of pollution control equipment in 1990 would range from $0.7 to $1.0 million. If only wet scrubbers were installed where an option exists, the annualized costs would be higher than if only fabric filters were installed because of the additional energy costs associated with operating a scrubber and the product recovery credits associated with operating a fabric filter.

At the 94 new facilities, capital control costs would be incurred for wet scrubbers and ESP's where the control device design parameters (pressure drop, plate area) are upgraded to achieve an NSPS emission limit more stringent than the SIP emission limit. For these same facilities, annualized control costs would be incurred under the NSPS for fabric filters because of improved operation and maintenance and for wet scrubbers and ESP's because of the energy demand associated with upgraded design parameters. For the 104 new process units that are projected in the first 5 years of the NSPS to replace existing units at the end of their useful lives, capital control device costs would increase over baseline levels in 23 percent of the cases as a result of upgrading the design of the control devices (e.g., increased pressure drop for a wet scrubber). In 11 percent of the cases, the existing wet scrubber control devices are operated at pressure drops that achieve both the SIP and NSPS emission limits, and, therefore, no incremental capital costs would be incurred as a result of the NSPS. In 66 percent of the cases, fabric filters installed to meet SIP emission limits would achieve the NSPS emission limit with improved operation and maintenance. Therefore, there is no capital cost increase for fabric filter control devices. The annualized control device costs for these 104 projected process units would increase as a result of improved operation and maintenance of fabric filters (66 percent of the cases) or as a result of upgrading the design of a wet scrubber or ESP (23 percent of the cases). As with the capital costs, annualized control costs would not change in 11 percent of the cases where wet scrubbers achieve both the SIP and NSPS emission limits.

H. Economic Effects

The projected growth and profitability of the 17 mineral industries are not expected to be affected adversely by implementation of the NSPS. For 15 of the 17 industries included in the analysis, the product price increases that would be required as a result of implementation of the NSPS would typically be less than 0.5 percent. Typical-size facilities in the fire clay and lightweight aggregate industries could experience product price increases of 1 and 1.75 percent, respectively, as a result of implementation of the NSPS. Additional discussion about the economic effects on these two industries in presented in Section IV.C.5 of this preamble.

IV. Rational for Proposed Standards

A. Selection of Source Category

1. *Threat to Public Health and Welfare Posed by Mineral Calciners and Dryers.* The mineral industries being covered by the NSPS already have been shown to be major contributors to air pollution that may reasonably be anticipated to endanger public health or welfare. There are 6 source categories currently listed on the NSPS priority list (44 FR 49225, August 21, 1979, revised January 8, 1982) that include 15 of the 17 mineral industries being covered by the NSPS. Number 13 on the priority list is Nonmetallic Mineral Processing, which includes sand and gravel, clay (ball clay, bentonite, fuller's earth, kaolin), talc, feldspar, diatomite, and vermiculite. Number 14 on the priority list, Metallic Mineral Processing, includes aluminum and titanium. The lightweight aggregate industry (clay, shale, and slate) is Number 32 on the NSPS priority list. Numbers 34, 46, and 54 on the priority list are Gypsum, Brick and Related Clay Products (fire clay), and Perlite, respectively. For the Brick and Related Clay Products source category, only calcining and drying of raw materials prior to firing of the brick are included in this source category.

The two industries covered by the NSPS that are currently not included in the Nonmetallic Mineral Processing or Metallic Mineral Processing source categories listed on the priority list are roofing granules and magnesium compounds. The Agency is proposing to expand these two source categories (Nos. 13 and 14) to include roofing granules and magnesium compounds. Roofing granules logically belong in the Nonmetallic Mineral Processing source category and magnisum compounds belong in the Metallic Mineral Processing source category and are, therefore, being added. The calciner and dryer processing units in these two industries process materials that can be controlled with similar effectiveness, costs, and control techniques as calciner and dryer units in the other industries being covered by the NSPS.

2. *Inclusions and Exclusions from the Source Category.* The standards would apply to new, modified, and reconstructed calciners and dryers used in the 17 mineral industries discussed above. Drying in defined as the removal of uncombined (free) water from the mineral material through direct or indirect heating. Calcining is the removal of combined (chemically bound) water and/or gases from the mineral material through direct or indirect heating. Combined calciner/dryer systems, which are common in the diatomite industry, would also be included and would be required to meet the emission limits established for calciners.

The following processes or process units will not be regulated under the NSPS: barite and borate manufacturing, iron ore pelletizing, pumice and sodium sulfate manufacturing, chlorination/oxidation processes in the titanium dioxide industry, apron and tunnel dryers, grinding mills that dry process material, coating kilns in the roofing granules industry, vertical shaft kilns in the magnesium compounds industry, and coolers. The reasons for their exclusion are discussed below.

In 1981, all mineral industries were reviewed to ascertain which industries had process equipment that could be considered dryers or calciners. The following 20 industries were selected for further analysis in the generic source category: alumina, ball clay, barite, bentonite, borates, diatomite, feldspar, fire clay, fuller's earth, industrial sand, iron ore pelletizing, kaolin, magnesium compounds, magnesium metal, pumice, roofing granules, sodium sulfate, talc, titanium dioxide, and vermiculite. Five of these original 20 industries, barite, magnesium metal, pumice, sodium sulfate, and iron ore pelletizing were subsequently dropped from consideration due to their limited growth potential. In addition, the Agency determined that chlorination/oxidation processes in the titanium dioxide industry did not involve the use of calciners or dryers to remove water, and, therefore, these processes were also dropped from this generic source category. The borate industry was dropped from further consideration along with the following process units: apron dryers, tunnel dryers, coolers, grinders that also dry process material, coating kilns in the roofing granules industry, and vertical shaft kilns in the magnesium compounds industry. The borate industry was dropped from further consideration because the potential emission reduction below the baseline level in the fifth year would be less than 91 Mg (100 tons) for the entire industry. Apron dryers and tunnel dryers are used infrequently and are typically uncontrolled at existing facilities. Based on State compliance test data, apron and tunnel dryers have uncontrolled particulate emission levels lower than the proposed emission limit for other mineral dryers. All cooler types were also dropped from further consideration because of their lack of emission reduction potential. Grinding equipment that also dries the process material is currently regulated by the nonmetallic minerals NSPS for any of the industries covered by the NSPS. Two other process units, coating kilns and vertical shaft kilns, were deleted because they did not fit the definition of a typical calciner. Coating kilns used in the roofing granules industry bake colored clay pigments onto already dried granules. Vertical shaft kilns are used in the magnesium compounds industry, and they sinter the raw material after it has been calcined in a multiple hearth furnace.

B. Pollutant(s) to be Regulated

1. *Particulate matter.* Particulate matter is the principal pollutant emitted to the atmosphere from mineral calciners and dryers. Nationwide PM emissions in 1990 from calciners and dryers in the 17 mineral industries would be approximately 10,200 Mg (11,300 tons) under existing SIP regulations. Continuous emission reduction systems are available that would reduce emissions as much as 78 percent below the SIP level.

2. *Other Pollutants Considered.* Most calciners and dryers are fired with natural gas and generate oxides of nitrogen (NO_x) and small quantities of sulfur dioxide (SO_2) as combustion products. It is expected that natural gas will continue to be the primary fuel used to fire most of these units. Bentonite, fire clay, and lightweight aggregate are the only industries covered by the NSPS that routinely use coal for fuel. None of the data obtained from the 17 industries showed the usage of NO_x or SO_2 control technology.

The Agency tested one fire clay rotary calciner and four lightweight aggregate rotary kilns to obtain an SO_2 data base for future investigation of SO_2 emissions. The results of these five tests are presented in the BID for the NSPS. and they indicate that both fire clay and lightweight aggregate rotary calciners show a potential to be major sources of SO_2 emissions. This limited data base is insufficient, however, to develop technology transfer for SO_2 control from other source categories, such as

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industrial boilers, that use flue gas desulfurization systems for SO_2 control.

Data for NO_x emissions were obtained for five rotary calciners in the fire clay, lightweight aggregate, and titanium dioxide industries. These data show that both fire clay and lightweight aggregate rotary calciners are potential major sources of NO_x emissions. However, control technology for NO_x emissions has not been demonstrated on mineral calciners.

Because SO_2 and NO_x control technologies are not used in the 17 mineral industries, and because the data base is insufficient at this time to develop technology transfer for SO_x and NO_x control, the Agency is not regulating SO_2 and NO_x emissions from mineral calciners and dryers.

C. Selection of Best Demonstrated Technology

Section 111 of the Clean Air Act requires that standards of performance reflect BDT, which is the technology that yields the greatest emission reduction without imposing unreasonable impacts. *Essex Chemical Corp. v Ruckelshaus*, 486 F.2d 427. (D.C. Cir. 1973).

1. *Applicable Control Technologies.* An efficient PM collection device used in the mineral industries is the fabric filter. Data gathered during emission tests on fabric filters used to control emissions from a variety of calciners and dryers indicate that variations in the size distribution of PM and the mineral processed do not typically affect fabric filter performance. Other collection devices used in the mineral industries include dry ESP's and wet scrubbers. Dry ESP's are used only in the alumina, bentonite, gypsum, lightweight aggregate, and magnesium compounds industries. Both fabric filters and ESP's can achieve greater than 99 percent PM collection efficiency for calciner and dryer emissions in a variety of mineral industries.

The effectiveness of wet scrubbers for the control of calciner and dryer PM emissions is directly related to the pressure drop across the scrubber. The collection efficiency for a given particle size distribution increases as pressure drop increases. Pressure drops for wet scrubber-controlled calciners and dryers range form 0.5 to 70 in. w.c. For example, higher pressure drops are required for the smaller particle size distributions of titanium dioxide than are required for the larger particle size distributions of industrial sand to achieve the same emission limit.

The cost of operating pollution control equipment for calciners and dryers increases with increased maintenance and improved efficiency. Fabric filters must be equipped with heat-resistant bag materials such as Teflon® or Nomex® to control PM entrained in heated gas streams from calciners and dryers. The cost of complying with an emission limit increases as the emission limit decreases because more labor hours are required to maintain the fabric filter in its most efficient state. Maintenance of ESP's also must be performed more frequently to achieve greater emission reduction. In addition, the specific collection area of an ESP may need to be increased or multistage ESP's may need to be used to obtain a greater PM emission reduction. The cost of operating a wet scrubber increases with increasing pressure drop because of the additional energy required to achieve the higher pressure drop across the scrubber.

In many instances, a particular calciner or dryer could be controlled by either a dry control device (fabric filter or ESP) or a wet scrubber. For these units, wet scrubbers would typically have lower capital costs and higher annualized costs than fabric filters or ESP's.

2. *Regulatory Alternatives Considered.* The EPA considered the following regulatory alternatives as the means of achieving control of emissions:

a. Regulatory Alternative I (RA I) is equivalent to no additional regulatory action beyond that required by typical SIP's, i.e., baseline. Allowable PM emission limits under SIP's vary widely as discussed below.

Individual States use a variety of regulations and formulas to determine allowable PM emissions from calciners and dryers used in mineral processing industries. For the determination of RA I levels for each process unit, each mineral industry was surveyed, and the number and type of control devices used to control PM emissions from calciners and dryers were tabulated. The most commonly used control device on each process unit was selected as baseline control technology for that type of unit. To determine the range of emissions allowed by States for a particular industry, concentration emission limits equivalent to allowable emissions under the SIP's were calculated for each size and type of model process unit. Typical size process units were then used to develop a single, nationwide average SIP emission limit using a weighted average of total production by State. If the calculated baseline emission limit was greater than 0.45 g/dscm (0.20 gr/dscf) and the baseline control technology was a fabric filter, it was assumed, based upon EPA studies relating plume opacities to mass concentrations of PM, that the typical State opacity limits of 20 percent are more stringent than the corresponding SIP mass emission limits. For these cases, a baseline emission concentration that would approximate an exhaust gas opacity of 20 percent, i.e., 0.34 g/dscm (0.15 gr/dscf), was selected for evaluation.

Data obtained from EPA-conducted tests or from State compliance tests approved by EPA show that, in some instances, controlled emission levels from calciners and dryers at existing facilities are significantly lower than the mass emission limits stipulated by the appropriate SIP regulations. Therefore, the same control technology that is used at existing facilities could also be used at affected facilities to achieve the NSPS. However, in many cases, facilities subject to the NSPS would have to perform control device maintenance more frequently than is typical at existing plants or modify control device operating parameters from those at existing facilities to ensure compliance with the NSPS. By requiring better operation and maintenance procedures, the NSPS would reduce the deterioration in performance of new source control devices to the SIP levels or to the allowable State opacity limits.

b. Regulatory Alternative II (RA II) is equivalent to an emission control level for both calciners and dryers of 0.09 g/dscm (0.04 gr/dscf). As discussed below, the results of emission tests and scrubber performance modeling indicate that this level could be achieved by all affected facilities in all of the 17 mineral industries.

c. Regulatory Alternative III (RA III) is equivalent to an emission control level for calciners of 0.09 g/dscm (0.04 gr/dscf) and an emission control level for dryers of 0.057 g/dscm (0.025 gr/dscf). The emission test results indicate that a higher degree of emission control for dryers versus calciners is achievable. The additional emission reduction achievable by RA III over RA II requires only a small amount of additional maintenance on the control devices for dryers.

Emission test data from 52 source tests comprise the data base. Of the 52 tests, 25 were conducted on dryers. These data show that all ESP- and fabric filter-controlled dryers can achieve the emission level associated with RA III of 0.057 g/dscm (0.025 gr/dscf) during normal operation. Tests of 15 wet scrubber-controlled dryers in 7 industries indicate that for 10 of the 15 dryers, relatively low-energy wet scrubbers (3- to 10-in. w.c. pressure drop) were able to reduce emissions to less than the level of RA III. The other five dryers were unable to achieve the level of RA III with a low-energy scrubber. The emissions for all 15 dryers averaged 0.04 g/dscm (0.02 gr/dscf) and never exceeded 0.09 g/dscm (0.04 gr/dscf).

Of the 52 source tests comprising the data base, 27 tests were conducted on calciners. These data show that all ESP- and fabric filter-controlled calciners can achieve the emission level associated with RA III of 0.09 g/dscm (0.04 gr/dscf) during normal operation. Of the 27 tests, 9 tests were conducted on wet scrubber-controlled calciners in 5 industries. Of the nine tests, six of the calciners had emissions at or below the level of RA III. The concentration of PM emissions from these units averaged 0.09 g/dscm (0.04 gr/dscf) and never exceeded 0.17 g/dscm (0.08 gr/dscf).

Several dryers and calciners tested did not meet the emission limits of RA III using low-energy wet scrubbers as control equipment. To evaluate the performance of a higher energy scrubber on these systems, an EPA computerized scrubber model, as described in EPA report No. EPA–600/7–78–026, was used. These analyses indicate that dryers that had emissions in excess of 0.057 g/dscm (0.025 gr/dscf) could be controlled below that level by increasing scrubber pressure drops from 2 to 15 in. w.c. Calciners could be controlled to below 0.09 g/dscm (0.04 gr/dscf) with 17- to 24-in. w.c. pressure drop scrubbers in place of low-energy scrubbers (6 to 14 in. w.c.) now in use. Higher pressure drops (17 to 43 in. w.c.) are required for industries such as titanium dioxide, whose calciner and dryer emissions are composed of smaller particles, than are required for industries such as fuller's earth (11 in. w.c.), whose calciner and dryer emissions are composed of larger particles.

Representatives of the lightweight aggregate industry commented at the National Air Pollution Control Techniques Advisory Committee meeting that it would be unreasonable to require the pressure drop of wet scrubbers used to control rotary calciners to be increased by 13 in. w.c. to reduce emissions from certain tested facilities, which had emissions ranging from 0.10 to 0.11 g/dscm (0.042 to 0.048 gr/dscf), to the NSPS level of control. However, the 13 in. w.c. is the increase in the pressure drop that would be required to reduce emissions from the SIP level (0.20 g/dscm [0.09 gr/dscf]) to the NSPS level (0.09 g/dscm [0.04 gr/dscf]) of control. The pressure drop would have to be increased by only 3 to 5 in. w.c. to reduce emissions from the tested facilities to the NSPS level of control.

Electrostatic precipitators are used primarily in the alumina, bentonite, and magnesium compounds industries. Test data for ESP-controlled process units were obtained for a bentonite dryer, two alumina calciners, and two magnesium compounds calciners. Emissions from the dryer were 0.014 g/dscm (0.006 gr/dscf), and emissions from the calciner ranged from 0.037 to 0.056 g/dscm (0.016 to 0.025 gr/dscf).

There are 19 process unit combinations where no emission data were obtained. For these cases, one of two approaches was used to demonstrate whether the emission limit of RA III is achievable for that process unit: (1) Transfer of fabric filter technology from similar process units in other mineral industries whose PM emissions are more difficult to control than emissions from process units for which no data are available, or (2) if wet scrubbers were used on existing process units of the type in question, then the scrubber performance model discussed earlier was used to determine the pressure drop required by a venturi scrubber to achieve the emission limit of RA III. For both of these approaches, it was necessary to determine the process units that are most difficult to control. The Agency collected grab samples of the product materials from all process units for which emission data were unavailable and performed sieve analyses on them to determine particle size distributions. Similar analyses were performed for grab samples of materials collected during EPA-conducted emission tests. Analysis of the results of the sieve analyses indicates that the products of bentonite rotary dryers (69 percent less than 1.2 μm), fire clay rotary dryers (49 percent less than 1 μm), and kaolin multiple hearth furnaces (62 percent less than 2 μm), have the smallest particle size distributions of all of the process units covered by the NSPS. Emission tests were performed on process units utilizing these three materials. The bentonite rotary dryer was controlled by a fabric filter and had emissions of 0.047 g/dscm (0.02 gr/dscf). The fire clay rotary dryer was controlled by a 12-in. w.c. pressure drop scrubber and had emissions of 0.088 g/dscm (0.038 gr/dscf). The kaolin multiple hearth furnace was also controlled by a 12-in. w.c. pressure drop scrubber and had emissions of 0.047 g/dscm (0.020 gr/dscf).

In addition to the sieve analyses and outlet mass emission data obtained, inlet PM loading to the control device was measured during the emission tests conducted by the Agency. The highest loading, 259 g/dscm (113 gr/dscf), was measured at the inlet of a product recovery cyclone preceding a fabric filter controlling the bentonite rotary dryer. The inlet loading to the wet scrubber controlling the fire clay rotary dryer was 12 g/dscm (5 gr/dscf). The kaolin multiple hearth furnace had an inlet loading concentration of 9 g/dscm (4 gr/dscf).

These data are representative of the most difficult to control process unit combinations covered by the NSPS. Technology transfer analysis of the fabric filter-controlled bentonite dryer, with controlled emissions of 0.047 g/dscm (0.02 gr/dscf), indicates that other fabric filter-controlled calciners and dryers processing minerals with larger particle size distributions and lower inlet loading concentrations can achieve the emission limits of RA III. Similarly, wet scrubber-controlled calciners and dryers processing materials with a larger particle size distribution and lower inlet concentration than fire clay or kaolin can achieve the emission limits of RA III with the appropriate pressure drop.

The scrubber performance model was used to determine the pressure drop required to achieve the emission limits of RA III for those units for which emission test data were unavailable and for those units controlled by low-energy wet scrubbers whose emissions exceeded the emission limits of RA III. For those units for which emission test data were unavailable, input variables for the scrubber model were based on the smallest inlet particle size distribution and highest inlet loading concentration obtained from emission test data for process units that had similar or smaller product material particle size distributions. Modeling of scrubber performance was performed on 17 process units in 10 industries. The estimated pressure drop for larger materials such as industrial sand and roofing granules was approximately 3 in. w.c. Smaller-sized materials such as fire clay, kaolin, and titanium dioxide would require scrubber pressure drops of 14 to 43 in. w.c. to achieve the emission limits of RA III. For both fabric filter- and wet scrubber-controlled mineral calciners and dryers, the data base supports the achievability of the emission limits of RA III by the most difficult to control process units. Emission test data for ESP-controlled calciners and dryers were all below the emission limits of RA III and, therefore, ESP-controlled calciners and dryers can also achieve the emission limits of RA III.

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3. *Environmental Impacts.* The environmental impacts associated with the NSPS include air, water, solid waste, and noise. The primary air pollution impact is from PM emissions. Regulatory Alternative I is equivalent to no additional regulatory action beyond that required by typical SIP's, i.e., baseline. As shown in Tables 1 and 2, the emission reduction attributable to RA II would be 3,550 Mg (3,920 tons) for dryers and 3,970 Mg (4,370 tons) for calciners in the fifth year (1990). The emission reduction attributable to RA III would be 4,000 Mg (4,420 tons) for dryers and 3,970 Mg (4,370 tons) for calciners in the fifth year. The total annual PM emission reduction below baseline for all dryers and calciners in the fifth year for RA II would be 7,500 Mg (8,300 tons), or 73 percent. The total annual PM emission reduction below baseline for all dryers and calciners in the fifth year for RA III is 7,900 Mg (8,800 tons), or 78 percent.

TABLE 1.—REGULATORY ALTERNATIVE IMPACTS FOR DRYERS

Regulatory alternative considered	Emission reduction, Mg/yr [a]	Average cost effectiveness versus baseline, $/Mg	Average incremental cost effectiveness, $/Mg [b]
I (baseline)	(c)		
II	3,550 [d]	360	360
III	4,000 [d]	370	310

[a] Emission reduction range for typical size units. Reduction credit was given to the fabric filter where an option exists. Breakdowns are based on existing percentages of each device.
[b] Incremental cost effectiveness—additional cost of next-more-restrictive control technique.
[c] Emission reduction attributable to the SIP versus uncontrolled dryers = 397,300 Mg/yr.
[d] Emission reduction below baseline.

TABLE 2.—REGULATORY ALTERNATIVE IMPACTS FOR CALCINERS

Regulatory alternative considered	Emission reduction, Mg/yr [a]	Average cost effectiveness versus baseline, $/Mg	Average incremental cost effectiveness, $/Mg [b]
I (baseline)	(c)		
II and III [d]	3,970 [e]	410	410

[a] Emission reduction range for typical size units. Reduction credit was given to the fabric filter where an option exists. Breakdowns are based on existing percentages of each device.
[b] Incremental cost effectiveness—additional cost of next-more-restrictive control technique.
[c] Emission reduction attributable to the SIP versus uncontrolled calciners = 156,600 Mg/yr.
[d] The level of control for calciners for both RA II and RA III is 0.09 g/dscm.
[e] Emission reduction below baseline.

Wet scrubbers are the only control devices on calciners and dryers in the mineral industries that generate wastewater streams requiring treatment or disposal. Typically, a PM-contaminated water stream from a scrubber is pumped to a settling pond on the site and not discharged into navigable waterways. The solids settle in the pond, and the water is recirculated to the scrubber. When solids fill the pond, the pond can be dredged, and the solids can be landfilled, or a new pond can be constructed. Therefore, there would be no adverse water pollution impacts due to implementation of any of the regulatory alternatives.

The material collected by fabric filters and ESP's is typically recycled back to the production process or is sold directly. Therefore, little solid waste is generated by fabric filters and ESP's. The main source of solid waste would be the solids in the sludge produced by wet scrubbers. Typical dewatered sludge from a settling pond contains about 30 percent solids. The solids in the sludge are mainly the mineral processed by the dryers and calciners. The nationwide solid waste (as sludge containing 70 percent moisture) increase over baseline levels in 1990 would be 7,000 Mg (7,700 tons) for RA II and 7,500 Mg (8,300 tons) for RA III. In the case of the titanium dioxide industry, the sludge generated by wet scrubbers is recycled to the process, and, therefore, no solid waste is generated. Solid wastes from dryers and calciners in mineral industries presently are not classified as hazardous wastes under the Resource Conservation and Recovery Act.

The noise introduced by air pollution control devices that would be required by either RA II or RA III will not significantly increase the noise levels beyond those already produced by processing equipment at the plant.

4. *Energy Impacts.* Operation of fabric filters, ESP's, and wet scrubbers to control PM emissions requires electrical energy. For RA II and RA III, the nationwide annual increase in energy demand of control devices over baseline levels would be 16,000 MWh and 17,000 MWh, respectively. These values represent the highest incremental electric energy requirement between fabric filters and wet scrubbers where an option exists. The additional energy required to operate the control equipment under RA II and RA III compared to RA I is less than 1 percent of the energy demand to operate the dryer and calciner process units. Therefore, the application of additional emisson control above the baseline level will not significantly increase the electrical energy demand of the mineral processing plants.

5. *Economic Impacts.* To determine the economic impacts of the proposed NSPS on each of the 17 mineral industries, financial analysis techniques were applied to the model facilities to evaluate the affordability of the pollution controls. The principal technique employed is the calculation of the maximum percent product price increase. The annualized control costs of RA III were used in the analysis because these costs are generally higher than those of RA II but are still considered to be reasonable. However, in a number of cases the annualized control costs for the two alternatives are the same and, in a few cases, the RA III costs are lower due to the product recovery credits resulting from fabric filter use, a high product value, and the greater emission reduction achieved under RA III compared to RA II.

The effect on product prices from implementation of the NSPS using the least costly control option for each of the model facilities in the 17 industries could range from a slight product price decrease for some industries to an increase of 1.75 percent for the lightweight aggregate industry. The product price increase for 15 of the 17 industries would typically be less than 0.5 percent. For the fire clay industry, a typical-size vibrating-grate dryer by itself has a 0 percent product price increase. However, the combination of a typical-size rotary dryer (0.28 percent) and a typical-size rotary calciner (0.95 percent) to produce a single product could have a 1.2 percent product price increase. Although the possible percent product price increases for fire clay and lightweight aggregate are higher than for the other 15 industries, these increases are not expected to have a significant effect on the output of either industry.

6. *Cost and Cost Effectiveness.* The Agency is not requiring that any particular control device by used to meet the recommended standards. It is technically possible to meet the emission levels associated with RA III with any of the control technologies currently in use in each respective industry. For every industry, there is at least one control technology that is cost effective. It is the improved operation and maintenance of these devices that enables the same control device to achieve a lower emission level under RA II or RA III than under RA I (e.g., the same scrubber would be operated at a higher pressure drop or fabric filter bags are replaced more frequently).

The cost-effectiveness (C/E) values for the model sizes of each process unit would range from a net credit of $1,000/Mg ($910/ton) to a cost of $5,500/Mg ($5,000/ton) for RA II versus baseline. All but one process unit, however, would have C/E values of less than or equal to $1,700/Mg ($1,500/ton) for RA II versus baseline. As shown in Tables 1 and 2, the average C/E for the least costly control option for all model sizes of calciners and dryers used in the 17 industries would be $410/Mg ($370/ton) and $380/Mg ($350/ton), respectively, for RA II versus baseline. The C/E of the perlite rotary dryer controlled by a fabric filter is $5,500-Mg ($5,000/ton). This unit has a high C/E because the emission reduction potential is small while the cost of achieving this small amount of emission reduction is relatively high. However, the additional emission reduction that would be achieved under RA III would decrease the C/E to $2,200/Mg ($2,000/ton), which is reasonable.

For RA III versus baseline, the C/E would range from a net credit of $1,000/Mg ($940/ton) to $2,200/Mg ($2,000/ton). As shown in Tables 1 and 2, the average industry-wide C/E for calciners and dryers would be $410/Mg ($370/ton) and $270/Mg ($250/ton), respectively.

For RA III versus RA II, the C/E values for the model sizes of dryers would range from a net credit of $1,200/Mg ($1,100/ton) to $1,900/Mg ($1,700/ton). The average incremental C/E for dryers for RA III versus RA II is $310/Mg ($280/ton). Because the emission levels of RA II and RA III are the same for calciners, there is no average incremental C/E value.

The C/E values are highly dependent on the product recovery credits for dry control devices. The product values used to calculate product recovery credits ranged from $9.00/Mg ($8.00/ton) for gypsum to $1,430/Mg ($1,300/ton) for titanium dioxide. The high dollar value of mineral materials such as titanium dioxide results in large product recovery credits, and, therefore, negative C/E values for some dry control devices. For this same reason, if only wet scrubbers are used where an option exists, the C/E is typically higher than it would be if only fabric filters are used.

7. *Rationale for selecting Regulatory Alternative III.* Comparison of the regulatory alternatives indicates that RA III would result in a significant reduction in PM emissions with minimal adverse water pollution, solid waste, and noise impacts. For RA III, the increase in energy consumption compared to baseline levels would not be significant and the costs and economic impacts would be reasonable. Selection of RA III results in the maximum emission reduction below baseline levels at a reasonable cost for this source category. The data base indicates that dryers can achieve a lower emission limit than calciners can achieve, across all 17 industries, without a significant additional cost compared to the additional emission reduction obtained. Therefore, RA III was selected as the recommended emission limit for regulation of calciner and dryer emissions.

D. Selection of Affected Facility

1. *General Principles.* The choice of the affected facility is based on the Agency's interpretation of Section 111 of the Clean Air Act and on the judicial construction of its meaning. See *ASARCO, Inc.*, v. *EPA*, 578 F. 2d 319 (D.C. Cir. 1978). Under this section, standards of performance must apply to new stationary sources of pollution, i.e., sources that begin construction, reconstruction, or modification after EPA proposes the standards.

"Source" is defined as "any building, structure, facility, or installation which emits or may emit any air pollutant" [Section 111(a)(3)]. Most industrial plants, however, consist of numerous pieces or groups of equipment that emit air pollutants and that may be viewed as "sources." The EPA therefore uses the term "affected facility" to designate the equipment, within a particular kind of plant, that is chosen at the "source" covered by a given standard.

In designating the affected facility, EPA determines which piece or group of equipment is the appropriate unit (the source) for separate emission standards in the particular industrial context involved. The determination is made in light of the terms and purpose of section 111. One major consideration in this decision is that a narrow designation usually brings replacement equipment under standards of performance sooner.

If, for example, an entire plant is designated as the affected facility, the standards would cover no part of the plant unless the replacement causes the plant as a whole to be "modified" or "reconstructed." The plant as a whole is *modified* only if its aggregate emissions are increased by the physical change in it, or by the change in its method of operating. Similarly, the plant is *reconstructed* only if: (1) Its cost of replacement exceeds 50 percent of the fixed capital costs required to build a comparable new facility and (2) meeting the applicable standards is technologically and economically feasible.

On the other hand, if each piece of equipment is designated as the affected facility, then as each piece is replaced, the new piece will be a new source subject to the standard. Since one purpose of section 111 is to minimize emissions by achieving emission limitation reflection BDT at all new sources, a narrow designation of the affected facility is generally the appropriate choice. It ensures that the standard will cover new emission sources within plants as they are installed. For this reason, the proposed NSPS would designate each calciner and dryer as the affected facility because to do so would maximize the coverage of the standards without causing unreasonable costs or other unreasonable impacts.

2. *Other Affected Facilities.* The definition of an affected facility in each mineral processing industry is each calciner or dryer process unit. Selection of other affected facilities for the NSPA was not required because the equipment other than calciners and dryers, i.e., crushers, grinding mills, screening operations, bucket elevators, belt conveyors, bagging operations, storage bins, and enclosed truck or railcar loading stations, is already covered by the metallic and nonmetallic minerals NSPS.

3. *Rational for Selecting Affected Facility.* Designation of each calciner and each dryer as the affected facility will ensure the greatest emission reductions and will ensure that replacement calciners and dryers will be regulated by the NSPS. This designation will also maximize the coverage of the standards by the modification and reconstruction provisions. Therefore, each calciner and each dryer is designated as an affected facility.

E. Selection of Emission Sources

The emission sources to be regulated are calciners and dryers. Particulate matter emissions from calciners and dryers are typically controlled by a fabric filter, wet scrubber, or an ESP. To ensure that all PM emissions from affected facilities are regulated by the proposed standards, it is necessary to have an emission limit. A visible emission standard would also be enforced for dry control devices.

F. Selection of Format for Standards.

1. *Alternative Formats Considered.* Two different formats could be selected to limit stack emissions from calciners and dryers at mineral processing plants. These are: (1) A mass standard, limiting emissions in terms of mass emissions per unit of production, and (2) a concentration standard, limiting the concentration of PM in the effluent gases.

2. *Rational of Format Selection.* A mass standard may appear more meaningful than other formats because it relates directly to the quantity of emissions discharged to the atmosphere. However, a major disadvantage of a mass standard for calciners and dryers is that, typically, the production or feed rate of a process operation is not

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measured over the short term. Thus, an accurate determination of the weight of material processed through an affected facility during compliance testing would not be possible under typical plant operating conditions.

A concentration format (g/dscm [gr/dscf]) was selected for the recommended emission limits of the NSPS because of its ease of enforcement across 17 different mineral industries and because it adequately reflects best demonstrated technology. Monitoring of the production process is not necessary to determine compliance with the PM emission limits. However, the process unit must be operated at its maximum production rate during compliance testing. A concentration-based standard could be circumvented by adding dilution air to the gas stream. However, this is unlikely to occur at mineral calciner and dryer facilities because the size and operating costs of fans and motors increases with increasing gas volume to be moved. Also, the General Provisions contain adequate language to allow enforcement agencies to prevent such attempts to circumvent the standards.

To help ensure that air pollution control systems are properly installed, operated, and maintained, a visible emissions standard also is being proposed for all facilities controlled by fabric filters and dry ESP's. As discussed later in this preamble, a visible emissions standard for scrubbers would not be a meaningful indication of scrubber performance at mineral processing plants. However, the monitoring of operating parameters of wet scrubbers (pressure drop across the unit and scrubber liquid flow rate) would be required by the proposed standards.

G. Selection of Actual Standards

1. *Rationale for Standards Selected.* Section 111 of the Clean Air Act allows the Agency to distinguish among classes, types, and sizes within categories of new sources for the purpose of establishing standards. In the NSPS, based upon an analysis of the available test data, it was necessary to establish a separate standard for calciners, dryers, and calciners and dryers installed in series. The standards selected represent the levels of control achievable with the best system of continuous emission reduction.

2. *Need for Multiple Standards.* As discussed earlier, fabric filters, wet scrubbers, and ESP's are used to control PM emissions from calciners and dryers at mineral processing plants.

Results of emission tests approved by EPA were obtained for 25 dryers in 12 industries for all dryer types. All test results were less than 0.057 g/dscm (0.025 gr/dscf) except for four dryers controlled by low-energy wet scrubbers and one dryer controlled by a fabric filter. The scrubber modeling analysis indicated that the four dryers controlled by low-energy wet scrubbers could achieve an emission level of 0.057 g/dscm (0.025 gr/dscf) with a high-energy wet scrubber. One dryer controlled by a fabric filter had an emission concentration of 0.059 g/dscm (0.026 gr/dscf). The test report for this dryer states that most of the emissions were caused by leakage through a closed bypass damper. The fabric filter should have been able to achieve an emission limit of 0.09 g/dscm (0.025 gr/dscf) if no leakage had occurred.

Results of emission tests conducted or approved by EPA also were obtained for 26 calciners in 9 industries for all calciner types. All test results were less than 0.09 g/dscm (0.04 gr/dscf) except for three calciners controlled by low-energy wet scrubbers. Again, the scrubber modeling analysis indicated that these three calciners achieve an emission level of 0.09 g/dscfm (0.04 gr/dscf) with a high-energy scrubber. Therefore, an emission level of 0.057 g/dscm (0.025 gr/dscf) was selected for dryers, and an emission level of 0.09 g/dscm (0.04 gr/dscf) was selected for calciners.

The available data for calciners and dryers operated in series indicate that the proposed PM emission concentration of 0.04 gr/dscf for calciners can be achieved. Because the data did not indicate that the more stringent PM concentration of 0.057 g/dscm (0.025 gr/dscf) proposed for dryers can be achieved, the Agency is proposing that the NSPS for calciners and dryers operated in series be established at the less stringent concentration of 0.09 g/dscm (0.04 gr/dscf) and requests that interested individuals provide additional comments on this proposal during the public comment period.

H. Visible Emission Standards

Section 302(1) of the Act defines "standard of performance" to include "any requirement relating to the operation or maintenance of a source to assure continuous emission reduction."

1. *Reason for Including Visible Emission Standards.* A 10 percent opacity limit (based on 6-minute averages) is proposed for dryers and calciners in all 17 mineral industries using dry control devices (fabric filters and dry ESP's) to control emissions. A visible emission standard is included in the NSPS to ensure that dry control devices are properly operated and maintained. This visible emission standard will also serve as a tool for enforcement personnel in determining whether a facility should be tested for compliance with the mass standard.

2. *Rationale for These Provisions.* The opacity of visible emissions from a dry control device on an affected facility would be limited to 10 percent. This visible emission limit is based on 313 6-minute averages obtained during tests conducted on fabric filters used to control emissions from 6 calciners and 3 dryers in 5 industries and on 3 data points obtained during 1 test on a dry ESP used to control emissions from a flash calciner. The highest average opacity reading observed at any of the fabric filters was 8.3 percent, and the highest individual reading was 10 percent. The 8.3 percent 6-minute average opacity was measured at the outlet of a bentonite rotary dryer. Bentonite rotary dryer product material has the smallest sieve analysis particle size distribution of all of the mineral materials being covered by the NSPS. Process units for which both outlet mass and visible emission data are unavailable have larger product particle size distributions than those for which data are available and, therefore, would be expected to have lower opacities. In addition, the bentonite rotary dryer, with mass emissions of 0.05 g/dscm (0.02 gr/dscf), was in compliance with the proposed mass emission limit of 0.057 g/dscm (0.025 gr/dscf). The minerals with the largest percentage of small particles (≥ 50 percent less than 2.5 μm) in the outlet gas stream have maximum average opacities of less than 1 percent. All of these units also comply with the proposed mass emission limits. From these data, it can be concluded that process units for which both mass and visible emission data are unavailable would be less difficult to control than those for which data are available and could, therefore, achieve the proposed mass emission limits and a 10 percent visible emission standard under normal operating conditions.

The highest average opacity reading observed at the outlet of the flash calciner ESP was 6.7 percent, and the highest individual reading was 10 percent. The flash calciner had mass emissions of 0.057 g/dscm (0.025 gr/dscf) and, therefore, had mass emissions below the level of the proposed mass standard. When the opacity data from the ESP were normalized to the largest stack diameter known to exist on an ESP in the mineral industries, the average opacity at the normalized stack diameter was 7.1 percent. Therefore, all ESP's on calciners and dryers in the mineral industries should be capable of meeting a visible emission limit of 10 percent under normal operating conditions.

Based on the results of the visible emission tests, a 10 percent opacity limit is being proposed to ensure the proper operation and maintenance of dry air pollution control devices on calciners and dryers. This standard, as shown by the data presented above and in the BID, is achievable in all cases through the application of properly designed, operated, and maintained fabric filters and dry ESP's. Facilities controlled with wet scrubbers would be exempt from the proposed visible emission standard as discussed below.

3. *Other Considerations.* The visible emissions standard for stack emissions would be applicable in all cases unless EPA were to approve establishment of a special or adjusted visible emission standard under the provisions of 40 CFR 60.11(e). The provisions allow an owner or operator to apply to EPA for establishment of an adjusted visible emission standard for any source that meets the applicable concentration standard (demonstrated through performance tests under conditions established by EPA) but is unable to meet the visible emission standard, despite operating and maintaining the control equipment so as to minimize opacity. An adjusted visible emission standard might be established, for example, where an unusually large diameter stack precludes compliance with the proposed opacity limit.

Wet scrubber control devices frequently have a steam plume exiting from their exhaust stacks. Under these conditions, EPA Reference Method 9 specifies that the opacity of emissions be determined at a point after the steam plume has dissipated. Thus, opacity of emissions is determined at some variable distance from the stack outlet at a point where the emissions have been diluted. This distance and the amount of dilution vary with gas moisture content and meteorological conditions. Therefore, on a nationwide basis, an opacity limit for scrubber-controlled mineral calciners and dryers is not as demonstrative of proper operation and maintenance as the monitoring of pressure drop and liquid flow rate. Monitoring of wet scrubber parameters is discussed in Section IV.J of this preamble.

I. Modification/Reconstruction Considerations

A modification is defined as certain physical or operational changes to an existing facility that result in an increased emission rate of any pollutant to which the standards apply (40 CFR 60.14). Upon modification, an existing facility becomes an affected facility and, therefore, becomes subject to the NSPS. Routine maintenance procedures such as replacement or repair of calciner or dryer components subject to high temperatures and impact (e.g., end seals, flights, refractory lining) would not constitute a modification (40 CFR 60.14(e)(1)). Additional activities considered routine maintenance for calciners and dryers in mineral industries are described in Chapter 5 of the BID for the NSPS, referenced in the ADDRESSES section of this preamble.

When expansions at existing plants take place, usually a completely new calciner or dryer is added. Such an increase in production would not be considered a modification but rather a new source. Calcining and drying operations usually operate below 100 percent of capacity and are capable of handling increased throughput without additional equipment. If a new raw feed material is used or a fuel change occurs for which the calciner or dryer was originally designed, the change is not considered a modification. However, if a conversion is made allowing a unit to burn a fuel or to process a new material for which it was not originally designed, and an increase in emissions occurs because of this change, the change is considered to be a modification (40 CFR 60.14(e)(4)).

An existing facility may become subject to an NSPS if it is reconstructed. Reconstruction is defined in 40 CFR 60.15 as the replacement of the components of an existing facility to the extent that: (1) The fixed capital cost of the new components exceeds 50 percent of the fixed capital cost required to construct a comparable new facility and (2) it is technically and economically feasible for the facility to meet the applicable standards. Because EPA considers reconstructed facilities to constitute new construction rather than modification, reconstruction determinations are made irrespective of changes in emission rates.

If an owner or operator of an existing facility is planning to replace components and the fixed capital cost of the new components exceeds 50 percent of the fixed cost of a comparable new facility, the owner or operator must notify the appropriate EPA regional office 60 days before the construction of the replacement commences, as required under 40 CFR 60.15(d).

These modification and reconstruction provisions should not cause many calciners and dryers in the 17 mineral industries to become affected facilities because most of the physical and operational changes made to existing calciners and dryers are considered routine maintenance. Calciners and dryers at existing plants are more likely to become affected facilities when they are replaced by new process units at the end of their useful lives. Owners and operators of modified, reconstucted, or replaced facilities controlled by wet scrubbers of ESP's will probably incur retrofit costs if the design operating parameters of the existing wet scrubber or ESP must be increased to achieve the emission limit of the proposed NSPS. However, the cost of retrofitting wet scrubbers or ESP's would be similar to the cost of installing wet scrubbers or ESP's on new facilities because site-specific factors that might normally increase retrofit costs (e.g., availability of land and configuration of equipment) typically are not limiting factors at mineral processing plants. If site-specific factors are limiting at a plant, the capital cost of retrofiting wet scrubbers or ESP's may be greater than the capital cost of wet scrubbers and ESP's installed on new facilities (e.g., more ductwork). However, the annualized costs of retrofitting wet scrubbers or ESP's would not differ significantly from the annualized cost of wet scrubbers and ESP's installed on new facilities. Owners and operators of modified, reconstructed, or replaced facilities controlled by fabric filters should not incur retrofit costs because the emission limits of the proposed NSPS can be achieved by increasing the operation and maintenance of fabric filters.

J. Monitoring Requirements

Section 302(1) of the Act defines "standards of performance" to include "any requirement relating to the operation or maintenance of a source to assure continuous emission reduction." Section 114(a) authorizes EPA to require sources to monitor, test, keep records, and make reports.

With the exception of the four process unit/control device combinations discussed below, the owner or operator of a calciner or dryer who uses a dry control device to comply with the mass emission standard will be required to install and operate a continuous monitoring system to measure the opacity of emissions discharged into the atmosphere from the control device. In lieu of a continuous opacity monitoring system, the owner or operator of a gypsum flash or kettle calciner or of a perlite rotary dryer or expansion furnace who uses a dry control device could have a certified observer make three 6-minute observations of the opacity of visible emissions from the

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control device, once per week of operation using EPA Reference Method 9.

When a wet scrubber control device is used to comply with the calciner or dryer mass emission standard, the owner or operator would be required to install and operate a monitoring device to continuously measure and record the pressure loss of the gas stream through the scrubber and the scrubbing liquid flow rate to the scrubber.

1. *Rationale for Including Monitoring Requirements.* Visible emission limits will help ensure that proper fabric filter and ESP operation and maintenance procedures are performed and monitored. This monitoring can indicate when fabric filter bags are torn or loose and when ESP electrodes are damaged or malfunctioning. Similarly, monitoring of scrubber pressure loss and liquid flow rate can indicate malfunctions in the water pumping equipment, blockage of pipes, and the need to adjust the variable throat opening (if applicable).

Monitoring of visible emissions from dry control devices and recording of exceedances of the 10 percent opacity limit by a certified observer or a continuous monitoring system will alert industry and enforcement personnel of potential violations of the mass emission standard. Continuous opacity monitoring using a transmissometer is an effective means of ensuring the proper operation and maintenance of particulate control equipment. As a result, operation of a transmissometer is an integral part of the improved control device operation and maintenance practices that account for the emission reduction below baseline levels associated with RA III.

The absence of an opacity limit in the NSPS for wet scrubber emissions requires that an alternative method be used to ensure proper operation and maintenance of these devices. Therefore, to monitor the potential degradation in the performance of wet scrubbers over time, the proposed standards would require the owner or operator of wet scrubbers to measure and record selected control device operating parameters. These recorded values would then be available to enforcement and industry personnel for comparison against the range of values of each operating parameter recorded during the performance test when the mass emission limit was being met. Under Section 60.7(d) of the General Provisions, the owner or operator is required to maintain the monitoring records at the source for a minimum of 2 years and to make these records available for inspection, upon request, by Agency personnel or their representatives.

The Agency believes that changes in the values of operating parameters from those measured during a performance test are good indicators for an owner or operator and an enforcement agency to use to verify proper operation and maintenance of a control device. Not maintaining the operating parameters at levels within the range recorded during the performance test could indicate a violation of the requirements to properly operate and maintain the control equipment, as stated in Section 60.11(d) of the General Provisions.

Although periods of excursions from, or reductions in, the various operating parameters would not, of themselves, constitute a violation of the numerical emission limit, they may indicate to an enforcement agency the need to conduct a performance test. The results of the performance test would be used to determine compliance with the numerical emission limit in accordance with Section 60.11(a) of the General Provisions.

To evaluate the cost of continuous opacity monitoring systems under RA III, the annual operating cost of the transmissometer was added to the annual operating cost of the PM control device, and the C/E of control was calculated. With the exception of the four process unit/control device combinations discussed below, all of the C/E values were less than or equal to $3,080/Mg ($2,700/ton). The C/E was $4,590/Mg ($4,170/ton) for the gypsum flash calciner, $3,080/Mg ($2,760/ton) for the gypsum kettle calciner, $3,670/Mg ($3,340/ton) for the perlite rotary dryer, and $7,530/Mg ($6,840/ton) for the perlite expansion furnace.

For the gypsum flash and kettle calciners and the perlite rotary dryer and expansion furnace, a less costly monitoring method could be used. The C/E of control, including a certified observer to obtain three 6-minute averages of the opacity of visible emissions once per week of operation of these facilities in accordance with EPA Reference Method 9, would range from $1,740 Mg ($1,580/ton) to $2,760/Mg ($2,510/ton).

K. Performance Test Methods

1. *Method Selected.* Under the proposed standards, performance tests for PM emissions would be required for all air pollution control devices on calciners and dryers. Particulate matter would be measured by Reference Methods 1, 2, 3, 4, and 5 to determine compliance with the stack emission standards. Compliance with the visible emissions standard would be determined using Reference Method 9 to measure stack opacity as 6-minute averages.

2. *Applicability of Method 5 to Standard.* Reference Method 5 provides the concentration of PM in the stack exhaust gas stream as g/dscm (gr/dscf). The NSPS requires that calciners achieve a level of 0.09 g/dscm (0.04 gr/dscf) and that dryers achieve a level of 0.057 g/dscm (0.025 gr/dscf). Method 5, therefore, provides an accurate determination of compliance directly, without requiring any additional monitoring of the production process (e.g., production rate).

L. Reporting and Recordkeeping Requirements

Section 302(1) of the Act defines "standard of performance" to include "any requirement relating to the operation or maintenance of a source to assure continuous emission reduction." Section 114(a) authorizes EPA to require sources to monitor, test, keep records, and make reports.

The owner or operator of a dry control device controlling PM emissions from an affected calciner or dryer facility will be required to record visible emissions using a continuous monitoring system, or to have a certified observer record three 6-minute averages (24 consecutive readings each) of the opacity of visible emissions from the control device, once per week of operation, in accordance with EPA Reference Method 9, as described in Section IV.J. of this preamble.

When a wet scrubber is used to control particulate emissions from an affected calciner or dryer facility, the owner or operator will be required to record both the pressure loss of the gas stream through the scrubber and the scrubbing liquid flow rate to the scrubber once per day of normal operation.

Each owner or operator will be required to submit written reports semiannually of exceedances of the 10 percent visible emission limit and any exceedances of the wet scrubber operating parameters discussed above. For the purpose of these reports, an exceedance of wet scrubber operating parameters is defined as less than 90 percent or greater than 110 percent of the average pressure drop, or less than 80 percent or greater than 120 percent of the average liquid flow rate determined during the most recent performance test successfully passed to demonstrate compliance with the mass emission limit. The owner or operator will be required to submit written documentation of semiannual calibrations of monitoring devices as part of the semiannual reports.

Records of the measurements discussed in this section must be retained for at least 2 years. The requirements of this section remain in force until and unless the Agency, in delegating enforcement authority to a State under Section 111(c) of the Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected facilities within the State will be relieved of the obligation to comply with this section provided that they comply with the requirements established by the State. [Section 114 of the Clean Air Act, as amended (42 U.S.C. 7414)].

V. Administrative Requirements

A. Public Hearing

A public hearing will be held, if requested, to discuss the proposed standards in accordance with Section 307(d)(5) of the Clean Air Act. Persons wishing to make oral presentations should contact EPA at the address given in the **ADDRESSES** section of this preamble. Oral presentations will be limited to 15 minutes each. Any member of the public may file a written statement with EPA before, during, or within 30 days after the hearing. Written statements should be addressed to the Central Docket Section address given in the **ADDRESSES** section of this preamble.

A verbatim transcript of the hearing and written statements will be available for public inspection and copying during normal working hours at EPA's Central Docket Section in Washington, D.C. (see **ADDRESSES** section of this preamble).

B. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this proposed rulemaking. The principal purposes of the docket are: (1) to allow interested parties to identify and locate documents so that they can effectively participate in the rulemaking process and (2) to serve as the record in case of judicial review (except for interagency review materials [Section 307(d)(7)(A)]).

C. Clean Air Act Procedural Requirements

1. *Administrator Listing—Section 111.* As prescribed in Section 111 of the Clean Air Act, as amended, establishment of standards of performance for calciners and dryers in mineral industries was preceded by the Administrator's determination (40 CFR 60.16 44 FR 49222, dated August 21, 1979 and 40 CFR 60.16 47 FR 950, dated January 8, 1982) that these sources contribute significantly to air pollution which may reasonably be anticipated to endanger public health or welfare.

2. *Periodic Review—Section 111.* This regulation will be reviewed 4 years from the date of promulgation as required by the Clean Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existance of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

3. *External Participation—Section 117.* In accordance with Section 117 of the Act, publication of this proposal was preceded by consultation with appropriate advisory committees, independent experts, and Federal departments and agencies. In addition, numerous meetings were held with industry representatives and trade associations during development of the proposed standards. The Administrator will welcome comments on all aspects of the proposed regulation, including economic and technological issues.

Comments are also specifically invited on the achievability of the standard with regard to calciners and dryers combined in series. Any comments submitted to the Administrator on this issue should contain specific information and data pertinent to an evaluation of the magnitude and severity of its impact and suggested alternative courses of action that could avoid this impact.

4. *Economic Impact Assessment—Section 317.* Section 317 of the Clean Air Act requires the Administration to prepare an economic impact assessment for any new source standard of performance promulgated under Section 111(b) of the Act. An economic impact assessment was prepared for the proposed regulations and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the proposed standards to ensure that the proposed standards would represent the best system of emission reduction considering costs. The economic impact assessment is included in the BID.

D. Office of Management and Budget Reviews

1. *Paperwork Reduction Act.* The information collection requiements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, marked "Attention: Desk Officer for EPA," as well as to EPA. The final rule will respond to any OMB or public comments on the information collection requirements.

2. *Executive Order 12291 Review.* Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed regulation is not major because it would result in none of the adverse economic effects set forth in Section 1 of the Order as grounds for finding a regulation to be major. The total nationwide incremental annualized costs in the fifth year after the standards would go into effect would range from $0.7 to $1.0 million, less than the $100 million established as the first criterion for a major regulation in the Order. The maximum estimated price increase of 1.75 percent associated with the proposed standards would not be considered a "major increase in costs or prices" specified as the second criterion in the Order. The economic analysis of the proposed standards' effect on the industry did not indicate any significant adverse effects on competition, investment, productivity, employment, innovation, or the ability of U.S. firms to compete with foreign firms (the third criterion in the Order).

This regulation was submitted to OMB for review as required by Executive Order 12291. All written communications between EPA and OMB are in the docket.

E. Regulatory Flexibility Act Compliance

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. The EPA definition of significant effect involves four tests: (1) Prices for small entities rise 5 percent or more, assuming costs are passed on to consumers; or (2) annualized investment costs for pollution control are greater than 20 percent of total capital spending; or (3) control costs as a percentage of sales for small entities are 10 percent greater than control costs as a percentage of sales for large entities; or (4) the requirements of the regulation are likely to result in closures of small entities.

The Act's definition of "small business" is based on definitions developed by the Small Business Administration (SBA). The SBA's definitions are listed in 13 CFR Part 121

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by Standard Industrial Classification (SIC) categories. For most of the mineral dryer and calciner industries, the SBA defines a small business as one with 500 or fewer employees (the 2 exceptions are gypsum and titanium dioxide, each of which is 1,000 employees). As part of the development of this proposed standard a considerable amount of effort has been devoted to the task of identifying small businesses in the 17 industries. Steps that have been taken to identify small businesses include an extensive review of standard financial reference sources such as Moody's and Standard & Poor's, a mailing of Section 114 information requests, and an electronic data base search. Most of the mineral dryer and calciner industries do include small businesses according to the SBA definition. Because the standard under consideration here is an NSPS, the standard would apply to all businesses (both small and large) in the 17 industries, and as a result the test of a substantial number of small businesses is met.

Although there are a substantial number of small businesses, the measure of significant effects is not likely to be met. As described earlier, the absolute level of the percent product price increases is quite small for most of the industries, typically about 0.5 percent or less. Thus, the first test is never triggered. Neither are the second or fourth tests triggered. The third test is occasionally triggered, but the absolute sizes of the numbers are so small as to make this test inapplicable. For example, in the diatomite industry, a small flash dryer (4 Mg/h) has control costs as a percentage of sales that are 23 percent higher than the corresponding percentage for a larger flash dryer (11 Mg/h). But the absolute levels of these two percentages are 0.16 percent and 0.13 percent, and the 23 percent difference between them is virtually meaningless. Thus, because the absolute level of the percent product price increases is quite small for most of the industries, and because the tests are presented as guidelines, an interpretation of the spirit and purpose of the Act indicates that the industries do not exceed the Act's tests. Because these standards impose no adverse economic impacts, a Regulatory Flexibility Analysis has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule, if promulgated, will not have a significant economic impact on a substantial number of small business entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Reporting and recordkeeping requirements, Incorporation by reference, Intergovernmental relations, Metallic minerals, and Nonmetallic minerals.

Dated: April 12, 1986.

Lee M. Thomas,

Administrator.

PART 60—[AMENDED]

It is proposed that 40 CFR Part 60 be amended as follows:

1. The authority citation for Part 60 continues to read as follows:

Authority: Secs. 101, 111, 114, 301(a), Clean Air Act as amended (42 U.S.C. 7401, 7411, 7414, 7601).

2. By adding a new Subpart UUU consisting of §§ 60.730 through 60.736 as follows:

Subpart UUU—Standards of Performance for Calciners and Dryers in Mineral Industries.

Sec.

60.730 Applicability and designation of affected facility.
60.731 Definitions.
60.732 Standards for particulate matter.
60.733 Reconstruction.
60.734 Monitoring of emissions and operations.
60.735 Recordkeeping and reporting requirements.
60.736 Test methods and procedures.

Subpart UUU—Standards of Performance for Calciners and Dryers in Mineral Industries

§ 60.730 Applicability and designation of affected facility.

(a) The affected facility to which the provisions of this subpart apply is each calciner and dryer at mineral processing plants. Feed and product conveyors are not considered part of the affected facility.

(b) An affected facility that is subject to the provisions of Subpart LL, metallic mineral processing plants, is not subject to the provisions of this subpart.

(c) The owner or operator of any facility under paragraph (a) of this section that commences construction, modification, or reconstruction after April 23, 1986, is subject to the requirements of this subpart.

§ 60.731 Definitions.

As used in this subpart all terms not defined herein shall have the meaning given them in the Clean Air Act and in Subpart A of this part.

"Calciner" means the equipment used to remove combined (chemically bound) water and/or gases from mineral material through direct or indirect heating. This definition includes expansion furnaces and multiple-hearth furnaces.

"Control device" means the air pollution control equipment used to reduce particulate matter emissions released to the atmosphere from one or more affected facilities.

"Dryer" means the equipment used to remove uncombined (free) water from mineral material through direct or indirect heating.

"Installed in series" means a calciner and dryer installed such that the exhaust gases from one flow through the other and then the combined exhaust gases are discharged to the atmosphere.

"Mineral processing plant" means any facility that processes or produces any of the following minerals or their concentrates: alumina, ball clay, bentonite, diatomite, feldspar, fire clay, fuller's earth, gypsum, industrial sand, kaolin, lightweight aggregate, magnesium compounds, perlite, roofing granules, talc, titanium dioxide, and vermiculite. The following processes and process units used at mineral processing plants would not be regulated under the NSPS: vertical shaft kilns in the magnesium compounds industry; the chlorination-oxidation process in the titanium dioxide industry; coating kilns, mixers, and aerators in the roofing granules industry; and tunnel kilns, tunnel dryers, apron dryers, and grinding equipment that also dries the process material used in any of the 17 mineral industries.

§ 60.732 Standards for particulate matter.

Each owner or operator of any affected facility which is subject to the requirements of this subpart shall comply with the emission limitations set forth in this secton on and after the date on which the initial performance test, required by § 60.8 is completed, but not later than 180 days after the initial startup, whichever date comes first. No emissions shall be discharged into the atmosphere from any affected facility that:

(a) Contain particulate matter in excess of 0.09 gram per dry standard cubic meter (g/dscm) (0.04 grain per dry standard cubic foot [gr/dscf]) for calciners and for calciners and dryers installed in series and in excess of 0.057 g/dscm (0.025 gr/dscf) for dryers; and

(b) Exhibit greater than 10 percent opacity, unless the emissions are discharged from an affected facility using a wet scrubbing control device.

§ 60.733 Reconstruction.

The cost of replacement of equipment subject to high temperatures and abrasion on processing equipment shall not be considered in calculating either the "fixed capital cost of the new components" or the "fixed capital cost that would be required to construct a comparable new facility" under § 60.15. Calciner and dryer equipment subject to high temperatures and abrasion are: end seals, flights, and refractory lining.

§ 60.734 Monitoring of emissions and operations.

(a) With the exception of the process units described in paragraph (b) of this section, the owner or operator of an affected facility subject to the provisions of this subpart who uses a dry control device to comply with the mass emission standard shall install, calibrate, maintain, and operate a continuous monitoring system to measure and record the opacity of emissions discharged into the atmosphere from the control device. Each owner or operator who uses a continuous monitoring device to comply with the requirements of this paragraph shall recalibrate the device semiannually in accordance with procedures under § 60.13.

(b) In lieu of a continuous opacity monitoring system required in paragraph (a) of this section, the owner of operator of a gypsum flash or kettle calciner or of a perlite rotary dryer or expansion furnace who uses a dry control device may have a certified visible emissions observer measure and record three 6-minute averages of the opacity of visible emissions to the atmosphere once per week of operation in accordance with EPA Reference Method 9.

(c) The owner or operator of an affected facility subject to the provisions of this subpart who uses a wet scrubber to comply with the mass emission standard for any affected facility shall install, calibrate, maintain, and operate monitoring systems that continuously measure and record the pressure loss of the gas stream through the scrubber and the scrubbing liquid flow rate to the scrubber. The pressure loss monitoring device must be certified by the manufacturer to be accurate within ±1 inch of water column gauge pressure. The liquid flow rate monitoring device must be certified by the manufacturer to be accurate within ±5 percent of design scrubbing liquid flow rate. All monitoring devices required under this paragraph are to be recalibrated semiannually in accordance with manufacturer's instructions.

§ 60.735 Recordkeeping and reporting requirements.

(a) Records of the measurements required in § 60.734 of this subpart must be retained for at least 2 years.

(b) Each owner or operator shall submit written reports semiannually of exceedances of control device operating parameters required to be monitored by § 60.734 of this subpart. Each owner or operator also shall submit written reports semiannually that document corrective maintenance required as a result of semiannual calibrations of the monitoring device that is required in § 60.734. For this purpose of these reports, exceedances are defined as all 6-minute periods during which the average opacity from dry control devices is greater than 10 percent, or any wet scrubber pressure drop that is less than 90 percent or greater than 110 percent, or each wet scrubber liquid flow rate that is less than 80 percent or greater than 120 percent of the average value recorded according to Section 60.736(c) during the most recent performance test that demonstrated compliance with the particulate matter standard.

(c) The requirements of this section remain in force until and unless the Agency, in delegating enforcement authority to a State under Section 111(c) of the Clean Air Act, approves reporting requirements or an alternative means of compliance surveillance adopted by such State. In that event, affected facilities within the State will be relieved of the obligation to comply with this section provided that they comply with the requirements established by the State.

§ 60.736 Test methods and procedures.

(a) Reference methods in Appendix A of this part, except as provided under § 60.8(b), shall be used to determine compliance with the standards prescribed under § 60.732 as follows:

(1) Method 1 for sample and velocity traverses;

(2) Method 2 for stack gas velocity and volumetric flow rate;

(3) Method 3 for stack gas dry molecular weight;

(4) Method 4 for stack gas moisture content;

(5) Method 5 for the measurement of particulate emissions; and

(6) Method 9 for the opacity of visible emissions.

(b) The sampling time for each test run shall be at least 2 hours and the minimum volume of gas sampled shall be 1.7 dscm (60 dscf).

(c) During the initial performance test of a wet scrubber, the owner or operator shall measure and record an arithmetic average of both the change in pressure of the gas stream across the scrubber and the scrubbing liquid flow rate.

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Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

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WHO: The Office of the Federal Register.

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: May 15; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Laurence Davey 202-523-3517

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Presidential Documents

Title 3—

The President

Proclamation 5464 of April 22, 1986

National School Library Month, 1986

By the President of the United States of America

A Proclamation

The accumulation of information, the acquisition of knowledge, and the application of that knowledge to solve problems or enhance life are principal functions of American education. At every level, school libraries offer a great range of resource materials that greatly enrich education and increase the knowledge and understanding of all Americans.

Young people often develop a lifelong love of reading because of their exposure to books in school libraries. Furthermore, researchers are often motivated by the vast resources of university and special libraries as they dedicate themselves to studying the problems of society. School libraries and their dedicated staffs make an incalculable contribution to our educational system.

The Congress, by Senate Joint Resolution 52, has designated the month of April 1986 as "National School Library Month" and has authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of April 1986 as National School Library Month. I invite the Governors of every State, principals, teachers, educators, students, parents, and all Americans to observe this month with appropriate activities to heighten the awareness of the importance of school libraries.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of April, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-9288
Filed 4-23-86; 2:40 pm]
Billing code 3195-01-M

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Presidential Documents

Proclamation 5485 of April 22, 1986

Asian/Pacific American Heritage Week, 1986

By the President of the United States of America

A Proclamation

Americans who have come from Asian and Pacific countries have made notable contributions to our Nation in a wide range of fields, including science, the arts, medicine, law, literature, agriculture, industry, commerce, and government. Through the rich and varied traditions and heritages of their homelands, they have greatly enhanced America's culture and the lives of all Americans.

This Nation fittingly honors its citizens of Asian and Pacific descent. They have brought to our country an industriousness that boosts our economy and a passion for freedom that rejuvenates American ideals. We are grateful to Asian and Pacific Americans for their unwavering support for the unalienable rights to life, liberty and the pursuit of happiness that form the core of the American ethos. Through their bravery and perseverance, they have provided us with a moving testament to the universality of the human thirst for political freedom.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim the week beginning May 4, 1986, as Asian/Pacific American Heritage Week, and call upon all people of the United States to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of April, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-9299
Filed 4-22-86; 2:41 pm]
Billing code 3195-01-M

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Presidential Documents

Proclamation 5466 of April 22, 1986

Mother's Day, 1986

By the President of the United States of America

A Proclamation

By tradition, the second Sunday in May is designated as Mother's Day, one of America's best-loved holidays. It gives us all a special occasion to honor our own, and to praise the unique dignity of motherhood, one of life's highest callings.

Thomas Jefferson called motherhood "the keystone of the arch of matrimonial happiness," and we must always remember that with love, strength, and fortitude, the American mother assisted in the settlement, development, and prosperity of our country. Her contributions to the well-being of the family, the community, and the Nation are beyond all reckoning. A Jewish saying sums it up: "God could not be everywhere—so He created mothers."

The role of the mother has changed constantly in our society, but its fundamental meaning abides: love and caring. The modern mother is conquering new worlds. She continues to be the heart of the family and the hearth of the home. Where mothers are honored and loved, the family is strong. And where the family is strong the nation is strong.

In recognition of the magnificent contributions of mothers to their families and to the Nation, the Congress, by a joint resolution approved May 8, 1914 (38 Stat. 770), has designated the second Sunday in May of each year as Mother's Day and requested the President to call for its appropriate observance.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby request that Sunday, May 11, 1986, be observed as Mother's Day. I urge all Americans to express their love and honor to their mothers and to reflect on the importance of motherhood to the well-being of our country. I direct Government officials to display the flag of the United States on all Federal government buildings, and I urge all citizens to display the flag at their homes and other suitable places on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of April, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-9300
Filed 4-23-86; 2:42 pm]
Billing code 3195-01-M

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Presidential Documents

Proclamation 5467 of April 22, 1986

Father's Day, 1986

By the President of the United States of America

A Proclamation

Each year the third Sunday in June is designated as Father's Day, a day on which we honor our Nation's fathers for everything they do for their families and for America.

Today fatherhood is sometimes drily described as a craft or an occupation, something which competes with career or outside pursuits for time and attention. Contemporary books and articles offer reams of advice to mothers and fathers on how to improve as parents and better manage their time at home and with their children. In this era of new demands and stresses on families, we frequently forget just what it is that is special about fatherhood, what makes it not a part of life, but a path in life that has, in every generation, the power to create and renew.

Fatherhood, after all, is about childhood. Fatherhood is walking the floor at midnight with a sick baby that cannot sleep; fatherhood is an arm around the shoulders of a child crying because a balloon is lost; fatherhood is repairing a bicycle wheel for the umpteenth time knowing that it won't last more than the afternoon. Fatherhood is guiding a youth through the wilderness of adolescence toward the vast expanse of adulthood; fatherhood is holding tight when all else seems to be falling apart; and fatherhood is letting go when it is time to part. Fatherhood is long hours at the blast furnace or in the fields, behind the wheel or in front of a computer screen, working a twelve-hour shift or doing a six-month tour of duty. In short, fatherhood is giving one's all, from a child's first day of life on, from the break of day to its end—on the job, in the household, but, most of all, in the heart.

From the vantage point of his love and responsibility, a father sees the future and dedicates himself to doing whatever is necessary to bring his family safely through. No father performs any of these tasks with thought of thanks or reward. The things that gratify him most are those that represent success in what he has labored to impart to his children: strength of character and conviction, love of family and country, a sense of right and wrong, and, above all, a spirit of thanksgiving for the generous gift of life itself.

Because human nature often keeps us from recognizing how great another's sacrifice is until we assume similar burdens, many of us realize for the first time how dearly we were prized only when we ourselves become parents. On this day for fathers, all of us have a special opportunity to say thanks to America's dads for their selflessness and devotion. We also have a chance to say a prayer for fathers everywhere—for their health and strength if they are with us, or for their blessing if this day finds them smiling down from heaven's bright corridors. Truly, for the labor and legacy of our families and our freedoms, we cannot thank them enough.

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NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, in accordance with a joint resolution of the Congress approved December 28, 1970 (36 U.S.C. 142a), do hereby proclaim Sunday, June 15, 1986, as Father's Day. I invite the States and communities and the people of the United States to observe that day with appropriate ceremonies as a mark of appreciation and abiding affection for their fathers. I direct government officials to display the flag of the United States on all Federal government buildings, and I urge all Americans to display the flag at their homes and other suitable places on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of April, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-9301
Filed 4-22-86; 2:43 pm]
Billing code 3195-01-M

Presidential Documents

Notice of April 22, 1986

Continuation of Nicaraguan Emergency

On May 1, 1985, by Executive Order No. 12513, I declared a national emergency to deal with the threat to the national security and foreign policy of the United States constituted by the actions and policies of the Government of Nicaragua. Because those actions and policies continue to pose an unusual and extraordinary threat to the national security and foreign policy of the United States, the national emergency declared on May 1, 1985, must continue in effect beyond May 1, 1986. Therefore, in accordance with Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to Nicaragua. This notice shall be published in the **Federal Register** and transmitted to the Congress.

Ronald Reagan

THE WHITE HOUSE,
April 22, 1986.

[FR Doc. 86-9334
Filed 4-22-86; 4:24 pm]
Billing code 3195-01-M

Editorial note: For the text of the President's message to the Congress, dated April 22, on the continuation of the Nicaraguan emergency, see the *Weekly Compilation of Presidential Documents* (vol. 22, no. 17).

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 400

[Amdt. No. 2; Docket No. 0084A]

General Administrative Regulations; Information Collection Requirements Under the Paperwork Reduction Act; OMB Control Numbers

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends Subpart H in Part 400, Chapter IV, Title 7 of the Code of Federal Regulations, listing the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements contained in all regulations issued by FCIC, for the purpose of including the control number assigned by OMB to information collection requirements with respect to FCIC's Standard Reinsurance Agreement.

EFFECTIVE DATE: April 24, 1986.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect thereto are impracticable and contrary to the public interest, and good cause is found for making this rule effective less than 30 days after publication in the Federal Register.

Further, since this rule relates to internal agency management it is exempt from the provisions of Executive Order 12291. Lastly, this action is not a major rule as defined in Pub. L. 96-354, the Regulatory Flexibility Act, and thus is exempt from the provisions of the Act.

The Office of Management and Budget (OMB) regulations (5 CFR Part 1320; 48 FR 13666, March 31, 1983), titled "Controlling Paperwork Burdens on the Public", requires FCIC to publish currently valid OMB control numbers for each collection of information requirement contained in its regulations. These numbers must be published in a manner that will ensure codification into the Code of Federal Regulations.

FCIC hereby amends 7 CFR Part 400, Subpart H to include the information collection control number issued by OMB with respect to FCIC's Standard Reinsurance Agreement.

List of Subjects in 7 CFR Part 400

Administrative practice and procedure; Information collection requirements; OMB control numbers.

Final Rule

In accordance with the provisions of 5 CFR 1320, and the Paperwork Reduction Act, Pub. L. 96-511 (44 U.S.C., Chapter 35), the Federal Crop Insurance Corporation hereby amends the General Administrative Regulations; Information Collection Requirements Under the Paperwork Reduction Act: OMB Control Numbers, found at 7 CFR Part 400, Subpart H, effective upon publication in the Federal Register, in the following instances:

1. The authority citation for 7 CFR Part 400, Subpart H, continues to read as follows:

Authority: 5 U.S.C. 1320, Pub. L. 96-511 (44 U.S.C., Chapter 35).

2. 7 CFR 400.86(b) is amended by adding the following:

§ 400.86 Display.

* * * * *

(b) * * *

Standard Reinsurance Agreement, 0563-0010.

(Expiration Date June 30, 1986).

* * * * *

Done in Washington, DC, on April 1, 1986.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-9180 Filed 4-23-86; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-ASO-10]

Revocation of Transition Area, Tallassee, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes the transition area which was predicated on the Tallassee, Alabama, Municipal Airport. The airport has been temporarily deactivated and the instrument approach procedures, which previously established the need for the transition area, have been canceled. This action will raise the base of controlled airspace, within a 6.5-mile radius of the former airport site, from 700 feet to 1,200 feet above the surface.

EFFECTIVE DATE: 0901 UTC, July 3, 1986.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Supervisor, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On Thursday, December 26, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by revoking a transition area and raising the base of controlled airspace from 700 feet to 1,200 feet above the surface, within a 6.5-mile radius of the Tallassee Municipal Airport site (50 FR 52797). The former Tallassee Municipal Airport has been changed from a public-use to a private-use facility. Sikorsky Aircraft Company, owner of the airport site, has temporarily deactivated the airport but plan to reopen it in the 1988/1989 time period. The deactivation resulted in cancellation of instrument approach procedures thus negating the need for the transition area at this time.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Comments were received from Sikorsky

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Aircraft Company, the City of Tallassee, the Governor of Alabama, and the Alabama Department of Economic and Community Affairs. All parties commenting requested that the transition area not be revoked as it was thought such action would affect future plans for expansion and use of the airport. This in turn was viewed as having a potential adverse effect on the future development of the area.

The temporary deactivation of the airport for a period of four to five years precludes the conduct of Instrument Flight Rule (IFR) operations to or from the airport site. Transition areas are established for the protection of arriving and departing IFR aircraft operations. As such operations are not now being conducted, there is no longer an existing need for the transition area.

We have assured Sikorsky Aircraft Company, that when the airport is reactivated, appropriate actions to redesignate the necessary airspace and IFR procedures required for aeronautical activities will be accomplished. The revocation of the transition area at this time will not impede future development of the Sikorsky facilities at Tallassee. This amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revokes the Tallassee, Alabama, transition area and raises the floor of controlled airspace in the vicinity of the former municipal airport from 700 to 1,200 feet above the surface.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Excutive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition area.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 108(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. By amending § 71.181 as follows:

Tallassee, AL—[Removed]

By removing the title and text.

Issued in East Point, Georgia, on April 8, 1986.

Thomas H. Protiva,

Manager, Air Traffic Division, Southern Region.

[FR Doc. 86-9111 Filed 4-23-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-ASO-27]

Alteration of Control Zone, Anniston, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment reduces the size of the Anniston, Alabama, control zone arrival extension. The arrival extension, as presently described, was predicated upon an instrument approach precedure which was based on the Anniston radio beacon. The radio beacon was decommissioned several months ago due to on-airport construction and the associated instrument approach procedure was cancelled. While an arrival extension is still required for another existing instrument approach procedure, it requires much less airspace. Thus, the floor of controlled airspace in an area southwest of the airport may be raised from the surface to 700 feet above the surface. In addition, the present description of the control zone contains a provision which permits use of the FAA's Notice to Airmen (NOTAM) system to publicize the effective days and hours of the control zone. As the Anniston Flight Service Station, which is located on the airport, operates on a full-time basis, this NOTAM provision is no longer required and will be removed from the control zone description.

EFFECTIVE DATE: 0901 UTC, August 28, 1986.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Supervisor, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

History

On Friday, December 27, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by reducing the size of the arrival extension associated with the Anniston, Alabama, control zone. The geographical coordinates of the airport will be corrected in this action as those presently listed are slightly in error. In addition, the provision which permits changes in hours of operation of the control zone by NOTAM will be removed from the description as it is no longer required (50 FR 52931). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. This amendment is the same as that proposed in the notice. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the Anniston, Alabama, control zone by reducing the size of an arrival extension by deleting reference to a decommissioned radio beacon and by removing a provision which permits changing effective times of the control zone through use of the FAA NOTAM system.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zone.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 108(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

Adoption of the Amendment

§ 71.171 [Amended]

2. § 71.171 is amended as follows:

Within a 5-mile radius of Anniston-Calhoun County Airport (lat. 33°35'17" N., long. 85°51'28" W.); within 2 miles each side of the Anniston southwest localizer course, extending from the 5-mile radius zone to the LOM.

Issued in East Point, Georgia, on April 8, 1986.

Thomas H. Protiva,

Manager, Air Traffic Division, Southern Region.

[FR Doc. 86-9110 Filed 4-23-86; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9137]

Massachusetts Furniture and Piano Movers Association, Inc.; Prohibited Trade Practices and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Dismissal Order.

SUMMARY: The Federal Trade Commission has dismissed the complaint against respondent after determining that continued prosecution of the case is no longer in the public interest.

DATES: Final Order issued Sept. 28, 1983. Dismissal Order issued March 19, 1986.

FOR FURTHER INFORMATION CONTACT: Leslie R. Melman, FTC/H-582, Washington, DC 20580. (202) 523-3587.

SUPPLEMENTARY INFORMATION: In the Matter of Massachusetts Furniture and Piano Movers Association, Inc., a corporation. The prohibited trade practices and/or corrective actions, appearing at 48 FR 49217, are deleted.

List of Subjects in 16 CFR Part 13

Furniture movers, Trade practices.

Authority: (Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45).

Before Federal Trade Commission

[Docket No. 9137]

Order of Dismissal

Commissioners: Terry Calvani, Acting Chairman, Patricia P. Bailey, Mary L. Azcuenaga, Andrew J. Strenio, Jr.

In The Matter of Massachusetts Furniture and Piano Movers Association, Inc., a corporation.

The Commission has determined that the continued prosecution of this case is no longer in the public interest. Accordingly,

It Is Ordered, That the complaint be and hereby is dismissed.

By the Commission. Commissioner Strenio not participating.

Issued: March 19, 1986.

Emily H. Rock,

Secretary.

[FR Doc. 86-9126 Filed 4-23-86; 8:45 am]

BILLING CODE 6750-01-M

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16 CFR Part 13

[Docket No. 9161]

Rhode Island Board of Accountancy; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent Order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires the Rhode Island Board of Accountancy, the sole licensing authority for CPAs and PAs in the state, among other things, to cease prohibiting accountants in the state from seeking business by truthful advertisements or other non-deceptive forms of solicitation. Respondent may continue to impose restrictions authorized by the state legislature against dishonest or fraudulent practices and against persons who falsely identify themselves as accountants.

DATE: Compliant issued July 10, 1984. Decision issued Feb. 25, 1986.[1]

FOR FURTHER INFORMATION CONTACT: FTC/B-851, Charles W. Corddry, Washington, DC 20580. (202) 724-1269.

SUPPLEMENTARY INFORMATION: On Friday, November 29, 1985, there was published in the Federal Register, 50 FR 49063, a proposed consent agreement with analysis In the Matter of Rhode Island Board of Accountancy, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

No comments having been received, the Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its order to cease and desist, as set forth in the proposed consent agreement, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Coercing and Intimidating: § 13.367 Members. Subpart—Combining or Conspiring: § 13.384 Combining or conspiring; § 13.395 To control marketing practices and conditions; § 13.497 To terminate or threaten to terminate contracts, dealings, franchises, etc. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-45 Maintain records. Subpart—Cutting Off Supplies or Service: § 13.655 Threatening disciplinary action or otherwise.

List of Subjects in 16 CFR Part 13

Accountants, Advertising, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 86-9127 Filed 4-23-86; 8:45 am]

BILLING CODE 6750-01-M

[1] Copies of the Complaint and the Decision and Order are filed with the original document.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Social Security Benefits and Supplemental Security Income; Personal Appearance Demonstration Projects

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: These regulations describe how we will carry out the personal appearance demonstration projects which are required by section 8 of Pub. L. 98-460, the Social Security Disability Benefits Reform Act of 1984. The demonstration projects will test, on a

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limited basis, the use of personal appearance interviews in connection with initiitial determinations about disability or blindness which are made by State agencies. The demonstration projects will involve disability cases under title II of the Social Security Act (the Act) as well as blindness and disability cases in the Supplemental Security Income (SSI) program under title XVI of the Act. Participants in the demonstrations will be selected randomly from among individuals who have applied for benefits but have not received an initial determination about their eligibility, and from among individuals who have been receiving benefits but whose condition is being reviewed to determine whether they are still disabled or blind.

Under the demonstration projects, individuals who are selected to participate will be provided an opportunity for an interview with a State agency disability examiner prior to any initial determination of ineligibility. In some locations a State agency medical consultant may participate in the interview together with the disability examiner, although the rest of this preamble will refer to the interviewer(s) as the disability examiner. Medical examinations will not be conducted as part of the interview process. The demonstration projects will be conducted in several States. Their purpose is to test whether an interview with the State agency disability examiner at this stage of the decisionmaking process will result in a better evaluation of the person's condition and simplify and expedite the decisionmaking process.

DATE: These regulations are effective April 24, 1986.

FOR FURTHER INFORMATION CONTACT: Cliff Terry, Office of Regulations, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594–7519.

SUPPLEMENTARY INFORMATION: We published these regulations as a Notice of Proposed Rulemaking (NPRM) on December 27, 1985 (50 FR 53120). Public comments received are discussed below.

Pub. L. 98–460, the Social Security Disability Benefits Reform Act of 1984, enacted October 9, 1984, addresses selected aspects of the standards and procedures for determining whether people are disabled or blind for purposes of eligibility for benefits under titles II and XVI of the Act. (In the rest of this preamble, we use "disability" and "disabled" to include blindness.) A much-discussed issue in the past few years has been the process of reviewing the condition of people already receiving disability benefits to determine whether they continue to be disabled. One point of concern in that process has been the fact that the initial determination as to whether an individual's disability has ceased is based on a paper review of the evidence in the individual's case record, and is usually made without the adjudicator having personally observed the individual or having heard firsthand the individual's own description of his or her condition. The decisionmaking process is the same for new applications for disability benefits, and the same concerns have been voiced about it.

Section 6 of Pub. L. 98–460 calls for demonstration projects to test the use of personal appearance interviews at the initial stage of the decisionmaking process for continuing disability reviews and for initial disability claims under both title II and title XVI of the Act. Under section 6 of Pub. L. 98–460, the Secretary of Health and Human Services (the Secretary) is required to conduct demonstration projects in which beneficiaries who are undergoing continuing disability review, and claimants who have just applied for disability benefits, are provided an opportunity for an interview with the State agency disability examiner prior to any initial determination of ineligibility.

Existing Procedures

Our first level of decisionmaking about a person's eligibility or continuing eligibility for benefits is called an "initial determination." The initial determination of whether a person is disabled for purposes of title II or title XVI benefits is usually made by a State agency under the regulations at 20 CFR Part 404, Subpart Q, and Part 416, Subpart J. The State agency employees who make the determination are a physician or psychologist called a medical consultant and a nonphysician called a disability examiner. (The rest of this preamble will call them the decisionmaking team.) This will clarify several references which in the NPRM were written as if the disability examiner were the sole decisionmaker. The disability examiner must be qualified to interpret and evaluate medical reports and other evidence relating to a person's physical or mental impairments and, as necessary, to determine the capacities of the person to perform substantial gainful activity as defined at 20 CFR §§ 404.1572 and 416.972. A person who is dissatisfied with the initial determination in his or her case has three levels of administrative appeal available. The first level of appeal is called reconsideration. The second and third levels, respectively, are a hearing before an administrative law judge (ALJ) and a review by the Appeals Council.

Section 4 of Pub. L. 97–455, enacted January 12, 1983, effective with reconsiderations requested after 1983, provided a new reconsideration process which we call a disability hearing. The statute makes disability hearings available to title II beneficiaries who request reconsideration of an initial determination that the physical or mental impairment on the basis of which benefits have been payable has ceased, did not exist, or is no longer disabling. The disability hearing is a face-to-face evidentiary hearing before a disability hearing officer, usually a State agency employee. Under the Secretary's rulemaking authority, our final regulations published January 3, 1986 (51 FR 288) provided the same kind of hearing in comparable title XVI cases.

A principal goal of the disability program is to provide benefits under the law in as accurate and timely a manner as possible. To accomplish this, the Social Security Administration (SSA) has operated under procedures designed to assure that all relevant evidence is obtained and considered in making disability determinations at the State agency level of decisionmaking and to provide an opportunity for face-to-face appeal of an initial unfavorable State agency decision at a later stage in the decision process.

Under existing procedures, an initial determination as to whether the claimant (the person who has applied for benefits) or beneficiary (the person whose entitlement has been established) is disabled or continues to be disabled is usually made by the State agency on the basis of the evidence (written medical and vocational reports) in the person's case file. Currently, the claimant or beneficiary can give us or have us get any additional or new information on paper, including reports from doctors, hospitals, employers or others, that he or she believes we should have before the determination is made. The claimant or beneficiary also talks to an SSA district office employee, but the SAA employee does not make the disability determination in the great majority of cases, namely those where the determination is based on medical/vocational factors. The SSA employee writes down all pertinent information the claimant or beneficiary tells the employee, and anything the employee observes by seeing and hearing the claimant or beneficiary that may be relevant in evaluating his or her condition. The SSA employee then sends this information and any

information or evidence the claimant or beneficiary provided on paper to the State agency.

The State agency evaluates the available evidence and obtains any additional evidence necessary, including reports from the individual's own medical sources as well as reports from physicians who examined the individual at the State agency's request. The State agency then makes an initial determination as to whether the individual is disabled on the basis of the evidence in the case file. In the process of appealing an unfavorable determination, at a later stage in the decisionmaking process, a beneficiary or claimant is entitled to a face-to-face meeting with a decisionmaker (a disability hearing officer or an administrative law judge (ALJ)).

The Demonstration Projects

In passing Pub. L. 98–460, Congress decided we should test potential changes in the disability determination process by offering a face-to-face interview between the claimant or beneficiary and the State agency disability examiner at the first stage of decisionmaking. The Ways and Means Committee of the House of Representatives stated: "The committee believes that such a meeting at the initial stage in the adjudicative process would permit State agency disability examiners to better assess the individual's residual functional capacity and assure that all relevant medical and vocational information has been obtained. Moreover, an interview at the initial State agency level, rather than at some later stage, would both simplify and expedite the decisionmaking process." (H.R. Rep. No. 618, 98th Cong. 2d Sess. 17 (1984)).

Accordingly, sections 6 (d) and (e) of Pub. L. 98–460 require us, as soon as practicable after October 9, 1984, the date of enactment, to implement demonstration projects in which the opportunity for a personal appearance is provided to disability claimants and beneficiaries prior to an initial disability determination or periodic review cessation determination by a State agency under titles II and XVI of the Act.

For determinations in continuing disability review cases, the provision specifies that the opportunity for a personal appearance at the initial level of decisionmaking takes place of the evidentiary hearing at the reconsideration level of review which is required under section 205(b)(2) of the Act. For initial claims, the statute does not specify that the opportunity for a personal appearance at the initial level of decisionmaking will replace the reconsideration level of review, but the legislative history indicates that this was Congress's intent. Additionally, we see no advantage to maintaining the reconsideration level of appeal for these initial claims. By providing the claimant with a predecision notice followed by the opportunity to submit additional evidence and to meet face-to-face with a member of the decisionmaking team, we are, in effect, folding the reconsideration process into the initial step of adjudication. To offer a reconsideration in such cases would only delay cases from moving through the appeals process.

The demonstrations involving claimants are to be conducted in at least five States and the demonstrations involving beneficiaries are to be conducted in at least five States. We are required to report to Congress on the demonstration projects, together with any recommendations, by December 31, 1986.

Section 6(d) of Pub. L. 98–460 requires us to implement these demonstration projects in continuing disability review cases where the review is required by section 221(i) of the Act (periodic review cases) or is made under title XVI of the Act. However, our regulations also include "medical improvement expected" cases in the demonstrations. These are the cases which are selected for continuing disability review because medical improvement was expected. We decided to include these cases because the issues to be decided are the same as in the periodic review cases, and excluding "medical improvement expected" cases would lengthen the time required to obtain adquate sample sizes with which to assess the results of the demonstrations.

We publishing final regulations to inform people who may be selected to participate in the demonstration projects of the change in the procedures for deciding their cases and of the change of their appeal rights. We emphasize, however, that the demonstration projects are only tests of a different method of getting evidence of disability; the projects do not involve changes in standards used for determining whether or not a person is disabled.

Our regulations describe the demonstration projects and explain the procedures and the individual's rights in connection with the interview.

The regulations specify that, in connection with his or her interview, the claimant or beneficiary has the right to——

(1) Meet face-to-face with a State agency disability examiner before a medical/vocational denial or cessation determination is made;

(2) Have us or the State agency assist in getting evidence;

(3) Be represented at the interview;

(4) Review the evidence in the file either on or before the date of the interview;

(5) Present additional evidence at the interview; and

(6) Present witnesses at the interview.

The claimant or beneficiary and his or her representative or witnesses may be eligible for reimbursement under the State agency's rules for travel expenses incurred in connection with the interview if the distance from the person's residence or office (whichever he or she travels from) to the interview site exceeds 75 miles.

The regulations specify that the first level of appeal from the State agency initial determination following the opportunity for an interview (regardless of whether or not the claimant or beneficiary takes advantage of the opportunity) is a hearing before an ALJ.

We will select people to participate in the demonstrations from among claimants in all or part of at least five States and from among beneficiaries in all or part of at least five States. We will select participants randomly from among individuals who will have their initial determinations about disability made by a State agency under § 404.1613 or § 416.1013. Thus, people whose disability determinations will not be made by a State agency will not be included in the projects. For example, SSA offices (rather than State agencies) determine that people are not disabled if they are in fact performing substantial gainful activity in spite of their medical condition. We plan to include in the demonstrations all kinds of State agency cases except those described in items (4) through (7) below, but because unforeseen circumstances may arise, we have provided in item (8) for exclusion of any cases we may find it would be impractical to include.

For people in the following categories, State agencies will continue to make disability determinations without the interviews required by Pub. L. 98–460:

(1) People not randomly selected to participate in the demonstration projects;

(2) People who can be determined to be disabled on the basis of the evidence in their files;

(3) People who, without good cause, fail to make a timely reply to (or who decline) the offer of an interview (however, their first level of appeal of our disability determination in these

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cases will also be a hearing before an ALJ);

(4) People who have been determined not disabled but whose cases are being reexamined under the new disability standards in accordance with the Social Security Disability Benefits Reform Act of 1984;

(5) Beneficiaries whose condition was not expected to improve and whose continuing disability reviews result in a determination that they are still disabled without the need for any face-to-face contact with SSA or the State agency;

(6) Claimants who, after being selected to participate in a project, move to an area where the State agency is not participating in a project for claimants;

(7) Beneficiaries who, after being selected to participate in a project, move to an area where the State agency is not participating in a project for beneficiaries; and

(8) People the Social Security Administration finds it would be impractical to include in the projects.

We are excluding the people described in item (4) above from the demonstration projects because these people, although their cases are being reexamined, have already been through a disability determination process (including, in some cases, several levels of administrative review) and including them in the demonstration could possibly deter the expeditious processing of their cases and might bias the results of the demonstrations.

Exclusion (5) above was not listed in the NPRM. Although section 221(i) of the Act requires that the eligibility of individuals with permanent impairments be reviewed at such times as we determine to be appropriate, we expect the large majority of these reviews to result in determinations of continuing disability. For this reason, and to minimize the burden placed on these people by the continuing disability reviews, we are setting up a special procedure for them that emphasizes folder reviews and telephone contact with them by the State agency to verify that the impairment(s) is continuing. This special process for continuing disability reviews of beneficiaries whose impairment(s) was not expected to improve should eliminate the need for most of them to visit a Social Security office. Because we expect most of these beneficiaries to be found still disabled after only minimum review, we do not believe inclusion of their cases in the demonstration sample would add to what we learn from the demonstrations. However, any beneficiary whose continuing disability review requires more than the minimum review provided by the special procedure, will be eligible for random selection into the demonstration sample of cases.

As item (2) above implies, the State agency will offer the opportunity for an interview only after concluding that a determination based only on the written reports in the case record would be a denial or cessation. The regulations indicate that where this occurs, the State agency will mail the individual a notice informing him or her of the preliminary unfavorable determination and to the opportunity for an interview before a formal determination is made. The notice will state that the individual has 30 days from the date he or she receives the notice to request an interview but explain that this deadline can be extended for good cause under the standards in §§ 404.911 and 416.1411. (The existing regulations at §§ 404.901 and 416.1401 explain that the date the individual receives notice means "5 days after the date on the notice, unless you show us that you did not receive it within the 5-day period.")

If the claimant or beneficiary makes a timely request for an interview, the State agency will mail a notice of its time and place at least 20 days in advance, unless the claimant or beneficiary waives (in writing) his or her right to the 20-day advance notice. The claimant or beneficiary will be informed that he or she should not waive the right to the 20-day advance notice if he or she needs time to get ready for the interview. If a claimant or beneficiary waives (in writing) his or her right to the 20-day advance notice, an interview will be scheduled as soon as possible and the State agency will mail a notice of the time and place of the interview at least 10 days in advance, unless the interview is scheduled by telephone as explained below.

Occasionally, for the convenience of all parties involved, an interview may be scheduled by telephone. In such instances, the State agency will mail a notice of the time and place of the interview only if it is scheduled for a date not less than 5 days from the date the telephone arrangements were made. If an interview was scheduled by telephone and the claimant or beneficiary does not appear for the interview, one of the following actions will be taken:

(1) If a notice of the time and place of the interview was not mailed at least 20 days before the scheduled date of the interview and the claimant or beneficiary did not waive (in writing) his or her right to the 20-day advance notice, the disability examiner will automatically schedule another interview. The State agency will mail a notice of the time and place of the interview at least 20 days in advance.

(2) If a notice of the time and place of the interview was not mailed to the claimant or beneficiary and he or she waived (in writing) his or her right to the 20-day advance notice, the disability examiner will automatically schedule another interview. The State agency will mail a notice of the time and place of the interview at least 10 days in advance.

In any case where the 20-day advance notice (or, if the right to the 20-day advance notice is waived, the 10-day or 5-day notice) of the interview was mailed to the claimant or beneficiary and he or she does not appear for the interview, the decisionmaking team will make a determination as to whether the claimant or beneficiary is disabled based on the evidence in his or her case file. A written notice of that determination will be mailed to the claimant or beneficiary at his or her last known address.

At the request of the claimant or beneficiary, the State agency may allow up to 15 days after the interview for receipt of additional evidence which was not available at that time. The State agency may also obtain additional evidence, including a consultative medical examination as described in §§ 404.1517 and 416.917 or a report from the treating physician, after the interview if it believes it is necessary for a sound determination.

In preparing our report to Congress on the demonstration projects, we will evaluate them primarily by comparing the demonstration procedures with our usual procedures in terms of such things as—

(1) Elapsed time to final decision either from the claimant's application or from starting the review of the beneficiary's continued eligibility;

(2) Acceptance rate for interviews offered;

(3) Frequency of favorable determinations;

(4) Accuracy of determinations;

(5) Appeal rates;

(6) Reversal rates on appeal; and

(7) Program and administrative costs.

Public Comments

We received four letters of comments on the NPRM. The following summarizes and responds to the comments.

Comment: The final regulations should list the States and/or parts of States where the demonstrations will be held, "to avoid confusion" and particularly to alert legal services offices and private attorneys who handle many disability claims.

Response: We have not listed the locations where the demonstrations will be held in the regulations because the locations and tentative and subject to change. Tentatively, however, we expect the demonstrations to be conducted in Alabama, California, Georgia, Maine, Missouri, and New Jersey for continuing disability review cases, and in Arizona, Michigan, Mississippi, Montana, Nebraska, New Hamphire, and Oregon for initial claim cases.

Comment: We should not exclude from the demonstrations people who have been determined not disabled but whose cases are being reexamined under the new disability standards in accordance with Pub. L. 98-460. Without these cases, the sample cases will be mostly beneficiaries whose condition had not been expected to improve and the sample will therefore be unrepresentative. If we exclude the people whose cases are being reexamined, we should also exclude both people whose condition had not been expected to improve and the "medical improvement expected" cases, people whose condition had been expected to improve. Both groups are extreme cases that should be excluded from the demonstrations to assure they do not bias the results.

Response: The sample of cases in the demonstrations will be varied in nature, and we believe the sample will be more representative without the cases being reexamined under Pub. L. 98-460 than with them. Some of these reexamination cases have already been through multiple levels of administrative review. They represent a unique, one-time workload. We will plan to exclude them from the demonstrations.

We do not believe inclusion of the "medical improvement expected" cases will make the sample unrepresentative; they are fully typical of our permanent, ongoing workload. We do not plan to exclude them. Additionally, beneficiaries whose condition had not been expected to improve are also part of our ongoing workload and will be eligible for selection for the demonstrations, unless their continuing disability review requires only the minimum review as explained earlier in this preamble.

Comment: We should delete the provision for excluding from the demonstrations people we find it would be impractical to include. State agencies will use this provision to avoid holding interviews with people who are considered violent, live in remote areas, do not speak English, or in any other way are difficult to deal with. Part of the purpose of the experiment is to deal with potential problem situations in order to learn how severe the problems are and how well they can be overcome.

Response: We have retained the provision. The circumstances of the demonstrations are sufficiently novel that we believe we cannot make an absolute commitment to offer interviews without allowing exclusion for some strong but unforeseeable reason. However, we also strongly agree that a vital part of the experiment's purpose is to gain experience in dealing with potential problem situations. We will not permit a State agency to make its own decision to exclude a person from the demonstrations because the State agency believes inclusion would be impractical. No one can be excluded on this basis without prior approval of SSA, and we will not approve exclusion except after strong justification.

Comment: The regulations should specify that the notice offering a person the opportunity for an interview will (a) stress that generally it will not be a good idea to waive written notice of the interview if the person would like to secure representation or believes there is additional evidence that could be supplied, (b) provide a list of the evidence in file, and (c) provide very specific information about why the disability examiner believes that that evidence requires a determination that the person is not disabled.

Response: The notice will inform the claimant or beneficiary that he or she should not waive the right to the 20-day advance notice if he or she needs time to get ready for the interview. The notice will also inform the person of the right to have a representative and to supply additional evidence. Additionally, the notice will list the evidence in file and explain specifically why it requires a determination that the person is not disabled. We do not believe these matters need to be set out in detail in the regulations.

Comment: The regulations should provide that the claimant or beneficiary may request a bilingual or sign language interpreter.

Response: The form for accepting the offer of an interview will provide a box for the claimant or beneficiary to check to request an interpreter, and one will be provided if requested. We do not believe this needs to be in the regulations.

Comment: The rules for how much notice of a scheduled interview a person will get, whether the notice will be written, and what happens if the person does not appear at an interview scheduled by telephone are confusing and should be simplified.

Also, when an interview is to be rescheduled after the person does not appear as originally scheduled, rescheduling should be automatic; the person should not have to seek it.

Response: We agree that the rules are complicated, because they tell exactly what will happen in each of several different combinations of circumstances. However, we believe they accomplish their purpose. That purpose is to provide maximum flexibility in scheduling while protecting the claimant's or beneficiary's right to adequate notice by spelling out the limits on that flexibility. Flexibility of scheduling is important not only for administrative efficiency but for giving people prompt determinations on their cases.

We intended that, where the regulations provide for rescheduling after nonappearance, rescheduling would be automatic. We have revised the regulations to make that clear.

Comment: The regulations should require the State agency to telephone any person who is offered the opportunity for an interview and does not reply within the 30-day time limit, because the person may be mentally ill, mentally retarded, illiterate, or otherwise unable to reply effectively to the notice. Since the demonstrations are tests of ways to improve the adjudicatory process, data on the results of these calls should be considered in the evaluation of the demonstrations.

Response: Special efforts to contact a claimant or beneficiary are already standard State agency practice whenever there is any indication that the person may be unable to reply effectively. Therefore, we do not believe it is necessary to add a requirement for these efforts to the regulations. The results of these efforts will be considered in evaluation of the demonstrations.

Comment: The interviews should be held in places accessible to persons using wheelchairs and to other handicapped persons.

Response: We will ensure that no one is unable to have an interview because his or her impaired mobility makes the location inaccessible.

Comment: Travel expense reimbursement should be available for travel of less than the 75 miles stated in paragraph (g) of the proposed regulations, because claimants and beneficiaries, their representatives, and their witnesses will seldom have to travel that far for an interview.

Response: Indeed, we intend that State agencies will make every effort to require claimants and beneficiaries to travel much less than 75 miles to interviews. (How far their representatives and witnesses have to

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travel, of course, is beyond the State agencies' control.)

Our policy of not paying travel expenses for travel less than 75 miles parallels our policy on travel reimbursement in connection with disability hearings and ALJ hearings. For travel for those purposes the 75-mile minimum is mandated explicitly by the current HHS appropriations act in SSI cases, and we think it would be clearly inappropriate to apply a different reimbursement rule in title II cases, in which there is less reason to presume financial need.

Comment: The interview should not be conducted by the same disability examiner who participated in the preliminary conclusion that the claimant or beneficiary is not disabled. The disability examiner who has participated in that preliminary conclusion will be prejudiced against the claimant or beneficiary.

Response: Although, in the majority of cases, we expect the interview to be conducted by the same person who participated in the preliminary conclusion, the interviewer may not always be the same person. (We have revised the regulations to clarify that fact.) We do not believe the decisionmaking team who reached the preliminary conclusion will be prejudiced, because we see the interview as a neutral means of ensuring that all relevant evidence is obtained as part of the information-gathering process. Additionally, the team's primary responsibility is to make an accurate determination, and since their final determination will be subject to review by SSA, every real incentive will be to make an accurate final determination, regardless of whether it agrees with the preliminary conclusion.

Comment: Where a State agency medical consultant participates in the interview along with the disability examiner, this may be intimidating to the claimant or beneficiary. Therefore, where the State agency uses the two-person team, it should be stressed to the claimant or beneficiary that he or she is entitled to be represented and that it is possible to obtain free legal representation.

In addition, if the claimant or beneficiary is not represented, we should permit only one member of the two-person team to question the claimant or beneficiary.

Also, we should compare the results of interviews by a two-person team with the results of one-person interviews to see if there is a difference.

Response: Our notices to claimants and beneficiaries will emphasize in every case that they are entitled to be represented at the interview and that it may be possible to obtain free legal representation.

We will not limit questioning to one member of a two-person team because the main purpose of the medical consultant's participation is to ask any relevant questions, which may, in fact, be beneficial to the claimant's and beneficiary's interests. We do not believe the two-person team will be intimidating.

If we do experiment with use of a two-person team, we will compare the results of one- and two-person interviews to see if there is a difference.

Comment: The regulations should allow the disability examiner to subpoena records and to swear in witnesses.

Also, the regulations should require the disability examiner to show any notes he or she makes of the interview (if they are the State agency's only record of the interview) to the claimant or beneficiary, so that the claimant or beneficiary can put a written statement into the record rebutting any errors he or she believes appear in the disability examiner's notes. Otherwise any errors in the disability examiner's notes of the interview, especially inaccurately or incompletely recorded statements of the claimant or beneficiary, may prejudice the administrative law judge hearing if one is later held.

Response: Our experience has been that we can obtain all relevant evidence without subpoenas; therefore, we do not believe it is necessary to provide for subpoenas in connection with these interviews. Additionally, in order to keep the interview informal so that the claimant or beneficiary will feel relaxed enough to speak freely, we have also determined that it is necessary that witnesses not be sworn in.

The disability examiner's notes on the interview will be part of the case file, which the claimant or beneficiary or his or her representative is welcome to examine at any time. The claimant or beneficiary or his or her representative is also welcome to submit any written statement he or she wishes at any time, and it will become part of the case file too.

Comment: The regulations should provide for the disability examiner to allow more than 15 days after the interview, at the claimant's or beneficiary's request, for receipt of evidence which was not available at the time of the interview. One commenter said that, where the claimant or beneficiary receives less than 20 days notice of the interview, the disability examiner should allow up to 30 days after the interview for submission of additional evidence. The claimant or beneficiary may need the additional time to get evidence.

Response: We believe that our procedures for notifying claimants and beneficiaries about the interview process, and the consistent emphasis in our notices and interviews on securing updated medical evidence, make it unnecessary to have a more open-ended period for securing evidence after the interview. When understood in this context, we believe that the 15-day limitation on post-interview submittal of evidence is reasonable and unlikely to impose undue hardship on any claimant or beneficiary. In addition, we will assist claimants and beneficiaries in obtaining evidence.

Comment: The provision in paragraph (h) of §§ 404.906 and 416.1406 of the regulations for the disability examiner to obtain additional evidence after the interview, including a consultative medical examination, should also provide for seeking evidence from the claimant's or beneficiary's treating physician.

Response: We agree and have revised paragraph (h) of the regulations accordingly.

Comment: We should not file our report to Congress on the demonstrations until after they are completed.

Response: Section 6 of Pub. L. 98-460 requires us to report to Congress by December 31, 1986.

Comment: The regulations should state the factors we will consider in evaluating the demonstrations and the types of information we require the State agencies to record, because these things are critical to the project.

Response: The evaluation factors are listed in this preamble. In addition, our instructions to the State agencies for recording information about the demonstrations are being given to the State agencies in a separate comprehensive manual. We do not believe it is necessary to repeat this voluminous and detailed material in the regulations.

Regulatory Procedures

Executive Order 12291

These final regulations have been reviewed under Executive Order 12291. The will not have an annual effect on the economy of $100 million or more and do not meet any of the other criteria for a major regulation. Therefore, regulatory impact analysis is not required.

Regulatory Flexibility Act

We certify that these final regulations will not have a significant economic impact on a substantial number of small entities because the regulations will affect only individuals and States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

Paperwork Reduction Act

The information collection requirements contained in §§ 404.908(d) and 416.1406(d) and the form SSA-311 [Acknowledgement of Offer of Interview] which will be enclosed with the pre-denial notices, have been approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980 and assigned OMB control number 0960-0415.

(Catalog of Federal Domestic Assistance Program Nos. 13.802—Social Security—Disability Insurance and 13.807—Supplemental Security Income.)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Survivors, and Disability insurance.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI).

Dated: March 3, 1986.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: April 8, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

Subpart J of Part 404 and Subpart N of Part 416 of 20 CFR are amended as follows:

PART 404—[AMENDED]

1. The authority citation for Subpart J of Part 404 is revised to read as follows:

Authority: Secs. 205 and 1102 of the Social Security Act, sec. 8 of Reorganization Plan No. 1 of 1953, sec. 6 of Pub. L. 98-460; 53 Stat. 1368, 49 Stat. 647, 98 Stat. 1802 (42 U.S.C. 405 and 1302).

2. Section 404.906 is added to read as follows:

§ 404.906 Opportunity for personal appearance interview before initial disability denial or cessation determination—demonstration projects.

(a) *Applicability and scope.* Notwithstanding any other provision in this Part or Part 422, we are establishing the procedures set out in this section for demonstration projects involving certain initial determinations about eligibility or continued eligibility for benefits based on disability. There will be two types of demonstration projects: projects involving individuals who have applied for benefits but have not received an initial determination about their eligibility, and projects involving individuals who have been receiving benefits but whose condition is being reviewed to determine whether they are still disabled. Each of the two types of projects will be conducted in at least five States. Projects may be conducted on a Statewide basis or in only part of the State. Participants will be selected randomly from among individuals who will have their initial determinations about disability made by a State agency (see §§ 404.1503 and 404.1613), excluding—

(1) Individuals who have been determined not disabled but whose cases are being reexamined under the new disability standards in accordance with Pub. L. 98-460;

(2) Beneficiaries whose condition was not expected to improve and whose continuing disability reviews result in a determination that they are still disabled without the need for any face-to-face contract with SSA or the State agency;

(3) Claimants who, after being selected to participate in a project, move to an area where the State agency is not participating in a project for claimants;

(4) Beneficiaries who, after being selected to participate in a project, move to an area where the State agency is not participating in a project for beneficiaries; and

(5) Individuals the Social Security Administration finds it would be impractical to include in the projects.

(b) *Summary of procedure.* The individuals selected to participate will be given an opportunity, before any initial determination is made that they are not disabled, for a personal appearance interview with the State agency disability examiner who, along with a State agency medical consultant, will make the disability determination. (The rest of this section will call them the decisionmaking team.) In some locations, a State agency medical consultant may participate in the interviews together with the disability examiner, although the rest of this section will refer to the interviewer(s) as the disability examiner. Medical examinations will not be conducted as part of the interview process. The reconsideration level of review will be eliminated for individuals who are given the opportunity for an interview under the demonstration projects. Thus, for individuals who are given the opportunity for an interview, whether or not they take advantage of the opportunity, the first level of appeal from the initial determination will be a hearing before an administrative law judge. Determinations for individuals not included in the projects will be made under current usual procedures. The demonstration projects will begin as soon as practicable and will end as soon as a large enough sample of cases is completed to permit proper evaluation of the demonstration projects, but no later than December 31, 1987.

(c) *Authority and purpose.* The demonstration projects are required by section 6 of Pub. L. 98-460, the Social Security Disability Benefits Reform Act of 1984. Their purpose is to test whether a face-to face interview with the State agency disability examiner at this stage of the decisionmaking process will result in a better evaluation of the person's condition, assure that all relevant information is obtained, and simplify and expedite the decisionmaking process. The projects are only tests of a different method of getting evidence of disability; they do not involve changes in standards used for determining whether or not a person is disabled.

(d) *Procedures for cases included in the projects.* If you are selected to participate in the projects, the State agency disability examiner will review all medical and vocational evidence in your file, including any you provided and any the State agency obtained, just as under the usual procedures. If the decisionmaking team then determines that you are disabled, you will receive a written notice of that determination as under usual procedures. But if the decisionmaking team believes the evidence in your file requires a determination that you are not disabled, they will mail a written notice to you at your last known address telling you their preliminary conclusion and why they believe that such a determination is required. The notice will also tell you that before a formal determination about your disability is made, you may have an interview with the State agency disability examiner if you request it within 30 days after the date you receive the notice. The disability examiner who interviews you may or may not be the same one who participated in the preliminary conclusion that you are not disabled. If you make a late request for an interview but show in writing that you had good cause under the standards in § 404.911 for missing the deadline, the disability examiner will extend the deadline. If you do not request an

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interview, or if you requested an interview and notice of its time and place was mailed to you as provided in this paragraph (or paragraph (e)(2) of this section) but you do not appear for the interview, the decisionmaking team will make a determination as to whether you are disabled based on the evidence in your cause file. A written notice of that determination will be mailed to you at your last known address. The notice will state the reasons for the determination and its effect, and will inform you of the right to a hearing before an administrative law judge. If you do request an interview within the 30-day time period (or within the extended time period if you make a late request and the disability examiner extends the time period under the good cause provision as provided above), the disability examiner will mail a notice to you at your last known address informing you of the time and place of your interview. The notice will be mailed at least 20 days before the date of the interview, unless you waive (in writing) your right to the 20-day advance notice. You should not waive this right if you need time to get ready for the interview. If you do waive this right, an interview will be scheduled for you as soon as possible and a notice of the time and place of your interview will be mailed to you at your last known address. In this instance, the notice will be mailed at least 10 days before the date of the interview, unless arrangements for the interview are made by the telephone as explained in paragraph (e) of this section. (Approved under OMB control number 0960–0415)

(e) *Interviews scheduled by telephone.* Notwithstanding paragraph (d) of this section, occasionally, for the convenience of all parties involved and as a means of processing your case sooner, arrangements for the time and place of the interview may be made by telephone. If such arrangements are made and the interview is scheduled for a date not less than 5 days from the date of the telephone arrangements, a notice will be mailed to you at your last known address, confirming the time and place of the interview. If an interview is scheduled for a date less than 5 days from the date of the telephone arrangements, a notice confirming the interview will not be mailed to you. If an interview is scheduled by telephone and you do not appear for the interview, one of the following actions will be taken:

(1) If a notice of the time and place of the interview was not mailed at least 20 days before the scheduled date of the interview and you did not waive (in writing) your right to the 20-day advance notice explained in paragraph (d) of this section, the disability examiner will automatically schedule another interview for you. A notice informing you of the time and place of the rescheduled interview will be mailed to you at your last known address. The notice will be mailed at least 20 days before the date of the interview.

(2) If a notice of the time and place of the interview was mailed to you, and you waived (in writing) your right to the 20-day advance notice explained in paragraph (d) of this section, the decisionmaking team will make a determination as to whether you are disabled based on the evidence in your case. A written notice of that determination will be mailed to you at your last known address.

(3) If a notice of the time and place of the interview was not mailed to you, and you waived (in writing) your right to the 20-day advance notice explained in paragraph (d) of this section, the disability examiner will automatically schedule another interview for you. A notice informing you of the time and place of the rescheduled interview will be mailed to you at your last known address. The notice will be mailed at least 10 days before the date of the interview.

(f) *Change in time or place of interview.* If you are unable to travel or have some other reason why you cannot attend your interview at the scheduled time or place, you should request at the earliest possible date that the time or place be changed. The disability examiner will change the time or place if there is good cause for doing so under the standards in § 404.936 (c) and (d).

(g) *Your rights.* In connection with your interview—

(1) You may request that we or the State agency assist you in obtaining pertinent evidence about your disability;

(2) You may have a representative, appointed under Subpart R of this Part, at your interview, or you may represent yourself;

(3) You or your representative may review the evidence in your case file, either on the date of your interview or at an earlier time at your request;

(4) You or your representative may present additional evidence and bring witnesses to support your case at your interview; and

(5) You, your representative, and your witnesses may be eligible for reimbursement under the State agency's rules for travel expenses incurred in connection with your interview if the distance from the person's residence or office (whichever he or she travels from) to the interview site exceeds 75 miles.

(h) *After your interview.* At your request, the disability examiner may allow up to 15 days after your interview for receipt of evidence which was not available at the time of the interview. The disability examiner may also obtain additional evidence, including a consultative medical examination as described in § 404.1517 or a report from your treating physician, after the interview if he or she believes it is necessary for a sound determination. The decisionmaking team will then determine whether you are disabled. A written notice of the determination made in your case will be mailed to you at your last known address. The notice will state the reasons for the determination and its effect, and will inform you of the right to a hearing before an administrative law judge.

(i) *Effect of the State agency's determination for project participants.* The State agency decisionmaking team's determination is an initial determination that is binding unless—

(1) You request a hearing before an administrative law judge within the time period described in paragraph (j) of this section, and a decision is made; or

(2) The initial determination is revised as provided in § 404.987.

(j) *Appeal rights for project participants.* If you were given the opportunity for an interview (whether or not you requested or appeared for the interview) and you are dissatisfied with the initial determination, you may request a hearing before an administrative law judge. You must file your request for this hearing within 60 days after the date you receive notice of the initial determination (or within the extended time period if we extend the time as provided in § 404.933(c)). Section 404.933 explains how to request a hearing before an administrative law judge. (See §§ 404.929–404.961 for the rules concerning administrative law judge hearings.)

(Approved by the Office of Management and Budget under control number 0960–0415)

PART 416—[AMENDED]

3. The authority citation for Subpart N of Part 416 is revised to read as follows:

Authority: Sec. 1102, 1631(c), and 1633 of the Social Security Act, sec. 6 of Pub. L. 98–460; 49 Stat. 647, 86 Stat. 1475, 86 Stat. 1476, 98 Stat. 1802 (42 U.S.C. 1302, 1383, 1383b).

4. Section 416.1406 is added to read as follows:

§ 416.1406 Opportunity for personal appearance interview before initial disability denial or cessation determination—demonstration projects

(a) *Applicability and scope.* Notwithstanding any other provision in this Part or Part 422, we are establishing the procedures set out in this section for demonstration projects involving certain initial determinations about eligibility or continued eligibility for benefits based on disability. (For purposes of this section, "disability" and "disabled" include blindness.) There will be two types of demonstration projects: projects involving individuals who have applied for benefits but have not received an initial determination about their eligibility, and projects involving individuals who have been receiving benefits but whose condition is being reviewed to determine whether they are still disabled. Each of the two types of projects will be conducted in at least five States. Projects may be conducted on a Statewide basis or in only part of the State. Participants will be selected randomly from among individuals who will have their initial determinations about disability made by a State agency (see §§ 416.903 and 416.1013), excluding—

(1) Individuals who have been determined not disabled but whose cases are being reexamined under the new disability standards in accordance with Pub. L. 98–460;

(2) Beneficiaries whose condition was not expected to improve and whose continuing disability reviews result in a determination that they are still disabled without the need for any face-to-face contact with SSA or the State agency;

(3) Claimants who, after being selected to participate in a project, move to an area where the State agency is not participating in a project for claimants;

(4) Beneficiaries who, after being selected to participate in a project, move to an area where the State agency is not participating in a project for beneficiaries; and

(5) Individuals the Social Security Administration finds it would be impractical to include in the projects.

(b) *Summary of procedure.* The individuals selected to participate will be given an opportunity, before any initial determination is made that they are not disabled, for a personal appearance interview with the State agency disability examiner who, along with a State agency medical consultant, will make the disability determination. (The rest of this section will call them the decisionmaking team.) In some locations, a State agency medical consultant may participate in the interviews together with the disability examiner, although the rest of this section will refer to the interviewer(s) as the disability examiner. Medical examinations will not be conducted as part of the interview process. The reconsideration level of review will be eliminated for individuals who are given the opportunity for an interview under the demonstration projects. Thus, for individuals who are given the opportunity for an interview, whether or not they take advantage of the opportunity, the first level of appeal from the initial determination will be a hearing before an administrative law judge. Determinations for individuals not included in the projects will be made under current usual procedures. The demonstration projects will begin as soon as practicable and will end as soon as a large enough sample of cases is completed to permit proper evaluation of the demonstration projects, but no later than December 31, 1987.

(c) *Authority and purpose.* The demonstration projects are required by section 6 of Pub. L. 98–460, the Social Security Disability Benefits Reform Act of 1984. Their purpose is to test whether a face-to-face interview with the State agency disability examiner at this stage of the decisionmaking process will result in a better evaluation of the person's condition, assure that all relevant information is obtained, and simplify and expedite the decisionmaking process. The projects are only tests of a different method of getting evidence of disability; they do not involve changes in standards used for determining whether or not a person is disabled.

(d) *Procedures for cases included in the projects.* If you are selected to participate in the projects, the State agency disability examiner will review all medical and vocational evidence in your file, including any you provided and any the State agency obtained, just as under the usual procedures. If the decisionmaking team then determines that you are disabled, you will receive a written notice of that determination as under usual procedures. But if the decisionmaking team believes the evidence in your file requires a determination that you are not disabled, they will mail a written notice to you at your last known address telling you their preliminary conclusion and why they believe that such a determination is required. The notice will also tell you that before a formal determination about your disability is made, you may have an interview with the State agency disability examiner if you request it within 30 days after the date you receive the notice. The disability examiner who interviews you may or may not be the same one who participated in the preliminary conclusion that you are not disabled. If the make a late request for an interview but show in writing that you have good cause under the standards in § 416.1411 for missing the deadline, the disability examiner will extend the deadline. If you do not request an interview, or if you requested an interview and notice of its time and place was mailed to you as provided in this paragraph (or paragraph (e)(2) of this section) but you do not appear for the interview, the decisionmaking team will make a determination as to whether you are disabled based on the evidence in your case file. A written notice of that determination will be mailed to you at your last known address. The notice will state the reasons for the determination and its effect, and will inform you of the right to a hearing before an administrative law judge. If you do request an interview within the 30-day time period (or within the extended time period if you make a late request and the disability examiner extends the time period under the good cause provision as provided above), the disability examiner will mail a notice to you at your last known address informing you of the time and place of your interview. The notice will be mailed at least 20 days before the date of the interview, unless you waive (in writing) your right to the 20-day advance notice. You should not waive this right if you need time to get ready for the interview. If you do waive this right, an interview will be scheduled for you as soon as possible and a notice of the time and place of your interview will be mailed to you at your last known address. In this instance, the notice will be mailed at least 10 days before the date of the interview, unless arrangements for the interview are made by the telephone as explained in paragraph (e) of this section. (Approved under OMB control number 0960–0415)

(e) *Interviews scheduled by telephone.* Notwithstanding paragraph (d) of this section, occasionally, for the convenience of all parties involved and as a means of processing your case sooner, arrangements for the time and place of the interview may be made by telephone. If such arrangements are made and the interview is scheduled for a date not less than 5 days from the date of the telephone arrangements, a notice will be mailed to you at your last known address, confirming the time and place of the interview. If an interview is scheduled for a date less than 5 days from the date of the telephone arrangements, a notice confirming the interview will not be mailed to you. If an

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interview is scheduled by telephone and you do not appear for the interview, one of the following actions will be taken:

(1) If a notice of the time and place of the interview was not mailed at least 20 days before the scheduled date of the interview and you did not waive (in writing) your right to the 20-day advance notice explained in paragraph (d) of this section, the disability examiner will automatically schedule another interview for you. A notice informing you of the time and place of the rescheduled interview will be mailed to you at your last known address. The notice will be mailed at least 20 days before the date of the interview.

(2) If a notice of the time and place of the interview was mailed to you, and you waived (in writing) your right to the 20-day advance notice explained in paragraph (d) this section, the decisionmaking team will make a determination as to whether you are disabled based on the evidence in your case file. A written notice of that determination will be mailed to you at your last known address.

(3) If a notice of the time and place of the interview was not mailed to you, and you waived (in writing) your right to the 20-day advance notice explained in paragraph (d) of this section, the disability examiner will automatically schedule another interview for you. A notice informing you of the time and place of the rescheduled interview will be mailed to you at your last known address. The notice will be mailed at least 10 days before the date of the interview.

(f) *Change in time or place of interview.* If you are unable to travel or have some other reason why you cannot attend your interview at the scheduled time or place, you should request at the earliest possible date that the time or place be changed. The disability examiner will change the time or place if there is good cause for doing so under the standards in § 416.1436 (c) and (d).

(g) *Your rights.* In connection with your interview—

(1) You may request that we or the State agency assist you in obtaining pertinent evidence about your disability;

(2) You may have a representative, appointed under Subpart O of this Part, at your interview, or you may represent yourself;

(3) You or your representative may review the evidence in your case file, either on the date of your interview or at an earlier time at your request;

(4) You or your representative may present additional evidence and bring witnesses to support your case at your interview; and

(5) You, your representative, and your witnesses may be eligible for reimbursement under the State agency's rules for travel expenses incurred in connection with your interview if the distance from the person's residence or office (whichever he or she travels from) to the interview site exceeds 75 miles.

(h) *After your interview.* At your request, the disability examiner may allow up to 15 days after your interview for receipt of evidence which was not available at the time of the interview. The disability examiner may also obtain additional evidence, including a consultative medical examination as described in § 416.917 or a report from your treating physician, after the interview if he or she believes it is necessary for a sound determination. The decisionmaking team will then determine whether you are disabled. A written notice of the determination made in your case will be mailed to you at your last known address. The notice will state the reasons for the determination and its effect, and will inform you of the right to a hearing before an administrative law judge.

(i) *Effect of the State agency's determination for project participants.* The State agency decisionmaking team's determination is an initial determination that is binding unless—

(1) You request a hearing before an administrative law judge within the time period described in paragraph (j) of this section, and a decision is made; or

(2) The initial determination is revised as provided in § 416.1487.

(j) *Appeal rights for project participants.* If you were given the opportunity for an interview (whether or not you requested or appeared for the interview) and you are dissatisfied with the initial determination, you may request a hearing before an administrative law judge. You must file your request for this hearing within 60 days after the date you receive notice of the initial determination (or within the extended time period if we extend the time as provided in § 416.1433(c)). Section 416.1433 explains how to request a hearing before an administrative law judge. (See §§ 416.1429–416.1461 for the rules concerning administrative law judge hearings.)

(Approved by the Office of Management and Budget under control number 0960-0415)

[FR Doc. 86-9151 Filed 4-23-86; 8:45 am]
BILLING CODE 4190-11-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Extension of Temporary Placement of 3-Methylfentanyl into Schedule I

AGENCY: Drug enforcement Administration, Justice.

ACTION: Final rule.

SUMMARY: This final rule is issued by the Administrator of the Drug Enforcement Administration (DEA) to extend the temporary scheduling of the narcotic substance, 3-methylfentanyl in Schedule I of the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*). The temporary scheduling of 3-methylfentanyl was due to expire on April 25, 1986. This notice will extend the time period for six months or until 3-methylfentanyl is placed in Schedule I pursuant to the scheduling procedure outlined in 21 U.S.C. 811(a), whichever occurs first.

EFFECTIVE DATE: April 25, 1986.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr., Chief, Drug Control Section, Drug Enforcement Administration, Washington, D.C. 20537, Telephone: (202) 633-1366.

SUPPLEMENTARY INFORMATION:

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

On March 25, 1985, the Administrator of the Drug Enforcement Administration issued a final rule in the **Federal Register** amending § 1308.11(g) to temporarily place 3-methylfentanyl into Schedule I of the Controlled Substances Act pursuant to the emergency scheduling provisions of 21 U.S.C. 811(h). This action which became effective on April 25, 1985 was based on a finding by the Administrator that the emergency scheduling of 3-methylfentanyl was necessary to avoid an imminent hazard to the public safety. Section 201(h)(2) of the CSA (21 U.S.C. 811(h)(2)) provides that the emergency scheduling of a substance expires at the end of one year from the effective date of the order. However, if a rulemaking proceeding to schedule the substance has been initiated pursuant to section 201(a)(1) of the CSA (21 U.S.C. 811(a)(1)), the temporary scheduling may be extended for up to six months. Under this provision, the temporary scheduling of 3-methylfentanyl which is due to expire on April 25, 1986, will be extended until October 25, 1986, or until the date on which a final rule, published as a result of the formal rulemaking proceeding, is effective; whichever occurs first.

Pursuant to 21 U.S.C. 811(h)(2) and since proceedings have been initiated in accordance with 21 U.S.C. 811(a)(1) to schedule 3-methylfentanyl, the Administrator hereby orders that the temporary scheduling of 3-methylfentanyl be extended to October 25, 1986 or until the conclusion of the rulemaking proceeding, whichever occurs first.

Pursuant to Title 5, United States Code, section 605(b), the Administrator certifies that the extended scheduling of 3-methylfentanyl in Schedule I of the Controlled Substances Act will have no impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96-354). The substance, 3-methylfentanyl, has no legitimate use or manufacturer in the United States.

It has been determined that the extension of the temporary placement of 3-methylfentanyl in Schedule I of the CSA under the emergency scheduling provision is a statutory exception to the requirements of Executive Order 12291 (46 FR 13193).

Dated: April 21, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-9125 Filed 4-23-86; 8:45 am]
BILLING CODE 4410-09-M

28 CFR Part 16

[AAG/A Order No. 7-86]

Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: On December 17, 1985, the Department of Justice, Criminal Division, issued proposed regulations to exempt certain portions of a new system of records entitled "Office of Special Investigations Displaced Persons Listings, JUSTICE/CRM-027" from subsection (d) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(2). The exemption is required because access to these records could inform the subject of the identity of witnesses and informants. Thus, the release of such information could present a serious impediment to effective law enforcement by endangering the physical safety of witnesses or informants; by leading to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony; or by otherwise preventing the successful completion of an investigation.

DATE: This rule will be effective on or before April 24, 1986.

ADDRESS: J. Michael Clark, Assistant Director, General Services Staff, Justice Management Division, Department of Justice, Room 9002, 601 D Street, NW., Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT: J. Michael Clark, 272-6474.

SUPPLEMENTAL INFORMATION: The proposed rule with invitation to comment was published in the **Federal Register** on December 17, 1985 (50 FR 51410). The public was given 30 days to comment; however, no comments were received.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, its is hereby stated that the order will not have "a significant economic impact on a substantial number of small entities."

List of Subjects in 28 CFR Part 16

Administrative Practice and Procedure; Courts; Freedom of Information; Privacy; and Sunshine Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793-78 28 CFR 16.91 is amend to adding paragraphs (s) and (t) as set forth below.

Dated: March 19, 1986.

W. Lawrence Wallace,

Assistant Attorney General for Administration.

1. The authority for Part 16 continues to read as follows:

Authority: 28 U.S.C. 509, 510; 5 U.S.C. 301, 552, 552a; 31 U.S.C. 483a unless otherwise noted.

2. 28 CFR 16.91 is amended by adding paragraphs (s) and (t).

§ 16.91 Exemption of Criminal Division Systems—Limited Access, as indicated.

* * * * *

(s) The following system of records is exempted from 5 U.S.C. 552a(d).

Office of Special Investigations Displaced Persons Listings (JUSTICE/CRM-027).

This exemption applies to the extent that the records in this system are subject to exemption pursuant to 5 U.S.C. 552a(k)(2).

(t) Exemption from subsection (d) is justified for the following reasons:

(1) Access to records contained in this system could inform the subject of the identity of witnesses or informants. The release of such information could present a serious impediment to effective law enforcement by endangering the physical safety of witnesses or informants; by leading to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony; or by otherwise preventing the successful completion of an investigation.

[FR Doc. 86-9166 Filed 4-23-86; 8:45 am]
BILLING CODE 4410-01-M

28 CFR Part 16

[AAG/A Order No. 6-86]

Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: On January 9, 1986 (51 FR 986), the Department of Justice published notice that it would modify the proposed regulations published on April 7, 1983 (48 FR 15160), to amend Title 28 of the Code of Federal Regulations, Part 16, Subpart E, "Exemption of Records Systems Under the Privacy Act." The January 9, regulations were published to: (1) Clarify that the Department's Freedom of Information Act and Privacy Act (FOIA/PA) systems would be exempt only to the extent that they contain law enforcement- or investigative-type information and (2) remove exemptions and other proposed changes which had been offered to achieve clarity and consistency with reorganizations but which, for administrative reasons, had to be withdrawn or republished as a separate proposed rule.

SUPPLEMENTARY INFORMATION: A section by section explanation of proposals throughout Part 16 was provided under "Supplementary Information" in the April 7 regulations. These proposals remain unchanged except that, pursuant to oral comments received from the Office of Management and Budget, those sections relating to exemption of the Department's FOIA/PA systems have been further revised as indicated above. Further, for administrative reasons, the proposal to revise §§ 16.71 and 16.88 and to add § 16.72, has been withdrawn and published as a separate proposed rule.

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in addition, the proposal to change § 16.92 has been withdrawn.

One public comment was received. The commentator incorrectly assumed that the U.S. Parole Commission was claiming new exemptions under § 16.85. As was explained in the initial proposal on April 7, 1983 (and referenced on January 9, 1986), the U.S. Parole Commission made minor changes to § 16.85 by changing system number identifiers and by adding specificity to the statutory authority, i.e., by changing "5 U.S.C. 552a(j)" to "5 U.S.C. 552a(j)(2)."

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby stated that the order will not have "a significant economic impact on a substantial number of small entities."

List of Subjects in 28 CFR Part 16

Administrative Practice and Procedure, Courts, Freedom of Information, Privacy, and Sunshine Act.

DATE: This rule will be effective April 24, 1986.

ADDRESS: Assistant Director, General Services Staff, Justice Management Division, Department of Justice, Room 9062, 601 D Street NW., Washington, DC 20530.

FOR FURTHER INFORMATION CONTACT: J. Michael Clark, (202) 272–6474.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793–78, Title 28 of the Code of Federal Regulations, Part 16, Subpart E, is amended as set forth below.

Dated: April 4, 1986.

W. Lawrence Wallace,

Assistant Attorney General for Administration.

1. The authority for Part 16 continues to read as follows:

Authority: 28 U.S.C. 509, 510; 5 U.S.C. 301, 552, 552a; 31 U.S.C. 483a unless otherwise noted.

§ 16.73 [Redesignated]

1a. Section 16.73 is redesignated as § 16.74.

2. Section 16.76 is amended by revising the undesignated paragraphs following (a)(1) and (c)(1); by revising paragraph (b); by adding a sentence to the end of paragraph (d)(1); by removing paragraph (g)(1) and redesignating paragraph (g)(2) as (g)(1); and by adding paragraph (h).

§ 16.76 Exemption of Justice Management Division Systems.

(a) * * *

(1) * * *

This exemption applies only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2).

(b) Exemption from subsection (c)(3) is justified for the following reasons:

(1) Pub. L. 91–513 (Controlled Substances Act), Sec. 404(b) states that the nonpublic record "shall be retained by the Department of Justice solely for the purpose of use by the courts in determining whether or not, in subsequent proceedings, such person qualifies under this subsection."

(2) Information in this system consists of arrest records, including those of co-defendants. The records include reports of informants and investigations. Therefore, access could disclose investigative techniques, reveal the identity of confidential sources, and invade the privacy of third parties.

(c) * * *

(1) * * *

This exemption applies only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2) and (k)(5).

(d) Exemption from subsection (d) is justified for the following reason:

(1) * * * Access may also reveal information relating to actual or potential criminal investigations.

* * * * *

(h) Consistent with the legislative purpose of the Privacy Act of 1974, the Justice Management Division will grant access to non-exempt material in FOIA/PA records. Exemptions will apply only to the extent that other correspondence or internal memoranda retained with the request file contain investigatory material for law enforcement purposes.

3. Section 16.81 is amended by revising paragraphs (a), (b)(11), (d), and (e).

§ 16.81 Exemption of United States Attorneys Systems—Limited Access.

(a) The following systems of records are exempt from 5 U.S.C. 552a(c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G) and (H), (e) (5) and (8), (f), and (g):

(1) Citizen Complaint Files (JUSTICE/USA–003).

(2) Civil Case Files (JUSTICE/USA–005).

(3) Consumer Complaints (JUSTICE/USA–006).

(4) Criminal Case Files (JUSTICE/USA–007).

(5) Kline-District of Columbia and Maryland-Stock and Land Fraud Interrelationship Filing System (JUSTICE/USA–008).

(6) Major Crimes Division Investigative Files (JUSTICE/USA–010).

(7) Prosecutor's Management Information System (PROMIS) (JUSTICE/USA–011).

(8) United States Attorney, District of Columbia Superior Court Division, Criminal Files (JUSTICE/USA–012).

(9) Pre-trial Diversion Program Files (JUSTICE/USA–014).

These exemptions apply to the extent that information in these systems is subject to exemption pursuant to U.S.C. 552a(j)(2), (k)(1) and (k)(2).

(b) * * *

(11) From subsection (g) because these systems of records are compiled for law enforcement purposes and have been exempted from the access provisions of subsections (d) and (f).

* * * * *

(d) The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G) and (H), (e) (5) and (8), (f), and (g):

(1) Freedom of Information Act/Privacy Act Files (JUSTICE/USA–008)

These exemptions apply to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2), (k)(1) and (k)(2).

(e) Because this system contains Department of justice civil and criminal law enforcement, investigatory records, exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because the release of the disclosure accounting would permit the subject of a criminal investigation and/or civil case or matter under investigation, in litigation, or under regulatory or administrative review or action to obtain valuable information concerning the nature of that investigation, case or matter, and present a serious impediment to law enforcement or civil legal activities.

(2) From subsection (c)(4) because an exemption is being claimed for subsection (d) of the Act (Access to Records), rendering this subsection inapplicable to the extent that this system of records is exempted from subsection (d).

(3) From subsection (d) because access to the records contained in these systems would inform the subject of a criminal or civil investigation, matter or case of the existence of such, and provide the subject with information that might enable him to avoid detection, apprehension or legal obligations, and present a serious impediment to law enforcement and other civil remedies. Amendment of the records would interfere with ongoing criminal law enforcement proceedings and impose an impossible

administrative burden by requiring criminal investigations to be continuously reinvestigated.

(4) From subsection (e)(1) because in the course of criminal investigations and/or civil investigations, cases or matters, the United States Attorneys often obtain information concerning the violation of laws or civil obligations other than those relating to an active case or matter. In the interests of effective law enforcement and civil litigation, it is necessary that the United States Attorneys retain this information since it can aid in establishing patterns of activity and provide valuable leads for other agencies and future cases that may be brought within the United States Attorneys' offices.

(5) From subsection (e)(2) because to collect information to the greatest extent possible from the subject individual of a criminal investigation or prosecution would present a serious impediment to law enforcement in that the subject of the investigation would be placed on notice of the existence of the investigation and would therefore be able to avoid detection, apprehension, or legal obligations and duties.

(6) From subsection (e)(3) because to provide individuals supplying information with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation, reveal the identity of confidential sources of information, and endanger the life and physical safety of confidential informants.

(7) From subsections (e)(4) (G) and (H) because this system of records is exempt from the individual access provisions of subsection (d) and the rules provisions of subsection (f).

(8) From subsection (e)(5) because in the collection of information for law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can only be determined in a court of law. The restrictions of subsection (e)(5) would inhibit the ability of trained investigator and intelligence analysts to exercise their judgment in reporting on investigations and impede the development of intelligence necessary for effective law enforcement.

(9) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the United States Attorneys' ability to issue subpoenas and could reveal investigative techniques and procedures.

(10) From subsection (f) because this system has been exempted from the individual access provisions of subsection (d).

(11) From subsection (g) because the records in this system are generally compiled for law enforcement purposes and are exempt from the access provisions of subsections (d) and (f), rendering subsection (g) inapplicable.

4. Section 16.85 is amended by revising paragraph (a).

§ 16.85 Exemption of U.S. Parole Commission Systems—Limited access.

(a) The following systems of records are exempt from 5 U.S.C. 552(c) (3) and (4), (d), (e) (2) and (3), (e)(4) (G) and (H), (e)(8), (f) and (g):

(1) Docket Scheduling and Control System (JUSTICE/PRC–001).

(2) Inmate and Supervision Files System (JUSTICE/PRC–003).

(3) Labor and Pension Case, Legal File, and General Correspondence System (JUSTICE/PRC–004).

(4) Statistical, Educational and Developmental System (JUSTICE/PRC–006).

(5) Workload Record, Decision Result, and Annual Report System (JUSTICE/PRC–007).

These exemptions apply only to the extent that information in those systems is subject to exemptions pursuant to 5 U.S.C. 552a(j)(2).

* * * * *

5. Section 16.90 is amended by revising paragraphs (e) and (f) as follows:

§ 16.90 Exemption of Civil Rights Division Systems—Limited Access.

* * * * *

(e) The following system of records is exempt from 5 U.S.C. 552a (c)(3), (d), and (g):

(1) Freedom of Information/Privacy Act Records (JUSTICE/CRT–010).

These exemptions apply to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2) and (k)(2).

(f) Because this system contains Department of justice civil and criminal law enforcement, investigatory records, exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because the release of the disclosure accounting may enable the subject of an investigation to gain valuable information concerning the nature and scope of the investigation and seriously hamper law enforcement efforts.

(2) From subsection (d) because access to records in this system would compromise ongoing investigations and reveal investigative techniques. In addition, certain of these records may be subject to protective orders entered by Federal courts to protect their confidentiality, and many are copies of documents which are the property of State agencies and were obtained under express or implied promises to strictly protect their confidentiality. This system also contains investigatory material compiled by the Equal Opportunity Commission pursuant to its authority under 42 U.S.C. 2000e–8. Provisions of 42 U.S.C. 2000e–5(b), 42 U.S.C. 2000e–8(e), and 44 U.S.C. 3508 make it unlawful to make public in any manner whatsoever any information obtained by the Commission pursuant to the authority. Amendment of the records would interfere with ongoing criminal law enforcement proceedings and impose an impossible administrative burden by requiring criminal investigations to be continuously reinvestigated.

(3) From subsection (g) because exemption from subsection (d) will render the previsions on suits to enforce subsection (d) inapplicable.

6. Section 16.91 is amended by revising paragraphs (q) and (r).

§ 16.91 Exemption of Criminal Division Systems—Limited Access.

* * * * *

(q) The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (4), (d), (e) (1), (2) and (3), (e)(4) (G), (H) and (I), (e) (5) and (8), (f), and (g):

(1) Freedom of Information/Privacy Act Records (JUSTICE/CRM–024)

These exemptions apply to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2), (k)(1) and (k)(2).

(r) Because this system contains Department of Justice civil and criminal law enforcement, investigatory records, it is exempted for the reasons set forth from the following provisions of 5 U.S.C. 552a:

(1)(c)(3). The release of the disclosure accounting would present a serious impediment to law enforcement by permitting the subject of an investigation of an actual or potential criminal, civil, or regulatory violation to determine whether he is the subject of investigation, or to obtain valuable information concerning the nature of that investigation and the information obtained, or to identify witnesses and informants.

(2)(c)(4). Since an exemption is being claimed for subsection (d) of the Act (Access to Records), this subsection is inapplicable to

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the extent that this system of records is exempted from subsection (d).

(3)(d). Access to records contained in this system would enable the subject of an investigation of an actual or potential criminal or civil case or regulatory violation to determine whether he or she is the subject of investigation, to obtain valuable information concerning the nature and scope of the investigation, and information or evidence obtained as to his/her activities, to identify witnesses and informants, or to avoid detection or apprehension. Such results would prevent the successful completion of the investigation, endanger the physical safety of witnesses or informants, lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony, and thereby present a serious impediment to effective law enforcement. Amendment of the records would interfere with ongoing criminal law enforcement proceedings and impose an impossible administrative burden by requiring criminal investigations to be continuously reinvestigated.

(4)(e)(1). In the course of criminal or other law enforcement investigations, cases, and matters, the Criminal Division will occasionally obtain information concerning actual or potential violations of law that are not strictly within its statutory or other authority, or items compile information in the course of an investigation which may not be relevant to a specific prosecution. In the interests of effective law enforcement, it is necessary to retain such information since it can aid in establishing patterns of criminal activity and can provide valuable leads for Federal and other law enforcement agencies.

(5)(e)(2). To collect information to the greatest extent practicable from the subject individual of a criminal investigation or prosecution would present a serious impediment to law enforcement. The nature of criminal and other investigative activities is such that vital information about an individual can only be obtained from other persons who are familiar with such individual and his/her activities. In such investigations it is not feasible to rely upon information furnished by the individual concerning his own activities.

(6) (e)(3). To provide individuals supplying information with a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(7)(e)(4) (G) and (H). These subsections are inapplicable to the extent that this system is exempt from the access provisions of subsection (d) and the rules provisions of subsection (f).

(8)(e)(4)(I). The categories of sources of the records in this system have been published in the Federal Register in broad generic terms in the belief that this is all that subsection (e)(4)(I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in this system, exemption from this provision is necessary to protect the confidentiality of the sources of criminal and other law enforcement information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(9) (e)(5). In the collection of information for criminal law enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can often only be determined in a court of law. The restrictions of subsection (e)(5) would inhibit the ability of trained investigators, intelligence analysts, and government attorneys in exercising their judgment in reporting on information and investigations and impede the development of criminal or other intelligence necessary for effective law enforcement.

(10)(e)(8). The individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue warrants or subpoenas and could reveal investigative techniques, procedures, or evidence.

(11)(f). This subsection is inapplicable to the extent that this system is exempt from the access provisions of subsection (d).

(12)(g). Because some of the records in this system contain information which was compiled for law enforcement purposes and have been exempted from the access provisions of subsection (d), subsection (g) is inapplicable.

* * * * *

7. Section 16.93 is amended by revising paragraphs (e) and (f).

§ 16.93 Exemption of Tax Division Systems—Limited Access.

* * * * *

(e) The following system of records is exempt from 5 U.S.C. 552a (c)(3), (c)(4), (d), (e)(1), (e)(2), (e)(3), (e)(4), (G), (e)(4)(H), (e)(4)(I), (e) (5) and (8), (f), and (g).

(1) Freedom of Information—Privacy Act Request Files (JUSTICE/TAX–004) These exemptions apply to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2) and (k)(2).

(f) Because this system contains Department of Justice civil and criminal law enforcement, investigatory records, it is exempted for the reasons set forth from the following provisions of 5 U.S.C. 552a:

(1)(c)(3). The release of the disclosure accounting would present a serious impediment to law enforcement by permitting the subject of a investigation of an actual or potential criminal, civil, or regulatory violation to determine whether he is the subject of investigation, or to obtain valuable information concerning the nature of that investigation and the information obtained, or to identify witnesses and informants.

(2)(c)(4). Since an exemption is being claimed for subsection (d) of the Act (Access to Records), this subsection is inapplicable to the extent that this system of records is exempted from subsection (d).

(3)(d). Access to records contained in this system would inform the subject of an actual or potential criminal tax investigation of the existence of that investigation, of the nature and scope of the investigation, of the information and evidence obtained as to his or her activities, and of the identity of witnesses or informants. Such access would, accordingly, provide information that could enable the subject to avoid detection, apprehension, and prosecution. This result, therefore, would constitute a serious impediment to effective law enforcement not only because it would prevent the successful completion of the investigation but also because it could endanger the physical safety of witnesses or informants, lead to the improper influencing of witnesses, the destruction of evidence, of the fabrication of testimony. Amendment of the records would interfere with ongoing criminal law enforcement proceedings and imposes an impossible administrative burden by requiring criminal investigations to be continuously reinvestigated.

(4)(e)(1). In the course of criminal tax and related law enforcement investigations, cases, and matters, the Tax Division will occasionally obtain information concerning actual or potential violations of law that may not be technically within its statutory or other authority, or it may compile information in the course of an investigation which may not be relevant to a specific prosecution. In the interests of effective law enforcement, it is necessary to retain some or all of such information since it can aid in establishing patterns of criminal activity and can provide valuable leads for Federal and other law enforcement agencies.

(5)(e)(2). To collect information to the greatest extent practicable from the subject individual of a criminal investigation or prosecution would present a serious impediment to law enforcement because the subject of the investigation or prosecution would be placed on notice as to the existence of the investigation and would therefore be able to avoid detection or apprehension, improperly influence witnesses, destroy evidence, or fabricate testimony.

(6)(e)(3). To provide individuals supplying information with a form which includes the information required by subsection (e)(3) would constitute a serious impediment to law enforcement, i.e., it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants.

(7)(e)(4) (G) and (H). These subsections are inapplicable to the extent that this system is exempt from the access provisions of subsection (d) and the rules provisions of subsection (f).

(8)(e)(4)(I). The categories of sources of the records in this system have been published in the Federal Register in broad generic terms in the belief that this is all that subsection (e) (4) (I) of the Act requires. In the event, however, that this subsection should be interpreted to require more detail as to the identity of sources of the records in this system,

exemption from this provision is necessary to protect the confidentiality of the sources of criminal tax and related law enforcement information. Such exemption is further necessary to protect the privacy and physical safety of witnesses and informants.

(9)(e)(5). In the collection of information for criminal tax enforcement purposes it is impossible to determine in advance what information is accurate, relevant, timely, and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light. Furthermore, the accuracy of such information can often only be determined in a court of law. The restrictions of subsection (e)(5) would inhibit the ability of government attorneys in exercising their judgement in reporting on information and investigations and impede the development of criminal tax information and related data necessary for effective law enforcement.

(10)(e)(8). The individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement as this could interfere with the ability to issue warrants or subpoenas and could reveal investigative techniques, procedures, or evidence.

(11)(f). This subsection is inapplicable to the extent that this system is exempt from the access provisions of subsection (d).

(12)(g). Because the records in this system are generally compiled for law enforcement purposes and are exempt from the access provisions of subsection (d), subsection (g) is inapplicable.

8. Section 16.96 is amended by revising paragraph (g).

§ 16.96 Exemption of Federal Bureau of Investigation Systems—Limited access.

* * * * *

(g) The following system of records is exempt from 5 U.S.C. 552a(c) (3) and (4), (d), (e)(1), (2) and (3), (e)(4) (G) and (H), (e)(8), (f), and (g): National Crime Information Center (NCIC) (JUSTICE/FBI–001). This exemption applies only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(j)(2) and (k)(3).

* * * * *

§ 16.97 [Amended]

9. Section 16.97, paragraph (a)(8), is amended by removing the word "Tax" and inserting the word "Tort." Further, paragraph (c), last sentence, is amended by removing the quotation marks.

10. Section 16.100 is amended by revising the section heading and the first sentence of paragraph (a)(1).

§ 16.100 Exemption of Office of Justice Programs—Limited access.

(a) * * *

(1) The Civil Rights Investigative System (JUSTICE/OJP–008). * * *

* * * * *

11. Section 16.103 is amended by revising the section heading and paragraph (a)(1) as follows:

§ 16.103 Exemption of the INTERPOL-United States National Central Bureau (INTERPOL-USNCB) System.

(a) * * *

(1) The INTERPOL-United States National Central Bureau (INTERPOL-USNCB) (Department of Justice) INTERPOL-USNCB Records System (JUSTICE/INTERPOL–001). This exemption applies only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a (j)(2), (k)(2), and (k)(5).

* * * * *

[FR Doc. 86–9168 Filed 4–23–86; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 291a

Privacy Program; Correction

AGENCY: Defense Nuclear Agency, DOD.

ACTION: Correction to Final Rule.

SUMMARY: This is a correction to the footnote to the above final rule published at 51 FR 12312 on April 10, 1986. The footnote should read as follows:

[1] Copies may be obtained, if needed, from HQ, Defense Nuclear Agency, Office of General Counsel, Washington, DC 20305–1000.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

April 21, 1986.

[FR Doc. 86–9148 Filed 4–23–86; 8:45 am]

BILLING CODE 3810–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3 86–06]

Temporary Regatta Regulation; National Sweepstakes Regatta, Redbank, NJ

AGENCY: Coast Guard, DOT.

ACTION: Temporary regulation with request for comments.

SUMMARY: The Coast Guard is temporarily changing the effective dates for the regulation governing the annual National Sweepstakes Regatta. This powerboat race is normally held on the third weekend in August but this year has been scheduled for July 12 and 13 because it must precede the national competition which is scheduled to take place the second or third week in August this year.

DATES: This temporary regulation becomes effective on July 12, 1986 and terminates on July 13, 1986. Comments on this regulation must be received on or before June 9, 1986.

ADDRESSES: Comments should be mailed to Commander (b), Third Coast Guard District, Governors Island, New York, NY 10004–5098. The comments will be available for inspection and copying at the Boating Safety Office, Building 110, Governors Island, New York, NY. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas A. Dlhopolsky, (212) 668–7974.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation. Following normal rulemaking procedures is unnecessary. The permanent regulation for this regatta (33 CFR 100.307) provides notice that the dates may be changed by publication in the Federal Register. In addition, the change of dates should have little or no economic impact and no adverse comments are anticipated. Although this regulation is published as a final rule without prior notice, and opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under **"ADDRESSES"** in this preamble. Commenters should include their names and addresses, identify the docket number (CGD3 86–06) for this regulation, and give reasons for their comments. Based upon comments received, the regulation may be changed.

Drafting Information

The drafters of this notice are Mr. Lucas A. Dlhopolsky, Project Officer, Boating Safety Office, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulation

The National Sweepstakes Regatta is a powerboat race event which is held annually on the Navesink River near Redbank, NJ. The event is sponsored by the National Sweepstakes Regatta

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Association of Redbank, NJ. Since this two day event is traditionally held each year in the same location, involving the same kind of racing vessels, a permanent amendment to Part 100 of Title 33, Code of Federal Regulations: § 100.307, was promulgated in 1985. As stated in that section, the effective period for this event each year was to be the third weekend (Saturday and Sunday) in August unless otherwise specified in the Third District Local Notice to Mariners and in a Federal Register Notice. Announcements in these publications would provide the public with full and adequate notice of the dates and times of this annual powerboat race. The race is sanctioned by the American Powerboat Association and is well known to the boaters and residents of the area. The 1986 running of this event will be on July 12 and 13 instead of the third weekend in August in order to select those qualified to participate in the national competition which will be held this year in Oregon on the second or third week of August. In all other respects, this event will be the same as it has been in past years. The oval race course will be approximately 1.25 miles in length. Races will be held on both days on a section of the Navesink River just east of the N.J. Route 35 Bridge. Race heats will be run both days from approximately 10:00 a.m. to 6:00 p.m. with up to 100 hydroplane powerboats participating each day. The sponsor will place several temporary buoys on the river to mark both the race course and spectator areas. There will be two race committee boats anchored within the oval course, one on each end with turn judges and press onboard. The U.S. Coast Guard will assist the sponsor and local authorities in providing a safety patrol during this event. In order to provide for the safety of life and property, the Coast Guard will restrict vessel movement and establish spectator areas prior to and during the races. Vessels desiring to transit the area will be given the opportunity to do so several times during each day in between race heats as directed by the Coast Guard Patrol Commander.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Temporary Regulation

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Section 100.307(b) is revised to read as follows for the period July 12 through July 13, 1986. Because this is a temporary rule, this revision will not appear in the Code of Federal Regulations:

§ 100.307 National Sweepstakes Regatta, Redbank, N.J.

* * * * *

(b) *Effective period:* This regulation will be effective from 6:00 a.m. to 6:00 p.m. on both July 12 and 13, 1986.

* * * * *

Dated: April 2, 1986.

P. A. Yost,

Vice Admiral, U.S. Coast Guard Commander, Third Coast Guard District.

[FR Doc. 86-9204 Filed 4-23-86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 157

[CGD 85-048 a]

Pollution; Tank Vessels Carrying Oil in Bulk; Coast Guard Plan Review; Change of Address for Submission of Plans for Review

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: These rules change the address for submitting vessel plans for Coast Guard review. The plan review duties previously performed by the Merchant Marine Technical Branches of the Third Coast Guard District in New York, New York, the Eighth Coast Guard District in New Orleans, Louisiana, and the Twelfth Coast Guard District in Alameda, California are being assumed by the Marine Safety Center located in Washington, DC.

EFFECTIVE DATE: June 1, 1986.

FOR FURTHER INFORMATION CONTACT: LCDR Charles E. Bills, Marine Technical and Hazardous Materials Division, (G-MTH-2/12), Room 1216, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593; (202) 426-2160.

SUPPLEMENTARY INFORMATION: The U.S. Coast Guard has recently completed an evaluation of its Merchant Marine Technical Branch field organization, taking into account many factors, including personnel considerations, system efficiency, and Fiscal Year 1986 staff reductions within the Commercial Vessel Safety Program. As a result, the Merchant Marine Technical Branches of the Third, Eighth, and Twelfth Coast Guard Districts are being consolidated to improve overall plan review efficiency, quality, and consistency, and to provide a centralized site for performing oversight of Coast Guard plan review functions delegated to third parties. Consolidation will result in the establishment of a Marine Safety Center as a Headquarters unit located in the Washington, DC metropolitan area.

The Washington, DC area was chosen based on many factors, including: locating the Marine Safety Center in a favorable technical labor market; recognition that the need for regionally based Merchant Marine Technical Branches has dramatically decreased since (1) overseas commercial vessel construction activity has increased and (2) third parties, having been delegated plan review functions by the Coast Guard, are themselves regionally based; recognition of the area as an expanding naval architect/marine engineer center; and the area's excellent access to international and domestic transportation.

Accordingly, the plan review previously conducted by the Third, Eighth, and Twelfth Coast Guard Districts' Merchant Marine Technical Branches will be performed by the Marine Safety Center, effective June 1, 1986.

Shipyards, designers, and other businesses and persons who are directly affected by this action have been informed of the consolidation by letter from either the Commander, Third Coast Guard District (mmt), Commander, Eighth Coast Guard District (mmt), or Commander, Twelfth Coast Guard District (mmt), as appropriate. Notice of the consolidation was also published in the **Federal Register** of June 20, 1985 at p. 25644 (50 FR 25644).

The purpose of these rules is to provide the revised plan submittal procedure and to include the mailing address of the Marine Safety Center.

These rules have been evaluated under Executive Order 12291 and DOT Order 2100.5 and have been determined to be non-major and non-significant. These rules reflect a change in agency organization and procedure with minimal economic impact upon the public. Notice of proposed rulemaking and opportunity for public comment are not required by 5 U.S.C. 553, and these rules may be effective less than 30 days after their publication date. Since minimal economic impact is expected, a full economic evaluation has not been conducted.

In accordance with section 605(b) of the Regulatory Flexibility Act (90 Stat. 1164), it is certified that these regulations will not have a significant economic impact on a substantial number of small entities for the reasons stated above.

Drafting Information

The principal persons involved in drafting this document are LCDR Charles E. Bills, Project Manager, Office of Merchant Marine Safety, and Mr. William R. Register, Project Attorney, Office of Chief Counsel.

List of Subjects in 33 CFR Part 157

Cargo vessels, Oil pollution, Reporting and recordkeeping requirements.

In consideration of the foregoing, Title 33, Code of Federal Regulations, is amended as follows:

PART 157—[AMENDED]

1. The authority citation for Part 157 is revised to read as follows and all other authority citations are removed:

Authority: Sec. 4, Pub. L. 96-478, 94 Stat. 2298 (33 U.S.C. 1903); 46 U.S.C. 3703; 49 CFR 1.46(n) and (hh).

2. In § 157.100, by revising paragraph (b) to read as follows:

§ 157.100 Plans for U.S. tank vessels: submission.

* * * * *

(b) Plans under paragraph (a) of this section must be submitted to the Officer in Charge, Marine Inspection, of the zone in which the COW system is installed or to the Commanding Officer, U.S. Coast Guard Marine Safety Center, 2100 Second Street SW., Washington, DC 20593.

3. In § 157.200, by revising paragraph (b) to read as follows:

§ 157.200 Plans for U.S. tank vessels: submission.

* * * * *

(b) Plans under paragraph (a) of this section must be submitted to the Officer in Charge, Marine Inspection, of the zone in which the dedicated clean ballast tank system is installed or to the Commanding Officer, U.S. Coast Guard Marine Safety Center, 2100 Second St., SW., Washington, DC 20593.

Dated: April 21, 1986.

J.W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 86-9203 Filed 4-23-86; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 291

Recreation Management; Occupancy and Use of Sites and Areas of Concentrated Public Use; Withdrawal of Final Rule

AGENCY: Forest Service, USDA.

ACTION: Withdrawal of final rule.

SUMMARY: On March 20, 1986, at 51 FR 10382, the Department of Agriculture published a final rule to recover Federal costs associated with administration of user reservation systems on some National Forest System recreation areas and sites. The rule was to become effective on April 25 and was to be accompanied by a notice of the interim directive that was to be issued to Forest Service employees providing instructions on implementing the rule. Inadvertently, this rule document was processed and signed without the accompanying notice of implementing procedures and without the benefit of Office of Management and Budget review as required by E.O. 12291. Accordingly, the Department is withdrawing the rule at this time. The Department intends to republish the final rule along with the related notice upon completion of the review process.

FOR FURTHER INFORMATION CONTACT: Marian P. Connolly, Regulatory Coordinator, Forest Service, USDA, (202) 235-1488.

Dated: April 17, 1986.

Peter C. Myers,

Assistant Secretary, Natural Resources and Environment.

[FR Doc. 86-9228 Filed 4-23-86; 8:45 am]

BILLING CODE 3410-11-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-38

[FPMR Amendment G-78]

Property Management; Motor Equipment Management

Correction

In FR Doc. 86-7338 beginning on page 11664 of the issue of Friday, April 4, 1986, make the following corrections:

1. On page 11666, first column, § 101-38.001-19, in the next to the last line, the reference to "Standard No 283" should read "Standard No 292."

2. On page 11666, third column, § 101-38.101-3(b), on the last line, the reference to "class III" should read "class II."

3. On page 11667, first column, § 101-38.101-3(b)(3), in the table, under the "Fiscal year" column, the year "1997" should read "1987."

4. On page 11667, middle column, § 101-38.102(a), on the 14th line, correct the word "forecase" to read "forecast."

5. On page 11669, first column, § 101-38.104-2(a)(2), on the 7th line, correct the spelling of the 2nd work to read "these."

6. On page 11669, middle column, § 101-38.104-4(a), the first word should read "Requisitions". On the 6th line, correct the word "discription" to read "description."

7. On page 11669, middle column, § 101-38.104-4(c), on the 10th line, the second word should read "for".

8. On page 11669, last column, § 101-38.104-5, on the 2nd line, correct the word "mortor" to read "motor."

9. On page 11691, first column, § 101-38.104-8(a)d., at the end of the reference to "Chrysler Motors Corporation" the words "General Motors Corporation" should appear as a separate line before "Chevrolet Motor Divsion."

10. On page 11692, last column, § 101-38.202-4, the code of "Justice, Department of" should read "J" instead of "L."

11. On page 11698, first column, § 101-38.700, on the 5th line, a dash should precede the word "rented."

12. On page 11698, first column, § 101-38.701(b), on the 5th line, insert the article "a" between the words "of" and "Motor."

13. On page 11698, middle column, § 101-38.702, on the 2nd line, a dash should precede the word "leased."

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 403

[BERC-240-F]

Medicare Program; Recognition of State Reimbursement Control Systems

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule implements statutory requirements to set forth the conditions and procedures under which HCFA approve Medicare payment for hospital services to be made in accordance with a State hospital reimbursement control system, rather

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than in accordance with Medicare reimbursement principles.

EFFECTIVE DATE: These regulations are effective May 27, 1986. (See section V.C. of the preamble concerning information collection requirements.)

FOR FURTHER INFORMATION CONTACT: Charlene Brown, (301) 597–2886.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1886(c) of the Social Security Act (the Act), as established by the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248) and as since amended by section 601(c) of the Social Security Amendments of 1983 (Pub. L. 98–21) and section 2315(a) of the Deficit Reduction Act of 1984 (Pub. L. 98–369), generally authorizes Medicare reimbursement for inpatient hospital services in accordance with a State's hospital reimbursement control system, rather than in accordance with the Medicare reimbursement principles. Under section 1886(c) of the Act, reimbursement may be made under a State system if one of three alternative sets of requirements are met.

First, under section 1886(c) of the Act, as enacted by Pub. L. 97–248, HCFA has discretion to allow Medicare hospital reimbursement to be made in accordance with a State reimbursement control system ("the State system") if the chief executive officer of the State requests approval of the State system, and if the State system meets the specific minimum requirements summarized below.

1. The State system must apply to substantially all non-federal acute care hospitals in the State.

2. The State system must apply to at least 75 percent of all inpatient revenues or expenses for the State.

3. The State must provide assurances that payors, hospital employees and patients in the State will be treated equitably under its system.

4. The State must provide assurances that its system will not result in greater Medicare expenditures over 36-month periods.

Section 601(c) of Pub. L. 98–21 amended section 1886(c)(1) of the Act to allow continuation of HCFA's discretionary authority for approval, as provided under Pub. L. 97–248, but added two additional requirements for approval of a State system as follows.

5. The State system may not preclude health maintenance organizations (HMOs) or competitive medical plans (CMPs) (as defined in section 1876(b) of the Act) from negotiating directly with hospitals concerning payment for inpatient services.

6. The State system must prohibit charging individuals for services for which the individuals are entitled to have payment made under Part A of Medicare (Hospital Insurance), as provided in section 1866(a)(1)(G) of the Act; and also prohibit, in accordance with section 1862(a)(14) of the Act, payments under Part B of Medicare (Supplementary Medical Insurance) for nonphysician services provided to inpatients, unless waived by the Secretary (procedures for which are described in the regulations at 42 CFR 489.23).

Second, section 601(c) of Pub. L. 98–21 added section 1886(c)(5) to the Act to specify six additional requirements that, if met by a State system that also meets the minimum requirements one through six as presented above, makes HCFA's approval of a request by the State for Medicare reimbursement under its system mandatory. The additional requirements are that the State system must:

7. Be operated directly by the State or an entity designated by State law;

8. Use a payment methodology to be applied prospectively;

9. Provide for hospital reports, as required by the Secretary;

10. Provide satisfactory assurances that it will not result in admission practices that will reduce treatment to uninsured, low income, high cost, or emergency patients;

11. Not materially reduce payments without 60 days notice to the Secretary and to affected hospitals; and

12. Provide satisfactory assurances that, in developing its system, the State has consulted with local officials concerning the impact on public hospitals.

Third, special provisions apply to those States that currently have demonstration projects approved by HCFA under section 402 of the Social Security Amendments of 1967 (42 U.S.C. 1395b–1) or section 222(a) of the Social Security Amendments of 1972 (42 U.S.C. 1395b–1 (note)) for the operation of State reimbursement control systems. Under section 1886(c)(4) of the Act, as added by section 601(c) of Pub. L. 98–21 and subsequently amended by section 2315(a) of Pub. L. 98–369, HCFA approval of a State's application to continue the operation of a system upon expiration of the demonstration project is mandatory if, and for so long as, the system meets the minimum requirements described in items one through six presented above.

In addition to the specific minimum requirements discussed above, a general requirement that all hospitals eligible for payment under section 1886(c) of the Act must meet is contained in section 1866(a)(1)(F) of the Act. This latter section was added to the Act by section 602(f)(1) of Pub. L. 98–21. It requires hospitals, in order to be eligible for Medicare payment under section 1886(c) of the Act, to have and maintain agreements with Utilization and Quality Control Peer Review Organizations (PROs).

With respect to requirement number four above, section 1886(c)(6) of the Act provides that, if the Secretary determines that the assurances have not been met for any 36-month period, payments to hospitals shall be reduced under either the State system or the Medicare payment system in an amount equal to the excess over what Medicare would have paid for these services.

Under section 1886(c)(1) of the Act, a State's application for reimbursement under its system may not be denied on the basis that the system does not pay on a diagnosis related group (DRG) methodology or on the basis that the State system does not produce savings greater than what would have accrued under the Medicare payment system (either the cost reimbursement or the prospective payment system, whichever is applicable).

Section 1886(c)(1) of the Act also provides parameters regarding a State's discretion, under certain circumstances, to determine how to substantiate the assurance regarding whether the amount of payment that would otherwise have been made under Medicare will be exceeded. Under the statute, we have the discretion to determine that this comparison, of what Medicare would have paid absent the State system, may be made by maintaining payment amounts at no more than a specified percentage increase above the payment amounts in a base period. If we exercise this discretion, the State has the option of applying the comparison test on an aggregate payment basis or on the basis of the amount of payment per inpatient discharge or admission. Since we have decided not to exercise our discretionary authority regarding the acceptability of a State's assurance that payments under its system will not exceed what Medicare would otherwise have paid, absent the State system, by reference to percentage increases above a base level (except in the case of States with existing demonstration projects in effect as of April 20, 1983), we have not given States the option of determining the method of measurement to be used for purposes of this payment assurance.

Section 1886(c)(1) of the Act further provides that the State's rate of increase in payments need not be less than the national average rate of increase if the Secretary implements the comparison test by reference to the national average percentage increase in total payments. This provision is generally not applicable, because, except where required by statute for continuation of existing demonstration projects, we will not assess a State's assurance regarding the amount of payments by reference to the national average rate of increase. As stated in the proposed regulations, we will measure a State's expenditure assurance by a comparison of actual payments under the system with what would have been paid under the Medicare system.

HCFA may, under certain conditions, permit an adjustment to take into account previous reductions in Medicare reimbursement amounts that were the result of the effectiveness of a State system prior to the State's application for Medicare participation. Specifically, section 1886(c)(2) of the Act authorizes the Secretary to permit an adjustment if, as a result of the State's already existing reimbursement control system, the State's aggregate rate of increase in hospitals' total operating costs has been less than the national aggregate rate of increase in hospitals' total operating costs.

Under section 1886(c)(4) of the Act, HCFA will judge the effectiveness of a State system that is operational under the authority of an existing Medicare demonstration project on the basis of its rate of increase or inflation in inpatient hospital payments for individuals under Medicare, as compared to the national rate of increase or inflation for such payments. The State will retain the option to have the test applied on the basis of the aggregate payment or payments per inpatient admission or discharge during its hospitals' three consecutive cost reporting periods beginning on or after October 1, 1983. After expiration of these cost reporting periods, however, this test will no longer apply. In this case, the State system will be treated in the same manner as other systems approved under these regulations.

To summarize, under section 1886(c) of the Act, HCFA has discretionary authority to approve Medicare reimbursement under a State system that meets each of the minimum requirements one through six specified above. This discretionary authority also applies if a State system meets the minimum requirements and any of the additional requirements seven through twelve. However, if a State system meets all of the requirements, HCFA approval is mandatory. Furthermore, if a State system was established and operated under an existing Medicare demonstration project in effect as of April 20, 1983, and meets the minimum requirements of items one through six above, HCFA approval is mandatory as long as those minimum requirements continue to be met.

Applications for approval of State systems should be sent to the following address:

Office of the Administrator, HCFA, 6325 Security Boulevard, Room 700, East High Rise Bldg., Baltimore, Maryland 21207.

II. Summary of the Proposed Rule

On May 13, 1985, we published a proposed rule (50 FR 20048) in which we proposed a new Subpart C in 42 CFR Part 403 to establish regulations governing State reimbursement control systems. The provisions of the proposed rule, the comments received and the changes we made in response to comments are discussed below.

In the proposed rule we provided that the chief executive officer of a State would be responsible for submitting an application for the approval of a State system for Medicare reimbursement and supplying the assurances and required necessary documentation. We stated that HCFA would have discretionary authority to approve a State's application if the State system meets the minimum requirements and assurances proposed in § 403.304. The State system is required to—

- Apply to substantially all non-Federal acute care hospitals. (These hospitals must have and maintain an agreement with a PRO.)
- Apply to the review of at least 75 percent of all revenues or expenses in the State for inpatient services and to 75 percent of the revenues or expenses for inpatient hospital services under Medicaid.
- Permit an HMO or CMP to negotiate the rate of payment for inpatient hospital services directly with a hospital.
- Limit hospital charges to Medicare beneficiaries to deductibles, coinsurance, and services for which the beneficiary would not be entitled to have payment made under Medicare Part A; and prohibit payment under Part B of Medicare for nonphysician services provided to hospital inpatients unless this prohibition is waived in accordance with regulations at § 489.23.
- Assure the equitable treatment of all entities that pay hospitals for inpatient hospital services, hospital employees, and hospital patients, as follows—

— Assure that all entities that pay hospitals for inpatient hospital services are treated in a uniform and substantially equal manner in that all payors have equal opportunity to participate under the system and to receive available benefits of the system.

— Assure that the risks and savings are shared equitably by all entities that participate under the system.

— Assure that the State system will not result in reduction of the services or of due process rights to which Medicare beneficiaries are otherwise entitled.

- Assure that the system will provide a means for providers to appeal errors in the calculation of payment rates.
- Assure that Medicare payments made under the system over 36-month periods will not be greater than those that would have otherwise been made applying the Medicare principles of reimbursement.

In § 403.304, we also provided that if a State had an existing Medicare demonstration project in effect on April 20, 1983, and requests approval of a system under section 1886(c)(4) of the Act, the effectiveness of the State's system may be judged on the basis of the State system's rate of increase or inflation in payments for inpatient hospital services, as compared to the national rate of increase or inflation in payment for such services, during the State's hospitals' three consecutive cost reporting periods beginning on or after October 1, 1983.

We further provided that if the assurances and supporting data pertaining to the cost-effectiveness provisions, as described above, are not fully satisfactory, the State would be allowed to provide an additional assurance in order to meet the requirement. The additional assurance would be that the State control expenditures by agreeing to do one of the following:

- The State would agree that Medicare payments under its system would be limited to the Medicare prospective payment rates. The State would be required to pay hospitals covered by its system any excess payment generated by the system.
- The State would agree to a predetermined percentage relationship between Medicare payments under the State's system and Medicare payments under the prospective payment system. This percentage relationship would be monitored by HCFA on a quarterly basis, and the monitoring results would be provided to the State. If the payments show an upward deviation from the agreed upon predetermined relationship, then Medicare payments to the State

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would be automatically capped, with the State paying to hospitals under the system the excess over the prospective payment system expenditures. As an alternative to this second option, the State may provide through State legislation or binding regulations that, in accordance with its payment control assurance, reduced payments to hospitals will constitute full and final payment for services furnished to Medicare beneficiaries.

If a State system meets the minimum requirements of § 403.304, as described above, and meets the additional requirements and assurances specified in section 1886(c)(5) of the Act and in § 403.306, as described below, HCFA approval of the system would be mandatory. Section 403.306 requires that the State system—

- Be operated directly by the State or an entity designated by State law.
- Provide for a methodology (that sets forth exceptions and adjustments, if any, as well as any method for changes in the methodology) by which prospectively-determined payment rates are established.
- Provide for hospitals to make reports as required by HCFA.
- Provide that the State must notify HCFA and affected hospitals 60 days prior to enactment of reductions or increases in payments that might be generated from any material change in the system or the payment methodology. Approval would have to be granted by HCFA prior to the State's effective date for the change in payments.

In addition to the above requirements, § 403.306 also requires the State to provide satisfactory assurances to HCFA that—

- The operation of the system will not result in any change in hospital admissions practices that would result in—

— A significant reduction in the proportion of patients (receiving hospital services covered under the system) who have no third-party coverage and who are unable to pay for hospital services;

— A significant reduction in the proportion of individuals admitted to hospitals for inpatient hospital services for which payment is (or is likely to be) less than the anticipated charges for or costs of such services;

— The refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital; or

— The refusal to provide emergency services to any person who is in need of emergency services if the hospital provides such services.

- The State consulted with local government officials, during the development of the system, concerning the impact of the system on public hospitals.

We provided in § 403.308 that approval by HCFA of a State's application for a State reimbursement control system would be mandatory if the system was in effect prior to April 20, 1983, under the authority of a demonstration waiver (authorized under section 402(a) of the Social Security Amendments of 1967 (42 U.S.C. 1395b–1) or section 222(a) of the Social Security Amendments of 1972 (42 U.S.C. 1395b–1 (note)) and the system meets the applicable minimum requirements and assurances described in § 403.304 discussed above. It is important to note that although the statutory provisions of section 1886(c)(4) of the Act pertaining to provisions for States with existing demonstration projects do not specifically provide requirements for provider appeal systems or cost reporting, each of the existing statewide demonstration projects include these requirements and would be applicable under a waiver granted in accordance with section 1866(c)(4) of the Act.

If HCFA determines that the State system has not met or will not meet the assurances required by § 403.304, as previously discussed, with respect to any 36-month period, § 403.310 allows HCFA to reduce Medicare payments to individual hospitals being reimbursed under the State's system or, if applicable, under the Medicare payment system, in an amount equal to the amount by which the Medicare payments under the system exceed the amount of Medicare payments that these hospitals would have received absent the State system. In determining the amount of the reductions, we will apply the provisions of § 405.376 which set forth Medicare procedures regarding assessment of interest charges on overpayments to providers.

Specific recoupment procedures are described in § 403.310. This section provides that the amount of overpayment would be recouped on a proportionate basis from each of those hospitals that received payments under the State system that exceeded the payments they would have received under the Medicare system. The hospital's proportionate share would be determined by a comparison of the hospital's total overpayment to the total amount of excess payments under the State system over the aggregate payments that the Medicare system would have paid. Recoupment may be accomplished by a hospital's direct payment to the Medicare program or by offsets against future payments to the hospital. If the expenditures test is applied by a rate-of-increase factor, the amount of excess payment will be determined by comparison of the State system's rate-of-increase to the national rate-of-increase in order to determine the amount of excess payments to be recouped from each individual hospital.

As an alternative to the recoupment procedures described above, but subject to HCFA's acceptance, the State may provide by legislation or binding regulations for a process and procedures whereby excess payments will be recouped by the Medicare program.

In § 403.314, which deals with the evaluation of State systems by HCFA, we provide that HCFA will notify a State of its determination concerning approval of a State's application for a State system within 60 days of receipt of the application. If HCFA denies a State's application, the State may submit an amended application. HCFA will notify the State of its determination regarding an amended application within 60 days of its receipt. Any State may file an amended application but only those States that believe they meet *all* the requirements of §§ 403.304 and 403.306 for mandatory approval of their system (or in the case of a State system operating under the authority of a demonstration project that was in effect on April 20, 1983, the applicable requirements of §§ 403.304 and 403.308) may request a reconsideration of a denied application under § 403.316. As provided in § 403.316, HCFA has 60 days to notify a State of the results of the reconsidered application.

If HCFA approves a State system, a written agreement will be executed between HCFA and the chief executive officer of the State. Section § 403.318 describes the minimum provisions that must be contained in this agreement.

Section 1886(c)(1)(C) of the Act requires an assurance that payments under the State's system will not exceed the amount of payment that would have been made under the Medicare reimbursement principles over 36-month periods. To substantiate this assurance that Medicare program expenditures will not exceed what Medicare would have paid over 36-month periods, §403.320 requires the State to provide detailed and quantitative estimates, data, and reports to demonstrate the projected costs or savings for each hospital. The estimates and data are also necessary for the following reasons: (1) To provide a uniform basis to review a State's assurance irrespective of the design of the State's system; (2) to protect the Medicare program from excessive expenditures by allowing HCFA to analyze whether it is reasonable to accept the State's assurance that its system will, as represented, not result in expenditures above the statutory requirements; and (3) to assist HCFA in determining if payments to hospitals under the State system or, if applicable, under the Medicare payment system should be reduced in an amount equal to the excess over what Medicare would have paid during the period the State system was in effect. HCFA would monitor expenditures on a quarterly basis during the period the State system is in effect for purposes of comparison with amounts that would have been paid using the Medicare payment system to determine if excess payments have been made. The projections and supporting data would be especially critical if a State system were to fail to meet the expenditure requirements during a particular year. For example, if a State system were to result in the projection of sizeable expenditures above the limit in the first year of operation, we could reasonably conclude, unless there were quantitative supportive information to the contrary, that it is not likely that the system would result in payments that would equal the Medicare expenditure over the 36-month period.

Specifically, § 403.320 requires the State to submit for *each hospital* participating under the State system projections for the first 12-month period covered by the assurance, in both the aggregate and on a per discharge basis, of Medicare inpatient expenditures under Medicare principles of reimbursement and parallel projections of Medicare inpatient expenditures under the State's system, and the resulting cost or savings to the Medicare program. The State would also be required to submit separate *statewide* projections for each year of the 36-month period, in both the aggregate and on an average weighted discharge basis, of inpatient expenditures under the State system and under the Medicare principles of reimbursement. These projections would have to include a detailed description of the methodology and assumptions used to derive the expenditure amounts under both systems. In instances where the assumptions are different under the sets of projections, the State would have to provide a detailed explanation of the reasons for the differences. At a minimum, the following separate data would be included in the projections for the Medicare principles and for the State system.

- The State system base year and the Medicare allowable and reimbursable costs (that is, costs that represent a full accounting period and that have been fully reported and reviewed or audited, as appropriate) for each hospital that were used to develop the projections, including the amount of estimated pass-through costs (for example, capital).
- The categories of costs that are included in the State system and that are reimbursed differently under the State system than under the Medicare system.
- The number of Medicare and total base-year discharges and admissions for each hospital.
- The rate of change factor, and method of application of this factor, used to project the base-year costs over the 36-month period to which the assurance would apply.
- Any allowance for anticipated growth in the amount of services from the base year. If applicable, the allowance would have to be depicted in separate estimates for population increases or increases in rates of admissions, or both.
- Any adjustments to the projections that HCFA permits the State to take into account due to previous documented reductions in the Medicare payment amounts that are the result to the effectiveness of the State system prior to Medicare participation.
- States with Medicare demonstration projects in effect on April 20, 1983 that apply for approval under a rate-of-increase effectiveness test would also be required to submit data projecting the parallel rates-of-increase during the requisite rate-of-increase period.
- Appropriate recognition and projection of the time value of trust fund expenditures (that is, the interest the Medicare trust fund earned or would have earned) for the period the State system expenditures were either less than or exceeded the Medicare system payments.

The estimates and projections of Medicare payments as required for the assurance must take into account all of the Medicare reimbursement principles in effect at the time. This would include the HCFA market basket (a measure that is used to reflect changes in the prices of goods and services that hospitals use in producing general inpatient services, which is explained in detail in the September 1, 1983 **Federal Register** (48 FR 39764)), the rate-of-increase ceiling limits on inpatient hospital costs specified in section 1886(b) of the Act, and the Medicare prospective payment system.

With regard to a State system under a HCFA demonstration project that was in effect on April 20, 1983, HCFA is required under section 1886(c)(4) of the Act to judge the effectiveness of the system on the basis of its rate-of-increase or inflation in inpatient hospital payments for individuals under Medicare as compared to the national rate-of-increase or inflation for such payments. A State with an existing Medicare demonstration project retains the option to have the test applied on the basis of the aggregate payment or payments per inpatient admission or discharge during its hospitals' three consecutive cost reporting periods beginning on or after October 1, 1983. After the expiration of these cost reporting periods, the above test would no longer apply, and instead we would apply a test similar to that used for a new State system. States with existing demonstration projects that apply for approval of a State system covering a 36-month period that spans only part of the three consecutive cost reporting periods beginning on or after October 1, 1983 (that is, the period subject to the rate-of-increase test) must submit assurances and data relating to two different expenditure requirements. The data submitted by the State for the period subject to the rate-of-increase test must include the rate-of-increase projection for that particular period of time. For any subsequent period of time, the State must assure that payments under its system will not exceed what Medicare payments would have been absent the State system.

As further provided in § 403.320 and prior to the approval of a State system, HCFA will review the assurances and data submitted by the State. HCFA will compare the State's projections of payment amounts to HCFA data in order to determine if the State's assurance is reasonable and fully supportable. If HCFA data indicate that the State's system would result in payment amounts that would be more than that which would have been paid under the Medicare principles, the State's assurances would not be acceptable.

Section 403.320 additionally provides that States may not attain Medicare savings through shifting of costs to other payors, including the Medicaid program. HCFA would monitor this aspect in conjunction with the monitoring of expenditures under the State system. It would be inappropriate to increase Medicaid costs in order to achieve Medicare savings, since this would be

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inconsistent with the intent of the existing Medicaid upper limit requirement in regulations at § 447.253, and the legislative intent of sections 1902(a)(13)(A) and 1902(a)(30) of the Act. The upper limit requirement contained in § 447.253 is based on section 1902(a)(30) of the Act and the intent of Congress in enacting section 2173 of Pub. L. 97-35 (amending section 1902(a)(13) of the Act), which was to continue the requirement that the amount paid under Medicaid cannot, in the aggregate, exceed the amount determined to be reasonable under Medicare. (See the Conference Report on Pub. L. 97-35, H.R. Rep. No. 97-208, 97th Cong., 1st Sess., 962 (1981).) The Medicaid State plan requirements (including the upper limit requirement) where not affected by either section 101 of Pub. L. 97-248 or section 601 of Pub. L. 98-21, both of which amended section 1886(c) of the Act to specify additional requirements for State systems. Therefore, § 403.320 specifies that a State system must not produce aggregate expenditures for the Medicaid program in excess of what those expenditures would have been using the Medicare payment principles as they apply to the State system.

In § 403.320, we state that HCFA will monitor on a quarterly basis expenditures under a State system as compared to what Medicare expenditures would have been if the State's system had not been in effect. If HCFA determines at any time that payments made under the State's system exceed the State projections as established by the satisfactory assurances required under § 403.304 and, if appropriate, the predetermined percentage relationship of payments described in § 403.304, HCFA may do the following:

- Conclude that payments under the State's system over a 36-month period will exceed what Medicare would have paid;
- Terminate the waiver; and
- Recoup overpayments to the affected hospitals in accordance with the procedures described in § 403.310 discussed above.

In the proposed rule, we provided that a State's system need not be limited to inpatient services. At the discretion of HCFA, a State that applies for approval of a State system for inpatient services can also seek approval to have its system cover outpatient services. For those State systems that wish to include payment for Medicare outpatient services, we require the submission of a *separate* application and asurances for those services, and estimates and data in further support of the State's assurances. The estimates and data that the State would be required to submit include, but are not limited to—

- Projections for the first 12-month period covered by the assurance for each hospital, in both the aggregate and on an average cost and payment per service basis, of Medicare outpatient expenditures without the State's system being in effect (that is, using the Medicare principles);
- Appropriate recognition and projection of the time value of trust fund expenditures (that is, the interest the Medicare trust fund earned or would have earned) for the period the State system expenditures were either less than or exceeded the Medicare system payments.
- Comparable projections of Medicare outpatient expenditures under the State's system; and
- The resulting cost of savings to the Medicare program.

In addition, the State would be required to submit separate statewide projections of the aggregate outpatient expenditures for each system for each year of the 36-month period. The State would be required to submit the methodology and assumptions used to derive the expenditure amounts under both systems. The minimum requirements regarding the assurance and supportive data would be consistent with those listed for the inpatient hospital projections as described above. The cost-effectiveness test for expenditures for outpatient services would have to be met independently of the cost-effectiveness test for expenditures for inpatient service. For ease of use and greater clarity, we have moved these requirements from § 403.320(c), as proposed, to a new § 403.321.

If HCFA finds that a State system does not continue to meet the requirements of section 1886(c) of the Act or the requirements of Subpart C of part 403 of the regulations, HCFA may terminate an approved agreement for a State system by following the procedures described in § 403.322. That section provides that HCFA will give a State reasonable notice of a proposed termination of an agreement and of the reasons for the termination at least 90 days before the effective date of the termination. All terminations will be effective on the last day of a calendar quarter. The State will have the opportunity to present evidence to refute HCFA's proposed termination of the State system. Upon final review and determination on the State's evidence, HCFA will issue a final notice of termination. A State may voluntarily terminate its agreement for a State system by notifying HCFA of its intent to terminate at least 90 days in advance of the last day of the calendar quarter in which the State intends to terminate the agreement.

III. Responses to Comments

We received comments on the proposed rule from 13 commenters including four States, two HMOs, two private insurance companies, and five other commenters. These comments and our responses to them are discussed below.

A. Section 403.304 Minimum Requirements for State Systems—Discretionary Approval

1. Requirements for State systems

a. *System must apply to 75 percent of revenues or expenses:*

Comment: Some commenters requested further clarification of which hospitals are included and excluded for the purpose of determining compliance with this requirement. One commenter suggested that the regulations should clarify that the 75 percent revenue requirement applies to the revenues of the hospitals included in the State system and does not apply to the revenues of hospitals excluded from the State system. Another commenter expressed concern that States with a high concentration of HMOs and CMPs would be unfairly disadvantaged if the 75 percent requirement is based on all inpatient revenues or expenses in the State.

Response: Section 1886(c)(1)(A) of the Act clearly states that the State system must apply to the review of at least 75 percent of *all* revenues or expenses in the State for inpatient hospital services and to provide otherwise would be in conflict with that requirement.

Comment: One commenter expressed concern that our intent to require the State system to apply to *all* non-Federal acute care hospitals is in conflict with section 1886(c)(1)(A) of the Act, which provides that the State system will apply to substantially all non-Federal acute care hospitals in the State. This commenter suggested that a State system should only be required to apply to 75 percent of the inpatient revenues or expenses in the State or to substantially all of the non-Federal acute care hospitals.

Response: Section 1886(c)(1)(A) of the Act specifically requires the State system to apply to the review of at least 75 percent of all revenues or expenses in the State for inpatient hospital services. In addition, section 1886(c)(1)(A) of the Act further requires that the State system apply "to substantialy all non-Federal acute care hospitals (*as defined by the Secretary*) in the State". Therefore, as provided in section 1886(c)(1)(A) of the Act the State system must meet both of these requirements. In most cases, States would have to include all non-Federal acute care hospitals in the State system in order to meet these requirements.

b. *HMOs and CMPs must be allowed to negotiate payment rates:*

Comments: Some commenters suggested that the regulations should distinguish between the requirement that HMOs and CMPs be allowed to negotiate payment rates, and the equitable treatment assurance, which requires that equitable opportunity be afforded all third-party payors of inpatient hospital services for the availability of discounts. These commenters suggested that the regulations need to make it clear that the specific HMO provisions override the equitable treatment assurance since the discounts afforded HMOs are not required to be available to all third-party payors. Another commenter suggested that the ability to negotiate payment rates should be extended to any payor that can present incentives similar to HMOs and CMPs.

Response: In enacting section 1886(c)(1)(D) of the Act, Congress specified only HMOs and CMPs (as defined in section 1876(b) of the Act) be allowed to negotiate payment rates with hospitals and did not extend that right to other payors in the system. We have revised § 403.304(c)(2)(ii) to clarify that the discounts that may be afforded to HMOs and CMPs as the result of their statutory right to negotiate payment rates independent of a State system do not have to be made available to other payors.

c. *Provider appeals:*

Comment: One commenter objected to our leaving to State discretion the mechanism for appeals and the determination of the type of appeals to be permitted. The commenter also objected to our not permitting providers to file administrative appeals that could lead to retroactive revisions of prospectively-determined rates. The commenter believes that HCFA should neither explicitly limit, nor permit a State to limit, the appeals mechanism for State systems or the subject matter of appeals beyond ensuring that State payments resulting from an appeal will not result in Medicare expenditures greater than those that would otherwise have been paid under the national Medicare payment system. This commenter recommended that retroactive adjustments to hospital rates should be allowed.

Response: As stated in the preamble of the proposed rule (50 FR 20056), since the Medicare Provider Reimbursement Review Board (PRRB) is not intended to be knowledgeable regarding various States' procedures for ratesetting, it would not be an efficient or appropriate use of resources to involve the PRRB in appeals of State actions. Because of this we are requiring that a State system provide for an appeals process that must be fully described in the State's application for approval of a State system and that the process be approved by HCFA. While the regulations allow States to determine the mechanism for appeals, we have indicated that providers must be given the opportunity to present evidence and receive redress if their payment is inaccurate as a result of errors arising from incomplete or inaccurate data.

As to the commenter's suggestion regarding retroactive payment adjustments, we believe that the allowance of retroactive payment adjustments would affect compliance with two of the State system requirements. Section 1886(c)(5)(B)(ii) of the Act requires that a State system must provide for payment of hospitals covered under the system under a methodology by which rates or amounts to be paid for hospital services during a specified period are established under the system prior to the defined rate period. Therefore, retroactive payment adjustments to prospectively-determined payment rates on the part of a State would place approval of the State system at risk because it would be questionable whether the State is using prospectively-determined payment rates. The other compliance problem is the 36-month expenditure test. By requiring that the appeal process allow only for adjustments to future rates, the State system can provide adequate assurances that the 36-month expenditure test will be met with increased accuracy. For these reasons, we believe no changes to the appeal provisions are warranted.

2. Satisfactory Assurances

a. *Equitable treatment:*

Comment: We received comments on the assurances regarding the equitable treatment of all hospital patients and employees and the equitable treatment of all entities that pay hospitals for inpatient hospital services. One commenter stated that the regulations appear to make the assurance concerning equitable treatment of hospital patients and employees a lesser priority than the assurance concerning equitable treatment of payors because the latter assurance details specific conditions. A second commenter expressed the belief that the proposed rule failed to provide enough guidance as to the meaning of the equitable treatment of hospital patients and employees. A third commenter suggested that we define how risks and savings inherent in the system are to be shared equitably by all hospitals under the system.

Response: The specificity of required conditions does not indicate a determination on our part concerning the relative importance of the assurances. We intend that the regulations be specific to the extent possible in order to provide guidance to the States. For example, § 403.304(b), as proposed, provides specific requirements regarding the treatment of patients in that hospitals cannot charge a beneficiary more than what the beneficiary's liability would have been under the national Medicare system. At the same time it is our belief that, because each State system is developed independently, the imposition of more specific criteria would place unnecessary limitations on the type of system a State could devise. For that same reason, we have not defined how risks and savings are to be shared equitably.

Comment: One commenter suggested that the regulations should be clarified to state that the availability of discounts as required by § 403.304(c)(2)(ii) regarding equitable treatment of all payors in the system does not mean that the same discount is given to each payor but the criteria by which payor discounts are determined should be consistently applied to all payors.

Response: We agree with this commenter's suggestion and have clarified § 403.304(c)(2)(ii) to state that the criteria that determine discounts should be equitably and uniformly applied to all payors.

b. *36-Month expenditure test:*

Comment: Several comments were received regarding the Secretary's selection of the actual payment test and the elimination of the option of the State to use the rate-of-increase computation in providing this assurance.

Response: Section 1886(c) of the Act clearly gives the Secretary the discretion to determine the conditions under which the 36-month expenditure assurance would be accepted and, specifically, the discretion to accept a State's assurance. We believe that an actual expenditure assurance is the most accurate comparison of a State system's payments to what payments would have been under the national Medicare system absent the State system. Therefore, we have decided not to

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exercise the discretion to permit State's the option of using a rate-of-increase projection to satisfy the 36-month expenditure assurance.

Comment: One commenter expressed concern that the use of the actual payment test will stifle State innovation in creating State systems, which the commenter believes is contrary to congressional intent in enacting section 1886(c) of the Act.

Response: While it is true that section 1886(c) of the Act generally affords flexibility to States and encourages innovation in the creation of State systems, section 1886(c)(1)(C) of the Act clearly and specifically requires an assurance that Medicare expenditures under a State system will be limited to what Medicare would otherwise pay. Thus, we strongly believe that the use of an actual payment test is consistent with the intent of Congress.

Comment: Some commenters questioned the beginning date of the rate-of-increase expenditure test for States with an existing Medicare demonstration project in effect on October 1, 1983. These commenters suggested that, since the proposed rule was published later than originally expected by Congress, the October 1, 1983 date should be changed to October 1, 1984.

Response: We do not believe that we have the authority to change the October 1, 1983 date. Section 1886(c)(4) of the Act clearly specifies that the rate-of-increase expenditure test is applicable during the three cost reporting periods beginning on or after October 1, 1983. Since this part of section 1886(c) of the Act was part of the legislation that established the prospective payment system, it is our belief that Congress chose this date to coincide with the effective date of the prospective payment system and to allow States with existing demonstration projects a transition period to bring their system in line with the 36-month actual expenditure requirement of section 1886(c) of the Act.

3. Additional cost effectiveness assurances

Comment: One commenter suggested that the additional assurance for cost-effectiveness in § 403.304 should be revised to cap in the aggregate an amount that equals the State's projections rather than requiring that payments be capped in the aggregate to what Medicare would have paid absent a State system.

Response: We believe this commenter may have misunderstood the purpose of the additional cost-effectiveness assurance provided in § 403.304(d) of the proposed rule. We reiterate that the additional cost effectiveness assurances are only required if a State's initial assurance and supporting data do not satisfy HCFA that the system will meet the 36-month expenditure test.

The additional cost effectiveness assurance allows the State two options to satisfy the concern that expenditures under the State system not exceed Medicare expenditures absent the State system. The State can either cap monthly expenditures to what Medicare would have paid absent the State system, or limit payments made under the system based on a predetermined percentage relationship determined by comparing the State projections and what Medicare would have paid the State absent the State system. We provided this additional cost-effectiveness assurance in order to help States to provide the assurance regarding the 36-month expenditure test. We do not believe any revisions to § 403.304(d) are necessary.

Comment: Several commenters were concerned about the requirement that any additional funds necessary to pay hospital for Medicare services required by a State's system must be paid to the intermediaries by the State. These commenters believe that this part of the additional cost-effectiveness assurance allows a State the option to pass legislation requiring hospitals to accept "the amount Medicare would have paid absent the State system" as full payment. These commenters further believe that hospitals would not receive funds in excess of what Medicare would have paid absent the system in months when State expenditures exceed Medicare payment amounts and would receive less than Medicare payment amounts in months where expenditures under the State system were less than national Medicare payments.

Response: The provisions of § 403.304(d) will only apply to States that are required to provide an additional assurance that their State systems meet the cost effectiveness test. If a State chooses the § 403.304(d)(2) procedure and payments deviate upward from the predetermined relationship, then the State system would have paid more than would otherwise have been paid by Medicare. The State, therefore, has the option of capping payments at the Medicare prospective payment system rate and paying the excess to the hospitals, or requiring by legislation or legally binding regulations, that the hospitals accept the reduced payment as payment in full. These procedures would not apply a in State system that does not deviate from the predetermined relationship and therefore met the cost effectiveness test.

B. Section 403.306 Additional Requirements for Mandatory Approval

Comment: A number of commenters questioned HCFA's authority in requiring States to obtain HCFA's approval of system changes that have the effect of materially changing payments to hospitals in light of the fact that under section 1886(c)(5)(D) of the Act, the State need only notify HCFA of these changes. Several commenters maintained that this requirement is not needed because the regulations contain restrictions regarding payments under the State system and the equitable treatment of payors. In addition, some commenters questioned the need for HCFA approval in order for a State to reduce payments under the system in order to comply with the 36-month expenditure test.

Response: Section 1871 of the Act authorizes the Secretary to institute regulations necessary for the efficient administration of the Medicare program. We believe that this authority is a sufficient legal basis on which to establish the additional requirement that States obtain HCFA's approval of system changes that materially increase or decrease payments. As we stated in the preamble of the proposed rule (50 FR 20056), we believe that, for purposes of accountability and adherence to the basis on which a State system is initially approved, any material changes in the system that alter expected results should be subject to approval prior to implementation. Therefore, in order to ensure that any changes a State proposes to make in its system will allow the system to continue to provide for the equitable treatment of payors, patients, employees, and hospitals and to ensure continual compliance with the 36-month expenditures test, HCFA approval of all material system changes is required.

Another reason for our requiring approval of all material system changes is that, in order for a State to operate a system authorized in accordance with section 1886(c) the Act, the system must be approved by HCFA. Since HCFA must approve the system before it can go into effect, we firmly believe that any material change to the system as approved by HCFA would mean that the approved system is no longer in effect. Therefore, we have imposed the requirement that any material change to the system be approved by HCFA prior to its implementation.

C. Section 403.310 Reductions in Payments

1. *Time value of excess payments*

Comment: Several commenters suggested that the recognition of the time value of excess payments in the determination of the amount of excess payments is contrary to the statute. These commenters noted that section 1886(c)(6) of the Act authorizes the Secretary to reduce payments under the system in an amount equal to the amount by which State system payments exceeded the amount that would have otherwise been paid by Medicare absent the State system. These commenters believe that HCFA has no statutory authority for recouping the time value of money. Another commenter indicated that, if this provision is implemented, the saved time value of excess payments would have to be included to the State's advantage if the State saves Trust Fund money.

Response: It is our interpretation that the statute does give HCFA the authority to recoup the time value of money. Section 1886(c) of the Act requires that a State system's Medicare payments cannot exceed the amount that Medicare would otherwise have paid. Thus, in preparing the proposed rule we included in § 403.310 (Reductions in payments) and § 403.320 (Review and monitoring of State systems) an appropriate recognition of the time value of money. We have revised our rules to clarify that the time value of money is a factor that will be considered in our evaluation and analysis of the State's projections regarding the cost-effectiveness of the State's system and whether the State's application should be approved in determining the difference between the State system payments and what Medicare would have otherwise paid in accordance with section 1886(c)(6) of the Act, the time value of money will not be a factor. However, in the event there is an overpayment and recoupment of funds is required, interest charges will be assessed when appropriate in accordance with Medicare regulations in 405.376. We have revised § 403.310 accordingly.

2. *Recoupment procedures*

Comment: Some commenters expressed concern regarding the methods that hospitals would be required to use in order to return excess payments to Medicare. These commenters believe there is a conflict between section 1886(c)(6) of the Act and the recoupment procedures described in the regulations. The commenters note that Section 1886(c)(6) of the Act allows us to reduce payments in an amount equal to the excess payments, while our proposed regulations indicate that recoupment may be made by a hospital's direct payment to Medicare or by offsets to future payments made to the hospital. These commenters recommended that this inconsistency should be corrected so that hospitals under a State system would not be required to make lump sum payments to Medicare.

Response: The recoupment procedures described in the proposed rule give States and hospitals the option of repaying excess payments in a lump sum or through future rate adjustments. As a practical matter, there may be instances in which the overpayment may be too small to be recouped through future rate reductions, and we therefore believe that lump sum payments should be an option for a hospital to exercise in repaying excess payments. Since States adopted recoupment procedures must be reviewed and approved by HCFA, these procedures would have to meet a test of reasonableness.

Comment: One commenter questioned whether the reduction in payments that we may impose would require a reduction of payments to all hospitals included in the State system or would require that certain hospitals be singled out to bear the reduction.

Response: In keeping with congressional intent to allow States flexibility in designing and operating State systems, § 403.310 gives a State the option of either accepting the recoupment procedure described in that section or providing, through legislation or legally binding regulations, procedures for the recoupment of excess payments. The Federal procedure described in the proposed rule specifies that overpayments will be recouped on a proportionate basis from each of those hospitals that received payments in excess of what Medicare would have paid absent the State system. However, a State imposed procedure may require a completely different recoupment process and perhaps may even require all hospitals operating under the State system to make recoupment payments on some basis determined by the State.

Comment: One commenter suggested that we specify in the regulations a time frame for Medicare's recovery of overpayments.

Response: It is our belief that, due to the differences in the design of State systems and the flexibility afforded States, a specific time frame for the recovery of overpayments would not be appropriate at this time. However, as a general rule, recoupment of overpayments should be completed within three years or less, as provided in regulations at § 401.607(c).

D. Section 403.316 Reconsiderations of Denied Applications

Comment: One commenter remarked that HCFA's proposal to limit reconsideration of denied State system applications to those instances in which the State believes that its system meets all the requirements in §§ 403.304 and 403.306 seems unnecessarily restrictive.

Response: Only those State systems that meet all the requirements of §§ 403.304 and 403.306 or, in the case of a State system approved under a demonstration project in effect prior to April 20, 1983, the requirements of §§ 403.304 and 403.306, are required to be approved. Approval of State systems that meet the minimum requirements described in § 403.304, but only some of the additional requirements described in § 403.306, is discretionary. Because of this, we do not believe that reconsideration of denied applications that did not meet all of the requirements of §§ 403.304 and 403.306, or, if applicable, § 403.306 is appropriate. States meeting all the minimum requirements described in § 403.304 but only some of the requirements described in § 403.306 are entitled to submit an amendment application, but those States are not entitled to mandatory reconsideration.

E. Section 403.320 HCFA Review and Monitoring

1. Required information

Comment: Several commenters questioned the need for States to provide the extensive data required for use in determining what Medicare expenditures would have been absent the State system and whether HCFA data would be available to the States. Some commenters questioned the relevance of hospital-specific data in that cost-effectiveness is measured based on total Medicare payments. One commenter questioned the appropriateness of requiring States to conform to future Medicare changes and requested a clearer definition of the amount of time a State has to comply with future Medicare changes.

Response: We do not believe the data requirements of this section exceed the data necessary for a State and HCFA to determine whether a State system will be able to meet the 36-month expenditure test. Prior to the submission of its application for approval of a State system, the State must estimate and

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analyze the expenditures expected under the State system and compare the State expenditures to what the State estimates Medicare would have paid absent the State system. Since the cost-effectiveness test is based on aggregate expenditures, a State must use hospital-specific data to determine the aggregate amount. Hospital-specific data is also needed in order that HCFA may properly evaluate a State's application for a State system. Therefore, we do not believe these data requirements impose an unnecessary burden on States, particularly since HCFA will provide to States any requested data that is available in order to assist States in developing the required projections, regarding Medicare expenditures under the national Medicare program.

Determining the effect of future Medicare changes on a State system is the responsibility of the State. The State is required to assure that its system's Medicare expenditures over 36-month periods will not exceed that which Medicare would have paid absent the system, and, in order for a State to retain approval of its system under section 1886(c) of the Act, the State must determine whether changes in the State system will affect the State's ability to continue to satisfy its assurance regarding the 36-month expenditure test. If changes to the Medicare system affect a State's ability to satisfy the 36-month expenditure test, the State must react accordingly.

Comment: One commenter stated that HCFA should share in the risks of State system experimentation and recommended that we eliminate the quarterly monitoring requirement because, in the opinion of the commenter, that requirement is not consistent with the risks that are inherent in experimentation with alternative payment systems.

Response: It should be understood that State systems approved under section 1886(c) of the Act are not considered Medicare program experiments, and thus it is not appropriate, in our view, that the Medicare program share in the risks of implementing State systems. Section 1886(c) of the Act clearly specifies that State systems must comply with the 36-month cost-effectiveness test. We believe that quarterly monitoring is the most effective means to monitor the progress and expenditures of the State system in satisfying the 36-month expenditure test.

Comment: Several commenters requested a clarification of the adjustment that HCFA proposes to allow a State so as to account for previous reductions in the Medicare payment amounts that resulted from the effectiveness of the State's system even though Medicare was not a part of the system. One commenter maintained that proving cost savings due to the system's effectiveness would be difficult and that HCFA has not guaranteed that a State system would be approved once proof of cost savings is provided. Another commenter recommended that the regulations should allow consideration for those prior savings that a State can establish were due to the effectiveness of the system operated as a demonstration project in which Medicare participated. One other commenter suggested that we allow any State to take into account an adjustment related to previous cost savings if the State had a hospital reimbursement control system in effect (not only States with prior demonstration projects) that resulted in a lesser aggregate rate of increase in inpatient operating costs than the national average.

Response: In the preamble of the proposed rule (50 FR 20053), we expressed concern as to how a State entity would establish quantitatively the "prior savings" amount. Moreover, we expressed concern as to how the savings realized by Medicare in some prior period would be substantiated and invite specific comments on the operation of this provision. We acknowledge that proving cost savings due to a system's effectiveness will be difficult for States. However, we included this provision in the regulations to allow those States that did indeed operate a State system in which Medicare was not a participant, but which did result in substantiated savings to the Medicare program, the opportunity to request credit for these savings. We have not guaranteed that a State system would be granted credit for prior cost savings once proof is provided since the allowance of this adjustment is discretionary as indicated in section 1886(c)(2) of the Act. The legislative history of section 1886(c)(2) of the Act indicates that the Secretary may allow this optional adjustment relating to previous savings resulting from a State system only if the State had a system in effect in which Medicare was not a participant and only if the system resulted in Medicare paying hospitals less for services furnished to Medicare beneficiaries due to the overall effectiveness of the system. (See H.R. Conf. Rep. 97–760, 97th Cong., 2nd Sess., 422 (1982)). A more liberal interpretation of this requirement would not be consistent with congressional intent. While we may choose to take into account adjustments relating to previous savings under the system if a State can substantiate the savings, this adjustment will be available to a limited number of States since only a few States had State systems in effect.

Comment: One commenter expressed concern regarding the requirement in § 403.320(b)(5) that, on a case-by-case basis, HCFA may require additional data and documentation as needed to complete its review and monitoring of the system. This commenter suggested that the meaning of "case" should be clearly specified to ensure that patient and provider confidentiality rights are not violated.

Response: We believe that this section of the regulations, when read in its entirety, clearly refers to a State system as a whole in discussing the additional data and documentation needed on a case-by-case basis and, in this context, cannot be read as permitting the abridgement of patient and provider rights.

2. Outpatient services

Comment: Several commenters questioned our authority to require separate applications for approval of inpatient and outpatient systems. The commenters expressed the belief that the applications should not be separated since the objective of an inpatient prospective payment system is to reduce unnecessary utilization for those services that can be more efficiently performed in an outpatient setting. One commenter questioned the requirement that an outpatient waiver must meet all the requirements of §§ 403.304 and 403.306 in order to be approved. This commenter maintained that several of the requirements of §§ 403.304 and 403.306 (for example, admission assurance and prospectively-determined payment rates) do not even apply to outpatient services. Another commenter stated that while submission of an application for approval of an outpatient system should remain optional, HCFA should consider and approve applications for inpatient and outpatient systems submitted by a State in tandem because the interaction of the two systems may be crucial to meet projected savings levels while improving or maintaining beneficiary access to care.

Response: We believe that section 1871 of the Act gives us the authority to consider a waiver for outpatient services in conjunction with section 1886(c) of the Act. We also believe it appropriate to require separate applications. The separation of inpatient and outpatient waiver applications is proper given the legislative history and overall purpose of section 1886 of the Act.

We conclude that section 1886 of the Act, which is entitled "Payment to Hospitals for Inpatient Hospital Services", was intended to relate only to inpatient services. In addition the provisions of section 1886(c) of the Act and its legislative history demonstrate, in our view, that Congress meant to require the continuation of State demonstration projects only to the extent that they relate to inpatient care. While separate applications are required, we agree that they should be reviewed in tandem. Nonetheless, each system must separately meet the 36-month expenditure (cost-effectiveness) test.

Offsetting excess outpatient costs against projected inpatient savings or vice versa would be a tenuous proposition, in our view, because such an offset would merely be based on projections. Given the uncertainty of projections, it would be imprudent to approve a State system that is designed to generate excess costs in one sector that are hoped to be offset by savings in another sector. There is a much greater assurance that the overall outcome of no excess costs will be achieved if neither the outpatient nor inpatient portion of a system is designed to result in excess costs. Therefore, we believe that from the point of view of prudent management of the Medicare trust funds, the requirement for separate cost-effectiveness tests for inpatient and outpatient reimbursement control systems is clearly the better approach, particularly so because an outpatient system is always optional and approval is discretionary.

We also note that the proposed regulations did not require an outpatient system application to meet all the criteria required of an inpatient system application. The application for an outpatient system must meet the requirements of § 403.304 (b) and (c) and § 403.306 (b)(1) and (b)(2)(ii) as these requirements apply to outpatient services and reimbursement.

3. Medicaid Upper Limit

Comment: One commenter requested a clearer definition of the Medicare principles with which Medicaid payments are to be compared. Another commenter questioned our authority to limit Medicaid payments under State systems.

Response: Section 1886(c) of the Act allows HCFA to waive Medicare reimbursement priniciples. This section does not provide authority for the waiver of Medicaid reimbursement regulations. Consequently, States that obtain approval of a system under section 1886(c) of the Act must comply with the Medicaid regulations contained in 42 CFR Part 447 Subpart C. Section 447.253(b)(2) requires States to give HCFA an assurance that payments for Medicaid services are not expected to exceed in the aggregate the amount that the State reasonably estimates would be paid under Medicare principles. Therefore, we believe that the reference to the Medicaid upper limit in § 403.320 of these regulations is proper and we intend it to signify that, despite the requirement that Medicaid reimbursement for hospital services be determined under a State system, the Medicaid State plan requirements are not waived. As a practical matter, since the State system principles themselves become the Medicare principles, the State's assurance regarding the Medicaid upper limit should be relatively straightforward.

4. Medicare Expenditure Monitoring

Comment: Some commenters were confused regarding the difference between the actual expenditure monitoring once the application is approved and the 36-month projections that a State is required to submit with the application. One commenter interpreted that the quarterly monitoring would be done in isolation each quarter and would not take into account the entire 36-month experience. This commenter stated that changes in hospital and beneficiary behavior should be accounted for in the quarterly monitoring. Another commenter expressed belief that the quarterly amounts should take into account shifts from inpatient services due to the use of less costly outpatient services.

Response: Section 403.320 states that if at anytime HCFA determines that the payments made under the State system have, as of that date, exceeded the State's projections, HCFA will conclude that payments under the State system over a 36-month period will exceed what Medicare would have paid absent the system. If HCFA reaches this conclusion, it will then terminate the waiver and recoup overpayments. This position clearly demonstrates HCFA's intent to review the quarterly monitoring in conjunction with the State's projections submitted with the State's application, and not in isolation. Since the monitoring will be accomplished using a bill-by-bill comparison, hospital and beneficiary behavior changes and shifts from inpatient services due to the use of less costly outpatient services do not need to be accounted for separately because they would be accounted for in the bill-by-bill comparison and cumulative analysis of bills.

IV. Impact Analysis

A. Executive Order 12291

Executive Order 12291 requires us to prepare and make available to the public a regulatory impact analysis for any regulations likely to have an annual effect on the economy of $100 million or more, cause a major increase in costs or prices, or meet other threshold criteria specified in section 1(b) of the Order. We have determined that these final regulations do not meet the criteria for a "major rule" under section 1(b). Therefore, a regulatory impact analysis is not required.

We expect that State systems for Medicare reimbursement, particularly in conjunction with the implementation of the prospective payment system for Medicare inpatient hospital services under Pub. L. 98–21, will have a significant economic effect. However, the extent of this impact will depend on the choices made by States concerning whether to utilize a State system; whether to bring any such system under the Medicare program in accordance with these final regulations; and on the behavioral changes of providers in responding to whatever systems are developed by States.

The types of economic effects that can be expected are discussed in some detail in the impact analysis for the regulations establishing the Medicare prospective payment system (48 FR 39804–39807, 39852, September 1, 1983, and 49 FR 301, January 3, 1984). One of the effects expected of this final rule, however, is to increase the number of hospitals that do not participate in the national Medicare hospital prospective payment system, because they will be subject to State systems.

Because the law and these final regulations are designed to permit the establishment of systems using incentives and controls that would restrain increases in the cost of hospital care, and because the statute requires that the amount of Medicare payments, over 36-month periods, made under a State system not exceed the amount of payments that would otherwise have been made applying the Medicare reimbursement principles, we expect that State systems may produce some Medicare program savings. To the extent that State systems result in State Medicaid savings, we also expect concomitant savings in Federal financial participation payments. In addition, State controls may result in reductions in expenditures for other payors, such as

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non-governmental insurers and private parties. The effects could be very wide-ranging, extending to diverse factors such as insurance premium levels, copayment obligations, bad debt levels, and hospital bond ratings.

Because of the number of economic factors involved, the range and extent of potential effects, and the contingency of those effects on future and unpredictable actions on the parts of States, providers, insurers, and consumers, the effects on savings or costs are inestimable. Moreover, the effects are primarily the result of statutory changes made by section 101 of Pub. L. 97-248, section 601 of Pub. L. 98-21, and section 2315(a) of Pub. L. 98-369. The administrative discretion exercised through these final regulations is minor compared to the impact of the statute and decisions made by States that will affect their hospitals. Based on our experience, we do not believe that, in the near term, these final rules will result in an annual economic impact of $100 million, or otherwise meet the threshold criteria for a "major rule". Therefore, a regulatory impact analysis is not required.

B. Regulatory Flexibility Act

Consistent with the Regulatory Flexibility Act, we prepare and make available to the public an initial regulatory flexibility analysis unless the Secretary certifies that these regulations will not have a significant impact on a substantial number of small entities. The purpose of the analysis would be to explain the expected impact of these final regulations and to analyze alternatives that might reduce negative effects of regulations on small entities. (A small entity is a small business, a nonprofit enterprise, or a government jurisdiction with a population of less than 50,000.)

Nearly all hospitals are small entities under the Regulatory Flexibility Act. In any State implementing a system under these final regulations, a substantial number of hospitals (non-Federal, acute care hospitals) would be affected. Many of those hospitals may be significantly affected. However, the impact of State systems must be considered in view of the implementation of the prospective payment system for Medicare inpatient hospital services under Pub. L. 98-21. The Medicare prospective payment system and State systems have mutually exclusive impacts, in that they are explicitly established as alternatives and will not both affect any particular hospital at the same time. The effects of State systems are inestimable before the characteristics of such systems are known in detail, so the effects on hospitals cannot be analyzed at this time. Furthermore, any effects would be primarily the result of the implementation of the statutory requirements of Pub. L. 97-248, Pub. L. 98-21, and Pub. L. 98-369, as noted earlier, and not the result of these final regulations. Therefore, we have determined and the Secretary certifies, under 5 U.S.C. 605(b), as enacted by the Regulatory Flexibility Act of 1980 (Pub. L. 96-354), that these final regulations will not have a significant impact on a substantial number of small entities.

C. Reporting and Recordkeeping Requirements

Sections 403.304, 403.306, 403.312, 403.316, 403.318, 403.320 and 403.322 of this final rule contain information collection requirements that are subject to the Office of Management and Budget review under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3511). A notice will be published in the **Federal Register** when approval is obtained. An individual or organization wishing to submit comments on the information collection requirements should direct them to the Desk Officer for HCFA at the following address: Office of Information and Regulatory Affairs, OMB New Executive Office Building (Room 3208), Washington, DC 20503. Attention: Fay Iudicello.

List of Subjects in 42 CFR Part 403

Health insurance, Intergovernmental relations, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 403 is amended as set forth below:

PART 403—SPECIAL PROGRAMS AND PROJECTS

A new Subpart C consisting of §§ 403.300 through 403.322, is added to read as follows:

Subpart C—Recognition of State Reimbursement Control Systems

Sec.

403.300 Basis and purpose.
403.302 Definitions.
403.304 Minimum requirements for State systems—Discretionary approval.
403.306 Additional requirements for State systems—Mandatory approval.
403.308 State systems under demonstration projects—Mandatory approval.
403.310 Reductions in payments.
403.312 Submittal of application.
403.314 Evaluation of State systems.
403.316 Reconsideration of certain denied applications.
403.318 Approval of State systems.
403.320 HCFA review and monitoring of State systems.
403.321 State systems for hospital outpatient services.
403.322 Termination of agreements for Medicare recognition of State systems.

Authority: Secs. 1102, 1862(a)(14), 1866(a)(1)(F), 1871 and 1886(c) of the Social Security Act (42 U.S.C. 1302, 1395y(a)(14), 1395cc(a)(1)(F), 1395hh and 1395ww(c)).

Subpart C—Recognition of State Reimbursement Control Systems

§ 403.300 Basis and purpose.

(a) *Basis.* This subpart implements section 1886(c) of the Act, which authorizes payment for Medicare inpatient hospital services in accordance with a State's reimbursement control system rather than under the Medicare reimbursement principles as described in HCFA's regulations and instructions.

(b) *Purpose.* Contained in this subpart are—

(1) The basic requirements that a State reimbursement control system must meet in order to be approved by HCFA;

(2) A description of HCFA's review and evaluation procedures; and

(3) The conditions that apply if the system is approved.

§ 403.302 Definitions.

For purposes of this subpart—

"Chief executive officer of a State" means the Governor of the State or the Governor's designee.

"Existing demonstration project" refers to demonstration projects approved by HCFA under the authority of section 402(a) of the Social Security Amendments of 1967 (42 U.S.C. 1395b-1) or section 222(a) of the Social Security Amendments of 1972 (42 U.S.C. 1395b-1 (note)) and in effect on April 20, 1983 (the date of the enactment of Pub. L. 98-21 (Social Security Amendments of 1983)).

"Federal hospital" means a hospital that is administered by, or that is under exclusive contract with, the Department of Defense, the Veterans' Administration, or the Indian Health Service.

"State system" or "system" refers to a State reimbursement control system that is approved by HCFA under the authority of section 1886(c) of the Act and that satisfies the requirements described in this subpart.

§ 403.304 Minimum requirements for State systems—Discretionary approval.

(a) *Discretionary approval by HCFA.* HCFA may approve Medicare payments under a State system, if HCFA determines that the system meets the requirements in paragraphs (b) and (c) of this section and, if applicable paragraph (d) of this section.

(b) *Requirements for State system.* (1) An application for approval of the system must be submitted to HCFA by the Chief Executive Officer of the State.

(2) The State system must apply to substantially all non-Federal acute care hospitals in the State.

(3) All hospitals covered by the system must have and maintain a utilization and quality control review agreement with a Peer Review Organization, as required under section 1866(a)(1)(F) of the Act and § 466.78(a) of this chapter.

(4) Federal hospitals must be excluded from the State system.

(5) Nonacute care or specialty hospital (such as rehabilitation, psychiatric, or children's hospitals) may, at the option of the State, be excluded from the State system.

(6) The State system must apply to at least 75 percent of all revenues or expenses—

(i) For inpatient hospital services in the State; and

(ii) For inpatient hospital services under the State's Medicaid plan.

(7) Under the system, HMOs and competitive medical plans (CMPs), as defined by section 1876(b) of the Act and Part 417 of this chapter, must be allowed to negotiate payment rates with hospitals.

(8) The system must limit hospital charges for Medicare beneficiaries to deductibles, coinsurance or non-covered services.

(9) Unless a waiver is granted by HCFA under § 489.23 of this chapter, the system must prohibit payment, as required under section 1862(a)(14) of the Act and § 405.310(m) of this chapter, for nonphysician services provided to hospital inpatients under Part B of Medicare.

(10) The system must require hospitals to submit Medicare cost reports or approved reports in lieu of Medicare cost reports as required.

(11) The system must require—

(i) Preparation, collection, or retention by the State of reports (such as financial, administrative, or statistical reports) that may be necessary, as determined by HCFA, to review and monitor the State's assurances; and

(ii) Submission of the reports to HCFA upon request.

(12) The system must provide hospitals an opportunity to appeal errors that they believe have been made in the determination of their payment rates. The system, if it is prospective may not permit providers to file administrative appeals that would result in a retroactive revision of prospectively determined payment rates.

(c) *Satisfactory assurances.* The State must provide to HCFA satisfactory assurance as to the following:

(1) The system provides for equitable treatment of hospital patients and hospital employees.

(2) The system provides for equitable treatment of all entities that pay hospitals for inpatient hospital services, including Federal and State programs. Under the requirement, the following conditions must be met:

(i) Both the Medicare and Medicaid programs must participate under the system.

(ii) The State must assure equitable and uniform treatment under the system of third-party payors of inpatient hospital services in terms of opportunity. Equitable opportunity must include, but need not be limited to, participation in the system and availability of discounts. Criteria under which discounts are made available must be equitably and uniformly applied to all payors, except for discounts negotiated by HMOs and CMPs. Discounts available to HMOs and CMPs as result of their statutory right to negotiate payment rates independently of a State system, as described in paragraph (b)(7) of this section, need not be available to other payors.

(iii) The State must assure that all third-party payors that participate under the system share in the system's risks and benefits.

(3) The amount of Medicare payments made under the system over 36-month periods may not exceed the amount of Medicare payment that would otherwise have been made under the Medicare principles of reimbursement for Medicare items and services had the State system not been in effect. States must submit the assurance and supporting data as required by § 403.320 to document that the payment limit is not exceeded. States that have an existing Medicare demonstration project in effect on April 20, 1983, and that have requested approval of a State system under section 1886(c)(4) of the Act, may elect to have the effectiveness of the State system under this paragraph judged on the basis of the State system's rate of increase or inflation in Medicare inpatient hospital payments as compared to the national rate of increase or inflation for such payments during the three cost reporting periods of the hospitals in the State beginning on or after October 1, 1983.

(d) *Additional cost-effectiveness assurance.* If the assurances and supporting data required under paragraph (c)(3) of this section are insufficient to provide assurance satisfactory to HCFA regarding the cost-effectiveness of a State system, the State may additionally submit one of the following assurances in order to meet the cost-effectiveness test:

(1) *State responsibility for excess payments.* The State must agree that each month Medicare intermediaries will disburse to the State's hospital Federal funds that in the aggregate equal no more than would have been disbursed in the absence of the State system. Any additional funds necessary to pay hospitals for Medicare services required by the State system will be paid to the intermediaries by the State. These additional amounts will be refunded to the State by the intermediaries to the extent that, in subsequent months, the State system requires a smaller aggregate payment for Medicare services than would have been paid in the absence of the State system.

(2) *Limitations on payments.*

(i) The State must agree that if its projections exceed what Medicare would pay in any particular period, the State and HCFA will establish and agreed upon payment schedule that will limit payments under the State system based on a predetermined percentage relationship between projected State payments and what payments would have been under Medicare.

(ii) If deviation from the predetermined relationship described in paragraph (d)(2)(i) of this section occurs, the State must further agree that—

(A) Medicare payments would be capped automatically at payment levels based on the rates used for the Medicare prospective payment system and the State would be required to pay the difference to individual hospitals in its system; or

(B) The State may provide by legislation or legally binding regulations that any reduced payments to hospitals under the system that result from this cost-effectiveness assurance will constitute full and final payment for hospital services furnished to Medicare beneficiaries for the period covered by these reduced payments.

§ 403.306 Additional requirements for State systems—Mandatory approval.

(a) *General policy.*—(1) *Mandatory approval.* HFCA will approve an application for Medicare reimbursement under a State system if the system meets all of the requirements of § 403.304 and of paragraph (b) of this section.

(2) *Exception.* HCFA may approve an application if the State system meets all of the requirements of § 403.304 but only

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some of the requirements of paragraph (b) of this section.

(b) *Additional requirements.*—(1) *Operation of system.* The system must—

(i) Be operated directly by the State or by entity designated under State law;

(ii) Provide for payments to hospitals using a methodology under which—

(A) Prospectively determined payment rates are established; and

(B) Exceptions, adjustments, and methods for changes in methodology are set forth;

(iii) Provide that a change by the State in the system that has the effect of materially changing payments to hospitals can take effect only upon 60 days notice to HCFA and to the hospitals likely to be materially affected by the change and upon HCFA's approval of the change.

(2) *Satisfactory assurances.*—(i) *Admissions practice.* The State must assure that the operation of the system will not result in any change in hospital admission practices that result in—

(A) A significant reduction in the proportion of patients receiving hospital services covered under the system who have no third-party coverage and who are unable to pay for hospital services;

(B) A significant reduction in the proportion of individuals admitted to hospitals for inpatient hospital services for which payment is less, or is likely to be less, than the anticipated charges for or cost of the services;

(C) A refusal to admit patients who would be expected to require unusually costly or prolonged treatment for reasons other than those related to the appropriateness of the care available at the hospital; or

(D) A refusal to provide emergency services to any person who is in need of emergency services, if the hospital provides the services.

(ii) *Consultation with local government officials.* The State must provide documentation that it has consulted with local government officials concerning the impact of the system on publicly owned or operated hospitals.

§ 403.308 State systems under demonstration projects—Mandatory approval.

HCFA will approve an application from a State for a State system if—

(a) The system was in effect prior to April 20, 1983 under an existing demonstration project; and

(b) The minimum requirements and assurances for approval of a State system are met under § 403.304 (b)(1)–(10) and § 403.304(c), and, if appropriate § 403.304(d).

§ 403.310 Reduction in payments.

(a) *General rule.* If HCFA determines that the satisfactory assurances required of a State under § 403.304(c) and, if applicable, § 403.304(d) have not been met, or will not be met, with respect to any 36-month period, HCFA will reduce Medicare payments to individual hospitals being reimbursed under the State's system or, if applicable, under the Medicare payment system, in an amount equal to the amount by which the Medicare payments under the system exceed the amount of Medicare payments to such hospitals that otherwise would have been made not using the State system. The amount of the recoupment will include, when appropriate, interest charges computed in accordance with § 405.376 of this chapter.

(b) *Recoupment procedures.* The amount of the overpayment will be recouped on a proportionate basis from each of those hospitals that received payments under the State system that exceeded the payments they would have received under the Medicare payment system. Each hospital's share of the aggregate excess payment will be determined on the basis of a comparison of the hospital's proportionate share of the aggregate payment received under the State system that is in excess of what the aggregate payment would have been under the Medicare payment system. Recoupments may be accomplished by a hospital's direct payment to the Medicare program or by offsets to future payments made to the hospital.

(c) *Alternative recoupment procedures.* As an alternative to the recoupment procedures described in paragraph (b) of this section and subject to HCFA's acceptance, the State may provide, by legislation or legally binding regulations, procedures for the recoupment of the amount of payments that exceed the amount of payments that otherwise would have been paid by Medicare if the State system had not been in effect.

(d) *Rule for existing Medicare demonstration projects.* In cases of existing Medicare demonstration projects where the expenditure test is to be applied by a rate of increase factor, the amount of the excess payment will be determined, for the three hospital cost reporting periods beginning before October 1, 1986, by a comparison of the State system's rate of increase to the national rate of increase. Recoupment of excessive payments will be assessed and recouped as described in this section.

§ 403.312 Submittal of application.

The Chief Executive Officer of the State is responsible for—

(a) Submittal of the application to HCFA for approval; and

(b) Supplying the assurances and necessary documentation as required under §§ 403.304–403.306.

§ 403.314 Evaluation of State systems.

HCFA will evaluate all State applications for approval of State systems and notify the State of its determination within 60 days.

§ 403.316 Reconsideration of certain denied applications.

(a) *Request for reconsideration.* If HCFA denies an application for a State system, the State may request that HCFA reconsider the denial if the State believes that its system meets all of the requirements for mandatory approval under §§ 403.304 and 403.306 or, in the case of a State with a system operating under an existing demonstration project, the applicable requirements of §§ 403.304 and 403.306.

(b) *Time limit.* (1) The State must submit its request for reconsideration within 60 days after the date of HCFA's notice that the application was denied.

(2) HCFA will notify the State of the results of its reconsideration within 60 days after it receives the request for reconsideration.

§ 403.318 Approval of State systems.

(a) *Approval agreement.* If HCFA approves a State system, a written agreement will be executed between HCFA and the Chief Executive Officer of the State. The agreement must incorporate any terms of the State's application for approval of the system as agreed to by the parties and, as a minimum, must contain provisions that require the following:

(1) The system is operated directly by the State or an entity designated by State law.

(2) For purposes of the Medicare program, the State's system applies only to Medicare payments for inpatient, and if applicable, outpatient hospital services.

(3) The system conforms to applicable Medicare law and regulations other than those relating to the amount of reimbursement for inpatient hospital services, or for inpatient and outpatient services, whichever the State system covers. Applicable regulations include, for example, those describing Medicare benefits and entitlement requirements for program beneficiaries, as explained in Parts 406 and 409 of this chapter; the requirements at Part 405, Subpart J of this chapter specifying conditions of participation for hospitals; the requirements at Part 405, Subparts A, C, and S of this chapter on Medicare program administration; and all applicable fraud and abuse regulations contained in titles 42 and 45 of the CFR.

(4) The State must obtain HCFA's approval of the State's reporting forms and of provider cost reporting forms or other forms that have not been approved by HCFA but that are necessary for the collection of required information.

(b) *Effective date.* An approved State system may not be effective earlier than the date of the approval agreement, which may not be retroactive.

§ 403.320 HCFA review and monitoring of State systems.

(a) *General rule.* The State must submit an assurance and detailed and quantitative studies of provider cost and financial data and projections to support the effectiveness of its system, as required by paragraphs (b) and (c) of this section.

(b) *Required information.* (1) Under § 403.304(c)(3) an assurance is required that the system will not result in greater payments over a 36-month period than would have otherwise been made under Medicare not using such system. If a State that has an existing demonstration project in effect on April 20, 1983 elects under § 403.304(c)(3) to have the effectiveness of its system judged on the basis of a rate of increase factor, the State must submit an assurance that its rate of increase or inflation in inpatient hospital payments does not exceed, for that portion of the 36-month period that is subject to this test, the national rate of increase or inflation in Medicare inpatient hospital payments. The election of the rate of increase test applies only to the three cost reporting periods beginning on or after October 1, 1983. At the end of these cost reporting periods, the State must assure, beginning with the first month after the expiration of the third cost reporting period beginning after October 1, 1983, that payments under its system will not exceed over the remainder of the 36-month period what Medicare payments would have been.

(2) Estimates and data are required to support the State's assurance, required under § 403.304(c)(3), that expenditures under the State system will not exceed what Medicare would have paid over a 36-month period. The estimates and projections of what Medicare would have otherwise paid must take into account all the Medicare reimbursement principles in effect at the time and, for any period in which payments either exceed or are less than Medicare levels, the values of interest the Medicare Trust Fund earned, or would have earned, on these amounts. Upon application for approval, the State must submit projections for each hospital for the first 12-month period covered by the assurance, in both the aggregate and on a per discharge basis, of Medicare inpatient expenditures under Medicare principles of reimbursement and parallel projections of Medicare inpatient expenditures under the State's system and the resulting cost or savings to Medicare. The State must also submit separate statewide projections for each year of the 36-month period, in both the aggregate and on a weighted average discharge basis, of inpatient expenditures under the State system and under the Medicare principles of reimbursement.

(3) The projection submitted under paragraph (b)(2) of this section must include a detailed description of the methodology and assumptions used to derive the expenditure amounts under both systems. In instances where the assumptions are different under the projections cited in paragraph (b)(2) of this section, the State must provide a detailed explanation of the reasons for the differences. At a minimum, the following separate data and assumptions are to be included in the projections for the Medicare principles and for the State's system.

(i) The State system base year and the Medicare allowable and reimbursable cost of each hospital that the State used to develop the projections, including the amount of estimated pass through costs.

(ii) The categories of costs that are included in the State system and are reimbursed differently under the State system than under the Medicare system.

(iii) The number of Medicare and total base year discharges and admissions for each hospital.

(iv) The rate of change factor (and the method of application of this factor) used to project the base year costs over the 36-month period to which the assurance would apply.

(v) Any allowance for anticipated growth in the amount of services from the base year (if applicable, the allowance must be presented in separate estimates for population increases or for increases in rates of admissions or both).

(vi) Any adjustment in which the State is permitted by HCFA to take into account previous reductions in the Medicare payment amounts that were the result of the effectiveness of the State's system even though Medicare was not a part of that system.

(vii) Appropriate recognition and projection of the time value of trust fund expenditures for the period the State system expenditures were either less than or exceeded the Medicare system payments.

(viii) States applying under a rate of increase effectiveness test under § 403.304(c)(3) must also submit data projecting the parallel rates of increase during the requisite period.

(4) The projections must include both the aggregate payments and the payments per discharge for the individual hospitals and for the State as a whole.

(5) On a case-by-case basis, HCFA may require additional data and documentation as needed to complete its review and monitoring.

(6) For existing Medicare demonstration projects in effect on April 20, 1983, the assurance and data as required by paragraphs (a) and (b) of this section, if appropriate, may be based on aggregate payments or payments per inpatient admission or discharge. HCFA will judge the effectiveness of these systems on the basis of the rate of increase or inflation in Medicare inpatient hospital payments compared to the national rate of increase or inflation for such payments during the State's hospitals' three cost reporting periods beginning on or after October 1, 1983. The data submitted by the State for the period subject to the rate of increase test must include the rate of increase projection for that particular period of time. For the subsequent period of time, the State must assure that payments under its system will not exceed what Medicare payments would have been, as described in § 403.304(c)(3).

(7) If the amount of Medicare payments under the State system exceeds what would have been paid under the Medicare reimbursement principles in any given year, the State must also submit quantitative evidence that the system will result in expenditures that do not exceed what Medicare expenditures would have been over the 36 month period beginning with the first month that the State system is operating. For a State that has an existing demonstration project in effect on April 20, 1983, and that elects under § 403.304(c)(3) to have a rate of increase test apply, if the State's rate of increase or inflation exceeds the national rate of increase or inflation in a given year, the State must submit quantitative evidence that, over 36 months, its payments will not exceed the national rate of increase or inflation. Furthermore, if payments under the State's system must be compared to actual Medicare expenditures, at the end of the third cost

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reporting period, as described in paragraph (b)(1) of this section, and payments under the State's system exceed what Medicare would have paid in a given year, the State must submit quantitative evidence that, over 36 months, payments under its system will not exceed what Medicare would have paid.

(c) *Review of assurances regarding expenditures.* HCFA will review the State's assurances and data submitted under this section, as a prerequisite to the approval of the State's system. HCFA will compare the State's projections of payment amounts to HCFA data in order to determine if the State's assurance is reasonable and fully supportable. If the HCFA data indicate that the State's system would result in payment amounts that would be more then that which would have been paid under the Medicare principles, the State's assurances would not be acceptable. For States applying in accordance with § 403.308, if HCFA data indicate that the State's system would result in a rate of increase or inflation that would be more than the national rate of increase or inflation, the State's assurances would not be acceptable.

(d) *Medicaid upper limit.* In accordance with § 447.253 of this chapter, the State system may not result in aggregate payments for Medicaid inpatient hospital services that would exceed the amount that would have otherwise have been paid under the Medicare principles as applied through the State system.

(e) *Monitoring of Medicare expenditures.* HCFA will monitor on a quarterly basis expenditures under the State's system as compared to what Medicare expenditures would have been if the system had not been in effect. If HCFA determines at any time that the payments made under the State's system exceed the States' projections, as established by the satisfactory assurances required under § 403.304(c) and, if appropriate, the predetermined percentage relationship of the payments as required under § 403.304(d). HCFA will—

(1) Conclude that payments under the State system over a 36-month period will exceed what Medicare would have paid:

(2) Terminate the waiver; and

(3) Recoup overpayments to the affected hospitals in accordance with the procedures described in § 403.310.

§ 403.321 State systems for hospital outpatient services.

HCFA may approve a State's application for approval of an outpatient system if the following conditions are met:

(1) The State's inpatient system is approved.

(2) The State's outpatient application meets the requirements and assurances for an inpatient system described in § 403.304 (b) and (c), and § 403.306 (b)(1) and (b)(2)(ii).

(3) The State submits a separate application that provides separate assurances and estimates and data in further support of its assurance submitted under paragraph (b)(1) of § 403.320, as follows:

(i) Upon application for approval, the State must submit estimates and data that include, but are not limited to, projections for the first 12-month period covered by the assurance for each hospital, in both the aggregate and on an average cost per service and payment basis, of Medicare outpatient expenditures under Medicare principles of reimbursement; parallel projections of Medicare outpatient expenditures under the State system; and the resulting cost or savings to Medicare independent of the State system for hospital inpatient services.

(ii) The State must submit separate statewide projections for each year of the 36-month period of the aggregate outpatient expenditures for each system. The projections submitted under this paragraph must—

(A) Comply with the requirements of paragraphs (b) (3) and (5) of § 403.320 regarding a detailed description of the methodology used to derive the expenditure amounts:

(B) include the data and assumptions set forth in paragraphs (b)(3) (i), (ii), (iii), (iv), and (v) of § 403.320; and

(C) Include any assumption the State has adopted for establishing the number of Medicare and total base year outpatient services for each hospital.

(iii) The State must provide a detailed explanation of the reasons for any difference between the data or assumptions used for the separate projections.

§ 403.322 Termination of agreements for Medicare recognition of State systems.

(a) *Termination of agreements.* (1) HCFA may terminate any approved agreement if it finds, after the procedures described in this paragraph are followed that the State system does not satisfactorily meet the requirements of section 1886(c) of the Act or the regulations in this subpart. A termination must be effective on the last day of a calendar quarter.

(2) HCFA will give the State reasonable notice of the proposed termination of an agreement and of the reasons for the termination at least 90 days before the effective date of the termination.

(3) HCFA will give the State the opportunity to present evidence to refute the finding.

(4) HCFA will issue a final notice of termination upon a final review and determination on the State's evidence.

(b) *Termination by State.* A State may voluntarily terminate a State system by giving HCFA notice of its intent to terminate. A termination must be effective on the last day of a calendar quarter. The State must notify HCFA of its intent to terminate at least 90 days before the effective date of the termination.

(Catalog of Domestic Assistance Program No. 13.773 Medicare—Hospital Insurance)

Dated: September 25, 1985.

C. McClain Haddow,

Acting Administrator, Health Care Financing Administration.

Approved: February 11, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-9150 Filed 4-23-86; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 25, 35, 78, 97, 108, 160, 167, and 196

[CGD 78-174A]

Boating Safety; Commercial Hybrid PFD Carriage Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rules; Correction.

SUMMARY: In the Federal Register of February 4, 1986, the Coast Guard published final rules establishing hybrid personal flotation device (PFD) carriage requirements. This document corrects editorial errors in those final rules.

FOR FURTHER INFORMATION CONTACT: Mr. Samuel Wehr, Office of Merchant Marine Safety, (202) 426-1444.

SUPPLEMENTARY INFORMATION: The final rules of February 4, 1986, were published beginning at p. 4349 of the Federal Register (51 FR 4349). The correction follows below.

Correction

In FR Doc. 86-2285 beginning on page 4349 in the issue of Tuesday, February 4, 1986, make the following corrections:

1. On page 4350, in the first column under the heading REGULATIONS strike "In consideration of the foregoing, the Coast Guard proposes to amend Title 46 of the Code of Federal Regulations as follows:" and insert the following:

In consideration of the foregoing, Title 46 of the Code of Federal Regulations is amended as follows:

§ 35.03-25 [Corrected]

2. On page 4350, second column, in § 35.03-25(a) strike "PDF's" and insert "PFD's".

3. On page 4350, second column, in § 35.03-25(a)(1) strike "time" and insert "them".

J.W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

April 21, 1986.

[FR Doc. 86-9200 Filed 4-23-86; 8:45 am]

BILLING CODE 4910-14-M

46 CFR Parts 50, 71, 91, 107, 110, 170, and 189

[CGD 85-048b]

Coast Guard Plan Review; Change of Address for Submission of Plans

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: These rules change the address for submitting vessel plans for Coast Guard review. The plan review duties previously performed by the Merchant Marine Technical Branches of the Third Coast Guard District in New York, New York, the Eighth Coast Guard District in New Orleans, Louisiana, and the Twelfth Coast Guard District in Alameda, California are being assumed by the Marine Safety Center located in Washington, DC.

EFFECTIVE DATE: June 1, 1986.

FOR FURTHER INFORMATION CONTACT: LCDR Charles E. Bills, Marine Technical and Hazardous Materials Division, (G-MTH-2/12), Room 1216, U.S. Coast Guard Headquarters, 2100 Second St., SW., Washington, DC 20593; (202) 426-2160.

SUPPLEMENTARY INFORMATION: The U.S. Coast Guard has recently completed an evaluation of its Merchant Marine Technical Branch field organization, taking into account many factors, including personnel considerations, system efficiency, and Fiscal Year 1986 staff reductions within the Commercial Vessel Safety Program. As a result, the Merchant Marine Technical Branches of the Third, Eighth, and Twelfth Coast Guard Districts are being consolidated to improve overall plan review efficiency, quality, and consistency, and to provide a centralized site for performing oversight of Coast Guard plan review functions delegated to third parties. Consolidation will result in the establishment of a Marine Safety Center as a Headquarters unit located in the Washington DC metropolitan area.

The Washington, DC area was chosen based on many factors, including: Locating the Marine Safety Center in a favorable technical labor market; recognition that the need for regionally based Merchant Marine Technical Branches has dramatically decreased since (1) overseas commercial vessel construction activity has increased and (2) third parties, having been delegated plan review functions by the Coast Guard, are themselves regionally based; recognition of the area as an expanding naval architect-marine engineer center; and the area's excellent access to international and domestic transportation.

Accordingly, the plan review previously conducted by the Third, Eighth, and Twelfth Coast Guard Districts' Merchant Marine Technical Branches will be performed by the Marine Safety Center, effective June 1, 1986.

Shipyards, designers, and other businesses and persons who are directly affected by this action have been informed of the consolidation by letter from either the Commander, Third Coast Guard District (mmt), Commander, Eighth Coast Guard District (mmt), or Commander, Twelfth Coast Guard District (mmt), as appropriate. Notice of the consolidation was also published in the Federal Register of June 20, 1985 at p 25644 (50 FR 25644).

The purpose of these rules is to provide the revised plan submittal procedure and to include the mailing address of the Marine Safety Center.

These rules have been evaluated under Executive Order 12291 and DOT Order 2100.5 and have been determined to be non-major and non-significant. These rules reflect a change in agency organization and procedure with minimal economic impact upon the public. Notice of proposed rulemaking and opportunity for public comment are not required by 5 U.S.C. 553, and these rules may be effective less than 30 days after their publication date. Since minimal economic impact is expected, a full economic evaluation has not been conducted.

In accordance with Section 605(b) of the Regulatory Flexibility Act (30 Stat. 1164), it is certified that these regulations will not have a significant economic impact on a substantial number of small entities for the reasons stated above.

Drafting Information

The principal persons involved in drafting this document are LCDR Charles E. Bills, Project Manager, Office of Merchant Marine Safety, and Mr. William R. Register, Project Attorney, Office of Chief Counsel.

List of Subjects in 46 CFR Parts 50, 71, 91, 107, 110, 170, and 189

Marine safety, Vessels, Organization and functions (Government agencies).

In consideration of the foregoing, Title 46, Code of Federal Regulations, is amended as follows:

PART 50—GENERAL PROVISIONS

1. The authority citation for Part 50 is revised to read as follows and all other authority citations are removed:

Authority: 46 U.S.C. 3306, 3703; 46 App. U.S.C. 86; 43 U.S.C. 1333(d)(1), 1347(c), 1348(c), 1356(a)(2); 49 CFR 1.46.

2. In § 50.20-5, by revising paragraph (d) to read as follows:

§ 50.20-5 Procedures for submittal of plans.

* * * * *

(d) Plans, except those for boilers and nuclear vessels, may be submitted to Commanding Officer, U.S. Coast Guard Marine Safety Center, 2100 Second St., SW., Washington, DC 20593.

* * * * *

PART 71—INSPECTION AND CERTIFICATION

3. The authority citation for Part 71 is revised to read as follows and all other authority citations are removed:

Authority: 46 U.S.C. 3306; 33 U.S.C. 1321(j)(1); 49 CFR 1.46.

4. In § 71.65-15, by revising paragraph (a)(3) to read as follows:

§ 71.65-15 Procedure for submittal of plans.

(a) * * *

(3) The plans may be submitted directly to Commanding Officer, U.S. Coast Guard Marine Safety Center, 2100 Second St., SW., Washington, DC 20593.

* * * * *

PART 91—INSPECTION AND CERTIFICATION

5. The authority citation for Part 91 is revised to read as follows and all other authority citations are removed:

Authority: 46 U.S.C. 3306; 33 U.S.C. 1321(j)(1); 49 CFR 1.46.

6. In § 91.55-15, by revising paragraph (a)(3) to read as follows:

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§ 91.55–15 Procedure for submittal of plans.

(a) * * *

(3) The plans may be submitted directly to Commanding Officer, U.S. Coast Guard Marine Safety Center, 2100 Second St., SW., Washington, DC 20593.

* * * * *

PART 107—INSPECTION AND CERTIFICATION

7. The authority citation for Part 107 is revised to read as follows and all other authority citations are removed:

Authority: 46 U.S.C. 3306; 46 App. U.S.C. 86; 43 U.S.C. 1333(d)(1), 1347(c), 1348(c), 1356(a)(2); Sec. 107.06 also issued under 44 U.S.C. 3507; 49 CFR 1.45; Sec. 107.258 also issued under 46 U.S.C. 3316; 49 CFR 1.46(b), (n)(6), (z).

8. In § 107.317, by revising paragraph (b) to read as follows:

§ 107.317 Addressee for submittal of plans, specifications, and calculations.

* * * * *

(b) Commanding Officer, U.S. Coast Guard Marine Safety Center, 2100 Second Street SW., Washington, DC 20593.

* * * * *

PART 110—GENERAL PROVISIONS

9. The authority citation for part 110 is revised to read as follows and all other authority citations are removed:

Authority: 46 U.S.C. 3306, 3703, 4104; 49 CFR 1.46.

10. In § 110.25–3, by deleting and reserving paragraph (b), and revising paragraph (a)(1) to read as follows:

§ 110.25–3 Procedure for submitting plans.

(a) * * *

(1) Commanding Officer, U.S. Coast Guard Marine Safety Center, 2100 Second Street SW., Washington, DC 20593.

* * * * *

PART 170—STABILITY REQUIREMENTS FOR ALL INSPECTED VESSELS

11. The authority citation for Part 170 is revised to read as follows:

Authority: 46 U.S.C. 3306; 46 App. U.S.C. 86, 88a; 43 U.S.C. 1333(d), 1356(a); 50 U.S.C. 198; 49 CFR 1.46.

12. In § 170.100, by revising paragraph (b) to read as follows:

§ 170.100 Addressee for submittal of plans and calculations.

* * * * *

(b) Commanding Officer, U.S. Coast Guard Marine Safety Center, 2100 Second Street SW., Washington, DC 20593.

* * * * *

PART 189—INSPECTION AND CERTIFICATION

13. The authority citation for Part 189 is revised to read as follows and all other authority citations are removed:

Authority: 46 U.S.C. 3306; 33 U.S.C. 1321(j)(1); 49 CFR 1.46.

14. In § 189.55–15, by revising paragraph (a)(3) to read as follows:

§ 189.55–15 Procedure for submittal of plans.

(a) * * *

(3) The plans may be submitted directly to Commanding Officer, U.S. Coast Guard Marine Safety Center, 2100 Second Street SW., Washington, DC 20593.

* * * * *

Dated: April 21, 1986.

J.W. Kime,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 86–9202 Filed 4–23–86; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 43

[CC Docket No. 85–308;RM–4878; FCC 86–97]

Common Carrier Services; Annual Report Form M and FCC Report 901

AGENCY: Federal Communications Commission.

ACTION: Final rule; Clarification.

SUMMARY: This document clarifies some ambiguous language contained in a summary of the Commission's Report and Order concerning Amendment of Annual Report Form M and 901.

FOR FURTHER INFORMATION CONTACT: Robin Holma, Accounting and Audits Bureau, Common Carrier Bureau, (202) 634–1861.

SUPPLEMENTARY INFORMATION:

In FR Doc. 86–7862, published on April 9, 1986, 51 FR 12157, CC Docket No. 85–308, paragraph 9 on page 12159 inadvertenly refers to amended FCC Form M and FCC Report 901 as being "set forth below." That reference in paragraph 9 is in error. Those changes to Form M and FCC Report 901 are reflected in the text of that document.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–9132 Filed 4–23–86; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 22

[CC Docket No. 85–89; RM–4811; FCC 86–112]

Preemption of State Entry Regulation in the Public Land Mobile Service

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: The Federal Communications Commission has preempted state regulation that prohibits or impedes the entry of common carriers providing conventional paging or two-way mobile services. Under this policy, states may not maintain certification requirements such as "need" showings or other requirements that impair the ability of a Commission licensee to expeditiously construct and operate federally-authorized facilities. The states may, however, maintain regulation of new entrants that does not impede or prohibit entry while serving legitimate state interests in such areas as rates, zoning, health and safety, notice requirements and consumer protection. The Commission also concluded that mobile services common carriers are "non-dominant" for purposes of Title II regulation and need not file tariffs for their interstate services.

EFFECTIVE DATE: July 1, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Krevor, (202) 632–6917.

This is a summary of the Commission's report and order, CC docket 85–89, adopted March 13, 1986, and released March 31, 1986.

The complete text of Commission decisions are available for inspection and copying during normal business hours in the FCC dockets branch (room 230), 1919 M Street, Northwest, Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, Northwest, Suite 140, Washington, D.C. 20037.

Summary of Report and Order

1. On March 28, 1985, the Commission adopted a Notice of Proposed Rulemaking proposing to preempt state entry regulation that has the effect of prohibiting or impeding the entry of common carriers providing conventional paging services or two-way mobile services in the Public Land Mobile Service. The Commission also proposed to forbear from all federal rate regulation of such carriers and to require forborne carriers to cancel any tariffs on file with the Commission within sixty days of the issuance of a Report and Order in this proceeding.

2. Over 50 comments and reply comments were filed. The comments provided evidence of many instances in which restrictive state entry practices have frustrated the ability of Commission licensees to construct federally-authorized facilities and provide intrastate services, as well as to develop wide-area interstate communications systems. The commenters opposing preemption generally argued that destructive competition would result from preemption and that state entry regulation is more responsive to local market needs. The Commission concluded that the opposition commenters failed to justify the high economic costs to the consumer of restrictive entry, including higher rates, lower service quality and options and less innovation. The record establishes that restrictive entry practices contravene the Commission's decisions as to the beneficial use of valuable spectrum resources in the public interest, thereby warranting preemption of such regulation.

3. The Commission carefully considered the legal arguments of the opposition commenters and concluded that it may legitimately preempt state entry regulation, even over intrastate common carrier mobile services, when such regulation conflicts with its Title III licensing authority and responsibility. It noted further that as technological advances promote the rapid expansion of networks offering interstate as well as intrastate services, it makes little sense to maintain distinctions between purely local or intrastate services and interstate services for entry regulation purposes.

4. As to the scope of preemption, the Commission stated that the states may not maintain any law, regulation or policy that has the effect of derogating the primacy of federal licensing for the Public Land Mobile Service. Restrictive entry statutes and rules, the use of regulatory processes by existing carriers to forestall competitive entry, and unwarranted, lengthy administrative delays in the certification process are preempted. This includes any determination of need for a new entrant's services, and most regulation of financial qualifications, fitness, character or the technical or economic feasibility of the new services. The Commission held, however, that the states may provide for non-discriminatory-pre- and post-entry regulation of new entrants where such regulation serves legitimate state concerns and does not prohibit or impede competitive entry. For example, a state might require a carrier that presells its services to post a bond or establish an escrow account to protect its subscribers. Similarly, post-entry regulation of carrier practices and services, as well as state regulation of intrastate rates, health and safety matters, zoning issues, consumer protection and notification requirements are not inconsistent with the federal licensing and spectrum allocation responsibilities and are not preempted so long as they are not implemented in such a way as to discriminate against new entrants.

5. The Commission also concluded that a short transition period before preemption takes effect would serve the public interest by reducing the likelihood of service disruptions as restrictive entry schemes, service obligations and rate structures are revised to conform to the preemption guidelines. Accordingly, the preemption of state entry regulation and other policies adopted in the Report and Order will be effective July 1, 1986. In response to the comments, the Commission also stated that its decision to preempt is not intended to modify the existing status of radio common carriers as exchange co-carriers in the Public Land Mobile Service and does not reflect a different role for them for either interconnection status or access charge applicability purposes.

6. The Commission also made final its tentative decision to forbear from federal tariff regulation of carriers in the Public Land Mobile Service. In providing interstate mobile services, these carriers possess insufficient market power to charge unlawful rates or unjustly discriminate and therefore constitute "non-dominant" carriers for federal tariff regulation purposes. In view of this finding, Public Land Mobile Service licensees will not be subject to the Part 62 Interlocking Directorates application process. The Commission did not finalize its proposal to require forborne mobile services carriers to cancel any tariffs on file with the Commission due to the decision of the U.S. Court of Appeals for the District of Columbia Circuit in *MCI Telecommunications Corporation v. FCC*, 765 F.2d 1186 (1985). In that case, the Court concluded that the Commission could not prohibit common carriers from filing tariffs.

7. *Final Regulatory Flexibility Analysis.* Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b) it is certified that the final rule will not have a significant economic impact on a substantial number of small entities. The rule will reduce the legal and administrative costs currently incurred by small businesses and radio common carriers seeking state certification and will encourage entry of small businesses into this industry. In addition, the decision to forbear from interstate tariff regulation of carriers in the Public Land Mobile Service will eliminate an existing regulatory burden and enable these carriers to respond more directly to marketplace forces.

8. *Paperwork Reduction Act.* The final rule contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure or record retention requirements. It will not increase burden hours imposed on the public. The Commission's decision to forbear from federal tariff regulation will eliminate a current filing requirement for carriers in the Public Land Mobile Service. In addition, these carriers will not be subject to the Part 62 Interlocking Directorates application process.

Ordering Clauses

9. Accordingly, It Is Ordered, that Part 22 of the Rules are Amended as specified below. These amendments and other policies adopted in this order will become effective on July 1, 1986.

10. It Is Further Ordered, that the Motion to Supplement Comments filed by Allied Radiotelephone Utilities of California is Granted.

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List of Subjects in 47 CFR Part 22

Communications common carriers, Radio broadcasting

Federal Communications Commission.

William J. Tricarico,

Secretary.

Part 22 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 22—[AMENDED]

1. The authority citation for Part 22 continues to read:

Authority: Sections 4, 303, 48 Stat. 1066, 1082 as amended (47 U.S.C. 154, 303).

§§ 22.13, 22.43 and 22.44 [Removed]

2. In Part 22, §§ 22.13(f); 22.43(b)(2) and 22.44(c) are removed.

[FR Doc. 86-8902 Filed 4-23-86; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 51, No. 79
Thursday, April 24, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1308

Schedules of Controlled Substances; Proposed Placement of 3-Methylfentanyl into Schedule I

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice of proposed rulemaking is issued by the Administrator of the Drug Enforcement Administration (DEA) to place the narcotic substance, 3-methylfentanyl into Schedule I of the Controlled Substances Act (CSA) (21 U.S.C. 801 et seq.). This proposed action by the DEA Administrator is based on data gathered and reviewed by DEA and independently evaluated by the Acting Assistant Secretary for Health, Department of Health and Human Services. If finalized, this proposed action would impose the regulatory control mechanisms and criminal sanctions of Schedule I on the manufacture, distribution and possession of 3-methylfentanyl.

DATE: Comments must be submitted on or before May 27, 1986.

ADDRESS: Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: Howard McClain, Jr. Chief, Drug Control Section, Drug Enforcement Administration, Washington, DC 20537, Telephone: (202) 633–1366.

SUPPLEMENTARY INFORMATION:

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

On March 25, 1985, the Administrator of the Drug Enforcement Administration issued a final rule in the **Federal Register** temporarily placing 3-methylfentanyl into Schedule I of the Controlled Substances Act pursuant to the emergency scheduling provisions of 21 U.S.C. 811(h). This action which became effective on April 25, 1985 was based on a finding by the Administrator that the emergency scheduling of 3-methylfentanyl was necessary to avoid an imminent hazard to the public safety. Section 201(h)(2) of the GSA (21 U.S.C. 811(h)(2)) provides that the emergency scheduling of a substance expires at the end of 1 year from the effective date of the order. However, if a rulemaking proceeding to schedule the substance has been initiated pursuant to section 201(a)(1) of the GSA (21 U.S.C. 811(a)(1)), the temporary scheduling may be extended for up to 6 months. Under this provision, the tempoary scheduling of 3-methylfentanyl which would expire on April 25, 1986, may be extended until October 25, 1986. This extension is being ordered by the Administrator of DEA in a separate action.

Since the temporary scheduing of 3-methylfentanyl, DEA has continued to gather information regarding the abuse and abuse potential of 3-methylfentanyl and the clandestine manufacture, distribution and trafficking of this substance. By letter dated February 24, 1986, the DEA Administrator submitted the data which DEA had gathered regarding 3-methylfentanyl to the Acting Assistant Secretary for Health, Department of Health and Human Services. In accordance with the provisions of 21 U.S.C. 811(b), the DEA Administrator also requested a scientific and medical evaluation of the relevant information and a scheduling recommendation for 3-methylfentanyl from the Acting Assistant Secretary for Health. On April 7, 1986, the DEA Administrator received a reply from the Acting Assistant Secretary for Health recommending that 3-methylfentanyl be placed into Schedule I of the Controlled Substance Act. A portion of the letter is set forth below:

> Pursuant to the requirements of the Controlled Substances Act, 21 U.S.C. 801 et seq., the Food and Drug Administration (FDA) has conducted a scientific and medical evaluation of the drug 3-methylfentanyl. FDA has performed the eight factor evaluation required by 21 U.S.C. 811 and recommends that 3-methylfentanyl be placed in Schedule I of the Controlled Substances Act. I concur with FDA's recommendation to place 3-methylfentanyl in Schedule I. You will find enclosed a document that supports this recommendation and provides the required eight factor evaluation.

Briefly, the information gathered and reviewed by DEA and the scientific and medical evaluation by the Acting Assistant Secretary for Health shows that 3-methylfentanyl: (1) Is a very potent analog of fentanyl, a Schedule II narcotic substance, (2) produces the narcotic effects of a typical morphine-like compound including physical dependence after chronic administation, (3) is not approved for marketing by the Food and Drug Administration or commercially available in the United States, (4) is manufactured in clandestine laboratories, (5) has been identified by forensic laboratories in submissions of drug evidence from the East and West Coasts, (6) has been responsible for a least a portion of the narcotic overdose deaths attributed to fentanyl-like substances, and (7) continues to pose a threat to the public health and safety.

Based on the information gathered and reviewed by DEA and relying on the scientific and medical evaluation and scheduling recommendation of the Assistant Secretary for Health in accordance with 21 U.S.C. 811(c), the Administrator of the Drug Enforcement Administration, pursuant to the provisions of 21 U.S.C. 811(a), finds that:

1. Based on information now available, 3-methylfentanyl has a hig h potential for abuse;

2. 3-Methylfentanyl has no currently accepted medical use in treatment in the United States; and

3. There is a lack of accepted safety for use of 3-methylfentanyl under medical supervision.

The Administrator further finds that 3-methylfentanyl is an opiate as defined in 21 U.S.C. 802(18) since it has an addiction-forming and addiction-sustaining liability similar to that of morphine. Consequently, 3-methylfentanyl is a narcotic since the definition of a narcotic, as stated in 21 U.S.C. 802(17)(A) includes: "Opium, opiates, derivatives of opium and opiates."

Under the authority vested in the Attorney General by section 201(a) of the CSA (21 U.S.C. 811(a)), and delegated to the Administrator of DEA by Department of Justice Regulations (28 CFR 0.100), the Administrator hereby

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proposes that 21 CFR 1308 be amended as follows:

PART 1308—[AMENDED]

1. The authority citation for 21 CFR Part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b).

2. Paragraph (b) of § 1308.11 is revised by adding a new subparagraph (b)(31) and redesignating the existing subparagraphs (b)(31) through (b)(46) as (b)(32) through (b)(47):

§ 1308.11 Schedule I.

* * * * *

(b) * * *

(31) 3-Methylfentanyl (N-(3-methyl-1-(2-phenethyl)-4-piperidyl)-N-phenylpropanamide)—9813.

* * * * *

Interested persons are invited to submit their comments, objections or requests for hearing in writing with regard to this proposal. Requests for a hearing should state with particularity the issues concerning which the person desires to be heard. All correspondence regarding this matter should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, DC 20537, Attention: DEA Federal Register Representative.

In the event that comments, objections or requests for a hearing raise one or more issues which the Administrator finds warrant a hearing, the Administrator shall order a public hearing by notice in the Federal Register, summarizing the issues to be heard and setting the time for the hearing which will not be less than 30 days after the date of the notice.

Pursuant to Title 5, United States Code, section 605(b), the Administrator certifies that the proposed placement of 3-methylfentanyl into Schedule I of the Controlled Substances Act will have no impact upon small businesses or other entities whose interests must be considered under the Regulatory Flexibility Act (Pub. L. 96–354). The substance, 3-methylfentanyl, proposed for control in this notice, has no legitimate use or manufacturer in the United States. In accordance with the provisions of Title 21, United States Code, section 811(a), this proposal to place 3-methylfentanyl into Schedule I, is a formal rulemaking "on the record after opportunity for a hearing." Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557, and as such, have been exempted from the consultation requirements of Executive Order 12291 (46 FR 13193).

Dated: April 21, 1986.

John C. Lawn,

Administrator, Drug Enforcement Administration.

[FR Doc. 86-9128 Filed 4-23-86; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rule.

SUMMARY: The proposed rule would establish procedures to obtain testimony from witnesses or persons who have knowledge of serious accidents, fires, blowouts, or spills that occurred during oil, gas, or sulphur operations in the Outer Continental Shelf (OCS).

The testimony is needed by accident investigative panels to determine the cause or probable cause of an accident under investigation. These procedures would facilitate meetings of the investigative panels.

DATE: Comments must be hand-delivered or postmarked no later than May 27, 1986.

ADDRESS: Written Comments must be mailed or hand-delivered to the Department of the Interior; Minerals Management Service; 12203 Sunrise Valley Drive, Mail Stop 646; Reston, Virginia 22091; Attention: David A. Schuenke.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke, telephone: (703) 648–7816, (FTS) 959–7816.

SUPPLEMENTARY INFORMATION: Section 22(d) of the Outer Continental Shelf Lands Act (OCSLA) provides that the Secretary of the Interior, or the Secretary of the Department in which the U.S. Coast Guard (USCG) is operating, shall make an investigation and public report on major fires, oil spills, deaths, and serious injuries occurring as a result of operations conducted pursuant to the OCSLA.

For any given spill or accident, the decision as to whether the Minerals Management Service (MMS) or the USCG will be the lead Agency in the investigation is determined by the provisions of a Memorandum of Understanding (MOU) between the U.S. Geological Survey and the USCG published in the Federal Register on January 8, 1981 (46 FR 2199). The MMS is party to the MOU after it succeeded to the authority of the U.S. Geological Survey's Conservation Division concerning activity in the OCS by direction of Secretarial Order 3071 dated January 19, 1982.

When MMS is the lead Agency in the investigation of a major accident, an investigative panel may be appointed by the Regional Director in whose Region the accident occurred. The panel may convene a meeting to take testimony from persons who have witnessed or are knowledgeable of the accident under investigation. Since such meetings affect persons other than MMS personnel, MMS has concluded that rules pertaining to the conduct of such meetings should be proposed.

The purpose of the meetings is to provide the investigative panel a forum by which to obtain information to aid in determining the cause or probable cause of the accident under investigation. Such meetings are not intended to be adversarial proceedings, and the proposed rule would preclude cross-examination of the persons giving testimony or interference with the meeting's progress.

Inasmuch as it is recognized that the meeting transcripts may be subject to other proceedings of an adversarial nature and further that the investigative panel's report on the accident may document lapses in compliance with regulations and Order, provisions are included to allow the presence of legal counsel during the questioning of witnesses.

Provisions pertaining to location, testimony under oath, verbatim transcripts, subpoena power, and travel expenses are also included.

Executive Order 12291

The purpose of this proposal is to provide procedures for accident investigative panels. These procedures would not increase prices for consumers nor would they result in major cost increases for individual industries, Federal, State, or local government agencies, or geographic regions. Based on this assessment, the Department of the Interior (DOI) has determined that this document does not constitute a major rule under Executive Order 12291; therefore, a Regulatory Impact Analysis is not required.

Regulatory Flexibility Act

The DOI has also determined that since this rule is procedural in nature, it would not have a significant economic effect on a substantial number of small entities.

Paperwork Reduction Act

This proposed rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

Author

The principal author of this document is G.R. Daniels, Offshore Rules and Operations Division, MMS.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Oil and gas exploration, Penalties, Pipelines, Public lands/mineral resources, Reporting and recordkeeping requirements.

Dated: March 6, 1986.

William D. Bettenberg,

Director, Minerals Management Service.

For the reasons set forth above, 30 CFR Part 250 is proposed to be amended as follows:

PART 250—[AMENDED]

1. The authority citation for Part 250 continues to read as follows:

Authority: Outer Continental Shelf Lands Act, 43 U.S.C. 1331 et seq; as amended, 92 Stat. 629; National Environmental Policy Act of 1969, 42 U.S.C. 4321 et seq. (1970); Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 et seq.

2. In § 250.45, a new paragraph (c) is added as follows:

§ 250.45 Accidents, Fires, and malfunctions.

* * * * *

(c) Unless otherwise specifically ordered by the Director, all formally designated investigation meetings conducted under the authority of sections 22(d) (1) and (2) of the Act shall be fact-finding proceedings with no formal issues and no adverse parties. Such meetings shall not be subject to the provisions of the Administrative Prodecure Act (Pub. L. 89–554, 80 Stat. 384 (5 U.S.C. 554)). Such meetings shall satisfy the following requirements:

(1) The meeting shall be conducted in the appropriate MMS regional or district office or at some other convenient location determined by the panel chairperson.

(2) All members of the panel shall be present at such meetings if possible. A simple majority shall constitute a quorum. The chairperson may designate a member(s) of the panel to conduct meetings without all members present if the chairperson finds it to be appropriate.

(3) Appropriate oaths shall be administered by the chairperson or his/her designee to all persons giving testimony.

(4) A verbatim transcript shall be made of any formal meeting.

(5) Each person giving testimony shall be allowed to have legal and/or other representative(s) present to advise or counsel when giving testimony to the panel.

(6) Only the following persons shall be admitted to the questioning of any person giving testimony:

(i) The panel members, the panel's legal advisor, and any experts the panel deems necessary,

(ii) The person giving testimony and such person's legal or other representative(s), and

(iii) The testimony transcriber.

(7) The chairperson of the panel may, if necessary, issue a subpoena to any witness or person who has knowledge of the accident pursuant to section 22(f) of the Act. A witness or a person who has knowledge of the accident may be required to attend a meeting at a place not more than 100 miles from the palce where the subpoena is served.

(8) Any witness or person who has knowledge of the accident subpoenaed to attend a formal meeting under this subsection shall be paid the same fees and mileage paid for similar services in the U.S. District Courts. The MMS shall pay fees and mileage for those persons the MMS has called if the persons so request.

(9) When witness(es) or person(s) who have knowledge of the accident cannot attend a formal meeting due to injury or cannot be required to attend such meeting, the panel may move the meeting site to a location more convenient to the witness(es) or person(s), or the panel may accept a written statement in lieu of oral testimony.

[FR Doc. 86-9172 Filed 4-23-86; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 115

[CGD 81-057]

General Bridge Permit Program Regulations

AGENCY: Coast Guard, DOT.

ACTION: Supplementary notice of proposed rulemaking.

SUMMARY: This proposed rule would establish a General Bridge Permit and the procedure for receiving authorization to proceed with the construction or modification of bridges under the Permit. The present Individual Bridge Permit program has proven to be unduly burdensome on owners and builders of certain bridges which have an insignificant impact on navigation and the quality of the human environment. The General Bridge Permit program would eliminate the unnecessary burdens, while maintaining an adequate level of review of navigational and environmental concerns by the Coast Guard.

DATE: Comments must be received on or before June 23, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Jerome D. Schwartz, (202) 755–7620.

SUPPLEMENTARY INFORMATION: On September 23, 1982, the Coast Guard published a notice of proposed rulemaking in the Federal Register for these regulations (47 FR 41988). Interested persons were requested to submit comments and 30 letters were received, primarily from governmental bodies. As a result of the comments, extensive changes were made in organization and approach and a new proposal has been prepared. Interested persons are invited to participate in this new proposed rulemaking by submitting written comments, data, or arguments. Each comment should include the name and address of the person submitting the comment, reference the docket number (CGD 81–057) and the specific section of the proposal to which each comment applies, and give the reasons for the comments. Persons desiring acknowledgment that their comments have been received should enclose a stamped, addressed postcard or envelope.

All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The principal persons involved in drafting these proposed rules are Mr. Jerome D. Schwartz, Project Manager, Office of Navigation, and Mr. Stephen H. Barber, Project Counsel, Office of Chief Counsel.

Background

In general, construction or modification of bridges across the navigable waters of the United States

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must be approved by the Coast Guard. At present, the Coast Guard has a system for reviewing applications for such work on a case-by-case basis known as the Individual Bridge Permit (IBP) program. Regulations establishing this program are found in 33 CFR 115.50 through 115.70.

In recent years, the Coast Guard has identified a category of bridge projects that, under the IBP program, required more paperwork by the applicant and more review time by the Coast Guard than was justified. This category consists of bridge projects which, by their nature, have virtually no adverse impact on navigation or the environment. To address this category, the Coast Guard is proposing, by means of this rulemaking, an alternate permitting system to be known as the General Bridge Permit (GBP) program.

Under the GBP program, the bridge owner need only submit, and the Coast Guard review, certain specified evidence to determine whether the project is, in fact, eligible under the GBP. If, upon review of the material submitted, the Coast Guard finds that the project is eligible under the GBP, the Coast Guard issues a Letter of Authorization to Proceed. In effect, § 115.83(a) would constitute the GBP itself; but bridge owners would have to receive an authorization letter before proceeding under the Permit with their projects. This proposed program, as revised in response to the comments recieved, is discussed further in the following sections.

Discussion of General Comments

One position was clearly shared by all persons responding to the prior notice of proposed rulemaking. All workable changes that would eliminate unnecessary paperwork and processing time for bridge applications, yet still provide for adequate Coast Guard navigational and environmental review, would be supported by all concerned. The primary problems the respondents had were concerns that the regulations as proposed would not, in fact, simplify and expedite the process and, alternatively, that the Coast Guard would be eliminating altogether its case-by-case review of these projects.

In response to these problem areas, this proposed rule reorganizes the approach and formatting used, while retaining the basic substance of the originally proposed rule. A number of changes were also made to clarify the proposal because of the obvious confusion existing.

(1) The prior proposed rule provided a procedure for developing separate GBPs Because this approach might lead to inconsistencies among the Districts, this proposed rule would establish a nationwide GBP, rather than prescribe the mechanism for several to be developed. Proposed § 115.83(a) would now constitute the Permit and § 115.86 would set out the criteria which bridge projects must meet to be eligible under the Permit. As originally proposed, however, the bridge owner would still have to receive authorization to proceed from the Coast Guard before beginning a project under the GBP.

(2) On the question of review by the Coast Guard, changes were made to make it clear that a bridge owner cannot proceed with a project merely because it meets the criteria in proposed § 115.86 for eligibility under the GBP. First, the party would have to submit a request to the Coast Guard containing the specific information on the project called for in proposed §115.91. This material would provide the Coast Guard with information relative to the particular project and form the basis of its navigational and environmental review. Authorization to proceed would be issued only on a case-by-case basis for projects determined by the Coast Guard to be eligible under the GBP program.

(3) In addressing the question of whether the GBP program would actually simplify and facilitate the process, one needs to keep in mind the nature of eligible projects. Proposed §§ 115.86(c) and (d) would limit eligible projects to those that provide for the safe passage of all vessels customarily using the waterway. If the project would obstruct this navigation in any way, the project would not be eligible under the GBP program.

Other factors to be considered by the Coast Guard are listed in proposed §§ 115.86(e) through (l). These factors relate to environmental and other matters, such as impact on public parks, historic and archaeological sites, wild and scenic rivers, coastal barrier islands, wetlands, floodplains, flood control projects, and wildlife habitats. Except for certain variances from these criteria for projects which are under the jurisdiction of a Federal lead agency (§ 115.86(m) and (n)), all eligible projects must not adversely impact these areas and, in some cases, must not even be located within or near these areas.

The bottom line for eligibility is that the projects have virtually no adverse effect on any area of concern within the purview of the Coast Guard. For this reason, eligible projects would not need the extensive navigational study and separate enviornmental documentation needed to explain and assess adverse or controversial impacts. Therefore, the GBP program would eliminate the additional paperwork which would be necessary if the project was processed under the Coast Guard's Individual Bridge Permit program (33 CFR 115.50 through 115.70).

Discussion of Specific Comments and Changes

Several changes are made in the revised proposal that are of a ministerial nature. Part 115 is retitled and divided into subparts to assist the user. Proposed § 115.01, Purpose and applicability, would be amended to align it with the Coast Guard Authorization Act of 1982 (Pub. L. 97-322), which removed many minor waterways from the Coast Guard bridge permit program. Proposed § 115.50, Application for Individual Bridge Permits, would be amended to indicate the Coast Guard's need to consider the probable impact on the human environment before taking final action on an IBP application under the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*). These changes, appearing in items 1 through 7 of the regulatory text, would have no new effect on the proposed GBP provisions.

1. *Proposed § 115.80*—This section is new and simply explains the purpose and applicability of proposed Subpart C, General Bridge Permit.

2. *Proposed § 115.83*—(a) This section would establish the GBP itself.

(b) A number of comments suggested that only specific bridge actions, and not geographic areas, should be considered under a GBP. These suggestions are adopted to avoid inconsistencies from Coast Guard District to District and from geographic area to area by instituting the single nationwide GBP.

(c) Two comments suggested that all GBP's be issued by the District Commanders, rather than the Commandant, in order to reduce paperwork within the Coast Guard. Proposed § 115.95 would assign the responsibility for issuing authorizations to proceed to the District Commanders and reserve in the Commandant the authority to review appeals.

3. *Proposed § 115.86*—This section would eliminate the distinction between standard and special criteria in the prior notice and speak only in terms of "criteria" for eligibility under the GBP.

(b) Several comments suggested that the Coast Guard limit its concerns to protecting the needs of navigation and leave matters relating to the environment, recreation, and historic sites to other Federal agencies. The Coast Guard, however, is required to consider these additional matters under other laws, such as NEPA and the Department of Transportation Act (49 U.S.C. 303). Proposed paragraphs (m) and (n) of § 115.86 are added to provide for consideration of input from other Federal agencies.

(c) One comment requested that Corps of Engineers' approval under section 404 of the Clean Water Act be given before the Coast Guard acts under the GBP. This recommendation was not adopted because Coast Guard approval is not contingent upon Corps approval. As the comment stated, however, Coast Guard authorization to proceed under the GBP would not relieve the bridge owner of the responsibility to obtain whatever approval is required by other Federal, State, or local agencies before proceeding with the project (33 CFR 114.10).

(d) One comment suggested that the eligibility criteria address potential flood hazards associated with coastal storms and storm surges. This matter would be accounted for in the floodplain criterion in proposed paragraph § 115.86(i).

(e) Two comments asked that the proposed wetland provision be aligned with the wording in DOT Order 5660.1A to allow discretion in dealing with individual cases involving wetlands. Proposed § 115.86(f) has been revised accordingly.

(f) Several comments suggested that the originally proposed wetlands provision was inconsistent with FHWA's wetland evaluation procedures. Recognizing that other Federal agencies may use differing procedures to achieve required environmental reviews, new § 115.86(m) would provide for Coast Guard acceptance of determinations of categorical exclusion from certain NEPA requirements made by designated lead agencies, when these determinations are consistent with Coast Guard policy.

(g) One comment objected to opening up the eligibility criteria to include "any other limitation deemed appropriate by the Commandant". Because of the broad scope of this provision, the comment suggested that such projects could be handled under the IBP program. This provision has been deleted from the revised proposal.

(h) One comment suggested that the words "will not have a significant environmental impact" in the originally proposed provision on fill in nontidal wetlands be rephrased in terms of "minimal impact" to be consistent with the rest of the regulations. Proposed § 115.86(f)(2)(iv) is revised accordingly.

(i) Fourteen comments suggested that the required half-mile separation between eligible projects and historic sites (proposed § 115.86(g)) is arbitrary, unduly restrictive, and outside the scope of the referenced law. Under 36 CFR 800.4(a), the Coast Guard must consider the effect on historic places lying, not just within the bridge project area, but "within the area of the undertaking's potential environmental impact and that may be affected by the undertaking". Coast Guard bridge permit records indicate that historic places located at least one-half mile away from bridge projects are not affected environmentally by those projects. As a result, the Coast Guard's Bridge Administration Manual uses a buffer zone of one-half mile in defining the area of impact (COMDTINST M16590.5). Reducing or eliminating this zone would create uncertainty over whether or not there is or may be an impact. Therefore, proposed § 115.86(g) retains the one-half mile provision for the GBP Program. Projects not meeting this requirement may still be considerd for an IBP.

(j) Comments similar to those discussed in the provision paragraph were received on the one-half mile provision relating to parks and historic sites. On reconsideration, this provision has been deleted from proposed § 115.86(l) because that paragraph relates to projects within, rather than near, parks or historic sites.

(k) One comment expressed concern that the regulations recognize the fact that river bluffs and other high ground, especially in coastal zones, were favored settlement areas for Indians and other historic peoples. Proposed § 115.86(g), (j), and (l) would address these areas and concerns.

(l) One comment pointed out that section 4(f) of the DOT Act addresses more than just park lands. Proposed § 115.86(l) would correct this provision and reference the now codified statute (49 U.S.C. 303).

(m) One comment stated that eligible projects should not cause any encroachment on the base floodplain. Proposed § 115.86(i) uses "must not cause a significant encroachment" to align the provision with the standard in DOT Order 5650.2.

(n) Five comments asked that "significant encroachment within the base floodplain" be explained. Proposed § 115.86(i) has been amended accordingly.

(o) Several comments suggested that the originally proposed provision on flood heights be deleted because it was already covered. This comment has been adopted. Floodplains would be covered in proposed § 115.86(i).

(p) Several comments asked to know the source of and need for criteria concerning wetlands. The provisions in proposed § 115.86(f) were selected to maintain consistency with the U.S. Army Corps of Engineers general permit program.

(q) One comment noted that the proper technical term is "coastal barrier" rather than "barrier island". To make the term more understandable to the public, this proposal uses "coastal barrier island" in § 115.86(j).

(r) One comment suggested that eligible projects should not affect the critical habitat of endangered wildlife, as well as the wildlife itself. Proposed § 115.86(k) would indicate that a project must not be located within a critical habitat.

(s) Two comments stated that the originally proposed criteria for parks was unduly burdensome on projects funded by the Federal Highway Administration, an agency under the same Department as the Coast Guard (DOT). Proposed § 115.86(n) has been added to specifically address other DOT agencies.

(t) One comment suggested that the GBP contain a requirement to control the location of bridges across tidal waters. Coast Guard bridge approval is contingent upon receipt of State water quality and coastal zone management consistency certifications. A State may continue to control bridge construction in its waters by those regulatory programs. Therefore, the recommended criterion is not included in the proposed GBP regulation. This is consistent with the processing of IBPs.

(u) One comment stated that the originally proposed criteria did not consider certain potential public health impacts. Health concerns are considered by the States under the required water quality and coastal zone management consistency certifications. Also, for projects for which there is a designated Federal lead agency, these potential impacts are extensively reviewed by those agencies.

(v) One comment noted that it would be difficult and unnecessary to establish specific minimum bridge clearances. This provision has been deleted and proposed §§ 115.86 (b), (c), (d), and (e) have been added to address the aspect of clearances providing for the reasonable needs of navigation.

(w) One comment stated that the criteria omitted consideration of national natural landmarks and archaeological sites. Proposed §§ 115.86 (g), (h), (i), (j), and (l) would address these concerns.

(x) One State commented that the specific special criteria listed in the original proposal would make the GBP program less useable. Two comments asked that the meaning of this criteria

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be clarified. One comment recommended that the criteria include a provision to exclude sensitive or locally controversial projects. These provisions have been deleted. Proposed §§ 115.86 would exclude sensitive or controversial projects and clearly define the characteristics of a bridge project eligible under this program.

4. *Proposed § 115.89*—This section states that before starting an eligible bridge project, the bridge owner must request and receive authorization to proceed from the Coast Guard.

5. *Proposed § 115.91*—(a) This section describes the information that the bridge owner must submit to the District Commander in support of the request for authorization to proceed.

(b) Several comments suggested that the original proposal required either too much or too little information in a request for authorization to proceed. One comment stated that the information unnecessarily duplicated information requested by the U.S. Army Corps of Engineers for a Section 404 permit. One comment suggested that the States alone should decide whether their projects are eligible. The Coast Guard needs the information requested in proposed § 115.91 to properly review and evaluate the proposed project under the bridge statutes and several environmental control laws. Additionally, this information assists the Coast Guard in monitoring the permit program and bridge construction to maintain minimal cumulative impacts.

(c) Two comments stated that water quality and coastal zone management review by the States should be a prerequisite to Coast Guard action. These concerns are addressed in proposed §§ 115.91 (g) and (h) as elements of a request for authorization to proceed.

6. *Proposed § 115.95*—(a) This section describes how the District Commander would process an authorization to proceed request.

(b) One comment suggested that periodic reevaluation of a GBP was inappropriate. This provision is no longer necessary under the single, nationwide GBP and has been deleted. However, the letter of authorization to proceed would contain time limits for beginning and completing the bridge project.

(c) One comment requested that the Coast Guard be limited to a maximum of 60 days to process a request. A time limitation could jeopardize the adequacy of the review. The review contemplated by this proposal should permit the District Bridge Administration Staff to process authorization to proceed requests within 30 days unless multiple requests are received nearly simultaneously.

(d) One comment suggested that the District Commanders be allowed to impose special conditions on a case-by-case basis. The GBP, as revised in this proposal, is not intended for this purpose. Project deviating from those clearly eligible under the GBP should be handled under the Individual Bridge Permit program.

(e) One comment recommended that bridge owners who are denied authorization to proceed should be given an opportunity to correct deficiencies to meet the GBP regulations before going to the Individual Bridge Permit application process. Though early coordination with the Coast Guard would normally identify these situations, proposed § 115.93(b) specifically addressed this concern.

(f) One comment stated that, in practice, two submissions would be necessary for each project—a request for authorization to proceed under the GBP and an application for an Individual Bridge Permit (IBP). Thus, if the request is denied, the IBP process would be able to proceed immediately. Proposed § 115.95(b) specifically addresses this problem by providing Coast Guard assistance in avoiding unnecessary duplication of documentation. The proposed request format has been designed to allow conversion to an IBP application by submitting the environmental documentation evidenced in the request for authorization to proceed.

7. *Proposed § 115.99*—(a) This section concerns revocation of an authorization to proceed.

(b) One comment suggested that more guidance would be required. This section, however, must be read in conjunction with the general requirements in 33 CFR Part 114, in particular § 114.40 (Violations of law), § 114.45 (Applications, extensions of time), and § 114.50 (Right of appeal).

E.O. 12291 and DOT Regulatory Policies and Procedures

This proposed rule is considered to be non-major under Executive Order 12291 and nonsignificant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal has been found to be so minimal that a full regulatory evaluation is unnecessary.

This rulemaking is intended to reduce the amount of paperwork for the requesting party, reduce the amount of material needed to be reviewed by the Coast Guard, and to reduce the time required to prepare and process a request. All of these factors would result in lower costs both the requesting party and the Coast Guard.

In 1985, 40 of the 121 bridge permit applications received by the Coast Guard would have been eligible under the GBP program. These numbers are expected to increase in coming years due to increased construction and increased Federally-funded rehabilitation of existing bridges. In 1986, the anticipated numbers are 50 out of 140 and, in 1987, 60 out of 160 applications. Under the existing IBP procedures, each of these projects requires about 40 hours to prepare an application and 400 hours for the Coast Guard to process the application. The average total time from receipt of an application to issuance or denial of the permit is 50 days per project. The total times for all of these projects is 2,000 hours for applicants, 16,000 hours for the Coast Guard, and 2,000 days processing time. Converting these times to monetary costs, each of these projects costs the Coast Guard $10,000 in personnel time at $25.00 per hour. There are basically no costs incurred to compile information for the applications because the bridge builders already must compile this material for planning, designing, and engineering their projects. Applicants also incur costs due to the effects of inflation while they await receipt of an IBP. Because the cost of delay would vary greatly depending upon the projected cost of the project, type of project, timing of submission of the application, projected cost of project, and changing material and labor costs, these delay costs are not meaningfully quantifiable.

By handling eligible projects under the new GBP program, the following reductions are anticipated: Request preparation time should drop to about eight hours per project, an 80% decrease. Coast Guard processing time and costs are anticipated to be reduced 90%. The average time needed to process a request for an authorization to proceed is anticipated to be under 30 days. The savings for all 40 eligible projects in 1985 would have totaled 1,280 in preparation hours, 14,400 in Coast Guard personnel hours, $360,000 in Coast Guard costs, and 800 days of delay.

In conclusion, the GBP procedure would produce at least some savings in time and monetary cost for every eligible project. However, the overall cost of operating the Coast Guard's bridge permitting programs is expected to remain the same or increase due to the predicted increase in the total number of permit applications and requests.

Regulatory Flexibility Act

As discussed above, the economic impact of this proposed rule would be minimal and would be a reduction from that required under the existing IBP program. Therefore, the Coast Guard certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This proposed rulemaking contains information collection requirements in § 115.91. It will be submitted to the Office of Management and Budget (OMB) for approval under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). Persons desiring to comment on these information collection requirements should submit their comments to: Office of Regulatory Policy, Office of Management and Budget, 726 Jackson Place NW., Washington, D.C. 20503, Attn: Desk Officer, U.S. Coast Guard. Persons submitting comments to OMB are also requested to submit a copy of their comments to the Coast Guard as indicated under "ADDRESSES".

These proposed regulations would result in a reduction in the overall paperwork burden on persons requesting to construct or modify eligible bridges.

Environmental Assessment

The Coast Guard has considered the environmental impact of the proposed regulations and concluded that preparation of an environmental impact statement is not necessary. These regulations would provide a less burdensome procedure for processing permits for certain bridges which presently fall under the IBP program. The environmental impact of a bridge authorized under the GBP program would be no different had that bridge been permitted under the existing IBP process.

These regulations are basically procedural and would have no effect on the environment in themselves. A separate environmental assessment on the GBP is on file in the rulemaking docket and is available for inspection or copying at the Office of the Marine Safety Council, Room 2201, Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, (202) 426–1477.

List of Subjects in 33 CFR Part 115

Bridges, Reporting and recordkeeping requirements.

In consideration of the foregoing, Part 115 of Title 33 of the Code of Federal Regulations is proposed to be amended as follows:

PART 115—[AMENDED]

1. By revising the heading of Part 115 to read "BRIDGE PERMITS".

2. The authority citation for Part 115 is revised to read as follows and all other authority citations are removed:

Authority: 33 U.S.C. 401, 491, 525, 533; 14 U.S.C. 633; 49 CFR 1.46 (c) and (q).

Subpart A—[Added]

3. By adding a new subpart heading before § 115.01 to read "Subpart A—General Requirements".

4. By revising § 115.01 to read as follows:

§ 115.01 Purpose and applicability.

(a) This part establishes application and processing procedures for permits to construct or modify bridges across the navigable waters of the United States, except for waters not subject to the ebb and flow of the tide which are not used and are not susceptible to use in their natural condition or by reasonable improvement as a means to transport interstate or foreign commerce.

(b) The District Commander designates those waters within the District Commander's jurisdiction that are considered to meet the exception in paragraph (a) of this section. A permit under this part is not required for construction or modification of bridges across waters so designated. A list of waters so designated is available from the District Commander for the area in which the waters are located.

Subpart B—[Added]

5. By adding a new subpart heading after § 115.40 to read "Subpart B—Individual Bridge Permits".

6. By adding a new § 115.48 to read as follows:

§ 115.48 Purpose and applicability.

This subpart establishes application and processing procedures for Individual Bridge Permits. Authorization to construct or modify bridges which fall under the General Bridge Permit may be requested under the procedures in Subpart C of this part.

7. By revising paragraph (b) and removing and reserving paragraph (c) of § 115.50 as follows:

§ 115.50 Application for bridge permits.

* * * * *

(b) *Prior authority necessary.* A bridge cannot be constructed until the location and plans have been approved by the Coast Guard and after full consideration of the probably impact of the proposed action on the quality of the human environment.

(c) [Reserved]

* * * * *

8. By adding a new Subpart C to read as follows:

Subpart C—General Bridge Permit

Sec.

115.80 Purpose and applicability.
115.83 General bridge permit.
115.86 Criteria for eligibility under the permit.
115.89 Authorization to proceed required.
115.91 Request for authorization.
115.95 Proceeding requests.
115.98 Revocation of authorization.

Subpart C—General Bridge Permit

§ 115.80 Purpose and applicability.

This subpart establishes a General Bridge Permit (GBP) applicable to certain bridge projects and prescribes the procedures for obtaining authorization to proceed under the Permit.

§ 115.83 General Bridge Permit.

(a) This provision constitutes a General Bridge Permit for projects involving the construction or modification of bridges which meet fully the criteria in § 115.86. These projects do not require an Individual Bridge Permit under Subpart B of this part but do require authorization under § 115.95 before proceeding with the project.

(b) For matters within the purview of the Coast Guard, projects under the GBP are deemed to have an insignificant impact on navigation and the quality of the human environment and, therefore, do not need the extensive navigational and environmental documentation or the case-by-case Coast Guard public hearings associated with the Individual Bridge Permit program.

§ 115.86 Criteria for eligibility under the permit.

(a) Projects under the GBP must meet all of the criteria in this section.

(b) The project must not involve work on or replacement of a movable bridge.

(c) The project must provide for the passage of all navigation customarily using the waterway.

(d) The project must not obstruct that portion of the waterway customarily navigation by the deepest draft vessels using the waterway.

(e) The project must not interfere with any existing Federal navigation or flood control project.

(f) The bridge project must not be located across wetlands, unless the District Commander determines that there is no practicable alternative.

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location which avoids the wetlands. As used in this section, "wetlands" means lowlands covered with shallow and sometimes temporary or intermittent waters, including but not limited to swamps, marshes, bogs, sloughs, potholes, wet meadows, river overflows, shallow lakes or ponds with emergent vegetation, and estuarine areas, but not including areas covered with water for such a short time that there is no effect on moist-soil vegetation and not including the permanent waters of streams, reservoirs, and deep lakes. If the District Commander determines that there is no practicable alternative location, the project must comply with the following:

(1) If the wetlands are tidal, the project must not involve dredging or the placement of fill material in the waterbody or wetlands.

(2) If the wetlands are non-tidal—

(i) The bridge structure must accommodate the 100 year flood;

(ii) The project must not involve the placement of more than 200 cubic yards of fill below the ordinary or mean high water line;

(iii) The project must not involve the placement of fill beyond 100 feet on either side of the ordinary or mean high water line; and

(iv) The District Commander must determine that the fill, if any, will have a minimal impact on wetland values under Executive Order 11990.

(g) The project must not be located within one half mile of any property listed, or eligible or proposed to be listed, in the National Register of Historic Places (36 CFR Part 800).

(h) The project must not be located in or across, or affect, any Federally-listed established or prospective component of the National Wild and Scenic River System under 16 U.S.C. 1274 and 1276.

(i) The project must not cause a significant encroachment within the base floodplain, that is, an encroachment resulting in a considerable probability of loss of human life, likely future damage that could be substantial in cost or extent (including interruption of service on or loss of a vital transportation facility), or a notable adverse impact on natural and beneficial floodplain values (DOT Order 5650.2).

(j) The project must not be located on or provide access to a coastal barrier island under 16 U.S.C. 3501, *et seq.*

(k) The project must not be located within a critical habitat of a Federally-listed endangered or threatened species of fish or wildlife under 16 U.S.C. 1531, *et seq.*

(l) The project must not be located wholly or partially within a park, historic site, refuge, or other area of natural beauty under 49 U.S.C. 303, unless the bridge will be used solely for purposes for which the area was established and will not promote further development within the area.

(m) Projects may vary from the requirements of paragraphs (f), (g), (h), (i), (j), and (k) of this section and still be eligible under the GBP, if all of the following provisions apply:

(1) A Federal agency has been designated as lead agency on the project for purposes of the National Environmental Policy Act (NEPA; 42 U.S.C. 4321, *et seq.*).

(2) The lead agency has determined that, even with the variances, the project is categorically excluded from the NEPA requirements for the preparation of an Environmental Impact Statement, Environmental Assessment, or Finding of No Significant Impact.

(3) The District Commander processing the request agrees that the categorical exclusion determination by the lead agency is consistent with Coast Guard policy.

(n) If the Federal lead agency referred to in paragraph (m) of this section is an agency under the United States Department of Transportation, projects which vary from the requirements of paragraph (1) of this section are also eligible under the GBP, if the provisions of paragraphs (m) (1), (2), and (3) of this section apply.

§ 115.89 Authorization to proceed required.

Before beginning a project under the GBP, the bridge owner must request and receive authorization to proceed from the Coast Guard under this subpart

§ 115.91 Requests for authorization.

Each request for authorization to proceed must be in writing using any simple format, be submitted to the District Commander, and include the following information documents:

(a) The name and address of the bridge owner.

(b) A statement by the owner certifying that the project meets all of the criteria in § 115.88 for eligibility under the GBP.

(c) A brief description of the project and its purpose.

(d) A copy of the plans of the project in or folded to letter size and in good reproducible quality.

(e) A map of the vicinity of the project in or folded to letter size, in good reproducible quality, and showing the following:

(1) The title and date in the lower right hand corner.

(2) A graphic scale and north arrow.

(3) The course of the waterway and the entire work site of the project.

(4) The location of, or direction and distance to, the nearest town or other reference point.

(5) All bridges within one half mile of the project.

(f) A copy of a notice published in a local newspaper of general circulation which—

(1) Briefly describes the project.

(2) Identifies the project's location.

(3) Gives the name and address of the project's owner and of the District Commander.

(4) Requests that comments be sent to both of the parties listed in paragraph (f)(3) of this section within 10 days of the notice; and

(5) Indicates that it is the owner's intent to request Coast Guard authorization to proceed.

(g) A copy of the certification or waiver under 33 U.S.C. 1341 issued by the appropriate water pollution control agency concerning the project.

(h) If the project is located in a state's coastal zone as defined in the Federally-approved coastal zone management plan, a copy of the consistency certification by the bridge owner and concurrence by the state under 16 U.S.C. 1456 indicating that the project complies with the state's Federally-approved coastal zone management program.

(i) If a Federal lead agency has been designated for the project, a reference to the finding or determination justifying each variance under § 115.86 (m) and (n).

Note.—The District Commander provides a sample request and public notice which may be used as a guide.

§ 115.95 Processing requests.

(a) Upon receipt of a request, the District Commander considers the information and documents submitted and the comments received to determine whether the project meets the criteria for eligibility under § 115.88 and the request meets the requirements of § 115.91.

(b) If, upon initial review, it appears that the project is not eligible under the GBP, the District Commander informs the applicant of the reasons and advises that, if the deficiencies are not corrected, the applicant should apply under the Individual Bridge Permit (IBP) procedure in Subpart B of this part. The District Commander identifies any additional documentation required to make the IBP application complete, avoiding unnecessary duplication.

(c) If the request is approved, the District Commander issues a letter of authorization to proceed to the bridge owner.

(d) If the request is denied, the bridge owner may apply under Subpart B of this part for an IBP or may appeal the denial under § 114.50 of this chapter.

§ 115.98 Revocation of authorization.

Authorization to proceed may be revoked by the District Commander if that person determines that the requirements of this subpart were not met or the bridge structure or other work constitute an unreasonable obstruction to navigation or to operations of the United States in the interest of navigation or flood control.

Dated: April 18, 1986.

T.J. Wojnar,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 86-9201 Filed 4-23-86; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 796 and 799

[OPTS—42075; TSH-FRL 2904-2]

Pentabromoethylbenzene; Proposed Test Rule

Correction

In FR Doc. 85-28937, beginning on page 46785 in the issue of Wednesday, November 13, 1985, make the following correction: On page 46787, in the third column, paragraph 3, the thirty-first line should read: "and 61.9 ppm, respectively, for animals receiving 1,000 ppm PEB in the diet. No ".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-133; RM-5215]

TV Broadcast Station in Crystal River, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposed to assign UHF television Channel 39 to Crystal River, Florida, as that community's first local television channel, in response to a petition filed by William F. Parrish.

DATES: Comments must be filed on or before June 9, 1986, and reply comments on or before June 24, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73:

Television broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended. 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

In the Matter of Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Crystal River, Florida): [MM Docket No. 86-133; RM-5215]

Adopted: April 7, 1986.
Released: April 17, 1986.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed by William F. Parrish ("petitioner") requesting the assignment of UHF television Channel 39 to Crystal River, Florida, as that community's first local television service. Petitioner stated his intention to apply for the channel.[1]

2. Crystal River (population 2,778),[2] in Citrus County (population 54,703), is located on the west coast of Florida, approximately 120 kilometers (75 miles) northwest of Orlando. Channel 39 can be assigned to Crystal River in compliance with the minimum distance separation requirements of § 73.610 of the Commission's rules.

PART 73—[AMENDED]

3. In view of the fact that there has been a demonstrated need and interest for a first television assignment to Crystal River, Florida, the Commission believes it is appropriate to seek comments on the proposal to amend the Television Table of Assignments

[1] In an earlier proceeding (MM Docket 84-758, RM-4733) the Commission issued the *Notice of Proposed Rule Making* 49 FR 32410, published August 14, 1985, proposing the assignment of Channel 39 to Crystal River, Florida, at the request of the petitioner. That rule making was dismissed to *Report and Order*, adopted March 11, 1985, for lack of continuing interest in the channel.

[2] Population figures were taken from the 1980 U.S. Census.

§ 73.606(b) of the rules) with respect to the following community:

City	Channel No.	
	Present	Proposed
Crystal River, FL		39+

4. The Commission's authority to institute rule making proceedings, showings required, cut-out procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before June 9, 1986, and reply comments on or before June 24, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: William F. Parrish, Route 2, Box 1360, Fruitland Park, Florida 32731.

The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules*, 46 FR 11549, published February 9, 1981.

For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An ex parte contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

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Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(e)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's rules, It Is Proposed To Amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, DC.

[FR Doc. 86-9136 Filed 4-23-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-134; RM-5144]

FM Broadcast Station in DeKalb, IL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to allot Channel 283A to DeKalb, Illinois, as its second FM channel, in response to a petition filed by Peggy Jo Martis.

DATES: Comments must be filed on or before June 9, 1986, and reply comments on or before June 24, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 308, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 308, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

In the matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (DeKalb, Illinois) [MM Docket No. 86-134; RM-5144]

Proposed Rule Making

Adopted: April 7, 1986.
Released: April 17, 1986.

By the Chief, Policy and Rules Division:

1. Before the Commission is a petition for rule making filed by Peggy Jo Martis ("petitioner") which seeks the allotment of Channel 283A to DeKalb, Illinois, as its second FM channel. Petitioner stated her intention to apply for the channel.

2. We believe that the petitioner's proposal warrants consideration. The transmitter site must be restricted to 11.7 kilometers (7.3 miles) northeast of the city to avoid short spacing to Station WLOO(FM) Channel 283A, Chicago, Illinois, and to the vacant allotment of Channel 283A to Henry, Illinois (Docket 84-231). Since the site restriction is further than we can generally predict for city grade coverage, in comments to the *Notice* petitioner should submit a showing that the required city grade coverage 70 (dBu) can be provided to DeKalb at such a distance.

PART 73—[AMENDED]

3. In view of the foregoing, the Commission seeks comments on the proposal to amend the FM Table of Allotments, § 73.202(b) of the Rules, with regard to the community listed below:

City	Channel No.	
	Present	Proposed
DeKalb, IL	220	220,283A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. NOTE: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before June 9, 1986, and reply comments on or before June 24, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Peggy Jo Martis, Post Office Box 3665, Peoria, Illinois 61614.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to

amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules*, 46 FR 11548, published February 9, 1981.

7. For further information concerning this proceeding, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An ex parte contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(e)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's rules, It is Proposed To Amend the TV Table of Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, DC.

[FR Doc. 86-9135 Filed 4-23-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-135; RM-5210]

FM Broadcast Station in Greenwood, MS

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the allotment of FM Channel 282A to Greenwood, Mississippi, in response to a petition filed by Ruben C. Hughes. This allotment could provide for a third commercial FM broadcast service for the community.

DATES: Comments must be filed on or before June 9, 1986, and reply comments on or before June 24, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 308, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

In the Matter of Amendment of §73.202(b), Table of Allotments, FM Broadcast Stations. (Greenwood, Mississippi) [MM Docket No. 86-135; RM-5210]

Adopted: April 7, 1986.
Released: April 17, 1986.

By the Chief, Policy and Rules Division:

1. Before the Commission for consideration is a petition for rule making filed by Ruben C. Hughes ("petitioner") seeking the allotment of FM Channel 282A to Greenwood, Mississippi, as the community's third commercial broadcast service. Petitioner indicated he would apply for the channel.

2. We believe petitioner's proposal warrants consideration. Channel 282A can be allocated to Greenwood, Mississippi, in compliance with the minimum distance separation requirements of the Commission's rules.

PART 73—[AMENDED]

3. In view of the fact that the proposal allocation could provide a third commercial broadcast service to Greenwood, Mississippi, the

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Commission believes it is appropriate to propose amending the FM Table of Allotments, §73.202(b) of the Commission's rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Greenwood, MS	256, 270A	256, 270A, and 282A.

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before June 9, 1986, and reply comments on or before June 24, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Eugene F. Mullin, Lawrence Roberts, Mullin, Rhyne, Emmons & Topel, P.C., 1000 Connecticut Avenue, Suite 500, Washington, DC 20036, (counsel for the petitioner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all ex parte contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An ex parte contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an ex parte presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an ex parte presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§0.61, 0.204(b) and 0.283 of the Commission's Rules, It Is Proposed To Amend the FM Table of Allotments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, DC

[FR Doc. 86-9134 Filed 4-23-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-136; RM-5209]

FM Broadcast Station in Huntingdon, PA

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: Action taken herein proposes the substitution of Channel 278A for Channel 292A at Huntingdon, Pennsylvania, at the request of Huntingdon Broadcasters, Inc. The substitution of channels could permit expanded FM radio service to the Huntingdon area.

DATE: Comments must be filed on or before June 9, 1986, and reply comments on or before June 24, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

In the matter of amendment of section 73.202(b), Table of Allotments, FM Broadcast Stations (Huntingdon, Pennsylvania) [MM Docket No. 86-136 RM-5209].

Adopted: April 7, 1986.

Released: April 17, 1986.

By the Chief, Policy and Rules Division:

1. The Commission has before it for consideration the petition for rule making submitted on behalf of Huntingdon Broadcasting, Inc. ("petitioner") requesting the substitution of FM Channel 230A for Channel 292A at Huntingdon, Pennsylvania.[1] Petitioner also requests that its license for Station WRLR be modified to specify operation on the new channel.

2. Petitioner claims that Station WRLR, at its present transmitter site, experiences substantial shadowing within its coverage area due to the mountainous terrain in and around Huntingdon. Petitioner states that the substitution of channel would permit it to relocate the station's transmitter to a mountain top site where it would be able to increase its facitities to the maximum for Class A operations and would enable Station WRLR to provide service to an additional 71,000 persons.

3. Channel 278A can be allocated to Huntingdon in compliance with the Commission's minimum distance separation and other technical requirements if the transmitter site is restricted to an area at least 1.9 kilometers (1.2 miles) north to avoid short-spacing to unoccupied and unapplied for Channel 279A at McConnellsburg, Pennsylvania. The site restoration will permit use of the channel at petitioner's preferred site. Additionally, the Canadian government must concur in this allocation since Huntingdon is located within 320 kilometers (199 miles) of the U.S.-Canada border.

4. In view of the above, we believe the public interest would be served by proposing the channel substitution as it could provide FM service to a larger area around Huntingdon. We also propose to modify the license of Station WRLR to specify operation on Channel 278A in lieu of Channel 292A. The procedures outlined in § 1.420(g) of the Commission's rules do not apply to this proceeding since no upgrade in channel classification is proposed. See *Modification of FM and TV Station Licenses*, 98 F.C.C. 2d 916 (1984).

PART 73—[AMENDED]

5. Accordingly, we propose to amend the FM Table of Allotments, § 73.202(b) of the Commission's rules, for the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Huntingdon, PA	292A	278A

6. It is ordered, That the Secretary shall send, By Certified Mail, Return Receipt Requested, a copy of this Notice of Proposed Rule Making to Juniata College, licensee of Station WKVR–FM, Huntingdon, PA 16652.

7. The Commission's authority to institute rule making proceedings showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

8. Interested parties may file comments on or before June 9, 1986, and reply comments on or before June 24, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Francis E. Fletcher, Jr. Esq., Lynn M. Clancy, Esq., Gardner, Carton & Douglas, 1675 Eye Street NW., Suite 1050, Washington, DC 20006–5472 (Its Attorneys).

9. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's rules*, 46 FR 11549, published February 9, 1981.

10. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's rules, It is Proposed To Amend the FM Table of Allotments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

[1] The petition, as filed, requested Channel 230A. However, that channel conflicts with the pending request to substitute Channel 230B1 for Channel 228A at nearby Clearfield, Pennsylvania (RM–5169). Our staff engineering study indicates that Channel 278A can be allocated to Huntingdon in compliance with the Commission's minimum distance separation requirements and utilized at petitioner's preferred site. Therefore, to resolve the conflict with the Clearfield proposal, we shall propose Channel 278A for consideration herein. We note that the channel is currently utilized by Station WKVR–FM, licensed to Juniata College. However, Station WKVR–FM is a Class D secondary station and thus must vacate the channel should its use be sought for a full service facility.

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3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. **Comments and Reply Comments; Service.** Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply commented shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC

[FR Doc. 86-9133 Filed 4-23-86; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Lupinus Aridorum (Scrub Lupine)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine a plant in the pea family, *Lupinus aridorum* (scrub lupine), to be an endangered species pursuant to the Endangered Species Act of 1973 (Act), as amended. This plant has been found at only 15 sites in Orange and Polk Counties, Florida; fewer than 350 individual plants are known to exist. All sites are on privately owned property and are highly desirable for residential and commercial development. The species currently receives no Federal or State protection. Populations have already suffered losses from home building, road construction, off-road vehicle use, and/or land clearing for pastures and other purposes. This rule proposes the Federal protection and the recovery provisions afforded by the Act for *Lupinus Aridorum*. Comments are solicited.

DATES: Comments from all interested parties must be received by June 23, 1986. Public hearing requests must be received by June 9, 1986.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Jacksonville Endangered Species Field Station, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. David J. Wesley, Endangered Species Field Supervisor, at the above address (904/791-2580, or FTS 946-2580).

SUPPLEMENTARY INFORMATION:

Background

Lupinus aridorum, a member of the pea family (Fabaceae), was first collected by Meislahn in 1900 in Orange County, Florida. It was not collected again until McFarlin found it in Polk County in 1928 and 1937. Renewed efforts by Beckner in the early 1970's, and again in the early 1980's by Beckner and Wunderlin, greatly expanded knowledge of the distribution of the species in both Orange and Polk Counties. Beckner recognized and named the species as distinct in 1982. Prior to that, the plants were variously misidentified by workers as *Lupinus diffusus* and *Lupinus westianus*. Since the plant was described as a full species by Beckner, there have been no alternative taxonomic treatments.

Lupinus aridorum is a biennial or short-lived perennial growing from a soft woody base; the stems are up to one meter (3 feet) tall. Its leaves are obovate-elliptic in shape, 4–7 centimeters (1.5–2.8 inches) long, and 2–4 centimeters (0.8–1.5 inches) wide. The ends of the leaves are rounded, with sharp pointed tips and the bases are rounded; the upper and lower surfaces are covered with silvery hairs. The petioles are 2–4.5 centimeters (0.8–1.8 inches) long; the stipules are very small. The inflorescences are racemose with stalks 4–13 centimeters (1.5–5.2 inches) long, and the flowering portion 4–15 centimeters (1.5–5.8 inches) long. The petals are pale flesh-pink except for the standard, which has a black center surrounded by a maroon-red area. The standard is about 1.5 centimeters (0.5 inch) long, the wing petals about 1.4 centimeters (0.5 inch) long, and the keel petals slightly shorter. The fruit is 2–2.5 centimeters (0.8–1 inch) long, woody, and elliptic in shape, tapering to a sharp apex.

Lupinus aridorum is distinctive in the field, being the only upright pink-flowered lupine in Florida. It is further distinguished from the only other pink-flowered lupine, the prostrate *Lupinus villosus*, by the lack of long, shaggy hairs on stems and leaves, and vestigial (rather than large and conspicuous) stipules. It is most closely related to *Lupinus westianus* of the Florida Panhandle, but differs in flower color, *Lupinus westianus* having blue flowers.

Lupinus aridorum is endemic to central Florida. It is known from Orange County, between the city of Orlando and Walt Disney World, and from Polk County, between Winter Haven and Auburndale. This plant is a sand-pine scrub species that grows primarily in well drained sandy soils of the Lakewood or St. Lucie series. The sands are white or occasionally yellow where the turkey oak woods have invaded the sand pine scrub. The tree layer may be a mixture of *Pinus clausa* (sand pine), *Pinus elliotii* (slash pine), and *Quercus laevis* (turkey oak) (Wunderlin 1982). The scrub layer is usually sparse, possibly as a result of disturbance at many of the sites where the lupine occurs. The most frequent shrubs include *Ceratiola ericoides* (rosemary), *Quercus geminata* (scrub live oak),

Lyonia ferruginea (rusty lyonia), *Palafoxia feayi*, *Ximenia americana* (tallowwood), and scattered *Sabal palmetto* (cabbage palm). The herbaceous layer is dominated by *Aristida stricta* (wiregrass) intermixed with *Pityopsis graminifolia*, *Helianthemum nashii*, *Rhynchospora megalocarpa*, *Bonamia grandiflora*, *Polygonella myriophylla*, and *Opuntia humifusa* (prickly-pear cactus). In the open areas, *Selaginella arenicola* (sand spikemoss) is often common. All currently known populations of *Lupinus aridorum* are on privately owned land. They are in danger of extirpation because they occur in two of the most rapidly growing areas of Florida and the land on which they occur has high potential for development.

On December 15, 1980, the Service published in the **Federal Register** (45 FR 82480) its Review of Plant Taxa for listing as Endangered or Threatened. On November 28, 1983 (48 FR 53640), the Service published a supplement to this review. *Lupinus aridorum*, which had not been named when the 1980 review was published, was listed in the 1983 supplement as a category–2 species (those candidate species for which the Service needs additional information before proceeding with a proposal). The 1985 updated version of the review (September 27, 1985; 50 FR 39526) included *Lupinus aridorum*, as a category–1 species (those candidate species for which the Service possesses information indicating listing is appropriate).

For procedural reasons, plant taxa in the 1980 review, 1983 supplement, and 1985 review are treated as being under petition. Section 4(b)(3)(B) of the Endangered Species Act, as amended in 1982, requires the Service to make findings on pending petitions within 12 months of their receipt. On October 12, 1984, and again on October 11, 1985, the Service made its 12-month finding that listing of *Lupinus aridorum* was warranted, and that although pending proposals had precluded its proposal, expeditous progress was being made to add other species to the list. Biological data, supplied by Wunderlin in 1984, now fully a proposed rule listing *Lupinus aridorum* as endangered. The present proposed rule constitutes the next 12-month finding requirement of Section 4(b)(3)(B) of the Act for this species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in Section 4(a)(1). These factors and their application to *Lupinus aridorum* McFarlin *ex* Beckner (scrub lupine) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Lupinus aridorum* is known from only 15 sites (Wunderlin 1984). Ten of these are in Orange County between the city of Orlando and Walt Disney World. Orlando has been, and continues to be, one of the most rapidly growing cities in Florida. The sites on which the scrub lupine are growing are prime property for development. Five sites for the scrub lupine are in Polk County, near the towns of Winter Haven and Auburndale. These are also rapidly expanding communities whose growth threatens the continued existence of the scrub lupine.

Altogether, about 339 plants of *Lupinus aridorum* are known to exist, most of which occur in habitats that have already been highly modified, or are threatened by housing developments, road construction and maintenance, conversion to pastureland, pedestrian, horse, and off-road vehicular traffic. All of the presently known habitat is privately owned, and subject to development or modification by the landowners at any time.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Although the scrub lupine has not been in commercial trade, it is a large and attractive plant when in bloom and has the potential to be used as a decorative landscape addition. The attractive nature of the scrub lupine and its potential for landscaping use is emphasized by the fact that at one site, where a single large plant (seven feet in daimeter) was growing, the landowner actually divided a fence he was building in order to avoid destroying it (Wunderlin 1984). The scrub lupine is only sparodically collected for scientific purposes.

C. *Disease or predation.* Not applicable.

D. *The inadequacy of existing regulatory mechanisms.* There are currently no State or Federal laws that offer complete protection for this species. *Lupinus aridorum* is covered currently by the Preservation of Native Flora of Florida Act (Section 581.185–187 Florida Statutes). This statute includes prohibition concerning taking, transport, and the sale of listed plants, but provides no habitat protection. The Endangered Species Act would offer needed recovery planning for the species.

E. *Other natural or manmade factors affecting its continued existence.* The scrub lupine is restricted in distribution and occurs in relatively small numbers (largest site has fewer than 100 plants). Such rarity increases species' vulnerability to disturbance and natural disasters.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Lupinus aridorum* as endangered. It occurs in two disjunct population centers (Orlando area and Winter Haven area) and is known from 15 sites. Human population pressures in both the Orlando and Winter Haven areas are increasing annually. Currently all 15 known populations, are on private lands and their continued existence is not secure. Critical habitat is not proposed for the scrub lupine for reasons discussed in the "Critical Habitat" section below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat threatened. The Service finds that designation of critical habitat is not prudent for *Lupinus aridorum* at this time. This species is a large plant which bears attractive pink flowers. There are indications that it might be a desirable species for landscaping purposes. In addition, it occurs very near to areas of high human concentration where it could readily be found and vandalized. The identification of the precise sites where populations occur, through publication of critical habitat descriptions and maps in the **Federal Register**, might increase the threats to the species. It would be difficult to safeguard it from curiosity seekers or vandals. In addition, critical habitat benefits apply only when Federal activities and/or Federal lands are involved. The scrub lupine occurs only on privately owned lands where no Federal involvements are known at present. Therefore, there would be no benefits to this species by the designation of critical habitat. Because

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of these factors, the Service finds that a designation of critical habitat for *Lupinus aridorum* is not prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Since all presently known sites for *Lupinus aridorum* are on privately owned land, there will be no effect from the above requirement unless a private activity requires some Federal action, such as funding or issuance of permits.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell, or offer for sale listed species in interstate or foreign commerce, or to remove such species from Federal lands and reduce them to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. With respect to *Lupinus aridorum*, it is anticipated that few trade permits would ever be sought or issued since the species is not known to be in cultivation and is scarce in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to this species;

(2) the location of any additional populations of this species and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) additional information concerning the range and distribution of this species; and

(4) current or planned activities in the subject area and their possible impacts on this species.

Final promulgation of the regulation on *Lupinus aridorum* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Endangered Species Field Station, 2747 Art Museum Drive, Jacksonville, Florida 32207.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

References Cited

Beckner, J. 1982. *Lupinus aridorum* J.B. McFarlin *ex* Beckner (Fabaceae), a new species from central Florida. Phytologia 50:209–211.

Wunderlin, R.P. 1982. Guide to the vascular plants of central Florida. University Presses of Florida. 472 pp.

Wunderlin, R.P. 1984. Endangered and threatened plant status survey, *Lupinus aridorum* McFarlin *ex* Beckner. Unpublished report prepared under contract with U.S. Fish and Wildlife Service.

Author

The primary author of this proposed rule is John L. Paradiso, U.S. Fish and Wildlife Service, Endangered Species Field Station, 2747 Art Museum Drive, Jacksonville, Florida 32207 (904/791–2580 or FTS 946–2580).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the code of Federal Regulations, as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under Fabaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species: Scientific name	Species: Common name	Historic range	Status	When listed	Critical habitat	Special rules
Fabaceae—Pea family:						
Lupinus aridorum	Scrub lupine	U.S.A. (FL)	E		NA	NA

Dated: April 1, 1986.

Susan Recce,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–9116 Filed 4–23–86; 8:45 am]

BILLING CODE 4310–55–M

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Notices

Federal Register
Vol. 51, No. 79
Thursday, April 24, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement Regarding the Management of Historic Properties on Lands Affected by the Issuance of Federal Right-of-way by the California State Office, Bureau of Land Management for the San Joaquin Pipeline Project, California

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation proposes to execute a Programmatic Memorandum of Agreement pursuant to § 800.8 of the Council's regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), with the California State Office, Bureau of Land Management, and the California State Historic Preservation Officer providing for the management of historic properties found on lands affected by the issuance of a Federal right-of-way for the San Joaquin Pipeline Project by the California State Office, Bureau of Land Management. The proposed Programmatic Memorandum of Agreement will establish mechanisms by which historic properties will be identified, evaluated and protected in order to meet the requirements of section 106 of the National Historic Preservation Act (16 U.S.C. 470f).

DATE: Comments Due: May 27, 1986.

FOR FURTHER INFORMATION CONTACT: Additional information regarding this Programmatic Memorandum of Agreement is available from the Executive Director, Advisory Council on Historic Preservation, Western Division of Project Review, 730 Simms Street, Room 450, Golden, Colorado 80401, telephone (303) 236–2682.

Dated: April 17, 1986.

John M. Fowler,

Acting Executive Director.

[FR Doc. 86–8211 Filed 4–23–86; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Office of Grants and Program Systems

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92–463, 86 Stat. 770–776), the Office of Grants and Program Systems announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board.

Date: May 9, 1986.

Time: 8:00 a.m.—12:00 Noon, May 9, 1986.

Place: Picadilly Inn-Airport (8:00–12:00 Noon), 5115 E. McKinley, Fresno, California 93727.

Type of meeting: Open to the public. Persons may participate in the meeting and site visits as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: The Board will be meeting to discuss a variety of issues that characterize the unique nature of California agriculture including the diversity of Fresno County agriculture, soil salinity and drainage problems, dairy issues, and the harvesting and production problems pertaining to perishable commodities. In preparation for this meeting, the Board will make site visits at these locations:

California Agriculture Technology Institute (7:30–12:00 Noon, 5/7/86), Fresno State University, Fresno, California

Broadview Water District (2:00–3:30 p.m., 5/7/86, Mendota, California

Maddox Dairy (8:00–10:00 a.m., 5/8/86), Burrel, California

George Brothers Packing House (10:30–12:00 Noon), 5/8/86, Soltana, California

Kearney Experiment Station (2:15–5:00 p.m., 5/8/86) Parlier, California.

Contact person for agenda and more information: Marshall Tarkington, Executive Secretary, National Agricultural Research and Extension Users Advisory Board; Room 316–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250; telephone [202] 447–3684.

Done in Washington, DC, this 21st day of April 1986.

Clare I. Harris,

Acting Administrator, Office of Grants and Program Systems.

[FR Doc. 86–9360 Filed 4–23–86; 10:50 am]

BILLING CODE 3410–GT–M

Soil Conservation Service

Oil Springs School Flood Prevention RC&D Measure, Kentucky

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); The Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Oil Springs School Flood prevention RC&D Measure, Johnson County, Kentucky.

FOR FURTHER INFORMATION CONTACT: Randall W. Giessler, State Conservationist, Soil Conservation Service, 333 Waller Avenue, Lexington, KY 40540, telephone: 606–233–2740.

SUPPLEMENTARY INFORMATION: The environmental assessment of this Federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Randall W. Giessler, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for reducing flooding of the Oil Springs School, gymnasium, shop building, driveway, parking lot, and a portion of the school yard. The planned works of improvement include: Cleaning out and enlarging 250 feet of an existing diversion ditch, sealing the foundation and walls of the buildings with a water tight sealing system, raising the air vents for crawl spaces under the buildings, placing flood barriers at all entrances, and installing sump pumps.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies, and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Randall W. Giessler.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: April 18, 1986.

Randall W. Giessler,

State Conservationist.

[FR Doc. 86–9150 Filed 4–23–86; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

The Institute for Orgonomic Science; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

Correction

In FR Doc. 86–8160 appearing on page 12535, in the middle column, in the issue of Friday, April 11, 1986, the Docket No. in the second paragraph was incomplete. It is corrected to read "Docket No. 85–258".

BILLING CODE 1505–01–M

[A–588–504]

Postponement of Final Antidumping Duty Determination: Erasable Programmable Read Only Memories (EPROM's) From Japan

AGENCY: International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice informs the public that we have received requests from all of the respondents in this investigation to postpone the final determination, as permitted in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)). Based on these requests, we are postponing our final determination as to whether sales of EPROMs from Japan have occured at less than fair value until not later than July 30, 1986. We are also postponing our public hearing from April 25, 1986 until May 27, 1986.

EFFECTIVE DATE: April 24, 1986.

FOR FURTHER INFORMATION CONTACT: David Mueller, William Kane, or Raymond Busen, Office of Investigations, Import Administration, International Trade Administraion, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–2923, 377–1766, or 377–3464.

SUPPLEMENTARY INFORMATION: On October 28, 1985, we published a notice in the Federal Register (50 FR 43603) that we were initiating, under section 732(c) of the Act, (19 U.S.C. 1673a(c)), an antidumping duty investigation to determine whether EPROMs from Japan were being, or were likely to be, sold at less than fair value. On November 14, 1985, the International Trade Commission determined that there is a reasonable indication that imports of EPROMs are materially injuring a U.S. industry. On March 17, 1986, we published a preliminary determination of sales at less than fair value with respect to this merchandise (51 FR 9067). The notice stated that if the investigation proceeded normally, we would make our final determination by May 27, 1986.

Pursuant to section 735(a)(2)(A) of the Act, all of the respondents in this investigation requested an extension of the final determination date. The respondents are qualified to make such a request because they account for a significant proportion of exports of the merchandise to the United States. If exporters who account for a significant proportion of exports of the merchandise under investigation properly request an extension after an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the requests. Accordingly, we are granting the requests and postponing our final determination until not later than July 30, 1986.

Public Comment

In accordance with section 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 1 p.m. on May 27, 1986, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistance Secretary, Import Administration, Room B–099, at the above address within 10 days of this notice's publication. Requests should contain (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by May 20, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of publication of this notice, at the above address in at least 10 copies.

This notice is published pursuant to section 735(d) of the Act.

The United States International Trade Commission is being advised of this postponement, in accordance with section 735(d) of the Act.

Gilbert B. Kaplan,

Deputy Assistance Secretary for Import Administration.

April 17, 1986.

[FR Doc. 86–9142 Filed 4–23–86; 8:45 am]

BILLING CODE 3510–DS–M

[C–538–509]

Extension of the Deadline for Final Countervailing Duty Determination and Rescheduling of the Public Hearing; Porcelain-On-Steel Cooking Ware From Taiwan

AGENCY: Import Administration, Commerce.

ACTION: Notice.

SUMMARY: Based upon the request of petitioners, the Porcelain-On-Steel Committee of the Cookware Manufacturers Association and the General Housewares Corporation, the Department of Commerce is extending the deadline for its final determination in the countervailing duty investigation of porcelain-on-steel cooking ware from Taiwan to correspond to the date of the final determination in the antidumping investigation of the same product pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984 (Pub. L. 98–573). In addition, the Department of Commerce is rescheduling the public hearing.

EFFECTIVE DATE: April 24, 1986.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Mary Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street

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and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377–0189 or 377–2830.

SUPPLEMENTARY INFORMATION:

Case Histories

On December 4, 1985, we received antidumping and countervailing duty petitions filed by the Porcelain-On-Steel Committee of the Cookware Manufacturers Association and the General Housewares Corporation on porcelain-on-steel cooking ware from Taiwan.

In compliance with the filing requirements of section 353.36 of our regulations (19 CFR 353.36), the antidumping petition alleged that imports of porcelain-on-steel cooking ware from Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

In compliance with the filing requirements of section 355.26 of our regulations (19 CFR 355.26), the countervailing duty petition alleged that manufacturers, producers, or exporters in Taiwan of porcelain-on-steel cooking ware directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petitions contained sufficient grounds on which to initiate antidumping and countervailing duty investigations, and on December 24, 1985, we initiated such investigations (50 FR 53353 and 50 FR 53354). On February 27, 1986, we issued a negative preliminary determination in the countervailing duty investigation (51 FR 7932). The preliminary determination in the antidumping investigation will be made on or before May 13, 1986.

On March 10, 1986, petitioners filed a request for extension of the deadline date for the final determination in the countervailing duty investigation to correspond with the date of the final determination in the antidumping investigation.

Section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984, provides that when a countervailing duty investigation is "initiated simultaneously with an (antidumping) investigation . . . which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination (in the countervailing duty investigation) to the date of the final determination" in the antidumping investigation (19 U.S.C. 1671(a)(1)). Pursuant to this provision, the Department is granting an extension of the deadline for the final determination in the countervailing duty investigation of porcelain-on-steel cooking ware from Taiwan to July 28, 1986, the current deadline for the final determination in the antidumping investigation.

In addition, due to the extension of the final determination in the countervailing duty investigation, the Department of Commerce is rescheduling the date of the public hearing, originally set for April 3, 1986. This hearing, which was requested by the petitioners, will now be held at 10:00 a.m. on May 15, 1986, at the U.S. Department of Commerce, Room 1851, 14th Street and Constitution Ave., NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B–099, at the above address within 10 days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, at least 10 copies of pre-hearing briefs must be submitted to the Deputy Assistant Secretary by May 8, 1986. Oral Presentations will be limited to issues raised in the briefs.

In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received within 10 days after the hearing transcript is available.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

April 16, 1986.

[FR Doc. 86–9143 Filed 4–23–86; 8:45 am]

BILLING CODE 3510–DS–M

[C–580–602]

Preliminary Negative Countervailing Duty Determination; Certain Stainless Steel Cooking Ware From the Republic of Korea

AGENCY: Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that no benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in the Republic of Korea (Korea) of certain stainless steel cooking ware. The estimated net subsidy is 0.232 percent *ad valorem*. This rate is *de minimis*, and therefore our preliminary countervailing duty determination is negative. We have notified the United States International Trade Commission (ITC) of our determination.

If this investigation proceeds normally, we will make our final determination by June 30, 1986.

EFFECTIVE DATE: April 24, 1986.

FOR FURTHER INFORMATION CONTACT: Rick Herring, David Levine, or Gary Taverman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–0187, 377–8498, or 377–0161.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon the questionnaire responses, we preliminarily determine that the following programs are countervailable:

- Short-Term Export Financing under the Export Financing Regulations and Foreign Trade Financing Regulations;
- Tax Incentives for Exporters under Articles of the "Act Concerning the Regulation of Tax Reduction and Exemption"; and
- Unlimited Deduction of Overseas Entertainment Expenses under Article 18–2 of the Corporation Tax Law.

We preliminarily determine the estimated net subsidy to be 0.232 percent *ad valorem*. Although we have determined these programs to be countervailable, the respondents received *de minimis* benefits during the review period, calendar year 1985. Therefore, we preliminarily determine that no benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Korea of certain stainless steel cooking ware.

Case History

On January 21, 1986, we received a petition filed in proper form by the Fair Trade Committee of the Cookware Manufacturers Association on behalf of the U.S. industry which manufactures certain stainless steel cooking ware. In compliance with the filing requirements of section 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters in Korea of certain stainless steel cooking ware receive, directly or indirectly, subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on February 10, 1986, we initiated an investigation (51 FR 6019). We stated that we expected to issue a preliminary determination by April 16, 1986.

Since Korea is a "country under the Agreement" within the meaning of section 701(b) of the Act, an injury determination is required for this investigation. Therefore, we notified the ITC of our initiation. On March 4, 1986, the ITC determined that there is a reasonable indication that imports of certain stainless steel cooking ware from Korea materially injure, or threaten material injury to, a U.S. industry (51 FR 9541).

We presented questionnaires concerning the petitioner's allegations to the government of Korea at its embassy in Washington, DC on February 20, 1986. We received the responses to our questionnaires on March 26, 1986. There are seven Korean producers of the subject merchandise which accounted for over 75 percent of the exports to the United States during the period of review. They are Kyung Dong Industrial Company, Ltd., Namil Metal Company, Ltd., Il Shin Company, Ltd., Hai Dong Stainless Ind. Co., Woo Sung Company, Ltd., Dae Sung Industrial Company, Ltd., and Bum Koo Corporation. For the producers identified above, these trading companies account for substantially all of their trading company sales of the subject merchandise to the United States during the review period: Sammi Corporation, Daewoo Corporation, Korea Trading International Company, Samsung Company, Ltd., Haitali International, Inc., Sunkyong Company, Ltd., Daewonsa Corporation, Hyundai Corporation, G.I. Corporation, Ssang Yong Corporation, and Dong Chang Company.

Scope of Investigation

The products covered by this investigation are all non-electric cooking ware of stainless steel which may have one or more layers of aluminum, copper, or carbon steel for more even heat distribution. These products are provided for in item number 653.94 of the *Tariff Schedules of the United States* (*TSUS*). The products covered by this investigation are skillets, fry pans, omelette pans, sauce pans, double boilers, stock pots, sauce pots, dutch ovens, casseroles, steamers, and other stainless steel vessels, all for cooking on stove top burners, except tea kettles. Excluded from the scope of investigation are stainless steel oven ware and stainless steel kitchen ware, which also are included under the 653.94 *TSUS* classification.

Analysis of Programs

Throughout this notice we refer to certain general principles applied to the facts of the current investigation. These general principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Order," which was published in the Federal Register on April 28, 1984 (49 FR 18006).

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

For purposes of this preliminary determination, the period for which we are measuring subsidies (the review period) is calendar year 1985. Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

I. Programs Preliminarily Determined To Be Countervailable

We preliminarily determine that the following programs provide countervailable benefits to manufacturers, producers, or exporters in Korea of certain stainless steel cooking ware:

A. Short-Term Export Financing

Petitioner alleges that producers and exporters in Korea of certain stainless steel cooking ware receive preferential short-term export financing under the Export Financing Regulations.

The Export Financing Regulations were promulgated on February 25, 1982. On October 17, 1985, these regulations were terminated with the creation of the Foreign Trade Financing Regulations. These latter regulations provide the guidelines for short-term financing. Export financing takes the form of loans on bills related to export sales transactions. Eligibility is based upon presentation of export documents or upon past export performance. Export loans based on past performance may not exceed 90 days, while loans based on specific export documents may not exceed 180 days and are limited to the terms of the applicable letter of credit. During our review period, the rate of interest charged on short-term export financing remained constant at ten percent, which was the ceiling established by the governor of the Bank of Korea.

Because only exporters are eligible for these loans, we determine that they are countervailable to the extent that they are provided at preferential rates. As specified in the Subsidies Appendix, we used the most appropriate national average commercial method of short-term financing as the benchmark rate for short-term loans.

During 1985, the interest rate on domestic short-term loans was allowed to vary from 10 to 11.5 percent. During our verification of *Offshore Platform Jackets and Piles from Korea*, we were told by the Bank of Korea, the Korea Development Bank, and two commercial banks that, although the interest rate is allowed to vary from 10 to 11.5 percent, commercial banks will usually charge the ceiling rate of 11.5 percent on all their lending. Therefore, we preliminarily determine that the average interest rate for short-term domestic financing is 11.5 percent. Comparing that benchmark interest rate to the interest rate charged on short-term export loans, we preliminarily determine that the export loans are provided on preferential terms, and thus constitute an export subsidy.

To determine the benefit provided under this program, we based our calculations on total export loans because the companies were unable to segregate specific loans to the products under investigation. We calculated the total amount of interest the companies would have paid at 11.5 percent on their short-term export loans and subtracted from that amount the actual amount of interest the companies paid at ten percent on their short-term export loans. We then allocated the difference over total export sales to calculate an estimated subsidy in the amount of 0.224 percent *ad valorem*.

B. Tax Incentives for Exporters

Petitioner alleges that manufacturers and exporters of the subject merchandise receive tax benefits under Articles 22, 23, and 24 of the "Act Concerning the Regulation of Tax Reduction and Exemption" which provide for the deduction from taxable

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income of a number of different reserves covering export losses, overseas market development, and price fluctuation losses.

Under Article 22, a corporation may establish a reserve amounting to one percent of foreign exchange earnings, or 50 percent of net income in the applicable period, whichever is smaller. If certain export losses occur, they are offset from the reserve fund. If there are no offsets for export losses, the reserve is returned to the income account and taxed, after a one-year grace period, over a three-year period.

Under Article 23 governing overseas market development, a corporation may establish a reserve fund amounting to one percent of its foreign exchange earnings in the export business for the respective business year. Expenses incurred in developing overseas markets are offset from the reserve fund. Like the export loss reserve fund, if there are no offsets for expenses, the reserve is returned to the income account and taxed, after a one-year grace period, over a three-year period.

A price fluctuation reserve fund may be established under Article 24. A corporation may establish reserves equivalent to five percent of the book value of the products and works in progress which will be exported by the close of the business year. This reserve may be used to offset losses incurred from the fluctuation of prices for export goods by returning an amount equivalent to the losses to the income account. If not so utilized, the reserve is returned to the income account the following business year.

The balance in all three reserve funds is not subject to corporate tax, although all moneys in the reserve funds are eventually reported as income and subject to corporate tax either when they offset export losses or when the one-year grace period expires.

We preliminarily determine that these export reserve programs confer benefits which constitute export subsidies because they provide a deferral, contingent upon exports, of direct taxes. Because these export reserve funds constitute a deferral of tax liabilities, we treat the tax savings on these funds as short-term interest-free loans. Accordingly, we have quantified the benefits from the reserve funds by calculating the amount of tax savings and applying a rate of interest which the firm would have had to pay for a short-term loan (11.5 percent). Using this benchmark, we calculated an estimated subsidy of 0.005 percent *ad valorem*.

C. Unlimited Deduction of Overseas Entertainment Expenses

Petitioner alleges that producers and exporters of the subject merchandise receive tax benefits in the form of entertainment expense deductions.

Under Article 18–2 of the Corporation Tax Act and supporting legislation, entertainment expenses for domestic clients and foreign clients ("overseas entertainment expenses") are eligible to be deducted from taxable income. The amount which can be deducted for domestic entertainment expenses is subject to a ceiling according to an established formula and depending on the amount of any overseas entertainment expenses claimed. There is no cap on overseas entertainment expenses. Because entertainment expense deductions are unlimited only for overseas clients, we preliminarily determine that this program confers benefits which constitute export subsidies, to the extent that the overseas expenses claimed are greater than those which would have been allowed using the domestic cap formula.

To calculate the benefit from this program for the review period, we took the amount of overseas entertainment expenses claimed in the companies' tax returns filed in 1985 exceeding the domestic cap. For those companies which did not provide their domestic cap amount, we took the amount of overseas entertainment expenses claimed exceeding the amount of domestic entertainment expenses claimed. We then divided that amount by the total value of exports in 1985, and calculated an estimated subsidy of 0.003 percent *ad valorem*.

II. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that manufacturers, producers, or exporters in Korea of certain stainless steel cooking ware did not use the following programs:

A. Tariff Reductions on Plant and Equipment

Petitioner alleges that certain Korean manufacturers receive special tariff reductions on imported plant and equipment. Article 28 of the Customs Law allows for reductions of import duties for certain industries on particular items designated by the Ministry of Finance. According to the responses of the government of Korea and the Korean companies, producers of the subject merchandise are not eligible for tariff reductions because Article 28 specifies that only machinery used in the production of machines and machine parts, and machinery used in the manufacture of electronic goods are eligible for this program.

B. Free Export Zone Program

Petitioner alleges that firms located in free export zones receive certain tax incentives such as exemptions on corporate, residence, defense, and property taxes. According to the responses of the government of Korea and the Korean companies, no stainless steel cooking ware producers or trading companies selling cooking ware are located in the free export zones.

C. Export Credit Financing from the Export-Import Bank of Korea

Petitioner alleges that producers and exporters of certain stainless steel cooking ware may receive below market financing for pre-export projects and export transactions. Petitioner further alleges that the National Investment Fund (NIF) finances exports on a deferred payment basis. According to the response of the government of Korea, financing from the Export-Import Bank of Korea (KXMB) is only provided for large capital goods, and no such financing is provided for exports of consumer goods such as cooking ware. The only source of NIF deferred payment export loans is through the export credit financing program of the KXMB, and cooking ware exports are not eligible for such financing.

D. Export Guarantees from the KXMB

Petitioner alleges that producers of the subject merchandise receive advance payment export guarantees and performance export guarantees from the KXMB. According to the response of the government of Korea, the KXMB only provides such guarantees for exports of large capital goods and projects, and no guarantees are offered for sales of consumer goods such as stainless steel cooking ware.

E. Accelerated Depreciation

Petitioner alleges that producers of the subject merchandise receive accelerated depreciation benefits. Article 25 of the "Act Concerning the Regulation of Tax Reduction and Exemption" permits a firm earning more than 50 percent of its total proceeds in a business year from foreign exchange to increase its normal depreciation by 30 percent. If the corporation has received less than 50 percent of its total proceeds from foreign exchange, it can still claim some accelerated depreciation, determined by a formula based on the firm's foreign exchange earnings and total business earnings. According to the responses, none of the firms investigated used accelerated depreciation under this program during the review period.

Verification

In accordance with sections 776(a) of the Act, we will verify data used in making our final determination.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

If our final determination is affirmative, the ITC will determine whether these imports materially injure, or threaten material injury to a U.S. industry within 75 days after the Department makes its final determination.

Public Comment

In accordance with § 355.35 of the Commerce Regulation, if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on June 4, 1986 at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B099, at the above address within 10 days after publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs with at least 10 copies of the confidential version and seven copies of the non-confidential version must be submitted to the Deputy Assistant Secretary by May 1986. Oral presentations will be limited to issues raised in the briefs. In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Gilbert B. Kaplan,
Deputy Assistant Secretary for Import Administration

April 16, 1986.

[FR Doc. 86–9140 Filed 4–23–86; 8:45 am]
BILLING CODE 3510–DS–M

[C–583–604]

Preliminary Negative Countervailing Duty Determination; Certain Stainless Steel Cooking Ware from Taiwan

AGENCY: Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that no benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Taiwan of certain stainless steel cooking ware. The estimated net subsidy is 0.005 percent *ad valorem*. This rate is *de minimis*, and therefore our preliminary countervailing duty determination is negative. We have notified the United States International Trade Commission (ITC) of our determination.

If this investigation proceeds normally, we will make our final determination by June 30, 1986.

EFFECTIVE DATE: April 24, 1986.

FOR FURTHER INFORMATION CONTACT: Jack Davies or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–1785 or 377–2438.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon the questionnaire responses, we preliminarily determine that the Export Loss Reserves program is countervailable. We preliminarily determine the estimated net subsidy to be 0.005 percent *ad valorem*. Although we have determined this program to be countervailable, the respondents received *de minimis* benefits during the review period, calendar year 1985. Therefore, we preliminarily determine that no benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Taiwan of certain stainless steel cooking ware.

Case History

On January 21, 1986, we received a petition filed in proper form by the Fair Trade Committee of the Cookware Manufacturers Association on behalf of the U.S. industry which manufactures certain stainless steel cooking ware. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters in Taiwan of certain stainless steel cooking ware receive, directly or indirectly, subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on February 10, 1986, we initiated the investigation (51 FR 6020). We stated that we expected to issue a preliminary determination by April 16, 1986.

Since Taiwan is entitled to an injury determination under section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Taiwan materially injure, or threaten material injury to, a U.S. industry. Therefore, we notified the ITC of our initiation. On March 4, 1986, the ITC determined that there is a reasonable indication that imports of certain stainless steel cooking ware from Taiwan materially injure a U.S. industry (51 FR 9541).

We presented questionnaires concerning the petitioner's allegations to the American Institute in Taiwan in Washington, DC on February 20, 1986. We received responses to the questionnaires on March 13, 19, and 31, 1986. There are five producers of the subject merchandise in Taiwan which accounted for substantially all of the exports to the United States during the review period: Golden Lion Metal Industry Co., Ltd.; Song Far Co., Ltd.; Lyi Mean Industry Co., Ltd.; Crown Manufacturing Co., Ltd.; and First Stainless Steel Industry Co., Ltd. In addition, there are seven trading companies which exported 77 percent of the subject merchandise exported by these five producers to the United States during our review period. These trading companies are D&J Industrial Co., Ltd.; Jack-Tom Industrial Co., Ltd.; Transmark International Corp.; Fairview International Corp.; Collins Co., Ltd.; Atico Corp.; and Pan-Orient Industrial Corporation.

Scope of Investigation

The products covered by this investigation are all non-electric cooking

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ware of stainless steel which may have one or more layers of aluminum, copper, or carbon steel for more even heat distribution. These products are provided for in item number 653.94 of the *Tariff Schedules of the United States* (TSUS). The products covered by this investigation are skillets, fry pans, omelette pans, sauce pans, double boilers, stock pots, sauce pots, dutch ovens, casseroles, steamers, and other stainless steel vessels, all for cooking on stove top burners, except tea kettles. Excluded from the scope of investigation are stainless steel oven ware and stainless steel kitchen ware, which are also included under the 653.94 TSUS classification.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the Federal Register (49 FR 18006).

Consistent with our practice in preliminary determinations, where a reponse to an allegation denies the existence of a program, receipt of benefits, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

For purposes of this preliminary determination, the period for which we are measuring subsidies (the review period) is calendar year 1985. Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

I. Program Preliminarily Determined to be Countervailable

We preliminarily determine that the following program provides countervailable benefits to manufacturers, producers, or exporters in Taiwan of certain stainless steel cooking ware:

Export Loss Reserves

Article 31 of the Statute for Encouragement of Investment (SEI) permits exporters to establish an export loss reserve of up to one percent of the previous year's export exchange settlement to be used exclusively for compensating export losses. Companies treat the export loss reserve as a business expense and deduct it from taxable income in one year, then balance the account and carry the reserve funds forward as taxable income for the next year. Song Far Industry Co., Ltd., a producer of certain stainless steel cooking ware, reported that it used this program during the review period.

Because export loss reserves are contingent on export sales, we preliminarily determine that it confers a benefit which constitutes an export subsidy. To calculate the benefit, we treated the tax savings from the export loss reserve as a one-year interest-free loan. We compared the interest-free rate with the maximum short-term lending rate set by the Central Bank, multiplied the difference by the amount of the tax savings, then allocated the benefit over the value of Song Far's 1985 exports of all products. The estimated net subsidy is 0.005 percent *ad valorem*.

II. Programs Preliminarily Determined Not to be Used

We preliminarily determine that manufacturers, producers, or exporters in Taiwan of certain stainless steel cooking ware do not use the following programs:

A. Preferential Export Financing

The Export Loan Discount Regulations of the Central Bank of China permit registered exporters to apply for low-cost export loans upon presentation of a letter of credit. Authorized commercial banks provide export loans at normal commercial rates, then apply for interest rate reductions from the Central Bank. If the Central Bank approves the reduction, commercial banks correspondingly reduce the lending rate to the exporters. The responses stated that none of the companies under investigation obtained export financing under this program during the review period.

B. Preferential Income Tax Ceiling–22 Percent

Article 15 of the SEI permits capital-intensive and/or technology-intensive enterprises engaged in the basic metal production industry, heavy machinery industry, or petrochemical industry to use a marginal tax rate of 22 percent instead of the 35 percent rate required by Taiwan's income tax law. The responses stated that none of the companies under investigation claimed the 22 percent income tax rate during the review period.

C. Accelerated Depreciation and Tax Holiday

Article 6 of the SEI allows newly established "productive enterprises" either to use accelerated depreciation on fixed assets, machinery, and equipment or to select a five-year holiday on corporate income taxes. In addition, expanding firms may participate in a four-year tax holiday on increased profits from expansion or a rapid depreciation of newly purchased buildings or equipment. The responses stated that none of the companies under investigation applied for or received benefits under Article 6 of the SEI during the review period.

D. Duty Exemptions and Deferrals on Imported Equipment

Article 21 of the SEI allows productive enterprises to pay import duties and dues on selected capital equipment in a series of installments beginning one year from the date of importation. In addition, qualified enterprises are exempt from import duties on selected machinery and equipment used for the establishment or expansion of an approved project or for research and development. The responses stated that none of the companies under investigation used duty exemptions or deferrals on imported equipment during the review period.

E. Preferential Long-Term Loans

Article 84 of the SEI permits the Executive Yuan to establish and administer a special development fund to promote investments of interest to national economic development. The response stated that none of the companies under investigation obtained Article 84 loans or other assistance under Article 84 during the review period.

Verification

In accordance with section 776(a) of the Act, we will verify the data used in making our final determination.

ITC notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

If our final determination is affirmative, the ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 75 days after the Department makes its final affirmative determination.

Public comment

In accordance with section 355.35 of the Commerce Regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on May 29, 1986, at the U.S. Department of Commerce, Room 1414, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B–099, at the above address within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, pre-hearing briefs with at least 10 copies of the confidential version and seven copies of the non-confidential version must be submitted to the Deputy Assistant Secretary by May 23, 1986. Oral presentations will be limited to issues raised in the briefs.

In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

April 16, 1986.

[FR Doc. 86–9141 Filed 4–23–86; 8:45 am]

BILLING CODE 3510–DS–M

International Trade Administration,

Short Supply Review on Certain Ungalvanized Steel Rope; Request for Comments

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short supply determination under Article 8 of the U.S.-EC Arrangement on Certain Steel Products with respect to certain ungalvanized steel wire rope.

EFFECTIVE DATE: Comments must be submitted no later than ten days from publication of this notice.

ADDRESS: Send all comments to Nicholas C. Tolerico, Acting Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230, Room 3099, (202) 377–0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC Arrangement on Certain Steel Products provides that if the U.S. ". . . determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product . . . ."

We have received a short supply request for certain ungalvanized, high strength steel wire rope that is used as hoist lines for certain tower cranes, with a nominal diameter ranging from 18 to 22 mm.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than ten days from publication of this notice. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify that portion of their submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B–099 at the above address.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

April 21, 1986.

[FR Doc. 86–9212 Filed 4–23–86; 8:45 am]

BILLING CODE 3510–DS–M

National Oceanic and Atmospheric Administration

Marine Mammals; Application for Permit; Dr. James R. Gilbert (P274B)

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name Dr. James R. Gilbert, Associate Professor of Wildlife Resources.

b. Address 216 Nutting Hall, Orono, Maine 04469.

2. Type of Permit: Scientific Research.

3. Name and Number of Marine Mammals: Phoca vitulina concolor (Western North Atlantic Harbor Seal) 150.

4. Type of Take: Capture, Double Flipper Tag and Release.

5. Location of Activity: Mid-Coast Maine Bays, primarily Blue Hill, Jericho, and Penobscot Bays.

6. Period of Activity: 5 Years.

Concurrent with the publication of this notice in the Federal Register, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC;

Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

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Dated: April 17, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-9167 Filed 4-23-86; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjusting the Import Restraint Limit for Certain Wool Textile Products Produced or Manufactured in Yugoslavia

April 18, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on April 25, 1986. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On December 20, 1985 a notice was published in the **Federal Register** (50 FR 52833), which announced, among other things, the establishment, under the Bilateral Textile Agreement of October 26 and 27, 1978, as amended and extended, between the Governments of the United States and the Socialist Federal Republic of Yugoslavia, of a specific limit for men's boys' and wool and man-made fiber suits in Category 443/643, produced or manufactured in Yugoslavia and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. Under the terms of the bilateral agreement the sublimit for Category 443 is being reduced by 497 dozen, from 8,365 dozen to 7,868 dozen, to account for carryforward used in the previous year.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26822), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

April 18, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of December 20, 1985, which directed you to prohibit entry of certain wool and man-made fiber textile products, produced or manufactured in Yugoslavia.

Effective on April 25, 1986, the directive of December 20, 1985 is hereby amended to include the following adjusted sublimit for wool textile products in Category 443:

Category	Adjusted restraint limit [1]
443/643...	21,349 dozen of which not more than 7,868 dozen shall be in Category 443.

[1] The limits have not been adjusted to reflect any imports exported after December 31, 1985.

The Committee for the Implementaton of Textile Agreements has determined that this acton falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-9173 Filed 4-23-86; 8:45 am]

BILLING CODE 3510-DR-M

Requesting Public Comment on Bilateral Textile Consultations With the Government of India on Category 641

April 18, 1986.

On March 31, 1986, the Government of the United States requested consultations with the Government of India with respect to Category 641 (women's, girls' and infants' woven blouses of man-made fibers). This request was made on the basis of the bilateral agreement of December 21, 1982, as amended, between the Governments of the United States and India relating to trade in cotton, wool and man-made fiber textiles and textile products. The agreement provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market distuption, or the threat thereof.

The purpose of this notice is to advise that, pending agreement on a mutually satisfactory solution concerning this category, the Government of the United Sates has decided to control imports during the ninety-day consultation period which began on March 31, 1986 and extends through June 28, 1986 at a level of 187,411 dozen. If no solution is agreed upon in consultations between the two governments, CITA, pursuant to the agreement, may establish a prorated specific limit of 485,876 dozen for Category 641 for the entry and withdrawal from warehouse for consumption of textile products, produced or manufactured in India and exported during the period beginning on June 29, 1986 and extending through December 31, 1986.

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to prohibit imports of man-made fiber textile products in Category 641, produced or manufactured in India and exported during the ninety-day period which began on March 31, 1986 and extends through June 28, 1986 in excess of the established limit. In the event the limit established for the ninety-day period is exceeded, such excess amounts, if allowed to enter, may be charged to the level established during the subsequent restraint period.

A summary market statement for this category follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 641 under the agreement with India, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. Ronald I. Levin, Acting Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

India—Market Statement

Category 641—Women's, Girls' and Infants' Non-knit Blouses

March 1986.

Summary and Conclusions

U.S. imports of Category 641 from India were 574,000 dozens during the year ending January 1986, an 83 percent increase over the year ending January 1985 level. India is the seventh largest supplier of Category 641 and the largest uncontrolled supplier, accounting for 6 percent of the total imports in that category. In 1984, imports of Category 641 from India grew 37 percent from 220,000 dozen in 1983 to 301,000 dozen in 1984.

The sharp and substantial increase of low-valued imports of Category 641 from India is disrupting the U.S. market from women's, girls' and infants' non-knit blouses.

U.S. Production and Market Share

U.S. production of Category 641 declined 10 percent in 1984 from 20.9 million dozen in 1983 to 18.7 million dozen. U.S. production in 1984 was flat compared to 1982. Nevertheless, U.S. producers' share of the market declined from 78.1 percent in 1982 to 73.5 percent in 1984.

U.S. Imports and Import Penetration

Between 1982 and 1984 imports of Category 641 grew from 5.2 million dozen to 6.8 million dozen a 29 percent increase. Imports continued to grow in 1985, rising 39 percent to 9.4 million dozen. The ratio of imports to domestic production has grown steadily, from 28.1 percent in 1982 to 36.1 percent in 1984.

Duty-Paid Value and U.S. Producers' Price

Approximately 83 percent of India's 1985 imports of Category 641 entered under TSUSA No. 384.9110 (previously 383.9010)—women's man-made fiber blouses and shirts, yarn-dyed not knit or ornamented and TSUSA No. 384.9115 (previously 383.9015)—women's other man-made fiber blouses and shirts, not knit or ornamented. These garments enter the U.S. at landed, duty-paid values below the U.S. producers' price for comparable garments.

April 18, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 21, 1982, as amended, between the Governments of the United States and India; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on April 25, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 641, produced or manufactured in India and exported during the ninety-day period which began on March 31, 1986 and extends through June 28, 1986, in excess of the 187,411 dozen.[1]

Textile products in Category 641 which have been exported to the United States on and after January 1, 1986 shall remain subject to the group limit for Categories 330-359, 431-459, and 630-659 established for the period beginning on January 1, 1986 and extending through December 31, 1986.

Textile products in Category 641 which have been exported to the United States prior to March 31, 1986 shall not be subject to the ninety-day limit established in this directive.

Textile products in Category 641 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26822), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-9174 Filed 4-23-86; 8:45 am]

BILLING CODE 3510-DR-M

[1] The limit has not been adjusted to account for any imports exported after March 30, 1986.

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Atmospheric Obscuration; Meeting

The Defense Science Board Task Force on Atmospheric Obscuration will meet in open session on 27 June 1986 at: Kaman Tempo, 2560 Huntington Avenue, Suite 500, Alexandria, VA 22303, (Mr. D. Alderson (703) 960-4774).

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

At the meeting on 27 June 1986, the Task Force will conduct a review of recent relevant scientific work and develop a framework within which the Task Force will meet its responsibility to provide expert advice to the Under Secretary of Defense for Research and Engineering in this subject area.

Persons interested in attending should contact Colonel Terry Hawkins, Task Force Executive Secretary, Telephone (202) 697-3060. Space will be awarded on a first come, first serve basis.

Patricia Means,

OSD Federal Register Liaison Officer, Department of Defense.

April 21, 1986.

[FR Doc. 86-9147 Filed 4-23-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Board of Visitors, United States Military Academy; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following meeting:

Name of Committee: Board of Visitors, United States Military Academy.

Date of Meeting: May 16, 1986.

Place of Meeting: Room SD G-50 Senate Dirksen Office Building, Washington, DC.

Time of Meeting: 9:00 a.m.

Proposed Agenda

Election of officers; selection of Executive Committee; scheduling of meetings for remainder of year; and identification of areas of interest for 1986.

All proceedings are open.

FOR FURTHER INFORMATION CONTACT: Colonel D.P. Tillar, Jr., United States Military Academy, West Point, New York 10996.

For the Board of Visitors.

D.P. Tillar, Jr.,

Colonel, General Staff Executive Secretary, USMA Board of Visitors.

[FR Doc. 86-9180 Filed 4-23-86; 8:45 am]

BILLING CODE 3710-08-M

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DEPARTMENT OF EDUCATION

Application Notice for Continuation Awards Under the Centers for Independent Living Program for Fiscal Year 1986

AGENCY: Department of Education.

ACTION: Application Notice for Continuation Awards Under the Centers for Independent Living Program for Fiscal Year 1986.

Programmatic and Fiscal Information:

The purpose of this application notice is to inform potential applicants of fiscal and programmatic information and the closing date for transmittal of noncompeting continuation applications for Centers for Independent Living projects administered by the Department of Education under the Office of Special Education and Rehabilitative Services. Awards are made under this program to establish and operate Centers for Independent Living which provide a combination of services for severely handicapped persons so that they may live more independently in family and community, or secure and maintain employment, with the maximum degree of self-direction. Eligible applicants for continuation awards in Fiscal Year 1986 are grantees which received grant awards in Fiscal Year 1985. The authority for these awards is the Appropriations Act of 1986 (Pub. L. 99-178), which states that Fiscal Yer 1986 funds can only be used to assist grantees that received grant awards in Fiscal Year 1985. Grants will be awarded from 1986 funds to all 1985 grantees, unless the Commissioner of the Rehabilitation Services Administration determines that there was substantial failure to comply with the provision of the grantee's approved 1985 award.

The amount of funds appropriated under this grant program in Fiscal Year 1985 was $22,000,000, of which $20,124,000 was awarded to 86 existing grantees, and $1,876,000 was awarded to 39 new projects. Total funding available in Fiscal Year 1986 for htis program is $22,011,000. Sufficient funds will be available to award noncompeting continuation awards in Fiscal Year 1986 to all grantees who received Centers for Independent Living grant awards in Fiscal Year 1985.

Closing Date for Transmittal of Applications

Applications for noncompeting continuation awards must be mailed or hand delivered on or before May 27, 1986.

Applications sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: (CFDA No. 84.132), 400 Maryland Avenue, SW., Washington, DC 20202.

Applications that are hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, DC, time) daily, except Saturdays, Sundays, and Federal holidays.

Applicable Regulations

Regulations applicable to this program include the following:

(a) The regulations governing the Centers for Independent Living program in 34 CFR Part 366; and

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 78 and 79.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordiantion and review of proposed Federal financial assistance.

Immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by June 26, 1986, to the following address:

The Secretary, U.S. Department of Education, Room 4161, (CFDA No. 84.132), 400 Maryland Avenue, SW., Washington, DC 20202.

Please note that the above address is not the same address as the one to which the applicant submits its completed application. *Do not send applications to the above address.*

Application Forms

Application forms and program information packages will be mailed to each eligible applicant.

Further Information

For further information contact Judith Miller Tynes, Office of Developmental Programs, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3326 Mary E. Switzer Building, MS 2304, Washington, DC 20202. Telephone: (202) 732-1346.

Program Authority

29 U.S.C. 796e.

(Catalog of Federal Domestic Assistance Number 84.132 centers for Independent Living Program)

Dated: April 21, 1986.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 86-9209 Filed 4-23-86; 8:45 am]

BILLING CODE 4000-01-M

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Director, Information Resources Management Service invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before May 27, 1986.

ADDRESSES: Written comments should be addressed to the Office of Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW, Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with an agency's ability to perform its statutory obligations.

The Director, Information Resources Management Service publishes this notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: April 21, 1986.

George P.Sotos,

Director, Information Resources Management Service.

Office of Bilingual Education and Minority Languages Affairs

Type of Review: NEW
Title: Application for Grants under Bilingual Education Programs
Agency Form Number: T84-4P
Frequency: Annually
Affected Public: Individuals or households; State or local governments; Businesses or other for-profit; Non-profit institutions
Reporting Burden: Responses: 750; Burden Hours: 60,000
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: Eligible applicants use this form to request funding for activities authorized under Title IV of the Elementary and Secondary Education Act.

Office of Elementary and Secondary Education

Type of Review Requested: REVISION
Title: Application Form for Grants under Indian Education Programs
Agency Form Number: ED 736, 736-1
Frequency: Annually
Affected Public: State and local governments, non-profit institutions, and small businesses
Reporting Burden: Responses: 1500; Burden Hours: 45,000
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: This form is used to apply for grants under the programs authorized by the Indian Education Act, Pub. L. 92-318, as amended.

Type of Review: REVISION
Title: Preapplication and Application for Federal Assistance (Construction)
Agency Form Number: ED 355 and 355-1
Frequency: Annually
Affected Public: State or local governments
Reporting Burden: Responses: 38; Burden Hours: 380.
Recordkeeping Burden: Recordkeepers: 25; Burden Hours: 625

Abstract: Local education agencies in federally impacted areas use the preapplication/application to provide data needed for Departmental evaluation and determinations of eligibility, extent of need, and amount of entitlement.

Office of Postsecondary Education

Type of Review: REINSTATEMENT
Title: Application for Designation as an Eligible Institution under Title III Higher Education Act of 1965, as amended
Agency Form Number: 1049-6
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden: Responses: 1600; Burden Hours: 1600
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: The Division of Institutional Development will use the information requested to determine if an institution of higher education meets the specific program qualifications to receive Title III funds as provided for in the legislation and regulations governing the Institutional Aid Programs.

Type of Review: EXTENSION
Title: Performance Report for the Special Services for Disadvantaged Students Program, 34 CFR Part 646
Agency Form Number: ED 1231
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden: Responses: 663; Burden Hours: 1989
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: Special Services grantees are required to submit annual performance reports. The reports are used to evaluate project accomplishments, compliance, prior experience, and college impact data for budget submissions and congressional hearings.

[FR Doc. 86-9210 Filed 4-23-86; 8:45 am]

BILLING CODE 4000-01-M

National Center for Research in Vocational Education Advisory Committee; Meeting

AGENCY: National Center for Research in Vocational Education Advisory Committee.

ACTION: Notice of hearing.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Center for Research in Vocational Education Advisory Committee. This notice also describes the functions of the Committee. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: May 19, 1986.

ADDRESS: The National Center for Research in Vocational Education, Ohio State University, 1960 Kenny Road, Columbus, Ohio 43210.

FOR FURTHER INFORMATION CONTACT: Dr. Howard F. Hjelm, Director, Office of Vocational and Adult Education, Division of Innovation and Development, 300 7th Street, SW., Rm. 519, Reporters Building, Washington, DC 20202-5516, (202) 732-2350.

SUPPLEMENTAL INFORMATION: The National Center for Research in Vocational Education Advisory Committee is established under section 404 of the Carl D. Perkins Vocational Education Act of 1984 (Pub. L. 98-524). The Committee is established to advise the Secretary and the National Center's Director with respect to policy issues in the administration of the National Center and in the selection and conduct of major research and demonstration projects and activities of the National Center. Meetings held at the request of the Secretary are conducted in accordance with the Federal Advisory Committee Act (FACA).

The meeting of the Committee is governed by FACA and is open to the public on May 19, 1986 from 1:00 p.m. to 4:00 p.m. The proposed agenda includes:

1:00-1:30
Report and discussion of the Federal budget for vocational and adult education

1:30-2:30
Review of the Advisory Committee's Report on the National Center for

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Research in Vocational Education
2:30–3:00
Report on the status of the National Assessment of Vocational Education Programs
3:00–3:30
Discussion of national priorities for vocational education
3:30–4:00
Other items.

This meeting will be held in conjunction with a regular meeting of the Committee to advise the Center Director.

Records are kept of all Committee proceedings and are available for public inspection in the Program Improvement Systems Branch, 300 7th Street, S.W., Rm. 519, Reporters Building, Washington, DC 20202–5516, (202) 732–2367.

Dated: April 18, 1986.

John K. Wu,

Acting Assistant Secretary for Vocational and Adult Education.

[FR Doc 86-8171 Filed 4-23-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Conduct of Employees; Waiver of Participation Prohibitions

Section 606(a) of the Department of Energy Organization Act (Pub. L. 95–91, hereinafter referred to as the "Act") prohibits a "supervisory employee" (defined in section 601(a) of the Act) of the Department, for one year after terminating employment with an "energy concern" (defined in section 601(b) of the Act), from knowingly participating in any Department proceeding in which his former employer is substantially, directly, or materially involved, other than a rulemaking proceeding having a substantial effect on numerous energy concerns.

Further, section 606(b) of the Act prohibits a supervisory employee, for one year after commencing service in the Department, from knowingly participating in any Department proceeding for which he had direct responsibility, or in which he participated personally and substantially, within the previous five years while in the employment of an energy concern.

The term "Department proceeding" is defined in § 1010.103(h) of the Department's Conduct of Employees regulations (title 10, Code of Federal Regulations) as any judicial proceeding, Department hearing, application, rulemaking, order, license, contract, grant, award, fund transfer, claim, controversy, charge, accusation, or arrest in which the Department is directly involved.

Section 606(c) of the Act authorizes the Secretary of Energy to waive the participation prohibitions of subsections (a) and (b) of section 606 when he finds that application of the prohibitions would be contrary to the national interest.

Dr. Albert D. Rossin is under consideration for nomination by the President for the position of Assistant Secretary for Nuclear Energy, Department of Energy, a supervisory employee position. The Assistant Secretary for Nuclear Energy is responsible for the management, administration, and program direction of the Department's research and development programs associated with fission energy. The Department has an agreement with the Electric Power Research Institute for cooperation in the planning and development of research and demonstration projects in this field. Dr. Rossin is currently employed by the Electric Power Research Institute, which is an energy concern.

Dr. Rossin possesses a unique combination of knowledge of nuclear energy and experience in management of complex technological programs in this field. It is my expectation that he will bring to the Department of Energy the unique combination of expertise and experience required to manage the Department's nuclear energy program. Dr. Rossin will sever all official relationships with, and divest himself of all financial interests in, the Electric Power Research Institute prior to assuming the position of Assistant Secretary for Nuclear Energy.

I have considered the benefits to be derived by the United States from having Dr. Rossin available to participate fully, as the Assistant Secretary for Nuclear Energy, in matters involving the Electric Power Research Institute. I am satisfied that it is in the national interest to grant him this waiver of the participation prohibitions of section 606 of the Act with respect to proceedings relating to the Department's nuclear energy program that involve the Institute.

Dated: April 17, 1986.

John S. Herrington,

Secretary of Energy.

[FR Doc. 86-8246 Filed 4-23-86; 8:45 am]

BILLING CODE 6450-01-M

Physics of Plasma Confinement of Reversed Field Pinch

AGENCY: Department of Energy (DOE), Office of Fusion Energy.

ACTION: Notice of solicitation DE–SC01–86ER53229, solicitation for cooperative agreement proposals (SCAP) for research and development of the physics of plasma confinement of the reversed field pinch.

SUMMARY: The Department of Energy intends to negotiate a cooperate agreement on a basis of competitive selection to perform Research and Development in the subject area of the Physics of Plasma Confinement by magnetic means in Configurations of the Reversed Field Pinch (RFP) type or its variants. Participation in the research will be on a joint basis with the Los Alamos National Laboratory, and a cost shared participation is required. Innovative research proposals from applicants are sought to define, fabricate, and jointly operate an experimental assembly of the reversed field pinch type. The assembly will be mounted, serviced, and operated as part of a Confinement Physics Research Facility (CPRF) located at and operated by the Los Alamos National Laboratory.

The recipient is expected to participate in the management of the overall CPRF, and to participate in the experimental research phase of the program. The program shall consist of a four-year fabrication and two-year operations phase.

The cost of the CPRF capable of producing a four million ampere plasma current is estimated to be $82,140,000 of which $52,140,000 is the cost of the host facility and $10,000,000 the cost of the RFP device. In addition, it is anticipated that the cost of the operations phase will total $20 million over two years. The recipient cost share shall consist of a significant fraction of the overall cost over the 6 years of the program.

Procurement Request Number: DE–SC01–86ER53229

For copies of the Solicitation, a written request must be sent to: U.S. Department of Energy, P.O. Box 2500, Attn: Document Control Specialist, MA–452.1, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Joyce Gray, Ph. (202) 252–1024 or Glen R. Taranto, Ph. (202) 252–1062, U.S. Department of Energy, Office of Procurement Operations, MA–452.1, 1000 Independence Avenue SW., Washington, DC 20585.

Dated: April 18, 1986.

David G. Newman,

Director, Office of Procurement Operations.

[FR Doc. 86-8244 Filed 4-23-86; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council; Historical Factors Task Group; Meeting

Notice is hereby given that the Historical Factors Task Group will meet in April 1986. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Historical Factors Task Group is responsible for the identification and analysis of events, governmental policies, and actions (federal, state, and local), and the reactions of the oil and gas industries to such events, policies and actions (i.e., the "factors") that affect the supply of and demand for oil and gas in the U.S. since the end of World War II.

The Historical Factors Task Group will hold its first meeting on Tuesday, April 29, 1986, starting at 9:30 a.m., in the Conference Room of the National Petroleum Council, 1625 K Street NW., Washington, DC.

The tentative agenda for the Historical Factors Task Group meeting following:

1. Opening remarks by the Chairman and Government Cochairman.
2. Discuss the scope of the overall study.
3. Discuss the study assignment of the Task Group.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Historical Factors Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Historical Factors Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Pat Dickinson, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353–2430, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 17, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86-8247 Filed 4-23-86; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council; Future Supply/Demand Factors Task Group; Meeting

Notice is hereby given that the Future Supply/Demand Factors Task Group will meet in May 1986. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Future Supply/Demand Factors Task Group's activities will be to identify the major factors that will affect the U.S.'s future supply and demand of oil and gas and to evaluate the influence such factors could have on the vulnerability of the U.S. to future energy crises.

The Future Supply/Demand Factors Task Group will hold its first meeting on Tuesday, May 6, 1986, starting at 9:00 a.m., in Room 1429 of the Gulf Tower, 1301 McKinney Street, Houston, Texas.

The tentative agenda for the Future Supply/Demand Factors Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Discuss the scope of the overall study.
3. Discuss the study assignment of the Task Group.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Future Supply/Demand Factors Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Future/Demand Factors Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Pat Dickinson, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353–2430, prior to the meeting and reasonable provison will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E–190, DOE Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 17, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86-8248 Filed 4-23-86; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 86–20–NG]

Natural Gas Imports; PROGAS U.S.A., Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Correction.

The **Federal Register** notice of the application in this docket published on April 3, 1986, inadvertently left out several of the proposed delivery points. The proposed delivery points are: Huntingdon, British Columbia; Monchy, Saskatchewan; Emerson, Manitoba; Kingsgate, British Columbia; and Niagara Falls, Ontario.

Issued in Washington, DC, April 18, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-8245 Filed 4-23-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER83–297–004]

Arkansas Power & Light Co.; Order Accepting Rates for Filing, Subject to Refund, Noting Intervention, and Establishing Hearing Procedures

Issued: April 16, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt, and C.M. Naeve.

On March 4, 1986, Arkansas Power & Light Company (AP&L) submitted for filing informational schedules detailing charges under its formula rates for requirements and transmission service to the Cities of Campbell and Thayer, Missouri (Cities) on and after March 1, 1986. The rate formula provides for an annual update on March 1st of each year, based upon AP&L's actual costs during the preceding year, and reflecting a return on common equity set at the rate approved by the Arkansas Public

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Service Commission in AP&L's last general retail rate case.

AP&L's filing is submitted pursuant to the terms of a settlement agreement approved by the Commission in Docket No. ER83-297-000 on October 4, 1983.[1] That agreement, which incorporates by reference certain provisions of an earlier settlement agreement approved in *Arkansas Power & Light Co.*, Docket Nos. ER82-768-000, et al., states that AP&L shall annually provide the Commission and its customers with informational schedules, containing cost of service data and supporting work papers, showing the operation of the formula rates and the charges thereunder. Within 60 days of AP&L's submission, AP&L's customers may request a hearing, pursuant to section 205 of the Federal Power Act, concerning the cost calculations reflected in the informational schedules (including the stated rate of return). In the event that a hearing is instituted, any increase in charges is to be collected subject to refund, pending a determination as to the justness and reasonableness of the informational schedules.

Notice of AP&L's filing was published in the **Federal Register**,[2] with comments due on or before March 21, 1986. The Cities filed a timely motion to intervene, alleging in general terms that the proposed rate of return is excessive, given current financial conditions, and that other issues may be pursued at hearing. They request that the new charges be suspended for one day, and that the matter be set for hearing.

On April 7, 1986, AP&L filed an answer, opposing the initiation of hearing procedures. AP&L acknowledges that the Cities may challenge whether the cost of common equity applied by the company under the formula rate is in fact the cost of common equity as determined by the Arkansas Commission in AP&L's last general retail rate filing; however, AP&L contends that the Cities may not otherwise contest the use of that common equity figure, since to do so would represent a challenge to the formula itself. AP&L further argues that the Cities' attempt to amend only one component of the formula rate, but not the others, is contrary to Commission policy.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214(c)(1)), the timely, unopposed motion to intervene serves to make the Cities parties to this proceeding.

We agree with AP&L that, with respect to return on common equity, the Cities appear to be challenging the formula itself rather than the data contained in the informational schedules.[3] However, our reading of the parties' earlier settlement indicates a clear distinction in the anticipated treatment of such issues. Article 9 of the settlement concerns challenges to the composition of AP&L's annual informational filings under section 205 of the Federal Power Act for the narrow purpose of reviewing the cost calculations under the stated formula rate. Article 10, in contrast, provides a mechanism under which the Commission staff might question the continued use of various components of the formula itself at three year intervals under section 205 of the Act.[4]

Under these distinct provisions, the Cities clearly negotiated away certain rights, in particular the right to challenge elements of the rate formula under section 205 at the time of annual informational filings. As noted, the Arkansas Commission's allowed equity return is an express component of AP&L's formula rate. Thus, we construe the present claim as precisely the type of issue that the settlement eliminates from annual consideration under a section 205 refund mechanism. Nonetheless, we are not prepared to conclude that the settlement must totally foreclose examination of the formula rate of return component, a cost element which the Commission seldom allows to operate automatically in any event. We shall permit the Cities or the trial staff to question this aspect of the rate formula, if they see fit, under section 206 prospective change procedures.[5]

While we are concerned about the lack of specificity in their motion to intervene, the Cities have alluded to other potential challenges to the information in AP&L's filing. Because the parties' settlement agreement does not require further particularization of customer objections, but instead appears to contemplate a rather broad opportunity for a hearing on the application of the formula rate, we shall convent a hearing to consider such issues and, in the interim, we shall accept AP&L's submittal for filing, to be effective as of March 1, 1986, subject to refund. We shall also order a prompt prehearing conference at which time the Cities should be prepared to specify their other challenges to AP&L's submittal.

The Commission orders

(A) AP&L's submittal is hereby accepted for filing, subject to refund, effective March 1, 1986.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held as discussed in the body of this order.

(C) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held while approximately fifteen (15) days from the date of this order in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. At such conference, the Cities should be prepared to set forth a more particularized specification of their objections to AP&L's submittal. The presiding judge is authorized to establish procedural dates, including the submission of a case-in-chief by AP&L, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(D) Subdocket 004 of Docket No. ER83-297 is hereby terminated. The evidentiary hearing ordered herein is assigned Docket No. ER83-297-005.

(E) The Secretary shall promptly publish this order in the **Federal Register**.

[1] 25 FERC ¶ 61,070.

[2] 51 FR 9876 (1986).

[3] The Cities do not suggest that AP&L has failed to properly reflect the State commission determination in its calculations, but rather that the return is nonetheless unjust and unreasonable.

[4] The settlement provisions and pertinent portions of the rate formula are attached to this order for the reader's convenience. It bears noting that when the Commission originally accepted the settlement for filing, it made clear that nothing in the agreement, including Article 10, should be regarded as precluding the Commission from questioning the continuing reasonableness of the formula at any time under section 206. See 25 FERC at 61,249. (See appendices I and II.)

[5] In the event that we misread the Cities' abbreviated pleading and they intend, in fact, to question whether the return figure used by AP&L actually comports with the Arkansas Commission's allowance, this question may, consistent with the above discussion, be properly pursued under section 205.

By the Commission.

Kenneth F. Plumb,

Secretary.

Appendix I—Arkansas Power and Light Co.; Settlement Provisions

* * * * *

8. The parties agree that calculation of charges pursuant to the Power Coordination, Interchange and Transmission Service Agreements, as amended in paragraphs 5, 6 and 7 above, shall be effective for services commencing March 1, 1982.

9. AP&L agrees to provide the Commission and the customers with informational schedules, containing cost of service data and supporting work papers, which show the operation of the formulary rates and the resulting charges for each year during which the tendered agreements are in effect. The informational schedules will be submitted to the Commission and the customers on or about March 1 of the year immediately following the year from which the data are derived, and the resulting charges will take effect as of March 1 of the year in which the informational schedules are submitted. If the Commission Staff or the customers, after review of such informational schedules, should determine that a hearing is needed to investigate the cost determinations contained therein, such a hearing may be requested by an appropriate written filing with the Commission within 60 days of the submittal of the informational schedules by AP&L (rather than 30 days, as specified in the March 10, 1981 Settlement Agreement). The parties agree that such a hearing, if instituted by the Commission, will be for the sole purpose of reviewing, pursuant to Section 205 of the Federal Power Act, the data contained in the informational schedules that form the input components of the formulary rates contained in Attachment B. Such review, if necessary, would include the figures for rate of return on equity and A&G expense. It is contemplated that in the event the Commission Staff or the customers request such a hearing, the Commission may issue an order no later than 30 days after such request establishing procedures under Section 205 of the Federal Power Act for a hearing. It is further agreed by the parties that any increases in charges resulting from the operation of the formulary rates will be subject to refund for the year during which they are effective pending the outcome of such a hearing to determine the justness and reasonableness of such informational schedules, or until it is determined that no such hearing will be instituted, whichever period is shorter. There will be no suspension of such charges if a hearing is ordered.

10. The parties agree that the Staff of the Commission will have the right to request an investigation of the formulary rates contained in the tendered agreements only in 1984 and every third calendar year thereafter. If the Staff of the Commission should determine that a hearing is needed to investigate the formulary rate or any component thereof, such a hearing may be requested by an appropriate filing with the Commission during the time period March 1 to May 31 of that year. The parties agree that such a hearing, if instituted by the Commission, will be for the purpose of reviewing, pursuant to Section 205 of the Federal Power Act, the justness and reasonableness of the formulary rates contained in the tendered agreements. It is contemplated that in the event the Staff of the Commission requests such a hearing, the Commission may issue an order establishing procedures for such a hearing under Section 205 of the Federal Power Act on or before July 1 of that year. It is further agreed by the parties that, in the event the Commission orders such a hearing, any increase in charges resulting from the operation of the formulary rates in the calendar year 1984 and every third year thereafter, in the event the Commission orders such a hearing in any of those years, will be subject to refund pending the outcome of such a hearing to determine the justness and reasonableness of the formulary rates. If the Staff of the Commission determines that an investigation of the formulary rates is not necessary and does not request a hearing on the justness and reasonableness of the formulary rates during the time period March 1 to May 31, the formulary rates as contained in Attachment B will operate in accordance with their terms, subject however, to the right to review the informational schedules, as described in paragraph 8 of this Settlement Agreement.

11. The Power Coordination, Interchange and Transmission Service Agreements filed in Docket No. ER80-373, as modified by the March 10, 1981 Settlement Agreement, shall remain * * *

Appendix II. Rate Formula

Arkansas Power & Light Company, Common Parameter Calculation

Cost of capital

$$CC = D*DR + \frac{PF*PR + CE*CR}{TX}$$

where:

CC = Before tax cost of capital
D = Embedded cost of long-term debt
DR = Debt capitalization ratio
PF = Embedded cost of preferred stock dividends
PR = Preferred stock capitalization ratio
CE = Cost of common equity as determined by Arkansas Public Service Commission in AP&L's last general retail rate filing in which a final order has been issued
CR = Common equity capitalization ratio
TX = Composite after tax rate
TX = (1—S) (1—F)

where.

S = State income tax rate
F = Federal income tax rate

Other Tax Rate

$$OTR = \frac{CSFXP + RPTXP + FICA\ (1 - CSLR)}{PLT}$$

where:

OTR = Other tax rate
CSFXP = Annualized December capital stock franchise tax expense
RPTXP = Annualized December real and personal property tax expense
FICA = Annualized December FICA tax expense
CSLR = Ratio of customer services/customer accounts payroll to total payroll charged to O&M expense

[FR Doc. 86-8231 Filed 4-23-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-1831-004]

Peter J. DeMaria; Application

April 21, 1986.

Take notice that on April 14, 1986 Peter J. DeMaria tendered for filing application for authorization to hold the following positions, pursuant to section 305(b) of the Federal Power Act:

Position	Name of Corporation	Classification
Treasurer and director.	AEP Generating Co	Electric Utility.
Treasurer	Appalachian Power Co.	Do.
Do	Cardinal Operating Co.	Do.

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Position	Name of Corporation	Classification
Treasurer and director.	Columbus and Southern Ohio Electric Co.	Do.
Treasurer	Indiana and Michigan Electric Co.	Do.
Do	Wisconsin Valley Electric Co.	Do.
Treasurer and director.	Kentucky Power Co	Do.
Do	Kingsport Power Co	Do.
Do	Michigan Power Co	Do.
Do	Ohio Power Co	Do.
Treasurer	Wheeling Electric Co.	Do.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 or 211 of the Commission's Rules of Practice and Procedure (118 CFR 385.214, 385.211). All such motions or protests should be filed on or before May 1, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-9233 Filed 4-23-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. ER85-515-000 et al.]

Electric Rate and Corporate Regulation Filings; Florida Power and Light Co. et al.

Take notice that the following filings have been made with the Commission:

1. Florida Power and Light Company

[Docket No. ER85-515-000]

April 21, 1986.

Take notice that on April 10, 1986, Florida Power and Light Company (FPL) tendered for filing a letter advising the Commission that FPL did not make refunds pursuant to the Commission's February 28, 1986 letter approving a stipulation and agreement among FPL and Seminole Electric Cooperative, Inc. and Florida Cities, except for the negotiated dollar payment of $25,000 sent to Seminole by letter of March 12, 1986. Under the Settlement Agreement, FPL's filed rates were effective from May 1, 1985 through December 31, 1985. Effective January 1, 1986, any collections were at Settlement Rates provided by the Stipulation and Agreement, as permitted by the Commission's order of January 31, 1986, granting the joint motion of FPL, Seminole and Florida Cities to permit interim collection of Settlement rates. Any additional refunds were to be paid only if FPL collected amounts in excess of the Settlement Rate after the January 1, 1986 effective date of such rates provided by the Stipulation and Agreement. Accordingly, FPL said no further refunds are due.

Comment date: May 1, 1986, in accordance with Standard Paragraph H at the end of this notice.

2. Catalyst Old River Hydroelectric Limited Partnership

[Docket No. ER86-408-000]

April 21, 1986.

Take notice that on April 14, 1986, Catalyst Old River Hydroelectric Limited Partnership (Old River Hydro) tendered for filing notice that it has entered into contract with Louisiana Power and Light Company (LL&P) for the sale of energy to LL&P. The Town of Vidalia a co-licensee in the Old River Project (Project No. 2854) has consented to the contract.

In addition, Old River Hydro has entered into a contract with the town of Vidalia for the Sale of the remaining energy from the project to the town. Both contracts were tendered for filing in this Docket Number.

Comment date: May 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Gulf States Utilities Company

[Docket No. ER86-36-000]

April 21, 1986.

Take notice that on April 14, 1986, Gulf States Utilities Company filed an application seeking an order under Section 204(a) of the Federal Power Act authorizing the Applicant to issue up to 6,000,000 Additional Shares of New Common Stock, without par value, pursuant to its Automatic Dividend Reinvestment and Stock Purchase Plan, and for exemption from competitive bidding requirements.

Comment date: May 13, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Kansas City Power & Light Company

[Docket No. ES86-34-000]

April 18, 1986.

Take notice that on April 14, 1986, Kansas City Power & Light Company filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to section 204 of the Federal Power Act, to issue not more than $300 million of Short-Term Debt and Commercial Paper on or before June 30, 1988, which would mature no later than June 30, 1989.

Comment date: May 14, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Northern States Power Company

[Docket No. ER86-413-000]

April 21, 1986.

Take notice that Northern States Power Company (NSP), on April 16, 1986, tendered for filing Supplement No. 5 to the Transmission Service Agreement Between Northern States Power Company and East River Electric Power Cooperative (Supplement).

The Supplement reduces the obligation of the customer to compensate NSP for transmission line losses. The Supplement provides that NSP shall only be furnished power and energy equal to 4.5 percent of the deliveries from alternate suppliers instead of the 7 percent provided for in the existing agreement.

The filing of this Supplement by NSP is a result of the settlement reached between the parties in the FERC Docket No. EL86-14.

NSP requests a waiver of the 60 Day Notice Requirement and an effective date of May 20, 1986, for this Supplement.

Comment date: May 5, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. San Diego Gas and Electric Company

[Docket No. ER86-49-000]

April 21, 1986.

Take notice that on April 15, 1986 San Diego Gas and Electric Company (SDG&E) tendered for filing information intended to supplement its December 17, 1986 filing in Docket No. ER86-49-000. Today's filing includes revised cost information regarding SDG&E's firm power purchases which is necessary in order to make economy energy power transactions under Section A.8.2 of the Interconnection Agreement Public Service Company of New Mexico and SDG&E, which agreement was filed in Docket No. ER86-49-000.

Comment date: May 1, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. The Washington Water Power Company

[Docket No. ER86-389-000]

April 21, 1986.

Take notice that The Washington Water Power Company of Spokane, Washington, on April 15, 1986, tendered for filing a Transmission Wheeling Tariff, Schedule 62. This tariff is related to transmission wheeling service for borderline customer loads provided only to the Bonneville Power Administration under a currently existing General Transfer Agreement. The tariff reflects a change in the method used to calculate the charges for this service. The proposed change would increase revenues from transmission wheeling services provided to the Bonneville Power Administration by approximately $990,000 based on the 12-month period ending December 31, 1985.

The proposed tariff is submitted for the purpose of compensating The Washington Water Power Company for increases in its cost of capital, labor, materials, supplies and taxes.

A copy of the filing has been served upon the Bonneville Power Administration.

Comment date: May 1, 1986, in accordance with Standard Paragraph E at the end of this document.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-9237 Filed 4-23-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. SA86-16-000]

The Kansas Power & Light Co.; Petition for Exemption and Interim Relief

Issued April 21, 1986.

On April 2, 1986, The Kansas Power and Light Company (KPL) filed a petition, pursuant to section 206(d) of the Natural Gas Policy Act of 1978 (NGPA) [1] and section 282.206(b) of the Federal Energy Regulatory Commission's regulations,[2] for exemption from the Commission's incremental pricing regulations under Title II of the NGPA.[3] KPL requests interim and permanent exemption from the imposition of incremental pricing surcharges on rates for its gas sales to 19 nonexempt industrial customers.[4] KPL presently sells or could sell gas to these customers for use as boiler fuel in their respective industrial facilities located in the States of Kansas and Missouri.

In support of its petition, KPL states that the incremental pricing surcharge levied on the industrial customers will cause their gas costs to rise above the price of alternative fuels and that without exemption relief there is a great likelihood these customers will (1) switch to alternative fuels such as fuel oil, propane, or intrastate gas, (2) relocate production lines to other areas where available fuels are not subject to incremental pricing, or (3) cease or significantly reduce operations. KPL states that these customers have the capability to burn alternative fuels and that a loss of sales to such customers will force its high priority customers to bear a larger portion of its fixed costs.

The procedures applicable to the conduct of this proceeding are set forth in Subpart K of the Commission's Rules of Practice and Procedure.[5] Any person desiring to participate in this proceeding must file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene in accordance with Subpart K within 15 days after publication of this notice in the Federal Register.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-9232 Filed 4-23-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CI86-295-000]

Tenneco Oil Co.; Application for Permanent Abandonment Authorization and Cancellation of Producer Rate Schedules

April 21, 1986.

Take notice that on March 28, 1986, Tenneco Oil Company (Applicant or Tenneco Oil), P.O. Box 2511, Houston, Texas 77001, filed an application pursuant to 7(b) of the Natural Gas Act and 18 CFR 2.77 and 157.30 of the Commission's Regulations thereunder for authorization to abandon permanently the obligations established under certificates of public convenience and necessity issued in Docket Nos. G-18765 and CI63-1513, and to cancel the related rate schedules. Both dockets cover sales to Valero Interstate Transmission Company (Vitco).

Tenneco Oil is the producer and seller of natural gas. In Docket No. G-18765, Tenneco Oil received a certificate of public convenience and necessity authorizing sales under a contract dated May 8, 1959, on file as Tenneco Oil FERC Gas Rate Schedule No. 137. It received a certificate of public convenience and necessity in Docket No. CI63-1513 governing sales of natural gas pursuant to a sales contract dated May 8, 1963, on file as Tenneco Oil FERC Gas Rate Schedule No. 166. Tenneco Oil states that its gas sales contracts with Vitco in both dockets have expired.

All gas sold under Rate Schedule No. 137 is produced in the North Monte Christo Field, Hidalgo County, Texas. The gas previously qualified for a price under NGPA 104 for minimum rate gas, currently $0.318 per Mcf. Tenneco Oil states that its interest in the well sought to be abandoned represents a total deliverability of approximately 250 Mcf per day.

All gas sold under Rate Schedule No. 166 is produced in the McAllen Ranch Field, Hidalgo County, Texas. The gas qualifies for prices under NGPA 104 for post-1974 gas ($2.553 per MMBtu in March 1986), as well as for 1973-1974 biennium, replacement recompletion, and flowing gas rates. Tenneco Oil states that its interest in the wells sought to be abandoned represents a total deliverability of 3,400 Mcf per day.

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[1] 15 U.S.C. 3346(d) (1982).
[2] 18 CFR 282.206(b) (1985).
[3] 15 U.S.C. 3341-3348 (1982).
[4] The following ten existing nonexempt customers are listed in the application: General Motors Corp. (Leeds), Ford Motor Co., Bendix Corp., Marion Laboraties, Cessna Aircraft Co., Atlas Powder Co., IRECO, AT&T Technologies, Cook Paint & Varnish Co., and Olin/Winchester. Three others, Peoples Natural Gas Co., Getty Oil Co., and Northern Gas Products, Inc., discontinued purchase when they became subject to incremental pricing. In addition, KPL sells gas to six customers listed in the application presently covered by interim exemptions previously granted by the Commission. These are: Proctor & Gamble, Colgate Palmolive, General Motors (Fairfax), Owens Coming, Thompson Hayward, and Armco, Inc. KPL seeks permanent exemptions with respect to all these customers.
[5] 18 CFR 385.1101-385-1117 (1985).

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Applicant states that the abandonment is premised on the Commission's order issued August 2, 1985, granting a limited-term abandonment of these sales pursuant to a settlement in Transcontinental Gas Pipe Line Corp., *et al*, Docket Noc. CP84-183-000, *et al*. The limited-term abandonment granted therein expired January 28, 1986. Under the terms of the settlement approved by the Commission in those consolidated proceedings, producers were permitted to apply for permanent abandonment if Vitco could not secure alternative markets for the gas by January 28, 1986.

Teaneco Oil seeks abandonment of these supplies so that it can continue selling gas elsewhere after January 28, 1986. Applicant requests expedited consideration of its application pursuant to Docket No. RM85-1-000 and §2.77 of the Commission's Regulations, due to substantially reduced takes by Vitco without payment.

The circumstances presented in the application meet the criteria for consideration on an expedited basis, pursuant to §2.77 of the Commission's Regulations as promulgated by Order Noc. 436 and 436-A, issued October 9 and December 12, 1985, respectively, in Docket No. RM85-1-000, all as more fully described in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before 15 days after the date of publication of this notice in the Federl Register, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9234 Filed 4-23-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-425-000 et al.]

United Gas Pipe Line Co. et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. United Gas Pipe Line Company

[Docket No. CP86-425-000]

April 21, 1986.

Take notice that on April 9, 1986, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP 86-425-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Tennessee Gas Pipeline Company, a division of Tenneco Inc. (Tennessee), under a gas transportation agreement, dated March 21, 1986, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that the agreement provides for Tennessee to cause the delivery of up to the maximum daily quantity (MDQ) of 8,000 Mcf of natural gas per day to United at an existing 12-inch sub-sea tap on United's South Marsh Island 155 lateral located in South Marsh Island Block 156, offshore Louisiana. United proposes to redeliver equivalent quantities of gas to Tennessee at an existing interconnection between facilities of United and Sea Robin Pipeline Company located in the South Marsh Block 127, offshore Lousiana.

United states that for each Mcf of gas redelivered by United, United would charge Tennessee the effective cost of service rate which for Tennessee is 23.6 cents per Mcf.

Comment date: May 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

[Docket No. CP86-424-000]

April 18, 1986.

Take notice that on April 9, 1986, Crown Zellerbach Corporation (Crown Zellerbach) and Gaylord Container Limited (Gaylord), One Bush Street, San Francisco, California 94104, jointly filed in Docket No. CP86-424-000 an application pursuant to sections 7(b) and 7(c) of the Natural Gas Act for authorization permitting and approving Crown Zellerbach to abandon its entire interestate transmission facility and for a certificate of public convenience and necessity authorizing Gaylord to acquire and operate such facility, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is explained that Crown Zellerbach is an integrated forest products company that manufactures and distributes a broad range of paper and wood products. As part of its operations, Crown Zellerbach states that it owns and operates a paper mill in Bogalusa, Washington Parish, Louisiana, that uses natural gas for plant protection and paper processing. It is explained that the gas is purchased in the southwestern counties of Mississippi and then transported to Crown Zellerbach's Bogalusa mill in Louisiana by means of a 92.3-mile pipeline that is owned and operated by Crown Zellerbach solely for its own use in the mill. By reason of this interstate transportation function, the Commission by order issued October 1, 1973, in Docket No. CP73-322 determined that Crown Zellerbach was a natural-gas company within the meaning of the Natural Gas Act even though Crown Zellerbach neither transports gas for others or sells gas for resale.

Crown Zellerbach now propposes to abandon the operation of the subject pipeline by transferring these properties [1] as part of a stock transaction encompassing all of Crown Zellerbach's assets to Gaylord. Applicants state that following acquisition of Crown Zellerbach's assets, Gaylord proposes to continue to operate the subject pipeline and all related facilities to serve the Bogalusa paper mill.

Comment date: May 12, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. Northern Natural Gas Company Division of InterNorth, Inc.

[Docket No. CP83-131-004]

April 21, 1986.

Take notice that on April 16, 1986, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP83-131-004 an amendment to its petition to amend filed pursuant to Section 7(c) of the Natural Gas Act in Docket No. CP83-131-003 that is presently pending before the Commission to request authority to operate in interstate commerce 2.0 miles of 16-inch pipeline and 3.25 miles of 24-inch pipeline located in the Matagorda Island Area, offshore Texas (MAT), all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Northern states that it constructed 2.0 miles of 16-inch pipeline to the MAT 623 "A" platform during 1984 and 3.25 miles of 24-inch pipeline to the MAT 622 "C" platform from its existing pipeline in MAT 624 during 1985. It is indicated that the facilities were constructed to attach gas supplies in MAT 622 and 623 which Northern intended to transport for Amoco Gas Company (Amoco). Northern explains that it filed in Docket No. CP83-131-003 to provide such firm transportation service for Amoco under section 7(c).

It is stated that the actual construction cost of the MAT 623 "A" and MAT 622 "C" pipeline facilities was $2,970,800 and $5,123,700, respectively. It is further stated that transportation service was initiated from the MAT 623 "A" platform, pursuant to Subpart B of Part 284 of the Commission's Regulations on November 16, 1984, as reported in Docket No. ST85-286-000 and that transportation service from MAT 623 "A" continues today as a "grandfathered" transportation arrangement under the provisions of Order No. 436. Northern states that transportation from MAT 622 "C" has not commenced.

In Docket No. CP83-131-003, Northern indicated that the 16-inch and 24-inch laterals were to be constructed and operated pursuant to Northern's Order No. 234 blanket certificate. Since the two laterals do not appear to qualify as either "eligible facilities" or "gas supply facilities" as defined in § 157.202 of the Regulations and Northern is therefore not authorized to construct and operate the facilities under its blanket certificate, Northern proposes in the subject amendment to operate the two laterals which have already been constructed.

Comment date: May 14, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

4. Williston Basin Interstate Pipeline System

[Docket Nos. CP86-430-000, CP86-431-000, RP86-10-005, RP86-10-000]

April 18, 1986.

Take notice that on April 4, 1986, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, filed in Docket No. CP86-430-000 an application pursuant to Section 7 of the Natural Gas Act for permission and approval to abandon partially service to Colorado Interstate Gas Company (CIG), i.e., to abandon sales service performed under Rate Schedule X-5, and to amend the terms of the storage service performed under Rate Schedule X-5. Also, on April 4, 1986, Williston Basin filed in Docket No. CP86-431-000 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon service to MIGC, Inc. (MIGC), performed under Rate Schedule X-6. Further, Williston Basin filed on March 31, 1986, in Docket No. RP86-10-005 pursuant to § 154.94 of the Commission's Regulations, a notice of cancellation of its Rate Schedule X-6. Finally, Williston Basin filed in Docket No. RP86-10-000 on April 4, 1986, an offer of partial settlement pursuant to Rule 602 of the Commission's Rules of Practice and Procedure. These proposals are more fully set forth in the applications, notice of cancellation, and offer of settlement which are on file with the Commission and open to public inspection.

Williston Basin seeks authorization in Docket No. CP86-430-000 to abandon partially service under Rate Schedule X-5, wherein Williston Basin's current storage service for CIG would be abandoned. In a letter submitted as part of the filing, CIG states that the natural gas available for sale under the contract would remain unmarketable. It is explained that the storage service under Rate Schedule X-5 would continue, but be amended such that the remaining CIG gas stored in Williston Basin's Elk Basin Storage Field (approximately 6.3 Bcf) would be drawn down over a six-year period. For the stored gas, CIG would pay Williston Basin a monthly storage rate of 0.44 cents per Mcf, effective May 2, 1986, subject to refund, for the maximum inventory of gas held in storage for CIG during the billing month. Williston Basin has submitted a *pro forma* Rate Schedule X-5 reflecting the proposed changes.

Williston Basin seeks authorization in Docket No. CP86-431-000 to abandon sales service to MIGC under Rate Schedule X-6. MIGC has indicated in a letter to CIG contained in the filing that it has no intention of taking any gas under Rate Schedule X-6 and that it would agree to contract cancellation and abandonment of service.

In Docket No. RP86-10-005, Williston Basin has filed a notice of cancellation of Rate Schedule X-6, consisting of a one page, *pro forma* tariff sheet. Williston Basin states that this notice of cancellation would only be effective if the abandonment authority it seeks in Docket No. CP86-431-000 is approved.

Williston Basin has filed an offer of partial settlement which would give effect in Williston Basin's current Section 4 rate case, Docket No. RP86-10-000, to the partial abandonment of service to CIG, the revised storage service for CIG, and the abandonment of service to MIGC. Williston Basin has filed *pro forma* tariff sheets to reflect its proposed offer of partial settlement. This offer of partial settlement is entirely dependent upon the outcome of Williston Basin's filings in Dcoket Nos. CP86-430-000 and CP86-431-000.

Comment date: May 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9235 Filed 4-23-86; 8:45 am]

BILLING CODE 6717-01-M

[1] The application did not state a particular price for the pipeline.

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[Docket No. RM85-1-185]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Carbonaire Co., Inc.); Order Denying Rehearing

Issued April 22, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On February 6, 1986, Carbonaire Co., Inc. filed a request for rehearing of the Commission's January 7, 1986 order denying Carbonaire's request for clarification [1] of Order No. 436.[2] The Commission's January 7, 1986 order found that Carbonaire could not receive gas from Transcontinental Gas Pipe Line Corporation (Transco) via its Renovo receipt point pursuant to a verbal understanding, under the transitional provisions of Order No. 436. Carbonaire and Transco had a verbal understanding that the Renovo receipt point would be used should curtailment on Transco's main line preclude deliveries via receipt points specified in the written contract.

In its request for rehearing, Carbonaire states that it expended over $550,000 in connection with a major overhaul and refurbishing program at its plant in the expectation of a continuous supply of competitively-priced natural gas secured through written agreements and oral understandings with Transco which pre-dated October 9, 1985.

To qualify for continuation under the transitional provisions of Order No. 436, a transaction had to be authorized and commenced prior to October 9, 1985. We have consistently interpreted these provisions to preclude changes in the terms of the transaction as it existed on October 9. *Hudson Gas Systems, Inc.*, 33 FERC ¶61,142 (1985). Since the Renovo receipt point was not in use on October 9, its use does not qualify under the transitional provisions. The only remaining questions is whether a waiver of the rules would be justified.

In *CLARCO Gas Company, Inc.*,[3] we restated the standard enunciated in the *Judel Glassware* order.[4] The *CLARCO* order clarified the following:

> If gas hasn't flowed by October 9, 1985, the Commission will grant a waiver from the restrictions in the transitional provisions to the extent necessary to allow the transportation to commence if the parties executed a written gas transportation agreement prior to October 9, 1985, and expended significant funds or constructed significant facilities *in reliance on that agreement*, after the agreement was executed and prior to October 9, 1985. . . . Oral agreements will not meet the standard if, on or before October 9, 1985, gas was not actually transported pursuant to that agreement. The existence of a written transportation agreement prior to October 9, 1985 will not by itself satisfy the standard.
>
> If the construction or expenditure of funds occurred prior to execution of the written transportation agreement, then by definition such construction or expenditure was not incurred in reliance on that agreement.

Carbonaire does not meet this standard. The Renovo receipt point was not specified in a written transportation agreement on or before October 9, 1985, and the gas was not transported via the Renovo receipt point on or before that date pursuant to the oral agreement. Accordingly, Carbonaire's request for rehearing is denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9238 Filed 4-23-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Energy Marketing Exchange, Inc.); Order Denying Reconsideration

Issued: April 22, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

On January 28, 1986, Energy Marketing Exchange, Inc. (EME) filed a petition for reconsideration of the Commission's order issued November 22, 1985 denying EME's request for clarification and waiver of regulations.[1] In that instance, consistent with our decision in the *Midwest Solvents* order denying a request for clarification,[2] we concluded that gas for high-priority end uses which was not transported under Order No. 319, although eligible thereunder, could not be transported under the transitional rules of § 284.223(g)(1) established in Order No. 436.[3] Because we reversed the outcome of *Midwest Solvents* on rehearing,[4] EME now seeks reversal of our order denying its request for clarification.

The outcome of *Midwest Solvents* does not resolve the only issue in this case, however, because agreements with the transporting pipelines had a termination date of October 31, 1985.[5] Nevertheless, EME contends that the transportation arrangements should be authorized until June 30, 1986 for Raritan, and for a five-year term for the other end users involved, based on our order granting Transcontinental Gas Pipeline Corporation's first clarification request (*Transco I*).[6] The facts presented by EME, however, are different from those in *Transco I*.

In the latter case, Transco had a large number of transportation contracts that extended for the full two-year term allowed for self-implementing transportation under our former rules implementing section 311 of the NGPA. Transco asserted that because of the large number of employees involved in drafting the numerous agreements, a small fraction of the contracts contained language that provided that the contracts would terminate on October 31, 1985 "unless extended by mutual agreement of the parties." According to Transco, the October 31 date was referenced only because the parties anticipated substantial changes in our regulations on that date. Transco averred that the parties actually intended for the agreements to remain in effect for the maximum two year term—as demonstrated by the language in the vast majority of its contracts.

The facts in the present case are different. In the first place, the language in the transportation contracts does not appear to be the result of a drafting error. Indeed, EME has not submitted copies of the transportation contracts or even quoted the relevant language from them. Instead, EME quotes a term from the gas *sales* contracts that provides for automatic renewals for successive one year periods, unless terminated by one of the parties. According to EME, this provision demonstrates that the parties to the *transportation* contracts intended them to remain in effect for the maximum five-year term for high-priority transportation.

We are unconvinced. The transporters in question are not parties to the sales contracts. Thus, we fail to see what significance the sales contracts could have with reference to the intent of the transporters. Moreover, EME has not maintained (as did Transco) that portions of a small percentage of the transportation contracts were the result of a mistake, as evidenced by the more correct language in the vast majority of other contracts between the same parties. To the contrary, it appears that the language limiting the transportation contracts to October 31, 1985 was intentional, since it was included in contracts with all of the transporters in question.[7]

We note that one transporter, Transco, submitted an affidavit, dated March 14, 1986, stating that "it was not the desire of either party to discontinue transporting natural gas on that date." Rather, according to Transco, the "termination date" of October 31, 1985 was included in its contract in response to the combined effect of the court's decision in *Maryland People's Counsel v. FERC*, 761 F.2d 780 (1985) and the Commission's Order No. 234-C, extending the transportation authority for low-priority end uses through October 31, 1985. Transco states that "[b]ut for these judicial and regulatory decisions . . . [it] *would have been* ready, willing and able to provide the . . . transportation service for a term coextensive with the respective terms of the underlying gas sales agreements between EME and said end-use customers not to exceed five (5) years . . . ." (Emphasis added.) The Transco affidavit quite carefully avoids stating that Transco's *intention* in signing the contract was to commit itself to providing transportation for a five-year term. Indeed, our interpretation of the affidavit is that Transco would have been willing to enter a five-year contract, perhaps wishes that it had, but, unfortunately, did not.

Inasmuch as the transportation contracts here expired by their own terms on October 31, 1985, there is nothing remaining to qualify for transition treatment under § 284.223(g)(1).[8] Accordingly, EME's request for reconsideration is denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9239 Filed 4-23-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000 (Parts A-D) and Docket No. CP86-387-000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Superior Offshore Pipeline Co.; Order Issuing Temporary Certificate and Denying Request for Waiver

Issued: April 21, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

On March 17, 1986, Superior Offshore Pipeline Company (SOPCO) filed an emergency request for a temporary waiver of section 284.105(a) of the regulations adopted in Order No. 436.[1] SOPCO seeks the waiver to permit the transportation of gas on behalf of Texas Eastern Transmission Corporation (Texas Eastern) until such time as SOPCO is issued a blanket certificate pursuant to section 284.221 of the Commission's regulations adopted in Order No. 436. On March 17, 1986, SOPCO also filed an application for a blanket certificate pursuant to that section; that application is currently pending in Docket No. CP86-387-000.

We are denying SOPCO's request for waiver. However, we are construing the request for waiver as a request for a temporary certificate, which we are granting on the basis of SOPCO's emergency situation.

SOPCO was issued a blanket certificate [2] pursuant to Order No. 60 on April 28, 1983, which authorized SOPCO to transport gas for other interstate pipelines, including Texas Eastern. SOPCO did not have authority under this certificate to continue transportation beyond April 28, 1985, because it did not file a timely extension report.[3] SOPCO, therefore, does not have the requisite authority to transport gas on behalf of Texas Eastern at the present time. Waiver of the restrictions in section 284.105(a) of the Commissions' Regulations would not operate to confer transportation authority pursuant to Order 60 where such authority has expired. Section 284.105(a) merely provides for transitional treatment of existing transportation arrangements. Here, the transportation arrangements have expired. Accordingly, SOPCO's request for waiver is denied.

Although SOPCO does not have authority to continue transporting gas on behalf of Texas Eastern, SOPCO has sought such authority by its request for waiver and by its pending application for a blanket certificate. As such, we will construe SOPCO's request for waiver as a request for a temporary certificate in that we believe this interpretation is consistent with SOPCO's intent.

In its request, SOPCO states that Pelto Oil Company, the producer of the gas, has infromed SOPCO that shutting in the relevant wells located in offshore Louisiana, even for a temporary period, may result in water encroachment, permanent damage to the wells and permanent loss of reserves. SOPCO states further that, because of the serious nature of the water encroachment problems, Texas Eastern has exempted Pelto's Betty Field production from curtailments. Based on these allegations, we find that an emergency exists within the meaning of the Natural Gas Act.

Therefore, by his order, we issue a temporary certificate of public convenience and necessity to SOPCO, pursuant to section 7 of the Natural Gas Act, to provide the transportation on behalf of Texas Eastern as described in SOPCO's request for waiver. This authorization is issued without prejudice to such ultimate disposition of the application as the record may require.

The temporary certificate issued herein and the rights granted thereunder are conditioned upon SOPCO's compliance with the conditions specified in *The Superior Oil Company and Superior Offshore Pipeline Company*, Docket No. CP83-91-000, 23 FERC ¶ 61,165 (1983), except that ordering paragraphs B, C, I, J, and M shall not apply.

The temporary certificate issued herein and the rights granted thereunder are further conditioned upon SOPCO's compliance with all applicable Commission Regulations under the Natural Gas Act and particularly the general terms and conditions set forth in

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[1] 34 FERC ¶61,006, 51 FR 1430.

[2] 33 FERC ¶61,007, 50 FR 42408 (October 18, 1985).

[3] *CLARCO Gas Company, Inc.*, 34 FERC ¶61,366 (March 28, 1986).

[4] *Judel Glassware Co., Inc.*, 33 *FERC* ¶61,386 *(December 17, 1985).*

[1] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Energy Marketing Exchange), Order Denying Request for Clarification, 33 FERC ¶ 61,248 (1985).

[2] 33 FERC ¶ 61,157 (1985).

[3] 33 FERC ¶ 61,007 (1985).

[4] 33 FERC ¶ 61,169 (1985).

[5] The order of November 27, 1985, is incorrect in stating that the transportation contracts had terms extending into 1986 or beyond. *See, e.g.*, EME Petition for Reconsideration at 6.

[6] Regulation of Natural Gas after Partial Wellhead Decontrol (Transcontinental Gas Pipeline Corporation), 33 FERC ¶ 61,169 (1985).

[7] On April 8, 1986 EME amended its request for reconsideration to delete all references to transportation arrangements with Texas Eastern Transmission Company and Columbia Gas Transmission Company. EME states that it has been advised that these pipelines will provide transportation in accordance with applicable provisions of Order No. 436. EME now seeks to clarify only the transportation status of Transco. The arrangements with Columbia and Texas Eastern remain relevant, however, to the extent that they shed light on the issue of intent raised by EME.

[8] As we held in *U.S. Steel*, even if the transportation qualified as Order No. 319 transportation (former § 284.209(a)(1)), the parties are still bound by the terms of their transportation contracts, including the termination dates. Regulation of Natural Gas Pipelines of the Partial Wellhead Decontrol (U.S. Steel), 34 FERC ¶ 61,199 (1986).

[1] 33 FERC ¶ 61,007, 50 FR 42408 (October 18, 1985).

[2] 23 FERC ¶ 61,105 (1983).

[3] Section 284.105(c) requires that extension reports be filed ninety days prior to expiration. SOPCO was, therefore, required to file an extension report on January 31, 1985 in order to continue transportation pursuant to the blanket certificate. On October 15, 1985, SOPCO filed an extension report which was not accepted by the Commission due to lateness. 34 FERC ¶ 61,100 (1986).

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paragraphs (a) and (e) of § 157.20 of such Regulations and upon payment by SOPCO of the applicable filing fees specified in § 382.207 (a) and (b)[4] of the Commission's Regulations. The temporary certificate will be effective upon receipt of the filing fee.

We note that SOPCO's pleading indicates that gas may have been transported without authorization in violation of section 7(c) of the Natural Gas Act, 15 U.S.C. 717f(C). The authority granted by the temporary certificate issued herein, as conditioned, is purely prospective in nature, and does not preclude any further enforcement action by the Commission based on the transactions in question.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-8240 Filed 4-23-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-196-001 et al.]

Big Horn Energy Partners et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.

Comment date: Thirty days from publication in the Federal Register in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Big Horn Energy Partners

[Docket No. QF83-196-001]

April 16, 1986.

On April 9, 1986, Big Horn Energy Partners (Applicant), of 601 California Street, Suite 1303, San Francisco, California 94108, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing. The facility was previously certified as a qualifying cogeneration facility on May 16, 1983 (QF83-196-000).

The 15.0 MW small power production facility is located in Big Horn County, Montana approximately 3/4 mile north of Hardin, Montana. Applicant states that the primary energy sources of the facility are wastes in the form of subbituminous refuse and petroleum coke.

[4] Final Rule, Fees Applicable to Natural Gas Pipelines, 50 FR 42502 (October 9, 1985), 32 FERC ¶ 61,080 (September 30, 1985).

2. Fluor Resource Recovery of Massachusetts, Inc.

[Docket No. QF86-667-000]

April 16, 1986.

On April 7, 1986, Fluor Resource Recovery of Massachusetts, Inc. (Applicant), of 3333 Michelson Drive, Irvine, California 92730, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 9.0 MW small power production facility will be located adjacent to the Springfield Regional Waste Water Treatment Plant at Agawam, Massachusetts. The primary energy source will be biomass in the form of municipal solid waste.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-8236 Filed 4-23-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RM85-1-000 (Parts A-D)]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (Algonquin Gas Transmission Company); Order Dismissing Petition for Clarification

Issued: April 18, 1986.

On March 7, 1986, Algonquin Gas Transmission Company requested clarification of Order No. 436 as it relates to correcting imbalances. Specifically Algonquin requests clarification whether, where an imbalance occurred in an upstream pipeline between the point of production and the ultimate point of delivery, such pipeline and all downstream pipelines in the transportation chain can act with immunity against the open access and contract reduction requirements in Order No. 436.

On February 18, 1986, we issued an order in Docket No. RM85-1-000 clarifying the treatment of imbalances. 51 FR 6604 (1986), 34 FERC ¶ 61,267 (1986). In that order, we extended the period for correcting imbalances. We also clarified the methods by which pipelines may correct imbalances from transportation transactions performed after October 31, 1985, pursuant to the transition provisions of Order No. 436 without being subject to the conditions of that order. Specifically, we stated:

> With respect to the procedures for correcting the imbalances, we have stated in the *Natural* order that "deliveries or other types of adjustments" made solely for the purpose of correcting deliveries made on or prior to October 31, 1985, will not subject the pipeline to §§ 284.8, 284.9, 284.10. We intend this language to provide the parties with flexibility in selecting the method for correcting the imbalances, provided that is their sole purpose. We view this authorization merely as a short-lived problem associated with the implementation of Order No. 436. The methods which Natural and United have described in their pleadings are permissible, as are other methods which the Commission has authorized in the past for correcting imbalances, provided they are used for the stated purpose. (34 FERC ¶ 61,207, at 61,353.)

Algonquin states that the above clarification only applies to situations where the imbalance occurred within a single pipeline. It requests clarification for those situations where the imbalance occurs in an upstream pipeline between the point of production and the point of delivery, and asks whether all downstream pipelines may transport the gas with immunity from Order No. 436.

As we stated in our February 18, 1986 order, we view the correction of imbalances as a short-term transitional problem. We expect pipelines to take appropriate measures to correct those imbalances, including necessary transportation, provided these measures are used only for that purpose. In this context, it would be counterproductive to exempt only one pipeline in a transportation chain from the Order No. 436 requirements. The February 18, 1986, order extending the time period for correcting imbalances applies to all pipelines in the transportation chain.

Since we have already addressed the issue raised by Algonquin in our February 18, 1986 clarification, we dismiss its petition.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9186 Filed 4-23-86; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1582]

Petitions for Reconsideration and Clarification and Applications for Review of Actions in Rulemaking Proceedings

April 18, 1986.

Petitions for reconsideration and clarification and applications for review have been filed in the Commission rule making proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC., or may be purchased from the Commission's copy contractor, International Transcription Service (202)-857-3800). Oppositions to these petitions and applications must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to opposition must be filed within 10 days after the fime for filing oppositions has expired.

Subject: MTS and WATS Market Structure. (CC Docket No. 78-72)
Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board. (CC Docket No. 80-286)
Number of Petitions received: 2

Subject: Detariffing the Installation and Maintenance of Inside Wiring. (CC Docket No. 79-105)
Number of Petitions received: 12

Subject: Policies Governing the Ownership and Operation of Domestic Satellite Earth Stations in the Bush Communities of Alaska. (CC Docket No. 80-584, RM-3304)
Number of Petitions received: 1

Subject: Detariffing of Billing and Collection Services. (CC Docket No. 85-88)
Number of petitions received: 2

Application for Review Filed

SUBJECT: Complaint and Petition for Rulemaking Concerning Advertising of Terminal Equipment Registered under Part 68 of the Commission's Rules. (RM-4865)
Number of Petitions received: 1

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-9131 Filed 4-23-86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

FEMA Advisory Board Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act, announcement is made of the following FEMA Advisory Board meeting:

Name: Federal Emergency Management Agency Advisory Board.

Date of Meeting: May 7, 1986.

Time: 9:00 a.m. to 4:00 p.m.

Place: Federal Emergency Management Agency, Emergency Information and Coordination Center, 500 C Street, SW, Washington, DC 20472.

Purpose: FEMA executives will provide reports on the agency's budget and personnel reductions. The status of a review of civil defense programs will be provided and discussed. Program development concepts for the protection of national infrastructure assets will be discussed. A working session on the future work agenda for the Board will be conducted. Discussions will include classified information. The Director has determined that the Board meeting should be closed to the public because discussions will invovle information that is specifically authorized to be kept "Secret" in the interest of national defense and is properly classified pursuant to the Executive Order.

Dated: April 18, 1986.

Bernard A. Maguire,

Associate Director, National Preparedness.

[FR Doc. 86-9121 Filed 4-23-86; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

Gateway Savings Bank; San Francisco, CA; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Gateway Savings Bank, San Francisco, California, on April 14, 1986.

Dated: April 18, 1986.

Jeff Sconyers,

Secretary.

[FR Doc. 86-9195 Filed 4-23-86; 8:45 am]

BILLING CODE 6720-01-M

Columbus Savings and Loan Association; San Rafael, CA; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Columbus Savings and Loan Association, San Rafael, California, on April 14, 1986.

Dated: April 18, 1986.

Jeff Sconyers,

Secretary.

[FR Doc. 86-9197 Filed 4-23-86; 8:45 am]

BILLING CODE 6720-01-M

First American Savings and Loan Association; Oak Brook, IL; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for First American Savings and Loan Association, Oak Brook, Illinois on April 14, 1986.

Dated: April 14, 1986.

Jeff Sconyers,

Secretary.

[FR Doc. 86-9198 Filed 4-23-86; 8:45 am]

BILLING CODE 6720-01-M

Summit Savings and Loan Association; Park City, UT; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Summit Savings and Loan Association, Park City, Utah on April 14, 1986.

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Dated: April 18, 1986.
Jeff Sonyers,
Secretary.
[FR Doc. 86-9190 Filed 4-23-86; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants; Accord Shipping Co. et al.

Notice is hereby given that the following persons have filed applications for licenses as ocean freight forwarders with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and 46 CFR Part 510.

Persons knowing of any reason why any of the following persons should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Chang Goang-Yih dba Accord Shipping Company, 110 West Ocean Blvd., Suite 810, Long Beach, CA 90802

Michael W. Shew dba Restricted Article Freight Forwarding, 708 South Hindry Avenue, Inglewood, CA 90301

Carnell Corporation, 8233 N.W. 66th Street, Miami, FL 33166
Officers: Ana Ordonez, President; Gerard J. Donovan, Vice President; Jorge Lara, Treasuer

Osvaldo Marrero dba Professional Services, 7790 N.W. 32 Street, Miami, FL 33122

Wice Marine Transport, 701 W. Manchester Blvd., Suite 102, Inglewood, CA 90301
Officer: Chee-Tao Tsui, Vice President

F.C. Forwarding, Inc., 2750 N.W. 79th Avenue, Miami, FL 33122
Officers: Alejando C. Trasobares, President; Susel Menendez, Vice Presdient; Sinforiana Leida Llano, Secretary/Treasurer

LCL International Packaging, 630 Glover, P.O. Box 14241, Detroit, MI 48214
Officers: Lucy Paplin, President; Charles Bradley, Vice President

Total Ex-port of Florida, Inc., 1420 N.W. 82nd Avenue, Miami, FL 33126
Officers: James Spies, President; Richard Schweitzer, Vice President; John Maser, Vice President; Ray Montesano, Vice President

By the Federal Maritime Commission.
Dated: April 21, 1986.
Tony P. Kominoth,
Assistant Secretary.
[FR Doc. 86-9175 Filed 4-23-86; 8:45 am]
BILLING CODE 6730-01-M

Ocean Freight Forwarder License Revocations; Qualitex Forwarding, Inc., et al.

Notice is hereby given that the following ocean freight forwarder licenses have been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 2506
Name: Qualitex Forwarding, Inc.
Address: 8221 N.W. 66th Street, Miami, FL 33166
Date Revoked: March 31, 1986
Reason: Failed to maintain a valid surety bond

License Number: 2144
Name: Forwarders International Limited
Address: 165 Armstrong Road, Des Plaines, IL 60018
Date Revoked: April 1, 1986
Reason: Failed to maintain a valid surety bond

License Number: 1767
Name: Colon Forwarding, Inc.
Address: 8013 N. W. 66th Street, Miami, FL 33166
Date Revoked: April 2, 1986
Reason: Failed to maintain a valid surety bond

License Number: 2719
Name: Samjung Forwarding Corp.
Address: 17 Battery Place, Suite 1443, New York, NY 10004
Date Revoked: April 5, 1986
Reason: Failed to maintain a valid surety bond

License Number: 2641
Name: Stephen Walter Seaquist dba Maritime Transport International
Address: 5385 N.E. 15th, Redmond, OR 97756
Date Revoked: April 9, 1986
Reason: Failed to maintain a valid surety bond

License Number: 521
Name: Raymond H. Hamson, Inc.
Address: WTC., Commenwealth Pier, #305, Boston, MA 02210
Date Revoked: April 9, 1986
Reason: Failed to maintain a valid surety bond

License Number: 2408
Name: Worldwide Freight Forwarders, Inc.
Address: 925 Market Street, Paterson, NJ 07513
Date Revoked: April 14, 1986
Reason: Surrendered license voluntarily

Eugene P. Stakem,
Deputy Director, Bureau of Tariffs.
[FR Doc. 86-9176 Filed 4-23-86; 8:45 am]
BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Meeting

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming meetings of the agency's initial review committees. These committees will be open for discussion of administrative announcements and program developments. The committees will be performing initial review of applications for Federal assistance. Therefore, portions of the meetings will be closed to the public as determined by the Acting Administrator, ADAMHA, in accordance with 5 U.S.C. 552(b)(6) and 5 U.S.C. App. 2 § 10(d). Notice of these meetings is required under the Federal Advisory Committee Act, Pub. L. 92-463.

Committee Name: National Advisory Council on Drug Abuse.

Date and Time: May 13-14: 9:00 a.m.

Place: National Institutes of Health, Building 31C, Conference Room 8, 9000 Rockville Pike, Bethesda, MD.

Status of Meeting: Open—May 13: 9:00 a.m.-12 noon; May 14: 9:00 a.m.-5:00 p.m. Closed—Otherwise.

Contact: Sheila H. Gardner, Room 10A-03, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-6460.

Purpose: The Council advises and makes recommendations to the Secretary, Department of Health and Human Services, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute on Drug Abuse, on the development of new initiatives and priorities and the efficient administration of drug abuse research, including prevention and treatment research, and research training. The Council also gives advice on policies and priorities for drug abuse grants and contracts, and reviews and makes final recommendations on grant applications.

Committee Name: National Advisory Mental Health Council.

Date and Time: May 19-21: 9:00 a.m.

Place: National Institutes of Health, Shannon Building, Building #1, Wilson Hall, 9000 Rockville Pike, Bethesda, MD 20892.

May 20-21: Parklawn Building, Conference Rooms G & H, 5600 Fishers Lane, Rockville, MD 20857.

Status of Meeting: Open—May 19: 9:00 a.m.-5:00 p.m. Closed—Otherwise.

Contact: Rachel Driver, Parklawn Building, Room 9-105, 5600 Fishers Lane, Rockville, MD (301) 443-1216.

Purpose: The Council advises the Secretary of Health and Human Services, the Administrator, Alcohol, Drug Abuse,and Mental Health Administration, and the Director, National Institute of Mental Health regarding policies and programs of the Department in the field of mental health. The Council reviews applications for grants-in-aid relating to research and training in the field of mental health and makes recommendations to the Secretary with respect to approval of applications for, and amounts of, these grants.

Name of Committee: National Advisory Council on Alcohol Abuse and Alcoholism.

Date and Time: May 29-30: 10:30 a.m.

Place: National Institutes of Health, Wilson Hall, Building #1, 9000 Rockville Pike, Bethesda, MD.

Status of Meeting: Open—May 29: 10:30 a.m.-5:00 p.m. Closed—Otherwise.

Contact: James Vaughan, Parklawn Building, Room 16C20, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-4375.

Purpose: The Council advises the Secretary, Department of Health and Human Services regarding policy direction and program issues of national significance in the area of alcohol abuse and alcoholism. Reviews all grant applications submitted, evaluates these applications in terms of scientific merit and adherence to Department policies, and makes recommendations to the Secretary with respect to approval and amount of award.

Name of Committee: Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee

Date and Time: May 29-30: 1:30 p.m.

Place: Sonesta Beach Hotel, 350 Ocean Drive, Key Biscayne, Florida

Status of Meeting: Open—May 29: 1:30-2:30 p.m. Closed—Otherwise.

Contact: Pamela J. Mitchell, Parklawn Building, Room 9C14, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-1367.

Purpose: The Subcommittee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of treatment development and assessment with recommendations to the National Advisory Mental Health Council for final review.

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of committee members may be obtained as follows: NIAAA: Ms. Diana Widner, Committee Management Officer, Room 16C20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4375. NIDA: Ms. Mary Kielkopf, Committee Management Officer, Room 10-22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-1644: NIMH: Ms. Helen Garrett, Committee Management Officer, Room 9-95, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-4333.

The Alcohol, Drug Abuse, and Mental Health Advisory Board will focus on 3 programmatic areas. Subject matter experts will present an evaluation of effects of treatment and prevention efforts in alcohol, drug abuse, and mental health (ADM) disorders. Presentations will also focus on systems of financing and delivery of ADM services. The major topics will include optimizing the benefits of research in a more productive manner.

Name of Committee: Alcohol, Drug Abuse, and Mental Health Advisory Board.

Date and Time: May 19-20: 9:00 a.m.

Place: Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD.

Contact: Barbara Wagner, Room 12C26, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20852, (301) 443-4640.

Status of Meeting: Open.

Purpose: The Board assesses the national needs for alcoholism, alcohol abuse, drug abuse, and mental health treatment and prevention services and the extent to which those needs are being met by State, local, and private programs, and programs receiving funds under Title V and Part B of Title XIX of the Public Health Service Act. The Board provides advice and recommendations to the Secretary and to the Administrator, Alcohol, Drug Abuse, and Mental Health Administration respecting these activities to assist in guiding national strategies aimed at the amelioration of alcohol, drug abuse, and mental health problems.

Dated: April 17, 1986.

Brenda L. Williamson,
Acting Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.
[FR Doc. 86-9118 Filed 4-23-86; 8:45 am]
BILLING CODE 4160-20-M

Centers for Disease Control

Immunization Practices Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control announces the following Committee meeting:

Name: Immunization Practices Advisory Committee.

Date: May 12-13, 1986.

Place: Conference Room 297, Centers for Disease Control, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Time: 8:30 a.m.

Type of Meeting: Open.

Contact Person: Jeffrey P. Koplan, M.D., Executive Secretary of Committee, Centers for Disease Control (1-2067), 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Telephone: FTS: 236-3751.
Commercial: 404/329-3751.

Purpose: The Committee is charged with advising on the appropriate uses of immunizing agents.

Agenda: The Committee will review and discuss recommendations on hepatitis B and pertussis; discuss HTLV-III infection and live virus; hear updates on rabies vaccine, measles, *Haemophilus influenzae*, and varicella-zoster; and consider other matters of relevance among the Committee's objectives.

Agenda items are subject to change as priorities dictate.

Dated: April 18, 1986.

Elvin Hilyer,
Associate Director for Policy Coordination, Centers for Disease Control.
[FR Doc. 86-9152 Filed 4-23-86; 8:45 am]
BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 86E-0115]

Determination of Regulatory Review Period for Purposes of Patent Extension; Virazole

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Virazole and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims that human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm,

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4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Health Affairs (HFY-30), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product, Virazole (ribavirin), which is indicated for the treatment of carefully selected hospital infants with severe lower respiratory tract infections due to respiratory syncytial virus (RSV). Subsequent to this approval, the Patent and Trademark Office received a patent term restoration application for Virazole from Viratek, Inc., and requested FDA's assistance in determining the patent's eligibility for patent term restoration. FDA, in a letter dated March 20, 1986, advised the Patent and Trademark Office that the human drug product had undergone a regulatory review period and that its active ingredient, ribavirin, represented the first permitted commercial marketing or use of that active ingredient. Shortly thereafter, the Patent and Trademark Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Virazole is 2,153 days. Of this time, 955 days occurred during the testing phase of the regulatory review period, while 1,198 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* February 10, 1980: The applicant claims that the notice of claimed investigational exemption (IND) was submitted on January 9, 1980. However, FDA did not receive the IND application until January 11, 1980. Therefore, under 21 CFR 312.1, the IND became effective on February 10, 1980.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* September 21, 1982. FDA has verified the applicant's claim that the new drug application for the drug (NDA 18-859) was initially submitted on September 21, 1982.

3. *The date the application was approved:* December 31, 1985. FDA has verified that NDA 18-859 was approved on December 31, 1985.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 730 days of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 23, 1986, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 21, 1986, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Stuart L. Nightingale,
Associate Commissioner for Health Affairs.

[FR Doc. 86-9120 Filed 4-23-86; 8:45 am]
BILLING CODE 4160-01-M

Health Resources and Services Administration

Application Announcement for a Grant for the Planning and Development of Computer-Based Simulations for Medical Training in Arthroscopy

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for a Fiscal Year 1986 grant for the planning and development of computer-based simulations for medical training in arthroscopy are now being accepted under the authority of section 786(b)(1) of the Public Health Service Act, as amended by Pub. L. 99-129.

Eligible entities for a grant under this authority are health professions, allied health, and nursing schools and any other public or nonprofit private entities which have: (1) Expertise and experience in the application of computer simulation to arthroscopy for use in medical education; (2) existing non-Federal funds committed for developmental work in this area; and (3) formal arrangements with nationally recognized organizations in the field of arthroscopy designed to facilitate future application of developmental efforts in the education and certification of physicians in this specialty area.

To receive support, applicants must meet the requirements of 42 CFR Part 57, Subpart NN.

The Administration's budget request for Fiscal Year 1986 does not include funding for this program. However, should funds become available unexpectedly for this purpose, this contingency action will assure that a grant can be awarded in a timely fashion consistent with the needs of the programs as well as to provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

Application materials will be sent only upon request. Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D31), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C-22, 5600 Fishers Lane, Rockville, Maryland 20857. Telephone: (301) 443-6880.

Should additional programmatic information be desired, please contact: Multidisciplinary Resources Development Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 4C-25, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443-3626.

The deadline date for receipt of applications is May 30, 1986. Applications shall be considered as meeting the deadline if they are either:

(1) Received on or before the deadline date; or

(2) Postmarked on or before the deadline date, and received in time for submission to the independent review group.

A legibly dated receipt from a commercial carrier or U.S. Postal Service will be accepted in lieu of a postmark. Private metered postmarks shall not be acceptable as proof of timely mailing.

This program is not listed in the Catalog of Federal Domestic Assistance, therefore, no catalog number has been assigned. Applications submitted in response to this announcement are not subject to Intergovernmental Review under provisions of Executive Order 12373, Intergovernmental Review of Federal Programs, or 45 CFR Part 100.

Dated: April 16, 1986.

John H. Kelso,
Acting Administrator.

[FR Doc. 86-9117 Filed 4-23-86; 8:45 am]
BILLING CODE 4160-15-M

National Institutes of Health

National Cancer Institute, Board of Scientific Counselors, Division of Cancer Prevention and Control, Budget and Evaluation Subcommittee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Budget and Evaluation Subcommittee of the Board of Scientific Counselors, Division of Cancer Prevention and Control, National Cancer Institute, National Institutes of Health, May 7, 1986 to be held in Conference Room 2, Building 31A, 9000 Rockville Pike, Bethesda, Maryland 20892. This meeting will be open to the public on May 7 from 7:30 p.m. to adjournment to review budgetary and evaluation issues related to programs and policies of the Division of Cancer Prevention and Control. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (Telephone: 301-496-5708) will provide summaries of the meeting and rosters of subcommittee members upon request.

Mr. J. Henry Montes, Executive Secretary, Board of Scientific Counselors, Division of Cancer Prevention and Control, National Cancer Institute, Blair Building, Room 1A07, National Institutes of Health, Bethesda, Maryland 20892 (Telephone: 301-427-8630) will furnish substantive program information.

Dated: April 17, 1986.

Betty J. Beveridge,
Committee Management Officer, NIH.

[FR Doc. 86-9206 Filed 4-23-86; 8:45 am]
BILLING CODE 4140-01-M

National Cancer Institute, Board of Scientific Counselors, Division of Cancer Prevention and Control, Centers and Community Oncology Subcommittee Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Centers and Community Oncology Subcommittee of the Board of Scientific Counselors, Division of Cancer Prevention and Control, National Cancer Institute, National Institutes of Health, April 30, 1986, to be held in Conference Room 8, Building 31C, 9000 Rockville Pike, Bethesda, Maryland 20892. This meeting will be open to the public on April 30, from 10:00 a.m. to 3:00 p.m., to review programs and policies of the Centers and Community Oncology Program of the Division of Cancer Prevention and Control. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496-5708) will provide summaries of the meeting and rosters of committee members upon request.

Mr. J. Henry Montes, Executive Secretary, Board of Scientific Counselors, Division of Cancer Prevention and Control, National Cancer Institute, Blair Building, Room 1A07, National Institutes of Health, Bethesda, Maryland 20892 (301/496-7421) will furnish substantive program information.

Dated: April 17, 1986.

Betty J. Beveridge,
Committee Management Officer, NIH.

[FR Doc. 86-9207 Filed 4-23-86; 8:45 am]
BILLING CODE 4140-01-M

National Cancer Institute, Board of Scientific Counselors, Division of Cancer Prevention and Control; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, Division of Cancer Prevention and Control, National Cancer Institute, National Institutes of Health, May 8-9, 1986, to be held in Wilson Hall, Building 1, 9000 Rockville Pike, Bethesda, Maryland 20892. This meeting will be open to the public on May 8 from 8:30 a.m. to 5:00 p.m. and on May 9 from 8:30 a.m. to adjournment to review programs and policies of the Division of Cancer Prevention and Control. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301-496-5708) will provide summaries of the meeting and rosters of committee members upon request.

Mr. J. Henry Montes, Executive Secretary, Board of Scientific Counselors, Division of Cancer Prevention and Control, National Cancer Institute, Blair Building, Room 1A07, National Institutes of Health, Bethesda, Maryland 20892 (Telephone: 301-427-8630) will furnish substantive program information.

Dated: April 17, 1986.

Betty J. Beveridge,
Committee Management Officer, NIH.

[FR Doc. 86-9208 Filed 4-23-86; 8:45 am]
BILLING CODE 4140-01-M

Office of Human Development Services

President's Committee on Mental Retardation; Meeting

Agency holding the meeting: President's Committee on Mental Retardation.

Time and date: May 13, 1986, Tuesday, Steering Committee 1:00-3:00 p.m. Subcommittees 3:00-6:00 p.m. May 14, 1986, full committee, 9:00 a.m.-5:00 p.m.

Place: Channel Inn, 650 Water Street, SW., Washington, DC 20024.

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Status: Meetings are open to the public. An interpreter for the deaf will be available upon advance request. All locations are barrier free.

Matters to be considered: Reports by the Steering Committee of the President's Committee on Mental Retardation (PCMR) will be given. The PCMR plans to discuss critical issues concerning prevention, family and community services, full citizenship, public awareness and other issues relevant to the PCMR's goals.

The PCMR: (1) acts in an advisory capacity to the President and the Secretary of the Department of Health and Human Services on matters relating to programs and services for persons who are mentally retarded; and (2) is responsible for evaluating the adequacy of current practices in programs for the retarded, and reviewing legislative proposals that affect the mentally retarded.

Contact person for more information: Susan Gleeson, R.N., M.S.N., 330 Independence Ave., SW., Room 4061—North, Washington, DC 20201, (202) 245-7634.

Dated: April 18, 1986.

Susan Gleeson,

Executive Director, PCMR.

[FR Doc. 86-8242 Filed 4-23-86; 8:45 am]

BILLING CODE 4130-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Convention; (CITES Export Tag Symbol

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of CITES Export Tag Symbol.

SUMMARY: The United States-CITES Export Tag Symbol depicted in Figure 1 is the official symbol of the United States-CITES export tag program for species listed on the Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), as administered by the United States Fish and Wildlife Service, United States Department of the Interior.

Further, notice is given that, under section 701 of Title 18 of the United States Code, whoever manufactures or sells this symbol without express authorization of the United States Fish and Wildlife Service, or illegally possesses any export tag bearing this symbol or any colorable imitation therof, or by photographs, prints, or in any other manner makes or executes any engraving, photograph, print, or impression in the likeness of this symbol on a tag, badge, card, letterhead, or marker, or any other type of copy or any colorable imitation thereof, except as authorized under regulations, shall be fined not more than $250 for each offense or imprisoned not more than 6 months, or both.

DATE: This notice is effective April 24, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Richard K. Robinson, Acting Chief, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, 1000 North Glebe Road, Room 611 Arlington, Virginia 22201, telephone (703) 235-1937.

SUPPLEMENTARY INFORMATION: Under the terms of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), Article IV, export of specimens of species listed in Appendix II may occur only if an export permit has been issued by the Service. Export permits may be issued only when (a) the U.S. Scientific Authority (SA) has advised that such exports will not be detrimental to the survival of that species and (b) the U.S. Management Authority (MA) is satisfied that the specimen was not obtained in contravention of laws for the protection of fauna and flora. The Service carries out both SA and MA responsibilities for the United States.

Evidence of legal taking for American alligator, Alaskan gray wolf, Alaskan brown or grizzly bear, bobcat, lynx, and river otter, is provided by Service-approved, State tagging systems. Each skin of a listed species must be clearly identified as to species, State or origin, and season of take by a permanently attached, serially numbered tag of a Service-approved type and attached under conditions established by the Service.

Notice is given that in order to prevent unauthorized use of the distinctive United States-CITES export tag symbol, and to ensure against its use for purposes other than properly signifying export legality of CITES-listed species from the United States in a comprehensive export program administered by the United States Fish and Wildlife Service, any unauthorized user will be subject to the provisions of 18 U.S.C. 701.

Dated: April 17, 1986.

P. Daniel Smith,

Assistant Secretary for Fish and Wildlife, and Parks.



Figure 1.

[FR Doc. 86-9215 Filed 4-23-86; 8:45 am]

BILLING CODE 4310-55-M

Bureau of Land Management

Intent To Amend Land Use Plans and Prepare an EIS; Idaho

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of intent to prepare plan amendments and an Environmental Impact Statement and Invitation for public participation. The BLM proposes to amend seven Management Framework Plans (MFPs), two Resource Management Plans (RMPs), and conduct one planning analysis on an area for which no land use plan exists. The purpose of this planning activity is to evaluate the suitability of nine small (less than 5,000 acres) wilderness study areas (WSAs) for designation as wilderness.

On December 30, 1982, Secretary of Interior, James Watt, published a Secretarial Order deleting from wilderness study, all areas identified through section 603 of the Federal Land Policy and Management Act that contain less then 5,000 acres of public land. This Secretarial Order was vacated by a U.S. District Court Decision on April 16, 1985. The nine WSAs being addressed now were among those dropped and then reinstated by the Court decision. They are located in central and southern Idaho. The nine areas, the BLM identifying number, the acreage, location by county, name of plan being amended, and issues anticipated in each WSA are as follows:

1. *Box Creek*—ID-110-01A, 428 acres, Valley County, no existing plan, issues: (1) The effect of wilderness designation on hydroelectric development, (2) the effect of hydroelectric development on wilderness values, (3) the effect of timber harvest on visual resources and the water quality of Box Creek, (4) the effect on wilderness values of designation or nondesignation as wilderness, and (5) the effect of wilderness management for Box Creek WSA upon the wilderness values of the U.S. Forest Service's adjacent Lick Creek RARE II area.

2. *Lower Salmon Falls Creek*—ID-17-10, 3,500 acres, Twin Falls County, Jarbidge RMP and Twin Falls MFP, issues: (1) The effect on wilderness designation on hydroelectric development, (2) the effect of hydroelectric development on wilderness values, and (3) the effect on wilderness values of designation or nondesignation as wilderness.

3. *Henry's Lake*—ID-35-77, 350 acres, Fremont County, Medicine Lodge RMP, issues: (1) Effects on wilderness values of designation or nondesignation as wilderness, and (2) effects of wilderness designation on the potential for sale or exchange of 22 acres in the southern part of the WSA, and (3) the effects of wilderness management for Henry's Lake WSA upon the wilderness values of the U.S. Forest Service adjacent Lion's Head RARE II area.

4. *Worm Creek*—ID-37-77, 40. acres, Bear Lake County, Bear Lake MFP, issues: (1) Effects on wilderness values of designation or nondesignation as wilderness, (2) effects on timber harvest of designation as wilderness, (3) effects on oil and gas exploration and development of designation as wilderness, and (4) the effects of wilderness management for Worm Creek WSA upon the wilderness values of the U.S. Forest Service's adjacent Worm Creek RARE II area.

5. *Goldburg*—ID-45-1, 3,290 acres, Custer County, Ellis/Pahsimeroi MFP, issues: (1) Effects on wilderness values of designation or nondesignation as wilderness, (2) effects of wilderness designation on the potential for land exchange with the State of Idaho, and (3) effects of wilderness management for Goldburg WSA upon the wilderness values of the U.S. Forest Service's adjacent North Lemhi RARE II area.

6. *Boulder Creek*—ID-46-13, 1,930 acres, Custer County, Challis MFP, issues: (1) Effects on wilderness values of designation or nondesignation as wilderness, and (2) the effects of wilderness management for Boulder Creek WSA upon the wilderness values of the U.S. Forest Service's adjacent Boulder-White Clouds RARE II area.

7. *Borah Peak*—ID-47-4, 3,100 acres, Custer County, Mackay MFP, issues: (1) Effects on wilderness values of designation or nondesignation as wilderness, and (2) the effects of wilderness management for Borah Peak WSA upon the wilderness values of the U.S. Forest Service's adjacent Borah Peak RARE II area.

8. *Little Wood River*—ID-53-4, 4,385 acres, Blaine County, Sun Valley MFP, issues: (1) Effects on wilderness values of designation or nondesignation as wilderness, and (2) the effects of wilderness management for Little Wood River WSA upon the wilderness values of the U.S. Forest Service's adjacent Pioneer Mountains RARE II area.

9. *Black Butte*—ID-54-2, 4,002 acres, Lincoln and Blaine Counties, Bennett Hills MFP, issues: (1) Effects on wilderness values of designation or nondesignation as wilderness, (2) effects on wilderness values of slab lava mining.

Public Participation

The public is invited and encouraged to participate in the plan amendment and EIS preparation process. Now is the time to identify concerns or issues regarding specific WSAs. To insure their consideration in the planning process, these concerns should be submitted by May 30, 1986. The issues identified, including those listed here, will determine the alternatives considered. Alternatives identified to date include *all wilderness* and *no wilderness* (no action) for each WSA.

Planning criteria guide the development of the amendment and provide parameters for analysis and decisionmaking. The planning criteria to be used for these amendments are those published in the **Federal Register** on February 3, 1982, under the title *Wilderness Study Policy; Policies, Criteria, and Guidelines for Conducting Wilderness Studies on the Public Lands.* These criteria require the evaluation of wilderness values of each WSA and its manageability as wilderness. The wilderness recommendation from this planning effort, whether suitable for preservation as wilderness or nonsuitable, will be based upon these criteria. After the public scoping (issue identification) process, criteria will be developed for each resource element that represents an issue in the planning effort. The public will be given the opportunity to review these criteria about June 1986.

The next specific opportunity for public participation will be the review of the draft amendments and EIS. The draft EIS will be distributed for public review in early 1987. The review period will include a public hearing for the purpose of gathering testimony regarding the suitability or nonsuitability of the WSAs for preservation as wilderness.

FOR MORE INFORMATION OR TO IDENTIFY ISSUES CONTACT: Gary L. Wyke, Project Manager, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706. Telephone 208-334-1952.

Dated: April 15, 1986.

Delmar D. Vail,

State Director, Idaho Bureau of Land Management.

[FR Doc. 86-9177 Filed 4-23-86; 8:45 am]

BILLING CODE 4310-84-M

District Advisory Council; Open Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: In accordance with Pub. L. 94-579 (FLPMA), a District Advisory Council meeting will be held on the dates listed below.

DATES AND TIME: May 13, 1986, 9:00 a.m. and May 14, 1986, 8:00 a.m.

ADDRESS: Bureau of Land Management, 705 Hall Street, Susanville, CA 96130.

SUPPLEMENTARY INFORMATION: Agenda will include such topics as:

1. Update on High Rock Wilderness Technical Review Team and Ft. Sage Technical Review Team.
2. Update on Bizz Johnson Trail.
3. Slide presentation and discussion on riparian management.
4. Discussion on the management of wild horses.
5. The tour on May 13 will include wildfire ravaged Bass Hill, Turtle Mountain, and Dry Valley public lands. Fire rehabilitation efforts will be noted in these areas.
6. The tour on May 14 will feature Snowstorm, Ravendale, or Fredonyer prescribed burn areas. The two tours will allow participants to observe the differences between wildfires and fire rehabilitated areas.

The meeting is open to the public and time will be provided for public comment. Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Louisa Beld, Public Affairs Officer, Bureau of Land Management, 705 Hall Street, Susanville, CA 96130, 916/257-5381.

Robert J. Sherve,

Acting District Manager.

[FR Doc. 86-9156 Filed 4-23-86; 8:45 am]

BILLING CODE 4310-40-M

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[A-21055]

Federal Minerals Exchange, Cochise, La Paz, Pima, Pinal, Yavapai, and Yuma Counties, AZ

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action—Exchange, Federal Minerals in Cochise, La Paz, Pima, Pinal, Yavapai, and Yuma Counties, Arizona.

SUMMARY: The following described Federal mineral estate has been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716: All or part of the following subject sections are affected by this proposal.

Gila and Salt River Meridian, Arizona

T. 15 S., R. 9 E.,
Sec. 13, 14, 15, 25, 26, 27, 28, 29, 31, 33, 34, 35.
T. 16 S., R. 9 E.,
Sec. 1, 3, 4, 9, 12, 13, 23, 24, 25.
T. 15 S. R. 10 E.,
Sec. 15, 23, 24, 25, 26, 29, 35.
T. 16 S., R. 10 E.,
Sec. 6, 8, 9, 14, 17, 18, 19, 20, 21, 25, 26, 27, 28, 31.
T. 17 S., R. 10 E.,
Sec. 4, 6, 9.
T. 18 S., R. 10 E.,
Sec. 33, 34.
T. 19 S., R. 10 E.,
Sec. 3, 4.
T. 16 S., R. 11 E.,
Sec. 5, 6, 7, 8, 9, 17, 18, 19, 20, 21, 28, 29.
T. 8 S., R. 14 E.,
Sec. 12, 17, 18, 19, 20, 23, 26, 27, 28, 29, 30, 31, 33, 34, 35.
T. 9 S., R. 15 E.,
Sec. 4, 5, 6, 8, 13, 14, 15, 17, 18, 21, 22, 23, 24, 26, 27, 34, 35.

Comprising 49,159.02 acres, more or less.

In exchange for the federal mineral estate described above, the United States will acquire the following state-owned mineral estate located within the Kofa, Cibola and Cabeza Prieta National Wildlife Refuges. All interest acquired within the National Wildlife Refuges under this exchange will be administered by the U.S. Fish and Wildlife Service.

Gila & Salt River Meridian, Arizona

Kofa National Wildlife Refuge

Township 1 N., R., 15 W.,
Sec. 2, 16, 32, 36.
Township 2 N., R., 15 W.,
Sec. 2, 16, 32, 36.
Township 1 N., R., 16 W.,
Sec. 2, 16, 36, 36.
Township 2 N., R., 16 W.,
Sec. 2, 32, 36.
Township 4 S., R., 15 W.,
Sec. 2, 16, 32, 36.
Township 4 S., R., 16 W.,
Sec. 2, 16, 32, 36.

Cibola National Wildlife Refuge

Township 1 S., R. 23 W.,
Sec. 32.

Cabeza Prieta National Wildlife Refuge

Township 14 S., R. 7 W.,
Sec. 2, 16.

Additionally, the United States will acquire the following state-owned mineral estate located within the Organ Pipe Cactus National Monument and Fort Bowie National Historical Site. All interest acquired within the Organ Pipe Cactus National Monument and Fort Bowie National Historical Site under this exchange will be administered by the National Park Service.

Organ Pipe Cactus National Monument

Township 14 S., R. 5 W.,
Sec. 32, 36.
Township 14 S., R. 6 W.,
Sec. 32, 36.
Township 14 S., R. 7 W.,
Sec. 32.

Fort Bowie National Historical Site

Township 15 S., R. 26 E.,
Sec. 2.

The United States will also acquire the following described state-owned mineral estate located under lands held by the United States and administered by the Bureau of Land Management:

Township 11 N., R. 10 W.,
Sec. 32.
Township 12 N., R. 10 W.,
Sec. 32.
Township 6 N., R. 11 W.,
Sec. 3, 4, 6, 7, 8.
Township 7 N., R. 11 W.,
Sec. 10, 11, 12, 15, 19, 20, 21, 22, 27, 28, 29, 30, 31, 33.
Township 9 N., R. 11 W.,
Sec. 2, 16.
Township 10 N., R. 11 W.,
Sec. 2, 32, 36.
Township 11 N., R. 11 W.,
Sec. 32, 36.
Township 6 N., R. 12 W.,
Sec. 2, 10, 24.
Township 7 N., R. 12 W.,
Sec. 22, 23, 24, 25, 26, 27, 32, 34, 35.
Township 9 N., R. 12 W.,
Sec. 2, 16, 32, 36.
Township 10 N., R. 12 W.,
Sec. 16, 32, 36.
Township 10 N., R. 13 W.,
Sec. 16, 32, 36.
Township 10 N., R. 14 W.,
Sec. 16.

Comprising 49, 172.12 acres, more or less.

The purpose of this exchange is to unite State and Federal split estates, thereby eliminating surface management difficulties and providing for the consolidation of surface and mineral ownership.

Based on leasable and locatable mineral potential reports, it has been determined that the overall potential mineral value of the State and Federal mineral estates are approximately equal.

The above described mineral estates are not encumbered by mining claim locations. They are, however, encumbered by a number of oil and gas leases.

Mineral estates to be transferred from the United States to the State of Arizona will be subject to the following terms and conditions:

1. Oil and gas leases A–14516 and A–17748, and the right of the mineral lessee to occupy and use as much as the surface of the land as may be reasonably necessary for mineral leasing operations, in accordance with the Acts of February 25, 1920 and March 4, 1933 (30 U.S.C. 186, 128). The United States will continue to administer these leases until their expiration or cessation of operations, at which time the leasing function will transfer to the State of Arizona.

2. Subject to all valid existing rights and those applicaitons on record as of the date of that notice.

Minerals to be acquired by the United States from the State of Arizona will be subject to the following terms and conditions:

1. Oil and gas leases 13–87340 and 13–87343 with the right to explore for and remove such deposits. The State of Arizona will continue to administer these leases until their expiration or cessation of operations, at which time the leasing function will transfer to the United States.

Publication of this notice shall segregate the federal minerals, as described in this notice, from appropriation under the mining laws with the exception of the mineral leasing laws. This segregative effect shall terminate upon the issuance of a patent or two years from the date of this notice, or upon publication of a Notice of Termination.

Detailed information concerning the exchange, including the environmental assessment, the locatable mineral potential, and the leasable mineral potential reports, can be obtained from the Phoenix Resource Area Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027. For a period of forty-five (45) days, from the date of this notice, interested parties may submit comments to the Phoenix District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be reviewed by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: April 15, 1986.
Marlyn V. Jones,
District Manager.
[FR Doc. 86–9157 Filed 4–23–86; 8:45 am]
BILLING CODE 4310–32–M

[I–14906 et al.]

Idaho; Proposed Continuation of Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service, Department of Agriculture proposes that 491.25 acres of withdrawals for the Dog Creek Recreation Area and the Boiling Springs, Crawford, Long Gulch, Third Fork, Idaho Ranger Station, High Valley, Garden Valley Ranger Station, Lick Creek, Elk Creek and Idaho City Administrative Sites, continue for an additional 20 years, which is the anticipated time the sites will continue to be used. These lands will remain closed to surface entry, and mining, but not mineral leasing.

DATE: Comments should be received within 90 days of the date of publication of this notice.

ADDRESS: Comments should be sent to: Idaho State Director, Bureau of Land Management, 3380 Americana Terrace, Boise, ID 83706.

FOR FURTHER INFORMATION CONTACT: Larry R. Lievsay, Idaho State Office, 208–334–1735.

The Forest Service proposes that the existing land withdrawals made by Secretarial Orders of December 13, 1906, December 23, 1907, October 23, 1906, September 26, 1908, December 15, 1908, November 11, 1925, January 11, 1908, and Public Land Orders Number 4257 of December 18, 1967 and Number 773, of December 19, 1951, be continued for a period of 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The land is described as follows:

(I–14914)

T. 12 N., R. 5 E., B.M.,
Sec. 21, SE¼SE¼NE¼.
T. 14 N., R. 4 E., B.M.,
Sec. 21, SE¼SW¼.

(I–14909)

T. 3 N., R. 7 E., B.M.,
Sec. 21, SE¼NW¼NE¼.

(I–14928)

T. 12 N., R. 1 E., B.M.,
Sec. 14, W½NW¼SE¼.

(I–14932)

T. 6 N., R. 5 E., B.M.,
Sec. 26, SW¼NW¼NW¼,
Sec. 27, SE¼NE¼NE¼.

(I–14946)

T. 10 N., R. 3 E., B.M.,
Sec. 7, that portion of lot 3 described as follows: Beginning at the NW corner of lot 3 which is the True Point of Beginning; thence south 660 feet along the west boundary line of lot 3 to a point; thence north 660 feet to a point; thence west 660 feet along the north boundary line of lot 3 to the True Point of Beginning.

(I–14908)

T. 8 N., R. 4 E., B.M.,
Sec. 1, lots 1 and 2.
T. 9 N., R. 7 E., B.M.,
Sec. 35, lots 5 and 6, S½NW¼NE¼.

(I–2348)

T. 2 N., R. 10 E., B.M.,
Sec. 7, N½ of lot 1, SW¼ of lot 1, N½NW¼NE¼, SE¼NW¼NE¼.

(I–14682)

T. 13 N., R. 9 E., B.M.,
Sec. 32, S½NW¼NE¼, N½SW¼NE¼.
T. 6 N., R. 5 E., B.M.,
Sec. 20, lots 4 and 5;
Sec. 27, lot 1, SE¼NE¼SE¼, S½SW¼ SE¼;
Sec. 34, lot 1.

The area described above aggregates 491.25 acres in Valley, Boise, Elmore and Gem Counties.

The withdrawals are essential for protection of substantial capital improvements on the Administrative and Recreation Sites. The withdrawals closed the described lands to surface entry, and mining but not mineral leasing. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuations may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawals will be continued, and if so, for how long. The final determination of the withdrawals will be published in the Federal Register. The existing withdrawals will continue until such final determination is made.

Dated: April 18, 1986.
William E. Ireland,
Chief, Realty Operations Section.
[FR Doc. 86–9221 Filed 4–23–86; 8:45 am]
BILLING CODE 4310–86–M

[I–22434]

Realty Action; Idaho Falls District; Correction

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Correction on Notice of Realty Action, I–22434, Non-competitive Sale of Public Lands in Bonneville County, Idaho.

SUMMARY: The legal description published on April 10, 1986 in FR Vol. 51, No. 69, p. 12402 is incorrect. It should read as follows: T. 1 N., R. 43 E., Boise Meridian.

O'dell A. Frandsen,
District Manager.
April 18, 1986.
[FR Doc. 86–9226 Filed 4–23–86; 8:45 am]
BILLING CODE 4310–GG–M

[M 60358]

Realty Action, Petroleum County, Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of conveyance and order providing for opening of public land in Petroleum County, Montana.

SUMMARY: This order will open lands reconveyed to the United States in an exchange under the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 et seq. (FLMPA), to the operation of the public land laws. It also informs the public and interested state and local governmental officials of the issuance of the conveyance document.

DATE: At 9 a.m. on June 16, 1986, the lands reconveyed to the United States shall be open to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. The lands described in paragraph 1 below were segregated from settlement, sale, location and entry, including the mining laws, but not from exchange, by the Notice of Realty Action published in the Federal Register on September 5, 1985 (50 FR 36156). The segregation terminated on issuance of the deed on April 7, 1986.

ADDRESS: For further information contact: Edward H. Croteau, Chief, Lands Adjudication Section, BLM, Montana State Office, P.O. Box 36800, Billings, Montana 59107, Phone (406) 657–6082.

SUPPLEMENTARY INFORMATION:

1. Notice is hereby given that pursuant to Sec. 206 of FLPMA, the following described land, with a reservation to the

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United States of all oil and gas deposits, was conveyed to the County of Petroleum, in the State of Montana:

Principal Meridian, Montana

T. 14 N., R. 26 E.,
Sec. 2, lots 1–4, S½N½.
T. 14 N., R. 27 E.,
Sec. 6, lots 1–10 of Block 13, Rimrock Addition to the town of Winnett.
Aggregating 326.584 acres.

2. In exchange for the above selected land, the United States acquired the following described land, with a reservation to the County of all oil and gas deposits, in Petroleum County, Montana:

Principal Meridian, Montana

T. 15 N., R. 26 E.,
Sec. 27, W½SW¼; Sec. 28, NE¼SE¼;
Sec. 34, NW¼NW¼.
T. 17 N., R. 28 E.,
Sec. 21, NE¼, N½NW¼SE¼.
Aggregating 340 acres.

3. The federal public land was valued at $30,500 and the nonfederal land was valued at $30,000. A $500 cash equalization was paid to the United States.

4. At 9 a.m. on June 16, 1986, the lands described in paragraph 2 above that were conveyed to the United States will open to the operation of the public land laws.

John A. Kwiatkowski,
Deputy State Director, Division of Lands and Renewable Resources.
April 16, 1986.
[FR Doc. 86-9220 Filed 4-23-86; 8:45 am]
BILLING CODE 4310-DN-M

[NM-63095]

Exchange of Lands; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, NM-63095—Exchange of Public Lands and Minerals with New Mexico State Lands and Minerals in Eddy County, New Mexico.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under authority: FLPMA Exchange, Section 206. These lands represent a pool of lands from which the State will be allowed to select parcels until equal values are achieved.

New Mexico Principal Meridian

T. 21 S., R. 31 E., Sec. 23, SE¼—160 acres; Sec. 24, SW¼—160 acres; Sec. 25, E½NW¼—80 acres; Sec. 26, All—640 acres; Sec. 27, E½—320 acres; Sec. 34, NE¼, N½SE¼, SE¼SE¼—280 acres; Sec. 35, All—640 acres; T. 22 S., R. 31 E., Sec. 1, Lots 3 & 4, S½NW¼—159.43 acres; Sec. 5, All—639.72 acres; comprising 3,079.15 acres in Eddy County, New Mexico.

In exchange for some of these lands, the United States will acquire the following described lands from the State of New Mexico:

New Mexico Principal Meridian

T. 22 S., R. 31 E., Sec. 18, All—640 acres; Sec. 32, All—640 acres; comprising 1,280 acres in Eddy County, New Mexico.

This exchange will include both surface and all mineral estates.

The purpose of this exchange is to acquire the State lands and minerals to accommodate the U.S. Department of Energy with their full implementation of the Waste Isolation Pilot Plant (WIPP) Project. The project's design is the safe disposal of low level nuclear waste.

Lands to be transferred from the United States will be subject to the following reservations, terms, and conditions:

1. A reservation thereon for ditches and canals to be constructed by the authority of the U.S. Act of August 30, 1890 (26 State 391, 43 U.S.C. 945).

2. The patent will be subject to the terms and conditions of valid existing rights-of-way. The rights-of-way will then be assigned to the New Mexico State Land Office for administration.

This exchange will be subject to the approval of the Carlsbad Resource Management Plan.

Existing Federal grazing lessees, on the affected lands, will be offered a State Land Office grazing lease (up to the legal maximum of five years) with the preferential right of renewal.

Existing range improvements, within the interior of the Federal lands, will be transferred to the State Land Office. The value of these improvements was included in the appraisal. Other range improvements, such as fences bordering the Federal lands, will remain under BLM authorization.

Existing Federal potash leases will be acquired by DOE.

Publication of this notice segregates the Federal lands from appropriation under any of the land entry laws, including the mining laws but not the mineral leasing laws, for a period of two years from the date of first publication.

For a period of 45 days, from the date of first publication, interested parties may submit comments to:

Bureau of Land Management, Carlsbad Resource Area, P.O. Box 1778, Carlsbad, NM 88220
Bureau of Land Management, Roswell District Office, P.O. Box 1397, Roswell, NM 88201.

Further information concerning the exchange, including the environmental assessment and land report, is available for review at the Carlsbad Resource Area Office, 101 E. Mermod, Carlsbad, NM.

Francis R. Cherry, Jr.
District Manager.
April 8, 1986.
[FR Doc. 86-9165 Filed 4-23-86; 8:45 am]
BILLING CODE 4310-FB-M

[W-69046]

Wyoming; Realty Action Bureau Motion Lease and/or Sale of Public Lands for Recreation and Public Purposes

The following described public land near the community of Dubois, Fremont County, Wyoming have been examined and found suitable for classification for lease and/or sale under the Recreation and Public Purposes Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.):

T.42N., R.107W., 6th Principal Meridian,
Sec. 27: W½W½NE¼, E½W½, W½W½SE¼.
(240 acres).

The subject land would be leased and/or sold to Dubois Gun Club, a non-profit association, which has applied to lease and/or purchase the land for a firearms shooting range complex which would be open for public use.

The land is physically suited for the proposed use and is not of national significance. Since this land is valuable for a local program, it is considered chiefly valuable for public purposes and therefore suitable for classification for lease and/or sale under the Recreation and Public Purposes Act. This action conforms with the Bureau of Land Management Dubois Management Framework Plan and the Draft Lander Resource Management Plan.

The lease would have a term of 20 years and will be renewable. Under the special pricing provision, the rental shall be $25.00 the first year. Rental thereafter will be subject to appraisal. The subject area may be purchased by the Dubois Gun Club after the shooting complex has been developed according to a BLM-approved plan of development and management. The grazing lease of Parker Land and Cattle Company would be cancelled on the subject area if the land is sold to the Dubois Gun Club. Upon publication of this notice in the Federal Register, the lands will be segregated from all forms of appropriation under the public land laws, including locations under the mining laws, except as to applications under mineral leasing laws and applications under the Recreation and Public Purposes act.

Detailed information concerning the lease and/or sale, including the environmental assessment/land report, is available for review at the Bureau of Land Management, Lander Resource Area Office, 125 Sunflower, Lander, Wyoming.

For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82310. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any adverse comments, this classification will become effective 60 days from the date of publication of this notice.

Upon the effective date of classification, the lands will be open to the filing of an application under the Recreation and Public Purposes Act by any interested, qualified applicant. If, after 18 months following the effective date of classification, an application has not been filed, the segregative effect of the classification shall automatically expire and the lands classified shall return to their former status without further action by the Authorized Officer.

Richard Bastin,
District Manager.
[FR Doc. 86-9155 Filed 4-23-86; 8:45 am]
BILLING CODE 4310-22-M

[W-69645]

Wyoming; Realty Action, Direct Sale of Public Land in Washakie County, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, direct sale of public land in Washakie County.

SUMMARY: The following lands have been exmined and identified as suitable for disposal under section 203 of the Federal Land Policy and Management Act of 1976 (90 STAT. 2750; 43 U.S.C. 1713).

PARCELS

Parcel	Legal Description	Acres	Approved value
Sixth Principal Meridian Wyoming			
No. 1	T. 47 N., R. 99 W., Tract 630, Lot 58.	0.46	$3000

The sale of the land parcel will resolve an unauthorized occupancy. The land is being offered at fair market value by direct sale to Herbert W. Ainsworth who owns the adjoining Lot 34 and the improvements placed on the sale parcel described as Lot 58. No other bids or bidders will be considered.

The land is not required for any federal purpose. Disposal would best serve the public interest. The disposal will be in conformance with the Grass Creek Management Framework Plan and is in conformance with the Washakie County Commissioners' recommendation.

All minerals, except oil, gas, and coal resources, will be offered for conveyance. The mineral interests being offered have no known value. An offer to purchase the parcel will also constitute application for conveyance of those mineral interests offered under the authority of Sections 209(b) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719(b). Purchaser will be required to submit a non-returnable filing fee of $50.00 to cover processing costs of conveying the mineral interests. Failure to do so will result in disqualification.

The patent issued as a result of the sale will be subject to all valid existing rights and reservations of record and will contain a reservation to the United States for a right-of-way for ditches and canals under the act of August 30, 1890, 26 STAT. 391; 43 U.S.C. 945 and for oil, gas, and coal resources together with the right to prospect for, mine, and remove the minerals. The patent will be issued subject to the following:

1. W–51974—Oil and Gas Lease.
2. W–022980—Buried Oil Pipeline Right-of-way.
3. Reservation for a 60 foot right-of-way on the east boundary of Lot 58 for access road and public utilities as provided by Classification Order No. 11 dated May 7, 1953.
4. Improvement requirements under the terms of sale of rural homesites on the small tracts (Wyoming Classification No. 11).

Publication of this notice in the Federal Register segregates the public lands from appropriation under the public land laws and mining laws. The segregative effect will end upon issuance of a patent.

Sale Procedures

1. The designated bidder will be required to submit payment of at least twenty percent of the fair market value by certified check, postal money order, bank draft, or cashier's check made payable to the Department of Interior, Bureau of Land Management at the Worland District Office on August 13, 1986.

2. The balance of the appraised fair market value will be due within 180 days payable in the same form at the same location. Failure to submit the remainder of the payment within 180 days of receipt of the decision notice accepting the bid deposit will result in cancellation of the sale offering and forfeiture of the deposit.

3. For a period of 45 days from the date of this notice in the Federal Register, interested parties may submit comments to the district Manager, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401. Any adverse comments will be evaluated by the District Manager who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: April 11, 1986.
Chester E. Conard,
District Manager.
[FR Doc. 86-9227 Filed 4-23-86; 8:45 am]
BILLING CODE 4310-22-M

[N-42777]

Realty Action—Non-Competitive Sale; Public Lands in Washoe County, NV

The following described lands comprising 5 acres have been identified as suitable for disposal through sale under section 203 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1713, at no less than fair market value:

Mt. Diablo Meridian

T. 18 N., R. 19 E.,
Sec. 30, N½NW¼NW¼NW¼.

The lands are hereby segregated from appropriation under the public land laws including the mining laws, but not from sale under the above-cited statute. The segregative effect will end upon issuance of the patent or 270 days from the date of the publication of the notice in the Federal Register, whichever occurs first. The lands are being offered to Bell Telephone Company of Nevada through non-competitive sale to protect their equity investment in improvements on the parcel.

The sale is consistent with the Bureau's planning system and with local government plans. The lands are not needed for support of any resource programs and are not suitable for management by another federal agency.

There are no known values for locatable, saleable and leasable minerals excepting geothermal steam and related resources. In accordance

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with section 209(b)(1)(l) of Pub. L. 94–579, mineral interests, excepting geothermal steam and related resources, will be conveyed simultaneously with the surface estate upon submission of a non-refundable filing fee of $50.00.

The patent when issued will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, under the Act of August 30, 1890, 26 Stat. 391; U.S.C. 945.

2. Geothermal steam and related resources shall be reserved to the United States, together with the right to prospect for and remove those resources. This parcel is affected by geothermal lease N–12065, Yankee Petroleum and Western States Geothermal.

And will be subject to:

1. Those rights for State Route 431 which have been granted to Nevada Department of Transportation, its successors or assigns, by right-of-way CC–016097 (400').

2. Those rights for a powerline which have been granted to Sierra Pacific Power Company, its successors or assigns, by right-of-way Nev–06133 (40').

The lands will not be offered for sale for at least 60 days after the date of this notice. For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Carson City District Office, Bureau of Land Management, 1535 Hot Springs Road, Suite 300, Carson City, Nevada 89701. Any adverse comments will be evaluated and this notice upheld, modified or vacated.

Dated this 16th day of April 1986.

Thomas J. Owen,

District Manager.

Copies of this Notice are being sent to the following parties:

Certified

Mr. John B. Walker, State Office of Community Services, 1100 E. William St., Suite 109, Carson City, Nevada 89710
Nevada Department of Transportation, Right-of-Way Department, 1263 South Stewart Street, Carson City, Nevada 89712
Western States Geothermal Corp., 655 East 4500 South, Salt Lake City, Utah 84107
Yankee Petroleum, P.O. Box 1566, Tulsa, Oklahoma 74101
Washoe County Commissioners, P.O. Box 11130, Reno, Nevada 89504
Sierra Pacific Power Company, P.O. Box 10100, Reno, Nevada 89520

Non-Certified

The Honorable Paul Laxalt, U.S. Senate, 300 Booth Street, Federal Building, Room 2016, Reno, Nevada 89509
The Honorable Barbara Vucanovich, House of Representatives, 300 Booth Street, Federal Building, Room 1130, Reno, Nevada 89509
The Honorable Chic Hecht, U.S. Senate, 300 Booth Street, Federal Building, Room 2014, Reno, Nevada 89509
Mr. Edward F. Spang, State Director, Nevada, Bureau of Land Management, Nevada State Office, 300 Booth Street, Reno, Nevada 89520.

A copy of this Notice of Realty Action will be published in the **Federal Register** and published weekly for 3 consecutive weeks in the Reno Gazette-Journal, Reno, Nevada, and the Nevada Appeal, Carson City, Nevada.

[FR Doc. 86–9225 Filed 4–23–86; 8:45 am]

BILLING CODE 4310–HC–M

Eagle Lake Resource Area Office; Designation of Pines Dunes Research Natural Area (RNA)

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of designation of Pines Dunes Research Natural Area (RNA).

SUMMARY: Pursuant to the authority in 43 CFR 8223, the following lands are designated as a Research Natural Area (RNA).

Mt. Diablo Meridian; Lassen County, California.

T. 35 N., R. 16 E.,
Sec. 25, S½S½.

These lands, designated the Pine Dunes RNA, total 160 acres of BLM administered lands.

This designation is being made to provide protection for a unique isolated stand of pine trees. The area will be preserved for research and education purposes and the continued existence of the trees and their habitat.

A more detailed description of the resource values and special management attention required to protect these values are included in the Cal-Neva Management Framework Plan (MFP) for the Eagle Lake Resource Area. This area and management criteria were developed through the planning process (43 CFR 1610) which included three stages of public participation.

DATES: The designation of the Pine Dunes Research Natural Area (RNA) is effective upon publication of this notice.

ADDRESSES: For further information regarding the Management Framework Plan and the Pine Dunes RNA contact: Mark T. Morse, Area Manager, Eagle Lake Resource Area, 2545 Riverside Drive, Susanville, CA 96130.

Dated: April 10, 1986.

Mark T. Morse,

Area Manager.

[FR Doc. 86–9153 Filed 4–23–86; 8:45 am]

BILLING CODE 4310–40–M

Colorado; Filing of Plats of Survey

April 16, 1986.

The plat of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 A.M., April 16, 1986.

The plat representing the corrective survey of a portion of the subdivision of section 28, R. 37 S., R. 2 E., New Mexico Principal Meridian, Colorado, Group No. 774, was accepted April 2, 1986.

This survey was executed to meet certain administrative needs of the U.S. Forest Service.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2020 Arapahoe Street, Denver, Colorado 80205.

Marlin G. Livermore II,

Acting Chief Cadastral Surveyor for Colorado.

[FR Doc. 86–9154 Filed 4–23–86; 8:45 am]

BILLING CODE 4310–84–M

[Nev–064560]

Proposed Continuation of Withdrawal; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a 6,480-acre withdrawal for the Humboldt Project continue for an additional 50 years. The lands will remain closed to surface entry and mining but have been and will remain open to mineral leasing.

DATE: Comments should be received by July 23, 1986.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, (702) 784–5481.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation proposes that the existing land withdrawal made by the Secretarial Order of March 16, 1934, be continued for a period of 50 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

Mount Diablo Meridian, Nevada

T. 31 N., R. 32 E.,
Sec. 36, NE¼NE¼, E½SE¼.
T. 32 N., R. 32 E.,
Sec. 2, NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 10, NE¼NE¼, SE¼NE¼, NE¼SE¼, S½SE¼;
Sec. 12, NE¼NE¼, SE¼NE¼, SE¼SW¼, SE¼;
Sec. 14, SE¼NE¼, NE¼SE¼, SE¼SE¼;
Sec. 22, NE¼, NE¼SE¼, SE¼SE¼;
Sec. 24, N½NE¼, N½NW¼, SW¼NW¼, W½SW¼;
Sec. 26, NE¼NE¼, NW¼NW¼, S½NW¼, SW¼SE¼, SW¼;
Sec. 36, NE¼, NE¼NW¼, SW¼NW¼, SW¼, SW¼SE¼.
T. 33 N., R. 32 E.,
Sec. 36, All.
T. 30 N., R. 33 E.,
Sec. 6, E½NE¼, W½NW¼, SW¼, E½SE¼;
Sec. 8, W½;
Sec. 18, NE¼NE¼, W½, SW¼SE¼.
T. 31 N., R. 33 E.,
Sec. 6, NW¼NE¼, W½NW¼, SW¼, SW¼SE¼;
Sec. 8, W½NE¼, SE¼NE¼, SE¼NE¼, E½NW¼, NE¼SE¼, W½SE¼;
Sec. 18, W½NE¼, E½NW¼, E½SW¼, W½SE¼;
Sec. 20, W½;
Sec. 30, W½, SE¼SE¼;
Sec. 32 N., W½NW¼, W½SW¼.
T. 32 N., R. 33 E.,
Sec. 4, NE¼NE¼;
Sec. 6, NE¼, SW¼, NW¼SE¼;
Sec. 18, W½NW¼, W½SW¼;
Sec. 30, SW¼NE¼, S½NW¼, SW¼, SE¼;
Sec. 32, NW¼NW¼.
T. 33 N., R. 33 E.,
Sec. 20, S½NW¼, S½NE¼, S½;
Sec. 28, S½SW¼, NW¼SE¼;
Sec. 28, E½NE¼, NE¼NW¼;
Sec. 30, W½NW¼, W½SW¼;
Sec. 32, W½;
Sec. 34, NW¼NE¼.

The area described contains 6,479.44 acres in Pershing County.

The purpose of the withdrawal is to protect the Humboldt Project's Rye Patch Reservoir and associated lands. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the Nevada State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: April 16, 1986.

Marla B. Bohl,

Acting Deputy State Director, Operations.

[FR Doc. 86–9224 Filed 4–23–86; 8:45 am]

BILLING CODE 4310–HC–M

Minerals Management Service

Development Operations Coordination Document; Sonat Exploration Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Sonat Exploration Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 4084, Block 739, Mustang Island Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Harbor Island, Texas.

DATE: The subject DOCD was deemed submitted on April 11, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Ms. Angie Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Rules and Production, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838–0876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected States, local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: April 16, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86–9163 Filed 4–23–86; 8:45 am]

BILLING CODE 4310–MR–M

Royalty Management Advisory Committee, Data Base Validation Working Panel; Meeting

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of meeting.

SUMMARY: The Minerals Management Service (MMS) Royalty Management Program, hereby gives notice that the Data Base Validation Working Panel, established by the Royalty Management Advisory Committee, will meet in Denver, Colorado, at the location and on the dates indicated below.

MMS has undertaken several projects to correct errors in the data base reference files including lease universe reconciliation, MMS and payor data base reconciliation, and distribution fund code reconciliation. The Data Base Validation Working Panel will submit recommendations to the Advisory Committee regarding improvement and/or addition to these efforts as well as methods for maintaining reference data.

DATES: The Data Base Validation Working Panel will meet at the Clarion Hotel, 3203 Quebec, Denver, Colorado, April 29–May 1, 1986.

The Panel will meet from 8 a.m. to 5 p.m. daily. If the meeting is completed in less than the three days scheduled, the Panel will adjourn upon such completion.

The public is invited to attend these meetings and make oral or written comments. A time will be set aside by the Panel chairperson during which the public will be invited to make oral comments. Written comments should be submitted by May 15, 1986, to the address listed below.

FOR FURTHER INFORMATION CONTACT: Vernon B. Ingraham, Minerals Management Service, Royalty Management Program, Office of External Affairs, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop

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60, Denver, Colorado 80225, (telephone number (303) 231-3360, (FTS) 326-3360.

SUPPLEMENTARY INFORMATION: The Data Base Validation Working Panel is one of six working panels established by the Royalty Management Advisory Committee. The panels are composed of both Advisory Committee members and non-Committee members, and were established to provide the Advisory Committee with analyses of specific issues and proposed recommendations. Panel recommendations will be reviewed by the Advisory Committee, which will then decide what advice and recommendations to give to the Department of the Interior (DOI) and Minerals Management Service (MMS).

Although the panels may meet with DOI or MMS staff members to obtain information they require in conducting their analyses, advice and recommendations of the panels will be made to the Advisory Committee and not to the DOI or MMS.

Dated: April 18, 1986.

Wm. D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 86-9146 Filed 4-23-86; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

Availability of Annual Evaluation Reports on the Administration of State Regulatory and Abandoned Mine Lands Programs

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Notice of availability

SUMMARY: OSMRE is announcing the availability of three annual evaluation reports on the administration of State regulatory and abandoned mine lands (AML) programs under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The three reports, covering the States of Colorado, New Mexico and Texas were prepared under the provisions of OSMRE's oversight policy and have been transmitted to Congress.

ADDRESS: See **"SUPPLEMENTARY INFORMATION"** for the addresses where copies of the reports may be obtained.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Chief, Division of State Program Assistance, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Avenue, NW., Washington, DC 20240; Telephone: (202) 343-5351.

SUPPLEMENTARY INFORMATION: Copies of the reports are available, free of charge, at the respective OSMRE offices listed below:

Colorado and New Mexico: Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 219 Central Avenue, NW., Albuquerque, New Mexico 87102.

Texas: Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 333 West 4th Street, Room 3432, Tulsa, Oklahoma 74103.

Background

Under section 503 of SMCRA, a State may elect to assume primary responsibility for regulating surface coal mining and reclamation operations within its borders by submitting a program to the Secretary of the Interior which demonstrates the State's capability to carry out the provisions of SMCRA. Once the Secretary approves the program, the State is granted primacy, and the Federal government assumes a monitoring and evaluation role. Monitoring of the State's administration and enforcement of its regulatory and AML programs is conducted throughout the year. The Field Office Directors compile and analyze the data gathered during the evaluation period and prepare annual evaluation reports for transmittal to Congress.

Evaluation reports for Illinois, Kentucky, Maryland, Mississippi, Montana and North Dakota) were completed and sent to Congress on November 5, 1985, and were made publicly available on November 14, 1985 (50 FR 47122). Evaluation reports for Alabama, Alaska, Ohio, and Wyoming were completed and sent to Congress on November 25, 1985, and were made publicly available on November 29, 1985 (50 FR 49138). Evaluation reports for Indiana, Iowa, Kansas, Louisiana, Missouri and Oklahoma were completed and sent to Congress on December 10, 1985, and were made publicly available on December 18, 1985 (50 FR 52012). Evaluation reports for Arkansas, Pennsylvania and Virginia were completed and sent to Congress on January 7, 1986, and were made publicly available on January 14, 1986 (51 FR 1566). Two additional evaluation reports for Utah and West Virginia were completed and sent to Congress on January 28, 1986, and were made publicly available on February 4, 1986 (51 FR 4440). Three evaluation reports for Colorado, New Mexico and Texas were completed and sent to Congress on April 16, 1986, and are now publicly available. These three reports complete the annual oversight reports for 1985.

Dated: April 18, 1986.

Lee Richeson,

Acting Assistant Director, Program Operations Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 86-9144 Filed 4-23-86; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-300 (Final)]

Import Investigation of Dynamic Random Access Semiconductors (DRAM'S) of 256 Kilobits and Above From Japan

AGENCY: International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: April 18, 1986.

FOR FURTHER INFORMATION CONTACT: Ilene Hersher (202-523-4616), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION: On March 14, 1986, the Commission instituted the subject investigation and established a schedule for its conduct (51 FR 11357, Apr. 2, 1986). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from May 27, 1986, to August 1, 1986. The Commission therefore is revising its schedule in the investigation to conform with Commerce's new schedule

The Commission's new schedule for the investigation is as follows: Requests to appear at the hearing must be filed with the Secretary to the Commission not later than July 25, 1986; the prehearing conference will be held in room 117 of the U.S. International Trade Commission Building on July 29, 1986; the deadline for filing prehearing briefs is August 4, 1986; the hearing will be held in room 331 of the U.S. Internation Trade Commission Building on August 7, 1986; and the deadline for filing all other written submissions, including posthearing briefs, is August 18, 1986.

For further information concerning this investigation see the Commission's notice of investigation cited above and the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

Authority

This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules (19 CFR 207.20).

Issued: April 21, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-9115 Filed 4-23-86; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[No. MC-C-10963]

Motor Carriers; Armstrong World Industries, Inc.; Petition for Declaratory Order

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final decision.

SUMMARY: By notice published at 50 FR 28296, July 11, 1985, we instituted this proceeding to determine whether certain motor carrier movements between points in Texas are interstate or intrastate in nature. The Commission has concluded that the transportation of carpet by Reeves Transportation Company of Georgia from Arlington, TX, to other Texas points, after a prior movement from Dalton, GA, is part of a continuous interstate movement, lawfully performed by Reeves under a storage-in-transit provision in an appropriate tariff.

FOR FURTHER INFORMATION CONTACT: Paul W. Schach (202) 275-7685 or Howell I. Sporn (202) 275-7691.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll-free (800) 424-5403.

This action will not significantly affect the quality of the human environment or the conservation of energy resources.

Decided: April 3, 1986.

Authority: 5 U.S.C. 554.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,

Secretary.

[FR Doc. 86-9145 Filed 4-23-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act; A.J. MacKay Co., et al.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on April 15, 1986 a proposed Consent Decree in *United States* v. *A.J. MacKay Company, et al.*, Civil Action No. 85-C-1193G was lodged with the United States District Court for the District of Utah. The proposed Consent Decree concerns violations of the National Emission Standard for Hazardous Air Pollutants ("NESHAPs") for asbestos. 40 CFR Part 61. The proposed Consent Decree requires defendants A.J. MacKay Company and Little America Hotels Corporation to comply with the provisions of the asbestos NESHAP and to pay a civil penalty of $20,000.00.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *A.J. MacKay Company, et al.* D.J. Ref. 90-5-2-1-784.

The proposed Consent Decree may be examined at the office of the United States Attorney for the District of Utah, Room 466, U.S. Post Office and Courthouse, 350 South Main Street, Salt Lake City, Utah 84101 and at the Region VIII, Office of the Environmental Protection Agency, 999 Eighteenth Street, Suite 2900, Denver, Colorado 80202-2413. Copies of the Consent Decree may be examined at the Environmental Envorcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Devision of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-9162 Filed 4-23-86; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Consent Decree, Pursuant to Clean Air Act; Michigan South Central Power Agency

In accordance with Department of Justice policy, 28 CFR 50.7, notice is hereby given that on April 2, 1986, a proposed consent decree in *United States* v. *Michigan South Central Power Agency* (W.D. Mich.) was lodged with the United States District Court for the Western District of Michigan. Under the terms of the proposed consent decree, the defendant pays a civil penalty of $7,500 and must comply with the Clean Air Act.

The Department of Justice will receive comments for a period of thirty (30) days from the date of this publication relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Michigan South Central Power Agency*, D.J. Ref. #90-5-2-1-752.

The proposed consent decree may be examined at the Office of the United States Attorney, 399 Federal Building, Grand Rapids, Michigan, 49503; at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois, 60604; and at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue NW., Washington, DC, 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy of the proposed consent decree, refer to the case, proposed consent decree and D.J. Reference number.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-9167 Filed 4-23-86; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Donald L. Plotnick, D.P.M.; Revocation of Registration

On February 13, 1986, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), directed an Order to Show Cause to Donald L. Plotnick, d/b/a Columbus Foot Clinic, 3354 E. Broad Street, Columbus, Ohio 43213. The order sought to revoke the DEA Certificate of Registration AP2840684 previously issued to Donald L. Plotnick. The statutory predicate for the Order to Show Cause was the revocation of Donald L. Plotnick's license to practice podiatric medicine in

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the State of Ohio by the Ohio Medical Board. This action by the Ohio Board of Medicine terminated Donald L. Plotnick's authority to possess, dispense, prescribe, administer or otherwise handle controlled substances in the State of Ohio.

A registered mail receipt indicates that the Order to Show Cause was received at the Columbus Foot Clinic on February 26, 1986. There was no response to the Order to Show Cause within the allotted 30 days period. Therefore, the Administrator finds that Donald L. Plotnick waived his opportunity for a hearing on the issues raised by the Order to Show Cause and enters this final order on the record as it appears. 21 CFR 1301.54(d) and 1301.54(e).

The Administrator finds that the Ohio State Medical Board revoked the license to practice podiatric medicine of Donald L. Plotnick on November 17,1982. After several appeals were heard by various Ohio appellate courts, the revocation of Dr. Plotnick's podiatric license was upheld, with the Supreme Court of the State of Ohio refusing to hear the case. The action by the Ohio Medical Board was based upon Donald Plotnick's conviction, in the Court of Common Pleas, Franklin County, Ohio, of aggravated arson and extortion on April 29, 1982.

Following the exhaustion of Dr. Plotnick's appeals, he was requested by investigators of the Drug Enforcement Administration to surrender his DEA Certificate of Registration since he was no longer authorized to handle controlled substances by the State of Ohio. Dr. Plotnick refused to surrender his DEA registration. The Order to Show Cause followed.

The Administrator finds that Donald L. Plotnick is not authorized to handle controlled substances in the State of Ohio. The Administrator had consistently held that when a DEA registrant is not authorized to handle controlled substances under the laws of the state in which he practices, DEA is without lawful authority to maintain a registration. See *Avner Kauffman, M.D.*, Docket No. 85–8, 50 FR 34298 (1985), *Kenneth K. Birchard, M.D.*, 48 FR 33776 (1983), and *Thomas E. Weedon, D.O.*, Docket No. 81–4, 47 FR 1358 (1982).

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AP2340684, issued to Donald L. Plotnick, be and is hereby revoked effective May 27, 1986. Any outstanding applications for registration submitted by Donald L. Plotnick are hereby denied.

Dated: April 18, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86–9191 Filed 4–23–86; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 85–12]

Walker L. Whaley, M.D.; Revocation of Registration

On January 15, 1985, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued to Walker L. Whaley, M.D. (Respondent), of 820 Prudential Drive, Suite 306, Jacksonville, Florida 32207, an Order to Show Cause proposing to revoke DEA Certificate of Registration, AW6639881, issued to Respondent as a practitioner under 21 U.S.C. 823(f). The statutory predicate for the proposed action was that on July 10, 1984, in the United States District Court for the Middle District of Florida, Respondent was convicted of willfully and knowingly conspiring to manufacture cocaine, a Schedule II controlled substance, a felony offense under the Controlled Substances Act, 21 U.S.C. 841(a)(1) and 846. Repondent's counsel requested a hearing on the issues raised by the Order to Show Cause.

Following the prehearing procedures, the hearing in this matter was held in Washington, DC on November 20, 1985. Administrative Law Judge Francis L. Young presided. On February 19, 1986, Judge Young issued his opinion, recommended ruling, findings of fact, conclusions of law and decision. No exceptions to the Administrative Law Judge's opinion and proposed decision were filed by either party. On March 10, 1986, Judge Young transmitted the record of these proceedings to the Administrator. The Administrator has considered this record in its entirety and pursuant to 21 CFR 1316.67 hereby issues his final order in this matter, based upon findings of fact and conclusions of law as hereinafter set forth.

The Administrative Law Judge found that Respondent is a practicing physician in Jacksonville, Florida, specializing in the areas of obstetrics and gynecology. In 1982, through an undercover "storefront" operation, DEA determined that certain chemicals necessary for the manufacture of cocaine were being sold to Jonathan Whaley, brother of Dr. Walker L. Whaley, and also to an individual named "David Brown" at the same address as Jonathan Whaley. An investigation revealed that "David Brown" was actually Jonathan Whaley. Diane Brown, Jonathan Whaley's girlfriend, was also found to be involved in the conspiracy.

Surveillance by DEA and local Jacksonville authorities revealed that Jonathan Whaley, utilizing the above-mentioned chemicals purchased from the undercover "storefront," was in the process of making synthetic cocaine in a makeshift laboratory in the basement of Respondent's home in Jacksonville. Both Jonathan Whaley and Diane Brown were observed on numerous occasions in the laboratory, by either DEA agents or local authorities, and appeared to be perfoming activities necessary to manufacture synthetic cocaine. Respondent and his brother, Jonathan, were observed working together in the laboratory on several occasions. Ongoing contact with a DEA chemist in Miami confirmed that the activities indicated from the observations were steps used in the manufacture of cocaine. On one occasion, Diane Brown was seen going through the various motions indicating that she was snorting cocaine. Later discovered evidence revealed that Respondent had also personally obtained some of the chemicals to be used in the manufacture of cocaine.

A few days after the above observations were made, DEA Agents conducted a search of Respondent's basement laboratory, pursuant to an authorized search warrant. During the search, Jonathan Whaley was found in the laboratory. In addition, Agents also found laboratory equipment, textbooks, notebooks, articles from *High Times* magazine, and copies of various formulas used for the manufacture of synthetic cocaine. All of the chemicals necessary for two or three different routes of such manufacturing process for cocaine were also found in the basement during the search. Agents also found small vials containing cocaine residue in a dresser or nightstand in the bedroom where Respondent and another man were observed to be snorting cocaine during the earlier surveillance. Respondent was not present during the search, as he was attending a horse show in Atlanta, Georgia at that time.

Following the search of Respondent's home, a DEA Agent and local police officer went to the apartment shared by Jonathan Whaley and Diane Brown. At the apartment, Agents discovered more chemicals, glassware and formulas used in the manufacture of cocaine. Cocaine was subsequently found in several places within the apartment, including kitchen cabinets and the refrigerator. Cocaine residue was also found on many implements in the apartment.

Respondent, Jonathan Whaley and Diane Brown were each indicted on May 12, 1983 by a Federal grand jury. Three counts of a thirteen count indictment pertained to Respodent. Respondent's trial commenced on January 30, 1984. He was acquitted of two counts and a mistrial was declared as to the third count involving conspiracy, since the jury was unable to reach a verdict. Respondent was retried on the conspiracy count and on July 10, 1984, in the United States District Court for the Middle District of Florida, he was convicted of willfully and knowingly conspiring to manufacture cocaine, a Schedule II controlled substance, in violation of 21 U.S.C. 841(a)(1) and 846. Respondent appealed his conviction to the United States Court of Appeals for the Eleventh Circuit. On January 10, 1986, the Court of Appeals issued its opinion affirming the District Court decision.

The Administrative Law Judge also found that Respondent is held in the highest regard both as a practitioner in the medical community and as an individual in his community at large. He has earned a reputation for excellence in the procedure of tubal microsurgery for the restoration of fertility. Dozens of letters from colleagues, patients, community leaders and friends attest to his medical ability, as well as his personal, human qualities as a physician. The authors of many of the above testimonials asked the trial judge not to deprive the community of Respondent's services as a physician by sentencing him to a period of incarceration. Respondent's practice involves extensive surgery and other procedures for which the administration of controlled substances pursuant to an appropriate DEA registration is a necessity. He will be virtually prevented form performing surgery if he is unable to dispense or prescribe controlled substances. The Administrative Law Judge also noted that there are few phsicians in Northern Florida who possess Respondent's skill and expertise, particularly with respect to microsurgery. In addition, there is no evidence that Respondent misused or abused controlled substances in connection with his medical practice, nor is there any evidence that Respondent was involved in commercial trafficking of illicit substances.

The Administrative Law Judge found that the evidence against Respondent was clear in this case. Respodent helped his borther in his attempt to manufacture cocaine. Respondent provided the secluded location (his home), for setting up a laboratory, personally obtained some of the chemicals to be used for the manufacture of cocaine, and, in addition, was observed playing an active role in furthering the manufacturing process.

Based upon the activity described above, Respondent was convicted of conspiracy to violate 21 U.S.C. 841(a)(1) and 846. This conviction was upheld on appeal. The Administrative Law Judge found that the evidence reveals a man who, in spite of all of his skills and talents as a physician, was quite willing to participate activity in the production of cocaine for illegitimate purposes. The intended product of Respondent's activity was an extremely dangerous substance. Had it been sold or distributed, the cocaine would have had an enormous potential for injury to the public health of Respondent's community.

The Administrative Law Judge also observed that Respondent has shown a serious lack of awareness of the probable results of his actions. He demonstrated a callous disregard for the extensive damage cocaine has caused to our society. At the administrative hearing, Respondent confined his testimony only to the effect the loss of his DEA registration would have on his practice. He gave no indication whatsoever of an awareness of the danger his actions posed for the public health. Also, he did not give the slightest assurance of rectifying his conduct in the future. In fact, Respondent simply pointed out that his offense had no direct connection with his practice and handling of controlled substances on a professional level. The Administrative Law Judge concluded that one cannot have any reasonable degree of confidence that Respondent can be trusted, as a physician, with the responsibility of a DEA Certificate of Registration for controlled substances.

The Administrative Law Judge noted that this agency has conistently held that a felony conviction relating to controlled substances, even though unrelated to a registrant's professional practice, can warrant loss or denial of registration. See *Coleman Preston McCown, D.D.S.*, Docket No. 82–28, 49 FR 45818 (1984) (illegal distribution of cocaine); *Tilman J. Bentley, D.O.*, Docket No. 82–22, 49 FR 35049 (1984) (conspiracy to manufacture methaqualone); *Raymond H. Wood, D.D.S.*, Docket No. 82–32, 48 FR 48727 (1983) (conspiracy to import marijuana); and *Aaron Moss, D.D.S.*, Docket No. 80–2, 45 FR 72850 (1980) (smuggling cocaine into the United States).

The Administrative Law Judge concluded that there is a lawful basis for revoking Respondent's registration and recommended that the registration be revoked.

The Administrator has examined the entire record in this matter, and hereby adopts the recommended findings and conclusions of law of the Administrative Law Judge, in their entirety. Thus, having concluded that there is a lawful basis for revocation of Respondent's registration; and having further concluded that, under the facts and circumstances presented in this case, the registration should be revoked, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AW6639881 issued to Walker L. Whaley, M.D., be and is hereby revoked.

This order is effective May 27, 1986.

Dated: April 18, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86–9192 Filed 4–23–86; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Task Force on Economic Adjustment and Worker Dislocation; Meeting

Notice is hereby given that the Task Force on Economic Adjustment and Worker Dislocation will hold its third meeting at 10:00 a.m. on Wednesday, May 7, 1986, in Room C–5515—Seminar Room 6, 200 Constitution Avenue NW., Washington, DC 20210. The public is invited to attend.

The purpose of the meeting is to discuss and ratify subcommittee progress. A presentation will be made by the subcommittee studying the Nature and Magnitude of the Problem.

For further information contact: Mr. Gerald Holmes, U.S. Department of Labor, Room S–5014, Washington, D.C. 20210 (202) 523–7571.

Signed at Washington, DC., this Thursday of April 17, 1986.

Michael E. Baroody,

Assistant Secretary for Policy.

[FR Doc. 86–9243 Filed 4–23–86; 8:45 am]

BILLING CODE 4510–23–M

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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[NOTICE 86-31]

NASA Advisory Council (NAC), Life Sciences Advisory Committee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Life Sciences Advisory Committee (LSAC).

DATE: May 15, 1986, 9 a.m. to 5:30 p.m; and May 16, 1986, 8:30 a.m. to 4:30 p.m..

ADDRESS: National Aeronautics and Space Administration, FB 10-6, Room 226,-A, 600 Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Ronald J. White, Code EB, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1530).

SUPPLEMENTARY INFORMATION: The Life Sciences advisory Committee provides advice and coordination of NASA Life Sciences research programs. They assist in long-range planning for Spacelab, Space Station, and Space Transportation System experiments, as well as ground-based biomedical research. The Committee, chaired by Dr. Robert E. Moser, is comprised of approximately 25 members.

This meeting will be closed to the public from 3:30 p.m. to 4:30 p.m. on May 16 for a discussion of candidates being considered for Committee membership. During this session, the qualifications of proposed new members will be candidly discussed and appraised. Since this session will be concerned throughout with matters listed in 5 U.S.C. 552(c)(6), it has been determined that this session should be closed to the public. The remainder of the meeting will be open to the public up to the seating capacity of the room (approximately 40 persons including committee members and other participants).

Type of Meeting

Open—except for a closed session as noted in the agenda below.

May 15, 1986
- 9 a.m., Opening Remarks and Approval of Minutes from Last Meeting.
- 9:45 a.m., Office of Space Science and Applications Status and Planning Process.
- 11:15 a.m., Considerations in Immunology/Neuroendocrinology.
- 1:15 p.m., Flight Program-Projected Activities.
- 2:15 p.m., Discussions of "White Papers" and Near-Term Strategies.
- 5:30 p.m., Adjourn.

May 16, 1986
- 8:30 a.m., Status of the National academy of Sciences' Space Biology and Medicine Report.
- 1:30 p.m., Reports from the Planning Subcommittee.
- 3:30 p.m., Discussion of New Members (Closed session).
- 4:30 p.m., Adjourn.

Dated: April 17, 1986.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 86-9114 Filed 4-23-86; 8:45 am]

BILLING CODE 7510-01-M

[Notice 86-30]

NASA Advisory Council (NAC), Space and Earth Science Advisory Committee (SESAC); Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space and Earth Science Advisory Committee, Space Station Task Force.

DATE: May 13-14, 1986, 8:30 a.m. to 5 p.m. and May 15, 1986, 8:30 a.m. to 3 p.m..

ADDRESS: National Aeronautics and Space Administration, Goddard Space Flight Center, Building 26, Room 205, Greenbelt, MD 20771.

FOR FURTHER INFORMATION CONTACT: Mr. Richard S. Sade, Code E, NASA Headquarters, Washington, DC 20546 (202/453-1430).

SUPPLEMENTARY INFORMATION: The Space Station Task Force was established under the NAC Space and Earth Science Advisory Committee to counsel NASA on plans for and work in progress on the scientific utilization of the new capabilities which will be afforded by the Space Station, including the relationship of these plans to the existing space science program. This advice includes periodic updates of scientific requirements on Space Station hardware and operations and interaction with NASA during the definition phase of the Space Station program.

This meeting will be open to the public up to the seating capacity of the room (approximately 50 persons, including Committee members and other invited participants). Topics under discussion at this meeting will include Space Station program status, platform design and utilization, and science operations.

Type of Meeting

Open.

Agenda

May 13, 1986
- 8:30 a.m.—SESAC Space Station Task Force Update.
- 9:15 a.m.—Status of Space Station Program.
- 1 p.m.—Update on Goddard Space Flight Center User Working Group.
- 1:45 p.m.—Science and Applications Information System.
- 2:30 p.m.—University Consortium.
- 3:15 p.m.—Human Productivity Issues.
- 4 p.m.—Science Operations Scenarios.
- 5 p.m.—Adjourn.

May 14, 1986
- 8:30 a.m.—Science Planning and Science Management in Preparation for Space Station.
- 9:30 a.m.—Recommendation for International Science User Group.
- 10 a.m.—Team Meetings.
- 1 p.m.—Team Meetings.
- 3:30 p.m.—Plenary Session.
- 5 p.m.—Adjourn.

May 15, 1986
- 8:30 a.m.—Platform Design Concept.
- 10 a.m.—Plans of Platform Users.
- 1 p.m.—Plenary Session.
- 3 p.m.—Adjourn.

Dated: April 17, 1986.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 86-9113 Filed 4-23-86; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted on or before May 27, 1986.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202-786-0233) or Ms. Judy McIntosh, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503 (202-395-6880).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202-786-0233) from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Revisions

Title: Applications and Instruction Forms for the Projects Category.

Form Number: Not applicable.

Frequency of Collection: Annual.

Respondents: Humanities researchers and institutions.

Use: Application for funding.

Estimated Number of Respondents: 262.

Estimated Hours for Respondents to Provide Information: 52 per respondent.

Susan Metts,

Director of Administration.

[FR Doc. 86-9178 Filed 4-23-86; 8:45 am]

BILLING CODE 7536-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Cellular Physiology; Closed Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Advisory Panel for Cellular Physiology.

Date and time: Monday, Tuesday and Wednesday May 12, 13, and 14, 1986, from 9:00 a.m. until 5:00 p.m.

Place: Room 1242, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of meeting: Closed.

Contact person: Maryanna P. Henkart, Program Director, Cellular Physiology, Room 332, Telephone: 202/357-7377.

Purpose of Advisory panel: To provide advice and recommendations concerning support for research in Cellular Physiology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M.R. Winkler

Committee Management Officer.

April 21, 1986.

[FR Doc. 86-9216 Filed 4-23-86; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Memory and Cognitive Processes; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Memory and Cognitive Processes.

Date and time: May 14, 15, 16, 1986; (9:00 a.m.-5:00 p.m.

Place: National Science Foundation, 1800 G Street, NW., Room 1242B, Washington, DC 20550.

Type of meeting: Part Open 5/15—9:00 a.m. to 12:00 p.m.; Closed 5/15—1:00 p.m. to 5:00 p.m.; Closed 5/14 & 5/16—9:00 a.m. to 5:00 p.m.

Contact person: Dr. Joseph L. Young, Program Director, Memory and Cognitive Processes Program, Room 320, National Science Foundation, Washington, D.C. 20550, (202)357-9698.

Summary of minutes: May be obtained from the Contact Person at the above stated address.

Purpose of meeting: To provide advice and recommendations concerning support for research in memory and cognitive processes.

Agenda: Open—General discussion of the current status and future plans of the Memory and Cognitive Processes Program. Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Officer.

April 21, 1986.

[FR Doc. 86-9217 Filed 4-23-86; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Sociology; Closed Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Sociology.

Date and time: May 12-13, 1986: Monday, 9:00 am to 5:00 pm; Tuesday, 9:00 am to 5:00 pm.

Place: National Science Foundation, 1800 G Street, NW., Washington, DC, Room 523.

Type of meeting: Closed.

Contact person: Mark Abrahamson, Program Director for Sociology or Stanley Presser, Associate Program Director for Sociology, Room 316, National Science Foundation, Washington, D.C. 20550. Telephone: (202) 357-7802.

Purpose of advisory panel: To provide advice and recommendation concerning support for research in the Sociology Program.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature,

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including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,
Committee Management Officer.
April 21, 1986.
[FR Doc. 86-9218 Filed 4-23-86; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 030-03825]

Finding of No Significant Impact; Amendment of Byproduct Material License No. 08-01393-02; U.S. Department of the Navy, Naval Research Laboratory, Washington, DC

The U.S. Nuclear Regulatory Commission (the Commission) is considering an amendment to Byproduct Material License No. 08-01393-02, issued to the Department of the Navy, to permit a hydrogen-3 transport and dispersion study over water. This study involves the release of a small quantity of hydrogen-3 gas directly to the environment and the collection of air samples downwind from the release. The study will be conducted at the Naval Research Laboratory's Chesapeake Bay Division site located on the western shore of the Chesapeake Bay, near Chesapeake Beach, Maryland.

The Commission's Division of Fuel Cycle and Material Safety has prepared an Environmental Assessment related to the amendment of Byproduct Material License No. 08-01393-02. On the basis of this assessment, the commission has concluded that the environmental impact created by the proposed licensing action would not be significant and does not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate. The Environmental Assessment is available for public inspection and copying at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC. Copies of the Environmental Assessment may be obtained by writing to the Material Licensing Branch, Division of Fuel Cycle and Material Safety, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Silver Spring, Maryland, this 16th day of April 1986.

For the U.S. Nuclear Regulatory Commission.
Vandy L. Miller,
Chief, Material Licensing Branch, Division of Fuel Cycle and Material Safety, NMSS.
[FR Doc. 86-9213 Filed 4-23-86; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-397]

Washington Public Power Supply System; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR Part 50, Appendix J, Section III.D.3 to the Washington Public Power Supply System (WPPSS of the licensee), holder of Facility Operating License No. NPF-21 which authorizes operation of the WPPSS Nuclear Project No. 2 (WNP-2 of the facility). The facility is a boiling water reactor and is located in Benton County, Washington.

Environmental Assessment

Identification of Proposed Action

The exemption from 10 CFR Part 50, Appendix J, Section III.D.3 would allow the licensee to perform Type C testing of containment isolation valves at refueling outages or other convenient intervals but in no case at intervals greater than two years. Currently the regulations require the Type C tests to be performed during each reactor shutdown for refueling, provided the intervals are not greater than 2 years.

The Need for the Proposed Action

The exemption is needed to avoid the requirement for testing each Type C containment isolation valve during each refueling outage. The Supply System is required by weather conditions and the abudnance of hydroelectric power in the Pacific Northwest to refuel on an annual basis each spring. Thus, Section III.D.3 would require Type C testing on an annual basis. The exemption would permit affected valves to be tested at intervals other than each refueling provided that the testing intervals not exceed two years.

Environmental Aspects of the Proposed Action

There are no environmental impacts of the proposed action. The proposed exemption involves a change in the installation or use of the facility's components located within the restricted areas as defined in 10 CFR Part 20. The NRC staff has determined that the proposed exemption involves no significant increase in the amounts, and no significant change in the types, of any effluents that may be released offsite and that there is not significant increase in individual or cumulative occupational radiation exposure. In reality, it is expected that granting the exemption will result in a reduction in cumulative occupational exposure.

With regard to potential non-radiological impacts, the proposed exemption involves systems located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and, by allowing better management of hydroelectric resources, may have a positive environmental impact. Therefore, the Commission concludes there are no signficant adverse non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Action

We have concluded there is no measurable adverse environmental impact associated with the proposed exemption. The principal alternative would be to deny the requested exemption. This alternative would not reduce the environmental impact of plant operation.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the "Final Environmental Statement Related to the Operation of WPPSS Nuclear Project No. 2" dated December 1981.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or person.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based on the foregoing environmental assessment, we conclude the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the request for exemption dated January 31, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC., and at the Richland Public Library, Swift and Northgate, Richland, Washington 99352.

Dated at Bethesda, Maryland, this 18th day of April, 1986.

For the Nuclear Regulatory Commission.
Elinor G. Adensam,
Director, BWR Project Directorate No. 3, Division of BWR Licensing, Office of Nuclear Reactor Regulation.
[FR Doc. 86-9214 Filed 4-23-86; 8:45 am]
BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Committee on International Science, Engineering, and Technology; Notice of Establishment

AGENCY: Executive Office of the President, Office of Science and Technology Policy.

ACTION: Establishment of the Committee on International Science, Engenering, and Technology.

SUMMARY: This Federal Register Notice announces the establishment of the Committee on International Science, Engineering, and Technology of the Federal Coordinating Council for Science Engineering, and Technology.

FOR FURTHER INFORMATION CONTACT: Deborah L. Wince, Assistant Director, Office of Science and Technology Policy, Executive Office of the President, New Executive Office Building, Washington, D.C. 20506.

Jerry D. Jennings,
Executive Director, Office of Science and Technology Policy.

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I. Description and CISET

The science and technology policies of the federal departments and agencies have increasing significance to United States economic and research competitiveness and foreign policy and national security interests. A single organizational focus for the identification, coordination and evaluation of these policies, however, has been lacking. The Federal Coordinating Council for Science, Engineering, and Technology (FCCSET) appeared to be the suitable organizational location and structure under which to place these functions. The FCCSET is a senior level, statutory, interagency coordinating mechanism managed by the Office of Science and Technology Policy, Executive Office of the President with a mission to coordinate federal science activities among federal agencies. Committees are established under FCCSET to address particular science concerns. Accordingly, a FCCSET Committee on International Science, Engineering, and Technology (CISET) was formally established. This Notice briefly describes CISET and includes copies of its charter, and the Terms of Reference of its Working Groups.

CISET is chartered to serve as coordinator, clearinghouse and technical evaluator of federal scientific research programs in the international arena to further the domestic research effort, promote foreign policy goals, and protect national security interests. In this regard, CISET will act to strengthen and complement the science and technology activities of the agencies.

Specifically, CISET will:

(a) Coordinate research planning and implementation of international scientific activities among agencies and provide technical oversight and evaluation of major programs;

(b) Advise on the formulation of broad national priorities and policies for international scientific cooperation in both the bilateral and multilateral fora;

(c) Identify emerging scientific issues with international implications and recommend policy options to formulate national strategies;

(d) Identify opportunities for new international scientific initiatives in order to strengthen domestic R&D efforts, complement U.S. foreign policy, and enhance national security.

CISET is chaired by the Associate Director of OSTP. There is an Executive Committee made up of the chairman and representatives from the Department of State and the National Science Foundation. It will prepare a long-term agenda, recommend committee working groups to address policy issues and problem areas, advise CISET on significant policy implications of federal science and technology programs, and review completed CISET committee reports and policy recommendations.

Other members of CISET are sub-Cabinet officers or senior agency officials responsible for scientific and technological research programs and international policy issues.

Initial members include:

The Department of Agriculture
Under Secretary for International Affairs and Commodity Programs
Assistant Secretary for Science and Education
The Department of Commerce
Administrator, NOAA
Director, National Bureau of Standards
Deputy Under Secretary for International Trade and Administration
Assistant Secretary for Productivity, Technology and Innovation
The Department of Defense
Deputy Under Secretary of International Programs and Technology
Deputy Secretary for Research and Advanced Technology
The Department of Energy
Director, Energy Research
Assistant Secretary for International Affairs
The Department of Health and Human Services
Director, National Institutes of Health
Assistant Secretary for Health
The Department of Housing and Urban Development
Assistant Secretary for Policy Development & Research
The Department of Labor
Deputy Under Secretary for International Affairs
The Department of State
Assistant Secretary, OES
The Department of Transportation
Assistant Secretary for Policy and International Affairs
Agency for International Development
Associate Administrator for Science and Technology
Central Intelligence Agency
Director, Office of Scientific and Weapons Research
National Intelligence Office for Science and Technology
Environmental Protection Agency
Deputy Administrator
National Aeronautics and Space Administration
Deputy Administrator
National Science Foundation
Deputy Director
United States Information Agency
Associate Director for Programs
Executive Office of the President
National Security Council
Deputy Director for International Economic Affairs
Office of Management and Budget
Deputy Associate Director for Special Studies Division
Office of Science and Technology Policy
Associate Director

CISET or its subcommittees may conduct special studies and analyses with members or nonmembers who hold special expertise. Committee members will provide such staff and other assistance as is necessary for the conduct of CISET activities. The Executive Secretary of CISET is an Assistant Director, Office of Science and Technology Policy.

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Four subcommittees, working groups, have been established. They are their respective chairmen are as follows:
International Science, Engineering, and Technology Education
Infrastructure and Facilities
Chair: National Science Foundation
Science, Engineering, Technology and International Competitiveness
Chair: Department of Commerce
Bilateral and Multinational Activities
Chair: Department of State
Strategic Science, Engineering, and Technology Cooperation and Technology Transfer
Chair: Office of Science and Technology Policy

II. A. CISET Charter

B. Terms of Reference for Working Groups

Charter of the Committee on International Science, Engineering, and Technology of the Federal Coordinating Council for Science, Engineering, and Technology

Establishment

The significance of the international dimensions of science and technology to economic and research competitiveness and to U.S. foreign policy and national security interests has become increasingly apparent in recent years. Research policies and programs with major international ramifications cut across a number of departments and agencies of the Executive Branch. To ensure that the scientific and technological policies and priorities of the Executive Branch effectively address these international technical issues and support U.S. foreign policy directives and national security considerations, a senior level interagency mechanism is required to identify, coordinate and evaluate science and technology programs and activities with significant international implications. The FCCSET, established by 42 U.S.C. 6651 and under the Chairmanship of the Director of the Office of Science and Technology Policy, is the senior interagency science committee with the mission of coordinating science activities affecting more than one agency. Therefore, a Committee on International Science, Engineering, and Technology (CISET is hereby re-established by the Federal Coordinating Council for Science, Engineering, and Technology (FCCSET).

Purpose

The Committee on International Science, Engineering, and Technology shall act to strengthen and complement the international science and technology programs and activities of member agencies and not in lieu thereof. The establishment of this Committee in no way changes or diminishes statutory authority or responsibility of any agency or department. CISET shall serve as coordinator, clearinghouse, and technical evaluator of federal scientific research programs and activities in the international arena to further the domestic research effort, promote foreign policy goals, and protect national security interests.

Specifically, CISET will:

(a) Coordinate research planning and implementation of international scientific activities between agencies and provide technical oversight and evaluation of major programs;

(b) Advise on the formulation of broad national priorities and policies for international scientific cooperation in both the bilateral and multilateral fora;

(c) Identify emerging scientific issues with international implications and recommend policy options to formulate national strategies;

(d) Identify opportunities for new international scientific initiatives in order to strengthen domestic R&D efforts, complement U.S. foreign policy, and enhance national security.

Members and Chairman

(a) The Associate Director of the Office of Science and Technology Policy will chair the Committee.

(b) Membership of the CISET will be sub-Cabinet officers or the senior agency official responsible for scientific and technological research programs and international policy issues. The CISET will form an executive steering committee with the members from the Department of State and the National Science Foundation.

(c) Members shall be nominated by their respective agencies subject to the approval of the FCCSET Chairman. In addition, as deemed necessary by the committee's chairman, additional members or observers may be appointed.

(d) The CISET includes the following initial members:

- The Department of Agriculture
  - — Undersecretary for International Affairs and Commodity Programs
  - — Assistant Secretary for Science and Education
- The Department of Commerce
  - — Administrator, NOAA
  - — Director, National Bureau of Standards
  - — Deputy Undersecretary for International Trade Administration
  - — Assistant Secretary for Productivity, Technology and Innovation
- The Department of Defense
  - — Deputy Undersecretary for International Programs and Technology
  - — Deputy Undersecretary for Research and Advanced Technology
- The Department of Energy
  - — Director, Energy Research
  - — Assistant Secretary for International Affairs
- The Department of Health and Human Services
  - — Director, National Institute of Health
  - — Assistant Secretary for Health
- The Department of Housing and Urban Development
  - — Assistant Secretary for Policy Development & Research
- The Department of the Interior
  - — Director, U.S. Geological Survey
- The Department of Labor
  - — Deputy Undersecretary for International Affairs
- The Department of State
  - — Assistant Secretary, OES
- The Department of Transportation
  - — Assistant Secretary for Policy and International Affairs
- Agency for International Development
  - — Associate Administrator for Science and Technology
- Central Intelligence Agency
  - — Director, Office of Scientific and Weapons Research
  - — National Intelligence Officer for Science and Technology
- Environmental Protection Agency
  - — Deputy Administrator
- National Aeronautics and Space Administration
  - — Deputy Admninistrator
- National Science Foundation
  - — Deputy Director
- United States Information Agency
  - — Associate Director for Programs
- Executive Office of the President
  - — National Security Council
- Deputy Director for International Economic Affairs
  - — Office of Management and Budget
- Deputy Associate Director for Special Studies Division
  - — Office of Science and Technology Policy
- Associate Director

Administrative Provisions

(a) The Committee will report to FCCSET through the Chairman of that body.

(b) Meetings of the Committee, called as deemed appropriate by the Chairman or at the request of FCCSET, will serve as a forum for the identification of policy issues and problem areas, the discussions and exchange of relevant information, and the evaluation of the work undertaken by the Committee.

(c) The Executive Steering Committee will assist the Chairman in preparing a long-term agenda, recommending committee working groups to address policy issues and problem areas, advising the Committee on significant policy implications of federal science and technology programs, and reviewing completed committee reports and policy recommendations. Non-members with special expertise may be invited to participate in committee working groups as deemed appropriate by the Committee and working group chairman.

(d) Special studies, analysis, and recommendations may be initiated by the Committee. Ad hoc subcommittees or working groups, with participation not restricted to committee members, may be formed to assist the Committee in its work. These types of studies will be responsive to the charge of the specific working groups and the concerns of members agencies.

(e) Committee members will assign such working staff as requested by the Committee Chairman and as is necessary for the conduct of Committee activities and the achievement of its purpose. The agencies shall pay for direct and incidental costs arising from the participation of their members and staff in Committee activities.

(e) Two staff members of the Office of Science and Technology Policy will serve as the Executive Secretary of the CISET, responsible for non-defense and defense issues.

Compensation

All members will be full-time Federal employees who are allowed reimbursement for travel expenses by their agencies, plus per diem for subsistence while serving away from their duty stations in accordance with Standard Government Travel Regulations.

Duration

The Committee's activities and the continuing need for the Committee will be reviewed by the FCCSET Chairman bi-ennially.

Determination

I hereby determine that the formation of the CISET is in the public interest in connection with the duties imposed on the Executive Branch by law, and that such duties can best be performed through the advice and counsel of such a group.

Approved:
Dated: December 20, 1985.
G.A. Keyworth,
Chairman.

Terms of Reference of the FCCSET/CISET Working Group on International Science, Engineering, and Technology Education Infrastructure, and Facilities

Establishment: There is established a Working Group on International Science, Engineering and Technology Education, Infrastructure, and Facilities under the FCCSET Committee on International Science, Engineering and Technology (CISET). The purpose of the Working Group will be to develop policy options to increase the effectiveness of U.S. participation in the international science, engineering, and technology system, including recommendations related to education, mobility of scientists and engineers and the sharing of major research facilities internationally.

Members and Chairman: The Working Group will be chaired by the CISET member from the National Science Foundation who will report on its behalf to the Chairman of CISET. Other members will be CISET principals, to the extent possible, and otherwise nominees from their respective agencies.

Duration: The Working Group's activities and the continuing need for the Working Group will be reviewed by the CISET Chairman annually.

Terms of Reference of the FCCSET/CISET Working Group on Science, Engineering, Technology and International Competitiveness

Establishment: There is established a Working Group on Science, Engineering, Technology and International Competitiveness under the FCCSET Committee on International Science, Engineering and Technology (CISET). The purpose of the Working Group will be to assess the impact of R&D policies and investments on international economic and research competitiveness and to recommend new initiatives in international science and technology to promote the competitive position of the United States.

Members and Chairman: The Working Group will be chaired by the CISET member from the Department of Commerce who will report on its behalf to the Chairman of CISET. Other members will be CISET principals, to the extent possible, and otherwise nominees from their respective agencies.

Duration: The Working Group's activities and the continuing need for the Working Group will be reviewed by the CISET Chairman annually.

Terms of Reference of the FCCSET/CISET Working Group on Bilateral and Multinational Activities

Establishment: There is established a Working Group on Bilateral and Multinational Activities under the FCCSET Committee on International Science, Engineering and Technology (CISET). The purpose of the group will be to develop policy options and recommendations to optimize U.S. participation in bilateral and multinational activities of importance to the Government. Bilateral agreements and programs with significant strategic and security implications may be addressed in a separate working group.

Members and Chairman: The Working Group will be chaired by the CISET member from the Department of State who will report on its behalf to the Chairman of CISET. Other members will be CISET principals, to the extent possible, and otherwise senior nominees from their respective agencies.

Duration: The Working Group's activities will be reviewed by the CISET Chairman annually.

Terms of Reference of the FCCSET/CISET Working Group on Strategic Science, Engineering, and Technology Cooperation and Technology Transfer

Establishment: There is established a Working Group on Strategic Science, Engineering, and Technology Cooperation and Technology Transfer under the FCCSET Committee on International Science, Engineering and Technology (CISET). The purpose of the Working Group will be to identify the scientific and technological policy objectives of strategic science and technology cooperation, assess National Security, technology transfer, and foreign policy implications and recommend policy options to advance national goals and protect security interests.

Members and Chairman: The Working Group will be chaired by the CISET member from the Office of Science and Technology Policy who will report on its behalf to the Chairman of CISET. Other members will be CISET principals, to the extent possible, and otherwise nominees from their respective agencies.

Duration: The Working Group's activities will be reviewed by the CISET Chairman annually.

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RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) Collection title: Employer's Deemed Service Month Questionnaire
(2) Form(s) submitted: GL–99
(3) Type of request: New collection
(4) Frequency of use: Annually
(5) Respondents: Businesses or other for-profit
(6) Annual responses: 18,000
(7) Annual reporting hours: 900
(8) Collection description: Under section 3(i) of the Railroad Retirement Act (RRA) the Board may deem additional months of service in some cases where an employee does not actually work in every month of the year. The collection obtains needed service and compensation information from railroad employers for determining if an employee may be credited with additional deemed months of railroad service.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy McIntosh (202–395–6880), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 86–9164 Filed 4–23–86; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–23145; File No. SR–Amex–86–9]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change

On March 10, 1986, the American Stock Exchange, Inc. ("Amex" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change to clarify its policy regarding the matching of orders by options traders affiliated with the same member organization.

The proposed rule change was noticed in Securities Exchange Act Release No. 23015 (March 13, 1986), 51 FR 9808 (March 21, 1986). No comments were received on the proposed rule change.

The Amex proposes to clarify its policy regarding when options traders who are affiliated with the same member or member organization may match orders in the trading crowd. The proposed policy is set forth in an information circular which will be distributed to the Amex membership. In brief, the proposed circular reconfirms that traders who are in a joint account, or who are associated with the same member organization, may not match orders. A limited exception to this policy will be made, however, if such traders who are associated with the same member firm have demonstrated that they are not officialted with one another. If traders are associated with the same member organization but are not affiliated with one another, they would be permitted to match subject to a limitation: If two or more such traders are on parity in an trading crowd, they would be entitled to that proportion of the trade which they could obtain if there were only two such affiliated traders. The Exchange will make determinations upon request as to whether such traders are in fact affiliated with one another, using the control test set forth in Exchange Rule 904, which governs aggregation of accounts in the context of position limits.[3]

Because the goal of the Amex policy is to ensure fairness in the execution of orders in the trading crowd (a single firm or a joint account should be prohibited from obtaining a larger portion of a match by "packing the crowd"), the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 [4] and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Dated: April 17, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–9160 Filed 4–23–86; 8:45 am]

BILLING CODE 8010–01–M

[1] 15 U.S.C. 78s(b)(1) (1982).
[2] 17 CFR 240.19b–4 (1985).
[3] Exchange Rule 904 sets forth criteria under which accounts will be presumed to be under common control. *See* Securities Exchange Act Release No. 22865 (December 9, 1985), 50 FR 50976.
[4] 15 U.S.C. 78f (1982).
[5] 15 U.S.C. 78s(b)(2) (1982).
[6] 17 CFR 200.30–3(a)(12) (1982).

[Release No. 34–23143; File No. SR–CSE–86–1]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by Cincinnati Stock Exchange, Inc., Relating to Small Order Execution Guarantee

The Cincinnati Stock Exchange, Inc. ("CSE") submitted on March 6, 1986, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to amend its rules to increase from 1,099 to 2,099 the number of shares of a public agency market order that are guaranteed automatic execution at the best available price represented by all Intermarket Trading System participants.

Notice of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 22987, March 7, 1986) and by publication in the **Federal Register** (51 FR 9130, March 17, 1986). No comments were received regarding the proposal.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and the rules and regulations thereunder. Specifically, the rule change is consistent with section 6(b)(5) of the Act, in that it is consistent with section 6(b)(5) of the Act, in that it is designed to perfect the mechanism of a free and open market and a national market system. The proposed rule change further promotes the purposes of the Act by assuring economically effecient executions of securities transactions, to the benefit of the investing public.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 17, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–9161 Filed 4–23–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–23134; File No. SR–MSRB–86–8]

Self-Regulatory Organizations; Proposed Rule Change by the Municipal Securities Rulemaking Board; Relating to Syndicate Practices

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 3, 1986, the Municipal Securities Rulemaking Board ("Board") filed with the Securities and Exchange Commission a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would modify rule G–11(g) on syndicate practices to require syndicate managers to provide to syndicate members a written summary of allocations receiving priority over members' "take-down" orders within two business days after the date of sale, rather than 10 business days after the date of sale, as currently required by the rule. The proposed rule change also would delete the requirement in rule G–11(g) that information identifying persons placing group or related portfolio orders to which securities are allocated be provided to syndicate members within 10 business days of the date of sale and would add to section (h) of the rule the requirement that this information be provided at or before final settlement of the syndicate, with other final accounting information. The full text of the proposed rule change is available for inspection and copying at the Commission's Public Reference Section and at the offices of the Board.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

(a) Current rule G–(g) requires syndicate managers to provide syndicate members, within 10 business days following the date of sale, written disclosures including: the identity of allocation; the identity of each related portfolio (including sponsored municipal securities investment trusts or accumulation accounts for such trusts) to which securities were allocated and the amount of the allocation; and a summary, by priority category, of all allocations of securities to orders which were entitled to a higher priority than the members' "take-down" orders. Each of these disclosures of allocations must include the aggregate par value and maturity date of each maturity so allocated. The disclosures allow syndicate members to understand and to react to the syndicate's marketing practices and to monitor the syndicate manager's compliance with the syndicate priority allocation provisions.

Based on comments received from industry members, described more fully in Item II C below, the Board concluded that information on quantity and price of priority allocations would provide greater assistance to syndicate members in understanding and reacting to syndicate practices if provided earlier in the underwriting process than 10 business days after date of sale. The proposed rule change, accordingly, requires the written summary of priority allocation information to be provided within two business days after the date of sale, rather than within 10 business days. The Board also concluded that information on the identity of persons placing group or related portfolio orders to which securities are allocated, while useful to syndicate members in monitoring compliance with syndicate agreements, would continue to be useful for this purpose, and would create less administrative burden on the syndicate manager, if provided with other final accounting information at the settlement of the syndicate account. The proposed rule change deletes the requirement that the syndicate manager disclose this information within 10 business days of the date of sale and replaces it with a requirement that it be provided with other final accounting information at or before the settlement of the syndicate account.

(b) The proposed rule change is adopted pursuant to section 15B(2)(C) of the Securities Exchange Act of 1934, as amended (the "Act") which authorizes and requires the Board to adopt rules,

designed to . . . promote just and equitable principles of trade . . . and not be designed to permit unfair discrimination between customers, issuers, municipal securities brokers, or municipal securities dealers, to fix minimum profits to impose any schedule or fix rates of commissions, allowances, discounts or other fees to be charged by municipal securities brokers or municipal securities dealers . . .

and section 15B(b)(2)(K) of the Act, which requires and empowers the Board to adopt rules that

establish the terms and conditions under which any municipal securities dealer may sell, or prohibit any municipal securities dealer from selling, any part of a new issue of municipal securities to a municipal securities investment portfolio during the underwriting period. . . .

B. Self-Regulatory Organization's Statement on Burden on Competition

The board believes that the proposed rule change would not have any significant burden on competition because it would apply to all municipal securities dealers equally. The proposed rule change would require dealers serving as syndicate managers to share potentially useful market information with syndicate members at an earlier date in the underwriting process, and, thereby, should reduce any potential unfair competitive advantage that might be enjoyed by a syndicate manager having exclusive use of such information during a particular underwriting.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

June 1985 Notice Requesting Comment

In June 1985, in response to concern expressed by certain dealers regarding syndicate practices in the municipal securities industry, the Board published a notice requesting comment from interested persons whether rule G–11 should be modified, strengthened or withdrawn. The Board received 10 comments on the notice.

Two of the commentators argued that the rule is unnecessary and should be withdrawn. Three commentators stated that the rule serves a worthwhile purpose by forestalling abuses by syndicate managers in the allocation process. One commentator suggested an amendment requiring syndicate agreements to allocate a portion of an issue (15–20%) for individuals or small

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buyers. Another commentator suggested that rule G–11 be amended to specify the priority or orders required to be followed by all syndicates.

August 21, 1985, Meeting With Industry Members

After considering the comments received on the June 1985 notice, the Board met in New York City on August 21, 1985, with several industry members that act as syndicate managers as well as syndicate members.

In general, the commentators suggested that while some benefits might be derived from strengthening rule G–11 to provide syndicate members with a greater chance to obtain syndicate allocations, the interests of syndicate members, issuers and investors would be served better by preserving the flexibility of syndicates to establish their own procedures for underwriting a new issue of municipal securities. A number of commentators at the meeting suggested that rule G–11 has a prophylactic effect in preventing abuse by managers because it subjects syndicate activities to scrutiny by syndicate members and, to some extent, by investors.

With regard to the disclosure provisions of the rule, several commentators stated that information on the amount and price of securities allocated on a priority basis required to be disclosed under section (g) is useful to syndicate members in understanding the syndicate's marketing practices and determining the price at with the securities can be sold. These commentators noted that such information would be much more useful if provided earlier than 10 business days after the date of sale. They stated that the identities of the persons placing priority orders is not necessary for the allocation information to be useful since the information primarily serves to indicate the quantities and price levels at which the securities were marketed by the syndicate.

November 1985 Exposure Draft

After considering the comments received at the August 21 meeting along with the previous comments on the rule, the Board, in November 1985, published an exposure draft of amendments to rule G–11 which were substantively the same as the proposed rule change.

The Board received three comment letters on the exposure draft. One commentator suggested that the benefits of receiving information on priority allocations two days after the date of sale would be no greater to syndicate members than if received 10 business days after the date of sale and could pose an unnecessary burden on some firms serving as syndicate managers. Based on the previous comments received, however, the Board believes that this information would be useful to syndicate members in understanding and reacting to the syndicate's marketing practices, thereby minimizing any marketing advantage that a syndicate manager might enjoy by exclusive use of this information. Therefore, the Board has concluded that the information should be provided within two business days after the date of sale rather than 10 business days after the date of sale.

Two commentators suggested that the requirement to provide allocation information to syndicate members in writing two business days after the date of sale would be difficult for syndicate managers to accomplish in some cases. The Board expects that syndicate managers utilizing electronic means of communicating information to syndicate members also will use this means to communicate the required disclosures. The Board notes, however, that the mailing of the disclosures within two business days following the date of sale will comply with the rule if the syndicate manager also makes the required information available within two business days following the date of sale by telephone to syndicate members requesting it.

One commentator supported as "appropriate" the provision of the November 1985 exposure draft regarding disclosure of the identities of persons placing related portfolio or group orders to which securities were allocated. Another commentator opposed the provision, stating that the identifying information would be more valuable within 10 business days after the date of sale than at the settlement of the syndicate. The Board concluded that the primary purpose of this disclosure is not to assist syndicate members in marketing new issue securities but rather to allow members to ensure compliance with the allocation provisions of syndicate agreements and ultimately to know the identity of persons who placed orders for the benefit of the entire syndicate. The Board believes that these purposes can be accomplished with the least burden to syndicate managers at or before the final settlement of the syndicate, when other final accounting information is provided.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by [May 15, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 16, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–8182 Filed 4–23–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–23144; File No. SR–Phlx–86–9]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

On March 4, 1986, the Philadelphia Stock Exchange ("Phlx" or "Exchange"), submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to rescind Commentary .01(a)(i) of Phlx Rule 1010 relating to withdrawal of approval of underlying stocks for options trading. The Phlx filed Amendment No. 1 to the rule proposal on April 2, 1986.

The proposed rule change was noticed in Securities Exchange Act Release No. 23001 (March 12, 1986), 41 FR 9565 (March 19, 1986). One comment letter was received on the proposed rule change which supported the change.[3]

The rule proposal as originally submitted rescinds the Exchange's requirement that, in order to maintain approval of an underlying security for options trading, an issuer and its significant subsidiaries must meet their obligations concerning the payment of any dividend or sinking fund installment on preferred stock, or in the payment of any principal, interest, or sinking fund installment on any indebtedness for borrowed money, or in the payment of rentals under long-term leases.[4] The Phlx believes that this requirement is no longer necessary because when an issuer defaults in the payment of any of these obligations, the marketplace will assess the effect of such action and such assessment will be reflected in the price of the stock. In addition, the ability of investors to engage in strategies involving put options affords the opportunity to react accordingly in the event an issuer announces a default in the payment of its obligations. Should the stock fall below $6.00, then no additional series can be added and the option will be delisted in due course unless the underlying security is able to comply with eligibility criteria for listing required by Phlx Rule 1009.

In Amendment No. 1 to the rule filing, Phlx also requests approval to rescind Commentary .01(b) of Phlx Rule 1009, which lists the criteria for approval of underlying stocks or underlying foreign currencies for options trading. Commentary .01(b) contains the same requirement regarding an issuer's payment of dividends and indebtedness as is contained in Commentary .01(a)(i) of Rule 1010. In order to maintain consistency in the application of Rules 1009 and 1010, the Phlx requests that identical amendments be made to both rules.

Phlx maintains that rescission of these requirements is appropriate at this time given the maturation of standardized options trading over the past decade and the liberalization of the listing and maintenance criteria over the past five years. In addition, Phlx believes that stocks eligible for options trading will continue to be widely held and actively traded and considerable information regarding the issuer will be publically available. The Commission concurs in this rationale, and accordingly finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6[5] and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change is approved for a six month period commencing as of the date of this order.[7]

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Dated: April 17, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–9183 Filed 4–23–86; 8:45 am]

BILLING CODE 8010–01

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[1] 15 U.S.C. 78s(b)(1)(1982).

[2] 17 CFR 240.19b–4 (1985).

[3] Letter from Nancy R. Crossman, Special Counsel, Options Division, American Stock Exchange, to Estelle Ross, Branch Chief, Branch of Options Regulations, Division of Market Regulation, dated March 21, 1986.

[4] Pursuant to Exchange Rule 1010, the issuer and/or its significant subsidiaries have twelve months within which to cure the default.

[5] 15 U.S.C. 78f (1982).

[6] 15 U.S.C. 78s(b)(2)(1982).

[7] In view of the ongoing discussions among the options exchanges regarding possible uniform revisions to the options eligibility criteria (*see* letter from Richard T. Chase, Associate Director, Division of Market Regulation, to Nancy R. Crossman, Special Counsel, Options Division, American Stock Exchange, Inc. *et al.*, dated April 4, 1986), the Phlx agreed to amend their proposed rule change to make the rule change effective for only a six month pilot period. Telephone conversation between Brandon Becker, Assistant Director, Division of Market Regulation, and Barbara Rothenberg, General Counsel, Phlx, on April 18, 1986.

[8] 17 CFR 200.30–3(a)(12)(1985).

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Boston Stock Exchange, Incorporated

April 18, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following stocks:

Biocraft Laboratories, Inc.
Common Stock, $0.01 Par Value (File No. 7–8931)

Flemming Companies, Inc.
Common Stock, $2.50 Par Value (File No. 7–8932)

Pullman Peabody Co.
Common Stock, $0.10 Par Value (File No. 7–8933)

Rexnord, Inc.
Common Stock, $1.00 Par Value (File No. 7–8934)

First Bank Systems, Inc.
Common Stock, $1.25 Par Value (File No. 7–8935)

Central Fund of Canada, Ltd.
Class A Common Stock, No Par Value (File No. 7–8936)

PHH Group, Inc.
Common Stock, No Par Value (File No. 7–8937)

Resorts International, Inc.
Class A Common Stock, $1.00 Par Value (File No. 7–8938)

MDC Holdings, Inc.
Common Stock, $0.01 Par Value (File No. 7–8939)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 9, 1986, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86–9184 Filed 4–23–86; 8:45 am]

BILLING CODE 8010–01–M

Laser Arms Corp. (File No. HO–1833); Order of Trading Suspension

April 21, 1986.

It appears to the Securities and Exchange Commission that there is a lack of current adequate and accurate public information concerning Laser Arms Corporation's business, operations financial condition and products and the identity current management.

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Therefore, it is ordered, pursuant to section 12(k) of the Securities Exchange Act of 1934, that over-the-counter trading in the securities of Laser Arms Corporation is suspended for a single ten-day period from 9:30 A.M. (EST) on April 21 1986 through 11:59 P.M. (EDT) on April 30, 1986.

By the Commission.

John Wheeler,

Secretary

[FR Doc. 86-8185 Filed 4-23-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 86-4-57, Order to Show Cause]

Aviation Proceedings; Fitness Determination of Kenneth H. Bunch d/b/a Sportsman Flying Service a/k/a Gulkana Air Service

AGENCY: Department of Transportation.

ACTION: Notice of Air Carrier Fitness Determination.

SUMMARY: The Department of Transportation is proposing to find that Kenneth H. Bunch d/b/a Sportsman Flying Service a/k/a Gulkana Air Service is fit, willing and able to provide reliable subsidized essential air service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service conform to applicable safety standards.

Responses: All interested persons wishing to respond to the Department of Transportation's tentative fitness and reliability determination should file their responses with the Service Analysis Division I, Room 5100, Department of Transportation, 400 7th Street, SW., Washington, DC 20590, and serve them on all persons listed in Attachment A to the Order. Responses shall be filed no later than May 5, 1986.

FOR FURTHER INFORMATION CONTACT: Bernard A. Calure, Service Analysis Division I, Department of Transportation, 400 7th Street, SW., Washington, DC 20590 (202) 426-9813.

Dated: April 18, 1986.

Vance Fort,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-9229 Filed 4-23-86; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 86-039]

Environmental Impact Statement on Proposed Midpoint Toll Bridge Construction Across Caloosahatchee River, between Cape Coral and Ft. Myers, Lee County, FL

AGENCY: U.S. Coast Guard, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Coast Guard is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared in conjunction with actions (issuance or denial of a bridge permit) related to the approval of location and plans for the proposed construction of a toll bridge across the Caloosahatchee River. The Caloosahatchee River at the site of the proposed toll bridge has been determined to be navigable waters of the United States; therefore, a Coast Guard permit is required.

ADDRESS: Written comments should reference this notice and be addressed to: Commander, Seventh Coast Guard District, Aids to Navigation Branch, 51 SW. First Avenue, Miami, Florida, 33130.

FOR FURTHER INFORMATION CONTACT: Ms. Zonia C. Reyes, Bridge Administration Specialist, Bridge Section, Aids to Navigation Branch, Seventh Coast Guard District, at the above address (305) 536-4013/FTS 350-4103.

SUPPLEMENTARY INFORMATION: Lee County has submitted an application to the Coast Guard for a bridge permit to construct the subject bridge project. The Coast Guard is the lead Federal Agency for the preparation of the EIS. The purpose of the proposed bridge project is to improve traffic flow between Cape Coral and Ft. Myers, by constructing a toll bridge across the Caloosahatchee River. A range of alternative alignments and designs, including the no-action alternative, will be considered for the project. The consultant has held a series of public information meetings to identify potential impacts within the corridor. A scoping meeting open to the general public will be held on May 22, 1986 at 7:00 p.m., at the Ft. Myers Tourist Center, Hall of 50 States, 2254 Edwards Drive, Ft. Myers, Florida. To ensure all impacts related to the proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action and EIS should be directed to the Coast Guard at the above address.

Dated: April 17, 1986.

T.J. Wojnar,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 86-8206 Filed 4-23-86; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[Summary Notice No. PE-86-9]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: May 14, 1986.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11)

Issued in Washington, DC, On April 17, 1986.

Richard C. Beitel,

Acting Assistant Chief Counsel, Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23980	United States Hang Gliding Assn	14 CFR 91.17 and Portions of Part 103	Extension of Exemption 4144 to allow petitioner to tow aloft an unpowered ultralight (hand glider) by a powered ultralight.
23954	Airline Training Institute	14 CFR 61.157(d)(1) and 61.63(d)(2) and (3)	To allow trainees of petitioner to complete a practical test for the issuance of a type rating to be added to any grade of pilot certificate by substituting for the flight test required by § 61.63(d)(2) the test requirements in Appendix A, subject to specific conditions and limitations.
23462	United States Hang Gliding Assoc., Inc.	14 CFR 103.1(a) and (b)	To allow the definition of "ultralight vehicle" to apply to unpowered vehicles of not more than 155 pounds weight used to carry two occupants for the purpose of sport and recreation, including practicing for, or participating in, two-place competition, or flight instruction conducted by petitioner's certified instructors.
011CE	Cessna Aircraft Company	14 CFR 23.207	To permit Type Certification of derivative models of Cessna Models 406, 435, 441, and 208 airplanes with a stall warning beginning at airspeeds greater than 10 knots or 15 percent above the stall speed.
24020	Federal Exams Aviation Ground School	14 CFR 65.75(b)	To allow petitioner to issue a temporary certificate/rating to students upon satisfactory completion of all written, oral, and practical exams to avoid the waiting period involved pending FAA approval and issuance of the permanent certificate/rating.
22578	Ray's Flight System, Inc.	14 CFR 61.63(d)(2) and (3) and 1.157(d)(1)	Extension of Exemption 3544 to allow trainees of petitioner, who are applicants for a type rating to be added to any grade of pilot certificate, to substitute the practical test requirements of § 61.63(d) (2) and (3), and to complete a portion of that practical test in a simulator.
24081	G.L. Capps Company	14 CFR 145.57	To allow petitioner to continue its operations without the availability of a current manufacturer's manual.
24081	Air Illinois, Inc., d.b.a. Atlantic Gulf Airlines	14 CFR 145.71 and 145.79	To allow petitioner to utilize Federal Aviation Administration (FAA) repair station no. 5410 (Coopesa) to do heavy maintenance check in lieu of a U.S. facility.
24164	Royale Airlines	14 CFR 135.157(b)(2)(ii)	To add Gulfstream G-159, N725RA, to exemption 4319, which permits petitioner to operate nine Grumman Gulfstream (G-159) airliner aircraft up to 23,000 feet mean sea level without complying with the passenger oxygen dispensing requirements in its air carrier passenger-carrying operations.
23077	Trinidad & Tabago	14 CFR Portions of Parts 21 and 91	To extend the termination date of Exemption 3678, to allow petitioner to operate a leased, U.S. registered L1011-385-3, using a FAA-approved Minimum Equipment List and an FAA-approved continuous inspection and maintenance program.
24836	United Airlines	14 CFR 121.371(a) and 121.378	To modify Exemption 4815 to correct the type designation specified. The original exemptions allows petitioner to contract with Hong Kong Aviation Engineering Company to perform maintenance on L1011 aircraft.
24840	American Trans Air, Inc.	14 CFR 121.3	To allow petitioner to operate a limited number of "subservice", or "seat-lease" flights on behalf of scheduled U.S. or foreign air carriers as supplemental flights, under Part F of its domestic and flag operations specifications (ops specs), without further amendment of its authority. In the alternative, to the extent the FAA may require some form of ops specs amendment for any of its "subservice operations, petitioner requests an exemption to permit these amendments to be made to Part H of its ops specs without the procedures of formally adding these flights to Part C, necessitating placement of manuals, training of ground personnel, inspection of stations, and further steps.
22539	Air Methods, Inc	14 CFR 43.3(h)	To allow petitioner to permit its appropriately trained and certificated pilots to remove, check, and reinstall magnetic chip detector plugs installed on Allison 250 series turbine engines, transmissions, and tail rotor gearboxes of the Bell 206L-1/L-3 series helicopters operated by them in or en route to remote areas subject to stipulated conditions. Air Method also requested that the Lycoming LTS 101-750 series engines, and the tail rotor gearbox on the Bell 222 helicopter be included in the amended exemption, which expires August 31.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought and disposition
24773	Transporte Aereo Rioplatense S.A.C.	14 CFR 91.203	To extend the January 1, 1985, noise level compliance date. *Amended grant 3/21/86.*
23997	Gulfstar Aviation	14 CFR 141.55	To allow petitioner to continue to have examining authority for written tests for Flight Instructor, Instrument Flight Instructor, and Airline Transport Pilot Certificates. *Granted 3/24/86.*
23962-1	Independent Air, Inc.	14 CFR 91.209	To extend the January 1, 1985, noise level compliance date. *Amended partial grant 3/24/86.*
24808	Cotton Belt Aviation, Inc.	14 CFR 141.77(a)(1) and 141.27(a)	To allow petitioner to reapply for a provisional pilot school certificate prior to the 180 days allowed. *Granted 3/20/86.*
24891	Air Midwest, Inc.	14 CFR 135.337	To permit petitioner to use certain instructor pilots employed by Embraer Aircraft Corporation who do not hold U.S. certificates and ratings and who are not qualified in a training program approved under Part 135 to train an initial cadre of Air Midwest pilots in the Embraer 120 (EMB-120) type airplane. *Withdrawn 3/19/86.*
010CE	Bayco Engineering	§§ 3.430 and 3.440 of the Civil Air Regulations in effect on May 15, 1956.	To permit the Supplemental Type Certification of Cessna Model 150 and 250 Series airplanes without interconnecting the fuel tank sumpsons of tanks supplying fuel simultaneously to one engine. *Denied 3/25/86.*
24846	Captain A.S. Clevenger	14 CFR 121.383(c)	To allow petitioner to serve as a pilot in Part 121 operations after reaching his 60th birthday. *Denied 4/1/86.*

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DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought and disposition
21359	The Coastal Corporation	14 CFR 61.58(c)	To allow petitioner's pilots to complete all of their 24-month pilot-in-command checks in an FAA-approved simulator under certain conditions and limitations. *Granted 4/1/86.*
24639	Richard A. Wagner	14 CFR 121.383(c)	To allow petitioner to serve as a pilot in Part 121 operations after reaching his 60th birthday. *Denied 4/1/86.*
24750	Frederick A. Morse	14 CFR 121.383(c)	To allow petitioner to serve as a pilot in Part 121 operations after reaching his 60th birthday. *Denied 4/1/86.*
24431	Herbert F. Ewald	14 CFR 121.383(c)	To allow petitioner to continue to serve as a pilot in operations conducted under Part 121 after reaching his 60th birthday. *Denied 4/1/86.*
23839	Captain Robert R. Hackenberg	14 CFR 121.383(c)	To allow petitioner to serve as a pilot in Part 121 operations after reaching his 60th birthday. *Denied 4/1/86.*
24373	Transportes Aereos Mercantiles Panamericanos, S.A.	14 CFR 91.303	To extend the January 1, 1985, noise level compliance date. *Amended Grant 3/28/86.*
24345	Varig, S.A.	14 CFR 91.303	To extend the January 1, 1985, noise level compliance date. Amended partial grant 3/28/86.
24611	Glenn G. Cunningham	14 CFR 61.113(g)(1)	To allow petitioner to reapply for an airman certificate with commercial pilot privileges prior to the required 1-year revocation period. *Denied 4/2/86.*
24055–1	Ports of Call Travel Club	14 CFR 91.303	To allow petitioner to operate eight Stage 1 Boeing 707 aircraft until hush kits are installed. *Denied 4/4/86.*
23888	General Electric Co.	14 CFR 87.7(b)	To exempt petitioner from the exhaust emissions requirements. *Amended grant 3/28/86.*
25192	The Boeing Company	14 CFR 47.37(a)(2)	To allow petitioner to expedite United States registration of aircraft last previously registered in a foreign country. *Denied 4/1/86.*
24704	United Helicopters Technologies Corporation	14 CFR 91.83(c)(1)	To permit petitioner to use lower alternate weather minimums for helicopters. *Denied 4/3/86.*
24626	The Aerial Advantage	14 CFR 91.79(b)	To allow petitioner to operate a balloon 500 feet above the ground in congested areas or 500 feet above the highest obstacle within a horizontal radius of 500 feet in congested areas.
24833	Fischer Brothers Aviation, Inc.	14 CFR 135.337 and 135.339	To allow petitioner to use certain qualified instructor pilots of Dornier Aircraft Company to train petitioner's initial cadre of pilots in the Dornier 228–201 type airplane without meeting all of the applicable training requirements of Subpart H of Part 135 of the FAR. *Granted 4/3/86.*
20049	T.B.M., Inc.	14 CFR 91.211(a)(1)	To allow petitioner to conduct operations of its McDonnel Douglas DC–6, and DC–7B aircraft without a flight crewmember holding a current flight engineer certificate. *Granted 4/11/86.*
24831	Cliff Aircraft Corp.	14 CFR 21.181	To allow petitioner to operate certain types of aircraft utilizing the provisions of a minimum equipment list. *Withdrawn 12/31/85.*

[FR Doc. 86–9112 Filed 4–23–86; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirement Submitted to OMB for Review

Date: April 17, 1986.

The Department of Treasury has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of this submission may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.
Form Number: IRS Form 5500EZ.
Type of Review: New Collection.
Title: Annual Return of One-Participant Pension Benefit Plan.
Clearance Officer: Garrick Shear (202) 566–6150, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224
OMB Reviewer: Robert Neal (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Joseph F. Maty,
Department Reports, Management Office.
[FR Doc. 86–9129 Filed 4–23–86; 8:45 am]
BILLING CODE 4810–25–M

Customs Service

[T.D. 86–69]

Fish; Tariff-Rate Quota for Calendar Year 1986

AGENCY: Customs Service, Treasury.
ACTION: Announcement of the quota quantity on certain fish for Calendar Year 1986.

SUMMARY: The tariff-rate quota for fish pursuant to item 110.55 (TSUS) for the 1986 Calendar Year is 58,652,549 pounds.

EFFECTIVE DATES: The 1986 tariff-rate quota is applicable to fish described in item 110.50, TSUS, which are entered, or withdrawn from warehouse, for consumption during Calendar Year 1986.

FOR FURTHER INFORMATION CONTACT:
Karen L. Cooper, Acting Quota Program Manager, Admissibility Requirements Section, Commercial Law Enforcement Branch, Commercial Compliance Division, Office of Commercial Operations, U.S. Customs Service, Washington, DC 20229, (202) 566–8592.

SUPPLEMENTARY INFORMATION: This tariff-rate quota for fish is equal to 15 percent of the average aggregate apparent annual consumption in the United States of fish, fresh, chilled or frozen, fillets, steaks, and sticks of cod, cusk, haddock, hake, pollock, and rosefish, for the 3 preceding years, as provided for in Headnote 1, part 3A, Schedule 1, and item 110.50, TSUS.

It has been determined that the average aggregate consumption for Calendar Years 1983 through 1985 was 391,016,990 pounds.Therefore, the quota quantity for fish, item 110.50, TSUS for Calendar Year 1986 is 58,652,549 pounds.

Dated: April 21, 1986.

William von Raab,
Commissioner of Customs.

U.S. Production, Entries of American Fisheries, and Imports for Consumption of: Fresh or frozen fillets, steaks and sticks of cod, haddock, hake, pollock, cusk and rosefish.

POUNDS.—1982–1984

Year	Production	Entries of American fisheries	Imports of consumption	Total [1]
1983	[2] 81,223,000		295,143,139	376,366,139
1984	[2] 94,943,000		305,496,267	400,439,267
1985	82,775,000		[3] 313,470,545	396,245,545
	258,841,000		914,109,971	1,173,050,971
3-year Average			391,016,990	
15% of 3-year Average			58,652,549	
Quarterly quotas for 1985:				
1st			14,663,137	
2nd			14,663,137	
3rd			14,663,137	
4th			14,663,138	
Yearly total			58,652,549	

[1] Apparent consumption as provided in Headnote 1 and item 110.50, Part 3A Schedule 1, TSUS.
[2] Production figures for 1983 and 1984 were revised by National Fisheries Service, U.S. Department of Commerce by letter dated March 4, 1986.
[3] The 1985 import figure is as shown on computer records on March 21, 1986, for the period ending December 31, 1986.

Source: Production from National Marine Fisheries Service, U.S. Department of Commerce, entries of American Fisheries by U.S. International Trade Commission from records of the U.S. Department of Commerce; imports for consumption from records of U.S. Customs Service, Department of the Treasury.

Fish	Jan.–Mar. 1985
Canada	35,531,348
Total Other Countries	36,367,591
Grand Total	71,898,939
	Apr.–June 1985
Canada	43,080,402
Total Other Countries	39,480,155
Grand total	82,560,557
	July–Sept. 1985
Canada	53,315,083
Total Other Countries	34,151,760
Grand total	87,466,843
	Oct.–Dec. 1985
Canada	34,826,515
Total Other Countries	36,697,691
Grand total	71,524,206
Yearly total:	313,470,545

[FR Doc. 86–9194 Filed 4–23–86; 8:45 am]
BILLING CODE 4820–02–M

[T.D. 86–68]

Revocation of Independent Surveyors of Petroleum, Inc., as a Customs Approved Public Gauger

AGENCY: Customs Service, Treasury.
ACTION: Notice of Revocation.

SUMMARY: Pursuant to § 151.43(b), Customs Regulations (19 CFR 151.43(b)), Independent Surveyors of Petroleum, Inc., Post Office Box 2175, Port Arthur, Texas, 77640, was approved to gauge imported petroleum and petroleum products in the Customs Districts of Tampa, Mobile, New Orleans, Port Authur, Laredo, and Houston-Galveston on December 12, 1983. Notice of this approval was published as T.D. 83–264 in the **Federal Register** of December 15, 1983 (48 FR 55799), and in the Customs Bulletin of December 28, 1983. To be approved and to keep approval in force, each public gauger must maintain an valid Customs bond in effect and must notify Customs, in writing, within 60 days of any change in name, address, ownership, or financial condition. Customs tried to get in touch with Independent Surveyors of Petroleum, Inc., several times to ask it to replace its obsolete bond with a Customs Form 301 bond as required by §§ 151.43(b)(6) and 113.67 of the Customs Regulations (19 CFR 151.43(b)(6) and 113.67) but has been unable to do so. After exhausting all feasible means to locate Independent Surveyors of Petroleum, Inc., Customs has been unable to get in touch with them or determine if they are still in business.

Accordingly, the approval of Independent Surveyors of Petroleum, Inc., to gauge imported petroleum and petroleum products is revoked.

EFFECTIVE DATE: April 18, 1986.

FOR FURTHER INFORMATION CONTACT:
Rober J. Crain, Technical Services Division, U.S. Customs Service, 1301 Constitution Avenue , N.W., Washington, DC 20229 (202–566–2446).

Dated: April 18, 1986.

Roger J. Crain,
Chief, Technical Section, Technical Services Division.
[FR Doc. 86–9195 Filed 4–23–86; 8:45 am]
BILLING CODE 4820–02–M

Importation of Tuna and Tuna Products From Costa Rica Prohibited

AGENCY: Customs Service, Department of the Treasury.
ACTION: General notice.

SUMMARY: This notice is to advise that under the Fishery Conservation and Management Act of 1976 ("the Act"), the Secretary of State has certified to the Secretary of the Treasury that a U.S. fishing vessel, while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the U.S., was seized by Costa Rica as a consequence of a claim of jurisdiction which is not recognized by the U.S. Pursuant to section 205(b), of the Act, the Secretary of the Treasury has determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Costa Rica is prohibited until the Department of State notifies the Secretary of the Treasury that the reasons for this prohibition no longer prevail.

EFFECTIVE DATE: This prohibition is effective as to tuna and tuna products from Costa Rica imported on or after April 24, 1986. Such importation shall not be entered for consumption or withdrawn from warehouse for consumption on or after that date.

FOR FURTHER INFORMATION CONTACT:
Harrison C. Feese, Commercial Law Enforcement Branch, Commercial Compliance Division, Office of Trade Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202–566–8651).

SUPPLEMENTARY INFORMATION:

Background

Section 205(a)(4)(C) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 *et seq.*), provides that the Secretary of State shall certify to the Secretary of the Treasury any determination that a fishing vessel of the U.S., while fishing in waters beyond any foreign nation's territorial sea, to the extent that such sea is recognized by the U.S., has been seized by a foreign nation as a consequence of a claim of jurisdiction not recognized by the U.S.

Pursuant to section 205(b) of the Act, upon receiving this certification, the Secretary of the Treasury is required to take such action as may be necessary and appropriate to prohibit the importation of all fish and fish products from the fishery involved.

Section 205(c) of the Act provides that if the Secretary of State finds that the reasons for the import prohibition under section 205 no longer prevail, the Secretary of State shall notify the Secretary of the Treasury, who shall promptly remove the import prohibition.

On January 29, 1986, the Evelyn Da Rosa, a fishing vessel of the U.S., was seized by authorities of the government of Costa Rica approximately 50 miles off the coast of Costa Rica for fishing for tuna without the authorization required by Costa Rican law. Costa Rica claims jurisdiction over tuna within 200 miles of

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its coast. The U.S. does not recognize this jurisdiction.

Pursuant to section 205(a) of the Act, on March 10, 1986, the Secretary of State certified the seizure of this vessel as meeting the requirements of section 205(a)(4)(C) of the Act.

Determination

Under the authority of section 205 (b) and (c) of the Fishery Conservation and Management Act of 1976, the Secretary of the Treasury has determined that the entry for consumption or withdrawal from warehouse for consumption of tuna and tuna products from Costa Rica (the "country of origin") is prohibited until the Department of State notifies the Secretary of the Treasury that the reasons for this prohibition no longer prevail. Tuna and tuna products processed in Costa Rica to any extent, will be considered tuna or tuna products from Costa Rica. At this time, this prohibition does not extend to in-bond shipments to and through the U.S.

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: April 11, 1986.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 86-9286 Filed 4-23-86; 8:45 am]

BILLING CODE 4820-02-M

VETERANS ADMINISTRATION

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains requests for five extensions and one revision. The following information is listed for each: (1) The department of staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) how often the form must be filled out, (5) who will be required or asked to report, (6) an estimate of the number of responses, (7) an estimate of the total number of hours needed to fill out the form, and (8) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Nancy C. McCoy, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: April 18, 1986.

By direction of the Administrator.

Randall H. Bryant,

Executive Assistant to the Associate Deputy Administrator for Management.

Extension

1. Department of Veterans Benefits
2. Statement of Holder or Servicer of Veteran's Loan
3. VA Form Letter 26-559
4. On occasion
5. Businesses or other for-profit
6. 18,000 responses
7. 3,000 hours
8. Not applicable

Extension

1. Office of Information Management and Statistics
2. Application of Service Representative for Placement on Veterans Administation Mailing List
3. VA Form 70-3215
4. On occasion
5. Individuals or households
6. 150 responses
7. 25 hours
8. Not applicable

Extension

1. Department of Veterans Benefits
2. Manufactured Home Appraisal Report
3. VA Form 26-8712
4. On occasion
5. Individuals or households; Businesses or other for-profit; Small businesses or organizations
6. 1,400 responses
7. 1 hour
8. Not applicable

Extension

1. Department of Veterans Benefits
2. Application for Total Disability Income Provision (Medical)
3. VA Form 29-1606
4. On occasion
5. Individuals or households
6. 60 responses
7. 90 hours
8. Not applicable

Extension

1. Department of Veterans Benefits
2. Declaration of Benefits Received and Waivers
3. VA Form 21-8951
4. On occasion
5. Federal agencies or employees
6. 16,000 responses
7. 800 hours
8. Not applicable

Revision

1. Department of Veterans Benefits
2. Eligibility Verification Report
3. VA Forms 21-4179, 21-4179-1, 21-8913 thru 21-8920, 21-8913-1 thru 21-8920-1, & 21-8983
4. Annually
5. Indivisuals or households
6. 2,070,000 responses
7. 414,000 hours
8. Not applicable

[FR Doc. 86-9193 Filed 4-23-86; 8:45 am]

BILLING CODE 6320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 79
Thursday, April 24, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Item
Federal Elections Commission	1

1

FEDERAL ELECTION COMMISSION

"FEDERAL REGISTER" NO.: 86-8155.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, April 17, 1986, 10:00 a.m.

THE FOLLOWING ITEM HAS BEEN CONTINUED FROM THE MEETING OF APRIL 1, 1986: Draft AO 1986-9. The Honorable Dan Daniel, U.S. House of Representatives

* * * * *

DATE AND TIME: Tuesday, April 29, 1986, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. Sec. 437g
Audits conducted pursuant to 2 U.S.C. sec. 437g, sec. 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

* * * * *

DATE AND TIME: Thursday, May 1, 1986, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates of Future Meetings
Correction and Approval of Minutes
Draft AO 1986-10—Israel Associates
Draft AO 1986-14—Honorable Dan Burton
Clearinghouse Advisory Panel Appointments
Routine Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202-376-3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 86-9312 Filed 4-23-86; 3:33 pm]

BILLING CODE 6715-01-M

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federal register

Thursday
April 24, 1986

Part II

Office of Personnel Management

Senior Executive Service Positions That Were Career Reserved During 1985

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OFFICE OF PERSONNEL MANAGEMENT

Senior Executive Service Positions That Were Career Reserved During 1985

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: As required by the Civil Service Reform Act of 1978, this gives notice of all positions in the Senior Executive Service (SES) that were career reserved during 1985.

FOR FURTHER INFORMATION CONTACT: Charles Vaughn, Office of Executive Personnel, (202) 632–4625.

SUPPLEMENTARY INFORMATION: Below is a list of titles of SES positions that were career reserved any time in calendar year 1985, whether or not they were still career reserved on December 31, 1985. Section 3132(b)(4) of title 5, United States Code, requires that the head of each agency publish the list by March of the following year. OPM is publishing a consolidated list for all agencies.

U.S. Office of Personnel Management.

Constance Horner,

Director.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985

Agency organization	Career reserved positions
ACTION	
Office of Assistant Director Compliance.	Inspector General.
Office of Assistant Director for Financial Management.	Asst Dir for Financial Management.
Administrative Conference of the U.S.	
Administrative Conference of the US.	Executive Director. General Counsel. Research Director.
Advisory Council on Historic Preservation	
OFC of the Exec Director.	Executive Director.
Department of Agriculture	
OFC of the Inspector General.	Asst Inspector General for Investigation. Dep Asst Inspector General for Investigation. Asst Inspector General for Audit. Asst Inspector General for Sec & Spec Oper. Asst Inspector General for Analysis and Eval.
Office of Operations	Director Office of Operations.
Farmers Home Administration.	Dep Admr-Financial and Administrative Opers. Asst Admin. Accounting & Dir, Finance Ofc. Asst Dep Admin for Automated Sys Development. Asst Admin for Planning, Budgeting & Finance. Asst Admr, Community and Business Programs.
Agricultural Marketing Service.	Deputy Administrator, Management. Director, Fruit & Vegetable Division. Director, Cotton Division.
	Director, Dairy Division. Director, Livestock Division. Director, Warehouse & Seed Division. Director, Tobacco Division.
	Agricultural Marketing Svc. Dir Poultry Div.
Animal & Plant Health Inspection Service.	Assoc. Deputy Administrator for Compliance. Director. Deputy Administrator for Management & Budget.
Veterinary Services	Assoc Dep Administrator for Mgt. & Budget. Asst Dep Admr. R-Animal Health Progs-Vet Serv. Asst Dep Admr, Animal Prog, Vet. Services. Dir Natl Veterinary Services Labs, Ames.
	Dir, Nat Prog Planning Staffs, Vet Services.
	Director, Northern Region.
	Dir, SE Region, Veterinary Services.
	Dir, Natl Brucellosis Eradication Program.
	Director, Western Region.
	Director, South Central Region.
	Director, North Central Region.
Plant Protection & Quarantine Service.	Assistant Deputy Administrator. Dir, Nat Prog Plan Staff, Plant Prot & Quarantine.
	Assist Dep Admin for Natl & Emergency Progr.
	Assist Dep Admin for International Programs.
	Director Northeastern Region.
	Director, South Central Region.
	Director Western Region.
	Assistant to Director.
	Asst Dep Admin, National & Emergency Programs.
	Director, Southeastern Region.
Food Safty and Inspection Service.	Asst Deputy Admin Technical Services.
	Dep Admin-Administrative Mgmt.
	Dir Northeast Region, Phila., PA.
	Regl Director, Atlanta Georgia.
	Dir, North Central Region, Des Moines, Iowa.
	Director, Southwestern Region, Dallas, Texas.
	Dir, Western Region, Alameda, California.
	Asst Dep Admr Comp & Staff Operations.
	Asst Deputy Admin Regional Operations.
	Assistant Deputy Admr Science FSQS.
	Asst Dept Admin (Admin Mgt).
	Deputy Administrator, Science.
	Dep Admr Interntl Programs.
	Asst Dep Admr Administrative Management.
Food & Nutrition Service.	Deputy Admin for Financial Management.
	Deputy Admr for Management.
Agricultural Stabilization & Conservation Service.	Accounting Officer.
Foreign Agricultural Service.	Asst Administrator, Management.
	Dir, Grain & Feed Div.
	Dir, Oilseeds & Prod DIV.
	Deputy Assistant Administrator Export Credits.
	Dep Asst Admr, Interntl Agric Statistics.
Agriculture Research Service.	Dep Admr for Adm Mgmt.
	Assoc Dep Admin for Administrative Management.
	Asst Adm for Cooperative Interactions.
National Program Staff Office.	Deputy Administrator National Program Staff.
	Assoc Dep Admr.
	Assoc Dep Admr, Natl Prog Staff.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Beltsville Area Office	Dir, Beltsville Human Nutrition Research Ctr.
	Director, Northern States Area.
	Director Beltsville Area Office.
North Atlantic Area Office.	Director, Eastern Regl Research Center.
	Dir, Plum Island Animal Disease Ctr.
	Director, North Atlantic Area.
South Atlantic Area Office.	Research Leader-Forage and Turf Research.
	Res Leader-Plant Physio & Photosynthesis Res.
	Director South Atlantic Area.
Midwest Area Office	Dir Northern Regional Research Center.
	Chief Fermentation Laboratory.
	Director, Natl Soil Erosion Res Laboratory.
	Dir Midwest Area.
Midsouth Area Office	Dir, Southern Regional Res Center, New Orleans.
	Director, Mid-South Area.
Northern States Area Office.	Dir, Grand Forks Human Nutrition Res Ctr.
	Director Northern States Area.
Central Plains Area Office.	Dir., Nat'l. Animal Disease Ctr.
	Research Leader, Wheat Research.
	Director Central Plains Area.
Southern Plains Area Office.	Director, Southern Plains Area.
	Director Conservation & Production Res Lab.
Mountain States Area Office.	Director, USDA Honey Bee Research Laboratory.
	Director Mountain States Area.
Northwest Area Office	Director, Northwest Region.
Pacific Basin Area Office.	Director, Western Regional Research Center.
	Research Leader-Fruit & Vegetable Chem Research.
	Director, U.S. Salinity Laboratory.
	Res Leader Natural Products Chemistry Res.
	Dir, Western Human Nutrition Research Center.
	Dir Pacific Basin Area.
	Director, Plant Gene Expression Center.
Extension Service	Deputy Admin Management.
	Dep Admr, Home Economics & Human Nutrition.
	Dep Admin Natural Resources and Rural Dev.
Office of Grants and Program Systems.	Administrator, Olc of Grants & Prog Systems.
Soil Conservation Service.	Director Engineering Division.
	Dir Ecological Sciences and Technology Divisi.
	Dep Chf for Administration.
	Dir, Consv Planning and App.
	Dir, Project Dev and Maint.
	Dir, Basin & Area Planning (Soil Conserv).
	Assoc Dep Chief for Administration.
	Dir, Soils (Soil Scientist).
	Dir, Land Treatment Program.
	Dir Information Resources Management.
	Dir South National Technical Center.
	Spacial Asst for Science & Technol.
	Dir Midwest National Technical Center.
Forest Service	Dep Chf for Administration.
	Associate Deputy Chief-Administration.
	Dir Forest Pest Mgmt Staff.
	Dir Fiscal and Accounting Management.
	Director, Cooperative Fire Protection.
	Associate Deputy Chief for Administrator.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Research	Director, Timber Mgmt Research Staff.
	Dir Insect and Disease Research Staff.
	Dir Forest Environment Research Staff.
	Director, Forest Resource Economics Staff.
	Dir Forest Prod & Harvesting & Research Staff.
	Dir, Forest Fire & Atmos Sciences Res Staff.
Nat'l Forest System	Dir, Range Management Staff.
	Dir, Recreation, Mgmt Staff.
	Dir, Timber Management Staff.
	Director, Engineering Staff.
	Director, Aviation and Fire Management Staff.
	Director, Lands Staff.
	Dir Land Management Planning Staff.
	Dir, Wildlife & Fisheries Mgt Staff.
	Dir, Minerals & Geology Staff.
	Dir, Watershed Mgt Staff.
State & Private Forestry	Dir of Area Planning & Dev Staff.
	Dir Cooperative Forestry.
Field Units	NE Area Dir, State & Private Forestry, U DARB.
	Dir Intermountain Forest & Range Exp Stat, OGD.
	Dir N Eastern Forest Experiment Station.
	Dir, North Central Forest Exp Station.
	Dir, Pacific NW Forest & Range Exp Station.
	Dir, Pacific SW For & Range Exper Sta.
	Director Rocky MT Forest & Range Exper Stat.
	Dir S Eastern Forest Experiment Station.
	Dir, S. Forest Experiment Station, New Orleans.
	Director, Forest Products Laboratory.
	Dep Dir Forest Products Lab.
Economic Research Service.	Admr, Economic Research Service.
	Associate Administrator-Economic Rsch Svc.
	Director International Economics Division.
	Director National Economics Division.
	Dir, Natural Resource Economics Div.
	Director, Economic Development Division.
	Dep Admr/Planning & Organizational Relations.
Economics Management Staff.	Director, Economics Management Staff.
Statistical Research Service.	Administrator Srs.
	Dep Administrator, Statistical Reporting Svc.
	Dir Estimates Div.
	Director Survey Division.
	Director Statistical Research Division.
	Director State Statistical Division.
World Agricultural Outlook Board.	Chairperson.
	Dep Chairperson.
Board for International Broadcasting	
Board Staff	Exec Director.
	Financial Manager.
	Foreign Information Officer.
	Foreign Information Officer.
Department of Commerce	
Office of the General Counsel.	Dep Asst. GC for Administration.
	Asst General Counsel for Finance & Litigation.
Director for Management and Information.	Dir, Olc of Information Resources Management.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Director for Procurement & Administrative Services.	Dep Dir for Procurement & Admin Services.
	Dir Olc of Adm Serv.
	Dir, Olc of Admin Services Operations.
Director Personnel and Civil Rights.	Director for Personnel and Civil Rights.
	Deputy Director of Personnel.
Director for Planning Budget and Evaluation.	Director, Office of Budget.
Olc of the Under Secy for Economic Affairs.	Dep Dir Bureau of Industrial Economics.
	Statistical Coor for the Asst Sec for Eco Aff.
Bureau of Economic Analysis.	Dir Office of Business Analysis.
	Supervisory Economist.
	Director.
	Dep Dir, Bur of Economic Analysis.
	Assoc Dir for Natl Economic Accounts.
	Assoc Dir for Natl Analysis & Projections.
	Assoc Dir for Regional Economics.
	Assoc Dir for Internat: L Economics.
	Chief Economist.
	Chf Statistician.
	Asst to the Director for Econometrics.
	Chf, Nat: L Income & Wealth Div.
	Chief, Current Business Analysis Div.
	Chief, Business Outlook Div.
	Assistant to the Director for Measurement.
Bureau of the Census	Dep Dir.
	Asst Dir for Computer Services.
	Chief Data User Services Division.
	Chief, Technical Services Division.
	Assoc Dir for Management Services.
	Senior Program Analyst.
	Asst Dir for Administration.
	Chief Counsel.
	Chief, Computer Services Division.
Demographic Fields	Associate Director for Demographic Fields.
	Asst Dir for Demographic Censuses.
	Chf, Population Div.
	Chf, Statistical Methods Div.
	Chief Demographic Surveys Division.
	Asst Dir for International Programs.
	Chief, Decennial Planning Division.
Statistical Standards and Methodology.	Assoc Dir for Statistical Standards & Method.
	Chief Statistical Research Division.
Field Operations	Assoc Dir for Field Operations.
	Chf, Geography Div.
	Chief, Field Div.
	Chief Data Preparation Division.
Economic Fields	Associate Director for Economic Fields.
	Asst Dir for Economic & Agric Censuses.
	Chief, Agriculture Div.
	Chf, Business Div.
	Chf, Construction Statistics Div.
	Chf, Econ Surveys Div.
	Chf, Foreign Trade Div.
	Chf, Government Div.
	Chf, Industry Div.
	Chief Center for Economic Studies.
	Asst Dir for Economic Surveys.
Institute for Telecommunications Sciences.	Assoc Admr for Telecommunications Science.
	Deputy Dir for Systems & Networks.
	Special Technology Liaison.
Economic Development Administration.	Deputy Director for Spectrum.
	Dir, Off of Public Works.
	Spec Asst for Indian Affairs.
	Director, Olc of Plan, Techn Asst, Res & Eval.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Olc of the Inspector General.	Assistant Inspector General for Auditing.
	Assistant Inspector General for Investigations.
	Deputy Assistant Inspector Gen for Auditing.
	Asst Inspector Gen for Planning & Evaluation.
	Technical Advisor to the Inspector General.
	Counsel to the Inspector General.
	Technical Advisor to the Inspector General.
	Asst Inspector General for Auto Info Sys.
Olc Dep Asst Secy for Cap Goods & Inst Consl.	Dir, Office of Special Industrial Machinery.
Olc of Dep Asst Secy for Basic Industries.	Dir, Olc of Metals, Minerals & Commodities.
Olc of Dep Asst Secy for Automotive Aff & Cons Gds	Director Office of Consumer Goods.
Office of Budget and Finance.	Director, Office of Budget and Finance.
	Dep Dir, Office of Budget and Finance.
Office of Administrative & Management Services.	Chief, Personnel Division.
National Marine Fisheries Service.	Chief, Management and Budget Staff.
Regional Offices	Director, Northeast Region.
	Director, Southeast Region.
	Director, Northwest Region.
	Director, Alaska Region.
Fisheries Centers	Dir NE Fisheries Ctr.
	Dir-SE Fisheries Ctr.
	Dir SW Fisheries Center.
	Dir NW & Alaska Fisheries Ctr.
Natl Environ Satellite, Data & Info Services.	General Physical Scientist.
	Chief, Systems Planning & Development Staff.
Deputy Asst Admr for Satellites.	Chief Satellite Experiment Laboratory.
Dep Asst Admr for Information Services.	Dir, Natl. Oceanographic Data Center.
	Dir, Assessment and Information Services.
	Deputy Director.
	Director, National Climatic Data Center.
	Dir, National Geophysical Data Center.
Office of Sea Grant & Extramural Programs.	Dep Dir, Olc of Sea Grant & Extramural Progr.
Environmental Research Laboratories.	Dep Dir, Environmental Research Laboratories.
	Dir, Space Environmental Laboratory.
Atlantic Oceanographic and Meteorological Labs.	Dir, Atlantic Oceanographic & Meterological.
	Deputy Dir Atlantic Oceanographic & Meteorologi.
Wave Propagation Lab	Director.
Aeronomy Lab	Director, Aeronomy Laboratory.
	Senior Scientist/Deputy Director.
Geophysical Fluid Dynamics Laboratories.	Director.
	Supervisory Rsch Meteorologist.
	Supervisory Rsch Meteorologist.
	Supervisory Rsch Meteorologist.
Great Lakes Environmental Research Lab.	Dir Great Lakes Environmental Research Lab.
National Severe Storms Laboratory.	Dir Nat'l Severe Storms Lab.
Air Resources Laboratory.	Director Air Resources Laboratory.
Pacific Marine Environmental Lab.	Dir Pacific Marine Environmental Lab.
Ocean Services & Coastal Zone Management.	Chf Scientist.
	Special Assistant to the Chief Scientist.
Ocean and Coastal Resources Management.	Spec Asst to Dir Olc of Ocean & Coastal Res.
	Dir, National Marine Pollution Programs Olc.

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Positions That Were Career Reserved During Calendar Year 1985—Continued

Agency organization	Career reserved positions
Oceanography & Marine Services.	Chief, Ocean Systems Division.
	Chief, Ocean Resources Assessment Division.
	Chief, Ocean Services Division.
	Chief, Ocean Requirements & Data Anal Div.
National Ocean Service.	Dir Geodetic Research & Development Lab.
	Assoc Dir Otc of Aeronautical Charting & Cart.
	Chief Geodesist.
National Weather Service.	Dep Dir-National Weather Service.
	Director, NOAA Data Buoy Office.
	Chief, International Affairs Staff.
	Dir, Nearest Joint Systems Program Otc.
	Chief, Management and Budget Staff.
	Chf, External Relat & Indus Meteorology Staff.
	Chf, Otc of the Fed Coordinator for Meteorolg.
	Chief, Policy and Long Range Planning Staff.
Office of Meteorology.	Dir, Office of Meteorology.
	Chief Operations Division.
	Chf, Prog Requirements & Plng Division.
Office of Hydrology.	Director, Office of Hydrology.
	Chief, Hydrologic Services Division.
	Chief, Hydrologic Research Laboratory.
Office of Technical Services.	Dir, Otc of Technical Services.
	Chf, Communications Division.
	Chief, Engineering Division.
	Chief AFOS Operations Division.
Office of Systems Development.	Director, Office of Systems Development.
	Chief, Integrated Systems Laboratory.
	Chief, Techniques Devel Laboratory.
	Chief, Advanced Systems Laboratory.
National Meteorological Ctr.	Director National Meteorological Center.
	Deputy Director.
	Chief, Climate Analysis Center.
	Chief, Automation Division.
	Chief, Development Div.
	Chf-Forecast Division.
Regional Offices & Centers.	Dir Southern Region, Ft Worth.
	Dir, Salt Lake City Region.
	Dir, Alaska Region, Anchorage.
	Dir Eastern Region Nwe.
	Director Central Region.
	Dir, Natl Severe Storms Forecast Center.
	Director, Nat'l Hurricane Center.
National Bureau of Standards.	Assoc Dir for International Affs.
	Tech Advisor to the Director.
	Chief, Program Office.
	Director, Planning Otc.
	Assoc Dir for Programs, Budget, and Finance.
	Deputy Dir Office of Product Standards Policy.
	Senior Science Advisor.
National Measurement Lab.	Senior Mathematical Statistician.
	Associate Director for Planning.
	Group Leader Surface and Structure Kinetics.
	Chief, Molecular Spectroscopy Division.
	Chief Inorganic Analytical Research Division.
	Chief Gas and Particulate Science Division.
Deputy Director for Programs.	Deputy Director for Programs.
	Chief, Off of Environmental Mgmts.
	Director, Standard Reference Data.
	Prog Manager, Industrial Process Data.
	Director, Measurement Services.

Positions That Were Career Reserved During Calendar Year 1985—Continued

Agency organization	Career reserved positions
Center for Basic Standards.	Director, Center for Basic Standards.
	Senior Research Fellow.
	Chief, Electricity Division.
	Mgr, Tech Applications of Measurement Stds.
Quantum Physics Division.	Chf, Quantum Physics Div (Dir for APO).
	Sr Sci & Fellow of JILA.
	Senior Research Scientist.
	Senior Scientist, Boulder.
	Sr Scientist & Fellow of JILA.
	Senior Scientist-Fellow of JILA.
Time and Frequency Division.	Group Leader & Senior Scientist.
Center for Analytical Chemistry.	Director-Center for Analytical Chemistry.
	Group Leader, Laser Analytical Chemistry.
	Deputy Director, Ctr for Analytical Chemistry.
	Scientific Asst to the Dir Ctr for Analytical.
Center for Radiation Research.	Dir Center for Radiation Research.
	Dep Dir, Ctr for Radiation Research.
	Chf Atomic & Plasma Radiation Div.
	Chf-Radiation Source & Instrumentation Divisi.
	Chief Radiometric Physics Division.
Ionizing Radiation Division.	Chief Nuclear Radiation Div.
	Physicist, (Nuclear).
	Principal Scientist Radiation Physics Div.
Center for Radiation Research.	Physicist (Nuclear).
	Prin Scientist in X-Ray Physics.
	Group Leader for Far Ultraviolet Physics.
Institute for Materials Science & Engineering.	Dir Institute for Materials Science & Eng.
	Dp Dir, Institute for Materials Science & Eng.
	Senior Scientist.
	Group Leader for Fiberous Systems.
	Chf, Otc of Nondestructive Evaluation.
	Chief, Metallurgy Div.
	Scientific Assistant to the Director.
Fracture and Deformation Division.	Chf Fracture and Deformation Division.
	Group Leader Mechanical Properties.
	Chief Inorganic Materials Division.
Ceramics Glass and Solid State Science Division.	Group Leader for Crystallography.
	Grp Leader for Glass Tech Inorganic Materl Dv.
	Physicist (Solid State).
Polymer Science and Standards Division.	
Reactor Radiation Division.	Chf, Reactor Radiation Div.
	Group Leader Neutron Condensed Matter Science.
Center for Chemical Physics.	Director Center for Chemical Physics.
	Deputy Director, Center for Chemical Physics.
	Quantum Chemistry Group Leader.
	Group Leader for Environ Chemical Proobes.
	Chief, Surface Science Div.
National Engineering Lab.	Assoc Dir for Technical Evaluation.
	Group Leader Equation of State.
	Chief, Office of Sponsored Programs.
	Deputy Director for Nat Programs.
Center for Fire Research.	Director-Center for Fire Research.
	Chief, Fire Safety Technology Division.
	Chief, Fire Measurement & Research Division.
	Chief, Office of Fire Research Resources.

Positions That Were Career Reserved During Calendar Year 1985—Continued

Agency organization	Career reserved positions
Center for Building Technology.	Director-Center for Building Technology.
	Deputy Director, Center for Building Tech.
	Chief, Structures Division.
	Chief, Building Physics Division.
	Chf, Building Materials Div.
Dir for Mechanical Engrng & Process Technology.	Chief, Building Equipment Division.
	Dir Center for Manufacturing Engineering.
	Chief, Automated Production Technology Div.
	Chief, Mechanical Production Metrology Div.
	Manager Otc of Auto Manufacturing Tech Transf.
	Chief, Industrial Systems Division.
	Chf, Thermophysical Properties Div.
Center for Applied Mathematics.	Director, Center for Applied Mathematics.
	Deputy Director.
	Chf, Statistical Engineering Division.
	Chief, Scientific Computing Division.
	Assoc Dir for Computing.
	Chief, Operations Research Division.
Center for Electronics and Electrical Engrng.	Dir-Ctr for Electronics & Electrical Engineer.
	Deputy Director.
	Chf, Electrosystems Division.
	Chf-Electromagnetic Technology Division.
	Senior Research Scientist.
	Chief, Semiconductor Materials & Proc Div.
	Dep Dir, Ctr for Electronics & Electrical Eng.
	Chief, Semiconductor Devices & Circuits Div.
	Chief, Electromagnetic Fields Division.
	Chief, Semiconductor Electronics Division.
Center for Field Methods.	Deputy Director Ctr for Chemical Engineering.
	Director Center for Chemical Engineering.
Inst for Computer Sciences and Technology.	Chief, Thermophysics Division.
	Dir Center for Programming Science & Techn.
	Dir Center for Computer Systems Engineering.
	Chief, Systems & Network Architecture Div.
	Chief, System Components Division.
	Chief, Information Systems Engineering Div.
Patent and Trademark Administration.	Asst Commissioner for Finance and Planning.
	Assistant Commissioner for External Affairs.
Office of Assistant Commissioner for Patents.	Adm'r for Documentation.
	Spec Asst to the Dep Asst Comm for Patents.
Chemical	Group Director 110.
	Group Director 120.
	Group Director for 130.
	Group Director 160.
	Group Director for 260.
Electrical	Group Director 210.
	Group Director for 220/290.
	Group Director 230.
	Group Director 240.
	Group Director 250.
Mechanical	Group Director 310.
	Group Director 320.
	Group Director 330.
	Group Director 340.
	Group Director 350.
Office of Assistant Commissioner for Trademarks.	Chairman, Trademark Trial & Appeal Board.
	Deputy Assistant Commissioner for Trademarks.
Board of Patent Interferences.	Chairman.

Positions That Were Career Reserved During Calendar Year 1985—Continued

Agency organization	Career reserved positions
Commodity Futures Trading Commission	
Office of the General Counsel.	Assoc Gen Counsel (Opinions & Review).
	Deputy General Counsel (Litigation).
	Deputy General Counsel (Reg & Adm).
Office of the Executive Director.	Dep Exec Dir.
Division of Economics Analysis.	Dep Chf Economist.
	Chf, Analysis Section.
	Associate Director for Surveillance.
Division of Enforcement.	Deputy Director (Western Operations).
	Deputy Director (Eastern Operations).
Division of Trading and Markets.	Deputy Director (Contract Markets).
	Chief Counsel.
Consumer Product Safety Commission	
Otc of Executive Dir.	Dir, Otc of Prog Mgt.
	Director, Otc of Budget, Prog Plan & Eval.
	Associate Executive Dir for Field Operations.
Office of AED for Epidemiology.	Associate Exec Dir for Epidemiology.
Otc of AED for Compliance & Administrative Litigation.	Assoc Exec Dir for Compl & Admin Litigation.
Otc of AED for Administration.	Assoc Exec Dir for Adm.
Otc of the AED for Economics.	Associate Executive Director for Economics.
Otc Secy of Defense	
Office of the Secretary.	Asst to the Secy of Defense (Intel Oversight).
Otc of Deputy Under Secy for Policy.	Dir, Counter Intel & Investigative Prog.
	Dir, Information Security.
Director Operational Test and Evaluation.	Dep Dir, Policy, Resources & External Affairs.
	Asst Dep Dir, Tactical & Elec Warfare Systems.
	Asst Dep Dir, Strategic, Space & C3I Systems.
Otc of Inspector General.	Deputy Inspector General.
	Asst Inspector General for Audit Followup.
	Asst Inspector General for Investigations.
	Asst Inspector General for Management.
	Dir, Internal Audit Oversight & Evaluation.
	Dir, Contract & Ext O/Sight and Evaluation.
	Dep Asst Inspector Gen for GAO Reports Analy.
	Director Major Acquisition Programs.
	Director, Contract Audits.
	Asst Inspector General for Auditing.
	Asst Insp Gen for Criminal Invest Pol & Overht
	Asst Inspector Gen for Audit Policy & Overslt
	Dep Inspector Gen Prog Plng, Review & Mgt.
	Asst Dep IG for Progr Planning, Review & Eval.
	Dep Asst Inspector General (Audit-Followup).
	Dep Asst Inspector General for Auditing.
	Dir Financial Manpower & Security Asst Audits.
	Dep Asst Inspector Gen for Investigations.
Defense Audit Service.	Director, Defense Audit Service.
	Assoc Director-Special Program Audits.

Positions That Were Career Reserved During Calendar Year 1985—Continued

Agency organization	Career reserved positions
	Assoc Dir Intelligence and Communications Aud.
	Assoc Dir, Systems & Logistics Audits
	Assoc Dir, Resources & Overseas Audits.
	Assoc Dir Financial Mgmt and Manpower Audits.
Otc Dep Asst Sec (Civilian Personnel Policy & Req).	Dir Personnel Management.
	Deputy Director for Labor Management Relation.
	Dep Dir Compensation & Overseas Emply Policy.
Otc of Dep Assist Secy (Force Management & Personnel).	Director, Accession Policy.
Office of Dep Assistant (Ed & Safety).	Dir for Civilian Equal Opportunity Programs.
Otc of Dir of DOD Dependents Schools.	Dir DOD Dependents Schools.
	Dir Pacific Region Dodds
	Director, Germany Region.
ODASD (Mobilization Planning & Requirements).	Assistant Director for Engineering.
Office Assistant Sec Health Affairs.	Dir, Def Enrolmnt Eligibil Reprng Sys (DEERS).
	Dir, Defense Medical Systems Support Center.
	DAS of Defense for Medical Resource Adm.
Office of Assistant Secretary, Public Affairs.	Dir, Freedom of Information & Security Review.
Otc of Dep Dir (Theater Assessments & Planning).	Assistant for Planning.
Otc of Dep Director (Strategic Programs).	Dir Strat Def and Theater Nuclear Forces Div.
Washington Headquarters Services.	Director of Personnel and Security.
DASD Contract Audit Cost Control.	Dep Comptroller for Audit Policy.
Otc of Under Secretary for Research and Engineering.	Asst Under Secy of Def (Plans & Devel).
	Spec Asst for Assessment & Exec Officer—DSB.
	Director, Program Control and Administration.
	Asst U/S of Def (Conv in) & Dir Conv in Prog.
	Special Assistant for Resource Planning.
Otc of Asst Secy (Acquisition & Logistics).	Deputy Director Weapon Support.
Otc of Dep Under Secy (International Programs and Tech).	Asst Dep Under Secy of Def (Intarnl Progs).
	Special Assistant for Technology Transfer.
	Director, NATO Affairs.
	Dir Far East & Southern Hemisphere Affairs.
	Asst Dep Under Secretary of Defense.
	Spec Asst for Internl Coop Matters & S T E.
	Asst Dep Under Secy of Def.
Otc of the Deputy Asst Secretary (Production Support).	DASD (Production Support).
	Dir Standardization & Acquisition Support.
	Dir Industriel Resources.
	Dir Industriel Productivity.
Office of the Deputy Asst Secretary (Procurement).	Dep Asst Sec of Defense (Procurement).
	Director Cost Pricing and Finance.
	Dir, Defense Acquisition Regulatory Systems.
	Director Major Systems Acquisition.
	Dir DOD Contract Studies & Mgmt Spt Services.
	Director Contract Policy.
	Director Contract Administration.
	Chairman, Defense Acquisition Subcouncil.
	Dir, Contract Policy and Administration.

Positions That Were Career Reserved During Calendar Year 1985—Continued

Agency organization	Career reserved positions
Office of the Director Test and Evaluation.	Dep Dir (Strategic & Naval Sys Div).
	Dep Dir for Test Facilities and Resources.
	Staff Spec for Strategic & Naval Warfare Sys.
Otc of Dep Under Secy for Research and Advanced Tech Otc-Dir-Engineering Technology.	Dir, Very High Speed Integrated Ckt & Elec Dv.
Otc-Dir-Engineering Technology.	Dir (Engineering Technology).
	Staff Specialist for Vehicle Propulsion.
	Staff Specialist for Materials & Structures.
	Staff Specialist for Weapons Technology.
	Staff Specialist for Directed Energy Weapons.
	Staff Spec/Mobility, Logistics & Adv Concepts.
Otc-Dir-Electronics and Physical Sciences.	Staff Spec for Elec Warfare and Target Acq.
	Staff Specialist for Search and Surveillance.
Otc-Dir-Environmental Life and Sciences.	Dir Environmental & Life Sciences.
Otc-Dir-Rsch and Technical Info.	Dir, Research & Technical Information Otc.
	Staff Specialist for Research.
Otc of Computer Software and Systems.	Director, Computer Software and Systems.
	Staff Specialist for Software Tech (A&RS).
Otc of the Dir, Offensive and Space Systems.	A/D Under S/D (Offensive & Space Systems).
	Staff Specialist for Space & Advanced Systems.
	Staff Spec for Techn & Analysis (Off Sys).
Otc-Dir-Defensive Systems.	A/D Under S/D (Defensive Systems).
	Staff Spec for Early Warn, Air Def & AI Assss.
	Staff Spec for Ball Missile Def Sys.
Otc Dir Strat Aero & Theat Nuc Sys.	A/D Under S/D (Strategic Aerosn & Theater N/S).
Otc-Dir-Start & Arms Control Office.	A/D Under S/D (Start & Arms Control).
Otc-Dir-Land Warfare.	Asst Dep Under Secy of Def (Land Warfare).
	Staff Specialist for Ground Air Defense Sys.
Otc Dir Air Warfare.	Asst Dep Under Secy of Def (Air Warfare).
	Staff Spec for Interdiction/Naval Strike.
	Staff Spec, Close Air Sup/Battlefield Int.
Otc of Director-Naval Warfare.	Asst Dep Under Secy of Def (N W and Mobility).
	Staff Specialist for Antisub & Mine Systems.
	Stf Spec for Naval Proj & Anti-Air Systems.
Office of Mobility and Special Projects.	Staff Specialist for Air Mobility.
	Staff Spec Intertheater & Intratheater Mobil.
	Staff Specialist for Propulsion.
Office of Munitions.	Director, Office of Munitions.
Office of Dep Asst Secy of Defense (C3).	Staff Spec for Switched & Spec Purpose Comm S.
	Staff Specialist for Tactical Command & Contr.

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POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Dir Long-Range Planning & Sys Evaluation.
	Director, Information Systems.
	Dir Theater & Tactical Commun Command & Contr.
	Dir Strategic & Theater Nuclear Forces C3.
	Director C3 Resources.
	Assistant Director, Electronic Combat Systems.
	Dir Special Warfare Systems.
	Asst Director, Special Operations Technology.
	S/A to the Dir, CPSI for Satellite Com sys.
	S/A to the Dir, CPSI for NATO & Interntl C3.
	Asst Dir for Prog Development & Coordination.
	Special Asst to the Director Ctr for C3.
	Spec Asst for C3 Mobilization.
Office of Dep Asst Secy of Defense (Intelligence).	Director, Tactical Intelligence Systems.
	Director National Intelligence Systems.
	Staff Specialist for Combat Systems Analysis.
	Sr Scientist for Natl Intelligence Systems.
	Senior Scientist for Tactical Intell Systems.
	Director, Intelligence Resources.
Dir of Asst Dep Under Secy of Def (Systems Integration).	
Defense Advanced Research Projects Agency.	Deputy Director for Research.
	Deputy Director for Technology.
	Special Assistant to the Director, DARPA.
Tactical Technology Office.	Deputy Director, DARPA.
	Dir-Tactical Technology Office.
	Dep Dir Tactical Technology Office.
	Assistant Director for Air Warfare.
	Assistant Director for Land Warfare.
Information Processing Techniques Office.	Dir, Information Processing Techn Otc.
	Assistant Director, Electronics Sciences.
	Assistant Director for Computer Sciences.
	Deputy Director IPTO.
Engineering Applications Office.	Dir, Engineering Applications Office.
	Deputy Director, Engineering Applications Otc.
	Asst Dir for Applications.
Defense Sciences Office.	Dir Defense Sciences Office.
	Assistant Director for Materials Sciences.
	Assistant Director for Geophysical Sciences.
	Assistant Director Systems Sciences.
	Asst Dir for Advanced Systems Technology.
Strategic Technology Office.	Dir-Strategic Technology Office.
	Dep Dir, Strategic Techn Ofc.
	Asst Dir for Advanced Systems Research.
Directed Energy Office	Dep Dir for Laser & Particle Beam Technology
Office of the Joint Chiefs of Staff.	Scientific and Technical Advisor to the Chief.
	Dep Joint Requir Integrat Mgr Sci Tech Adv.
Strategic Defense Initiative Organization.	Asst Dir for Concepts & Integration.
	Asst Dir for Technology.
	Assistant Director for Interceptors.
	Assistant Director for Technology.
	Asst Dir for Syst Concepts & Architecture.
	Asst Dir for Sensors Demonstrations.
	Assistant Director for Sensor Technology.
	Asst Dir for Intelligence.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Defense Contract Audit Agency.	Director, DCAA.
	Deputy Director DCAA.
	Asst Dir Operations & Professional Dev.
	Asst Dir Policy & Plans.
	Director Field Detachment.
Regional Managers	Regional Director, Atlanta.
	Regional Director, Boston.
	Regional Director, Chicago.
	Regional Director, Los Angeles.
	Regional Director, Philadelphia.
	Regional Director, San Francisco.
	Special Asst for Integrity in Contracting.
Defense Logistics Agency.	Dep Exec Dir, Quality Assurance.
Off of Exec Dir, Qual Assurance, Oddcas.	
Otc of the Staff Dir-Small & Disadvantaged Business Util.	Staff Dir Small & Disadvantaged Business Util.
Office of Staff Director, Personnel.	Staff Director, Personnel.
Otc of Telecommunications & Information Systems.	Deputy Staff Director, Personnel
	Chief, Adp & Telecomm Technology Division.
Exec Dir, Dla Contracting.	Chief AIS Development & Control Division.
Exec Dir, Dla, Tech & Logistics Services.	Executive Director, Contracting.
Office of the Chief Engineer.	Chief, Contracts Division.
National Communications System.	Chf Property Disposal Div.
	Chief Engineer.
	Asst Mgr Ncs for Technology & Standards.
	Deputy Manager National Communications System.
	Asst Mgr NCS Plans and Operations.
Center for Command Control & Communications-(C3) Sys.	Scientific Advisor for Operations Research.
	Deputy WWMCCS Engineer—Europe.
	Dep Dir, C3 Architecture & Mission Analysis.
	Dir, Planning & System Integration Center.
Organization Abolished	S/A to the Dir, CPSI/Strat & Theat Nuc Forc.
Defense Communications System Organization.	Dep Dir Defense Comm System Organization.
	Deputy Director for DCS Integration.
Defense Communications Engineering Center.	Chf Interoperability & Standards Div.
	Associate Director for Integrated Sys Design.
	Deputy Director Switched Network Engineering.
	Associate Deputy Director, Switched Systems.
	Dir, Def Communications Engineering Center.
Office of Comptroller	Special Asst to the Compt for C3 Prog Assess.
Joint Data Systems Support Center.	Dep Dir, Command and Control Technical Center.
	Tech Dir, WWMCCS Adp Technical Supt Direct.
	Asst Dep Dir for Computer Services.
	Director, Joint Data Systems Support Center.
	Deputy Director NMCS Adp Directorate.
Command and Control Engineering Center.	Dep Dir, Strategic Connectivity Engr Dir.
	Assoc Dir NMCS/WWMCCS Engineering Integration.
	Dep Dir, Command & Control Sys Organization.
Natl Military Comd Syst Adp Directorate, CCTC.	Asst Deputy Dir, NMCS Adp.
	Program Manager, Defense Switched Network.
Military Satellite Communications Office.	Dep Dir Mil Satellite Communication Systems.
Office of the Director	Dir, Acquisition Management Directorate.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Office of Deputy Director Science & Technology.	Dep Dir (Science & Technology).
	Scientific Asst to Dep Dir (Science and Tech).
	Asst to Dep Dir (Sci & Tec) for Theoretical R.
	Asst to the Dep Dir (Experimental Res).
	Asst to the Dep Dir (Sci & Tech) for Testing.
	Chf, Strategic Structures Division.
	Chf Aerospace Sys Div.
	Chief, Atmospheric Effects Division.
	Scientific Advisor to Director (AFRRI).
	Tech -Pro Mngr for Nuclear Assesmnt Director.
	Chf, Electromagnetic Pulse Eff Div.
	Chief Lethality Hardening Division.
DMA Headquarters	Dep Dir for Systems & Technologies.
	Dep Dir, Mngmt & Technology.
	Dep Dir for Progs, Prod & Opers.
	Asst Dep Dir for Plans and Requirements.
	Chief, Advanced Technology Division.
	Staff Director of Personnel.
	Asst Deputy Dir for Programming.
	Asst Deputy Dir for Production and Distribut.
	Dir Spec Prog Otc For Exploitation Modernizat.
	Associate Deputy Director For Hydrography.
	Dep Dir, Spec Prog Ofc Exploit & Modernization.
DMA Field Activities	Tech Dir Dma Aero Center
	Tech Dir-DMA Hydrographic/Topographic Center.
	Dep Dir Prog Prod Oper DMA HTC.
	Dep Dir for Progs, Production and Operations.
	Dir DMA Otc of Telecommunications Services.
	Dir, DMA special production program office.
	Dir Defense Investigative Service.
Defense Investigative Service.	Deputy Director (Investigations).
	Dep Dir (Industrial Security).
Department of Air Force	
Office of the Secretary	Administrative Assistant to the Secy.
	Dep Adm Asst.
	Dir, Otc of Small & Disadv Bus Utilization.
Otc of Small & Disadv Bus Utilization.	Special Assistant for International Affairs.
Office of the Under Secretary.	Dep for Air Force Review Boards.
ODAS M/P Res & Military Pers.	
ODAS Installations Environment & Safety	Deputy for Installations Management.
OAS Research Development and Logistics.	Principal Depy Asst Secy (Research Dev Logist).
ODAS Acquisition Management.	Dep for Acquisition.
ODAS Logistics & Communications.	Dep For Programs & Production.
	Dep for Supply & Maintenance.
	Dep for Transportation & Civil Aviation.
Office of Assistant Secretary, Financial Management.	Deputy Assistant Secretary (Acct and Audit).
Office, Asst Vice Chief of Staff.	Chief Office of Air Force History.
Director of Administration.	Chief, Publishing Div.
Asst Chief of Staff for Information Systems.	Associate Director (Technical).
Otc of Dep Chief of Staff, Logistics and Engineering.	Assoc Dir for Logistics Plans & Programs.
	Assoc Dir of Maintenance Engineering & Supply.
	Assoc Dir for Engineering & Services.
	Chief Modification & O&M Programs Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Chief Combat Support Programs Division.
	Assoc Dir of Contracting & Manufacturing Pol
	Deputy Competition Advocate General.
Special Advisory Group	Special Advisor.
Office of the Inspector General.	Dep Asst Inspector Gen/Spec Investigations.
Director of Civilian Personnel.	Dep A/S (CPP & EEO) & Dir of Civilian Pers.
	Deputy Director of Civilian Personnel.
	Dir of Civilian Personnel.
Office of Deputy Chief of Staff, Comptroller.	Dep Comptroller.
Director of Management Analysis.	Assoc Dir of Mgmt Analysis.
Director of Budget	Deputy Director of Budget.
	Asst Dep Dir of Budget (Operations).
	Chief Budget Management Division.
	Chf, Investment Appropriations Div.
National Guard Bureau	Spec Asst to the Chief, NGB.
Office of the Commander.	Assistant for Product Assurance.
DCS Contracting & Manufacturing.	Command Competition Advocate.
	Prin Asst/Contracting & Manufacturing.
	Chairperson Contract Review Committee.
	Technical Director, Manufacturing & Ind Prep.
	Dir Contract Clearance & Policy Development.
DCS Personnel	Director of Civilian Personnel.
DCS/Product Assurance and Acquisition Logistics.	Technical Director, Product Assurance.
Deputy Chief of Staff/Comptroller.	Asst to the DCS/Comptroller.
DCS/Development Plans.	Asst Dep Chief of Staff/Plans and Programs.
DCS/Intelligence	Dep Chf of Staff for Intelligence.
DCS/Operations	Tech Dir, Dep Chf of Staff/Systems.
	Tech Director AF Otc of Scientific Research.
AF Otc of Scientific Research.	Asst Dep for Procurement & Manufacturing.
Air Force Space Technology Center.	Techn Dir (Physical Optics, Lasers, Prototype).
Air Force Weapons Laboratory.	Technical Director (Nuclear Technology).
	Director Aeronomy Division.
Aeronomy Division	Ch, Atmospheric Sructure Br.
	Dir, Space Physics Dir, AFGL.
Space Physics Division	Dir Optical Physics Division.
Optical Physics Division	Dir, Solid Rocket Div.
Air Force Rocket Propulsion Laboratory.	
Electronic Systems Division.	Deputy (Acquisition Logistics & Techn Oper).
	Asst Dep for Contracting & Manufacturing.
	Assistant Deputy Commander/Tactical Systems.
	Asst Dep for Strategic Systems.
	Dep Comm for Intel C3 Countermeas & Supp Sys.
	Director (Plans).
Rome Air Development Center.	Techn Dir (Intelligence & Reconnaissance).
	Techn Director (Communications).
	Tech Dir Reliability & Compatibility.
	Technical Dir (Surveillance).
	Technical Director (Command & Control).
	Deputy Comptroller.
Aeronautical Systems Division.	Techn Dir, Flt Systems Engineering.
	Director (Mission Analysis).
	Asst Deputy for Contracting & Manufacturing.
Dep for Proc and Manufacturing, ASD.	Asst Deputy (Deputy for Tactical Systems).
Deputy for Tactical Systems.	Asst Dep for Prog (Dep for Propulsion).
Deputy for Propulsion	

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Dep for Engineering, ASD.	Tech Dir Directorate of Equipment Engineerin.
	Techn Dir, Directorate of Avionics.
	Technical Director, Deputy for Avionics.
	Director of Engineering Tactical Systems.
	Engineering Advisor Product Assurance Engr.
	Dir Engineering Propulsion Systems.
Systems Engineering Office, ASD.	Director of Engineering (F-16).
	Dir of Eng Reconnaissance & Elec Warfare Sys.
	Director of Engineering (Airlift Trainer Sys).
	Director of Engineering (Strategic Systems).
Materials Laboratory, AFWAL.	Dir, Metals & Ceramics Div.
	Dir Sci Organic Chemistry.
	Dir Manufacturing Technology Division.
	Dir, Nonmetallic Materials Dv.
	Dir, Turbine Engine Div.
Aero Propulsion Laboratory, AFWAL.	
Armament Division	Technical Advisor.
Foreign Technology Division.	Technical Director (Aerospace Systems).
	Technical Director (Senior Data).
	Technical Director (Technology and Threat).
	Research Director (Crew Technology).
USAF School of Aerospace Medicine.	Dir, Toxic Hazards Div.
Aerospace Medical Research Lab.	Director Human Engineering.
Air Force Human Resources Lab, Aerd.	Chief Scientist.
Air Force Flight Test Center.	Techn Dir (Engineering).
Hq Air Force Contract Management Division.	Assistant for Contract Administration Service.
Air Force Logistics Command.	Asst DCS-Comptroller.
	Asst Dep Chf of Staff, Maintenance.
	Chairman A F Logistics Command Procur Committ.
	Assistant DCS/Plans & Programs.
	Director of Civilian Personnel.
	Asst DCS/Procurement & Production.
	Deputy Asst to the Commdr-Internl Logistics.
	Asst Dep Chief/Logistics Management Systems.
	Asst Deputy Chief of Staff, Material Mgt.
	Director Acquisition Logistics.
	Asst Deputy Chief of Staff Logis Magnt System.
	Asst to the Commander AFALD.
	Asst to the Commander, Logistics Oper Center.
	Dep for Log Force Structure, Dev & Acquisit.
	A/D Aeronautical Prog AF Acquisition Log Ctr.
AF Acquisition Logistics Div.	Dep Dir, Directorate of Maintenance.
	Dep. Dir, Material Mgt. San Antonio Log. Ctr.
Air Logistics Center, San Antonio.	Dep Director, Contracting and Manufacturing.
	Dep Dir, Directorate of Material Mgmt.
Air Logistics Center, Oklahoma City.	Dep Dir, Directorate of Maintenance.
	Dep Director, Contracting and Manufacturing.
	Deputy Director, Directorate of Material Mgt.
Air Logistics Center, Warner Robins.	Deputy Dir, Dir of Maintenance.
	Dep. Director, Contracting and Manufacturing.
Air Logistics Center, Ogden.	Dep Dir, Directorate of Maintenance.
	Deputy Director, Directorate of Material Mgt.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Air Logistics Center, Sacramento.	Dep Dir Directorate of Material Management.
	Dep Dir, Directorate of Maintenance.
Aerspace Guidance & Metrology Center.	Dep to the Commdr Aerospace Guid Metro Ctr.
Air Force Audit Agency	The Auditor General of the Air Force.
	Director of Field Activities.
	Director of Operations.
	Director of Forces and Support Management.
	Dir, Acquisition & Logistics Systems.
	Asst to the Commander.
Air Force Electronic Security Command.	Tech Asst to Comdr Data Sys Design Center.
Air Force Communications Command.	Technical Director.
Science & Research	Chief, Operations Analysis Division.
	Chief, Applied Research Division.
Tactical Air Command	Chief Scientist Tactical Air Warfare Ctr.
	Chief, Operations Analysis.
Headquarters, Pacific Air Force.	Director of Civilian Personnel.
U.S. Air Forces in Europe.	
Shape Technical Center	Chief, Information Systems Division, NATO
	Director, Shape Technical Center.
Space Command	Senior Space Scientist.
Dep Chf of Staff, Plans & Programs.	Senior Scientific and Technical Advisor.
AF Operational Test and Eval Center (AF OTEC).	Scientific Advisor (Test & Evaluation).
Air University	Director Academic Affairs.
Joint Electronic Warfare Center (JEWC).	Technical Director.
Air Force Commissary Service.	Deputy to the Commander, AF Commissary Serv.
Directorate of Accounting & Finance.	Dep Dir, Acctng & Finance.
Joint Program Management Office (JPMO).	Director of Plans & Systems.
AF Engrg and Services Center (Field).	Technical Director.
Office of Civilian Personnel Operations (OCPO).	Technical Director.
U.S. Central Command	Chf Otc of Civilian Personnel Opers.
Department of Army	Scientific Advisor.
Office of the Under Secretary.	Operations Research Analysis.
	Chf, Opers Res Grp for Forces & Readiness.
	Operations Research Analyst for Systems.
	Opers Research Analysis for Cmd, Cont, C & I.
	Adm Asst to the Secy of the Army.
Otc of the Administrative Assistant.	Dep Administrative Assistant.
	Director, Defense Supply Service-Washington.
OASA Research Development and Acquisition.	Director Acquisition Management Review Agency.
ODASA Acquisition	Dep for Materiel Acq Mgmt.
	Dep for Procurement Policy.
OSASA Management and Programs.	Asst Dep for Management & Programs.
	Dep for Management and Programs.
	Deputy for Programs.
Otc of Asst Secretary (Installations & Logistics).	Deputy Assistant Secretary of Army (Log).
	Dep Prog & Commer Activ/ Commer Activ Agency.
Off of Asst Secretary, Manpower & Reserve Affairs.	Dep A/S of the Army (Rsv Bds & Personnel Sec).
Otc of Asst Secretary Civil Works.	Dep for Program Planning Review & Evaluation.
	Deputy for Management and Budget.
	Dep for Policy, Plng, & Legislative Affairs.

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POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Office, Assistant Chief of Staff, Intelligence.	Spec Asst to the ACSI.
	Dep Director Foreign Sci & Technology Center.
	Dir of Intelligence Production.
	Director Missile Intelligence Agency
Ballistic Missile Def Prog Ofc.	Chief Scientist Ballistic Missile Prog Ofc.
Ballistic Missile Def Sys Command.	Chief, Contracts Office.
	Project Manager, ER-VIS Project Office.
Ballistic Missile Def Adv Techn Ctr.	Dir Technology Analysis Directorate.
	Dir Discrimination Directorate.
	Dir Missile Directorate.
	Director Radar Directorate.
	Dir-Data Processing Directorate.
	Director Optics Directorate.
Chf Scientist & Director of Army Research.	Asst Director for Research Programs.
	RDA Analysis Officer.
	Asst Dir, Technology Planning.
	Director of Army Research & Technology.
	Assistant Director, Laboratory Management.
	Assistant Director, Research.
Dir of Combat Support Systems.	Combat Spt Sys Technol Mgr.
	Assistant Director Technology Assessment.
	Assistant Director Threat Integration.
Dir of Weapons Systems.	Physical Scientist (Aerospace Engr).
Office, Dep Chief of Staff for Personnel.	U.S. Army Safety Director.
	Chief, Contracting Policies and Procedures.
Directorate of Civilian Personnel.	Director of Civilian Personnel.
	Dep Director Ofc Civ Personnel.
	Chief, Staffing, Career Mgmt & Training Ofc.
Civilian Personnel Center.	Chf-Civilian Personnel Ctr.
Army Research Institute For Behavioral & Social Sciences.	Dir, Systems Rsch Lab & Assoc Dir ARI.
	Dir, Trng Res Lab & Assoc Dir, ARI.
	Dir, Manp & Pers Res Lab & Assoc Dir, ARI.
Dir Manpower Plans and Budget.	Dep Dir Manpower Plans and Budget.
Office, Deputy Chief of Staff for Logistics.	Asst Director for Supply Mgmt.
	Asst Dir of Resources and Mgmt.
	Asst Dir for Maintenance Mgmt.
	Spec Asst to Dcslog & Av Log Ofc.
	Chief Security Assistance Policy Coord Ofc.
	Asst Dir for Transportation.
	Asst Dir for Energy & Troop Support.
	Dep to the Commander, Troop Support Agency.
Office of the Comptroller of the Army.	Dep Comptroller.
	Director of Cost Analysis.
	Deputy Director of Operations & Maintenance.
	Director of Resource Management.
	Asst Comptroller of the Army for Econ Policy.
	Director, Resource Management Systems.
Finance and Accounting Center.	Dep Cmdr US Army Finance & Accting Ctr.
	Army Internal Control Program Administrator.
Director of Army Budget	Deputy Director.
	Dep Dir of Army Budget for Budget Management.
Army Audit Agency	The Auditor General, U.S. Army.
	Deputy Auditor General.
	Director, Logistical & Financial Audits.
	Director, Acquisition & Systems Audits.
	Dir Personnel and Force Management Audits.
	Dir Audit Policy Plans and Resources.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Regional Auditor General (European Region).
Ofc Dep Chf of Staff for Operations & Plans.	Tech Adv to Dep Chf of Staff for Opns & Plan.
Directorate of Command, Control, Comms & Computers.	Dep Asst Chf of Staff Automation and Comms.
	Army Spectrum Manager.
US Army Computer Systems Command.	Dir, Army Mgmt Systems Support Agency.
US Army Nuclear & Chemical Agency.	Technical Director.
Concepts Analysis Agency (CCSAA).	Dir of Methodology & Resources & Computation.
Army Center of Military History.	Chief Historian.
Army War College	Director of Academic Affairs.
USA Med Rsch & Devel Cmd.	Special Assistant for Biotechnology.
U.S. Army Med Res Inst of Infectious Dis, Ft Detrick, MD.	Deputy for Science.
Training and Doctrine Command (TRADOC).	Scientific Advisor.
	Scientific Advisor.
	Dep Chief of Staff for Resrc Admin Logistics.
	Asst Deputy Chief of Staff for Resources Mgmt.
Combat Developments Experimentation Command.	Dir, USA Combat Develop Experimentation Ctr.
TRADOC Operations Research Activity.	Director, TRADOC Operations Research Activity.
US Army TRADOC Systems Analysis Activity.	Dir US Army TRADOC Systems Analysis Activity.
TRADOC Combined Arms Test Facility.	Scientific Advisor.
Military Traffic Mgmt Commd.	Special Assistant for Transportation Engr.
U.S. Army Forces Command.	Civilian Personnel Director.
U.S. Army Corps of Engineers.	Deputy Comptroller.
	Chief, Office of Personnel.
	Spec Asst to the Chf of Engrs for Interntl AFF.
Ofc, Asst Chf of Engineers.	Deputy Director, Resource Management.
Directorate of Civil Works.	Chief, Programming Div, ACE.
	Chf-Ofc of Policy.
	Chf, Programs Div.
	Chf-Planning Division.
Water Resources Support Center.	Chief Operations & Readiness Division.
Directorate of Engineering & Construction.	Chief Dredging Division.
	Dep/Dir Engineering and Construction.
	Chf, Operations & Maintenance Div.
	Deputy Chief Construction Division.
	Chief Construction Division.
	Chief Engineering Division.
Board of Engineers for Rivers and Harbors.	Tech Dir, Bd Engr Rivers and Harbors.
Institute for Water Resources.	Director Institute for Water Resources.
Planning Division, CQE.	Chf Planning Div, Ohio River Div.
	Chf Planning Div, No Pacific Div.
	Chf Planning Div, South Atlantic Div.
	Chief, Planning Div Lower Miss Valley Div.
	Chf Planning Div, Mo River Div.
	Chf, Planning Div, South Pacific.
	Chief Planning Div, N. Atlantic Div.
	Chf Planning Div-Southwestern Div.
	Chf Planning Div North Central Div.
Engineering Division, CQE.	Chief, Engineering Div., Ohio River Div.
	Chief, Engineering Div, Southwestern Div.
	Chief, Engineering Div., N. Central Div.
	Chief, Engineering Div., S. Pacific Div.
	Chief, Engineering Div, N Atlantic Div.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Chief, Engineering Div, S. Atlantic Div.
	Chief Engineering Division.
	Chief Engineering Div Middle East.
	Chief, Engineering Div, Missouri River Div.
	Chief, Engineering Div, North Pacific Div.
	Chief, Engineering Div, Pacific Ocean Div.
	Chf Engineering Div, Europe Div.
	Chief Engineering Div, Huntsville Div.
	Chf, Construction-Operations Division.
	Chief Construction Operations Division.
Construction Divs-Coe	Chf Construction Div, Middle East.
	Chief Construction-Operations Div S Western.
	Chief Construction -Operations Div, Ohio River.
	Chief Construction-Operations Div, Lft MS Val.
	Chief Construction Operations Division.
Direc for Mgmt Infor Sys.	Dir of Mgmt Information Systems.
Direc for Supply, Maint & Trans.	Dep Dir of Supply Maintenance & Transp.
Direc for Product Assurance & Test.	Director of Product Assurance and Test.
	Deputy Director of Product Assurance and Test.
Ofc Dep Cmdg Gen Materiel Dev Decom.	Prin Asst Dep for Res Develop and Acquisition.
	Asst Dep for Science & Technology.
	Asst Dep Int'l Programs & Technical Transfer.
	Dir Technology Planning Management.
	Dep Dir of Develop Engineering & Acquisition
Dir for Devel Engineering & Aquisition.	Deputy for Systems Management
	Deputy for Program Management
	Dir of Manufacturing Technology.
Office of Manufacturing Technology.	
Ofc Dep Cmdg Matl. Readiness.	Asst Dep for Material Readiness.
Direc for Internat'l. Logistics.	Dep Dir of Security Assistance.
Direc for Material Management.	Dep Dir for Security Assistance.
	Deputy for Weapon Systems Management.
	Asst Dep Chf of Staff for Policy & Procedures.
Direc for Readiness	Deputy Director of Readiness.
Direc for Procurement & Production.	Dep Dir Procurement and Production.
	Assoc Dir for Procurement.
Direc for Test, Measurement & Diag Eq.	Deputy Executive Director for TMDE.
Ofc Dep Commanding General for Resource Management.	Asst Deputy for Resource Management.
Direc for Personnel Trg & Force Dev.	Dep Dir, Personnel Training & Force Devel.
	Chief, Civilian Personnel Div.
Office of Comptroller Darcom HQ.	Deputy Comptroller.
	Assistant Deputy for Cost Analysis.
Program Analysis & Evaluation Directorate.	Director for Program Analysis & Evaluation.
Automated Logistics Management Systems Activity.	Dir Automated Logistics Mgt. Systems Activity.
Armament Materiel Readiness Command (ARRCOM).	Comptroller.
	Deputy for Procurement and Production.
	Deputy for Logistics Readiness.
	Dep for Indust Preparedness & Installations.
Office of Commander Armdcom.	A/Tech/Dir (Sys Development & Engineering).
	Director of Product Assurance.
	Chf-Energetic Materials Div.
Large Caliber Weapon Systems Lab Armdcom.	Chief Munitions Systems Division.
	Chief Applied Sciences Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Chemical Sys Lab Arradcom.	Chf Munitions Division.
Aviation Systems Command (AVSCOM).	Chief Research Division.
	Dir of Procurement and Production.
	Deputy Avionics Research & Development Act.
Directorate of Systems Engineering.	Director, Development and Qualification.
Research & Technology Labs.	Dir-Research and Technology Labs.
	Dir-Aeromechanics Laboratory.
	Dir-Structures Laboratory.
	Director Propulsion Laboratory.
Project Mgmt Ofc Lt Helicopter Family.	Dep Proj Manager, Light Helicopter Family.
Communications & Elect Comd (CECOM).	Comptroller, Cercom.
	Dep Dir, Night Vision and Electro-Optics Lab.
	Dir of Procurement and Production.
	Dir. of Product Assurance and Test.
Communications Res & Dev Command (CORADCOM).	Director, Communications Systems Center.
	Dir Systems Engineering and Integration.
Program Mgr Army Data Systems (CORADCOM).	Assoc Techn Dir (Command, Control & Commun).
Depot systems Command (DESCOM).	Deputy for Command Operations.
US Army Laboratory Command.	Senior Technical Director (JTC3A).
	Assoc Technical Dir for Res & Technology.
	Assoc Tech Dir for Elec Warfare and Intel.
Harry Diamond Labs (USALC).	Director, Harry Diamond Laboratories.
	Chf, Dev & Eng Div.
Army Research Office (AMC).	Dir, Engr Sci Div.
US Army Ballistic Research Laboratory.	Chf, Sys Engineering & Concepts Analysis Div.
	Chief Interior Ballistics Division.
	Chf-Launch and Flight Division.
	Chf Terminal Ballistics Div.
	Chf Vulnerability Lethality Division.
Ofc of Commander (MICOM).	Director for Procurement.
	Associate Director for Systems.
	Dir, Missile Logistics Ctr.
	Director of Product Assurance.
Project Mgmt Offices (MICOM).	Deputy Project Manager, US Roland.
	Deputy Director for Directed Energy.
Engineering Lab (MICOM).	Dir for System Engineering.
	Dir for Test and Evaluation.
	Dep Dir Systems Simulation & Development.
Technology Lab (MICOM).	Director for Advanced Sensors.
	Chief, Advanced Technology Function.
	Asst Dep for Readiness.
	Deputy Director Applied Technology Laboratory.
Belvoir Research & Development Center.	Assoc Techn Dir for Research & Dev.
	Assoc Tech Dir for Engineering and Acqui.
Natick Research & Development Center.	Director Individual Protection Laboratory.
	Director Science & Advanced Technology Lab.
	Director, Food Engineering Laboratory.
Tank-Automotive Comd (TACOM).	Comptroller, TARCOM.
	Dir for Procurement and Production.
	Director of Product Assurance.
Aberdeen Proving Ground, MD. T&E Command.	Assoc Dir-Material Testing Directorate.
Patriot Project Office	Dep Project Manager, Patriot.
XM-1 Tank Project Office.	Chf Engineer/Chf, Systems Engineering Div.
Fighting Vehicle Systems Project Ofc.	Dep Program Mgr-Fighting Vehicle Systems.
Advanced Attack Helicopter Project Office.	Dep/Prog/Mgr Advanced Attack Helicopter.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Army Materiel Systems Analysis Agency DARCOM.	Chf Combat Support Div AMSAA.
	Chf Air Warfare Div.
	Chf, Reliability, Availability & Maintainabil.
	Chf Ground Warfare Division-AMSAA.
Army Communications Command.	Comptroller.
Headquarters, U.S. Army, Europe.	Asst Dep Chf of Staff, Personnel (Civ Pers).
	Asst Dep Chief of Staff Eng for Eng & Housing.
	Asst Dep Chf of Staff, Resource Mgmt USAREUR.
NICSMA, NATO	Asst Dir, Command, Control and Comms Syst.
Joint Tactical Command, Control & Comms Agency.	Associate Director Tri-Tac Office.
	Deputy Director for Architecture.
	Deputy Director for Plans, Progs and Analysis.
DOD Wage Fixing Authority.	Director, Technical Staff.
Department of Navy	
Office of the Under Secretary of the Navy.	Asst for Acquisition for Special Prog & Act.
	Assistant for Administration.
Office of the Auditor General.	Auditor General of the Navy.
Naval Audit Service Headquarters.	Director, Plans and Policy.
Ofc of the Asst Secy of Navy (Manpwr & Res Affs).	Director, Audit Operations.
	Staff Dir/Director, Manpower Analysis.
Office of the Comptroller of the Navy.	Staff Director Program Policy.
	Assoc Dir, Budget & Reports/Fiscal Manag Div.
	Cmm Adv for Cost Analysis/Dir, Cost Analy Div.
	Exec Asst Compt for Financial Mgmt Systems.
	Exec Asst Comp Bank, Cash Mgmt, Cont Fin, Comp S. Counsel.
	Dir, Investment & Dev Div.
	Assoc Dir for Finance.
	Dir, Budget & Mgmt, Policy and Procedures Div.
	Exec Asst Comptroller for Accounting Systems.
	Dir, Budget Evaluation Group.
	Dep Director for Independent Cost Analysis.
	Dir Civilian Manpower Division.
Navy Comptroller Standard Systems Activity.	Dir, Navy Comptroller Standard Sys Activity.
Office of the General Counsel.	Asst General Counsel (Acquisition).
	Asst Gen Counsel (Civilian Personnel Law).
Director-Naval Administration/Asst Vice CNO.	Deputy Director, Long Range Planning Group.
	Dir Naval History/Dir, Naval Historical Ctr.
Director, Navy Program Planning.	Asst for Spec Analyses & Head, Proj Forces Br.
	HD Support Force Manpower & Logistics Branch.
	Chairman Resources & Cost Analysis.
	Dep. Director, Strategic Sealift Division.
	Deputy Director for Programming.
	Asst for Readiness & Sustainability.
Director Command and Control.	Dir, Electromagnetic Spectrum Management.
	Assoc Director, Information Systems Division.
Director, Naval Warfare	Advanced Technology Advisor.
	Technical Advisor.
Office of the Oceanographer of the Navy.	Dep for International & Interagency Affairs.
Director, R&D Test and Evaluation.	Spec Asst for Financial Matters.
	Asst for RDT & Aquisition Mgmt.
	Director R&D Programming & Budgeting Division.
Director, Naval Intelligence.	Spec Asst to Dir of Naval Intel.
	Spec Asst to Dir of Naval Intel-Investigtns.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Tech Dir-Ofc of Naval Intelligence.
	Advisor for Research & Development Programs.
	Sr Adv to the Dir of Naval Intel for Sov Doc.
DCNO (Manpower, Personnel & Training).	Dir, Total Force Info Res & Sys Mgmt Div.
ADCNO (CCP/EEO)/ Civ Pers Pol Division.	Asst Dep Chf of Naval Opers (Civilian Personn).
	Head, Staffing and Pay Systems Branch.
	Hd, Labor & Employee Relations Branch.
	Dep Dir, Civilian Personnel Policy Division.
Office DCNO (Submarine Warfare).	Head Personnel Management & Evaluation Br.
	Technical Director, SSBN Security Program.
	Technical Director of Research & Development.
Office DCNO (Logistics)	Dep Dir, Logistics Plans Division.
Office DCNO (Air Warfare).	Spec Asst for Aviation Budget and Acquisition.
	Special Assistant for Technology & Analysis.
	Assoc Dir OP-83/Dir, Inter'l Prog Pol & Neg.
Office DCNO (Plans, Policy & Operations).	Director, Naval Civilian Personnel Command.
Naval Civilian Personnel Command.	Director Pacific Region.
Naval Civilian Personnel Command—Pacific Region.	
Naval Military Personnel Command.	Dir Military Pay Financial Mgmt Directorate.
Naval Observatory	Dir, Time Service Div.
Naval Data Automation Command Headquarters.	Technical Director.
	Comptroller.
Naval Intelligence Support Center.	Technical Director.
Naval Intelligence Processing System Support Activity.	Director of Threat Assessments.
Naval Medical Research and Development Command.	Technical Director.
	Dir of Prog & Scientific Advisor.
Naval Aerospace Medical Research Laboratory.	
U.S. Naval Medical Research Unit #3.	Spec Asst, Scien Progs & HD, Psychophysiology.
Military Sealift Command.	HD, Medical Zoology Dept, Cairo, Egypt.
	Deputy Commander.
	Counsel.
	Engineering Officer.
	Comptroller.
Naval Tactical Support Activity.	Dir Navy Tactical Support Acty.
Naval Space Command	Technical Director.
	Comptroller.
Ofc of the Chief of Naval Education and Training.	Prin Adv Edu Trng/Deputy Chief Edu Dev and R&D.
U.S. Marine Corps Headquarters Office.	Fiscal Dir of the Marine Corps.
	Asst DCS for Installations and Logistics.
	Dir,Contracts Division.
	Counsel for the Commandant.
	Chief Scientist.
	Accounting Officer of Marine Corps.
	Special Assistant to the Dir of Intelligence.
	Deputy Director Material Division.
	Technical Director.
Office of Naval Research.	Dir of Planning and Assessment.
	Assistant TD for Ocean Science.
	Dep Dir for Technology Programs.
	Counsel, Office of Naval Research.
	Science Advisor.
Ofc of the Comptroller	Dir, Fin Mgmt Compt/Spec Asst (FM) To ASN (R, E&S.
	Dep to the Spec Asst (FM) to the Asst (FM) to the ASN (RE&S).
Ofc of Assistant Chief for Patents.	Dir, Navy Patent Prog/Patent Counsel of Navy.
	Field Dir, Navy Patents.
	Departmental Director, Navy Patents.

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POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Office of Procurement Services.	Director, Acquisition.
Office of the Assistant Chief for Research.	Dir of Research Programs.
	Head Information Sciences Division.
	Head Mechanics Division.
	Head Physics Division.
	Head Chemistry Division.
	Leader, Arctic, Atmos & Ionospheric Sols Div.
	Head, Physiological Sciences Division.
	Assoc Dir for Life Sciences.
	Head Biological Sciences Division.
	Assoc Dir for Mathematical & Physical Science.
	Head Mathematical Sciences Division.
	Associate Director for Engineering Sciences.
	Head Electronics Division.
	Head Geophysical Sciences Division.
	Head Ocean Sciences Division.
	Head Materials Division.
Assistant Chief for Technology.	Dir Mgmt & Manpower.
Ocean Science and Technology Division.	Associate Director for Environmental Sciences.
Office of Naval Technology.	Dir Anti/Air Anti/Surf Warf & Aerospace Tac Dir.
	Dep Tech Dir/Dir, Tech Plan'g & Assess Group.
	Technical Director.
	Director, Support Technology, Division.
	Chief Scientist.
	Dir Anti Submarine Warfare & Undersea Tech.
Office of University Affairs.	DCMN (Laboratories)/Dir of Navy Laboratories.
	Assoc Dir of NV Labs.
	Director, Office of University Affairs.
Naval Ocean Research and Development Activity.	Tech Dir.
	Assoc Tech Dir & Dir, Ocean Science Directorate.
	Assoc Tech Dir & Dir Ocean Acoustics & Tech Dir.
Office of the Director of Research.	Dir of Research.
Technical Services Directorate.	Assoc Dir of Res & Dir of Tech Services.
Systems Research and Technology Directorate.	Assoc Dir of Res & Dir Sys Res and Tech.
Acoustics Division	Supt, Acoustics Div.
Underwater Sound Reference Division.	Supt Underwater Sound Reference Division.
Radar Division	Supt, Radar Div.
Marine Technology Division.	Superintendent Marine Technology Division.
Tactical Electronic Warfare Division.	Supt, Tactical Electronic Warfare Div.
Material Science and Component Technology Direc.	Assoc Dir of Res & Dir of Mat Sci & Comp Tech.
	Head Magnetism Branch.
	Chf Sci, Lab for Structure of Matter.
	Head Elect Warfare Strategic Planning Org.
Chemistry Division	Supt, Chemistry Div.
	Head Combustion and Fuels Branch.
Material Science and Technology Division.	Supt Materials Sci and Tech Division
	Head Thermostructural Materials Branch.
Electronics Technology Division.	Superintendent Electronics Technology Div.
Optical Sciences Division.	Superintendent, Optical Sciences Div.
Radiation Technology Division.	Supt Condensed Matter & Radiation Sci Div.
Plasma Physics Division	Chief Sci Lab for Computational Physics.
Space and Communications Technology Directorate.	Assoc Dir of Res & Dir of Space & Comm Techn.
Space Systems Division	Head, Space Technology Br.
	Superintendent, Space Systems Div.
Comunication Sciences Division.	Superintendent, Communicaitons Sciences Div.
	Chf Sci for Telec & HD, Transm Techn Dir.
General Science and Technology Directorate.	Assoc Dir of Res & Dir of Gen Sci and Tech.
Plasma Physics Division	Superintendent, Plasma Physics Div.
	Cont Therm Res Coord/HD, Exp Plas Physics Br.
Space Science Division	Superintendent Space Science Div.
Office of the Dir, NATO, SACLANT ASW Research Ctr.	Director NATO SACLANT ASW Research Centre.
Office of Naval Acquisition Support.	Dir Manpower/Personnel Mgmt Dir, CCPO, Crystal City.
	Specification Control Advocate General.
Dep Chief of Naval Material (Logistics).	Asst Dep Chf of Naval Material (Oper & Logist).
	Dir, Logistic Programs & Assessments Div.
Dep Chief of Naval Material (Acquisition).	Executive Director, for Acquisition.
	Director, Financial Management Office.
	Techn Dir.
Asst Dep Chf of Naval Mat (Contracts & Sus Mgmt).	Exec Dir for Contracts and Business Management.
	Dir, Procurement Control & Clearance Div
Dep Chief of Naval Material (Laboratories).	Spec. Assistant to the Director of Navy Labs.
Asst Dep Chf of Naval Mat (Reliability & Engr).	Asst Dep Chf Nav Mat (Reliability and Engr).
Executive Development Cadre.	Director, Civilian Resources Management Dir.
	Asst for Transition of Ship Eng Tech.
	Spec Asst to the Inspector General.
	Spec Asst for Long Range Strategic Planning.
	Special Assistant to the President.
	Special Advisor for MPT RE&S.
	Dir, Def Training Data & Analysis Center.
	Asst Dep CNM for Program Budget & Finance.
	Director, Plans & Programs Division.
	Deputy Director, Plans & Programs Division.
	Head, Resources Branch.
Naval Training Equipment Center, Plans and Program Division.	Dir, Strategic Warfare Contracts Division.
Strategic Warfare Contracts Division.	
Technical Division	Chf Engr.
	Deputy Logistics Support Coordinator.
	Asst for Systems Integration & Compatibility.
Navigation Branch	HD, Navigation Equip Sect.
	Branch Engineer, Navigation Branch.
Test and Instrumentation Branch.	Test & Instrumentation Branch Engineer.
Fire Control and Guidance Branch.	Hd, Guidance Section.
	Head Fire Control Section.
	Br Engr Fire Control & Guidance Br.
Missile Branch	Head Operations Engineering Section.
	Sec Engr, Engrg Section.
	Chf Engr, Missile Branch.
	Sect Head, Reentry Systems Sect, Missile Br.
Launcher Branch	Branch Engr, Launcher Branch.
Ship Installation and Design Branch.	Branch Engr, Ship Installation & Design Br.
Joint Cruise Missile Program Office.	Exec Dir, Acquisition Directorate.
	Chief Engineer, Joint Cruise Missiles Program.
	Technical Dir Joint Cruise Missile Program.
Naval Air Systems Command.	Deputy Commander, Naval Air Sys Command.
Dir of Asst Commdr for Research and Technology.	Director, Surveillance Division.
	Director, Weapons Division.
	Director, Aircraft Division.
	Assoc Techn Dir for Res & Technology.
	Director, Avionics Division.
	Techn Dir, Res & Techn.
	Chief Scientist.
	Technology Demonstration Manager.
	Director, Operations & Management Directorate.
Office of the Assistant Chief for Contracts.	Exec Dir, Procurement Management.
	Dir Aircraft Weapons Systems Purchase Div.
	Dir, Missile Weapons Systems Contracts Div.
Asst Commdr for Logistics/Fleet Support.	Deputy Dir Logistics/Fleet Support & Group.
	Asst Dir Logistics Mgmt Div.
	Director Logistics Resources Division.
Deputy Commander for Plans and Programs.	Executive Director, Management, Plans & Progr.
	Asst Dep Commander for Anti-Air Warfare R&EWP.
	Prog Dir/Air for EW & Mission Support Prog.
	ADC/for Anti-Submarine Warfare & Support Proj.
Dep Commander for ASW Warfare Projects.	Deputy Project Manager (Lamps).
Office of Counsel	Counsel, Naval Air Systems Command.
Deputy Comptroller	Deputy Comptroller.
Assistant Commander for Systems and Engineering.	Exec Dir for Acquisition Management.
	Technical Director, Weapons Engineering Div.
	Dir, Engineering Sup & Prod Integ Mgmt Div.
	Tech Dir, Computer Res & Avionics Div.
	Dir, Evaluation Div.
	Technical Director Air Vehicle Division.
	Dir, Systems Acquisition Directorate.
	Director Cost Analysis Division.
	Dir, Systems Alternatives Directorate.
	Dir Mission and Effectiveness Analysis Div.
	Asst Dir Propulsion & Power Division.
	Assoc Dir Systems Engineering Mgmt.
	Director, Corporate Management Directorate.
Asst Commander for Test and Evaluation, Naval.	Tech Dir, Test & Evaluation.
	Director Resources Division.
Naval Air Engineering Center.	Technical Director.
Naval Air Test Center	Technical Director, Natc, Patuxent Riv, MD.
Naval Avionics Center	Executive Director.
	Dir of Applied Research.
	Director of Engineering.
	Technical Director.
Pacific Missile Test Center.	
Systems Evaluation Directorate.	Director, Weapons Evaluation Directorate.
Range Directorate	Assoc Dir and Assoc TD (Ranges and Tests).
	Hd, Range Dev Dept.
	Dir Elec Warfare Dir/Assoc Tech Dir (Elec/WP).
Navy Aviation Logistics Center.	Exec Dir.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Space and Naval Warfare Systems Command.	Deputy Comptroller.
	Counsel.
	Techn Dir, C31 Systems & Techn Directorate.
	Technical Dir, C3 Software Dev & Support.
Director, Logistics Directorate.	Executive Director, Life Cycle Support Group.
Contracts Directorate.	Exec Dir, Contracts.
Spawar Project Offices	Asst Proj Mgr, Ship & Shore Communications Div.
	Tech Dir, Navy Space Project Ofc.
	Dep Proj Mgr & Tech Dir Research Systems Proj.
	Asst Project Mgr for Ell Communications.
	Asst Proj Manager for Submarine Common Sys.
	Assoc Dep Proj. Manager/Technical Dir.
	Project Manager for Communications Systems.
	Deputy Director Research and Technology Group.
Research and Technology Directorate.	Techn Dir, Sys Integration & Design Group.
	Exec Dir, C31 Requirements Analysis Group.
Acquisition Engineering Directorate.	Deputy Project Manager/Technical Director.
	ABC-Life Cycle (Engring & PD).
	Deputy Project Mgr/Tech Dir Com Sys Proj Ofc.
Command Support System Office.	Dep Assistant Project Dir for C2 Programs.
	Executive Director for Systems Engineering.
Office of Commander	Counsel.
	Dep Dir of Programs & Comptroller.
	Techn Advisor-Real Property Management.
	Asst Commander for Facilities & Transp.
Asst Commander, Design and Engineering.	Asst Commander for Engineering & Design.
Deputy Commander for Acquisition.	Assistant Commander for Contracts.
	Chief Engineer.
	Technical Director.
U.S. Naval Construction Batalion Center.	
Naval Sea Systems Command.	Asst Deputy Commander for Logistics.
Office of Commander & Staff Offices NAVSEA (00)	Counsel.
	Dir, Corporate Planning Office.
	Director, Reliability and Maintainability.
	Deputy Counsel.
Comptr Directorate NAVSEA (01).	Asst Dep Commdr,Plans, Prog Financ Mgt/Dep Com.
	Director Cost Estimating & Analysis.
Contracts Directorate, NAVSEA (02).	Asst Dep Commander for Contracts.
	Dir Shipbldg & Overhaul Contracts Div.
	Dir, Surface Warfare, Elec & RED Contract Div.
Ship Design and Integration Directorate, NAVSEA (03).	Dir Ship Des Res & Tech Ofc (SEA-03R).
	Dir, Adv Des Div/at Dep Dir, Ship Conc Dev Gp.
	Exec Dir/Dep Ofc Dir/Dep Grp Dir/Div Dir.
	Exec Dir/Dep Ofc Dir/Dep Grp Dir/Div Dir.
	Exec Dir/Dep Ofc Dir/Dep Grp Dir/Div Dir.
Ship Systems Directorate, NAVSEA (05).	Exec Dir, Ship Systems Directorate.
	Dir, Ship Systems Res & Technology Office.
	Dir, Structural Integrity Subgroup.
	Deputy Director, Propulsion Systems Subgroup.
	Deputy Dir Hull Systems Sub Group.
	Dep Dir, Auxiliary Systems Group.
Combat Systems Directorate, NAVSEA (06).	Dep Director, Hull Engineering Group.
	Deputy Director, Electrical Systems Group.
	Director, Materials Engineering Office.
	Dep Dir/Tech Dir, Combat Systems Eng Group.
	Dir Combat Systems Design & Test Subgroup.
	Deputy Dir Ammunition Systems Group.
	Exec Director, Combat Systems Directorate.
	Asst Dep Cmdr, Ind/FAC Mgmt Directorate.
Industrial and Facilities Mgmt, Direct NAVSEA (07).	
Nuclear Propulsion Directorate, NAVSEA (08).	Director-Reactor Materials Division.
	Head Advanced Design Branch.
	Head, Improved Reactor Design Branch.
	Dir-Secondary Plant Components Division.
	Asst Dir React Engr Div, Hd Adv Reactor Br.
	Director Reactor Plant Valve Division.
	Deputy Director for Submarines.
	Dir Surface Ship Systems Division.
	Technical Assistant for Surface Ship Systems.
Submarine Directorate, NAVSEA (92).	Dep Dir, Submarine Logistics Div.
	Exec Dir Submarine Directorate.
Surface Combatant Ships Directorate, NAVSEA (93).	Executive Director, Surface Ship Directorate.
	Dep Dir, Surface Combatant Ship Logistics Div.
Management Support Directorate, NAVSEA (99).	Asst Dep Comdr/For Acquisition & Admin.
Surface Warfare Systems Group WS&E NAVSEA.	Dep Asst (Techn) for ASW & Undersea WF Sys.
Undersea Warfare Systems Group WS&E NAVSEA.	Exec Dir, Surface Warfare Sys Grp.
Research Technology and Assessment Office, NAVSEA.	Dir, Research Techn & Assessment Ofc.
Deep Submergence Systems Project Office.	Dep Proj Mgr & Tech Dir.
	Dep Proj Mgr, Guided Miss Frig Ship Acq Proj.
	Dep Proj Mgr for Anti Ship Miss Defense Proj.
	Dep Proj Mgr/Tech Dir Nucl Power Aircraft Lab.
	Dep Proj Mgr/Tech Dir Attack Sub Project Ofc.
	Dep Program Mgr Directed Energy Laser Weapons.
	Director-SSN Submarine Systems Division.
	Dep Proj Mgr/Tech Dir Aux & Spec Mission Ship.
	Dep Program Mgr Amphibious Ship Acq Program.
	Dep Techn Dir, Technical Division.
	Torpedo MK 48/ADCP Deputy Program Manager.
	Project Manager, Deep Submergence Sys Project.
Theater Nuclear Warfare Program Office.	Tech Dir Theater Nuclear Warfare Prog Office.
Naval Weapon Station, Seal Beach.	Technical Director.
Naval Undersea Warfare Engineering Station.	Technical Director.
Naval Ship Weapons Systems Engineering Station.	Technical Director.
Naval Ordnance Station.	Technical Director.
Naval Supply Systems Command.	Counsel.
	Asst Dep Commander for Plans, Policy, & Syst D.
	Asst Dep Cmdr for Fin Mgmt/Comp.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Asst Dep Commander, Contracting Management.
	Director Shipkool Division.
	Dir Advanced Logis Tech Div.
	Prog Mgt and Technology Programs Mgt Office.
Headquarters	Spec Asst to Dir Res Mgmt/Dir Fin Mgmt Sys Di.
	Executive Director, Planning and Resources.
Navy Ship Parts Control Center.	Exec Dir Acquisition & Logistics Plng & Suppt.
Navy Aviation Supply Office.	Executive Dir Logistics Planning & Support.
Navy Fleet Material Support Office.	Exec Dir, Adp System Planning and Development.
Naval Air Development Center.	Dir-Communication & Navigation Tech Directorate.
	Dir Sensors & Avionics Technology Directorate.
	Head-Computer Department.
	Dir-Systems Directorate.
	Dir Aircraft and Crew Systems Technology Dirs.
	Dir-Planning Assessment Resources Staff.
	Technical Director/Consultant.
	Technical Director Consultant.
	Dir, Software/Computer Technology Directorate.
	Senior Sci, Airborne ASW Technol
	Head, Aero Analysis Division.
	Weapons Systems Technology Manager.
Naval Costal Systems Center.	Tech Dir/Consultant.
	Hd, Coastal Technol Dept.
	Head Engineering & Test/Evaluation Department.
	Head Systems Department.
Naval Ocean Systems Center.	Director Ocean Surveillance.
	Director Weapon Systems.
	Director Engineering and Computer Sciences.
	Chief Res Sci Subm Artic Tech & Dir Artic Subm.
	Dir, Independent Research and Development.
	Technical Director/Consultant.
	Assoc. Technical Dir, San Diego, Cal.
	Dir Marine Science & Technology Directorate.
	Head, Command and Control Department.
	Head Electronics Engineering & Sciences Dept.
	Head, Communication Department.
	Technical Director, NPRDC.
Naval Personnel Res & Dev Center.	Dep Techn Dir for Manpower & Personnel.
	Assistant for Civilian Personnel Research.
	Dir Training Research Laboratory.
David W. Taylor Naval Ship Research & Dev Center.	Dir for Long Range Plans & Programs.
	Tech Dir Consultant.
Aviation and Surface Effects Department.	Associate Tech Dir for Sys Development.
	Asst Tech Dir (Research Consultant).
	Assoc Tech Dir for Areodynamics.
	Assoc Tech Dir, Computation & Mathematics.
Ship Acoustics Department.	Assoc Tech Dir for Ship Acoustics.
Propulsion and Auxiliary Systems Department.	Assoc Tech Dir Prop & Auxiliary Systems.
Ship Performance Department.	Assoc Tech Dir for Ship Performance.
Materials Department	Assoc Techn Dir for Materials Sci & Technology.
Structures Department	Naval Submarine Division.
	Associate Technical Director for Structures.
Naval Surface Weapons Center.	Tech Dir Consultant.
	Dept Hd/Dep. Tech Dir/Assoc Tech Dir.
	Dept Hd/Dep Techn Dir/Assoc Techn Dir.

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POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Dept Hd/Dep Tech Dir/Assoc Tech Dir.
	Dept Hd/Dep Tech Dir/Assoc Tech Dir.
Combat Systems Integration Department.	Dept Hd/Dep Tech Dir/Associate Tech Dir.
Weapons Systems Department.	Dept Hd/Dep Tech Dir/Assoc Tech Dir.
Strategic Systems Department.	Dept Hd/Dep Tech Dir/Assoc Tech Dir.
Engineering Department.	Dept Hd/Dep Tech Dir/Assoc Tech Dir.
	Dept Hd/Dep Tech Dir/Assoc Tech Dir.
Research and Technology Department.	Dept Hd/Dep Tech Dir/Assoc Tech Dir.
Naval Underwater Systems Center.	Deputy Technical Director.
	Tech Dir, Consultant.
	Assoc Tech Dir for Submar Combat Control Acos.
	Head, Combat Control Systems Department.
Associate Technical Director Plans and Analysis.	Assoc Tech Dir for Plans & Analysis.
Systems Development Directorate.	Head, Submarine Sonar Department.
	Hd Weapons Sys Dept.
	Head, Surface Ship Sonar Department.
	Head Undersea Ranges Department.
	Hd, Submarine Electromagnetic Sys Dept.
Science and Technology Directorate.	Assoc Tech Dir for Technology.
Naval Weapons Center	Tech Dir/Consultant.
	Test & Eval Dir/Asst Tech Dir for Test & Eval.
	Head Aerothermochemistry Division.
Laboratory Directorate-NWC.	Laboratory Dir/Deputy Tech Dir.
	Asst Tech Dir Dev (E/W)/Hd Elec Warfare Dept.
	Asst Tech Dir Deve (Ord Sys) & Dept Head.
	Asst Tech Dir for Res & Head Res Dept.
	Asst Tech Dir for Aircraft Wpns Integration.
	Asst Tech Dir for Engnr & Head Engnr Dept.
	Asst Tech Dir for Plans & Hd Weapons Plan Grp.
	Asst Tech Dir for Fuzes/Hd Fuzes Dept.
	Asst tech dir For Weapons & Head Weapons Dept.
Naval Training Equipment Center.	Technical Director.
	Director of Engineering.
Department of Education	
Management	The Comptroller.
	Dir Admin Resource Management Service.
	Director Personnel Management Service.
	Dir, Assistance Management & Procurement Serv.
	Director Financial Management Service
Inspector General	Deputy Inspector General.
	Assistant Inspector General for Audits.
	Asst Insp Gen for Policy Plng & Mgmt Serv.
	Asst Inspector General for Investigation.
	Dep Asst Insp General For Tech Serv & Fld Ops.
General Counsel	Associate General Counsel.
Post-Secondary Education.	Dir, Div of Grants & Loan Management.
National Center for Education Statistics.	Asst Advw Postsecondary & Voc Ed Stats.
	Adm, National Ctr for Educational Research.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Asst Admr For Research and Analysis.
	Asst Admr For Elem & Secondary Edu Stats.
Department of Energy	
Office of Hearings & Appeals.	Dep Dir for Legal Analysis.
	Dep Dir for Financial Analysis.
	Dep Dir for Econ Analysis.
Albuquerque Operations Office.	Director Quality Assurance Division.
	Dir Fac and Const Mgmt Div.
	Asst Mgr for Administration.
	Dir Transportation SFGDS DIV.
	DIR Ofc of Strategic Planning & Analysis.
	Dir Budget & Resources Mgmt Div.
	Director, Production Operations Div.
	Director, Weapon Programs Division.
	WIPP Project Manager.
Chicago Operations Office.	Asst Manager for Administration.
	Area Manager Batavia Area Office.
	Asst Mgr for Acquisition and Assistance.
	Asst Mgr for Laboratory Management.
Idaho Operations Office.	Assistant Manager for Administration.
	Dir Reactor Ops & Prgms.
Nevada Operations Office.	Chief Counsel.
	Assistant Manager for Administration.
Oak Ridge Operations Office.	Dir Enriching Op Div.
	Assistant Manager for Administration.
Richland Operations Office.	Asst Mgr for Admin.
	Assistant Manager for Defense.
	Asst Mgr Commercial Nuclear Waste & Projects.
	Asst Mgr for Safety, Safeguards & Qual Assur.
San Francisco Operations Office.	Asst Mgr for Admin.
Savannah River Operations Office.	Director, Livermore Site Office.
	Asst Mgr for Admin.
Bonneville Power Administration.	DWPF Project Manager.
Western Area Power Administration.	Asst Admr for Per Mgmt.
Ofc of Asst Insp Gen for Audits.	Asst Admr for Mgmt Svcs.
	Manager, Western Regional Audit Office.
	Director Program Development Division.
	Manager, Eastern Regional Audit Office.
	Director Audit Management Division.
	Dir Capitol Regional Audit Office.
Ofc of Asst Insp Gen for Inspections.	Asst Insp Gen for Inspect.
Ofc of Asst Insp Gen for Investigations.	Asst Inspector General for Investigations.
Energy Information Administration.	Director, EIA-ADP Services Staff.
Office of Oil & Gas	Dir, Ofc of Oil and Gas.
	Dep Dir, Ofc of Oil and Gas.
	Director Petroleum Supply Division.
	chief Data Analysis and Support Branch.
	Dir Reserves and Natural Gas Division.
	Director Petroleum Marketing Division.
Ofc of Coal, Nuclear, Electric & Alternate Fuels.	Dir Ofc of Coal Nuel Elec & Altern Fuels.
	Dir Coal Division/Dep Dir Ofc.
	Director Electric Power Division.
	Dir, Nuclear and Alternate Fuels Division.
Office of Energy Markets & and Use.	Director, Ofc of Energy Markets & End Use.
	Director, Energy End Use Division?
	Director Short-Term Information Division.
	Director Economics & Statistics Division.
	Dir Internl & Contingency Planning Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Dir, Energy Analysis & Forecasting Division.
Office of Statistical Standards.	Dir Ofc of Statistical Standards.
	Director Quality Assurance Division.
Asst. Sec. for Conservation & Renewable Energy.	Dir Photovoltaic Energy Technology Div.
Office of State & Local Assistance Programs.	Dir Weatherization Assistance Programs Div.
Ofc of Solar Heat Technologies.	Dir Active Heating and Cooling Division.
Office of Renewable Technology.	Dir, Geothermal Technology Div.
	Dir, Biofuel & Municipal Waste Tech Div.
	Dir, Solar Thermal Technology Div.
Deputy Asst Sec for Environment Safety & Health.	Dir, Ofc of Environmental Audit & Compliance.
Office of Nuclear Safety.	Chf, Environmental Protection & Pub Safe Br.
Office of Security & Quality Assessment.	Dir, Inspection & Evaluation Div.
Office of Military Application.	Dir, Prog Analysis & Resource Management Div.
	Dep Dir, Dir of Safety, Envr & Energy Action.
	Associate Director of Military Applications.
	Dir Div of Weapons Research Dev & Testing.
Office of Safeguards & Security.	Dir, Div of Safeguards.
	Dir, Div of Pol and Prog Support.
Office of Scientific & Technological Intelligence.	Dir Ofc of Scientific Technology Intelligence.
Dep Asst Sec for Energy Emergencies.	Senior Economist.
	Dir, Ofc of Energy Emergency Pol & Eval.
Office of Energy Research.	Scientific Computing Staff.
Office of Management	Director, Fiscal Management Division.
	Deputy Dir for Management.
	Director for Management.
	Deputy Dir for Nuclear Safety Safeguard.
	Director, Human Health & Assessment Div.
Office of Health & Environmental Research.	Dir Health Effects Research Division.
	Dir, International Programs Staff.
Office of Fusion Energy	Dir, Confinement Systems Div.
Office of Basic Energy Sciences.	Dir Engr Math and Geo Sci Div.
	Dir Chem Sci Div.
	Dir Adv Egy Proj Div.
	Dir Mat Sci Div.
	Chf Fund Interactions Br.
	Chf Processes and Tech Br.
	Chf Solid St Phy and Mat Chemistry Branch.
	Chf Physics Research Branch.
Office of High Energy & Nuclear Physics.	Dir High En Physics Div.
Assistant Secretary for Nuclear Energy.	Deputy Director for Naval Reactors.
Deputy Assistant Secretary for Naval Reactors.	Program manager for Commissioned Submarines.
	Dir Reactor Safety & Computation Div.
	Dir Submarine Systems Div.
	Dir Instrumentation & Control Div.
	Director Office of Resources Management.
	Hd Submarine Section.
	Director Reactor Refueling Div.
	Dep Dir Kesselring/Windsor/Site/ Cgn/S8G Rec Sv.
	Hd Surface Ship Section.
	Sr Naval Reactors Rep (W Milford).
	Asst Program Manager for Surface Ships.
	Prog Mgr for Prototypes & Separ.
	Asst Chief Physicist.
	Director nuclear Technology Div.
	Dir Reactor Engineering Division.
	Chief Advanced Core Manufacturing Branch.
	Dep Director Reactor Materials Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Director, Fiscal Division.
	Program Manager for Shipyard matters.
	Dir Nuclear Components Division.
	Prog Mgr for Surface Ship/Adv Submarine Proj.
	Senior Naval Reactors Representative.
	Manager, Idaho Branch Office.
Schnectady Naval Reactors Office.	Asst Manager for Operations.
Pittsburgh Naval Reactors Office.	Sr. Naval Reactors Rep (Portsmth).
	Sr. Naval Reactors Rep. (Newpt News).
	Senior Naval Reactors Rep (Pearl Harbor).
	Senior Naval Reactors Representative.
Office of Personnel	Dir Ofc of Personnel.
	Director, Personnel Policies and Programs.
	Dir Empl Dvlmt & Trng Div.
	Dir Hq Personnel Operations Div.
Office of Organization & Management Services.	Dir Ofc of Org and Mgmt Sys.
	Dep Dir Ofc of Org and Mgmt.
	Dir Management Sys Analysis Div.
	Dir Manpwr Res Mgmt Div.
	Dir Org Plng and Mgmt Div.
Office of Project & Facilities Management.	Dir, Prog/Const Mgm, Proce & Operations Div.
	Dep Dir Ofc of Project and Facilities Mgmt.
	Director, Policy Development Division.
Office of Administrative Services.	Dir Ofc of Admin Svcs.
Office of Adp Management.	Dep Dir Ofc of Admin Serv.
	Dir Ofc of Adp Mgmt.
Office of Computer Services & Telecommun Mgmt.	Dep Dir Ofc of Adp Mgmt.
	Dir Ofc of Comp Serv and Tel Mgmt.
	Dep Dir Ofc Comp Serv and Tele Mgmt.
	Dir div of Telecommunications.
	Director, Operations Division.
	Dir Information Systems Division.
	D/Adp Telecomm Plning & Integrity Division.
Office of Industrial Relations.	Dir Ofc of Industrial Relations.
	Dir Cont Pers Mgmt Div.
	Dir Prgm Mgmt and Asmt Div.
Procurement & Assistance Management Directorate.	Director, Procurement Management Rev Div.
	Director, Policy & Procedures Division.
	Assoc Dir of Procurement for Competition.
	Dir of Sm and disadv Bus Utilz.
Ofc of Small & Disadvantaged Business Utilization.	
Office of Policy	Dir Ofc of Policy.
Office of Procurement Support.	Dir Ofc of Procurement Support.
Office of Procurement Review.	Director Office of Procurement Review.
	Dir Cont Bus Clmce Div.
Office of Procurement Operations.	Dir Ofc of Procurement Operations.
	Dep Dir Ofc of Procur Op.
Controller	Director Office of Comlience Programs.
	Dir Ofc of Budget.
Asst Controller for Budget Policy & Compliance.	Dep Dir Ofc of Budget.
	Director, Budget Analysis Division.
	Director, Budget Operations Division.
Asst Controller for Financial Sys & Accounting.	Dir Ofc of Headquarters Accounting Operations.
	Director, Ofc of Departmental Accounting.
	Dir Ofc of Financial Policy.
Office of Geologic Repositories.	Dir Geosciences & Technology Division.
	Dir Engineering & Licensing Division.
	Dir Rep Coodination Division.
	Director Siting Division.
	Director, Engineering & Geotechnology Div.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Office of Storage & Transportation Systems.	Dir, Transportation and Waste Systems Div.
	Director Storage Division.
ENVIRONMENTAL PROTECTION AGENCY	
Office of the Assoc Admr for Internti Activities.	Sr Advisor for Intern'l Chemical Affairs.
Ofc of the Asst Admr for Admin & Resources Management.	Assoc to Asst Adm for Prog Mgmt and Policy.
Office of the Comptroller.	Spc Asst to Asst Admin for Admin & Reso Mgmt.
	Dir Off of the Comptroller.
	Dir, Financial Mgmt Div.
	Associate Comptroller.
	Director, Budget Division.
Office of Administration	Dir Resource Systems Staff.
	Dir Ofc of Administration.
	Deputy Dir Ofc of Administration.
	Dir Occupational Health & Safety Staff.
	Dir, Grants Admin Div.
	Director, Personnel Management Div.
	Dir, Management and Organization Division.
	Dir Procurement & Contracts Mgmt Division.
Office of Information Resources Management.	Dir Ofc of Information Resources Management.
Office of Administration-Cincinnati, OH.	Dir Ofc of Admin-Cincinnati.
Office of Administration-Rtp, NC.	Director Office of Administration Res Mgmt.
	Director, Office of Data Processing.
Office of Human Resources Management.	Director, Office of Human Resource Mgmt.
	Director, Senior Executive Service Staff.
Ofc Asst Admr for Enforcement & Compliance Monitoring.	Dir Ofc of Management Operations.
	Dir Ofc Compliance Analysis Prog Operations.
National Enfrdcement Investigations Ctr-Denver.	Dir Nat'l Enforcement Investigations Center.
Office of Policy Analysis	Dir, Integrated Environmental Mgmt Division.
	Chief, Regulatory Reform Staff.
Office of Standards and Regulations.	Dir, Chemical & Statistical Policy Division.
Office of Management Systems and Evaluation.	Dir Ofc of Management Systems & Evaluation.
	Director, Program Evaluation Division.
	Dir, Management Systems Div.
Office of the Inspector General.	Assist Inspector Gen for Investigations.
	Asst Inspector General for Audits.
	Dep Asst Inspector General for Audits.
	Dep Asst Inspector General for Investigations.
	Asst Insp General for Mgmt & Technical Assess.
	Deputy Inspector General.
Office of Water Enforcement and Permits.	Director Enforcement Division.
	Director, Permits Division.
Office of Water Regulations and Standards.	Director, Permits Division.
	Director, Effluent Guidelines Division.
	Director, Monitoring & Data Support Div.
	Dir Criteria and Standards Division.
	Dir, Analysis and Evaluation Division.
Office of Water Program Operations.	Director Municipal Construction Division.
	Director, Facility Requirements Division.
	Director, Municipal Facility Division.
	Director Municipal Construction Division.
Office of Drinking Water	Dir Criteria and Standards Division.
	Dir, Ofc of Prog Dev & Evaluation.
	Director, State Programs Division.
	Director, State Programs Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Dir Ofc of Program Development & Evaluation.
	Director, Criteria and Standards Division.
Office of Ground-Water Protection.	Sr Adv for Ground-Water Policy & Management.
Office of Waste Programs Enforcement.	Dep Dir, Office of Waste Programs Enforcement.
	Dir, Cercla Enforcement Division.
	Director, Rcra Enforcement Division.
Office of Solid Waste	Dir Waste Mgmt and Economics Division.
	Dir, Characterization & Assessment Division.
	Director, Permits & State Programs Division.
Office of Emergency and Remedial Response.	Dir, Hazardous Response Support Div.
	Dir, Emergency Response Div.
	Director, Hazardous Site Control Division.
Ofc of the Asst Admr for Air and Radiation.	Director, Ofc of Program Mgmt Operations.
	Director, Standards & Regulation Div.
	Senior Science Advisor.
Office of Air Quality Planning and Standards.	Dir—Stationary Source Enforcement Div.
	Director, Monitoring & Data Analysis Division.
	Dir, Strategies & Air Stds Div—Durham, NC.
	Assoc Dir for Intermedia & Inspct Prog.
Office of Mobile Sources.	Director, Emission Control Technology Div.
	Director Certification Division.
	Dir Manufacturers Operations Division.
	Dir Field Operations & Support Division.
	Western Regional Compliance Representative.
	Dir Ofc Program Management Operations.
Ofc of Asst Admr for Pesticides & Toxic Substances.	Dir. Ofc of Pesticides Programs.
	Dir—Registration Division.
Office of Pesticides Programs.	Director-Program Support Division.
	Dir-Hazard Evaluation Division.
	Dir Benefits and Filed Studies Div.
	Sr Science Advr (Hazard Evaluation).
	SR Science Advisor/Nat'L Laboratory Aud Prog.
Office of Toxic Substances.	Director Exposure Evaluation Division.
	Dir, Existing Chemicals Assessment Division.
	Dir, Health & Environmental Rev Div.
	Director, Chemical Control Division.
	Dir Toxic Subs Control Act Assistance Ofc.
	Director, Economics & Technology Division.
	Director, Chemical Coordination Staff.
	Director, Chemical Control Division.
	Dir, Ofc of Exploratory Research.
Ofc of the Asst Admr for Research and Development.	
Ofc of Research Program Management.	Dep Dir for Technical Information.
	Dep Dir for Operations.
Center for Environmental Research Info—Cincinnati.	Dir Environmental Research Information Center.
Office of Health and Environmental Assessment.	
	Director Reprod Effects Assessment Group.
	Director Exposure Assessment Group.
Environmental Criteria & Assessment Ofc (RTP).	Dir, Env Criteria & Assessment Ofc (Air)—Rtp.

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POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Olc of Monitoring Systems and Quality Assurance.	Dir Air Toxics & Radiation Monitoring Res Div.
	Dir, Acid Deposition & Atmospheric Res Dir.
Environmental Monitoring Systems Lab—Rtp.	Dir Envir Monitoring & Systems Laboratory.
Environmental Monitoring & Support Lab—Cincinnati.	Dir Environmental Monitoring & Support Lab Cin.
Environmental Monitoring Systems Lab—Las Vegas.	Dir, Env Monitoring Sys Lst, Las Vegas.
Olc of Environmental Engineering and Technology.	Dir, Industrial & Extractive Processes Div.
	Dir Energy Processes Division.
Industrial Environmental Research Laboratory—Rtp.	Dir Industrial Environmental Research Lab RTP.
Industrial Environmental Research Lab—Cincinnati.	Dir, Industrial Environmental Res Lab—Cincl.
	Dep Dir-Industrial Env Res Lab Cincinnati.
Municipal Environmental Research Lab—Cincinnati.	Director Municipal Environmental Research Lab.
	Dir Water Supply Research Div.
Office of Environmental Process and Effects Res.	Director, Water and Land Division.
Environmental Sciences Research Laboratory—Rtp.	Dir, Environmental Sciences Res Lab—Rtp.
Environmental Research Laboratory—Corvallis.	Dir, Env Research Laboratory Corvallis.
Environmental Research Laboratory—Athens.	Dir Environmental Research Lab Athens GA.
Robert S Kerr Environmental Res Laboratory—Ada.	Dir, Robert S Kerr Environmental Res Lab.
Environmental Research Laboratory—Duluth.	Dir Environmental Research Lab—Duluth.
Environmental Research Laboratory—Narragansett.	Dir Environmental Research Lab.
Environmental Research Laboratory—Gulf Breeze.	Dir Env Res Lab Gulf Breeze.
Health Effects Research Laboratory—Rtp.	Dir—Health Effects Research Lab—Rtp
Region I—Boston	Director, Water Management Division.
	Dir Waste Management Division.
	Regional Counsel.
Region II—New York	Director, Environmental Services Division.
	Director, Water Management Division.
	Asst Regl Admr for Policy and Management.
	Dir Air & Waste Management Division.
	Regional Counsel, Region II, New York.
	Dir, Office of Emergency & Remedial Response.
Region III—Philadelphia	Director, Water Management Division Reg III.
	Director, Air & Waste Management Div Reg III.
	Regional Counsel.
	Asst Reg Admin for Policy & Management.
	Director, Hazardous Waste Mgmt Div.
	Director, Environmental Services Division.
Region IV—Atlanta	Dir Water Management Division Region IV.
	Dir Air & Waste Management Division.
	Dir Environmental Services Division Region IV.
	Asst Regional Admin for Policy and Mgmt.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Regional Counsel, Reg IV, Atlanta, Georgia.
	Director, Waste Management Division.
Region V—Chicago	Dir Air Management Div Region V.
	Dir Envir Services Div Region V.
	Dir Water Management Div Region V.
	Asst Regional Admr for Policy & Management.
	Regional Counsel.
Region VI—Dallas	Director, Waste Management Division.
	Dir Air & Waste Management Div.
	Dir Water Management Division.
	Director, Environmental Services Division.
	Asst Regional Admr for Management.
Region VII—Kansas City	Regional Counsel.
	Dir Water Management Division.
	Dir Air & Waste Management Division.
Region VIII—Denver	Regional Counsel.
	Dir Water Management Division.
	Dir Environmental Services Division.
	Regional Counsel.
Region IX—San Francisco	Dir Air Toxics Division.
	Director, Water Management Division.
	Director, Air Management Division.
	Regional Counsel, Reg IX, San Fran, Cal.
	Dir, Toxics & Waste Management Div.
	Asst Regional Admr for Policy & Management.
Region X—Seattle	Dir—Water Div Reg X.
	Regional Counsel.
	Director Air and Toxics Division.
	Director, Hazardous Waste Division.
Equal Employment Opportunity Commission	
Office of the Chairman	Director, Office of Review and Appeals.
Region I	Dist Dir (Baltimore).
	Dist Dir (New York).
	Dist Dir (Atlanta).
	Dist Dir (Miami).
	Dist Dir (Birmingham).
	Dist Dir (Charlotte).
	Dist Dir (Philadelphia).
Region II	District Director (Detroit).
	Dist Dir (Chicago).
	Dist Dir (St Louis).
	Dist dir (Indianapolis).
	Dist Dir (Memphis).
	Dist Dir (New Orleans).
	Dist Dir (Cleveland).
Region III	Dist Dir (Houston).
	Dist Dir (San Francisco).
	Dist Dir (Dallas).
	District Director (Los Angeles).
	Dist Dir (Denver).
	Dist Dir Phoenix).
	Dist Dir (Seattle).
Farm Credit Administration	
Office of the Governor	Senior Deputy Governor.
Olc of Examination & Supervision.	Associate Deputy Governor.
	Assistant Deputy Governor.
	Division Director.
	Division Director.
	Division Director.
	Division Director.
Olc of Administration	Director, Records and Projects Division.
	Associate Deputy Governor & Chief Economist.
Olc of Internal Audit	Director of Internal Audit.
Federal Communications Commission	
Mass Media Bureau	Chief Audio Services Division.
	Chief Video Services Division.
	Chf, Enforcement Div.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Private Radio Bureau	Chief Land Mobile & Microwave Division.
Field Operations Bureau.	Chief Enforcement Division.
Common Carrier Bureau	Chief, Tariff Division.
	Asst Bureau Chief (International).
	Chief Domestic Facilities Division.
	Chief Enforcement Division.
	Chief, Accounting and Audits Division.
Olc of Science & Technology	Chief Spectrum Management Division.
	Chief Technical Analysis Division.
	Chief Authorization & Standards Div.
Federal Emergency Management Agency	
Office of the Director	Inspector General.
	Comptroller.
	Deputy Inspector General.
Emergency Operations Directorate.	Deputy Associate Director.
	Asst Assoc Dir Opers, Anal & Opsbord.
	Asst Assoc Dir Operating Systems Mgmt.
	Asst. Assoc. Director of Facilities Mgmt.
	Asst Assoc Dir Readiness Plng & Ops.
	Asst. Assoc. Dir. of Emerg Coord & Support.
	Dep Asst Assoc Dir/Chf, Field Ops Division.
Office of Resources Preparedness.	Asst Assoc Dir, Off Resource Prep.
	Chief Mobilization Resource Div.
Office of Natural and Technological Hazards Programs.	Chief, Technological Hazards Division.
Federal Insurance Administration.	Deputy Administrator.
Federal Energy Regulatory Commission (DOE)	
Olc of Chief Accountant	Deputy Chief Accountant.
	Dir Division of Audits.
Olc of Pipeline and Producer Regulation.	Dir, Div of Producer Raise and Certifications.
Olc of Hydropower Licensing.	Dir, Div of Inspection.
Federal Home Loan Bank Board	
Office of Administration	Director Administration.
Office of Examinations & Supervision.	Dep Dir Examinations/Field Operations.
	Deputy Director—Examinations/Policy.
Olc of Internal Eval and Compliance.	Dir Internal Evaluation and Compliance Olc.
Federal Labor Relations Authority.	
Federal Service Impasses Panel.	Exec Director FSIP.
Olc of the Executive Director.	Executive Director/Administrator.
	Solicitor.
	Dir Case Management.
Office of the Chief Counsel.	Chief Counsel
	Asst Chief Counsel for Negotiability.
	Asst Chf Coun for Rep & Unfair Labor Pratice.
	Assistant Chief Counsel for Arbitration.
Olc of the General Counsel.	Assoc General Counsel.
	Asst General Counsel (Field Management).
	Asst General Counsel (Appeals).
	Asst Counsel (Field Mgmt/Legal Policy).
Regional Offices	Regional Director-Washington, D.C.
	Regional Director-Boston
	Regional Director-New York.
	Regional Director-Atlanta.
	Regional Director-Dallas.
	Regional Director, Chicago, Illinois.
	Regional Director-Los Angeles.
	Regional Director, San Francisco.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Regional Director, Denver.
Federal Maritime Commission	
Office of the Members	Secretary.
Office of the General Counsel.	Dep Gen Coun for Reports, Opinions and Decision.
Program Offices	Director of Programs.
	Dir, Bureau of Agreements & Trade Monitoring.
	Dir, Bureau of Tariffs.
	Dir, Bureau of Investigations.
	Dir, Bureau of Hearing Counsel.
Federal Trade Commission	
Olc of Executive Director.	Deputy Exec Dir for Management.
	Dep Exec Dir for Planning & Information.
General Services Administration	
Office of the Administrator.	Special Counsel to the Admr for Ethics.
	Dir, Olc of Small & Disadvantaged Bus Utilz.
Office of Associate Administrator for Administration.	Director of Personnel.
	Deputy Director of Personnel.
Office of Policy and Management Systems.	Director of Administrative Services.
	Director of Oversight.
Office of the Inspector General.	Deputy Inspector General.
	Asst Inspector Gen for Auditing.
	Deputy Asst Inspector General for Auditing.
	Asst I/G for Investigations.
	Counsel to the Inspector General.
	Asst Insp Gen for Policy, Plans & Mgmt Sys.
Office of Acquisition Policy.	Asst Admr for Acquisition Policy.
	Dep Assoc Admr for Acquisition Policy.
	Dir of Acquis Mgmt and Contract Clearance.
	Policy Advr to the Asst Admr for Acq Policy.
	Director Federal Acquisition Institute.
Office of the Comptroller.	Dir of Finance.
	Director of Budget.
	Director of Transportation Audits.
Federal Property Resources Service.	Asst Comm: R for Real Property.
	Asst Commissioner for Stockpile Management.
	Asst Commissioner for Stockpile Transactions.
Public Buildings Service	Asst Commissioner for Buildings Management.
	Asst Commr for Space Planning & Management.
	Asst Commr for Design and Construction.
	Asst Comm for Fed Protection & Safety.
	Assistant Commissioner for Public Utilities.
Office of Information Resources Management.	Director of Information Resources Procurement.
	Director of Network Services.
	Dir of Information Resources Mgmt Policy.
	Director of Office Information Systems.
	Director of Regional Information Services.
	Director of GSA Information Systems.
	Dir of Systems and Technology Assessment.
	Prog Dir, Wash Interagency Telecom Sys (WITS).
	Chief, Federal Program Information Branch.
	Director of Technical Assistance.
Organization Abolished	Asst Archivist, Pres Libraries.
	Dir, L B Johnson Library.
	Asst Archivist for Fed Records Ctr.
	Dir, Harry S Truman Library.
	Dir, Dwight D Eisenhower Library.
	Asst Archivist, Natl Archives.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Assistant Archivist for Records Admin.
Office of Federal Supply and Services.	Director of Procurement.
	Dir of Policy & Agency Assistance.
	Dir of Transportation.
	Director of Property Management.
	Director of Contract Management.
Region 1—Boston	Asst Reg Admr for Public Bldg & Real Property.
Region 2—New York	Dep Regional Admr.
	Asst Reg Admr for Public Bldg & Real Property.
	Asst Reg Admr for Administration.
	Asst Reg Admr for Federal Supply & Services.
Region 3—Philadelphia	Asst Regl Admr for Public Bldng & Real Prpty.
National Capital Region	Deputy Regional Admr, National Capital Region.
	Asst Regional Admr for Administration, NCR.
	Asst Regl Admr for Pub Bldgs & Real Property.
	Asst Regl Admr for Info Resources Mgmt.
Region 4—Atlanta	Asst Reg Admr for Federal Supply & Services.
	Asst Reg Admr for Public Bldg & Real Pro R-4.
	Assistant Reg Admin for Inform Res Mgmt-R-4.
	Asst Reg Admr for Federal Supply & Services.
Region 5—Chicago	Deputy Regional Admr R-5 (Chicago).
	Asst Regional Admr for Administration, R5.
	Asst Regl Admr for Pub Bldgs & Real Prop R-5.
	Asst Reg Admr for Federal Supply & Services.
Region 6—Kansas City	Deputy Regional Administrator.
	Asst Regional Admr for Administration, R6.
	Asst Reg Admr for Public Bldg & Real Property.
Region 7—Fort Worth	Asst Regl Admr for Pub Buildings & Real Prop.
	Asst Regl Admr for Info Resources Mgmt R-7.
	Asst Reg Admr for Federal Supply & Services.
Region 8—Denver	Asst Reg Admr for Public Bldg & Real Property.
Region 9—San Francisco.	Asst Regl Admr for Pub Bldgs & Real Property.
	Asst Reg Admr for Federal Supply & Services.
	Asst Reg Admr for Information Res Management.
Region 10—Auburn, Washington.	Asst Regl Admr for Public Build & Real Prop.
Department of Health and Human Services	
OAS for Management and Budget.	Dep Asst Sec, Finance.
	Dir, Div of Accounting Systems & Procedures.
	Dep Asst Secy for Procurement, Asst and Log.
	Dir Olc of Procurement & Asst Policy.
OAS for Personnel Administration.	Asst Sec for Personnel Administration.
	Dir Olc of Personnel Systems Integrity.
	Dir, Olc of Human Relations.
Office of the General Counsel.	Asst Gen Counsel (Business & Admin Law Div).
	Dep Asst Gen Coun, Bus & Admin Law Division.
Office of the Inspector General.	Asst Inspector General for Audit.
	Dep-Asst Inspector General for Audit.
	Asst Inspector General for Investigations.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Dep Asst Inspector Gen for Investigations.
	Sr Asst Insp Gen for Audit & Systems.
	Asst Inspector Gen for Health Fin Integrity.
	Dir, Health Care Financing Audit Division.
	Dep Asst Insp Gen for Criminal Investigation.
	Director Grants Intnal Sys Audit Division.
	Dep Asst Inspector Gen for Civil Fraud.
	Director, Social Security Audit Division.
	Dep/Asst/Insp/Gen for Headquarters Operations.
	Asst/Dep/Insp/Gen for Info Res Management.
	Asst Inspect General for Program Inspections.
OAA for Management and Support Services.	Dir Olc of Financial Mgmt & Admin Systems.
	Chief Actuary.
	Dir, Bureau of Data Management and Strategy.
	Dep Dir, Bureau of Data Management & Strategy.
OAA for Operations	Dir Olc of Prog Adm, Bur of Prog Operations.
	Deputy Director Bureau of Quality Control.
OAA for Policy	Dir Olc of Demonstrations & Evaluations.
	Director, Olc of Research.
	Dep Dir, Olc of Research & Demonstrations.
OAS for Health	Dep Dir, Office of Administrative Management.
	Director, Office of Resource Management.
National Center for Health Statistics.	Assoc Dir for Analysis & Epidemiology.
	Assoc Dir for Research & Methodology.
	Assoc. Dir. Olc. of Prog. Plng. Eval. & Coord.
Natl Center Health Svcs Rsch/Tech Asmt.	Dir, Div of Intramural Research.
Alcohol, Drug Abuse & Mental Health Admin.	Dir, Div of Extramural Research.
	Assoc Admin for Extramural Programs.
Nat'l Inst of Alcohol Abuse & Alcoholism.	Chief Laboratory of Clinical Studies.
	Dir Division of Extramural Research.
	Dir, Div or Intramural Clinical & Bio Res.
	Dir Div of Biometry & Epidemiology.
	Director, Office of Scientific Affairs.
National Institute on Drug Abuse.	Director Addiction Research Center.
	Dir Div of Preclinical Research.
	Director Division of Clinical Research.
	Dir, Div of Epidemiology & Statistical Analy.
Natl Inst of Mental Health.	Dir Division of Extramural Research Programs.
	Dir, Div of Scientific & Techn Info.
	Chf, Theoretical Statistics & Mathematics Bran.
	Dir-Div of Mental Health Svc Programs.
	Assoc Dir Extramural Programs.
	Dep Dir, Div of Extramural Research Programs.
	Executive Officer NIMH.
	Chief, Biological Psychiatry Branch.
Saint Elizabeths Hospital.	Asst Superintendent, St Elizabeths Hospital.
	Director John F Marr Division.
	Dir, Gooding Div.
	Director Richardson Division.
	Dir Overholser Division of Training.
	Dir, Div or Medical Surgical Support Programs.

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POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Intramural research	Chief Blackburn Laboratory.
	Chief Department of Medicine.
	Dir, Intramural Research Programs
	Dir Division of Special Mental Health Researc.
	Chief, Lab. of Preclinical Pharmacology.
	Chf, Lab of Cerebral Metabolism.
	Chief, Section on Myelin chemistry.
	Chf, Lab of Neurochemistry.
	Chf Lab of Gen & Comparative Biochemistry.
	Chief, Lab of Brain Evolution & Behavior.
	Chief Lab of Neurobiology.
	Chf, Lab of Neurophsiology.
	Chf Lab of Socio-Environmental Studies.
	Chf Lab of Developmental Psychology.
	Chf, Sect on Pharmacology.
	Chf-Clinical Neuropharmacology Branch.
	Chf Clinical Psychobiology Branch.
	Chief Lab of Psychology and Psychopathology.
	Chief Laboratory of Neuropsychology Dcbr.
	Chief Section Histopharmacology.
Centers for Disease Control.	Deputy Director, NIOSH.
	Director Div of Tech Evaluation & Assistance.
	Dir Clinical Chemistry Div.
	Assistant to the Director.
	Asst Dir for Laboratory Science.
	Director, Division of Viral Diseases.
Food and Drug Administration.	Director Parklawn Computer Center.
	Director Orphan Products Development.
Office of Regulatory Affairs.	Dep Assoc Commissioner for Regulatory Affairs.
	Director, Enforcement Policy Staff.
	Regl Food & Drug Dir, Reg I, Boston.
	Regional Director, FDA, Reg II, New York.
	Regl Food & Drug Dir, Reg III, Philadelphia.
	Regl. Dir, Food & Drug Adm, Reg IV, Atlanta.
	Regl Food and Drug Director, Reg V, Chicago.
	Regional Food & Drug Dir, Reg VI, Dallas.
	Regl Food & Drug Dir, Reg VII, Kansas City.
	Regl Food and Drug, Reg VIII, Denver.
	Regl. Dir, Food & Drug Adm, Reg IX, San Franc.
	Regl Food & Drug Dir, Reg X, Seattle.
	Director Contaminants Policy Staff.
National Center for Toxicological Research.	Director, Division of Biometry.
Center for Food Safety & Applied Nutrition.	Assoc Dir for Research.
	Dir Division of Toxicology.
	Dir, Div of Chemistry & Physics.
	Dir Otc of Physical Sciences.
	Dir, Div of Food Technology.
	Deputy Dir Otc of Physical Sciences.
	Dir Otc of Nutrition & Food Sciences.
	Assoc Dir for Laboratory Investigations.
	Dir, Div of Nutrition.
	Dir Otc of Compliance.
	Dir, Div of Microbiology.
	Director, Divisions of Regulatory Guidance.
	Dep Dir, Otc of Nutrition & Food Sciences.
	Dir Div of Chemical Technology.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Center for Drugs and Biologics.	Director Otc of Toxicological Sciences.
	Dir Div of Food & Color Additives.
	Director Division of Mathematics.
	Dir Div Oncology & Radiopharmaceutical Drug P.
	Dir Div of Scientific Investigations.
	Dir Div of Cardio-Renal Drug Products.
	Dir Office of Compliances.
	Dir, Div of Drug Biology.
	Director-Division of Drug Chemistry.
	Assoc Dir for Information Systems.
	Dep Dir Otc of Epidemiology & Biostatistics.
	Dir Div of Biometrics.
	Dir Div of Drug and Biological Experience.
	Director Div of Biopharmaceutics.
	Dir, Div of Blood & Blood Products.
	Dir, Div of Neuropharmacological Drug Prod.
	Dir Div of Surgical Dental Drug Products.
	Dir, Div of Metabolism & Endocrine Drug Prod.
	Dir Div Biological Product Compliance.
	Dep Dir for Prog Management.
	Dir, Div of Product Quality Control.
	Dep Dir Otc of Biologics Research & Review.
	Deputy Director for Medical Activities.
	Director, Division of Biochem & Biophysics.
	Director, Division of Otc Drug Evaluation.
	Dir Otc of Drug Research & Review Dir.
	Associate Director for Program Coordination.
	Director, Office of Drug Standards.
	Deputy Dir, Otc of Drug Standards.
	Dir Div of Bacterial Products.
Center for Veterinary Medicine.	Dir-Div of Thera Drugs for Non Food Animals.
	Dir Otc of Surveillance & Compliance
	Dir Otc of Scientific Evaluation.
	Director, Office of Research.
	Director Office of Human Food Safety.
	Dir Otc of Voluntary Compliance & Operations.
	Dir, Div of Drugs Manufacturing & Controls.
	Dir Div of Biometrics & Production Drugs.
	Dir Div of Therapeutic Drugs for Food Animals.
	Dir Div of Veterinary Medical Research.
	Assoc Dir Scientific Infor & Education.
	Director, Division of Animal Feeds.
Center for Devices & Radiological Health.	Director Division of Risk Assessment.
	Assoc Director for Standards.
	Director Office of Compliance.
	Dir Otc of Standards & Regulations.
	Dir Office of Science & Technology.
	Deputy Director, Office of Compliance.
	Dep Dir Office of Device Evaluation.
	Director, Div of Financial Management.
	Director, Division of Contracts & Grants.
	Associate Dir for Med Applications of Resch.
	Dir Otc of Protection From Research Risk.
Immediate Office of the Director.	Assoc Dir for Intramural Research.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Nat'l Heart, Lung & Blood Institute.	Assoc Director for Review.
	Assoc Dir Epidemiology & Biometry Program.
	Chief, Sickle Cell Disease Br.
	Dir Div of Lung Diseases.
	Dep Dir Div of Lung Diseases.
	Dir, Div of Blood Diseases & Resources.
	Dir, A/Sclerosis, Hypertension & Lip Met Prog.
	Dep Director Div of Extramural Affairs.
	Assoc Dir, Clinical Appls Prevention Prog.
	Dep Dir Div of Blood Diseases & Resources.
Intramural Research	Chf Lab of Biochemical Genetics.
	Chf Lab of Biochemistry.
	Chief Lab of Molecular Hematology.
	Hd, Section on Chemistry.
	Chief, Laboratory of Chemical Pharmacology.
	Sr Rsch Chemist, Sect on Cell Biology.
	Chief Macromolecules Section.
Division of Cancer Biology & Diagnosis.	Dep Dir Div of Cancer Biology & Diagnosis.
	Chief, Laboratory of Cell Biology.
	Hd Biochemical Genetics Section.
	Assoc Chf-Lab/Immunbiology/Hd Humoral Immunit.
	Head, Cell Organization Sect, Lab Molecular.
	Hd, Protein Chemistry Section.
	Chief Laboratory of Biochemistry.
	Director, Extramural Research Program.
	Chf, Macromolecular Interactions Section.
	Chief, Dermatology Branch.
	Head, Cellular Immun of Mod Self Antigens Gr.
	Chief, Gene Regulation Section.
	Chief Laboratory of Immunobiology.
Division of Cancer Etiology.	Dir, Div of Cancer Etiology.
	Chief Lab of Biology.
	Chf Biometry Branch.
	Chief Clinical Epidemiology Branch.
	Chief Laboratory of Molecular Carcinogenesis.
	Chf Lab of Experimental Pathology.
	Head, Math Statistics & Applied Mathematics S.
	Head in Vitro Carcinogenesis Section.
	Associate Dir for Biological Carcinogens.
	Assoc Dir for Chem & Physical Carcinogenesis.
Division of Cancer Prevention & Control.	Dep Dir, Div of Cancer Prevention & Control.
	Associate Director, Prevention Program.
	Assoc Dir, Centers & Community Oncology Prog.
	Associate Dir, Cancer Control Science Program.
Division of Extramural Activities.	Dir, Div of Extramural Activities.
	Deputy Dir, Div of Extramural Activities.
Division of Cancer Treatment.	Dep Dir-Div of Cancer Treatment.
	Chf-Radiation Oncology Br.
	Chf-Drug Evaluation Branch.
	Chf-Lab of Medicinal Chemistry & Biology.
	Assoc Dir Radiation Research Program.
	Assoc/Dir Biological Response Modifiers Prog.
Natl Inst of Arthritis Diabetes & Digestive & K D.	Assoc Dir Prog Anal & Scientific Communication.
	Assoc Dir for Digestive Diseases & Nutrition.
	Dir Div Kidney, Urologic & Hematologic Diseases.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Dir Division of Extramural Activities.
	Assoc Dir for Diabetes, Endocrin & Metab Dis.
	Assoc Dir for Arthritis, Bone, Skin Diseases.
	Associate Director for Digestive Diseases.
	Associate Dir for Nutrition.
	Assoc Director for Research & Assessment.
	Assoc Dir Disease Prevention Technol Transfer.
Intramural Research	Chf, Laboratory of Nutrition & Endocrinology.
	Chf Sect on Enzymes & Cellular Biochemistry.
	Chf Sect on Intermediary Metabolism.
	Chief Section on Biochemical Mechanisms.
	Chf Sect on Biochemistry.
	Ch Sect Biochemistry of Amino Acids.
	Chf, Lab of Physical Biology.
	Chf, Section on Comparative Physiology.
	Chf, Section of Spectroscopy & Structure.
	Chf Sect on Metabolic Enzymes.
	Chf Sect on Physical Chemistry.
	Chief, Section on Molecular Structure.
	Sr Res Physicist, Mathematical Research Br.
	Sr Chemist, Clinical Endocrinology Br.
	Senior Research Chemist.
	Chief Lab of Chemistry.
	Senior Research Chemist.
	Chief, Laboratory of Bio-Organic Chemistry.
	Chief, Genetics and Biochemistry Branch.
	Chief Oxidation Mechanisms Section L B C.
	Chief Laboratory of Biochemistry & Metabolism.
National Library of Medicine.	Dep Dir, Natl Lib of Medicine.
	Dep Dir for Res and Education.
	Associate Director for Library Operations.
	Assoc Dir for Extramural Programs.
	Dir, Lhnc for Biomedical Commun.
	Assoc Dir, Specialized Info Services.
	Asst Dir for International Programs.
	Dep Dir Lister Hill Natl Ctr for Biomed Comms.
	Associate Director for Planning.
	Director, Information Systems.
Natl Inst of Allergy & Infectious Diseases.	Dir-Immunology-Allergic & Immunologic Disease.
	Assoc Director Intramural Research Program.
	Chf, Lab of Parasitic Diseases.
	Chf, Lab of Biology of Viruses.
	Chf, Laboratory of Microbial Immunity.
	Spec Asst for Biometry, Off Sci Dir.
	Hd, Molecular Virology Section.
	Director, Microbiology & Infectious Dis Progs.
	Chief, Lab of Immunogenetics.
	Director, Extramural Activities Program.
	Ch, Lab of Microbial Structure and Function.
	Chief Lab of Molecular Microbiology.
	Head Malaria Section.
Natl Inst on Aging	Scientific Dir NIA.
	Clinical Dir and Chf Clin Physiology Branch.
	Chief, Lab of Molecular Aging.
	Chief Lab of Cellular & Molecular Biology.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Associate Dir for Behavioral Sciences Res.
	Assoc Dir Biomed Res & Clinical Medicine Prog.
	Assoc Dir, Office of Extramural Affairs.
	Assoc Dir, Epidemi, Demo, & Biometry Program.
Natl Inst of Child Health & Human Development.	Chief, Laboratory of Molecular Genetics.
	Dep Dir Center for Population Res.
	Chf, Endocrinology & Reproduction Research Br.
	Dir Epidemiology & Biometry Res Program.
	Director Ctr Forres for Mothers & Children.
	Chief Pregnancy Research Branch.
	Director Cntr for Population Research.
	Chf, Lab of Neurochemistry & Neuroimmunology.
Natl Institute of Dental Research.	Chief Lab of Microbiology & Immunology.
	Chf, Laboratory of Dev Biology & Anomalies.
	Chf, Enzyme Chemistry Section.
	Assoc Dir, Extramural Research Program.
	Chief Mineralized Tissue Research Branch.
	Assoc Dir, Epidem & Oral Disease Preven Prog.
Natl Inst of Environmental Health Sciences.	Chf Lab of Pharmacology.
	Scientific Dir, NIEHS.
	Chf, Lab of Pulmonary Function and Toxicology.
	Hd, Cell Pharmacology Section.
	Chief, Lab of Genetics.
	Head Mutagenesis Section.
	Head Mammalian Mutagenesis Section.
	Dir Biometry & Risk Assessment Program.
	Dir Toxicology Research & Testing Programs.
Natl Inst of General Medical Sciences.	Dir, Cell & Molec Basis of Disease Prog.
	Dir Genetics Program.
	Assoc Dir for Program Activities.
	Dir, Pharmacological Sciences Program Branch.
	Dir Bio Phys Sciences Program Branch.
Natl Inst of Neuro & Comm Disorders & Stroke.	Chf, Otc of Biometry and Epidemiology.
	Dir Fundamental Neurosciences Program.
	Director, Communicative Disorders Program.
	Director, Stroke and Trauma Program.
Intramural Research	Clinical Dir, NINCDS Chief Lab of Central Nervous System Studies.
	Chf, Devel & Metab Neurology Branch.
	Chf Lab of Molecular Biology.
	Deputy Chief, Lab of Central Nervous Sys Stud.
	HD Cellular Neuropathology Section.
	Chief, Section on Neuroradiology.
	Chief, Lab of Biophysics.
	Chf, Lab of Neuropathology & Neuroanatomical S.
	Chf Lab of Neurochemistry.
	Chief, Neuronal Interactions Section.
	Chf, Surgical Neurology Branch.
	Chf, Lab of Neuro-Otolaryngology.
	Chief Laboratory of Molecular Genetics.
	Chief Biometry & Field Studies Branch.
Natl Eye Institute	Clinical Director NETI.
	Chf, Lab of Vision Research.
	Chf, Otc of Biometry & Epidemiology.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Dep Chief Otc of Biometry and Epidemiology.
	Head Experimental Pathology Section.
	Dir, Intramural Research Program, NEI.
	Chief, Lab of Molecular & Dev. Biology.
	Chief, Laboratory of Sensorimotor Research.
	Chief, Lab of Ophthalmic Pathology.
	Assoc Dir, Biometry & Epidemiology Prog.
	Dep Assoc Dir, Biometry & Epidemiology Prog.
NIH Clinical Center	Assoc Dir for Clin Care NIH & Dir Clin: AL Cen.
	Health Systems Administrator.
	Associate Director for Planning.
Division of Computer Research & Tech.	Chief, Computer Center Branch.
	Chief, Lab of Applied Studies.
	Chief, Physical Sciences Lab.
	Chief, Data Management Branch.
Division of Research Resources.	Dir, Div of Research Resources.
	Dep Dir, Div of Res Resources.
	Dir, Gen Clinical Res Center Program Branch.
Division of Research Grants.	Chief, Referral & Review Branch.
Division of Research Services.	Chf Biomedical Engineering & Instrumentation.
Otc of Actuary	Chf Actuary
	Dep Chief Actuary (Long-Range).
	Dep Chief Actuary Short Range SSA.
Otc of Hearings and Appeals.	Dep Assoc Commissioner for Programs.
Otc of Systems Integration.	Director, Office of Programmatic Systems.
Otc of Systems Operations.	Dir, Otc of Computer Processing Operations.
Otc of Systems Requirements.	Dir, Office of Claims & Payment Requirements
	Dir, Otc. of Pre-Claims Requirement.
Otc of Assessment	Assoc. Commr. For Assessment.
	Deputy Associate Commissioner Assessment.
Otc of Mgmt, Budget, and Pers.	Dir Otc of Material Resources.
	Dir Otc of Financial Resources.
	Director, Office of Acquisition and Grants.
Department of Housing and Urban Development	
Office of the Inspector General.	Deputy Inspector General.
	Asst Inspector General for Investigations.
	Assistant Inspector General for Audit.
	Asst IG for Fraud Control & Mgmt Operations.
	Deputy Asst Inspector Gen for Audit Operation
	Dep Asst Insp Gen for Prog & Quality Control.
Assistant Secretary for Administration.	Deputy Director of Personnel.
	Director, Office of Finance & Accounting.
	Dir Mortgage Insurance Accounting Serv Group.
	Director Otc of Procurements & Contracts.
	Director, General & Program Accounting Group.
	Deputy Director Office of Finance & Accounting.
	Dep Dir for Accounting Policy & Planning.
Asst Secy for Policy Development and Research.	Dir Building Technology Division.
Assistant Secretary for Housing.	Director, Field Monitoring Staff.
Asst Secy for Fair Housing and Equal Opportunity.	Dir Otc of HUD Program Compliance.
	Dir Otc of Fair Housing Enforce and Sec 3.

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POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Asst Secy for Community Planning and Development.	Dir Office of Environment and Energy.
Region II New York	Manager.
Region III Philadelphia	Manager.
Region IV Atlanta	Manager.
Region V Chicago	Manager.
	Manager.
	Manager.
	Manager.
Region VI Dallas	Manager.
Region IX San Francisco.	Manager.
Department of the Interior.	
Off of the Inspector General.	Assistant Inspector General for Auditing.
	Asst Inspector General for Investigations.
Office of Hearings and Appeals.	Special Counsel.
Off of the Solicitor	Deputy Assoc Solicitor, General Law.
	Deputy Assoc Solicitor, Indian Affairs.
	Asst Solicitor Bureau of Parks and Recreation.
	Spec Asst to the Assoc Solicitor, Indian Affr.
	Special Asst to the Assoc Solicitor-Gen Law.
	Dep Associate Solicitor—Energy & Resources.
Asst Secy for Policy, Budget & Administration.	Chief, Division of Acquisition and Grants.
	Asst Dir for Economics.
	Asst Dir for Studies.
	Chief, Div of Budget Operations (A).
	Asst Dir for Special Analysis.
	Chief Division of Budget Operations (B).
Nat'l Park Service	Senior Scientist.
	Superintendent Great Smoky Mtns Natl Park.
	Asst Dir Minority Business Enterprise.
US Fish & Wildlife Service.	Deputy Assoc Dir-Federal Assistance.
	Dep Assoc Dir—Natl Wildlife Refuge Sys.
	Deputy Associate Director—Research.
	Assoc Dir, Planning and Budget.
	Deputy Associate Director—Fishery Resources.
	Deputy Assoc Dir—Wildlife Resources.
	Deputy Associate Director—Environment.
Bureau of Mines	Chief Scientist.
	Reach Dir, Pittsburgh Research Center.
	Research Dir, Twin Cities Research Ctr.
	Research Director, Albany Research Ctr.
	Cht, Div of Minerals Informations Systems.
	Chief Div of Materials & Recycling Technlogy.
	Chief Division of Minerals Availability.
	Staff Asst to Asst Dir Mineral Data Analysis.
	Chief Div of Extractive Metallurgy Technology.
	Chief Engineer.
	Staff Asst to Asst Dir Mining Research.
	Chief Div of Health & Safety Technology.
	Chief, Division of Mining Technology.
	Chief, Division of State Activities.
	Assistant Director—Finance and Management.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Bureau of Reclamation	Chief, Div of Atmospheric Water Resources Mgm.
	Chief Div of Research & Lab Services.
	Chief, Div of Program Coordination & Finance.
	Chief Division of Planning.
	Deputy Asst Commissioner Eng & Research.
	Chief Division of Water & Land.
	Chf, Div of Prog Coordination & Finance.
	Chief Div Prog Coordination & Finance.
US Geological Survey	Deputy Asst Dir for Information Systems.
	Staff Geologist for NPRA/Alaska Activities.
National Mapping Div	Chief, National Mapping Division.
	Associate Chief, National Mapping Division.
	Chief, EROS Data Center.
	Asst Division Chief for Plans Operations.
	Chief Western Mapping Center.
	Chief Mid-Continent Mapping Center.
	Chief Rocky Mountain Mapping Center.
	Digital Cartography Program Manager.
	Asst Div Chief for Information & Data Svc.
	Chief Eastern Mapping Center.
	Asst Div Chf for Research.
Water Resources Div	Chief Hydrologist.
	Assoc Chief Hydrologist.
	Regl Hydrologist Central Reg Lakewood.
	Chief Branch of Surface Water.
	Chief, Branch of Ground Water.
	Regl Hydrologist Southeastern Region.
	Asst Chief Hydrologist, Res & Tech Coordinat.
	Regional Hydrologist, Western Region.
	Regional Hydrologist, Northeastern Region.
	Chief Branch of Water Quality.
	Cht, Water Data Coordn.
	Asst Chf Hydrologist for Operations.
	Asst Chief Hydrologist for Scien Info Mgmt.
	Dep Asst Chf Hydrologist for Res & Tech Coord.
	Cht, Otc Natl Water Summary & Long Range Prg.
	Asst Chf Hydro for Res & Exterl Coordination.
	Chf, Otc of Atmospheric Deposition Analysis.
	Chf, Otc of Hydrologic Research.
	Bf Asst to the Chf Hydrologist for Spec Proj.
	Chief, Wrsic Program.
	Senior Water Research Coordinator.
	Chf, Br of Water Institute Programs.
	Chf, Br of Water Information Transfer.
	Spec Asst for Water Research Programs.
	Water Research Program Manager.
Geologic Div	Chief Geologist.
	Chief, Opc of Earthquakes, Volcanols & Engr.
	Chief, Otc of Scientific Publications.
	Assoc Chf Geologist.
	Chf Otc of Mineral Resources.
	Chief, Office of Energy & Marine Geology.
	Chief, Office of International Geology.
	Chief, Office of Regional Geology.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Asst Chief, Otc of Energy and Marine Geology.
	Assistant Chief Geology for Programs.
	Staff Assistant to Chief Geologist.
Bureau of Land Management.	Asst Dir—Technical Services.
	Asst Dir—Renewable Resources.
	Assistant Director, Administration.
	Asst Dir, Land Resources.
	Asst Dir Fluid Leasable Minerals.
	A/D/D Exter & min Res & A/D Min Res & Mining Law.
	Asst Dir Solid Leasable Minerals.
	Special Liaison for Tribal & Indian Lands.
Otc of Surface Mining Reclam & Enforcement.	Administrator—Technical Center—East.
	Administrator—Technical Center—West.
	Spec Asst to the Asst Dir, Tech Servs & Res.
	Spec Asst to the Asst Dir, Tech Servs & Res.
	Spec Asst to the Asst Dir Prog Opers & Inspec.
	Dep Asst Dir Program Oper & Inspection (East).
Minerals Management Service.	Regional Manager, Gulf of Mexico OCS Region.
	Dep Associate Director for Offshore Leasing.
	Chief, Leasing Management Division.
	Regional Manager, Atlantic OCS Region.
	Regional Manager, Alaska OCS Region.
	Assistant Assoc Dir for Offshore Minerals Mgt.
	Regional Manager, Pacific OCS Region.
	Dep Associate Dir for Royalty Management.
	Dep Associate Dir for Offshore Operations.
	Prog Dir Otc of Strat & Inter Minerals Mgmt.
	Staff Economist.
Bureau of Indian Affairs	Assistant Dir of Admin (Financial Manager).
	Dep Dir of Indian Ed Progs (Comptroller).
International Development Cooperation Agency	
Otc of the General Counsel.	Deputy General Counsel.
Office of the Inspector General.	Asst Inspector General for Security.
	Asst Inspector General for Investigations.
	Assistant Inspector General for Audit.
	Counsel to the Inspector General.
Office of Equal Opportunity Programs.	Dir Otc of Equal Opportunity Programs.
Bureau for Management	Assistant to the Administrator for Management
Office of Financial Management.	Controller and Senior Financial Officer.
	Deputy Controller.
Office of Personnel Management.	Dep, Dir, Office of Personnel Management.
Directorate for Program and Management Services.	Associate Director for Management.
	Dir Otc of Contract Management.
	Dep Dir Otc of Contract Management.
	Dir Commodity Management.
	Dir Office of Information Resource Management.
	Deputy Dir for Program Operations.
	Dir Otc of Acquisition & Asst Management.
	Dir, Otc of Management Operations.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Interstate Commerce Commission	
Office of the General Counsel.	Associate General Counsel, Litigation.
	Assoc Gen Counsel—Litigation.
Office of the Secretary	Secretary.
Otc of the Managing Director.	Dir of Personnel.
Bureau of Accounts	Director, Bureau of Accounts.
	Dep Dir, Bureau of Accounts.
Bureau of Traffic	Dir, Bureau of Traffic.
Office of Transportation Analysis.	Assoc Dir, Otc of Transportation Analysis.
Office of Compliance & Consumer Assistance.	Dir Otc of Compliance & Consumer Assistance.
	Deputy Director for Enforcement.
	Associate Director.
	Deputy Director/Chief Section of Operations.
	Dep Dir for Policy Dev & Coordination.
	Assoc Dir, Otc of Compliance & Consumer Asst.
Regional Offices	Director.
	Regional Director (Boston).
	Regional Director (Philadelphia).
	Regional Director (Atlanta).
	Regional Director (Chicago).
	Regional Director (Fort Worth).
	Regional Director (San Francisco).
	Regional Director.
Office of Proceedings	Associate Dir.
	Deputy Director.
	Deputy Director.
	Assistant Deputy Director.
	Assistant Deputy Director.
Department of Justice	
Office of the Attorney General.	Counsel on Professional Responsibility.
	Dep Counsel on Professional Reponsibility.
Justice Management Division.	Asst Attorney General for Administration.
	Prin Dep Asst Atty General for Administration.
	Dir Audit Staff.
	Director Security Staff.
	Special Asst to the Asst Attorney Gen for Adm.
	Dir Library Staff.
	Deputy Director Audit Staff.
	Senior Management Counsel.
	Senior Management Counsel.
	Counselor to the Asst Attorney Gen for Admin.
	Associate Assistant Attorney General.
Office of the Controller	Deputy Assistant Attorney General.
	Director, Budget Staff.
	Dir Finance Staff.
	Director, Evaluation Staff.
Office of Personnel and Administration.	Deputy Assistant Attorney General.
	Director Personnel Staff.
	Director Administrative Services Staff.
	Director General Services Staff.
Office of Information Technology.	Deputy Assistant Attorney General.
	Dir Computer Techn & Telecommunications Staff.
	Director, Systems Policy Staff.
	Director, Litigation Systems Staff.
	Director, Information Systems Staff.
Executive Office for Immigration Review.	Chief Immigration Judge.
Immigration and Naturalization Service.	Assistant to the Director.
	Exec Asst to the Commissioner.
	Comptroller.
	Asst Commissioner for Detention & Deportation.
	Assistant Commissioner for Border Patrol.
Associate Commissioner for Information Systems.	Assistant Commissioner for Records Systems.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Associate Commissioner for Examinations.	Asst Commissioner for Adjudication & Natural.
	Asst Comm for Inspections.
Associate Commissioner for Enforcement.	Assistant Commissioner for Investigations.
Associate Commissioner for Management.	Asst Commissioner for Administration.
District Offices—INS	Dist Dirscor, SW Region, San Francisco Dis.
	District Director—San Diego.
Community Relations Service.	Regl Director, Region IX, San Francisco.
	Regl Director, Region III, Philadelphia.
Executive Otc for U.S. Attorneys.	Dep Dir, Exec Otc for US Attorneys.
	Dir Otc of Mgmt Information Systems Support.
	Senior Management Advisor.
Federal Prison System	Asst Dir for Planning and Development.
	General Counsel.
	Assoc Commr, Fed Prisons Industries, Unicor.
	Dep Assoc Commr—Sec, Fed Prison Industries, I.
	Dep Assoc Comm for Fed Prison Industries.
	Dep Asst Dir for Edu and Vocational Training.
	Deputy Asst Dir for Admin.
	Deputy Associate Commissioner.
	Dep Asst Dir Medical/Serve Dir PD# O5000463.
Office of Correctional Programs.	Dep Asst Dir for Correctional Programs.
	Asst Dir Correctional Programs Div.
Northeast Region	Regional Director.
	Warden, Lewisburg, PA.
	Warden, Otisville, New York.
	Warden—Petersburg, VA.
	Warden.
Southeast Region	Regional Director.
	Warden Atlanta.
	Warden, Lexington Kentucky.
North Central Region	Regional Director.
	Warden Leavenworth Kansas.
	Warden.
	Warden.
	Warden Terre Haute, IN.
	Warden Rochester MN.
South Central Region	Regional Director.
	Warden El Reno Okla.
Western Region	Regional Director.
	Warden Terminal Island, CA.
	Warden, Lompoc, CA.
Office Justice Assistance.	Gen Counsel.
Otc of Juvenile Justice and Delinquency Prevention.	Dep Admin Otc of Juvenile Justice/Delin Prev.
National Institute of Justice.	Asst Dir, Otc of Research Programs.
	Asst Dir, Otc of Dev Testing & Dissemination.
Bureau of Justice Statistics.	Deputy Dir, Bureau of Justice Statistics.
U.S. Marshals Service	Associate Director for Administration.
	Associate Director for Operations.
	Assistant Director for Inspections.
	Assistant Director for Financial Management.
Department of Labor	
Otc of the Inspector General.	Deputy Inspector General.
	Asst Inspector Gen for Investigations.
	Asst Inspector Gen for Audit.
	Deputy Assistant Inspector General for Audit.
	Dir Otc Resource Mgmt & Legislative Assmt.
	Asst. Inspector Gen for Labor Racketeering.
	Dir, Otc of Resource Mgmt & Legislative Asemt.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Office of the Solicitor	Deputy Solicitor (Regional Operations).
	Associate Solicitor for Labor-Management Laws.
	Assoc Solicitor for Plan Benefits Security.
	Assoc Solicitor for Civil Rights.
	Assoc Solicitor for Occupational Safety & Hlt.
	Assoc Solicitor for Mine Safety & Health.
	Assoc Solicitor for Fair Labor Standards.
	Assoc Solicitor for Employee Benefits.
	Associate Solicitor for Spec Litigation.
	Assoc Sol for Spec Appel & Sup Court Lit.
	Assoc Solic for Occupatl Safety & Health.
	Associate Solicitor for Fair Labor Standards.
Regional Solicitors	Regional Solicitor.
	Regional Solicitor Region IV-Atlanta.
	Regl Solicitor Boston.
	Regl Solicitor New York.
	Regional Solicitor Philadelphia.
	Regl Solicitor Dallas.
	Regl Solicitor Kansas City.
	Regl Solicitor San Francisco.
OAS for Administration and Management.	Asst Sec'y for Admin & Mgmt.
	Dep Asst Sec for Adm and Mgmt.
	Dir Admin Serv & Safety & Health Programs.
	Dir Otc of Budget.
	Dir Otc Labor Mgmt Relations.
	Dir of Management Policy and Systems.
	Comptroller for the Department.
	Dir of Personnel Management.
	Dep Dir of Personnel Mangement.
	Deputy Comptroller.
	Dir Otc of Information Technology.
	Deputy Director Office of Civil Rights.
	Dir, Otc of Civil Rights.
	Dir of Procurement & Grants Management.
	Dir Natl Capital Service Center.
	Director of Information Resources Management.
Office of Management, Administration and Planning.	Dir Otc of Mgmt, Administration and Planning.
Otc of Federal Contract Compliance Programs.	Director Division of Programs Operations.
Wage and Hour Division	Asst Admin for Program Operations.
	Asst Admin for Policy Planning & Review.
Otc of Workers Compensation Programs.	Dir Federal Employees Compensation.
	Dir Coal Mine Workers Compensation.
Office of Management	Director, Office of Management.
Office of Pension & Welfare Benefit Programs.	Assistant Administrator for Enforcement.
	Dep Administrator for Program Operations.
	Asst/Admnr for Regulations & Interpretations.
	Assistant Administrator for Prog Services.
	Deputy Asst Admin for Program Services.
	Asst Director for Compliance & Enforcement.
Office of Labor Management Standards.	Dir Otc of Standards, Tech Asst & Disclosure.
	Dir Otc of Elect Trustshp/Interntl Union Audit.
	Assoc Commr for Field Operations.
Bureau of Labor Statistics.	
Data Analysis	Assoc Commr, Occ Safety & Health Stat.
	Assoc Commr, Economic Growth.
	Assoc Commr for Prices and Living Conditions.

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POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Assoc Comnr Productivity & Technology.
	Assoc Comnr for Wages & Industrial Relations.
	Assoc Commissioner for Research & Evaluation.
	Assoc Comnr for Employment & Unempl Statistics.
	Dep Assoc Comnr for Prices & Liv Conditions.
	Asst Comnr for Consumer Prices & Price Indexes.
	Asst Comnr for Indust Prices & Price Indexes.
	Dep Assoc Comnr for Empl & Unempl Statistics.
	Asst Commissioner for Mathematical Statistics.
Administrative and Internal Operations.	Dep Comnr for Adm and Internal Operations.
	Assistant Commissioner for Administration.
	Assistant Commissioner for Survey Processing.
	Assistant Commissioner for Tech & Operations Rev.
Regional Commissioners, Employment and Training Admin.	Reg Comnr-SLS (Chicago).
Office of Employment Security.	Adm, Office of Program & Fiscal Integrity.
Office of Financial Control and Management Systems.	Director, Ofc of Trade Adjustment Assistance.
	Admin Ofc of Financial Control & Mgmt Sys.
	Dep Admr Ofc of Fin Control & Mgmt Systems.
	Dir Ofc of Management & Information Sys.
Administrative Programs.	Comptroller.
Health Standards Programs.	Dir, Adm Progs.
Safety Standards Programs.	Dir, Health Standards Programs.
Federal State Operations.	Director Safety Standards Programs.
Technical Support	Director, Federal State Operations.
Mine Safety and Health Administration.	Dir Tech Support.
	Chf of Standards, Regulations & Variances.
	Director of Administration and Management.
	Director of Technical Support.
Merit Systems Protection Board	
Ofc of Managing Director.	Managing Dir.
	Assistant Managing Director for Management.
	Asst Managing Dir for Regional Operations.
	Assoc Asst Managing Director for Management.
Ofc of General Counsel	Deputy General Counsel.
	Associate General Counsel for Litigation.
Office of Appeals Counsel.	Associate Director Office of Appeals Counsel.
Organization Abolished.	Director of Administration.
Regional Offices	Regional Director, New York.
	Regional Director, San Francisco.
	Regional Director, Chicago.
	Regional Director, Atlanta.
	Regional Director, Philadelphia.
	Regional Director, Dallas.
	Regional Director, Washington, D.C.
National Aeronautics and Space Administration	
Office of the Comptroller.	Asst Comptr for Prog Status Rev & Cost Assess.
Institutional Analysis Division.	Director Institutional Analysis Division.
Financial Management Division.	Dir Financial Mgmt Div.
	Dep Dir. Financial Management Div.
Resources Analysis Division.	Dir Resources Analysis Division.
Budget Operations Division.	Dir, Budget Operations Div.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Ofc of Chief Engineer, NASA.	Director, Safety Division.
	Dir, Reliability & Quality Assurance Division.
	Dep Chief Engr for Safety Reliability & Q/A.
	Deputy Chief Engineer.
	Dir Safety Reliability & Quality Assur Progs.
	Director, Engineering Division.
Information Systems Office.	Manager, Information Systems Office.
Environmental Observations Division.	Dep Dir Earth Science & Applications Division.
	Chief, Atmospheric Processes Branch.
	Chief, Oceanic Processes Branch.
	Discipline Chief Agrotech Program.
	Discipline Scientist Interplanetary Physics.
	Chf, Atmospheric Dynamics and Radiation Br.
	Chief Land Processes Branch.
Communications Division.	Deputy Director Communications Division.
Life Sciences Division.	Dep Dir Life Sciences Division.
	Chf, Res & Tech Development Branch.
	Manager Operational Medicine.
	Chief, Flight Programs Branch.
Administration and Resources Management Division.	Deputy Dir Admin & Resources Mgmt Division.
	Dep Dir, Adm & Resources Mgt Division.
Earth and Planetary Exploration Division.	Dep Dir Solar System Exploration Division.
	Chief, Non-Renewable Resources Branch.
	Chief Scientist (Geodynamics Program).
	Chief, Geodynamics Branch.
	Chief Mission Operations & Information Sys Br.
	Chief, Planetary Science Branch.
	Chief, Advanced Development Branch.
Shuttle Payload Engineering Division.	Dep Dir, Spacelab Flight Div.
	Mgr, Advanced Instrumentation & Sensor Engineer.
	Chf, Space Science Missions Branch.
	Chief Astrophysics Payload Branch.
Astrophysics Division.	Dep Director Astrophysics Division (Science).
	Manager, Advanced Programs & Technology.
	Chf, High Energy Astrophysics Br.
	Chief, Astronomy/Relativity Branch.
	Chief, Observatories Development Branch.
	Chf, Solar & Heliospheric Physics Br.
	Asst Director, Astrophysics Div (Technical).
	Chief, Flight Programs Branch.
Space Telescope Development Division.	Dir Space Telescope Development Division.
Office of Procurement	Asst Admr for Procurement.
	Deputy Asst Admr for Procurement.
	Director, Program Operations Division.
	Director, Procurement Policy Division.
	Dir Procurement Management Division.
	Dir Contract Pricing & Finance Office.
Ofc of Asst Admr for Commercial Programs.	Dir, Plans, Policy & Evaluation Division.
	Director, Program Support Office.
	Deputy Assistant Administrator (Programs).
	Dir, Small Business Innovation Res Office.
Government Affairs Division.	Chief, Industry Affairs Division.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Ofc of the Assoc Admr Space Flight.	Spec Asst to the Dep Assoc Admr (Tech).
	Tech Asst to the Asst Assoc Admn (Space Shut).
Advanced Programs & Plans.	Chf, Platforms & Services Branch.
Resources and Institutions Office.	Deputy Dir Resources & Institutions Ofc.
	Chief Sta Program Budget and Control.
Space Transportation Support Program Division.	Chief, Sta/Centaur Program Branch.
	Dep Dir, Space Transp Support Prog Div.
Spacelab Division	Chief, Development Branch.
	Chief, Operations Branch.
Customer Services Division.	Chf, Commercial & Foreign Utilization Branch.
	Chief, DOD Utilization Branch.
	Chief, NASA Utilization Branch.
	Chief, Policy/Business Development Branch.
	Special Assistant to the Director.
	Deputy Director, Customer Services Division.
Space Shuttle Operations Office.	Director, Shuttle Operations Division.
	Deputy Director, Shuttle Operations Division.
	Chief, Operations Integration.
Orbiter Programs Division.	Director Space Shuttle Orbiter Division.
	Director Shuttle Orbiter Division.
Propulsion Division	Deputy Director, Shuttle Propulsion Division.
	Chief, External Tank Programs.
	Mgr, Spc Shuttle Propulsion Pro/ Oper Support.
	Director, Shuttle Propulsion Division.
Flight & Turnaround Operations.	Dir, Flight & Turnaround Operations Div.
Office of the Associate Administrator, Management.	Dir Aircraft Management Ofc.
Headquarters Administration Division.	Dep Dir Headquarters Administration Division.
Facilities & Engineering and Computer Management Div.	Dir Facilities Engineering Div.
	Dep Director Facilities Eng Div.
Logistics Management and Information Programs Division.	Dir, Logistics Mgmt & Info Programs Division.
	Chf Scientific and Tech Info Br.
	Dep Dir, Logistics Mgmt & Info Prog Div.
Personnel Programs Division.	Dir Personnel Programs Div.
	Dep Dir Personnel Progs Div.
Information Systems Division.	Director Automated Information Systems Div.
Ofc of the Assoc Admr, Aeronautics and Space Tech.	Spec Asst to the Associate Administrator.
Ofc of Director for Aeronautics.	Deputy Director for Aeronautics.
	Manager, Fluid and Thermal Physics.
	Assistant Director for Aeronautics.
	A/D for Aeronaut (Gen Aviat & Trans Aircraft).
	S/A to the Director (Military Programs).
Ofc of Dir for Space	Deputy Director for Space.
	Asst Dir for Space (Space Station Technology).
	Dep Dir for Space (Program Development).
Ofc of Dir for Institutions.	Deputy Director for Institutions.
	Deputy Director for Resources.
	Assistant Director for Facilities.
Aerodynamics Division	Deputy Director, Aerodynamics Division.
Information Sciences & Human Factors Division.	Deputy Director Info Sci & Human Factors Div.
Materials & Structures Division.	Director, Materials and Structures.
	Deputy Director, Materials and Structures.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Propulsion, Power, & Energy Division.	Dir, Propulsion, Power and Energy Division.
	Deputy Director (Aeronautical).
Flight Projects Division	Deputy Director, Flight Projects Division.
Policy & Plans Office	Chief, Plans Integration Branch.
	Deputy Dir Policy & Plans Office.
	Chief Cooperative Programs Plans Branch.
Engineering Division	Chief Sys/Management Engineering Branch.
	Deputy Dir Engineering Division.
Ofc of the Assoc Admr, Space Tracking and Data Systems.	D/A/A Space Tracking & Data Systems (Networks).
	Spec Asst (Operations).
Network System Division.	Dep Director Network Systems Division.
Communications and Data Systems Division.	Dir, Communications & Data Systems Div.
	Assoc Dir, Communications & Data Systems Div.
Deep Space Network Operations Programs.	Manager, Deep Space Network Operations Progrs.
TDRSS Division	Assoc Dir, Tracking & Data Relay/ SSPD.
	Deputy Director TDRSS Division.
	Chief, TDRSS Operations.
Discrimination Complaints Division.	Director, Discrimination Complaints Division.
Office of the Inspector General.	Assist Inspector General for Investigation.
	Assistant Inspector General for Auditing.
	Asst Inspector General for Technical Services.
Ames Research Center	Assoc Dir, NASA Ames Res Ctr.
	Chief Engineer.
Aerospace Systems Directorate.	Dep Dir of Aeronautics and Flight Systems.
	Chief, Aerodynamics Division.
	Chf, Ames Res Aircraft Operations Division.
	Chf Flight Systems & Simulation Tech Div.
	Chf, Rotocraft & Powered-Lift Flight Proj Div.
	Deputy Dir Aerospace Systems Directorate.
Space Research Directorate.	Deputy Director of Space Research.
	Chief, Cardiovascular Research Office.
	Chief, Life Sciences Division.
	Chief, Biosystems Division.
	Chief Aero-space Human Factors Research Div.
Engineering and Technical Services Directorate.	Dep Director Engineering & Tech Svcs.
Aerophysics Directorate	Deputy Director of Astronautics.
	Chief, Airborne Mission & Applications Div.
	Chief, Space Science Division.
	Chief, Thermo- and Gas-Dynamics Division.
	Chief Computational Fluid Dynamics Branch.
	Chf, Systems Engineering Div.
	Chief, Information Sciences Office.
	Deputy Director of Aerophysics.
	Chief, Fluid Dynamics Division.
	Chief, Computer Systems Division.
	Chief Thermosciences Division Aerophysics Dir.
Flight Operation and Research Directorate.	Chf Engineer.
	Chief Dryden Aircraft Operations Division.
	Chief Flight Support Division.
	Deputy Chief Dryden Research Aircraft Oper Di.
	Chief Shuttle Project Office.
	Chief, Research Engineering Division.
Goddard Space Flight Center.	Comptroller.
Management Opers Directorate.	Chief Counsel.
	Dep Dir of Management Operations.
Flight Assurance Directorate.	Procurement Officer.
	Director of Flight Assurance.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Flight Projects Directorate.	Deputy Director of Flight Projects.
	Dep Dir Flight Proj Space Telescope Goddard.
	Assoc Dir of Flight Proj for User Systems.
	Assoc Dir of Flight Proj for Sys Mgmt.
	Assoc Dir of Flight Projects for New Projects.
	Project Mgr, Tracking & Data Relay Satellite Sy.
	Assoc Dir of Flight Proj for Mission Systems.
	Manager Adv Land Observ Sys Studies Ofc.
	De Dir Flight Proj Plng Business Management.
	Dep Dir of Flight Proj for Space Stat-Goddard.
	Mgt. Galo Work Package, Space Station Project.
	Project Manager, Meteat Project.
	Assoc Dep Dir of Flt Proj/Space Sta Proj-GDD.
Mission Operations & Data Systems Directorate.	Asst Dir for Mission & Data Ops (Tech & Tech).
	Deputy Dir of Mission Operations & Data Sys.
	Dep Dir of N/Works for the TDRS.
	Chief Networks Division.
Space & Earth Sciences Directorate.	Deputy Director (Research).
	Deputy Director (Projects).
	Chief, Lab for Atmospheric Sciences.
	Head, Electrodynamics Branch.
	Chief, Lab for High Energy Astrophysics.
	Chief, Lab for Astronomy and Solar Physics.
	Chief, Lab for Extraterrestrial Physics.
	Asst Dir for Space Station (Mission Planning).
	Chief Laboratory for Atmospheres.
	Chief, Space Data and Computing Division.
	Special Assistant to the Director.
	Special Assistant to the Director.
	Chief, Laboratory for Terrestrial Physics.
	Dep Dir, Space and Earth Sciences.
	Associate Director for Program Planning.
	Associate Director for Space Station.
Engineering Directorate	Dep Dir of Engineering.
	Chief, Instrument Division.
	Chf, Applied Engineering Div.
	Chief, Space Technology Division.
	Asst Dir of Engineering for Development Proj.
	Assistant Director for Technical Resources.
Johnson Space Center	Assistant Director (Plans).
	Dir of Public Affairs.
	Special Assistant to the Director.
Center Support	Deputy Dir Center Operations.
	Deputy Dir Admin.
	Dir Admin.
	Dir of Procurement.
	Dir Center Operations.
Space Operations	Assistant Director, Administration.
	Assistant to the Director of Space Operations.
	Chief, Astronaut Office.
	Chief, Aircraft Operations Division.
	Chief Training Division.
	Chief, Mission Planning & Analysis Division.
	Director, Mission Operations.
	Deputy Director Mission Operations.
	Deputy Director, Mission Support.
	Chief Operations Division.
	Chief, Systems Div.
	Asst for Planning Assessment.
	Assistant Director for Operations.
	Asst Dir for Systems.
	Chief, Flight Director Office.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Research & Engineering	Deputy Director, Engineering.
	Assistant Director, Space & Life Sciences.
	Chief, Tracking & Communications Division.
	Chief, Avionics Systems Div.
	Chief, Propulsion & Power Division.
	Chief, Structures and Thermal Division.
	Chief, Systems Engineering Division.
	Chf, Crew Systems Div., Engineering & Dev.
	Chief Solar System Exploration Division.
	Chief, Medical Sciences Division.
	Director, Engineering.
Nati Space Transp Sys Prog Ofc.	Dep Manager Nati Space Trans System Office.
	Manager, Mission Integration Office.
	Manager Systems Integration.
	Manager Operations Integration.
	Manager STS Integration & Operations Office.
	Dep Manager STS Integration & Operations Ofc.
	Manager STS Orbiter & GFE Projects Office.
	Deputy Manager STS Orbiter & GFE Projects Ofc.
Space Station Project Office.	Manager, Data Management & Operations Office.
	Deputy Manager, Space Station Projects Office.
	Manager Project Engineering Office.
Space Shuttle Projects Ofc.	Mgr, Shuttle Flight Equip Proj Ofc.
	Asst Manager, Space Shuttle Projects Ofc.
	Dep Mgr, Space Shuttle Projects Office.
	Manager, Shuttle Avionics Office.
Safety, Reliability & Quality Assurance.	Dir, Safety, Reliability, & Quality Assurance.
	Dep Dir, Safety, Reliability & Qual Assurance.
STS Operations Program Office.	Manager, Customer Integration Office.
	Dep Manager, Space Station Program Office.
	Manager, Sys Engineering & Integration Office.
	Manager, Integration & External Affairs Ofc.
NASA White Sands Test Facility.	Manager, NASA White Sands Test Facility.
Kennedy Space Center	Dir, Exec Management Ofc.
	Associate Deputy Director.
Comptroller	Deputy Comptroller.
Biomedical Office	Chf., Biomedical Office.
Public Affairs	Dir Public Affairs.
Safety, Reliability and Quality Assurance.	Dir., Safety, Reliability & Quality Assurance.
Shuttle Management Operations.	Manager Space Station Projects Office.
Chief Engineer	Chief Engineer.
KSC Off-Site Operations Shuttle Project.	Manager, KSF Off-Site Operations Shuttle Proj.
Shuttle Processing	Director, Launch and Landing Operations.
OIC Engineer	Director, Shuttle Engineering.
Launch Support Services.	Director, Launch Support Services.
	Deputy Director of Shuttle Operations.
Information Systems	Director of Information Systems.
Center Support Operations.	Director of Center Support Operations.
	Deputy Director of Center Support Operations.
Engineering Development	Deputy Director of Engineering Development.
Project Management	Director, Project Management.
Mechanical and Facilities Engineering.	Dir., Mechanical & Facilities Engineering.
Electronic Engineering	Director, Electronic Engineering.
Cargo Management and Operations.	Deputy Director, Cargo Operations.

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Positions That Were Career Reserved During Calendar Year 1985—Continued

Agency organization	Career reserved positions
STS Cargo Operations	Director, STS Payload Operations.
Deployable Payloads	Director, Deployable Payloads.
Shuttle Logistics	Dir, Shuttle Logistics.
Shuttle Engineering	Director of Shuttle Engineering.
Langley Research Center.	Assoc Dir, NASA Langley Res Center.
Projects Directorate	Manager, Aeronautical Systems Office.
Electronics Directorate	Chf, Analysis & Computation Division.
	Chief, Flight Dynamics and Control Division.
	Chf, Flight Electronics Division.
	Chf, Instrument Research Division.
	Chief Flight Control Systems Division.
Structures Directorate	Chf, Acoustics & Noise Reduction Div.
	Asst Chief, Acoustics & Noise Reduction Div.
	Chief, Structures and Dynamics Division.
	Chf, Materials Division.
	Chief, Loads and Aeroelasticity Division.
Aeronautics Directorate	Chief Transonic Aerodynamics Div.
	Chief, High-Speed Aerodynamics Div.
	Chief, Low-Speed Aerodynamics Division.
Space Directorate	Chief, Space Systems Division.
	Chief Atmospheric Sciences Division.
	Deputy Manager, Space Station Office.
	Manager Evolutionary Definition Office.
	Assistant Dir for Systems Engineering Oper.
	Chief Facilities Engineering Division.
	Chief Systems Engineering Div.
	Chf, Guidance and Control Division.
	Dep Dir Ofc of Risk & Technology Assessment.
	Chief, Computer Services Division.
Administration & Computer Services.	ADP Planning and Acquisitions Office.
Aeronautics Directorate	Chief Internal Fluid Mechanics Division.
	Chf, Propulsion Systems Div.
	Chief Aeropropulsion Facilities & Exper Div.
	Deputy Director of Aeronautics.
Space Station Systems Directorate.	Dep Dir of Space Station Systems.
	Chief Power Sys Engineering Division.
Aero Space Technology Directorate.	Dep Dir of Aerospace Technology.
	Chief, Space Propulsion Technology Division.
	Chief, Materials Division.
	Chief, Structures Division.
Space Flight Systems Directorate.	Chief, Space Communications Division.
	Manager Acts Project Office.
	Manager, Atlas Centaur Project Office.
	Manager Shuttle/Centaur Project Office.
	Chief, Space Transportation Engineering Div.
Engineering & Technical Services Directorate.	Chief, Engineering Design Division.
Marshall Space Flight Center.	Center Comptroller, NASA MSFC.
	Executive Assistant to the Director.
	Dir Admin Operations Office.
Science and Engineering.	Dep Dir, Science & Engineering.
	Assoc Dir for Engineering.
	Chf Engineer, Solid Rocket Booster Integratio.
	Chf, Engineer, Space Shuttle Main Engineer.
	Chf Engineer, Space Telescope.
	Dir, Reliability & Quality Assurance Ofc.
	Chf Guidance Cont and Instrumentation Div.

Positions That Were Career Reserved During Calendar Year 1985—Continued

Agency organization	Career reserved positions
	Sfc, Materials & Processes Laboratory.
	Director, Space Sciences Lab.
	Chf, Atmospheric Sciences.
	Director, Structures & Propulsion Laboratory.
	Dep Dir Structures and Propulsion Lab.
	Director, Syst Anal & Integration Laboratory.
	Dep Dir Sys Analysis and Integration Lab.
	Chf Mission Analysis Division.
	Director, Systems Dynamics Laboratory.
	Chf, Aerophysics Div.
	Dir—Test Laboratory.
	Deputy Director Materials and Processes Lab.
	Deputy Associate Director for Engineering.
Specialab Payload Project.	Chf, Engineer, External Tank Project.
	Chf Engineer, Space Shuttle Main Propul Sys.
	Dep Dir, Systems Dynamics Laboratory.
	Director Information & Electronic Sys Lab.
	Dep Dir Information & Electronic Systems Lab.
	Dep Mgr, Specialab Payload Proj Ofc.
	Manager Applications & Technology Missions.
Space Station Projects Office.	Manager, Science Payload Projects.
Specialab Program Office.	Manager, Space Station Projects Office.
Program Development	Deputy Manager, Specialab Program Office.
	Deputy Director, Program Development.
Shuttle Projects Office	Director, Preliminary Design Office.
	Manager, External Tank Project Office.
	Manager, Solid Rocket Booster Project Office.
	Manager, Flight Engine Project.
	Deputy Manager for Development.
	Manager, Development Engine Project.
	Deputy Manager for Production & Logistics.
	Manager, Systems Management Office.
Space Telescope Project Office.	Deputy Manager, Space Telescope Project.
	Manager Optical Telescope Project Office.
	Dep Mgr for Sys Engineering & Integration.
	Manager Support System Module Project Office.
Administration and Program Support.	Dep Dir, Administration & Program Support.
	Director, Procurement Office.
	Deputy Manager.
National Space Technology Laboratories.	Deputy Manager—Programs.
	Dir, Earth Resources Laboratory.
National Archives & Records Administration	
National Archives & Records Administration.	Deputy Archivist of the United States.
	Asst Archivist for Federal Records Centers.
	Asst Archivist for Records Administration.
	Director, Lyndon B. Johnson Library.
	Director, Harry S. Truman Library.
	Director Dwight D. Eisenhower Library.
National Capital Planning Commission	
National Capital Planning Commission Staff.	Assoc Exec Dir Regional Affairs.
	Executive Director.
	Assoc Exec Dir D.C. Affairs.

Positions That Were Career Reserved During Calendar Year 1985—Continued

Agency organization	Career reserved positions
	General Counsel.
	Assistant Executive Director for Operations.
National Endowment for the Arts	
National Endowment for the Arts.	Director of Program Coordination.
	Director of Administration.
National Endowment for the Humanities	
National Endowment for the Humanities.	Director of Administration.
National Labor Relations Board	
Offs of the Board Members.	Executive Secy.
	Deputy Executive Secretary.
Div of Enforcement Litigation.	Deputy Assoc. Gen Counsel Appellate Court Br.
Div of Advice	Director, Office of Appeals.
	Associate Gen Counsel, Div of Advice.
	Deputy Assoc. Gen Counsel.
Div of Administration	Director of Administration.
	Deputy Director of Administration.
Div of Operations Management.	Assoc General Counsel, Div of Operation—Mgmt.
	Dep Assoc Gen Counsel, Div of Operations—Mgmt.
	Assistant General Counsel.
	Assistant General Counsel.
	Assistant General Counsel.
	Assistant General Counsel.
	Asst to the General Counsel.
Regional Offices	Regl Dir Reg 1 Boston.
	Regional Director, Reg. 2, New York.
	Regional Director, Reg. 3, Buffalo.
	Regl Dir Reg 4 Philadelphia.
	Regional Director, Reg. 5, Baltimore.
	Regional Director, Reg. 6, Pittsburgh.
	Regional Director, Reg. 7, Detroit Mich.
	Regional Director, Reg. 8, Cleveland.
	Regional Director, Reg. 9, Cincinnati.
	Regl Dir, Reg. 10, Atlanta.
	Regl Dir Reg. 11, Winston Salem.
	Regional Director, Reg. 12, Tampa.
	Regional Director, Reg 13, Chicago.
	Regl Dir Reg 14 St Louis.
	Regl Dir Reg. 15 New Orleans.
	Regl Dir. Reg 16 Ft Worth.
	Regl Dir Reg 17 Kansas City.
	Regl Dir Reg 18 Minneapolis.
	Regl Dir Reg 19 Seattle.
	Regional Dir, Reg 20, San Francisco.
	Regional Director, Reg. 21, Los Angeles.
	Regional Director Reg 22 Newark.
	Regional Director Reg 23 Houston, Texas.
	Regional Director Reg 24 Hato Rey, Peerto Rico.
	Regl Dir, Reg 25, Indianapolis.
	Regl Dir Reg 26 Memphis.
	Regl Dir Reg 27 Denver.
	Regl. Dir. Reg. 28 Phoenix.
	Regl Dir Reg 29 Brooklyn.
	Regl Dir Reg 30 Milwaukee.
	Regl. Dir., Reg 32, Oakland.
	Regional Director, Reg. 33 Peoria, Ill.
	Regl Dir Reg 31 Los Angeles.
National Science Foundation	
Office of the Director	Senior Staff Assoc. for Inter-Agency Affairs.
	Senior Staff Associate.
	Special Assistant.
	Special Assistant.
	Special Assistant.

Positions That Were Career Reserved During Calendar Year 1985—Continued

Agency organization	Career reserved positions
	Special Assistant.
Office of the General Counsel.	Deputy General Counsel.
Organization Abolished	Deputy Director and Head, Audit Office.
Office of Budget, Audit, and Control.	Director, Evaluation Staff.
Division of Audit and Oversight.	Division Director.
Division of Budget	Division Director.
Division of Program Analysis Evaluation.	Division Director.
Office of Legislative and Public Affairs.	Executive Assistant to Director.
Directorate for Astro, Atmos, Earth and Ocean Sciences.	Executive Officer.
Division of Astronomical Sciences.	Section Head, AST Center Section.
	Section Head, AST Research Section.
Division of Atmospheric Sciences.	Section Head Grant Programs Section.
	Section Head—Ctrs and Facilities Program Sec.
Division of Ocean Sciences.	Sec Hd, Oceanographic Ctrs & Facilities Sec.
	Section Head Ocean Sciences Research Section.
Division of Polar Programs.	Deputy Division Director.
	Manager Polar Ops Section
	Exec/Assoc/Arctic Science Policy and Research.
Directorate for Engineering.	Senior Staff Associate.
Div of Electrical, Communications & Systems Engineering.	Director of Special Activities.
	Deputy Division Director.
Div of Chemical, Biochemical and Thermal Engineering.	Deputy Division Director.
Div of Mechanics, Structures, and Materials Engineering.	Deputy Division Director.
	Executive Asst/Planning.
Directorate for Biological, Behavioral Social Sciences.	Executive Officer.
Division of Biotic Systems and Resources.	Deputy Division Director.
Office of Biotechnology Coordination.	Office Head.
Division of Behavioral and Neural Sciences.	Deputy Division Director.
Division of Social and Economic Sciences.	Sect Head Political & Policy Sciences Sect.
	Deputy Division Director.
	Senior Scientist.
	Deputy Division Director.
	Senior Scientist.
Division of Cellular Biosciences.	Deputy Division Director.
Division of Molecular Biosciences.	Deputy Division Director.
Directorate for Mathematical and Physical Sciences.	Senior Staff-Exec Officer.
	Senior Staff Executive Officer.
	Senior Staff Associate for Planning.
	Senior Staff Associate for Operations.
Division of Physics	Deputy Division Dir.
	Section Head—Nuclear Science Section.
	Senior Staff Associate.
Division of Mathematical Sciences.	Deputy Division Director.
Division of Computer Research.	Deputy Division Director.
Division of Materials Research.	Head, Spec Prog in Materials Research Section.
	Sect Head, Metallurgy, Polymers, & Ceramics.
	Sect Hd Cond Matter Science.
	Senior Staff Scientist.
Division of Chemistry	Sect Hd Chem Syn and Analy.
	Sect Hd Phy Chem and Dynam.
Director for Science & Engineering Education.	Senior Staff Associate.

Positions That Were Career Reserved During Calendar Year 1985—Continued

Agency organization	Career reserved positions
Office of College Sciences Instrumentation.	Office Head.
Planning and Special Projects Staff.	Senior Planning Officer.
	Senior Staff Assoc for Strategic Plan Assess.
Division of Policy Research and Analysis.	Section Head, Science & Innovation Pol. Sec.
	Section Head, Policy Sciences Section.
	Section Head Technology & Resource Policy Sec.
Division of Sciences Resources Studies.	Dep Division Director.
Division of International Programs.	Section Head, Sci & Tech Pars.
	Deputy Division Director.
	Head, Special Program Section.
	Head, Industrial Countries Section.
	Head, Developing Countries Section.
	Senior Advisor on International Science Prcy.
Division of Industrial Sciences & Technolog Innvation.	Section Head Industrial Support Section.
	Senior Staff Associate.
Division of Research Initiation & Improvement.	Dep Dir for Intergovernmental Progs.
	Prgm. Dir. Exper. Prgrms.—Stimulate Comp. Rsch.
Directorate for Administration.	Senior Staff Associate.
	Director Reform '88 Project Coordinat Staff.
	Senior Staff Associate
Division of Grants and Contracts.	Division Director.
Division of Financial Management.	Division Director.
Division of Personnel and Management.	
National Transportation Safety Board	
Office of the Managing Director.	Deputy Managing Director.
Bureau of Administration.	Dir Bureau of Administration.
Bureau of Accident Investigation.	Director Bureau of Accident Investigation.
	Dep Dir for Operations.
	Director, Bureau of Field Operations.
Bureau of Technology	Dir Bureau of Technology.
	Deputy Director of Technology.
Bureau of Safety Programs.	Director, Bureau of Safety Programs.
	Supv Transportation Safety Spec (Dep Dir).
Nuclear Regulatory Commission	
Atomic Safety and Licensing Bd Panel.	Chairman ASLBP.
	Deputy Chief Administrative Judge Executive.
Atomic Safety and Licensing Appeal Panel.	Chairman ASLAP.
Office of Inspector and Auditor.	Director, Office of Inspector & Auditor.
	Dir OIA.
	Dep Dir and Asst Dir for Audits.
	Deputy Director, Ofc of Inspector & Auditor.
Office of Investigations	Dir Policy & Program Support Staff.
	Chief Reactor Operations Analysis Branch.
Ofc for Ana and Eva Oper Data.	Chief, Program Technology Branch.
Div of Contracts	Director Division of Contracts.
Div of Security	Director, Div of Security.
Hearing Division	Assistant Chief Hearing Counsel III.
	Assistant Chief Hearing Counsel IV.
	Assistant Chief Hearing Counsel I.
	Assistant Chief Hearing Counsel IV.
	Asst Chf Hearing Counsel III/Anti-trust Counsel.
Division of Accounting and Finance.	Dir Division of Accounting and Finance.

Positions That Were Career Reserved During Calendar Year 1985—Continued

Agency organization	Career reserved positions
Ofc of Small and Disadv Bus Utilization/Civil Rights.	Director.
Asst Dir for Operating Reactors.	Chf Operating Reactors Branch #1.
	Chief Operating Reactors Br #2.
	Chief Operating Reactors Br #3.
	Chief Operating Reactors Br #4.
Asst Dir for Licensing	Chief Licensing Branch #1.
	Chief, Licensing Branch #2.
	Chief Licensing Branch #3.
	Chief Licensing Branch #4.
Asst Dir for Safety Assessment.	Chf Standardization & Spec Projects Branch.
	Chief Operating Reactors Branch #5.
	Chf, Systematic Evaluation Program Branch.
	Chief Operating Reactors Assessment Branch.
Asst Dir for Components and Structures Engineering.	Chief Mechanical Engineering Branch.
	Chief Geoscience Branch.
	Chf Structures & Geotechnical Engr Branch.
	Chief Equipment Qualifications Branch.
Asst Dir for Materials, Chemical & Environ Technology.	Chief Chemical Engineering Branch.
	Chief Materials Engineering Branch.
	Chief Site Analysis Branch.
	Chief Environmental & Hydrology Branch.
Asst Dir for Core and Plant Systems.	Chief Instrum & Control Systems Branch.
	Chief Power Systems Branch.
	Chief Containment Systems Branch.
	Chief Auxiliary Systems Branch.
	Chief Core Performance Branch.
Asst Dir for Radiation Protection.	Chief Radiological Assessment Branch.
	Chief Accident Evaluation Branch.
	Chief, Meterology & Effluent Treatment Branch.
Asst Dir for Reactor Safety.	Chief Reactor Systems Branch.
Division of Human Factors Safety.	Chief Human Factors Engr Branch.
	Chief Licensee Qualifications Branch.
	Chief Operator Licensing Branch.
	Chief Procedures & Systems Review Branch.
	Chf, Operator Licensing Branch.
Asst Dir for Generic Projects.	Chief Generic Issues Branch.
	Chief Research and Stds Coordination Branch.
Asst Director for Technology.	Chief, Safety Program Evaluation Branch.
	Chief Reliability & Risk Assessment Branch.
	Dir NMSS.
Office of Nuclear Material Safety and Safeguards.	
Division of Safeguards	Chief Material Transfer SG Licensing Branch.
	Chief Fuel Facility SG Licensing Branch.
	Chief Power Reactor SG Licensing Branch.
	Chf, Licensing Policy and Programs Br.
	Chief Safeguards Special Projects Branch.
	Chief, Transportation Certification Branch.
Division of Fuel Cycle and Material Safety.	Chf Uranium Fuel Licensing Br.
	Chief Procedures and Certification Br.
	Chf Advanced Fuel & Spent Fuel Licensing Br.
	Chief, Materials Licensing Branch.
	Chief Repository Projects Branch.
Division of Waste Management.	Chf Hi-Level Waste Licens Mgmt Br.
	Chief, Policy & Program Control Branch.
	Chief Geotechnical Branch.

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POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Division of Engineering Technology.	Chief Engineering Branch. Chief Low Level Waste & Uranium Rec.P Branch. Chief, Mechanical/Structural Engineering Br.
Division of Accident Evaluation.	Chief Materials Engineering Br. Chief Chemical Engineering Branch. Chief Elec Engr & Instrumentation Control Sta.
Division of Risk Analysis & Operations.	Chief Fuel Systems Research Branch. Chief Reactor Systems Research Branch. Chief Containment Sys Research Branch.
Division of Radiation Programs and Earth Sciences.	Chief, Reactor Risk Branch. Chief Regulatory Analysis & Matls Risk Branch. Chief Human Factors & Safeguards Branch.
Office of Inspection and Enforcement.	Chief, Occupational Radiation Protection Br. Chief Earth Sciences Branch. Chief Waste Management Branch. Chief Health Effects Branch.
Division of Inspection Programs.	Director Enforcement Staff
Div of Quality Assurance, Vendor & Tech Trng Ctr Progs.	Chief, Operating Reactor Programs Branch. Chief, Reactor Construction Programs Branch. Chief, Safeguards & Materials Programs Branch. Chief Quality Assurance Branch.
Div of Emergency Preparedness & Engineering Response.	Dep Brch Chief, Quality Assurance Branch. Chief Vendor Program Branch. Chief, Events Analysis Branch. Chief Engineering Generic Communication Branch. Chief Incident Response Branch. Chief Emergency Preparedness Branch.
Region I	Deputy Regional Administrator. Dir, Div of Radiation Safety & Safeguards. Director Division of Reactor Safety. Dep Dir, Div of Reactor Safety. Director, Division of Reactor Projects. Deputy Director, Division of Reactor Projects. Dir, Div of Resident and Reactor Project Insp. Dir Div of Eng & Tech Inspection Region I.
Region II	Deputy Regional Administrator Region II. Dir, Div of Radiation Safety & Safeguards. Director, Division of Reactor Projects. Deputy Director, Division of Reactor Projects. Director, Division of Reactor Safety.
Region III	Dep Dir, Div of Reactor Safety. Dep Regional Administrator Region III. Director, Division of Reactor Safety. Director, Division of Reactor Projects. Dep Dir, Div of Reactor Safety. Deputy Director Division of Reactor Projects. Dir, Div of Radiation Safety & Safeguards.
Region IV	Deputy Regional Administrator Region IV. Director Uranium Recovery Field Office. Director, Division of Reactor Safety & Proje. Dep Dir Div of Reactor Safety and Projects. Dir, Div of Vendor & Technical Programs.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Region V	Dir, Div of Rea Reactor Proj & Eng Programs. Dir, Div of Radiation Safety & Safeguards. Deputy Regional Administrator Region V. Dir, Div of Reactor Safety and Projects. Dep Dir Div of Reactor Safety and Projects. Dir, Div of Radiation Safety & Safeguards.
Office of Management and Budget	
Office of the Director	Assistant Director for Administration. Deputy Associate Dir for Economic Policy.
Office of Special Counsel/Civil Rights.	Dep Gen Counsel for Reg Affr & Litigation.
Legislative Reference Division.	Asst Dir Legislative Reference.
	Dep/Asst/Dir for Legislative Reference.
Office of Federal Procurement Policy.	Chief, Economics, Science & Govt Branch. Chief, Resources-Defense-International Branch. Principal Assoc Admr for Procurement.
Office of Information and Regulatory Affairs.	Assoc. Administrator for Management Control. Chief Information Policy Branch. Chief Reports Management Branch. Chief Regulatory Policy Branch. Chief Statistical Policy Branch. Deputy Chief, Information Policy Branch. Chief Regulatory Analysis Branch. Asst Dir Fed Pers Policy
Associate Director for Management, Planning and Communications Management Div.	Deputy Associate Director.
Finance and Accounting Division.	Dep Assoc Dir for Finance and Accounting.
Management Improvement Division.	Dep Assoc Dir Mgmt Improvement Div.
Budget Review Division	Asst Dir for Budget Review. Dep Assistant Director for Budget Review. Chief Fiscal Analysis Branch. Dep Chief Fiscal Analysis Branch. Chf, Budget Preparation Branch. Chief, Resources Systems Branch. Deputy Chief Budget Preparation Branch.
Assoc Dir for National Security and International Affs.	Dep Assoc Dir for Management.
International Affairs Division.	Dep Assoc Dir for Internal Affairs. Dep Chief, International Affairs Division. Chief, State—ICA Branch. Chief, Economic Affairs Branch. Chief International Security Affairs Branch.
National Security Division.	Dep Assoc Dir for National Security. Dep Chief. Chf., Intelligence Community Branch. Chief, Navy Branch. Chief, Air Force Branch. Chief, Army Branch.
	Chief, Manpower, Pay & Policy Branch.
Assoc Dir for Human Resources, Veterans and Labor.	Dep Assoc Dir for Management.
Health and Income Maintenance Division.	Dep. Assoc. Dir for Health & Income Maintena. Chf, Income Maintenance Branch. Chief Health & Social Services Branch. Chief Health & Financing Branch.
Labor, Veterans, and Education Division.	Deputy Associate Director for Labor, Vet & Ed. Dep Dir Chf-Labor. Chief, Education Branch.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Associate Director for Economics and Government.	Chf Veteran Affairs Branch. Dep Assoc Dir for Special Studies.
Transportation, Commerce, and Housing Division.	Dep Assoc Dir for Transportation-Comm & Housi. Chief Transportation Branch. Chief Commerce Branch. Chief, Housing Branch.
Justice, Treasury and Personnel Division.	Dep Assoc Dir for Transp Commerce & Justice. Chief Commerce & Justice Branch. Chief Transport General Services Branch. Dep for Justice, Treas & Gen Mgmt.
	Chief, Justice and Personnel Branch. Chief, Treasury & General Services Branch. Dep Assoc Dir for Housing, Treas & Personnel.
	Chief Treasury & Personnel Branch.
Assoc Dir for Natural Resources, Energy, and Science.	Dep Assoc for Spec Studies.
Natural Resources Division.	Dep Associate Dir. for Natural Resources. Chief, Water Resources Branch. Chief, Agricultural Branch. Chief, Environment Branch. Chief Interior Branch.
Energy and Science Division.	Dep. Assoc. Dir for Energy & Science. Chief, Nuclear Energy Branch. Chief Science and Space Programs Branch. Deputy Div Chief. Chief Non-Nuclear Energy Branch.
Office of Personnel Management	
Office of the Inspector General.	Inspector General.
Office of Finance and Administrative Services.	Asst for Finance & Administrative Ser.
Office of Retirement Programs.	Asst Dir for Retirement Programs
Office of the Actuary	Chief Actuary.
Office of Insurance Programs.	Asst Dir for Insurance Program.
Office of Standards Development.	Assistant Dir for Standards Development.
Office of Staffing Policy	Chief, Examining Policy Analysis Division.
Office of Agency Compliance & Eval.	Assist Dir for Agency Compliance & Evaluation.
Office of Personnel Investigation.	Asst Dir for Personnel Investigations.
Office of the Special Counsel (MSPB)	
Headquarters, Office of the Special Counsel.	Assoc. Spec Counsel (Investigation). Dep Assoc Spec Counsel (Investigation). Assoc Special Counsel (Prosecution). Deputy Associate Spec Counsel for Prosecution. Managing Director for Operations. Asst Special Counsel Planning and Oversight.
Railroad Retirement Board	
Board Staff	Executive Director. Assoc Exec Dir for Unempl & Sickness Insur. Assoc Exec Director for Fiscal Operations. Dir. Bureau of Data Processing. Associate Executive Director for Financial. Assoc Exec Dir for Legal & Adm Serv & Gen Cou. Assoc Exec Dir for Retirement Claims.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	Chief Actuary and Director of Research. Assoc Exec Director—Field Services.
Securities and Exchange Commission	
Office of the Chairman	Dep Chf Accountant.
Office of the Executive Director.	Dep Exec Director.
Div of Corporation Finance.	Assoc Dir (Operations).
Selective Service System	
Selective Service System.	Associate Director, Olc of Mgt. Services. Chief of Staff.
Small Business Administration	
Olc of the Inspector General.	Assistant Inspector General for Audit. Asst Inspector General for Investigations.
Office of the General Counsel.	Associate General Counsel for General Law. Assoc Gen Counsel Litigation. Associate General Counsel for Financial Law.
Office of EEO and Compliance.	Dir Olc of Equal Employment Opport & Complian.
Office of Hearings and Appeals.	Asst Administrator for Hearings and Appeals.
Office of Procurement & Technology Assistance.	Director of Procurement Assistance.
Office of Administration	Asst Admin for Information Resources.
Office of Personnel	Director of Personnel.
District Directors	District Dir Phila. District Dir, Reg IX, Los Angeles. District Director, Region V, Chicago. District Director, New York. District Director.
Department of State	
Foreign Policy Planning Council.	Member, Planning & Coordination Staff.
Bureau of Economic & Business Affairs.	Dir, Office of East-West Trade. Spec Asst Sec State Economic Affs.
Bureau of Intelligence and Research.	Dir. Olc of Resources Policy. Dir Olc of Research & Analysis Soviet Affrs.
International Boundary & Water Commission.	Dep Dir. Olc of Economic Analysis. Supervisory Civil Engineer.
Department of Transportation	
Office of Inspector General.	Asst Insp General for Auditing. Asst I/G for Policy, Planning and Resources. Asst Inspector General for Investigations. Dir Olc of Surface Transportation Programs. Dir. Olc of Aviation Marine & Research Progs. Dep Asst Inspector General for Auditing. Dir, Office of Adp Audits & Technical Support.
Asst Sec for Administration.	Asst Secy for Administration.
Olc of Installations and Logistics.	Dir, Olc of Installations & Logistics. Dep Dir, Olc of Installations & Logistics.
Assoc Admr for Safety	Assoc Admr for Safety. Dir, Office of Research and Development.
Olc of Pipeline Safety Regulation.	Assoc Dir, Olc of Pipline Safety Regulation.
Olc of Operations and Enforcement.	Assoc Dir, Olc of Opers & Enforcement-M.T.B.
Maritime Administration	Deputy Administrator. International Activities Officer.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Office of Assoc. Admr for Shipbuilding Opers & Research.	Assoc Admr for Marketing & Domestic Enterpris. Dir/Olc of Naval Architecture & Engineering. Dir Office of Shipbuilding Costs & Production.
Office of Associate Administrator for Maritime Aids.	Associate Administrator for Maritime Aids.
Office of Aviation Safety.	Dir Olc of Aviation Safety, Olc Aviation Sel. Dep Director, Office of Aviation Safety.
Office of Accounting	Mgr. Safety Regulations Division. Dir Office of Accounting.
Acquisition and Materiel Service.	Dir Acquisition & Materiel Service. Deputy Dir Acquisition & Materiel Service.
Assoc Admr for Air Traffic.	Mgr. Contracts Division. Assoc. Administrator for Air Traffic. Dep Assoc Admin for Air Traffic. Manager, Procedures Division. Mgr. System Plans and Programs Division. Manager, Operations Division. Manager Quality Assurance Staff.
Air Traffic Operations Service.	Dir. Air Traffic Plans & Requirements Serv. Manager Automation Software Divison. Mgr. airspace-Rules & Aeronautical Inf. Div. Dir Air Traffic Operations Service.
Advanced Automation Program Office.	Dir, Advanced Automation Program Office. Dep Dir Advanced Auto Program Office. Mgr, System Engineering Division. Manager System Development Division.
Office of Airport Planning & Programming.	Dir., Office of Airport Planning & Program.
Assoc Admr for Aviation standards.	Mgr, Grants-In-Aid Division. Assoc Admr for Aviation Standards. Deputy Assoc Admr for Aviation Standards.
Office of Program & Regulation Management.	Dir, Olc of Prog and Regulations Mgt.
Office of Airworthiness	Director Office of Airworthiness. Deputy Director Office of Airworthiness. Manager, Aircraft Engineering Division.
Office of Civil Aviation Security.	Director, Office of Civil Aviation Security.
Office of Flight Operations.	Dir. Olc of Flight Operations. Deputy Director Office of Flight Operations. Mgr, General Aviation and Commercial Div.
Aviation Standards-National Field Office.	Mgr, Air Transportation Div. Dir, Aviation Standards Natl Field Olc.
Office of Aviation Medicine.	Deputy Director. Fed Air Surgeon. Deputy Federal Air Surgeon. Mgr. Aeromedical Stds Div. Mgr, Civil Aeromed Institute.
Mike Monroney Aeronautical Center.	Mgr, Air Traffic Division.
Great Lakes Region—Chicago.	Mgr, Flight Standards Division.
New England Region—Burlington, MA.	Mgr, Flight Standards Division.
Northwest Mountain Region—Seattle.	Mgr, Aircraft Certification Division. Mgr, Aircraft Certification Division.
	Mgr, Los Angeles Area, Aircraft Cert Olc.
	Mgr, Seattle Area Aircraft Cert Office.
Central Region—Kansas City.	Mgr. Flight Standards Div. Mgr, Air Traffic Division.
Eastern Region-New York.	Mgr, Flight Standards Div. Mgr, Aircraft Certification Division. Manager, Air Traffic Division.
	Mgr, Air Traffic Division. Mgr, Flight Standards Div.

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Southern Region-Atlanta.	Mgr, Flight Standards Division. Mgr, Air Traffic Division.
Southwest Region—Fort Worth.	Mgr, Air Traffic Div.
Western Pacific Region-Los Angeles.	Mgr, Flight Standards Div. Mgr, Aircraft Certification Division. Mgr, Flight Standards Div. Mgr, Air Traffic Division.
Federal Highway Administration.	Executive Director.
Assoc Admr for Admin	Director Office of Fiscal Services. Director Office of contracts and Procurement.
Assoc Admr for Safety Traffic Engr & Motor Carriers.	Assoc Admr/Safety Traffic Engrng & Motor Ors.
Office of Highway Safety.	Dir Olc of Highway Safety.
Assoc Admr for Right of Way and Environment.	Assoc Admr for Right-of-Way & Environment.
Off of Environmental Policy.	Dir Olc of Environmental Policy. Chief Environmental Operations Division.
Off of Right of Way	Director, Office of Right-of-Way Chief, Real Estate Division. Chief Relocation Division.
Bureau of Motor Carriers Safety.	Director. Dep Dir.
Natl Center for Statistics and Analysis.	Chf, Accident Investigation Div.
Vehicle Research and Test Ctr.	Chf Safety Research Lab.
Olc of Vehicle Safety Comp.	Chief, Validation Division.
Olc of Vehicle Safety Standards.	Chf Crash Avoidance Division. Chf Crashworthiness Division.
Us Coast Guard	Technical Director.
Department of Treasury	
Office of the Secretary	Senior National Intelligence Advisor.
Office of the General Counsel.	Chief Counsel.
Olc of the Inspector General.	Asst Inspector (Fiscal SVC/ADP). Assistant Inspector General. Assistant Inspector General (TOSCA). Asst Inspector General for Investigations.
Olc of Tax Analysis	Assistant Director (Revenue Forecasting). Senior Advisor (Economics).
Olc of Asst Secy (Economic Policy).	Asst Dir for Economic Forecasting. Senior Adv for Bal of Payments Anal & Proj.
Olc of the Fiscal Asst Secy.	Sr Economist. Fiscal Assistant Secretary. Deputy Fiscal Asst Secy.
Bureau of Governmental Financial Operations Financial.	Assistant Fiscal Assistant Secretary. Commr of Financial Management Service. Dep Com Financial Management Service. Assistant Commissioner, Information Systems. Asst Commissioner Federal Finance. Assistant Commissioner, Comptroller. Asst Commissioner Headquarters Operations. Asst Commissioner Field Operations. Director, Check Claims Group. Director Operations Group. Director, Systems Development Group. Director, Accounting Group. Director, Technology & Information Group. Asst Commissioner Administration. Director, Systems Development Group. Director, Technology & Information Group. Director, Working Capital Group.

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Positions That Were Career Reserved During Calendar Year 1985—Continued

Agency organization	Career reserved positions
Bureau of Public Debt	Commissioner.
	Dep Comm of the Public Debt.
	Asst Commissioner (Savings Bond Operations).
	Assistant Commissioner (Washington).
	Asst Comm (Financing).
	Asst Comm (Administration).
	Asst Commissioner (Automated Info Systems).
Federal Finance	Dir, Olc of Finance and Market Analysis.
Dep Asst Secy for Development Nations.	Dir Olc of International Debt Policy.
Olc of Foreign Exchange Operations.	Dir Olc of Foreign Exchange Operations.
Olc of the Comptroller of the Currency.	Dep Comptroller for Sys and Financial Mgmt.
Olc of the Chief Counsel.	Dir, Enforcement & Compliance.
	Dir, Litigation Div.
	Dir Legal Advisory Services Division.
Sr Dep Comptroller (Policy & Planning).	Dep Comp for Bank Organization and Structure.
Sr Dep Comptroller (Bank Supervision).	Senior Deputy Comptroller (Bank Supervision).
	Dep Comptroller for Internatl Rel & Fin Eval.
Special Surveillance	Dep Comptroller for Special Surveillance.
	Deputy Comptroller for Supervisory Analysis.
	Dir for Spec Projects.
Chief National Bank Examiner.	Deputy Comptroller for Trust and Securities.
	Chf National Bank Examiner.
	Assistant Chief National Bank Examiner.
Sr Dep Comptroller (National Operations).	Deputy Comptroller for Operations.
	Senior Deputy Comptroller for Natl Operations.
District Offices	Deputy Comptroller (Northeastern District).
	Deputy Comptroller of the Currency.
	Deputy Comptroller of the Currency.
	District Administrator (Midwestern District).
	District Administrator.
	Deputy Comptroller (Southeastern District).
	Deputy Comptroller (Southwestern District).
	District Administrator.
	District Administrator.
	Deputy Comptroller (Western District).
	District Administrator (Northeastern District).
	District Administrator (Central District).
Olc of Asst Sec Admin	Director, Officer of Procurement
Olc of Personnel	Dep Dir of Personnel.
	Asst Dir (Exec Manpower and Emp).
Bur of Alcohol, Tobacco, Firearms.	Assistant Director Internal Affairs.
	Regional Director for Investigations.
	Midwest Regl Counsel.
	Southeast Regl Counsel.
	Chief, Program Planning & Analysis Staff.
	North-Atlantic Regional Counsel.
	Regl Dir of Investigations, Atlanta, Georgia.
Deputy Director (Compliance Operations).	Deputy Director (Compliance Operations).
	Dep. Associate Dir. (Compliance Operations).
Deputy Director (Law Enforcement).	Deputy Director (Law Enforcement).
	Deputy Assoc Dir (Law Enforcement).
	Special Agent in Charge, Chicago Disl Off.
Comptroller	Director, Laboratory Services
Olc of the Chief Counsel.	Asst Chief Counsel (Customs Court Litigat).
	Miami Regl Counsel.

Positions That Were Career Reserved During Calendar Year 1985—Continued

Agency organization	Career reserved positions
	Chicago Regl Counsel.
	New York Regl Counsel.
	Regional Counsel (Pacific Region).
Office of the Comptroller.	Dir Olc of Financial Mgmt & Prog Analysis.
	Director, Olc of Data Systems.
	Dir Budget and Planning.
	Director, Office of Human Resources.
Olc of Asst Comm for Internal Affairs.	Asst Commissioner for Internal Affairs.
	Dep. Asst. Commissioner—Olc. Internal Affairs.
Olc of Asst Comm for Enforcement.	Deputy Assistant Commissioner (Enforcement).
	Dir Olc of Petrol.
	Dir Olc of Investigations.
Olc of Asst Comm for Inspection & Control.	Asst Commr (Inspection & Control).
	Deputy Asst Commr (Inspection & Control).
Olc of Asst Comm for Commercial Operations.	Director, Technical Services Div.
	Director, Classification and Value Division.
	Dir Olc of Regulations and Rulings.
	Director, Entry Procedures & Penalties Div.
	Dir Duty Assessment Div.
	Dir Olc of Trade Operations.
Regional Offices	Regl Commr Reg 2 NY.
	Reg Commr, Reg 1, Boston.
	Regl Commr of Customs, Reg 7, Los Angeles.
	Asst Regn Commr Operations Reg II, New York.
	Regl Commr, Reg 4, Miami.
	Regl Commr, Reg V, New Orleans.
	Reg Commr of Customs Reg VI.
	Regional Commissioner, Chicago.
	Asst Regional Commr (Operations).
	Asst Regl Commr (Operations).
	Asst Regl Commr (Operations).
	Asst Regl Commr (Operations).
	Asst Regional Commr (Operations).
	Asst Regional Commissioner LA (Enforcement).
	Asst Regional Commissioner Enforcement.
	Deputy Regional Commissioner, Pacific Region.
	Area Director, JFK Airport.
	Area Director, New York Seaport.
	Asst Regl Commr—Houston (Enforcement).
	Asst Regl Commr—Miami (Enforcement).
	District Director, Los Angeles.
	Asst Regl Commr (Enforcement).
	Asst Regional Commissioner (Enforcement).
US Secret Service	Director of the Secret Service
	Deputy Director U.S. Secret Service.
	Asst to the Dir, Training.
	Ast to the Dir, Pub Affs.
	Assistant to the Director (Interpol—USNCB).
Olc of Administration	Assistant Director, Administration.
Olc of Inspection	Assistant Director Inspection.
Olc of Protective Research.	Asst Dir (Protective Research).
	Dep. Asst. Dir. (Protective Research).
	Spec Agent in Charge—Tech Sec Div.
	Spec Agent in Charge—Intelligence Div.
Olc of Protective Operations.	Asst Dir (Protective Operations).
	Dep Asst Dir (Protective Operations).
	Spec Agent in Charge—Presidential Protective.
	DAD Protective Opers (Uniformed Div).

Positions That Were Career Reserved During Calendar Year 1985—Continued

Agency organization	Career reserved positions
	Spec Agent in Charge—VP Protect Div.
	Deputy Asst Dir Protective Operations.
	Spec Agent in Charge Dignitary Protective Div.
	Deputy Special Agent in Charge Pres Prot Div.
	Deputy Special Agent in Charge.
Office of Investigations	Asst Director, Investigations.
	Dep Asst Dir Investigations.
	Special Agent in Charge, New York, Office.
	Dep Spec Agent in Charge—NY Field Office.
	Special Agent in Charge, Chicago.
	Special Agent in Charge, Los Angeles Office.
	Spec Agent in Charge—Washington Field Office.
	Spec Agent in Charge—Philadelphia Field Office.
Olc of the Treasurer of the US.	Dir of Special Projects (Manufacturing).
Bureau of the Mint	Associate Director of Operations.
	Assoc Dir of Pol & Management.
Olc of the Commissioner.	Deputy Commissioner.
	Asst to the Deputy Commissioner.
	Asst to the Commissioner (Public Affairs).
	Director, Legislative Analysis Division.
	Asst to the Commissioner (Equal Opportunity).
	Taxpayer Ombudsman.
Appeals Division	Director, Appeals Division.
	Regl Dir of Appeals—Central Region.
	Reg Dir of Appeals, Mid-Atlantic Region.
	Regl Dir of Appeals—Southwest Reg.
	Regl Dir of Appeals—Southeast Reg.
	Regional Dir of Appeals North Atlantic Region.
	Regl Dir of Appeals, Midwest Reg.
	Regional Director of Appeals—Western Region.
	Chief Appeals Office New York City.
Data Processing	Assoc Commr (Data Processing).
	Director, Taxpayer Service Division.
	Director, National Computer Center.
	Dir, Returns Processing and Accounting Div.
	Director Planning and Control Staff.
	Dir, Program Planning & Review Staff.
	Asst Dir Returns Processing & Accounting Div.
	Dep Asst Commissioner (Computer Services).
	Director, Statistics of Income Division.
	Assistant Commissioner (Tax System Redesign).
	Dep Asst Commr (Returns & Info Processing).
	Director, Management Systems Division.
	Asst Dir, Statistics of Income Division.
	Assistant Dir, Taxpayer Service Division.
	Asst Commissioner (R&IP).
	Director, Hardware Division.
	Assistant Director Software Division.
	Director, Software Division.
	Asst Commr (Computer Services).
Olc of Asst Commr, Inspection.	Assistant Commissioner (Inspection).
	Dep Asst Commr (Inspection).
	Director, Internal Audit Div.
	Assistant Director Internal Audit Division.

Positions That Were Career Reserved During Calendar Year 1985—Continued

Agency organization	Career reserved positions
	Director, Internal Security Division.
	Asst Dir, Internal Security Division.
	Regional Inspector, Midwest Reg.
	Regional Inspector, North Atlantic.
	Regional Inspector Western Region.
	Regional Inspector, Southwest Reg.
	Regional Inspector, Mid-Atlantic Reg.
	Regional Inspector, Central.
	Regional Inspector Southeast.
Policy and Mangement	Associate Commissioner (Policy and Mgmt).
	Dir, Tax Forms & Publications Div.
	Dir, IRS Data Center Detroit.
	Dir, Finance Division.
	Dir, Facilities Mgt Div.
	Dir, Resources Management Div.
	Director, Tax Administration Adv Serv Div.
	Asst Commr (Planning, Finance & Research).
	Dep Asst Commissioner (Support and Services).
	Dep Asst Commr (Planning, Finance & Resch).
	Asst Dir, Disclosure & Security Division.
	Director Centralized Service Division.
	Director, Human Resources Technology Staff.
	Director, Personnel Division.
	Assistant Commissioner (Support & Services).
	Director, Training and Dev Div.
	Director, Planning and Analysis Division.
	Director, Disclosure and Security Division.
	Dep Asst Commr (Human Resources).
	Director, Research Division.
	Assistant Dir, Tax Forms & Publications Div.
	Asst Fiscal Management Officer.
	Assistant Commissioner (Human Resources).
Central Region	Regional Commr.
	ARC (Examination) Central Region.
	Asst Regional Commissioner (Criminal Invest).
	Asst Regl Comm (Resource Management).
	Assistant Regional Commissioner (Collection).
	Asst Regl Commissioner (Data Processing).
	Dir Service Ctr Cincinnati.
	District Dir (Cleveland).
	District Director Detroit.
	District Director (Parkersburg).
	District Director, Indianapolis.
	District Director, Louisville.
	District Dir, Cincinnati.
	Asst District Director, Cleveland.
	Assistant District Director Detroit.
	Assistant Regional Commissioner (Examination).
Mid-Atlantic Region	Regl Commissioner.
	ARC (Examination) Mid-Atlantic.
	ARC (Criminal Investigation) Mid-Atlantic Reg.
	Asst Regl Commr (Collection).
	Assistant Regional Commissioner (Data Proc).
	Service Center Dir, Philadelphia.
	District Dir, Newark.
	District Dir, Philadelphia.
	District Dir, Pittsburgh.
	District Director Richmond District.
	Asst District Dir, Philadelphia.
	Asst District Director (Newark).
	Assistant District Director—Baltimore, MD.
	District Director, Wilmington.
	District Dir, Baltimore.

Positions That Were Career Reserved During Calendar Year 1985—Continued

Agency organization	Career reserved positions
	Director, Foreign Operations District.
	Asst Regl Commissioner (Resources Mgmt).
Midwest Region	Regional Commr, Midwest Region.
	Asst Regl Commr (Resources Mgmt).
	ARC (Criminal Investigation) Midwest Region.
	Assistant Regional Commissioner (Data Proc).
	ARC (Examination), Midwest Region.
	ARC (Collection) Midwest Region.
	Srvc Ctr Dir, Kansas City.
	District Dir, Chicago.
	District Director St Louis.
	District Dir, Des Moines.
	District Dir, St Paul.
	District Dir, Omaha.
	District Dir, Springfield.
	District Dir, Milwaukee.
	Asst District Dir, Chicago.
	Asst District Dir, St Louis.
	District Director, Fargo.
	District Director, Aberdeen.
	Chief, Examination Division.
	District Director, Helena.
North Atlantic Region	Regl Commr.
	Asst Regl Commr (Exam) North Atlantic Reg.
	ARC (Criminal Investigating).
	ARC (Resources Mgmt).
	ARC (Collection) North Atlantic Region.
	Assistant Regional Commissioner (Data Proc).
	Service Center Director, Andover, Mass.
	Srvc Ctr Dir, Brookhaven.
	District Dir, Manhattan.
	District Dir, Brooklyn.
	District Dir Boston.
	Chief Examination Div Manhattan.
	District Dir, Albany.
	Dist Dir (Hartford).
	District Dir, Buffalo.
	Asst Dist Dir, Brooklyn.
	Assistant District Director Manhattan.
	Asst District Dir, Boston.
	District Director Providence.
	Dist Dir, Augusta.
	District Director, Portsmouth.
	District Director, Burlington.
Southeast Region	Regl Commr.
	ARC (Examination) Southeast Region.
	Asst Reg Commissioner—Criminal Investigation.
	Asst Regl Commr (Resources Management).
	Asst Regl Commr (Collection)—SE Reg Atlanta.
	Assistant Regional Commissioner (Data Proc).
	Service Center Director, Memphis.
	Srvc Ctr Dir, Atlanta.
	District Dir, Jacksonville.
	District Dir, Atlanta.
	District Director Greensboro.
	District Dir, Nashville.
	District Director Birmingham.
	District Dir, New Orleans.
	District Director, Columbia.
	District Director Little Rock District.
	District Director, Jackson, Miss.
	Asst District Director, Jacksonville.
	Assistant District Director, Atlanta.
Southwest Region	Regional Commr.
	Asst Regl Commr (Examination).
	ARC (Criminal Investigation) SW Region.
	ARC (Resources Mgmt).
	Assistant Regional Commissioner (Collection).
	Assistant Regional Commissioner (Data Proc).
	Service Center Dir, Ogden.

Positions That Were Career Reserved During Calendar Year 1985—Continued

Agency organization	Career reserved positions
	Service Center Director, Austin.
	District Dir, Austin.
	District Director, Dallas.
	District Director Wichita.
	District Director Oklahoma City.
	District Dir, Phoenix.
	District Dir, Denver.
	Asst Dist Dir, Austin.
	Assistant District Director Dallas.
	District Director, Albuquerque.
	District Director, Cheyenne.
	District Director, Salt Lake City.
	Assistant District Director, Houston.
Western Region	District Director, Houston.
	Regl Commr.
	ARC (Criminal Investigation).
	Assistant Regional Commissioner (Data Proc).
	Asst Regional Commissioner (Examination).
	Asst Regl Commr (Collection).
	Asst Regl Comm (Resources Management).
	Service Center Director, Fresno.
	District Dir, Los Angeles.
	District Dir, San Francisco.
	District Dir Reno.
	District Director Portland District.
	District Dir, Seattle.
	Asst District Dir, Los Angeles.
	Asst Dist Dir San Francisco.
	District Director, Honolulu.
	District Director Anchorage.
	District Director Boise.
	Chf, Examination Div. Los Angeles.
	District Director (Sacramento).
	District Director, San Jose.
	Assistant District Director, Laguna Niguel.
	District Director, Laguna Niguel.
Operations	Assoc Commr (Operations).
	Asst Comm'r (Employee Plans & Exemp & Organiza.
	Special Asst for Exempt Organization Matters.
	Spec Asst for Employee Plans.
	Assistant Commissioner (Examination).
	Asst Commr (Criminal Investigation).
	Dir Exempt Organizations Technical Division.
	Dir Employee Plans & Exempt Org Oper Div.
	D/Employee Plans Tech & Actuarial Division.
	Deputy Assistant Commissioner (Examination).
	Dep Asst Commr (Criminal Investigation).
	Asst/Dir Exempt Organizations Techn Division.
	Asst/Dir Employee Plans Techn & Actuarial Div.
	Tech Adv/Asst to Dir. Employee Plans Div.
	D/A Commissioner (Employee Plans & Exempt Orgs).
	Dep Asst Commr (Collection).
	Assistant Commissioner (Collection).
Olc of Chf Counsel	Deputy Chief Counsel.
	Associate Chief Counsel (Technical).
	Associate Chief Counsel (Litigation).
	Deputy Associate Chief Counsel (Technical).
	Deputy Associate Chief Counsel (Litigation).
	Director Individual Income Tax Div.
	Director, Corporation Tax Division.
	Tech Adv to Dir-Corp Tax Div.
	Chf, Corporation Tax Branch.
	Chf Individual Income Tax Branch.
	Chief, Engineering & Valuation Branch Corp Ts.
	Asst Dir. Individual Tax Division.

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POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
Regl. Counsels	Asst Dir. Corporation Tax Div.
	Dir. General Litigation Div.
	Dir. Tax Litigation Div.
	Dir. Interpretative Div.
	Dir. Legislation & Regulations Div.
	Director, Operations Division.
	Dir. Criminal Tax Div.
	Dir. Gen Legal Services Div.
	Director, Disclosure Litigation Division.
	Dir-Employee Plans & Exempt Org Div.
	Asst Dir Tax Litigation Div.
	Asst Dir Interpretative Div.
	Asst Dir. Legislation & Regulations Div.
	Chf Estate & Gift, Wage Excise & Prov Br.
	Chief, Reorganization Branch.
	Special Appellate Counsel.
	Sen Tech Adv to the Assoc Chf Counsel (Tech).
	Assistant to the Chief Counsel.
	Assistant to the Chief Counsel.
	Special Litigation Counsel.
	Assoc Chief Counsel (International).
	Regl Counsel, Central Reg.
	Dep Regl Counsel (Criminal Tax).
	Regional Counsel, Mid-Atlantic Region.
	Dep Regl Counsel (Criminal Tax).
	Regl Counsel Midwest Region.
	Dep Regl Counsel (Criminal Tax).
	Dep Regl Counsel (General Litigat).
	Regl Counsel, North Atlantic Region.
	Dep Regl Coun (Tax Litigat) No-Atlantic Reg.
	Deputy Regional Counsel (General Litigation).
	Regional Counsel SE Region.
	Regl Counsel Southwest Region.
	Regional Counsel.
	Dep Regl Counsel (Gen Litigation).
	District Counsel-Boston.
	District Counsel-Los Angeles.
	District Counsel Cincinnati.
	District Counsel-Philadelphia.
	District Counsel-Newark.
	District Counsel-Chicago.
	District Counsel-Manhattan.
	District Counsel-Dallas.
	District Counsel-San Francisco.
	Deputy Regional Counsel (Tax Litigation).

POSITIONS THAT WERE CAREER RESERVED DURING CALENDAR YEAR 1985—Continued

Agency organization	Career reserved positions
	District Counsel Miami.
	District Counsel, Jacksonville, Florida.
	District Counsel, Washington, DC.
	District Counsel, Houston, Texas.
US Arms Control and Disarmament Agency	
Office of the Director	Executive Secretary.
Verification and Intelligence Bureau.	Chief, Verification Division Ver & Intell Bur.
	Chief, Operations Anayals Division.
	Senior Operations Research Analyst.
Ofc of Administration	Administrative Director.
Strategic Programs Bureau.	Deputy Assistant Director.
Theatre Affairs Division	Chief, Theatre Affairs Division.
	Chief, Theater Affairs Division-A886.
Strategic Affairs Division.	Chf, Strategic Affs Div.
	Chief, Strategic Affairs Division A-977.
Nuclear and Weapons Control Bureau.	Chief, Def Prog & Analysis Div.
	Chf, Arms Transfer Div.
	Chf, Nuclear Safeguards & Technology Div.
	Chief, International Nuclear Affairs Division.
Multilateral Affairs Bureau.	Chief Scientist.
	Chief Scientist.
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US International Trade Commission	
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	Executive Asst to Inspector General.
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	Dep Asst for Inspec General for Hdqrs Audits.
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	Project Dir Southern Region.
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[FR Doc. 86-8802 Filed 4-23-86; 8:45 am]

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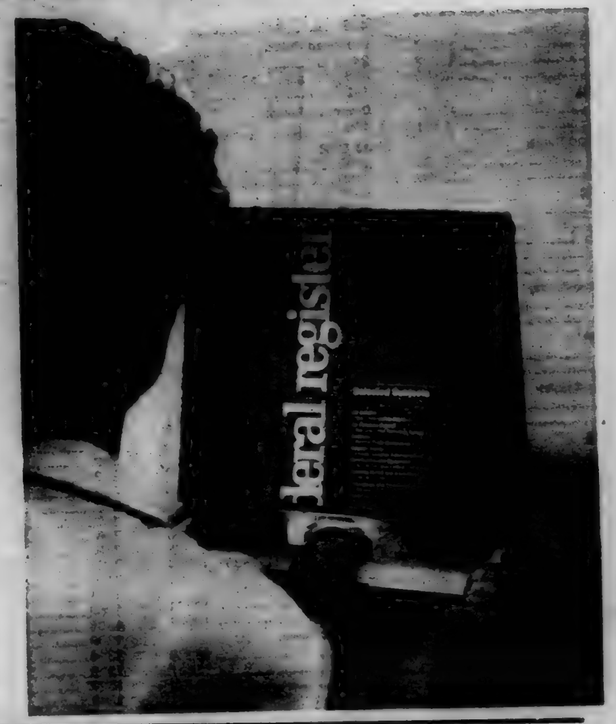
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WASHINGTON, DC

WHEN: May 15; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Laurence Davey, 202-523-3517

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Rules and Regulations

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AWP-5]

Transition Area Revocation; Kaanapali, HI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this action is to revoke the 700 foot transition area currently designated for Kaanapali, Hawaii. This will return the associated 700 foot area to a 1,200 foot transition area. The Kaanapali, Hawaii, Airport has been permanently closed.

EFFECTIVE DATE: 0901 UTC, July 3, 1986.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace Specialist, Airspace Branch, AWP-520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90260; telephone (213) 297-1649.

SUPPLEMENTARY INFORMATION:

The Rule

This amendment to Part 71.181 of the Federal Aviation Regulations revokes the transition area currently designated for Kaanapali, Hawaii, and returns the associated 700 foot area to a 1,200 foot area. I find that notice and public procedure under 5 U.S.C. 553(b) are unnecessary because this action is a minor amendment in which the public would not be particularly interested. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Transition Areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Kaanapali, HI—[Removed]

Issued in Los Angeles, California, on April 17, 1986.

Lloyd Golden,
Acting Air Traffic Manager, Western Pacific Region.

[FR Doc. 86-9253 Filed 4-24-86; 8:45 am]
BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AWP-4]

Amended Control Zone Hours, Saipan, Mariana Islands, CM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; Request for comments.

SUMMARY: There has been a significant increase in instrument flight rules (IFR) traffic during all hours to Saipan International Airport, Mariana Islands, CM. This amendment will amend the effective hours for the Saipan control zone and provide controlled airspace for all IFR traffic. The Saipan control zone will be a full time control zone.

DATES: Effective date—0901 UTC, July 3, 1986.

Comments must be received on or before June 16, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Attn: Manager, Airspace Branch, AWP-520, Docket No. 86-AWP-4, Air Traffic Division, P.O. Box 90027, WWPC, Los Angeles, California 90009.

The official docket may be examined in the Office of the Regional Counsel, Western-Pacific Region, Federal Aviation Administration, Room 6W14, 15000 Aviation Boulevard, Lawndale, California.

An informal docket may also be examined during normal business hours at the Office of the Manager, Airspace Branch, Air Traffic Division, at the above address.

FOR FURTHER INFORMATION CONTACT: Frank T. Torikai, Airspace Specialist, Airspace Branch, AWP-520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90260; telephone (213) 297-1649.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves changing the Saipan, Mariana Islands, CM, control zone from a part-time to a full time control zone, and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental,

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and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to amend the effective hours of the Saipan, Mariana Islands, CM, control zone. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

Under the circumstances presented, the FAA concludes that there is an immediate need for a regulation to amend the hours of the Saipan control zone. Therefore, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest. For the same reasons, I find that good cause exists for making this amendment effective coincident with the next charting date.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is/are (further) amended as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 108(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

Part 71—[Amended]

§ 71.171 [Amended]

2. § 71.171 is amended as follows:

Saipan Island, Mariana Islands, CM—[Amended]

Within a 5-mile radius of Saipan International Airport (lat. 15°07'13" N., long. 145°43'40" E.), and within 3 miles each side of the Saipan RBN (lat. 15°06'46" N., long. 145°42'42" E.) 286° bearing, extending from the 5-mile radius zone to 8.5 miles west of the RBN, and within 2 miles each side of the extended centerline of the east/west runway extending from the 5-mile radius zone to 7.5 miles east of Saipan International Airport.

Issued in Los Angeles, California, on April 17, 1986.

B. Keith Potts,

Acting Director, Western-Pacific Region.

[FR Doc. 86-9252 Filed 4-24-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 24971; Amdt. No. 1319]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number. This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard Instrument, Incorporation by reference, Aviation safety.

Issued in Washington, D.C. on April 18, 1986.

John S. Kern,

Director of Flight Standards.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.49(b)(2)).

PART 97—[AMENDED]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV, SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . effective 3 July 1986

Pago Pago, American Samoa—Pago Pago Intl, ILS/DME RWY 5, Amdt. 12
Walnut Ridge, AR—Walnut Ridge Regional, NDB RWY 17, Amdt. 2, CANCELLED
Walnut Ridge, AR—Walnut Ridge Regional, NDB RWY 17, Orig

. . . effective 5 June 1986

Huntsville, AL—Huntsville-Madison Co ARPT-Carl T Jones Field, NDB RWY 18R, Amdt. 11
Huntsville, AL—Huntsville-Madison Co ARPT-Carl T Jones Field, ILS RWY 18R, Amdt. 18
Huntsville, AL—Huntsville-Madison Co ARPT-Carl T Jones Field, ILS RWY 36L, Amdt. 5
Key West, FL—Key West Intl, VOR-B, Amdt. 8
Key West, FL—Key West Intl, NDB-A, Amdt. 12
Orlando, FL—Orlando Executive, VOR RWY 13, Amdt. 13
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Lexington, NC—Lexington Muni, NDB RWY 8, Amdt. 4
Lorain/Elyria, OH—Lorain County Regional, VOR RWY 7, Amdt. 11
Lorain/Elyria, OH—Lorain County Regional, ILS RWY 7, Amdt. 4
Allentown, PA—Allentown-Bethlehem-Easton, ILS RWY 13, Amdt. 5
Bradford, PA—Bradford Regional, ILS RWY 32, Amdt. 9
Clearfield, PA—Clearfield-Lawrence, VOR RWY 30, Amdt. 4
Corry, PA—Corry Lawrence, VOR RWY 32, Amdt. 3
Hazleton, PA—Hazleton Muni, VOR RWY 10, Amdt. 10
LaTrobe, PA—Westmoreland County, LOC BC RWY 5, Amdt. 7, CANCELLED
Rock Hill, SC—Bryant Field, VOR-A, Amdt. 6
Rock Hill, SC—Bryant Field, RNAV RWY 1, Amdt. 2
Aberdeen, SD—Aberdeen Regional, VOR RWY 31, Amdt. 18
Aberdeen, SD—Aberdeen Regional, VOR/DME or TACAN RWY 13, Amdt. 10
Aberdeen, SD—Aberdeen Regional, LOC/DME BC RWY 13, Amdt. 8
Aberdeen, SD—Aberdeen Regional, NDB RWY 31, Amdt. 8
Aberdeen, SD—Aberdeen Regional, ILS RWY 31, Amdt. 10
Huron, SD—Huron Regional, VOR RWY 12, Amdt. 19
Huron, SD—Huron Regional, LOC/DME BC RWY 30, Amdt. 9
Huron, SD—Huron Regional, NDB RWY 12, Amdt. 16
Huron, SD—Huron Regional, ILS RWY 12, Amdt. 7
Watertown, SD—Watertown Muni, VOR or TACAN RWY 17, Amdt. 13
Watertown, SD—Watertown Muni, VOR/DME or TACAN RWY 35, Amdt. 9
Watertown, SD—Watertown Muni, LOC/DME BC RWY 17, Amdt. 7
Watertown, SD—Watertown Muni, NDB RWY 35, Amdt. 5
Dallas, TX—Dallas-Love Field, LOC BC RWY 31R, Amdt. 28, CANCELLED
Staunton-Waynesboro/Harrisonburg, VA—Shenandoah Valley, NDB RWY 4, Amdt. 8
Staunton-Waynesboro/Harrisonburg, VA—Shenandoah Valley, ILS RWY 4, Amdt. 6

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Berkeley Springs, WV—Potomac Airpark, VOR RWY 26, Amdt. 4
Prairie Du Chien, WI—Prairie Du Chien Muni, VOR/DME RWY 29, Amdt. 5

. . . effective 15 April 1986

Raleigh-Durham, NC—Raleigh Durham, RADAR-1, Amdt. 4

. . . effective 9 April 1986

Afton, OK—Shangri-La, RNAV RWY 17, Amdt. 1
Afton, OK—Shangri-La, RNAV RWY 35, Amdt. 1
Grove, OK—Grove Muni, RNAV RWY 18, Amdt. 2
Grove, OK—Grove Muni, RNAV RWY 36, Amdt. 2
Bluefield, WV—Mercer County, ILS RWY 23, Amdt. 9

. . . effective 8 April 1986

Raleigh-Durham, NC—Raleigh-Durham, ILS RWY 23R, Amdt. 1

The FAA published an Amendment in Docket No. 24980, Amdt. No. 1318, to Part 97 of the Federal Aviation Regulations (VOL 51 FR No. 70 Page 12515; dated 11 APR 86) under § 97.35, effective 8 MAY 1986, which is hereby amended as follows:

ASTORIA, OR—PORT OF ASTORIA, COPTER ILS/DME 255–B, ORIG., IS RESCINDED.

[FR Doc. 86-9251 Filed 4-24-86; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage From New Animal Drugs Not Subject to Certification; Gentamicin Sulfate Injection

AGENCY: Food and Drug Administration HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Med-Tech, Inc., providing for use of gentamicin sulfate injection in the treatment of urinary tract infections (cystitis) in dogs.

EFFECTIVE DATE: April 25, 1986.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Center for Veterinary Medicine (HFV–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1963.

SUPPLEMENTARY INFORMATION: Med-Tech, Inc., P.O. Box 338, Elwood, KS 66024, filed NADA 137–310 for gentamicin sulfate injection (50 milligrams per milliliter). The drug is for intramuscular or subcutaneous injection in dogs for the treatment of urinary tract infections (cystitis) caused by *Proteus mirabilis, Escherichia coli,* and *Staphylococcus aureus.* The NADA is approved and the regulations amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FROM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 522 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Section 522.1044 is amended by adding new paragraphs (b)(3) and (d)(5) to read as follows:

§ 522.1044 Gentamicin sulfate injection.

* * * * *

(b) * * *

(3) See No. 013983 for use of 50 milligram-per-milliliter solution in dogs as in paragraph (d)(5) of this section.

* * * * *

(d) * * *

(5) *Dogs.*—(i) *Amount.* 2 milligrams of gentamicin per pound of body weight, twice daily on the first day, then once daily.

(ii) *Indications for use.* For use in the treatment of urinary tract infections (cystitis) caused by *Proteus mirabilis, Escherichia coli,* and *Staphylococcus aureus.*

(iii) *Limitations.* Administer intramuscularly or subcutaneously. If no improvement is seen after 3 days, treatment should be discontinued and the diagnosis reevaluated. Treatment not to exceed 7 days. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Dated: April 21, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86-9267 Filed 4-24-86; 8:45 am]
BILLING CODE 4160-01-M

21 CFR Parts 601, 610, 620, 630, 640, 650, 660, and 680

[Docket No. 86N-0113]

Biological Products; Corrections and Technical Amendments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations on biological products to correct editorial and typographical errors and to make minor, noncontroversial, technical revisions.

DATES: Effective April 25, 1986; written comments by May 27, 1986.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph G. Wilczek, Center for Drugs and Biologics (HFN–362), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8049.

SUPPLEMENTARY INFORMATION: FDA is amending certain of its biological products regulations to correct editorial and typographical errors. FDA is also making certain revisions in § 610.53 in the table of dating periods for licensed biological products. These changes represent current practice with respect to the storage periods for various products. FDA has accepted these periods in submitted license applications.

Because this final rule is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest (5 U.S.C. 553 (b)(B) and (d)). This final rule, therefore, is effective April 25, 1986. However, interested persons may, on or before May 27, 1986, submit written comments to the Dockets Management Branch (address above).

FDA has analyzed the regulatory impact of this rule in accordance with Executive Order 12291 and the Regulatory Flexibility Act (Pub. L. 96–354). The rule amends the regulations on biological products to correct editorial and typographical errors and to make minor technical revisions. Therefore, the agency has determined that the rule is not a major rule as defined in Executive Order 12291. Further, FDA certifies that the rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act.

The agency has determined under 21 CFR 25.24(a)(9) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 601

Biologics.

21 CFR Part 610

Biologics; Labeling; Reporting and recordkeeping requirements.

21 CFR Part 620

Biologics; Reporting and recordkeeping requirements.

21 CFR Part 630

Biologics.

21 CFR Part 640

Blood; Labeling; Reporting and recordkeeping requirements.

21 CFR Part 650

Biologics.

21 CFR Part 660

Biologics; Labeling.

21 CFR Part 680

Biologics; Blood.

Therefore, under the Public Health Service Act and under the authority delegated to the Commissioner of Food and Drugs, Parts 601, 610, 620, 630, 640, 650, 660, and 680 are amended as follows:

PART 601—LICENSING

1. The authority citation for 21 CFR Part 601 is revised to read as follows:

Authority: Secs. 215, 351, 58 Stat. 690 as amended, 702 as amended (42 U.S.C. 216, 262); 21 CFR 5.10.

§ 601.25 [Amended]

2. Section 601.25 *Review procedures to determine that licensed biological products are safe, effective, and not misbranded under prescribed, recommended, or suggested conditions of use* is amended in paragraph (d)(2) by changing "§ 314.111(a)(5)(ii)" to read "§ 314.126."

PART 610—GENERAL BIOLOGICAL PRODUCT STANDARDS

3. The authority citation for 21 CFR Part 610 is revised to read as follows:

Authority: Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262); 21 CFR 5.10.

§ 610.9 [Amended]

4. In § 610.9 *Equivalent methods and processes,* in paragraph (b) changing "20205" to read "20892."

§ 610.11 [Amended]

5. In § 610.11 *General safety,* in the introductory paragraph, in the introductory text of paragraph (c), (c)(2), and (3) by changing the reference "paragraph (f) of this section" to read "§ 610.9" wherever it appears.

§ 610.15 [Amended]

6. In § 610.15 *Constituent materials,* in the introductory text of praragraph (a) by revising in the second sentence the word "use" to read "used," and in the third sentence by changing "in 50 percent or more glycerin" to read "in 50 percent or more volume in volume (v/v) glycerin."

§ 610.40 [Amended]

7. In § 610.40 *Test for hepatitis B surface antigen,* paragraphs (b)(4), (d)(1)(v), and (d)(2)(iv), by changing "20205" to read "20892."

8. Section 610.53 is amended in paragraph (c) by revising the table to read as follows:

§ 610.53 Dating periods for licensed biological products.

* * * * *

(c) * * *

Product A	Manufacturer's storage period 1 to 5 °C (unless otherwise stated) B	Manufacturer's storage period 0 °C or colder (unless otherwise stated) C	Dating period after leaving manufacturer's storage when stored at 2 to 8 °C (unless otherwise stated) D
Adenovirus Vaccine Live Oral	6 months	Not applicable	6 months.
Albumin (Human)	3 years	do	(a) 5 years.
	do	do	(b) 3 years, provided labeling recommends storage at room temperature, no warmer than 37 °C.
	Not applicable	do	(c) 10 years, if in a hermetically sealed metal container and provided labeling recommends storage between 2 and 8 °C.
Allergenic Extracts labeled "No U.S. Standard of Potency":			
1. With 50 percent or more glycerin	3 years	do	3 years.
2. With less than 50 percent glycerin	18 months	do	18 months.
3. Products for which cold storage conditions are inappropriate	Not applicable	do	18 months (from date of manufacture), provided labeling recommends storage at 30 °C or colder.
4. Powders and tablets	do	do	5 years (from date of manufacture), provided labeling recommends storage at 30 °C or colder.
5. Freeze-dried products:			
a. Unreconstituted	do	do	4 years (from date of manufacture).
b. Reconstituted	do	do	18 months (cannot exceed 4-year unreconstituted dating period plus an additional 12 months).
Allergenic Extracts, Alum Precipitated labeled "No U.S. Standard of Potency"	18 months	do	18 months.
Anthrax Vaccine Adsorbed	2 years	do	1 year.
Antibody to Hepatitis B Surface Antigen:			
1. Antibody to Hepatitis B Surface Antigen	6 months	do	6 months.
2. Lyophilized coated red blood cells	do	do	Do.
3. Enzyme conjugated products	do	do	Do.
Iodinated (^{125}I) products	Not applicable	do	45 days (from date of manufacture).
Antihemophilic Factor (Human)	do	do	1 year (from date of manufacture).

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Product	Manufacturer's storage period 1 to 5 °C (unless otherwise stated)	Manufacturer's storage period 0 °C or colder (unless otherwise stated)	Dating period after leaving manufacturer's storage when stored at 2 to 8 °C (unless otherwise stated)
A	B	C	D
Anti-Human Globulin Liquid	do	do	2 years.
Anti-Inhibitor Coagulant Complex	do	do	Do.
Antirabies Serum	1 year	do	Do.
Antivenin (Crotalidae) Polyvalent	do	do	5 years with an initial 10 percent excess of potency, provided labeling recommends storage at 37 °C or colder.
Antivenin (Latrodectus Mactans)	do	do	5 years with an initial 10 percent excess of potency.
Antivenin (Micrurus fulvius)	do	do	Do.
Asparaginase	Not applicable	do	18 months from the date of the last valid potency test.
BCG Vaccine	1 year	Not applicable	6 months.
Blood Grouping Serums:			
1. Liquid	Not applicable	Not applicable	2 years.
2. Dried	1 year	2 years	5 years.
Blood Group Substance AB	do	do	2 years.
Blood Group Substance A	do	do	Do.
Blood Group Substance B	do	do	Do.
Botulism Antitoxin	do	Not applicable	5 years with an initial 30 percent excess of potency.
Cholera Vaccine	do	do	18 months.
Coccidioidin	do	do	3 years.
Collagenase	Not applicable	do	4 years (from date of manufacture), provided labeling recommends storage at 37 °C or colder.
Cryoprecipitated AFH	do	do	12 months from the date of collection of source blood, provided labeling recommends storage at −18 °C or colder.
Diphtheria Antitoxin:			
1. Liquid	1 year	do	5 years with an initial 20 percent excess of potency.
2. Dried	do	2 years	5 years with an initial 10 percent excess of potency.
Diphtheria and Tetanus Toxoids and Pertussis Vaccine Adsorbed	do	Not applicable	18 months.
Diphtheria and Tetanus Toxoids, Adsorbed	do	do	2 years.
Diphtheria Toxin for Schick Test	do	do	1 year.
Diphtheria Toxoid	do	do	2 years.
Diphtheria Toxoid Adsorbed	do	2 years	Do.
Diphtheria Toxoid-Schick Test Control	Not applicable	Not applicable	1 year.
Factor IX Complex	do	do	1 year (from date of manufacture).
Fibrinolysin (Human)	1 year	2 years	2 years.
Fibrinolysin and Desoxyribonuclease Combined (Bovine)	do	do	3 years, provided labeling recommends storage at 30 °C or colder.
Fibrinolysin and Desoxyribonuclease Combined (Bovine) with Chloramphenicol	do	do	Do.
Hepatitis B Surface Antigen:			
1. Unlyophilized coated red blood cells	Not applicable	do	14 days (from date of manufacture).
2. Iodinated (^{125}I) product	do	do	45 days (from date of manufacture).
3. Enzyme conjugated product	6 months	do	6 months.
Histoplasmin	1 year	Not applicable	2 years.
Immunoglobulins:			
1. Hepatitis B Immune Globulin (Human)	Not applicable	2 year	1 year.
2. Immune Globulin (Human)	3 years	do	3 years.
3. Immune Globulin Intravenous (Human)	Not applicable	do	1 year.
4. Lymphocyte Immune Globulin, Anti-Thymocyte Globulin (Equine)	do	Not applicable	2 years.
5. Pertussis Immune Globulin (Human)	3 years	do	3 years from date the dried or frozen bulk product is placed in final solution.
6. Rabies Immune Globulin (Human)	1 years	do	1 year.
7. Rh$_0$(D) Immune Globulin (Human)	6 months	do	6 months.
8. Tetanus Immune Globulin (Human)	1 year	do	3 years with an initial 10 percent excess of potency.
9. Vaccinia Immune Globulin (Human)	3 years	do	3 years.
10. Varicella-Zoster Immune Globulin (Human)	Not applicable	do	1 year.
Hepatitis B Vaccine	2 years at 12 to 8 °C	Not applicable	3 years.
Influenza Virus Vaccine	1 year	do	18 months.
Limulus Amebocyte Lysate	Not applicable	Not applicable	18 months (from date of manufacture).
Measles, Mumps, and Rubella Virus Vaccine Live	do	1 year (−20 °C or colder).	1 year.
Measles and Mumps Virus Vaccine Live	do	do	1 year.
Measles and Rubella Virus Vaccine Live	do	do	Do.
Measles Live and Smallpox Vaccine	Not applicable	do	1 year (from date of manufacture).
Measles Virus Vaccine Live	do	do	1 year.
Meningococcal Polysaccharide Vaccine Group A:			
1. Final bulk powder	do	2 years (−20 °C or colder).	Not applicable.
2. Final container	Not applicable	3 years (−20 °C or colder).	2 years.
Meningococcal Polysaccharide Vaccine Group C:			
1. Final bulk powder	do	2 years (−20 °C or colder).	Not applicable.
2. Final container	do	3 years (−20 °C or colder).	2 years.
Meningococcal Polysaccharide Vaccine Groups A and C combined:			
1. Final bulk powder	do	2 years (−20 °C or colder).	Not applicable.
2. Final container	do	3 years (−20 °C or colder).	2 years.
Meningococcal Polysaccharide Vaccine Groups A, C, Y, and W135 combined:			
1. Final bulk power	do	2 years (−20 °C or colder).	Not applicable.
2. Final container	do	3 years (−20 °C or colder).	2 years.
Mumps Skin Test Antigen	6 months	Not applicable	18 months.
Mumps Virus Vaccine Live	Not applicable	1 year (−20 °C or colder).	1 year.
Normal Horse Serum	1 year	2 years	5 years.
Pertussis Vaccine	do	Not applicable	18 months.

Product	Manufacturer's storage period 1 to 5 °C (unless otherwise stated)	Manufacturer's storage period 0 °C or colder (unless otherwise stated)	Dating period after leaving manufacturer's storage when stored at 2 to 8 °C (unless otherwise stated)
A	B	C	D
Pertussis Vaccine Adsorbed	do	do	Do.
Plague Vaccine	do	do	Do.
Plasma products:			
1. Fresh Frozen Plasma	Not applicable	do	1 year from date of collection of source blood (−18 °C or colder).
2. Liquid Plasma	do	do	(a) 26 days from date of collection of source blood (between 1 and 6 °C). (b) 40 days from date of collection of source blood only when CPDA-1 solution is used as the anticoagulant (between 1 and 6 °C).
3. Plasma	do	do	5 years from date of collection of source blood (−18 °C or colder).
4. Platelet Rich Plasma	do	do	72 hours from time of collection of source blood, provided labeling recommends storage (20 to 24 °C or between 1 and 6 °C). 5 days if certain approved containers are used (20 to 24 °C).
5. Source Leukocytes	do	do	In lieu of expiration date, the collection date shall appear on the label.
6. Source Plasma	do	do	10 years (at the recommended storage temperature stated on the label).
7. Therapeutic Exchange Plasma	do	do	10 years.
Plasma Protein Fraction (Human)	1 year	do	(a) 5 years. (b) 3 years provided labeling recommends storage at room temperature, no warmer than 30 °C).
Platelets	Not applicable	do	72 hours from time of collection of source blood, provided labeling recommends storage at 20 to 24 °C or between 1 and 6 °C. 5 days if certain approved containers are used (20 to 24 °C).
Pneumococcal Vaccine Polyvalent:			
1. Final bulk powder	do	24 months after potency assay (−20 °C or colder).	Not applicable.
2. Final container	do	Not applicable	2 years (from date of manufacture).
Poliovirus Vaccine Inactivated	1 year	do	1 year.
Poliovirus Vaccine Live Oral Trivalent:			
1. Frozen	Not applicable	1 year (−10 °C or colder).	1 year, provided labeling recommends storage at a temperature which will maintain ice continuously in a solid state.
2. Liquid	do	Not applicable	30 days, provided labeling recommends storage between 2 and 8 °C and container has been unopened.
Poliovirus Vaccine Live Oral Type I:			
1. Frozen	do	1 year (−10 °C or colder).	1 year, provided labeling recommends storage at a temperature which will maintain ice continuously in a solid state.
2. Liquid	do	Not applicable	30 days, provided labeling recommends storage between 2 and 8 °C and container has been unopened.
Poliovirus Vaccine Live Oral Type II:			
1. Frozen	do	1 year (−10 °C or colder).	1 year, provided labeling recommends storage at a temperature which will maintain ice continuously in a solid state.
2. Liquid	do	Not applicable	30 days, provided labeling recommends storage between 2 and 8 °C and container has been unopened.
Poliovirus Vaccine Live Oral Type III:			
1. Frozen	do	1 year (−10 °C or colder).	1 year, provided labeling recommends storage at a temperature which will maintain ice continuously in a solid state.
2. Liquid	do	Not applicable	30 days, provided labeling recommends storage between 2 and 8 °C and container has been unopened.
Polyvalent bacterial antigens with "No U.S. Standard of Potency" liquid.	1 year	do	18 months.
Polyvalent bacterial vaccines with "No U.S. Standard of Potency" liquid.	do	do	Do.
Rabies Vaccine:			
1. Dried	do	2 years	Do.
2. Liquid	3 months	Not applicable	6 months.
Reagent Red Blood Cells	Not applicable	do	35 days from earliest date of collection.
ACD Red Blood Cells	do	do	(a) 21 days from date of collection of source blood, provided labeling recommends storage between 1 and 6 °C and the hermetic seal is not broken during processing. (b) 24 hours after plasma removal, provided labeling recommends storage between 1 and 6 °C and the hermetic seal is broken during processing.
CPD Red Blood Cells	do	do	(a) 21 days from date of collection of source blood, provided labeling recommends storage between 1 and 6 °C and the hermetic seal is not broken during processing. (b) 24 hours after plasma removal, provided labeling recommends storage between 1 and 6 °C and the hermetic seal is broken during processing.
CPDA-1 Red Blood Cells	do	do	(a) 35 days from date of collection of source blood, provided labeling recommends storage between 1 and 6 °C and the hermetic seal is not broken during processing. (b) 24 hours after plasma removal, provided labeling recommends storage between 1 and 6 °C and the hermetic seal is broken during processing.
Red Blood Cells Deglycerolized	do	do	24 hours after removal from storage at −65 °C or colder, provided labeling recommends storage between 1 and 6 °C.
Red Blood Cells Frozen	do	do	3 years from date of collection of source blood, provided labeling recommends storage at −65 °C or colder.
Rubella and Mumps Virus Vaccine Live	do	1 year (−20 °C or colder). °C.	1 year.
Rubella Virus Vaccine Live	do	Not applicable	Do.
Skin Test Antigens for Cellular Hypersensitivity	6 months		Do.

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Product	Manufacturer's storage period 1 to 5 °C (unless otherwise stated)	Manufacturer's storage period 0 °C or colder (unless otherwise stated)	Dating period after leaving manufacturer's storage when stored at 2 to 8 °C (unless otherwise stated)
A	B	C	D
Smallpox Vaccine:			
1. Liquid	Not applicable	9 months (−10 °C or colder, if product is maintained as glycerinated or equivalent vaccine in bulk or final containers).	3 months, provided labeling recommends storage at 0 °C or colder.
2. Dried	6 months	Not applicable	18 months.
Streptokinase	Not applicable	do	Do.
Tetanus and Diphtheria Toxoids Adsorbed for Adult Use	1 year	do	2 years.
Tetanus Antitoxin:			
1. Liquid	do	do	5 years with an initial 20 percent excess of potency.
2. Dried	do	2 years	5 years with an initial 10 percent excess of potency.
Tetanus Toxoid	do	Not applicable	2 years.
Tetanus Toxoid Adsorbed	do	do	Do.
Thrombin	do	2 year	3 years.
Thrombin Impregnated Pad	Not applicable	Not applicable	1 year, or 6 months at 20 to 24 °C.
Tuberculin:			
1. Purified Protein Derivative, diluted	6 months	do	1 year.
2. Old or Purified Protein Derivative dried on multiple puncture device.	1 year (not to exceed 30 °C; do not refrigerate).	do	2 years, provided labeling recommends storage at a temperature not to exceed 30 °C. Do not refrigerate.
3. Old on multiple puncture device	do	do	Do.
Typhoid Vaccine	1 year	do	18 months.
ACD Whole Blood	Not applicable	do	21 days from date of collection, provided labeling recommends storage between 1 and 6 °C.
CPD Whole Blood	do	do	Do.
CPDA–1 Whole Blood	do	do	35 days from date of collection, provided labeling recommends storage between 1 and 6 °C.
Heparin Whole Blood	do	do	48 hours from date of collection, provided labeling recommends storage between 1 and 6 °C.
Yellow Fever Vaccine	do	1 year (−20 °C or colder).	1 year, provided labeling recommends storage at 5 °C or colder.

PART 620—ADDITIONAL STANDARDS FOR BACTERIAL PRODUCTS

9. The authority citation for 21 CFR Part 620 is revised to read as follows:

Authority: Secs. 215, 351, 58 Stat. 690 as amended, 702 as amended (42 U.S.C. 216, 262); 21 CFR 5.10.

§ 620.6 [Amended]

10. In § 620.6 *General requirements*, in paragraph (h) by changing "Building 29A, 9000 Rockville Pike, Bethesda, MD 20205" to read "8800 Rockville Pike, Bethesda, MD 20892."

§ 620.12 [Amended]

11. In § 620.12 *U.S. Standard preparations*, in the introductory paragraph by removing the word "National" and by changing "20205" to read "20892."

§ 620.14 [Amended]

12. In § 620.14 *General requirements*, in the introductory text of paragraph (c) by removing the word "National" and by changing "20205" to read "20892."

§ 620.24 [Amended]

13. In § 620.24 *General requirements*, in the introductory text of paragraph (c) by changing "Building 29A, 9000 Rockville Pike, Bethesda, MD 20205" to read "8800 Rockville Pike, Bethesda, MD 20892."

§ 620.35 [Amended]

14. In § 620.35 *General requirements*, in the introductory text of paragraph (e) by changing "20205" to read "20892."

§ 620.43 [Amended]

15. In § 620.43 *Reference BCG Vaccine*, by changing "20205" to read "20892."

§ 620.48 [Amended]

16. In § 620.48 *Samples; protocols; official release*, in the introductory text of paragraph (a) and in (a)(2) by changing "20205" to read "20892."

PART 630—ADDITIONAL STANDARDS FOR VIRAL VACCINES

17. The authority citation for 21 CFR Part 630 is revised to read as follows:

Authority: Secs. 215, 351, 58 Stat. 690 as amended, 702 as amended (42 U.S.C. 216, 262); 21 CFR 5.10.

§ 630.5 [Amended]

18. In § 630.5 *General requirements*, in the introductory text of paragraph (c) by changing "20205" to read "20892."

§ 630.16 [Amended]

19. In § 630.16 *Test for safety*, in paragraph (a)(6) by revising in the first sentence the phrase "At least 500 doses of 50 ml." to read "At least 500 doses or 50 mL."

§ 630.17 [Amended]

20. In § 630.17 *General requirements*, in the introductory text of paragraph (e) by changing "Building 29A, 9000 Rockville Pike, Bethesda, MD 20205" to read "8800 Rockville Pike, Bethesda MD 20892."

§ 630.36 [Amended]

21. In § 630.36 *General requirements*, in the introductory text of paragraph (h) by removing the phrase "Bldg. 29A" and by changing "20205" to read "20892."

§ 630.56 [Amended]

22. In § 630.56 *General requirements*, in the introductory text of paragraph (f) by changing "Building 29A, 9000 Rockville Pike, Bethesda, MD 20205" to read "8800 Rockville Pike, Bethesda, MD 20892."

§ 630.66 [Amended]

23. In § 630.66 *General requirements*, in the introductory text of paragraph (e) by removing the phrase "Bldg. 29A" and by changing "20205" to read "20892."

§ 630.75 [Amended]

24. In § 630.75 *General requirements*, in the introductory text of paragraph (d) by changing "Building 29A, 9000 Rockville Pike, Bethesda, MD 20205" to read "8800 Rockville Pike, Bethesda, MD 20892."

§ 630.86 [Amended]

25. In § 630.86 *General requirements*, in the introductory text of paragraph (e) by removing the phrase "Bldg. 29A" and by changing "20205" to read "20892."

PART 640—ADDITIONAL STANDARDS FOR HUMAN BLOOD AND BLOOD PRODUCTS

26. The authority citation for 21 CFR Part 640 continues to read as follows:

Authority: Secs. 215, 351, 58 Stat. 690 as amended; 702 as amended (42 U.S.C. 216, 262); 21 CFR 5.10.

§ 640.3 [Amended]

27. In § 640.3 *Suitability of donor*, in the introductory text of paragraphs (b) and (c), and paragraphs (d) and (e) by changing "Whole Blood (Human)" to read "Whole Blood."

§ 640.101 [Amended]

28. In § 640.101 *General requirements*, in the introductory text of paragraph (f) by changing "Building 29A, 9000 Rockville Pike, Bethesda, MD 20205" to read "8800 Rockville Pike, Bethesda, MD 20892."

§ 640.111 [Amended]

29. In § 640.111 *General requirements*, in the introductory text of paragraph (g) by changing "Building 29A, 9000 Rockville Pike, Bethesda, MD 20205" to read "8800 Rockville Pike, Bethesda, MD 20892."

PART 650—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR DERMAL TESTS

30. The authority citation for 21 CFR Part 650 is revised to read as follows:

Authority: Secs. 215, 351, 58 Stat. 690 as amended; 702 as amended (42 U.S.C. 216, 262); 21 CFR 5.10.

§ 650.11 [Amended]

31. In § 650.11 *General requirements*, in the introductory text of paragraph (c) by changing "Building 29A, 9000 Rockville Pike, Bethesda, MD 20205" to read "8800 Rockville Pike, Bethesda, MD 20892."

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

32. The authority citation for 21 CFR Part 660 is revised to read as follows:

Authority: Secs. 215, 351, 58 Stat. 690 as amended, 702 as amended (42 U.S.C. 216, 262); 21 CFR 5.10.

§ 660.6 [Amended]

33. In § 660.6 *Samples; protocols; official release*, in paragraph (a)(2) by changing "20205" to read "20892."

§ 660.22 [Amended]

34. In § 660.22 *Reference preparations* by changing "20205" to read "20892."

§ 660.29 [Amended]

35. In § 660.29 *Samples; protocols; official release*, in the introductory text of paragraph (a) by changing "20205" to read "20892."

§ 660.36 [Amended]

36. In § 660.36 *Samples and protocols*, in the introductory text of paragraph (a) by changing "20205" to read "20892."

§ 660.42 [Amended]

37. In § 660.42 *Reference panel* by changing "20205" to read "20892."

§ 660.46 [Amended]

38. In § 660.46 *Samples; protocols; official release*, in paragraph (a)(2) by changing "20205" to read "20892."

§ 660.52 [Amended]

39. In § 660.52 *Reference preparations* by changing "20205" to read "20892."

§ 660.53 [Amended]

40. In § 660.53 *Controls for serological procedures* by changing "20205" to read "20892."

§ 660.54 [Amended]

41. In § 660.54 *Potency tests, specificity tests, tests for heterospecific antibodies, and additional tests for nonspecific properties*, in the introductory paragraph by changing "20205" to read "20892."

§ 660.101 [Amended]

42. In § 660.101 *U.S. Standard/Reference Preparations*, in the introductory paragraph by changing "20205" to read "20892."

§ 660.105 [Amended]

43. In § 660.105 *Samples and protocols: official release*, in the introductory text of paragraph (a) by changing "20205" to read "20892."

PART 680—ADDITIONAL STANDARDS FOR MISCELLANEOUS PRODUCTS

44. The authority citation for 21 CFR Part 680 is revised to read as follows:

Authority: Secs. 215, 351, 58 Stat. 690 as amended, 702 as amended (42 U.S.C. 216, 262); 21 CFR 5.10.

§ 680.4 [Amended]

45. In § 680.4 *Short ragweed pollen extracts*, in the introductory text of paragraph (c)(1) by removing the phrase "Building 29A" and by changing "20205" to read "20892."

§ 680.21 [Amended]

46. In § 680.21 *Reference preparations* by changing "20205" to read "20892."

§ 680.26 [Amended]

47. In § 680.26 *Samples; protocols; official release* by removing the phrase "Building 29A" and by changing "20205" to read "20892."

Dated: April 17, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-9119 Filed 4-24-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

24 CFR Parts 200, 812, 881, 882, and 912

[Docket No. R-85-974; FR-1589]

Restriction on Use of Assisted Housing

Correction

In FR Doc. 86-7050 beginning on page 11198 in the issue of Tuesday, April 1, 1986, make the following corrections:

§ 200.180 [Corrected]

1. On page 11214, third column, in § 200.180(a), seventh line, "1985" should read "1965".

§ 200.182 [Corrected]

2. On page 11215, third column, in § 200.182(a)(5)(i)(A)(1), second line, insert "(i)" between "(5)" and "(B)". In § 200.182(a)(5)(i)(A)(2), last line, "§ 200.182" should read "§ 200.183".

§ 812.5 [Corrected]

3. On page 11220, third column, in § 812.5, paragraph "(4)(1)" should read "(4)(i)". In § 812.5(a)(4)(i)(A), second line, "PHA.g" should read "PHA.".

4. On page 11221, third column, seventh line, "250–0204" should read "2502–0204".

§ 812.7 [Corrected]

5. On page 11222, first column, in § 812.7(a)(1)(ii)(B), eighth line, "follow" should read "allow".

§ 881.504 [Corrected]

6. On page 11225, first column, in § 881.504(e), eighth line, "than" should read "then".

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§ 862.209 [Corrected]

7. On page 11228, first column, in § 862.209(a)(7), thirteenth line, "states" should read "stated".

§ 912.7 [Corrected]

8. On page 11230, third column, in § 912.7(a)(2)(ii), second line, "(d)(2)(i)" should read "(a)(2)(i)".

BILLING CODE 1505-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Order No. 1131-86]

Organization of the Department of Justice

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule will amend 28 CFR 0.111 by striking the existing language in paragraph (i) and adding a new paragraph to reflect a delegation of authority to the Director of the United States Marshals Service. On March 6, 1984 and May 24, 1985, the Director was delegated the authority to maintain, safekeep, and dispose of assets forfeited to the United States, and to administer the Department of Justice Asset Forfeiture Fund.

EFFECTIVE DATE: April 10, 1986.

FOR FURTHER INFORMATION CONTACT: Gerald M. Auerbach, General Counsel, United States Marshals Service, McLean, Virginia; telephone No. (703) 285-1004, which is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated certain authority over asset forfeiture matters to the Director of the United States Marshals Service. This rule will amend 28 CFR 0.111 to add new language to paragraph (i) reflecting this delegation in order to alert the public to the present organizational structure of the Department.

This regulation is not a major rule within the meaning of Executive Order 12291, 3 CFR 127 (1982 Comp.) because it imposes no new requirements. It does not have an impact on small businesses and, therefore, is not subject to the Regulatory Flexibility Act, 5 U.S.C. 601-612. Compliance with 5 U.S.C. 553 as to notice of proposed rule making and delayed effective date is not necessary because this rule relates to agency organization and management.

List of Subjects in 28 CFR Part 0

Organization and functions (Government agencies), Assets, Forfeiture.

By virtue of the authority vested in me by 28 U.S.C. 509, 510, 524, 569; and 5 U.S.C. 301, Subpart T of Part 0 of Title 28 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart T continues to read as follows:

Authority: 28 U.S.C. 509, 510, 524, 569; 5 U.S.C. 301.

2. In Section 0.111, paragraph (i) is revised to read as follows:

§ 0.111 General functions.

* * * * *

(i) Maintenance of custody, management control, and disposal of property and money seized or forfeited pursuant to any law enforced or administered by the Department of Justice, when the property is seized by the United States Marshals Service or delivered to the United States Marshals Service in accordance with regulations; and administer the Department of Justice Asset Forfeiture Fund.

* * * * *

Dated: April 10, 1986.

Edwin Meese III,

Attorney General.

[FR Doc. 86-9161 Filed 4-24-86; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Procedural Rules; Advisory Opinion Requests by State Agencies and Courts

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: In response to requests that the Board facilitate the procedure for issuing an advisory opinion to a court or state agency on assertion of jurisdiction over an employing enterprise, the Board is amending §§ 102.98 and 102.99 to allow a court or state agency to request an advisory opinion from the Board as to whether it would assert jurisdiction over that enterprise.

EFFECTIVE DATE: June 1, 1986.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, 1717 Pennsylvania Avenue, NW., Room 701, Washington, DC 20570, Telephone: (202) 254-9430.

SUPPLEMENTARY INFORMATION: Pursuant to its authority under section 6 of the National Labor Relations Act, as amended (29 U.S.C. 156), the National Labor Relations Board is amending its rules that provide for the Board's issuance of advisory opinions on the issue of whether an employer is within the Board's jurisdiction on the basis of its jurisdictional standards. The Association of Labor Relations Agencies (ALRA) petitioned the Board to consider the amendment of §§ 102.98 and 102.103 to enable state labor relations agencies to obtain administrative advice from the Board on whether the Board would assert jurisdiction over a particular employing enterprise. In determining an appropriate procedure, the Board was cognizant of the ALRA's interest in having a readily available, if less formalized, decisional response from the Board than the present advisory opinion procedure provides.

Rather than adopting a separate approach for responding to requests for advisory opinions by state agencies, the Board is amending its rules to allow for an expanded use of the advisory opinion procedure by state agencies and courts. The amendments to §§ 102.98 and 102.99 enlarge the present provisions that apply to requests for advisory opinions by state agencies and courts only when there is a question of whether the Board would assert jurisdiction under its current standards. The amended sections provide for advisory opinions on the broader issue of whether the Board would assert jurisdiction over an employing enterprise, thereby including jurisdiction under the National Labor Relations Act as well as the Board's current standards. The amended procedure utilizes an established procedure culminating in an opinion that would be published in a Board volume. This procedure will provide access to the Board by state agencies and courts on a greater range of jurisdictional issues. Access to the Board by the parties to the state proceeding where the state agency or court does not seek Board assistance is not deemed appropriate.

The remaining provisions pertaining to the advisory opinion process, §§ 102.100 to 102.104, are unchanged.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, labor management relations.

Accordingly, 29 CFR Part 102 is amended to read as follows:

PART 102—RULES AND REGULATIONS, SERIES 8, AS AMENDED

1. The authority citation for 29 CFR Part 102 is revised to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156).

2. Section 102.98 is amended by revising paragraph (b) to read as follows:

§ 102.98 Petition for advisory opinion; who may file; where to file.

* * * * *

(b) Whenever an agency or court of any State or territory is in doubt whether the Board would assert jurisdiction over the parties in a proceeding pending before such agency or court, the agency or court may file a petition with the Board for an advisory opinion on whether the Board would decline to assert jurisdiction over the parties before the agency or the court (1) on the basis of its current standards, or (2) because the employing enterprise is not within the jurisdiction of the National Labor Relations Act.

3. Section 102.99 is amended by revising paragraphs (b) and (c) to read as follows:

§ 102.99 Contents of petition for advisory opinion; contents of request for administrative advice.

* * * * *

(b) A petition for an advisory opinion, when filed by an agency or court of a State or territory, shall allege the following:

(1) The name of the agency or court.

(2) The names of the parties to the proceeding and the docket number.

(3) The nature of the proceeding, and the need for the Board's opinion on the jurisdictional issue to the proceeding.

(4) The general nature of the business involved in the proceeding and, where appropriate, the nature of and details concerning the employing enterprise.

(5) The findings of the agency or court or, in the absence of findings, a statement of the evidence relating to the commerce operations of such business and, where appropriate, to the nature of the employing enterprise.

(c) Eight copies of such petition or request shall be submitted to the Board in Washington, DC. Such petition or request shall be printed or otherwise legibly duplicated. Carbon copies of typewritten matter will not be accepted.

Dated, Washington, DC, April 22, 1986.

By direction of the Board. National Labor Relations Board.

John C Truesdale,

Executive Secretary.

[FR Doc. 86-9328 Filed 4-24-86; 8:45 am]

BILLING CODE 7545-01-M

29 CFR Part 102

Procedural Rules; Filing of Briefs

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: In 1982, the Board revised its rules and regulations to provide that briefs that are filed with the Board contain no more than 50 pages. Practice under the rules has shown that there has been some confusion and misuse regarding the exceptions document upon which there is no 50-page limitation. The changes in the rule are designed to provide a clearer description of the contents of the exceptions document and the brief, and, therefore, to facilitate administration of the 50-page limit on briefs by precluding placement in the exceptions of material that appropriately belongs in the brief.

EFFECTIVE DATE: June 1, 1986.

FOR FURTHER INFORMATION CONTACT: John C. Truesdale, Executive Secretary, 1717 Pennsylvania Avenue, NW., Washington, DC 20570, Telephone: (202) 254-9430.

SUPPLEMENTARY INFORMATION: Pursuant to its authority under section 6 of the National Labor Relations Act, as amended (29 U.S.C. 156), the National Labor Relations Board is amending its rule regarding the filing of briefs and exceptions with the Board. Section 102.46(a) of the Board's rules presently provides that any party may file with the Board exceptions to the administrative law judge's decision or to any other part of the record or proceedings, together with a brief in support of exceptions. Section 102.46(j) restricts the length of briefs to 50 pages. There is no similar restriction for the length of exceptions. In order to ensure that material that properly belongs in briefs to the Board is not inserted in the exceptions, the descriptions of materials appropriately belonging in exceptions and briefs have been revised.

The present paragraph (b) has been divided into (b)(1) and (b)(2). The new (b)(1) has the present (1), (2), (3), and (4) of paragraph (b) redesignated as (b)(1)(i), (ii), (iii), and (iv). In (b)(1)(iv), the word "concisely" has been inserted to define the manner in which the grounds for exceptions should be stated. This is to emphasize that the statement of grounds should be short and to the point.

Paragraph (b)(1) has been further modified to distinguish the situation when a single document has been filed containing both the exceptions and the brief argument from the situation when separate documents have been filed, one setting forth the exceptions and the other constituting the brief. The subsection provides that when only a single document is filed, the document is subject to the 50-page limit for a brief in § 102.46(j), even though it also contains the exceptions. The subsection further provides that when two documents are filed—one an exceptions document and the other a brief—any argument or citation of authority in support of the exceptions shall be set forth only in the brief. In that situation, the subsection specifically states that the exceptions document shall not contain any argument or citation of authority. Under these provisions, the Executive Secretary's Office should be more readily able to identify in the two-document situation whether the exceptions document improperly contains argument or citation of authority. The presence in the exceptions document of citations of authority would clearly establish it as not in compliance with the rule.

Paragraph (b)(2) is a separate statement of the last two sentences of present § 102.46(b), which provides that any exception not urged before the Board is deemed waived.

Paragraph (c)(2) has been modified by adding the requirement that the specification of questions in the brief identify the specific exceptions that they are designed to support. This will facilitate identification of those exceptions for which no supporting argument is provided in the brief.

Paragraph (c)(3) has been modified to insert the word "record" rather than the present page of transcript to which argument in briefs must refer, because the scope of the record is broader and defined in § 102.45(b) of the Board's rules.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

Accordingly, 29 CFR Part 102 is amended to read as follows:

PART 102—RULES AND REGULATIONS, SERIES 8, AS AMENDED

1. The authority citation for 29 CFR Part 102 is revised to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156).

2. Section 102.46 is amended by revising paragraphs (b), (c), and (j) to read as follows:

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§ 102.46 Exceptions, cross-exceptions, briefs; answering briefs; time for filing; where to file; service on the parties; extension of time; effect of failure to include matters in exceptions; oral arguments.

* * * * *

(b)(1) Each exception (i) shall set forth specifically the questions of procedure, fact, law, or policy to which exception is taken; (ii) shall identify that part of the administrative law judge's decision to which objection is made; (iii) shall designate by precise citation of page the portions of the record relied on; and (iv) shall concisely state the grounds for the exception. If a supporting brief is filed the exceptions document shall not contain any argument or citation of authority in support of the exceptions, but such matters shall be set forth only in the brief. If no supporting brief is filed the exceptions document shall also include the citation of authorities and argument in support of the exceptions, in which event the exceptions document shall be subject to the 50-page limit as for briefs set forth in § 102.46(j).

(2) Any exception to a ruling, finding, conclusion, or recommendation which is not specifically urged shall be deemed to have been waived. Any exception which fails to comply with the foregoing requirements may be disregarded.

(c) Any brief in support of exceptions shall contain no matter not included within the scope of the exceptions and shall contain, in the order indicated, the following:

(1) A clear and concise statement of the case containing all that is material to the consideration of the questions presented.

(2) A specification of the questions involved and to be argued, together with a reference to the specific exceptions to which they relate.

(3) The argument, presenting clearly the points of fact and law relied on in support of the position taken on each question, with specific reference to the record and the legal or other material relied on.

* * * * *

(j) Exceptions to the administrative law judge's decision, or to the record, and briefs shall be printed or otherwise legibly duplicated. Carbon copies of typewritten matter will not be accepted. Eight copies of such documents shall be filed with the Board in Washington, DC., and copies shall also be served promptly on the other parties. All documents filed pursuant to this section shall be double spaced on 8½-by 11-inch paper. A brief filed pursuant to this section shall not be combined with any other brief, and shall not exceed 50 pages in length, exclusive of subject index and table of cases and other authorities cited, unless permission to exceed that limit is obtained from the Board by motion, setting forth the reasons therefore, filed not less than 10 days prior to the date the brief is due. Where any brief filed pursuant to this section exceeds 20 pages, it shall contain a subject index with page references and an alphabetical table of cases and other authorities cited.

Dated: Washington, DC, April 22, 1986.

By direction of the Board. National Labor Relations Board.

John C. Truesdale,

Executive Secretary.

[FR Doc. 86-8329 Filed 4-24-86; 8:45 am]

BILLING CODE 7545-01-M

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 511

Wage Order Procedure for Puerto Rico, the Virgin Islands and American Samoa; Compensation of Committee Members

AGENCY: Employment Standards Administration, Labor.

ACTION: Final rule.

SUMMARY: This document increases from $164 to $182 a day the per diem allowance to which members of industry committees in Puerto Rico, the Virgin Islands, and American Samoa are entitled. The industry committees, whose members include representatives of employees, employers, and the public, as appointed by the Secretary of Labor, meet periodically to review the wage rates in various industries and to recommend wage increases where appropriate. The committees meet pursuant to the Fair Labor Standards Act which authorized the establishment of minimum wage rates in Puerto Rico, the Virgin Islands, and American Samoa which are lower than the mainland minimum wage rate. This increase is in accord with changes in General Schedule salary rates effective January 6, 1985 for regular employees of the U.S. Department of Labor.

EFFECTIVE DATE: April 25, 1986.

FOR FURTHER INFORMATION CONTACT: James L. Valin, Assistant Administrator, Wage and Hour Division, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S3502, Washington, DC 20210, 202-523-8353.

SUPPLEMENTARY INFORMATION: It is the standard practice to adjust compensation for Industry Committee members in accordance with changes in General Schedule salary rates. The purpose of this amendment is to increase the compensation of each member of an industry committee from $164 to $182 for each day spent in the work of the committee. It accords with changes in General Schedule salary effective January 6, 1985 for regular employees of the U.S. Department of Labor.

As this amendment concerns only a rule of agency practice, and is not substantive, notice of proposed rule making, opportunity for public participation, and delay in effective date are not required by 5 U.S.C. 553. It does not appear that such participation or delay would serve a useful purpose. Accordingly, this revision shall be effective immediately.

Drafting Information

This document was prepared under the direction and control of James L. Valin, Assistant Administrator, Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, NW, Washington, DC 20210, telephone: 202-523-8353.

Classification

This rule relates to agency organization, management, or personnel pursuant to section 1(a)(3) of Executive Order 12291. Accordingly, it does not fall within the definition of "rule" under section 1(a) of the Executive Order.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this rule under 5 U.S.C. 553(b), the requirements of the Regulatory analyses do not apply to this rule.

Paperwork Reduction Act

This rule is not subject to section 3504(h) of the Paperwork Reduction Act, since it would not require the collection or retention of information.

List of Subjects in 29 CFR Part 511

Administrative practice and procedure, Minimum wages, Wage and Hour Division, Puerto Rico, Virgin Islands, American Samoa.

Pursuant to authority in section 5 of the Fair Labor Standards Act of 1938 (52 Stat. 1062 as amended; 29 U.S.C. 205) and Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp. p. 1004), 29 CFR Part 511 is amended as follows:

PART 511—WAGE ORDER PROCEDURE FOR PUERTO RICO, THE VIRGIN ISLANDS AND AMERICAN SAMOA

1. The authority citation for Part 511 is revised to read as set forth below and the authority citation following § 511.4 is removed:

Authority: Secs. 5, 6, 8, 52 Stat. 1062, 1064; 29 U.S.C. 205, 206, 208; Secs. 2-12, 80 Stat. 237-244; 5 U.S.C. 1001-1011; § 511.4 is issued under Sec. 5, 52 Stat. 1062, as amended (29 U.S.C. 205).

2. Section 511.4 is revised to read as follows:

§ 511.4 Compensation of Committee members.

Each member of an industry committee will be allowed a per diem of $182 for each day actually spent in the work of the committee, and will, in addition, be reimbursed for necessary transportation and other expenses incident to traveling in accordance with Standard Government Travel Regulations then in effect. All travel expenses will be paid on travel vouchers certified by the Administrator or his authorized representative. Any other necessary expenses which are incidental to the work of the committee may be incurred by the committee upon approval of, and shall be paid upon, certification of the Administrator or his authorized representative.

Signed at Washington, DC this 22nd day of April, 1986.

Susan R. Meisinger,

Deputy Under Secretary for the Employment Standards Administration.

[FR Doc. 86-8437 Filed 4-24-86; 8:45 am]

BILLING CODE 4510-27-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL-3007-4]

Air Quality; Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: USEPA is approving a site-specific revision to the Illinois State Implementation Plan (SIP) for Total Suspended Particulates (TSP) as it applies to the Navy Public Works Center (NPWC), Department of the Navy, which is located at the Great Lakes Naval Base, Great Lakes, Shields Township, Illinois. The revision would allow NPWC a variance from the requirements of Illinois Rule 202(b) until July 30, 1985. This variance has already expired. This action is being taken in response to a May 13, 1985, request from the State of Illinois.

DATE: This action will be effective June 24, 1986 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of this revision to the Illinois SIP are available for inspection at: The Office of the Federal Register, 1100 L Street, N.W., Room 8401, Washington, D.C.

Copies of the SIP revision and other materials related to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Uylaine E. McMahan, at (312) 353-0396, before visiting the Region V Office.)

U.S Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604.

U.S Environmental Protection Agency, Public Information Reference Unit, 401 M Street, SW., Washington, DC 20460

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706

Written comments should be sent to:

Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, Air and Radiation Branch (5AR-26) U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6031.

SUPPLEMENTARY INFORMATION: On May 13, 1985, the Illinois Environmental Protection Agency (IEPA) submitted a variance from Illinois Rule 202(b) for a Brule pathological waste incinerator (BPWI) at NPWC's facility in Great Lakes, Shields Township, Illinois, as a revision to its TSP SIP. Shields Township is an attainment area for both the primary and secondary national ambient air quality standards (NAAQS) for TSP.

The State is requesting that the NPWC be allowed a variance from the requirements of the opacity limit contained in Illinois Rule 202(b) until July 30, 1985. Rule 202(b) requires that:

> The emission of smoke or other particulate matter from any such emission source may have an opacity greater than 30 percent but not greater than 60 percent for a period or periods aggregating 8 minutes in any 60 minute period provided that such more opaque emissions permitted during any 60 minute period shall occur from only one such emission source located within a 305 meter (1000 feet) radius from the center point of any other such emission source owned or operated by such person, and provided further that such more opaque emissions permitted from each such emission source shall be limited to 3 times in any 24 hour period.

Before July 30, 1985, NPWC installed a new BPWI in order to comply with the opacity requirements contained in Rule 202(b). The BPWI is presently operating. It has been stack tested and demonstrated compliance with the particulate matter mass emission rate and the opacity limit.

The Illinois Pollution Control Board granted NPWC a variance from the Rule 202(b) subject to the following conditions:

1. The variance expired on July 30, 1985.

2. The compliance schedule is as follows:

October 20, 1984—95 percent design complete
October 25, 1984—Preadvertise documentation
November 15, 1984—Final design complete
December 10, 1984—Advertise for construction contract
January 10, 1985—Award contract
January 25, 1985—Apply for construction permit
February 25, 1985—Begin construction
March 10, 1985—Apply for operating permit
May 10, 1985—Completion and start up

3. Beginning with the first calendar month following the granting of the variance, the Navy shall submit to the IEPA monthly reports detailing its progress in achieving the final compliance date of May 10, 1985.

4. The afterburner of the present pathological waste incinerator should be pre-heated to 1400°F, or greater, and maintained at that operating temperature throughout the period of the variance.

Shields Township, where the NPWC is located, has been designated as an attainment area for both the primary and the secondary TSP standards throughout the period covered by the variance. During that period, the facility was in compliance with the mass emissions limit applicable to the source. Although the facility was not meeting the opacity limit throughout that period, the area continued to attain the TSP standards. For that reason, USEPA concludes that the facility's failure to meet the opacity limit during that period did not in fact interfere with

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maintenance of the standards. Therefore, USEPA is approving NPWC's variance request.

Because USEPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on June 24, 1986. However, if we receive notice by May 27, 1986 that someone wishes to submit critical comments, *then* USEPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a public comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. section 605(b), I certify that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 24, 1986. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Particulate matter, Intergovernmental relations.

Note.—Incorporation by reference of the State Implementation Plan for the State of Illinois was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 17, 1986.

Lee M. Thomas,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Illinois

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, is amended as follows:

1. The authority citation for Part 52 continues to read as follows: Authority: 42 U.S.C. 7401–7642.

2. Section 52.720 is amended by adding new paragraph (c)(64) as follows:

§ 52.720 Identification of plan.

* * * * *

(c) * * *

(64) On May 13, 1985, the Illinois Environmental Protection Agency (IEPA) submitted a variance from Illinois Rule 202(b) for a Brule pathological waste incinerator (BPWI) at NPWC's facility located at the Great Lakes Naval Base, Great Lakes, Shields Township, Illinois, as a revision to its TSP SIP. Shields Township is an attainment area for both the primary and secondary national ambient air quality standards (NAAQS) for TSP.

(i) Incorporation by reference.

(A) Opinion and Order of the Illinois Pollution Control Board 84–156 adopted on March 22, 1985.

* * * * *

[FR Doc. 86-9289 Filed 4-24-86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-5-FRL-3009-3]

Air Quality; Approval and Promulgation of Implementation Plans; Illinois

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: USEPA is approving a site-specific revision to the Illinois State Implementation Plan (SIP) for Volatile Organic Compounds (VOC) as it applies to Precision Coatings, Incorporated (PCI), which is located in Bureau County, Illinois. The revision would allow PCI a variance from the requirements of Illinois Pollution Control Board (IPCB) Rule 215.204(C) until June 1, 1985. This variance has expired. This action is being taken in response to a July 22, 1985, request from the State of Illinois.

DATES: This action will be effective June 24, 1986 unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of this revision to the Illinois SIP are available for inspection at:

The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC

Copies of the SIP revision and other materials related to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Uylaine E. McMahan, at (312) 353–0396, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street, S.W., Washington, D.C. 20460

Illinois Environmental Protection Agency, Division of Air Pollution Control, 2200 Churchill Road, Springfield, Illinois 62706.

Written comments should be sent to: Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Uylaine E. McMahan, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886–6031.

SUPPLEMENTARY INFORMATION: Rule 215.204 [formerly 205(n)(1)(C)][1] requires that each coating used at a paper coating line meet at emission limit of 2.9 pounds of VOC (excluding water) per gallon of coating not later than December 31, 1982. As an alternative to 215.204(C), a source may elect to install VOC control equipment, pursuant to Rule 215.205(a) [formerly 205(n)(2)(A)].[2] The control equipment (an afterburner system) must oxidize to carbon dioxide and water 75 percent of the emissions from the coating line and 90 percent of the nonmethane volatile organic material which enters it. Compliance with this alternative method was to be achieved by December 31, 1982.

On July 22, 1985, the Illinois Environmental Protection Agency (IEPA) submitted a variance from IPCB 215.204(C) for coating Machine Number 2 at the PCI facility in Spring Valley, Illinois, as a revision to its VOC SIP. Spring Valley is in Bureau County which has attained the NAAQS for ozone. This revision is in the form of a February 20, 1985, Opinion and Order of the Illinois Pollution Control Board (IPCB) Number 84–117. This Order was later modified by an April 4, 1985, Order of the Board. It grants a variance from the existing SIP requirement until June 1, 1985, and provides a legally enforceable compliance schedule.

Under the existing federally approved SIP, each coating used on Machine Number 2 at PCI is subject to the emission limits in Rule 215.204(C); or PCI may elect to install an afterburner system, pursuant to 215.205(a).

In lieu of the current SIP compliance date of December 31, 1982, the State is requesting an extended compliance date to June 1, 1985, for PCI's coating operations for Machine Number 2, in order for PCI to achieve compliance with 215.205(a) through the installation of an afterburner system.

Machine Number 2

PCI's control strategy of reformulation was not successful for the coatings used on Machine Number 2. Therefore, PCI committed to the installation of thermal oxidation equipment to comply with Rule 215.205(a). PCI has installed this thermal oxidation equipment, and it is presently operating. This equipment is similar to that used at PCI's Michigan facility and has a reported control efficiency of 90 percent. PCI's average annual emissions from Machine Number 2 before the installation of the thermal oxidation equipment were 175 tons. The allowable emissions are 43.8 tons per year (using a 75 percent overall control efficiency).

USEPA is approving this variance for the following reasons: (1) PCI's Spring Valley facility is located in an ozone attainment area, (2) this variance does not jeopardize the attainment and maintenance of the ozone National Ambient Air Quality Standards, and (3) PCI has now installed thermal oxidation equipment. Therefore, in today's final rulemaking, USEPA is approving Illinois' variance request.

Because USEPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on June 24, 1986. However, if we receive notice by May 27, 1986 that any person wishes to submit critical comments, *then* USEPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a public comment period.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 24, 1986. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Particulate matter, Intergovernmental relations.

Note.—Incorporation by reference of the State Implementation Plan for the State of Illinois was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 17, 1986.

Lee M. Thomas,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart O—Illinois

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.720 is amended by adding new paragraph (c)(65) as follows:

§ 52.720 Identification of Plan.

* * * * *

(c) * * *

(65) Submitted from the Illinois Environmental Protection Agency (IEPA) dated July 22, 1985, requesting an extended compliance schedule for Precision Coatings Incorporated (PCI) coating Machine Number 2.

(i) Incorporation by reference.

(A) Illinois Pollution Control Board Opinion and Order of the Board, PCB 84–117, which was adopted on February 20, 1985, and a modification to PCB 84–117 which was adopted on April 14, 1985.

[FR Doc. 86-9290 Filed 4-24-86; 8:45 am]

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40 CFR Part 52

[A-5 FRL-3009-2]

Air Quality Approval and Promulgation of Implementation Plans, Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: On September 2, 1983, Indiana submitted as a revision to its State Implementation Plan (SIP) for total suspended particulates (TSP) an alternative emission control plan for the Occidental Chemical Corporation (OCC) facility in Jeffersonville Township, Clark County, Indiana. USEPA today is approving the emission limits within it as a site specific SIP revision.

EFFECTIVE DATE: This final rulemaking becomes effective on May 27, 1986.

ADDRESSES: Copies of this revision to the Indiana SIP are available for inspection at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC 20408.

Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Uylaine E. McMahan, at (312) 886–6031, before visiting the Region V Office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR–26), 230 South Dearborn Street, Chicago, Illinois 60604

U.S. Environmental Protection Agency, Public Information Reference Unit, 401 M Street SW., Washington, DC 20460

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206.

SUPPLEMENTARY INFORMATION: On September 2, 1983, the Indiana Air Pollution Control Board (Board) submitted a SIP revision in the form of revised operating permits [1] for OCC and requested that USEPA approve it as a "bubble" under the USEPA proposed Emissions Trading Policy Statement (ETPS), published April 7, 1982 (47 FR 15076). Amendments to these operating permits were submitted by the State on December 21, 1983.

The OCC Jeffersonville Township facility produces phosphoric acid and salts. This facility is located in the portion of Clark County, Indiana, which is designated as a secondary nonattainment area for TSP.[2]

USEPA proposed on May 15, 1984 (49 FR 20518), to disapprove the OCC proposed revision. USEPA determined that the proposed bubble was not approvable because it was not consistent with the ETPS and the technical support materials were insufficient.

USEPA received comments in response to the May 15, 1984, notice. Based upon the State and OCC

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[1] Rule 215.204(C) was incorporated into the Illinois SIP as Rule 205(n)(1)(C) on February 21, 1980 (45 FR 11472). It was subsequently recodified by the State as Rule 215.204(C). This recodification has not been submitted to USEPA as a SIP revision. USEPA, therefore, approves this SIP revision as a variance from the requirements of Rule 205(n)(1)(C) which is part of the Illinois SIP.

It should also be noted that, because of a typographical error, PCI was granted a variance from Rule 205.204(C) on February 20, 1985, Opinion and Order of the IPCB. There is no such rule. USEPA has conferred with the IPCB staff on this matter and confirmed that this citation was in error, and the intent of the IPCB was to grant a variance from the requirements of Rule 215.204(C). Reinforcing this intent is the fact that Rule 215.204(C) was correctly cited elsewhere in the Opinion and Order. USEPA, therefore, approves a variance from Rule 215.204(C) which was incorporated in the SIP as Rule 205(n)(1)(C).

[2] Rule 215.205(a) was incorporated in the Illinois SIP as Rule 205(n)(2)(A) on February 21, 1980 (45 FR 11472). It has been recodified by the State as Rule 215.205(a).

[1] These operating permits revise Indiana's Rule 325 IAC 6-1-17.

[2] On March 22, 1985 (50 FR 11503), USEPA approved the State of Indiana's request to redesignate Jeffersonville Township from primary nonattainment to secondary nonattainment.

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comments, USEPA published a second notice of proposed rulemaking March 1, 1985 (50 FR 8346), to approve the OCC proposed revision request.

During the public comments period for the March 1, 1985, notice, USEPA received one comment from OCC. OCC noted that the potassium phosphate salt production line tons per year current SIP limit was an error and that there is no current independent SIP limit for this salt production line. USEPA disagrees with OCC. Because the potassium phosphate salt line was not explicitly included in the Clark County, Appendix to Indiana's nonattainment TSP regulations, 325 IAC 6-1, it is governed by the general emission limitations in 325 IAC 6-1, Section 2(a) of this regulation, that limits the potassium phosphate salt line to 0.03 grains per dry standard cubic foot (gr/dscf).

This action is not affected by the PSD regulations because the revision does not result in an increase in actual emissions. Thus, the action does not qualify as a major modification and does not consume PSD increment.

Based on the proposal, USEPA has determined that the emission limits contained in the operating permits can be approved as a site-specific SIP revision. The current and proposed limits are:

Source	Current SIP limits		Proposed SIP limits	
	gr/dscf	T/yr	gr/dscf	T/yr
Thermal Process (Acid Line)	0.023	8.7	[1] 0.122	46
Sodium Phosphate Salt Production Line	0.026	85.2	[1] 0.037	48.9
Potassium Phosphate Salt Production Line	0.03		[1] 0.109	13
Total		93.9		93.9

[1] Based on actual stack test data.
Note: T/yr = Tons per year.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 27, 1986. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Particulate matter, Intergovernmental relations.

Note.—Incorporation by reference of the State implementation Plan for the State of Indiana was approved by the Director of the Federal Register on July 1, 1982.

Dated: April 12, 1986.

Lee M. Thomas,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Title 40 of the Code of Federal Regulations, Chapter I, Part 52, is amended as follows:

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.770 is amended by adding new paragraph (c)(56) as follows:

§ 52.770 Identification of Plan.

* * * * *

(c) * * *

(56) On September 2, 1983, the Indiana Air Pollution Control Board (Board) submitted revised emission limitations for Occidental Chemical Corporation (OCC), located in Clark County, Indiana. Amendments to these operating permits were submitted by the State on December 21, 1983. These emission limits replace those approved for OCC (under its former name, Hooker Chemical) at (c)(34).

(i) Incorporation by reference.

(A) Indiana Air Pollution Control Board Operation Permits:

(1) Control Number 16113, date issued December 27, 1982.

(2) Control Number 16114, date issued December 27, 1982.

(3) Control Number 16115, date issued December 27, 1982.

(ii) Additional material.

(A) OCC corrected emissions dated September 13, 1984.

(B) OCC's new modeled data, dated November 6, 1984.

(C) State's modeling for OCC and surrounding area, dated July 2, 1984 and August 7, 1984.

[FR Doc. 86-9292 Filed 4-24-86; 8:45 am]

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COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1502

National Environmental Policy Act Regulations; Incomplete or Unavailable Information

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Final rule.

SUMMARY: The Council on Environmental Quality (CEQ) promulgates regulations, binding on all federal agencies, to implement the procedural provisions of the National Environmental Policy Act (NEPA). The regulations address the administration of the NEPA process, including preparation of environmental impact statements for major federal actions which significantly affect the quality of the human environment. On August 9, 1985, CEQ published a proposed amendment to one of these regulations (40 CFR 1502.22), which addresses incomplete or unavailable information in an environmental impact statement (EIS). 50 FR 32234. After reviewing the comments received in response to that proposal, the CEQ now issues the final amendment to that regulation. The final amendment requires all federal agencies to disclose the fact of incomplete or unavailable information when evaluating reasonably foreseeable significant adverse impacts on the human environment in an EIS, and to obtain that information if the overall costs of doing so are not exorbitant. If the agency is unable to obtain the information because overall costs are exorbitant or because the means to obtain it are not known, the agency must (1) affirmatively disclose the fact that such information is unavailable; (2) explain the relevance of the unavailable information; (3) summarize the existing credible scientific evidence which is relevant to the agency's evaluation of significant adverse impacts on the human environment; and (4) evaluate the impacts based upon theoretical approaches or research methods generally accepted in the scientific community. The amendment also specifies that impacts which have a low probability of occurrence but catastrophic consequences if they do occur, should be evaluated if the analysis is supported by credible scientific evidence and is not based on pure conjecture, and is within the rule of reason. The requirement to prepare a "worst case analysis" is rescinded.

The existing guidance regarding 40 CFR 1502.22, found in Question 20 of *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations*, 46 FR 18032 (1981), is hereby withdrawn. Guidance relevant to the amended regulation will be published after the regulation becomes effective.

EFFECTIVE DATE: May 27, 1986.

FOR FURTHER INFORMATION CONTACT: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, DC 20006. (202) 395–5754.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

Under Executive Order 12291, CEQ must judge whether a regulation is major and, therfore, whether a Regulatory Impact Analysis must be prepared. This regulation does not satisfy any of the criteria specified in section 1(b) of the Executive Order and, as such, does not constitute a major rulemaking. As required by Executive Order 12291, this regulation was submitted to the Office of Management and Budget (OMB) for review. There were no comments from OMB to CEQ regarding compliance with Executive Order 12291 in relationship to amendment of 40 CFR 1502.22.

Paperwork Reduction Act

The information collection requirements in this proposed rule were submitted for approval to OMB under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* No comments were submitted by OMB or the public on the information collection requirements.

Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, CEQ is required to prepare a Regulatory Flexibility Analysis for proposed regulations which would have a significant impact on a substantial number of small entities. No analysis is required, however, when the Chairman of the Council certifies that the rule will not have a significant economic impact on a substantial number of small entities. Accordingly, I hereby certify, pursuant to 5 U.S.C. 605(b), that this final amendment would not have a significant impact on a substantial number of small entities.

Environmental Assessment

Although there are substantial legal questions as to whether entities within the Executive Office of the President are required to prepare environmental assessments, CEQ, consistent with its practice in 1978, has prepared a special environmental assessment and a Finding of No Significant Impact regarding amendment of this regulation, which is available to the public upon request. For the reasons stated in the Finding of No Significant Impact, CEQ has concluded that the amendment to 40 CFR 1502.22 will not have a significant impact on the quality of the human environment.

Background

The National Environmental Policy Act, signed into law by President Nixon on January 1, 1970, articulated national policy and goals for the nation, established the Council on Environmental Quality, and, among other federal agencies to assess the environmental impacts of and, among other things, required all federal agencies to assess the environmental impacts of and alternatives to proposals for major federal actions significantly affecting the quality of the human environment. The Council on Environmental Quality, charged with the duty of overseeing the implementation of NEPA, developed guidelines to aid federal agencies in assessing the environmental impacts of their proposals. A combination of agency practice, judicial decisions and CEQ guidance resulted in the development of what is commonly referred to as "the NEPA process", which includes the preparation of environmental impact statements for certain types of federal actions.

Because of complaints about paperwork and delays in projects caused by the NEPA process, and a perception that the problem was caused in part by lack of a uniform, binding authority, CEQ was directed in 1977 to promulgate binding regulations implementing the procedural provisions of NEPA. (Executive Order 11991, 3 CFR 123 (1978). Council was directed to specifically: "make the environmental impact statement process more useful to decisionmakers and the public; and to reduce paperwork and the accumulation of extraneous background data, in order to emphasize the need to focus on real environmental issues and alternatives." After undertaking an extensive process of review and comment with federal, state and local governmental officials, private citizens, business and industry representatives, and public interest organizations, the Council issued the NEPA regulations on November 29, 1978. 40 CFR 1500–1508 (1986). The regulations were hailed as a "significant improvement on prior EIS guidelines", (Letter, Chamber of Commerce of the United States, January 8, 1979), and became effective for, and binding upon, most federal agencies on July 30, 1979, and for all remaining federal agencies on November 29, 1979.

Since promulgation of the NEPA regulations, the Council has continually reviewed the regulations to identify areas where further interpretation or guidance is required.[1] No broad support for amendment of the regulations surfaced during review under the 1981 Vice President's Regulatory Relief Task Force; indeed, some recommended that, "CEQ's streamlining regulations for the implementation of NEPA requirements should receive full support from the Administration and the federal agencies". (Letter, National League of Cities, May 14, 1981). Although continual attention is required to ensure that the mandate of the regulations is being fulfilled, the regulations appear to be generally working well.

During the past two and a half years, however, the Council has received numerous requests from both government agencies and private parties to review and amend the regulation which addresses "incomplete or unavailable information" in the EIS process. That regulation currently reads as follows:

"Section 1502.22. Incomplete or unavailable information.

"When an agency is evaluating significant adverse effects on the human environment in an environmental impact statement and there are gaps in relevant information or scientific uncertainty, the agency shall always make clear that such information is lacking or that uncertainty exists.

"(a) If the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement.

"(b) If (1) the information relevant to adverse impacts is essential to a reasoned choice among alternatives and is not known and the overall costs of obtaining it are exorbitant or (2) the information relevant to adverse impacts is important to the decision and the means to obtain it are not known (e.g., the means for obtaining it are beyond the state of the art) the agency shall weigh the need for the action against the risk and severity of possible adverse impacts were the action to proceed in the face of uncertainty. If the agency proceeds, it shall include a worst case analysis and an indication of the probability or improbability of its occurrence." 40 CFR 1502.22.

On August 11, 1983, the Council proposed guidance regarding the "worst case analysis" requirement and asked for comments on the proposed guidance 48 FR 36486 (1983). The draft guidance suggested that an initial threshold of probability should be crossed before the requirements in 40 CFR 1502.22 became applicable. Although some

[1] See, *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations*, 46 FR 18026 (1981); *Memorandum for General Counsels, NEPA Liaisons and Participants in Scoping*, April 30, 1981 (available upon request from the General Counsel's office, CEQ); *Guidance Regarding NEPA Regulations*, 48 FR 34263 (1983).

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commentators agreed with the guidance, others believed that the proposed threshold would weaken analysis of low probability and severe consequences impacts. Other writers suggested different approaches to the issue, or advocated amendment of the regulation rather than guidance. After reviewing the comments received in response to that proposal, the Council withdrew the proposed guidance, stating its intent to give the matter additional examination before publishing a new proposal. 49 FR 4803 (1984).

After many discussions with federal agency representatives and other interested parties in state governments, public interest groups, and business and industry, the Council published an Advance Notice of Proposed Rulemaking (ANPRM) for 40 CFR 1502.22, and stated that it was considering the need to amend the regulation. 49 FR 50744 (1984). The ANPRM posed five questions about the issue of incomplete or unavailable information in an EIS and asked for thoughtful written responses to the questions. The Council received 161 responses to the ANPRM. A majority of the commentators cited problems with the "worst case analysis" requirement, but recognized the need to address potential impacts in the face of incomplete or unavailable information. Many commentators thought that either the regulation itself or recent judicial decisions required agencies to go beyond the "rule of reason". These commentators suggested that the "rule of reason" should be made specifically applicable to the requirements of the regulation. A minority of commentators felt strongly that the original regulation was adequate and should not be amended.

On March 18, 1985, the Council held a meeting, open to the public, to discuss the comments received in response to the Advance Notice of Proposed Rulemaking. 50 FR 9535 (1985). Shortly after that meeting, the Council voted to amend the regulation. On August 9, 1985, CEQ published a proposed amendment to 40 CFR 1502.22 which read as follows:

"Section 1502.22. Incomplete of unavailable information.

"In preparing an environmental impact statement, the agency shall make reasonable efforts, in light of overall costs and state of the art, to obtain missing information which, in its judgment, is important to evaluating significant adverse impacts on the human environment that are reasonably foreseeable. If, for the reasons stated above, the agency is unable to obtain this missing information, the agency shall include within the environmental impact statement (a) a statement that such information is missing, (b) a statement of the relevance of the missing information to evaluating significant adverse impacts on the human environment, (c) a summary of existing credible scientific evidence which is relevant to evaluating the significant adverse impacts on the human environment, and (d) the agency's evaluation of such evidence. 'Reasonably foreseeable' includes impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that they have credible scientific support, are not based on pure conjecture, and are within the rule of reason." 50 FR 32238 (1985).

The Council received 184 comments in response to the proposed amendment: 81 comments from business and industry; 39 comments from private citizens; 30 comments from public interest groups; 15 comments from federal agencies; 14 comments from state governments; 4 comments from local governments; and one comment from a Member of Congress.

A majority of the commentators favored an amendment to the regulation, and supported the general approach of the proposed amendment. However, many of these writers offered specific suggestions for improving the proposal. Many commentators asked for definitions of terms used in the proposal, particularly for the phrase "credible scientific evidence." Some commentators wanted the Council to specify a particular methodology, such as risk assessment, as a substitute for a worst case analysis. Many commentators had specific comments about particular words or phrases used in the proposed amendment. Many commentators asked CEQ to provide further guidance or monitoring after the regulation was issued in final form.

A minority of commentators strongly opposed the amendment. Some of these writers were concerned over perceived changes in the first two paragraphs of the original regulation—requirements to disclose the fact that information is missing, and to obtain that information, if possible. Some commentators opposed deletion of the "worst case analysis" requirement. Other commentators believed that the proposed amendment did not require agencies to analyze or evaluate impacts in the face of incomplete or unavailable information. These comments, and others, will be discussed below in the section "Comments and the Council's Response".

On January 9, 1986, CEQ held a meeting, open to the public, to discuss the comments received in response to the proposed amendment. 50 FR 53061 (1985). A summary of the presentation made at that meeting is available from the Office of the General Counsel. Shortly after that meeting, the Council voted to proceed to final amendment of the regulation.

Purpose and Analysis of Final Amendment

CEQ is amending this regulation because it has concluded that the new requirements provide a wiser and more manageable approach to the evaluation of reasonably foreseeable significant adverse impacts in the face of incomplete or unavailable information in an EIS. The new procedure for analyzing such impacts in the face of incomplete or unavailable information will better inform the decisionmaker and the public. The Council's concerns regarding the original wording of 40 CFR 1502.22 are discussed at length in the preamble to the proposed amendment. 50 FR 32234 (1985). It must again be emphasized that the Council concurs in the underlying goals of the original regulation—that is, disclosure of the fact of incomplete or unavailable information; acquisition of that information if reasonably possible; and evaluation of reasonably foreseeable significant adverse impacts even in the absence of all information. These goals are based on sound public policy and early NEPA case law.[1] Rather, the need for amendment is based upon the Council's perception that the "worst case analysis" requirement is an unproductive and ineffective method of achieving those goals; one which can breed endless hypothesis and speculation.

The amended regulation applies when a federal agency is preparing an EIS on a major federal action sigificantly affecting the quality of the human environment and finds that there is incomplete or unavailable information relating to reasonably foreseeable significant adverse impacts on the environment. It retains the legal requirements of the first paragraph and subsection (a) of the original regulation. Thus, when preparing an EIS, agencies must disclose the fact that there is incomplete or unavailable information. The term "incomplete information" refers to information which the agency cannot obtain because the overall costs of doing so are exorbitant. The term "unavailable information" refers to information which cannot be obtained because the means to obtain it are not known. If the incomplete information relevant to adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency must include the information in the EIS. The first paragraph and subsection (a) of the original regulation have been amended only insofar as the phrases "incomplete or unavailable information" (title of the original regulation) or "incomplete information" are substituted for synonymous phrases and the term "reasonably foreseeable" is added to modify "significant adverse impacts". These changes are made for consistency, clarity and readability.

Subsection (b) is amended to require federal agencies to include four items in an EIS if the information relevant to reasonably foreseeable significant adverse impacts remains unavailable because the overall costs of obtaining it are exorbitant or the means to obtain it are not known. The first step is disclosure of the fact that such information is incomplete or unavailable; that is, "a statement that such information is incomplete or unavailable". The second step is to discuss why this incomplete or unavailable information is relevant to the task of evaluating reasonably foreseeable significant adverse impacts; thus, "a statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable relevant to evaluating the reasonably foreseeable significant adverse impacts, impacts on the human environment". Fourth, the agency must use sound scientific methods to evaluate the potential impacts; or in the words of the regulation, "the agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community".

The regulation also makes clear that the reasonably foreseeable potential impacts which the agency must evaluate include those which have a low probability of occurrence but which would be expected to result in catastrophic consequences if they do occur. However, the regulation specifies that the analysis must be supported by credible scientific evidence, not based on pure conjecture, and be within the rule of reason.

Subsection (b) deletes two substantive requirements from the same subsection of the original regulation, promulgated in 1978. First, it eliminates the requirement for agencies to "weigh the need for the action against the risk and severity of possible adverse impacts were the action to proceed in the face of uncertainty" while in the process of preparing an EIS. The Council believes that the weighing of risks and benefits for the particular federal proposal at hand is properly done after completion of the entire NEPA process, and is reflected in the Record of Decision. Nothing, of course, prohibits a decisionmaker from withdrawing a proposal during the course of EIS preparation.

Second, the regulation eliminates the "worst case analysis" requirement. It does not, however, eliminate the requirement for federal agencies to evaluate the reasonably foreseeable significant adverse impacts of an action, even in the face of unavailable or incomplete information. Rather, it specifies that the evaluation must be carefully conducted, based upon credible scientific evidence, and must consider those reasonably foreseeable significant adverse impacts which are based upon scientific evidence. The requirement to disclose all credible scientific evidence extends to responsible opposing views which are supported by theoretical approaches or research methods generally accepted in the scientific community (in other words, credible scientific evidence).

The regulation also requires that analysis of impacts in the face of unavailable information be grounded in the "rule of reason". The "rule of reason" is basically a judicial device to ensure that common sense and reason are not lost in the rubric of regulation. The rule of reason has been cited in numerous NEPA cases for the proposition that, "An EIS need not discuss remote and highly speculative consequences. . . . This is consistent with the (CEQ) Council on Environmental Quality Guidelines and the frequently expressed view that adequacy of the content of the EIS should be determined through use of a rule of reason." *Trout Unlimited* v. *Morton*, 509 F.2d 1276, 1283 (9th Cir. 1974). In the seminal case which applied the rule of reason to the problem of unavailable information, the court stated that, "[NEPA's] requirement that the agency describe the anticipated environmental effects of a proposed action is subject to a rule of reason. The agency need not foresee the unforeseeable, but by the same token, neither can it avoid drafting an impact statement simply because describing the environmental effects of alternatives to particular agency action involves some degree of forecasting . . . 'The statute must be construed in the light of reason if it is not to demand what is, fairly speaking, not meaningfully possible . . .'" *Scientists' Institute for Public Information, Inc.* v. *Atomic Energy Commission*, 481 F.2d 1079, 1092 (D.C. 1973), citing *Calvert Cliffs' Coordinating Committee* v. *Atomic Energy Commission*, 449 F.2d 1109, 1114 (D.C. Cir. 1971). The Council's amendment supports and conforms with this direction.

The evaluation of impacts under § 1502.22 is an integral part of an EIS and should be treated in the same manner as those impacts normally analyzed in an EIS. The information included in the EIS to fulfill the requirements of § 1502.22 is properly a part of the "Environmental Consequences" section of the EIS (40 CFR 1502.16). As with other portions of the EIS, material substantiating the analysis fundamental to the evaluation of impacts may properly be included in an appendix to the EIS.

Comments and the Council's Response

Comment: CEQ does not make clear the fact that the first paragraph and paragraph (a) of 1502.22 would be eliminated in the proposed amendment. The preamble says nothing about radical changes in the research requirements of the existing regulation.

Response: The changes to the first paragraph and subsection (a) of the existing regulation in the proposed amendment were made primarily for the purpose of attempting to clarify and simplify the existing requirements. However, in response to a number of concerns regarding perceived changes in the legal requirements of these paragraphs, the Council has chosen to retain the original format of the regulation. The Council intends that the substitution of the phrase "incomplete or unavailable information" and "incomplete information" are taken from the title of the regulation itself, and are being inserted for the sake of consistency of terms and clarity.

Comment: The term "reasonable efforts" should be defined.

Response: The term "reasonable efforts" does not appear in the final regulation.

Comment: The proposed amendment drops the standard of "exorbitant costs"

[1] See, for example, *Scientists' Institute for Public Information, Inc. v. Atomic Energy Commission*, 481 F.2d 1079 (D.C. Cir. 1973).

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and substitutes "overall costs." Substantively, the current standard should be retained. It is a purposefully high standard, intended to counter agencies' demonstrated reluctance to seek out information. The proposed standard is lax and undefined.

Response: The final regulation retains the original standard.

Comment: The term "state of the art" should be replaced with "the availability of adequate scientific or other analytical techniques or equipment".

Response: The term has been deleted in the final regulation, and the phrase "the means to obtain it are not known" is substituted. That phrase is meant to include circumstances in which the unavailable information cannot be obtained because adequate scientific knowledge, expertise, techniques or equipment do not exist.

Comment: The regulation should make clear that "overall costs" include, among other things, all economic costs and delays in timing. The "overall cost" requirement needs to be further defined to reflect items such as comparing low cost/high cost risk (and vice versa), costs of time in obtaining information, costs of delaying projects, benefit/cost ratio and outyear impact cost.

Response: CEQ intends that the term "overall costs" encompasses financial costs and other costs such as costs in terms of time (delay) and personnel. It does not intend that the phrase be interpreted as a requirement to weigh the cost of obtaining the information against the severity of the impacts, or to perform a cost-benefit analysis. Rather, it intends that the agency interpret "overall costs" in light of overall program needs.

Comment: The term "missing information" should be clarified or changed.

Response: The term "missing information" is deleted in the final regulation, and is replaced with the terms "incomplete or unavailable information" and "incomplete information". These terms are consistent with the title of the regulation.

Comment: The word "material" should be substituted for the word "significant" because the word "significant" is a term of art and incorporates consideration of controversy surrounding a proposal. The word "material" would be more appropriate.

Response: The final regulation retains the term "significant". "Significant" is indeed a term of art which connotes the type of environmental impact which the agency is obligated to analyze in an EIS. Consideration of controversy is one of many factors which must be considered in determining whether an impact is "significant"; others include the degree to which the proposed action affects public health or safety, unique characteristics of the geographic area such as wetlands, wild and scenic rivers, etc., the degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks, the cumulative impacts of an action, whether the action may adversely affect an endangered species or critical habitat, the degree to which an action may adversely affect historic areas, and whether the proposed action would violate another federal, state or local environmental law. 40 CFR 1508.27. The 1978 CEQ regulations differed from the earlier CEQ Guidelines in stating that the fact of controversy does not, alone, require preparation of an EIS; rather, it is one of many factors which the responsible official must bear in mind in judging the context and intensity of the potential impacts.

Comment: The term "in its judgment" gives agencies the administrative discretion to limit the data needed to prepare an EIS. It gives too much discretionary authority to agency officials to decide if they need to obtain the information. Suggest deleting "in its judgment" or adding "and with the concurrence of appropriate federal or state resource agencies".

Related Comment: It is important to allow an agency discretion to determine the extent of the investigation required to obtain information.

Response: The term "in its judgment" is deleted from the final regulation. However, deletion of that phrase is not intended to change the discretion currently vested in the agencies to determine the extent of the investigation required to obtain information. The agency's discretion must be used to make judgments about cost and scientific availability of the information.

Comment: The proposed amendment's definition of "reasonably foreseeable" should be strengthened or clarified or the use of this phrase should be changed.

Response: The term "reasonably foreseeable" has a long history of use in the context of NEPA law, and is included elsewhere in the CEQ NEPA regulations. 40 CFR 1508.8(b). Generally, the term has been used to describe what kind of environmental impacts federal agencies must analyze in an EIS; for example, ". . . if the [agency] makes a good faith effort in the survey to describe the *reasonably foreseeable* environmental impact of the program, alternatives to the program and their *reasonably foreseeable* environmental impact, and the irreversible and irretrievable commitment of resources the program involves, we see no reason why the survey will not fully satisfy the requirements of [NEPA] section 102(C)." *Sierra Club* v. *Morton*, 379 F. Supp. 1254, 1259 (D. Col. 1974) (emphasis added). *See also, Town of Orangetown* v. *Gorsuch*, 718 F.2d 29, 34 (2d Cir. 1983); *NRDC* v. *NRC*, 685 F.2d 459, 476 (D.C. Cir. 1982). The term has also been used in the context of incomplete or unavailable information. *See Scientists' Institute for Public Information* v. *Atomic Energy Commission*, 481 F.2d 1079, 1092 (D.C. Cir. 1973).

Because of the controversy and nature of this particular regulation, CEQ has specified that in the context of 40 CFR 1502.22, the term "reasonably foreseeable" includes low probability/severe consequence impacts, provided that the analysis of such impacts is supported by credible scientific evidence, is not based on pure conjecture, and is within the rule of reason.

Comment: To prevent confusion, the proposed amendment should use either the term "credible scientific evidence" or "credible scientific support"—not both.

Response: The final regulation uses the term "credible scientific evidence" and deletes the term "credible scientific support".

Comment: The term "credible scientific evidence" should be defined. (A number of commentators offered specific suggestions for such a definition).

Response: The final regulation states that the agency's evaluation of impacts in the face of incomplete or unavailable information should be based upon theoretical approaches or research methods generally accepted in the scientific community. While this is admittedly a broad and general direction, CEQ is concerned that a narrow definition of "credible scientific evidence" would prove inappropriate in some circumstances, given the wide variety of actions which potentially fall under the auspices of this regulation. In many cases, the Council expects that "theoretical approaches or research methods generally accepted in the scientific community" will include commonly accepted professional practices such as literature searches and peer review.

Comment: The term "credible" should be deleted from the regulation, and all information should be considered.

Response: The definition of the word "credible" is, "capable of being believed". *Webster's II New Riverside University Dictionary*, 1984. Information which is unworthy of belief should not be included in an EIS.

Comment: The term "scientific" is overly restrictive since measurement of an action's environmental effects may be grounded in, among other things, economic, historical or sociological information.

Response: In an EIS, federal agencies are responsible for analysis of significant environmental effects which include "ecological, aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative." 40 CFR 1508.8(b). The requirement to analyze these potential impacts or effects are not modified in any manner by the qualified "scientific evidence" in 40 CFR 1502.22. Rather, the term "scientific" is meant to imply that the evidence presented about the possibility of a certain impact should be based upon methodological activity, discipline or study. *Webster's II New Riverside University Dictionary, 1984.*

Comment: The amendment should include some recognized scientific method for evaluating uncertainty, such as, perhaps, a risk assessment approach.

Response: Because of the wide variety of types of incomplete or unavailable information which may potentially fall within the scope of this regulation, CEQ does not choose to specify a particular methodology. Rather, each agency should select that approach which best meets the goals of evaluating potential impacts in the face of unavailable information. Further, a requirement that a particular methodology be utilized might be soon outdated by scientific developments in a particular field.

Comment: The draft preamble states that the summary of credible scientific evidence must include all information from all sources, including minority or opposing viewpoints. What are "minority views" as they relate to credible scientific evidence?

Response: The preamble to the proposed amendment states that the requirement to disclose all credible scientific evidence extends to those views which are generally regarded as "minority views" within the scientific community. The final preamble adopts the term "responsible opposing views" as the preferred term, consistent with 40 CFR 1502.9(b). The requirement to include responsible opposing views reflects the belief that many times, particularly when dealing with questions of incomplete or unavailable information, there will be more than one point of view about potential environmental impacts which has scientific credibility. The regulation requires an agency to include information about such views which have scientific credibility, rather than simply selecting one concept which supports its particular view. The responsible opposing views, must, of course, meet the criteria set out in subsection (b) of the regulation. Once such information is set out in the EIA, the agency must then use its own judgment and discretion to determine which viewpoint it believes is the most worthy of acceptance.

Comment: CEQ should indicate in the preamble that along with available scientific evidence, the views and conclusions of other government agencies and departments may be considered.

Response: The views and conclusion of other government agencies and departments are appropriately considered throughout the EIS process, beginning with the scoping process. Section 1502.22 does not limit involvement by other federal agencies in that process. Special attention should be paid to the views of those agencies with special expertise or jurisdiction by law in a particular field of inquiry. 40 CFR 1503.1(a)(1). The views of the public, and indeed all interested parties, are, of course also to be considered throughout the EIS process.

Comment: It should be made clear that the summary should be limited to credible scientific evidence only.

Response: This is precisely the requirement of the regulation itself. Again, credible scientific evidence includes both majority views and responsible opposing views, so long as these views meet the criteria in the regulation.

Comment: The regulation should require agencies to state the probability or improbability of the occurrence of the impacts which are identified.

Response: Although this requirement is not part of the final regulation, agencies are free to include this information in the EIS. The Council encourages the inclusion of such data when it is relatively reliable and when such information would help to put the analysis in perspective for the decisionmaker and other persons who read and comment on the EIS.

Comment: The fourth requirement, to include the agency's "evaluation" of the scientific evidence is vague. Presumably, what is meant is not a critique of the evidence, but an application of the evidence to predict impacts.

Response: The fourth requirement has been reworded so that it is clear that the agency is required to evaluate reasonably foreseeable significant adverse impacts which significantly affect the quality of the human environment.

Comment: There is no requirement for the agencies to analyze impacts—the basic purpose of the regulation.

Response: The fourth requirement clearly states a requirement for the agencies to evaluate the reasonably foreseeable significant adverse impacts.

Comment: The final amendment should require agencies to address high probability/low or chronic impacts, as well as low probability/catastrophic impacts.

Response: If there is a high probability of an impact occurring, an agency is probably not in the realm of incomplete or unavailable information; hence, the impacts would be analyzed under the ordinary requirements in the "Environmental consequences" section. This section includes the analysis of the environmental impacts of the proposal and the environmental impacts of alternatives to the proposed action. 40 CFR 1502.16.

Comment: The preamble to the draft amendment errs in asserting that case law has established a precedent to go beyond the rule of reason and it ignores subsequent Ninth Circuit case law which applies the rule of reason to find that agencies properly refused to prepare a worst case analysis.

Response: The Ninth Circuit decision referred to in this comment held that a worst case analysis was not required because the lead agency had obtained the information which it needed; thus there was no incomplete or unavailable information to trigger the worst case analysis requirement. *Friends of Endangered Species* v. *Jantzen*, 760 F.2d 976 (9th Cir. 1985).

Comment: The threshold triggering the agency's responsibility to comply with 40 CFR 1502.22(b) is actually the existance of incomplete or unavailable information. "Scientific credibility" is not a threshold, but rather a standard to be applied to the analysis once the duty to comply is triggered.

Response: This comment is correct.

Comment: The Council should make clear in the regulation itself that "scientific credibility" is the threshold which triggers the regulation.

Response: "Scientific credibility" is the criterion for the evidence which should be used to evaluate impacts in the face of incomplete or unavailable information. The trigger to comply with the regulation itself is incomplete or unavailable information.

Comment: If the phrase "worst case analysis" is unacceptable, the Council should consider replacing the term with

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its functional equivalent, "spectrum of events".

Response: In the final regulation, a lead agency is required to evaluate "impacts". "Impacts" or "effects" (the two are synonymous under CEQ regulations) are the subject of analysis in an EIS, not "events". Indeed, the event to be anticipated is the proposed action itself.

Under the final regulation, agencies are required to evaluate impacts for which there is credible scientific evidence. In implementing this section, agencies will have to determine the appropriate range of analysis based on the unique facts of each particular proposal. In some cases, this may amount to a spectrum or range of impacts. In other cases, the scope of suggested impacts may be much more limited. Credible scientific evidence should determine the scope of the analysis, as opposed to a pre-determined number of impacts.

Comment: A careful reading of the case law reveals that neither the Ninth Circuit nor any other circuit has required worst case analysis in the absence of scientific opinion, evidence, and experience, as alleged in the draft preamble.

Response: Although CEQ was asked to consider this question by various persons who were concerned about the effect in future cases of possible interpretations of judicial decisions involving the worst case analysis requirement, CEQ has amended the regulation because it believes, based on further review, that the worst case analysis requirement is flawed, and the new requirements provide a better and more logical means of dealing with the analysis of impacts in the face of incomplete or unavailable information in an EIS.

Comment: Deletion of the worst case requirement will weaken environmental protection.

Response: This assertion is incorrect. The amended regulation establishes a better approach to dealing with the issue of incomplete and unavailable information in an EIS. It is a less sensational approach, but one which is a more careful and professional approach to the analysis of impacts in the face of incomplete or unavailable information. It should improve the quality of the EIS and the decision which follows, and, hence, strengthen environmental protection, in conformance with the purpose and goals of NEPA. 42 U.S.C. 4321, 4331. It will provide the public and the decisionmaker with an improved and more informed basis for the decision.

Comment: Before eliminating the term "worst case analysis", the Council should determine whether a worst case analysis is really impossible to prepare, or whether it is being resisted by agencies unwilling to learn because they do not want to admit the adverse impacts of their preferred programs.

Response: The Council does not maintain that a worst case analysis is impossible to prepare; however, it does view the worst case analysis requirement as a flawed technique to analyze impacts in the face of incomplete or unavailable information. The new requirement will provide more accurate and relevant information about reasonably foreseeable significant adverse impacts. To the extent that agencies were reluctant to discuss such impacts under the requirements of the original regulation, the amended regulation will not offer them an escape route.

Comment: The expressed need for clarification can be met by simply adding the "rule of reason" to the existing regulation.

Response: While the "rule of reason" is indeed added to the language of the regulation, CEQ believes that it is also important to amend the requirement to prepare a worst case analysis. The requirement that the analysis of impacts be based on credible scientific evidence is viewed as a specific component of the "rule of reason".

Comment: The proposal inappropriately removes the obligation to weigh the need for an action against its potential impacts.

Response: The regulation deletes this requirement because it is more properly accomplished at the conclusion of the entire NEPA process. A decisionmaker may, of course, decide to withdraw a proposal at any stage of the NEPA process for any reason, including the belief that the paucity of information undermines the wisdom of proceeding in the face of possibly severe impacts. However, such weighing and balancing in the middle of EIS preparation is a matter of policy, not law.

It is clear that, "one of the costs that must be weighed by decisionmakers is the cost of uncertainty—i.e., the costs of proceeding without more and better information." *Alaska v. Andrus*, 580 F.2d 465, 473 (D.C. Cir. 1978). However, that weighing takes place after completion of the EIS process, including the public comment process. Indeed, it would seem that the results of such a weighing process would naturally be more informed and wiser after the agency has completed the requirements of § 1502.22 to evaluate the potential impacts in the face of incomplete or unavailable information. After completion of the EIS process, the responsible decisionmaker must then weigh the costs of proceeding in the face of uncertainty, "and where the responsible decision-maker has decided that it is outweighed by the benefits of proceeding with the project without further delay . . ." he may proceed to do so. *Id.* Similarly, he or she may also decide, with the benefit of the best possible information, to delay the project until further information is obtained or to cancel the project altogether.

Comment: CEQ should provide additional guidance about the new regulation, and oversee and actively monitor its implementation.

Response: CEQ plans to provide additional guidance about the new regulation in the form of an amended question 20 of *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations.* CEQ also plans to actively monitor the implementation of the amended regulation, and evaluate its effectiveness after it has been implemented for a sufficient period of time to make a reasonable assessment.

Comment: It is unclear in which situations the new rule would apply, and what specific information it mandates. CEQ should apply the rule to actual or hypothetical situations and explain how the rule will apply and how the agencies' obligations differ under the new rule from those of the old. Request the Council provide such an analysis for particular fact patterns.

Response: CEQ plans to provide specific examples of the application of the rule to hypothetical situations in its guidance, following issuance of the final rule. The amended regulation will apply, of course, to the very same situations to which the original regulation applies; that is, the existence of incomplete or unavailable information related to significant adverse impacts on the human environment. The modifications to the regulation are designed to better articulate the precise requirements with which an agency must comply once it finds itself in this situation.

Comment: It is essential to mention the Committee of Scientists which was instrumental in development of the proposed regulation.

Response: The writer is probably referring to a proposed Advisory Committee on Worst Case Analysis, which would have included scientists. The Committee was never formed, and thus had no role in developing the amended regulation. Instead, the Council sought public comment through the process of asking questions in the Advance Notice of Proposed Rulemaking.

Comment: CEQ should state that this analysis is to be done only in conjunction with an EIS, as opposed to an environmental assessment.

Response: Section 1502.22 is part of the set of regulations which govern the EIS process, as opposed to the preparation of an environmental assessment. *It is only appropriate to require this level of analysis when an agency is preparing an EIS.* The type of analysis called for in § 1502.22 is clearly much more sophisticated and detailed than the scope of an environmental assessment. Environmental assessments should be concise public documents which *briefly* provide sufficient analysis for determining whether to prepare an EIS, and aid in an agency's compliance with NEPA when no EIS is necessary. "Since the EA [environmental assessment] is a concise document, it should not contain long descriptions or detailed data which the agency may have gathered". The Council's suggested page limit for environmental assessments are ten to fifteen pages. *Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations,* Question 36a, 46 FR 18026, 18037 (1981).

Comment: CEQ should state clearly that the amendment is intended to repudiate and overrule the Ninth Circuit decisions on worst case analysis.

Response: The Ninth Circuit opinions are based on the requirements of former § 1502.22, or agency reflections thereof, and are inapplicable to this revision. The regulation is being amended to provide a better approach to the problem of analyzing environmental impacts in the face of incomplete or unavailable information. Because the requirements of the amended regulation are more clearly articulated and manageable than the "worst case analysis" requirement, CEQ expects that there will be less litigation based on § 1502.22 than the former version of § 1502.22 interpreted by the Ninth Circuit.

Comment: CEQ should withdraw the guidance contained in the 1981 publication, *Forty Most Asked Questions about CEQ's NEPA Regulations,* relating to worst case analysis.

Response: That guidance is withdrawn by this publication.

Comment: CEQ has not complied with its duties to assert its substantive powers over federal agencies to comply with NEPA, to coordinate programs, and to issue instructions to agencies, but has instead succumbed to pressure from defendant agencies and their attorneys to amend the regulation. Further, CEQ is collaterally estopped from overruling the Ninth Circuit decisions.

Response: CEQ manifests its oversight of the NEPA process in a number of ways on a daily basis; for example, review of agency NEPA procedures, resolving referrals of proposals of major federal actions, and assisting parties on an individual basis in resolving difficulties with the NEPA process. The requirements of the amended regulation are a more productive use of the agencies' resources than attempting to prepare a worst case analysis. Collateral estoppel is a doctrine by which a party may be barred from relitigating a question decided in a prior case. It does not bar an agency from changing a regulation that the courts have interpreted.

Comment: Agencies should be required to present an evaluation of the existing evidence of the most likely outcome.

Response: Step four of subsection (b) requires agencies to evaluate potential impacts. The lead agency may wish to specify which of the impacts are the most likely to occur, and the Council encourages inclusion of such data when it is reliable information which would be useful to the decisionmaker and the public.

Comment: Case law required worst case analysis prior to adoption of 40 CFR 1502.22.

Response: This assertion is incorrect. Case law prior to the adoption of 40 CFR 1502.22 *did* require agencies to make a "good faith effort . . . to describe the reasonably foreseeable environmental impact[s]" of the proposal and alternatives to the proposal in the face of incomplete or unavailable information, consistent with the "rule of reason". *Scientists' Institute for Public Information* v. *Atomic Energy Commission,* 481 F.2d 1079, 1092 (D.C. Cir. 1973). The "worst case analysis" requirement was a technique adopted by CEQ as a means of achieving the goals enunciated in such case law. The "worst case" requirement itself, however, was clearly a "major innovation". Comment, *New Rules for the NEPA Process: CEQ Establishes Uniform Procedures to Improve Implementation,* 9 Envt'l L.Rep. 10,005, 10,008 (1979). The U.S. Court of Appeals for the Fifth Circuit, interpreting the "worst case analysis" requirement for the first time in a litigation context, recognized that it was an innovation of CEQ. *Sierra Club* v. *Sigler,* 695 F.2d 957, 972 (5th Cir. 1983). CEQ has since observed difficulties with the technique of "worst case analysis" and is replacing it with a better approach to the problem of incomplete or unavailable information in an EIS.

List of Subjects in 40 CFR Part 1502

Environmental impact statements.

PART 1502—[Amended]

40 CFR Part 1502 is amended as follows:

1. The authority citation for Part 1502 continues to read:

Authority: NEPA, the Environmental Quality Improvement Act of 1970, as amended (42 U.S.C. 4371 *et seq.*), sec. 309 of the Clean Air Act, as amended (42 U.S.C. 7609), and E.O. 11514 (Mar. 5, 1970, as amended by E.O. 11991, May 24, 1977).

2. Section 1502.22 is revised to read as follows:

§ 1502.22 Incomplete or unavailable information.

When an agency is evaluating reasonably foreseeable significant adverse effects on the human environment in an environmental impact statement and there is incomplete or unavailable information, the agency shall always make clear that such information is lacking.

(a) If the incomplete information relevant to reasonably foreseeable significant adverse impacts is essential to a reasoned choice among alternatives and the overall costs of obtaining it are not exorbitant, the agency shall include the information in the environmental impact statement.

(b) If the information relevant to reasonably foreseeable significant adverse impacts cannot be obtained because the overall costs of obtaining it are exorbitant or the means to obtain it are not known, the agency shall include within the environmental impact statement: (1) A statement that such information is incomplete or unavailable; (2) a statement of the relevance of the incomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment; (3) a summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment, and (4) the agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community. For the purposes of this section, "reasonably foreseeable" includes impacts which have catastrophic consequences, even if their probability of occurrence is low, provided that the analysis of the impacts is supported by credible scientific evidence, is not based on pure

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conjecture, and is within the rule of reason.

(c) The amended regulation will be applicable to all environmental impact statements for which a Notice of Intent (40 CFR 1508.22) is published in the Federal Register on or after May 27, 1986. For environmental impact statements in progress, agencies may choose to comply with the requirements of either the original or amended regulation.

Dated: April 21, 1986.

A. Alan Hill,

Chairman.

[FR Doc. 86-9270 Filed 4-24-86; 8:45 am]

BILLING CODE 3125-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 73

Standards of Conduct—Participation in Matters Affecting a Financial Interest—Exemption of Employment at One Campus of Certain Multi-Campus Colleges and Universities as a Restriction on the Review of a Funding Application from a Separate Campus by Special Government Employees

AGENCY: Department of Health and Human Services.

ACTION: Final rule.

SUMMARY: This Rule amends the Standards of Conduct regulations, 45 CFR 73.735–1004 by adding new paragraph (c) to exempt, in certain circumstances, faculty members of certain multi-campus colleges and universities, who serve as experts and consultants to the Department, from the prohibition against Federal employees participating in matters affecting the financial interest of the institution by which they are employed. Currently, experts and consultants performing services for the Department who are affiliated with multi-campus institutions of higher education are precluded from participating in matters which affect one campus within their university system even though they are employed at a separate campus. As authorized by 18 U.S.C. 208(b), the Secretary has determined that such an interest is too inconsequential and too remote to affect the integrity of the services performed for the Department by these individuals.

EFFECTIVE DATE: April 25, 1986.

FOR FURTHER INFORMATION CONTACT: Timothy M. White, Office of the General Counsel, Business and Administrative Law Division (202) 475–0153.

SUPPLEMENTARY INFORMATION: The Federal Conflict of Interest statutes, 18 U.S.C. 208, prohibit an officer or employee of the United States Government, including special government employees, from participating personally and substantially as a Government officer or employee in any contract, claim, controversy or other particular matter in which, to his knowledge, an organization in which he is serving as an officer or employee has a financial interest. As explained in the DHHS Standards of Conduct, 45 CFR 73.735–801 *et seq.*, the restrictions of section 208 require Government employees to be disqualified from participating as such in a matter of any type, the outcome of which will have a direct and predictable effect upon the financial interest covered by section 208.

Under the restrictions of 18 U.S.C. 208, some experts, consultants, and other temporary employees who are employed by a multi-campus college or university and who review applications for grants and contract proposals for the Department may be disqualified from reviewing an application or proposal from their employing institution even though they are employed at a separate campus and have no connection with the application other than that employment. The basis for disqualification is the financial interest of the institution in the application. Disqualification of these reviewers poses significant administrative burdens upon the Department, particularly considering the difficulty in recruiting experts in various fields to perform review functions. Furthermore, the Secretary has determined that any interest of an employee in a separate campus within a multi-campus institution would be too remote or too inconsequential to affect the integrity of the employee's review of an application for funding from a different campus of the multi-campus institution.

In an opinion dated February 12, 1982, the Office of Government Ethics (OGE) advised this Department: (1) Where a reviewer is an employee of a State institution of higher education, he or she may participate in the review of an application from another department or agency of the state, when the employing institution and the applicant agency are not part of the same organization for purposes of 18 U.S.C. 208; (2) if a State has established and provides funds to its institutions of higher education separately rather than through a system, those institutions are considered distinct from one another, as well as from the rest of State government; (3) because of the diversity among the states, no general rule can be formulated for the status, under section 208, of separate educational systems within a state or of individual institutions within a system. However, it may be determined that separate systems within a state, or separate institutions within a system, are not the same "organization" within the meaning of section 208(a). Furthermore, an agency may grant waivers under 208(b) if it takes into account such factors as the statutes establishing the university system or systems, the manner in which grants and contracts are sought (by institution or by system), the entity being reimbursed for the indirect costs of a grant or contract, and the entity accountable for the awarded funds. The OGE opinion noted, for example, that the University of Colorado and Colorado State University were separate institutions within that state and that the University of California, the California State Universities and Colleges, and the California Community Colleges were separate systems within that State.

Subsequent to the OGE opinion, we have determined that certain institutions are separate "organizations" within the meaning of 18 U.S.C. 208(a) so that a waiver is unnecessary. Those systems or institution are listed in subparagraph (c)(2). In addition, we have determined that other multi-campus institutions and systems are eligible for a waiver under 18 U.S.C. 208(b). Those systems and institutions are listed in subparagraph (c)(1).

18 U.S.C. 208(b) provides for a waiver of the disqualification in 18 U.S.C. 208(a) if the Secretary by general rule or regulation published in the Federal Register exempts the financial interest as being too remote or too inconsequential to affect the integrity of the services to be provided by the Government employee. In addition, section 208(b) provides for waivers on a case-by-case basis upon a written determination by the appointing Government official that the affected interest is not so substantial as to be deemed likely to affect the integrity of the employee's services to the Government.

This rule grants a waiver of the prohibitions of 18 U.S.C. 208(a), and of the Department regulations implementing that statute, where part-time intermittent employees responsible for the review of funding applications and contract proposals have an interest in a particular application or proposal which consists solely of employment as a faculty member at a campus of a multi-campus institution or system of higher education which is separate from the campus from which the application originated. This waiver is limited to the institutions and systems listed for which a determination has been made, based on information provided by the institutions, that because the campuses are sufficiently separate, the financial interest created by the employment at one campus is too remote or too inconsequential to affect the integrity of a part-time or intermittent Government employee's review of an application from another campus of the institution. Waivers of the restrictions of 18 U.S.C. 208(a) for those employees from multi-campus institutions which are not included on the list published with this rule may continue to be considered on a case-by-case basis.

The regulation also is amended to list those state institutions of higher education which are so separate (separate systems or separate individual institutions) that they are not within the same "organization" for purposes of 18 U.S.C. 208(a). Thus, no waiver is necessary for these institutions.

This rule pertains to internal personnel management and is exempt from the notice and comment procedures.

Economic Impact

The Secretary has determined that this is not a "major" regulation within Executive Order 12291.

Regulatory Flexibility Act

The Secretary has determined that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only individual special government employees of the Department.

List of Subjects in 45 CFR Part 73

Standards of conduct, Experts, Consultants and advisory committee members.

PART 73—[AMENDED]

Section 73.735–1004 of Title 45 Code of Federal Regulations is amended by adding a new paragraph (c), as follows:

§ 73.735–1004 Requesting waivers or exemptions.

(a) * * *

(b) * * *

(c)(1) *Waiver for reviewers from certain multi-campus institutions.* Applicability of the prohibitions of 18 U.S.C. 208(a) and this subpart are hereby waived pursuant to a determination that the interest involved is too remote or too inconsequential to affect the integrity of a special Government employee's review of a funding application or contract proposal from one campus of one of the following multi-campus institutions, where the interest consists solely of employment as a faculty member (including Department Chairman) at a separate campus of the same multi-campus institution:

The University of Alabama system consisting of the University of Alabama, the University of Alabama in Birmingham, and the University of Alabama in Huntsville.

The campuses of the University of California.

The system consisting of Colorado State University, the University of Southern Colorado, and Fort Lewis College.

The Indiana University system consisting of eight universities on nine campuses, with the exception of the system-wide schools: the School of Business; the School of Dentistry; the School of Medicine; the School of Nursing; and the School of Public and Environmental Affairs.

The University of Nebraska system consisting of the University of Nebraska—Lincoln, the University of Nebraska at Omaha, and the University of Nebraska Medical Center.

The campuses of the State University of New York.

The Oregon system of higher education consisting of the University of Oregon, Oregon State University, Oregon Health Sciences University, Portland State University, Western Oregon State College, Southern Oregon State College, Eastern Oregon State College, and the Oregon Institute of Technology.

The campuses of the University of Tennessee.

The separate universities comprising the University of Texas System.

The separate universities comprising the University of Wisconsin System.

(2) *Institutions that are not subject to 18 U.S.C. 208(a) and the subpart, because they are not part of the same organization within the State.* The following State institutions and systems of higher education have been determined to be separate from each other to such a degree that no waiver is necessary in order to permit a faculty member (including Department Chairman) employed by one of the State institutions of higher education to review a funding application or contract proposal from another of the named institutions within that State:

The University of Alabama System and other Alabama State owned institutions of higher education.

The California Community Colleges, the California State Universities and Colleges, and the University of California.

The University of Colorado, Colorado State University, and other Colorado State owned institutions of higher education.

The University of Connecticut, Connecticut State University, the Connecticut Technical Colleges, and the Connecticut Community Colleges.

The University of Illinois, Illinois State University, Western Illinois University, Southern Illinois University, and the Illinois Community Colleges.

The Indiana University and the other Indiana State owned institutions of higher education.

The University of Iowa, and Iowa State University.

The University of Kansas, Kansas State University, Wichita State University, Fort Hays State University, Pittsburg State University, and the Kansas Technological Institute.

Louisiana State University, and other Louisiana State owned institutions of higher education.

The University of Massachusetts, and other Massachusetts State owned institutions of higher education.

The University of Michigan, Michigan State University, and Wayne State University.

The University of Minnesota, the Minnesota State University System, and the Minnesota Community College System.

The University of Missouri, and other Missouri State owned institutions of higher education.

The University of Nebraska, and other Nebraska State owned institutions of higher education.

The State University of New York System, and the City University of New York System.

The University of North Carolina, North Carolina State, and other North Carolina State owned institutions of higher education.

Pennsylvania State University, the University of Pittsburgh, Temple University, Lincoln University, and the other State owned colleges and universities in Pennsylvania.

The University of Texas System, the Texas A&M System, the Texas State University System, the University System of South Texas, the Lamar University System, the University of Houston System, East Texas State University, Stephen F. Austin State University, West Texas State University, Midwestern University, North Texas State University, Texas Southern University, Texas Woman's

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University, Texas Tech University and Pan American University.

The University of Utah and Utah State University.

Dated: April 4, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-8325 Filed 4-24-86; 8:45 am]

BILLING CODE 4160-04-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MM Docket No. 85-41; RM-4864; FCC 86-117]

Educational Television Stations; Commercial and Noncommercial Channel Assignments

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends the Commission's Rules to permit modification of licenses (and permits) to other channels within the same band pursuant to channel exchange agreements between commercial and noncommercial educational television stations upon a finding that the public interest will be served. The proposed exchanges will be considered in the context of rule making proceedings to amend the TV Table of Assignments. This action is taken in response to a petition filed by the permittees of noncommercial Channel *50 and commercial Channel 56 in Gary, Indiana.

EFFECTIVE DATE: May 23, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Joel Rosenberg, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 85-41, adopted March 13, 1986, and released March 21, 1986.

The full texts of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 1440, Washington, DC 20037.

Summary of Report and Order

1. The Commission amends § 1.420 of its Rules by adding a new paragraph (h). This action provides a new procedure whereby the Commission may, upon finding that the public interest, convenience, and necessity will be advanced thereby, modify television licenses and permits and switch educational channel reservations in the course of rule making proceedings amending the Television Table of Assignments, § 73.606(b) of the Rules. Such modifications and reservations switches would be in response to joint petitions filed by commercial and noncommercial educational television licensees and permittees seeking to exchange channels within the same band (*i.e.* UHF for UHF and VHF for VHF) and in substantially the same market.

2. The instant proceeding was commenced in response to a proposal by the permittees of Channels *50 and 56 Gary, Indiana to exchange channels and to institute a procedure to do so without jeopardizing their authorizations. Under existing Commission assignment procedures, if, during rule making proceedings other parties express interest in applying for the channels being exchanged, the process generally is terminated, as petitioners decline to risk their current authorizations and withdraw their rule making requests. Thus, there is no competition for the channels in question, and potentially beneficial exchanges are not effectuated. Termination also means that Commission, petitioner, and public resources are wasted. Existing procedures can be abused by competitors who can cause the filing of interests to delay or block enhanced service. Further, when otherwise benefical requests are withdrawn, the opportunity for a more efficient utilization of the spectrum as provided for in section 307(b) of the Communications Act of 1934, as amended, is lost.

3. Many commenters expressing reservations about the new procedure focused on exchanges of VHF noncommercial channels for UHF commercial channels. While many of their objections to such inter-band exchanges may be significant in the context of specific proposals, they do not justify *per se* rejection of the new procedure insofar as it provides for intra-band (*i.e.* UHF-UHF and VHF-VHF) transactions. Thus, the Commission here addresses only intra-band exchanges.

4. The Commission concludes that intra-band exchanges are desirable because of the resulting benefits to participating stations and thereby to the public. Such benefits include the opportunity to move to a more favorable transmitter site, savings in operating costs, and financial advantages. Particular benefits which accrue to noncommercial educational stations include the consideration received from commercial stations as inducement to enter exchange agreements. Accordingly, the Commission here provides for individual rule making proceedings in which it will consider specific exchange proposals. Where the Commission determines that specific exchanges would provide sufficient public interest benefits, it will amend the Table of Assignments and modify the authorizations of petitioners pursuant to "show cause" procedures contained in section 316 of the Act.

5. Providing for channel exchanges and amendments to the Table of Assignments is consistent with recent Commission action encouraging its broadcast licensees to improve service to the public by enhancing their facilities. Channel exchanges will not eliminate educational reservations. Rather, they may facilitate the introduction of noncommercial educational service.

6. The Commission has legal authority to provide for commercial and noncommercial television channel exchanges. Section 316 contains statutory authority to modify authorizations where such action furthers the public interest. That section has often been used in response to licensee requests for modification to other channels, and the Commission's ability to act in the public interest does not depend on whether it acted of its own initiative or pursuant to a licensee petition. Since the channels which are subject to specific exchange proposals are occupied by petitioners, they are not otherwise available for application by others. Rather, they are available only to potential exchange partners. Since petitioners would withdraw in the face of other interest, other interested parties have no comparative application rights pursuant to section 309 of the Act, and the rule of *Ashbacker Radio Corp.* v. *F.C.C.*, 326 U.S. 327 (1945), does not apply here. Commercial-noncommercial channel exchanges are more akin to the situations before the Commission in *Mairite of New York, Inc.*, FCC 84-338, released July 31, 1984, and in *Storer Brodcasting* v. *F.C.C.*, 351 U.S. 192 (1956), where the opportunities to file competing applications were limited in order to advance public interest objectives. Further, subsequent "spirit of *Ashbacker*" cases are also inapplicable here, as the opportunity to apply for the affected channels is merely theoretical and does not offer the possibility for a wider selection of applicants to choose from.

7. The Commission initiated this proceeding to consider changes in its license modification policy. That policy, derived from principles espoused in *Cheyenne, Wyoming*, 62 F.C.C. 2d 63 (1976), and in *Ashbacker*, limited modifications to situations where no other interests were expressed. However, the Commission has never previously directly faced the issue in the context of channel exchanges. Its experience subsequent to *San Francisco and San Mateo, California*, 66 F.C.C. 2d 80 (1978), *recon. denied*, 45 R.R. 2d 233 (1979), in this area leads it to conclude that application of *Ashbacker* and its progeny to channel exchanges is inappropriate. The Commission also has the advantage of the comments in this proceeding regarding potential public interest benefits. Further, while not explicitly relying on it, the Commission believes that the policy underlying section 310(d) of the Act is analogous to that underlying the new procedure. That section was enacted to prohibit comparative consideration of third party interests in commercial license transfers and assignments.

8. In light of public television's unique service, a significant factor in the Commission's public interest determination in individual rule making proceedings will be the extent to which the noncommercial station will subsequently be able to continue to serve its audience in terms of both signal reach and quality. The Commission will not require that such a station share the proceeds received for the channel exchange with other noncommercial broadcast entities. The Commission is reluctant to reduce or eliminate incentives to otherwise beneficial exchanges, because viewers are arguably entitled to the full benefits of such transactions and because of practical problems where the consideration consists of assets other than cash. In light of the purpose underlying the new procedure, noncommercial petitioners are expected to provide assurances that proceeds will be devoted to broadcast operations. In order to maximize potential benefits to the public, the Commission will consider proposals involving separate communities. However, the new procedure will not apply where stations seek to change their communities of license. Because this procedure could enable permittees to acquire the resources to construct facilities and commence operations, it is available to permittees as well as licensees. In this regard, absent assurances that the consideration received by noncommercial permittees would be so utilized, it is unlikely that the Commission could find the requisite public interest benefits to warrant modifications and reservations switches. In individual rule making proceedings, the Commission will also assume that licensees are more familiar with the needs of their audiences and will, accordingly, give significant weight to the determinations of directors of public stations. The Commission recognizes that all petitioning parties have substantial incentives to reach exchange agreements serving the best interests of their audiences. However, opponents of specific proposals will be invited to comment fully on the extent to which petitioners bargained in good faith to benefit the public.

9. In light of this action, petitioners' request to bifurcate this proceeding by granting expedited consideration to its Gary proposal is moot. In this regard, the staff is instructed to prepare a *Notice of Proposed Rule Making* pertaining to the Gary channel exchange proposal.

10. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 604, a final regulatory flexibility analysis has been prepared. It is available for public viewing as part of the full text of this decision, which may be obtained from the Commission or its copy contractor.

11. The Rule contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements and will not increase or decrease burden hours imposed on the public.

12. Accordingly, It Is Ordered, that Part I of the Commission's rules and regulations Is Amended, effective May 23, 1986.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 1 continues to read as follows:

Authority: Sections 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply Sections 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

PART 1—[AMENDED]

2. Section 1.420(h) is added to read as follows:

§ 1.420 Additional Procedures in Proceedings for Amendment of the FM, Television or Air-Ground Table of Assignments.

* * * * *

(h) Where licensees (or permittees) of television broadcast stations jointly petition to amend § 73.606(b) and to exchange channels, and where one of the licensees (or permittees) operates on a commercial channel while the other operates on a reserved noncommercial educational channel within the same band, and the stations serve substantially the same market, then the Commission may amend § 73.606(b) and modify the licenses (or permits) of the petitioners to specify operation on the appropriate channels upon a finding that such action will promote the public interest, convenience, and necessity.

William J. Tricarico,

Secretary.

[FR Doc. 86-9137 Filed 4-24-86; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1011

Commission Organization; Delegations of Authority—Office of Public Assistance

AGENCY: Interstate Commerce Commission.

ACTION: Final rules: Delegations of authority.

SUMMARY: The purpose of this document is to revise the Commission's delegations of authority by redesignating the Office of Special Counsel as the Office of Public Assistance. In assisting the Commission and the public in determining the public interest, the new Office of Public Assistance will assume the responsibilities previously assigned to the Office of Special Counsel, the Small Business Assistance Office, and the State/Community Affairs Liaison position formerly in the Office of Legislation and Governmental Affairs. Because this rule change involves the internal organization and procedures of the Commission, it is issued in final form and public comment is not being requested.

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EFFECTIVE DATE: April 25, 1986.

FOR FURTHER INFORMATION CONTACT:
Kathleen King, 202–275–0956
Samuel Ewer Eastman, Director and Special Counsel (Acting), 202–275–7411

SUPPLEMENTARY INFORMATION: This revised delegation of authority reflects the establishment of a new office which assumes the responsibilities previously assigned to the Office of Special Counsel, the Small Business Assistance Office, and the State/Community Affairs Liaison. The Office of Public Assistance will assist the Commission and the public in determining and representing the public interest, with regard to the Interstate Commerce Act and related statutes.

In particular, the Office will act as the focal point to coordinate Commission activities insuring: (1) That the public interest is fully developed in proceedings before the Commission; (2) that small and minority owned transportation entities, transportation related entities, consumer groups, small communities, carriers and shippers, and State regulatory officials are advised on the applicability and interpretation of the law, and the availability of assistance from the Commission, as this applies to their enterprise; and (3) that the Commission is advised on policy matters related to its small business assistance functions and programs.

Consistent with the limitations previously imposed on the Office of Special Counsel, the Office will participate formally in Commission proceedings only upon submission of a petition to do so and approval of the petition by a majority of the Commission.

This action will not have a significant effect on a substantial number of small entities because it involves only the internal organization and procedures of the Commission.

This action will not have a significant impact on the quality of the human environment or the conservation of energy resources.

It is ordered

The amendment set forth in the appendix is adopted, effective on the date of Federal Register publication.

List of Subjects in 49 CFR Part 1011

Administrative practice and procedure, Authority delegations (Government agencies), Organization and functions.

Decided: April 9, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Vice Chairman Simmons would have retained the designation "Office of Special Counsel".

James H. Bayne,
Secretary.

Appendix

Part 1011 of Title 49 of the Code of Federal Regulations is amended to read as follows:

PART 1011—[AMENDED]

(1) The authority citation for Part 1011 is revised to read as follows:

Authority: 49 U.S.C. 10301, 10302, 10304, 10305, 10321; 31 U.S.C. 9701; 5 U.S.C. 553.

(2) Title 49 CFR 1011.8(a) is revised to read as follows:

§ 1011.8 Delegation of authority by the Interstate Commerce Commission to specific bureaus and offices of the Commission.

(a) *Office of Public Assistance.* (1) There is established an Office of Public Assistance. The Office assumes the functions previously assigned to the former Office of Special Counsel, the former Small Business Assistance Office, and the State/Community Affairs Liaison position formerly in the Office of Legislation and Governmental Affairs. (2) The Office shall be managed by a Director, who will also serve as Special Counsel of the Commission, and by a Deputy Director, who will also serve as the Small Business Assistance Officer of the Commission. The Special Counsel shall be appointed by the Chairman, subject to the approval of a majority of the Commission. (3) The mission of the Office will be to assist the Commission and the public in determining and representing the public interest, with regard to the Interstate Commerce Act and related statutes. The primary function of the Office is to act as the focal point to coordinate Commission activities insuring: (i) That the public interest is fully developed in proceedings before the Commission and especially to contribute to the development of a complete record in proceedings in which important aspects of the public interest otherwise would not be adequately explored, in particular, proceedings affecting the interests of bus passengers, household goods shippers, owner operators, and Class II and III rail carriers and the shippers they serve; (ii) that small and minority owned transportation entities, transportation related entities, consumer groups, small communities, carriers and shippers, and State regulatory officials are advised on the applicability and interpretation of the law, and the availability of assistance from the Commission as this applies to their enterprise; and (iii) that the Commission is advised on policy matters related to its small business assistance functions and programs. (4) The Office will participate as a party in Commission proceedings, including rulemaking proceedings, only upon submission of a petition to do so and approval of the petition by a majority of the Commission. (5) So that parties having need of the assistance of the Office will be adequately informed, the Office of Hearings is directed in noticing cases for public hearings, to advise parties of the availability of this program.

* * * * *

[FR Doc. 86–9219 Filed 4–24–86; 8:45 am]
BILLING CODE 7035–01–M

Proposed Rules

Federal Register
Vol. 51, No. 80
Friday, April 25, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1701

[REA Bulletin 384–1]

Telephone Borrowers; Purchasing and Installing Central Office Equipment

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: REA proposes to amend Appendix A—REA Bulletins by issuing a supplementary to REA Bulletin 384–1, "Purchasing and Installing Central Office Equipment, in the form of a "File With" memorandum from the Administrator. The supplement will change the procedure for awarding competitive bids for central office equipment. At present, the award is made on the basis of bids which exclude the price of spare parts required for proper operation even though the bidders are required to show the price of the spare parts as an alternate and the purchaser almost always purchases the spare parts at the bid price. The proposed procedure would require that the cost of spare parts be included in calculating the price of the bid to be used in awarding the contract. This proposed action will impact REA borrowers and their consulting engineers as well as the manufacturers which bid on competitive contracts for central office equipment.

DATE: Public comments must be received by REA no later than June 24, 1986.

ADDRESS: Submit written comments to M. Wilson Magruder, Director, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Room 2835, South Building, U.S. Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT:
Arthur H. Marthens, Chief, Central Office Equipment Branch, Telecommunications Engineering and Standards Division, Rural Electrification Administration, Washington, DC 20250, telephone (202) 382–8671. The Draft Impact Analysis describing the options considered in developing this proposed rule and the impact of implementing each option is available on request from the above office.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to amend Appendix A—REA Bulletins by issuing a supplement to REA Bulletin 384–1, Purchasing and Installing Central Office Equipment, in the form of a "File With" memorandum from the Administrator. This proposed action has been reviewed in accordance with Executive Order 12291, Federal Regulation. This action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; (3) result in significant adverse effects on competition, employment, investment or productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets and therefore has been determined to be "not major". This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy act of 1969 (42 U.S.C. 432 *et seq.* (1976)) and, therefore does not require an environmental impact statement or an environmental assessment. This regulation contains no information or recordkeeping requirement which requires approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*). This program is listed in the Catalog of Federal Domestic Assistance under No. 10.851, Rural Telephone Loans and Loan Guarantees and 10.852, Rural Telephone Bank Loans. For the reasons set forth in the Final Rule related Notice to 7 CFR 3015, Subpart V (50 FR 47034, November 14, 1985), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Copies of the document are available upon request from the address indicated above. Interested persons are invited to submit comments on this action. Written comments must be sent to the address stated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours at the above address.

Background

REA has issued a series of publications entitled "bulletins" which serve to implement the policy, procedures and requirements for administering its loan and loan guarantee programs and the security instruments which provide for and secure REA financing. REA Bulletin 384–1 sets forth the methods and procedures to be employed by REA telephone borrowers in purchasing and installing central office equipment with REA loan funds. REA is proposing to supplement Bulletin 384–1 in the form of a "File With" memorandum from the Administrator. The supplement will modify the procedure by which competitive bids are awarded so as to include, rather than exclude the cost of spare parts in awarding of the bid. At present, the award is made on the basis of bids which exclude the price of spare parts required for proper operation even though the bidders are required to show the price of the spare parts as an alternate. In most cases the REA borrower purchases the spare parts alternate. Under the existing procedures, it is possible for a supplier to bid low on the base price and bid high on the spare parts. The spare parts, for the most part, are essential for proper operation in the field and available only from the original supplier. As a result the bid may go to a supplier who has deliberately bid low, but the REA borrower has no choice but to pay for the spare parts. When the total price is compared to that from another supplier it is possible that the other supplier's total price is less than the successful bidder. The purpose of this action is to prevent this situation by awarding the bid on the basis of the total price, including spare parts. To include the price of the spare parts in the base bid, it becomes necessary to change procedure to quantify the number and type of spare parts to be furnished so that bids can be compared on a fair basis. REA proposes to classify

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the spare parts by importance and then quantify the spare parts by classification. The proposed action should result in lower first costs for central office equipment for REA telephone borrowers.

List of Subjects in 7 CFR Part 1781

Loan programs—communications, Telecommunications, Telephone.

Dated: April 11, 1986.

Jack Van Mark,

Acting Administrator.

[FR Doc. 86-9284 Filed 4-24-86; 8:45 am]

BILLING CODE 3410-15-M

DEPARTMENT OF ENERGY

10 CFR Part 762

Proposed Uranium Enrichment Services Criteria

AGENCY: Department of Energy.

ACTION: Proposed rule; Additional Information and Comment Period.

SUMMARY: The Department of Energy (DOE) is responding to requests for further analysis with respect to those provisions of the proposed uranium enrichment criteria which relate to (1) the "enrichment of foreign origin uranium" and (2) the "recovery of prior government costs." After careful consideration, DOE has determined that the analysis of the "enrichment of foreign origin uranium" provision in the preamble to the proposed criteria provides a clear and complete discussion of DOE's initial position. Accordingly, DOE has determined further analysis is unnecessary. However, DOE has determined additional analysis and information on issues related to "recovery of prior government costs" would be helpful in developing the rulemaking record on which DOE will make its final decision. In order to permit comments in light of this response, DOE is providing for an additional written comment period of thirty days.

DATES: Written comments must be submitted by May 27, 1986, to the address below.

ADDRESS: Mr. John P. Thereault, Office of Technology, Deployment and Strategic Planning, Office of Uranium Enrichment, Room A-172, Germantown, MD 20545.

FOR FURTHER INFORMATION CONTACT:

John Thereault, Office of Uranium Enrichment, U.S. Department of Energy, Washington, D.C. 20545, (301) 353-4610

Lawrence Leiken, Office of General Counsel, U.S. Department of Energy, Washington, D.C. 20585, (202) 252-6975

Ben McRae, Office of General Counsel, U.S. Department of Energy, Washington, D.C. 20585, (202) 252-6667.

SUPPLEMENTARY INFORMATION:

I. Introduction

On January 29, 1986, DOE proposed several revisions to its Uranium Enrichment Services Criteria (51 FR 3624). DOE requested written comments on this proposal by February 28, 1986, and provided for a public hearing was held on March 18, 1986.

Among the written comments received were requests for additional analysis and information regarding two provisions of the proposed criteria. These provisions are (1) the "enrichment of foreign origin uranium" and (2) the "recovery of prior government costs." These comments also requested an opportunity to submit written comments on that information. On March 12, 1986, DOE indicated that it was in the process of considering these requests (51 FR 8509).

With respect to the "enrichment of foreign origin uranium, the preamble to the proposed criteria describes DOE's position in great detail. In brief, the Atomic Energy Act requires DOE to impose restrictions on the enrichment of foreign origin uranium "to the extent necessary to assure the maintenance of a viable domestic industry." However, in the current and foreseeable marketplace, no restrictions on the enrichment of foreign uranium would, in fact, "assure the maintenance of a viable domestic uranium industry." The plain language of the statute makes clear the restrictions are not to be imposed for their own sake. Rather, DOE has a duty to determine whether their imposition would achieve the statutory objective of assuring the viability of the domestic industry. And, when DOE determines imposition would have a meaningless or counterproductive effect on this objective, DOE should not, and indeed, cannot impose restrictions.

While the Secretary of Energy has determined the domestic mining and milling industry was not viable in 1984, this determination does not authorize or require import restrictions. Such restrictions could not assist the industry in any meaningful way and certainly could not assure its viability. The difficulties currently facing the domestic mining and milling industry stem from a number of factors, none of which would be influenced by import restrictions. Indeed, import restrictions would have no long term positive effect on the consumption of domestic uranium. DOE cannot force enrichment customers to use domestic uranium when it is not in their economic self-interest to do so. To the extent domestic uranium is not competitive with foreign uranium, import restrictions would cause enrichment customers to seek enrichment services abroad. At best, restrictions could result in a very short-term increase in consumption of domestic uranium and, most likely, would have a detrimental effect on the industry.[1]

After reviewing the full discussion on import restrictions in the preamble to the proposed criteria, DOE has determined that the discussion provides a full and complete analysis of DOE's initial position on this issue. As such, interested persons have a more than sufficient basis on which to comment. Accordingly, DOE does not find it necessary to provide additional information on import restrictions.

With respect to the "recovery of prior government costs" a review of the comments on this subject reveals considerable disagreement over the calculation of unrecovered costs. Some commentators have criticized DOE for indicating an excessive amount of unrecovered costs, while others have asserted DOE understated significantly the correct amount of unrecovered costs. In view of these comments, and the fact that pricing for separative work, cost recovery, and cost accounting (including allocation of costs) are interrelated, DOE has determined it would be useful to describe more completely its analysis of these subjects as it relates to the recovery of government costs and their calculation. Accordingly, this Notice sets forth (1) the analytical framework in which DOE considers unrecovered costs and (2) the methodology DOE followed to derive the specific amounts of unrecovered costs described in the preamble to the proposed criteria.

II. Analytical Framework Concerning Pricing for Separative Work, Cost Recovery, and Cost Allocation

DOE's framework for consideration of pricing, cost recovery, and cost allocation issues is its analysis of what the Atomic Energy Act requires. That statute's guidance to DOE in providing

[1] DOE's position is in accord with that of the United States Trade Representative. In his December 24, 1985 response to the Secretary, the Trade Representative rejected import restriction because any relief "would only be short term * * * without resolving the long-term problems of the industry."

enrichment services is set forth in section 161(v), which does not explicitly address cost recovery (let alone "full" cost recovery), cost allocation, or indeed disposition of revenues stemming from toll enrichment services. Section 161(v) does speak expressly to the pricing for separative work, but the entirety of its guidance is that prices "shall be established on a basis of recovery of the Government's costs over a reasonable period of time." In addition, section 161(v) requires DOE to implement this guidance through criteria such as those that are the subject of the current rulemaking.

Bringing meaning to these few words requires resort to the history of their development, as well as their implementation by DOE and its predecessor agencies. Briefly summarized, that history indicates that Congress has mandated, in broad terms, adherence to a cost-based policy in establishing charges for separative work in contrast to a policy intended to yield a profit. Furthermore, that history reveals that while actual costs have been the starting point for determining customer charges, DOE always has considered the extent to which actual costs have been incurred to provide enrichment services to customers and has found it appropriate in establishing charges to include only those actual costs which relate to providing services to customers. From their outset, the enrichment criteria have included a provision under which some, but not all, of plant capacity costs are allocated to customer charges.

The proposed criteria, which allocate only the actual costs of utilized plant capacity to establish charges for separative work, continue both of these traditional aspects of implementing section 161(v). They do so in a way that accurately reflects the current fiscal and operating circumstances of the enrichment program.

Consistent with the requirement of the 1970 amendment to the Atomic Energy Act that established the non-profit policy for establishing charges for enrichment services, DOE's proposed criteria establish charges on a basis of actual costs. The proposed criteria continue in the current factual setting the principle embodied in the original criteria of allocating to the charges for enrichment service only the costs of that part of plant capacity actually used to render enrichment services. In 1966, when the original criteria were first adopted, (31 FR 16479, Dec. 23, 1966), unused plant capacity was excluded under the "Conway formula." The only conceptual difference between the original criteria and the current approach is the absence in the current approach of a specific formula [2] under which unused capacity is excluded from establishing charges. The proposed criteria provide for establishing charges for commercial customers on a basis which recovers appropriate costs determined on a basis that includes the costs incurred in providing enrichment services to those customers.

DOE believes this approach makes common sense, is conceptually consistent with the way separative work has been priced since the beginning of the toll enrichment program, and is entirely consistent with the 1970 amendment to section 161(v) of the Atomic Energy Act. There the Congress rejected a proposal to charge for separative work based upon a hypothetical construct of phantom costs not actually experienced by the Government in providing enrichment services. That proposed policy was perceived by the Congress as a profit-oriented initiative. In the report that accompanied the 1970 legislation, the Joint Committee on Atomic Energy rejected establishing charges for enrichment services based on hypothetical costs. Indeed, the Committee repeatedly described DOE's proper function as established charges not on the basis of full actual costs but only on those of the actual costs that are "appropriate" for recovery from customers. Thus, the 1970 amendment required the pricing policy to be cost-oriented rather than profit-oriented and it required DOE, through the criteria, to determine which costs incurred by the Government were appropriate for recovery in establishing charges for separative work.

Establishing the basis for determining those costs that are "appropriate" for recovery in establishing charges for separative work is left by the Atomic Energy Act for DOE, through the criteria and its actions thereunder, to accomplish. This results necessarily from the approach of the Atomic Energy Act, which specifies resort to criteria and which otherwise is entirely silent on the method of capitalization of the program's assets, accounting procedures to be employed, and disposition of revenues. All of these factors are pertinent to the pricing of separative work, but under the scheme of the Atomic Energy Act are left to the criteria and annual authorization and appropriation acts to establish in detail.

Cash outlay for administering the enrichment program, including provision of toll enrichment services for commercial customers, are determined annually by appropriation acts. Typically, these acts appropriate specific sums for a specific fiscal year, including appropriation of the revenues anticipated to be received that year in connection with providing toll enrichment services. One way to determine whether, and to what extent, unrecovered costs exist would be simply to calculate the net appropriations made for this activity since the program began, by adding all uranium enrichment outlays and then subtracting from that amount the aggregate revenues received in charges for rendering enrichment services. This methodology provides a reasonable picture of how the program is operating on a day-to-day cash basis and, as such, has been used in discussions about the program, including discussions with Congressional Committees considering the amount of unrecovered Government costs. A cash basis methodology, however, does not reflect all costs. The principal dimension lacking in a cash basis method is the value of assets transferred to the program at its beginning (reflecting, of course, expenditures previously made by the Government), including undepreciated plant and equipment, together with interest accrued on that balance.

DOE's annual financial statements for the enrichment program have always reported on an accrual basis *all* cost incurred to provide enrichment services, not just those costs set forth in appropriation acts. Consistent with this approach, the initial annual financial statement used the costs of the transferred assets as the starting point for determining unrecouped Government costs since the Government as a whole sustained a cost in acquiring those assets.

Were the approach for determining appropriate costs to stop at the initial

[2] The formula itself does not appear in the statute and has never appeared in any version of the criteria. Rather, it is the product of a 1966 agreement between the Joint Committee on Atomic Energy and representatives of the Atomic Energy Commission. This history belies the contention the Conway formula is the only exception to "full" cost recovery under section 161(v). None of the discussions surrounding adoption of the Conway formula could have created an exception if section 161(v) required "full" cost recovery. Indeed, the Conway formula was lawful only because section 161(v) does not require full cost recovery. Adoption of the Conway formula confirms DOE's responsibility under section 161(v) to determine which costs are appropriate for recovery. See Uranium Enrichment Services Criteria and Related Matters, Hearings Before the Joint Committee on Atomic Energy, 89th Cong., 2d Sess. (August 2, 3, 4, 10 and 17, 1966) pgs. 32, 61-3. See also October 18, 1966, letter from Chairman Chet Holifield, Joint Committee on Atomic Energy, To Dr. Glenn T. Seaborg, and December 16, 1966, letter from Dr. Seaborg to Chairman Holifield. Both letters are reprinted in the 1966 Hearings at 517-519.

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decision to include the cost of an item in the program's annual financial statement, the result would be more consistent with those commentators who have criticized DOE's proposal as understating unrecovered costs. Under such an approach, DOE would never reconsider the utilization of physical assets in behalf of commercial customers and depreciation on these assets would continue to be included in establishing charges whether or not the assets were being used to provide enrichment services. In effect, DOE would never review its determinations of what costs were properly "appropriate" for allocation to commercial customers through charges for separative work.

DOE did not adopt such an approach for several reasons, including DOE's view that the enrichment program historically has been affected by a public as well as a commercial interest, and even in an analogous public utility context ratepayers would not have included in their rate base the costs of assets that are not used and useful. Thus, DOE does not allocate to the costs to be used in establishing charges for separative work those costs associated with unused capacity, including investment associated with a capacity increment that was terminated before being brought on line in commercial production.

DOE believes this approach most fairly accommodates the various objectives of the Atomic Energy Act as a whole, including the governmental as well as the proprietary aspects of the enrichment program itself. It is also an approach that corresponds to, as closely as this Government-financed program can, cost accounting principles that are generally recognized and applied in other major commercial enterprises.

In considering the preceding analysis, it must be kept in mind that determining what costs are appropriate for recovery does not, standing alone, establish prices for separative work. Charges for separative work necessarily include estimates of future costs and judgments about what is the "reasonable period of time" under which those costs should be recovered, as well as consideration of the public interest and other objectives of the Atomic Energy Act. Necessarily they are subject to revision in light of actual experience, including the actual marketplace in which sales of separative work must and will occur in the future.

Finally, it is worth noting that section 161(v) does not indicate what form the disposition of revenues should take. During this period of budget deficits, DOE believes it proper for the disposition of revenues to take the form of payments to the U.S. Treasury and described a proposed payment schedule in the preamble to the proposed criteria. In this regard, DOE is aware that the Consolidated Omnibus Budget Reconciliation Act (COBRA) of 1985 established payment goals of $110 million for FY 1986, $150 million for FY 1987, and $150 million for FY 1987. Recognizing the interrelationship between pricing, cost recovery, disposition of revenue, and payments to the U.S. Treasury, the Conference Report on COBRA found that "maximizing repayments in the next three years may impair the financial integrity of the program in the longer term" and indicated that any payment schedule must be consistent with the financial integrity of the program, as well as reliability of supplies at competitive prices. In achieving the proper balance, the Report urged DOE "to consider a variety of factors . . ., including the appropriate price and market share, the impact upon existing enrichment facilities and other program expenditures, the impact upon research and development of advanced technologies for additional capacity, and the deficit reduction goals."

III. Unrecovered Government Costs

In the preamble to the proposed criteria, DOE stated there was $3,394 million[3] of prior unrecovered Government costs which should be considered in establishing charges for commercial customers. This amount is based on application of the approach discussed in the preceding section to the categories of costs listed in the existing criteria and the annual financial statements published in connection with the operation of the enrichment program.

A. Costs Listed in the Criteria

The criteria list those categories of costs which DOE considers for recovery. These costs include expenses incurred in providing enrichment services to customers, as follows:

(1) Electric power and all other costs, direct, and indirect, of operating the enrichment plants; (2) depreciation of enrichment plants; (3) costs of process development; (4) costs of DOE administration and other Government support functions; and (5) imputed interest on investment in plant, working capital, the natural uranium contained in those inventories at the DOE enrichment plants needed to provide enrichment services, and the separative work costs of preproduced inventories.

To the extent DOE determines a cost, which falls within one of these categories, is appropriate for recovery, the cost is used in establishing the charges for enrichment services. The unrecovered portion of such a cost is reflected in the annual financial statements as (1) inventory of separative work units (SWU), (2) undepreciated plant and equipment, (3) miscellaneous assets or (4) cumulative loss (or profit). SWU inventories include those costs which were incurred to preproduce enriched material which has not yet been sold. Plant and equipment includes those costs which were incurred to acquire processing facilities to the extent those costs have not been included as depreciation in the annual financial statements. Miscellaneous assets consist primarily of working capital items, along with other enrichment assets. Cumulative loss (or profit) includes all costs which have been expensed to the extent revenue has not (or has) exceeded these costs. Each of these items includes a component for imputed interest.

B. Financial Statement

1. Initial Assets

The first published financial statement included about $1.500 million of unrecovered Government costs. These costs represented the value of the assets which were transferred to the enrichment program at its inception, adjusted to reflect prior cost recognitions and the fact that these assets had originally been acquired for military purposes.

Specifically, the initial unrecovered government costs were:

	Thousands of dollars
Separative work inventories	$313,170
Plant and equipment	1,064,035
Other assets	110,590
Cumulative loss	2,775
Amount to be recovered	$1,490,570

Separative work inventories as of June 30, 1970, amounted to 15,962,000 SWU's. These inventories were produced in anticipation of higher future requirements for enrichment services. The $313 million value of this inventory reflects the cost of producing the inventory. The values established for the opening balances as of June 30, 1970, were based on accumulated costs and revenues since the start of preproduction of separative work in May 1964. Because of the varying judgments that could be used in establishing such values, computations were made using alternative accounting and economic methods in order to test the validity of the amounts established for these accounts. The results of these computations led to the conclusion that the valuation methods selected were appropriate and the amounts as of June 30, 1970, were fairly represented. The inclusion of the costs associated with the inventory was appropriate because the inventory was needed to provide enrichment services after 1970.

The plant and equipment balance of $1,064 million consisted of the undepreciated balance of the three gaseous diffusion plants (GDP). These plants were built to meet military needs at a cost of $2,044 million. The Department established a depreciation policy to expense the GDP costs over the service life of the individual components of each plant on a straight line basis. By the end of FY 1970, $996 million had been depreciated leaving a balance of $1,059 million. Construction work in progress amounted to $5 million.

After extensive discussions and hearings before the Joint Committee on Atomic Energy, it was determined it would not be appropriate to use the full undepreciated value of the GDP in establishing charges for customers after 1970 since considerable excess capacity existed. As a result, the portion of depreciation and interest on plant investment applicable to plants in standby status was not included in establishing customer charges and excess capacity was excluded as long as the percentage of plant used was less than 75 percent of the total capacity. This methodology was commonly referred to as the "Conway formula."

Other assets consisted primarily of working capital items, along with other miscellaneous enrichment assets. The accumulated loss of $3 million reflected the results of enrichment operations through FY 1970. The loss was carried over for recovery in the future.

2. Changes in Plant and Equipment

The costs of plant and equipment are recovered through the inclusion of an appropriate amount of depreciation in the enrichment program's annual financial statements. DOE has consistently used the straight line method of depreciation over established service lives for this purpose. The included depreciation, along with other costs, serves as the basis for establishing customer charges for enrichment services.

As a result of depreciation, the value of the initial plant and equipment has declined for purposes of calculating unrecovered government cost. At the same time, the program has invested in new plant and equipment. This investment initially increased the amount of unrecovered government costs. As with the initial unrecovered plant and equipment costs, this investment becomes less as it is recovered by means of depreciation.

3. Research and Development

The research and development costs used in establishing enrichment charges are limited to those research and development costs directly related to providing future enrichment services. All such costs relating to the diffusion process have been included. Centrifuge related costs were included beginning in FY 1975 when it was determined this research and development program was being conducted exclusively for potential production applications. Costs prior to FY 1975 have been excluded. The centrifuge related costs were eliminated as of June 5, 1986. A similar determination was made to include the advanced isotope separation R&D costs beginning in FY 1978. All Atomic Vapor Laser Isotope Separation ("AVLIS") costs prior to FY 1978 were excluded. Costs relating to the Molecular Laser Isotope Separation and Plasma Separation Process were dropped in FY 1982 when the AVLIS process was selected over the other two for enrichment purposes.

4. Interest

Since the beginning of the program, interest has accrued on unrecovered costs and has been reported in the annual financial statements. Through FY 1985, the imputed interest on these costs reported in the financial statements amounted to about $4,600 million.

Imputing interest is proper since the Federal Government incurs significant interest costs in financing its debt. Since this debt is the basis of the Government's investment in the enrichment program, interest should be imputed on the unrecovered portion of that investment. Through FY 1985, interest was imputed at a rate based on the previous year's average rate for outstanding marketable securities of the U.S. Treasury. Beginning in FY 1986, DOE is proposing to use a fixed rate of 6.319 percent (the average of prior Treasury rates used) to impute interest on existing unrecovered costs.

5. Current Unrecovered Government Costs

The following is a tabulation of unrecovered Government costs.

Unrecovered Government Investment as of September 30, 1985

[Dollars in millions]

Inventories:		
Separative Work	$1,663	
Uranium	404	$2,067
Plant and Equipment:		
Gas Centrifuge Enrichment Plant	2,589	
Gaseous Diffusion Plants	1,970	
Atomic Vapor Laser Isotope Separation	33	
Imputed Interest	171	4,772
Other Balance Sheet Items		49
Cumulative Loss from Operations		295
Subtotal		[1] 7,183
LESS: Loss on Capital Investment:		
Gas Centrifuge Enrichment Plant	2,580	
Gaseous Diffusion Plants	1,200	[1] 3,780
Unrecovered Government Investment		$3,394

[1] These amounts do not include imputed interest after the effective date of recognizing a loss on capital investment. If the imputed interest were included from the effective date to September 30, 1985, imputed interest of $303 million would be added, changing these amounts to $7,484 and $4,083 million, respectively. In either event, the $3,394 million represents the unrecovered Government investment.

In the preamble to the proposed criteria, DOE announced a reduction in the amount of plant and equipment costs to be recovered to reflect the fact these assets are not being used to provide enrichment services to customers. The amount of this reduction is equivalent to 60 percent of the value of the Gaseous Diffusion Plants (GDP) that is no longer an earning asset, and the entire value of the Gas Centrifuge Enrichment Plant (GCEP) which never was and never will be an earning asset. DOE believes this reduction is proper. Customers should pay a price which reflects only the actual costs of providing enrichment services. The costs of items which are not, and most likely will not, be used in providing enrichment services to current customers are not appropriate for recovery. DOE has determined that none of the GCEP and only forty percent of the GDP's are used to provide enrichment services. Accordingly, only the costs associated with the utilized 40 percent of the GDP's are appropriate Government costs to be recovered over a reasonable period of time. As a result of this reduction, the amount of unrecovered government costs appropriate for inclusion in establishing customer charges is $3,394 million.

[3] The preamble contained a figure of $3,457 million based on a preliminary draft of the 1985 financial statement for the enrichment program. The figures in this Notice are slightly different than those which appear in the preamble to the proposed criteria because DOE has refined the numbers which will be set forth in the program's annual financial statement for 1985.

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6. Treatment of Government Transactions

DOE provides a portion of its production to meet U.S. Government requirements for enrichment services. The cost recovery computations have been structured so that the costs of providing enrichment services are allocated to commercial customers and to government users on the same basis.

In the annual financial statements and cost recovery calculations, all costs are recognized. These total costs are offset by revenues. Since unrecovered Government costs result when costs exceed revenues, equitable allocation requires all customers be treated as paying the same price for enrichment services. For commercial customers, revenues are determined from sales invoices. For Government deliveries, revenues are imputed at prices equal to those charge commercial customers. This practice has been consistently followed and reported in the annual financial statements since the beginning of the program. Therefore, the costs of providing enrichment services are allocated proportionally to all customers.*

The treatment of Government and commercial revenues in the Federal budget process has varied over the years. However, the treatment of revenues and outlays in the budget process has never been the basis for determining the amount of unrecovered government costs. A review of the treatment of revenues and outlays in the budget process demonstrates the problems with using a budget or cash basis method of determining unrecovered Government costs. All the cash costs of providing enrichment services to commercial and Government users have always been included in the uranium enrichment budget. The treatment of revenues, however, has varied. Prior to FY 1980, commercial revenues were not used in annual Appropriations Act as direct offsets to uranium enrichment budget costs. From FY 1980 through FY 1986 commercial revenues were used as direct offsets to enrichment costs to arrive at a net enrichment appropriation amount. Through FY 1982 there were no Government revenues included in the budget process. A change was made in FY 1983 when revenues were included for Government deliveries for the first time. The revenues were calculated using the commercial price less the depreciation and imputed cost components. These cost components were not included because these non-cash costs are not included in the enrichment budget.

Issued in Washington, D.C., on April 21, 1986.

James W. Vaughan, Jr.,

Acting Assistant Secretary for Nuclear Energy.

[FR Doc. 86-9335 Filed 4-24-86; 8:45 am]

BILLING CODE 6450-01-M

* A change was made in FY 1986 which should result in a more precise allocation. Beginning in FY 1986, the cost of high assay enrichment production was separated and separate prices were developed for high and low assay production. The FY 1986 Government revenue includes amounts to reflect the separate high and low assay prices. The high assay price is considerably higher than the low assay price because of the less efficient equipment used in producing high assay material, and the additional safeguard, security, and environmental protection costs associated with higher enrichments. Since the Government is the primary user of high assay production, this change has resulted in increased costs being transferred to the Government users. DOE has not made this high and low assay adjustment retroactively because of the lack of cost data to make a defined cost allocation in prior years, and because the estimated impact of this adjustment is small (only $10 to $15 million per year). This FY 1986 change will be reflected in the FY 1986 financial statements.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 111

Proposed Customs Regulations Amendment Relating to Customs Broker Examinations

AGENCY: Customs Service, Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: Customs currently gives an examination to those wishing to become licensed Customs brokers twice per year. The administration of these exams is proving to be a burden on the limited resources of Customs. In order to maintain the high standards of the exam and pass only those capable of rendering valuable information and services to their clients, Customs is proposing to reduce the number of times the exam is given to once per year.

DATE: Comments must be received on or before June 24, 1986.

ADDRESS: Comments (preferably in triplicate) may be submitted to and inspected at the Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: George Pinto, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-2654).

SUPPLEMENTARY INFORMATION:

Background

Part 111, Customs Regulations (19 CFR Part 111), sets forth the general provisions as well as specific procedures relating to Customs brokers, that is, individuals, partnerships, associations, or corporations licensed to transact Customs business on behalf of others. In particular, § 111.13 contains the procedural aspects of the examination of applicants for individual brokers licenses.

Currently, pursuant to § 111.13(b), Customs gives two brokers exams per year, in April and October. The exams are prepared and graded in Customs Headquarters and are designed to test an applicant's knowledge of customs and related laws, regulations, and procedures, and his or her fitness to render valuable service to importers and exporters. Composing exam questions which are unambiguous and which comprehensively test an applicant's knowledge of the subject matter is a difficult and time consuming task. The work entailed in preparing and grading the exam is a serious drain on the limited resources of Customs.

There has been a continual increase in the number of applicants wishing to take the brokers exam each time that it is given. It has reached the point that Customs is concerned that the quality of the exam will suffer if we continue to give it twice yearly. Up to now, a high standard of quality has been maintained on the exam and it is generally recognized as a fair and thorough test of the qualifications of the applicant. It is with the goal of maintaining this high standard that Customs now proposes to amend § 111.13(b), Customs Regulations, to reduce the frequency of exams to once yearly. The proposed schedule provides for an exam every June. If the number of applicants continues to increase while the resources Customs can allocate to preparing and grading the exam fails to keep pace, Customs is concerned this would result in inadequate testing of an applicant's knowledge and consequently the granting of licenses to those who may not qualify to act for others in Customs matters.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, it is certified that, if adopted, the proposed amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in § 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 111

Administrative practice and procedure, Brokers.

Proposed Amendments

It is proposed to amend Part 111, Customs Regulations (19 CFR Part 111), as set forth below:

PART 111—CUSTOMS BROKERS

1. The authority citation for Part 111 continues to read as follows:

Authority: 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624, 1641.

2. It is proposed to amend § 111.13(b) by removing the words, "April and October", and inserting in their place, "June of each year".

William von Raab,

Commissioner of Customs.

Approved April 4, 1986.

Francis A. Keating II,

Assistant Secretary of the Treasury.

[FR Doc. 86-9336 Filed 4-24-86; 8:45 am]

BILLING CODE 4820-02-M

19 CFR Part 172

Reduction of Petitioning Time in Liquidated Damages Cases

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to expedite the processing of cases in which liquidated damages have been assessed against a bond holder for violations of the Customs laws and regulations. The proposal would reduce the time in which petitions for relief from the payment of the liquidated damages may be filed with Customs in such cases from 60 days to 30 days from the date of mailing of the notice of the liquidated damages incurred. It would thus conform the administrative petitioning time in these cases to that which currently applies to seizure and forfeiture cases.

DATE: Comments must be received on or before June 24, 1986.

ADDRESS: Comments (preferably in triplicate) may be addressed to and inspected at the Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: James Demb, Entry Procedures and Penalties Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229 (202-566-5746).

SUPPLEMENTARY INFORMATION:

Background

Section 172.2, Customs Regulations (19 CFR 172.2), provides procedures Customs uses when a petition for relief is not filed or payment is not made to Customs or arrangements made to pay by a party who is liable for the payment of liquidated damages assessed against a bond holder for violation of any of the conditions of the bond. Under this section, a 60-day period from the mailing date of the notice of liquidated damages incurred is allowed before any collection action is taken by Customs. Collection action may be temporarily withheld, however, if it appears that the party liable for the payment of liquidated damages is absent from the U.S. at the time the notice is received or for more than 30 days during the 60-day petitioning period.

Current § 172.12, Customs regulations (19 CFR 172.12), refers to the 60-day period for filing a petition for relief in liquidated damages cases and current § 172.33, Customs Regulations (19 CFR 172.33), provides for a similar 60-day period for filing supplemental petitions for relief, under certain specified conditions.

Similar 60-day filing periods formerly applied to petitions for relief filed in accord with the provisions of Parts 162 and 171, Customs regulations (19 CFR Parts 162, 171), which are concerned with cases involving the seizure of merchandise subject to forfeiture of fines and penalties incurred for violations of the Customs laws and regulations. Pursuant to T.D. 85-195, published in the Federal Register on December 10, 1985 (50 FR 50267), however, this 60-day petitioning period was reduced to 30 days. This was done to conform the Customs Regulations to changes made to the Tariff Act of 1930 (19 U.S.C. 1202 et seq.), with respect to the forfeiture and disposition of property seized by Customs. The petitioning period change was one of many changes to Parts 162 and 171, which resulted from certain provisions of the Comprehensive Crime Control Act of 1984 (Pub. L. 98-473) and the Tariff and Trade Act of 1984 (Pub. L. 98-573). It was expected that these changes would reduce Customs costs relating to the storage and upkeep of seized property and expedite the processing of penalty and forfeiture cases resulting from the seizure of the property.

At the time that the changes to Parts 162 and 171 were proposed, it was determined advisable not to include liquidated damages cases among those subject to the new 30-day petitioning period. It was believed that inasmuch as property is not being held by Customs in liquidated damages cases, the same urgency did not attach to these cases as it does to seizure and forfeiture cases. Since that time, however, it has been decided that liquidated damages cases should nevertheless be subject to a 30-day petitioning period in order to expedite the disposition of these cases, thereby saving Customs needed time and resources. It was also reasoned that having the same petitioning period for seizure, forfeiture, and liquidated damages cases would be easier to administer since it would preclude any confusion as to when the 30-day or the 60-day petitioning period would apply.

It is therefore proposed to amend §§ 172.2(a), 172.12(b), and 172.33 (a)(1) and (c)(2)(ii), Customs Regulations, to reduce the petitioning time in liquidated damages cases from 60 to 30 days. It is also proposed to amend § 172.2(b), to reduce from "more than 30 days" to "more than 20 days," the time during the 30-day petitioning period a party liable for the payment of liquidated damages must be absent from the U.S. in order for collection action on the case to be temporarily withheld by Customs.

It is also proposed to amend the heading and text of § 172.2(a), to provide that Customs will refer unsatisfied liquidated damages claims to the

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Department of Justice rather than the U.S. Attorney. This direct referral would expedite the processing of these cases and the collection of liquidated damages.

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Room 2426, Customs Headquarters, 1301 Constitution Avenue NW., Washington, DC 20229.

Regulatory Flexibility Act

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is certified that, if adopted, the proposed amendments will not have a significant economic impact on a substantial number of small entities. Accordingly, they are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

Drafting Information

The principal author of this document was Susan Terranova, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 172

Administrative practice and procedures, Liquidated damages.

Proposed Amendments

It is proposed to amend Part 172, Customs Regulations (19 CFR Part 172), as set forth below.

PART 172—LIQUIDATED DAMAGES

1. The authority citation for Part 172 would continue to read as follows:

Authority: 19 U.S.C. 66, 1623, 1624.

2. It is proposed to revise § 172.2 to read as follows:

§ 172.2 Failure to petition for relief.

(a) *Referral of claim to Department of Justice.* If any party liable for liquidated damages fails to petition for relief or to pay or make arrangements to pay the liquidated damages within 30 days from the date of mailing of the notice of the liquidated damages incurred, as provided in § 172.1, or within such additional time as may have been granted, the district director of Customs, after required collection action, shall refer the claim promptly to the Department of Justice.

(b) *Absence from the U.S.* If it appears that the parties liable for liquidated damages are absent from the U.S. or during the 30-day period referred to in paragraph (a) of this section were absent for more than 20 days, the district director may withhold such referral for a reasonable time unless other action is expressly authorized by the Commissioner of Customs.

3. It is proposed to revise § 172.12(b) to read as follows:

§ 172.12 Filing of petition for relief.

* * * * *

(b) *When filed.* A petition for relief shall be filed within 30 days from the date of mailing of the notice of the liability for liquidated damages incurred unless an extension of such period has been granted by the district director.

* * * * *

4. It is proposed to amend § 172.33 by revising paragraphs (a)(1) and (c)(2)(ii) to read as follows:

§ 172.33 Supplemental petitions for relief.

(a) *Time and place of filing.* If the interested parties are not satisfied with a decision of the district director or the Commissioner of Customs, a supplemental petition may be filed with the district director of Customs by the interested parties. Such a petition shall be filed either:

(1) Within 30 days from the date of notice to the petitioner of the decision from which further relief is requested if no effective period is prescribed in the decision; or

* * * * *

(c) * * *

* * * * *

(2) A second supplemental petition will not be considered except in one of the following circumstances:

* * * * *

(ii) If it is filed within 30 days following an administrative or judicial decision which reduces the loss of duties upon which the mitigated penalty amount was based; or

* * * * *

William von Raab,
Commissioner of Customs.
Approved: April 8, 1986.
Francis A. Keating, II,
Assistant Secretary of the Treasury.
[FR Doc. 86-9297 Filed 4-24-86; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

[Reg. Nos. 4 and 16]

Disability Insurance and Supplemental Security Income; Determinations of Disability—Compliance, Performance Standard Revisions, and Other Changes Involving Administrative Requirements and Procedures

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rules.

SUMMARY: These proposed regulations for administering the disability determination function implement section 17 of Pub. L. 98-460 (the "Social Security Disability Benefits Reform Act of 1984") which provides measures to improve State compliance with Federal law by amending section 221 of the Social Security Act (the Act). Section 221 requires the Secretary to take definitive steps within specific time frames to either assure the compliance of State agencies with SSA regulations and other written guidelines or proceed to terminate their participation in the SSA-administered disability programs. The proposed regulations also make other changes to improve the disability determination process by revising State agency performance requirements, modifying our monitoring and technical and management assistance procedures, and by clarifying and updating certain administrative requirements.

DATE: We will consider comments if we receive them no later than June 24, 1986.

ADDRESSES: Send your written comments to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or deliver them to the Office of Regulations, Social Security Administration, 3-A-3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Irving Darrow, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 597-3409.

SUPPLEMENTARY INFORMATION: Prior to the Social Security Disability Amendments of 1980 (Pub. L. 96-265), the disability programs under title II and title XVI of the Social Security Act (the Act) were administered under a Federal-State contractual mechanism established under the 1954 Amendments to the Act. At that time, Congress specified that determinations of disability should be made by State agencies under agreement with the Secretary.

Under these agreements the State agencies, on behalf of the Secretary of Health and Human Services, made determinations of disability on the basis of standards and guides issued by us. We paid 100 percent of the costs incurred by the States in performing this function. The State agency function included obtaining medical and vocational evidence from the applicant and his or her medical treatment sources, and where necessary, arranging for one or more examinations of the applicant by specialists.

The 1980 Amendments to the Social Security Act—Pub. L. 96-265

In 1980, out of concern for uniform program administration, Congress enacted section 304 of the 1980 Amendments which increased our statutory authority to improve State performance by requiring the promulgation of regulations establishing standards of performance and administrative requirements and procedures for the States to follow to ensure effective and uniform administration of the disability programs. Section 304 also provided that beginning June 1981, disability determinations are to be made by the State in compliance with the newly prescribed standards unless it notifies us, in writing, that it no longer wishes to make the determinations. We are authorized to take over the disability determination function if we find that the State has failed to make determinations consistent with prescribed standards. Certain time frames, notice requirements and State agency employee protections were included in these provisions.

Congress was also concerned about the rapid growth of the disability programs that had occurred in the 1970's and the effectiveness of the continuing disability review process. Section 311 of the 1980 Amendments was aimed at improving administration by assuring that only those who meet the definition of disability in the law continue to receive benefits. The provision requires us to review the status of Social Security beneficiaries with nonpermanent disabilities at least once every 3 years, and those with permanent disabilities at less frequent intervals determined appropriate by the Secretary. A number of States expressed concern because our policy did not provide a medical improvement standard for these reviews, and refused to use prescribed standards for review. These States either implemented their own standards or stopped processing continuing disability review cases altogether.

We promulgated performance standards in regulations, effective June 1, 1981, requiring the State agencies which make disability determinations for use to meet standards in accuracy and processing time and other administrative and procedural areas.

The 1984 Amendments to the Social Security Act—Pub. L. 98-460, Section 17

Pub. L. 98-460 was enacted to promote order and uniformity in the disability programs. It maintains our commitment to treat disabled individuals fairly and humanely while fulfilling our obligation to administer the disability programs effectively. In addition to setting our the standards for the continuing disability review cases and providing statutory direction in several other areas, Pub. L. 98-460 included a temporary provision to ensure that we maintain uniform, national administration of the disability programs in the event of a State failing to make disability determinations in a manner consistent with regulations and other written guidelines.

The new statute sets out specific review standards and also requires us to either assure the compliance of States with the regulations and other written guidelines carrying out these standards or to proceed to terminate their participation (fully or partially) in the disability programs. We must follow prescribed steps and make a final determination as to a State's compliance within 16 weeks after information is received that a State may not be in substantial compliance with the regulations and other written guidelines; and assume all or part of a State agency's disability determination function not later than 180 days after a final determination that a State is not in substantial compliance with the regulations and other written guidelines.

The amendments also provide certain protections for State agency employees if a final determination is made by the Commissioner (or his or her designee) finding that a State is not in substantial compliance. We will give employees of the State agency (with some limited exceptions) who are capable of performing duties in the disability determination program preference over any other persons in filling positions for which they are qualified. We may exceed any applicable personnel ceilings and waive any applicable hiring restrictions in this regard. Also, to the extent feasible within the 180 day period after the final determination and in conjunction with the Secretary of Labor, we will assure the statutory protection of State agency employees whom we do not hire.

The amendments also place responsibility on us to assure that cases decided by a State agency when it was not in substantial compliance are decided in accordance with the regulations and other written guidelines.

Section 17 expires on December 31, 1987. Thereafter, it will no longer serve as the statutory basis for the regulatory provisisons which specifically implement it. Unless the provisions of section 17 are extended by Congress, we will prepare new regulations to take effect on January 1, 1988.

Proposed Regulatory Provisions

Definitions

We proposed to add a definition for "not in substantial compliance" (i.e., a State is not following our regulations and other written guidelines in processing disability claims and in carrying out the other responsibilities of the State described in the regulations) to §§ 404.1602 and 416.1002. Also, we have amended the definition of "other written guidelines" to include issuances (e.g., memoranda, program policy statements) by the Commissioner and/or Associate Commissioner for Disability. This expanded definition is intended to cover special situations where time limitations do not permit the promulgation of guidelines through the regular process. Such special issuances are of major importance to the disability program, for example, in carrying out court orders.

The Procedures for Determining When a State Is Not in Substantial Compliance With Our Regulations and Other Written Guidelines

When we receive information that a State may not be following our

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regulations and other written guidelines, we will investigate the matter immediately and, within 21 days, make a preliminary finding as to whether the State is or is not in substantial compliance. If a State is notified of a preliminary finding that it is not in substantial compliance, it will have 21 days, from the date of the finding, to provide written assurance that the situation will be corrected.

If a State provides such assurance, we will monitor its performance for 30 days. Regardless of whether a State provides such assurance, we will make a final determination as to whether it is or is not in substantial compliance with our regulations and other written guidelines within 60 days of our preliminary finding (or within 90 days if we conduct a hearing).

Determining if a State Is Not in Substantial Compliance

Section 17 of Pub. L. 98-460 directs us to follow specific procedures within designated time frames before making a final determination that a State is not in substantial compliance with our regulations and other written guidelines. Generally, instances of a State not being in substantial compliance (whether intentional or not) will be readily apparent and correctible. For example: a State may not be applying the correct evaluation criteria to cases involving a certain body system. The situation is investigated, confirmed, and the State notified of the preliminary findings. If the State agrees to correct the deficiency, it is corrected and verified by monitoring, and the State is notified of the final determination of substantial compliance.

We may also find that a State is not in substantial compliance because it has failed to meet our performance standards. Generally, in these situations, the State agency is trying to follow the rules in making disability determinations but does not meet performance standards. Assistance by SSA to the State agency to bring its performance up to acceptable levels is appropriate. Therefore, before initiating the mandatory procedures (see §§ 404.1670(b) and 416.1070(b)) for determining if a State agency is in substantial compliance, we will provide the State agency with performance support. We will provide such support for up to 12 months if a State agency does not meet two of the three established threshold (minimum) performance standard levels (one of which must be the documentation/decision standard, formerly the accuracy standard) for two or more consecutive calendar quarters. Thereafter, we will give the State a 3-month adjustment period when we will not require the State to meet the performance standards.

After the 3-month adjustment period, if the State agency again falls below two of these threshold levels (one being the documentation/decision standard) in two consecutive calendar quarters during the next 12 months, we will begin a 21 day investigation of whether the State is in substantial compliance. Thereafter, we will follow the procedures resulting in a final determination as to whether the State is in substantial compliance.

Hearings

Under Pub. L. 98-460, a State may request a hearing on the matter of substantial compliance and we, at our discretion, may grant it. The State must make its request to the Commissioner of Social Security within 55 days of a preliminary finding that it is not in substantial compliance. If we grant a hearing, we will appoint a hearing officer. The hearing will begin no later than 70 days after the preliminary finding and the State has 3 working days to present evidence and arguments. The hearing officer will recommend a decision to the Commissioner no later than 90 days from the date of the preliminary finding. The recommendation will not be binding; however, it will be considered in reaching the final determination.

Protection of State Agency Employees

If we assume a State agency's disability determination function and we hire, we will give State agency employees (with certain exceptions) who are capable of performing duties in the disability determination function preference over any other persons in filling positions for which they are qualified. We will establish a system for determining the hiring priority among the affected State agency employees in those instances where we are not hiring all of them. State employees converted to Federal employees under this procedure will be new Federal employees subject to the same probationary requirements imposed on all new Federal employees.

Also, to the extent feasible within the 180-day takeover period, we will (in conjunction with the Secretary of Labor) assure the statutory protection of State agency employees not hired by us. In this regard, we will work with the Secretary of Labor to secure assurance from the State that it has made fair and equitable arrangements to protect the interests of displaced employees. Such arrangements include only those provisions which are provided under all applicable Federal, State, and local statutes. These include but are not limited to: (1) The preservation of rights, privileges, and benefits (including continuation of pension rights and benefits) under existing collective-bargaining agreements; (2) the continuation of collective-bargaining rights; (3) the assignment of affected employees to other jobs or to retraining programs; (4) the protection of individual employees against a worsening of their positions with respect to their employment; (5) the protection of health benefits and other fringe benefits; and (6) the provision of severance pay as may be necessary.

Cases Decided by a State Agency After a Final Determination That the State Is Not in Substantial Compliance

After a final determination and before we assume the disability determination function, we will take such action as may be necessary to assure that cases decided by a State agency are decided in accordance with applicable regulations and other written guidelines. We will determine whether the action is necessary in only certain classes of cases or in all cases processed by the State agency during the period.

Performance Standards

Under Pub. L. 98-265, we were required by Congress to promulgate regulations establishing whatever standards of performance were considered necessary for a State agency to follow to ensure effective and uniform administration of the disability programs. Effective and uniform administration must be measured in relationship to the processing of benefit determinations of those people who apply for disability benefits. Accordingly, accuracy of decision and processing time standards were established as the indicators of State agency performance. The objective of a processing time standard is to assure good public service. The objective of a performance standard for accuracy is to assure that decisions are rendered in accordance with regulations and other written guidelines. As in processing time, the purpose is to assure good public service.

Processing time and performance accuracy standards were first established by regulations implementing Pub. L. 98-265 in 1981, and were set at two levels: target and threshold. Only title II and title XVI disability determinations on initial claims were considered in assessing whether a standard was met. In determining

processing time, we considered title II initial processing time and title XVI initial processing time separately, and established separate performance standards. In determining accuracy, we considered title II and title XVI initial disability determinations together and established a single overall standard for performance.

Target levels were established as challenges designed to reflect what we believe to be an optimal level of performance and service delivery that we expect State agencies eventually to attain. We are not proposing to change these target levels from present levels:

Title II initial processing time	37 days
Title XVI initial processing time	43 days
Combined accuracy rate	97 percent

Under current regulations, threshold levels are established as the minimum aceptable levels for performance. Falling below these threshold levels requires appropriate action on our part to improve State agency performance. A State agency's continued failure to meet two of the three threshold levels (one of which is accuracy), after receiving assistance from us to improve performance, could be cause for us to assume partial or complete responsibility for performing the disability determination function, after certain procedural requirements are met.

Intermediate goals are performance goals set between the threshold and target levels for each individual State agency for the purpose of ensuring continued movement toward the targeted level. These intermediate goals are essential tools for the State agencies to improve their performance. We are amending §§ 404.1641(d) and 416.1041(d) to show that the SSA regional commissioners will also monitor specific national minimum intermediate processing time goals of 54.9 days for initial title II cases and 62.4 days for initial title XVI cases by December 31, 1987. This does not preclude the regions from setting lower intermediate processing time goals; but, it establishes a minimum intermediate goals for the State agencies to reach by December 31, 1987. This will establish reasonable and realistic intermediate processing time goals for State agencies to use to improve performance and focus on the importance of timely service to the public. In the event a State agency fails to meet these intermediate processing time goals, by December 31, 1987, performance will be reviewed jointly by us and the regional office and improvement plans implemented. We will furnish the support needed to improve the State's performance.

Processing Time Standards

The processing of a claim for disability benefits involves actions by both Social Security Administration operating components and the State agencies. The purpose of a processing time standard for the State agencies is to assure that the time required by the State agency to process cases is consistent with our objectives for service delivery and yet allow adequate time for the State agency to secure and evaluate pertinent medical and vocational evidence and make a determination of disability. This process requires the actions of many individuals ranging from routine clerical actions to sophisticated analysis by medical and vocational experts.

In establishing performance standards for processing time, we recognize that our constant effort to improve the program also affects the time required for the State agencies to make determinations. Changes in our evidentiary requirements (for example, in order to keep pace with modern medical and vocational technology) can increase the time required to secure and evaluate evidence. On the other hand, improvements in our procedures and systems enhancements may tend to decrease the time required. However, standards should reflect actual operating experience and changes in current operating realities. Therefore, we are proposing an increase in the processing time thresholds based on recent actual experience and the reasonable predictions of the expected operating environment for the time covered by this regulation.

When we established the current processing time standards, we fully expected that they would require revisions after we acquired some experience in applying them. The original processing time threshold standards were based on data for fiscal year 1979 and were set at 49.5 days for title II initial claims and 57.9 days for title XVI initial claims. Data for the period October 1983 through September 1984 indicate that State agencies' processing times have risen due, in part, to changes in systems, policies, and procedures.

We are now proposing to change the processing time threshold levels for initial title II claims to 59.3 days and the initial title XVI claims to 67.9 days. This increase in time should allow State agencies to better focus on the qualify and consistency of disability determinations, while at the same time, processing disability determinations with reasonable promptness.

In revising the processing time threshold standards, we have decided to continue to apply separate thresholds for title II initial disability determinations and title XVI intital disability determinations because there continues to be a difference in mean processing time between title II and title XVI disability cases. This is explained by the fact that processing times for title II and title XVI case are measured by two different and separate systems. For instances, unlike title II, title XVI State agency processing time can include additional time after the release of the case by the State agency. Specifically, title XVI processing time includes the time between the date of State agency decisional action and the date of updating the Supplemental Security Record. Further improvements in the measurement systems are being made and are expected to enable us to establish a single processing time standard for both types of cases in the future.

We are amending §§ 404.1642 and 416.1042 to establish the new processing time threshold levels.

Documentation/Decision Rate Standard (Formerly Accuracy Rate Standard)

The objective of a performance standard for quality is to assure that decisions are in accordance with regulations and other written guidelines. As in processing time, the purpose is to assure good public service.

As with the processing time threshold standards, when we established the performance accuracy threshold standard in the 1981 regulations, we also anticipated that the accuracy standard would need to be revised in the future after experience in applying it was gained.

Since that time, State agencies have generally improved their accuracy. The original performance accuracy standard was based on combined title II and title XVI initial accuracy data for fiscal year 1979, and the threshold was established at 90.6 percent.

In order to assure continued improved good public service and to emphasize the objective of accurate, well-documented decisions, we are revising the performance accuracy threshold from 90.6 percent on initial cases only to 93.0 percent on all decisions. The increased accuracy threshold and its measurement of all decisions carries out our emphasis on accurate, well-rationalized, and documented cases by providing a realistic challenge for the States that is an incentive for further improved performance. The increased threshold is more representative of

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current State agency performance. Since 1979, State agencies have improved their accuracy which is in keeping with our mutual objective of producing quality disability determinations.

We are also proposing to change the term "performance accuracy standard" to "documentation/decision standard". SSA Regional Commissioners and State agency administrators have pointed to the need to clarify that our current accuracy standard cannot be equated solely with the accuracy of the final decision. In this regard we believe that the term "accuracy" may be misleading. What our proposed regulations provide is a much broader standard than decision accuracy in that it also measures the extent to which decisions are fully and consistently documented in accordance with our policy and procedural guidelines. This type of standard offers greater assurance of program uniformity and the correctness of the final decision since it also addresses the soundness and adequacy of the documentation on which the decision is based. The change in name to "documentation/decision standard" reflects this intent.

The national performance accuracy threshold of 93.0 percent was established using fiscal year 1984 State-by-State combined title II and title XVI performance accuracy rates for disability determinations at all levels of adjudication, i.e., initial, reconsideration and continuing disability review cases. However, data were limited on initial continuing disability reviews and reconsiderations of continuing disability reviews because of the April 1984 moratorium on such cases.

On the basis of experience, we have decided to retain a single documentation/decision standard for both title II and title XVI disability cases. There is no data to indicate variances in documentation/decision standards from one type of case to another. We have also decided not to limit the documentation/decision standard to initial cases but rather to revise it to an overall standard that will include reconsideration and continuing disability review cases. This will provide us with a more comprehensive indicator of performance.

If any change in the manner of measurement or revision to the definition of an error is made, we will evaluate the effect of the revision on the documentation/decision threshold.

Technical and Management Assistance

Technical and management assistance (TMA) is a structured SSA program designed to offer or provide support, assistance, guidance or resources to improve State agency performance. This can include but is not limited to: onsite reviews, administrative measures, training or funding. According to the 1981 regulations, a State agency will receive TMA when performance reaches unacceptable levels or when performance has significantly declined. We believe that emphasis should be placed on good performance and preventive maintenance which may be far less costly than corrective action taken when the State agency has developed more serious performance problems. We also believe that the need for additional support or assistance should not be viewed solely as punitive measure brought about by poor performance. We are, therefore, proposing a number of modifications in the monitoring and TMA sections of the regulations. We propose the following changes.

- *TMA*—Change the term "technical and management assistance" to "performance support".
- *Reviews*—Within budgeted resources, conduct fiscal and administrative management reviews (FAMRs) and special onsite reviews as a part of the regular performance monitoring process. A FAMR is a fact finding mission to review particular aspects of State agency operations. During these reviews we also review the quality assurance (QA) functions. The FAMR previously was conducted as a part of technical and management assistance and, as a result, was associated with poor performance.
- *Quality Assurance*—Review the quality assurance (QA) function to ensure that it is consistent with the intent of the QA process and that proper sample selection procedures are being followed.
- *Assistance Request*—Amend §§ 404.1681 and 416.1081 to show that a State may request assistance at any time that the regular monitoring and review process reveals that assistance could enhance performance. The current regulations do not provide that a State may request assistance.
- *Performance Support*—Further amend §§ 404.1681 and 416.1081 to explain that we will consider offering, or providing upon request, assistance when the documentation/decision rate falls below 93.0 percent in any of the three categories of decisions, i.e., initial cases, reconsiderations, and continuing disability reviews. We will consider offering or granting assistance if a State agency falls below one or even two categories of the documentation/decision threshold, e.g., reconsiderations only, even though it is still in "substantial compliance." Performance support directed at a specific problem area may improve a State agency's overall documentation/decision rate. Also, if any of our ongoing reviews and quality assurance activities reveal that performance could be improved by such support, we will consider offering assistance. The current regulations only allow for optional TMA when performance significantly declines or when intermediate goals have not been met. The proposed regulations will allow for performance support, including State requested support, in a much broader range of circumstances. This support will continue to be provided from State and SSA staff and budgets.

We are also proposing some other amendments to these sections to conform with changes in the proposed processing time and documentation/decision standards.

Administrative Requirements and Procedures

General Administrative Requirements

The 1981 regulations provide, under the heading "*Organization*" (§§ 404.1620 and 416.1020), that the State is responsible for providing the organizational structure, sufficient qualified personnel, medical consultants services and a quality assurance function to ensure that disability determinations are made accurately and promptly. Our objective was to regulate only where necessary and to allow the States maximum flexibility to manage the State agencies as long as their performance was acceptable. We, therefore, said that we would impose specific requirements in these areas only in the course of a mandatory technical and management assistance program.

It is still our goal to regulate administrative areas only to the extent necessary to ensure effective stewardship of the disability programs and to continue to give the States maximum flexibility to manage the State agencies. However, experience has shown over the past several years that, in some circumstances, there is a need for specific requirements even though mandatory performance support is not needed. A State may have serious deficiencies in one or more functions currently listed under "*Organization*" or in any of the functions included under "*Administrative Responsibilities and Requirements.*" These deficiencies may not necessarily cause the State agency to fall below the thresholds that require mandatory performance support. For example, a State may take action to discontinue its quality assurance program, or may fail to submit timely and accurate reports of its administrative functions. Another example is: a State may attempt to contract out functions which our instructions require the State to retain. Even where a clear and serious deficiency may eventually lead to a State agency's requiring mandatory performance support, for example, where a State may adopt a medical review procedure for a class of cases that clearly delays processing the cases and imposes evaluation standards which are inconsistent with our regulations or written guidelines, it is unreasonable to expect that we would always wait until the State agency's performance falls through the necessary performance thresholds before initiating corrective measures. We have an obligation to exercise stewardship and to immediately undertake to correct any deficiencies which may cause the State to be found not in substantial compliance with our regulations and other written guidelines.

For the above reasons, we have changed the title of §§ 404.1620 and 416.1020 from "*Organization*" to "*General Administrative Requirements*". We have retained the four administrative functions covered in this section but have deleted the statement that we will impose specific organizational requirements on a State only in the course of a mandatory technical and management assistance program. Instead, we have stated that we will act immediately to remedy any deficiencies in the four administrative functions involved under this section or in the other administrative functions covered individually under "*Administrative Responsibilities and Requirements*", which are sufficiently serious that, if not corrected, may cause the State to be found not in substantial compliance with our regulations and other written guidelines.

Facilities

We are proposing to amend §§ 404.1623(c) and 416.1023(c) to require that access to the premises where the disability determination function is performed includes telephonic access to State agency management. Telephone contacts may be preferable to personal visits in some cases for the purposes of clarifying or verifying State agency activities required by the regulations and other written guidelines. They are quicker and more cost effective.

Fiscal

We propose to revise §§ 404.1626 and 416.1026 to substitute "Office of Management and Budget (OMB) Circular A-87" for "Federal Management Circular 74-4" to reflect a change in the title of this latter circular. We are also making reference to 48 CFR 31.6 of the Federal Acquisition Regulations System and OMB Circular A-87 which define necessary costs for the period after March 31, 1984. We also propose to revise these sections to require that States arrange for their own audits in accordance with the Single Audit Act of 1984, Pub. L. 98-502.

The Single Audit Act of 1984 provides for independent audits of financial operations, including compliance with certain provisions of Federal law and regulations. The requirements are established to ensure that audits are made on an organization-wide basis. Since the States are required by the Single Audit Act of 1984 to arrange for audits of their own agencies using Federal guidelines, we will audit State records only if (1) they do not perform their own audits of the State agency under the Single Audit Act of 1984 or (2) they perform a State agency audit but the audit does not meet our program requirements. In the case of an unsatisfactory State audit, we may conduct a supplementary audit or review activity as prescribed by the Single Audit Act of 1984.

Audits

We propose to revise §§ 404.1627 and 416.1027 to reflect that the Department of Health and Human Services' Office of Inspector General will not be the principal agency conducting audits of State agencies. The State agencies are to be audited by the States under the Single Audit Act of 1984.

In addition, we are proposing that the Commissioner be given 90 days from the date of receipt of a State's appeal of an audit determination to issue a decision on that appeal. Experience has shown that 45 days to respond does not allow sufficient time for careful investigation and review of all the issues.

Disputes on Other Matters

We propose to revise §§ 404.1681 and 416.1081 to clarify that the "fiscal issues" to be resolved by the Grant Appeals Board are "monetary disallowances." In accordance with the regulations governing the Grant Appeals Board (45 CFR 16), monetary disallowances are the only type of fiscal recommendation, decision, or dispute which are appealable to the Grant Appeals Board.

Executive Order 12291: These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required. In fact, these regulations only make some modifications to the regulations which implemented section 304 of Pub. L. 96-265 (the "Social Security Disability Amendments of 1980"). When these regulations were published in the Federal Register on May 29, 1981 (46 FR 29180), it was determined that they did not constitute a major rule, as defined in Executive Order 12291.

Regulatory Flexibility Act: We certify that these regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because they only affect States agencies making disability determinations under title II and title XVI of the Act. Prior to June 1981, these same State agencies made these disability determinations under agreements with the Secretary.

Paperwork Reduction Act: These regulations impose no new reporting/recordkeeping requirements necessitating OMB clearance.

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-Age, survivors and disability insurance.

20 CFR part 416

Administrative practice and procedure, Alcoholism, Drug abuse, Investigations, Medicaid, Reporting and recordkeeping requirements, Supplemental security income (SSI), Vocational rehabilitation.

(Catalog of Federal Domestic Program Nos. 13802, Social Security Disability Insurance; 13.807 Supplemental Security Income)

Dated: October 4, 1985.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: January 9, 1986.

Otis R. Bowen, M.D.,

Secretary of Health and Human Service.

Chapter III, Title 20 of the Code of Federal Regulations is amended as shown.

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE (1950——)

Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart Q continues to read as follows:

Authority: Secs. 205, 221 and 1102, Social Security Act, as amended; 53 Stat. 1368, as amended, 68 Stat. 1081, as amended; 49 Stat. 647, as amended; 42 U.S.C. 405, 421, and 1302.

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2. Section 404.1601 is amended by revising paragraphs (d), (f), and (g) to read as follows:

§ 404.1601 Purpose and scope.

* * * * *

(d) Sections 404.1640 through 404.1650 describe the documentation/decision standard and processing time standards for measuring State agency performance.

* * * * *

(f) Sections 404.1670 and 404.1671 describe the level of performance below which we will find a State agency to be not in substantial compliance with the requirement that it make disability determinations consistent with the regulations and other written guidelines. The action that we will take when this occurs is also set out.

(g) Sections 404.1680 through 404.1683 describe the rules for resolving disputes concerning fiscal issues and providing hearings when we propose to find that a State is not in substantial compliance.

* * * * *

3. In § 404.1602, the definition of "other written guidelines" is revised and definitions for the terms "documentation/decision rates" and "not in substantial compliance" are added to read as follows:

§ 404.1602 Definitions.

* * * * *

"Documentation/decision rates" are the preestablished levels against which State agency disability determination accuracy is measured.

"Not in substantial compliance" means that a State is not following our regulations and other written guidelines in processing disability claims and in carrying out the other responsibilities of the State described in the regulations.

"Other written guidelines" means written issuances (e.g., memoranda, program policy statements) by the Commissioner of Social Security or the Associate Commissioner for Disability; and the policies, procedures, guides, and operating instructions in the Disability Insurance sections of the Program Operations Manual System that are not designated as advisory or discretionary.

4. Section 404.1620 is amended by revising the section heading and paragraph (a) to read as follows:

§ 404.1620 General administrative requirements.

(a) The State will provide the organizational structure, qualified personnel, medical consultant services, and a quality assurance function sufficient to ensure that disability determinations are made accurately and promptly We may impose specific administrative requirements in these areas and in those under "Administrative Responsibilities and Requirements" in order to establish uniform, national administrative practices or to correct the areas of deficiencies which may later cause the State to be "not in substantial compliance" with our regulations and other written guidelines.

* * * * *

5. Section 404.1623 is amended by revising paragraph (c) to read as follows:

§ 404.1623 Facilities.

* * * * *

(c) *Access.* The State will permit us access to the premises where the disability determination function is performed and personal and/or telephonic access to the management of such premises. These contacts shall be for the purpose of verifying and/or inspecting the work and activities required by the regulations and assuring compliance with pertinent Federal statutes and regulations. We will contact the State and give reasonable prior notice of the times and purposes of any visits.

6. Section 404.1626 is amended by revising paragraphs (a) and (e) to read as follows:

§ 404.1626 Fiscal.

(a) We will give the State funds, in advance or by way of reimbursement, for necessary costs in making disability determinations under these regulations. Necessary costs are direct as well as indirect costs as defined in 41 CFR 1–15.7 of the Federal Procurement Regulations System and in Office of Management and Budget (OMB) Circular A–87, as amended or superseded for costs incurred before April 1, 1984; and 48 CFR 31.6 of the Federal Acquisition Regulations System and OMB Circular A–87 as amended or superseded for costs incurred after March 31, 1984.

* * * * *

(e) After the close of a period for which funds have been made available to the State, the State will submit a report of its expenditires. Based on an audit arranged by the State under Pub. L. 98–502, the Single Audit Act of 1984, or by the HHS Inspector General or based on an audit or review by SSA (see § 404.1627), we will determine whether the expenditures were consistent with cost principles described in 41 CFR 1–15.7 for costs incurred before April 1, 1984; and 48 CFR Subpart 31.6 of the Federal Acquisition Regulations for costs incurred after March 31, 1984; and in other written guidelines in effect at the time the expenditures were made or incurred.

* * * * *

7. Section 404.1627 is revised to read as follows:

§ 404.1627 Audits.

(a) *Performed by the State.*—(1) *Generally.* Audits of accounts and records pertaining to the administration of the disability program under the Act, will be performed by States in accordance with the Single Audit Act of 1984 (Pub. L. 98–502) which establishes audit requirements for States receiving Federal assistance. If the State's audit meets SSA's program requirements, SAA will accept the findings and recommendations of the audit. The State will make every effort to act upon and resolve any items questioned in the audit.

(2) *Questioned items.* Items questioned as a result of an audit under the Single Audit Act of 1984 of a cross-cutting nature will be resolved by the Department of Health and Human Services, Office of Procurement, Assistance and Logistics (OPAL). A cross cutting issue is one that involves more than one Federal awarding agency. Questioned items affecting the disability program will be resolved by SSA in accord with paragraph (b)(2) of this section.

(3) *State appeal of audit determinations.* OPAL will notify the State of its determination on questioned items. If the State disagrees with that determination, it may appeal in writing within 30 days of receiving the determination. State appeals of a cross-cutting issue as a result of an audit under the Single Audit Act of 1984 will be made to the Department of Health and Human Services (HHS), Departmental Grant Appeal Board (the Board). The rules for hearings and appeals are provided in 45 CFR Part 16.

(b) *Performed by the Secretary.*—(1) *Generally.* If the State does not perform an audit under the Single Audit Act of 1984 or the audit performed is not satisfactory for disability program purposes, the books of account and records in the State pertaining to the administration of the disability program under the Act will be audited by the HHS Inspector General or audited or reviewed by SSA as appropriate. These audits or reviews will be conducted to determine whether the expenditures were made for the intended purposes and in amounts necessary for the proper and efficient administration of the disability program. Audits or reviews will also be made to inspect the work and activities required by the

regulations to ensure compliance with pertinent Federal statutes and regulations. The State will make every effort to act upon and resolve any items questioned in an audit or review.

(2) *Questioned items.* Expenditures of State agencies will be audited or reviewed, as appropriate, on the basis of cost principles and written guidelines in effect at the time the expenditures were made or incurred. Both the State and the State agency will be informed and given a full explanation of any items questioned. They will be given reasonable time to explain items questioned. Any explanation furnished by the State or State agency will be given full consideration before a final determination is made on the audit or review report.

(3) *State appeal of audit determinations.* The appropriate SSA regional commissioner will notify the State of his or her determination on the audit or review report. If the State disagrees with that determination, the State may request reconsideration in writing within 30 days of the date of the regional commissioner's notice of the determination. The written request may be made, through the Associate Commissioner, Office of Disability, to the Commissioner of Social Security, Room 900, Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235. The Commissioner will make a determination and notify the State of the decision in writing no later than 90 days from the date SSA receives the State's appeal. The decision by the Commissioner or other than monetary disallowances will be final and binding upon the State. The decision by the Commissioner on monetary disallowances will be final and binding upon the State unless the State appeals the decision in writing to the Department of Health and Human Services, Department Grant Appeals Board within 30 days after receiving the Commissioner's decision. See § 404.1683.

8. Section 404.1640 is revised to read as follows:

§ 404.1640 General.

The following sections provide the procedures and guidelines we use to determine whether the State agency is substantially complying with regulations and other written guidelines, including meeting established national performance standards. We use these performance standards to help assure effective and uniform administration of our disability programs and to measure whether each State agency's performance of the disability determination function is acceptable. Also, the standards are designed to improve overall State agency performance in the disability determination process and ensure that benefits are made available to all eligible persons accurately and efficiently. We measure the State agency performance in two areas—processing time and quality of documentation and decisions on claims. State agency compliance is also judged by adherence to other program requirements, e.g., availability of specialist/medical resources and consultative examination oversight activities.

9. Section 404.1641 is amended by revising paragraphs (b), (c), and (d) to read as follows:

§ 404.1641 Standards of performance.

* * * * *

(b) *The target level.* The target level is the optimum level of performance. There are three targets—one for the combined title II and title XVI overall documentation/decision rate (as defined in § 404.1643(a)), one for title II initial processing time, and one for title XVI initial processing time.

(c) *The threshold level.* The threshold level is the minimum acceptable level of performance. There are three thresholds one for the combined title II and title XVI overall documentation/decision rate, one for title II initial processing time, and one for title XVI initial processing time.

(d) *Intermediate goals.* Intermediate goals are levels of performance between the threshold levels and the target levels established and monitored by SSA's regional commissioners after negotiation with each State agency. The intermediate goals are stepping stones designed to help the State agencies reach the target levels. In the case of processing time intermediate goals, minimum levels of performance have been established that each State agency should meet by December 31, 1987.

10. Section 404.1642 is amended by revising the section heading and paragraphs (a) and (c) and by adding a new paragraph (d) to read as follows:

§ 404.1642 Processing time.

(a) *General.* Title II processing time refers to the average number of days (including Saturday, Sunday and holidays) it takes a State agency to process an initial disability claim from the day it is received in the State agency until the day it is released by the State agency. Title XVI processing time refers to the average number of days (including Saturday, Sunday and holidays) from receipt of the initial disability claim in the State agency until systems input of a presumptive disability decision or a disability determination, or release of the case folder to the disability quality branch, whichever is the earliest action.

* * * * *

(c) *Threshold levels.* The processing time threshold levels are:

(1) 59.3 days for title II initial claims.

(2) 67.9 days for title XVI initial claims.

(d) *Intermediate Goals.* In order to stress the need for continued improvement, minimum intermediate goals are being established for the calendar year ending December 31, 1987, for title II and title XVI initial case processing time. All states should be achieving by December 31, 1987, minimum intermediate processing time goals of:

(1) 54.9 days for title II initial claims.

(2) 62.4 days for title XVI initial claims.

11. Section 404.1643 is revised to read as follows:

§ 404.1643 Documentation/decision rate.

(a) *General.* Documentation/decision rate refers to the overall percentage of initial, reconsideration, and continuing disability review cases that do not have to be returned to State agencies for further development or correction of decisions based on evidence in the files and as such represents the reliability of State agency adjudication. This definition includes the consideration of factors with potential for affecting a decision even if they do not change the result in a particular case. For example, if a particular item of medical evidence should have been in the file but was not included, even though its inclusion does not change the result in the case, that is treated as an error for purposes of applying the standard.

(b) *Target level.* The State agency overall documentation/decision target level for combined title II and title XVI cases is 87 percent.

(c) *Intermediate goals.* Intermediate goals will be established annually by SSA's regional commissioners after negotiation with the States and should be used as stepping stones to progress towards the targeted level.

(d) *Threshold level.* The State agency overall documentation/decision threshold level for combined title II and title XVI cases is 93.0 percent.

12. Section 404.1644 is amended by revising the section heading and paragraph (a) to read as follows:

§ 404.1644 How and when we determine whether the processing times exceed.

(a) *How we determine processing times.* For all initial title II cases, we

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calculate the mean number of days (including Saturday, Sunday and holidays) from the time the case folder is received in the State agency until it is released to us by the State agency. For initial title XVI cases, we calcuate the mean number of days (including Saturday, Sunday and holidays) from receipt of the initial disability claim in the State agency until systems input of a presumptive disability decision or of a disability determination, or release of the case folder to the disability quality branch, whichever is the earliest action.

* * * * *

13. Section 404.1645 is revised to read as follows:

§ 404.1645 How and when we determine whether the documentation/decision rate is met.

(a) *How we determine the documentation/decision rate.* We determine a State agency's documentation/decision rate on the basis of decision and documentation errors identified in our review of sample cases under our quality review program.

(b) *Frequency of review.* Title II and title XVI initial, reconsideration, and continuing disability quality review data are monitored together on a quarterly basis. The determination as to whether the documentation/decision threshold has been met is made at the end of each quarter. Quarterly State-by-State combined overall quality review rates are compared to the established documentation/decision standard (threshold level).

14. Section 404.1650 is revised to read as follows:

§ 404.1650 Action we will take if a State agency does not meet the standards.

If a State agency does not meet two of the three established threshold levels (one of which must be the documentation/decision standard) for two or more consecutive calendar quarters, we will notify the State agency in writing that it is not meeting the standards. Following our notification, we will provide the State agency appropriate performance support described in §§ 404.1660, 404.1661 and 404.1662 for a period of up to 12 months.

15. The subheading preceding § 404.1660 is revised from "*Technical and Management Assistance*" to "*Performance Monitoring and Support.*"

16. Section 404.1660 is revised to read as follows:

§ 404.1660 How we will monitor.

We will regularly analyze State agency combined title II and title XVI overall documentation/decision rate, title II initial processing time, and title XVI initial processing time. Within budget resources, we will also routinely conduct fiscal and administrative management reviews (FAMRs) and special onsite reviews. A FAMR is a fact finding mission to review particular aspects of State agency operations. During these reviews we will also review the quality assurance (QA) function. This regular monitoring and review program will allow us to determine the progress each State is making and the type and extent of performance support we will provide to help the State progress toward threshold, intermediate, and/or target levels.

17. Section 404.1661 is revised to read as follows:

§ 404.1661 When we will provide performance support.

(a) *Optional support.* We may offer, or a State may request, performance support at any time that the regular monitoring and review process reveals that support could enhance performance or if the documentation/decision rate falls below 93.0 percent in any of the three categories of decisions (i.e., initial, reconsideration and continuing disability review decisions). The State does not have to be below the overall documentation/decision rate of 93.0 percent to receive performance support. Support will be offered, or granted upon request, based on available resources. If the State fails to meet the minimum intermediate processing time goals (see § 404.1642(d)) by December 31, 1987, we will furnish the support needed to improve the State's performance.

(b) *Mandatory support.* (1) We will provide a State agency with mandatory performance support if regular monitoring and review reveal that two of three threshold levels (one of which must be the documentation/decision standard) are not met for two consecutive calendar quarters.

(2) We may also decide to provide a State agency with mandatory performance support if regular monitoring and review reveal that any one of the three threshold levels is not met for two consecutive calendar quarters. Support will be provided based on available resources.

(3) The threshold levels are:

(i) Combined title II and title XVI overall documentation/decision rate—93.0 percent,

(ii) Title II initial processing time—59.3 days, and

(iii) Title XVI initial processing time—67.9 days.

18. New §§ 404.1662 and 404.1663 are added to read as follows:

§ 404.1662 What support we will provide.

Performance support may include any or all of the following:

(a) An onsite review of cases processed by the State agency emphasizing adherence to written guidelines.

(b) A request that necessary administrative measures be implemented (e.g., filling staffing vacancies, using overtime, assisting with training activities, etc.).

(c) Provisions for Federal personnel to perform onsite reviews, conduct training, or perform other functions needed to improve performance.

(d) Provisions for fiscal aid to allow for overtime, temporary hiring of additional staff, etc., above the authorized budget.

§ 404.1663 Failure to meet the performance standards.

After we provide mandatory performance support, we will give the State agency a 3-month adjustment period. During this 3-month period, we will not require the State agency to meet the threshold levels. Following the adjustment period, if the State agency again falls below two of three threshold levels (one being the documentation/decision threshold) in two consecutive calender quarters during the next 12 months, we will begin the 21-day investigation of whether the State is not in substantial compliance with our regulations and other written guidelines (see § 404.1670(b)(1)).

19. The subheading preceding § 404.1670 is revised from "*Substantial Failure*" to "*When a State is not in Substantial Compliance.*"

20. Section 404.1670 is revised to read as follows:

§ 404.1670 Determining that a State is not in substantial compliance.

(a) *General.* We must assure the substantial compliance of States with our regulations and other written guidelines or assume their disability determination functions within a specified time. Our regulations and other written guidelines take precedence over conflicting State laws and regulations. We may find that a State is not in substantial compliance if it does not meet performance standards (see paragraph (b) of this section) or does not follow other provisions of our regulations and other written guidelines, without good cause (See § 404.1671).

(b) *Procedures.* We take specific steps within definite time frames before determining that a State is not in substantial compliance with our regulations and other written guidelines. These are:

(1) *Information that a State may not be in substantial compliance.* Where we receive information (e.g., from individuals, quality assurance reviews, etc.) that a State may not be following our regulations and other written guidelines, the matter will be investigated, as soon as possible, by SSA's regional office in whose jurisdiction the State is located to determine if the State is not in substantial compliance (see § 404.1671 if good cause is an issue). Examples of "not in substantial compliance" include:

(i) Failure to follow SSA's disability development and evaluation criteria,

(ii) Failure to process a certain class or classes of disability cases,

(iii) Failure to carry out the basic responsibilities of the State as described in § 404.1603(c), and

(iv) Failure to meet performance standards as described in § 404.1663. In cases involving continued failure to meet the performance standards, the mandated investigation will begin as soon as our information shows that the State has again failed to meet performance standards as described in § 404.1663.

(2) *Preliminary finding.* The SSA regional office will complete its investigation and we will make a preliminary finding on the matter within 21 days of receipt of the information. On the date that such finding is made, we will also notify the State in writing of the outcome. If there is a preliminary finding that the State is not in substantial compliance with our regulations and other written guidelines, the notice will include an explanation of the basis for the finding, i.e., which regulation or guideline is not being complied with and how we determined it. We will request assurance from the State's Governor or equivalent (or his or her designee) that the situation will be corrected.

(3) *Assurance by the State.* Any State notified of a preliminary finding that it is not in substantial compliance will have 21 days, from the date the finding was made, to provide assurance to us in writing that the situation will be corrected.

(4) *Monitoring and final determination.* If a State provides such assurance, we will monitor the agency's performance for 30 days beginning with the day after the date on which the assurance has been provided. Within 60 days after the date on which the preliminary finding was made or 90 days after such date if the State is granted a hearing (see § 404.1680), the Commissioner (or his or her designee) will make a written final determination as to whether the State is substantially complying with our regulations and other written guidelines. This determination is not subject to judicial review.

(5) *Final determination that a State is not in substantial compliance and assumption of workload.* If we make a final determination that any State is not in substantial compliance with our regulations and other written guidelines, we will as soon as possible, but not later than 180 days after the date of such determination, assume responsibility for making disability determinations in that State. We will decide whether to assume all or part of the State's workload (e.g., the part in which the State is not in substantial compliance).

21. Section 404.1671 is revised to read as follows:

§ 404.1671 Good cause for not following our regulations and other written guidelines.

If a State has good cause for not following our regulations and other written guidelines, then we will not find that the State is not in substantial compliance. We will determine if good cause exists. Some of the factors relevant to good cause are:

(a) Disasters such as fire, flood, or civil disorder, that—

(1) Require the diversion of significant personnel normally assigned to the disability determination function, or

(2) Destroyed or delayed access to significant records needed to make accurate disability determinations;

(b) Strikes of State agency staff or other government or private personnel necessary to the performance of the disability determination function;

(c) Sudden and unanticipated workload changes which result from changes in Federal law, regulation, or written guidelines, systems modification or systems malfunctions, or rapid, unpredictable caseload growth for a 6-month period or longer.

§ 404.1675 [Removed and Reserved]

22. Section 404.1675 is removed and reserved.

23. Section 404.1680 is revised to read as follows:

§ 404.1680 Discretionary hearings.

(a) *Request for hearing.* Within 55 days of a preliminary finding that a State is not in substantial compliance with regulations or other written guidelines, the State may request a hearing on the issue of substantial compliance. The request must be directed to the Commissioner of Social Security. The request may be oral but it must be confirmed in writing within 5 days. Written requests must be sent to the Commissioner of Social Security, Social Security Administration, P.O. Box 888, Baltimore, MD 21235.

(b) *Action on hearing request.* Within 60 days of the preliminary finding, we will notify the State as to whether or not such a request will be granted. If a hearing is granted, the notice will specify the time and the place of the hearing. Such hearing will be scheduled to begin no later than the 70th day after the date of the preliminary finding. The notice will also specify the regulations or other written guidelines with respect to which the State may not be in substantial compliance.

(c) *Conduct of hearing.* The hearing will be conducted by a hearing officer whom we designate. The State will have a maximum of 3 working days to present evidence and argument. The hearing officer's rulings with respect to evidence, persons who may attend the hearing, and other matters about the conduct of the hearing will not be appealable. The hearing officer will recommend a decision to us no later than 80 days after the date of the preliminary finding.

(d) *Final determination.* Within 90 days of the date of the preliminary finding, the Commissioner will make a written final determination as to whether the State is substantially complying with our regulations and other written guidelines. This determination is not subject to judicial review (see § 404.1670(b)(4)).

24. Section 404.1681 is revised to read as follows:

§ 404.1681 Disputes on other matters.

Disputes concerning monetary disallowances will be resolved in proceedings before the Health and Human Services Departmental Grant Appeals Board if the issue cannot be resolved between us and the State. Disputes other than monetary disallowances will be resolved through an appeal to the Commissioner of Social Security, who will make the final decision. (See § 404.1627)

25. Section 404.1690 is revised to read as follows:

§ 404.1690 Assumption of the disability determination function when we make a finding that a State is not in substantial compliance.

(a) *Notice to State.* When we find that a State is not in substantial compliance, we will notify the State in writing that we will assume responsibility for performing the disability determination function from the State agency, whether

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the assumption will be partial or complete, and the date on which the assumption will be effective.

(b) *Effective date of assumption.* The date of any partial or complete assumption of the disability determination function from a State agency may not be later than 180 days after the final determination finding that a State is not in substantial compliance.

(c) *Protection of State employees.* If we hire personnel to perform the disability determination functions assumed from the State, we will give employees of the State agency who are capable of performing duties in the disability determination program preference over any other persons in filling positions for which they are qualified. We may, but are not required to, extend this hiring preference to the State agency's administrator or the deputy or assistant administrator (or his or her equivalent). We may exceed any applicable personnel ceilings and waive any applicable hiring restrictions in this regard. Also, to the extent feasible within the 180 day period after the date of the final determination and in conjunction with the Secretary of Labor, we will assure the statutory protections under applicable Federal, State, and local law of State agency employees whom we do not hire.

26. Section 404.1691 is amended by revising paragraph (b) and adding new paragraphs (c) and (d).

§ 404.1691 Assumption when a State no longer wishes to perform the disability determination function.

* * * * *

(b) *Effective date of assumption.* The State agency will continue to perform whatever activities of the disability determination function it is performing at the time the notice referred to in paragraph (a) of this section is given for not less than 180 days, or, if later, until we have complied with the requirements of paragraphs (c) and (d) of this section. For example, if the State is not making disability determinations (because we previously assumed responsibility for making them) but is performing other activities related to the disability determination function at the time it gives notice, the State will continue to perform these activities until the requirements of this paragraph are met. Thereafter, we will assume complete responsibility for performing the disability determination function.

(c) *Protection of State employees.* We will develop and initiate procedures to implement a plan to partially or completely assume the disability determination function from the State agency under paragraph (a) and (b) of this section. Except for the State agency's administrator, deputy administrator, or assistant administrator (or his or her equivalent), we will give employees of the State agency who are capable of performing duties in the disability determination function preference over any other persons in filling positions with us for which they are qualified. We may also give a preference in hiring the State agency's administrator, deputy administrator, or assistant administrator (or his or her equivalent). We will establish a system for determining the hiring priority among the affected State agency employees in those instances where we are not hiring all of them.

(d) *Determination by Secretary of Labor.* We will not assume responsibility for performing the disability determination function from a State until the Secretary of Labor determines that the State has made fair and equitable arrangements under applicable Federal, State and local law to protect the interests of employees who will be displaced from their employment because of the assumption and who we will not hire.

§ 404.1692 [Removed and Reserved]

27. Section 404.1692 is removed and reserved.

28. New §§ 404.1695 and 404.1696 are added to read as follows:

§ 404.1695 Cases decided by a State agency when the State is not in substantial compliance.

After a final determination that a State is not in substantial compliance and before we assume the disability function, we will take such action as may be necessary to assure that cases decided by the State agency are decided in accordance with applicable regulations and other written guidelines. We will determine whether the action is necessary in only certain classes of cases or in all of the cases processed by the State agency during the period.

§ 404.1696 Expiration date.

Section 17 of Pub. L. 98-460 will expire on December 31, 1987. Thereafter, it will no longer serve as the statutory basis for the regulatory provisions which specifically implement it.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart J continues to read as follows:

Authority: Secs. 1102, 1614 and 1631 Social Security Act, as amended; 49 Stat. 647, as amended; 86 Stat. 1471, as amended by 86 Stat. 52; 86 Stat. 1478; U.S.C. 1302, 1382c, and 1383.

2. Section 416.1001 is amended by revising paragraphs (d), (f), and (g) to read as follows:

§ 416.1001 Purpose and scope.

* * * * *

(d) Section 416.1040 through 416.1050 describe the documentation/decision standard and processing time standards for measuring State agency performance.

* * * * *

(f) Sections 416.1070 and 416.1071 describe the level of performance below which we will find a State agency to be not in substantial compliance with the requirement that it make disability determinations consistent with the regulations and other written guidelines. The action that we will take when this occurs is also set out.

(g) Sections 416.1080 through 416.1083 describe the rules for resolving disputes concerning fiscal issues and providing hearings when we proposed to find that a State is not is substantial compliance.

* * * * *

3. In § 416.1002, the definition of "other written guidelines" is revised and definitions for the terms "documentation/decision rates" and "not is substantial compliance" are added to read as follows:

§ 416.1002 Definitions

* * * * *

"Documentation/decision rates" are the preestablished levels against which State agency disability determination accuracy is measured.

"Not in substantial compliance" means that a State is not following our regulations and other written guidelines in processing disability claims and in carrying out the other reponsibilities of the State described in the regulations.

"Other written guidelines" means written issuances (e.g., memoranda, program policy statements) by the Commissioner of Social Security or the Associate Commissioner for Disability; and the policies, procedures, guides, and operating instructions in the Disability Insurance sections of the Program Operations Manual System that are not designated as advisory or discretionary.

4. Section 416.1020 is amended by revising the section heading and paragraph (a) to read as follows:

§ 416.1020 General administrative requirements.

(a) The State will provide the organizational structure, qualified personnel, medical consultant services, and a quality assurance function sufficient to ensure that disability determinations are made accurately and promptly. We may impose specific administrative requirements in these areas and in those under "Administrative Responsibilities and Requirements" in order to establish uniform, national administrative practices or to correct the areas of deficiencies which may later cause the State to be "not in substantial compliance" with our regulations and other written guidelines.

* * * * *

5. Section 416.1023 is amended by revising paragraph (c) to read as follows:

§ 416.1023 Facilities.

* * * * *

(c) *Access.* The State will permit us access to the premises where the disability determination function is performed and personal and/or telephonic access to the management of such premises. These contacts shall be for the purpose of verifying and/or inspecting the work and activities required by the regulations and assuring compliance with pertinent Federal statutes and regulations. We will contact the State and give reasonable prior notice of the times and purposes of any visits.

6. Section 415.1026 is amended by revising paragraphs (a) and (e) to read as follows:

§ 416.1026 Fiscal.

(a) We will give the State funds, in advance or by way of reimbursement, for necessary costs in making disability determinations under these regulations. Necessary costs are direct as well as indirect costs as defined in 41 CFR 1-15.7 of the Federal Procurement Regulations System and in Office of Management and Budget Circular A-87, as amended or superseded for costs incurred before April 1, 1984; and 48 CFR 31.6 of the Federal Acquisition Regulations System and OMB Circular A-87 as amended or superseded for costs incurred after March 31, 1984.

* * * * *

(e) After the close of a period for which funds have been made available to the State, the State will submit a report of its expenditures. Based on an audit arranged by the State under Pub. L. 98-502, the Single Audit Act of 1984, or by the HHS Inspector General or based on an audit or review by SSA (see § 416.1027), we will determine whether the expenditures were consistent with cost principles described in 41 CFR 1-15.7 for costs incurred before April 1, 1984; and 48 CFR Subpart 31.6 of the Federal Acquisition Regulations for costs incurred after March 31, 1984; and in other written guidelines in effect at the time the expenditures were made or incurred.

* * * * *

7. Section 416.1027 is revised to read as follows:

§ 416.1027 Audits.

(a) *Performed by the State.*—(1) *Generally.* Audits of account and records pertaining to the administration of the disability program under the Act, will be performed by States in accordance with the Single Audit Act of 1984 (Pub. L. 98-502) which establishes audit requirements for States receiving Federal assistance. If the State's audit meets SSA's program requirements, SSA will accept the findings and recommendations of the audit. The State will make every effort to act upon and resolve any items questioned in the audit.

(2) *Questioned items.* Items questioned as a result of an audit under the Single Audit Act of 1984 of a cross-cutting nature will be resolved by the Department of Health and Human Services, Office of Procurement, Assistance and Logistics (OPAL). A cross cutting issue is one that involves more than one Federal awarding agency. Questioned items affecting the disability program will be resolved by SSA in accord with paragraph (b)(2) of this section.

(3) *State appeal of audit determinations.* OPAL will notify the State of its determination on questioned items. If the State disagrees with that determination, it may appeal in writing within 30 days of receiving the determination. State appeals of cross-cutting issue as a result an audit under the Single Audit Act of 1984 will be made to the Department of Health and Human Services (HHS), Departmental Grant Appeals Board (the Board). The rules for hearings and appeals are provided in 45 CFR Part 16.

(b) *Performed by the Secretary.*—(1) *Generally.* If the State does not perform an audit under the Single Audit Act of 1984 or the audit performed is not satisfactory for disability program purposes, the books of account and records in the State pertaining to the administration of the disability program under the Act will be audited by the HHS Inspector General or audited or reviewed by SSA as appropriate. These audits or reviews will be conducted to determine whether the expenditures were made for the intended purposes and in amounts necessary for the proper and efficient administration of the disability program. Audit or reviews will also be made to inspect the work and activities required by the regulations to ensure compliance with pertinent Federal statutes and regulations. The State will make every effort to act upon and resolve any items questioned in an audit or review.

(2) *Questioned items.* Expenditures of State agencies will be audited or reviewed, as appropriate, on the basis of cost principles and written guidelines in effect at the time the expenditures were made or incurred. Both the State and the State agency will be informed and given a full explanation of any items questioned. They will be given reasonable time to explain items questioned. Any explanation furnished by the State or State agency will be given full consideration before a final determination is made in the audit or review report.

(3) *State appeal of audit determinations.* The appropriate SSA regional commissioner will notify the State of his or her determination on the audit or review report. If the State disagrees with that determination, the State may request reconsideration in writing within 30 days of the date of the regional commissioner's notice of the determination. The written request may be made, through the Associate Commissioner, Office of Disability, to the Commissioner of Social Security, Room 900, Altmeyer Building, 6401 Security Boulevard, Baltimore, Maryland 21235. The Commissioner will make a determination and notify the State of the decision in writing no later than 90 day from the SSA receives the State's appeal. The decision by the Commissioner on other than monetary disallowances will be final and binding upon the State. The decision by the Commissioner on monetary disallowances will be final and binding upon the State unless the State appeals the decision in writing to the Department of Health and Human Services, Departmental Grant Appeals Board within 30 days after receiving the Commissioner's decision. See § 416.1083.

8. Section 416.1040 is revised to read as follows:

§ 416.1040 General.

The following sections provide the procedures and guidelines we use to determine whether the State agency is substantially complying with regulations and other written guidelines, including

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meeting established national performance standards. We use these performance standards to help assure effective and uniform administration of our disability program and to measure whether each State agency's performance of the disability determination function is acceptable. Also, the standards are designed to improve overall State agency performance in the disability determination process and ensure that benefits are made available to all eligible persons accurately and efficiently. We measure the State agency performance in two areas—processing time and quality of documentation and decisions on claims. State agency compliance is also judged by adherence to other program requirements, e.g., availability of specialized medical resources and consultative examination oversight activities.

9. Section 416.1041 is amended by revising paragraphs (b), (c), and (d) to read as follows:

§ 416.1041 Standards of performance.

* * * * *

(b) *The target level.* The target level is the optimum level of performance. There are three targets—one for the combined title II and title XVI overall documentation/decision rate (as defined in § 416.1043(a)), one for title II initial processing time, and one for title XVI initial processing time.

(c) *The threshold level.* The threshold level is the minimum acceptable level of performance. There are three thresholds—one for the combined title II and title XVI overall documentation/decision rate, one for title II initial processing time, and one for title XVI initial processing time.

(d) *Intermediate goals.* Intermediate goals are levels of performance between the threshold levels and the target levels established and monitored by SSA's regional commissioners after negotiation with each State agency. The intermediate goals are stepping stones designed to help the State agencies reach the target levels. In the case of processing time intermediate goals minimum levels of performance have been established that each State agency should meet by December 31, 1987.

10. Section 416.1042 is amended by revsing the section heading and paragraphs (a) and (c) and by adding a new paragraph (d) to read as follows:

§ 416.1042 Processing time.

(a) *General.* Title II processing time refers to the average number of days (including Saturday, Sunday, and holidays) it takes a State agency to process an initial disability claim from the day it is received in the State agency until the day it is released by the State agency. Title XVI processing time refers to the average number of days (including Saturday, Sunday, and holidays) from receipt of the initial disability claim in the State agency until systems input of a presumptive disability decision or of a disability determination, or release of the case folder to the disability quality branch, whichever is the earliest action.

* * * * *

(c) *Threshold levels.* The processing time threshold levels are:

(1) 59.3 days for title II initial claims.

(2) 67.9 days for title XVI initial claims.

(d) *Intermediate goals.* In order to stress the need for continued improvement, minimum intermediate goals are being established for the calender year ending December 31, 1987, for title II and title XVI initial case processing times. All States should be achieving by December 31, 1987, minimum intermediate processing time goals of:

(1) 54.9 days for title II initial claims.

(2) 62.4 days for title XVI initial claims.

11. Section 416.1043 is revised to read as follows:

§ 416.1043 Documentation/decision rate.

(a) *General.* Documentation/decision rate refers to the overall percentage of initial, reconsideration, and continuing disability review cases that do not have to be returned to State agencies for further development or correction of decisions based on evidence in the files and as such represents the reliability of State agency adjudication. This definition includes the consideration of factors with potential for affecting a decision even if they do not change the result in a particular case. For example, if a particular item of medical evidence should have been in the file but was not included, even though its inclusion does not change the result in the case, that is treated as an error for purposes of applying the standard.

(b) *Target level.* The State agency overall documentation/decision target level for combined title II and title XVI cases is 97 percent.

(c) *Intermediate goals.* Intermediate goals will be established annually by SSA's regional commissioners after negotiation with the States and should be used as stepping stones to progress toward the targeted level.

(d) *Threshold level.* The State agency overall documentation/decision threshold level for combined title II and title XVI cases is 93.0 percent.

12. Section 416.1044 is amended by revising the section heading and paragraph (a) to read as follows:

§ 416.1044 How and when we determine whether the processing times are met.

(a) *How we determine processing times.* For all initial title II cases, we calculate the mean number of days (including Saturday, Sunday, and holidays) from the time the case folder is received in the State agency until it is released to us by the State agency. For initial title XVI Cases, we calculate the mean number of days (including Saturday, Sunday, and holidays) from receipt of the initial disability claim in the State agency until systems input of a presumptive disability decision or of a disability determination, or release of the case folder to the disability quality branch, whichever is the earliest action.

* * * * *

13. Section 416.1045 is revised to read as follows:

§ 416.1045 How and when we determine whether the documentation/decision rate is met.

(a) *How we determine the documentation/decision rate.* We determine a State agency's documentation/decision rate on the basis of decision and documentation errors identified in our review of sample cases under our quality review program.

(b) *Frequency of review.* Title II and title XVI initial, reconsideration, and continuing disability quality review data are monitored together on a quarterly basis. The determination as to whether the documentation/decision threshold has been met is made at the end of each quarter. Quarterly State-by-State combined overall quality review rates are compared to the established documentation/decision standard (threshold level).

14. Section 416.1050 is revised to read as follows:

§ 416.1060 Action we will take if a State Agency does not meet the standards.

If a State agency does not meet two of the three established threshold levels (one of which must be the documentation/decision standard) for two or more consecutive calendar quarters, we will notify the State agency in writing that it is not meeting the standards. Following our notification, we will provide the State agency appropriate performance support described in §§ 416.1060, 416.1061 and 416.1062 for a period of up to 12 months.

15. The subheading preceding § 461.1060 is revised from "*Technical and Management Assistance*" to "*Performance Monitoring and Support.*"

16. Section 416.1060 is revised to read as follows:

§ 416.1060 How we will monitor.

We will regularly analyze State agency combined title II and title XVI overall documentation/decision rate, title II initial processing time, and title XVI initial processing time. Within budgeted resources, we will also routinely conduct fiscal and administrative management reviews (FAMRs) and special onsite reviews. A FAMR is a fact finding mission to review particular aspects of State agency operations. During these reviews we will also review the quality assurance (QA) function. This regular monitoring and review program will allows us to determine the progress each state is making and the type and extent of performance support we will provide to help the state progress toward threshold, intermediate, and/or target levels.

17. Section 416.1061 is revised to read as follows:

§ 416.1061 When we will provide performance support.

(a) *Optional support.* We may offer, or a State may request, performance support at any time that the regular monitoring and review process reveals that support could enhance performance or if the documentation/decision rate falls below 93.0 percent in any of the three categories of decisions (i.e, initial, reconsideration, and continuing disability review decisions). The State does not have to be below the overall documentation/decision rate of 93.0 percent to receive performance support. Support will be offered, or granted upon request, based on available resources. If the State fails to meet the minimum intermediate processing time goals (see §§ 416.1042(d)) by December 31, 1987, we will furnish the support needed to improve the State's performance.

(b) *Mandatory support.* (1) We will provide a State agency with performance support if regular monitoring and review reveal that two of three threshold levels (one of which must be the documentation/decision standard) are not met for two consecutive calendar quarters.

(2) We may also decide to provide a State agency with mandatory performance support if regular monitoring and review reveal that any one of the three threshold levels is not met for two consecutive calendar quarters. Support will be provided based on available resources.

(3) The threshold levels are:

(i) Combined title II and title XVI overall documentation/decision rate—93.0 percent.

(ii) Title II initial processing time—59.3 days, and

(iii) Title XVI initial processing time—67.9 days.

18. New §§ 416.1062 and 416.1063 are added to read as follows:

§ 416.1062 What support we will provide.

Performance support may include any or all of the following:

(a) An onsite review of cases processed by the State agency emphasizing adherence to written guidelines.

(b) A request that necessary administrative measures be implemented (e.g., filling staffing vacancies, using overtime, assisting with training activities, etc.).

(c) Provisions for Federal personnel to perform onsite reviews, conduct training, or perform other functions needed to improve performance.

(d) Provisions for fiscal aid to allow for overtime, temporary hiring of additional staff, etc., above the authorized budget.

§ 416.1063 Failure to meet the performance standards.

After we provide mandatory preformance support, we will give the State agency a 3-month adjustment period. During this 3-month period, we will not require the State agency to meet the threshold levels. Following the adjustment period, if the State agency again falls below two of three threshold levels (one being the documentation/decision threshold) in two consecutive calendar quarters during the next 12 months, we will begin the 21-day investigation of whether the State is hot in substantial compliance with our regulations and other written guidelines (see § 416.1070(b)(1)).

19. The subheading preceding § 416.1070 is revised from "*Substantial Failure*" to "*When a State is not in Substantial Compliance.*"

20. Section 416.1070 is revised to read as follows:

§ 416.1070 Determining that a State is not in substantial compliance.

(a) *General.* We must assure the substantial compliance of States with our regulations and other written guidelines or assure their disability determination functions within a specified time. Our regulations and other written guidelines take precedence over conflicting State laws and regulations. We may find that a State is not in substantial compliance if it does not meet performance standards (see paragraph (b) of this section) or does not follow other provisions of our regulations and other written guidelines, without good cause (See § 416.1071).

(b) *Procedures.* We take specific steps within definite time frames before determining that a State is not in substantial compliance with our regulations and other written guidelines. These are:

(1) *Information that a State may not be in substantial compliance.* Where we receive information (e.g., from individuals, quality assurance reviews, etc.) that a State may not be following our regulations and other written guidelines, the matter will be investigated, as soon as possible, by SSA's regional office in whose jurisdiction the State is located to determine if the State is not in substantial compliance (see § 416.1071 if good cause is an issue). Examples of "not is substantial compliance" include:

(i) Failure to follow SSA's disability development and evaluation criteria,

(ii) Failure to process a certain class or classes of disability cases,

(iii) Failure to carry out the basic responsibilities of the State as described in § 416.1003(c), and

(iv) Failure to meet performance standards as described in § 416.1063. In cases involving continued failure to meet the performance standards, the mandated investigation will begin as soon as our information shows that the State has again failed to meet performance standards as described in § 416.1063.

(2) *Preliminary finding.* The SSA regional office will complete its investigation and we will make a preliminary finding on the matter within 21 days of receipt of the information. On the date that such finding is made, we will also notify the State in writing of the outcome. If there is a preliminary finding that the State is not in substanmtial compliance with our regulations and other written guidelines, the notice will include an explanation of the basis for the finding, i.e., which regulation or guideline is not being complied with and how we determined it. We will request assurance from the State's Governor or equivalent (or his or her designee) that the situation will be corrected.

(3) *Assurance by the State.* Any State notified of a preliminary finding that it is not in substantial compliance will have 21 days, from the date the finding was made, to provide assurance to us in writing that the situation will be corrected.

(4) *Monitoring and final determination.* If a State provides such

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assurance, we will monitor the agency's performance for 30 days beginning with the day after the date on which the assurance has been provided. Within 60 days after the date on which the preliminary finding was made or 90 days after such date if the State is granted a hearing (see § 416.1060), the Commissioner (or his or her designee) will make a written final determination as to whether the State is substantially complying with our regulations and other written guidelines. This determination is not subject to judicial review.

(5) *Final determination that a State is not in substantial compliance and assumption of workload.* If we make a final determination that any State is not in substantial compliance with our regulations and other written guidelines, we will as soon as possible, but not later than 180 days after the date of such determination, assume responsibility for making disability determinations in that State. We will decide whether to assume all or part of the State's workload (e.g., the part in which the State is not in substantial compliance).

21. Section 416.1071 is revised to read as follows:

§ 416.1071 Good cause for not following our regulations and other written guidelines.

If a State has good cause for not following our regulations and other written guidelines, then we will not find that the State is not in substantial compliance. We will determine if good cause exists. Some of the factors relevant to good cause are:

(a) Disasters such as fire, flood, or civil disorder, that—

(1) Require the diversion of significant personnel normally assigned to the disability determination function, or

(2) Destroyed or delayed access to significant records needed to make accurate disability determinations;

(b) Strikes of State agency staff or other government or private personnel necessary to the performance of the disability determination function;

(c) Sudden and unanticipated workload changes which result from changes in Federal law, regulations, or written guidelines, systems modification or systems malfunctions, or rapid unpredictable caseload growth for a 6-month period or longer.

22. Section 416.1075 is removed and reserved.

§ 416.1075 [Removed and Reserved]

23. Section 416.1080 is revised to read as follows:

§ 416.1080 Discretionary hearings.

(a) *Request for hearing.* Within 55 days of a preliminary finding that a State is not in substantial compliance with regulations or other written guidelines, the State may request a hearing on the issue of substantial compliance. The request must be directed to the Commissioner of Social Security. The request may be oral but it must be confirmed in writing within 5 days. Written requests must be sent to the Commissioner of Social Security, Social Security Administration, P.O. Box 888, Baltimore, MD 21235.

(b) *Action on hearing request.* Within 60 days of the preliminary finding, we will notify the State as to whether or not such a request will be granted. If a hearing is granted, the notice will specify the time and the place of the hearing. Such hearing will be scheduled to begin no later than the 70th day after the date of the preliminary finding. The notice will also specify the regulations or other written guidelines with respect to which the State may not be in substantial compliance.

(c) *Conduct of hearing.* The hearing will be conducted by a hearing officer whom we designate. The State will have a maximum of 3 working days to present evidence and argument. The hearing officer's ruling with respect to evidence, persons who may attend the hearing, and other matters about the conduct of the hearing will not be appealable. The hearing officer will recommend a decision to us no later than 80 days after the date of the preliminary finding.

(d) *Final determination.* Within 90 days of the date of the preliminary finding, the Commissioner will make a written final determination as to whether the State is substantially complying with our regulations and other written guidelines. This determination is not subject to judicial review (see § 416.1070(b)(4)).

24. Section 416.1081 is revised to read as follows:

§ 416.1081 Disputes on other matters.

Disputes concerning monetary disallowances will be resolved in proceedings before the Health and Human Services Departmental Grant Appeals Board if the issue cannot be resolved between us and the State. Disputes other than monetary disallowances will be resolved through an appeal to the Commissioner of Social Security, who will make the final decision. (See § 416.1027)

25. Section 416.1090 is revised to read as follows:

§ 416.1090 Assumption of the disability determination function when we make a finding that a State is not in substantial compliance.

(a) *Notice to State.* When we find that a State is not in substantial compliance, we will notify the State in writing that we will assume responsibility for performing the disability determination function from the State agency, whether the assumption will be partial or complete, and the date on which the assumption will be effective.

(b) *Effective date of assumption.* The date of any partial or complete assumption of the disability determination function from a State agency may not be later than 180 days after the final determination finding that a State is not in substantial compliance.

(c) *Protection of State employees.* If we hire personnel to perform the disability determination functions assumed from the State, we will give employees of the State agency who are capable of performing duties in the disability determination program preference over any other persons in filling positions for which they are qualified. We may, but are not required to, extend this hiring preference to the State agency's administrator or the deputy or assistant administrator (or his or her equivalent). We may exceed any applicable personnel ceilings and waive any applicable hiring restrictions in this regard. Also, to the extent feasible within the 180-day period after the date of the final determination and in conjunction with the Secretary of Labor, we will assure the statutory protections under applicable Federal, State, and local law of State agency employees whom we do not hire.

28. Section 416, 1091 is amended by revising paragraph (b) and adding new paragraphs (c) and (d).

§ 416.1091 Assumption when a State no longer wishes to perform the disability determination function.

* * * * *

(b) *Effective date of assumption.* The State agency will continue to perform whatever activities of the disability determination function it is performing at the time the notice referred to in paragraph (a) of this section is given for not less than 180 days or, if later, until we have complied with the requirements of paragraphs (c) and (d) of this section. For example, if the State is not making disability determinations (because we previously assumed responsibility for making them) but is performing other activities related to the disability determination function at the time it gives notice, the State will continue to perform these activities until the requirements of this paragraph are met. Thereafter, we will assume complete responsibility for performing the disability determination function.

(c) *Protection of State employees.* We will develop and initiate procedures to implement a plan to partially or completely assume the disability determination function from the State agency under paragraphs (a) and (b) of this section. Except for the State agency's administrator, deputy administrator, or assistant administrator (or his or her equivalent), we will give employees of the State agency who are capable of performing duties in the disability determination function preference over any other persons in filling position with us for which they are qualified. We may also give a preference in hiring the State agency's administrator, deputy administrator, or assistant administrator (or his or her equivalent). We will establish a system for determining the hiring priority among the affected State agency employees in those instances where we are not hiring all of them.

(d) *Determination by Secretary of Labor.* We will not assume responsibility for performing the disability determination function from a State until the Secretary of Labor determines that the State has made fair and equitable arrangements under applicable Federal, State and local law to protect the interests of employees who will be displaced from their employment because of the assumption and who we will not hire.

§ 416.1092 [Removed and Reserved]

28. New §§ 416.1095 and 416.1096 are added to read as follows:

§ 416.1095 Cases decided by a State agency when the State is not in substantial compliance.

After a final determination that a State is not in substantial compliance and before we assume the disability determination function, we will take such action as may be necessary to assure that cases decided by the State agency are decided in accordance with applicable regulations and other written guidelines. We will determine whether the action is necessary in only certain classes of cases or in all of the cases processed by the State agency during the period.

§ 416.1096 Expiration date.

Section 17 of Pub. L. 98-460 will expire on December 31, 1987. Thereafter, it will no longer serve as the statutory basis for the regulatory provisions which specifically implement it.

[FR Doc. 86-8230 Filed 4-24-86; 8:45 am]
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Food and Drug Administration

21 CFR Ch. I

[Docket Nos. 75P-0250, 76N-0094, 76P-0329, 76P-0330, 76N-0336, 85N-0347, 85P-0348, 85N-0349, 85N-0350, 85N-0351, 85N-0352, 85N-0353, 85N-0354, 86N-0365, 85N-0362, and 85N-0497]

Withdrawal of Certain Proposed Rules and Food Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Withdrawal of proposals.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing several proposed rules that it published in the Federal Register before 1977 that relate to various food products. The agency's decision to withdraw these proposals is based on its limited resources to complete these rulemaking proceedings and on the likelihood that they have become outdated in the time that has elapsed since the publication of these proposed rules.

DATE: Comments by June 24, 1986.

ADDRESS: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Louis B. Brock, Center for Food Safety and Applied Nutrition (HFF-302), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0162.

SUPPLEMENTARY INFORMATION: FDA is announcing the withdrawal of several proposed rules that relate to various food products. The agency's decision to withdraw these proposals is based on its limited resources to complete these rulemaking proceedings and on the likelihood that these proposals have become outdated in the time that has elapsed since their publication.

Because of the agency's limited resources and changing priorities, FDA has been unable to consider, in a timely fashion, the issues raised by the comments on these proposals. It is unlikely that the agency will have an opportunity to consider these issues in the foreseeable future. All of the proposed rules that are being withdrawn were published in the Federal Register before 1977. Because of the time that has passed since the proposals were issued, as well as changes that may have occurred in the conditions that bear on these proposals, the agency believes that it would be inappropriate to proceed further with any action on these proposals without the benefit of updated public comments.

The withdrawal of a proposed rule neither means that FDA has necessarily lost interest in the issues addressed by the proposal nor precludes the agency from reinstituting proceedings to promulgate a rule concerning those issues. Should the agency decide to undertake such a rulemaking, it will repropose the action and provide opportunity for comment. Moreover, many of these proposals were issued in response to citizen petitions. The agency's current action would not preclude interested persons from filing new petitions on any of the issues covered by the proposed rules the FDA is withdrawing.

For the reasons set out above, and under the Federal Food, Drug, and Cosmetic Act (secs. 201, 402, 403, 701, 52 Stat. 1040-1042 as amended, 1048-1048 as amended, 1055-1056 as amended (21 U.S.C. 321, 342, 343, 371)), the agency is withdrawing the following proposed rules, published in the Federal Register on the dates indicated:

Title	Docket No.	FR publication date and cite
Whipped cream; whipped table cream	85N-0347	Oct. 2, 1969 (34 FR 7984).
Change in status of GRAS or prior-sanctioned substances; proposed statement of policy	85N-0362	Sept. 28, 1971 (36 FR 19092).
Uniform method of declaring the percentage of an ingredient in foods	85N-0350	June 14, 1974 (39 FR 20865).
Nutrition labeling; serving and portion sizes and daily consumption amounts	85N-0349	June 14, 1974 (39 FR 20867).
General flours and related products; improvement of nutrient levels of enriched farina	85N-0497	June 14, 1974 (39 FR 20881).
Breakfast beverage products	85N-0351	June 14, 1974 (39 FR 20883).
Fortified hot breakfast cereals	85N-0353	June 14, 1974 (39 FR 20898).
Fortified ready-to-eat breakfast cereals	85N-0352	June 14, 1974 (39 FR 20898).
Formulated meal replacements	85N-0355	June 14, 1974 (39 FR 20905).
Main dish products	85N-0354	June 14, 1974 (39 FR 20909).
Carbonated soft drink beverages; serving and portion sizes	85P-0348	Jan. 29, 1975 (40 FR 4316).
Fruit flavored sweetened spreads	75P-0250	Nov. 11, 1975 (40 FR 52616).
Substitute for margarine (oleomargarine) or butter	76N-0336	Aug. 30, 1976 (41 FR 36509).

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Title	Docket No.	FR publication date and cite
Infant and junior foods	76P-0330	Sept. 7, 1976 (41 FR 37593).
Infant foods, percentage declaration of ingredients	76P-0329	Sept. 7, 1976 (41 FR 37595).
Raw breaded shrimp	76N-0094	Oct. 22, 1976 (41 FR 46606).

Interested persons may, on or before June 24, 1986, submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document and with the docket number of the invididual proposed rule being withdrawn if the comment relates to a specific proposal. FDA will consider any comments received. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 16, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86-9268 Filed 4-24-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF LABOR

Wage and Hour Division

29 CFR Part 553

Application of Fair Labor Standards Act to Employees of State and Local Governments; General

Correction

In FR Doc. 86-8685 beginning on page 13402 in the issue of Friday, April 18, 1986, make the following corrections:

1. On page 13403, in the second column, in the seventh line from the bottom, add "of" after "employees".

2. On page 13404, in the first column, in paragraph (4), in the fourth line, "hours" should read "hour".

§ 553.11 [Corrected]

3. On page 13405, in the third column, in § 553.11(b), the last sentence should read: "The term typically does not include individuals who are directly supervised by someone other than the elected official even though they may have been selected by the official. For example, the term might include the elected official's personal secretary, but would not include the secretary to an assistant."

§ 553.23 [Corrected]

4. § 553.23, on page 13407, in the second column, in paragraph (c)(2), in the next to the last line, "(a)(1)" should read "(c)(1)".

§ 553.31 [Corrected]

5. In § 553.31, on page 13410, in the first column, in paragraph (c), in the fourth line, "requires" should read "required"; in paragraph (d), in the sixth line, "required" should read "requires".

BILLING CODE 1505-01-M

29 CFR Part 553

Application of the Fair Labor Standards Act to Employees of State and Local Governments; Volunteers

Correction

In FR Doc. 86-8686 beginning on page 13411 in the issue of Friday, April 18, 1986, make the following corrections:

1. On page 13411, in the third column, in the fourth complete paragraph, in the fifth line, "section 3(e)(4)(ii)" should read "section 3(e)(4)(A)(ii)".

§ 553.105 [Corrected]

2. On page 13413, in the second column, in § 553.105, in the first line, "to" should read "or".

BILLING CODE 1505-01-M

29 CFR Part 553

Application of the Fair Labor Standards Act to Employees of State and Local Governments; Fire Protection and Law Enforcement Employees of Public Agencies

Correction

In FR Doc. 86-8687 beginning on page 13413 in the issue of Friday, April 18, 1986, make the following corrections:

§ 553.200 Statutory provisions: section 13(b)(20).

1. On page 13416, in the second column, the heading of § 553.200 is corrected to read as set forth above.

§ 553.210 [Corrected]

2. On the same page, in the third column, in § 553.210(a), in the tenth line, "legal the" should read "the legal".

§ 553.213 [Corrected]

3. On page 13418, in the second column, in § 553.213(a), in the third line, "engaged" should read "engage".

§ 553.220 [Corrected]

4. On page 13419, in the first column, in § 553.220(a), in the sixth line, add the word "on" after "to be".

§ 553.226 [Corrected]

5. On page 13420, in the second column, in § 553.226(c), in the first line, "as" should read "at".

§ 553.230 [Corrected]

6. On page 13421, in the first column, in § 553.230(b), in the eighth line, "exceed" should read "exceeds".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

Opportunity for Public Hearing on Proposed Amendment to the Arkansas Permanent Regulatory Program; Correction

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule announcing procedures for requesting a public hearing that appeared in the Federal Register on Tuesday, April 15, 1986 (51 FR 12713). The action is necessary to correct the scheduled date a hearing is to be held, if necessary, to May 7, 1986, at the same time and location as previously announced.

FOR FURTHER INFORMATION CONTACT: Mr. James Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 333 West 4th Street, Room 3014, Tulsa, Oklahoma 74103, Telephone: (918) 581-7927.

Dated: April 22, 1986.

Arthur W. Abbs,

Acting Assistant Director, Program Operations.

[FR Doc. 86-9275 Filed 4-24-86; 8:45 am]

BILLING CODE 4310-05-M

FEDERAL MARITIME COMMISSION

46 CFR Part 515

[Docket No. 86-15]

Filing of Tariffs by Marine Terminal Operators; Exculpatory Provisions

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission proposes to amend its rules governing the filing of terminal tariffs by marine terminal operators to prohibit certain tariff provisions that exculpate or otherwise relieve marine terminal operators from liability for their own negligence, or that impose upon others the obligation to indemnify or hold harmless terminal operators from liability for their own negligence. Comments and suggestions are also requested on the formulation of a limited exception to this general prohibition which would apply where the user of the port facility assumes certain risks to obtain rate concessions or the terminal operator relinquishes certain operational control to the user.

DATE: Comments due on or before June 24, 1986.

ADDRESS: Comments (original and 20 copies) to: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5725.

FOR FURTHER INFORMATION CONTACT:

Robert G. Drew, Director, Bureau of Tariffs, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5795.

Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5740.

SUPPLEMENTARY INFORMATION: Over the past decade the Commission has considered a number of tariff provisions in marine terminal tariffs that relieve the port or terminal operator of certain liabilities which might otherwise be the responsibility of the port or terminal operator. These provisions have consistently been found to be unjust and unreasonable practices, and therefore, unlawful under section 17 of the Shipping Act, 1916 (1916 Act), 46 U.S.C. app. 816. The mandate of the 1916 Act that ports must establish, observe, and enforce just and reasonable regulations and practices relating to or connected with the receiving, handling, storing or delivering of property is also contained in the Shipping Act of 1984 (1984 Act), 46 U.S.C. app. 1701-1720, at section 19(d)(1), 46 U.S.C. app. 1709(d)(1).

The Commission first determined that an exculpatory clause was invalid under section 17 of the 1916 Act in *Truck and Lighter Loading and Unloading Practices at New York Harbor*, 9 F.M.C. 505 (1966). The clause at issue there provided:

> The Terminal Operator assumes no responsibility for delays to motor vehicles and no claims for such delays will be honored.

The Commission held that it was neither just nor reasonable for the New York Terminal Conference to disclaim responsibility for delay caused by the terminals, although terminal operators could disclaim liability for causes of delay beyond their control.

A more comprehensive exculpatory provision was subsequently found unlawful in *I. Charles Lucidi* v. *The Stockton Port District*, 22 F.M.C. 19 (1979). Stockton's tariff provided:

> The Port of Stockton shall not be responsible for any injury to freight on or in its facilities, by fire, leakage, evaporation, natural shrinkage, waterage, decay, animals, rats, mice, other rodents, moths, weevils, other insects, weather conditions, sweat moisture, the elements, or discharge of water from breakdown of plant, machinery, other equipment, collapse of building or structure, insurrection, war, or shortage of labor; for delay, loss or damage arising from riots, strikes, labor or other disturbances of any persons or of any character beyond the control of the Port of Stockton.

The *Stockton* decision generally followed the rule of law established in *Truck and Lighter* with respect to a port tariff provision that would exculpate a port from liability for damages caused by the fault, in whole or in part, of the port. The Commission followed this principle in finding port tariff exculpatory provisions invalid in *United States Lines* v. *Maryland Port Administration*, 20 S.R.R. 646 (1980).

The Commission has also determined to be unlawful provisions that require port facility users to hold-harmless or indemnify the port authority from liability for the port's *own* negligence. An "indemnity" provision was found unlawful on this basis in *West Gulf Maritime Association* v. *The City of Galveston*, 22 F.M.C. 101 (1979). The Commission stated there that:

> Although the port's indemnification requirement in the instant proceeding would not apply if the port were wholly responsible for an occurrence, it would apply in situations in which the port were partially responsible, even if more so than the user. We find that the indemnity requirements and the waiver of claims and subrogation provisions of the port's tariff are unreasonable for precisely the reasons enunciated in *Bisso, Truck and Lighter*, and *Lucidi*.

More recently, in *Central National Corporation* v. *Port of Houston Authority*, 22 S.R.R. 795 (1984), the Commission struck down both a general exculpatory provision and an indemnity provision, the latter reading as follows:

> Users of its facilities agree to indemnify and save harmless the port authority from and against all losses, claims, demands and suits for damages . . . including court costs and attorney's fees, incident to or resulting from their operation on the property of the port authority.

The Commission has taken similar action in the past year in situations where port authorities have attempted to impose exculpatory tariff provisions on port users. *Wilmington Stevedores, Inc.* v. *the Port of Wilmington, Del.*, 23 S.R.R. 409 (1985); *Stevens Shipping and Terminal Co.* v. *South Carolina State Port Authority*, 23 S.R.R. 684 (1985); *Southeastern Marine Company* v. *Georgia Ports Authority*, ____ S.R.R. ____ (1986).

All the above-cited Commission decisions stand for a clear principle of law that the Commission proposes to codify in its terminal tariff regulations, 46 CFR Part 515. Tariff provisions that exculpate or otherwise relieve marine terminal operators from liability for their own negligence, or that would impose upon others the obligation to indemnify or save harmless the terminals from liability for their own negligence, are, as a rule, unjust and unreasonable and, therefore, contrary to the provisions of section 17 of the Shipping Act, 1916 and section 10(d)(1) of the Shipping Act of 1984.

While the rule actually being proposed in this proceeding absolutely prohibits exculpatory or hold-harmless provisions in marine terminal tariffs, the Commission is also soliciting comments on a possible limited exception to that rule. Such an exception might apply where users of terminal facilities, in consideration for rate and operational concessions by the terminal operator, agree to assume the risks inherent in certain terminal operations. That conditions at a port might justify a hold-harmless and indemnification provision in a terminal tariff under such circumstances was suggested by the Initial Decision in *Lucidi*, where it was stated:

> To the extent that the provisions of [Stockton's tariff] would relieve the port from [liability for damage] to property caused in whole or in part by the fault of the port and without a *quid pro quo* of any kind, such provisions are unjust and unreasonable, in violation of section 17 of the Act.

22 F.M.C. at 29.

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The form of a possible exception to the general prohibition against exculpatory and hold-harmless provisions might be as follows:

Terminal tariffs may contain hold-harmless and indemnification provisions for specific risks and hazards in terminal operations that port facility users have agreed to assume from the terminal operator but only if such provisions plainly indicate that such assumption by the users is in consideration for the terminal operator's specific concomitant concessions in rates or relinquishment of control to the user over the operations for which the user is assuming liability or providing indemnification.

The Commission therefore requests comments on this or a similar exception. Commenters are asked to address whether any exception is proper as a matter of law, advisable as a matter of policy and administratively feasible. Where appropriate, comments to the proposed rule or rule exception should include suggested implementing language.

The Commission has determined that this proposed rule is not a "major rule" as defined in Executive Order 12291, dated February 17, 1981, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographical region; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete in domestic or export markets.

The Chairman of the Federal Maritime Commission certifies pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental organizations.

The Paperwork Reduction Act, 44 U.S.C. 3501–3520, does not apply to this Notice of Proposed Rulemaking because the proposed amendments to Part 515 of Title 46, Code of Federal Regulations, do not impose any additional reporting or recordkeeping requirements or collection of information from members of the public which require the approval of the Office of Management and Budget.

PART 515—[AMENDED]

Therefore, for the reasons set forth above, Part 515 of Title 46, Code of Federal Regulations, is proposed to be amended as follows:

1. The authority citation to Part 515 is revised to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 816, 820, 841a, 1709, 1714 and 1716.

2. A new § 515.7, entitled "Exculpatory Tariff Provisions," is added to read as follows:

§ 515.7 Exculpatory tariff provisions.

No terminal tariff shall contain provisions that exculpate or otherwise relieve marine terminal operators from liability for their own negligence, or that impose upon others the obligation to indemnify or hold-harmless the terminals from liability for their own negligence.

By the Commission.

Tony P. Kominoth,

Assistant Secretary.

[FR Doc. 86-9249 Filed 4-24-86; 8:45 am]

BILLING CODE 6730-01-M

Notices

Federal Register
Vol. 51, No. 80
Friday, April 25, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 86-052]

Availability of Environmental Assessment and Finding of No Significant Impact for the Licensing of a Recombinant Derived Pseudorabies Virus Vaccine

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document provides notice that an environment assessment and finding of no significant impact has been prepared by the Animal and Plant Health Inspection Service concerning the issuance of a veterinary biological product license issued to TechAmerica Group Inc., for a recombinant derived pseudorabies virus vaccine. The assessment indicates that the licensing of the recombinant derived pseudorabies virus vaccine will not cause any significant impact on the environment. Based upon this finding of no significant impact the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESS: Copies of the environmental assessment and finding of no significant impact are available for public inspection at the Veterinary Biologics Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 829, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Copies of the environmental assessment are also available upon request at this same address.

FOR FURTHER INFORMATION CONTACT: David Espeseth, Senior Staff Veterinarian, Veterinary Biologics Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 829, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436–8245.

SUPPLEMENTARY INFORMATION: The Animal and Plant Health Inspection Service (APHIS) has prepared an environmental assessment and finding of no significant impact relative to its licensing of a recombinant derived pseudorabies virus vaccine under the Virus-Serum-Toxin Act (VSTA) 21 U.S.C. 151 et seq.) produced by TechAmerica Group, Inc.

The environmental assessment and finding of no significant impact provides the public with documentation of USDA's review and analysis of environmental concerns.

Under the VSTA, before a veterinary biological product can be licensed it must be shown to be pure, safe, potent, and efficacious. In the course of reviewing safety data for the recombinant derived pseudorabies virus vaccine APHIS assessed the impact of the licensure of the product on the environment, as set forth in the environmental assessment.

The facts supporting APHIS' finding of no significant impact are summarized below and are contained in the environmental assessment.

1. Genetic engineering procedures were employed to delete a gene which is essential for virus replication making the recombinant derived virus used in the vaccine much safer than naturally occurring or conventional modified vaccine virus.

2. The recombinant derived vaccine virus was rendered essentially avirulent using conventional methodology.

4. Use of vaccine virus can help to control the shed and spread of the virulent field strains of the virus from health animals.

5. Data established that the genetically engineered gene deletion was a stable characteristic of the vaccine virus with an extremely low probability of reversion.

6. The recombinant derived vaccine virus has been shown to have a reduced virulence for other animal species.

7. The recombinant derived strain of the virus is not considered oncogenic or pathogenic to man.

Based on the foregoing, APHIS has determined that licensure of the recombinant derived pseudorabies virus vaccine would have no significant environmental impact on the human environment.

The environmental assessment and finding of no significant impact has been prepared in accordance with (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4331 et seq.); (2) Regulations of the Council on Environmental Quality for Implementing the Procedural Provisions of NEPA (Title 40, Code of Federal Regulations (CFR) Parts 1500–1508); (3) USDA regulations implementing NEPA (7 CFR Part 1b); and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384 and 44 FR 51272–51274).

Done at Washington, DC., this 22nd day of April, 1986.

Billy G. Johnson,

Acting Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 86-9303 Filed 4-22-86; 3:03 pm]

BILLING CODE 3410-34-M

COMMISSION ON CIVIL RIGHTS

Alabama Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Alabama Advisory Committee to the Commission will convene at 11:00 a.m. and adjourn at 1:00 p.m. on May 21, 1986, at the Birmingham Hyatt Hotel, Governor's Room, 901 21st Street, North, Birmingham, Alabama. The purpose of the meeting is to followup on the briefing memorandum on minority participation in the electoral process for county commissions and city councils.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Rodney Max or Bobby Doctor, Director of the Southern Regional Office at (404) 221–4391. (TDD 404/221–4391). Hearing impaired persons who will atttend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

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Dated at Washington, DC., April 21, 1986.
Ann E. Goode,
Program Specialist for Regional Programs.
[FR Doc. 86-9258 Filed 4-24-86; 8:45 am]
BILLING CODE 6335-01-M

Illinois Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Illinois Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 3:00 p.m. on May 9, 1986, at U.S. Commission on Civil Rights, Room 3280, 230 S. Dearborn, Chicago, Illinois. The purpose of the meeting is to plan for a public forum on the rights of the hearing impaired.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Hugh Schwartzberg or Clark Roberts, Director of the Midwestern Regional Office at (312) 353-7371, (TDD 312/886-2188). Hearing impaired persons who will atttend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 21, 1986.
Ann E. Goode,
Program Specialist for Regional Programs.
[FR Doc. 86-9259 Filed 4-24-86; 8:45 am]
BILLING CODE 6335-01-M

Louisiana Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee to the Commission will convene at 3:00 p.m. and adjourn at 6:00 p.m. on May 15, 1986, at the Newcomb College, Room 219R, Tulane University, New Orleans, Louisiana. The purpose of the meeting is to conduct a briefing session regarding the community forum on affirmative action.

Persons desiring additional information or planning a presentation to the Committee, should contact Committee Chairperson, Michael Fontham or J. Richard Avena, Director of the Southwestern Regional Office at (512)229-5570, (TDD 512/229-5580). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five(5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 21, 1986.
Ann E. Goode,
Program Specialist for Regional Programs.
[FR Doc. 86-9260 Filed 4-24-86; 8:45 am]
BILLING CODE 6335-01-M

Louisiana Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Louisiana Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 4:00 p.m. on May 16, 1986, at City Hall, Council Chambers, 1300 Perside Street, New Orleans, Louisiana. The purpose of the meeting is to hold a community forum on affirmative action.

Persons desiring additional information or planning a presentation to the Committee, should contact Committee Chairperson, Michael Fontham or J. Richard Avena, Director of the Southwestern Regional Office at (512)229-5570, (TDD 512/229-5580). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five(5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 21, 1986.
Ann E. Goode,
Program Specialist for Regional Programs.
[FR Doc. 86-9261 Filed 4-24-86; 8:45 am]
BILLING CODE 6335-01-M

Minnesota Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Minnesota Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 9:00 p.m., on May 19, 1986, at City Hall, Council Chambers, 3rd Floor, 15 West Kellogg Street, St. Paul, Minnesota. The purpose of the meeting is to review previous meeting minutes, report on mental health project, and community forum on affirmative action.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Talmadge L. Bartelle, or Clark Roberts, Director of the Midwestern Regional Office at (312) 353-7371, (TDD 312/886-2188). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 21, 1986.
Ann E. Goode,
Program Specialist for Regional Programs.
[FR Doc. 86-9262 Filed 4-24-86; 8:45 am]
BILLING CODE 6335-01-M

New Hampshire Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the New Hampshire Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 8:00 p.m. on May 22, 1986, at McLane, Graf, Raulerson & Middleton, 40 Stark Street, Manchester, New Hampshire. The purpose of the meeting is to review progress on the Committee's voter accessibility project and discuss other civil rights developments in the State.

Persons desiring additional information or planning a presentation to the Committee, should contact Committee Chairperson, Robert Wells or Jacob Schlitt, Director of the New England Regional Office at (617) 223-4671, (TDD 617/223-0344). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 21, 1986.
Donald A. Deppe,
Program Specialist for Regional Programs.
[FR Doc. 86-9263 Filed 4-24-86; 8:45 am]
BILLING CODE 6335-01-M

Texas Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Texas Advisory Committee to the Commission will convene at 1:30 p.m. and adjourn at 4:30 p.m. on May 9, 1986, at the U.S. Commission on Civil Rights, Conference Room, 418 S. Main, San Antonio, Texas. The purpose of the meeting is to discuss future program planning.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Adolph Canales or J. Richard Avena, Director of the Southwestern Regional Office at (512) 229-5570, (TDD 512/229-5580). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 21, 1986.
Ann E. Goode,
Program Specialist for Regional Programs.
[FR Doc. 86-9264 Filed 4-24-86; 8:45 am]
BILLING CODE 6335-01-M

Vermont Advisory Committee; Meeting Amendment

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission previously scheduled for May 5, 1986, convening at 7:00 p.m. and adjourning at 9:00 p.m., at the Holiday Inn, Carousel Room, Blush Hill Road, Waterbury, Vermont (FR Doc. 86-8322, Page 12724) has a new meeting day.

The meeting location, convening and adjourning times will remain the same. The date of the meeting will change to May 6, 1986.

Dated at Washington, DC, April 21, 1986.
Donald A. Deppe,
Assistant Staff Director for Regional Programs.
[FR Doc. 86-9265 Filed 4-24-86; 8:45 am]
BILLING CODE 6335-01-M

Hearing on the Protection of Handicapped Newborns; Cancellation

Notice is hereby given that the hearing on protection of handicapped newborns, notice of which was published in the Federal Register on Monday, March 24, 1986 at page 10041, is postponed until further notice.

Dated at Washington, D.C., April 23, 1986.
Clarence M. Pendleton, Jr.,
Chairman.
[FR Doc. 86-9451 Filed 4-24-86; 9:13 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Foreign Buyer Program; Support for Domestic Trade Shows

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of Implementation of the 1987 Foreign Buyer Program.

SUMMARY: This notice sets forth objectives, circumstances and application review criteria associated with the Department's program to support domestic U.S. trade shows.

DATE: These administrative procedures were effective April 22, 1986.

ADDRESS: Export Promotion Services/ Foreign Buyer Program, U.S. and Foreign Commercial Service (US&FCS), International Trade Administration, U.S. Department of Commerce, Room 2808, 14th and Constitution Avenue, N.W., Washington, D.C. 20230, (202/377-0872).

FOR FURTHER INFORMATION CONTACT: Mike Frisby, Director, Marketing Development Division, Export Promotion Services, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue, N.W. Room 2808, Washington, D.C. 20230 (202/377-0872).

SUPPLEMENTARY INFORMATION:

Introduction

The International Trade Administration of the U.S. Department of Commerce is accepting applications for the 1987 Foreign Buyer Program.

The Foreign Buyer Program was established to select and promote leading trade shows in the United States in high export potential industries. This program supplants the Trade Fair Certification Program for domestic (U.S.) shows.

The Foreign Buyer Program was created in order to give hands-on assistance to U.S. companies interested in exporting. This assistance is given through increased counseling, marketing analysis, and overseas promotion to potential buyers, agents, and distributors. Shows selected for the Foreign Buyer Program will provide a venue for U.S. companies interested in expanding their products into international markets.

As part of its mission to foster, promote, and develop U.S. commerce, the Department has for many years assisted U.S. firms participating in domestic trade shows to meet with potential foreign buyers, agents and distributors.

In keeping with this policy, the Department implemented the Foreign Buyer Program in May 1985. Under this program, the Department selects and promotes domestic trade shows in potential high-export industries in order to bring foreign buyers together with U.S. firms. The program provides assistance to show organizers in identifying and recruiting new-to-market/new-to-export firms to exhibit in these trade shows.

The Department will select up to 15 events during calendar year 1987. The Department will select those events which satisfy the general selection criteria and which, in its judgment, most clearly meet the Department's objectives. For this reason, failure to be selected should not be interpreted as a finding that the event will not be successful in promoting U.S. exports.

Department of Commerce Support of Foreign Buyer Program Events. The support provided for selected events may differ depending on the specific needs identified and agreed upon by the Department and the show organizer. Services will include, but may not be limited to, special overseas marketing efforts by the staff of the U.S. and Foreign Commercial Service. Such marketing activities include contacting key foreign government and private sales prospects and providing publicity in appropriate Departmental periodicals. US&FCS Account Executive and trade specialists in District Offices identify new-to-export/new-to-market U.S. companies for participation in trade shows.

Specific Department Actions. For selected shows the Department of Commerce will:

(a) Designate an Account Executive as a central contact to work with the show organizer on all aspects of promotion abroad and foreign buyer assistance at the show. The Account Executive will work with the show organizer contact to develop a promotion marketing plan and overall promotional timetable.

(b) Prepare and distribute an informational letter and form ITA-4014P to CEOs (if available) of exhibiting U.S. companies to determine their international business objectives in meeting with foreign buyers (Form 4014P has been approved by the Office of

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Management and Budget under control number 0625-0151).

(c) Contact U.S. companies exhibiting at the event and encourage them to meet with foreign buyers attending the show. The Department will print an *Export Interest Directory*, containing pertinent information on those companies that express such interest. *The Export Interest Directory* will list U.S. company names, products or services they wish to export, types on international marketing objective (agent/distributor/direct sales etc.) and geographic areas of interest to the company. This document will be distributed to all U.S. Embassies and Consulates sixty (60) days prior to the event.

(d) Advise and work closely with all interested U.S. Embassies and Consulates to assure maximum trade show promotion.

(e) Promote industry trade show participation through announcements in key domestic and international publications (e.g., regional, posts and embassy commercial newsletters, *Business America*, *Export Promotion Calendar* and *Commercial News USA*).

(f) Provide show organizer with specifications of a DOC-designed International Business Center (IBC), including furniture requirements, DOC office, conference rooms, storage area, etc.

(g) Provide show organizer with specifications for a multi-language brochure; U.S. Embassy/Consulate address labels, shipping instructions and quantities for overseas shipment.

(h) Review with the show organizer potential support by appropriate trade associations, state development agencies, banks, transportation companies, chambers of commerce, and other organizations.

(i) Provide a final show report to both the show organizer and promote Embassies/Consulates not later than 90 days after the show.

(j) Request US&FCS Domestic Offices to provide export counseling or specific marketing information to those U.S. participants which have indicated a need for such counseling both prior to and during the show.

Services Provided at Trade Show Site

(a) Two (2) Account Executives will provide primary management of the International Business Center (IBC) and assist in on-site registration (if appropriate) of foreign buyers and post-organized groups, facilitate matching foreign buyers with exhibiting at trade show about available US&FCS products and services.

(b) Provide export counseling or specific geographic marketing information to exhibitors in a designated area in the International Business Center by a trade specialist from a US&FCS Domestic Office and offer information on all US&FCS products and services. Assist foreign buyers to meet their purchasing/representation objectives during the show.

(c) Participate, as appropriate, in special export service seminars specifically aimed at new-to market/new-to-export firms exhibiting at trade show.

(d) Encourage local bank and financial institutions to have a representative available to provide export finance counseling.

Specific Responsibilities of the Show Organizer

(a) Designate an official authorized to work with the US&FCS Account Executive on all aspects of the show promotion.

(b) Provide the Account Executive with a contact during the show to assist with foreign visitor information and product referral.

(c) Provide the US&FCS with a current list of exhibitors, with names and address of CEO or appropriate contact. The name of contact should, if possible, be the decision maker of the exhibiting firm on international matters. The exhibitor list should be on gummed mailing labels.

(d) Produce and distribute a multi-language promotional brochure in the quantities specified by the Account Executive. Draft of brochure must be approved by the Account Executive prior to printing. These brochures must be printed not less than six months prior to the show.

(e) Provide all exhibitors at the convention site with information about the IBC and US&FCS services.

(f) If available, provide to the US&FCS names and addresses of foreign attendees at previous shows. Provide a list of pre-registered foreign attendees at the current show, including names, addresses, and business interests. Both lists are to be provided by country and on a mutually agreed date.

(g) Establish a registration system to assure US&FCS Account Executives access to all foreign attendees at time of registration. On a daily basis provide number of registered foreign attendees, if possible.

(h) Establish an International Business Center (IBC) at the show in a prominent location, preferably adjacent to the main registration area. Show organizer agrees to construct the IBC (minimum of 1000 sq. ft.) according to DOC design specifications which should include: (a) A separate registration area for foreign visitors; (b) appropriate furniture and office equipment, telephone, assured access to international calling, telex, etc; (c) interpreters; (d) registration staff and support; and (e) DOC office conference rooms, storage area, refreshments, lounge, etc. The IBC must be given high visibility in show catalog/program and daily newletters, floor plans, and by strategically placed signs at the exhibition entrance, registration area and on the exhibition floor.

(i) On an agreed date following the show, provide the US&FCS with a registration printout of the names and addresses of the foreign attendess, by country.

(j) Upon notification of acceptance into the Foreign Buyer Program, remit the appropriate user fee. For calendar year 1987 the fee is $3,000.

Selection. Selection indicates that the Department has found the event to be a leading international trade show worthy of participation by U.S. exporting firms and promotion in overseas markets by U.S. Embassies and Consulates. Selection does not constitute a guarantee by the U.S. Government of success of the show or of the undertakings or obligations of the show organizer. Selection is not an endorsement of the show organizer except as to its Foreign Buyer activities. Each successful applicant will be given copies of an official U.S. Department of Commerce logo and/or logo of the U.S. and Foreign Commercial Service for use in its advertising promotional materials.

General Selection Criteria. Subject to Departmental budget and resource constraints, selection will be granted to those events which, in the judgment of the Department, most clearly and best meet the following criteria:

(a) *Export Potential:* The products and services to be promoted at the trade show should be from U.S. industies which have high export potential as determined by U.S. Department of Commerce sources.

(b) *International Interest:* Trade shows will be selected which meet the needs of a significant number of overseas markets covered by the U.S. and Foreign Commercial Service, correspond to marketing opportunities as identified by these posts, and which warrant the attention and promotional effort by those overseas posts. Previous foreign audience attendance at the show may be used as an indicator.

(c) *Scope:* The event must offer a broad spectrum of U.S. products and/or services. Trade shows with a majority of American firms exhibiting will be given preference.

(d) *Stature:* The trade show must be clearly recognized by the industry it covers as a leading event for the promotion of that industry's products and services both domestically and internationally and as a showplace for the latest technology or techniques in that industry.

(e) *Exhibitor Interest:* There must be a clearly demonstrated interest on the part of U.S. exhibitors to receive international business visitors during the trade show. A significant number of these exhibitors should be new-to-export or seeking to expand into additional foreign markets.

(f) *Logistics:* The trade show site, facilities, transportation services and availability of accommodations must be in keeping with the stature of an international-class trade show.

(g) *Cooperation:* Successful applicants will be required to enter into a Memorandum of Understanting which sets forth the specific actions to be performed by the show producer/owner and the USDOC. There must be a willingness on the part of the trade show organizer to cooperate with the US&FCS to further ITA export expansion goals.

When, Where and How To Apply for Selection in the 1987 Foreign Buyer Program

Collection of the information required in an application is authorized by law (15 U.S.C. 1512 *et seq.*). The Office of Management and Budget has approved the information collection requirement contained in these regulations under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511). OMB Control Number 0625-0130. Approved for use through 08/31/88.

A trade show will not be considered for the 1987 Foreign Buyer Program unless a completed application has been received by the Marketing Development Division no later than June 6, 1986. Applications reviewed will be considered for a calendar year 1987 only. Shows not selected and which want Foreign Buyer Program support for a succeeding year must submit a new application.

Except to the extent required by laws, no information of a proprietary nature reported on this form will be disclosed without the prior written consent of the relevant firm.

Please type the information requested on company letterhead and mail three (3) complete sets of your application to: Office of Marketing Program, U.S. and Foreign Commercial Service, International Trade Administration, Room 2808, U.S. Department of Commerce, 14th and Constitution Avenue N.W., Washington, D.C. 20230

(1) Name of show.

(2) Site of show.

(3) Dates of show. Indicate if show is held annually, biennially, or other.

(4) Name, address, and phone number of applicant.

(5) Name, address, and phone number of applicant contact.

(6) Name, address, and phone number of show sponsor (trade association, national or state government, etc.)

(7) Basic history or description of show. Applicant must demonstrate that subject is a leading international trade show for the industry. Include copies of previous show promotion materials.

(8) Resume of applicant's show experience.

(9) Planned number of U.S. exhibitors. A majority of show exhibitors must be of U.S.A. origin.

(10) Specify gross area of show (sq. ft.or sq. mtrs.). Net area for exhibit space (show U.S. and foreign separately).

(11) Admission fees for show visitors and indicate if there is a reduced fee for international visitors.

(12) Description of technical program and cost to attend (if applicable).

(13) Product categories to be displayed.

(14) Audience profile of potential foreign customers (target countries, industries, profession or technical level).

(15) Submit 3 sets of all show promotional literature, including show catalog, for previous show.

Applicant must type the following on the application and submit with the appropriate signature:

"The above information is correct and the applicant will abide by the terms set forth in the Notice of Implementation of the Foreign Buyer Program fior 1987, No —— Federal Register Notice, Date ——."

Applications will be processed by the Marketing Development Division, Export Promotion Services and final selection of events will be made by June 27, 1986.

Fee: The Department will charge a fee of $3,000 for shows selected and promoted during calendar year 1987.

Mike Frisby,

Director, Marketing Development Division, Export Promotion Services, U.S. and Foreign Commercial Service, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 86-9254 Filed 4-24-86; 8:45 am]

BILLING CODE 3510-FP-M

National Bureau of Standards

Advisory Committee for International Legal Metrology; Termination

Having accomplished its purpose, the Advisory Committee for Interntional Legal Metrology shall terminate on April 25, 1988, as provided by the Federal Advisory Committee Act, 5 U.S.C. App. 2.

The Committee, first established on March 20, 1974, and recharted last on April 25, 1984, has advised the Department of Commerce through the Director, National Bureau of Standards (NBS), on technical and policy matters relating to NBS' assigned responsibility for the development of U.S. positions on technical issues arising in the International Organization of Legal Metrology (OIML).

FOR FURTHER INFORMATION CONTACT: Mr. David E. Edgerly, Committee Control Officer, Standards Management Program, Office of Product Standards Policy, National Bureau of Standards, Gaithersburg, MD 20899, telephone 301-921-3287.

Dated: April 21, 1986.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 86-9278 Filed 4-24-86; 8:45 am]

BILLING CODE 3510-13-M

[Docket No. 51208-5208]

Federal Information Processing Standard 21-2, COBOL; Correction

AGENCY: National Bureau of Standards, Commerce.

ACTION: Final notice; correction.

SUMMARY: In FR Doc. 86-5852, appearing on pages 9237-9239 in the issue of Tuesday, March 18, 1986, make the following correction: On page 9238, second column, COBOL Subsets table, under *"Required*, Sort-Merge", correct number for "High" should read "1".

FOR FURTHER INFORMATION CONTACT: Ms. Mabel Vickers, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, (301) 921-2431.

Dated: April 21, 1986.

Ernest Ambler,

Director.

[FR Doc. 86-9279 Filed 4-24-86; 8:45 am]

BILLING CODE 3510-CN-M

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COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1986, Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1986 a commodity to be produced by and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: April 25, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3500.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On July 19, November 15, December 13, 1985, and January 24 and February 7, 1986, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (50 FR 29469, 50 FR 47245, 50 FR 50936, 51 FR 3237 and 51 FR 4785) of proposed additions to Procurement List 1986, October 15, 1985 (50 FR 41809).

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodity and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77 and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodity and services listed.

c. The actions will result in authorizing small entities to produce the commodity and services procured by the Government.

Accordingly, the following commodity and services are hereby added to Procurement List 1986:

Commodity

Dining Packet 7360-01-]10-2020.

Services

Commissary Shelf Stocking for the following locations in San Diego, California:

1. Naval Station
2. Naval Air Station-Miramar
3. Naval Air Station, North Island
4. Naval Training Center

Commissary Shelf Stocking, Branch Commissary Store, Little Creek Naval Amphibious Base, Building 3324, Norfolk, Virginia

Branch Commissary Store, Building 350, Norfolk Naval Shipyard, Portsmouth, Virginia, and

Janitorial/Custodial, Federal Building, 500 Quarrier Street, Charleston, West Virginia

C. W. Fletcher,

Executive Director.

[FR Doc. 86-9288 Filed 4-24-86; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1986, Proposed Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1986 commodities to be produced by and services to be provided by workshops for the blind or other severely handicapped.

Comments must be received on or before May 28, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3500.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodity and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodity and services to Procurement List 1986, October 15, 1985 (50 FR 41809):

Commodity

Pillow, Bed Feather, 7210-00-205-3205, (Portion of Government requirement not on Procurement List)

Services

Commissary Warehousing Service, Columbus Air Force Base, MS

Janitorial/Custodial

Potomac Annex Building 1-7, 23rd Road & E Street NW.

Central, East & South Buildings, 2430 E Street NW. and 1734 F Street NW. Washington, DC

Deletions

It is proposed to delete the following commodities and service from Procurement List 1986, October 15, 1985, (50 FR 41809):

Commodities

Pad, Examining Table, 6530-00-960-6616

Pad, Hospital Stretcher, 6530-00-259-0004

Service

Commissary Shelf Stocking and Custodial, Peterson Air Force Base, CO

C.W. Fletcher,

Executive Director.

[FR Doc. 86-9287 Filed 4-24-86; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Meeting Date Change

21 April 1986.

The meeting of the Army Science Board 1986 Summer Study Panel on C³I Requirements for AirLand Battle, which was scheduled for 9 May 1986 (see Federal Register of April 23, 1986), has been changed to 23 May 1986.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86-9304 Filed 4-23-86; 3:25 pm]

BILLING CODE 3710-08-M

Army Science Board's Ad Hoc Subgroup; Chief of Staff Task Force on Soldiers and Families; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: 12 May 1986.

Time: 0900-1500.

Place: Pentagon, Room 3E635, Washington, DC.

Agenda: The Army Science Board's Ad Hoc Subgroup, Chief of Staff Task Force on Soldiers and Families, will meet for briefings and discussions with the Chief of Staff, Army. This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86-9307 Filed 4-24-86; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board AHSG on Ballistic Research Laboratory Effectiveness Review; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Monday & Tuesday, 12-13 May 1986.

Times of Meeting: 0800-1700.

Places: AMSER Corporation, Arlington, VA.

Agenda: The Army Science Board AHSG on Ballistic Research Laboratory Effectiveness Review will meet to receive briefings by numerous users of BRL. Briefings will be presented by each directorate covering their work program. The panel will meet in executive session to discuss the methodology for conducting the review and to discuss observations as a result of the briefings. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraphs (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably interwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board

[FR Doc. 86-9305 Filed 4-24-86; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board Steering Committee; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Tuesday, 13 May 1986.

Times of Meeting: 0900-1200 hours.

Place: Pentagon (Room 2E687A), Washington, DC.

Agenda: The Army Science Board Steering Committee will meet for discussions of topics and future plans for the Board. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C, Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably interwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039/7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86-9306 Filed 4-24-86; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

National Institute of Handicapped Research, Funding Priorities

AGENCY: Department of Education.

ACTION: Notice of final funding priorities for research fellowships for fiscal year 1986.

SUMMARY: The Secretary of Education announces final funding priorities for research fellowships to be supported by the National Institute of Handicapped Research (NIHR) in fiscal year 1986. In the past, NIHR has funded some fellowships without specifying priority areas, as well as a number of fellowships based on announced priorities. The regulations provide that the Secretary may set priorities when there are critical areas to be addressed. The Secretary has determined that research fellows are needed in the following priority areas; utilization of rehabilitation technology; rehabilitation research training and utilization; medical rehabilitation finance policy; rehabilitation information technology; rehabilitation service statistics; and mental retardation research.

EFFECTIVE DATE: These priorities take effect either 45 days after publication in the Federal Register or later if Congress takes certain adjournments. If you want to know the effective date of these priorities, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Rheable Edwards, National Institute of Handicapped Research. Telephone (202) 732-1200 deaf and hearing impaired individuals may call (202) 732-1198 for TTY services.

SUPPLEMENTARY INFORMATION: The purpose of this program is to build research capacity and also to allow the Secretary to obtain the benefits of research conducted by highly qualified individuals. This research has a direct bearing on the development of programs, methods, procedures, and devices to assist in the provision of rehabilitative services to individuals.

NIHR fellowship regulations in 34 CFR Part 356, (46 FR 45312, September 10, 1981, as amended June 18, 1984 at 49 FR 24978), authorize the Secretary to establish priorities for fellowships by reserving funds to support fellowships in particular areas.

These priorities were proposed for public comment through publication in the Federal Register on November 20, 1985 (50 FR 47797). One comment was received, suggesting that NIHR add a fellowship in adaptive environmental design. No changes were made to the proposed fellowship priorities since NIHR is announcing a priority for a Research and Demonstration project in this area.

The publication of these priorities does not bind the United States Department of Education to fund fellowships in any or all of these research areas. Funding of particular fellowships depends on both the availability of funds and on the receipt of satisfactory applications.

Priorities

• Fellow in Utilization of Rehabilitation Technology

There have been significant advances in the development of technology to enhance communication, mobility, independent living, employment, and education for disabled individuals. However, there are indications that many disabled individuals are not obtaining the maximum possible benefits of existing technology due to deficits in the systems for publicizing, distributing, and financing rehabilitative technology, aids, and devices, and in the integration of technology into the total rehabilitation service delivery system.

An absolute priority will be given to applications for a fellow in this area who will:

• Review the various funding resources which finance the purchase and maintenance of technological devices as well as the support services necessary to achieve full use of technology (including various significant Federal, State, voluntary, and private funding sources);

• Analyze various financing options and the long and short-term cost implications of each;

• Analyze the techniques and effects of publicizing technological devices for rehabilitation; and

• Review the frequency and adequacy of distribution and financing of various types of technology and determine whether certain categories of technology or types of devices require special efforts to assure more adequate distribution (e.g., so-called "orphan technologies").

• *Fellow in Rehabilitation Research Training and Utilization.*

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There is a substantial mass of new knowledge in the area rehabilitation regularly generated by research efforts, including those funded by NIHR through the Research and Training Centers (RTCs) and the Rehabilitation Engineering Centers (RECs). However, preliminary observations suggest that research accomplishment could have more impact if there were improved efforts at dissemination of information and training of relevant audiences in the utilization of research results.

An absolute priority will be given to applications for a fellow in this area who will:

• Assess the "state-of-the-art" in information dissemination in the rehabilitation research field, including a survey of the practices and products developed for information dissemination in the RTCs and RECs as leaders in the rehabilitation research field;

• Review current training programs designed to prepare service practitioners and other relevant audiences to use new knowledge and techniques developed through research; such a review would discover the types of audiences involved, levels, funding sources, length and intensity of training, and the knowledge bases from which curricula are developed;

• Assess the extent of collaboration among various training providers such as RTCs and RECs, in such areas as the development of training agenda, information sharing, and shared curriculum development; and

• Develop one or more models for improved information dissemination and training procedures in major research centers, including methods of staffing, planning, materials development, audience identification, targeting audiences, and self-assessment.

• *Fellow in Medical Rehabilitation Finance Policy.*

Mechanisms and sources of payment for restorative rehabilitation services in this country are diverse and complex. The multiplicity of Federal payment and reimbursement programs, as well as statutory, policy, and procedural variations in implementing Federally-authorized programs at the State and local level are not clearly understood. In addition, there are State and private sector sources of funding for rehabilitation hospital and restorative services, but it is unclear what services are covered, who pays for which rehabilitation services, and what mechanisms of payments are used. Recent development in payment mechanisms for medical services, such as the emergence of health maintenance organizations (HMOs), the development of Medicare's Prospective Payment System (PPS), and the continuing evolution of Preferred Provider Organizations and other competition-promoting service financing strategies seems to be fostering the proliferation of medical rehabilitation facilities. Some suggest that this apparent trend is due to the temporary exclusion of medical rehabilitation services from Medicare's PPS and its cost-reduction implications. This phenomenon, however, is not well-documented or well-explained, nor are the implications clear for the availability and quality of services. The rehabilitation community should be developing new models for the deployment of funds for rehabilitative services and also defining policy issues in which a better understanding is needed.

An absolute priority will be given to applications for a fellow in this area who will:

• Identify and assess Federal and State sources of payment and reimbursement for medical rehabilitation facilities and services, and describe the major private sector sources of payment and reimbursement for restorative rehabilitation services, including private health insurance, voluntary agencies, and corporate self-insurance; and

• Develop one or more models for planning for the most effective use of funds through current sources for the purchase of medical rehabilitation services.

• *Fellow in Rehabilitation Information Technology.*

In recent years there has been a proliferation of new technologies to support rapid and efficient exchange of information and communication among geographically and administratively diverse agencies. New technologies include computers, electronic mail, teleconferencing, database systems, computer-assisted training programs, and computerized assessment systems. Preliminary observation suggests that there are vast differences in the extent to which State rehabilitation agencies understand and use these technologies to support both management and service activities, including rehabilitation counseling, training, research, information sharing, assessment, job placement, and management systems.

An absolute priority will be given to applications for a fellow in this area who will:

• Review the use of information technologies in State rehabilitation agencies and NIHR grantees;

• Determine the patterns, frequency, and formats of information needed by State agency personnel and NIHR grantees to facilitate the performance of their tasks;

• Develop a model to assess the cost-effectiveness of these technologies in State rehabilitation agencies and NIHR grantees; and

• Propose new method to increase or refine the volume of useful information which can be exchanged among State agencies, and between State agencies and information providers, such as NIHR grantees, and methods by which automated programs can be used by the rehabilitation counselor to improve "hand-on" services.

• *Fellow in Rehabilitation Service Statistics.*

There are not adequate date about the volume and type of rehabilitation services typically required for inpatient restoration and rehabilitation for individuals with disabilities other than spinal cord injury. Such data would be valuable in planning the deployment of resources to study, understand, and improve rehabilitation processes for individuals with these disabilities.

An absolute priority will be given to applications for a fellow in this area who will:

• Evaluate data from rehabilitation hospitals, rehabilitation units in general hospitals, and secondary sources such as prior studies;

• Assess the adequacy of disability categories used, and the adequacy of data on length of stay, costs, and other elements;

• Review prior studies of these issues for adequacy of methodology, availability of data and access to data sources and findings;

• Discuss the literature and trends in duration and cost of treatment and other relationships evident in the data;

• Determine analyses which can be conducted to yield information on service delivery patterns and costs as related to diagnostic categories; and

• Propose models for future collection and coordination of data on rehabilitation service units.

• Fellow In Mental Retardation Research

In the past decade there have been major improvements in the range of opportunities available to mentally retarded individuals. Preliminary observations indicate that these developments have resulted at least in part from advances in knowledge in several areas: techniques of habilitation/rehabilitation to enhance learning and improve behavior in individuals; information to improve service delivery mechanisms and patterns; and information leading to policy adjustments such as deinstitutionalization and mainstreaming. NIHR is interested in facilitating the development of new knowledge to support further expansion of options and achievements in habilitation/rehabilitation for mentally retarded individuals. However, future planning must be based on a thorough understanding of current knowledge in rehabilitation techniques, service delivery models, and policy considerations.

An absolute priority will be given to applications for a fellow in this area who will:

• Review the state-of-the-art in research in areas of mental retardation related to techniques of rehabilitation intervention, effective patterns of service delivery, and policy options;

• Assess the knowledge needs to effect further improvements in opportunities for this disability category;

• Assess the adequacy of the current state of research methodology and other resources to undertake improvements in the knowledge base; and

• Suggest a research agenda for the next five years, including options for various goals and levels of effort.

(29 U.S.C. 760–762)

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research)

Dated: April 22, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86-8816 Filed 4-24-86; 8:45 am]

BILLING CODE 4000-01-M

Rehabilitation Long-Term Training Program

AGENCY: Department of Education.

ACTION: Notice of Proposed Funding Priorities for Fiscal Year 1986.

SUMMARY: The Secretary proposes funding priorities for long-term training grants in the field of Rehabilitation Counseling to ensure effective use of program funds and to direct funds to areas of identified need during fiscal year 1986. The Secretary will reserve funds for applications meeting these priorities.

DATE: Comments must be received on or before May 27, 1986.

ADDRESS: All written comments and suggestions should be sent to Delores L. Watkins, Office of Developmental Programs, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3324–M/S 2312), Washington, DC. 20202.

FOR FURTHER INFORMATION CONTACT: Delores L. Watkins, Office of Developmental Programs, Rehabilitation Services Administration. Telephone: (202) 732–1332.

SUPPLEMENTARY INFORMATION: Grants for the Rehabilitation Training Program are authorized by Title III, section 304 of the Rehabilitation Act of 1973, as amended. Program regulations for the Rehabilitation Long-Term Training Program are established at 34 CFR Part 386. The purpose of the Rehabilitation Long-Term Training Program is to support projects designed to train personnel for employment in public and private agencies involved in the rehabilitation of physically and mentally handicapped individuals, especially those who are the most severely handicapped.

Eligible Applicants

Awards are made under this program to State vocational rehabilitation agencies and other public or nonprofit agencies or organizations, including institutions of higher education.

Proposed Priorities

In accordance with the Education Department General Administrative Regulations (EDGAR) at 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to long-term training applications submitted in the field of Rehabilitation Counseling in fiscal year 1986 that respond to one of the priorities described below. An absolute preference is one which permits the Secretary to select only those applications that meet the described priorities.

All applications submitted in the long-term training of rehabilitation counseling must be designed to improve and strengthen the capacity of rehabilitation counselors to place severely disabled individuals into employment, especially competitive employment. All training must include a job development and job placement component in one of the following areas:

Priority 1

The training under this priority must include placement services that will directly involve students with business and industry in providing rehabilitation services to severely physically and mentally disabled individuals. The placement coursework must be designed to enable students to acquire skills and knowledge in the areas of: (1) Job development, analysis, job modification, and job restructuring; (2) workers' compensation; (3) forecasting labor market trends; (4) the applicability of sections 503 and 504 of the Rehabilitation Act and their implications for placement of disabled individuals; and (5) effective consultation with employers and potential employers to identify employment opportunities for disabled individuals, to assist in the removal of barriers to the employment of disabled individuals, and to educate or train employers and potential employers about various disabilities and any vocational implications of those disabilities. Practicum training must include job development and job placement activities that involve students directly with business and industry. A primary element of the training must be the direct participation of students with business and industry in placing disabled individuals into competitive employment and may include actual participation of students in practicum experiences in business and industry settings. The training must be at the master's degree level.

Priority 2

The training under this priority must include a training curriculum that will prepare rehabilitation personnel to provide supported employment services to severely disabled adults. Supported employment, as used here, means paid work in a variety of integrated settings that include both handicapped individuals and non-handicapped individuals, particularly regular work sites, especially designed for severely handicapped individuals, irrespective of age or vocational potential—(1) for whom competitive employment at or above the minimum wage has not traditionally occurred; and (2) who, because of their disability, need intensive on-going post-employment support to perform in a work setting. The proposed training curriculum must include coursework to enable students to acquire skills and knowledge in the areas of: (1) Behavioral analysis; (2) task analysis; (3) job development, job modification, job accommodation, and job placement; (4) specific job-skills training; (5) employer relations; and (6) union relations. In addition to the specific skills previously listed, training is expected to provide students with knowledge about the various social service systems which affect the lives of disabled individuals, including: (1) State vocational rehabilitation agencies; (2) State developmental disabilities agencies; (3) State employment security systems; (4) workers' compensation; (5) private rehabilitation systems within industry; (6) projects with industry; (7) independent living programs; (8) sections 501, 502, 503, and 504 of the

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Rehabilitation Act and their implications for placement of disabled individuals; and (9) provisions of the Social Security Act which relate to disabled individuals. Students must be provided practicum experiences at supported employment sites. Because of the required practicum experience element, applications must show evidence of an on-going established relationship with supported employment programs. The training must be at the bachelor's degree level or above.

Priority 3

The training under this priority must prepare rehabilitation personnel to develop jobs for and place severely disabled individuals into competitive employment in business and industry settings. The training must also focus on supported employment placements of disabled individuals in business and industry settings. Training supported under this priority must include a curriculum that combines the specific skills designated under the previous two priorities. The training must be at the doctoral level.

A separate application review competition will be conducted for each of the three priorities described for the rehabilitation long-term training field of Rehabilitation Counseling. Each application must respond to only one of the described priorities.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding the proposed priorities. Written comments and recommendations may be sent to the address given at the beginning of this document. All comments received on or before the 30th day after publication of this document will be considered before the Secretary issues the final priorities. All comments submitted in response to these proposed priorities will be available for public inspection, during and after the comment period, in Room 3324, Mary E. Switzer Building, 330 C Street, SW., Washington, DC between the hours of 8:30 a.m. and 4:00 p.m. (local time), Monday through Friday of each week except Federal holidays.

(29 U.S.C. 774)

(Catalog of Federal Domestic Assistance No. 84.129, Rehabilitation Training Program)

Dated: April 22, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86-9315 Filed 4-24-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Awards for the Most Energy-Efficient Refrigerators and Freezers

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of proposed action and request for comment and information. *BPA File No.* AEP-1. BPA requests that all comments and information submitted in response to this notice contain the file number AEP-1.

SUMMARY: The Bonneville Power Administration began implementing its "Cold facts. Hot ideas." campaign in February 1986. The campaign promotes energy efficiency to consumers who are planning to buy new major electrical appliances (refrigerators, freezers, clothes washers, and dishwashers). The campaign goal is to increase the "market share" of energy-efficient models purchased in the Pacific Northwest region.

BPA believes that the most effective way to achieve this goal is to clearly identify for consumers and appliance retailers which models are the "most energy-efficient."

This notice describes a proposed action by BPA to identify and promote the most energy-efficient new refrigerators and freezers on the market, and requests comments on the proposed action.

This notice also requests manufacturers of refrigerators and freezers to provide BPA with the following information:

1. Refrigerator models with thru-the-door ice service; and

2. Models in the market in 1986 which are not listed in the 1985 or 1986 Directories of Certified Refrigerators and Freezers, published by the association of Home Appliance Manufacturers (AHAM).

This information is requested so that BPA can determine which models will qualify for an "Energy Winner" award sticker in 1986 and are eligible to be listed in a BPA brochure (to be submitted for printing by June 1, 1986).

Responsible Official: Sydney D. Berwager, Director of Residential Conservation Programs, is the official responsible for development and implementation of the proposed action.

DATES: Comments on the proposed action and information requested from refrigerator and freezer manufacturers are due to BPA by May 22, 1986.

ADDRESSES: Written comments and information should be addressed to Ms. Donna L. Geiger, Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212.

FOR FURTHER INFORMATION CONTACT: Mr. Grant W. Vincent, Consumer Products and Services Branch (KRP), Office of Conservation, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon 97208. Telephone (503) 230-5499. Information may also be obtained from:

BPA's Public Involvement office, P.O. Box 12999, Portland, Oregon 97212. Telephone numbers, voice/TTY, for the Public Involvement office are: 503-230-3478 in Portland; toll-free 80-452-8429 for Oregon outside of Portland; 800-547-6048 for Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California.

Mr. George E. Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 N.E. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503-687-6952.

Mr. Wayne R. Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside avenue, Spokane, Washington 99201, 509-456-2518.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3060.

Mr. Terence G. Esvelt, Puget Sound Area Manager, Room 250, 415 First Avenue North, Seattle, Washington 98109, 206-442-4130.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-525-5500, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

Mr. Frederic D. Rettenmund, Boise District Manager, 550 W. Fort Street, Rm. 376, Boise, Idaho 83724, 208-334-9137.

SUPPLEMENTARY INFORMATION:

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I. Background

A. Legal Authority

The Pacific Northwest Power Planning and Conservation Act, 16 U.S.C. 839 et seq. (Pacific Northwest Power Act), provides for the development of cost-effective conservation as the first priority in meeting the electrical energy needs of the region. The Pacific Northwest Power Act also provided for the establishment of the Northwest Power Planning Council (Council) to develop a 20-year power plan for the Pacific Northwest. In accordance with the Pacific Northwest Power Act, the Council adopted the "1983 Northwest Conservation and Electric Power Plan," which recommended that BPA:

> "Develop and implement (in cooperation with utilities, trade and professional associations, educational institutions, community organizations, and other interested parties) education and marketing programs regarding energy-efficient appliances for distributors, dealers, and purchasers (homeowners, rental property managers, etc.)."

The Council recently revised the power plan by adopting the "1986 Northwest Power Plan," which recommends that BPA:

> "Assess the effectiveness of various marketing strategies and incentives in promoting the purchase of the most efficient appliances that are available. These strategies should promote purchases of more efficient appliances at the time of normal replacement. Early retirement of existing appliances should not be encouraged."

B. Purpose and Intent

The purpose of the proposed action is to increase the "market share" of energy-efficient refrigerators and freezers purchased in the Pacific Northwest. The proposed action will affect appliance purchasers (consumers), retailers, distributors, and manufacturers. BPA expects that the proposed action will result in consumers purchasing refrigerators and freezers that are more energy-efficient than would have been purchased without the action. The proposed action should result in lower life-cycle costs (purchase price plus operating cost) to consumer appliance purchasers. On a regional level, the total number of units purchased should not be affected by the proposed action. However, individual appliance retailers, distributors, and manufacturers may experience an increase or decrease in the number of units sold, depending on the energy efficiency of their product offerings.

C. Scope of the Action

The proposed action covers new refrigerators and freezers sold in the BPA service territory (Oregon, Washington, Idaho, Western Montana, and portions of Northern California, Nevada, and Utah, and Western Wyoming) in 1986. BPA is not proposing that the action cover other appliances (such as clothes washers and dishwashers) at this time.

D. Activities to Date

BPA has conducted market research, the purpose of which was to determine how BPA should design an appliance efficiency promotion campaign. The major findings of the market research are:

1. Consumers are generally unaware of the wide range of efficiencies in new appliances.

2. Consumers are often willing to pay more for an energy-efficient model, as long as they can get the other features they want.

3. Consumers have difficulty understanding and using EnergyGuide labels.

4. For the campaign to be successful, it is important to clearly identify the most energy-efficient models at the point of purchase (in appliance retail stores).

A draft proposed campaign design was distributed to interested parties for review and comment on November 8, 1985. Comments received were incorporated into a final proposed campaign design, which was approved by BPA management on December 6, 1985.

BPA began implementing the campaing—"Cold facts. Hot ideas."—in February 1986. The campaign is designed to increase consumer awareness of the range of energy efficiencies in new appliances (refrigerators, freezers, clothes washers, and dishwashers).

BPA is now proposing to establish energy efficiency qualification levels (EEQLs) for new refrigerators and freezers. Models which meet or exceed the EEQLs will be awarded special recognition from BPA. This special recognition will be in the form of "Energy Winner" award stickers, which will be provided to appliance retailers to affix to qualifying models on display in their stores. The qualifying models will also be listed in a brochure, which will be provided free-of-charge to appliance retailers and to consumers who call a toll-free telephone number. BPA plans to establish new EEQLs each year using the procedure proposed in section (II.B.) of this notice.

BPA is now soliciting public comment on the proposed activities.

E. Compliance with NEPA

BPA has determined that the proposed action is excluded from the requirements of preparing either an Environmental Assessment or an Environmental Impact Statement, as specified in Council on Environmental Quality Regulations and Department of Energy Guidelines (February 23, 1982, 47 FR 7977).

F. Issues

1. *Procedure for Establishing EEQLs.*—BPA identified a number of objectives before developing the proposed procedure for establishing EEQLs for refrigerators and freezers. The procedure should:

a. Be based on the industry's current product offering.

b. Be fair and objective (non-arbitrary) in establishing qualification levels.

c. Meet consumer needs (recognize that other major features are often more important to consumers than energy efficiency). The procedure should establish EEQLs for each size group of each major product class.

d. Be somewhat restrictive (so that only very energy-efficient models qualify for the BPA "Energy Winner" award sticker), yet give consumers an adequate number of qualifiying models from which to choose.

e. Be practical (make use of existing, accepted data).

BPA believes the proposed procedures outlined in section (II.B.) of this notice meets these objectives. BPA has prepared a document that addresses a number of issues related to the proposed procedure (see section IV.—Availability of Documents). The document describes why BPA is proposing to:

a. Establish new EEQLs each year;

b. Base the qualification levels on energy efficiency, rather than on operating cost (energy consumption);

c. Use "energy factors" as a measure of energy efficiency;

d. Use 4-cubic-foot size groups, instead of the 2-cubic-foot size groups established by the Federal Trade Commission (FTC);

e. Base the EEQLs each year on the models appearing in the January edition of the AHAM Directory of Certified Refrigerators and Freezers (AHAM Directory); and

f. Establish EEQLs such that approximately 15 percent of models

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listed in the AHAM Directory will qualify.

2. *Non-Uniformity of the Market*—The data in the January 1986 edition of the AHAM Directory demonstrate that the energy efficiency of models can vary widely from one size group to another in the same product class. BPA is generally proposing to establish EEQLs such that at least 15 percent of the models in each size group will qualify. Because there are often many models with the same energy efficiency in a group, the number of models that qualify often exceeds 15 percent.

However, there are many instances where: (1) All models in a size group have the same (or nearly the same) energy efficiency, or (2) a model appears to be very energy-efficient in its size group but not very efficient when compared to models in the next larger size group. In these instances, BPA believes it is inappropriate to set EEQLs such that 15 percent of the models in every size group will qualify. To compensate for the non-uniformity of the market, BPA proposes to establish EEQLs that are more stringent (resulting in fewer than 15 percent of models that qualify) for certain size groups. These more-stringent EEQLs result from the following principles:

a. If all models in a size group have the same energy efficiency, or the most efficient model is within 10 percent of the least efficient model, none of the models should be identified as "energy winners."

b. No more than 50 percent of the models should be identified as "energy winners" when there is at least one model in the group that is more energy-efficient.

c. No more than 75 percent of the models in a size group should be identified as "energy winners."

d. It is not "fair" to identify a model from a group of smaller sized units as an" "energy winner" when its energy consumption is greater than or equal to the energy consumption of a larger model which did not qualify in its size group.

3. *Identification of Qualifying Models*—As described in section (II.A) of this notice, all models which meet or exceed the EEQLs for the current year are eligible to receive "Energy Winner" award stickers and be listed in the brochure. BPA is primarily relying on the January edition of the AHAM Directory to identify which models qualify. However, there are a number of models in the market which may qualify and are not listed in this directory. These include:

a. Models listed in previous AHAM Directories;

b. Newer models not yet listed in the AHAM Directory;

c. Models from manufacturers who do not participate in AHAM certification program.

BPA is proposing that the brochure also include qualifiying models from the AHAM Directories for the previous year (January and June editions) and any other qualifying models which BPA is made aware of by manufacturers.

4. *Qualifying Models from Previous Years*—To distinguish between models that quality one year but not the next, the "Energy Winner" award sticker will show the current year (1986 for example) and will state that the model met the EEQLs for the current year.

5. *Assuring Proper Use of the "Energy Winner" Award Stickers*—Participating retailers will be instructed to only place the "Energy Winner" award stickers on models which have been certified by BPA as meeting the EEQLs. Certified models are defined as those which are either listed in the BPA brochure or listed in supplements to the brochure (which will be distributed periodically to participating retailers).

BPA proposes to rely primarily on consumers to assure that the stickers are only placed on qualifying models. All retailers who receive the stickers from BPA will be required to provide consumers with a copy of the brochure. In addition to listing the qualifying models, the brochure will specify the EEQLs for the current year and explain how to determine if a particular model qualifies.

The sticker will include a message to consumers to "request a copy of the brochure from the retailer and verify that the model qualifies for the sticker." If the model is not listed in the brochure, consumers can either use the formulas in the brochure to determine if the model qualifies or ask the retailer to show them the updated list of certified models. The sticker will also include a toll-free telephone number for consumers to call if they fell that the sticker has been placed on a model which does not qualify.

BPA will also conduct spot checks to assure that the stickers are being used properly by retailers. Retailers that place the stickers on non-certified models may not be eligible to receive the stickers in future years.

6. *Product Endorsement Disclaimer*—BPA does not intend to endorse or warrant the performance of any product through the proposed action. To avoid the appearance of a product endorsement, both the "Energy Winner" award sticker and brochure will include a disclaimer. The disclaimer will state that BPA in no way endorses or warrants any models as products. The disclaimer will also state that BPA is only providing information about the energy efficiency of models, as determined by standard formulas and laboratory tests, with industry-supplied information.

II. Proposed Action

A. Process

BPA will establish Energy Efficiency Qualification Levels (EEQLs) each year for new refrigerators and freezers according to the procedure outlined in section (II.B.) of this notice. Models which meet or exceed the EEQLs will be listed in a brochure and will be eligible to receive "Energy Winner" award stickers.

All models listed in the January edition of the AHAM Directory of Certified Refrigerators and Freezers (AHAM Directory) for the current year or in the AHAM Directories for the previous year (January or June editions) which meet or exceed the current year's EEQLs will automatically be listed in the BPA brochure. If the same model number is listed in more than one of the AHAM Directories, the data from the most recent AHAM Directory will be used. BPA will assume the information in the AHAM Directory is correct, unless otherwise notified by AHAM or individual manufacturers.

Manufacturers will be responsible for notifying BPA or other qualifying models not listed in the specified AHAM Directories (new models not yet listed, older models still in the market, or models produced by manufacturers who do not participate in the AHAM certification program). Manufacturers must provide BPA with certification that their models have volume and energy cost ratings determined in the same manner as models which are listed in the AHAM Directory. Specifically:

1. The refrigerated volume must have been independently verified in accordance with American National Standard ANSI/AHAM HRF-1 for household refrigerators, combination refrigerator-freezers, and household freezers.

2. The Federal Trade Commission (FTC) Annual Energy Cost must have been determined according to the FTC Rule for Using Energy Costs and Consumption Information Used in Labeling and Advertising for Consumer Appliances Under the Energy Policy and Conservation Act (16 CFR Part 305).

BPA will notify AHAM and refrigerator and freezer manufacturers each year (usually by March) of the EEQLs for that year. Manufacturers will have approximately one month to notify BPA of qualifying models not listed in the AHAM Directories specified above. BPA will then produce a brochure that lists all qualifying models for the current year. The brochure and "Energy Winner" award stickers will be distributed to appliance retailers who are participating in the "Cold facts. Hot ideas." campaign. BPA will also periodically provide appliance retailers with a list of additional qualifying models that did not get listed in the brochure (as BPA is made aware of them).

B. Procedure for Establishing Energy Efficiency Qualification Levels (EEQLs)

1. Using the January issue of the AHAM Directory for the current year, separate the models in the Directory into the following product classes:

a. *Refrigerators.*

(1) Compacts (all configurations and defrost system types with total volumes less than 8.5 cubic feet)

(2) Manual Defrost

(3) Partial-Automatic Defrost

(4) Automatic Defrost with Single Door or Top-Mounted Freezer

(5) Automatic Defrost with Top-Mounted Freezer and Thru-the-Door Ice Service

(6) Automatic Defrost with Side-Mounted Freezer (Side-by-Side)

(7) Automatic Defrost with Side-Mounted Freezer and Thru-the-Door Ice Service

(8) Automatic Defrost with Bottom-Mounted Freezer

b. *Freezers.*

(9) Upright with Manual Defrost

(10) Upright with Automatic Defrost

(11) Chest with Manual Defrost

2. For the *Compact refrigerator* product class (class 1), separate the models into the following size groups:

a. 0.0 to 4.4 cubic feet

b. 4.5 to 8.5 cubic feet

For each of the remaining *refrigerator* product classes (classes 2 through 8), separate the models into the following size groups:

a. 8.5 to 12.4 Cubic Feet

b. 12.5 to 16.4 Cubic Feet

c. 16.5 to 20.4 Cubic Feet

d. 20.5 to 24.4 Cubic Feet

e. 24.5 to 28.4 Cubic Feet

For each of the *freezer* product classes (classes 9 through 11), separate the models into the following size groups:

a. 0.0 to 7.4 cubic feet

b. 7.5 to 11.4 cubic feet

c. 11.5 to 15.4 cubic feet

d. 15.5 to 19.4 cubic feet

e. 19.5 to 23.4 cubic feet

f. 23.5 to 27.4 cubic feet

g. 27.5 to 31.4 cubic feet

(Note that although freezer size group (a) covers a wider range of sizes than the other size groups, only 3 of the 65 freezers in this size range have volumes which are less than 4.1 cubic feet.)

3. In each size group, rank order the models from highest Energy Factor (EF) to lowest EF (rounded to one decimal place). The EF is determined by the following formula, as described in the Federal Register (September 14, 1977, 42 FR 46140):

$$EF = \frac{\text{Adjusted Total Volume (cubic feet)}}{\text{Daily Electrical Consumption (kilowatt hours)}}$$

Where,

a. Total Adjusted Volume for Refrigerators is:
Fresh Food Volume + (1.63 × Freezer Volume)

b. Total Adjusted Volume for Freezer is:
1.73 × Freezer Volume

c. Daily Electrical Consumption is:

$$\frac{\text{AOC (\$/Year)}}{\text{AER (\$/kWh)} \times 365 \text{ (Days/Year)}}$$

Where,

AOC is the Annual Operating Cost (FTC Energy Guide label rating)

AER is the Average Electricity Rate Assumed to Determine AOC

For 1986, the AOC data from Column 1 of the "FTC Energy Cost in Dollars" columns in the AHAM Directory will be used. Therefore, the AER will be equal to $0.0675/kWh.

4. If a size group has no models listed, no EEQL will be established.

5. *No Significant Difference Adjustment*—If all models in a size group have EFs within 10 percent of the model in the group with the lowest EF, the EEQL will be equal to 1.1 times the lowest EF (note that while no models from this size groups in the AHAM Directory would qualify, there is an opportunity for new models coming into the market to qualify).

6. For the remaining groups (except as noted in Step 7), the EEQL will be equal to the EF of the model that is 15 percent of the way down the list (15%EF). This point on the list is determined by:

a. Multiplying the total number of models in the groups by 0.15;

b. Rounding to the nearest whole number (if the number from the previous step is less than 0.5, round to 1).

7. *Deviations from the 15%EF*—The EEQL will not be equal to the 15%EF if any of the following conditions exist:

a. More than 75 percent of the models in the group have EF's greater than or equal to the 15%EF, and the first model listed has an EF which is greater than the 15%EF.

b. More than 75 percent of the models in the group have EFs equal to the 15%EF, *and* the first model on the list also has an EF equal to the 15%EF.

c. A model with an EF greater than or equal to the 15%EF for its size group has an EnergyGuide Label rating (annual operating cost) greater than or equal to a model in a larger size group of the same product class which did not qualify for the "Energy Winner" award sticker.

If any of the above conditions exists, the EEQL will be set as follows:

50% Adjustment—If condition (a) exists, the EEQL will be equal to the 15%EF plus 0.1. The purpose of this adjustment is to avoid having more than 50 percent of the models in a size group qualify (when models with larger EFs exist in the group).

75% Adjustment—If condition (b) exists, the EEQL will be equal to the EF of the first model on the list plus 0.1. The purpose of this adjustment is to avoid having more than 75 percent of the models qualify in any size group.

Fairness Adjustment—If condition (c) exists, the 15%EF will be increased in increments of 0.1 until the condition no longer exists. The EEQL will then be equal to this value. This adjustment is used because of the philosophy that it is not "fair" to identify a model as an "energy winner" when it uses the same or more energy than all larger model that did not qualify as an "energy winner."

C. Proposed EEQLs for 1986

The following tables show the proposed Energy Efficiency Qualification Levels (EEQLs) for each product class size group for 1986 (second to last column), using the procedures proposed in section (II.B) of this notice. The last column of each table shows the number of qualifying models listed in the January 1986 edition of the AHAM Directory.

As can be seen from these tables, 168 (17 percent) of the refrigerator models and 62 (14 percent) of the freezer models in the AHAM Directory qualify for the "Energy Winner" award sticker. The total number of refrigerator and freezer models that qualify is 230 (16 percent).

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PROPOSED EEQLS FOR NEW REFRIGERATORS FOR 1986 BASED ON PRODUCTS LISTED IN THE JANUARY 1986 AHAM DIRECTORY

Group No.	Type	Defrost system	Size Range (cubic feet)	No. of models in group	Group energy factors		Group EEQL	No. of qualification models
					Low	High		
1a	All	All	0.0 to 4.4	57	1.5	4.5	4.0 [a]	1
1b	All	All	4.5 to 8.4	48	3.0	7.1	5.8	9
2a	All	Manual	8.5 to 12.4	27	7.9	10.2	9.6	13
2b	All	do	12.5 to 16.4	0			10.2	20
2c	All	do	16.5 to 20.4	0			None	
2d	All	do	20.5 to 24.4	0			None	
2e	All	do	24.5 to 28.4	42	4.7	6.9	None	
3a	All	Partial	8.5 to 12.4	31	5.1	8.1	6.5	7
3b	All	do	12.5 to 16.4	0			7.8	10
3c	All	do	16.5 to 20.4	0			None	
3d	All	do	20.5 to 24.4	0			None	
3e	All	do	24.5 to 28.4	0			None	
4a	SD/T	Automatic	8.5 to 12.4	26	4.3	5.9	5.9	5
4b	SD/T	do	12.5 to 16.4	137	5.1	7.9	7.1	21
4c	SD/T	do	16.5 to 20.4	276	5.4	9.7	7.9	56
4d [b]	SD/T	do	20.5 to 24.4	57	6.6	8.6	8.3	10
4e [b]	SD/T	do	24.5 to 28.4	0			None	
5a	T-DI	do	8.5 to 12.4	0			None	
5b	T-DI	do	12.5 to 16.4	0			None	
5c [b]	T-DI	do	16.5 to 20.4	15	6.4	6.6	7.0 [a]	0
5d [b]	T-DI	do	20.5 to 24.4	30	6.5	7.4	7.3 [a]	1
5e	T-DI	do	24.5 to 28.4	0			None	
6a	S	do	8.5 to 12.4	0			None	
6b	S	do	12.5 to 16.4	0			None	
6c [b]	S	do	16.5 to 20.4	64	5.2	7.6	6.5 [a]	3
6d [b]	S	do	20.5 to 24.4	54	5.2	8.4	7.0	8
6e [b]	S	do	24.5 to 28.4	8	6.6	6.6	8.6	1
7a	S-DI	do	8.5 to 12.4	0			None	
7b	S-DI	do	12.5 to 16.4	0			None	
7c [b]	S-DI	do	16.5 to 20.4	3	5.5	5.8	6.1 [a]	0
7d [b]	S-DI	do	20.5 to 24.4	62	5.3	6.9	7.0 [a]	0
7e [b]	S-DI	do	24.5 to 28.4	12	6.6	8.3	8.3	2
8a	B	do	8.5 to 12.4	0			None	
8b	B	do	12.5 to 16.4	0			None	
8c	B	do	16.5 to 20.4	7	6.4	7.8	7.8	1
8d	B	do	20.5 to 24.4	0			None	
8e	B	do	24.5 to 28.4	0			None	
Total Refrigerators				969				166
9a	U	Manual	0.0 to 7.4	27	3.1	7.3	7.3	11
9b	U	do	7.5 to 11.4	24	7.8	11.2	10.4	4
9c	U	do	11.5 to 15.4	46	8.3	14.5	12.4	8
9d	U	do	15.5 to 19.4	49	9.2	16.7	15.4	7
9e	U	do	19.5 to 23.4	32	10.2	15.5	12.6 [a]	4
9f	U	do	23.5 to 27.4	0			None	
9g	U	do	27.5 to 31.4	6	11.6	11.6	12.6 [a]	0
10a	U	Automatic	0.0 to 7.4	0			None	
10b	U	do	7.5 to 11.4	0			None	
10c	U	do	11.5 to 15.4	4	8.9	8.9	9.8 [a]	0
10d	U	do	15.5 to 19.4	40	7.3	11.7	10.6	9
10e	U	do	19.5 to 23.4	2	10.3	10.3	11.3 [a]	0
10f	U	do	23.5 to 27.4	0			None	
10g	U	do	27.5 to 31.4	2	7.1	7.1	7.8 [a]	0
11a	C	Manual	0.0 to 7.4	38	7.2	12.6	12.7 [a]	0
11b	C	do	7.5 to 11.4	42	8.1	16.2	14.9 [a]	1
11c	C	do	11.5 to 15.4	39	11.2	20.8	17.5	0
11d	C	do	15.5 to 19.4	23	12.1	22.4	18.0 [a]	2
11e	C	do	19.5 to 23.4	33	13.3	24.5	21.9	5
11f	C	do	23.5 to 27.4	22	13.9	23.0	23.0	4
11g	C	do	27.5 to 31.4	1	13.9	13.9	15.3 [a]	0
Total Freezers				430				62
Total Refrigerators and Freezers				1,429				230

Key for Refrigerator Table.

The number of models in these groups may not be accurate. Since the AHAM Directory does not currently identify which models have thru-the-door ice service, BPA attempted to identify these models through an informal survey. BPA will revise the table and EEQLs is better information is provided to BPA before May 22, 1986 (see Section III).

Key for Refrigerator and Freezer Tables.

—*Type (second column):*

Refrigerators—Single Door (SD), Top-Mounted Freezer (T), Side-Mounted Freezer (S), Bottom-Mounted Freezer (B), Thru-the-Door Ice Service (DI).

Freezers—Upright (U), Chest (C).

—EEQL (second to last column)—Energy Efficiency Qualification Level: a—Affected by "No Significant Difference Adjustment"; b—Affected by "50% Adjustment"; c—Affected by "Fairness Adjustment."

III. Request for Product Information from Manufacturers

The following requests for information have been approved by the Office of Management and Budget (OMB approval #1910–1200).

A. Thru-the-Door Ice Service

As described in section (II.B.) of this notice, BPA is proposing to establish separate Energy Efficiency Qualification levels (EEQLs) for refrigerator models with thru-the-door ice service (product classes 5 and 7). However, the AHAM Directory currently does not indicate which models have this feature. In order to establish the proposed EEQLs for these product classes, BPA conducted an informal survey to determine which models have thru-the-door ice service. It is possible that BPA may have incorrectly identified the models with this feature.

BPA is requesting all refrigerator manufacturers that produce models with thru-the-door ice service to send a list of model numbers to BPA by May 22, 1986, so that BPA can revise the proposed EFQLs and correctly identify the qualifying models in the brochure. If this information is not received by BPA by May 22, 1986, BPA will assume the proposed EEQLs are appropriate. BPA will then attempt to verify that the models identified by BPA as having met the EEQLs actually have this feature. Any model which can not be verified by BPA as having this feature will not be certified as having met the EEQL for its size group.

B. Models Not Listed in the 1985 or 1986 AHAM Directories

As discussed in section (II.A.) of this notice, BPA will automatically list in its 1986 brochure all qualifying models which are listed in the January 1985, June 1985, and January 1986 editions of the AHAM Directory. BPA is planning to submit the brochure for printing by June 1, 1986.

Manufacturers with models in the market that are not listed in these editions of the AHAM Directory must notify BPA by May 22, 1986, if they want these models to be considered for inclusion in the 1986 brochure. Information received after this date will be considered for future supplements to the brochure. For a model to be included in the brochure (and its supplements) it must meet the EEQL for its product class and size group. The manufacturer must identify the appropriate product class for each model number submitted (see section (II.B.1) of this notice). The manufacturer must also certify the refrigerated volumes and annual energy cost in accordance with section (II.A.) of this notice and that the model is available for sale in the Pacific Northwest region.

IV. Availability of Documents

The following documents are available from BPA:

AHAM January 1986 Directory of Certified Refrigerators & Freezers.

Report on Market Research and Program Recommendations: BPA Regionwide Promotion of Energy-Efficient Applicances.

Issues Related to the Establishment of Energy Efficiency Qualification Levels for New Refrigerators and Freezers.

To obtain a copy of these documents, call BPA's toll-free document request line: 800–841–5867 for Oregon; 800–624–9495 for other Western States. You will reach a recorded message where you may leave your request. Please request the document by its exact title.

Issued in Portland, Oregon, on April 15, 1986.

Peter T. Johnson,

Administrator.

[FR Doc. 86–8338 Filed 4–24–86; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

Proposed Consent Order With Atlantic Richfield Co.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of final action on proposed consent order.

SUMMARY: The Administrator of the Economic Regulatory Administration ("ERA") has determined that a proposed Consent Order between the Department of Energy ("DOE") and Atlantic Richfield Company ("ARCO") shall be made final as proposed. This Consent Order resolves ARCO's potential liability for overcharges arising out of prices charged by ARCO in sales of price-controlled crude oil which were related, or linked, to transactions involving other crude oil during the period January 1, 1973 through January 27, 1981.

ARCO will make a restitutionary payment of $313 million, plus interest from January 24, 1986, the date the Consent Order was executed by DOE. ERA will direct that these monies be deposited in a suitable account for appropriate distribution by DOE. In addition, within thirty days of the effective date of the Consent Order ARCO will pay $2 million for deposit into the Miscellaneous Receipts account of the United States Department of the Treasury as a compromise of civil penalties which DOE might have asserted pursuant to section 5 of the Emergency Petroleum Allocation Act of 1973, as amended.

The decision to make the ARCO Consent Order final was made after a full review of written comments from the public. A public hearing regarding the proposed Consent Order scheduled for March 21, 1986 was cancelled after two requests to make presentations were received but subsequently withdrawn.

FOR FURTHER INFORMATION CONTACT:
Robert G. Heiss, Economic Regulatory Administration, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–6727.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Comment Received
III. Analysis of Comments
IV. Decision

I. Introduction

On February 7, 1986, ERA issued a notice announcing a proposed Consent Order between DOE and ARCO which would resolve matters relating to ARCO's compliance with Federal petroleum price and allocation regulations with respect to its sales of price-controlled crude oil which were related, or linked, to transactions involving other crude oil during the period January 1, 1973 and January 28, 1981. (51 FR 5394, February 13, 1986). These matters had been expressly excluded from the Consent Order with ARCO dated January 23, 1985 ("1985 Consent Order"), which was subsequently made a final order of DOE. (50 FR 28603, June 27, 1985).

The proposed Order calls for ARCO to make $313 million (plus interest from January 24, 1986, the date of execution by DOE) in restitutionary payment and $2 million in compromise of civil penalties to discharge in full all of its obligations under the price and allocation regulations with respect to its linked, or tied-in, transactions between January 1, 1973 and January 28, 1981. The restitutionary sum would be paid to DOE for appropriate distribution. The amount paid in compromise of civil penalties which DOE might have asserted pursuant to section 5 of the Emergency Petroleum Allocation Act of 1973, as amended, would be for deposit into the Miscellaneous Receipts account of the United States Department of the Treasury.

The settlement includes the violations alleged in a Proposed Remedial Order (PRO) pending against ARCO. The PRO, as amended (50 FR 48120, November 21, 1985), charges ARCO with selling domestic price-controlled crude oil at prices in excess of those permitted by DOE regulations at 10 CFR 212.183(b), 205.202, 210.62(c), and 212.10(a) during the period March 1, 1978 through January 27, 1981. During the period of alleged violations, the total excess consideration, or premiums, alleged to have been unlawfully received by ARCO for 48,251,710 barrels of domestic price-controlled crude oil was $239,948,207.00, exclusive of interest. The interest thereon, computed through October 31, 1985, was $259,347,879.00, yielding a total of $499,296,086.00.

The February 7 notice provided in detail the basis for ERA's preliminary view that the settlement was favorable to the government and in the public interest. The notice solicited written comments from the public relating to the adequacy of the terms and conditions of the settlement, and whether the

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settlement should be made final. The notice also announced a public hearing for the purpose of receiving oral presentations on the settement. That hearing, which was scheduled for March 21, 1986, was cancelled (51 FR 9702, March 20, 1986) after two requests to make presentations were received but subsequently withdrawn.

II. Comments Received

ERA received four written comments. All four comments were considered in making the decision as to whether or not the proposed Consent Order should be made final.

The comments fall into three general subject categories. First, one of the four comments addressed DOE's legal theory set forth in the PRO and the adequacy of the settlement of that case. Second, all four comments were directed at the distribution of the restitutionary payments proposed in the ARCO settlement. Third, two comments objected to the amount of compromised civil penalty—one as too little and the other as excessive.

The one comment that addressed the adequacy of the proposed settlement amount was submitted on behalf of certain named and all other utility and surface transportation end-users of petroleum products ("end-users").

With regard to the second category, one comment, which was submitted on behalf of the Controller of California and the Attorneys General of Connecticut, Indiana and Michigan, concerned the non-specific nature of the provision of the proposed Order pertaining to distribution procedures. In addition, it proposed distribution to the states of any amounts not awarded to parties shown to have been actually injured.

Two other comments, also urging the ultimate distribution to the states of monies remaining after the payment of identifiable injured parties, were filed on behalf of the following: Arkansas, Delaware, Iowa, Louisiana, North Dakota, Pennsylvania, Rhode Island, Utah and West Virginia.

The fourth comment belonging in this category, submitted on behalf of the end-users, suggested that they should receive a portion of the distribution.

In sum, the comments falling in the second category did not question the basis of the settlement or adequacy of the settlement amount, but recommended revision of the distribution provision of the proposed Consent Order or urged that distribution be made to the states or to particular end-user groups.

The third category of comments, relating to the amount designated as compromise of civil penalties which could have been sought, were filed by the end-users and the Commonwealth of Pennsylvania. The end-users urged a greater amount and Pennsylvania urged that all $315 million be designated for restitution and none for civil penalty compromise unless DOE could "document" that civil penalty compromise was warranted.

III. Analysis of Comments

The February 7 notice solicited written comments and provided the opportunity for a public hearing to enable the ERA to receive information from the public relevant to the decision whether the proposed Consent Order should be finalized as proposed, modified, or rejected. To ensure greater public understanding of the basis for the proposed settlement, the February 7 notice provided specific information regarding ARCO's overcharge liability and the considerations that went into the government's preliminary agreement with the proposed terms. This settlement information enabled the public to knowledgeably address the areas in which questions or concerns may have existed.

The signle written comment by the end-users, which addressed the adequacy of the settlement, maintains that ERA should have used a different legal theory in its PRO, and that the use of that theory would have yielded an additional possible liability of $150 million in overcharges and interest. On that premise, the comment contends that ERA's proposed settlement, based on the allegations made in the litigation, is accordingly insufficient. ERA disagrees with both the assumption and the conclusion contained in this comment.

The end-users allege that ARCO acted in concert with its crude oil reseller trading partners in the linked transactions to cause the miscertification pf price-controlled oil. The comment concludes that the settlement sum should therefore include not only the benefits ARCO itself received but also, as a penalty for alleged "fraud" and "conspiracy," all benefits obtained by ARCO's trading partners as well as all consequential harm to the refiner-participants in the Entitlements Program, wholesalers, retailer, and end-user. The comment maintains that this measure of settlement would more appropriately approximate the treble damages available in a private action under section 210 of the Economic Stabilization Act ("ESA").

The comment is misdirected. The purpose of the proposed settlement is to resolve the regulatory violations ERA has alleged against ARCO. That the proposed settlement does not seek to recover unlawful revenues received by other persons, and that it does not exact penalties for alleged conduct beyond the scope of the matters ERA has alleged against ARCO, are not cognizable objections.[1] Furthermore, the availability of treble damages in private actions under ESA section 210 is not relevant to the assessment of the appropriateness of a settlement sum that resolves a public enforcement action for restitution pursuant to ESA section 209.

ERA believes that its assessment of the case, considering the specific facts and circumstances reflected in the PRO upon which the proposed settlement was based, was proper. Accordingly, it concludes that both the restitutionary payment of $313 million and the amount of $2 million in compromise of civil penalties, which the comment also describes as inadequate, were appropriate in the circumstances of this case.

With respect to the second category, the comment of the Controller of California and the Attorneys General of several states concerning the non-specific nature of the provision of the proposed Order pertaining to distribution procedures objects to the possibility that DOE might decide to adopt a remedial plan without following the procedures of 10 CFR 205.199 or 205.280, *et seq.* (Subpart V), or without following any other procedures which afford interested parties similar rights.

The comment submitted by the end-users contends that DOE should distribute a substantial portion of the restitutionary monies to end-users. The stated premise of the comment is that a substantial portion of the overcharges was passed through to end-users in relationship to their use of oil products. All the comments received from state authorities propose the distribution of unclaimed and unsuccessfully claimed monies to the states for use in energy-related programs and projects which would benefit all the states' citizens allegedly injured by the overcharges. In addition, the comment submitted by eight Attorneys General maintains that the allowable uses for any refunds to the states should not be limited to the five specific programs identified in section 155 of Pub. L. No. 97–377, 96 Stat. 1830, December 31, 1982 (known as "the Warner Amendment"), for accomplishing restitution.

[1] The proposed settlement does not in any event event foreclose DOE from taking appropriate enforcement action against other persons for regulatory violations arising from the allegedly linked transactions.

Paragraph 403 of the proposed Consent Order provides that "[t]he Administrator of ERA, or his designee, shall direct that these monies be deposited in a suitable account pending DOE's determination of appropriate restitutionary distribution." ERA believes this provision should not be revised.

DOE has not yet resolved the matter of the appropriate disposition of the restitutionary payment. It recognizes that the task of tracing to specific customers the monies associated with the alleged crude oil violations in this case would be extremely difficult, if possible at all. As written, Paragraph 403 of the proposed Consent Order provides for ARCO to deposit the restitutionary payment of $313 million into the U.S. Treasury escrow account. This disposition would defer the question of the proper method of distribution until an appropriate determination can be made, but it does not finally affect the identity of the ultimate recipients of the funds. The resolution of this question, however, should not be an impediment to making the proposed Consent Order final and receiving the monies from ARCO. Indeed, the question of the most appropriate disposition of the funds has no bearing on the settlement of ARCO's alleged liability at this time. Accordingly, remedial considerations will not be further addressed in this notice.[2]

Finally, the end-users suggest that the $2 million to be paid by ARCO, in compromise of civil penalties which could have been sought, was too little, whereas the comment submitted on behalf of the Commonwealth of Pennsylvania suggest that the compromise civil penalty amount should be zero and the restitution amount increased by $2 million, unless DOE documents that the facts of the case warrant that level of civil penalty compromise. The circumstances of this case and DOE's authority concerning civil penalties amply support the Department's acceptance of $2 million in compromise of such penalties. DOE is empowered to accept a compromise of civil penalties. 10 CFR 205.203(b)(2). The potential maximum amount of civil penalties for crude oil violations is $20,000 per violation. *Id.* § 205.203(b)(1)(A). In this case, ERA had alleged that ARCO had committed violations in connection with 140 crude oil sales transactions. Accordingly, it is fully appropriate for DOE to accept a compromise of civil penalties from ARCO in the stated amount as part of the settlement of DOE's allegations. Considering the bases upon which the government could have sought civil penalties, ERA also believes that a civil penalty compromise of $2 million—the largest amount obtained in an administrative oil pricing case—is not inadequate.

For the foregoing reasons, DOE has determined that the proposed Consent Order is in the public interest and should be made final without modification.

IV. Decision

By this notice, and pursuant to 10 CFR 205.199J the proposed Consent Order between ARCO and DOE executed on January 25, 1986, is made a final order of the Department of Energy, effective the date of publication of this notice in the **Federal Register.**

Issued in Washington, DC on April 17, 1986.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 86–9337 Filed 4–24–86; 8:45 am]

BILLING CODE 6450–01–M

[2] All the comments in this category also object to the possible payment of the restitutionary amount to the Miscellaneous Receipts account of the U.S. Treasury on grounds that such a transfer does not constitute restitution within the meaning of section 209 of the ESA. For the reasons discussed above, this objection is also premature. However, in this regard, DOE notes that it previously concluded, in Ruling 1986–1 (49 FR 22069, May 25, 1984), that the remedy of refund to the treasury is within its statutory authority. *See Paynes 22, Inc. v. U.S.*, 762 F.2d 91 (Em. App. 1985).

[Docket No. ERA–C&E–86–33; OFP Case No. 68011–6313–20, 21, 22–24]

Powerplant and Industrial Fuel Use; Witchita Falls Energy Investments, Inc.–JV

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Acceptance of Petition for Exemption and Availability of Certification by Witchita Falls Energy Investments, Inc.–JV.

SUMMARY: On March 19, 1986, Witchita Falls Energy Investments, Inc.–JV (WFEI) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent exemption based on the "lack of alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum" for a proposed gas fired powerplant to be located at CertainTeed Corporation's Fiberglass Reinforcement Plant at Witchita Falls, Texas, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29209, July 6, 1982), and are found at 10 CFR 503.37.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701(c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E–190, Washington, D.C. 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before June 9, 1986. A request for a public hearing must be made within this same 45-day period.

ADDRESS: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA–045, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585.

Docket No. ERA–C&E–86–33 should be printed on the outside of the envelope and the document contained therein.

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FOR FURTHER INFORMATION CONTACT:
Steven Mintz, Coal & Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-045, Washington, D.C. 20585, Telephone (202) 252-9506
Steven E. Ferguson, Esq., Office of General Counsel Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone (202) 252-6947.

SUPPLEMENTARY INFORMATION: WFEI proposes to construct and operate its 80 MW powerplant at CertainTeed Corporation's Fiberglass Reinforcement Plant at Witchita Falls, Texas. The system will consist of three gas fired turbine generators, three heat recovery steam generators, one steam driven turbine generator, and ancillary equipment. The facility will generate electrical power for sale to Texas Utilities Electric Company and produce steam to be used at the adjoining CertainTeed plant.

Section 212(a)(1)(A)(ii) of the Act provides for a permanent exemption due to lack of an alternate fuel supply at a cost which does not substantially exceed the cost of using imported petroleum. To qualify, the petitioner must certify that:

(1) A good faith effort has been made to obtain an adequate and reliable supply of an alternate fuel for use as a primary energy source of the quality and quantity necessary to conform with the design and operational requirements of the proposed unit;

(2) The cost of using such a supply would substantially exceed the cost of using imported petroleum as a primary energy source during the useful life of the proposed unit as defined in §503.6 (cost calculation) of the regulations;

(3) No alternate power supply exists, as required under §503.8 of the regulations;

(4) Use of mixtures is not feasible, as required under §503.9 of the regulations; and

(5) Alternative sites are not available, as required under §503.11 of the regulations.

In accordance with the evidentiary requirements of § 503.37(c) (and in addition to the certifications discussed above), WFEI has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA): the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.*; and DOE guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment.

If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until EAR's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that WFEI is entitled to the exemption requested. That determination will be based on the entire record on this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C., on April 15, 1986.

Robert L. Davies,
Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-9336 Filed 4-24-86; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RM85-1-000 (Parts A-D)]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol (ARCO Oil & Gas Co.); Order Granting Request For Waiver

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

Issued: April 22, 1986.

On February 24, 1986, ARCO Oil and Gas Company (ARCO) filed a request for waiver of the restrictions in the transitional provisions of § 284.105(a) of the regulations adopted in Order No. 436.[1] ARCO seeks the waiver to permit the transportation of gas by Natural Gas Pipeline Company (Natural) on behalf of Mississippi River Transmission Corporation (MRT) until such time as Natural is issued a certificate, pursuant to section 7 of the Natural Gas Act, authorizing the transportation of gas for MRT. On November 1, 1985, Natural filed an application for such a certificate. The application was amended on November 9, 1985 and is currently pending in Docket No. CP86-186-000. We will grant ARCO's request for waiver.

On September 4, 1985, ARCO and MRT entered into a gas purchase agreement whereby MRT agreed to purchase from ARCO gas located in offshore Texas. On July 22, 1985, MRT entered into a transportation agreement with Natural whereby Natural agreed to transport the offshore gas under Part 284 of the Commission's Regulations.

The transportation agreement specified a two-year term, commencing on the date of initial deliveries of gas. On July 22, 1985, ARCO and Natural entered into a tie-in agreement whereby ARCO agreed to construct an undersea pipeline which would connect into Natural's 16-inch pipeline in High Island Block 71 to facilitate the transportation and sale of the offshore gas to MRT.

Construction of the undersea pipeline by ARCO began on September 16, 1985. Prior to October 9, 1985, ARCO expended $2,600,000 on the construction, which was delayed due to repairs and hurricanes. The pipeline was successfully tested on November 27, 1985, but is currently shut-in as Natural has declined to transport the gas until section 7 certificate authority is received.

In *CLARCO Gas Company, Inc.*,[2] we clarified our policy concerning waivers of the restrictions in the transitional provisions of Order No. 436:

> If gas hasn't flowed by October 9, 1985 the Commission will grant a waiver from the restrictions in the transitional provisions to the extent necessary to allow the transportation to commence if the parties executed a written gas transportation to commence if the parties executed a written gas transportation agreement prior to October 9, 1985, and expended significant funds or constructed significant facilities *in reliance on that agreement*, after the agreement was executed and prior to October 9, 1985.

We find that the facts and circumstances presented by ARCO meet the CLARCO standard in that ARCO constructed significant facilities prior to October 9, 1985 in reliance on a written transportation agreement which was executed prior to October 9, 1985. Accordingly, we grant ARCO's request for waiver of the restrictions in section 284.105 to the extent necessary to permit Natural's transportation on behalf of MRT to commence for a term consistent with the provisions of section 284.105 of the Commission's Rules.

[1] 33 FERC ¶ 61,007, 50 FR 42408 (October 18, 1985).

[2] 34 FERC ¶ 61,336 (March 28, 1986).

By the Commission.
Kenneth F. Plumb,
Secretary.

[FR Doc. 86-9317 Filed 4-24-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RM85-1-000 (Parts A-D)]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol Marathon Oil Co.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

Issued: April 22, 1986.

On March 14, 1986, Marathon Oil Company (Marathon) filed a request for waiver of the restrictions in the transitional provisions of § 284.105 of the regulation adopted in Order No. 436.[1] Marathon seeks the waiver to permit the transportation of gas by ANR Pipeline Company (ANR) for Seagull Marketing Service, Inc. (Seagull) on behalf of various local distribution companies for their system supply.[2] We will grant Marathon's request for waiver.

In its request, Marathon states that Marathon, Amerada Hess Corporation (Amerada), and the Diamond Shamrock Exploration Company are the producers of gas located at the Eugene Island Block 159B platform in offshore Louisiana. On May 29, 1985, Marathon and ANR entered into a written agreement whereby Marathon agreed to reimburse ANR for a pro rata share of the cost of installing an undersea pipeline connecting ANR's offshore pipeline system to the Block 159B platform and for a pro rata share of the cost of new emission control facilities.[3] The agreement was contingent upon the producers' entering into a transportation agreement with ANR for the gas produced from the Block 159B platform.

ANR, Seagull, and Amerada entered into such a transportation agreement, dated August 29, 1985 and signed September 26, 1985, whereby ANR agreed to provide transportation service, under section 311 of the Natural Gas Policy Act, through ANR's interconnection facilities at the Eugene Island Block 159B platform in offshore Lousiana to various onshore interconnection points with other interstate pipelines [4] on behalf of the local distribution companies. The transportation agreement stipulates that the gas will be sold by the producers to Seagull, as agent for the local distribution companies.

In that the May 29, 1985 agreement was contingent upon execution of the transportation agreement, Marathon became liable for its pro rata share of the cost of the interconnection facility and the new emission facility on September 26, 1985, the date the transportation agreement was signed.

Marathon states that ANR began construction of the facilities prior to October 9, 1985. Four separate hurricanes and the resulting damage delayed completion of the connection facilities until late December 1985. Marathon states that ANR purchased the gas for its own use from late December, 1985 to mid-February, 1986, but that the gas is currently shut-in as ANR has declined to transport the gas pursuant to the contract absent a waiver of the restrictions in the transitional provision of Order No. 436.

In *CLARCO Gas Company, Inc.*, [5] we clarified our policy concerning waivers of the restrictions in the transitional provisions of Order No. 436:

> If gas hasn't flowed by October 9, 1985 the Commission will grant a waiver from the restrictions in the transitional provisions to the extent necessary to allow the transportation to commence if the parties executed a written gas transportation agreement prior to October 9, 1985, and expended significant funds or constructed significant facilities *in reliance on that agreement*, after the agreement was executed and prior to October 9, 1985.

We find that the facts and circumstances presented by Marathon meet the *CLARCO* standard in that the parties executed a written gas transportation agreement prior to October 9, 1985 and Marathon became liable for its pro rata share of the cost of the interconnection facilities at the time the transportation contract was executed. Construction of the facilities began prior to October 9, 1985. Accordingly, we grant Marathon's request for waiver of the restrictions in § 284.105 to the extent necessary to permit ANR's transportation on behalf of the local distribution companies, as described above and in the transportation agreement, to commence.

By the Commission.
Kenneth F. Plumb,
Secretary.

[FR Doc. 86-9318 Filed 4-24-86; 8:45 am]
BILLING CODE 6717-01-M

[1] 33 FERC § 61,007, 50 FR 42408 (October 18, 1985).

[2] The local distribution companies are Elizabethtown Gas Company, Pennsylvania Gas and Water Company, and Commonwealth Gas Pipeline Corporation. Seagull Marketing Services, Inc. serves as their agent.

[3] The May 29, 1985 agreement states that ANR's cost of service on the connection facilities will be approximately $800,000 for the September 15, 1985 to January 1, 1987 period. Marathon agreed to pay pipeline 37.5% of the difference between $800,000 and the actual transportation revenues received by ANR, if less than $800,000 during the 9/15/85 to 1/1/87 transport period, attributable to the connection facilities. The agreement states that the $800,000 figure will be reduced for any volumes purchased by ANR during the transport period at the rate of seven cents per MMBTu. (The $800,000 figure was reduced to approximately $760,000 as a result of gas purchases by ANR during December 1985 to mid-February 1986.) The agreement further states that Marathon will pay the lesser of 37.5% of $800,000 or 37.5% of the actual cost of new emission control facilities at ANR's Patterson Station.

[4] Columbia Gulf Transmission Company, Tennessee Gas Pipeline Company, Transcontinental Gas Pipeline Corporation, Texas Eastern Gas Pipeline Company.

[5] 34 FERC ¶ 61,336 (March 28, 1986), 51 FR 11,408.

[Docket No. TA86-10-20-002]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

April 21, 1986.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on April 17, 1986, tendered for filing Substitute Twelfth Revised Sheet No. 203 to its FERC Gas Tariff, Second Revised Volume No. 1.

Algonquin Gas states that such tariff sheet is being filed to reflect in Algonquin Gas' Rate Schedule F-2, changes in the underlying rates of Consolidated Gas Transmission Corporation ("Consolidated"), as reflected in Consolidated's March 31, 1986 filing, proposed to be effective March 1, 1986.

Algonquin Gas requests that the Commission accept Substitute Twelfth Revised Sheet No. 203 to be effective March 1, 1986 to coincide with the proposed effetive date of Consolidated's rate change.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 28, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a motion to intervene. Copies of this filing are on file

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with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9319 Filed 4-24-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-12-30-000 & 001]

Algonquin Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

April 21, 1986.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on April 17, 1986 tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1.

Third Substitute Original Sheet No. 205 proposed to be effective December 31, 1985
Second Revised First Revised Sheet No. 205 proposed to be effective January 1, 1986
Revised Substitute Second Revised Sheet No. 205 proposed to be effective February 1, 1986
Revised Fourth Revised Sheet No. 205 proposed to be effective April 1, 1986

Algonquin Gas states that such tariff sheets is being filed pursuant to the provisions of Section 7 of its Rate Schedule F-4 to reflect in its rates, effective December 31, 1985 and in its rates filed and made effective subsequent to December 31, 1985, an increase in the Contract Adjustment Demand Rate to be charged by its pipeline supplier, Texas Eastern Transmission Corporation ("Texas Eastern"), as set forth in Texas Eastern's March 26, 1986 filing.

Algonquin Gas request that the Commission accept the above tariff sheets to be effective as proposed.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 28, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any persons wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9320 Filed 4-24-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7560-001 etc.]

City of Austin Electric Utility Department et al.; Availability of Environmental Assessment and Finding of No Significant Impact

April 22, 1986.

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

Project No.	Project name	State	Water body	Nearest town	Applicant
Exemptions					
7560-001	Longhorn Dam	TX	Colorado River	Austin	City of Austin Electric Utility Dept.
9437-000	Yellowjacket	CA	Yellowjacket Creek	Calistoga	John Naerthout, Jr.
Licenses					
5376-001	Horseshoe Bend	ID	Payette River	Horseshoe Bend	Boise Cascade Corp.
7888-001	Comtu Falls	VT	Black River	Springfield	Comtu Falls Corp. & Comtu Associates.
9033-000	Erie Canal Lock No. 32	NY	New York State Barge Canal	Pittsford	Fallen Hydro, Inc.

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements for these projects will not be prepared. Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE, Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9314 Filed 4-24-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-7-51-000, 001]

Great Lakes Gas Transmission Co.; Proposed Changes in Gas Tariff Under Purchased Gas Adjustment Clause Provisions

April 21, 1986.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes"), on April 15, 1986, tendered for filing the following tariff sheets:

First Revised Volume No. 1

Fifty-Sixth-A Revised Sheet No. 57
Substitute Fifty-Seventh Revised Sheet No. 57
Fifty-Seventh-A Revised Sheet No. 57
Substitute Fifty-Eighth Revised Sheet No. 57

Great Lakes states that the filing provides for a new pricing arrangement related to gas purchased from Great Lakes by Michigan Consolidated Gas Company ("Mich Con"). Under the new pricing provisions for Mich Con, the gas component of the rates consists of a monthly demand charge of $12.35 per Mcf of contract demand per month and a commodity charge of $2.15 per MMBtu for deliveries each day up to 75% of the contract quantity and a commodity charge of $2.00 per MMBtu for deliveries each day over 75% of contract quantity. For deliveries each day in excess of the daily contract quantity the gas component of the rate will be $1.95 per MMBtu.

Under the prior pricing arrangements, the gas cost component of Mich Con's rates was $4.40 per MMBtu for deliveries to partial requirement delivery points and $3.73 per MMBtu for deliveries to full requirement delivery points. The new pricing arrangements provide for monthly adjustments by the application of an index which will react to competitive prices in the markets served by Mich Con. Based on deliveries of full contract volumes the price reduction filed herewith will result in a savings to Mich Con of approximately $48,000,000 annually.

Great Lakes is requesting effective dates of January 22, 1986 for Fifty-Sixth-A Revised Sheet No. 57, February 21, 1986 for Fifty-Seventh Revised Sheet No. 57, March 14, 1986 for Fifty-Seventy-A Revised Sheet No. 57, and May 1, 1986 for Substitute Fifty-Eighth Revised Sheet No. 57. In aid thereof, Great Lakes requests waiver of the 30-day notice requirement of the provision of § 154.38(d)(4)(iv)(a) of the Commission's Regulations so as to permit this out-of-period PGA filing to implement the foregoing substantial reduction in purchased gas cost as soon as possible.

Fifty-Sixth-A Revised Sheet No. 57 reflects the new pricing provisions and is proposed to be effective January 22, 1986 subject to obtaining all regulatory approvals without conditions. The delay in filing this Purchased Gas Adjustment is due to finalizing the precise amendments to the terms and conditions of the Gas Purchase Contracts and Three Party Agreement.

Substitute Fifty-Seventh Revised Sheet No. 57 filed herewith is required to provide for a reduction in the rates to Mich Con as filed on Fifty-Seventh Revised Sheet No. 57 filed by Great Lakes on March 5, 1986 in Docket No. TA86-5-51-000 and 001 to be effective February 21, 1986 and approved by the Commission on April 2, 1986.

Fifty-Seventh-A Revised Sheet No. 57 filed herewith reflects the reduction in the gas cost component of Mich Con's purchases in excess of contract quantity under Rate Schedule AOS-1.

Substitute Fifty-Seventh Revised Sheet No. 57 filed herewith is required to provide for a reduction in the rates to Mich Con as filed on Fifty-Seventh Revised Sheet No. 57 on March 31, 1986 in Docket No. TA86-6-51-000.

Any person desiring to be heard or to protest said filing should file a Motion to Intervene or Protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC., 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before April 28, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc.86-9321 Filed 4-24-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-1-27-003]

North Penn Gas Co., Proposed Changes in FERC Gas Tariff

April 21, 1986.

Take notice that North Penn Gas Company (North Penn) on April 17, 1986, tendered for filing third Substitute Eightieth Revised Sheet No. PGA-1 to its FERC Gas Tariff, First Revised Volume No. 1. The filing is proposed to be effective March 1, 1986.

The purpose of this filing is to track a change in rates filed by Consolidated Gas Transmission Corporation (Consolidated) on March 31, 1986 for effectiveness March 1, 1986.

In all other respects this filing contains the same changes as filed in North Penn's PGA Compliance filing of April 2, 1986, in the above docket.

North Penn respectfully requests waiver of any of the Commission's Rules and Regulations as may be required to permit this filing to become effective March 1, 1986, as proposed.

Copies of this letter of transmittal and all enclosures are being mailed to each of North Penn's jurisdictional customers and interested state Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 28, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9322 Filed 4-24-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-414-000 et al.]

Electric Rate and Corporate Regulation Filings; Pennsylvania Power Co. et al.

April 21, 1986.

Take notice that the following filings have been made with the Commission:

1. Pennsylvania Power Company

[Docket No. ER86-414-000]

Take notice that on April 17, 1986 Pennsylvania Power Company ("Penn Power") pursuant to 18 CFR § 35.13 and § 35.14 tendered for filing proposed changes in its FPC Electric Service Tariffs Nos. 30, 31, 32, 33 and 34 to the Pennsylvania boroughs of New Wilmington, Wampum, Zelienople, Ellwood City and Grove City, respectively. The proposed changes would increase revenues from jurisdiction sales and service by $208,631.65 or approximately 3.75% based on the 12-month period ending February 28, 1987. This increase is composed of an increase in the state tax surcharge from 4.37% to 4.49% effective April 1, 1986 and an increase in the energy cost rate ("ECR") from .4967¢/Kwh to .5716¢/Kwh effective April 1, 1986. The effect of the change in the state tax surcharge results in an increase in test year revenues of $5,491.32 and the ECR change results in an increase of $203,140.33 in test year revenues. A language change in the ECR Tariff is also sought.

The five municipal resale customers served by Penn Power entered into settlement agreements effective as of September 1, 1984. These agreements provide that these customers will be charged applicable retail rates as may be in effect during the terms of the agreements. Changes in rates were agreed to become effective as to these resale customers simultaneously with changes approved by the Pennsylvania Public Utility Commission. These settlement agreements were approved by the Federal Energy Regulatory Commission through a Secretarial letter dated December 14, 1984 in Docket Nos. ER 77-277-007 and ER81-779-000. Waivers of certain filing requirements have been requested to implement the rate changes in accordance with the settlement agreements.

Copies of the filing were served up Penn Power's jurisdictional customers and the Pennsylvania Public Utility Commission.

Comment date: May 6, 1986, in accordance with Standard Paragraph E at the end of this notice.

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2. The Connecticut Light and Power Company et. al.

[Docket No. ER86-415-000]

Take notice that on 4/17/86, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule pertaining to a Northfield Mountain Purchase Agreement between The Connecticut Light and Power Company, Western Massachusetts Electric Company (WMECO) and together with CL&P, the Licensees) and Holyoke Gas & Electric Department (the Department) dated as of May 1, 1986.

CL&P states that the Purchase Agreement provides for a sale to the Department of a specified percentage of capacity and related pondage from the Licensees' Northfield Mountain Pumped Storage Hydro Electric Project (Project) together with related transmission service during the period May 1, 1986 to October 31, 1990.

CL&P requests that the Commission waive its standard period and permit the rate schedule to become effective on May 1, 1986.

CL&P states that this Agreement supercedes a prior Northfield Mountain Purchase Agreement, CL&P Rate Schedule FERC No. 306, WMECO Rate Schedule FERC No. 244. The prior Northfield Mountain Purchase Agreement terminates by its own terms on April 30, 1986.

CL&P states that the capacity charge rate for the Project is a rate determined on a cost-of-service basis for the entire Project. The monthly transmission charge is equal to one-twelfth of the average annual cost of transmission service on the transmission system of the Licensees and their affiliated Northeast Utilities companies and is determined in accordance with Schedule B to the Purchase Agreement, multiplied by the number of kilowatts of winter capability which the Department is entitled to receive pursuant to the Purchase Agreement during each month. The station service charge is equal to the average cost of oil-fired generation on the system of the Licensees for the prior month, multiplied by the Department's share of the Project's station service energy requirements.

CL&P states that the services to be provided under the Purchase Agreement are the same as services provided by the Licensees relating to a sale of capacity from the Project to North Attleborough Electric Department pursuant to a rate schedule dated as of November 30, 1983. (Rate Schedule FERC Nos. CL&P 308 and WMECO 246).

CL&P further states that the filing is in accordance with Part 35 of the Commission's Regulations.

WMECO has filed a Certificate of Concurrence in this docket.

Comment date: May 6, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. EUA Power Corporation

[Docket No. EL86-33-000]

Take notice that on April 17, 1986 EUA Power Corporation ("EUA Power") filed a petition for a declaratory order seeking approval of a settlement agreement extending the terms of the settlement agreement of December 27, 1985 in Docket No. EL85-46-000 to EUA Power's purchase of an ownership share in the Seabrook nuclear generating project from Fitchburg Gas and Electric Light Company ("Fitchburg").

EUA Power is a corporation established to acquire ownership shares in the Seabrook project from utilities desiring to disengage from the project. On August 29, 1985, in Docket No. EL85-46-000, EUA Power sought a declaratory order making certain determinations in ratemaking and accounting in connection with the sale of power from an 11.27% ownership share in the project the EUA Power purposed to acquire from Bangor Hydro-Electric Company, Central Maine Power Company, Central Vermont Public Service Corporation and Maine Public Service Company. The issues in that proceeding were resolved by an uncontested settlement agreement of December 27, 1985. After its filing in Docket No. EL85-46-000, EUA Power agreed to purchase a 0.86519% share of the Seabrook project from Fitchburg. The signatories to the settlement agreement in Docket No. EL85-46-000 have executed a further settlement agreement in the present docket agreeing to extend the terms of the earlier settlement agreement to Fitchburg's share. EUA Power seeks approval of the further settlement agreement.

Comment date: May 7, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9313 Filed 4-24-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-39-004]

Wyoming Interstate Company, Ltd.; Compliance Filing

April 21, 1986.

Take notice that on April 16, 1986, Wyoming Interstate Company, Ltd. (WIC) tendered for filing Fourth Revised Sheet No. 5 to its FERC Gas Tariff, Original Volume No. 1. WIC states the sheet is filed pursuant to the Commission's order of March 17, 1986 in Docket No. RP85-39-003. The tariff sheet revises WIC's Rate Schedule I—Overrun Rate to reflect the computation of the rate based on a 100 percent load factor, rather than the actual monthly systemwide load factor. The overrun rate is applicable to overrun volumes and to Tennessee Gas Pipeline Company's interruptible transportation.

WIC indicates that copies of this filing were mailed to its customers and other entities.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 28, 1986. (18 CFR 385.214, 385.211). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9323 Filed 4-24-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Conservation and Renewable Energy

[Case No. RF-002]

Decision and Order Granting Waiver from Refrigerator and Refrigerator-Freezer Test Procedure to White Consolidated Industries, Inc.

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Notice of decision and order.

SUMMARY: Notice is given of the Decision and Order [Case No. RF-002] granting White Consolidated Industries, Inc., a waiver for its refrigerator-freezer model, Frigidaire Model FPCI18TDWO, equipped with an electronic defrost control from the existing U.S. Department of Energy refrigerator and refrigerator-freezer test procedure.

FOR FURTHER INFORMATION CONTACT:

Michael J. McCabe, U.S. Department of Energy, Office of Conservation and Renewable Energy, Mail Station CE-132, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-9127

Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Mail Statin GC-12, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9513

SUPPLEMENTARY INFORMATION: In accordance with 10 CFR 430.27(g), notice is hereby given of the issuance of the Decision and Order set out below. In the Decision and Order, White Consolidated Industries, Inc., has been granted a waiver for its refrigerator-freezer model equipped with an electronic defrost control, permitting the company to use an alternate test method.

Issued in Washington, DC, April 8, 1986.

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

Dicision and Order

In the Matter of: White Consolidated Industries, Inc., Case No. RF-002

The Energy Conservation Program for Consumer Products was established pursuant to the Energy Policy and Conservation Act, Pub. L. 94-163, 89 Stat. 917, as amended by the National Energy Conservation Policy Act, Pub. L. 95-619, 92 Stat. 3266, which requires the Department of Energy (DOE) to prescribe standardized test procedures to measure the energy consumption of certain consumer products, including refrigerators and refrigerator-freezers. The intent of the test procedures is to provide a comparable measure of energy consumption that will assist consumers in making purchase decisions. These test procedures appear at 10 CFR Part 430, Subpart B.

The Department of Energy amended the prescribed test procedure regulations, by adding § 430.27, to allow the Assistant Secretary for Conservation and Renewable Energy to waive temporarily test procedures for a particular basic model when a petitioner shows that the basic model contains one or more design characteristics which prevent testing of the basic model according to the prescribed test procedure or when the prescribed test procedure may evaluate the basic model in a manner so unrepresentative of its true energy consumption characteristics as to provide materially inaccurate comparative data. 45 FR 64108 (Sept. 26, 1980).

Pursuant to § 430.27(g), the Assistant Secretary shall publish in the **Federal Register** notice of each waiver granted, and any limiting conditions of each waiver.

On October 23, 1985, White Consolidated Industries, Inc. (WCI), filed a "Petition for Waiver" with the Office of Conservation and Renewable Energy of DOE in accordance with 10 CFR 430.27. At the same time WCI filed an "Application for Temporary Exception" with the Office of Hearings and Appeals (OHA) of DOE in accordance with 10 CFR § 205.125. On December 20, 1985, OHA issued a Decision and Order granting WCI partial temporary exception from the DOE refrigerator and refrigerator-freezer test procedure for its model refrigerator-freezer which uses an electronic defrost control system and which is manufactured by the firm. OHA's granting of partial temporary exception reflects WCI's request that it be allowed to use the test procedure prescribed by DOE in a waiver issued last year to another manufacturer. OHA determined that WCI, for temporary relief should use a test procedure similar, but not identical to the one requested for the WCI refrigerator-freezer, for temporary relief. OHA directed that WCI should use the long-time automatic defrost test procedures in Appendix A1 of 10 CFR Part 430 with a defrost timer run time (CT) of 12 hours. WCI had not submitted data in its petition for termporary exception to support a value of CT; therefore, OHA selected 12 hours as a reasonable appropoximation. OHA stipulated in its Decision and Order that the temporary exception relief granted shall remain in effect until the Office of Conservation and Renewable Energy of DOE issues a final Decision and Order with respect to WCI's Petition for Waiver under the authority of 10 CFR 430.27 or until the close of business on September 30, 1986, whichever occurs first.

With regard to WCI's Petition for Waiver, the Office of Conservation and Renewable Energy published the petition in the **Federal Register** and solicited comments, data, and information respecting the petition in conformance with the requirements of 10 CFR 430.27. 50 FR 51284 (December 16, 1985). Comments were received from one party, a manufacturer of refrigerators and refrigerator-freezers. These comments are discussed later in this notice.

The Office of Conservation and Renewable Energy consulted with the Federal Trade Commission on March 6, 1986, concerning the WCI petition.

Assertions and Determinations

WCI is a manufacturer of home appliances, including refrigerator-freezers. WCI has developed what it terms an "electronic defrost control system" (herein "EDC") for a model of refrigerator-freezer, Frigidaire Model FPCI18TDWO, that initiates defrost cycles in response to operating conditions and usage patters. WCI's petition requested DOE to grant WCI relief from the DOE test procedure for refrigerator and refrigerator-freezers for its EDC-equipped refrigerator-freezer model on the basis that the existing test procedure yields materially inaccurate estimates of the energy consumption of such units.

WCI stated that the EDC-equipped refrigerator-freezers initiates defrost cycles on the basis of compressor run times and the length of the preceding defrost period.

The petition states that under the conditions and procedures of the current DOE test procedure for refrigerator-freezers, the energy consumption of an EDC-equipped refrigerator will appear to be lower than a comparable timed-defrost unit. The petition explains that because the unit will defrost less frequently, less energy will be consumed during the test period, leading to test procedure results that do not represent accurately the unit's performance on a comparable basis with timed-defrost units.

Further, the petition seeks to use the alternate test procedure prescribed in DOE's Decision and Order granting Whirlpool Corporation (Whirlpool) waiver from DOE refrigerator-freezer test procedure for Whirlpool's refrigerator-freezer models equipped with electronic adaptive defrost controls. 50 FR 34186 (August 23, 1985).

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Comments were received from one manufacturer of refrigerators and refrigerator-freezers, Whirlpool, in response to the publication of WCI's waiver request in the **Federal Register**. WCI submitted a rebuttal statement to DOE responding to Whirlpool's comments as provided by DOE's test procedure waiver regulations. The comments received and WCI's rebuttal to the comments are summarized below.

Whirlpool commented that it supports WCI's request for waiver on the basis that the existing DOE test procedure will not adequately test the EDC-equipped model for energy consumption, and that granting the waiver would be consistent with DOE's determination on the Whirlpool petition.

However, Whirlpool disagreed with the petition's request to use the alternate test procedure prescribed in the Whirlpool case. Whirlpool states that for its models equipped with the company's automatic defrost controls ("ADC"), the control may initiate a defrost after as little as 6 hours of compressor run time or as much as 144 hours of compressor run time, whereas, the WCI control initiates a defrost anytime between 8 and 48 hours of compressor run time. Thus, Whirlpool argues that under some conditions the WCI control would defrost as much as three times as frequently as the Whirlpool control. Whirlpool maintains that this is a strong indication that different factors than those used by Whirlpool should be used to represent the frequency of defrost in the equation used to calculate energy consumption for each basic model or each basic defrost controller. Whirlpool points out that its case for an alternate test procedure used an equation to calculate energy consumption in which the factor .33 represented the approximate frequency of defrosts for the ADC system in units of defrosts/day. Whirlpool states that while this factor was relatively accurate for its ADC system since it was based on company filed test data of the models in question, the factor .33 may not be appropriate for other adaptive defrost control systems.

In its rebuttal comments, WCI maintains that while Whirlpool implies that the factor .33 was derived from field tests of its ADC models in question, the factor was determined by DOE upon the recommendation of the National Bureau of Standards. 50 FR 34186 (August 23, 1985).

WCI states that the factor chosen by DOE to represent the defrost interval of an electronic adaptive control system should be used for all such systems regardless of manufacturer unless test data or detailed analyses clearly show differences in performance. Moreover, WCI contends that there is no basis for treating the two cases differently since neither firm has comparable field test data or any other valid basis for asserting that differences in performance exist.

Furthermore, WCI maintains that Whirlpool's petition indeed was granted without meaningful test data since DOE's August 23, 1985, Decision and Order on Whirlpool's petition stated, "Absent meaningful test data upon which to base a more refined solution, the approximation of CT at 36 hours was found to allow Whirlpool to report reasonable and comparable energy data." 50 FR 34186 (August 23, 1985).

DOE agrees with WCI that the existing DOE test procedure for refrigerators and refrigerator-freezers (Appendix A1) is not appropriate for testing its EDC-equipped refrigerator-freezer since it would not yield results reflective of the expected energy consumption of such units in actual usage and would be burdensome to conduct because of the extremely long length of each test period. DOE considers that WCI has provided sufficient evidence that it is deserving of relief from the DOE test procedure for refrigerators and refrigerator-freezers for its EDC-equipped refrigerator-freezer Frigidaire Model FPCI18TDWO.

DOE previously agreed in the case of Whirlpool's petition (Case No. RF-001) that the provisions for testing "long-time" automatic defrost refrigerator-freezers found in the existing DOE test procedure can be adapted for testing automatic or electronic defrost control-equipped refrigerator-freezer models. The primary issue in any such case is the determination of a representative time between defrost cycles.

As noted by WCI in its rebuttal comments, DOE consulted the National Bureau of Standards (NBS) regarding Whirlpool's waiver request since NBS performed all of the laboratory work associated with the development of the DOE test procedure for refrigerators and refrigerator-freezers. Based on its review of the information included in Whirlpool's petition, the comments received on the petition, and Whirlpool's rebuttal to these comments, NBS recommended that, should DOE act to order an alternate test procedure for Whirlpool's ADC-equipped refrigerator-freezer models, the alternate test should be the "long-time" automatic defrost test and the value for the typical time between defrost cycles for use in the alternate test should be three days (72 hours, 36 hours compressor run time) which equates to 0.33 cycles per day. NBS arrived at its recommended value on the basis that it credits the ADC-equipped units with 80 to 90 percent of the maximum energy reduction possible. (For this estimate the maximum energy reduction possible, i.e., 100 percent energy reduction, is defined to be the condition where a defrost operation never occurs.) DOE accepted the NBS recommendation.

With regard to WCI's comments on the use of Whirlpool's field test data, DOE did review these data, but only to determine whether they disputed the NBS recommended value for the typical time between defrost cycles. They did not. Therefore, WCI is correct in asserting that DOE's determination was not derived from Whirlpool's field test data.

With regard to WCI's EDC-equipped refrigerator-freezer, WCI has not provided any data to support a value for the time between defrost cycles. Based upon WCI's description of the EDC-equipped unit, DOE believes that it will likely defrost more frequently than an ADC model since the unit will defrost based on the "heater-on" time in the previous defrost period, whereas, the ADC considers not only "heater-on" time but other factors including door openings. DOE can only infer that this is the case without more data, including test data. Furthermore, without these data no determination can be made of typical time between defrost cycles. Conservation and Renewable Energy agrees with OHA, that without these data an approximation of this time is 24 hours. Therefore, today's Decision and Order specifies that WCI is to use an alternate test for its EDC-equipped refrigerator-freezer, Frigidaire Model FPCI18TDWO, and that the alternate test should be the "long-time" automatic defrost test and shall use a value of 12 hours for CT.

It is DOE's policy to require use of alternate test procedures in response to Petitions for Waiver for new product designs if such alternate test procedures will yield results which reasonably reflect the energy consumption and energy efficiency of such new product designs compared to the energy consumption and energy efficiency of comparable conventional products as tested under the existing test procedures. This long-standing policy was developed on the premise that it serves in the best interest of manufacturers and consumers alike: manufactures because it tends to promote competition on equal grounds and consumers because it promotes meaningful comparisons between products on the basis of their energy efficiency. In the case of WCI's EDC-equipped refrigerator-freezer model, DOE believes the alternate test procedure provided in this Decision and Order to reasonably reflect the energy consumption and energy efficiency of this product design as described in WCI's petition. If WCI submits data indicating that a value for CT other than 12 would be more appropriate, DOE will consider revising today's Decision and Order. However, in the absence of meaningful data upon which to base a more refined solution, an approximation of CT will allow WCI to report comparable energy data for its EDC-equipped refrigerator-freezer.

It is therefore ordered that:

(1) The "Petition for Waiver," filed by White Consolidated Industries, Inc. (Case No. RF-002), is hereby granted as set forth in paragraph (2) below, subject to the provisions of paragraphs (3) and (4).

(2) Notwithstanding any contrary provisions of Appendix A1 of 10 CFR, Part 430, Subpart B, White Consolidated Industries, Inc., shall be permitted to test its Frigidaire Model FPCI18TDWO refrigerator-freezer equipped with an electronic defrost control system on the basis of the test procedure specified in 10 CFR, Part 430, with the modifications set forth below:

(i) Section 4.1.2 is modified by adding the following sentence at the end of the section:

"If the model being tested has an electronic defrost control, the provisions of section 4.1.2.2 shall apply."

(ii) Section 4.1.2.2 is added to read:

"4.1.2.2 Electronic Defrost Control. If the model being tested has an electronic defrost control system, the test time period shall consist of two parts. The first part shall be the same as the test for a unit having no defrost provisions (section 4.1.1). The second part shall start when a defrost period is deliberately initiated during a compressor "on" cycle and shall terminate at the third turn "on" of the compressor motor after initiating the defrost period or after four hours, whichever comes first."

(iii) Section 5.1.2 is modified by adding the following sentence at the end of the section:

"For models equipped with electronic defrost controls, compartment temperatatures shall be those measured in the first part of the test period specified in section 4.1.2.2."

(iv) Section 5.2.1.3 is added to read:

"5.2.1.3 Electronic Defrost Control. The energy consumption in kilowatt-hour per day shall be calculated equivalent to:

$$ET = (1440 \times EP1/T1) + [EP2 - (EP1 \times T2/T1)] \times 12/CT$$

where:

ET and 1440 are defined in 5.2.1.1

EP1 = energy expended in kilowatt-hours during the first part of the test

EP2 = energy expended in kilowatt-hours during the second part of the test

T1 = length of time in minutes of the first part of the test

T2 = length of time in minutes of the second part of the test

CT = 12 hours per day, the length of compressor run time between defrost cycles

(3) The waiver shall remain in effect from the date of issuance of this roder until the Department of Energy prescribes final test procedures appropriate to Frigidaire model FPCI18TDWO refrigerator-freezer models equipped with an electronic defrost control manufactured by White Consolidated Industries, Inc.

(4) This waiver is based upon the presumed validity of statements, allegations, and documentary materials submitted by the applicant. This waiver may be revoked or modified at any time upon a determination that the factual basis underlying the application is incorrect.

Issued in Washington, DC, April 8, 1986.

Donna R. Fitzpatrick,

Assistant Secretary, Conservation and Renewable Energy.

[FR Doc. 86-9339 Filed 4-24-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51619; (FRL-3006-1)]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protective Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of fifty-one PMNs and provides a summary of each.

DATES: Close of Review Period:

P 86-839, 86-840, 86-841, 86-842, 86-843, 86-844, 86-845, 86-846, 86-847, 86-848, 86-849, and 86-850—July 2, 1986.

P 86-851, 86-852, 86-853, 86-854, 86-855, 86-856, 86-857, and 86-858—July 5, 1986.

P 86-859, 86-860, 86-861, 86-862, 86-863, 86-864, 86-865, 86-866, 86-867, 86-868, 86-869, 86-870 and 86-871—July 6, 1986.

P 86-872, 86-873, 86-874, 86-875, 86-876, 86-877, 86-878, 86-879, 86-880, 86-881, 86-882, 86-883 and 86-884—July 7, 1986.

P 86-885, 86-886, 86-887, 86-888 and 86-889—July 8, 1986.

Written comments by:

P 86-839, 86-840, 86-841, 86-842, 86-843, 86-844, 86-845, 86-846, 86-847, 86-848, 86-849 and 86-850—June 2, 1986.

P 86-851, 86-852, 86-853, 86-854, 86-855, 86-856, 86-857 and 86-858—June 5, 1986.

P 86-859, 86-860, 86-861, 86-862, 86-863, 86-864, 86-865, 86-866, 86-867, 86-868, 86-869, 86-870 and 86-871—June 6, 1986.

P 86-872, 86-873, 86-874, 86-875, 86-876, 86-877, 86-878, 86-879, 86-880, 86-881, 86-882, 86-883 and 86-884—June 7, 1986.

P 86-885, 86-886, 86-887, 86-888 and 86-889—June 8, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS-51619]" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW, Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 86-839

Manufacture. NL Industries, Inc.

Chemical. ((G) Alkyd resin.

Use/Production. (G) An alkyd resin to be used in an open non-dispersive manner. Prod. range: Confidential.

Toxicity Data. No data submitted.

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Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

P 86-840

Manufacture. NL Industries, Inc.
Chemical. (G) Water dispersible phenolic modified alkyd resin.
Use/Production. (G) Water dispersible phenolic modified alkyd resin to be used in an open, non-dispersive manner. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-841

Importer. Confidential.
Chemical. (G) Polyamide resin.
Use/Import. Ink additive. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-842

Importer. Canon U.S.A., Inc.
Chemical. (G) Styrene-2-ethylhexylacrylate copolymer.
Use/Import. (G) Open, non-dispersive use. Import range: Confidential.
Toxicity Data. Acute oral:- >5,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Non-irritant.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-843

Manufacture. Confidential.
Chemical. (G) Substituted phenylamino substituted carbopolycycle sulfonic acid, salt.
Use/Production. (S) Industrial isolated intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal.
Environmental Release/Disposal. Disposal by navigable waterway.

P 86-844

Manufacture. Confidential.
Chemical. (G) Substituted phenylamino substituted carbopolycycle sulfonic acid, salt.
Use/Production. (G) Open non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 4 workers.
Environmental Release/Disposal. Disposal by navigable waterway.

P 86-845

Manufacture. Confidential.
Chemical. (G) Substituted propionamide.
Use/Production. (G) Contained use. Prod. range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames test: Negative; Skin sensitization: Non-sensitizer; BOD: Not biodegradable; Subacute 28 day test: Negative.
Exposure. Manufacture: dermal, a total of 30 workers, upt to hrs/da, up to 5 da/yr.
Environmental Release/Disposal. Release unknown. Disposal by POTW, approved landfill, RCRA, Clean Air Act and Clean Water Act.

P 86-847

Importer. American Hoechst Corporation.
Chemical. (S) Benzenesulfonic acid, 5-methoxy-2-[(2-.hydroxy-1-naphthalenyl)azo], barium salt (2:1).
Use/Import. (G) Industrial pigment for printing inks. Import range: Confidential.
Toxicity Data. Acute oral: 5,000 mg/kg; Irritation: Skin—Irritant, Eye—Non-irritant; Ames test: Non-mutagenic.
Exposure. Confidential.
Environmental Release/Disposal. No release.

P 86-848

Manufacture. Coanfidential.
Chemical. (G) Poll[(disubstituted amino)aryl] alkane.
Use/Production. (G) Commercial contained use in a commercial article. Prod. range: 600–4,700kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: a total of 26 workers, up to .25 hr/da, up to 7 da/yr.
Environmental Release/Disposal. No release. Less than 14 to 85 kg/batch incinerated.

P 86-849

Manufacture. De Mille Chemical Corporation.
Chemical. (G) Vegetable oil, modified, ethoxylated and capped.
Use/Production. (S) Industrial detergent for cleaning and softening industrial heavy weight fabrics. Prod. range: 2,500–3,500 kg/yr.
Toxicity Data. Irritation: Skin—Non-irritant, Eye—Moderate.
Exposure. Manufacture: dermal, a total of 2 workers, up to 1 hr/da, up to 10 da/yr.
Environmental Release/Disposal. ½ to 266.5 kg/batch released to water. Disposal by POTW and sanitary sewer.

P 86-850

Manufacturer. Ethyl Corporation.
Chemical. (S) Eicosene.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-851

Importer.. Confidential.
Chemical. (G) Ethyl acetoxyalkenoate.
Use/Import. (G) Ingredient for use in consumer products highly dispersive use. Import range: 100–1,000 kg/yr.
Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: 2.0 g/kg Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames test: Non-mutagenic; Repeated insult patch test: Negative; Photo-allergenic test; Negative.
Exposure. Use: dermal, a total of 6 workers, up to 2 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. Disposal by private water treatment plant.

P 86-852

Manufacturer. AZS Corporation.
Chemical. (G) Acid terminated, water dispersible, isophthalic/terphthalic acid, polyester resin.
Use/Production. (S) Industrial textile application binder in sizing of yarn to be woven, product is usually used with starch or PVA. Prod. range: 120,000–240,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal and inhalation, a total of 6 workers, up to 6 hrs/da, up to 40 da/yr.
Environmental Release/Disposal. No release.

P 86-853

Manufacturer. Confidential.
Chemical. (G) Polyalkyleneoxyalkyl, alkyl silicone.
Use/Production. (S) Foam stabilizer for manufacture of polyurethane foam. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-854

Manufacturer. Confidential.
Chemical. (G) Alkylene polyether alkylate.
Use/Production. (S) Intermediate for manufacture of higher polymers. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by industrial waste water treatment facility.

P 86-855

Importer. Confidential.
Chemical. (G) Metal alkoxy halide.
Use/Import. (G) Site-limited, contained use. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Dermal, a total of 1 worker.
Environmental Release/Disposal. Sample negligible. Disposal by RCRA approved or incinerated.

P 86-856

Manufacturer. Rohm and Haas Company.
Chemical. (G) Functionalized acrylic polymer.
Use/Production. (G) Coatings additive in open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal.
Environmental Release/Disposal. Release to land. Disposal by approved landfill.

P 86-857

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (S) Amine functional polyamide.
Use/Production. (S) Industrial curing agent for epoxy resins. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 6 workers, up to 50 da/yr.
Environmental Release/Disposal. 1 to 5 kg/batch released to land. Disposal by incineration or approved landfill.

P 86-858

Importer. Pacific Anchor Chemical Corporation.
Chemical. (G) Polymer of triethylene tetramine, tetraethylene pentamine, monobasic fatty acid dibasic fatty acid, substituted phenol and substituted oxirane.
Use/Import. (S) Curing agent for epoxy resin coating systems adhesives, putties, sealants and jointing compounds. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 30 workers, up to 2 hrs/da, up to 12 da/yr.
Environmental Release/Disposal. Less than 5 kg/yr released to air and water.

P 86-859

Manufacturer. Hercules Incorporated.
Chemical. (G) Aliphatic hydrocarbon resin.
Use/Production. (S) Hot melt and pressure sensitive adhesives for industrial, commercial and consumer use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 24 workers, up to 8 hrs/da, up to 196 da/yr.
Environmental Release/Disposal. ~20 kg/day released to air. Disposal by POTW, approved landfill and burned as fuel.

P 86-860

Manufacturer. Hercules Incorporated.
Chemical. (G) Hydrocarbon resin.
Use/Production. (S) Hot melt and pressure sensitive adhesives for industrial, commercial and consumer use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 24 workers, up to 8 hrs/da, up to 60 da/yr.
Environmental Release/Disposal. ~20 kg/day released to air with 0.5 kg/day to water. Disposal by POTW, approved landfill and burned as fuel.

P 86-861

Manufacturer. The Dow Chemical Company.
Chemical. (G) Acid terminated polyester prepolymer.
Use/Production. (S) Site-limited and industrial intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and use: dermal, a total of 12 workers.
Environmental Release/Disposal. Less than 0.1 kg/batch released to air, water and land. Disposal by POTW, incineration, approved landfill and navigable waterway.

P 86-862

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Hydrocarbon resin.
Use/Production. (S) Industrial tackifier component in production of various adhesive systems. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 5 workers, up to 8 hrs/da.
Environmental Release/Disposal. 15 kg/day released to air with 6 to 250 kg/day to land. Disposal by approved landfill and mechanical filter system.

P 86-863

Manufacturer. Reichhold Chemicals, Inc.
Chemical. (G) Styrenated rosin ester.
Use/Production. (S) Industrial adhesive component (hot melt or pressure sensitive). Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 5 workers, up to 8 hrs/da.
Environmental Release/Disposal. 15 kg/batch released to air with 500 g/day to land. Disposal by approved landfill and mechanical filter system.

P 86-864

Importer. Nuodex, Inc.
Chemical. (G) Nonionically blocked p-toluenesulfonic acid.
Use/Import. (S) Industrial coatings. Import range: 30,000–150,000 kg/yr.
Toxicity Data. Acute oral: >10,000 mg/kg; Irritation: Skin—Slight, Eye—Non-irritant; Ames test: Non-mutagenic.
Exposure. Processing: dermal and ocular.
Environmental Release/Disposal. No data submitted.

P 86-865

Importer. Coates Circuit Products/USA.
Chemical. (G) Modified epoxy acrylate.
Use/Import. (S) UV curable polymer for printed circuit board production. Import range: 1,000–5,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Processing: dermal.
Environmental Release/Disposal. No data submitted.

P 86-866

Manufacturer. Confidential.
Chemical. (G) Salt of a substituted(phenylpyrazole).
Use/Production. (G) Chemical intermediate. Prod. range: 41000–8,000 kg/yr.
Toxicity Data. No data submitted.

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Exposure. Manufacture and use: dermal and inhalation, a total of 20 workers, up to 0.7 hr/da, up to 10 da/yr.
Environmental Release/Disposal. Less than 5 kg/batch incinerated.

P 86-867

Importer. Dow Corning Corporation.
Chemical. (S) Siloxanes and silicones, di-me, me hydrogen, reaction products with allyl glycidyl ether and polyethylene polypropylene glycol allyl methyl ether.
Use/Import. (G) Plastic additive. Prod. range: 1,500–2,500 kg/yr.
Toxicity Data. Acute oral: 5,000 mg/kg; Acute dermal: 2,000 mg/kg; Irritation: Skin—Slight, Eye—Non-irritant; Ames test: Negative.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-868

Importer. Confidential.
Chemical. (G) Dicyclohexyl alkane.
Use/Import. (G) Lubricating oil (contained use). Import range: Confidential.
Toxicity Data. Acute oral: 5 g/kg; Ames test: Not mutagenic; LC_{50} (Orange-red killifish) 48 hr: >500 mg/1.
Exposure. No data submitted.
Environmental Release/Disposal. Disposal by applicable local, state and federal regulations.

P 86-869

Importer. Confidential.
Chemical. (G) Dicyclohexyl alkane.
Use/Import. (G) Lubricating oil (contained use). Import range: Confidential.
Toxicity Data. Acute oral: 5 g/kg; Ames test: Not mutagenic; LC_{50} (Orange-red killifish) 48 hr: >500 mg/1..
Exposure. No data submitted.
Environmental Release/Disposal. Disposal by applicable local, state and federal regulations.

P 86-870

Importer. Confidential.
Chemical. (G) Alkyl—substituted decaline.
Use/Import. (G) Lubricating oil (contained use). Import range: Confidential.
Toxicity Data. Acute oral: 5 g/kg; Ames test: Not mutagenic; LC_{50} (Orange-red killifish) 48 hr: >500 mg/1.
Exposure. No data submitted.
Environmental Release/Disposal. Disposal by applicable local, state and federal regulations.

P 86-871

Importer. Confidential.
Chemical. (G) Dicyclohexyl alkane.
Use/Import. (G) Lubricating oil (contained use). Import range: Confidential.
Toxicity Data. Acute oral: 5 g/kg; Ames Test: Not mutagenic; LC_{50} (orange-red Killifish) 48 hr: >500 mg/1.
Exposure. No data submitted.
Environmental Release/Disposal. Disposal by applicable local, state and federal regulations.

P 86-872

Manufacturer. Confidential.
Chemical. (G) Perfluoroalkyl epoxide.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >5 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Manufacture: dermal, a total of 16 workers..
Environmental Release/Disposal. Release to air and water. Disposal by waste treatment plant.

P 86-873

Manufacturer. Confidential.
Chemical. (G) Perfluoroalkyl epoxide.
Use/Production. (S) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >2 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Manufacture: dermal, a total of 16 workers..
Environmental Release/Disposal. Release to air and water. Disposal by waste treatment plant.

P 86-874

Manufacturer. Confidential.
Chemical. (G) Organosulfur modified EPDM.
Use/Production. (S) Polymeric age resister for polymers for industrial, commercial and consumer use. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Non-irritant.
Exposure. Manufacture: dermal, a total of 8 workers, up to 8 hrs/da, up to 250 da/yr..
Environmental Release/Disposal. Incidental to no release to land. Disposal by mechanical clean-up.

P 86-875

Manufacturer. NL Industries, Inc.
Chemical. (G) High solids oxirane/anhydride polyester resin.
Use/Production. (G) A polyester resin to be used in an open, non-dispersive manner. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

P 86-876

Manufacturer. NL Industries, Inc.
Chemical. (G) Polyester resin.
Use/Production. (G) a polyester resin to be use in an open, non-dispersive manner. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

P 86-877

Importer. Tioxide America Incorporated.
Chemical. (s) Titanium complex of ethanol, isopropanol, monobutyl phosphate, and dibutyl phosphate.
Use/Import. (S) Industrial adhesion promoter and heat stabilizer for printing inks. Import range: Confidential.
Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Non-irritant, Eye—Irritant; Ames test: Non-mutagenic; Delayed contact hypersensitivity test: Negative; Cytogenetic test (invitro): Negative.
Exposure. Processing: dermal and inhalation, a total of 2 persons/shift, ½ hr/shift.
Environmental Release/Disposal. No data submitted.

P 86-878

Manufacturer. Confidential.
Chemical. (G) Polymethylene polyphenyl isocyanate polyol.
Use/Production. (S) Industrial crosslinking agent for polymethylene polyphenyl isocyanate used for potting and encapsulation application. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 6 workers, up to 4 hrs/da, up 12 da/yr.
Environmental Release/Disposal. Trace release to air with 2 kg/batch to land.

P 86-879

Manufacturer. Shell Oil Company.
Chemical. (G) Sulfonate surfactant intermediate.
Use/Production. (S) Site-limited chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-880

Manufacturer. Shell Oil Company.
Chemical. (G) Sulfonate surfactant intermediate.
Use/Production. (S) Site-limited chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-881

Manufacturer. Shell Oil Company.
Chemical. (G) Sulfonate surfactant intermediate.
Use/Production. (S) Site-limited chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-882

Manufacturer. Shell Oil Company.
Chemical. (G) Sulfonate surfactant intermediate.
Use/Production. (S) Site-limited chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-883

Manufacturer. Shell Oil Company.
Chemical. (G) Sulfonate surfactant.
Use/Production. (S) Semi-contained. Prod. range: Confidential.
Toxicity Data. Acute oral: 5 ml/kg; Acute dermal: 2 ml/kg; Irritation: Skin—Slight, Eye—Mild; Ames test; Non-mutagenic; Skin sensitization: Non-sensitizer.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-884

Manufacturer. Shell Oil Company.
Chemical. (G) Sulfonate surfactant.
Use/Production. (S) Semi-contained. Prod. range: Confidential.
Toxicity Data. Acute oral: 5 ml/kg; Acute dermal: 2 ml/kg; Irritation: Skin—Slight, Eye—Mild; Ames test; Non-mutagenic; Skin sensitization: Non-sensitizer.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-885

Manufacturer. Confidential.
Chemical. (G) Functionalized styrenated acrylic polymer.
Use/Production. (G) Industrial resin for products having an open use. Prod. range: 300,000–531,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal and inhalation, a total of 60 workers, up to 8 hrs/da, up to 73 da/yr.
Environmental Release/Disposal. 1 to 100 kg/batch released to land. Disposal by incineration and approved landfill.

P 86-886

Manufacturer. Colloids/North Chemical Company.
Chemical. (G) Polymer of acrylic and acrylate.
Use/Production. (S) Industrial size coating for textile. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 22 workers. up to 2 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. 10 kg released to water. Disposal by POTW and chemical and biological treatment.

P 86-887

Manufacturer. Confidential.
Chemical. (G) Fluorinated telomer.
Use/Import. (G) Surfactant in chemical specialties, highly dispersive use. Import range: Confidential.
Toxicity Data. Acute oral: >5 ml/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Unknown.
Environmental Release/Disposal. No data submitted.

P 86-888

Manufacturer. Confidential.
Chemical. (G) Ester copolymer.
Use/Production. (G) Contained use. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal, a total of 30 workers, up to 4 hrs/da, up to 27 da/yr.
Environmental Release/Disposal. Disposal by POTW, approved landfill, RCRA, heat recovery and in-plant treatment.

P 86-889

Manufacturer. Dow Corning Corporation.
Chemical. (S) Reaction product of trimethylsiloxy silica copolymer and 1,1,2,2-tetrahydroperfluoro-1-decanol.
Use/Production. (S) Industrial to promote foaming in material for use in insulation, cushioning, sound, and energy absorption. Prod. range: 1,000–2,500 kg/yr.
Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Slight; Spot plate test: Negative.
Exposure. Manufacture: dermal, a total of 4 workers, up to 4 hrs/da, up to 18 da/yr.
Environmental Release/Disposal. 0.07 kg/batch released to land. Disposal by approved landfill.

Dated: April 11, 1986.

Denise Devoe,
Acting Director, Information Management Division.

[FR Doc. 86-8835 Filed 4-24-86; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-59218; (FRL—3005—9)]

Certain Chemicals Test Marketing Exemption Applications; Coates Circuit Products/USA et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5(a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the Federal Register of May 13, 1983 (48 FR 21722. This notice, issued under section 5(h)(6) of TSCA, announces receipt of three applications for exemption, provides a summary, and requests comments on the appropriateness of granting each exemption.

DATE: Written comments by: May 12, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS-59218]" and the specific TME number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TMEs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m.,

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Monday through Friday, excluding legal holidays.

T 86-37

Close of Review Period. May 2, 1986.
Importer. Coates Circuit Products/ USA.
Chemical. (G) Modified epoxy acrylate.
Use/Import. (S) Curable polymer for printed circuit board production. Import range: 1,000–5,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

T 86-38

Close of Review Period. May 24, 1986.
Manufacturer. Confidential.
Chemical. Functionalized styrenated acrylic polymer.
Use Production. (G) Commercial and industrial resin for products having open use. Prod. Range: 7,000 kg (60 day test market period).
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 17 workers, up to 3 hrs/da, up to 60 da/yr.
Environmental Release/Disposal. 1 to 34 kg/batch released to land. Disposal by incineration and landfill.

T 86-39

Close of Review Period. May 24, 1986.
Manufacturer. Richardson Polymer Corporation.
Chemical. (G) Acrylic copolymer.
Use Production. (g) Resin for coatings and inks. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 3 workers, up to 3 hrs/da.
Environmental Release/Disposal. No data submitted.

Dated: April 11, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 86-8836 Filed 4-24-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59781; (FRL-3005-8)]

Polyester/Polyamine Copolymer; Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). In the Federal Register of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of one such PMN and provides a summary of it.

DATE: Close of Review Period:

Y 86-117, April 29, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemption received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 86-117

Importer. Confidential.
Chemical. (G) Polyester/polyamine copolymer.
Use/Import. (G) Dispersing agent. Import range: Confidential.
Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Mild; Ames test: Negative; Skin sensitization: Non-sensitizer.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Dated: April 11, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 86-8837 Filed 4-24-86; 8:45 am]

BILLING CODE 6560-50-M

[SAB-FRL-3008-1]

Science Advisory Board; Environmental Health Committee, Halogenated Organics Subcommittee; Open Meeting

Under Pub. L. 92-463, notice is hereby given that a one-day meeting of the Halogenated Organics Subcommittee of the Environmental Health Committee of the Science Advisory Board will be held on Thursday, May 15, 1986, in Room H6/215 of the Clinical Science Center of University Hospital at the University of Wisconsin; 500 Highland Avenue; Madison, WI 53792. The meeting will start at 8:30 a.m. and adjourn no later than 4:00 p.m. on the same day.

The purpose of the meeting will be to discuss a draft Addendum to the Health Assessment Document for Tetrachloroethylene (Perchloroethylene; EPA-600/8-82/005FA; External Review Draft; Updated Carcinogenicity Assessment; March, 1986). To obtain a copy of the draft document, contact the ORD Publications Center by phone at (513) 569-7562 or by mail to CERI-FRN; U.S. Environmental Protection Agency; 26 W. St. Clair Street; Cincinnati, Ohio 45268. The draft document also is available for public inspection and copying at the EPA Library; Waterside Mall; 401 M Street SW.; Washington, DC 20460. Comments on the draft document can be sent to the Project Manager for Tetrachloroethylene, Carcinogen Assessment Group (RD-689); Office of Health and Environmental Assessment; U.S. Environmental Protection Agency; 401 M Street SW., Washington, DC 20460.

The meeting will be open to the public. Any member of the public desiring to attend or to comment to the Subcommittee should contact either Dr. Daniel Byrd, Executive Secretary to the Committee, or Mrs. Brenda Johnson, by telephone at (202) 382-2552 or by mail to Science Advisory Board (A-10 1F); 401 M Street SW., Washington, DC 20460; no later than c.o.b. on May 12, 1986.

Dated: April 14, 1986.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 86-9291 Filed 4-24-86; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3007-7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements filed April 14, 1986 Through April 18, 1986 Pursuant to 40 CFR 1506.9

EIS No. 860154, DSuppl, CDB, CA, Oakland Chinatown Redevelopment Project, Construction, Additional Information, Grants, Alameda County, Due: June 9, 1986, Contact: Anu Raud (415) 273-3941.

EIS No. 860155, Draft, AFS, CA, San Bernadino National Forest, Land and Resource Management Plan, San Bernardino and Riverside Cos., Due: July 24, 1986, Contact: Richard Stauber (714) 383-5588. EIS No. 860156, Final, SCS, WV, Middle Grave Creek Watershed Protection and Flood Prevention Plan, Marshall County, Due: May 27, 1986, Contact: Rollin Swank (304) 291-4151.

EIS No. 860157, Draft, FHW, GA, GA-316 Extension, GA-316 to GA-10/US 78, Improvement, Gwinnett, Barrow, Oconee, and Clark Cos., Due June 17, 1986. Contact: Louis Papet (404) 347-4751.

EIS No. 860158, Draft, CDB, NY, Atlantic Terminal and Brooklyn Center Development, Construction, UDAG, Kings County, Due: June 9, 1986, Contact: Tony Mannarino (212) 619-5000.

EIS No. 860159, Draft, NPS, NY, PA, Upper Delaware Scenic and Recreational River, River Management Plan, Wayne and Pike Cos., Pennsylvania and Orange and Sullivan Cos., New York, Due: June 20, 1986, Contact: Mike Gordon (215) 597-9195.

EIS No. 860160, Final, FHW, CA, CA-1 Improvement Devil's Slide, Half Moon Bay Airport to Linda Mar Boulevard, San Mateo County, Due: May 27, 1986, Contact: David Eyres (916) 551-1314.

Amended Notices:

EIS No. 860131, Draft, COE, CO, Parachute Creek Shale Oil Program, Phase II, Expansion, Garfield County, Due: June 10, 1986, Published FR 4-11-86—Review period extended.

EIS No. 860148, Final, BLM, ID, Shoshone and Sun Valley Wilderness Study Area, Wilderness Designation, Due: May 27, 1986, Published FR 4-18-86—Review period reestablished.

EIS No. 860119, Final, SCS, LA, Mill Haven Watershed Flood Prevention and Drainage Plan, Richland and Ouachita Parishes, Due: June 2, 1986, Published FR 4-4-86—Review period established.

Dated: April 22, 1986.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 86-9340 Filed 4-24-86; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3007-8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 7, 1986 through April 11, 1986 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382-5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated February 7, 1986 (51 FR 4804).

Draft EIS's

ERP No. D-CDB-K89059-CA, Rating LO, San Bernardino Enterprise Zone Application, Designation and CDB Grant, CA. **SUMMARY:** EPA made no formal comments.

ERP No. D-COE-K36087-CA, Rating EC2, Santa Barbara County Streams, Flood Control Plan, Mission Creek, CA. **SUMMARY:** EPA's comments expressed the need for additional "in-kind" mitigation for riparian habitat loss and information on impacts to the possible reestablishment of steelhead runs in the Mission Creek drainage.

ERP No. D-FHW-D40217-MD, Rating EC2, MD-36 Construction, Seldom Seen Rd. to Buskirk Hollow Rd., 404 Permit, MD. **SUMMARY:** EPA expressed concern about possible ground water contamination and potential impacts on drinking water quality and quantity. EPA recommended increased monitoring and expanded discussion of alternatives and mitigation.

ERP No. D-FHW-K40152-AZ, Rating LO, Arizona Forest Highway, AZ-67 Reconstruction, Jacob Lake to Grand Canyon Nat'l Park, N. River, AZ. **SUMMARY:** EPA had no comments to offer on the draft EIS.

ERP No. D-FHW-L40150-OR, Rating EO2, Cornell Rd. Improvements, 185th Ave. to NW 242nd Ave., Right-of-Way Acquisition, 404 Permit, OR. **SUMMARY:** EPA stated that it had environmental objections to the lead agency's preferred alternative as proposed. EPA is particularly concerned with the potential for growth associated with the proposal to cause water quality degradation, loss of fish habitat, and loss of wetlands. EPA recommended that the final EIS fully disclose these potential impacts, as well as other potential impacts of concern, and evaluate possible means of avoiding or mitigating them.

ERP No. D-IBR-J35008-CO, Rating EO2, Stagecoach Reservoir Project, Construction, Upper Yampa River Valley, Yampa River, Loan, CO. **SUMMARY:** EPA's concerns primarily addressed wetland, water quality, fisheries, and aquatic life concerns. EPA expressed concerns regarding plans to create wetlands on irrigated agricultural land, and also the creation of 78 acres of waterfowl habitat should be evaluated more completely. EPA requested the final EIS address more thoroughly the eutrophication potential, its effects, and project management to achieve in-reservoir and downstream water quality objectives.

ERP No. D-SCS-G36133-LA, Rating LO, Acadia Parish Fifth Ward Watershed Protection and Flood Prevention Plan, 404 Permit, LA. **SUMMARY:** EPA has no objections to the proposed action if implemented as described, and with proper implementation of mitigation measures. EPA requested early coordination with the Corps of Engineers to clarify applicability of 404 jurisdiction.

Final EIS's

ERP No. F-COE-E36158-00, Tuscumbia River Flood Control Plan, MS and TN. **SUMMARY:** EPA's review concluded that there is no substantive difference in the level of flood protection between clearing and snagging, and the major cleanout option. To prevent channel instability, EPA recommends the cleaning and snagging alternative.

ERP No. F-COE-F32190-00, Lower Ohio River Navigation Improvements, Cumberland R. to Mississippi R., KY and IL. **SUMMARY:** EPA reviewed the final EIS and had no objections to the proposed project.

ERP No. FS-DOE-J08013-CO, Blue River-Gore Pass Substation, Portion of Hayden-Blue River, 345 kV Transmission Line, Construction, Operation, and Maintenance, Additional Transmission Capacity, CO. **SUMMARY:** EPA reviewed the final supplement EIS and has no objections to the project, assuming the mitigation measures included in the final are adopted.

Amended Notices

The following reviews should have appeared in the FR Notice published on April 18, 1986.

ERP No. D-FHW-D40216-VA, Rating EC2, VA-199 Construction, VA-5 to I-64, Section 10 and 404 Permits, Right-of-Way Acquisition, VA. **SUMMARY:** EPA identified project impacts on the areal aquifers and in increased noise levels. Further requests were made for mitigation efforts and selection of alignment A-1.

ERP No. D-FHW-F40285-MN, Rating EC2, MN Forest Highway 11 Construction, St. Louis CSAH-10 and St. Louis CR-565 in Hoyt Lakes to TH-61 in Silver Bay, 404 Permit, MN. **SUMMARY:** EPA is concerned that the wetland impacts are not adequately mitigated

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and requested that documentation of wetland mitigation plans be sent to EPA as soon as they are available. EPA also requested that the final EIS include a more detailed analysis of the noise impacts to sensitive wildlife species.

ERP No. F-FHW-D40135-PA, Beyfront-Port Access Road Construction, I-79/West 12th Street to East 6th Street/East Lake Rd., 404 Permit, PA. SUMMARY: EPA has no objection to the project and its implementation.

ERP No. F-SFW-K64013-CA, Coachella Valley Fringe-Toed Lizard Habitat Conservation Plan, Sect. 10(A) Permit, CA. SUMMARY: The final EIS adequately addressed the concerns EPA made on the draft EIS.

Dated: April 22, 1986.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 86-9342 Filed 4-24-86; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3007-6]

Intent To Prepare a Joint Supplemental Environmental Impact Statement on the Hudson River PCB Reclamation Demonstration Project

AGENCY: U.S. Environmental Protection Agency—Region II, and New York State Department of Environmental Conservation (Joint Lead Agencies).

ACTION: Notice of Intent to Prepare a Supplemental Environmental Impact Statement.

Purpose: In accordance with section 102(2)(c) of the National Environmental Policy Act (NEPA), the U.S. Environmental Protection Agency has identified a need to prepare a Supplemental Environmental Impact Statement on the Hudson River PCB Reclamation Demonstration Project and therefore publishes this Notice of Intent pursuant to 40 CFR 1501.7.

FOR FURTHER INFORMATION CONTACT:

Ms. Barbara Pastalove, Chief, Environmental Impacts Branch, U.S. Environmental Protection Agency, 26 Federal Plaza, Room 702, New York, New York 10278, Telephone: Commercial (212) 264-8556, FTS 8-264-8556

Mr. Bruce Bentley, Citizen Participation Specialist, New York State Department of Environmental Conservation, 50 Wolf Road, Room 507, Albany, New York 12233, Telephone: (518) 457-0849.

Summary

I. Background

The proposed Hudson River PCB Reclamation Demonstration Project would remove PCB-contaminated sediments from the upper Hudson River and dispose of those sediments in an upland containment site, utilizing federal funds authorized by Section 118 of the Clean Water Act.

A final environmental impact statement (FEIS) was published by EPA in October 1982, which evaluated various alternatives for management of PCB-contaminated sediments in the upper Hudson River. The FEIS found the dredging and upland containment project proposed by the New York State Department of Environmental Conservation (NYSDEC) to be an environmentally preferable alternative. The EPA's December 1982 Record of Decision deferred release of funding for the project pending review of project eligibility under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA).

In September 1983, EPA made a preliminary determination that the project, with certain limited exceptions, was not eligible for funding under CERCLA. Subsequently, on May 10, 1984, EPA entered into an Order on Consent with the State of New York and a number of private plaintiffs as part of a settlement of two lawsuits that had been brought to compel EPA to fund the project. Under the terms of the Consent Order, EPA agreed to approve a grant application from New York State if the State met certain requirements, including obtaining a suitable disposal site. NYSDEC then undertook a resurvey of contaminated river bottom sediments, and re-selection of a PCB disposal site.

II. Proposed Action

The EPA and the NYSDEC have entered into a Memorandum of Agreement as joint lead agencies to prepare a supplemental environmental impact statement (SEIS) to the October 1982 FEIS on the Hudson River PCB Reclamation Demonstration Project. This will avoid duplication of effort while enabling the EPA and the NYSDEC to fulfill their respective responsibilities under the National Environmental Policy Act (NEPA) and the State Environmental Quality Review Act (SEQRA).

III. Scope of the SEIS

The alternatives to be evaluated in the SEIS are limited by the Consent Order to changes to the alternative containment sites and disposal methods considered in the 1982 FEIS. Accordingly, the SEIS will include a thorough assessment of the proposed containment sites and associated environmental impacts, as well as an evaluation of the no-action alternative, general comparative analysis of alternative dredging and disposal methodologies, and a summary of the containment site screening process, including the proposed site.

IV. Public Participation in the SEIS Process

Full participation by interested Federal, State, and local agencies, as well as interested private organizations and citizens is invited. A full-scale public participation program will be implemented. A citizens advisory committee is in existence as part of the project review process, and public meetings and hearings and hearings will be held for the SEIS.

The next meeting to be held will be a public information meeting in the Ft. Edward/Hudson Falls Area, New York, on June 4, 1986, to discuss the issues to be addressed by the SEIS. Advance notice of the meeting location will be provided; copies of a preliminary environmental information document will be make available for public review prior to the meeting. Participation of interested parties at this meeting is invited. If you are unable to attend this meeting, you are encouraged to submit your question or comments, in writing, to the above contact(s).

V. Timing

The joint draft SEIS in scheduled to be published in July 1986, and will be available for a 60-day public review and comment period.

VI. Requests for copies of the SEIS

Interested parties are requested to submit their names and address to the contact person(s) indicated above for inclusion on the distribution list for the draft SEIS and related public notices. The draft SEIS will be available for public review at the following locations:

U.S. Environmental Protection Agency, Region II, 26 Federal Plaza, Room 702, New York, NY 10278

New York State Department of Environmental Protection, Hudson Street Extension, Warrensburg, NY 12885

New York State Department of Environmental Conservation, 50 Wolf Road, Albany, NY 12233

New York State Department of Environmental Conservation, 21 South Putt Corners Road, New Paltz, NY 12561.

Dated: April 22, 1986.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 86-9341 Filed 4-24-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-00226; FRL-3009-8]

FIFRA Scientific Advisory Panel; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: There will be a 2-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) to review: (1) The Agency's proposed testing battery for inert ingredients used in pesticide formulation; (2) a set of scientific issues being considered in connection with the Special Review on diazinon; (3) a set of scientific issues in connection with the Registration Standards for benomyl, thiophanate methyl, and pronamide; (4) a paper defining Maximum Tolerated Dose; (5) a paper on "Chemicals Inducing Thyroid Neoplasia"; (6) an information briefing by the Office of Drinking Water on Health Advisories for 15 pesticides; and (7) the Agency's proposed draft reporting guidelines. The meeting will be open to the public.

DATES: Wednesday and Thursday, May 21 and 22, 1986, from 8:30 a.m. to 5 p.m. each day.

ADDRESS: The meeting will be held at: Environmental Protection Agency, Rm. No. 3, North Conference Area, Waterside Mall Level, 401 M St. SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Stephen L. Johnson, Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs (TS-768C), 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 1121, Crystal Mall, Building No. 2, Arlington, VA, (703-557-7695).

SUPPLEMENTARY INFORMATION: The agenda for the meeting is:

1. Review of the Agency's proposed testing battery for inert ingredients used in pesticide formulations.

2. A set of scientific issues being considered in connection with the Special Review on diazinon.

3. A set of scientific issues being considered by the Agency in connection with the Registration Standard for benomyl.

4. A set of scientific issues being considered by the Agency in connection with the Registration Standard for thiophanate methyl.

5. A set of scientific issues being considered by the Agency in connection with the Registration Standard for pronamide.

6. Certain scientific issues dealing with defining a Maximum Tolerated Dose.

7. Review of a paper entitled "Chemicals Inducing Thyroid Neoplasia."

8. An informational briefing by the Office of Drinking Water on Health Advisories for 15 pesticides.

9. Review of 12 draft Reporting Guidelines.

10. Completion of any unfinished business from previous Panel meetings.

11. In addition, the Agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Copies of documents relating to item 1 above may be obtained by contacting:

By mail: Gary Burin, Hazard Evaluation Division (TS-769C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 1124, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-0307).

Copies of documents relating to item 2 above may be obtained by contacting:

By mail: Ingrid Sunzenauer, Hazard Evaluation Division (TS-769C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office Location and telephone number: Rm. 711B, Crystal Mall No. 2, Arlington, VA, (703-557-1529).

Copies of documents relating to items 3 and 4 above may be obtained by contacting:

By mail: Henry Jacoby, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 227, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1900).

Copies of documents relating to item 5 above may be obtained by contacting:

By mail: Robert Taylor, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 245, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1800).

Copies of documents relating to item 6 above may be obtained by contacting:

By mail: Jane Harris, Hazard Evaluation Division (TS-769C), Office of Pesticide Programs, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 714, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-0303).

Copies of documents relating to item 7 above may be obtained by contacting:

By mail: Orville Paynter, Hazard Evaluation Division (TS-769C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 714, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-7695).

Copies of documents relating to item 8 above may be obtained by contacting:

Penelope Fenner-Crisp, Office of Drinking Water (WH-550D), Environmental Protection Agency, Rm. E-1101C, 401 M St. SW., Washington, DC 20460, (202-382-7589).

Copies of documents relating to item 9 above may be obtained by contacting:

By mail: Elizabeth Leovey, Hazard Evaluation Division (TS-769C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, DC 20460.

Office location and telephone number: Rm. 809, Crystal Mall No. 2, Arlington, VA, (703-557-1354).

Any member of the public wishing to submit written comments should contact Stephen L. Johnson at the address or telephone listed above to be sure that the meeting is still scheduled and to confirm the Panel's agenda. Interested persons are permitted to file such statements before the meeting. To the extent that time permits and upon advance notice to the Executive Secretary, interested persons may be permitted by the chairman of the Scientific Advisory Panel to present oral statements at the meeting. There is no limit on written comments for consideration by the Panel, but oral statements before the Panel are limited to approximately 5 minutes. Since oral statements will be permitted only as time permits, the Agency urges the public to submit written comments in lieu of oral presentations. All statements will be made part of the record and will be taken into consideration by the Panel. Persons wishing to make oral/written statements should notify the Executive Secretary and submit 10 copies of written comments and oral written testimony no later than May 7,

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1986, in order to ensure appropriate consideration by the Panel.

Dated: April 21, 1986.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 86-9402 Filed 4-24-86; 8:45 am]

BILLING CODE 6560-50-M

EXPORT-IMPORT BANK OF THE UNITED STATES

[Public Notice 5]

Agency Forms Submitted for OMB Review

AGENCY: Export-Import Bank of the United States.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, Eximbank has submitted a proposed collection of information to the Office of Management and Budget for Review.

Purpose: The proposed form is to be used by commercial banks participating in Eximbank's guarantee program. The collection will provide Eximbank with the information necessary to evaluate the transaction and to assure that relevant statutory programs are met.

SUMMARY: The following summarizes information collection proposal submitted to OMB:

(1) Type of request—renewal.

(2) Number of forms submitted—one, with related documents.

(3) Form number—EIB No. 73-1, with related documents.

(4) Title of information collection—Application and Supplementary Agreement to the Export-Import Bank of the United States.

(5) Frequency of Use—Upon request by a commercial bank for a guarantee of loan.

(6) Respondents—Commercial banks throughout the United States.

(7) Estimated number of responses—150.

(8) Estimated total number of hours needed to fill out form—40. Section 3504(h) of Pub. L. 96-511 does not apply.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the proposed format and supporting documents may be obtained from Helene H. Wall, Agency Clearance Officer, (202) 566-8111, Attention: Analysis. Comments and questions should be directed to (OMB) Francine Picoult, (202) 395-7231.

Dated: April 8, 1986.

Helene H. Wall,

Administrative Officer.

[FR Doc. 86-9293 Filed 4-24-86; 8:45 am]

BILLING CODE 6690-01-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket 85-166, Phase II, Part 1]

Common Carrier Services; Investigation of Special Access Tariffs of Local Exchange Carriers

AGENCY: Federal Communications Commission.

ACTION: Final Order.

SUMMARY: Based upon data accumulated in the Commission's ongoing investigation of local exchange carrier (LEC) special access tariffs, the Common Carrier Bureau has (1) ordered a limited extension of a Commission-prescribed transition plan in the special access category which provides certain interexchange carriers with a discount on special access rates; (2) ordered certain LECs to either justify currently effective special access rate levels or reduce such levels; (3) directed two LECs to show cause as to why they should not immediately refund excessive earnings accumulated during the period from April through September of 1985; and (4) terminated the rate level portion of the special access investigation with regard to certain LECs.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Michael Wack, Tariff Division, Common Carrier Bureau, (202) 632-6917.

SUPPLEMENTARY INFORMATION: This is a summary of the Common Carrier Bureau's Memorandum Opinion and Order, CC Docket 85-166, Phase II, Part 1, Mimeo No. 3436, adopted March 26, 1986, and released March 27, 1986.

The full texts of Commission decisions are available for public inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW, Washington, DC. The complete text of these decisions may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW, Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order

In March 1985, the Commission prescribed a one-year transition plan in order to moderate proposed increases in rates for special access lines provided by the Bell Operating Companies (BOCs) to certain other common carriers (OCCs).[1] Pursuant to this plan, which covers lines in place as of November 8, 1984, the OCCs received a 50 percent discount on the tariffed rate during the first six months special access rates were in effect (generally, from April through September of 1985) and a 25 percent discount on the tariffed rate during the next six months. The OCCs were scheduled to begin paying full rates for these lines as of April 1, 1986. During the period in which the transition plan has been in effect, the Commission has also been examining a variety of issues related to local exchange carrier special access tariffs, including the reasonableness of rate levels,[2] as part of the instant investigation (*Docket 85-166*). Congress has urged the Commission to complete the investigation before the April 1 rate equalization step occurred.[3]

Based upon its analysis of rate of return data submitted by the BOCs in the *Docket 85-166* investigation, the Bureau concluded that, averaged industry-wide, BOC special access rates would not become unreasonable if the April 1 rate equalization step occurred as scheduled. In certain states, however, the Bureau concluded that implementation of rate equalization appeared likely to result in unreasonably high rates for all customers. Therefore, the Bureau temporarily extended the transition plan until June 1, 1986 in such states.[4] During this period, BOCs providing special access service in these states will have an opportunity to justify the apparently excessive rates or to file tariff revisions reducing such rates.[5] Upon the effective date of the revisions, the transition discount will be eliminated and the revised rates will apply to all special access customers.

The Bureau also directed Northwestern Bell and Pacific Northwest Bell to refund special access

[1] *See* Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I and Phase II, Part 1, FCC 85-100, 50 FR 11440 (Mar. 21, 1985) (*March 8 Order*).

[2] *See* Investigation of Special Access Tariffs of Local Exchange Carriers, CC Docket 85-166, Phase II, Part 1, released Jan. 17, 1986 (*Data Request Order*) (Common Carrier Bureau requested information and established a procedural schedule for the investigation of BOC special access rate levels). The BOCs responded to the requirements of the *Data Request Order* by filing information with the Commission on February 14, 1986.

[3] H.R. Rep. No. 99-414, 99th Cong., 1st Sess., at 38 (Dec. 4, 1985).

[4] The states in question are: Michigan, Ohio, Indiana, Virginia, Delaware, New Jersey, Iowa, Minnesota, Nebraska, North Dakota, Idaho, New Mexico, Kansas, Oklahoma and Texas.

[5] The carriers in question are: Michigan Bell, Ohio Bell, Indiana Bell, Northwestern Bell, Pacific Northwest Bell, Mountain Bell, Southwestern Bell, and the Chesapeake and Potomac Telephone Companies of Virginia, Delaware and New Jersey.

rates in four states or show cause why they should not be ordered to do so. The refunds are to correct excessive rates in Idaho, Nebraska, South Dakota and Washington during the period from April through September 1985.

Finally, the Bureau terminated the rate level portion of the *Docket 85-166* investigation with regard to certain BOCs whose special access rates of return indicate that their underlying rate levels are not unreasonable.[6]

Ordering Clauses

Therefore, it is ordered that the transition plan described by the Commission in the *March 8 Order* is modified by extending it until June 1, 1986 in the states listed in footnote 4 of this summary. Tariff revisions reflecting this extension should be filed by such carriers on not less than one day's notice to be effective April 1, 1986. For this purpose, we waive §§ 61.58 and 61.58 of the Commission's rules, 47 CFR 61.58, 61.58, and assign Special Permission No. 86-208.

It Is Further Ordered, that carriers identified in footnote 5 of this summary are directed to file with this Commission no later than May 1, 1986 either (1) justification for their currently effective special access rates including, but not limited to, information as to actual rates of return in the special access category for the period between October 1, 1985 and the present; or (2) tariff revisions reducing their special access rates in a manner calculated to lower their rates of return to authorized levels.

It Is Further Ordered, that the Northwestern Bell Telephone Company and the Pacific Northwest Bell Telephone Company are hereby ordered to refund excessive earnings on special access services provided during the period from April through September of 1985, and to report to this Commission no later than May 1, 1986 as to the method and schedule by which such refund is being implemented, or to show why such refund is not being implemented.

It is Further Ordered, that the portion of the instant investigation directed at the special access rate levels of local exchange carriers, and no other portion, is hereby terminated as to the carriers listed in footnote 6 of this summary.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-9130 Filed 4-24-86; 8:45 am]

BILLING CODE 6712-01-M

[6] The affected BOCs are (where appropriate, this list indicates that the investigation is terminated only as to a carrier's operations in certain of its operating territories): the Chesapeake and Potomac Telephone Companies of West Virginia and the District of Columbia; Pennsylvania Bell; Northwestern Bell (South Dakota); Pacific Northwest Bell (Oregon, Washington); Mountain Bell (Arizona, Idaho, Montana, Utah); Southern Bell (Florida, Georgia, North Carolina, South Carolina); the New York Telephone and Telegraph Company; the New England Telephone and Telegraph Company, the Southern New England Telephone Company and Southwestern Bell (Arkansas).

[CC Docket No. 85-166, Phase I; FCC 86-52]

Common Carrier Services; Investigation of Special Access Tariffs of Local Exchange Carriers.

AGENCY: Federal Communications Commission.

ACTION: Final order.

SUMMARY: The Commission has resolved a number of rate structure and cost allocation issues related to the special access tariffs of local exchange carriers.

EFFECTIVE DATE: January 24, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Michael Wack, Tariff Division, Common Carrier Bureau, (202) 632-6917.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, CC Docket 85-166, Phase I, adopted January 21, 1986, and released January 24, 1986.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW, Suite 140, Washington, DC 20037.

A. Rate Structure Issues

1. Multipoint Service vs. Point-to-Point Service.

The Commission concluded that the special access rate structure adopted by the National Exchange Carrier Association (NECA) and most major local exchange carriers (LECs) including the Bell Operating Companies (BOCs), as it is applied to multipoint and point-to-point services, is reasonable. The Commission determined that pricing difference between comparable network configurations are rationally related to the cost of providing each service, and that the structure leaves to the customer the decision as to when it is economically reasonable to select one type of service or the other. The Commission rejected a request to require LECs to install multipoint service bridging capability in every serving wire center because such action would result in overcapacity and higher rates for all users. Finally, the Commission rescinded its requirement [1] that multipoint service bridging rates be calculated on a per port basis.

2. Video Services

The Commission concluded that the actual routing and cost characteristics of video and voice services are so similar that the application of the special access rate structure to both services is just and reasonable. The Commission further determined that the LECs' video rates reflect investment in certain amounts of polyethylene shielded video (PSV) cable and related plant that currently is not used to provide video service. Therefore, it disallowed 50 percent of the unassigned PSV then allocated by the LECs to the video service category.

3. Shared Network Facility Agreements (SNFAs)

SNFAs are a collection of contracts implementing provisions of a consent decree between the United States Department of Justice and the American Telephone and Telegraph Company (AT&T) pursuant to which AT&T was required, *inter alia*, to divest certain BOCs.[2] The District Court with jurisdiction over the decree concluded that it was necessary for AT&T and the divested BOCs temporarily to continue sharing certain facilities: *i.e.*, although ownership of the facilities would be assigned either to AT&T or to the individual BOC according to whose use predominated, the other party would retain a contractual right to their use.[3] The terms and conditions of such use are contained in SNFAs. The Commission concluded that the contemporaneous existence of SNFAs and special access does not constitute unreasonable discrimination under the Communications Act because the temporary sharing of multifunctioning facilities pursuant to SNFAs furthers the public interest. This conclusion, the Commission noted, mooted requests that it order AT&T and the BOCs to file copies of all SNFAs with the Commission.

[1] *See* Investigation of Access and Divestiture Related Tariffs, CC Docket No. 83-1145, Phase I and Phase II, Part 1, 50 FR. 1289 (Mar. 29, 1985).

[2] *See* United States v. AT&T, 552 F. Supp. 131 (D.D.C. 1982) (Modification of Final Judgment or MFJ), *Aff'd sub nom.* Maryland v. United States, 460 U.S. 1001 (1983).

[3] MFJ at 205-07, 227.

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B. Cost Allocation Issues

The Order designating issues for investigation in the present proceeding noted that the LECs' allocation of certain costs among various special access rate elements warranted close examination.[4] In general, two types of costs allocation questions arose: (1) Whether certain special access costs should be allocated to the channel mileage or the channel termination rate element (the former generally is associated with trunk costs and the latter with loop costs); and (2) whether certain costs should be unbundled and recovered either in a separate rate element or on a customer-specific basis.

1. Station Apparatus and Large Private Branch Exchanges (PBXs)

In accordance with §§ 31.231 and 31.234 of the Commission's rules, 47 CFR 31.231, 31.234, LECs have established separate accounts which reflect the original cost of station apparatus (Account 231) and large PBXs (Account 234) in their inventories. The Commission concluded that (1) certain equipment associated with Accounts 231 and 234, although located on customers' premises, is properly subject to tariffing procedures; (2) the equipment in these accounts is used to provide a particular kind of service to customers and, therefore, the LECs' investment in such equipment should be recovered from all customers to whom the service is provided, even though not every type of equipment in the collection is used to provide service to every customer; and (3) the investment in question is properly allocated to the channel terminated rate element because the equipment is used to establish a transmission path between the customer and the wire center serving that customer.

2. Digital Interexchange Facilities

The Commission determined that a portion of the cost associated with digital interexchange facilities is allocated properly to the channel termination rate element because the service, which is provided on an end-to-end basis, includes loop facilities.

3. Private Line Switching Services Costs

The Commission determined that the investment at issue here represents capacity in BOC-owned multifunctioning equipment which is available for lease by AT&T but which is not currently under lease. Against this background, the Commission concluded that such investment was not available to the public at large for the provision of special access services and should not be included in any special access rate element. Therefore, the Commission ordered the BOCs in question to remove such investment from their special access revenue requirement.

4. Voice Grade Performance

The Commission determined that voice grade performance equipment is used to provide continuity on loop circuits and, therefore, is properly associated with the channel termination rate element. Moreover, the Commission noted, it would be unwarranted to unbundle such equipment costs from channel termination rates because the equipment itself is not useful to customers on a stand-alone basis.

5. Hybrid Option

The Commission rejected requests that the costs associated with equipment used to connect a four-wire special access line to a two-wire termination be unbundled from channel termination rates. The Commission noted that the decision to use such equipment depends more upon conditions in a carrier's inventory than upon a specific customer's facilities. The Commission concluded, therefore, that the option of using such facilities should remain with carriers in order to allow them to apply their facilities in the most efficient manner.

6. Facility Interface (FACIF) Grade Performance

The Commission determined that the allocation of FACIF costs in LEC special access tariffs is reasonable. The Commission noted that the LECs have bundled such costs into channel termination rates on a service-by-service basis, an allocation methodology calculated to ensure that customers who are provided with a particular service are charged a rate reflecting the average cost of such service, no more and no less.

7. 2-Wire vs. 4-Wire Channel Termination Rates

The Commission determined that relationship between 2-wire and 4-wire channel termination rates unduly prejudiced 2-wire users and ran counter to common understanding of proper rate relationships. The Commission concluded that a 1-to-1.6 ratio represents a reasonable rate relationship between 2-wire and 4-wire channel termination rates and it directed carriers to adjust their rates accordingly.

C. Information Request

The Commission directed local exchange carriers whose special access tariffs include non-recurring charges (NRCs) to file with the Commission certain information on the costs underlying such charges. The Commission also directed these carriers to file pleadings addressing certain NRC issues, including (1) the potential market effects of changing the allocation of costs between recurring and non-recurring charges, (2) whether the Commission should require a phase-in transition to higher NRC rates; and (3) the relationship, if any, between actual costs for the period from April 1, 1985 through September 1985 and the rate increases proposed by the LECs in the July 2, 1985 filings, which took effect on October 1, 1985.

Ordering Clauses

Accordingly, It Is Ordered, pursuant to section 205(a) of the Communications Act, 47 U.S.C. 205(a), that the requirement that local exchange carriers charge for bridging services on a "per port" basis is hereby rescinded.

It Is Further Ordered, pursuant to sections 201(b) and 204 of the Communications Act 47 U.S.C. 201(b), 204, that 50 percent of the revenue requirement associated with unassigned PSV cable allocated by local exchange carriers to the video service category is hereby disallowed.

It Is Further Ordered, pursuant to sections 201(b) and 204 of the Communications Act 47 U.S.C. 201(b), 204, that local exchange carriers are directed to remove from the special access revenue requirement the investment discussed *supra* relating to private line switching services.

It Is Further Ordered, pursuant to sections 201(b), 204 and 205 of the Communications Act 47 U.S.C. 201(b), 204–205, that a relationship of 1.6-to-1 between 4-wire and 2-wire channel termination rates for major voice and sub-voice grade special access categories is hereby prescribed.

It Is Further Ordered, pursuant to sections 4(i), 4(j) and 203(a)–(b) of the Communications Act 47 U.S.C. 154(i)–(j), 203(a)–(b), that carriers shall file revised tariff material in compliance with this Order no later than 30 days from the date of its release, to become effective upon one day's notice.

It Is Further Ordered, pursuant to sections 201, 204, 218 and 403 of the Communications Act 47 U.S.C. 201, 204, 218 and 403 that carriers are directed to file with this Commission information relating to non-recurring charges according to the terms of this Order.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-0139 Filed 4-24-86; 8:45 am]

BILLING CODE 6712-01-M

[4] Investigation of Special Access Tariffs of Local Exchange Carriers, CC Docket No. 85-166, Mimeo No. 4720, released May 24, 1985.

FEDERAL MARITIME COMMISSION

Item Submitted for OMB Review

The Federal Maritime Commission hereby gives notice that the following item has been submitted to OMB for review pursuant to the Paperwork Reduction Act of 1980 (44 U.S. 3501, et. seq.). Requests for information, including copies of the collection of information and supporting documentation, may be obtained from Wm. Jarrel Smith, Jr., Director, Bureau of Administration, Federal Maritime Commission, 1100 L Street, NW., Room 12211, Washington, D.C. 20573, telephone number (202) 523–5866. Comments may be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attention: Desk Officer for the Federal Maritime Commission, within 15 days after the date of the **Federal Register** in which this notice appears.

Summary of Item Submitted for OMB Review

46 CFR 566—Shippers' Requests and Complaints Under the Shipping Act, 1916

FMC requests extension of clearance for regulations which require conferences and other ratemaking bodies in the domestic offshore trades to file annual reports detailing shippers' requests and complaints received during the preceding calendar year and the disposition of such. Resident representatives must maintain records for two years. Total estimated annual burden for 2 conferences and ratemaking bodies is 24 man-hours. Total estimated annual cost to the Federal Government is approximately $100; total estimated annual cost to respondents is approximately $450.

Tony P. Kominoth,

Assistant Secretary.

[FR Doc. 86-0250 Filed 4-24-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Coastal Commerce Bankshares, Inc. et al.; Formations of ; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 19, 1986.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Coastal Commerce Bankshares, Inc.*, Kaplan, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Kaplan State Bank, Kaplan, Louisiana.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *DG Bancorp, Inc.*, Downers Grove, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Downers Grove National Bank, Downers Grove, Illinois.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Crown Park Bancshares, Inc.*, Lubbock, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Western National Bank, Lubbock, Texas. Comments on this application must be received not later than May 16, 1986.

Board of Governors of the Federal Reserve System, April 21, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-0255 Filed 4-24-86; 8:45 am]

BILLING CODE 6210-01-M

Southern National Corp., et al.; Applications To Engage de Novo in, Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 15, 1986.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Southern National Corporation*, Lumberton, North Carolina; to engage de novo through its subsidiary Unified Investors Life Insurance Company.

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Phoenix, Arizona, in underwriting, as reinsurer, credit life and credit disability insurance directly related to extensions of credit in South Carolina by its affiliate, Southern National Bank of South Carolina, Loris, South Carolina, pursuant to § 225.25(b)(9) of the Board's Regulation Y.

B. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *PSB Financial Corporation*, Many, Louisiana; to engage directly in the activity of originating, acquiring, selling, and servicing mortgage loans pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 21, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-9258 Filed 4-24-86; 8:45 am]

BILLING CODE 6210-01-M

Zions Utah Bancorporation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 6, 1986.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Zions Utah Bancorporation*, Salt Lake City, Utah; to acquire Century Mortgage Company, Salt Lake City, Utah, and thereby engage in mortgage banking activities, pursuant to § 225.25(b)(1)(iii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 21, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-9257 Filed 4-24-86; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Line of Business Reports Program; Revision of Confidentiality Rules and Procedures

Correction

In FR Doc. 86-8349 beginning on page 12743 in the issue of Tuesday, April 15, 1986, make the following corrections:

1. On page 12743, second column, first and second lines, "("LB" data)" should read "("LB data")". In the first complete paragraph, eighth line, "custodial certificates" should read "custodian certifies".

2. On the same page, third column, first complete paragraph, sixth line, insert "with" between "work" and "LB".

3. On page 12744, second column, third complete paragraph, sixth line, "authorized by the" should read "with any".

4. On the same page, third column, last paragraph, second line, "Economic" should read "Economics".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on April 18, 1986.

Social Security Administration

(Call Reports Clearance Officer on 301-594-5706 for copies of packages)

Subject: Disability Hearing Officer's Report of Disability Hearing—Existing Collection.

Respondents: State or local governments.

OMB Desk Officer: Judy A. McIntosh.

Subject: July 1986 Grantee Survey of Low-Income Home Energy Assistance Program—Revision—(0960-0330).

Respondents: State or local governments; Non-profit institutions.

OMB Desk Officer: Fay S. Iudicello.

Public Health Service

(Call Reports Clearance Officer on 202-245-2100 for copies of packages)

Food and Drug Administration

Subject: Food Standards; Application for Temporary Marketing Permits—Existing Collection—(0910-0133).

Respondents: Businesses or other for-profit institutions.

National Institutes of Health

Subject: NIH Medical Staff Fellowship Program Application—Extension—(0925-0006).

Respondents: Individuals or households.

OMB Desk Officer: Bruce Artim.

Health Care Financing Administration

(Call Reports Clearance Officer on 301-594-8650 for copies of packages)

Subject: Evaluation of Intermediary-at-Risk Demonstration—Preclearance—NEW.

Respondents: Individuals, providers.

Subject: Information Collection Requirements in Part 11, Chapter VI of the State Medicaid Manual on the Claims Processing Assessment System—Revision—HCFA-R-91, RCFA-331, and HCFA-503—(0938-0438).

Subject: Information Collection Requirements in BERC-240-F, Recognition of State Reimbursement Control System—HCFA-R-49—NEW.

Respondents: State or local governments; Small businesses or organizations.

OMB Desk Officer: Fay S. Iudicello.

Office of Human Development Services

Subject: Head Start Cost Analysis Instrument—NEW.

Respondents: State or local governments; non-profit institutions.

Subject: State Grants for Dependent Care Planning and Development—NEW.

Respondents: States.

OMB Desk Officer: Fay S. Iudicello.

Copies of the above information collection clearance packages can be obtained by calling the Reports Clearance Officer on the number shown above.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. ATTN: (name of OMB Desk Officer)

Agency Forms Withdrawn from the Office of Management and Budget Clearance Process.

The Department of Health and Human Services has withdrawn the following information collection package previously submitted to OMB for approval under the Paperwork Reduction Act.

Public Health Service

Subject: Inventory of Union Records Systems—NEW.

Reference: Federal Register/Volume 51/Page 13291, Friday, April 18, 1986.

Dated: April 21, 1986

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86-9276 Filed 4-24-86; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 86E-0073]

Determination of Regulatory Review Period for Purposes of Patent Extension; Femstat

AGENCY: Food and Drug Administration HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Femstat and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims this human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: James C. Shehan, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Femstat, available in cream and vaginal suppository forms for use against fungal and bacterial vaginal infections. Following FDA's approval, Syntex (U.S.A.) Inc. filed a patent term restoration application with the U.S. Patent and Trademark Office, which then requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated March 13, 1986, FDA advised the Patent Office that the product had undergone a regulatory review period and that Femstat represented the first commercial marketing or use of its active ingredient, butoconazole nitrate. Shortly thereafter, the Patent Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Femstat is 2,548 days. Of this time, 1,875 days occurred during the testing phase of the regulatory review period, while 673 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* December 6, 1978. FDA has verified that the investigational new drug application became effective on December 6, 1978 (30 days after its receipt by the agency; see 21 CFR 312.1(b)(4)).

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* January 23, 1984. FDA has verified that the first of two new drug applications (one for each dosage form) was initially submitted on January 23, 1984.

3. *The date the application was approved:* November 25, 1985. FDA has verified that NDA 19-215 and NDA 19-359 were both approved on November 25, 1985.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 2 years of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 24, 1986, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 22, 1986, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

BEST COPY AVAILABLE

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Dated: April 21, 1986.

Allen B. Duncan,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 86-9286 Filed 4-22-86; 11:56 am]

BILLING CODE 4160-01-M

[Docket No. 81D-0148]

Defect Action Levels for Canned Tomato Products; Availability of Guide

Correction

In FR Doc. 86-7950 beginning on page 12394 in the issue of Thursday, April 10, 1986, make the following correction on page 12935:

In the first column, in **FOR FURTHER INFORMATION CONTACT,** second line, the information in the parenthesis should read "(HFF-312)".

BILLING CODE 1505-01-M

Public Health Service

Announcement of Availability of Grants for General Family Planning Training Projects

AGENCY: Office of Family Planning, PHS.

ACTION: Notice.

SUMMARY: This is to announce the availability of grant funds for the General Family Planning Training Grants Program for the following regions: II, VI, and X. Applications for public and private nonprofit entities are now being accepted for grant awards under section 1003(a) of the Public Health Service (PHS) Act [42 U.S.C. 300a-1(a)] as implemented by regulations at 42 CFR Part 59 to provide training for personnel to carry out family planning service programs described in section 1001 of the PHS Act (42 U.S.C. 300).

The Office of Family Planning (OFP) which administers Title X of the Public Health Service Act, a major source of Federal funding for voluntary family planning services in this country, provides funds for a general training center in each of the ten HHS regions oriented toward the provision of skill-based knowledge for personnel that will enable the Title X program to improve its delivery of family planning services to low-income women and other clients in need of such services but otherwise unable to afford them.

ADDRESS: Application kits may be obtained from and applications must be submitted to: Grants Management Office, Office of Population Affairs, Room 736E, H.H.H. Building, 200 Independence Avenue, SW., Washington, DC 20201.

DATE: Applications must be postmarked or received at the above address no later than close of business June 24, 1986. Applications not meeting this requirement will not be accepted for review.

FOR FURTHER INFORMATION CONTACT: Grants Management Office at area code 202/245-0146 or Program Office at area code 202/245-0151. Staff are available to answer questions and provide limited technical assistance in the preparation of grant applications.

SUPPLEMENTARY INFORMATION: Title X of the Public Health Service Act, 42 U.S.C. 300, *et seq.*, authorizes the Secretary of Health and Human Services to award grants for projects to provide training for all family planning personnel. (Catalog of Federal Assistance Number 13.260). This notice announces the availability of approximately $600,000 in funding for three general training projects described below. Grants will be made to public and/or private nonprofit organizations to assist in the establishment and operation of projects which will promote the purposes of section 1003 of the PHS Act, taking into account the degree to which the project meets the requirements of the regulations (42 CFR 59.205 and 59.206). Applications are invited for the following three grants:

One general training grant for Department of Health and Human Services (DHHS) Region II (New Jersey, New York, Puerto Rico and Virgin Islands). A funding range of $230,000-$280,000 is under consideration for this grant.

One general training grant for DHHS Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas). A funding range of $220,000-$250,000 is under consideration for this grant.

One general training grant for DHHS Region X (Alaska, Idaho, Oregon, and Washington). A funding range of $125,000-$140,000 is under consideration for this grant.

Proposals must focus at least fifty percent of the training effort in the national training priority areas: (1) Family involvement, (2) program management, (3) clinic management, (4) infertility, (5) counseling and client education, and (6) natural family planning. [Natural Family Planning includes various methods and techniques which teach fertility awareness. Natural family planning does not include methods which combine fertility awareness with the use of another contraceptive method as a backup.]

Grants may be approved for project periods of up to five years. Priority will be given to those which do not exceed three years and to those projects that focus on training needs of personnel in rural and underserved areas. Grants are funded in annual increments (budget periods). Funding for all approved budget periods beyond the first year of the grant is contingent upon satisfactory progress of the project, and adequate stewardship of Federal funds, and availability of funds. We summarize below the statutory and regulatory background of the grant program and describe the procedures for applying for grants pursuant to this notice.

Statutory and Regulatory Background

Title X of the Public Health Service Act, enacted by Pub. L. 91-572, authorizes grants for projects to provide family planning services to low-income persons and others. Section 1001 of the Act (as amended by Pub. L. 94-63 and 95-613) authorizes grants "to assist in the establishment and operation of family planning projects which offer a broad range of acceptable and effective family planning methods, including natural family planning methods, infertility services, and services to adolescents". Section 1003 of the Act, as amended, authorizes the Secretary to make grants to "entities and individuals to provide the training for personnel to carry out the family planning serices programs described in section 1001 . . .".

Prospective applicants and grantees should refer to the regulations in their entirety. The regulations set out at 42 CFR, Part 59, Subpart C, govern grants for family planning service training.

Under the regulations, "training" means job-specific skill development, the purpose of which is to promote and improve the delivery of family planning services. See 42 CFR 59.202(e). The training does not have to be structured or always provided in formal classroom settings. In-service education, staff development, and continuing education activities that are innovative or non-traditional are encouraged, as well as the development of self-paced, self-instructional or mediated training materials which utilize technological advancements in the learning field.

Training grants may be made to eligible applicants for the purpose of providing programs, not to exceed three months in duration, for training family planning or other health service delivery personnel in skills, knowledge, and attitudes necessary for the effective delivery of family planning services. The Secretary may in particular cases approve support of a program where duration is longer than three months when the Secretary determines (1) that such program is consistent with the purposes of this subpart and (2) that the program's objectives cannot be accomplished within three months because of the unusually complex or specialized nature of the training to be undertaken.

Application Requirements

Applications must be submitted on the forms supplied (SF-424) and in the manner prescribed in the application kits available from the Office of Grants Management. Applicants are required to submit an application signed by an individual authorized to act for the applicant agency or organization and to assume for the organization the obligations imposed by the terms and conditions of the grant award. Applicants are required to submit an original application and two copies.

Applications which are judged to be late or which do not conform to the requirements of this program announcement will not be accepted for review. Applicants will be so notified, and the applications will be returned. All accepted applications will be subjected to a competitive review and assessment by a committee composed of qualified persons. The results of this review will assist the Deputy Assistant Secretary for Population Affairs in considering competing applications and in making the final funding decisions.

Any public or private nonprofit organization or agency is eligible to apply for a grant. However, as specified in the above Summary, only entities proposing to serve Regions II, VI and X will be eligible to apply under this announcement.

A copy of the legislation and regulations governing this program will be sent to applicants as part of the application kit package. Applicants should use the legislation to guide them in developing their applications. Awards will be made only to those applicants who have met all applicable requirements.

Grant Award

In determining which applications will best promote the statutory purposes, eligible competing grant applications will be reviewed and assessed against the following criteria:

1. The applicant's provision for the requirements set forth in regulation at 42 CFR Part 59.205 (10 points).

2. The capacity of the proposed applicant organization and staff to provide the appropriate services and to evaluate the results (15 points).

3. The applicant's presentation of the project's objectives, the methods for achieving project objectives, and the results or benefits expected (25 points).

4. The applicant's documentation of the innovativeness of the program approach, its worth for testing and replication (25 points).

5. The reasonableness of the estimated cost of the project to the government considering the anticipated results. (5 points).

6. The degree which the applicant's evaluation methodology indicates an understanding of program evaluation methods and of a practical, technically sound approach to assessing the project's achievement of program objectives. The extent and nature of the involvement of Title X service providers and the regional office in the evaluation effort should be made clear (20 points).

In making grant award decisions the Deputy Assistant Secretary for Population Affairs (DASPA) will take into consideration such factors as the following:

1. The national training priority areas.

2. The service providers' commitment to and involvement in the planning and implementation of the training project.

3. The type of organization applying.

4. The organizational models for delivery of training.

5. The usefulness to policy makers and service providers of the proposed training project and its potential for complementing existing training needs.

6. The extent to which the applicant has displayed an appreciation for the special needs of clinics which serve rural and underserved areas.

7. Where competing projects are of approximately equal quality and only one grant can be funded, priority will be given to grantees not previously funded by OPA.

Applicants may provide training services directly or indirectly through subcontractors or consultants.

Review Under Executive Order 12372

Applications under this announcement are subject to the review requirements of Executive Order 12372, State Review of Applications for Federal Financial Assistance, as implemented by 45 CFR Part 100. As soon as possible, the applicant should discuss the project with the State Single Point of Contact (SPOC) for each State in the area to be served. The application kit contains the currently available listing of the SPOCs which have elected to be informed of the submission of applications. For those States not represented on the listing, further inquiries should be made by the applicant regarding the submission to the relevant SPOC. The SPOCs comment(s) should be forwarded to the Grants Management Office, Office of Population Affairs, Room 736E, H.H.H. Building, 200 Independence Avenue, SW., Washington, DC 20201. Such comments must be received by the Office of Population Affairs by July 20, 1986 to be considered.

When final funding decisions have been made, all applicants will be notified by letter of the outcome of their applications. The official document notifying an applicant that a project application has been approved for funding is the Notice of Grant Award, which specifies to the grantee the amount of money awarded, the purposes of the grant, and the terms and conditions of the grant award.

Dated: March 21, 1986.

Jo Ann Gasper,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 86-9280 Filed 4-24-86; 8:45 am]

BILLING CODE 4160-17-M

Coordination and Maintenance Committee; Meeting

Notice is hereby given that the ICD-9-CM Coordination and Maintenance Committee will convene on Wednesday, May 21, 1986 and Thursday, May 22, 1986 from 9:30 a.m. to 4:00 p.m. both days in Room 703A of the Hubert Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20021.

AGENCY: National Center for Health Statistics (NCHS). Public Health Service.

SUMMARY: This second notice announces the third meeting of the International Classification of Diseases, Ninth Revision, Clinical Modification (ICD-9-CM) Coordination and Maintenance Committee.

SUPPLEMENTARY INFORMATION: The ICD-9-CM is the clinical modification of the World Health Organization's International Classification of Diseases, Ninth Revision. It is the coding system required for use by hospitals and other health care facilities in reporting both diagnoses and surgical procedures for Medicare, Medicaid and all other health-related HHS programs. The work of the ICD-9-CM Coordination and Maintenance Committee will allow this coding system to continue to be an appropriate reporting tool for use by Federal programs.

The Committee is composed entirely of representatives from various Federal agencies interested in the International Classification of Diseases (ICD) and its modification, updating, and use for Federal programs. It is Co-Chaired by the National Center for Health Statistics

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and the Health Care Financing Administration.

At the third meeting of the ICD–9–CM Committee, members will continue the previous discussions for updating ICD–9–CM, Volume 3 procedures. These discussions include proposals for developing additional ICD–9–CM codes for new technologies such as lasers in medicine and surgery and parenteral and enteral nutrition. Additional items for discussion include a proposed new classification for HTLV–3/LAV infections and revisions for urethroscopy and pyeloscopy procedure codes. The meeting is open to the public and attendance, proposal submittals and participation by interested parties are encouraged.

FOR FURTHER INFORMATION, CONTACT: Ms. Sue Meads, Co-Chairperson, National Center for Health Statistics, Room 2–19, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 436–7019 or Ms. Lisa Levine, telephone (301) 597–0610.

Dated: April 11, 1986.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 86–9283 Filed 4–24–86; 8:45 am]

BILLING CODE 4160–17–M

Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HB (Health Resources and Services Administration) of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (47 FR 38409–24, August 31, 1982, as amended most recently at 50 FR 29767, July 22, 1985) is amended to reflect a realignment of the Headquarters components of the Indian Health Service, Health Resources and Services Administration.

Under HB–10, Organization and Functions, delete all of the statement for the *Indian Health Service (HBN)* through *Division of Indian Resources Liaison (HBNG3)* and substitute the following:

Indian Health Service (HBN). The Indian Health Service (IHS) assures a comprehensive health services delivery system for American Indians and Alaska Natives with sufficient options to provide for maximum tribal involvement in meeting their health needs. The goal of IHS is to raise the health level of the Indian and Alaska Native people to the highest possible level.

To carry out its mission and to attain its goal, IHS: (1) Assists Indian Tribes in developing their capacity to man and manage their health programs through activities including health management training, technical assistance and human resource development; (2) facilitates and assists Indian Tribes in coordinating health planning, in obtaining and utilizing health resources available through Federal, State and local programs, in operating comprehensive health programs, and in health program evaluation; (3) provides comprehensive health care services, including hospital and ambulatory medical care, preventive and rehabilitative services, and development of community sanitation facilities; and (4) serves as the principal Federal advocate for Indians in the health field to assure comprehensive health services for American Indians and Alaska Natives.

Office of the Director (HBN 1). Provides overall direction and leadership for IHS by: (1) Establishing goals, objectives, policies and priorities in pursuit of the IHS mission; (2) providing leadership to ensure the delivery of high quality, comprehensive health services; (3) coordinating IHS activities and resources internally and externally with those of other governmental and non-governmental programs, promoting optimum utilization of all available health resources; (4) developing and demonstrating alternative methods and techniques of health services management and delivery with a view to provide Indian Tribes and other Indian community groups with optional ways of participating in the Indian health program; (5) developing individual and tribal capacities to participate in Indian health programs through means and modalities which they deem appropriate to their needs and circumstances; (6) affording Indian people an opportunity to enter a career in the IHS by applying Indian preference; (7) keeping the public fully informed on the activities of the IHS; and (8) encouraging full application of the principles of EEO.

Office of Administration and Management (HBN13). Under the direction of the Associate Director for Administration and Management: (1) Provides IHS-wide leadership, program direction, and coordination of all phases of management; (2) provides management expertise and staff advice and support to the Director in program and policy formulation and execution; and (3) plans, directs, and coordinates IHS activities in the area of management policy, internal control reviews, records management, financial management, personnel management, debt management, third-party reimbursement, manpower management, grants and contracts management, procurement, personal property accountability and management, and administrative services.

Office of Planning, Evaluation and Legislation (HBN15). Under the direction of the Associate Director for Planning, Evaluation and Legislation: (1) Serves as the IHS's primary staff element and principal source of advice on program planning, program evaluation, and legislative affairs; (2) develops, in collaboration with financial management staff, the long-range program and financial plan for the IHS; (3) oversees, in coordination with the Office of the Administrator, HRSA, communications between IHS and higher levels of the Department on all matters that involve long-range plans, evaluations of program performance, or legislative affairs; (4) develops long-range goals, objectives, and priorities for the IHS; (5) directs all activities within the IHS which compare the costs of the Agency's programs with their benefits, including the preparation and implementation of comprehensive program evaluation plans; (6) directs all the legislative affairs of IHS, including the development of legislative proposals and a legislative program; (7) plans, develops, directs and coordinates an analytical statistical reporting system providing data for measuring health status and appraising program activities; (8) conducts policy analyses and develops policy positions in programmatic areas for IHS; (9) acts as the focal point for the preparation, development, and monitoring of IHS regulations; (10) assures the development and implementation of IHS program appeals processes within the Service; (11) provides leadership, guidance, and coordination of the health data systems support activities; and (12) administers the implementation of the Privacy Act and the Freedom of Information Act within the IHS.

Office of Tribal Activities (HBNG). Under the direction of the Associate Director for Tribal Activities: (1) Serves as the focal point to provide policy guidance to Tribes and tribal organizations; (2) identifies the needs for and characteristics of optional methods and techniques for Indian program participation; (3) implements new methods and techniques for Indian community participation in and management of their health programs; (4) assists Tribes, as appropriate, that do not want to manage their own health programs to gain greater influence over their community's health programs by providing the Tribes with technical assistance, training, and guidance; (5) advises on the Indian community development implications of the Service's plans, programs and operations; (6) develops standards and policy for all tribal contracts; and (7) provides broad guidance on the conduct of tribal contract reviews by the Area Offices.

Office of Health Programs (HBNH). Under the direction of the Associate Director for Health Programs: (1) Provides consultation and technical assistance to all operating and management levels of the IHS and Indian Tribes in the design and implementation of health management and health delivery systems; (2) provides guidance and support to all field activities related to the day-to-day delivery of health care; (3) provides Service-wide leadership in health programs in relation to IHS goals, objectives, policies, and priorities; (4) directs the development and implementation of health care administration and direct and contract health services, standards, quality control and quality assurance, operational planning activities and program reviews of health programs; and (5) provides leadership, guidance, and coordination of the health manpower and training programs.

Office of Environmental Health and Engineering (HBNJ). Under the direction of the Associate Director for Environmental Health and Engineering: (1) Provides leadership, guidance and coordination to the overall IHS environmental health, Indian sanitation facilities construction and health care facilities engineering programs; (2) serves as the principal advisor in policy development for IHS environmental health and facilities engineering programs; (3) develops and coordinates program requirements for the planning, design, construction and evaluation of IHS health care and sanitation facilities and personnel quarters; (4) administers the management, maintenance and repair of IHS real property incuding existing IHS health care facilities and IHS personnel quarters; and the design, construction, operation and maintenance of sanitation facilities; (5) administers nationwide IHS facilities engineering and construction programs for IHS health care facilities with the support of the Office of Engineering Services; (6) develops, coordinates, and evaluates technical standards, guides, plans and requirements for IHS environmental health and facilities engineering programs; (7) administers IHS environmental health programs including occupational safety and health, accident prevention and injury control; as well as biomedical engineering and energy conservation activities; (8) provides consultation and technical assistance to and monitors as appropriate, IHS Area Offices, tribal governments and Alaska Native corporations on facilities planning and construction programs; (9) coordinates IHS requirements for shared or cooperative projects with Federal Agencies such as DOE, DOD, VA, HUD, State and regional planning bodies, etc; and (10) provides consultation to professional standards organizations and related groups such as the Joint Commission for the Accreditation of Hospitals and National Research Council.

Office of Health Program Development (HBNK). Under the direction of the Associate Director for Health Program Development: (1) Develops and demonstrates methods and techniques for the improved operations and management of the health program; (2) provides consultation and technical assistance to all operating and management levels of the Indian Health Service and Indian tribes in the design and implementation of health management and service delivery systems; (3) coordinates health research and development activities within the Service directed toward improving the health of Indian people; (4) provides or develops appropriate training courses, methods and plans for human resource development; and (5) provides direct or indirect health services for the Indian people in the IHS Service Units under the jurisdiction of the Office.

This realignment is effective upon date of signature.

Dated: April 14, 1986.

Donald Ian Macdonald,

Acting Assistant Secretary for Health.

[FR Doc. 86–9281 Filed 4–24–86; 8:45 am]

BILLING CODE 4160–16–M

Statement of Organization, Functions and Delegations of Authority

Part H, Public Health Service (PHS), of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services is amended to reflect revisions in Chapter HB (Health Resources and Services Administration) and Chapter HN (National Institutes of Health). These changes will implement the requirements of Pub. L. 99–158 (Part E, Subpart 3) pertaining to nursing research and research training activities. Specifically:

(1) The statement for the Health Resources and Services Administration (47 FR 38409–24, August 31, 1982, as amended most recently at 51 FR 9694–95, March 21, 1986), is amended to revise the functional statement for the Division of Nursing (HBP4), Bureau of Health Professions, to delete references to nursing research and research training activities. These activities are transferred to the National Institutes of Health. The Center for Nursing Research, within the Division, is abolished.

(2) The statement for the National Institutes of Health (40 FR 22859, May 27, 1975, as amended most recently at 51 FR 12928–30, April 16, 1986), is amended to reflect the establishment of the National Center for Nursing Research. The Center will provide a focal point for the conduct and support of, and dissemination of information pertaining to, basic and clinical nursing research, research training, and other programs in patient care research.

Health Resources and Services Administration

Under Part H, Chapter HB, Health Resources and Services Administration, Section HB–20, Functions, delete the statement for the *Division of Nursing (HBP4),* Bureau of Health Professions, and insert a new statement as follows:

Division of Nursing (HBP4). Serves as principal focus for nursing education and practice. Specifically: (1) Provides the professional nursing expertise and leadership required by the Bureau in planning, coordinating, evaluating, and supporting development and utilization of the Nation's health personnel resources; (2) supports and conducts programs with respect to the development utilization, and quality of nursing personnel, including registered nurses, practical or vocational nurses, and nursing aides; (3) assists State and local areas in planning, developing, and improving nursing services and educational programs; (4) conducts and supports programs related to the provision of nursing care to advance the health status of individuals, families, and communities; (5) conducts and supports studies and evaluations of nursing personnel requirements, distribution and availability, and cooperates with other components of the Bureau and Agency in such studies; (6) analyzes and interprets nursing programmatic data collected from a variety of sources; (7) engages with other Bureau programs in cooperative

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efforts of development and demonstration on the interrelationships between individual members of the health care team, their tasks, education requirements, and related training modalities; (8) maintains liaison with health professional groups and others, including consumers, having common interest in the Nation's capacity to deliver nursing services: (9) fosters, supports and conducts projects to expand the scientific base of nursing practice and role reformulation and to develop and incorporate new knowledge into practice and education; and (10 provides consultation and technical assistance to public and private organizations, agencies, institutions, the PHS Regional Offices, program units of the Federal Government, and international agencies and ministries of health on all aspects of nursing.

Section HB–30, Delegations of Authority. All of the authorities delegated to the Administrator, HRSA, under Title IV of the PHS Act, as amended, are hereby, revoked. All other delegations and redelegations of authority made to HRSA officials which were in effect immediately prior to this reorganization shall continue in effect.

National Institutes of Health

Under Part H, Chapter HN, National Institutes of Health, *Section HN–B, Organization and Functions,* after the statement for the *John E. Fogarty International Center (HN–5),* add the following statement:

National Center for Nursing Research (HN–7), Foster, conducts, supports, and administers research and research training programs directed at promoting the growth and quality of research related to nursing and patient care and expanding the pool of experienced nurse researchers through: (1) Research grants, contracts, and cooperative agreements to institutions and individuals; (2) individual and institutional research training awards; (3) promotion of closer interaction with other bases of health care research; and (4) collection and dissemination of research findings in these areas.

Section HN–D, Delegations of Authority. No delegation of authority is needed because all authorities under Title IV of the PHS Act have previously been delegated to the Director, NIH.

Effective Date: April 16, 1986.

Donald Ian Macdonald,

Acting Assistant Secretary, for Health.

[FR Doc. 86–9282 Filed 4–24–86; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[I–15247]

Idaho; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a portion of the withdrawal for the Minidoka Reclamation Project continue for an additional 100 years, which is the estimated time the lands will continue to be used for the purpose for which withdrawn. The lands would remain closed to surface entry and mining but have been and would remain open to the mineral leasing laws.

DATE: Comments should be received within 90 days of the date of publication of this notice.

ADDRESS: Comments should be sent to: Idaho State Director, Bureau of Land Management, 3380 Americana Terrace, Boise, ID 83706.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, Idaho State Office, 208–334–1597.

The Bureau of Reclamation proposes that a portion of the land withdrawal made by the Secretarial Order of July 12, 1921, be continued for a period of 100 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The land is described as follows:

Boise Meridian, Idaho

T. 7 S., R. 30 E.,
- Sec. 12, lots 4 and 6;
- Sec. 13, lots 2, 3, 5 and 6.

T. 7 S., R. 31 E.,
- Sec. 2, lot 7;
- Sec. 3, lots 3, 4, 7 and 12;
- Sec. 4, lots 3, 4, 6 and 8;
- Sec. 5, lots 1 and 8;
- Sec. 17, lot 2;
- Sec. 18, lots 9 and 14;
- Sec. 20, lot 3;

T. 4 S., R. 33 E.,
- Sec. 31, lots 2, 8, 9, 10, 11 and 12;
- Sec. 32, lots 8, 9 and 10.

The area described contains 687.42 acres in Power and Bingham Counties.

The purpose of the withdrawal is to protect the lands for use as an irrigation storage facility (American Falls Reservoir). The withdrawal presently segregates the land from surface entry and mining. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in correction with the proposed withdrawal continuations may present their views in writing to the Idaho State Director at the address indicated above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawals will be continued, and if so, for how long. The final determination of the withdrawals will be published in the **Federal Register.** The existing withdrawals will continue until such final determination is made.

Dated: April 18, 1986.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 86–9223 Filed 4–24–86; 8:45 am]

BILLING CODE 4310–GG–M

Phoenix District Advisory Council, Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Phoenix District Advisory Council of the Bureau of Land Management meets May 28, 1986, in Phoenix, Arizona. The meeting will start at 9:30 a.m. in the Phoenix District Office, 2015 W. Deer Valley Road.

The Council has been established by and will be managed according to the Federal Advisory Committee Act of 1972, the Federal Land Policy and Management Act of 1976, and the Public Rangelands Improvement Act of 1978.

The Agenda for the meeting includes:

Phoenix Resource Area Resources Management Plan
Upper Sonoran Wilderness Environmental Impact Statement
BLM Land Exchange Program
BLM Management Updates
Business from the floor
Public comments and statements
Future meetings and agenda topics

SUPPLEMENTARY INFORMATION: This is a public meeting and BLM welcomes the presentation of oral statements or the submission of written statements that address the issues on the meeting agenda or related matters.

Dated: April 17, 1986.

Deane H. Zeller,

Acting District Manager.

[FR Doc. 86–9310 Filed 4–24–86; 8:45 am]

BILLING CODE 4310–32–M

[NM 59489–OK]

Public Land Sale in Woodward County, OK

AGENCY: Bureau of Land Management, Interior.

ACTION: Partial cancellation of land sale.

SUMMARY: The following described land in Woodward (WW) County, Oklahoma as published in the **Federal Register,** Volume 51, No. 40, on February 28, 1986, at page 7134 is hereby removed from sale in its entirety.

Legal Description

Tract: WW–1.
T. 21 N., R. 17 W., IM.
Sec. 30: NE¼SW¼
Acreage: 40.00 acres.

The reason for the removal of this tract from the sale is that a protest has been lodged by an adjacent land owner who is contesting the method of sale. The land will be reoffered for sale upon the resolution of the subject protest.

FOR FURTHER INFORMATION CONTACT: Hans Sallani, 405–231–5491.

Jim Sims,

District Manager.

[FR Doc. 86–9311 Filed 4–24–86; 8:45 am]

BILLING CODE 4310–FB–M

[OR–37150]

Conveyance of Public Lands and Order Providing for Opening of Lands; OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 720 acres of public lands out of Federal ownership. This action will also open 3,247.78 acres of reconveyed lands to surface entry. A total of 709.36 acres will be opened to mining and mineral leasing. Of the balance, 1,363.21 acres have been and remain open to mining and mineral leasing and the mineral estate in 1,175.21 acres was not conveyed to the United States.

EFFECTIVE DATE: May 27, 1986.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, (Telephone 503–231–6905).

SUPPLEMENTARY INFORMATION: 1. Notice is hereby given that in an exchange of lands made pursuant to section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, a patent has been issued transferring 720 acres of lands in Wheeler County, Oregon, from Federal to private ownership.

2. In the exchange, the following described lands have been reconveyed to the United States:

Willamette Meridian

T. 1 S., R. 18 E.,
- sec. 36, SE¼SE¼.

T. 2 S., R. 18 E.,
- sec. 1, SE¼NE¼.

T. 1 S., R. 19 E.,
- sec. 30, lot 11;
- sec. 31, lots 2, 5, 6, 7, 8, 10, 11, and 12, and W½SE¼.

T. 2 S., R. 19 E.,
- sec. 6, lots 3 and 5, SW¼NE¼, SE¼NW¼, and N½NE¼SE¼.

T. 6 S., R. 19 E.,
- sec. 28, S½NW¼, N½SW¼, and SW¼SW¼;
- sec. 29, E½, NE¼NW¼, SE¼SW¼, and that portion of the W½W½ lying east of the John Day River;
- sec. 31, that portion of the E½E½ lying east of the John Day River;
- sec. 32, E½ and all of W½ lying east of the John Day River;
- sec. 33, NW¼NE¼, N½NW¼, SW¼NW¼, SW¼, and W½SE¼.

T. 7 S., R. 19 E.,
- sec. 4, lots 2, 3, and 4, S½NW¼, and SW¼;
- sec. 5, lots 1 and 2, S½NE¼, SE¼, and that portion of the N½SW¼ lying east of the John Day River.

The areas described aggregate approximately 3,247.78 acres in Gilliam, Sherman, and Wheeler Counties.

3. The mineral estate in the following described lands is already in Federal ownership and has been and will remain open to operation of the mining laws and mineral leasing laws:

Willamette Meridian

T. 6 S., R. 19 E.,
- sec. 29, E½, NE¼NW¼, and SE¼SW¼;
- sec. 32, NE¼, E½NW¼, NE¼SW¼, and NE¼SE¼;
- sec. 33, NW¼NE¼, NE¼NW¼, E½SW¼, SW¼SW¼, and W½SE¼.

T. 7 S., R. 19 E.,
- sec. 4, SE¼NW¼;
- sec. 5, lots 1 and 2, S½NE¼, and SE¼.

The areas described aggregate 1,363.21 acres in Wasco and Wheeler Counties.

4. The mineral estate in the following described lands was not reconveyed to the United States and will not be opened to operation of the mining laws and mineral leasing laws:

Willamette Meridian

T. 6 S., R. 19 E.,
- sec. 28, S½NW¼, N½SW¼, and SW¼SW¼;
- sec. 29, that portion of the W½W½ lying east of the John Day River;
- sec. 31, that portion of the E½E½ lying east of the John Day River;
- sec. 32, SE¼SW¼, NW¼SE¼, and S½SE¼;
- sec. 33, W½NW¼, and NW¼SW¼.

T. 7 S., R. 19 E.,
- sec. 4, lots 2, 3, and 4, S½NW¼, and SW¼;
- sec. 5, that portion of the N½SW¼ lying east of the John Day River.

The areas described aggregate approximately 1,175.21 acres in Wasco and Wheeler Counties.

5. At 8:30 a.m., on May 30, 1986, the lands described in paragraph 2 will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on May 30, 1986, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

6. At 8:30 a.m., on May 30, 1986, the lands described in paragraph 2, except as provided in paragraphs 3 and 4, will be open to location and entry under the United States mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. Sec. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

7. At 8:30 a.m., on May 30, 1986, the lands described in paragraph 2, except as provided in paragraphs 3 and 4 will be open to applications and offers under the mineral leasing laws.

Dated: April 15, 1986.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86–9308 Filed 4–24–86; 8:45 am]

BILLING CODE 4310–33–M

[OR–37644]

Conveyance of Public Land and Order Providing for Opening of Land; OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action informs the public of the conveyance of 45 acres of public land out of Federal ownership. This action will also open 40 acres of

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reconveyed land to surface entry, mining and mineral leasing.

EFFECTIVE DATE: May 27, 1986.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, (Telephone 503–231–6905).

SUPPLEMENTARY INFORMATION:

1. Notice is hereby given that in an exchange of lands made pursuant to Section 206 of the Act of October 21, 1976, 90 Stat. 2756, 43 U.S.C. 1716, a patent has been issued transferring 45 acres of land in Malheur County, Oregon, from Federal to private ownership.

2. In the exchange, the following described land has been reconveyed to the United States:

Willamette Meridian

T. 30 S., R. 45 E.,
sec. 27, NE¼NW¼.

3. At 8:30 a.m., on May 29, 1986, the land described in paragraph 2 will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 8:30 a.m., on May 29, 1986, will be considered as simultaneously filed at that time. Those received thereafter will be considered in the order of filing.

4. At 8:30 a.m., on May 29, 1986, the land described in paragraph 2, will be open to location and entry under the United States mining laws. Appropriation of land under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

5. At 8:30 a.m., on May 29, 1986, the land described in paragraph 2, will be open to applications and offers under the mineral leasing laws.

Dated: April 14, 1986.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86–9309 Filed 4–24–86; 8:45 am]

BILLING CODE 4310-33-M

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

Record of Decision for Issuance of Endangered Species Permit To Allow Incidental Take of the Coachella Valley Fringe-Toed Lizard

AGENCY: Fish and Wildlife Service (FWS), Interior (DOI).

ACTION: Notice of record of decision.

SUMMARY: Notice is hereby given that the Fish and Wildlife Service has decided to issue a permit to allow incidental taking of the Coachella Valley fringe-toed lizard (CVFTL) (*Uma inornata*) a threatened species, in certain areas of the Coachella Valley of California. This Record of Decision (ROD) was prepared in accordance with the Council on Environmental. Quality Regulations, 40 CFR 1505.2. This decision is based upon: information contained in the Final Environmental Impact Statement (EIS) (FES 86–1) which was filed with the Environmental Protection Agency on January 26, 1986 and became available to the public on February 5, 1986; provisions of the Coachella Valley Fringe-toed Lizard Habitat Conservation Plan (HCP); two Implementing Agreements for the HCP; comments from the public regarding the EIS and HCP; and compliance with the terms and conditions for the issuance of a permit for incidental taking under Section 10(a) of the Endangered Species Act as amended, and revised implementing regulations for Section 10(a), (50 CFR Parts 13 and 17).

The HCP provides the framework for minimizing and mitigating the impacts from incidental taking. Its conservation program has two major features:

Direct conservation—setting aside land in three reserves and controlling land use on other lands through management and regulations (zoning) compatible with CVFTL habitat.

Mitigation fee—collecting mitigation fees for development of private lands within the occupiable habitat of the CVFTL habitat.

The HCP is supported by two Implementing Agreements which make the HCP explicit and enforceable. The first Implementing Agreement between the FWS, the Nature Conservancy (TNC) (a non-profit corporation), and the local land use authorities commits the permit applicant to exert land use controls and to collect mitigation fees for development and sets forth the responsibilities of the FWS, TNC, the permit applicants, and the local land use authorities. The second Cooperative Management Agreements commits the FWS, Bureau of Land Management, California Department of Fish and Game, and TNC to the management and maintenance of the three habitat reserves. The Section 10(a) Permit has a 30-year term and may be renewed at the end of that period.

SUPPLEMENTARY INFORMATION:

I. Background

A. Endangered Species Act Requirements

Section 9 of the Endangered Species Act of 1973, as amended, (ESA or the Act) and regulations implementing the Act prohibit the taking of species listed as "threatened" pursuant to the Act. Section 10(a) of the Act, however, authorizes the Service to Permit the taking of threatened species if such taking is "incidental to, and not the purpose of, the carrying out of an otherswise lawful activity." (16 U.S.C. 1539). In order to qualify for this provision, the permit applicant must submit a conservation plan to the Service that specifies:

(1) The impact which will likely result from the taking;

(2) What steps the applicant will take to minimize and mitigate such impacts, and the funding that will be available to implement the mitigation;

(3) What alternative actions to the taking the applicant considered and the reasons why the alternatives are not being utilized; and

(4) Such other measures that the Secretary may require.

In order to issue a permit pursuant to a submitted conservation plan, the Secretary is required to find that:

(1) The taking will be incidental;

(2) The applicant will, to the maximum extent practicable, minimize and mitigate the impacts of the taking;

(3) The applicant will ensure that adequate funding for the plan will be provided;

(4) The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and

(5) The other measures specified by the Secretary will be met.

The Conference Report on the Endangered Species Act Amendments of 1982 indicates that this provision was modeled after the San Bruno Mountain Area Habitat Conservation Plan. (H.R. Rep. No. 97–835, 97th Cong. 2d Sess. 30 (1982).)

B. The Coachella Valley Fringe-Toed Lizard Habitat Conservation Plan

The U.S. Fish and Wildlife Service (FWS) has been requested to issue a permit to allow incidental taking of the CVFTL a threatened species, under Section 10(a) of the Act and promulgated in 50 CFR Part 17 (50 FR 39681). The applicants for the permit consist of the following California local governments: County of Riverside and Cities of Desert Hot Springs, Plam Springs, Cathedral City, Rancho Mirage, Palm Desert, Indian Wells, La Quinta, Indio, and Coachella. Since settlement began in the Coachella Valley, CVFTL habitat which consists of flat valley lands covered with wind blown sand deposits, has been undergoing conversion to urban and agricultural uses. In 1984 only 70 square miles of the historic 200 square miles of CVFTL habitat remained. By the year 2000 the predicted increase of year-round residents in the Valley will result in the conversion of an additional 40 square miles of the remaining viable habitat. The Section 10(a) Permit for incidental taking based on a reasonable conservation plan would promote the long-term survival and recovery of the CVFTL while authorizing regulated development in the Coachella Valley.

Regulations implementing the Endangered Species Act prohibit "taking" of the CVFTL (50 CFR 17.31), and "taking" is defined as killing, capturing, harming, or collecting individual specimens. Because the CVFTL is intrinsically confined to its habitat, virtually any land use which disturbs or converts habitat could result in "taking", which would be in violation of the Act. The local land use governments (the applicants) are mandated to approve/disapprove land use plans within their respective jurisdictions. When approval of land use plans result in habitat conversion, their processes for making decisions on land use plans may be in conflict with provisions of the Act to protect the CVFTL. Although the proposed action in the EIS, application for a Section 10(a) Permit, was initiated by the local land use governments and not the Federal governments, the FWS must act upon the application and decide whether to issue the requested Section 10(a) Permit.

Alternative Considered

In making a decision regarding the issuance of the requested Section 10(a) Permit, the FWS evaluated three main alternatives including the proposed action.

Alternative 1—Proposed Action: The proposed action is the issuance of a permit under section 10(a) of the Act, which would authorize incidental taking of fringe-toed lizards during the course of otherwise lawful activities carried out in the Coachella Valley which are outside of lizard preserve areas and lands owned or administered by the Federal Government including lands owned or held for the benefit of Native Americans. County and municipal zoning restrictions, mitigation fee requirements, and grading and building permit requirements would determine what activities in the Valley would be "otherwise lawful." The permit is conditioned on a Habitat Conservation Plan (HCP) for the CVFTL which is supported by two Implementing Agreements. They establish the roles and responsibilities of the applicants to collect fees and administer the permit, and define the goals and responsibilities of the four principal land administrators of the three habitat reserves.

Alternative 2—No action. This alternative proposed that no 10(a) Permit would be issued and that other means would be used to accomplish conservation of the CVFTL. Three means for accomplishing this no action alternative were considered: (1) Status quo—variable enforcement of the ESA; (2) enforcement of ESA without any exceptions; and (3) a preserve funded entirely by the Federal government.

Alternative 3—Different configuration of reserves. This alternative proposes the issuance of a permit for incidental taking based on different scenarios of reserve configurations and conditioned by a different or amended HCP. These include: (1) Fewer reserves; (2) a greater number or reserves; and (3) multiple small, individual reserves as mitigation for "taking" on adjacent lands under the same ownership.

II. Findings Supporting Approval of the Section 10(a) Permit

A. Analysis of Public Comments

The Service received two letters of comment on the final EIS. No opposition was voiced in either letter. No substantive comments were received on the permit application notice published in the **Federal Register** on March 6, 1986.

B. Summary of Environmental Documentation

The findings referenced below are based on the information contained within the administrative record on this matter which includes but is not limited to, the following major documents:

(1) Coachella Valley Fringe-toed Lizard Habitat Conservation Plan Steering Committee, "Coachella Valley Fringe-toed Lizard Habitat Conservation Plan" (June 1985).

(2) Two Implementing Agreements with respect to the Coachella Valley Fringe-toed Lizard Habitat Conservation Plan.

(3) U.S. Fish and Wildlife Service, "Final Environmental Impact Statement Regarding Adoption and Implementation of Coachella Valley Fringe-toed Lizard Habitat Conservation Plan and Endangered Species Act Section 10(a) Permit" (April 1986).

C. Statement of Facts in Support of Findings

In accordance with the requirements of the Act, the Service hereby makes the following statements of fact in support of the findings described below.

(1) The area of consideration in the HCP consists of approximately 240,000 acres in the Coachella Valley. The area is within the jurisdiction and/or planning jurisdiction of the County of Riverside and nine Cities (Desert Hot Springs, Palm Springs, Cathedral City, Rancho Mirage, Palm Desert, Indian Wells, La Quinta, Indio, and Coachella).

(2) The 10(a) permit will authorize incidental taking of fringe-toed lizards during the course of otherwise lawful activities carried out in the Coachella Valley which are outside of lizard preserve areas and lands owned or administered by the Federal Government including lands owned or held for the benefit of Native Americans. County and municipal zoning restrictions, mitigation fee requirements, and grading and building permit requirements would determine what activities in the Valley would be "otherwise lawful."

(3) The HCP establishes three major reserves (Coachella Valley preserve, Willow Hill-Edom Hill Reserve and Whitewater Floodplain Reserve) each with an unobstructed sand source. A total of 12,382 acres of CVFTL habitat, (of which 11,757 are still subject to sand transport) are to be conserved by a combination of acquisition and management. Of this, 7,058 acres represent the occupiable CVFTL habitat to be acquired. The acreages in these three reserves total 15.2 percent of the historic habitat of the CVFTL and 26.8 percent of the remaining habitat not yet subject to sand stabilization.

(4) Mitigation fees on land which is developed would fund management of the reserves and part of the acquisition of the reserves. Land converted to agriculture would not be subject to the fee; however, land which was not in agriculture prior to August 1983 would be subject to mitigation fees when developed. The fee assessment area would encompass about 70,000 acres within the historic range of the CVFTL. 51,000 of which would be developable without any restriction. Mitigation fees would be assessed on all parcels

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regardless of size and would be based on the acreage disturbed. A fee of $600/acre disturbed would be assessed until a total of $7 million has been collected, after which the fee would drop to $100/acre for the remainder of the 30-year life of the permit. Growth projections indicate that an estimated total of $10 million from mitigation fees will be collected over the 30 year period.

(5) The CVFTL is closely adapted to living in the specialized, extreme environment of windblown sand, and is dependent upon this habitat for its survival. While several distinct types of sand deposits afford habitat to the lizard, the species shows a preference for fine sand, and for the lee side of dunes and hummocks. The sand transport process which creates the blowsand ecosystem is a fundamental consideration in conservation planning.

(6) Based on current evidence and the opinion of the Recovery Team and other scientists, the proposed size and configuration of the reserves will promote the survival and recovery of the species in the wild.

III. Findings

On the basis of the statement of facts described above and the other information contained within the administrative record on this permit application, the Service hereby makes the following findings:

(1) The HCP, including the Implementing Agreements and the EIS, specifies:

(a) The impact which will likely result from the taking of the Coachella Valley fringe-toed lizard;

(b) What steps the applicants will take to minimize and mitigate such impacts, and funding that will be available to implement such steps;

(c) What alternative actions to such taking were considered and reasons why such alternatives are not being utilized; and

(d) Such other measures as are necessary or appropriate for the purposes of the plan.

(2) The taking of Coachella Valley fringe-toed lizard will be incidental to, and not the purpose of, the implementation of the HCP. The purpose of the HCP and the Implementing Agreements is to provide for the protection and enhancement of the CVFTL while at the same time allowing otherwise lawful development on certain designated parts of the Coachella Valley.

(3) The County, the Cities, and other parties to the HCP and its Implementing Agreements will, to the maximum extent practicable, minimize and mitigate the impact of the taking of the CVFTL. The mitigation required by the HCP and Implementing Agreements as conditions of the Section 10(a) Permit includes, but is not limited to: (a) Specifying lands which are to be conserved by acquisition, management or land use regulation, and lands which are to serve as the mitigation fee area; (b) establishing three reserves; and (c) providing adequate permanent funding for reserve habitat acquisition and management.

(4) The applicants have ensured that adequate funding for the HCP will be provided. These assurances are described in detail in the Implementing Agreements.

(5) Any incidental takings of CVFTL which may occur will not appreciably reduce the likelihood of the survival and recovery of the species in the wild nor result in the adverse modification or destruction of its critical habitat as noted in the ESA Section 7(b) Biological Opinion.

Having considered the surrounding facts and circumstances of the case and possible positive and negative effects discussed above, the Service has concluded that issuance of the 10(a) permit is the environmentally preferable alternative.

FOR FURTHER INFORMATION CONTACT: Merle Richmond, Environmental Specialist, U.S. Fish and Wildlife, 500 NE Multnomah Street, Suite 1692, Portland, Oregon 97232; telephone (503) 231-6131 or FTS 429-6131.

Dated: April 21, 1986.

Rolf L. Wallenstrom,

Associate Director—Federal Assistance.

[FR Doc. 86-9328 Filed 4-24-86; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30604]

Southern Railway Co. Acquisition Exemption; Birmingham Terminal Co.

Southern Railway Company (SRC) and Birmingham Terminal Company (BTC) filed a notice of exemption for SRC to acquire certain real estate, track and other road properties of BTC.

All of the capital stock of BTC is owned by SRC, The Alabama Great Southern Railroad Company (AGS), and Central of Georgia Railroad Company (CGRC). Both AGS and CGRC are wholly-owned subsidiaries of SRC. The shareholders propose to dissolve BTC and distribute its assets to the shareholders. As pertinent here, SRC will acquire BTC's operating assets consisting of less than two acres of real estate and one side track less than 1,500 feet long, together with any appurtenant operating property or fixtures and real estate. No reductions in service are contemplated.

This is a transaction within a corporate family of the type specifically exempted from the necessity of prior review and approval under 49 CFR 1180.2(d)(3). It will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to use of this exemption, any employees affected by the acquisition will be protected under *New York Dock Ry.—Control—Brooklyn Eastern Dist.* 360 I.C.C. 60 (1979).

Decided: April 3, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86-9295 Filed 4-24-86; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 388 (Sub-No. 34)]

Intrastate Rail Rate Authority—Washington

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Certification.

SUMMARY: The Commission grants final certification to the Washington Utilities and Transportation Commission (Washington) under 49 U.S.C. 11501(b) to regulate intrastate rail transportation, subject to a condition precedent that it make the changes as set forth in the full decision, and the condition precedent that it make the changes as set forth in the full decision, and the condition precedent that Washington notify us, before the date on which certification is scheduled to begin, that it has made (or if unable to do so within this time, that it will make) the required modification, and that its modified standards and procedures have been officially and finally adopted.

DATES: If the necessary changes are made, certification will begin May 23, 1986.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, D.C. 20423, or call 289-4357, DC Metropolitan area or toll free (800) 424-5403.

Decided: April 9, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,

Secretary.

[FR Doc. 86-9294 Filed 4-24-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30640]

Rarus Railway Corp.; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts *nunc pro tunc* from the requirements of 49 U.S.C. 10901 the sale and transfer of the rail line of the Butte, Anaconda & Pacific Railway Company, in Deer Lodge and Silver Bow Counties, MT, to the State of Montana.

DATES: This exemption was effective on May 1, 1985. Petitions to reopen must be filed by May 15, 1986.

ADDRESSES: Send pleadings referring to Finance Docket No. 30640 to:

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

Mark M. Levin, Suite 350, 1575 Eye Street, N.W., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: April 10, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley dissented in part with a separate expression.

James H. Bayne,

Secretary.

[FR Doc. 86-9400 Filed 4-24-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out is responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Office will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, Telephone 202 395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, DC 20503.

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration
Survey of Employment Service Automation
ETA RC 88
One-time only Survey
State or local governments
52 respondents; 416 hours; no forms

To survey State employment service use of automation in delivery of program services in response to a request from Congress.

Revision

Employment Standards Administration
Application for Authority for an Institution of Higher Education to Employ its Full-Time Students at Subminimum Wages Under Regulations Part 519
1215-0080; WH-201-MIS
Annually
State or local governments; Business or other for-profit; Non-profit institutions; Small business or organizations
435 responses, 218 hours, 1 form

This information is needed to determine whether an institution of higher education should be authorized to pay subminimum wages to full-time students under the provisions of section 14(b)(3) of the FLSA. The Division uses the information to approve such authority for the respondents.

Extension

Mine Safety and Health Administration
Respirator Program Records
1219-0048
On occasion
Businesses and other for profit; small businesses or organizations
800 respondents; 5,000 hours

Requires operators of metal and nonmetal mines to establish a program which consists of written standard operating procedures governing the selection, use, and care of respirators. Respirator programs are required to be established when engineering controls fail to reduce airborne contaminants to permissible levels. Mine operators are also required to conduct fit testing of

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respirator devices and to keep records of the results.

Signed at Washington, DC, this 22nd day of April, 1986.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 86-9345 Filed 4-24-86; 8:45 am]

BILLING CODE 4510-27-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of pervailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue NW., Room S-3504, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions being added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page number(s).

Volume III

Washington:
WA86-9 ..... pp. 365e-365m.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

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Connecticut:
CT86-1 (Jan. 3, 1986) ..... p. 64.
New Jersey:
NJ86-2 (Jan. 3, 1986) ..... pp. 580-584.
NJ86-3 (Jan. 3, 1986) ..... pp. 599-603.
NJ86-4 (Jan. 3, 1986) ..... pp. 622-624.
New York:
NJ86-7 (Jan. 3, 1986) ..... pp. 693-698.
..... pp. 699-703.
NY86-9 (Jan. 3, 1986) ..... p. 723.
NY86-10 (Jan. 3, 1986) ..... p. 725.
Virginia:
VA86-14 (Jan. 3, 1986) ..... p. 1066.
VA86-15 (Jan. 3, 1986) ..... p. 1089.

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IA86-2 (Jan. 3, 1986) ..... p. 30.
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OH86-3 (Jan. 3, 1986) ..... p. 696.

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Alaska:
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Montana:
MT86-1 (Jan. 3, 1986) ..... p. 154.
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Listing by decision (index) ..... p. xxviii.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 80 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from:

Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The subscription cost is $277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 16th day of April 1986.

James L. Valin,

Assistant Administrator.

[FR Doc. 86-9078 Filed 4-24-86; 8:45 am]

BILLING CODE 4510-27-M

Mine Safety and Health Administration

[Docket No. M-86-53-C]

Ranger Fuel Corp.; Petition for Modification of Application of Mandatory Safety Standard

Ranger Fuel Corporation, P.O. Box 966, Beckley, West Virginia 25801 has filed a petition to modify the application of 30 CFR 75.1719 (illumination) to its Beckley No. 1 Mine (I.D. No. 46-02166) located in Raleigh County, West Virginia. Th petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that lighting be provided in the mine while self-propelled mining equipment is operated in the working place.

2. Petitioner states that application of the standard would result in a diminution of safety to the miners affected and that technology is not available to safely maintain the lighting system at coal heights of 36 inches or less.

3. Miners have difficulty maintaining the lighting due to low coal, wants, and faults in the coal seam. The necessary drilling and shooting of wants and faults to advance the face damages the light fixtures, wiring, and ballast boxes; miners are then exposed to injuries between chocks to make repairs. Wiring to maintain the lighting system is exposed in the crawl space of the chocks and interferes with the miners performing their duties.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 22, 1986. Copies of the petition are available for inspection at that address.

Dated: April 17, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-9346 Filed 4-24-86; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-86-29-C]

Western Energy Co.; Petition for Modification of Application of Mandatory Safety Standard

Western Energy Company, P.O. Box 99, Colstrip, Montana 59323 has filed a petition to modify the application of 30 CFR 77.802 (protection of high-voltage circuits; neutral grouding resistors; disconnecting devices) to its Rosebud No. 6 Mine (I.D. No. 24-01747) located in Rosebud County, Montana. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that high-voltage circuits supplying portable or mobile equipment contain either a direct or derived neutral which is grounded through a suitable resistor at the source transformers.

2. Petitioner states that application of the standard would result in a diminution of safety to the miners required to inspect, maintain, test and repair the grounding resistor and associated devices mounted in the utility switchyard. Miners working on portable equipment in the mine could be exposed to a hazard because positive 15 KV isolation cannot be maintained between the utility ground system and the mine safety ground system during a utility line-to-ground fault in the switchyard.

3. As an alternate method, petitioner proposes to move the grounding resistor 6000 to 8000 feet out of the utility switchard to an enclosed stationary switchgear house located on mine property. The neutral would be derived at this stationary switchgear house by a neutral grouding transformer, and grounded through a neutral grounding resistor mounted nearby.

4. For these reasons petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Admininstration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before May 27, 1986. Copies of the petition are available for inspection at that address.

Dated: April 17, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 86-9347 Filed 4-24-86; 8:45 am]

BILLING CODE 4510-43-M

Occupational Safety and Health Administration

[V-85-1]

ASARCO Inc.; Variance Application

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: This notice announces the withdrawal of the application of ASARCO Incorporated for permanent variance from the standards prescribed in 29 CFR 1910.1018(e)(3)(ii) and 29 CFR 1910.1025(d)(6)(iii) concerning the requirements of the inorganic arsenic and lead standards for frequency of exposure monitoring.

Notice of this application for permanent variance appeared in the Federal Register of March 22, 1985 (50 FR 11596-11601).

FOR FURTHER INFORMATION CONTACT: Mr. James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3656, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 18th day of April, 1986.

Patrick R. Tyson,

Acting Assistant Secretary.

[FR Doc. 86-9343 Filed 4-24-86; 8:45 am]

BILLING CODE 4510-26-M

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[V-86-5]

Chlorine Institute, Inc.; Variance Application

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: This notice announces the withdrawal of the application of the Chlorine Institute, Inc., on behalf of its members, for permanent variance from the standards prescribed in 29 CFR 1910.134(b)(11) concerning the use of approved or accepted respirators against the particular hazards for which they were designed in accordance with standards established by competent authorities.

Notice of this application for permanent variance appeared in the **Federal Register** of June 18, 1985 (50 FR 25343–46).

FOR FURTHER INFORMATION CONTACT: Mr. James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, Room N3656, 200 Constitution Avenue, NW., Washington, DC, 20210.

Signed at Washington, DC this 16th day of April, 1986.

Patrick R. Tyson,

Acting Assistant Secretary.

[FR Doc. 86-9344 Filed 4-24-86; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL SCIENCE FOUNDATION

Charter Extension of the Advisory Committee on Merit Review

The Advisory Committee on Merit Review was scheduled to expire on April 24, 1986. The life of the Committee has now been extended until August 29, 1986 to allow time for the Committee to complete its final report. The Director of the National Science Foundation has determined that the extension is necessary and in the public interest. This determination follows consultation with the Committee Management Secretariat, GSA.

April 22, 1986.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 86-9234 Filed 4-24-86; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Connecticut Yankee Atomic Power Company; Environmental Assessment and Finding of No Significant Impact

[Docket No. 50-213]

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a temporary exemption from the regulatory requirements of General Design Criterion No. 35 (GDC 35) of 10 CFR 50, Appendix A, and the Interim Acceptance Criteria for Emergency Core Cooling Systems for Light Water Reactors 10 CFR, Appendix A, Part 3 (36 FR 12249), concerning the consideration of single failures in emergency core cooling system evaluations to the Connecticut Yankee Atomic Power Company (CYAPCO or the licensee) for the Haddam Neck Plant, located at the licensee's site in Middlesex County, Connecticut.

Environmental Assessment

Identification of Proposed Action

The proposed action would grant a temporary exemption from the regulatory requirements of GDC 35 and the Interim Acceptance Criteria (IAC) concerning the consideration of single failures in emergency core cooling systems (ECCS) evaluations for the period of one operating cycle.

On March 25, 1986, CYAPCO reported the identification of a small range of break sizes in one loop of the reactor coolant system (RCS) for which safety injection flow, during only the high pressure recirculation mode may be insufficient to provide adequate core cooling. By letter dated April 10, 1986, CYAPCO identified measures to provide adequate core cooling in the event of a small-break loss-of-coolant accident (LOCA). CYAPCO's proposed interim measures included the use of the high pressure safety injection (HPSI) system, the residual heat removal (RHR) system and certain operator actions. However, CYAPCO noted that two valves, which are used during the HPSI recirculation mode, did not meet the prescribed single failure requirements of GDC 35. CYAPCO committed to impose monthly surveillance and cycling requirements for these valves to provide added assurance of valve operability.

By letter dated April 22, 1986, CYAPCO requested a temporary exemption from the regulatory requirements of GDC 35 and the IAC concerning the consideration of single failures in ECCS evaluations. The granting of the exemption from single failure considerations for the two valves outside containment is the proposed action being considered by the staff.

The Need for the Proposed Action

Provisions requiring consideration of single failure in this context are set forth both in GDC and the Interim Acceptance Criteria. GDC 35 provides in applicable part as follows:

"A system to provide abundant emergency core cooling shall be provided . . . suitable redundancy in components and features . . . shall be provided to assure that for onsite electric power system operation (assuming offsite power is not available) and for offsite electric power system operation (assuming onsite power is not available) the system safety function can be accomplished, assuming a single failure."

Further, the Interim Acceptance (IAC), to which Haddam Neck was originally evaluated, provide as follows:

The combination of systems used for analyses should be derived from a failure mode and effects analyses, using the single failure criterion.

Thus, for either GDC 35 or the IAC, a single requirement is imposed on ECCS evaluations of light water power reactors, including the Haddam Neck Plant.

The exemption is requested specifically with respect to two valves, both outside containment, which would be used under procedurally defined conditions to respond to a small break LOCA. CYAPCO he implemented measures to assure valve operability of these valves, and by procedure has established another alternative flow path in the event those valves are inoperable despite best efforts to assure operability.

Environmental Impacts of the Proposed Action

The proposed exemption affects the consideration of single failures for two valves which are used in the HPSI recirculation mode. One measure of environmental impact is whether the proposed exemption results in an overall reduction in the probability of adverse consequences from reactor operation that could affect the public health and safety. In this instance, the original high pressure recirculation mode using the charging pumps has been found to be deficient for a narrow spectrum of breaks, whereas the safety benefits derived from using the HPSI pumps represent a credit for a much broader range of postulated breaks. CYAPCO has estimated that the implementation of the proposed interim response measure (use of HPSI pumps during recirculation) decreases the overall core

melt frequency associated with small and medium break LOCA's at Haddam Neck by a minimum of 27 percent over the original design.

CYAPCO has stated that the HPSI recirculation option involves the recirculation of primary fluids outside containment in systems not previously analyzed for those conditions. If gross fuel failure were assumed, there would be a potential for offsite radiological consequences in excess of the guideline values of 10 CFR Part 100. As a result, leakage tests were performed on the HPSI recirculation system pumps and valve and no leakage was apparent. CYAPCO concludes that operation of the recirculation mode will preclude gross fuel failures following the small break LOCA. Even if fuel failures were assumed, it is very unlikely that core damage would be so substantial as to cause offsite releases to approach those assessed in hypothetical accidents calculations carried out for Part 100 purposes. Further, given the very low probability of any such release, the effect on overall plant risk would not be significant. The proposed exemption does not otherwise affect facility radiological impacts, does not affect plant non-radiological effluents and has no other environmental impact.

Therefore, the Commission concludes there are no measurable radiological or nonradiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemption, any alternatives with equal or greater environmental impacts need not be evaluated. One alternative to the exemption would be to require repairs be made to the subject ECCS to satisfy the prescribed regulatory requirements. Such an action would not significantly enhance the protection of the environment, may not be the best long-term solution and would result in a diversion of utility engineering resources from determining a safe and reliable long-term solution.

Alternative Use of Resources

This action does not involve the use of resources not considered previously in the Final Environmental Statement for the Haddam Neck Plant.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption. Based upon the environmental assessment, the NRC staff concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this proposed action, see the licensee's letter dated April 1, April 10 and April 22, 1986. These letters are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Russell Library, 123 Broad Street, Middletown, Connecticut 06547.

Dated at Bethesda, Maryland, this 23rd day of April 1986.

For The Nuclear Regulatory Commission.

Christopher I. Grimes,

Director, Integrated Safety Assessment, Project Directorate, Division of PWR Licensing—B.

[FR Doc. 86-9464 Filed 4-24-86; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, ES 928-4 (which should be mentioned in all correspondence concerning this draft guide), is the second proposed Revision 1 to Regulatory Guide 1.23 and is entitled "Meteorological Measurement Program for Nuclear Power Plants." The guide is being revised to consolidate into a single document existing regulatory guidance on meteorological measurement programs. The guide endorses, with certain exceptions, ANSI/ANS-2.5-1984, "Standard for Determining Meterological Information at Nuclear Power Sites."

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555. Comments will be most helpful if received by June 23, 1986.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Silver Spring, Maryland this 21st day of April 1986.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Radiotion Programs and Earth Sciences, Office of Nuclear Regulatory Research.

[FR Doc. 86-9327 Filed 4-24-86; 8:45 am]

BILLING CODE 7590-01-M

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OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Performance Review Board; Membership

Notice is hereby given in accordance with 5 U.S.C. 4314 of a revision in the membership of the Performance Review Board of the Office of the United States Trade Representative (USTR). The revision consists of the following appointments:

Chair—S. Bruce Wilson, Assistant United States Trade Representative for Industry and Service.

Alternate—W. Douglas Newkirk, Assistant United States Trade Representative for GATT Affairs.

Members—Alan F. Holmer, General Counsel, James W. Frierson, Chief of Stafff, Peter F. Allgeier, Assistant United States Trade Representative for Asia and the Pacific.

Executive Secretary—John P. Giacomini, Director, Office of Management.

This will be effective as of February 3, 1986.

John P. Giacomini,

Director, Office of Management.

[FR Doc. 86-9277 Filed 4-24-86; 8:45 am]

BILLING CODE 3190-01-M

SMALL BUSINESS ADMINISTRATION

Region VIII Advisory Council; Public Meeting

The U.S. Small Business Administration, Region VIII, located in the geographical area of Sioux Falls, South Dakota, will hold a public meeting on Friday, May 16, 1986, from 9:00 a.m. to 3:00 p.m., at the Community Room, First National Bank in Sioux Falls, 100 South Phillips, Sioux Falls, South Dakota 57102, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Chester B. Leedom, District Director, U.S. Small Business Administration, Suite 101, Security Building, 101 South Main, Sioux Falls, South Dakota 57102, 605/336-2980, Ext. 231.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 18, 1986.

FR Doc. 86-9289 Filed 4-24-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/964]

Advisory Committee on South Africa; Open Meetings

The Advisory Committee on South Africa will hold open meetings on June 2 and 3, 1986 from 9 a.m. to 4 p.m. The meetings will be held in Room 1105, Department of State, 2201 C Street NW., Washington, DC.

The purpose of the meetings will be to discuss how the United States can be most effective in encouraging the elimination of apartheid and its effects in South Africa. Persons interested in addressing the Committee on June 2 or 3 should write directly to C. William Kontos at 1730 K Street, Suite 209, Washington, DC 20006 before May 15, 1986, and give the following information: name, address, phone number (during normal working hours), capacity in which presentation will be made, and nature of presentation.

Individual presentations will be limited to a maximum of 10 minutes. Written copies of presentations will be helpful, but not required. Additional written presentations by interested persons who may not be able to address the Committee may be submitted to C. William Kontos at the above address before June 2, 1986.

Due to time constraints, it may not be possible to accommodate all persons interested in addressing the Committee. Efforts will be made to ensure that persons addressing the Committee represent the broadest range of opinions on the subject of South Africa.

Members of the public will be admitted to the meetings up to the seating capacity of room. Access to the State Department is controlled. All persons wishing to attend one or both meetings should make arrangements in advance by contacting Ann Miller at (202) 632-0075. All attendees should use the C Street entrance to the building.

Requests for further information should be directed to Ann Miller at (202) 632-0075.

Dated: April 22, 1986.

C. William Kontos,

Executive Director.

[FR Doc. 86-9302 Filed 4-24-86; 8:45 am]

BILLING CODE 4701-06-M

DEPARTMENT OF TRANSPORTATION

Agreements Filed Under Sections 408, 409, 412 and 414; Week Ending April 18, 1986

Answers may be filed within 21 days from the date of filing.

Date filed	Docket No.	Parties	Subject	Proposed effective date
Apr. 15, 1986	43954, R-1 and R-2.	Members of International Air Transport Association	Specify fares between SID-SXO	May 1, 1986.
Do	43955	do	Specific Commodity Rates Fares	Apr. 1, 1986. Apr. 15, 1986. May 1, 1986.
Apr. 17, 1986	43964	do	Europe-Japan Adjustment Factors	May 1, 1986.
Do	43965	do	GIT fares from Japan to Washington, DC	June 1, 1986.
Do	43966	do	Europe-Mideast Revalidation	Apr. 25, 1986.
Do	43967	do	Johannesburg-Lilongwe Rate Increase	May 1, 1986.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-9332 Filed 4-24-86; 8:45 am]

BILLING CODE 4910-62-M

[Docket 43837]

TWA-Ozark Acquisition Case; Prehearing Conference

Notice is hereby given that pursuant to Department of Transportation Order 86-4-59 instituting this proceeding a prehearing conference will be held on April 28, 1986, at 10:00 a.m. (local time), in Room 5332, Nassif Building, 400 7th Street SW., Washington, DC, before the undersigned administrative law judge.

The instituting order sets forth a procedural schedule to be followed in this proceeding. Proposed evidence requests are required to be filed on April 24. Accordingly, the parties to this proceeding are directed to deliver one copy to each party and two copies to the judge on April 25 the following materials: (1) Proposed evidence requests; [1] (2) proposed stipulations, if any; and (3) proposed changes to the procedural schedule. Changes to the procedural schedule will be made only on a demonstration of prejudice by the moving party.

Dated at Washington, DC., April 22, 1986.

John M. Vittone,

Administrative Law Judge.

[FR Doc. 86-9331 Filed 4-24-86; 8:45 am]

BILLING CODE 4910-62-M

[Docket 43837]

TWA-Ozark Acquisition Case; Assignment of Proceeding

This proceeding has been assigned to Administrative Law Judge John M. Vittone. Future communications with respect to this proceeding should be addressed to him at U.S. Department of Transportation, Office of Hearings, M-50, Room 9400A, Nassif Bldg., 400 7th Street SW., Washington, D.C. 20590, telephone (202) 426-5560.

Dated: Washington, D.C., April 22, 1986.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 86-9330 Filed 4-24-86; 8:45 am]

BILLING CODE 4910-62-M

Research and Special Programs Administration

Grants and Denials of Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of Grants and Denials of Applications for Exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given of the exemptions granted in March 1986. The modes of transportation involved are identified by a number in the "Nature of Exemption Thereof" portion of the table below as follows: 1-Motor vehicle, 2-Rail freight, 3-Cargo vessel, 4-Cargo-only aircraft, 5-Passenger-carrying aircraft. Application numbers prefixed by the letters EE represent applications for Emergency Exemptions.

RENEWAL AND PARTY TO EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
1479-X	DOT-E 1479	Allied Chemical, Morristown, NJ	49 CFR 173.315(a)(1)	To authorize use of non-DOT specification cargo tanks, for transportation of liquefied fluorine and mixture of liquefied fluorine and liquefied oxygen. (Mode 1)
1479-X	DOT-E 1479	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.315(a)(1)	To authorize use of non-DOT specification cargo tanks, for transportation of liquefied fluorine and mixture of liquefied fluorine and liquefied oxygen. (Mode 1)
2587-X	DOT-E 2587	Denison, Inc., Fredonia, KA	49 CFR 173.315(a)(1)	To authorize shipment of liquid oxygen in non-DOT specification cargo tanks. (Mode 1)
2787-X	DOT-E 2787	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.315(a)(1), 175.3	To authorize shipment of certain nonflammable compressed gases, in non-DOT specification pressure vessels equipped with a regulating valve, a pressure relief valve, and a squibb actuated valve. (Modes 1, 2, 3, 4)
3330-P	DOT-E 3330	Howmet Turbine Components Corp., Whitehall, MI.	49 CFR 173.214(b), 173.214(d)	To become a party to Exemption 3330. (Modes 1, 2)
3563-X	DOT-E 3563	U.S. Department of Energy, Washington, DC.	49 CFR 172.101, 173.302(a), 173.415, 175.3.	To authorize transport of a nonflammable, nonliquefied compressed gas, in an inerde steel sphere. (Modes 1, 2, 3, 4, 5)
3667-X	DOT-E 3667	Groendyke Transport, Inc., Enid, OK	49 CFR 173.315(a)	To authorize transport of a flammable compressed gas in aluminum cargo tanks otherwise built in compliance with Specification MC-330. (Mode 1)
3941-X	DOT-E 3941	Kerr-McGee Chamcial Corp., Oklahoma City, OK.	49 CFR 173.239a(a)(2)	To authorize transport of ammonium perchlorate in non-DOT specification portable tanks. (Modes 1, 2)
4052-X	DOT-E 4052	The Boeing Co., Seattle, WA	49 CFR 173.305, 173.34(d), 175.3	To authorize shipment of an aerosol formulation pressurized with nitrogen in a DOT specification 39 seamless aluminum cylinder. (Modes 1, 2, 4, 5)
4453-X	DOT-E 4453	Ren-Loi, Inc., Bridgeville, PA	49 CFR 172.101, 173.114a(h) (3), 176.415, 176.83.	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Modes 1, 3)
4453-P	DOT-E 4453	PACCO, Inc., Tenino, WA	49 CFR 172.101, 173.114a(h) (3), 176.415, 176.83.	To become a party to Exempton 4453. (Modes 1, 3)
4453-P	DOT-E 4453	Sierra Chemical Co., Reno, NV	49 CFR 172.101, 173.114a(h) (3), 176.415, 176.83.	To become a party to Exemption 4453. (Modes 1, 3)
4453-X	DOT-E 4453	H.L. & A.G. Belsinger, Inc., Bridgeville, PA.	49 CFR 172.101, 172.114a(h) (3), 176.415, 176.83.	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Modes 1, 3)
4453-X	DOT-E 4453	Mountaineer Explosives, Inc., Bridgeville, PA.	49 CFR 172.101, 173.114a(h) (3), 176.415, 176.83.	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Modes 1, 3)
4453-X	DOT-E 4453	PACCO, Inc., Tenino, WA	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Modes 1, 3)
4453-X	DOT-E 4453	Pacific Powder Co., Tenino, WA	49 CFR 172.101, 173.114a(h)(3), 176.415, 176.83.	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Modes 1, 3)

[1] The parties shall conform their evidence requests to the organization and numbering system of the proposed evidence request attached to the instituting order.

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RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
4453-X	DOT-E 4453	Pacific Motor Transport, Inc., Tenino, WA.	49 CFR 172.101, 173.114a(b)(3), 176.415, 176.83.	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Modes 1, 3)
4453-X	DOT-E 4453	Explo, Inc., Bridgeville, PA	49 CFR 172.101, 173.114a(b)(3), 176.415, 176.83.	To authorize use of a non-DOT specification bulk, hopper-type tank, for transportation of blasting agent, n.o.s., or ammonium nitrate-fuel oil mixtures. (Modes 1, 3)
4600-X	DOT-E 4600	Great Lakes Chemical Corp., El Dorado, AR.	49 CFR 173.315, 178.245-3(e)	To authorize transport of hydrogen bromide (anhydrous in DOT Specification 51 type portable tanks with a design pressure of 525 psig. (Mode 1)
4612-X	DOT-E 4612	Aldrich Chemical Co., Inc., Milwaukee, WI.	49 CFR 173.135, 173.122, 173.136, 173.138, 173.154, 173.208, 173.230, 173.245, 173.247, 173.252, 173.253, 173.271, 173.276, 173.281, 173.293, 173.346, 173.382.	To authorize shipment of small quantities of hazardous materials in inside glass bottles overpacked in metal cans further overpacked in DOT Specification 12B fiberboard boxes. (Mode 1)
4612-X	DOT-E 4612	Eld Science, Cladbwell, GH	49 CFR 173.135, 173.122, 173.136, 173.138, 173.154, 173.208, 173.230, 173.245, 173.247, 173.252, 173.253, 173.271, 173.276, 173.281, 173.293, 173.346, 173.382.	To authorize shipment of small quantities of hazardous materials in inside glass bottles overpacked in DOT Specification 12B fiberboard boxes. (Mode 1)
4650-X	DOT-E 4650	Halliburton Service, Inc., Duncan, OK	49 CFR 173.100 (cc), 175.3	To authorize shipment of flexible linear shaped charges, metal clad, in 100' lengths, containing not more than 50 grains per lineal foot of high explosive, as a class C explosive. (Modes 1, 2, 4)
5861-X	DOT-E 5861	HTL Industries, Inc., Duarte, CA	49 CFR 173.304(a)(1), 175.3, 178.47	To authorize use of a stainless steel other than prescribed in the regulations, in the construction of a cylinder patterned after the DOT Specification 4DS cylinders, for transportation of a nonflammable compressed gas. (Modes 1, 2, 4, 5)
5891-X	DOT-E 5891	U.S. Department of Energy Washington, DC.	49 CFR 173.64(a)(4)	To authorize transport of high explosives in quantities greater than those authorized in 49 CFR, in DOT Specification 15A wooden boxes. (Mode 1)
5951-X	DOT-E 5951	Dixie Petro-Chem, Inc., Dallas, TX	49 CFR 173.314(c)	To authorize transport of chlorine or sulfur dioxide, in DOT Specification 106A500 type tank. (Modes 1, 2)
5951-X	DOT-E 5951	Hill Brothers Chemical Co., Tucson, AZ	49 CFR 173.314(c)	To authorize transport of chlorine or sulfur dioxide, in DOT Specification 106A500 type tank. (Modes 1, 2)
6016-X	DOT-E 6016	Huber Supply Co., Mason City, IA	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1)
6016-X	DOT-E 6016	Guttmen Welding Supply Co., Belle Vernon, PA.	49 CFR 173.315(a)	To authorize shipment of liquid oxygen, nitrogen, and argon in non-DOT specification portable tanks. (Mode 1)
6308-P	DOT-E 6308	Foam Supplies Inc., Olivette, Mo	49 CFR 173.315(a)(1), 174.63(b)	To become a party to Exemption 6308. (Modes 1, 2)
6309-X	DOT-E 6309	Freeman Chemical Corp., Port Washington, WI.	49 CFR 173.315(a)(1), 174.63(b)	To authorize use of non-DOT specification steel portable tanks, for transportation of certain nonpoisonous, nonflammable compressed gases. (Modes 1, 2)
6309-X	DOT-E 6309	General Latex and Chemical Corp. of Georgia, Dalton, GA.	49 CFR 173.315(a)(1), 174.63(b)	To authorize use of non-DOT specification steel portable tanks, for transportation of certain nonpoisonous, nonflammable compressed gases. (Modes 1, 2)
6309-X	DOT-E 6309	Olin Corp., Stamford, CT	49 CFR 173.315(a)(1), 174.63(b)	To authorize use of non-DOT specification steel portable tanks, for transportation of certain nonpoisonous, nonflammable compressed gases. (Modes 1, 2)
6333-X	DOT-E 6333	Allied Corp., Morristown, NJ	49 CFR 173.49 CFR 173.245(a)(31), 173.263(a)(10), 173.269(b)(3), 173.272(i)(25), 178.343-1(f).	To authorize shipment of certain nonflammable gases in non-DOT specification steel cylinders, made in compliance with DOT Specification 3E with certain exceptions. (Modes 1, 2, 3, 4, 5)
6563-X	DOT-E 6563	S.L.O. Health Products, Inc., Baywood Park, CA.	49 CFR 173.302(a)(1), 175.3	To authorize transport of certain corrosive liquids, in non-DOT specification type MC-312 glass lined cargo tanks. (Mode 1)
6602-X	DOT-E 6602	Ethyl Corp., Baton Rouge, LA	49 CFR 173.245(a), 173.314(c)	To authorize use of 105A500W or 108A500X multi-unit tank car tanks, for shipment of certain corrosive liquids and nonflammable compressed gases. (Modes 1, 2)
6602-X	DOT-E 6602	Jones Chemicals, Inc., Caledonia, NY	49 CFR 173.245(a), 173.314(c)	To authorize use of 105A500W or 108A500X multi-unit tank car tanks, for shipment of certain corrosive liquids and nonflammable compressed gases. (Modes 1, 2)
6602-X	DOT-E 6602	Great Lakes Chemical Corp., El Dorado, AR.	49 CFR 173.245(a), 173.314(c)	To authorize use of 105A500W or 108A500X multi-unit tank car tanks, for shipment of certain corrosive liquids and nonflammable compressed gases. (Modes 1, 2)
6637-X	DOT-E 6637	Russell-Stanley Corp., city of Industry, CA.	49 CFR 173.119(a), 173.119(b), 173.119(m), 173.221, 173.245(a)(26), 173.249(a)(1), 173.250(a)(1), 173.257(a)(1), 173.263(a)(26), 173.265(d)(6), 173.265(b)(8), 173.272(i)(9), 173.276(a)(10), 173.277(a)(6), 173.287(c)(1), 173.289(a)(1), 173.292(a)(1), 173.346(a), 173.357(b), 173.358(a), 173.359(a), 178.359(b), 178.19.	To authorize manufacture, marking and sale of non-DOT Specification polyethylene drums, for shipment of organic peroxides, oxidizers, flammable, corrosive and Class B poisonous liquids. (Modes 1, 2, 3)
6767-X	DOT-E 6767	Russell-Stanley Corp., city of Industry, CA.	49 CFR 173.119(a), 173.119(b), 173.119.(m), 173.221, 173.245, 173.346(a), 173.357(b), 173.358(a), 173.359(a), 173.359(b).	To authorize manufacture, marking and sale of DOT Specification 34 polyethylene drums, for shipment of Class B poisonous liquids, flammable liquids, organic peroxides and corrosive liquids. (Modes 1, 2, 3)
6805-X	DOT-E 6805	Union Carbide Corp., Danbury, CT	49 CFR 173.301(d), 173.302(a)(3)	To authorize use of DOT Specification 3AAX steel cylinders, for transportation of a flammable compressed gas mixture. (Mode 1)
6824-X	DOT-E 6824	Bio/Lab, Inc., Conyers, GA	49 CFR 173.154, 173.217(a)	To authorize bromo-chloro-dimethylhydantoin, classed as an oxidizer, as a additional commodity. (Modes 1, 2, 3)
6904-X	DOT-E 6904	Aldrich Chemical Co., Inc., Milwaukee, WI.	49 CFR173.240(a), 175.3	To authorize transport of certain corrosive materials in DOT specification 12A fiberboard boxes having inside glass acid resistant bottles not exceeding 1 pint capacity. (Modes 1, 3, 4)
6985-X	DOT-E 6985	U.S. Department of Energy, Washington, DC.	49 CFR 173.154(a)(9), 173.86(a)	To authorize shipment of diallyl phthalate-pyrotechnic materials in a aluminum case packed in a DOT specification wooden box. (Mode 1)
7011-X	DOT-E 7011	Russell-Stanley Corp., city of Industry, CA.	49 CFR 173.238a, 173.245b(a)(6)	To authorize manufacture, marking and sale of non-DOT specification blow-molded high molecular weight polyethylene container, for transportation of corrosive materials and oxidizer. (Modes 1, 2, 3)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
7024-X	DOT-E 7024	Avondale Mills, Sylacauga, Al	49 CFR 173.246(a)(7)	To authorize transport of an alkaline corrosive liquid in non-DOT specification collapsible rubber containers identified as sealdtanks. (Mode 1)
7024-X	DOT-E 7024	B.I. Transportation, Inc., Burlington, NC	49 CFR 249(a)(7)	To authorize transport of an alkaline corrosive liquid in non-DOT specification collapsible rubber containers identified as sealdtanks. (Mode 1)
7454-X	DOT-E 7454	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 176.410(e)(2), 176.83	To authorize blastings agent to be stowed in proximity to certain explosives without a bulkhead separating these materials. (Mode 3)
7455-X	DOT-E 7455	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 176.177(g), 176.177(h), 176.177(h), 176.177(q), 176.177(r), 176.177(e).	To authorize handling and stowage of explosive material in an anchored and unmanned barge. (Mode 3)
7477-X	DOT-E 7477	Systron Donner Corp., Concord, CA	49 CFR 173.302(a)(1), 173.304(a)(1), 175.3.	To authorize use of non-DOT specification seamless aluminum cylinders, for transportation of certain nonflammable compressed gases. (Modes 1, 2, 3, 4)
7548-X	DOT-E 7548	U.S. Department of Defense, Falls Church, VA.	49 CFR, 46 CFR 146.29-100	To authorize stowage of explosives on deck of vessel, over the square of the hatch. (Mode 3)
7621-X	DOT-E 7621	Great Lakes Chemical Corp., El Dorado, AR.	49 CFR 173.357, 174.63(b)	To authorize use of DOT Specification 51/ISO portable tanks, for shipment of poison B liquid. (Modes 1, 2, 3)
7651-X	DOT-E 7651	Austin Powder Co., Cleveland, OH	49 CFR 173.93(e), 177.834(L)(1)	To authorize shipment of a class B liquid propellent explosive, in non-DOD specification seealdtanks. (Mode 1)
7654-X	DOT-E 7654	Mallinckrodt, Inc., Paris, KY	49 CFR 173.119(f)	To authorize use of a glass bottle not exceeding 500 milliliter capacity inside a metal container overpacked in a DOT specification 12B fiberboard box, for transportation of a flammable liquid. (Modes 1, 2)
7674-X	DOT-E 7674	U.S. Department of Defense, Falls Church, VA.	49 CFR 174.104(a)	To authorize shipment of certain class A explosives on flat-care and open-top rail cars. (Mode 2)
7731-X	DOT-E 7731	Minnesota Valley Engineering, Inc., New Prague, MN.	49 CFR 172.101, 173.315(a)(1)	To authorize manufacture, marking and sale of non-DOT specification super-insulated portable tanks, for shipment of pressurized liquid helium and liquefied hydrogen. (Modes 1, 3)
7770-X	DOT-E 7770	ARBEL FAUVET RAIL, Paris, France	49 CFR 173.143, 173.264(b)(4), 174.63(b).	To authorize transport of anhydrous hydrogen fluoride or anhydrous methylchloromethyl ether in certain non-DOT specification portable tanks. (Modes 1, 2, 3)
7770-X	DOT-E 7770	Eurotainer, S.A., Paris, France	49 CFR 173.143, 173.264(b)(4), 174.63(b).	To authorize transport of anhydrous hydrogen fluoride or anhydrous methylchloromethyl ether in certain non-DOT specification portable tanks. (Modes 1, 2, 3)
7868-X	DOT-E 7868	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.145, 173.31(a)(4), 179.200-7(d).	To authorize tranport of methylhydrazine in DOT specification 103A-ALW or 103CW tank cars. (Mode 2)
7915-X	DOT-E 7915	Olin Corp., East Alton, IL	49 CFR 173.93(b)	To authorize transport of certain propellent explosives in water in DOT specification MC-307 or MC-312 cargo tanks. (Mode 1)
7929-X	DOT-E 7929	C-I-L Inc., North York, Ont. Canada	49 CFR 173.65	To authorize transport of flaked or pelletized TNT in woven polyethylene or polypropylene cloth outer bags, with plastic film liners. (Modes 1, 2
7943-X	DOT-E 7943	Geogia-Pacific Corp., Montebello, CA	49 CFR 173.263(a)(15), 173.272(c), 173.272(i)(12), 173.277(a)(1).	To authorize shipment of corrosive liquids in fiberboard boxes complying with DOT specification 12B except for handholes in top flaps. (Mode 1)
7972-X	DOT-E 7972	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 172.504	To authorize transport of limited quantities of explosive in a special shipping container without placarding the vehicle. (Mode 1)
8006-X	DOT-E 8006	Kilgore Corp., Toone, TN	49 CFR 172.400(a), 172.504 Table 2	To authorize transport of unlabeled packages of toy paper or plastic caps complying with the requirements of 173.100(p) and 173.100, in motor vehicles with placards, when the gross weight of the cage is 1,000 pounds or more. (Mode 1)
8215-X	DOT-E 8215	Olin Corp., East Alton, IL	49 CFR 173.101, 173.107, 173.60, 173.74, 173.78, 173.93.	To authorize use of 3 gallon porcelain buckets for in plant shipment of rejected small arms ammunition. (Modes 1, 2)
8244-P	DOT-E 8244	Vann Systems, A Division of Halliburton Co., Houston, TX.	49 CFR 173.119, 173.125, 173.245, 173.263, 173.264, 173.280, 46 CFR 64.9.	To become a party to Exemption 8244. (Modes 1, 3)
8298-X	DOT-E 8298	Olin Corp., East Alton, IL	49 CFR 173.93	To authorize shipment of certain identified solid propellent explosive, class B, in non-DOT specification cylindrical metal cans overpacked in fiberboard boxes. (Modes 1, 3)
8298-X	DOT-E 8298	HTL Industries, Inc., Duarte, CA	49 CFR 173.304(a)(1), 175.3, 178.44	To authorize manufacture, marking and sale of a non-DOT specification pressure vessel comperable to a DOT specification 3HT cylinder with certain exceptions, for transportation of a compressed gas. (Modes 1, 2, 4, 5)
8309-X	DOT-E 8309	Sandoz Chemicals Corporation, Sodyeco Plant, Charlotte, NC.	49 CFR 172.101, 173.154, 173.328	To renew and to allow transportation to an additional site. (Mode 1)
8352-X	DOT-E 8352	Degussa Corp., Teterboro, NJ	49 CFR 173.154	To authorize shipment of ammonium persulfate and sodium persulfate in non-DOT specification plastic bags simiier to DOT specification 44P bags. (Modes 1, 2, 3)
8363-X	DOT-E 8363	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	49 CFR 173.93(a)	To authorize shipment of certain solid propellent explosives in metal canisters overpacked in DOT specification 12H65 fiberboard boxes. (Modes 1,3)
8380-X	DOT-E 8380	Allied Corp., Morristown, NJ	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-96% sulfuric acid in DOT specification 2E polyethylene bottles overpacked in DOT specification 12A80 fiberboard boxes. (Mode 1)
8380-X	DOT-E 8380	Texas Instruments, Inc., Dallas, TX	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-96% sulfuric acid in DOT Specification 2E polyethylene bottles overpacked in DOT specification 12A80 fiberboard boxes. (Mode 1)
8380-X	DOT-E 8380	Mallinckrodt, Inc., Paris, KY	49 CFR 173.272, 178.210, 178.24a	To authorize shipment of 95%-96% sulfuric acid in DOT specification 2E polyethylene bottles overpacked in DOT specification 12A80 fiberboard boxes. (Mode 1)
8394-X	DOT-E 8394	Whirlpool Corp., La Porte, IN	49 CFR Parts 100-177	To authorize transport of certain thermostatic elements containing small quantities of sodium potassium alloy, liquid packed in a strong fiberboard box. (Modes 1, 2, 3, 4, 5)
8427-X	DOT-E 8427	U.S. Department of Defense, Falls Church, VA.	49 CFR 173.276	To authorize use of a stainless steel DOT specification seamless 3A or 3E cylinder, for shipment of a flammable liquid. (Mode 4)
8445-P	DOT-E 8445	Merrell Dow Pharmaceuticals Inc., Cincinnati, OH.	49 CFR Part 173, Subpart D, E, F, & H	To become a party to Exemption 8445. (Mode 1)

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RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8445-X	DOT-E 8445	Kerr-McGee Chemical Corp., Oklahoma City, OK.	49 CFR Part 173, Subpart D, E, F, & H	To authorize shipment of various hazardous substances and wastes packed in inside plastic, glass, earthenware or metal containers, overpacked in a DOT specification removable head steel, fiber or polyethylene drum, only for the purposes of disposal, repackaging or reprocessing. (Mode 1)
8627-X	DOT-E 8627	Exxon Chemical Co., Houston, TX	49 CFR 173.119, 173.245, 178.253	To authorize use of six non-DOT specification portable tanks manifolded together within a frame and securely mounted on a truck chassis, for transportation of flammable and corrosive liquids. (Mode 1)
8627-X	DOT-E 8627	Champion Chemicals, Inc., Houston, TX	49 CFR 173.119, 173.245, 178.253	To authorize use of six non-DOT specification portable tanks manifolded together within a frame and securely mounted on a truck chassis, for transportation of flammable and corrosive liquids. (Mode 1)
8697-X	DOT-E 8697	ERA Helicopters, Inc., Anchorage, AK	49 CFR 172.101, Column (9)b, 175.30(a)(1).	To authorize carriage of propane in DOT specification 4B240, 4BA240, 4BW240 cylinders via helicopter utilizing sling loads. (Mode 4)
8747-X	DOT-E 8747	Coppe Industries, Inc., Menomonee Falls, WI.	49 CFR 173.245, 173.249, 178.3	To authorize shipment of certain alkaline corrosive liquids, n.o.s., in an unlined 28/26 gauge DOT specification 37C80 steel drum of five gallon capacity. (Modes 1, 2, 3, 4)
8811-X	DOT-E 8811	American Hoechst Corp., Somerville, NJ	49 CFR 173.284, 178.340-3, 178.343-2	To authorize use of modified DOT specification MC-312 cargo tanks made of titanium, for shipment of certain corrosive materials. (Mode 1)
8870-X	DOT-E 8870	Hach Co., Ames, IA	49 CFR 172.101, 173.286, 175.3	To comingle compatible hazardous materials of various classifications packed in separate inside receptacles not exceeding 8 fluid ounces or ½ lb. packed inside a strong outside container, labeled according to the highest order of hazard, and described as chemical kit. (Modes 1, 2, 3, 4, 5)
8870-X	DOT-E 8870	Culligan International Co., Northbrook, IL.	49 CFR 172.101, 173.286, 175.3	To comingle compatible hazardous materials of various classifications packed in separate inside receptacles not exceeding 8 fluid ounces or ½ lb. packed inside a strong outside container, labeled according to the highest order of hazard, and described as chemical kit. (Modes 1, 2, 3, 4, 5)
8870-X	DOT-E 8870	Exerpure, Inc., Westmont, IL	49 CFR 172.101, 173.286, 175.3	To comingle compatible hazardous materials of various classifications packed in separate inside receptacles not exceeding 8 fluid ounces or ½ lb. packed inside a strong outside container, labeled according to the highest order of hazard, and described as chemical kit. (Modes 1, 2, 3, 4, 5)
8871-X	DOT-E 8871	Chase Bag Co., Oak Brook, IL	49 CFR 173.182, 173.217, 173.245(b), 173.288.	To authorize manufacture, marking and sale of large, collapsible polyethylene-lined woven polypropylene bulk bags, having a capacity of approximately 2000 pounds each, and top and bottom outlets, for shipment of corrosive solids, nitrates and poisons. (Modes 1, 2, 3)
8885-X	DOT-E 8885	Coppe Industries, Inc., Menomonee Falls, WI.	49 CFR 173.245, 173.249, 178.3	To authorize shipment of certain alkaline corrosive liquids, n.o.s., in an unlined tin can, overpacked in a non-DOT specification removable head molded polyethylene pail of five or six-gallon capacity, also containing a nonhazardous resin mix. (Modes 1, 2, 3, 4)
8923-X	DOT-E 8923	Union Carbide Corp., Danbury, CT	49 CFR 173.119(m)	To authorize shipment of a 5 to 10 percent mixture of dichlorotetrafluoroethane with the balance being trichlorotrifluoroethane. (Mode 1)
8988-P	DOT-E 8988	Marathon Oil Co., Lafayette, LA	49 CFR 172.101, 173.110, 173.60, 175.30.	To become a party to Exemption 8988. (Modes 1, 3, 4)
8995-P	DOT-E 8995	Foam Supplies Inc., Olivette, MO	49 CFR 173.315(a)(1), 173.345, 174.63(b).	To become a party to Exemption 8995. (Modes 1, 2)
9005-X	DOT-E 9005	Emerald Air, Austin, TX	49 CFR 172.101, 172.204(d)(3), 173.27, 175.30(a)(1), 175.320(b), Part 107, Appendix B.	To authorize carriage of certain class A, B and C explosives that are not permitted for air shipment or are in quantities greater than those prescribed for shipment by air. (Mode 4)
9094-X	DOT-E 9094	CTL Distribution, Inc., Mulberry, FL	49 CFR 173.265	To authorize use of a DOT specification MC-312 stainless steel cargo tank, for transportation of a corrosive liquid. (Mode 1)
9117-X	DOT-E 9117	Flexbin Corp., Houston, TX	49 CFR 173.183, 173.184	To authorize manufacture, marking and sale of non-DOT specification semi-bulk bags of 22 cubic feet capacity, for transportation of an oxidizer. (Mode 1)
9117-X	DOT-E 9117	Flexbin Corp., Houston, TX	49 CFR 173.183, 173.184	To authorize manufacture, marking and sale of non-DOT specification semi-bulk bags of 22 cubic feet capacity, for transportation of an oxidizer. (Mode 1)
9130-P	DOT-E 9130	Aquarius Pool & Spa Supply, Inc., Elk Grove Village, IL	49 CFR 173.154	To become a party to Exemption 9130. (Modes 1, 2)
9157-X	DOT-E 9157	Air Products and Chemicals, Inc., Allentown, PA.	49 CFR 173.314(c), 178.300-7	To authorize use of a non-DOT specification multi-unit tank car tank, for transportation of a flammable gas. (Mode 1)
9168-X	DOT-E 9168	Ati-Pak, Inc., Pittsburgh, PA	49 CFR 172.400, 172.504, 173.118, 173.244, 173.345, 173.346, 173.350, 173.370, 173.377, 175.3, 175.35.	To authorize an alternate specially designed packaging for shipment of limited quantities of flammable, corrosive and poison B materials without labeling. (Modes 1, 2, 4)
9181-X	DOT-E 9181	GTE Products Corp., Waltham, MA	49 CFR 173.206, 173.21, 173.247	To authorize transport of lithium metal and a thionyl chloride solution in the same non-DOT specification stainless steel vessel. (Mode 1)
9194-X	DOT-E 9194	Cyanamid Canada, Inc., Willowdale, Ont., Canada.	49 CFR 173.370	To authorize shipment of calcium cyanide, solid, in collapsible, water-tight, polyethylene-lined, woven polypropylene bags having a capacity of no more than 4,400 pounds. (Modes 1, 2)
9201-X	DOT-E 9201	Cyanamid Canada, Inc., East Willowdale, Canada.	49 CFR 173.370	To authorize of calcium cyanide, solid, in collapsible, water-tight, polyethylene-lined, woven polypropylene bags having capacity not exceeding 4,400 pounds, overpacked in wax-impregnated 500-pound test, double-wall (BC flute) corrugated fiberboard boxes, in full freight loads. (Modes 1, 2, 3)
9208-P	DOT-E 9208	U.S. Department of Energy, Washington, DC.	49 CFR 172.101, 173.114a	To become a party to Exemption 9208. (Modes 1, 2, 3)
9208-X	DOT-E 9208	U.S. Department of Defense, Falls Church, VA.	49 CFR 172.101, 173.114a	To authorize transport of an insensitive high explosive and munitions containing explosive classed as a blasting agent. (Modes 1, 2, 3)

RENEWAL AND PARTY TO EXEMPTIONS—Continued

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9209-X	DOT-E 9209	Allied Chemical, Morristown, NJ	49 CFR 173.266(c)	To authorize shipment of hydrogen peroxide solution in water containing 25%–32% hydrogen peroxide by weight, in a DOT–12P fiber board box containing one inside DOT–2U polyethylene container of not over 5 gallons or two inside DOT–2U polyethylene containers of not over 2½ gallon capacity each. (Modes 1, 2, 3)
9211-X	DOT-E 9211	American Overseas Marine Corp., Quincy, MA.	49 CFR 146.29–35(f)	To authorize installation and operation of electrically-powered lighting, air conditioning, alarm, fire detection, and cargo-handling systems in cargo holds containing class A, B and C explosives in a Maritime Prepositioning Ship (TAKX). (Mode 3)
9213-X	DOT-E 9213	Bulk-Pack, Inc., West Monroe, LA	49 CFR 173.182, 173.217, 173.245b	To authorize manufacture, marking and sale of large, collapsible polyethylene-lined woven polypropylene bulk bags having a capacity of approximately 2,600 pounds each, and top and bottom outlets, for shipment of corrosive solids and nitrates. (Modes 1, 2, 3)
9230-X	DOT-E 9230	Nuclear Metals Inc., Concord, MA	49 CFR 173.206, 175.30	To authorize transport of titanium metal powder, dry, in a spun aluminum inner packaging, placed in a DOT specification 17H or 17C steel drum. (Modes 1, 2, 3, 4)
9244-X	DOT-E 9244	Stoneco, Inc., Decorra, CO	49 CFR 172.166, 175.30	To authorize transport of explosive pest repellant devices, in fiberboard boxes packed in DOT specification 12B fiberboard boxes. (Modes 1, 2, 3, 4)
9426-X	DOT-E 9426	CGTX, Inc., Montreal, PA Canada	49 CFR 179.102–3(a)(7)	To authorize an additional 13 chlorine tank cars having modified insulation systems. (Mode 2)

NEW EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9436-N	DOT-E 9436	Union Carbide Corp. Danbury, CT	49 CFR 172.203, 173.318, 173.320, 178.30, 178.76(h).	To authorize manufacture, marking and sale of non-DOT specification portable tanks for transportation of liquid helium. (Modes 1, 3)
9496-N	DOT-E 9496	GPS Industries, city of Industry, CA	49 CFR 173.263(a)(28), 173.277(a)(6), 178.19.	To authorize non-DOT specification polyethylene bottles conforming with DOT specification 34 with certain exeptions, packed inside a high density polyethylene box having a corrugated fiberboard cover. (Mode 1)
9497-N	DOT-E 9497	Pressure Pak, East Hampton, CT	49 CFR 173.302(a)(4), 175.3	To authorize manufacture, marking and sale of welded, nonrefillable, non-DOT specification steel cylinders made in compliance with DOT specification 39 with exceptions, for transportation of carbon dioxide. (Modes 1, 2, 4)
9525-N	DOT-E 9525	American Cyanamid Co., Wayne, NJ	49 CFR 178.42, Part 173, Subpart D, E, H.	To authorize use of a welded stainless steel cylinder equivalent to DOT specification 3E with exceptions, for transportation of certain pyroforic liquids, flammable liquids, poison B liquids and flammable solids. (Modes 1, 3, 4)
9534-N	DOT-E 9534	Hardigg Industries, Inc., South Deerfield, MA.	49 CFR 173.199, 173.125, 178.19, 178.253, Part 173, Subpart F.	To authorize manufacture, marking and sale of non-DOT specification rotationally-molded, cross-linked, polyethylene portable tanks for transportation of corrosive liquids, flammable liquids or an oxidizer. (Modes 1, 2, 3)
9547-N	DOT-E 9547	National Institutes of Health, Bethesda, MD.	49 CFR 173.179	To authorize transport of 100 grams of methyl nitro nitrosoguanidine in inside polyethylene bottles, polyethylene bags, metal cans and DOT specification 12B fiberboard box; packed in a DOT Specification 17H metal drum. (Mode 1)
9560-N	DOT-E 9560	Union Carbide Corp. St. Petersburg, FL	49 CFR 172.504, 172.508, 177.823	To authorize transport of oxygen, compressed, and oxygen, liquefied on the same motor vehicle to bear only the OXYGEN placard. (Mode 1)
9561-N	DOT-E 9561	Atlmet-Indusea, Inc., New York, NY	49 CFR 173.366	To authorize transport of arsenic trioxide in non-DOT specification steel drums. (Modes 1, 2, 3)
9568-N	DOT-E 9568	AZTRON Chemical Services, Inc., South Houston, TX.	49 CFR 173.249	To authorize use of a DOT specification MC-306 tank motor vehicle for transportation of sodium hydroxide, liquid. (Mode 1)

EMERGENCY EXEMPTIONS

Application No.	Exemption No.	Applicant	Regulation(s) affected	Nature of exemption thereof
EE 9585-N	DOT-E 9585	Texaco Research Center, Beacon, NY	49 CFR 173.302, 173.304	To authorize a one-time shipment of unknown materials in deteriorated metal cylinders, overwrapped in polyethylene bag, hermetically sealed. (Mode 1)
EE 9586-N	DOT-E 9586	ISC Technologies, Inc., Lancaster, PA	49 CFR 173.113	To authorize transport of fuzes, detonating in packages exceeding weight limitations. (Mode 1)
EE 9588-N	DOT-E 9588	Mobay Corp., Kansas City, MO	49 CFR 173.359	To authorize a one-time shipment of a DOT specification MC-305 compartmented cargo tank containing approximately 5,000 gallons of diaitolon mixture liquid, class B poison. (Mode 1)
EE 9593-N	DOT-E 9593	Honeywell, Inc., Minnetonka, MN	49 CFR 172.101, 175.30	To authorize transport of ammunition for cannon class A explosives, and certain non-hazardous materials aboard cargo aircraft. (Mode 4)

WITHDRAWALS

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8820-X	Merck Sharp and Dohme, West Point, PA.	49 CFR 173.387, 175.3	To authorize the transport of an etiologic agent in inside packagings exceeding 500 ml capacity. (Modes 1, 2, 4)

BEST COPY AVAILABLE

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WITHDRAWALS—Continued

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
8987–X	Hadwin Corp., Baltimore, MD	49 CFR 178.35e–1	To authorize manufacture, marking and sale of DOT specification 2SL inside polyethylene containers of Type III, high density, high molecular weight resin, for transportation of those commodities presently authorized to be packaged in a DOT specification 2SL inside polyethylene container. (Modes 1, 2, 3)

Denials

8525–X Request by Associated Container Transportation (USA, New York, NY to authorize shipment of mineral monazite sand, classed as radioactive material, low specific activity, n.o.s. under modified exclusive use provisions denied March 10, 1986, as being unnecessary.

8525–X Request by Atlanttrafik Express Service, New York, NY to authorize shipment mineral monazite sand, classed as radioactive material, low specific activity, n.o.s. under modified exclusive use provisions denied March 10, 1986, as being unnecessary.

8986–P Request by Haviland Products Company, Grand Rapids, MI to authorize an alternate type packaging for shipment of sodium hypochlorite solution denied March 5, 1986.

Issued at Washington, DC on April 21, 1986.

J. Suzanne Hedgepeth,

Acting Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 86–9333 Filed 4–24–86; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirement Submitted to OMB for Review

Dated: April 21, 1986.

The Department of Treasury has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of this submission may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: 1545–0134.
Form Number: IRS Form 1128.
Type of Review: Revision.
Title: Application for Change in Accounting Period.

OMB Number: 1545–0760.
Form Number: None.
Type of Review: Extension.
Title: EE–178–78 Final—Employers' Qualified Educational Assistance Programs

Clearance Officer: Garrick Shear (202) 566–6150, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Robert Neal (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Comptroller of the Currency

OMB Number: 1557–0147.
Form Number: None.
Type of Review: Extension.
Title: National Bank Lending Limits.

Clearance Officer: Eric Thompson, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219.

OMB Reviewer: Robert Neal (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Joseph F. Maty,

Departmental Reports Management Office.

[FR Doc. 86–9285 Filed 4–24–86; 8:45 am]

BILLING CODE 4810–25–M

VETERANS ADMINISTRATION

Career Development Committee, Notice of Availability of Annual Report

Under section 10(d) of Pub. L. 92–463 (Federal Advisory Committee Act) notice is hereby given that the Annual Report for the calendar year 1985 has been issued for the Veterans Administration, Medical Research Service, Career Development Committee.

The report summarizes the activities for the committee on matters related to the review and evaluation of Career Development applications. It is available for public inspection at two locations:

Library of Congress, Serial and Government, Publications Reading Room LM 133, Madison Building, Washington, DC 20540, and
Veterans Administration, Medical Research Service, Career Development Program, Room 642, 810 Vermont Avenue NW., Washington, DC 20420

Dated: April 17, 1986.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 86–9272 Filed 4–24–86; 8:45 am]

BILLING CODE 8320–01–M

Medical Research Merit Review Boards; Availability of Annual Reports

Notice is hereby given that the Annual Reports of the Veterans Administration Medical Research Service Merit Review Boards for Calendar Year 1985 have been issued.

The reports summarize activities of the Boards on matters related to the review, discussion, and evaluation of individual investigator initiated medical research projects. They are available for public inspection at two locations:

Library of Congress, Serial and Government, Publications Reading Room LM 133, Madison Building, Washington, DC 20540, and
Veterans Administration, Medical Research Service, Program Review Division (151D), Room 634, 810 Vermont Avenue NW., Washington, DC 20420

Dated: April 17, 1986.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 86–9273 Filed 4–24–86; 8:45 am]

BILLING CODE 8320–01–M

Veterans Administration Cooperative Studies Evaluation Committee; Availability of Annual Report

Under section 10(d) of Pub. L. 92–463 (Federal Advisory Committee Act) notice is hereby given that the Annual Report for calendar year 1985 has been issued for the Veterans Administration Cooperative Studies Evaluation Committee.

The report summarizes activities of the Committee on matters related to the review and evaluation of new and ongoing cooperative studies. It is available for public inspection at two locations:

Library of Congress, Serial and Government, Publications Reading Room LM 133, Madison Building, Washington, DC 20540, and
Veterans Administration, Medical Research Service, Cooperative Studies Program, Room 640, 810 Vermont Avenue NW., Washington, DC. 20420

Dated: April 17, 1986.

By Direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 86–9274 Filed 4–24–86; 8:45 am]

BILLING CODE 8320–01–M

VOL 51 ISS 80 APR 25 1986

Sunshine Act Meetings

Federal Register
Vol. 51, No. 80
Friday, April 25, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: Tuesday, April 29, 1986, 11:00 a.m.

PLACE: 2033 K Street, NW., Washington, DC, 6th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 86–9370 Filed 4–23–86; 10:57 am]

BILLING CODE 6351–01–M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: Friday, May 2, 1986, 11:00 a.m.

PLACE: 2033 K Street, NW., Washington, DC, 6th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 86–9371 Filed 4–23–86; 10:58 am]

BILLING CODE 6351–01–M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: Friday, May 9, 1986, 11:00 a.m.

PLACE: 2033 K Street, NW., Washington, DC, 6th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 86–9372 Filed 4–23–86; 10:59 am]

BILLING CODE 6351–01–M

4

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: Friday, May 16, 1986, 11:00 a.m.

PLACE: 2033 K Street, NW., Washington, DC, 6th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 86–9373 Filed 4–23–86; 11:00 am]

BILLING CODE 6351–01–M

4

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: Friday, May 23, 1986, 11:00 a.m.

PLACE: 2033 K Street, NW., Washington, DC, 6th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 86–9374 Filed 4–23–86; 11:01 am]

BILLING CODE 6351–01–M

6

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: Friday, May 30, 1986, 11:00 a.m.

PLACE: 2033 K Street, NW., Washington, DC, 6th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 86–9375 Filed 4–23–86; 11:02 am]

BILLING CODE 6351–01–M

7

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 2:00 p.m. (eastern time), Monday, May 5, 1986.

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, DC. 20507.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

Open

1. Announcement of Notation Vote(s)
2. A Report on Commission Operations (Optional)
3. Proposed Contracts For Expert Services

Closed

1. Litigation Authorization; General Counsel Recommendations

Note—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the Federal Register, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings.

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer at (202) 634–6748.

Dated: April 23, 1986.

This Notice Issued May 5, 1986.

Cynthia C. Matthews,
Executive Officer Executive Secretariat.

[FR Doc. 86–9457 Filed 4–23–86; 3:47 p.m.]

BILLING CODE 6750–06–M

8

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 6:45 p.m. on Friday, April 18, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and assumption of the liability to pay deposits made in Florida Center Bank, Orlando, Florida, which was closed by the State Comptroller for the State of Florida, on Friday, April 18, 1986; (2) accept the bid for the transaction submitted by American National Bank of Florida, Jacksonville, Florida; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Mr. John F. Downey, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii) and (c)(9)(B)).

Dated: April 22, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 86–9380 Filed 4–23–86; 11:03 am]

BILLING CODE 6714–01–M

8

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, April 21, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. Williams Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration of the meeting, on less than seven days' notice to the public, of the following matters:

Memorandum regarding the Corporation's assistance agreement with an insured bank pursuant to section 13 of the Federal Deposit Insurance Act.

Application of Maryland National Bank, Baltimore, Maryland, for consent to assume the liabililty to pay certain deposits made in Old Court Savings & Loan, Inc., Baltimore, Maryland, a noninsured institution.

The Board determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections, and (c)(9)(A)(ii), of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), (c)(8), and (c)(9)(A)(ii)).

Dated: April 22, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 86–9381 Filed 4–23–86; 11:04 am]

BILLING CODE 6714–01–M

10

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, April 30, 1986.

PLACE: Marriner S. Eccles Federal Reserve Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 23, 1986.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 86–9357 Filed 4–23–86; 10:20 am]

BILLING CODE 6210–01–M

11

INTERNATIONAL TRADE COMMISSION

[USITC SE–86–16]

TIME AND DATE: Tuesday, April 29, 1986 at 10:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes
3. Ratification List
4. Petitions and Complaints:
   a. Certain Xenon Lamp Dissolver Slide Projectors (Docket No. 1310).
5. Investigations 701–TA–272 and 731–TA–319 [Preliminary] (Operators for jalousie and awning windows from El Salvador—briefing and vote.
6. Investigations 701–TA–257 [Final] (Certain fresh Atlantic groundfish from Canada)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

Kenneth R. Mason,
Secretary.

April 23, 1986.

[FR Doc. 86–9465 Filed 4–23–86; 3:51 pm]

BILLING CODE 7020–02–M

12

SECURITIES AND EXCHANGE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [To be published].

STATUS: Open/closed meetings.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Thursday, April 10, 1986.

CHANGE IN THE MEETING: Deletion/additional items.

An open meeting scheduled for Thursday, April 17, 1986, at 2:30 p.m. was cancelled.

Oral argument on appeals by Rooney Pace, Inc., a registered broker-dealer, Randolph K. Pace, its president, and the Commission's Division of Enforcement, from an administrative law judge's initial decision. For further information, please contact R. Moshe Simon at (202) 272–7400.

A closed meeting scheduled for Thursday, April 17, 1986, following the 2:30 p.m. open meeting, was cancelled.

Post oral argument discussion.

The following item will be considered

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at an open meeting scheduled for Tuesday, April 22, 1986, at 2:30 p.m.

The Commission will consider accounting for oil price declines. For further information, please contact Howard Hodges at (202) 272-2553.

Commissioner Peters, as Duty Officer, determined that Commission business required the above changes and that no earlier notice thereof was possible.

At times changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kathryn Natale at (202) 272-3195.

John Wheeler,

Secretary.

April 18, 1986.

[FR Doc. 86-9382 Filed 4-23-86; 12:46 pm]

BILLING CODE 6210-01-M

federal register

Friday
April 25, 1986

Part II

Environmental Protection Agency

40 CFR Part 763

Toxic Substances; Asbestos Abatement Projects; Final Rule

VOL 51 ISS 80 AP 25 1986 UMI

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 763

[OPTS-62044A; FRL 2965-7]

Toxic Substances; Asbestos Abatement Projects

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing a rule under section 6(a) of the Toxic Substances Control Act (TSCA). The rule will apply to asbestos abatement projects using employees not protected by regulations of the Occupational Safety and Health Administration (OSHA), by regulations of State plans adopted under the Occupational Safety and Health Act (OSHAct), or by State regulations in Idaho, Kansas, Oklahoma, and Wisconsin that EPA has determined are comparable to or more stringent than this rule.

DATE: This rule will be promulgated for purposes of judicial review at 1 p.m. eastern time on May 9, 1986. This rule is effective June 9, 1986.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, Office of TSCA Assistance (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460, Toll free: (800-424-9065). In Washington, D.C.: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Authority

Section 6(a) of TSCA authorizes EPA to impose a number of regulatory requirements concerning a chemical substance or mixture if EPA finds that there is a reasonable basis to conclude that the manufacture, processing, distribution in commerce, use, or disposal of the chemical substance, or any combination of such activities, presents or will present an unreasonable risk of injury to health or the environment. Among the requirements that EPA may impose are those listed in sections 6(a)(5) and 6(a)(6). Section 6(a)(5) of TSCA authorizes EPA to prohibit or otherwise regulate any manner or method of commercial use of a chemical substance or mixture. Section 6(a)(6) of TSCA authorizes EPA to prohibit or otherwise regulate any manner or method of disposal of a chemical substance or mixture or any article containing that substance or mixture, by any person who uses or disposes of it for commercial purposes.

These sections provide authority for EPA to issue this rule, which establishes requirements to protect State and local public employees conducting asbestos abatement activities. The asbestos in buildings where State and local public employees may be involved in abatement has been sold as a commercial product. Therefore, regulation of abatement activities affecting asbestos use in these buildings, such as encapsulation or enclosure, is considered regulation of commercial use. The removal of asbestos, a disposal activity, will affect a number of commercial activities that take place in the public buildings and, therefore, is considered disposal for commercial purposes.

II. Background

EPA proposed a rule under section 6(a) of TSCA to protect State and local public employees who take part in asbestos abatement projects, but who are not covered by the OSHA Asbestos Standard or by regulations of State plans adopted under the OSHAct, as published in the Federal Register of July 12, 1985 (50 FR 28530). The proposed rule was effective immediately under section 6(d) of TSCA and will remain in effect until this final rule becomes effective on June 9, 1986.

EPA received over 20 comments from the public on the proposed rule and the final rule that EPA is issuing today includes changes in response to the public comments. Those changes are discussed in Unit IV below.

This rule is part of an EPA program to address the risks associated with asbestos in schools. As part of that program, EPA has established regional information centers to provide information concerning the identification and abatement of asbestos hazards and to train people in proper abatement techniques. To ensure that asbestos abatement is performed safely and correctly, EPA is helping States establish certification programs for asbestos abatement contractors. EPA is giving grants to several States to help them set up contractor certification programs and is advising States on ways to implement such programs. Through its technical assistance program, EPA provides guidance on asbestos matters to school officials and local health and education departments. Finally, EPA has updated existing guidance material and prepared new material.

III. Provisions of the Rule

This rule applies to asbestos abatement projects using State and local government employees not covered by either (1) the OSHA Asbestos Standard, 29 CFR 1910.1001, (2) an Asbestos Standard adopted by a State as part of a State plan approved by OSHA under section 18 of the OSHAct, or (3) a State asbestos regulation in Idaho, Kansas, Oklahoma, or Wisconsin. EPA has determined that these four State regulations are comparable to or more stringent than this rule. The rule defines asbestos abatement project as "any activity involving the removal, enclosure, or encapsulation of friable asbestos material, except removal, enclosure, or encapsulation during sampling or routine repair of less than either 3 linear feet or 3 square feet of friable asbestos material." The rule defines friable asbestos material as "any material containing more than 1 percent asbestos by weight which, when dry, may be crumbled, pulverized, or reduced to powder by hand pressure." Thus, the sampling of friable asbestos material and the routing repair or less than either 3 linear feet or 3 square feet of friable asbestos material are not covered by this rule at all.

The rule with certain exceptions, requires employers to report to EPA at least 10 days before they begin an asbestos abatement project covered by this rule. The first exception is for asbestos abatement projects involving the removal, enclosure, or encapsulation of less than either 3 linear feet or 3 square feet of friable asbestos material. These projects do not have to be reported at all. The second exception is for emergency projects, which EPA defines as "a project involving the removal, enclosure, or encapsulation of friable asbestos material that was not planned but results from a sudden unexpected event." Examples of emergency projects are repairs necessitated by serious vandalism, flooding, fire, boiler failure, and ruptured water pipes. Emergency projects do not have to be reported to EPA 10 days in advance. Instead, they must be reported "as soon as possible, but in no case more than 48 hours after the project begins." The third exception is for employers who submit a notice to EPA under the National Emission Standard for Asbestos, 40 CFR 61.146, at least 10 days before they begin the asbestos abatement project and the notice clearly indicates that employees covered by this rule will perform some or all of the asbestos abatement work.

Reports under this rule must include the employer's name and address; the location, including street address, of the project; and the scheduled starting and completion dates for the project.

The regulatory requirements of the rule are very close to the current OSHA Asbestos Standard, with the same PEL and work practice requirements.

This rule, like the proposal, does not include the part of the current OSHA Asbestos Standard which states that personnel rotation is preferred over use of respirators to meet the permissible exposure requirements. OSHA has announced its intention to revoke that provision (Ref. 12). EPA agrees with OSHA's statement that personnel rotation merely increases the population at risk and would not reduce the absolute number of excess deaths attributable to asbestos according to mathematical models.

This rule, like the proposal and the current OSHA Asbestos Standard, requires that employers initially monitor each workplace to determine whether employees' exposure to asbestos is below the limits set in the rule. After the initial determination, employers must collect samples of air levels "of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of employees." EPA encourages persons to monitor asbestos levels daily during abatement projects.

Because of OSHA's extensive experience in administering and enforcing its Asbestos Standard, EPA generally intends to follow OSHA's administrative interpretations of identical provisions in the Asbestos Standard. This includes the OSHA interpretation that the medical surveillance requirements are triggered by an action level of 0.1 fiber per cubic centimeter (f/cc) as a 7- or 8-hour time weighted average. Employers must conduct personal and environmental monitoring as required by the rule to see if that level is exceeded.

EPA will also follow OSHA's administrative interpretation concerning respirator requirements during demolition or removal of asbestos. As stated by OSHA, employees about to engage in the removal of demolition of pipes, structures, or equipment covered or insulated with asbestos, or in the removal or demolition of asbestos insulation or coverings, must use a type "C" continuous flow or pressure-demand, supplied-air respirator regardless of the concentrations of asbestos to which they may be exposed. However, if the employer has conclusively established the upper concentration of airborne asbestos that employees could be exposed to during demolition or removal, and the concentration does not exceed 100 times either the 8-hour time-weight average or ceiling limits, then any of the respirators permitted by the rule that affords adequate protection at such upper concentrations of airborne asbestos may be used. The establishment of the upper concentrations of airborne asbestos fibers may require considerable effort if there are variations from operation to operation. Proof that the average airborne concentrations of asbestos fibers that an employee may be exposed to will not exceed 100 times the 8-hour, time-weighted average or ceiling concentrations must be determined by the employer applying sound scientific or engineering principles.

EPA also wishes to clarify two provisons of the rule, which are identical to provisions of the current OSHA rule. First, the rule states that "insofar as practicable, asbestos shall be . . . removed . . . in a wet state sufficient to prevent the emission of airborne fibers in excess of the exposure limits . . ." EPA believes that it is practical to wet asbestos before removal in almost every situation.

Second, the rule states that "all external surfaces in any place of employment shall be maintained free of accumulations of asbestos fibers if, with their dispersion, there would be an excessive concentration." EPA believes that visible accumulations of asbestos-containing debris could lead to excessive concentrations and should not be left after the conclusion of an asbestos abatement project.

IV. Future Revisions to This Rule

As noted above, EPA is adopting most provisions of the current OSHA Asbestos Standard in this final rule. As pointed out by comments, OSHA has recognized that employees exposed to asbestos at levels permitted by its current standard face a significant risk to health (Ref. 12). As also noted in comments, OSHA has proposed amending the current Asbestos Standard to lower the PEL to either 0.2 f/cc or 0.5 f/cc and to adopt an Asbestos Standard for the Construction Sector. EPA will amend this rule to be consistent with OSHA proposal after OSHA isues a final standard. This will ensure that all public and private sector employees who participate in asbestos abatement projects enjoy similar levels of protection. When EPA amends this rule to be consistent with the final OSHA standard, EPA will give the States of Idaho, Kansas, Oklahoma, and Wisconsin an appropriate amount of time (at least 6 months) to make conforming changes to their regulations.

Because of the extensive comment already received on the OSHA Standard, EPA will issue this amendment without further solicitation of public comment. Therefore, EPA suggests that any additional comments on this approach be submitted to EPA at this time. Comments should be submitted to the address provided above.

In its proposed rule, OSHA included a provision requiring the employer to institute a training program for employees exposed to airborne concentrations of asbestos in excess of either 0.2 or 0.5 f/cc without regard to the use of respirators. EPA is considering a related provision requiring State and local governments covered by this rule to have any employees who participate in asbestos abatement trained in an asbestos abatement course. Such a provision could involve setting training course criteria. Persons who wish to comment on this possible provision should submit their comments at this time. Whether or not EPA adopts a training requirement through rulemaking, EPA would like to point out that the FY 1986 Asbestos School Hazard Abatement Act (ASHAA) appropriation requires schools who receive ASHAA funds to select contractors for their abatement projects who are either State-certified or have attended an EPA approved training course.

V. Response to Comments

EPA received and has analyzed over 20 comments from the public on the proposed rule. The following summarizes the major comments and discusses the changes in the final rule in response to those comments. A more extensive response to comments document appears in the rulemaking record.

There were comments that coverage of the rule was unclear. In response to these comments, EPA clarified the rule to indicate clearly that the rule applies to project performed to abate asbestos hazards and to other asbestos abatement projects performed as part of a renovation or repair project.

There were also comments concerning the persons intended to be protected by the rule. In response to those comments, EPA revised the rule to make clear that the rule applies to persons who take part in asbestos abatement projects and not to other persons who may incidentally come into contact with asbestos. Asbestos abatement workers face a greater likelihood of significant exposure to asbestos than other persons who only incidentally come into contact with asbestos.

The proposed rule applied to all asbestos abatement projects, with no exclusion for small projects. There were comments that the rule as applied to

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small projects was unduly burdensome and would discourage necessary repair operations. In response to these comments, EPA decided to exclude routine repair of less than 3 linear or 3 square feet of friable asbestos material from the final rule. Thus minor, routine repairs of pipe insulation by sealing or taping would not be covered by the rule.

This change will allow persons to make these minor, routine repairs without using type "C" respirators or conducting air sampling. Applying these requirements would unnecessarily discourage needed repairs of damaged asbestos materials. As noted above, this exclusion applies only to repair of less than 3 linear or 3 square feet of friable asbestos material. EPA considered the alternative of excluding "small" repair projects without setting a numerical limit. However, EPA decided that this approach would create enforcement difficulties since "small" is a very subjective term.

One comment noted that the proposed rule could be interpreted as covering the removal of friable asbestos material during sampling. This could discourage persons from sampling to identify potential asbestos hazards, thus delaying the abatement of some hazards. In response to this comment, EPA decided to clarify the rule to exclude any removal, enclosure, or encapsulation during sampling from coverage.

In the proposal, EPA requested comment on whether this rule should apply in States that do not have an OSHA-approved State plan but have comparable or more stringent regulations protection public employees who perform asbestos abatement work. EPA encouraged States with such regulations to inform EPA about the regulations during the comment period. Idaho, Kansas, Oklahoma, and Wisconsin brought their regulations to EPA's attention. EPA has decided that these regulations are comparable or more stringent that this rule and decided to exclude those States from coverage under this rule. A document which summarizes how EPA determined that these State regulations are comparable or more stringent appears in the record for this rule.

If any other State has a comparable or more stringent regulation now or adopts one in the future and wishes to be excluded from this rule, that State should send a copy of the regulation to EPA's Office of Toxic Substances (TS-792), 401 M Street St., SW., Washington, D.C. 20460 and request to be excluded from the rule. EPA will review the regulation and tentatively determine whether the regulation is comparable or more stringent that this rule. If EPA makes this tentative determination, EPA will propose an amendment to this rule, excluding that State from coverage. Interested persons could comment on the proposed exclusion during a period for public comment. After considering any comments, EPA could promulgate the final rule amendment.

In the proposal, EPA requested comment on the appropriate definition of asbestos. The definition in the proposal differs from OSHA's in that the EPA definition excludes non-asbestiform tremolite. EPA received one comment that it should adopt the OSHA definition and other comments that the EPA definition should be modified somewhat to make it more mineralogically correct. EPA has decided to retain the proposed definition in the final rule. This definition has been used by EPA in the past and is understood by the regulated community.

EPA also received comment on the definition of asbestos fibers. In the proposal, EPA defined the term as "asbestos fibers longer than 5 micrometers. EPA is adopting the same definition in this rule to be consistent with OSHA. OSHA adopted the definition because of practical difficulties in measuring concentrations of smaller fibers. EPA believes that smaller fibers present a health risk but agrees with OSHA that it is difficult to monitor for smaller fibers.

EPA received four comments questioning the proposed requirement of annual chest roentgenograms (X-rays) for persons exposed to asbestos at a level greater than 0.1 f/cc for a 7- or 8-hour TWA. Some comments stated that the diagnostic value of annual chest roentgenograms are outweighted by the risk associated with X-ray exposure. In response to these comments, EPA has modified the rule to make clear that chest roentgenograms are required only at the discretion of the physician.

EPA received comments concerning the reference in the proposed rule to respirators approved by the Bureau of Mines (BOM). The comment pointed out that while there may be respirators still in use which were originally approved by BOM, the Mine Safety and Health Administration (MSHA) has replaced BOM in this task. The final rule has been changed to make clear that respirators approved by the National Institute for Occupational Safety and Health, BOM, or MSHA may be worn.

EPA received one comment concerning a typographical error in the rule. The proposal incorrectly stated that "the employee shall provide two separate lockers. . . ." The final rule corrects this error and provides that "the employer shall provide two separate lockers. . . ."

EPA received comments that a PEL of 2.0 f/cc does not provide sufficient protection. As explained above, EPA is adopting the PEL in this rule to be consistent with OSHA, but expects to amend this rule to adopt a lower PEL in accordance with OSHA in the future. To ensure greater protection of abatement workers and building occupants during asbestos abatement than that now required by this rule, EPA strongly encourages all persons to follow EPA guidance materials and take additional steps to control exposure to asbestos. EPA encourages persons to contact a Regional Asbestos Coordinator or the TSCA Assistance Office to obtain EPA guidance documents and other technical assistance information. EPA also notes that many asbestos abatement projects subject to this rule are subject to the requirements of the National Emission Standard for Asbestos, 40 CFR 61.146, issued by EPA under the Clean Air Act.

VI. Regulatory Assessment

Under section 6(c)(1) of TSCA, EPA must consider the following factors when determining whether a chemical substance or mixture presents an unreasonable risk:

1. The effects of such substance or mixture on health and the magnitude of the exposure of human beings to such a substance or mixture.
2. The effects of such substance or mixture on the environment and the magnitude of the exposure of the environment to such substance or mixture.
3. The benefits of such substance or mixture for various uses and the availability of substitutes for such uses.
4. The reasonably ascertainable economic consequences of the rule, after consideration of the effect on the national economy, small business, technological innovation, the environment, and public health.

After considering the above factors, EPA makes the following findings concerning the unregulated removal, enclosure, or encapsulation of friable asbestos material.

A. Health Effects and Magnitude of Exposure to Asbestos

1. *Health effects.* The following summarizes the health effects of asbestos. They are similar to those in the preamble to the proposed rule. EPA received no comments disagreeing with EPA's assessment of the health effects of asbestos. Detailed discussion and assessment of the health effects of asbestos may be found in the "Report to the United States Consumer Product Safety Commission (CPSC), by the Chronic Hazard Advisory Panel on Asbestos" (CHAP) (Ref. 1), "Health Effects and Magnitude of Exposure" in EPA's "Support Document for Final Rule of Friable Asbestos-Containing Materials in School Buildings," (Ref. 4) and the "Report of the (National Research Council) Committee on Nonoccupational Health Risks of Asbestiform Fibers" (Ref. 6).

EPA finds that the adverse human health effects from exposure to asbestos are extremely serious. Asbestos is a known human carcinogen that also causes other lung diseases.

Asbestos has been thoroughly examined in numerous epidemiology studies. The life-threatening diseases that have been repeatedly identified are asbestosis, lung cancer, and mesothelioma. Also associated with asbestos exposure in some studies are cancers of the larynx, pharynx, gastrointestinal tract, kidney, and ovary and respiratory diseases such as pneumonia. Major health effects are discussed below.

Asbestosis, which involves fibrosis of lung and pleural tissue, is a serious chronic disease associated with exposure to asbestos. There is no effective treatment for asbestosis and it is often disabling or fatal. Asbestosis is diagnosed from findings which may include radiographic changes, breathlessness, and abnormal lung function. Since some clinical symptoms of asbestosis are similar to those of other fibrosing lung diseases, a history of occupational exposure to asbestos is often a key feature of its diagnosis. Asbestosis can appear and progress decades after exposure to asbestos fibers. This is partly true because some inhaled asbestos fibers remain in the body for the lifetime of a victim. Under working conditions where average fiber concentrations in the air were high (more than 10 fibers per cubic centimeter) asbestosis has accounted for more than 17 percent of observed deaths (Ref. 11). It is apparently less common than lung cancer or mesothelioma at exposures lower than the current OSHA workplace standard of 2.0 f/cc. Some recent data on the incidence of asbestosis appear compatible with a linear exposure-response relationship with no threshold (Ref. 12).

Lung cancer is currently responsible for the largest number of deaths from exposure to asbestos. It has been associated with exposure to all the principal commercial asbestos fiber types. Excess lung cancer has been documented in groups involved with the mining and milling of asbestos and the manufacture and use of asbestos products. Studies in which the extent of exposure can be approximated provide evidence that lung cancer increases linearly with both level and duration of exposure. Cigarette smoking and asbestos have a strong synergistic interaction in development of lung cancer. Asbestos exposure appears to multiply the underlying risk of lung cancer. Consequently, when exposed to asbestos, the risk of lung cancer for smokers (for whom the risk of lung cancer is already high) is much higher than that for nonsmokers exposed to asbestos.

Many human studies have also shown that exposures to asbestos produce mesotheliomas, which are cancers that occur as thick diffuse masses in the serous membranes (mesothelia) that line body cavities. Mesotheliomas occur in the pleura (the membrane that surrounds the lungs and lines the lung cavity) and the peritoneum (which surrounds the abdominal organs and lines the abdominal cavity). Both forms of mesothelioma are nearly always fatal within the first 2 years after diagnosis. Epidemiology studies suggest that the incidence of mesothelioma is related to dose and time from first exposure. Association of mesothelioma with smoking is weak or nonexistent. Asbestos fibers appear, by far, to be the most common cause of mesotheliomas.

In occupational studies where the primary route of exposure is through inhalation, lung cancer and mesotheliomas usually account for about 90 percent of the excess cancers seen among workers. However, as noted in the CHAP report (Ref. 1), a number of other cancers, principally of the gastrointestinal tract, have been associated with asbestos exposure. These are cancers of the larynx, pharynx, oral cavity, esophagus, stomach, colon, and rectum. Statistically significant excesses of cancers of the kidney and ovary have also been shown in some studies. In addition, the excess of cancers at all other sites combined is statistically significant in some studies.

The conclusions from epidemiology studies concerning the health effects of asbestos are also supported by results of laboratory studies. Animals treated with asbestos have shown increased incidence of fibrosis, lung cancer, and mesotheliomas. All commercial forms and several other types of asbestos are implicated from a variety of modes of exposure. Animal studies, however, have not shown an increased incidence of gastrointestinal or other cancers.

Most occupational studies have been conducted on populations exposed to high airborne concentrations of asbestos for long periods of time. However, short-term occupational exposures, have also been shown to increase the risk of lung cancer and mesothelioma (Ref. 9). In addition, there are many documented cases of mesothelioma linked to extremely brief exposure to high concentrations of asbestos or long-term exposure to low concentrations (Ref. 4).

Direct evidence of adverse health effects from nonoccupational asbestos exposure also exists. Persons who lived in the household of asbestos workers have developed pleural mesothelioma and signs of asbestosis (Ref. 10). A number of mesotheliomas have also been documented among populations whose only identified exposure was from living near asbestos mining areas, asbestos product factories, or shipyards where asbestos use had been very heavy (Ref. 4).

In addition to exposure to asbestos fibers in the air, the general population is also exposed through various oral sources, including drinking water containing asbestos. Because of the potential for oral exposure as well as the excess of gastrointestinal tract cancers that has frequently been found in occupational groups exposed to asbestos in the air, there has been much study of the possible health effects of ingestion of asbestos fibers. Despite those efforts, evidence showing health effects from ingestion is still ambiguous (Ref. 5).

2. *Cancer risk extrapolation.* As discussed above, numerous human studies have demonstrated that exposure to asbestos has increased the risk of cancer and asbestosis. This unit presents EPA's approach in estimating the cancer risk attributable to exposures during the removal, enclosure, or encapsulation of friable asbestos.

Since a number of epidemiology studies indicate a positive relationship between asbestos exposure and the risk of lung cancer, several models may be used to extrapolate from risk at high exposure to risk at lower exposure. The model that EPA believes is most consistent with available human and animal data is the linear nonthreshold dose/response model. This model assumes that: (1) Any exposure increases risk, and (2) the increase in risk is proportional to the background risk in the nonexposed population and to the level of exposure, defined as duration of exposure times concentration of asbestos fibers to which populations may be exposed.

The choice of the linear model appears reasonable since there is no evidence for a threshold level of asbestos exposure below which there is

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no increased risk. It is further supported by evidence of cancers among populations whose asbestos exposure is believed to have been lower than levels reported in the epidemiology studies of asbestos workers mentioned above.

The model adopted by EPA to estimate excess mesothelioma incidence due to asbestos exposure relates disease incidence to dose and the time from first exposure (minus 10 years) raised to the third power. This model reflects a delay (or minimum latency period) of 10 years between first exposure and the likely earliest possible appearance of the disease. Both the lung cancer and mesothelioma models have also been adopted by OSHA (Ref. 12). The National Research Council Committee on Nonoccupational Health Risks of Asbestiform Fibers also adopted a similar linear nonthreshold model to estimate risk to nonoccupational populations from exposure to asbestos (Ref. 6). The derivation and validation of the models is discussed in detail in the CHAP report (Ref. 1) and in EPA's "Regulatory Impact Analysis of Controls on Asbestos and Asbestos Products" (Ref. 3).

Although EPA believes that excess mortality from asbestosis and cancers other than lung cancer and mesothelioma could occur from exposure to asbestos released during asbestos abatement operations, EPA has not attempted to quantify that excess mortality since lung cancer and mesothelioma appear to present the greatest threats to human health at current exposure levels. Thus, the model could understate the risk to humans from asbestos exposure.

The risk of asbestos-induced disease may be modified by several factors. As mentioned in the earlier discussion on lung cancer, smoking drastically increases the risk of developing lung cancer from exposure to asbestos. Because of their lower underlying risk, the absolute increase of incidence of lung cancer in nonsmokers is about one-tenth of that in smokers. However, complete control of the smoking factor (if possible) would leave a substantial health risk since the risk of mesothelioma (which is apparently unaffected by smoking) and the risk of lung cancer to nonsmokers would still remain.

Another factor that may affect the risk of asbestos-induced disease is the possible differences in biological potency among the different fiber types. The National Research Council (Ref. 6) studied this issue and concluded:

> Results of studies of various groups of workers indicate that it is extremely difficult to assess the role of fiber type (e.g., chrysotile or crocidolite) in determining the risk for developing either lung cancer or mesothelioma. Analysis of the epidemiological studies is complicated because of variations in type of industry, the diverse fiber characteristics within an industry, and the usual inadequacy of exposure data. Some scientists have interpreted the available epidemiological data to indicate that chrysotile asbestos, the asbestos type most commonly used in the United States, is less hazardous than the other types of asbestos, especially crocidolite. Such arguments have been used in the United Kingdom and other countries to rationalize different regulatory controls for crocidolite and chrysotile. However, in view of the laboratory evidence and great uncertainty about the nature of the fibers of asbestos to be found in nonoccupational exposure situations, the committee decided not to differentiate among them in the quantitative risk assessment. Furthermore, some of the apparent discrepancies may be explained by differences in physical properties of the fibers, their concentrations, and their characteristics in the different environments. These possibilities need further testing.

In view of this uncertainty about the relative potency of the various asbestos types and in view of the well-documented health hazard of the most common commercial form of asbestos, EPA has concluded that it is prudent to treat all asbestos fiber types as having equivalent biological activity.

Fiber morphology has also been suggested as a factor that may affect incidence of asbestos-induced disease. Animal studies in which asbestos fibers were applied by injection or implantation suggest that longer and finer fibers are more carcinogenic than shorter and coarser fibers. This has not, however, been confirmed by inhalation studies. EPA has not differentiated among fiber sizes in its assessment of the potential risk of asbestos. First, asbestos fibers released during asbestos abatement projects consist of a great range of dimensions, including those suggested as most dangerous. Second, it has not been clearly shown that short fibers pose a significantly smaller risk. No dimensional threshold for potency has been established.

3. *Magnitude of human exposure.* Persons can be exposed to high levels of airborne asbestos in or near the work area during asbestos abatement projects. Peak exposure during the removal of asbestos insulation have been measured at levels ranging from 4.5 f/cc to 82.2 f/cc. Mean exposure levels during the dry removal of an asbestos-containing ceiling have been measured at 42.2 f/cc. Mean exposure levels during the wet removal of an asbestos-containing ceiling have been measured at 23.1 f/cc. Mean exposure levels during removal of an asbestos-containing ceiling using water and a surfactant have been measured at 6.1 f/cc (Refs. 2 and 13). OSHA has estimated that average airborne concentrations in the dry wall removal, renovation, and demolition industry are 20 f/cc (Ref. 12).

There may also be much exposure to asbestos during the encapsulation and enclosure of friable asbestos material. Using an electron microscope, levels of 40, 380, 390, and 8,740 nanograms per cubic meter were found in samples taken in the work area with a mobile pump during painting with an encapsulant. Samples taken by personal pumps worn by two painters during encapsulation showed very low levels in one case and levels of 1,000, 1,700, 2,300, and 13,000 nanograms per cubic meter in the other case (Ref. 14). EPA has received anecdotal evidence that there may be much exposure to asbestos during enclosure of friable asbestos material.

Based on available exposure information, EPA estimated in the proposal that unregulated dry removal of asbestos results in exposure levels of 24.0 f/cc in the work area during abatement, 1.6 f/cc outside the work area during abatement and 0.8 f/cc outside the work area post abatement. EPA estimated that unregulated wet removal of asbestos results in exposure levels of 18.0 f/cc in the work area during abatement, 0.9 f/cc outside the work area during abatement, and 0.5 f/cc in the building post abatement (Ref. 13). Many of the estimates were based on data reported in studies, while others were essentially assumed due to a lack of data (Ref. 13). EPA received no comments on these estimates.

EPA estimated in the proposal that this rule would reduce the concentrations of airborne asbestos to 11.9 f/cc in the work area during abatement, 0.3 f/cc outside the work area during abatement, and 0.5 f/cc in the building post abatement (Ref. 13). These figures are estimated averages for all abatement projects. Individual projects are likely to have different concentrations. EPA received no comments on these estimates.

EPA estimated in the proposal that about 450 abatement workers per year would be covered by this rule. This was based on an estimate of the number of abatement projects each year and an estimate of the percentage of those projects in which State and local employees are used. The number of employees covered by the rule during repair and maintenance work involving the removal, enclosure or encapsulation of friable asbestos material was not estimated. One comment asserted that as many as 75,000 State and local workers could be covered during these activities. EPA believes that this estimate is high.

In the proposal, EPA estimated that asbestos abatement workers would be exposed to asbestos during abatement for 3 to 6 days a year. In addition, other persons would be exposed to asbestos as a result of asbestos abatement activities. EPA estimated that about 1,250 other State and local public employees, such as public school teachers, other public school personnel, public hospital staff, and State and local government office workers, would be exposed during abatement and about 3,700 employees would be exposed post abatement. EPA also estimated that about 400 other building occupants such as school children and hospital patients and visitors would be exposed during abatement and about 38,600 other occupants and visitors would be exposed post abatement (Ref. 13). EPA received comments that it underestimated the number of asbestos abatement projects covered by this rule. If these comments are accurate, then this rule will potentially protect even more persons.

B. Environmental Effects

Section 6(c) of TSCA requires that EPA state the relevant environmental factors and key considerations which form the basis for regulatory action under section 6(a). The unreasonable risk finding of this rule is based solely on risks to human health since these risks are by far the most serious consequence of unregulated removal, enclosure, or encapsulation of friable asbestos material and are sufficient to support this rule. EPA received no comments on this point.

C. Benefits of Asbestos Products and Availability of Substitutes

EPA finds that the benefits of the asbestos-containing products affected by this rule are minimal. This rule applies only when persons have already decided to remove, enclose, or encapsulate friable asbestos material. These people presumably will have already determined that there are no benefits in using the asbestos-containing material in its present condition. In addition, there are adequate substitutes for the asbestos products that are being removed from buildings. EPA received no comments on this point.

D. Economic Effects of the Rule

This portion of the preamble presents EPA's determination of the "reasonably ascertainable economic consequences of the rule, after consideration of the effect on the national economy, small business, technological innovation, the environment, and public health" as required by section 6(c)(1)(D) of TSCA.

EPA estimates that this rule will increase the cost of asbestos abatement to some extent. In the proposal, EPA estimated that the rule would increase the cost of typical abatements as follows:

Project	Without rule	With rule	Increase	Percent increase
School	$12,900	$15,300	$2,400	18
Office building	18,800	22,000	3,200	17
Hospital	58,500	65,800	7,300	12
Boiler room	3,700	4,900	1,200	32
Boiler pipes	1,700	2,600	900	54

In the proposal, EPA estimated that the rule would increase the costs of asbestos abatement a total of about $730,000. This figure represents the present value of costs incurred over the next 15 years, assuming that all friable asbestos is abated. EPA also estimated that this rule would avoid about 200 cancer cases. This is about $3,650 per cancer case avoided.

EPA received comments indicating that the total costs of the rule were understated because EPA underestimated the number of asbestos abatement projects covered by this rule. EPA acknowledges that the estimate of asbestos abatement projects may have been low because it did not take into account many maintenance and repair operations. However, EPA has excluded some of these small projects from coverage in the final rule. In addition, even if the number of asbestos abatement projects is higher than estimated by EPA, both the costs of the rule and the number of cancer cases avoided would have been underestimated in roughly the same proportion in the proposal. Thus, this possible underestimate would not change the cost per cancer case avoided by the rule.

This rule will not have a direct impact on small business since it applies only to those public employees not covered by the OSHA Asbestos Standard. However, by establishing regulatory requirements for public employees similar to those of private employees under OSHA jurisdiction, the rule will eliminate cost advantages that may encourage the use of public employees rather than private contractors for asbestos abatement. This rule may, therefore, bring about increased use of private contractors, some of which are small businesses. This rule could have an impact on small government entities because it would increase the cost of performing asbestos abatement activities using public employees. However, the rule will not increase the cost of using contractors to perform asbestos abatement and would not require any government entity to undertake asbestos abatement activities.

EPA does not believe that this rule will restrict technological innovation. The rule allows sufficient flexibility for the development of new technology concerning asbestos abatement.

E. Other EPA Statutes

Section 6(c) of TSCA requires that if EPA determines that a risk of injury to health or the environment could be eliminated or reduced to a sufficient extent by actions taken under another statute administered by EPA, EPA may not promulgate a rule under section 6(a) of TSCA unless EPA finds it is in the public interest to protect against the risk by action under TSCA. EPA finds that no other law administered by EPA will eliminate or reduce the risks to the workers associated with the removal, renovation, or encapsulation of asbestos to a sufficient extent.

Several EPA statutes have been used to limit asbestos exposure. In 1973, EPA used the authority of the Clean Air Act (CAA) to list asbestos as a hazardous air pollutant, establish a "no visible" emission standard for manufacturers, and ban the use of spray-applied asbestos-containing material as insulation in buildings. The regulation was published in the **Federal Register** of April 6, 1973 (38 FR 8826). EPA amended this regulation in 1975 to ban asbestos-containing pipe lagging, by a rule published in the **Federal Register** of October 12, 1975 (40 FR 48292); and in 1978 extended the ban to all uses of sprayed-on asbestos by a rule published in the **Federal Register** of June 19, 1978 (43 FR 26372). The CAA rule also regulates operations involving the demolition or renovation of buildings containing friable asbestos and the disposal of wastes generated by such operations.

However, the CAA has limitations. The CAA does not apply directly to the protection of workers exposed to indoor air. Consequently, any possible additional use of that statute could leave many workers exposed to indoor situations of inadequate protection.

An additional EPA statute that could be used to limit asbestos exposure is the Resource Conservation and Recovery Act (RCRA). Under RCRA, EPA could list asbestos as a hazardous waste and

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subject asbestos waste to general RCRA requirements designed to reduce exposure. However, such action under RCRA would reduce exposure only when the wastes from asbestos removal are ultimately placed in disposal facilities. It would not reduce exposure during the actual removal, enclosure, or encapsulation of asbestos products. Therefore, EPA finds that the risk from asbestos abatement projects cannot be eliminated or reduced to a sufficient extent by actions taken under another statute administered by EPA.

F. Other Options Considered

Section 6 of TSCA requires that EPA apply the least burdensome requirements to reduce an unreasonable risk. EPA considered the following options for reducing the risks associated with the removal, enclosure, or encapsulation of asbestos without any regulatory controls beyond those required by the National Emission Standard for Asbestos.

1. *Take no regulatory action under TSCA; instead provide the public with information and technical assistance.* Under this option, EPA would take no regulatory action, beyond that already taken as part of the National Emission Standard for Asbestos; but would instead provide the public with information and technical assistance. EPA is already increasing the information and technical assistance it provides the public. Persons could use that information to reduce the risk to public employees who perform asbestos abatement work during the removal, enclosure, or encapsulation of asbestos.

This approach would minimize the burden caused by regulatory action. However, this option is an inadequate response given the high risk to abatement workers associated with the removal, enclosure, or encapsulation of asbestos following only the requirements of the National Emission Standard for Asbestos. The National Emission Standard for Asbestos was designed to limit the release of asbestos to the ambient air and only incidentally protects abatement workers inside a building.

2. *Take no regulatory action under TSCA; instead defer to the States.* Under this option, EPA would take no regulatory action beyond that already taken as part of the National Emission Standard for Asbestos but would instead provide the States with information and technical assistance so that States can adopt regulations to protect public employees who perform asbestos abatement work.

This approach would minimize the burden caused by Federal regulatory action. However, this option is an inadequate response since a number of States have not taken action in this area in the past and may not take action in the future. Still, EPA encourages States to take action to protect such public employees with requirements more stringent than those in this rule. As stated earlier, employees exposed to asbestos at the level permitted by this rule still face a risk to health.

3. *Propose a rule which provides greater protection than the current OSHA Asbestos Standard.* OSHA has recognized that its current Asbestos Standard is inadequate and has begun rulemaking to adopt a new standard. EPA could issue a rule closer to the proposed OSHA standard or closer to the recommendations for worker protection in EPA's technical guidance documents. As stated earlier, EPA decided to follow the current OSHA Asbestos Standard closely to maintain consistency among Federal agencies. However, EPA expects to adopt a rule very similar to the final OSHA Asbestos Standard after OSHA issues that rule. This will ensure that all public and private sector employees who take part in asbestos abatement work enjoy similar levels of protection.

G. Analysis Under Section 9(a) of TSCA

Section 9(a) of TSCA requires EPA to review other Federal authorities not administered by EPA to determine whether action under those authorities may prevent or reduce to a sufficient extent such risks. EPA has reviewed other Federal authorities. The only statute not administered by EPA that could reduce such risks is the OSH Act. However, this rule covers only persons not covered by the OSHA Asbestos Standard. OSHA currently has no statutory authority to cover public employees in a State without an OSHA-approved State plan and 27 States do not have an approved plan. Thus, EPA cannot determine that there is a statute administered by another Federal agency that can prevent or reduce the risk presented to persons not covered by the OSHA Asbestos Standard during the removal, enclosure, or encapsulation of friable asbestos.

VII. Finding of Unreasonable Risk

EPA has weighed the health risks from unregulated asbestos abatement against the costs attributable to the proposed regulation. EPA estimates that this rule would avoid about 200 cancer cases, among abatement workers, other employees in buildings where abatement occurs, and visitors to such buildings while costing about $730,000 over 15 years. This is about $3,650 per cancer case avoided. Even if EPA underestimated the number of asbestos abatement projects covered by this rule, the cost per cancer case avoided would be about the same. EPA has concluded that the avoidance of these premature deaths substantially outweighs the costs of the control measures required.

Therefore, EPA finds that unregulated removal, enclosure, or encapsulation of friable asbestos material presents an unreasonable risk to human health and proposes to require that certain measures be taken to reduce the risk faced by asbestos abatement workers and persons using and visiting buildings during and after asbestos abatement activities. The finding is based on the following points:

1. The health effects from asbestos exposure are very serious. Asbestos is a demonstrated human carcinogen. The cancers caused by asbestos are usually fatal and cause much pain and suffering.

2. Available evidence supports the conclusion that there is no safe level of exposure to asbestos. This conclusion is consistent with present theory of cancer etiology and is further supported by the many documented cases where low or short-term exposure has been shown to cause asbestos-related disease.

3. Models developed to estimate the relative risk of developing cancer from exposure to asbestos show a linear dose-response relationship. Based on data from epidemiology studies, these models predict that humans exposed to even very low levels of asbestos incur some risk.

4. Many persons are involved in asbestos abatement activities, but are not protected by the OSHA Asbestos Standard.

5. Persons can be exposed to high levels of airborne asbestos if they conduct asbestos abatement without any exposure controls.

6. If persons attempt to abate asbestos hazards, but do so incorrectly, there may be very high levels of exposure to asbestos on the part of abatement workers, other employees who work in the building, and visitors to the building. These levels may far exceed the levels of exposure permitted by the current OSHA Asbestos Standard. For example, in schools that incorrectly abate asbestos hazards, school teachers and other school employees and school children could be exposed as well as abatement workers. State and local public employees could potentially take part in asbestos abatement activities in all State and local public buildings in the States not covered by OSHA State plans.

7. The estimated incremental economic costs of this rule are minimal in view of the number of cancers that may be avoided by the rule.

VIII. Enforcement

Section 15 of TSCA makes it unlawful to fail or refuse to comply with any provision of a rule promulgated section 6 of TSCA. Therefore, faulure to comply with this rule would be a violation of section 15 of TSCA. In addition, section 15 of TSCA makes it unlawful for any person to: (1) Fail or refuse to establish and maintain records as required by this rule; (2) fail or refuse to permit access to or copying or records, as required by TSCA; or (3) fail or refuse to permit entry or inspection as required by section 11 of TSCA.

Violators may be subject to both civil and criminal liability. Under the penalty provision of section 16 of TSCA, any person who violates section 15 could be subject to a civil penalty of up to $25,000 for each violation. Each day of operation in violation of this rule could constitute a separate violation. Knowing or willful violations of this rule could lead to the imposition or criminal penalties of up to $25,000 for each day of violation and imprisonment for up to 1 year. In additional, other remedies are available to EPA under sections 7 and 17 of TSCA, such as seeking an injunction to restrain violations of this rule.

IX. Confidentiality

A person may assert a claim of confidentiality for any information, including public comments, submitted to EPA in connection with this rule. Any person who submits a confidential public comments must also submit a nonconfidential version. Any claim of confidentiality must accompany the information when it is submitted to EPA. Persons would claim information confidential by circling, bracketing, or underlining it and marking it with "CONFIDENTIAL" or some other appropriate designation. EPA will disclose information subject to a claim of confidentiality only to the extent permitted by section 14 of TSCA and 40 CFR Part 2, Subpart B. If a person does not assert a claim of confidentiality for information at the time it is submitted to EPA, EPA may make the information public without further notice to that person.

X. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS-62044). A public version of the record, without any confidential business information, is available to the public in the Office of Toxic Substances Public Information Office, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, The Public Information Office is located in Rm. E-107, 401 M St., SW., Washington, D.C.

The record includes information considered by EPA in developing this rule. The record now includes the following categories of information:

1. Federal Register notices.
2. Support documents.
3. Reports.
4. Memoranda and letters.

The record also includes by reference the rulemaking record compiled by OSHA as part of the revision of the OSHA Asbestos Standard. Persons may point out any errors or omissions in the record by May 9, 1986.

XI. References

(1) USCPSC. Reports to the U.S. Consumer Product Safety Commission by the Chronic Hazard Advisory Panel on Asbestos. July 1983.

(2) USEPA, OPTS, OTS. Exposure Assessment for Asbestos. Draft January 9, 1984.

(3) USEPA, OPTS, OTS. Regulatory Impact Analysis of Controls on Asbestos and Asbestos Products. Draft March 1985.

(4) USEPA, OPTS, OTS. Support Document for Final Rule on Friable Asbestos-Containing Materials in School Buildings-Health Effects and Magnitude of Exposure. January, 1982.

(5) National Research Council. "Asbestos" In: *Drinking Water and Health.* Vol. 3. National Academy Press. Washington, D.C. (1982): 223–263.

(6) National Research Council. "Nonoccupational Health Risks of Asbestiform Fibers." National Academy Press. Washington, D.C. 1984.

(7) NIOSH-OSHA Asbestos Work Group. Workplace Exposure to Asbestos: "Review and Recommendations." DHHS (NIOSH) Publication No. 81–103, U.S. Government Printing Office, Washington, D.C. 20402. (1980).

(8) OSHA. "Quantitative Risk Analysis for Asbestos-Related Cancers: A Preliminary Report." (1983).

(9) Seidman, H., Selikoff, I.J., Hammond, E.C., "Short-Term Observation." In: "Annals of the New York Academy of Science," 330 (1979): 61–89.

(10) Selikoff, I.J. Anderson, H.A., Seidman, H. "Asbestos Disease Among Household Contacts of Asbestos Workers." In: "Disability Compensation for Asbestos-Associated Disease in the U.S.," edited by I.J. Selikoff. Environmental Sciences Laboratory, Mount Sinai School of Medicine of the City University of New York. (1982): 73–76.

(11) Selikoff, I.J., Hammond, E.C., Seidman, H., "Mortality Experience of Insulation Workers in the U.S. and Canada, 1943–1976." In: "Annals of the New York Academy of Science," 330 (1979): 91–116.

(12) USDOL, OSHA. "Occupational Exposure to Asbestos: Proposed Rule and Notice of Hearing. (April 10, 1984; 49 FR 14116)."

(13) USEPA, OPTS, OTS. Asbestos Abatement Rules: A Preliminary Cost-Effectiveness Analysis. Revised Draft Report May, 1985.

(14) USEPA, OPTS, OTS Evaluation. of Asbestos Techniques: Encapsulation. Draft Report April 1985.

XII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA prepared a Cost-Effectiveness Analysis. The Analysis estimated that this rule would cost about $730,000 over 15 years, while avoiding about 200 fatal cancer cases. This is a cost of about $3,650 per cancer case avoided. As shown in Unit V above, EPA believes that these costs are reasonable. Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this rule is not a "Major Rule" because it will not have an effect on the economy of $100 million or more and it will not have a significant effect on competition, costs, or prices.

This rule was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

EPA has analyzed the economic impact of this proposed rule on small businesses. A summary of EPA's analysis appears in Unit VI.D.

C. Paperwork Reduction Act

The information collection requirements in this rule were submitted to the Office of Management and Budget (OMB) for approval under the Paperwork and Reduction Act of 1980, 44 U.S.C. 3501 et seq. (Control No. 2070–0072). EPA received comments that 10-day advance notice of asbestos abatement projects is burdensome in particular instances such as emergency repairs. EPA has responded to those comments by not requiring 10-day advance notice of emergency projects. Instead, those projects must be reported to EPA as soon as possible. In addition, EPA has excluded small asbestos abatement projects from the reporting requirements of this rule.

List of Subjects in 40 CFR Part 763

Environmental protection, Hazardous substances, Recordkeeping and reporting requirements, Asbestos.

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Dated: April 17, 1986.
Lee M. Thomas,
Administrator.

PART 763—[AMENDED]

Therefore, 40 CFR Part 763 is amended as follows:

1. The authority citation for Part 763 continues to read as follows:

Authority: 15 U.S.C. 2605 and 2607(c).

2. Subpart G is revised to read as follows:

Subpart G—Asbestos Abatement Projects

Sec.
763.120 Scope.
763.121 Regulatory requirements.
763.124 Reporting.
763.125 Enforcement.
763.126 Inspections.

Subpart G—Asbestos Abatement Projects

§ 763.120 Scope.

(a) This Part establishes requirements which must be followed during asbestos abatement projects by employers of State and local government employees not covered by the Asbestos Standard of the Occupational Safety and Health Administration (OSHA), 29 CFR 1910.1001, an Asbestos Standard adopted by a State as part of a State plan approved by OSHA under section 18 of the Occupational Safety and Health Act, or a State asbestos regulation in Idaho, Kansas, Oklahoma, and Wisconsin. The rule covers those employees who take part in asbestos abatement work.

(b) [Reserved]

§ 763.121 Regulatory requirements.

(a) *Definitions.* For the purpose of this section:

(1) "Asbestos" means the asbestiform varieties of chrysotile (serpentine); crocidolite (riebeckite); amosite (cummingtonite-grunerite); tremolite; anthophyllite, and actinolite.

(2) "Asbestos abatement project" means any activity involving the removal, enclosure, or encapsulation of friable asbestos material, except removal, enclosure, or encapsulation during sampling or routine repair of less than either 3 linear feet or 3 square feet of friable asbestos material.

(3) "Asbestos fibers" means asbestos fibers longer than 5 micrometers.

(4) "Emergency project" means a project involving the removal, enclosure, or encapsulation of friable asbestos-containing material that was not planned but results from a sudden unexpected event.

(5) "Employer" means the public department, agency, or entity which hires an employee. The term includes, but is not limited to, any State, County, City, or other local governmental entity which operates or administers schools, a department of health or human services, a library, a police department, a fire department, or similar public service agencies or offices.

(6) "Friable asbestos material" means any material containing more than 1 percent asbestos by weight which, when dry, may be crumbled, pulverized or reduced to powder by hand pressure.

(b) *Permissible exposure to airborne concentrations of asbestos fibers.*

(1) [Reserved]

(2) *Standard effective on June 9 1986.* The 8-hour time-weighted average airborne concentrations of asbestos fibers to which any employee may be exposed shall not exceed two fibers, longer than 5 micrometers, per cubic centimeter of air, as determined by the method prescribed in paragraph (3) of this section.

(3) *Ceiling concentration.* No employee shall be exposed at any time to airborne concentrations of asbestos fibers in excess of 10 fibers, longer than 5 micrometers, per cubic centimeter of air, as determined by the method prescribed in paragraph (e) of this section.

(c) *Methods of compliance*—(1) *Engineering methods*—(i) *Engineering controls.* Engineering controls, such as, but not limited to, isolation, enclosure, exhaust ventilation, and dust collection, shall be used to meet the exposure limits prescribed in paragraph (b) of this section.

(ii) *Local exhaust ventilation.* (A) Local exhaust ventilation and dust collection systems shall be designed, constructed, installed, and maintained in accordance with the American National Standard Fundamentals Governing the Design and Operation of Local Exhaust Systems, ANSI Z9.2–1979 (Revision of ANSI Z9.2–1971), which is incorporated by reference herein.

(B) ANSI Z9.2–1979 is available for inspection at the Office of the Federal Register Information Center, Rm. 8301, 1100 L St., NW., Washington, DC 20408. This incorporation by reference was approved by the Director of the Office of the Federal Register. This material is incorporated as it exists on the date of approval and a notice of any change in this material will be published in the Federal Register. Copies of the incorporated material may be obtained from the Document Control Officer (TS–793), Office of Toxic Substances, EPA, Rm. 107, 401 M St., SW., Washington, DC 20460, and from the American National Standards Institute, 1430 Broadway, New York, NY 10018 (212–354–3473).

(iii) *Particular tools.* All hand-operated and power-operated tools which may produce or release asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section, such as, but not limited to, saws, scorers, abrasive wheels, and drills, shall be provided with local exhaust ventilation systems in accordance with paragraph (c)(1)(ii) of this section.

(2) *Work practices*—(i) *Wet methods.* Insofar as practicable, asbestos shall be handled, mixed, applied, removed, cut, scored, or otherwise worked in a wet state sufficient to prevent the emission of airborne fibers in excess of the exposure limits prescribed in paragraph (b) of this section, unless the usefulness of the product would be diminished thereby.

(ii) *Particular products and operations.* No asbestos cement, mortar, coating, grout, plaster, or similar material containing asbestos shall be removed from bags, cartons, or other containers in which they are shipped, without being either wetted, or enclosed, or ventilated so as to prevent effectively the release of airborne asbestos fibers in excess of the limits prescribed in paragraph (b) of this section.

(iii) *Demolition or removal.* Employees engaged in removal or demolition of pipes, structures, or equipment covered or insulated with asbestos, and in the removal or demolition of asbestos insulation or coverings shall be provided with respiratory equipment in accordance with paragraph (d)(2)(iii) of this section and with special clothing in accordance with paragraph (d)(3) of this section.

(d) *Personal protection equipment.* (1) Compliance with the exposure limits prescribed by paragraph (b) of this section may not be achieved by the respirators except:

(i) During the time period necessary to install the engineering controls and to institute the work practices required by paragraph (c) of this section;

(ii) In work situations in which the methods prescribed in paragraph (c) of this section are either technically not feasible or feasible to an extent insufficient to reduce the airborne concentrations of asbestos fibers below the limits prescribed by paragraph (b) of this section; or

(iii) In emergencies.

(2) Where a respirator is permitted by paragraph (d)(1) of this section, it shall be selected from among those approved by the Mine Safety and Health Administration, Department of Labor, the Bureau of Mines, Department of the Interior, or the National Institute for Occupational Safety and Health, Department of Health and Human Services, under the provisions of 30 CFR Part 11 and shall be used in accordance with paragraphs (d)(2) (i), (ii), (iii), and (iv) of this section.

(i) *Air purifying respirators.* A reusable or single use air purifying respirator, or a respirator described in paragraph (d)(2) (ii) or (iii) of this section, shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in paragraph (b) of this section, when the ceiling or the 8-hour time-weighted average airborne concentrations of asbestos fibers are reasonably expected to exceed no more than 10 times those limits.

(ii) *Powered air purifying respirators.* A full facepiece powered air purifying respirator, or a powered air purifying respirator, or a respirator described in paragraph (d)(2)(iii) of this section, shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in paragraph (b) of this section, when the ceiling or the 8-hour time-weighted average concentrations of asbestos fibers are reasonably expected to exceed 10 times, but not 100 times, those limits.

(iii) *Type "C" supplied-air respirators, continuous flow or pressure-demand class.* A type "C" continuous flow or pressure-demand, supplied-air respirator shall be used to reduce the concentrations of airborne asbestos fibers in the respirator below the exposure limits prescribed in paragraph (b) of this section, when the ceiling or the 8-hour time-weighted average airborne concentrations of asbestos fibers are reasonably expected to exceed 100 times those limits.

(iv) *Establishment of a respirator program.* (A) The employer shall establish a respirator program in accordance with the requirements of the American National Standard Practices for Respiratory Protection, ANSI Z88.2–1980 (Revision of ANSI Z88.2–1969), which is incorporated by reference herein.

(B) ANSI Z88.2–1980 is available for inspection at the Office of the Federal Register Information Center, Rm. 8301, 1100 L St., NW., Washington, DC 20408. This incorporation by reference was approved by the Director of the Office of the Federal Register. This material is incorporated as it exists on the date of approval and a notice of any change in this material will be published in the Federal Register. Copies of the incorporated material may be obtained from the Document Control Officer (TS–793), Office of Toxic Substances, EPA, Rm. 107,401 M St., SW., Washington, DC 20460, and from the American National Standards Institute, 1430 Broadway, New York, NY 10018, (212–354–3473).

(C) No employee shall be assigned to tasks requiring the use of respirators if, based upon his most recent examination, an examining physician determines that the employee will be unable to function normally wearing a respirator, or that the safety or health of the employee or other employees will be impaired by his use of a respirator. Such employee shall be rotated to another job or given the opportunity to transfer to a different position whose duties he is able to perform with the same employer, in the same geographical area and with the same seniority, status, and rate of pay he had just prior to such transfer, if such a different position is available.

(3) Special clothing: The employer shall provide, and require the use of, special clothing, such as coveralls or similar whole body clothing, head coverings, gloves and foot coverings for any employee exposed to airborne concentrations of asbestos fibers, which exceed the ceiling level prescribed in paragraph (b) of this section.

(4) Change rooms:

(i) At any fixed place of employment exposed to airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section, the employer shall provide change rooms for employees working regularly at the place.

(ii) Clothes lockers: The employer shall provide two separate lockers or containers for each employee, so separated or isolated as to prevent contamination of the employee's street clothes from his work clothes.

(iii) Laundering:

(A) Laundering of asbestos-contaminated clothing shall be done so as to prevent the release of airborne asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section.

(B) Any employer who gives asbestos-contaminated clothing to another person for laundering shall inform such person of the requirement in paragraph (d)(4)(iii)(A) of this section to effectively prevent the release of airborne asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section.

(C) Contaminated clothing shall be transported in sealed impermeable bags, or other closed, impermeable bags, or other closed, impermeable containers, and labeled in accordance with paragraph (g) of this section.

(e) *Method of measurement.* All determinations of airborne concentrations of asbestos fibers shall be made by the membrane filter method at 400–450x (magnification)(4 millimeter objective) with phase contrast illumination.

(f) *Monitoring*—(1) *Initial determinations.* Every employer shall cause every place of employment where asbestos fibers are released to be monitored in such a way as to determine whether every employee's exposure to asbestos fibers is below the limits prescribed in paragraph (b) of this section. If the limits are exceeded, the employer shall immediately undertake a compliance program in accordance with paragraph (c) of this section.

(2) *Personal monitoring.* (i) Samples shall be collected from within the breathing zone of the employees, on membrane filters of 0.8 micrometer porosity mounted in an open-face filter holder. Samples shall be taken for the determination of the 8-hour time-weighted average airborne concentrations and of the ceiling concentrations of asbestos fibers.

(ii) *Sampling frequency and patterns.* After the initial determinations required by paragraph (f)(1) of this section, samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of employees.

(3) *Environmental monitoring.* (i) Samples shall be collected from areas of a work environment which are representative of the airborne concentrations of asbestos fibers which may reach the breathing zone of employees. Samples shall be collected on a membrane filter of 0.8 micrometer porosity mounted in an open-face filter holder. Samples shall be taken for the determination of the 8-hour time-weighted average airborne concentrations and of the ceiling concentrations of asbestos fibers.

(ii) *Sampling frequency and patterns.* After the initial determinations required by paragraph (f)(1) of this section, samples shall be of such frequency and pattern as to represent with reasonable accuracy the levels of exposure of the employees.

(4) *Employee observation of monitoring.* Affected employees, or their representatives, shall be given a reasonable opportunity to observe any monitoring required by this paragraph and shall have access to the records thereof.

(g) *Caution signs and labels*—(1) *Caution signs*—(i) *Posting.* Caution signs

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shall be provided and displayed at each location where airborne concentrations of asbestos fibers may be in excess of the exposure limits prescribed in paragraph (b) of this section. Signs shall be posted at such a distance from such a location so that an employee may read the signs and take necessary protective steps before entering the area marked by the signs. Signs shall be posted at all approaches to areas containing excessive concentrations of airborne asbestos fibers.

(ii) *Sign specifications.* The warning signs required by paragraph (g)(1)(i) of this section shall conform to the requirements of 20" x 14" vertical format signs specified in 29 CFR 1910.145(d)(4), and to this paragraph (g)(1)(ii). The signs shall display the following legend in the lower panel, with letter sizes and styles of a visibility at least equal to that specified in this paragraph (g)(1)(ii).

Legend	Notation
Asbestos	1" Sans Serif, Gothic or Block.
Dust Hazard	¾" Sans Serif, Gothic or Block.
Avoid Breathing Dust	¼" Gothic.
Wear Assigned Protective Equipment.	¼" Gothic.
Do Not Remain In Area Unless Your Work Requires It.	¼" Gothic.
Breathing Asbestos Dust May be Hazardous To Your Health.	14 Point Gothic.

Spacing between lines shall be at least equal to the height of the upper of any two lines.

(2) *Caution labels*—(i) *Labeling.* Caution labels shall be affixed to all raw materials, mixtures, scrap, waste, debris, and other products containing asbestos fibers, or to their containers, except that no label is required where asbestos fibers have been modified by a bonding agent, coating, binder, or other material so that during any reasonably foreseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section will be released.

(ii) *Label specifications.* The caution labels required by paragraph (g)(2)(i) of this section shall be printed in letters of sufficient size and contrast to be readily visible and legible. The label shall state:

CONTAINS ASBESTOS FIBERS
AVOID CREATING DUST
BREATHING ASBESTOS DUST MAY
CAUSE SERIOUS BODILY HARM

(h) *Housekeeping*—(1) *Cleaning.* All external surfaces in any place of employment shall be maintained free of accumulations of asbestos fibers if, with their dispersion, there would be an excessive concentration.

(2) *Waste disposal.* Asbestos waste, scrap, debris, bags, containers, equipment, and asbestos-contaminated clothing, consigned for disposal, which may produce in any reasonably foreseeable use, handling, storage, processing, disposal, or transportation airborne concentrations of asbestos fibers in excess of the exposure limits prescribed in paragraph (b) of this section shall be collected and disposed of in sealed impermeable bags, or other closed, impermeable containers.

(i) *Recordkeeping*—(i) *Exposure records.* Every employer shall maintain records of any personal or environmental monitoring required by this section. Records shall be maintained for a period of at least 20 years and shall be made available upon request to the Environmental Protection Agency, the Assistant Secretary of Labor for Occupational Safety and Health, the Director of the National Institute for Occupational Safety and Health, and to authorized representatives of either.

(2) *Employee access.* Every employee and former employee shall have reasonable access to any record required to be maintained by paragraph (i)(1) of this section, which indicates the employee's own exposure to asbestos fibers.

(3) *Employee notification.* Any employee found to have been exposed at any time to airborne concentrations of asbestos fibers in excess of the limits prescribed in paragraph (b) of this section shall be notified in writing of the exposure as soon as practicable but not later than 5 days of the finding. The employee shall also be timely notified of the corrective action being taken.

(j) *Medical Examinations*—(1) *General.* The employer shall provide or make available at his cost, medical examinations relative to exposure to asbestos required by this paragraph.

(2) *Preplacement.* The employer shall provide or make available to each of his employees, within 30 calendar days following his first employment in an occupation exposed to airborne concentrations of asbestos fibers, a comprehensive medical examination, which shall include, as a minimum, a chest roentgenogram (posterior-anterior 14 x 17 inches) at the discretion of the physician, a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second ($FEV_{1.0}$).

(3) *Annual examinations.* On or before April 27, 1986, and at least annually thereafter, every employer shall provide, or make available, comprehensive medical examinations to each of his employees engaged in occupations exposed to airborne concentrations of asbestos fibers. Such annual examination shall include, as a minimum, a chest roentgenogram (posterior-anterior 14 x 17 inches) at the discretion of the physician, a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second ($FEV_{1.0}$).

(4) *Termination of employment.* The employer shall provide, or make available, within 30 calendar days before or after the termination of employment of any employee engaged in an occupation exposed to airborne concentrations of asbestos fibers, a comprehensive medical examination which shall include, as a minimum, a chest roentgenogram (posterior-anterior 14 x 17 inches) at the discretion of the physician, a history to elicit symptomatology of respiratory disease, and pulmonary function tests to include forced vital capacity (FVC) and forced expiratory volume at 1 second ($FEV_{1.0}$).

(5) *Recent examinations.* No medical examination is required of any employee, if adequate records show that the employee has been examined in accordance with this paragraph within the past 1-year period.

(6) *Medical records*—(i) *Maintenance.* Employers of employees examined pursuant to this paragraph shall cause to be maintained complete and accurate records of all such medical examinations. Records shall be retained by employers for at least 20 years.

(ii) *Access.* The contents of the records of the medical examinations required by this paragraph shall be made available, for inspection and copying, to the Environmental Protection Agency, the Assistant Secretary of Labor for Occupational Safety and Health, the Director of NIOSH, to authorized physicians and medical consultants of either of them, and, upon the request of an employee or former employee, to his physician. Any physician who conducts a medical examination required by this paragraph shall furnish to the employer of the examined employee all the information specifically required by this paragraph, and any other medical information related to occupational exposure to asbestos fibers.

§ 763.124 Reporting.

(a) Employers subject to this rule must report to the Regional Asbestos Coordinator for the EPA Region in which the asbestos abatement project is located at least 10 days before they begin any asbestos abatement project except one that involves less than either 3 linear feet or 3 square feet of friable asbestos material and is covered by this rule, other than an emergency project. Employers must report any emergency project covered by this rule as soon as possible but in no case more than 48 hours after the project begins. A list of the EPA Regional Offices is given under 40 CFR 1.7(b).

(b) The report must include:

(1) The employer's name and address.

(2) The location, including street address, of the asbestos abatement project.

(3) The scheduled starting and completion dates for the asbestos abatement project.

(c) If a report is mailed to EPA, the report must be postmarked at least 10 days before the asbestos abatement project begins unless the report is for an emergency project. In such a case, the report must be postmarked as soon as possible but in no case more than 48 hours after the project begins.

(d) Employers do not have to report under this section if they submit a notice to EPA under the National Emission Standard for Asbestos, 40 CFR 61.146, at least 10 days before they begin the asbestos abatement project and that notice clearly indicates that employees not covered by the OSHA Asbestos Standard or an Asbestos Standard adopted by a State as part of a State plan approved by OSHA will perform some or all of the asbestos abatement work.

(Approved by the Office of Management and Budget under the control number 2070-0072)

§ 763.125 Enforcement.

(a) Failure to comply with any provision of this Part is a violation of section 15 of the Act (15 U.S.C. 2614).

(b) Failure or refusal to establish and maintain records or to permit access to or copying of records, as required by the Act, is a violation of section 15 of the Act (15 U.S.C. 2614).

(c) Failure or refusal to permit entry or inspection as required by section 11 of the Act (15 U.S.C. 2610) is a violation of section 15 of the Act (15 U.S.C. 2614).

(d) Violators may be subject to the civil and criminal penalties in section 16 of the Act (15 U.S.C. 2615) for each violation.

(e) EPA may seek to enjoin an asbestos abatement project in violation of this Part, or take other actions under the authority of sections 7 of 17 of the Act (15 U.S.C. 2606 or 2616).

§ 763.126 Inspections.

EPA will conduct inspections under section 11 of the Act (15 U.S.C. 2610) to ensure compliance with this Part.

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April 25, 1986

Part III

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 29
Tobacco Inspection; Proposed Rule

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 29

Tobacco Inspection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: Pub. L. 99–198, sections 1161 and 1166, approved December 23, 1985 (Amendments to section 213 of the Dairy and Tobacco Adjustment Act of 1983) (7 U.S.C. 511r) requires that all flue-cured and burley tobacco offered for importation into the United States not contain any prohibited residue of any pesticide that has been cancelled, suspended, revoked, or otherwise prohibited under the Federal Insecticide, Fungicide and Rodenticide Act. Further, all flue-cured or burley tobacco permitted entry into the United States must be accompanied by a written identification of any and all end users or purchasers to whom the importer may transfer such imported tobacco. Finally, the law requires that the Secretary fix and collect fees to cover, as nearly as practicable, the costs of these additional services. It is proposed that the regulations be amended to provide for the testing and certification of imported tobacco.

DATE: Comments are due on or before May 27, 1986.

ADDRESS: Send comments on imported tobacco to the Director, Tobacco Division, Agricultural Marketing Service (AMS), United States Department of Agriculture (USDA), Room 502, Annex Building, Washington, DC 20250. Comments will be available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: Director, Tobacco Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250, telephone (202) 447–2567.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Department proposes to amend the regulations governing the inspection and grading of tobacco (7 CFR Part 29, Subpart B *et seq.*) to provide for the testing by the Department of imported flue-cured and burley tobacco for pesticide residues and to fix and collect fees for these services. These fees and charges would, as nearly as practicable, cover the cost of such services, including the administrative and supervisory costs customarily included by the Secretary in user fee calculations. The regulations would also be amended to provide for the identification of the end users of imported flue-cured and burley tobacco. The authority for these regulations is contained in Pub. L. 99–198, sections 1161 and 1166 (7 U.S.C. 511r) ("the Act") and the Tobacco Inspection Act (48 Stat. 731; 7 U.S.C. 511 *et seq.*). The proposed amendments are designed to implement the statutory provisions requiring testing of imported flue-cured and burley tobacco for pesticide residues and the identification of end users in a manner that, insofar as practicable, does not place an undue burden on the Federal Inspection Service or impede the expeditious movement of the commodity in commerce. The results of testing and data collected on volume, and end users will be kept confidential and released in a manner that will not reveal the identity of any individual entity. This information will be periodically compared with statistics released by other government agencies to insure that all imported flue-cured and burley tobacco is accounted for as required by the Act.

The Department currently inspects for grade and quality all tobacco offered for importation into the United States except oriental and cigar types. Most imported tobacco arrives in this country by vessel, typically in 40-foot containers which carry 90–99 packages weighing approximately 500 pounds each. Generally, these containers are transferred to a rail or truck carrier and transported to an inland port of entry where the tobacco is unloaded for warehousing, manipulation, or manufacturing. The majority of imported tobacco is initially stored in bonded warehouses. Shipments are identified by invoices and packing lists which give detailed accountings of the tobacco, including country of origin, weight, and company grade.

In proposing pesticide residue levels, the Department has relied upon research conducted by several land grant universities and the regulations of the Environmental Protection Agency found at 40 CFR Part 180.

It is proposed that all flue-cured and burley tobacco offered for importation into the United States, including tobacco entering foreign trade zones, but excluding transshipped tobacco, be subject to testing for pesticide residues and that information be collected for the identification of end users. The importer would be required to complete a Pesticide and End User Certification form at the time of importation. On the form the importer would certify either that the tobacco is free of prohibited pesticide residues, or that it will not move in commerce until it is tested pursuant to these regulations and found to be free of prohibited pesticide residues. Tobacco certified as being free of prohibited pesticide residues would be subject only to random sampling and testing.

All imported flue-cured and burley tobacco would be assessed fees to cover the costs of sampling and testing under these regulations. The fee for sampling and testing imported flue-cured and burley tobacco in accordance with these regulations would initially be set at $.0010 per pound. Imported flue-cured and burley tobacco not accompanied by a certification that it is free of prohibited pesticide residues would be subject to an additional fee of $.0030 per pound. These fees were determined after a thorough review of the procedures to be used, the anticipated volume to be sampled and tested and the number of staff hours necessary to provide and supervise the testing service. Since this is a new program, the costs actually incurred would be closely monitored during the startup phase. Based on this review, adjustments would be made in the fee as necessary.

The Act also contains provisions relating to domestically-produced flue-cured and burley tobacco. Regulations implementing these provisions will be published separately by the Agricultural Stabilization and Conservation Service (ASCS) before the openings of the flue-cured and burley sales seasons. It may be noted that existing law and regulations require that domestic producers of flue-cured and burley tobacco must certify that no banned pesticides have been used, and that approved pesticides have been used in accordance with label requirements.

These proposed rules have been reviewed under USDA procedures established to implement Executive Order 12291 and Departmental Regulation 1512–1 and have been determined to be "nonmajor" because they do not meet any of the criteria established for major rules under the Executive Order. Initial review of the regulations contained in 7 CFR Part 29 for need, currentness, clarity, and effectiveness has been completed. During the startup phase of this operation, the Department will closely monitor the procedures established in the final rule to insure that any problems which may arise are promptly addressed.

In compliance with the Office of Management and Budget (OMB) regulations, 5 CFR Part 1320 Controlling Paperwork Burdens on the Public, which implements the Paperwork Reduction Act of 1980, Pub. L. 96–511, the

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information collection requirements contained in this proposed rule have submitted to OMB for review as prescribed in § 1320.13 Clearance of Collection of Information Requirements in Proposed Rules under Section 3504(h) of the Paperwork Reduction Act. Comments covering the information collection requirements contained in this proposed rule may be addressed to: The Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer, AMS, USDA, Washington, DC 20503. Telephone: (202) 395–7313.

Additionally, in conformance with the provisions of Pub. L. 96–354, the Regulatory Flexibility Act, full consideration has been given to the potential economic impact upon small business of this proposed rule. A number of firms which are affected by these proposed regulations do not meet the definition of small business either because of their individual size or because of their dominant position in one or more marketing areas. The Administrator, Agricultural Marketing Service, has certified that these actions will have no significant economic impact upon all entities, small or large, and will not substantially affect the normal movement of the commodity in the marketplace.

All persons who desire to submit written data, views, or arguments for consideration in connection with this proposal for imported tobacco may file them with the Director, Tobacco Division, Agricultural Marketing Service, Room 502 Annex Building, United States Department of Agriculture, Washington, DC 20250, not later than May 27, 1986.

List of Subjects in 7 CFR Part 29

Reporting and recordkeeping requirements, Tobacco.

It is proposed that the regulations at 7 CFR Part 29, Subpart B, be amended as follows:

1. The authority citation for 7 CFR Part 29 continues to read:

Authority: Sec. 19, 49 Stat. 734 as amended, 7 U.S.C. 511m; and Section 213, 97 Stat. 1140, as amended, 7 U.S.C. 511r.

§ 29.400 [Amended]

2. The heading of § 29.400 is revised to read as follows: *Inspection, Certification, and Testing of Imported Tobacco.*

3. Section 29.400 is redesignated as § 29.400(a) and a new paragraph (b) is added as follows:

(b) All flue-cured or burley tobacco, including stems, offered for importation into the United States, including tobacco entering foreign trade zones, but excluding transshipped tobacco, shall be accompanied by a pesticide and end user certification completed by the importer. Any flue-cured or burley tobacco that is not certified as being free of prohibited pesticide residues shall not be permitted entry into the United States until the Secretary has determined that the tobacco meets the pesticide residue requirements in these regulations.

§ 29.401 [Amended]

4. In § 29.401 the following definitions are added:

* * * * *

(m) *End User Certification.* A document issued by the Tobacco Division in a form approved by the Director containing a certification by the importer or subsequent purchaser to identify any and all end users of imported flue-cured or burley tobacco.

(n) *Pesticide.* Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

(o) *Pesticide Certification.* A document issued by the Tobacco Division in a form approved by the Director containing a certification by the importer that flue-cured and burley tobacco offered for importation does not contain residue of any banned pesticide.

(p) *Banned Pesticide.* Any pesticide that has been cancelled, suspended, revoked, or otherwise prohibited under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 135 *et seq.*), or has not been approved or sanctioned by the Environmental Protective Agency (EPA) for use on tobacco.

(q) *Stems.* The midribs or large central veins of tobacco leaves.

(r) *Pesticide Test Sample.* An official sample or samples, collected from a lot of tobacco by the Secretary of Agriculture for analysis by a certified chemist to ascertain the residue levels of banned pesticides.

(s) *Sample Identification Form.* A document approved by the Director that identifies and accompanies the sample to the testing facility on which the test results will be certified by a chemist in charge of testing.

(t) *Subsequent Purchaser.* Any entity that acquires ownership of tobacco after importation.

(u) *Testing.* The chemical analysis of a pesticide test sample to determine residue levels of banned pesticides.

(v) *End User.* A domestic manufacturer of cigarettes or other tobacco products; an entity that mixes, blends, processes, alters in any manner, or stores imported tobacco for export; or any individual that the Secretary may identify as making use of imported tobacco for the production of tobacco products.

(w) *Reexported.* Any imported tobacco not used to manufacture tobacco products that is subsequently exported.

(x) *Certified Chemist.* A person trained in chemistry who is qualified to make a written certification as to the composition and chemical properties of tobacco.

(y) *Blended.* Tobacco that is combined or mixed into a uniform product.

(z) *Leaves.* Whole, undivided tobacco leaves containing lamina and stem.

(aa) *Strips.* The sides of tobacco leaf from which the stem has been removed or a lot of tobacco composed of strips.

5. The following new §§ 29.425–29.431 are added:

§ 29.425 Submission and disposition of pesticide certification.

The importer shall complete a pesticide certification on a form approved by the Director for each lot of flue-cured or burley tobacco, including stems, offered for importation. The importer shall present the original and first copy of the certification to the inspector at the time the tobacco is inspected under the provisions of §§ 29.400–29.407 and keep the third copy for their records. The inspector shall forward the original to the Director and the first copy to the appropriate field office.

§ 29.426 Collection of pesticide test samples.

Any lot of tobacco not certified by the importer as being free of prohibited pesticide residues shall be sampled in sufficient detail to determine whether the lot conforms with the pesticide residue standards. Lots of imported tobacco certified by the importer shall be sampled on a random basis and tested to determine whether they conform with the pesticide residue standards.

§ 29.427 Pesticide residue standards.

(a) The maximum allowable residue levels expressed in total parts per million for the following specific pesticides are as follows:

DDT	1.5
TDE	1.0
TOXAPHENE	2.0
ENDRIN	.1
ALDRIN	.1
DIELDRIN	.1
HEPTACHLOR	.2
CHLORDANE	.3
EDB (Ethylene Dibromide)	.8

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FORMOTHION	.2
TAMARON (Methamidophos)	.2
DBCP (Dibromocloropropane)	50.0
PERMETHRIN	.1

(b) The maximum allowable residue levels for any other banned pesticide shall be 4.0 times the generally recognized lowest detectable limit attainable expressed in parts per million.

§ 29.428 Identification of sample for testing.

Samples of imported tobacco shall be identified by the inspector on a form approved by the Director. The original and first copy shall accompany the sample to the designated testing facility. The third copy of the identification form will be sent to the Director. Upon the completion of testing the designated facility will complete the form and mail the original to the Director and retain the first copy for their records.

§ 29.429 Disposition of imported tobacco exceeding pesticide residue standards.

Within 10 days of the receipt of test results from pesticide test samples, the Director shall notify the importer or entity responsible for the lot of tobacco of the test results. If the test results indicate that the lot or any portion of the lot contains a banned peaticide exceeding the standards, the Director will notify the importer or entity responsible for the affected tobacco and the appropriate U.S. Customs officials that the tobacco cannot enter the United States. The importer or other entity shall notify the Director in writing of the methods by which the tobacco will be disposed of and provide 5 days advance notice of the time and place of final disposition. The Department will monitor the disposition procedures to verify that the tobacco has been accurately identified as to lot, kind, type, and grade. U.S. Customs regulations at 19 CFR 144.5(a) shall determine the time period allowed for final disposition.

§ 29.430 Appeals.

Appeals of test results for imported tobacco must be made in writing to the Director within 30 days from the receipt of notification. The statement must specify in detail the relief requested. The importer or entity requesting the appeal will bear the cost of any subsequent sampling and testing. Subsequent samples will be selected only from tobacco which is in the original package and from tobacco which has not been mixed, blended, or altered in any manner since the initial sampling.

§ 29.431 Submission and disposition of end user certification for imported tobacco.

The importer shall identify the end user or users of each lot of imported flue-cured and burley tobacco on a form approved by the Director. If the importer is unable to identify the end user or users at the time of importation, an amended certification shall be executed within 30 days or at such time as the subsequent purchasers or end users can be identified for any portion of the lot. Subsequent purchasers or end users so identified shall also complete an end user certification until the tobacco is used in the manufacture of tobacco products or is reexported. The original and first copy shall go to the Director or his representative and the importer or subsequent purchaser shall retain the third copy for their records.

§ 29.500 [Amended]

6. The heading of § 29.500 is revised to read as follows: *Fees and Charges for Inspection and Testing of Imported Tobacco.*

7. Existing § 29.500 is redesignated as § 29.500(a) and a new paragraph (b) is added as follows:

(b) The fee for sampling, testing and certification of imported flue-cured and burley tobacco for prohibited pesticide residues is $.0010 per pound, and shall be paid by the importer. The fee for testing imported flue-cured and burley tobacco not accompanied by a certification that it is free of prohibited pesticide residues shall be an additional $.0030 per pound. Fees for services rendered shall be remitted by check or draft in accordance with a statement issued by the Director, and shall be made payable to "Agricultural Marketing Service."

Dated: April 23, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86-9483 Filed 4-24-86; 10:03 am]

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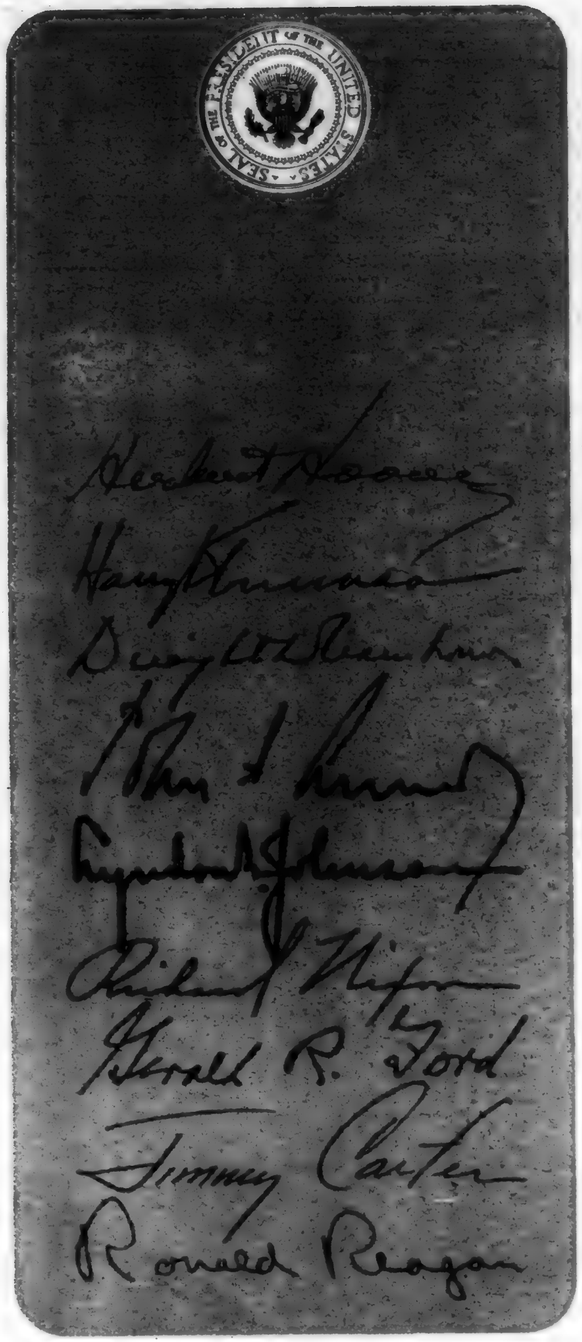
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Monday
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Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

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Milk Marketing Orders
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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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Questions and requests for specific information may be directed to the telephone numbers listed under INFORMATION AND ASSISTANCE in the READER AIDS section of this issue.

How To Cite This Publication: Use the volume number and the page number. Example: 51 FR 12345.

Natural Gas
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Surface Mining Reclamation and Enforcement Office
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WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:
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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: May 15; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Laurence Davey, 202-523-3517

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Title 3—

The President

Proclamation 5468 of April 23, 1986

Older Americans Month, 1986

By the President of the United States of America

A Proclamation

Have your health and have everything. That saying has special meaning for the elderly. Good health and fitness allow all of us, no matter what our age, the freedom and independence to choose how and where we live and to stay involved with our families and friends. Health and fitness enable us to take an active part in community life and to pursue our goals, whether they involve a career, hobbies, volunteer activities, travel, creative pursuits, or home life.

Good health is good common sense, but it is not enough to know this, we have to act accordingly. How we live can make all the difference. Proper diet, regular exercise, moderation in drinking, and avoidance of drugs and tobacco become even more important as we grow older. And life spans can be made longer and more pleasant by regular medical check-ups, sufficient rest, and continuing involvement in satisfying personal relationships and wholesome pursuits that keep the mind active.

Besides what the individual can do for himself, some older Americans still need the help of others to remain independent and in their own homes. Some need assistance with personal and housekeeping activities; others need attention, love, and encouragement. Families, friends, community groups, and the whole range of private and government providers of special services can do so much to help those older people who truly need assistance.

When we adopt good health habits ourselves, encourage others to do the same, and dedicate ourselves to helping those in need, we are truly fulfilling the tradition of good neighborliness.

The Congress, by Senate Joint Resolution 315, has expressed its appreciation and respect for the achievements of older Americans and its desire that these Americans continue to play an active role in the life of the Nation and has requested the President to issue a proclamation designating May 1986 as "Older Americans Month."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of May 1986 as Older Americans Month. I ask public officials at all levels, community agencies, educators, the communications media, and the American people to take this opportunity to honor older Americans and to encourage them to do everything they can to make health and fitness an integral part of their lives, so that they can truly enjoy the golden warmth of their sunset years.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of April, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

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Presidential Documents

Proclamation 5469 of April 24, 1986

National Reading Is Fun Week, 1986

By the President of the United States of America

A Proclamation

The pleasure that comes from reading is usually the magnet that draws people to practice and improve their reading skills. And the wide distribution of these skills not only enriches those who possess them but is a pillar of strength for a self-governing Nation. Yet many of America's 66 million people under the age of 18 need encouragement and direction to improve their reading skills to the point where they can become functionally literate and properly informed adults. Illiteracy and limited literacy cause much pain, frustration, and humiliation. And because their victims cannot reach their full productive potential, the economy is billions of dollars the poorer.

Traditionally, Americans have recognized problems in society and worked at applying practical solutions. Over the past two decades, dedicated volunteer efforts have enabled millions of children to discover the joy of reading. Through a variety of imaginative programs, thousands of children have been given the motivation and the practical help they need to unlock the treasure house of the printed page. Doors have been opened to richer lives. Currently, more than 100,000 volunteers are giving of their time and talents to open these doors of opportunity to young people who long to experience the joy of reading. But there is a need for still more volunteers who wish to help others and experience the deep satisfaction of knowing they have transformed the lives of others and set them on the path to discovery, understanding, and delight. Yes, for those who can read, reading is fun.

The Congress, by Senate Joint Resolution 288, has designated April 20 through April 26, 1986, as "National Reading is Fun Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim April 20 through April 26, 1986, as National Reading is Fun Week. I invite the Governors of every State, local officials, and all Americans to observe this week by supporting programs that help young people to acquire the skill of reading that leads to the joy of reading.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of April, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 630

Absence and Leave; Recredit for Dependents of Federal Civilian or Uniformed Service Personnel

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is amending its sick leave regulations to extend the 3-year limitation on recredit of sick leave for dependents of Federal civilian or uniformed service personnel who leave Federal employment to accompany their sponsors on Federal overseas assignments. The purpose of this change is to help these employees avoid the forfeiture of substantial amounts of sick leave when they return to Federal employment.

EFFECTIVE DATE: May 28, 1986.

FOR FURTHER INFORMATION CONTACT: James Matteson, (202) 632-4634.

SUPPLEMENTARY INFORMATION: On November 14, 1985, OPM published proposed regulations at 50 FR 47060 to extend the 3-year limitation on recredit of sick leave (imposed by 5 CFR 630.502(b)(1)) under certain conditions.

During the 60-day public comment period, we received comments from one individual, three labor organizations, and one agency. The individual and two of the labor organizations supported the proposed regulations without change. One labor organization suggested that the proposed regulations be applied to all Federal civilian employees, rather than only to those who accompany their sponsors on overseas assignments. The proposed regulations addressed a specific problem encountered by dependents of Federal civilian and uniformed service personnel. We know of no such problem being encountered by employees in the United States. Therefore, we have not adopted the suggestion.

The agency stated that the proposed regulations were unclear as to whether the 3-year sick leave recredit period could be extended in situations that involve an intervening time period between the date the employee separates from the Federal service and the date he or she accompanies the sponsor on the overseas assignment. We believe that an intervening time period between the date the employee separates and the date he or she accompanies the sponsor on the overseas assignment is immaterial so long as the employee's separation from the service is for the purpose of accompanying the sponsor on the overseas assignment. Therefore the final regulations require that the employee's separation must be for the purpose of accompanying a civilian or military sponsor on an overseas assignment.

The agency also stated that the proposed regulations were unclear as to whether the 3-year sick leave recredit period could be extended to cover the situation in which an individual returns from overseas before the sponsor's assignment ends, but after the 3-year recredit period has expired. The final regulations provide that the additional 2-year period begins on the date of the employee's return from an overseas area to which the sponsor was assigned.

The agency also questioned our rationale for extending the sick leave recredit period for 2 years, rather than for the actual amount of time spent overseas. The proposed regulations were intended to mirror 5 CFR 315.608(b), which provides that a former employee-dependent has 2 years after his or her return from overseas in which to be reappointed noncompetitively. We believe this same 2-year period should be the basis for extending the sick leave recredit period for these employees.

The final regulations also clarify the definitions of key terms by including a specific reference to the definitions in 5 CFR 315.608(b).

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations will affect only Federal employees and agencies.

List of Subjects in 5 CFR Part 630

Government employees.

Office of Personnel Management.
Constance Horner,
Director.

Accordingly, 5 CFR Part 630 is amended as follows:

PART 630—ABSENCE AND LEAVE

1. The authority citation for Part 630 is revised as set forth below, and the authority citations following all the sections in Part 630 are removed:

Authority: 5 U.S.C. 6311; Section 630.303 also issued under 5 U.S.C. 6133(a); Section 630.502 also issued under sec. 1(2) of E.O. 11228.

2. In § 630.502, paragraphs (c), (d), and (e) are redesignated as paragraphs (e), (f), and (g), respectively; paragraph (b)(2) is redesignated as paragraph (c); a new paragraph (d) is added as set forth below; and the existing paragraph (b)(1) is redesignated as paragraph (b) and revised to read as follows:

§ 630.502 Sick leave recredit.

* * * * *

(b) Except as provided in paragraphs (c) and (d) of this section, an employee who is separated from the Federal Government is entitled to a recredit of sick leave if he or she is reemployed in the Federal Government without a break in service of more than 3 years.

* * * * *

(d)(1) An employee who separated from the Federal Government to accompany a civilian or uniformed sponsor on official assignment to an overseas area is entitled to a recredit of sick leave within the time limit provided by paragraph (b) of this section or within no more than 2 years after he or she returns to the United States from an overseas area to which the sponsor was assigned, whichever is later, provided the individual—

(i) Was a family member of a Federal civilian employee or of a member of a uniformed service who was assigned to an overseas area; and

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(ii) Accompanied the civilian employee or uniformed sponsor on official assignment in the overseas area during the 3-year period specified in paragraph (b) of this section.

(2) For the purpose of this paragraph, "accompanied the civilian or uniformed sponsor on official assignment in the overseas area," "family member," "Federal civilian employee," "member of a uniformed service," "overseas area," "sponsor," and "United States" have the meanings given to them in § 315.608(b) of this chapter.

[FR Doc. 86-9419 Filed 4-25-86; 8:45 am]
BILLING CODE 6325-01-M

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5 CFR Parts 870, 871, 872, 873, and 890

Federal Employees' Group Life Insurance Program and Federal Employees Health Benefits Program

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: These revised regulations permit annuitants whose disability annuities were terminated and later restored to re-enroll for health benefits coverage and resume any life insurance coverge the individual may have had immediately before his or her annuity was terminated. The regulations permit prospective coverage, upon proper application after September 15 1985, for any disability annuitant whose annuity has been restored since December 31, 1983, or is restored in the future.

EFFECTIVE DATE: May 28, 1986.

FOR FURTHER INFORMATION CONTACT: Agatha Gray, (202) 632-0003.

SUPPLEMENTARY INFORMATION: On October 17, 1985 OPM published interim regulations in the **Federal Register** (50 FR 42005) to permit a disability annuitant who was enrolled in the Federal Employees Health Benefits or Federal Employees' Group Life Insurance Program and whose annuity was terminated to resume participation in the Programs if such annuity is restored after December 31, 1983. The interim regulations implemented a provision of Pub. L. 99-53, approved June 17, 1985, which corrected a then existing inequity in the area of insurance coverge.

One written comment from an insurance company was received within the specified 30-day comment period. That insurance company offered no objections to the regulations and supported the additions to the regulations.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect Federal employees and annuitants.

List of Subjects

5 CFR Part 870

Administrative practice and procedure, Government employees, Life insurance, Retirement.

5 CFR Part 871

Adminstrative practice and procedure, Government employees, Life insurance, Retirement.

5 CFR Part 872

Administrative practice and procedure, Government employees, Life insurance, Retirement.

5 CFR Part 873

Administrative practice and procedure, Government employees, Life insurance, Retirement.

5 CFR Part 890

Administrative practice and procedure, Claims, Government employees, Health insurance.

Office of Personnel Management.

Constance Horner,

Director.

PART 890—[AMENDED]

Except for the following corrections, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program interim regulations published on October 17, 1985, (50 FR 42005) are adopted without change:

§ 890.30 [Amended.]

1. On page 42006, column 2, § 890.301, in the third line of paragraph (z), insert the word "part" between "this" and "immediately."

§ 890.306 [Amended.]

2. Also on page 42006, column 3, § 890.306, in the second line of paragraph (f), insert the word "an" between "of" and "enrollment."

[FR Doc. 86-9418 Filed 4-25-86; 8:45 am]
BILLING CODE 6325-01-M

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5 CFR Part 890

Federal Employees Health Benefits Program

AGENCY: Office of Personnel Management.

ACTION: Revised interim regulations.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement changes to the Federal Employees Health Benefits (FEHB) program made by the Federal Employees Benefits Improvement Act of 1986. These interim regulations are a revision to interim regulations published June 13, 1985, which were issued to implement FEHB program changes made by the Civil Service Retirement Spouse Equity Act of 1984.

DATES: Interim rule effective on April 28, 1986. Comments must be received on or before May 28, 1986.

ADDRESSES: Send comments to Reginald M. Jones, Assistant Director for Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, D.C. 20044, or deliver to OPM, Room 4351, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mary Ann Mercer, (202) 632-0003.

SUPPLEMENTARY INFORMATION: On June 13, 1985, OPM published interim regulations in the **Federal Register** (50 FR 24757) to implement changes to the FEHB program made by the Civil Service Retirement Spouse Equity Act of 1984, Pub. L. 98-615. Comments were requested from interested parties prior to publishing final regulations. Seven comments were received (four from Federal agencies, two from carriers in the FEHB program, and one from a professional association) and considered.

However, the Federal Employees Benefits Improvement Act of 1986, Pub. L. 99-251, was enacted February 27, 1986, which changed several of the provisions of Pub. L. 98-615. Therefore, OPM is issuing revised interim regulations to implement the most recent changes in law and to clarify portions of the regulations published June 13, 1985, in response to the comments received. Another opportunity to comment is provided before final regulations are issued.

A discussion of the regulatory changes made to implement Pub. L. 99-251 and the clarifying changes made to the June 13, 1985, regulations follows:

Eligible Former Spouses

Certain former spouses previously denied health benefits coverage under Pub. L. 98-615 may now receive benefits. Under Pub. L. 98-615, a former spouse who had been awarded a portion of a former employee's retirement benefits was excluded from health benefits coverage if the marriage ended before May 7, 1985. Section 201(c) of the Federal Employees Benefits Improvement Act of 1986 permits these former spouses to enroll in the FEHB program if all other requirements for coverage are met. Generally, a former spouse may now apply for health benefits under the FEHB program if he or she currently receives, or has future entitlement to receive, a portion of a former employee's retirement benefits or a survivor annuity benefit, regardless of the date of the court order evidencing the dissolution of the marriage [§ 890.803(a)(3)].

Pub. L. 99-251 also permits a former spouse of an employee who died before May 7, 1985, to enroll for health benefits providing the employee was eligible for immediate retirement on or before the date of death and all other requirements for coverage are met.

Employing Office

The interim regulations were unclear about the "employing office" (for handling FEHB enrollments) for a former spouse whose marriage to a former employee was dissolved after the employee's retirement and who has future entitlement to an annuity. In these cases, the former spouse is not an annuitant, yet the marriage dissolved after the employee retired. These revised interim regulations make it clear that the employing office for a former spouse who meets these criteria is the office which has the authority to approve payment of an annuity for the retired employee.

One agency also suggested that OPM amend the regulations to state whether the employing office [§ 890.101(a)(5)] is the operating level personnel office or central payroll records office. OPM believes that the location of the former spouse enrollment function should be left to the discretion of the individual agencies.

Enrollment Process

One comment concerned the process for obtaining an application. The commenter found the regulations unclear on what constitutes an application and from whom it is obtained. The commenter also found unclear the responsibilities of the employing office, such as, who provides the schedule of payments to the former spouse, the timeframe in which the schedule will be provided, and the timeframe within which the employing office will process the application.

These revised interim regulations clarify the enrollment and payment schedule processes. Section 890.808(a) now makes it clear that the application does not have to be a completed Standard Form 2809, Health Benefits Registration Form; it may simply be an informal written notice (letter, statement, etc.) to the employing office of intent to apply for health benefits. This application merely preserves the FEHB enrollment right while the administrative tasks associated with enrollment are being completed. Section 890.808(b)(2) now states that the employing office is responsible for sending the payment schedule to the former spouse at the time it sends notice of eligibility.

In response to the suggestion that OPM set timeframes for administrative tasks associated with the former spouse's enrollment, we have not imposed timeframes because there is no effective enforcement mechanism. However, the effective date of a former spouse enrollment (the first day of the first pay period beginning more than 30 days after the employing office receives the Standard Form 2809, or an appropriate substitute, and satisfactory proof of eligibility) discussed in the following paragraph encourages timely processing of the enrollment by the employing office. Further, we expect the number of former spouses applying for health benefits after the initial start-up period to be small enough that employing offices will be able to carry out their administrative duties in a timely manner.

Effective Date of Coverage

The effective date of enrollment under the June 13, 1985, interim regulations (i.e., the first day of the first pay period after the date of the agency's receipt of the Standard Form 2809 and satisfactory proof of eligibility) does not allow agencies sufficient time to process the enrollment. We had originally intended that enrollments for former spouses commence at the same time as enrollments of employees. Processing enrollments of former spouses requires more time, however, because the former spouse's entitlement to health coverage must be verified, while employees are automatically entitled to health coverage by virtue of their employment. Since the employing office is unable to process the enrollment until it reviews and approves the Standard Form 2809 completed by the former spouse and the documents submitted along with it as evidence of eligibility, the revised interim regulations set the effective date as the first day of the pay period beginning more than 30 days after the employing office receives the Standard Form 2809 (or an appropriate substitute) and satisfactory proof of eligibility. The 30-day provision should allow employing offices enough time to process the enrollment. In cases in which the former spouse applied for health coverage in writing prior to the effective date of these revised interim regulations, the applicable effective date will be established according to the interim regulations published on June 13, 1985. The 30-day buffer period is applicable only to cases in which the written application is filed on or after the effective date of these revised interim regulations.

Payment of Premiums

The two health carrier respondents suggested that OPM require former spouses to prepay premiums. The carriers are concerned that if premiums are due after the pay period in which the former spouse is covered, as many as four pay periods could elapse before a former spouse's coverage will be terminated for nonpayment of premium. This delay would enable the former spouse to maintain an upaid enrollment for a considerable amount of time. Further, if the former spouse fails to pay the premium within the time frames established by the regulations, coverage will be terminated retroactive to the end of the last pay period for which payment has been received. Thus, any claims payment made by the carrier during the period of upaid enrollment must be resolved between the carrier and the former spouse.

We agree that prepayment of premiums would have merit for former spouses who have no employer-employee relationship and who are required, by law, to pay both the enrollee's and the Government's share of premiums. However, the risk to FEHB carriers is inherent in the statutory extension of FEHB coverage to former spouses and we are unable to devise an administratively acceptable system of prepayments that would be effective.

Although we have not adopted the suggestion of prepaid premiums, we have revised the regulations to reduce the unpaid enrollment period to 15 days by dropping the 31-day grace period for payment of overdue premiums provided in the June 13, 1985, regulations. If the former spouse does not pay by the due date, the employing office will send the notice immediately to the former spouse

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that payment must be made within 15 days after receipt of the notice or coverage will be terminated. This method of payment will prompt the former spouse to make timely payments for coverage and significantly reduce the period of risk for the carriers.

These revised interim regulations also give special consideration to the time period for premium payment for overseas personnel. Since correspondence overseas takes longer than the 15-day general provision in the regulations, we have extended the 15-day period to 45 days for former spouses overseas to allow sufficient time for them to be notified and remit payment before the agency terminates coverage.

Two comments concerned the treatment of a former spouse annuitant's coverage when the annuity is insufficient to cover the amount of the premium. One commenter suggested that rather than require the former spouse to elect a lower cost enrollment or termination of coverage the regulations should entitle the former spouse annuitant to pay the full premium or premium balance by check. Pub. L. 98-615 does not place a statutory restriction on the way in which a former spouse may make premium payments. Because the former spouse annuity, or portion of the retiree's annuity, may be quite small and because many former spouses will have already established the habit of paying directly to the employing office, we have reconsidered our position. These revised regulations now permit the former spouse to make the total premium payment directly to the retirement system when the annuity or portion of the retiree's annuity is insufficient to cover the full premium amount [§ 890.306(d)]. The former spouse, however, must pay the full premium to the retirement system. Dividing payment between an annuity withholding and a direct payment would be confusing (due to annuity fluctuations as a result of COLA increases, changes in deductions, etc.) and administratively impractical.

One agency suggested that former spouses make payments on a monthly cycle because former spouses may find it difficult to track Federal biweekly pay periods. These revised interim regulations grant agencies discretion to base the former spouse premium payment cycle on any regular pay period established for their employees, including a monthly pay period.

Other

One carrier commented that, in the FEHB generally, carriers are unable to reconcile membership or payments received from OPM with any specific member and noted that this problem is exacerbated with former spouse enrollments. We do not believe that former spouse enrollments aggravate the reconciliation process. OPM currently obtains from agency records a supplemental semi-annual headcount report by plan for former spouses which is included along with the regular employee headcount report for carriers' use in reconciling enrollment. We believe that this method works reasonably well. However, OPM will continue to monitor and improve the reconciliation process.

One respondent expressed concern that § 890.806(c)(2), which denies coverage as a family member if there is evidence calling a child's paternity or maternity into question, would be inappropriately used by agencies. The respondent's concern is that a Federal agency's decision to deny coverage may supersede judicial and/or administrative findings related to parental rights. It is the intent of the regulations that agency determinations be made in accordance with statutory requirements for coverage in the FEHB program.

One carrier noted a conflict between § 890.301(f)(1) of the June 18, 1985, interim regulations, which denies a family member an entitlement to convert to an individual contract with the plan when a former spouse changes enrollment to self alone, and § 890.807(b), which entitles family members to convert to a private plan when their enrollment is terminated. OPM agrees that family members should have a right to convert when their coverage is terminated, regardless of the reason for termination. These revised regulations treat family members who lose coverage because the former spouse changes to self alone as family members who lose coverage because of any other change in status.

Section 890.301(i) prohibits an enrollment change from self-alone to self and family when selecting a new plan upon termination of enrollment by an employee organization plan. One respondent found an apparent conflict between this provision and the provision at § 890.301(e)(2), which permits a change to self and family within 60 days after birth or acquisition of a child who meets the requirements of a qualified family member. However, there is no conflict because the prohibition in § 890.301(i) does not apply if another event permits a change to self and family.

Another commenter questioned what responsibilities agencies have to authenticate a former spouse's initial claim of eligibility or continued eligibility for health benefits. The former spouse bears the burden of providing acceptable proof (as determined by the agency) of initial eligibility. It is in the former spouse's best interest to provide any documents the agency may require as proof because failure to provide the required documents may result in delays in coverage. Once coverage is obtained, a number of circumstances will cause the former spouse to lose entitlement, such as, remarriage prior to age 55 and issuance of a revised court order terminating benefits. At the time the former spouse enrolls for health benefits, he or she is required to certify in writing that he or she will notify the employing office within 31 days of an event that terminates eligibility. Should the former spouse fail to notify the employing office of an ineligibility to continue enrollment, any claims payment made during the period of ineligibility will be resolved between the carrier and the former spouse.

Two agencies suggested that the former spouse's enrollment transfer along with the employee's when the employee transfers to a new agency, separates, or retires, rather than remain with the agency which employed the employee at the time of divorce. The agencies expressed concern that the 31-day conversion period available to the former spouse could expire before the employing office is notified of the employee's separation, transfer, or retirement from another agency. (A former spouse's enrollment would not be terminated solely by virtue of a transfer or retirement because the former spouse's future title to all or a portion of annuity would still exist. It would be terminated, however, if an employee separates with no future entitlement to annuity or a separated employee dies before becoming eligible for a deferred annuity.)

The law requires that the former spouse's enrollment be processed and maintained by the office which employed the employee at the time of divorce until the former spouse begins receiving annuity payments. However, there are circumstances under which the former spouse, through no fault of his or her own, may belatedly become aware of an event that terminates his or her FEHB enrollment. In these cases, the former spouse should not lose the right to convert. Accordingly, these revised interim regulations provide a temporary extention of coverage through 31 days after the employing office's notice to the former spouse that coverage is terminated where the former spouse could not have known that (a) the employee on whose service the former spouse's health benefits entitlement was based separated from service with no future entitlement to annuity; or (b) the separated employee on whose service the former spouse's health benefits entitlement was based died before becoming eligible for a deferred annuity. In these cases, the former spouse must pay the full premium during the extended period, exclusive of the 31-day period following the notice.

One respondent suggested a separate FEHB enrollment form for former spouses. A special enrollment form for former spouses has not been prescribed because the number of former spouses seeking health benefits coverage is not expected to be large enough to warrant procuring, stocking, and maintaining currency of a separate form. We believe the Standard Form 2809, with the "Remarks" section cross-referenced to the employee, former employee, or annuitant, is acceptable.

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(3)(B) of title 5 of the U.S. Code, I find that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because certain entitlements are conveyed immediately by the authorizing statute. Regulatory guidance is needed immediately for effective implementation.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations merely implement the amendments to the Federal Employees Health Benefits Act under the Civil Service Retirement Spouse Equity Act of 1984, Pub. L. 98-615 and the Federal Employees Benefits Improvement Act of 1986, Pub. L. 99-251.

List of Subjects in 5 CFR Part 890

Administrative practice and procedure, Claims, Government employees, Health insurance, Retirement.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is amending 5 CFR Part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for Part 890 is revised to read as set forth below and the authority citations following all the sections in Part 890 are removed:

Authority: 5 U.S.C. 8913; sec. 890.102 also issued under 5 U.S.C. 1104 and sec. 3(5) of Pub. L. 95-454, 92 Stat. 1112; sec. 890.301 also issued under 5 U.S.C. 8905(b); sec. 890.302 also issued under 5 U.S.C. 8901(5) and 5 U.S.C. 8901(9); sec. 890.701 also issued under 5 U.S.C. 8902(m)(2); Subpart H also issued under Title I of Pub. L. 98-615, 98 Stat. 3195, and Title II of Pub. L. 99-251.

2. Section 890.101 is amended by revising paragraphs (a)(5) and (a)(9) to read as follows:

§ 890.101 Definitions; time computations.

(a) * * *

(5) "Employing office" means the office of an agency to which jurisdiction and responsibility for health benefits actions for an employee, an annuitant, or an eligible former spouse of an employee or annuitant, have been delegated.

(i) For an enrolled annuitant (including survivor annuitant and former spouse annuitant) who is not also an eligible employee, "employing office" is the office which has the authority to approve payment of annuity or worker's compensation for the annuitant concerned.

(ii) For a former spouse of an annuitant whose marriage dissolved after the employee's retirement and who has entitlement to receive future annuity payments under section 8341(h) or 8345(j) of title 5, United States Code, "employing office" is the office which has the authority to approve payment of annuity for the annuitant or former spouse concerned.

(iii) For a former spouse of a current employee, and a former spouse of an annuitant or separated employee having title to a deferred annuity whose marriage dissolved during the employee's Federal service, "employing office" is the agency that employed the employee or annuitant at the time the marriage was dissolved.

* * * * *

(9) "Pay period" means the biweekly pay period established pursuant to section 5504 of title 5, United States Code, for the employees to whom that section applies and the regular pay period for employees not covered by that section. "Pay period" as it relates to a former spouse who is not actively receiving an annuity means any regular pay period for employees of the agency to which jurisdiction and responsibility for health benefits actions for the former spouse have been delegated as provided by paragraph (a)(5) of this section. "Pay period" for annuitants means the period for which a single installment of annuity is customarily paid.

* * * * *

3. Section 890.104 is amended by revising paragraph (a) to read as follows:

§ 890.104 Initial decision and reconsideration.

(a) *Who may file.* An employee, annuitant, or former spouse may request OPM to reconsider an initial decision of an employing office (including OPM) that denies coverage or change of enrollment.

* * * * *

4. Section 890.301 is amended by revising paragraphs (d)(2), (e), (f), (h), (i), (k), (n), and (u) to read as follows:

§ 890.301 Opportunities to register to enroll and change enrollment.

* * * * *

(d) * * *

(2) An enrolled employee, annuitant, or former spouse may change to another plan, another option, or from self alone to self and family, or may make any combination of these changes.

(e) *Change in family status.* (1) Other than a former spouse, an enrolled employee or annuitant may register to change enrollment from self alone to self and family, or from one plan or option to another, or both; and an employee, if not registered to be enrolled, may register to be enrolled, at any time during the period beginning 31 days before a change in marital status and ending 60 days after the change in marital status. Other than a former spouse, an enrolled employee or annuitant may change enrollment from self alone to self and family within 60 days after any other change in family status.

(2) An enrolled former spouse may register to change enrollment from self alone to self and family, or from one plan or option to another, or both, within 60 days after the birth or acquisition of a child who is a qualified family member under § 890.804(a) of this part.

(f) *Change to self alone.* (1) An employee, annuitant, or former spouse may register at any time to change enrollment from self and family to self alone.

(2) Other than a former spouse, an employee or annuitant who is covered by the enrollment of another under this part may elect self alone coverage within 31 days after a change in the covering enrollment has been filed under authority of this paragraph.

* * * * *

(h) *Move from area served by comprehensive medical plan.* If a comprehensive medical plan limits full service to a geographic area, an employee, annuitant, or for her spouse enrolled in that plan who moves outside the full service area or, if already living outside the full service area, moves further from the full service area, may register at any time after the move, to be enrolled in another health benefits plan.

(i) *Termination by employee organization plan.* An employee, annuitant, or former spouse who is enrolled in a health benefits plan sponsored or underwritten by an employee organization and whose membership in the employee organization is terminated, may register to be enrolled in another plan under the following conditions:

(1) Health benefits enrollment is terminated by the plan; and,

(2) Registration to enroll in another plan is submitted within 31 days after termination of enrollment in the employee organization plan.

The employee, annuitant, or former spouse may not change enrollment from self alone to self and family under this paragraph.

* * * * *

(k) *Termination of plan in which enrolled.* If a plan is discontinued in whole or part, each employee, annuitant, and former spouse whose enrollment is thereby terminated may enroll in another plan. If the discontinuance is at the end of a contract period which is immediately preceded by an open season, the time for enrollment is the open season. Otherwise, OPM will establish a time and effective date for enrollment. Persons who fail to change enrollment within the time set are considered to have cancelled the plan in which enrolled, except that if one option of a plan is discontinued, enrolled employees, annuitants, and former spouses who do not change plans will be considered enrolled in the remaining option of the plan.

* * * * *

(n) *On becoming eligible for coverage under Title XVIII of the Social Security Act.* An enrolled employee, annuitant, or former spouse with a high option enrollment may register, at any time after the 31st day before he or she is eligible for coverage under Title XVIII of the Social Security Act (Medicare), to change enrollment to the low option of any available plan under this part.

* * * * *

(u) *Child's coverage ends.* An employee, annuitant, or former spouse may register to change enrollment from self alone to self and family within 31 days after an eligible child loses coverage under another enrollment under this part.

* * * * *

5. Section 890.302 is amended by revising paragraphs (d) and (e) to read as follows:

§ 890.302 Coverage of family members.

* * * * *

(d) *Child incapable of self-support.* When an employee, annuitant, or former spouse enrolls for a family which includes a child who has become 22 years of age and is incapable of self-support, the employing office will require such enrollee to submit a physician's certificate verifying the child's disability. The certificate must—

(1) State that the child is incapable of self-support because of a physical or mental disability that existed before the child became 22 years of age and that can be expected to continue for more than 1 year;

(2) Include a statement of the name of the child, the nature of the disability, the period of time it has existed, and its probable future course and duration; and,

(3) Be signed by the physician and show the physician's office address. The employing office will require the employee, annuitant, or former spouse to submit the certificate on or before the date the child becomes 22 years of age. However, the employing office may accept otherwise satisfactory evidence of incapacity not timely filed.

(e) *Renewal of certificates of incapacity.* The employing office will require the employee, annuitant, or former spouse who has submitted a certificate of incapacity to renew that certificate on the expiration of the minimum period of disability certified.

* * * * *

6. Subpart H is revised to read as follows:

Subpart H—Benefits for Former Spouses

Sec.

890.801 Introduction.
890.802 Definition.
890.803 Who may enroll.
890.804 Coverage.
890.805 Application time limitations.
890.806 Effective dates of coverage.
890.807 Termination of enrollment.
890.808 Employing office responsibilities.

Subpart H—Benefits for Former Spouses

§ 890.801 Introduction.

This subpart sets forth policies and procedures for obtaining health benefits coverage that are unique to former spouses of Federal employees and retirees.

§ 890.802 Definition.

In this subpart, "Qualifying court order" means a qualifying court order as described in § 831.1704 of this title.

§ 890.803 Who may enroll.

(a) Except as specified in paragraph (b) of this section, a former spouse is eligible to enroll in a health benefits plan under this part provided that—

(1) The former spouse whose marriage to an employee or employee annuitant is dissolved has not remarried if under age 55; and

(2) The former spouse was enrolled in a health benefits plan under this part as a family member at any time during the 18 months preceding the date of the dissolution of marriage; and

(3) (i) the former spouse currently receives, or has future title to receive (A) a portion of annuity payable to the employee upon retirement based on a qualifying court order for purposes of 5 U.S.C. 8345(j); (B) survivor annuity benefits based on a qualifying court order for purposes of 5 U.S.C. 8341(h); or (C) a survivor annuity elected by the employee under 5 U.S.C. 8339(j)(3) (or benefits similar to those under this paragraph under another retirement system for Government employees); *or*

(ii) The former spouse was married to an employee who retired before May 7, 1985, and (A) the employee annuitant elects to provide a survivor annuity to the former spouse under procedures prescribed in § 831.621 of this title; or (B) the former spouse satisfies all of the conditions for a survivor annuity in § 831.622 of this title; *or*

(iii) The former spouse was married to an employee who died before May 7, 1985, and the employee was eligible for an immediate annuity on or before the date of death, *and* the former spouse satisfies all of the conditions for a survivor annuity in § 831.622 of this title.

(b) A former spouse or an employee who separates from Federal service before becoming eligible for immediate annuity is eligible to enroll only if the former spouse's marriage to the employee dissolved before the employee left Federal service.

(c) If a former spouse cannot apply for benefits on his or her own behalf because of a mental or physical disability, application may be filed by a court-appointed guardian.

§ 890.804 Coverage.

(a) *Type of enrollment.* A former spouse who meets the requirements of § 890.803 may elect coverage for self alone or for self and family. A family enrollment covers only the former spouse and any unmarried dependent natural or adopted child of both the former spouse and the employee, former employee or employee annuitant, provided such child is not otherwise covered by a health plan under this part. An unmarried dependent child must be under age 22 or incapable of self-support because of a mental or physical disability existing before age 22. No person may be covered by two enrollments.

(b) *Proof of dependency.* (1) A child is considered to be dependent on the former spouse or the employee, former employee, or employee annuitant if he or she is—

(i) A legitimate child;

(ii) An adopted child;

(iii) A recognized natural child who lives with the former spouse or the employee, former employee, or employee annuitant in a regular parent-child relationship.

(iv) A recognized natural child for whom a judicial determination of support has been obtained; or

(v) A recognized natural child to whose support the former spouse, or the employee, former employee, or employee annuitant makes regular and substantial contributions in accordance with § 890.302(b)(2).

(c) *Exclusions from coverage.* Coverage as a family member may be denied—

(1) If evidence shows that the former spouse, employee, former employee, or annuitant did not recognize the child as his or her own, despite a willingness to support the child; or

(2) If evidence calls the child's paternity or maternity into doubt, despite the former spouse's employee's, former employee's, or employee annuitant's recognition and support of the child.

(d) *Child incapable of self-support.* When a former spouse enrolls for a family enrollment which includes a child who has become 22 years of age and is incapable of self-support, the employing office shall determine such child's eligibility in accordance with § 890.302(d), (e), and (f).

(e) *Meaning of unmarried child.* A child, under age 22 or incapable of self-support, who has never married or whose marriage has been annulled, or a child who is divorced or widowed is considered to be unmarried.

§ 890.805 Application time limitations.

Former spouses must apply for health benefits coverage by the latest of—

(a) February 27, 1987;

(b)(1) Within 60 days after the dissolution of the marriage to the Federal employee; or (2) if the marriage dissolved after retirement, within 60 days after the dissolution of the marriage or within 60 days after the retired employee elects to provide a survivor annuity for the former spouse under 5 U.S.C. 8339(j)(3); or

(c)(1) Within 60 days after the employee annuitant elects to provide a former spouse annuity under § 831.621; or (2) within 60 days after the date of the OPM notice of entitlement to a former spouse annuity under § 831.622.

§ 890.806 Effective dates of coverage

(a) *Generally.* (1) The effective date of enrollment is the first day of the pay period beginning more than 30 days after the date the employing office receives the properly completed Standard Form 2809 or an appropriate substitute (i.e., a signed statement with sufficient information to execute enrollment) and satisfactory proof of eligibility.

(2) The effective date of a change of enrollment is the first day of the pay period after the date the employing office receives the properly completed Standard Form 2809.

(b) *Change required because of insufficient annuity.* When a former spouse annuitant changes to a lower cost enrollment as provided by § 890.301(g), the change is effective immediately upon loss of coverage under the prior enrollment.

§ 890.807 Termination of enrollment.

(a)(1) A former spouse's enrollment terminates, subject to the temporary extension of coverage for conversion, at midnight of the last day of the pay period in which the earliest of the following events occurs:

(i) Court order ceases to provide entitlement to survivor annuity or portion of retirement annuity under a retirement system for Government employees.

(ii) Former spouse remarries before age 55.

(iii) Former spouse dies.

(iv) Employee or annuitant on whose service the benefits are based dies and no survivor annuity is payable.

(v) Separated employee on whose service the benefits are based dies before the requirements for deferred annuity have been met.

(vi) Employee on whose service benefits are based leaves Federal service before establishing title to an immediate annuity or a deferred annuity.

(vii) Refund of retirement money is paid to the separated employee on whose service the health benefits are based.

(2) OPM may authorize a longer time frame for the temporary extension of coverage for conversion than the 31 days provided in § 890.401(a) if in OPM's judgment the former spouse could not have known that (1) the employee on whose service benefits are based left Federal service before establishing title to an immediate or deferred annuity; or (2) the separated employee on whose service the benefits are based died before the requirements for deferred annuity had been met. In such cases, the right of conversion may be exercised up to 31 days after the employing office's notice of termination. The former spouse must pay the full premium (employee's and Government's share) during the extended period, exclusive of the 31–day period following the notice.

(3) Termination of enrollment for failure to pay premiums within the time frame establishment in accordance with § 890.808(d)(1) is retroactive to the end of the last pay period for which payment has been timely received.

(4) A former spouse whose enrollment is terminated under this paragraph may not reenroll.

(b) *Coverage of members of the family.* The coverage of a member of the family of a former spouse terminates, subject to the temporary extension of coverage for conversion, at midnight of the earlier of the following dates:

(1) The day on which the individual ceases to be an eligible family member.

(2) The day the former spouse ceases to be enrolled, unless the family member is entitled as a survivor annuitant to contined enrollment or is entitled to continued coverage under the enrollment of another.

(c) *Cancellation.* A former spouse may cancel enrollment at any time by filing with the employing office a properly completed health benefits form. If a former spouse cancels enrollment, the cancellation becames effective on the last day of the pay period after the pay period in which the health benefits form cancelling the enrollment is received by the employing office. The former spouse and family members, if any, are not entitled to the temporary extension of coverage for conversion or to convert to an individual contract for health benefits. A former spouse who cancels his or her enrollment may not later reenroll.

§ 890.808 Employing office responsibilities.

(a) *Application for benefits.* The former spouse's application for health benefits may be in the form of a Standard Form 2809, letter, or written statement to the employing office.

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(b) *Administration of the enrollment process.* (1) The employing office will set up a method for accepting applications for enrollment, informing the former spouse what documents to submit and where to submit them for an eligibility determination, and collecting premium payments. The method will include procedures for verifying the eligibility requirements under § 890.803(a) (1) and (2). The employing office must obtain OPM documentation that the former spouse meets the additional requirement under § 890.803(a)(3)(i), (ii) or (iii).

(2) The employing office will send the former spouse notice, in writing, of its decision. When an employing office informs a former spouse of his or her eligibility to enroll, it will identify the documents on which it based its decision and will include a premium payment schedule and statement of the requirements for continued enrollment under § 890.803. If the former spouse does not qualify for health benefits coverage, the employing office must give the former spouse a reconsideration right under § 890.104.

(3) The employing office will maintain a health benefits file for the former spouse as a file separate from the personnel records of the employee or former employee.

(4) The former spouse will be required to certify that he or she meets the requirements listed in § 890.803 and that he or she will notify the employing office within 31 days of an event that results in failure to meet one or more of the requirements.

(c) *Qualifying court order.* Subject to a 31-day extension period for conversion, the duration of health benefits coverage will coincide with any period specified in the qualifying court order providing for an annuity. A court order not meeting the requirements under § 831.1704 will not be used to establish or continue entitlement to a former spouse's health benefits coverage.

(d) *Premium payments.* (1) The former spouse must remit to the employing office the full subscription charge for the enrollment for every pay period during which the enrollment continues, exclusive of the 31-day temporary extension of coverage for conversion provided in §§ 890.401 and 890.807(a)(2). Payment must be made in accordance with a schedule established by the employing office [see § 890.101(a)(9)]. If the employing office does not receive payment by the date due, the employing office will notify the former spouse by certified mail return receipt requested that continuation of coverage rests upon payment being made within 15 days (45 days for former spouses residing overseas) after receipt of the notice. The enrollment of an individual who fails to remit payment within the specified time frame will be terminated.

(2) The employing office will submit all premium payments collected from former spouses along with its regular health benefits payments to OPM. The full subscription charge for former spouses will be classified as "withholdings" and included in the "Withholdings" section of the Standard Form 2812, Journal Voucher and Report of Withholdings and Contributions For Health Benefits, Group Life Insurance, and Civil Service Retirement.

(e) *Withholding from annuity.* The retirement system acting as employing office for a former spouse will establish a method for withholding the full subscription charge from the former spouse's annuity check. When the annuity is insufficient to cover the full amount of health benefits premium due, the retirement system will notify the former spouse of the opportunity to register to be enrolled in another plan as provided by § 890.301(q) or to make direct payment of the full premium directly to the retirement system.

[FR Doc. 86-9420 Filed 4-25-86; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

Oranges, Grapefruit, Tangerines, and Tangelos Grown in Florida; Amendment of Grade and Size Requirements for Certain Grapefruit and Tangerines

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action lowers the minimum size requirements for shipments of Florida white seedless grapefruit and imports of white seedless grapefruit from size 48 (3 9/16 inches) to size 56 (3 5/16 inches). It also lowers the minimum grade requirement for domestic and export shipments of Florida Honey tangerines from Florida No. 1 to U.S. No. 2 Russet and the minimum size requirement from size 176 (2 5/16 inches) to size 210 (2 1/16 inches). The relaxations are effective through August 17, 1986. The size relaxation recognizes changes in supply and demand conditions for smaller size white seedless grapefruit and Honey tangerines and is necessary to promote the interest of growers and consumers. The relaxation in the grade requirements for Honey tangerines recognizes the grade composition of the available fruit supply, and current and prospective demand conditions for this fruit.

EFFECTIVE DATE: April 21, 1986–August 17, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250; telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1521–1 and Executive Order 12291 and has been designated as a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities for their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that about 95 handlers of Florida citrus are currently subject to regulations under the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida and that approximately 28 importers of grapefruit will be subject to this action under the grapefruit import regulation during the course of the current season and that the great majority of these groups may be classified as small entities. While regulations issued under this order and corresponding import requirements impose some costs on affected handlers and importers and the number of such persons may be substantial, the added burden on small entities, if present at all, is not significant. This action is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), both as amended, regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action was recommended unanimously by the Citrus

Administrative Committee at its April 15, 1986, meeting. The committee works with USDA in administering the marketing agreement and order program.

Florida Citrus Regulation 6 was issued on a continuing basis subject to modification, suspension, or termination upon recommendation by the committee and approval by the Secretary. The committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Florida oranges, grapefruit, tangerines, and tangelos. Prior to making any such recommendations, the committee submits to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the act.

The minimum grade and size requirements, specified herein, reflect the committee's and the Department's appraisal of the need to relax the grade and size requirements applicable to domestic and export shipments of Florida Honey tangerines and the size requirements applicable to domestic and import shipments of white seedless grapefruit in recognition of the current and prospective supply and demand for such fruit. This action is necessary to permit handlers to ship the remaining supply of marketable fruit to meet market needs. Both the Florida grapefruit and tangerine shipping seasons are coming to a close, with about 90 percent of the grapefruit crop shipped and about 95 percent of the tangerines shipped through March 1986.

This action lowers the minimum size requirement for domestic and import shipments of white seedless grapefruit from size 48 (3 9/16 inches) to size 56 (3 5/16 inches) during the period from April 21, 1986, through August 17, 1986. This action also lowers the minimum grade and size requirements for domestic and export shipments of Florida Honey tangerines from Florida No. 1 to U.S. No. 2 Russet and size 176 (2 5/16 inches) to size 210 (2 1/16 inches), respectively, during the period April 21, 1986, through August 17, 1986. The relaxation in minimum grade and size requirements for such citrus recognizes the grade and size composition of the available citrus supply, and current and prospective demand conditions for this citrus.

Under § 8e of the act (7 U.S.C. 608e–1), whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. Thus, the size requirement for imported white seedless grapefruit (7 CFR 944.106) also must be relaxed to conform to the size requirement for domestic shipments for Florida white seedless grapefruit during the period specified. Under the terms of the import regulation prescribed in § 944.106(a) the size requirement for imported white seedless grapefruit automatically changes to conform to the relaxed size requirement for domestic shipments of white seedless grapefruit.

Based upon the recommendation and information submitted by the Citrus Administrative Committee, and upon other available information, it is hereby found that regulation of Florida and imported white seedless grapefruit and Florida Honey tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which these relaxations are based and the effective date necessary to effectuate the declared purposes of the act. This action relieves restrictions on shipments of white seedless grapefruit and Honey tangerines and must be taken promptly to enable handlers to take advantage of the relaxed requirements. Also, handlers are aware of the relaxations and the effective dates and require no additional time to comply therewith.

PART 905—[AMENDED]

List of Subjects in 7 CFR Part 905

Marketing agreements and orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

1. The authority citation for 7 CFR Part 905 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. The provisions of § 905.306 are amended by revising the following entry in Table I, paragraph (a), applicable to domestic shipments, and Table II, paragraph (b), applicable to export shipments, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation 6, Amendment 38.

(a) * * *

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TABLE I

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
Grapefruit:			
Seedless, white	April 21, 1986 to Aug. 17, 1986	Improved No. 2 (External) U.S. No. 1 (Internal).	3 1/16
	On or after Aug. 18, 1986	Improved No. 2 (External) U.S. No. 1 (Internal).	3 1/16
Tangerine:			
Honey	Apr. 21, 1986 to Aug. 17, 1986	U.S. No. 2 Russet	2 1/16
	On or after Aug. 18, 1986	Florida No. 1	2 1/16

TABLE II

Variety (1)	Regulation period (2)	Minimum grade (3)	Minimum diameter (inches) (4)
Tangerine:			
Honey	Apr. 21, 1986 to Aug. 17, 1986	U.S. No. 2 Russet	2 1/16
	On or after Aug. 18, 1986	Florida No. 1	2 1/16

Dated: April 22, 1986.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86-9302 Filed 4-25-86; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1032

Milk in the Southern Illinois Marketing Area; Order Suspending Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: The action suspends for April 1986 the limitation on the amount of milk that may be delivered directly from the farms of producers to nonpool plants and still be pooled and priced under the Southern Illinois order. The action was requested by a cooperative association that represents producers who supply milk for the market. This suspension is necessary because proponent cooperative recently lost a fluid-use account. This suspension will assure that the cooperative's member dairy farmers who have regularly supplied the market's fluid needs will continue to share in the market's Class I sales during April 1986.

EFFECTIVE DATE: April 28, 1986.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Diary Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued March 28, 1986; published April 3, 1986 (51 FR 10452).

The Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers who have regularly supplied the market's fluid needs will continue to have their April 1986 milk production pooled and priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Southern Illinois marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on April 3, 1986 (51 FR 10452) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No comments opposing the proposed action were received.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the month of April 1986 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1032.13(b)(2), the words "on any day during the months of May, June, and July, during the months of August and December for not more than 12 days of production of producer milk by such producer, and in any other month for not more than 8 days of production of producer milk by such producer;"

Statement of Consideration

This action suspends the April 1986 limitation on diversions of milk to certain nonpool plants. The suspension will allow unlimited quantities of a dairy farmer's April milk production to be moved directly from the farm to manufacturing plants that are not regulated under a Federal order and remain pooled and priced under the order.

Under the current order provisions, not more than 8 days of a producer's April milk production may be diverted to such nonpool plants. During the following months of May through July, there is no limit on such diversions.

The proposal to remove the April limit this year was made by the National Farmers Organization (NFO), a cooperative association that represents dairy farmers who supply milk for the market. Public comments on the proposed action were invited. No opposing views were received.

The suspension is needed because NFO recently lost a Class I account. The milk which had been supplied by the proponent cooperative to a pool distributing plant located in the St. Louis area has been replaced by receipts from producers who have not been associated with the Southern Illinois order and the cooperative's milk is now without a fluid-use market. Without the suspension, the cooperative would have to make costly and inefficient movements of milk solely to qualify the milk of producers who have regularly supplied the market's fluid needs for pool participation in April.

Since unlimited diversions are permitted during the months of May-July, a suspension of the limit for April will give NFO four months to evaluate its marketing situation under this order. It would also give the cooperative time to make any adjustments it deems necessary to accommodate its loss of a fluid milk account.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that without the suspension costly and inefficient movements of milk would have to be made to qualify the milk of producers who have regularly supplied the market's fluid needs for pool participation in April 1986.

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No views were filed in opposition to this action.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1032

Milk marketing orders, Milk, Diary products.

It is therefore ordered, That the aforesaid provisions in § 1032.13(b)(2) of the Southern Illinois order are hereby suspended for April 1986.

PART 1032—MILK IN THE SOUTHERN ILLINOIS MARKETING AREA

1. The authority citation for 7 CFR Part 1032 continues to read as follows:

Authority: Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

§ 1032.13 [Suspended in Part]

2. In § 1032.13(b)(2), the words "on any day during the months of May, June, and July, during the months of August and December for not more than 12 days of production of producer milk by such producer, and in any other month for not more than 8 days of production of producer milk by such producer;" are suspended.

Effective date: April 28, 1986.

Signed at Washington, DC, on: April 22, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 86-9458 Filed 4-25-86; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1040

Milk in the Southern Michigan Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends for the months of April through September 1986 the requirement in the Southern Michigan Federal milk order that a cooperative association deliver to pool distributing plants at least 50 percent of its members' producer milk in order to qualify its supply plants as pool plants under the order. The suspension was requested by a cooperative association that represents producers supplying milk to the fluid market. The action is needed to ensure that dairy farmers who historically have been associated with the Southern Michigan market will continue to share in the market's fluid milk sales.

EFFECTIVE DATE: April 28, 1986.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued March 26, 1986; published April 1, 1986 (51 FR 11053).

The Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Southern Michigan marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on April 1, 1986 (51 FR 11053) concerning a proposed suspension of certain provisions of the order. Interested parties were afforded an opportunity to file data, views, and arguments thereon. No comments were received.

After consideration of all relevant information, including the proposal in the notice and other available information, it is hereby found and determined that for the months of April through September 1986 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1040.7(b)(2), the words "if transfers from supply plants to plants described in paragraph (b)(5) of this section and by direct delivery from the farm to plants qualified under paragraph (a) of this section are:"

2. In § 1040.7(b)(2), paragraphs (i) and (ii).

Statement of Consideration

This action makes inoperative for the months of April through September 1986 the provisions requiring a cooperative association to deliver at least 50 percent of its members' producer milk to pool distributing plants, either through its supply plants or directly from farms, in order to qualify the supply plants as pool plants. The suspension was requested by Michigan Milk Producers Association (MMPA), which represents producers supplying the market.

This action is needed because milk production in this market has increased approximately four percent during the first three months of 1986 compared to 1985 and at the same time the cooperative's Class I sales to distributing plants have decreased about ten percent from 1985. Producer milk utilized for Class I milk increased only 0.5 percent for the first three months of 1986 compared to 1985.

MMPA pools approximately 87 percent of its members' milk on the Southern Michigan market using the supply plant pooling standard. MMPA during February and March 1986, processed through its balancing plants about 86 percent of the market's reserve milk supply while its market share of producer milk was only 64 percent. This imbalance is expected to become more severe during the spring flush and summer months because other cooperative associations operating in the market lack sufficient manufacturing facilities.

Because of the above, it is inappropriate to maintain the qualification requirement for a cooperative association to deliver to distributing plants at least 50 percent of its members' producer milk in order to qualify its supply plants as pool plants under the order.

If the provisions were not suspended for the months of April through September 1986, MMPA likely would encounter considerable difficulty in pooling certain supply plants and the milk of producers who historically have been associated with the Southern Michigan fluid market. Without the suspension, milk would be shipped in an inefficient and costly manner merely to assure its continued pooling under the order. This would disrupt the orderly marketing of milk in the Southern Michigan marketing area.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

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(a) This suspension is necessary to reflect current marketing conditions in the marketing area in that substantial quantities of milk from producers who regularly supply the market otherwise could be excluded from the marketwide pool, or else shipped in an inefficient and costly manner, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views, or arguments concerning this suspension. No comments were filed.

Therefore, good cause exists for making this order effective upon publication in the Federal Register.

List of Subjects in 7 CFR Part 1040

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the following language in § 1040.7(b)(2) of the Southern Michigan order is suspended for the months of April through September 1986, as follows:

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

1. The authority citation for 7 CFR Part 1040 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1040.7 [Suspended in Part]

2. In 7 CFR Part 1040, the following words in § 1040.7(b)(2) are suspended: "if transfers from such supply plant to plants described in paragraph (b)(5) of this section and by direct delivery from the farm to plants qualified under paragraph (a) of this section are:"

3. In 7 CFR Part 1040, paragraphs (i) and (ii) in § 1040.7(b)(2) are suspended.

Effective date: April 28, 1986.

Signed at Washington, DC on: April 22, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 86–9460 Filed 4–25–86; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1094

Milk in the New Orleans-Mississippi Marketing Area; Order Suspending Certain Provision

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for the months of April through June 1986 the percentage of producer milk of members of a cooperative that must be delivered to a pool distributing plant in order for a cooperative association to qualify its plant as a pool plant under the New Orleans-Mississippi order for that month. The suspension was requested by a cooperative association with member-producers who supply milk for the market. Interested parties were invited to submit comments regarding the proposed suspension. No comments in opposition were received. The action is needed to ensure that dairy farmers who have historically supplied the fluid needs of the New Orleans-Mississippi market will share in the market's Class I milk sales during April through June 1986.

EFFECTIVE DATE: April 28, 1986.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–3060.

SUPPLEMENTARY INFORMATION: The Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers who have been historically associated with the market continues to have their milk priced under the order for April through June 1986 and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the New Orleans-Mississippi marketing area.

After consideration of all relevant material it is hereby found and determined that for the months of April through June 1986 the following provision of the order does not tend to effectuate the declared policy of the Act:

In § 1094.7(c), the provision "45 percent or more of the".

Statement of Consideration

This action removes for April through June 1986 the requirement that 45 percent of the producer milk of members of a cooperative association must be physically received at pool distributing plants during the month in order for a balancing plant operated by a cooperative association to qualify as a pool plant under the New Orleans-Mississippi milk order. The suspension was requested by Gulf Dairy Association, Inc., a cooperative association, for the months of March through June 1986. Proponent cooperative represents a large number of the market's producers.

This action is needed due primarily to a sudden reduction in Class I sales by a distributing plant that is supplied by proponent cooperative. The plant bottles a major portion of its bulk milk receipts under the same label as milk bottled by another plant in a nearby market. Some milk in such nearby market was contaminated with the pesticide heptachlor. As a consequence, consumers are reluctant to buy milk that is packaged under such label regardless of where such milk is bottled. Such action by consumers has lessened the amount of milk bottled by the plant that the cooperative supplies raw milk to and, thus, resulted in a reduction in Class I sales to the plant by the cooperative association.

The resulting loss of Class I sales has forced the cooperative to use in its balancing plant for the manufacture of cheese much of the milk supply previously associated with such Class I use. Such shift in the use of member milk of the cooperative will result in the cooperative not meeting the pooling requirement that 45 percent or more of the producer milk of members of the cooperative association must be physically received during the month at pool distributing plants. Consequently, unless the suspension action is granted, producers who have historically supplied the fluid milk needs of the market would not have their milk priced and pooled under the order.

Suspension action for the month of March was granted in a prior document. There was no opportunity to invite interested parties to comment on the suspension for March since the request was not received until March 28.

With regard to cooperative's request for suspension action for the additional months of April through June, interested parties were invited to submit comments. No comments in opposition were received.

It is hereby found and determined that thirty days' notice of the effective date hereof are impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that substantial quantities of milk of producers who regularly supply the market otherwise would be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk; and

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this suspension. No comments in opposition were received.

Therefore, good cause exists for making this order effective upon publication in the Federal Register.

List of Subjects in 7 CFR Part 1094

Milk marketing orders, Milk, Dairy Products.

It is therefore ordered, That the aforesaid provision in § 1094.7(c) of the New Orleans-Mississippi order is hereby suspended for April through June 1986.

PART 1094—MILK IN THE NEW ORLEANS-MISSISSIPPI MARKETING AREA

1. The authority citation for 7 CFR Part 1094 continues to read as follows:

Authority: Sec. 1–19, 48 Stat. 31, as amended; 7 U.S.C.601–674.

§ 1094.7 [Suspended in Part]

2. In § 1094.7(c) the provisions "45 percent or more of the" is suspended.

Effective Date: April 28, 1986.

Signed at Washington, DC, on: April 22, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 86–9461 Filed 4–25–86; 8:45 am]

BILLING CODE 3410-01-M

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7 CFR Part 1106

Milk in the Southwest Plains Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action continues through August 1986 a suspension of the 20-percent shipping standard in the Southwest Plains order that certain supply plants must meet to qualify as pool plants. The action was requested by a cooperative association and supported by two other cooperatives and the operator of a supply plant. These parties represent a substantial majority of the producers who supply milk for the market. This action, which extends a suspension of the supply plant shipping standard for March to meet emergency marketing conditions, is needed to ensure that dairy farmers who have historically supplied the fluid needs of the market will share in the market's Class I milk sales during the months of April through August 1986.

EFFECTIVE DATE: April 28, 1986.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Proposed Suspension: Issued March 28, 1986; published April 3, 1986 (51 FR 11453).

The Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers who have been historically associated with the market will continue to have their milk priced under the order for the months of April through August 1986 and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and of the order regulating the handling of milk in the Southwest Plains marketing area.

Notice of proposed rulemaking was published in the Federal Register on April 3, 1986 (51 FR 11453) concerning a proposed suspension of certain provisions of the order. Interested parties were afforded the opportunity to file written data, views and arguments. No comments opposing the proposed action were received.

After consideration of all relevant material, including the proposal in the notice and all other available information, it is hereby found and determined that for the months of April through August 1986 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1106.7(b)(1), the words "until any month of such period in which less than 20 percent of the milk received or diverted as previously specified, is shipped to plants described in paragraph (a) of this section. A plant not meeting such 20 percent requirement in any month of such February-August period shall be qualified in any remaining month of such period only if transfers and diversions pursuant to paragraph (b)(2) of this section to plants described in paragraph (a) of the section are not less than 50 percent of receipts or diversions, as previously specified."

Statement of Consideration

This action continues through August 1986 a suspension of the 20-percent shipping standard that certain supply plants must meet to qualify as pool plants under the Southwest Plains order.

The current order provides that a supply plant which qualified as a pool plant during each of the immediately preceding months of September through January shall continue to be a pool plant during the following months of February through August if at least 20 percent of the supply plant's receipts are shipped to distributing plants.

The proposal to suspend the shipping standard for the months of April through August 1986 was made by Mid-America Dairymen, Inc. (Mid-Am). The action is supported by two other cooperative associations and the operator of a supply plant at Bentonville, Arkansas. These organizations represent a substantial majority of the market's producers.

Because of the emergency marketing conditions that resulted from a pesticide problem, the 20-percent standard was suspended for March. An extension of the action for March is needed because handlers operating fluid milk plants that are regulated under the order are still refusing to accept any milk produced in Arkansas because some of the milk supply has been found to contain the pesticide heptachlor. As a result, a substantial number of dairy herds in Arkansas have been quarantined. Although milk from these farms is not being marketed, the operators of the fluid bottling plants want to avoid the risk of receiving contaminated milk and are refusing to accept any milk produced on other farms in the area.

In its comments Mid-Am stated that, although no new herds have been quarantined recently, adverse publicity associated with the pesticide situation has resulted in distributing plants continuing to not accept milk from the Arkansas area.

The milk supply for fluid plants that normally originates on farms in Arkansas has been replaced by milk from other states and the Arkansas produced milk that is normally received at the Bentonville supply plant for shipment to distributing plants continues to be without a fluid-use market. Since the magnitude and duration of the pesticide problem is not specifically known at this time, an extension of the current suspension will permit Arkansas producers who have historically supplied the market's fluid

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milk needs to continue to have their April–August milk production priced and pooled under the order.

It is hereby found and determined that thirty day's notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that without such action substantial quantities of milk of producers who have regularly supplied the market's fluid needs would be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given to interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No views opposing such action were received.

Therefore, good cause exists for making this order effective upon publication in the Federal Register.

List of Subjects in 7 CFR Part 1106

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions in § 1106.7(b)(1) of the Southwest Plains order are hereby suspended for the months of April through August 1986.

PART 1106—MILK IN THE SOUTHWEST PLAINS MARKETING AREA

1. The authority citation for 7 CFR Part 1106 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

§ 1106.7 [Suspended in Part]

2. In § 1106.7(b)(1), the words "until any month of such period in which less than 20 percent of the milk received or diverted as previously specified, is shipped to plants described in paragraph (a) of this section. A plant not meeting such 20 percent requirement in any month of such February–August period shall be qualified in any remaining month of such period only if transfers and diversions pursuant to paragraph (b)(2) of this section to plants described in paragraph (a) of the section are not less than 50 percent of receipts or diversions, as previously specified." are suspended.

Effective Date: April 28, 1986.

Signed at Washington, DC, on: April 22, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 86-9459 Filed 4-25-86; 8:45]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 166

[Docket No. 86-063]

Swine Health Protection Provisions; Kentucky

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which removed Kentucky from the list of States that have primary enforcement responsibility under the Swine Health Protection Act (the Act) and added Kentucky to the list of States that do not have primary enforcement responsibility under the Act but, under cooperative agreements with the Animal and Plant Health Inspection Service, issue licenses to persons desiring to operate a treatment facility for garbage that is to be treated and fed to swine. This amendment was made pursuant to a request from Kentucky and section 10 of the Act. The intended effect of this amendment is to help ensure that certain requirements for the feeding of garbage to swine under the Act are enforced in Kentucky and thereby help prevent the dissemination of certain swine diseases.

EFFECTIVE DATE: April 28, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. L. W. Schnurrenberger, Special Diseases Staff, VS, APHIS, USDA, Room 822, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436-8487.

SUPPLEMENTARY INFORMATION:

Background

A document published in the Federal Register on January 16, 1986 (51 FR 2347–2348), amended the "Swine Health Protection Provisions" regulations in 9 CFR Part 166 with respect to Kentucky. Pursuant to a request from Kentucky and pursuant to the requirements of section 10 of the Swine Health Protection Act (the Act), the document removed Kentucky from the list of States that have primary enforcement responsibility under the Act and added Kentucky to the list of States that do not have primary enforcement responsibility under the Act but, under cooperative agreements with the Animal and Plant Health Inspection Service, issue licenses to persons desiring to operate a treatment facility for garbage that is to be treated and fed to swine.

The interim rule became effective upon publication. Comments were solicited for 60 days following publication. No comments were received. The factual situation which was set forth in the interim rule still provides a basis for the amendment.

Executive Order 12291 and Regulatory Flexibility Act

This action is issued in conformance with Executive Order 12291 and has been determined to be not a major rule. Based on information compiled by the Department, it has been determined that this action will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Persons who operate facilities for the treatment of garbage to be fed to swine and certain persons who feed or permit the feeding of garbage to swine are required to be regulated because of the Swine Health Protection Act. Almost all persons who operate facilities for the treatment of garbage to be fed to swine or who feed or permit the feeding of garbage to swine would be considered small entities. Further, the amendments affirmed by this document will affect less than one percent of such persons who operate facilities for the treatment of garbage to be fed to swine and less than one percent of such persons who feed or permit the feeding of garbage to swine.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR 3015, Subpart V).

List of Subjects in 9 CFR Part 166

African swine fever, Animal diseases, Foot-and-mouth disease, Garbage, Hog cholera, Hogs, Swine vesicular disease, Vesicular exanthema of swine.

PART 166—SWINE HEALTH PROTECTION

Accordingly, the interim rule amending § 166.14 of 9 CFR 166, published in the Federal Register at 51 FR 2347–2348 on January 16, 1986, is adopted as a final rule.

Authority: 7 U.S.C. 3802, 3803, 3804, 3806, 3809, 3811; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, DC, this 23rd day of April 1986.

Billy G. Johnson,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 86-9462 Filed 4-25-86; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221 and 224

Securities Credit Transactions; Regulations G, T, U and X

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The List of Marginable OTC Stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List is published from time to time by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published List effective February 11, 1986 and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: May 13, 1986.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Research Assistant, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202)–452–2781, or Joy W. O'Connell, Telecommunication Device for the Deaf (TDD) (202)–452–3244.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of Marginable OTC Stocks. A copy of the complete List incorporating these additions and deletions was filed with the original of this document. This List supersedes the last complete List which was effective February 11, 1986 (51 FR 3938, January 31, 1986). The List includes those stocks that the Board of Governors has found meet the criteria specified by the Board and thus have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant incorporating such stocks within the requirements of Regulations G, T, U and X (12 CFR 207, 220, 221 and 224, respectively). It also includes, as a result of an amendment to the margin regulations (49 FR 35756, September 12, 1984), any stock designated under an SEC rule as qualified for trading in a national market system (NMS Security). The List of Marginable OTC Stocks, as it is now called, is a composite of the List of OTC Margin Stocks and all NMS securities. Additional OTC securities may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable at broker-dealers upon the effective date of their designation. The names of these securities are available at the Board and the Securities and Exchange Commission and will be subsequently incorporated into the Board's next quarterly List. Copies of the current List may be obtained from any Federal Reserve Bank.

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the List specified in 12 CFR 207.6(a) and (b), 220.17(a) and (b), and 221.7(a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible. The Board has responded to a request by the public and allowed a two-week delay before the List is effective.

List of Subjects

12 CFR Part 207

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS security), Reporting requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, National Market System (NMS security), Reporting requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, Securities, National Market System (NMS security), Reporting requirements.

12 CFR Part 224

Banks, Banking, Borrowers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with § 207.2(k) and 6(c) of Regulation G, § 220.2(s) and 17(c) of Regulation T, and § 221.2(j) and 7(c) of Regulation U, there is set forth below a listing of additions to and deletions from the Board's List:

Additions to the List

ADMAC INC.
$.01 par common
ARC INTERNATIONAL CORPORATION
No par common
AID CORPORATION
No par common
AKTIEBOLAGET SKF
American Depository Receipts (Sek 50 per shares)
ALEX. BROWN INCORPORATED
$.10 par common
ALL AMERICAN GOURMET COMPANY
$.10 par common
AMERICAN NUCLEAR CORPORATION
$.04 par common
AMERICAN NUCLEONICS CORPORATION
$.03–1/3 par common
AMERICAN SAVINGS BANK, FSB (New York)
No par cumulative convertible preferred
AMERTEK, INC.
No par common
ANALYSIS & TECHNOLOGY, INC.
$.125 par common
AUTODIE CORPORATION
$.05 par common
BANCORP OF MISSISSIPPI, INC.
$2.50 par common
BASE TEN SYSTEMS, INC.
Class B, $1.60 par common

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BIO-LOGIC SYSTEMS CORP.
$.01 par common
BOGERT OIL COMPANY
$.01 par common
BROADWAY FINANCIAL CORPORATION
No par common
CNB BANCSHARES, INC.
No par common
CADNETIX CORPORATION
$.01 par common
CAPE COD BANK AND TRUST COMPANY
$20.00 par capital
CENTERBANC SAVINGS ASSOCIATION
$2.00 par common
CENTRUST SAVINGS BANK (Florida)
$.01 par common
CENTURY COMMUNICATIONS CORP.
Class A, $.01 par common
CHESAPEAKE INDUSTRIES, INC.
$1.00 par common
CHEYENNE SOFTWARE INC.
$.01 par common
COLOR SYSTEMS TECHNOLOGY, INC.
$.15 par common
COMPUCHEM CORPORATION
$.01 par common
CONCURRENT COMPUTER CORPORATION
$.01 par common
CONGRESS VIDEO GROUP, INC., THE
$.10 par common
Warrants (expire 07-15-92)
CONSERVATIVE SAVINGS BANK (Nebraska)
$.01 par common
CONTINUING CARE ASSOCIATES, INC.
$.01 par common
CORNERSTONE FINANCIAL CORPORATION
No par common
CRAFTMATIC/CONTOUR INDUSTRIES, INC.
$.01 par common
CROSBY, PHILIP ASSOCIATES, INC.
$.01 par common
CROWN ANDERSON INC.
$.10 par common
EMC CORPORATION
$.01 par common
EL POLLO ASADO, INC.
No par common
EXAR CORPORATION
No par common
FAMILY STEAK HOUSES OF FLORIDA, INC.
$.01 par common
FIGGIE INTERNATIONAL HOLDINGS INC.
Class A, $.10 par common
FINANCIAL NEWS NETWORK, INC.
No par common
FIRST ALBANY COMPANIES INC.
$.01 par common
FIRST EXECUTIVE CORPORATION
Series D, $1.00 par cumulative convertible preferred
Series E, $1.00 par depository preferred
Series G, $1.00 par cumulative convertible preferred
Warrants (expire 11-15-90)
FIRST FAMILY GROUP, INC.
No par common
FIRST FEDERAL SAVINGS & LOAN ASSOCIATION OF COEUR D'ALENE
$1.00 par common
FIRST FEDERAL SAVINGS OF ARKANSAS, F.A.
$.01 par common
FIRST MUTUAL SAVINGS BANK (Washington)
$1.00 par common
FLORIDA EXPRESS, INC.
$.01 par common
FRANKLIN SAVINGS & LOAN ASSOCIATION (Michigan)
$8.00 par common
GV MEDICAL, INC.
$.05 par common
GOOD GUYS, INC., THE
$.01 par common
GREAT COUNTRY BANK (Connecticut)
$1.00 par common
GREENERY REHABILITATION GROUP, INC.
$.01 par common
HAMMER TECHNOLOGIES, INC.
$.001 par common
HANSON, JOHN, SAVINGS & LOAN, INC.
$1.00 par common
HARVARD SECURITIES GROUP, PLC
American depository receipts for ordinary shares (par value 2p)
HEEKIN CAN, INC.
$.01 par common
HENRY, JACK & ASSOCIATES, INC.
$.01 par common
HODGSON HOUSES, INC.
$.01 par common
HOME & CITY SAVINGS BANK (New York)
$1.00 par common
HOSPOSABLE PRODUCTS, INC.
$.01 par common
Warrants (expire 02-02-89)
HUTCHINSON TECHNOLOGY INC.
$.02 par common
IFR SYSTEMS, INC.
$.01 par common
INDUSTRIAL TRAINING CORPORATION
$.10 par common
INTERNATIONAL AMERICAN HOMES, INC.
$.01 par common
INTERNATIONAL LEASE FINANCE CORPORATION
Series A, no par cumulative convertible preferred
INTERNATIONAL MOBILE MACHINES CORPORATION
$.10 par convertible preferred
Warrants (expire 08-05-88)
ISCO, INC.
$.10 par common
KINGS ROAD ENTERTAINMENT, INC.
$.01 par common
LINCOLN SAVINGS BANK (Pennsylvania)
$1.00 par common
LINDAL CEDAR HOMES, INC.
$1.00 par common
LINEAR FILMS, INC.
$1.00 par common
LIVINGWELL, INC.
$.10 par common
MEDICAL HOMECARE, INC.
$.01 par common
MEDICAL IMAGING CENTERS OF AMERICA, INC.
No par common
MEYERS PARKING SYSTEM, INC.
$.10 par common
MICHAELS, J., INC.
$1.00 par common
MICRON TECHNOLOGY, INC.
14% convertible subordinated debentures
MICROSOFT CORPORATION
$.001 par common
NATIONAL FSI, INC.
$.01 par common
NATIONAL HEALTHCARE, INC.
$.01 par common
NATIONAL SAVINGS BANK OF ALBANY
$1.00 par common
NORTH SIDE SAVINGS BANK (New York)
$1.00 par common
NORTHEAST SAVINGS, F.A. (Connecticut)
Series A, $2.25 cumulative convertible preferred
OMI CORP.
$.50 par common
OLIVER'S STORES, INC.
$.01 par common
OPEN AIR MARKETS, INC.
$.05 par common
ORACLE SYSTEMS CORPORATION
No par common
PAN AMERICAN MORTGAGE CORP.
$1.00 par common
PAPER CORPORATION OF AMERICA
Series B, $.01 par preferred stock
PATTEN CORPORATION
$.01 par common
PEANUT SHACK OF AMERICA, INC., THE
$.02 par common
PEOPLES BANK (North Carolina)
$5.00 par capital
PIPER JAFFRAY INCORPORATED
$1.00 par common
POLYCAST TECHNOLOGY CORPORATION
$.01 par common Warrants (expire 08-01-92)

PRESENT COMPANY, INC.
$.10 par common
PRICE/STERN/SLOAN PUBLISHERS, INC.
No par common
PRICE, T. ROWE ASSOCIATES, INC.
$.20 par common
PRISM ENTERTAINMENT CORPORATION
$.01 par common
RONSON CORPORATION
$1.00 par common
ROWLEY-SCHER REPROGRAPHICS, INC.
$.01 par common
SANFORD CORPORATION
$.01 par common
SATELLITE MUSIC NETWORK, INC.
$.10 par common
SIERRA CAPITAL REALTY TRUST IV
No par common
SOUTHERN HOME SAVINGS BANK (Florida)
$1.60 par common
SPEC'S MUSIC, INC.
$.01 par common
SPROUSE-REITZ STORES, INC.
$10.00 par common
SUN MICROSYSTEMS, INC.
$.00667 par common
SUNGARD DATA SYSTEMS, INC.
$.01 par common
SUTRON CORPORATION
$.01 par common
SYNERGEN, INC.
$.01 par common
TSO FINANCIAL CORP.
$.01 par common
TVX BROADCAST GROUP, INC.
$.01 par common
TECHNOLOGY DEVELOPMENT CORPORATION
$.01 par common
TELECOMMUNICATIONS NETWORK, INC.
$.01 par common
TOPS MARKETS, INC.
$.01 par common
TUESDAY MORNING, INC.
$.01 par common
20TH CENTURY INDUSTRIES
No par common
UNITED SAVINGS BANK (Virginia)
$5.00 par common
U.S. INTEC, INC.
$.02 par common
U.S. PLAYING CARD CORP.
$.10 par common Warrants (expire 06-15-90)
VWR CORPORATION
$1.00 par common
VERONEX RESOURCES, LTD.
No par common
VULCAN INDUSTRIAL PACKAGING LIMITED
No par common
WAREHOUSE CLUB, INC.
$.10 par common
WARWICK INSURANCE MANAGERS, INC.
No par common
WHOLESALE CLUB, INC., THE
$1.00 par common

Delations From List

Stocks Removed for Failing Continued Listing Requirements

ACAPULCO RESTAURANTS
$.10 par common
ADVANCED ENERGY CORPORATION
$.01 par common
AMERICAN MONITOR CORPORATION
No par common
ART'S WAY MANUFACTURING COMPANY, INC.
No par common
COMPAQ COMPUTER CORPORATION
9-¼% convertible subordinate debentures
CRESTEK, INC.
$.01 par common
DECISION SYSTEMS, INC.
$.25 par common
E-H INTERNATIONAL, INC.
No par common
FRASER REALTY GROUP, INC.
No par common
GENETIC ENGINEERING, INC.
$.01 par common
GEORESOURCES, INC.
$.01 par common
GERBER SYSTEMS TECHNOLOGY, INC.
$.02 par common
GREAT SOUTHWEST INDUSTRIES CORP.
$.10 par common
HCW, INC.
$.10 par common
HALE SYSTEMS, INC.
No par common
HELIONETICS, INC.
Warrants (expire 11-30-87)
HOUSTON OIL FIELDS COMPANY
$.10 par common
ITEL CORPORATION
Warrants (expire 09-15-89)
KING INTERNATIONAL CORPORATION
$1.00 par common
MAGNETICS INTERNATIONAL, INC.
No par common
MATHEMATICAL APPLICATIONS GROUP, INC.
$.05 par common
NATIONAL CITY CORPORATION
Series A, no par convertible preferred
NATURE'S SUNSHINE PRODUCTS, INC.
$.002 par common
NEW AMERICA FUND, INC.
$1.00 par common
NICKLOS OIL & GAS COMPANY
$.66 par common
OCM LIQUIDATING CORPORATION
$.50 par common
1 POTATO 2, INC.
$.01 par common
OXOCO, INC.
$.10 par common
$1.00 par cumulative convertible preferred
PENINSULA FEDERAL SAVINGS & LOAN ASSOCIATION (Florida)
$1.00 par common
PERSONAL COMPUTER PRODUCTS, INC.
$.01 par common
PHARMAKINETICS LABORATORIES, INC.
$.001 par common
Warrants (expire 10-28-87)
ROOSEVELT NATIONAL INVESTMENT COMPANY
Class A, $1.00 par common
SAGE-ALLEN & CO., INC.
$.10 par common
SCAN OPTICS, INC.
Warrants (expire 02-12-89)
TECHTRAN INDUSTRIES INC.
$.01 par common
TESDATA SYSTEMS CORPORATION
$.01 par common
TEXON ENERGY CORPORATION
$.20 par common
TIME ENERGY SYSTEMS, INC.
$.01 par common
ZENITH NATIONAL INSURANCE COMPANY
Warrants (expire 10-15-88)

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

AFG INDUSTRIES, INC.
$1.00 par common
ALPINE GROUP, INC.
$.10 par common
ANDERSON 2000, INC.
$.25 par common
AUDIO/VIDEO AFFILIATES, INC.
$.01 par common
AVIATION GROUP, INC., THE
$.10 par common
CANNON GROUP, INCORPORATED, THE
$.01 par common
CARDIS CORPORATION
$.75 par common
CARLSBERG CORPORATION
$.25 par common
CITIZENS AND SOUTHERN CORPORATION, THE (South Carolina)
$2.50 par common
8¾% convertible subordinate debentures
COMMONWEALTH NATIONAL FINANCIAL CORPORATION (Harrisburg)
$5.00 par common
COMMUNICATIONS INDUSTRIES, INC.
$.50 par common
COMPUTRAC, INC.

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$.10 par common
DOMINION MORTGAGE & REALTY TRUST
$.10 par shares of beneficial interest
DONOVAN COMPANIES, INC.
Class A, $1.00 par common
EDGCOMB STEEL OF NEW ENGLAND, INC.
$2.50 par common
EMPIRE AIRLINES, INC.
$.40 par common
ENDEVCO, INC.
$.10 par common
FIRST CONNECTICUT BANCORP, INC.
$10.00 par common
FRANKLIN BANCORP
$3.50 par common
GENETIC SYSTEMS CORPORATION
$.01 par common
HERITAGE ENTERTAINMENT, INC.
$.01 par common
HOME FEDERAL SAVINGS & LOAN ASSOCIATION (Arizona)
$.01 par common
HYBRITECH INCORPORATED
No par common
IPC COMMUNICATIONS, INC.
Class A, $.01 par common
IVB FINANCIAL CORPORATION
$5.00 par common
INTERCONTINENTAL DYNAMICS CORPORATION
$.10 par common
KAPPA NETWORKS, INC.
No par common
LANDMARK SAVINGS ASSOCIATION (Pennsylvania)
$1.00 par common
LEXIDATA CORPORATION
$.01 par common
MTV NETWORKS, INC.
$.01 par common
MERRILL BANKSHARES COMPANY
$2.00 par common
PRICE COMMUNICATIONS CORPORATION
$.01 par common
PROVIDENT INSTITUTION FOR SAVINGS
$1.00 par common
SOUTHERN BANCORPORATION, INC.
$2.50 par common
SUBURBAN BANCORP
$5.00 par common
TELEPICTURES CORPORATION
$.01 par common
UNITED BANK, S.S.B.
No par common
VAIL ASSOCIATES, INC.
No par common
VAN DUSEN AIR, INC.
$1.00 par common
WESTERN STATES LIFE INSURANCE COMPANY
$1.00 par common
WOOD BROS. HOMES, INC.
$.01 par common
ZENITH LABORATORIES, INC.
$.09 par common
ZETA LABORATORIES, INC.
No par common

By order of the Board of Governors of the Federal Reserve System acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(18)), April 25, 1986.

William W. Wiles,
Secretary of the Board.

[FR Doc. 86-9361 Filed 4-25-86; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-AWA-4]

Establishment of Airport Radar Service Areas

Correction

In FR Doc. 86-5115 beginning on page 8284 in the issue of Monday, March 10, 1986, make the following correction:

On page 8290, in the second column, eighth line, "charge" should read "change".

BILLING CODE 1505-01-M

14 CFR Part 71

[Airspace Docket No. 85-AWA-5]

Establishment of Airport Radar Service Areas

Correction

In FR Doc. 86-7686 beginning on page 11886 in the issue of Monday, April 7, 1986, make the following corrections:

1. On page 11888, in the second column, second paragraph, sixth line, "of" should read "for".

2. On page 11890, in the first column, first full paragraph, second line, "designators" should read "designations".

BILLING CODE 1505-01-M

14 CFR Part 71

[Airspace Docket No. 85-AWA-50]

Alteration of VOR Federal Airway V-532; Kansas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of Federal Airway V-532 by extending that airway from Salina, KS, direct to Lincoln, NE. Pilots routinely request direct routing between Salina and Lincoln. This expedites traffic, aids flight planning, and saves fuel by eliminating the current dogleg via Pawnee City, NE.

EFFECTIVE DATE: 0901 G.m.t., July 3, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-8628.

SUPPLEMENTARY INFORMATION:

History

On January 30, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of VOR Federal Airway V-532 by extending the airway from Salina, KS, direct to Lincoln, NE, (51 FR 3796). Pilots routinely request direct routing between Salina and Lincoln. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the description of VOR Federal Airway V-532 by extending that airway from Salina, KS, direct to to Lincoln, NE. The Minneapolis Air Route Traffic Control Center has received numerous requests for direct routing from Lincoln to Salina. In order to assist users, the FAA has designated VOR Federal Airway V-532 as a direct route between Salina and Lincoln. This action saves fuel, reduces controller workload and aids flight planning.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.123 is amended as follows:

V-532 [Amended]

By removing the words "to Salina." and by substituting the words "Salina; to Lincoln, NE."

Issued in Washington, D.C., on April 21, 1986.

James Burns, Jr.,
Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-9353 Filed 4-25-86; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 85-ANM-33]

Alteration of VOR Federal Airway V-491 and Establishment of V-589; Wyoming

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Federal Airway V-491 by renumbering the segment between Medicine Bow and Casper, WY, to V-589. The current description of V-491 creates some confusion because it is segmented by ending at Casper, WY, and does not begin again until Rapid City, SD. This action eliminates that confusion and simplifies flight planning through the area.

EFFECTIVE DATE: 0901 G.m.t., July 3, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On February 27, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of V-491 by renumbering the segment between Medicine Bow and Casper, WY, to V-589 (51 FR 6918). The current description creates confusion because the airway is segmented. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations amends VOR Federal Airway V-491 by renumbering the segment between Medicine Bow and Casper, WY, to V-589. V-491 begins at Medicine Bow and ends at Casper, WY. Then, V-491 does not begin again until Rapid City, SD. This action eliminates the confusion when referencing V-491 because it is segmented and simplifies flight planning through the area.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.123 is amended as follows:

V-491 [Amended]

By removing the words "From Medicine Bow, WY; INT Medicine Bow 336° and Casper 216° radials; to Casper, WY."

V-589 [New]

From Medicine Bow, WY, via INT Medicine Bow 336° and Casper, WY, 216° radials; to Casper.

Issued in Washington, D.C., on April 21, 1986.

James Burns, Jr.,
Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-9352 Filed 4-25-86; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM 79-14]

Natural Gas Policy Act; Incremental Pricing Acquisition Cost Thresholds

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order Prescribing Incremental Pricing Thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the National Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: May 1, 1986.

FOR FURTHER INFORMATION CONTACT: Raymond A. Beirne, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, DC 20426, (202) 357-8500

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Order of the Director, OPPR

Issued: April 23, 1986.

Section 206 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of May 1986 are issued by the publication of a price table for the month. The incremental pricing acquisition cost threshold prices for months prior to those reflected on the table are found in § 282.304.

The incremental pricing threshold for May, 1986 reflect a two-month lag adjustment described in the notice of the March 1, 1986 thresholds.

List of Subjects in 18 CFR Part 282

Natural gas.

Raymond A. Beime,

Acting Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

(Calendar year 1985)

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Incremental pricing threshold	$2.378	$2.378	$2.389	$2.399	$2.399	$2.410	$2.421	$2.427	$2.433	$2.439	$2.446	$2.453
NGPA section 102 threshold	3.859	3.880	3.911	3.892	3.892	3.992	4.032	4.045	4.086	4.091	4.116	4.141
NGPA section 109 threshold	2.452	2.457	2.462	2.467	2.478	2.489	2.500	2.506	2.512	2.518	2.525	2.532
130 pct. of No. 2 fuel oil in New York City threshold	7.170	7.310	7.080	6.980	7.210	7.120	7.400	7.000	6.520	6.830	6.940	7.140

(Calendar year 1986)

	Jan.	Feb.	Mar.	Apr.	May							
Incremental pricing threshold	$2.460	$2.467	$2.474	$2.481	$2.487							
NGPA section 102 threshold	4.166	4.191	4.216	4.241	4.264							
NGPA section 109 threshold	2.539	2.546	2.553	2.460	2.565							
130 pct. of No. 2 fuel oil in New York City threshold	7.370	7.930	6.040	5.290	4.680							

[FR Doc. 86-9456 Filed 4-25-86; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 86-61]

Withdrawal of Customs Regulations Amendments Relating to Cancellation of Temporary Importation Bonds

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of withdrawal.

SUMMARY: This documents withdraws amendments to the Customs Regulations which would have eliminated the requirement that Customs officers examine merchandise imported temporarily under bond or under an A.T.A. carnet, before exportation, and supervise the exportation process in order to have the temporary importation bond or carnet canceled. Proof of exportation would have been verified by documentary evidence ordinarily submitted to Customs.

It has now been determined that while these amendments would have eased Customs workload and been of some benefit to importers, the changes could have compromised enforcement efforts.

DATE: Withdrawal effective April 28, 1986.

FOR FURTHER INFORMATION CONTACT: Arnold Sarasky, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8648).

SUPPLEMENTARY INFORMATION:

Background

Under the provisions of Schedule 8, Part 5, Subpart C, Tariff Schedules of the United States (19 U.S.C. 1202), certain classes of articles, when not imported for sale or sale on approval, may be admitted to the U.S. without the payment of duty by furnishing Customs with a bond providing for exportation of the articles under Customs supervision. The Customs Regulations governing these temporary importations under bond are found in § 10.31 *et seq.* (19 CFR 10.31 *et seq.*) These regulations, as well as those in Part 114, Customs Regulations (19 CFR Part 114), also govern importations made under an A.T.A. carnet, which is an international customs document which may be used for the temporary duty-free importation of certain articles into a country in lieu of the usual customs documents required. The carnet serves as a guarantee for the payment of duties which may become due on articles temporarily imported and not exported.

Pursuant to § 10.38(a), Customs Regulations (19 CFR 10.38(a)), an "Application for Exportation of Articles Under Special Customs Bond", Customs Form 3495, must be filed with the district director a sufficient length of time in advance of the date on which articles entered under a temporary importation bond or carnet are to be exported. This requirement permits Customs to examine and identify the articles if circumstances warrant examination. Customs is required to supervise the exportation process.

Section 10.39, Customs Regulations (19 CFR 10.39), sets forth the procedures for cancellation of bonds.

Because of increased demands for Customs Service and decreased staffing, it was believed that the requirements of supervision and examination were unrealistic and not necessary. Accordingly, by a document published in the **Federal Register** as T.D. 85-40 on March 12, 1985 (50 FR 9797), §§ 10.38 and 10.39 were amended to eliminate the requirement that Customs officers examine articles imported temporarily under bond or an A.T.A. carnet, before exportation, and supervise the exportation process in order to have the bond or carnet canceled. The amendments provided that documentary evidence ordinarily submitted to Customs, which shows that the articles were exported, would be considered adequate proof of exportation.

As explained in T.D. 85-40, the procedure for allowing the submission of documentary evidence as proof of exportation was already in effect in Customs field offices by virtue of notification given the field offices on April 3, 1981. Shortly thereafter, by T.D. 81-124, published in the Customs Bulletin on May 20, 1981, the public was informed that the requirements of §§ 10.38 and 10.39, Customs Regulations, were being suspended at the importer's option of presenting documentary proof of exportation. T.D. 81-124 was not published in the **Federal Register.**

T.D. 85-40 provided that the amendments to §§ 10.38 and 10.39 were to become effective on April 11, 1985. However, because of concern that the changes could have compromised enforcement efforts, by notice published in the **Federal Register** as T.D. 85-66 on April 10, 1985 (50 FR 14093), the effective date of the amendments was delayed indefinitely.

After consideration of comments received from our field offices in regard to this change and further review of this matter, it has been determined advisable to withdraw T.D. 85-40 and the proposal published in the **Federal Register** on September 9, 1983 (48 FR 40738). It has also been decided to rescind T.D. 81-124 inasmuch as there is now no basis for permitting the procedures allowed by this rule.

This existing §§ 10.38 and 10.39, Customs Regulations, therefore, will remain in effect. This, the Customs Form 3495 must be filed with the district director and Customs will retain the option of examining the merchandise imported temporarily under bond or carnet, before exportation, and supervising its exportation.

Drafting Information

The principal author of this document was Susan Terranova, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: April 21, 1986.

Alfred R. De Angelus,

Acting Commissioner of Customs.

[FR Doc. 86-9428 Filed 4-25-86; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 83F-0116]

Indirect Food Additives: Adjuvants, Production Aids and Sanitizers; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the final rule that amended the food additive regulations to provide for additional safe uses of tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane as an antioxidant and/or stabilizer in various food-contact applications. This document corrects a numbering error in the list of limitations.

FOR FURTHER INFORMATION CONTACT: Agnes Black, Chief, Regulations Editorial Staff (HFC-222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 85-13138 appearing in the issue of June 3, 1985, in the third column on page 23296, amendment "2." is corrected to read: "2. In § 178.2010(b) by adding new entries 12 through 20 to the list of limitations for 'Tetrakis-[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane' to read as follows:"

Dated: April 15, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-9363 Filed 4-25-86; 8:45 am]

BILLING CODE 4160-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2640 and 2648

Redetermination of Withdrawal Liability Upon Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule correction.

SUMMARY: This document corrects the final rule on the redetermination of withdrawal liability upon a mass withdrawal and the accompanying definitions that appeared in the **Federal Register** of Tuesday, March 25, 1986 at 51 FR 10314. This action is needed to correct typographical errors and to add the citations for other regulations referred to in this rule and in the definitions applicable to this rule.

FOR FURTHER INFORMATION CONTACT: Ellan H. Spring, Corporate Policy and Regulations Department (35100), 2020 K St., NW., Washington, D.C. 20006, 202-956-5051 (202-956-5059 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The following corrections are made in FR Doc. 86-6119, appearing at page 10314 in the issue of March 25, 1986:

1. On page 10317, column 3, the definition of "(u)nfunded vested benefits" in § 2640.7 is corrected by deleting "multiemployer" preceding "valuation regulation" and inserting in its place "mass withdrawal" and by deleting the period at the end and adding in its place "(29 CFR Part 2676)."

2. On page 10317, column 3, the heading for Part 2648 is corrected by adding "REDETERMINATION OF" immediately before "WITHDRAWAL LIABILITY".

3. On page 10318, column 3, § 2648.3(c) is corrected by removing "very" in the 13th line and replacing it with "every", and § 2648.3(c)(3) is corrected by inserting "not" immediately after "(t)he plan sponsor has".

4. On page 10319, column 1, § 2648.5 is corrected by changing the reference to "section 4209(c)(1)(A)(ii)" to "section 4219(c)(1)(A)(ii)".

5. On page 10321, column 3, § 2648.8(g)(6)(i) is corrected by deleting "multiemployer" preceding "valuation regulation" and inserting in its place "mass withdrawal" and by deleting the semicolon and adding in its place "(29 CFR Part 2676);".

6. On page 10322, column 1, § 2648.9(g) is corrected by changing the reference to "§ 2648.7(g)(1)-(g)(3)" to "§ 2648.8(g)(1)-(g)(3)".

Issued in Washington, D.C. this 21st day of April, 1986.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86-9393 Filed 4-25-86; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 210, 212, and 218

Information Collection; Solid Minerals

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

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SUMMARY: This final rule describes the information collection necessary to start up and operate the MMS's new Auditing and Financial System for solid minerals. The information to be collected is required from lessees, lease operators and payors to provide comprehensive sales and royalty data on coal and other solid minerals produced from leased Federal and Indian lands. The data is used to document payments, to maintain royalty accounts, and for audits.

EFFECTIVE DATE: June 20, 1986. See discussion of effective date in the Supplementary Information section.

FOR FURTHER INFORMATION CONTACT: Dennis Whitcomb, Telephone: (303) 231-3432, (FTS) 328-3432.

SUPPLEMENTARY INFORMATION: The principal authors of this final rulemaking are Mr. Geary Keeton and Mr. Billie Clark of the Minerals Management Service, Lakewood, Colorado.

I. Background

The Department of the Interior (DOI) is charged with the responsibility for the collection, analysis and distribution of royalty payments on minerals produced from leased Federal and Indian lands. The Royalty Management Program is administered by the Department's Minerals Management Service (MMS).

To fulfill its responsibilities, the MMS is using two comprehensive integrated accounting systems, the Auditing and Financial System (AFS) and the Production Accounting and Auditing System (PAAS).

The AFS is a revenue accounting system which monitors royalties and related information reported by the lessees or operators of record who are required to pay rentals and royalties. The PAAS is a production accounting system which monitors minerals production and disposition from the source to the point of royalty determination. These systems are designed to implement the 1982 recommendation of the Commission on Fiscal Accountability of the Nation's Energy Resources (Linowes Commission), and depart substantially from the previous Royalty Accounting System (RAS) they are replacing. In addition to providing the controls and capabilities of modern accounting systems, these new systems embody the "modified Internal Revenue Service (IRS) concept" of accepting royalty and sales information as correct subject to audit. The two systems operate independently, but at the same time information from AFS is compared with information from PAAS to assure that minerals produced on Federal and Indian lands are properly accounted for and that appropriate royalties on those minerals are paid.

In concert with the MMS Royalty Management responsibilities, the Bureau of Land Management (BLM) is responsible for the verification of production upon which royalties are payable. This rule does not revise the BLM production verification responsibility.

In response to the Linowes Commission report, Congress enacted the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 *et seq.*). The Act requires the Secretary of the Interior to ". . . establish a comprehensive inspection, collection and fiscal and production accounting and auditing system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other payments owed, and to collect and account for such amounts in a timely manner" (30 U.S.C. 1711(a)). For solid minerals, the Act requires the Secretary to "study the question of the adequacy of royalty management for coal, uranium and other energy and nonenergy minerals . . ." (30 U.S.C. 1752(a)). Such a study was undertaken and a conclusion was reached that in order to comply with the intent of Congress to provide adequate controls to accurately determine royalties and other amounts due, the AFS and PAAS systems should be extended to cover solid minerals royalty management in addition to oil and gas. An examination of existing laws regarding solid minerals royalty management concluded that new legislation is not required to extend PAAS and AFS to cover solid minerals. MMS already has adequate authority under the mineral leasing laws to obtain from lessees the information necessary to determine and account for royalty payments.

This rulemaking, therefore, serves to implement the recommendation of the solid minerals royalty management study by placing solid minerals under the AFS. A separate rulemaking would also place solid minerals under PAAS after the publication of the PAAS regulations. (See 51 FR 8168, March 7, 1986.)

Under the AFS, payors are required to report oil and gas royalty data on Form MMS-2014 and payor information on Form MMS-4025. Under the AFS, solid mineral payors would be required to submit data on Form MMS-4014 and Form MMS-4030. These two forms replace several forms previously required for the RAS. The forms replaced include forms 9-373A for coal, 9-368 for phosphate, 9-128a through 9-128d for sodium and potassium, and 9-1146 for silica sands.

This rule requires payors to submit a Report of Sales and Royalty Remittance for Solid Minerals (Form MMS-4014) with every payment. This report includes specific information on the royalties due and being paid. The MMS will use the sales and royalty data on form MMS-4014 to identify the payor and the lease subaccounts, to maintain the lease accounts on a monthly or quarterly basis as appropriate, to reconcile or audit the accounts, to distribute payments to States and Indians, and to correlate lump sum payments with the appropriate subaccount charge entries.

At the time of conversion to AFS from RAS, payors also will be required to complete a separate Solid Minerals Payor Information Form (Form MMS-4030) for each Federal or Indian lease on which rent, production or minimum royalties are paid. This form provides specific information on who pays rent, minimum royalties, advance royalties, and production royalties; it identifies revenue sources and selling arrangements for the lease, and provides necessary information to assure that AFS covers all interests in the lease for all products. The MMS will use this information to establish a static, automated data base that reduces the amount of information payors must provide routinely. The MMS also will use the information to assign a unique Accounting Identification Number (AID) to each royalty source within the lease. The MMS will then send confirmation letters to the payors to provide the AID numbers which are needed to complete the Report on Sales and Royalty Remittance for Solid Minerals (Form MMS-4014). The information which would be required by the form corresponds with the payors' own sales and enables the payors to simply transfer figures from their own record to Form MMS-4014. A new Form MMS-4030 will be required to be submitted only when there is a change in the information previously submitted.

This rulemaking will amend 30 CFR Part 210 by revising § 210.10 of Subpart A and by adding §§ 210.200, 210.201, 210.202 and 210.203 to Subpart E. The new Subpart E Solid Minerals, General, replaces the existing Subpart E and Subpart F. Also, this rulemaking will amend 30 CFR Part 212 to apply to solid mineral leases the records maintenance requirements now applicable to oil and gas leases. Section 218.56 of 30 CFR Part 218, Subpart B will be redesignated § 218.40 of Subpart A and amended by this rulemaking. This action is being taken so that assessments for late or incorrect reports and failure to report may be applied to both fluid and solid mineral AFS reporting.

MMS is already in the process of implementing the AFS and phasing out the RAS. In the proposed rule, we specifically proposed that the effective date of this rule would be retroactive to the date the proposed rule was published in the Federal Register, June 20, 1985, 50 FR 25585. It is important to the accounting requirement of solid minerals royalties and for a smoother and a more equitable transition from RAS to AFS that the Form MMS-4014 and Form MMS-4030 be used without delay. In fact, reporters already are using the forms. MMS, therefore, has determined that there is good cause, in accordance with 5 U.S.C. 553, to make this rule effective June 20, 1985.

II. Summary of Rules Adopted

The following sections summarize the most significant provisions of the regulations being adopted. The rules being adopted are essentially the same as the proposed rules. The amendments to 30 CFR Part 212 were proposed as amendments to Part 210. While the final rule places the proposed revision in a different part, the language and effect of the proposal is unchanged. The provisions are being placed in Part 212 because that part currently contains the identical requirement for oil and gas leases. Because of the similarity of the proposed and final rule, the discussion in this preamble for the proposed rules applies to the final rules. Where changes are being made to the final rules, they are discussed in this preamble except for minor clarifications.

Part 210

The provisions of 30 CFR Part 210 establish the reporting requirements for the Auditing and Financial System (AFS). This part indicates the types of reports which must be filed in order for the AFS to accomplish its stated goal to assure that minerals produced on Federal and Indian lands are properly accounted for and that appropriate royalties on those minerals are paid. This rulemaking will amend Part 210 to bring solid minerals reporting under the AFS.

Part 212

The provisions of Part 212 establish the records maintenance requirements for Federal and Indian leases. This final rule will subject solid mineral leases to the same requirements now imposed on oil and gas leases.

Part 218

The provisions of Part 218 establish certain reporting requirements and assessments for late reports, incorrect reports, and failure to report. This rule being adopted will amend Part 218 so that the assessment provisions may be applied to both fluid and solid mineral AFS reporting.

III. Comments Received on Proposed Rules

The proposed rulemaking published June 20, 1985, provided for a 30-day public comment period which ended July 22, 1985. [50 FR 25585]. Two comments were received. All comments received are addressed in this section, and the text of these regulations has been changed to reflect comments as appropriate.

One commentor referenced the Solid Minerals Payor Handbook which provides detailed reporting instructions to supplement this rulemaking. The commentor stated that reporting by selling arrangement would not benefit MMS in its royalty verification efforts. Also, the commentor felt that reporting retroactive price adjustments by month is time consuming and error prone. MMS requires all payors to report by selling arrangement. It is a data element used to distinguish royalty information on a lease reported by the same payor. The selling arrangement is necessary to verify that the appropriate royalty is paid. In regard to retroactive price adjustments by month, we believe it is necessary to have detail information by month to verify proper payment on a lease and to insure corrections are made to the appropriate payment.

Regarding § 210.10 *Information Collection,* a commentor suggested that the table showing forms for MMS-4025 and MMS-2014 should state they are for reporting oil and gas information. MMS agrees with this suggestion and the information has been incorporated in the section.

IV. Procedural Matters

Executive Order 12291

The Department of the Interior has determined that this is not a major rule and does not require a regulatory analysis under Executive Order 12291.

The regulatory burden on industry due to the information collection requirements for Form MMS-4014 and Form MMS-4030 is estimated to be approximately $14,540. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

Some portions of the approximately $14,540 cost burden to industry would fall on the small businesses that are among the potential respondents. Since the total cost to the public is quite small, and because the MMS provides special training and assistance to small organizations, there would be no significant economic effect on small entities. Consequently, it does not require a Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) analysis.

Paperwork Reduction Act of 1980

The information collection requirements contained in §§ 210.10, 210.200, 210.201, 210.202 and 210.203 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1010-0084.

National Environmental Policy Act of 1969

The Department of Interior has determined that this final rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment; therefore, preparation of an environmental impact statement is not required.

List of Subjects

30 CFR Part 210

Continental shelf, Geothermal energy, Government contracts, Mineral royalties, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 212

Coal, Government contracts, Mineral royalties, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 218

Coal, Continental shelf, Electronic funds transfers, Geothermal energy, Government contracts, Indian-lands, Mineral royalties, Oil and gas exploration, Public lands-mineral resources.

Under the authority of the Secretary of the Interior contained in 30 U.S.C. 1751, 30 CFR Parts 210, 212, and 218 are amended as set forth below.

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Dated: March 25, 1986.

James E. Cason,

Acting Assistant Secretary, Land and Minerals Management.

PART 210—[AMENDED]

30 CFR Part 210 is amended as follows:

1. The authority citation for Part 210 is revised to read as follows:

Authority: The Act of February 25, 1920 (30 U.S.C. 181 *et seq.*), as amended; the Act of May 21, 1930 (30 U.S.C. 301–306); the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359), as amended; the Act of March 3, 1909 (25 U.S.C. 396);as amended; the Act of May 11, 1938 (25 U.S.C. 396a–396q) as amended; the Act of February 28, 1891 (25 U.S.C. 397), as amended; the Act of May 29, 1924 (25 U.S.C. 398); the Act of March 3, 1927 (25 U.S.C. 398a–398e); the Act of June 30, 1919 (25 U.S.C. 399) as amended; R.S. § 411 (43 U.S.C. 1457), see also Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41); the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 *et seq.*), as amended; The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) as amended; the Act of December 12, 1980 (Pub. L. 96–514, 94 Stat. 2964); the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97–78, 95 Stat. 1070); the Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*), as amended; section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262); Secretarial Order No. 3071 of January 19, 1982, as amended; Secretarial Order 3087, as amended; the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 *et seq.*); the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 *et seq.*).

2. 30 CFR 210.10, is amended by adding Form MMS–4014 and Form MMS–4030, and deleting Form 9–361/361A and Form 9–614A, so that as revised the table reads as follows:

§ 210.10 Information collection.

* * * * *

Form No., Name, and Filing Date	OMB No.
MMS—4025—Oil and gas payor information form-due 30 days after issuance of a new lease or a change to an existing lease	1010–0033
MMS–2014—Report of sales and royalty remittance-oil and gas-due by the end of first month following production month for royalty payment and for rentals no later than anniversary date of the lease	1010–0022
MMS–4030—Solid minerals payor information form-due 30 days after issuance of a new lease or change to an existing account established by an earlier form	1010–0084
MMS–4014—Report of sales and royalty remittance-solid minerals-due by end of month following sales or production month (unless lease terms specify a different frequency for royalty payments) and for rentals no later than the date specified in the lease terms	1010–0084

* * * * *

3. Part 210 is further amended by revising the title of Subpart E, to read: "*Solid Minerals, General*", and by adding §§ 210.200, 210.201, 210.202, and 210.203 to read as follows:

PART 210—FORMS AND REPORTS

Subpart E—Solid Minerals, General

Sec.

210.200 Required recordkeeping.
210.201 Solid minerals payor information form.
210.202 Report of sales and royalty remittance-solid minerals.
210.203 Special forms and reports.

Subpart E—Solid Minerals, General

§ 210.200 Required recordkeeping.

Information required by the Minerals Management Service (MMS) shall be filed using the forms prescribed in this subpart, copies of which are available from MMS. Instructions on the completion of these forms are provided in the Payor Handbook—Solid Minerals, also available from MMS. Records and supporting data may be maintained in hardcopy, microfilm, microfiche, or other recorded media that is readily available and readable.

§ 210.201 Solid minerals payor information form.

A Solid Minerals Payor Information Form (Form MMS–4030) must be submitted to MMS for each Federal and Indian solid minerals lease on which royalties, rentals or minimum royalties are paid. This form does not change any requirement for a separate approval, if required, by the Department of the Interior. The Form MMS–4030 shall identify the payor of rent, minimum royalty, advance royalty and production royalty, and identify revenue sources and selling arrangements for all lease products. The completed form must be filed by each royalty payor no later than 30 days after MMS provides notice that the payor is converted to the Auditing and Financial System (AFS). After filing the initial form, a new Form MMS–4030 must be filed no later than 30 days after the occurrence of any of the following:

(a) Assignment of all or any part of the lease;
(b) Adoption of a new mining method;
(c) Production of a new product;
(d) A change in a selling arrangement;
(e) Change in royalty rate;
(f) Change of payor; or
(g) Abandonment of a lease.

§ 210.202 Report of sales and royalty remittance-solid minerals.

A completed Report of Sales and Royalty Reimttance—Solid Minerals (Form MMS–4014) must accompany all payments to MMS for rents (other than first year) and royalties for Federal and Indian solid minerals leases. On leases where payment is remitted directly to an Indian tribe or Bureau of Indian Affairs office, the payor also must send a completed form MMS–4014 to MMS for processing in AFS. The Form MMS–4014 shall identify the payor and the lease subaccounts, contain production, sales, and royalty data, and identify the time period applicable to the data. Completed forms are due at the end of the month following the production or sales period as applicable. Unless the lease terms specify a different royalty payment frequency, all reports and payments are due monthly. If the lease terms do specify a different frequency for payment, the reporting must coincide with the payment. The Form MMS–4014 for rental payments is due no later than the rental payment date specified in the lease terms.

§ 210.203 Special forms and reports.

The MMS may require submission of additional information on special forms or reports. When special forms or reports other than those referred to in this subpart are necessary, instructions for the filing of such forms or reports will be given by MMS. Requests for the submission of such forms will be made in conformity with the requirements of the Paperwork Reduction Act of 1980 and other applicable laws.

4. Part 210 is further amended by:

a. Removing Subpart F.

b. Redesignating Subparts G and H as Subparts F and G, respectively.

PART 212—[AMENDED]

30 CFR Part 212 is amended as follows:

1. The authority citation for Part 212 is revised to read as follows:

Authority: The Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C.181 *et seq.*); the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359); the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*) the National Historic Preservation Act of 1966 as amended (16 U.S.C. 1201 *et seq.*) the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) the Act of March 3, 1909 as amended (25 U.S.C. 396); the Act of May 11, 1938, as amended (25 U.S.C. 396a-396q); The Act of February 28, 1891, as amended (25 U.S.C. 397); The Act of May 29, 1924 (25 U.S.C. 398); The Act of March 3, 1927, (25 U.S.C. 398a-398e); The Act of June 30, 1919, as amended (25 U.S.C. 399); RS. § 441 (43 U.S.C. 1457); The Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 *et seq.*) the National Environmental Policy Act of 1969, as amended; (42 U.S.C. 4321 *et seq.*); the Freedom of Information Act (5 U.S.C. 552); the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 *et seq.*); the Federal Oil and Gas Royalty Management act of 1982 (30 U.S.C. 1701 *et seq.*).

2. Section 212.200 (a) is added to read as follows:

§ 212.200 Maintenance of and access to records.

(a) All records pertaining to Federal and Indian solid minerals leases shall be maintained by a lessee, operator, revenue payor, or other person for 6 years after the records are generated unless the record holder is notified, in writing, that records must be maintained for a longer period. When an audit or investigation is underway, records shall be maintained until the record holder is released by written notice of the obligation to maintain records.

* * * * *

§212.200 [Amended]

3. Section 212.200 (b)(1) is amended by changing the word "coal" to "products".

4. Part 212 is further amended by:

(a) Revising the title of Subpart E to read "*Solid Minerals—General*

(b) Removing Subpart F.

(c) Redesignating Subparts G and H as Subparts F and G, respectively.

PART 218—[AMENDED]

1. The authority citation for Part 218 is revised to read as follows:

Authority: The Act of February 25, 1920 (30 U.S.C. 181 *et seq.*), as amended; the Act of May 21, 1930 (30 U.S.C. 301–306); the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359) as amended; the Act of March 3, 1909 (25 U.S.C. 396), as amended; the Act of May 11, 1938 (25 U.S.C. 396a–396q), as amended; the Act of February 28, 1891 (25 U.S.C. 397), as amended; the Act of May 29, 1924 (25 U.S.C. 398); the Act of March 3, 1927 (25 U.S.C. 398a–398e); the Act of June 30, 1919 (25 U.S.C. 399) as amended; R.S. § 441 (43 U.S.C. 1457), see also Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41); the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 *et seq.*), as amended; The National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) as amended; the Act of December 12, 1980 (Pub. L. 96–514, 94 Stat. 2964); the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97–78, 95 Stat. 1070); the Outer Continental Shelf Lands Act (43 U.S.C. 1331 *et seq.*), as amended; the Geothermal Act of 1970 (30 U.S.C. 1001 *et seq.*) as amended; section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262); Secretarial Order No. 3071 of January 19, 1982, as amended; Secretarial Order 3087, as amended; the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 *et seq.*); the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 *et seq.*).

2. Section 218.56 of Subpart B is redesignated as § 218.40 of Subpart A, General Provisions.

3. Paragraph (c) of newly designated § 218.40, is amended by adding, after "Form MMS–2014" the following statement, "or Form MMS–4014."

4. Paragraph (e) of newly designated § 218.40 is redesignated as paragraph (d).

5. Section 218.57 of Subpart B is redesignated as § 218.56.

6. Part 218 is further amended by:

(a) Revising the title of Subpart E to read "*Solid Minerals—General.*"

(b) Removing Subpart F.

(c) Redesignating Subparts G and H as Subparts F and G, respectively.

[FR Doc. 86-9403 Filed 4-25-86; 8:45 am]

BILLING CODE 4310-05-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

Approval of Permanent Program Amendment From the State of Oklahoma Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of a program amendment submitted by the State of Oklahoma as an amendment to the State's permanent regulatory program (hereinafter referred to as the Oklahoma program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment establishes a program for blaster training, examination and certification.

Oklahoma submitted the proposed program amendment on August 8, 1985. OSMRE published a notice in the Federal Register on October 29, 1985, announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (50 FR 43724).

After providing opportunity for public comment and conducting a thorough review of the program amendment, the Director has determined that the amendment meets the requirements of SMCRA and the Federal regulations, and is approving it. The Federal rules at 30 CFR Part 936 codifying decisions concerning the Oklahoma program are being amended to implement this action.

This rule is being made effective immediately in order to expedite the State program amendment process and encourage States to conform their programs to the Federal standards without undue delay; consistency of the State and Federal standards is required by SMCRA.

EFFECTIVE DATE: April 28, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. James Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, Room 2432, 333 West Fourth Street, Tulsa, Oklahoma 74103, Telephone: (918) 581–7923.

SUPPLEMENTARY INFORMATION:

I. Background

The Oklahoma program was conditionally approved by the Secretary of the Interior on January 19, 1981 (46 FR 4910). Information pertinent to the general background, revisions, modifications and amendments to the proposed permanent program submission as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Oklahoma program can be found in the January 19, 1981 Federal Register (46 FR 4910), in the April 2, 1982 Federal Register (47 FR 14152), in the May 4, 1983 Federal Register (48 FR 20050) and the August 28, 1984 Federal Register (49 FR 34000). Subsequent actions on conditions of approval and program amendments are identified at 30 CFR 936.11 and 936.15.

At the time of the Secretary's approval of the Oklahoma program, OSMRE had not yet promulgated Federal rules governing the training and certification of blasters. Therefore, the State was not required to include such requirements in its program.

On March 4, 1983, OSMRE issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Part 850 (48 FR 9498). The Federal rules require each State to design and implement its own blaster certification program.

Under the Federal rules, each State must develop the method of training, examining, and certifying blasters which best meets local needs within the Federal regulatory framework. The Federal rules require training, field experience, a written examination, and specify certain other requirements.

The Federal rules 30 CFR 850.12 require the State regulatory authority to develop a program and submit it to OSMRE as a proposed program amendment within 12 months after the publication date of the Federal rules. The Federal rules at 30 CFR 816.61(c) further provide that no later than 12 months after the State's blaster certification program has been approved by OSMRE all blasting operations in the State shall be conducted under the direction of a certified blaster.

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II. Submission of Amendment

On August 8, 1985, the State of Oklahoma submitted to OSMRE an amendment to its permanent regulatory program. The amendment submitted by the Oklahoma Department of Mines (ODM) consists of proposed provisions to implement a blaster training, examination and certification program as required by 30 CFR Part 850.

The October 29, 1985 **Federal Register** announced receipt of the proposed modifications by OSMRE as well as the public comment period. In that same notice, OSMRE announced that a public hearing would be held only if requested. No requests were received and no hearing was held.

On March 4, 1986, a representative from OSMRE met with representatives from the Oklahoma Miner Training Institute (OMTI) to review the State's blaster certification examination. The State also provided OSMRE with some clarifying material concerning its training course.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendments submitted by Oklahoma on August 8, 1985, meets the requirements of SMCRA and 30 CFR Chapter VII as discussed below.

General

The Oklahoma submission provides that the Oklahoma Department of Mines (ODM) with assistance from the Oklahoma Miner Training Institute (OMTI) will administer the program for the training, examination and certification of all blasters. It sets standards and procedures for ODM and OMTI to administer the blaster certification program.

The Oklahoma regulations for blaster training, examination and certification are found at Part 850 of the Oklahoma regulations.

Section 850.5—Definitions

Section 850.5 of the Oklahoma regulations defines the term "blaster" in a manner similar to and no less effective than the Federal definition at 30 CFR 850.5.

Section 850.12—Responsibility

Section 850.12 of the Oklahoma regulations sets forth the areas of responsibility for both the Department of Mines and the Miner Training Institute in the administration of the blaster certification program. The ODM is responsible for promulgating rules governing the training, examination, certifications and enforcement of the blaster certification. The OMTI is responsible for assisting the ODM in developing and adopting a program to examine and certify all persons directly responsible for the use of explosives. The Director finds these provisions to be no less effective than the Federal regulations at 30 CFR 850.12.

Section 850.13—Training

Section 850.13 of the Oklahoma regulations sets forth the training requirements for persons seeking to become certified blasters. The ODM will ensure that adequate courses are available to train individuals responsible for the use of explosives on surface coal mining operations. This section also identifies the subject areas to be addressed in the training of potential blasters. The Director finds these provisions to be no less effective than the Federal regulations at 30 CFR 850.13.

Section 850.14—Examination

Section 850.14 of the Oklahoma regulations requires both a written examination, administered by the OMTI, and practical field experience prior to certification. The written examination shall test an applicant's competence in and practical application of the topics set forth in section 850.13. The Director finds the State's provisions to be no less effective than the Federal regulations at 30 CFR 850.14.

Section 850.15—Certification

Section 850.15 of the Oklahoma regulations establishes the conditions of blaster certification and recertification. The certification will expire 2 years from the date of issuance. After the initial certification period, all blasters must successfully complete a recertification course administered by the OMTI to demonstrate their continued competency.

This section also addresses provisions concerning the protection and proper use of the blaster certificate by the blaster and suspension/revocation measures to be implemented by the ODM when the blaster violates such provisions. The Director finds that the State's provisions to be no less effective than the Federal regulations at 30 CFR 850.15.

IV. Public Comments

Of the Federal agencies invited to comment on the proposed amendment, responses were received from the Bureau of Mines, U.S. Environmental Protection Agency and the U.S. Fish and Wildlife Service. No substantive comments were received.

The disclosure of Federal agency comments is made pursuant to section 503(b)(1) of SMCRA, 30 U.S.C. 1253(b)(1) and 30 CFR 732.17(h)(10)(i).

V. Director's Decision

The Director, based on the above findings, is approving the August 8, 1985 amendment to the Oklahoma program. The Director is amending Part 936 of 30 CFR Chapter VII to reflect approval of the above State program modification.

VI. Procedural Requirements

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1291(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for action directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and Regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 936

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: April 21, 1986.

James W. Workman,

Office of Surface Mining Reclamation and Enforcement, Deputy Director, Operations and Technical Services.

PART 936—OKLAHOMA

30 CFR Part 936 is amended as follows:

1. The authority citation for Part 936 continues to read as follows:

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

§ 936.15 [Amended]

2. 30 CFR 936.15 is amended by adding a new paragraph (h) to read as follows:

* * * * *

(h) The following amendment, as submitted to OSMRE on August 8, 1985, is approved effective April 28, 1986: Modifications to Part 850 of the Rules and Regulations of the Oklahoma Department of Mines to establish a program for blaster training, examination and certification.

§ 936.16 [Amended]

3. 30 CFR 936.16 is amended by removing and reserving the section.

[FR Doc. 86–9394 Filed 4–25–86; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Memphis, TN Reg. 86–04]

Safety Zone Regulations; Arkansas River, From Mile 314.0 to Mile 316.0

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone from mile 314.0 to mile 316.0 on the McClellan-Kerr Arkansas River System. The zone is needed to protect marine traffic from a safety hazard associated with restricted navigation due to shoaling within the channel. Entry into this zone is prohibited unless authorized by the captain of the port.

EFFECTIVE DATE: This regulation becomes effective on 15 April 1986. It terminates on 15 May 1986.

FOR FURTHER INFORMATION CONTACT: Lieutenant D. G. Atkinson, Coast Guard Marine Safety Office Memphis, TN at (901) 521–3941.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to potential hazards to the vessels involved.

Drafting Information

The drafter of this regulation is Lieutenant D.G. ATKINSON, project officer for the captain of the port.

Discussion of Regulation

The circumstances requiring this regulation resulted from the shoaling of the Arkansas River mile 314.0 to 316.0.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

Regulation

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows: 1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. A new § 165.T02010 is added to read as follows:

§ 165.T02010 Safety Zone: Arkansas River, from mile 314. to mile 316.0.

(a) *Location.* The following area is a safety zone: McClellan-Kerr Arkansas River System between miles 314.0 and 316.0.

(b) *Effective date.* This regulation becomes effective on 15 April 1986. It terminates on 15 May 1986.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this area is prohibited. (2) Tows are authorized to transit this area when they meet the following restrictions:

(i) Tows shall contact lockmaster of lock 14 on channel 16 VHF/FM prior to entering this area for entry or passing instructions.

(ii) Tows transitting this zone shall adhere to directions of lockmaster of lock 14 pertaining to tow size and configuration.

Dated: April 14, 1986.

R.J. O'Pezio,

Captain of the Port.

[FR Doc. 86–9433 Filed 4–25–86; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[A–2–FRL–2968–2]

National Emission Standards for Hazardous Air Pollutants and Standards of Performance for New Stationary Sources Delegation of Authority to the State of New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Final rule; Delegation of Authority.

SUMMARY: This notice announces the delegation of authority by the Environmental Protection Agency (EPA) to the State of New Jersey to implement and enforce additional source categories of the Standards of Performance for New Stationary Sources (NSPS) (40 CFR Part 60) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) (40 CFR Part 61) along with revisions and amendments to the NSPS and NESHAPS. This delegation was requested by the New Jersey Department of Environmental Protection (NJDEP). NSPS and NESHAPS are air pollution control requirements set under the Clean Air Act. This action informs all affected sources of the need to submit to the State, in addition to the EPA, all the information required pursuant to the delegated subparts. NSPS are applicable to certain categories of new air pollution sources. NESHAPS are applicable to certain categories of both new and existing sources.

EFFECTIVE DATE: This action is effective on April 28, 1986. These actions were applicable on June 24, 1985 and November 29, 1985.

FOR FURTHER INFORMATION CONTACT: Francis W. Giaccone, Chief, Air Compliance Branch, Air & Waste Management Division, EPA Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264–0627.

SUPPLEMENTARY INFORMATION: Sections 111(c) and 112(d) of the Clean Air Act directs the Administrator of the Environmental Protection Agency (EPA) to delegate EPA's authority to implement and enforce Standards of Performance for New Stationary Sources (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) to any state which has submitted adequate procedures. Nevertheless, the Administrator still retains concurrent authority to enforce the standards following delegation of authority to a state.

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On April 30, 1985 EPA notified the NJDEP of two newly promulgated NSPS along with the revisions and amendments to existing NSPS and NESHAPS promulgated between June 30, 1984 and December 1984. NJDEP accepted the two NSPS, and revisions and amendments to existing NSPS and NESHAPS in a letter dated June 19, 1985 from the Commissioner of the NJDEP to the EPA Regional Administrator, Region II. On November 21, 1985 the Commissioner of the NJDEP wrote to the EPA Regional Administrator to accept delegation of one additional NSPS and two NESHAPS. The following provides a complete listing of NSPS and NESHAPS delegated to the NJDEP. The new categories now being delegated by today's action are identified with an asterisk (*). All revisions and amendments to the existing NSPS and NESHAPS promulgated between June 30, 1984 and December 1984 are included here by reference.

NSPS Delegation (40 CFR Part 60)

D Fossil-Fuel Fired Steam Generators for Which Construction Commenced After August 17, 1971 (Steam Generators and Lignite Fired Steam Genesators)
Da Electric Utility Steam Generating Units for Which Construction Commenced After September 18, 1978
E Incinerators
F Portland Cement Plants
G Nitric Acid Plants
H Sulfuric Acid Plants
I Asphalt Concrete Plants
J Petroleum Refineries—(All Categories)
K Storage Vessels for Petroleum Liquids Constructed After June 11, 1973, and prior to May 19, 1978
Ka Storage Vessels for Petroleum Liquids Constructed After May 18, 1978
L Secondary Lead Smelters
M Secondary Brass and Bronze Ingot Production Plants
N Iron and Steel Plants
O Sewage Treatment Plants
P Primary Copper Smelters
Q Primary Zinc Smelters
R Primary Lead Smelters
S Primary Aluminum Reduction Plants
T Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants
U Phosphate Fertilizer Industry: Superphosphoric Acid Plants
V Phosphate Fertilizer Industry: Diammonium Phosphate Plants
W Phosphate Fertilizer Industry: Triple Superphosphate Plants
X Phosphate Fertilizer Industry: Granular Triple Superphosphate
Y Coal Preparation Plants
Z Ferroalloy Production Facilities
AA Steel Plants: Electric Arc Furnaces
*AAa Electric Arc Furnaces and Argon—Oxygen Decarburization Vessels in Steel Plants
BB Kraft Pulp Mills
CC Glass Manufacturing Plants
D Grain Elevators
EE Surface Coating of Metal Furniture
GG Stationary Gas Turbines
HH Lime Plants
KK Lead Acid Battery Manufacturing Plants
LL Metallic Mineral Processing Plants
MM Automobile and Light-Duty Truck Surface Coating Operations
NN Phosphate Rock Plants
PP Ammonium Sulfate Manufacturing Plants
QQ Graphic Art Industry: Publication Rotogravure Printing
RR Pressure Sensitive Tape and Label Surface Coating Operations
SS Industrial Surface Coating: Large Appliances
T Metal Coil Surface Coating
UU Asphalt Processing and Asphalt Roofing Manufacture
VV Equipment Leaks of Volatile Organic Compounds in Synthetic Organic Chemical Manufacturing Industry
WW Beverage Can Surface Coating Industry
XX Bulk Gasoline Terminals
FFF Flexible Vinyl and Urethane Coating and Printing
*GGG Equipment Leaks of VOC in Petroleum Refineries
HHH Synthetic Fiber Production Facilities
*JJJ Petroleum Dry Cleaners

NESHAPS Delegation (40 CFR Part 61)

C National Emission Standard for Beryllium
D National Emission Standard for Beryllium Rocket Motor Firing
E National Emission Standard for Mercury
F National Emission Standard for Vinyl Chloride
*J National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene
M National Emission Standard for Asbestos (excluding Demolition and Renovation)
*V National Emission Standard for Equipment Leaks (Fugitive Emission Sources)

EPA's Findings

EPA's determination that the delegation be approved is based on the Agency's review of the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C; the State Public Records Act, N.J.S.A. 47:1A-4; and Title 7, Chapters 27 and 27B of the New Jersey Administrative Code. Based on that review, EPA determined that such delegation is, therefore, appropriate and so notified the Commissioner of the NJDEP, in a letter dated September 14, 1984. NJDEP subsequently accepted delegation of the additional categories in letters dated June 13, 1985 and November 21, 1985. This delegation of additional NSPS and NESHAPS is based on the conditions delineated in EPA's letter of February 19, 1985 to the Commissioner. Copies of all correspondence and EPA's delegation letter are available for public inspection in the Office of the Air Compliance Branch at the Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Consequences of EPA's Action

Effective June 24, 1985 and November 29, 1985, all correspondence, reports and notifications required by the delegated NSPS and NESHAPS should be submitted to the Office of the New Jersey Department of Environmental Protection, Enforcement Element, Division of Environmental Quality, CN-027, Trenton, New Jersey 08625.

The Office of Management and Budget has exempted this action from the requirements of section 3 of Executive Order 12991.

This Notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 7411).

List of Subjects in 40 CFR Part 60

Air pollution control, Reporting and recordkeeping requirements, Incorporation by reference, and Intergovernmental relations.

Dated: March 28, 1986.

Christopher J. Daggett,
Regional Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Title 40, Chapter I, Subchapter C, Part 00, Code of Federal Regulations is amended as follows:

Subpart A—General Provisions

1. The authority citation for Part 60 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

2. § 60.4 paragraph (b)(FF) is revised to read as follows:

§ 60.4 Address.

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(b) * * *

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(FF) State of New Jersey: New Jersey Department of Environmental Protection, Division of Environmental Quality, Enforcement Element, John Fitch Plaza, CN-027, Trenton, New Jersey 08625.

(*1*) The following table lists the specific source and pollutant categories that have been delegated to the states in Region II. The (X) symbol is used to indicate each category that has been delegated.

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS FOR REGION II

Subpart		State			
		New Jersey	New York	Puerto Rico	Virgin Islands
D	Fossil-Fuel Fired Steam Generator for Which Construction Commenced After August 17, 1971 (Steam Generators and Lignite Fired Steam Generators)	X	X	X	X
Da	Electric Utility Steam Generating Units for Which Construction Commenced After September 18, 1978	X		X	
E	Incinerators	X	X	X	X
F	Portland Cement Plants	X	X	X	X
G	Nitric Acid Plants	X	X	X	X
H	Sulfuric Acid Plants	X	X	X	X
I	Asphalt Concrete Plants	X	X	X	X
J	Petroleum Refineries—(All Categories)	X	X	X	X
K	Storage Vessels for Petroleum Liquids Constructed After June 11, 1973, and prior to May 19, 1978	X	X	X	X
Ka	Storage Vessels for Petroleum Liquids Constructed After May 18, 1978	X	X	X	
L	Secondary Lead Smelters	X	X	X	X
M	Secondary Brass and Bronze Ingot Production Plants	X	X	X	X
N	Iron and Steel Plants	X	X	X	X
O	Sewage Treatment Plants	X	X	X	X
P	Primary Copper Smelters	X	X	X	X
Q	Primary Zinc Smelters	X	X	X	X
R	Primary Lead Smelters	X	X	X	X
S	Primary Aluminum Reduction Plants	X	X	X	X
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	X	X	X	X
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants	X	X	X	X
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants	X	X	X	X
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants	X	X	X	X
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate	X	X	X	X
Y	Coal Preparation Plants	X	X	X	X
Z	Ferroalloy Production Facilities	X	X	X	X
AA	Steel Plants: Electric Arc Furnaces	X		X	
AAa	Electric Arc Furnaces and Argon—Oxygen Decarburization Vessels in Steel Plants	X	X	X	
BB	Kraft Pulp Mills	X	X	X	
CC	Glass Manufacturing Plants	X	X	X	
DD	Grain Elevators	X	X	X	
EE	Surface Coating of Metal Furniture	X	X	X	
GG	Stationary Gas Turbines	X	X	X	
HH	Lime Plants	X	X		
KK	Lead Acid Battery Manufacturing Plants	X			
LL	Metallic Mineral Processing Plants	X			
MM	Automobile and Light-Duty Truck Surface Coating Operations	X	X		
NN	Phosphate Rock Plants	X	X		
PP	Ammonium Sulfate Manufacturing Plants	X	X	X	
QQ	Graphic Art Industry Publication Rotogravure Printing	X	X	X	
RR	Pressure Sensitive Tape and Label Surface Coating Operations	X	X	X	
SS	Industrial Surface Coating: Large Appliances	X	X	X	
TT	Metal Coil Surface Coating	X	X	X	
UU	Asphalt Processing and Asphalt Roofing Manufacture	X	X	X	
VV	Equipment Leaks of Volatile Organic Compounds in Synthetic Organic Chemical Manufacturing Industry	X	DX		
WW	Beverage Can Surface Coating Industry	X	X	X	
XX	Bulk Gasoline Terminals	X	X	X	
FFF	Flexible Vinyl and Urethane Coating and Printing	X		X	
GGG	Equipment Leaks of VOC in Petroleum Refineries	X		X	
HHH	Synthetic Fiber Production Facilities	X		X	
JJJ	Petroleum Dry Cleaners	X			

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40 CFR Part 799

[OPTS-42033B; FRL-2963-8]

Cresols; Testing Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is issuing a final rule establishing testing requirements under section 4(a) of the Toxic Substances Control Act (TSCA) for manufacturers and processors of cresols. Cresols is a chemical category consisting of three cresol isomers; *ortho*-cresol (CAS No. 95-48-7), *meta*-cresol (CAS No. 108-39-4), and *para*-cresol (CAS No. 106-44-5). The testing requirements include (1) mutagenic effects studies (including tests for chromosomal aberrations, gene mutations, and cellular transformations) on specified cresol isomers, (2) a developmental toxicity study (teratogenicity) with each cresol isomer, and (3) a two-generation reproductive effects study with each cresol isomer.

DATES: In accordance with 40 CFR 23.5 (50 FR 7271; February 21, 1985), this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern ["daylight" or "standard" as appropriate] time on May 12, 1986. This rule shall become effective on June 11, 1986.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Rm. E-543, 401 M St., SW., Washington, DC 20460, Toll Free: (800-424-9065), In Washington, DC: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 11, 1983 (48 FR 31812), EPA issued a proposed rule for cresols under section 4(a) of TSCA to require testing of cresols for subchronic toxicity, mutagenicity, carcinogenicity, developmental toxicity (teratogenicity), reproductive effects, neurotoxicity, and skin sensitization. Public comments on the proposed rule have been received and reviewed. EPA is now promulgating a final test rule requiring that manufacturers and processors of cresols test these chemicals for mutagenic effects, developmental toxicity, and reproductive effects. In addition, in its Initial Report (42 FR 55026; October 12, 1977), the Interagency Testing Committee recommended that the cresols be tested not only for health effects, but also for environmental effects. However, EPA has decided not to require environmental effects testing because available information allows

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EPA to reasonably predict that exposure of aquatic organisms to cresols should not cause chronic effects. Further, EPA is finalizing only a portion of the testing which was initially proposed. Based on the results of studies conducted in accordance with this rule, a second rule requiring chronic testing of the cresols may be issued later.

I. Introduction

This document is part of the overall implementation of section 4 of the Toxic Substances Control Act (TSCA, Pub. L. 94-469, 90 Stat. 2003 *et seq.* (15 U.S.C. 2601 *et seq.*)); which contains authority for EPA to require development of data on assessing the risks to health and the environment posed by exposure to particular chemical substances or mixtures.

Under section 4(a)(1) of TSCA, EPA must require testing of a chemical substance or mixture to develop health or environmental data if the Administrator finds that:

(A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

EPA uses a weight-of-evidence approach in making a section 4(a)(1)(A)(i) finding in which both exposure and toxicity information are considered to make the finding that the chemical may present an unreasonable risk. For the finding under section 4(a)(1)(B)(i), EPA considers only production, exposure, and release information to determine whether there is or may be substantial release. For the second finding under both sections 4(a)(1) (A) and (B), EPA examines toxicity and fate studies to determine whether existing information is adequate to reasonably determine or predict the effects of human exposure to, or environmental release of, the chemical. In making the third finding, that testing is necessary, EPA considers whether any ongoing testing will satisfy the information needs for the chemical and whether testing that the Agency might require would be capable of developing the necessary information.

For a more complete understanding of the statutory section 4 findings, see EPA's proposals on chloromethane and chlorinated benzenes (45 FR 48510; July 16, 1980) and dichloromethane, nitrobenzene, and 1,1,1-trichloroethane (46 FR 30300; June 5, 1981).

II. Background

A. Profile

Cresols ($CH_3C_6H_4OH$) is a chemical category of three isomers: *ortho*-cresol (CAS No. 95-48-7), *meta*-cresol, (CAS No. 108-39-4), and *para*-cresol (CAS No. 106-44-5). The cresols are available commercially as individual isomers and as isomer mixtures. They are also contained in cresylic acid, a mixture of cresols and other phenolic compounds. U.S. production of cresols and cresylic acid, or "cresylics" in 1984 was about 117.5 million pounds. Of this amount, 40.7 million pounds was *ortho*-cresol, and 76.8 million was all other cresols (Ref. 1). Imports of *ortho*-, *meta*-, *para*-, (*meta*, *para*)-cresol mixtures, and cresylic acid were 14.9 million pounds in 1984 (Ref. 2). Therefore, the total production and imports of cresols and cresylic acid in 1984 was about 132.4 million pounds.

Cresols are used as wire enamel solvents, automotive cleaners, and organic intermediates in manufacturing phenolic resins and phosphate esters. Additional uses of either individual isomers or mixtures are as follows: in the production of several herbicides and disinfectants; as cleaning compounds, degreasers, and antioxidants; and in ore flotation. The level 1 Economic Impact Analysis, which accompanied the proposed cresols rule, contains a detailed description of uses and manufacturing processes.

B. ITC Recommendations

The Interagency Testing Committee (ITC) designated cresols for priority consideration in its Initial Report, published in the Federal Register on October 12, 1977 (42 FR 55026). The ITC recommended that the Agency require industry to test cresols for the following health effects: carcinogenicity, mutagenicity, teratogenicity, and other chronic effects. The ITC also recommended testing for environmental effects, specifically chronic effects in fish and other aquatic organisms.

The ITC's recommendations were based on the large volume of cresols produced in the United States. It was estimated in the ITC's report that the U.S. production of cresols in 1975 was about 90 million pounds. The ITC reported an estimated annual environmental release of approximately 45 million pounds. In addition, the ITC was concerned that the wide use of cresols as industrial solvents could lead to substantial occupational exposure. The ITC cited the National Institute for Occupational Safety and Health's (NIOSH) estimates that roughly 2 million workers are exposed to cresols. The ITC also was concerned that cresols are used in many consumer products and that these uses could result in a large consumer and general population exposure.

C. Proposed Rule

EPA issued a proposed rule, published in the Federal Register of July 11, 1983 (48 FR 31812), which would require that cresols be tested for subchronic toxicity, mutagenic effects including chromosomal aberrations, gene mutations, and cellular transformations, carcinogenicity, developmental toxicity, reproductive effects, neurotoxicity, and skin sensitization.

EPA based its proposed testing requirements on the authority of section 4(a)(1)(B) of TSCA. The Agency found that each of the three cresol isomers is manufactured, processed, and used in substantial quantities, and that these uses may result in substantial human exposure. Furthermore, EPA found that between 600,000 and 1.2 million people are exposed to cresols each year via manufacturing, processing, and/or use activities. Finally, EPA found that there was a lack of data from which to reasonably determine or predict the various effects for which testing was proposed and that testing was necessary to develop such data.

In addition, EPA found that there is evidence of potential adverse human health risks for mutagenic and carcinogenic effects resulting from the manufacture, processing, and use activities associated with cresols. However, the existing data which support this belief of potential risk for these effects were found to be inadequate to reasonably predict or determine the effects of these exposures to cresols. Therefore, in its proposed rule EPA determined that the testing of cresols for mutagenicity and carcinogenicity can also be based upon section 4(a)(1)(A) of TSCA. EPA also found that it is necessary to develop such data.

In the proposed rule, EPA also presented its reasons for not proposing testing for environmental effects. While the release of cresols to the environment is high, the Agency has determined that adequate information exists which allows EPA to reasonably predict that exposure to cresols should not cause adverse chronic effects to aquatic species. The Agency made a preliminary judgment that no additional environmental effects testing is needed at this time and requested public comments from interested parties on this decision.

D. Studies Received or Intitiated After Proposed Rule

The proposed cresols test rule specified that *meta*- and *para*-cresol be tested in the sister chromatid exchange (SCE) assay to determine the potential for gene mutations. Testing of the *ortho*-cresol isomer was not required because of the availability of an adequately conducted SCE assay on that isomer. However, following publication of the proposed test rule, the Chemical Industry Institute of Toxicology conducted experiments to determine the genotoxic potential of *ortho*-, *meta*-, and *para*-cresol, both *in vitro* and *in vivo*, using the SCE assay as a measure of genotoxicity (Ref. 3).

The Agency has reviewed this study and has found it adequate to meet the needs of the Agency for this proposed testing requirement (Ref. 4). Therefore, the proposed requirement for *meta*- and *para*-cresol to be tested in an SCE assay is not included in this final test rule for cresols.

In addition, a major development in another EPA program has altered the makeup of the final cresols test rule.

The Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires that appropriate treatment standards must be met prior to land disposal of hazardous wastes containing cited chemical substance (Ref. 5).

The effect of the 1984 amendments is to establish a statutory presumption against land disposal of hazardous wastes. The amendments further provide that statutory bans on land disposal will go into effect on specific dates unless EPA determines on a case-by-case basis that land disposal is protective of human health and the environment or, prior to land disposal, wastes have been treated to a level or by a method such that threats to human health or the environment are minimized.

In order to make such a determination, EPA is developing treatment standards for wastes, based on technology levels and screening levels for chemical constituents of wastes. Wastes will be prohibited from land disposal, unless the appropriate treatment standards have been observed. To develop these screening levels, EPA requires information on the toxicological effects and the environmental fate of the chemical substances contained in wastes subject to regulation under RCRA.

The chemicals involved have been placed on a prioritized schedule for consideration and analysis of the available data on each chemical. For the majority of substances subject to the HSWA, EPA found sufficient data on which to base standards. However, for some substances either insufficient information is available to establish these screening levels, or, while there may be sufficient information to establish such standards, confirmatory or supporting information is needed to verify any assumptions the Agency may have made in developing these standards.

Cresols are constituents of wastes for which treatment standards must be set by November 8, 1986. Following a review by the Agency, it was determined that insufficient reliable information was available for cresols. As a result either EPA must obtain usable data in order to set an appropriate toxicity reference dose (RfD), or certain waste containing cresols would be banned as of November 8, 1986 from all land disposal.

The subchronic toxicity studies included in EPA's proposed test rule for cresols would provide the initial data needed to establish RfDs for the cresols. However, the Agency concluded that this rulemaking to require this testing (which has been proposed under the former two-phase test rule process) could not be completed in time to obtain data within the schedule imposed by the HSWA. Therefore, EPA has initiated subchronic toxicity studies for each of the three cresol isomers and OTS will not include such testing in the final cresols test rule.

The proposed cresols test also included requirements that neurotoxicity tests be performed in conjunction with the subchronic studies. The neurotoxicity testing also will be conducted by EPA because of the efficiency of performing such tests jointly with the subchronic studies. Therefore, EPA will conduct neuropathology studies on the individual cresol isomers and an expanded clinical observation of the test animals during the 90-day subchronic study.

In summary, the following tests in the proposed test rule for cresols have either been adequately peformed or are in the process of being performed, and they meet the needs of the Agency for these testing requirements and are not included in the final test rule for cresols: sister chromatid exchange assays on *meta*- and *para*-cresol; 90-day subchronic toxicity studies on *ortho*-, *meta*-, and *para*-cresol; and neuropathology on *ortho*-, *meta*-, and *para*-cresol.

Finally, the National Toxicology Program (NTP) is considering certain health effects testing of cresols. NTP is planning to conduct range-finding and subchronic studies and may initiate bioassays on one or more cresol isomers.

III. Response to Public Comments

The comments received by the Agency in response to the proposed rule for cresols were from the Cresols Task Force (CTF), Natural Resources Defense Council (NRDC), Chemical Manufacturers Association (CMA), Sherwin-Williams, Merichem, Ciba-Geigy, and the American Industrial Health Council (AIHC). The comments from the organizations mentioned above were received in October 1983. Since that time some of the affiliations of the commenters have changed. In May 1984, the CMA established a Cresols Program Panel to address EPA's Section 4 activities on cresols. The Panel consists of the major U.S. manufacturers and importers of cresols and is a refashioning of the CTF. In addition, Sherwin-Williams sold its *para*-cresol production facility to PMC Specialties Group, a subsidiary of PMC of Sun Valley, California (Ref. 6). For this document the commenters will continue to be referred to as the CMA, CTF, and Sherwin-Williams.

The most extensive comments received were those of the CTF. In general, the CTF's comments encompass most of the other significant comments received from other interested parties. Because the CTF submission includes the same subject areas covered by other commenters, EPA will direct the majority of its responses to the CTF submission.

The Agency did not receive any comments which in the Agency's judgment rebutted the substantial production and substantial human findings for cresols. The major issues

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identified during the comment period are discussed below.

A. Comments on Exposure Issues

1. *Substantial production.* Several of the commenters stated that the cresols industry has seen a decline in manufacturing and sales, and that it is a mature chemical industry. However, none of the commenters volunteered any revised production estimates.

In the proposed test rule EPA estimated that the annual U.S. production volume was 169 million pounds, with another 17 million pounds imported into the United States each year. The most current EPA estimate is that in 1984 the production and imports of cresols and cresylic acid totalled approximately 132.4 million pounds (Ref. 6). The Agency believes that regardless of whether the total annual production and importation of cresols is 132.4 or 186 million pounds, these estimates still support a finding under section 4(a)(1)(B) of substantial production.

2. *Substantial human exposure.* The CTF, Sherwin-Williams, and Merichem commented that the Agency does not have a basis for the finding of substantial human exposure. They contend that EPA has overestimated the number of people who are exposed to cresols in the workplace and that EPA did not consider the following: whether or not the exposure to cresols is significant, the long history of cresol manufacture and use without any reports of chronic toxicity, the fact that cresols occur naturally in the human body, and that cresols do not occur in any consumer product.

EPA estimated in the proposed rule that between 687,000 and 1.2 million people are potentially exposed to cresols. Human exposure to cresols may occur in facilities which manufacture and process cresols and from the use of products which contain cresols. These exposure estimates made by EPA are intended to represent the upper (1.2 million people) and lower (687,000 people) bound estimates of the total number of persons exposed to cresols. The lower bound estimate was established using data provided by the CTF and Conoco. The upper bound estimate was based on data from the National Occupational Hazard Survey (NOHS) conducted in 1972–74.

The CTF commented that EPA's exposure estimates are inflated. The CTF presented a revised estimate of 126,000 people exposed. The Task Force conducted an analysis of the NOHS exposure estimate and concluded that the NOHS data support an upper-bound actual exposure of 126,000 people or 10 percent of the NOHS estimate (Ref. 7). The CTF also concluded that the NIOSH survey was inaccurate and based on production and use information which was out of date.

The CTF commented that EPA's estimate that 627,000 people are exposed to cresols from the use of cresols in cleaning compounds is also too high. As a result of this belief, the CTF commissioned an occupational survey on this use which, according to the CTF, shows that exposures from this use are very low. The survey was conducted for the CTF by the Johns Hopkins University School of Hygiene and Public Health. The Johns Hopkins report, on the basis of a survey of the Baltimore, Maryland, area estimates that nationwide there are approximately 148,000 mechanics exposed to cresol-containing cleaning compounds (Ref. 7).

The CTF also conducted an analysis of the NOHS estimates based on printouts of the underlying data obtained from NIOSH. According to the CTF's analysis of the data, the NOHS estimates of 1.2 million people exposed to cresols is overstated by a factor of at least 10. The Task Force analysis concentrated on the 14 percent of the NOHS estimate derived from 33,063 actual and tradename observations. The CTF criticized the accuracy of the NOHS numbers. It stated that a portion of the NOHS figures was based on products that may or may not contain cresols and some in which cresols are not used. As a result of its review of the NOHS survey, CTR concluded that the upper-bound limit of actual exposure is 126,000 people.

In addition, the occupational survey conducted by Johns Hopkins for the CTF only evaluates one user group, i.e., automobile mechanics exposed to cresol-containing cleaning compounds. In this survey, the estimates of workers exposed was 148,000. This estimate for only one user group is higher than the CTF's estimate for the total exposure based on CTF's analysis of the 1972–1974 NOHS survey. It is reasonable to assume that if 148,00 workers are estimated to be exposed during one use practice, then a much larger number of people would be exposed if all of the other uses for cresols were considered collectively.

Furthermore, the industry comments pointed out that cresols are not found in any end-use consumer products, but only in industrial products. EPA is aware of this; however, the uses in the automobile industry and wire enamel market and the use of cresols in strippers, cleaners, and degreases are such that substantial numbers of people are potentially exposed at the workplace.

In 1978, Conoco Chemicals Co. estimated the number of workers potentially exposed to cresols in truck and automobile cleaning compounds (Ref. 8). Based on upperbound estimates of 1978 market penetration of cresols-based cleaners, Conoco estimated that 627,000 mechanics may be exposed to cresols in these products. This use involves using cresol-based cleaning compounds in a tank-dipping process used to clean large items, usually automobile carburetors. While this use is still very substantial and results in high occupational exposure, the cresols industry emphasizes that new techniques have been developed which have minimized the exposure during this particular use practice. A new dipping product called an immersion cleaner, manufactured by Safety Kleen Corp., now used in garages is essentially enclosed and results in limited exposure. This method contracts with the open tank dipping used in the past. The industry contends that this new process has roughly half of the market for cresol-based cleaning compounds.

However, even if Conoco's 1978 estimate were halved, the resulting exposure estimates would still be over 300,000 people potentially exposed during this use practice.

In conclusion, EPA agrees with the industry comments on the cresols proposed rule that the estimate of 600,000 to 1.2 million people exposed is overstated. However, if EPA accepts the industry-generated estimate of 126,000 people exposed during manufacturing and processing and the estimate of 300,000 people, which is half of Conoco's original 1978 estimate, approximately 126,000 to 300,000 individuals exposed to cresols in the workplace results. The Agency believes that this estimate still satisfactorily meets the exposure criteria needed to permit it to make a section 4(a)(1)(B) finding, i.e., the chemical is produced in substantial quantities which may result in substantial human exposure.

3. *Inadvertant exposure.* The CTF commented that cresols are found in the human intestine as a natural product of the metabolism of tyrosine, which is one of the amino acids present in the body's protein. It further contends that cresols are ubiquitous in the natural environment and that industrial releases of cresols are minor when compared to the estimated annual volume released by natural sources. The Task Force suggests that these factors undermine the validity of an exposure-based finding under TSCA section 4(a)(1)(B).

However, it is only *para*-cresol which naturally occurs in the human body. The CTF also has ignored the relationship between cumulative multimedia exposure and threshold toxicity levels. Total exposure, intake, and subsequent uptake of a chemical must be considered from all sources. Total additive uptake must be analyzed in terms of dose/response relationships and threshold toxic levels for chronic and acute toxic effects. Natural occurrence does not negate the effect of higher anthropogenic or cumulative exposures eliciting toxic responses. Therefore, a risk assessment or an assessment for further testing must consider cumulative multimedia exposure. The Agency believes that any additional exposure to cresols may be cause for concern, presenting an additive effect, i.e., increased burden, on the body. An added loading of *para*-cresol may possibly present a cumulative exposure and therefore an unknown risk. The Agency has determined that this risk should be investigated.

4. *Levels of exposure.* The CTF, Merichem, and Sherwin-Williams all included comments in their submissions which concerned the levels of the cresols to which people are potentially exposed. All of the comments, in one way or another, stated that any exposures that may occur are so low that there is not cause for undue concern. The CTF states that "* * * 8-hour exposures of as high as 1 ppm are sustained only by a very few of the most highly exposed workers in cresols manufacturing facilities" (Ref. 7). However, it is also the workers who are exposed for long periods of time at low exposure levels with whom the Agency is concerned. Little information is known on the health risks associated with this type of exposure profile. Even though the industry commented that no chronic health problems have been noted among persons exposed to cresols in the past, there have been no studies, either clinical health or epidemiological, which prove or disprove this premise. Therefore, in order to reasonably determine or predict the risks to workers who are exposed to cresols for a few hours a day over several years, the Agency believes that chronic and other health effects information are needed.

B. Comments on Persons Subject to Testing

1. *Producers of synthetic cresols.* The Sherwin-Williams Co. commented that since it is reported to be the only domestic producer of *para*-cresol, used only in products where the *para*-cresol is consumed in the manufacturing process, it should not be subject to the final rule for cresols. It contends that the Agency cannot support a finding of substantial human exposure for *para*-cresol.

The Agency's finding of substantial occupational exposure to cresols is based on potential widespread exposures both to the individual isomers and to countless mixtures. Cresols are sold commercially in varying mixtures of the three isomers, two isomers, and single isomer, in combination with many other chemical components. Potential exposures in the workplace are to all three of the isomers as constituents of those mixtures, as well as to the pure isomers. *Para*-cresol is a component of these mixtures and hence, a component of the industrial products in which the cresol mixtures are used. It is on this basis that *para*-cresol manufacturers are subject to this rule.

Furthermore, it is the Agency's opinion that Sherwin-Williams manufactures *para*-cresol in substantial quantities and that the potential for widespread occupational exposure during the manufacturing, distribution, loading, shipping, sampling, processing, and/or disposal of *para*-cresol is high.

Therefore, the Agency does not agree with Sherwin-Williams and has determined that Sherwin-Williams is a manufacturer of cresols as defined under sections 3 and 4 of TSCA. The Agency has made no differentiation between different methods of cresols production.

2. *Processors of cresols.* The Ciba-Geigy Co. comments addressed the role of cresols processors in the conduct of and reimbursement for tests required in the final rule. Ciba-Geigy believes that all processors should be exempt from conducting tests and sharing costs. Further, it stated that if processors are to be included, then the processors should be divided into two groups, those who use cresols as raw material to form totally different chemical products and those "* * * who merely [mix] them and [pass] the resulting formulations on to a wider public" * * * "Ciba-Geigy recommends that processors who use cresols solely as raw materials to form new chemical products be exempt from the burden of testing and/or data reimbursement" (Ref. 9).

EPA does not agree that it should differentiate between types of processors in the section 4 test rule process. The definition of "process" in section 3(10) and the language of section 4(b)(3)(B) do not make a distinction such that the responsibilities of the two types of processors [as described by Ciba-Geigy) should differ in any way. Ciba-Geigy is a processor as defined under section of TSCA because it prepares cresols, after its manufacture, for distribution in commerce. However, under EPA's section 4 procedural rule (50 FR 20652) processors would be required to perform testing or be subject to reimbursement only if manufacturers fail to perform testing (See Units IVD and E).

C. Comments on the Economic Impact of the Cresols Test Rule

Several of the public comments submitted in response to the cresols proposed test rule addressed the adverse economic impact which the test rule would have on the cresols industry. The industry comments generally focused on a belief that EPA had underestimated the costs of testing and on an analysis of the price sensitivity of and competition within the cresol marketplace. They contended that the cresols industry is a mature chemical industry which has seen declining sales in recent years. In addition, they argued that EPA severely underestimated the real economic effects of the proposed test rule and that the testing costs on an annualized unit cost basis are not minor, as the Agency stated, but would impact heavily on the industry.

When the proposed cresols test rule was published (July 1983) the Agency's economic analysis was based on the best available information. The Agency attempted to factor in all of the variables which must be considered in conducting an economic assessment of one market of the vast chemical industry. As a result of both industry comments on the proposed rule and the Agency's independent acknowledgment that the economic variables within the cresols industry had changed, EPA conducted a supplemental economic analysis of the proposed cresol test rule program (Ref. 10).

This supplemental report factored in revised test costs and new economic data including more detailed and current information on the affected industry. The conclusions reached in the Agency's revised economic analysis indicate that the potential for adverse economic effects on the cresols-producing industry due to the estimated testing costs contained in the proposed rule was high. Therefore, the Agency is in general agreement with most of the comments about the economic impact of the proposed cresols test rule.

TSCA only requires that EPA acknowledge the existence of a potential economic impact [(TSCA sections 2 (b)(3) and (c), 4(B)(1)(C), and 24(a)(1))], not necessarily take any action because of it. However, the Agency believes that an alternative testing approach can mitigate the

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adverse economic impact and also obtain the health effects data which the Agency has determined are necessary. This alternative approach is adopted in this final cresols test rule.

Cresols testing will be conducted in two tiers. At this time, selected mutagenicity tests, developmental toxicity studies, and reproductive effects studies will be finalized in this rule. At the conclusion of all of the testing required in the first test rule there will be an Agency decision point at which time a review of the collective data on cresols will occur. This collective data will include, but not be limited to, the tests finalized in this rule, as well as any health effects testing conducted by EPA and NTP.

At the same time, the Agency will publish in the Federal Register, notification that the testing required in the first cresol test rule has been completed and that the Agency has received all of the data. The Federal Register notice will announce the opening of a short public comment period during which time interested parties can review the data and submit comments as to what, if any, additional testing should be required for cresols. This review will determine the scope of any additional higher-tier testing and the chemical substance(s) which should be tested.

Following that decision, EPA may promulgate a second final test rule which could include 2-year oncogenicity bioassay(s) and upper-tier mutagenicity assay(s) on *ortho*-cresol, *meta*-cresol, and/or *para*-cresol. In addition, neurotoxicity testing may be included in the second final test rule for cresols.

As explained in unit II.D. of this document, EPA is conducting 90-day subchronic toxicity studies for each of the cresol isomers and has included in this testing expanded clinical observations of neurobehavioral characteristics and neuropathological examinations. Therefore, the remaining two neurotoxicity studies initially proposed for cresols, i.e., the functional observation battery and motor activity test, will not be conducted in the first final test rule.

However, if the results of the subchronic and neurotoxicity studies conducted by EPA indicate that the effect of cresols on neurobehavior and neuromotor function is a potential concern, then these two assays will be finalized as part of the second final rule for cresols. In the second final rule, if one is warranted, the neurotoxicity testing could be added to any oncogenicity bioassay as a satellite dose group.

Therefore, the upper-tier definitive health effects studies (oncogenicity and mutagenicity) and neurotoxicity studies (functional observation and motor activity) which have already been set forth in the proposed cresols rule (July 11, 1983; 48 FR 31812), will continue in a proposed status to be finalized at a later date should the Agency determine that a second final test rule is necessary to sufficiently characterize the health effects concerns of cresols.

EPA believes that this phased approach to the testing required in the proposed cresols test rule is warranted because it will reduce the possibility of adverse economic impact on the cresols industry resulting from the proposed cresols test rule. Further, and most importantly, the Agency believes that the health effects testing which was initially proposed in the cresols proposed rule will ultimately be fully addressed in this tiered test rule approach (See Unit V for Economic Impact of Final Rule).

D. Comments on Health Effects Testing

1. *Route of administration of test substance.* The proposed test rule required that inhalation be the route of administration of the test substance in the health effects studies (subchronic toxicity, oncogenicity, two-generation reproductive effects) for cresols. The CTF comments recommended that this be reconsidered by the Agency and that ingestion rather than inhalation be used. The cresols manufacturers contend that existing acute data, using oral, dermal, and inhalation routes, do not indicate that cresols induce any unique toxicity by the inhalation route. Further, CTF contends that existing data on cresols indicate that the target organs are systemic (CNS, liver, kidney) and that these organs are targets regardless of the route of administration of the test substance. It is the commenters' conjecture that EPA is, or should be, interested in systemic effects from long-term, low level exposures, and that these effects will be picked up in the animal testing regardless of the route of exposure.

The Agency has considered the CTF comments. While the Agency does not necessarily agree with all of the scientific rationale given by the CTF for altering the route of administration, EPA will allow the change from inhalation to ingestion. EPA believes that the gavage subchronic study being performed by the Agency will give information which will enable the Agency to make the necessary risk evaluations for cresols. Therefore, the Agency agrees to change the route of administration from inhalation to ingestion for the developmental toxicity and reproduction and fertility effects studies.

2. *Test substance.* The CTF commented that the health effects testing should be performed on an equal mixture of the three cresol isomers, i.e., ⅓ *ortho*-cresol, ⅓ *meta-cresol, and* ⅓ *para*-cresol. The industry believes that exposures to workers are more likely to be from a trimeric mixture than from individual isomers. CTF states that the single isomer use of cresol is generally as feedstock in chemical manufacture. However, while these statements are probably the case during the manufacture of cresols, cresols are sold commercially as mixtures of three isomers in a myriad of varying concentrations, mixtures of two isomers, particularly *meta*- and *para*-cresol, as single isomers, and in the commercial product cresylic acid. The Agency believes that widespread exposures are to both individual isomers and countless mixtures. It is because of the production of such a variety of mixtures that the Agency decided to test each isomer separately. There is no "standard" mixture to which people are more predominantly exposed. In addition, the Agency believes that each of the isomers is produced in such substantial quantities that each warrants individual investigations. Finally, the Agency believes that the most useful data will be obtained by using the purest available form of the chemical being studied. Therefore, the Agency disagrees with the industry comments and has determined that the health effects testing will be conducted with specified individual cresol isomers.

3. *Finding of unreasonable risk.* The CTF comments that there is no basis for a finding of potential unreasonable risk under section 4(a)(1)(A) of TSCA for mutagenicity and carcinogenicity. It states that the Agency's finding is only based on questionable and/or flawed studies. Most of the mutagenicity studies in question were conducted for the cresols industry consortium and submitted as a part of their public comments in response to the ITC's initial testing recommendations for cresols (42 FR 55026; October 12, 1977).

The Agency has reviewed the tests and considers that the positive results seen in several of the short-term mutagenicity tests are valid and significant. In addition, the section 4(a)(1)(A) finding of "may present an unreasonable risk" for oncogenicity was based on evidence which suggests that the three cresol isomers have a capacity for promoting the appearance of skin tumors in mice.

However, as explained in unit III. C. of this preamble, the Agency is not requiring oncogenic testing for cresols at this time. However, a finding of potential unreasonable risk for mutagenic effects remains a valid basis for the mutagenicity testing required in this rule.

4. *Neurotoxicity testing.* The CTF commented on the neurotoxicity tests which were proposed in the cresols rule. While CTF apparently agreed with the need for some neurotoxicity testing, it questioned the choice of tests. In addition, it stated that a general screening procedure should be conducted before considering chronic low-level neurotoxicity testing. The most critical of the specific comments had to do with "weak basis" for requiring testing and the inappropriateness of neurotoxicity testing as standard operating procedure for these types of chemicals.

The Agency agrees with the CTF that neurotoxicity testing should begin with a screen, and that was the approach the Agency proposed in the test rule. The proposed testing is the neurotoxicity screening procedure. It is the Agency's general policy in implementing TSCA section 4 to require these three neurotoxicity tests, i.e., neuropathology, motor activity, and functional observation battery, in test rules based on a finding of substantial production and exposure.

However, because EPA is conducting a portion of the proposed neurotoxicity studies, EPA is not requiring that any neurotoxicity studies be performed in this final rule (see units II.D. and III.C. of this document). However, based on the results of the neurotoxicity evaluations conducted by EPA, the Agency may require that the functional observation battery and motor activity evaluations, which were proposed for cresols, be included in the second final test rule.

5. *Tiered mutagenicity scheme.* The CTF, CMA, AIHC, and NRDC submitted comments on the proposed mutagenicity testing requirements for cresols. Some of the issues covered were related to the choice of tests, the automatic triggers to higher level mutagenicity tests and oncogenicity testing, and mutagenicity as a regulatable endpoint. The Agency's response to a variety of public comments on this approach, the test sequences, and the assays (and triggers for oncogenicity testing) contained within them may be found in the final Phase I test rule for the C_9 aromatic hydrocarbon fraction (C_9) (50 FR 20662; May 17, 1985) and the final Phase I test rule for mesityl oxide (MO) (50 FR 51857; December 20, 1985).

A. *Automatic triggers for chronic oncogenicity bioassay.* As discussed in the final Phase I test rules for C_9 and MO, the Agency believes that the use of sequences of tiered tests for mutagenicity testing and the use of automatic triggers to require chronic oncogenicity bioassays based on the results of certain mutagenicity assays are consistent with both current scientific knowledge and the regulatory approach to chemical testing established under section 4 of TSCA. Existing data show a strong correlation between positive results in certain mutagenicity tests and positive results in animal chronic oncogenicity bioassays for a large number of substances tested in both types of systems. Thus, positive results in one or more of these mutagenicity assays provide a basis for concluding that the substance may be an oncogen and, in conjuction with evidence of both an active chemical structure and the potential for human exposure to the substance, that such exposure may present an unreasonable risk of oncogenicity. If all of these mutagenicity tests yield negative results, the likelihood of the specified chemical being oncogenic is small and the chronic bioassay will not be required. Conversely, if any one of these trigger tests is positive, potential oncogenicity of a chemical is suggested and a chronic bioassay is essential to confirm or deny that potential and provide a basis for judging what oncogenic risk exposure to the specific chemical may present.

However, in view of the potential adverse economic impact of the proposed cresols rule on the cresols-producing industry (see unit III. C. of this preamble), the Agency has altered its approach in the final cresols test rule. Because EPA is now using a two-tiered test rule, there are no longer automatic triggers to the oncogenicity bioassays or upper-tier mutagenicity assays, i.e., mouse specific locus assay and heritable translocation assay. These higher-tier, more definitive tests will not be addressed in this document. A second test rule may require 2-year bioassay(s) and upper-tier mutagenicity assay(s), as well as possible neurotoxicity testing.

b. *Mutagenicity as a regulatable endpoint.* While the industry commenters agreed that appropriate mutagenicity assays can be used for assessing carcinogenic potential, they objected to the use of the more elaborate tests to assess mutagenic risk as a separate endpoint. They objected to EPA's apparent use of rigid inflexible testing schemes in favor of a tiered approach to permit informed scientific judgment.

The sequence of tiered tests employed by EPA in assessing the mutagenic potential of chemical substances, which are required in this final Phase I test rule for specific cresol isomers, were previously described in the proposed test rule issued by the Agency for cresols (48 FR 31812; July 11, 1983), and are more completely described in the final Phase I test rule for C_9 and MO. Although these general test sequences are usually employed, the Agency ultimately specifies the required mutagenicity test for each specific chemical substance on a case-by-case basis. In the case of the cresol isomers, many of the isomers have already been tested in several mutagenicity assays. The cresols mutagenicity scheme has been designed so that only selected isomers will be tested in specific test systems.

The Agency feels that there is a consensus in the scientific community on the need for identifying mammalian mutagens. While it is recognized that there is, as yet, no generally accepted single methodology for estimating human risk from mutagenic agents, it is the Agency's view that appropriate methodologies for testing do exist and are valid. Therefore, the Agency concludes that it is appropriate at this time to obtain mutagenicity data on cresols to determine whether additional upper-tier mutagenicity assays, i.e., mouse specific locus and/or heritable translocations, are necessary for one or more of the three cresol isomers. Any additional mutagenicity testing will be required in a subsequent final rule for cresols.

Even though the upper-tier mutagenicity tests and the 2-year bioassays will not be automatically triggered as a result of first and second tiers of mutagenicity testing, the first and second tiers will remain as proposed, except for the deletion of the SCE assays as discussed in Unit II.D. of this preamble. EPA believes the use of automatic triggers between these first tiers is suitable. It should be noted that this does not exclude the public from requesting modification in the test program. Provisions are available under section 21 of TSCA for the public to petition EPA at any time to amend a rule under section 4.

6. *Other health effects testing issues.* In the cresols proposed rule, the Agency included testing each cresol isomer for skin sensitization. The purpose of this evaluation is to identify the effects, and hence possible hazard, to a population repeatedly exposed to a test substance.

After reflecting upon the inclusion of this test in the proposed rule, EPA has

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decided to delete the skin sensitization study from the final cresols rule. The Agency has determined that because of the highly corrosive nature of cresols to the skin, little additional useful information would be derived from conducting a sensitization study with cresols.

E. Comments on Environmental Effects Testing

The ITC recommended that cresols be tested for chronic effects in fish and other aquatic organisms. The Agency believes that there is substantial release and exposure to the environment by cresols. However, the Agency made a preliminary decision in the proposed test rule and concluded that there is sufficient information to reasonably predict that cresols do not pose a chronic aquatic toxicity hazard. This information includes ambient concentrations predicted through computer models, a large quantity of acute toxicity data, monitoring data, and known bioconcentration, biodegradation, and persistence values. The Agency acknowledges that there is no existing chronic toxicity data for cresols, but believes that this combined information allows EPA to reasonably predict whether or not exposure of aquatic organisms to cresols should cause chronic effects.

However, EPA was aware that the information on which the Agency made its preliminary decisions is open to many different interpretations. For this reason, EPA specifically requested in the cresols rule that interested parties submit comments on this issue.

The Agency received comments from both NRDC and CTF. NRDC commented that enough consideration was not given "* * * to possible subtle or chronic ecological consequences of discharges during lapses of treatment or to discharges into other bodies of water." In addition, NRDC was concerned that "* * * cresols are acidic compounds and could affect the chemistry of sensitive locales when discharged in large quantities." Therefore, NRDC states that environmental effects testing should be initiated for cresols.

EPA, in response to NRDC's comments, re-reviewed all of the information from which it made the preliminary decision not to test cresols for environmental effects. The Agency believes that the environmental effects data and analyses which exist for cresols are adequate to permit the Agency to make an evaluation of any potential chronic effects which might result from exposure to cresols. The information on which the Agency bases its decision not to require environmental effects testing is extensive, and when properly analyzed and interpreted, can provide information on the potential of a chemical to cause chronic effects. Further, all of the available acute, monitoring, and modeling data, in conjunction with data on the transport and fate of the chemical in an aquatic habitat, provide an important segment of the scientific basis for assessing the risk resulting from the release of that chemical into the environment.

The CTF comments support the Agency's preliminary decision on the environmental effects testing. CTF contends that cresols degrade rapidly in the environment and that concentrations of cresols in the water, even under worst-case conditions, would not approach the levels that would pose a chronic aquatic toxicity hazard.

The Agency has reviewed both sets of comments and has found no basis to alter its initial environmental testing decision. Therefore, no additional environmental effects testing on cresols will be required at this time. The Agency believes that substantial information is available to the Agency to enable it to make an assessment of risk for cresols on aquatic organisms. In sections 4(a)(1)(A)(ii) and (B)(ii) of TSCA, the Agency must find that,

> there are insufficient data and experience upon which the effects to the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on * * * the environment can reasonably be determined or predicted.

EPA does not believe that it can make that finding for cresols for environmental effects testing at this time.

F. Comments on Protocol Submission and the Phased Test Rule Process

The NRDC submitted comments concerning the need for requiring validated protocols and recommended modification of the Agency's two-phase test rule process. These comments were considered and addressed in both the final Phase I test rule for the C_9 aromatic hydrocarbon fraction (50 FR 20662, 20666–20667; May 17, 1985) and the final rule on Test Rule Development and Exemption Procedures, published in the Federal Register of October 10, 1984 (49 FR 39774).

EPA shares NRDC's desire that test rules should be completed as rapidly as possible, and the Agency has decided to modify the test rule development process for cresols. Elsewhere in this issue of the Federal Register, EPA is proposing certain TSCA guidelines as the required test standards for cresols. The Agency is also proposing that the test data from each required study be submitted within certain time frames. By taking this action, EPA believes that testing will be initiated more expeditiously than would occur if the normal two-phase process were followed (see Unit IV.E., below).

IV. Final Test Rule for Cresols

A. Findings

EPA is basing the final testing requirements for cresols on the authority of section 4(a)(1)(B) of TSCA. EPA finds that each of the three cresol isomers is manufactured, processed, and used in substantial quantities that may result in substantial human exposure. Furthermore, EPA finds that there are insufficient data available to either reasonably determine or predict the result of this exposure in the areas of mutagenic, developmental toxicity, and reproductive effects. These findings are based on the following information:

1. There are substantial amounts of cresols produced in or imported into the United States each year. It is estimated that production and imports of cresols totalled 132.4 million pounds in 1984.

2. Estimates indicate that between 148,000 and 300,000 people are exposed to cresols each year via manufacturing, processing, and/or use activities.

3. EPA finds that there are insufficient data on all of these cited human health effects from which to reasonably determine or predict the result of exposure to cresols and that testing of cresols for these effects is necessary to develop such data.

4. EPA does not believe that the final rule will result in a loss to society of the benefits of cresols because the Agency's economic evaluation has shown that the economic impact of testing these substances will be minimal.

In addition, EPA has found that (a) there is evidence of potential unreasonable human health risks from mutagenic effects resulting from the manufacture, processing, and use activities associated with cresols, and that while there are existing data which support this belief with respect to these effects, (b) these existing data are inadequate to reasonably predict or determine the effects of these exposures to cresols, and (c) testing is necessary for these effects. Therefore, EPA believes that requiring testing of cresols for mutagenicity can also be based upon section 4(a)(1)(A) of TSCA.

B. Required Testing

EPA is requiring that each of the three cresol isomers, *ortho*-cresol, *meta*-cresol, and *para*-cresol, shall be tested in the following health effects studies: (1) Mutagenic effects studies (including tests for chromosomal aberrations, gene mutations, and cellular transformations on specified cresol isomers), (2) developmental toxicity, and (3) two-generation reproductive effects studies.

C. Test Substance

EPA is requiring that *ortho*-cresol, *meta*-cresol, and *para*-cresol of at least 99 percent purity be used as the test substances because this grade is readily available and will best allow EPA to assess the hazards presented by the various cresol isomers.

D. Persons Required to Test

Section 4(b)(3)(B) specifies that the activities for which the Agency makes section 4(a) findings (manufacture, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing. Both manufacturers and processors are required to test if the exposures occur during use, distribution, or disposal. Because EPA has found that the manufacturing, processing, use, and distribution in commerce of *ortho*-, *meta*-, and/or *para*-cresol give rise to potential substantial exposures, EPA is proposing that persons who manufacture or process, or who intend to manufacture or process, any of the cresol isomers at any time from the effective date of this test rule to the end of the reimbursement period be subject to the rule's requirements for that isomer. The end of the reimbursement period ordinarily will be 5 years after the submission of the last final report required under the test rule. As discussed in the Agency's test rule development and exemption procedures (40 CFR Part 790), EPA expects that manufacturers will conduct testing and that processors will ordinarily be exempted from testing.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from that requirement.

E. Test Rule Development and Exemptions

Elsewhere in this issue of the Federal Register, the Agency is proposing that certain TSCA guidelines be utilized as test standards for the development of data under this rule for *ortho*-, *meta*-, and *para*-cresol. As discussed in that notice and in previous notices (50 FR 20652; May 17, 1985), EPA has reviewed the method for development of test rules and has decided that for most section 4 rulemakings, the Agency will utilize single-phase rulemaking. In light of this decision, EPA has reevaluated the process for developing test standards for section 4 rulemakings initiated under a two-phase process and has determined that for certain of these two-phase rules, TSCA test guidelines are generally available for promulgation as relevant test standards. EPA has decided that where TSCA test guidelines are available, the Agency in most cases will propose the relevant guidelines as the test standards for those rules.

EPA believes that, in line with its commitment to expedite the section 4 rulemaking process, it is appropriate to propose the applicable TSCA test guidelines as test standards at the same time as a Phase I final test rule is issued. With regard to the rulemaking for *ortho*-, *meta*-, and *para*-cresol, TSCA test guidelines are available for the testing requirements included in this Phase I final rule. Thus, in the accompanying notice the Agency is proposing these TSCA guidelines as test standards.

The public, including the manufacturers and processors subject to the Phase I rule, will have an opportunity to comment on the use of the TSCA test guidelines or to propose alternate test methods. The Agency will review the submitted comments and will modify the TSCA test guidelines, where appropriate, when the test standards are promulgated.

During the development of a test rule under the two-phase process, persons subject to the Phase I final rule are normally required to submit proposed study plans within 90 days after the effective date of the Phase I final rule (see 40 CFR 790.30(a)(2), published in the Federal Register of May 17, 1985 (50 FR 20658)). However, because EPA is proposing applicable TSCA test guidelines as the test standards for the studies required by this Phase I final rule, persons subject to the rule, i.e., manufacturers and processors of *ortho*-, *meta*-, and/or *para*-cresol, are not required to submit proposed study plans for the required testing. Persons subject to this rule, however, are still required to submit notices of intent to test or exemption applications in accordance with 40 CFR 790.25, published in the Federal Register of May 17, 1985 (50 FR 20657). For this rule, once the test standards are promulgated, persons who have notified EPA of their intent to test must submit study plans (which adhere to the promulgated test standards) no later than 30 days before the initiation of each required test.

Processors of *ortho*-, *meta*-, and/or *para*-cresol subject to this rule, unless they are also manufacturers, will not be required to submit letters of intent, exemption applications, or study plans (before testing is initiated) unless manufacturers fail to sponsor the required tests. The basis for this decision is that manufacturers are expected to pass an appropriate portion of the test costs on to processors through the pricing of products containing *ortho*-, *meta*-, and/or *para*-cresol.

EPA's final regulations for the issuance of exemptions from testing requirements are in 40 CFR Part 790. In accordance with those regulations, any manufacturer or processor subject to this Phase I test rule may submit an application to EPA for an exemption from conducting any or all of the tests required under this rule. If manufacturers perform all the required testing, processors will be granted exemptions automatically without having to file applications.

Because persons subject to this rule for cresols are not required to submit proposed study plans for approval, EPA will grant conditional exemptions under this rule following EPA's receipt of a letter of intent to conduct the required tests rather than after receipt and approvals of a study plan. Notice of EPA's adoption of the final test standards and deadlines will be announced in a final Phase II test rule.

F. Repprting Requirements

EPA is requiring that all data developed under this rule be reported in accordance with the EPA Good Laboratory Practice (GLP) standards pursuant to 40 CFR Part 792.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. The Agency is proposing these deadlines elsewhere in this issue of the Federal Register. These proposed data submission deadlines are open for public comment and may be modified, where appropriate, when the final Phase II test rule is promulgated.

TSCA section 12(b) requires that persons who export or intend to export

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to a foreign country any *ortho-*, *meta-*, and/or *para*-cresol, subject to the testing requirements of this rule, notify EPA of such exportation or intent to export. While the results of required testing may not be available for some time, a notice to the foreign government about the export of such substances subject to test rules serves to alert it to the Agency's concern about the substances. It gives the government the opportunity to request such data that the Agency may currently possess plus whatever data may become available as a result of testing activities. Thus, upon the effective date of this rule, persons who export or intend to export *ortho-*, *meta-*, and/or *para*-cresol must submit notices to the Agency pursuant to TSCA section 12(b)(1) and 40 CFR Part 707. For additional information, see the Federal Register of November 19, 1984 (49 FR 45561).

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will announce the receipt within 15 days in the Federal Register as required by section 4(d). Test data received pursuant to this rule will be made available for public inspection by any person except in those cases where the Agency determines that confidential treatment must be accorded pursuant to section 14(b) of TSCA.

G. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of TSCA. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) Establish or maintain records or (2) submit reports, notices, or other records required by the Act or any regulations issued under TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce * * *" The Agency considers a testing facility to be a place where the chemical is held or stored and, therefore, subject to inspection. Laboratory audits and/or inspections will be conducted periodically in accordance with procedures outlined in TSCA section 11 by designated representatives of the EPA for the purpose of determining compliance with the final rule for *ortho-*, *meta-*, and *para-cresol*. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to EPA GLP standards and the test standards established in the second phase of this rulemaking.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under test rules are reliable and adequate, and such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties calculated as if they had never submitted their data. Under the penalty provisions of section 16 of TSCA, and person who violates section 15 could be subject to a civil penalty of up to $25,000 per day for each violation. Intentional violations could lead to the imposition of criminal penalties up to $25,000 for each day of violation and imprisonment for up to 1 year. Other remedies are available to EPA under sections 7 and 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals as well as corporations could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

V. Economic Analysis of Final Test Rule

To assess the economic impact of this rule, EPA has prepared an economic analysis that evaluates the potential for significant economic impacts on the industry as a result of the required testing (Ref. 6). The economic analysis estimates the costs of conducting the required testing and evaluates the potential for significant adverse economic impact as a result of these test costs by examining four market characteristics of cresols: (1) Price sensitivity of demand, (2) industry cost characteristics, (3) industry structure, and (4) market expectations.

Total testing costs for the final rule for cresols are estimated to range from $764,095 to $1,050,230. This estimate includes the costs for both the required minimum series of tests as well as the conditional ones.

The estimated 1983 production volume for each of the three isomers is approximately 28, 28, and 40 million pounds for *para-*, *meta-*, and *ortho*-cresol, respectively. The costs of testing are first allocated to each isomer on the basis of production volume. The test costs for each isomer are then allocated to the commercial products containing the isomer based on percentage composition and total production of the commercial product. Based on this allocation method and the maximum costs of required and conditional testing, the annualized unit costs of testing range from a low of 0.08 cents per pound for cresylic acid, to a high of 0.34 cents per pound for *meta-* and *para*-cresol mixtures. Compared to the unit sales value for the commercial products, the unit test costs range from a low of 0.10 percent of price to a high of 0.42 percent of price.

Based on these costs and a consideration of the market characteristics of cresol products, the economic analysis indicates that the potential for significant economic impact is low. This conclusion is based on the following observations: (1) The estimated unit test costs are small and represent a relatively small percentage of product unit value (i.e., less than one percent of unit value in the worst case); (2) relatively stable, and in some cases moderate, growth is expected in most markets for cresols; and (3) demand in most of the markets does not appear to be very sensitive to small increases in price. For a complete discussion of the economic implications of this rule, see the economic analysis support document (Ref. 6).

VI. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing programs negotiated with industry in place of rulemaking.

Copies of the study, "Chemical Testing Industry: Profile of Toxicological Testing," October 1981, can be obtained through the NTIS under publication number PB 82-140773. On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing required in this test rule.

VII. Rulemaking Record

EPA has established a public record for this rulemaking (docket number 42033B). This record includes the basic information the Agency considered in developing this rule and appropriate Federal Register notices.

This record includes the following information:

A. Supporting Documentation

(1) Federal Register notices pertaining to this final rule consisting of:

(a) Notice containing the ITC designation of cresols to the Priority List (42 FR 55026; October 12, 1977).

(b) Notice of proposed rule on cresols (48 FR 31612; July 11, 1983).

(c) Notice of final rule on EPA's TSCA Good Laboratory Practice Standards (48 FR 53922; November 29, 1983).

(d) Notice of final rule on test rule development and exemption procedures (49 FR 39774; October 10, 1984).

(e) Notice of final rule concerning data reimbursement (48 FR 31786; July 11, 1983).

(f) Notice of interim final rule on test rule development and exemption procedures (50 FR 20662; May 17, 1985).

(g) Notice of final rule on the C_9 Aromatic Hydrocarbon Fraction (50 FR 20662; May 17, 1985).

(h) Notice of final rule on mesityl oxide (50 FR 51657; December 20,1985).

(2) Support documents consisting of:

(a) Cresols technical support document for proposed rule.

(b) Economic impact analysis of NPRM for cresols.

(c) Economic impact analysis of final test rule for cresols.

(3) Communications consisting of:

(a) Written public comments.

(b) Transcription of public meeting.

(c) Summaries of phone conversations.

(d) Meeting summaries.

(e) Reports—published and unpublished contractor's reports.

B. References

(1) U.S. International Trade Commission. "Synthetic organic chemicals, United States production and sales, 1984." Washington, D.C.: Government Printing Office. USITC pub. 1745, 1985.

(2) Bureau of Census, U.S. Department of Commerce. "U.S. imports for consumption and general imports, TSUSA. Commodity by country of origin." Washington, D.C. Government Printing Office. FT-246, Annual 1984, 1985.

(3) Chenq, M., Kligerman, A.D. "Evaluation of the genotoxicity of cresols using sister-chromatid exchange (SCE)." *Mutation Research* 137:51-55, 1984.

(4) U.S. Environmental Protection Agency. Memorandum from Kerry L. Dearfield to Linda Tuxen. "Review of Genotoxicity of Cresols using Sister Chromatid Exchange (SCE)." July 11, 1985.

(5) U.S. Environmental Protection Agency. "40 CFR Part 260 et al.—Hazardous Waste Management System; Land Disposal Restrictions; Proposed Rule." 51 FR 1602; January 14, 1986.

(6) Mathtech, Inc. Economic Impact Analysis of Final Test Rule for Cresols. Contract No. 68-02-4235. January 29, 1986.

(7) Cresols Task Force. Comments on EPA's Proposed Test Rule for Cresols. Submission from Robert V. Zener, CTF to Public Information Office, EPA. October 11, 1983.

(8) Hall, J.J. Comments of CONOCO on ITC listing of cresols. Letter from J.J. Hall to Joan Urguhart, Public Information Office, EPA. March 14, 1978.

(9) Ciba-Geigy Corp. Comments of Ciba-Geigy on Cresols Proposed Test Rule. Letter from Anthony DiBattista to Public Information Office, EPA. October 10, 1983.

(10) Mathtech, Inc. Draft Supplemental Report on Cresols and Cresylic Acid. Memorandum from John K. Orrell to Hollis Call. November 26, 1984.

Confidential Business Information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in Rm. E-107, 401 M St., SW., Washington, D.C.

VIII. Other Regulatory Requirement

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the order. First, the actual annual cost of all the testing proposed for cresols is estimated at $764,095—$1,050,230 over the market life of the chemical. Second, because the cost of the required testing will be distributed over a large production volume, the rule will have only very minor effects on users' prices (less than 1 percent a year) for this chemical even if all test costs were passed on. Finally, taking into account the nature of the market for this substance, the low level of costs involved, and the expected nature of the mechanisms for sharing the costs of the required testing, EPA concludes that there will be no significant adverse economic effects of any type as a result of this rule.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments received from OMB are included in the Public Record for this rulemaking.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub. L. 96-354, September 19, 1980), EPA is certifying that this test rule will not have a significant impact on a substantial number of small businesses for the following reasons:

1. There are not a significant number of small businesses manufacturing or importing this chemical.

2. Small processors are not expected to perform testing themselves, or participate in the organization of the testing effort.

3. Small processors will experience only very minor costs, if any, in securing exemption from testing requirements.

4. Small processors are unlikely to be affected by reimbursement requirements.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number (2070-0033).

D. Comprehensive Environmental Response, Compensation and Liability Act ("Superfund")

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA (42 U.S.C. 9601 *et seq.*, Pub. L. 96-510, December 10, 1980)) requires that persons in charge of vessels or facilities from which hazardous substances have been released in quantities that are equal to or greater than the reportable quantities (RQs) immediately notify the National Response Center (NRC) of the release. (See CERCLA section 103(a), and 50 FR 13456; April 4, 1985). The National Response Center can be notified at (800) 424-8802, except from the Washington, DC metropolitan area, where the telephone number for notification is (202) 426-2675. All designated hazardous substances will have an RQ of one pound until adjusted by regulation under CERCLA, unless such substances are already on the list of CERCLA

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hazardous substances and have been assigned an RQ (see CERCLA section 102). Cresols have been assigned an RQ of 1,000 pounds.

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous substances, Chemicals, Recordkeeping and reporting requirements.

Dated: April 21, 1986.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 799—[AMENDED]

Therefore, Part 799 is amended as follows:

1. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. New § 799.1250 is added, to read as follows:

§ 799.1250 Cresols.

(a) *Identification of test substances.* (1) *ortho*-Cresol (CAS No. 95–48–7), *meta*-cresol (CAS No. 108–39–4), and *para*-cresol (CAS No. 106–44–5) shall each be tested in accordance with this section.

(2) *ortho*-, *meta*-, and *para*-Cresol of at least 99 percent purity shall be used as the test substance.

(b) *Persons required to submit study plans, conduct tests, and submit data.* (1) All persons who manufacture or process or intend to manufacture or process cresols from the effective date of this rule (June 11, 1986) to the end of the reimbursement period shall submit letters of intent to conduct testing or exemption applications, study plans, and/or shall conduct tests and submit data as specified in this section, Subpart A of this Part, and Part 790 of this chapter.

(2) Persons subject to this section are not subject to the requirements of §§ 790.30 (a) (2), (5), and (6) and (b), and 790.87(a)(1)(ii) of this chapter.

(3) Persons who notify EPA of their intent to conduct tests in compliance with the requirements of this section must submit study plans for those tests no later than 30 days before the initiation of each of those tests.

(4) In addition to the requirements of § 790.87(a) (2) and (3) of this chapter, EPA will conditionally approve exemption applications for this rule if EPA has received a letter of intent to conduct the testing from which exemption is sought and EPA has adopted test standards and schedules in a final Phase II test rule.

(c) *Health effects testing*—(1) *Mutagenic effects—chromosomal aberrations*—(i) *Required testing.* (A) *In vitro* cytogenetics tests shall be conducted individually with *ortho*-, *meta*-, *and para*-cresol;

(B) An *in vivo* cytogenetics test shall be conducted for each isomer which produces a negative result in the *in vitro* cytogenetics test conducted pursuant to paragraph (c)(1)(i)(A) of this section.

(C) A dominant lethal assay shall be conducted for each isomer which produces a positive result in either the *in vitro* or the *in vivo* cytogenetics test conducted pursuant to paragraphs (c)(1)(i) (A) and (B) of this section.

(ii) *Test standards* [Reserved].

(iii) *Reporting requirements* [Reserved].

(2) *Mutagenic effects—gene mutations*—(i) *Required testing.* (A) A DNA damage assay shall be conducted with *meta*-cresol.

(B) A gene mutation in somatic cells assay shall be conducted individually with *meta*- and *para*-cresol.

(C) A sex-linked recessive lethal test in *Drosophila melanogaster* shall be conducted individually with *ortho*- and *para*-cresol.

(D) A sex-linked recessive lethal test in *Drosophila melanogaster* shall be conducted with *meta*- cresol if it produces a positive result in the DNA damage assay or gene mutation in somatic cells assay conducted pursuant to paragraphs (c)(2)(i) (A) and (B) of this section.

(ii) *Test standards* [Reserved].

(iii) *Reporting requirements* [Reserved].

(3) *Mutagenic effects—cellular transformation*—

(i) *Required testing.* (A) A Balb/c-3T3 cellular transformation test performed without metabolic activation shall be conducted individually with *meta*- and *para*-cresol.

(B) A Balb/c-3T3 cellular transformation test performed with metabolic activation shall be conducted with each isomer which produces a negative result in the cellular transformation test without metabolic activation conducted pursuant to paragraph (c)(3)(i)(A) of this section.

(C) A Balb/c-3T3 cellular transformation test performed with metabolic activation shall be conducted with *ortho*-cresol.

(ii) *Test standards* [Reserved].

(iii) *Reporting requirements* [Reserved].

(4) *Developmental toxicity*—(i) *Required testing.* A developmental toxicity study shall be conducted individually with *ortho*-, *meta*-, and *para*-cresol.

(ii) *Test standards.* [Reserved].

(iii) *Reporting requirements* [Reserved].

(5) *Reproductive effects—(i) Required testing.* A two-generation reproductive effects study shall be conducted individually with *ortho*-, *meta*-, and *para*-cresol.

(ii) *Test standards* [Reserved].

(iii) *Reporting requirements* [Reserved].

(Information collection requirements have been approved by the Office of Management and Budget under control number 2070–0033)

[FR Doc 86–9409 Filed 4–25–86; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 101

[FPMR Temp. Reg. E–81, Supp. 1]

Property Management; Acquisition of Systems Furniture

AGENCY: Federal Supply Services GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement revises the expiration date of FPMR Temp. Reg. E–81 from June 30, 1986, to March 15, 1986. This advances the expiration date of the regulation to provide for earlier elimination of the requirement that GSA review and, as appropriate, approve agency plans for acquiring systems furniture. After March 15, 1986, the review and approval of plans for acquiring systems furniture will be the responsibility of agencies. The action is being taken because it has been determined that experience with systems furniture is now widespread among agencies.

DATES: *Effective date:* March 15, 1986.

Expiration date: June 30, 1986.

FOR FURTHER INFORMATION CONTACT: Dan Rowan, Furniture Commodity Center, (703–557–8473).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter E to read as follows:

Federal Property Management Regulations Temporary Regulation E–81 Supplement 1

April 7, 1986.

To: Heads of Federal agencies

Subject: Acquisition of systems furniture

1. *Purpose.* This supplement revises the expiration date of FPMR Temporary Regulation E–81.

2. *Effective date.* This supplement is effective March 15, 1986.

3. *Expiration date.* This supplement expires on June 30, 1986.

4. *Explanation of changes.* The expiration date in paragraph 3 of FPMR Temporary Regulation E–81 is revised to March 15, 1986.

Paul Trause,

Acting Administrator of General Services.

[FR Doc. 86–9423 Filed 4–25–86; 8:45 am]

BILLING CODE 6820–24–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6710]

List of Communities Eligible for the Sale of Flood Insurance, Michigan et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fourth column of the table.

ADDRESS: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638–7418.

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646–2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
Michigan:				
Grand Traverse	Acme, township of	260749—New	Mar. 3, 1986, Emerg	
Do	East Bay, township of	260746—New	do	
Emmett	Little Traverse, township of	260748—New	do	
Grand Traverse	Peninsula, township of	260747—New	do	
Illinois: Union	Unincorporated areas	170656B	May 1, 1974, Emerg; Feb. 19, 1986, Reg; Feb. 19, 1986, Susp; Mar. 4, 1986, Rein.	Nov. 29, 1974, Sept 17, 1976 and Feb. 19, 1986.
New York: Cortland	Taylor, town of [1]	361330	May 19, 1977, Emerg.; May 15, 1985, Reg.; May. 15, 1985, Susp.; Mar. 5, 1986, Rein.	July 14, 1978.
Georgia: Madison	Unincorporated areas	130470A	Mar. 12, 1986, Emerg	Mar. 17, 1978.
Colorado: Douglas	Parker, town of	080310—New	do	July 5, 1984.
Missouri: Clinton	Unincorporated areas	290783A	do	Mar. 29, 1974 and Apr. 23, 1976.
Missouri: Boone	Sturgeon, city of	290039	Mar. 17, 1986, Emerg	
Colorado: Castilla	Unincorporated areas	080276	Mar. 18, 1986, Emerg	Oct. 25, 1974 and Nov. 28, 1975 Dec. 28, 1973 and Dec. 12, 1975 July 3, 1979. Dec. 28, 1973, Dec. 12, 1975 and Dec 4, 1979. Jan. 10, 1975 and Oct. 15, 1986.
Missouri: Camden	Linn Creek, city of	290063A	do	
Oklahoma: Rogers	Chelsea, town of	400187A	do	
Texas: Denton	Hebron, town of	481486A	do	
Kansas: Colley	Burlington, city of	200063C	May 1, 1975, Emerg; Dec. 4, 1978, Reg; Dec. 4, 1979, Susp; Mar. 17, 1986, Rein.	
Pennsylvania: Washington	North Bethlehem, township of	422986A	Oct. 17, 1975, Emerg; Oct. 15, 1986, Reg; Oct. 15, 1986, Susp; Mar. 16, 1986, Rein.	

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State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
New York: Oswego	Parish, village of [1]	361575	Nov. 18, 1975 Emerg; Feb. 18, 1986, Reg; Feb. 18, 1986, Susp; Mar. 26, 1986, Rein.	Oct. 29, 1976 and Feb. 18, 1986.
Pennsylvania: Dauphin	Rush, township of [2]	421667A	Mar. 8, 1976, Emerg; Aug. 18, 1985, Reg; Aug. 18, 1985, Susp; Mar. 26, 1986, Rein.	Jan. 31, 1975 and Aug. 18, 1986.
South Carolina: Georgetown	Pawleys Island, town of [2]	450251—New	Feb. 26, 1971, Emerg; Mar. 1, 1984, Reg	
Region I				
Connecticut: Middlesex County	Essex, town of	090065C	Mar. 4, 1986, suspension withdrawn	Oct. 26, 1973, Aug. 20, 1976, and Mar. 4, 1986.
Region III				
Pennsylvania: Lebanon County	South Londonderry, township of	421043A	do	Oct. 29, 1976 and Mar. 4, 1986.
Region IV				
Alabama: Dallas County	Selma, city of	010065C	do	Dec. 17, 1973, May 21, 1976, July 6, 1979, and Mar. 4, 1986.
Kentucky: Magoffin County	Unincorporated areas	210158B	do	Aug. 28, 1977 and Mar. 4, 1986.
Tennessee: Humphreys County	Waverly, city of	470085B	do	Feb. 15, 1975, July 2, 1976, and Mar. 4, 1986.
Region VIII				
Montana: Beaverhead County	Lima, town of	300177B	do	Mar. 4, 1986.
North Dakota: Hettinger County	Mott, city of	380039C	do	Jan. 9, 1974, Dec. 26, 1975, and Mar. 4, 1986.
California: Los Angeles County	Agoura Hills, city of	065072A	do	Mar. 4, 1986.
Nevada: Independent city	Carson City, city of	320001B	do	May 24, 1974, Jan. 7, 1977, and Mar. 4, 1986.
Region I				
Massachusetts: Essex County	Beverly, city of	2500778	Mar. 18, 1986, suspension withdrawn	Aug. 16, 1974, Dec. 10, 1976, and Mar. 18, 1986.
Region II				
New Jersey: Middlesex County	Middlesex, borough of	345305	do	July 10, 1971, July 1, 1974, Jan. 9, 1976, and Mar. 18, 1986.
New York: Nassau County	Lattingtown, village of	360474C	do	May 17, 1974, Sept. 1, 1978, and Mar. 18, 1986.
Region V				
Ohio: Guernsey County	Cambridge, city of	390200B	do	May 31, 1974, Nov. 21, 1975, and Mar. 18, 1986.
Region VI				
Texas: Caldwell County	Martindale, town of	481567C	do	May 27, 1977, Mar. 15, 1982, and Mar. 18, 1986.
Region VII				
Nebraska: Lancaster County	Lincoln, city of	315273C	do	Apr. 27, 1971, July 1, 1974, Sept 3, 1976, and Nov. 7, 1980.
Region I—Minimal Conversions				
Maine: Aroostook county	Van Buren, town of	230036B	Mar. 18, 1986, suspension withdrawn	June 14, 1974, Sept 24, 1976, and Mar. 18, 1986.
Region II				
New York:				
Jefferson County	Brownville, village of	361576A	do	Apr. 23, 1976 and Mar. 18, 1986.
Montgomery County	Hagaman, village of	360450A	do	Aug. 6, 1976 and Mar. 18, 1986.
Region III				
Pennsylvania: Cambria County	Allegheny, township of	422265A	do	Jan. 24, 1975 and Mar. 18, 1986.
Region VI				
Arkansas: Yell County	Belleville, city of	050364A	do	Apr. 18, 1975 and Mar. 18, 1986.
Region VIII				
Montana:				
Powder River County	Broadus, town of	300058C	do	Aug. 23, 1974, Dec. 26, 1975, Oct. 17, 1978, and Mar. 18, 1986.
Glacier County	Browning, town of	300030B	do	Mar. 15, 1974, Jan. 9, 1976, and Mar. 18, 1986.
Musselshell County	Roundup, city of	300050B	do	June 28, 1974, Apr. 9, 1976, and Mar. 18, 1986.
South Dakota: Turner County	Davis, town of	460086A	do	May 2, 1975 and Mar. 18, 1986.
North Dakota: Bottineau County	Souris, city of	380010A	do	Nov. 29, 1974 and Mar. 18, 1986.
Utah:				
Emery County	Green River, city of	490062B	do	June 21, 1974, Dec. 5, 1975, and Mar. 18, 1986.
Cache County	North Logan, city of	490024B	do	June 28, 1974, Nov. 21, 1975, and Mar. 18, 1986.
Iron County	Parowan, city of	490076B	do	Aug. 16, 1974, Dec. 19, 1975, and Mar. 18, 1986.
Piute County	Unincorporated areas	490084B	do	Nov. 6, 1977 and Mar. 18, 1986.
Cache County	Smithfield, city of	490029B	Mar. 18, 1986, suspension withdrawn	June 28, 1974, Dec. 26, 1975, and Mar. 18, 1986.
Uintah County	Vernal, city of	490146A	do	July 30, 1976 and Mar. 18, 1986.
Washington County	Unincorporated areas	490224B	do	Feb. 7, 1978 and Mar. 18, 1986.
Wyoming:				
Niobrara County	Lusk, town of	560074	do	Sept. 18, 1975 and Mar. 18, 1986.
Sublette County	Pinedale, town of	560046B	do	Apr. 5, 1974, Jan. 23, 1976, and Mar. 18, 1986.

[1] Minimal conversions.
[2] This is a newly incorporated community eligible 3-27-86 that was participating in the Regular Program as an unincorporated area of Georgetown County, South Carolina. The Town has adopted by reference the county's Flood Insurance Study and Maps for insurance and floodplain management purposes.

Code for reading 4th column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension; Rein.—Reinstatement.

Issued: April 22, 1986.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 86-9379 Filed 4-25-86; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcasting; Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rules; Correction.

SUMMARY: In the Order, Oversight of the Radio and TV Broadcast Rules, published in the **Federal Register** on March 24, 1986 at 51 FR 9963, there was an error in paragraph 10 of the rules appendix pertaining to § 73.3613 Filing of Contracts. The correction of the error which was published April 9, 1986 at 51 FR 12160 was incomplete. It is corrected herein.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane, Mass Media Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Erratum

In the Matter of Oversight of the Radio and TV Broadcast Rules.

Released: April 18, 1986.

In the above captioned *Order*, released March 7, 1986 and published in the **Federal Register** on March 24, 1986 at 51 FR 9963, there was an error in paragraph 10 of the rules Appendix pertaining to revision of § 73.3613. The correction of the error, as published in the Erratum on April 9, 1986, was incomplete.

It is corrected to read:

10. 47 CFR 73.3613 is amended by removing paragraphs (a)(2) [Reserved], (a)(5) [Reserved] and (a)(6) [Reserved] and redesignating paragraphs (a)(3) and (a)(4) as (a)(2) and (a)(3) respectively; and revising paragraph (d) to read as follows:

§ 73.3613 Filing of contracts.

* * * * *

(d) The following contracts, agreements or understandings need not be filed but shall be kept at the station and made available for inspection upon request by the FCC: Contracts relating to the sale of broadcast time to "time brokers" for resale; subchannel leasing agreements for Subsidiary Communications Authorization operation; franchise/leasing agreements for operation of telecommunications services on the TV vertical blanking interval; time sales contracts with the same sponsor for 4 or more hours per day, except where the length of the events (such as athletic contests, musical programs and special events) broadcast pursuant to the contract is not under control of the station; and contracts with chief operators.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-9448 Filed 4-25-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-255; RM-4982]

FM Broadcast Station in Oswego, NY

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: Action taken herein allocates Channel 244A to Oswego, New York, as the community's second local FM service, at the request of William Kirkpatrick.

EFFECTIVE DATE: May 29, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Oswego, New York); MM Docket No. 85-255, RM-4982.

Adopted: April 9, 1986.

Released: April 22, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 50 FR 34873, published August 28, 1985, proposing the allocation of Channel 244A to Oswego, New York, as the community's second local FM service, at the request of William Kirkpatrick ("petitioner"). Petitioner submitted comments reiterating his intention to apply for the channel, if allocated. No other comments were received.

2. The petitioner was requested to furnish the Commission with a study showing that a site was available from which a Channel 244A operation could provide the required 70 dBu signal over Oswego since the necessary 11.4 kilometer east site restriction is beyond the distance for which we could assume such coverage. Petitioner has responded by stating that such a site does exist in the area of North Scriba and that a Channel 244A operation from that point could provide the required 70 dBu signal over all of Oswego. We have examined petitioner's showing and believe that the requisite city-grade signal can be provided over all of Oswego from the site which he has identified.

3. Canadian concurrence in the allocation has been received since Oswego is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

4. We believe that the channel should be allocated to Oswego since it could provide the community with its second local FM service. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective May 29, 1986, the FM Table of Allotments, § 73.202(b) of the Rules, is amended with respect to the community listed below, to read as follows:

City	Channel No.
Oswego, NY	244A, 288A

5. The window period for filing applications will open on May 30, 1986, and close on June 30, 1986.

6. It is further ordered, that this proceeding is terminated.

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7. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-9439 Filed 4-25-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-219; RM-4911]

FM Broadcast Station in Toppenish, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein, at the request of Radio Broadcasters, Inc., allots Class C2 Channel 225 as a substitute for Channel 224A at Toppenish, Washington, and modifies the license of Station KZHR(FM) (Channel 224A) to specify operation on the Class C2 channel.

EFFECTIVE DATE: May 29, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (Proceeding Terminated)

In the Matter of Amendment § 73.202(b), Table of Allotments, FM Broadcast Stations, (Toppenish, Washington); MM Docket No. 85-219, RM-4911.

Adopted: April 9, 1986.

Released: April 22, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 50 FR 30976, published July 31, 1985, proposing the substitution of Class C2 Channel 225 for Channel 224A at Toppenish, Washington. The *Notice* was adopted in response to a petition filed by Radio Broadcasters, Inc., licensee of Station KZHR(FM), which also requested modification of its license to specify operation on Channel 225C2. Petitioner filed supporting comments and reply comments reiterating its interest in the channel substitution. No other comments were received.

2. The substitution can be made in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

3. We believe the public interest would be served by the substitution of Channel 225C2 for Channel 224A at Toppenish in order to provide that community and the surrounding area with its first wide coverage FM station. Since no other party expressed an interest in the use of the new channel, we are herein modifying the license of Station KZHR(FM) to specify operation on Channel 225C2 in lieu of Channel 224A. See, *Modification of FM and TV Station Licenses*, 98 FCC 2d 916 (1984).

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective May 29, 1986, the FM Table of Allotments, § 73.202(b) of the Commission's Rules, is amended for the following community:

City	Channel No.
Toppenish, WA	225C2

5. It is further ordered, that pursuant to section 316(a) of the Communications Act of 1934, as amended, the license of Station KZHR(FM), Toppenish, Washington is modified to specify operation on Channel 225C2 subject to the following conditions:

(a) The licensee shall submit to the Commission a minor change application for a construction permit (Form 301) specifying the new facility.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.301 of the Commission's Rules.

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-9439 Filed 4-25-86; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 51, No. 81
Monday, April 28, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 581

Processing Garnishment Orders for Child Support and/or Alimony

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is proposing a revision to its regulations concerning the processing of garnishment orders for child support and/or alimony. The proposed regulations would amend the attorney fee provisions to conform with an interpretation of the statutory garnishment provisions recently announced by the Department of Justice. Under the recent interpretation, remuneration will only be subject to garnishment for attorney fees when the attorney fees are expressly awarded as alimony or as child support.

DATE: Comments should be received by June 27, 1986.

ADDRESS: Send or deliver comments and/or designated agent information to W. Scott Burke, General Counsel, Office of Personnel Management, Room 5H30, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Murray M. Meeker, (202) 632-4518.

SUPPLEMENTARY INFORMATION: The proposed revisions respond to certain suggestions presented by public interest groups and make certain technical and typographical corrections. Because of economic constraints, this proposed rule does not include changes to Appendix A to Part 581, the list of agents designated to accept legal process. Changes to Appendix A will appear when the proposed rule is published as a final rule. Governmental entities are urged to review the current Appendix A in title 5 of the Code of Federal Regulations (October 1, 1985 edition) and advise OPM, at the following address if any changes should be made: Office of the General Counsel, Office of Personnel Management, 1900 E St., NW, Rm. 5H30, Washington, DC 20415. OPM has already received changes from the following agencies: Merit Systems Protection Board; Farm Credit Administration; Department of Transportation, Federal Aviation Administration and Maritime Administration; Department of Defense, Defense Investigative Service; Department of the Interior, Bureau of Reclamation, Office of Surface Mining, and Heritage Conservation and Recreation Service; National Endowment for the Arts; Veterans Administration, Nevada: Henderson Outpatient Clinic and Las Vegas Outpatient Clinic; and National Archives and Records Administration.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have significant economic impact on a substantial number of small entities because their effects are limited primarily to Federal employees.

List of Subjects in 5 CFR Part 581

Alimony, Child welfare, Government employees, Wages.

U.S. Office of Personnel Management.

Constance Horner,

Director.

PART 581—PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR ALIMONY

Accordingly, OPM proposes to amend 5 CFR Part 581 as follows:

1. The authority citation for Part 581 continues to read as follows:

Authority: 42 U.S.C. 659, 661–662; 15 U.S.C. 1673; E.O. 12105

2. In § 581.102, paragraphs (d), (e), and (g) are revised to read as follows:

§ 581.102 Definitions.

* * * * *

(d) "Child support" means periodic payments of funds for the support and maintenance of a child or children, and, subject to and in accordance with State or local law, includes, but is not limited to, payments to provide for health care, education, recreation, clothing, or to meet other specific needs of such a child or children; the term also includes attorney's fees, interest, and court costs, when and to the extent that the same are expressly made recoverable as such under a decree, order, or judgment issued in accordance with applicable State or local law by a court of competent jurisdiction.

(e) "Alimony" means periodic payments of funds for the support and maintenance of a spouse or former spouse, and, subject to and in accordance with 6tate or local law, includes, but is not limited to, separate maintenance, alimony pendente lite, maintenance, and spousal support. Alimony also includes attorney's fees, interest, and court costs, if they are expressly made recoverable as such under a decree, order, or judgment issued in accordance with applicable State or local law by a court of competent jurisdiction. This term does not include any payment or transfer of property or its value by an individual to his or her spouse or former spouse in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses. (See instead 5 U.S.C. 8345(j) and 5 CFR Part 831, Subpart Q.)

* * * * *

(g) "Legal obligation" means an obligation to pay alimony and/or child support that is enforceable under appropriate State or local law. A legal obligation may include current as well as past due alimony and/or child support debts depending on the law in the jurisdiction from which the legal process was issued.

3. In § 581.103, the introductory text of paragraph (a) is republished and paragraph (a)(23)(iv) is revised to read as follows:

§ 581.103 Moneys which are subject to garnishment.

(a) For the personal service of a civilian employee obligor:

* * * * *

(23) Moneys due on account of the services of a deceased employee obligor, including:

* * * * *

(iv) Retroactive pay as provided for in section 5344(b)(2) of title 5 of the United States Code; and

* * * * *

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4. In § 581.104, paragraphs (c) and (f) are revised to read as follows:

§ 581.104 Moneys which are not subject to garnishment.

* * * * *

(c) Refunds and other payments made in connection with overpayments or erroneous payments of income tax and other taxes levied under title 26 of the United States Code;

* * * * *

(f) Veterans' educational assistance payments under sections 1651 et seq., of title 38 of the United States Code;

* * * * *

5. In § 581.105, the introductory text of the section paragraphs (a), (b)(3) and (b)(4) are revised, paragraph (b)(5) is added, and the introductory text of paragraph (b) is republished to read as follows:

§ 581.105 Exclusions.

In determining the amount of any "moneys due from, or payable by, the United States" to any individual, there shall be excluded amounts which:

(a) Are owed by the individual to the United States, except where the obligor's debt is for child support and the amount owed the United States results from an income tax lien or levy under section 6331 of title 26 of the United States Code;

(b) Are required by law to be deducted from the remuneration or other payment involved, including, but not limited to:

* * * * *

(3) Amounts mandatorily withheld for the U.S. Soldiers' and Airmen's Home;

(4) Fines and forfeitures ordered by a court-martial or by a commanding officer; and

(5) Amounts deducted for Medicare;

* * * * *

6. In § 581.202, paragraph (c) is revised to read as follows:

§ 581.202 Service of process.

* * * * *

(c) Where it does not appear from the face of the process that it has been brought to enforce the legal obligation(s) defined in § 581.102(d) and/or (e), the process must be accompanied by a certified copy of the court order or other document establishing such legal obligation(s).

* * * * *

7. In § 581.305, the introductory text of paragraph (a) is republished, paragraph (a)(6) is revised and paragraph (g) is added to read as follows:

§ 581.305 Honoring legal process.

(a) The governmental entity shall comply with legal process, except where the process cannot be complied with because:

* * * * *

(6) Where notice is received that the obligor has appealed either the legal process or the underlying alimony and/or child support order, payment of moneys subject to the legal process shall be suspended; i.e., moneys shall continue to be withheld, but these amounts shall be retained by the governmental entity until the entity is ordered by the court, or other authority, to resume payments or otherwise disburse the suspended amounts. However, no suspension action shall be taken where the applicable law of the jurisdiction wherein the appeal is filed requires compliance with the legal process while an appeal is pending. Where the legal process has been issued by a court in the District of Columbia, a motion to quash shall be deemed equivalent to an appeal.

* * * * *

(g) A failure by the party bringing the garnishment action to comply with the provisions of the Uniform Reciprocal Enforcement of Support Act (URESA) or the Revised Uniform Reciprocal Enforcement of Support Act, by itself, shall not be a valid basis for a governmental entity to refuse to comply with legal process.

[FR Doc. 86-9421 Filed 4-25-86; 8:45 am]

BILLING CODE 6325-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-AWA-6]

Proposed Establishment of Airport Radar Service Areas

AGENCY: Federal Aviation Administraiton (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period and notice of an informal airspace meeting.

SUMMARY: This notice announces extension of the comment period on an NPRM which proposes to establish an Airport Radar Service Area at Standiford Field Airport, Louisville, KY, and give notification of informal airspace meeting.

DATES: Comments must be received on or before July 3, 1986. Meeting will be held June 12, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket [AGC-204], Airspace Docket No. 85-AWA-6, 800 Independence Avenue, SW., Washington, DC 20591.

Informal Airspace meeting beginning at 7:30 p.m. will be held at:

The 100th Division United States Army Reserve Center, 3580 Century Division Way, Building 3, Louisville, KY.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

The official docket may be examined in the Rules Docket, weekday, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room, 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Robert Burns, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AWA-6." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Dockets both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

Background

Airspace Docket No. 85-AWA-6, published on September 30, 1985, (50 FR 39822) proposed to establish an Airport Radar Service Area (ARSA) at Standiford Field Airport, Louisville, KY, and an informal airspace meeting was scheduled for February 27, 1986, to receive additional public comment on the proposal. In addition to publication of the informal airspace meeting in the Federal Register, the FAA intended to mail individual notices of the meeting to pilots in the Louisville, KY, area. Due to an administrative error not all of the individual mailings were made in a timely manner. This action extends the period for public comment on Airspace Docket No. 85-AWA-6, as it applies to Standiford Field Airport, Louisville, KY, only, and schedules an additional informal airspace meeting.

Meeting Procedures

In addition to seeking written comments on this proposal, the FAA will hold a additional informal airspace meeting for Standiford Field Airport, Louisville, KY, in order to receive additional input with respect to the proposal. Persons who plan to attend the meeting should be aware of the following procedures to be followed:

(a) The meeting will be informal in nature and will be conducted by the designated representative of the Administrator. Each participant will be given an opportunity to make a presentation.

(b) There will be no admission fee or other charge to attend and participate. The meeting will be open to all persons on a space-available basis. The FAA representative may accelerate the agenda to enable early adjournment if the progress of the meeting is more expeditious than planned.

(c) The meeting will not be recorded. A summary of the comments made at the meeting will be filed in the docket.

(d) Position papers or other handout material relating to the substance of the meeting may be accepted at the discretion of the FAA representative. Participants submitting handout materials should present an original and two copies to the presiding officer for approval before distribution. If approved by the presiding officer, there should be an adequate number of copies provided for further distribution to all participants.

(e) Statements made by FAA participants at the meeting should not be taken as expressing a final FAA position.

Agenda

Presentation of Meeting Procedures
FAA Presentation of Proposal
Public Presentations and Discussion

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

Extension of Comment Period and Notice of Public Meeting

The comment period for Airspace Docket No. 85-AWA-6 as it applies to Standiford Field Airport, Louisville, KY, is extended to close on July 3, 1986. An informal airspace meeting is scheduled for June 12, 1986, to be held at The 100th Division United States Army Reserve Center, 3580 Century Division Way, Building 3, Louisville, KY, beginning at 7:30 p.m.

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 108(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

Issued in Washington, DC, on April 21, 1986.

James Burns, Jr.,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-9354 Filed 4-25-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-AWA-15]

Proposed Alteration of VOR Federal Airways; Nebraska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of V-15, V-136, V-159, and V-172 located in the vicinity of Omaha, NE. The Neola, IA, very high frequency omni-directional radio range and tactical air navigational aid (VORTAC) is being decommissioned and all airways that have Neola in their descriptions will require amendment. This action is due to the planned decommissioning of the Neola VORTAC, as part of the Central Region's Networking Plan.

DATES: Comments must be received on or before June 9, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Central Region, Attention: Manager, Air Traffic Division, Docket No. 86-AWA-15, Federal Aviation Administration, 601 East 12th Street, Federal Building, Kansas City, MO 64106.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the

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airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-AWA-15." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter VOR Federal Airways V-15, V-138, V-159, and V-172 located in the vicinity of Omaha, NE. The Neola, IA, VORTAC is being decommissioned and all airways that have Neola in their descriptions are proposed for realignment. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 108(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.123 is amended as follows:

V-15—[Amended]

By removing the words "From St. Joseph, MO, via INT St. Joseph 343° and Neola, IA, 157° radials; Neola; INT Neola 322° and Sioux City, IA, 159° radials; Sioux City;" and substituting the words "From Sioux City, IA;"

V-138—[Amended]

By removing the words "; 1,200 feet AGL INT of Lincoln 040° and Neola, IA, 253° radials; Neola;" and substituting the words ". From Omaha, NE; INT Omaha 032°T(024°M) and Fort Dodge, IA, 222°T(215°M) radials;"

V-159—[Amended]

By removing the words "INT St Joseph 328° and Omaha, NE, 155° radials; Omaha;" and by substituting the words "Omaha, NE;"

V-172—[Amended]

By removing the words "; Neola, IA; Newton, IA;" and substituting the words ". From Omaha, NE, INT Omaha 060°T(056°M) and Newton, IA, 262°T(256°M) radials; Newton;"

Issued in Washington, DC, on April 17, 1986.

James Burns, Jr.,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-9349 Filed 4-25-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 73

[Airspace Docket No. 85-ASO-20]

Proposed Alteration of Restricted Areas R-2904 Starke, FL, and R-2903B Stevens Lake, FL

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the lateral and vertical limits of Restricted Area R-2903B Stevens Lake, FL, and the vertical limits of R-2904 Starke, FL. The proposed realignment of R-2903B will increase the lateral limits to include the southern portion of the Camp Blanding Military Reservation. The proposal will also stratify and renumber portions of the Restricted Areas R-2903B and R2904. These changes are being made at the request of the United States Army in order to accommodate new artillery requirements.

DATE: Comments must be received on or before June 10, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 85-ASO-20, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Ronald C. Montague, Airspace and Aeronautical Information Requirements Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 426-3128.

SUPPLEMENTARY INFORMATION:

Comments Invited

This proposal is being circulated by the FAA at the request of the U.S. Army in an effort to fully inform the public.

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factural basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-ASO-20." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposals

The FAA is considering amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to alter the lateral and vertical limits of R-2903B and subdivide R-2904 and R-2904A and R-2904B. This amendment will establish R-2903A, R-2903C and R-2903D. The proposed alteration will increase the lateral limits of R-2903B to include the southern portion of the Camp Blanding Military Reservation near Keystone Airpark, FL. Additionally, the alteration will increase the vertical limits of R-2903B to FL 320. The vertical limits of R-2904B will be FL 320. The additional airspace requested in this proposal is the minimum airspace necessary to accomplish new artillery requirements as well as current operations. Sections 71.151 and 73.29 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

Because of the projected impact on nonparticipating aircraft, the following was agreed to by the U.S. Army:

1. The vertical airspace overlying R-2903A, from FL 230 to FL 320 will have a limited time of use of 2000 local to 0500 local, not to exceed 24 days per year.

2. The vertical airspace overlying R-2904A, from 1,800 feet mean sea level to FL 320 will have a limited time of use of 2000 local to 0500 local, not to exceed 24 days per year.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area, Restricted areas

The Proposed Amendments

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 108(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 71.151 [Amended]

2. § 71.151 is amended as follows:

R-2903A Stevens Lake, FL.—[New]

R-2904B Starke, FL.—[New]

PART 73—[AMENDED]

3. The authority citation for Part 73 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510, 1522; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

§ 73.29 [Amended]

4. § 73.29 is amended as follows:

R-2903A Stevens Lake, FL.—[New]

Boundaries. Beginning at lat. 29°58'05"N., long. 81°59'10"W.; to lat. 29°56'55"N., long. 81°59'33"W.; to lat. 29°56'55"N., long. 81°56'05"W.; to lat. 29°56'45"N., long. 81°53'15"W.; to lat. 29°55'31"N., long. 81°54'06"W.; thence clockwise along an arc of a circle 5 NM in radius centered at lat. 29°53'04"N., long. 81°59'09"W.; to lat. 29°48'26"N., long. 81°56'56"W.; to lat. 29°50'09"N., long. 81°56'36"W.; to lat. 29°48'45"N., long. 82°00'18"W.; to lat. 29°48'45"N., long. 82°01'45"W.; to lat. 29°51'00"N., long. 82°01'45"W.; to lat. 29°51'00"N., long. 82°02'18"W.; to lat. 29°51'54"N., long. 82°02'18"W.; to lat. 29°51'54"N., long. 82°02'18"W.; to lat. 29°51'54"N., long. 82°02'45"W.; to lat. 29°52'48"N., long. 82°02'45"W.; to lat. 29°53'45"N., long. 82°04'51"W.; thence clockwise along an arc of a circle 5 NM in radius centered at lat. 29°53'04"N., long. 81°59'09"W.; to the point of beginning.

Designated altitudes. Surface to FL 230.

Time of designation. Intermittent, 0700-1900 local, Tuesday-Sunday; other times by NOTAM at least 24 hours in advance.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. U.S. Army, Department of Military Affairs, State Arsenal, St. Augustine, FL.

R-2903B Stevens Lake, FL.—[Revised]

Boundaries. Beginning at lat. 29°58'05"N., long. 81°59'10"W.; to lat. 29°56'55"N., long. 81°59'33"W.; to lat. 29°56'55"N., long. 81°56'05"W.; to lat. 29°56'45"N., long. 81°53'15"W.; to lat. 29°55'31"N., long. 81°54'06"W.; thence clockwise along an arc of a circle 5 NM in radius centered at lat. 29°53'04"N., long. 81°59'09"W.; to lat. 29°48'26"N., long. 81°56'56"W.; to lat. 29°50'09"N., long. 81°56'36"W.; to lat. 29°48'45"N., long. 82°00'18"W.; to lat. 29°48'45"N., long. 82°01'45"W.; to lat. 29°51'00"N., long. 82°01'45"W.; to lat. 29°51'00"N., long. 82°02'18"W.; to lat. 29°51'54"N., long. 82°02'18"W.; to lat. 29°51'54"N., long. 82°02'45"W.; to lat. 29°52'48"N., long. 82°02'45"W.; to lat. 29°53'45"N., long. 82°04'51"W.; thence clockwise along an arc of a circle 5 NM in radius centered at lat. 29°53'04"N., long. 81°59'09"W.; to the point of beginning.

Designated altitudes. FL 230 to FL 320.

Time of designation. Intermittent, 2000-0500 local, Saturday-Sunday, not to exceed 24 days per year.

Controlling agency. FAA, Jacksonville ARTCC.

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Using agency. U.S. Army, Department of Military Affairs, State Arsenal, St. Augustine, FL.

R-2903C Stevens Lake, FL—[New]

Boundaries. Beginning at lat. 29°32'30" N., long. 81°55'26"W.; to lat. 29°51'13"N., long. 81°50'57"W.; to lat. 29°47'00"N., long. 81°53'55"W.; to lat. 29°46'26"N., long. 81°56'58"W.; thence clockwise along an arc of a circle 5 NM in radius centered at lat. 29°53'04"N., long. 81°59'09"W.; to the point of beginning.

Designated altitudes. Surface to 7,000 feet MSL.

Time of designation. Intermittent, 0700–1900 local, Tuesday–Sunday; other times by NOTAM at least 24 hours in advance.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. U.S. Army, Department of Military Affairs, State Arsenal, St. Augustine, FL.

R-2903D Stevens Lake, FL—[New]

Boundaries. Beginning at lat. 29°51'13"N., long. 81°50'57"W.; to lat. 29°49'00"N., long. 81°46'20"W.; to lat. 29°44'50"N., long. 81°49'05"W.; to lat. 29°47'00"N., long. 81°53'55"W.; to the point of beginning.

Designated altitudes. Surface to 5,000 feet MSL.

Times of designation. Intermittent, 0700–1900 local, Tuesday-Sunday; other times by NOTAM at least 24 hours in advance.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. U.S. Army, Department of Military Affairs, State Arsenal, St. Augustine, FL.

R-2904 Starke, FL—[Remove]

R-2904A Starke, FL—[New]

Boundaries. Beginning at lat. 30°03'30"N., long. 81°55'40"W.; to lat. 29°58'55"N., long. 82°02'46"W.; to lat. 30°03'30"N., long. 82°02'46"W.; thence to the point of beginning.

Designated altitudes. Surface to but not include 1,800 feet MSL.

Time of designation. April-August, daily 0800–1700 local; September-March, Saturday-Sunday 0800–1700 local; other times by NOTAM at least 24 hours in advance.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. U.S. Army, Department of Military Affairs, State Arsenal, St. Augustine. FL.

R-2904B Starke, FL—[New]

Boundaries. Beginning at lat. 30°03'30"N., long. 81°55'40"W.; to lat. 29°58'55"N., long. 82°02'46"W.; to lat. 30°03'30"N., long. 82°02'46"W.; to the point of beginning.

Designated altitudes. 1,800 feet MSL to FL 320.

Time of designation. Intermittent, 2000–0500 local, Saturday-Sunday, activated by NOTAM at least 24 hours in advance; not to exceed 24 days per year.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. U.S. Army, Department of Military Affairs, State Arsenal, St. Augustine, FL.

Issued in Washington, D.C., on April 21, 1986.

James Burns, Jr.,

Manager, Airspace-Rules and Aeronautical Information Dvision.

[FR Doc. 86-9351 Filed 4-25-86; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9197]

Roy Brog; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a former chairman of the board of a Salt Lake City, Utah manufacturer and distributor of a dry milk substitute, among other things, to cease making any representations concerning the health benefits or expected shelf life for "Meadow Fresh White", a powdered, dairy-based milk substitute, or other food products, without reliable and competent substantiation. Also, respondent is prohibited from excluding some distributors in computing "average" distributor earnings without proper disclosures concerning the method of computation.

DATE: Comments will be received until June 27, 1986.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave. NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: FTC/H-238A, Larry Hodapp, Washington, DC 20580. (202) 523-3860.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considerd by the Commission and will available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Dry milk substitutes, Trade practices.

Before Federal Trade Commission

[Docket No. 9197]

Agreement Containing Consent Order to Cease and Desist

In the matter of Roy Brog, individually and as a former officer and director of Meadow Fresh Farms, Inc.

Roy Brog, individually and as a former officer and director of Meadow Fresh Farms, Inc., ("respondent") and counsel for the Federal Trade Commission enter into this agreement in accordance with the Commission's rules governing consent order procedures. The parties agree that:

1. Respondent Roy Brog is a former officer and director of Meadow Fresh Farms, Inc. His address is 1320 East 2300 North, Logan, Utah 84321.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging him with violations of section 5 of the Federal Trade Commission Act.

3. Respondent admits all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the complaint.

7. This agreement contemplates that, if it is accepted by the Commission, and if

such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondent, (1) issued its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondent's address as stated in this agreement shall constitute service. Respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Respondent has read the complaint and order contemplated hereby. He understands that once the order has been issued, he will be required to file one or more compliance reports showing that he has fully complied with the order. Respondent further understands that he may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

ORDER

I

It Is Ordered that respondent Roy Brog, individually and as a former officer and director of Meadow Fresh Farms, Inc., and respondent's agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, offering for sale, sale, or distribution of a powdered, dairy-based drink called "Meadow Fresh" or any other food product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, unless at the time of such representation respondent possesses and relies upon reliable and competent scientific evidence that substantiates any such representation: (a) Any benefit in preventing cardiovascular or other disease through the use of such product, (b) any nutritional or other health related attribute of such product, or (c) any expected shelf life of such product. "Reliable and competent" shall mean for purposes of this order those tests, analyses, research, studies, or other evidence conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession or science to yield accurate and reliable results.

II

It Is Further Ordered that respondent Roy Brog, individually and as a former officer and director of Meadow Fresh Farms, Inc., and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, offering for sale, sale or distribution of any prdduct or service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing as an "average," directly or by implication, any computation of income levels, earnings, sales or other payments received by distributors as a whole or by a specified distributor category which is based on less than all distributors in the stated category, unless the fact that some distributors are excluded and the basis for any such exclusion are clearly and prominently disclosed in close proximity to such representation.

"Distributor" as used in this order shall refer to any person, partnership or corporation which is granted the right to offer, sell or distribute goods or services manufactured, processed, distributed, offered or sold by respondent or to recruit other persons, partnerships or corporations to be distributors of respondent's goods or services.

III

It Is Further Ordered that respondent shall, for at least three years after the date the representation is last disseminated, maintain and upon request make available to the Federal Trade Commission for inspection and copying copies of:

1. All materials relied upon to substantiate any representation covered by this order; and

2. All test reports, studies, surveys, or demonstrations in his possession or control, or of which he has knowledge, that contradict any representation covered by this order.

IV

It Is Further Ordered that respondent shall promptly notify the Commission of the discontinuance of his present business or employment and that, for a period of four years from the date of service of this order, respondent shall promptly notify the Commission of each affiliation with a new business or employment, with each such notice to include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of respondent's duties and responsibilities in connection with the business or employment.

V

It Is Further Ordered that respondent shall forthwith distribute a copy of this order to all distributors of products manufactured or marketed by respondent.

VI

It Is Further Ordered that respondent shall, within sixty (60) days after service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Roy Brog, former officer and director of Meadow Fresh Farms, Inc., South Orange Street, Salt Lake City, Utah, a multilateral marketer of powdered milk drinks.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After 60 days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that Roy Brog has represented that "Meadow Fresh," a powdered, dairy-based drink, is associated with a reduction in the incidence of cardiovascular disease due to reduced levels of xanthine oxidase, that xanthine oxidase is a major contributor to cardiovascular problems, that Meadow Fresh has an expected storage life of up to ten years under reasonable storage conditions, and that he possessed and relied upon a

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reasonable basis for these representations. The complaint alleges that at no time has Roy Brog possessed and relied upon a reasonable basis for such representations.

In addition, the complaint alleges that Roy Brog has made false and misleading representations regarding the income being derived by distributors of Meadow Fresh. The complaint alleges that Roy Brog disseminated figures which purported to be average monthly income figures, but which were, in fact, computed by considering only the minority of distributors who actually earned some income during the applicable period. The complaint alleges that this manner of computation results in income figures which are substantially larger than those that would be found by including all distributors in the computation and providing the average of their income.

The proposed consent order prohibits Roy Brog from making any representation regarding any benefit in preventing cardiovascular or other disease through the use of a food product, any nutritional or other health related attribute of such product, or any expected shelf life of such product, unless at the time of such representation he possesses and relies upon reliable and competent scientific evidence that substantiates such representation.

The proposed consent order also would prohibit Roy Brog from representing as an average any computation of earning or sales of distributors of any product or service which is based upon less than all distributors, unless he discloses the fact that some distributors are excluded and the basis for such exclusion at the same time.

Finally, the proposed order would require Roy Brog to retain any substantiation required by the proposed order for three years, to notify the Commission of any change in his business affiliation for a four year period, to provide all his distributors with a copy of the order, and to file a compliance report within 60 days after service of the order.

The purpose of this analysis is to facilities public comment on the proposed order; it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 86-9437 Filed 4-25-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Public Comment and Opportunity for Public Hearing on Proposed Modifications of the Missouri Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of proposed program amendments submitted by the State of Missouri as modifications to the Missouri Permanent Regulatory Program (hereinafter referred to as the Missouri program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments pertain to the State's blaster training, examination and certification provisions; revegetation requirements, bond forfeitures; penalty assessments, and inspection and enforcement activities.

This notice sets forth the times and locations that the Missouri program and the proposed amendments are available for public inspection, the comment period during which interested persons may submit written comment on the proposed program elements, and the procedures that will be followed regarding the public hearing.

DATE: Written comments not received on or before 4:00 p.m., May 28, 1986, will not necessarily be considered.

If requested, a public hearing on the proposed modifications will be held on May 23, 1986, beginning at 10:00 a.m. at the location shown below under **ADDRESSES.**

ADDRESS: Written comments should be mailed or hand delivered to: Mr. William J. Kovacic, Office of Surface Mining Reclamation and Enforcement, Kansas City Field Office, 1103 Grand Avenue, Room 502, Kansas City, Missouri 64106.

If a public hearing is held its location will be at the Federal Building, 601 E. 12th, Kansas City, Missouri.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Kovacic, Field Office Director, Office of Surface Mining Reclamation and Enforcement, Kansas City Field Office, 1103 Grand Avenue, Room 502, Kansas City, Missouri 64106, Telephone: (816) 374-5527.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Missouri program, the proposed modifications to the program, a listing of any scheduled public meeting and all written comments received in response to this notice will be available for review at the OSMRE offices and the office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays. Each requester may receive, free of charge, one single copy of the proposed amendments by contacting the OSMRE Kansas City Field Office.

Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 1103 Grand Avenue, Room 502, Kansas City, Missouri 64106.

Office of Surface Mining Reclamation and Enforcement, Room 5315 A, 1100 L Street, NW., Washington, D.C. 20240.

Missouri Land Reclamation Commission, 1026-D Northeast Drive, Jefferson City, Missouri 65101.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the OSMRE Kansas City, Missouri, Field Office will not necessarily be considered and included in the Administrative Record for the proposed rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by the close of business May 19, 1986. If no one requests to comment a public hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment have been heard.

Public Meeting

Persons wishing to meet with the OSMRE representatives to discuss the proposed amendments may request a meeting at that OSMRE Field Office listed under **FOR FURTHER INFORMATION CONTACT.**

All such meetings are open to the public and, if possible notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background on the Missouri State Program

On November 21, 1980, the Secretary of the Interior conditionally approved the Missouri program under SMCRA for the regulation of surface coal mining operations in the State (45 FR 77027).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Missouri program can be found in the November 21, 1980 **Federal Register** (45 FR 77027). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 925.10, 30 CFR 925.15, and 30 CFR 925.16.

III. Supplementary Information

On June 18, 1985, Missouri submitted to OSMRE draft new rules for training, examination and certification of blasters; draft proposed amendments on revegetation requirements, penalty assessments and regulatory program inspection and enforcement activities. Receipt of the draft documents was published in the **Federal Register** on July 31, 1985 (50 FR 30857).

The draft proposed revisions to the Missouri rules were as follows:

10 CSR 40-2.090 Revegetation Requirements

The amendment would update interim regulations by incorporating permanent program standards for measuring revegetation success.

10 CSR 40-3.160 Training, Examination and Certification of Blasters

The amendment would establish requirements and procedures that will be followed for training, examination and certification of persons engaging in or directly responsible for the use of explosives in surface coal mining operations.

10 CSR 40-8.030 Permanent Program Inspection and Enforcement

The amendment would clarify, revise and set forth requirements for permanent program inspection and enforcement. Specifically, the amendment concerns the state requirements for conducting partial inspections of each inactive surface coal mining and reclamation operation; it would allow aerial inspections to be conducted in the inspection of surface coal mining and reclamation sites; allow for the extension of the abatement period beyond 90 days under certain circumstances; and allow the waiving of informal public hearing when certain requirements are met.

10 CSR 40-8.040 Penalty Assessment

The amendment would clarify, revise and set forth the method of assessment of penalties for violation of the regulatory program. Specifically, the amendment revises procedures for assessing civil penalties and establishes procedures for conducting informal assessment conferences.

IV. Submission of Program Amendment

By a letter dated March 13, 1986, the Missouri Land Reclamation Commission formally submitted the proposed regulatory amendments pursuant to 30 CFR 732.17, blaster training, examination, and certification; revegetation requirements, penalty assessments and inspection and enforcement activities for OSMRE's approval. The actual rule changes submitted for approval were adopted by the Missouri Land Reclamation Commission on October 23, 1985, but implementation of the revised rules is pending until approved by OSMRE. The State regulations at 10 CSR 40-7.031(3)(B) Bond Forfeiture, published in the Missouri Register on October 7, 1985, as an Emergency Amendment, were also submitted on March 13, 1986. In the amendment, Missouri proposes to amend its approved program by supplementing its regulations at 10 CSR 40-3.160 Training, Examination, and Certification of Blasters. Additionally, the State proposes to amend its program by revising 10 CSR 40-2.090 Revegetation Requirements (Interim Program), 10 CSR-40.8.030 Permanent Program Inspection and Enforcement, and 10 CSR 40-8.040 Penalty Assessment.

Therefore, the Director is seeking public comment on the adequacy of the proposed program amendments. If OSMRE finds the amendments in accordance with SMCRA and no less effective than the Federal regulations, they will be approved and become part of the Missouri program.

V. Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1291(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from Section 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule would not impose any new requirements; rather it would ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 925

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: April 21, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services.

[FR Doc. 86-9395 Filed 4-25-86; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3 86-07]

Empire State Regatta, Albany, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

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SUMMARY: The Coast Guard is considering a proposal to establish Special Local Regulations for the Empire State Regatta which is sponsored by the Capital Rowing Club, Inc. of New Scotland, New York. The purpose of this regulation is to provide for the safety of participants and spectators on navigable waters during this event.

DATES: Comments must be received on or before May 28, 1986.

ADDRESSES: Comments should be mailed to Commander (b), Third Coast Guard District, Governors Island, New York, NY 10004-5098. The comments will be available for inspection and copying at the Boating Safety Office, Building 110, Governors Island, New York, NY. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas A. Dlhopolsky, (212) 668-7974.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD3 86-07) and the specific section of the proposal to which their comments apply and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Mr. Lucas A. Dlhopolsky, Project Officer, Boating Safety Office, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Proposed Regulations:

This is the second consecutive year that the Empire State Regatta will be held in the same location on the Hudson River on the second weekend in June. The sponsor plans to hold this three day event annually on the first or second weekend in June. In preparation for the event, floats used to mark the race course are connected to anchors that were installed in the rock river bottom in 1986. In order to make use of these permanently set anchors, the event must be held in the same location each year. Because of the annual nature of this event, the Coast Guard proposes to promulgate a permanent amendment to Part 100 of Title 33, Code of Federal Regulations. Each year the Coast Guard will provide the public full and adequate notice of the annual crew race event by publication in the Third District Local Notice to Mariners and in a Federal Register notice. The Empire State Regatta is sponsored by the Capital Rowing Club, Inc. of New Scotland, New York on behalf of the United States Rowing Association. This crew racing event will serve as the 1986 Northeast Regional Championships. The races will be held on a 2000 meter course on the Hudson River adjacent to Albany, New York. Approximately 250 crew shells, ranging in size from 20 to 60 feet in length will race in heats throughout the day from 9:00 a.m. to 6:00 p.m. on June 14 and 15, 1986. The race course will consist of six lanes marked by seven rows of buoys anchored to the bottom of the river. Small styrofoam buoys marked with retroreflective tape will be set in the river on June 13, 1986 and will be removed overnight on June 15 into early June 16, 1986. The sponsor shall arrange for several vessels which will assist the Coast Guard Patrol Commander in providing for the safety of the event and spectator craft. The Coast Guard intends to restrict vessel movement within this section of the Hudson River during this event to provide for the safety of the participants and spectators on navigable waters. Vessels less than 20 meters in length will be allowed to transit the regulated area at nowake speeds at specified intervals (approximately every two hours) throughout each race day as directed by the Coast Guard Patrol Commander. Larger vessels will not be allowed to pass through the regulated area at any time during the effective period unless in an emergency and authorized by the Coast Guard Patrol Commander. The Coast Guard Captain of the Port of New York will again, as last year, contact the numerous commercial facilities along the Hudson River north of the regulated area to ask their cooperation in scheduling any vessel transits so as not to interfere with this event. Mariners are urged to use extreme caution when transiting the regulated area. The Coast Guard will issue a safety voice broadcast and this regulation will be published in the Local Notice To Mariners to advise the general public and commercial users on the Hudson River of the event.

Economic Assessment And Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large spectator crowd along the shores of the Hudson River which should compensate certain area merchants for the inconvenience of having navigation restricted. Smaller craft will be allowed to transit the regulated area at designated times during each race day and after the conclusion of each day's racing. In 1985 a survey of river traffic users indicated that any inconvenience to waterway transportation would be minimal. In fact most commercial marine interests successfully adjusted their schedules to avoid transiting this area last year during the effective period of the regulation which was from 6:00 a.m. on June 7 through 6:00 a.m. on June 10, 1985.

Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulation:

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended by adding § 100.308 to read as follows:

§ 100.308 Empire State Regatta, Albany, New York.

(a) *Regulated Area.* That section of the Hudson River between the I-90 Interchange Bridge on the north and the northern end of Culver Dike on the south.

(b) *Effective Period.* This regulation will be effective from 6:00 a.m. on June 13, 1986 through 6:00 a.m. on June 16, 1986 and thereafter annually on the first or second weekend (Friday, Saturday, Sunday into early Monday) in June as published in the Third District Local Notice to Mariners and in a Federal Register notice.

(c) *Special Local Regulations.* (1) The regulated area shall be intermittently closed to all vessel traffic from 6:00 a.m. on Friday to 6:00 a.m. on Monday except as specified below or as directed by the Coast Guard Patrol Commander.

(2) Vessels greater than 20 meters in length shall not transit the regulated area at any time during the effective period unless allowed to do so by the Coast Guard Patrol Commander.

(3) Vessels less than 20 meters in length may transit the regulated area only if escorted by an official patrol vessel. From 9:00 a.m. through 6:00 p.m. on Saturday and Sunday, official patrol vessels will escort transiting vessels less than 20 meters at specified intervals (approximately every two hours) as directed by the Coast Guard Patrol Commander. At all other times, the regatta sponsor shall provide a sufficient number of escort vessels to ensure timely transits for vessels less than 20 meters.

(4) Unless otherwise directed by the Coast Guard Patrol Commander, transiting vessels shall: proceed at no-wake speeds, remain clear of the race course area as marked by the sponsor-provided buoys, not interfere with races or any shells in the area, make no stops and keep to the eastern edge of the Hudson River.

(5) Official patrol vessels include Coast Guard and Coast Guard Auxiliary vessels, New York State and local police boats and other vessels so designated by the regatta sponsor or Coast Guard Patrol Commander.

(6) No person or vessel may enter or remain in the regulated area during the effective period unless participating in the event, or authorized to be there by the sponsor or Coast Guard patrol personnel.

(7) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, The operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(8) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of vessel actually on board.

(iii) $250 for any person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: April 17, 1986.

P.A. Yost,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 86-9435 Filed 4-25-86; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 16

[FRL-2988-1]

Privacy Act of 1974; Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to amend its regulations implementing the Privacy Act of 1974 in two ways. First, EPA proposes to add a new general exemptions section to its regulations. The proposed new section will exempt from compliance with certain provisions of the Privacy Act of 1974 the system of records called "EPA-4 OIG Criminal Investigative Index and Files—EPA/OIG," maintained by the Office of Investigations of the Office of Inspector General (OIG), and "EPA-17 NEIC Criminal Investigative Index and Files—EPA/NEIC/OCI," maintained by the Office of Criminal Investigations (OCI) of the National Enforcement Investigations Center (NEIC). A general exemption for these systems or records will help maintain the efficiency and integrity of investigations conducted by the OIG and the NEIC.

Second, EPA proposes to amend the specific exemptions section of its regulations, which currently exempts from compliance with certain provisions of the Privacy Act of 1974 three systems of records. The proposed amendment will clarify EPA's reasons for exempting these three systems of records. The proposed amendment will also make minor corrections to the names of two of the three systems of records referenced in the regulations to conform to the information contained in EPA's notice of revisions to these systems of records published elsewhere in today's Federal Register. In addition, the proposed amendment will exempt from compliance with certain provisions of the Privacy Act of 1974 the new system of records called "EPA-17 NEIC Criminal Investigative Index and Files—EPA/NEIC/OCI," maintained by the NEIC's office of Criminal Investigations. EPA's notice of this new system of records is published elsewhere in today's Federal Register. Finally, the proposed amendment will exempt from compliance with certain provisions of the Privacy Act of 1974 an existing system of records containing some records that are properly classified by other Federal agencies at levels up to and including "secret." EPA's notice of revisions to this system of records is published elsewhere in today's Federal Register.

DATE: Comments must be submitted on or before May 28, 1986.

ADDRESS: Send written comments to: Connie Tasker, Chief, Information Management Branch, Information Management and Services Division (PM-211D), Environmental Protection Agency, 401 M Street SW Washington, D.C. 20460.

Comments received on this proposed rule will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays, in Rm. M2114, Environmental Protection Agency, 401 M Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Connie Tasker, (202) 475-8675.

SUPPLEMENTARY INFORMATION: As authorized by the general exemption provisions of 5 U.S.C. 552a(j)(2), EPA proposed to amend its regulations implementing the Privacy Act of 1974, which are published at 40 CFR Part 16, by adding a new § 16.13 to exempt from compliance with certain provisions of the Privacy Act of 1974 the systems of records called "EPA-4 OIG Criminal Investigative Index and Files—EPA/OIG," maintained by the OIG's Office of Investigations, and "EPA-17 NEIC Criminal Investigative Index and Files—EPA/NEIC/OIC," maintained by the NEIC's Office of Criminal Investigations.

The exemption is consistent with the investigation and law enforcement responsibilities of the OIG's Office of Investigations and the NEIC's Office of Criminal Investigations, components of EPA which perform as their principal function activities pertaining to the enforcement of criminal laws. Authority for the criminal law enforcement activities of the OIG's Office of Investigations is the Inspector General Act of 1978, 5 U.S.C. app. Authority for the criminal law enforcement activities of the NEIC's Office of Criminal Investigations is 28 U.S.C. 533, with appointment letter from Benjamin Civiletti, Attorney General, to Douglas Costle, Administrator, EPA, dated January 16, 1981. Exempting these systems of records from compliance with certain provisions of the Privacy

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Act of 1974, pursuant to the general exemption provisions of 5 U.S.C. 552a(j)(2), will not only protect investigative information and confidential sources, but will also prevent the subject of investigations from frustrating the investigative process. The exemption will apply only to information contained in the EPA–4 system of records, which is indexed by the names of individuals and entities that are the subjects of investigations by the OIG's Office of Investigations, and the EPA–17 system of records, which is indexed by the names of individuals and entities that are the subjects of investigations by the NEIC's Office of Criminal Investigations, and only to the extent that these systems of records contain criminal law enforcement material.

EPA also proposed to amend the specific exemptions section of its regulations implementing the Privacy Act of 1974, which is published at 40 CFR 16.14. As authorized by the specific exemption provisions of 5 U.S.C. 552a (k)(2) and (k)(5), EPA published a final rule in the **Federal Register** of November 19, 1975 (40 FR 53582) exempting from compliance with certain provisions of the Privacy Act of 1974 three systems of records. The proposed amendment will explain EPA's reasons for exempting these three systems of records from such provisions. The proposed amendment will also make minor corrections to the names of two of the systems of records referenced in § 16.14. What was formerly called "EPA–4 Inspection Branch Reports—EPA" is now called "EPA–4 OIG Criminal Investigative Index and Files—EPA/OIG," and what was formerly called "EPA–5 Personnel Security File System—EPA" is now called "EPA–5 OIG Personnel Security Files—EPA/OIG." As corrected, the names of these two systems of records will conform to the information contained in EPA's notice of revisions to these systems of records published elsewhere in today's **Federal Register**.

In addition, as authorized by the specific exemption provisons of 5 U.S.C. 552a(k)(2), the proposed amendment will exempt from certain provisions of the Privacy Act of 1974 the new system of records called "EPA–17 NEIC Criminal Investigative Index and Files—EPA/NEIC/OCI." This system of records consists of investigatory material complied and maintained by the NEIC's Office of Criminal Investigations for law enforcement purposes. EPA's notice of this new system of records is published elsewhere in today's **Federal Register**.

Finally, as authorized by the specific exemption provisions of 5 U.S.C. 552a(k)(1), the proposed amendment will add a new § 16.14(c) to exempt from certain provisions of the Privacy Act of 1974 the existing system of records called "EPA–5 OIG Personnel Security Files—EPA/OIG," which contains some records that are classified by other Federal agencies at levels up to and including "secret." Those records are specifically authorized under criteria established by Executive Order 12356 to be kept secret in the interest of national defense or foreign policy and are in fact properly classified by other Federal agencies pursuant to that Executive Order. EPA's notice of revisions to this system of records is published elsewhere in today's **Federal Register**.

Executive Order 12291

Under Executive Order 12291, EPA is required to judge whether a regulation is "major" and therefore subject to the regulatory impact analysis requirements of the Executive Order. Major rules are those which impose a cost on the economy of $100 million a year or more or have certain other economic impacts. I have determined that this proposed rule is not "major" and, therefore, is not subject to the Executive order. This proposed rule was submitted to the Office of Management and Budget (OMB) before publication, as required by the Executive order.

Environmental Impact Statement

This proposed rule does not affect the environment. An Environmental Impact Statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This proposed rule does not constitute an information collection request within the meaning of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Therefore, this proposed rule is not subject to the requirements of the Paperwork Reduction Act of 1980.

Regulatory Flexibility Act

Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, requires EPA to prepare and make available for comment an initial regulatory flexibility analysis in connection with any rulemaking for which EPA must publish a general notice of proposed rulemaking. The initial regulatory flexibility analysis must describe the impact of the proposed rule on small business entities.

Section 605(b) of the Act, however, provides that section 603 of the Act "shall not apply to any proposed or final rule if the head of the Agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." This rule, which exempts from certain provisions of the Privacy Act of 1974 four EPA systems of records, will not produce any economic impact on any businesses, large or small. Accordingly, under section 605(b) of the Act, I hereby certify that this rule will not, if promulgated, have significant economic impact on a substantial number of small entities. In accordance with section 605(b) of the Act, I am providing a copy of this certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 40 CFR Part 16

Privacy.

Dated: April 17, 1986.

Lee M. Thomas,

Administrator.

PART 16—[AMENDED]

Therefore, it is proposed that 40 CFR Part 16 be amended as follows:

1. The authority citation for Part 16 continues to read as follows:

Authority: 5 U.S.C. 552a.

2. Section 16.13 is added to read as follows:

§ 16.13 General exemptions.

(a) *Systems of records affected.*

EPA–4 OIG Criminal Investigative Index and Files—EPA/OIG.

EPA–17 NEIC Criminal Investigative Index and Files—EPA/NEIC/OCI.

(b) *Authority.* Under 5 U.S.C. 552a(j)(2), the head of any agency may by rule exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the system of records is maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws and which consists of:

(1) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status;

(2) Information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or

(3) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

(c) *Scope of exemption.* (1) The EPA–4 system of records identified in § 16.13(a) is maintained by the Office of Investigations of the Office of Inspector General (OIG), a component of EPA which performs as its principal function activities pertaining to the enforcement of criminal laws. Authority for the criminal law enforcement activities of the OIG's Office of Investigations is the Inspector General Act of 1978, 5 U.S.C. app.

(2) The EPA–17 system of records identified in § 16.13(a) is maintained by the Office of Criminal Investigations (OCI) of the National Enforcement Investigations Center (NEIC), a component of EPA which performs as its principal function activities pertaining to the enforcement of criminal laws. Authority for the criminal law enforcement activities of the NEIC's Office of Criminal Investigations is 28 U.S.C. 533, with appointment letter from Benjamin Civiletti, Attorney General, to Douglas Costle, Administrator, EPA, dated January 16, 1981.

(3) The systems of records identified in § 16.13(a) are exempted from the following provisions of the Privacy Act of 1974: 5 U.S.C. 552a(c) (3) and (4); (d); (e) (1), (2), (3), (4) (G), (H), and (I), (5), and (8); (f); and (g).

(4) To the extent that the exemption claimed under 5 U.S.C. 552a(j)(2) is held to be invalid for the systems of records identified in § 16.13(a), then an exemption under 5 U.S.C. 552a(k)(2) is claimed for these systems of records.

(d) *Reasons for exemption.* The systems of records identified in § 16.13(a) are exempted from the above provisions of the Privacy Act of 1974 for the following reasons:

(1) 5 U.S.C. 552a(c)(3) requires an agency to make the accounting of each disclosure of records available to the individual named in the record at his request. These accountings must state the date, nature, and purpose of each disclosure of a record and the name and address of the recipient. Accounting for each disclosure would alert the subjects of an investigation to the existence of the investigation and the fact that they are subjects of the investigation. The release of such information to the subjects of an investigation would provide them with significant information concerning the nature of the investigation, and could seriously impede or compromise the investigation, endanger the physical safety of confidential sources, witnesses, law enforcement personnel and their families, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(2) 5 U.S.C. 552a(c)(4) requires an agency to inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of the Act. Since EPA is claiming that these systems of records are exempt from subsection (d) of the Act, concerning access to records, this section is inapplicable and is exempted to the extent that these systems of records are exempted from subsection (d) of the Act.

(3) 5 U.S.C. 552a(d) requires an agency to permit an individual to gain access to records pertaining to him, to request amendment to such records, to request a review of an agency decision not to amend such records, and to contest the information contained in such records. Granting access to records in these systems of records could inform the subject of an investigation of an actual or potential criminal violation of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his activities, of the identity of confidential sources, witnesses, and law enforcement personnel, and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an investigation, endanger the physical safety of confidential sources, witnesses, law enforcement personnel and their families, lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony, and disclose investigation techniques and procedures. In addition, granting access to such information could disclose classified, security-sensitive, or confidential business information and could constitute an unwarranted invasion of the personal privacy of others.

(4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required by statute or by executive order of the President. The application of this provision could impair investigations and law enforcement, because it is not always possible to detect the relevance or necessity of specific information in the early stages of an investigation. Relevance and necessity are often questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established. In addition during the course of the investigation, the investigator may obtain information which is incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated. Furthermore, during the course of the investigation, the investigator may obtain information concerning the violation of laws other than those which are within the scope of his jurisdiction. In the interest of effective law enforcement, the EPA investigators should retain this information, since it can aid in establishing patterns of criminal activity and can provide valuable leads for other law enforcement agencies.

(5) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The application of this provision could impair investigations and law enforcement by alerting the subject of an investigation of the existence of the investigation, enabling the subject to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Moreover, in certain circumstances the subject of an investigation cannot be required to provide information to investigators, and information must be collected from other sources. Furthermore, it is often necessary to collect information from sources other than the subject of the investigation to verify the accuracy of the evidence collected.

(6) 5 U.S.C. 552a(e)(3) requires an agency to inform each person whom it asks to supply information, on a form that can be retained by the person, of the authority under which the information is sought and whether disclosure is mandatory or voluntary; of the principal purposes for which the information is intended to be used; of the routine uses which may be made of the information; and of the effects on the person, if any, of not providing all or any part of the requested information. The application of this provision could provide the subject of an investigation with substantial information about the nature of that investigation, which could interfere with the investigation. Moreover, providing such a notice to the subject of an investigation could seriously impede or compromise an undercover investigation by revealing its existence and could endanger the physical safety of confidential sources, witnesses, and investigators by revealing their identities.

(7) 5 U.S.C. 552a(e)(4)(G) and (H) require an agency to publish a **Federal Register** notice concerning its procedures for notifying an individual at his request if the system of records contains a record pertaining to him, how he can gain access to such a record, and how he can contest its content. Since EPA is claiming that these systems of records are exempt from subsection (f) of the Act, concerning agency rules, and subsection (d) of the Act, concerning access to records, these requirements are inapplicable and are exempted to the extent that these systems of records are exempted from subsections (f) and (d) of the Act. Although EPA is claiming exemption from these requirements,

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EPA has published such a notice concerning its notification, access, and contest procedures because, under certain circumstances, EPA might decide it is appropriate for an individual to have access to all or a portion of his records in these systems of records.

(8) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a Federal Register notice concerning the categories of sources of records in the system of records. Exemption from this provision is necessary to protect the confidentiality of the sources of information, to protect the privacy and physical safety of confidential sources and witnesses, and to avoid the disclosure of investigative techniques and procedures. Although EPA is claiming exemption from this requirement, EPA has published such a notice in broad generic terms in the belief that this is all subsection (e)(4)(I) of the Act requires.

(9) 5 U.S.C. 552a(e)(5) requires an agency to maintain its records with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making any determination about the individual. Since the Act defines "maintain" to include the collection of information, complying with this provision would prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment it is collected. In collecting information for criminal law enforcement purposes, it is not possible to determine in advance what information is accurate, relevant, timely, and complete. Facts are first gathered and then placed into a logical order to prove or disprove objectively the criminal behavior of an individual. Material which may seem unrelated, irrelevant, or incomplete when collected may take on added meaning or significance as the investigation progresses. The restrictions of this provision could interfere with the preparation of a complete investigative report, thereby impeding effective law enforcement.

(10) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. Complying with this provision could prematurely reveal an ongoing criminal investigation to the subject of the investigation.

(11) 5 U.S.C. 552a(f)(1) requires an agency to promulgate rules which shall establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him. The application of this provision could impede or compromise an investigation or prosecution if the subject of an investigation was able to use such rules to learn of the existence of an investigation before it could be completed. In addition, mere notice of the fact of an investigation could inform the subject or others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Since EPA is claiming that these systems of records are exempt from subsection (d) of the Act, concerning access to records, the requirements of subsections (f)(2) through (5) of the Act, concerning agency rules for obtaining access to such records, are inapplicable and are exempted to the extent that these systems of records are exempted from subsection (d) of the Act. Although EPA is claiming exemption from the requirements of subsection (f) of the Act, EPA has promulgated rules which establish Agency procedures because, under certain circumstances, it might be appropriate for an individual to have access to all or a portion of his records in these systems of records. These procedures are described elsewhere in this Part.

(12) 5 U.S.C. 552a(g) provides for civil remedies if an agency fails to comply with the requirements concerning access to records under subsections (d) (1) and (3) of the Act; maintenance of records under subsection (e)(5) of the Act; and any other provision of the Act, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual. Since EPA is claiming that these systems of records are exempt from subsections (c) (3) and (4), (d), (e) (1), (2), (3), (4) (G), (H), and (I), (5), and (8), and (f) of the Act, the provisions of subsection (g) of the Act are inapplicable and are exempted to the extent that these systems of records are exempted from those subsections of the Act.

(e) *Exempt records provided by another agency.* Individuals may not have access to records maintained by the EPA if such regulation that such records are subject to general exemption under 5 U.S.C. 552a(j). If an individual requests access to such exempt records, EPA will consult with the source agency.

(f) *Exempt records included in a nonexempt system of records.* All records obtained from a system of records which has been determined by regulation to be subject to general exemption under 5 U.S.C. 552a(j) retain their exempt status even if such records are also included in a system of records for which a general exemption has not been claimed.

3. Section 16.14 is revised to read as follows:

§ 16.14 Specific exemptions.

(a) *Exemption under 5 U.S.C. 552a(k)(2)*—(1) *Systems of records affected.*

EPA–2 General Personnel Records—EPA.

EPA–4 OIG Criminal Investigative Index and Files—EPA/OIG.

EPA–5 OIG Personnel Security Files—EPA/OIG.

EPA–17 NEIC Criminal Investigative Index and Files—EPA/NEIC/OCI.

(2) *Authority.* Under 5 U.S.C. 552a(k)(2), the head of any agency may by rule exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the system of records is investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2).

(3) *Scope of exemption.* (i) The systems of records identified in § 16.14(a)(1) are exempted from the following provisions of the Privacy Act of 1974, subject to the limitations set forth in 5 U.S.C. 552a(k)(2): 5 U.S.C. 552a(c)(3); (d); (e)(1), (4)(G), (H), and (I); and (f).

(ii) An individual is "denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material," only if the Agency actually uses the material in denying or proposing to deny such right, privilege, or benefit.

(iii) To the extent that records contained in the systems of records identified in § 16.14(a)(1) are maintained by the Office of Investigations of the OIG or by the Office of Criminal Investigations of the NEIC, components of EPA which perform as their principal function activities pertaining to the enforcement of criminal laws, then an exemption under 5 U.S.C. 552a(j)(2) is claimed for these records.

(4) *Reasons of exemption.* The systems of records identified in § 16.14(a)(1) are exempted from the above provisions of the Privacy Act of 1974 for the following reasons:

(i) 5 U.S.C. 552a(c)(3) requires an agency to make the accounting of each disclosure of records available to the individual named in the record at his request. These accountings must state the date, nature, and purpose of each disclosure of a record and the name and address of the recipient. Accounting for each disclosure would alert the subjects of an investigation to the existence of the investigation and the fact that they are subjects of the investigation. The release of such information to the subjects of an investigation would provide them with significant information concerning the nature of the investigation, and could seriously impede or compromise the investigation, endanger the physical safety of confidential sources, witnesses, law enforcement personnel and their families, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(ii) 5 U.S.C. 552a(d) requires an agency to permit an individual to gain access to records pertaining to him, to request amendment to such records, to request a review of an agency decision not to amend such records, and to contest the information contained in such records. Granting access to records in these systems of records could inform the subject of an investigation of an actual or potential criminal violation of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his activities, of the identity of confidential sources, witnesses, and law enforcement personnel, and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an investigation, endanger the physical safety of confidential sources, witnesses, law enforcement personnel and their families, lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony, and disclose investigative techniques and procedures. In addition, granting access to such information could disclose classified, security-sensitive, or confidential business information and could constitute an unwarranted invasion of the personal privacy of others.

(iii) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required by statute or by executive order of the President. The application of this provision could impair investigations and law enforcement, because it is not always possible to detect the relevance or necessity of specific information in the early stages of an investigation. Relevance and necessity are often questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established. In addition, during the course of the investigation, the investigator may obtain information which is incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated. Furthermore, during the course of the investigation, the investigator may obtain information concerning the violation of laws other than those which are within the scope of his jurisdiction. In the interest of effective law enforcement, EPA investigators should retain this information, since it can aid in establishing patterns of criminal activity and can provide valuable leads for other law enforcement agencies.

(iv) 5 U.S.C. 552a(e)(4) (G) and (H) require an agency to publish a Federal Register notice concerning its procedures for notifying an individual at his request if the system of records contains a record pertaining to him, how he can gain access to such a record, and how he can contest its content. Since EPA is claiming that these systems of records are exempt from subsection (f) of the Act, concerning agency rules, and subsection (d) of the Act, concerning access to records, these requirements are inapplicable and are exempted to the extent that these systems of records are exempted from subsections (f) and (d) of the Act. Although EPA is claiming exemption from these requirements, EPA has published such a notice concerning its notification, access, and contest procedures because, under certain circumstances, EPA might decide it is appropriate for an individual to have access to all or a portion of his records in these systems of records.

(v) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a Federal Register notice concerning the categories of sources of records in the system or records. Exemption from this provision is necessary to protect the confidentiality of the sources of information, to protect the privacy and physical safety of confidential sources and witnesses, and to avoid the disclosure of investigative techniques and procedures. Although EPA is claiming exemption from this requirement, EPA has published such a notice in broad generic terms in the belief that this is all subsection (e)(4)(I) of the Act requires.

(vi) 5 U.S.C. 552a(f)(1) requires an agency to promulgate rules which shall establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him. The application of this provision could impede or compromise an investigation or prosecution if the subject of an investigation was able to use such rules to learn of the existence of an investigation before it could be completed. In addition, mere notice of the fact of an investigation could inform the subject or others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Since EPA is claiming that these systems of records are exempt from subsection (d) of the Act, concerning access to records, the requirements of subsections (f) (2) through (5) of the Act concerning agency rules for obtaining access to such records, are inapplicable and are exempted to the extent that these systems or records are exempted from subsection (d) of the Act. Although EPA is claiming exemption from the requirements of subsection (f), EPA has promulgated rules which establish Agency procedures because, under certain circumstances, it might be appropriate for an individual to have access to all or a portion of his records in these systems of records. These procedures are described elsewhere in this Part.

(b) *Exemption under 5 U.S.C. 552a(k)(5)*—(1) *Systems of records affected.*

EPA–2 General Personnel Records—EPA.

EPA–4 OIG Criminal Investigative Index and Files—EPA/OIG.

EPA–5 OIG Personnel Security Files—EPA/OIG.

(2) *Authority.* Under 5 U.S.C. 552a(k)(5), the head of any agency may by rule exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the system of records is investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity would be held in confidence.

(3) *Scope of exemption.* (i) The systems of records identified in § 16.14(b)(1) are exempted from the following provisions of the Privacy Act of 1974, subject to the limitations of 5 U.S.C. 552a(k)(5): 5 U.S.C. 552a (c)(3); (d); (e)(1), (4) (H) and (I); and (f) (2) through (5).

(ii) To the extent that records contained in the systems of records identified in § 16.14(b)(1) reveal a violation or potential violation of law, then an exemption under 5 U.S.C. 552a(k)(2) is also claimed for these records.

(4) *Reasons for exemption.* The systems of records identified in § 16.14(b)(1) are exempted from the above provisions of the Privacy Act of 1974 for the following reasons:

(i) 5 U.S.C. 552a(c)(3) requires an agency to make the accounting of each disclosure of records available to the individual named in the record at his request. These accountings must state

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the date, nature, and purpose of each disclosure of a record and the name and address of the recipient. Making such an accounting could cause the identity of a confidential source to be revealed, endangering the physical safety of the confidential source, and could impair the future ability of the EPA to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information.

(ii) 5 U.S.C. 552a(d) requires an agency to permit an individual to gain access to records pertaining to him, to request amendment to such records, to request a review of an agency decision not to amend such records, and to contest the information contained in such records. Granting such access could cause the identity of a confidential source to be revealed, endangering the physical safety of the confidential source, and could impair the future ability of the EPA to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information.

(iii) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required by statute or by executive order of the President. The application of this provision could impair investigations, because it is not always possible to detect the relevance or necessity of specific information in the early stages of an investigation. Relevance and necessity are often questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established.

(iv) 5 U.S.C. 562a(e)(4)(H) requires an agency to publish a **Federal Register** notice concerning its procedures for notifying an individual at his request how he can gain access to any record pertaining to him and how he can contest its content. Since EPA is claiming that these systems of records are exempt from subsections (f) (2) through (5) of the Act, concerning agency rules, and subsection (d) of the Act, concerning access to records, these requirements are inapplicable and are exempted to the extent that these systems of records are exempted from subsections (f) (2) through (5) and (d) of the Act. Although EPA is claiming exemption from these requirements, EPA has published such a notice concerning its access and contest procedures because, under certain circumstances, EPA might decide it is appropriate for an individual to have access to all or a portion of his records in these systems of records.

(v) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a **Federal Register** notice concerning the categories of sources of records in the system of records. Exemption from this provision is necessary to protect the confidentiality of the sources of information, to protect the privacy and physical safety of confidential sources, and to avoid the disclosure of investigative techniques and procedures. Although EPA is claiming exemption from this requirement, EPA has published such a notice in broad generic terms in the belief that this is all subsection (e)(4)(I) of the Act requires.

(vi) 5 U.S.C. 552a(f) (2) through (5) require an agency to promulgate rules for obtaining access to records. Since EPA is claiming that these systems of records are exempt from subsection (d) of the Act, concerning access to records, the requirements of subsections (f) (2) through (5) of the Act, concerning agency rules for obtaining access to such records, are inapplicable and are exempted to the extent that this system of records is exempted from subsection (d) of the Act. Although EPA is claiming exemption from the requirements of subsections (f) (2) through (5) of the Act, EPA has promulgated rules which establish Agency procedures because, under certain circumstances, it might be appropriate for an individual to have access to all or a portion of his records in this system of records. These procedures are described elsewhere in this Part.

(c) *Exemption under 5 U.S.C. 552a(k)(1).*—(1) *System of records affected.*

EPA–5 OIG Personnel Security Files—EPA/OIG.

(2) *Authority.* Under 5 U.S.C. 552a(k)(1), the head of any agency may by rule exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the system of records is subject to the provisions of 5 U.S.C. 552(b)(1). A system of records is subject to the provisions of 5 U.S.C. 552(b)(1) if it contains records that are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order. Executive Order 12356 establishes criteria for classifying records which are to be kept secret in the interest of national defense or foreign policy.

(3) *Scope of exemption.* To the extent that the system of records identified in § 16.14(c)(1) contains records provided by other Federal agencies that are specifically authorized under criteria established by Executive Order 12356 to be kept secret in the interest of national defense or foreign policy and are in fact properly classified by other Federal agencies pursuant to that Executive Order, the system of records is exempted from the following provisions of the Privacy Act of 1974: 5 U.S.C 552a (c)(3); (d); (e)(1), (4) (G), (H), and (I); and (f).

(4) *Reasons for exemption.* The system of records identified in § 16.14(c)(1) is exempted from the above provisions of the Privacy Act of 1974 for the following reasons:

(i) 5 U.S.C. 552a(c)(3) requires an agency to make the accounting of each disclosure of records available to the individual named in the record at his request. These accountings must state the date, nature, and purpose of each disclosure of a record and the name and address of the recipient. Making such an accounting could result in the release of properly classified information, which would compromise the national defense or disrupt foreign policy.

(ii) 5 U.S.C. 552a(d) requires an agency to permit an individual to gain access to records pertaining to him, to request amendment to such records, to request a review of an agency decision not to amend such records, and to contest the information contained in such records. Granting such access could cause the release of properly classified information, which would compromise the national defense or disrupt foreign policy.

(iii) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required by statute or by executive order of the President. The application of this provision could impair personnel security investigations which use properly classified information, because it is not always possible to know the relevance or necessity of specific information in the early stages of an investigation. Relevance and necessity are often questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established.

(iv) 5 U.S.C. 552a(e)(4) (G) and (H) require an agency to publish a **Federal Register** notice concerning its procedures for notifying an individual at his request if the system of records contains a record pertaining to him, how he can gain access to such a record, and how he can contest its content. Since EPA is claiming that this system of records is exempt from subsection (f) of the Act, concerning agency rules, and subsection (d) of the Act, concerning access to records, these requirements are inapplicable and are exempted to the extent that this system of records is exempted from subsections (f) and (d) of the Act. Although EPA is claiming exemption from these requirements, EPA has published such a notice concerning its notification, access, and contest procedures because, under certain circumstances, EPA might decide it is appropriate for an individual to have access to all or a portion of his records in this system of records.

(v) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a **Federal Register** notice concerning the categories of sources of records in the system of records. Exemption from this provision is necessary to prevent the release of properly classified information, which would compromise the national defense or disrupt foreign policy. Although EPA is claiming exemption from this requirement, EPA has published such a notice in broad generic terms in the belief that this is all subsection (e)(4)(I) of the Act requires.

(vi) 5 U.S.C. 552a(f)(1) requires an agency to promulgate rules which shall establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him. The application of this provision could result in the release of properly classified information, which would compromise the national defense or disrupt foreign policy. Since EPA is claiming that this system of records is exempt from subsection (d) of the Act, concerning access to records, the requirements of subsections (f) (2) through (5) of the Act, concerning agency rules for obtaining access to such records, are inapplicable and are exempted to the extent that this system of records is exempted from subsection (d) of the Act. Although EPA is claiming exemption from the requirements of subsection (f) of the Act, EPA has promulgated rules which establish Agency procedures because, under certain circumstances, it might be appropriate for an individual to have access to all or a portion of his records in this system of records. These procedures are described elsewhere in this Part.

(d) *Exempt records provided by another agency.* Individuals may not have access to records maintained by the EPA if such records were provided by another agency which has determined by regulation that such records are subject to general exemption under 5 U.S.C. 552a(j) or specific exemption under 5 U.S.C. 552a(k). If an individual requests access to such exempt records, EPA will consult with the source agency.

(e) *Exempt records included in a nonexempt system of records.* All records obtained from a system of records which has been determined by regulation to be subject to specific exemption under 5 U.S.C. 552a(k) retain their exempt status even if such records are also included in a system of records for which a specific exemption has not been claimed.

[FR Doc. 86–9406 Filed 4–25–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Parts 51 and 52

[FRL–3069–3]

Requirements for Implementation Plans; Surface Coal Mines and Fugitive Emissions; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: On October 26, 1984, EPA proposed that fugitive emissions be included in threshold applicablility determinations of whether surface coal mines would be required to obtain air quality new source review permits (49 FR 43211). On February 28, 1986, EPA reopened this public comment period for 60 days, until April 29, 1986 (51 FR 7090).

Representatives of the surface coal mining industry have requested that EPA extend this public comment period, noting in part the need for additional time to complete studies. In response to those requests, I am hereby extending by 30 days the public comment period.

DATES: The close of public comment period is extended from April 29, 1986, to May 29, 1986.

ADDRESSES: Comments should be submitted (preferably in triplicate) to Central Docket Section (LE–131A), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Attention: Docket No. A–84–33.

FOR FURTHER INFORMATION CONTACT: Mr. Kirt Cox, U.S. Environmental Protection Agency (MD–15), Research Triangle Park, North Carolina 27711, telephone: 919–541–5591, FTS 629–5591.

Dated: April 18, 1986.

J. Craig Potter,

Assistant Administrator for Air and Radiation.

[FR Doc. 86–9405 Filed 4–25–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Parts 795 and 799

[OPTS–42033C; FRL–2983–8(a)]

Cresols; Proposed Testing Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Elsewhere in this issue of the **Federal Register**, EPA is issuing a final test rule establishing testing requirements under section 4(a) of the Toxic Substances Control Act (TSCA) for manufacturers and processors of cresols. Cresols is a chemical category consisting of three cresol isomers: *ortho*-cresol (CAS No. 95–48–7), *meta*-cresol (CAS No. 108–39–4), and *para*-cresol (CAS No. 106–44–5). In this document, EPA is proposing that certain TSCA test guidelines be utilized as the test standards for the required studies. EPA is also proposing that tests be submitted within specified time frames.

DATES: Submit written comment on or before June 12, 1986. If persons request time for oral comment by May 28, 1986, EPA will hold a public meeting on this proposed rule in Washington, DC. For further information on arranging to speak at the meeting, see Unit VI of this preamble.

ADDRESS: Submit written comments, identified by the document control number (OPTS–42033C), in triplicate to: TSCA Public Information Office (TS–793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–108, 401 M St., SW., Washington, DC 20460.

A public version of the administrative record supporting this action (with any confidential business information deleted) is available for inspection at the above address from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Rm. E–543, 401 M St., SW., Washington, DC 20460. Toll Free: (800–424–9065), In Washington, DC: (554–1404), Outside the USA: (Operator 202–554–1404).

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register**, EPA is issuing a final test rule

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under section 4(a) of TSCA to require testing of cresols for mutagenic effects, developmental toxicity, and reproductive effects. The Agency is proposing in this document the test standards to be used and the time frames for submission of the required test data.

I. Background

Elsewhere in this issue of the **Federal Register**, EPA is promulgating a Phase I final rule pursuant to TSCA section 4 that establishes testing requirements for manufacturers and processors of cresols. The Phase I rule specifies the following testing requirements for cresols: (1) Mutagenic effects studies (including tests for chromosomal aberrations, gene mutations, and cellular transformations) on specified cresol isomers; (2) developmental toxicity study with each cresol isomer; and (3) two-generation reproductive effects study with each cresol isomer.

Once this Phase I test rule becomes effective, manufacturers and processors of cresols would normally be required (under the two-phase test rule development process) to submit proposed study plans for each of these required studies and proposed schedules for both the initiation of testing and the submission of study data. (See 40 CFR 790.30, published in the **Federal Register** of May 17, 1985 (50 FR 20658).) EPA would review the submitted study plans and schedules and would thereafter issue them (with any necessary modifications) in a Phase II test rule proposal. This proposal would request public comment on the ability of the proposed study plans to ensure that the resulting data would be reliable and adequate. After evaluating and responding to public comment, EPA would adopt the study plans, including the reporting schedules, in a Phase II final rule as the required test standards and data submission deadlines. (See 40 CFR 790.32, published in the **Federal Register** of May 17, 1985 (50 FR 20659).)

However, in the case of the cresols test rule, which was initiated under the two-phase process, EPA has decided to propose the relevant TSCA test guidelines as the test standards (see Unit III below). In addition, EPA is proposing that the data from the required studies be submitted within certain time periods. These time periods will serve as the data submission deadlines required by TSCA section 4(b)(1) (see Unit IV below). The reasons for this change in the test rule development process for cresols are discussed below.

II. Change in the test rule development process

A. Test Standards and Data Submission Deadlines

TSCA section 4(b)(1) specifies that test rules shall include standards for the development of test data ("test standards") and deadlines for submission of test data. Under a two-phase test rule development process utilized by EPA since 1982 (47 FR 13012; March 26, 1982) and formally adopted in the fall of 1984 (49 FR 39774; October 10, 1984), test standards and data submission deadlines were to be adopted during the second phase of the rulemaking process. Upon issuance of the Phase I final rule, which established the effects and characteristics for which a given chemical substance must be tested, persons subject to the rule would be required by a specified date to submit study plans detailing the methodologies and protocols they intended to use to perform the required tests. Such study plans were to include proposed schedules for the initiation and completion of testing and submission of test data. (See 40 CFR 790.30 (a) and (c), published in the **Federal Register** of October 10, 1984 (49 FR 39774).) In the second phase, after consideration of public comment, the Agency would promulgate the Phase II final rule adopting the study plans (with any necessary modifications) as the test standards for the development of test data and deadlines for submission of test data.

In December 1983, the Natural Resources Defense Council (NRDC) and the Industrial Union Department of the American Federation of Labor-Congress of Industrial Organizations filed an action under TSCA section 20 which challenged, among other things, the use of the two-phase process. In an August 23, 1984 Opinion and Order, the Court found that utilization of the two-phase rulemaking process was permissible. However, the Court also held that the Agency was subject to a standard of promulgating test rules within a reasonable time frame. *NRDC* v. *EPA*, 595 F. Supp. 1255 (S.D.N.Y. 1984).

After the issuance of that Opinion, the Agency decided that to expedite development of section 4 test rules, it would utilize a single-phase rulemaking process for most test rules. In the document announcing this decision, EPA stated that the single-phase approach offers a number of advantages over the two-phase process (see 50 FR 20652, 20653; May 17, 1985). In this single-phase approach, the Agency proposes (in one document) not only the effects for which testing will be required, but also proposes pertinent TSCA test guidelines as the test standards and time frames for the submission of test data. After receiving and evaluating public comment on the proposed testing requirements, test guidelines, and data submission deadlines, EPA promulgates a final test rule.

This single-phase approach shortens the rulemaking period and expedites the initiation of required testing that would usually result from use of the two-phase rulemaking process. The single-phase process also eliminates the requirement under the two-phase approach for industry to submit test protocols for approval. Moreover, by allowing commenters to submit alternative testing methodologies during the comment period, the single-phase approach preserves the flexibility of the two-phase process.

These same advantages, i.e., expedited initiation of testing and the elimination of study plan submission requirements for persons subject to a Phase I rule, are factors considered by EPA in deciding to modify the rulemaking process for cresols. By proposing both pertinent TSCA test guidelines as the test standards and data submission deadlines at the time of issuance of the Phase I rule, EPA expects that the Phase II final rule will be issued 6 months sooner than would occur if the usual two-phase process was followed. Thus, required testing will be initiated on a more expedited basis. In addition, for each of the required tests for cresols, appropriate TSCA test guidelines are available (see Unit III below). Thus, EPA believes that there is no need for manufacturers and processors of cresols to develop study plans for approval independent of these TSCA guidelines.

B. Modifications to Requirements Under a Phase I Final Rule For Cresols

As indicated above, persons subject to the cresols Phase I final rule and who have notified EPA of their intent to test would normally be required to submit study plans and proposed data submission deadlines within a specified time of the final rule's effective date. (See 40 CFR 790.30(a) and (c), published in the **Federal Register** of May 17, 1985 (50 FR 20658).) However, because EPA is proposing certain TSCA test guidelines as the test standards and data submission deadlines, persons subject to the Phase I final rule are not required to submit proposed study plans for the required testing or proposed dates for the initiation and completion of that testing.

However, persons subject to the Phase I final rule for cresols are still required to submit notices of intent to test or exemption applications in accordance with 40 CFR 790.25, published in the **Federal Register** of May 17, 1985 (50 FR 20657). Moreover, once the test standards are promulgated in the Phase II final rule, those persons who have notified EPA of their intent to test must submit study plans (which adhere to the promulgated test standards) no later than 30 days before the initiation of each required test.

III. Proposed Test Standards

The Phase I rule specifies that cresols be tested for mutagenic effects (including tests for chromosomal aberrations, gene mutations, and cellular transformations), development toxicity, and reproductive effects. The Agency is now proposing that this testing of cresols be conducted in accordance with specific guidelines set forth in Title 40 of the Code of Federal Regulations (CFR) as enumerated below. Test methods under new Parts 796, 797, and 798 were published in the **Federal Register** of September 27, 1985 (50 FR 39252). The health effects tests to be conducted are:

1. *Mutagenicity*: Chromosomal effects.
2. *In Vitro* Mammalian Cytogenetics test, which appears at 40 CFR 798.5375.

b. *In Vivo* Mammalian Bone Marrow Cytogenetics Tests: Chromosomal Analysis, which appears at 40 CFR 798.5385.

c. Rodent Dominant Lethal Assay, which appears at 40 CFR 798.5450.

2. *Mutagenicity*: Unscheduled DNA Synthesis in Mammalian Cells in Culture assay, which appears at 40 CFR 798.5550.

3. *Mutagenicity*: Gene mutations.

a. Detection of Gene Mutations in Somatic Cells in Culture assay, which appears at 40 CFR 798.5300.

b. Sex-linked Recessive Lethal Test in *Drosophila melanogaster*, which appears at 40 CFR 798.5275.

4. *Mutagenicity*: Cellular transformations. Morphologic Transformation of Mammalian Cells in Culture assay, which appears at 40 CFR 796.285.

5. *Developmental toxicity*: Developmental Toxicity Study, which appears at 40 CFR 798.4900.

6. *Reproductive effects*: Reproduction and Fertility Effects study, which appears at 40 CFR 798.4700.

EPA believes that the TSCA Health Effects Test Guidelines cited above, if properly followed, should produce adequate and reliable data. These guidelines describe methods for performing testing of chemical substance under TSCA. EPA reviews its TSCA test guidelines annually (see 47 FR 41657; September 22, 1982).

EPA has proposed in a separate **Federal Register** document (51 FR 1552; January 14, 1986), certain revisions to these TSCA guidelines to provide more explicit guidance on the necessary minimum elements for each study. These revisions will avoid repetitive chemical-by-chemical changes to the guidelines in their adoption as test standards for chemical-specific test rules. EPA is proposing that these modifications be adopted in the test standards for cresols.

The Agency believes that the TSCA test guidelines will provide relevant data to assess the potential human hazard resulting from exposure to cresols.

The chemical or physical properties, previous testing, specific manufacturing, use, disposal practices, and exposure patterns of a particular chemical, in some cases, will cause the Agency to make changes in TSCA guidelines which reflect the characteristics of a specific chemical. The changes made for the creosis in the guidelines and the justification for the use of these guidelines and for any changes are set forth below.

1. *In vitro mammalian cytogenetics test.* The *in vitro* cytogenetics test will detect structural chromosomal aberrations in cultured mammalian cells. For cresols, the solvent for the assay shall be dimethyl sulfoxide (DMSO) which was the solvent used for tesing the cresol isomers in previously conducted assays. In addition, the metabolic activation system for the assay shall be derived from Aroclor–1254 induced rat liver S–9 preparations because it is the system with the largest historical data base for use in this assay. Finally, the *in vitro* cytogenetic assay shall be performed in established cell lines or strains because of the historical data base available for these cell systems.

2. *In vivo mammalian bone marrow cytogenetics test.* The *in vivo* cytogenetics test is designed to detect structural chromosomal aberrations. For the use of cresols in this assay, the route of administration of the test substances shall be oral gavage. Furthermore, the test species shall be mice for the *in vivo* assay in order to allow species consistency among other required mutagenicity assays, i.e., rodent dominant lethal test, and also among upper-tier assays, i.e., heritable translocation assay, should they be required in the future.

3. *Rodent dominant lethal assay.* The rodent dominant lethal assay will determine whether or not a dominant lethal event is caused after exposure to a chemical substance. This dominant lethal event indicates that the test substance has affected germinal tissue of the test species. For cresols, the test substances shall be administered by oral gavage. Three dose levels shall be used. In addition, the test species shall be mice. Each male shall be mated to no more than two, and preferably to only one, female per mating interval. This is the optimum for this species. Further, females shall be left with the males for no longer than seven days, and mating shall continue for at least six weeks to ensure that the entire germ cell cycle is sampled.

4. *Unscheduled DNA synthesis in mammalian cells in culture.* This assay measures the repair of DNA damage induced by the test chemical. This assay shall be performed in primary cultures of rate hepatocytes because of the positive results obtained in this system with the equimixture of the isomers. In addition, the solvent used in the DNA damage assay shall be DMSO.

5. *Detection of gene mutations in somatic cells in culture.* This assay is used to detect possible mutations in mammalian cell culture systems induced by the chemical test substance. For cresols, the solvent used in this assay shall be DMSO. The metabolic activation system shall be derived from Aroclor–1254 induced rate liver S–9 preparations because it is the system with the largest historical data base for use in this assay. In addition, this assay shall be done in L5178Y cells because of a previous positive result in that cell system with the equimixture of the cresol isomers. Finally, a 4-hour exposure time shall be used because it is the standard exposure period recommended for this test.

6. *Sex-linked recessive lethal test in Drosophila melanogaster.* The sex-linked recessive lethal test using *Drosophila melanogaster* is designed to detect the occurrence of mutations, both point mutations and small deletions, in the germ line of the insect. For cresols, the oral route of administration shall be used in this assay. A concurrent negative control shall be included to ensure that any observed effects are a direct result of the chemical treatment. In addition, the results shall be confirmed in an independent assay because of the crucial nature of the results in determining any upper-tier mutagenicity testing in a subsequent test rule for cresols.

7. *Morphologic transformation of mammalian cells in culture.* This *in vitro* cellular transformation assay is a semi-quantitative assay for detection of the ability of chemical agents to morphologically alter cells in culture. Such transformation is associated with certain phenotypic changes such as loss of contact inhibition and the ability to form colonies in soft agar medium. The process by which these changes occur is

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assumed to be closely related to the process of *in vivo* carcinogenesis. For cresols, *meta*-and *para*-cresol shall initially be tested in the cellular transformation assay performed without metabolic activation. *meta*- and *para*-Cresol shall be tested in the cellular transformation assay performed with metabolic activation only if they produce negative results in the cellular transformation assay without metabolic activation. *ortho*-Cresol shall only be tested in the cellular transformation assay performed with metabolic activation. This isomer has had negative results in a previously conducted cellular transformation assay without metabolic activation. Therefore, the next sequenced test is the cellular transformation assay with metabolic activation.

8. *Developmental toxicity study.* The developmental toxicity study is designed to provide information on the potential hazard to the unborn which may arise from exposure of the mother to the chemical test substance during pregnancy. Because of the large production and predicted widespread exposure of the human population to cresols, it was determined that cresols shall be tested for this effect. For cresols, the test substances shall be administered by oral gavage. In addition, the testing shall be performed in at least two mammalian species.

9. *Reproduction and fertility effects.* This guideline is designed to provide information concerning the effects of cresols on gonadal function, conception, parturition, and the growth and development of the offspring. The study can also give information about the effects of neonatal morbidity and mortality. It was determined that this test be required for cresols because of its substantial production, widespread use practices, and potential for widespread human exposure. For cresols, the test substance shall be administered by oral gavage.

IV. Reporting Requirements

EPA is proposing that all data developed under this rule be reported in accordance with its TSCA Good Laboratory Practice (GLP) standards, which appear in 40 CFR Part 792.

Further, test sponsors are required to submit individual study plans at least 30 days prior to beginning each study.

EPA is required by section 4(b)(1)(c) of TSCA to specify the time period during which persons subject to a test rule must submit test data. The Agency is proposing specific reporting requirements for each of the proposed test standards as follows:

1. The *in vitro* mammalian cytogenetics test shall be completed and final results submitted to the Agency within one year of the effective date of the final test rule.

2. The *in vivo* mammalian bone marrow cytogenetics test, if required, shall be completed and final results submitted to the Agency within one year of the effective date of the final test rule.

3. The rodent dominant lethal assay, if required, shall be completed and final results submitted to the Agency within two years of the effective date of the final test rule.

4. The unscheduled DNA synthesis in the mammalian cells in culture assay shall be completed and final results submitted to the Agency within one year of the effective date of the final test rule.

5. The detection of gene mutations in somatic cells in culture assay shall be completed and final results submitted to the Agency within one year of the effective date of the final test rule.

6. The sex-linked recessive lethal test in *Drosophila melanogaster*, if required, shall be completed and final results submitted to the Agency within two years of the effective date of the final test rule.

7. The morphologic transformation of mammalian cells in culture assay shall be completed and final results submitted to the Agency with one year of the effective date of the final test rule.

8. The development toxicity studies shall be completed and the final results submitted to the Agency within one year of the effective date of the final test rule.

9. The reproduction and fertility effects studies shall be completed and the final results submitted to the Agency within 29 months of the effective date of the final rule.

Interim progress reports shall be provided quarterly for each test. The progress reports shall begin 90 days after the effective date of the final Phase II test rule.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt within 15 days in the **Federal Register** as required by section 4(d). Test data received pursuant to this rule will be made available for public inspection by any person except in those cases where the Agency determines that confidential treatment must be accorded pursuant to section 14(b) of TSCA.

V. Issues for Comment

EPA invites comment on the use of the TSCA test guidelines and the chemical-specific modifications to these guidelines as the proposed test standards for the required testing of cresols. EPA also invites comment on the proposed schedule for the required testing.

VI. Public Meetings

If persons indicate to EPA that they wish to present oral comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting after the close of the public comment period in Washington, D.C. Persons who with to attend or to present comments at the meeting should call the TSCA Assistance Office (TAO): Toll Free: (800–424–9065); In Washington, DC: (544–1404); Outside the U.S.A. (Operator—202–544–1404), by May 28, 1986. A meeting will not be held if members of the public do not indicate that they wish to make oral presentations. While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and to designated EPA participants. Attendees should call the TAO before making travel plans to verify whether a meeting will be held.

Should a meeting be held, the Agency will transcribe the meeting and include the written transcript in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of the EPA's record for this rulemaking.

VII. Public Record

EPA has established a record for this rulemaking [docket number (OPTS–42033C)]. This record includes basic information considered by the Agency in developing this proposal and appropriate **Federal Register** notices. The Agency will supplement the record with additional information as it is received.

This record includes the following information:

Supporting Documentation

(1) **Federal Register** notices pertaining to this proposed rule consisting of:
(a) Notice of final Phase I rule on cresols.
(b) Notice containing the ITC designation of cresols to the Priority List (42 FR 55026; October 12, 1977).
(c) Notice of proposed rule on cresols (48 FR 31612; July 11, 1983).
(d) Notice of final rule on EPA's TSCA Good Laboratory Practice Standards (49 FR 53922; November 29, 1984).
(e) Notice of final rule on test rule development and exemption procedures (49 FR 39774; October 10, 1984).
(f) Notice of final rule concerning data reimbursement (48 FR 41786; July 11, 1983).
(g) Notice of interim final rule on test rule development and exemption procedures (50 FR 20652; May 17, 1985).
(h) Notice of final rule on the C_9 Aromatic Hydrocarbon Fraction (50 FR 20662; May 17, 1985).
(i) Notice of final rule on mesityl oxide (50 FR 51857; December 20, 1985).
(2) Support documents consisting of:
(a) Cresols technical support document for proposed rule.
(b) Economic impact analysis of NPRM for cresols.
(c) Economic impact analysis of final test rule for cresols.
(3) Communications consisting of:
(a) Written public comments.
(b) Transcription of public meeting.
(c) Summaries of phone conversations.
(d) Meeting summaries.
(e) Reports—published and unpublished contractor's reports.

VIII. Other Regulatory Requirements

A. Executive Order 12291

Under Executive order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. This test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. The economic analysis of the testing of cresols is discussed in the final test rule which appears elsewhere in this issue of the **Federal Register**.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (15 U.S.C. 601 *et seq.*, Pub.L. 96–354, September 19, 1980), EPA is certifying that this test rule, if promulgated, will not have significant impact on a substantial number of small businesses for the following reasons:

1. There is not a significant number of small businesses manufacturing cresols.
2. Small processors are not expected to perform testing themselves, or participate in the organization of the testing efforts.
3. Small processors will experience only very minor costs, if any, in securing exemption from testing requirements.
4. Small processors are unlikely to be affected by reimbursement requirements, and any testing costs passed on to small processors through price increases will be small.

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2070–0033. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, 726 Jackson Place, NW., Washington, DC 20503, marked "Attention . . . Desk Officer for EPA." The final rule package will respond to any OMB or public comments on the information collection requirements.

D. Comprehensive Environmental Response, Compensation and Liability Act ("Superfund")

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 U.S.C. 9601 *et seq.*, Pub. L. 96–510, December 10, 1980) requires that persons in charge of vessels or facilities from which hazardous substances have been released in quantities that are equal to or greater than the reportable quantities (RQs) immediately notify the National Response Center (NRC) of the release. (See CERCLA section 103(a), and 50 FR 13456; April 4, 1985.) The National Response Center can be notified at (800) 424–8802, except from the Washington, DC metropolitan area, where the telephone number for notification is (202) 426–2675. All designated hazardous substances will have an RQ of one pound until adjusted by regulation under CERCLA, unless such substances are already on the lost of CERCLA hazardous substances and have been assigned an RQ (see CERCLA section 102). Cresols have been assigned an RQ of 1,000 pounds.

List of Subjects in 40 CFR Parts 795 and 799

Testing, Environmental protection, Hazardous Substances, Chemicals, Recordkeeping and reporting requirements.

Dated: April 15, 1986.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that Subchapter R of Chapter I of Title 40 of the Code of Federal Regulations be amended as follows:

1. By adding Part 795, consisting at this time of § 795.285 under Subpart D, to read as follows:

PART 795—PROVISIONAL TEST GUIDELINES

Subparts A–C—[Reserved]

Subpart D—Provisional Health Effects Guidelines

Sec.
795.285 Morphologic transformation of cells in culture.

Authority: 15 U.S.C. 2603.

Subparts A–C—[Reserved]

Subpart D—Provisional Health Effects Guidelines

§ 795.285 Morphologic transformation of cells in culture.

(a) *Purpose. In vitro* assays for cellular transformation are semi-quantitative assays for the ability of chemical agents to morphologically alter (transform) cells in culture. Such transformation is associated with certain phenotypic changes such as loss of contact inhibition and the ability to form colonies in soft agar medium. The process by which these changes occur is assumed to be closely related to the process of *in vivo* carcinogenesis. Morphologically transformed cells appear as foci of dense, piled-up, altered cells on an underlying monolayer of normal cells. Three types of foci have been recognized. Type III foci appear to be most closely correlated with *in vivo* tumor formation. The ultimate criterion for morphologic transformation is the ability of the transformed cells to induce tumors when inoculated into appropriate hosts. Not all cells which appear to be morphologically transformed are capable of tumor formation. In general, there is reasonably good correlation between *in vitro* transformation and *in vivo* oncogenesis, although the correlation varies depending on the system being studied. These systems are believed to be reasonably good predictors of *in vivo* activity, and positive results are viewed as potential indications of *in vivo* carcinogenesis.

(b) *Definitions.* (1) Morphologic transformation is the acquisition of certain phenotypic characteristics most notably loss of contact inhibition and loss of anchorage dependence which are often but not always associated with the ability to induce tumors in appropriate hosts.

(2) Type III foci of transformed cells are multilayered aggregations of densely staining cells with random orientation and criss-cross arrays at the periphery of the aggregate. They appear as dark stained areas on a light staining background monolayer which is one-cell thick.

(c) *Reference substances.* Not applicable.

(d) *Test method*—(1) *Principle.* (i) Three systems for detecting chemically-induced morphologic transformation have been described. They are:

(A) Systems which employ cell lines (cells with an indefinite lifespan).

(B) Systems which employ cell strains (cells with a finite or limited lifespan).

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(C) Systems which detect the interaction between chemicals and oncogenic viruses.

(ii) This study will employ an established cell line for detection of morphologic transformation.

(2) *Description.* Cells in culture are exposed to the test substance, both with and without metabolic activation, for a defined period of time. Cytotoxicity is determined by measuring the colony forming ability and growth rate of the cultures after the treatment period. At the end of the treatment period, cultures are maintained in growth medium for a sufficient period of time to allow near-optimal expression of tranformed foci.

(3) *Cells.* (i) Balb/c-3T3 mouse cells originally obtained from clone A-31 or its derivatives shall be used in the assay. Cells shall be checked for mycoplasm contamination prior to use in the assay and may be checked for karyotype.

(ii) Appropriate culture media and incubation conditions (culture vessels, CO_2 concentrations, temperature, and humidity) shall be used.

(4) *Metabolic activation.* Cells shall be exposed to test substance both in the presence and absence of a metabolic activation system. The metabolic activation system shall be derived from primary cultures of rat hepatocytes.

(5) *Control groups.* Positive and negative (untreated and vehicle) controls shall be included in each experiment. 3-Methylcholanthrene is an example of a positive control for experiments without metabolic activation. Dimethylnitrosamine is an example of a positive control in experiments with metabolic activation.

(6) *Test chemicals*—(i) *Vehicle.* Test agents shall be dissolved in serum-complete culture medium prior to treatment of the cells.

(ii) *Exposure concentrations.* Several concentrations (usually at least four) of the test substance shall be used. These shall be selected on the basis of a preliminary cytotoxicity assay performed both with and without metabolic activation. The highest concentration shall produce a low level of survival (approximately 10 to 20 percent) and the survival in the lowest concentration shall approximate that of the negative control.

(e) *Test performance.* (1) Cells shall be exposed to the test substance both with and without metabolic activation. Exposure shall be for 72 hours for experiments without metabolic activation and for 48 hours for experiments with metabolic activation unless different exposure times are justified by the investigator.

(2) At the end of the exposure period, cells shall be washed and cultured to determine viability and to allow for expression of transformation.

(3) At the end of the incubation period (generally four to six weeks), cells shall be fixed and stained, and the number of transformed (Type III) foci shall be enumerated.

(4) All results shall be confirmed in independent experiment.

(5) Tumorigenic potential of isolated morphologically transformed foci may be determined by inoculation into suitable hosts.

(f) *Data and report*—(1) *Treatment of results.* (i) Data shall be presented in tabular form. Individual colony counts for the treated and control groups shall be presented for both transformation and survival.

(ii) Survival and cloning efficiencies shall be given as a percentage of the controls. Transformation shall be expressed as a number of foci per dish, the number of dishes with transformed foci, and the transformed foci per number of surviving cells.

(2) *Statistical evaluation.* Data shall be evaluated by appropriate statistical methods.

(3) *Interpretation of results.* (i) There are several criteria for determining a positive result, one of which is a statistically significant concentration-related increase in the number of transformed foci. Another criterion may be based upon the detection of a reproducible and statistically significant positive response for at least one of the test substance concentrations.

(ii) A test substance which does not produce either a statistically significant concentration-related increase in the number of transformed foci or a statistically significant and reproducible positive response at any one of the test points is considered to be negative in this system.

(iii) Both biological and statistical significance should be considered together in the evaluation.

(4) *Test evaluation.* (i) Positive results for an *in vitro* mammalian cell transformation assay indicate that, under the test conditions, the test substance induces morphologic transformation in the cultured mammalian cells used.

(ii) Negative results indicate that, under the test conditions, the test substance does not induce morphologic transformation in the cultured mammalian cells used.

(5) *Test report.* In addition to the reporting recommendations as specified under Subpart J of 40 CFR Part 792, the following specific information shall be reported:

(i) Cell type used, including subclone designation and passage number; number of cell cultures; methods used for maintenance of cell cultures.

(ii) Rationale for selection of concentrations and number of cultures.

(iii) Test conditions: composition of media, CO_2 concentration, concentration of test substance, vehicle, incubation temperature, incubation time, duration of treatment, cell density during treatment, type of metabolic activation system, positive and negative controls, length of expression period (including number of cells seeded and subculture and feeding schedules, if appropriate).

(iv) Methods used to enumerate numbers of viable cells and transformed foci.

(v) Dose-response relationship, where possible.

(g) *References.* for additional background information on this test guideline, the following references should be consulted:

(1) Heidelberger, C., Freeman A.E., Pienta R.J., Sivak, A., Bertram, J.S., Casto, B.C., Dunkel, V.C., Francis, M.W., Kakunage, T., Little, J.B., Schechtman, L.M. "Cell transformation by chemical agents—a review and analysis of the literature: a report of the U.S. Environmental Protection Agency Gene-Tox Program." *Mutation Research* 114:283–385, 1983.

(2) Kakunaga: T. "A quantitative system for assay of malignant transformation by carcinogens using a clone derived from Balb–3T3." *International Journal of Cancer* 12:463–473, 1973.

(3) Reznikoff, C.A., Bertram, J.S., Brankow, D.W., Heidelberger, C. "Quantitative and qualitative studies of chemical transformation of cloned C3H mouse embryo cells sensitive to post confluence inhibitions of cell division." *Cancer Research* 33:3239–3249, 1973.

(4) Reznikoff, C.A., Brankow, D.W., Heidelberger, C. "Establishment and characterization of a cloned line of C3H mouse embryo cells sensitive to post confluence inhibition of division." *Cancer research* 33:3231–3238, 1973.

(5) Sivak, A., Charest, M.C., Dudenko, L., Silveira, D.M., Simons, I., Wood, A.W. "Balb/c-3T3 cells as target cells for chemically induced neoplastic transformation." In: *Advances in modern environmental toxicology, mammalian cell transformation by chemical carcinogens*, Vol. I. Mishra, N., Dunkel, V. Mehlman, M., eds. Princeton Junction, NJ: Senate Press, pp. 139–180, 1981.

(6) Sivak, A., Tu, A.S. "Factors influencing neoplastic transformation by chemical carcinogens in Balb/c-3T3 cells." In: *The predictive value of short-term screening tests in carcinogenicity evaluation.* Williams, G.M., Kroes, R., Waaijers, H.W., Van de Poll, K.W., eds. Amsterdam, New York, Oxford: Elsevier/North Holland Biomedical Press, pp. 171–190, 1980.

(7) Williams, G.M. "Detection of chemical carcinogens by unscheduled DNA synthesis in rat liver primary cell culture." *Cancer Research* 37:1845–1851, 1977.

PART 799—[AMENDED]

2. Part 799 is amended as follows:

a. The authority citation containues to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

b. In § 799.1250 by adding paragraphs (c)(1) (ii) and (iii), (2) (ii) and (iii), (3) (ii) and (iii), (4) (ii) and (iii), and (5) (ii) and (iii), to read as follows:

§ 799.1250 Cresols.

* * * * *

(c) * * *

(1) * * *

(ii) *Test standard.* (A)(*1*) In vitro mammalian cytogenetics test. This test shall be conducted with cresols in accordance with § 798.5375 of this chapter and modifications specified in paragraph (c)(l)(ii)(A)(*2*) of this section.

(*2*) Test standard modifications. The following modifications to § 798.5375 of this chapter are required.

(*i*) The requirement under § 798.5375 of this chapter is modified so that cresols shall be tested in established cell lines or strains. The cell line or strain used shall be checked for *Mycoplasm* contamination.

(*ii*) The requirement under § 798.5375 of this chapter is modified so that cresols shall be dissolved in DMSO prior to treatment of the cells.

(*iii*) The requirement under § 798.5375 of this chapter is modified so that the metabolic activation system for the assay shall be derived from Aroclor-1254 induced rat liver S-9 preparations.

(*iv*) The requirement under § 798.5375 of this chapter is modified so that at least three concentrations of the test substance over a range adequate to define the response shall be tested. The highest test concentration tested with and without metabolic activation shall be five milligrams per milliliter or that dose which show evidence of cytotoxicity or reduced mitotic activity.

(B)(*1*) In vivo mammalian bone marrow cytogenetics test. This chromosomal analysis test shall be conducted with cresols in accordance with § 798.5385 of this chapter and modifications specified in paragraph (c)(1)(ii)(B)(*2*) of this section.

(*2*) Test standard modifications. The following modifications to § 798.5385 of this chapter is modified so that the mouse is the required test species.

(*ii*) The requirement under § 798.5385 of this chapter is modified so that the test substance shall be administered once only by oral gavage.

(*iii*) The requirement under § 798.5385 of this chapter is modified so that three dose levels shall be used. The highest dose tested shall be the maximum tolerated dose or that producing some indication of cytotoxicity, e.g., partical inhabition of mitosis, or shall be the highest dose attainable.

(C)(*1*) *Rodent dominant-lethal assay.* This assay shall be conducted with cresols in accordance with § 798.5450 of this chapter and modifications specified in paragraph (c)(1)(ii)(C)(*2*) of this section.

(*2*) *Test standard modifications.* The following modifications to § 798.5450 of this chapter are required.

(*i*) The requirement under § 798.5450 of this chapter is modified so that the mouse is the required test species.

(*ii*) The requirement under § 798.5450 of this chapter is modified so that the route of administration of the test substance shall be by oral gavage.

(*iii*) The requirement under § 798.5450 of this chapter is modified so that three dose levels shall be used. The highest dose shall produce signs of toxicity, e.g., slightly reduced fertility, or shall be the highest dose attainable.

(*iv*) The requirement under § 798.5450 of this chapter is modified so that each male shall be mated to no more than two, and preferably to only one, female per mating interval. Females shall be left with the males for no longer than seven days, and mating shall continue for at least six weeks.

(iii) *Reporting requirement.* (A) The chromosomal aberration tests shall be completed and the final results submitted to the Agency as follows:

(*1*) The *in vitro* mammalian cytogenetics test within one year of the effective date of the final test rule.

(*2*) The *in vivo* mammalian bone marrow cytogenetics test, if required, within one year of the effective date of the final test rule.

(*3*) The rodent dominant lethal assay, if required, within two years of the final test rule.

(B) Interim progress reports shall be provided quarterly, beginning 90 days after the effective date of the final Phase II test rule.

(*2*) * * *

(ii) *Test standard.* (A) (*1*) *Unscheduled DNA synthesis in mammalian cells in culture assay.* This assay shall be conducted with cresols in accordance with § 798.5550 of this chapter and modifications specified in paragraph (c)(2)(ii)(A)(*2*) of this section.

(*2*) *Test standards modifications.* The following modifications ot § 798.5550 of this chapter are required.

(*i*) The requirement under § 798.5550 of this chapter is modified so that primary cultures of rat hepatocytes shall be the type of cells used in this assay.

(*ii*) The requirement under § 798.5550 of this chapter is modified so that cresols shall be dissolved in DMSO prior to treatment of the cells.

(B)(*1*) *Detection of gene mutations in somatic cells in culture.* This assay shall be conducted with cresols in accordance with § 798.5300 of this chapter and modifications specific in paragraph (c)(2)(ii)(B)(*2*) of this section.

(*2*) *Test standard modifications.* The following modifications to § 798.5300 of this chapter are required.

(*i*) The requirement under § 798.5300 of this chapter is modified so that cresols shall be tested in L5178Y mouse lymphoma cells. Cells shall be checked for *Mycoplasma* contamination.

(*ii*) The requirement under § 798.5300 of this chapter is modified so that cresols shall be dissolved in DMSO prior to treatment of the cells. The final concentration of the vehicle shall not interfere with cells viability or growth rate.

(*iii*) The requirement under § 798.5300 of this chapter is modified so that the metabolic activation system shall be derived from the postmitochondrial fraction (S–9) of rat livers pretreated with Aroclor 1254.

(*iv*) The requirement under § 798.5300 of this chapter is modified so that exposure shall be for four hours unless a different exposure time is justified by the investigator.

(C)(*1*) *Sex-linked recessive lethal test in Drosophila melanogaster.* This test shall be conducted with cresols in accordance with § 798.5275 of this chapter and modifications specified in paragraph (c)(2)(ii)(C)(*2*) of this section.

(*2*) *Test standard modifications.* The following modifications of § 798.5275 of this chapter are required.

(*i*) The requirement under § 798.5275 of this chapter is modified so that the oral route of administration shall be used in this assay.

(*ii*) The requirement under § 798.5275 of this chapter is modified so that a concurrent negative control shall be included in this assay.

(*iii*) The requirement under § 798.5275 of this chapter is modified so that the results of this test shall be confirmed in an independent assay.

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(iii) *Reporting requirements.* (A) The gene mutation tests shall be completed and final results submitted to the Agency as follows:

(*1*) The unscheduled DNA synthesis in mammalian cells in culture assay within one year of the effective date of the final test rule.

(*2*) The detection of gene mutations in somatic cells in culture assay within one year of the effective date of the final test rule.

(*3*) The sex-linked recessive lethal test in *Drosophila melanogaster*, if required, within two years of the effective date of the final test rule.

(B) Interim progress reports shall be provided quarterly, beginning 90 days after the effective date of the final Phase II test rule.

(3) * * *

(ii) *Test standard.*—(A) *Morphologic transformation of mammalian cells in culture.* This test shall be conducted with cresols in accordance with § 795.285 of this chapter and modifications specified in paragraph (c)(3)(ii)(B) of this section.

(B) *Test standard modifications.* The following modifications of § 795.285 of this chapter are required.

(*1*) The requirement under § 795.285 of this chapter is modified so that *meta*- and *para*-cresol shall initially be tested in this assay performed without metabolic activation. Only if they produce negative results in the assay performed without activation will *meta*- and *para*-cresol then be tested in the assay with metabolic activation.

(*2*) The requirement under § 795.285 of this chapter is modified so that *ortho*-cresol shall only be tested in this assay performed with metabolic activation.

(iii) *Reporting requirements.* (A) The morphologic transformation of mammalian cells in culture assay shall be completed and final results submitted to the Agency within one year of the effective date of the final test rule.

(B) Interim progress reports shall be provided quarterly, beginning 90 days after the effective date of the final Phase II test rule.

(4) * * *

(ii) *Test standard.*—(A) *Developmental toxicity.* This study shall be conducted with cresols in accordance with § 798.4900 of this chapter and modifications specified in paragraph (c)(4)(ii)(B) of this section.

(B) *Test standard modifications.* The following modifications to § 798.4900 of this chapter are required.

(*1*) The requirement under § 798.4900 of this chapter is modified so that the test substance shall be administered by oral gavage.

(*2*) The requirement under § 798.4900 of this chapter is modified so that at least two mammalian species shall be used in this study.

(iii) *Reporting requirements.* (A) The developmental toxicity study shall be completed and final results submitted to the Agency within one year of the effective date of the final test rule.

(B) Interim progress reports shall be provided quarterly, beginning 90 days after the effective date of the final Phase II test rule.

(5) * * *

(ii) *Test standard.*—(A) *Reproduction and fertility effects.* This study shall be conducted with cresols in accordance with § 798.4700 of this chapter and modifications specified in paragraph (c)(5)(ii)(B) of this section

(B) *Test standard modifications.* The requirement under 798.4700 of this chapter is modified so that the test substance shall be administered by oral gavage.

(iii) *Reporting requirements.* (A) The reporduction and fertility effects study shall be completed and final results submitted to the Agency within 29 months of the effective date of the final test rule.

(B) Interim progress reports shall be provided quarterly, beginning 90 days after the effective date of the final Phase II test rule.

(Information collection requirements have been approved by the Office of Management and Budget under control number 2070-0033.)

[FR Doc. 86-9410 Filed 4-25-86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 431

General Regulations for Power Generation, Operation, Maintenance and Replacement at the Boulder Canyon Project, Arizona/Nevada; Reopening of Comment Period

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Reopening of Comment Period on Proposed General Regulations.

SUMMARY: The Bureau of Reclamation published proposed "General Regulations for Power Generation, Operation, Maintenance, and Replacement at the Boulder Canyon Project" in the **Federal Register** on March 6, 1986 (51 FR 7833-7835). Interested parties were invited to submit comments concerning the proposed General Regulations to the Regional Director, Bureau of Reclamation, Boulder City, Nevada within 45 days of the date of the notice.

On April 21, 1986, several of the current and proposed Boulder Canyon Project allottees requested an extension of the comment period. As a result of that request, the deadline for written comments concerning the proposed General Regulations has been reopened and extended.

DATES: All comments concerning the proposed General Regulations should be submitted on or before May 5, 1986.

ADDRESS: Written comments concerning the proposed General Regulations should be sent to: Mr. Edward Hallenbeck, Regional Director, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005.

FOR FURTHER INFORMATION CONTACT: Edward Hallenbeck (702) 293-8411.

Dated: April 24, 1986.

(Sgd.) C. Dale Duvall,

Commissioner.

[FR Doc. 86-9533 Filed 4-25-86; 8:45 am]

BILLING CODE 4310-09-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-90; RM-5303]

TV Broadcast Station in Gary, IN

AGENCY: Federal Communications Commission.

ACTION: Extension of comment time.

SUMMARY: This action extends the time for filing comments and reply comments in a proceeding involving a proposal to exchange channels by the permittees of a noncommercial educational UHF station and a commercial UHF station in Gary, Indiana.

DATES: Comments must be filed on or before May 9, 1986, and reply comments on or before May 27, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Order Extending Time For Filing Comments and Reply Comments

In the Matter of Amendment of §73.606(b), Table of Assignments, Television Broadcast Stations (Gary, Indiana); MM Docket No. 86-90, RM-5303.

Adopted: April 14, 1986.

Released: April 17, 1986.

By the Chief, Policy and Rules Division.

1. On March 21, 1986, the Commission released a *Notice of Proposed Rule Making* in this proceeding. 51 FR 11063, published April 1, 1986. Inadvertently, the respective dates for filing comments and reply comments were specified as April 14, 1986 and April 29, 1986. In an *Erratum* released March 27, 1986, these dates were attempted to be corrected to read April 28, 1986 and May 13, 1986, respectively.

2. However, as indicated in the preceding paragraph, this *Notice* was not published in the **Federal Register** until April 1, 1986. Consequently, interested parties do not have the requisite 30 days to submit comments. Therefore, on our own motion, we are extending the dates for comments and reply comments.

3. Accordingly, it is ordered, that the time for filing comments and reply comments in the above captioned proceeding is extended to and including May 9, 1986 and May 27, 1986, respectively.

4. This action is taken pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-9451 Filed 4-25-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-145; RM-5121]

FM Broadcast Station in Webster, MA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the allotment of FM Channel 255A to Webster, Massachusetts, in response to a petition filed by Okun Broadcasting, Inc. This allotment could provide for a first FM service to the community.

DATES: Comments must be filed on or before June 13, 1986, and reply comments on or before June 30, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

List of Subjects in 47 CFR Part 73:

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making

In the Matter of Amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations (Webster, Massachusetts); MM Docket No. 86-145, RM-5121.

Adopted: April 9, 1986.

Released: April 22, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making filed by Okun Broadcasting, Inc.[1] ("petitioner"), requesting the allocation of FM Channel 255A to Webster, Massachusetts, as that community's first local FM broadcast service. Petitioner submitted information in support of the proposal and stated its intention to apply for the channel.

2. We believe the petitioner's proposal warrants consideration. The channel can be allocated in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules provided there is a site restriction 7.9 kilometers (4.9 miles) west of the community. The site restriction will prevent a short spacing to Station WPLM-FM, Channel 256, Plymouth, Massachusetts and Station WROR, Channel 253, Boston, Massachusetts.

3. In view of the fact that the proposed allotment could provide a first FM broadcast service to Webster, Massachusetts, the Commission believes it is appropriate to propose amending the FM Table of Allotments, § 73.207(b) of the Commission's Rules, with respect to the following community:

[1] Petitioner is the licensee of AM Station WGFP, Webster, Massachusetts.

City	Channel No.	
	Present	Proposed
Webster, MA	255A	

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before June 13, 1986, and reply comments on or before June 30, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Mr. Alan Okun, Okun Broadcasting, Inc., Radio Station WGFP, 28 West Main Street, Dudley, Massachusetts 01570

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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Federal Communications Commission.

Charles G. Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 86-9445 Filed 4-25-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-147; RM-5129]

FM Broadcast Station in Hancock, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the allotment of FM Channel 254C2 to Hancock, Michigan, in response to a petition filed by Thomas M. McNamara. This allotment could provide a second FM broadcast service to the community.

DATES: Comments must be filed on or before June 13, 1986, and reply comments on or before June 30, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making

In the Matter of Amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations (Hancock, Michigan); MM Docket No. 86-147, RM-5129.

Adopted: April 9, 1986.

Released: April 22, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making filed by Thomas M. McNamara ("petitioner"), requesting the allocation of FM Channel 254C2 to Hancock, Michigan, as that community's second FM broadcast service. Petitioner submitted information in support of the proposal and stated his intention to apply for the channel.

2. We believe the petitioner's proposal warrants consideration. The channel can be allocated in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules. Since Hancock is located within 199 miles (320) kilometers) of the common U.S.-Canadian border, Candian concurrence is required.

3. In view of the fact that the proposed allotment could provide a second FM broadcast service to Hancock, Michigan, the Commission believes it is appropriate to propose amending the FM Table of Allotments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Hancock, MI	229A	229A, 254C2

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before June 13, 1986, and reply comments on or before June 30, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Thomas M. McNamara, JLM Enterprise, 4575 Marlborough Road, Okemos, Michigan 48864

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles G. Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) with respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleading, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 86-9446 Filed 4-25-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-146; RM-4956]

FM Broadcast Station in Palmyra, MO et al.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the substitution of Class C2 Channel 248 for Channel 252A and modification of the license for Channel 252A at Palmyra, Missouri, in response to a petition filed by Palmyra Broadcasting Company. The allocation also requires the substitution of 237A for 249A at Pittsfield, Illinois and modification of the license for Station WBBA(FM) accordingly.

DATES: Comments must be filed on or before June 13, 1986, and reply comments on or before June 30, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making and Order to Show Cause

In the matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Palmyra, Missouri and Pittsfield, Illinois); MM Docket No. 86-146, RM-4956.

Adopted: April 9, 1986.

Released: April 22, 1986.

By the Chief, Policy and Rules Division.

1. Before the Commission is a petition for rule making filed by Palmyra Broadcasting Company [1] ("petitioner"), requesting the substitution of FM Channel 248C2 for Channel 252A at Palmyra, Missouri. Petitioner also requests modification of its license for Station KIDS, to specify operation on the higher class channel.

2. Channel 248C2 can be assigned to Palmyra, Missouri, in compliance with the minimum distance separation

[1] Petitioner is the license of FM Station KIDS, Channel 252A, Palmyra, Missouri.

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requirements of the Commission's Rules, provided Channel 249A is deleted from Pittsfield, Illinois. Channel 249A is presently licensed to Station WBBA(FM). Petitioner has proposed the substitution of Channel 237A for Channel 249A at Pittsfield. The proposed substitution at Pittsfield can be accomplished in compliance with the minimum distance separation requirements. As for the Palmyra proposal, should another party indicate an interest in the Class C2 allotment, the substitution at Palmyra could not be implemented unless an additional equivalent channel is also allotted. See, *Modification of FM and TV Station Licenses*, Docket 83-1148, 98 F.C.C. 2d 916 (1984).

3. Whenever an existing licensee is ordered to switch frequencies in order to accommodate a new channel allotment, we require that the proponent of the new allotment make a commitment that it will reimburse the affected station for the costs incurred in changing frequencies. Petitioner has stated that it understands that it would be its responsibility to reimburse Station WBBA for the reasonable costs in changing frequency.

4. In view of the fact that the proposed allotment could provide a wide area coverage station at Palmyra, Missouri, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Palmyra, MO	252A	249C2
Pittsfield, IL	249A	237A

5. It is ordered, that pursuant to section 316 of the Communications Act of 1934, as amended, Pike Broadcasting Company, the licensee of Station WBBA(FM), Pittsfield, Illinois, shall show cause why its license should not be modified to specify operation on Channel 237A in lieu of Channel 249A.

6. Pursuant to section 1.87 of the Commission's Rules, Pike Broadcasting Company, not later than June 13, 1986, may request that a hearing be held on the proposed modification. If the right to request a hearing is waived, Pike Broadcasting Company may, not later than June 13, 1986, file a written statement showing with particularity why its license should not be modified as proposed in the *Order to Show Cause*. In this case, the Commission may call on Pike Broadcasting Company to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an *Order* modifying the license as provided in the *Order to Show Cause*. If the right to request a hearing is waived and no written statement is filed by the date referred to above, Pike Broadcasting Company will be deemed to have consented to the modification as proposed in the *Order to Show Cause* and a final *Order* will be issued by the Commission, if the above-mentioned channel modifications are ultimately found to be in the public interest.

7. It is further ordered, That the Secretary of the Commission shall send by Certified Mail, Return Receipt Requested, a copy of this *Order* to the following:

Pike Broadcasting Company,
Station WBBA(FM),
P.O. Box 537,
Pittsfield, Illinois 62363

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

9. Interested parties may file comments on or before June 13, 1986, and reply comments on or before June 30, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petition(s), or their counsel or consultant, as follows:

Eugene T. Smith,
715 "G" Street, SE.,
Washington, D.C. 20003
(Counsel for the petitioner)

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such at this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

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5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 86-9447 Filed 4-25-86, 8:45 am]
BILLING CODE 6712-01-M

VOL 51 ISS 81 AP 28 1986

Notices

Federal Register
Vol. 51, No. 81
Monday, April 28, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

Proposed Posting of Stockyards; River Valley Livestock Market, Arkansas, et al.; Correction

On April 18, 1986, a notice was published in the **Federal Register** giving notice of the proposed posting for certain stockyards listing their facility number, name, and location of stockyards.

This notice is to correct the facility number assigned to the following market in the publication.

The notice should have read: TN–183, Lawrence County Feeder Pig Sale, Inc., Ethridge, Tennessee.

Done at Washington, DC, this 22nd day of April 1986.

Harold W. Davis,

Director, Livestock Marketing Division.

[FR Doc. 86–9472 Filed 4–25–86; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–502]

Antidumping; Nylon Impression Fabric From Japan; Final Determination of Sales at Not Less Than Fair Value

AGENCY: International Trade Administration/Import Administration/Commerce.

ACTION: Notice.

SUMMARY: We have determined that nylon impression fabric from Japan is not being, nor is likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. This investigation covers only imports by or for the account of Shirasaki Tape Co., Ltd. (Shirasaki) and Asahi Chemical Industry Company, Ltd. (Asahi). There is an outstanding antidumping duty finding on this merchandise (43 FR 22461, May 25, 1978). However, Asahi and Shirasaki were specifically excluded from that finding.

EFFECTIVE DATE: April 28, 1986.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–5404 or 377–5288.

Final Determination

We have determined that nylon impression fabric from Japan is not being, nor is likely to be, sold in the United States at less than fair value, as provided in section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act). We made fair value comparisons on approximately 90 percent of respondents' sales of the class or kind of merchandise to the United States during the period of investigation. Comparisons were based on the United States purchase price and the home market price. The weighted-average margin for Asahi is 0.06 percent. This is *de minimis*. Shirasaki had no sales at less than fair value.

Case History

On June 10, 1985, we received a petition from Bomont Industries and Burlington Industries, Inc., on behalf of the domestic nylon impression fabric industry. In compliance with the filing requirements of § 353.36 of the Commerce regulations (19 CFR 353.36), the petition alleged that imports of nylon impression fabric from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a U.S. industry. There is an outstanding antidumping duty finding on this merchandise (43 FR 22461, May 25, 1978). However, Asahi and Shirasaki were specifically excluded from this finding. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation on merchandise produced by or for the account of Asahi and Shirasaki. We notified the ITC of our action and initiated such an investigation on July 1, 1985 (50 FR 28111). On July 25, 1985, the ITC determined that there is reasonable indication that imports of nylon impression fabric from Japan are materially injuring a U.S. industry (50 FR 31053).

On August 6, 1985, we presented antidumping duty questionnaires to Asahi and Shirasaki. We received the responses on September 20, 1985.

On November 8, 1985, petitioners alleged that Asahi was selling nylon impression fabric in Japan during the period of investigation below its cost of production.

On November 15, 1985, we initiated a cost of production investigation of Asahi. We received Asahi's cost response on December 9, 1985.

On November 27, 1985, we issued a preliminary determination of sales at not less than fair value (50 FR 49976). On December 19–23, 1985, we verified the responses of Asahi and Shirasaki.

We initiated an investigation of middlemen on December 27, 1985, but subsequently terminated it when we learned that petitioners' request was predicated on erroneous information.

We held a public hearing on March 11, 1986.

Products Under Investigation

The merchandise covered by this investigation consists of nylon impression fabric from Japan woven from continuous filament yarns of nylon; whether texturized or non-texturized; finished; whether slit or uncut; and not inked for use in typewriters and printers; and currently classifiable under item numbers 347.6020, 338.5001, and 338.5002 of the *Tariff Schedules of the United States, Annotated*, produced by or for the account of Asahi and Shirasaki.

We have determined that inked ribbon is not the same class or kind of merchandise as uninked nylon impression fabric and, therefore, it is not within the scope of this investigation.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As Asahi sold the merchandise to unrelated Japanese trading companies knowing that it was destined for the United States, we used the packed price to the Japanese trading companies to represent the United States price. We deducted foreign inland freight.

As Shirasaki sold the merchandise to unrelated U.S. purchasers prior to importation into the United States, we used the purchase price of the subject merchanise, as provided in section 772(b) of the Act, to present the U.S. price. We calculated the purchase price based on the F.O.B. or C.I.F. packed price to U.S. purchasers. We deducted brokerage, foreign inland freight, ocean freight, inspection fees and marine insurance, where appropriate.

Foreign Market Value

The petitioners alleged that sales in the home market were at prices below the cost of producing the merchandise. We examined production costs for both respondents, which included all appropriate costs for materials, fabrication and general expenses.

As there were sufficient home market sales at or above the cost of production to constitute a basis for comparison, we calculated foreign market value based on home market price, in accordance with section 773(a) of the Act. We made adjustments, where appropriate, for differences in the physical characteristics of the merchandise, pursuant to § 353.16 of our regulations.

For Asahi, we deducted rebate costs from home market price. For Shirasaki, we deducted inland freight. For both companies, we made adjustments for differences in circumstances of sale related to credit expense pursuant to § 353.15 of our regulations. We also made adjustments for differences in Shirasaki's packing costs. We added U.S. packing costs to Asahi's unpacked home market price. In calculating foreign market value, we made currency conversions from Japanese yen to U.S. dollars in accordance with § 353.56(a) of our regulations, using certified daily exchange rates.

Verification

In accordance with section 776(a) of the Act, we verified all the information used in making this determination. We were granted access to the books and records of companies involved. We used standard verification procedures, including examination of relevant sales and financial records of the companies.

Petitioners' Comments

Comment 1: Petitioners argue that Shirasaki sells second quality nylon impression fabric in the "other" category in the home market for a higher price than first quality, resulting in fictitious prices in its home market. In lieu of Shirasaki's home market data, petitioners suggest using their revised data or Shirasaki's third country data.

DOC Position: We disagree. No second quality fabric was sold in the home market to unrelated parties. In fact, the "other" category contains more expensive specialty fabric sold at higher prices.

Comment 2: Shirasaki's actual sales prices are higher than those listed in its price list, leading petitioner to believe that Shirasaki's reported prices are unreliable.

DOC Position: We disagree. The reason for the higher prices was that the price list did not include credit expenses.

Comment 3: There are inaccuracies in Shirasaki's credit costs in both markets. Also payment may have been made by promissory note; if so, the Department should use the discount rate applied to those notes instead of Shirasaki's average short-term debt rate. Alternatively, the Department should use the country-wide interest rate for home market sales.

DOC Position: We disagree. While Shirasaki received payment on home market sales by promissory notes, they were not discounted. Therefore, we have used its average short-term interest rate. In addition, we have accounted for partial payments on home market sales. U.S. credit costs have been calculated from date of shipment and include all fees and commissions.

Comment 4: Asahi's contention that it sells unslit fabric to trading companies after finishing by Seiren makes no commercial sense, since Seiren has the capability to slit material yet does not perform this service for Asahi. The Department did not verify the distribution system of Asahi; therefore, it should use petitioner's market study as best information available. Petitioners also are concerned over Asahi's transfer prices—they make no commercial sense as well. Finally, Asahi must be receiving some kind of repayment from either the trading company or Seiren, especially since Seiren is losing money.

DOC Position: We disagree. The Department conducted an extensive verification of Asahi and its sales practices. We verified from Asahi's books and records that Asahi sells only unslit material and only to the trading companies. We found that Seiren was recovering its costs in its finishing operations for Asahi. Furthermore, since Asahi accounts for only a very small fraction of Seiren's business, we found no relationship between Seiren's losses and prices charged to Asahi for finishing the fabric.

Comment 5: The Department failed to verify whether slit fabric is sold by Asahi. Thus, the best information available should be used.

DOC Position: See our response to *comment 4, supra.*

Comment 6: Credit costs calculated by Asahi are wrong. The Department should use the discount rate for Asahi's promissory notes. Also, compensating balances should not be included in the computation of the interest rate. Alternatively, the Department should use the prime rate in Japan. Credit costs should be calculated from the date of shipment.

DOC Position: We partially agree. Since so few home market sales were discounted, we used the average short-term interest rate. We did not include compensatory balances in the calculation of the interest rate. We did calculate credit costs from the date of shipment.

Comment 7: "Product development" expenses in Asahi's home market should not be accounted for since they are directly related and were not verified.

DOC Position: We agree.

Comment 8: The interest rate to be used for Asahi's U.S. sales should include bank commissions, as does the rate for Shirasaki. The time for credit cost should be calculated from date of shipment.

DOC Position: We partially agree. For U.S. sales we have used the same interest rate that Asahi charge its customers. Asahi pays no bank fees or commissions, so none have been included. We did calculate credit costs from date of shipment.

Comment 9: Packing and inland freight costs of Asahi cannot be used. While the total amount was verified, individual amounts were not.

DOC Position: We disagree. In the absense of any alternative data offered the petitioners, we have used the data supplied by the respondent for the individual amounts, since they appear reasonable and, in any event, no matter how the total is bifurcated, the differental between home market and U.S. price is identical.

Comment 10: The cost information provided by Shirasaki shows that there are significant swings in unit costs from period to period and thus the—

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Department should use monthly cost of production figures rather than aggregate.

DOC Position: We disgree. The Department used its usual methodology of calculating a weighted-average cost for the period of investigation. The cost data did not reflect significant swings in unit costs from period to period.

Comment 11: The Department should not rely on the general, selling and administrative (GS&A) expenses alleged by Shirasaki but should use the company-wide GS&A as the basis for determining the cost of production.

DOC Position: We do not believe the company-wide GS&A percentage is appropriate for NIF sold to unrelated home market customers. However, certain home marketing selling expense were allocated to export sales in the submission. These have been reallocated only to home market sales.

Comment 12: Shirasaki should have used the by-product method of allocating costs to second quality material.

DOC Position: Shirasaki did not produce by-products. Additionally, its method of accounting for second quality product was used for the final determination because it adequately accounts for the cost of such products.

Comment 13: The allocation method for labor costs in Shirasaki's slitting department are skewed products not sold in great quantity resulting in artifically lower production costs for the large-scale items.

DOC Position: We disagree. Although the time study used to allocate costs was prepared for the submission, it was based on production records maintained in the normal course of business. We believe that this allocation basis reflects the actual costs which may be attributable to each product.

Comment 14: Shirasaki's raw material and weaving should be increased by a reasonable amount for additional charges associated with weaving.

DOC Position: We disagree. We verified that all costs incurred in the weaving process. Including transportation and handling, were included in the cost of production data submitted by Shirasaki.

Comment 15: Shiraski may be deemed to be related to one of its weavers because it may have undue influence over it because of certain financial transactions with that weaver. Morever, this item was not verified by the Department.

DOC Position: We disagree. Shiraski is not considered to be "related" to its weaver, as defined by the Act.

Comment 16: Research and development costs do not appear to have been included by Shiraski in its production nor verified by the Department.

DOC Position: We disagree. During the verification, we determined that research and development expenses were correctly included in cost of production.

Comment 17: Asahi owns more than 5 percent of two raw material suppliers and because the price of the materials it receives from the companies are below the market price, the Department should use the market price rather than the transfer price to determine raw material cost.

DOC Position: We agree. The price of raw material purchases from unrelated supplies has been used to determined cost of raw material purchased from related supplier during the period of investigation.

Comment 18: Indirect costs associated with contract labor costs do not appear to have been reported by Asahi.

DOC Position: We disagree. These costs were included in weaving costs in the cost of production.

Comment 19: Asahi's weaver is financially and commercially related to Asahi. Thus. cost of weaving may not be a true arm's length price.

DOC Position: We disagree. We found no relationship between Asahi and its weaver on which to consider them related parties in accordance with the Act. Thus, they are deemed to have transacted their business at arm's length.

Comment 20: The Department should disregard Asahi's costs for finishing performing by Seiran, a related company, and use the best information available to it.

DOC Position: We examined during verification the costs of finishing performed by Seiren. We believe these costs have been correctly and fully reflected in the cost of production.

Comment 21: The Department should use Asahi's divisional financial statement GS&A percentage for the first half of the 1984 fiscal year rather than the percentage reported in the submission.

DOC Position: Although the GS&A percentage for the division pertinent to nylon impression fabric production is in fact lower than that cited in the verification report for the period indicated, and the corporate-wide percentage is approximately twice that figure, we believe these ratios do not reasonably illustrate the relationship of GS&A expense to the product's manufacturing cost. We believe the methodology used by the respondent in allocating GS&A expense in total to home market sales is correct. Also see our response to Asahi's *comment 1.*

Comment 22: For the following reasons, DOC should expand the period of investigation in order to determine whether there is a likelihood of dumping. First, the price list of one respondent for August 1985 showed lower U.S. dollar prices for some products. Second, affidavits from petitioners indicated lower prices in late 1985. Third, DOC import statistics showed lower average prices in January 1986 than in December 1985. Fourth, since the fluctuation in the yen/dollar exchange rate is permanent instead of a dramatic temporary change, the Department should not apply the 90-day lag rule. Fifth, even assuming that the 90-day lag rule should be used, then the Department should investigate prices since December 1985. Finally, given the new exchange rates, both companies are now selling below cost of production.

DOC Position: We disagree. The Department has found no evidence that Asahi and Shirasaki have sold the merchandise at less than fair value during the present six-month investigative period. During the past investigation on nylon impression fabric from Japan, the respondents Asahi and Shirasaki were specifically excluded because their margins were *de minimis* or minimal. Thus, the evidence is contrary to petitioners' allegation of a likelihood of sales at less than fair value.

Petitioners' evidence of lower U.S. dollar prices was obtained by comparing actual sales when credit was extended to a price list which did not include the cost of extending credit. When prices with like terms are compared, there is no evidence of lower U.S. dollar prices.

Because of lags in data collection, petitioner's citation of December 1985 and January 1986 import statistics really points to imports arriving up to three months before those dates and, coupled with no information on the product mix arriving during that period, leads us to the conclusion that petitioners' argument is without merit.

Petitioners' allegation of lower yen prices also is rejected. Petitioners compare an August price list with October exchange rates. the dramatic fall in the yen began in October. Petitioners provide no evidence of actual prices or price lists for the last three months of 1985.

Furthermore, 353.56 of the Department regulations, 19 CFR 353.56, also provides that "for purposes of fair value investigations, manufacturers . . . concerned will be expected to act within a reasonable period of time to take into account price differences resulting from sustained changes in prevailing exchange rates." The dramatic decline in the yen since October is such a sustained change.

The Commerce Department has determined that 90 days is a reasonable period of time for foreign companies to change their prices. *See Melamine Chemicals Inc.* v. *United States*, 732 F.2d 924 (Fed. Cir. 1984). Petitioners argue that Asahi's and Shirasaki's failure to raise their prices in the face of declining exchange rates indicates a likelihood of sales at less than fair value. However, Asahi and Shirasaki had 90 days before they were required to lower their prices, i.e., the period mid-October 1985 to mid-January 1986. The price list for this period could not be compared with the falling exchange rate to determine sales at less than fair value because the dramatic fall in the yen began in October 1985. Therefore, if the Department accepted the petitioners' request we would have at most only four weeks of data, i.e., mid-January to mid-February, 1986, as our period of investigation to make a finding of sales at less than fair value. In light of the six months of data in our original period of investigation, four weeks is an insufficient period to find that there are sales at less than fair value.

Comment 23: Public data have been withheld from petitioner and nonconfidential summaries have not been in sufficient detail. Therefore, responses should be rejected by the Department and best information available used.

DOC Position: We disagree. Respondents filed adequately detailed summaries of their confidential submissions. Counsel for petitioners also received all confidential versions of submissions under administrative protective order (APO).

Comment 24: Verification exhibits should be released to counsel for petitioners under administrative protective order (APO), particularly those that contain information which was requested in the questionnaire and those that contain publicly available information.

DOC Position: We partially agree. We gave counsel to petitioners copies of all of the verification exhibits containing public information and information requested in the questionnaire. In accordance with our long-held policy, we did not release verification exhibits containing confidential information because they contain no new data and their submission in this and future investigations is vital to our ability to conduct timely investigations. They merely contain supporting documents for data contained in the responses which were released to counsel for the petitioners under APO. We do not accept as verification exhibits data which should have been included in the responses.

Comment 25: Petitioners argue that inked nylon impression fabric from West Germany is transshipped from Japan via West Germany. These transshipments should be inspected to see if third country sales are being made below fair value.

DOC Position: We disagree. Counsel for petitioners did not provide substantiation of any kind that imports of linked nylon impression fabric from West Germany originated in Japan. To the contrary, we verified that Shirasaki did not export any of this product to West Germany. Asahi, in its response, provided affidavits from the West German importer and its purchasers, two companies which ink and distribute the Asahi merchandise, that the Japanese fabric is inked and resold to the ultimate user in Europe. Further, this investigation, as requested in the petition, covers only uninked nylon impression fabric. There were no imports of this product from West Germany during the period of investigation.

Comment 26: Asahi apparently sells short rolls in the U.S. at the same price as full rolls, giving evidence to the possibility of a fictitious market.

DOC Position: We disagree. Asahi only sold one short roll in one U.S. shipment and it was short by less than one percent. Therefore, Asahi was justified in not giving a discount.

Respondents' Comments

Asahi Comment 1: GS&A costs should be less than 10 percent instead of more. The percent mentioned by the Department in its verification report must be based on a miscalculation. Also Asahi's methodology to calculate GS&A costs on a unit basis is correct.

DOC Position: We partially agree. See our response to petitioners' *Comment 21, supra.* GS&A costs should be allocated to products on the basis of cost of sales.

Asahi Comment 2: Costs for certain materials paid to related suppliers reflect an arm's length transaction.

DOC Position: We disagree. See our response to petitioners' *Comment 17, supra.*

Asahi Comment 3: Compensating balances should be included in cost of credit in the home market. Also, the actual rate charged to U.S. customers should be used.

DOC Position: We disagree. See our response to petitoners' *Comment 6, supra.*

Shirasaki Comment 1: The verified average short-term interest rate should be used for both home and U.S. sales. The Department should not include the cost of bank fees and commissions in the cost of U.S. credit.

DOC Position: We disagree. We used average short-term interest rate for home market sales only. For U.S. sales, we used the discount rate actually used, including fees and commissions. We do agree that the period to be used should be from date of shipment to date of payment.

Shirasaki Comment 2: While depreciation was initially underreported, the amount accounted for a smaller percent change from cost of production than that stated by the Department in its verification report.

DOC Position: We agree. The recalculation of depreciation expense would increase GS&A expense for each product insignificantly and total cost of production by even less.

Shirasaki Comment 3: The Department should use 15 percent and not the 25 percent company-wide rate for selling, general and administrative expenses.

DOC Position: See our response to petitioners' *Comment 11, supra.*

Shirasaki Comment 4: The time study done for slitting should be used since it is part of the normal recordkeeping of the company and was not done specifically for this investigation.

DOC Position: We agree. See our response to petitioners' *Comment 13, supra.*

DOC Position: We agree. See our response to petitioners' *Comment 13, supra.*

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

April 21, 1986.

[FR Doc. 86-8389 Filed 4-25-86; 8:45 am]

BILLING CODE 3510-DS-M

Application for Duty-Free Entry of Scientific Instrument; Correction

Publication of a notice of receipt of application for the resubmission of Docket Number 86-001 was inadvertently omitted. Notice of decision for this application was published in the **Federal Register** of April 11, 1986. In that notice, FR Doc. 86-8167 appearing at page 12534, Docket Number 86-001 is corrected to read Docket Number 86-001R.

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(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Program Staff.

[FR Doc. 86-9383 Filed 4-25-86; 8:45 am]

BILLING CODE 3510-DS-M

University of California et al.; Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86-163. Applicant: University of California, Los Alamos National Laboratory, SM-30, Bikini Road, P.O. Box 990, Los Alamos, NM 87545. Instrument: ICP Mass Spectrometer, Model VG PlasmaQuad. Manufacturer: VG Instruments Inc., United Kingdom. Intended Use: The instrument is intended to be used to perform trace element analysis on a large variety of materials that are utilized in the nuclear weapons research program at the Los Alamos National Laboratory. Application received by Commissioner of Customs: March 24, 1986.

Docket No. 86-164. Applicant: State University of New York at Stony Brook, Stony Brook, NY 11794-3400. Instrument: Linear Position Sensitive Detector with 2 Preamplifiers, Model 112-5A/10. Manufacturer: Murtechnik, Austria. Intended Use: The instrument is intended to be used for detecting the x-ray diffraction from biological macromolecules such as that of muscle contractile systems with high time-resolving power. Particular interest will be on the study of filament dynamics related to cross-bridge motions, epoxy resin formation in materials research and sol-gel transitions. Application received by Commissioner of Customs: March 24, 1986.

Docket No. 86-165. Applicant: Princeton University, Director of Purchases, P.O. Box 33, Princeton, NJ 08544. Instrument: Mass Spectrometer, Model MS 50. Manufacturer: Kratos Analytical, United Kingdom. Intended Use: The instrument is intended to be used in the following chemistry research projects:

1. Biomimetic Control of Reactivity—The aim is to understand the mechanism by which nature controls chemical reactivity.

2. Synthetic and Mechanistic Organometallic Chemistry of Unsaturated Metal-Carbon Bonds—which includes the chemistry of carbene, carbyne and carbido metal complexes.

3. Static and Dynamic Stereochemistry of Organic and Organometallic Molecules—directed toward the exploration of the stereochemistry of organic and organometallic compounds through a detailed analysis of structures and reaction mechanisms.

4. Organic Synthesis—research directed toward the development of new synthesis methodology, and the synthesis of natural products and unusual structures.

5. Heterocyclic Chemistry—research concerned primarily with the development of new synthetic methods, particularly in the field of heterocyclic and aromatic chemistry and their exploitation for the synthesis of target molecules of exceptional biological interest.

6. Synthesis and Characterization of Molecular Models of the Active Site of the Photosynthetic Oxygen Evolving Enzyme.

7. Carbene and Carborane Chemistry.

8. Mechanistic Studies of Dioxygenases.

9. Organometallic Reagents for Organic Synthesis.

Application received by Commissioner of Customs: March 24, 1986.

Docket No. 86-166. Applicant: Columbia University, College of Physicians and Surgeons, 630 West 168th Street, New York, NY 10032. Instrument: Heterodyne Interferometer. Manufacturer: University of Neuchatel, Switzerland. Intended Use: The instrument will be used for vibration measurement of single cellular elements in the inner ears of living animals in the basal turn of the cochlea through the intact round window membrane. Application received by Commissioner of Customs: March 24, 1986.

Docket No. 86-169. Applicant: Texas A&M Research Foundation, University Drive and Wellborn Road, USDA Building, Room 219, College Station, TX 77843-2578. Instrument: UV/Visible Spectrophotometer Unit, Model SU-40A. Manufacturer: Hi-Tech Scientific Ltd., United Kingdon. Intended use: The instrument is intended to be used for studies of proteins and DNA from the bacterium E.coli which are involved in the replication of its DNA. The rates of binding will be examined and detected by changes in the Fluoresecence properties of the protein upon binding or changes in the absorption of light. Rapid mixing of the protein and DNA will be performed in the stopped-flow instrument and the kinetics of the interaction will be monitored. The instrument will also be used for research training of graduate students in the course Biochemistry 685. Application received by Commission of Customs: March 24, 1986.

Docket No. 86-175. Applicant: University of Washington, Seattle, WA 98195. Instrument: Gas Isotope Ratio Mass Spectrometer, Model MAT-251. Manufacturer: Finnigan MAT Corp., West Germany. Intended use: The instrument is intended ot be used for combined oceanographic and isotopic measurements for innovative marine science research. The current fields of research include:

Pore Water Studies
Nutrient Cycles in Natural Waters
Anoxic Basins
Hydrothermal Vent Systems
Organic Geochemistry
Food Webs

In addition, the instrument will be used for educational purposes in various oceanography courses in which students are instructed in the basic processes which affect the chemistry of sea water and marine sediments. Application recevied by Commission of Customs: March 24, 1986.

Docket No. 86-176. Applicant: University of Pennsylvania, Pennsylvania Muscle Institute, School of Medicine, B42 Anatomy-Chemistry Building, 37th and Hamilton Walk, Philadelphia, PA 19104-6083.

Instrument: Light Microscope with Accessories. Manufacturer: Sluzba Vyzkumu. Intended use: The instrument is intended to be used for research on blood vessels, heart and skeletal muscle to understand the mechanisms of normal muscle contraction and disease such as high blood pressure, heart failure and miscular dystrophy. Application received by Commissioner of Customs: March 24, 1986.

Docket No.: 86-177. Applicant: University of Pennsylvania, 415 S. University Avenue, Philadelphia, PA 19104. Instrument: Electron Microscope, Model JEM-4000EX. Manufacturer: JEOL, Japan. Intended use: The instrument is intended to be used to examine the following projects or materials:

1. Selectivity stained muscle cells.
2. Mitochondria in several kinds of organs.
3. Smooth muscle cells.
4. Heart muscle cells.
5. Cross-bridges in sleletal muscle.
6. Dense granules in toad bladders in relation to hormone action.
7. Bacterial cell wall and chromosome structure.
8. Structure of centrioles in animal cells.
9. Structure of dense bodies in animal cells.
10. Structure of the cytoplasmic matrix.
11. Orientation of actin filaments in cells.

Application received by Commissioner of Customs: March 25, 1986.

Docket No. 86-178. Applicant: Purdue University, 401 South Grant Street, Freehafer Hall, West Lafayette, IN 47907. Instrument: Flash Analog to Digital Converter and Computer Interface, Model DL 300. Manufacturer: Dr. B. Struck, West Germany. Intended Use: The instrument is intended to be used for studies of hadronic matter at the highest temperature. Proton-antiproton collider experiments will be conducted to obtain measurement of particle types emitted in the collision and their momentum distribution. In addition, graduate students will use the instrument for Ph.D. thesis work. Application received by Commissioner of Customs: March 25, 1986.

Docket No. 86-180. Applicant. National Aeronautics and Space Administration, Goddard Space Flight Center, Greenbelt Road, Greenbelt, MD 20771. Instrument: Magnetic Tape Abrasivity Test Monitor. Manufacturer: Fulmer Research Laboratory Ltd., United Kingdom. Intended ue: The instrument will be evaluated for feasibility of its use on the NSAS Space Tracking Data Network. Application received by Commissioner of Customs: April 1, 1986.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-9384 Filed 4-25-86; 8:45 am]

BILLING CODE 3510-DS-M

University of Michigan et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86-075. Applicant: University of Michigan, Ann Arbor, MI 48109. Instrument: Electron Microscope, Model JEM-1200EX with Accessories. Manufacturer: JEOL, Japan. Intended Use: See notice at 51 FR 5751. Instrument ordered July 2, 1985.

Docket No. 86-076. Applicant: Maimonides Medical Center, Brooklyn, MY 11219. Instrument: Electron Microscope, Model EM 109 Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 51 FR 3488. Instrument ordered: October 22, 1985.

Docket No. 86-077. Applicant: The Hospital of the University of Pennsylvania, Philadelphia, PA 19104. Instrument: Electron Microscope, Model H-600-2 with Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended Use: See notice at 51 FR 4647. Instrument ordered: September 4, 1985.

Docket No. 86-087. Applicant: Stanford University, Stanford, CA 94305. Instrument: Electron Microscope, Model EM 430 with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use: See notice at 51 FR 3489. Instrument ordered: October 2, 1985.

Docket No. 86-088. Applicant: California Institute of Technology, Pasadena, CA 91125. Instrument: Electron Microscope, Model EM 430. Manufacturer: N.V. Philips, The Netherlands. Intended use: See notice at 51 FR 3486. Instrument Ordered: October 25, 1985.

Docket No. 86-091. Applicant: University of California, San Francisco, San Francisco, CA 94143. Instrument: Electron Microscope, Model JEM-100 CXII. Manufacturer: JEOL, Japan. Intended use: See notice at 51 FR 6155. Application received by Commissioner of Customs: January 17, 1986.

Docket No. 86-093. Applicant: Macalester College, St. Paul, MN 55105. Instrument: Electron Microscope, Model EM 109 with attachments. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 51 FR 5752. Application received by Commissioner of Customs: November 26, 1985.

Docket No. 86-094. Applicant: Vanderbilt University School of Medicine, Nashville, TN 37232. Instrument: Electron Microscope, Model H-600-3. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use: See Notice at 51 FR 6157. Application received by Commissioner of Customs: August 9, 1985.

Docket No. 86-096. Applicant: Tulane University School of Medicine, New Orleans, LA 70112. Instrument: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss Inc., West Germany. Intended use: See notice at 51 FR 6157. Application received by Commissioner of Customs: October 14, 1985.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-9385 Filed 4-25-86; 8:45 am]

BILLING CODE 3510-DS-M

North Carolina State University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Material Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86-109. Applicant: North Carolina State University, Raleigh, NC 27695-8301. Instrument: Sized Yarn Testing Instrument. Manufacturer: Sulzer-Ruti, Switzerland. Intended use: See notice at 51 FR 6155.

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Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a method of subjecting sized yarns to cyclical elongation, abrasion and buckling. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-9386 Filed 4-25-86; 8:45 am]

BILLING CODE 3510-DS-M

Princeton University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 86-032. Applicant: Princeton University, Princeton, NJ 08544. Instrument: Simultaneous Analyzer System, Model TG-DSC-111. Manufacturer: Setaram, France. Intended Use: See notice at 50 FR 51445.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides for the simultaneous differential thermogravimetric and differential calorimetric measurements to temperatures of 827 °C. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-9387 Filed 4-25-86; 8:45 am]

BILLING CODE 3510-DS-M

Rutgers—The State University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86-039. Applicant: Rutgers—The State University, Piscataway, NJ 08854. Instrument: Dilution Refrigerator System, Model 200TLE with Accessories. Manufacturer: Oxford Instruments, United Kingdom. Intended use: See notice at 50 FR 48451.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides a top loading specimen chamber and capability of cooling to 10.0 millikelvin. The National Bureau of Standards advises in its memorandum dated March 6, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistant Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-9388 Filed 4-25-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

[Docket No. 60470-6070]

Information Relating to Bowhead Whales; U.S. Implementation of Bowhead Whale Strike Quota for 1986

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of information.

SUMMARY: NOAA publishes information for use in the development of the U.S. position before the International Whaling Commission (IWC) on the aboriginal/subsistence take of bowhead whales and in the domestic allocation of the existing IWC quota for bowhead whales to U.S. nationals. The allocation of the IWC quota for bowhead whales for the aboriginal/subsistence by U.S. natives is 32 strikes for 1986.

EFFECTIVE DATE: April 25, 1986.

FOR FURTHER INFORMATION CONTACT: Becky Rootes, 202-634-7303.

SUPPLEMENTARY INFORMATION: NOAA is responsible for implementation and enforcement of the Marine Mammal Protection Act, the Endangered Species Act, and the Whaling Convention Act. In addition, it provides staff support to the U.S. Commissioner to the IWC and to the IWC Interagency Committee. Consistent with these responsibilities, NOAA develops positions relating to the aboriginal/subsistence harvest of bowhead whales pursuant to paragraph 13 of the Schedule to the International Convention on the Regulation of Whaling, 1946, and allocates the IWC quota for bowhead whales to U.S. natives under a cooperative agreement between NOAA and the Alaska Eskimo Whaling Commission (AEWC)..

On January 14, 1986, NOAA published in the **Federal Register** (51 FR 1550), a request for public comments regarding the data upon which the U.S. positions on the bowhead whale are based and the proposed allocation of strikes for the aboriginal/subsistence bowhead whale catch limit for 1986. NOAA received public comments on the proposed allocations that are summarized as follows: the first comment stated that additional information on the range of harvest limits and the mortality rate of struck and lost animals should be discussed, the second comment stated that the efficiency of the native hunt should be taken into account in establishing the catch limit, and the third comment requested that the IWC catch level be in place until 1987.

NOAA evaluated comments received on the proposed allocation of strikes for the 1986 aboriginal/subsistence bowhead whale catch limit. Following discussion with the AEWC, the 1986 strike limit for the aboriginal/subsistence hunt of bowhead whales was established at 32.

Discussion of Comments:

The first comment received requested discussion of catch limits for bowhead whales below 26 strikes. Catch limits below 26 strikes were considered by NOAA but not discussed in the **Federal Register** notice because they would not satisfy the Alaskan Eskimo subsistence requirements. It has been determined by the Department of the Interior that 26 landed whales are necessary to meet the needs of the Eskimos. Thus the minimum number of strikes required would be 26. The IWC management scheme permits the establishment of aboriginal/subsistence catches so long as they are set at levels which allow whale stocks to move toward or maintain the maximum sustainable yield level. Therefore, an allocation of the catch limit as established by the IWC should provide for growth in the bowhead population.

The second comment requested discussion of the mortality rate of struck whales and potential recruitment into the bowhead population given the proposed strike level. Given the estimates of actual recruits into the population of 49-73 and 62-106 whales per year as cited in the **Federal Register**, the net recruitment, given a strike level of 32 whales, would be 17-41 and 30-74 whales recruited annually after strikes taken, assuming the greatest possible mortality rate, 100 percent, of whales struck.

In response to a comment related to the efficiency of the native hunt, the U.S. position on bowhead strike levels has been to seek the number of strikes that will be required to provide the Eskimos with their established need of 26 whales. Given the efficiency rate of 75 percent, that strike level is 35 strikes. That the Eskimos have not reached the 75 percent efficiency rate to date means that the Eskimo need has not been met and does not translate into a lower required strike level.

Finally, one comment requested that the strike level be established through 1987. The Cooperative Agreement specifies that the number of strikes be allocated to the AEWC on an annual basis. NOAA has chosen to allocate the strike limit annually because this provides for an annual review of the actual hunt and because the quota is subject to annual review by the IWC Scientific Committee.

After due consideration of these comments, NOAA has allocated the strike limit of 32 strikes to the Alaskan Eskimos by amendment to the Cooperative Agreement between NOAA and the AEWC.

Authority: Article 5, 62 Stat. 1718, sec. 2-14, 64 Stat. 421-425; 16 U.S.C. 916 *et seq.*.

Dated: April 23, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management National Marine Fisheries Service.

[FR Doc. 86-9391 Filed 4-25-86; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products From Taiwan Effective on January 1, 1986; Correction

April 23, 1986.

In the letter to the Commissioner of Customs dated December 23, 1985 (50 FR 52988) TSUSA number 704.8550 should be deleted from footnote 2 and TSUSA number 386.5100, from footnote 10.

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-9424 Filed 4-25-86; 8:45 am]

BILLING CODE 3510-DR-M

Changes in Officials Authorized To Issue Certifications for Exempt Textile Products Exported From Peru

April 23, 1986

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 3, 1986, between the Governments of the United States and Peru, the Government of Peru has notified the United States Government that Ruben Rodrigues Rendon and Sonia Romero Barrionuevo have been authorized to issue certifications for exempt textile products from Peru replacing Sara Zanabria Gutierrez. The following is a complete list of officials currently authorized to issue certifications:

Herbert Zarate Navarro.
Ruben Rodrigues Rendon.
Sara Briceno Gurreonero.
Sonia Romero Barrionuevo.

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-9425 Filed 4-25-86; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education, Education.

ACTION: Notice of Closed Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Proposal Review Committee of the National Advisory Council on Indian Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: May 15-16, 1986, 9:00 A.M. until conclusion of business each day.

ADDRESS: U.S. Department of Education, 400 Maryland Avenue, SW., Room 2177, Washington, DC 202/732-1887.

FOR FURTHER INFORMATION CONTACT: Lincoln C. White, Executive Director, National Advisory Council on Indian Education, 2000 L Street, NW., Suite 574, Washington, DC 20036 (202/634-6160).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 442 of the Indian Education Act (20 U.S.C. 1221g). The Council is established to assist the Secretary in carrying out responsibilities under section 441(a) of the Indian Education Act (Title IV of Pub. L. 92-318), through advising Congress, the Secretary of Education, the Under Secretary of Education and the Assistant Secretary of Elementary and Secondary Education with regard to education programs benefiting Indian children and adults.

The Proposal Review Committee of the Council will meet in closed session starting at approximately 9:00 a.m., and will end at the conclusion of business each day, approximately 5:00 p.m. The agenda includes reviewing applications submitted under the Title IV, Indian Fellowship Program of the Indian Education Act. Under section 442(b)(2) of Part D of the Indian Education Act, the Council is authorized to review applications for assistance submitted under this program and to make recommendations to the Secretary of Education with respect to their approval.

The reviewing of applications must be held in the highest confidence until the announcement is released by proper authorities as to which projects will be funded. The premature disclosure of information discussed during the review process is likely to significantly frustrate impementation of agency action. Financial information which is privileged or confidential contained in and related to these proposals will be discussed at the review session. In addition, discussion will touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (9), (4), and (6) of section 552b(c) of Title 5 U.S.C.

A summary of the activities of the closed meeting and related matters which are informative to the public consistent with the policy of Title 5

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U.S.C. 552b will be available to the public within fourteen days of the meeting.

Dated: April 17, 1986.
Signed at Washington, DC

Lincoln C. White,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 86-9473 Filed 4-25-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Restriction of Eligibility for Financial Assistance Award

AGENCY: Department of Energy (DOE).

ACTION: Notice of Restricted Eligibility for Financial Assistance Award.

SUMMARY: DOE announces that pursuant to 10 CFR 600.7(b), it intends to award on a restricted eligibility basis a cooperative agreement to the Companhia de Pesquisas E Lavras Minerais (COPELMI), Rio de Janeiro, Brazil, to support development of a feasibility study concerning the applicability of U.S. Underground Coal Gasification (UCG) technology to the coal deposits at Triumfo, Rio Grande Do Sul, Brazil. The DOE support for this effort is estimated at $1.7 million over an eighteen-month period.

Procurement Request No.: 01-86FE60877.000.

Project Scope: This cooperative effort is to be undertaken pursuant to the Memorandum of Understanding between the United States of America and the Federative Republic of Brazil of April 12, 1983. This cooperative effort is in furtherance of the Agreement for Exchange of Technical Information and Cooperation in the Field of Underground Coal Gasification between the United States Department of Energy and the Companhia Auxiliar of Empresas Electricas Brasileiras (CAEEB) dated January 21, 1985. The Brazilian Government has chosen the Companhia de Pesquisas E Lavras Minerais to represent CAEEB in the performance of this cooperative effort and placement of contracts with U.S. and Brazilian firms for the purpose of undertaking this project. U.S. funding for this effort is provided by the Trade Development Program Office of the International Development Cooperative Agency of the U.S. State Department.

This award provides major support for completion of a feasibility study relative to the application of underground coal gasification technologies to the high-ash, low-rank coals found in the southern portions of Brazil in the vicinity of the city of Porto Alegre. The feasibility study is a logical step in determining the advisability of pursuing development of an economically viable and commercially acceptable production facility.

In furtherance of the cooperation elicited in the referenced international agreements and advancement of underground coal gasification technologies to coal deposits otherwise uneconomical to mine, the DOE has determined that award to COPELMI on a restricted eligibility basis is appropriate.

FOR FURTHER INFORMATION CONTACT: James P. Beiriger, MA-452.1, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-1364.

Issued in Washington, D.C., on April 23, 1986.

David G. Newman,

Director, Office of Procurement Operations.

[FR Doc. 86-9478 Filed 4-25-86; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award Grant; Colorado State University

AGENCY: Department of Energy, San Francisco Operations Office.

ACTION: Notice of restriction of eligibility for grant award.

SUMMARY: DOE announces that it plans to award a Grant to Colorado State University, Solar Energy Applications Laboratory, in the amount of $390,000. The Statutory Authority authorizing the use of a grant award is Pub. L. 95-91, DOE Organization Act, and Pub. L. 93-577, Federal Non-Nuclear Energy Research and Development Act.

Scope of project: The proposed scope of the research is the testing, evaluation and optimization of solar cooling and heating components and systems in the three solar test houses at Colorado State University. Specific tasks include:

(1) The experimental testing and evaluation of a desiccant cooling and fresh air heating unit previously installed in the Solar House I system.

(2) Continuation of open cycle cooling research with the design, construction, operation, and analysis of a liquid desiccant dehumidifier coupled to a packed bed absorbent regenerator.

(3) Support data collection efforts for the control system and strategy work currently being conducted by Drexel University in Solar House III. Design, construct, operate, and analyze the performance of a boiling collector system.

(4) Continuation of Operating Agent responsibilities for the DOE for the International Energy Agency Solar Heating and Cooling Program task on Evacuated Collector Systems (Task VI).

FOR FURTHER INFORMATION CONTACT: Aundra Richards, Contracting Officer, CM Division, U.S. Department of Energy, San Francisco Operations Office, 1333 Broadway, Oakland, CA 94612.

Issued in San Francisco, California, April 15, 1986.

Donald W. Pearman, Jr.,

Acting Manager.

[FR Doc. 86-9397 Filed 4-25-86; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award Grant; University of Hawaii

AGENCY: Department of Energy, San Francisco Operations Office.

ACTION: Notice of restriction of eligibility for grant award.

SUMMARY: DOE announces that it plans to amend an existing Grant to the University of Hawaii, in the amount of $60,000. The Statutory Authority for use of a grant award is Pub. L. 94-91, DOE Organization Act, and Pub. L. 93-577, Federal Non-Nuclear Energy Research and Development Act.

Grant No. DE-FG03-85SF15799

Scope of Project

The University of Hawaii proposes to expand its geothermal research at the Puna Facility. Specifically, the proposed investigations will result in a better understanding of the scope and extent of the geothermal reservoir underlying the Puna area on the Big Island of Hawaii. The objective of the proposed research is to investigate the chemical and isotopic composition of fluids produced from the geothermal reservoir and to integrate the results into the existing geochemical, geological and geophysical data base to more precisely define the important characteristics of the Puna reservoir which may effect production and utilization of the resource.

This award of $60,000 to the University of Hawaii under the existing grant is intended for continuation of specific goal-oriented geothermal research. It is possible the application of the results of this research may extend the commercial life of the resource for a significant period of time.

The University of Hawaii has made substantial contributions to support the development and dissemination of geothermal resource data to the public sector so that private industry and others will be stimulated to utilized the geothermal resources of the State as an economic alternative to fossil fuels.

The University of Hawaii has published professional papers on its contributions to geothermal technology for a number of years. There is no other such source of unique, independent knowledge and competence in the State of Hawaii.

This award to the University on a restricted eligibility basis is appropriate.

FOR FURTHER INFORMATION CONTACT: Jane Hadly, U.S. Department of Energy, San Francisco Operations Office, Contracts Management Division, 1333 Broadway, Oakland, California 94612.

Issued in Oakland, California, April 8, 1986.

Donald W. Pearman, Jr.,

Acting Manager.

[FR Doc. 86-9398 Filed 4-25-86; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council; U.S. Refinery Capability Task Group Meeting

Notice is hereby given that the U.S. Refinery Capability Task Group will meet in May 1986. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The U.S. Refinery Capability Task Group will be addressing a current study of the capability of the U.S. refining industry. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The U.S. Refinery Capability Task Group will hold its fourteenth meeting on Wednesday, May 7, 1986, starting at 8:30 a.m., in the Conference Room of the National Petroleum Council, 1625 K Street, NW., Washington, DC.

The tentative agenda for the U.S. Refinery Capability Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review of the work of the Task Group.
3. Discussion of any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the U.S. Refinery Capability Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the U.S. Refinery Capability Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Pat Dickinson, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353-2430, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 17, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86-9396 Filed 4-25-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP86-383-000 et al.]

Natural Gas Certificate Filings; Tennessee Gas Pipeline Co.

Correction

In FR Doc. 86-7779 beginning on page 11973 in the issue of Tuesday, April 8, 1986, make the following correction: On page 11977, in the second column, in filing 11, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., the Docket No. should read "CP86-398-000".

BILLING CODE 1505-01

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-3009-1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICR is available for review and comment.

FOR FURTHER INFORMATION CONTACT: Patricia Minami, (202) 382-2712 or FTS 382-2712.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Performance Standards (NSPS) for Volatile Organic Compounds: Fugitive Emission Sources, Synthetic Organic Chemical Manufacturing Industry (EPA ICR #0662). (This is an extension of a previously approved ICR; no changes are proposed.)

Abstract: Owners or operators of new plants producing any organic chemical from a list of over three hundred must document their control of fugitive emission sources at various intervals. EPA and plant management use these records to ensure compliance with the standards.

Respondents: Owners or operators of plants which produce any organic chemicals listed in 40 CFR 60.489 (SIC 5161).

Comments on all parts of this notice may be sent to:

Patricia Minami, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), Information and Regulatory Systems Division, 401 M Street, SW., Washington, DC 20460

and

Wayne Leiss, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, DC 20503.

Dated: April 21, 1986.

Daniel J. Fiorino,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 86-9411 Filed 4-25-86; 8:45 am]

BILLING CODE 6560-50-M

[FRL 2988-1(b)]

Privacy Act of 1974; Revisions to Existing Systems of Records

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of revisions to existing systems of records.

SUMMARY: In accordance with the Privacy Act of 1974, EPA previously published system of records notices for the EPA-4 system of records (called "Inspection Branch Reports—EPA") and the EPA-5 system of records (called "Personnel Security File System—EPA"). Those notices were published at 40 FR 43194 (Sept. 18, 1975), 41 FR 39689 (Sept. 15, 1976), and 43 FR 3502 (Jan. 25, 1978). EPA is publishing this notice to

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revise information in those notices which has become obsolete.

After Congress passed the Inspector General Act of 1978, 5 U.S.C. app., EPA created the Office of Inspector General (OIG), which maintains these two systems of records. This notice changes the name of the EPA–4 system of records to "OIG Criminal Investigative Index and Files—EPA/OIG" and the name of the EPA–5 system of records to "OIG Personnel Security Files—EPA/OIG." This notice also provides additional information about these revised systems of records.

DATE: This notice will be effective without further notice on June 27, 1986, unless EPA receives written comments which would result in a contrary determination.

ADDRESS: Assistant Inspector General for Management and Technical Assessment, Office of Inspector General (A–109), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Anna M. Virbick, Acting Assistant Inspector General for Management and Technical Assessment, (202) 382–4912.

Lee M. Thomas,
Administrator.
Dated: April 17, 1986.

EPA–4

SYSTEM NAME:

OIG Criminal Investigative Index and Files—EPA/OIG.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Assistant Inspector General for Investigations, Office of Inspector General (A–109), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities who are or have been the subjects of investigations conducted by the OIG, including present and former EPA employees; present and former EPA grant recipients, consultants, contractors, and subcontractors and their employees; and other individuals and entites doing business with EPA.

CATEGORIES OF RECORDS IN THE SYSTEM:

a. *Criminal Investigative Index.* Selected information from each investigative file, indexed by case file numbers, names of the subjects of investigations, and the cities, States, and EPA regions in which the subjects were located.

b. *Hard Copy Files.* All information relating to investigations, including the information contained in the criminal investigative index; information provided by the subjects of investigations; information provided by individuals with whom the subjects are associated (e.g., fellow workers, business associates, acquaintances, or relatives); information provided by Federal, State, local, and foreign investigatory or law enforcement agencies, and other government agencies, information provided by witnesses and confidential sources; information from public source materials; investigative notes; summaries of telephone calls; correspondence; a copy of the investigative report; and information about referrals for criminal prosecutions, civil proceedings, and administrative actions taken with respect to the subjects.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, 5 U.S.C. app.; 44 U.S.C. 3101, 3102; EPA Order 3120.1A, "Reporting, Investigation, and Prevention of Unethical or Illegal Conduct;" and EPA Manual 6600, "Functions and Activities of the Office of the Inspector General."

PURPOSE(S):

The records contained in the systems are used by the OIG in furtherance of the responsibilities of the Inspector General under the Inspector General Act of 1978 to conduct and supervise investigations relating to programs and operations of the EPA; to promote economy, efficiency, and effectiveness in the administration of such programs and operations; and to prevent and detect fraud and abuse in such programs and opeations. The records are used in investigations individuals and entities suspected of having committed illegal or unethical acts and in any resulting criminal prosecutions, civil proceedings, or adminsitrative actions. The records are used in debarment and suspension proceedings under assistance programs and direct procurements. The records are used in conducting investigations of employees, consultations, contractors, subcontractors, and applicants in connection with pesonnel security deteminations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records in this system may be used and disseminated to further the purposes described above. the following routine uses apply to the records contained in this system:

a. A record may be disclosed to an individual or to a Federal, State, local, foreign, or international agency, when necessary to further the ends of an investigation.

b. If a record indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statue or particular program statute, or by rule, regulation, or order issued pursuant thereto, or if a record indicates a violation or potential violation of a contract, a record, may be disclosed to the appropriate agency, whether Federal, State, local, foreign, or international, charged with the responsibility of investigating or prosecuting such violation, or of enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, or or enforcing the contract.

c. If a record indicates a need to protect the interests of the Federal Government in a debarment or suspension proceeding, a record may be disclosed to the appropriate agency charged with protecting the interests of the Federal Government.

d. A record may be disclosed to a Federal, State, local, foreign, or international agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, if necessary to obtain information relevant to an EPA decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

e. A record may be disclosed to a Federal, State, local, foreign, or international agency, in response to its request, in connection with the assignment, hiring, or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

f. A record may be disclosed in a proceeding before a court or adjudicative body before which the EPA is authorized to appear, or in the course of settlement negotiations with opposing counsel, when—

(1) the EPA, or any component thereof; or (2) any employee of the EPA in his or her official capacity; or (3) any employee of the EPA in his or her individual capacity, where the EPA has agreed to represent the employee; or (4) the United States, where the EPA determines that litigation is likely to affect the EPA or any of its components—

is a party to litigation or has an interest in such litigation, and the EPA determines that the use of such records is relevant and necessary to the litigation; provided, however, that in each case the EPA determines that disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

g. A record may be disclosed to a Member of Congress who submits an inquiry on behalf of an individual, when the Member of Congress informs the EPA System Manager that the individual to whom the record pertains has authorized the Member of Congress to have access to the record. In such cases, the Member of Congress has no more right to the record than does the individual.

h. A record may be disclosed to the Department of Justice to obtain its advice in determining whether EPA must disclose the record under the Freedom of Information Act, 5 U.S.C. 552.

i. A record may be disclosed to the Office of Management and Budget to obtain its advice in determining whether EPA must disclose the record under the Privacy Act of 1974, 5 U.S.C. 552a.

j. A record may be disclosed to a Federal agency which has the authority to subpoena other Federal agencies' records (e.g., the Internal Revenue Service or the United States Civil Rights Commission) and which has issued a valid subpoena for the record.

k. A record may be disclosed to the Department of Justice when—

(1) the EPA, or any component thereof; or (2) any employee of the EPA in his or her official capacity; or (3) any employee of the EPA in his or her individual capacity, where the Department of Justice has agreed or is considering a request to represent the employee; or (4) the United States, where the EPA determines that litigation is likely to affect the EPA or any of its components—

is a party to litigation or has an interest in such litigation, and the EPA determines that the use of such records by the Department of Justice is relevant and necessary to the litigation; provided, however, that in each case, the EPA determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

l. A record may be disclosed to the Department of the Treasury and the Department of Justice when EPA is seeking an *ex parte* court order to obtain taxpayer information from the Internal Revenue Service.

m. A record may be disclosed to commercial contractors (debt collection agencies) for the purpose of collecting delinquent debts, as authorized by the Debt Collection Act of 1982, 31 U.S.C. 3718.

n. A record may be disclosed to a "consumer reporting agency," as that term is defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)), for the purpose of obtaining information in the course of an investigation.

o. A record may be disclosed to a private firm which contracts with the EPA, to the extent that such records are relevant and necessary to the contractor's performance of the contract. The contractor shall be required to comply with the requirements of the Privacy Act of 1974, 5 U.S.C. 552a.

p. A record may be disclosed to the Administrator of General Services and the Archivist, or the designee of either, during an inspection of records management practices and programs being conducted under the authority of 44 U.S.C. 2904 and 2906.

q. A record may be disclosed to a Federal, State, or local agency for use in computer matching programs to prevent and detect fraud and abuse in benefit programs administered by those agencies, to support civil and criminal law enforcement activities of those agencies and their components, and to collect debts and overpayments owed to those agencies and their components. This routine use does not provide unrestricted access to records for such law enforcement and related antifraud activities. Each request for disclosure will be considered in accordance with the Computer Matching Guidelines, issued by the Office of Management and Budget (OMB) on May 11, 1982, published at 47 FR 21656 (May 19, 1982), and the Computer Match Checklist, issued by OMB on December 29, 1983, or any superseding guidance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The criminal investigative index is stored on index cards and computer floppy disks. The hard copy files are stored in file folders. All records are stored under secure conditions, which are described in the Safeguards section.

RETRIEVABILITY:

Records in the criminal investigative index are retrieved by the last names of the subjects of investigations and by case numbers. Records in the hard copy files are retrieved by case file numbers.

SAFEGUARDS:

Direct access is limited to authorized staff of the Office of the Assistant Inspector for Investigations. Additional access within EPA is limited to authorized officials and employees on a need-to-know basis. All records, when not in the possession of an authorized individual, are stored in locked cabinets in a locked room with restricted access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with EPA Records Control Schedules, Appendix B, Schedule 19 (pending approval of the National Archives and Records Administration).

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, Office of Inspector General (A–109), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

NOTIFICATION PROCEDURES:

See Exemption section of this notice. EPA claims that the system is exempt from this requirement. However, EPA has promulgated rules which establish procedures for notifying an individual at his request if the system of records contains a record pertaining to him because, under certain circumstances, it might be appropriate for an individual to have access to all or a portion of his records in this system. Requests for notification should be made in writing to the System Manager in accordance with EPA's regulations at 40 CFR Part 16.

RECORD ACCESS PROCEDURES:

See Exemption section of this notice. EPA claims that the system is exempt from this requirement. However, EPA has promulgated rules which establish procedures for notifying an individual at his request how he can gain access to a record in a system of records pertaining to him because, under certain circumstances, it might be appropriate for an individual to have access to all or a portion of his records in this system. Requests for access should be made in writing to the System Manager in accordance with EPA's regulations at 40 CFR Part 16.

CONTESTING RECORD PROCEDURES:

See Record Access Procedures section of this notice.

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RECORD SOURCE CATEGORIES:

See Exemption section of this notice. EPA claims that the system is exempt from this requirement. However, EPA is publishing the following generic list of categories of sources of records in this system: the subjects of investigations; individuals with whom the subjects of investigations ar associated (e.g., fellow workers, business associates, acquaintances, or relatives); Federal, State, local, or foreign investigatory or law enforcement agencies; other government agencies; confidential sources; witnesses; concerned citizens; and public source materials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(j)(2), this system is exempt from the following provisions of the Privacy Act of 1974: 5 U.S.C. 552a(c)(3) and (4); (d);(e) (1), (2), (3), (4) (G), (H), and (I), (5),and (8); (and (g). Pursuant to 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act of 1974, subject to the limitations set forth in that subsection. 5 U.S.C. 552a (c)(3); (d); (e)(1), (4) (G), (H), and (I); and (f). Pursuant to 5 U.S.C. 552a(k)(5), this system is exempt from the following provisions of the Privacy Act of 1974, subject to the limitations set forth in that subsection: 5 U.S.C. 552a (c)(3); (d); (4) (H) and (I); and (f) (2) through (5). These exemptions were published as regulations in the **Federal Register**, in accordance with the requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c), and (e). For additional information, contact the System Manager.

EPA-5

SYSTEM NAME:

OIG Personnel Security Files—EPA/OIG.

SECURITY CLASSIFICATION:

Most of the records in this system are unclassified. However, some records in the system are classified by other Federal Agencies at levels up to and including "secret" in accordance with Executive Order 12356.

SYSTEM LOCATION:

Assistant Inspector General for Management and Technical Assessment, Office of Inspector General (A–109), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are or have been the subjects of personnel security investigations (e.g., background investigations, national agency checks and inquiries, and periodic reinvestigations) conducted by the OIG or the Office of Personnel Management (OPM), including present and former EPA employees, consultants, contractors, and subcontractors in sensitive and nonsensitive positions; and applicants for sensitive positions within the EPA.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. *Computerized Reference:* Selected information from some personnel security files, indexed by the subject's social security number, place of birth, type of investigation, date of investigation, agency which conducted the investigation, type of security clearance, date of security clearance, and sensitivity of the position occupied.

B. *Hard Copy Files:* All information relating to personnel security investigations, including information contained in the computerized reference; information provided by the subjects of investigations on forms SF–171, SF–85, SF–86, SF–87, OPM–329–A, and EPA–1480–40, and in interviews or correspondence; information provided by individuals with whom the subjects are associated (e.g., fellow workers, business associates, acquaintances, or relatives); information provided by Federal, State, local, or foreign investigatory or law enforcement agencies, or other government agencies; information provided by confidential sources; information provided by former employers, references named by the subjects, credit agencies, and educational institutions; pre-appointment investigative reports; summaries of telephone calls; correspondence; public source materials; and information about referrals for criminal prosecutions, civil proceedings, and administrative actions taken with respect to the subjects.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, as amended; Executive Order 12356; Atomic Energy Act of 1954, as amended, 42 U.S.C. 2165; Inspector General Act of 1978, 5 U.S.C. app.; 5 U.S.C. 301, 3301, 3302; 44 U.S.C. 3101, 3102; 5 CFR Parts 731 and 732; the OPM Federal Personnel Manual; EPA Manual 6500, "Functions and Activities of the Office of the Inspector General;" and EPA Delegations Manual 1–6–B, "Personnel Security."

PURPOSE(S):

The records contained in the system are used by the OIG to develop information on EPA employees, consultants, contractors, subcontractors, and applicants that will help the EPA determine suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. To the extent that records in this system reveal a violation or potential violation of law, then such records would be used by the OIG in furtherance of the responsibilities of the Inspector General under the Inspector General Act of 1978 to conduct and supervise investigations relating to programs and operations of the EPA; to promote economy, efficiency, and effectiveness in the administration of such programs and operations; and to prevent and detect fraud and abuse in such programs and operations. Such records would be used in investigating individuals and entities suspected of having committed illegal or unethical acts and in any resulting criminal prosecutions, civil proceedings, or administrative actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records in this system may be used and disseminated to further the purposes described above. The following routine uses apply to the records contained in this system:

a. A record may be disclosed to an individual or to a Federal, State, local, foreign, or international agency, when necessary to further the ends of an investigation.

b. If a record indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation, or order issued pursuant thereto, or if a record indicates a violation or potential violation of a contract, a record may be disclosed to the appropriate agency, whether Federal, State, local, foreign, or international, charged with the responsibility of investigating or prosecuting such violation, or of enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, or of enforcing the contract.

c. A record may be disclosed to a Federal, State, local, foreign, or international agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, if necessary to obtain information relevant to an EPA decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

d. A record may be disclosed to a Federal, State, local, foreign, or international agency, in response to its request, in connection with the assignment, hiring, or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

e. A record may be disclosed in a proceeding before a court or adjudicative body before which the EPA is authorized to appear, or in the course of settlement negotiations with opposing counsel, when—

(1) The EPA, or any component thereof; or (2) any employee of the EPA in his or her official capacity; or (3) any employee of the EPA in his or her individual capacity, where the EPA has agreed to represent the employee; or (4) the United States, where the EPA determines that litigation is likely to affect the EPA or any of its components—

is a party to litigation or has an interest in such litigation, and the EPA determines that the use of such records is relevant and necessary to the litigation; provided, however, that in each case the EPA determines that disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

f. A record may be disclosed to a Member of Congress who submits an inquiry on behalf of an individual, when the Member of Congress informs the EPA System Manager that the individual to whom the record pertains has authorized the Member of Congress to have access to the record. In such cases, the Member of Congress has no more right to the record than does the individual.

g. A record may be disclosed to the Department of Justice to obtain its advice in determining whether EPA must disclose the record under the Freedom of Information Act, 5 U.S.C. 552.

h. A record may be disclosed to the Office of Management and Budget to obtain its advice in determining whether EPA must disclose the record under the Privacy Act of 1974, 5 U.S.C. 552a.

i. A record may be disclosed to a Federal agency which has the authority to subpoena other Federal agencies' records (e.g., the Internal Revenue Service or the United States Civil Rights Commission) and which has issued a valid subpoena for the record.

j. A record may be disclosed to the Department of Justice when—

(1) The EPA, or any component thereof; or (2) any employee of the EPA in his or her official capacity; or (3) any employee of the EPA in his or her individual capacity, where the Department of Justice has agreed or is considering a request to represent the employee; or (4) the United States, where the EPA determines that litigation is likely to affect the EPA or any of its components—

is a party to litigation or has an interest in such litigation, and the EPA determines that the use of such records by the Department of Justice is relevant and necessary to the litigation; provided, however, that in each case, the EPA determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

k. A record may be disclosed to the Department of the Treasury and the Department of Justice when EPA is seeking an *ex parte* order to obtain taxpayer information from the Internal Revenue Service.

l. A record may be disclosed to commercial contractors (debt collection agencies) for the purpose of collecting delinquent debts, as authorized by the Debt Collection Act of 1982, 31 U.S.C. 3718.

m. A record may be disclosed to a "consumer reporting agency," as that term is defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)), for the purpose of obtaining information in the course of a personnel security investigation.

n. A record may be disclosed to a private firm which contracts with the EPA, to the extent that such records are relevant and necessary to the contractor, performance of the contract. The contractor shall be required to comply with the requirements of the Privacy Act of 1974, 5 U.S.C. 552a.

o. A record may be disclosed to the Administrator of General Services and the Archivist, or the designee of either, during an inspection of records management practices and programs being conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The computerized reference is stored on bound computer printout sheets. The hard copy files are stored in file folders. All records are stored under secure conditions, which are described in the Safeguards section.

RETRIEVABILITY:

Records in the computerized reference are retrieved by the social security numbers of the subjects of personnel security investigations. Records in the hard copy files are retrieved by the last names of the subjects of personnel security investigations.

SAFEGUARDS:

Direct access is limited to authorized employees of the Personnel Security Staff, Office of the Assistant Inspector General for Management and Technical Assessment. Additional access within EPA is limited to authorized officials and employees on a need-to-know basis. All records, when not in the possession of an authorized individual, are stored in file cabinets or safes and/or in a locked central file room with restricted access. Classified records are stored in accordance with Executive Order 12356.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with EPA Records Control Schedules, Appendix B, Schedule 19 (pending approval of the National Archives and Records Administration).

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Management and Technical Assessment, Office of Inspector General (A–109) Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

NOTIFICATION PROCEDURES:

See Exemption section of this notice. EPA claims that the system is exempt from this requirement to the exent that the system contains investigatory material compiled for law enforcement purposes. EPA also claims that the system is exempt from this requirement to the extent that the system contains records which are specifically authorized under criteria established by Executive Order 12356 to be kept secret in the interest of national defense or foreign policy and which are in fact properly classified pursuant to that

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Executive order. However, EPA has promulgated rules which establish procedures for notifying an individual at his request if the system of records contains a record pertaining to him because, under certain circumstances, it might be appropriate for an individual to have access to all or a portion of his records in this system. Requests for notification should be made in writing to the System Manager in accordance with EPA's regulations at 40 CFR Part 16.

RECORD ACCESS PROCEDURES:

See Exemption section of this notice. EPA claims that the system is exempt from this requirement. However, EPA has promulgated rules which establish procedures for notifying an individual at his request how he can gain access to a record in a system of records pertaining to him because, under certain circumstances, it might be appropriate for an individual to have access to all or a portion of his records in this system. Requests for access should be made in writing to the System Manager in accordance with EPA's regulations at 40 CFR Part 16.

CONTESTING RECORD PROCEDURES:

See Record Access Procedures section of this notice.

RECORD SOURCE CATEGORIES:

See Exemption section of this notice. EPA claims that the system is exempt from this requirement. However, EPA is publishing the following generic list of categories of sources of records in this system: the subjects of personnel security investigations; individuals with whom the subjects are associated (e.g., fellow workers, business associates, acquaintances, or relatives); Federal, State, local, or foreign investigatory or law enforcement agencies; other government agencies; confidential sources; former employers; references named by the subjects; credit agencies; educational institutions; and public source materials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(l), this system is exempt from the following provisions of the Privacy Act of 1974: 5 U.S.C. 552a (c)(3); (d); (e)(l), (4) (G), (H), and (I); and (f). Pursuant to 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act of 1974, subject to the limitations set forth in that subsection: 5 U.S.C. 552a (c)(3); (d); (e)(1), (4) (G), (H), and (I); and (f). Pursuant to 5 U.S.C. 552a(k)(5), this system is exempt from the following provisions of the Privacy Act of 1974, subject to the limitations set forth in that subsection: 5 U.S.C. 552a (c)(3); (d); (e)(1), (4) (H) and (I); and (f) (2) through (5). These exemptions were published as regulations in the **Federal Register**, in accordance with the requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c), and (e). For additional information, contact the System Manager.

[FR Doc. 86-9407 Filed 4-25-86; 8:45 am]

BILLING CODE 6560-50-M

[FRL 2988-1(c)]

Privacy Act of 1974; Proposed New System of Records

AGENCY: Environmental Protection Agency.

ACTION: Notice—Privacy Act of 1974, Proposed new system of records.

SUMMARY: Pursuant to the provision of the Privacy Act of 1974, (5 U.S.C. 552a) notice is hereby given that the U.S. Environmental Protection Agency (EPA) proposes to establish and maintain a new system of records. The proposed system is "Criminal Investigative Index and Files." Personnel of EPA's National Enforcement Investigation Center's Office of Criminal Investigation (OCI) will use the records to aid the criminal investigations of violations of federal environmental statute and regulations.

In the Proposed Rules section to today's **Federal Register**, EPA proposes to exempt the system from various provision of 5 U.S.C. 552a, including the access provision of subsection (d). The Privacy Act provides that Congress and the Office of Management and Budget (OMB) be notified of proposed systems of records and that the public be given a 30-day period in which to comment on the routine uses of the system. In addition, OMB requires a 60-day period in which to review the system before it is implemented. Therefore, the Congress, the public and OMB are invited to submit written comments on this system.

DATES: This notice will become effective without further notice on June 27, 1986, unless EPA receives written comments which would result in a contrary determination.

For Further information and to submit comments contact: John M. Lattimer, Enforcement Specialist Office, National Enforcement Investigations Center, U.S. Environmental Protection Agency, Denver Federal Center, Building 53, Box 25227, Denver, Colorado 80225, Telephone: 303-236-5128.

Dated: April 17, 1986.

Lee M. Thomas,

Administrator.

EPA—NEIC-OCI-17

SYSTEM NAME:

NEIC Criminal Investigative Index and Files EPA/NEIC/OCL

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Enforcement Investigations Center (NECI), Building 53, Denver Federal Center, Denver, CO 80225.
NEIC Office of Criminal Investigations, Washington Staff Office (LE-134C), 401 M Street, SW, Washington, DC 20460.
NEIC Office of Criminal Investigations, Philadadelphia Area Office, EPA-Region III (3CE00), 841 Chestnut Building, Philadelphia, PA 19107.
NEIC Office of Criminal Investigations, Boston Resident Office, EPA-Region I, 60 Westview Street, Lexington, MA 02173.
NEIC Office of Criminal Investigations, New York Resident Office, EPA-Region II, 26 Federal Plaza, New York, NY 10278.
NEIC Office of Criminal Investigations, Atlanta Area Office, EPA-Region IV, 345 Courtland Street, NE, Atlanta, GA 30365.
NEIC Office of Criminal Investigations, Dallas Resident Office, EPA-Region VI, Earle Cabell Federal Bldg., Room 3A-8, Dallas, TX 75242.
NEIC Office of Criminal Investigations, Chicago Area Office, EPA-REgion V, 230 South Dearborn Street, Chicago, IL 60604.
NEIC Office of Criminal Investigations, Kansas City Resident Office, EPA-Region VII, 726 Minnesota Avenue, Kansas City, KS 64107.
NEIC Office of Criminal Investigations, Seattle Area Office, EPA-Region X, 1200 Sixth Avenue (M/S 614), Seattle, WA 98101.
NEIC Office of Criminal Investigations, San Francisco Resident Office, EPA-Region IX, 215 Fremont Street, San Francisco, CA 94105.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals included in the system are those on whom data has been collected by criminal investigators of the National Enforcement Investigation Center's (NEIC) Office of Criminal Investigations (OCI) and assembled in the form of investigative reports in the course of investigations conducted concerning violations of federal environmental

statutes and regulations. Such individuals may be actual subjects of the investigation, or persons associated with the subject (e.g. relatives, business partners, acquaintances) or witnesses. Names of the OCI criminal investigators who participate in the subject investigation also appear in the system.

CATEGORIES OF RECORDS IN SYSTEM:

a. *Index.* The computer enhanced index system contains selected information from the criminal investigative file. Such information includes, but is not limited, to personal data (e.g. name, address, telephone number); prior/secondary residences; vehicle information; associated persons (name and role); driver licenses/aliases; associated companies (name and role); identifying numbers (number type, number and brief description); corporate data (company name, address, telephone number); corporate vehicle information; associated persons and companies; corporate identifying numbers; case information (e.g. case opened, date referred to EPA); criminal investigator's comments; criminal investigator's name and office; dissemination information (e.g. agency requesting information); and other related investigative information.

b. *Hard Copy File* The hard copy file contains all information relating to an investigative matter. In addition to the information contained in the computer enhanced index system, the hard copy files contain, but are not limited to, correspondence (case coordination reports, memos of conversations, and other records of communication relating to theinvestigation); interviews (witness interviews and statements generated by either an OCI agent or another agency or person); regulatory history (permits and reports generated as a result of normal program activity); technical support (program reports generated as a result of the investigation); investigative notes; electronic monitoring (reports requesting permission and use, transcripts of tapes); Records check (personal history police information, fingerprint cards); photographs; property reports (property obtained and retained by OCI including documents, personal property and physical evidence); manifests; and other related investigative information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9604; Resource Conservation and Recovery Act, 42 U.S.C. 6927; Federal Water Pollution Control Act, 33 U.S.C. 1318; Toxic Substances Control Act, 15 U.S.C. 2610; Clean Air Act, 42 U.S.C. 7414; Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136g; Safe Drinking Water Act, 42 U.S.C. § 300j-4; Noise Control Act of 1972, 42 U.S.C. 4912; and Title 28, U.S. Code, Section 533 with appointment letter from Civiletti, Attorney General to Costle, Administrator EPA dated January 16, 1981.

PURPOSE(S):

Records maintained in the system will be used by OCI criminal investigators for the purpose of supporting and furthering their investigations of persons or firms who allegedly knowingly or willfully violated any environmental statute or regulation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. Information in this system may be disclosed as a routine use to any Federal, State or local government agency directly engaged n the criminal justice process where access is related to a law enforcement function of the recipient agency in connection with the tracking, identification and prosecution of persons or companies believed to have knowingly or willfully violated any environmental statute or regulation.

2. In the event the Agency deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

3. Where federal agencies having the power to subpoena other federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Agency for records in this system of records, the agency will make such records available.

4. A record may be disclosed to the Department of Justice when (1) the EPA, or any component thereof; or (2) any employee of the EPA in his or her official capacity, or (3) any employee of the EPA in his or her individual capacity, where the Department of Justice has agreed or is considering a request to represent the employee; or (4) the United States, where the EPA determines that litigation is likely to affect the EPA or any of its components, is a party to litigation or has an interest in such litigation, and the EPA determines that the use of such records by the Department of Justice is relevant and necesary to the litigation; provided, however, that in each case, the EPA determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

5. Also see Prefatory Statement of General Routine Uses, 41 FR 39689 (September 15, 1976) for other routine uses applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The system is maintained in hard-copy files with selected portions also stored in computer disks.

RETRIEVABILITY:

Hard copy files are maintained in the chronological order of the case file number assigned to it and retrieved by case file number. Information on individuals may be accessed by cross referencing with computer index.

The computer enhanced index system is retrievable by case file number or case title, the name of an individual, company name, drivers license, vehicle tag or vehicle identification number, identifying number (EPA permit number) agent name and freestyle (string of letters from one to forty letters long).

SAFEGUARDS:

Only OCI employees and employees of NEIC's Enforcement Specialist Office are authorized to access the system. Hard copy files, when not in the possession of an authorized individual, are maintained in a locked cabinet. The computer index is protected from access by a unique identifier password known only to the authorized persons. The index system also maintains a user log which identifies and records who uses the system. Both the computer and cabinets are in locked rooms in a building with restricted access.

RETENTION AND DISPOSAL:

All investigative files are maintained in accordance with the provisions of the pending EPA Records Control Schedule for Regional Enforcement records (Appendix D, Schedule 4, Item 16).

SYSTEM MANAGER AND ADDRESS:

Assistant Director for Criminal Investigations, Environmental Protection Agency, NEIC, Box 25227, Denver, Colorado 80225.

NOTIFICATION PROCEDURE:

Requests for notification should be made in writing and be addressed to the System Manager. The requester should include his full name, complete address, date of birth, and a notarized statement that the requestor is the individual to

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whom the pertains and that be understands it is a misdemeanor to knowingly and willfully seek to obtain access to records about another individual under false pretenses. The request should also include the general subject matter of the record or records in question or the record file number along with any other known information which may assist EPA in searching for the records. Additional information or requirements, if any, will be provided by the System Manager.

RECORD ACCESS PROCEDURE:

Same as Notification Procedures.

CONTESTING RECORD PROCEDURES:

Same as Access Procedure. In addition, the requester should state the corrective action sought and supporting justification for the correction.

RECORD SOURCE CATEGORIES:

Information is obtained from other government agencies, law enforcement agencies, the general public, subjects of investigation, informants, witnesses, public source materials, and other persons and entities with information potentially relevant to an investigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(j)(2) this system is exempt from the following provisions of the Privacy Act: 5 U.S.C. 552a(c) (3) and (4); (d); (e) (1), (2), (3), (4) (G), (H), and (I), (5) and (8); (f); and (g). Pursuant to 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d), (e)(1), (4)(G), (H) and (I); and (f) of the Privacy Act. Regulations have been promulgated and published in the Federal Register concurrent with this Notice in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e). These exemptions will only be used to the extent necessary to ensure the effectiveness of EPA's criminal enforcement program.

[FR Doc. 86-9406 Filed 4-25-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to the Office of Management and Budget for Review

April 23, 1986.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511 (44 U.S.C. 3507).

Copies of this submission are available from the Commission by calling Doris R. Benn, (202) 632-7513. Persons wishing to comment on this information collection should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-7231.

Title: Emergency Broadcast System (EBS) Questionnaire.

Action: New (One-time survey).

Respondents: Radio and television stations in Massachusetts.

Estimated Annual Burden: 200 Responses; 34 Hours.

The questionnaire is to be completed by commercial and noncommercial radio and television stations in Massachusetts. The data will be sent to the State Emergency Communications Committee (SECC).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-9450 Filed 4-25-86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067-0116.

Title: Procurement Solicitations Issued by FEMA.

Abstract: FEMA, Acquisition Management's information collection requirements continue to be necessary under the Federal Procurement Regulations (FPR), superceded by the Federal Acquisition Regulations, and modifications to FPR contracts. The number of information requirements under FPR contracts decreases as FPR contracts are completed.

Type of Respondents: State or Local Governments, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations.

Number of Respondents: 1.

Burden Hours: 23,588.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street SW., Washington, D.C. 20472.

Comments should be directed to Mike Weinstein, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Rm. 3235, New Executive Office Building, Washington, DC 20503.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 86-9377 Filed 4-25-86; 8:45 am]

BILLING CODE 6718-01-M

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067-0123.

Title: State and Local Emergency Operations Plans.

Abstract: State and local emergency operations plans (EOP's) are necessary to facilitate a coordinated and effective response to containment of and recovery from major disasters or emergency situations.

Type of Respondents: State or Local Governments.

Number of Respondents: 950.

Burden Hours: 105,000.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street, SW., Washington, DC 20472.

Comments should be directed to Mike Weinstein, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Rm. 3235, New Executive Office Building, Washington, D.C. 20503.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 86-9376 Filed 4-25-86; 8:45 am]

BILLING CODE 6718-01

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 021-003079-007.

Title: Tampa Port Authority Lease Agreement.

Parties:

Tampa Port Authority
Eller & Company, Inc.

Synopsis: The proposed amendment would modify the agreement to provide for the lease of an additional 1.280 acres of bare land for a period of 25 years.

Agreement No.: 224-003985-005.

Title: Port of Seattle Terminal Agreement.

Parties:

Port of Seattle (Port)
Seacon Terminals, Inc. (Lessee)

Synopsis: The proposed amendment would reduce the leased premises by 3.1811 acres which are superfluous to the Lessee's needs, but can be used in connection with other Port facilities.

Agreement No.: 024-004008-004.

Title: Port of Oakland and Marine Terminals Corporation Management Agreement.

Parties:

Port of Oakland (Port)
Marine Terminals Corporation (MTC)

Synopsis: The proposed amendment would modify the agreement to provide a constructed method of calculating container crane hours for purposes of the crane usage compensation quota of 3000 hours in a contract year and to allow an additional reimbursement credit to MTC for its cost for certain permanent improvments made to the assigned premises in the sun of $21,017.00.

Agreement No.: 202-007540-045.

Title: United States Atlantic and Gulf/Southeastern Caribbean Conference.

Parties:

Puerto Rico Maritime Shipping Authority
Sea-land Service, Inc.
Shipping Corporation of Trinidad and Tobago Ltd.

Synopsis: The proposed amendment would delete Barbados, Surinam and Guyana from the scope of the agreement and change the number of days that members have to respond to telephone and telex polls. The parties have requested a shortened review period.

Agreement No.: 202-010693-010.

Title: Florida/Caribbean Liner Association.

Parties:

Bernuth Lines Ltd.
Tecmarine Lines, Inc.
West Indies Shipping Corp.
Shipping Corporation of Trinidad and Tobago
Sea-Land Service, Inc.
Concorde Caribe Lines, Ltd.

Synopsis: The proposed amendment would modify the agreement to provide that a party may take independent action effective upon one (1) calendar day's notice in lieu of seven (7) calendar days' notice to the Association Executive Director. The parties have requested a shortened review period.

Agreement No.: 224-010915

Title: Port of Portland Terminal Agreement

Parties:

Port of Portland (Port)
Nippon Yusen Kaisha, Ltd. (Lines)
Showa Line, Ltd. (Lines)

Synopsis: The proposed amendment would provide for the preferential use by the Lines of 7 acres of container yard and 2 container cranes. The preferential berthing period shall be for a fixed 48-hour period each week. The Port will perform all terminal stevedore services, vessel stevedoring, and services required in the movement of containers and cargo on or over the premises. The Lines agree to pay for these services in accordance with Port of Portland Terminal Tariff. The Lines will compensate the Port at a minimum annual fee of $500,000, for the first year and escalating on an annual basis thereafter. Revenue from dockage, wharfage, wharf demurrage, and storage paid by the Lines on their vessels and cargoes will be applied against the minimum annual guarantee. Revenues are to be shared between the Port and the Lines according to a formula set forth in the agreement. The term of the agreement is two years with renewal periods of one year each.

Agreement No.: 228-010916.

Title: Global Equipment Management Agreement.

Parties:

The East Asiatic Co. Ltd. A/S
Johnson Line AB
Rederiaktiebolaget Transatlantic
Wilh. Wilhelmsen Limited A/S
Barber Blue Sea
EAC-PNSL Service Ltd.
EAC Lines Trans Pacific Service Ltd.
Johnson Scanstar
Pacific Australia Direct Line
Rederiaktiebolaget Transocean

Synopsis: The proposed agreement would authorize the parties to be shareholders in an organization incorporated under the name Global Equipment Management Limited for purposes of the worldwide management and control of empty containers, and other equipment used in connection therewith, utilized by the parties. The parties have requested a shortened review period.

Agreement No.: 224-010917.

Title: Port of Vancouver Terminal Agreement.

Parties:

The Port of Vancouver (Port)
Hoegh Lines (Hoegh)

Synopsis: The proposed agreement would provide for the sharing of terminal revenues as a result of Hoegh's agreement to designate the Post as its Columbia River port of call. The agreement would be effective for an initial period of one year with an option for a year's extension.

By order of the Federal Maritime Commission.

Dated: April 23, 1986.

John Robert Ewers,

Secretary.

[FR Doc. 86-9444 Filed 4-25-86; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Revocations; Mark V. Systems, Inc.

Notice is hereby given that the following ocean freight forwarder license has been revoked by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

License Number: 2200.

Name: Mark V. Systems, Inc.

Address: 145 Hook Creek Blvd., Valley Stream, NY 11581.

Date Revoked: April 18, 1986.

Reason: Surrendered license voluntarily.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 86-9442 Filed 4-25-86; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Reissuance of License; New York Forwarding Services, Inc., et al.

Notice is hereby given that the following ocean freight forwarder licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act, 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR Part 510.

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License No.	Name and Address	Date Revoked
2769	New York Forwarding Services, Inc., 1901 Linden Avenue, Unit #12, Linden, NJ 07036	Apr. 9, 1986.
34-FI	Magnolia Forwarding Co., Inc., 935 Industry Road, Bay 2, Kenner, LA 70062.	Apr. 11, 1986.

Robert G. Drew,
Director, Bureau of Tariffs.
[FR Doc. 86-9443 Filed 4-25-86; 8:45 am]
BILLING CODE 6730-01-M

Licensing of Ocean Freight Forwarders; Filing of Petition to Amend Rules

April 23, 1986.

Notice is hereby given that a petition has been filed by the National Customs Brokers & Forwarders Association of America, Inc. (the Association), requesting the Commission to amend its rules pertaining to the licensing of ocean freight forwarders (46 CFR Part 510).

Specifically, the Association seeks amendments to the requirements regarding changes in a licensee's organization (§510.19); provisions relating to forwarding by ocean common carriers, non-vessel operating common carriers, or an agent of either (§510.4), payment of compensation to freight forwarders; liability of freight forwarders for ocean freight charges; reduced forwarding fees (§510.22(i)); and provisions relating to disclosure of forwarder charges (§510.22(g)).

In order for the Commission to make a thorough evaluation of the petition, intersted persons are requested to submit views, arguments or data on the petition no later than May 30, 1986. Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573, in an original and 15 copies. Responses shall also be served on counsel for the Association: Gerald H. Ullman, P.C., 40 Exchange Place, Suite 1300, New York New York 10005.

Copies of the petition are available for examination at the Washington, DC office of the Commission, 1100 L Street, NW., Room 11101.

John Robert Ewers,
Secretary.
[FR Doc. 86-9475 Filed 4-25-86; 8:45 am]
BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following person has filed an application for license as an ocean freight forwarder with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and 46 CFR Part 510.

Persons knowing of any reason why the following person should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Uniport Co., Inc., 55 Amity Street, Jersey City, NJ 07304, Officer: John Choi, Director/President.

By the Federal Maritime Commission.
Dated: April 23, 1986.
John Robert Ewers,
Secretary.
[FR Doc. 86-9440 Filed 4-25-86; 8:45 am]
BILLING CODE 6730-01-M

[Agreement No. 024-010835-001]

The Port of Portland Terminal Agreement; Erratum

The Federal Register Notice of April 17, 1986 (Vol. 51, No. 74, page 13094) stated that the above-named agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984. The agreement was inadvertently noticed as being subject to both Acts but should have been noticed pursuant to section 5 of the Shipping Act of 1984 only.

By Order of the Federal Maritime Commission.
Dated: April 23, 1986.
John Robert Ewers,
Secretary.
[FR Doc. 86-9440 Filed 4-25-86; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

President's Advisory Committee on Mediation and Conciliation; Meeting

Pursuant to section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the President's Advisory Committee on Mediation and Conciliation will be held on May 13, 1986, from 9:00 a.m. to 5:00 p.m. in Room 538 of the Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

The purpose of the meeting is to obtain the views of representatives of labor and management, and other qualified individuals, on the present state of arbitration in the resolution of labor-management disputes. A hearing procedure will be followed in which the views of witnesses will be transcribed for the record.

The meeting will be open to the public. Interested persons may file written statements with the Committee. Subject to reasonable Committee procedures, interested persons may also make oral statements on matters germane to subjects under consideration at the meeting.

Further information regarding this meeting can be obtained from Mr. Dennis R. Minshall, Executive Director, President's Advisory Committee on Mediation and Conciliation, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, or call (202) 653-5290.

Dated: April 23, 1986.
Duane M. Buckmaster,
Deputy Director, Federal Mediation and Conciliation Service.
[FR Doc. 86-9454 Filed 4-25-86; 8:45 am]
BILLING CODE 6372-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Company Engaged in Permissible Nonbanking Activities; Citizens Financial Group, Inc.

The organization listed in this notice has applied under § 225.23(a) (2) or (f) of the Board's Regulation Y (12 CFR 225.23(a) (2) or (f)) for the Board's approval under section 4(c) (8) of the Bank Holding Company Act (12 U.S.C. 1843(c) (8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 19, 1986.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. **Citizens Financial Group, Inc.**, Providence, Rhode Island; to acquire Gulf States Mortgage Co., Inc., Atlanta, Georgia, and thereby engage in making, acquiring and servicing residential mortgage loans secured by first and second mortgages on residential real estate and commercial mortgage loans pursuant to § 225.25(b)(1) of Regulation Y. Company will also engage in the sale, as agent, of credit life, credit accident and health and credit disability insurance in connection with extensions of credit by Company pursuant to § 225.25(b)(8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 22, 1986.
James McAfee,
Associate Secretary of the Board.
[FR Doc. 86-9358 Filed 4-25-86; 8:45 am]
BILLING CODE 6210-01-M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Espanola De Finanzas, S.A., et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their veiws in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 19, 1986.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Espanola De Finanzas, S.A.*, Barcelona, Spain; to become a bank holding company by acquiring 40 percent of the voting shares of Espanola De Finanzas Trust Company, Inc., Hato Rey, Puerto Rico.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Susquehanna Bancshares, Inc.*, Litiz, Pennsylvania; to acquire 100 percent of the voting shares of Williamsport National Bank, Williamsport, Pennsylvania.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Banterra Corp.*, Eldorado, Illinois; to acquire 100 percent of the voting shares of Norris City State Bank, Norris City, Illinois.

2. *Lakes Capital Corp.*, Water Valley, Mississippi; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of Water Valley, Water Valley, Mississippi. Comments on this application must be received not later than May 21, 1986.

3. *Security Bancshares, Inc.*, Des Arc, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Farmers and Merchants Bank, Des Arc, Arkansas.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222;

1. *Independent Community Financial Corporation*, Dallas, Texas; to acquire 100 percent of the voting shares of Coppell Financial Corporation, Dallas, Texas, and thereby indirectly acquire Independent Bank-Coppell, N.A., Coppell, Texas.

2. *Independent Community Financial Corporation*, Dallas, Texas, to acquire 100 percent of the voting shares of Independent Bank, N.A., Dallas, Texas.

Board of Governors of the Federal Reserve System, April 22, 1986.
James McAfee,
Associate Secretary of the Board.
[FR. 86-9359 Filed 4-25-86; 8:45 am]
BILLING CODE 6210-01-M

Applications To Engage de novo in Permissible Nonbanking Activities; Firstbank Holding Co. of Colorado et al.

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expressed to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 16, 1986.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Bank Holding Company of Colorado*, Lakewood, Colorado; to engage directly in the activity of issuance and sale of variably denominated "official checks" or similar instruments with no limitation as to maximum face value. Applicant also proposes to issue domestic orders with a maximum face value of up to $10,000.

2. *Nebraska National Corporation*, Omaha, Nebraska; to engage directly in the sale of all lines of insurance except life insurance and annuities pursuant to

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section 4(c)(8)(F) of the Bank Holding Company Act of 1956, as amended.

Board of Governors of the Federal Reserve System, April 22, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-9360 Filed 4-25-86; 8:45 am]

BILLING CODE 6210-01-M

National Westminster Bank PLC; Correction

This notice corrects a previous Federal Register document (FR Doc. 86-8714), published at page 13291 of the issue for Friday, April 18, 1986.

1. National Westminster Bank PLC, London, England, and Natwest Holdings, Inc., New York, New York; to engage *de novo* through their subsidiary County Natwest Government Securities, Inc., New York, New York, in underwriting, dealing in and brokering obligations of the United States, general obligations of states and their political subdivisions, and other obligations that state member banks of the Federal Reserve System may be authorized to underwrite and deal in under 12 U.S.C. 24 and 335, including bankers' acceptances and certificates of deposit, and, as in an incident thereto, employing hedging devices to manage interest rate risk, pursuant to § 225.25(b)(16) of the Board's Regulation Y. Comments on this application must be received no later than May 5, 1986.

Board of Governors of the Federal Reserve System, April 22, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-9356 Filed 4-25-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Alton Premium Feed Co.; Tylosin; Withdrawal of Approval

Correction

In FR Doc. 86-7359 begining on page 11481 in the issue of Thursday, April 3, 1986, make the following corrections:

1. On page 11481, in the third column, the **EFFECTIVE DATE** should read "April 14, 1986".

2. Under **SUPPLEMENTARY INFORMATION**, in the second paragraph, in the third line, "(21 U.S.C. 360(e))" should read "(21 U.S.C. 360b(e))".

3. In the same paragraph, in the last line, the date should read "April 14, 1986".

BILLING CODE 1505-01-M

Parke-Davis; Chloramphenicol Capsules; Withdrawal of Approval

Correction

In FR Doc. 86-7361 appearing on page 11482 in the issue of Thursday, April 3, 1986, the date "April 11, 1986" should read "April 14, 1986" in the two places it appears.

BILLING CODE 1505-01-M

[Docket No. 86E-0116]

Determination of Regulatory Review Period for Purposes of Patent Extension; Isovue

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Isovue and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims this human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael W. Cogan, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Isovue, a diagnostic nonionic, radiopaque contrast medium indicated for angiography throughout the cardiovascular system. Following FDA's approval, Bracco Industria Chimica, s.p.a., filed a patent term restoration application with the U.S. Patent and Trademark Office, which then requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated March 24, 1986, FDA advised the Patent Office that the product had undergone a regulatory review period and that Isovue represented the first commercial marketing or use of its active ingredient, iopamidol. Shortly thereafter, the Patent Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Isovue is 2,441 days. Of this time, 1,407 days occurred during the testing phase of the regulatory review period, while 1,034 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* April 28, 1979. FDA has verified that the investigational new drug application became effective on April 28, 1979 (30 days after its receipt by the agency; see 21 CFR 312.1(b)(4)).

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* March 4, 1983. FDA has verified that the new drug application (NDA 18-735) was initially submitted on March 4, 1983.

3. *The date the application was approved:* December 31, 1985. FDA was verified that NDA 18-735 was approved on December 31, 1985.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 2 years of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 27, 1986, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 27, 1986, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 22, 1986.

Allen B. Duncan,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 86-9366 Filed 4-25-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86E-0128]

Determination of Regulatory Review Period for Purposes of Patent Extension; Orudis

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Orudis and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims this human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael W. Cogan, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the intitial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B)

FDA recently approved for marketing the human drug product Orudis, a nonsteroidal anti-inflammatory drug. Following FDA's approval, Rhone-Poulenc, S.A., filed a patent term restoration application with the U.S. Patent and Trademark Office, which then requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated March 27, 1986, FDA advised the Patent Office that the product had undergone a regulatory review period and that Orudis represented the first commercial marketing or use of its active ingredient, ketoprofen. Shortly, thereafter, the Patent Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Orudis is 4,925 days. Of this time, 3,529 days occurred during the testing phase of the regulatory review period, while 1,396 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* July 18, 1972. FDA has verified that the investigational new drug application became effective on July 18, 1972 (30 days after its receipt by the agency; see 21 CFR 312.1(b)(4)).

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* March 16, 1982. FDA has verified that the new drug application (NDA 18-754) was initially submitted on March 16, 1982.

3. *The date the application was approved:* January 9, 1986. FDA has verified that NDA 18-754 was approved on January 9, 1986.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 2 years of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 27, 1986, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 27, 1986, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 23, 1986.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 86-9367 Filed 4-25-86; 8:45 am]

BILLING CODE 4160-01-M

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[Docket No. 86E-0097]

Determination of Regulatory Review Period for Purposes of Patent Extension; Temovate

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Temovate and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims this human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael W. Cogan, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Temovate, a synthetic corticosteroid for topical dermatological use. Following FDA's approval, Glaxo Operations UK Limited filed a patent term restoration application with the U.S. Patent and Trademark Office, which then requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated March 24, 1986, FDA advised the Patent Office that the product had undergone a regulatory review period and that Temovate represented the first commercial marketing or use of its active ingredient, clobetasol propionate. Shortly thereafter, the Patent Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Temovate is 1,368 days. Of this time, 883 days occurred during the testing phase of the regulatory review period, while 485 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* April 1, 1982. FDA has verified that the investigational new drug application became effective on April 1, 1982 (30 days after its receipt by the agency; see 21 CFR 312.1(b)(4)).

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* August 30, 1984. FDA has verified that the new drug application (NDA 19-322) was initially submitted on August 30, 1984.

3. *The date the application was approved:* December 27, 1985. FDA has verified that NDA 19-322 was approved on December 27, 1985.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 2 years of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 27, 1986, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 27, 1986, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 22, 1986.

Allen B. Duncan,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 86-9368 Filed 4-25-86; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meeting: The following advisory committee meeting is announced:

Circulatory System Devices Panel

Date, time, and place. May 23, 8:30 a.m., Rms. 703-727A, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m.; open committee discussion, 10 a.m. to 2 p.m.; closed committee deliberations, 2 p.m. to 4 p.m.; Keith Lusted, Center for Devices and Radiological Health (HFZ-450), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7594.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of medical devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the

committee contact person before May 13, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a percutaneous transluminal coronary angioplasty guideline, a premarket approval application (PMA) for a pulse generator system, and possibly a PMA for a steroid tip permanent pacing lead.

Closed committee deliberations. The committee may discuss trade secret or confidential commercial information regarding the PMA's listed above. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA-305), Rm. 4-62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commerical or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portion so FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; a new review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements of a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Publ. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: April 16, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86-9365 Filed 4-25-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket Nos. 84P-0304 and 84P-0305]

Helena Laboratories and Aviv Biomedical, Inc.; Neonatal Total and Unbound Bilirubin Test Systems; Panel Recommendation on Petitions for Reclassification

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment the recommendation of the Clinical Chemistry and Clinical Toxicology Devices Panel (formerly the Clinical Chemistry Section of the Clinical Chemistry and Hematology Devices Panel) that FDA reclassify the neonatal total and unbound bilirubin test system from class III (premarket approval) into class I (general controls). The Panel made this recommendation after review of reclassification petitions filed by Helena Laboratories (Docket No. 84P-0304) and by Aviv Biomedical, Inc. (Docket No. 84P-0305). FDA is also

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issuing for public comment its tentative findings on the recommendation. After reviewing and public comments on the recommendation. After reviewing any public comments on the recomendation and FDA's tentative findings, FDA will approve or deny the reclassification petitions by order in the form of a letter to each petitioner. FDA's decisions on the petitions will be announced in the Federal Register.

DATE: Comments by May 28, 1986.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Kaiser Aziz, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 8757 Georgia Ave., silver Spring, MD 20910, 301–427–7550.

SUPPLEMENTARY INFORMATION:

Introduction

Petition 84P–0304; Helena Laboratories

On December 20, 1982, Helena Laboratories, Beaumont, TX 77704, submitted to FDA under section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(f)(2)) a reclassification petition for a device the manufacturer called "The Helena Front Face Fluorometer (Bilirubinometer) and Bili-Assay System." The petitioner later submitted supplements to the petition dated August 30, 1983, and October 26, 1983. In its August 30, 1983 supplement, the manufacturer announced that the name of the device had been changed. The new name, which the petitioner intends to include on the device label as well as in all other labeling for the device, is "The Helena Laboratories Automated Bilirubin Binding Analyzer" (referred to in this notice as the "ABBAS Analyzer").

Petition 84P–0305; Aviv Biomedical, Inc.

On September 6, 1983, Aviv Biomedical, Inc., Lakewood, NJ 08701, submitted to FDA under section 513(f)(2) of the act a reclassification petition for a device the manufacturer called "The Aviv Bilirubin Hematofluorometer System (AVIV–BHS)." The petitioner later submitted supplements to the petition dated October 19, 1983, and May 21, 1984. In its May 21, 1984 supplement, the petitioner announced that the name of the device had been changed. The new name, which the petitioner intends to inlcude on the device label as well as in all other labeling for the device, is "Aviv Neonatal Bilirubin Hematofluorometer System" (referred to in this notice as the "AVIV–NBHS").

FDA is considering both petitions for reclassification (Docket Nos. 84P–0304 and 84P–0305) together because each test system utilizes fluorometers of similar design and each device employs hematofluorometry technology to determine parameters of total bilirubin and unbound bilirubin in the blood of neonates. The data obtained by each system are used in the clinical management of neonates with unconjugated hyperbilirubinemia and in the assessment of risk to the neonates of bilirubin-associated brain damage (kernicterus).

Background Information on Evaluating and Managing the Jaundiced Neonate

Bilirubin is a yellow "bile pigment" and a byproduct of red blood cell/hemoglobin metabolism. The two major forms of the byproduct are unconjugated bilirubin and conjugated bilirubin. The unconjugated form, also called indirect bilirubin, is not water soluble. It is converted into the conjugated, water soluble form by the liver. The water soluble bilirubin then passes into the circulation and is excreted by the kidneys.

The liver of neonates does not efficiently convert unconjugated bilirubin to the conjugated, water soluble form during the first 3 to 5 days postpartum. Increased levels of bilirubin in the serum produce yellowing of the skin and cornea, which is referred to as jaundice. In neonates, increased bilirubin levels in the serum can cause the clinical syndrome know as kernicterus (deposition of bile pigments into the brain and spinal cord). Kernicterus, also called bilirubin encephalopathy, can result in irreversible brain damage (Refs. 1a, 1b. 1f, 3h, 3i, and 3k). High serum bilirubin concentrations, however, do not always coincide with the development of kernicterus; for example, low body weight infants sometimes develop kernicterus at low bilirubin levels. For this reason, it is necessary to measure parameters other than serum bilirubin concentrations for assessing the likelihood of kernicterus development.

Bilirubin binds most strongly to the plasma protein albumin, with secondary binding on red cell membranes and other plasma proteins. The albumin binding of bilirubin appears to protect the central nervous system against bilirubin toxicity until the primary binding site has been saturated. It is difficult to determine a "safe" level of serum bilirubin, however, due to the variability in individual tolerances. The measurement of either bound bilirubin in blood or the reserve bilirubin-binding capacity of albumin provide additional indices for assessing the likelihood of kernicterus.

The clinical data obtained to date, and ongoing clinical studies, support the quantitation of the albumin-bound bilirubin and the reserve bilirubin-binding capacity of albumin as diagnostic tools in the assessment of neonate bilirubin levels. Over the past 20 years, many methods have been developed to estimate the reserve binding capacity of newborn sera. These tests range widely in complexity. Most of the methods are limited by one or more factors, including technical difficulty, equipment costs, imprecision, interferences, blood volume requirements, and inaccuracy in the presence of elevated conjugated bilirubin. The recent developments in the technique of "hematofluorometry" afford adequate diagnostic assays suitable for routine use in clinical laboratories (Ref. 1a).

The Statutory Scheme

Classification

Section 513(a) of the act establishes three classes of devices: class I (general controls), class II (performance standards), and class III (premarket approval). Classification of a device is determined by the level of regulatory control needed to provide reasonable assurance of the safety and effectiveness of the device. A class I device is a device for which the "general controls" authorized by or under various sections of the act are sufficient to provide reasonable assurance of the safety and effectiveness of a device. A class II device is a device for which general controls by themselves are insufficient to provide reasonable assurance of the safety and effectiveness of the device, for which there is sufficient information to establish a performance standard to provide such assurance, and for which it is therefore necessary to establish a performance standard to provide reasonable assurance of its safety and effectiveness. A class III device is a device that cannot be classified into class I or class II and that is purported or represented to be for use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, or that presents a potential unreasonable risk of illness or injury. Premarket approval obtained in accordance with section 515 of the act is required to provide reasonable assurance of the safety and effectiveness of a class III device.

Reclassification

The data on which any reclassification is based are required to consist of "valid scientific evidence," as defined in section 513(a)(3) of the act and 21 CFR 860.7 of the regulations. As specified in 21 CFR 860.123(a)(6), the valid scientific evidence of safety and effectiveness contained in a petition for reclassification must demonstrate (1) why the device should not be classified in its present classification and (2) how the proposed classification will provide reasonable assurance of safety and effectiveness of the device. For the purpose of reclassification, the valid scientific evidence upon which the agency relies may not be based on trade secret or confidential commercial information obtained by FDA under various sections of the act (see section 520(c) of the act (21 U.S.C. 360j(c), 21 CFR 860.5(e)) or on the detailed summaries of information respecting the safety and effectiveness of devices for which there are approved premarket approval applications or product development protocols that have been declared completed (see section 520(h)(3) of the act).

The Devices

Bell Laboratories, Murray Hill, NJ 07974, developed an instrument called the Bilirubin Hematofluorometer, which uses the technique of hematofluorometry in the assessment of neonate bilirubin levels. Bell Laboratories currently is neither manufacturing nor selling the instrument, but has made the technology of hematofluorometry available to interested instrument manufacturers.

The technology of hematofluorometry is based on the following chemical principles and instrument design. The assays provided by a hematofluorometer depend on the fluorescent proterties of unconjugated bilirubin. Although bilirubin absorbs blue light regardless of its environment, its subsequent green light emission (fluorescence) is critically dependent upon its molecular surroundings. A hematofluorometer takes advantage of the fact that in blood, essentially only the bilirubin bound to its primary binding site on albumin is fluorescent; bilirubin bound at secondary albumin sites, to other serum proteins, to red cells, and to any unbound bilirubin is essentially not fluorescent.

Thus, the concentration of albumin-bound bilirubin (primary site) is determined directly from the intensity of the green fluorescence of a whole blood specimen. The total albumin binding capacity is measured from the intensity of fluorescence of another aliquot of specimen after it is saturated with bilirubin. The reserve bilirubin-binding capacity of albumin is the difference between these two values. The hematofluorometer saturation index, which is proportional to the unbound bilirubin concentration, is defined as 10 times the ratio of the bound bilirubin to the reserve binding capacity (10 x B/R). This number approximates the value of apparent "unbound" bilirubin concentration (free bilirubin in solution).

A detergent can, within a few minutes, completely extract bilirubin from all binding sites in blood, including the red cells. Bilirubin is fluorescent when incoroporated into the detergent. Consequently, the total blood bilirubin is determined from the fluorescence of a third aliquot of blood promptly after adding a small amount of detergent to it.

The ABBAS Analyzer, described in the Helena Laboratories petition (Docket 84P–0304), is an unmodified version of the prototype instrument developed and evaluated by Bell Laboratories. It is a microprocessor-based, front-face fluorometer, which measures bound bilirubin, total bilirubin, and the reserve bilirubin-binding capacity of albumin in whole blood. It calculates the total minus the bound bilirubin, the ratio of bound bilirubin to reserve bilirubin-binding capacity, and a saturation index.

The ABBAS Analyzer has four sample compartments, which consist of a tray for holding a slide containing the samples for assay. Three samples are put on the slide: heparinizd whole blood plus ABBAS Lysing Reagent, unaltered heparinized whole blood, and heparinized whole blood plus sodium bilirubinate (AABAS Bilirubin Reagent). The fourth sample compartment serves as a blank. The slide is drawn into the instrument for excitation of the samples and fluorescence measurements. The device's microprocessor calculates the bound bilirubin (B), the total bilirubin (T), the total minus bound bilirubin (T–B), the unbound bilirubin (U), and the reserve bilirubin-binding capacity (R) in milligrams per deciliter (mg/dL) of plasma. The microprocessor also calculates the saturation index (SI) in nanomoles per liter, and bound bilirubin/reserve bilirubin-binding capacity as a ratio without units. Requests for data entries, data entries, and results of the assay appear on the display, or printout, or both.

The ABBAS Analyzer uses whole blood specimens, as necessary for the "front-surface" fluorescence mode employed. The device makes use of the bottom surfaces of the blood aliquots by viewing the surface through a glass slide on which the aliquots are placed. The ABBAS Analyzer requires a determination of the patients's hematocrit using a standard microhematocrit method as described in the procedure accompanying the reagents.

The AVIV-NBHS described in the Aviv Biomedical, Inc., petition (Docket 84P–0305), is a modified version of the prototype instrument developed and evaluated by Bell Laboratories. A built-in microprocessor controls the instrument functions and performs all data analyses; the system provides in less than 5 minutes an evaluation of a set of four blood bilirubin parameters (total blood bilirubin (T), albumin-bound bilirubin (B), reserve binding capacity (R), and a bilirubin-albumin saturation index (SI)). The AVIV–NBHS utilizes disposable assay kits containing premeasured reagents and ministirring bars. In addition, a uranium-glass "checker-slide" is supplied with each instrument to allow assessment of instrument performance. A reagent that allows preparation of an appropriate test blood speciment is also available for use in quality control of the entire protocol.

The AVIV–NBHS also uses whole blood specimens, as necessary for the "front-surface" fluorescence mode employed. Unlike the ABBAS Analyzer, however, the AVIV–NBHS makes use of the top surfaces of the blood aliquots. Also, the AVIV–NBHS uses a complete prepackaged disposable reagent kit and allows for total automation of the mixings and incubations. The AVIV–NBHS employs an automated hematocrit determination, requiring a fourth blood aliquot (performed as a separate task in the ABBAS Analyzer).

The ABBAS Analyzer and the AVIV–NBHS are automatically classified into class III under section 513(f)(1) of the act because they are not substantially equivalent to any preamendments device (i.e., a device that was in commercial distribution before May 28, 1976, the enactment date of the Medical Device Amendments of 1976 (Pub. L. 94–295)) or to a postamendments device that has been reclassified (i.e., a device that was not in commercial distribution before May 28, 1976, but that has been reclassified into class I or II).

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(2)), before a class III device may be marketed, it must either be reclassified under section 513(f)(2) of the act or have premarket approval under section 515 of the act. Neither the ABBAS Analyzer nor the AVIV–NBHS has premarket approval.

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Panel Review

Section 513(f)(2) of the act requires FDA to refer a reclassification petition to the appropriate FDA advisory commitee and to receive a recommendation on whether to approve or deny the petition. Accordingly, FDA referred the petitions to the Clinical Chemistry and Clinical Toxicology Devices Panel for its consideration and a recommendation on the change in classification requested by the petitioners. As discussed under the section of this notice titled "Introduction," FDA referred both petitions together to the Panel because the ABBAS Analyzer and the AVIV–NBHS utilize fluorometers of similar design and each device employs hematofluorometry technology to determine parameters of total bilirubin and unbound bilirubin in the blood of neonates.

The Panel's Recommendation

During an open public meeting on February 28, 1984, the Panel considered the petitions. To determine the proper classification of the devices, the Panel considered the criteria specified in section 513(a)(1) of the act. The Panel recommended that FDA reclassify the generic type of device from class III into class I. (See 21 CFR 868.3(i) for a definition of the term "generic type of device.") The Panel also recommended that FDA assign to this generic type of device the name "total and unbound bilirubin in the neonate test system" and identify it as a device intended to measure the concentration of total and unbound bilirubin in the blood (serum) of newborn infants to aid in indicating the risk of bilirubin encephalopathy (kernicterus).

Summary of the Reasons for the Recommendation

The Panel gave the following reasons in support of its recommendation on reclassification:

1. The device is not an implant, is neither life-supporting nor life-sustaining, and does not present a potential unreasonable risk of illness or injury.

2. General controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Summary of the Data Upon Which the Recommendation Is Based

The Panel based its recommendation that the ABBAS Analyzer and the AVIV-NBHS be reclassified from class III into Class I on data in petitions (Refs. 1 and 3) and on the published reports whose reprints are included in the petitions (Refs. 1a through 1g for 84P-0305 and Refs. 3a through 3k for 84P-0304). The studies discussed below in this notice showed the accuracy, precision (reproducibility), specificity, sensitivity, and clinical utility of the two devices.

Accuracy

ABBAS Analyzer

Cashore et al. (Ref. 3a), using the Bell Laboratories' Bilirubin Hematofluorometer prototype system, conducted a clinical study to compare the agreement among the fluorometric results with the device and those obtained by other analytical methodologies. In that study, values for total bilirubin (T) and total minus bound bilirubin (T–B) were determined fluorometrically on 35 blood samples collected from 28 jaundiced neonates. The infants in the study included jaundiced neonates without complications and jaundiced neonates with complications.

The following summary of the average values illustrates that measurement of either bound bilirubin or the reserve bilirubin-binding capacity of albumin provides indices for assessing the likelihood of various complications, including development of kernicterus. A comparison of "complications" with "no complications" neonates demonstrates that the measured fraction of bilirubin not bound to albumin (T–B) was significantly larger in "sick" infants.

SUMMARY OF AVERAGE VALUES IN JAUNDICED NEONATES

[Average ± Standard Deviation]

Bilirubin measurement	No complications	Complications
Total (T)	14.7±5.3 mg/dL	10.2±3.4 mg/dL
Total-bound (T–B)	1.2±0.4 mg/dL	2.3±0.6 mg/dL
Total-bound/total (T–B)/T	9±5 percent	23±8 percent
Total Binding Capacity (Bound+Reserve)	25.3±5.1 mg/dL	16.4±2.7 mg/dL

Cashore et al. compared data on the concentrations of total bilirubin, albumin-bound bilirubin, and the reserve and total bilirubin-binding capacities of the 35 neonatal blood samples, assayed by the Bell Laboratories' Bilirubin Hematofluorometer prototype system, to results of Ehrlices diazo reaction (diazo), gel filtration, and peroxidase-oxidation analytical methods. The accuracy of conventional diazo and peroxidase-oxidation methods has been established by studies giving analytical mean recoveries of 97 percent of pure bilirubin added to sera.

Total bilirubin concentrations determined by the hematofluorometer agreed well with the concentrations determined by the diazo assay (r=0.98, s=1.7 mg/dL). (The correlation coefficient (r), and the standard error (s), of the comparisons are statistical measures of the performance of the assay systems.) Likewise, albumin-bound bilirubin concentrations determined by the hematofluorometer also agreed well with the diazo assay values (r=0.95, s=1.9 mg/dL). The values for total bilirubin-binding capacity determined by the hematofluorometer agreed well with the results obtained for the same specimens by gel filtration (r=0.97, s=1.8 mg/dL) and by peroxidase-oxidation (r=0.77, s=1.7 mg/dL). The lower correlation coefficient for the peroxidase-oxidation method is due to the known lower effective binding of bilirubin in neonatal sera compared to adult sera using the peroxidase-oxidation method.

R. Wells et al. (Ref. 3c) conducted a study on the relationships of bilirubin-binding parameters using the Bell Laboratories' Bilirubin Hematofluorometer prototype system with bilirubin-binding parameters determined by the conventional peroxidase-oxidation method. The apparent unbound bilirubin concentration (U) determined by the peroxidase-oxidation method and the total unconjugated bilirubin in blood (T), albumin-bound bilirubin (B), and reserve bilirubin-binding capacity (R) by the hematofluorometer were measured in 164 clinical specimens from 98 neonates and in a series of "artifactual" specimens which were made by adding bilirubin to the blood of a single adult donor. These authors found linear correlations between U and B/R for both the artifactual specimens (r=0.99) and the clinical specimens (r=0.87). They observed an excellent linear correlation between U and T–B for the artifactual specimens (r=0.96) and found a significant linear correlation between U and T–B for the clinical neonate specimens (r=0.72). The correlation was less good for the clinical specimens because variability was introduced by the necessity to collect the data over a period of months and perturbations introduced by phototherapy are expected. A linear correlation between U and T–B supports the hypothesis that both the hematofluorometer and the peroxidase-oxidation methods provide valid measurements of bilirubin-binding status.

The study by R. Wells et al. also suggested that a saturation index (10 X B/R) of about 10 nanomoles per liter calculated by the Bell Laboratories' Bilirubin Hematofluorometer prototype system corresponds to a risk of bilirubin encephalopathy. A saturation index of about 20 corresponds to a high risk of the disease condition. Saturation indexes of 10 and 20 correspond to 50 and 67 percent saturation, respectively, of the primary albumin-binding sites.

The petitioner also provided unpublished studies conducted by A.A. Faranoff and the petitioner, designed to compare the ABBAS Analyzer with the Bell Laboratories' Bilirubin Hematofluorometer prototype system, using 39 patients' blood samples in a pediatric clinical laboratory setting. Also, 11 artificially elevated bilirubin whole blood specimens were analyzed on the ABBAS Analyzer and on the Bell Laboratories' Bilirubin Hematofluorometer prototype system. The petitioner submitted graphs and statistical summaries providing correlation coefficients of the combined clinical and analytical data obtained with both device systems. The correlation coefficients for reserve-binding capacity, albumin-bound bilirubin, and saturation index were 0.98, 0.94, and 0.96, respectively.

In other unpublished studies submitted with the petition, A.A. Faranoff assessed the accuracy of the ABBAS Analyzer using five artificially elevated whole blood bilirubin standards with constant bilirubin concentration (10 g/dL) and varied hematocrits (30, 40, 50, 60, 70 percent). The samples were assayed simultaneously on the ABBAS Analyzer and the Bell Laboratories' Bilirubin Hematofluorometer prototype system for total bilirubin, reserve bilirubin-binding capacity, and albumin-bound bilirubin. All three measures showed excellent linearity and a correlation coefficient of 0.99.

In summary, the results from the studies by Cashore et al., Wells et al, Faranoff, and the petitioner show that the ABBAS Analyzer and the Bell Laboratories' Bilirubin Hematofluorometer prototype system are statistically indistinguishable. Therefore, it can be concluded that the two fluorometric device systems are operationally equivalent. Further, the accuracies of assays by hematofluorometry with both instrument systems are comparable to those of established chemical determinations of total bilirubin and bilirubin-binding parameters.

AVIV–NBHS

R. Wells et al. (Ref. 1f) in a 5-month study using patients' blood samples in a pediatric clinical laboratory setting compared the accuracy of the AVIV–NBHS with that of the Bell Laboratories' Bilirubin Hematofluorometer prototype system. The specimen distribution covered a large clinical range of total blood bilirubin, albumin-bound bilirubin, reserve-binding capacity, and bilirubin-albumin saturation index values. The neonate population of 98 infants from which 164 specimens were obtained also covered a large range of clinical situations. The neonates included jaundiced but otherwise healthy full-term infants, low birth-weight premature infants who required exchange transfusion, and infants who received phototherapy. The petitioner supplied graphs of the data and a statistical summary of the data of the four hematofluorometer parameters (T, B, R, SI) obtained with the AVIV–NBHS compared with data obtained with the Bell Laboratories' Bilirubin Hematofluorometer prototype system.

The analytical results obtained with the two fluorometric device systems were statistically indistinguishable (r=0.90, s=1.83 mg/dL). Therefore, it can be concluded that the two systems are operationally equivalent.

R. Wells et al. also compared plasma total bilirubin values on 98 samples analyzed by the conventional diazo assay with corresponding T values obtained on the AVIV–NBHS. The results from the two methods for quantitating total bilirubin were entirely comparable (r=0.89). These authors also performed recovery studies in which they added increasing amounts of pure bilirubin to blood containing very low concentrations of bilirubin. They then determined T on 16 treated samples with the AVIV–NBHS and assayed the samples chemically for total bilirubin using the diazo assay. The results from the two methods for quantitating the added bilirubin compared very closely (r=0.99).

The petitioner also supplied graphs and a statistical summary comparing the data for B, R, and SI, on 98 neonatal blood samples obtained by R. Wells et al. with the AVIV–NBHS and with the Bell Laboratories' Bilirubin Hematofluorometer prototype system. The results for B from the two systems were statistically indistinguishable (r=0.93, s=1.32 mg/dL), demonstrating that the systems are operationally equivalent for assaying B. Likewise, for R, r was 0.91, s was 1.62 mg/dL; for SI, r was 0.96, s was 1.10 mg/dL. (In the AVIV–NBHS, SI is displayed rounded off to the nearest whole number. In the study, comparison whole number SI values were calculated in the same way from the B and R values obtained with the Bell Laboratories' Bilirubin Hematofluorometer prototype system.)

Cashore et al. (Ref. 1b) conducted comparative studies on 24 blood samples taken from low birth-weight premature infants with relatively severe hyperbilirubinemia. Although this study was directed primarily at testing the relationship between the values of SI obtained with the AVIV–NBHS and those of the unbound bilirubin as obtained by the conventional peroxidase-oxidation method, Cashore et al. also assayed the plasma total bilirubin in each of the samples by the conventional diazo assay. These authors concluded that the two methods for quantitating total bilirubin compared very well (r=0.94).

The petitioner provided an unpublished study by Ahlfors which compared the saturation index determined by the AVIV–NBHS on 27 neonatal blood samples with the unbound bilirubin levels in plasma determined by the peroxidase-oxidation method on the same samples. It is convenient to combine the statistical summary of the values of SI obtained with the AVIV–NBHS by Cashore et al. on 24 blood samples with the summary of the similar unpublished study conducted by Ahlfors at a different medical center. The results of the 2 studies were quite satisfactory for the 51 samples (combined r=0.91, s=2.1 millimoles bilirubin). The results are particularly useful because these data compare the performance of the AVIV–NBHS in determining saturation index with the conventional peroxidase-oxidation method of determining unbound bilirubin levels at two different medical centers.

In summary, the data from R. Wells et al., Cashore et al., and Ahlfors show that, in comparing the total blood bilirubin assay of the AVIV–NBHS to the conventional diazo assay for plasma total bilirubin, the AVIV–NBHS is operationally comparable to the Bell Laboratories' Bilirubin Hematofluorometer prototype system. Further, the accuracies of assays by hematofluorometry with both instrument systems are comparable to those of other established chemical determinations of total bilirubin.

Precision

The petitioners demonstrated the precision (reproducibility) of the devices as an integral part of the various studies discussed under "Accuracy." Information on precision was provided in the form of the conventional statistical term "coefficient of variation (C.V.)," expressed as a percentage. (The

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coefficient of variation (C.V.)," expressed as a percentage. (The coefficient of variation is a measure of the dispersion of a group of values around an average; the smaller the coefficient of variation, the more precise is the analytical system.)

ABBAS Analyzer

Cashore et al. (Ref. 3a) assessed the precision of the Bell Laboratories' Bilirubin Hematofluorometer prototype system by calculating the coefficients of variation for three to seven repeated determinations on each of 35 blood samples assayed by the device. These authors reported the C.V.'s for determination of total bilirubin, bound bilirubin, reserve bilirubin-binding capacity, and total binding capacity (taken as the sum of the readouts for bound bilirubin and reserve bilirubin-binding capacity to be 8.4, 9.4, 12.6, and 6.5 percent respectively.

The apparent large C.V. for reserve bilirubin-binding capacity is attributable mainly to the fact that the Bell Laboratories Bilirubin Hematofluorometer prototype system displays reserve bilirubin-binding capacity to the nearest 1 mg/dL with 1 mg/dL digital precision. In addition, the value for reserve bilirubin-binding capacity is derived from measurements on two drops of blood and includes the variations in both drops. The observed 12.6 percent C.V. corresponds to a 1 mg/dL precision in the reserve bilirubin-binding capacity when the value is 8 mg/dL. Cashore et al. reported that the instrumental variations alone are smaller than the C.V.'s determined in their clinical setting—slightly less than 1 percent based on repeated measurements of a stable fluorescent standard.

R. Wells et al. (Ref. 3c) using the Bell Laboratories' Bilirubin Hematofluorometer prototype system determined the C.V. values for a series of 32 blood samples with albumin concentrations which ranged from 16 to 40 g/L, unconjugated bilirubin concentrations from 7 to 360 mg/L, and hematocrit concentrations from 39 to 44 percent. The samples were assayed for total bilirubin, bound bilirubin, and reserve bilirubin-binding capacity. The assays were run in duplicate and were averaged. These authors reported the C.V.'s for each of the parameters to be 5.4 percent, 4.2 percent, and 8.4 percent, respectively. The instrument variation was 0.8 percent, which indicated a very stable instrument.

In unpublished studies submitted with the petition, Faranoff and the petitioner compared the precision of the ABBAS Analyzer and the Bell Laboratories' Bilirubin Hematofluorometer prototype system using five artificially elevated whole blood bilirubin standards with constant bilirubin concentration (10 mg/dL) and varied hematocrits (30, 40, 50, 60, 70 percent). The following values were obtained:

	ABBAS analyzer (Percent)	Bell system (Percent)
Total blood bilirubin	10 C.V.	15 C.V.
Reserve binding capacity	15 C.V.	14 C.V.
Albumin-bound bilirubin	11 C.V.	10 C.V.

The petitioner also assessed the precision of the ABBAS Analyzer using either artificially elevated bilirubin whole blood or the ABBAS Bilirubin Reagent to evaluate the performance characteristics of the system. With-in run C.V.'s were less than 3 percent for total bilirubin and for bound bilirubin, and less than 7 percent for reserve bilirubin-binding capacity. Run-to-run C.V.'s were less than 5 percent for total bilirubin and for bound bilirubin, and less than 13 percent for reserve bilirubin-binding capacity.

In summary, the results of these precision studies show that the ABBAS Analyzer and the Bell Laboratories' Bilirubin Hematofluorometer prototype system are comparably precise (reproducible). Further, the precision results encompass additional data on the accuracy as compared with conventional assay methods. Thus, it is demonstrated that the two hematofluorometer systems are operationally equivalent both in reproducibility and in accuracy.

AVIV–NBHS

The precision of the Bell Laboratories' Bilirubin Hematofluorometer prototype system for quantitating T, B, R, and SI as determined by Wells et al. (Ref. 1f) was quite similar to that of the AVIV–NBHS as determined by Ahlfors in that author's unpublished study submitted with the petition. Therefore, it is convenient to report the statistical summaries of the C.V. values of both studies as follows:

Analytical system	Percent C.V.		
	T	B	R
AVIV–NBHS (Ahlfors data)	2.3	5.7	4.8
Bell prototype (Wells data)	4.2	5.4	8.4

The petitioner submitted additional unpublished precision data on the AVIV–NBHS. In a study involving duplicate determinations on each of 25 samples, Banagale obtained a C.V. of 5.2 percent for reserve binding capacity. This compares favorably with the C.V. of 4.8 percent for reserve binding capacity obtained by Ahlfors (see table above). These precision studies showed that the AVIV–NBHS and the Bell Laboratories' Bilirubin Hematofluorometer prototype system are comparably precise. Further, the precision results encompass additional data on the accuracy as compared with conventional assay methods. Thus, it is demonstrated that the two systems are operationally equivalent both in reproducibility and in accuracy.

The petitioner also reported on two evaluations of the precision of the AVIV–NBHS alone (independent of the disposable reagent components). In the first evaluation, the uranium-glass "checker-slide" supplied with the device showed a C.V. of 0.6 percent, a variation which indicates a very stable instrument. In the second evaluation, instrument C.V. was determined by multiple determinations of the fluorescence intensity associated with a stable solution. Two experiments of 100 runs each yielded C.V.'s of 2.3 percent on each run, an acceptable value.

Specificity

Two circumstances are known to cause erroneous bilirubin measurements by the ABBAS Analyzer and by the AVIV–NBHS.

First, about 10 percent of the circulating bilirubin in infants undergoing phototherapy may be in a chemically altered form that does not fluoresce when bound to albumin. Thus, albumin-bound bilirubin in specimens of blood from infants undergoing phototherapy may be underestimated by as much as 10 percent (Ref. 3j). This underestimate of albumin-bound bilirubin, however, is considered to be clinically insignificant (Ref. 3j). The total blood bilirubin is not affected by phototherapy.

Second, the ABBAS Analyzer and the AVIV–NBHS cannot differentiate between conjugated and unconjugated serum bilirubin. The devices are calibrated for unconjugated bilirubin. The relative fluorescence of conjugated and unconjugated bilirubin is such that the devices will read about 2.5 mg/dL for every 1 mg/dL of directly reacting bilirubin in the blood specimen. Thus, both devices err conservatively in that both give a consistently high reading of bilirubin concentrations. The direct reacting bilirubin levels have to be checked by a conventional assay method if there is any suspicion that conjugated bilirubin might be present in the blood specimen.

The petitioners also addressed the possible effects of drugs and intravenous nutritional therapy on the specificity of the devices. Helena Laboratories concluded that those drugs that are commonly administered to neonates and that contain a colored substance which may potentially interfere with the results are: ampicillin, gentamicin, phenobarbitol, indomethacin, and riboflavin. Helena Laboratories includes in the labeling for the ABBAS Analyzer cautions that some drugs, e.g., sulfonamides, and some fatty acids, e.g., intralipids, may affect the assay.

AVIV Biomedical, Inc., provided a detailed literature review of the known effects of drugs administered to neonates upon the results of assays performed with the AVIV–NBHS (Ref. 2). AVIV Biomedical, Inc., concluded from its review of the literature that the only substance administered to infants that is known to interfere with hematofluorometer assays for bilirubin is riboflavin and the interference observed is clinically insignificant. Drugs or metabolites that are not colored are not expected to cause interference. The most common drugs given to infants have been tested for interference with hematofluorometer assays and found not to interfere. Only extremely rare disease states give rise to fluorescent substances in blood other than bilirubin. AVIV Biomedical, Inc., includes in the labeling of the AVIV–NBHS pertinent portions of this literature review.

The specificity of the ABBAS Analyzer and the AVIV–NBHS measurements is shown to be adequate for their assays for unconjugated bilirubin and the status of the binding of bilirubin to plasma albumin in specimens of whole blood of neonates. The circumstances known to cause errors in hematofluorometry readings can be described and discussed in the device products' labeling.

Sensitivity

As discussed under the section of this notice titled "Introduction," accurate measurement of elevated levels of albumin-bound bilirubin and of the reserve binding capacity of albumin is necessary for the information to be useful in the clinical management of the jaundiced neonate. Thus, in evaluating the sensitivity of the ABBAS Analyzer and the AVIV–NBHS, it is more important that the devices measure elevated rather than low values of T, B, R, and SI. Accordingly, the petitioners designed and evaluated the devices based on the use of the devices in the management of neonates with hyperbilirubinemia, with the most stringent performance specifications centering on pathologic (high) values, rather than normal (low) values. The devices are adequately sensitive for the patients for whom they are intended.

Clinical Utility

In addition to other data and information, the petitioners provided a recent report by Lamola and Faranoff entitled, "Bilirubin Fluorescence and Prevention of Kernicterus" (Ref. 1g and 3k). Lamola and Faranoff present a useful summary of the clinical utility of the hematofluorometer saturation index as an indicator of the risk of kernicterus. Lamola and Faranoff conclude that if a hematofluorometer saturation index of 7.25 is taken as an "action threshold" for exchange transfusion, there is excellent clinical "specificity" as well as clinical "sensitivity," when hematofluorometry is compared against the treatment categories devised by Maisels for the clinical management of jaundiced neonates. Maisels' clinical scheme takes into consideration all accepted risk-modifying factors for kernicterus.

For the purpose of their study, Lamola and Faranoff defined specificity as the number of patients who do not require therapy based on the SI values for those patients as provided by a hematofluorometer, divided by the number of patients who do not require therapy when assessed by Maisels' protocol. These authors defined sensitivity as the number of patients who require therapy based on the SI value, divided by the number of patients who require therapy when assessed by Maisels' protocol. In the patients reported by Lamola and Faranoff, the clinical specificity of the technique of hemafluorometry was 0.95 (113/119); clinical sensitivity was 0.93 (13/14).

The paper emphasizes that both Maisels' protocol and the hematofluorometer saturation index must be used to contribute information to the clinician's decision process for the clinical management of jaundiced neonates.

Risks To Health

The Panel noted that failure of the device to perform its intended use may contribute to the risk of improper diagnosis of neonatal jaundice or improper treatmemt of newborn infants with unconjugated hyperbilirubinemia. The Panel noted further that if untreated, unconjugated hyperbilirubinemia may lead to neurologic damage in the infant due to kernicterus (bilirubin encephalopathy).

Additional Findings

The Panel recommended that for the ABBAS Analyzer or the AVIV–NBHS to be reclassified from class III into class I, the disposable assay reagents should be augmented to include with each device a blood-based quality control product for convenience in quality control of the entire protocol.

The Panel recommended further that each device's labeling should be revised and supplemented as follows:

(1) The labeling should include a clear statement concerning the difference in interpretation that is to be given to the instrument values for "bound bilirubin" and for "total minus bound bilirubin" for blood specimens obtained from newborn infants undergoing phototherapy for hyperbilirubinemia.

(2) The labeling should note the need for a separate determination of conjugated bilirubin by conventional assay methods.

(3) The labeling should include a discussion of the possible effects of drugs administered to neonates upon the accuracy of the results of assays performed with the device.

(4) The labeling should note that the hematofluorometry technique as employed by the device is restricted to neonatal blood samples.

(5) The labeling should include an adequate trouble-shooting protocol.

(6) The labeling should include typical precision data for each parameter measured by the device.

(7) The labeling should state that the analytical values obtained with the device are not to be considered necessarily interchangeable with values obtained by any other hematofluorometer device.

(8) The labeling should state that duplicate blood assays are recommended, when possible.

(9) The labeling should state that the results obtained with the device are not to be the sole factor in the clinician's decisions regarding diagnosis and treatment of neonatal jaundice.

(10) The labeling should instruct the operator to use a "check slide" or similar device to ensure that the system is functioning at a constant light intensity each time the unit is turned on. The labeling should also state that failure to perform such a check could lead to serious errors in the estimation of bilirubin concentration and/or binding capacity.

In accordance with 21 CFR 860.95, the Panel also recommended that the devices should not be exempted from the provisions of section 510 (registration, product listing, and premarket notification), 519 (records and reports on devices), or 520(f) (good manufacturing practice requirements) of the act (21 U.S.C. 360, 360i, 360j(f)).

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FDA's Tentative Findings

FDA believes that the data provided by the petitioners are valid scientific evidence and show that class I (general controls is sufficient to provide reasonable assurance of the safety and effectiveness of the devices.
Accordingly, FDA tentatively agrees with the recommendation of the Panel that the generic type of device "total and unbound bilirubin in the neonate test system" be reclassified from class III into class I. Further, FDA tentatively agrees that the device should be identified as a test system for the quantitation of total and unbound bilirubin in the blood (serum) of newborn infants to aid in indicating the risk of bilirubin encephalopathy (kernicterus).

References

The transcript of the Panel meeting and the following material are on public file in the Dockets Management Branch (address above) where they may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Aviv Biomedical, Inc., petition and supplements to the petition.
a. Brown, A.K., et al., "A Rapid Fluorometric Method for Determining Bilirubin Levels and Binding in the Blood of Neonates: Comparisons with a Diazo Method and with 2-(4'-Hydroxybenzene)azobenzoic Acid Dye Binding, " *Pediatrics*, 65:767–776, 1980.
b. Cashore, W.J., et al., "Rapid Fluorometric Assay of Bilirubin and Bilirubin Binding Capacity in Blood of Jaundiced Neonates: Comparisons with Other Methods," *Pediatrics*, 66:411–416, 1980.
c. Hammond, K.B., and R. Wells, "Current Approaches to Evaluating the Jaundiced Neonate: A New Look at Bilirubin Assays," *Laboratory Medicine*, 14:239–245, 1983.
d. Lamola, A.A., et al., "Photoisomerized Bilirubin in Blood from Infants Receiving Phototherapy," *"Proceedings of the National Academy of Science, USA*, 78:1882–1886, 1981.
e. Lamola, A.A., et al., "Fluorometric Study of the Partition of Bilirubin Among Blood Components: Basis for Rapid Microassays of Bilirubin and Bilirubin Binding Capacity in Whole Blood," *Analytical Biochemistry*, 100:25–42, 1970.
f. Wells, R., et al., "Relationship of Bilirubin Binding Parameters," "*Clinical Chemistry*, 28:432–439, 1982.
g. Lamola, A.A., and A.A. Faranoff, "Bilirubin Fluorescence and Prevention of Kernicterus," *Diagnostic Medicine*, 7:9–12, 1984.
2. Letter of March 6, 1984, from A.A. Lamola, Bell Laboratories, to J. Luchins, Aviv Biomedical, Inc.
3. Helena Laboratories petition and supplements to the petition.
a. Cashore, W.J., et al., "Rapid Fluorometric Assay of Bilirubin and Bilirubin Binding Capacity in Blood of Jaundiced Neonates: Comparison with Other Methods," *Pediatrics*, 66:411–416, 1980.
b. Brown, A.K., et al., "A Rapid Fluorometric Method for Determining Bilirubin Levels and Binding in the Blood of Neonates: Comparisons with Diazo Method and with 2-(4'-Hydroxybenzene)azobenzoic Acid Dye Binding," *Pediatrics*, 65:767–776, 1980.
c. Wells, R., et al., "Relationship of Bilirubin Binding Parameters," *Clinical Chemistry*, 28:432–439, 1982.
d. Eisinger, J., and J. Flores, "Front-Face Fluorometer of Liquid Sample," *Analytical Biochemistry*, 94:15–21, 1979.
e. Lamola, A.A., et al., "Fluorometric Study of the Partition of Bilirubin Among Blood Components: Basis for Rapid Microassays of Bilirubin and Bilirubin Binding Capacity in Whole Blood," *Analytical Biochemistry*, 100:25–42, 1979.
f. Blumberg, W.E., et al., "The Hematofluorometer," *Clinical Chemistry*, 23:270–274, 1977.
g. Lee, K.S., and L.M. Gartner, "Bilirubin Binding by Plasma Proteins: A Critical Evaluation of Methods and Clinical Implications," *Reviews in Perinatal Medicine*, Raven Press, Vol. 2, New York, pp. 319–343, 1978.
h. Wennberg, R.P., C.E. Ahlfors, and L.F. Rasmussen, "The Pathochemistry of Kernicterus," *Early Human Development*, Elsevier/North Holland Biomedical Press, Holland, pp. 353–372, 1979.
i. Sherwood, L.M., and E.E. Parris, "Inheritable and Congenital Hyperbilirubinemia," *The New England Journal of Medicine*, 285:1416–1421, 1971.
j. Lamola, A.A., et al., "Photoisomerized Bilirubin in Blood From Infants Receiving Phototherapy," *Proceedings of the National Academy of Science, USA*, 78:1882–1886, 1961.
k. Lamola, A.A., and A.A. Faranoff, "Bilirubin Fluorescence and Prevention of Kernicterus," *Diagnostic Medicine*, 7:9–12, 1984.

After considering the economic consequences of approving this reclassification, FDA certifies that this notice requires neither a regulatory impact analysis, as specified in Executive Order 12291, nor a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Approval of these petitions would not have significant economic impact on a substantial number of small entities. The petitioners, and all future manufacturers of the device, "total and unbound bilirubin in neonate test system," would be relieved of the costs of complying with the premarket approval requirements in section 515 of the act (21 U.S.C. 360e). There are no off-setting costs that the petitioner would incur from reclassification into class I.

The magnitude of the economic savings from approval of these petitions depends on the extent of premarket approval studies the petitioners would have conducted and the number of future competitors satisfying the same requirements. Neither of these parameters can be reliably calculated to permit quantification of the economic savings. Because of statutory deadlines (section 513(f)(2) of the act) and requirements in the regulations (21 CFR 860.134(b)(5)), FDA is required to publish this notice in the Federal Register as soon as practicable. As authorized by section 8(a)(2) of Executive Order 12291, FDA is publishing in the Federal Register this notice without clearance of the Director, Office of Management and Budget. As soon as practicable, FDA will notify that office of the publication of this notice.

Interested persons may, on or before May 28, 1986, submit to the Dockets Management Branch (address above) written comments on the Panel's recommendation or FDA's tentative findings. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the name of the device and the docket numbers found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 28, 1986.

M.D. Kinslow,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–9364 Filed 4–25–86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86M–0132]

University Optical Products, Co.; Premarket Approval of the ALGES™ (Hefilcon A) Bifocal Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application by University Optical Products Co., Largo, FL, for premarket approval, under the Medical Device Amendments of 1976, of the spherical ALGES™ (hefilcon A) Bifocal Contact Lens. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by May 28, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

SUPPLEMENTARY INFORMATION: On August 13, 1985, University Optical Products Co., Largo, FL 33543, submitted to CDRH a supplemetal application for premarket approval of the ALGES™ (hefilcon A) Bifocal Contact Lens. The ALGES™ (hefilcon A) Bifocal Contact Lens is intended for daily wear for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are myopic presbyopic or hyperopic presbyopic. The lens may be worn by persons who exhibit corneal astigmatism of 2.00 diopters (D) or less that does not interfere with visual aucity. The lens ranges in powers from −10.00 D to +10.00 D with add powers ranging from 1.00 D to 5.00 D. The lens is to be disinfected using either a heat or chemical lens care system.

On January 24, 1986, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On February 28, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ–460), address above.

The labeling of the approved ALGES ™ (hefilcon A) Bifocal Contact Lens states that the lens is to be used only with certain solutions for disinfection and others purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only. The restrictive labeling needs to be updated periodically, however, to refer to new lens solutions that CDRH approves for use with approved contact lenses made of polymers other than polymethylmethacrylate, to comply with the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.), and regulations thereunder, and with the Federal Trade Commission Act (15 U.S.C. 41–58), as amended. Accordingly, whenever CDRH publishes a notice in the Federal Register of approval of a new solution for use with an approved lens, the contact lens manufacturer of PMA holder shall correct its labeling to refer to the new solution at the next printing or at any other time CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before May 28, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 20, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86–9362 Filed 4–25–86; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicaid Program; Hearing: Reconsideration of Disapproval of an Alaska State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on May 27, 1986 in Seattle, Washington to reconsider our decision to disapprove Alaska State Plan Amendment 84–6.

Closing Date: Requests to participate in the hearing as a party must be received by the Docket Clerk May 13, 1986.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 365 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594–8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove an Alaska State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.15(c)(1)

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If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether Alaska State Plan Amendment 84–6 which provides for disregarding, for purposes of Medicaid eligibility determinations, Alaska Longevity Bonus payments received by applicants and recipients who qualify for these payments on the basis of having less than 25 years continuous residency in the State, violates sections 1902(a)(10)(A)(ii), 1905(j) and 1616(c) of the Social Security Act, Federal regulations at 42 CFR 435.230, 435.231, 435.722 and 20 CFR 416.2025(c) and section 4–30–10B.2.e. of the Medical Assistance Manual.

Section 1902(a)(10)A)(ii) of the Act permits States, at their option, to provide Medicaid to individuals who are receiving State supplementary payments and to institutionalized individuals who are eligible under a special income level. Sections 1905(j) and 1616 of the Act further define State supplementary payments for purposes of title XIX and title XVI. Although the Medicaid statute (section 1905(j)) defines "State supplementary payment" without reference to the issue of disregards, the SSI statute (section 1616(c) provides that—

". . . any State . . . making supplementary payments . . . may disregard *amounts* of earned and unearned income in addition to other amounts which it is required or permitted to disregard under this section in determining such eligibility, and shall include a provision specifying the amount of any such income that will be disregarded." (Emphasis supplied.)

The preamble language to the final rule at 20 CFR 416.2025 (implementing section 1616(c) of the Act) made clear that, *in accordance with the Act*, States may provide for additional amounts of income in determining the amount of the supplementation payable, and not vary the exclusion based on the type (or source) of income.

The Social Security Act only permits the disregards for State supplementary payments to be greater in amount than those of the SSI program but does not permit them to vary by type or source of income. Therefore, HCFA has determined the Alaska State Plan Amendment violates sections 1902(a)(10)(A)(ii), 1905(j), 1616(c) of the Social Security Act and implementing regulations at 42 CFR 435.231, 435.722 and 20 CFR 416.2025(c). In addition, although the SSI regulation applies only to Federally administered State supplementary payments, in the context of the Medicaid program, the financial requirements of the State supplementary payments found in section 1616(c) of the Act also apply for purposes of qualifying for Medicaid. Section 1902(a)(17) of the Act requires that comparable standards be used to determine Medicaid eligibility for all groups of recipients. It would be inconsistent with section 1902(a)(17) to allow States to define income disregards differently based solely on Federal vs. State administration of the supplement programs.

Section 4–30–10B.2.e. of the Medical Assistance Mannual (published on June 29, 1976) provides that any more liberal disregards used in determining eligibility for State supplementary payment recipients must be applied as a set dollar amount or across-the-board percentage to be deducted from income of all persons who apply for the supplement. This instruction goes further to state that more liberal disregards may not be applied only to certain types of income (such as earned income, unearned income, increased income from Social Security, etc.).

For institutionalized individuals eligible under a special income test the SSI deductions or greater deductions may be used to determine eligibility, but any greater deductions are subject to the limitations described above. Therefore, HCFA has determined Alaska State Plan Amendment 84–6 violates section 4–30–10–B.2.e of the Medical Assistance Manual.

The notice to Alaska announcing an administrative hearing to reconsider our disapproval of its State plan amendment reads as follows:

Mr. John R. Pugh, Commissioner, State of Alaska
Department of Health and Rehabilitative Services, Pouch H01, Juneau, Alaska 99811.

Dear Mr. Pugh: This is to advise you that your request for reconsideration of the decision to disapprove Alaska State Plan Amendment 84–6 was received on March 28, 1986. This amendment would provide for disregarding, for purposes of Medicaid eligibility determinations, Alaska Longevity Bonus payments received by applicants and recipients who qualify for these payments on the basis of having less than 25 years continuous residency in the State.

You have requested reconsideration of whether these plan amendments conform to the requirements for approval under title XIX of the Social Security Act. The issue in this matter is whether Alaska's proposed plan violates section 1902(a)(10)(A)(ii), 1905(j), and 1616(c) of the Social Security Act implemented through regulations at 42 CFR 435.230, 435.231, 435.722 and 20 CFR 416.2025(c) and section 4–30–10 B.2.e. of the Medical Assistance Manual.

I am scheduling a hearing on your request to be held on May 27, 1986 at 10 a.m., in the Room 470–472, 2901 Third Avenue, Seattle, Washington. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Lawrence Ageloff as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication that may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 504–8261.

Sincerely yours,
Henry R. Desmarais, M.D.,
Acting Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: April 22, 1986.

Henry R. Desmarais,
Acting Administrator, Health Care Financing Administration.

[FR Doc. 86–9463 Filed 4–25–86; 8:45 am]
BILLING CODE 4120–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–86–1606]

Privacy Act of 1974; Proposed Amendment to a System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notification of a proposed amendment to an existing system of records.

SUMMARY: The Department is giving notice that it intends to amend the following Privacy Act system of records: HUD/DEPT–34, Pay and Leave Records of Employees.

EFFECTIVE DATE: This amendment shall become effective without further notice in 30 calendar days (May 28, 1986) unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Arthur L. Stokes, Departmental Privacy Act Officer, Telephone (202) 755–6374. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Federal legislation, 42 U.S.C. 654–666, encourages States to insure the reciprocal enforcement of child and spousal support obligations. In anticipation of an increase in the number of requests for information contained in HUD/DEPT–34, this amendment adds a routine use which would expedite the release of information to Federal, State, and local Agencies responsible for the enforcement of child and spousal support obligations. The amended portion of the system notice is set forth below. Previously, the system and a prefatory statement containing the general Routine Uses applicable to most of the Department's systems of records were published in the "Federal Register Privacy Act Issuances, 1984 Compilation, Volume II." A report of the Department's intention to amend this system was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on February 25, 1986.

Authority: 5 U.S.C. 552a, 88 Stat. 1986; sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, DC, April 10, 1986.

Judith L. Tardy,
Assistant Secretary for Administration.

HUD/DEPT–34

SYSTEM NAME:

Pay and Leave Records of Employees.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: Transmittal of data to U.S. Treasury to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes. Annual reporting of W–2 statements to Internal Revenue Service, Social Security Administration, the individual, and taxing authorities of States, the District of Columbia, territories, possessions, and local governments, except social security numbers will be reported only to such authorities that have satisfied the requirements set forth in section 7(a)(2)(B) of the Privacy Act of 1974. To the Office of Personnel Management for matters concerned with pay, benefits, retirement deductions, and other information necessary for the Office to carry on its Government-wide personnel functions; to GAO—for audit and to resolve employee appeals on pay/leave decisions; to other Federal government agencies—to facilitate employee transfers; to State agencies—to verify workmen's compensation injury claims; time and attendance data to contractor for scanning, keying, producing error lists, and producing input media; to other Federal agencies for the purpose of collection debts owed to the Federal Government by administrator or salary offset; to Federal, State, and local agencies to assist in the enforcement of child and spousal support obligations.

* * * * *

[FR Doc. 86–9431 Filed 4–25–86; 8:45 am]
BILLING CODE 4210–33–M

[Docket No. N–86–1605]

Submission of Proposed Information Collections OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ACTION: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 481 7th Street SW., Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Title I Financial Statement

Office: Housing
Form Number: HUD–56142
Frequency of Submission: On occasion
Affected Public: Individuals or Households
Estimated burden hours: 575
Status: Extension
Contact: Patricia D. Schader, HUD, (202) 755–6857, Robert Fishman, OMB, (202) 395–6880

Dated: April 17, 1986.

Proposal: General Conditions

Office: Public and Indian Housing
Form number: HUD–5370
Frequency of Submission: On Occasion
Affected Public: State or Local Governments and Non-Profit Institutions
Estimated Burden Hours: 619
Status: New
Contat: Raymond W. Hamilton, HUD, (202) 426–0938, Robert Fishman, OMB, (202) 395–6880

Dated: April 17, 1986.

Proposal: Request for Refund of One Time Mortgage Insurance Premium (OTMIP)

Office: Administration
Form Number: HUD–27034
Frequency of Submission: On Occasion
Affected Public: Individuals or Households and Small Businesses or Organization
Estimated Burden Hours: 12,000
Status: New
Contact: Robert Wiggins, HUD, (202) 426–8980, Robert Fishman, OMB, (202) 395–6880

Dated: April 17, 1986.

Proposal: Housing Development Grant Application

Office: Housing
Form Number: HUD–90031
Frequency of Submission: On Occasion
Affected Public: State or Local Governments
Estimated Burden Hours: 16,400
Status: Reinstatement
Contact: Jessica Franklin, HUD (202) 755–6142, Robert Fishman, OMB, (202) 395–6880

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Dated: April 17, 1986.

Proposal: Rental Rehabilitation Program Evaluation

Office: Policy Development and Research
Form Number: None
Frequency of Submission: Single-time
Affected Public: State or Local Governments and Small Businesses or Organizations
Estimated Burden Hours: 312
Status: New
Contact: Judson L. James, HUD, (202) 755-4370, Robert Fishman, OMB, (202) 395-6880
Dated: April 17, 1986.

Proposal: Restriction on Use of Assisted Housing

Office: Public and Indian Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: State or Local Governments
Estimated Burden Hours: 37,863
Status: New
Contact: Joyce Ann Bassett, HUD (202) 426-0744, Robert Fishman, OMB, (202) 395-6880
Dated: April 10, 1986.

Proposal: Community Development Block Grants: State's Program

Office: Community Planning and Development
Form Number: None
Frequency of Submission: Annually
Affected Public: State or Local Governments
Estimated Burden Hours: 25,440
Status: New
Contact: Marie B. Ratcliff, HUD, (202) 755-6322, Robert Fishman, OMB, (202) 395-6880
Dated: April 10, 1986.

Proposal: Section 312, Rehabilitation Loan Program

Office: Community Planning and Development
Form Number: HUD-6230, 6230C, 6236, 6239, 6240, and 6243
Frequency of Submission: On Occasion
Affected Public: Individuals or Households, State or Local Governments, Federal Agencies or Employees, and Non-Profit Institutions
Estimated Burden Hours: 7,478
Status: Revision
Contact: Richard R. Burk, HUD, (202) 755-5685, Robert Fishman, OMB, (202) 395-6880
Dated: March 26, 1986.

Proposal: Development Program of Indian Housing Authority and Indian Low Income Housing Program Development Cost Budget

Office: Public and Indian Housing
Form Number: HUD-53045 and 53045A
Frequency of Submission: On Occasion
Affected Public: State or Local Governments
Estimated Burden Hours: 1,620
Status: Extension
Contact: John V. Meyers, HUD, (202) 755-1015, Robert Fishman, OMB, (202) 395-6880
Dated: March 26, 1986.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dennis F. Geer,
Director, Office of Information Policies and Systems.

[FR Doc. 86-9430 Filed 4-25-86; 8:45 am]
BILLING CODE 4210-01-M

[Docket No. D-86-817; FR-2233]

Amendment of Delegation of Procurement Authority to the Field

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Amendment of delegation of procurement authority to the Field.

SUMMARY: The Designations and Redelegations of Authority published in the **Federal Register** on January 19, 1976 (41 FR 2666), and amended on October 28, 1976 (41 FR 47279); October 16, 1979 (44 FR 59671); November 4, 1980 (45 FR 73141); and May 16, 1984 (49 Fr 20760); are further amended by revising the delegation of procurement authority to the Field to impose restrictions on the purchase of certain equipment and related software, unless prior approval has been received from the Office of Information Policies and Systems. The restrictions are required to standardize such equipment and software throughout the Department.

EFFECTIVE DATE: April 18, 1986.

FOR FURTHER INFORMATION CONTACT: Roosevelt Jones, Director, Office of Procurement and Contracts, Room 5260, 451 Seventh Street, SW., Washington, DC 20410, (202) 755-5290. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 16, 1984 (49 FR 20760), the Department published in the **Federal Register** a Redelegation of Contracting Authority that amended Sections C and D of the Designations and Redelegations of Authority published January 19, 1976 (41 FR 2666), and amended October 28, 1976 (41 FR 47279); October 16, 1979 (44 FR 59671); and November 4, 1980 (45 FR 73141). The purpose of this delegation is to expand the last paragraph of Section C to reflect restrictions imposed on the Field for the purchases of microcomputer and word processing equipment and related software, unless prior approval has been received from the Office of Information Policies and Systems. The restrictions are required in order to standardize such equipment and software throughout the Department.

Accordingly, the last paragraph of Section C of the Designation and Redelegation of Authority published May 16, 1984 (49 FR 20760), is revised to read as follows:

The Authority in this section C does not apply to purchases and contracts for the Acquire Property Program of the Office of Housing, as defined by HUDAR 2401.601-71, nor does it apply to the acquisition (purchase, lease, or rental) of microcomputer equipment, related software, or wood processing equipment, unless prior approval has been received from the Office of Information Policies and Systems (OIPS). Acquisition (purchase, lease, or rental) of such equipment and software, as part of training or other support provided by a contractor, is also prohibited without the prior approval of OIPS.

Authority: Delegation of Authority to Assistant Secretary for Administration, January 19, 1976 (41 FR 2666).

Dated: April 18, 1986.

Judith L. Tardy,
Assistant Secretary for Administration.

[FR Doc. 86-9429 Filed 4-25-86; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

National Strategic Materials and Minerals Program Advisory Committee; Renewal

Pursuant to Pub. L. 92-463, notice is hereby given of the renewal of the National Strategic Materials and Minerals Program Advisory Committee. Following consultation with the General Services Administration, the Secretary is renewing the Advisory Committee to advise the Secretary of the Interior with respect to his responsibilities for strategic materials and minerals issues.

Further information regarding the National Strategic Materials and Minerals Program Advisory Committee may be obtained from Gully Walter, Executive Director, Room 6950, U.S. Department of the Interior, 18th and C Streets, NW., Washington, DC 20240; (202) 343-2136.

The certification of renewal is published below.

Certification

I hereby certify that the renewal of the National Strategic Materials and Minerals Program Advisory Committee is necessary and in the public interest in connection with performance of duties imposed on the Department of the Interior by those statutory authorities listed in the Federal Land Policy and Management Act, the Mining and Minerals Policy Act of 1970, the National Materials and Minerals Policy Research and Development Act of 1980, the Defense Production Act of 1950, as amended, and the organic legislation of the Department and the several bureaus and agencies thereof.

Donald Paul Hodel,
Secretary of the Interior.

[FR Doc. 86-9453 Filed 4-25-86; 8:45 am]
BILLING CODE 4310-10-M

Bureau of Land Management

Salem District Advisory Council; Meeting

Notice is hereby given in accordance with Section 309 of the Federal Land Policy and Management Act of 1976 that a meeting of the Salem District Advisory Council will be held May 20, 1986, at 1:30 p.m. at the BLM District Office, 1717 Fabry Road SE., Salem, Oregon.

Agenda for the meeting will include:

1-Election of officers.
2-Table Rock Wilderness Management Plan-Information-follow-up.
3-Walker Creek Water Supply Project proposal-Information.
4-Grand Ronde Indian Reservation proposal-Information.
5-Yaquina Head Outstanding Natural Area Management Plan-Information.

The meeting is open to the public. Anyone wishing to make an oral statement must notify the District Manager at the Salem District Office, 1717 Fabry Road SE., Salem, Oregon, 97302, by May 16, 1986. Written comments will also be received for the council's consideration. Summary minutes will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Dated: April 18, 1986.

Edward S. Lewis III,
District Manager.

[FR Doc. 86-9422 Filed 4-25-86; 8:45 am]
BILLING CODE 4310-33-M

Fish and Wildlife Service

Comprehensive Conservation Plan/ Environmental Statements; Arctic National Wildlife Refuge, AK; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Intent to Prepare a Comprehensive Conservation Plan/ Environmental Impact Statement, and Wilderness Suitability Assessment for the Arctic National Wildlife Refuge, Alaska, as well as Boundary Descriptions for the Management of the Ivishak, Wind, and Sheenjek Wild and Scenic Rivers; correction.

SUMMARY: This document corrects a notice of intent that appeared on page 5109 in the **Federal Register** of February 11, 1986, (51 FR 5109). This action is necessary to correct the date by which comments to the scoping process should be submitted.

FOR FURTHER INFORMATION CONTACT: Consuelo K. Wassink, Public Involvement Specialist, Refuge Planning, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786-3496.

Text: The following correction is made in FR Doc. 86-28 appearing on page 5109:

On page 5109, column two, first paragraph, first sentence, "**DATES,**" is corrected to read "Formal, written comments should be received by June 15, 1986."

Dated: April 16, 1986.

Robert D. Jacobsen,
Acting Regional Director.

[FR Doc. 86-9390 Filed 4-25-86; 8:45 am]
BILLING CODE 4310-55-M

Minerals Management Service

Request for Supplemental Information; Navarin Basin; Sale 107 (March 1988)

Purpose of Request

The Navarin Basin Outer Continental Shelf (OCS) Oil and Gas Lease Sale 107 tentatively planned for March 1988 is being reviewed to determine if the current level of industry interest warrants continuing with the presale process. The oil and gas industry is asked to assist in this process by providing up-to-date information on its interests in leasing and exploring within the proposed sale area. The Regional Director, Alaska OCS Region, Minerals Management Service, P.O. Box 101159, Anchorage, Alaska, 99510 (907 261-4010) will receive information on areas of interest by mail, telephone, or informal meeting. As part of this effort, the Regional Director may make direct telephone contact with companies which respond in writing.

Use of Information from Request

Responses will help to determine if and when a draft and final Environmental Impact Statement (EIS) and proposed and final Notices of Sale will be issued or if Sale 107 should be cancelled or deferred for consideration in a future 5-year schedule.

Description of the Area

The Navarin Basin Planning Area extends southwest from the juncture of approximately 63° N latitude at the U.S.-Russia Convention Line along that line to 180° longitude thence south to approximately 58° N latitude thence east to 174° W longitude thence north to approximately 63° N latitude thence west to the point of origin.

Previous Sale Activities

Sale 83 in April 1984 was the first Federal sale in this area. Of 5,036 blocks offered, 186 received bids, and 163 leases were issued with a primary term of 10 years, effective June 1, 1984. An additional 17 leases are being held in abeyance pending resolution of jurisdictional differences over the international boundary between the United States and the Soviet Union. The disputed area is the result of a United States claim of exclusive maritime resource jurisdiction over the area offered while the Soviet Union claims part of the area as well. The claims relate to differing depictions of the maritime boundary line established by the 1867 Convention between the United States and Russia that ceded Alaska to the United States. The United States describes the 1867 Convention Line by areas of great circles while the Soviet Union depicts it with rhumb lines.

Summary of Comments Received From the Call for Information

The Call for Information for Sale 107 was published in the **Federal Register** at 49 FR 17686 on April 24, 1984. The Call included 5,051 blocks (approximately 28.1 million acres) in the Navarin Basin Planning Area. The area lies from about 30 miles offshore of St. Matthew Island to about 280 miles offshore of the Yukon Delta in water depths from 230 feet to 9,200 feet.

Nine companies submitted nominations. One company expressed interest in the entire Call area. Three companies commented on the Call. Each requested a 10-year lease term. One stated preference for a fixed royalty

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rate; another recommended a cash bonus of $189 per acre and a 12½ percent royalty. One indicated a preference for the standard 2,304 hectare block. Comments were also received from the State of Alaska, the National Oceanic and Atmospheric Administration (NOAA), the Whale Center of Oakland, California, the U.S. Fish and Wildlife Service, and the National Park Service. The State of Alaska requested that the size of the proposed sale area should be reduced to include only areas of high-to-moderate industry interest. the NOAA expressed concern for the marine mammals around St. Matthew and St. Lawrence Islands, particularly for bowhead whale overwintering areas and summer protection for the right whale.

On July 27, 1984, the Department of the Interior announced that the area to be analyzed in the EIS process included the entire Call area. This area covers approximately 28.1 million acres consisting of 5,051 blocks.

Instructions to Request for Supplemental Information

Information on industry interest may be provided by mail or telephone to the Regional Director at the address and telephone number stated in the first paragraph. Alternatively, companies are invited to meet with the Regional Director or his representative to personally convey specific information. Although individual indications of interest are considered privileged and proprietary information, the names of firms or persons submitting indications of interest will be a matter of public record.

Comments on this matter should be received within 45 days following publication of this request. It will be appreciated if envelopes containing responses to this request are marked "Request for Supplemental Information on Proposed Lease Sale 107."

Dated: April 21, 1986.

Wm. D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 86-9399 Filed 4-25-86; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30813]

Norfolk and Western Railway Company; Trackage Rights; Consolidated Rail Corporation; Exemption

Consolidated Rail Corporation (Conrail) has agreed to grant overhead trackage rights to the Norfolk and Western Railway Company (NW) between NW's connection with Conrail at milepost 8.3, Delray Interlocking, and the west end of Conrail's Detroit River Tunnel Tracks, where they connect with tracks jointly owned by the Canadian National Railway Company and the Canadian Pacific Limited, a distance of 3.26 miles in Detroit, MI. The trackage rights were effective on April 15, 1986.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry. Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: April 22, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86-9401 Filed 4-25-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7 notice is hereby given that on April 15, 1986, a proposed consent decree in *United States* v. *Hess Mechanical Corporation and Ring Associates*, Civil Action No. 86-0129, was lodged with the United States District Court for the District of Columbia. The complaint filed by the United States alleged violations of the Clean Air Act and the National Emission Standards for Hazardous Air Pollutants (NESHAP) for asbestos. Specifically, the complaint alleged that the defendants failed to comply with the asbestos NESHAP during the removal of asbestos from a Ring Associates-owned building located at 1200 Eighteenth Street, NW., Washington, DC. The complaint sought injunctive relief to require the defendants to comply with the Clean Air Act and the NESHAP for asbestos and civil penalties for violations. The decree requires defendants to comply with the Clean Air Act and the NESHAP for asbestos in the future and imposes a $10,000 civil penalty for past violations of the Act and regulations.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC. 20530, and should refer to *United States* v. *Hess Mechanical Corporation and Ring Associates*, Department of Justice Reference #90-5-2-1-894.

Copies of the proposed consent decree may be examined at the following locations: Office of the United States Attorney, United States Courthouse, 3rd & Constitution Avenue, NW. Washington, DC 20001; the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1535, Ninth Street & Pennsylvania Ave., NW., Washington, DC 20530; and, Region III Office of the United States Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pa. 19107. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. When requesting a copy, please refer to *United States* v. *Hess Mechanical Corporation and Ring Associates*, Department of Justice Reference #90-5-2-1-894.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-9355 Filed 4-25-86; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Proposed Termination of Final Judgment; Toyota Motor Sales, U.S.A., Inc.

Notice is hereby given that Toyota Motor Sales, U.S.A., Inc. and its wholly-owned subsidiary, Toyota Motor Distributors, Inc., have filed with the United States District Court for the Northern District of California a motion to terminate the final judgment in *United States* v. *Toyota Motor Sales, U.S.A., Inc.*, Civil No. C-75-0473-SW; and the Department of Justice, in a stipulation also filed with the court, has consented to termination of the judgment, but has reserved the right to withdraw its consent for at least seventy (70) days after the publication of this notice. The complaint in this case (filed on March 12, 1975) alleged that the defendants had conspired to engage in resale price maintenance, and confine the sale of Toyota products by Toyota dealers to designated market areas. The judgment (entered on July 28, 1975) enjoined the defendants from engaging in resale price maintenance, or restricting the geographical areas in which or the people to whom Toyota dealers may sell or advertise Toyota products.

The Department has filed with the court a memorandum setting forth the reasons why the Department believes that termination of the judgment would serve the public interest. Copies of the complaint and final judgment, defendants' motion papers, the stipulation containing the Government's consent, the Department's memorandum, and all future papers filed with the court in connection with this motion will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7233, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530 (telephone 202-633-2418), and at the Office of the Clerk of the United States District Court for the Northern District of California, Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102. Copies of any of these materials may be obtained from the Legal Procedure Unit upon request and payment of the copying fee set by Department of Justice regulations.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 86-9417 Filed 4-25-86; 8:45 am]

BILLING CODE 4410-01-M

Immigration and Naturalization Service

Reimbursable Services; Excess Cost of Preclearance Operations

Notice is hereby given that pursuant to Immigration and Naturalization Service Regulations (8 CFR 235.5(c)), the biweekly reimbursable excess costs for each preclearance installation are determined as set forth below and will be effective with the pay period beginning April 27, 1986.

Installation	Biweekly excess cost
Montreal, Canada	$10,388.29
Toronto, Canada	15,845.84
Kindley Field, Bermuda	2,435.30
Freeport, Bahama Islands	9,857.28
Nassau, Bahama Islands	11,138.91
Calgary, Canada	3,992.12
Edmonton, Canada	3,837.13
Vancouver, Canada	8,091.77
Victoria, Canada	1,838.76
Winnipeg, Canada	2,082.64

These amounts will be in effect and billed biweekly until the first full pay period after the next notice of reimbursable biweekly excess costs is published in the Federal Register.

Dated: April 22, 1986.

Edwin J. Fost,

Deputy Comptroller.

[FR Doc. 86-9432 Filed 4-25-86; 8:45 am]

BILLING CODE 4410-10-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-133]

Pacific Gas and Electric Co.; Availability of the Draft Environmental Statement for Decommissioning of Humboldt Bay Power Plant Unit No. 3

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (DES) (NUREG-1166) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed decommissioning of the Humboldt Bay Power Plant Unit No. 3 in Humboldt County, California. The DES addresses the acquatic, terrestrial, radiological, social and economic impacts associated with decommissioning.

Copies of the DES are available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW. Washington, DC 20555, and at the Eureka-Humboldt County Library, 421 I Street (County Courthouse), Eureka, California. Upon written request to the Division of Technical Information and Document Control, Publication Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the extent available, since copies of the DES will be made available to interested persons without charge.

Interested persons may submit comments on this DES for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the DES. Other local agencies may obtain these documents upon request.

Comments by Federal, State and local officials, or other members of the public received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, DC and the Eureka-Humboldt County Library. Comments are due by June 16, 1986. After consideration of the comments submitted on the DES, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the Federal Register.

Comments on the DES from interested members of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, 4000 MNBB.

Dated at Bethesda, Maryland, this 23rd day of April, 1986.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Standardization and Special Projects Directorate, Division of PWR Licensing-B

[FR Doc. 86-9470 Filed 4-25-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-338 and 50-339]

Virginia Electric and Power Co. et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 78 and 65 to Facility Operating License Nos. NFP-4 and NPF-7, issued to Virginia Electric and Power Company and Old Dominion Electric Cooperative (the licensee), which amended the Licenses for operation of the North Anna Power Station, Units 1 and 2 (the facility), located in Louisa County, Virginia. The amendments were effective as of the date of their issuance.

The amendments add a license condition to allow for receipt and storage of 500 spent fuel assemblies from the Surry Power Station, Unit Nos. 1 and 2.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of Proposed Issuance of Amendments to Facility Operating Licenses in connection with this action was published in the Federal Register on September 22, 1982 (47 FR 41682).

Petitions to intervene were filed by Louisa County, Virginia and Board of Supervisors of Louisa County, Virginia, and by the Concerned Citizens of Louisa County, Virginia, dated October 22, 1982. By Order dated May 22, 1984, the Atomic Safety and Licensing Board

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(ASLB) granted Louisa County's request to withdraw. By Order dated October 15, 1984, the ASLB admitted Concerned Citizens of Louisa County as a party to the proceeding. An evidentiary hearing was held May 21 and 22, 1985, in Charlottesville, Virginia. On September 3, 1985, the ASLB issued an Initial Decision which authorized the Director of Nuclear Reactor Regulation to amend the operating licenses for North Anna Units 1 and 2 to permit the receipt and storage of 500 spent fuel assemblies generated at Surry 1 and 2. On October 9, 1985, the Atomic Safety and Licensing Appeal Board (ASLAB) issued an order stating that it would be conducting its *sua sponte* review and that the Initial Decision of the ASLB would not be deemed final pending further order of the ASLAB. By Order dated November 1, 1985, the ASLAB, after *sua sponte* review, affirmed the ASLB decision of September 3, 1985. The ASLAB decision became final on December 11, 1985.

The Commission prepared an Environmental Assessment and Finding of No Significant Impact related to the action and concluded that an environmental impact statement is not warranted because there will be no environmental impact attributable to the action significantly beyond that which has been predicted and described in the Commission's Final Environmental Statement for the facility dated April 1973.

For further details with respect to the action see (1) the application for amendments dated July 13, 1982 as supplemented by letters dated October 21, 1982; June 16, July 19, July 25, September 13, October 28, November 10 and 23, and December 6, 1983; April 10, May 8, and May 16, 1984, (2) Amendment Nos. 76 and 65 to Facility Operating License Nos. NPF–4 and NPF–7, (3) the Commission's related Safety Evaluation issued July 2, 1984, and (4) the Environmental Assessment issued July 2, 1984. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of PWR Licensing–A.

Dated at Bethesda, Maryland, this 21st day of April, 1986.

For the Nuclear Regulatory Commission.

Lester S. Rubenstein,

Director PWR Project Directorate No. 2 Division of PWR Licensing–A.

[FR Doc. 86–9471 Filed 4–25–86; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Scram Systems Reliability; Meeting Postponement

The **Federal Register** published on Thursday, April 17, 1986 (51 FR 13119) a Notice concerning the meeting of the ACRS Subcommittee on Scram Systems Reliability scheduled for May 6, 1986, Room 1046, 1717 H Street, NW, Washington, DC. The meeting has been postponed until July.

Dated: April 23, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86–9469 Filed 4–25–86; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements: Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review, the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission—new, revision, or extension: Extension
2. The title of the information collection: Reactor Operator and Senior Reactor Operator Licensing Training and Requalifications Programs
3. The form number if applicable: N/A
4. How often the collection is required: Semi-annually, annually and biennially
5. Who will be requred or asked to report: All reactor licensees and applicants for an operating license.
6. An estimate of the number of responses: 124 annually
7. An estimate of the total number of hours needed to complete the requirement or request: 1494 annually
8. Section 3504(h), Pub. L 96–511 does not apply.
9. Abstract: Requests copies of training and requalification material from reactor licensees/applicants. This training material will be used by appropriate NRC staff to develop operator and senior operator licensing and requalification examinations.

ADDRESSEES: Copies of the submittal will be made available for inspection or copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

FOR FURTHER INFORMATION: Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 396–7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 20th day of May, 1986.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 86–9467 Filed 4–25–86; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35)..

1. Type of submission, new revision or extension: New.
2. The title of the information collection: Emergency Response Data System Requirements Analysis, Site Surveys.
3. The form number if applicable: Not applicable.
4. How often the collection is required: Once.
5. Who will be required or asked to report: NRC power reactor licensees.
6. An estimate of the number of responses: 60.
7. An estimate of the total number of hours needed to complete the requirement or request: 2,060.
8. An indication of whether section 350(h), Pub. L. 96–511 applies: Not applicable.
9. Abstract: The proposed implementation of an Emergency Response Data System, which would provide nuclear power plant data to the NRC during an emergency, necessitates the NRC obtaining information on the design of emergency data systems used by NRC power reactor licensees.

Copies of the submittal may be inspected or obtained for a fee from NRC Public Document Room, 1717 H Street N.W., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill (202) 395–7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 20th day of April 1986.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 86–9468 Filed 4–25–86; 8:45 am]

BILLING CODE 7590–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 86–4–69]

Application of Statewest Airlines, Inc. for Certification Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause, (Order 86–4–69) Docket 43741.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding StatesWest Airlines, Inc., fit and awarding it a certificate of public convenience and necessity to engage in scheduled interstate and overseas air transportation.

DATES: Persons wishing to file objections should do so no later than May 14, 1986.

ADDRESSES: Objections and answers to objections should be filed in Docket 43741 and addressed to the Documentary Services Division (C–55, Room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mrs. Carol A. Szekely, Special Authorities Division (P–47, Room 6420), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 755–3812.

Dated: April 23, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86–9476 Filed 4–25–86; 8:45 am]

BILLING CODE 4910–62–M

[Docket 43754]

Aviation Proceedings; NWA–Republic Acquisition Case; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on April 29, 1986, at 10:00 a.m. (local time) in Room 5332, Nassif Building, 400 7th Street, SW., Washington, DC 20590, before the undersigned administrative law judge.

Dated at Washington, DC, April 22, 1986.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 86–9477 Filed 4–25–86; 8:45 am]

BILLING CODE 4910–62–M

Coast Guard

[CGD 79–116 & 79–116a]

Towing Safety Advisory Committee, Tankerman Regulations Subcommittee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Tankerman Regulations Subcommittee of the Towing Safety Advisory Committee (TSAC). The subcommittee meeting will be held on 3 June 1986 in Room 1301 at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The meeting will begin at 12:30 p.m. and end at 3:30 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Discussion of the following topics:
(a) Definition of terms.
(b) Tankerman (Barge Watchman).
(c) Barges eligible for special barge requirements.
(d) Barge firefighting course.
(e) Barge product courses.
(f) Service requirements.
3. Adjournment.

Attendance is open to the interested public. Members of the public may present oral or written statements at the meeting. Additional information may be obtained from Captain R. F. Ingraham, Executive Director, Towing Safety Advisory Committee, U.S. Coast Guard (G–CMC/21), Washington, DC 20593 or by calling (202) 426–1477.

Dated: April 23, 1986.

R. F. Ingraham,

Captain, U.S. Coast Guard, Executive Director, Towing Safety Advisory Committee.

[FR Doc. 86–9438 Filed 4–25–86; 8:45 am]

BILLING CODE 4910–14–M

Federal Aviation Administration

[Summary Notice No. PE–86–10]

Petitions for Exemption; Summary of Petitions Received Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before May 8, 1986.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules of Docket [AGC–204, Petition Docket No.], 800 Independence Avenue SW., Washington, DC 20591;

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 426–3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on April 22, 1986.

Richard C. Beitel,

Acting Assistant Chief Counsel Regulations and Enforcement Division.

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PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
8429	Northern Air Cargo, Inc.	14 CFR §§ 91.39(b)	To allow petitioner to carry outsize cargo on C-82 restricted category aircraft within the State of Alaska. Also requested deletion of those provisions of Condition No. 2, which preclude operations with C-82 aircraft into airports within Alaska into which standard category aircraft can be operated with the same outsize cargo on board.

[FR Doc. 86-9350 Filed 4-25-86; 8:45 am]
BILLING CODE 4910-13-M

Federal Railroad Administration

Petitions for Exemption or Waiver

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that five railroads have petitioned the Federal Railroad Administration (FRA) for a waiver of compliance with the provisions of the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. 64a(e)).

The Hours of Service Act currently makes it unlawful for a railroad to require specified employees to remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad which employs not more than fifteen employees who are subject to the statute to seek an exemption from the twelve hour limitation.

Eureka Southern Railroad (EUKA)

FRA Waiver Petition Docket No. HS-86-2

The EUKA provides service between Willits and Eureka, California, a distance of 145 miles. The normal operation of the railroad calls for the operation of three trains per day, with work completed within the twelve hour limitation. This exemption, if granted would allow the carrier to function if they encountered unusual operating conditions or circumstances.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than fifteen employees and has demonstrated good cause for granting this exemption.

Central Montana Rail, Inc. (CMR)

FRA Waiver Petition Docket No. HS-86-3

The CMR provides service between Spring Creek Junction and Geraldine, Montana, a distance of 66 miles. Service is provided on an as needed basis, with work completed within the twelve hour limitation. This exemption, if granted would allow the carrier to function if they encountered unusual operating conditions or circumstances.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than fifteen employees and has demonstrated good cause for granting this exemption.

Chillicothe Southern Railroad (CS)

FRA Petition Docket No. HS-86-4

The CS provides service between Chillicothe and Brunswick, Missouri, a distance of 39 miles. The normal operation of the railroad calls for only one train per day, with work completed within the twelve hour limitation. This exemption, if granted would allow the carrier to function if they encountered unusual operating conditions or circumstances.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than fifteen employees and has demonstrated good cause for granting this exemption.

Huron and Eastern Railway Company (HERC)

FRA Waiver Petition Docket No. HS-86-5

The HERC plans to provide service on an 82-mile system from Bad Axe, Michigan, to Crosswell, Michigan, plus several small branch lines. The HERC states that because of additional maintenance required to restore these former Chesapeake and Ohio branch lines that the train crew will not be able to complete a trip within 12 hours, and therefore requests an exemption.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than fifteen employees and has demonstrated good cause for granting this exemption.

Allegheny Railroad (ALR)

FRA Waiver Petition Docket No. HS-86-6

The ALR provides service over a 150-mile long system. The ALR states that it is not their intention to employ a train crew over twelve (12) hours per day under normal operating conditions, but that this exemption, if granted, would help their operation if they encountered unusual operating conditions or circumstances.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in these proceedings by submitting written views and comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning the proceeding should identify the docket number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Communications received before June 12, 1986 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments during regular business hours (9 a.m.-5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC, on April 17, 1986.

J.W. Walsh,
Associate Administrator for Safety.

[FR Doc. 86-8348 Filed 4-25-86; 8:45 am]
BILLING CODE 4910-06-M

DEPARTMENT OF THE TREASURY

Customs Service

Customs Broker License: Cancellation with Prejudice

This is to advise that pursuant to 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and § 111.51(b), Customs Regulations (19 CFR 111.51(b)), upon the specific request of Charles A. Lorme', Jr., Massapequa, New York, the individual Customs Broker license No. 4458, issued to Charles A. Lorme', Jr., and the Corporate Customs Broker License No. 4646, issued for Lorme' International Ltd., both for the New York Customs Region, are hereby cancelled with prejudice.

Date: April 21, 1986.

Alfred R. De Angelus,
Acting Commissioner of Customs.

[FR Doc. 86-9426 Filed 4-25-86; 8:45 am]
BILLING CODE 4820-02-M

Application for Recordation of Trade Name: "CHRISTIAN KIM, INC."

ACTION: Notice of Application for Recordation of Trade Name.

SUMMARY: Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "CHRISTIAN KIM, INC." used by Christian Kim, Inc., a corporation organized under the laws of the State of California, located at 124 East Olympic Boulevard, Los Angeles, California 90015.

The application states that the trade name is used in connection with footwear, manufactured in Korea.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the **Federal Register.**

DATE: Comments must be received on or before June 27, 1986.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-5765).

Dated: April 24, 1986.

Steven L. Pinter,
Acting Director, Entry Procedures and Penalties Division.

[FR Doc. 86-9427 Filed 4-25-86; 8:45 am]
BILLING CODE 4820-02-M

VOL 51 ISS 81 AP 28 1986 UMI

Sunshine Act Meetings

Federal Register
Vol. 51, No. 81
Monday, April 28, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Thursday, May 1, 1986.

LOCATION: Third Floor Hearing Room, 1111–18th Street, NW., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

FY '88 Planning

The Commission will consider proposed Fiscal Year 1988 planning issues.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207 301–492–6800.

Dated: April 23, 1986.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 86-9474 Filed 4-23-86; 4:32 pm]

BILLING CODE 6355-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 12:10 p.m. on Wednesday, April 23, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to adopt: (1) A resolution (a) making funds available for the payment of insured deposits in Union County Bank, Maynardville, Tennessee, which had been closed by the Commissioner of Financial Institutions for the State of Tennessee on Tuesday, April 22, 1986, (b) accepting the bid of Commercial Bank of Claiborne County, Harrogate, Tennessee, an insured State nonmember bank, for the transfer of the insured and fully secured or preferred deposits of the closed bank, and (c) designating Commercial Bank of Claiborne County, Harrogate, Tennessee, as the agent for the Corporation for the payment of insured and fully secured or preferred deposits of the closed bank; and (2) an Order approving the application of Commercial Bank of Claiborne County, Harrogate, Tennessee, for consent to purchase certain assets of and assume the liability to pay certain deposits made in Union County Bank, Maynardville, Tennessee.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive) concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 24, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-9535 Filed 4-24-86; 3:03 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 8:45 a.m. on Thursday, April 24, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider:

(A) Recommendations regarding the initiation of administrative enforcement proceedings against insured banks; and

(B) The application of Eaton National Bank & Trust Co., Eaton, Ohio, for consent to purchase certain assets of and assume the deposits made in The New Paris Loan and Building Co., New Paris, Ohio, a non-FDIC-insured institution.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: April 24, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-9536 Filed 4-24-86; 3:04 pm]

BILLING CODE 6714-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

April 23, 1986.

TIME AND DATE: 10:00 a.m., April 22, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, D.C.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: In addition to the previously announced items, the Commission also discussed the following:

3. Litigation matters.

It was determined by a unanimous vote of the Commissioners that this item be added to the meeting and no earlier announcement of the addition was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen 202–653–5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86-9547 Filed 4-24-86; 3:53 pm]

BILLING CODE 6735-01-M

5

POSTAL SERVICE BOARD OF GOVERNORS

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. section 552b), hereby gives notice that it intends to hold a meeting at 8:30 a.m. on Tuesday, May 6, 1986, in the Benjamin Franklin Room, U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington, DC. The meeting is open to the public. The Board expects to disucss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

There will also be a session of the Board on Monday, May 5, 1986, but it will consist entirely of briefings and not be open to the public.

Agenda

Tuesday Session

May 6, 1986—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, April 7–8, 1986.
2. Remarks of the Postmaster General.
3. Quarterly Report on Service Performance. (Mr. Coughlin, Senior Assistant Postmaster General, Operations Group, will present the quarterly summary on service performance.)
4. Report on INTELPOST. (Mr. Morison, Assistant Postmaster General, Marketing Department, will present an update report on INTELPOST operations.)
5. Report on Open Testing Program. (OPTEX). (Mr. Charters, Assistant Postmaster General, Employee Relations Department, will present a report on testing procedures for job applications.)
6. Capital Investment: (1) 497 Truck Tractors. (Mr. Coughlin, Senior Assistant Postmaster General, Operations Department, will present this item.)
8. Tentative agenda for June 2–3, 1986, meeting in Washington, DC.

David F. Harris,

Secretary.

[FR Doc. 86-9532 Filed 4-24-86; 2:24 pm]

BILLING CODE 7710-12-M

6

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of April 28, 1986:

A closed meeting will be held on Tuesday, April 29, 1986, at 2:30 p.m. An open meeting will be held on Wednesday, May 7, 1986, at 1:00 p.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendered matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Cox, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, April 29, 1986, at 2:30 p.m., will be:

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Chapter 11 proceeding.

Regulatory matter regarding financial institution.

Formal order of investigation.

The subject matter of the open meeting scheduled for Wednesday, May 7, 1986, at 1:00 p.m., will be:

Discussion with invited representatives from the financial community, the self-regulatory organizations, and state securities commissions on issues raised by the rapid growth of investment advisers, including financial planners. The issues to be addressed include, but will not be limted to, whether such growth has resulted or may result in problems, whether current regulation is effective, and whether new, cost-effective regulatory or legislative approaches are required. For further information, please contact Cecile Srodes at (202) 272–2500.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: David Mahaffey at (202) 272–2091.

Shirley E. Hollis,

Assistant Secretary.

April 23, 1986.

[FR Doc. 86-9508 Filed 4-24-86; 12:04 pm]

BILLING CODE 8010-01-M

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federal register

Monday
April 28, 1986

Part II

Department of Health and Human Services

Office of Human Development Services

Grants Availability; Dependent Care Planning and Development; State Funds; Notice

VOL 51 ISS 81 AP 28 1986 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

State Grants for Dependent Care Planning and Development

AGENCY: Office of Human Development Services, HHS.

ACTION: Notice of the availability of State grant funds for dependent care planning and development.

SUMMARY: FY 1986 funds are available for grants to States (including the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau). These grant funds may be used only for the planning, development, establishment, expansion, or improvement of (1) State and local dependent care resource and referral systems, and (2) programs to furnish school-age child care services before and after school in public or private school facilities or in community centers in communities where school facilities are not available.

This Notice sets forth the requirements and application process for these grants.

DATES: Applications must be received by June 27, 1986.

Address applications to: Dependent Care Grant Program, Paget W. Hinch, Associate Commissioner, Family and Youth Services Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, DC 20012.

FOR FURTHER INFORMATION CONTACT: Family and Youth Services Bureau (202) 755–7800.

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 98–558, the Human Services Reauthorization Act of 1984 (98 Stat. 2880), was enacted October 30, 1984. Subchapter D of that Act is entitled "Grants to States for Planning and Development of Dependent Care Programs and for Other Purposes." We will refer to subchapter D as "the Act" in this Notice.

The purpose of this new program is to provide States with funds for activities in two specific areas: activities related to dependent care resource and referral systems and activities related to school-age child care services. In each of these two areas, funds may be used to assist in the planning, development, establishment, expansion, or improvement of services. However, funds may not be used for costs of operation of any resource and referral system or any before or after school child care program established, expanded, or improved under the Act; to make cash payments to intended recipients of services; to subsidize direct provision of services; to pay for construction or renovation; or to be used as matching funds for Federal funds. Forty percent of funds must be used for activities related to dependent care resource and referral systems and sixty percent for activities related to school-age child care services.

No funds are proposed for Dependent Care Planning Grants for FY 1987. Currently, States, at their option, fund such programs and activities under the social services block grant (SSBG) program, funded at $2.563 billion in FY 1986. Similar programs may continue to be funded through the Child Welfare Services program, proposed for funding at $200 million for FY 1987, and the SSBG, proposed to be increased to $2.7 billion in FY 1987. Decisions to fund such service programs are made at the State and local level.

Availability of Funds, Eligibility, Matching and Fiscal Requirements

The Department's FY 1986 appropriation bill, Pub. L. 99–178, appropriated $5 million to implement this program. Pub. L. 99–177, the Gramm-Rudman-Hollings legislation, reduces this appropriation to $4.785 million.

Funds are alloted to the States based on the formula in section 670B of the Act. States eligible for these grants are defined in section 670G(10) to mean the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virginia Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (in place of the Trust Territory of the Pacific Islands in accordance with section 514 of Public Law 99–178). Each State shall receive an amount which bears the same ratio to the total amount appropriated as the population of the State bears to the population of all States, except that no State will receive less than $50,000. The $50,000 minimum does not apply to the eligible Territories and Insular Areas. State allotments appear in the table at the end of this notice.

Section 670D(e)(1) of the Act requires that the Federal share of any project supported under this program shall not exceed 75 percent, thus requiring 25 percent State matching funds.

These funds must be administered in compliance with 45 CFR Part 74, the Department's rule on administration of grant funds. These funds must be expended by September 30, 1987.

Summary of Requirements

This legislation contains many specific and detailed requirements, including cross references to definitions and requirements in a variety of other statutes. For ease of comprehension and administration, we have repeated the requirements here with appropriate statutory citations. (We note that section 670E(d) contains an erroneous cross-reference to section 1908(a)(1)–(5) of the Public Health Service Act. Only paragraphs (a)(1) and (a)(2) of section 1908 exist and are included here.

The chief executive officer of each State must designate an agency to administer these funds. If the agency designated is not a State or local education agency, the designated agency must have an agreement with the State or local education agency, the designated agency must have an agreement with the State or local education agency, institution of higher education, or community center to carry out certain specified requirements. (Section 670D(b)(2)(A).)

A. Definitions

(1) The term "community center" means facilities operated by non-profit community-based organizations for the provision of recreational, social or educational services to the general public (section 670G(1)).

(2) The term "dependent" means:

(a) An individual who has not attained the age of 17 years;

(b) An individual who has attained the age of 55 years; or

(c) A person with a developmental disability (section 670G(2)).

(3) The term "developmental disability" means a severe chronic disability of a person which—

(a) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(b) Is manifested before the person attains age 22;

(c) Is likely to continue indefinitely;

(d) Results in substantial functional limitations in three or more of the following areas of major life activity: (1) Self-care, (2) receptive and expressive language, (3) learning, (4) mobility, (5) self-direction, (6) capacity for independent living, and (7) economic self-sufficiency; and

(e) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

(Section 670G(3) of the Act and section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act.)

(4) The term "equipment" includes machinery, utilities, and building equipment and any necessary enclosure or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published, and audio-visual instructional materials; and books, periodicals, documents, and other related materials. (Section 670G(4) of the Act and section 198(a)(8) of the Elementary and Secondary Education Act of 1965.)

(5) The term "institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, (A) is an institution with respect to which the Secretary has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of clauses (1), (2), (4), and (5). Such term also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in clause (1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution. For purposes of this definition, the Secretary (of the Department of Education) shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered. (Section 670G(5) of the Act and section 1201(a) of the Higher Education Act of 1965.)

(6) The term "local education agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school. (Section 670G(6) of the Act and section 198(a)(10) of the Elementary and Secondary Education Act of 1965.)

(7) The term "school-age children" means children aged five through thirteen. (Section 670G(7) of the Act.)

(8) The term "school facilities" means classrooms and related facilities used for the provision of education. (Section 670G(8) of the Act.)

(9) The term "Secretary" means the Secretary of Health and Human Services. (Section 670G(9) of the Act.)

(10) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools. (Section 670G(11) of the Act and section 198(a)(17) of the Elementary and Secondary Education Act of 1965.)

B. Use of Allotments

1. Information and Referral Systems

Subject to the limitations listed below, forty percent of the funds alloted to each State shall be available for the planning, development, establishment, expansion, or improvement, directly or by grant or contract with public or private entities, of State and local resource and referral systems to provide information concerning the availability, types, costs, and locations of dependent care services.

The information provided by any such system shall include—

(a) The types of dependent care services available, including services provided by individual home, religious organizations, community organizations, employers, private industry, and public and private institutions;

(b) The costs of available dependent care services;

(c) The locations in which dependent care services are provided;

(d) The forms of transportation available to such locations;

(e) The hours during which such dependent care services are available;

(f) The dependents eligible to enroll for such dependent care services; and

(g) Any resource and referral system planned, developed, established, expanded, or improved with amounts paid to a State under the Act.

In carrying out clause (g) of the previous sentence, no information shall be included with respect to any dependent care services which are not provided in compliance with the laws of the State and localities in which such services are provided. (Section 670D (a) and (c) of the Act.)

2. School-Age Child Day Care

Subject to the limitations listed below, sixty percent of the funds allocated to each State shall be available for the planning, development, establishment, expansion, or improvement by the States, directly, or by grant or contract with public agencies or private nonprofit organizations of programs to furnish school-age child care services before and after school in public or private school facilities or in community centers in communities where school facilities are not available. (Section 670D(b) and (c)(2) of the Act.)

3. Limitations on the Use of the Funds

A State may not use these funds to—

(1) Pay the costs of operation of any resource and referral system or before or after school child care program established, expanded, or improved with funds under the Act;

(2) Make cash payments to intended recipients of dependent care services including child care services;

(3) Subsidize the direct provision of dependent care services including child care services;

(4) Pay for construction or renovation; or

(5) Satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds. (Section 670(d) of the Act.)

4. Administrative Cost Limitation

Not more than 10 percent of each State's allotment may be used for the cost of administration. (Section 670D(e)(2) of the Act.)

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5. Non-Duplication of Programs

Projects supported with funds under this program to plan, develop, establish, expand, or improve a State or local resource and referral system or before or after school child care program shall not duplicate any services which, prior to the date of enactment of the Act, are provided by the State or locality which will be served by such system. (Section 670D(f) of the Act.)

C. Application and Description of Activities; Requirements

In order to receive an allotment under section 670B, each State shall submit an annual application to the Office of Human Development Services at the address specified above. There is no application kit; the State's application may be in the format of its choice. It must, however, be signed by the chief executive officer of the State, and contain the following certifications, assurances, and information:

1. Certifications

a. The State agrees to use the funds allotted to it under section 670B in accordance with the requirements of the Act. (Section 670E(b)(1) of the Act.)

b. The State agrees that Federal funds made available under section 670C for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, local, and other non-Federal funds. (Section 670E(b)(2) of the Act.)

2. Assurances

a. In the case of an applicant that is not a State or local educational agency, the applicant for these funds has or will enter into an agreement with the State or local educational agency, institution of higher education or community center containing provisions for—

(i) the use of facilities for the provision of before or after school child care services (including such use during holidays and vacation periods),

(ii) the restrictions, if any, on the use of such space, and

(iii) the times when the space will be available for the use of the applicant. (Section 670D(b)(2)(A) of the Act.)

b. The parents of school-age children will be involved in the development and implementation of the program for which assistance is sought under the Act. (Section 670D(b)(2)(C) of the Act.)

c. The applicant is able and willing to seek to enroll racially, ethnically, and economically diverse as well as handicapped school-age children in the child care service program for which assistance is sought under the Act. (Section 670D(b)(2)(D) of the Act.)

d. The child care program is in compliance with State and local licensing laws and regulations governing day care services for school-age children to the extent that such regulations are appropriate to the age group served. (Section 670E(b)(2)(E) of the Act.)

e. Other assurances as the Governor may reasonably require to carry out the provisions of this Act. (Section 670D(b)(2)(F) of the Act.)

3. Information

a. An estimate of the costs of the establishment of the child care service program in the public or private school facilities or community centers. (Section 670D(b)(2)(B) of the Act.)

b. A description of the intended use of the payment the State will receive under section 670C including information on the programs and activities to be supported. (Section 670D(c) of the Act.)

D. Annual Report Requirements

Each State shall prepare and submit to the Secretary an annual report on its activities under this program. Such reports shall contain information so that the Secretary can:

(1) Determine whether funds were expended in accordance with the requirements of this statute;

(2) Secure a description of the projects, programs and services assisted by funds made available under section 670B, including a summary of the services which were provided, the providers of such services, and the individuals who received such services; and

(3) Secure a record of the purposes for which the funds were spent, of the recipients of such funds, and of the progress made toward achieving the purposes for which the funds were provided. (Section 1908(a)(1) of the Public Health Service Act.)

The annual report on the use of these FY 1986 funds is due to the Department of Health and Human Services, Office of Human Development Services by December 30, 1988.

E. Public Review Requirements

The description of the intended use of the State's allotment shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with the provisions of the Act) until September 30, 1987, as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this subchapter, and any revision shall be subject to the requirements of the preceding sentence. (Section 670E(c) of the Act.)

Copies of the annual report shall be provided, upon request, to any interested person (including any public agency). (Section 670E(d) of the Act and section 1908(a)(1) of the Public Health Service Act.)

Copies of the annual report and the audit shall be made available for public inspection within the State. (Section 670E(d) of the Act and section 1908(b)(4) of the Public Health Service Act.)

F. Additional Requirements and Provisions

1. Potential Reduction in State Allotments

The Secretary, at the request of a State, may reduce the amount of payments under section 670B by—

(i) The fair market value of any supplies or equipment furnished the State, and

(ii) The amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee, when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described under the Act. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State. (Section 670E(d) of the Act and section 1903(b) of the Public Health Service Act.)

2. Fiscal controls

Each State shall establish fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under section 670B. (Section 670E(d) of the Act and section 1908(b)(1) of the Public Health Services Act.)

3. Audits

Eact State shall conduct audits of this program in accordance with the provisions of the Single Audit Act of 1984, OMB Circular A-128, and 45 CFR Part 74.62. In general, audits must be conducted annually by independent auditors based on generally accepted government auditing standards. The audits or series of audits typically will cover the entire operations of a State and should be submitted to the HHS Regional Inspector General for Audit in the HHS region in which the State is located. (Section 670E(d) of the Act cross-references section 1908(b)(2) of the Public Health Service Act which has been superceded by the Single Audit Act of 1984.)

4. Repayment

Each State shall, after being provided by the Secretary with adequate notice and opportunity for a hearing within the State, repay to the United States amounts found not to have been expended in accordance with the requirements of this part or the certifications provided by the State under section 670E. If such repayment is not made, the Secretary shall, after providing the State with adequate notice and opportunity for a hearing within the State, offset such amounts against the amount of any allotment to which the State is or may become entitled under this program. (Section 670E(d) of the Act and Section 1908(b)(3) of the Public Health Service Act.)

5. Comptroller General Review

The Comptroller General of the United States shall from time to time, evaluate the expenditures by States of grants under this Act in order to assure that expenditures are consistent with the provisions of the Act. (Section 670E(d) of the Act and section 1908(b)(5) of the Public Health Service Act.)

6. Withholding

The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State which does not use its allotment in accordance with the requirements of this part or the certifications provided under section 670E. The Secretary shall withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

The Secretary may not institute proceedings to withhold funds under this program unless the Secretary has conducted an investigation concerning whether the State has used its allotment in accordance with the requirements of this part or the certifications provided under section 670E. Investigations required by this paragraph shall be conducted within the affected State by qualified investigators.

The Secretary shall respond in an expeditious manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the requirements of this part or certifications provided under section 670E.

The Secretary shall conduct in several States in each fiscal year investigations of the use of funds received by the States under the Act in order to evaluate compliance with the requirements of the Act.

The Secretary may not withhold funds under this program from a State for a minor failure to comply with the requirements of this part or certifications provided under section 670E.

The Comptroller General of the United States may conduct investigations of the use of funds received under this part by a State in order to insure compliance with the requirements of this part and certifications provided under section 670E.

Each State, and each entity which has received funds from an allotment made to a State under the Act, shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

In conducting any investigation in a State, the Secretary or the Comptroller General of the United States may not make a request for any information not readily available to such State or an entity which has received funds from an allotment made to the State under this part or make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available. The previous sentence does not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding. (Section 670E(d) of the Act and section 1907 of the Public Health Service Act.)

7. Nondiscrimination

(a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this part are considered to be programs and activities receiving Federal financial assistance.

(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this part. (Section 670E(d) of the Act and section 1908 of the Public Health Service Act.)

(3) Each applicant is required to have on file with the Department of Health and Human Services an assurance of the requirements in paragraphs (a) (1) and (2) above before receiving Federal financial assistance under the Act.

(b) Whenever the Secretary finds that a State, or an entity that has received a payment from an allotment to a State under this program, has failed to comply with a provision of law referred to in paragraph (a)(1), with paragraph (a)(2) above, or with an applicable regulation (including one prescribed to carry out paragraph (a)(2), the Secretary shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(1) Refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

(2) Exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

(3) Take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to paragraph (b)(1), or whenever he has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in paragraph (a)(1) or in violation of paragraph (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief. (Section 670E(d) of the Act and section 1908 of the Public Health Service Act.)

8. Criminal Penalty for False Statements

Whoever—

(a) Knowingly and willfully makes or causes to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payment may be

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made by a State from funds allotted to the State under the Act or

(b) Having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized, shall be fined not more than $25,000 or imprisoned for not more than five years or both. (Section 670E(d) of the Act and section 1909 of the Public Health Service Act.)

Notification Under Executive Order 12372

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," for State plan consolidation and simplification only (45 CFR 100.12). The review and comment provisions of the Executive Order and Part 100 do not apply.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the application requirements contained in this notice have been approved by the Office of Management and Budget under control number 0980-0178.

DEPENDENT CARE FISCAL YEAR 1986

State/territory	Allocation
Alabama	69,348
Alaska	50,000
American Samoa	699
Arizona	82,660
Arkansas	50,000
California	446,288
Colorado	85,231
Connecticut	64,814
Delaware	50,000
District of Columbia	50,000
Florida	190,784
Georgia	101,442
Guam	2,395
Hawaii	50,000
Idaho	50,000
Illinois	200,051
Indiana	95,551
Iowa	50,978
Kansas	50,000
Kentucky	84,703
Louisiana	77,846
Maine	50,000
Maryland	75,582
Massachusetts	100,784
Michigan	157,716
Minnesota	72,382
Mississippi	50,000
Missouri	87,685
Montana	50,000
Nebraska	50,000
Nevada	50,000
New Hampshire	50,000
New Jersey	120,804
New Mexico	50,000
New York	368,219

DEPENDENT CARE FISCAL YEAR 1986—Continued

State/territory	Allocation
North Carolina	107,142
North Dakota	50,000
Northern Mariana	379
Ohio	195,951
Oklahoma	67,916
Oregon	50,000
Palau	379
Pennsylvania	208,889
Puerto Rico	54,673
Rhode Island	50,000
South Carolina	67,351
South Dakota	50,000
Tennessee	81,977
Texas	277,875
Utah	50,000
Vermont	50,000
Virgin Islands	2,156
Virginia	97,949
Washington	75,582
West Virginia	50,000
Wisconsin	92,689
Wyoming	50,000
Total	4,766,000

(Catalog of Federal Domestic Assistance Number 13.673)

Dated: April 9, 1986.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 86-9518 Filed 4-25-86; 8:45 am]

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federal register

Monday
April 28, 1986

Part III

Department of Commerce

Productivity, Technology, and Innovation; Study of Alternatives for Privatizing the National Technical Information Service; Notice and Request for Public Comment

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DEPARTMENT OF COMMERCE

[Docket No. 60352-6052]

Productivity, Technology, and Innovation; Study of Alternatives for Privatizing the National Technical Information Service

AGENCY: National Technical Information Service, Commerce.

ACTION: Notice and request for public comment.

SUMMARY: The Department of Commerce is conducting a study of alternatives for privatizing the National Technical Information Service (NTIS). Various alternatives are being considered under which all or part of the National Technical Information Service would be operated by the private sector. This notice requests information and comments from all interested parties on those alternatives and on some associated policy issues. The Department of Commerce will draw on the information and comments in developing its recommendations and in proposing any legislation which might be required.

A change in the basic structure or operation of NTIS could affect several classes of persons and organizations. Comments are particularly, but not exclusively, invited from these classes, including: Customers for whom NTIS products and services provide access to U.S. and foreign government scientific and technical information; source organizations for which NTIS serves as a vehicle for the dissemination of research results; private sector organizations that derive revenue from products or services sold to, through or in conjunction with NTIS; private sector organizations interested in operating all or part of NTIS; and any other persons or organizations whose activities have been affected by current NTIS operations or might be affected by a change in those operations.

DATE: Comments must be received on or before May 28, 1986.

ADDRESS: Comments may be sent to the Assistant Secretary for Productivity, Technology and Innovation c/o Joseph Clark, Room 4824, U.S. Department of Commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Joseph Clark, Deputy Director, NTIS (703) 487-4612.

This notice is divided into three parts: (1) A description of the operations of the National Technical Information Service; (2) a listing of privatization alternatives; and (3) a listing of issues.

Description of the National Technical Information Service

The National Technical Information Service (NTIS) operates under the authority of Title 15 U.S.C. 1151-1157, as amended, which authorizes the Secretary of Commerce to establish a clearinghouse for the collection and dissemination of scientific, technical and engineering information. Operating under this authority, the NTIS operation has evolved to include the following elements:

- Acquisition and dissemination of reports describing the results of research done primarily by Federal agencies, their contractors and grantees, but also including similar reports from state and local governments, colleges and universities, and professional associations.
- Acquisition (limited), translation and dissemination of foreign technical information.
- Acquisition and distribution of Federally-produced computer programs and computerized data bases.
- Operation of the Federal Research in Progress (FEDRIP) program which, as successor to the Smithsonian Scientific Information Exchange, provides information describing on-going Federally-funded research projects in the physical, engineering and life sciences.
- Operation of the Center for the Utilization of Federal Technology as called for in the Stevenson-Wydler Technology Innovation Act (Pub. L. 96-480).
- Assistance to state and local governments in furthering their technology transfer programs.
- Acquisition and licensing of government-owned patents with significant commercial potential.
- Provision of accounting and production services to Federal agencies, and technical assistance for the Agency for International Development's efforts to transfer U.S. scientific and technical information to developing countries.

The first four elements make up the clearinghouse program, the largest part of the NTIS operation. Through agreements with Federal agencies or with foreign firms and governments, NTIS acquires the reports, software programs and data bases; prepares bibliographies which describe and announce their availability; and sells the reports, programs, data bases and bibliographic materials.

Complete text reports are sold on an ad hoc or subscription basis, and are available in paper or microform. Software and data base tapes are sold on an ad hoc basis. Bibliographic material is sold as: A biweekly and an annual index to all reports; a weekly newsletter covering reports in each of 26 subject categories; an on-line data base; and ad hoc published and on-line searches.

The NTIS collection includes over 1.6 million titles. Because NTIS provides archival storage for reports entering its system, all are permanently available for sale, either as shelf stock or as a print from paper or microform master.

There is no legal or regulatory requirement for Federal agencies to place their reports in the NTIS system. In many cases, NTIS serves as a secondary distributor. Because of its secondary distribution role, and because of the highly technical nature of its reports, the current NTIS audience is limited; on average, NTIS sells less than 10 copies of each report it acquires.

Approximately 2,000 sources, both U.S. and foreign, place reports in the NTIS system. For FY 1985, the major sources were the Department of Defense (approximately 23% of all titles acquired), the National Aeronautics and Space Administration (4%), the Department of Energy (23%), foreign sources (25%, more than half of which enters NTIS through arrangements with DoE and NASA); and all other (25%).

Customers can purchase NTIS products on an ad hoc or annual subscription basis. Methods of payment include check, money order, credit card or invoice billing. Most regular customers establish deposit accounts at NTIS, drawing down on these accounts as necessary to purchase specific products. Major exceptions to these arrangements are: The services provided to other agencies (handled as reimbursables); patent licensing (partially funded by appropriations); and the bibliographic data bases (leased directly to major users, and leased to commercial vendors for third party, i.e., public, use).

Many regular customers purchase one or more bibliographic products and use these products to identify specific reports they need. Infrequent or one-time customers typically learn of the availability of a report through announcements in trade press or through customer-initiated contact with NTIS sales personnel.

Over the past 18 months, NTIS has sold its products to some 40,000 individuals, firms, schools, libraries and governments, both foreign and domestic. Approximately 75% of NTIS customers are small businesses. In the past year, NTIS has shipped over 4.5 million documents and microforms, an average of 18,000 each day. Approximately 15% of NTIS sales are to foreign customers.

NTIS operations are located in Springfield, Virginia, in the Washington, D.C. metropolitan area. Customer orders come in by mail, phone, (limited) in person sale, and on-line. With the exception of limited pick-up orders from local customers, all document orders are shipped via United States Postal Service, United Parcel Service or similar carriers. Most foreign sales are handled through independent, in-country dealers who take orders from and make local distribution of products to final customers.

Marketing to NTIS customers is done primarily through direct mail, supplemented in small part by exhibits at appropriate conventions/meetings and by alerting the trade press to the availability of specific reports. Liaison with source agencies, encouraging them to place documents in the NTIS system, is done primarily through direct personal contact.

As of March 14, 1986 the NTIS staff numbered 333 employees:

Executive and policy direction	5
International affairs, including foreign acquisition and AID support	11
Product management, domestic acquisition and source agency liaison	26
Marketing, sales and customer service	43
Center for the Utilization of Federal Technology, state/local government assistance and patent licensing	13
Order processing, inventory control, warehousing and order fulfillment	66
Document (input) processing, bibliographic activities and preparation (excluding printing) of publications	54
Budget, customer accounting, financial management, administrative services and computer programming	93
Total	333

Printing and microform reproduction services are provided by a non-NTIS Department of Commerce publications unit, by the Government Printing Office and by GPO contractors. Billings to NTIS for these services in FY 1985 were $4.5 million. Personnel services and computer hardware services are provided by the Department of Commerce, with FY 1985 billings of $275,000 and $1.2 million respectively.

Except for some $500,000 in budgetary appropriations for the patent licensing program, NTIS activities are funded from revenues earned from the sale of products and services. In FY 1985, earned revenues were $21.3 million. Approximately 58% of this amount was from the sale of full text reports; 19% from bibliographic and announcement products; 14% from services provided to other agencies; 7% from software and data tapes; and 2% from patent licensing fees.

Interested parties may call or write to the Deputy Director of the National Technical Information Service, at the address or telephone number shown above, for a package of materials which provides detailed information about the agency's activities, costs, sales volume, products, and source agencies.

Privatization Alternatives

The Department of Commerce has tentatively identified a number of alternatives for privatizing NTIS operations, some of which would require legislation:

- Discontinuing NTIS operations and allowing the private sector to pursue whatever opportunities that discontinuation offers;
- Selling the entire NTIS operation to one or more private organizations;
- Selling portions of NTIS, e.g., marketing and order fulfillment, while retaining the rest as a government activity;
- Contracting with a private organization for the conduct of all or portions of the NTIS activity; or
- Establishing NTIS as a government corporation, nonprofit corporation or some other form of public or private special-purpose organization.

Interested parties are invited to discuss their views as to the advantages and disadvantages of these alternatives.

They are also invited to identify and discuss other alternatives for privatization of NTIS.

Privatization Issues

The Department of Commerce has identified a number of key issues which must be addressed in the course of evaluating these and other privatization alternatives. These issues are described below, and public comment is invited on them.

1. Federal agencies are under no obligation to place their reports in the NTIS system. This raises several issues: (a) If the Department of Commerce could not assure that Federal source agencies would continue to place their reports in a privatized system, would any private organization be willing to undertake the operation of the present NTIS? (b) If not, should any legislative change incident to the privatization of NTIS include a requirement that agencies place their reports in the system? and (c) In the absence of any such requirement, what incentives could a private organization offer to ensure that current agencies would continue to place their reports in a private system?

2. Most NTIS agreements for the acquisition of foreign technical information are developed on a government-to-government basis providing for mutual exchange. How might these arrangements be continued in a private system?

3. Resolution of issues 1 and 2 might involve an arrangement in which the acquisition of source agency reports remained a governmental activity, with all costs reimbursed by the private sector, but all other NTIS functions are performed by a private organization. Under such an arrangement, what influence would the private organization expect to have to ensure that the government operated acquisition activity is responsive to the private organization's business objectives?

4. NTIS ensures the permanent availability of all documents entering its system. Many of these documents sell in very limited numbers, literally in the single digits. Would a private organization operating the NTIS system be willing to continue this policy of permanent availability? Should it be required to do so?

5. Generally, Federal reports entering the NTIS system cannot be copyrighted. Should legislation conferring copyright protection be included in the privatization proposal?

6. NTIS source agencies often make a primary distribution before placing a report in the NTIS system. Would continuation of this practice have a substantial adverse impact on a privatized NTIS system, or render that system uneconomic?

7. If the NTIS operation was sold to the private sector, should it be sold on an exclusive basis to only a single organization, or on a non-exclusive basis to several organizations? Should the government exercise come control over prices charged for products? How?

8. The NTIS system has served as a one-stop source for the sale of much of the Federal government's scientific and technical information. If the system was sold to several private organizations, this one-stop feature of sufficient value to warrant some special arrangement to ensure its continuation? What form might this special arrangement take?

9. To what extent, if any, and in what specific ways has the existence of NTIS affected private organizations in the information industry? How has this, in turn, affected the dissemination of Federal scientific and technical information? How might these effects change as a result of privatizing the NTIS system?

10. Privatizing NTIS raises a number of other issues dealing with:

- The effect of such proposed action on matters of broad national interest, i.e., national defense, U.S. scientific and technological competitiveness, and the national economy;

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• The rights of U.S. citizens to have access to the results of Federally-funded research and development; and

• The interests of the U.S. information industry, especially those firms that might wish to participate in those activities resulting from the privatization of NTIS.

Interested parties are invited to identify and discuss these and any other specific issues that should be considered in the course of evaluating alternatives for the privatization of NTIS.

Expressions of Interest

Organizations that might be interested in operating all or part of NTIS are invited to make their interest known, and to describe the terms and conditions under which they would be interested. This is an informal request for such expressions of interest. A final decision on the nature and extent of privatization for NTIS operations will be followed, if appropriate, by a formal request for proposals and/or bids.

Procedures

Requests for additional information, and comments, should be directed to Joseph Clark at the address or telephone number shown above.

Dated: April 24, 1986.

D. Bruce Merrifield,

Assistant Secretary for Productivity, Technology, and Innovation.

[FR Doc. 86-9545 Filed 4-25-86; 8:45 am]

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S.J. Res. 315/Pub. L. 99–377

Designating May 1986 as "Older Americans Month." (Apr. 23, 1986; 100 Stat. 396, 1 page) Price: $1.00

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Tuesday, April 29, 1986

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DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 417

[Docket No. 0081A]

Sugarcane Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby revises and reissues the Sugarcane Crop Insurance Regulations (7 CFR Part 417), effective for the 1987 and succeeding crop years. The intended effect of this rule is to: (1) Change to mandatory "Actual Production History" (APH) basis by removing the Premium Adjustment Table and Providing for cancellation for not furnishing records; (2) clarify that acreage will not be insured when planted with another crop; (3) change the method of calculating the insureds share of any indemnity on crops transferred before harvest; (4) add a provision to insure acreage cut for seed by written agreement; (5) add a provision to insure by written agreement acreage grown for a third or succeeding year from stubble; (6) change the method of computing indemnities when acreage, share, or practice is underreported; (7) provide continuous protection for stubbler cane; (8) change the notice of loss provision to make it more applicable to seed cane; (9) shorten the length of time an insured has to give notice when claiming an indemnity; (10) change the unit of measure for sugarcane; (11) clarify the method of appraising stubble acreage; (12) add a definition of "Loss ratio"; (13) change the filing date for contract changes; and (14) delete the definition for "Standard sugarcane." The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: May 31, 1986.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Departmental of Agriculture, Washington, DC, 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Department Regulation No. 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is December 1, 1990.

Merritt W. Sprague, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small businesses, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

On Thursday, February 13, 1986, FCIC published a Notice of Proposed Rulemaking in the Federal Register at 51 FR 5341, to revise and reissue the Sugarcane Crop Insurance Regulations (7 CFR Part 417), effective for the 1987 and succeeding crop years. The public was given 60 days in which to submit written comments on the proposed rule but none were received. The Notice of Proposed Rulemaking defined "County" to include all land identified by an ASCS farm serial number for the county but physically located in another county. This definition was in error and, therefore, the final rule retains the present definition. The Notice of Proposed rulemaking also defined "ASCS". Since the "County" definition is unchanged, there is no need for the "ASCS" definition and it has been removed.

Therefore, with the exception of minor changes in language and format, the proposed rule, as discussed above, is adopted as a final rule. The principal changes in the sugarcane policy are:

1. Section 2.—Add a clause to change the method of calculating the insured's share of an indemnity on crops transferred before harvest. This limits indemnities to the insurable interest at the time of loss.

Specify that insurance will apply on seed cane cut for seed, if FCIC agrees, in writing, to insure such acreage.

Add a provision that acreage grown for a third or succeeding year from stubble is not insured unless FCIC agrees in writing to insure such acreage.

Specify that acreage will not be insured when planted with another crop. This change is made to be consistent with other crop policies.

2. Section 5.—Remove the Premium Adjustment Table. The crop will be insured on an actual production history (APH) basis, and coverages will, therefore, reflect the actual production history of the crop on the unit. Insureds with good loss experience who are now receiving a premium discount are protected since they may retain a discount under the present schedule through the 1991 crop year or until their loss experience causes them to lose the advantage, whichever is earlier.

Remove the provisions for the transfer of insurance experience and for premium computation when participation has not been continuous. Deletion of the Premium Adjustment

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Table eliminates the need for these provisions.

3. Section 7.—add a provision to provide continuous protection for stubble cane.

4. Section 8.—Change the "notice of probable loss" provision to make it applicable to seed cane.

Shorten from 30 days to 10 days the time an insured has to give notice of loss when claiming an indemnity. This will allow FCIC to determine indemnities in a more timely fashion.

5. Section 9.—When acres are underreported, the production from all acres will count against the reported acres in calculating indemnities. This change will reduce the indemnities when acres are underreported and will reduce the complexity of calculations.

Change the unit of measure from "tons" to "pounds" to more closely conform to industry practice.

6. Section 15.—Add a clause to cancel the contract if production history is not furnished by the cancellation date. An exception will be allowed if the insured can show, prior to the cancellation date, that records are unavailable due to conditions beyond the insured's control. This clause is required by the change to mandatory APH.

7. Section 16.—Change the date for filing contract changes from May 31 to June 30.

8. Section 17.—Add a definition of "Loss ratio."

Delete the "Standard sugarcane" definition since it is no longer used in subsection 9.e.(2).

List of Subjects in 7 CFR Part 417

Crop insurance, Sugarcane.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Corp Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby revises and reissues the Sugarcane Crop Insurance Regulations (7 CFR Part 417), effective for the 1987 and succeeding crop years, to read as follows:

PART 417—SUGARCANE CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1987 and Succeeding Crop Years

Sec.

417.1 Availability of sugarcane crop insurance.
417.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
417.3 OMB control numbers.
417.4 Creditors.
417.5 Good faith reliance on misrepresentation.
417.6 The contract.
417.7 The application and policy.

Authority: Secs. 508, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1508, 1516).

Subpart—Regulations for the 1987 and Succeeding Crop Years

§ 417.1 Availability of sugarcane crop insurance.

Insurance shall be offered under the provisions of this subpart on sugarcane in counties within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 417.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for sugarcane which will be included in the actuarial table on file in applicable service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant will elect a coverage level and price at which indemnities will be computed from among those levels and prices set by the actuarial table for the crop year.

§ 417.3 OMB control numbers.

OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

§ 417.4 Creditors.

An interest of a person in an insured crop existing by virture of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 417.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the sugarcane crop insurance contract, whenever:

(a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation:

(1) Is indebted to the Corporation for additional premiums; or

(2) Has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that:

(1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice;

(2) Said insured relied thereon in good faith; and

(3) To require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto.

Requests for relief under this section must be submitted to the Corporation in writing.

§ 417.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the sugarcane crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 417.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation must be made by any person to cover such person's share in the sugarcane crop as landlord, owner-operator, or tenant if the person wishes to participate in the program. The application shall be submitted to the Corporation at the service office on or before the applicable sales closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of any application or applications in any county upon its determination that the insurance risk is excessive. The Manager of the Corporation is authorized in any crop year to extend the sales closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the extended period. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in previous policies and regulations issued by FCIC, a contract in the form provided for in this subpart will come into effect as a continuation of a sugarcane contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1987 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Sugarcane Crop Insurance Policy for the 1987 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Sugarcane—Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period:

(1) Adverse weather conditions;
(2) Fire;
(3) Insects;
(4) Plant disease;
(5) Wildlife;
(6) Earthquake;
(7) Volcanic eruption; or
(8) If applicable, failure of the irrigation water supply due to an unavoidable cause occurring after insurance attaches;

unless those causes are excepted, excluded, or limited by the actuarial table or subsection 9.e.(7).

b. We will not insure against any loss of production due to:

(1) The neglect, mismanagement, or wrongdoing of you, any member of your household, your tenants, or employees;

(2) The failure to follow recognized good sugarcane farming practices;

(3) The failure or breakdown of irrigation equipment or facilities;

(4) The failure to follow recognized good sugarcane irrigation practices;

(5) The impoundment of water by any governmental, public, or private dam or reservoir project; or

(6) Any cause not specified in subsection 1.a. as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured will be sugarcane grown for processing for sugar, grown on insured acreage, and for which a guarantee and premium rate are set by the actuarial table.

b. The acreage insured for each crop year will be plant and stubble cane grown on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we elect.

c. The insured share is your share as landlord, owner-operator, or tenant in the insured sugarcane at the time insurance attaches. However, only for the purpose of determining the amount of indemnity, your share will not exceed your share on the earlier of:

(1) The time of loss; or
(2) The beginning of harvest.

d. We do not insure any acreage:

(1) Cut for seed unless we agree, in writing, to insure such acreage;

(2) If the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(4) Which is destroyed, it is practical to replant to sugarcane, and such acreage is not replanted;

(5) Initially planted after the final planting date set by the actuarial table;

(6) Planted to a type or variety of sugarcane not established as adapted to the area or excluded by the actuarial table; or

(7) Planted with another crop.

e. If insurance is provided for an irrigated practice, you must report as irrigated only the acreage for which you have adequate facilities and water, at the time insurance attaches, to carry out a good sugarcane irrigation practice.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree, in writing, to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the time insurance attaches.

3. Report of acreage, share, and practice.

You must report on our form:

a. All the acreage of sugarcane in the county in which you have a share;

b. The practice; and

c. Your share at the time insurance attaches.

You must designate separately any acreage that is not insurable. You must report if you do not have a share in any sugarcane in the county. This report must be submitted annually on or before the reporting date established by the actuarial table. All indemnities may be determined on the basis of information you submit on this report. If you do not submit this report by the reporting date, we may elect to determine, by unit, the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, ans prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the sales closing date set by the actuarial table for submitting applications for the crop year.

5. Annual premium.

a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time insurance attaches.

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1985 crop year under the terms of the experience table contained in the sugarcane policy in effect for the 1986 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1991 crop year;

(2) The premium reduction will not increase because of favorable experience;

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1986 crop year;

(4) Once the loss ratio exceeds .80, no further premium reduction will apply; and

(5) Participation must be continuous.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

a. Insurance attaches on:

(1) Plant cane at the time of planting unless otherwise provided for by the actuarial table; and

(2) Stubble cane on the first day following harvest for the first or second crop year cane from stubble on the unit, except when stubble has been damaged by conditions occurring before harvest in the previous crop year and we notify you, in writing, by:

(a) January 31 following harvest in Louisiana; or

(b) April 30 following harvest in all other States.

b. Insurance ends at the earliest of:

(1) Total destruction of the surgarcane on the unit;

(2) Final harvest;

(3) Final adjustment of a loss; or

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(4) The following dates immediately following the normal starting of harvest:

(a) Louisiana..... January 31;
(b) all other states..... April 30.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the sugarcane on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the sugarcane and given written consent. You must notify us when such acreage is put to another use.

(2) You must give us notice of probable loss at least 15 days before the beginning of harvest:

(a) If you anticipate a loss on any unit; and

(b) For any acreage which is insured as seed cane.

(3) If probable loss is determined within 15 days prior to or during harvest, immediate notice must be given and a representative sample of the unharvested sugarcane (at least 10 feet wide and the entire length of the field) must remain unharvested for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, you must give us notice not later than 10 days after the earliest of:

(a) Total destruction of the sugarcane on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the sugarcane which is not to be harvested.

c. If an indemnity is to be claimed on any unit, you must leave intact the stalks on unharvested acreage and the stubble on harvested acreage until inspected by us.

d. We may reject any claim for indemnity if you fail to comply with any of the requirements of this section or section 9.

9. Claim for indemnity

a. Any claim for indemnity on a unit must be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the sugarcane on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of sugar on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of sugar to be counted (see subsection 9.e.);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you under section 3 of this policy results in a lower premium than the actual premium determined to be due, the production guarantee on the unit will be computed on the information reported, but all production from insurable acreage, whether or not reported as insurable, will count against the production guarantee.

e. The total production (in pounds of sugar) to be counted for a unit will include all harvested and appraised production.

(1) Sugar production to count from acreage damaged by freeze within the insurance period which adversely affects the boiling house operation and cannot be processed for sugar will be determined by dividing the dollar amount received from the mill for the damaged sugarcane by the price per pound of raw sugar. The applicable price of raw sugar will be the local market price on the earlier of:

(a) The day the loss is adjusted; or

(b) The day such sugar is sold.

(2) Appraised production to be counted will include:

(a) Any appraisal under subsection 9.e.(3) and 9.e.(4);

(b) Unharvested production on harvested acreage and potential production lost due to uninsured causes;

(c) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(d) Any appraised production on unharvested acreage.

Appraisals and harvested production not processed for sugar will be given in pounds of sugar.

(3) We may make an appraisal of not less than the production guarantee per acre on any harvested acreage on which the stubble is destroyed prior to our inspection.

(4) Except for acreage on which insurance attached the first day following harvest of the previous crop, an appraisal for inadequate stand will be made on any stubble acreage, at the time of inspection, if the product of the number of plants per acre multiplied by 2, multiplied by the factor (percentage of sugar) shown by the actuarial table does not equal the per acre guarantee. The per acre appraisal for inadequate stand will be the difference between the appraised production and the production guarantee.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use will be considered production to count unless such acreage is:

(a) Not put to another use before harvest of sugarcane becomes general in the county and reappraised by us;

(b) Further damaged by an insured cause and reappraised by us; or

(c) Harvested.

(6) The amount of production of any unharvested sugarcane may be determined on the basis of field appraisals conducted after the end of the insurance period.

(7) If you elect to exclude hail and fire as insured causes of loss and the sugarcane is damaged by hail or fire, appraisals will be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

f. You must not abandon any acreage to us.

g. Any suit against us for an indemnity must be brought in accordance with the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial of the claim is received by you.

h. An indemnity will not be paid unless you comply with all policy provisions.

i. We have a policy of paying your indemnity within 30 days of our approval of your claim, or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fees, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the **Federal Register** semiannually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

j. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity will be paid to the persons determined to be beneficially entitled thereto.

k. If you have other fire insurance, fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of the amount:

(1) Of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) By which the loss from fire exceeds the indemnity paid or payable under such other insurance.

For the purpose of this section, the amount of loss from fire will be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will

be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year, only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such right. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to farm.

You must keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all sugar produced on each unit, including separate records showing the same information for production from any uninsured acreage. Failure to keep and maintain such records may, at our option, result in cancellation of the contract prior to the crop year to which the records apply, assignment of production to units by us, or a determination that no indemnity is due. Any person designated by us will have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. Prior to the cancellation date you must:

(1) Furnish to us satisfactory production records for the crop year or the contract will be canceled for the next crop year; or

(2) Show to our satisfaction that the records are not available because of conditions beyond your control, such as fire, flood or other natural disaster. (If this subsection (2) applies, the Field Actuarial Office may assign a yield for the year for which the records are unavailable.)

d. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due if deducted from:

(1) An indemnity, will be the date you sign the claim; or

(2) Payment under another program administered by the United States Department of Agriculture, will be the date both such other payment and setoff are approved.

e. The cancellation and termination dates are September 30.

f. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date death, judicial declaration, or dissolution. If such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

g. The contract will terminate if no premium is earned for 5 consecutive years.

16. Contract changes.

We may change any terms and provisons of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you are deemed to have elected. All contract changes will be available at your service office by June 30 preceding the cancellation date. Acceptance of changes will be conclusively presumed in the absence of notice from you to cancel the contract.

17. Meaning of terms.

For the purpose of sugarcane crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices, insurable and uninsurable acreage, and related information regarding sugarcane insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period from planting for plant cane and the day following harvest for stubble cane until the end of the insurance period and is designated by the calendar year in which the sugarcane harvest normally begins in the county.

d. "Harvest" means the cutting and removing of sugarcane from the field.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Loss ratio" means the ratio of indemnity to premium.

h. "Person" means an individual, partnership, association, corporation, estate, trust, or other legal entity, and wherever applicable, a State or a political subdivision or agency of a State.

i. "Plant cane" (see difinition of sugarcane).

j. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

k. "Stubble cane" (see definition of sugarcane).

l. "Sugarcane" means either:

(1) Sugarcane the initial year planted (plant cane); or

(2) Sugarcane growing from the stubble left to produce another crop from previously harvested sugarcane (stubble cane).

m. "Tenant" means a person who rents land from another person for a share of the sugarcane or a share of the proceeds therefrom.

n. "Unit" means all insurable acreage of sugarcane in the county on the date insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the sugarcane on such land will be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office. Units will be determined when the acreage is reported. Errors in reporting units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any acreage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction of meaning of any of the provisions of the contract.

19. Determinations.

All determination required by the policy will be made by us. If you disagree with our determinations, you may obtain recondsideration of or appeal those determinations in accordance with the Appeal Regulations, (7 CFR Part 400—Subpart J).

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, DC, on April 15, 1986.

Edward Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86–9488 Filed 4–28–86; 8:45 am]

BILLING CODE 3410–08–M

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Agricultural Marketing Service

7 CFR Ch. X

[Docket Nos. AO-160-A84, etc.]

Milk in the Middle Atlantic and Other Marketing Areas; Order Amending Orders

Correction

In FR Doc. 86-8421 beginning on page 12830 in the issue of Wednesday, April 16, 1986, make the following corrections:

1. On page 12831, third column, in the heading for "PART 1011", insert "VALLEY" after "TENNESSEE".

2. On page 12834, second column, in the heading for "PART 1135", first line, "SOUTHERN" should read "SOUTHWESTERN".

BILLING CODE 1505-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 505d

Information Collection Requirements; Correction

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; technical correction.

SUMMARY: On January 2, 1985, the Federal Home Loan Bank Board ("Board") adopted a regulation relating to the information collection requirements contained in the Board's regulation regarding earnings-based accounts (50 FR 7). Because of a typographical error, the citation reference to the Board's earnings-based accounts regulation was incorrect. The amendment referred to 12 CFR 563.10. The correct reference should read 12 CFR 563.3–10. This action corrects that error. For the convenience of the public, the Board is republishing the entire text of section 505d.1(b), as amended by its action today.

EFFECTIVE DATE: April 29, 1986.

FOR FURTHER INFORMATION CONTACT: Carol J. Rosa, Paralegal Specialist, Regulations and Legislation Division, Office of General Counsel, (202) 377–6464; or Colleen Devine, Chief, Management Analysis Staff, Administration Office, (202) 377–6025, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

Pursuant to 12 CFR 508.11 and 508.14, the Board finds that, because of the minor, technical nature of this corrective amendment, notice and public procedure are unnecessary, as is the 30-day delay of the effective date.

List of Subjects in 12 CFR Part 505d

Reporting and recordkeeping requirements.

Accordingly, the Board hereby amends Part 505d, Subchapter A, Chapter V, Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER A—GENERAL

PART 505d—INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT

1. The authority citation for Part 505d is revised to read as follows:

Authority: Pub. L. 96-511, 94 Stat. 2812, 44 U.S.C. 3501, *et seq.*; 5 CFR 1320.7(f)(2), 1320.14(e).

2. On Page 7 in the **Federal Register** of January 2, 1985, the references to "§ 563.10" and corrected to read "§ 563.3–10." As corected, § 505d.1(b) is revised to read as follows:

§ 505d.1 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

(b) *Display.*

12 CFR section where identified and described	Current OMB control No.
523.13(b)	3068-0031
523.29(c)	3068-0031
545.1-1(f)	3068-0031
545.6-13(c)	3068-0031
545.16	3068-0031
545.20	3068-0031
545.24a(e)	3068-0031
545.29	3068-0031
552.11	3068-0031
563.3-10	3068-0511
563.9(b)	3068-0031
563.9-3(c)	3068-0031
563.17-2(a)	3068-0031
563.17-3(e)	3068-0031
563.23-1(f)	3068-0031
563.23-3(b)	3068-0031
563.25(c), (f)	3068-0031
563.39-1(f)	3068-0031
563b.4(a)(3)(i)	3068-0031
563c.10(c)	3068-0031

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-8631 Filed 4-28-86; 8:45 am]

BILLING CODE 6720-01-M

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12 CFR Part 563

Net-Worth Requirements of Insured Institutions

Date: April 21, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC"), is amending § 563.13(b)(2) of its regulations to terminate the Board's delegation of authority to the Principal Supervisory Agents ("PSA"s) to permit "de novo" institutions whose accounts are insured by the FSLIC ("insured institutions") to change their net-worth requirements from the "de novo" requirement under § 563.13(b)(2) to the standard requirement imposed on all insured institutions by § 563.13(b)(1). The Board will exercise this authority on a case-by-case basis to ensure a uniform national policy consistent with the Board's continuing review of the industry's capital requirements and financial soundness.

EFFECTIVE DATE: April 29, 1986.

FOR FURTHER INFORMATION CONTACT: John F. Connolly, Attorney, Office of General Counsel, (202–377–6455), Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: The Board initially adopted higher net-worth requirements for "de novo" insured institutions in the "de novo" regulation because of these institutions' lack of supervisory track records and their potential for excessive leverage of capital in order to exercise risky new asset powers. Board Res. No. 83–653, 48 FR 54320 (December 2, 1983) ("de novo regulation"). The net-worth regulation incorporated these higher requirements with little discussion. *See* Board Res. No. 85–79–B, 50 FR 6891 (February 19, 1985) ("net-worth regulation"). Section 563.13(b)(2)(i) requires most "de novo" institutions, those institutions applying for a Federal charter or Federal insurance whose businesses were not conducted previously under any charter, to have initial capital of $3 million and to maintain net worth in an amount equal to the institution's contingency factor (§ 563.13(g)(5)) plus seven percent of liabilities through its first full year, decreasing to six percent in the second year, and to five percent in the third year. Section 563.13(b)(2)(ii), however, provides that "de novo" institutions (1) whose applications for a Federal charter or Federal insurance were received prior to November 3, 1983, but not approved before December 2, 1983; (2) who choose to have their applications processed in accordance with § 571.6(a)(2); and (3) who do not additionally meet the community size (an area with a population of less than 50,000) and investment standards of § 571.6(a)(3), must maintain minimum net worth of at least seven percent of liabilities plus the contingency factor through their first three full years of operation.

Both § 563.13(b)(2)(i) and (b)(2)(ii), although requiring different levels of net worth for the first three years, provide that after that time:

> Upon the approval of the Principal Supervisory Agent pursuant to paragraph (b)(2)(iii) of this section, the minimum net worth [for "de novo" institutions] shall be equal to the amount specified by paragraph (b)(1) of this section.
> (50 FR at 6909.)

A "de novo" institution authorized by its PSA to convert to the standard net-worth calculation under paragraph (b)(1) of this section would combine its base factor computed on its level of liabilities at the end of the prior year, its contingency (also required for "de novo" institutions during their first three years), any amortization factor (generally inapplicable), plus its growth factor on new liabilities. An institution's base factor, as defined under § 563.13(g)(2), is the institution's minimum required amount of net worth calculated as of the last day of the preceding calendar year, excluding its contingency factor and before reduction for qualifying balances. Since a "de novo" institution's minimum required amount of net worth in its third year or later would be five or seven percent, its base factor would incorporate this capital requirement on existing liabilities. Such an institution would be required to continue to satisfy its contingency factor. The amortization factor would generally be inapplicable to such an institution since "de novo" institutions have never been authorized to use the five year averaging or twenty-year phase-in techniques. Finally, the most signficant change for such an institution would be that the sliding-scale growth factor of from 2.35 to 5 percent would apply to its marginal growth instead of a straight 5 or 7 percent of liabilities.

Board's Capitalization Concerns

The Board has been concerned for a number of years about the inadequate level of capital of insured institutions, particularly rapidly growing institutions. In the "de novo" regulation and the net-worth regulation, the Board also addressed the risks of excessive leverage of minimal capital and the scant protection afforded to depositors and to the FSLIC by such minimal capital. The Board also noted that the use of institutions' expanded asset powers to engage in higher risk/yield activities, which many "de novo" institutions could undertake from inception, requires reliance on adequate capital buffers. Furthermore, the Board has stressed that in addition to serving a loss absorption function, adequate capital helps to ensure prudent risk-taking activity by the owners and managers of insured institutions. If shareholders have significant levels of their own capital at risk, rather than simply looking to FSLIC deposit insurance to absorb the loss and rescue depositors, those stockholders have great incentive to carefully analyze management's risk-taking activity.

In light of the great value of adequate capital, the Board is continuing to study the adequacy of the industry's capital base and the industry's financial problems, particularly focusing on the rapid growth, high leverage, and diverse asset powers of insured institutions. The industry's ratio of net worth to total assets was 5.26 percent in December 1980, but fell to 3.86 percent under regulatory accounting principles by 1983. Adoption of the net-worth regulation plus the improved interest-rate environment helped to stop this slide and to increase the industry's ratio of regulatory net worth to total assets from 3.88 percent (as of January 1, 1985) to 4.38 percent (as of December 31, 1985). Nonetheless, the Board, particularly in light of the expiration of the current net-worth regulation on January 1, 1987, continues to study the industry's capital needs, credit risk, interest-rate risk, and overall financial health.

The Amended Regulation

The Board is hereby terminating its delegation of authority to the Principal Supervisory Agents under § 563.13(b)(2) and will exercise this authority directly in order to ensure a uniform national policy consistent with the Board's continuing review of the industry's capital requirements and financial soundness. This amendment eliminates the PSA level of review, which could be appealed to the FSLIC if the PSA refused to allow an institution to change to the § 563.13(b)(1) standard. It should be noted, however, that this PSA review process did not guarantee or presume that a PSA would permit a "de novo" institution to change to the computation method under § 563.13(b)(1). To the contrary the regulation expressly contemplated that PSA review would result in denial if, for example, the agent raised supervisory objections to the "probable effect of such reduction on the institution's safe and sound operating condition." 50 FR 6910. By its action today, the Board is simply centralizing this discretionary authority to facilitate a uniform national policy consistent with the Board's continuing review of the industry's capital requirements. The Board will evaluate each approval request based on its ongoing assessment of the industry's capital needs and its review of an individual "de novo" institution's net-worth level and supervisory record. The relatively low number and dispersed timing of the potential applications by "de novo" institutions to shift to the net-worth calculation method under § 563.13(b)(1) will prevent an excessive review burden for the Board or inordinate delay for applying institutions.

Pursuant to 12 CFR 508.11 and 508.14, the Board finds that because this amendment is a technical change regarding a rule of Board organization, procedure, or practice, notice and public procedure are unnecessary, as is the 30-day delay of the effective date.

List of Subjects in 12 CFR 563

Bank deposit insurance, Investments, Reporting and recordkeeping requirements, Savings and loan associations.

Accordingly, the Board hereby amends Part 563, Subchapter D, Chapter V, Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

1. The authority citation for Part 563 is revised to read as follows:

Authority: Sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); Sec. 5A, 47 Stat. 727, as amended by sec. 1, 64 Stat. 256, as amended, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1464); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 202, 96 Stat. 1469; sec. 409, 94 Stat. 160; secs. 401–407, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp. p. 1071 unless otherwise noted.

2. Amend § 563.13 by revising paragraph (b)(2) to read as follows:

§ 563.13 Regulatory Net-Worth requirement.

* * * * *

(b) *minimum required amount*—(1)

* * *

(2) *Exceptions for de novo institutions.*

(i) The minimum net-worth requirement for "de novo" institutions shall be an amount equal to the sum of the contingency factor plus seven percent of liabilities of the institution, which shall decline by 100 basis points for each year following the beginning of the first full fiscal year until equal to five percent; thereafter, upon the approval of the Board, such a "de novo" institution's minimum net-worth shall be equal to the

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amount specified by paragraph (b)(1) of this section.

(ii) "De novo" institutions which elect to have their applications for insurance of accounts processed in accordance with the policy set forth in § 571.6(a)(2) of this Subchapter but which do not additionally qualify under § 571.6(a)(3), shall have, for the period between commencement of operations and the beginning of the first full fiscal year and for three years following the beginning of the first full fiscal year, minimum net worth equal to the sum of the contingency factor plus seven percent of all liabilities; thereafter, upon the approval of the Board, such a "de novo" institution's minimum net worth shall be equal to the amount specified by paragraph (b)(1) of this section.

* * * * *

§ 563.13 [Amended]

3. Amend § 563.13 by removing the authority citation located at the end of this section.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-9530 Filed 4-28-86; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 941

[Docket No. 40564-6008]

Fagatele Bay National Marine Sanctuary Regulations

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Final rule and notice of designation.

SUMMARY: This publication includes the final designation of the Fagatele Bay National Marine Sanctuary (Sanctuary) and the final regulations for the Sanctuary. The final designation includes description of: The effect of designation, the area, special characteristics of the area, scope of the regulations, relation of the designation to other regulatory programs, procedures for alterations to the designation and funding. The final regulations define which activities are allowed and which are prohibited within the Sanctuary, the procedures by which persons may obtain permission to conduct activities otherwise prohibited, and the penalties for committing prohibited acts without a permit. The purpose of designating the Sanctuary is to protect and preserve an example of a pristine tropical marine habitat and coral reef terrace ecosystem of exceptional biological productivity, to expand public awareness and understanding of tropical marine environments, to expand scientific knowledge of marine ecosystems; to improve resource management techniques, and to regulate uses within the Sanctuary to ensure the health and well-being of the ecosystem and its associated flora and fauna.

EFFECTIVE DATE: July 31, 1986. [The expiration of 60 days of continuous session of Congress from date of this publication—see discussion below].

FOR FURTHER INFORMATION CONTACT: Dr. Nancy Foster, Chief, or William Thomas, Assistant Project Manager, Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 3300 Whitehaven Street, NW., Washington, D.C. 20235. (202/634-4236).

SUPPLEMENTARY INFORMATION: Title III of the Marine Protection, Research and Sanctuaries Act of 1972 has been amended twice—once in 1980 and once in 1984 (Pub. L. 92-532 as amended by Pub. L. 96-332 and Pub. L. 98-498, 16 U.S.C. 1431-1439, hereinafter referred to as to the Act). The Fagatele Bay National Marine Sanctuary was designated entirely under the process set forth in the 1980 amendments. Thus, initial references in this discussion will be to the current Act and the [bracketed] references to the 1980 provisions followed during the Fagatele Bay designation. Section 303(a) of the Act [section 302(a) of Pub. L. 96-332] authorizes the Secretary of Commerce to designate discrete areas of the marine environment as national marine sanctuaries for the purpose of protecting their conservation, recreational, historical, research, educational, or aesthetic qualities which give them national significance. Section 302(a) of the Act [section 302(f)(2) of Pub. L. 96-332] directs the Secretary to issue necessary and reasonable regulations to control any activities permitted within a designated marine sanctuary. The responsibility for administering the provisions of the Act and its authority has been delegated to the Assistant Administrator for Ocean Services and Coastal Zone Management within the National Ocean Service, National Oceanic and Atmospheric Administration, U.S. Department of Commerce (the Assistant Administrator).

In March 1982, a proposal nominating Fagatele Bay, American Samoa, as a candidate for marine sanctuary designation, was submitted to the National Oceanic and Atmospheric Administration (NOAA). The recommendation submitted by Governor Peter T. Coleman of American Samoa cited, among other benefits of marine sanctuary designation, the development and implementation of a comprehensive management plan that would serve to: (1) Protect the Bay's natural resources and pristine character; (2) create and enhance public awareness and understanding of the need to protect marine resources; (3) expand scientific examination of marine ecosystems associated with the high islands found in the Pacific, especially coral reefs that have been infested by the crown-of-thorns starfish, and apply scientific knowledge to the development of improved resource management techniques; and (4) allow uses of the sanctuary that are compatible with the sanctuary designation, giving highest priority to nondestructive traditional and public recreational uses.

In April 1982, NOAA placed the nominated area on the List of Recommended Areas (LRA) and, after preliminary public and agency consultation, further declared the area an Active Candidate. After preparation and distribution of an Issue Paper by NOAA's Office of Coastal Zone Management in May 1982, a public workshop was held in American Samoa to solicit additional comments on the feasibility of further considering the site as a national marine sanctuary.

Based on the workshop results and in consultation with other Federal agencies and the American Samoa Government, a decision was made to proceed to the next step toward designation—development of a draft environmental impact statement and sanctuary management plan (DEIS) for the proposed sanctuary. The DEIS, which contained an analysis of the draft regulations, was distributed on October 27, 1983. A public hearing was held in American Samoa on January 18, 1984 to receive testimony on the DEIS. Comments on the DEIS were accepted until January 20, 1984. The major concern voiced by persons testifying at the public hearing was that the proposed boundary and restrictions on commercial fishing may adversely affect some commercial fishermen who use the outer portion of the bay to fish when other waters may be too rough. After consultation with the American Samoa Development Planning Office and the Office of Marine Resources, the boundary of the sanctuary was divided into zones, allowing commercial fishing in the outer half of the bay. These changes were reflected in the draft regulations. There were no other substantive written or verbal comments generated by the public hearing. Comments received by the NOAA on the DEIS were reviewed and, where appropriate, were incorporated into the final environmental impact statement and management plan (FEIS).

The draft regulations were published on December 4, 1984 (49 FR 47415) and comments were accepted until February 4, 1985. One reviewer noted the lack of definitions and suggested that certain definitions be added. Thus, the following terms have been included in the final regulations and defined: "benthic community", "commercial fishing", "cultural resources", "designation", "director", "the management plan", "permit", "permittee", "persons", "the Sanctuary", "sanctuary manager", and "Secretary". There were no other major comments.

Inasmuch as the Secretary was proposed under the Act as amended in 1980 (Pub. L. 96-332), Congress determined that it would not be necessary for these regulations and Notice of Designation to be transmitted to and reviewed by Congress under the new amendments to the Act (Pub. L. 98-498) (See House Report No. 98-167, 98th Congress, 1st Session, page 24; exempting from the new Congressional review procedures any proposed sanctuary for which the public comment period on the Draft Environmental Impact Statement has closed prior to the effective date of the 1984 amendments to the Act). Hence, the Congressional review provisions of the Act as amended in 1980, Pub. L. 96-332, apply to the designation of the Sanctuary.

Accordingly, these implementing regulations and Notice of Designation shall be transmitted to Congress, and to the Governor of American Samoa, and shall take effect on July 31, 1986, the expiration of a review period of sixty (60) days of continuous session of Congress beginning on April 30, 1986, unless the Governor of American Samoa certifies to the Secretary before the end of the 60-day period beginning from the date of this publication that the designation or any of its terms is unacceptable.

Although the 1980 amendments to the Act provided a procedure for Congressional disapproval of the regulations through adoption of a concurrent resolution by both Houses of Congress, the Supreme Court has since held that such disapproval procedures are unconstitutional (*INS v. Chada*, 462 U.S. 919, 103 S. Ct. 2764(1983)). NOAA will follow the ruling in *INS v. Chada* in this final rule making and treat the Congressional disapproval procedure of Pub. L. 96-332 as a "report and wait" provision. NOAA will publish a notice of the effective date of these final regulations on July 31, 1986.

Other Matters

(A) Classification Under Executive Order 12291

Executive Order 12291 (E.O. 12291) defines a "major rule" as "any regulation that is likely to result in: (1) An annual effect on the economy of $100,000,000 or more; (2) a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete in domestic or export markets." The major activities supported by the area within the proposed sanctuary consist of small-scale recreational and subsistence activities.

Most of the activities in the proposed sanctuary are not affected by sanctuary regulations; the economic impacts on affected activities are minor and the regulations do not restrict recreational activities. Because the impact of the regulations on economic interests is minor or because the activities are not regulated at all, the Assistant Administrator has determined that this is not a "major rule" under E.O. 12291.

(B) Regulatory Flexibility Act Analysis

A Regulatory Flexibility Analysis is not required for this notice of rulemaking. These regulations set forth which activities are allowed and which are prohibited in the proposed Fagatele Bay National Marine Sanctuary; the procedures by which persons may obtain permits for activities otherwise prohibited; and the penalties for committing prohibited acts without a permit. These rules do not directly affect "small government jurisdictions" as defined by Pub. L. 96-354, the Regulatory Flexibility Act, and the rules will have no effect on small business. For the same reasons, the General Counsel has certified to the Small Business Administration that the regulations will not have a significant economic impact on a substantial number of small entities within the area of the proposed sanctuary under the Regulatory Flexibility Act.

(C) Paperwork Reduction Act of 1980 (Pub. L. 96-511)

This rule contains a collection of information requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). The collection has been approved by the Office of Management and Budget under control number 0648-0141.

The Designation Document

The Act and NOAA's general marine sanctuary regulations (15 CFR Part 922, 44 *FR* 44831, July 31, 1979) provide that the management system for a marine sanctuary will be established by two documents, a Designation Document and the regulations issued pursuant to sections 303(a) and 304 of the Act. The Designation Document will serve as a constitution for the Sanctuary, establishing among other things the purposes of the Sanctuary, the types of activities that may be subject to regulation within it, and the extent to which other regulatory programs will continue to be effective. Thus the Desighation Document for the Fagatele Bay National Marine Sanctuary as published in the Final Environmental Impact Statement (Notice of Availability, 49 FR 28613, 6/13/84) is as follows:

Final Designation Document

Designation of the Fagatele Bay National Marine Sanctuary

Preamble

Under the authority of the Marine Protection, Research and Sanctuaries Act of 1972, Pub. L. 92-532, (the Act) certain waters off American Samoa are hereby designated a National Marine Sanctuary for the purposes of preserving and protecting this unique and fragile ecosystem.

Article 1. Effect of Designation

The designation of the Fagatele Bay National Marine Sanctuary (the Sanctuary) described in Article 2, establishes the basis for cooperative management of the area by the Territory of American Samoa (Territory) and the National Oceanic and Atmospheric Administration (NOAA).

Within the area designated as the Sanctuary, the Act authorizes promulgation of such regulations as are reasonable and necessary to protect the values of the Sanctuary. Article 4 of the Designation lists those activities which may require regulation, but the listing of any activity does not by itself prohibit or restrict it. Restrictions or prohibitions may be accomplished only through

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regulation, and additional activities may be regulated only by amending Article 4.

Article 2. Description of the Area

The Sanctuary consists of 163 acres. (.25 square miles) of bay area off the southwest coast of Tutuila Island, American Samoa. The precise boundaries are defined by regulations.

Article 3. Special Characteristics of the Area

The Sanctuary contains a unique and vast array of tropical marine organisms, including corals and a diverse tropical reef ecosystem with endangered and threatened species, such as the hawksbill and green sea turtles, and marine mammals like the Pacific bottlenose dolphin. The area provides exceptional scientific value as an ecological, recreational, and aesthetic resource and unique educational and recreational experiences.

Article 4. Scope of Regulation

Section 1. *Activities Subject to Regulation.* In order to protect the distinctive values of the Sanctuary, the following activities may be regulated within the Sanctuary to the extent necessary to ensure the protection and preservation of the coral and other marine values of the area:

a. Taking or otherwise damaging natural resources.
b. Discharging or depositing any substance.
c. Disturbing the benthic community.
d. Removing or otherwise harming cultural or historical resources.

Section 2. *Consistency with International Law.* The regulations governing the activities listed in Section 1 of this Article will apply to foreign flag vessels and persons not citizens of the United States only to the extent consistent with recognized principles of international law, including treaties and international agreements to which the United States is signatory.

Section 3. *Emergency Regulations.* Where essential to prevent immediate, serious, and irreversible damage to the ecosystem of the area, activities other than those listed in Section 1 may be regulated within the limits of the Act on an emergency basis for an interim period not to exceed 120 days, during which an appropriate amendment of this Article will be proposed in accordance with the procedures specified in Article 6.

Article 5. Relation to Other Regulatory Programs

Section 1. *Other Programs.* (a) NOAA may adopt all regulatory programs pertaining to fishing, including any regulations promulgated by the American Samoa Government and all permits, licenses, and other authorizations issued pursuant thereto under the following conditions:

(1) No alteration or modification of any Sanctuary regulation shall become effective without the written concurrence of both the Territory and NOAA; and

(2) The Territory shall be responsible for enforcing all Sanctuary regulations to ensure protection for the values of the Sanctuary. NOAA will engage in enforcement activities only if requested by the Territory or if there has been significant failure to provide adequate enforcement as determined under this Section.

(b) Where the Territory shall propose any alteration or modification of the regulations described in Article 4, such alteration or modification shall be submitted to NOAA for agreement and simultaneous proposal in the Federal Register. Such alteration or modification shall be finally adopted unless, based on the comments received on the Federal Register notice and after consultation with the Territory, NOAA determines that the regulations with the proposed amendments do not provide reasonable and necessary protection for the values of the Sanctuary.

(c) Should NOAA preliminary determine that there has been significant failure to provide adequate enforcement, it shall notify the Territory of this deficiency and suggest appropriate remedial action. If, after consultation, NOAA and the Territory are unable to agree that a deficiency exists or on an appropriate remedial action, NOAA may issue a final determination in writing specifying the deficiency and the appropriate action together with the reasons therefore. No less than sixty (60) days prior to issuing a final determination that calls for NOAA to take enforcement action, NOAA shall submit the proposed determination to the Governor of American Samoa. If the Governor finds that NOAA enforcement is unnecessary to protect the values of the Sanctuary, the Governor shall inform NOAA of his objections within thirty (30) days after receipt of the proposed determinations and NOAA shall give such finding presumptive weight in making its final determination.

(d) All applicable regulatory programs will remain in effect, and all permits, licenses, and other authorizations issued pursuant thereto will be valid within the Sanctuary unless inconsistent with any regulation implementing Article 4. The Sanctuary regulations will set forth any certification procedures.

Section 2. *Defense Activities.* The regulation of those activities listed in Article 4 shall not prohibit any activity conducted by the Department of Defense that is essential for national defense or because of emergency. Such activities shall be conducted consistently with such regulations to the maximum extent practicable. All other activities of the Department of Defense are subject to Article 4.

Article 6. Alteration to this Designation

(a) This designation may be altered only in accordance with the same procedures by which it has been made, including public hearings, consultation with interested Federal and Territorial agencies and the Western Pacific Regional Fishery Management Council, and approval by the Governor of American Samoa and the President of the United States.

Article 7. Funding

In the event that a reduction in the funds available to administer the Sanctuary necessitates a reduction in the level of enforcement provided by the Territory, the resulting reduced level of enforcement shall not, by itself, constitute a basis for finding deficiency under Article 5, Section 1.

[End of Designation Document]

Before any additional activities may be regulated on other than an emergency basis, the Designation must be amended through the entire designation procedure including public hearings.

List of Subjects in 15 CFR Part 941

Administrative practice and procedure, Environmental protection, Marine resources, Natural resources.

Dated: April 23, 1986.

Paul M. Wolff,

Assistant Administrator for Ocean Services and Coastal Zone Management.

Federal Domestic Assistance Catalog Number 11.429, Marine Sanctuary Program

Accordingly, 15 CFR Part 941 is added as follows:

PART 941—FAGATELE BAY NATIONAL MARINE SANCTUARY REGULATIONS

Sec.
941.1 Authority.
941.2 Purpose.
941.3 Scope of regulations.
941.4 Boundaries.
941.5 Definitions.

Sec.
941.6 Management and enforcement.
941.7 Allowed activities.
941.8 Activitives prohibited or controlled.
941.9 Other authorities.
941.10 Penalties for commission of prohibited acts.
941.11 Permit procedures and criteria.
941.12 Appeal of permit action.

Authority: Title III of Pub. L. 98-498, 16 U.S.C. 1431-1439. (Pub. L. 92-532 as amended by Pub. L. 96-332 and Pub. L. 98-498)

§ 941.1 Authority.

The Sanctuary has been designated by the Secretary of Commerce pursuant to the authority of section 303(a) of the Marine Protection, Research and Sanctuaries Act of 1972, (the Act), 16 U.S.C. 1433; (Pub. L. 98-498). The following regulations are issued pursuant to Title III of the Act.

§ 941.2 Purpose.

The purpose of designating the Fagatele Bay National Marine Sanctuary is to protect a unique deepwater terrace formation and a coral reef ecosystem representative of the warm water tropical Pacific Islands in its natural state and to regulate uses within the Sanctuary to ensure the health and integrity of the ecosystem and its associated flora and fauna.

§ 941.3 Scope of regulations.

The provisions of this Part apply only to the area defined by regulation as the Fagatele Bay National Marine Sanctuary (the Sanctuary). Neither these provisions nor any permit issued under its authority shall be construed to relieve a person from any other requirements imposed by statute or regulation of the Territory of American Samoa or of the United States. In addition, no statute or regulation of the Territory of American Samoa shall be construed to relieve a person from the restrictions, conditions, and requirements contained in this Part.

§ 941.4 Boundaries.

The Sanctuary is a 163-acre (.25 sq. mi.) coastal embayment formed by a collapsed volcanic crater on the island of Tutuila, American Samoa. The site is divided into two Subzones, *A* and *B*, and includes Fagatele Bay in its entirety up to mean high high water (MHHW). The seaward boundaries are defined by straight lines between the following points, as approved by the NOAA Charting Services Branch, and the American Samoa Department of Public Works:

Point	Pt. No.	Subzone	Latitude	Longitude
Fagatele Point	1-1	A	14°22'15" S.	170°46'5" W
Matautuloa Benchmark	1-2	A	14°22'15" S.	170°45'35" W
Fagatele Point	2-1	B	14°22'15" S.	170°46'5" W
Steps Point	2-2	B	14°22'44" S.	170°45'27" W

§ 941.5 Definitions.

(a) "Administrator" means the Administrator of the National Oceanic and Atmospheric Administration (NOAA).

(b) "Assistant Administrator" means the Assistant Administrator for Ocean Services and Coastal Zone Management, National Ocean Service, National Oceanic and Atmospheric Administration, or his or her successor, or designee.

(c) "Benthic Community" means the assemblage of organisms, substrate, and structural formations found at or near the bottom that is periodically or permanently covered by water.

(d) "Commercial Fishing" means any activity that results in the sale or trade for intended profit of fish, shellfish, algae, or corals.

(e) "Cultural Resources" means any historical or cultural feature, including archaeological sites, historic structures, shipwrecks, and artifacts.

(f) "Designation" means the action taken by the Secretary of Commerce, to prescribe, through a Designation Document and implementing rules and regulations, the terms for establishing the Sanctuary.

(g) "Director" means Director of the Development Planning Office, Territory of American Samoa or the head of any successor agency.

(h) "The Management Plan" means the document that outlines the day-to-day operations of the Fagatele Bay National Marine Sanctuary and includes but is not limited to provisions for Research, Interpretation, Surveillance and Enforcement, and Administration.

(i) "Permit" means any document issued under Federal or territorial authority, signed by an authorized official, and specifying the permitted actions.

(j) "Permittee" means any person issued a valid permit as defined in (i) above and pursuant to the requirements of these regulations.

(k) "Persons" means any private individual, partnership, corporation, or other entity; or any officer, employee, agent, department, agency or instrumentality of the Federal Government, or any State or local unit of government.

(l) "The Sanctuary" means the Fagatele Bay National Marine Sanctuary.

(m) "Sanctuary Manager" means the person hired by NOAA to manage and operate the Sanctuary.

(n) "Secretary" means the Secretary of Commerce, or his or her successor or designee.

§ 941.6 Management and enforcement.

The National Oceanic and Atmospheric Administration (NOAA) has primary responsibility for the management of the Sanctuary pursuant to the Act. The American Samoa Development Planning Office (DPO) will assist NOAA in the administration of the Sanctuary, and act as the lead agency, in conformance with the Designation Document, these regulations, and the terms and provisions of any grant or cooperative agreement. In accordance with § 922.32(b) of the National Marine Sanctuary Program Regulations, 15 CFR Part 922, NOAA may act to deputize enforcement agents of the American Samoa Government (ASG) to enforce these regulations. If NOAA chooses to exercise this provision, a memorandum of understanding shall be executed between NOAA and the ASG or the person(s) or entity authorized to act on their behalf. Prosecution of violations will be carried out by NOAA in accordance with § 941.10 of these regulations.

§ 941.7 Allowed activities.

All activities except those specifically prohibited by § 941.8 may be carried out within the Sanctuary subject to all prohibitions, restrictions, and conditions imposed by other authorities.

§ 941.8 Activities prohibited or controlled.

(a) Unless permitted by the Assistant Administrator in accordance with § 941.11, or as may be necessary for national defense, or to respond to an emergency threatening life, property or the environment, the following activities are prohibited or controlled in *Subzones A* and *B* of the Sanctuary. All prohibitions and controls will be applied consistently with international law. Refer to § 941.10 for penalties for commission of prohibited acts.

(1) *Taking and Damaging Natural Resources.* (i) No person shall gather, take, break, cut, damage, destroy, or possess any invertebrate, coral, bottom formation, or marine plant.

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(ii) No person shall take, gather, cut, damage, destroy, or possess any crown-of-thorns starfish (*Acanthaster planci*).

(iii) No person shall possess or use poisons, electrical charges, explosives, or similar environmentally destructive methods.

(iv) No person shall posses or use spearguns, including such devices known as Hawaiian slings, pole spears, arbalettes, pneumatic and spring-loaded spearguns, bows and arrows, bang sticks, or any similar taking device.

(v) No person shall possess or use seines, trammel nets, or any fixed net.

(vi) There shall be a rebuttable presumption that any items listed in these paragraphs found in the possession of a person within the Sanctuary have been used, collected, or removed from within the Sanctuary.

(2) *Operation of Vessels.* (i) No vessel shall approach closer than 200 feet to a vessel displaying a dive flag except at a maximum speed of three knots.

(ii) All vessels from which diving operations are being conducted shall fly in a conspicuous manner the international code flag alpha "A."

(iii) All vessels shall be operated to avoid striking or otherwise causing damage to the natural features of the Sanctuary.

(3) *Discharges.* No person shall litter, deposit, or discharge any materials or substances of any kind into the waters of the Sanctuary.

(4) *Disturbance of the Benthic Community.* Disturbance of the benthic community by dredging, filling, dynamiting, bottom trawling, or any alteration of the seabed shall be prohibited.

(5) *Removing or Damaging Cultural Resources.* No person shall remove, damage, or tamper with any historical or cultural resource within the boundaries of the Sanctuary.

(6) *Taking of Sea Turtles.* No person shall ensnare, entrap, or fish any sea turtle while it is listed as a threatened or endangered species as defined by the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

(7) *Use of Dangerous Weapons.* Except for law enforcement purposes, no person shall use or discharge explosives or weapons of any description within the Sanctuary boundaries. Distress signaling devices, necessary and proper for safe vessel operation, and knives generally used by fishermen and swimmers are not considered weapons for purposes of this subsection.

(8) *Other Prohibitions.* No person shall mark, deface, or damage in any way, or displace or remove or tamper with any signs, notices, or placards, whether temporary or permanent, or with any monuments, stakes, posts, or other boundary markers related to the Sanctuary.

(b) In addition to those activities prohibited or controlled in accordance with § 941.8(a), the following activities are prohibited or controlled in *Subzone A:*

(1) *Taking and Damaging Natural Resources.* (i) No person shall possess or use fishing poles, handlines, or trawls.

(ii) Commercial fishing shall be prohibited.

(c) The prohibitions in this section are not based on any claim of territoriality and will be applied to foreign persons and vessels only in accordance with recognized principles of international law, including treaties, conventions, and other international agreements to which the United States is signatory.

§ 941.9 Other Authorities.

No license, permit or other authorization issued pursuant to any other authority may validly authorize any activity prohibited by § 941.8 unless such activity meets the criteria stated in § 941.11(a), (c) and (d), and is specifically authorized by the Assistant Administrator.

§ 941.10 Penalties for commission of prohibited acts.

Section 307 of the Act, 16 U.S.C. 1437, authorizes the assessment of a civil penalty of not more than $50,000.00 for each violation of any regulation issued pursuant to the Act, and further authorizes a proceeding *in rem* against any vessel used in violation of any such regulation. NOAA will apply to all enforcement matters under the Act the consolidated civil procedure regulations set forth at 15 CFR Part 904.

§ 941.11 Permit procedures and criteria.

(a) Under special circumstances an activity otherwise prohibited by § 941.8 of these regulations may be allowed by permit. The activity must be conducted for research or educational purposes designed to enhance understanding of the Sanctuary environment or to improve resource management decisionmaking. The activity must also be judged not to cause long-term or irreparable harm to the resources of the Sanctuary. A permit may be granted by the Assistant Administrator of NOAA in consultation with the Development and Planning Office.

(b) Any person in possession of a valid permit issued by the Assistant Administrator in accordance with this section may conduct the specified activity in the Sanctuary if such activity is:

(1) Related to research involving Sanctuary resources;

(2) To further the educational value of the Sanctuary; or

(3) For salvage or recovery operations.

(c) Permit applications shall be addressed to the Assistant Administrator for Ocean Services and Coastal Zone Management, ATTN: Sanctuary Programs Division, National Ocean Service, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW., Washington, D.C. 20235. An application shall include a description of all proposed activities, the equipment, methods, and personnel involved, and a timetable for completion of the proposed activity. Copies of all other required licenses or permits shall be attached.

(This information collection has been approved by the Office of Management and Budget under control number 0648-0141)

(d) In considering whether to grant a permit, the Assistant Administrator shall evaluate such matters as:

(1) The general professional and financial responsibility of the applicant;

(2) The appropriateness of the methods being proposed for the purpose(s) of the activity;

(3) The extent to which the conduct of any permitted activity may diminish or enhance the value of the Sanctuary as a source of recreation, education, or scientific information; and

(4) The end value of the activity.

(e) In addition to meeting the criteria in § 941.11(a) and (c), the applicant also must demonstrate to the Assistant Administrator that:

(1) The activity shall be conducted with adequate safeguards for the environment; and

(2) The environment shall be returned to, or will regenerate to, the condition which existed before the activity occurred.

(f) In considering an application submitted pursuant to this Section, the Assistant Administrator shall seek and consider the views of the Sanctuary Manager and Director. The Assistant Administrator also may seek and consider the views of any other person or entity, within or outside of the Territorial Government, and may hold a public hearing, as he or she deems appropriate.

(g) The Assistant Administrator may, at his or her discretion, grant a permit which has been applied for pursuant to this section, in whole or in part, and subject the permit to such condition(s) as the Assistant Administrator deems necessary. A permit granted for research related to the Sanctuary may include, but is not limited to, the following conditions:

(1) The Assistant Administrator, Director, or their designated representatives may observe any activity permitted by this section;

(2) Any information obtained in the research site shall be made available to the public; and

(3) The submission of one or more reports of the status of such research activity may be required.

(h) A permit granted pursuant to this section is non-transferrable.

(i) The Assistant Administrator may amend, suspend, or revoke a permit granted pursuant to this section, in whole or in part, temporarily or indefinitely if, in his/her view, the permittee has acted in violation of the terms of the permit or regulations, or for other good cause shown. Any such action shall be communicated in writing to the applicant or permit holder and shall set forth the reason(s) for the action taken. The permittee in relation to whom such action has been taken may appeal the action to the Administrator as provided for in § 941.12.

§ 941.12 Appeal of permit action.

(a) Except for permit actions which are imposed for enforcement reasons and covered by the procedures at Subpart D of 15 CFR Part 904, an applicant for a permit, the permittee, or any other interested person (hereafter Appellant) may appeal the granting, denial, conditioning or suspension of any permit under § 941.11 to the Administrator of NOAA. In order to be considered by the Administrator, such appeal must be in writing, must state the action(s) appealed and the reason(s) therefor, and must be submitted within 30 days of the action(s) by the Assistant Administrator. The Appellant may request an informal hearing on the appeal.

(b) Upon receipt of an appeal authorized by this section, the Administrator may request the Appellant to submit such additional information and in such form as will allow action upon the appeal. The Administrator shall decide the appeal using the criteria set out in § 941.11 (a), (c) and (d) and any information relative to the application on file, any information provided by the Appellant, and such other consideration as is deemed appropriate. The Administrator shall notify the Appellant of the final decision and the reason(s) therefor in writing, normally within 30 days of the date of the receipt of adequate information required to make the decision.

(c) If a hearing is requested, or if the Administrator determines that one is appropriate, the Administrator may grant an informal hearing before a Hearing Officer appointed for that purpose. The Appellant and any other interested persons may appear personally or by counsel at the hearing and submit material and present arguments as determined appropriate by the Hearing Officer. Within 30 days of the last day of the hearing, the Hearing Officer shall recommend a decision in writing to the Administrator.

(d) The Administrator may adopt the Hearing Officer's recommended decision, in whole or in part, or may reject or modify it. In any event, the Administrator shall notify the interested persons of his or her decision, and the reason(s) therefor in writing within 30 days of receipt of the recommended decision of the Hearing Officer. The Administrator's decision shall constitute final action by NOAA for purposes of the Administrative Procedure Act, 5 U.S.C. 551 *et seq.*

(e) Any time limit prescribed in this Section may be extended by the Administrator for good cause for a period not to exceed 30 days, either upon his or her own motion or upon written request from the Appellant, permit applicant or permittee stating the reason(s) therefor.

[FR Doc. 86-9511 Filed 4-28-86; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Social Security Benefits; Payments to Divorced Spouses

Correction

In FR Doc. 86-7750 beginning on page 11910 in the issue of Tuesday, April 8, 1986, make the following correction:

On page 11910, second column, in the "DATES" paragraph, the last line should have read "submitted by June 9, 1986.".

BILLING CODE 1505-01-M

Food and Drug Administration

21 CFR Part 882

[Docket No. 84N-0362]

Neurological Devices; Effective Date of Requirement for Premarket Approval; Implanted Diaphragmatic/Phrenic Nerve Stimulator

Correction

In FR Doc. 86-7722, beginning on page 12100 in the issue of Tuesday, April 8, 1986, make the following correction: On page 12100, in the third column, in the paragraph headed "*7. Tissue toxicity*", the next to last word in the first line should read "stimulator".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing, Federal Housing Commissioner

24 CFR Parts 201, 203, and 234

[Docket No. N-86-1599; FR-2221]

Mortgage Insurance; Changes to the Maximum Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice of revisions to FHA maximum mortgage limits for high-cost areas.

SUMMARY: This Notice amends the listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act by adding the limits of nineteen designated high-cost areas to the list. Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices.

DATE: Effective Date: April 29, 1986.

FOR FURTHER INFORMATION CONTACT: For single family: Brian Chappelle, Director, Single Family Development Division, Room 9270; telephone (202) 755-6720. For manufactured homes: Christopher Peterson, Director, Office of Title I Insured Loans, Room 9160; telephone (202) 755-6880; 451 Seventh Street, SW., Washington, DC 20410. (These are not toll-free numbers.)

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SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA) (12 U.S.C. 1710–1749) authorizes HUD to insure mortgages for single family residences (from one- to four-family structures), condominiums, manufactured homes, manufactured home lots, and combination manufactured homes and lots. The NHA, as amended by the Housing and Community Development Amendments of 1980 and the Housing and Community Development Amendments of 1981, permits HUD to increase the maximum mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition, sections 2(b) and 214 of the NHA provide for special high-cost limits for insured mortgages in Alaska, Guam and Hawaii.

The Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98–181, November 30, 1983) (the 1983 Act) further amended HUD's insuring authority. Of particular interest here are: (1) The authorization to insure condominiums in high-cost areas at the same levels as the high-cost limits for one-family residences insured under section 203(b) of the National Housing Act; and (2) the authorization to increase maximum loan limits under the Title I loan insurance program for combination manufactured home and lot loans and for individual lot loans in high-cost areas, so long as the percentage increase in the maximum loan limit does not exceed the percentage increase made to a one-family residence in the area authorized under section 203(b) of the NHA.

The Department implemented these provisions of the 1983 Act in related documents published in the **Federal Register** on April 11, 1984 (see 49 FR 14332, 14335, 14336), effective May 22, 1984. These documents amended the Department's rules to codify the procedure of announcing high-cost mortgage limits for single-family residences, condominiums, combination manufactured homes and lots and manufactured home lots by notice in the **Federal Register** (see the April 11, 1984 documents, amending 24 CFR 201.1504, 203.18b, 203.29, 234.27, and 234.49). In addition, the documents codified the procedure whereby a party may request an alternative mortgage limit (see the same sections cited above).

On May 22, 1984, the Department published a revised list of areas eligible for "high-cost" mortgage limits, which contained several new features (see 49 FR 21520). First, there was no separate listing for condominium units, since these limits are now the same as those for other one-family residences. Second, the listing included instructions on how to compute the high-cost limits for combination manufactured homes and lots and individual lots, and specified the special high-cost amounts for manufactured homes, combination manufactured homes and lots and individual lots insured in Alaska, Guam and Hawaii. And, third, it made changes to the list based on a new definition of "metropolitan area".

On December 6, 1984 (49 FR 47657), May 8, 1985 (50 FR 19341), July 24, 1985 (50 FR 30154), November 6, 1985 (50 FR 45993), January 7, 1986 (51 FR 598), and January 10, 1986 (51 FR 1248), the Department published amendments to the "high-cost" mortgage amounts that added additional areas and further increased the limits of several previously designated high-cost areas.

This Document

Today's document adds Hartford County, Connecticut; Chittenden County, New Hampshire; Rockingham County, New Hampshire; Broward County, Florida; the Knoxville, Tennessee MSA, which includes the Counties of Anderson, Blount, Grainger, Knox, Jefferson, Sevier, and Union; and the Nashville, Tennessee MSA, which includes the Counties of Cheatham, Davison, Dickson, Robertson, Rutherford, Summer, Williamson, and Wilson to the list of high-cost areas.

These amendments to the high-cost areas appear in two parts. Part I explains high-cost limits for mortgages insured under Title I of the National Housing Act. Part II lists any changes for single family residences insured under sections 203(b), and 234(c) of the National Housing Act.

Accordingly, the Commissioner hereby amends the list of high-cost mortgage limits by adding the limits for Hartford County, Connecticut; Chittenden County, New Hampshire; Rockingham County, New Hampshire; Broward County, Florida; the Knoxville, Tennessee MSA, which includes the Counties of Anderson, Blount, Grainger, Knox, Jefferson, Sevier, and Union; and the Nashville, Tennessee MSA, which includes the Counties of Cheatham, Davison, Dickson, Robertson, Rutherford, Summer, Williamson, and Wilson, as set forth in Part II of the following Table:

National Housing Act High Cost Mortgage Limits

I. Title I: Method of Computing Limits

A. *Section 2(b)(1)(D). Combination manufactured home and lot (excluding Alaska, Guam and Hawaii):* To determine the high-cost limit for a combination manufactured home and lot loan, multiply the dollar amount in the "one family" column of Part II of this list by .80. For example Hartford County, Connecticut, has a one-family limit of $90,000. The combination home and lot loan limit for Hartford County is $90,000 × .80, or $72,000.

B. *Section 2(b)(1)(E):* Lot only (excluding Alaska, Guam and Hawaii): To determine the high-cost limit for a lot loan, multiply the dollar amount in the "one-family" column of Part II of this list by .20. For example, Hartford County, Connecticut, has a one-family limit of $90,000. The lot only loan limit for Hartford County, is $90,000 × .20, or $18,000.

C. *Section 2(b)(2). Alaska, Guam and Hawaii limits:* The maximum dollar limits for Alaska, Guam and Hawaii may be 140% of the statutory loan limits set out in section 2(b)(1).

Accordingly, the dollar limits for Alaska, Guam, and Hawaii are as follows:

1. For manufactured homes: $56,700. ($40,500 × 140%).

2. For combination manufactured homes and lots: $75,600. ($54,000 × 140%).

3. For lots only: $16,900. ($13,500 × 140%).

II. Title II: Updating of FHA Sections 203(b), 234(c) and 214 Area-Wide Mortgage Limits

REGION I

Market area desig- nation and local jurisdictions	1-family and condo unit	2- family	3- family	4- family
HUD FIELD OFFICE				
Hartford, CT				
Hartford County	$90,000	$101,300	$122,550	$142,850
Manchester, NH				
Chittenden County	73,080	82,250	99,530	115,950
Rockingham County	90,000	101,300	122,550	142,850

REGION IV

Coral Gables, FL				
Broward County	67,400	98,400	119,600	138,000
Knoxville, TN				
MSA: Anderson County, Blount County, Grainger County, Knox County, Jefferson County, Sevier County, Union County	74,100	88,400	101,400	117,600

REGION I—Continued

Market area desig- nation and local jurisdictions	1-family and condo unit	2- family	3- family	4- family
Nashville, TN				
Nashville, TN MSA: Cheatham County, Davison County, Dickson County, Robertson County, Rutherford County, Summer County, Williamson County, Wilson County	86,700	97,650	118,650	136,950

Dated: April 23, 1986.

Silvio J. DeBartolomeis,

Acting General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 86-9552 Filed 4-28-86; 845 am]

BILLING CODE 4210-27-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[AD FRL 2927-9]

Air Quality Implementation Plans; Stack Height Regulations; Petitions Denied

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of denial of petitions for reconsideration.

SUMMARY: On July 8, 1985 (50 FR 27892), EPA published revisions to rules required under section 123 of the Clean Air Act (Act) to ensure that the degree of emission limitation required for the control of any air pollutant under an applicable State implementation plan (SIP) is not affected by that portion of any stack height which exceeds good engineering practice (GEP) height, or by any other dispersion technique. The American Electric Power Service Corporation (AEP), the Consolidation Coal Company (Consol), and the Ormet Corporation (Ormet) have petitioned the Administrator to reconsider certain portions of the stack height regulations pertaining to the Kammer power plant in West Virginia. The EPA is denying the petitions on the grounds that the petitioners did not submit any new information warranting reconsideration of the rules, and that EPA's previous decisions were correct.

DATE: This determination is effective April 29, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Ginsburg, MD–15, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 541–5540.

SUPPLEMENTARY INFORMATION:

Docket Statement

The petitions for reconsideration, EPA's detailed responses, provided in a support document for this notice, and all pertinent information concerning the development of the stack height rules have been filed in Docket No. A–83–49. The docket is open for inspection by the public between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, at the EPA Central Docket Section (LE–131), West Tower Lobby, Gallery One, 401 M Street, SW., Washington, DC 20460. Background documents normally available to the public, such as **Federal Register** notices and Congressional Committee reports, are not included in the docket. A reasonable fee may be charged for copying documents.

Background

Section 123 of the Act requires EPA to promulgate rules to assure that the degree of emission limitation required for the control of any air pollutant under an applicable SIP is not affected by stack heights exceeding GEP height or by any other dispersion technique.

The EPA originally promulgated regulations to implement section 123 requirements on February 8, 1982, at 47 FR 5864. Those regulations were challenged by the Sierra Club Legal Defense Fund, Inc.; the Natural Resources Defense Council, Inc.; and the Commonwealth of Pennsylvania; and on October 11, 1983, the U.S. Court of Appeals for the D.C. Circuit remanded portions of the regulations for reconsideration, reversing two portions, and unholding certain others [*Sierra Club* v. *EPA*, 719 F.2d 436 (1983)]. The EPA proposed revisions to the stack height rules on November 9, 1984 (49 FR 44878). A public hearing was held on January 8, 1985, after which EPA provided several additional opportunities for supplemental and rebuttal comments. The EPA promulgated final revisions to the rules on July 8, 1985 (50 FR 27892). The final rules contain changes made in response to comments submitted on the proposal.

In September 1985, Ormet, AEP, and Consol filed petitions for reconsideration of these rules. The petition from Ormet and AEP were submitted pursuant to section 307(d)(7)(B) of the Act.[1] However, in the event that EPA found that the rules were not covered by section 307(d), the petitioners requested that EPA treat their petitions as petitions for amendment, repeal, or revision under the Administrative Procedure Act, 5 U.S.C. section 553(e). Consol did not identify a statutory basis for its petition.

Section 307(d) applies only to certain enumerated EPA actions, which do not include the promulgation of regulations under section 123. *See section 307(d)(1).* Therefore, EPA has decided to treat the petitions as petitions for revision of a rule under section 3(e) of the Administrative Procedure Act, 5 U.S.C. 553(e), which establishes a general right to petition for issuance, amendment or repeal of an agency rule. The standard of review for a petition for revision is whether the petitioner has presented new information that warrants reconsideration of the rule. *See generally Oljato Chapter of Navajo Tribes* v. *Train*, 515 F.2d 654 (D.C. Cir. 1975). Under this standard, EPA has concluded that these petitioners have presented no new information warranting revision of the stack height rules.

Petitions for Reconsideration

None of the petitions present new factual information. Instead, the petitioners object to certain provisions of the rules, and to modifications thereto, which were made in response to public comments addressing the notice of proposed rulemaking. Particularly, the petitioners object to the application of these provisions to the Kammer power plant in West Virginia, a facility that is owned by the Ohio Power Company, a subsidiary of AEP. In essence, petitioners are challenging EPA's decision to adopt certain parts of its proposed rules and to change others without providing additional opportunity to comment.

The EPA is not required to reconsider its rules in light of such claims. If petitions for revision were to be granted on such grounds, EPA would be required to repropose its rules every time it modified a proposal in response to comments. The Administrative Procedure Act does not require such a result.

[1] Section 307(d)(7)(B) provides that the Administrator shall convene a proceeding to reconsider certain actions enumerated in section 307(d)(1) if a person raising an objection can demonstrate that (1) it was impracticable to raise such objection during the comment period or that grounds for the objection arose after the comment period, and (2) the objection is of central relevance to the rule.

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Moreover, in this rulemaking EPA provided a 30-day extension of the initial comment period and an additional 75-day period for submission of supplemental and rebuttal comments on the proposal. The purpose of this supplemental period was to allow members of the public to address issues raised by other commenters during the comment period and at the public hearing on January 6, 1985. Accordingly, EPA believes that petitioners have had ample opportunity to respond to all comments on the proposal, including the comments that persuaded EPA to modify certain parts of the proposal. With the exception of Ormet, which did not comment on the proposed revisions, the petitioners have presented essentially the same comments that were provided during the public comment period.

Nevertheless, EPA has examined the merits of the petitions and has concluded that petitioners' arguments do not warrant reconsideration of this rulemaking. All of the modifications cited by petitioners are logical outgrowths of comments submitted during the comment period on the proposal. None were based on any new factual information that had not been subject to public scrutiny.

A summary of the petitioners' objections and EPA's responses is provided below. Additionally, EPA has prepared a support document containing responses to petitioners' major contentions. This document has been placed in Docket A–83–49. Copies can be obtained from the Central Docket Section or by writing to Mr. Eric Ginsburg at the address given above.

Presumptive Emission Limit for Credit Exceeding Formula GEP

The final regulations require that sources undertake demonstrations to justify credit for stack height exceeding the height determined by formulae provided in 40 CFR 51.1(ii)(2). In so doing, the sources are required to meet an emission limit that is equivalent to the new source performance standards (NSPS), unless demonstrated to be infeasible on a case-by-case basis. Further discussion of the basis for this requirement is contained in the preamble to the regulations and in the response to comments document contained in Docket A–83–49.

The petitioners argue that the presumptive NSPS emission limit should be eliminated on the following grounds:

—No authority is provided under section 123 to adopt such a limit,

—The limit was not subject to adequate public notice and opportunity for comment, and

—The EPA has not properly considered the retroactivity analysis prescribed by the court in *Sierra Club* v. *EPA* in applying the limit retroactively.

The EPA disagrees with all three of these arguments. While specifying an emission limit such as the presumptive NSPS limit is not required by the Act in so many words, its adoption is consistent with and pursuant to the instructions from the U.S. Court of Appeals in its decision to remand the definition of "excessive concentrations" to EPA. The use of a technology-based emission limit, specifically including NSPS, in fluid modeling demonstrations was, in fact, discussed in the November 9, 1984, proposal. While that notice proposed the use of several alternative emission rates, comments received during the initial and supplemental comment periods convinced EPA that there were serious flaws in two of the three alternatives. Comments were received during the comment periods which addressed the use of NSPS as a prerequisite emission control requirement for credit above formula GEP, and which either supported or opposed the use of minimum emission control requirements as a general prerequisite for stack height credit. Finally, EPA has previously described the basis for its decision to apply the presumptive NSPS limit retroactively in both the preamble to the regulations and in the response to comments document, and the petitioners have introduced no additional information that was not presented during the comment periods.

Definition of "Nearby" Applied to Terrain.

In response to the court decision, EPA adopted a definition of the term "nearby" which restricted the amount of downwash credit that may be obtained based on the effects of upwind terrain features. This definition was first proposed on November 9, 1984, and was adopted in the final rule without change.

Petitioners have argued that EPA has misinterpreted the court decision on this subject and has ignored the factual record concerning terrain-induced downwash in adopting its restriction. These objections merely repeat arguments made during the initial and supplemental comment periods, providing no additional information that would lead EPA to conclude that revision of the regulations is warranted.

The petitioners have interpreted the "nearby" definition to be a technical term that was intended by the court and Congress to grant credit for any significant downwash. In fact, both the legislative history of section 123 and the court decision clearly show that "nearby" was to be strictly construed to limit the extent to which credit for objects far away from the source might frustrate congressional intent to control air pollution through constant emission controls rather than increased dispersion.

Conclusion

For the reasons described above, I have determined that the petitions for reconsideration filed by Ormet, AEP, and Consol present no new information warranting the reopening of stack height rule revisions promulgated on July 8, 1985. Accordingly, the petitions are denied.

Although the requirements of section 307(d) do not apply, under section 307(b)(1) of the Act, judicial review of this action is available only by the filing of a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of today's date.

Dated: April 21, 1986.

Lee M. Thomas,

Administrator.

[FR Doc. 86-9404 Filed 4-28-86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Parts 60 and 61

[A-3-FRL-3000-5; Docket No. AM705MD]

New Source Performance Standards and National Emissions Standards for Hazardous Air Pollutants, Revision of the State of Maryland's Delegation of Authority

AGENCY: Environmental Protection Agency.

ACTION: Delegation of Authority.

SUMMARY: This Notice changes the Maryland Air Management Administration's (AMA) Delegation of Authority for NSPS and NESHAP. On May 10, 1985, EPA delegated to the AMA the authority to receive delegation of future NSPS and NESHAP standards upon promulgation in the Federal Register. Maryland will now automatically receive delegation of authority to implement and enforce any future NSPS or NESHAP standards on the effective date as published in the *Maryland Register* for that standard.

EFFECTIVE DATE: January 23, 1986.

ADDRESSES: Information relating to this Information Notice can be obtained at the following office:

U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, PA 19107, Attn: Esther Steinberg (3AM21).

FOR FURTHER INFORMATION CONTACT: Michael Giuranna of EPA, Region III, Air Programs Branch, at (215) 597–9189.

SUPPLEMENTARY INFORMATION: The Maryland AMA was originally delegated authority to implement and enforce the NSPS program on September 15, 1978 (44 FR 69362) and the NESHAP program on January 28, 1980 (45 FR 13192). Those delegations required the AMA to submit a new request for delegation for any standard not included in the original delegation. On May 10, 1985 (50 FR 34140), EPA revise Maryland's delegation so that the AMA would receive automatic delegation of future NSPS and NESHAP standards upon promulgation of such standards in the Federal Register. However, this caused a delay in implementing and enforcing new NSPS or NESHAP standards because a new standard would not be enforceable by Maryland until the standard was promulgated in the *Maryland Register*, the effective date of the standard being 60 days after publication. Furthermore, State pomulgation could be up to a year after promulgation in the Federal Register. On January 9, 1986, EPA sent a letter to the Maryland AMA informing them that we intended to revise their NSPS/NESHAP delegation so that they would automatically receive delegation of NSPS and NESHAP standards upon promulgation in the *Maryland Register*. Maryland replied in a letter of January 23, 1986, that a regulation does not become enforceable by them until the effective date published in the *Maryland Register*. Therefore, they suggested we revise their delegation to enable Maryland to receive delegation on the effective date.

This Notice informs the public that as of January 23, 1986, Maryland's delegated authority to enforce NSPS and NESHASP standards has been revised. Recognizing Maryland's regulatory adoption procedures, delegation to Maryland will now occur automatically on the effective date for specific NSPS and NESHAP regulations as published in the *Maryland Register*.

The Office of Management and Budget has exempted this Information Notice from the requirements of section 3 of Executive Order 12291.

Authority: Sections 111(c) and 112(d), Clean Air Act (42 U.S.C. 7411(c) and 7412(d)).

Dated: April 9, 1986.

James M. Seif,

Regional Administrator.

[FR Doc. 86-9510 Filed 4-28-86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 261

[SW-FRL-3009-9]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is granting final exclusions for the solid wastes generated at three particular generating facilities from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32, as well as denying an exclusion to a petitioner for the waste generated at his particular facility. This action responds to delisting petitions received by the Agency under 40 CFR 260.20 and 260.22 to exclude wastes on a "generator-specific" basis from the hazardous waste lists. The effect of this action is to exclude certain wastes generated at these facilities from listing as hazardous wastes under 40 CFR Part 261.

EFFECTIVE DATE: April 29, 1986.

ADDRESSES: The public docket for these final exclusions and the final denial is located in Room S–212, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460, and is available for public viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll-free at (800) 424–9346, or (202) 382–3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382–5096.

SUPPLEMENTARY INFORMATION: On November 27, 1985, EPA proposed to exclude specific wastes generated by several facilities, including: (1) Arco Chemical Company, located in Miami, Florida (see 50 FR 48928); (2) Dover Corporation, Norris Division, located in Tulsa, Oklahoma (see 50 FR 48932); and (3) United Technologies Automotive, Inc. located in Jeffersonville, Indiana (see 50 FR 48941). In addition, EPA proposed to deny the petition submitted by General Motors Corporation, located in Saginaw, Michigan (see 50 FR 48924).[1] These actions were taken in response to petitions submitted by these companies (pursuant to 40 CFR 260.20 and 260.22) to exclude their wastes from hazardous waste control. In their petitions, these companies have argued that certain of their wastes were non-hazardous based upon the criteria for which the waste was listed. The petitioners have also provided information which has enabled the Agency to determine whether any other toxicants are present in the wastes at levels of regulatory convern. The purpose of today's actions is to make final those proposals and to make our decisions effective immediately. More specifically, today's rule allows three of these facilities to manage their petitioned wastes as non-hazardous. The exclusions remain in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[2] In addition, generators still are obliged to determine whether these wastes exhibit any of the characteristics of hazardous waste.

The Agency notes that the petitioners granted final exclusions in today's Federal Register have been reviewed for both the listed and non-listed criteria. As required by the Hazardous and Solid Waste Amendments of 1984, the Agency evaluated the wastes for the listed constituents of concern as well as for all other factors (including additional constituents) for which there was a reasonable basis to believe that they could cause the wastes to be hazardous. These petitioners have demonstrated through submission of raw materials data, EP toxicity test data for all EP toxic metals, and test data on the four hazardous waste characteristics that their wastes do not exhibit any of the hazardous waste characteristics, and do not contain any other toxicants at levels of regulatory concern.

EPA also proposed to deny an exclusion for specific wastes generated by General Motors Corporation, located

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[1] In the same Federal Register notice, the Agency also proposed to exclude specific wastes generated by: (1) American Cyanamid Company, Hannibal, Missouri (see 50 *FR* 48912); (2) Continental Can Company, Milwaukee, Wisconsin (see 50 *FR* 48915); (3) General Motors Corporation, Fisher Body Division, Elyria, Ohio (see 50 *FR* 48917); (4) Keymark Corporation, Fonda, New York (see 50 *FR* 48922; (5) Bommer Industries Incorporated, Landrum, South Carolina (see 50 *FR* 48930); (6) Star Expansion Company Mountainville, New York (see 50 *FR* 48934); (7) Texas Eastman Company, Longview, Texas (see 50 *FR* 48937); (8) Eli Lilly and Company, Clinton, Indiana, (see 50 *FR* 48945); (9) General Electric Company, Shreveport, Louisiana (see 50 *FR* 48940); and (10) Waterloo Industries, Pocahontas, Arkansas (50 *FR* 48951). The Agency will address these proposed decisions in a later Federal Register notice.

[2] The current exclusions apply only to the processes covered by the original demonstrations. A facility may file a new petition if it alters its process. The facility must treat its waste as hazardous, however, until a new exclusion is granted.

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in Saginaw, Michigan. In today's notice, this denial is being made final, since the levels of cadmium, chromium, and lead in the waste may present a substantial hazard to human health or the environment, if improperly managed. Futhermore, no information concerning the additional constituents (other than those for which the waste was listed) was received by the Agency. The Agency, therefore, could not fully evaluate the characteristics of the petitioned waste.

Limited Effect of Federal Exclusion

States are allowed to impose requirements that are more stringent than EPA's pursuant to section 3009 of RCRA. State programs thus need not include those Federal provisions which exempt persons from certain regulatory requirements. For example, States are not required to provide a delisting mechanism to obtain final authorization. If the State program does include a delisting mechanism, however, that mechanism must be no less stringent than that of the Federal program for the State to obtain and keep final authorization.

As a result of enactment of the Hazardous and Solid Waste Amendments of 1984, no State delisting programs are presently authorized. Any states which had delisting programs prior to the Amendments must become reauthorized under the new provisions.[3] The final exclusions granted today, therefore, are issued under the Federal program. States, however, can still decide whether to exclude these wastes under their State (non-RCRA) program. Since a petitioner's waste may be regulated by a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

The exclusions made final here involve the following petitioners:

Arco Chemical Company, Miami, Florida;
Dover Corporation, Norris Division, Tulsa, Oklahoma;
United Technologies Automotive, Inc., Jeffersonville, Indiana.

The denial made final today is for the following petitioner:

General Motors Corporation, Saginaw, Michigan.

I. Arco Chemical Company

A. Proposed Exclusion

The Arco Chemical Company (Arco) has petitioned the Agency to exclude its wastewater treatment sludge (filter press sludge) from EPA Hazardous Waste No. FO19, based upon the reduction and immobilization of the listed constitutents of this waste. Data submitted by Arco substantiate their claim that the listed constituents of concern are either not present in the waste at levels of regulatory concern or are present in essentially an immobile form. Furthermore, additional data provided by Arco indicate that no other hazardous constituents are present in the waste, and that this waste does not exhibit any of the characteristics of hazardous waste. (See 50 FR 46928–46930, November 27, 1985, for a more detailed explanation of why EPA proposed to grant Arco's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to Arco for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the filter press sludge is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Arco Chemical Company for its dewatered wastewater treatment sludge (filter press sludge) resulting from the chemical conversion coating of aluminum, listed as EPA Hazardous Waste No. FO19, generated at its Opa Locka facility in Miami, Florida.

II. Dover Corporation/Norris Division

A. Proposed Exclusion

Dover Corporation/Norris Division (Dover) has petitioned the Agency to exclude its dewatered wastewater treatment sludge (centrifuge sludge) from EPA Hazardous Waste No. FO06 based on the absence or immobilization of the listed constituents of this waste. Data submitted by Dover substantiate their claim that the listed constituents of concern are either not present in the waste at levels of regulatory concern or are present in essentially an immobile form. Furthermore, additional data provided by Dover indicate that no other hazardous constituents are present in this waste, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 50 FR 46932–46934, November 27, 1985, for a more detailed explanation of why EPA proposed to grant Dover's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to Dover for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that this waste is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Dover Corporation/Norris Division for its dewatered wastewater treatment sludge (centrifuge sludge) resulting from electroplating operations listed as EPA Hazardous Waste No. FO06 generated at its Tulsa, Oklahoma facility.

III. United Technologies Automotive, Inc.

A. Proposed Exclusion

United Technologies Automotive, Inc. (United) has petitioned the Agency to exclude its dewatered wastewater treatment sludge (filter cake) from EPA hazardous Waste No. FO19 based upon the absence, reduction, or immobilization of the listed constituents of this waste. Data submitted by United substantiate their claim that the listed constituents of concern are either not present in the waste at levels of regulatory concern or are present in essentially an immobile form. Furthermore, additional data provided by United indicate that no other hazardous constituents are present in the waste, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 50 FR 46941–46942, November 27, 1985, for a more detailed explanation of why EPA proposed to grant United's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to United for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that this waste is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to United Technologies Automotive, Inc. for its dewatered wastewater treatment sludge (filter cake) resulting from the chemical conversion coating of aluminum listed as EPA Hazardous Waste No. FO19 generated at its Jeffersonville, Indiana facility.

IV. General Motors Corporation

A. Proposed Denial

The General Motors Corporation (GMC) has petitioned the Agency to exclude its wastewater treatment sludge (dissolved air flotation sludge) from EPA Hazardous Waste No. FO06, based on the reduction and immobilization of the listed constituents of this waste. Data submitted by GMC, however, fails to substantiate their claim that the listed constituents of concern are present in an immobile form. Furthermore, GMC did not respond to Agency requests for additional information regarding factors (including additional constitutents) other than those for which the waste was listed which may cause the waste to be hazardous. The Agency, therefore, cannot fully evaluate GMC's petition to determine the characteristics of the petitioned waste. (See 50 FR 46924–46926, November 27, 1985, for a more detailed explanation of why EPA proposed to deny GMC's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to GMC for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the waste generated by the manufacturing processes at the GMC Saginaw Steering Gear facility (for which the petition was submitted) are not rendered non-hazardous by the wastewater treatment system currently in use. The analysis of the sludge, using the VHS model, indicates the potential of the sludge to leach several toxic heavy metals (cadmium, chromium, and lead) and contaminate ground water. Furthermore, the Agency has not received requested information necessary to determine whether or not additional toxicants (other than those for which the waste was listed) are present in the waste at levels of regulatory concern. The Agency, therefore, is denying this petition for exclusion of the wastewater treatment sludge EPA Hazardous Waste No. F006, produced by GMC at its Holland Road complex in Saginaw, Michigan.[4]

V. Effective Date

This rule is effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six month period to come into compliance. That is the case here since this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense which would be imposed on the petitioners by an effective date six months after promulgation, and the fact that such a deadline is not necessary to achieve the purpose of section 3010, we believe that these rules should be effective immediately. As for the denial, GMC already should be in compliance; thus no additional time should be necessary. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

VI. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This grant of exclusions is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at specific facilities from EPA's lists of hazardous wastes, thereby enabling these facilities to treat their wastes as non-hazardous. Although the Agency is also proposing to deny a petition for one waste, our decision does not trigger a Regulatory Impact Analysis, since the waste is already being handled as hazardous.

VII. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effects will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this final regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

Dated: April 22, 1986.

J.W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

List of Subjects in 40 CFR Part 261

Hazardous wastes, Recycling.

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Sections 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6922].

2. In Appendix IX, add the following wastestreams in alphabetical order to Table 1 as indicated:

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
Arco Chemical Co.	Miami, FL	Dewatered wastewater treatment sludge (EPA Hazardous Waste No. FO19) generated from the chemical conversion coating of aluminum after April 29, 1986.
Dover Corp., Norris Div.	Tulsa, OK	Dewatered wastewater treatment sludge (EPA Hazardous Waste No. FO06) generated from their electroplating operations after April 29, 1986.
•	•	•
United Technologies Automotive, Inc.	Jefferson-ville, IN.	Dewatered wastewater treatment sludge (EPA Hazardous Waste No. FO19) generated from the chemical conversion of aluminum after April 29, 1986.

[FR Doc. 86–8520 Filed 4–28–1986; 8:45 am]

BILLING CODE 6560–50–M

[3] RCRA Reauthorization Statutory Interpretation #4: Effect of Hazardous and Solid Waste Amendments of 1984 on State Delisting Decisions, May 10, 1984. Jack W. McGraw, Acting Assistant Administrator for the Office of Solid Waste and Emergency Response.

[4] The Agency notified GMC in a letter dated July 23, 1985, that the Office of Solid Waste would recommend to the Assistant Administrator for Solid Waste and Emergency Response that GMC's petition be denied. GMC declined to exercise its option to withdraw the petition. See 50 FR 46925, n. 46, November 27, 1985.

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DEPARTMENT OF THE INTERIOR
Bureau of Land Management

43 CFR Part 8560

[Circular No. 2561]

Designated Wilderness Areas; Procedures for Management; Amendment Providing a Review Process for Mining Plans of Operation

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking establishes procedures for reviewing plans of operations and continuing operations on unpatented mining claims within designated wilderness areas administered by the Bureau of Land Management. The final rulemaking is based on the Bureau's Wilderness Management Policy, published in the Federal Register on September 24, 1981 (46 FR 47180).

EFFECTIVE DATE: May 29, 1986.

ADDRESS: Inquiries or suggestions should be sent to: Director (340), Bureau of Land Management, Room 2661, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: David E. Porter, (202) 343–6064.

SUPPLEMENTARY INFORMATION: On February 25, 1985, the Department of the Interior published in the Federal Register (50 FR 5504) a final rulemaking providing procedures for the administration of wilderness areas on public lands under the jurisdiction of the Bureau of Land Management. By a notice published in the Federal Register on March 27, 1985 (50 FR 12020), the Department of the Interior withdrew section 8560.4–6(j) of that final rulemaking, which stated the requirements for approving plans of operations for unpatented mining claims existing before the date on which the wilderness areas were withdrawn from appropriation under the mining laws. Except for that provision, the final rulemaking for 43 CFR Part 8560 went into effect on March 27, 1985.

A proposed rulemaking establishing requirements to be met before the authorized officer of the Bureau of Land Management (BLM) can approve a plan of operations for a mining claim or allow previously approved operations to continue was published in the Federal Register on August 6, 1985 (50 FR 31734). Comments were invited for a period of 30 days ending September 5, 1985, during which period a total of 14 comments were received, with 4 from associations, 2 from business establishments, 4 from individuals, and 4 from Federal agency offices or personnel. All of the comments have been given careful consideration during the decisionmaking process on this final rulemaking.

Several of the comments addressed the proposed rulemaking in general terms, opposing mining in designated wilderness areas, opposing restrictions on mining in wilderness, or opposing regulations alleged to impair the property interests of miners in mining claims. Others criticized the single paragraph of the proposed rulemaking in detail; these will be analyzed in the same manner in this Supplementary Information.

One comment requested clarification of the first sentence of paragraph (j), pointing out that the final phrase "at the time operations are proposed" appears inconsistent as a condition for "allowing previously approved operations to continue." To resolve this inconsistency, the final phrase, which is unnecessary and confusing, has been removed in the final rulemaking.

Minor amendments were made in the final rulemaking in response to comments. The following paragraphs discuss all of the comments submitted and explain why they did or did not result in any change in the language of the final regulation.

One comment urged that there be public participation in the review of plans of operation in wilderness areas. The Bureau of Land Management notifies affected and interested members of the public when plans of operations are submitted for mining claims in wilderness areas. This practice is required by the operating instructions of the Bureau. Such internal procedures are not proper matters for regulations.

One comment stated that the proposed regulation is too inflexible and would provoke continuing controversy. The comment stated that the Federal Land Policy and Management Act of 1976 (FLPMA) affords sufficient authority to assure reclamation of mined out areas, that plans not meeting reclamation requirements can be disapproved, and that section 8560.4–6(j)(2) requires a mineral examination to be carried out if wilderness values might be impaired. The comment misinterpreted section 8560.4–6(j)(2), which allows performance of annual assessment work under a plan of operations pending the contest outcome even if the mineral examination report concludes that the claim is invalid. Reclamation under FLPMA or any other authority is not directed to preserving wilderness character, but rather to restoring it. The existence of a reclamation requirement does not eliminate the need to protect the wilderness character of the land to the maximum extent possible, at all stages before reclamation, consistent with protecting the legal rights of the miner. The Wilderness Act requires preservation of the wilderness character of lands in the wilderness preservation system, and allows mining only on valid claims existing at the time the area was withdrawn from the operation of the mining law.

Another comment opposed the provision allowing the miner to gather evidence of claim validity or perform assessment work, even if only insignificant surface disturbance would be caused. While the miner may not prospect for a discovery, claims must be properly located and recorded, and contain a discovery of a valuable mineral deposit. Collecting samples may be the only way to confirm a discovery, if samples from the time before designation of the land as wilderness are not available or cannot be demonstrated to be from the claim being examined. If sample collection were to be prohibited by the regulation, the miner would be presented with the untenable situation of having no way to prove that samples collected before a wilderness was designated are from that wilderness area, and no ability to collect them afterward. This legal principle has been consistently adhered to by the Department in cases involving both executive and legislative withdrawals made subject to valid existing rights. See *United States v. Harlan H. Foresyth*, 15 IBLA 43 (1974) and *United States v. Chappell*, 42 IBLA 74 (1979).

One comment stated that it is inconsistent with the Wilderness Act to allow significant surface disturbance if that is the minimum disturbance necessary to remove mineral samples to confirm valuable mineral exposures, and that wilderness values may not be degraded except on claims already determined to have valid rights. A claim can be valid in fact without having been administratively determined to be valid, and, as mentioned above, the Department has consistently recognized that the holder of a claim has the right to establish the validity of his discovery. Under some circumstances, surface disturbance exceeding the insignificant level may be necessary to collect such evidence, but the regulation requires the disturbance to be minimized. On the other hand, the miner does not have the right to prospect to make a discovery.

One comment urged that the miner be allowed the opportunity to assess his discovery, so that an informed decision can be made as to whether the mineral

discovery is of greater relative value to the public than preserving the land as wilderness. Section 8560.4–6(j) does not prohibit gatherinig samples as evidence of discovery; it specifically permits it. Decisions are not made by comparing the value of the mineral with the value of the wilderness area, but on the basis of whether the miner has an established right based on a valid mining claim.

One comment pointed out that exploration can be carried out with very little surface disturbance, using helicopters, tunnels, and so forth, and that the rulemaking should allow mineral deposits to be assessed individually. It concluded that the rulemaking would make assessment work impossible. The law and this rulemaking specifically permit annual assessment work and gathering samples to provide evidence of claim validity. If such work is done with the minimal surface disturbance described in the comment, the miner may be able to demonstrate that any surface disturbance he might cause would be insignificant, and his plan of operations that proposes use of helicopters or tunnels may be approved for purposes of doing assessment work and gathering evidence of claim validity. Use of helicopters under this subpart requires a plan of operations.

One comment objected to the provision allowing operations on producing mines to continue pending determination of claim validity. This exemption was created because producing mines were presumed to be economically producing, and therefore to meet the prudent man test. Although it might seem to impair the property interest of the miner to interrupt economic production, after consideration of the comment objecting to the provision, the Department of the Interior has concluded that the exemption for producing mines should be removed. The issue of whether the exemption is needed is likely to be academic because few producing mines will be found in designated Wilderness areas. For mining claims to be producing in a newly designated Wilderness Area, they are required to meet either of two circumstances: the claims were located and had discoveries prior to the enactment of the Federal Land Policy and Management Act so that operations are not subject to the non-impairment standard because they are valid existing rights, or the claimant is operating to the same "manner and degree" as at the time of the passage of the Act and thus has "grandfathered rights." BLM will be able to confirm quickly that a producing mine is in fact valid without suspending producing operations for a significant period of time because, normally, a USGS/Bureau of Mines mineral survey is prepared prior to designation. In order to assure that this amendment will not shut down operation on claims that have previously been determined to be valid, the section has been amended to apply only to proposed operations or previously approved operations occurring on mining claims for which there exists no approved, current BLM mineral examination report concluding that the claim is valid. This will ensure that a producing mine, or any other operation, located on an unpatented mining claim previously found valid by a mineral examination, is not temporarily shut down pending a new mineral examination after wilderness designation.

In the usual case, a producing operation will have been in a Wilderness Study Area prior to Wilderness designation, and BLM will have already prepared a mineral report confirming validity of the claim. This is because, under 43 CFR Subpart 3802, a determination of valid existing rights is required to be made while reviewing a plan of operations for a mining claim.

Several comments objected to the provision applying the time limitations imposed on the authorized officer by 43 CFR 3809.1–6, stating that BLM could not meet the 30-day deadline for reviewing plans of operations if mineral examinations were included in the review. The 30-day review period is generally sufficient to perform the mineral examination. However, 43 CFR 3809.1–6 does provide for extension of the deadline for 60 days when notice is provided of the circumstances justifying the additional time for review. In addition, periods when the area of operations is inaccessible for inspection do not count against the 60 days.

One comment also stated that section 3809.1–6 imposes a less rigorous standard on the miner than that Wilderness Act requires, and that that section should not be referred to at all in managing wilderness areas. The Wilderness Act standards are stated in 43 CFR 8560.4–6 (e) and (h). The plan of operations provided for in section 3809.1–6 is the mechanism used to apply these standards to performing assessment work and gathering evidence of claim validity in wilderness areas. The miner is required under 43 CFR 8560.4–6 (e) and (h) to comply with stipulations to protect the wilderness character of the area. These are imposed by the authorized officer as part of the approved plan of operations under section 3809.1–6.

Several comments stated that the proposed rulemaking arbitrarily infringes on the property rights of miners in their claims by requiring the Bureau to deny a plan of operations on the basis of mineral examiner's report alone, and that the rulemaking should be revised to require completion of a contest and exhaustion of appeals before a plan can be disapproved. This rulemaking has been carefully written to reach a fair balance between the property interests of mining claimants and the preservation policy enunciated in the Wilderness Act. The Wilderness Act protects valid rights existing on the date a wilderness is designated. For wilderness administered by BLM, this date is usually the date the specific wilderness designation legislation is enacted. Claims do not have to be adjudicated and found valid in order to be valid, but if on examination a mineral examiner has reason to doubt the validity of the claim, the public interest in wilderness protection expressed in the Wilderness Act justifies disapproval of the plan of operations or termination of an ongoing operation, so that the matter can be promptly and conclusively resolved in a contest proceeding. At the same time, the miner's property right in the claim requires that he have a fair opportunity to supply proof of its validity by gathering samples, mitigated by the requirement that surface disturbance be the minimum necessary. The rulemaking does not state that the mineral examiner will invalidate a claim, but only that the examiner will disapprove the plan of operations and initiate a contest to determine the status of the claim conclusively. No operations may proceed except under the authority of this rulemaking until the contest is concluded.

One comment stated that the provision for terminating a previously approved plan of operations if the mineral examiner finds no discovery is inconsistent with the provision allowing producing mines to continue in operation. If a mine is producing in quantity, the likelihood is greatly reduced that examination will disclose a failure to discover a valuable mineral deposit. The final rulemaking does not provide for delays in reviewing ongoing operations, but recognizes that there is little likelihood that review will result in shutting down the mines.

One comment objected that this rulemaking treats the plan of operations as a minerals management tool rather than a surface management tool. Congress has determined that wilderness shall be preserved against all

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mining except what is carried on under valid existing rights. Review of the plan of operations under 43 CFR 3809.1–6 is the most reasonable stage of the process at which validity can be determined.

One comment objected that an examination that determines the validity of a claim based upon the marketability of a mineral at any given time or period of time may unfairly determine a claim invalid because of temporarily depressed markets for the mineral, and urged that the prudent man test be applied in judging validity of discoveries. The prudent man test requires that the "present marketability" of the mineral deposit be considered in determining whether the claim was valid at the time the wilderness area was withdrawn from the operation of the mining law and continues to be valid. The determination of "present marketability" has never comprised the examination of either cost or price factors as of a specific, finite moment of time, without reference to other economic factors. Rather, the question of whether something is "presently marketable at a profit" simply means that a mining claimant must show that, as a present fact, considering historic price and cost factors and assuming that they will continue, there is a reasonable likelihood that a paying mine can be developed. *Pacific Coast Molybdenum Co.*, 90 I.D. 352 (1983). If a mineral market is depressed, the mineral examiner will take into account the possibility of market resurgence, based upon the history of that market, in projecting marketability and determining the validity or invalidity of a discovery. At the same time, the mineral examiner will recognize that a trend may be considered sufficiently long-term to be permanent, in cases where there is little or no foreseeable demand for the mineral, despite past marketability.

One comment stated that BLM lacks the expertise to determine whether a valuable mineral discovery has been made, and that this would lead to a great amount of costly litigation. The authority of the Secretary of the Interior to contest mining claims stated in *Cameron v. United States*, 252 U.S. 450 (1920), has been delegated by the Secretary to the Director, Bureau of Land Management. Every State office of the Bureau has qualified mineral examiners whose responsibility it is to evaluate the validity of mining claims.

One comment stated that although BLM does not issue mitigating measures for a plan of operations that is denied, the rulemaking allows some operations to be conducted. The comment questions how mitigating measures can be applied to a nonexistent plan. The comment also questions how environmental protection can be assured without imposing mitigation stipulations. The comment apparently assumes that if a proposed plan of operations is denied, there will be no plan of operations at all, and then asks how BLM will ensure environmental protection. This final rulemaking prohibits the authorized officer from disallowing a plan of operations, either before contest proceedings begin or while they are pending, because of adverse conclusions in the mineral report, to the extent that the plan proposes assessment work or gathering proof of claim validity. In addition, the regulations at 43 CFR 3809.1–6 and 8560.1–2 do not allow the miner to proceed with work that disturbs the surface even insignificantly without a plan of operations, if mechanized earth-moving equipment or landing of aircraft is involved. Thus, a plan of operations is required for those activities. By allowing mining activities on such claims for the two named purposes and requiring a plan of operations, the rulemaking affords the authorized officer the opportunity to impose on these plans stipulations to protect the environment, in accordance with 43 CFR 3809.1–6 and the Wilderness Act, pending the outcome of contest proceedings.

One comment questioned why the rulemaking limits the claimant to reliance upon physically exposed minerals to prove claim validity. Because the Wilderness Act requires the claim to be valid on the date the land is withdrawn for wilderness, prospecting to make a discovery under the mining laws is not allowed in wilderness areas. To be discovered, a mineral has to be exposed. Geologic inference alone is insufficient to establish a discovery.

Another comment requested that the rulemaking use a physical exposure of mineralization as sufficient proof of a valuable discovery, stating that there is no readily available definition of "valuable mineral deposit." The term suggested by the comment, "physical exposure of mineralization," is vague. It implies that an exposure of a mineral in trace amounts, which may be far from economic, would be sufficient to support a discovery. The prudent man test will be applied by the mineral examiner to determine whether there has been a discovery of a valuable mineral deposit. This has long been the procedure for evaluating claims.

One comment stated that the rulemaking should include assessment work options and procedures for obtaining patents. These matters are covered in 43 CFR Parts 3850 and 3860.

Several comments suggested relating the term "insignificant surface disturbance" to the term "casual use." The terms relate to different issues. "Casual use" is used in 43 CFR Subpart 3809 to describe activities that may be carried on without an approved plan of operations. "Insignificant surface disturbance" refers to the degree of disturbance an activity performed under a plan of operations may cause. This rulemaking is designed to protect the wilderness character of the land, allowing assessment work or gathering of evidence to support a discovery existing before the wilderness was withdrawn only if it will cause insignificant surface disturbance under a plan of operations, except in the special circumstances provided for where surface disturbance exceeding the insignificant level is the minimum necessary to confirm preexisting exposures of a valuable mineral.

One comment suggested that the final sentence of the section be amended to except required reclamation work from the requirement that all operations shall cease once a final administrative decision is rendered declaring a claim to be invalid. This suggestion has been adopted in the final rulemaking.

The principal author of this final rulemaking is David E. Porter, Division of Recreation, Cultural, and Wilderness Resources, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The rulemaking favors no demographic group, and applies equally to all users, regardless of size, operating or planning to operate a mine in any wilderness area administered by the Bureau. Information is required from the public for certain uses and activities in wilderness areas in accordance with existing procedures found in 43 CFR Parts 2800, 2880, 2920, 3045, 3205, 3809, 4100 and 8372. The information collection requirements of those procedures referred to in this rule have been approved by the Office of Management and Budget under 44 U.S.C. 3501 et seq.

List of Subjects in 43 CFR Part 8560

Grazing land, Livestock, National Wilderness Preservation System, Oil and gas exploration, Penalties, Public lands-mineral resources, Public lands-recreation, Recreation.

Under the authority of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) and the Wilderness Act of 1964 (16 U.S.C. 1131), Group 8500, Subchaper H, Chapter II, Title 43 of the Code of Federal Regulations is amended as set forth below.

Dated: April 11, 1986.

J. Steven Griles,

Assistant Secretary of the Interior.

GROUP 8500—WILDERNESS MANAGEMENT

PART 8560—WILDERNESS AREAS

1. The authority citation for Part 8560 continues to read as follows:

Authority: 43 U.S.C. 1701 et seq., 16 U.S.C. 1131 et seq.

2. Section 8560.4–6 is amended by adding paragraph (j) to read as follows:

§ 8560.4–6 Mining law administration.

* * * * *

(j) Where there exists no current approved mineral examination report concluding that unpatented mining claims are valid, prior to approving plans of operations or allowing previously approved operations to continue on unpatented mining claims after the date on which the lands were withdrawn from appropriation under the mining laws, the authorized officer shall cause a mineral examination of the unpatented mining claim to be conducted by a Bureau of Land Management mineral examiner to determine whether or not the claim was valid prior to the withdrawal and remains valid. If the approved mineral examination report concludes that the claim lacks a discovery of a valuable mineral deposit, or is invalid for any other reason, the authorized officer shall either deny the plan of operation or, in the case of an existing approved operation, issue a notice ordering the cessation of operations and shall promptly initiate contest proceedings to determine the status of the claim conclusively. However, neither the adverse conclusions of an approved mineral examination report nor the pendency of contest proceedings shall constitute grounds to disallow a plan of operations to the extent the plan proposes operations that will cause only insignificant surface disturbance and are for the purpose of: (1) Taking samples or gathering other evidence of claim validity to confirm and corroborate mineral exposures which are physically disclosed and existing on the claim prior to the withdrawal date, or (2) performing the minimum necessary annual assessment work as required by subsection 3851.1 of this title. Surface disturbance exceeding the insignificant level is permissible only when it is the minimum disturbance necessary to remove mineral samples to confirm and corroborate preexisting exposures of a valuable mineral deposit discovered prior to the withdrawal. The requirement in this subsection for a mineral examination shall not cause a suspension of the time limitations governing approval of operating plans contained in subsection 3809.1–6 of this title. Once a final administrative decision is rendered declaring a claim to be null and void, all operations, except required reclamation work, shall be disallowed and shall cease unless and until such decision is reversed in a judicial review action.

[FR Doc. 86–9446 Filed 4–28–86; 8:45 am]
BILLING CODE 4310–84–M

LEGAL SERVICES CORPORATION

45 CFR Part 1625

Procedures Governing Denial of Refunding

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: This final rule revises the Corporation's regulations governing denial of an application for the refunding of a grant. Some of these revisions are required to comply with the provisions of the Corporation's appropriations acts for 1984, 1985, and 1986 (Pub. L. 98–166, 98–411, and 99–180). Other revisions are designed to improve the procedures and to ensure that they comply fully with the provisions of the Legal Services Corporation Act, as amended (42 U.S.C. 2996 et seq.) (the Act) and the cited appropriations acts, all of which require procedures which provide for a "timely, full, and fair" hearing. This rule (1) specifies new and more detailed procedures for denial of refunding, (2) establishes new and generally shorter time limits within which procedural steps in denying refunding must be taken, and (3) changes the burden of proof in denial of refunding proceedings. The regulations, as revised, are fully consistent with the requirements of both the Act and the appropriations acts.

EFFECTIVE DATE: This regulation is effective May 29, 1986.

FOR FURTHER INFORMATION CONTACT: John H. Bayly, Jr. General Counsel (202) 863–1820.

SUPPLEMENTARY INFORMATION:

Background

The Corporation has discovered that amendments to this part which were published as a final rule in the **Federal Register** of July 29, 1985 (50 FR 30714) were not properly adopted. Since this rulemaking proceeding covers the same areas, the amendments made in the July 29, 1985 publication are revoked through this final rule.

Pub. L. 98–166, which appropriated the Corporation's funding for the fiscal year ending on September 30, 1984, provided for revision of the Corporation's procedures under section 1011(2) of the Act. This requirement has been continued in appropriations acts for subsequent years. The appropriations acts provide that the proceedings must be in the form of a hearing to show cause, that the recipient has the burden of proof, and that all denial of refunding proceedings must be completed within 90 days, of which 30 days are allowed for the recipient to request a hearing, 30 days for completion of the hearing, and 30 days for rendering of the final decision.

Changes, including several deadline changes, have been necessitated by the acts. These changes are concentrated in §§ 1625.4, 1625.5, 1625.6, 1625.7, 1625.8, 1625.9, 1625.10, 1625.11, and 1625.12. Additional changes have been made to conform other sections to these revisions and to simplify, expedite, and ensure the fairness of the proceeding. The entire part, as revised, is republished for clarity and ease of use.

Notice of Proposed Rulemaking

Proposed new procedures were published in the **Federal Register** on February 7, 1986 (51 FR 4882) and opportunity for comment provided until March 10, 1986. Sixty-two timely comments were received. Several late comments were also received. In addition, oral comments were received directly by the Operations and Regulations Committee of the Board of Directors (Board) at its meeting in Tampa, Fla., February 20, 1986, and again in Jackson, Miss., March 12, 1986. All timely comments were considered in the development of the final rule. Late comments were also reviewed and no new or unforseen issues were raised.

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Numerous changes, substantive and technical, were made as a result of our consideration of the comments.

Comments

The most comprehensive comments were made by Allen W. Houseman of the Center for Law and Social Policy, for the Project Advisory Group (PAG). Mr. Houseman made his comments in a series of proposed changes and analyses and in oral comments before the Corporation and the Board. Some forty grant recipients made individual comments. Some specifically endorsed the PAG comments. Generally, however, they repeated one or more of the PAG comments and suggestions. A number of bar groups commented. Generally, they also identified one or more of the points made by the comprehensive PAG comment. Four of the comments, one of which was a grant recipient, favored the proposal.

The issues which drew the most interest were:

1. The placing of the burden of going forward and the burden of ultimate persuasion on the recipient (§ 1625.9), (38 comments);

2. The use of written testimony exclusively to put on the direct case and the use of the hearing for cross-examination and rebuttal testimony only (§ 1625.8(d)) (20 comments);

3. Application of the attorney-client privilege (§ 1625.8(f)) redesignated (a) (50 comments);

4. The criteria to be used in applying the standards set out in §§ 1625.3 and 1625.9, particularly §§ 1625.3(d) and 1625.9(d) in connection with the selection of another organization to serve the clients (28 comments); and

5. The potential for conflict in personally involving the President of the Corporation prior to final decision and for ex parte contacts with the hearing examiner (§ 1625.4(f)) (21 comments).

General Issues

Several comments suggested that many of the requirements were not necessary to comply with the appropriations acts and that these requirements should be dropped. We believe that the provisions are necessary to comply with the Act, which requires hearings under these proceedings to be "timely, full, and fair" (section 1011(2); 42 U.S.C. 2996) and the appropriations acts which, more specifically, require the proceedings to be completed within no more than 90 days (divided into three periods of no more than 30 days each). Since several previous denial of refunding proceedings have lasted an unreasonably long time, during which provision of legal services to eligible clients was adversely affected, it is reasonable for us to interpret "timely" in the Act to be consistent with the Congressional determination that the proceedings should be completed in no more than 90 days. Clients should not be left for more than one-fourth of a year with a legal services provider whose future is uncertain because of serious doubts as to its ability to provide quality legal services in an effective manner within the law. We believe that the procedures adopted by this part provide full and fair procedures for recipients, eligible clients, and taxpayers.

Many commenters were concerned about the propriety of having the Corporation President involved in a defunding proceeding prior to final decision, particularly under § 1625.4(f). They were also concerned about the fact that the hearing examiner would be selected before the recipient is notified (§ 1625.4(d)(1)), and that he could be asked *ex parte* to issue an order under § 1625.4(f). One of the remedies proposed was that the hearing examiner not be selected until after the recipient is notified under § 1625.4(d). It was also suggested that the hearing examiner be authorized to limit or quash a § 1625.4(f) requirement. In addition, it was noted, generally in connection with comments under § 1625.9, that the recipient should be able to challenge any law, regulation or guideline of the Corporation and that this is desirable to make the doctrine of exhaustion of administrative remedies applicable.

We respond to all four comments. The provisions giving a role to the President or to the hearing examiner, prior to the service of notice, have been revised to eliminate such a role for either. In addition, it is specifically provided that the hearing examiner may rule on a motion to limit or quash a requirement under § 1625.4(f), and challenges to any relevant law, regulation, or guideline may be made and briefed under § 1625.8(g)(2); this provision specifically implements the doctrine of exhaustion of administrative remedies by stating that an argument not timely made in the proceeding is waived unless recipient can show that it could not have made the argument prior to that time.

Concern was also raised that the Corporation could go back indefinitely in pursuing a matter and that there should be some time limit. One comment suggested 30 days from the date the Corporation has knowledge of the basis for its action. Another noted that its state statute of limitations on contract proceedings was 6 years. If an event occurs during a fiscal year, is questioned during a monitoring trip the following year, and the investigation completed and a proceeding initiated the year after that, this would not be an unlikely sequence of events and would take 3 years. There is also the possibility that there could be a deliberate covering up of an event so that it is not discovered for some time. Accordingly, under § 1625.3(b) we have provided for a six-year notice limitation for failure to comply with any rule, regulation, guideline, or instruction of the Corporation, or a term or condition of a current or former grant or contract. Some commentors were concerned that failure to comply at a time when a requirement was not in effect may be the basis for denial of refunding. We provide specifically that it will not.

A new paragraph (3) of § 1625.8(e) was considered initially by the Board at its Tampa, Fla., meeting, February 19–21, 1986. As part of the process of assuring openness and avoiding surprise, it provides that a recipient cannot use a witness or evidence in a proceeding where it failed to comply with its obligations (under, e.g., 42 U.S.C. 2996f(d), 2996g(b)) to provide the evidence or witness to the Corporation on request prior to the initiation of the proceeding, unless it is able to show good cause for its failure to comply at an earlier date. One comment suggested that the paragraph should be published for comment, citing cases. We found the cases supported the decision to adopt the provision. The key case cited was *Air Transport Association of America* v. *CAB*, 732 F.2d 219 (D.C. Cir. 1984). In that case, the Court ruled that the published proposal was sufficiently descriptive of the subject and issues involved that interested parties could offer informed criticism and comments. The critical elements of the proposal did not change and the final rule was a logical outgrowth of the proposed rule. Here, we add a provision designed to spur disclosure and avoid surprise. Given the need to combine adequacy of hearing and compliance with deadlines, such a proviso is very clearly a logical outgrowth of the proposed rule.

Sections 1625.3 and 1625.4

It was proposed that the Corporation's notice to a recipient in § 1625.4(a) be tied specifically to the four grounds for denial specified in § 1625.3. In effect, the substance of § 1625.3 would be repeated in § 1625.4(a). We do not believe the inclusion would improve clarity. Instead, we expanded § 1625.4(c) to spell out clearly that the Corporation must provide a detailed memorandum of points and authorities to apply the facts recited under § 1625.4(b) to the specific grounds for denial under § 1625.3. It should be noted that the recipient's obligation under § 1625.5(d) to submit its memorandum of points and authorities, is not spelled out in identical language to that of the Corporation under § 1625.4(c). That does not mean that its obligations do not match those of the Corporation—they do. Any issue of fact or law not joined is considered admitted.

It was also suggested that, where another organization is identified in a statement under § 1625.4(a) as being better able to serve the clients, relevant information about that organization, its staff, officers and board, its experience, and the basis for our finding, should be included in the § 1625.4(a) statement. A prima facie case will include all needed information about the organization and its principal officials, as well as provide a factual basis for the allegation that it is better able to serve the clients. In addition, the language of §§ 1625.5(e) and 1625.7(d), dealing with the ability of the recipient to secure production of documents or witnesses of the Corporation, is revised to make clear that an organization identified under § 1625.4(a)(2) as being better able to serve the client community may be required to produce a document or employee, subject to the sanctions set forth in § 1625.8(e).

It was suggested that when we name the hearing examiner under § 1625.4(d), we provide a résumé and the information on which we made our determination under § 1625.6(a). We think it would be helpful to include a summary of the hearing examiner's professional qualifications, his or her current business address and phone number, and a statement that he or she supports the purposes of the Act.

It was suggested that the provisions of former § 1625.4(c) advising the recipient of its right to interim and termination funding under §§ 1625.15 and 1625.16 be preserved in a new § 1625.4(g). We think this is unnecessary since under § 1625.4(e) we send all of Part 1625 to the recipient with the show cause order.

Section 1625.5

Under § 1625.5(c), it was suggested that we strike the provision that the recipient may not rest on mere allegations or denials, but must recite specific facts to assure that a genuine issue of fact is involved. There is apparent concern that there may be situations where a recipient can only deny. For example, comments suggested that if the Corporation alleged that a recipient engaged in lobbying by mailing a specific letter and in fact the recipient had not mailed the letter, it could only deny the allegation. We shortened the language of the provision, eliminating the reference to mere allegations and denials, but retained the requirement that the recipient must provide sworn evidence of specific facts showing there is a genuine issue of material fact at issue. We think the official responsible for the denial must sign an affidavit on personal knowledge that he has checked records and done what is possible to find evidence in order to put a material fact in issue and to avoid issuance of an adverse summary judgment.

It was suggested that a recipient should be able to request the hearing examiner to add parties under § 1625.5(e). We do not agree. Where an organization is alleged to be better able to serve eligible clients, it should be identified pursuant to § 1625.4(a)(2) (as we noted above), and adverse inferences should be available if it refuses to make its documents or employees available for the hearing (§§ 1625.5(e), 1625.7(d) and 1625.8(e)(1)). But, we see no reason why it should be a party. With respect to other persons, we fail to see how they could be involved as parties, although many could be witnesses, and we do not think that witness availability may be solved in this fashion. Certainly, denial of refunding will have indirect impact on other persons (the recipient's clients, employees, landlord, suppliers, contractors, and grantees may all incur at least some costs of adjustment to a possible denial of refunding either the particular organization that is alleged to be better for the clients or some other or new recipient chosen after appropriate competition may gain by receiving the grant funds that the original provider would have received if it had been refunded). None of these persons must be present as a party for resolution of the only question at issue during a proceeding under this part: If the Corporation has presented a prima facie case for denial of refunding, can the existing recipient show cause why refunding should be granted? Accordingly, we have clarified language in § 1625.7(d)(3) regarding the obligation of an organization identified under § 1625.3(d) to produce documents and employees; and we have added a new § 1625.7(c)(5) limiting the proceeding to the Corporation and the recipient, except that a state support center which is a subgrantee or a subrecipient when this regulation becomes effective, may be included as a party, but only during the term of the subgrant that is in force at the time the regulation becomes effective. This will provide adequate time for state support centers now funded through recipients to seek to become direct recipients if they so desire.

It was also suggested under § 1625.5(e) that the recipient should be able to require the Corporation or another party to produce a board member or another person, other than a current employee, as a witness. Congress, however, has given the Corporation no power to subpoena third parties, including board members. We believe that both parties should bear the consequences under § 1625.8(e) if their current employees are unavailable without good cause, but that no adverse inferences may be made from a party's failure to do what it has no power to do. Certainly, either party may be sanctioned for its efforts to persuade witnesses to refuse to cooperate with the other party or for failure to produce information in its possession, custody, or control which may assist the other party to locate favorable witnesses or evidence.

Section 1625.6

It was also suggested that the period of time to object to the hearing examiner under § 1625.6(b), be extended from 5 to 20 days. It is claimed that the recipient needs the time to make the objection, yet no actual problems are cited as having resulted from the existing provision. The proposal would leave only seventeen (17) days to dispose of the objection, choose another examiner, if necessary, and allow the new examiner to prepare for the prehearing conference. Meanwhile, there would not be a hearing examiner available to rule on the recipient's request to limit or quash the Corporation's requirement for production of documents or witnesses (§ 1625.4(f) or to dismiss the proceeding (§ 1625.7(a)(1)) before the recipient has to make a detailed response. We believe that a more practical approach would be to give the recipient an additional five (5) days (for a total of 10) upon written request, provided it gives the basis of its objection and explains why, despite due diligence, it is unable to make its objection without the extension. This will give the recipient time to ascertain if there is a problem and then to prepare an adequate objection; at the same time, the Corporation will be on notice at an early date that it may need to locate another hearing examiner.

Section 1625.7

It was suggested that the examiner be authorized under § 1625.7(a)(2) to extend the original 30-day period within which the recipient must request a hearing to protest a denial of refunding, or be deemed to have waived its right to it.

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Since Congress has indicated that this is an adequate amount of time, we do not think it necessary to make such a change. There may be circumstances where the record shows that a recipient did try to request a hearing and, through extraordinary circumstances, such as an act of God, was unable to do so until a day or two after the 30th day, although extraordinary efforts were made to overcome the adverse circumstances, inform the Corporation of its desire for a hearing, and comply as much as possible with the requirements of § 1625.5. Under such unusual circumstances, constructive notice and service could be found a day or two late, where the record shows good faith, absence of intent to delay, and the Corporation is not prejudiced. No change is needed to permit this.

It is suggested that summary judgment under § 1625.7(a)(3) be limited to the grounds specified in § 1625.3 (a) and (b). Several comments took the view that the grounds specified in paragraphs (c) and (d) of the section were too complex to be the subject of a summary judgment proceeding. We disagree. The summary judgment language is taken from F.R. Civ. P. 56 and is generally applicable to all litigation, although in practice some kinds of claims may only rarely be subject to actual imposition of summary judgment. "[I]t cannot be stated too strongly that no type of action or issue is immune from a summary adjudication and that there will be instances when the rendition of a summary judgment is clearly called for, although the particular action or issue is one which does not lend itself to a summary adjudication as a general proposition." (6 Moore's Federal Practice ¶ 56.17[1]). The suggestion is rejected.

It is suggested that we change the proviso at the end of § 1625.7(d)(2), limiting the opportunity to make a delayed request that the opponent produce a document or a witness. Such a delay request is permitted only in situations which could not be anticipated and where failure to permit it would result in a manifest injustice. It is suggested that we strike the manifest injustice standard and that we permit delayed requests where the situation could not be anticipated, or the request is in response to new witnesses, testimony, or documents. We cannot accept the proposal. The whole purpose of the obligations spelled out in §§ 1625.4 and 1625.5 is to avoid surprise. It must be remembered that recipients will not be forced to wait until the witnesses testify to react to the Corporation's case. They will have it six weeks in advance of the hearing. They will have it a month before they must answer.

Sections 1625.7 and 1625.8

It is suggested in §§ 1625.7 and 1625.8 that direct testimony be permitted because it may be necessary or desirable later. We have revised §§ 1625.7 (b) and (c) and § 1625.8(d) to allow either party to choose to present direct testimony from its witnesses. The testimony will be limited to the scope of the witness' affidavit and the party will, of course, be required to make these direct witnesses available at that time for a complete cross-examination on both the written and oral testimony. The time used by a party for its witnesses will include the other party's cross-examination of them and will reduce the amount of time available to call the affiant of the other party or make other use of the time allotted for its use during the hearing. Therefore, neither party is likely to make excessive use of the opportunity to present direct testimony.

Each party will be required pursuant to § 1625.7(c)(6) to arrange for the testimony of the witnesses it will rely on and bear the associated expenses. This includes witnesses associated with the other party, except that each party must produce its own affiants for cross-examination. In addition, the hearing examiner may require either party to produce a document or a witness and to bear the expense thereof. He has 7 days to rule on motions regarding requests for documents or witnesses.

Section 1625.8

It was suggested that we strike the provision in § 1625.8(b) (now (a)) that the hearing will normally be held in or near a city with a commercial airport and a U.S. District Court. The concern is that a program could be burdened if a location were chosen that is substantially more inconvenient for the recipient than another location where both locations have an airport and a federal court. Another concern was that a location with an airport and a federal court would be less convenient than the recipient's headquarters. Choice of venue must balance the convenience of witnesses, counsel for both parties, and the hearing examiner. The Corporation would probably prefer Washington, D.C., and the recipients' lawyers would probably prefer their own community. We have revised the proposed provision to eliminate the requirement that the hearing be held at a city with a federal court and to clarify that the hearing will be held at a place in or near a city with a commercial airport that is convenient to the Corporation, the recipient, the community served, and the witnesses.

It is suggested that § 1625.8(f) (renumbered (e)) be revised to provide that if the Corporation fails to produce a witness or document from an organization determined under § 1625.3(d) to be better able to serve the client community, or if it fails to produce one or more members of a monitoring team where it relies on the team report and produces only those team members it needs, the proceeding should be dismissed. We provide in § 1625.8(f) that technical rules of evidence do not apply. While we have not changed this section and no one has commented directly on it, we think it requires discussion here in connection with this proposal and the availability of monitoring reports and monitors. Administrative proceedings subject to the Administrative Procedure Act (APA) often contain hearsay in the documents submitted. This is generally not considered harmful, however, as the hearing examiner is considered competent to give appropriate weight to, or disregard, such evidence. Thus, the Attorney General's Manual on the APA at p. 76, quotes from the Committee Reports on the APA as follows:

> "[T]he mere admission of evidence is not to be taken as prejudicial error (there being no jury to be protected from improper influence) although irrelevant, immaterial, and unduly repetitious evidence is useless and is to be excluded as a matter of efficiency and good practice" H.R. Rep. p. 36, Sen. Rep. p. 22 (Sen. Doc. pp. 270, 208).

It is also stated in the Manual that agency action must be supported by "reliable, probative, and substantial evidence" and that "[T]hese are standards or principles usually applied tacitly and resting mainly upon common sense which people engaged in the conduct of responsible affairs instinctively understand". H.R. Rep. p. 36, Sen. Rep. p. 22 (Sen. Doc. pp. 270, 208). In our situation, where a monitoring report contains input from 5 monitors, only 3 of whom are called by the Corporation, it could have some heresay, and it would be the examiner's responsibility to give such heresay the weight it deserves, or no weight at all, as appropriate.

With respect to access to witnesses, § 1625.8(e) (as renumbered) gives the examiner the power to draw the adverse inference which is in proportion to the loss. We do not see how adverse inferences can be drawn where a party does not use someone as a witness. Presumably, it does not need that person for its case. Similarly, where there are no subpoena powers, and a party asks that the opponent produce a person not under its control, such as a board member, former employee, or former consultant, it cannot be assumed that that person is under the control of the opponent. Consequently, no adverse inferences can be drawn.

The dismissal proposal is far to broad and is rejected. For clarification, however, we added specific language, in new paragraph (4) of § 1625.8(e), that no adverse inference can be drawn for failure to produce a document or witness not under the actual control of the party, (or, in the case of the Corporation, an organization identified under § 1625.4(a)(2)). In addition, we provide in § 1625.8(k) that the APA and the Federal Rules of Civil Procedure are to be used as guides where relevant. While the APA does not, per se, apply to the Legal Services Corporation, because we are not an agency of the Federal Government (42 U.S.C. 2996d(e)(1)), we must have suitable guidelines and, since we are a creature of Federal law and are federally funded, we believe that the APA and the Federal Rules of Civil Procedure are the appropriate guides to the extent that they are relevant. Their use for such guidance should eliminate many of the concerns of commenters concerning various details of the procedures, fill in any missing details in the procedures, and provide reliable precedents for the interpretation of the many provisions in this part which have been adapted from these sources.

It is suggested that we strike the provisions in § 1625.8(f) (now (e)) permitting the examiner to review the exercise of the attorney-client privilege. A full and fair hearing before an independent hearing examiner implies that the hearing examiner—like a judge or an administrative law judge—will have the power to rule on questions of privilege and to issue appropriate protective orders. The statutory provision that prohibits the Corporation from having access to reports or records subject to the attorney-client privilege (section 1009(d) of the Act, 42 U.S.C. 2996h(d)) does not apply to the hearing examiner since the statute also requires that the hearing examiner be independent of the Corporation (section 1011(2), 42 U.S.C. 2996j(2)). There have been instances during monitoring where the privilege has been invoked under circumstances where it seemed frivolous, a sham, or an excuse. Yet, we are expected to monitor "to insure that the provisions of [the Act] and the bylaws of the Corporation and applicable rules, regulations, and guidelines promulgated pursuant to [the Act] are carried out" (42 U.S.C. 2996f(d)). Obviously, there must be an adequate balancing of interests to achieve legislative purposes, assure fiduciary accountability, and protect taxpayer dollars.

The Corporation is not in an adversary relationship with the recipients' clients. We seek nothing from or about individual persons represented by the recipients. We do not want to know their secrets or confidences. We do not see how they can be harmed by provisions that prevent recipients' attorneys from attempting to use the privilege as a shield to make selective presentations under the guise of full disclosure. The privilege, of course, is intended for the protection of the client, not for the attorney.

We provide that the hearing examiner may look at the document with the privileged matter expunged and, if he thinks exercise of the privilege is in bad faith or in error, he can ask to see the document for *in camera* inspection, and may issue such finding or order as the facts may warrant, but he may not disclose any of this privileged information to the President. In addition, authority is given the examiner to issue such protective orders as necessary to protect client confidences and to prohibit unjusitifed dissemination of evidence [§ 1625.7(c)(3)].

Several commenters were particularly concerned about the provision permitting the hearing examiner to require a good faith effort by the attorney to get the client to waive the privilege. Several referred to the American Bar Association Ethics Committee Informal Opinion No. 1287 (June 7, 1974) (apparently inadvertently cited as No. 1287).

The Corporation considered clarifying language to incorporate the language of Informal Opinion No. 1287 because we think our purpose was misunderstood. Some recipients, for example, have refused access by Corporation auditors to the accounting records regarding the client trust accounts on the ground their records contain client names. It is plausible that many clients would be happy to sign a waiver limited to that necessary for the Corporation to ascertain, *inter alia*, if all funds to which they may be entitled have been paid promptly to them and that all the funds have been accounted for properly. A recipients' assertion of the privilege in such circumstances and refusal to offer the client the opportunity to waive—fully consistent with relevant ABA opinions—would appear highly questionable. However, because of the importance and sensitivity of the privilege and to avoid any possible semblance that clients of recipients are entitled to any less confidentiality and dignity than any other clients, we deleted all reference to efforts to obtain a waiver.

Sections 1625.8 and 1625.9

It is suggested that § 1625.8 and § 1625.9 be revised to provide that the Corporation will proceed first. We think that the Corporation should put on its entire case, in writing, with its show cause order. If it cannot do that, it should not initiate the proceeding. If it fails to make a prima facie case, the recipient should not have to make a detailed response. A specific provision has been added to permit the recipient to challenge a prima facie case (§ 1625.7(a)(1)) and if it makes timely request and prevails it can avoid having to make a response under § 1625.5. The recipient's response will reduce the disagreement to specific issues of fact, or argument as to whether the facts constitute a lawful basis for denial of refunding. The rule clearly specifies that, after the recipient has applied for refunding, the initial burden of going forward is placed on the Corporation, and only if the Corporation makes a prima facie case in its initial affidavits and other submissions does the burden shift to the recipient to show cause why it should receive refunding. Then, the Corporation has an opportunity to rebut and the recipient has the opportunity for sur-rebuttal. Accordingly, § 1625.9 is revised to omit the reference to the burden of going forward.

Section 1625.9

It is suggested that under § 1625.9 the Corporation shall have the burden of going forward to establish a prima facie case by a preponderance of admissible evidence. Perhaps no other provision of the regulations, with the possible exception of the comments on attorney-client privilege, drew more comments. Most argued that a show cause proceeding does not shift the burden of proof, while ignoring the statements of Senators Hatch and Rudman (Cong. Rec. Oct. 21, 1983, P. S14446) that Congress intended to shift the burden of proof to the recipient. The only House exchange, between Congressmen Morrison and Smith, is fully consistent with this interpretation (Cong. Rec. Nov. 9, 1983, P. H9562). We recognize that there are state court decisions which state that a show cause proceeding does not always shift the burden of proof (i.e., persuasion), although it may shift the burden of going forward where a prima facie case is made at the time of issuance of the show cause order. We must recognize here, however, that it was the Congressional intent that the burden be shifted, even though many

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commenters may have disagreed with the method used. In light of the legislative record, the suggestion must be rejected. As noted above, however, the reference to the burden of going forward is deleted.

A great many comments also addressed the way we explained the recipient's burden of proof under each of the four standards set out in § 1625.9. The descriptive language used in § 1625.9 is the reverse of that used in § 1625.3. For example, where § 1625.3(b) provides that there can be a denial of refunding where there has been "significant *failure* (emphasis supplied) by a recipient to comply" with the cited sections of the Act and the regulations, § 1625.9(b) provides that the recipient must show "by a preponderance of admissible evidence . . . that it has *complied*" (emphasis supplied) with those cited sections of the Act and the regulations. The comments suggested that the Corporation's burden as well as that of the recipient should be spelled out under each ground. We do not think it is necessary to do this.

The new § 1625.9(c) standard is different from the standard in old § 1625.3(c). We have conformed § 1625.3(c) to that of § 1625.9(c) to insure that the standards under both sections as revised are fully consistent. The conforming change is as follows: Under old (c), except in "unusual circumstances", a recipient which had had a significant failure to provide adequate service had to receive notice and opportunity to take corrective action before formal proceedings could be commenced. Under the new standard, the recipient cannot claim that it was not notified and given an opportunity to take corrective action unless it could not reasonably be expected to have prevented or corrected its failure without such notice and opportunity to correct. We think this a considerable improvement in the regulations. The old requirement could be used repeatedly by a neglectful or incompetent recipient to buy time and avoid a formal proceeding. In effect, the Corporation would be responsible for continuous current awareness of all recipients' compliance with this requirement at all times—an impossible obligation. Under the new standard, a recipient will be able to claim it should have been given notice and opportunity to take corrective action only where without such notice it could not reasonably have been expected to have prevented or corrected the failure. Thus, recipients are expected to maintain adequate self-appraisal procedures and standards and to take necessary corrective action on their own, and cannot wait until the Corporation makes a monitoring trip or receives a complaint, knowing they will have an opportunity to correct before a formal action can be taken. Clients deserve better than that.

Section 1625.11

It is recommended that, on review by the President under § 1625.11, the examiner's decision shall be modified or reversed only if there was abuse of discretion or clear error of law. We do not think the President can limit his review in this fashion. This is the standard for court review of a final agency action and the examiner's action is not final. On review of an initial decision of an administrative law judge, an agency subject to the Administrative Procedure Act generally has all the powers it would have had in making the initial decision. *See* 5 U.S.C. 557(b). The analogy is persuasive and the suggestion is rejected.

Other Matters

1. One comment complained about the rewording of the statement of purpose. We believe we reflect Congressional intent in the Act and the appropriations riders as accurately as practicable. We have not changed it.

2. Several comments reargued the changes made in 1983 when denial of refunding procedures (Part 1625) were split from termination actions (Part 1606). Those suggested changes were discussed and considered in full at that time. We think it is unnecessary to reargue them. Accordingly, we will not discuss suggestions concerning the 1983 changes any further. However, we did accept the suggestions that challenges to Corporation rules may be made in proceedings under this part, but required that the challenges be made no later than the request for a hearing or that they be waived.

3. Various changes were made to conform sections and to provide a consistent and coherent set of procedures. These changes include the following:

a. The title "presiding officer" was changed to "hearing examiner" throughout to reflect the language of the Act and appropriations riders.

b. The earliest date on which the Corporation can require a recipient's employee to testify under § 1625.4(f) will be after the date on which the recipient requests a hearing under § 1625.4(d).

c. Depositions, if available, and relevant papers and parts of papers, must accompany affidavits under § 1625.4(b) and § 1625.5(c).

d. Each party will give a list of all its witnesses, including its own and opponents' affiants and all others who are to testify, to one another and to the hearing examiner, 24 hours before the prehearing conference under § 1625.7(b). They will indicate whether they want the witness for cross-examination or direct testimony, and, if they expect the opponent to produce the witness, they will explain the basis for this expectation.

e. Under § 1625.7(c)(4), the hearing examiner may not go into matters not necessary for his or her decision. For example, it would be improper to allow explanation of the Corporation's exercise of investigative or prosecutorial discretion in bringing the action against the particular recipient rather than whether the facts found justify refunding under applicable legal standards.

f. Section 1625.10(b) has been revised to more comprehensively spell out what the initial decision will contain. It will be a part of the record, and will have a statement of findings and conclusions, and the reasons or basis for them, on all material issues of fact, law or discretion presented. The last sentence of old paragraph (b) is made into a new paragraph (c).

g. Section 1625.11 has been revised to reduce from 10 to 7 days, the time within which

(1) The Corporation or the recipient can ask for review of the hearing examiner's decision,

(2) an initial decision becomes final, and

(3) The President must make his decision.

h. Section 1625.12 has been revised to conform the provisions dealing with time to the new statutory requirements. Thus, any extensions of time must not prevent completion of the hearing within 60 days of the receipt by the recipient of the notice under § 1625.4, or prevent the President from reaching a final decision (including time to consider a request for review) within 90 days of the notice, unless extraordinary circumstances require an extension to prevent a manifest injustice.

The time computation language of paragraph (a) of the section is taken from Rule 6 of the Federal Rules of Civil Procedure. By mutual agreement any time period may be shortened. In addition, former paragraph (a) of § 1625.15 has been transferred to the section as new paragraph (d). We believe it is more appropriate here since it relates to time requirements. Paragraph (e) of the section permits waiver or modification of any provision except paragraph (b) of section 12 which deals with enlargement of time.

List of Subjects in 45 CFR Part 1625

Administrative practice and procedure, Legal Services.

For the reasons set out above, 45 CFR Part 1625 is revised to read as follows:

PART 1625—DENIAL OF REFUNDING

Sec.

1625.1 Purpose.
1625.2 Definitions.
1625.3 Grounds for denial of refunding.
1625.4 Notice.
1625.5 Request for hearing.
1625.6 Hearing examiner.
1625.7 Pre-hearing procedures.
1625.8 Conduct of the hearing.
1625.9 Burden of persuasion.
1625.10 Initial decision.
1625.11 Final decision.
1625.12 Time and waiver.
1625.13 Right to counsel.
1625.14 Reimbursement.
1625.15 Interim funding.
1625.16 Termination funding.

Authority: Sec. 1006(b)(1) and (3), 1007(a)(1), (3) and (9), 1007(d) and (e), 1008(e), and 1011(2) of the Legal Services Corporation Act, as amended. (42 U.S.C. 2996e(b)(1) and (3), 2996f (a)(1), (3) and (9), 2996f(d) and (e), 2996g(e) and 2996(j); Pub. L. 98–166, 97 Stat. 1071; Pub. L. 98–411, 98 Stat. 1545; Pub. L. 99–180, 99 Stat. 1136.

§ 1625.1 Purpose.

This part is intended to provide timely, full, fair, and impartial procedures for allowing a recipient to show cause why its funding should be continued when the Corporation has made a preliminary determination that an application for refunding of a grant or contract should be denied. This part is further intended to provide for completion of these procedures in a timely manner so that funding issues are expeditiously resolved so as to avoid unnecessary and protracted disruption in the delivery of legal services to eligible clients.

§ 1625.2 Definitions.

"Denial of refunding" means a decision that, after the expiration of a grant or contract, a recipient:

(a) Will not be provided financial assistance; or

(b) Will have its annual level of financial support reduced to an extent that is not required either by a change of law, or a reduction in the Corporation's appropriation that is apportioned among all recipients of the same class in proportion to their current level of funding, or by the uniform application of a statistical formula for the reallocation of funding among the members of the same class, and is more than 10 percent below the recipient's annual level of financial assistance under its current grant or contract.

§ 1625.3 Grounds for denial of refunding.

Refunding may be denied when:

(a) Denial is required by, or will implement, a provision of law, a Corporation rule, regulation, guideline, or instruction that is generally applicable to all recipients of the same class, or a funding policy, standard, or criterion approved by the Board; or

(b) There has been significant failure by a recipient to comply with a provision of law, or a rule, regulation, guideline, or instruction issued by the Corporation, or a term or condition of a current or prior grant from or contract with the Corporation; provided, however, that a recipient's failure to comply with any of the requirements in this paragraph at a time when the requirement was not in effect or at a time more than 6 years prior to the date the recipient receives notice of the failure pursuant to § 1625.4 shall not be a basis for denial of refunding; or

(c) There has been significant failure by a recipient to use its resources to provide economical and effective legal assistance of highly quality as measured by generally accepted professional standards, the provisions of the act, or a rule, regulation, or guideline issued by the Corporation. If the recipient could not reasonably be expected to have prevented or corrected its failure without notice from the Corporation and an opportunity to have taken effective corrective action, refunding shall not be denied for this cause unless the Corporation has given the recipient such notice and opportunity; or

(d) The Corporation finds that another organization, whether a current recipient or not, could better serve eligible clients in the recipient's service area.

§ 1625.4 Notice.

When there is reason to believe that refunding should be denied, the Corporation shall serve a written notice upon the recipient, and the Chairperson of its governing board, which shall include:

(a)(1) A short and plain statement, in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances, of the factual grounds for the denial of refunding;

(2) If the ground specified in § 1625.3(d) is asserted, the statement shall identify the other organization and specify the basis for the Corporation's assertion that it could better and more economically serve eligible clients;

(b) An affidavit or affidavits covering the direct testimony of each witness upon whom Corporation's counsel relies; such affidavit(s) shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein; sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be appended thereto; depositions, if available, shall be included;

(c) A memorandum of points of law and authorities showing with particularity:

(1) that the affidavit(s), paper(s), and deposition testimony specified in paragraph (b) of this section constitute evidence of such discrete factual allegations as were identified in paragraph (a)(1) of this section and as are sufficient under applicable law to support denial of refunding;

(2) the legal standards, rulings, statutes, regulations, or decisional law upon which the Corporation relies in advancing its theories or arguments in support of denial of refunding with particularized reference and adequate citation to competent authority; and

(3) as proximately as reasonably possible, the logical nexus and points of reference among (i) affidavit(s), paper(s), and deposition testimony specified in paragraph (b) of this section, (ii) the factual grounds as identified in enumerated paragraphs specified by paragraph (a)(1) of this section, and (iii) the legal theories or arguments advanced by the Corporation to justify denial of refunding.

(d) A directive to show cause, signed by an official of the Corporation other than the President, which shall inform the recipient that, if within 30 days of the recipient's receipt of this notice the Corporation receives a request for a hearing as specified in § 1625.5 of this part and accompanied or preceded by all documents specified by paragraph (f) of this section, a hearing will be held; the directive shall identify;

(1) The name, business address, telephone number, and brief summary of professional qualifications of the hearing examiner and a statement that the examiner supports the purposes of the Act;

(2) The name, address, and phone number of the Corporation's counsel;

(3) The time and place of the pre-hearing conference and the last date upon which it may be held, which date shall be no more than 37 days after the date of the notice; and

(4) The time and place of the hearing and the last date on which it can start, which date shall be no more than 44 days after the date of the notice;

(e) A copy of these procedures as contained in Part 1625.

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(f) A requirement, signed by an official of the Corporation other than the President, may be included that the recipient produce a specific document or documents in its possession, custody, or control no later than the time the recipient requests a hearing or produce a person in its employ to testify in a pre-hearing deposition at a date (subsequent to the recipient's request for a hearing), place, and time to be specified in the requirement or to be available to testify at the show cause hearing; provided, however, that the recipient may serve a motion within 10 days of its receipt of the notice, for the hearing examiner to limit or quash the requirement; the hearing examiner shall rule on such motion within 7 days; if an objection to the hearing examiner, filed pursuant to § 1625.6(b) has delayed such ruling, the hearing examiner shall promptly rule when the objection is resolved.

§ 1625.5 Request for hearing.

Within 30 days of receipt of the notice, the recipient shall serve upon the Corporation a request for a hearing, which must include:

(a) A short and plain statement in numbered paragraphs, that is either an admission or a denial of each of the numbered paragraphs in the notice; any averment in the notice which is not specifically denied is deemed admitted;

(b) A short and plain statement, in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances, of all factual grounds on which the recipient will rely to show cause why refunding should not be denied;

(c) An affidavit or affidavits covering the direct testimony of each witness upon whom recipient's counsel relies and appending all exhibits to such testimony; such affidavit(s) shall be made on personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated therein; sworn or certified copies of all papers or parts thereof referred to in an affidavit shall be appended thereto; depositions, if available, shall be included; the recipient must set forth by affidavit, sworn or certified copies of papers, and depositions, specific facts showing that there is a genuine issue of material fact for a show cause hearing;

(d) A memorandum of points and authorities showing that the Corporation has failed to provide affidavits or other evidence sufficient to deny refunding or that the affidavit(s) specified in paragraph (c) of this section constitute evidence of facts necessary to show cause why refunding should not be denied under applicable legal standards.

(e) The recipient may serve a request on the hearing examiner that the Corporation be required, upon sufficient notice, to produce a specific document or documents in the possession, custody, or control of the Corporation or of another organization identified under § 1625.4(a)(2) or produce a person in its employ (or that of such other organization) to testify in a pre-hearing deposition at a date, place, and time to be specified in the requirement or to be available to testify at the show cause hearing.

§ 1625.6 Hearing examiner.

(a) The hearing examiner shall be appointed by the President, and shall be a person who is familiar with legal services and supportive of the purposes of the Act, who is independent, and who is not an employee of the Corporation.

(b) Within 5 days of receipt of notice of the name of the hearing examiner, the recipient may file a written notice that it objects to the hearing examiner on the basis that this person does not fit the criteria of paragraph (a) of this section or has made statements or taken actions indicating personal bias against the recipient. The recipient will be granted a 5-day extension for presenting the basis of its objection if it files a timely notice of objection and a statement as to why it is unable with due diligence to present the basis of its objection without the extension.

(c) The President shall consider the recipient's objection(s) with any supporting documentation and, within 10 days thereafter, issue a written notice of a decision either to retain or replace the hearing examiner.

(d) No objection to the appointment of a hearing examiner may be made unless presented in the manner specified in this section.

§ 1625.7 Pre-hearing procedures.

(a)(1) On or before the date it requests a hearing, the recipient may serve a motion for an interim decision that the notice fails to state an adequate basis for the denial of its application for refunding. The hearing examiner shall rule on such motion within 7 days and shall grant the motion if he or she finds that the facts sworn to in the notice do not provide an adequate basis to deny the application for refunding.

(2) If the recipient fails to make a request for hearing in such a timely fashion that it is received by the Corporation within 30 days of receipt of the notice by the recipient, the recipient shall be deemed to have waived its right to a hearing and a final decision shall be entered by the President.

(3) If the recipient makes timely request for a hearing, the hearing examiner may, *sua sponte* or on the motion of a party, review the notice, the request for a hearing, and all documents submitted by the recipient pursuant to requirement(s) issued pursuant to § 1625.4(f) to determine before the date set for the hearing whether there is any genuine issue as to any material fact and whether a party is entitled to summary judgment or partial summary judgment as a matter of law. If, considering the papers in the light most favorable to the opposing party, the hearing examiner finds that the parties' submissions, admissions on file, affidavits, and any other matter on the record show that there is no genuine issues as to any material fact and that either party is entitled to summary judgment as a matter of law, the hearing examiner shall issue to the President a written initial decision pursuant to § 1625.10(b). If such a decision with a partial summary judgment should become final pursuant to § 1625.11, the hearing examiner may exclude further evidence relevant only to an issue or issues resolved by such decision.

(b) If the recipient makes a timely request for a hearing, a pre-hearing conference shall be held within 7 days. At least 24 hours prior to the pre-hearing conference, each party shall cause to be delivered in person to the hearing examiner and counsel for the opposing party a list including all its affiants it intends to call for direct testimony, all the other party's affiants it will require the party to produce for cross-examination, and all other persons who are to testify on direct or cross-examination. For each person on its list, the party will indicate whether the person will be called for direct testimony or for cross-examination and whether the party will require the opposing party to produce the witness (and, if so, the basis). At the pre-hearing conference, the matters to be considered shall include:

(1) Whether summary judgment or partial summary judgment ought to be issued;

(2) Proposals to define and narrow the issues;

(3) Efforts to stipulate the facts, in whole or in part;

(4) The order of presentation of exhibits and witnesses, along with their number and identity;

(5) The possibility of presenting the case on written submission or oral argument;

(6) Any necessary variation in the date, time, and place of the hearing;

(7) The possibility of settlement; and

(8) Such other matters as may be appropriate.

(c) (1) The hearing examiner may establish specific procedures consistent with this part for conduct of the show cause hearing.

(2) The hearing examiner may require or permit written submission of additional statements discussing any matter described in paragraph (b) of this section as well as any other arguments and supporting material at any time prior to completion of the show cause hearing.

(3) The hearing examiner may issue appropriate protective orders to prohibit the parties from disseminating evidence to other than specifically named individuals or such other restrictions as may be necessary to protect client confidences.

(4) The hearing examiner may not consider any issue not necessary for a determination of whether the recipient's refunding application will be denied.

(5) The only two parties to the proceeding will be the Corporation and the recipient; provided, however, that a state support center which is a subgrantee or a subrecipient as of the time of the effective date of this regulation may be joined as a party by the hearing examiner but only during the remaining term of such existing subgrant or other agreement.

(6) The hearing examiner shall require each party to make arrangements for the testimony and cross-examination of the witnesses and affiants it will rely upon and bear the expenses associated with the testimony.

(d) (1) The hearing examiner may, at any time prior to the completion of the hearing, require either party, upon sufficient notice, to produce a relevant document in its possession, custody or control; the hearing examiner may require either party to produce a person in its employ to testify at the hearing.

(2) The hearing examiner shall not issue such requirements at the request of the Corporation's counsel if request is not made within seven days of the Corporation's receipt of the request for a hearing, or at the request of the recipient, if request is not made at or before the time it makes a request for a hearing, unless the requesting party can show that it could not have anticipated its need to request the requirement and failure to issue the requirement would cause a manifest injustice.

(3) In proceedings under § 1625.3(d) the hearing examiner may likewise require the Corporation to produce a document in the possession, custody or control of another organization identified pursuant to § 1625.4(a)(2) or a person in the employ of such other organization, subject to the sanctions set forth in § 1625.8(f).

(4) The hearing examiner shall rule on motions respecting requirements for the production of documents or witnesses within 7 days.

§ 1625.8 Conduct of the hearing.

(a) The show cause hearing shall be held within 7 days after the pre-hearing conference in or near a city having an airport with regularly scheduled airline service and convenient to the Corporation, to the recipient, the community it serves, and to witnesses determined by the hearing examiner to be necessary for the show cause hearing.

(b) The hearing examiner shall preside over the show cause hearing, avoid delay, maintain order, conduct a full and fair show cause hearing, and insure that an adequate record of the facts and issues is made.

(c) The show cause hearing shall be open to the public, unless, in the interests of justice or maintaining order, the hearing examiner shall determine otherwise.

(d) (1) Since each party will have presented the direct testimony of its witnesses by their affidavits, the show cause hearing will be limited, except as hereinafter provided, to cross-examination of the other party's affiants, examination of those employee(s) of the other party from whom the party was unable, despite due diligence, to obtain affidavit(s) or pre-hearing deposition(s), and rebuttal testimony (if allowed).

(2) The recipient will proceed first and will be allowed a total of up to 7 days to cross-examine the Corporation's affiant(s) or to present testimony from the Corporation's or the other organization's employee(s).

(3) The Corporation will then be allowed a total of up to 7 days to cross-examine the recipient's affiant(s), to present testimony from the recipient's employee(s), or to adduce rebuttal testimony.

(4) The recipient will then be allowed a total of up to one day of sur-rebuttal testimony.

(5) During the time allotted to a party, it may present its affiant(s) for direct testimony limited to the scope of the respective affidavits(s) and for cross-examination by the opposing party at that time.

(6) The hearing examiner will allow a total of up to one day divided evenly between the parties for closing arguments.

(e) (1) If either party fails, without good cause, to produce a person or document required to be produced under §§ 1625.4(f), 1625.5(e), or 1625.7(d), the hearing examiner may make a finding adverse to the party or any lesser determination.

(2) If a document is withheld on the basis of privilege, the hearing examiner may require the party to provide a version of the document that does not contain privileged information, explain the basis of the withholding, and, if it appears that the privilege is not asserted in good faith or is asserted in error, require production of the document for *in camera* inspection. After such inspection, the hearing examiner may issue such finding or order as the facts may warrant. The hearing examiner shall not disclose to the President of the Corporation information on which a claim of privilege or confidentiality is made.

(3) A recipient may neither introduce into the record nor rely upon any statement by a witness, any document, or other evidence if the Corporation, subsequent to the effective date of this regulation, had requested the recipient to arrange for that witness to cooperate in an interview or to produce the document or other evidence prior to issuance of the notice, unless the recipient is able to show good cause for its failure to comply with the request at an earlier date than it did.

(4) No adverse inference may be made if a party fails to produce a document which is not in the party's possession, custody, or control or that of another organization that is actually controlled by the party (or, for the Corporation, another organization identified under § 1625.4(a)(2)); no adverse inference may be made if a party fails to produce a witness that is not an employee of the party or of another organization that is actually controlled by the party or, for the Corporation, another organization identified under § 1625.4(a)(2).

(f) Technical rules of evidence shall not apply. The hearing examiner shall make any procedural or evidentiary ruling that may help to insure full disclosure of the facts, to maintain order, or to avoid delay. Irrelevant, immaterial, repetitious or unduly prejudicial matter may be excluded.

(g) (1) Official notice may be taken of published policies, rules, regulations, guidelines, and instructions of the Corporation, of any matter of which judicial notice may be taken in Federal court, or of any other matter whose existence, authenticity, or accuracy is not open to serious question.

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(2) The validity of rules, regulations, guidelines and instructions duly published under § 2008(a) of the Act may be challenged only in a complete brief served no later than the request for a hearing; no argument which could have been included in such a brief, but was not, may be raised at a later time.

(h) The hearing will be recorded at Corporation expense. The Corporation will send one copy of the transcript to the recipient and the hearing examiner as soon as it is received.

(i) At the discretion of the hearing examiner, the recipient and the Corporation may be required or allowed to submit post-hearing briefs or proposed findings and conclusions. The recipient's brief shall be served within 5 days of the close of the hearing and the Corporation's 4 days thereafter. Either party should note any relevant transcript errors in an addendum to its post-hearing brief (or if no brief will be submitted, in a letter submitted within the time limit set for a brief; if the transcript or a part of the transcript is not received 4 or more days before the time set for its brief, errors must be noted within 4 days of receipt of the transcript or part of the transcript).

(j) The transcript and any post-hearing briefs or letters will become part of the record.

(k) The Federal Rules of Civil Procedure and the Administrative Procedure Act shall provide guidance for all actions under this part when relevant procedures or rules therein are not inconsistent with the provisions of this part or of relevant laws specifically applicable to such an action.

§ 1625.9 Burden of persuasion.

The recipient shall have the ultimate burden of persuasion by a preponderance of the evidence on the record that the application for refunding should not be denied. If the Corporation has asserted, as a ground for the denial of the application for refunding, the grounds specified in:

(a) Section 1625.3(e), the recipient must establish by a preponderance of the evidence on the record that it is not in a class of recipients affected by the law, the Corporation's rule, regulation, guideline, or instruction, or a funding policy, standard, or criterion approved by the Board or that the proposed action is not required by or will not implement such policy;

(b) Section 1625.3(b), the recipient must establish by a preponderance of the evidence on the record that:

(1) It has complied during the specified period of time in all respects with each specified provision of law, with each specified provision of the Corporation's rules, regulations, guidelines, and instructions, and with each specified term and condition of current or prior grants from, or contracts with, the Corporation as specified in the notice; or

(2) All of its violations are merely minor, technical or insignificant;

(c) Section 1625.3(c), the recipient must establish by a preponderance of the evidence on the record that:

(1) It has provided economical and effective legal assistance of high quality as measured by generally accepted professional standards, the provisions of the act, or a rule, regulation, or guideline issued by the Corporation; or

(2) The Corporation has not given the recipient prior notice of its failure and an opportunity to take effective corrective action and the recipient could not reasonably be expected to have prevented or corrected its failure without notice from the Corporation and an opportunity to have taken effective corrective action before it received the notice specified in § 1625.4 of this part;

(d) Section 1625.3(d), the recipient must establish by a preponderance of the evidence on the record that it could serve eligible clients in its service area better and more economically than the other organization specified in the notice.

§ 1625.10 Initial decision.

(a) Within 10 days of the completion of the hearing, the hearing examiner shall cause an initial decision to be served upon the parties:

(1) Granting refunding; or

(2) Granting refunding subject to any modification or condition that may appear necessary and appropriate on the basis of information disclosed at the hearing or adduced from the record; or

(3) Denying refunding.

(b) The initial decision shall be a part of the record and shall include a statement of findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record.

(c) Findings of fact shall be based solely on evidence disclosed at the hearing or adduced from the record or on matters of which official notice is taken.

§ 1625.11 Final decision.

(a) If neither the Corporation's counsel nor the recipient requests review by the President, the initial decision shall become final 7 days after receipt by the recipient.

(b) The recipient or the Corporation's counsel may seek review by the President of the initial decision. A request shall be made in writing to the President and the other party shall be served within 7 days of receipt by the party of the initial decision, and shall state in detail the reasons for seeking review.

(c) Within 7 days after receipt of a request for review of the initial decision, the President shall adopt, modify or reverse the initial decision, or shall direct further consideration of the matter. In the event of modification or reversal, the President's decision shall conform to the requirements of § 1625.10(b).

(d) A decision by the President shall become final upon service on the recipient.

§ 1625.12 Time and waiver.

(a) *Computation of time.* In computing any period of time prescribed or allowed by this part or by order of the President or the hearing examiner, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, a Sunday, or a legal holiday. All periods shall otherwise include Saturdays, Sundays, and legal holidays. A deadline for a party or the hearing examiner to submit a document is met only if the document is actually received by counsel for the other party and by the hearing examiner by the end of the relevant time period.

(b) *Enlargement of time.* The President or the hearing examiner may enlarge any period of time on agreement of the parties if, and only if, the President or the hearing examiner makes a determination in writing or on the record either that:

(1) The enlargement will not prevent completion of the hearing within 60 days from receipt of the notice by the recipient or prevent the President from reaching a final decision—with at least 7 days to consider the request for review—within 90 days from receipt of notice by the recipient; or

(2) The existence of extraordinary circumstances require the enlargement of time to prevent manifest injustice.

(c) *Reduction of time.* On agreement of the parties and the hearing examiner, any period of time may be shortened.

(d) *Failure* by the Corporation to meet a time requirement of this part shall not entitle a recipient to refunding of its grant or contract.

(e) Any provision of the rules in this part, excepting those in § 1625.12(b), may be waived or modified:

(1) By the hearing examiner with the assent of the recipient and counsel for the Corporation; or

(2) By the President for good cause shown.

§ 1625.13 Right to counsel.

At a hearing under § 1625.8, the Corporation and the recipient each shall be entitled to be represented by counsel, or by an employee.

§ 1625.14 Reimbursement.

If refunding is granted after a notice has been issued under § 1625.4, a recipient shall be entitled to receive reimbursement from the Corporation for reasonable and actual expenses including attorney's fees up to the hourly equivalent of the rate of level V of the executive schedule specified in Section 5316, of Title 5, United States Code, that were required in connection with proceedings under this part, to the extent it has prevailed and where the hearing examiner finds the Corporation's position to have been substantially without merit.

§ 1625.15 Interim funding.

Pending a final determination under this part, the Corporation shall provide the recipient with interim funding necessary to maintain its current level of legal assistance activities for eligible clients under the Act.

§ 1625.16 Termination funding.

After a final decision to deny refunding, and without regard to whether a hearing has occurred, the Corporation may authorize temporary funding if necessary to enable a recipient to close or transfer current matters in a manner consistent with the professional responsibility of the recipient and the recipient's attorneys to their present clients.

Dated: April 24, 1986.

John H. Bayly, Jr.,

General Counsel.

[FR Doc. 86-9492 Filed 4-28-86; 8:45 am]

BILLING CODE 6820-35-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Hibiscadelphus Distans (Kauai Hau Kuahiwi)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Hibiscadelphus distans* (Kauai hau kuahiwi) to be an endangered species, under the authority contained in the Endangered Species Act of 1973, as amended (Act). Only ten individuals of this endemic tree remain in the wild, occurring in the State-owned Pu'u Ka Pele Forest Reserve, on the island of Kauai, Hawaii. Imminent threats to this species and its habitat exist from feral goat browsing, fire, competition with exotic species, and human disturbance. This determination that *Hibiscadelphus distans* is an endangered species implements the protection provided under the Act.

DATE: The effective date of this rule is May 29, 1986.

ADDRESS: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE. Multnomah Street, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

Hibiscadelphus distans was discovered by L. Earl Bishop and Derral Herbst in 1972 and was described by them as a new species the following year (Bishop and Herbst 1973). It likely was more abundant and more widely distributed at one time, but today only ten individuals are known to exist. It occurs on State-owned land within the Pu'u Ka Pele Forest Reserve, Koai'e Valley, Waimea Canyon, island and county of Kauai, Hawaii.

This species is a small tree, up to 5.5 meters (18 feet) tall, with green, heart-shaped leaves and smooth bark. Its flowers are approximately 2.5 centimeters (1 inch) long and are greenish yellow, turning maroon with age. The plants live within an area of approximately 0.02 hectares (2,000 square feet) on a steep rock bluff at an elevation of about 300 meters (1,000 feet). This area is a remnant of a native, open, dryland forest and receives approximately 150 centimeters (60 inches) of rain annually. The area's yearly mean temperature ranges from 18.5 to 25.7 degrees Centigrade (65 to 78 degrees Fahrenheit). Associated species include *Sapindus oahuensis* (lonomea), *Erythrina sandwicensis* (wiliwili), *Diospyros ferrea*, (lama), and *Melia azedarach* (chinaberry). The ground cover is sparse and consists chiefly of exotic grasses and forbs (Herbst 1978).

Although goats are not known to browse on the present plant population, browsing by an existing large feral goat population probably was responsible for the species' decline and could threaten the continued existence of the remaining plants. Other threats come from fire, competition with exotic species, and human disturbance. A cooperative effort between Federal and State agencies is needed to protect the remaining plants and to provide for species' recovery.

The Secretary of the Smithsonian Institution, as directed by section 12 of the Endangered Species Act of 1973 (Act), prepared a report on those plants considered to be endangered, threatened, or extinct in the United States. This report (House Document No. 94-51) was presented to Congress on January 9, 1975. On July 1, 1975, the Fish and Wildlife Service published a notice in the Federal Register (40 FR 27823) accepting this report as a petition within the context of section 4(c)(2) of the Act (petition acceptance provisions are now contained in section 4(b)(3)(A)), and giving notice of its intention to review the status of the plant taxa named therein, including *Hibiscadelphus distans*. As a result of this review, on June 16, 1976, the Service published a proposed rule in the Federal Register (41 FR 24523) to determine approximately 1,700 vascular plant species, including *Hibiscadelphus distans*, to be endangered pursuant to section 4 of the Act. In 1978, amendments to the Act required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice in the Federal Register (44 FR 70796) of the withdrawal of that portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. The Service published an updated notice of review for plants on December 15, 1980 (45 FR 82480), including *Hibiscadelphus distans*. On October 13, 1983, and October 12, 1984, findings were made that listing *Hibiscadelphus distans* was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. A proposal, constituting a final finding that the petitioned action was warranted, was published on July 16, 1985 (50 FR 28873), based on information available in 1976 and gathered after that time and summarized in a detailed status report prepared by the Service (Herbst 1978). The Service now

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determines *Hibiscadelphus distans* to be an endangered species with the publication of this final rule.

Summary of Comments and Recommendations

In the July 16, 1985, proposed rule (50 FR 28673) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice that invited general public comment was published in *The Garden Island* on August 16, 1985, and in the *Honolulu Star Bulletin* and the *Honolulu Advertiser* on August 21, 1985. Four letters of comment were received and are discussed below. A public hearing was requested and held in Lihue, Kauai, Hawaii on November 7, 1985. The comment period was reopened following the public hearing, closing again December 9, 1985 (50 FR 42196). One person testified at the hearing; his testimony is included in the following summary.

Comments were received from the Governor of the State of Hawaii, the Western Regional Office of the National Audubon Society, and a Professor of Botany at the University of Hawaii. Testimony at the public hearing was presented by the Administrator of the Division of Forestry and Wildlife of the State Department of Land and Natural Resources. All comments and testimony supported the listing of *Hibiscadelphus distans* as an endangered species. The Governor further stated that the trees had been identified in the State Threatened and Endangered Species Plan as among the ten highest Kauai district priorities for protection, and that the State intends to request funding to fence the plants. The University Professor expressed reservations over the Service's failure to propose designation of critical habitat for this species. The Service continues to believe that threats of collecting and vandalism would be exacerbated by such designation and that designation of critical habitat is therefore not prudent.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Hibiscadelphus distans* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Hibiscadelphus distans* Bishop and Herbst (Kauai hau kuahiwi) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The habitat of *Hibiscadelphus distans* is subject to disturbance from several sources. Large herds of feral goats browse within the canyon and have destroyed surrounding vegetation. Goats may also dislodge stones from the ledges above the species, potentially damaging the trees and destroying seedlings (Herbst 1978). The presence of large goat herds results from specific game-management practices aimed at maintaining high goat population levels for hunting.

Human disturbance also presents a serious threat to the species. A hiking trail passes below the ledge where *Hibiscadelphus distans* is found, and activity by hikers straying off this path may impact the species by dislodging stones and increasing erosion of the friable soil. Trees may suffer additional damage by being used as "hand-holds" by hikers scaling the steep embankment.

The habitat disturbances created by people and feral goats have favored the introduction and spread of exotic vegetation. Today, small pockets of native plants can be found, but much of the canyon has been taken over by exotic species. Competition with exotic species and environmental changes brought about by changes in the vegetation have had a serious impact on many of the area's native species of plants and animals.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The area where *Hibiscadelphus distans* exists is easily accessible to people and has already experienced incidents of unauthorized collecting and vandalism. When the Hawaii State Department of Forestry and Wildlife labeled other native plants along the trail system adjacent to the species' habitat, many of the labeled plants were dug up or damaged by people using the trail. Removal of or damage to any of the few remaining individuals of *Hibiscadelphus distans* could seriously jeopardize the chances of the species' survival.

C. *Disease or Predation.* Browsing by feral goats upon *Hibiscadelphus distans* is probably responsible for the species' currently depleted status. Although the remaining plants apparently are free from browsing pressure, the situation is still precarious. Should this pressure increase, through either environmental changes or game management practices, goats may be driven into areas they usually avoid, imperiling the few remaining trees.

D. *The inadequacy of existing regulatory mechanisms. Hibiscadelphus distans* is found in an area within the State-owned Pu'u Ka Pele Forest Reserve. State regulations prohibit the removal, destruction, or damage of plants found on State forest land. However, these regulations are difficult to enforce due to limited personnel. The Endangered Species Act will offer additional protection to this species.

E. *Other natural or manmade factors affecting its continued existence.* The small extant population (10 individuals) remaining makes *Hibiscadelphus distans* vulnerable to any catastrophe, natural or man-caused, that may impact the area. Reduction of the gene pool and genetic variability, resulting from a small population size, could have detrimental effects on the continued existence of the species. The presence of a trail rest shelter with a small fire pit near this lone population adds a potential threat of destruction by fire during the dry season.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Hibiscadelphus distans* as endangered. Only 10 individuals remain in the wild, and these face threats from feral goats, fire, competition with exotic species, and human disturbance. Given these circumstances, the determination of endangered status seems warranted. The following "Critical Habitat" section discusses the reasons for which critical habitat is not being designated at this time.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Hibiscadelphus distans* at this time. As discussed under Factor "B" in the "Summary of Factors Affecting the Species," this species potentially is subject to taking and vandalism. Other native plants along a trail near the area where the species occurs have already experienced incidents of unauthorized taking and vandalism. Publication of a critical habitat description in the **Federal Register** would subject the few remaining individuals of *H. distans* to an increased risk of taking and vandalism. Since the plant is only known to occur on State land, and the State of Hawaii is aware of its status, the value of critical habitat as a notification to Federal agencies would not be great enough to offset the potential risk, and thus no net benefit would accrue to the species from the designation of critical habitat.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below:

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No Federal activities are known or expected to affect *Hibiscadelphus distans*.

The Act and its implementing regulations, found at 50 CFR 17.61, 17.62, and 17.63, set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell it or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. Due to the numerous threats to *H. distans* and its depleted state in the wild, it may be necessary to propagate this species in nurseries. Several specimens are presently found in cultivation and seeds have been sent to Dr. P. Fryxell at Texas A&M University. Requests for trade permits for scientific purposes and for enhancing the propagation of the species, allowed under § 17.62, may result if an artificial propagation plan is pursued. Otherwise, it is anticipated that few trade permits would ever be sought or issued, since the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235-1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Bishop, L.E., and D. Herbst. 1973. A new *Hibiscadelphus* (Malvaceae) from Kauai. Brittonia 25:290–293.

Herbst, D. 1978. Unpublished status survey of *Hibiscadelphus distans* Bishop and Herbst (Kauai hau kuahiwi). U.S. Fish and Wildlife Service. 21 pp.

Author

The primary author of this final rule is Dr. Derral R. Herbst, Office of Environmental Services, U.S. Fish and Wildlife Service, Pacific Islands, 300 Ala Moana Boulevard, Room 6307, P.O. Box 50167, Hawaii 96850 (808/546-7530 or FTS 546-7530).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Malvaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Malvaceae—Mallow family:						
Abutilon sandwicense	Kauai hau kuahiwi	U.S.A. (HI)	E	225	NA	NA

Dated: April 7, 1986.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-9529 Filed 4-28-86; 8:45 am]

BILLING CODE 4310-55-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of *Tumamoca Macdougalii* To Be Endangered

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a plant, *Tumamoca macdougalii* (Tumamoc globe-berry), to be an endangered species under the authority contained in the Endangered Species Act of 1973 (Act), as amended. This monotypic genus is known from northern Sonora, Mexico, and from Arizona where it occurs on Federal, State, Indian, Pima County, City of Tucson, and private lands. The species is threatened with habitat destruction from increased agricultural development, urbanization, a proposed Central Arizona Project (CAP) aqueduct, grazing, and collection. This action implements the protection provided by the Act.

DATE: The effective date of this rule is May 29, 1986.

ADDRESS: The complete file for this rule is available for public inspection during normal business hours, by appointment, at the Service's Regional Office of Endangered Species, 500 Gold Avenue SW., Room 4000, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Peggy Olwell, Endangered Species Botanist, Office of Endangered Species, PO Box 1306, Albuquerque, New Mexico 87103 (505/766-3972 or FTS 474-3972).

SUPPLEMENTARY INFORMATION:

Background

Tumamoca macdougalii was first collected on July 31, 1908, by D.J. Macdougal, a scientist at the Carnegie Desert Laboratory, on Tumamoc Hill, west of Tucson, Arizona. The specimen was sent to J.N. Rose, a botanist at the U.S. National Herbarium, who described it as a new genus and species in honor of the type locality and its collector (Rose 1912). This plant is a delicate perennial vine in the gourd family. It grows from a tuberous root and has slender herbaceous stems (Toolin 1982). Its thin leaves have three main lobes, each divided into narrow segments. The plant bears small, yellow, male and female flowers and produces small, red, watermelon-like fruits. Flowering begins before the summer rains, with female flowers either being aborted or not produced until after rains later in the season; fruit set normally occurs in August and September. The population biology and ecological requirements are poorly understood (Toolin 1982), and additional studies are needed.

Historically, *Tumamoca macdougalii* has been found in 16 very scattered populations from Pima County, Arizona to northern Sonora, Mexico. Toolin (1982) searched known localities in Mexico and was unable to relocate any Mexican populations. However, in October 1985, a reconnaissance of the historic Mexican localities identified 5 populations with approximately 60 plants. There were no large numbers of juveniles found in these populations (Reichenbacher, F.W. Reichenbacher and Assoc., Tucson, pers. comm., 1985). Reichenbacher (1984) reported 10 U.S. populations containing a total of 38 adults, 11 juveniles and 126 seedlings. Extensive field surveys of 53,500 acres in Avra Valley conducted from August to November, 1984, increased the known U.S. populations to 30, containing 290 reproducing adults, 65 probable adults, and 1,627 juveniles (Reichenbacher 1985a; Boyd, Tierra Madre Consultants, Riverside, California, pers. comm., 1984). Continued surveying in the summer of 1985 increased the total known U.S. individuals to 2,300 of which 433 are adults (Reichenbacher, pers. comm., 1985).

These populations occur on private, Federal, State, Indian, Pima County, and City of Tucson lands.

Tumamoca macdougalii occurs in the Arizona Upland Subdivision of the Desert Scrub Formation at elevations of 450–795 meters (1,476–2,608 feet) in rocky to gravelly, sandy, silty, and clayey soils derived from granite, basalt, and rhyolite. The vegetation is palo-verde/cactus shrub and creosote bush/bursage desert scrub. Dominant associate species are creosote bush (*Larrea divaricata*), palo-verde (*Cercidium* spp.), white thorn acacia (*Acacia constricta*), saguaro cactus (*Carnegia gigantea*), prickly pear (*Opuntia phaeacantha*), cane cholla (*Opuntia versicolor*), mesquite (*Prosopis juliflora*), ironwood (*Olneya tesota*), and triangle leaf bursage (*Ambrosia deltoidea*). No symbiotic relationship is known for the Tumamoc globe-berry; however, it is usually found under trees and shrubs (nurse plants), which provide shade and protection, as well as support for the vine. The nurse plants for *Tumamoca macdougalii* include creosote bush, triangle leaf bursage, white thorn acacia, all-scale, palo-verde, and pencil cholla (Reichenbacher 1984).

In the **Federal Register** of December 15, 1980 (45 FR 82480), the Service published a notice of review covering plants being considered for classification as endangered or threatened. In that notice, *Tumamoca macdougalii* was included in category 1. That category comprises taxa for which the Service has sufficient biological information to support the appropriateness of their being proposed to be listed as endangered or threatened species.

The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. The species covered in the December 15, 1980, notice of review were considered to be petitioned, and the deadline for a finding on those species, including *Tumamoca macdougalii*, was October 13, 1983. On October 13, 1983, and again on October 12, 1984, the petition finding was made that listing *Tumamoca macdougalii* was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Such a finding requires a recycling of the petition, pursuant to section 4(b)(3)(C)(i) of the Act. A proposed rule published May 20, 1985 (50 FR 20806), constituted the next required finding that the petitioned action was warranted in accordance with section 4(b)(3)(B)(ii) of the Act.

A survey of the Papago Indian Reservation (Reichenbacher 1985b) and field investigations carried out during the summer and fall of 1985 by F.W. Reichenbacher and Associates have provided new biological data that are included in this final rule. These new data include documentation of present threats and further information on the population status of the species.

Summary of Comments and Recommendations

In the May 20, 1985, proposed rule (50 FR 20806) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the *Arizona Daily Star* on Tuesday, June 18, 1985, which invited general public comment. Twelve letters were received in support of the proposal and five commentors provided information but expressed neither support nor opposition. These seventeen written comments on the proposal, together with the Service's responses, are summarized and discussed below. No public hearing was requested or held.

Support for the proposal was received from the International Union for Conservation of Nature and Natural Resources, Smithsonian Institution National Museum of Natural History, and World Wildlife Fund—TRAFFIC (U.S.A.). The Arizona Game and Fish Department commented that the proposal is ". . . an accurate reflection of the distributional status of the species."

The Bureau of Indian Affairs (BIA), Papago Agency, provided the legal discription for the locality on the Papago Indian Reservation which was discovered in the summer of 1984. The BIA indicated it has no idea what the size of the population is but would be available to assist the Service in taking a census. The Service is developing plans to conduct a census of the population on the Papago Reservation in 1986 and appreciates the cooperative efforts of the BIA.

The National Park Service (NPS) supports the proposal for listing *Tumamoca macdougalii* as endangered and supports the decision not to declare critical habitat for the species. In addition, NPS informed the Service of a locality on Saguaro National Monument. The Service is aware of this population and had included it in the population numbers in the proposal. The NPS also stated that Organ Pipe Cactus National Monument had been searched in 1984 for *Tumamoca macdougalii* but the plant population formerly known there was not relocated.

The U.S.D.A. Forest Service (FS) supports the proposal and states that project clearance surveys need to be conducted during June to December. The Service realizes the importance of field survey timing and will assume the responsibility of informing all agencies of the necessity to survey for this species during the summer and early fall. The FS also discussed several recovery measures for the species and recommended additional surveys. This information will be addressed in the recovery plan which will be written for the species following listing.

The Arizona Wildlife Federation (AWF) supports the proposal and states that "any projects on Federal lands should be planned so as to offer the least or no disturbance to the species." In addition, AWF also suggested that plants should be moved to protected areas of the Muleshoe Ranch or Buenos Aires Refuge. It is the policy of the Service to protect species within their natural habitat and not to introduce species out of their historic range. The Muleshoe Ranch is outside the known historic range of the species and the Buenos Aires Refuge is in the Semidesert Grassland Biotic Community, which is a different biotic community than the one in which *Tumamoca macdougalii* has been found. However, both Buenos Aires and the Cabeza Prieta Wildlife Refuges will be surveyed for the plant.

Dr. D.H. Wright, of the University of Georgia and a member of F.W. Reichenbacher and Associates field survey team, supports the proposal. However, he feels that the critical number reported in the proposal is the 355 adults, and that the 1,627 juveniles should not be included as part of the viable population estimate because only a small fraction of the juveniles are likely to become adults. Dr. Wright also points out that the species has a tenuous hold on population maintenance because of predation and the lack of a dispersal mechanism. In addition, Dr. Wright discusses the potential value of *Tumamoca macdougalii* as a genetic resource in breeding or genetic engineering, for example, conferring drought tolerance, fruit characteristics, tuber production or pest and disease resistance to domestic cucurbit species. Dr. Wright suggests an active management course be taken for this species. The Service realizes that *Tumamoca macdougalii* has a high rate of seedling mortality and has included this information in this final rule. Also, the Service uses the number of adults as the critical number when considering the status of the species. The Service intends to implement an active management course for *Tumamoca macdougalii* and will address this in the recovery plan which will be written following listing.

Ms. Linda Leigh, botanist and member of F.W. Reichenbacher and Associates field survey team, supports the proposal, and comments that the proposal contained incorrect information on the flowering period, which actually begins before the summer rains. This information has been incorporated into the final rule. Ms. Leigh also noted that a 100 percent survey of the CAP corridor has not been done in the Avra Valley and that the number of plants impacted by CAP is most probably understated. The Service is aware of this and will take it into consideration when working with the Bureau of Reclamation (BR) on CAP impacts to *Tumamoca macdougalii*.

Mr. Scott Wilson, member of F.W. Reichenbacher and Associates field survey team, supports the proposal and comments that most known populations occur in small washes and water drainages, and that if development in the vicinity of these populations is allowed, existing drainage patterns may be altered. He points out that ". . . more than just the immediate area surrounding these populations should be considered in future protection or development plans." The Service takes into consideration both direct and indirect impacts of any Federal project which may affect a listed species. Wilson notes that evidence of successful reproduction (i.e. fruits) was not found for most of the adult individuals and additional information on reproduction by adults is necessary. The Service will incorporate requirements for population biology and ecological studies into the recovery plan which will be developed following the listing of the species. In addition, Mr. Wilson also indicated a similar concern as that of Ms. Leigh, that a complete survey of *Tumamoca macdougalii* along the CAP route has not been done, and the number of plants along the route as presently indicated is an underestimate.

Ms. M.H. Wilkins, botanist and member of F.W. Reichenbacher and Associates field survey team, supports the proposal and submits the following comments: The vining habit and nature of the foliage make it difficult for *Tumamoca macdougalii* to survive in the early growth stages. Ms. Wilkins suggested we ". . . transplant any known populations from areas in

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question to parks, gardens, museums . . . which can accommodate and cultivate them . . ." It is the policy of the Service to protect the species in its natural habitat. However, if the Service finds it necessary to move plants, scientific and educational facilities would be contacted.

Dr. T.F. Daniel, Curator, Arizona State University Herbarium, supports the proposal and submits the following comments based on his knowledge of the species and review of the most recent comprehensive field survey of *Tumamoca macdougalii* (Reichenbacher 1985a): Dr. Daniel contends that though the study, "The Status and Distribution of the Tumamoc Globe-Berry (Reichenbacher 1985) . . . comprised an admirable amount of field surveys, many of its conclusions are highly speculative and misleading." In particular, Dr. Daniel believes the extrapolated estimate of 46,971 live plants of *Tumamoca macdougalii* in 783 populations is misleading and not supported by the surveys cited in the study. The Service is aware of the method used to arrive at the estimates and in making its decision to list it is using only those numbers of observed plants. The Service will take this into consideration in working with BR on CAP impacts to the species. Dr. Daniel points out that additional inventories are necessary in western Pima County, Arizona, and eastern Sonora, Mexico, in order to make a biologically meaningful assessment of the status of *Tumamoca macdougalii*. Dr. Daniel believes it is especially important to note that the preferred route of the CAP would bisect the largest known population of *Tumamoca macdougalii* and because we know virtually nothing of the effects of transplanting individuals on the population dynamics of the species, the most beneficial conservation measure for the species would be for the CAP to avoid the largest population. The Service is cognizant of the lack of data on the effect of transplantation and is considering this in cooperating with BR on the CAP.

Dr. H.S. Gentry, Research Director, Desert Botanical Garden (DBG), supports the proposal and indicates the Desert Botantical Garden's continued interest in cooperating with the Service on threatened and endangered plants. The Service appreciates the active interest of the DBG and we will keep DBG informed of the status of this and other plant species we are working with.

The Soil Conservation Service (SCS) informed the Service of a population they discovered on the Papago Indian Reservation while conducting a soil and range survey for BIA. The SCS observed predation on the plants in the area by javelina (a pig-like mammal). The SCS also indicated that the people working on the soil survey are aware of the species and will be looking for it while out in the field. The Service is aware of the population and appreciates being kept informed of any new localities.

The Bureau of Reclamation (BR) commented that salvage may be necessary for *Tumamoca* plants in the CAP construction corridor. The Service will work with the BR to minimize impacts to *Tumamoca* and to the CAP project. Transplantation (salvage) of plants to avoid conflict is not the most desirable method for resolving species/project conflicts, but can be considered along with other alternatives. BR and the Service are working closely on the CAP to minimize impacts to the *Tumamoca* and all species which may be affected. The BR also provided Reichenbacher's (1985) extrapolated population estimates. As stated earlier, the Service bases its decisions to list on known observed population estimates. Rare species usually do not occur uniformly or continuously throughout the habitat types that they occupy. Therefore, extrapolated numbers rarely reflect accurate estimates where rare species are concerned. The Service will base its recommendations to BR on known observed population numbers. BR also provided Reichenbacher's (1985) data on *Tumamoca's* preferred habitat type, javelina predation, nurse plant association and diversity, and geographical distribution. This information has been incorporated into the final rule. The Service will continue to work closely with BR to provide protection for the *Tumamoca* and to achieve proper planning for the CAP.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Tumamoca macdougalii* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Tumamoca macdougalii* J.N. Rose (Tumamoc globe-berry) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The historic range of the Tumamoc globe-berry extended about 193 kilometers (120 miles) west of Tucson, Arizona, to Gunsight, Arizona, and approximately 483 kilometers (300 miles) south to Guaymas, Sonora, Mexico. Much of the former range of *Tumamoca macdougalii* is presently being modified by agricultural development (near Carbo, Sonora, and in the Avra Valley, Pima County, Arizona) and urban expansion (on the west side of Tucson, Arizona). The formerly known population at Organ Pipe Cactus National Monument has not been relocated.

Presently, there are 30 known U.S. populations containing approximately 433 adults and 1,667 juveniles. Nine populations of *Tumamoca macdougalii* occur on private land; eight on city, county, State, and university administered land; and 13 are under Federal administration. Seventy-five percent of the plants occupy habitat on non-Federal land and modification of the habitat could occur and result in destruction or damage to these populations. During 1984, 53,500 acres of land in Avra Valley were surveyed for *Tumamoca macdougalii* and Reichenbacher (1985a) believes there is little chance of any other large populations being found in Avra Valley.

The State of Arizona has applied for the transfer to State ownership of 2,540 hectares (6,274 acres) of Bureau of Land Management (BLM) administered land in the Avra Valley. Some of this land has already been transferred to the State, including portions of two sections that contain two populations of *Tumamoca macdougalii*. All lands obtained under the State indemnity land selections are subject to disposal to generate revenue for the State. Thus, these lands are expected to undergo development; however, before the State leases to anyone with the intention of disturbing the surface, a botanical review is done by the Arizona Agriculture and Horticulture Commission (Randy Brenner, Arizona State Land Department, pers. comm., 1984).

The city of Tucson owns a parcel of land containing 31 plants of *Tumamoca macdougalii*. The land is administered by the Tucson Parks and Recreation Department and is scheduled to become a Native District Park by March, 1986. The Tucson Parks and Recreation Department (TPRD) is aware of the species and indicates it will be taken into consideration in the park planning process (Glen Dixon, TPRD, pers. comm., 1985). Development of this park will affect the species' habitat through an increase in number of people using the area.

Currently, 22 adult plants and 71 juveniles are scattered throughout developed and undeveloped areas of the West Campus of Pima Community College. Erosion threatens some of the plants located on an embankment adjacent to the school's firing range. With the continuing growth of the Tucson area and the anticipated growth of the Community College, development of this *Tumamoca macdougalii* habitat could occur.

The Pan Quemado population of *Tumamoca macdougalii* on BLM administered land is in the vicinity of a land imprinting and seeding project on the Aqua Blanco Ranch. The project will avoid drainage areas; however, it will imprint the creosote-bush areas between the drainages. Suitable habitat for the globe-berry exists throughout the sections of land proposed for the project (Mary Butterwick, BLM, pers. comm., 1984). An inventory of 122 hectares (301 acres) disclosed a population of 33 plants on this BLM administered habitat (Reichenbacher 1985a). Five plants excavated and eaten by animals, presumably javelina, were also observed at the Pan Quemado site.

The FS identified a small population, 9 adults and 32 juveniles, on the Coronado National Forest, east of the Santa Cruz River. This population occurs in the middle of a picnic area which, fortunately, receives little use in the summer and fall when the plants are growing (Reichenbacher 1985a).

An additional threat to *Tumamoca macdougalii* and its habitat is the proposed construction of the CAP aqueduct, a BR water diversion project. Six adult plants were found in the proposed alignment during a 1983 field survey (Reichenbacher 1984). Intensive field surveys were conducted August–November of 1984 and 1985 to search the project area where the 6 adults were found in 1983. These surveys located a total of 736 plants with 102 adults (the largest known population) on land to be impacted by the CAP (Reichenbacher, pers. comm. 1985).

On the San Xavier and Papago Indian Reservations, habitat is also being lost to agricultural and housing development. The CAP includes allocation of water to farm 1,215 hectares (3,000 acres) on the Papago Reservation and 4,453 hectares (11,000 acres) on the San Xavier Reservation (Tom Gatz, BR, pers. comm. 1983).

The Papago Indian Tribe contracted with Franzoy Corey Engineers, Phoenix, Arizona to survey 28,000 acres for *Tumamoca macdougalii* in 1984. Three populations, consisting of 8 adults and 51 juveniles were found in the area planned for agricultural and, possibly, housing development (Reichenbacher 1985b).

Tumamoc Hill, the type locality of *Tumamoca macdougalii*, is a natural resource site administered by the University of Arizona. There are 35 adult plants and 143 juveniles on this property (Reichenbacher 1985a). This population was thought to be the most secure because the site was designated a National Historic Landmark in 1975, a National Environmental Study Area in 1976, and a State Scientific and Educational Natural Area in 1981 (Tumamoc Hill Planning Committee 1982). However, people have excavated plants from this site (Reichenbacher 1985a). In addition, with the population of the surrounding area growing, so too will the adverse impacts. Damage from dogs and four-wheel drive vehicles has been minor in the past, but with an increasing number of people in the area the damage may intensify.

B. *Overutilization for commercial, recreational, scientific, or educational purposes. Tumamoca macdougalii* is not known to be sought for commercial, recreational or educational purposes; however, the species is sought for scientific purposes. Several plants as well as a large number of seeds have been collected. To date, this has not been shown to be a significant problem but the potential problem is great. This species is very vulnerable because of low plant numbers and any taking would be detrimental to the populations. Due to its easily accessible locations, vandalism poses an additional threat to *Tumamoca macdougalli*.

C. *Disease or predation.* It has been observed that antelope jackrabbits (*Lepus alleni*) clip the stems, leaves, flowers, and fruits of *Tumamoca macdougalli* (Reichenbacher 1984). Although not observed, rodents are also suspected to browsing the plant (Toolin 1982). Reichenbacher (1985a) identified 54 plants excavated by javelina during the 1984 field survey. Javelina foraging pressure varies from population to population. During an August, 1985, general reconnaissance of an area on the Papago Indian Reservation south of Gu Komelik, javelina foraging was observed to be causing extensive mortality to the *Tumamoca macdougalli* population. This population occurs in an area that BIA included in a riparian management program in 1980. The intent of this program was to increase grasses along the Santa Rosa Wash by chaining (Bob Klink, BIA, pers. comm. 1985). Undoubtedly, this changed the local vegetational composition and it is speculated that the change favored javelina. The javelina population in the area has expanded and is putting considerable pressure on the *Tumamoca macdougalli* population.

Livestock grazing may not directly affect the Tumamoc globe-berry; however, livestock take shelter under trees on warm days and could possibly trample plants which are located in the shade of trees or shrubs.

D. *The inadequacy of existing regulatory mechanisms.* Presently, there is no Federal or Arizona State law protecting *Tumamoca macdougalii*. The Tumamoc globe-berry is on the BLM Sensitive Species List and it is BLM policy to include Federal candidate species for consideration in its environmental assessments. Existing Federal regulations in 36 CFR 261.9 prohibit taking of this species in the Coronado National Forest. The Endangered Species Act would provide additional protection for this plant through section 7 (interagency cooperation) requirements and through section 9, which prohibits removal and reduction to possession of endangered species on Federal lands.

E. *Other natural or manmade factors affecting its continued existence.* The low number (493 adult plants and 1,667 juveniles) and limited distribution of *Tumamoca macdougalii* increase the species' vulnerability to natural or man-caused stresses. Although the reproductive biology is not fully understood, survival of all seedlings to maturity is doubtful, because the absence of well-developed root systems on young plants makes them vulnerable to periodic droughts common in the species' range (Toolin 1982). This seedling mortality is well illustrated by the present ratio of adults to seedlings.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Tumamoca macdougalii* as endangered without critical habitat. Endangered status is appropriate because all populations except one are facing imminent threat from urban and agricultural expansion. Thus, *Tumamoca macdougalii* is in danger of extinction throughout a significant portion of its range and may soon disappear unless appropriate protection is extended. The reasons for not designating critical habitat are discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent

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prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Tumamoca macdougalii* because its restricted distribution and accessibility make it vulnerable to threats from taking. Publication of critical habitat descriptions and maps would call attention to this species, making it more vulnerable to taking and vandalism. Therefore, it would not be prudent to determine critical habitat for *Tumamoca macdougalii* at this time. The location of populations of this plant have been brought to the attention of appropriate agencies and other involved parties through regular communication. No benefit would accrue from designating critical habitat for this species.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. The usual results of section 7 consultation, if jeopardy is found, are modification and not cancellation of a proposed action.

The CAP—Tucson Aqueduct Phase B Alignment will affect the Tumamoc globe-berry. The preferred route of the CAP aqueduct would cross the largest known population of *Tumamoca*. This population contains 192 adult and 634 juvenile plants. Of the 192 adult plants, 42 are in the aqueduct right-of-way, 29 are below the right-of-way, 11 are in the inundation zone and 30 are above the inundation zone. Juveniles in the population would receive the same impacts as the nearby adults. The BR is working with the Service to determine the status of *Tumamoca macdougalii* on the CAP route. The known population as well as potential habitat on BLM administered lands may be impacted by the land imprinting and seeding project or by the possibility of land transfers from BLM to State or private interests. Adequate surveys at appropriate times of the year need to be conducted prior to transfer of land from BLM to non-Federal interests. Urban and agricultural development on the Papago Indian Reservation could possibly impact 310 plants. Surveys have been conducted on the reservation. The BIA, BLM, and BR are all aware of the species on their lands and are actively planning for it. No other Federal activities are known or expected to affect this species.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Tumamoca macdougalii*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. International and interstate commercial trade in *Tumamoca macdougalii* is not known to exist. It is anticipated that few permits would ever be sought or issued since the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

References Cited

Reichenbacher, F.W. 1984. Rare plants of the Central Arizona Project Aqueduct Phase B, final report. Arizona Game and Fish Department, Phoenix, Arizona. 61 pp.

Reichenbacher, F.W. 1985a. Status and distribution of the Tumamoc globe-berry (*Tumamoca macdougalii*). F.W. Reichenbacher and Associates, Tucson, Arizona. 33 pp.

Reichenbacher, F.W. 1985b. Rare plant survey of the Papago Indian Reservation, draft final report. F.W. Reichenbacher and Associates, Tucson, Arizona. 57 pp.

Rose, J.N. 1912. *Tumamoca*, a new genus of Cucurbitaceae. Contributions from the U.S. National Herbarium 16:21.

Toolin, L.J. 1982. Status report on *Tumamoca macdougalii*. U.S. Fish and Wildlife Service, Office of Endangered Species, Albuquerque, New Mexico. 11 pp.

Tumamoc Hill Advisory Committee. 1982. Tumamoc Hill Policy Plan. University of Arizona, Tucson, Arizona. 70 pp.

Author

The primary author of this final rule is Peggy Olwell, Endangered Species Office, U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–3972 or FTS 474–3972). The editor is LaVerne Smith, Office of Endangered Species, Washington, DC 20240 (703/235–1975 or FTS 235–1975). Status information was provided by Dr. L. J. Toolin, Arizona Natural Heritage Program, Tucson, Arizona, and by Frank Reichenbacher, F.W. Reichenbacher and Associates, Tucson, Arizona.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 95 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Cucurbitaceae to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Cucurbitaceae—Gourd family:						
Tumamoca macdougalii	Tumamoc globe-berry	U.S.A. (AZ), Mexico (Sonora)	E	226	NA	NA

Dated: April 3, 1986.

Susan Recce,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–9527 Filed 4–28–86; 8:45 am]

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Proposed Rules

Federal Register
Vol. 51, No. 82
Tuesday, April 29, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 212

Documentary Requirements for Nonimmigrants; Waivers for Certain Inadmissable Aliens

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This rule would revise § 212.3 to provide that approval of a 212(c) wavier may be granted for a five-year period. The waiver would be in effect only for the specific grounds of exclusion or deportation listed in the application. This rule change would reduce the paperwork burden for frequent travelers and the number of applications requiring adjudication by the Service.

DATE: Comments must be received on or before June 30, 1986.

ADDRESS: Please submit written comments in duplicate to the Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Room 2011, Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directive and Instructions, Immigration and Naturalization Service, 425 I Street, NW. Washington, D.C. 20536, Telephone: (202) 633–3048.

For Specific Information: Margaret M. Smitherman, Immigration Examiner, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633–3320.

SUPPLEMENTARY INFORMATION: Section 212(c) of the Immigration and Nationality Act of 1952, as amended, evolved from the seventh proviso to section 13 of the 1917 Immigration Act, which provided exclusionary relief, to include relief from deportation. The section provides that aliens lawfully admitted for permanent residence who temporarily proceed abroad voluntarily and not under an order of deportation, and who are returning to a lawful unrelinquished domicile of seven consecutive years, may be admitted in the discretion of the Attorney General without regrad to the exclusionary provisions of paragraphs (1) through (25) and paragraphs (30) and (31) of section 212(a) of the Act. These permanent residents, despite their inadmissibility, may submit Form I–191, Application for Advance Permission to Return to Unreliquished Domicile, to the Service office having jurisdiction over their place of residence for a wavier of the ground of excludability.

The waiver of excludability has generally been granted only for single entry unless the grant was sufficiently broad to cover future entries. *Matter of Wolf*, 12 I & N Dec. 736 (BIA 1968), held that waiver must be somewhat limited in time, and can not be for an indefinite period, but set no specific time limit. The Service proposes to grant 212(c) waivers in increments of up to five years. It believes that this is not inconsistent with *Matter of Wolf* and would reduce the need for repeated readjudication of 212(c) applications for travellers who frequently go abroad for business or personal reasons and are eligible for these waivers.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. This rule would not be a major rule within the meaning of section 1(b) of E.O. 12291.

List of Subject in 8 CFR Part 212

Aliens, Exclusion, Waivers of Inadmissibility.

Accordingly, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations as follows:

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. The authority citation for Part 212 continues to read as follows:

Authority: Secs. 101, 103, 212, 214, 235, 236, 238 and 242 of the Immigration and Nationality Act, as amended (8 U.S.C. 1101, 1103, 1182, 1184, 1225, 1226, 1228, 1252, 1182b and 1182c).

2. Section 212.3 would be revised to read as follows:

§ 212.3 Application for the exercise of discretion under section 212(c).

(a) *Jurisdiction.* An application for the exercise of discretion under section 212(c) of the Act shall be submitted on Form I–191, Application for Advance Permission to Return to Unrelinquished Domicile, to the district director in charge of the area in which the applicant's intended or actual place of residence in the United States is located prior to, at the time of, or at any time subsequent to the applicant's arrival in the United States.

(b) *Validity.* The approval of an application may, in the discretion of the district director, be granted for a period not to exceed five years. The approval is intended to cover only the specific grounds of exclusion or deportability contained in the application. If the applicant subsequently becomes excludable or deportable under the same or a new ground, a new application must be filed with the appropriate district director.

(c) *Decision.* The applicant shall be notified of the decision and, if the application is denied, of the reason therefore and of the right to appeal to the Board within 15 days after the mailing of the notification of decision in accordance with the provisions of Part 3 of this chapter. If denied, the denial shall be without prejudice to renewal of the application in the course of proceedings before an immigration judge under section 235, 236, and 242 of the Act and this chapter. An application for the exercise of discretion under section 212(c) of the Act may be submitted by the applicant to an immigration judge in the course of proceedings under sections 235, 236, and 242 of the Act and this chapter, and shall be adjudicated by the immigration judge in such proceedings, regardless of whether the applicant has made such application previously to the district director. When an appeal may not be taken from a decision of an immigration judge excluding an alien but the alien has applied for the exercise of discretion under section 212(c) of the Act, the alien may appeal to the Board from a denial of such application in accordance with the provisions of § 236.5(b) of this chapter.

Dated: April 17, 1986.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 86-9510 Filed 4-28-86; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket No. 86–049]

Importation of Certain Pork Hams

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Reopening of comment period for proposed rule.

SUMMARY: This document reopens the comment period for a proposed rule which proposed to amend the regulations concerning the importation into the United States of certain pork hams. This action is needed to allow industry representatives and other interested persons adequate time in which to prepare comments.

DATE: Written comments must be received on or before May 29, 1986.

ADDRESS: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 84–095. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Dulin, Import-Expert Animals and Products Staff, VS, APHIS, USDA, Room 841, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8695.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR Part 94 (referred to below as the regulations), among other things, regulate the importation into the United States of pork and pork products in order to prevent the introduction into the United States of rinderpest, foot-and-mouth disease, African swine fever, hog cholera, and swine vesicular disease.

The Parma Ham Consortium in Italy requested that the regulations be amended to allow the importation into the United States of pork hams processed in accordance with certain procedures used by the Consortium. Under the current regulations, such hams are not allowed to be imported into the United States from Italy because of foot-and-mouth disease, African swine fever, hog cholera, and swine vesicular disease.

The Department considered this request and conducted research concerning the procedures used by the Parma Ham Consortium. Further, the Department developed provisions which are designed to allow the importation of such pork hams from countries where foot-and-mouth disease, African swine fever, hog cholera, or swine vesicular disease exist, without presenting a significant risk of introducing these diseases. These provisions were published as a proposal in the Federal Register on February 18, 1986 (51 FR 5716–5720).

The proposed rule provided for receipt of comments on or before April 21, 1986. An industry representative has requested additional time to review the proposal and offer substantive comments. It has been determined that additional time is needed to allow industry representatives and other interested persons adequate time in which to prepare comments. Therefore, the comment period is reopened for an additional 30 days. Accordingly, any additional written comments must be received on or before May 29, 1986.

Any comments received between the original closing date for the receipt of comments and the publication of this notice will also be considered in determining what action to take concerning the proposal.

Done at Washington, D.C., this 24th day of April 1986.

B.G. Johnson,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 86-9554 Filed 4-28-86; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Parts 161 and 162

[Docket No. 84–114]

Standards for Accredited Veterinarians

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations concerning accreditation of veterinarians and the suspension or revocation of such accreditation. It is proposed to amend the regulations to add a statement of purpose; to clarify that accreditation of veterinarians is on a State-by-State basis; to require that, as a condition for being accredited or reaccredited, a veterinarian must be licensed to practice without supervision in the State in which he or she wishes to be accredited; and to require that veterinarians pass an examination administered by the Animal and Plant Health Inspection Service, as a condition for obtaining accreditation within five years prior to applying for accreditation in the State in which he or she wishes to be accredited. These proposed amendments appear to be necessary to clarify the regulations, and to help ensure that veterinarians acting as accredited veterinarians are qualified to perform their duties.

DATE: Written comments must be received on or before June 30, 1986.

ADDRESSES: Written comments concerning this proposed rule should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to docket number 84–114. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. William T. Hubbert, Professional Development Staff, VS, APHIS, USDA, Room 800, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–7849.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR Subchapter I (referred to below as the regulations) contain provisions concerning the accreditation of veterinarians and the suspension or revocation of such accreditation.

Statement of Purpose

It is proposed to add a "Statement of Purpose" to the regulations to read as follows:

This subchapter concerns a program administered by the Service [Veterinary Services, Animal and Plant Health Inspection Service] to accredit veterinarians and thereby authorize them to perform, on behalf of the Service, certain activities specified in this chapter. This program is intended to ensure that an adequate number of qualified veterinarians are available in the United States to perform such activities.

Accreditation

Section 161.1(a) of the regulations sets forth the criteria for the accreditation of veterinarians, and § 161.1(b) of the regulations sets forth corresponding criteria for the reaccreditation of

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veterinarians whose accreditation has been revoked.

Section 161.1(a) of the regulations currently provides as follows:

(a) The Deputy Administrator is hereby authorized to accredit a veterinarian when he determines that such veterinarian (1) is a graduate of a college of veterinary medicine; (2) is licensed to practice veterinary medicine in the State in which he wishes to be accredited; (3) has made formal application for accreditation on Form 1–36A, "Application for Veterinary Accreditation"; (4) has passed an examination administered by the Service; and (5) has been jointly recommended by the State Animal Health Official and the Veterinarian-in-Charge for the State in which the veterinarian is licensed and wishes to be accredited.

As indicated in item (2) above, veterinarians are not accredited on a nationwide basis, but instead are accredited on a State-by-State basis. Consistent with this concept, it is intended that an accredited veterinarian perform official duties as an accredited veterinarian only in the State or States in which the veterinarian is accredited. The regulations would be changed in various places to reflect this intent.

As noted above, as a condition of being designated as an accredited veterinarian, an individual, among other things, must be "licensed to practice veterinary medicine." The same condition must be met for a veterinarian to be reaccredited. Some States grant temporary licenses to allow graduates of veterinary medical schools to practice under the supervision of another veterinarian. Normally such licenses are valid until the next Veterinary Board examinations are given in the State. The term "accredited veterinarian" was intended to include only veterinarians who are licensed to practice without supervision in the State in which the veterinarian wishes to be accredited. It appears that this status is a necessary condition to help ensure that veterinarians acting as accredited veterinarians are fully qualified to perform their duties. Therefore, it is proposed to amend the regulations to require, as a condition for being accredited or reaccredited, that a veterinarian must be licensed to practice without supervision in the State in which he or she wishes to be accredited.

In addition, as noted above, as a condition of being designated as an accredited veterinarian, an individual must also pass an examination administered by the Service. The examination tests a veterinarian's skills and knowledge of procedures relevant to his or her functions as an accredited veterinarian. In order to ensure that the test is relevant concerning the applicant's current skills and knowledge of procedures, it is proposed to provide that the applicant must have passed an examination administered by the Service within five years prior to applying for accreditation in the State in which he or she wishes to be accredited.

Executive Order and Regulatory Flexibility Act

This proposed rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this proposed rule would not have a significant annual effect on the economy; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would have no significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It appears that the proposed requirements contained in this document are consistent with the current practices of the vast majority of accredited veterinarians and applicants for accreditation.

Under the circumstances explained above, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the information collection provisions that are included in this rule have been approved by the Office of Management and Budget (OMB) and have been given the OMB control number 0579–0032.

List of Subjects in 9 CFR Parts 161 and 162

Administrative practice and procedures, Veterinarians.

PART 161—REQUIREMENTS AND STANDARDS FOR ACCREDITED VETERINARIANS AND SUSPENSION OR REVOCATION OF SUCH ACCREDITATION

1. The authority citation for Part 161 would continue to read as follows:

Authority: 15 U.S.C. 1828; 21 U.S.C. 105, 111–114, 114a, 114a–1, 115, 120, 121, 125, 134b and 134f; 7 CFR 2.17, 2.51, and 371.2(d).

2. Sections 161.1, 161.2, and 161.3 would be redesignated as §§ 161.2, 161.3 and 161.4, and a new § 161.1 would be added to read as follows:

§ 161.1 Statement of purpose.

This subchapter concerns a program administered by the Service to accredit veterinarians and thereby authorize them to perform, on behalf of the Service, certain activities specified in this chapter. This program is intended to ensure that an adequate number of qualified veterinarians are available in the United States to perform such activities.

3. In redesignated § 161.2, paragraphs (a) and (b) would be revised to read as follows:

§ 161.2 Requirements for accreditation.

(a) The Deputy Administrator is hereby authorized to accredit a veterinarian in a given State when he or she determines that such veterinarian: (1) is a graduate of a college of veterinary medicine; (2) is licensed to practice veterinary medicine without supervision in the State in which he or she wishes to be accredited; (3) has made formal application for accreditation on Form 1–36A, "Application for Veterinary Accreditation"; (4) within five years prior to applying for accreditation, has passed an examination administered by the Service for the State in which he or she wishes to be accredited; and (5) has been jointly recommended by the State Animal Health Official and Veterinarian in Charge for the State in which the veterinarian is licensed and wishes to be accredited.

(b) The Deputy Administrator is hereby authorized to reaccredit a veterinarian whose accreditation has been revoked when the revocation has been in effect for not less than two years and he or she determines that such veterinarian (1) is licensed to practice veterinary medicine without supervision in the State in which he or she wishes to be accredited; (2) has made formal application for accreditation on Form 1–36A, "Application for Veterinary Accreditation"; (3) has been jointly recommended by the State Animal Health Official and the Veterinarian-in-Charge for the State in which the veterinarian is licensed and wishes to be accredited; (4) has furnished adequate assurance that he or she will faithfully fulfill the duties of an accredited veterinarian in the future; and (5) has passed an examination administered by the Service for the State in which he or she wishes to be accredited.

* * * * *

4. In redesignated § 161.3, the introductory portion of the section would be revised to read as follows:

§ 161.3 Standards for accredited veterinarians.

An accredited veterinarian shall perform the functions of an accredited veterinarian only in the State or States in which such veterinarian is accredited. An accredited veterinarian shall perform the functions of an accredited veterinarian subject to the supervision and direction of the Veterinarian-in-Charge and the State Animal Health Official and shall observe the following specific standards:

* * * * *

§ 161.4 [Amended.]

5. In paragraph (a) of redesignated § 161.4, the reference to "§ 161.2" would be changed to "§ 161.3".

PART 162—RULES OF PRACTICE GOVERNING REVOCATION OF SUSPENSION OF VETERINARIANS' ACCREDITATION

6. The authority for Part 162 would continue to read as follows:

Authority: 15 U.S.C. 1828; 21 U.S.C. 105, 111, 114a–1, 115, 116, 120, 121, 125, and 134f; 7 CFR 2.17, 2.51, and 371.2(d).

§ 162.10 [Amended.]

7. In § 162.10, the reference to "9 CFR 161.2" would be changed to "§ 161.3 of this chapter".

§ 162.11 [Amended.]

8. In § 162.11, the reference to "9 CFR 161.2" would be changed to "§ 161.3 of this chapter".

Done at Washington, D.C., this 23rd day of April 1986.

B.G. Johnson,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 86–9555 Filed 4–28–86; 8:45 am]

BILLING CODE 3410–34–M

FEDERAL ELECTION COMMISSION

11 CFR Ch. 1

[NOTICE 1986–1]

Rulemaking Petition; Notice of Disposition

AGENCY: Federal Election Commission.

ACTION: Notice of Disposition of Rulemaking Petition.

SUMMARY: The Federal Election Commission announces its denial of a Petition for Rulemaking filed on November 6, 1984 by Common Cause. 50 FR 477 (Jan. 4, 1985). The petition requested that the Commission revise several regulatory provisions to address the alleged improper use of "soft money", particularly funds ostensibly raised for use in state and local elections, to influence federal elections.

EFFECTIVE DATE: April 29, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel 999 E Street, NW., Washington, DC 20463, (202) 376–5690 or toll-free (800) 424–9530.

SUPPLEMENTARY INFORMATION: On November 4, 1984, Common Cause filed a petition for rulemaking with the Commission. The petition requested that the Commission initiate a rulemaking to address the alleged improper use of "soft money", purportedly raised for use in nonfederal elections, to influence federal elections. The Commission has made several efforts to solicit comments on the petition. First, the Commission invited public comment on the petition by issuing a Notice of Availability. 50 FR 477 (Jan. 4, 1985). Five written comments were received in response to the notice, including a supplementary statement from Common Cause that contained proposed rules.

The Commission also issued a Notice of Inquiry seeking further comment on the broad range of factual and legal questions presented by the assertions that have been made by Common Cause and others concerning the use of "soft money" to influence federal elections. 50 FR 51535 (Dec. 18, 1985). The Commission sent copies of the notice to election officials in all 50 states, national party committees and previous commentors on the petition. Seventeen submissions were received from 15 commentors. In addition, a public hearing was held on January 29, 1986 at which testimony from three witnesses was presented.

After reviewing the comments on the petition and evaluating the implications of the proposed revisions, the Commission has decided to deny Common Cause's petition for rulemaking. Common Cause has not presented evidence of instances in which "soft money" has been used to influence federal elections sufficient to justify the stringent rules proposed in its petition. Most of the examples it cites to support its allegations consist of anecdotal and boastful comments of party committee officials and campaign staff that have been quoted in the press. These statements do not constitute concrete evidence demonstrating that the Commission's regulations have been abused so that funds purportedly raised for use in nonfederal elections have in fact been transferred to the state and local level with the intent that they be used to influence federal elections. Indeed, other evidence presented during this proceeding indicates that many transfers to the state and local levels were made from federal funds and were reported to the Commission.

Therefore, at its open meeting of April 17, 1986, the Commission voted to deny the petition for rulemaking filed by Common Cause. Copies of the General Council's recommendation on which the Commission's decision was based are available for public inspection and copying in the Commission's Public Records Office, 999 E Street NW., Washington, DC 20463, (202) 376–3140 or toll-free (800) 424–9530.

Dated: April 17, 1986.

Joan D. Aikens,

Chairman, Federal Election Commission.

[FR Doc. 86–9498 Filed 4–28–86; 8:45 am]

BILLING CODE 6715–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Labor Certification Process for the Temporary Employment of Aliens in Agriculture; Adverse Effect Wage Rate Methodology

Correction

In FR Doc. 86–6376 beginning on page 12872 in the issue of Wednesday, April 16, 1986, make the following corrections:

1. On page 12872, in the first column, in the eleventh line of the SUMMARY, the comma should be removed. In the seventeenth line of the SUMMARY, "adjustments" was misspelled.

2. On page 12873, in the second column, in the first line of the first paragraph beginning with a •, "and" should read "as".

3. On the same page, in the third column, in the fourth line from the bottom of the first complete paragraph, "EOL" should read "DOL".

4. On page 12874, in the second column, in the fourteenth line from the bottom of the page, "or" should read "of".

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5. On the same page, in the third column, in the third line of the first paragraph beginning with a •, "ADWRs" should read "AEWARs".

6. On page 12955, in the first line of the third column, "has" should read "had".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 868

[Docket No. 86N-0060]

Medical Devices; Invitation for Offers to Submit or Develop a Performance Standard for Continuous Ventilator and Ventilator Tubing

Correction

In FR Doc. 86-7376 beginning on page 11516 in the issue of Thursday, April 3, 1986 make the following corrections:

1. On page 11516 in the second column, in the second complete paragraph, in the eleventh line, the date should read "July 8, 1983".

2. On the same page, in the third column, beginning in the ninth line from the bottom of the page, the FR citation should read "(see 50 FR 43060, 43072; Oct. 23, 1985)".

3. On page 11518, in the third column, in the third complete paragraph, in the seventh line, "2" should read "1".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, 54, 301, and 602

[EE-86-85]

Income, Excise, and Estate and Gift Taxes; Effective Dates and Other Issues Arising Under the Employee Benefit Provisions of the Tax Reform Act of 1984; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to effective dates and certain other issues arising under the employee benefit provisions of the Tax Reform Act of 1984.

DATES: The public hearing will be held on Thursday, June 26, 1986, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Thursday, June 12, 1986.

ADDRESS: The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (EE-86-85), Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Faye Easley of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224, telephone 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under sections 72, 79, 125, 133, 162, 402, 404, 419, 419A, 461(h), 463, 505, 512, 1042, 2039, 4976, 4978, and 7701(a)(46) of the Internal Revenue Code of 1954. The proposed regulations appeared in the Federal Register for Tuesday, February 4, 1986 (51 FR 4391).

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Thursday, June 12, 1986, an outline of oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

James J. McGovern,

Director, Employee Plans and Exempt Organizations Division.

[FR Doc. 86-9567 Filed 4-28-86; 8:45 am]

BILLING CODE 4830-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2939-9]

Standards of Performance for New Stationary Sources; Calciners and Dryers in Mineral Industries

Correction

In FR Doc. 86-8842 beginning on page 15438 in the issue of Wednesday, April 23, 1986, the DATES section in the first column of page 15438 contained an error. For the convenience of the reader, the complete text is correctly printed as follows:

DATES: *Comments.* Comments must be received on or before July 7, 1986.

Public Hearing. If anyone contacts EPA requesting to speak at a public hearing by May 14, 1986, a public hearing will be held on June 9, 1986, beginning at 10:00 a.m. Persons interested in attending the hearing should call Ms. Shelby Journigan at (919) 541-5578 to verify that a hearing will be held.

Request To Speak at Hearing. Persons wishing to present oral testimony must contact EPA by May 14, 1986.

BILLING CODE: 1505-01-M

40 CFR Part 261

[SW-FRL-3010-1]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposal to Deny Petitions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) today is proposing to deny the petitions submitted by 16 petitioners and revoke 2 temporary exclusions to exclude their waste from the hazardous waste lists. This action responds to delisting petitions submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 265, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists.

Based on an initial review of the petitions submitted by the generating facilities, additional information has been requested to enable the Agency to determine if permanent exclusions should be granted. Most of these petitioners have not provided the requested additional information. For those facilities that provided some information, the Agency has determined that the additional information submitted is insufficient to make a final decision. Our basis, therefore, for denying these petitions is that all of these petitions are incomplete (*i.e.*, the Agency does not have sufficient information to determine the hazardous or non-hazardous nature of the waste). The effect of this action, if promulgated, would be to deny the petitions to exclude certain wastes generated at particular facilities from being listed as hazardous wastes under 40 CFR Part 261. Thus, all of the petitioned wastes would continue to be considered hazardous.

DATES: EPA will accept public comments on our tentative decision to deny these petitions and revoke these temporary exclusions until June 13, 1986. Any person may request a hearing on these decisions by filing a request with Eileen B. Claussen, whose address appears below, by May 14, 1986. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send two copies of your comments to EPA. One copy should be sent to the Docket Clerk, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A second copy should be sent to Jim Kent, Delisting Section, Waste Identification Branch, CAD/OSW (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Identify your comments at the top with this statement: "Section 3001—Delisting Petition; Proposed Mass Denial Published in the Federal Register on April 29, 1986."

Requests for a hearing should be addressed to Eileen B. Claussen, Director, Characterization and Assessment Division, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

The public docket for these petitions (including the Agency's requests for additional information) is located in Room S-212, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and is available for public viewing from 9:00 a.m. to 4:00 p.m., Monay through Friday, excluding holidays

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-5096.

SUPPLEMENTARY INFORMATION:

Background

On January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in 40 CFR 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit any of the characteristics of hazardous wastes identified in Subpart C of Part 261 (*i.e.*, ignitability, corrosivity, reactivity, and extraction procedure (EP) toxicity) or meet the criteria for listing contained in 40 CFR 261.11(a)(2) or 261.11(a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility, which meets the listing description, may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To be excluded, petitioners must show that a waste generated at their facility does not meet any of the criteria under which the waste was listed. (See 40 CFR 260.22(a) and the background documents for the listed wastes.) In addition, the Hazardous and Solid Waste Amendments of 1984 (HSWA) require the Agency to consider factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous.[1]

In evaluating these petitions, the Agency first determines whether the waste (for which the petition was submitted) is non-hazardous based on the criteria for which the waste was originally listed. If the Agency believes that the waste is still hazardous, it will propose to deny the petition. If the Agency agrees with the petitioner that the waste is non-hazardous with respect to the criteria for which the waste was listed, however, it will then evaluate the waste with respect to any other factors or criteria, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous.

In some instances, the Agency has already granted a temporary exclusion for certain of the petitioned wastes pursuant to 40 CFR 260.22(m) (no longer in effect, see 50 *FR* 28702, July 15, 1985). Temporary exclusions were granted whenever the petition review concluded that there was a substantial likelihood that the wastes were non-hazardous based on the criteria for which they were listed and that an exclusion eventually would be granted. The granting of a temporary exclusion did not relieve the petitioning facility from providing any additional information which may be required by the Agency to complete its evaluation of the petition and make a definitive determination to grant or deny the petition. The additional information required under section 222 of HSWA was generally requested from the petitioning facilities through written correspondence. (See the public docket for specific information requests.) The acquisition and analysis of this additional information by the Agency is necessary before a tentative determination (*i.e.*, a proposal to exclude or deny exclusion) can be made for the petitioned wastes. Two of the petitioners in today's proposed denial notice have temporary exclusions, which the Agency is also proposing to revoke.

In addition to those petitions for which temporary exclusions were granted, the Agency's Office of Solid Waste (OSW) evaluated two more petitions, using the pre-HSWA criteria, and made preliminary decisions to exclude their waste. These petitioners were given what became known as informal exclusions, and were notified by letter that their waste probably would be delisted some time in the near future. Specifically, the Office of Enforcement informed the Regional enforcement office and petitioners of OSW's findings. The letter requested that some discretion be exercised during the interim period until the Assistant Administrator for Solid Waste and Emergency Response (the official delegated delisting authority by the Administrator) exclusions to those facilities was never published. Instead, the Assistant Administrator for Solid Waste and Emergency Response decided not to grant these facilities a temporary exclusion due to the anticipated changes in delisting criteria

[1] In addition, residues from the treatment, storage, or disposal of listed hazardous wastes are eligible for exclusion. The substantive standard for delisting these wastes is the same as for excluding the listed wastes.

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that were to be brought on by HSWA in 1984. Subsequently, these facilities were asked to submit the additional information, required under HSWA, to evaluate the petitions. Thus, these facilities never received temporary exclusions and their waste has always been considered a hazardous waste. A letter was sent in March 1986 to all the facilities having informal exclusions, withdrawing the informal exclusion and notifying them of the status of their petition. Two such petitions (*i.e.*, formerly having informal exclusions) are included in today's notice, which proposes to deny several petitions based on non-receipt of the needed information to complete their petitions. These two petitions are indicated by an asterisk on the list in today's notice of those petitions we are proposing to deny.

Basis for Denying Exclusion Petitions

The Agency has experienced lengthy delays in receiving the additional information requested from petitioning facilities, including those that have been granted temporary and informal exclusions for their wastes. The additional information has been requested because of the Hazardous and Solid Waste Amendments (*i.e.*, the Agency now must consider factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous). Such delays have disrupted the continuity of the petition review process and have created a backlog of petitions awaiting review. For example, in some instances the Agency has been waiting for years for petitioners to submit the additional information, and still the requested information has not been submitted. In other cases, some information was submitted to the Agency in response to our request for additional information; however, these responses were sufficient to enable the Agency to make a decision on whether or not to grant the exclusion.

To mitigate the problems that have been created by this situation, the Agency gave notice in two earlier Federal Register notices, stating that if a complete petition is not submitted within a reasonable period of time from the date that EPA first requests the additional information (including those petitions granted temporary exclusions, now subject to HSWA), the Agency will propose to deny the petition as incomplete. (See 50 *FR* 47764, November 20, 1985, and 51 *FR* 2528, January 17, 1986.) The Agency is therefore proposing today to deny petitions which have failed to provide all the additional information requested within a reasonable period of time.

In most of these cases, the Agency has made a number of requests for information from these facilities. The Agency made at least two written requests for information indicating the specific type of information the petitioner was to supply in order for the Agency to complete its valuation. In addition, the Agency published a notice in the Federal Register of its intent to collect this information (49 *FR* 4802–4803, February 9, 1984).

Some of these facilities were again informed individually in September 1985 that the additional information requested must be received by a certain date to permit complete petition processing and final determination (exclusion or exclusion denial) before the Congressionally mandated deadline of November 8, 1986.

The Agency believes that we have given these petitioners a reasonable period of time to provide this information. Since the necessary information has not been submitted, and the petitions remain incomplete (*i.e.*, the Agency does not have sufficient information to determine the hazardous or non-hazardous nature of the waste), thus, we are proposing to deny these petitions as incomplete. (See the RCRA docket for an explanation of why the information requested is required.)

Today's Proposal

The Agency intends to make final today's tenative decisions to deny these petitions, unless the petitioners provide the necessary information during the comment period (*i.e.*, the Agency then has a complete petition). The Agency, however, solicits comments on all aspects of today's proposal, including the reasonableness of the information requested.

EPA today proposed to deny the following petitions (two are temporarily excluded and are indicated by a dagger; two were informally excluded and are indicated by an asterisk):

Petition No. and Petitioner's Name

0220*—Imperial Clevite, Caldwell, OH
0274†—Hytec, Incorporated, Tumwater, WA
0297†—ACR Electronics, Inc., Hollywood, FL
0302*—American Chrome & Chemicals, Incorporated, Corpus Christi, TX
0343—Iowa Industries, Inc., Burlington, IA
0509—Ford Motor Company, Sterling Heights, MI
0511—Ford Motor Company, Norfolk, VA
0512—Ford Motor Company, Sandusky, OH
0513—Ford Motor Company, Louisville, KY
0514—Ford Motor Company, Lorain, OH
0515—Ford Motor Company, Indianapolis, IN
0516—Ford Motor Company, Brookpark, OH
0517—Ford Motor Company, Avon Lake, OH
0519—Ford Motor Company, Chicago, IL
0521—Ford Motor Company, Romeo, MI
0527—Ford Motor Company, Wixom, MI

These petitions are being proposed for denial because the Agency has not received the additional information that was requested. This information has been outstanding for over one year. The Agency has previously stated its intention to deny petitions that have exceeded this one-year limit. (See 50 *FR* 47763, November 20, 1985, and 51 *FR* 2528, January 17, 1986.)

Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This proposal, which would revoke temporary exclusions and would deny the exclusion petitions submitted by certain facilities, is not major. The affect of this proposal would increase the overall costs for the facilities which currently have a temporary exclusion. The actual costs to these companies, however, would not be significant. In particular, in calculating the amount of waste that is generated by the 2 facilities that currently have temporary exclusions and considering a disposal cost of $300/ton, the incseased cost to these facilities is approximately $3,650, well under the $100 million level constituting a major regulation. In addition these companies are large and, therefore, the impact of this rule will be relatively small. This proposal is not a major regulation, therefore, no Regulatory Impact Analysis is required.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effect will not change the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this proposed regulation will not have a significant impact on a substantial number of small entities.

This regulations, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Dated: April 22, 1986.

J. W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 86–9521 Filed 4–28–86; 8:45 am]
BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

42 CFR Part 7

Distribution of Reference Biological Standards and Biological Preparations; Proposed User Charge

AGENCY: Centers for Disease Control, Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Public Health Service is proposing to develop new regulations governing the distribution of reference biological standards and biological preparations by the Centers for Disease Control (CDC). In this program, private entities would be assessed a charge to cover the cost to CDC of producing and distributing the products.

DATE: Comments on the proposed rule must be received on or before May 29, 1986.

ADDRESS: Comments should be addressed in writing to the Centers for Disease Control, Building 1, Room 6013, 1600 Clifton Road, Atlanta, Georgia 30333. Comments will be available for public inspection between 9 a.m. and 4 p.m., Monday through Friday (except holidays). All relevant comments received during the comment period will be considered in developing the final rule.

FOR FURTHER INFORMATION CONTACT: William Knox Harrell, Ph.D., Biological Products Program, Center for Infectious Diseases, Centers for Disease Control, 1600 Clifton Road, Atlanta, Georgia 30333, telephone (404) 329–3352, or FTS 236–3352.

SUPPLEMENTARY INFORMATION: CDC has been delegated the authority under section 352 of the Public Health Service (PHS) Act (42 U.S.C. 263), as amended, to produce and distribute biological products in the conduct of its functional responsibilities. We are proposing that a new Part 7 be added to Title 42 of the Code of Federal Regulations to initiate a program that would impose a user charge upon private entities which request reference biological standards or biological preparations for their own comparative performance tests. The user charge would be assessed to cover the cost to CDC of developing and distributing the products.

Statutory Authority for User Charge

Under Title V of the Independent Offices Appropriation Act (IOAA) of 1952, 31 U.S.C. 9701 (formerly 31 U.S.C. 483a), a Federal agency may charge for the services it provides when such services confer a special benefit upon an identifiable recipient. The head of each agency is authorized to prescribe regulations establishing charges for such services.

Applicability of User Charges to CDC Activities

CDC has examined the applicability of user charges to activities performed under section 352 of the PHS Act and concluded that a user charge is appropriate. This notice proposes only that charges be imposed on private entities to cover the cost to CDC of producing and distributing reference biological standards and biological preparations.

The precedent for charging private entities and not charging public entities is set in section 311(b) of the Public Health Service Act (42 U.S.C. 243). Under this provision, the Secretary is authorized to train personnel for State and local health work but may charge only private entities reasonable fees for training their personnel.

Proposed User Charge

CDC is proposing to develop regulations governing the distribution of biological products (42 CFR Part 7) by imposing a user charge for these services to private entities. Based on the same level of services as in the past, these user charges would be expected to generate about $95,000 annually toward the cost of producing and distributing reference biological standards and biological preparations. CDC has estimated that currently it costs an average of $24 to produce and distribute a unit of reagents to these agencies.

Under the IOAA, a user charge is appropriate if an identifiable individual obtains a specific benefit. The benefit accruing to a private entity is that a national standard for microbiological and immunological in vitro diagnostic products is available for comparing the product with this standard.

User charges for CDC's production and distribution of reference material have been under consideration for some time. For example, a 1982 General Accounting Office report entitled "Centers for Disease Control Should Charge Fees for Various Diagnostic Laboratory Services" (GAO/HRD–82–70) urged that user charges be instituted. Upon consideration of the policy issues and legal questions presented by user charges, CDC has concluded that implementation of a program of user charges would be appropriate and consistent with applicable law.

Computation of User Charge

Under the IOAA, each identifiable recipient may be assessed a reasonable charge for a measurable unit of Government service from which it derives a special benefit.

1. *Program cost.* The cost to CDC for producing and distributing reference biological standards and biological preparations to private entities is estimated to be $95,000 in Fiscal Year 1985. This cost includes both direct costs such as salaries and equipment, and indirect costs such as rent, telephone service, and a proportionate share of management and supervisory costs.

2. *Computation of user charge.* In this program, CDC is attempting to generate, through a user charge, a sum equal to the $95,000 in program costs. CDC receives requests from private entities for approximately 4,000 units of reference biological standards and biological preparations each year. For purposes of this program, CDC is proposing to impose an average user charge of $24 per unit distributed. The cost will vary, depending upon the type of preparation requested.

Exemptions

CDC is not proposing to impose a user charge on State and local health departments, governmental institutions (e.g., State hospitals and universities), the World Health Organization, or ministries of health of foreign governments because these materials are provided to those agencies for public health reasons and not for the benefit of the requesters. CDC believes imposing a user charge on these public agencies would not be appropriate. The precedent for charging private entities and not charging public entities is set in section 311(b) of the Public Health Service Act (42 U.S.C. 243). Under this provision, the Secretary is authorized to train personnel for State and local health work but may charge only private entities reasonable fees for training their personnel.

Terms of Payment

CDC proposes to require a purchase order at the time the request for the

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materials is received. The organization will be billed at the end of each month for materials distributed. If a requester fails to pay the charge, CDC would withhold future distribution of the reference material.

Economic Impact

The Secretary has determined that this proposed rule does not significantly impact on a substantial number of small entities and therefore does not require preparation of a regulatory flexibility analysis under the Regulatory Flexibility Act, Pub. L. 96-354.

The Secretary has also determined that this proposed rule is not a "major rule" under Executive Order 12291. Thus, a regulatory impact analysis is not required because it will not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Impose a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions; or

(3) Result in significant adverse effects on competition, employment investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 42 CFR Part 7

Administrative practice and procedure.

It is, therefore, proposed to amend Title 42 of the Code of Federal Regulations by adding a new Part 7 to Subchapter A as set forth below.

Dated: October 22, 1985.

James O. Mason,

Acting Assistant Secretary for Health.

Approved: March 4, 1986.

Otis R. Bowen,

Secretary.

PART 7—DISTRIBUTION OF REFERENCE BIOLOGICAL STANDARDS AND BIOLOGICAL PREPARATIONS

Sec.

7.1 Applicability.
7.2 Establishment of user charge.
7.3 Definitions.
7.4 Schedule of charges.
7.5 Payment procedures.
7.6 Exemptions.

Authority: Sec. 215, 58 Stat. 690, as amended (42 U.S.C. 216); Title V of the Independent Offices Appropriation Act of 1952 (31 U.S.C. 9701); and Sec. 352 of the Public Health Service Act, as amended (42 U.S.C. 263).

§ 7.1 Applicability.

The provisions of this Part are applicable to private entities requesting from the Centers for Disease Control (CDC) reference biological standards and biological preparations for use in their laboratories.

§ 7.2 Establishment of a user charge.

Except as otherwise provided in § 7.6, a user charge shall be imposed on private entities to cover the cost to CDC of producing and distributing reference biological standards and biological preparations.

§ 7.3 Definitions.

"Biological standards" means a uniform and stable reference biological substance which allows measurements of relative potency to be made and described in a common currency of international and national units of activity.

"Biological preparations" means a reference biological substance which may be used for a purpose similar to that of a standards, but which has been established without a full collaborative study, or where a collaborative study has shown that it is not appropriate to establish the preparation as an international standard.

§ 7.4 Schedule of charges.

The charges imposed in § 7.2 are based on the amount published in CDC's price list of available products. An up-to-date schedule of charges is available from the Biological Products Program, Center for Infectious Diseases, Centers for Disease Control, 1600 Clifton Road, Atlanta, Georgia 30333.

§ 7.5 Payment procedures.

The requester shall submit a purchase order when submitting the request for reference biological standards and preparations. The requester will be billed at the end of each month for materials distributed. Payment shall be made in the form of a check or money order payable to the "Centers of Disease Control," and mailed to the Financial Management Office, Buckhead Facility, Room 200, Centers for Disease Control, 1600 Clifton Road, Atlanta, Georgia 30333. If CDC does not receive full payment for the user charge, distribution of future products will be withheld.

§ 7.6 Exemptions.

State and local health departments, governmental institutions (e.g., State hospitals and universities), the World Health Organization, and ministries of health of foreign governments are exempt from paying user charges.

[FR Doc. 86-9466 Filed 4-28-86; 8:45 am]

BILLING CODE 4160-18-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6709]

Proposed Flood Elevation Determinations; Arkansas et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations and proposed modified base flood elevations listed below for selected locations in the nation. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: John L. Matticks, Acting Chief, Risk Studies Division, Federal Insurance Administration, Federal Emergency Management Agency, Washington, DC 20472 (202) 646-2767.

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency gives notice of the proposed determinations of base (100-year) flood elevations and modified base flood elevations for selected locations in the nation, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-488)), 42 U.S.C. 4001-4128, and 44 CFR 67.4(a).

These elevations together with the flood plain management measures required by § 60.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The

community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that the proposed flood elevation determinations, if promulgated, will not have a significant economic impact on a substantial number of small entities. A flood elevation determination under section 1363 forms the basis for new local ordinances, which, if adopted by a local community, will govern future construction within the flood plain area. The elevation determinations, however, impose no restriction unless and until the local community voluntarily adopts flood plain ordinances in accord with these elevations. Even if ordinances are adopted in compliance with Federal standards, the elevations prescribe how high to build in the flood plain and do not proscribe development. Thus, this action only forms the basis for future local actions. It imposes no new requirement; of itself it has no economic impact.

List of Subjects in 44 CFR Part 67

Flood insurance, Flood plains.

The authority citation for Part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

The proposed base (100-year) flood elevations for selected locations are:

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
ARKANSAS	
Clinton (City), Van Buren County	
South Fork Little Red River:	
At downstream corporate limits	*500
At confluence of Archey Creek Fork	*508
At upstream corporate limits	*534
Approximately 0.9 mile upstream of corporate limits	*537
Airport Branch:	
At confluence with South Fork Little Red River	*508
Approximately 150 feet upstream of State Route 16	*520
Approximately 1,500 feet upstream of State Route 16	*540
Archey Creek Fork:	
At confluence with South Fork Little Red River	*509
At confluence of Town Branch	*510
Approximately 60 feet upstream of U.S. Route 65	*522
At upstream corporate limits	*536
Approximately 650 feet upstream of upstream corporate limits	*537
Town Branch:	
At confluence with Archey Creek Fork	*510
Upstream side of Park Street	*518
Upstream side of U.S. Route 65	*518
Upstream side of City Street	*559
Approximately 0.44 feet upstream of City Street	*602
Big Branch:	
Upstream side of U.S. Route 65	*538
At downstream corporate limits	*581
Approximately 1,360 feet upstream of downstream corporate limits	*608

Maps available for inspection at 404 Main, Clinton, Arkansas.

Send comments to The Honorable Charles Bradley, Mayor of the City of Clinton, Van Buren County, P.O. Box 277, Clinton, Arkansas 72031.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
COLORADO	
Chaffee (County)	
South Arkansas River: Approximately 100 feet upstream from the center of U.S. Highway 50 bridge	*7,016
Poncha Creek: At Town of Poncha Springs corporate limits, approximately 200 feet west of the intersection of County Road 195 and Pinyon Drive	*7,477
Chalk Creek: Immediately upstream of U.S. Highway 285 bridge	*7,685
Cottonwood Creek: Approximately 60 feet upstream from the center of County Road 361 bridge	*8,155

Maps are available for review at the County Administrator's Office, Chaffee County Courthouse, 139 Crestone, Salida, Colorado.

Send comments to The Honorable Edward Bradbury, Chairman, County Board of Commissioners, Box 699, Salida, Colorado 81201.

Larimer County

Big Thompson River: Approximately 25 feet upstream from center of Marys Lake Road bridge	*7,827
Fall River: Approximately 180 feet upstream from center of Fish Hatchery Road bridge	*8,010
Black Canyon Creek: Approximately 25 feet downstream from center of McGregor Avenue Bridge	*7,811

Maps are available for review at the Flood Plain Administrator's Office, 216 West Mountain Avenue, Fort Collins, Colorado.

Send comments to The Honorable Courtlyn W. Hotchkiss, Chairman, Larimer County Board of Commissioners, Box 1190, Fort Collins, Colorado 80522.

Poncha Springs (Town)

South Arkansas River: Approximately 60 feet upstream of the center of Highway 285	*7,448
Poncha Creek: Approximately 125 feet downstream of the center of Hot Springs Road	*7,470

Maps are available for review at the Mayor's Office, 330 Burnett Street, Poncha Springs, Colorado.

Send comments to The Honorable Steve Hall, Mayor, Town of Poncha Springs, Box 56, Poncha Spring, Colorado 81201.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
FLORIDA	
Branford (Town), Suwannee County	
Suwannee River:	
About 1,280 feet downstream of U.S. Route 27	*36
About 2,080 feet upstream of U.S. Route 27	*37

Maps available for inspection at the City Clerk's Office, City Building, P.O. Box 622, Branford, Florida.

Send comments to The Honorable Gene Broome, Mayor, Town of Branford, City Building, P.O. Box 622, Branford, Florida 32008-0577.

Columbia County (Unincorporated Areas)

Suwannee River:	
About 3.3 miles downstream of State Road 136	*85
Just downstream of northern state boundary	*108

Maps available for inspection at the County Coordinator's Office, County Courthouse, Lake City, Florida.

Send comments to The Honorable Kenneth Will, Chairman, County Board of Commissioners, Columbia County, County Courthouse, P.O. Drawer 1529, Lake City, Florida 32056.

Eustis (City), Lake County

Lake Harmess: Within community	*74
Lake Joanna: Within community	*155
Lake Louise: Within community	*80
Lake Maggie: Within community	*155
Lake Nellie: Within community	*85
Ponding Area H52: Within community	*71
Lake Willie: Within community	*105
West Crooked Lake System (East and West Crooked Lakes): Within community	*74
Lake Woodward: Within community	*75
Lake Yale: Within community	*81

Maps available for inspection at the City Manager's Office, City Building, P.O. Box 68, Eustis, Florida.

Send comments to The Honorable Michael Steerman, City Manager, City of Eustis, City Building, P.O. Box 68, Eustis, Florida 32726.

Lafayette County (Unincorporated Areas)

Suwannee River:	
About 2.92 miles downstream of Simms Landing	*30
About 2.4 miles upstream of Norfolk Southern Railway	*80

Maps available for inspection at the County Clerk's Office, Lafayette County Courthouse, Mayo, Florida.

Send comments to The Honorable Norman Jackson, Chairman, County Commission, County Courthouse, P.O. Box 88, Mayo, Florida 32066.

Suwannee County (Unincorporated Areas)

Suwannee River:	
At confluence of Santa Fe River	*32
Just upstream of State Road 250	*59
About 3.5 miles upstream of Interstate 75	*95

Maps available for inspection at the County Coordinator's Office, Suwannee County Courthouse, Live Oak, Florida.

Send comments to The Honorable W.W. Jernigan, Chairman, County Commision, Suwannee County, County Courthouse, Live Oak, Florida 32060.

Source of flooding and location	#Depth in feet above ground. *Elevation in feet (NGVD)
GEORGIA	
Hinesville (City), Liberty County	
Mill Creek:	
About 1.1 miles downstream of confluence of Mill Creek Tributary No. 2	*72
About 0.9 mile upstream of confluence of Mill Creek Tributary No. 2	*77
Mill Creek Tributary No. 2:	
At mouth	*75
About 2,580 feet upstream of Rowland Avenue	*94
Peacock Creek:	
At confluence of Peacock Creek Tributary No. 1	*78
At northern corporate limits	*86

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PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Peacock Creek Tributary No. 1:	
At confluence with Peacock Creek	*118
Just downstream of U.S. Route 82	*51
Maps available for inspection at the City Hall, 116 East South Street, Hinesville, Georgia.	
Send comments to The Honorable Carl Dykes, Mayor, City of Hinesville, City Hall, 116 East South Street, Hinesville, Georgia 31313.	
Richmond County (Unincorporated Areas)	
Savannah River:	
At downstream county boundary	*106
About 0.9 mile upstream of Sandbox Ferry Road	*140
Spirit Creek:	
At mouth	*125
Just downstream of Richmond Factory Pond Dam	*183
Just upstream of Richmond Factory Pond Dam	*192
About 0.5 mile upstream of Birdsnest Road	*246
Spirit Creek Tributary No. 1:	
At mouth	*158
About 1.25 miles upstream of McDade Farm Road	*204
Spirit Creek Horsepen Branch:	
At mouth	*217
Just downstream of Willis Foreman Road	*237
Just upstream of Willis Foreman Road	*242
About 1.0 mile upstream of Willis Foreman Road	*276
Butler Creek:	
About 1200 feet upstream of mouth	*119
Just downstream of dam for Fort Gordon Reservoir	*231
Just upstream of dam for Fort Gordon Reservoir	*256
Just downstream of Fort Gordon Highway	*275
Butler Creek Tributary No. 1:	
At mouth	*196
About 0.9 mile upstream of Morgan Road	*262
Butler Creek Tributary No. 2:	
At mouth	*263
Just downstream of Fort Gordon Highway	*273
Just upstream of Fort Gordon Highway	*281
Just downstream of Georgia Railroad	*285
Just upstream of Georgia Railroad	*294
Just downstream of dam	*310
About 400 feet upstream of dam	*328
Rocky Creek:	
At mouth	*121
Just downstream of Old Savannah Road	*134
Just upstream of Old Savannah Road	*138
Just downstream of Old McDuffie Road	*204
Just upstream of Old McDuffie Road	*213
Just downstream of Rosedale Dam	*220
Just upstream of Rosedale Dam	*240
Just downstream of Fort Gordon Highway	*287
Just upstream of Fort Gordon Highway	*294
Just downstream of Barton Chapel Road	*304
Just upstream of Barton Chapel Road	*311
Just downstream of Georgia Railroad	*318
Rocky Creek Tributary No. 1:	
At mouth	*122
About 2,200 feet upstream of Norfolk Southern Railway	*129
Rocky Creek Tributary No. 2:	
At mouth	*129
Just south of Nixon Road	*130
Rocky Creek Tributary No. 3:	
At mouth	*128
Just north of Nixon Road	*128
Rocky Creek Tributary No. 4:	
At mouth	*130
Just downstream of Windsor Spring Road	*162
Rocky Creek Tributary No. 5:	
At mouth	*136
About 1,100 feet upstream of Peach Orchard Road	*149
Rocky Creek Tributary No. 6:	
At mouth	*178
About 900 feet upstream of Fort Gordon Highway	*196

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Rocky Creek Tributary No. 7:	
At mouth	*199
Just downstream of Fort Gordon Highway	*201
Just upstream of Fort Gordon Highway	*206
Just downstream of of North Leg Road	*240
Just upstream of North Leg Road	*248
Just downstream of Georgia Railroad	*271
Just upstream of Georgia Railroad	*285
Just downstream of Bobby Jones Expressway	*316
Just upstream of of Bobby Jones Expressway	*332
About 1,800 feet upstream of Sharon Road	*357
Rocky Creek Tributary No. 8:	
At mouth	*216
Just downstream of Bobby Jones Expressway	*280
Just upstream of Bobby Jones Expressway	*286
Just downstream of Georgia Railroad	*287
Just upstream of Georgia Railroad	*297
Just downstream of Barton Chapel Road	*306
Just upstream of Barton Chapel Road	*311
About 0.85 mile upstream of Barton Chapel Road	*360
Rocky Creek Tributary No. 9:	
At mouth	*335
About 1,800 feet upstream of mouth	*378
Rocky Creek Tributary No. 10:	
At mouth	*326
About 1,400 feet upstream of mouth	*353
Rocky Creek Tributary No. 11:	
At mouth	*143
About 1,500 feet upstream of mouth	*146
Oates Creek:	
At mouth	*124
Just downstream of Olive Road	*147
Oates Creek Tributary No. 1:	
At mouth	*147
Just downstream of Olive Road	*154
Rees Creek:	
About 1,700 feet downstream of Lake Shore Loop	*159
Just downstream of foot bridge (about 1,800 feet downstream of Berclemens Road)	*164
Just upstream of foot bridge (about 1,800 feet downstream of Berclemens Road)	*173
Just downstream of Boy Scout Road	*201
Just upstream of Boy Scout Road	*208
Just downstream of Lake Aumond Dam	*255
Just upstream of Lake Aumond Dam	*260
Just downstream of Jackson Road	*281
Just upstream of Jackson Road	*288
Just downstream of Maddox Road	*376
Crane Creek:	
At mouth	*220
Just downstream of Skinner Mill Road	*243
Just upstream of Warren Road	*255
Just downstream of Pleasant Home Road	*285
Just upstream of Pleasant Home Road	*292
Just upstream of Pleasant Home Road Extension	*307
No Name Creek:	
At mouth	*184
Just downstream of Ashland Drive	*198
Just upstream of Ashland Drive	*208
Just downstream of Oberlin Road	*250
Rees Creek Tributary No. 1:	
At mouth	*337
About 1,000 feet upstream of Wrightsboro Road	*346
Rees Creek Tributary No. 2:	
At mouth	*337
About 0.8 mile upstream of mouth	*361
Rees Creek Tributary No. 3:	
At mouth	*351
Just upstream of Maddox Road	*408
Beaver Dam Ditch:	
At mouth	*119
At confluence of Oates Creek	*134
Maps available for inspection at the Augusta Richmond County Planning Commission, 525 Telfair Street, Augusta, Georgia.	
Send comments to The Honorable George Petty, Executive Director, Augusta Richmond County Planning Commission, 525 Telfair Street, Augusta, Georgia 30911.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
IDAHO	
Cambridge (City), Washington County	
Rush Creek: Approximately 15 feet north of the center of Superior Street, along Rush Creek	*2,642
Maps available for review at the City Hall, Cambridge, Idaho.	
Send comments to The Honorable Clyde Snell, Mayor, City of Cambridge, Box 248, Cambridge, Idaho 83610.	
Midvale (City), Washington County	
Weiser River: At Bridge Street	*2,536
Maps are available for review at the City Hall, Midvale, Idaho.	
Send comments to the Honorable Jay Langer, Mayor, City of Midvale, City Hall, Midvale, Idaho 83646.	
Washington County (Unincorporated Areas)	
Snake River: Approximately 900 feet downstream from center of U.S. Highway 30N Bridge	*2,102
Weiser River: Approximately 50 feet upstream from center of U.S. Highway 95–30N Bridge	*2,106
Monroe Creek: Approximately 50 feet upstream from Calloway Canal	*2,146
Rush Creek: Approximately 25 feet upstream from center of Union Pacific Railroad	*2,639
Maps are available for review at the County Courthouse, 256 East Court Street, Weiser, Idaho.	
Send comments to the Honorable Jack Gardner, Chairman, Washington County Board of Commissioners, P.O. Box 8, Cambridge, Idaho 83610.	
Weiser (City), Washington County	
Snake River: Approximately 980 feet downstream from the center of U.S. Highway 30N Bridge	*2,102
Weiser River: Approximately 30 feet upstream from the center of East Eleventh Street, along the Union Pacific Railroad	*2,109
Monroe Creek: Approximately 20 feet upstream of and parallel to East Park Street	*2,125
Maps are available for review at the City Planning and Zoning Department, 55 West Idaho, Weiser, Idaho.	
Send comments to the Honorable Dale Thomason, Mayor, City of Weiser, 55 West Idaho, Weiser, Idaho 83672.	
INDIANA	
Milford (Town), Kosciusko County	
Turkey Creek:	
Just upstream of Orn Road	*822
About 0.24 mile upstream of Conrail	*828
Maps available for inspection at the Office of the Clerk Treasurer, Town Hall, P.O. Box 456, Milford, Indiana.	
Send comments to The Honorable Jean Treesh, Town Board President, Town of Milford, Milford Town Hall, P.O. Box 456, Milford, Indiana 46542.	
North Webster (Town), Kosciusko County	
Webster Lake: Within community	*865
Maps available for inspection at the Office of the Clerk Treasurer, Town Hall, Rt. #13, North Webster, Indiana.	
Send comments to the Honorable Myren Clark, Town Board President, Town of North Webster, Town Hall, Rt. #13, North Webster, Indiana 46555.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Syracuse (Town), Kosciusko County	
Turkey Creek:	
About 2,700 feet downstream of Syracuse-Webster Road	*853
Just upstream of Henry Street	*858
Syracuse Lake: Within community	*860
Lake Wawasee: Within community	*860
Maps available for inspection at the Town Hall, 500 South Huntington Street, Syracuse, Indiana.	
Send comments to the Honorable James Hughes, Town Board President, Town of Syracuse, Town Hall, 500 South Huntington Street, Syracuse, Indiana 46567.	
Warsaw (City), Kosciusko County	
Walnut Creek:	
Just upstream of Lincoln Highway	*810
Just downstream of 100 South Road	*817
Eagle Creek: Within community	*813
Deeds Creek:	
At mouth	*812
About 700 feet upstream of U.S. Route 30	*819
Lones Ditch: Within community	*811
Pike Lake: Within community	*812
Winona Lake: Within community	*814
Center Lake: Within community	*808
Maps available for inspection at the office of the City Planner, City Hall, 784 West Center Street, Warsaw, Indiana.	
Send comments to the Honorable Jeff Plank, Mayor, City of Warsaw, City Hall, 784 West Center Street, Warsaw, Indiana 46580.	
Winona Lake (Town), Kosciusko County	
Winona Lake: within community	*814
Maps available for inspection at the Town Hall, P.O. Box 336, Winona Lake, Indiana.	
Send comments to the Honorable David Wolkins, Town Board President, Town of Winona Lake, Town Hall, P.O. Box 336, Winona Lake, Indiana 46590.	
KANSAS	
Florence (City), Marion County	
Cottonwood River:	
About 750 feet downstream of Atchison, Topeka and Santa Fe Railway	*1,271
About 0.9 mile upstream of U.S. Highway 50	*1,275
Maps available for inspection at the City Hall, 100 East Fourth Street, Florence, Kansas 66851.	
Send comments to the Honorable Rodney Williams, Mayor, City of Florence, City Hall, 100 East Fourth Street, Florence, Kansas 66851.	
KENTUCKY	
Corbin (City), Knox and Whitley Counties	
Lynn Camp Creek:	
About 4,000 feet downstream of Laurel Avenue	*1,063
About 1,500 feet upstream of East Barbourville Street	*1,070
Maps available for inspection at the City Hall, 805 South Main Street, Corbin, Kentucky.	
Send comment to the Honorable Thomas R. Thurston, Mayor, City of Corbin, City Hall, 805 South Main Street, Corbin, Kentucky 40701.	
Stanton (City), Powell County	
Red River:	
About 1.4 miles downstream of State Route 213	*842
About 2.7 miles upstream of State Route 213	*852
Maps available for inspection at the Government Building, Box 328, Stanton, Kentucky.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Send comments to the Honorable Charles Childers, Mayor, City of Stanton, Government Building, Box 328, Stanton, Kentucky 40380.	
MAINE	
Greenville (Town), Piscataquis County	
Moosehead Lake: Entire shoreline affecting community	*1,030
Maps available for inspection At the Town Office, Minden Street, Greenville Maine.	
Send comments to The Honorable David Cota, Town Manager of Greenville, Piscataquis County, Minden Street, Greenville, Main 04441.	
MASSACHUSETTS	
Hanson (Town), Plymouth County	
Poor Meadow Brook:	
Downstream corporate limits	*46
Downstream side of West Washington Street	*54
Approximately 0.66 mile upstream of West Washington Street	*82
Maps available for inspection at the Planning Board, 542 Liberty Street, Hanson, Massachusetts.	
Send comments to The Honorable Joseph Nugent, Executive Secretary of the Town of Hanson, Plymouth County, 542 Liberty Street, Hanson, Massachusetts 02341.	
MINNESOTA	
Belle Plaine (Borough), Scott County	
Minnesota River:	
About 1.8 miles downstream of State Highway 25	*730
About 2.0 miles upstream of State Highway 25	*733
Maps available for inspection at the Municipal Building, 426 East Main, Belle Plaine, Minnesota.	
Send comments to The Honorable Francis Schuman, Mayor, City of Belle Plaine, Municipal Building, 426 East Main, Belle Plaine, Minnesota 56011.	
Morton (City), Renville County	
Minnesota River:	
About 0.5 mile downstream of Chicago and North Western Railroad	*838
Just downstream of State Highway 19	*834
Maps available for inspection at the City Hall, Box 127, Morton, Minnesota.	
Send comments to The Honorable John Seehausen, Mayor, City of Morton, City Hall, Box 127, Morton, Minnesota 56270.	
North Redwood (City), Redwood County	
Minnesota River:	
About 1.4 miles downstream of confluence of Redwood River	*840
About 0.8 mile upstream of confluence of Redwood River	*843
Maps available for inspection at the Mayor's Home, 105 River Road, North Redwood, Minnesota.	
Send comments to The Honorable Ken Borke, Mayor, City of North Redwood, 105 River Road, North Redwood, Minnesota 56283.	
NEVADA	
Lyon County (Unincorporated Areas)	
Walker River: Approximately 25 feet downstream from Goldfield Avenue	*4,381
Maps are available for review at the Department of Public Works and Engineering, 16 South Main Street, Yerington, Nevada.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Send comments to The Honorable Andrea Maner, Chairman, Lyon County Board of Commissioners, 16 South Main Street, Yerington, Nevada 89447.	
Storey County (Unincorporated Areas)	
Truckee River: Approximately 100 feet downstream from center of McCarren Ranch Road	*4,291
Maps are available for review at the Storey County Courthouse, Virginia City, Nevada.	
Send comments to Mr. Mark Schrader, Chairman, Board of Commissioners, County of Storey, Courthouse, Virginia City, Nevada 89440.	
NEW YORK	
Delaware (Town), Sullivan County	
Delaware River:	
At downstream corporate limits	*748
At confluence of Callicoon Creek	*756
Approximately 150 feet upstream of Tower Road	*780
At upstream corporate limits	*790
North Branch Callicoon Creek:	
At confluence with Callicoon Creek	*798
Approximately 1,180 feet upstream of Town Route 18 bridge	*821
Maps available for inspection at the Town Hall, Hortonville, New York.	
Send comments to The Honorble William Dirie, Supervisor of the Town of Delaware, Sullivan County, Box 2, Hortonville, New York 12745.	
Highland Falls (Village), Orange County	
Hudson River: Entire shoreline within community	*8
Maps available for inspection at the Village Hall, 160 Main Street, Highland Falls, New York.	
Send comments to The Honorable Inga M. Quaintance, Deputy Mayor of the Village of Highland Falls, Village Hall, 160 Main Street, Highland Falls, New York 10928.	
Otego (Town), Otsego County	
Susquehanna River:	
Downstream corporate limits	*1,049
Confluence of Otsdawa Creek	*1,056
Upstream corporate limits	*1,058
Flax Island Creek:	
Confluence with the Susquehanna River	*1,055
Upstream corporate limits of the Village of Otego	*1,072
Approximately 800' upstream of the Village of Otego corporate limits	*1,092
Approximately 1,520' upstream of the Village of Otego corporate limits	*1,107
Otsdawa Creek:	
Confluence with the Susquehanna River	*1,056
Extreme upstream corporate limits of the Village of Otego	*1,072
Maps available for inspection at the Otego Town Hall, River Street, Otego, New York.	
Send comms to The Honorable C. Roderick Dutcher, Supervisor of the Town of Otego, Otsego County, R.D. 2, Box 207, Otego, New York 13825.	
Otego (Village), Otsego County	
Susquehanna River:	
Approximately 0.64 mile downstream of corporate limits	*1,054
Confluence of Flax Island Creek	*1,056
Upstream corporate limits	*1,058
Flax Island Creek:	
Confluence with Susquehanna River	*1,055
Downstream side of Main Street	*1,057
Approximately 400 feet upstream of Main Street	*1,065
Upstream corporate limits	*1,072
Otsdawa Creek:	
Downstream corporate limits	*1,056
Approximately 1,300 feet upstream of Main Street	*1,058

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PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Approximately 2,040 feet upstream of Main Street	*1,852
Extreme upstream corporate limits	*1,872
Maps available for inspection at the Otego Village Hall, River Street, Otego, New York.	
Send comments to The Honorable Gary Goff, Mayor of the Village of Otego, Otego County, Jeannette Drive, Otego, New York 13825.	
Tooleo (Town), Sullivan County	
Delaware River:	
Approximately 1.1 miles downstream of Tennelle River	*665
At the confluence of Tennelle River	*672
Approximately 100 feet upstream of CONRAIL bridge	*679
Approximately 2.4 miles downstream of U.S. Route 652 bridge	*699
Approximately 500 feet upstream of U.S. Route 652 bridge	*700
Approximately 1.8 miles upstream of U.S. Route 652 bridge	*708
At upstream corporate limits	*715
Maps available for inspection at the Town Clerk's Office, Narrowsburg, New York.	
Send comments to The Honorable Richard Lander, Supervisor of the Town of Tooleo, R.D. 2, Box 376, Narrowsburg, New York 12764.	
NORTH CAROLINA	
Bath (Town), Beaufort County	
Atlantic Ocean: At confluence of Back Creek with Bath Creek	*10
Maps available for inspection at the Town Hall, P.O. Box 6, Bath, North Carolina.	
Send comments to The Honorable Ray Brooks, Mayor, Town of Bath, Town Hall, P.O. Box 6, Bath, North Carolina 27808.	
Creswell (Town), Washington County	
Atlantic Ocean/Pamlico Sound/Albemarle Sound/Scuppernong River: Within community	*5
Maps available for inspection at the Town Hall, P.O. Box 115, Creswell, North Carolina.	
Send comments to The Honorable Reginald Phelps, Mayor, Town of Creswell, Town Hall, P.O. Box 115, Creswell, North Carolina 27928.	
Unincorporated Areas of Hyde County	
Atlantic Ocean:	
At the confluence of New Lake Fork with Alligator River	*4
Just east of intersection of 6th Avenue East and U.S. Highway 264	*5
At the intersection of State Road 1110 and State Road 1111	*5
At the confluence of Alligator River canal with Wilmn Bay	*6
Along the northern shoreline of Cockrel Creek Island	*6
At Windmill Point	*7
At the confluence of Hydeland Canal with Juniper Bay Creek	*7
Just west of Ocracoke Island Landing Field	*8
Along shoreline of Church Creek	*8
Along southeast shoreline of Ocracoke Island	*9
At the confluence of Shingle Creek with Swanquarter Bay	*9
At the confluence of Cowpen Creek with Swanquarter Bay	*10
At southwest point at Great Island	*11
At the confluence of Willow Creek with Pamlico River	*12
Maps available for inspection at the County Courthouse, P.O. Box 188, Swan Quarter, North Carolina 27885.	
Send comments to The Honorable Clifford Swindell, County Manager, Hyde County, County Courthouse, P.O. Box 188, Swan Quarter, North Carolina 27885.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
River Bend (Town), Carteret County	
Atlantic Ocean/Pamlico Sound/Neuse River/Town River: Along the Southern Extent/Buried Limits	*9
Swanee Creek/Pamlico Run:	
From confluence with Trent River to U.S. Highway 7	*9
Just upstream of SR 1051	*14
Maps available for inspection at the Town Hall, 50 Shoreline Drive, River Bend, North Carolina.	
Send comments to The Honorable Robert Pangle, Mayor, Town of River Bend, Town Hall, 50 Shoreline Drive, River Bend, North Carolina 28560.	
Washington (City), Beaufort County	
Cherry Run:	
At confluence with Tranters Creek	*10
About 0.60 mile upstream of Market Street Extention	*41
Cherry Run Tributary 1:	
At confluence with Cherry Run	*14
About 0.93 mile upstream of confluence with Cherry Run	*31
Cherry Run Tributary 2:	
At confluence with Cherry Run	*20
Just downstream of State Road 1510	*30
Cherry Run Tributary 3:	
At confluence with Cherry Run Tributary 2	*23
Just downstream of State Road 1516	*42
Pineygrove Branch:	
At confluence with Herring Run	*15
Just upstream of Ledge Road	*26
Runyon Creek:	
At confluence with Pamlico River	*11
About 0.35 mile upstream of U.S. Highway 264	*11
Herring Run:	
At confluence with Runyon Creek	*11
About 0.64 mile upstream of Ledge Road	*27
Atlantic Ocean:	
At confluence of Kennedy Creek and Tar River	*10
Just south of intersection of SR 1165 and Norfolk Southern Railway	*10
At confluence of Rodmen Creek and Pamlico River	*11
Just south of North Shores Road	*11
Maps available for inspection at the City Hall, Box 1988, Washington, North Carolina.	
Send comments to The Honorable Stancil Lilly, Mayor, City of Washington, City Hall, Box 1988, Washington, North Carolina 27889-1988.	
Washington Park (Town), Beaufort County	
Atlantic Ocean/Pamlico River/Runyon Creek/Snode Creek: Within community	*11
Maps available for inspection at the Town Hall, P.O. Box 632, Washington Park, North Carolina.	
Send comments to The Honorable Tom Richter, Mayor, Town of Washington Park, Town Hall, P.O. Box 662, Washington Park, North Carolina.	
NORTH DAKOTA	
Center (City), Oliver County	
Square Butte Creek: Approximately 50 feet upstream from center of State Highway 25 Bridge	*1,867
Tributary 1: Immediately upstream of State Highway 25 Bridge	*1,878
Tributary 2: Approximately 250 feet upstream from center of State Highway 25 Bridge	*1,866
Tributary 3: Approximately 50 feet upstream from center of treatment plant access road bridge	*1,970
Tributary 4: Immediately upstream of Third Street Bridge	*1,969
Tributary 1 Overflow: Along overflow channel, approximately 300 feet west of Tributary 1	*1,972
Maps are available for review at the City Hall, 313 Lincoln Avenue North, Center, North Dakota.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Send comments to The Honorable Ervin Schutte, Mayor, City of Center, P.O. Box 78, Center, North Dakota 58530.	
Fargo (City), Cass County	
Red River of the North: Ancestor of Main Avenue	*899
	*899
Sheyenne River: Approximately 50 feet downstream from center of Interstate 94 Bridge	*906
	*904
Shallow Flooding: Between County Roads 14 and 20, west of 45th Street North	*893
	*894
Maps are available for review at the Engineering Department, 306 North 4th Street, Fargo, North Dakota.	
Send comments to The Honorable Jon G. Lindgren, Mayor, City of Fargo, 200 North 3rd Street, Fargo, North Dakota 58102.	
Mandan (City), Morton County	
Missouri River: 900 feet upstream from centerline of Burlington Northern Railroad Bridge	*1,836
Heart River—With Consideration of Levees: 50 feet upstream from State Highway 6 (10th Avenue SW) bridge	*1,856
Heart River—Without Consideration of Levees: At the intersection of 3rd Street SW and State Highway 6 (10th Avenue SW)	*1,850
Maps are available for review at the City Engineer's Office, 205 2nd Avenue, NW, Mandan, North Dakota.	
Send comments to The Honorable Sharon Schafer, 205 2nd Avenue, NW, Mandan, North Dakota 58554.	
Morton County (Unincorporated Areas)	
Missouri River: At the confluence with the Heart River	*1,834
Heart River—With Consideration of Levees: 50 feet upstream from center of Burlington Northern Railroad Bridge	*1,868
Heart River—Without Consideration of Levees: At intersection of Dead Heart Slough and an Unnamed Road approximately 380 feet South of the Burlington Northern Railroad along the Channel of Dead Heart Slough	*1,859
Maps are available for review at the County Engineer's Office, 205 2nd Avenue, NW, Mandan, North Dakota.	
Send comments to The Honorable Ray Keall, Chairman, Morton County Commissioners, Morton County Courthouse, Mandan, North Dakota 58554.	
OHIO	
Arlington Heights (Village), Hamilton County	
Mill Creek:	
At confluence of West Fork Mill Creek	*537
About 1,200 feet upstream of Clark Street	*543
West Fork Mill Creek:	
Just downstream of Galbraith Road	*537
About 1,900 feet upstream of Conrail	*539
Maps available for inspection at the Mayor's Office, 601 Elliot Avenue, Arlington Heights, Ohio.	
Send comments to The Honorable James W. Overstreet, Mayor, Village of Arlington Heights, 601 Elliot Avenue, Arlington Heights, Ohio 45215.	
Coshocton (City), Coshocton County	
Muskingum River:	
About 350 feet downstream of Randle Bridge	*748
Just downstream of Chestnut Street	*753
Tuscarawas River:	
Just upstream of Chestnut Street	*753
About 1.5 miles upstream of Bridge Street	*755

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Walhonding River:	
Just downstream of Chestnut Street	*759
Just downstream of County Road Bridge	*785
Maps available for inspection at the City Hall, 760 Chestnut Street, Coshocton, Ohio.	
Send comments to The Honorable Daniel Moody, Mayor, City of Coshocton, City Hall, 760 Chestnut Street, Coshocton Ohio 43812.	
Coshocton County (Unincorporated Areas)	
Muskingum River:	
About 3.0 miles downstream of Norfolk Southern Railway	*734
About 2.0 miles upstream of State Route 6	*753
Tuscarawas River:	
About 7.7 miles downstream of Norfolk Southern Railway	*753
About 0.8 mile upstream of County Route 9	*792
Walhonding River:	
About 0.75 mile downstream of State Route 36	*759
About 2.85 miles upstream of County Route 23	*770
Shallow Flooding (ponding from rainfall):	
About 600 feet south of the intersection of South Sixth Street and Cedar Street	*747
About 1,000 feet east of the intersection of Magnolia Street and Cottonwood Street	*749
About 1,500 feet east of the intersection of South Sixth Street and Fir Street	*750
Maps available for inspection at the County Commissioner's Office, Courthouse Annex, 349½ Main Street, Coshocton, Ohio.	
Send comments to The Honorable James R. Ross, President County Commissioners, Coshocton County, Courthouse Annex, 349½ Main Street, Coshocton, Ohio 43812.	
Dennison (Village), Tuscarawas County	
Little Stillwater Creek:	
About 1.07 miles downstream of Grant Street	*846
About 0.78 mile upstream of Taylor Avenue	*854
Maps available for inspection at the Village Hall, 302 Grant Street, Dennison, Ohio.	
Send comments to The Honorable Greg DiDonato, Mayor, Village of Dennison, Village Hall, 302 Grant Street, Dennison, Ohio 44621.	
Dover (City), Tuscarawas County	
Tuscarawas River:	
About 0.5 mile downstream of Chassle System	*867
About 0.84 mile upstream of Wooster Avenue	*871
Sugar Creek:	
At mouth	*866
About 150 feet upstream of Tuscarawas Avenue	*877
Maps available for inspection at the City Hall, East Third Street, Dover, Ohio.	
Send comments to The Honorable Guy M. Smith, Mayor, City of Dover, City Hall, East Third Street Dover, Ohio 44622.	
Gnadenhutten (Village), Tuscarawas County	
Tuscarawas River:	
About 3,000 feet downstream of County Route 39	*827
Just upstream of Conrail	*828
Maps available for inspection at the Village Hall, Walnut & Main Streets, Gnadenhutten, Ohio.	
Send comments to The Honorable Charles Miller, Mayor, Village of Gnadenhutten, Village Hall, Walnut & Main Streets, Gnadenhutten, Ohio 44629.	
Newcomerstown (Village), Tuscarawas County	
Tuscarawas River:	
Just upstream of County Boundary	*762
About 1.3 miles upstream of Conrail	*787

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Maps available for inspection at the Mayor's Office, 124 West Church Street, Newcomerstown, Ohio.	
Send comments to The Honorable C.R. Yingling, Mayor, Village of Newcomerstown, 124 West Chuch Street, Newcomerstown, Ohio 43832.	
New Philadelphia (City), Tuscarawas County	
Tuscarawas River:	
About 4.0 miles downstream of State Route 416	*851
About 3.8 miles upstream of State Route 39	*872
Beaverdam Creek:	
About 1.75 miles downstream of University Drive	*851
About 0.8 miles downstream of University Drive	*868
About 0.4 miles downstream of University Drive	*873
About 0.9 miles upstream of Beaver Avenue	*900
Maps available for inspection at the City Hall, 166 East High Avenue, New Philadelphia, Ohio.	
Send comments to The Honorable Leo Benjamin, Mayor, City of New Philadelphia, City Hall, 166 East High Avenue, New Philadelphia, Ohio 44663.	
Reading (City), Hamilton County	
Mill Creek:	
Just upstream of Galbraith Road	*538
About 925 feet upstream of Conrail	*558
Maps available for inspection at the Municipal Building, 1000 Market Street, Reading, Ohio.	
Send comments to The Honorable Anthony J. Gentz, Mayor, City of Reading, Municipal Building, 1000 Market Street, Reading, Ohio 45215.	
Sharonville (City), Hamilton County	
Mill Creek:	
About 1,200 feet downstream of Sharon Road	*575
Just downstream of East Crescentville Road	*585
East Fork Mill Creek:	
At mouth	*581
Just downstream of East Crescentville Road	*589
Sharon Creek:	
About 1,500 feet downstream of Sharon Road	*578
About 2,600 feet upstream of Reading Road	*601
About 2,800 feet upstream of Reading Road	*609
About 3,500 feet upstream of Reading Road	*612
About 3,700 feet upstream of Reading Road	*610
About 3,800 feet upstream of Reading Road	*623
Sharon Creek Tributary:	
About 1,900 feet downstream of Reading Road	*578
Just downstream of Thornview Drive	*632
Maps available for inspection at the City Director's Office, 10800 Reading Road, Sharonville, Ohio.	
Send comments to The Honorable John S. Dowlin, Mayor, City of Sharonville, 10900 Reading Road, Sharonville, Ohio 45241.	
Utrichsville (City), Tuscarawas County	
Stillwater Creek:	
Just upstream of Chassle System	*844
About 0.26 mile upstream of Dennison Water Supply Company Dam	*853
Little Stillwater Creek:	
At mouth	*848
About 0.8 mile upstream of First Street	*851
Maps available for inspection at the City Hall, 305 East Second Street, Ulrichsville, Ohio.	
Send Comments to The Honorable Robert Kilpatrick, Mayor, City of Ulrichsville, City Hall, 305 East Second Street, Ulrichsville, Ohio 44683.	

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
SOUTH CAROLINA	
Burnettown (Town), Aiken County	
Horse Creek:	
About 1.2 miles downstream of dam at State Route 254	*155
About 0.9 miles downstream of dam at State Route 254	*157
Maps available for inspection at the City Hall, 1111 Third Street, Langley, South Carolina.	
Send comments to the Honorable M.B. Ferguson, Major, Town of Burnettown, Burnettown City Hall, 1111 Third Street, Langley, South Carolina 29834.	
TENNESSEE	
Centerville (Town), Hickman County	
Duck River:	
About 1.4 miles downstream of State Route 50	*481
About 1.1 miles upstream of State Routes 48 and 100	*489
Maps available for inspection at the City Hall, P.O. Box 228, Centerville, Tennessee.	
Send comments to the Honorable Bill Stober, Mayor, Town of Centerville, City Hall, P.O. Box 228, Centerville, Tennessee 37033.	
Graysville (City), Rhea County	
Roaring Creek:	
About 1,850 feet downstream of Harrison Street	*730
About 3,700 feet upstream of Harrison Street	*802
Maps available for inspection at the City Hall, P.O. Box 100, Graysville, Tennessee.	
Send comments to the Honorable Andy Beene, Mayor, City of Graysville, City Hall, P.O. Box 100, Graysville, Tennessee 37336.	
Oakdale (City), Morgan County	
Emory River:	
About 3,700 feet downstream of West Main Street	*793
about 3,700 feet upstream of West Main Street	*802
Maps available for inspection at the City Hall, P.O. Box 118, Oakdale, Tennessee.	
Send comments to the Honorable Jeanette Powers, Mayor, City of Oakdale, City Hall, P.O. Box 118, Oakdale, Tennessee 37829.	
Pulaski (City), Giles County	
Richland Creek:	
About 1.2 miles downstream of Mill Street	*853
About 2.9 miles upstream of Mill Street	*861
Pleasant Run Creek:	
At mouth	*854
Just upstream of Mitchell Street	*706
Tributary A:	
About 3,000 feet downstream of Magazine Road	*854
About 400 feet upstream of Longmeadow Drive	*899
Tributary B:	
At mouth	*858
About 500 feet upstream of east College Street	*884
Maps available for inspection at the City Hall, 203 South First Street, Pulaski, Tennessee.	
Send comments to the Honorable Stacy A. Garner, Mayor, City of Pulaski, City Hall, 203 South First Street, Pulaski, Tennessee 38478.	
Waynesboro (City), Wayne County	
Green River:	
At confluence of Hurricane Creek	*701
About 2,150 feet upstream of Helton Street	*733
Rocky Mill Branch:	
At confluence with Green River	*722
Just downstream of U.S. Route 64	*767
Just upstream of U.S. Route 64	*772
About 400 feet upstream of U.S. Route 64	*775

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PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Hurricane Creek:	
At mouth	*781
About 0.6 mile upstream of U.S. Route 64	*732
Maps available for inspection at the City Hall, P.O. Box 481, Waynesboro, Tennessee.	
Send comments to the Honorable Floyd S. Mansman, Mayor, City of Waynesboro, City Hall, P.O. Box 481, Waynesboro, Tennessee 38485.	
VERMONT	
Burlington (City), Chittenden County	
Winooski River:	
At confluence with Lake Champlain	*102
Upstream side of Central Vermont Railway	*114
Upstream side of U.S. Routes 2 and 7	*150
At upstream corporate limits	*166
Maps available for inspection at the Planner's Vault, City Hall, Burlington, Vermont.	
Send comments to The Honorable Bernard Sanders, Mayor of the City of Burlington, Chittenden County, City Hall, Burlington, Vermont 05402.	
Winooski (City), Chittenden County	
Winooski River:	
Approximately 575 feet downstream of downstream corporate limits	*118
Upstream side of U.S. Routes 2 and 7	*150
Approximately 75 feet upstream of upstream corporate limits	*166
Maps available for inspection at the City Clerk's Vault, City Hall, 27 West Allen Street, Winooski, Vermont.	
Send comments to The Honorable Brennan Kelleher, Manager of the City of Winooski, Chittenden County, City Hall, 27 West Allen Street, Winooski, Vermont 05404.	
VIRGINIA	
Buchanan County	
Levisa Fork:	
Downstream County boundary	*870
Upstream side of State Route 645	*907
Upstream side of State Route 609	*966
Confluence of Leeney Creek	*1,008
At downstream Grundy corporate limits	*1,044
Upstream side of State Route 617	*1,069
Upstream side of State Route 83	*1,139
Upstream side of Norfolk and Western Railway (4th upstream crossing)	*1,183
Approximately 0.72 mile upstream of State Route 684	*1,220
Approximately 1.93 miles upstream of State Route 694	*1,288
Upstream side of State Route 668	*1,369
Approximately 100 feet downstream confluence of Bridge Branch	*1,398
Upstream side of U.S. Route 460	*1,455
Approximately 0.8 mile upstream of U.S. Route 460	*1,476
Knox Creek:	
Approximately 425 feet downstream of State Route 697	*925
Upstream side of State Route 646	*987
Approximately 1.3 miles upstream of State Route 650	*1,016
Upstream side of State Route 643 (2nd upstream crossing)	*1,083
Upstream side of State Route 706	*1,128
Upstream side of State Route 652	*1,171
Approximately 1.13 miles upstream of State Route 652	*1,220
Approximately 2.23 miles upstream of State Route 652	*1,279
Russell Fork:	
Approximately 640 feet downstream of State Route 80	*1,432
Approximately 1.7 miles upstream of State Route 80	*1,485
Approximately 2.55 miles upstream of State Route 80	*1,592

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Dismal Creek:	
Approximately 1.75 miles downstream of State Route 628	*1,582
Upstream side of State Route 628	*1,602
Approximately 1 mile upstream of State Route 628	*1,818
Approximately 2.15 miles upstream of State Route 628	*1,860
Big Prater Creek/Trace Fork Branch:	
At confluence with Levisa Fork	*1,128
Approximately 1.04 miles upstream confluence with Levisa Fork	*1,170
Approximately 0.57 mile downstream confluence of Big Lick Branch	*1,200
At confluence of Big Lick Branch	*1,244
Approximately 0.61 mile upstream confluence of Big Lick Branch	*1,280
Tug Fork:	
At downstream State boundary	*869
Approximately 1.82 miles upstream of the downstream State boundary	*891
At upstream State boundary	*919
Maps available for inspection at the County Administrator's Office, County Courthouse, Main Street, Grundy, Virginia.	
Send comments to The Honorable Joseph Bland, Buchanan County Administrator, P.O. Drawer 950, Grundy, Virginia 24614.	
Iron Gate (Town), Alleghany County	
Jackson River:	
Approximately 800 feet upstream of County boundary	*1,075
Approximately 100 feet downstream of upstream corporate limits	*1,085
Maps available for inspection at the Town Hall, Iron Gate, Virginia.	
Send comments to The Honorable Jay Nissly, Mayor of the Town of Iron Gate, Alleghany County, Town Hall, P.O. Box 198, Iron Gate, Virginia 24448.	
Lebanon (Town), Russell County	
Little Cedar Creek:	
Approximately 1,550 feet downstream of U.S. Route 19 bridge	*1,859
Approximately 50 feet upstream of Florida Street bridge	*1,889
Approximately .45 mile upstream of State Route 71 bridge	*2,089
Maps available for inspection at the Lebanon Town Office, Lebanon, Virginia.	
Send comments to The Honorable Carl Tarbaxley, Acting Town Manager of Lebanon, Russell County, P.O. Box 428, Lebanon, Virginia 24266.	
Lee County	
Straight Creek:	
At confluence with North Fork Powell River	*1,435
At State Route 352	*1,471
At Private Road	*1,485
Downstream Corporate Limit of Town of St. Charles	*1,521
Upstream Corporate Limit of Town of St. Charles	*1,538
At confluence of Gin Creek	*1,586
At Southern Railway	*1,668
Approximately 900' upstream of confluence of Miller Cove Creek	*1,750
Gin Creek:	
At confluence with Straight Creek	*1,566
At County Road	*1,615
At State Route 638	*1,690
Approximately 400' upstream of County Road	*1,736
Big Branch:	
At confluence with Straight Creek	*1,520
At State Route 628	*1,582
Approximately 0.53 mile upstream of Town of St. Charles	*1,836

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Baileys Trace:	
At Corporate Limit of Town of St. Charles	*1,299
At confluence of Fawn Branch	*1,399
Approximately 50' upstream of State Route 717	*1,585
Approximately 1,040' downstream of State Route 717	*1,661
Walker Creek:	
Approximately 0.31 mile upstream of State Routes 612 and 626 extended	*1,357
Approximately 0.5 mile southwest on State Route 612 from County Road intersection	*1,488
At confluence of Dry Creek	*1,614
Approximately 0.36 mile upstream of U.S. Route 58 and 421	*1,629
Dry Creek:	
AT confluence with Walker Creek	*1,614
At U.S. Route 58 and 421	*1,640
At State Route 230	*1,744
At County Road	*1,779
North Fork Clinch River:	
At County Boundary	*1,494
At State Route 611	*1,515
At Southern Railway	*1,535
Mud Creek:	
At State Route 709	*1,461
At State Route 622	*1,471
Approximately 0.3 mile upstream of State Route 622	*1,476
Powell River:	
Approximately 1,000' extended southeast from 621 and 645 State Route Junction	*1,418
At Alternate U.S. Route 58	*1,495
Approximately 0.61 mile downstream of Alternate U.S. Route 58	*1,398
At State Route 619	*1,391
Approximately 0.9 mile downstream of U.S. Route 421	*1,339
At U.S. Route 421	*1,344
Approximately 1 mile upstream of U.S. Route 421	*1,348
Poor Valley Branch:	
At confluence with Martin Creek	*1,398
Approximately 525' downstream of Louisville and Nashville Railroad	*1,406
Indian Creek:	
Approximately 750' downstream of U.S. Route 58	*1,309
At confluence with Dry Branch	*1,320
Downstream side of State Route 664	*1,326
Upstream side of State Route 660	*1,346
Upstream side of State Route 666	*1,366
Upstream side of State Route 667	*1,373
At confluence with Roaring Creek	*1,398
Approximately 630' upstream of Louisville and Nashville Railroad	*1,490
Martin Creek:	
Approximately 360' downstream of confluence of Poor Valley Branch	*1,391
At U.S. Route 58	*1,402
Approximately 750' upstream from U.S. Route 58	*1,404
Cane Creek:	
At Corporate Limits of Town of Pennington Gap	*1,348
Downstream of State Route 643	*1,391
Approximately 1 mile upstream of second crossing of U.S. Alternate Route 58	*1,411
Approximately 0.5 mile upstream of State Route 644	*1,430
At State Route 644 and U.S. Alternate 58	*1,455
Approximately 350' upstream of U.S. Alternate Route 58	*1,486
North Fork Powell River:	
Confluence with Powell River	*1,346
At State Route 639	*1,352
Downstream Corporate Limits of Town of Pennington Gap	*1,363
Upstream Corporate Limits of Town of Pennington Gap	*1,395
Approximately 1,000' southeast from State Route 621 on State Route	*1,368
At State Route 62 (new)	*1,376
At Southern Railway	*1,401
Approximately 200' downstream of confluence of Branch	*1,456

PROPOSED BASE (100-YEAR) FLOOD ELEVATIONS—Continued

Source of flooding and location	#Depth in feet above ground. Elevation in feet (NGVD)
Raven Branch:	
At confluence with Bailey Trace	*1,571
At County Road	*1,646
At State Route 637	*1,646
Approximately 0.3 mile upstream of State Route 637	*1,705
Dry Branch:	
At confluence with North Fork Powell River	*1,381
At confluence of Ely Creek	*1,389
Approximately 100' downstream of County Road	*1,492
Poor Valley Creek:	
At confluence with North Fork Powell River	*1,371
At Farm Road	*1,439
Approximately 0.24 mile upstream of second crossing of State Route 621	*1,689
Maps available for inspection at the County Administrator's Office, Jonesville, Virginia.	
Send comments to The Honorable Steven B. Mynar, Lee County Administrator and County Attorney, P.O. Box 367, Jonesville, Virginia 24263.	
WISCONSIN	
Crandon (City), Forest County	
Rocketjo Lake: Within community	*1,604
Clear Lake: Within community	*1,598
Lake Metonga: Within community	*1,598
Surprise Lake: Within community	*1,608
Clear Lake Outlet:	
At mouth	*1,591
At Clear Lake Shoreline	*1,598
Surprise Lake Outlet:	
At mouth	*1,598
At Surprise Lake Shoreline	*1,608
Maps available for inspection at the City Hall, P.O. BOX 333, Crandon, Wisconsin.	
Send comments to The Honorable Kenneth Asbot, Mayor, City of Crandon, City Hall, P.O. Box 333, Crandon, Wisconsin 54520.	
Hiaton (Village), Jackson County	
Trempealeau River:	
About 0.7 mile downstream of County Highway FF	*916
Just downstream of Interstate 94	*925
Maps available for inspection at the Village Hall, 145 East Main, Hiaton, Wisconsin.	
Send comments to The Honorable Allan Olson, Village President, Village of Hiaton, Village Hall, 145 East Main, Hiaton, Wisconsin 54635.	
Rusk County (Unincorporated Areas)	
Chippewa River:	
At county boundary	*1,045
About 4.1 miles upstream of County Highway E	*1,099
Flambeau River:	
At mouth	*1,058
About 6.0 miles upstream of mouth	*1,073
About 2.3 miles downstream of County Highway G	*1,099
About 1.5 miles upstream of Highway 8	*1,117
Maps available for inspection at the Zoning Administrator's Office, Rusk County Courthouse, 311 Miles Street, Ladysmith, Wisconsin.	
Send comments to The Honorable Marvin Hansen, Chairman, County Board, Rusk County, County Courthouse, 311 Miles Street, Ladysmith, Wisconsin 54868.	

Issued: April 10, 1986.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 86-9378 Filed 4-28-86; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-144; FCC 86-159]

Broadcast Services; Review of Technical Parameters For FM Allocations Rules

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to review certain FM technical rules. Specifically, the Commission proposes to clarify the power and antenna height requirements for the different classes of stations, allow other classes of station to operate on the reserved Class A channels, let the community listed in the FM Table of Allotments be the determining factor for a station's class, and add more precision to the method for predicting coverage. In short, this proceeding is intended to review and simplify the FM allocation rules.

DATES: Comments are due on or before June 12, 1986, and reply comments are due on or before June 27, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathryn Hosford or Michael Lewis, Mass Media Bureau, (202) 632-6660.

SUPPLEMENTARY INFORMATION: This is a summary of Commission's *Notice of Proposed Rule Making* adopted April 11, 1986, and Released on April 21, 1986.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street, NW, Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rule Making

1. This proceeding reviews various technical FM rules for stations operating in the commercial FM band (channels 221-300). A review of these rules is particularly appropriate in light of adoption of the *Report and Order* (*Report*) in BC Docket 80-90 (48 FR 29486, June 27, 1983; recon., 49 FR 10260, March 20, 1984) which revised the FM allotment scheme to permit an increase in the number of FM stations. However, some of these rule changes have resulted in station classification anomalies in the licensing process. Additionally, questions have arisen regarding the requirements applicable to stations that were licensed prior to the adoption of Docket 80-90. The purpose of the *Notice of Proposed Rule Making* (*Notice*) is to address such issues and simplify certain technical rules for licensing FM stations.

2. The FM rules originally contained definitive power and antenna height requirements for three classes or commercial FM station. However, after the *Report* doubled the number of classes from three to six, applications were received requesting certain combinations of powers and antenna heights which did not correspond to any station class. In response to this situation, the Commission proposes to replace the current method of defining the different station classes (by defining minimum and maximum power and antenna heights for each class) with a classification scheme based on a formula reflecting the maximum permitted distance to the expected service contour (1 mV/m) of each class. This proposal would clarify our station classification requirements and provide a continuous range of technical facilities for all classes of stations.

3. The *Notice* also proposes to increase flexibility by allowing any class of FM station on any commercial FM channel. Twenty channels are now reserved for Class A operation. These channels were reserved to assure a sufficient number of allotments for local FM service in small communities by eliminating the preclusionary effect of higher powered stations. However, the Commission has found that retention of the 20 reserved channels creates unnecessary restrictions on existing stations operating on these channels, that want to upgrade their facilities. Therefore, the *Notice* proposes to provide additional operating flexibility for those Class A stations operating in the reserved channels that want to increase their facilities, by lifting the restriction on these 20 channels.

4. Finally, the *Notice* proposes to determine an FM station's class by the location of the city of license, as opposed to its transmitter location. Station class for channels 221-300 is currently defined by the FM Table of Allotments (Table) found in § 73.202(b) of the Commission's Rules. The class listed in the Table of Allotments is generally based on the zone location of the community named in the allotment. However, § 73.208(c) inconsistently indicates that a station's class is to be determined by the location of the transmitter site. A discrepancy can arise when the transmitter site and the city of

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allotment are located in different zones. The *Notice* proposes to resolve this anomaly by removing the transmitter site reference and requiring a station's class to conform with the class designated in the Table of Allotments. (Any existing discrepancis would be grandfathered.

5. This is a non-restricted notice and comment rule making proceeding. *See* § 1.1231 of the Commission's Rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

6. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, the *Notice* contains one proposal (to replace the minimum power and antenna height restrictions with equations that would represent a continuous range of facility options) that could have a minimal negative impact on 49 FM stations currently in the process of expanding their facilities to avoid the reclassification deadline of March 1, 1987, as detailed in Docket 80–90. This action is proposed to offset the confusion caused when certain combinations of power and antenna heights do not correspond to any of the station classes defined in Docket 80–90. Although the proposed solution could cause some stations to be designated in a less desirable station class than expected, the current conflict between these requirements and the classification scheme enacted in Docket 80–90 demands rectifying. The affected stations will, however, retain the classifications they originally anticipated. Therefore, this action will have no adverse impact. The Commission has evaluated both the positive and negative impacts this proposal could have on existing stations and believes that the proposed equations will minimize the possible negative effects of this modification, while still providing a satisfactory solution to the problem. Public comment is requested on the initial regulatory flexibility analysis set out in full in the Commission complete decision.

7. As required by section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the proposals advanced in the *Notice*. Written public comments are requested on the IRFA. These comments must filed in accordance with the same filing deadlines as comments on the rest of the *Notice*, but they must have a separate and distinct heading designating them as responses to the Regulatory Flexibility Analysis. The Secretary shall cause a copy of the *Notice*, including the Initial Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 603 (a) of the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, 5 U.S.C. Section 601 *et seq.*, (1981)).

8. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirement; and except for a small adjustment due to the additional applications expected to be received, the proposed rules would not increase or decrease burden hours imposed on the public.

9. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before June 12, 1986, and reply comments on or before June 27, 1986.

All relevant and timely comment will be considered by the Commission before final action is taken in this proceeding.

10. It is proposed, pursuant to the authority contained in sections 4 and 303 of the Communications Act of 1934, as amended, that Part 73 of the Commission's Rules be amended as set forth at the end of this document.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

It is proposed to amend Title 47 CFR Part 73 as follows:

11. The authority citation for Part 73 would continue to read as follows:

Authority: 47 U.S.C. 154 and 303.

§ 73.206 [Removed]

12. Section 73.206 would be removed.

§ 73.207 [Amended]

13. Section 73.207 would be amended by revising the fourth column of TABLE A entitled "10.6/10.8 MHz" which follows paragraph (b)(1) and the first column is republished to read as follows:

§ 73.207 Minimum distance seperation between stations.

* * * * *

(b) * * *

(1) * *

TABLE A—MINIMUM DISTANCE SEPARATION REQUIREMENTS IN KILOMETERS (MILES)

(no changes to these columns)	Relation			
	Co-channel	200 kHz	400/800 kHz	10.6/10.8 MHz
A to A				8 (5)
A to B1				12 (7)
A to B				16 (10)
A to C2				16 (9)
A to C1				23 (14)
A to C				32 (20)
B1 to B1				15 (9)
B1 to B				18 (11)
B1 to C2				18 (11)
B1 to C1				26 (16)
B1 to C				34 (21)
B to B				24 (15)
B to C2				22 (14)
B to C1				29 (18)
B to C				40 (25)
C2 to C2				22 (14)
C2 to C1				29 (18)
C2 to C				37 (23)
C1 to C1				37 (23)
C1 to C				45 (28)
C to C				48 (30)

* * * * *

14. Section 73.208 would be amended by revising the equations in paragraphs (c)(3) and (4) to read as follows:

§ 73.208 Reference points and distance computations.

* * * * *

(c) * * *

(3) * * *

$$LAT_k = 111.13209 - 0.56605 \cos(2LAT_m) + 0.00120 \cos(4LAT_m)$$

(4) * * *

$$LONG_k = 111.41513 \cos(LAT_m) - 0.09455 \cos(3LAT_m) + 0.00012 \cos(5LAT_m)$$

* * * * *

15. Section 73.211 would be revised to read as follows:

§ 73.211 Classes of stations; power and antenna height requirements.

(a) The rules applicable to a particular station, including minimum distance separations and maximum facility requirements, are determined by its class. The class permitted must conform with that designated in the Table of FM Allotments (see § 73.202). Stations designated as Class A, B1, and B may be authorized in Zones I and I–A. Classes A, C2, C1, and C may be authorized in Zone II.

(b) The minimum permitted effective radiated power is 0.1 kW. A station's power, index, or power/height combination must exceed the maximum of the next lower class for its zone of operation.

(c) The maximum effective radiated power (ERP) in any direction, the height above average terrain (HAAT) associated with those values of ERP, and the maximum index for the various classes of stations are listed below. Other combinations of ERP and HAAT are permitted if the ERP is less than the maximum and the maximum index is not exceeded.

MAXIMUMS

Class	ERP(kilowatts)	HAAT (meters)	Index
A	3	100	82
B1	25	100	60
B	50	150	66
C2	50	150	66
C1	100	299	77
C	100	600	95

(d) The station index is determined using the following formula. When an antenna height is less than 30 meters, a minimum of 30 meters must be assumed.

$I = 10 \log P + 23 \log H$

Where:
I=index rounded to nearest whole number,
P=effective radiated power in kilowatts, and
H=antenna height above average terrain in meters.

(e) In Puerto Rico and the Virgin Islands, the following maximums can be used as an option to those specified in paragraph (c) of this section. Other combinations of ERP and HAAT are permitted, if the ERP of the Class B1 and B station do not exceed 25 and 50 kW, respectively, and the index does not exceed its maximum.

MAXIMUMS

Class	ERP (kilowatts)	HAAT (meters)	Index
A	3	335	88
B1	5	335	65
B	25.5	600	79

(f) Stations authorized prior to March 1, 1984, with facilities in excess of those specified for station Classes A, B or C in this section may continue to operate as authorized. Changes to these stations would be permitted if they do not increase their effective radiated powers or extend their 1 mV/m field strength contour beyond their present authorization. NOTE: Authorized stations that do not conform to the requirements of this section, may continue as authorized until March 1, 1987. Thereupon, stations will be classified in accordance with the provisions of this section reflecting their authorized, or applied for, facilities.

16. Section 73.213 would be revised to read as follows:

§ 73.213 Stations at spacings below the minimum separations.

Stations authorized prior to November 16, 1964, at locations that do not meet the minimum distances specified in Section 73.207, may continue to operate as authorized. Changes to these stations would be permitted if they do not increase their effective radiated power or extend their 1 mV/m field strength contour beyond their present authorization.

17. Section 73.313 would be amended by revising paragraph (c)(2) to read as follows:

§ 73.313 Prediction of coverage.

* * * * *

(c) * * *

(2) To use the chart for other powers, the ordinate scale should be converted by the appropriate adjustment in dB. For example, the ordinate scale for a power of 50 kW (17 dB above 1 kW) should be adjusted by 17 dB and, therefore, a field strength of 40 dBu would be converted to 57 dBu. In predicting the distance to the field strength contours, the effective radiated power to be used is the maximum ERP of the main radiated lobe regardless or orientation, in the pertinent direction. In predicting other field strengths over areas not in horizontal plane, the effective radiated power to be used is the power in the direction of such areas; the appropriate vertical plane radiation pattern must, of course, be considered in determining this power.

* * * * *

§ 73.1030 [Amended]

18. Section 73.1030 would be amended by revising the phase "(in the vicinity of coordinates 40°07'50" N Latitude, 105°14'40" W Longitude)" of paragraph (b) to read "(within the area bounded by 40°09'10" N on the north, 105°13'31" W on the east, 40°07'05" N on the south, and 105°15'13" W on the west)".

19. Section 73.1690 would be amended by revising paragraph (c)(1) to read as follows:

§ 73.1690 Modification of transmission systems.

* * * * *

(c) * * *

(1) Replacement of a non-directional antenna with one of the same or different type or number of bays, provided that the height above ground of the center of radiation is within ± meters of that specified in the station authorization, the parameters are within that permitted by its class designation, and there is no change in the maximum effective radiated power.

* * * * *

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 86-9452 Filed 4-28-86; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal to Determine Penstemon Haydenii To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Penstemon haydenii* (blowout penstemon) to be an endangered species under the authority of the Endangered Species Act of 1973, as amended. The blowout penstemon is known from small populations in Cherry (230 individuals), Hooker (80 individuals), and Garden (660 individuals) Counties, Nebraska. Approximately 25 percent of the plants are located on private and State lands, and 75 percent are located on U.S. Fish and Wildlife Service lands. The stabilization of blowout complexes leads to declining numbers of the species. The low probabilities of seed fertilization, maturation, and dispersal and seedling establishment may also be contributing factors to the decline of the species. This proposal, if made final, would implement protection provided by the Endangered Species Act. The Service is requesting comments on this action.

DATES: Comments from all interested parties must be received by June 30, 1986. Public hearing requests must be received by June 13, 1986.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. Comments and materials received will be available for public inspection, by appointment, during normal business hours of the Service's Regional Endangered Species Division at 134 Union Boulevard, fourth floor, Lakewood, Colorado.

FOR FURTHER INFORMATION CONTACT: Dr. James L. Miller, Regional Botanist, at the above address, (303/236–7398 or FTS 776–7398).

SUPPLEMENTARY INFORMATION:

Background

Penstemon haydenii (blowout penstemon) was described by Sereno Watson (1891), based on a collection by H.L. Webber near the Dismal River in Thomas County, Nebraska. The plant

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was also found there in 1889 by Webber, and perhaps earlier by F.V. Hayden.

Penstemon haydenii is a member of the snapdragon family. It is a hairless perennial that grows 1 to 2 feet high. The stems are often decumbent, simple or branched, and very leafy. The stem leaves are linear to lanceolate, entire, 3 to 5 inches long by 1 to 3 inches wide, sessile and clasping. The inflorescence is a compactly crowded thyrse. Floral bracts are ovate to lanceolate, nearly equaling the flower. The corolla is blue and 1.5 to 2 inches long. *Penstemon haydenii* can be distinguished from *P. angustifolia* by its larger and lighter blue flowers. The species flowers from mid-May to late june. The flowers have a strong persistent fragrance that lures several kinds of bees and other pollinators.

Historically, *Penstemon haydenii* probably was widely scattered throughout the central part of the sandhills of Nebraska. All herbarium specimens and most literature citations indicate that it has never been collected outside of Nebraska. A purported Wyoming collection of Hayden was reported as being from Nebraska by Pennell (1935, p. 269), while reports of the species from Kansas are believed to be based on misidentifications (Craig Freeman, University of Connecticut, personal communication) and are not accepted in the *Atlas of the Flora of the Great Plains* (Barkley 1977).

The species is restricted to active blowouts in the sandhills of Cherry, Hooker, and Garden Counties Nebraska, and many historic locations do not support the species today because of elimination of the habitat due to stabilization of the sand dunes as a range-management practice.

The known sites of the blowout penstemon have population sizes that vary from 50 to 600 individuals. All the sites are well-developed blowouts in dune complexes with active sand and accompanying environmental extremes in wind, temperature, evapotranspiration, and soil moisture stress. *Penstemon haydenii* is found most frequently in microsites that are, or recently have been, zones of sand accumulation. The plant appears to be successional; it is not a primary invader and does not last when a blowout becomes completely vegetated (Pool 1914). The species survives burial in sand by sending off shoots at successively higher nodes. It withstands initial erosion, but does not have the rhizomatous system or extensive lateral roots to survive erosion that uncovers much more than a few inches of root length.

On December 15, 1980, Service published a notice of review for plants in the **Federal Register** (45 FR 82480); *Penstemon haydenii* was included. No comments on this species have been received in response to the notice. All taxa in the 1980 notice are treated as under petition (48 FR 53641). On February 15, 1983, the Service published a notice in the **Federal Register** (48 FR 6752) of its prior finding that the petitioned action on this species may be warranted in accord with section 4(b)(3)(A) of the Endangered Species Act of 1973 as amended (Act).

On October 13, 1983, October 12, 1984, and October 11, 1985, petition findings were made that listing *Penstemon haydenii* was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Such a finding requires a recycling of the petition pursuant to a section 4(b)(3)(C)(i) of the Act. The Service now finds that the petitioned action is warranted and hereby publishes a proposed rule to implement the action, in accord with section 4(b)(3)(B)(ii) of the Act.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one of more of the five factors described in section 4(a)(1). These factors and their application to *Penstemon haydenii* S. Watson, blowout penstemon, are as follows:

A. *The present or threatened destruction, modfication, or curtailment of its habitat or range.* Successful control of unstable sand dunes has resulted in restriction of the required blowout habitats of *Penstemon haydenii*. The blowouts where the species grow are conical or irregularly shaped craters that are scooped out of sand by the swirling action of prevailing westerly winds. Because of successful dune stabilization programs that protect farmlands in the sandhills, the species does not have adequate habitat to invade. The decrease in extent of blowouts has also made dispersal of the species more difficult to the fewer remaining natural blowouts.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The species is attractive and has been cultivated. Horticultural collecting is a potential threat for such a species known from so few individuals.

C. *Disease of predation.* None known.

D. *The inadequacy of existing regulatory mechanisms. Penstemon haydenii* is not protected by any State laws or regulations. Approximately 75 percent of known populations are found on Fish and Wildlife Service refuge land and 25 percent on State and private lands. The Service provides, under the provisions of 50 CFR Parts 25 through 28, some protection for the species on refuge lands. The species has no protection on State or private lands. The Endangered Species Act offers possibilities for protection of this species through section 7 (interagency cooperation) requirements and through section 9, which prohibits removal and reduction to possession of listed plants on areas under Federal jurisdiction.

E. *Other natural or manmade factors affecting its continued existence. Penstemon haydenii* comprises several small populations that consist of a total of approximately 950 individuals. The small population size makes the species vulnerable to localized environmental changes. In addition, the species occupies a successional niche in the development and eventual revegetation of blowout habitats. As the vegetational cover in these areas increases, *P. haydenii* undergoes local extirpation. Not only is the species rare, but it does not appear vigorous at the known localities, possibly because these blowouts have reached a stage of revegetation that exceeds the optimum for the species.

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Penstemon haydenii* as endangered. With only about 950 individuals known, and control of sand dunes occurring at the known locales, endangered status seems an accurate assessment of the species' condition.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. *P. haydenii* depends on early successional stages in the revegetation of sandhill blowouts for its habitat. Such blowouts are transient features of the sandhill topography, and a critical habitat designation reflecting the present habitat occupied by the species would quickly become inappropriate as present blowouts become stabilized and new ones develop. Even supposing that critical habitat could be kept in a state of revision to reflect the varying range of the species, such public identification of habitat would be inadvisable for such an attractive flowering plant, which could easily be exposed to vandalism or horticultural collecting. The Service thus concludes that designation of critical habitat for this species would be neither practical nor beneficial to its conservation and therefore is not prudent.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibition against collecting are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Some management actions, such as stabilization of sand dunes by the U.S. Fish and Wildlife Service and the Soil Conservation Service, may adversely impact this species, since stabilization deprives the plant of suitable habitat on which to grow.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Penstemon haydenii,* all prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of a commercial activity, sell it or offer it for sale in interstate or foreign commerce, or remove it from land under Federal jurisdiction and reduce it to possession. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few permits would ever be sought or issued since the species is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Penstemon haydenii;*

(2) The location of any additional populations of *Penstemon haydenii* and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on *Penstemon haydenii.*

Final promulgation of a regulation on *Penstemon haydenii* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References

Barkley, T.M., ed. 1977. Atlas of the Flora of the Great Plains. The Iowa State University Press. 578 pp.

Pennell, F.W. 1935. Scrophulariaceae of East Temperate North America. Academy of Natural Sciences, Philadelphia Monograph. 1:267–269.

Pool, R.J. 1914. A study of the vegetation of the Sandhills of Nebraska. Minnesota Botanical Studies. 3(4):189.

Smyth, B. 1889. Additions to the Flora of Kansas. Proceedings and Transactions of the Kansas Academy of Science. 0:156–167.

Watson, S. 1891. Penstemon Haydenii, n. sp. . Botanical Gazette. 16:311.

Author

The primary author of this proposed rule is Dr. James L. Miller, Endangered Species Division, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225. A status report was prepared by Mr. Robert W. Lichvar of the Wyoming Heritage Program, Cheyenne, Wyoming.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

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1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.12(h) by adding the following in alphabetical order under the family Scrophulariaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

(h) * * *

Species							
Scientific name	Common name	Historic range	Status	When listed	Critical habitat	Special rules
Scrophulariaceae—Snapdragon family:						
Penstemon haydenii	Blowout penstemon	U.S.A. (NE)	E		NA	NA

Dated: March 20, 1986.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–9528 Filed 4–28–86; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 51, No. 82
Tuesday, April 29, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Bureau of the Census

Census Advisory Committees; Public Meetings

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463 as amended by Pub. L. 94–409), we are giving notice of a joint meeting followed by separate and jointly held (described below) meetings of the CAC on the American Indian and Alaska Native Populations for the 1990 Census, CAC on the Asian and Pacific Islander Populations for the 1990 Census, CAC on the Black Population for the 1990 Census, and the CAC on the Hispanic Population for the 1990 Census. The joint meeting will convene on May 19 and 20, 1986, at the Westpark Hotel, 1900 North Fort Myer Drive, Arlington, Virginia 22209.

Each of these committees is composed of 9 members appointed by the Secretary of Commerce. They provide an organized and continuing channel of communications between the communities they represent and the Bureau of Census on the problems and opportunities of the 1990 Decennial Census.

The committees will draw on the knowledge and insight of their members to provide advice during the planning of the 1990 Census of Population and Housing on such elements as improving the accuracy of the population count, suggesting areas of research, recommending subject content and tabulations of particular use to the populations they represent, expanding the dissemination of census results among present and potential users of census data in their communities, and generally improving the usefulness of the census product.

The agenda for the May 19 combined meeting that will begin at 8:45 a.m. and end at 4 p.m. is: (1) Opening remarks by the Director, Bureau of the Census; (2) summary description of Census Bureau programs, including Census Bureau organization, demographic fields, field operations, economic fields, statistical standards and methodology, and management services; (3) overview of the 1980 census; (4) status and overview of 1990 census planning, including (a) the Address List Compilation Test, (b) 1985 tests in Jersey City, New Jersey and Tampa, Florida, (c) 1986 tests in Los Angeles County, California, and in Mississippi, (d) 1987 test in North Dakota, and (e) the 1988 dress rehearsal; (5) discussion of the 1990 census; (6) 1990 outreach plans; and (7) race and ethnicity testing program.

The agenda for the four committees in their separate meetings that will begin at 4:15 p.m. and end at 5 p.m. on May 19 is the election of chairpersons and chairpersons-elect, and identification of committee-specific issues.

The agenda for the May 20 combined meeting that will begin at 8:30 a.m. and end at 9 a.m. is committee reports.

The agenda for the four committees in their separate meetings that will begin at 9 a.m. and end at 12 noon are:

The CAC on the American Indian and Alaska Native Populations for the 1990 Census: (1) Enumeration plans for Reservation and urban Areas, (2) development and discussion of recommendations, and (3) plans and suggested agenda items for the next meeting.

The CAC on the Asian and Pacific Islander Populations for the 1990 Census: (1) Enumerating recent immigrants, (2) development and discussion of recommendations, and (3) plans and suggested agenda items for the next meeting.

The CAC on the Black Population for the 1990 Census: (1) Enumerating inner cities and the rural South, (2) development and discussion of recommendations, and (3) plans and suggested agenda items for the next meeting.

The CAC on the Hispanic Population for the 1990 Census: (1) Enumerating recent immigrants, (2) development and discussion of recommendations, and (3) plans and suggested agenda items for the next meeting.

The agenda for the combined meeting that will begin at 1:15 p.m. and adjourn at 3:30 p.m. is: (1) Discussion of the 1990 census, and (2) presentation and discussion of committees' recommendations.

All meetings are open to the public, and a brief period is set aside on May 20 for public comment and questions. Those persons with extensive questions or statements must submit them in writing to the Census Bureau official named below at least 3 days before the meeting.

Persons wishing additional information concerning these meetings or who wish to submit written statements may contact Mr. Russell L. Valentine, Assistant Chief for Outreach and Program Information, Decennial Planning Division, Bureau of the Census, Room 3637, Federal Building 3, Suitland, Maryland. (Mailing address: Washington, DC 20233). Telephone (301)763–4356.

Dated: April 24, 1986.

John G. Keane,

Director, Bureau of the Census.

[FR Doc. 86–9604 Filed 4–28–86; 8:45 am]

BILLING CODE 3510–07–M

International Trade Administration

[A–423–601]

Mirrors in Stock Sheet and Lehr End Sizes from Belgium; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import, Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether mirrors in stock sheet and lehr end sizes (mirrors) from Belgium as described in the "Scope of Investigation" section of this notice, are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of the subject merchandise from Belgium materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before May 16, 1986, and we will

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make ours on or before September 8, 1986.

EFFECTIVE DATE: April 29, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–1769.

SUPPLEMENTARY INFORMATION:

The Petition

On April 1, 1986, we received a petition in proper form filed by the National Association of Mirror Manufacturers. The petition was filed on behalf of the United States industry producing mirrors. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Belgium are being, or are likely to be, sold in United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of an antidumping duty investigation and, further, whether it contains information reasonably available to the petitioner supporting the allegations.

We have examined the petition on mirrors from Belgium and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether mirrors are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination on or before September 8, 1986.

Scope of Investigation

The products covered by this investigation are unfinished glass mirrors 15 square feet or more in reflecting area, which have not been subjected to any finishing operation such as beveling, etching, edging, or framing, classifiable in the Tariff Schedules of the United States Annotated (TSUSA) under item 544.5400 and made of any of the glass described in TSUS items 541.11 through 544.41.

United States Price and Foreign Market Value

The petitioners based United States price on average unit values, f.o.b. origin, of U.S. imports of mirrors from Belgium derived from the Bureau of Census import statistics and price quotes obtained by U.S. manufacturers. Using prices quotes petitioners arrived at average unit values, f.o.b. origin of U.S. imports by subtracting estimated charges for ocean freight, U.S. dealer markup, insurance, customs duties and U.S. inland freight.

Petitioners based home market price on actual transaction prices delivered to Belgium wholesalers in the home market. Petitioners then compared home market price with the cost of production derived from the cost components of a Belgium mirror manufacturer. Home market prices were shown to be below cost. Therefore, petitioners have alleged sales below the cost of production. We will investigate this allegation. The petitioners, therefore, based foreign market value on a weighted-average constructed value equal to the cost of production, as derived from the Belgium manufacturer, plus eight percent profit.

Based on the comparison of these estimated values, petitioners allege average dumping margins for 1985 ranging from 19.96 percent to 39.83 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by May 16, 1986, whether there is a reasonable indication that imports of mirrors from Belgium materially injure, or threaten material injury to, a United States industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Dated: April 21, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-9500 Filed 4-28-86 8:45 am]

BILLING CODE 3510-DS-M

[A-428-603]

Mirrors in Stock Sheet and Lehr End Sizes from the Federal Republic of Germany: Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether mirrors in stock sheet and lehr end sizes from the Federal Republic of Germany (FRG), as described in the "Scope of Investigation" section of this notice, are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of the subject merchandise from the FRG materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before May 16, 1986, and we will make ours on or before September 8, 1986.

EFFECTIVE DATE: April 29, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–1769.

SUPPLEMENTARY INFORMATION:

The Petition

On April 1, 1986, we received a petition in proper form filed by the National Association of Mirrow Manufacturers. The petition was filed on behalf of the United States industry producing mirrows in stock sheet and lehr end sizes. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from the FRG are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the

Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegation necessary for the initiation of an antidumping duty investigation and, further, whether it contains information reasonably available to the petitioner supporting the allegations.

We have examined the petition on mirrors in stock sheet and lehr end sizes from the FRG and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether mirrors in stock sheet and lehr end sizes are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination on or before September 8, 1986.

Scope of Investigation

The products covered by this investigation are unfinished glass mirrors 15 square feet or more in reflecting area, which have not been subjected to any finishing operation such as beveling, etching, edging, or framing, classifiable in the Tariff Schedule of the United States Annotated (TSUSA) under item 544.5400 and made of any of the glass described in TSUS items 541.11 through 544.41.

United States Price and Foreign Market Value

The petitioner based U.S. price on actual sales or offers made by German producers to U.S. purchasers. Using this price data, the petitioner arrived at average unit values, f.o.b. origin, of U.S. imports by subtracting estimated charges for ocean freight, insurance, customs duties, and U.S. inland freight.

The petitioner based home market price on actual transaction prices, delivered to wholesalers in the FRG. The petitioner then compared home market price with an average German cost of production from the estimated cost components of German mirror producers. Since home market price was shown, on average, to be below the cost of production, there is an allegation of sales below the cost of production. We will investigate this allegation. The petitioner based foreign market value on constructed value equal to the cost of production plus eight percent profit.

Based on the comparison of these estimated values, petitioner alleges average dumping margins ranging from 12.77 percent to 47.06 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by May 16, 1986, whether there is a reasonable indication that imports of mirrors in stock sheet and lehr end sizes from the FRG materially injure, or threaten material injury to, a United States industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

April 21, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-9501 Filed 4-29-86; 8:45 am]

BILLING CODE 3501-DS

[A-475-602]

Mirrors in Stock Sheet and Lehr End Sizes From Italy: Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in a proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether mirrors in stock sheet and lehr end sizes (mirrors) from Italy as described in the "Scope of Investigation" section of this notice, are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of the subject merchandise from Italy materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before May 16, 1986, and we will make ours on or before September 8, 1986.

EFFECTIVE DATE: April 29, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–1769.

SUPPLEMENTARY INFORMATION:

The Petition

On April 1, 1986, we received a petition in proper form filed by the National Association of Mirror Manufacturers. The petition was filed on behalf of the United States industry producing mirrors. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Italy are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of an antidumping duty investigation and, further, whether it contains information reasonably available to the petitioner supporting the allegations.

We have examined the petition on mirrors from Italy and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether mirrors are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination on or before September 8, 1986.

Scope of Investigation

The products covered by this investigation are unfinished glass mirrors 15 square feet or more in reflecting area, which have not been subjected to any finishing operation such as beveling, etching, edging, or framing, classifiable in the Tariff Schedules of the United States

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Annotated (TSUSA) under item 544.5400 and made of any of the glass described in TSUS items 541.11 through 544.41.

United States Price and Foreign Market Value

The petitioners based United States price on average unit values, f.o.b. origin, of U.S. imports of mirrors from Italy derived from the Bureau of Census import statistics and price quotes obtained by U.S. manufacturers. Using price quotes petitioners arrived at average unit values, f.o.b. origin of U.S. imports by subtracting estimated charges for ocean freight, U.S. dealer markup, insurance, customs duties and U.S. inland freight.

Petitioners based home market price on price quotes for products delivered to Italian wholesalers in the home market. Petitioners then compared home market price with an average producer's cost of production derived from the cost components of an Italian mirror manufacturer. Home market price was shown to be below cost. Therefore, petitioners have alleged sales below the cost of production. We will investigate this allegation. The petitioners based foreign market value on weighted-average constructed value equal to the cost of production, as derived from an Italian manufacturer and European float glass producer, plus eight percent profit.

Based on the comparison of these estimated values, petitioners allege average dumping margins by quarters for 1985 ranging from 13.94 percent to 103 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by May 16, 1986, whether there is a reasonable indication that imports of mirrors from Italy materially injure, or threaten material injury to, a United States industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

April 21, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-9502 Filed 4-29-86; 8:45 am]

BILLING CODE 3510-DS

[A-588-603]

Mirrors in Stock Sheet and Lehr End Sizes From Japan; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether mirrors in stock sheet and lehr end sizes (mirrors) from Japan as described in the "Scope of Investigation" section of this notice, are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of the subject merchandise from Japan materially injure, or threaten material injury to, a United States industry. If the investigation proceeds normally, the ITC will make its preliminary determination on or before May 16, 1986, and we will make ours on or before September 8, 1986.

EFFECTIVE DATE: April 29, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1769.

SUPPLEMENTARY INFORMATION:

The Petition

On April 1, 1986, we received a petition in proper form filed by the National Association of Mirror Manufacturers. The petition was filed on behalf of the United States industry producing mirrors. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of an antidumping duty investigation and, further, whether it contains information reasonably available to the petitioner supporting the allegations.

We have examined the petition on mirrors from Japan and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether mirrors are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination on or before September 8, 1986.

Scope of Investigation

The products covered by this investigation are unfinished glass mirrors, 15 feet or more in reflecting area, which have not been subjected to any finishing operation such as beveling,entching, edging, or framing, classifiable in the Tariff Schedule of the United States Annotated (TSUSA) under item 544.5400 and made of any of the glass described in TSUS items 541.11 through 544.41.

United States Price and Foreign Market Value

The petitioners based United States price on average unit values, f.o.b. origin, of United States imports of mirrors from Japan derived from the Bureau of Census, Import statistics.

The petitioners based foreign market value on average unit values of delivered home market prices. Petitioners also made comparisons basing foreign market value on weighted-average constructed value.

Based on the comparison of these estimated values, petitioners allege average dumping margins ranging from 24.39 percent to 70.05 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by May 16, 1986, whether there is a reasonable indication that imports of mirrors from Japan materially injure, or threaten material injury to, a United States industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

April 21, 1986.

[FR Doc. 86-9503 Filed 4-29-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-471-601]

Mirrors in Stock Sheet and Lehr End Sizes From Portugal; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether mirrors in stock sheet and lehr end sizes from Portugal as described in the "Scope of Investigation" section of this notice, are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of the subject merchandise from Portugal materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before May 16, 1986, and we will make ours on or before September 8, 1986.

EFFECTIVE DATE: April 29, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigation, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1759.

SUPPLEMENTARY INFORMATION:

information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by May 16, 1986, whether there is a reasonable indication that imports of mirrors from Japan materially injure, or threaten material injury to, a United States industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

April 21, 1986.

[FR Doc. 86-9503 Filed 4-29-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-471-601]

Mirrors in Stock Sheet and Lehr End Sizes From Portugal; Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether mirrors in stock sheet and lehr end sizes from Portugal as described in the "Scope of Investigation" section of this notice, are being, or are likely to be, sold in the United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of the subject merchandise from Portugal materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before May 16, 1986, and we will make ours on or before September 8, 1986.

EFFECTIVE DATE: April 29, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigation, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-1759.

SUPPLEMENTARY INFORMATION:

The Petition

On April 1, 1986, we received a petition in proper form filed by the National Association of Mirror Manufacturers. The petition was filed on behalf of the United States industry producing mirrors in stock sheet and lehr end sizes. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from Portugal are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material material injury to, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of an antidumping duty investigation and, further, whether it contains information reasonably available to the petitioner supporting the allegations.

We have examined the petition on mirrors in stock sheet and lehr end sizes from Portugal and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumpting duty investigation to determine whether mirrors in stock sheet and lehr end sizes are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination on or before September 8, 1986.

Scope of Investigation

The products covered by this investigation are unfinished glass mirrors 15 square feet or more in reflecting area, which have not been subjected to any finishing operation such as beveling, etching, edging, or framing, currently classifiable in the Tariff Schedules of the United States Annotated (TSUSA) under item 544.5400 and made of any of the glass decribed in TSUS items 541.11 through 544.41.

United States Price and Foreign Market Value

The petitioner based United States price on average unit values, f.o.b. origin, of United States imports of mirrors from Portugal as derived from the Bureau of Census import statistics.

The petitioner based foreign market value on average unit values of import prices of European Economic Community mirrors as being representative of prices in the home market. Petitioner also made comparisons basing foreign market value on weighted-average constructed value.

Based on the comparison of these estimated values, the alleged average dumping margins range from 57.15 percent to 68.13 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by May 16, 1986 whether there is a reasonable indication that imports of mirrors in stock sheet and lehr end sizes from Portugal materially injure, or threaten material injury to, a United States industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

April 21, 1986.

[FR Doc. 86-9504 Filed 4-29-86; 8:45 am]

BILLING CODE 3510-D-M

[A-412-601]

Mirrors in Stock Sheet and Lehr End Sizes From the United Kingdom: Initiation of Antidumping Duty Investigation

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating an antidumping duty investigation to determine whether mirrors in stock sheet and lehr end sizes from the United Kingdom (U.K), as described in the "Scope of Investigation" section of this notice, are being, or are likely to be, sold in the

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United States at less than fair value. We are notifying the United States International Trade Commission (ITC) of this action so that it may determine whether imports of the subject merchandise from the U.K materially injure, or threaten material injury to, a United States industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before May 16, 1986, and we will make ours on or before September 6, 1986.

EFFECTIVE DATE: April 29, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone (202) 377-1769.

SUPPLEMENTARY INFORMATION:

The Petition

On April 1, 1986, we received a petition in proper form filed by the National Association of Mirror Manufacturers. The petition was filed on behalf of the United States industry producing mirrors in stock sheet and lehr end sizes. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from the U.K. are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a United States industry.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of an antidumping duty investigation and, further, whether it contains information reasonably available to the petitioner supporting the allegations.

We have examined the petition on mirrors in stock sheet and lehr end sizes from the U.K. and have found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether mirrors in stock sheet and lehr end sizes are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination on or before September 6, 1986.

Scope of Investigation

The products covered by this investigation are unfinished glass mirrors 15 square feet or more in reflecting area, which have not been subjected to any finishing operation such as beveling, etching, edging, or framing, classifiable in the Tariff Schedules of the United States Annotated (TSUSA) under item 544.5400 and made of any of the glass described in TSUS items 541.11 through 544.41.

United States Price and Foreign Market Value

The petitioner based U.S. price on actual sales or offers made by a U.K. producer to U.S. purchasers. Using this price data, the petitioner arrived at average unit values, f.o.b. origin, of U.S. imports by subtracting estimated charges for ocean freight, insurance, customs duties, and U.S. inland freight.

The petitioner based foreign market value on transaction prices, delivered to wholesalers in the United Kingdom.

Based on the comparison of these estimated values, the petitioner alleges average dumping margins ranging from 50.01 percent to 60.35 percent.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by May 16, 1986, whether there is a reasonable indication that imports of mirrors in stock sheet and lehr end sizes from the U.K. materially injure, or threaten material injury to, a United States industry. If its determination is negative, this investigation will terminate; otherwise, it will proceed according to the statutory procedures.

April 23, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-9565 Filed 4-28-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-806]

Certain Small Diameter Welded Carbon Steel Pipes and Tubes From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that certain small diameter welded carbon steel pipes and tubes (pipes and tubes) from the People's Republic of China (PRC), are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend the liquidation of all entries of pipes and tubes from the PRC that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by July 7, 1986.

EFFECTIVE DATE: April 29, 1986.

FOR FURTHER INFORMATION CONTACT: Jess M. Bratton or John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 377-1778, or (202) 377-3965.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that pipes and tubes from the PRC are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The margin preliminarily found for the company investigated is listed in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make our final determination by July 7, 1986.

Case History

On November 13, 1985, we received a petition filed in proper form from the Standard Pipe Subcommittee of the Committee on Pipe and Tube Imports and by each of the member companies which produces standard pipe and tube on behalf of the U.S. industry producing pipes and tubes. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleges that imports of the subject merchandise from the PRC are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673), and that these imports are materially injuring, or threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigation on December 3, 1985 (50 FR 51274), and notified the ITC of our action.

On December 30, 1985, the ITC found that there is a reasonable indication that imports of pipes and tubes from the PRC are threatening material injury to a U.S. industry (U.S. ITC Pub. No. 1796, December, 1985).

On January 16, 1986 a questionnaire was sent to the China National Metals and Minerals Import and Export Corporation (Minmetals), which accounted for more than 80 percent of the exports of standard pipe and tube from the PRC during the period of investigation.

On February 21, 1986 and on April 9, 1986, Minmetals filed a response to our questionnaire.

Scope of Investigation

The products covered by this investigation are small diameter welded carbon steel pipes and tubes of circular cross-section, 0.375 inch or more but not over 16 inches in outside diameter, currently classifiable in the *Tariff Schedules of the United States Annotated* (TSUSA), under items 610.3231 and 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258 and 610.4925. These products are commonly referred to in the industry as standard pipes or tubes produced to various ASTM specifications, most notably A-120, A-53 or A-135.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value. For foreign market value, we used best information available as required by section 776(b) of the Act.

United States Price

As provided in section 772 of the Act, we calculated the purchase price of pipes and tubes based on the C&F packed price to unrelated United States purchasers shown in the response submitted by Minmetals. We made a deduction for ocean freight.

Foreign Market Value

In accordance with section 773(c) of the Act, we used prices of pipes and tubes imported into the United States from Argentina as the basis for determining foreign market value.

Petitioners alleged that the PRC is a state-controlled-economy country and that sales of the subject merchandise in that country do not permit a determination of foreign market value under section 773(a). After an analysis of the PRC economy, and consideration of the briefs submitted by the parties, we concluded that the PRC is a state-controlled-economy country for the purpose of this investigation. Central to our decision on this issue is the fact that the central government of the PRC controls the prices and levels of production of pipes and tubes or steel products as well as the internal pricing of the factors of production.

As result, section 773(c) of the Act requires us to use either the prices of or the constructed value of such or similar merchandise in a non-state-controlled-economy country. Our regulations establish a preference for foreign market value based upon sales prices. They further stipulate that, to the extent possible, we should determine sales prices on the basis of prices in a non-state-controlled-economy country at a stage of economic development comparable to the state-controlled-economy country.

After an analysis of the economies of countries producing standard pipe and tube, we determined that Egypt, India, Indonesia, Morocco, Pakistan, the Philippines, Sri Lanka and Thailand were the countries at the most comparable stages of economic development, and it would, therefore, be appropriate to base foreign market value on prices of companies in these countries. The companies we sent questionnaires to in these countries have not responded.

Lacking price information from companies in countries at a level of economic development comparable to that of the PRC, we have based foreign market value on the prices of imports of the same class or kind of merchandise into the United States. Of the countries exporting pipe and tube to the United States, we chose Argentina since it was at the most comparable level of economic development to the PRC. We have based foreign market value on the weighted-average C&F price of pipe and tube from Argentina for export to unrelated purchasers in the United States. We gathered weighted-average price information from Special Summary Steel Invoice (SSSI) statistics, which was best information available and made a deduction for ocean freight. We made comparisons of merchandise of the same size and grade as that which the PRC exported to the United States.

In arriving at the decision to use the price of Argentine exports to the United States as the basis of foreign market value, we considered using the exports of several other countries. However, these other countries were signatories of voluntary restraint agreements (VRA) with the United States. Since under the terms of a VRA the amount of goods a country may export to the United States is limited, it is possible that these VRAs lead to an increase in the prices manufacturers in these countries charge. Therefore, we decided, for the purpose of this preliminary determination, not to base foreign market value on the value of goods from VRA countries.

We are continuing to review this issue realizing that of countries exporting to the United States, those considered most comparable to the state-controlled-economy countries under investigation may be covered by VRAs or, indeed, all countries exporting the goods under investigation to the United States may be covered by VRAs. In situations such as this, we have tried to use a country, such as Argentina in this case, which is not covered by a VRA but is an exporter of the goods under investigation and has the most comparable level of economic development to the country subject to the investigation. Because this issue is still under review, we invite all interested parties' comments on this matter as they relate to section 773(c) of the Act. Comments should be directed to the Deputy Assistant Secretary for Import Administration within 30 days of the date of publication of this notice.

Verification

As provided in section 776(a) of the Act, we will verify all information used in reaching our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of pipes and tubes from the PRC that are entered, or withdrawn from warehouse, for consumption, on or after the date of

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publication of this notice in the Federal Register. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amounts by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
Mitsubishi	17.97
All Others	17.97

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on May 28, 1986 at the United States Department of Commerce, Room 3708, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by May 21, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

April 22, 1986.

[FR Doc. 86-9497 Filed 4-28-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-565-501]

Certain Small Diameter Welded Carbon Steel Pipes and Tubes From the Philippines: Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that certain small diameter welded carbon steel pipes and tubes (pipes and tubes) from the Philippines, are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to suspend the liquidation of all entries of pipes and tubes from the Philippines that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

If this investigation proceeds normally, we will make a final determination by July 7, 1986.

EFFECTIVE DATE: April 29, 1986.

FOR FURTHER INFORMATION CONTACT: Mary J. Jenkins or John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-1756, or (202) 377-3965.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that pipes and tubes from the Philippines are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The margin preliminarily found for the company investigated is listed in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make our final determination by July 7, 1986.

Case History

On November 13, 1985, we received a petition filed in proper form from the Standard Pipe Subcommittee on the Committee on Pipes and Tubes Imports and by each of the member companies who produce standard pipe and tube on behalf of the U.S. industry producing pipes and tubes. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353:36), the petition alleges that imports of pipe and tube from the Philippines are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act (19 U.S.C. 1673), and that these imports are materially injuring, or threatening material injury to, a U.S. industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigation on December 3, 1985 (50 FR 51274), and notified the ITC of our action.

On December 30, 1985, the ITC found that there is a reasonable indication that imports of standard pipes and tubes from the Philippines are threatening material injury to a U.S. industry.

On February 3, 1986, a questionnaire was presented to Goodyear Steel Pipe Corporation (Goodyear) and on February 18, 1986, a questionnaire was sent to Mitsubishi International Corporation.

On March 18, 1986, Mitsubishi submitted a response to our questionnaire. On April 15, 1986, Mitsubishi submitted a supplemental response. We have not yet received a response from Goodyear, the Philippine producer of the majority of imports of pipes and tubes to the United States from the Philippines.

Scope of Investigation

The products covered by this investigation are small diameter welded carbon steel pipes and tubes of circular cross-section, 0.375 inch or more but not over 16 inches in outside diameter, currently classifiable in the *Tariff Schedules of the United States Annotated* (TSUSA), under items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925. These products are commonly referred to in the industry as standard pipes and tubes produced to various ASTM specifications, most notably A-120, A-53 or A-135.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value. For foreign market value we used the best information available as required by section 776(b) of the Act.

We made comparisons of virtually all of the sales of the pipe and tube exported to the United States during the period June 1, 1985 through November 30, 1985.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise imported by Mitsubishi, the U.S. importer, to represent the United States price because all elements of the merchandise were sold prior to the date of importation to unrelated purchasers in the United States.

Mitsubishi purchased raw material in Taiwan and had it shipped to Goodyear in the Philippines for processing. We took as the purchase price, the processing fee Goodyear charged Mitsubishi.

Foreign Market Value

In accordance with section 776(b) of the Act, we used best information available to determine foreign market value. We used the home market prices, reported by the petitioners, at which Goodyear sold or offered for sale its products in the home market during October 1985. From the home market price, we subtracted the cost of raw material as reported by Mitsubishi to arrive at a home market price for processing for both black plain ended and black coupled and threaded standard pipes and tubes.

Because we made fair value comparisons on the basis of processing charges in the home and U.S. markets, the resulting differences have been multiplied by a coefficient equalling the proportion for which processing accounts in the value of pipes and tubes delivered to Mitsubishi to arrive at the margins for individual sales.

Verification

If we receive a timely and adequate response from Goodyear, as provided in section 776(a) of the Act, we will verify all information used in reaching our final determination.

Suspension of Liquidation

In accordance with section 733(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of pipes and tubes from the Philippines that are entered, or withdrawn from warehouse, for consumption, on or after the date of publication of this notice in the Federal Register. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amounts by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect unitl further notice.

Manufacturer/producer/exporter	Weighted-average margin percentage
Goodyear steel pipe corporation	10.2
All others	10.2

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determination or 45 days after we make our final affirmative determination.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on May 26, 1986 at the United States Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by May 19, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with C.F.R. 353.46 within 30 days of this notice's publication, at the above address and in at least 10 copies.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

April 22, 1986.

[FR Doc. 86-9498 Filed 4-28-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-559-502]

Certain Welded Carbon Steel Small Diameter and Light-Walled Rectangular Pipes and Tubes from Singapore: Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: We have preliminarily determined that certain welded carbon steel small diameter and light-walled rectangular pipes and tubes (small diameter and LWR pipes and tubes, respectively) from Singapore, are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determinations. We have also directed the U.S. Customs Service to suspend the liquidation of all entries of small diameter and LWR pipes and tubes from Singapore that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margins as described in the "Suspension of Liquidation" section of this notice.

If these investigations proceed normally, we will make final determinations by July 7, 1986.

EFFECTIVE DATE: April 29, 1986.

FOR FURTHER INFORMATION CONTACT: Francis R. Crowe or John Brinkmann, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230;

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telephone: (202) 377-1758, or (202) 377-3965.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

We have preliminarily determined that small diameter and LWR pipes and tubes from Singapore are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The margins preliminarily found for the company investigated are listed in the "Suspension of Liquidation" section of this notice. If these investigations proceed normally, we will make our final determinations by July 7, 1986.

Case History

On November 13, 1985, we received a petition filed in proper form from the Standard Pipe and Tube Subcommittee of the Committee on Pipe and Tube Imports (CPTI) and by each of the individual manufacturers of these products that are members of each respective subcommittee on behalf of the U.S. industry producing small diameter, LWR and heavy-walled rectangular pipes and tubes. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of small diameter, LWR and heavy-walled rectangular pipes and tubes from Singapore are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry. The petition also alleged that the subject merchandise is being sold at prices below the cost of production in the home market.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate antidumping duty investigations. We initiated the investigations on December 3, 1985 (50 FR 50853), and notified the ITC of our actions.

On December 30, 1985, the ITC found that there is a reasonable indication that imports of small diameter and LWR pipes and tubes from Singapore are materially injuring a U.S. industry. It also found that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from Singapore of heavy-walled rectangular pipes and tubes (U.S. ITC Pub. No. 1798, December 1985).

On January 22, 1986, a questionnaire was presented to Steel Tubes of Singapore (PTE), Ltd. (STS). On April 14, 1986, STS filed a response to our questionnaire.

Scope of Investigations

The products covered by these investigations are small diameter, welded carbon steel pipes and tubes of circular cross-section, 0.375 inch or more but not over 16 inches in outside diameter currently classifiable in the *Tariff Schedules of the United States Annotated* (TSUSA), under items 610.3231 and 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258 and 610.4925. These products are commonly referred to in the industry as small diameter pipes or tubes produced to various ASTM specifications, most notably A-120, A-53 or A-135.

The light-walled rectangular pipes and tubes are mechanical pipes and tubes or welded carbon steel pipes and tubes of rectangular (including square) cross-section having a wall thickness of less than 0.156 inch as provided for in item 610.4928 of the TSUSA.

Fair Value Comparison

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price because the merchandise was sold prior to the date of importation to unrelated purchasers in the United States. We calculated the purchase price based on the delivered price to unrelated purchasers in the United States. We made deductions for foreign inland freight and port charges, ocean freight, insurance, U.S. import duty and port charges, as applicable.

Because of irregularities in STS's computer generated sales data, we encountered difficulties in using that data for sales comparisons. We were able to modify the data on sales of small diameter pipes and tubes and to compare all of those sales. However, we were unable to process the data on sales of LWR by computer. Therefpre, we sampled the LWR sales and are basing the preliminary determination with respect to those sales on approximately 30 percent, by quantity, of the sales of LWR. Given the deficient conditions of the data files submitted and the statutory time constraints for this determination, we considered this the best information available for this preliminary determination. We are requesting that STS revise its computer generated sales response in order to enable us to use it for the final determination.

Foreign Market Value

Petitioners alleged that sales in the home market were made at prices which were below the cost of production over an extended period of time and were at prices which did not permit recovery of all costs within a reasonable period of time in the normal course of trade. Therefore, we compared home market prices to the cost of production of the merchandise.

After a review of the response, we concluded that cost data in the response were inadequately explained and insufficiently labeled. Therefore, the Department added all cost items which appeared to be part of the costs of production reported in the response. The costs of production determined by this method exceeded the total costs of production presented in the response. In addition, the appropriateness of the respondent's overhead allocation method was questionable. However, we used the respondent's reported overhead costs because the overhead data, as presented, did not allow re-allocation of overhead costs for the preliminary determination. The Department will carefully examine the allocation methodology, as well as actual overhead costs, during the verification in order to assure that all overhead costs are properly attributed to the product.

In accordance with section 773(e) of the Act, we calculated foreign market value based on constructed value because there were not sufficient home market sales of such or similar merchandise above the cost of production. Because the general expenses reported were above the statutory minimum of 10 percent of the sum of material and production costs, we used the actual general expenses. As we have been unable to determine from the response what the profit is for the same general class or kind of merchandise, for purpose of this preliminary determination we are using the statutory minimum of eight percent.

We made currency conversions in accordance with § 353.56(a)(1) of the Commerce Regulations, using certified exchange rates as furnished by the Federal Reserve Bank of New York.

Verification

As provided in section 776(a) of the Act, we will verify all information used in reaching our final determination.

Suspension of Liquidation

In accordance with section 744(d) of the Act, we are directing the United States Customs Service to suspend liquidation of all entries of small diameter and LWR pipes and tubes from Singapore that are entered, or withdrawn from warehouse, for consumption on or after date of publication of this notice in the Federal Register. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amounts by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer producer/exporter	Weighted-average margin percentage
Steel Tubes of Singapore (PTE), Ltd:	
Small diameter pipe and tubes	25.47
Light-walled rectangular pipes and tubes	38.08
All others:	
Small diameter pipes and tubes	25.47
Light-walled rectangular pipes and tubes	38.08

ITC Notification

In accordance with section 733(f) of the Act, we will notify the ITC of our determinations. In addition, we are making available to the ITC all nonprivileged and nonconfidential information relating to these investigations. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry before the later of 120 days after we make our preliminary affirmative determinations or 45 days after we make our final affirmative determinations.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on these preliminary determinations at 10:00 a.m. on May 27, 1986 at the United States Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed.

In addition, prehearing briefs in at least 10 copies must be submitted to the Deputy Assistant Secretary by May 20, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with CFR 353.46, within 30 days of this notice's publication, at the above address and in at least 10 copies.

April 22, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-9499 Filed 4-28-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-503]

64K Dynamic Random Access Memory Components (64K DRAM's) From Japan: Final Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration/Import Administration/ Commerce.

ACTION: Notice.

SUMMARY: We have determined that 64K DRAMs from Japan are being, or are likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. We have also directed the U.S. Customs Service to continue to suspend the liquidation of all entries of 64K DRAMs from Japan that are entered, or withdrawn from warehouse, for consumption, on or after December 11, 1985 and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: April 29, 1986.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Karen Sackett, or Paul Thran, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 377-3965, 377-5050, or 377-3963.

Final Determination

We have determined that 64K DRAMs from Japan are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673(a)) (the Act). We made fair value comparisons on almost all sales of the class or kind of merchandise to the United States by the respondents during the period of investigation. We excluded from our fair value comparisons U.S. sales of certain 64K DRAMs sold in insignificant quantities. The weighted-average margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

On June 24, 1985, we received a petition from Micron Technology, Inc. on behalf of the domestic merchant manufacturers of 64k DRAMs. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of 64k DRAMs from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to a United States industry. The petition also alleged that sales of the subject merchandise were being made in the home market at less than the cost of production. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We notified the ITC of our action and initiated such an investigation on July 15, 1985 (50 FE 29458). On August 8, 1985, the ITC determined that there is a reasonable indication that imports of 64k DRAMs from Japan are materially injuring, or are threatening material injury to, a U.S. industry (50 FR 32778).

On August 19, we presented antidumping duty questionnaries to NEC Corporation (NEC), Hitachi Ltd. (Hitachi), Oki Electric Industry Co. Ltd. (Oki) and Mitsubishi Electric Corporation (Mitsubishi). Respondents were requested to answer the questionnaire in 30 days. However, at the requests of the companies and the Japanese Ministry of International Trade and Industry, we granted two extensions of time for response submissions of two weeks and one week respectively. We received incomplete responses from the companies on October 10-11, 1985. In letters dated November 6, 12, and 13, the Department requested supplemental information

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from each of the respondents. Additional information was submitted by the respondents on November 21, 1985.

On December 11, 1985, we published a preliminary determination that 64K DRAMs from Japan were being sold at less than fair value in the United States (50 FR 50649).

After the preliminary determination, all of the respondents in this investigation requested an extension of the final determination date until not later than April 23, 1986. The respondents were qualified to make such a request since they accounted for a significant proportion of exports of the merchandise to the United States. If exporters who account for a significant proportion of exports of the merchandise under investigation properly request an extension after an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Accordingly, we granted the request and postponed our final determination on January 3, 1986 (51 FR 234).

Between January 10 and March 22, 1986, we verified the information provided by respondents at their facilities in Japan and the United States. On March 10, 1986, we held a hearing to provide all interested parties with an opportunity to comment on the investigation.

Products Under Investigation

The products covered by this investigation are all 64K dynamic random access memory components of the N-channel metal oxide semiconductor type (64K DRAMs) from Japan. This merchandise is currently provided for in item 687.7441 of the *Tariff Schedules of the United States Annotated*. We investigated sales of 64K DRAMs during the period January 1 through June 30, 1985.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price to the foreign market value for all companies. We used data provided in their responses, as explained in the "Foreign Market Value" section of this notice, except where otherwise noted.

We used date of shipment as the date of sale as that was the first date on which a binding commitment to sell the subject merchandise can be said to have occurred, as explained more fully in the comment section of this notice. All companies provided shipment dates for U.S. sales. Hitachi, Mitsubishi, and Oki provided shipment dates for home market sales as well. NEC provided only order dates for its home market sales. However, examination of individual NEC home market sales showed that the average length of time between order and shipment in the home market was substantially less than 30 days. Therefore, we determined that NEC's home market order date was a reasonable indication of shipment date, and we used that as best information available.

United States Price

For certain Hitachi sales we used the purchase price of the subject merchandise to represent United States price, as provided in section 772(b) of the Act, since the merchandise was sold to unrelated purchasers prior to its importation into the United States. For other Hitachi sales and sales by all other respondents, we used exporter's sales price (ESP) to represent United States price, in accordance with section 772(c) of the Act, as the merchandise was sold after the time of importation.

We calculated purchase price and ESP based on the packed, duty paid, C.I.F. prices to unrelated purchasers in the United States.

For purchase price, we made deductions for foreign inland freight and insurance, air freight, marine insurance, brokerage charges in Japan and the United States, and U.S. duty. For ESP, where appropriate, we made deductions for brokerage charges in Japan and the United States, foreign inland freight and insurance, air freight and insurance, U.S. duty, U.S. freight and insurance, commissions to unrelated parties, U.S. selling expenses incurred in the U.S. and Japan, credit expenses, warranties, advertising, royalties, and post-shipment price adjustments in the U.S. market. As Oki had no U.S. short-term borrowing, we used the U.S. prime rate for the first and second quarter of 1985 as the best information available in calculating Oki's U.S. credit expense.

Foreign Market Value

The petitioner alleged that sales in the home market by all the respondents were at prices below the cost of producing the merchandise.

In accordance with section 773(a) of the Act, for all companies, we calculated foreign market value based on home market prices where there were sufficient home market sales at or above the cost of production to determine foreign market value. We used constructed value as the basis for calculation foreign market value where there were no sales of such or similar merchandise in the home market or where there were insufficient sales above the cost of production, as defined in section 773(b) of the Act.

Where foreign market value was based on home market prices, we calculated a foreign market value for each product group for each month of the period of investigation, due to sharp declines in monthly prices. Where foreign market value was based on constructed value, we used a quarterly constructed value for each product group.

Since the production of 64K DRAMs was not at the developmental stage but rather at a mature stage of production, the Department used quarterly costs as the basis for the constructed value. The Department considered the significant changes in cost from quarter to quarter, the length of time for production, and the average inventory level of 64K DRAMs in order to appropriately match the sales data to the cost data. We concluded that the average costs of manufacturing incurred in the quarter proceding the sale most accurately reflected the costs of the product sold. Accordingly, the Department based its cost of production on the average manufacturing cost for the prior quarter and general expenses for the quarter in which the sale took place.

Cost of Production

In determining the cost of production for the respondents, the Department relied on the submissions, when verified and appropriately valued, and adjusted such data when certain costs necessary for the production of 64K DRAMs were not verified, not included, or not appropriately quantified or valued.

The Department analyzed industry practices of accounting for the equipment used to produce 64K DRAMs and concluded that the accelerated method of depreciation based on a five-year useful life was appropriate. In reaching this conclusion, the Department considered the characteristics of the industry which show rapid changes in manufacturing technology and a relatively brief market life for the 64K DRAM integrated circuits.

The Department included, as part of the depreciation expense, additional depreciation which was expensed when a company utilized the equipment in excess of normal production hours and when such expense was reflected on its records.

The Department's method of accounting for research and development (R&D) expenses encompassed the historic R&D for 64K DRAMs allocated over the market life of the product, which was considered part of the cost of manufacturing, and a proportional share of the current product line R&D and general R&D, which were considered to be part of the general expenses.

NEC

The following adjustments were made to the cost of production information presented in NEC's response:

For the cost of manufacturing:

1. An amount, based on "best information available" for product-specific research and development was included because the submitted costs of manufacturing did not include product-specific research and development.
2. Special depreciation which was reported in the respondent's financial statements, but omitted from their response, was added to the cost of manufacture.
3. Certain manufacturing costs which were double-counted for one product were revised.

For the general expenses:

1. General and administrative expenses were revised because the response did not fully allocate general expenses incurred by the respondent's subsidiaries to the 64K DRAMs.
2. Interest expenses were revised because the submitted expenses did not include an appropriate allocation of credit expenses attributable to sales of 64K DRAMs.
3. Indirect selling expenses related to the sales subsidiaries were included instead of the amount in the submission.
4. Financial expenses were recalculated to exclude investment income and to include credit expenses attributable to sales of 64K DRAMs.
5. Rebate expenses were excluded.

Mitsubishi

The following adjustments were made to the cost of production information presented in Mitsubishi's response:

For the cost of manufacturing:

1. The costs of certain subcontractors were adjusted to reflect the costs shown on the respondent's records.
2. Royalty payments on patents related to the production of 64K DRAMs were reclassified from general expenses to cost of manufacturing.
3. Depreciation expense was readjusted to reflect the respondent's method used in the ordinary course of business, and which the Department accepted as the method to be used for calculating the cost of production instead of the adjusted method used for the preparation of the response.

For the general expenses:

1. A proportional share of the corporate interest expense and the credit expenses attributable to sales of 64K DRAMs were included.
2. Corporate advertising which was included in the company records but not included in the submission was included.
3. Home market selling expenses were used instead of the amount in the submission.

Oki

The following adjustments were made to the cost of production information presented in Oki's response:

For the cost of manufacturing:

1. Depreciation expense was readjusted to reflect the respondent's method used in the ordinary course of business, which the Department accepted as the method to be used for calculating the cost of production, instead of the adjusted method used for the preparation of the response.
2. The difference resulting from correctly calculating the material variance by using materials consumed, not materials purchased, was included.
3. The miscalculation of the material variance was corrected and the results were included.
4. A six-month favorable labor variance was proportionately reallocated to the relevant quarters.
5. The yield variance was restated because the Department did not accept the credit adjustment made by the company to its March yield variance for reentering retest devices into production.
6. Royalty expense was added.
7. Historic product-specific R&D was included, because the respondent had not included this cost in its calculations. This R&D amount for the period of investigation was divided between the 64K DRAM sales and royalty income. The amount applicable to 64K DRAMs was included.

For the general expenses:

1. Home market selling expenses were used instead of the allocated selling expenses included in the submission.
2. General and administrative expenses were revised to reflect an allocation based on cost of sales rather than sales revenues.
3. Interest expense was revised to reflect an allocation based on cost of sales rather than sales revenues and to include an appropriate allocation of credit expenses attributable to sales of 64K DRAMs.
4. Royalty income was not used to offset interest expense.
5. "Best information available" was developed for product-line R&D because such amount had not been included in the submission.

Price to Price Comparisons

For each company examined, we found sufficient sales above the cost of production for certain product groups to allow use of home market prices to determine foreign market value in accordance with section 773(a)(1)(A) of the Act. We used home market prices for identical merchandise sold in the United States as the basis for foreign market value. We calculated the home market price on the basis of the F.O.B. price to unrelated purchasers. When we compared purchase price to foreign market value, we made deductions, where appropriate, for foreign inland freight and insurance, discounts and rebates. We also made adjustments, where appropriate, for differences in circumstances of sale for credit terms, in accordance with § 353.15 of our regulations. On purchase price sales by Hitachi, we offset commissions paid on U.S. sales with indirect selling expenses in the home market, in accordance with § 353.15(c) of our regulations.

When we compared ESP with foreign market value, we made deductions, where appropriate, for foreign inland freight and insurance, advertising, credit expenses, direct selling expenses, discounts, rebates, and commissions. We also used indirect selling expenses in the home market to offset United States selling expenses, in accordance with § 353.15(c) of our regulations.

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For both purchase price and ESP, in order to adjust for differences in packing between the two markets, we deducted home market packing costs and added U.S. packing costs to the home market prices.

We disallowed deductions for inland freight between Hitachi and its subsidiaries, because we considered this expense an intra-company transfer and included it in the cost of production. We also disallowed technical servicing expenses incurred by Hitachi since these could not be tied to particular sales during the period of investigation.

Constructed Value

In accordance with section 773(e) of the Act, we calculated foreign market value based on constructed value when there were not sufficient home market sales above the cost of production of such or similar merchandise for the purpose of comparison. For constructed value, the Department used the cost of all materials, fabrication, general expenses, and profit based on the respondents submissions, revised, as detailed under the "Cost of Production" section of this notice. Actual general expenses were used, since in all cases, such expenses exceeded the statutory minimum of 10 percent of materials and fabrication. Only one respondent provided verifiable profit data. This figure exceeded the eight percent statutory minimum for profit. Since the other respondents were unable to provide verifiable profit data, we used the best information available for them, which was the verified profit of the one firm which provided an adequate profit submission. We made adjustments under § 353.15 of the regulations for differences in credit and royalties between the two markets.

Where there were commissions in one market and not in the other, we offset the commissions with indirect selling expenses in the other market. We also used indirect selling expenses in the home market to offset United States selling expenses, in accordance with § 353.15(c) of our regulations.

Currency Conversion

In calculating foreign market value, we made currency conversions from Japanese yen to U.S. dollars in accordance with § 353.56(a) of our regulations, using the certified daily exchange rates for comparisons involving purchase price. For ESP comparisons, we used the official exchange rate for the date of sale, which we determined was the date of shipment, since the use of that exchange rate is consistent with section 615 of the Trade and Tariff Act of 1984 (1984 Act). We followed section 615 of the 1984 Act rather than § 353.56(a)(2) of our regulations because the later law supersedes that section of the regulations.

Verification

We verified the information used in making our final determination in accordance with section 776(a) of the Act. We used standard verification procedures, including examination of relevant sales and financial records of each company.

Respondents' Comments

Hatachi Comment 1: Hitachi claims that the constructed value used by the Department for its preliminary determination included adjustments which were not appropriate and which should not be used for the final determination. These adjustments included: (1) Changing Hitachi's depreciation expense; (2) erroneously including product-specific R&D; and (3) revising Hitachi's reported general expenses which encompassed the general R&D, interest expense, and selling, general and administrative expenses (SG&A).

DOD Response: The Department reviewed the respondent's submission. For the preliminary determination, in those areas where costs did not appear to be appropriately stated, the Department adjusted these costs by using "best information available." The adjustments were described in the Department's preliminary determination notice. For the final determination, the Department used the respondent's information when such data was verified, appropriately quantified and valued, as noted in the "Cost of Production" section of this notice.

Hitachi Comment 2: Hitachi states that since the allocation method used to calculate product-specific R&D was verified, the Department should accept its submitted amount for R&D.

DOD Response: The Department accepted the methodology used by Hitachi for calculating product-specific R&D costs. However, the company's method of calculating product-line R&D for the product was unacceptable, and "best information available" was used for this amount.

Hitachi Comment 3: Hitachi states that it was justified in not providing five-year yield experience.

DOC Response: The information requested by the verifier should have been provided. The Department requested the five-year yield experience to allow it to review more fully the current yield and historic R&D information.

Hitachi Comment 4: Hitachi claims that its right to a hearing was compromised by the Department's failure to provide a timely constructed value verification report.

DOC Response: The Department afforded adequate time for all parties to comment on the constructed value verification report prior to the final determination.

Hitachi Comment 5: Hitachi argues that Motorola's cost model for 64K DRAMs is based on fundamentally fallacious assumptions and should not be considered by the Department in reviewing Hitachi's actual costs.

DOC Response: The Department considers and analyzes all information presented by the petitioners, respondents, and interested parties. The Department notes that the underlying assumptions of the cost model presented by Motorola were reviewed by the Department specifically when analyzing the relevance of the individual cost elements of the model.

Hitachi Comment 6: Hitachi points out that the petitioner's suggestion to "lag" production costs to sales prices is not valid, because there is no statutory basis for doing so and there is no justification for artificially fixing costs at the initial stage of the production process.

DOC Response: The Department concluded that a quarterly lag between sales and cost of manufacturing was appropriate. By establishing this lag, the Department is not artificially fixing costs at the initial stage of production process but rather matching the cost incurred to the sales. Such an approach is justified by section 773(e)(1) of the Act, which provides that constructed value should be based on costs "at a time preceding the date of exportation of the merchandise under consideration which would ordinarily permit the production of that particular merchandise in the ordinary course of business."

Hitachi Comment 7: Hitachi argues that it used the appropriate sale dates in both markets when it reported a) the date of shipment as date of sale for U.S. sales and b) the date that purchase orders were entered into Hitachi's central computer as the date of sale for home market sales. With respect to the U.S. date of sale, Hitachi argues that, under U.S. law, a mere offer to purchase is not a contract;

a contract requires an acceptance as well. Therefore, it is not until a legally recognized acceptance is given that a price is "confirmed" between parties to a contract. Acceptances can come in several different forms, including actual performance in accordance with the terms of the offer, e.g., by shipment of goods in the case of a sales contract. Since Hitachi does not normally acknowledge purchase orders, its normal acceptance of an order occurs when the order is actually shipped. Thus, date of shipment appropriately defines Hitachi's date of sale for purposes of sales in the United States.

By contrast, Hitachi argues that, in Japan, in certain situations, an offer is automatically deemed accepted if it is not promptly rejected. Hitachi cited Article 509 of Japanese Commercial law on this point. Thus, Hitachi argues that it is appropriate to report Japanese sales by reference to the date the order was entered into the company's central computer, which is normally soon after the order is received, since this is a rational basis for determining when a particular price has been "confirmed."

DOC Response: In general, the contract type of analysis set forth by Hitachi would be relevant in determining when a "sale" occurs for purposes of the antidumping laws. Here, however, the Department has determined that, in this particular industry, and during the time period investigated, neither party to a purchase order intended it to be a "binding agreement" or treated it as such. This was true for both the U.S. and home-market transactions. The Department reached this conclusion based on the fact that during the time-period investigated, there were significant cancellations of 64K DRAMs orders by both parties, without any sanctions or penalties whatsoever, and frequent price revisions to reflect rapidly declining market prices. Such cancellations and revisions occurred even *after* shipment of the goods in question. Thus, the Department used date of shipment for home-market sales since that was the earliest point in the transaction at which any sort of binding commitment may be inferred. The Department determined that it would be inappropriate, in these circumstances, to use the last pre-shipment change entered into the computer as the basis for the date of sale since, as counsel for Mitsubishi notes, it is only with the benefit of hindsight that one could say that a particular pre-shipment computer entry bears any relationship to the transaction that the parties ultimately agree to. Similarly, the Department also used the date of shipment for U.S. sales. The basis for this determination is outlined in the DOC Response to Domestic Parties' Comment 13.

Hitachi Comment 8: Hitachi contends that Motorola's challenges to Hitachi's reported capital costs are misdirected because Hitachi's depreciation expenses were not understated, as Motorola suggested.

DOC Response: The Department agrees. However, since Hitachi's restatement of depreciation from a three- to five-year useful life was not correctly calculated, the Department used the "best information available." Hitachi restated depreciation by using only the remaining undepreciated assets and extending this balance, instead of recalculating the depreciation from the original date of purchase and using the full purchase price as of that date.

Hitachi Comment 9: Hitachi points out that Motorola's allegation that product-specific R&D was understated from "early write-offs" of general expenses is not true because Hitachi included historic product-specific R&D.

DOC Response: The Department agrees. The Department's methodology includes capturing historic R&D for the product under investigation and allocating such R&D to all 64K DRAMs sold.

Hitachi Comment 10: Hitachi claims that its method of allocation of certain general expenses on a sales revenue basis should not be changed because this is a long-standing practice of the Department. The Department should not use a corporate average based on the consolidated financial statements, as suggested by Motorola, to allocate these general expenses.

DOC Response: The Department used the basic methodology used by Hitachi, which included various allocation methods for different expenses and which generally followed its internal budgeting procedures for allocating general expenses. The Department adjusted general expense by including for the final determination certain amounts for general corporate expense which were excluded by Hitachi in its calculations.

Hitachi Comment 11: Hitachi's variable manufacturing costs were not understated.

DOC Response: We adjusted Hitachi's variable manufacturing costs to include certain costs, such as retirement pension expense, which were excluded by Hitachi in its submission.

Hitachi Comment 12: Hitachi claims that the Department's verification report, which states that the company did not provide historic production data for all three micron family products and for 64K DRAMs, or another allocation basis for product-line R&D, is correct. However, the Department's request for this information at the verification was untimely. Additionally, Hitachi argues that the Department should use as its basis the ratio of 64K DRAMs wafers used in the pilot run stage of development compared to total wafers expended for all products at that stage.

DOC Response: Hitachi's computation of product-line R&D did not present the information requested by the Department in its questionnaire and did not present data necessary for use in the Department's methodology. The data referred to in the verification report was requested during the initial stage of verification.

Hitachi Comment 13: Hitachi claims that the expenses deducted from its SG&A included business tax and an "extraordinary expense."

DOC Response: The Department considered the business tax similar to an income tax and therefore did not include this amount in SG&A. The Department reviewed the nature of the "extraordinary expense" and did not concur with the respondent's characterization and, therefore, included this amount in its SG&A calculations.

Hitachi Comment 14: The Department's verification report noted a difference between the amount of business tax reflected in the MOF report compared to the amount deducted from general expense in the response. Hitachi claims that this difference represents expenses involved in offshore consumer product manufacturing operations.

DOC Response: The Department was not provided with an explanation for this difference during verification. Therefore, the Department did not have a verified basis to account for this difference when making its final determination.

Mitsubishi Comment 1: The Department inappropriately relied on petitioner's data in assessing a "best information available" rate against Mitsubishi in the preliminary determination.

DOC Response: We disagree. In assessing a "best information available" rate against Mitsubishi at the preliminary determination, the Department acted in accordance with its regulations, 19 C.F.R. § 353.51(b).

Mitsubishi Comment 2: The Department erred in requiring Mitsubishi to include sales of model ANP–20 in its home market sales response because they were not made "in the usual wholesale quantities and in the ordinary course of trade for home consumption."

DOC Response: In the case of the Mitsubishi ANP–20, we found the product to be sold in the home market through the same channels of trade as other Mitsubishi 64K DRAM products

subject to the investigation and in the usual wholesale quantities. Since the ANP-20 is "such or similar" merchandise to that sold in the United States, we have included ANP-20 home market sales in our calculation of foreign market value.

Mitsubishi Comment 3: Where, as here, the purchase price of the commodity subject to an investigation is regularly subject to adjustment in light of market conditions, the Department should, as a general principle, determine the date of sale in light of the circumstances in the relevant market. While Mitsubishi argues that date of shipment is the appropriate date of sale in the U.S. market, it asserts that date of shipment may not be the appropriate basis in the Japanese context. Instead, it suggests that date of sale in the homemarket should be based on the order/confirmation date.

DOC Response: The Department has used date of shipment as the date of sale for both U.S. and Japanese sales. See DOC Responses to Hitachi's Comment 7, and Domestic Parties' Comment 13.

Mitsubishi Comment 4: All home market advertising expenses claimed by Mitsubishi qualify as direct selling expenses for which allowance should be made as a difference in circumstances of sale.

DOC Response: We agree. The Department verified the adjustment claimed by Mitsubishi for home market advertising expenses and found that the adjustment qualified as a direct selling expense since the advertising was aimed at end-users of 64K DRAM products sold by Mitsubishi.

Mitsubishi Comment 5: While the declining balance method of depreciation is used by Mitsubishi for its normal financial accounting, for purposes of this investigation, they claim that they should be allowed to use a straight-line method with a five-year estimated useful life. Mitsubishi argues that the declining balance method does not appropriately reflect the cost of the product under investigation.

DOC Response: We disagree. See the "Cost of Production" section of this notice for a description of the Department's methodology for determining depreciation.

Mitsubishi Comment 6: Mitsubishi's allocation of factory overhead on the basis of floor space utilization should be accepted, since it is the method used for its internal cost accounting.

DOC Response: The Department reviewed the charges included in the plant overhead. These charges included such items as the depreciation of the plant, maintenance, heating and lighting. The Department agrees that allocation by floor space of such charges, in this case, was a reasonable basis on which to attribute these costs to the products manufactured in the plant.

Mitsubishi Comment 7: Mitsubishi contends that while direct material costs and subcontractor costs are not associated with individual departmental cost centers, reconciliation of these costs was accomplished at verification through examination of detailed subledger accounts organized by vendor.

DOC Response: The Department performed alternative verification procedures which indicated that the costs reported in the response were reasonably stated for material costs, but that the subcontractor costs in the response did not reflect the company's records. The Department used the costs as reflected on Mitsubishi's records for the subcontractor cost.

Mitsubishi Comment 8: Mitsubishi argues that any attempt to recapture historic R&D is both impractical and in contravention of generally accepted accounting principles. They also note, however, that the use of current semiconductor related R&D would overstate R&D inasmuch as most of the R&D during the period of investigation was devoted to the development of one and four megabit DRAMs.

DOC Response: The Department's position is in accord with International Generally Accepted Accounting Standard #9 which provides that R&D associated with specific marketable products and production processes shall be capitalized and amortized over a reasonable basis.

The Department cannot attribute cost incurred for another product to the one under investigation and, additionally, must capture all costs necessary for the manufacturing of the product under investigation in its cost of production calculation.

Mitsubishi Comment 9: Mitsubishi argues that a royalty payment for technology acquired for the production of 64K DRAMs should be considered a "selling" expense, not a "cost of production" expense, since such costs are accrued on sales rather than on production quantities.

DOC Position: Since the technology acquired was necessary for production of 64K DRAMs, the Department included such costs in manufacturing. The method used for determining the amount paid under the contract is not the relevant consideration for determining its classification in the cost of production calculation.

NEC Comment 1: In objecting to the Department's use of constructed value, NEC aruges that the petition did not provide reliable data on Japanese pricing and production costs to justify the initiation of an investigation of cost of production and further, that the preliminary determination did not contain an indication that the Department had independently developed pricing and cost data to justify a cost of production investigation.

NEC notes that both the courts and the Department have repeatedly affirmed the principle that the antidumping law embodies a strong preference for use of actual home market sales data rather than constructed value and that the Department's regulations call for the use of actual sales data from third countries prior to the use of constructed value.

NEC argues that absent a finding that the conditions set forth in 19 CFR 353.7(a) were considered and satisfied with respect to NEC, the Department has no legal basis to use information other than actual home market sales data in its analysis.

DOC Response: Not only did the petition allege below-cost sales in the home market and provide substantial support for this allegation, but the Department's review, based on verified submissions of the respondents, has concluded that the petition was correct in its assertions. While the antidumping law does embody a strong preference for the use of actual home market sales data, it also directs that home market sales that are below cost of production may not be used to establish foreign market value where they: (1) Have been made over an extended period which permit recovery of all costs within a reasonable period of time in the normal course of trade. Section 773(b), and 19 CFR 353.7.

Consistent with our standard practice, we disregarded below-cost sales where they constituted more than 10 percent of total home market sales of such or similar merchandise over the six month period of investigation. We used above-cost home market sales for purposes of making our fair value comparisons, where they accounted for more than 10 percent of home market sales. Where less than 10 percent of the home market sales were above cost, we determined that such sales were insufficient to form an adequate basis for determination of foreign market value. In such situations, the Department used constructed value to determine foreign market value, in accordance with the Act, the regulations, and the legislative history (Section 773(b), 19 CFR 353.7 and S. Rep. No. 96-249, 96th Cong. 1st Sess. 95-96 (1979)).

NEC's Comment 2: NEC argues that the constructed value used by the Department for its preliminary determination included adjustments which were not appropriate and which should not be used for the final determination. These adjustments included, among others, the double counting of die costs and the use of general corporate averages for the interest and the general expenses.

DOC Position: For the preliminary determination, as explained in the Notice, the Department adjusted cost elements when it appeared such costs may not have been appropriately stated. For example, the Department notes that the total cost of manufacturing presented in the response did not appear to include the total cost of fabrication. The Department reasoned that if the fabrication were included, the cost of assembly would have been only 30 percent of the total costs. In view of the Department's knowledge of the production process, other facts presented in the response, and lacking an explanation in the response, the manufacturing costs presented did not appear to be reasonable. Accordingly, the Department adjusted the total per unit costs by the amount of the die. For other adjustments made by the Department, similar inconsistencies were present. For the final determination, the adjustments made by the Department are described under the "Cost of Production" section of this notice.

NEC Comment: Respondent argues that the Department erred in adjusting NEC's manufacturing costs by making additions for product-specific R&D because these R&D costs were included in the manufacturing costs submitted in the supplemental response. Further, they argue that the adjustment: (1) Ignored NEC's statement that no product-specific R&D costs were incurred during the period; and (2) is inconsistent with the Department's past approach of considering such expenses a part of the manufacturing costs only where R&D expenses can be "identified directly with the product under investigation or to the area in which the product is manufactured." (*Cell Site Transceivers from Japan* (Final), 49 FR 43080, 43083, Oct. 26, 1984).

DOC Response: The Department's questionnaire requested information on historic product-specific R&D. Neither NEC's original response, nor its supplemental response, provided verifiable information on this point. The Department's treatment of historic R&D in this case is consistent with prior determinations.

NEC Comment 4: NEC claims that interest expenses attributable to sales of 64K DRAMs were correctly reported.

DOC Response: Submitted interest expenses did not include an appropriate allocation of credit expenses attributable to the product under investigation. The Department added credit expenses related to the home market sales. The Department decreased the amount of corporate interest expenses attributed to the product to account for the proportional share related to the accounts receivable, so that the interest related to the home market credit expense was not double-counted.

Oki Comment 1: Oki claims that the depreciation reflected in its financial statements was a result of tax laws and should not be used for the Department's final determination.

DOC Response: The Department reviewed Oki's methods of accounting for depreciation used in the ordinary course of business. Like other companies, Oki's method reflected ordinary industry practices and followed the Department's methodology for determining depreciation. Therefore, the Department used this amount. See the "Cost of Production" section of this notice.

Oki Comment 2: Oki contends that the cost of production resulting from one of its plants which was recently put into operation should be adjusted for the costs related to start-up.

DOC Response: We agree. The Department adjusted the cost of production for only those costs presented by Oki which were directly related to the start-up operations of that plant.

Oki Comment 3: Oki argues that a credit for royalty income from licensing of 64K DRAM technology must be allowed against the cost of production.

DOC Response: The royalty income from the licensing of 64K DRAM technology was a result of the expenditures for the 64K DRAM research and development. The royalty income was not directly related to the production of 64K DRAMs during the period of investigation. Therefore, the Department allocated the product-specific research and development expenses for the period of investigation between the 64 K DRAMs produced by Oki and the royalty income.

Oki Comment 4: Oki states that historic semiconductor R&D cannot reasonably be allocated to specific products and should not be included in Oki's 64K DRAM cost of production.

DOC Response: The allocation of historic R&D that the Department requires is product-specific R&D for 64K DRAMs. The Department does not require allocation of historic product-line R&D for its calculation. It does, however, require an allocation of those product-line R&D expenses which are current. The Department included historic R&D for 64K DRAMs, based on the "best information available".

Oki Comment 5: Oki claims that the R&D expenses for 64K DRAMs were expensed when the company was selling 64K DRAMs at a profit between 1982–1984 and therefore should not be allocated to the period of investigation.

DOC Position: Historic costs necessary to manufacture the product under investigation cannot be disproportionately shifted and attributed to a period when the company was selling the product at a profit.

Oki Comment 6: Oki states that the percentage the Department included as "best information available" in the constructed value calculation for R&D in the preliminary determination is higher than the actual R&D costs under any reasonable method of computation.

DOC Response: Although the Department, in its questionnaire, requested the respondents to include both historic product-specific R&D and current product-line R&D in their calculations, Oki did not include such amounts. Therefore, the Department used "best information available" for its preliminary determination, and for this final determination. For the product-line R&D, the Department used data based on the experience of the Japanese semiconductor industry, which was obtained from public sources.

Oki Comment 7: The Department should not accept the domestic industry's argument that Oki's SG&A costs should be discarded because they are below the corporate average and claims the Department should not use this "average" as it did in its preliminary determination.

DOC Response: The Department reviewed Oki's general and administrative expenses as reported in their submission and used this amount, adjusted to a cost of sales allocation basis, for its final determination.

Oki Comment 8: Oki alleges that the domestic industry's proposals regarding the calculation of fixed costs (i.e., attributing a pro rata share of capital and R&D to 64K DRAMs on the basis of average industry expenditures during a given period) are: (1) Largely confused and (2) illegal, to the extent that they are clear.

DOC Response: The Department used the respondents' actual costs, when

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verified and appropriately quantified and valued. It did not base its calculation for the respondent's cost of production on industry-wide statistics, except when such data may have been used as "best information available."

Oki Comment 9: Oki contends that the Department did not have a valid basis for questioning its claims for adjusting the yield variance which resulted when Oki reentered previously "rejected" devices into the production process during the month of March. Oki notes that the company did not maintain records which traced the retested devices back to "failure" at the initial test.

DOC Response: The Department questioned this claim because the amount of these reentered devices was a disproportionately large percentage of the total production during the relevant quarter. The Department notes that, accepting the fact these devices were reentered, it does not agree with Oki that the positive effects of the yield variance should have been recognized by the company during the month of March, since these devices were still incomplete and were still in the production process.

Oki Comment 10: Oki claims that the quantity of production differences cited by the Department at various points in the verification report are almost entirely the creation of the Department's inconsistent manner of handling the production quantity.

DOC Response: The Department's verification report notes various discrepancies in quantity throughout Oki's verification documents, submissions, and accounting records. For example, while the response listed untested devices and "stacked" devices as two die, a verification exhibit which summarized the response correctly did not include untested devices and counted "stacked" devices as two, but the original company records counted "stacked" devices as one die. The company did not explain its reason for the inconsistent manner in which it treated the production quantity throughout the investigation.

Oki Comment 11: Oki alleges, contrary to the verification report, that the verification exhibits related to the quantity of retest items of finished 64K DRAMs reconcile with one another. The company states that the difference between the retest items on these two exhibits could be reconciled by accounting for quantity of retest items of two unrelated products and the unfinished 64K DRAMs devices.

DOC Response: The Department, when attempting to reconcile the retest exhibits considered only 64K DRAMs quantities on these exhibits. One exhibit apparently includes unfinished pieces; however, the incomplete units were not specifically identified. Therefore, the Department's position remains unchanged regarding the reconciliation of these retest items.

Oki Comment 12: Oki claims, contrary to the verification report, that the production account, which measures quantity, and the production account which measures costs, include the same period of time.

DOC Response: When this question arose during verification, the verifiers requested and received documentation from the company officials concerning this difference in time period. From this documentation we were able to reconcile the period for the production quantities with the period for the cost. However, the results of this reconciliation had a *de minimis* impact on the per unit cost. Therefore, no adjustment was made to the cost.

Oki Comment 13: Oki points out that the verification report notes that material purchases were used instead of material consumed for a material variance and states that the difference resulting from this methodology is insignificant.

DOC Response: The Department used the results of this variance calculated with the materials consumed, not with the materials purchased.

Oki Comment 14: Oki objects to the Department raising its concern for an unresolved verification issue regarding Oki's determination that a variance was considered a favorable, not an unfavorable variance, when the actual labor hours exceeded standard hours during the period of investigation..

DOC Response: The Department raised its concern so that, prior to final determination, the respondent and petitioner could provide additional comments on this issue. Oki provided an explanation in its comments to the verification.

Oki Comment 15: Oki states that the verification report is "almost" correct regarding depreciation when it states that a "double-declining balance" method was used by the company.

DOC Response: In its verification report, the Department stated that Oki used the double-declining balance method for depreciation. This method would have resulted in an effective rate which is within one percent of the rate of depreciation actually used by the company in determining costs for its financial statement..

Oki Comment 16: Oki claims that there is an error in the Department's verification report concerning two semiconductor equipment studies provided by the company. Oki states that, contrary to the Department's characterization, one of the studies reflects a four-year average life of the assets in service, not the average useful life.

DOC Response: The company provided the studies during verification. However, one study was not fully translated. Therefore, in the Department's report it notes that apparently the one study represents a four-year useful life, but is not conclusive as to this fact.

Oki Comment 17: Oki points out that the verification report notes that R&D and SG&A was allocated based on sales and this is true. However, Oki claims that the sale basis can easily be converted to the cost of sales basis, if the Department does not accept the sales basis.

DOC Response: The Department converted the G&A expenses to a cost of sales basis.

Oki Comment 18: Oki concludes that the verification report is almost correct in stating all non-operating expenses and income were included in Oki's submission, and that the Department's major concern appears to be combining these amounts, not the individual items included in the amounts.

DOC Response: The Department was concerned with the individual items included in non-operating income, e.g., dividend income and royalty income, to determine if these items were related to the production of 64K DRAMs and whether they should be taken as an offset to the cost of production of 64K DRAMs. We concluded that such income as the dividend income and royalty income were not related to the production of 64K DRAMs and, therefore, these offsets were not reflected in the cost of production used for the final determination.

Oki Comment 19: Oki claims that the difference cited in the verification report concerning the material variances is in error because it did not consider the material specification change variance. Oki describes the material variance as composed of two parts: (1) Standard to actual cost variance; and (2) the original standard cost to the revised standard cost because of material specification change variance.

DOC Response: The Department recomputed the standard cost to actual cost variance which did not reconcile to Oki's standard cost to actual cost variance. The Department was not commenting on the material specific change variance, which has no bearing on the variance under review by the Department.

Oki Comment 20: Oki claims that its basis for allocation of indirect department expenses to 64K DRAMs is reasonable and its amortization of six-month variance to the months within that six months is also reasonable.

DOC Response: The Department, after review of the company's methods, determined that these allocations adequately reflected the cost which should be attributed to the 64K DRAMs.

Oki Comment 21: Oki argues that the Department incorrectly disregarded certain below cost home market sales, as they did not meet the requirement of being in substantial quantities over an extended period of time and not at prices permitting recovery of all costs in a reasonable time in the normal course of business.

DOC Response: See DOC response to NEC Comment 1.

Oki Comment 22: Oki argues that 200NS home market sales below the cost of production should not be excluded from price to price comparisons since they were "seconds" and obsolete and were sold at whatever price the market would bear. The fair value of such devices is the price at which they were sold in the home market. Respondent cites the *Southwest Florida Winter Vegetable Growers Association* v. *United States* 584 F. Supp. 10, 16 (CIT 1984) on this point.

DOC Response: Winter Vegetables is inapposite because it applied to sales of vegetables that had to be sold within a short period of time because they were perishable. 64K DRAMs are not perishable. There were substantial sales of 200NS DRAMs in both markets during the period at a wide range of prices. The Department sees no reason to depart in this instance from its normal methodology in treating sales alleged to be made at less than the cost of production. (See DOC Response to NEC Comment 1.)

Fujitsu Comment 1: Fujitsu, a manufacturer of 64K DRAMs in Japan which was not required to respond to the antidumping duty questionnaire, opposes the method the Department used in its preliminary determination to calculate the estimated dumping margin for "all other manufacturers" in this investigation. In the preliminary determination, the Department included in its weighted-average calculation, the dumping margin for Mitsubishi which was based on the petitioner's data as the "best information available." Fujitsu argues that section 776(b) of the Act restricts the use of "best information available" to a party which "refuses or is unable to produce information requested in a timely manner and in the form required, or otherwise significantly impedes an investigation" (*Atlantic Sugar, Ltd.* v. *United States*, 744 F. 2d 1556 (Fed. Cir. 1984)). Companies in the "all other manufacturer" category do not fall into this category since they were not asked by the Department to complete questionnaire responses. Second, Fujitsu argues that estimated margins must be based on the best and most accurate information available to the Department. The data contained in Micron Technology's petition is not an accurate estimate as demonstrated by the fact that the preliminary margins for the companies which responded to the questionnaire showed the petition data to be substantially excessive. Third, Fujitsu argues that where there is adequate actual data on which to compute weighted-average margins, the Department should not include "punitive" rates in its calculation.

DOC Response: It has consistently been the practice of the Department that in an affirmative determination, producers/exporters for whom a separate weighted-average dumping margin has not been calculated will fall within the "all other manufacturers" category. The "all other manufacturers" dumping margin is the weighted-average margin of the companies investigated for whom margins were found to exist.

Although at the preliminary determination, a company investigated did not provide an adequate response to our questionnaire, section 776(b) of the Act provides a basis for making a sales at less than fair value determination through the use of the best information available. Therefore, that result, together with the other margins of fair value determined in accordance with the Act's procedures, was appropriately included in the calculation of the overall weighted-average margin for purposes of establishing the "all other" rate.

We note, however, that since we have not used a "best information available" rate for any of the respondents for the purposes of the final determination, the weighted-average margin does not include such a rate.

Fujitsu Comment 2: There is no statutory basis for the Department to use the "fabricated data" proposed by the domestic parties in place of documented and verified data submitted by respondents in response to Department questionnaires.

DOC Response: The Department uses data supplied by a company unless it cannot verify such data or it appears that such information is not appropriately quantified or valued. Only then does the Department resort to "best information available" which may include such things as published sources.

Fujitsu Comment 3: There is no statutory authority in support of petitioners' contention that R&D and capital expenses incurred by respondents prior to the period of investigation must be included as costs of production during the period of investigation.

DOC Response: We disagree. The Department notes that the constructed value provisions of the Act (section 773(e)) specify that the costs shall be those incurred "in producing such or similar merchandise, at a time preceding the date of exportation." This definition does not preclude the inclusion of costs, like those for equipment and R&D, which were incurred prior to exportation, but which are allocated to and are necessary for the manufacture of the product under investigation.

Domestic Parties' Comments

The comments addressed in the following section include not only those of the petitioner, Micron Technology Inc., but also other domestic interested parties to this investigation, namely Motorola, Inc. and Intel Corporation.

Domestic Parties' Comments 1: The Department must avoid distortions in price due to related company transactions.

DOC Response: In accordance with 19 CFR 353.22, the Department disregarded home market sales to related parties.

Domestic Parties' Comment 2: Domestic Parties express concern that respondents have distorted their data by switching to straight-line methods of varying periods for reporting expenses such as depreciation instead of methods they normally used for financial reporting.

DOC Response: We agree and have used the method of depreciation as described under the "Cost of Production" section of this notice.

Domestic Parties' Comment 3: Domestic Parties claim that the R&D methodologies and allocation methods utilized by respondents distort their costs.

DOC Response: The Department reviewed the respondents' R&D methodologies and allocation methods. When these methods and allocation bases did not properly attribute the appropriate amount of R&D to the product, the Department made appropriate adjustments. See the "Cost of Production" section of this notice.

Domestic Parties' Comment 4: Domestic Parties assert that, because production costs were rapidly decreasing and inventories were being built-up, production costs should be lagged to ensure that sale prices for 64K

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DRAMs are compared with the appropriate costs for producing the units sold. Domestic Parties also argue that because wafer sort generally occurs at least two months prior to sale, there should be at least a two-month lag when comparing constructed value with the sale price. If inventory levels have increased over the period of investigation, the lag between wafer sort and actual sale will be longer.

DOC Response: The Department agrees that there should be a lag time between sales data and cost data. For a description of the Department's method used to match sales and costs, see the "Cost of Production" section of this notice. See also DOC Response to Hitachi's Comment 6.

Domestic Parties' Comment 5: Domestic Parties' claim that in a number of specific cases, SG&A was understated as a result of respondents' allocation methodology.

DOC Response: The Department used verified home market selling expenses. When it appeared SG&A was not properly stated, the Department made appropriate adjustments. See the "Cost of Production" section of this notice.

Domestic Parties' Comment 6: Domestic Parties' state that the department's verification findings call into doubt the respondents' reported yield data.

DOC Response: The Department disagrees. The Department considers the submitted yield adequately tested.

Domestic Parties' Comment 7: Domestic parties argue that, since Japanese dumping increased in severity toward the end of the period of investigation and thereafter, the dumping margins for the second and third quarters of 1985 would be a more appropriate indicator of the extent to which sales at less than fair value have been and are likely to be taking place. Thus, they argue the Department should exclude the first quarter of 1985 from its investigation period and either restrict its investigation to the second quarter of 1985, or include U.S. sales from July to September 1985 to calculate dumpings margins.

DOC Response: The petition in this investigation was filed on June 24, 1985. In accordance with 19 CFR 353.38(a), the Department instituted a period of investigation extending from 150 days prior to, and 30 days after, the first day of the month during which the petition was received—that is, January 1 through June 30, 1985. If the petitioner or other interested parties objected to the period chosen, they should have registered that objection at the commencement of the investigation, not at its conclusion.

Domestic Parties' Comment 8: Motorola claims that its cost model based on published data reflects the cost of 64k DRAMs during the period of investigation and that the low costs reported by the respondents are a result of inappropriate allocation methods, excluded costs, and other accounting practice maneuvers.

DOC Response: The Department based its final determination on the verified actual cost of each respondent as reflected on its records when such information included all necessary costs, appropriately quantified and valued. When such information was not available or not appropriately valued, the Department used "best information available," which could include industry statistics.

Domestic Parties' Comment 9: Domestic Parties point out that R&D expenditures reported by the respondents are far below the levels reported by MITI to be consistent R&D spending levels for intergrated circuits. They also note that the R&D reported is less than the R&D reported for the Japanese semiconductor industry as set forth in Published sources. Thus, they argue that the Department should substitute the levels reported in such published sources for respondents' costs.

DOC Response: The Department reviewed the respondents' R&D calculation. When such data could not be verified, was incomplete, not appropriately allocated, or could not be properly identified with the 64K DRAMs, the Department used as best information available MITI figures on R&D for Japanese semiconductor manufacturers for the first six months of 1984 (13 percent of sales), as reported by Hambrecht & Quest Incorporated.

Domestic Parties' Comment 10: Domestic Parties argue that since the respondents' capital costs in their submissions are lower than the consistent historic costs for IC's of Japanese producers, as established in published sources, the Department should use the historic costs obtained from published sources. Domestic Parties further contend that the reason the reported capital and R&D costs were substantially lower than the amounts published was because such costs were expensed by various accounting principles, to the period of time prior to the investigation.

DOC Response: The Department used the respondents's reported depreciation expenses except as noted in the "Cost of Production" section of this notice. The Department's methodology for attributing R&D costs and capital to the products sold during the period of investigation did not disproportionally allocate R&D and capital costs to the period prior to the investigation. For R&D costs, the Department has captured a proportional share of historic costs per unit.

Depreciation expense is based on equipment which is continually being modernized and replaced. At any one time the depreciation expense will reflect average depreciation for a pool of equipment purchased at various times.

Domestic Parties' Comment 11: Domestic Parties allege that because of lower production of 64K DRAMs, the variable costs should have remained the same in 1984 even if yields increased.

DOC Response: Production volume would not have a significant effect on variable costs. Such costs are more directly influenced by such factors as yields and price of inputs. See the "Cost of Production" section of this notice for details as to how we treated respondents' costs.

Domestic Parties' Comment 12: Domestic Parties allege that the general and administrative expenses reported by the companies are understated because of the diversion of certain costs to other products and the allocation of the remaining costs over the total sales of the company.

DOC Response: The Department reviewed each respondent's methodology and analyzed the costs included. When general expenses did not include some appropriate costs, adjustments were made. See the "Cost of Production" section of this notice.

Domestic Parties' Comment 13: Domestic Parties argue that the Department should use the sales agreement date as the date of sale for U.S. sales, and should not include in the period residual shipments from sales agreements made earlier. In the case of original equipment manufacturers (OEM) contracts, the date of the sale should be the date that the basic sales agreement was made with the OEM. While a subsequent price adjustment for sales to an OEM or distributor certainly affects the net sales price, it does not move the sales date to that date.

In the case of distributor sales, Motorola notes that the question as to what is the appropriate date of sale is somewhat more complex. Where the price is to be determined only after the units arrive, the date at which the price is initially set would probably be the appropriate date of sale. Thus, where the contract states that the price will be the lowest price while the units are in distributor inventory, the initial price for each of those units is established when they first enter inventory, i.e., on the date of shipment.

The use of shipment date rather than order date removes from this investigation many low priced "sales" at the end of the period of investigation (POI) and brings into the period higher priced pre-POI "sales."

DOC Response: Department practice is to recognize a sale only when all key elements (i.e., binding commmitment, irrevocable price, quantities to be purchased) are firm. As will be shown, in this case, during the time period investigated, there is no alternative but to recognize the shipment date as the date of sale.

As noted, 64K DRAMs are sold to two basic types of customers—distributors and OEMs. Sales to distributors constitute approximately fifteen to thirty percent of the U.S. sales. As Domestic Parties note, the standard U.S. distribution agreement contains some sort of "price protection" provision. Under such a provision, if the "book" price for any product decreases, the distributor will be charged the reduced price on any products shipped thereafter. In addition, the distributor may apply for credit for the reduction in price on such products previously purchased by the distributor, and either in transit or part of the distributor's inventory.

Most distributor agreements also include a "ship and debit" clause, also known as a "ship out of stock and debit" (SOSAD) clause. This provides that a producer may reduce the price of products sold to a distributor where the distributor has negotiated a price with its customer which does not allow the distributor to meet a guaranteed margin on the resale. SOSAD authorizes the distributor to obtain a debit from the producer for the difference.

Under these distributor agreements, the earliest date on which a price can be determined is the date of shipment; thus, this is the date we have chosen as the date of "sale."

We have reached a similar conclusion with respect to the OEM contracts. We agree, in principle, with Domestic Parties' general assertion that where purchase orders are issued pursuant to a binding long-term contract, the date of sale should be the date of the long-term contract, rather than the date of the purchase orders. Here, however, it did not appear that purchase orders were issued in accordance with the terms of any long-term contract. Indeed, even where a producer had a long-term contract on the books with a particular customer, it appeared that those purchase orders that were issued during the period of investigation were not issued in conformance with the terms of the long-term contract, but rather reflected new pricing arrangements.

Thus, the only question before us was whether it would be appropriate to use the purchase order date as the date of sale. There are at least two bases for concluding that, given the characteristics of this particular industry and the market conditions as they existed during the period of investigation, that it would not.

First, many of the purchase orders expressly provide, in essence, that acceptance of the order could be made either by means of express acknowledgment or by shipment of conforming goods. Since written acknowledgments or other confirmations of purchase orders were generally not received, the date of shipment constituted acceptance of the conforming goods. See UCC 2–206.

Second, it appears that neither party to a purchase order treated that purchase order as a binding agreement. During the time period investigated, there were significant cancellations of 64K DRAM orders by both parties, without any sanctions or penalties whatsoever, and frequent price revisions to reflect rapidly declining prices. Under these conditions, neither price nor quantity were firm until the order was shipped and, in fact, post-shipment price revisions were not uncommon. Thus, the date of shipment is the earliest point in the transaction at which any sort of binding commitment may be inferred.

Contrary to the Domestic Parties' assertions, the potential for post-shipment cancelations or price adjustments does not make this situation analogous to one where rebates are granted after a sale. While rebates may not be "earned" until after a sale has occurred, the conditions and amounts of rebates are established at the time of sale. (See Department's definition of "rebates" provided in its questionnaire in this investigation.) Here, however, these post-shipment adjustments are not based on any specified conditions or formulae; they are simply renegotiations of price and quantity. Thus, the Department's use of date of shipment as date of sale in this case is distinguishable from its usual methodology of using date of contract as date of sale where rebates are involved.

It should also be noted, that the Department has taken the position here that there can be no new dates of sale after shipment and any subsequent price modifications must be reported as one of the following, as appropriate: (1) Rebates; (2) discounts; (3) price protection adjustments; or (4) ship and debit adjustments. By taking this position the Department has ensured that respondents may not be in a position to move their sales outside of the period of investigation by the simple expedient of granting a further price adjustment.

Finally, the Department notes that Motorola's argument that the Department's decision on the "sale" date will remove certain low priced "sales" from the end of the period of investigation and add certain higher priced "sales" at the beginning of the investigation is misplaced. The Act directs the Department to look at U.S. sales by reference to "agreements" to purchase or sell, regardless of the impact on the investigation. (Section 772 (b) and (c).)

Domestic Parties' Comment 14: In considering price adjustments, the Department should pay particular attention to ensure that all relevant price adjustments were reported, especially price adjustments occurring subsequent to the period of investigation, and that these adjustments were properly allocated to the sales to which they apply.

DOC Response: In order to ensure the completeness and accuracy of post-shipment price adjustments, the Department checked price issued well after the period of investigation for each of the companies. In the event the Department found credits outside the period which were not reported, these credits were quantified and allocated to particular sales by the Department for our final determination. The Department found that the allocation methods used by NEC AND Oki reasonably tied credits to specific sales. Mitsubishi's methodology of allocating the adjustments over all units sold, instead of attributing them to particular sales, was not accepted. In the case of Mitsubishi, the Department developed alternative methods for allocating price protection and ship and debit adjustments to specific sales. Hitachi allocated ship and debit credits attributed to each distributor. Because Hitachi had only a small amount of ship and debit credits, we accepted Hitachi's allocation method as "best information available" in this instance.

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing the United States Customs Service to continue to

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suspend liquidation of all entries of 64K DRAMs from Japan that are entered, or withdrawn from warehouse, for consumption, on or after December 11, 1985. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below. This suspension of liquidation will remain in effect until further notice.

Manufacturer/producer/exporter	Margin percentage
NEC Corporation	22.76
Hitachi Ltd.	11.87
Oki Electric Industry Co. Ltd.	35.34
Mitsubishi Electric Corporation	13.43
All other manufacturers/producers/exporters	20.75

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration. The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 45 days after we make our final determination. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order on 64K DRAMs from Japan entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

April 23, 1986.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 86-9543 Filed 4-28-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-489-601]

Initiation of Countervailing Duty Investigation: Mirrors in Stock Sheet and Lehr End Sizes From Turkey

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the United States Department of Commerce, we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters of mirrors in stock sheet and lehr end sizes (mirrors) from Turkey as described in the "Scope of Investigation" section of this notice, receive benefits which constitute subsidies within the meaning of the countervailing duty law. We are notifying the United States International Trade Commission (ITC) of this action, so that it may determine whether imports of the subject merchandise from Turkey materially injure, or threaten material injury to, a United States industry. The ITC will make its preliminary determination on or before May 16, 1986. If our investigation proceeds normally, we will make our preliminary determination on or before June 25, 1986.

EFFECTIVE DATE: April 29, 1986

FOR FURTHER INFORMATION CONTACT: Mary Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-2830.

SUPPLEMENTARY INFORMATION:

The Petition

On April 1, 1986, we received a petition in proper form filed by the National Association of Mirror Manufacturers. The petition was filed on behalf of the United States industry producing mirrors. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in Turkey of the subject merchandise receive subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act).

Since Turkey is a "country under the Agreement" within the meaning of section 701(b) of the Act, Title VII of the Act applies to this investigation and the ITC is required to determine whether imports of the subject merchandise from Turkey materially injure, or threaten material injury to, a U.S. industry.

Initiation of Investigation

Under section 702(c) of the Act, we must determine, within 20 days after a petition is filed, whether the petition sets forth the allegations necessary for the initiation of a countervailing duty investigation, and, further, whether it contains information reasonably available to the petitioner supporting the allegations. We have examined the petition on mirrors from Turkey and have found that it meets the requirements of section 702(b) of the Act. Therefore, in accordance with section 702(b) of the Act we are initiating a countervailing duty investigation to determine whether manufacturers, producers, or exporters in Turkey of mirrors receive benefits which constitute subsidies. If our investigation proceeds normally, we will make our preliminary determination on or before June 25, 1986.

Scope of Investigation

The products covered by this investigation are unfinished glass mirrors 15 square feet or more in reflecting area, which have not been subjected to any finishing operation such as beveling, etching, edging, or framing, classifiable in the *Tariff Schedules of the United States Annotated* (TSUSA) under item 544.5400, and made of any of the glass described in TSUS items 544.11 through 544.41.

Allegations of Subsidies

The petition alleges that manufacturers, producers, or exporters in Turkey of mirrors receive benefits under the following programs which constitute subsidies. We are initiating an investigation on the following allegations:

- Export Tax Rebate and Supplemental Tax Rebate
- Resource Utilization Support Fund (RUSF)
- Export Revenue Tax Deduction
- Foreign Exchange Allocation and/or Duty Free Imports
- General Incentives Program (GIP)
  - —Interest Rebates
  - —Income and Corporation Tax Allowances
  - —Customs Duty Exemption on Imports of Capital Equipment

Notification ITC

Section 702(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential

information in our files, provided it confirms that it will not disclose such information either publicly or under an administrative protective order without the consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determination by ITC

The ITC will determine by May 16, 1986, whether there is a reasonable indication that imports of mirrors from Turkey materially injure, or threaten material injury to, a United States industry. If its determination is negative, this investigation will terminate; otherwise it will proceed according to the statutory procedures.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

April 21, 1986.

[FR Doc. 86-9506 Filed 4-28-86; 8:45 am]

BILLING CODE 3510-DS-M

[Case No. OEE-1-86]

Order Temporarily Denying Export Privileges

In the matter of: La Physique Applique Industrie, 5 Rue de Pacalaire, 38170 Seyssinet-Pariset, France, and Les Accessoires Scientifiques, Varigney, 70800 Conflans-Sur-Lanterne, France, Respondents.

The Office of Export Enforcement, International Trade Administration, United States Department of Commerce (Department), pursuant to the provisions of § 388.19 of the Export Administration Regulations, 15 CFR Parts 368-399 (1985) (the Regulations),[1] issued pursuant to the Export Administration Act of 1979, 50 U.S.C. app. §§ 2401-2420 (1982), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99-64, 99 Stat. 120 (July 12, 1985) (the Act), has asked the Deputy Assistant Secretary for Export Enforcement to issue an order temporarily denying all United States export privileges to La Physique Applique Industrie of Seyssinet-Pariset, France, and Les Accessoires Scientifiques of Conflans-Sur-Lanterne, France (hereinafter collectively referred to as respondents).

The Department states that, as a result of an ongoing investigation, it has reason to believe that respondents have (1) conspired and acted in concert to violate the Act and the Regulations; (2) indirectly caused the filing of false and misleading information with the Department for the purpose of effecting exports from the United States to France; and (3) attempted to reexport U.S.-origin equipment, including U.S.-origin semiconductor manufacturing equipment, from France to the Union of Soviet Socialist Republics (U.S.S.R.) without authorization from the Department. The Department further states that it has reason to believe that respondents are continuing in their efforts to obtain U.S.-origin goods. If the respondents are successful in their efforts, the Department states that there is reason to believe respondents would attempt to reexport the U.S.-origin goods to the U.S.S.R. The Department states that its investigation gives it reason to believe that the violations under investigation were deliberate, covert and likely to occur again. The Department submits that a temporary denial order naming respondents is necessary in order to give notice to companies in the United States and abroad to cease dealing with respondents in goods and technical data subject to the Act and the Regulations in order to reduce the likelihood that respondents will continue to engage in activities which are in violation of the Act and the Regulations.

Based upon the showing made by the Department, I find that an order temporarily denying all United States export privileges to respondents is necessary in the public interest to prevent an imminent violation of the Act and the Regulations. This order is issued on an *ex parte* basis without a hearing based on the Department's showing that expedited action is required.

Accordingly, it is hereby

Ordered

I. All outstanding validated export licenses in which any respondent appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation.

II. The respondents, their successors or assignees, officers, partners, representatives, agents, and employees hereby are denied all privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving commodities or technical data exported or be exported from the United States in whole or in part, or that are otherwise subject to the Regulations. Without limiting the generality of the foregoing, participation, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity: (a) As a party or as a representative of a party to any export license application submitted to the Department, (b) in preparing or filing with the Department any export license application or reexport authorization, or any document to be submitted therewith, (c) in obtaining or using any validated or general export license or other export control document, (d) in carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported, and (e) in financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities and technical data which are subject to the Act and the Regulations.

III. After notice and opportunity for comment, such denial may be made applicable to any person, firm, corporation, or business organization with which any respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of trade or related services.

IV. No person, firm, corporation, partnership or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Licensing shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any respondent or any related party, or whereby any respondent or any related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any respondent or any related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance, or otherwise service or participate in any export, reexport, transshipment, or diversion of any commodity or technical data exported or to be exported from the United States.

V. In accordance with the provisions of Section 388.19(e) of the Regulations,

[1] Parts 387 and 388 of the Regulations were recently amended and republished. *See* 50 FR 53130 (December 30, 1985).

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any respondent may, at any time, appeal this temporary denial order by filing with the Office of Administrative Law Judges, U.S. Department of Commerce, Room H-6716, 14th Street and Constitution Avenue NW., Washington, D.C. 20230, a full written statement in support of the appeal.

VI. This order is effective immediately and shall remain in effect for 60 days.

VII. In accordance with the provisions of 388.16(d) of the Regulations, the Department may seek renewal of this temporary denial order by filing a written request not later than 20 days before the expiration date. Any respondent may oppose any request to renew this temporary denial order by filing a written submission with the Deputy Assistant Secretary for Export Enforcement, which must be received not later than seven days before the expiration date of this order.

A copy of this order and of Parts 387 and 388 of the Regulations shall be served upon the respondents.

Dated: April 23, 1986.

Theodore W. Wu,

Deputy Assistant Secretary for Export Enforcement.

[FR Doc. 86-9525 Filed 4-28-86; 8:45 am]

BILLING CODE 3510-25-M

Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Systems Technical Advisory Committee will be held May 21 and 22, 1986, 9:30 a.m. to 5:00 p.m. in the Herbert C. Hoover Building, 14th Street and Constitution Avenue, NW., Washington, D.C. The meeting on May 21 will be held in Room 3407, and in Room 6029 on May 22. The Committee advises the Office of Technology and Policy Analysis with respect to technical questions that affect the level of export controls applicable to computer systems or technology.

Agenda:

Open Session:

1. Opening Remarks by the Chairman.
2. Presentation of papers or comments by the public on proposed equipment decontrol and discussions on problems experienced in obtaining export licenses.
3. Reinstatement of Licensing Procedures and Regulations, Hardware, and Software Subcommittees.

Executive Session:

4. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic critera related thereto.

The General Session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1986, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Telephone: 202/377-4217. For further information or copies of the minutes, contact Margaret A. Cornejo, 202/377-5535.

Dated: April 24, 1986.

Margaret Cornejo,

Acting Director, Technical Support Staff, Office of Technology & Policy Analysis.

[FR Doc. 86-9526 Filed 4-28-86; 8:45 am]

BILLING CODE 3510-DT-M

Semiconductor Technical Advisory Committee Meeting

AGENCY: International Trade Administration, Commerce.

Federal Register citation of previous announcement: 51 FR 12834 April 14, 1986.

Previously announced time and date of the meeting: 9:30 a.m., April 29, 1986.

Changes in the meeting: 9:30 a.m., May 15, 1986, in room 6029, Herbert C. Hoover Building, 14th Street and Constitution Avenue NW., Washington, DC.

Dated: April 24, 1986.

Margaret A. Cornejo,

Acting Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 86-9537 Filed 4-28-86; 8:45 am]

BILLING CODE 3510-DT-M

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

Conflict of Interests

AGENCY: Commission on the Bicentennial of the United States Constitution.

ACTION: Notice of rule adoption.

SUMMARY: This Notice announces the applicability of regulations under Part 735, 5 CFR, Employee Responsibilities and Conduct, to the employees and special Government employees of the Commission on the Bicentennial of the United States Constitution. Because of its small size and temporary nature, the Commission obtained approval for this adoption of existing regulations from the OPM and from its Office of Government Ethics, in accordance with Sec. 735.104 (d) and (f), 5 CFR.

Subject

Adoption of Part 735, 5 CFR.

The Commission on the Bicentennial of the United States Constitution does hereby adopt for its employees and special Government employees Part 735 of the regulations of the Office of Personnel Management, published at Title 5, CFR, Administrative Personnel, Revised as of January 1, 1984. Part 735, 5 CFR, covers Employee Responsibilities and Conduct. Adoption of these regulations is done in accordance with authority granted to the Commission under Pub. L. 98-101, 97 Stat. 719, and Sec. 735.104 (d) and (f), 5 CFR, effective upon publication of this Notice.

Dated: April 24, 1986.

Mark W. Cannon,

Staff Director.

[FR Doc. 86-9495 Filed 4-28-86; 8:45 am]

BILLING CODE 6340-01-M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

Federal Acquisition Regulation (FAR); Information Collection Activities Under OMB Review

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve a new collection.

ADDRESS: Send comments to Franklin S. Reeder, FAR Desk Officer, Room 3235, NEOB, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Greene, Defense, Acquisition Regulatory Council (202-697-7268) or Mr. Frank Van Lierde, Civilian Agency Acquisition Council (202-523-3781).

SUPPLEMENTARY INFORMATION:

a. *Purpose:*

1. This request covers the collection of information to be used in the certification of commercial pricing. The proposal requires potential contractors under certain Federal contracts to certify that the prices offered for items of supply sold to the public are no higher than the lowest agreed to sales price with any other customer, or justify charging the Government more than the lowest price charged other customers for the same items of supply. This information is required by Sec. 204 of Pu L. 98-577 "Small Business and Federal Procurement Competition Enhancement Act of 1984", and Sec. 1216 of Pu L. 98-525 "Defense Procurement Reform Act of 1984."

Annual reporting burden: This is estimated as follows: Respondents, 6,000; responses 60,000; and reporting and recordkeeping hours, 1,200,000.

c. *Additional data:* An approval request for this information collection was submitted to OMB on June 25, 1985, and on November 8, 1985. Neither submission was approved. A third request for approval was submitted on April 16, 1986.

Obtaining Copy of Proposal

Requesters may obtain a copy of the latest proposal from the FAR Secretariat (VRS), Room 4041, GS Building, Washington, DC 20405.

Dated: April 24, 1986.

Margaret A. Willis,

FAR Secretariat.

[FR Doc. 86-9512 Filed 4-28-86; 8:45 am]

BILLING CODE 6820-61-M

DEPARTMENT OF DEFENSE

Army Department

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: Thursday & Friday, 15-16 May 1986.

Times of meeting: 0830-1600 hours.

Places: US Army Air Defense Artillery Center, Ft. Bliss, TX.

Agenda: The Army Science Board AHSG on MICOM Lab Effectiveness Review will visit the US Army Air Defense Artillery Center for the purpose of interacting with representatives of the TRADOC schools to informally discuss their working relationship with the MICOM Research, Development and Engineering Center. The panel will also devote a significant amount of time in executive session drafting portions of the report of the effectiveness review. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86-9541 Filed 4-28-86; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Proposed Subsequent Arrangement; EURATOM

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above-mentioned agreement involves approval for the return of four kilograms of irradiated research reactor fuel of United States origin from the FRG reactor in Geesthacht, the Federal Republic of Germany for reprocessing and storage in Department of Energy facilities. The return of highly enriched uranium to the United States is consistent with United States nonproliferation policy in that it serves to reduce the amount of highly enriched uranium abroad.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: April 24, 1986.

George J. Bradley, Jr.,

Acting Assistant Secretary for International Affairs and Energy Emergencies

[FR Doc. 86-9575 Filed 4-28-86; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Economic and Environmental Impacts Task Group; Meeting

Notice is hereby given that the Economic and Environmental Impacts Task Group will meet in May 1986. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Economic and Environmental Impacts Task Group will evaluate the impact of the 1970's energy crises on the U.S. economics—economic growth, employment, inflation, oil and gas industry cash flow, capital investment, international trade, the financial markets (U.S. and international), real interest rates, etc. This Task Group will also analyze the potential future economic impact of the factors on issues identified by the other Task Groups.

The Economic and Environmental Impacts Task Group will hold its first meeting on Tuesday, May 13, 1986, starting at 9:00 a.m., in the Main Conference Room of the Conoco Headquarters, 600 North Dairy Ashford Road, Houston, Texas.

The tentative agenda for the Economic and Environmental Impacts Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Discuss the scope of the overall study.
3. Discuss the study assignment of the Task Group.
4. Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Economic and Environmental Impacts Task Group is empowered to conduct the meeting in a fashion that will, in his judgment,

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facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Economic and Environmental Impacts Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Pat Dickinson, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353-2430, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 23, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86-9513 Filed 4-28-86; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Worldwide Refining Trends Task Group; Meeting

Notice is hereby given that the Worldwide Refining Trends Task Group will meet in May 1986. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Worldwide Refining Trends Task Group will be evaluating trends of the refining industry worldwide. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The Worldwide Refining Trends Task Group will hold its eighth meeting on Thursday, May 8, 1986, starting at 9:00 a.m., in the Conference Room of the National Petroleum Council, 1625 K Street NW., Washington, DC.

The tentative agenda for the Worldwide Refining Trends Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review and discuss the draft report of the Worldwide Refining Trends Task Group.
3. Review and discuss the priliminary conclusions of the Data Integration Working Group.
4. Discussion any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the Worldwide Refining Trends Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Worldwide Refining Trends Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Pat Dickinson, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353-2430, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 23, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86-9514 Filed 4-28-86; 8:45 am]

BILLING CODE 6450-01-M

Office of Assistant Secretary for International Affairs and Energy Emergencies

Atomic Energy Agreements; Proposed Subsequent Arrangements Between Japan and the European Atomic Energy Community

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation between the Government of the United States of America and the Government of Japan concerning Civil Uses of Atomic Energy, as amended, and the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

These subsequent arrangements would give approval, which must be obtained under the above-mentioned agreements, for the transfer of special nuclear material of United States origin from Japan to France or to the United Kingdom for the purpose of reprocessing.

The proposed transfers are as follows:

(1) 672 irradiated fuel bundles containing 122,430 kilograms of uranium, enriched to 1.05 percent in U-235, and 686 kilograms of plutonium from the Fukushima Units 1 and 2 of the Tokyo Electric Power Co., Inc., to France;

(2) 72 irradiated fuel assemblies containing 28,087 kilograms of uranium, enriched to 1.30 percent in U-235, and 284 kilograms of plutonium from Genkai Units 1 and 2 of the Kyushu Electric Power Co., Inc., to France;

(3) 170 irradiated fuel bundles containing 34,000 kilograms of uranium, enriched to 1.18 percent in U-235, and 300 kilograms of plutonium from Tokai No. 2 Power Station of the Japan Atomic Power Co., to France;

(4) 68 irradiated fuel assemblies containing 12,145 kilograms of uranium, enriched to 0.98 percent in U-235, and 106 kilograms of plutonium from the Shimane Power Station of the Chugoku Electric Power Co., Inc., to France;

(5) 210 irradiated fuel bundles containing 38,577 kilograms of uranium, enriched to 1.47 percent in U-235, and 357 kilograms of plutonium from the Hamaoka Power Station of the Chubu Electric Power Co,, Inc., to the United Kingdom;

(6) 84 irradiated fuel assemblies containing 15,628 kilograms of uranium, enriched to 0.99 percent in U-235, and 126 kilograms of plutonium from the Shimane Unit 1 of the Chugoku Electric Power Co., Inc., to the United Kingdom; and

(7) 210 irradiated fuel assemblies containing 93,100 kilograms of uranium, enriched to 1.16 percent in U-235, and 780 kilograms of plutonium from the Mihama Units 1, 2, and 3, Takahama Units 1 and 2, and Ohi Units 1 and 2 of the Kansai Electric Power Co., Inc., to the United Kingdom.

The foregoing proposed transfers are designated as RTD/EU(JA)-84, 85, 86, 87, 88, 89, and 90 respectively.

The Department of Energy has received a letter of assurance from the Government of Japan that the recovered uranium and plutonium will not be transferred from the reprocessing sites, nor put to any use, without the prior approval of the United States Government.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the approval of these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen (15) days after the date of publication of this notice, and after fifteen (15) days of continuous session of the Congress, beginning the day after the date on which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Relations of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: April 23, 1986.

George J. Bradley, Jr.,

Acting Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 86-9515 Filed 4-28-86; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

Final Consent Order With Crown Central Petroleum Corp.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Final Action on Proposed Consent Order.

SUMMARY: The Administrator of the Economic Regulatory Administration (ERA) has determined that a proposed consent order between the Department of Energy (DOE) and Crown Central Petroleum Corporation (Crown) shall be made final as proposed. The consent order resolves, with certain exceptions, matters relating to Crown's compliance with the federal price and allocation regulations for the period January 1, 1973 to January 28, 1981. Crown will pay to the DOE $8.3 million, plus interest from the date the proposed consent order was executed by DOE. Persons claiming to have been harmed by Crown's alleged overcharges will be able to present their claims for refunds in an administrative claims proceeding before the Office of Hearings and Appeals (OHA). The decision to make the Crown consent order final was made after a full review of written comments from the public.

FOR FURTHER INFORMATION CONTACT: Emily E. Sommers, Economic Regulatory Administration, 1000 Independence Avenue, SW., Washington, DC 20585. (202) 252-6727.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Comments Received
III. Analysis of Comments
IV. Decision

I. Introduction

On March 12, 1986, ERA issued a notice announcing a proposed consent order between DOE and Crown which, with certain exceptions, would resolve matters relating to Crown's compliance with federal petroleum price and allocation regulations for the period January 1, 1973 to January 28, 1981. (51 FR 8532, March 12, 1986). The proposed order, which requires Crown to pay $8.3 million,[1] is for the settlement of Crown's potential liability for $10.6 million in alleged overcharges plus attributable interest. The March 12 notice provided in detail the basis for ERA's preliminary view that the settlement was favorable to the government and in the public interest. The notice solicited written comments from the public relating to the adequacy of the terms and conditions of the settlement and whether the settlement should be made final. The notice also announced a public hearing for the purpose of receiving oral presentations on the settlement. That hearing was held on April 16, 1986.

II. Comments Received

ERA received four written comments. One request to make an oral presentation was received but was withdrawn on April 17. The April 16, 1986 hearing was convened but no oral presentations were made. All written comments were considered in making the decision as to whether or not the proposed consent order should be made final.

The written comments can be divided into two subject categories. One category consists of two comments that solely addressed the Office of Hearings and Appeals' disposition of the Crown settlement funds. The second category includes two comments which addressed the use of OHA Subpart V procedures to distribute the settlement monies, along with comments suggesting specific dispositions of the consent order monies.

Comments were received from the following two groups which expressed their views on OHA's disposition of the funds that Crown is to pay pursuant to the settlement:

State of Florida, Governor's Energy Office, Commonwealth of Pennsylvania

Comments addressing the use of OHA Subpart V procedures for distribution of the settlement fund and the disposition of those monies were submitted by the following two groups:

Controller of California
Attorneys General of the States of Arkansas, Delaware, Iowa, Louisiana, North Dakota, Rhode Island, Utah and West Virginia

The comments submitted by these parties did not question the basis of the settlement or adequacy of the settlement amount, but only offered OHA proposals for the distribution of the settlement funds or offered suggestions that were different from the consent order provisions requiring disbursement through OHA administrative claims proceedings.

III. Analysis of Comments

The March 12 notice solicited written comments and provided for a public hearing to enable the ERA to receive information from the public relevant to the decision whether the proposed consent order should be finalized as proposed, modified or rejected. To ensure greater public understanding of the basis for the proposed settlement, the March 12 notice provided detailed information regarding Crown's overcharge liability and the considerations that went into the government's preliminary agreement with the proposed terms. This expanded settlement information enabled the public to address more specifically the areas in which questions or concerns may have existed.

The State of Florida and the Commonwealth of Pennsylvania's comments relating to OHA's distribution of the funds if the Crown consent order is finalized were not germane to the basis or adequacy of the settlement. The distribution of the settlement funds will be the subject of a separate administrative proceeding conducted by the Office of Hearings and Appeals, to be initiated shortly after publication of this notice. Comments on the actual disbursement of the monies by OHA will not be addressed here, but will be referred to OHA for consideration in the Crown consent order claims proceeding.

The two other groups, along with expressing their views on the distribution of the funds (which DOE will refer to OHA), objected to the provision in the consent order that requires the DOE's Office of Special Counsel (OSC) to petition the OHA to implement special refund procedures under Subpart V (10 CFR Part 205) to distribute the settlement fund. One of these commentors expressed the view that use of the Subpart V procedures was unnecessary and that the consent order itself should direct refunds to the states when it is impossible to identify the victims of overcharges. The ERA believes as a general policy that the Subpart V procedures are best suited for cases such as Crown, where ERA could not readily identify the injured parties or their relative amount of economic harm. This commenter may most appropriately

[1] The $8.3 million, plus interest accrued from the date the proposed consent order was executed by DOE, will be disbursed to DOE within 30 days of publication of this Notice.

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present its claim for monies from the consent order fund in that forum.

The other commenter in this group, the Controller of California, while not objecting to the disbursement of settlement funds attributable to refined products through OHA's Subpart V procedures, objected to referral of the crude oil portion of the consent order fund to OHA, rather than directing it to the states, if OHA considers itself bound by the DOE Statement of Restitutionary Policy issued on June 21, 1985 [50 FR 27400, July 2, 1985] (Policy Statement). The Policy Statement was based upon the findings of fact contained in the June 19, 1985, report of the Office of Hearings and Appeals to the Kansas district court in *In re: the Department of Energy Stripper Well Exemption Litigation*, MDL No. 378, in which OHA found that it was impossible to trace specific crude oil overcharges through an individual refiner's marketing system to the ultimate consumer. In the Policy Statement, DOE announced that crude oil overcharge funds that had been spread through the entitlements program would be placed in an escrow account to allow Congress to decide upon an appropriate form of indirect restitution. The Policy Statement also provides that if, by the close of the current session Congress does not act, the DOE intends to deposit the money into the general fund of the U.S. Treasury for the benefit of the American public. At the same time that DOE issued the Policy Statement, OHA announced that it planned to apply that policy to Subpart V proceedings involving such crude oil overcharge funds (50 FR 27402, July 2, 1985).

The DOE believes that referral of the entire Crown settlement fund to OHA is entirely appropriate. While it would be possible for ERA to apply the Policy Statement directly, holding in escrow the funds attributable to the crude oil portion of the Crown consent order, ERA believes that filing a Subpart V petition with respect to the entire Crown settlement will avoid needless duplication and allow the OHA, the part of the Department with the broadest experience in administering overcharge and settlement funds, to do so in this case.

In the March 12 **Federal Register** notice, ERA sought to provide the maximum amount of information possible and to address Crown's actual financial liability resolved by the proposed consent order. No commenter in any way addressed or objected to the adequacy of the settlement amount, and ERA's review and analysis of all the written comments did not provide any information or basis to support the modification or rejection of the proposed consent order with Crown. Accordingly, ERA concludes that the consent order is in the public interest and should be made final.

IV. Decision

By this notice, and pursuant to 10 CFR 205.199J, the proposed consent order between Crown and DOE executed on March 4, 1986 is made a final order of the Department of Energy, effective the date of publication of this notice in the **Federal Register**.

Issued in Washington, DC, on April 23, 1986.

Milton C. Lorenz,

Special Counsel, Economic Regulatory Administration.

[FR Doc. 86-9676 Filed 4-28-86; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 86-29-NG]

Northwest Marketing Co.; Application to Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Application for Blanket Authorization to Import Natural Gas from Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on April 15, 1986, of an application from Northwest Marketing Company (Northwest Marketing), a wholly-owned subsidiary of Northwest Energy Company, one of The Williams Companies, for blanket authorization to import Canadian natural gas for short-term sales in the domestic spot market. Authorization is requested to import up to 150 MMcf of Canadian natural gas per day during a two-year term beginning on the date of first delivery of the import. Northwest Marketing intends to import individual volumes of natural gas purchased from various Canadian suppliers and, also, to import natural gas as an agent for other parties which desire either to sell or purchase Canadian natural gas under short-term or spot-market sales arrangements. Since Northwest Marketing intends to utilize existing pipeline facilities for the transportation of the volumes imported, the proposal does not contemplate the construction of any new domestic facilities.

The applicant proposes to submit quarterly reports giving details of individual transactions in the month following each calendar quarter.

The application was filed with the ERA pursuant to Section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene or notices of intervention, as applicable, and written comments are to be filed no later than May 29, 1986.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-076, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-8162

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6667

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene, or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All Protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076-A, RG-23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585. They must be filed no later than 4:30 p.m. e.d.t., May 29, 1986.

The Administrator intends to develop a decisional record on the application through responses to the notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based upon the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Northwest marketing's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076-A, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC., April 23, 1986.

Barton R. House,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-9516 Filed 4-28-86; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-85-04; OFP Case No. 66017-9266-01-23]

Extension of Decision Period on Petition for Exemption by Power Developers, Inc.

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of extension of decision period on Petition for exemption by Power Developers, Inc., for a proposed facility near Scottsdale, Arizona.

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby extends by thirty (30) days to the Decision Period within which to either grant or deny the request for a permanent exemption from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) (FUA or the Act) filed by Power Developers, Inc. for its proposed electric power production facility to be located near and east of Scottsdale, Arizona.

Section 501.68(a)(2) of 10 CFR Part 501—Administrative Procedures and Sanctions, Subpart F—allows for the extension of the decision period on an exemption petition to a specified date by publishing such notice in the **Federal Register** and stating the reasons for such extension.

This extension by ERA of the decision period to grant or deny the petition is necessary to properly consider issues associated with this case.

Issued in Washington, D.C., on April 22, 1986.

Barton R. House,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-9517 Filed 4-28-86; 8:45 am]

BILLING CODE 6450-01

ENVIRONMENTAL PROTECTION AGENCY

California State Motor Vehicle Pollution Control Standards: Amendments Within the Scope of Previous Waivers of Federal Preemption; Summary of Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of scope of waiver of Federal preemption.

SUMMARY: The California Air Resources Board (CARB) has notified EPA that it adopted amendments to its Emissions Warranty Regulations. The amendments (1) add specific diesel particulate control components to CARB's Emission Warranty Parts List, (2) clarify the applicable useful life definition for diesel particulate controls on vehicles certified to California's optional standards, and (3) clarify the applicability of California's two year/24,000 mile warranty to miscellaneous parts used in conjunction with fuel metering and ignition system components.

I find these amendments to be within the scope of previous waivers of Federal preemption granted to California for its warranty regulations. Since these amendments are within the scope of these waivers, a public hearing to consider them is not necessary. However, if any party asserts an objection to these findings within 30 days of the date of publication of this notice, EPA will consider holding a public hearing to provide an opportunity to present testimony and evidence to show that there are issues to be addressed through a section 209(b) waiver determination and that I should reconsider my findings. Otherwise, these findings will become final at the expiration of this 30-day period.

DATES: Any objections to the findings in this notice must be filed within 30 days of the date of this notice; otherwise, at the expiration of this 30-day period these findings will become final. Upon receipt of any timely objection, EPA will consider scheduling a public hearing in a subsequent **Federal Register** notice.

ADDRESSES: Any objection to the findings in this notice should be filed with Mr. Charles N. Freed, Director, Manufacturers Operations Division (EN-340-F), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Copies of the California amendments at issue in this notice and a decision document containing an explanation of my determination, are available for public inspection during normal working hours (8:00 a.m. to 4:00 p.m.) at the Environmental Protection Agency, Central Docket Section, Gallery I, 401 M Street SW., Washington, D.C. 20460 (Docket EN-85-06). Copies of the decision document can be obtained from EPA's Manufacturers Operations Division by contacting Mr. Spiegel as noted below.

FOR FURTHER INFORMATION CONTACT: Steven M. Spiegel, Attorney/Advisor, Manufacturers Operations Division (EN-340-F), U.S. Environmental Protection Agency, Washington, D.C. 20460, (202) 382-2526.

SUPPLEMENTARY INFORMATION: I have determined that CARB's amendments are within the scope of waivers of Federal preemption previously granted

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pursuant to section 206(b) of the Clean Air Act, as amended (Act).[1] Specifically, the changes add specific diesel particulate control components such as trap oxidizers, to California's Emissions Warranty Parts List; establish the useful life period as 5 years, 50,000 miles for diesel particulate controls on light-duty and medium-duty vehicles certified to California's optional 100,000 mile standards; and clarify the applicability of California's 2 year, 24,000 mile warranty to miscellaneous parts used on ignition system and fuel metering components.

These amendments do not undermine California's determination that its standards are, in the aggregation, at least as protective as Federal standards, raise no new issues regarding previous waivers of Federal preemption and are not inconsistent with Section 202(a) of the Act. A full explanation of my determination is contained in a decision document, which may be obtained from EPA as noted above.

Since these amendments are included within the scope of previously granted waivers of Federal preemption, a public hearing to consider them is not necessary. The public has not had an opportunity to comment in advance of this determination. Therefore, my determination on these amendments will become final at the expiration of 30 days following publication of this notice, unless an objection is filed and a public hearing is scheduled.

My decision will affect not only persons in California but also the manufacturers located outside the State who must comply with California's requirements in order to produce motor vehicles for sale in California. For this reason, I hereby determine and find that this decision is of nationwide scope and effect. Accordingly, judicial review of this action is available only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit within 60 days of publication. Under section 307(b)(2) of the Act, the requirements which are the subject of today's notice may not be challenged later in judicial proceedings brought by EPA to enforce these requirements.

This action is not a rule as defined by section 1(a) of Executive Order 12291, 46 FR 13193 (February 19, 1981), because it does not "implement, interpret, or prescribe law or policy." Therefore, it is exempt from review by the Office of Management and Budget as required for rules and regulations by Executive Order 12291. Additionally, a Regulatory Impact Analysis is not being prepared under Executive Order 12291, for this "within the scope" determination since it is not a rule.

This action also is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. 601(2), because the action is not required to undergo prior "notice and comment" under section 553(b) of the Administrative Procedure Act, or any other law. Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small entities.

Dated: April 22, 1986.

J. Craig Potter,

Assistant Administrator for Air and Radiation.

[FR Doc. 86-9584 Filed 4-28-86; 8:45 am]

BILLING CODE 6560-50-M

[1] 40 FR 61066 (October 23, 1979) and 37 FR 14631 (July 25, 1972).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86E-0088]

Determination of Regulatory Review Period for Purposes of Patent Extension; Cefotan

Correction

In FR Doc. 86-7723 appearing on page 11981 in the issue of Tuesday, April 8, 1986, make the following correction:

In the third column, first paragraph, second line, "in" should read "is".

BILLING CODE 1505-01-M

Health Resources and Services Administration

Indian Health Service; Designation of Contract Proposal Declination Appeals Board

The Indian Self-Determination Act (Pub. L. 93-638) requires the Secretary of Health and Human Services to provide the opportunity to an Indian tribe for a hearing if he/she declines a request for a self-determination contract (Sec. 103(b)(3)). The regulations at 42 CFR 36.214(e) provides that the director of the Indian Health Service (IHS) shall appoint a five-member "Contract Proposal Declination Appeals Board". The purpose of this notice is to notify the public of the current membership of the Contract Proposal Declination Appeals Board.

On March 28, 1986, the Director, IHS, appointed the following individuals to the Contract Proposal Declination Appeals Board:

Mr. James C. Meredith, Director, Nashville Program Office, IHS, Chairman;

Ms. Luana Reyes, Acting Associate Director, Office of Planning, Evaluation and Legislation, IHS, Member;

Mr. Charles J. Erickson, Acting Director, Division of Health Systems Development, IHS, Member;

Dr. Stephen Fermison, Director, Patient Care Policy Analysis Program, Member;

Ms. Ramona C. Ornelas, Program Analyst, Member;

Mr. Doug Black, Program Analyst, First Alternate Member;

Mr. Jim Mitchell, Acting Director, Division of Health Support Activities, Chief, Contract Health Service Branch, IHS, Second Alternate Member;

Mr. Alan Allery, Director, Bemidji Program Office, IHS, Third Alternate Member; and

Mr. Mike Lincoln, Director, Navajo Area, IHS, Fourth Alternate Member.

Dated: April 22, 1986.

John Kelso,

Acting Administrator.

[FR Doc. 86-9489 Filed 4-28-86; 8:45 am]

BILLING CODE 4160-16-M

Food and Drug Administration

[Docket No. 83D-0120]

Revised Sequential Analysis Plan for Domestic and Imported Dates and Date Material; Availability of Guide

Correction

In FR Doc. 86-7378 beginning on page 11482, in the issue of Thursday, April 3, 1986, make the following correction:

On page 11483, in the first column, in the sixth line from the top the page, "225-2001" should read "225-72-2001."

BILLING CODE 1505-01-M

[FDA 225-72-2201]

Memorandum of Understanding with the Agricultural Marketing Service

Correction

In FR Doc. 86-7379 beginning on page 11480, in the issue of Thursday, April 3, 1986, make the following correction:

1. The agency document control number is corrected to read as set out above.

2. On page 11480, in the second column, in FOR FURTHER INFORMATION CONTACT: the contact person's name should read "Walter J. Kustka".

BILLING CODE 1505-01-M

Public Health Service

National Center for Health Services Research and Health Care Technology Assessment; Reassessment of Medical Technology; Transurethral Ureteroscopic Lithotripsy (TUUL) Procedures for Treatment of Kidney Stones

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating a reassessment of what is known of the safety, clinical effectiveness, and use (indications) of transurethral ureteroscopic lithotripsy (TUUL) procedures for the treatment of kidney stones.

Transurethral ureteroscopic lithotripsy (TUUL) represents a group of procedures whereby a cystoscope is inserted through the urethra into the bladder and descending ureters under direct visualization and either an ultrasonic or shockwave probe or a mechanical stone crushing device is inserted through the cystoscope for the purpose of ultrasonically, electrohydraulically or mechanically disrupting the stone, respectively.

When the procedure is limited to disrupting stones within the urinary bladder, it constitutes a lower urinary tract procedure. This procedure, known as transurethral lithotripsy (TUL) is an established medical procedure. The cystoscope can then be advanced through the uretero-vesicular valve into the descending ureter. This procedure is considered a transurethral ureteroscopic lithotripsy (TUUL) and involves the upper urinary tract. In the first instance, where the procedure is limited to the bladder, it is covered under Medicare and is designated transurethral cystoscopic lithotripsy. Where it involves the ureter, renal pelvis, or kidney, it is designated transurethral ureteroscopic lithotripsy. The latter is not a presently covered procedure.

This technology was previously assessed by the Public Health Service (Federal Register 1984; 49(25):4438). At that time data were lacking by which to determine the status of TUUL for purposes of advising Medicare regarding coverage. In distinguishing TUUL from the other forms of lithotripsy, this reassessment seeks to determine whether ultrasonic, electrohydraulic or mechanical ureteroscopic lithotripsy has been demonstrated to be safe or clinically effective or has achieved widespread acceptance within the practicing community. Specifically, we are interested in knowing whether TUUL procedures for treatment of kidney stones in use in the United States today have significant clinical advantages when compared to other surgical methods of treatment. If they prove to be safe and clinically effective, what are the specific indications and when is their use considered reasonable and necessary? Not included in this assessment are the medical treatments of kidney stones, such as diet and/or medication which may be used alone, in combination or in conjunction with surgical procedures.

PHS assessments consist of a synthesis of information obtained from appropriate organizations in the private sector and from PHS and other agencies in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. The information being sought is a review and assessment of past, current, and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies. Information related to the characterization of the patient population most likely to benefit from it, as well as on clinical acceptability and the effectiveness of this technology and extent of use is also being sought. Proprietary information is not being sought. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than July 22, 1986 or within 90 days from the date of publication of this notice.

Written material should be submitted to: Morgan N. Jackson, M.D., M.P.H., Office of Health Technology Assessment, NCHSR&HCTA, Park Building, Room 3-10, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-4090.

Dated: April 22, 1986.

Morgan N. Jackson,

Acting Director, Office of Health Technology Assessment, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 86-9546 Filed 4-28-86; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-8662-A]

Alaska Native Claims Selection; Choggiung Ltd.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611, and 1613, will be issued to Choggiung Limited for approximately six acres. The lands involved are in the vicinity of Ekuk, Alaska.

Seward Meridian, Alaska

T. 16 S., R. 58 W. [Surveyed]
Sec. 12, those lands within Sec. 3(e) application AA-12838 excluded from Interim Conveyance No. 230, dated September 17, 1979.

A notice of the decision will be published once a week for four (4) consecutive weeks in the ANCHORAGE TIMES. Copies of the decision may be contained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until May 29, 1986 to file a appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Joe J. Labey,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-9551 Filed 4-28-86; 8:45 am]

BILLING CODE 4310-JA-M

Closure of Public Lands; Idaho

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Closure of Public Lands.

SUMMARY: Notice is hereby given that effective immediately all public lands located in the North Grazing Allotment,

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Shoshone District are closed to horse grazing.

ADDRESS: Bureau of Land Management, Shoshone District Office, 400 West F Street, Shoshone, Idaho 83352.

FOR FURTHER INFORMATION CONTACT: Jon Idso, District Manager, Shoshone District Office, P.O. Box 2B, Shoshone, Idaho 83352. Telephone (208) 886–2206 or FTS 554–6578.

SUPPLEMENTARY INFORMATION: The lands affected by this closure are described as:

Boise Meridian

T. 8 S., R. 18 E.,
- Sec. 1, That portion southeast of the livestock pasture division fence constructed on a line running diagonally through the section from the corner common to Sections 1, 2, 11, and 12 to the corner common to sections 31, 36, 1, and 6 at the intersection of Tps. 7 and 8 S., R. 18 E., and Tps. 7 and 8 S., R. 19 E.;
- Sec. 10 to 15, inclusive;
- Sec. 21 and 22, parts in each section lying north and east of the Twin Falls North Main Canal;
- Sec. 23 and 24;
- Sec. 25 to 27, inclusive, parts in each section lying north and east of the Twin Falls North Main Canal.

T. 8 S., R. 19 E.,
- Sec. 2 to 5, inclusive, parts in each section lying south of the Gooding-Milner Canal;
- Sec. 6 to 8, inclusive;
- Sec. 9, part lying south of the Gooding-Milner Canal;
- Sec. 10;
- Sec. 11, W½;
- Sec. 14, Lot 3, NW¼NE¼, N½NW¼, SW¼NW¼;
- Sec. 15, N½NE¼, N½SE¼NE¼, W½;
- Sec. 16 to 21, inclusive;
- Sec. 22, W½, SE¼;
- Sec. 26, W½W½NE¼NE¼, NW¼NE¼, N½N½SW¼NE¼, NW¼NW¼ SE¼NE¼, N½NW¼, N½S½NW¼, N½S½S½NW¼;
- Sec. 29 and 30;
- Sec. 31, Lot 1, NE¼, NE¼NW¼.

All described lands are located in Jerome County, Idaho, in the designated North Milner Grazing Allotment.

The purpose of this closure is to protect the livestock and/or wildlife forage resources in the allotment. The need for the closure is based on the record of recurring unauthorized horse grazing.

Authorized grazing uses within the North Milner Allotment shall be exempt from this closure instruction.

Any person who fails to comply with this closure may be subject to punishment by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months pursuant to 43 CFR 8360.0–7 dated October 1, 1985.

The authority for this closure is 43 CFR 8364.1. The closure will remain in effect until cancelled by the Authorized Officer of the Bureau of Land Management.

Jon H. Idso,

District Manager.

[FR Doc. 86–9486 Filed 4–28–86; 8:45 am]

BILLING CODE 4310–GG–M

[M 70658(ND)]

Coal Exploration License Application; North Dakota

Members of the public are hereby invited to participate with Basin Cooperative Services in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in Oliver County, North Dakota:

T. 143 N., R. 83 W., 5th P.M.,
- Sec. 30, lots 1,2,3, NE¼SW¼.

T. 143 N., R. 84 W., 5th P.M.,
- Sec. 24, S½;
- Sec. 26, All.

1,120.94 acres.

Any party electing to participate in this exploration program shall notify, *in writing*, both the State Director, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107; and Basin Cooperative Services, 1717 East Interstate Avenue, Bismarck, North Dakota 58501–6990. Such written notice must refer to serial number M 70658(ND) and be received no later than 30 calendar days after publication of this Notice in the **Federal Register** or 10 calendar days after the last publication of the Notice in the The Center Republican, whichever is later. This Notice will be published for two consecutive weeks.

This proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana. The exploration plan is available for public inspection at this address.

Dated: April 22, 1986.

Dean E. Stepanek,

State Director, Montana State Office.

[FR Doc. 86–9550 Filed 4–28–86; 8:45 am]

BILLING CODE 4310–DN–M

Medford District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Bureau of Land Management, Medford District Advisory Council will be held May 29, 1986.

On May 29, the meeting will begin at 9:00 a.m.; in the Cafeteria of the Bureau of Land Management Office at 3040 Biddle Road, Medford, Oregon. The agenda for the meeting will include:

A review of the Public Involvement Policy and Guidebook presented to the Medford District by its Public Involvement Team on February 18, 1986; a presentation updating the Medford District's Draft Public Involvement Guidebook; a discussion by staff members of the District's timber sale program discussion of the District's plans to implement a River Ranger program; and reorganization of the district under provisions of the Gramm-Rudman-Hollings Act.

The meeting of the advisory council is open to the public. Interested persons may make oral statements to the board following conclusion of its other agenda items on May 29, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, by May 28, 1986. Depending on the number of persons wishing to make oral statements, a per-person time limit may be established by the District Manager.

Summary minutes of the board meeting will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Date signed: April 21, 1986.

James P. Clason,

District Manager.

[FR Doc. 86–9549 Filed 4–28–86; 8:45 am]

BILLING CODE 4310–33–M

Montrose District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with 43 CFR Subpart 1784, that a meeting of the Montrose District Advisory Council will be held June 4, 1986 in Montrose, Colorado.

DATE: Requests to present oral comments must be received by May 28, 1986. A meeting is scheduled June 4, 1986.

ADDRESS: District Manager, Bureau of Land Management, Montrose District Office, 2465 South Townsend, Montrose, Colorado 81401.

SUPPLEMENTARY INFORMATION: The District Advisory Council meeting will convene at 9:00 a.m. in the Montrose District conference room. The meeting is open to the public. Anyone wishing to make an oral statement must notify the District Manager by May 28, 1986.

The agenda will include:
1. Election of officers.
2. Update on Resource Area programs and issues.
3. Exchange pooling update.
4. Discussion of riparian issues.
5. Discussion of the preferred alternative for the Uncompahgre Basin Resource Management Plan.

Dated: April 18, 1986.

Paul W. Arresmith,

District Manager.

[FR Doc. 86–9548 Filed 4–28–86; 8:45 am]

BILLING CODE 4310–JB–M

Suspension of Production Requirements for Stripper Oil Wells on Federal and Indian Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of suspension of production requirements.

SUMMARY: On April 17, 1986, the Secretary of the Interior announced the adoption of a policy which would suspend production requirements for "stripper" oil wells on Federal and Indian Lands. The effect of the suspension of production, granted under the authority of section 17(f) of the Mineral Leasing Act of 1920 (30 U.S.C. 226(f)), is to continue the lease for the period of the suspension, subject to the payment of minimum royalty of $1 per acre or fraction thereof per year. This policy provides an alternative to premature abandonment of low production capacity wells. Abandonment of such wells has become more prevalent as a result of the recent sharp decline in oil prices. The policy is applicable to those wells that produce 10 or less barrels of oil per day. Under the policy, a leaseholder may apply to the Bureau of Land Management for a suspension of the production requirements for a particular lease. This policy is designed to prevent the premature abandonment of these stripper wells. Anyone with royalty payment responsibilities for leases on which a suspension of production has been granted shall continue to submit form MMS–2014 each month coded to indicate "No Sales" for the reporting period.

A lessee should contact the District Manager of the Bureau of Land Management District which has jurisdiction of the lands covered by the lease for additional information concerning this policy.

EFFECTIVE DATE: April 17, 1986.

ADDRESS: Any questions or inquiries should be sent to:

Director (630), Bureau of Land Management, Room 5640, Main Interior Bldg., 1800 C Street, NW., Washington, DC 20240

or

Minerals Management Service, Royalty Management Program, Bldg 85, Denver Federal Center, Denver, Colorado 80225, (800) 525–0306.

FOR FURTHER INFORMATION CONTACT: George F. Brown, (202) 343–4437.

Robert F. Burford,

Director.

[FR Doc. 86–9544 Filed 4–28–86; 8:45 am]

BILLING CODE 9310–84–M

[W–82637]

Wyoming; Exchange of Public Lands in Sweetwater County for Private Lands in Teton County and Private Interests in Sweetwater County; Transfer of Administrative Jurisdiction

1. Notice is hereby given that, pursuant to section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716 (1982), the following public lands, including all minerals excepting oil and gas, have been conveyed to Teton Valley Ranch, Kelly, Wyoming, by Patent Number 49–86–0007 dated April 1, 1986:

Sixth Principal Meridian, Wyoming

T. 20 N., R. 101 W.,
- Sec. 6, lots 1–6, E½SW¼, SE¼;
- Sec. 8, E½, N½NW¼, SE¼NW¼;
- Sec. 22, NW¼NW¼, S½N½, S½;
- Sec. 26, N½NW¼, SW¼,NW¼.

T. 21 N., R. 101 W.,
- Sec. 32, NE¼;
- Sec. 34, SW¼.

The areas described aggregate 1837.96 acres.

The United States reserved a 3.18 percent royalty interest in all coal in the above lands which may be mined or produced.

2. In exchange, the United States, Department of the Interior, acquired the following lands from Teton Valley Ranch:

Sixth Principal Meridian, Teton County, Wyoming

T. 42 N., R. 115 W.,

Those parts of Sections Ten (10), Eleven (11), Fourteen (14), and Fifteen (15) described as follows: Lots One (1) through Seventeen (17), both inclusive, of Teton Valley Ranch Subdivision, Unit I, according to that plat recorded November 9, 1976, as Plat No. 293, Teton County, Wyoming; Lot Eighteen (18) and lots Twenty-one (21) through Thirty-seven (37), both inclusive of Teton Valley Ranch Subdivision, Unit II, according to that plat recorded May 20, 1977, as Plat No. 309, Teton County, Wyoming; Lots Thirty-eight (38) through Forty-nine (49), both inclusive, of Teton Valley Ranch Subdivision, Unit III, according to that plat recorded May 20, 1977, as Plat No. 310, Teton County, Wyoming; and Lots One (1) through Twenty-six (26), both inclusive, of Sheep Mountain Commercial Area, according to that plat recorded May 20, 1980, as Plat No. 408, Teton County, Wyoming.

The above described tract of land contains 354.27 acres, more or less.

3. Additionally, the United States acquired 3.18 percent royalty interest in coal mined from the following described lands from Rock Springs Royalty Company:

Sixth Principal Meridian, Sweetwater County, Wyoming

T. 20 N., R. 101 W.,
- Sec. 5, lots 1–4, S½;
- Sec. 7, N½NE¼;
- Sec. 9, S½;
- Sec. 15, S½SW¼;
- Sec. 17, E½NE¼;
- Sec. 21, NE¼, N½SE¼;
- Sec. 23, NW¼SW¼, W½SW¼;
- Sec. 27, E½NE¼, NW¼NE¼.

T. 20 N., R. 102 W.,
- Sec. 1, lots 1–3, N½SE¼.

T. 21 N., R. 101 W.,
- Sec. 33, All.

The above-described land contains approximately 2318.35 acres.

4. The lands described in Paragraph 2 are located within the National Elk Refuge established by Executive Order No. 2177 of April 21, 1915, and were acquired by the Department of the Interior, Bureau of Land Management, on behalf of the U.S. Fish and Wildlife Service. Pursuant to section 206(c) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, and in accordance with Executive Order No. 7680 of July 30, 1937, the lands described in Paragraph 2 were transferred to the U.S. Fish and Wildlife Service on April 1, 1986, upon acceptance of title thereto by the United States, for administration as part of the National Elk Refuge in accordance with the laws, rules, and regulations applicable to National

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Wildlife Refuge System lands and the National Elk Refuge.

James L. Ellefson,
Chief, Branch and Land Resources.

[FR Doc. 86-9553 Filed 4-28-86; 8:45 am]
BILLING CODE 4310-55-M

[CA 16964]

Realty Action; Exchange of Public and Private Lands in Nevada County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of land exchange conveyance document.

SUMMARY: The purpose of this exchange was to bring back into Federal ownership that portion of the South Yuba campground and its improvements which were inadvertently constructed on private property. The non-Federal land acquired in this exchange enlarges the South Yuba Recreation Area, a long-term management area of significant public value. The public interest was well served through completion of this exchange.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, California State Office, (916) 978-4815.

The United States issued an exchange conveyance document of Gerald E. and Shirley A. Hodnefield on February 19, 1986, under the provisions of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2758, 43 U.S.C. 1716, for the following described land:

Mount Diablo Meridian, California

T. 6 N., R. 14 E.,
Sec. 29, Lots 2 and 6.
Containing 79.95 acres of public land.

In exchange for these lands, the United States acquired the following described land from Mr. and Mrs. Hodnefield:

Mount Diablo Meridian, California

T. 17 N., R. 9 E.,
Portions of Sec. 16 (described by metes and bounds).
Containing 58.17 acres of non-Federal land.

The values of the public land and the non-Federal land in the exchange were appraised at $96,250 and $75,000, respectively. An equalization payment in the amount of $20,250 was paid to the United States by Mr. and Mrs. Hodnefield.

A complete description of the above described non-Federal land is available for inspection at the State Office, Bureau of Land Management, 2800 Cottage Way, Sacramento, California 95825.

Dated: April 21, 1986.

Sharon N. Janis,
Chief, Branch of Lands & Minerals Operations.

[FR Doc. 86-9484 Filed 4-28-86; 8:45 am]
BILLING CODE 4310-40-M

Bureau of Reclamation

Quarterly Status Tabulation of Water Service and Repayment Contract Negotiations; Proposed Contractual Actions Pending Through June 1986

Pursuant to section 226 of the Reclamation Reform Act of 1982 (96 Stat. 1273), and to § 426.20 of the rules and regulations published in the Federal Register December 6, 1983, Vol. 48, page 54785, the Bureau of Reclamation will publish notice of proposed or amendatory repayment contract actions or any contract for the delivery of irrigation water in newspapers of general circulation in the affected area at least 60 days prior to contract execution. The Bureau of Reclamation announcements of irrigation contract actions will be published in newspapers of general circulation in the areas determined by the Bureau of Reclamation to be affected by the proposed action. Announcements may be in the form of news releases, legal notices, official letters memorandums, or other forms of written material. Meetings, workshops, and/or hearings may also be used, as appropriate, to provide local publicity. The public participation requirements do not apply to proposed contracts for the sale of surplus or interim irrigation water for a term of 1 year or less. The Secretary or the district may invite the public to observe any contract proceedings. All public participation procedures will be coordinated with those involved in complying with the National Environmental Policy Act if the Bureau determines that the contract action may or will have "significant" environmental effects.

Pursuant to the "Final Revised Public Participation Procedures" for water service and repayment contract negotiations, published in the Federal Register February 22, 1982, Vol. 47, page 7763, a tabulation is provided below of all proposed contractual actions in each of the six Reclamation regions. Each proposed action listed is, or is expected to be, in some stage of the contract negotiation process during April, May, or June of 1986. When contract negotiations are completed, and prior to execution, each proposed contract form must be approved by the Secretary, or pursuant to delegated or redelegated authority, the Commissioner of Reclamation or one of the Regional Directors. In some instances, congressional review and approval of a report, water rate, or other terms and conditions of the contract may be involved. The identity of the approving officer and other information pertaining to a specific contract proposal may be obtained by calling or writing the appropriate regional office at the addresses and telephone numbers given for each region.

This notice is one of a variety of means being used to inform the public about proposed contractual actions. Individual notice of intent to negotiate, and other appropriate announcements, are made in the Federal Register for those actions found to have widespread public interest. When this is the case, the date of publication is given.

Acronym Definitions Used Herein

(FR) Federal Register
(ID) Irrigation District
(IDD) Irrigation and Drainage District
(M&I) Municipal and Industrial
(D&MC) Drainage and Minor Construction
(R&B) Rehabilitation and Betterment
((O&M) Operation and Maintenance
(CAP) Central Arizona Project
(CVP) Central Valley Project
(P-SMBP) Pick-Sloan Missouri Basin Program
(CRSP) Colorado River Storage Project
(SRPA) Small Reclamation Projects Act

Pacific Northwest Region: Bureau of Reclamation, 550 West Fort Street, Box 043, Boise, ID 83724, telephone (208) 334-1961

1. Boise Cascade Corporation, Columbia Basin Project, Washington: Industrial water service contract; 250 acre-feet; FR notice published April 7, 1980, Vol. 45, page 23631.

2. Five ID's, Boise Project, Idaho-Oregon: Irrigation repayment contract; 22,660 acre-feet of stored water in Arrowrock Reservoir.

3. Brewster Flat ID, Chief Joseph Dam Project, Washington: Amendatory repayment contract; land reclassification of approximately 360 acres to irrigable; Repayment obligation to increase by $189,600.

4. Individual irrigators, M&I, and miscellaneous water users, Pacific Northwest Region, Idaho, Oregon and Washington: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

5. Rogue River Basin water users, Rogue River Basin Project, Oregon: Water service contracts; $5 per acre-foot or $20 minimum per annum, not to exceed 320 acres or 1,000 acre-feet of water per contractor for terms up to 40 years.

6. Willamette Basin water users, Willamette Basin Project, Oregon: Water service contracts; $1.50 per acre-foot or $20 minimum per annum, not to exceed 320 acres or 1,000 acre-feet of water annually per contractor for terms up to 40 years.

7. Fifty-three Palisades Reservoir Spaceholders, Minidoka Project, Idaho-Wyoming: Contract amendments to extend term for which contract water may be subleased to other parties.

8. Cascade Reservoir water users, Boise Project, Idaho: Repayment contracts for irrigation and M&I water; 59,721 acre-feet of stored water in Cascade Reservoir.

9. Boise Water Corporation, Boise Project, Idaho: M&I water service contract; up to 1,000 acre-feet annually from stored water in Anderson Ranch Reservoir for a term of up to 40 years.

10. ID's and similar water user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (Pub. L. 97-293).

11. Columbia Basin Project Water Users, Columbia Basin Project, Washington: Water service contracts for approximately 6,000 acre-feet of irrigation water provided from Banks Lake with terms up to 40 years; prior to contract execution, water users will have to come under provisions of the Reclamation Reform Act of 1982 (P.L. 97-293).

12. South Columbia Basin ID, Columbia Basin Project, Washington: Supplemental repayment contract for Irrigation Block 24; 1,892 irrigable acres. Proposed contract is subject to RRA.

13. City of Boise, Boise Project, Idaho: M&I water service contract, 340 acre-feet annually from stored water in Anderson Ranch Reservoir for a term of up to 40 years.

4. Douglas County, Galesville Project, Oregon: SRPA cost escalation loan repayment contract; $1,000,000 proposed obligation.

15. Sidney Irrigation Cooperative, Willamette Basin Project, Oregon: Irrigation water service contract for approximately 1,300 acre-feet for a term of 40 years.

Mid-Pacific Region: Bureau of Reclamation (Federal Office Building), 2800 Cottage Way, Sacramento, CA 95825, telephone (916) 978-5030

1. 2047 Drain Water Users Association, CVP, California: Water right settlement contract; FR notice published July 25, 1979, Vol. 44, Page 43535.

2. Tuolumne Regional Water District, CVP, California: Water service contract; 3,200 acre-feet from New Melones Reservoir.

3. Calaveras County Water District, CVP, California: Water service contract; 400 acre-feet from New Melones Reservoir; FR notice published February 5, 1982, Vol. 47, page 5473.

4. Individual irrigators, M&I, and miscellaneous water users, Mid-Pacific Region, California, Oregon, and Nevada: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; temporary Warren Act contracts to wheel nonproject water through project facilities for terms up to 1 year; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

5. El Dorado ID, Sly Park Unit, CVP, California: D&MC contract to allow the District to accomplish the construction work with the remaining funds from the distribution system contract, and amend the Unit 4 portion of its existing repayment contract to pay interest on actual M&I use.

6. South San Joaquin ID and Oakdale ID, CVP, California: Operation agreement for conjunctive operation of New Melones Dam and Reservoir on the Stanislaus River; FR notice published June 6, 1979, Vol. 44, page 32483.

7. San Luis Water District, CVP, California: Amendatory water service contract providing for a change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

8. Mid-Valley Water Authority, CVP, California: Temporary water supplies up to 100,000 acre-feet.

9. City of Avenal, CVP, California: Amendment of existing water service contract to provide for furnishing project power to city canalside relift facilities and change the point of diversion.

10. ID's and similar water user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (P.L. 97-293).

11. United Water Conservation District, SRPA, California: Loan repayment contract, $16,730,000 proposed obligation.

12. State of Hawaii, Molokai Project, SRPA: Contract amendment to provide for use of facilities for M&I purposes.

13. State of California, CVP, California: Contract(s) for, (1) sale of interim water to the Department of Water Resources for use by the State Water Project Contractors, and (2) acquisition of conveyance capacity in the California Aqueduct for use by the CVP, as contemplated in the current draft of the Coordinated Operations Agreement.

14. Pixley, ID, SRPA, California: Loan repayment contract, $12,300,000 proposed obligation.

15. Kaiser Development Company, CVP, California: Sacramento River water right contract; suspension of agricultural contract and execution of M&I contract.

16. Madera ID, Madera Canal, CVP, California: Warren Act contract to convey and/or store nonproject Soquel water through project facilities.

17. Hills Valley ID, CVP, California: Amendatory water service contract, to provide an additional 400 acre-feet and reallocate 800 acre-feet of water from the Ducor ID for a total increase of 1,200 acre-feet.

18. Tri-Valley Water District, CVP, California: Amendatory water service contract, to provide an additional 160 acre-feet.

19. County of Tulare, CVP, California: Amendatory water service contract, to provide an additional 1,908 acre-feet and reallocate 400 acre-feet of water from the Ducor ID for a total increase of 2,308 acre-feet.

20. U.S. Fish and Wildlife, CVP, California: Temporary water service contract; 15,000 acre-feet for Kern National Wildlife Refuge.

21. Truckee-Carson ID, Newlands Project, Nevada: Warren Act contract to wheel 9,500 acre-feet of nonproject water through project facilities.

22. Panoche Water District, CVP, California: Amendatory water service contract providing for change in point of delivery from Delta-Mendota Canal to the San Luis Canal.

23. Solano ID, Solano Project, California: Amendatory loan repayment contract providing for reconveyance and M&I water supply delivery.

24. Orland Unit Water Association, Orland Project, California: Emergency loan contract; contract will assure repayment of funds to be provided by the United States for the emergency repair due to flood-related damage to North Diversion Dam. Proposed contract is subject to RRA.

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Upper Colorado Region: Bureau of Reclamation, P.O. Box 11568 (125 South State Street), Salt Lake City, UT 84147, telephone (801) 524-5495

1. Individual irrigators, M&I, and miscellaneous water users, Utah, Wyoming, Colorado, and New Mexico: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Weber Basin Water Conservancy District, Weber Basin Project, Utah: Operation agreement to restore Arthur V. Watkins Dam to original elevation.

3. Animas-La Plata Conservancy District, Animas-La Plata Project, Colorado: Repayment contract; 9,200 acre-feet per year for M&I use; 72,200 acre-feet per year for irrigation. Contract terms dependent upon final non-Federal up-front cost sharing agreement.

4. La Plata Conservancy District, Animas-La Plata Project, New Mexico: Repayment contract; 16,600 acre-feet per year for irrigation. Contract terms dependent upon final non-Federal up-front cost sharing agreement.

5. City of Farmington, Animas-La Plata Project, New Mexico: M&I repayment contract; 10,700 acre-feet per year. Contract terms dependent upon final non-Federal up-front cost sharing agreement.

6. City of Aztec, Animas-La Plata Project, New Mexico: M&I repayment contract; 5,800 acre-feet per year. Contract terms dependent upon final non-Federal up-front cost sharing agreement.

7. City of Bloomfield, Animas-La Plata Project, New Mexico: M&I repayment contract; 5,300 acre-feet per year. Contract terms dependent upon final non-Federal up-front cost sharing agreement.

8. Central Utah Project, Bonneville Unit, Utah: Supplemental M&I repayment contract for 94,100 acre-feet per year; FR notice published August 22, 1980, Vol. 45, No. 165, page 56198. Special election on contract passed November 19, 1985, and contract executed on November 26, 1985. Congressional review of 100 days completed on March 21, 1986.

9. Southern Ute Indian Tribe, Animas-La Project, Colorado: Repayment contract for 20,500 acre-feet per year for M&I use and 3,300 acre-feet per year for irrigation use. Contract terms dependent upon final non-Federal up-front cost sharing agreement.

10. Grand Valley Project, Colorado: Contract to continue operation and maintenance of Grand Valley powerplant.

11. State of Wyoming, Seedskadee Project, Wyoming: One contract for repayment of reimbursable cost associated with the modification of Fontenelle Dam pursuant to the Reclamation Safety of Dams Amendments of 1984 (P.L. 98-404); one amendatory repayment contract to increase existing repayment contract ceiling.

12. Miscellaneous water users, Upper Colorado Region, Blue Mesa Reservoir, Colorado River Storage Project Colorado: M&I uses, 20 acre-feet and less for 20-40 years.

13. ID's and similar water user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (P.L. 97-293).

14. Bonneville Unit, Central Utah Project, Utah: Two repayment contracts for repayment of Jordan Aqueduct with Salt Lake County Water Conservancy District and the Metropolitan Water District. Contracts expected to be executed during May 1986.

15. Upper Yampa Water Conservancy District Colorado: Repayment contract to repay a loan of $4,478,000 for the construction of Stagecoach Dam and Reservoir pursuant to the SRPA of 1956, P.L. 84-984, as amended.

16. Ute Mountain Ute Tribe, Animas-La Plata Project, Colorado and New Mexico: Repayment contract; 6,000 acre-feet per year for M&I use in Colorado; 25,800 acre-feet per year for irrigation use in Colorado; 800 acre-feet per year for irrigation use in New Mexico.

17. Navajo Indian Tribe, New Mexico: Repayment contract for 7,000 acre-feet per year for M&I use.

18. Ute Mountain Ute Indian Tribe, Dolores Project, Colorado: Repayment contract for 1,000 acre-feet per year for M&I use and 22,900 acre-feet per year for irrigation.

19. Weber River Water Users, Weber River Project, Utah: Emergency contract to replace needle valves.

Lower Colorado Region: Bureau of Reclamation, P.O. Box 427 (Nevada Highway and Park Street), Boulder City, NV 89005, telephone (702) 293-8536

1. Salt River Project, and cities of Chandler, Glendale, Mesa, Phoenix, Scottsdale, and Tempe—Plan 6, CAP, Arizona: contract for purchase by the above cities of the entire yield from additional conservation storage capacity of Cliff Dam and modified Roosevelt Dam and establishment of operating criteria for those facilities.

2. Agricultural and M&I water users, CAP, Arizona: Water service subcontracts: a certain percent of available supply for irrigation entities and up to 640,000 acre-feet per year for M&I use.

3. Southern Arizona Water Rights Settlement Act: Sale of up to 28,200 acre-feet per year of municipal effluent to the city of Tucson, Arizona.

4. Contracts with five agricultural entities located near the Colorado River in Arizona, Boulder Canyon Project: Water service contracts for up to 1,920 acre-feet per year total.

5. Gila River Indian Community, CAP, Arizona: Water service contract; contract for delivery of up to 173,100 acre-feet per year.

6. Sunset Mobile Home Park, Boulder Canyon Project, Arizona: M&I water service contract for delivery of 30 acre-feet of water per year pursuant to recommendation of Arizona Department of Water Resources.

7. ID's and similar water user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (P.L. 97-293).

8. Eastern Municipal Water District, Hemet, California: Repayment contract for $8.3 million SRPA escalation loan.

9. Indian and non-Indian agricultural and M&I water users, CAP, Arizona: Contracts for repayment of Federal expenditures for construction of distribution systems.

10. Gila River Indian Community, Arizona: Contract for the repayment of a $6,574,000 SRPA loan.

11. Water delivery contracts with the State of Arizona, the Bureau of Land Management, and several private entities which are in the process of being organized for a yet undermined amount of Colorado River water for M&I use. The purpose of these contracts is to afford legal status to various noncontractural water users within the State of Arizona.

12. Contract with the State of Arizona for a yet undermined amount of Colorado River water for agricultural use and related purposes on State-owned land.

13. Contract with 16 individual holders of miscellaneous present perfected rights to Colorado River water totaling 66 acre-feet, pursuant to the January 9, 1979, Supplemental Decree of the United States Supreme Court (439 U.S. 419) in *Arizona* v. *California*.

14. County of San Bernardino, San Bernardino, California: Repayment contract for $13.4 million SRPA loan.

Southwest Region: Bureau of Reclamation, Commerce Building, Suite 201, 714 South Tyler Amarillo, TX 79101, telephone (806) 378-5430

1. Fort Cobb Reservoir Master Conservancy District, Washita Basin Project, Oklahoma: Amendatory repayment contract to convert 4,700 acre-feet of irrigation water to M&I use.

2. Foss Reservoir Master Conservancy District, Washita Basin Project, Oklahoma: Amendatory repayment contract for remedial work.

3. Vermejo Conservancy District, Vermejo Project, New Mexico: Amendatory contract to relieve the district of further repayment obligation, presently exceeding $2 million, pursuant to Public Law 96-550.

4. Hidalgo County Irrigation District No. 1, Lower Rio Grande Valley, Texas: Supplemental SRPA loan contract for approximately $13,205,000. The contracting process is dependent upon final approval of the supplemental loan report.

5. ID's and similar water user entities; Amendatory repayment and water service contracts; Purpose is to conform with the Reclamation Reform Act of 1982 (P.L. 97-293).

6. Tom Green Water Improvement District, San Angelo Project, Texas: Amendatory contract to defer payment of construction charges associated with the 1985 crop year due to the nonavailability of irrigation water for use by the District's water users.

7. Rio Grande Water Conservation District, Alamosa, Colorado: Contract for the district to be the vender of the Closed Basin Division, San Luis Valley Project, surplus water if available.

Missouri Basin Region: Bureau of Reclamation, P.O. Box 2553, Federal Building, 316 North 26th Street, Billings, Montana 59103, Telephone (406) 657-6413

1. Individual irrigators, M&I, and miscellaneous water users, Missoui Basin Region, Montana, Wyoming, North Dakota, South Dakota, Colorado, Kansas, and Nebraska: Temporary (interim) water service contracts for surplus project water for irrigation or M&I use to provide up to 10,000 acre-feet of water annually for terms up to 5 years; long-term contracts for similar service for up to 1,000 acre-feet of water annually.

2. Nokota Company, Lake Sakakawea, P-SMBP, North Dakota: Industrial water service contract; up to 16,800 acre-feet of water annually; FR notice published May 5, 1982, Vol. 47, Page 19472.

3. Fort Shaw ID, Sun River Project, Montana: R&B loan repayment contract; up to $1.5 million.

4. ID's and similar water user entities: Amendatory repayment and water service contracts; purpose is to conform to the Reclamation Reform Act of 1982 (P.L. 97-293).

5. Oahe Unit, P-SMBP, South Dakota: Cancellation of master contract and participating and security contracts in accordance with P.L. 97-273 with South Dakota Board of Water and Natural Resources and Spink County and West Brown Irrigation Districts.

6. Owl Creek ID, Owl Creek Unit, P-SMBP, Wyoming: Amendatory water service contract to reflect water supply benefits being received from Anchor Reservoir.

7. Almena ID No. 5, Almena Unit, P-SMBP, Kansas: Deferment of repayment obligation for 1985.

8. Purgatoire River Water Conservancy District, Trindad Project, Colorado: Amendatory repayment contract for extension of the development period and revision of the repayment determination methodology.

9. Corn Creek ID and Earl Michael, Glendo Unit, P-SMBP, Wyoming, and Nebraska: Irrigation contracts.

10. Webster ID No. 4, Webster Unit, P-SMBP, Kansas: Irrigation water service and repayment contract amendment to adjust payment due to reduced water supply, $870,616 outstanding.

11. Green Mountain Reservoir, Colorado-Big Thompson Project: Proposed contract negotiations for sale of water from the marketable yield to water users within the Colorado River drainage of western Colorado.

12. Ruedi Reservoir, Fryingpan-Arkansas Project, Colorado: Second round of proposed contract negotiations for sale of water from the regulatory capacity of Ruedi Reservoir.

13. Lower South Platte Water Conservancy District, Central Colorado Water Conservancy District, and the Colorado Water Resources and Power Development Authority, P-SMBP, Narrows Unit, Colorado: Water service contracts for repayment of costs and cost sharing agreement.

14. Kirwin ID No. 1, Kirwin Unit, P-SMBP, Kansas: Deferment of repayment obligation for 1986.

15. Kirwin ID No. 1, Kirwin Unit, P-SMBP, Kansas: Irrigation water service and repayment contract and Emergency Drought Act loan contract amendment to adjustment payments due to reduced water supply, $866,231 outstanding.

16. Cedar Bluff ID No. 6, Cedar Bluff Unit, P-SMBP, Kansas: Deferment of repayment obligation for 1985 and 1986.

17. Webster ID No. 4, Webster Unit, P-SMBP, Kansas: Deferment of repayment obligation for 1986.

18. Fryingpan-Arkansas Project, Colorado: East Slope Storage system consisting of Pueblo, Twin Lakes, and Turquoise Reservoir; Contract negotiations for long-term storage contracts.

19. Twin Loups Reclamation District, P-SMBP: D&MC contract for correction of initial construction deficiencies and monitoring during initial filling, priming and puddling activities of the project. Proposed contract is to be $500,000.

20. Farwell Irrigation District, Nebraska: D&MC contract for the correction of drainage and seep area on the project.

21. Colorado-Big Thompson Project, Colorado: Contract amendment and supplement to transfer certain joint use facilities to the Northern Colorado Water Conservancy District for operation and maintenance.

22. Almena Irrigation District No. 5, Almena Unit, Pick-Sloan Missouri Basin Program, Kansas: Irrigation water service and repayment contract amendment to adjust payment due to reduced water supply, $576,090 outstanding.

23. Cedar Bluff Irrigation District No. 6, Cedar Bluff Unit, Pick-Sloan Missouri Basin Program, Kansas: Irrigation water service and repayment contract amendment to adjust payments due to reduced water supply, $621,078 outstanding.

24. Twin Loups Irrigation District, Pick-Sloan Missouri Basin Program: Amend repayment contract to include increased project construction cost and adjust payments to full current payment capacity.

Opportunity for public participation and receipt of comments on contract proposals will be facilitated by adherence to the following procedures:

(1) Only persons authorized to act on behalf of the contracting entities may negotiate the terms and conditions of a specific contract proposal.

(2) Advance notice of meetings or hearings will be furnished to those parties that have made a timely written request for such notice to the appropriate regional or project office of the Bureau of Reclamation.

(3) All written correspondence regarding proposed contracts will be made available to the general public pursuant to the terms and procedures of the Freedom of Information Act (80 Stat. 383), as amended.

(4) Written comments on a proposed contract or contract action must be submitted to the appropriate Bureau of

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Reclamation officials at locations and within time limits set forth in the advance public notices.

(5) All written comments received and testimony presented at any public hearings will be reviewed and summarized by the appropriate regional office for use by the contract approving authority

(6) Copies of specific proposed contracts may be obtained from the appropriate Regional Director or his designated public contact as they become available for review and comment.

(7) In the event modifications are made in the form of proposed contract, the appropriate Regional Director shall determine whether republication of the notice and/or extension of the 60-day comment period is necessary.

Factors which shall be considered in making such a determination shall include, but are not limited to: (i) The significance of the impact(s) of the modification and (ii) the public interest which has been expressed over the course of the negotiations. At a minimum, the Regional Director shall furnish revised contracts to all parties who requested the contract in response to the initial public notice.

Dated: April 23, 1986.

C. Dale Duvall,

Commissioner of Reclamation.

[FR Doc. 86-9534 Filed 4-28-86; 8:45 am]

BILLING CODE 4310-09-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 19, 1986. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by May 14, 1986.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA

Limestone County

Athens, *Houston, Governor George Smith, House*, 101 N. Houston St.

Mobile County

Mobile, *Paterson House*, 1673 Government St.

Tuscaloosa County

Tuscaloosa, *Downtown Tuscaloosa Historic District*, Roughly bounded by Fourth St., Twenty-second Ave., Seventh St., and Twenty-fifth Ave.

HAWAII

Hawaii County

Bobcat Trail Habitation Cave (50-10-30-5004)

LOUISIANA

Orleans Parish

New Orleans, *National American Bank Building*, 200 Carondelet

New Orleans, *Walker House*, 1912 Saint Charles

Ouachita Parish

Monroe, *Bright—Lamkin—Easterling House*, 918 Jackson St.

Monroe, *Cooley, G. B., House*, 1011 S. Grand St.

Rapides Parish

Pineville, *Alexandria Hall—Louisiana College*, Louisiana College

Pineville, *Central Louisiana State Hospital Dairy Barn*, US 165

Richland Parish

Alto, *Vickers House*, LA 15

St. James Parish

Vacherie vicinity, *Desire Plantation House*, LA 644

MASSACHUSETTS

Bristol County

Bristol, *Millicent Library*, 45 Center St.

Middlesex County

Lowell, *Flagg—Coburn House*, 722 E. Merrimack St.

Somerville, *United States Post Office—Somerville Main*, 237 Washington St.

Waltham, *United States Post Office—Waltham Main*, 774 Main St.

Norfolk County

Weymouth, *United States Post Office—Weymouth Landing*, 103 Washington St.

MISSOURI

Cooper County

Pilot Grove, *Mount Nebo Baptist Church*, SR E

St. Louis (Independent City)

Clemens House—Columbia Brewery District (Boundary Increase), Roughly bounded by N. Twenty-first, N. Twentieth, St. Louis Ave., N. Florissant, Monroe, N. Eighteenth, and Maiden Ln.

NEBRASKA

Lancaster County

Lincoln, *Phi Delta Theta Fraternity House*, 1545 R St.

OHIO

Allen County

Lima, *Barr Hotel (Lima MRA)*, 201-209 E. High St. and 200-216 N. Union St.

Columbiana County

Wellsville, *Episcopal Church of the Ascension and Manse*, 1101 and 1109 Eleventh St.

Cuyahoga County

Cleveland Heights, *Heights Rockefeller Building*, 3091 Mayfield Rd.

Lakewood, *Detroit—Warren Building*, 14801-14813 Detroit Ave.

Perry County

Somerset vicinity, *Saint Joseph's Catholic Church*, 5757 OH 383

Pickaway County

Circleville, *Saint Philip's Episcopal Church*, 129 W. Mound St.

Sandusky County

Woodville, *Layman, Christopher C., Law Office*, 212 W. First St.

WASHINGTON

Clark County

Battle Ground vicinity, *Lewisville Park*, 28411 NE Lewisville Hwy.

Vancouver, *Anderson—Beletski Prune Farm*, 4119 NW McCann Rd.

Cowlitz County

Castle Rock vicinity, *Laughlin Round Barn*, 8249 Barnes Dr.

Lewis County

Chehalis, *Palmer, O.K., House*, 673 NW Pennsylvania

Whitman County

Oakesdale vicinity, *Hanford, Edwin H., House*, N of WA 271

[FR Doc. 86-9574 Filed 4-28-86; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB-105 (Sub.-No. 8)]

Western Pacific Railroad Co., Findings on Abandonment and Discontinuance of Service in San Francisco County, CA

The Commission has found that the public convenience and necessity permit the Western Pacific Railroad Company: (1) To abandon its 4.60-mile line of railroad from milepost 0.23 to the end of the line at milepost 0.92 and from milepost 1.26 to the end of the line at milepost 2.24; from E.S. 0+00 at approximately Illinois and 25th Streets along Army Street to Loomis Street to the end of the line past Helena Street at E.S. 108+83.1 and from E.S. 0+00 at Loomis Street near Marin Street to the end of the line at E.S. 35+58.8 at Missouri Street and from E.S. 0+00 at Barneveld Avenue to the end of the line at E.S. 10+35.8 between Upland and Toland Streets on McKinnon Avenue; and (2) to discontinue service over trackage (a) of the Atchison, Topeka, and Santa Fe Railway Company (ATSF) between E.S. 11+65± at approximately 25th and Minnesota Streets and E.S. 61+90.2 at approximately Pennsylvania and Mariposa Streets (approximately 0.95 miles); and (b) jointly owned ATSF/ and the Southern Pacific Transportation Company track between E.S. 61+90.2 at approximately Pennsylvania and Mariposa Streets and E.S. 93+20± at approximately 16th and Rhode Island Streets (approximately 0.59 miles).

A certificate will be issued authorizing this abandonment and discontinuance of service unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

James H. Bayne,

Secretary.

[FR Doc. 86-9611 Filed 4-28-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Atlas Chain Co., et al.

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 9, 1986.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 9, 1986.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 21st day of April 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance

APPENDIX

Petitioner Union and workers of former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Atlas Chain Co. (UAW)	West Pittston, PA	4-10-86	4-2-86	TA-W-17,353	Roller chains.
Belden Industries, Inc. (ILGWU)	Godfrey, Ill.	4-14-86	4-9-86	TA-W-17,354	Ladies sportswear.
Burlington Northern Railroad, Inc. (IBEW)	Superior, WI	4-14-86	4-4-86	TA-W-17,355	Heat taconite pellets.
Courtland Novelty Co., Inc. (ILGWU)	E. Stroudsburg, PA	4-14-86	4-11-86	TA-W-17,356	Pleating, tucking stiching.
Cyclops Corp. Cyamp Division (Workers)	Titusville, PA	4-14-86	4-1-86	TA-W-17,357	High performance specialty steel products.
Diamond Tool and Horseshoe Co. (DALU)	Duluth, MN	4-11-86	3-28-86	TA-W-17,358	Adjustable wrenches.
Herman Iskin & Co., Inc. (ACTWU)	Telford, PA	4-14-86	4-8-86	TA-W-17,359	Childrens play clothes.
Molycorp, Inc./Questa Div. (OCAW)	Questa, NM	4-19-86	4-4-86	TA-W-17,360	Molybdenum.
Norisch Inc. (Workers)	Bemidji, MN	4-11-86	3-13-86	TA-W-17,361	Wire products.
Peacoe Building Systems (Workers)	Wellsena, KS	4-14-86	3-31-86	TA-W-17,362	Pre-engineered metal buildings.
Patterson Drilling Co. (Workers)	Snyder, TX	4-11-86	3-30-86	TA-W-17,363	Drilling operations for crude oil.
Penrod Drilling (Workers)	Dallas, TX	4-14-86	4-8-86	TA-W-17,364	Drilling Contractors.
Picher International, Inc./Ultrasound & Nuclear Div. (Company).	Northford, CT	4-10-87	4-7-86	TA-W-17,365	Nuclear medicine systems/ultrasound system.
Polytex (Workers)	Bayonne, NJ	4-14-86	3-25-86	TA-W-17,366	Laminating vinyl.
Ralph Edwards Sportswear Co. (ACTWU)	Girardeau, MO	4-14-86	4-8-86	TA-W-17,367	Leather wearing apparels.
Sanford Manufacturing (ACTWU)	Wilkes-Barre, PA	4-10-86	4-3-86	TA-W-17,368	Ladies sportswear (tailored slacks).
Transit America, Inc. (UAW)	Philadelphia, PA	4-14-86	4-10-86	TA-W-17,369	Passenger railcars.
Weiser Lock (Workers)	Huntington Beach, CA	4-14-86	4-8-86	TA-W-17,370	Door knobs and deadbolts.
Westland Manufacturing Corp. (ILGWU)	Greensburg, PA	4-14-86	3-24-86	TA-W-17,371	Ladies sportswear.
Weyenberg Shoe Mfg. Co. (UFCW)	Beaver Dam, WI	4-14-86	4-10-86	TA-W-17,372	Men shoes.

[FR Doc. 86-9572 Filed 4-28-86; 8:45 am]

BILLING CODE 4510-30

[TA-W-16,494]

Publix Shirt Corp., Myerstown, PA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on March 14, 1986, applicable to all workers of Publix Shirt Corporation, Myerstwon, Pennsylvania. The Notice of Certification was published in the Federal Register on March 25, 1986 (51 FR 10285).

On the basis of additional information, the Office of Trade Adjustment Assistance, reviewed the certification. The additional information from the company revealed that several layoffs occurred after the termination date set in the Department's certification and are still continuing. These workers were involved in winding down the operations and closing the Myerstown plant.

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The intent of the certification is to cover all workers at the Myerstown, Pennsylvania plant of the Publix Shirt Corporation who were affected by the decline in the sales or production of men's woven and knit sport shirts related to import competition. The notice, therefore, is amended by providing a new termination date of July 1, 1986.

The amended notice applicable to TA-W-16,494 is hereby issued as follows:

All workers of Publix Shirt Corporation, Myerstown, Pennsylvania who became totally or partially separated from employment on or after September 16, 1984 and before July 1, 1986 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 17th day of April 1986.

James D. Van Erden,
Acting Deputy Director, Office of Program Management, UIS.

[FR Doc. 86-9573 Filed 4-28-86; 8:45 am]
BILLING CODE 4510-30-M

Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 USC 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period April 14, 1986–April 18, 1986.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) that a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-16,534; ITW Paktron, Lynchburg, VA

TA-W-16,625; Pettibone Tiffin Corp., Tiffin, OH

TA-W-16,581; Homestead Woolen Mills, Inc., West Swanzey, NH

TA-W-16,552; Connor Forest Industries, Inc., Laona, WI

TA-W-16,553; Driver-Harris Co., Harrison, NJ

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-16,608; Valley Mould Division of Microdot, Cleveland, OH

Aggregate U.S. imports of ingot moulds are negligible.

TA-W-16,603; Keebler Co., Philadelphia, PA

Separations from the subject firm resulted from a transfer of production to other domestic facilities.

TA-W-16,635; General Electric Co., Mentor, OH

Produces components and parts used by other GE plants producing lamps. None of these other production facilities are under current certification, therefore, they do not independently meet the statutory criteria for certification.

Affirmative Determinations

TA-W-16,586; Dresser Industries, Inc., Marion Power Shovel Division, Marion, OH, Foundry

A certification was issued covering all workers of the Marion Power Shovel Division, Marion, OH, Foundry separated on or after September 20, 1984.

TA-W-16,556A; Dresser Industries, Marion Power Shovel Division, Marion, OH, Manufacturing Segment

A certification was issued covering all workers of the Marion Power Shovel Division, Marion, OH, Manufacturing Segment separated on or after September 20, 1984.

TA-W-16,466; The Crosby Group, Inc., Laughlin Plant, Portland, ME

A certification was issued covering all workers of the firm separated on or after September 12, 1984.

TA-W-16,543; Reynolds Metals Co., San Patricio Plant, Corpus Christi, TX

A certification was issued covering all workers of the firm separated on or after October 4, 1984.

TA-W-16,651; American Mfg. Co., Inc., Honesdale, PA

A certification was issued covering all workers of the firm separated on or after November 12, 1984.

TA-W-16,653; E.W. Ferry Screw Products, Inc., Brook Park, OH

A certification was issued covering all workers of the firm separated on or after November 14, 1984.

TA-W-16,643; Armstrong Rubber Co., Natchez, MS

A certification was issued covering all workers of the firm separated on or after November 4, 1984.

TA-W-16,598; Weyerhaeuser Co., Shakemill Div., Longview, WA

A certification was issued covering all workers of the firm separated on or after September 24, 1984.

TA-W-16,582; Insley Manufacturing Corp., Indianapolis, IN

A certification was issued covering all workers of the firm separated on or after July 1, 1985 and before March 31, 1986.

TA-W-16,590; LTV Steel Co., South Chicago Works, Chicago, IL

A certification was issued covering all workers of the firm separated on or after October 1, 1984.

TA-W-16,565; Terry Footwear, Paterson, NJ

A certification was issued covering all workers of the firm separated on or after October 10, 1984.

TA-W-16,661; A.C. Lawrence Leather Co., Inc., South Paris, ME

A certification was issued covering all workers of the firm separated on or after November 6, 1984.

TA-W-16,602; Globe Metallurgical, Inc., Beverly, OH

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA-W-16,570; H. Margolin Co., Inc., Fitchburg, MA

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA-W-16,691; Misty Mfg. Co., Baltimore, MD

A certification was issued covering all workers of the firm separated on or after October 15, 1984 and before December 27, 1985.

TA-W-16,520; Centralab, Inc., Fort Dodge, IA

A certification was issued covering all workers related to the production of potentiometers separated on or after September 27, 1984.

TA-W-16,544; Powell Enterprises, Inc., McCleary, WA

A certification was issued covering all workers of the firm separated on or after September 24, 1984 and before September 30, 1985.

I hereby certify that the aforementioned determinations were issued during the period April 14, 1986—April 18, 1986. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, NW. Washington, DC during normal business hours or will be mailed to persons who write to the above address.

Dated: April 22, 1986.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-9570 Filed 4-28-86; 8:45 am]
BILLING CODE 4510-30-M

Occupational Safety and Health Administration

State Plans; Wyoming State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the Federal Register (39 FR 15394) of the approval of the Wyoming Plan and adoption of Subpart BB to Part 1952 containing the decision.

The Plan provides for the adoption of Federal Standards as State Standards by:

1. Advisory Committee coordination.
2. Publication in newspapers of general/major circulation throughout the state, with a 45-day waiting period for public comment and hearings. This is pursuant to the Wyoming Administrative Procedures Act 1977, Section 16-3-103(a)(1).
3. Adoption by the Wyoming Health and Safety Commission.
4. Reveiw and approval by the Governor.
5. Filing with Secretary of State and designation of an effective date.

OSHA regulations (29 CFR 1953.22 and .23) require that States respond to the adoption of new or revised permanent Federal standards by State promulgation of comparable standards within six months of OSHA publication in the Federal Register, and within 30 days for emergency temporary standards. Although adopted State standards or revisions to standards must be submitted for OSHA review and approval under procedures set forth in Part 1953, they are enforceable by the state prior to federal review and approval. By letter dated November 13, 1985, from Donald D. Owsley, Administrator, Wyoming Occupational Health and Safety Division, to Byron R. Chadwick, OSHA Regional Administrator, the State submitted rules and regulations in response to Federal OSHA's General Industry Standards (29 CFR 1910.20: Access to Employee Exposure and Medical Records, 45 FR 35212, Friday, May 23, 1980).

The above adoptions of Federal standards have been incorporated in the State Plan, and are contained in the Wyoming Occupational Health and Safety Rules and Regulations for General Industry, as required by Wyoming Statute 1977, Section 27-11-105(a)(viii).

State standards for 29 CFR Part 1910: Access to Employee Exposure and Medical Records were adopted by the Health and Safety Commission of Wyoming on November 9, 1984 (effective January 3, 1985) pursuant to Woming statute 1977, Section 27-11-105. The State standards on Access to Employee Exposure and Medical Records are substantially identical to the Federal 29 CFR 1910.20 except for the following minor differences: (a) Paragraph numbering; (b) use of specific dates rather than "latest printed edition" when referring to publication dates; (c) information necessary in letter for authorizing release of information is placed in the "Definitions" Section of their standard rather than in an appendix; (d) access to employee medical records are provided in Wyoming without restrictions placed due to physical or mental condition of the employee.

2. Decision

The above State Standards have been reviewed and compared with the relevant Federal Standards. OSHA has determined that the State Standards are at least as effective as the comparable Federal Standards, as required by Section 18(c)(2) of the Act. OSHA has also determined that the differences between the State and Federal Standards are minimal and that the Standards are thus substantially identical. OSHA therefore approves these standards; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Room 1576, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294; the Occupational Health and Safety Department, 604 East 25th Street, Cheyenne, Wyoming 82002; and the Office of State Programs, Room N-3700, 200 Constitution Avenue, NW., Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplements to the Wyoming State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason(s):

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious. This decision is effective April 29, 1986.

(Sec. 18, Pub. L. 596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Denver, Colorado, this 10th day of March, 1986.

Byron R. Chadwick,
Regional Administrator.

[FR Doc. 86-9571 Filed 4-28-86; 8:45 am]
BILLING CODE 4510-26-M

Pension and Welfare Benefits Administration

[Prohibited Transaction Exemption 86-52; Exemption Application No. D-6351 et al.]

Grant of Individual Exemptions; Johnson & Swanson Cash or Deferred Profit Sharing Plan et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

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ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

Johnson & Swanson Cash or Deferred Profit Sharing Plan (the Plan) Located in Dallas, Texas

[Prohibited Transaction Exemption 86–52; Exemption Application No. D–6351]

Exemption

The restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the purchases, from time to time during a five-year period, for participant-directed accounts (the Directed Accounts) under the Plan from such participants (the Requesting Individuals) of notes or undivided interests in notes (collectively, the Notes) evidencing loans made by the Requesting Individuals to Johnson & Swanson, in which the Requesting Individuals are either general partners or officers and employees, provided the purchase price is not more than the fair market value of the Notes on the date of each purchase; and (2) the continued holding for the Directed Accounts of such Notes until they are fully paid, provided the terms of such transactions are at least as favorable to the Directed Accounts as the terms the Directed Accounts could obtain in similar transactions with an unrelated party.

Temporary Nature of Exemption

This exemption is temporary and will expire five years after the date of grant with respect to the purchase of any Note. Notes purchased during said five-year period may be held for the Directed Accounts until such Notes are fully paid. Should the applicants wish to continue the purchase transactions after the five-year period has expired, they may submit another application for exemption.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 14, 1986 at 50 FR 6912.

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

John R. Johnson, P.C. Cash or Deferred Profit Sharing Plan (the Plan) Located in Dallas, Texas

[Prohibited Transaction Exemption 86–53; Exemption Application No. D–6361]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) the purchases, from time to time during a five-year period, by the Plan from John R. Johnson, P.C. (the Employer) of notes or undivided interests in notes (collectively, the Notes) evidencing loans made by the Employer to Johnson & Swanson, in which the Employer is general partner, provided the purchase price is not more than the fair market value of Notes on the date of each purchase; and (2) the continued holding by the Plan of such Notes until they are fully paid, provided the terms of such transactions are at least as favorable to the Plan as the terms it could obtain in similar transactions with an unrelated party.

Because Mr. John R. Johnson is the sole owner of the Employer and the sole participant in the Plan, the Plan is subject to Title II of the Act only, and is not subject to Title I (see 29 CFR § 2510.3–3 (b) and (c)).

Temporary Nature of Exemption

This exemption is temporary and will expire five years after the date of grant with respect to the purchase of any Note. Notes purchased during said five-year period may be held by the Plan until such Notes are fully paid. Should the applicant wish to continue the purchase transactions after the five-year period has expired, he may submit another application for exemption.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 14, 1986 at 50 FR 6914.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

Ernest E. Figari, Jr., P.C. Cash or Deferred Profit Sharing Plan (the Plan) Located in Dallas, Texas

[Prohibited Transaction Exemption 86–54; Exemption Application No. D–6362]

Exemption

The sanctions resulting from the application of section 4975 of the Code, by reason of section 4975 (c)(1) (A) through (E) of the Code, shall not apply to: (1) the purchases, from time to time during a five-year period, by the Plan from Ernest E. Figari, Jr., P.C. (the Employer) of notes or undivided interests in notes (collectively, the Notes) evidencing loans made by the Employer to Johnson & Swanson, in which the Employer is a general partner, provided the purchase price is not more than the fair market value of the Notes on the date of each purchase; and (2) the continued holding by the Plan of such Notes until they are fully paid, provided the terms of such transactions are at least as favorable to the Plan as the terms it could obtain in similar transactions with an unrelated party.

Because Mr. Ernest E. Figari, Jr. is the sole owner of the Employer and the sole participant in the Plan, the Plan is subject to Title II of the Act only, and is not subject to Title I (see 29 CFR § 2510.3–3 (b) and (c)).

Temporary Nature of Exemption

This exemption is temporary and will expire five years after the date of grant with respect to the purchase of any Note. Notes purchased during said five-year period may be held by the Plan until such Notes are fully paid. Should the applicant wish to continue the purchase transactions after the five-year period has expired, he may submit another application for exemption.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on March 14, 1986 at 50 FR 6916.

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 22nd day of April, 1986.

Elliot I. Daniel,

Assistant Administrator for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 86-9480 Filed 4-28-86; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D–6251 et al.]

Proposed Exemptions; Martin, Ryan & Andrada Employee Profit Sharing Plan and Trust et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this Federal Register Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N–5669, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW, Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of pendency of the exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Martin, Ryan & Andrada Employee Profit Sharing Plan and Trust (the Plan) Located in Oakland, California

[Application No. D–6251]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) The proposed loan by the Plan of $54,000 to Martin, Ryan & Andrada, P.C., the Plan sponsor, under the terms and conditions described in this notice of proposed exemption, provided that such terms and conditions are not less favorable to the Plan than those obtainable by the Plan in an arm's-length transaction with an unrelated

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party; and (2) the continuing personal guarantee of the Loan by Joseph D. Ryan, Jr., Gerald P. Martin, Jr., and J. Randal Andrada, parties in interest with respect to the Plan.

Summary of Facts and Representations

1. Martin, Ryan & Andrada, P.C., the Plan sponsor (the Plan Sponsor), is a law firm located in Oakland, California, consisting of eight attorneys.

2. The Plan had approximately $230,000 in assets as of February, 1985, and had 10 participants as of July 10, 1985. The trustees of the Plan are Gerald P. Martin, Jr. and Joseph D. Ryan, Jr.

3. The Plan proposes to lend $54,000 (the Loan) to the Plan Sponsor to finance office renovation. The Loan amount is approximately 23.5% of the Plan's assets.

4. The proposed Loan will be repaid in equal monthly installments of interest and principal over a period of sixty (60) months and will accrue interest at a rate of two percent (2%) over the prime rate set by the Bank of America on the date of the Loan. The Loan will be collateralized by a promissory note and security agreement duly effected in accordance with California law. Financing statements will be filed in appropriate state and county offices as required by the Uniform Commercial Code as adopted in California. The Loan will be secured by a first security interest in the accounts receivable of the Plan Sponsor. The applicant represents that the accounts receivable will be maintained at no less than 200% of the outstanding balance of the Loan at all times and will not be otherwise encumbered. The accounts receivable are not conditioned upon future performance by the Plan Sponsor, but are due and payable upon receipt by the Plan Sponsor's clients. The applicant further represents that the financial statements of the Plan Sponsor for the past two years illustrate the ability of the Plan Sponsor to generate the income with which to repay the Loan to the Plan. Finally, the applicant represents that the Loan will be further secured by the personal continuing guarantees of Joseph D. Ryan, Jr., Gerald P. Martin, Jr., and J. Randall Andrada, whose combined net worth exceeds $700,000.

5. George A. Malloch, Esq. (Mr. Malloch), of the San Francisco Law firm of Kaplan, Russin, Vecchi, Eytan & Collins, has agreed to serve as the independent fiduciary for the Plan with respect to the Loan. Mr. Malloch represents that he is qualified to serve in this capacity by virtue of his experience as an attorney with practice in business and tax law, and is aware of the duties, responsibilities and liabilities entailed in acting as independent fiduciary with respect to the Loan. Mr. Malloch further represents that he is not in any way related to the Plan Sponsor, the Plan or any of the principals thereof.

Mr. Malloch states that the proposed transaction is in the best interest of the Plan and its participants and beneficiaries since, in his opinion, the rate of return to the Plan would be in excess of that available to the Plan under other investments and would be one of the better performing assets in the Plan's portfolio. Mr. Malloch further states that the proposed Loan would be adequately secured by the accounts receivable of the Plan Sponsor and by the continuing personal guarantees of Messrs. Ryan, Martin, and Andrada.

Mr. Malloch represents that he reached this opinion after reviewing the Plan's most recent financial statements and the Plan's overall investment portfolio in terms of the Plan's liquidity requirements and the general diversification requirements of Plan assets,

In his capacity as independent fiduciary, Mr. Malloch will receive all Loan payments for the Plan, and will have the authority and responsibility of enforcing the terms of the Loan and accompanying security agreements, including making demand for timely payment, bringing suit or other timely process against the Plan Sponsor in the event of default, and monitoring the performance of the Loan, specifically including, but not limited to, ensuring that the value of the collateral securing the proposed Loan remains at no less than 200% of the outstanding balance of the Loan.

6. In summary, the applicant represents that the proposed transaction meets the statutory criteria under section 408(a) of the Act because: (a) The Loan will be approved, monitored, and enforced by an independent fiduciary; (b) the Loan will be secured by the value of the accounts receivable of the Plan Sponsor, which will at all times be no less than 200% of the outstanding balance of the Loan, and by the continuing personal guarantees of Messrs. Martin, Ryan, and Andrada; (c) the Loan will be for no more than 25% of the Plan's assets; and (d) the Plan's independent fiduciary has determined that the Loan is prudent and in the best interest of the participants and beneficiaries of the Plan.

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Profit Sharing Plan and Trust Agreement of Oregon Orthopedic Clinic, P.C. (the Plan) Located in Portland, Oregon

[Application No. D-6388]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b)(1) and (b)(2) and 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply, effective August 1, 1985, to the past and proposed lease of certain real property by the Plan to the Oregon Orthopedic Clinic, P.C. (the Employer), the sponsor of the Plan, provided that such lease has been and will be on terms at least as favorable to the Plan as the Plan could obtain in an arm's-length transaction with an unrelated party.

Effective Date: This exemption, if granted, shall be effective as of August 1, 1985.

Summary of Facts and Representations

1. The Plan is a profit sharing plan with thirteen participants and total assets of $1,415,975.11 as of December 31, 1985. The Employer is an Oregon professional corporation engaged in the practice of orthopedic medicine. The trustees of the Plan are Raymond A. Case, M.D. and Michael S. Baskin, M.D. (the Trustees), each of whom is an employee and shareholder of the Employer. Among the assets of the Plan is a parcel of real property (the Property) located at 2565 Lovejoy Street in Portland, Oregon. The Plan acquired the Property of December 21, 1973 from a partnership (the Partnership) consisting of the Trustees and Calvin Kiest, M.D., who is also an employee and shareholder of the Employer. The Partnership transferred to the Plan only the land constituting the Property, specifically reserving ownership of the improvements which were on the Property (the Improvements). The Improvements, which are still owned by the Partnership, are leased to the Employer and constitute the Employer's principal place of business. The Partnership commenced leasing the Property back from the Plan on June 1, 1973 under a ten-year lease (the Initial Lease). The Initial Lease pre-dates the Plan's recorded acquisition of title in the Property because the Partnership and the Plan had contracted in early 1973 for

the Plan to acquire the Property from the Partnership, although the deed transferring title was not recorded until December 21, 1973. The Initial Lease was a lease of the land only and specified that the lessee would retain title to all improvements on the land. Commensurate with the Initial Lease, the Partnership commenced to sublease the Property to the Employer. On July 1, 1981, the Employer began making rental payments directly to the Plan and continued for the duration of the Initial Lease to discharge the Partnership's obligations and act in the place of the Partnership as lessee under the Initial Lease. The Initial Lease expired on June 30, 1983 and was renewed between the Plan and the Employer to remain effective through June 30, 1984. The Employer represents that the lease of the Property by the Plan to the Partnership and the Employer continuously since June 1, 1973 satisfied the requirements of section 414(c)(2) of the Act and, therefore, was exempt until June 30, 1984 from the prohibitions of sections 406 and 407 of the Act by virtue of section 414(c)(2) of the Act.[1] In recognition of the expiration on June 30, 1984 of the statutory exemption of section 414(c)(2) of the Act, the Employer and the Plan entered into a new lease (the New Lease) effective July 1, 1984 which amended the terms of the Initial Lease in certain respects intended to facilitate an administrative exemption for the continued lease arrangement past June 30, 1984. The Employer is requesting and exemption for the Plan's lease of the Property to the Employer past June 30, 1984 under the New Lease. For reasons discussed below, the exemption, if granted, will be effective as of August 1, 1985.

2. The New Lease is a triple net lease with an initial term of three years. The interests of the Plan for all purposes under the New Lease are represented by an independent fiduciary, Pacific Western Bank (the Fiduciary) in Portland, Oregon, which represents that it is independent of and unrelated to the Employer and that it has substantial fiduciary experience under the Act. Rental under the New Lease is to be paid monthly. The New Lease is renewable upon approval of the Fiduciary for successive three-year terms. Rental for any renewal periods under the New Lease will be determined at the outset of such renewal period in an amount no less than the Property's fair market rental value according to an independent, professional real estate appraiser selected by the Fiduciary, but in no event will the rental be decreased from the rental rate for the immediately preceding term. Under the New Lease the Employer pays all costs of maintenance and repairs, utilities and taxes related to the Property and agrees to indemnify and hold the Plan harmless against all claims which might arise from the Employer's use of the Property. The New Lease requires the Employer to maintain personal and property liability insurance acceptable to the Fiduciary.

3. The Fiduciary obtained an appraisal of the Property from Kirk W. Shaeffer, MAI, SRPA (Shaeffer), an independent professional real estate appraiser with the firm of Real Estate Analysis Northwest in Portland, Oregon. Shaeffer determined that as of August 20, 1985, the Property, exclusive of the Improvements, had a fair market value of $206,000 to $232,000, depending on whether the land would be sold for cash or on a contract. Shaeffer, also determined that as of that date the Property had a fair market value of ten percent per annum, on a triple net basis, of its fair market value. Accordingly, the initial rental under the New Lease is set at $1,934 per month, which represents ten percent per annum of Shaeffer's higher valuation of the Property at $232,000. As of June 30, 1984, the Plan was receiving rental of $1,300 per month. The plan began receiving rental under the New Lease in the amount of $1,934 per month on August 1, 1985. The Employer and the Fiduciary agree that the rental rate according to Shaeffer's appraisal must be applicable retroactively from July 1, 1984 and the Employer has paid the Plan in an amount sufficient to compensate the Plan at the rate of Shaeffer's appraisal retroactively from July 1, 1984 through August 1, 1985. Additionally, with respect to these additional rental amounts, the Employer has paid the Plan interest at a rate determined by the Fiduciary to be appropriate to compensate the Plan for lost interest on such amounts. The Department is not proposing exemptive relief for any period prior to August 1, 1985 because that is the first date subsequent to June 30, 1984 that the Plan began to receive rental under the Lease in an amount no less than the appraised fair market rental value of the Property and was represented by the Fiduciary. The Employer recognizes that the lease of the Property from the Plan for the period commencing June 30, 1984 through August 1, 1985 constituted a prohibited transaction under the Act and the Code for which no exemptive relief is proposed herein. Accordingly, the Employer represents that it will pay any excise taxes which are applicable under section 4975(a) of the Code by reason of such lease of the Property within 60 days of the publication in the Federal Register of a notice granting the exemption proposed herein.

4. On behalf of the Plan the Fiduciary will monitor the performance of the Employer under the New Lease and represent the Plan in enforcement of its terms and conditions. The New Lease is expressly made subject to the condition that, on behalf of the Plan, an independent fiduciary should determine that the terms of the New Lease are fair to the Plan and that ownership of the Property is a good investment for the Plan. The Fiduciary represents that it has reviewed and evaluated the Plan's lease of the Property to the Employer under the New Lease. Based on such review, the Fiduciary represents that the subject arrangement constitutes a good investment with adequate independent safeguards for the Plan's participants and beneficiaries. The Fiduciary has determined that the terms of the New Lease are equal to, if not better than, terms which the Plan could obtain in an arm's-length transaction with an unrelated party, noting that most triple net leases require the lessor to be responsible for certain elemental maintenance, such as roof and exterior walls, which the New Lease places upon the lessee. The Fiduciary finds that the Property, constituting less than 20 percent of the assets of the Plan, does not represent a diversification problem in view of the Plan's overall investment portfolio. The Fiduciary cites the short duration of the New Lease's initial term and any renewal terms as an additional safeguard for the Plan, assuring the Fiduciary of ongoing opportunities to reassess the New Lease in the context of changing market conditions. The Fiduciary concludes that the Employer's lease of the Property from the Plan under the New Lease is in the best interests of the participants and beneficiaries of the Plan.

5. The Fiduciary has obtained an opinion of counsel on the issue of whether the Plan acquired title to the Improvements on the Property by virtue of the expirations on June 30, 1984 of the Initial Lease and the statutory exemption at section 414(c)(2) of the Act. The Fiduciary represents that according to such opinion of counsel, under prevailing state law applicable to the facts and circumstances of this exemption application, ownership of the Improvements is not deemed to have passed from the Partnership or the

[1] The Department expresses no opinion as to whether the lease of the Property by the Plan to the Partnership and the Employer satisfied the requirements of section 414(c)(2) of the Act.

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Employer to the Plan upon the June 30, 1984 expirations of the Initial Lease and the statutory exemption at section 414(c)(2) of the Act.

6. In summary, the applicant represents that the criteria of section 408(a) of the Act have been and will be satisfied in the subject transaction for the following reasons: (1) The interests of the Plan under the New Lease have been and will remain represented by an independent fiduciary which has determined that the subject arrangement is in the best interests and protective of the Plan and on terms which are equal to, if not better than, those which the Plan could obtain in an arm's-length transaction with an unrelated party; (2) The New Lease is a triple net lease of short duration requiring the Fiduciary's approval for renewal; (3) The Plan has been paid the appraised fair market rental value of the Property in back rentals retroactively from July 1, 1984, with interest, and the New Lease ensures the continued payment of the Property's fair market rental value in future rentals; and (4) The Fiduciary will monitor the Employer's performance under the New Lease and will represent the Plan in enforcement of its terms and conditions.

For Further Information Contact: Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Gene Fryar, D.D.S., Inc. Employees Assumed Target Benefit Pension Plan (the Plan) Located in Michigan City, Indiana

[Application No. D-6402]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the purchase on behalf of the individual account in the Plan of Gene Fryar, D.D.S. (Fryar) from Fryar of up to 5,270 shares of common stock of the LaPorte Bancorp., provided (1) the Plan will pay no more than fair market value for the stock at the time of purchase and (2) at the time of purchase the stock will not represent more than 25 percent of the assets of Fryar's individual account in the Plan.

Summary of Facts and Representations

1. The Plan is a target benefit defined contribution plan with six participants and total assets of $360,984 as of September 30, 1985. The Valley American Bank and Trust Co. of South Bend, Indiana, is the trustee (the Trustee) for the Plan. The Trustee maintains individual accounts for each Plan participant and provides that a participant may direct the investments of his or her account. The Trustee is unrelated to the LaPorte Bancorp. (LaPorte Bancorp.), a bank holding company, and its wholly-owned subsidiary, LaPorte Bank and Trust Company.

2. Fryar is a participant in the Plan as well as the sole shareholder of Gene Fryar, D.D.S., Inc., the sponsor of the Plan. The total assets in Fryar's account on September 30, 1985, equaled $305,928. Fryar owns 5,270 shares of common stock of LaPorte Bancorp., which represent approximately two percent of the issued and outstanding common stock of LaPorte Bancorp. As of December 31, 1984, LaPorte Bancorp. had total assets of $7,735,440 and total liabilities of $3,210,786.

3. Upon request of the applicant, the First of Michigan Corporation (First of Michigan), a broker-dealer located in Valparaiso, Indiana, issued a statement concerning the common stock of the LaPorte Bancorp. on December 9, 1985. The applicant represents that First of Michigan is independent of Fryar and the other parties to the proposed transaction. According to First of Michigan, no market exists for the LaPorte Bancorp. common stock and the most recent quarterly book value per share would represent the fair market value of the stock. The book value of the stock as of June 30, 1985, was $13.87. per share.

4. At the direction of Fryar, the Trustee proposes to purchase for Fryar's account in the Plan the 5,270 shares of the common stock of LaPorte Bancorp. owned by Fryar. The transaction should account for approximately 23.9 percent of the assets in Fryar's account, based on the most recent available data. The Plan will pay no more than fair market value for the stock at the time of purchase, based on the then most recent quarterly book value of the stock. However, if at the time of purchase the fair market value of the 5,270 shares of the stock exceeds 25 percent of the assets of the individual account of Fryar in the Plan, Fryar's account will purchase proportionately fewer shares. The purchase will be entirely for cash and no fees or commissions will be paid by the Plan in connection with the transaction. Fryar believes the purchase will be a prudent investment for the account because he anticipates that the stock will appreciate in value, due, in part, to the current diminishing of restrictions on multi-county and multi-state bank holding companies.

5. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (1) The purchase of the stock will be completely for cash and will involve no fees or commissions; (2) the Plan will pay no more than fair market value for the stock at the time of purchase, based on the most recent quarterly book value of the stock; (3) the transaction will involve only Fryar's individual account in the Plan and will represent no more than 25 percent of the assets in that account; and (4) the applicant believes that the stock should appreciate in value, resulting in further growth of the account.

For Further Information Contact: Paul Kelty of the Department, telephone (202) 523-8882. (This is not a toll-free number.)

Watson Clinic Employees Profit Sharing Plan and Watson Clinic Partners Profit Sharing Plan (the Plans) Located in Lakeland, Florida

[Application Nos. D-6422 and D-6423]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to loans of money (the 1986 Loans) from the Plans to Watson Clinic (the Employer), the sponsor of the Plans.

Summary of Facts and Representations

1. The Employer is a general partnership which is engagd in the practice of medicine. The Watson Clinic Employees Profit Sharing Plan (the Employees Plan) is a defined contribution plan with approximately 339 participants and net assets of $14,811,740 as of January 31, 1985. The Watson Clinic Partners Profit Sharing Plan (the Partners Plan) is a defined contribution plan with approximately 44 participants and net assets of $2,863,235 on January 31, 1985.

The United Missouri Bank of Kansas City, N.A. serves as the trustee (the Trustee) for the Plans. The Trustee provides no other banking services to the Employer. The Plans are administered by an advisory committee of five persons (three partners in the Employer and two employees of the Employer) appointed by the Employer. The advisory committee has the duty to direct the Trustee, or may appoint an investment counselor to do so, in regard to the investment of Plan assets. The Trustee, however, may decline to follow investment directions of the advisory committee when it believes such directions are not in the best interests of the Plans.

2. The Department granted a previous exemption (Prohibited Transaction Exemption (PTE) 81-65, 46 FR 39246) on July 31, 1981, to permit a loan of money (the 1981 Loan) by the Employees Plan to the Employer. The loan of $3,000,000 was used for an expansion of a clinic owned by the Employer. The extension of credit was made for a period of 15 years, with equal payments of principal and interest to be made monthly. The 1981 Loan has an interest rate of ¾ percent above the prime rate set by the Peoples Bank of Lakeland, Florida, but is not to fall below 10 percent per annum. The 1981 Loan is secured by the accounts receivable of the Employer, with those receivables having at all times during the term of the loan a value in excess of 175 percent of the understanding balance of the loan. As of November 15, 1985, the balance of the 1981 Loan was $2,807,474.

3. The Employer now proposes to borrow from both Plans an additional amount of money (the 1986 Loans) not to exceed 25 percent of the assets of each Plan. The exact amount of each 1986 Loan will be based on a current valuation of Plan assets prepared by the Trustee at the time the requested exemption is granted. With respect to a 1986 Loan from the Employees Plan, the 25 percent amount will be reduced by the then outstanding balance due on the 1981 Loan obtained under PTE 81-65. The 1986 Loans from each Plan will be used for further expansion of facilities and acquisition of equipment for the Employer's clinic. The loans will be repaid in equal monthly payments of principal and interest over a term of 15 years and will bear an interest rate of ¾ percent above the prime rate as determined by the Chase Manhattan Bank. However, in no instance will the interest rate be allowed to go below 10 percent per annum.

4. The Employer will issue promissory notes to the Plans in return for the 1986 Loans. The loans will be secured by a first security interest in the accounts receivable of the Employer in an amount equal to at least 200 percent of the outstanding loan balances throughout the term of the loans. The receivables represent amounts due to the Employer from its customers for medical services. Security agreements will be signed by the Employer and the Trustee under which the Employer grants to the Trustee on behalf of the Plans a security interest in the accounts receivable of the Employer. The Employer has currently and expects to continue to have sufficient accounts receivable to serve as collateral for the 1981 and 1986 Loans to the extent required under the relevant exemptions. As of August 1, 1985, accounts receivable of the Employer totaled $9,439,828. Recent data indicate that over 50 percent of the receivables generally are collected within 60 days. If the proposed exemption is approved, and because the applicant agreed in its security agreement for the 1981 Loan not to grant a security interest which may conflict with the security interest granted for that loan, the security agreement entered into under PTE 81-65 will be amended to permit the granting of the security interest in the 1986 Loans as described above. To the extent accounts receivable are required to be used as security for the 1986 Loans, no other security interests will be granted in the accounts receivable of the Employer.

5. The partners of the Employer will personally guarantee the payment of the promissory notes as to both principal and interest. The individual liability of each partner under the guarantee will be limited to his or her pro rata interest in the Employer.

6. The Employer represents that, with respect to these transactions, the Trustee will serve as independent fiduciary and will operate with complete discretion. The Employer represents that the Trustee is independent of the Employer and of any partner of the Employer. The trust department of the Trustee has custodial responsibility for over $19 billion in assets and is one of the 100 largest departments in the United States in terms of both assets and revenues. The Trustee certifies that the 1986 Loans are an appropriate investment for the Plans and are in the best interests of the Plan participants and that the terms of the loans are commercially reasonable. The Trustee states also that it would be willing, in its separate commercial lending capacity, to lend to the Employer the same amount of money and on the same terms as those set forth in the application. The Trustee will monitor the level of the collateral used in securing the 1986 Loans and will ensure that the collateral is maintained at no less than 200 percent of the outstanding balance of the loans plus interest due throughout the term of the loans, based on quarterly reports of the Employer. The Trustee certifies that the accounts receivable of the Employer are of high quality and are adequate to provide sufficient security for the 1986 Loans. In the event of any default, the Trustee will have the right to enforce full collection of the loans. The Trustee states that all payments of principal and interest on the 1981 Loan entered into under PTE 81-65 have been received timely and in full and all other terms of the exemption have been complied with.

7. In summary, the applicant represents that the proposed transactions will satisfy the statutory criteria of section 408(a) of the Act because: (1) The Trustee, an independent bank fiduciary, certifies that the transactions are in the best interests of the participants of the Plans and that the terms of the loans are commercially reasonable; (2) the 1986 Loans will be secured by a first security interest in accounts receivable of the Employer; (3) the accounts receivable of the Employer will at all times be maintained at no less than 200 percent of the balance of the 1986 Loans; (4) the partners of the Employer will personally guarantee the payment of the promissory notes as to both principal and interest; (5) all payments under the 1981 Loan from the Employees Plan to the Employer made pursuant to PTE 81-65 have been received timely and in full; (6) in the event of any default, the Trustee will have the right to enforce full collection of the 1986 Loans; (7) the independent bank fiduciary certifies that the accounts receivable of the Employer are adequate to provide sufficient security for the 1986 Loans, and will monitor the level of the collateral on a quarterly basis throughout the term of the loans as well as all terms of the 1986 Loans on behalf of the Plans; and (8) the Trustee represents that it would make the same loans as the 1986 Loans to the Employer on the same terms and conditions.

For Further Information Contact: Paul Kelty of the Department, telephone (202) 523-8882. (This is not a toll-free number.)

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McInerney & Dillion, Professional Corporation, Profit Sharing Plan and Trust (the Plan) Located in Oakland, California

[Application No. D-6427]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed loan by the Plan of $175,000 to McInerney & Dillion, P.C., the Plan sponsor, under the terms and conditions described in this notice of proposed exemption, provided that such terms and conditions are not less favorable to the Plan than those obtainable by the Plan in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. McInerney & Dillion, P.C. the Plan sponsor (the Plan Sponsor), is a law firm located in Oakland, California, consisting of fourteen attorneys.

2. The Plan had approximately $730,000 in assets as of June, 1985, and had 18 participants as of August 9, 1985. The trustees of the Plan are William H. McInerney and Haradon M. Dillion.

3. The Plan proposes to lend $175,000 (the Loan) to the Plan Sponsor to finance office renovation. The Loan amount is under 25% of the Plan's assets.

4. The proposed Loan will be repaid in equal monthly installments of interest and principal over a period of sixty (60) months, will accure interest at a rate of one and one-half percent (1½%) over the prime rate set by the Bank of America on the date of the Loan and will be adjusted quarterly thereafter. The Loan will be collateralized by a promissory note and security agreement duly effected in accordance with California law. Financing statements will be filed in appropriate state and county offices as required by the Uniform Commercial Code as adopted in California. The Loan will be secured by a first security interest in the accounts receivable of the Plan Sponsor. The applicant represents that the accounts receivable will be maintained at no less than 200% of the outstanding balance of the Loan at all times and will not be otherwise encumbered. The accounts receivable are not conditioned upon future performance by the Plan Sponsor, but are due and payable upon receipt by the Plan Sponsor's clients. Finally, the applicant represents that the financial statements of the Plan Sponsor for the past two years illustrate the ability of the Plan Sponsor to generate the income with which to repay the Loan to the Plan.

5. George A Malloch, Esq. [Mr. Malloch), of the San Francisco Law firm of Kaplan, Russin, Vecchi, Eytan & Collins, has agreed to serve as the independent fiduciary for the Plan with respect to the Loan. Mr. Malloch represents that he is qualified to serve in this capacity by virtue of his experience as an attorney with practice in business and tax law, and is aware of the duties, responsibilities and liabilities entailed in acting as independent fiduciary with repect to the Loan. Mr. Malloch further represents that he is not in any way related to the Plan Sponsor, the Plan or any of the principals thereof.

Mr. Malloch states that the proposed transaction is in the best interest of the Plan and its participants and beneficiaries since, in his opinion, the rate of return to the Plan would be in excess of that available to the Plan under other investments and would be one of the better performing assets in the Plan's portfolio. Mr. Malloch further states that the proposed Loan would be adequately secured by the accounts receivable of the Plan Sponsor.

Mr. Malloch represents that he reached this opinion after reviewing the Plan's most recent financial statements and the Plan's overall investment portfolio in terms of the Plan's liquidity requirements and the general diversification requirements of Plan assets.

In his capacity as independent fiduciary, Mr. Malloch will receive all Loan payments for the Plan, and will have the authority and responsibility of enforcing the terms of the Loan and accompanying security agreements, including making demand for timely payment, bringing suit or other timely process against the Plan Sponsor in the event of default, and monitoring the performance of the Loan, specifically including, but not limited to, insuring that the valueof the collateral securing the proposed Loan remains at no less than 200% of the outstanding balance of the Loan.

6. In summary, the applicant represents that the proposed transaction meets the statutory criteria under section 408(a) of the Act because: a) the Loan will be approved, monitored, and enforced by an independent fiduciary; b) the Loan will be secured by the value of the accounts receivable of the Plan Sponsor, which will at all times be no less than 200% of the outstanding balance of the Loan; c) the Loan will be for no more than 25% of the Plan's assets; and d) the Plan's independent fiduciary has determined that the Loan is prudent and in the best interest of the participants and beneficiaries of the Plan.

For Further Information Contact: Joseph L. Roberts III of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its particpants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 23 day of April, 1986.

Robert J. Doyle,

Deputy Assistant Administrator for Regulations and Interpretations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 86-9479 Filed 4-28-86; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[86-32]

NASA Advisory Council, Space Systems and Technology Advisory Committee (SSTAC); Open Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Space Systems and Technology Advisory Committee, Informal Task Force on Automation and Robotics.

DATE AND TIME: May 14, 1986, 8 a.m. to 4:30 p.m.

ADDRESS: National Aeronautics and Space Administration, Jet Propulsion Laboratory, 4800 Oak Grove Drive, Pasadena, CA 91109.

FOR FURTHER INFORMATION CONTACT: Dr. Melvin Montemerlo, Code R, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-2743).

SUPPLEMENTARY INFORMATION: The Space Systems and Technology Advisory Committee (SSTAC) was established to provide technology activities in the Office of Aeronautics and Space Technology (OAST). The Informal Task Force on Automation and Robotics, chaired by Dr. Stanley Weiss, is comprised of seven members and was formed to provide a review of OAST's automation and robotics program.

The purpose of the meeting is to provide the Task Force with in-depth briefings on the Telerobotics and the Systems Autonomy elements of the OAST Automation and Robotics program. The meeting will be opened to the public up to the seating capacity of the room (approximately 30 persons including the Task Force members and other participants).

Type of Meeting: Open.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

April 22, 1986.

[FR Doc. 86-9482 Filed 4-28-86; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL COMMUNICATIONS SYSTEM

National Security Telecommunications Advisory Committee; Closed Meeting

A meeting of the National Security Telecommunications Advisory Committee (NSTAC) will be held on May 22, 1986. The meeting will be held at United States Readiness Command (US REDCOM) in Tampa, MacDill, AFB, Florida.

May 22, 1986

—Call to Order
—Welcome Remarks
—Remarks by President's representative
—Opening Remarks
—Government response to NSTAC V Recommendations
—Review of ongoing NSTAC activities
—Information briefings
—Closing Remarks
—Adjournment

Due to the requirement to discuss classified information in conjunction with the issues listed above, the meeting will be closed to the public in the interest of National Defense. Any person desiring information about the meeting may telephone (202-692-9274) or write the Manager, National Communications System, Washington, DC 20305-2010.

Charles F. Noll,

Captain, USN, Assistant Manager, NCS Joint Secretariat.

[FR Doc. 86-9490 Filed 4-28-86; 8:45 am]

BILLING CODE 3910-05-M

NATIONAL FOUNDATION ON ARTS AND HUMANITIES

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Solo Recitalists Fellowships Section) to the National Council on the Arts will be held on May 14-15, 1986 from 9:00 a.m. to 5:30 p.m., Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

A portion of this meeting will be open to the public on May 15, 1986 from 11:30 a.m. to 1:30 p.m. to discuss Policy and guidelines.

The remaining sessions of this meeting on May 14, 1986 from 9:00 a.m. to 5:30 p.m., May 15, 1986 from 9:00 a.m. to 11:30 a.m., and May 15, 1986 from 1:30 p.m. to 5:30 p.m. are for the purpose of Panel review discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552b of Title 5, United States Code.

If you need accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

April 22, 1986.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 9497 Filed 4-28-86; 8:45 am]

BILLING CODE 7537-01

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-390 and 50-391]

Tennessee Valley Authority Watts Bar Nuclear Plant, Units 1 and 2; Order Extending Construction Completion Dates

Tennessee Valley Authority is the current holder of Construction Permit Nos. CPPR-91 and CPPR-92, issued by the Atomic Energy Commission [1] on January 23, 1973, for construction of the Watts Bar Nuclear Plant, Units 1 and 2. These facilities are presently under construction at the applicant's site on the west branch of the Tennessee River

[1] Effective January 19, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that day were continued under the authority of the Nuclear Regulatory Commission.

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approximately 50 miles northeast of Chattanooga, Tennessee.

On November 19, 1984, the Tennessee Valley Authority (the applicant) filed a request for an extension of the completion dates. This request was amended by letters dated September 3, 1985, and January 31, 1986. The extension has been requested because construction has been delayed by the following events:

1. Delays in completion of piping analysis, hanger design, and installation.
2. Delays in completion of work in support of the preoperational test program, including resolution of deficiencies identified during testing.
3. Delays in the completion of instrument sensing lines installation.
4. Modifications resulting from 10 CFR 50, Appendix R, fire protection requirements.
5. Delays resulting from analysis and modifications required to resolve concerns raised in TVA's Employee Concern Program.
6. Delays resulting from resolution of environmental qualification of electrical equipment documentation problems.
7. Selection of a site director.
8. Delays resulting from resolution of welding problems.

This action involves no significant hazards consideration; good cause has been shown for the delays; and the extension is for a reasonable period, the basis for which are set forth in the staff's evaluation of the request for extension dated November 19, 1984, as amended by letters dated September 3, 1985 and January 31, 1986.

Pursuant to 10 CFR 51.32, the Commission has determined that extending the construction completion dates will have no significant impact on the environment (51 FR 12662).

The NRC staff safety evaluation of the request for extension of the construction permits is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and the Chattanooga Hamilton County Bicentennial Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

It is hereby ordered that the latest completion date for Construction Permit No. CPPR–91 is extended from January 1, 1985 to March 1, 1987, and the latest completion date for Construction Permit No. CPPR–92 is extended from July 1, 1986 to September 1, 1987.

Date of Issuance: April 23, 1986.

For the Nuclear Regulatory Commission.

Thomas M. Novak,

Acting Director, Division of PWR Licensing-A, Office of Nuclear Reactor Regulation.

[FR Doc. 86–9539 Filed 4–28–86; 8:45 am]

BILLING CODE 7590–01

[Docket Nos. 50–456–OL, 50–457–OL, ASLBP No. 79–410–03–OL]

Commonwealth Edison Co. (Braidwood Station, Unit Nos. 1 and 2); Hearing

April 23, 1986.

Please take notice that at 9:00 a.m. on Tuesday, May 6, 1986, the evidentiary hearing in the matter of the Braidwood Station operating license will reconvene in the Council Chambers, Second Floor, City Hall Building, at 385 East Oak Street, Kankakee, Illinois 60901, and will continue at that location through May 9, 1986. Thereafter, the hearing will be moved to a different location, as yet undetermined.

The subject of the reconvened hearing will be the quality assurance issues admitted to the proceeding. Limited appearance statements concerning quality assurance will be heard at the opening session. The public is invited to attend all hearing sessions.

For the Atomic Safety and Licensing Board.

Herbert Grossman,

Chairman, Administrative Judge.

[FR Doc. 86–9538 Filed 4–28–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–333]

Power Authority of the State of New York; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (NRC/the Commission) is considering issuance of an exemption from the requirements of Appendix R of 10 CFR Part 50 to the Power Authority of the State of New York (PASNY/the licensee) for the James A. FitzPatrick Nuclear Power Plant located in Oswego County, New York.

Environmental Assessment

Identification of Proposed Action

The licensee would be exempted from the requirement of section III.G.2 of Appendix R to 10 CFR Part 50 that ventilation-related penetrations in fire barriers separating redundant shutdown-related systems be provided with fire dampers. Specifically, the exemption would apply to three fire dampers located in the floor/ceiling assembly between the screenwell house and safety-related pump houses.

The Need for the Proposed Action

Because of low combustible loadings, a fire in one of these areas would be of low intensity and short duration. Furthermore, safe shutdown could be affected if a fire occurred in the screenwell house or either pump house, because a single fire in any one of these areas would not render redundant shutdown systems located in the remaining areas inoperable. Therefore, installation of fire dampers in the floor/ceiling assembly would not enhance the level of fire protection and are unnecessary.

Environmental Impacts of the Proposed Action

The proposed action would not impact the ability to effect safe shutdown of the plant in the event of a fire in the above mentioned areas and would provide an acceptable level of safety, equivalent to that attained by compliance with Section III.G of Appendix R to 10 CFR Part 50. On this basis, the Commission concludes there are not significant radiological environmental impacts associated with this proposed exemption.

With regard to potential nonradiological impacts, the proposed exemption involves features located entirely within the restricted areas as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed exemption.

Alternative Use of Resources

This action involves no use of resources not previously considered in the Final Environmental Statement (construction permit and operating license) for the James A. FitzPatrick Nuclear Power Plant.

Agencies and Persons Consulted

The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of no Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for exemption dated April 12, 1985 which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Penfield Library, State University College of Oswego, Oswego, New York.

Dated at Bethesda, Maryland, this 23rd day of April 1986.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, BWR Project Directorate No. 2, Division of BWR Licensing.

[FR Doc. 86–9540 Filed 4–28–86; 8:45 am]

BILLING CODE 7590–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) Collection title: Debtor's Financial Statement
(2) Form(s) submitted: G–423
(3) Type of request: Revision of a currently approved collection
(4) Frequency of use: On occasion
(5) Respondents: Individuals or households
(6) Annual responses: 1,550
(7) Annual reporting hours: 1,550
(8) Collection description: Under the Railroad Retirement and Railroad Unemployment and Insurance Acts, the Board has authority to secure from a debtor a statement of the individual's assets and liabilities if waiver of the overpayment is requested.

Additional Information or Comments

Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy McIntosh (202–395–6880), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 86–9465 Filed 4–28–86; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–23153; File No. SR–Amex–86–10]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 4, 1986, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. is filing for the Commission's permanent approval of the pilot procedure under the Exchange's equities allocations procedures which permits a newly listed company which so desires to select the specialist unit for its stock from a list of seven specialist units selected by the Exchange's Committee on Equities Allocations.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose: In June 1984, the Commission approved on a twelve month pilot basis a "modified" equities allocation procedure proposed by the Exchange in order to increase the involvement of a newly listed company in the selection of the specialist unit in its stock.[1] The Exchange made the modified procedure available to companies listing on the Exchange on or after July 1, 1984 as an alternative to the allocation procedure which permits company participation in the selection process to a limited extent (the "limited participation procedure").[2] In June 1985, the Commission granted a six month extension of the modified procedure and in January and in March 1986, three month extensions, respectively, to permit it to further review the adequacy of the Exchange's procedures under the pilot and to provide the exchange with the opportunity to continue to assess the pilot's impact prior to requesting permanent approval.[3] The pilot is scheduled to terminate on June 30, 1986 and the Exchange is now requesting the Commission's permanent approval.

At the Commission's request, the Exchange is currently compiling information regarding its experience under the pilot to provide the Commission with a comprehensive review of the operation of the pilot to date. The Exchange expects to file its report shortly with the Commission. We anticipate that the information contained therein will reflect that the modified procedure has reasonably fulfilled its purposes: to assist the Exchange in attracting new listings and to preserve strong incentives for quality specialist performance.

(2) Basis: The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objectives of section 6(b)(5) in particular in that the proposed procedure is designed to promote just and equitable principles of trade, remove impediments to and

[1] See Securities Exchange Act of 1934 Release No. 34–21062 (June 18, 1984).

[2] Under the limited participation procedure, the Exchange's Committee on Equities Allocations ("Allocations Committee") submits a list of ten eligible specialist units to the company, which has the right to eliminate three units from further consideration. The Allocations Committee then reconvenes to make its final selection from the remaining seven units.

[3] See Securities Exchange Act of 1934 Release No. 34–22165, (June 28, 1985), Securities Exchange Act of 1934 Release No. 34–22760 (January 8, 1986) and Securities Exchange Act of 1934 Release No. 34–23000 (March 12, 1986).

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perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. The proposed rule change also furthers the purposes of section 11A(a)(1)(C)(ii) in that it will stimulate fair competition among brokers and dealers, among exchange markets, and between exchange markets and markets other than exchange markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition. Rather, the proposed rule change, by rewarding superior performance, will enhance competition among Exchange specialists, and, by improving the ability of the Exchange to attract prospect companies which desire greater participation in the specialist selection process, will enhance competition among markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 553, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 20, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 21, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-9560 Filed 4-28-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23164; File No. SR-CBOE-85-40]

Self-Regulatory Organizations; Amendment No. 2 to Proposed Rule Change by the Chicago Board Options Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934,[1] notice is hereby given that on April 11, 1986, the Chicago Board Options Exchange, Incorporated ("CBOE") filed with the Securities and Exchange Commission ("Commission") Amendment No. 2 to a proposed rule change as described below. The Commission is publishing this notice to solicit comments on the amended proposed rule change.

The proposed rule change as amended by Amendment No. 1 would fix position limits on options on Treasury Bonds and Notes at no greater than 10% of the value of the initial or reopened public issuance of the underlying security, rounded to the next lower $100 million amount.[2] The proposal as amended by Amendment No. 1 also would require that, if government stripping of principal and interest causes the position limit as initially established to exceed 12% of the non-stripped underlying securities, the position limit would be adjusted to no greater than 12% of the non-stripped underlying securities. Amendment No. 2 to the proposal provides that the position limit shall not exceed $1.2 billion dollars of underlying securities.

CBOE states that the purpose of Amendment No. 2 is to place a 12,000 contract cap on government securities options position limits. The current cap is 4,000 contracts. According to CBOE, this cap would assure that the increase of position limits for government securitries options is "gradual."[3]

CBOE indicates that the statutory basis of the amended proposed rule change remains as stated in the original filing, i.e., section 6(b)(5) of the Act.[4] CBOE also requests approval of Amendment No. 2 prior to the thirtieth day after publication of this notice in the **Federal Register** on the basis that, because Amendment No. 2 limits the size of position limits that otherwise would be available under the filing as previously noticed, there is no "need for a renewed comment period for this one amendment."[5]

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing also will be available for inspection and copying at the principal office of CBOE. All submissions should refer to the file number in the caption above and should be submitted by May 20, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Dated: April 22, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-9561 Filed 4-28-86; 8:45 am]

BILLING CODE 8010-01-M

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[1] 15 U.S.C. 78s(b)(1)(1982).

[2] Notice of the original proposal was published in Securities Exchange Act Release No. 22456 (September 25, 1985); 50 FR 40093 (October 1, 1985). Notice of Amendment No. 1 to the proposal was published in Securities Exchange Act Release No. 23117 (April 10, 1986), 51 FR 12956 (April 16, 1986).

[3] Amendment No. 2 to CBOE filing, p. 3.

[4] 15 U.S.C. 78f(b)(5)(1982).

[5] Amendment No. 2 to CBOE filing, p. 4.

[6] 17 CFR 200.30-3(a)(12)(1985).

[Release No. 34-23162; File No. SR-CSE-86-2]

Self-Regulatory Organizations; Cincinnati Stock Exchange, Inc.; Order Approving Proposed Rule Change

The Cincinnati Stock Exchange, Inc. ("CSE"), submitted on March 7, 1986, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to extend the coverage of the CSE's trade-through and block policies to additional trading situations involving CSE members.

Notice of the proposed rule was given by the issuance of Securities Exchange Act Release No. 23008 (March 12, 1986) and by publication in the **Federal Register** (51 FR 9737 (March 20, 1986). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to an exchange, and, in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 21, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-9562 Filed 4-28-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23165; File No. S7-433]

Joint Industry Plan; Filing and Immediate Effectiveness of Amendment to the Consolidated Tape Association Plan Relating to Line Splitter Charges.

The participants in the Consolidated Tape Association ("CTA") on March 18, 1986, submitted an amendment [1] to the "Restated and Amended Plan submitted to the Securities and Exchange Commission pursuant to Rule 17a-15 under Securities Exchange Act of 1934" ("CTA Plan").[2]

I. Description of the Amendment

The amendment introduces a monthly charge to Network B participants who attach "line splitter" devices to the lines and satellite transmissions by which they receive the Network B ticker signal. The devices permit a single land line or satellite receiver to service more devices than would otherwise be possible. The new charge is contained in Schedule A-3, attached to the CTA Plan as part of Exhibit D. The new rate is effective retroactively to January 1, 1986.

II. Request for Comment

Although the amendment was effective upon filing with the Commission, the Commission may summarily abrogate the amendment within 60 days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 11Aa3-2(c)(2), if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to and perfect the mechanisms of a national market system, or otherwise in furtherance of the purposes of the Act.

In order to assist the Commission in determining whether to abrogate the amendments and to require refiling and further review, interested persons are invited to submit their views to John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, within 21 days from the date of publication of this notice in the **Federal Register**. The amendment to the CTA Plan will be available for public inspection in the Commission's public reference room. All communications should refer to File No. S7-433.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Dated: April 22, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-9556 Filed 4-28-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23154; File No. SR-MCC-86-3]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Clearing Corp.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 21, 1986, the Midwest Clearing Corporation ("MCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is MCC's proposed Schedule of Charges [see file no. SR-MCC-86-1].

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MCC included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The MCC has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, Proposed Rule Change.* On January 16, 1986 MCC filed its Schedule of Charges. Certain fee adjustments were inadvertently omitted from or incorrectly stated in such schedule. Exhibit A reflects the revised fees, which will be effective with the February 1986 or March 1986 billing statements as shown.

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934 in that it provides for the equitable allocation of reasonable dues, fees and other charges among MCC's Participants.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The Midwest Clearing Corporation does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become

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[1] The amendment to the CTA Plan was submitted pursuant to Rules 11Aa3-1 and 11Aa3-2 under the Securities Exchange Act of 1934 ("Act").

[2] The CTA Plan and subsequent amendments are contained in File No. S7-433. The Commission approved the CTA Plan in Securities Exchange Act Release No. 16983 (July 14, 1980), 45 FR 49414.

[3] 17 CFR 200.30-3(a)(27).

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effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the forgoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 20, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 21, 1986.

John Wheeler,

Secretary.

EXHIBIT A.—MIDWEST CLEARING CORPORATION SCHEDULE OF CHARGES, 1986 PRICING REVISIONS, EFFECTIVE FEBRUARY/MARCH 1986

	1985	1986
Manual trade input fee:[1] Non-machine readable tape input charged per transaction to submitting participant via miscellaneous billing	.10	.12
Special security movement: Receipt	2.50	5.00

[1] NOTE.—These fees will be effective with March 1986 Billing statements.

[FR Doc. 86–9563 Filed 4–28–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–23153; File No. SR–MSTC–86–2]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Co.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 21, 1986, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached as Exhibit A is MSTC's proposed Schedule of Charges (see file no. SR–MSTC–86–1).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSTC included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The MSTC has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) *Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.* On January 28, 1986 MSTC filed its Schedule of Charges. Certain fee adjustments were inadvertently omitted from or incorrectly stated in such schedule. Exhibit A reflects the revised fees, which will be effective with the February 1986 or March 1986 billing statements.

The proposed rule change is consistent with Section 17A of the Securities Exchange Act of 1934 in that it provides for the equitable allocation of reasonable dues, fees and other charges among MSTC's Participants.

(B) *Self-Regulatory Organization's Statement on Burden on Competition.* The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others.* Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary of appropriate in the public interest for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 20, 1986.

For the Commisson, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 21, 1986.

John Wheeler,

Secretary.

EXHIBIT A.—MIDWEST SECURITIES TRUST COMPANY SCHEDULE OF CHARGES, 1986 PRICING REVISIONS, EFFECTIVE FEBRUARY/MARCH 1986

	1985	1986
Standing Instructions (Physical withdrawal or book-entry):		
Primary account	$300.00	$325.00
Secondary account	50.00	75.00

EXHIBIT A.—MIDWEST SECURITIES TRUST COMPANY SCHEDULE OF CHARGES, 1986 PRICING REVISIONS, EFFECTIVE FEBRUARY/MARCH 1986—Continued

	1985	1986
Automatic intra account DDI.	100.00	105.00
Settling trade option	100.00	105.00
Demand sheet withdrawal	10.00	12.00
Certificate deposits[1]		
7:30 a.m. to 11:00 a.m. CST.	.84/item	1.00/item
Corrected rate for 1986 s/b:[1].		1.10/item
11:00 a.m. to 11:30 a.m. CST.	7.50/item	10.00/item
11:30 a.m. to 4:00 a.m. CST.	.79/item	.85/item
Corrected rate for 1986 s/b:[1].		.90/item
Form preparation service[1] (by Participant Services Dept. and Midwest Clearing Dept.).	6.00/item	7.00/item

[1] NOTE.—These fees will be effective with March 1986 billing statements.

[FR Doc. 86–9564 Filed 4–28–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–23151; File No. SR–NSCC–86–04]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change

On February 11, 1986, the National Securities Clearing Corporation ("NSCC") filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), a proposed rule change amending its Clearing Fund requirements for Municipal Securities Brokers' Brokers Sponsored Account [1] Members. The Commission published notice of the proposal on March 14, 1986.[2] No comments were received. This Order approved the proposal.

I. Description

The proposed rule change adds to Part XIV of NSCC's Procedures an "Alternative Clearing Fund Formula" (the "Alternative Formula") that NSCC will use to determine the minimum required Clearing Fund contribution levels of Municipal Securities Brokers' Broker Members using NSCC's sponsored account service ("Municipal Brokers").[3] The rule change also amends NSCC's "Standards of Financial Responsibility and Operational Capability" (the "Standards") to set out eligibility standards for Alternative Formula use and additional guidelines for Municipal Brokers that elect the new formula and are subject to closer than normal surveillance.[4]

The Alternative Formula differs from NSCC's original formula [5] in several respects. Under the original formula, each member must contribute an amount equal to: (A) 2½% of the Member's average daily settlement debits and credits, other than those relating to envelope settlement systems ("ESS"), plus (B) the greater of (1) 2½% of the member's average daily ESS debits and credits or (2) 5% of ESS debits; increased by a multiplication factor.[6] Under the Alternative Formula, clause (A) is essentially eliminated,[7] and clauses (B)(1) and (B)(2) are carried over unchanged except that a new clause adds back into the calculation 2% of the Member's average daily qualified securities depository debits and the multiplication factor applied to ESS actively under the original formula is eliminated. In sum, a Municipal Broker's Clearing Fund contribution under the Alternative Formula equals the larger of the daily average of: 2½% of ESS debits and credits or 5% of ESS debits, plus 2% of qualified securities depository debits. The alternative Formula thus reduces substantially the required Clearing Fund contributions of Municipal Brokers.[8]

The rule change adds new section B.3 to Part I of the Standards. That section specifies three conditions that must be met by each Municipal Broker applicant for NSCC membership before it can qualify for Alternative Formula use. First, each applicant would have to be in compliance with Commission Rule 15c3–1(a)(8).[9] Second, each applicant would need to enter into an agreement with NSCC that it will not transfer, withdraw or deliver to a third party securities received on a business day through a qualified securities depository for no value prior to paying for the securities or paying its net settlement obligations for

[1] NSCC's "sponsored account service" enables NSCC Members that cannot, or choose not to, participate in the Depository Trust Company ("DTC") directly to access DTC services through an NSCC subaccount at DTC. Each sponsored member is assigned a subaccount number and uses that account like a direct DTC participant. A sponsored account member generally can use all DTC services and facilities as if it were a direct participant. NSCC, however, remains liable to DTC on all activity in sponsored accounts, including the payment of fees to DTC. Because of its potential exposure, NSCC is authorized to verify all data for accuracy and reasonableness before submission to DTC and to reject any items that create liabilities inconsistent with the Member's normal level of business or financial capability.

[2] *See* Securities Exchange Act Release No. 22980 (March 7, 1986), 51 FR 8031 (March 14, 1986).

[3] The rule change amends NSCC Rule 1 to define "Municipal Securities Brokers' Broker" to mean "any municipal securities broker as defined in Rule 15c3–1(a)(6)(ii) of the Securities Exchange Act of 1934, as amended." Rule 15c3–1(a)(6)(ii) defines these brokers as brokers who act as agent for registered brokers, dealers or municipal securities dealers, have no public customers and maintain no municipal securities in proprietary or other accounts.

Municipal Brokers play an essential role in the municipal securities markets. Unlike equity securities, municipal securities are not traded on national securities exchanges. Municipal Brokers provide the fundamental service of confidentially bringing together buyers and sellers of municipal securities. For clearing and settlement purposes, the Broker is interposed between each buyer and seller and the Broker's daily depository settlement obligations are netted, typically resulting in a money credit reflecting the commissions the Municipal Broker earns on trades.

[4] NSCC's Standards of Financial Responsibility and Operational capability provide that NSCC may place a member on surveillance if NSCC deems it necessary. Generally speaking, any change in member status which NSCC believes subjects it to greater risk is justification for placing the member on surveillance. Once placed on surveillance, a Clearing Member can be required to deposit larger Clearing Fund contributions with NSCC.

[5] *See* NSCC Procedures, Part XIV, Section A. NSCC Members not qualifying to use the Alternative Formula generally must continue to contribute to NSCC's Clearing Fund under the original formula.

[6] The factor is calculated by dividing the Member's excess net capital into the Member's average daily ESS debits. The factor then is adjusted to provide a minimum of one and a maximum of three. The object of the factor is to increase the Clearing Fund deposits of Clearing Members that use ESS to protect NSCC more adequately against the substantial financial exposure from Clearing Members whose average daily ESS debits exceed their average daily ESS credits and whose net ESS debit balances significantly exceed excess net capital. *See* File Nos. SR–NSCC–83–10, approved in Securities Exchange Act Release No. 19882 (June 28, 1983) 47 FR 29426 (July 8, 1982). *See also* File Nos. SR–NSCC–83–34, Securities Exchange Act Release No. 19147 (October 19, 1982), 47 FR 47351 (October 25, 1982) and SR–NSCC–83–90, Securities and Exchange Act Release No. 19420 (January 13, 1983), 48 FR 2877 (January 21, 1982).

[7] Clause A is modified to exclude "qualified securities depository" debits and credits as well as ESS debits and credits. A "qualified securities depository" is defined in NSCC Rule 1 as a depository that has entered into an agreement with NSCC to act for NSCC by effecting book-entry transfers of securities to and by NSCC. NSCC's only "qualified securities depository" is the The Depository Trust Company ("DTC").

[8] NSCC expects that each Municipal Brokers' Clearing Fund requirement under the Alternative Formula will amount to about 13% of the requirement as calculated under the original formula. The rule change, however, does not alter the minimum required level of Member Clearing Fund cash contributions. *See* NSCC Procedures, Part XV, for a description of these required contribution levels. Both the original and Alternative Clearing Fund formulas are used to calculate each Member's Clearing Fund contribution requirements above the minimum required cash contribution levels. These additional contributions can take the form of other assets, such as U.S. government securities and certain letters of credit and "valued" securities. *See* NSCC Rule 4.

[9] 17 CFR 240.15c3–1(a)(6)(1985.) Rule 15c3–1(a)(6) provides that Municipal Brokers: (1) Need only deduct 7% of outstanding fails-to-deliver aged 21 business days or more; (2) take no deduction for aged fails-to-receive; (3) may exclude from aggregate indebtedness overnight bank loans and (4) must maintain minimum net capital of not less than $150,000.

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that business day, whichever is less. Third, the applicant also would need to agree not to pledge any securities received on a business day through a qualified securities depository prior to the day's money settlement unless the pledge agrees to pay NSCC directly the amount due for the securities received or the applicant's net settlement obligation for that business day, whichever is less.

Finally, the rule change adds to the Standards new Part IV, "Guidelines for Computing Clearing Fund Deposits for Sponsored Account Municipal Securities Brokers' Broker Members on Surveillance Who Elect the Alternative Clearing Fund Formula." This Part essentially mirrors already-established guidelines for all other Members on surveillance status.[10] Indeed, under new Part IV, NSCC could demand from Municipal Broker Members on closer than normal surveillance Clearing Fund contributions calculated under NSCC's ordinary guidelines, *i.e.*, under Part III of the Standards. NSCC, however, would retain discretion to require Municipal Brokers on surveillance status to contribute lesser amounts of additional Clearing Fund collateral.

II. NSCC's Rationale for the Proposal

NSCC believes that the rule change would facilitate Municipal Broker participation in the National Clearance and Settlement System (the "National System"). NSCC states in its filing that substantially reduced Clearing Fund requirements for Municipal Brokers are appropriate for several reasons. While Municipal Brokers account for a substantial portion of all inter-dealer transactions in both the when-issued and secondary municipal securities markets, those Brokers, for the most part, have been unable to qualify for direct DTC membership. Moreover, NSCC represents that its original Clearing Fund formula seems to have deterred both their direct participation in NSCC and their indirect participation in DTC through NSCC's "sponsored account service." Thus, Municipal Brokers experience substantially higher clearance and settlement costs because economic considerations have forced them to process transactions either outside National System facilities or through those facilities via correspondent arrangements with direct clearing agency members.

NSCC believes that the unique role of Municipal Brokers in the municipal securities markets presents reduced financial exposure to NSCC and justifies reduced Clearing Fund contributions.[11] Thus, NSCC believes, the rule change adjusts Clearing Fund levels for Municipal Brokers to reflect more accurately their unique role in the marketplace.

NSCC believes that the Alternative Formula should bring most, if not all, Municipal Brokers directly into the National System. NSCC believes that, by joining NSCC, those Brokers should experience substantially reduced clearance and settlement costs by becoming direct, active users of National System services. Indeed, NSCC believes that the National System, and its user community generally, would benefit because the proposal should facilitate the further depository immobilization of municipal securities. In addition, NSCC believes that the Alternative Formula could, by bringing a substantial number of municipal transactions into the System, help facilitate development of a meaningful Continuous Net Settlement ("CNS") environment for municpal securities.

III. Discussion

Under section 19(b)(2) of the Act, the Commission must approve NSCC's proposed rule change if it finds NSCC's proposal is consistent with the Act and Commission rules applicable to registered clearing agencies. The Commission may not approve NSCC's proposal if it is unable to make such a finding.

Section 17A sets out the standards the Commission must use in reviewing proposed rule changes of registered clearing agencies. Section 17A(b)(3)(F) provides that the rules of a clearing agency must be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. That subsection also provides that the clearing agency's rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and, in general, to protect investors and the public interest.

The Commission believes the NSCC proposed rule change furthers those important statutory objectives. The primary benefit of reducing Clearing Fund contributions for Municipal Brokers would be increased participation of Municipal Brokers in the National System. The Commission agrees with NSCC that this proposed rule change will bring into the National System those Municipal Brokers who have, in the past, found participation in registered clearing agencies more costly than processing their trades manually. Additionally, lower Clearing Fund contribution requirements should make it economically feasible for Municipal Brokers who are currently processing trades through clearing agents to become direct NSCC participants, thus also cutting their processing costs significantly.

NSCC believes and the Commission agrees that a much larger percentage of municipal securities transactions would be processed through the National System if Municipal Brokers' direct participation was encouraged through lower Clearing Fund contributions. Municipal Brokers account for a large percentage of all municipal securities transactions. Their participation, therefore, could facilitate much-needed automation of the municipal securities industry. In fact, as NSCC pointed out, by bringing these Municipal Brokers into the National System, a meaningful CNS environment for municipal securities might be developed. Furthermore, direct participation in NSCC would facilitate Municipal Brokers' compliance with Municipal Securities Rulemaking Board ("MSRB") Rules G–12 and G–15. Those Rules generally require municipal securities dealers that are either direct or indirect participants to use the facilities of automated clearing agencies. The Rules were adopted in response to the tremendous paperwork burden experienced by the Municipal securities industry from manual trade processing.[12]

On the other hand, the proposed rule change would appear to increase NSCC's financial exposure. NSCC's Clearing Fund is designed to protect NSCC and its Members against losses and liabilities incident to the operation of its clearance and settlement systems. Thus, permitting Municipal Brokers direct participation in NSCC at lower Clearing Fund contribution levels may expose NSCC to greater risk. At present, Municipal Brokers either process transactions outside the National System, thus exposing NSCC to no risk on those transactions, or they process transactions through direct NSCC participants who are required, under the original Clearing Fund formula, to make larger clearing fund contributions that presumably reflect the Municipal Broker trades they process as well as their other activity.

Nevertheless, for the reasons discussed below, the Commission is satisfied that NSCC has taken adequate measures to control the increased risks posed by affording Municipal Brokers direct participation in NSCC at reduced Clearing Fund contribution levels. First, the Commission agrees with NSCC that Municipal Brokers' trading and settlement activity is unique. By matching buyers and sellers before entering its transactions for comparison and subsequent settlement, the Municipal Broker, in effect, eliminates its own net settlement obligation and, thus, any exposure to adverse market movements. The Municipal Broker can experience such settlement exposure, however, if one side of a brokered transaction fails to settle and the Municipal Broker settles the transaction as if it were itself trading as a principal. Such a failure would expose the Municipal Broker to liability only if the Municipal Broker in effect acts as principal in the failed trade and then only to the extent that the contract price of the failed transaction differs from the market value of the securities to the detriment of the Municipal Broker. NSCC, in turn, would be exposed to this liability only if the Municipal Broker itself failed as a result of *contra* party failure, because of NSCC's special status as the insolvent's sponsor into DTC.

To guard against that risk, NSCC relies on the Municipal Broker's Clearing Fund deposits and the control NSCC exercises over sponsored account depository activity. Under the proposal, NSCC would require Municipal Brokers to agree to certain limitations on their activities. Municipal Brokers could be prevented from withdrawing, transferring, or pledging securities in the depository account prior to *intra*-day or end-of-the-day money payment for those securities. Accordingly, NSCC would be exposed only to the extent of adverse market movements on the day of insolvency; that is, if the market value of securities credited to the Municipal Broker's depository account, but not yet paid for, differed from the contract price to the detriment of the Municipal Broker. This intra-day exposure currently exists in many of NSCC's processing systems, including CNS.

NSCC also developed new Standards applicable to Municipal Broker Sponsored Account Members. Part I of NSCC's Standards has been amended to require each Municipal Broker applicant to enter into an agreement with NSCC that it will not transfer, withdraw or deliver to a third party securities received through a qualified securities depository for no value prior to paying for the securities or paying its net settlement obligation for that business day, whichever is less. Also, NSCC would require the applicant to agree not to pledge any securities received on a business day through a qualified securities depository prior to the day's money settlement unless the pledgee agrees to pay NSCC directly the amount due for the securities received or the applicant's net settlement obligation for that business day, whichever is less.[13] The rule change also gives NSCC the authority to put Municipal Brokers on closer than normal surveillance status[14] and to require larger Clearing Fund contributions if, in NSCC's judgment, larger contributions are needed.[15] These safeguards are in addition to NSCC's already existing safeguard mechanisms.[16]

The Commission believes that the reduced financial exposure presented by Member Municipal Brokers appears to justify NSCC's proposed reduced Clearing Fund requirements for Municipal Brokers. The commission understands, however, that NSCC's sponsored depository accounts are difficult to monitor on a real-time, on-line basis. NSCC does monitor, however, the sponsored account activity of its current Sponsored Account Members on a historical basis and also plans to use sponsored account data to monitor Municipal Brokers' Compliance with the Standards and agreements. The Commission requests that NSCC monitor Municipal Brokers' activity under the Alternative Formula and perform a risk analysis regarding NSCC potential financial exposure from Municipal Broker Sponsored Account Activity. As part of that effort, the Commission requests that NSCC report after six months from implementation on its experience under its Municipal Broker Sponsored Account program, both with respect to its ability to monitor depository sponsored account activity and any risks to which it has been imposed.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 21, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-9505 Filed 4-28-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23158; SR-NASD-86-4]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change

April 21, 1986.

The National Association of Securities Dealers, Inc. ("NASD") submitted on March 14, 1986, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to establish a two-year pilot program with The Stock Exchange, London, England ("LSE"), for the exchange and distribution of international securities information.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 23022, March 14, 1986) and by publication in the Federal Register (51 FR 9738, March 20, 1986). All written statements filed with the Commission and all written communications between the Commission and any person relating to the proposed rule change were considered and (with the exception of those statements or communications that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552) were made available to the public at the Commission's public reference room.

The Commission received one comment letter on the proposed rule change,[1] from Instinet Corporation

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[10] *See* Part III of the Standards.

[11] *See* note 3, *supra*.

[12] *See* Securities Exchange Act Release No. 20385 (November 14, 1983), 48 FR 52331 (November 18, 1983), corrected at 48 FR 54310 (December 1, 1983) (approving File No. SR–MSRB–83–13).

[13] NSCC stated that it has already contacted its pledgee banks and that they have assured NSCC that they are willing to enter into such agreements with applicant Municipal Brokers.

[14] Before a Member actually defaults on a settlement, NSCC is empowered to place the Member on special surveillance to monitor the Member's capacity to meet its commitments to NSCC and to impose any conditions that NSCC deems necessary for its protection or the protection of its Members.

[15] *See* NSCC Standards Part IV, added by this rule change.

[16] NSCC Rule 46 provides that NSCC may suspend a Settling Member or prohibit or limit such Settling Member with respect to access to services offered by NSCC if, among other things, the Member "is in such financial or operating difficulty that the Corporation determined, in its discretion, that such action is necessary for the protection of [NSCC], Settling Members, creditors or investors . . ." or "any circumstances in which, in the discretion of [NSCC], adequate cause exists to do so." *See* NSCC Rule 46, Section 1. Action taken by NSCC may include ceasing to act for the Settling Member or such other limits on access to its services that NSCC determines to be appropriate. (*See* NSCC Rule 46, Section 4.)

[1] *See* letter from Daniel T. Brooks, Cadwalader, Wickersham & Taft, Counsel for Instinet, to John Wheeler, Secretary, SEC, dated April 16, 1986.

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("Instinet") raising two issues. First, Instinet asserts that the NASD's decision not to charge a fee to the LSE or its subscribers for the quotation information it is receiving from the NASD poses a significant competitive disadvantage for Instinet. The NASD is requiring both Instinet and its subscribers, domestically as well as abroad, to pay for the quotation information they receive from the NASD.[3]

Second, Instinet argues that the NASD is obtaining the quotation information from the LSE on a preferential basis. It states that the NASD-LSE agreement appears to contemplate the use of the information for automated trading purposes at some future date and asserts that neither Instinet nor other vendors is able to obtain the data from the LSE on this basis. Instinet asserts that the LSE is granting the NASD uniquely favorable terms of access because of the NASD's status as a self-regulatory organization ("SRO"). It argues that this constitutes a discriminatory grant of access by the LSE to its data which is not consistent with the pro-competitive goals of the Act. Instinet also argues that the NASD is using its special status as an SRO to receive LSE market information on more favorable terms (without fee and for automated trading purposes) than are available to other vendors. Instinet argues that using SRO status to achieve this preferential position is unfair and anticompetitive.

The Commission believes the pilot program represents an important step in the internationalization of the securities markets. It will be the first program for the exchange of information between a non-North American securities exchange and a U.S. self-regulatory organization. The Commission believes the NASD's approach, a two-year pilot program for the exchange of quotation information, is a useful first step to ascertain the degree of interest in London for OTC securities and in the U.S. for LSE securities. The two-year pilot program will enable the NASD and LSE to explore the possibility for and implications of a trading link between the two entities while they address any problems that might arise with the information exchange. The Commission believes this is a rational way to approach a possible intercontinental linkage. However, the Commission believes the proposed rule change raises a number of issues.

First, the agreement provides in general terms that the NASD and LSE each will have access to such regulatory information from the other party as it needs for purposes of its surveillance and investigation respnsibilities with respect to securities in the pilot program. The NASD states that for several years the LSE has been willing to cooperate with the NASD in the areas of information disclosure, quotation and trading halts, suspensions and resumption of trading, and the surveillance and investigation of trading in securities of mutual market concern. The agreement reached between the NASD and LSE specifically confirms that the Commission and the U.K. regulatory authorities will have access to shared surveillance information.

The Commission notes however, that the U.K. has a blocking statute.[5] Before the Commission approved the linkage agreement between the American Stock Exchange and Toronto Stock Exchange, the Commission required not only a written surveillance information sharing agreement between the two exchanges, but also exchanged reciprocal surveilance and investigation cooperation undertakings with the Ontario Securities Commission.[4] Included in the Toronto Stock Exchange and Ontario Securities Commission correspondence were representations of those organizations' interpretations that the blocking statute would only be applied in the most unusual of circumstances. The Commission's staff is currently discussing this specific issue, as well as surveilance cooperation arrangements more generally, with the U.K.

The NASD-LSE pilot program provides only for the exchange of quotation information with respect to the securities specified in the agreement. It does not, as do the U.S/Candadian exchange linkages approved to date, contemplate a trading linkage. Investors in the United States as well as investors in the United Kingdom will continue to purchase securities in the same manner as before. Indeed, U.S. retail investors as a practical matter will not have access to U.K. quotation information under the pilot; that information only will be disseminated over NASDAQ Level 2 and 3 terminals, which for the most part are only located in firm upstairs trading rooms and headquarters offices and not retail branch offices. These market professionals already have access to this information to some extent through foreign vendor systems. Finally, any potential for increased manipulative activity is reduced by the fact that the NASDAQ and LSE quotation information will not be integrated into a single quotation stream in either market.[6]

Under these limited circumstances, the Commission believes that the exchange of quotation information will enhance market efficiency without raising significant new concerns regarding the enforcement of the U.S. securities laws. The Commission emphasizes, however, the importance of assurances of cooperation among the relevant regualtory authorities with respect to the reciprocal exchange of surveillance and investigatory information. For this reason, the Commission underscores the importance which it attaches to reaching an understanding between the U.S. and U.K. regarding the applicability of the U.K.'s blocking statute prior to the creation of intermarket trading linkages between markets in the two countries.

Second, an issue unique to the LSE–NASD agreement is Instinet's argument that the NASD's proposed fee arrangement is discriminatory and will have an anticompetitive effect on Instinet. As discussed, the agreement does not provide for any fees for the provisions of quotation information, either for the LSE or the NASD, while Instinet and its subscribers are required to pay the NASD for the information they receive. Instinet argues that providing the LSE and its subscribers a subset of the NQDS information at no charge, while imposing a charge on Instinet and its subscribers, is discriminatory and inhibits Instinet's ability to compete. Similarly, Instinet argues that it is competitively disadvantage because the NASD is receiving LSE quotation information on a preferential basis.

The Commission does not believe that these concerns require the Commission to withhold temporary approval of the proposed rule change and the underlying international agreement. At the staff's suggestion, the NASD has agreed to request six-month temporary approval of the two-year pilot program.[6] The Commission believes that during the six-month period the Commission will be able to consider carefully the merits of Instinet's arguments.

The Commission finds that approval of the proposed rule change on a temporary six-month pilot basis is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of sections 11A and 15A, and the rules and regulations thereunder. In making this decision in this limited context, the Commission emphasizes that it is not reaching any final determination with respect to the issues raised by Instinet.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned porposed rule change be, and hereby is approved for a period of six months from the date of this order.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 86-9566 Filed 4-28-86 8:45 am]

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[3] Instinet currently pays $1,000 a month, or half the $3,200 monthly vendor charge for National Quotation Data Service ("NQDS"). *See* Securities Exchange Act Release No. 22935 (February 21, 1986). Instinet intervened in a proceeding involving the Commission and the NASD in which the Commission found that the NASD's initial proposed subscriber fee constitutes an inappropriate denial of access to quotation information. *See* Securities Exchange Act Release Nos. 20874 (April 17, 1984), 21471 (March 8, 1985), and 21831 (November 8, 1985). The NASD sought review of this matter in federal court, *see NASD v. SEC*, No. 85-1012 (D.C. Cir. filed January 7, 1985), and has filed a revised fee proposal. *See* Securities Exchange Act Release No. 22935 (February 21, 1986). There also is an interim $0.75 monthly fee for each subscriber. The Commission is now considering the NASD's proposal for a permanent $70 subscriber fee.

[4] The Protection of Trading Interests Act of 1980 enables U.K. government officials to limit the production or transfer of information and documents between United Kingdom private citizens, self-regulatory organizations or regulatory officials to persons or agencies from a foreign country under certain circumstances. Absent a clear understanding to the contrary, such a statute could impede the Commission or the contrary, such a statute could impede the Commission or the self-regulatory authorities from obtaining the trading records or other information needed to prosecute securities cases effected through trading linkages or otherwise involving transactions from or through another country.

[5] Securities Exchange Act Release No. 22443 (September 20, 1985).

[6] For example, although Imperial Chemical Industries (ICI) is actively traded both on NASDAQ and the LSE, in the pilot program NASDAQ market maker quotations and the LSE middle price (after Big Bang Day, the quotes of LSE market makers) would be displayed on different pages of each system; *i.e.*, would have to be called up seperately on the computer terminal.

[6] *See* letter from Frank J. Wilson, to Richard G. Ketchum, SEC dated April 21, 1986, requesting approval of the proposed rule change for a six-month period.

[File No. 81-725]

Application and Opportunity for Hearing; Citicorp Homeowners, Inc.

April 22, 1986.

Notice is hereby given that Citicorp Homeowners, Inc. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting Applicant from certain reporting requirements under section 13 and from the operation of section 16 of the 1934 Act.

For a detailed statement of the information presented, all persons are referred to the application which is on file at the offices of the Commission in the Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested person, not later than May 19, 1986, may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof. At any time after that date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-9557 Filed 4-28-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15068; 812-6019]

Salomon Brothers Unit Investment Trust, Insured Tax-Exempt Series One et al.; Application

April 23, 1986.

Notice is hereby given that the Salomon Brothers Unit Investment Trust, Insured Tax-Exempt Series One ("Series One"), and all subsequent trusts and similar series of trusts (collectively, "Trusts"), unit investment trusts registered or to be registered under the Investment Company Act of 1940 ("Act"), and their sponsor, Salomon Brothers Inc. ("Sponsor" or "Solomon Brothers") (Sponsor and Trusts collectively, "Applicants") One New York Plaza, New York, New York 10004, filed an application on January 10, 1985, and amendments thereto on March 20, May 10, July 18, 1985 and February 19, 1986, for an order of the Commission (1) pursuant to sections 6(c) and 11(a) of the Act, exempting Applicants from the provisions of section 11(c) of the Act to the extent necessary to permit a certain exchange offer ("Exchange Offer"), (2) pursuant to sections 6(c) and 17(b) of the Act exempting Applicants from the provisions of sections 17(a) and 26(a)(2)(C) of the Act, and (3) pursuant to sections 6(c) and 17(d) of the Act and Rule 17d-1 thereunder, permitting a certain joint transaction. On April 8, 1985, a Notice [Investment Company Act Release No. 14461) was issued on the amended and restated application. On March 17, 1986, an order was issued (Investment Company Act Release No. 14994) with respect to the Exchange Offer terms of the application ("Order"). All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, to the Order for its terms and conditions, and to the Act and the rules thereunder for the text of the applicable provision thereof.

According to the application, Series One is, and each future Trust will be

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Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing by Philadelphia Stock Exchange, Inc.

April 21, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

L. F. Rothschild, Unterberg, Towbin Holdings, Inc.
Common Stock, $1.00 Par Value (File No. 7-6940)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 12, 1986 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission Washington, DC 20549. Following this opportuntiy for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-9559 Filed 4-28-86; 8:45 am]

BILLING CODE 8010-01-M

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formed pursuant to a trust indenture ("Indenture") under New York and a standard terms and conditions of trust ("Agreement") (collectively Indenture and Agreement"). The Sponsor will act as depositor, United States Trust Company of New York will act as Trustee, and Standard & Poor's Corporation and Kenny Information Systems will act as independent evaluator ("Evaluator").

Applicants propose to insure certain portfolio bonds ("Securities") held in future Trusts under insurance policies to be issued by Bond Investors Guaranty Insurance Company ("BIG"). Applicant states that BIG is an affiliated person of the Sponsor because Philbro-Salomon Inc., which owns 100% of the Sponsor, also owns 20% of BIG's parent corporation, Bond Investors Group, Inc.

Applicants state that there are three principal methods of insuring municipal bonds in a unit investment trust: (1) Bonds insured when the bond is deposited into trust for coverage while the bond is held by the trust ("Portfolio Insurance"); (2) bonds insured to maturity ("Insurance to Maturity") by the sponsor with the premiums paid by the sponsor, or (3) bonds insured by the Trust under an enhanced form of portfolio insurance which provides an additional insured-to-maturity feature ("EPI"). The application states that the Sponsor proposes to cause the Trust to obtain EPI from BIG covering each Security deposited in the portfolio.

Applicant states that the Indenture and Agreement provide for sales of Securities by the Trustee under the following conditions:

1. Default by an issuer in the payment of principal of or interest on such Securities, or any other outstanding obligations of such issuer, when due and payable;
2. Institution of legal proceedings seeking to restrain or enjoin the payment of any of the Securities or attacking their validity;
3. A breach of a covenant or warranty which could adversely affect the payment of debt service on the Securities;
4. Default in the payment of principal or interest on any other outstanding obligations of the same issuer of any of the Securities;
5. In the case of revenue bonds, if the revenues, based upon official reports, fall substantially below the estimated revenues calculated to be necessary to pay principal of and interest on the bonds;
6. A decline in market price, or such other market or credit factor, as in the opinion of the Trustee would make retention of any of the Securities detrimental to the Unitholders;
7. The loss of federal tax-exemption on the Securities;
8. Termination of the Trust Fund; or,
9. Refunding or refinancing of any Security, as set forth in the Indenture and Agreement.

The Trustee will sell Securities to meet redemptions of Trust units and the Sponsor intends to maintain a secondary market for the units. The Trustee will reject any offer made by an issuer of any of the Securities to issue new obligations in exchange and substitution for any of the Securities pursuant to a refunding or refinancing plan; however, the Trustee may accept or reject such an offer or may take any other action with respect to the Securities as it deems proper if it determines that (1) the insurance covering the Securities while they are held in the Trust is inadequate, or (2) that the issuer is in default with respect to the Securities or the issuer will probably default with respect to the Securities in the reasonably foreseeable future.

According to the application, the Trusts will be structured so that the Sponsor has no involvement in determining if and which Security should be sold from the Trust. The Trustee will be compensated for portfolio supervisory services; this portfolio supervisory fee is separate and in addition to the Trustee's ordinary annual administrative fee. Applicants also state that, pursuant to the Indenture and Agreement, the Trustee, in its sole discretion, will determine whether the Trust should terminate. Applicants believe that this structure assures that no conflict could arise between the Sponsor and BIG in connection with the sale of Securities from the Trust. Applicants further represent that the Sponsor is not able to influence the transactions in such a way as to give preferential consideration to the interest of its affiliated insurer.

Applicants represent that all dealings with BIG will be at arm's length and will be based entirely on competitive considerations. Applicants represent that they will choose as insurer the company that offers, in the Sponsor's judgment, the best value to unitholders. Applicants state that the Sponsor will select the "AAA" rated insurer that offers the lowest premiums, although nonprice factors, including availability of insurance, may affect the Sponsor's choice.

Applicants represent that under EPI, Securities are insured while they are on deposit in a Trust with Portfolio Insurance, paid for by the Trust in periodic premiums. In addition, EPI provides an option to buy insurance to Maturity for the security should the Trustee sell the Security from the Trust. Insurance to Maturity will be obtained when the insured value of a portfolio Security to be sold, less the cost of the pre-determined premium, exceeds the value of that portfolio Security without such insurance ("Enhancement Point"). The pre-determined premium is fixed by a formula at the time the Security is initially deposited into the Trust, which Formula takes into account the declining coverage necessary as the Security moves toward maturity. The premium will be paid to the insurer out of the proceeds from the sale of the Security. At the time of the sale of a Security, if the Enhancement Point is reached, the Trustee must obtain Insurance to Maturity for such Security.

Applicants represent that EPI combines the advantages of Insurance to Maturity and Portfolio Insurance and eliminates the disadvantages of either form of insurance alone. In addition, EPI provides three benefits to investors in the Trust. First, bonds that are not Insured to Maturity are generally priced lower than bonds that are insured. Consequently, they are evaluated upon deposit into Trust at a lower price and thus result in a higher yield. Second, the Portfolio Insurance feature of EPI ceases when it is no longer needed. Thus, if a bond is called for redemption or is sold, and EPI does not require the purchase of Insurance to Maturity, the premiums cease. Third, Insurance to Maturity must be purchased under EPI when it is advantageous to do so. Applicants represent that there is no additional premium charged for the right to obtain Insurance to Maturity.

Applicants state that the premium rates for EPI will be at least as favorable as the rates charged by BIG to all of its customers who are unaffiliated entities and comparable to prevailing rates charged by insurers of similar stature and creditworthiness who are not affiliated with the Sponsor. Applicants submit that the terms of EPI are reasonable and fair, do not involve overreaching and are consistent with the purposes of the Act. Applicants request an exemption from section 17(a) of the Act to the extent that the provision by BIG of Enhanced Portfolio Insurance to the Trust might be deemed the sale of property to the Trust, as principal. Applicants also request an order of the Commission pursuant to section 6(c) of the Act for exemption from the provisions of section 26(a)(2)(c) of the Act to the extent necessary to permit the Trust to pay BIG for Insurance to Maturity from the proceeds of Securities sales. Applicants also request an order pursuant to section 17(d) of the Act and Rule 17d–1 thereunder to permit BIG to provide Enhanced Portfolio Insurance to the Trust.

According to Applicants, the proposed transactions would involve the payment by the Trust to BIG of monthly premiums with respect to any security while on deposit in the Trust. The Application states that the premium rates will be determined by BIG within a rate framework applicable to all trust sponsors and filed with applicable state insurance regulatory authorities, based upon BIG's determinations of the creditworthiness of the issuer of the bonds, the risk of default by the bond issuer, the potential liability arising from insuring such bond issue, and the demand of sponsors to apply for such insurance on behalf of their trusts. The Applicants state that the proposed insurance transactions with BIG will be identical or substantially identical to insurance currently being offered by BIG to other sponsors of insured municipal bond trusts.

Applicants assert that EPI adds significant additional protection from the Sponsor influencing Security sales by eliminating the possibility of bias in connection with the sale of Securities from the Trust. Applicants state that as an example, when a defaulting Security is covered by EPI, and the defaulting Security remains in the Trust, BIG is obligated to insure principal and interest payments. On the other hand, if such defaulting Security is sold, then BIG would remain obligated to insure principal and interest payments because a defaulting Security's value would have reached the Enhancement Point, automatically resulting in the Trustee's obtaining Insurance to Maturity from BIG. In either case, BIG must continue to insure the defaulted Security under EPI and the Sponsor has no discretion in deciding whether to sell Securities or whether to obtain Insurance to Maturity.

Applicants state that BIG remains liable for principal and interest should a Security default, whether that Security remains in Trust or is sold. In contrast, a conflict of interest is presented with Portfolio Insurance only. With EPI, applicants assert, no benefit could accrue to the insurer if a defaulting Security were sold. Applicants also state that based on yields calculated at the date a Security is deposited into Trust, there would be no economic benefit to BIG if the Trustee were to purchase Insurance to Maturity by exercise of the option upon sale of the Security from the Trust, thus there is no incentive to cause the Trustee to select for sale a Security that has reached the Enhancement Point.

Applicants conclude that the order requested is appropriate in the public interest, consistent with the protection of investors and purposes and policies of the Act.

Notice Is Further Given that any interested person wishing to request a hearing on the application may, not later than May 14, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant(s) at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86–9558 Filed 4–28–86; 8:45 am]

BILLING CODE 8010–01–M

[File No. 81–733]

Application and Opportunity for Hearing; Towers, Perrin, Forster & Crosby, Inc.

April 18, 1986.

Notice Is Hereby Given that Towers, Perrin, Forster & Crosby, Inc. ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended ("1934 Act"), for an order exempting Applicant from the registration provisions of section 12(g) of the 1934 Act.

The Applicant states, in part:

1. In the absence of an exemption, Applicant will be required to register its securities under section 12(g) of the 1934 Act, and will be required to comply with all reporting requirements thereunder.

2. Applicant believes that the exemptive order it requests is appropriate in view of the fact that there are no public stockholders of the Applicant and there is no trading interest in its stock.

For a more detailed statement of the information presented all persons are referred to the application which is on file at the offices of the Commission in the Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549.

Notice Is Further Given that any interested person not later than May 13, 1986 may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after that date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86–9580 Filed 4–28–86; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirement Submitted to OMB for Review

Dated: April 24, 1986.

The Department of Treasury has submitted the following public information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of this submission may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

OMB Number: New

Form Number: 8508

Type of Review: New

Title: Request for Waiver from Filing Information Returns on Magnetic Media

Clearance Officer: Garrick Shear, (202) 566–6150, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224

OMB Reviewer: Robert Neal, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Joseph F. Maty,

Departmental Reports Management Office.

[FR Doc. 86–9568 Filed 4–28–86; 8:45 am]

BILLING CODE 4810–25–M

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Public Information Collection Requirement Submitted to OMB for Review

Dated: April 24, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0242
Form Number: ATF F 5400.6
Type of Review: Extension
Title: User-Limited Permit (Explosives)
Clearance Officer: Robert G. Masarsky, (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 7202, Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226
OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Joseph F. Maty,
Departmental Reports Management Office.
[FR Doc. 86-9389 Filed 4-25-86; 8:45 am]
BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "The Great Eastern Temple: Treasures of Japanese Buddhist Art from Todai-ji, Nara" (included in the list [1] filed as a part of this determination) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to a loan agreement between the Art Institute of Chicago and The Asahi Shimbun of Tokyo. I also determine that the temporary exhibition or display of the listed exhibit objects at The Art Institute of Chicago, Chicago, Illinois, beginning on or about June 28, 1986, to on or about September 7, 1986, is in the national interest.

Public notice of this determination is ordered to be published in the Federal Register.

Dated: April 23, 1986.

Thomas E. Harvey,
General Counsel and Congressional Liaison.
[FR Doc. 86-9491 Filed 4-25-86; 8:45 am]
BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.
ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains an extension and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) how often the form must be filled out, (5) who will be required or asked to report, (6) an estimate of the number of responses, (7) an estimate of the total number of hours needed to fill out the form, and (8) an indication of whether section 3504(h) of Public Law 96-511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Nancy C. McCoy, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: April 23, 1986.

By direction of the Administrator.

Randall H. Bryant II,
Executive Assistant to the Associate Deputy Administrator for Management.

Extension

1. Department of Veterans Benefits.
2. Supplemental Physical Examination Report.
3. VA Form 29-8100 (Series).
4. On occasion.
5. Individuals or households.
6. 3,301 responses.
7. 678 hours.
8. Not applicable.

[FR Doc. 86-9403 Filed 4-28-86; 8:45 am]
BILLING CODE 8320-01-M

[1] An itemized list of objects included in the exhibit is filed as part of the original document. A copy of this list may be obtained by contacting Mr. John Lindburg of the Office of the General Counsel of USIA. The telephone number is 202-485-7978, and the address is Room 700, 301 4th Street SW., Washington, DC 20547.

Sunshine Act Meetings

Federal Register
Vol. 51, No. 82
Tuesday, April 29, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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Nuclear Regulatory Commission	4

1

FEDERAL COMMUNICATIONS COMMISSION

April 24, 1986.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Thursday, May 1, 1986, which is scheduled to commence at 9:30 a.m., in Room 856, at 1919 M Street, NW., Washington, DC.

Agenda, Item No., and Subject

Private Radio—1—Title: Amendment of Parts 2 and 94 of the Rules to accommodate radio local area network stations in the 1700-1710 MHz band. (RM-5072) Summary: The FCC will consider whether to adopt a Notice of Proposed Rule Making to permit radio local area networks and similar type system to operate in the 1700-1710 MHz band.

Common Carrier—1—Title: In the Matter of International Communications Policies Governing Designation of Recognized Private Operating Agencies, Grants of IRUs in International Facilities and Assignment of Data Network Identification Codes. Summary: The Commission will consider comments filed in response to its Notice of Proposed Rulemaking in CC Docket No. 83-1230.

Common Carrier—2—Title: Report and Order revising the Uniform System of Accounts for Class A, Class B, and Class C Telephone Companies. (CC Docket 78-196) Summary: The Commission will decide whether to rescind the Uniform System of Accounts for Class A, Class B, and Class C Telephone Companies in Parts 31 and 33 of the Commission's Rules and Regulations and replace these parts with a single new uniform system of accounts in a new Part 32 for all telephone companies subject to FCC jurisdiction.

Mass Media—1—Title: Deregulation of Radio. Summary: The Commission will consider what program record keeping requirements should be adopted for commercial radio licensees.

Mass Media—2— Title: Revision of Programming and Commercialization Policies, Ascertainment Requirements, and Program Log Requirements for Commercial Television Stations. Summary: The Commission will consider petitions for reconsideraton of its *Report and Order* in the television deregulation proceeding.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Judith Kurtich, FCC Office of Congressional and Public Affairs, telephone number (202) 254-7674.

Issued: April 24, 1986.

Federal Communications Commission.
William J. Tricarico,
Secretary.
[FR Doc. 86-9638 Filed 4-25-86; 3:06 pm]
BILLING CODE 6712-01-M

2

FEDERAL ENERGY REGULATORY COMMISSION

TIME AND DATE: April 30, 1986, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda, 834th Meeting—April 30, 1986, Regular Meeting (10:00 a.m.)

CAP-1.
Project No. 1962-007, Pacific Gas & Electric Co.
Project No. 3223-003, Sacramento Municipal Utility District, Northern California Power Agency, and the cities of Anaheim, Azusa, Banning, Colton and Riverside, California.

CAP-2.
Project No. 4660-004, Independence County, Arkansas

CAP-3.
Project No. 4204-004, city of Batesville, Arkansas

CAP-4.
Project No. 4656-004, Independence County, Arkansas

CAP-5.
Project No. 7149-002, Brazos River Authority

CAP-6.
Project No. 9597-002, Hazard Creek Conservationists
Project No. 9598-002, Hard Creed Conservationists

CAP-7.
Omitted

CAP-8.
Project No. 9234-001, Adirondack Hydro

CAP-9.
Project No. 9371-001, Browns Valley Associates

CAP-10.
Project No. 5898-004, city of Rome, New York

CAP-11.
Project No. 2427-003, Woods Falls B. Hydro, Inc.
Project No. 6763-001, Power Mining, Inc.

CAP-12.
Project Nos. 6810-006, and 6811-006, Douglas Mendenhall

CAP-13.
Project Nos. 3749-000, and 002, Mitex, Inc.
Project Nos. 4210-000, and 002, Energenics Systems, Inc.
Project Nos. 5006-000, and 002, Central Montana Electric Generation and Transmission Cooperative, Inc.
Project No. 6341-000, Crow Indian Tribe

CAP-14.
Project No. 4919-004, city of Gillette, Wyoming
Project No. 3749-003, Mitex, Inc.
Project No. 4210-003, STS Energenics, Ltd.
Project No. 5006-003, Central Montana Electric Generation and Transmission Cooperative, Inc.

CAP-15.
Project No. 6046-002, Placer County Water Agency
Project No. 6714-000, Gold Run Hydro Associates

CAP-16.
Omitted

CAP-17.
Docket Nos. EL85-18-003, 004 and 005, city of Tacoma, Washington v. the Washington Water Power Company, the Montana Power Company, Portland General Electric Company, Pacific Power and Light Company and Puget Sound and Light Company

CAP-18
Docket Nos. ER86-262-002 and ER85-598-007, et al., New York State Electric and Gas Corporation

CAP-19.
Docket No. ER86-287-000, Cambridge Electric Light Company

CAP-20.
Docket No. ER86-328-000, Pacific and Electric Company

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CAP-21.
Docket No. ER86-344-000, Niagara Mohawk Power Corporation
CAP-22.
Docket No. ER85-680-002, Holyoke Water Power Company and Holyoke Power and Electric Company
Docket No. ER85-707-002, Western Massachusetts Electric Company
Docket No. ER85-720-002, Connecticut Light & Power Company
CAP-23.
Docket No. ER85-724-001, New England Power Company
CAP-24.
Docket No. EL85-46-000, EUA Power Corporation
CAP-25.
Docket Nos. RE80-69-005 and 006, Interstate Power Company
CAP-26.
(A) Docket No. IR-000-1004, Public Works Commission, Fayetteville, North Carolina
(B) Docket No. IR-000-1191, Public Lighting Department of Detroit, Michigan
(C) Docket No. IR-000-370, Pacific Northwest Generating Company
(D) Docket No. IR-000-980, California Department of Water Resources

Consent Miscellaneous Agenda

CAM-1.
Docket No. FA84-46-000, Iowa-Illinois Gas and Electric Company
CAM-2.
Docket No. FA83-18-001, Transcontinental Gas Pipe Line Corporation
CAM-3.
Docket No. RM85-1-000 (Parts A-D), regulation of natural gas pipelines after partial wellhead decontrol (Transcontinental Gas Pipe Line Corporation)
CAM-4.
Omitted
CAM-5.
Omitted
CAM-6.
Docket Nos. RM85-1-000 (Parts A-D), regulation of natural gas pipelines after partial wellhead decontrol (Endevco, Inc., Vessels Oil and Gas Company, Santo Resources, Inc. and Petro-Energy Exploration, Inc., Standard Gas Marketing Company, Kaiser-Francis Oil Company, Essex Exploration Company, Quintana Petroleum Company, Panda Resources, Inc., Trinity Pipeline Company, Moody Gas Gathering System, Tejas Power Corporation, Txo Production Corp., Creole Gas Pipeline Corporation and Texas Gas Exploration Corporation
CAM-7.
Omitted
CAM-8.
Docket No. GP86-27-000, Texas Railroad Commission, NGPA Section 103 Determination, MR Oil Company, University Sec. 30 #2 well, TRC Docket No. F-06-082369, FERC No. JD86-16563
CAM-9.
Docket No. GP85-45-000, State of New Mexico, Section 103 Determinations, Tenneco Oil Exploration and Production Company, #3 Leonard Brothers Well, FERC JD No. 80-02575, #3 Leonard Federal Well, FERC JD No. 80-02564
CAM-10.
Docket No. GP80-15-008, ANR Pipeline Company (formerly Michigan Wisconsin Pipe Line Company)
CAM-11.
Docket No. RO84-2-001, Crown Central Petroleum Corporation
CAM-12.
Docket No. RO85-13-000, South Central Terminal Company, Inc.
CAM-13.
Docket No. RO86-3-001, CPI Crude, Inc.
CAM-14.
Docket No. RO84-15-001, Keystone Fuel Oil Company

Consent Gas Agenda

CAG-1.
Docket No. RP84-59-004, Northwest Pipeline Corporation v. Colorado Interstate Gas Company
Docket No. RP85-13-012, Northwest Pipeline Corporation
CAG-2.
Docket No. RP86-42-002, El Paso Natural Gas Company
CAG-3.
Docket No. TA86-2-28-002, Panhandle Eastern Pipe Line Company
CAG-4.
Docket Nos. ST85-656-001, ST85-1572-001 and ST86-0-001, Acadian Gas Pipline System
CAG-5.
Docket Nos. TA86-2-35-000, 001 and 002, West Texas Gas, Inc.
CAG-6.
Docket Nos. TA86-2-49-000 and 001 (PGA86-2), Williston Basin Interstate Pipeline Company
CAG-7.
Docket Nos. TA86-2-43-000, 001 and 002, Northwest Central Pipeline Corproation
CAG-8.
Docket Nos. TA86-4-46-000, 001 (PGA86-3 and IPR86-3) and 002 (PGA86-4), Kentucky West Virginia Gas Company
CAG-9.
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CAG-10.
Docket Nos. TA86-6-51-000 and 001, Great Lakes Gas Transmission Company
CAG-11.
Docket No. RP86-63-000, Southern Natural Gas Company
CAG-12.
Docket No. RP86-64-000, Algonquin Gas Transmission Company
CAG-13.
Omitted
CAG-14.
Docket No. RP86-7-001, Mountain Fuel Resources Inc.
CAG-15.
Omitted
CAG-16.
Docket Nos. TA86-1-27-002 and 003, North Penn Gas Company
CAG-17.
Docket Nos. TA86-2-17-002 and TA85-4-17-007, Texas Eastern Transmission Corporation
CAG-18.
Docket No. TA86--3-16-002 (PGA86-2a), National Fuel Gas Supply Corporation
CAG-19.
Omitted
CAG-20.
Docket Nos. RP86-32-001 and RP86-67-000, Northwest Central Pipaline Corporation
CAG-21.
Omitted
CAG-22.
Docket Nos. CI86-27-002 and CI86-219-001, Transco Energy Marketing Company
Docket Nos. CI85-696-002 and CI86-210-001, TXP Operating Company
Docket No. CI86-282-001, Fina Oil and Chemical Company, et al.
CAG-23.
Docket No. CI85-252-000, Texaco Inc.
CAG-24.
Docket No. CP86-304-000, Techstaff Transmission Company
Docket No. CP84-386-000, ANR Pipeline Company
CAG-25.
Docket No. CP81-209-001, Columbia Gulf Transmission Company and Transcontinental Gas Pipe Line Corporation
CAG-26.
Docket Nos. CP83-350-002 and CP85-708-000, Northern Natural Gas Company, Division of Internorth, Inc.
CAG-27.
Docket No. CP86-243-000, Panhandle Eastern Pipe Line Company
CAG-28.
Docket No. RP86-11-000, K N Energy, Inc.
CAG-29.
Docket No. RP86-61-000, Texas Eastern Transmission Corportion

To Licensed Project Matters

P-1.
Reserved.

II. Electric Rate Matters

ER-1.
Docket No. ER86-353-000, Baltimore Gas and Electric Company
ER-2.
Docket Nos. EF85-2011-003 and EF85-2021-003, United States Department of Energy—Bonneville Power Administration

Miscellaneous Agenda

M-1.
Reserved.
M-2.
Reserved.
M-3.
Docket No. RM83-71-038, elimination of variable costs from certain natural gas pipeline minimum commodity bill provisions
M-4.
Docket No. RM85-1-000 (Parts A-C), regulation of natural gas pipelines after partial wellhead decontrol (Columbia Gulf Transmission Company and Columbia Gas Transmission Corporation)

I. Pipeline Rate Matters

RP-1.
Docket No. TA86-3-25-002, Mississippi River Transmission Corportion
RP-2.

Docket Nos. TA86-5-29-000 and 001 (PGA86-2 and IPR86-2), Transcontinental Gas Pipe Line Corporation

II. Producer Rate Matters

CI-1
Reserved.

III. Pipeline Certificate Matters

CP-1.
Docket Nos. CP86-83-000, CP86-106-000, CP86-107-000, CP86-108-000, CP86-131-000, CP86-132-000, CP86-133-000, CP86-134-000, CP86-135-000, CP86-136-000, CP86-137-000, and CP86-186-000, Natural Gas Pipeline Company of America
CP-2.
(A) Docket Nos. CP86-216-000, CP86-217-000, CP86-223-000, CP86-223-000, CP86-242-000, CP86-255-000 and CP86-256-000, Panhandle Eastern Pipe Line Company
(B) Docket No. CP86-317-002, Panhandle Eastern Pipe Line Company
CP-3.
Docket Nos. CP86-62-000 and 001, El Paso Natural Gas Company
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CP-5.
Docket Nos. CP84-293-002, 003, 004, CP84-425-002, 003 and 004, Michigan Consolidated Gas Company, Interstate Storage Division
Docket Nos. CP77-253-020, 021, 022, and 023, Panhandle Eastern Pipe Line Company

Kenneth F. Plumb,
Secretary.
[FR Doc. 86-9639 Filed 4-25-86; 3:11 pm]
BILLING CODE 6717-01-M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

April 24, 1986.

TIME AND DATE: 10:00 a.m., Thursday, May 1, 1986.
PLACE: Room 600, 1730 K. St., NW., Washington, D.C.
STATUS: Open.
MATTERS TO BE CONSIDERED: The Commission will hear oral argument on the following:

1. Amax Chemical Corporation, Docket No. CENT 84-91-M. (Issues include whether the administrative law judge properly concluded that the operator violated 30 CFR § 57.3-22 (1984), a ground control standard.)

Any person intending to attend this hearing who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR § 2706.150(a)(3) and § 2706.160(e).

TIME AND DATE: Immediately following the oral argument.
STATUS: Closed (Pursuant to 5 U.S.C. § 552(b)(10)).
MATTERS TO BE CONSIDERED: The Commission will consider and act upon the above captioned case.
CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629.

Jean I. Ellen
Agenda Clerk.
[FR Doc. 86-9652 Filed 4-28-86; 8:45 am]
BILLING CODE 6735-01-M

4

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of April 28, May 5, 12, and 19, 1986.
PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, DC.
STATUS: Open and Closed.
MATTERS TO BE CONSIDERED:

Week of April 28

Thursday, May 1

9:30 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Advanced Reactor Policy Statement (*postponed* from 4/23)

Week of May 5—Tentative

Wednesday, May 7

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for Catawba-2 (Public Meeting)

Thursday, May 8

2:00 p.m.
Meeting with Advisory Committee on Reactor Safeguards on Safety Goal Policy (Public Meeting)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of May 12—Tentative

Thursday, May 15

9:30 a.m.
Briefing by AIF on State of the Industry (Public Meeting)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of May 19—Tentative

Tuesday, May 20

2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Wednesday, May 21

10:00 a.m.
Briefing by Staff on Status of TVA (Open/Portion Closed—Ex. 5 & 7)
2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Thursday, May 22

10:00 a.m.
Briefing by Davis-Besse Ad Hoc Review Group
(Open/Portion May be Closed)
2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634-1498.

CONTACT PERSON FOR MORE INFORMATION: L. Ong, (202) 634-1410.

L. Ong,
Office of the Secretary.
April 24, 1986.
[FR Doc. 86-9641 Filed 4-25-86; 3:16 pm]
BILLING CODE 7590-01-M

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federal register

Tuesday
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Part II

Department of the Interior

Bureau of Indian Affairs

Indian Trust Funds; Policy Decision Concerning the Management and Administration

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DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Trust Funds; Policy Decision on Management and Administration

AGENCY: The Bureau of Indian Affairs, Interior.

ACTION: Notice of policy decision concerning the management and administration of Indian Trust Funds.

SUMMARY: Bureau of Indian Affairs will strengthen its internal management and administration of Indian trust funds by contracting for certain services.

FOR FURTHER INFORMATION CONTACT: Betty L. Wilkinson, Chief, Division of Accounting Management, Main Interior Building, Room 4604, (202) 343–7336 or Charles Hughes, Attorney-Advisor, SOL–IA, Main Interior Building, Room 6459, (202) 343–9401.

SUPPLEMENTARY INFORMATION: The Secretary of the Interior has broad responsibilities in managing Indian trust funds, including collections, accounting, investments, and certification of disbursements to Indian beneficiaries. The Bureau of Indian Affairs carries out these functions except for collection of royalties from Indian oil and gas production which are administered by the Minerals Management Service. Collections are deposited through the banking system into Department of Treasury accounts specified for Indian trust funds. Treasury is responsible for maintaining all Indian trust fund cash accounts and for all disbursement of such funds upon Bureau of Indian Affairs request. The Bureau of Indian Affairs is responsible for investment of the funds in securities authorized by law. Bureau of Indian Affairs accounts are maintained to reflect tribal and individual Indian interests in fund invested and funds held in Treasury.

The Department of the Interior, with Department of Treasury concurrence, has determined that increased, expert assistance is needed to strengthen the management and administration of Indian trust funds and that such assistance should be sought from the private sector.

The Bureau has obtained an independent evaluation of the trust fund operation and has considered numerous audits and reports concerning the funds. In response to a request for information published by the Bureau, a wide range of materials have been received on relevant private sector capabilities. The Department of Treasury has assisted in assessing how the government might strengthen its Indian trust fund operation. It has been determined that the need for improvements requires immediate action and that there is no likelihood that the government could effectively duplicate the needed assistance already available in the private sector.

The procurement will be directed at a streamlined collection process through use of lock boxes, faster concentration of funds for investment, improved accounting and reporting to Indian beneficiaries and the government, and strengthened investment management.

All controls required by law of the government as trustee will continue, including approval of investment decisions. Treasury responsibility to maintain Indian trust fund accounts and to disburse trust funds will not be affected. All activities conducted under contract will involve internal trust fund operations.

The procurement will not restrict or negatively affect any existing tribal or individual Indian right or relationship to the funds. Rather, the procurement will be designed to enhance rights of and services rendered to Indian beneficiaries by better accountability, more frequent and detailed reporting on the status of funds, a modernized collection process and a better managed investment operation.

EFFECTIVE DATE: This policy shall become effective April 29, 1986.

Ross O. Swimmer,

Assistant Secretary—Indian Affairs.

[FR Doc. 86-9610 Filed 4-28-86; 8:45 am]

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H.R. 4651/Pub. L. 99–278

To extend for 3 months the emergency acquisition and net worth guarantee provisions of the Garn-St Germain Depository Institutions Act of 1982. (Apr. 24, 1986; 100 Stat. 397; 1 page) Price: $1.00

H.R. Res. 599/Pub. L. 99–279

Commemorating the twenty-fifth anniversary of the Bay of Pigs invasion to liberate Cuba from Communist tyranny. (Apr. 24, 1986; 100 Stat. 398; 1 page) Price: $1.00

S. 1292/Pub. L. 99–280

Health Services Amendments Act of 1986. (Apr. 24, 1986; 100 Stat. 399; 3 pages) Price: $1.00

S.J. 266/Pub. L. 99–281

To designate the week of April 20, 1986, through April 26, 1986, as "National Reading Is Fun Week." (Apr. 24, 1986; 100 Stat. 402; 1 page). Price: $1.00

S.J. 303/Pub. L. 99–282

To designate April 1986, as "Fair Housing Month." (Apr. 24, 1986; 100 Stat. 403; 1 page) Price: $1.00

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For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

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Federal Communications Commission
Federal Mine Safety and Health Review Commission

Customs Duties and Inspection
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WASHINGTON, DC

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RESERVATIONS: Laurence Davey, 202-523-3517

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Rules and Regulations

Federal Register
Vol. 51, No. 83
Wednesday, April 30, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 918, 925, and 927

Expenses and Rates of Assessments for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenditures and establishes assessment rates under Marketing Orders 918 and 925. In addition, this regulation increases the 1985–86 budget under M.O. 927 (Oregon/Washington/California Winter Pears). Funds to administer these programs are derived from assessments on handlers.

EFFECTIVE DATES: March 1, 1986–February 28, 1987 (§ 918.223); December 1, 1985–November 30, 1986 (§ 925.205); July 1, 1985–June 30, 1986 (§ 927.225).

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Secretary's Memorandum 1512-1 and Executive Order 12291 and has been designated a "non-major" rule. The Administrator, Agricultural Marketing Service, has certified that these actions will not have a significant economic impact on a substantial number of small entities.

These marketing orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). These actions are based upon recommendations and information submitted by each committee, established under the respective marketing orders, and upon other information. It is found that the expenses and rates of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking, and good cause exists for not postponing the effective dates until 30 days after publication in the **Federal Register** (5 U.S.C. 553). Each order requires that the rate of assessment for a particular fiscal period shall apply to all assessable commodities handled from the beginning of such period. To enable the committees to meet current fiscal obligations, approval of the expenses and rates of assessment is necessary without delay. It is necessary to effectuate the declared policy of the act to make these provisions effective as specified, and handlers have been apprised of such provisions and the effective dates.

List of Subjects 7 CFR Parts 918, 925, and 927

Marketing agreements and orders, Peaches, Georgia; Desert grapes, California; Winter pears, Oregon, Washington, California

1. The authority citation for 7 CFR Parts 918, 925, and 927 continue to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Therefore, new §§ 918.223, 925.205 are added; § 927.225 (50 FR 28373) is amended to read as follows (the following sections prescribe annual expenses and assessment rates and will not be published in the Code of Federal Regulations):

PART 918—FRESH PEACHES GROWN IN GEORGIA

§ 918.223 Expenses and assessment rate.

Expenses of $11,635 by the Industry Committee are authorized, and an assessment rate of $0.01 per bushel of peaches is established for the fiscal year ending February 28, 1987.

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

§ 925.205 Expenses and assessment rate.

Expenses of $42,000 by the California Desert Grape Administrative Committee are authorized, and an assessment rate of $0.005 per 22-pound container of grapes is established for the fiscal year ending November 30, 1986.

PART 927—BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

§ 927.225 [Amended]

Section 927.225 is amended by changing $1,678,124 to $1,871,477.

Dated: April 24, 1986.

Thomas R. Clark,
Acting Director, Fruit and Vegetable Division.

[FR Doc. 86-9606 Filed 4-29-86; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 979

[Amdt. No. 5]

Melons Grown in South Texas; Handling Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule exempts gift boxes of melons from the container requirements of the handling regulation. The containers currently required are too large for gift pack use. This action will permit melon shippers to serve a small but growing segment of the melon market that would not otherwise be available to them.

EFFECTIVE DATE: May 1, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "nonmajor" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order

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that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules proposed thereunder, are unique in that they are brought about through the group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that approximately 35 handlers of melons will be subject to regulation under the South Texas Melon Marketing Order during the course of the current season and that the great majority of this group may be classified as small entities. While regulations issued during the season impose some costs on affected handlers, the added burden imposed on small entities by this amendment, if present at all, is not significant.

Notice was given in the March 3, 1986, **Federal Register** (51 FR 7279) affording interested persons until April 2, 1986, to submit written comments. None was received.

Marketing Agreement No. 156 and Order No. 979, regulate the handling of melons grown in designated counties in South Texas. The program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The South Texas Melon Committee, established under the order, is responsible for its local administration.

Because requiremens under this program have changed infrequently, in December 1981 the committee recommended, and the Secretary approved, a regulation which would continue in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation submitted by the committee or other information available to the Secretary.

At its public organizational meeting in McAllen, Texas, on December 3, 1985, the committee recommended that the regulation continue but that gift boxes of melons be exempt from the container requirements of the handling regulation. Until this amendment, the handling regulation included a requirement that all melons be packed in containers of specified dimensions. The usual cartons for cantaloups contain 40 pounds and those for honeydew melons 30 pounds, too large for gift-type packaging. Moreover, for the gift-pack market a range of sizes and configurations for containers is necessary. The pack may contain other items such as fruit, preserves or nuts; and a range of different sizes is more appropriate in order to offer consumers a wider selection. All other provisions of the handling regulation, including minimum grade requirements, still apply to such packages. Since gift packages must contain only the highest quality melons in order to command their price, there is little chance that this will be used as a "dumping ground" for melons of questionable grade. The committee believes this action will enable melon shippers to serve a small but developing market for gift packages.

Although the amended regulation is effective for an indefinite period, the committee will continue to meet prior to or during each season to consider recommendations for modification, suspension, or termination of the regulation. Prior to making any such recommendations, the committee will submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings or may file comments with the Fruit and Vegetable Division before March 1 each year. The Department will evaluate committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension or termination of the regulations on shipments of South Texas melons would tend to effectuate the declared policy of the act.

Findings

After consideration of all relevant matters, including the proposal set forth in the notice, it is hereby found that the following amendment, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that (1) shipments of melons grown in the production area will begin about May 1; (2) to maximize benefits to producers, this regulation should apply to as many shipments as possible during the marketing season; and (3) compliance with this regulation, which is similar to that in effect during previous marketing seasons, will not require any special preparation on the part of persons subject thereto which cannot be completed by the effective date.

List of Subjects in 7 CFR Part 979

Marketing agreements and orders, Melons, Texas.

PART 979—MELONS GROWN IN SOUTH TEXAS

1. The authority citation for 7 CFR Part 979 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 979.304 (47 FR 13118, March 29, 1982; 47 FR 24109, June 3, 1982; 48 FR 21881, May 16, 1983; 49 FR 15541, April 19, 1984; and 50 FR 10206, March 14, 1985) is hereby further amended by adding a new paragraph (e)(4) as follows:

§ 979.304 Handling regulation.

* * * * *

(e) *Special purpose shipments.* * * *

(4) The handling to any person of gift packages of melons not exceeding 25 pounds per package, individually addressed to such person and not for resale, is exempt from the container requirements of paragraph (b) of this section, but shall meet all assessment requirements of § 979.42 and the grade and inspection requirements of paragraphs (a) and (c) respectively of this section.

* * * * * *

Dated: April 24, 1986.

Thomas R. Clark,

Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86-9609 Filed 4-29-86; 8:45 am]

BILLING CODE 3410-02-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 241

[Release No. 34-23170]

Securities; Brokerage and Research Services

AGENCY: Securities and Exchange Commission.

ACTION: Interpretive Release Concerning the Scope of section 28(e) of the Securities Exchange Act of 1934 and Related Matters.

SUMMARY: The Commission today announced the issuance of an interpretive release under section 28(e) of the Securities Exchange Act of 1934 ("Act") which provides a safe harbor for persons who exercise investment discretion over beneficiaries' or clients' accounts to pay for research and brokerage services with commission dollars generated by account transactions. In the release, the Commission has clarified its interpretation of the phrase "brokerage and research services" in section 28(e)(3) and has reiterated the disclosure obligations of money managers under the federal securities laws concerning brokerage allocation practices and the use of commission dollars. The Commission has also expressed its views regarding best execution obligations of fiduciaries for their clients' transactions and its views and those of the United States Department of Labor regarding directed brokerage practices by sponsors of employee benefit plans. The Commission believes that the release will provide useful guidance to money managers and other persons in the securities industry.

FOR FURTHER INFORMATION CONTACT: Mary Chamberlin, Chief Counsel, or Kerry F. Hemond, Esq. ((202) 272–2848), Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. For further information regarding the obligations imposed under the Investment Advisers Act of 1940 and the Investment Company Act of 1940, contact Thomas P. Lemke, Chief Counsel, Stephanie M. Monaco, Esq., or Gerald T. Lins, Esq. ((202) 272–2030), Office of Chief Counsel, Division of Investment Management, Securities and Exchange Commission.

SUPPLEMENTARY INFORMATION:

I. Background

Section 28(e) provides a safe harbor to money managers who use the commission dollars of their advised accounts to obtain investment research and brokerage services, provided that all of the conditions in the section are met.[1] The section states that a person who exercises investment discretion with respect to an account [2] shall not be deemed to have acted unlawfully or to have breached a fiduciary duty under state or federal law solely by reason of his having caused an account to pay more than the lowest available commission if that person determines in good faith that the amount of the commission is reasonable in relation to the value of the brokerage and research services provided. Conduct outside of the safe harbor of Section 28(e) may constitute a breach of fiduciary duty as well as a violation of specific provisions of the federal securities laws, particularly under the Investment Advisers Act of 1940 ("Advisers Act") and the Investment Company Act of 1940 ("Company Act") and of the Employee Retirement Income Security Act of 1974 ("ERISA"). In addition, the section only excuses paying more than the lowest available commission and does not shield a person who exercises investment discretion from charges of violations of the antifraud provisions of the federal securities laws or from allegations, for example, that he churned an account, failed to seek the best price, or failed to make required disclosures.

In connection with the abolition of fixed commission rates on May 1, 1975, money managers and broker-dealers expressed concern that, if money managers were to pay more than the lowest commission rate available to a broker-dealer in return for services other than execution, such as research,[3] they would be exposed to charges that they had breached a fiduciary duty. This concern was based on the traditional fiduciary principle that a fiduciary cannot use trust assets to benefit himself. The purchase of research with the commission dollars of a beneficiary or a client, even if used for the benefit of the beneficiary or the client, could be viewed as also benefiting the money manager in that he was being relieved of the obligation to produce the research himself or to purchase it with his own money. This concern stemmed in part from litigation during the 1960's and 1970's over whether advisers of investment companies had a duty to recapture commission dollars for the benefit of the investment company.[4] The Congress added section 28(e) of the Act [5] to make clear that money managers could consider the provision of research, as well as execution services, in evaluating the cost of brokerage services without violating their fiduciary responsibilities. In adopting section 28(e), the Congress acknowledged the important service broker-dealers provide by producing and distributing investment research to money managers and created a safe harbor to permit money managers, in certain circumstances, to continue to use commission dollars paid by managed accounts to acquire research as well as execution services. These arrangements have come to be referred to as "soft dollar" arrangements.

In 1976, the Commission issued an interpretive release concerning the scope of section 28(e).[6] The Commission stated in the release that the safe harbor did not protect "products and services which are readily and customarily available and offered to the general public on a commercial basis." The Commission issued the release as a result of a number of practices which it did not believe were within the safe harbor. Since that time, the Commission has issued a report pursuant to section 21(a) of the Act reiterating this standard.[7] The staff has generally declined, as a matter of policy, to express definitive views as to whether a money manager's receipt of any particular product or service would be protected by section 28(e), although it has provided general comments on research services through the no-action letter process.[8]

Prompted by an increased industry focus on soft dollar practices, over the past eighteen months the staff of the Commission's Divisions of Market Regulation and Investment Management, and the staff of the Commission's regional offices, have been engaged in an examination of such practices generally and in particular in a re-evaluation of the 1976 standard as to the meaning of the phrase "brokerage and research services" in the context of section 28(e). Based on the staff's analyses and recommendations, the Commission has concluded that the 1976 standard is difficult to apply and unduly restrictive in some circumstances, and

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[1] Section 28(e) of the Act states in pertinent part:

No person using the mails, or any means or instrumentality of interstate commerce, in the exercise of investment discretion with respect to an account shall be deemed to have acted unlawfully or to have breached a fiduciary duty under State or Federal law unless expressly provided to the contrary by a law enacted by the Congress or any State subsequent to June 4, 1975, solely by reason of his having caused the account to pay a member of an exchange, broker, or dealer an amount of commission for effecting a securities transaction in excess of the amount of commission another member of an exchange, broker, or dealer would have charged for effecting that transaction, if such person determined in good faith that such amount of commission was reasonable in relation to the value of the brokerage and research services provided by such member, broker, or dealer, viewed in terms of either that particular transaction or his overall responsibilities with respect to the accounts as to which he exercises investment discretion. . . .

[2] The term "investment discretion" is defined in Section 3(a)(35) of the Act.

[3] This practice is commonly known as "paying up" for research.

[4] *See Tannenbaum* v. *Zeller*, 552 F.2d 402 (2d Cir. 1977); *Arthur Lipper Corp.* v. *Securities & Exchange Commission*, 547 F.2d 171 (2d Cir 1976); *Fogel* v. *Chestnutt*, 533 F.2d 731 (2d Cir 1975), *cert. denied*, 429 U.S. 824 (1976); *Moses* v. *Burgin*, 445 F.2d 369 (1st Cir), *cert. denied*, 404 U.S. 994 (1971).

[5] *Securities Acts Amendments of 1975*, Pub. L. No. 94-29, 89 Stat. 97 (1975).

[6] Securities Exchange Act Rel. No. 12251 (Mar. 24, 1976).

[7] *Report of Investigation in the Matter of Investors Information, Inc.*, Securities Exchange Act Rel. No. 16879 (Mar. 19, 1980) [hereinafter cited as Release 16879].

[8] *See, e.g., The Bank of New Jersey* [1976–77 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 80,562 (June 16, 1976); *Hugh Johnson & Co.*, [1976–77 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 80,520 (Mar. 24, 1976).

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that uncertainty about the standard may have impeded money managers from obtaining, for commission dollars, goods and services they believe are important to the making of investment decisions. Accordingly, the Commission is withdrawing the 1976 standard and adopting a revised standard, as discussed below. At the same time, however, the Commission emphasizes that money managers, particularly investment advisers registered under the Advisers Act, have important fiduciary and disclosure obligations concerning soft dollar practices, as well as a duty to obtain best execution of their clients' transactions. Finally, the Commission expresses its views on the practice of many employee benefit plan sponsors of directing their money managers to execute transactions through specified broker-dealers who have agreed to rebate to the plan a portion of the commissions paid in the form of cash, goods or services.

II. Definition of Brokerage and Research Services

A. In General

Subparagraph (3) of section 28(e) defines the brokerage and research services that are protected. The statute states that a person provides brokerage and research services insofar as he—

(A) furnishes advice, either directly or through publications or writings, as to the value of securities, the advisability of investing in, purchasing, or selling securities, and the availability of securities or purchasers or sellers of securities;

(B) furnishes analyses and reports concerning issuers, industries, securities, economic factors and trends, portfolio strategy, and the performance of accounts; or

(C) effects securities transactions and performs functions incidental thereto (such as clearance, settlement, and custody) or required in connection therewith by rules of the Commission or a self-regulatory organization of which such person is a member or person associated with a member or in which such person is a participant.

The legislative history of section 28(e) indicates that: The definition of brokerage and research services is intended to comprehend the subject matter in the broadest terms, subject always to the good faith standard in subsection (e)(1). Thus, for example, the reference to economic factors and trends would subsume political factors which may have economic implications which may in turn have implications in terms of the securities markets as a whole or in terms of the past, present, or future values of individual securities or groups of securities. Similarly, computer analyses of securities portfolios would also be covered. Thus, the touchstone for determining when a service is within or without the definition in section 28(e)(3) is whether it provides lawful and appropriate assistance to the money manager in the carrying out of his responsibilities.[9]

The Commission relied on this legislative history in adopting the 1976 guidelines, but expressed its view that in order to rely on the section 28(e) safe harbor, the product or service must not be readily and customarily available and offered to the general public on a commercial basis. While application of this standard has in some cases been clear, in other cases it has caused substantial uncertainty and confusion on the part of money managers and others, particularly as the types of research products and their methods of delivery have proliferated and become more complex. For example, participants in the securities industry have repeatedly requested clarification as to whether the application of this standard would disqualify a product that is available for hard dollars, what is meant by "the general public," the extent to which economic, financial and statistical information conveyed through computer facilities to a money manager may be considered to be research, and whether the computer facilities themselves can constitute research. The Commission is concerned that this lack of clarity has impeded the use by fiduciaries of appropriate research material and has acted as a disincentive to competition among broker-dealers.

B. Revised Standard

The Commission believes that, subject to the process discussed below of allocating payment for products or services that serve both a research and a non-research function, the controlling principle to be used to determine whether something is research is whether it provides lawful and appropriate assistance to the money manager in the performance of his investment decision-making responsibilities. In making this determination, the fact that a product or service is readily and customarily available and offered to the general public on a commercial basis does not dictate the conclusion that the product or service is not research, as was the case under the 1976 standard.[10] Rather, the focus should be on whether the product or service provides lawful and appropriate assistance to the money manager's investment decision-making process. What constitutes lawful and appropriate assistance in any particular case will depend on the nature of the relationships between the various parties involved and is not susceptible to hard and fast rules. Of course, section 28(e) continues to require the money manager to make a good faith determination that the value of research and brokerage services is reasonable in relation to the amount of commissions paid.[11] The legislative history of section 28(e) makes clear that the burden of proof in demonstrating this determination rests on the money manager.[12]

In many cases, a product or service termed "research" may serve other functions that are not related to the making of investment decisions. For example, management information systems may integrate such diverse functions as trading, execution, accounting, recordkeeping and other administrative matters, such as measuring the performance of accounts. Where a product obtained with soft dollars has a mixed use, a money manager faces a conflict of interest in obtaining that product by causing his clients to pay more than competitive brokerage commission rates. Therefore, the Commission believes that where a product has a mixed use, a money manager should make a reasonable allocation of the cost of the product according to its use. The percentage of the service or specific component that provides assistance to a money manager in the investment decision-making process may be paid for in commission dollars, while those services that provide administrative or other non-research assistance to the money manager are outside the section 28(e) safe harbor and must be paid for by the money manager using his own funds.[13] The money manager must keep adequate books and records concerning allocations so as to be able to make the required good faith showing.

Computer hardware is another example of a product which may have a mixed use. If the hardware is dedicated exclusively to software that is used for research for a client's benefit, it may be paid for in commission dollars. On the other hand, if the computer will be used in assisting the money manager in a non-research capacity (*e.g.*, bookkeeping or other administrative functions), that portion of the cost of the computer would not be within the safe harbor. The acquisition of quotation equipment should be analyzed similarly. Such equipment generally serves a legitimate research function of pricing securities for investment and keeping a manager informed of market developments. The equipment may also be used for a non-research purpose (*e.g.*, client reporting). Finally, where a money manager is invited to attend a research seminar or similar program, the cost of that seminar may be paid for with commission dollars. Non-research aspects of the trip, however, such as travel costs, hotel, meal and entertainment expenses, are not within the safe harbor.

The Commission recognizes that the task of properly allocating the research and non-research properties of certain goods and services provided to fiduciaries may be complex. The Commission believes the standard will be satisfied where a fiduciary can demonstrate a good faith attempt, under all the circumstances, to allocate the anticipated uses of a product.

III. Third Party Research

Another issue raised under section 28(e) is whether research may be produced or provided by someone other than the executing broker-dealer, or so-called "third party" research. Prior to the elimination of fixed commission rates, a variety of techniques were employed that permitted money managers to purchase third party research with brokerage commissions. Although the legislative history of section 28(e) includes a strong statement that commission dollars may be paid only to the broker-dealer that "provides" both the execution and research services and that the section does not authorize the resumption of "give-ups,"[14] it seems unlikely that Congress intended to forbid certain common practices that were then considered permissible and whose elimination would be anti-competitive.

In the 1976 release, the Commission indicated that section 28(e) might, under appropriate circumstances, apply to situations in which research produced by third parties is provided to a money manager by a broker. The Commission suggested that payment of a part of the commission to another broker who is a "normal and legitimate correspondent" of the executing or clearing broker would not necessarily be a give-up outside the protection of section 28(e).

In Release 16679, a report pursuant to section 21(a) of the Act,[15] the Commission found that the brokers involved in the arrangement did not provide the money managers with any significant research services. They merely executed the transactions and paid 50% of the commissions to Investors Information, Inc. ("III"), who represented various research originators. All arrangements for acquiring the services were made by the money managers and the vendors of the services. III simply held the money for the money managers and paid the bills as requested. The money managers were obligated to pay the vendors for the services and the brokers generally were not aware of the specific services which the managers acquired.

The Commission acknowledged that it is not necessary that a broker produce the research services "in-house" in order for the money manager to obtain the protection of section 28(e). The Commission emphasized, however, that the research services must be "provided by" the broker. The Commission stated that while a broker may under appropriate circumstances arrange to have research materials or services produced by a third party, it is not "providing" such research services when it pays obligations incurred by the money manager to the third party.

In approving the "Papilsky" rules,[16] the Commission clarified that research provided in third-party arrangements falls within section 28(e) even if the money manager participates in selecting the research services or products to be provided to it by the broker-dealer. The Commission also stated that third-party research does not have to be shipped through the broker, but may instead be delivered directly by the third party to the manager in circumstances that otherwise qualified for the safe harbor. The Commission stated:

> . . . a broker-dealer may be deemed to have provided third party research when it has incurred a direct legal obligation to a third party producer to pay for the research (regardless of whether the research is then sent directly to the broker's fiduciary customer by the third party or instead is sent to the broker who then sends it to his customer). The Commission does not believe, however, that section 28(e) would apply where the broker was merely used as an alternative means of paying obligations incurred by the fiduciary in its direct dealings with the third party . . . [citation omitted] In that regard, a broker-dealer may be deemed to have provided third party research that it is legally obligated to pay for even if its fiduciary customer participates in the selection of the research services or products to be provided to it by the broker-dealer.[17]

The staff also has expressed the opinion that section 28(e) was not intended to exclude from its coverage the payment of commissions made in good faith to an introducing broker for execution and clearing services performed in whole or in part by the introducing broker's normal and legitimate correspondent. The staff added that the protection of section 28(e) would not be lost merely because the fiduciary by-passed the order desk of the introducing broker and called its orders directly into the clearing broker.[18] More recently, the staff has stated that its views concerning correspondent relationships contemplate that the "introducing broker would be engaged in securities activities of a more extensive nature than merely the receipt of commissions paid to it by other broker-dealers for 'research services' provided to money managers."[19]

IV. Disclosure and Other Obligations Under the Investment Advisers Act of 1940 and the Investment Company Act of 1940 Applicable to Money Managers Engaging in Soft Dollar Arrangements

Money managers engaging in soft dollar arrangements must comply with all applicable disclosure requirements under the federal securities laws, and registered investment advisers and others should pay particular attention to the disclosure and books and records requirements under the Advisers Act and the Company Act. Disclosure is required even if an arrangement is within the safe harbor provided by section 28(e).[20] In addition, money

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[9] *Securities Acts Amendments of 1975, Report of the Comm. on Banking, Housing and Urban Affairs*, S. Rep. No. 75, 94th Cong., 1st Sess. 71 (1975).

[10] Nevertheless, obvious overhead expenses such as office space, typewriters, furniture and clerical assistance would not constitute research.

[11] The fact that a product is available for hard dollars or is otherwise available and used by the general public is relevant to the determination of the value of the research.

[12] *See House Comm. on Interstate and Foreign Commerce*, H.R. Rep. No. 123, 94th Cong., 1st Sess. 95 (1975). The Report states that:

> It is, of course, expected that money managers paying brokers an amount [of commissions] which is based upon the quality and reliability of the broker's services including the availability and value of research, would stand ready and be required to demonstrate that such expenditures were bona fide.

[13] The allocation determination itself poses a conflict of interest for the money manager that should be disclosed to the client.

[14] *Securities Acts Amendments of 1975, Conference Report to Accompany S. 249, Joint Explanatory Statement of the Comm. of Conference*, H.R. Rep. No. 229, 99th Cong., 1st Sess. 108 (1975).

[15] *See supra* note 7.

[16] Securities Exchange Act Rel. No. 17371 (Dec. 12, 1980).

[17] *Id.* at 24, note 54.

[18] *Becker Securities Corp.* [1976 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 80,041 (May 28, 1976).

[19] *Data Exchange Securities*, [1981–82 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 77,016 (Apr. 20, 1981). *See also SEI Financial Services* (pub. avail. Dec. 14, 1983), in which the staff reviewed a specific broker correspondent relationship focusing on the services provided and concluded the nature of the relationship did not preclude reliance on section 28(e).

[20] As the Commission stated in a 1979 release adopting rule and form amendments designed to require registered investment companies to provide investors with disclosure about brokerage placement practices and policies, "[t]hese

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managers must comply with any other laws imposing fiduciary or other obligations with respect to their participation in such arrangements. Set forth below is a discussion of the principal provisions of the Advisers Act and Company Act and rules and forms thereunder which, depending on the facts and circumstances involved, impose disclosure and other obligations on money managers and related persons.

A. Advisers Act

1. Form ADV

Fundamental to the Advisers Act is the concept that an investment adviser has a fiduciary obligation to act in the best interests of clients. As a fiduciary, an adviser has a duty to disclose to clients all material information which is intended "to eliminate, or at least expose," all potential or actual conflicts of interest "which might incline an investment adviser consciously or unconsciously—to render advice which was not disinterested." [21] Due to the potential conflict of interest when an adviser receives research as a result of allocating brokerage on behalf of clients' accounts, the Commission has long maintained that an adviser must disclose soft dollar arrangements to clients. The Commission has adopted mandatory disclosure standards for advisers involved in such arrangements,[22] as discussed below.

Pursuant to its authority in section 28(e)(2) to adopt rules governing a money manager's disclosure of brokerage policies and practices, the Commission proposed disclosure rules in 1976,[23] but later determined to "incorporate more comprehensive brokerage placement practice disclosure requirements" within the registration process for investment advisers under the Advisers Act.[24] One of these provisions is the so-called "brochure rule," which was adopted in 1979 and is set forth in Rule 204–3 under the Advisers Act. This rule requires generally that an adviser furnish each advisory client and each prospective advisory client with a written disclosure statement containing certain information regarding the adviser's business background and practices.[25] The disclosure statement may be either a copy of Part II of the adviser's Form ADV,[26] the registration form for investment advisers, or a written document containing at least the information required by Part II of the Form ADV.[27]

Item 12 of Part II of Form ADV requires disclosure to clients regarding investment or brokerage discretion. The purpose of this disclosure is to provide clients with material information about the adviser's brokerage allocation policies and practices which may be important to them in deciding to hire an adviser or continue a contract with an adviser and which will permit them to evaluate any conflicts of interest inherent in the adviser's arrangements for allocating brokerage.[28] Because brokerage policies and practices vary greatly, the disclosure made in response to Item 12 should provide sufficient information to enable a client or potential client to understand such policies and practices. This item requires disclosure regarding (1) whether the adviser or a related person has authority to determine, without specific client consent, the broker-dealer to be used in any securities transaction or the commission rate to be paid, or (2) whether the adviser or a related person suggests broker-dealers to clients. If the adviser engages in either of these practices, whether or not pursuant to a written agreement, it must describe the factors considered in selecting broker-dealers and in determining the reasonableness of commissions charged. If the value of products, research, and services given to the adviser or a related person is a factor in those decisions, the adviser must describe the following:

- The products, research, and services;[29]
- Whether clients may pay commissions higher than those obtainable from other brokers in return for those products and services;
- Whether research is used to service all of the adviser's accounts or just those accounts paying for it; and
- Any procedures the adviser used during the last fiscal year to direct client transactions to a particular broker in return for products and research services received.[30]

In its release discussing the concurrent adoption of Form ADV disclosure requirements [31] and the brochure rule, the Commission pointed out that:

> the amended rule and forms represent mandatory disclosure standards. More detailed or additional information and explanatory material could and should be provided where necessary, because of circumstances in particular cases, to ensure that all material information regarding brokerage placement practices and policies will be disclosed to investors.[32]

An investment adviser should be particularly aware of the fact that the Advisers Act disclosure requirements apply to all soft dollar arrangements, whether or not they are within the safe harbor of section 28(e).[33] Moreover,

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disclosure requirements reflect a longstanding policy of the Commission that brokerage placement practices of investment managers may take into consideration research and brokerage services, *provided, however, that such practices are disclosed to investors.*" Securities Act Rel. No. 6019 (Jan. 30, 1979) (emphasis added) [hereinafter cited as Release 6019]. *See* "Applicability of the Commission's Policy Statement on the Future Structure of the Securities Markets To Selections of Brokers and Payments of Commissions By Institutional Managers," Securities Act Rel. No. 5550 (May 8, 1975) [hereinafter cited as Release 5550].

[21] *Securities and Exchange Commission* v. *Capital Gains Research Bureau, Inc.*, 375 U.S. 180, 191–92 (1963); *See also* Section 206 of the Advisers Act; Rule 206–6 under the Advisers Act.

[22] *E.g.*, Release 6019, *supra* note 20.

[23] Securities Act Rel. No. 5772 (Nov. 30, 1976).

[24] Investment Advisers Act Rel. No. 684 (Jan. 30, 1979).

[25] The specific delivery requirements applicable to the brochure are set forth in paragraphs (b) and (c) of Rule 204–3.

[26] Recently the Commission adopted a new, uniform Form ADV, the uniform application form for advisers registered with the Commission and the forty states that require advisers to register. Investment Advisers Act Rel. No. 881 (Oct. 15, 1985). The form was developed jointly by the Commission and the North American Securities Administrators Association.

New Form ADV retains the two part format for the earlier form. Part I requires disclosure primarily for use by regulatory agencies. Part II of the form, which serves as the basis for the brochure rule, requires disclosure primarily for use by clients.

[27] *See* Rule 204–3(a).

[28] A general discussion of the background, purpose, and effect of the disclosure required in what is now Item 12 of Form ADV may be found in Release 6019, *supra* note 20.

[29] An adviser need not list individually each product, item of research, or service received, but rather can state the types of products, research, or services obtained with enough specificity so that clients can understand what is being obtained. Disclosure to the effect that various research reports and products are obtained would not provide the specificity required.

[30] The adviser should disclose any practices, including informal ones and whether or not they involve "paying up," to allocate brokerage to particular brokers in recognition of research products and services received. In this connection, the Commission notes that a money manager that obligated itself formally to generate a specified amount of commissions would be faced with a heavy burden of demonstrating that he was consistently obtaining best execution.

[31] Item 12 of the new uniform Form ADV mirrors Item 11 of the superseded form and has remained substantively the same since its adoption in 1979.

[32] Release 6019, *supra* note 20.14 SEC Docket 836. In addition to the disclosure required by Item 12 of Part II of Form ADV, Item 15 of Part II requires disclosure that may be relevant to soft dollar arrangements. That item requires an adviser to describe any oral or written arrangements where it or any related person receives some economic benefit from a non-client, including a benefit in the form of non-research services, in connection with giving advice to clients.

[33] *See, e.g.*, Release 19870, *supra* note 7; Release 6019, *supra* note 20.

compliance with Advisers Act disclosure requirements does not relieve an adviser from other disclosure obligations under federal or state law.

2. Section 204

Section 204 of the Adviser Acts authorizes the Commission to adopt rules prescribing the books and records a registered adviser must maintain. Pursuant to this authority, the Commission has adopted Rule 204–2, which requires an adviser to keep true, accurate, and current books and records relating to its advisory business.[34] In the case of securities transactions, particularly those which may involve soft dollars, the adviser's books and records should contain sufficient details relating to each participant in a particular transaction.

3. Best Execution

The Commission's staff has stated that an adviser, as a fiduciary, owes its clients a duty of obtaining the best execution on securities transactions.[35] For further discussion of best execution, see Section V of this release.

B. Company Act

The Company Act and rules and forms thereunder impose various disclosure and other obligations on registered investment companies, investment advisers of registered investment companies, and related persons in connection with soft dollar arrangements.

1. Form N–1A

Form N–1A is the integrated registration form used by most open-end management investment companies to register under the Company Act and to register their securities under the Securities Act of 1933. Its disclosure requirements form the basis of the two-part prospectus used by these investment companies. Part B of the form, termed the "Statement of Additional Information," requires disclosure about the company's brokerage allocation practices.[36] Specifically, Item 17 requires a description of how transactions in portfolio securities are effected, including a general statement about brokerage commissions. Investment companies also must describe how broker-dealers will be selected to effect securities transactions and how the overall reasonableness of commissions paid will be evaluated,[37] including the factors considered in connection with these determinations. The instructions to this item further require that:

- If the receipt of products or services other than brokerage or research is a factor in selecting brokers, the products and services should be described;
- If the receipt of research services is a factor in selecting brokers, the nature of such research services should be described;
- The registrant must state if persons acting on its behalf are authorized to pay a commission in excess of that which another broker might have charged for the same transaction in recognition of brokerage or research services provided by the broker;
- If applicable, the registrant should explain that research services provided by brokers may be used by the adviser in servicing all of its accounts or described other practices applicable to the registrant regarding allocation of research services provided by brokers; and
- The registrant must state the amount of transactions and related commissions paid as a result of directing the registrant's brokerage transactions to a broker because of research services provided pursuant to an agreement or understanding with a broker or otherwise through an internal allocation procedure.[38]

2. Section 20(a)

Section 20(a) of the Company Act makes it unlawful for any person to solicit proxies regarding the securities of any registered investment company in contravention of Commission rules. Pursuant to this provision, the Commission has adopted two rules that may be relevant to soft dollar arrangements. First, where a proxy solicitation is made on behalf of the management of the investment company, Rule 20a–1(b) requires the adviser of the investment company to furnish promptly to management, upon request, all information necessary for management to comply with the proxy rules, including information about soft dollar arrangements.

In addition to this general obligation, Rule 20a–2 requires disclosure of specific information about the adviser and its investment advisory contract in certain proxy solicitations,[39] including information about brokerage placement practices. Specifically, paragraph (b)(7) of the rule requires disclosure of, among other things, the following:

- A description of how brokers are selected to effect securities transactions for the company and how the reasonableness of overall brokerage commissions paid will be evaluated, including the factors considered in these determinations;
- If the receipt of products or services other than research or brokerage is a factor in selecting brokers, a description of these products or services;
- If the receipt of research services is a factor in selecting brokers, the nature of such services;
- Whether persons acting on behalf of the company are authorized to pay a broker a commission in excess of that which another broker might have charged for the same transaction in recognition of brokerage or research services provided by the broker;
- If applicable, an explanation that research services furnished by the company's brokers may be used by the adviser in servicing all of its accounts and that not all such services may be used by the adviser in connection with the company, or an explanation of other policies or practices applicable to the company regarding the allocation of research services provided by brokers; and
- The amount of transactions and related commissions directed to a broker or brokers pursuant to an agreement or understanding or otherwise through an internal allocation procedure.

3. Section 15(c)

Section 15(c) makes it unlawful for any investment company to enter into or renew any investment advisory contract unless it is approved by a majority of the company's disinterested directors. In approving such a contract, this provision

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[34] *E.g.*, Rule 204–2 (a)(1), (a)(2), and (a)(3).

[35] *E.g.*, *Interfinancial Corp.* (pub. avail. Mar. 16, 1985). *See also* Release 5550, *supra* note 20 (in selecting a broker-dealer, a money manager "is not required to seek the service which carries the lowest cost so long as the difference in cost is reasonably justified by the quality of the service offered"); Securities Exchange Act Rel. No. 12251 (Mar. 24, 1976).

[36] Registered investment companies must make the Statement of Additional Information available free of charge to shareholders and potential investors upon request.

[37] Where an investment manager, in return for research services, pays an affiliated broker-dealer more than normal charges for execution of brokerage transactions, the manager "would be under a heavy burden to show that such payments were appropriate." Release 6019, *supra* note 20, 16 SEC Docket 844.

[38] Disclosure about brokerage allocation practices also is required by other registration and reporting forms used by investment companies. *E.g.*, Form N–2 (Item 9); Form N–3 (Item 22); and Form N–SAR (Item 26).

[39] The requirements of Rule 20a–2 are applicable to any solicitation made by or on behalf of management or the adviser involving action with respect to the election of directors of the investment company. *See* Rule 20a–2(a).

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imposes on directors a duty to request and evaluate such information as may reasonably be necessary for the directors to evaluate the terms of the contract. This provision also imposes on the company's adviser a duty to furnish such information to the directors.[40]

The Supreme Court has defined the Congressional purpose in enacting section 15(c) and related provisions of the Company Act as placing "the unaffiliated directors in the role of 'independent watchdogs' "[41] entrusted with "the primary responsibility for looking after the interest of the funds' shareholders."[42] Disinterested directors are required to "exercise informed discretion, and the responsibility for keeping the independent directors informed lies with management, *i.e.*, the investment adviser and interested directors."[43] Depending on the facts involved, the responsibility of the disinterested directors may include monitoring of the adviser's soft dollar arrangements.

4. Section 31

Section 31 of the Company Act authorizes the Commission to adopt rules prescribing the books and records to be maintained by a registered investment company or by others, on its behalf, including investment advisers.[44] Pursuant to this authority, the Commission adopted Rule 31a–1. Paragraph (b)(9) of that rule requires an investment company to maintain a record for each fiscal quarter describing in detail the basis or bases upon which it allocated orders for the purchase or sale of portfolio securities and divided brokerage commissions or other compensation on such orders.[45] The record also must indicate the consideration given to services or benefits supplied by broker-dealers to the investment company or adviser and show the nature of such services or benefits made available.

[40] In addition to paragraph (d) of section 15, paragraph (a)(1) of that provision may be applicable to a soft dollar arrangement. This provision makes it unlawful for any person to serve as an investment adviser of a registered investment company except pursuant to a written contract which has been approved by a majority vote of shareholders and which "precisely describes all compensation" to be paid under that contract. As to what constitutes "compensation," *see infra* note 46.

[41] *Burks v. Lasker*, 441 U.S. 471, 484 (1979), *citing Tannenbaum v. Zeller*, *supra* note 4.

[42] *Burks*, *supra* note 41, at 485.

[43] *Tannenbaum*, *supra* note 4, at 417–18.

[44] *See* Rule 31a–3.

[45] Rule 31a–1(b)(9) requires this record to be completed within ten days after the end of the quarter.

5. Section 36(b)

Under Section 36(b) of the Company Act, an investment adviser to a registered investment company has a fiduciary duty with respect to the receipt of compensation for services,[46] or of payments of a material nature, from the investment company or its shareholders. However, with respect to any such amount received by an adviser, no violation of section 36(b) could occur for a soft dollar arrangement falling within the safe harbor of section 28(e).[47] Where an adviser received amounts outside of the safe harbor of section 28(e) such amounts would have to be analyzed under section 36(b) to determine if they were consistent with that provision.

6. Section 17(e)(1)

As relevant here, Section 17(e)(1) of the Company Act makes it unlawful for an affiliated person of a registered investment company [48] to receive any compensation [49] for the purchase or sale of any property to or for the investment company when that person is acting as an agent [50] for the company other than in the course of that person's business as a broker-dealer.[51] The Court of Appeals for the Second Circuit has held that the objective of section 17(e)(1) "is to prevent affiliated persons [of investment companies] from having their judgment and fidelity impaired by conflicts of interest" [52] in situations where the benefit of a reciprocal relationship between the affiliated person and another person is diverted to the affiliated person while the burden of that relationship is borne by the investment company.[53]

It is important to emphasize that receipt by an investment adviser of any compensation [54] pursuant to a soft dollar arrangement in connection with the purchase or sale of any property, including securities, to or for the investment company arguably would violate section 17(e)(1). To the extent that compensation is received by an affiliated person of a fund pursuant to a soft dollar arrangement within the safe harbor of section 28(e), however, the prohibition of section 17(e)(1) would not apply.[55]

Finally, it is not necessary to show that the person receiving compensation prohibited by section 17(e)(1) influenced the actions of the investment company,[56] nor must economic injury to the investment company be shown.[57] Rather, the essence of a violation of section 17(e)(1) is the mere receipt of compensation in connection with the purchase or sale of property to or from the investment company.

[46] The term "compensation" under Section 36(b) and other provisions of the Company Act has been broadly construed to include any economic benefit paid directly or indirectly to an adviser. *E.g.*, *Steadman Securities Corporation*, Securities Exchange Act Rel. No. 13685 at 12 SEC Docket 1042, 1052 (June 29, 1977) *rev'd on other grounds sub. nom. Steadman v. Securities and Exchange Commission*, 603 F.2d 1126 (5th Cir. 1979), *aff'd*, 450 U.S. 91 (1981). *In re Investors Research Corporation, et al.*, 12 SEC Docket 108 (1976), *aff'd in part and vacated in part*, *Investors Research Corporation and Stowers v. Securities and Exchange Commission*, 628 F.2d 168 (D.C. Cir. 1980), *cert. denied*, 449 U.S. 919 (1981) [hereinafter cited as *Investors Research*]; *Investors Research Corporation*, Investment Advisers Act Rel. No. 627 (May 1, 1978), *aff'd in part and vacated in part* 628 F.2d 168 (D.C. Cir. 1980), *cert. denied* 449 U.S. 919 (1981); *Imperial Financial Services*, 42 SEC 717 (1965); Release 5280, *supra* note 20; *Accord* Investment Advisers Act Rel. No. 770 (Aug. 13, 1981) (the element of "compensation" in the definition of an investment adviser in Section 202(a) (11) of the Advisers Act "is satisfied by the receipt of any economic benefit * * *").

[47] *Securities Acts Amendments of 1975, Conference Report to Accompany S. 249, Joint Explanatory Statement of the Comm. of Conference*, H.R. Rep. No. 229, 94th Cong., 1st Sess. 103 (1975). Although both the Senate and House versions of the section 28(e) legislation contained provisions protecting money managers against breach of fiduciary duty claims, the Conference Report makes clear that the Senate version was selected for the final legislation because it "more closely preempted both statutory and common law." *Id.*

[48] The phrase "affiliated person" of an investment company is defined in section 2(a)(3)(E) of the Company Act and includes, among others, an investment adviser to an investment company. The prescription of section 17(e)(1) also applies to any affiliated person of an affiliated person of the investment company.

[49] *See supra* note 46.

[50] As the Second Circuit stated in *United States v. Deutsch*, 451 F.2d 98, 111 (2d Cir. 1971), *cert. denied*, 404 U.S. 1016 (1972), an affiliated person of an investment company is acting as an "agent" in connection with the purchase or sale of property for purposes of Section 17(e)(1) "in all cases when he is not acting as broker for the investment company." *See Provident Management Corp.*, 44 SEC 442, 448 (1970) [hereinafter cited as *Provident*].

[51] Where an adviser is acting as "broker" in connection with the purchase or sale of securities to or for an investment company, its activities would be governed by section 17(a)(2) of the Company Act.

[52] *Deutsch*, *supra* note 50, at 108.

[53] *See Investors Research*, *supra* note 46, at 173.

[54] *See supra* note 46, and accompanying text.

[55] The fact that a soft dollar arrangement outside of section 28(e) is disclosed would not cure a violation of section 17(e)(1) because that provision reflects the Congressional determination that disclosure alone is not adequate protection in the investment company field. *Investors Research*, *supra* note 46.

[56] *Deutsch*, *supra* note 50, at 108.

[57] *Id.* "No showing of actual impairment need be made. This is a prophylactic statute. Its aim is not to redress harm but to prevent it." *Investors Research*, *supra* note 46, at 1023. *See also Provident*, *supra* note 50.

V. Best Execution Obligations

As a fiduciary, a money manager has an obligation to obtain "best execution" of clients' transactions under the circumstances of the particular transaction. The money manager must:

execute securities transactions for clients in such a manner that the client's total cost or proceeds in each transaction is the most favorable under the circumstances.[58]

A money manager should consider the full range and quality of a broker's services in placing brokerage including, among other things, the value of research provided as well as execution capability, commission rate, financial responsibility, and responsiveness to the money manager. The Commission wishes to remind money managers that the determinative factor is not the lowest possible commission cost but whether the transaction represents the best qualitative execution for the managed account. In this connection, money managers should periodically and systematically evaluate the execution performance of broker-dealers executing their transactions.

VI. Employee Benefit Plans and Plan Sponsor Directed Brokerage

During the past year the practice of plan sponsor directed brokerage has drawn considerable attention. This phrase refers to an arrangement whereby an employee benefit plan sponsor requests its money manager, subject to the manager's satisfaction that it is receiving best execution, to direct commission business to a particular broker-dealer who has agreed to provide services, pay obligations or make cash rebates to the plan.

At the outset, the Commission wishes to emphasize that directed brokerage transactions clearly do not fall within the safe harbor of section 28(e). The safe harbor is available only to persons who are exercising investment discretion, as that term is defined in section 3(a)(35) of the Act.[59] A pension plan sponsor that has retained a money manager to make investment decisions, as is the case in directed brokerage arrangements, is not exercising investment discretion.[60] Accordingly, neither the plan sponsor, the money manager, nor the broker-dealer participating in the transactions can rely on section 28(e).

Section 28(e), however, cannot by its terms be violated. Thus, the fact that sponsor directed brokerage transactions are outside its protections does not necessarily mean that such transactions are illegal. Nevertheless, each participant in the transaction may be exposed to liability unless certain aspects of the transaction are carefully handled. The Commission does not administer ERISA, but sponsor directed brokerage in connection with plans covered by ERISA may involve violations of that Act and may violate the antifraud provisions of the federal securities laws.

The Department of Labor has indicated that if the cash rebate, goods or services provided by the broker to the plan is not for a purpose that exclusively benefits the plan, the transaction would constitute a *per se* violation of ERISA. The Commission understands that many money managers and brokers who are engaging in directed brokerage transactions have required the pension plan to represent in writing at the initiation of such transactions that the rebate will be used for the exclusive benefit of the plan and its beneficiaries.

A second concern arises regarding the broker's obligation to accurately confirm transactions with customers pursuant to Rule 10b–10 under the Securities Exchange Act and to maintain books and records pursuant to Rule 17a–3. Rule 10b–10(a)(7)(ii) requires a broker to disclose the amount of remuneration received or to be received by him from a customer in connection with an agency transaction. In sponsor directed brokerage arrangements the broker-dealer has agreed to charge specified commissions but at the same time has agreed to rebate a portion of the commissions. At least in the case of a cash rebate, the confirmation is false if it does not at a minimum provide disclosure that a portion of the commission was returned to the plan. The Commission has emphasized in the past improper nature of this rebating practice without disclosure.[61] Rule 17a–3(a)(8) requires the broker to keep copies of confirmations of all purchases and sales of securities and copies of notices of all other debits and credits for securities, cash and other items for the account of customers. This provision would require that the broker document any rebating arrangements that it had entered into with plan sponsors.

Third, section 28(e) allows a money manager in making his good faith determination as to the reasonableness of commissions paid to consider not only the benefit to be derived by the account paying the commissions, but also the benefits derived by other accounts. Since sponsor directed brokerage transactions are outside of the safe harbor, this additional element of protection is unavailable. Stated differently, the Commission believes that it is illegal, from a securities law fraud perspective, for a money manager or a broker-dealer to use one client's commissions to fund an undisclosed rebate to another client. This problem is particularly acute where a money manager aggregates orders for managed accounts. In this connection, the Commission believes that serious concerns are raised under the antifraud provisions of the securities laws where a money manager or broker-dealer aggregates directed and non-directed orders unless the money manager or broker-dealer can demonstrate that it has not disadvantaged one client's account in order to fund a rebate to another client. This means that the money manager and the broker-dealer must have a system of controls and a system of records to ensure that this commingling does not occur.

VII. Conclusion

The Commission believes that this release will provide useful guidance to money managers and other persons in the securities industry. It believes that the new standard comports fully with Congressional intent in the enactment of the section, while at the same time is responsive to concerns raised in response to a changing array of research products and the impact of new technology on brokerage practices. The Commission believes that the issue is ultimately one of good faith on the part of the money manager and that the disclosure obligations will allow clients to satisfy themselves that their money manager is in fact acting in their best interest.

List of Subjects in 17 CFR Part 241

Reporting and recordkeeping requirements, Securities.

[58] Securities Exchange Act Rel. Act No. 9568 [1971–72 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶ 78,776 (1972); *Kidder, Peabody & Co., Inc.*, Investment Advisers Act Rel. No. 232 (Oct. 18, 1968).

[59] Section 3(a)(35) provides that a person exercises "investment discretion" with respect to an account if, directly or indirectly, such person (A) is authorized to determine what securities or other property shall be purchased or sold by or for the account, (B) makes decisions as to what securities or other property shall be purchased or sold by or for the account even though some other person may have responsibility for such investment decisions, or (C) otherwise exercises such influence with respect to the purchase and sale of securities or other property by or for the account as the Commission, by rule, determines, in the public interest or for the protection of investors, should be subject to the operation of the provisions of this title and the rules and regulations thereunder.

[60] *See Paley & Lardner* [1976–77 Transfer Binder] Fed. Sec. L. Rep. [CCH] ¶ 80,823 (Dec. 3, 1976); *Capital Institutional Services, Inc.* [Current] Fed. Sec. L. Rep. (CCH) ¶ 78,107 (May 2, 1985).

[61] *See* Securities Exchange Act Rel. No. 10678, *supra* note 7; Securities Exchange Act Rel. No. 11629 (Sept. 3, 1975).

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PART 241—[AMENDED]

Part 241 of Title 17 of the Code of Federal Regulations is amended by adding this Interpretive Release Concerning the Scope of section 28(e) of the Securities Exchange Act of 1934 (Release No. 34–23170) to the list of Interpretive Releases.

Dated: April 23, 1986.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 86–9676 Filed 4–29–86 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM86–6–000]

Electric Utilities; Interim Rule and Request for Comment Concerning Construction Work in Progress and Anticompetitive Implications; Extension of Time For Comments

April 25, 1986.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Interim Rule and Request for Comment; extension of comment and reply comment period.

SUMMARY: On February 27, 1986, the Commission issued an Order Adopting Interim Rule and Requesting Comment Concerning Construction Work in Progress and Anticompetitive Implications (51 FR 7774, March 6, 1986). The comment and reply comment periods are being extended at the request of Edison Electric Institute.

DATE: Comments in response to all questions (Questions 1–20) shall be submitted on or before June 4, 1986.

All reply comments shall be submitted on or before July 7, 1986.

ADDRESS: Submit comments to: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary (202) 357–8400.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–9696 Filed 4–29–86; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 35

[Docket Nos. RM86–6–001, RM86–6–002, RM86–6–003, and RM81–36–15]

Electric Utilities; Construction Work in Progress; Reconsideration of Interim Rule and Request for Comment

Issued: April 25, 1986.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order granting rehearing for purpose of further consideration.

SUMMARY: On February 27, 1986, the Federal Energy Regulatory Commission (Commission) issued a final rule to specify interim procedures and filing requirements to be followed in cases where electric utilities request inclusion of construction work in progress in rate base, pending further Commission action on the remand by the United States Court of Appeals for the District of Columbia Circuit in *Mid-Texas Electric Cooperative, Inc.* v. *FERC*, 773 F.2d 327 (1985).

In this order, the Commission grants rehearing of its decision solely for the purpose of further consideration. This order, does not constitute action, in whole or in part, on the merits of the requests for rehearing.

EFFECTIVE DATE: April 25, 1986.

FOR FURTHER INFORMATION CONTACT: Daniel L. Larcamp, Federal Energy Regulatory Commission, Room 8006–A, 825 North Capitol Street NE., Washington, DC, 20426, (202) 357–8520.

SUPPLEMENTARY INFORMATION:

Order Granting Rehearing for Purpose of Further Consideration

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

Issued: April 25, 1986.

On March 28, 1986, Public Systems [1] filed a request for rehearing of Order No. 448, 34 FERC ¶ 61,251, issued on February 27, 1986. On March 31, 1986, requests for rehearing of Order No. 448 were filed jointly by North Carolina Electric Membership Corporation, Northeast Texas Electric Cooperative, Inc., and Sam Rayburn G&T, Inc. (Cooperative Customers), and by the National Rural Electric Cooperative Association, *et al.* (*Mid-Tex* Petitioners).[2]

In the absence of Commission action within 30 days, the requests for rehearing would be deemed to have been denied. 18 CFR 385.713. In order to allow sufficient time for due consideration of the matters raised, rehearing is hereby granted for the limited purpose of further consideration. This order does not, however, constitute action, in whole or in part, on the merits of the requests for rehearing.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–9842 Filed 4–29–86; 8:45 am]

BILLING CODE 6717–01–M

[1] Public Systems references Appendix A of its comments filed on October 30, 1981, in Docket No. RM81–36, for a list of the systems sponsoring the present pleading.

[2] *Mid-Tex* Petitioners include the National Rural Electric Cooperative Association, American Public Power Association, Golden Spread Electric Cooperative, Inc., Kimwood Electric Cooperative, Inc., Full Requirements Cooperative Customers of Southwestern Public Service Company, Mid-Tex Electric Cooperative, Inc., and Magic Valley Electric Cooperative, Inc.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 141 and 178

[T.D. 86–94]

Customs Regulations Amendment Relating to Additional Information on Invoices for Imported Footwear

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by updating the information required on invoices of imported footwear. Customs had determined that much of the information now required, which generally is descriptive of footwear, no longer is necessary, and that other information, relating to the construction of footwear, is needed. The information is used by Customs to establish the correct tariff classification and value of imported footwear for duty and/or quota purposes.

EFFECTIVE DATE: May 30, 1986.

FOR FURTHER INFORMATION CONTACT:

Legal Aspects: Donald F. Cahill, Classification and Value Division (202–566–8161);

Operational Aspects: Alex Olenick, Duty Assessment Division (202–566–5307); Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

Technical Aspects: James Sheridan, National Import Specialist, New York Region (212–466–5889; FTS–666–5889).

SUPPLEMENTARY INFORMATION:

Background

Invoices of merchandise imported into the U.S. are required by section 481, Tariff Act of 1930 (19 U.S.C. 1481), to include certain specified information and "any other facts deemed necessary to a proper appraisement, examination, and classification of the merchandise that the Secretary of the Treasury may require." Section 141.89(a), Customs Regulations (19 CFR 141.89(a)), requires additional information on invoices of footwear classifiable under Schedule 7, Part 1A, Tariff Schedules of the United States (19 U.S.C. 1202). The additional information assists Customs in establishing the correct tariff classification and value of imported footwear for duty and/or quota purposes.

Footwear manufacturing methods have changed since the additional reporting requirements were established. Approximately seven new distinctions in footwear construction which result in classification differences are effective for footwear imports since July 1, 1981 (Pub. L. 96–39, July 26, 1979, section 223(b)(2)). As a result, much of the information now required, which generally is descriptive of footwear, no longer is necessary, and other information, relating to the construction of footwear, is needed. Accordingly, Customs proposed to amend § 141.89(a) to reflect those changes and to update the information reporting requirements.

The original notice proposing to amend § 141.89(a) was published in the Federal Register on July 28, 1978 (43 FR 32819). Essentially, that proposal requested comments on questions concerning the materials used in the manufacture of imported footwear, as well as the nature of the manufacturing process itself. After consideration of the comments received in response to that notice, it was determined advisable to expand the previous proposal's questions regarding the materials used in the manufacture of footwear, so that the information received would be adequate as an aid in the correct classification. The new proposal, published in the Federal Register on May 1, 1984 (49 FR 18649), also provided certain definitions to be used in completing footwear invoices, clarified the question concerning material(s) of chief value, and revised Customs Form 5523, titled "Invoice Details For Footwear." Specifically, importers were asked to provide the following information with regard to imported footwear on Customs Form 5523.

(1) Manufacturer's style number.
(2) Importer's style number.
(3) Type of shoe.
(i) After ski boot.
(ii) Basketball shoe.
(iii) Beachcomber.
(iv) Boat shoe.
(v) Clog.
(vi) Disposable, not rubber or plastic.
(vii) Espadrille.
(viii) Field (Football/Soccer/Astroturf) shoe.
(ix) Hiking boot.
(x) Inner liner.
(xi) Jogger/Training shoe.
(xii) Kung-Fu shoe.
(xiii) Moccasin/Soled moccasin.
(xiv) Oxford.
(xv) Popsicle.
(xvi) Pump.
(xvii) Rubber/Plastic Protective and Waterproof footwear.
(xviii) Rubber/Plastic Ski boot.
(xix) Slipper.
(xx) Slipper sock.
(xxi) Spiked Track shoe.
(xxii) Tennis shoe.
(xxiii) Workboot.
(xxiv) Woven bootie.
(xxv) Zori.
(xxvi) Other (specify).

(4) Component materials of upper with value percentage of each component. If chief value of upper is fiber, and weight of entire shoe is neither 50 percent rubber or plastic, state the percentage by weight and value of each fiber used in the upper.

(5) Component materials of entire article with value percentage of each component. If the materials in (4) and (5) are primarily of leather, answer only (8) and (12). Otherwise answer all questions.

(6) Component materials of sole with value percentage of each component.

(7) Percentage or weight of entire article:
(i) Fiber.
(ii) Rubber and/or plastic.
(iii) Other (specify material).

(8) Percentage of exterior surface area of the upper:
(i) Leather.
(ii) Rubber and/or plastic.
(iii) Other (Specify material).

(9) Is there a foxing or foxing-like band around bottom of upper? If so, specify component materials of the band.

(10) Does the sole overlap the upper? If so, specify the part(s) of the upper overlapped.

(11) Does the upper extend over the ankle?

(12) Type of construction:
(i) Stitched-Turned.
(ii) Stitched-Goodyear Welt.
(iii) Stitched-Welt other than Goodyear.
(iv) Stitched-Slip-lasted (California).
(v) Stitched-Other (specify method).
(vi) Exclusively Adhesive (Cement).
(vii) Shell molded bottom cemented and/or stitched to upper.
(viii) Unit molded bottom cemented to upper.
(ix) Rolled Sole.
(x) Sole simultaneously molded and attached to upper (Simultaneous injection).
(xi) Vulcanized.
(xii) Riveted, Nailed or Stapled.
(xiii) Unsoled Moccasin.
(xiv) Combination of the above (specify types combined).
(xv) Other (specify).

(13) Is the shoe of the slip-on type, i.e., no laces, buckles or other fasteners?

(14) Does the upper have either an open toe or an open heel?

Comments on this proposal were to have been received by July 2, 1984. However, due to the complexity of the issues involved, by notice published in the Federal Register on July 9, 1984 (49 FR 27954), the comment period was extended to August 3, 1984.

Twelve comments were received in response to the proposal. Most of the commenters objected to the expanded information requirement as placing an inordinate burden on importers to collect and process many items of information not necessary for the classification of many types of footwear. Their specific comments and our responses follow:

Discussion of Comments

Comment: The lists of types and construction of shoes in proposed § 141.89(a) are too lengthy. Customs Form 5523, which would reflect the requirements in the proposal, is merely a basic entry form to aid in the classification of footwear. It need not be the most detailed and exhaustive footwear submission possible.

Response: We agree. Therefore, we are eliminating the exhaustive lists in favor of a required down description of the imported footwear in terms normally used in the trade, with examples of the type, method of construction, and kind of construction provided only on the list of instructions for the final Customs Form 5523. Furthermore, we are reducing the number of examples of types of footwear from 26 to 11.

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It is estimated that 25 percent of all footwear imports will require completion of only items 1 through 7, and that items 1 through 5 and 8 through 10 will need to be filled in on another 25 percent of imports. Items 1 through 5 and 8 will need to be filled in on 10 percent of imports, and 40 percent will not require the completion of a footwear invoice or an equivalent document. In no case will all items in the footwear invoice or other document be required to be completed.

Comment: Many of the terms mentioned in the proposal, such as "foxing" and "overlap", are difficult to apply to specific importations and lend themselves to misinterpretation.

Response: Providing specific definitions for all the terms used would render the document and invoice more cumbersome than now. However, we are adding a definition for the term "foxing-like band" since this term applies to many footwear importations. Also, we are deleting some definitions contained in the proposal, which we believe are unnecessary.

Comment: The requirement for information on percentage value is not necessary for proper classification of imported footwear. Only component material of chief value should be required.

Response: We agree. Therefore, we are removing the requests for percentage value, which were contained in several items in the proposal. However, Customs may request this or any other information on specific imports as may be necessary to properly classify the imported footwear.

After consideration of the comments received and upon further review of the matter, it has been deemed advisable to adopt the proposed amendment to § 141.89(a), Customs Regulations, with the modifications noted above. Final Customs Form 5523, which has been revised to reflect the information required in items 1 through 10 of § 141.89(a), may not be available at the time of publication of this document. Accordingly, Customs field offices may accept the existing Customs Form 5523 (3/2/78 version) or the proposed Customs Form 5523 (6/11/85 version) until the new form is available.

Executive Order 12291

It has been determined that the amendment is not a "major rule" within the criteria provided in section 1(b) of E.O. 12291, and therefore no regulatory impact analysis is required.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, et seq.), it is certified that this amendment will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 or 604.

Paperwork Reduction Act

The collection of information requirements contained in § 141.89(a) are subject to provisions of the Paperwork Reduction Act (44 U.S.C. 3504(h)) and have been cleared by the Office of Management and Budget (OMB). Accordingly, Part 178, Customs Regulations (19 CFR Part 178), which lists the information collections contained in the regulations and the control numbers assigned by OMB, is being amended to include OMB Control Number 1515-0047.

Drafting Information

The principal author of this document was Susan Terranova, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Parts 141 and 178

Customs duties and inspection, Imports, Reporting and recordkeeping requirements, Collections of information.

Amendments to the Regulations

PART 141—ENTRY OF MERCHANDISE

1. The general authority citation for Part 141 continues to read as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624; § 141.89 also issued under 19 U.S.C. 1202 (Gen. Hdnote 11), 1481.

2. Section 141.89(a), Customs Regulations (19 CFR 141.89(a)), is amended by revising the paragraph for footwear to read as follows:

§ 141.89 Additional information for certain classes of merchandise.

(a) * * *

Footwear, classifiable under Schedule 7, Part 1A, Tariff Schedules of the United States (19 U.S.C. 1202)—

(1) The manufacturer's style number.
(2) The importer's style and/or stock number.
(3) Type of shoe.
(4) Percentage by weight of entire article:
(i) Fiber.
(ii) Rubber and/or plastic.
(iii) Other (specify).
(5) Percentage of exterior surface area of the upper
(i) Leather.
(ii) Rubber and/or plastic.
(iii) Other (specify).

If item 4(ii) is 10 percent or more, if item 4(iii) is less than 90 percent *and* if item 5(i) is less than 50 percent, omit items 6 and 7 and provide the information requested in items 8 through 12 below. If one or more of these conditions are not met, provide the information requested in items 6 and 7 and omit items 8 through 12.

(6) Component material of chief value in
(i) Upper.
(ii) Sole.
(iii) Entire article.
(7) Method of construction.
(8) Kind of construction.
(9) Whether slip-on type (no laces, buckles, or other closures).
(10) Whether upper has open toe or open heel.
(11) Does shoe have foxing or foxing-like band? If so, state material(s).
(12) Whether sole overlaps upper.

The information requested in items 1 through 10 may be furnished on Customs Form 5523 or other appropriate format by the exporter, manufacturer or shipper. However, the information requested in items 11 and 12 must be furnished by the importer.

Definitions

For the purpose of this section, the following terms have the approximate definitions below. If either a more complete definition or a decision as to its application to a particular article is needed, the maker or importer of record (or the agent of either) should contact Customs prior to entry of the article.

(a) *Fiber.* "Fiber" means a material made from cotton, other vegetable fibers, wool, hair, silk, or man-made fibers. the term "man-made" fibers includes filaments and stripe. Note: Cork, wood, cardboard, and leather are not "fibers".

(b) *Foxing-like band.* "Foxing-like band" means a strip of material, which is attached to the side or the top of the outsole or is molded of the same piece as the outsole and which overlaps the upper.

(c) *Turned.* "Turned" means that construction in which the upper is sewn to the sole while the shoe is turned inside out.

(d) *Upper.* "Upper" means everything above the insole level.

(e) *Welt.* "Welt" means that construction in which a separate strip (the welt) is attached to the edge of the sole and in which the welt, the upper and a lip on the surface of the insole are stitched together with a single stitch.

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

19 CFR Part 178 is amended as follows:

1. The general authority citation for Part 178 is revised to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1624, 44 U.S.C. 3501 et seq.

2. Section 178.2, Customs Regulations (19 CFR 178.2), is amended by inserting the following in appropriate numerical sequence according to the section number under the columns indicated:

§ 178.2 Listing of OMB Control Numbers.

* * * * *

19 CFR section	Description	OMB control No.
§ 141.89(a)	Additional information on invoices for imported footwear.	1515-0047

Alfred R. De Angelus,
Acting Commissioner of Customs.

Approved: April 11, 1986.

Francis A. Keating, II,
Assistant Secretary of the Treasury.

[FR Doc. 86-9823 Filed 4-29-86; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

Social Security Benefits; Standard of Review for Termination of Disability Benefits; Revised Rules for Certain Medical Cessation Cases; Corrections

AGENCY: Social Security Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: This document corrects errors which appeared in the final rules published in the **Federal Register** on December 6, 1985 (50 FR 50118). This action is necessary to correct a number of typographical errors which could be misleading and confusing to the reader.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7337.

The following corrections are made in FR Doc. 85-28887 appearing on pages 50118 through 50147 in the issue of December 6, 1985:

§ 404.1501 [Corrected]

1. On page 50128, in the middle column, the asterisks following § 404.1501(j) should be removed.

§ 404.1579 [Corrected]

2. On page 50127, in the third column, line 25 in § 404.1579(c)(3), insert a period after "etc" and before the ";".

3. On page 50128, in the first column, line 10 in § 404.1579(d) introductory text, "persons" is corrected to read "person".

4. On the same page, in the first column, the second line in § 404.1579(d)(1), "*your*" is corrected to read "*you*".

5. On page 50129, in the third column, the heading in § 404.1579(f), "*Steps*" is corrected to read "*steps*". In the seventh line of paragraph (f) introductory text, "is" is corrected to read "are".

§ 404.1594 [Corrected]

6. On page 50131, middle column, the last line in § 404.1594(b)(2), Example, the parenthesis after "increased" is removed and inserted between "walk" and "has" in the same line.

7. On page 50132, middle column, the sixth line in § 404.1594(b)(4)(ii), "organs" is corrected to read "organ".

8. On the same page, third column, line 13 in § 404.1594(b)(7), insert a comma after "i.e." and before "your".

9. On page 50134, middle column, line 19 in § 404.1594(d)(2) Example 2, "engage" was misspelled.

10. On page 50137, in the middle column, amendatory item number 6 is corrected to read as follows:

"6. Section 416.992 is amended by revising paragraph (d)(2) to read as follows:".

§ 416.992 [Corrected]

11. The revised text in § 416.992 is correctly designated (d)(2).

§ 416.994 [Corrected]

12. On page 50138, in § 416.994(b)(1)(i) Example 2, first column, last sentence, "and" is corrected to read "to".

13. On that same page, in § 416.994(b)(1)(ii) Example, middle column, last line, the parenthesis after "increased" is removed and inserted between "walk" and "has" in the same line.

14. On page 50139, middle column, line 15 in § 416.994(b)(1)(vii), the parenthesis between "impairments" and "with" is removed.

15. On that same page, third column, the fourth line in § 416.994(b)(2)(iv) introductory text, "determination" is corrected to read "determinations".

16. On page 50140, first column, the eighth line in § 416.994(b)(2)(iv)(C), "and" is corrected to read "of".

17. On the same page, third column, line 17 in § 416.994(b)(3)(i), after the word "will" insert "be".

18. On page 50141, third column, the fifth line in § 416.994(b)(3)(iv)(A) Example 2, "education" is misspelled.

19. On that same page, third column, the first line in § 416.994(b)(3)(iv)(B), the period at the end of the line is corrected to a comma.

20. On page 50142, middle column, the last line in § 416.994(b)(4)(i), "§ 416.986" is corrected to read "§ 416.1488".

21. On that same page, middle column, the seventh line in § 416.994(b)(4)(iii), after the word "be" insert "the".

22. On that same page, third column, the heading in § 416.994(b)(5), "*Steps*" is corrected to read "*steps*". In the sixth line, of paragraph (b)(5) introductory text "decision" is corrected to read "decisions".

23. On that same page, third column, the first line in § 416.994(b)(5)(iv), the second closing parenthesis is removed. In the third line "our" is corrected to read "your".

24. On page 50144, middle column, line 15 in § 416.994(c)(1)(v), "impairments(s)" is corrected to read "impairment(s)".

25. On that same page, middle column, the first line in § 416.994(c)(2)(i), "*Improvement*" is corrected to read "*improvement*".

26. On that same page, in § 416.994(c)(2)(ii), line 20 "Chapter" is corrected to read "chapter".

27. On page 50145, in § 416.994(c)(3)(iii)(A) Example, third column, second line, "has" is corrected to read "was".

28. On page 50146, in § 416.994(c)(3)(iii)(A) Example, first column, the last line in the example, "the" is corrected to read "this".

29. On that same page, middle column, the last line in § 416.994(c)(4)(i), "§ 416.986" is corrected to read "§ 416.1488".

30. On that same page, middle column, the heading in § 416.994(c)(5), "*Steps*" is corrected to read "*steps*". In the third line of paragraph (c)(5) introductory text "decision" is corrected to read "decisions".

31. On page 50147, first column, second line in § 416.994(c)(6)(i)(F), "that you" is added after "you" and before "could".

32. On the same page, middle column, the sixth line in § 416.994(c)(7), "Subpart" is corrected to read "Subparts". In that same line "described" is corrected to read "describe".

§ 416.998 [Corrected]

33. On that same page, third column, the fourth line in § 416.998, "to" is corrected to read "is".

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Dated: April 24, 1986.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86-9672 Filed 4-29-86; 8:45 am]

BILLING CODE 4190-11-M

20 CFR Part 404

[Regs. No. 4]

Social Security Benefits; Federal Old-Age, Survivors, and Disability Insurance; Revised Medical Criteria for the Determination of Disability; Corrections

AGENCY: Social Security Administration, HHS.

ACTION: Final rule; corrections.

SUMMARY: This document corrects errors which appeared in the final rules published in the Federal Register on December 6, 1985 (50 FR 50068). This action is necessary to correct a number of typographical errors which could be misleading and confusing to the reader.

FOR FURTHER INFORMATION CONTACT: William J. Ziegler, Legal Assistant, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7415.

PART 404—[CORRECTED]

In FR Doc. 85-28672 beginning on page 50068 in the issue of Friday, December 6, 1985, make the following corrections.

Appendix A—[Corrected]

1. On page 50069, second column in 1.10A, insert a semicolon instead of a comma after "disarticulation" and before "or".

2. On page 50080, third column, 2.06 should read "*Total bilateral ophthalmoplegia*".

3. On page 50081, third column, third line under "C", "bronchietasis" should read "bronchiectasis".

4. On the same page, third column, under "D", eighth line from the bottom of the page, "excursion" should read "excursions".

5. On page 50082, third column, 3.02C, "Chronic Impairment" should read "Chronic impairment".

6. On page 50095, third column, under 4.13B2, third line, "less" should read "more".

7. On the same page, third column, under 5.09B, sixth line from the bottom, remove the period after "disorders".

8. On page 50096, first column, second line under 5.04, add a period after "endoscopy)".

9. On the same page, second column, first line of 5.06, remove the first parenthesis before "*Chronic*".

10. On the same page, second column, under 5.08B4, third line, "hypoglocemia" should read "hypoglycemia".

11. On page 50101, first column, first line of 13.03 should read "*Sarcoma of skin*".

12. On the same page, second column, second line under 13.18 "Carcinoma" should read "carcinoma" and sixth line under 13.18, insert a semicolon after "nodes" and before "or" instead of a comma.

13. On the same page, third column, in the "Table of Sections" remove "Sec" between "100.00 Growth Impairment" and "101.00 Musculoskeletal System".

14. On the same page, third column in the "Table of Sections", in line 10, "110.00 Multiply Body Systems." should read "110.00 Multiple Body Systems."

15. On page 50105, first column, fourth line under 109.03, after the word "serum" add the word "calcium".

16. On the same page, third column under 111.09A, in line six of third paragraph, "111.02 of 111.03" should read "111.02 or 111.03".

17. On page 50106, first column, third line under 111.07, "111.03" should read "101.03".

18. On the same page, first column, last line, "111.03" should read "101.03".

Dated: April 24, 1986.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86-9671 Filed 4-29-86; 8:45 am]

BILLING CODE 4190-11-M

20 CFR Part 416

Social Security; Cost-of-Living Increases; Delayed Retirement Credits; and Maximum Family Benefits

Correction

In FR Doc. 86-8182 beginning on page 12600 in the issue of Monday, April 14, 1986, make the following corrections:

1. On page 12602, second column, fourth line, "maximums of" should read "maximums or".

2. On page 12606, second column, in § 416.405, eighth line, "416.412" should read "416.412". In the third column, in the same section, ninth line, "SST" should read "SSI".

3. On page 12607, first column, in § 416.412, eighth line, "December 31," should read "December 31, 1983,".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 480

[FHWA Docket No. 85-26]

Use and Disposition of Property Previously Acquired by States for Non-Interstate and Withdrawn Interstate Segments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending its regulation concerning the use and disposition of property acquired by States, with the participation of Federal-aid highway funds, in connection with highway projects which are subsequently modified or terminated. This amendment to 23 CFR Part 480 implements the provisions of Pub. L. 96-106 which limited those situations in which States could avoid crediting Federal funds (payback) where FHWA had participated in the acquisition of property for Interstate highway segments that were subsequently withdrawn. This amendment also narrows the scope of Part 480 by eliminating situations other than Interstate withdrawals from its coverage.

EFFECTIVE DATE: May 30, 1986.

FOR FURTHER INFORMATION CONTACT: Curtis L. Shufflebarger, Chief, Interstate Management Branch, Office of Engineering, (202) 426-0404; or S. Reid Alsop, Office of the Chief Counsel, (202) 426-0800, Federal Highway Administration, 400 7th Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The FHWA published its regulation on the use and disposition of highway property acquired by the States on November 17, 1978 (43 FR 54077). The regulation provided that a State need not make a credit to Federal funds if property acquired for highway purposes were reused for another public purpose, when the highway project for which the property was acquired was modified or terminated.

Subsequently, in section 2 of Pub. L. 96-106 (93 Stat. 798), Congress amended section 103(e) of Title 23, United States Code, to clarify its intent, as previously set forth in section 307(f) of the STAA of 1978 (Pub. L. 95-599, 92 Stat. 2689), with regard to repayment for Interstate segments that are withdrawn pursuant to 23 U.S.C. 103(e)(2) or 103(e)(4). Section 2(c) of Pub. L. 96-106 requires payback of the costs of construction items, materials, or rights-of-way (all of which are referred to herein as property) acquired for highway projects on segments withdrawn from the Interstate System on or after November 6, 1978 (the effective date of the STAA), unless the following three conditions are satisfied: (1) The property was acquired before November 6, 1978, (2) the Secretary of Transportation had not approved the environmental impact statement for the withdrawn segment prior to the date of withdrawal, and (3) the property is used for a public purpose within ten years after the date of withdrawal. Although payback is required for properties not meeting these conditions, section 2(c) of Pub. L. 96-106 provides that the amount of payback can be reduced significantly where the State uses the property for certain other transportation projects. In these cases, the amount that must be repaid would be the difference between the amount of Federal funds actually received by the State and the amount that would have been received based on the Federal share presently applicable to the transportation project (or type of project) for which the property is used.

An NPRM published on November 20, 1980 (45 FR 76705), as Docket No. 80-7, proposed to implement these statutory changes, while leaving the policy for situations other than Interstate withdrawal unchanged. Pursuant to the President's memorandum of January 29 1981, which, among other things, directed executive agencies to review outstanding proposals, further action was postponed on the NPRM.

The FHWA incorporated most of that NPRM's proposed changes into a new NPRM which was published on September 20, 1985 (50 FR 38130), as Docket No. 85-26. The new NPRM proposed a return to its traditional policy concerning payback for situations other than Interstate withdrawals. This policy generally requires a credit to Federal funds for property previously acquired on projects, other than Interstate withdrawals, that are terminated. House Report No. 288 [1] which accompanied Pub. L. 96-106 stated that, "It is the intent of the Committee that the Department generally continue to follow the traditional ad hoc policy of the Federal Highway Administration to require the repayment of the Federal share of certain costs so as to provide for sound fiscal management and responsible stewardship of Federal funds." The FHWA position is consistent with legislation that established the Highway Trust Fund.

Payback determinations in situations other than Interstate withdrawals will no longer be covered by this regulation. Other FHWA regulations already cover certain kinds of property disposition such as excess right-of-way resulting from plan changes (23 CFR Part 713, Subart C), deletions of open-to-traffic segments (23 CFR Part 470, Subpart A), and individual project phases which do not advance to the next phase within certain time limits for reasons other than termination of the entire segment (23 CFR Part 630, Subpart C).

The FHWA will consider any remaining payback questions for situations other than Interstate withdrawals based on the traditional payback policy. These situations are expected to occur primarily where decisions are made not to complete a highway segment not yet open-to-traffic, or where a segment, not yet open to traffic, is terminated because of a major realignment. In making these payback determinations, the FHWA will take into consideration such factors as the cause for the termination, whether FHWA had agreed to the termination, and the current value of the acquired property. In any case, where property is reused for another transportation project under 23 U.S.C., the amount of funds obligated can be deobligated and replaced by other Federal-aid funds at the appropriate participation ratio.

In order to facilitate project administration in these situations, it is expected that all outstanding payback questions for situations other than Interstate withdrawals will be settled, credits to Federal funds be made, and the projects be closed out as soon as possible after the effective date of this final revised rule. Any future termination should be closed out with a credit to Federal funds as soon as possible after termination.

Besides the fundamental change in the applicability of these regulations, other significant changes include the following: (1) The reuse of the previously acquired property will actually have to begin within 10 years of the date of withdrawal, (2) transfer of property to a private party without making payback is further limited, and (3) the FHWA expects to receive a pro rata share of the proceeds from any leasing and/or sale of the property to the pubic or private sector.

[1] H.R. Rep. No. 288, 96th Cong., 1st. Sess. 3 (1979).

Disposition of Comments

There were only three comments received in FHWA Docket No. 85-26 on the second NPRM. Two were from State highway agencies (SHA) and the third was from another Federal agency.

One SHA was concerned that immediate implementation of the regulation would force States, with withdrawals nearing the 10-year time limit, to sell substantial amounts of property in a very short time period. This could result in substantially lower revenues than would be expected under a systematic disposal program. Under § 480.109(b)(2) it is indicated that the State shall credit Federal funds "as soon as practicable" and that sales procedures shall be "designed to result in the highest possible return." This indicates FHWA's support for a systematic disposal program. To further support this approach, § 480.103(b) has been amended to indicate that the rigid 10-year deadline does not apply when a State has decided to sell the property. FHWA will work with the States to expedite such sales, recognizing the desire to maximize sales proceeds.

In the former regulation, the 10-year statutory time limit on reuse of property could be met by FHWA's approval of a plan for reuse and the State providing assurances that the actual reuse would be implemented "expeditiously." The definition of "applied to reuse under this part" in § 480.105 of the NPRM was revised to require that the actual reuse occur or the physical construction leading to the reuse must begin within the 10-year statutory time limit. The other SHA indicated that the controversies surrounding Interstate segments which ultimately resulted in the withdrawal of those segments may also delay the application of property to a reuse. It was suggested that the definitions be expanded to include preliminary engineering activities. Expanding the definition to include preliminary engineering would do little to assure the timely implementation of the proposed reuse. In fact the SHA proposal would be that the 10-year statutory time limit would be fully satisfied by preliminary engineering activities and, therefore, the subjective "expeditiously" requirement of the former regulation would not even be in effect. The intent of the NPRM was to implement a meaningful time limitation on the reuse of the property consistent with a clear reading of the statute and other similar regulations dealing with the 10-year limit. The SHA suggestion is counter to this intent and could actually lead to longer delays in implementing approved reuses. Accordingly, the SHA suggestion was not adopted.

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The commenting Federal agency indicated that the NPRM adequately addresses their interests.

Other Changes

In addition to the above noted change in response to a comment, two minor editorial type revisions were made to the regulation. The phrase "In the event payback is required" was added at the beginning of § 480.111. This was done to make the section read properly. The second change was in § 480.115. The phrase "During this time period" was added at the beginning of the third sentence to better tie the participation statement in the third sentence to the preceding sentence.

The proposal in NPRM § 480.113 to limit relocation assistance to a two year period after the date of withdrawal has been eliminated for better consistency with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601 *et seq.*). Instead, wording similar to that used in the previous regulation concerning the period of Federal-aid eligibility has been used in this final rule.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory procedures. The impact of this regulation falls primarily on State highway agencies. For this reason and under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities. The FHWA has prepared a final regulatory evaluation which is available for inspection in the public docket (No. 85-26, Room 4205). Copies of the regulatory evaluation may be obtained by contacting Mr. Curtis L. Shufflebarger, at the address provided above under the heading "For Further Information Contact." (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

List of Subjects in 23 CFR Part 480

Grant programs—transportation, highway projects—withdrawal, Highways and roads, Intergovernmental relations, Mass transportation, Rights-of-way, Urban Mass Transportation Administration.

Issued on: April 21, 1986.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

In consideration of the foregoing, the FHWA hereby revises 23 CFR Part 480 to read as follows:

PART 480—USE AND DISPOSITION OF PROPERTY PREVIOUSLY ACQUIRED BY STATES FOR WITHDRAWN INTERSTATE SEGMENTS

Sec.

480.101 Purpose.
480.103 Applicability.
480.105 Definitions.
480.107 Reuse of property.
480.109 Requirement of credit to Federal fund.
480.111 Credit to original class of fund.
480.113 Relocation assistance.
480.115 Property management.
480.117 Intangible items.

Authority: Sec. 2, Pub. L. 96-166, 93 Stat. 708 (23 U.S.C. 108(e)(5), (6), (7)); § 107(f), Pub. L. 95-599, 92 Stat. 2689 (23 U.S.C. 103(e)(5), (6)); 23 U.S.C. 315; 49 CFR 1.48(b).

§ 480.101 Purpose.

This part addresses the extent to which a credit to Federal funds (payback) will be required for property acquired by States with the participation of Federal-aid highway funds when an Interstate segment for which the property was acquired is subsequently withdrawn under section 103(e)(2) or (e)(4) of Title 23, United States Code.

§ 480.103 Applicability.

(a) This part applies to property acquired with the participation of Federal-aid highway funds for any project on a Federal-aid Interstate segment which is subsequently withdrawn and where the Federal Highway Administration (FHWA) has not previously determined if a credit to Federal funds would be required for such property prior to the effective date of this part. This part applies to both individual submissions for specific pieces of property and comprehensive reuse plans for all property, depending on the extent of the State's submission.

(b) The provisions of § 480.107 concerning payback waiver and § 480.109(b)(3) concerning payback reduction apply only to property which has been or will be applied to a reuse under this part, as determined by the FHWA, within 10 years of the withdrawal of the Interstate segment in connection with which it was acquired. Lacking a submission by a State indicating the intent to sell property in accordance with the provisions of § 480.109(b)(2) or a submission by the State for waiver of paycheck within 10 years of withdrawal and actual reuse within 10 years of withdrawal, the FHWA will require that the pro rata share of the current fair market value of the property be credited to Federal funds in accordance with § 480.109(b)(1).

(c) Nothing in this part shall be considered to affect or conflict with the obligations of States with respect to the right-of-way (ROW) revolving fund pursuant to 23 U.S.C. 108(c).

§ 480.105 Definitions.

For purposes of this part:

"Acquired" in the case of real property means that title has been passed to the acquiring agency, or a legal obligation to complete the purchase of such real property has been established; or, in the case of construction, that work has been performed, or materials obtained, and payment is due under the contract provisions.

"Applied to a reuse under this part" means that construction leading to the reuse, or the reuse itself, has begun on the real property or that construction leading to the reuse, or the reuse itself, has begun on the site where the construction items and materials will be incorporated into another project.

"Intangible items" means items having no physical existence or recoverable value, e.g., preliminary engineering, construction engineering, appraisals, relocation payments, etc.

"Property" means land, and/or interests therein, including improvements, structures and appurtenances thereto, and any other acquired items having a physical existence but not yet physically incorporated into the project (such as construction items, materials, movable equipment and machinery).

§ 480.107 Reuse of property.

(a) This section applies to:

(1) Property acquired in connection with an Interstate highway segment withdrawn before November 6, 1978; or

(2) Property acquired before November 6, 1978, in connection with an Interstate highway segment withdrawn on or after November 6, 1978, if the final environmental impact statement for the segment had not been approved prior to the date of withdrawal.

(b) When property to which this section applies is no longer needed for the Interstate highway project for which it was acquired because of withdrawal of such Interstate segment, the State may, subject to the provisions of this section, reuse the property without being required to make payback, for:

(1) A transportation project permissible under Title 23, United States Code;

(2) A public conservation or public recreation purpose; or

(3) Any other public purpose determined by the FHWA to be in the public interest.

(c) In order to request a waiver of payback for reuse of the property without being required to make a credit to Federal funds, the State shall submit to the FHWA the following information (States are encouraged to submit a comprehensive reuse plan, covering all property, rather than individual submissions for each piece of property):

(1) A description of how the State, or political subdivision thereof, or any of their agencies or instrumentalities, has reused or proposes to reuse the property and how such use satisfies paragraph (b) of this section. Only that property actually needed for a known reuse will be considered for waiver of payback. The intent of paragraph (b) of this section is to enable the States to avoid payback if the property is reused for publicly owned and operated facilities providing government services. To this end, the State shall indicate if any of the property involved was or will be transferred directly or indirectly to any private party in connection with the reuse. The State shall justify to the FHWA why reuse by a private party, without a requirement for credit to Federal funds, is considered a public purpose in the public interest. As a minimum, justification for such a transfer would have to show that property value estimates indicate the property has nominal value, and/or that proposals to competitively dispose of the property have generated little market interest.

(2) A certification that the current rights under State law of persons owning the real property immediately prior to such property being obtained by the State have been observed;

(3) An assurance that no major alteration in the reuse will be made without resubmitting the particulars of the individual case to the FHWA for another payback determination; and

(4) An assurance that the State will assume all obligations with respect to providing relocation assistance benefits to those persons described in § 480.113 after the FHWA's obligations are terminated in accordance with § 480.113.

(d) The State should also make the following information available in order to facilitate processing of a payback determination:

(1) The date the property was acquired;

(2) The withdrawal date of the Interstate segment for which the property was acquired;

(3) The approval date of any final environmental impact statement for the Interstate segment for which the property was acquired;

(4) The amount of Federal funds expended for the property to be reused; and

(5) Any additional related information requested by the FHWA.

(e) Based on the submission, the FHWA will determine if the State is required to make a credit to Federal funds.

(f) Besides making the basic determination of whether or not the reuse satisfies paragraph (b) of this section, the FHWA will require a credit to Federal funds with respect to property if:

(1) The reuse is inconsistent with any Federal statute applicable to State/local undertakings not federally assisted;

(2) The certifications and assurances required by paragraph (c) of this section are not made;

(3) The property is to form, or its value is to form, part of the State or local matching share with respect to any Federal program; or

(4) The property is transferred to any private party, unless the FHWA determines that such a reuse, without a requirement for a credit to Federal funds, is for a public purpose in the public interest.

(g) If the FHWA determines that the assurances required by paragraph (c) of this section have not been observed, the FHWA will require that a credit to Federal funds be made as provided in § 480.109.

(h) While the FHWA does not require that the State be compensated for property reused by others under this section, should there be a payment or intergovernmental credit to the State for sales, leases, rents, etc., the State shall credit Federal funds at the same pro rata share as Federal funds participated in the original acquisition. The credit to Federal funds shall be made as soon as practicable after money or credit is received.

§ 480.109 Requirement of credit to Federal funds.

(a) This section applies to:

(1) Property for which the FHWA, under § 480.107, has determined that a credit to Federal funds must be made;

(2) Property acquired before November 6, 1978, in connection with an Interstate highway segment withdrawn on or after November 6, 1978, if the final environmental impact statement for the segment had been approved prior to the date of withdrawal;

(3) Property acquired on or after November 6, 1978, in connection with a segment withdrawn from the Interstate System; or

(4) Property described in § 480.107(a) for which the State elects not to request a waiver of payback.

(b) With respect to property to which this section applies, the State shall credit Federal funds, as soon as practicable, in the following manner:

(1) If the property is retained or transferred without cost, in an amount computed by applying the Federal percentage of participation in the cost of the original acquisition to the current fair market value of the property.

(2) If the property is sold, in an amount computed by applying the Federal percentage of participation in the cost of the original acquisition to the sale proceeds (after deducting actual and reasonable selling or fix-up expenses). Fix-up expenses are limited to the extent that they are reasonably expected to increase the value of the property by at least the amount of the fix-up expenses. The credit to Federal funds shall be based on sales procedures which, unless otherwise agreed to by the FHWA, provide for competition to the maximum extent practicable and are designed to result in the highest possible return.

(3) If the property described in paragraphs (a)(2) or (a)(3) of this section has been or will be reused for another transportation project permissible under 23 U.S.C., in an amount equal to the difference between the funds the FHWA actually reimbursed the State for the property and the funds that would have been reimbursed in accordance with the current Federal share applicable to the transportation project to which the property will be applied. If the amount that would have been reimbursed is greater than the amount that was actually reimbursed, the difference will be considered zero. States shall provide to the FHWA the information required by § 480.107(c) and should provide the information requested by § 480.107(d) as soon as practicable after the State has determined how the property will be reused.

§ 480.111 Credit to original class of fund.

In the event payback is required, an amount equivalent to the Federal funds paid back pursuant to this part will then be credited to the unobligated balance of the same class of funds to which the original acquisition of the property was attributable in the manner set forth in 23 U.S.C. 118(b).

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§ 480.113 Relocation assistance.

With respect to owner-occupants, tenants, businesses, and farm operations whose property has been acquired in connection with federally assisted highway project, who are still in occupancy, and who could have qualified as displaced persons if they had moved prior to the date of withdrawal, the Interstate project obligations of the FHWA under the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. 4601 *et seq.*) shall continue for that period of time after the withdrawal as is considered equitable by the Administrator but in no event shall this period extend beyond the date the FHWA determines that no credit to Federal funds is necessary for a reuse of the property or the date the State sells or otherwise disposes of the property.

§ 480.115 Property management.

Rules or standards of property management normally applicable to property obtained with the participation of Federal-aid highway funds shall continue to apply to the management of property acquired by States in connection with the project after withdrawal of the Interstate segment. These rules or standards shall cease to apply to the property two years after the effective date of this regulation or two years after a withdrawal approval (whichever occurs later) unless the Federal Highway Administrator determines that an extension beyond two years is in the public interest. During this time period the FHWA may, at its discretion, participate in the net costs of property management and in other costs related to the acquisition of the property or withdrawal of the highway project that are incurred. Costs associated with the design and development of the property for other uses (such as developing a reuse plan or site development costs) are not considered property management costs. In any case, Federal participation will not extend beyond the date of a determination by the FHWA that no credit to Federal funds is necessary for a reuse of the property or the date the State sells or otherwise disposes of the property.

§ 480.117 Intangible items.

States are not required to make a credit to Federal funds for intangible items for which the State had expended Federal-aid highway funds in connection with an Interstate segment which is later withdrawn.

[FR Doc. 86-9587 Filed 4-29-86; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-86-1268; FR-2244]

Urban Development Action Grants; June 1986 Funding Round for Large Cities and Urban Counties

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This rule revises the Urban Development Action Grant regulations to permit a June 1986 funding round for large cities and urban counties with applications to be received from April 30, 1986, through May 16, 1986 and preliminary approval decisions to be made by June 30, 1986. The revision is being made to facilitate the utilization of UDAG funds that had been subject to a rescission proposal that expired on April 15, 1986. This rule does not affect the July 1986 funding round for small cities or the September funding round for large cities and urban counties.

DATES: *Effective date:* June 6, 1986.

This rule applies to applications submitted by large cities and urban counties from April 30, 1986, through May 16, 1986 and to hold over applications that will be considered in the June 1986 funding round.

FOR FURTHER INFORMATION CONTACT: Michael McMahon, Room 7264, Office of Urban Development Action Grants, Office of Community Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 755-8227. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

The February 5, 1986 rescission and deferral message of the President included a proposed rescission of UDAG budget authority. As a result of this rescission proposal, the Department suspended the processing of applications for the March 1986 funding round for small cities and the May 1986 funding round for large cities and urban counties and returned new applications that were received for these two funding rounds. Funding rounds are denominated by the month in which HUD must make preliminary approval decisions.

On April 15, 1986, the proposed rescission expired. The Department estimates that it will have approximately $58 million available for small cities and $184 million for large cities and urban counties, for the remainder of fiscal year 1986. These estimates include anticipated recaptures of previously obligated budget authority.

Under current UDAG regulations (24 CFR 570.460(a)), there are two funding rounds remaining in fiscal year 1986, one each for small cities (the July funding round) and for large cities and urban counties (the September funding round). Applications for the July small cities funding round are due during May and for the September large cities and urban county funding round during July. The Department believes that the July funding round provides adequate opportunity to utilize the $55 million anticipated to be available for small cities and, accordingly, is making no change to the current regulations with respect to funding rounds for small cities. However, the Department believes that an additional funding round for large cities and urban counties before the September round is needed for the efficient utilization of the estimated $164 million available for large cities and urban counties, and is revising § 570.460 to establish a submission and review schedule for a June 1986 funding round. Two funding rounds for large cities and urban counties will enable the Department to make funds available to large cities and urban counties more rapidly and will avoid a prohibitively large funding round in September. It will also permit the Department to make better use of its staff in reviewing large cities and urban county applications.

A June funding round is the only feasible time for an additional funding round for large cities and urban counties. A July funding round would conflict with the July small cities funding round and an August funding round would be too close to September funding round for large cities and urban counties to be of any substantive benefit. To have a June 1986 funding round, the Department has had to shorten the normal submission period and its own review period. This final rule provides the following periods:

Application submission period: April 30–May 16, 1986.

Review period: May 16–June 27, 1986.

Financial Commitment deadline: June 16, 1986.

Decision date: June 30, 1986.

Other Matters

The subject matter of this rulemaking action relates to grants and is therefore exempt from the notice and public comment requirements of Section 553 of the Administrative Procedure Act. As a matter of policy, the Department submits many rulemaking actions with such subject matter to public comment either before or after effectiveness of the action, notwithstanding the statutory exemption.

The Department has determined that prior notice and comment are unnecessary and that good cause exists for publishing this rule as final to become effective without prior public comment. The revision affects neither the substantive standards for obtaining an urban development action grant nor the amount of funding available. This rule simply makes a temporary procedural change intended to improve the efficiency of program administration.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implements Section 102(2)(C) of the National Environmental Policy Act of 1969. The finding is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersignd hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule merely makes one-time change in the submission date and review schedule for large cities and urban counties.

The rule was not listed in the Department's Semiannual Agenda of Regulations published on April 21, 1986 (51 FR 14086), under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number is 14.221, urban development action grants.

List of Subjects in 24 CFR Part 570

Grant Programs—Housing and Community Development.

Accordingly, the Department amends 24 CFR Part 570, Subpart G as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for Part 570 continues to read as follows:

Authority: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301–5320); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 570.460 a new paragraph (d) is added to read as follows:

§ 570.460 HUD review and action on application.

* * * * *

(d) *Submission and review schedule for June 1986 large cities and urban counties funding round.* Notwithstanding the submission and review schedule in paragraphs (a) and (a)(1) of this section, HUD will also accept and review applications from large cities and urban counties in accordance with the following schedule:

Application submission period: April 30–May 16, 1986.

Review period: May 16–June 27, 1986.

Financial Commitment deadline: June 16, 1986.

Decision date: June 30, 1986.

Dated: April 25, 1986.

Alfred C. Moran,

Assistant Secretary for Community Planning and Development.

[FR Doc. 86-9753 Filed 4-29-86; 8:45 am]

BILLING CODE 4210-28-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8067]

Income Taxes; Accounting for Long-Term Contracts

AGENCY: Internal Revenue Service, Treasury.

ACTION: Correction.

SUMMARY: This document contains a correction to Treasury Decision 8067, which was published in the Federal Register on January 6, 1986 (51 CFR 376). T.D. 8067 issued final regulations relating to the accounting for long-term contracts.

EFFECTIVE DATE: The correction is effective January 5, 1986.

FOR FURTHER INFORMATION CONTACT: Dale D. Goode of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC 20224 (Attention: CC:LR:T). Telephone: 202-566-3935 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 6, 1986, the Federal Register published (51 FR 376) Treasury Decision 8067 relating to the accounting for long-term contracts. The document contained final regulations under section 451 of the Internal Revenue Code of 1954.

Need for Correction

As published, T.D. 8067 contains a typographical error on page 380, third column, line 12.

Correction of Publication

§ 1.451-3 [Corrected]

Accordingly, the publication of Treasury Decision 8067 which was the subject of FR Doc. 85-30614 is corrected on page 380, third column, line 12, by removing the last word "on" and adding "in" in its place.

Paul A. Francis,

Acting Director, Legislation and Regulations Division.

[FR Doc. 86-9663 Filed 4-29-86; 8:45 am]

BILLING CODE 4830-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2676

Valuation of Plan Assets and Plan Benefits Following Mass Withdrawal—Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Assets and Plan Benefits Following Mass Withdrawal, which was published on March 25, 1986 (at 51 FR 10322). Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month ending after the effective date of the regulation, a series of interest rates

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to be used in valuing benefits and certain assets as of valuation dates that occur within that calendar month. This amendment adds a series of interest rates to that table.

EFFECTIVE DATE: May 1, 1986.

FOR FURTHER INFORMATION CONTACT: Deborah Murphy, Attorney, Corporate Policy and Regulations Department (35100), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington DC 20006; 202–956–5060 (202–956–5059 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Assets and Plan Benefits Following Mass Withdrawal establishes rules for valuing assets and benefits of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15 of the regulation prescribes an interest assumption to be used in performing these valuations. Paragraph (c) of that section contains a table setting forth, for each calendar month ending after the effective date of the regulation, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month.

This amendment to the regulation adds the next monthly rate series to the table in § 2676.15(c). This rate series is for the month of May 1986 and applies to valuation dates occurring within that month. The PBGC intends to publish a new entry in the table each month, whether or not the new entry contains rates different from those prescribed for the preceding month. The PBGC will publish the rate series for each month before the beginning of the month. Beginning with the rates for June 1986, the PBGC expects to publish each month's rates on or about the fifteenth of the preceding month.

The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (*See* 5 U.S.C. 533 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans and pensions.

In consideration of the foregoing, Part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN ASSETS AND PLAN BENEFITS FOLLOWING MASS WITHDRAWAL

1. The authority citation for Part 2676 continues to read as follows:

Authority: Secs. 4002(b)(3), 4219(c)(1)(D), and 4281(b), Pub. L. 93–406, as amended by sections 403(1) and 104(2) (respectively), Pub. L. 96–364, 94 Stat. 1302, 1237–1238, and 1261 (1980) (29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1)).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest

* * * * *

(c) *Interest rates.*

For valuation dates occurring in the month—	The values of i_t are—															
	i_t	i_t	i_t	i_t	i_t	i_t	i_t	i_t	i_t	i_t	i_t	i_t	i_t	i_t	i_t	i_t
April 1986	.06625	.0625	.0875	.0625	.0775	.07125	.07125	.07125	.07125	.07125	.065	.065	.065	.065	.065	.06

Issued at Washington, DC, on this 29th day of April 1986.

Katheleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86–9582 Filed 4–29–86; 8:45 am]

BILLING CODE 7708–01–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

29 CFR Part 2700

Rules of Procedure

AGENCY: Federal Mine Safety and Health Review Commission.

ACTION: Amendment of Commission procedural rule; adoption of final rule with request for comments.

SUMMARY: The Federal Mine Safety and Health Review Commission [the "Commission"] revises its current procedural rule governing temporary reinstatement proceedings to provide an opportunity for a hearing prior to the issuance of an order temporarily reinstating a miner in discrimination proceedings arising under the Federal Mine Safety and Health Act of 1977. The current procedural rule was adopted as an interim rule on July 31, 1981, and public comments were requested. The United States Court of Appeals for the Sixth Circuit subsequently has held that the Commission's current procedural rule denies adequate due process by not providing for a minimal hearing before an order is issued temporarily reinstating a miner. Upon consideration of the Court's decision and the comments received concerning the interim rule, the Commission has determined that revision is appropriate. By issuing this revision as a final rule, the Commission immediately affords an opportunity for an expeditious pre-reinstatement hearing that insures due process to all parties to temporary reinstatement proceedings. The Commission requests public comments on the final rule.

DATES: Effective date: April 30, 1986. Comments must be received on or before June 30, 1986.

ADDRESS: Comments may be submitted to the General Counsel, Federal Mine Safety and Health Review Commission, Sixth Floor, 1730 K Street, NW., Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: L. Joseph Ferrara, Acting General Counsel, Office of the General Counsel, at (202) 653–5610.

SUPPLEMENTARY INFORMATION:

Background

The Commission is an independent adjudicatory agency that provides trial and appellate review of cases arising under the Federal Mine Safety and Health Act of 1977, 30 U.S.C. 801 *et seq.* (1982) [the "Mine Act"]. Section 105(c) of the Mine Act, 30 U.S.C. 815(c), prohibits unlawful discharge or discrimination against miners or interference with their protected statutory rights. Section 105(c)(2) of the Mine Act, 30 U.S.C. 815(c)(2), provides that following a miner's timely complaint of unlawful discrimination, the Secretary of Labor [the "Secretary"] shall commence an investigation within 15 days following his receipt of the complaint. If the Secretary finds that the complaint was not frivolously brought, the Commission, on an expedited basis upon application of the Secretary, shall order the immediate reinstatement of the miner pending a final order on the complaint. *Id.*

Under the Commission's current Procedural Rule 44, 29 CFR 2700.44, the Secretary's application shall state his finding that the discrimination complaint was not frivolously brought and shall be accompanied by a copy of the miner's complaint, an affidavit setting forth the Secretary's reasons for his finding, and proof of service upon the mine operator. 29 CFR 2700.44(a). The Secretary's application is to be examined on an expedited basis by a Commission administrative law judge and, if it appears that the Secretary's finding is supported by the application and accompanying documents, the judge shall issue immediately an order of temporary reinstatement. *Id.* If a temporary reinstatement order is issued, the person against whom relief is sought may request a hearing before a Commission administrative law judge, who shall hold a hearing within 5 days following the request to determine whether the complaint was frivolously brought. *Id.* The judge may then dissolve, modify, or continue the order. *Id.*

In *Southern Ohio Coal Co., et al.* v. *Donovan*, 774 F.2d 693 (1985), *reh'g denied*, 781 F.2d 57 (1986), the United States Court of Appeals for the Sixth Circuit held that the Commission's current Procedural Rule 44 fails to insure any reasonable opportunity for a minimal pre-deprivation hearing before a miner is temporarily reinstated and, thus, violates the constitutional due process rights of the person against whom relief is sought. Upon consideration of this option, the Commission has revised Procedural Rule 44 to afford immediately an opportunity for a limited, pre-reinstatement hearing that insures due process to all parties to temporary reinstatement proceedings. In adopting the revised procedural rule, the Commission has reviewed and considered the comments submitted in response to the July 31, 1981 publication of the interim rule. 46 FR 39137 (1981).

Explanation of Provisions

The Commission's revised Procedural Rule 44, in new paragraph (b), provides that following prompt service of the Secretary's application for temporary reinstatement, the respondent has 10 days within which to request a hearing. If no hearing is requested, a Commission administrative law judge shall review immediately the Secretary's application. If, based upon the contents of the application, the judge determines that the complaint was not frivolously brought, he shall issue immediately an order of temporary reinstatement. If a hearing on the Secretary's application is requested, a hearing before a Commission admininstrative law judge shall be held within 10 days following receipt of the request for hearing, unless compelling reasons mandate the granting of a request for an extension of time.

New paragraph (c) states that at the hearing on the Secretary's application for temporary reinstatement, the burden of estabishing that the complaint was not frivolously brought shall be on the Secretary. The Secretary may limit his presentation to the testimony of the complainant. The respondent shall have an opportunity to cross-examine any witnesses called by the Secretary and to present evidence in support of its position. The sole issue to be determined by the judge is whether the miner's complaint was frivolously brought. New paragraph (d) provides that within 5 days following the close of a hearing on the Secretary's application, the admininstraive law judge shall issue an order granting or denying the application. The order shall include fully reasoned findings of fact and conclusions of law supporting the judge's determination as to whether the miner's complaint was frivolously brought.

New paragraph (e) provides further that a party may seek review of the judge's order on the Secretary's application for temporary reinstatement by filing a petition for review and supporting arguments with the Commission within 5 days following receipt of the order. The filing of a petition for review shall not stay the effect of the judge's order, unless the Commission directs otherwise. After a petition has been received, the revised rule provides that any response must be filed within 5 days. The Commission shall render a ruling on the petition for review within 10 days following receipt of any response or the expiration of the period for filing such response.

By permitting the opportunity for a pre-deprivation hearing, revised Procedural Rule 44 thus balances constitutional due process requirements with the Mine Act's directive that temporary reinstatement proceedings be conducted on an expedited basis.

Notice and Public Procedure

Notice and comment rulemaking does not apply to rules of agency procedure. 5 U.S.C. 553(b)(3)(A). Commission Procedural Rule 44, as revised, is a procedural rather than a substantive rule. This rule does not alter the individual rights or obligations provided by section 105(c)(2) of the Mine Act. The rule is limited to a Commission procedure for insuring all participating parties constitutional due process during temporary reinstatement proceedings before the Commission. Therefore, the rule falls within the procedural rule exception of 5 U.S.C. 553(b)(3)(A). Accordingly, no notice of proposed rulemaking was published prior to its issuance as a final rule. However, given the importance of temporary reinstatement in the Mine Act's scheme, the Commission invites and will accept public comments received on or before June 30, 1986.

List of Subjects in 29 CFR Part 2700

Administrative practice and procedure, Mine safety and health, Penalties.

Adoption of Amendment to the Commission's Rules of Procedure

For the reasons set forth in the preamble, Part 2700 of Chapter XXVII of Title 29 of the *Code of Federal Regulations* is amended as follows:

PART 2700—[AMENDED]

1. The authority citation for Part 2700 continues to read as follows:

Authority: 30 U.S.C. 815 and 832.

2. Section 2700.44 is revised to read as follows:

§ 2700.44 Temporary reinstatement proceedings.

(a) *Contents of application.* An application for temporary reinstatement shall state the Secretary's finding that

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the miner's complaint of discrimination, discharge or interference was not frivolously brought and shall be accompanied by an affidavit setting forth the Secretary's reasons supporting his finding, a copy of the miner's complaint, and proof of notice to and service on the person against whom relief is sought by the most expeditious means of notice and delivery reasonably available.

(b) *Request for hearing.* Within 10 days following receipt of the Secretary's application for temporary reinstatement, the person against whom relief is sought shall advise the Commission's Chief Administrative Law Judge or his designee, and simultaneously notify the Secretary, whether a hearing on the application is requested. If no hearing is requested, the judge assigned to the matter shall review immediately the Secretary's application and, if based on the contents thereof the judge determines that the miner's complaint is not frivolously brought, he shall issue immediately an order of temporary reinstatement. If a hearing on the application is requested, the hearing shall be held within 10 days following receipt of the request for hearing by the Commission's Chief Administrative Law Judge or his designee, unless compelling reasons are shown in an accompanying request for an extension of time.

(c) *Hearing.* The scope of a hearing on an application for temporary reinstatement is limited to a determination by the judge as to whether the miner's complaint is frivolously brought. The burden of proof shall be upon the Secretary to establish that the complaint is not frivolously brought. In support of his application for temporary reinstatement the Secretary may limit his presentation to the testimony of the complainant. The respondent shall have an opportunity to cross-examine any witnesses called by the Secretary and may present testimony and documentary evidence in support of its position that the complaint is frivolously brought.

(d) *Judge's order on application.* Within 5 days following the close of a hearing on an application for temporary reinstatement the judge shall issue an order granting or denying the application. The judge's order shall include findings and conclusions supporting the determination as to whether the miner's complaint has been frivolously brought. In addition to service of the order granting or denying the application, the judge shall notify the parties of his determination by the most expeditious means reasonably available.

(e) *Review of order.* Review by the Commission of a judge's order granting or denying an application for temporary reinstatement may be sought by filing with the Commission a petition for review with supporting arguments within 5 days following receipt of the judge's order. The opposing party simultaneously shall be notified and served. The filing of a petition for review shall not stay the effect of the judge's order unless the Commission directs otherwise. Any response shall be filed within 5 days following receipt of a petition. The Commission's ruling on a petition for review shall be rendered within 10 days following receipt of any response or the expiration of the period for filing such response.

(f) *Dissolution of order.* If, following an order of temporary reinstatement, the Secretary determines that the provisions of section 105(c)(1), 30 U.S.C. 815(c)(1), have not been violated, the judge shall be so notified and shall enter an order dissolving the order of reinstatement. If the Secretary fails to file a complaint with the Commission within 60 days after an order of reinstatement has been issued, the judge may issue an order to show cause why the order of reinstatement should not be dissolved. An order dissolving the order of reinstatement shall not bar the filing of an action by the miner in his own behalf under section 105(c)(3) of the Act, 30 U.S.C. 815(c)(3), and § 2700.40(b) of these rules.

Approved: April 23, 1986.

Ford B. Ford,

Chairman, Federal Mine Safety and Health Review Commission.

[FR Doc. 86-9663 Filed 4-29-86; 8:45 am]

BILLING CODE 6735-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 288

[DoD Instruction 7230.7]

User Charges; Fixed Fees

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: The part revises 32 CFR Part 288 to reestablish and update the Schedule of Fees and Rates as requested by DoD Components. It also deletes references to an "administrative surcharge" since it conflicts with principles established by the Supreme Court in connection with the "user charges" statute. In January 1985, DoD Instruction 7230.7 eliminated the fixed fee schedule and gave Components authority to compute charges. The part reestablishes fixed fees and withdraws this authority.

EFFECTIVE DATE: January 29, 1985.

ADDRESS: The Assistant Secretary of Defense (Comptroller), Department of Defense, The Pentagon, Washington, DC 20301-1155.

FOR FURTHER INFORMATION CONTACT: Thomas P. Mares, telephone 202-697-0536.

List of Subjects in 32 CFR Part 288

Accounting, Armed Forces, Government property and Services.

Accordingly, 32 CFR Part 288 is revised to read as follows:

PART 288—USER CHARGES

Sec.

288.1 Reissuance and purpose.
288.2 Applicability.
288.3 Definitions.
288.4 Policy.
288.5 Responsibilities.
288.6 Charges and fees.
288.7 Collections.
288.8 Legislative proposals.
288.9 Examples of benefits not to be charged under 288.4(c) of this part.
288.10 Schedule of fees and rates.

Authority: 31 U.S.C. 483a; Title V, Pub. L. 137, 65 Stat. 290

§ 288.1 Reissuance and purpose.

This part reissues 32 CFR Part 288 and implements the DoD program under 31 U.S.C. 9701, and OMB Circular A-25 for establishing appropriate charges for authorized services provided by DoD organizations.

§ 288.2 Applicability.

This part applies to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "DoD Components"). None of the provisions in this part should be construed as providing authority for the sale or lease of property, or the rendering of special services. Actions to convey such special benefits must be authorized by separate authority. The user charge policy is applicable except when other statutes or directives specifically direct other practices or procedures.

§ 288.3 Definitions.

Recipient. One who requests or receives the benefits of the service(s) provided.

§ 288.4 Policy.

(a) *General.* It is DoD policy not to compete with available commercial facilities (see 32 CFR Part 169a) in providing special services or in the sale or lease of property to private parties and agencies outside the Federal Government. However, when a service or sale is made that conveys special benefits to recipients, above and beyond those accruing to the public at large, a reasonable charge shall be made to each identifiable recipient, except as otherwise authorized by the Secretary of Defense. A special benefit will be considered to accrue, and a charge shall be imposed when the service rendered:

(1) Enables the recipient to obtain more immediate or substantial gain or values (which may or may not be measureable in monetary terms) than those which accrue to the general public; or

(2) Is performed at the request of the recipient and is above and beyond the services regularly received by or available without charge to the general public.

(b) *Costing.* (1) A charge shall be imposed to recover the full cost to the Federal Government of rendering a service or the fair market value of such service, whichever is higher. Fair market value shall be determined in accordance with commercial rates in the local geographical area. In the absence of a known market value, charges shall be made based on recovery of full costs to the Federal Government.

(2) When federally owned resources or property are leased or sold, a fair market value shall be obtained. Fair market value shall be determined by the application of sound business management principles and, so far as practicable and feasible, in accordance with comparable commercial practices. Charges based on fair market value need not be limited to the recovery of costs; they may produce net revenues to the Government.

(c) *Exclusions and Exceptions.* (1) The provisions of this part do not apply when other statutes or directives require different practices or procedures such as for:

(i) Morale, welfare, and recreation services to military personnel and civilian employees of the Department of Defense and other services provided in accordance with § 288.9.

(ii) Sale or disposal of surplus property under approved programs (See DoD Instruction 7310.1 [1]).

(iii) Services furnished the general public relating to, or in furtherance of, the U.S. Armed Forces recruiting program.

(iv) Services furnished to representatives of the public information media in the interest of public understanding of the U.S. Armed Forces.

(v) U.S. Armed Forces participation in public events. Charges for such participation are governed by the provisions of 32 CFR Part 238.

(vi) Records made available to the public, under the Freedom of Information Act, pursuant to 32 CFR Part 286. Charges for such record searches and copies of records are governed by § 286.61.

(vii) Services furnished to non-Federal audio-visual media Charges for such services are governed by the provisions of DoD Instruction 5410.15.[2]

(viii) Government-developed computer programs released to non-Federal customers. Charges for software packages are governed by DoD Instruction 7930.2.[3]

(ix) Pricing of performance by industrial fund activities which shall be in accordance with DoD Directive 7410.4.[4]

(2) Charges may be waived or reduced when:

(i) The recipient of the benefits is engaged in nonprofit activity designed for public safety, health, or welfare.

(ii) Payment of the full fee by a state, local government, or nonprofit group would not be in the interest of the program.

(iii) Furnishing of the service without charge is an appropriate courtesy to a foreign country or international organization, or comparable fees are set on a reciprocal basis with a foreign country.

(iv) The incremental cost of collecting the fees would be an unduly large part of the receipts from the activity.

§ 288.5 Responsibilities.

Head of DoD Components, or designees, shall:

(a) Identify each service or activity covered by this part.

(b) Determine the extent of the special benefit provided.

(c) Determine applicable cost and fair market value.

(d) Establish appropriate charges and collect from recipients of special services.

(e) Grant cost waivers or reductions consistent with guidance in this part.

(f) Recommend to the Assistant Secretary of Defense (Comptroller) necessary additions and revisions to § 288.10.

§ 288.6 Charges and Fees.

(a) *General.* (1) All charges and fees shall be based on total cost to the U.S. Government or fair market value, whichever is higher. Total cost shall be based on actual cost or replacement cost when property is to be replaced and expense data accumulated in accordance with DoD 7220.9-M.[5] Estimates from the best available records may be used if actual cost or expense data is not available.

(2) Cost accounting systems shall not be established solely for the purpose of determining charges, but the results of existing cost accounting systems shall be used. Total cost shall include all direct and indirect costs (see Chapter 71, DoD 7220.9-M).

(3) Charges and fees established in advance must be projected to the midpoint of the future period. Projected amounts shall be reviewed annually or whenever significant changes in cost or value occur.

(4) Internal management controls (see DoD Directive 5010.38 [6] must be established to ensure that charges and fees are developed and adjusted, using current, accurate, and complete data, to provide reimbursement conforming to statutory requirements. Such controls also must ensure compliance with cash management and debt collection policies (see DoD Directive 7045.13[7]).

(b) *Services.*—(1) *Basic Requirements.* The maximum charge for a special service shall be governed by its total cost or fair market value, whichever is higher, and not by the value of the service, to the recipient. The cost computation shall include the direct and indirect costs to the Government of carrying out the activity. Typically, a service may involve the following:

(i) Civilian salaries or wages, including the full cost of benefits, such as leave, retirement,and medical and life insurance.

(ii) The full cost of military personnel services, including retirement, other personnel support, leave, and permanent change of station factors.

(iii) The cost of materials, supplies, travel expenses, communications, utilities, equipment and property rental, and, maintenance of property and equipment.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, Code 301, 5801 Tabor Avenue, Philadelphia, Pa 19120.

[2] See footnote 1 to § 288.4(c)(1)(ii).

[3] See footnote 1 to § 288.4(c)(1)(ii).

[4] See footnote 1 to § 288.4(c)(1)(ii).

[5] See footnote 1 to § 288.4(c)(1)(ii).

[6] See footnote 1 to § 288.4(c)(1)(ii).

[7] See footnote 1 to § 288.4(c)(1)(ii).

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(iv) Depreciation expense and interest of investment (currently at a 10 percent annual rate) (OMB Circular No. A-94) in DoD-owned, fixed assets.

(v) Other operational, administrative, and accessorial (DoD Instruction 7510.4 [9]) costs incurred by the activity while establishing standards and regulations and research in support of the service performed, for example.

(2) *Fees and Rates.* Fees and rates shall be based on actual costs. The charges for services provided by data processing activities shall be determined by using the costs accumulated pursuant to OMB Circular No. A-121 and Federal Government accounting Pamphlet No. 4 requirements. Fees and rates for recurring services shall be established in advance, when feasible. Recurring services include, but are not limited to, copying, certifying, and researching records, except when those services are excluded or exempted from charges under § 228.4(c) or § 228.9.

(3) *DoD-wide Fees and Rates.* Section 228.10 provides a schedule of fees and rates for certain services for use throughout the Department of Defense. Recommendations for additions and revisions to the schedule will be made to the Assistant Secretary of Defense (Comptroller).

(c) *Lease or Sale of Property.* Charges for lease or sale of property shall be based on a determination of fair market value.

(1) In cases involving the lease or rental of military equipment, when there is no commercial counterpart, fair market value will be based on the computation of an annual rent which will be the sum of the annual depreciation plus interest on investment. The amount of interest on investment is determined by applying the interest rate to the net book value; that is, acquisition cost plus additions less depreciation. The current interest rate in OMB Circular No. A-94 shall be used. Support, if furnished, and applicable general administration expenses will be extra. In determining the value, consideration may be given to the responsibility of the lessee to assume the risk of loss or damage to the property and to hold the Government harmless against claims or liabilities by the lessee or third parties.

(2) In cases involving the sale of property when there is no known fair market value, costs shall be based on the total of the standard price of the item carried in inventory, or the reduced price when so authorized for sale within the Department of Defense and the accessorial and administrative costs computed under DoD Instruction 7510.4.

[9] See footnote 1 to § 228.4(a).

§ 288.7 Collections.

(a) Collections of charges and fees shall be made in advance of rendering the service, except when preservation of life or property is involved, performance is authorized by law without advance payment, or advance payment is impractical because multiple requests for services are received on a continuing basis from a reliable requester (i.e., consistently prompt payments for services received). When an advance collection exception is approved, an accounts receivable will be established to control collections. The policies in DoD 7220.9-M, DoD Directive 5010.38, and DoD Directive 7045.13 shall be used in accounting, controlling, and managing cash and debt collections.

(1) Collections of fees and charges normally will be deposited to Miscellaneous Receipts of the Treasury unless otherwise authorized by law or regulation.

(2) Collections for utilities and services in connection with the lease of property will be deposited to the appropriation or fund responsible for financing the operations of the equipment or facility.

§ 288.8 Legislative proposals.

In cases where collections of fees and charges for services or property are limited or restricted by provisions of existing law, the DoD Component(s) concerned will submit appropriate remedial legislative proposals under applicable legislative procedures. (See DoD Instruction 5500.4.[9])

§ 288.9 Examples of Benefits not to be charged under provisions of § 288.4(c)(2) of this Part.

(a) Services requested by members of the U.S. Armed Forces in their capacity as Service members.

(b) Services requested by members of the U.S. Armed Forces who are in a casualty status, or requested by their next of kin or legal representative, or requested by any source, when it relates to a casualty.

(c) The address of record of a member or former member of the U.S. Armed Forces when the address is available readily through a directory (locator) service, and when the address is requested by a member of the U.S. Armed Forces or by a relative or a legal representative of a member of the U.S. Armed Forces or when the address of record is requested by any source for the purpose of paying monies or forwarding property to a member or former member of the U.S. Armed Forces.

(d) Services requested by or on behalf of a member or former member of the U.S. Armed Forces or, if deceased, his or her next of kin or legal representative that pertain to the following:

(1) Information required to obtain financial benefits regardless of the terms of separation from the Service.

(2) Document showing membership and military record in the Armed Forces if discharge or release was under honorable conditions, except as provided in paragraphs (1) and (2) of this section.

(3) Information relating to a decoration or award or required for memorialization purposes.

(4) Review or change in type of discharge or correction of records.

(5) Personal documents, such as birth certificates, when such documents are required to be furnished by the member.

(e) Services that are furnished free in accordance with statutes or executive orders.

(f) Information from or copies of medical and dental records or X-ray films of patients or former patients of military medical or dental facilities, when such information is required and requests for such data are (1) submitted by an accredited medical facility, physician, or dentist; or (2) requested by the patient, his or her next of kin, or legal representative.

(g) Services involving confirmation of employment, disciplinary or other records, and salaries of active or separated civilian or military personnel, when requested by prospective employers or recognized sources of inquiry for credit or financial purposes.

(h) Services requested by and furnished to a Member of Congress for official use.

(i) Services requested by state, territorial, county, or municipal government, or an agency thereof, that is performing a function related to or furthering of a DoD objective.

(j) Services requested by a court, when the service will serve as a substitute for personal court appearance of a military or civilian employee of the Department of Defense.

(k) Services requested by a nonprofit organization that is performing a function related to or furthering an objective of the Federal Government or that is in the interest of public health and welfare, including education.

(l) Services requested by an individual or corporation that is performing a function related to or furthering an objective of the Federal Government, when the cost of such services would be chargeable to a Federal Government contract or grant held by the individual or corporation.

(m) Services requested by donors with respect to their gifts.

(n) Requests for occasional and incidental services (including requests from residents of foreign countries), that are not requested often, when it is determined administratively that a fee would be inappropriate for the occasional and incidental services.

(o) Requests from Federal employees for the completion of claims for reimbursement under the Federal Employees Health Benefit Act of 1959.

(p) Administrative services provided by reference or reading rooms to inspect public records, excluding copies of records or documents furnished.

(q) Requests for military locator service by financial organizations that are located on DoD installations.

(r) Requests for military locator service by financial organizations that are engaged in the direct deposit program and that are not located on DoD installations. Requests for an address of record shall include the following:

(1) A statement that the financial organization is listed as a direct deposit recipient in the current U.S. Treasury Bureau of Accounts, "Financial Organizations Directory."

(2) A statement that the individual, whose address is being requested, has his or her pay forwarded as a direct deposit by a DoD disbursing officer.

(3) The individual's financial organization's account number.

(s) Services rendered in response to requests for classification review of DoD classified records, submitted under Executive Order 12065 and implemented by 32 CFR Part 159. Such services consist of the work performed in conducting the classification review or in granting and completing an appeal from a denial of declassification following such review.

(t) Services of a humanitarian nature performed in such emergency situations as life-saving transportation for non-U.S. Armed Forces patients, search and rescue operations, and airlift of personnel and supplies to a disaster site. This does not mean that inter- and intra-Governmental agreements to recover all or part of costs should not be negotiated. Rather, it means the recipient or beneficiary will not be assessed a "user charge."

[9] See footnote 1 to § 288.4(c)(1)(ii).

§ 288.10 Schedule of Fees and Rates.

This schedule applies to authorized services related to copying, certifying, and searching records rendered to the public by DoD Components, except when those services are excluded or excepted from charges under subsection D.3. of the basic instruction, or § 288.9. Except as provided in special cases prescribed below, a minimum fee of $3.50 will be levied for processing any chargeable case. Normally only one copy of any record or document will be provided.

Requests Involving

(a) *Training and Education [copies of documents required for other than official purposes]:*

	Fee
(1) Transcripts:	
First copy	$3.50
Each additional copy (includes requests for transcripts of graduation from military academies and schools)	.45
(2) Certificates:	
First copy	3.50
Each additional copy (includes all requests for certification, verification of attendance, and course completion from service schools and other facilities	.45

(b) *Medical and Dental Records of Patients and Former Patients (when requested for purposes other than further medical treatment).* Covers requests for information from or copies of medical records, including clinical records (inpatient records of military and non-military patients), health records (military outpatient records), outpatient records (non-Military outpatient records), dental records, and loan of x-rays.

(1) Searching and processing (per hour)	$13.25
Minimum charge	8.30
(2) Each typewritten page	3.50
(3) Office copy reproductions (per image)	0.10
(4) Copy or loan of each x-ray	8.30

(c) *Military Membership and Record [Excluding Medical and Dental Records).*

(1) Address of record, each	$3.50

(2) Copies of releasable military personnel records (e.g., effectiveness reports for officers and enlisted personnel) reproduced for the personal use of active, retired, and former members, next of kin of missing-in-action or deceased members of the Armed Forces.

Minimum charge (up to six reproduced images)	$3.50
Each additional image	.10
Statement of verification of Service or report of separation for individuals with other than honorable discharges	5.20

(d) *Photography.* (1) Still pictorial or documentary photographic prints. Unlisted standard sizes of prints may be furnished, if available, at prevailing contract or activity rates.

	Price per print (quantity)			
	1 to 9	10 to 20	21 to 50	50+
Single weight (RC type) paper:				
8"x10"	$4.50	$3.25	$2.80	$1.75
11"x14"	9.00	7.00	5.00	4.00
16"x20"	18.00	15.00	12.00	9.50
20"x24"	30.00	25.00	20.00	15.00
Single weight color paper:				
8"x10"	11.00	7.50	3.50	3.00
11"x14"	17.00	9.00	4.50	5.50
16"x20"	35.00	25.00	14.00	11.50
35mm color transparency slide made from color negative	5.00	3.50	3.00	3.00
35mm duplicate from 35mm slide	1.00	.60	.50	.45
Print mounted on 16"x20" cardboard + unit price of print	8.00			
Print mounted on 20"x24" cardboard + unit price of print	12.00			
Color transparencies (first); 16.00 each additional:				
8"x10"	20.00			
4"x5"	4.50			
4"x5" B&W negative	2.00			
70mm color negative	7.50			

Note.—Prices may vary by 20% of these average charges based on local inhouse labor, equipment, and supply (raw stock) costs.

(2) Motion Picture:

	Price per foot contact
Color:	
16mm work print (positive work print from an original negative)	$0.20
16mm reversal work print	.20
16mm color master ("A" roll)	.60
16mm duplicate negative (from master positive)	.60
16mm reversal duplicate negative	.85
16mm internegative (from reversal original)	.70
16mm short rolls (under 100 ft) + basic price	.10
16mm tab-to-tab printing + basic price	.20
Black and white:	
16mm work print (negative/positive)	.10
16mm master positive (fine grain)	.25
16mm duplicate negative	.25
16mm short rolls (under 200 ft) + basic price	.10
16mm tab-to-tab printing + basic price	.10

(3) *Miscellaneous:*

Magnetic tape—dub from 16mm film + raw stock	$65.00
Searching (per hour or fraction thereof)	16.00
Minimum charge per film order (including search)	35.00

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16mm film to videotape (broadcast quality tape format per hour) + raw stock.....275.00
Minimum charge for film to videotape transfer + raw stock.....140.00

Aerial photographic print processing prices will be determined by the local DoD-operated lab due to limited availability.

35mm film processing for motion pictures is not done in-house by the DoD. Charges for this type of processing will be at prevailing contract rates on a case-by-case basis.

(e) *Construction and Engineering-Information.* Copies of aerial photograph maps, specifications, permits, charts, blueprints, and other technical engineering documents.

(1) Searching, per hour or fraction thereof (including overhead costs).....$13.25
(2) First print.....2.50
(3) Each additional print of same document.....0.85

(f) *Copies of Medical Articles and Illustrations.* Standards contained in the basic Instruction will be utilized in computing costs.

(g) *Claims, Litigation.* Copies of documents required for other than official purposes. (Includes court-martial records furnishing information from Report of Claims Investigations; e.g., automobile collision investigations and safety reports.) Requests pertaining to private litigation and to cases in which the United States is a party and where court rules provide for reproduction of records without cost to the Government (if not covered in 2. or 3., above).

(1) Searching and processing (per hour).....$13.25
Minimum charge.....6.30

Note.—Charges for professional search or research will be made in accordance with 10.b., below.

(2) Office copy reproduction (minimum for six pages or less).....$3.50
(3) Each additional image.....0.10
(4) Certification and validation with seal, each.....5.20

(h) *Publications and Forms.* A search and/or processing fees, as described in 10.a., below, will be made for requests requiring extensive time (one hour or more).

(1) *Shelf Stock.* (Requesters may be furnished more than one copy of publication or form if it does not deplete stock levels below projected planned usage.)

(i) Minimum fee per request (six pages or less).....$3.50
Plus:
(A) Form, per copy.....$.10
(B) Publications, per printed page.....02
(C) Microfiche, per fiche.....10

(ii) (Examples: Cost of 20 forms, $5.50; cost of a publication with 100 pages, $5.50; cost of microfiche publication consisting of 10 fiches, $4.50)

(2) Office Copy Reproduction (when shelf stock is not available):

(i) Minimum fee per request (six pages or less).....$3.50
(ii) Each additional page.....10
(iii) Minimum charge first fiche.....8.70
(iv) Each additional fiche.....20

(i) *Engineering Data (Microfilm).*—(1) *Aperture Cards.*

(i) Silver duplicate negative, per card.....$0.75
When keypunched and verified, per card.....85
(ii) Diazo duplicate negative, per card.....65
When keypunched and verified, per card.....75
(2) 35mm roll film, per frame.....0.50
(3) 16mm roll film, per frame.....0.45
(4) Paper prints (engineering drawings), each.....1.50
(5) Paper reprints of microfilm indices, each.....0.10

(j) *General.* Charges for any additional services not specifically provided above, consistent with the provisions of the basic Instruction, will be made by the respective DoD Components at the following rates:

(1) Clerical search and processing, per hour.....$13.25
Minimum charge.....6.30
(2) Professional search or researching (To be established at actual hourly rate prior to search. A minimum charge will be established at ½-hourly rates.).....
(3) Minimum charge for office copy reproduction (up to six images).....3.50
(4) Each additional image.....0.10
(5) Each typewritten page.....3.50
(6) Certification and validation with seal, each.....5.20
(7) Hand-drawn plots and sketches, each hour or fraction thereof.....12.00

Linda M. Lawson,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
April 24, 1986.

[FR Doc. 86-9577 Filed 4-29-86; 8:45 am]
BILLING CODE 3810-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 124 and 403

[EN-FRL-2958-8]

The National Pollutant Discharge Elimination System and General Pretreatment Regulations; Authority for Deciding Variance Requests Based on Fundamentally Different Factors and on Water Quality Factors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document amends certain portions of the National Pollutant Discharge Elimination System (NPDES) regulations in order to delegate authority to EPA Regional Administrators for deciding variance requests based on section 301(g) of the CWA and based on the presence of fundamentally different factors (FDF). In addition, this document amends the General Pretreatment regulations in order to delegate authority to EPA Regional Administrators for deciding variance requests based on the presence of fundamentally different factors (FDF).

These amendments will change present procedures to require headquarters involvement only where the variance request raise nationally significant or precedent-setting issues.

DATES: For judicial review purposes, in accordance with 40 CFR Part 23 (50 FR 7268) the time and date of the Administrator's action in issuing this rule shall be 1:00 P.M. Eastern Time on May 14, 1986.

These regulations shall become effective on May 30, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Marilyn Goode, Permits Division (EN-336), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; (202) 475-9521.

SUPPLEMENTARY INFORMATION:

I. Background

A. Section 301(g) Variances

Section 301(g) of the CWA provides that variances from effluent limitations based on best available technology economically achievable (BAT) may be granted to certain direct dischargers of nonconventional pollutants. In order to obtain a variance under section 301(g), an applicant must demonstrate that his proposed modified effluent limitations (1) will meet water quality standards or best practicable control technology currently available, whichever is applicable; (2) will not result in any additional requirements on other point or nonpoint sources; (3) will not interfere with the attainment or maintenance of that water quality which shall assure protection of public water supplies, the protection and propagation of a balanced population of shellfish, fish and wildlife, and recreational activities in and on the water and (4) cannot reasonably be anticipated to pose an unacceptable risk to human health and the environment.

The existing NPDES regulations (§ 124.62) allow the Regional Administrator or NPDES State Director to deny all requests for section 301(g) variances for direct dischargers (these variances are not available to indirect dischargers). However, only the Deputy Assistant Administrator for Water Enforcement (now the Director of the Office of Water Enforcement and Permits [OWEP]) may approve such variances.

B. FDF Variances

The fundamentally different factors (FDF) variance is an administrative mechanism designed to allow alternative case-specific limitations in lieu of national effluent limitations guidelines and categorical pretreatment standards for existing direct or indirect dischargers of toxic, conventional, or nonconventional pollutants. In order to obtain an FDF variance, an applicant must demonstrate that the factors prevailing at his plant or facility are fundamentally different from the factors considered in establishing the national discharge limitations and standards, as specified in existing regulations (40 CFR 125.30–125.32 and 403.13).

In the case of direct dischargers, the existing NPDES regulations (§ 124.62) allow the Regional Administrator and the NPDES State Director to deny all requests for FDF variances. However, only the Deputy Assistant Administrator for Water Enforcement (now the Director of the Office of Water Enforcement and Permits [OWEP]) may approve such variances. In the case of indirect dischargers, the existing General Pretreatment regulations (§ 403.13) allow the State Director and the EPA Enforcement Division Director (now the Regional Water Management Division Director) to deny all requests for FDF variances. However, only the EPA Enforcement Division Director (now the Regional Water Management Division Director) may approve such requests.

C. Delegation Plan

In the case of section 301(g) and FDF variance requests from direct dischargers, the above procedures have brought about considerable duplication of effort between Headquarters and Regional offices, since they require the Regional Administrator to review and, where approval is recommended, submit the request to EPA Headquarters for further review. These reviews may also be in addition to a review by the State Director. Such multiple review has often made the issuance of timely decisions difficult. This is compounded by the fact that EPA Headquarters receive a relatively large number of these types of variance requests.

In light of the above, EPA has reexamined the need for routine Headquarters involvement in the approval of such variance requests. The Agency has concluded that Headquarters involvement should only be required where the variance request involves nationally significant or precedent-setting issues. Accordingly, EPA has decided to delegate to Regional Administrators the authority to grant as well as deny all requests for section 301(g) or FDF variances, with advance concurrence required from the Assistant Administrator for Water or his delegate only under certain circumstances. Such advance concurrence would be required only for FDF requests that raise nationally significant issues, or for the first 301(g) variance request dealing with a specific pollutant in a particular industry discharging to specific waters. Requests for which advance concurrence is required will be identified in guidance issued to EPA Regions. This delegation will not alter the authority of the State Director to deny such variance requests.

Because of the relatively small number of sections 301(c) and 302(b)(2) variance requests which have been received, the Agency is not currently amending the procedures applicable to variance requests under these provisions. The State Director and Regional Administrator will still retain authority to deny section 301(c) and 302(b)(2) variance requests while final approval authority will remain with the Director of the Office of Water Enforcement and Permits.

As noted above, in the case of FDF variances for indirect dischargers, decisions to grant requests are already made at the Regional level by the Water Management Division Director. However, to avoid confusion and for the sake of program consistency we are providing the Regional Administrator with the same authority to grant as well as deny these requests as for direct dischargers. As with direct discharges, this delegation will not alter the authority of the State Director to deny these variance requests.

EPA believes that the delegation accomplished today will simplify the present cumbersome process, result in speedier resolution of the relevant issues, and provide consistency in the treatment of direct and indirect dischargers.

In order to allow for the delegation discussed above, the Agency is today amending 40 CFR 124.62, 124.63, and 403.13 to provide that the Administrator, or his delegate, may grant or deny section 301(g) and FDF variance requests. Concurrently with this rulemaking, the Administrator is implementing the actual delegation of this authority through the EPA delegations manual. This procedure is more appropriate than delegating authority to the Regional Administrators through the rulemaking process, since the regulations as amended to day will allow the Administrator to redelegate his authority in the future directly through the delegations manual as needed instead of through a new rulemaking procedure. EPA anticipates revising other regulations in the future to specify the Administrator as the decisionmaking authority in order to allow for delegations through the manual.

In the case of appeals from decisions on variance requests from indirect dischargers (see § 403.13(m)) the Agency wishes to point out that the petition for a hearing to reconsider or contest the Regional Administrator's decision would be submitted to the Regional Administrator, even though the Regional Administrator (as the Administrator's delegate) will also be responsible for making the initial decision on the variance.

The Agency is promulgating today's amendments in final form pursuant to section 553(b)(A) of the Administrative Procedure Act (APA). The rule change issued today merely changes the procedures for processing variance requests within the Agency. The substantive standards for review of the requests remain the same. Accordingly, the rule does not "alter the rights or interests of parties." *Batterton v. Marshall*, 648 F.2d 694 (D.C. Cir. 1980). As such, it fits squarely within the exemption from notice and comment requirements of the APA.

II. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation is not major because it affects only internal Agency procedures. The requirements applicable to the regulated public are not affected.

III. Regulatory Flexibility Act

EPA has determined, pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), that this regulation will not have a significant economic impact on a substantial number of small entities, since it affects only internal Agency operating procedures.

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List of Subjects

40 CFR Part 124

Administrative practice and procedure, air pollution control, hazardous materials, waste treatment and disposal, water pollution control, water supply, Indian lands.

40 CFR Part 403

Confidential business information, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Dated: March 31, 1986.

Lee M. Thomas,

Administrator.

PART 124—PROCEDURES FOR DECISIONMAKING

Subpart D—Specific Procedures Applicable to NPDES Permits

1. The authority citation for Part 124 continues to read as follows:

Authority: Resources Conservation and Recovery Act, 42 U.S.C. 6901 *et seq.*; Safe Drinking Water Act, 42 U.S.C. 300(f) *et seq.*; Clean Water Act 33 U.S.C. 1251 *et seq.*; and Clean Air Act, 42 U.S.C. 1857 *et seq.*

2. Section 124.62 is amended by removing paragraphs (b) (1) and (3), redesignating paragraphs (b) (2) and (4) as paragraphs (b) (1) and (2) respectively, and adding new paragraphs (e) and (f) to read as follows:

§ 124.62 Decision on Variances.

* * * * *

(e) The State Director may deny or forward to the Administrator (or his delegate) with a written concurrence, or submit to the Administrator (or his delegate) without recommendation, a completed request for:

(1) A variance based on the presence of "fundamentally different factors" from those on which an effluent limitations guideline was based;

(2) A variance based upon certain water quality factors under CWA section 301(g).

(f) The Administrator (or his delegate) may grant or deny a request for a variance listed in paragraph (e) of this section that is forwarded by the State Director, or that is submitted to EPA by the requester where EPA is the permitting authority. If the Administrator (or his delegate) approves the variance, the State Director or Regional Administrator may prepare a draft permit incorporating the variance. Any public notice of a draft permit for which a variance or modification has been approved or denied shall identify the applicable procedures for appealing that decision under § 124.64.

3. Section 124.63 is amended by revising paragraph (a)(1) to read as follows:

§ 124.63 Procedures for Variances When EPA is the Permitting Authority.

(a) * * *

(1)(i) If, at the time, that a request for a variance based on the presence of fundamentally different factors or on section 301(g) of the CWA is submitted, the Regional Administrator has received an application under § 124.3 for issuance or renewal of that permit, but has not yet prepared a draft permit under § 124.6 covering the discharge in question, the Administrator (or his delegate) shall give notice of a tentative decision on the request at the time the notice of the draft permit is prepared as specified in § 124.10, unless this would significantly delay the processing of the permit. In that case the processing of the variance request may be separated from the permit in accordance with paragraph (a)(3) of this section, and the processing of the permit shall proceed without delay.

(ii) If, at the time, that a reqeust for a variance under sections 301(c) or 302(b)(2) of the CWA is submitted, the Regional Administrator has received an application under § 124.3 for issuance or renewal of that permit, but has not yet prepared a draft permit under § 124.6 covering the discharge in question, the Regional Administrator, after obtaining any necessary concurrence of the EPA Deputy Assistant Administrator for Water Enforcement under § 124.62, shall give notice of a tentative decision on the request at the time the notice of the draft permit is prepared as specified in § 124.10, unless this would significantly delay the processing of the permit. In that case the processing of the variance request may be separated from the permit in accordance with paragraph (a)(3) of this section, and the processing of the permit shall proceed without delay.

* * * * *

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES OF POLLUTION

1. The authority citation for Part 403 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1311; 1314(b), (c), (e), and (g); 1316(b) and (c); 1317; 1318; and 1361.

2. In 403.13, paragraph (g)(1), the introductory text of paragraph (h), paragraph (i), the introductory text of (j), (j)(3), (k)(2), (l)(1), the introductory text of (l)(2), (l)(2)(ii)(B), (l)(2)(ii)(C), (l)(2)(ii)(D), and paragraph (m) are revised to read as follows:

§ 403.13 Variances from categorical pretreatment standards for fundamentally different factors.

* * * * *

(g) *Application deadline.* (1) Requests for a variance and supporting information must be submitted in writing to the Director or to the Administrator (or his delegate), as appropriate.

* * * * *

(h) *Contents submission.* Written submissions for variance requests, whether made to the Administrator (or his delegate) or the Director, must include:

* * * * *

(i) *Deficient requests.* The Administrator (or his delegate) or the Director will only act on written requests for variances that contain all of the information required. Persons who have made incomplete submissions will be notified by the Administrator (or his delegate) or the Director that their requests are deficient and unless the time period is extended, will be given up to thirty days to remedy the deficiency. If the deficiency is not corrected within the time period allowed by the Administrator (or his delegate) or the Director, the request for a variance shall be denied.

(j) *Public notice.* Upon receipt of a complete request, the Administrator (or his delegate) or the Director will provide notice of receipt, opportunity to review the submission, and opportunity to comment.

* * * * *

(3) Following the comment period, the Administrator (or his delegate) or the Director will make a determination on the request taking into consideration any comments received. Notice of this final decision shall be provided to the requester (and the Industrial User for which the variance is requested if different), the POTW into which the Industrial User discharges and all persons who submitted comments on the request.

(k) * * *

(2) Where the Director finds that fundamentally different factors do exist, he shall forward the request, with a recommendation that the request be approved, to the Administrator (or his delegate).

(l) *Review of requests by EPA.*

(1) Where the Administrator (or his delegate) finds that fundamentally different factors do not exist, he shall deny the request for a variance and send a copy of his determination to the Director, to the POTW, and to the requester (and to the Industrial User, where they are not the same).

(2) Where the Administrator (or his delegate) finds that fundamentally different factors do exist, and that a partial or full variance is justified, he will approve the variance. In approving the variance, the Administrator (or his delegate) will:

* * * * *

(ii) * * *

(B) The rationale for the adjustment of the Pretreatment Standard (including the reasons for recommending that the variance be granted) and an explanation of how the recommended alternative discharge limits were derived;

(C) The supporting evidence submitted to the Administrator (or his delegate); and

(D) Other information considered by the Administrator (or his delegate) in developing the recommended alternative discharge limits;

* * * * *

(m) *Request for hearing.* (1) Within 30 days following the date of receipt of the notice of the decision of the Administrator's delegate on a variance request, the requester or any other interested person may submit a petition to the Regional Administrator for a hearing to reconsider or contest the decision. If such a request is submitted by a person other than the Industrial User the person shall simultaneously serve a copy of the request on the Industrial User.

(2) If the Regional Administrator declines to hold a hearing and the Regional Administrator affirms the findings of the Administrator's delegate the requester may submit a petition for a hearing to the Administrator within 30 days of the Regional Administrator's decision.

[FR Doc. 86-9522 Filed 4-29-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP4F2986/R777; FRL-3010-2]

Cypermethrin; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide cypermethrin in or on the raw agricultural commodity pecans. This regulation to establish a maximum permissible level for residues of the insecticide in or on the commodity was requested pursuant to a petition by ICI Americas, Inc.

EFFECTIVE DATE: Effective on April 30, 1986.

ADDRESS: Written objections, identified by the document control number [PP4F2986/R777], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: George LaRocca, Product Manager (PM) 15, Registration Division (TS-767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 204, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-2400.

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of December 21, 1983 (48 FR 56435), which announced that ICI Americas, Inc., Concord Pike and New Murphy Rd., Wilmington, DE 19897, had submitted a pesticide petition (PP4F2986) to EPA proposing to amend 40 CFR 180.418 by establishing a tolerance for residues of the insecticide cypermethrin [(±)alpha-cyano-[3-phenoxyphenyl)-methyl(±)-*cis,trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate] and its metabolites *cis,trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropane carboxylic acid (DCVA) and 3-phenoxybenzoic acid (3-PB Acid) (sum of cypermethrin plus metabolites) in or on the raw agricultrual commodity pecans at 0.05 part per million (ppm).

There were no comments received in response to the notice of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicological data considered in support of the tolerance as well as the risk of cypermethrin for previously established tolerances are discussed in a document on cypermethrin that appeared in the **Federal Register** of June 15, 1984 (49 FR 24885).

A full review of the data indicates that although cypermethrin increases the frequency of spontaneously occurring tumors in the lungs of female mice at high dose levels, the increased dietary risk would be extremely small from the proposed use of cypermethrin on pecans. The increased dietary risk associated with this tolerance, based on the highly conservative assumption that all units of the commodity would bear residues at the proposed tolerance level, is estimated to be 10^{-8}—10^{-6}. This value was calculated based on the proposed tolerance level.

The acceptable daily intake (ADI) is calculated to be 0.01 mg/kg/day based on a 1-year dog feeding study with a NOEL of 1.0 mg/kg/day and using a 100-fold safety factor. The maximum permissible intake (MPI) is calculated to be 0.60 mg/day for a 60-kg person. Published and pending tolerances result in a theoretical maximum residue contribution (TMRC) of 0.0408 mg/day based on a 1.5-kg diet and utilize 6.80 percent of the ADI. The establishment of this tolerance will add only 0.00002 mg/day (1-5 kg diet) to the TMRC, resulting in a total use of 6.81 percent of the ADI.

There are no regulatory actions pending against the registration of cypermethrin. The metabolism of cypermethrin in plants and animals is adequately understood for the purposes of the tolerances set forth below. An analytical method using electron capture gas-liquid chromatography is available for enforcement purposes.

Because of the long lead time from establishing this tolerance to publication of the enforcement methodology in the Pesticide Analytical Manual II, an interim analytical methods package is being made available to the State pesticide enforcement chemists when requested by mail:

By mail: Information Service Section (TS-757C), Program Management Support Division, Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-3262).

Based on the above information, the Agency has determined that establishing the tolerance for residues of the pesticide in or on the commodity will protect the public health. Therefore, as set forth below, the tolerance is established for a period extending to December 31, 1988, to cover residues existing from this conditional registration of cypermethrin, and the tolerance may be made permanent if registration is continued based on information received in 1988 (see **Federal Register** notice on conditional registration of cypermethrin for use on cotton, published January 9, 1985 (50 FR 1112)).

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the

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issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 22, 1986.

Steven Schatzow,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.418 is amended by adding, and alphabetically inserting, the raw agricultural commodity, to read as follows:

§ 180.418 Cypermethrin; tolerances for residues.

* * * * *

Commodity	Part per million
* * * * *	
Pecans	0.05
* * * * *	

[FR Doc. 86-9523 Filed 4-29-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 572

[Docket No. 85-7]

Maritime Carriers; Independent Action; Notice and Meeting Provisions in Conference Agreements

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: This revises the Commission's regulations governing the filing of agreements submitted to the Commission pursuant to the Shipping Act of 1984. The Final Rule requires conference agreements to: (1) Establish a maximum notice period of not more than 10 days for member lines taking independent action; (2) provide for a single notice to the conference of a membes line's independent action; and (3) state that a member line taking independent action is not required to attend a meeting, or to comply with other procedures, for the purpose of explaining, justifying or compromising a proposed independent action. The Final Rule also makes technical changes based on the comments received.

EFFECTIVE DATE: May 30, 1986.

FOR FURTHER INFORMATION CONTACT:

Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5740

John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5725

SUPPLEMENTARY INFORMATION:

I. Proceeding

This proceeding was initiated by a Notice of Proposed Rulemaking (Proposed Rule) published in the Federal Register, 50 FR 10810 (March 18, 1985), to revise "Part 572—Agreements by Ocean Common Carriers and Other Persons Subject to the Shipping Act of 1984," 46 CFR Part 572, as it relates to conference independent action (IA) authority. The Proposed Rule would require conference agreements to establish a maximum notice period of not more than 10 days for member lines taking independent action, to provide for a single notice of independent action to the conference, and to state that a proponent of independent action is not required to attend a meeting, or to comply with other procedures, for the purpose of explaining, justifying or compromising a proposed independent action.

A total of 14 comments were received in response to the Commission's Notice of Proposed Rulemaking. The Proposed Rule was supported in comments filed by: (1) The Department of Justice (DOJ); (2) the Chemical Manufacturers Association (CMA); (3) PPG Industries, Inc. (PPG); and (4) Brown-Forman Distillers Corporation (Brown-Forman).

Comments seeking clarification, modification, or withdrawal of the Proposed Rule were filed by: (1) The Transpacific Westbound Rate Agreement (TWRA); (2) the Philippines North America Conference (PNAC); (3) the Inter-American Freight Conference (IAFC); (4) the U.S.-Flag Far East Discussion Agreement (Agreement No. 10050); (5) the North Europe-U.S. Pacific Freight Conference, the Pacific/Australia-New Zealand Conference, and the Pacific Coast European Conference (NEUSPAC *et al.*); (6) the 8900 Lines and the U.S. Atlantic & Gulf Ports/Italy, France & Spain Freight Conference (8900 Lines *et al.*); (7) the Atlantic and Gulf/West Coast of South America Conference, the United States Atlantic and Gulf/Colombia Conference, the United States Atlantic and Gulf/Ecuador Conference, the United States Atlantic and Gulf/Venezuela Freight Association, the United States Atlantic and Gulf/Southeastern Caribbean Conference, and the United States Atlantic and Gulf/Hispaniola Steamship Freight Association (Latin American Conferences); (8) the Trans-Pacific Freight Conference of Japan/Korea, the Japan/Korea-Atlantic & Gulf Freight Conference, the Trans Pacific Freight Conference (Hong Kong), the New York Freight Bureau, and the Japan-Puerto Rico & Virgin Islands Freight Conference (Trans-Pacific Conferences); (9) the United States-European Carrier Associations (USECA) consisting of the North Europe-U.S. Gulf Freight Association, the Gulf-European Freight Association, the North Europe-U.S. Atlantic Conference, the U.S. Atlantic-North Europe Conference, the Pan-Atlantic Carrier Trade Agreement, and the Trans-Atlantic American Flag Liner Operators Agreement; and (10) Sea-Land Service, Inc. (Sea-Land).

II. Comments and Discussion

A. The Right of Independent Action

Section 5(b)(8), 46 U.S.C. app. 1704(b)(8), of the Shipping Act of 1984 (the Act or the 1984 Act), 46 U.S.C. app. 1701-1720, states that each conference agreement must:

> provide that any member of the conference may take independent action on any rate or service item required to be filed in a tariff under section 8(a) of this Act upon not more than 10 calendar days' notice to the conference and that the conference will include the new rate or service item in its tariff for use by that member, effective no later than 10 calendar days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item.

Before addressing the specific issues raised with regard to particular provisions of the Proposed Rule, it is necessary to address a number of general issues raised by the comments

regarding the interpretation of section 5(b)(8) of the Act. One such issue concerns the proper role of independent action within the statutory scheme of the 1984 Act. A number of the conferences argue that collective ratemaking is the "normal" method for pricing ocean transportation services. It is asserted that in a well-functioning conference, differences over pricing will usually be resolved internally. Independent action is said to be a "safety valve," a "last resort," an "exception to the norm" that will rarely be used. These comments generally conclude that the Proposed Rule would distort the statutory scheme by elevating independent action above collective action.

This position, however, ascribes too peripheral a role to the independent action provision of the Act. Independent action is not merely a safety valve to be used on rare occasions whenever pricing decisions cannot be resolved internally and a member is allowed to act independently rather than be forced to leave the conference. It is a central provision designed to balance those provisions of the Act which facilitate collective action.

The independent action provision was a key feature of the compromise that led to the passage of the 1984 Act. Moreover, the independent action provision was one of the shipper-sponsored provisions. The 1984 Act represents a legislative effort to balance the interests of carriers and shippers. In order to fulfill that Congressional purpose, it is necessary to ensure that the right of independent action is fully preserved and that no restrictions, other than those permitted by the statute, are placed on its exercise.

Rather than distorting the statutory scheme, the Proposed Rule would appear to be in harmony with the purpose of the 1984 Act. The independent action provision of the 1984 Act is the counterbalance to the enhanced economic power of conferences. Congress could not have spoken more clearly on this issue than it did in the Conference Report:

> A critical factor enabling the Conferees to agree on a more narrowly drawn general standard is the inclusion in this bill of numerous other provisions which address the nation's interest in competition in the ocean common carrier industry. . . . Even more importantly, the bill includes other specific and major procompetitive reforms that will affect the operation of ocean carriers and conferences—notably a strong requirement of independent action with a limited notice period. . . .
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> H.R. Rep. No. 98-600, 98th Cong., 2d Sess. 33-34 (1984).

As the Conference Report makes clear, Congress intended independent action to be a procompetitive balance to the more narrowly drawn general standard. Moreover, it is clear that Congress was aware that it would "affect the operation of ocean carriers and conferences . . ." including pricing. Furthermore, there is nothing in the legislative history which indicates that independent action is merely a safety valve rarely to be used or only as a last resort. Although Congress continued to allow for collective ratemaking by conferences, it provided for a strong, effective right of IA in the clearest of terms. Preserving an unburdened right of IA is in keeping with the Congressional purpose. Restricting, burdening, or making it more difficult to exercise independent action defeats the purpose of the Act and the legislative compromise that led to the Act's passage.

A number of conferences suggest further that the Proposed Rule is contrary to the Congressional purpose of continuing the conference system in order to address structural and competitive problems such as rate instability and overcapacity. While it is true that Congress did continue the conference system for such a purpose, this does not mean that independent action should be circumscribed or limited. Congress gave not only conferences but other types of carrier agreements the opportunity to deal with problems of overcapacity by providing for a relaxed general standard, expedited processing, and clear antitrust immunity. Restricting IA, however, is not a solution to the problem of overcapacity which is the fundamental cause of rate instability.

One conference comment argues that the Act's silence with regard to any other restrictions on independent action does not mean that all other conditions are *pe se* unlawful. Another comment argues that section 5(b)(8) does not prohibit other provisions in agreements which might result in reducing the frequency of independent action. This same comment criticizes the Proposed Rule as an administrative rulemaking which impermissibly adds to the statutory requirements of section 5(b)(8).

These comments misconstrue the nature of the right of independent action. Independent action means that a member line may act independently, and not collectively, with regard to any rate or service item required to be filed in a tariff. In order to take such action, the member line may only be required to provide notice of up to 10 days to the conference. To argue that the Act's alleged silence permits other substantive requirements or conditions which would effectively add to the limited notice requirement, either as a precondition to or as a consequence of independent action, is contrary to the express language of the Act. Any condition, procedure or other mandatory requirement that in effect adds to the 10-day maximum notice requirement or places a mandatory burden on IA is, on its face, *per se* violative of section 5(b)(8).

The Proposed Rule does not add to the statutory requirements of section 5(b)(8). Its intent is merely to codify, by rulemaking, Commission policy concerning some of the conference-imposed conditions on the exercise of independent action which appear, on their face, to violate section 5(b)(8). These conference-imposed requirements specified in the Proposed Rule have been encountered in a number of agreement filings and have prompted negotiation with the parties to obtain their removal or modification. Continued case-by-case adjudication of such provisions, as suggested by one comment, is inappropriate, unnecessary, and an inefficient use of Commission resources. The Proposed Rule provides clear guidelines for conferences and avoids filings which otherwise would be rejected or require modification.

Finally, it should be noted that the Department of Justice believes that the Proposed Rule does not go far enough and that additional regulations are needed. DOJ urges the Commission to broaden the scope of this proceeding to include consideration of regulations requiring all conference agreements to expressly prohibit: (1) Any form of collusion in connection with any carrier's right of independent action; (2) the erection of any artificial procedural barriers to any carrier's exercise of its right of independent action; and (3) all forms of conference or collective retaliation against carriers who exercise their right of independent action. DOJ acknowledges that consideration of its proposals would require continuation of this proceeding. Whatever the merits of these proposals, they are beyond the scope of this rulemaking. DOJ's proposals will, however, be given consideration in a future rulemaking proceeding on this subject.

B. Specific Provisions of the Proposed Rule

1. Section 572.502(a)(4)(i)—Right of Independent Action

Section 572.502(a)(4)(i) of the Proposed Rule incorporates the requirement of section 5(b)(8) of the Act

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that each conference agreement must provide for the right of independent action. The language of this paragraph is substantially the same as that of the existing rule which appears at 46 CFR 572.502(a)(4).

One comment contends that the language of this paragraph, which states "and shall otherwise be in conformance with section 5(b)(8) of the Act", is superfluous and should be deleted because the regulation already incorporates all of the requirements of section 5(b)(8) of the Act.

Section 572.502(a)(4)(i) paraphrases, but does not restate verbatim, the language of section 5(b)(8) of the Act. The language cited by the comment, therefore, assures that the rule is not interpreted as a delimitation of the statutory right of independent action. Moreover, it does not add any requirement which does not already exist in the Act itself. Therefore, this language shall be retained in the Final Rule.

The same comment proposes further that language be added to this paragraph which would provide expressly for notice to a section of a conference in lieu of notice to the conference itself where ratemaking is conducted on a sectional basis. If ratemaking authority resides exclusively within the particular sections of a conference and the business of agreeing on rates and publishing tariffs is done on a sectional basis, it would not appear to be inconsistent with the Act to allow for notice to the section since it, rather than the overall conference, is the ratemaking body. To the extent the comment has merit and shall be accommodated by adding a paragraph to the Final Rule which allows for notice to a ratemaking section in lieu of notice to the overall conference. As discussed more fully below, only a single notice to the section may be required.

2. Section 572.502(a)(4)(ii)—Notice Period

Section 572.502(a)(ii) of the Proposed Rule establishes a maximum notice period of 10 days which may either be required or permitted by the conference agreement. The Proposed Rule prohibits IA provisions which provide for a minimum notice period and leave open the possibility of voluntary notice in excess of 10 days. The effect of the Proposed Rule is, thus, to preclude an IA proponent from voluntarily providing more than 10 days' notice to the conference.

The Department of Justice fully supports this requirement of the Proposed Rule. DOJ contends that this rule regarding the notice period warrants adoption because it gives full effect to the literal meaning of section 5(b)(8) of the Act and because it would prevent conference members from becoming participants in implicit understandings in which carriers would voluntarily give more advance notice of independent action than was intended under section 5(b)(8).

CMA also supports this provision. CMA contends that the language and intent of the Act are to prohibit a conference from requiring a conference member to give more than 10 calendar days' notice. Moreover, according to CMA, the restriction on voluntary notice would still allow an IA proponent to informally discuss a proposed independent action prior to giving formal notice as to withdraw a proposed independent action prior to effectiveness and resubmit it at any time.

The conference/carrier comments unanimously oppose the Proposed Rule's prohibition of voluntary notice of independent action in excess of 10 days. The comments advance various arguments to support the position that an IA proponent should be permitted to voluntarily provide notice of more than 10 days.

First, some comments argue that the plain meaning of the language of the Act places a limit only upon the conference agreement and not on the action of an individual member. The only purpose of section 5(b)(8) of the Act allegedly is to prohibit a conference from imposing a greater notice period upon a member line. Some comments argue further that the language of the Act, which states that the inclusion of the IA item in the tariff for use by the member shall be "effective no later than 10 calendar days after receipt of the notice", does not impose any restriction on the member line. This language, it is argued, merely requires the conference to file the notice within 10 days of receipt. Some comments argue that filing and effectiveness of the tariff must be distinguished from the effective date of the IA rate as specified in the tariff. The language of the Act is said merely to require filing of the tariff within 10 days. This filing requirement allegedly cannot be converted into a limitation on a member's right to give voluntary notice of more than 10 days. Thus, it is contended that an IA proponent can specify an effective date of more than 10 days and that this does not conflict with the requirement that the conference file the tariff within 10 days. Finally, some comments argue that the Proposed Rule would conflict with the minimum 30-day notice requirement of section 8(d) if the independent action rate is a new or increased rate.[1] The comments conclude that the Commission may not prevent, or compel a conference to prevent, a member line from independently and unilaterally giving more that 10 days' notice, cancelling IA whether effective or pending, or extending the effective date of a pending IA.

Second, some conference comments contend that the legislative history makes clear that Congress intended only to place a limit on the maximum number-of-days notice which a conference could require a member line to give. They argue that the legislative history speaks only in terms of the maximum notice that may be required, and does not prohibit additional voluntary notice. It is also argued that if Congress had intended to impose such a requirement, it would have established minimum and maximum time periods.

Third, conference comments argue that the policy of the Act favors allowing carriers the freedom to structure their own affairs. In keeping with this policy, member lines should be allowed to provide longer notice.

Fourth, conference comments argue that the prohibition on voluntary notice of more than 10 days is unworkable and unneeded. Several conferences point out that the Proposed Rule could be circumvented in various ways. A member considering independent action could: (1) Announce an intended IA in advance of formal notice and discuss, withdraw or compromise it; (2) docket a rate proposal and give formal notice of IA only after the proposal is rejected by the conference; or (3) give notice of IA and then withdraw it prior to effectiveness and re-notice the IA. Another comment argues that a conference could completely disregard a notice given 11 days prior to the effective date under the Proposed Rule.

Fifth, some conference comments argue that there are positive benefits to be obtained from a rule which would allow voluntary notice of more than 10 days. It is argued that such voluntary notice would enhance communication among members which would in turn

[1] Section 8(d), 46 U.S.C. app. 1707(d), provides:

No new or initial rate or change in an existing rate that results in an increased cost to the shipper may become effective earlier than 30 days after filing with the Commission. The Commission, for good cause, may allow such a new or initial rate or change to become effective in less than 30 days. A change in an existing rate that results in a decreased cost to the shipper may become effective upon publication and filing with the Commission.

The comments, in effect, argue that, if the Proposed Rule requires effectiveness of an IA rate within 10 days of filing, there would be a potential conflict with the 30-day notice requirement of section 8(d) in the case of new or increased rates.

support collective ratemaking and thereby promote rate stability. It is also stated that such voluntary notice would enable conference members to meet outside competitors' rates well in advance and allow time to take a possible second IA to meet outside competition.

Sixth, three conference comments contend that contract law permits a party that is required to give a specific notice to voluntarily give more notice than that required by the contract.

Seventh, one comment argues that the legal construction generally given to statutory provisions and agency rules requiring a notice period of a certain number of days supports voluntary additional notice. This comment argues that none of these statutes or rules prohibits the person bearing the notice burden from giving additional notice.

Eighth, two comments argue that the Proposed Rule is inconsistent with the Commission's previous interpretation of notice requirements made in the Final Rule issued in Docket No. 84-26, *Rules Governing Agreements By Ocean Common Carriers And Other Persons Subject To The Shipping Act of 1984*, 49 FR 45320 (November 15, 1984). There, the comments contend, the Commission recognized the right to give more than 10 days' notice by deleting an absolute 10-day limit from its interim rule.

A 10-day maximum notice requirement is consistent with section 5(b)(8) of the Act and shall be retained in the Final Rule. Section 5(b)(8) of the Act establish the mechanism by which independent decisions regarding tariffed price or service items may be made within the structure of the conference system. Section 5(b)(8) sets forth statutory requirements regarding notice, waiting period, conference filing obligations and effectiveness of IA items. These requirements affect both the collective action of the conference and the individual action of a conference member taking IA. The language of section 5(b)(8) is clear. "Each conference agreement must—(8) provide that any member of the conference may take independent action . . . upon not more than 10 calendar days' notice to the conference. . . ." This language requires each conference agreement to contain such a provision which establishes a maximum waiting period following notice *of not more than* 10 calendar days. The conference is then required to ". . . include the new rate or service item in its tariff for use by that member *effective* no later than 10 calendar days after receipt of the notice (emphasis added)." This language not only obligates the conference to *file* the IA item in the conference tariff after receiving notice, but further specifies when the IA item shall become *effective*. This limit applies both to the conference and the individual member taking IA. Neither the conference nor the IA proponent may set an effective date beyond 10 calendar days. The language of section 5(b)(8), when read in its entirety, establishes a clear, certain, and predictable mechanism governing independent action which includes a 10 calendar day limit on IA notice. Once formal notice of independent action has been given, the Act establishes a definite scheme for filing of the IA item in the conference tariff and effectiveness of the IA item.

The legislative history, to the extent that it addresses the question of notice, waiting period and effective date, is not inconsistent with and in some instances supports the interpretation of section 5(b)(8) taken in the Final Rule. The Conference Report, for example, stated that:

> The conferees agree that the notice period to be given to the conference before a member may take independent action cannot be more than ten calendar days. The House recedes from a provision that would have limited the notice period to 2 working days for independent action; the Senate recedes from a provision that would have limited independent action to certain trades and only when a loyalty contract is in effect.

H.R. Rep. No. 98-600, 98th Cong., 2d Sess. 29 (1984). Similarly, the House Committee on the Judiciary stated that the bill "". . . requires all conferences to permit independent action upon a maximum of ten days' notice to the conference." H.R. Rep. No. 98-53, Part 2, 98th Cong., 1st Sess. 30 (1983).

Moreover, as the legislative history acknowledges, the proper length of the waiting period was a matter of dispute:

> The proper length of the waiting period has been a matter of some dispute. The chemical manufacturers advocate no waiting period, or a maximum of 48 hours; Sea-Land Industries argues that conferences need at least ten days; other carrier representatives believe a still longer period is necessary to allow conference members to meet before the rate takes effect. As approved by the Committee, the conference may shorten, but cannot lengthen, the ten-day notice period. While some carriers preferred a longer period, the Committee believes some concessions are warranted in the interest of a flexibility [sic] pricing mechanism that could significantly aid this nation's export performance.

H.R. Rep. No. 98-53, Part 2, 98th Cong., 1st Sess. 27 (1983). The 10-day waiting period thus represents a compromise between shipper interests which had advocated no waiting period or 48-hour notice and some carrier interests which had advocated a longer waiting period. Moreover, a 10-day ceiling was imposed so that there would be more pricing flexibility for the benefit of U.S. shippers and exporters. A shorter waiting period before a rate or service item becomes effective also contributes to the stated intention to give U.S. shippers ". . . greater flexibility in meeting price competition from foreign shippers and to enable them to respond more quickly to market opportunities." H.R. Rep. No. 98-53, Part 1, 98th Cong., 1st Sess. 31 (1983).

Although not directly addressing the question of voluntary notice, the extensive discussion in the legislative history of the appropriate period of notice would appear to have little value if a member line could voluntarily give more than 10 days' notice. Similarly, the compromise between carrier and shipper interests would appear to be disturbed if carrier members could voluntarily provide more notice. As noted above, the Conference Report states that the Act provides for a ". . . strong requirement of independent action with a *limited notice period* (emphasis added)." H.R. Rep. No. 98-600, 98th Cong., 2d Sess. 33-34 (1984). The Final Rule implements the intended purpose of section 5(b)(8) by assuring that shippers will have the benefit of IA rates that become effective within 10 days after notice. The Final Rule also reduces the potential danger that, by allowing voluntary notice in excess of 10 days, conference members might become participants in implicit understandings in which carriers would always "voluntarily" give more than 10 days' advance notice of independent action.

The various objections raised by the conference comments do not warrant a change in this provision of the Proposed Rule. The alleged loopholes in the Proposed Rule which would allow effectively for longer periods of notice do not in any way undermine the purpose or value of a maximum 10-day requirement. The Proposed Rule was not intended to preclude advance discussions of possible independent actions or other rate actions or considerations that might be undertaken prior to formal notice. In fact, the availability of these procedures indicates that conference flexibility in considering IA proposals is not unduly impaired. Moreover, the Proposed Rule does not prevent an individual carrier that has given notice of IA from withdrawing the IA prior to its effectiveness. In this regard, the alleged positive benefits of allowing voluntary notice of more than 10 days (*i.e.*, better communications, conference stability, etc.) still would be largely available under various pre-formal notice

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procedures. The Rule does ensure, however, that once formal notice is given, and unless withdrawn by the IA proponent, the filing of the tariff and effectiveness of the IA rate will occur in a predictable and certain manner.

Nor does the alleged inconsistency of the Proposed Rule with section 8(d) of the Act constitute a barrier to the issuance of a Final Rule precluding voluntary notice in excess of 10 days. The Final Rule has been harmonized with section 8(d) by expressly recognizing that new or increased rates are subject to the requirements of section 580.10(a)(2), 46 CFR 580.10(a)(2), of the Commission's tariff rules. Presumably, such instances would be rare because the vast majority of independent actions are rate decreases. In this regard it should be noted that at one point H.R. 1878 expressly provided that independent action would apply only to an action ". . . that results in a decreased cost to a shipper . . . ." The accompanying Committee Report noted that: "Independent action must be limited to decreases in rates." H.R. Rep. No. 98–53, Part 2, 98th Cong., 1st Sess. 30 (1983). Although this language did not remain in the legislation which became law, it would appear to be consistent with the Act to allow IA on any tariffed rate or service item, including rate increases, but to make IA's which increase rates subject to tariff filing requirements. The approach also seems appropriate inasmuch as both section 5(b)(8) and section 8(d) are provisions of the Act which are intended to benefit shippers. The Final Rule reconciles the requirements of both provisions.

Neither the principles of contract law nor the construction given to notice periods in other statutes or agency rules are controlling in this instance. Section 5(b)(8) sets statutory limits on the waiting period before tariff filing and on rate effectiveness which apply both to the conference and the individual member.

Finally, the Proposed Rule is not inconsistent with the Commission's previous interpretation of notice requirements made in Docket No. 84–26, *Rules Governing Agreements by Ocean Common Carriers and Other Persons Subject To The Shipping Act of 1984*, 49 FR 45320 (November 15, 1984), as alleged in some comments. In that proceeding, the Commission ultimately deleted the model independent action provision which had been in effect in the interim rule issued under the 1984 Act. *See* 46 CFR 572.801(e). The Commission retained unchanged § 572.502(a)(4) which specified the content of the independent action article of conference agreements. In addressing the comments to § 572.502(a)(4), the Commission stated:

> Section 572.502(a)(4) requires that conference agreements specify its (sic) independent action procedures. Comment 34 proposes that this section be revised to permit: (1) independent action procedures which allow for the exercise of such action on less than 10 calendar days' notice; and (2) a conference member to independently elect to provide more than 10 calendar days' notice of its intention to exercise independent action.
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> Section 572.502(a)(4) tracks the language of section 5(b)(8) of the Act which, in relevant part, provides that conference agreement independent action provisions may not impose a notice period of ". . . more than 10 calendar days . . ." for the exercise of independent action. The revisions suggested by Comment 34 are unnecessary because their intended purpose is presently being served by section 572.502(a)(4). Therefore, no change to this section has been made.
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> 49 FR 45335.

One comment relies upon this discussion as support for the contention that the Commission has previously interpreted section 5(b)(8) of the Act to allow for voluntary notice of more than 10 days. This reliance is misplaced. Certainly nothing in the present rule itself (§ 572.502(a)(4)) in any way interprets section 5(b)(8) as allowing for voluntary notice of more than 10 days. Moreover, the accompanying discussion referred to above was intended merely to indicate that further changes in § 572.502(a)(4) were unnecessary inasmuch as conferences would be permitted to draft their own independent action provisions in accordance with section 5(b)(8) of the Act. The discussion did not expressly authorize voluntary notice of more than 10 days. To the extent that that discussion may have left any ambiguity on this issue, it is clarified by the Final Rule issued in this proceeding.

As indicated in the Notice of Proposed Rulemaking, § 572.502(a)(4)(ii) is intended to address provisions in conference agreements which are stated in terms of a minimum period of notice to the conference. An example of such a provision would be one which states that a conference member may take independent action "upon not less than 10 calendar days' notice to the conference." Such a provision requires a minimum period of notice but leaves open the possibility that a member line taking independent action may voluntarily provide notice which exceeds the required minimum, including notice in excess of 10 days. Such conference provisions which only establish a minimum notice period are prohibited by the Final Rule. The Final Rule permits a conference to provide for a fixed period of notice not in excess of 10 calendar days, or a range of notice provided that the maximum permissible notice does not exceed 10 calendar days.

3. Section 572.502(a)(4)(iii)—Single Notice

Section 572.502(a)(4)(iii) of the Proposed Rule states that an IA proponent may only be required to give a single notice to a "conference official" or "designated representative." The Proposed Rule would codify by rule the Commission's established policy with regard to multiple notice provisions. Although not expressly stated, this section does not preclude an IA proponent from voluntarily giving notice to the other parties to the agreement.

DOJ contends that this section of the Proposed Rule warrants adoption because it prohibits a procedural obstacle to independent action that is inconsistent with the statutory language which requires notice "to the conference." CMA supports this section and states that the statute allows only for single notice.

Relying on the statutory definition of the term "conference," 46 U.S.C. app. 1702(7), four conference comments argue that the individual members of the conference are "the conference" and that a requirement of notice to each member therefore is permissible.

Two comments contend that the Act does not prohibit a conference from requiring direct notice to each conference member, provided that the conference does not refuse to publish an independent action in a tariff or otherwise withhold the right of independent action if the member fails to notify other members as well as the conference secretariat. Another comment adds that a multiple notice requirement is permissible provided that the notice to all members does not extend the notice period.

Other comments contend that: (1) Multiple notice imposes little if any burden on the IA proponent; (2) there is no evidence that multiple notice would deter IA; (3) many rate agreements operate without a secretariat and depend on the initiating party to communicate with all other participants; and (4) notice to all other members serves a legitimate commercial purpose by assuring that other members have a reasonable period of time to decide whether to exercise follow-up IA. Finally, two comments submitted by carrier interests take the position that the Act does prohibit a conference from requiring a member to give more than one notice, but does not preclude a member from voluntarily doing so.

Section 5(b)(8) of the Act requires an IA proponent to provide notice "to the conference." the Act's definition of "conference," 46 U.S.C. app. 1702(7), states:

> "conference" means an association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to utilize a common tariff; but the term does not include a joint service, consortium, pooling, sailing, or transshipment arrangement.

This definition does not support the argument advanced in several comments that the conference is merely the sum of its members and therefore notice to each member may be required. Rather the definition makes clear that the conference is itself a distinct entity, namely an "association of ocean common carriers." It is the single entity, i.e. "association," to whom notice must be given. Section 5(b)(8) provides that "the conference" will include the new rate or service item in its tariff. Normally this is accomplished by the conference office or secretariat. The filing of the IA tariff item is not the responsibility of the other member lines. If there is no central conference office, then one member could be designated to file the tariff.

Other comments contend that a conference may require multiple notice as long as this requirement does not prevent or delay the publication of the IA item in the conference tariff. Such an interpretation, in addition to again ignoring that the Act speaks in terms of notice "to the conference," also, as a practical matter, lays a heavy collateral burden on the taking of IA since failure to provide multiple notice still would constitute a breach of the agreement in the view of these comments. Finally, it should be noted that the Proposed Rule does not preclude voluntary notice to other conference members. Thus, the alleged benefits of multiple notice still might be available through voluntary notice to the other members.

Section 572.502(a)(4)(iii) also requires each conference agreement to indicate which conference official or single designated representative is to receive the IA notice. One comment suggests that this requirement be modified to allow the conference to designate an office rather than a particular person. Another comment recommends that, if this requirement is retained, it be modified to take into account conferences which conduct ratemaking by sections and to allow notice to the section.

These suggested changes may be accommodated without imposing any additional burden on the IA proponent and may facilitate the giving of IA notice. It is therefore appropriate to amend this section to allow a conference to designate a conference official, single designated representative, or conference office as the recipient of the IA notice. As discussed above, a new paragraph allowing for notice to the ratemaking section in lieu of notice to the overall conference would address the concerns of such conferences where ratemaking is by section.

Finally, it should be noted that § 572.404 of the Commission's rules, 46 CFR 572.404, allows for a waiver of any of the requirements of § 572.502 upon a showing of good cause. A waiver of the single notice requirement might be available, for example, to a conference with no formal administrative structure for receiving notice or to a conference made up of only a few lines.

4. Section 572.502(a)(4)(iv)—Mandatory Meetings, Etc.

Section 572.502(a)(4)(iv) of the Proposed Rule prohibits a conference from requiring attendance at conference meetings, submission of information other than that necessary to accomplish tariff filing, or compliance with any other procedures for the purpose of explaining, justifying, or compromising the proposed independent action. This section would codify current Commission policy in this area.

DOJ supports this section of the Proposed Rule and argues that such meeting, informational, or procedural requirements should be prohibited because they encourage intimidation, harassment, and coercion of carriers who attempt to take IA. CMA argues that such mandatory requirements should be prohibited because the Act provides for independent action, not action that must be discussed and considered collectively.

Two conference comments argue that the Act does not prohibit a requirement of mandatory meetings. TWRA, for example, states: "It is permissible . . . to require . . . meetings and even to treat failure to comply as a breach, so long as the IA is published as noticed within 10 days." TWRA and PNAC argue that the conference also may require additional information or data so long as failure to comply cannot be used as a basis for refusing to publish a tariff. Another comment argues that the conference may require a statement of the reasons motivating or underlying the independent action. Finally, one comment argues that conferences should be permitted to require a "post-IA exercise" explanation of the IA.

Several other conferences express no objection to this paragraph provided that it is clarified that voluntary meetings, voluntary submission of additional information or data, and voluntary procedures to explain or justify independent action are not precluded.

The argument that mandatory requirements beyond notice to the conference may be imposed upon an IA proponent, provided that the conference fulfills its filing obligation, is without merit. Simply because a requirement is not made a pre-condition to filing IA does not alter the fact that it places an obligation on the IA proponent once the proponent takes IA. Mandatory requirements which are absolute pre-conditions to the taking of IA are, of course, more offensive. But whenever the taking of IA means that the proponent must meet some other requirement, sometimes even at risk of violating the conference agreement if not done, that provision has gone beyond the permissible limits of section 5(b)(8) of the Act inasmuch as it may burden the use of independent action.

The Act merely requires an IA proponent to give notice. Once notice is given, the conference must carry out the ministerial task of tariff filing. An IA proponent has no other obligations under the Act. Any *mandatory* requirement beyond notice is impermissible. As some of the comments candidly acknowledge, failure to meet these conference-imposed mandatory requirements would be a breach of the agreement. Such a breach would presumably subject the IA proponent to penalties under the terms of the agreement, a circumstance which would clearly burden the taking of independent action. Therefore, any mandatory requirements, whether meetings, information, or procedures, appear to be prohibited under the Act. This prohibition is clarified by the Proposed Rule. Even post-IA *mandatory* explanations, although arguably less burdensome, are impermissible.

The Proposed Rule does not preclude *voluntary* attendance at meetings, submission of information, or observance of procedures. Such provisions do not, in themselves, burden the taking of independent action. There does not appear to be any reason at this time to prohibit IA proponents who wish to *voluntarily* accommodate the conference or its members from doing so.

5. Section 572.502(a)(4)(v)—Following IA

Section 572.502(a)(4)(v) of the Proposed Rule incorporates the

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requirement under the Act that the conference file the IA item in the conference tariff for use by the member. It also provides for following IA by other members who wish to adopt an IA item as their own.

Several comments seek clarifications of this provision. One suggests that the language of this provision be modified to account for conferences in which ratemaking is done by sections. A similar change has been considered in connection with earlier paragraphs of the Proposed Rule and shall be accommodated here through the paragraph which allows for notice to the section in such conferences.

Several comments suggest that the Final Rule expressly state that an IA proposal may be amended, postponed, or cancelled during the notice period and prior to its effectiveness. The Proposed Rule did not preclude such action by an IA proponent. Nor does the Final Rule.

Finally, one comment states that the Final Rule should protect follow-up independent action by providing that a following IA continues to remain in effect after the original IA is withdrawn prior to its effective date unless the conference is instructed otherwise. Whatever the merit of this comment, such a provision was not put forth in the Proposed Rule and would appear to be beyond the scope of this rulemaking proceeding. In addition, this issue is currently being addressed in Commission Docket No. 86–3, *Modifications to the Trans-Pacific Freight Conference of Japan Agreement, et al.*

6. Section 572.502(a)(4)(vi)—Compliance

Section 572.502(a)(4)(vi) of the Proposed Rule provides for immediate compliance with a Final Rule by all new conferences and allows 90 days after effectiveness for compliance by other conferences.

One conference states that it needs 180 days to accomplish the changes which might be required by the Proposed Rule and requests that that rule allow the period of time for compliance.

It would appear that 90 days is not an unreasonable period of time in which to achieve compliance with the Final Rule. Indeed, only one conference expressed any difficulty with this provision. Therefore, a change in this section is not deemed necessary.

7. Section 572.502(a)(4)(vii)—Rejection

Section 572.502(a)(4)(vii) provides that any agreement which does not comply with the requirements of this section shall be rejected pursuant to section 572.601.

One comment argues that this provision is inconsistent with paragraph (vi) and should be deleted. A number of other comments argue that this paragraph exceeds the Commission's rejection authority. These comments argue that the Commission can only reject an agreement because it failes to meet the express requirements of section 5(b) of the Act.

Section 5(b) states that each conference agreement *must, inter alia,* provide a member line the right of independent action or not more than 10 days' notice. The Proposed Rule would prohibit only those provisions which, on their face, fail to comply with one of the requirements a conference agreement filed pursuant to section 5 must meet if it is to be made effective under section 6 and granted antitrust immunity under section 7 of the Act. Accordingly, this appears to be a proper use of the Commission's rejection authority and shall be retained in the Final Rule.

8. Section 572.502(a)(4)(viii)—Ratemaking Section

Section 572.502(a)(4)(viii) provides that, if ratemaking is done by sections within a conference, any notice required by the Final Rule may be to the section involved. This is a new paragraph which accommodates a concern expressed in a conference comment as discussed above.

III. Conclusion

This Final Rule is intended to give full effect to section 5(b)(8) of the Act in accordance with the Act's guiding policies. The changes made in the Proposed Rule accommodate as fully as is consistent with the requirements of the Act certain concerns expressed in the comments. The key substantive provisions of the Proposed Rule, however, have been retained in the Final Rule.

The Federal Maritime Commission has determined that this rule is not a "major rule" as defined in Executive Order 12291, 46 FR 12193, February 27, 1981, because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effect on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Chairman of the Commission certifies pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) that this Rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units, and small governmental jurisdictions.

The collection of information requirements contained in this Final Rule have been approved by the Office of Management and Budget under provisions of the Paperwork Reduction Act of 1980 (P.L. 96–511) and have been assigned OMB Control Number 3072–0045.

List of Subjects in 46 CFR Part 572:

Administrative practice and procedure, Antitrust, Contracts, Maritime carriers, Rates and fares, Reporting and recordkeeping requirements.

PART 572—[AMENDED]

Therefore, pursuant to 5 U.S.C. 553 and sections 5, 6, and 17 of the Shipping Act of 1984 (46 U.S.C. app. 1704, 1705, 1716), Part 572 of Title 46, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 572 continues to read as follows:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 1701–1707, 1708, 1710, 1712, 1714–1717.

2. Paragraph (a)(4) of § 572.502 is revised to read:

§ 572.502 Organization of conference and interconference agreements.

(a) * * *

(4) *Article 13—Independent action.*

(i) Each conference agreement shall specify the independent action procedures of the conference which shall provide that any conference member may take independent action on any rate or service item required to be filed in a tariff under section 8(a) of the Act upon not more than 10 calendar days' notice to the conference and shall otherwise be in conformance with section 5(b)(8) of the Act.

(ii) Each conference agreement that provides for a period of notice for independent action shall establish a fixed or maximum period of notice to the conference. A conference agreement shall not require or permit a conference member to give more than 10 calendar days' notice to the conference, except that in the case of a new or increased rate the notice period shall conform to the requirements of § 580.10(a)(2).

(iii) Each conference agreement shall indicate the conference official, single designated representative, or conference office to which notice of independent action is to be provided. A conference agreement shall not require notice of independent action to be given by the proposing member to the other parties to the agreement.

(iv) A conference agreement shall not require a member who proposes independent action to attend a conference meeting, to submit any further information other than that necessary to accomplish the filing of the independent tariff item, or to comply with any other procedure for the purpose of explaining, justifying, or compromising the proposed independent action.

(v) A conference agreement shall specify that any new rate or service item proposed by a member under independent action shall be included by the conference in its tariff for use by that member effective no later than 10 calendar days after receipt of the notice and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date.

(vi) All new conference agreements filed on or after the effective date of this section shall comply with the requirements of this section. All other conference agreements shall be modified to comply with the requirements of this section no later than 90 days from the effective date of this section.

(vii) Any new conference agreement or any modification to an existing conference agreement which does not comply with the requirements of this section shall be rejected pursuant to § 572.601 of this part.

(viii) If ratemaking is by sections within a conference, then any notice to the conference required by § 572.502(a)(4) may be made to the particular ratemaking section.

* * * * *

By the Commission.

John Robert Ewers,

Secretary.

[FR Doc. 86–9805 Filed 4–29–86; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 86–153]

Practice and Procedure; Improvement of the Efficiency and Clarity of Informal Complaint Procedures and Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has revised its procedures for handling informal complaints to reduce delay, improve processing efficiency, and clarify procedural requirements.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

EFFECTIVE DATE: May 30, 1986.

FOR FURTHER INFORMATION CONTACT: Norberta Yurawecz, Enforcement Division, Common Carrier Bureau, (202) 632–7553.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's order, adopted April 7, 1986, and released April 18, 1986.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Library (Room 639), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's Copy Contractor, International Transcription Service, (202) 857–3800, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of Order

1. This action revises § 1.713 and §§ 1.716–1.718 of the Commission's Rules, dealing with informal complaints, in order to promote more efficient processing of such matters. The revisions include direct service of responses upon complainants by the affected carrier, modification of the form for informal complaints to include complainant's telephone number and a description of the relief sought, elimination of the requirement that carriers file duplicate responses with the Commission, and specification of those circumstances under which complainants will be contacted by the Commission regarding its review and disposition of the matters raised.

2. These revisions will reduce delay in informing complaints of the results of the carrier's investigation, improve processing, and clarify and simplify the Commission's handling of informal complaints.

Ordering Clause

3. Accordingly, it is ordered that, effective May 30, 1986, §§ 1.713, 1.716, 1.717 and 1.718 of the Commission's Rules, 47 CFR 1.713, 1.716, 1.717 and 1.718, are amended as set forth below.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Federal Communications Commission.

William J. Tricarico,

Secretary.

PART 47—[AMENDED]

Part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 1 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

§ 1.713 [Amended]

2. Section 1.713 is amended by removing the phrase "in duplicate".

3. Sections 1.716–1.718 are revised to read as follows:

Informal Complaints

§ 1.716 Form.

An informal complaint shall be in writing and should contain: (a) The name, address and telephone number of the complaint, (b) the name of the carrier against which the complaint is made, (c) a complete statement of the facts tending to show that such carrier did or omitted to do anything in contravention of the Communications Act, and (d) the specific relief of satisfaction sought.

§ 1.717 Procedure.

The Commission will forward informal complaints to the appropriate carrier for investigation. The carrier will, within such time as may be prescribed, advise the Commission in writing, with a copy to the complainant, of its satisfaction of the complaint or of its refusal or inability to do so. Where there are clear indications from the carrier's report or from other communications with the parties that the complaint has been satisfied, the Commission may, in its discretion, consider a complaint proceeding to be closed, without response to the complainant. In all other cases, the Commission will contact the complainant regarding its review and disposition of the matters raised. If the complainant is not satisfied by the carrier's response and the Commission's disposition, it may file a formal

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complaint in accordance with § 1.721 below.

§ 1.718 Unacted-on informal complaints; formal complaints relating back to the filing dates of informal complaints.

When an informal complaint has not been satisfied pursuant to § 1.717, the complainant may file a formal complaint with this Commission in the form specified in § 1.721. Such filing will be deemed to relate back to the filing date of the informal complaint: Provided, that the formal complaint: (a) Is filed within 6 months from the date of the carrier's report, (b) makes reference to the date of the informal complaint, and (c) is based on the same cause of action as the informal complaint. If no formal complaint is filed within the 6-month period, the complainant will be deemed to have abandoned the unsatisfied informal complaint.

[FR Doc. 86-9661 Filed 4-29-86; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-110; RM-4776; RM-5069]

FM Broadcast Station in Willcox, AZ, et al.

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes FM Channel 275C1 for Channel 224A at Bayard, New Mexico and modifies the Class A license of Station KNFT–FM, in response to a petition filed by KNFT, Incorporated. In addition, Channel 224A is deleted at Silver City, New Mexico.

EFFECTIVE DATE: June 2, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

First Report and Order

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Willcox, Arizona, *Silver City* [1] and *Bayard, New Mexico);* MM Docket No. 85–110, RM–4776, *RM–5069.*

Adopted: April 10, 1986.
Released: April 24, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has under consideration the *Notice of Proposed Rule Making* herein, 50 FR 16112, published April 24, 1985, which proposed the substitution of FM Class C Channel 300 for Channel 252A at Willcox, Arizona and modification of the license of Station KWCX(FM) accordingly, in response to a petition filed by Rex K. Jensen ("Jensen"). In addition, a counterproposal was filed by KNFT, Incorporated ("KNFT"), licensee of Station KNFT–FM,[2] (Channel 224A), Bayard, New Mexico, requesting the substitution of Class C FM Channel 300 for Channel 224A at Bayard and modification of its license.[3]

2. Since the distance between Willcox and Bayard is approximately 142 kilometers, whereas 290 kilometers is required between Class C co-channels, KNFT's petition at Bayard was accepted as a counterproposal.[4] However, KNFT subsequently modified its request to specify Channel 275C1 in lieu of Channel 300 to avoid a conflict with Willcox. In the event other interests in the Bayard proposal were expressed, KNFT provided information reflecting that several other Class C1 channels could be alloted (See, *Modification of FM and TV Station Licenses,* 98 FCC 2d 916 (1984).)

3. Both Willcox, Arizona and Bayard, New Mexico are within 320 kilometers of the common U.S.–Mexico border, thus necessitating concurrence by the Mexican government in the proposals. At this time the Commission has obtained such approval with respect to Bayard. Therefore, and in the interest of expediting service to the Bayard area, we are severing the Bayard proposal since it no longer conflicts with the Willcox proposal. No oppositions nor other expressions of interest in the Bayard proposal were received.

4. KNFT's proposal is premised on its desire to increase service to the public by expanding its listening area to include a greater portion of Grant County which it describes as "fast growing" having increased approximately 19% during the last census period.

5. We believe the public interest would benefit from the KNFT proposal since it could provide Bayard, New Mexico with its first wide-coverage area FM station. A staff engineering study reveals that Channel 275C1 may be allotted to Bayard at the present site of Station KNFT(FM), in conformity with § 73.207(b) of the Commission's Rules.

6. Accordingly, pursuant to the provisions of sections 5(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective June 2, 1986, the FM Table of Allotments, § 73.202(b) is amended with respect to the communities listed below, as follows:

City	Channel No.
Silver City, NM	233A
Bayard, NM	275C1

7. It is further ordered, That, pursuant to section 316(a) of the Communications Act of 1934, as amended, the license of KNFT, Incorporated for Station KNFT-FM, Bayard, New Mexico, is modified effective June 2, 1986, to specify operation on Channel 275C1 in lieu of Channel 224A. The license modification for Station KNFT-FM is subject to the following conditions:

(a) The licensee shall submit to the Commission a minor change application for a construction permit (Form 301), specifying the new facilities;

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620;

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.1301 of the Commission's Rules.

8. It is further ordered, that the Secretary of the Commission shall send a copy of this Order by certified mail, return receipt requested, to KNFT, Incorporated, Highway 180 East, Silver City, New Mexico 88061.

9. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

[1] These communities have been added to the caption.

[2] KNFT is also the licensee of Station KNFT (AM), Bayard.

[3] Channel 224A is allotted to Silver City, New Mexico, and licensed to Bayard under the former "10 mile" rule (Section 73.208(b)).

[4] Public Notice of the counterproposal was given on June 20, 1985, Report No. 1523

Federal Communications Commission.

Charles G. Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-9653 Filed 4-29-86; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-142; RM-4775]

FM Broadcast Station in St. George, UT

AGENCY: Federal Communication Commission.

ACTION: Final rule.

SUMMARY: Action taken herein, at the request of ESG Corporation, allots Class C Channel 259 to St. George, Utah, as that community's second FM service.

EFFECTIVE DATE: May 30, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations (St. George, Utah); MM Docket No. 85–142, RM–4775.

Adopted: April 9, 1986.
Released: April 23, 1986.

By the Chief, Policy and Rules Division.

1. The Commission considers herein the *Notice of Proposed Rule Making,* 50 FR 23731, published June 5, 1985, proposing the allotment of Class C Channel 259 to St. George, Utah, as that community's second FM service. The *Notice* was issued in response to a petition filed by ESG Corporation ("petitioner"). Petitioner filed supporting comments and reply comments reaffirming its intention to apply for the channel. Simmons Family Inc., filed supporting comments stating its intention to apply for the channel.

2. The Commission believes that the public interest would be served by the allotment of Channel 259 to St. George, Utah, as that community's second FM channel. The channel can be allotted in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective May 30, 1986, the FM Table of Allotments is amended with regard to the following community:

City	Channel No.
St. George, UT	228A, 259

4. The window period for filing applications will be open on June 2, 1986 and close on July 2, 1986.

5. It is further ordered, that this proceeding is terminated.

6. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

Federal Communication Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-9654 Filed 4-29-86; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-250; RM-4981]

FM Broadcast Station in Twisp, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein, at the request of Broadcasters Northwest, Inc., allots Channel 292A to Twisp, Washington, as that community's first FM service.

EFFECTIVE DATE: May 30, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order (Proceeding terminated)

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Twisp, Washington); MM Docket No. 85–250, RM–4981.

Adopted: April 9, 1986.
Released: April 23, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making,* 50 FR 34520, published August 26, 1985, proposing the allotment of FM Channel 292A to Twisp, Washington, as that community's first FM channel, at the request of Broadcasters Northwest, Inc. Supporting comments and reply comments were filed by petitioner reaffirming its interest in the proposed channel.

2. Channel 292A can be allotted to Twisp, Washington in compliance with the minimum spacing requirements. Since Twisp is located 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence from the Canadian government has been obtained.

3. We believe the public interest would be served by the allotment of Channel 292A to Twisp, as its first FM service. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, §§ 0.61, 0.204(b) and 0.282 of the Commission's Rules, it is ordered, that effective May 30, 1986, the FM Table of Allotments, § 73.202(b) of the Rules, is amended with respect to the following community:

City	Channel No.
Twisp, WA	292A

4. The window period for filing applications will open on June 2, 1986 and close on July 2, 1986.

5. It is further ordered that this proceeding is terminated.

6. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-9655 Filed 4-29-86; 8:45 am]
BILLING CODE 6712-01-M

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DEPARTMENT OF DEFENSE

48 CFR Parts 232 and 252

Department of Defense Federal Acquisition Regulation Supplement; Limitation of Progress Payments

AGENCY: Department of Defense (DoD).

ACTION: Final rule; correction.

SUMMARY: This document corrects the effective date contained in a final rule which was published April 21, 1986 (51 FR 13513).

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P)/DARS, c/o OASD(A&L), Room 3C841, The Pentagon, Washington, DC 20301-3062, telephone (202)697-7266.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

The Department of Defense is correcting the effective date to read as follows:

EFFECTIVE DATE: For solicitations issued on or after April 7, 1986.

[FR Doc. 86-9702 Filed 4-29-86; 8:45 am]

BILLING CODE 3810-01-M

48 CFR Parts 242 and 252

Department of Defense Federal Acquisition Regulation Supplement; Indirect Cost Certificate

AGENCY: Department of Defense (DoD).

ACTION: Final rule; correction.

SUMMARY: This document corrects amendatory language contained in a final rule which was published April 21, 1986 (51 FR 13517).

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Lloyd, Executive Secretary, DAR Council, ODASD(P) / DARS, c/o OASD(A&L), Room 3C841, The Pentagon, Washington, DC 20301-3062, telephone (202)697-7266.

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

The Department of Defense is correcting amendatory language to read as follows:

1. Numbered paragraph 2. appearing on page 13517, is corrected to read as follows:

Sections 242.770 and 242.770-1 are revised; and section 242.770-2 is removed, as follows:

2. Numbered paragraph 3. appearing on page 13518, is corrected to read as follows:

Section 252.242-7003 is revised to read as follows:

[FR Doc. 86-9701 Filed 4-29-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rule To Determine the Sonora Chub To Be a Threatened Species and To Determine Its Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a fish, the Sonora chub (*Gila ditaenia*), to be a threatened species and determines its critical habitat under the authority contained in the Endangered Species Act of 1973, as amended. A special rule allowing take in accordance with applicable Arizona State laws and regulations is also included. The Sonora chub occurs in Santa Cruz County, Arizona, and in Sonora, Mexico. It is threatened by the possible introduction of exotic fishes and their parasites into its habitat, and by potential mining activities. It is particularly vulnerable to these threats because of its very limited range, and because of the intermittent nature of the stream. This rule implements Federal protection provided by the Endangered Species Act of 1973, as amended, for the Sonora chub.

DATES: The effective date of this rule is May 30, 1986.

ADDRESSES: The complete file for this rule is available for inspection during normal hours, by appointment, at the Region 2 Office of Endangered Species, U.S. Fish and Wildlife Service, 500 Gold Avenue, SW., Room 4000, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Burton, Endangered Species Biologist, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766-3972 or FTS 474-3972).

SUPPLEMENTARY INFORMATION:

Background

The Sonora chub was first collected by E.A. Mearns in 1893 from Sycamore Creek, Arizona. It was described from fish collected by R.G. Miller (1945) from the Rio Magdalena near the town of La Casita in Sonora, Mexico. This fish is a member of the minnow family and is generally less than 125 millimeters (5 inches) in total length. It is a moderately chubby, dark colored fish, with two prominent black lateral bands on the sides and a dark oval spot at the base of the tail. In breeding males, a red coloration develops at the bases of the lower fins and some orange coloration is present on the belly. The Sonora chub is primarily a pool dweller, but is highly secretive and little is known of its behavior and habitat preferences (Minckley, 1973).

In the United States, the Sonora chub occurs in Sycamore Canyon in Sycamore Creek proper, Yank's Spring, and in two of its tributaries, located on the Coronado National Forest northwest of Nogales, Santa Cruz County, Arizona. The tributaries include the lower 1.25 stream miles (sm) of Penasco Creek, and the lower .25 sm of an unnamed stream in an unnamed canyon that enters Sycamore Canyon from the west in the NW¼ of Section 23, T. 23 S., R. 11 E. (Bell, 1984). Yank's Spring is a perennial spring which has been impounded in a concrete tank for many years. Sycamore Creek starts to flow about .5 mile below Yank's Spring and flows downstream 3.7 miles (USDA, 1982) in a series of pools and small riffles over a bedrock and rubble substrate. It is intermittent during part of the year, at which time it is a series of pools of varying depth (L. Miller, 1949; Brooks, 1982). When intermittent, pools are maintained in shaded areas against cut banks or the canyon walls by underground flow Minckley, 1973). During years of heavy rainfall, water does reach to the International Border, some 5 miles downstream from Yank's Spring, at which time the Sonora chub presumably extends its range to that boundary, if not beyond. Pensaco Creek is a west-flowing tributary to Sycamore Creek. It drains a large portion of the east side of the Sycamore Creek watershed, but has only intermittent flow. The chub is found in the lower 1.25 sm of the creek in pools in bedrock or pools maintained by underground flow (Bell, 1984). The unnamed stream channel supports three perennial bedrock pools in the .25 sm just above its confluence with Sycamore Creek. The lower two pools support large numbers of Sonora chubs (Bell, 1984).

Available life history information is limited to food habit observations based on a few individuals and to spawning observations based on the presence of young in various collections (Minckley, 1973). Information on the riparian habitat is provided in earlier works by R.G. Miller (1945), L. Miller (1949), and Goodding (1961). Recent water quality and habitat information is presented by Brooks (1982) in a brief characterization of the physio-chemical features of Sycamore Creek. This information is summarized in the 1983 status report on *Gila ditaenia* (Minckley, 1983).

Current threats to the United States population include the stocking of exotic fishes and their associated parasites, and possible uranium mining activities.

In the State of Sonora, Mexico, this fish is known from very few localities, and nothing is known about its biology. The 1940 type locality was the Rio Magdalena near La Casita, Sonora, Mexico. At that time the Rio Magdalena was a clear stream 4 to 5 feet wide, about 1 foot deep, and with a fairly swift current over a bottom of sand and gravel. The principal vegetation was watercress, found in backwaters along the stream (R.G. Miller, 1945). It is not known if habitat for *Gila ditaenia* still exists at this location, or if so, its condition. *Gila ditaenia* has been collected as recently as 1981 from the Rio Magdalena drainage at Campo Carretero and Cienega La Atascosa (D. Hendrickson, Arizona State University, pers. comm., 1983; and in press). These collections indicate the possibility of hybridization between *Gila ditaenia* and *Gila purpurea*, the Yaqui chub, in at least one locality.

In November 1982, the U.S. Fish and Wildlife Service contracted Mr. C.O. Minckley to prepare a report on the status of *Gila ditaenia*. Minckley recommended threatened status with critical habitat because of threats to the species from the introduction of exotic fishes and their associated parasites, and potential mining activities; and the fact that this fish occurs in a very limited area in Arizona and has an uncertain status in Mexico.

Gila ditaenia was included on the Service's December 30, 1982, Vertebrate Notice of Review (47 FR 58454) in category 2. Category 2 includes those taxa that are thought to possibly warrant listing as threatened or endangered, but for which more information is needed to determine the status of the species and to support listing. That information is now available for *Gila ditaenia* in a status report (Minckley, 1983). On June 6, 1984, the Service published a proposed rule to determine *Gila ditaenia* to be a threatened species with critical habitat (49 FR 23402).

Gila ditaenia is listed by the State of Arizona as a threatened species, Group 3 (Arizona Game and Fish Commission, 1982), which comprises those species ". . . whose continued presence in Arizona could be in jeopardy in the foreseeable future."

Summary of Comments and Recommendations

In the June 6, 1984, proposed rule (49 FR 23402) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the *The Nogales Herold* in Nogales, Arizona, on July 3, 1984, that invited general public comment. Nine comments, all in support of the proposal, were received and are discussed below. No public hearing was requested or held.

The U.S. Forest Service supported the listing of *Gila ditaenia* as threatened and the designation of critical habitat. However, it recommended that the lower 1.25 sm of Penasco Creek, a small tributary of Sycamore Creek, be added to the critical habitat. It also requested that a recovery team be appointed as soon as possible. In light of additional biological information furnished by the Forest Service, the Fish and Wildlife Service agrees that Penasco Creek should be added to the designated critical habitat. This has been done in this final rule.

Letters in support of the listing and designation of critical habitat were received from the Arizona Game and Fish Department, the Board of Supervisors of Santa Cruz County, the International Union for Conservation of Nature and Natural Resources (IUCN), the Yuma Audubon Society, the American Society of Icthyologists and Herpetologists, the Desert Fishes Council, and C.O. Minckley. In addition, the IUCN stated that if will include this species in the forthcoming edition of the IUCN Fish Red Data Book, probably in the vulnerable category.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Sonora chub should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (codified at 50 CFR Part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Sonora chub are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Known present and historic range of *Gila ditaenia* in the United States consists of Sycamore Creek, Yank's Spring, the lower 1.25 sm of Penasco Creek, and the lower .25 sm of an unnamed tributary stream entering Sycamore Creek from the west. All are located on the Coronado National Forest in Santa Cruz County, Arizona. Its very limited distribution makes this fish quite susceptible to any habitat disturbances, especially during periods when the stream flow is intermittent. Habitat disturbances that could be detrimental to the species are increased siltation and runoff subsequent to mining or other activities, depletion of the stream flow, and the introduction of manmade pollutants into the stream. It is quite possible that this species could be extirpated throughout its small U.S. range in a relatively short time by such habitat damage and loss (Minckley, 1983).

Sycamore Canyon at present remains in a basically unaltered state, and present impacts of human activities in the area are relatively minor. A portion of Sycamore Creek (4.75 sm), Penasco Creek, and an unnamed tributary of Sycamore Creek are contained within the Pajarito Wilderness Area. The remaining 1.5 sm of Sycamore Creek and the lower portion of the unnamed tributary containing the Sonora chub are also contained within the Goodding Research Natural Area, which is a special use designation of the U.S. Forest Service. This area is withdrawn from mineral entry and is closed to grazing. Recreation is limited to non-developed and dispersed uses. The canyons that contain critical habitat, however, do receive heavy visitor use. Yank's Spring is the site of a trailhead parking lot for visitors, but the spring has been impounded in a concrete tank for meny years and is resistant to habitat damage.

In addition to the Sonora chub, Sycamore Canyon supports several rare and unique plant and animal species. One of these, the Tarahumara frog, which is a candidate for Federal listing, experienced a catastrophic die-off in Sycamore Canyon in 1974 and has not been found there since. The factors causing its disappearance are not fully known.

At present no mining is occurring anywhere within the Sycamore Creek watershed and none is expected in the near future (R.B. Tippecannoic, U.S. Forest Service, pers. comm., 1983);

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however, active mining is ongoing in California Gulch, just one watershed to the west. Exploration for uranium occurred in 1981 on the upper eastern slopes of the Sycamore drainage on mining claims occupying approximately 4 to 5 square miles. Uranium was found and the claims are being maintained; however, no active mining is presently planned there. The Sycamore Creek drainage contains valuable minerals, and the development of mining activity within the watershed would have the potential for severe adverse effects on *Gila ditaenia* through such activities as increased water demand and withdrawal, habitat disturbance, siltation, and pollution.

Although the canyon is included in a livestock grazing allotment, there is little direct effect on the Sonora chub habitat, due in part to steep, rocky streambank topography. Indirect effects of grazing, such as erosion and siltation, are minor at present, but could have significant effects on the Sonora chumb habitat if grazing were increased.

Very little is known about the habitat of *Gila ditaenia* in Mexico. Hendrickson (Arizona State University, pers. comm., 1983) noted that the habitat near Cienega La Atascosa was in good condition in 1981; however, there is no protection for habitat or species in Mexico and the current or proposed uses in the area are not fully known. There is irrigated agriculture along the river, but very little groundwater pumping seems to be occurring. The amount of land under cultivation, the amount of water diversion, the pollution, and the riparian and channel damage appear to have remained fairly constant in the past (G. Nabhan, University of Arizona, pers. comm., 1983).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* There is no indication that this species is overused for any of these purposes.

C. *Disease or predation.* Predation by introduced exotic fishes could prove disastrous for *Gila ditaenia*, leading to its extirpation in the United States. The introduction of exotic fishes, particularly game fish, into Sycamore Canyon would undoubtedly result in predation of the Sonora chub. Currently, predatory green sunfish occur in small numbers in the lower portions of Sycamore and Penasco Canyons; however, the extent of their impact is unknown. In 1983, mosquitofish were observed in an ephemeral pool in Penasco Canyon. The source of these fish was not determined and it is not known if they survived. The spread of mosquitofish into Penasco and Sycamore Canyons could be damaging to the Sonora chub since they are an aggressive predator. Both green sunfish and mosquitofish have been shown to be contributing factors in the decline of other southwestern native fishes. The adverse impacts of parasites, introduced along with exotic fishes, on other species of *Gila* have been documented (James, 1983; Minckley *et al.*, 1981; Wilson *et al.*, 1968) and would probably occur with *Gila ditaenia*.

D. *The inadequacy of existing regulatory mechanisms.* The State of Arizona lists this species under Group 3 of the "Threatened Native Wildlife in Arizona." Group 3 includes "Species or subspecies whose continued presence in Arizona could be in jeopardy in the foreseeable future. Serious threats to the occupied habitats have been identified and populations (a) have declined or (b) are limited to a few individuals in few locations" (AGFC, 1982). No protection of the habitat is included in such designation and no management plan exists for this species. The State of Arizona requires a scientific collecting permit for taking individuals of the Sonora chub. In Mexico no protection exists for either the species or its habitat.

E. *Other natural or manmade factors affecting its continued existence.* Although unlikely, the United States population could be extirpated by natural phenomena (drought), if the water supply for Sycamore Creek should fail. The possibility of this occurring is increased by human activities which are likely to occur in the area. Watershed disturbances within the basin, such as poor grazing practices, mining, roads, or ORV use, can contribute to erosion, lowering water tables, and disturbed runoff patterns, and may affect the amount of flow in Yank's Spring, Sycamore Creek, and Penasco Canyon. Direct manipulation of water within the basin, such as stock tank construction and groundwater pumping, could also affect the flows.

In Mexico, Hendrickson (pers. comm., 1983; and in press) found that *Gila purpurea*, the Yaqui chub, which is native to the drainages of the Rios Yaqui, Matape, and Sonora, is now present in the Rio Magdalena along with *Gila ditaenia*. His collections indicate that hybridization may be occurring between the two species in at least one location. Spread of *Gila purpurea* in the Rio Magdalena could result in extensive losses of *Gila ditaenia* through hybridization.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the Sonora chub as threatened with critical habitat. It was apparent that not listing this species would probably result in its becoming endangered in the foreseeable future because of:

(1) The small size of the U.S. population and its habitat and its resultant vulnerability to damage from a single or multiple sources,

(2) The potential for mineral development in the area, and

(3) The uncertain status of the Mexican population, its lack of any legal protection, and increasing water demand in its range. However, the status of the United States population of *Gila ditaenia* is presently stable, and at least some populations exist in Mexico. The U.S. population currently receives some protection through State regulations and by management policies of the U.S. Forest Service. Therefore, endangered status seems inappropriate.

Critical Habitat

Section 3 of the Act defines "critical habitat" as (i) the specific areas within the geographical area occupied by the species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographic area occupied by the species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrently with the determination that a species is endangered or threatened. Critical habitat is designated for *Gila ditaenia* to include the entire area where the species is known to occur in the United States. This consists of Sycamore Creek, starting from and including Yank's Spring, downstream to the International Border with Mexico; plus the lower 1.25 miles of Penasco Creek, and the lower .25 miles of an unnamed stream that enters Sycamore Creek from the west in the NW ¼ of Section 23, T.23S., R.11E. in Santa Cruz County, Arizona. This critical habitat includes a 25 foot wide riparian area along each side of Sycamore and Penasco Creeks. This riparian zone is essential to the maintenance of the creek ecosystems and the stream channels, and thus to the conservation of the species. The riparian zone around the Yank's Spring has been removed from the critical habitat designation because the spring is impounded in a concrete tank and does not have a riparian zone. No riparian zone is designated for the unnamed stream because this portion of critical habitat consists of bedrock pools that are relatively unaffected by the riparian zone. All of the designated area is located within the Coronado National Forest.

Yank's Spring, Sycamore Creek, and two of its tributaries were chosen for critical habitat designation for the Sonora chub because they presently support the only U.S. population of this species. The area provides all of the ecological, behavioral, and physiological requirements necessary for the survival of this chub. The remaining portion of the range is in Mexico. Critical habitat is not designated in areas outside U.S. jurisdiction (50 CFR 424.12(h)).

Section 4(b)(8) of the Act requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public and private) that may adversely modify such habitat or may be affected by such designation. Activities in Sycamore Canyon during times of intermittent flow, such as mining activities, could be detrimental to the critical habitat. Any activities that would deplete the flow or would significantly alter the natural flow regime in Yank's Spring, the unnamed tributary, or Sycamore or Penasco Creeks, such as excessive groundwater pumping, impoundment, or water diversion, would adversely impact the critical habitat. Any activities that would extensively alter the channel morphology of Sycamore or Penasco Creeks, Yank's Spring, or the unnamed tributary, such as mining, excessive sedimentation, impoundment, or riparian destruction, would adversely impact the critical habitat. Any activities that would significantly alter the water chemistry of Yank's Spring, Sycamore or Penasco Creeks, or the unnamed tributary, such as release of chemical or biological pollutants at a point source or by dispersed release, would adversely impact the critical habitat. Additionally, the introduction of exotic fish may prove detrimental to the Sonora chub's critical habitat due to predation and to competition for food and space. Any parasites associated with such introduction would also be detrimental. As no Federal activities are currently planned for this area, critical habitat designation is not expected to cause an impact in the near future. If, in the future, activities are planned, the critical habitat of the Sonora chub would have to be considered in such planning.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. The Service has evaluated the proposed critical habitat designation for the Sonora chub, taking into consideration all additional comments received. The critical habitat, except Yank's Spring, is contained within a natural area and a wilderness area. Forest Service management of these areas is apparently compatible with the critical habitat designation. Livestock grazing is not expected to affect or be affected by the critical habitat designation since the steep topography of the critical habitat generally precludes grazing access. There are mining claims in the vicinity of the critical habitat; however, no mining activities are currently ongoing or planned within or in the vicinity of the critical habitat designation. Recreational activities in the vicinity of Yank's Spring are not expected to affect or be affected by the critical habitat designation because the spring is impounded in a concrete tank and is resistant to habitat damage. No information was brought forward on economic or other impacts which warranted adjusting the boundaries of the critical habitat designation. Additional biological information from the U.S. Forest Service, however, did warrant adjustment of the proposed critical habitat designation to include an additional 1.5 miles of tributary streams containing the Sonora chub. The additional area is entirely on U.S. Forest Service lands and no significant economic or other impacts are expected from the adjustment of the critical habitat designation.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages the results in conservation actions by other Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal activity may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

The only known United States population of the Sonora chub, and all critical habitat for the species, are located on the Coronado National Forest. Sycamore Canyon and the adjacent canyons containing critical habitat are fairly remote and approximately 1.5 miles of Sycamore Creek is included in a natural area and a wilderness area. Present management of these areas is compatible with the critical habitat designation. Therefore, apparently Federal activities are not expected to affect or be affected by the critical habitat designation.

The Act and its implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It is also illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving threatened animal species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purposes of

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the Act. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

The above discussion generally applies to threatened species of fish or wildlife. However, the Secretary has discretion under section 4(d) of the Act to issue special regulations for a threatened species that are necessary and advisable for its conservation. *Gila ditaenia* is threatened primarily by habitat disturbance or alteration, not by intentional, direct taking of the species or by commercialization. Given this fact and the fact that the State currently regulates direct taking of the species through the requirement of State collecting permits, the Service has concluded that the State's collection permit system is more than adequate to protect the species from excessive taking, so long as taking is limited to: educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Endangered Species Act. A separate Federal permit system is not required to address the current threats to the species. Therefore, a special rule is issued that allows take to occur for the above-stated purposes without the need for a Federal permit if a State collecting permit is obtained and all other State wildlife conservation laws and regulations are satisfied. The special rule also acknowledges the fact that incidental take of the species by State-licensed recreational fishermen is not a significant threat to this species. In fact, angling is an unlikely method of capture of the species. Therefore, under this special rule such incidental take would not be a violation of the Act if the fishermen immediately returned the individual fish taken to its habitat. Any activities involving the taking of this species not otherwise enumerated in the special rule are prohibited. Without this special rule, all of the prohibitions of 50 CFR 17.31 would apply. This special rule will allow for more efficient management of the species, and thus will enhance the conservation of the species. For these reasons, the Service concludes that this regulation is necessary and advisable for the conservation of the Sonora chub.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Regulatory Flexibility Act and Executive Order 12291

The Department of the Interior has determined that designation of critical habitat for this species will not constitute a major action under Executive Order 12291 and certifies that this designation will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). No significant economic or other impacts are expected to result from the critical habitat designation. This conclusion is based on Forest Service management of recreational and other activities within the Coronado National Forest, the absence of any mining activities or plans to mine the claims within or in the vicinity of the critical habitat, and the unquantifiable benefits that may result from the critical habitat designation. In addition, no direct costs, enforcement costs, or information collection or recordkeeping requirements are imposed on small entities by this designation of critical habitat. These findings are based on a Determination of Effects that is available at the Region 2 Office of Endangered Species, U.S. Fish and Wildlife Service (See **ADDRESSES**).

Literature Cited

Arizona Game and Fish Commission. 1982. Threatened Native Wildlife in Arizona. Arizona Game and Fish Department Publication. 12 pp.

Bell, G. 1984. Sonor chub, Sycamore Canyon, Nogales RD. U.S. Forest Service, Coronado N.F., inter-office memorandum. 13 pp.

Brooks, J.E. 1982. Sycamore Creek survey–*Gila ditaenia*. Arizona Game and Fish Department inter-office memorandum. 2 pp.

Goodding, L.N. 1961. Why Sycamore Canyon in Santa Cruz County should be preserved as a nature sanctuary or natural area. Journal of the Arizona Academy of Science 1:113–115.

Hale, S.F. 1983. Status report for *Rana tarahumarae*. Boulenger. U.S. Fish and Wildlife Service, Office of Endangered Species, Albuquerque, New Mexico. 99 pp.

Hendrickson, D.A. In Press. Distribution Records of Native and Exotic Fishes in Pacific Drainage of Northern Mexico. Journal of the Arizona-Nevada Academy of Sciences.

James, A.E. 1983. *Learnea*. (copepod) infections of three native fishes from the Salt River basin, Arizona. Unpublished M.S. Thesis, Arizona State University, Tempe, Arizona.

Miller, L. 1949. Field notes on the minnow, *Gila ditaenia* in southern Arizona. Copeia 1949: 149–150.

Miller, R.G. 1945. A new cyprinid fish from southern Arizona and Sonora, Mexico, with the description of a new subgenus of *Gila* and a review of related species. Copeia 1945: 104–110.

Minckley, C.O. 1983. Status report on *Gila ditaenio* U.S. Fish and Wildlife Service, Office of Endangered Species, Albuquerque, New Mexico. 14 pp.

Minckley, C.O., S.W. Carothers, J.W. Jordan, and H.D. Usher. 1981. Observations on the humpback chub, *Gila cypha*, within the Colorado and Little Colorado Rivers, Grand Canyon National Park, Arizona. Second Annual Conference on Scientific Research in National Parks. National Park Service Transactions and Proceedings Series. November 1979.

Minckley, W.L. 1973. Fishes of Arizona. Sims Printing Co. Phoenix, Arizona. 293 pp.

United States Department of Agriculture. 1982. Draft Environmental Impact Statement, Proposed Coronado National Forest Plan. Forest Service, Southwestern Region. 173 pp.

Wilson, B.L., J.E. Deacon and W.G. Bradley. 1966. Parasitism in the fishes of the Moapa River, Clark County, Nevada. Desert Research Inst. Preprint series, No. 18, University of Nevada, Las Vegas.

Authors

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List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.11(h) by adding the following, in alphabetical order under "Fishes," to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species							
Common name	Scientific name	Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Fishes							
Chub, Sonora	*Gila ditaenia*	U.S.A. (AZ), Mexico	Entire	T	227	17.95(e)	17.44(o)

3. Add the following paragraph (o) as a special rule to § 17.44.

§ 17.44 Special rules—fishes.

* * * * *

(o) Sonora chub, *Gila ditaenia*.

(1) No person shall take the species, except in accordance with applicable State fish and wildlife conservation laws and regulations in the following instances: (i) For educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act; or, (ii) incidental to State-permitted recreational fishing activities, provided that the individual fish taken is immediately returned to its habitat.

(2) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to the taking of this species will also be a violation of the Endangered Species Act.

(3) No person shall possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any such species taken in violation of these regulations or in violation of applicable State fish and wildlife conservation laws or regulations.

(4) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (o) (1) through (3) of this section.

4. Amend § 17.95(e) by adding the critical habitat of the Sonora chub as follows (the position of the following critical habitat entry under § 17.95(e) will follow the same sequence as the species occurs in 17.11):

§ 17.95 Critical habitat—fish and wildlife.

(e) * * *

* * * * *

Sonora Chub (*Gila ditaenia*)

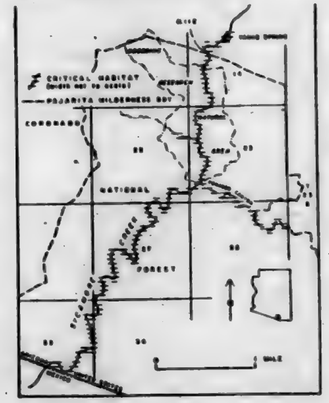
Arizona, Santa Cruz County. An area of land and water in the Coronado National Forest, consisting of the following:

1. Sycamore Creek, and a riparian zone 25 feet wide along each side of the creek, from Yank's Spring downstream approximately 5 stream miles to the International Border with Mexico within sections 14, 22, 23, 27, 33, and 34, T. 23 S., R. 11 E.

2. Yank's Spring in the SE¼ of the NW¼ of sec. 14, T. 23 S., R. 11 E.

3. Penasco Creek, including a riparian zone 25 feet wide along each side of the creek, from its confluence with Sycamore Creek (SW¼ of the SW¼ of sec. 23, T. 23 S., R. 11 E.) upstream approximately 1¼ miles to the east boundary of sec. 26, T. 23 S.;

4. An unnamed tributary to Sycamore Creek, from its confluence with Sycamore Creek (SW¼ of the NW¼ of sec. 23, T. 23 S., R. 11 E.) upstream approximately ¼ mile to the west boundary of the NE¼ of the SE¼ of the NE¼ sec. 22, T. 23 S., R. 11 E.



Known primary constituent elements include clean permanent water with pools and intermediate riffle areas and/or intermittent pools maintained by bedrock or by subsurface flow in areas shaded by canyon walls.

* * * * *

Dated: March 25, 1986.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–9699 Filed 4–29–86; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

[Docket No. 41152–6061]

Designated Critical Habitat; Hawaiian Monk Seal

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: By this rule NOAA designates critical habitat for the Hawaiian monk seal (*Monachus schauinslandi*) under the Endangered Species Act of 1973 (ESA). The habitat designated includes all beach areas, lagoon waters, and ocean waters out to a depth of 10 fathoms around Kure Atoll, Midway Islands (except Sand Island), Pearl and Hermes Reef, Lisianski Island, Laysan Island, Gardner Pinnacles, French Frigate Shoals, Necker Island, and Nihoa Island. The designation of critical habitat will benefit the Hawaiian monk seal by requiring Federal agencies to ensure that their actions are not likely to result in the destruction or adverse modification of the critical habitat.

DATE: This rule become effective on May 30, 1986.

FOR FURTHER INFORMATION CONTACT: Eugene T. Nitta, Western Pacific Program Office, Southwest Region, National Marine Fisheries Service, P.O. Box 3830, Honolulu, HI 96812, Telephone (808) 955–8831; James H. Lecky, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731, Telephone (213) 548–2518; or Margaret Lorenz, Protected Species Division, National Marine Fisheries Service, Washington, D.C. 20235, Telephone (202) 634–7529.

Copies of the final environmental impact statement prepared for this rule are also available from these offices.

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SUPPLEMENTARY INFORMATION:

Background

The NMFS listed the Hawaiian monk seal as an endangered species under the ESA in November 1978. In December 1978, the Marine Mammal Commission recommended designating certain portions of the Hawaiian monk seal's range as critical habitat. The NMFS prepared an environmental assessment to evaluate the need for the action and to identify alternatives.

On March 2, 1979, the NMFS published a Draft Environmental Impact Statement (DEIS) on the proposed designation of critical habitat, and incorporated three boundary options in the preferred alternative (to designate critical habitat). These options were to place the seaward limit at the 10-fathom isobath, at the 20-fathom isobath, or at three miles from shore. The 10-fathom option included pupping beaches, beaches used for hauling out (moving ashore), water inhabited by females and young during nursing and post-weaning, and a portion of the foraging habitat used by monk seals while they are near the islands. The 20-fathom option was developed to incorporate additional foraging habitat. The three-mile option was essentially the original recommendation from the Marine Mammal Commission.

Thirty comments were received during the public comment period on the DEIS. Twenty-three commenters favored the designation of critical habitat, but there was no consensus for a preferred boundary option. Seven commentees opposed designation of critical habitat because they felt that data substantiating a need for critical habitat were lacking, existing regulatory mechanisms were providing adequate protection, and the designation would impede development of commercial fisheries. Those in opposition included the State of Hawaii, the Western Pacific Fishery Management Council, and the Hawaii Fishing Coalition.

The NMFS postponed further action until the Hawaiian Monk Seal Recovery Team (Recovery Team) had reviewed the DEIS and submitted its recommendations. On October 6, 1980, the Recovery Team supported the 20-fathom option and recommended including Nihoa Island, Gardner Pinnacles, and Maro Reef in the designation. The NMFS deferred the designation process pending the completion of the Hawaiian Monk Seal Recovery Plan (Recovery Plan). The Recovery Plan was submitted to NMFS in March 1983, with a recommendation to designate critical habitat out to 20-fathoms including Nihoa Island, Gardner Pinnacles, and Maro Reef.

Based on an evaluation of the need for critical habitat, the NMFS published a proposed rule for designating Hawaiian monk seal critical habitat in the Federal Register on January 9, 1985 (50 FR 1066–1095). A Supplemental Environmental Impact Statement (SEIS) regarding the proposed action was published on December 21, 1984. Comments on the proposed rule and SEIS were accepted until March 11, 1985.

A combined public meeting and public hearing was held on February 5, 1985, in Honolulu, Hawaii, regarding the proposed rule and the SEIS for the Proposed Designation of Critical Habitat for the Hawaiian Monk Seal in the Northwestern Hawaiian Islands (NWHI). Nine individuals representing the Hawaii Audubon Society, Greenpeace Hawaii, the Sierra Club—Hawaii Chapter, the Sierra Club Legal Defense Fund, Life of the Land, the University of Hawaii Environmental Center, and interested members of the general public presented testimony. Eight of the nine were in favor of designation of critical habitat out to 20 fathoms. One individual, speaking for himself, testified in favor of no action, noting that his interpretation of the information presented in the SEIS was that there would be no appreciable benefits to monk seals from the proposed designation of critical habitat.

Twenty-eight organizations and individuals provided written comments on either the proposed rule or SEIS. Twelve commenters recommended designation of critical habitat out to 20 fathoms based on their interpretation of the information presented in the SEIS. Six commenters recommended 10 fathoms for critical habitat. Two commenters supported designation of critical habitat with no preference for boundaries. Three indicated no comments on the proposal and another suggested that a more precise definition of the inland boundary of critical habitat was necessary. Four comments were received against designation based on lack of sufficient data to support critical habitat designation, no demonstrated advantage of designation versus no action, and/or the fear of Federal preemption in resource management activities.

The NMFS has decided to proceed with the designation of critical habitat for the Hawaiian monk seal basically as described in the SEIS and proposed rule because the NMFS believes the area designated is consistent with the criteria established by the definition of critical habitat (16 U.S.C. 1532(5)(A)). No significant new information regarding Hawaiian monk seal biology, commercial fishing activities, or Federal agency activities in the NWHI was received during the comment period.

The specific written and oral comments requiring a response are summarized below.

Comment: Twenty commenters recommended designating critical habitat out to 20 fathoms.

Response: The ESA defines critical habitat as "* * * the specific areas within the geographical area occupied by the species, at the time it is listed * * * on which are found those physical or biological features (I) essential to the conservation of the species, and (II) which may require special management considerations or protection." The comments in favor of the 20-fathom alternative address the first criterion for designation, but not the second. The NMFS reviewed the Recovery Team's recommendation to designate critical habitat out to 20 fathoms, but determined that only the habitat out to 10 fathoms is in need of special management considerations or protection. This conclusion was reached after the NMFS reviewed recommendations for management measures in the Recovery Plan, the record of section 7 consultations on Federal activities potentially affecting monk seals in the NWHI, and information on the biology of the monk seal. These sources indicate that the habitat which may be in need of special management considerations or protection is that habitat used by monk seals for pupping and nursing, where weaned pups learn to swim and forage, and major hauling out areas where growth has been substantial and pupping is imminent. Designating critical habitat to 10 fathoms will include all habitat utilized for these purposes, and is consistent with the criteria in the definition of critical habitat.

Comment: Seven commenters stated that Maro Reef should be included in the critical habitat designation.

Response: The NMFS has determined that the portion of the monk seal's habitat consistent with the definition of critical habitat is the portion used for pupping and nursing pups, and the shallow nearshore waters where weaned pups learn to swim and forage (see previous response). Maro Reef contains no emergent land and, therefore, no pupping habitat. It provides foraging habitat for transient seals from atolls with emergent land. There has been no indication that the foraging habitat at Maro Reef might be in need of special management considerations or protection, as is required by the definition of critical habitat. Therefore, the NMFS has decided not to include Maro Reef in the final designation.

Comment: Three commenters stated that Sand Island at Midway should be included in the critical habitat designation.

Response: Sand Island was excluded from the proposed designation because it has been substantially modified by the military. The Marine Mammal Commission stated that excluding Sand Island is reasonable because it has been developed and human activity limits monk seal use of its beaches.

Comment: Four commenter stated that critical habitat is redundant to the other consultation requirements of section 7 of the ESA.

Response: A critical habitat designation may enhance the section 7 process by requiring Federal agencies to consult in instances where their activities may modify or destroy habitat without directly affecting the species. The benefit provided by the designation is the clear and early notification to Federal agencies and the public of the existence of critical habitat and the importance of the area to the Hawaiian monk seal.

Comment: The Minerals Management Service suggested that the harbors at Midway should be excluded from critical habitat to eliminate potential controversy in the event that Midway is used to support deep ocean mining efforts near the NWHI. They noted that this activity would be subject to a formal consultation under section 7 whether or not the harbors were included in critical habitat.

Response: Sand Island and its harbor are excluded from the designation of critical habitat.

Comment: The State of Hawaii commented that there is insufficient data to support designation of critical habitat.

Response: Based on the best scientific information available, the NMFS has determined that there is sufficient justification to define and designate critical habitat for the Hawaiian monk seal. The components of monk seal habitat identified as critical habitat in the Final Environmental Impact Statement (FEIS) include breeding areas, pupping and major haul-out sites, and nearshore waters used by females and pups.

Comment: The State of Hawaii indicated that available information does not show that the area proposed for critical habitat is any more critical than the seals' entire habitat.

Response: Critical habitat, as defined in the ESA, is habitat that is essential to the conservation of a species and that may be in need of special management considerations or protective measures to conserve the habitat. The best available information concerning the Hawaiian monk seal, the management recommendations in the Recovery Plan, and the concerns raised in section 7 consultations indicate that the habitat utilized by monk seals for pupping and nursing and where weaned pups learn to swim and forage is critical habitat as defined by the ESA.

Comment: Two commenters suggested that critical habitat designation would also provide increased habitat protection for other species of plants and animals found in the NWHI.

Response: Although there may be habitat protection for other species, this is not a factor in the decision to designate critical habitat.

Comment: The Fish and Wildlife Service and Hawaii Chapter of the Sierra Club comments that the 20-fathom contour provides a more cohesive and recognizable administrative boundary for critical habitat that would be easier to enforce than the 10-fathom contour line which is highly irregular.

Response: The point regarding smoothness and continuity of bottom contours is well taken. However, our review of the best available information indicates that habitat within 10 fathoms is the only habitat in need of special management considerations or protection.

Comment: The State of Hawaii, Department of Land and Natural Resources (DLNR) and the U.S. Coast Guard suggested that the inshore extent of critical habitat be defined more precisely.

Response: Vegetation behind pupping beaches is important because it provides shade from intense solar radiation for nursing females, pups, and other seals. It may also screen seals on the beach from potentially disturbing stimuli behind the vegetation. The extent of vegetation is so variable that a more precise definition is difficult to construct. However, the NMFS has clarified the description in the final rule.

Critical Habitat

The ESA defines critical habitat as "* * * (i) the specific areas within the geographical area occupied by the species, at the time it is listed * * * on which are found those physical or biological features (I) essential to the conservation of the species, and (II) which may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by the species at the time it is listed * * * upon a determination by the Secretary that such areas are essential for the conservation of the species" (16 U.S.C. 1532(5)(A)). "Except in those circumstances determined by the Secretary, critical habitat shall not include the entire geographical area which can be occupied" by the species (16 U.S.C. 1532(5)(C)).

The criteria to be considered in making a critical habitat designation are included in 50 CFR 424.12. The following biological requirements must be considered in designating critical habitat:

(1) Space for individual and population growth, and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and generally,

(5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distributions of listed species.

Regulations designating critical habitat must be based on the best available scientific data and to the maximum extent practicable must be accompanied by a brief description and evaluation of those activities that may adversely modify such habitat or may be affected by such designation. Economic and other relevant impacts of specifying critical habitat must also be considered when designating habitat, and any area may be excluded from a critical habitat designation if a determination is made that the benefits of the exclusion outweigh the benefits of designation. The only exception to this provision is where the failure to designate such habitat will result in the extinction of the species.

In order to determine what portion of the monk seal's range contains habitat that is consistent with the definition of "critical habitat", the NMFS reviewed the available biological information, responses to the requests for comments on the SEIS and proposed rule, the management recommendations in the Recovery Plan, and the record of section 7 consultation on Federal activities in the NWHI with a potential for affecting monk seals.

There are no inherent restrictions on human activities in an area designated as critical habitat. A critical habitat designation affects only those actions authorized, funded, or carried out by Federal agencies. It provides notification to Federal agencies that a listed species is dependent on a particular area for its continued existence and that any

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Federal action that may affect that area is subject to the consultation requirements of section 7 of the ESA. Certain activities such as commercial fisheries that are Federally regulated, scientific research conducted under Federal permits or funding, Federal management of other resources, and military operations may be conducted within an area designated as critical habitat if the authorizing Federal agency determines through the section 7 consultation process that the activity is not likely to jeopardize the continued existence of the species or result in the destruction or adverse modification of critical habitat. Activities that are conducted by state agencies or the private sector without Federal involvement may be carried out without regard to section 7, although other provisions of the ESA may impose prohibitions on activities resulting in the taking of endangered or threatened species.

Hawaiian Monk Seal Biology

The biology of the Hawaiian monk seal is discussed in the SEIS and FEIS. The discussion includes the history of exploitation, trends in population size, current status of the population, life history parameters, habitat requirements, and biological problems confronting the species. Further information is available from the DEIS, the Recovery Plan, and the Status Review for the Hawaiian Monk Seal. The pertinent habitat requirements are summarized below.

Habitat Requirements

Existing data indicate that all beach areas used by the Hawaiian monk seal for pupping, nursing, and rearing pups and some haul-out areas where pupping is imminent (e.g. Tern Island, French Frigate Shoals) are essential for the continued existence of the species. This critical area includes the first line of vegetation backing these beaches which provides shelter from the wind and other elements. Lava bench and boulder beach habitat found at Necker and Nihoa Islands also constitute pupping and haul-out areas. Because of the limited terrestrial habitat available to the Hawaiian monk seal, any loss of pupping, nursing, and major haul-out areas could affect the conservation of the species adversely.

Shallow, protected water immediately adjacent to beaches is also important to the Hawaiian monk seal. With the exception of undisturbed dry sand beaches, this nearshore protected water habitat is the most important factor for a successful pupping area. Pregnant females use beaches adjacent to shallow protected waters for pupping, apparently to have a protected shallow area to take their pups when they first enter the water.

Studies have shown that, for three months after weaning, pups make daily sorties from the beaches, presumably to feed. They are seen in the water close to shore, and it is assumed that the critical stage of learning to feed is carried out in nearshore waters. During the first month, the pups lose weight, then stabilize, and finally begin to gain weight. By four months post-weaning, pups begin spending up to 10 days at a time away from the island.

Further observations indicate that adult female monk seals leave the islands for about two to three weeks upon weaning their pups. They leave in an emaciated condition and return in relatively good condition, remain for a few days on the islands, then depart for an additional period of a few weeks before reappearing well nourished. Since they do not haul out during these protracted periods away, it is assumed that they are feeding at least beyond the inner reef and probably a considerable distance from shore.

Information on foraging habitat is available from studies on food habits and surveys of nearshore fish resources. Watson and Peterson (1984), analyzed hard parts recovered from scats and spewings to define the prey base exploited by monk seals. They found that monk seals feed on octopus, squid, and a diverse list of fishes which were identified to family. They did not report lobster as a prey species, although it has been reported elsewhere (e.g. DeLong *et al.* 1982). Studies on the distribution of fishery resources within 10 fathoms in the NWHI show that octopus and the families of fish preyed upon by monk seals occur in nearshore waters at most of the NWHI (Okamoto and Kanemaka 1984).

Information on foraging behavior is available from observations of monk seals and depth of dive studies. Rauzon *et al.* (1977) observed 301 dives in the channel off the western end of Tern Island, French Frigate Shoals. They did not observe consumption of prey but concluded from the regularity of the dives that the seals were foraging. Water depths in the area of observation varied from less than one fathom to five fathoms. Studies of depth of dive for the seals were conducted at Lisianski Island in 1980 (DeLong *et al.* 1982) and 1982 (Schlexer 1984) to provide additional information on habitat use. DeLong *et al.* (1982) attached depth-of-dive recorders to seven adult male monk seals. Over 4,800 dives by six animals (one recorder failed) were recorded. Fifty-nine percent of the dives were in the range of 3.5 to 21.9 fathoms (10–40 meters). No information was collected on diving in water less than 3.5 fathoms, and maximum dives ranged beyond 88.2 fathoms (121 meters). Schlexer (1984) placed recorders on five adult males, one subadult female, one juvenile male, and one juvenile female. The dive recorders malfunctioned, so that the dive profiles recorded may not be a true reflection of habitat use (Schlexer 1984). In spite of the malfunction, Schlexer reported that his data were generally consistent with the data collected by DeLong *et al.* (1982) for adult males. The subadult and juvenile females made dives in excess of 80 fathoms (150 meters) extending the known diving range of monk seals.

Thus, the biological information shows that monk seals forage from near shore waters (<0.5 fathoms) (Rauzon *et al.* 1977) to some depths down the reef slope beyond 80 fathoms (Schlexer 1984). Monk seals have also been reported to be absent from the breeding beaches for an extended period of time (Johnson and Johnson 1978). Feeding habits of monk seals during these absences have not been studied. They may be attracted to forage resources over sea mounts and submerged reefs. Monk seals have been reported at Maro Reef which has no emergent land (Gilmartin 1983).

The only observed monk seal matings have been in the nearshore and shallow offshore waters around Laysan Island. Critical habitat delineated by the 10-fathom isobath would include the known breeding habitat as well as a portion of foraging habitat for the Hawaiian monk seal.

Based on available information, habitat requirements for the health, well being, and continued viability of the Hawaiian monk seal population, listed in order of probable importance, consist of the following:

1. Pupping and major hauling beaches including the vegetation immediately backing the beaches (coral sand beaches and lava benches).
2. Shallow protected water adjacent to the above (tide pools, inner reef waters, shoal areas, and near shore shallows).
3. Deeper inner reef areas and lagoon waters.
4. Other waters surrounding the NWHI to at least 50 fathoms.
5. Banks and shoals without emergent lands and pelagic waters.

To define the portion of the monk seal's habitat that might be in need of special management considerations or protection, the NMFS reviewed recommendations for management measures in the Recovery Plan, the record of section 7 consultations on Federal activities potentially affecting monk seals in the NWHI, and information on the biology of the monk seal. These sources indicate that nearshore and terrestrial habitat constitute the areas in need of special management considerations or protection.

Most of the management measures recommended in the Recovery Plan are directed at limiting access to terrestrial habitat to minimize the adverse effects of human-caused disturbance. Other management measures identified in the plan include improved monitoring of the population, emergency response plans, activities to promote the survival of seals, and the implementation of management measures that may be indicated by future research. These other measures are either not directed at the conservation of habitat or are likely to be directed at terrestrial habitat.

As of December 1985, the NMFS had completed eight formal consultations and three informal consultations on Federal activities potentially affecting monk seals in the NWHI. Of the formal consultations, two concluded in "jeopardy" opinions, five concluded in "no jeopardy" opinions, and one concluded that there was insufficient information available to ensure "no jeopardy". The informal consultations concluded with determinations that the proposed activities would not affect the monk seal population. "Jeopardy" opinions were issued for activities that would result in increased levels of disturbance of monk seals on the beaches or in the water adjacent to the beaches used for pupping. "No jeopardy" opinions were issued for activities offshore or that could be conducted on shore without increased levels of disturbance.

The one consultation in which NMFS concluded there was insufficient information to make a determination of either "jeopardy" or "no jeopardy" was a consultation with the Western Pacific Fisheries Management Council on implementation of the Spiny Lobster Fishery Management Plan. In the biological opinion on this activity, the NMFS stated that monk seals could be affected by disturbance, incidental mortality, and reduction of a prey population. The concern for adverse effects of disturbance were centered on the need to protect beaches used for pupping. No incidental mortality has been reported since the consultation was initiated in January 1980. The effects of competing with a commercial fishery for a food resource remain undetermined. However, studies on food habitats verify that the monk seal exploits a variety of species and does not depend on lobster.

The NMFS believes that the section 7 record through December 1985 provides a comprehensive overview of Federal activities in the NWHI and that the level of activity in the NWHI is likely to remain stable into the future. There may be some growth in commercial fisheries, and there may be leasing of the deep sea floor for exploration and development of manganese crust resources. Growth in commercial fisheries will be managed under fishery management plans which provide protective measures for monk seals. Leasing of the deep sea floor is the responsibility of the Minerals Management Service (MMS). The MMS is drafting an environmental impact statement for leasing in the NWHI and has initiated the section 7 processes informally. Development of a managanese crust mining industry is likely years away because the technology for mining at the depths at which manganese crusts occur (>1,000 meters) is still developing. Therefore, the NMFS believes that activity generated by the MMS decision to proceed with leasing will be minimal and in locations not likely to affect monk seal habitat.

Studies of trends in distribution and abundance indicate that special management measures may be necessary to control the adverse effects of human activity on land and near pupping beaches. Kenyon (1972) attributed the decline in the number of monk seals at Kure and Midway during the 1960's to frequent human disturbance of hauled out seals. The increase in use of Tern Island (French Frigate Shoals) by monk seals as a hauling out site subsequent to the closure of the Coast Guard Station there (Ittner unpublished observation cited in Gilmartin 1983) supports Kenyon's hypothesis.

Information on the susceptibility of monk seals to disturbance in water is limited to anecdotal reports that monk seals approach fishing vessels to rob fishermen's lines of hooked fish. These reports are supported by a photograph of a monk seal with a fish hook in its mouth. Other pinniped species that are known to be sensitive to disturbance on land (e.g. California sea lions, and harbor seals) are relatively bold in the water. They approach fishing boats to take hooked fish off of fishermen's lines (Miller *et al.* 1983) and they approach divers closely. Since thresholds for disturbance are likely higher in the water than on land, management measures to control human presence in the offshore environment are not critical.

The recommended management measures in the Recovery Plan and the biological opinions resulting from formal consultations, and information on trends in abundance indicate that the habitat which may be in need of special management considerations or protection is that habitat utilized by monk seals for pupping and nursing, where weaned pups learn to swim and forage, and major hauling out areas where growth has been substantial and pupping is imminent. A precise boundary to the area in need of special management considerations or protection is difficult to draw, but designating critical habitat out to 10 fathoms will include all such areas. The depth-of-dive studies and other available information do not indicate that any portion of the foraging habitat is more important than other portions, and no need for special management measures to protect any of the foraging habitat has been identified.

Therefore, the NMFS designates as critical habitat for the Hawaiian monk seal; all beach areas, including all beach crest vegetation to its deepest extent inland, lagoon waters, and ocean waters out to a depth of 10 fathoms around Kure Atoll, Midway Islands (except Sand Island and its harbor), Pearl and Hermes Reef, Lisianski Island, Laysan Island, Gardner Pinnacles, French Frigate Shoals, Necker Island, and Nihoa Island. Many of the habitat components such as beach areas, vegetation, nearshore shallow water areas, and offshore banks and shoals cannot be simply delineated as specific stretches of beach or specific offshore areas. Therefore, it is necessary to designate entire areas without piecemeal delineations. For example, monk seals use all of the beaches on Green Island at Kure as hauling areas and certain other areas for pupping areas. Additionally, the various sand spits and islets grow, shrink, disappear, change shape, and even change location. In some cases, new islets appear after storms or strong tide conditions. Therefore, references to beaches or beach areas should be assured to include all sand spits and islets.

If ongoing or future research or other new information indicates that habitat beyond 10 fathoms is essential and that special management considerations or protective measures may be needed to protect the habitat, the NMFS will initiate rulemaking to make the

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appropriate changes in the critical habitat boundaries.

Effect of the Rulemaking

This action only directly affects Federal agencies. It does not affect State and local government activities or private actions which are not dependent on or limited by Federal authority, permits, or funds; however, many of the activities in the NWHI are subject to some Federal control and could potentially be affected. Section 7 requires Federal agencies to consult with the NMFS to ensure that any activity funded, authorized, or undertaken by them is not likely to jeopardize the continued existence of endangered species or result in the destruction or adverse modification of its critical habitat.

Currently, Federal agencies are required to consult on actions that may affect Hawaiian monk seals. The designation of critical habitat will require Federal agencies to evaluate their activities with respect to critical habitat and consult with the NMFS on any action which may affect critical habitat to ensure that it is not likely to result in the destruction or adverse modification of the critical habitat. In most situations consultation would be required even without a critical habitat designation because actions that affect critical habitat are also likely to affect the monk seal. Designating critical habitat will assist Federal agencies in evaluating the potential effects of their activities on monk seals or their critical habitat and in determining when consultation with the NMFS would be appropriate. The additional consultations that will be required are minimal. Therefore, the designation of critical habitat will not substantially add to the Federal agencies' responsibilities, and will not have any significant adverse economic impacts on State or private entities, including small businesses. The Federal agencies most likely to be affected by critical habitat designation include the U.S. Coast Guard, U.S. Navy, U.S. Fish and Wildlife Service (FWS), Western Pacific Regional Fishery Management Council, and the NMFS.

The final rule is not expected to have any direct impact on exising fisheries in the NWHI. The only direct economic costs will be those associated with more extensive monitoring of Federal activities by the NMFS and those from administrative actions by Federal activities resulting from reviews of their activities in the NWHI. The additional costs are expected to be minimal since Federal agencies would have had to conduct section 7 consultations for activities that may affect Hawaiian monk seals and/or conform to National Environmental Policy Act (NEPA) requirements for actions that significantly affect the quality of the human environment.

Future activities which may require evaluation under section 7 of the ESA include (1) construction activities of the Coast Guard on Green Island at Kure Atoll, the Navy on Sand Island at Midway Islands, and the FWS on Tern Island at French Frigate Shoals; (2) habitat manipulation/enhancement by the FWS within the Hawaiian Islands National Wildlife Refuge; (3) deep ocean mining; (4) ocean dumping of wastes and chemicals; (5) Federally funded or regulated fishing activities; and (6) fisheries and wildlife research conducted, funded, supported, or controlled by Federal agencies in the NWHI.

Classification

For reasons discussed in *Effect of the Rulemaking* above, the NOAA Administrator has determined that this is not a major rule requiring a regulatory impact analysis under Executive Order 12291. The regulations are not likely to result in (1) an annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Further, the General Counsel of the Department of Commerce has certified that the final rule will not have a significant economic impact on a substantial number of small business entities as described in the Regulatory Flexibility Act; therefore, a regulatory flexibility analysis is not required. This rule does not contain a collection of information requirements for purposes of the Paperwork Reduction Act of 1980.

National Environmental Policy Act

This action is categorically excluded from the requirements to prepare an environmental assessment and environmental impact statement under NEPA by NOAA Directive 02-10 (49 FR 29644; July 23, 1984). This final rule will not have any adverse environmental consequences. However, since a DEIS and SEIS were prepared, the NMFS has elected to continue with the NEPA process. Accordingly, an FEIS has been prepared for this action and copies are available upon request from the NMFS (see "For Further Information Contact" section for address).

Coastal Zone Management Consistency Statement

The Assistant Administrator for Fisheries, NOAA, determined that the designation of critical habitat for the Hawaiian monk seal is consistent with the approved State of Hawaii Coastal Zone Management Program.

The relevant Coastal Zone Management Objective is to "[p]rotect valuable coastal ecosystems from disruption and minimize adverse impacts on all coastal ecosystems". State of Hawaii Coastal Zone Management Program and Federal Environmental Impact Statement (Hawaii Program; p. 37, HRS section 205 A-2(b)(4)). One of the supporting policies is to protect endangered species which includes the Hawaiian monk seal (Hawaii Program pp. 38-39, HRS Chapter 195D).

The purpose of designating critical habitat is to protect the area, a valuable coastal ecosystem, from disruption and adverse impacts. The ultimate purpose is to protect and conserve the monk seal. Therefore, the critical habitat designation is consistent with the approved Hawaii Coastal Zone Management Plan.

This determination was submitted to the State of Hawaii's Department of Planning and Economic Development for review under section 3.7 of the Coastal Zone Management Act. The State agency agreed with the consistency determination.

List of Subjects in 50 CFR Part 226

Endangered and threatened wildlife, Marine mammals.

Dated: April 24, 1986.

Carmen J. Blondin,

Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

PART 226—[AMENDED]

Accordingly, Part 226 of Chapter II of Title 50 of the Code of Federal Regulations is amended as set forth below.

1. The authority citation for Part 226 is revised to read as follows:

Authority: 16 U.S.C. 1533.

2. A new Subpart B is added to Part 226 to read as follows:

Subpart B—Critical Habitat for Marine Mammals

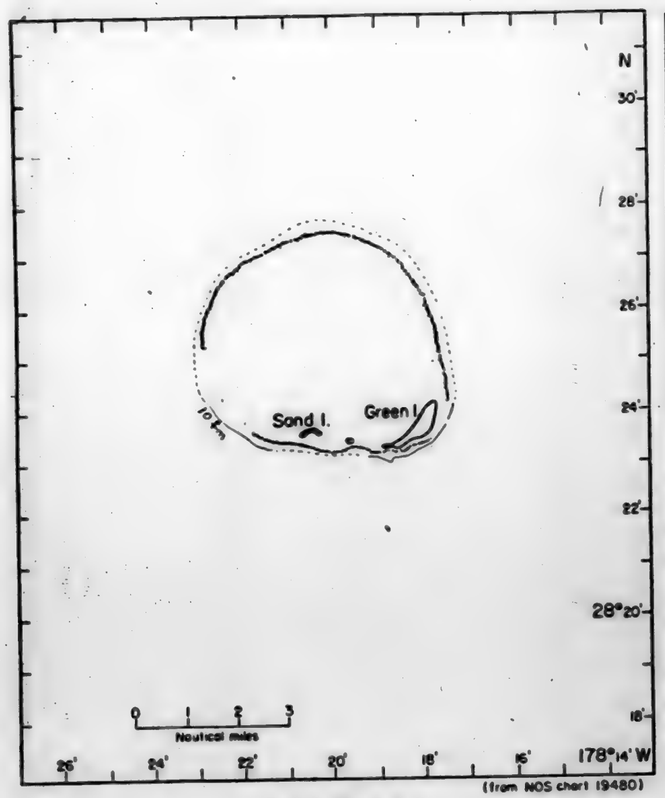
§ 226.11 Northwestern Hawaiian Islands.

Hawaiian Monk Seal

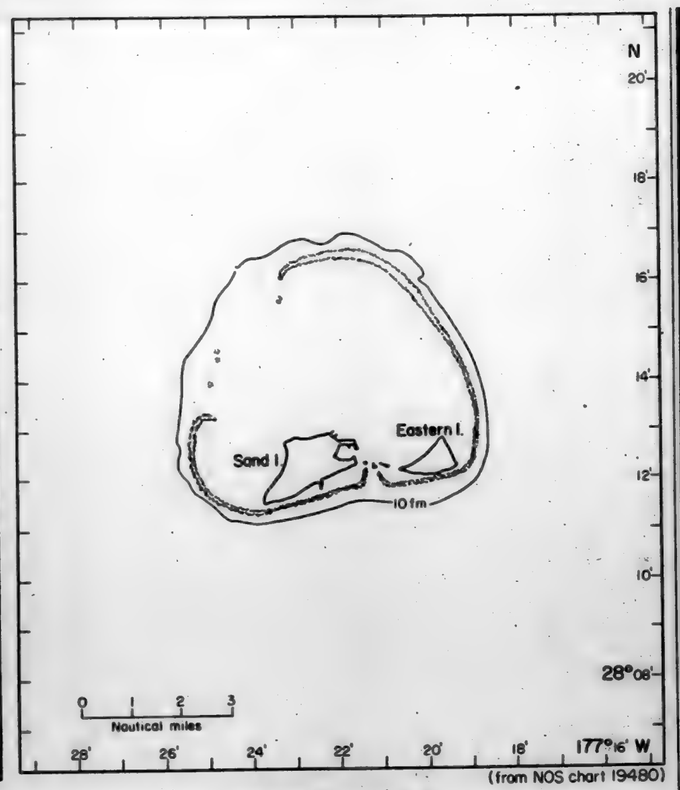
(Monachus schauinslandi)

All beach areas, sand spits and islets, including all beach crest vegetation to its deepest extent inland, lagoon waters, inner reef waters, and ocean waters out to a depth of 10 fathoms around the following:
Kure Atoll (28°24' N., 178°20' W.)
Midway Islands, except Sand Island and its harbor (28°14' N., 177°22' W.)
Pearl and Hermes Reef (27°55' N., 175° W.)
Lisianski Island (26°04' N., 173°56' W.)
Laysan Island (25°46' N., 171°44' W.)
Gardner Pinnacles (25°00' N., 168°00' W.)
French Frigate Shoals (23°45' N., 166°00' W.)
Necker Island (23°34' N., 164°42' W.)
Nihoa Island (23°03.5' N., 161°55.5' W.)

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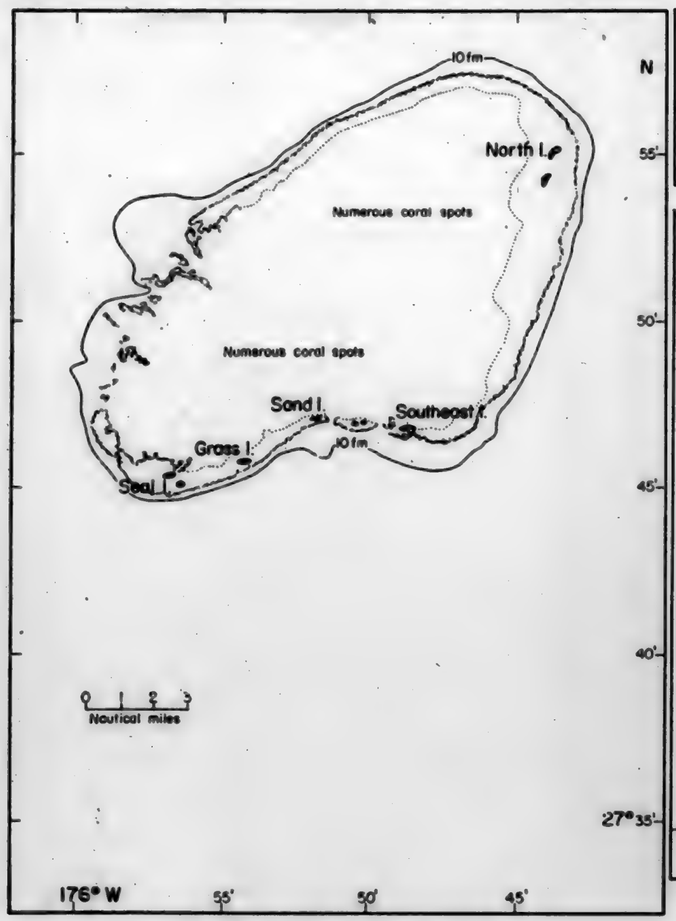


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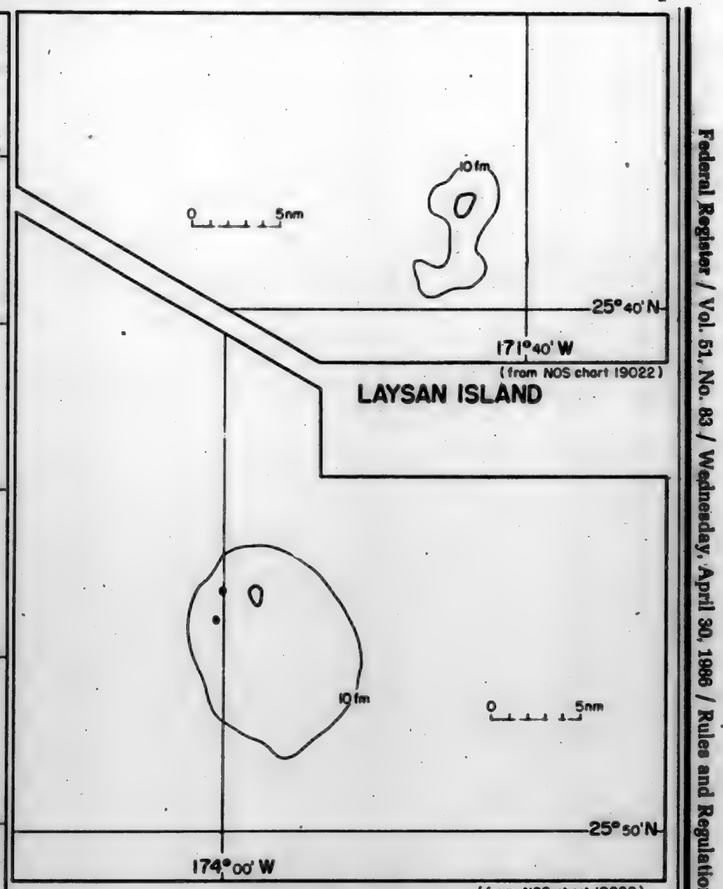


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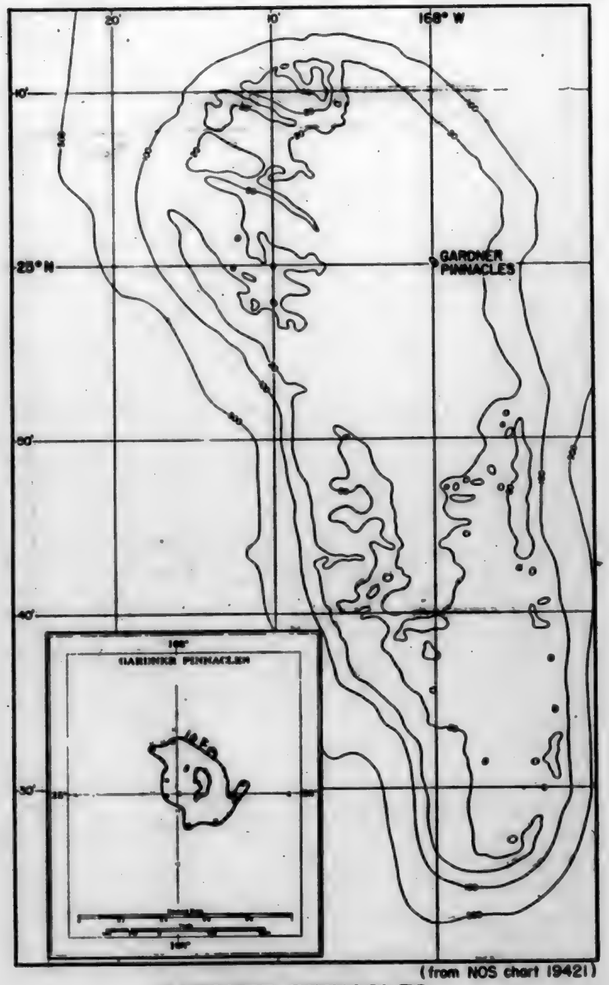
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(from NOS chart 19421)

GARDNER PINNACLES



(from U.S.F.W.S.)

FRENCH FRIGATE SHOALS

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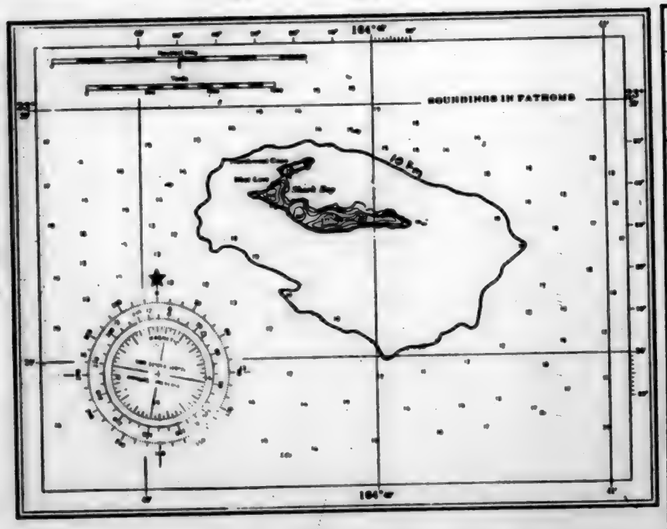
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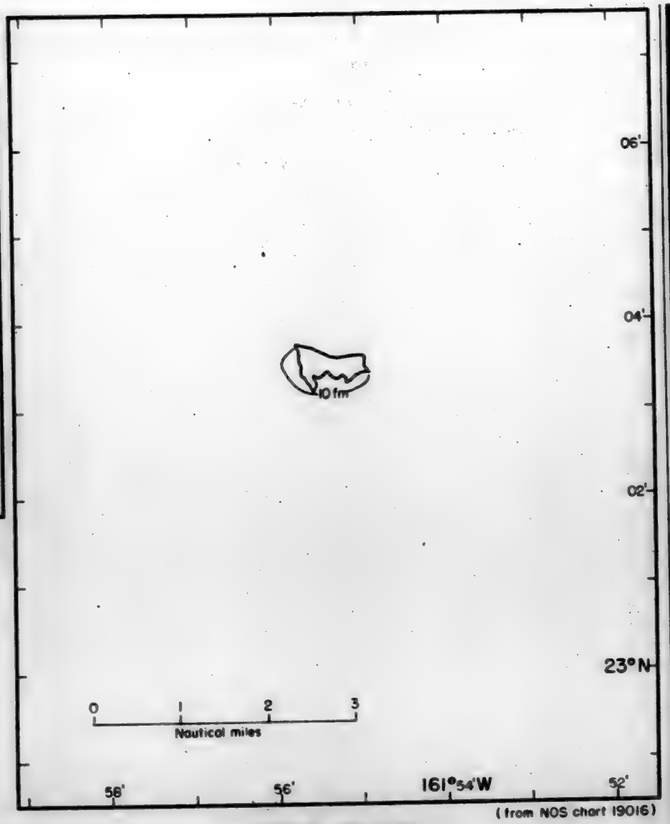
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NECKER ISLAND



(from NOS chart 19016)

NIHOA ISLAND

[FR Doc. 86-9599 Filed 4-29-86; 8:45 am]
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VOL 51 ISS 83 AP 30 1986 UMI

50 CFR Parts 611, 672, and 675

[Docket No. 51180-6180]

Foreign Fishing, Groundfish of the Gulf of Alaska, and Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of inseason adjustments.

SUMMARY: NOAA announces the apportionment of amounts of Alaska groundfish to the domestic annual harvest (DAH) and total allowable level of foreign fishing (TALFF) under provisions of the fishery management plans (FMPs) for Groundfish of the Gulf of Alaska and for Groundfish of the Bering Sea and Aleutian Islands Area. Groundfish are apportioned according to the regulations implementing those FMPs. The intent of this action is to assure optimum use of these groundfish by allowing the domestic and foreign fisheries to proceed without interruption.

EFFECTIVE DATE: April 25, 1986.

FOR FURTHER INFORMATION CONTACT: Janet Smoker (Resource Management Specialist, Alaska Region, NMFS), 907-586-7229.

SUPPLEMENTARY INFORMATION:

Background

Optimum yields (OYs) for groundfish species in the Gulf of Alaska are established by the FMP for Groundfish of the Gulf of Alaska. This FMP was developed by the North Pacific Fishery Management Council (Council) under the Magnuson Fishery Conservation and Management Act and are implemented by regulations at 50 CFR 611.92 and Part 672.

Total allowable catches (TACs) for various groundfish species in the Bering Sea and Aleutian Islands area are established under the FMP for Groundfish of the Bering Sea and Aleutian Islands Area. This FMP was also developed under the Magnuson Act and is implemented by regulations at 50 CFR 611.93 and Part 675. The TACs and OYs are apportioned initially among DAH, reserves, and TALFF. Each reserve amount, in turn, is to be apportioned to DAH and/or TALFF during the fishing year, under 50 CFR 611.92(c) and 672.20(c) for the Gulf of Alaska, and 611.93(b) and 675.20(b) for the Bering Sea and Aleutian Islands area. In addition, surplus amounts of both components of DAH [DAP (domestic processed fish) and JVP (joint venture processed fish)] may be apportioned to TALFF during the fishing year under those same regulations.

The initial DAPs and JVPs for 1986 were based in part on the projected needs of the U.S. industry as assessed by a mail survey sent by the Director, Alaska Region, NMFS (Regional Director) to fishermen and processors in October 1985. The Regional Director intends to resurvey the industry in April or May 1986.

Because most U.S. fisheries have just commenced, insufficient fishing time has elapsed to determine what amounts of DAH, if any, will prove excess to the needs of U.S. fishermen and reapportioning any DAH to TALFF in this action is therefore not timely. Reapportionment of DAH along with any reserves not released by this action will be considered upon completion of analysis of the industry survey.

1. Gulf of Alaska.
2. Bering Sea and Aleutian Islands area.

As soon as practicable after April 1, June 1, and August 1, or on other dates considered necessary, the Secretary of Commerce will apportion to DAH all or part of the reserve that he finds will be harvested by U.S. vessels during the remainder of the year, and will apportion to TALFF any remaining reserve that is not apportioned to DAH. When the initial DAH and TALFF for 1986 were established (51 FR 956, January 9, 1986), DAH and TALFF were supplemented with 29,857 mt from the initial 300,000-mt reserve, thereby reducing it to 270,143 mt. This action supplements DAH and TALFF by taking an additional 135,072 mt from the reserve and reducing it to 135,071.

Apportionments to DAH:

To provide for increased amounts requested by several JVP operators, 17,000 mt of the nonspecific reserve is transferred to the yellowfin sole JVP and 9,300 mt of the nonspecific reserve is transferred to the flatfish JVP. In the Aleutians area, an unprecedented JVP fishery on pollock early in the year resulted in a harvest that severely reduced the opportunities for continuing the fishery through the year. In order to provide for continued JVP fisheries in the area, 8,000 mt of unallocated TALFF is transferred to JVP (Table 1).

Apportionments to TALFF:

In the Bering Sea area, 106,772 mt of the nonspecific reserve is transferred to the pollock TALFF. This amount is determined excess to the 1986 needs of U.S. fishermen.

Apportionments to DAH and TALFF will be considered at a later date pending reevaluation of DAP and JVP needs for 1986.

TABLE 1.—BERING SEA/ALEUTIANS REAPPORTIONMENTS OF TAC

		Current	This action	Revised
Pollock (Bering Sea Area only, TAC=1,200,000; EY=1,200,000)	DAP	141,755		141,755
	JVP	680,000		680,800
	TALFF	188,245	+106,772	297,017
Pollock (Aleutians Area only, TAC=100,000; EY=100,000)	DAP	18,039		18,039
	JVP	10,804	+8,000	18,804
	TALLF	66,157	−8,000	48,157
Yellowfin sole (TAC=280,500; EY=230,000)	DAP	1,000		1,000
	JVP	127,300	+17,000	144,300
	TALFF	49,745		49,745
Other flatfish (TAC=124,200; EY=137,800)	DAP	4,192		4,192
	JVP	89,550	+9,300	98,850
	TALFF	11,828		11,828
Total (TAC=2,000,000)	DAP	326,090		325,890
	JVP	1,014,083	+34,300	1,048,383
	RES	270,148	−136,072	135,871
	TALFF	390,675	+106,772	491,447

Comments and Responses

In accordance with 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b), aggregated reports on U.S. catches of Alaska groundfish and the processing of those groundfish were available for public inspection to facilitate informed public comment. In addition, those provisions afforded the public an opportunity to submit comments on the extent of which U.S. fishermen will harvest and the extent to which U.S. processors will process Alaska groundfish. One comment was received.

Comment: The entire reserve in the Bering Sea and Aleutian Islands area (BSA) should be apportioned to TALFF on April 1 since the DAH amounts for all groundfish species are clearly adequate to account for any unanticipated expansion of the domestic fishery in 1986.

Response: Traditionally, no more than 50 percent of the reserves in the BSA have been released in April, and then only following analysis of the DAH resurvey. Without the results of this survey, and in view of recent unanticipated expansion of proposed JVP fisheries, it is not appropriate to reapportion reserves to TALFF other than Bering Sea pollock, for which a considerable buffer remains.

Classification

This action is taken under 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b), and complies with Executive Order 12291.

In view of the prior notice provided in the authorizing regulations regarding the dates after which apportionment of reserves and reassessment of DAH are to occur, together with the need to avoid disruption of foreign and U.S. fisheries and to afford a reasonable opportunity to achieve OY, NOAA has determined that delaying the effective date of this notice would be impracticable, unnecessary, and contrary to the public interest.

List of Subjects in 50 CFR Parts 611, 672, and 675

Fisheries.

(16 U.S.C. 1801 *et seq.*)

Dated: April 24, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-9635 Filed 4-25-86; 3:33 pm]

BILLING CODE 3510-22-M

50 CFR Part 672

[Docket No. 41276-4176]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the share of the sablefish optimum yield (OY) allocated to trawl gear in the Central Regulatory Area of the Gulf of Alaska will be achieved on April 26, 1986. A closure of the sablefish fishery by trawl gear is necessary to limit the harvest of sablefish by trawl gear to the 20 percent of the OY that is permissible by Federal law in this area. This closure is a management measure intended to allocate the sablefish resource among trawl, hook-and-line, and pot gear in the Central Regulatory Area as required by Amendment 14 to the Fishery Management Plan for the Groundfish Fishery of the Gulf of Alaska (FMP).

DATES: This notice is effective from 12:00 noon, Alaska Standard Time, April 26, 1986, until 12:00 midnight, Alaska Standard Time, December 31, 1986. Public comments are invited on this closure until May 11, 1986.

ADDRESS: Comments should be sent to Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802. During the 15-day comment period, the data upon which this notice is based will be available for public inspection during business hours (8:00 a.m. to 4:30 p.m., Monday through Friday) at the NMFS Alaska Regional Office, Federal Building, Room 453, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Ronald J. Berg (Fishery Management Biologist, NMFS), 907-586-7230.

SUPPLEMENTARY INFORMATION: The FMP, which governs the groundfish fishery in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act) provides for inseason adjustments of fishing seasons and areas. Implementing rules at 50 CFR 672.22(a) specify that these adjustments will be made by the Secretary of Commerce (Secretary) under procedures set out in that section.

Section 672.2 defines three regulatory areas of the Gulf of Alaska. One of these is the Central Regulatory Area for which current regulations specify the sablefish OY to be 3,080 metric tons (mt). However, the North Pacific Fishery Management Council (Council), at its December 10-14, 1985, meeting, determined that the OY should be 6,150 mt. The Council recommended that NOAA promulgate an emergency interim rule under Magnuson Act Section 305(e) to implement the new OY, pending amendment of the FMP. The Regional Director has submitted an emergency interim regulation to implement the 1986 OY as recommended by the Council. This emergency interim regulation is expected to be promulgated in the near future.

As a result of implementation of Amendment 14 to the FMP (October 24, 1985; 50 FR 43193), § 672.24(b)(2) of the regulations allows directed fishing, defined at § 672.2, for sablefish in the Central Regulatory Area with trawl gear, as well as with hook-and-line and pot gear. Under this section, fishing for sablefish with trawl gear is allowed until trawl vessels have harvested 20 percent of the sablefish OY. Thus, 1, 230 mt of sablefish in the Central Regulatory Area is allocated to vessels using trawl gear.

This regulation also requires the Regional Director to close all fishing for groundfish with a gear type in an area when the sablefish share allocated by Amendment 14 to that gear type has been taken. At its January 15-17, 1986, meeting, the Council recommended, however, that NOAA amend this regulation to allow the Regional Director to prohibit directed fishing for sablefish by that gear type in that area and thus leave a bycatch to support other directed groundfish fisheries. Fishing for other groundfish species could thus continue. The Regional Director has submitted an emergency interim rule that would amend the regulation cited above to implement the Council's recommendation.

The requirement of § 672.24(b) that all groundfish fishing by a gear type in an area to be closed when its sablefish allocation for that area has been taken conflicts with Amendment 14 as interpreted by the Council and NMFS. The Regional Director is, therefore, not obliged even before promulgation of the new rule to impose such a closure, provided that continued fishing by that gear type will not cause overfishing of sablefish.

An estimated 15 shorebased trawl vessels and 4 catcher/processor trawl vessels have made sablefish landings during the fishing season, which began on January 1, 1986. The total sablefish share allocated to trawl gear has been harvested. Therefore, further sablefish directed fishing, as defined at § 672.2, with trawl gear is prohibited after 12:00 noon April 26, 1986. This closure is a management measure intended to implement the allocation of the sablefish resource as provided for by Amendment 14 to the FMP. The Regional Director has reviewed the necessary bycatches of sablefish that might be taken in other directed groundfish trawl fisheries in the Central Regulatory Area and finds that continued trawling for other groundfish species will not cause overfishing of sablefish.

This closure will be effective upon filing of this notice for public inspection with the Office of the Federal Register and after it has been publicized for 48 hours through Alaska Department of Fish and Game procedures under § 672.22(a). Public comments on this notice of closure may be submitted to the Regional Director at the address stated above for 15 days following the effective date. The necessity of this closure will be reconsidered in view of comments received, and a subsequent notice will be published in the Federal Register, either confirming this closure's continued effect, modifying it, or rescinding it.

Other Matters

Allocation of the sablefish resource among trawl, hook-and-line, and pot gear in the Central Regulatory Area of the Gulf of Alaska as required by Amendment 14, and the continued health of that resource will be jeopardized unless this order takes

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effect promptly. The agency therefore finds for good cause that advance notice and public comment on this order is contrary to the public interest and that the effective date should not be delayed.

This action is authorized under §§ 672.22 and 672.24 and complies with Executive Order 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: April 24, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-9834 Filed 4-25-86; 3:36 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 83
Wednesday, April 30, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-AGL-12]

Proposed Alteration of Transition Area, New Ulm, MN

Correction

In FR Doc. 86-8808 beginning on page 13527 in the issue of Monday, April 21, 1986, make the following corrections:

1. On page 13528, second column, second complete paragraph, second line, "§ 71-181" should read "§ 71.181". In the fourth complete paragraph, second line, "as" should read "an".

2. On the same page, third column, in the **Authority**", in the third and fourth lines, "Pub. 97-449" should read "Pub. L. 97-449" and "1.69" should read "11.69". Also, in the same column, under "New Ulm, MN", eighth line, insert "bearing" after "162"".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3010-5]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) today is proposing to exclude the solid wastes generated at five facilities from the list of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to delisting petitions submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 265, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific basis" from the hazardous waste list. The effect of this action, if promulgated, would be to exclude certain wastes generated at particular facilities from listing as hazardous wastes under 40 CFR Part 261.

The Agency has previously evaluated four of the petitions which are discussed in today's notice. Based on our review at that time, these petitioners were granted temporary exclusions. Due to changes to the delisting criteria required by the Hazardous and Solid Waste Amendments of 1984, however, these petitions as well as the other petition for which we propose to grant an exclusion have been evaluated both for the factors for which the wastes were originally listed, and for other factors and toxicants reasonably expected to be present in these wastes.

DATES: EPA will accept public comments on these proposed exclusions until May 30, 1986. Any person may request a hearing on these proposed exclusions by filing a request with Eileen B. Claussen, whose address appears below, by May 15, 1986. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send two copies of your comments to EPA. One copy should be sent to the Docket Clerk, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. A second copy should be sent to Jim Kent, Delisting Section, Waste Identification Branch, CAD/OSW (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Identify your comments at the top with this statement: "Section 3001—Delisting Petition: Proposed Exclusions Beginning with Northern Metal; April 30, 1986."

Requests for a hearing should be addressed to Eileen B. Claussen, Director, Characterization and Assessment Division, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M. Street, SW., Washington, DC 20460.

The public docket for these proposed exclusions is located in Room S-212, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382-5096.

SUPPLEMENTARY INFORMATION:

Background

On January 16, 1981, as part of its final and interim final regulations implementing Section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in 40 CFR 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit any of the characteristics of hazardous wastes identified in Subpart C of Part 261 (*i.e.*, ignitability corrosivity, reactivity, and extraction procedure [EP] toxicity) or meet the criteria for listing contained in 40 CFR 261.11 (a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To be excluded, petitioners must show that a waste generated at their facility does not meet any of the criteria under which the waste was listed. (See 40 CFR 260.22(a) and the background documents for the listed wastes.) In addition, the Hazardous and Solid Waste Amendments of 1984 (HSWA) require the Agency to consider factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that his waste does not

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exhibit any of the hazardous waste characteristics, as well as present sufficient information for the Agency to determine whether the waste contains any other toxicants at hazardous levels. (See 40 CFR 260.22(a); Section 222 of the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. 6921(f); and the background documents for the listed wastes.) Although wastes which are "delisted" (*i.e.*, excluded have been evaluated to determine whether or not they exhibit any of the characteristics of a hazardous waste, generators remain obligated to determine whether their waste remains non-hazardous based on the hazardous waste characteristics. In addition, if substantial changes are made to the manufacturing or treatment process or to the raw materials used, the waste once again is hazardous (*i.e.*, the exclusion does not apply). To become excluded, the generator must file a new petition so that a determination can be made as to whether the new waste is non-hazardous.

In addition to wastes listed as hazardous in 40 CFR 261.31 and 261.32, residues from the treatment, storage, or disposal of listed hazardous wastes also are eligible for exclusion and remain hazardous wastes until excluded. (See 40 CFR 261.3(c) and 261.3(d)(2).) Again, the substantive standard for "delisting" is: (1) That the waste not meet any of the criteria for which it was listed originally; and (2) that the waste is not hazardous after considering factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Where the waste is derived from one or more listed hazardous wastes, the demonstration may be made with respect to each constituent or the waste mixture as a whole. (See 40 CFR 260.22(b).) Generators of these excluded treatment, storage, or disposal residues remain obligated to determine whether these residues exhibit any of the hazardous waste characteristics on a periodic basis.

Approach Used to Evaluate Delisting Petitions

The Agency first will evaluate the petition to determine whether the waste (for which the petition was submitted) is non-hazardous based on the criteria for which the waste was originally listed. If the Agency believes that the waste is still hazardous (based on the original listing criteria), it will propose to deny the petition. If, however, the Agency agrees with the petitioner that the waste is non-hazardous with respect to the factors for which the waste was listed, it then will evaluate the waste with respect to any other factors or criteria, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous.

The Agency is using a hierarchical approach in evaluating petitions for the other factors or contaminants (*i.e.*, those listed in Appendix VIII of Part 261). This approach may, in some cases, eliminate the need for additional testing. The petitioner can choose to submit a raw materials list and process descriptions. The Agency will evaluate this information to determine whether any Appendix VIII hazardous constituents are used or formed in the manufacturing and treatment process and are likely to be present in the waste at significant levels. If so, the Agency then will request that the petitioner perform additional analytical testing. If the petitioner disagrees, he may present arguments on why the toxicants would not be present in the waste, or, if present, why they would pose no toxicological hazard. The reasoning may include descriptions of closed or segregated systems, or mass balance arguments relating volumes of raw materials used to the rate of waste generation. If the Agency finds that the arguments presented by the petitioner are not sufficient to eliminate the reasonable likelihood of the toxicant's presence in the waste at levels of regulatory concern, the petition would be tentatively denied on the basis of insufficient information. The petitioner then may choose to submit the additional analytical data on representative samples of the waste during the public comment period.

Rather than submitting a raw materials list, petitioners may test their waste for any additional toxic constituents that may be present and submit this data to the Agency. In this case, the petitioner should submit an explanation of why any constituents from Appendix VIII of Part 261, for which no testing was done, would not be present in the waste or, if present, why they would not pose a toxicological hazard.

In making a delisting determination, the Agency evaluates each petitioned waste against the listing criteria and factors cited in 40 CFR 261.11(a)(2) and (a)(3). Specifically, the Agency considers whether the waste is acutely toxic, as well as the toxicity of the constituents, the concentration of the constituents in the waste, their tendency to migrate and bioaccumulate, their persistence in the environment once released from the waste, plausible types of management of the waste, and the quantities of the waste generated. In this regard, the Agency has developed an analytical approach to the evaluation of wastes that are landfilled and land treated. See 50 FR 7882 (February 26, 1985), 50 FR 48886 (November 27, 1985), and 50 FR 48943 (November 27, 1985). The overall approach which includes a ground water transport model, is used to predict reasonable worst-case contaminant levels in ground water in nearby receptor wells (*i.e.*, the model estimates the ability of an aquifer to dilute the toxicant from a specific volume of waste). The land treatment model also has an air component and predicts the concentration of specific toxicants at some distance downwind of the facility. The compliance point concentration determined by the model then is compared directly to a level of regulatory concern. If the value at the compliance point predicted by the model is less than the level of regulatory concern, then the waste is a candidate for delisting. If the value at the compliance point is greater than this level, however, then the waste probably still will be considered hazardous, and not excluded from Subtitle C control.[1]

This approach evaluates the petitioned wastes by assuming reasonable worst-case land disposal scenarios. This approach has resulted in the development of a sliding regulatory scale which suggests that a large volume of waste exhibiting a particular extract level would be considered hazardous, while a smaller volume of the same waste could be considered non-hazardous.[2] The Agency believes this to be a reasonable outcome since a larger quantity of waste (and the toxicants in the waste) might not be diluted sufficiently to result in compliance point concentrations that are less than the level of regulatory concern. The selected approach predicts that the larger the waste volume, the greater the level of toxicants at the compliance point. The mathematical relationship (with respect to ground water) for wastes that are typically landfilled yields at least a six-fold dilution of the toxicant concentration initially entering the aquifer (*i.e.*, any waste exhibiting extract levels equal to or less than six times a level of regulatory concern will generate a toxicant concentration at the receptor well equal to or less than same level). Depending on the volume of waste, an additional five-fold dilution may be imparted, resulting in a total dilution of up to thirty-two times.

[1] The Agency recently proposed a similar approach, including a ground water transport model, as part of the land disposal restrictions rule (see 51 FR 1602, January 14, 1986). The Agency, however, has not yet evaluated the comments on this proposal. If this approach is promulgated, the Agency will consider revising the delisting analysis.

[2] Other factors may result in the denial of a petition, such as actual ground water monitoring data or spot check verification data.

The Agency is using this approach as one factor in determining the potential impact of the unregulated disposal of petitioned waste on human health and the environment. The Agency has used this approach in evaluating each of the wastes proposed for exclusion in today's publication. As a result of this evaluation, the Agency is proposing to grant the petitions discussed in this notice.

It should be noted that EPA has not verified the submitted test data before proposing to grant these exclusions. The sworn affidavits submitted with each petition bind the petitioners to present truthful and accurate results. In addition, the Agency conducts a spot sampling and analysis program to verify the representative nature of the data for some percentage of the submitted petitions before final exclusions will be granted.

Finally, before the Hazardous and Solid Waste Amendments of 1984, the Agency granted temporary exclusions without first requesting public comment. The Amendments specifically require the Agency to provide notice and an opportunity for comment before granting an exclusion. All of the exclusions proposed today will not be made final until all public comments (including those at requested hearings, if any) are addressed.

Petitioners

The proposed exclusions published today involve the following petitioners:

Northern Metal Specialty Division of Western Industries, Inc., Osceola, Wisconsin;
Plastene Supply Company, Portageville, Missouri;
Reynolds Metals Company, Sheffield, Alabama;
Universal Oil Products, Decatur, Alabama;
Whirlpool Corporation, Fort Smith, Arkansas.

I. Northern Metal Specialty Division

A. Petition for Exclusion

Northern Metal Specialty Division of Western Industries, Inc., (NMSD), located in Osceola, Wisconsin, manufactures steel cavities for microwave ovens and steel tops and oven cavities for ranges. NMSD has petitioned the Agency to exclude its wastewater treatment sludge, presently listed as EPA Hazardous Waste Nos. F006—Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum, and EPA Hazardous Waste No. K062—Spent pickle liquor from steel finishing operations. The listed constituents of concern for EPA Hazardous Waste No. F006 are cadmium, hexavalent chromium, nickel, and cyanide (complexed), while the listed constituents for EPA Hazardous Waste No. K062 are hexavalent chromium and lead.

Based upon the Agency's review of their petition, NMSD was granted a temporary exclusion on December 27, 1982.[3] The Agency's basis for granting the temporary exclusion was the low migration potential of the constituents of concern—namely, cadmium, hexavalent chromium, lead, nickel and complexed cyanides. On November 8, 1984, the Hazardous and Solid Waste Amendments were enacted. In part, these Amendments required the Agency to consider factors (including additional constituents) other than those for which the waste was listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).) In anticipation of these changes, and as a result of these new requirements, the Agency requested additional information from NMSD. This information was submitted on February 2 and December 17, 1985. The Agency, therefore, has re-evaluated NMSD's petition to: (1) Determine whether the petition should be granted based on the toxicants and factors for which it was originally listed; and (2) evaluate the waste for factors (other than those for which the waste was listed) to determine whether the waste is non-hazardous. Today's notice is our re-evaluation of this petition.

In support of their petition, NMSD has submitted a detailed description of their manufacturing processes and wastewater treatment system, including lists of raw materials and schematic toxicity test results of the waste for all EP metals and nickel; distilled water leachate and total constituent analyses for cyanide; total oil and grease content of the waste; and reactivity test data for sulfide. NMSD also submitted test results for ignitability and corrosity.

NMSD's manufacturing process of the microwave oven cavities involves alkaline cleaning, and iron phosphating followed by sealing and plating. The final seal and deionized water rinse of the phosphating process contains chromic acid. This manufacturing line operates continuously. The manufacture of the range tops and cavities involve alkaline cleaning, acid pickling, and immersion nickel coating followed by porcelain enameling. The nickel immersion line operates intermittently, approximately 20% of the total 1985 production time. NMSD claims that the wastewater treatment sludge resulting from these operations is non-hazardous because the constituents of concern are present either in insignificant concentrations or, if present at significant levels, are essentially in immobile forms. NMSD also claims that the waste is not hazardous for any other reason.

Effluent from the chromium containing tanks is pretreated with sodium hydrosulfite to reduce the hexavalent chromium to trivalent chromium. The pretreated chromium effluent, pickle liquor wastewaters, rinse waters, and wastewater from the nickel immersion process are pumped into NMSD's waste treatment facility where lime neutralization, metal hydroxide precipitation, flocculation, clarification, and pressure filtration take place. The clarifier sludge (1–2% solids) is dewatered to 15–20% solids by the filter press. The effluent pH is maintained between 8 and 8.5.

NMSD has collected a total of 16 composite samples from the filter press on four separate occasions over the course of four and one-half years. Equal volumes of sludge were collected from the filter press three times per day and combined into a daily composite. NMSD's demonstration was originally based on five daily composite samples collected between February and June of 1981 and on three daily composite samples collected during one week in March of 1982 when only the phosphating process was in operation. In response to the Agency's request for additional information, NMSD provided the Agency with four additional composite samples (collected in the same manner) during one week in November 1984. At this time, both the iron phosphating and nickel immersion production lines were in operation. NMSD claims that since the nickel immersion process is operated only on an intermittant basis, the sample

[3] This exclusion was not published in the Federal Register. Since the Assistant Administrator for Solid Waste and Emergency Response approved the decision, however, we have concluded that Northern Metal was granted a temporary exclusion. See public docket for specific documentation.

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collected in November 1984, represented a worst-case of the sludge generated during the year. Subsequently, NMSD resampled their filter cake in October of 1985. Increments were collected at two-hour intervals to form a daily composite. Each of the four samples represented two production days. Eighty percent of the sample was collected on a day when only the phosphating process was in operation. Twenty percent of the sample was collected on a day when both the phosphating and nickel immersion process was in operation. NMSD claims that the samples thus collected are representative of their porcesses and reflect any variation of constituent concentrations in the waste.

Total constituent analyses on the filter cake for the listed and non-listed inorganic toxicants revealed the maximum concentrations reported in Tablic 1. Also included in Table 1 are oil and grease test results, number of samples that were analyzed, and total cyanide.

TABLE 1.—TOTAL CONSTITUENT CONCENTRATIONS

Toxicant	Maximum total constituent concentration (mg/kg)	Number of samples analyzed
As	<67	9
Ba	36	9
Cd	40	9
Cr	8700	9
Pb	67	9
Hg	<17	9
Ni	2700	9
Se	<900	9
Ag	1.8	9
CN (total)	0.6	9
oil & grease	2220	4

The results of the leachate analyses for both the listed and non-listed inorganic toxicants are presented in Table 2.

TABLE 2.—EP LEACHATE CONCENTRATIONS

Toxicant	Maximum EP leachate concentration (ppm)	Number of samples analyzed
As	[1] 0.025	
Ba	<0.25	9
Cd	[2] 0.01	10
Cr	[3,4] 0.05	14
Pb	0.4	14
Hg	<0.005	9
Ni	20	12
Se	0.08	9
Ag	<0.04	9
CN-	[5] <0.02	4

[1] Analytic results on the four samples collected during 1981 did not detect As at a detection limit of 0.05 ppm. Subsequent analyses used a lower detection limit.

[2] One sample out of the ten contained Cd at a concentration of 0.18 ppm. The concentration of Cd in all of the other 9 samples were less than or equal to 0.01 ppm. Thus, we consider the one high sample an outlier and have not considered it in our evaluation.

[3] One sample out of 14 contained Cr at a concentration of 0.85 ppm. The concentration of Cr in all of the other 13 samples was less than or equal to 0.05 ppm. Thus, we consider the one high sample an outlier and have not considered it in our evaluation.

[4] Hexavalent chromium is listed as the constituent of concern for this waste. The concentration of total chromium is low enough, however, to make a determination of hexavalent chromium unnecessary.

[5] Cyanide was extracted in distilled water only.

NMSD also submitted a list of raw materials used in their process. This list indicated that no Appendix VIII hazardous constituents, other than those tested for, are used in the process and, thus, would not be expected to be present in the waste. Ignitability test results indicated that the samples exhibited no flash point at 200 °F. Total sulfide concentration was reported at less than 75 ppm. NMSD claims that the maximum volume of sludge generated from its filter press is 150 tons annually.

B. Agency Analysis and Action

The Agency believes that NMSD's wastewater treatment sludge should be considered non-hazardous, as conditioned below. The Agency believes that the 10 composite samples were non-biased and adequately represent any variations which may occur in NMSD's processes. The key factor that would cause a variation in toxicant concentrations in the waste would be the use of different raw materials due to changes in the product line being manufactured. Variations in raw materials can be expected when the facility either performs as a job shop or when the product line changes on a seasonal basis. Although NMSD's phosphating line operates continuously, the nickel immersion line operates intermittently. The nickel immersion line operated 20% of the time in 1985. NMSD, however, collected eight of their 10 composite samples when the nickel immersion line was in operation. The Agency, therefore, believes that NMSD's samples encompassed any seasonal variation in product line, and, therefore, are representative of NMSD's waste.

The Agency has evaluated the toxic constituents in NMSD's waste using the vertical and horizontal spread (VHS) model.[4]

This evaluation, using the total volume of waste (150 tons) and the maximum reported EP leachate concentrations as input parameters, resulted in the maximum predicted compliance point concentrations reported in Table 3. (When leachate concentrations were below the detection limits, the value of the detection limit was used to predict these concentration.)

TABLE 3.—PREDICTED MAXIMUM CONCENTRATIONS AT THE COMPLIANCE POINT

Toxicant	Maximum compliance point concentration (mg/l)	Regulatory standard (mg/l)
As	0.0008	0.05
Ba	0.008	1.0
Cd	0.006	0.01
Cr	0.03	0.05
Pb	0.01	0.05
Hg	0.0002	0.002
Ni	0.62	0.35
Se	0.002	0.01
Ag	0.001	0.05

As indicated in Table 3, the maximum predicted concentrations of the EP toxic metals are all below the National Interim Primary Drinking Water Standards. The presence of these constituents at the reported concentrations is therefore not of regulatory concern. The predicted maximum concentration of nickel, however, exceeds the Agency's interim criteria of 0.35 ppm.[5] The Agency is particularly concerned about the high and variable concentrations of leachable nickel. When both the nickel immersion and phosphating process were operating, the EP leachate values ranged from 1.0 ppm up to 20 ppm while the total constituent concentrations ranged rom 68–2700 ppm. When only the phosphating process was in operation (approximately 80% of the time) the maximum nickel lechate concentration was 6.5 ppm, which corresponds to a compliance point concentration of 0.2 ppm, well below the Agency's interim criterion of 0.35 ppm.

Distilled water leachate levels for cyanide are below the U.S. Public Health Services suggested drinking water standard and are, therefore, not of regulatory concern.[6] The total sulfide concentration was reported to be less than 75 ppm. We do not believe, however, that this is the actual level since: (1) Sulfides are not used in the process; and (2) a strong positive interference results when sulfide is analyzed in the presence of sulfite (sulfite is used to reduce chromium during wastewater treatment). We, therefore, believe that the actual concentration of sulfide is very low and not of regulatory concern. The Agency has also reviewed the Material Safety Data sheets and has concluded, that no other hazardous constituents are present in NMSD's waste.

[4] See FR 7882, Apendix I, February 20, 1985, for a detailed explanation of the development of the VHS model for use in the delisting program. See also the final version of the VHS model, 50 FR 48896, Appendix, November 27, 1985.

[5] The Agency previously used 632 ppb as the regulatory standard for nickel. Pending the completion of current EPA studies on the health effects of nickel, the Agency is using 350 ppb for the purpose of evaluating delisting petitions. The basis for this standard are explained at 50 Fr 20220-46, May 15, 1985.

[6] Drinking Water Standards, U.S. Public Health Service, Publication 956, 1962 (0.2 ppm).

The Agency believes, that based upon the constituents and factors evaluated, NMSD's phosphating process produces a non-hazardous waste and as such should be excluded from hazardous waste management. On the other hand, the sludge produced when both the phosphating process and nickel immersion process are operating is of concern. Since the nickel immersion process only operates intermittently (20%), however, the Agency has decided to grant a conditional exclusin when both processes are in operation. In particular, NMSD must test weekly composites of the dewatered sludge for nickel when the nickel immersion line is in operation. If nickel leachate values exceed 10 ppm, (resulting in 300 ppb at the compliance point) the waste will have to be disposed of as a hazardous waste; if the nickel leachate value is less than 10 ppm, the waste will be considered non-hazardous. NMSD can, however, demonstrate to the Agency that nickel leachate levels are typically and frequently below 10 ppm by weekly composites, and then petition the Agency to remove this contingency to their exclusion. The Agency, therefore, proposes to grant an exclusion to NMSD, pursuant to the conditions described above, for its facility located in Osceola, Wisconsin, for its filter press sludge, as described in their petition. (The Agency notes that any changes to the manufacturing or treatment processes will require NMSD to file an addendum to their petition or a new petition.[7] Any future changes to these characteristics of the sludge will require a redemonstration of the hazard of the waste.)

II. Plastene Supply Company

A. Petition for Exclusion

Plastene Supply Company (Plastene), located in Portageville, Missouri, electroplates plastic parts for the automotive and small appliance industries. Plastene has petitioned the Agency to exclude its filter cake, presently listed as EPA Hazardous Waste No. F006—Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum. The listed constituents of concern for this waste are cadmium, hexavalent chromium, nickel, and cyanide (complexed).

Based upon the Agency's review of their petition, Plastene was granted a temporary exclusion on December 31, 1981 (see 46 FR 61279). The basis for granting the exclusion was the low concentration of cadmium and cyanide, and the low migration potential of chromium and nickel in the waste. On November 8, 1984, the Hazardous and Solid Waste Amendments were enacted. In part, the Amendments require the Agency to consider factors (including additional constituents) other than those for which they were originally listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).) In anticipation of either enactment of this legislation or regulatory changes by the Agency, EPA requested additional information from Plastene. This information was submitted on May 6, 1985 and December 4, 1985. As a result, the Agency has re-evaluated Plastene's petition to: (1) determine whether the temporary exclusion should be made final based on the original listing criteria; and (2) determine whether the waste is non-hazardous with respect to factors and toxicants other than the original listing criteria. Today's notice is the result of our re-evaluation of their petition.

Plastene has submitted a detailed description of its manufacturing and treatment processes, including schematic diagrams; total constituent analyses and EP toxicity test results of the filter cake for cadmium, total chromium, and nickel; and analytical results for total, amenable, and leachable cyanide.[8] Plastene also submitted total constituent analyses and EP toxicity test results for arsenic, barium, lead, mercury, selenium, and silver, and total oil and grease analyses on representative waste samples. Plastene further submitted a list of raw materials used in the manufacturing process. The Agency requested this information, as noted above, to determine whether toxicants, other than the original listing criteria, are present in the waste at levels of regulatory concern.

Plastene's manufacturing process includes ABS* plastic injection molding, chrome etching, electroless nickel plating, and copper, nickel, and chromium electroplating. Plastene claims that cadmium and cyanide are not used in their process. Treatment of the rinse water from the plating operations involves chromium reduction using sulfur dioxide and sulfuric acid; lime, calcium carbonate, and sodium hydroxide neutralization; polymer flocculation; clarification; and rotary vacuum filtration. Plastene claims that its treated wastewater sludge is non-hazardous due to the immobile nature of chromium and nickel and negligible levels of cadmium and cyanide in the sludge. Plastene also believes that their waste is not hazardous for any other reason.

Plastene presented analytical data on 182 composite samples which were collected from the filter press. Each composite sample was comprised of grab samples collected from three discrete areas of the filter press on each sampling date. The grab samples were collected at random times over a one-year period. (See petition for specific dates that samples were collected.) Plastene claims that the samples collected are representative of any variation of the listed and unlisted constituent concentrations in the waste. Plastene further claims that although the facility could be considered a job shop, the manufacturing processes used at the facility are uniform and the use of raw materials does not vary substantially over time. In addition, the petitioner claims that the sampling period was long enough to cover any scheduled changes in the product line and, therefore, all raw materials used in the process are represented by the samples collected.

Total constituent and leachable analyses of the filter cake for the listed constituents revealed the maximum concentrations reported in Table 1. (See "Agency Analysis and Action" for a more detailed explanation of why maximum levels were used.)

TABLE 1.—MAXIMUM CONCENTRATIONS (PPM)

	Total constituent analyses	EP leachate analyses
Cd	0.3	0.03
Cr (total) [1]	200	0.38
Ni	300	1.13
CN	<0.2	[2] <0.02

[1] Hexavalent chromium is listed as the constituent of concern for this waste. The concentration of total chromium,

[7] Once a final decision on this petition is made, a significant process change would require submissionof a new petition or treatment of the waste as hazardous.

[8] Leachable cyanide was determined using a distilled water extractant in the EP Toxicity test without pH adjustment.

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however, is too small to make a determination of hexavalent chromium concentration.

[1] From distilled water leach test.

Total constituent and leachate analyses of the filter cake for the non-listed EP toxic metals revealed the maximum concentrations reported in Table 2.

TABLE 2.—MAXIMUM CONCENTRATIONS (PPM)[1]

	Total constituent analysis	EP leachate analysis
As	<0.1	<0.01
Be	9.0	5.0
Pb	3.5	0.28
Hg	<0.01	<0.001
Se	<0.1	<0.01
Ag	0.1	0.02

[1] The EP leachate values and maximum constituent analyses reported in Table 2 represent the maximum levels reported for the particular metal and do not necessarily represent the same sample.

The maximum total oil and grease content reported was 0.028 percent. Plastene also submitted a list of raw materials used in their manufacturing and wastewater treatment processes. This list indicated that no Appendix VIII hazardous constituents, other than those tested for, are used in the process and that formation of any of these constituents is highly unlikely. Plastene also provided test data indicating that the filter press cake is not ignitable, corrosive, or reactive. Plastene claims to generate a maximum of 2664 tons of filter cake per year.

B. Agency Analysis and Action

Plastene has demonstrated that its waste treatment system produces a non-hazardous sludge. The Agency believes that the 162 composite samples collected from the filter press over a one-year period were non-biased and adequately represent any variations that may occur in the waste stream petitioned for exclusion. The key factor that could vary toxicant concentrations in the waste would be the use of different raw materials due to changes in the product line being manufactured. Variation in the raw materials can be expected either when the facility performs as a job shop or when the product line changes on a seasonal basis. The Agency believes that the sampling period used by Plastene was long enough to cover any scheduled changes in the product line, since the petitioner has verified that all of the plating lines were in operation during the sampling period. The samples, therefore, are representative of the waste generated by Plastene.

The Agency has evaluated the mobility of the listed constituents from Plastene's waste using a vertical and horizontal spread (VHS) model.[9] The VHS model generated compliance point values using the 2664 tons per year generation rate and the maximum reported extract levels as input parameters. These compliance point concentrations are exhibited in Table 3. The Agency has evaluated this petition using the maximum reported extract levels rather than the mean extract level even though there was a large sample population (*i.e.*, 162 data points) due to the variability exhibited by the original data set of samples submitted by the petitioner. In addition, since variability is expected in wastes generated from job shops, it is inappropriate to average these data points.

TABLE 3.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS (PPM)

	Filter press	Regulatory standard
Cd	0.004	0.01
Cr (total)	0.040	0.05
Ni	0.150	0.36
Cn	<0.008	0.2

The filter cake exhibited cadmium and chromium levels (at the compliance point) below the National Interim Primary Drinking Water Standards; cyanide levels below the U.S. Public Health Service's suggested drinking water standard;[10] and nickel levels below the Agency's Interim Health Advisory.[11] The total cyanide levels in the waste are also below the air threshold limit set by the American Conference of Governmental Hygienists.[12] These constitutents are, therefore, not of regulatory concern.

The Agency also concluded, through the use of the VHS model, that no other EP toxic metals are present in the filter cake at levels of regulatory concern (*i.e.*, none are above any regulatory standard at the compliance point in the VHS model). the Compliance point values generated from these extract levels are displaced in Table 4.

TABLE 4.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS (PPM)

	Filter press	Regulatory standard
As	<0.001	0.005
Ba	0.088	1
Pb	0.034	0.05
Hg	<0.0001	0.002

[9] See footnote 4.

[10] See footnote 6.

[11] See footnote 5.

[12] See American Conference of Governmental Hygienists: *Documentation of the Threshold Limit Values for Substances in Workroom Air*. Third Edition, 1971, Cincinnati, Ohio.

TABLE 4.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS (PPM)—Continued

	Filter press	Regulatory standard
Se	<0.004	0.01
Ag	0.003	0.05

The Agency also reviewed Plastene's raw material lists and material safety data sheets for each component in the raw materials lists. The Agency has concluded from this review that no other Appendix VIII toxicants, other than those tested for, are present in the waste.

The Agency believes that the treatment process used by Plastene generates a non-hazardous waste. The Agency, therefore, proposes to grant an exclusion to Plastene's facility, located in Portageville, Missouri, for its filter cake, as described in its petition. (The Agency notes that any changes to the manufacturing or treatment processes will require Plastene to file an addendum to their petition or a new petition.[13] Any future changes to these processes that could effect the physical or chemical characteristics of the sludge will require a redemonstration of the hazards of the waste.)

III. Reynolds Metals Company

A. Petition for Exclusion

Reynolds Metals Company's Sheffield Plant (Reynolds), located in Sheffield, Alabama uses a chromating process in the coating of coiled aluminum stock. reynolds has petitioned the agency to exclude its wastewater treatment sludge from the chemical conversion of aluminum, presently listed as EPA Hazardous Waste No. F019. The listed constituents of concern for EPA Hazardous Waste No. F019 are hexavalent chromium and cyanide (complexed).

Based upon the Agency's review of their petition and supplementary data submitted on October 27, 1981, Reynolds was granted a temporary exclusion on November 22, 1982 (See 47 FR 52868). The basis for granting the exclusion was the low migration potential for the constituents of concern (*i.e.*, chromium and cyanide). On November 8, 1984, the Hazardous and Solid Waste Amendments were enacted. In part, the Amendments require the Agency to consider factors (including additional constituents) other than those for which

[13] Once a final decision on this petition is made a significant process change would require submission of a new petition or treatment of the waste as hazardous.

the waste was listed, if the Agency has a reasonable basis to believe that such factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).) In anticipation of either enactment of this legislation or regulatory changes by the Agency, EPA requested additional information from Reynolds. This additional information was submitted on December 14, 1984 and November 5, 1985. As a result, the Agency has re-evaluated Reynolds' petition to: (1) Determine whether the temporary exclusion should be made final based on the original listing criteria; and (2) evaluate the waste for factors (other than those for which the waste was originally listed) to determine whether the waste is non-hazardous. Today's notice is the result of our re-evaluation of their petition.

In support of their petition, Reynolds has submitted descriptions of their manufacturing and wastewater treatment processes, including schematic diagrams and lists of raw materials. Reynolds also submitted analytical data to characterize the sludge in its as-disposed condition. This includes the results of EP leachate tests and total constituent analyses for the EP toxic metals and nickel; distilled water leach tests and total constituent analyses for cyanide; and results of tests for the wastes sulfide and oil and grease content. Much of this information was provided, as noted above, to demonstrate that no additional hazardous constituents (*i.e.*, constituents other than those for which the waste was listed) are present in the waste.

Reynolds' waste is the result of a chromate chemical conversion process whereby the aluminum is prepared for subsequent coating. Spent chromate solutions are chemically treated to covert the hexavalent chromium to trivalent chromium, which is precipitated out of the solution and separated in a clarifier. The resultant metal hydroxide sludge is dewatered through vacuum filtration.

The characterization of the sludge was based upon samples collected during two sampling periods.[14] In both cases, the samples were composites, collected from the filter press, which represented the sludge generated during a four-week period. Specifically, increments[15] were collected at random times during each day of filter press operation and, at the end of the week, composited to produce a sample. This procedure was followed during each of the four weeks, resulting in four samples.

Total constituent analysis of the samples revealed the maximum concentrations (reported in Table 1) for the EP toxic metals, nickel cyanide, sulfide, and oil and grease content. Table 1 also presents the maximum values from leachate tests.

TABLE 1.—MAXIMUM CONCENTRATIONS[1]

	Total constituent analysis (mg/kg)	EP leachate analysis (mg/l)
As	0.091	<0.05
Be	230	.22
Cd	<0.2	<0.1
Cr	84580	<0.5
Pb	<2.0	<0.2
Hg	<0.004	0.004
Se	0.056	<0.05
Ag	<0.2	<0.1
Ni	<0.2	<0.01
CN	<4	[2] <0.05
Sulfide	66	[3]
Oil and Grease	22	[3]

[1] The EP leachate values and maximum constituent analyses reported in Table 1 represent the maximum levels reported for the particular metal and do not necessarily represent the same sample.

[2] Results form distilled water leaching test.

[3] Not applicable.

Reynold's description of their manufacturing and wastewater treatment processes, along with the submitted lists of raw materials indicated that no other Appendix VIII hazardous constituents, other than those tested for, would be expected, nor would they likely be formed in their waste. Test results also indicated that the waste is not ignitable or corrosive. Reynolds estimates the maximumm generation rate of the dewatered sludge to be 400 yd[3] yr.

B. Agency Analysis and Action

Reynolds has demonstrated that their wastewater treatment system produces a non-hazardous sludge. The Agency believes that the samples collected during the four-week sampling period are non-biased and adequately reflect any variations which may occur in the subject wastestream. The key factor that could vary the constituent concentration in this waste would be the use of different raw materials or different processes in the manufacturing process that contribute to the wastestream. While the type of coating that Reynolds ultimately applies does vary, the source of the subject waste is a preliminary process which is uniform regardless of variations in subsequent processes (*i.e.*, wastes from the coating operation are not discharged to the wastewater treatment system). The Agency, therefore, believes that Reynolds' claim of uniformity of the subject waste is substantiated and that, given this uniformity, a four-week sampling period is sufficient to characterize the waste.

The Agency has evaluated the mobility of toxicants from Reynolds' waste using the vertical and horizontal spread (VHS) model.[16] This evaluation, using the maximum values for the estimated annual sludge generation and leachate concentrations as input parameters, has resulted in the maximum predicted compliance point concentration exhibited in Table 2. Table 2 also presents, for each toxicant, the regulatory standard to which the compliance point concentration is compared.[17]

TABLE 2.—CALCULATED MAXIMUM COMPLIANCE POINT CONCENTRATION

	Compliance point concentration	(mg/l)
As	<0.008	0.05
Ba	0.69	1.0
Cd	<0.008	0.01
Cr	<0.016	0.05
Pb	<0.006	0.05
Hg	0.0001	0.002
Se	<0.002	0.01
Ag	<0.008	0.05
Ni	<0.001	0.35
CN	<0.002	0.2

As indicated in Table 2, the predicted maximum compliance-point concentrations of these toxicants are all less than their regulatory standards. The presence of these toxicants at the reported levels, is therefore, not of regulatory concern. In addition, the Agency's evaluation of the processes and raw materials used at Reynolds' facility indicates that no other Appendix VIII hazardous constituents are present, or are likely to be formed, in Reynolds' waste.

The waste's maximum sulfide and cyanide content (66 mg/kg and <4 mg/kg, respectively) is low enough so as not

[14] Samples collected during the first sampling period (in 1983) were used in Reynolds' inital petition. Since the petition was submitted prior to the Hazardous and Solid Waste Amendments of 1984, analysis was restricted to the constituents for which the waste was listed and the factors which could cause the waste to meet the hazardous waste characteristics. The second set of samples (collected in 1986) were analysed for EP leachate and total constituent concentration of the EP toxic metals, nickel, and cyanide as well as the waste's oil and grease content.

[15] An "increment" refers to an individual sample which is subsequently composited.

[16] See Footnote 4.

[17] For the EP toxic metals, these values are equal to the National Interim Primary Drinking Water Standards. For nickel, the Agency has adopted an interim delisting standard of 0.35 mg/l (see footnote 6). For cyanide, the value is equal to the U.S. Public Health Service's recommended drinking water standard.

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to be of regulatory concern from an air contamination route. That is, the Agency believes these levels to be sufficiently low so as to preclude the generation of hazardous levels of toxic gases. In particular, total cyanide levels in the waste are below the air threshold limit set by the American Conference of Governmental Hygienists [18] while sulfide levels are not of regulatory concern based upon the results of air dispersion calculations.[19] (The capability of a sulfide- or cyanide-bearing waste to generate hazardous levels of toxic gases, vapors, or fumes is a property of the reactivity characteristic.)

The Agency believes, based upon the constituents and factors evaluated, that Reynolds' waste is non-hazardous and should be excluded from hazardous waste contro. The Agency, therefore, proposes to grant a final exclusion to Reynolds Metals Company's Sheffield Plant, located in Sheffield, Alabama, for their dewatered wastewater treatment sludge from the conversion coating of aluminum, as described in their petition. (The Agency notes that any changes to the manufacturing or treatment processes will require Reynolds to file an addendum to their petition or a new petition.[20] Any future changes to these processes that could effect the physical or chemical characteristics of the sludge will require a redemonstration of the hazard of the waste.)

IV. Universal Oil Products Company

A. Petition for Exclusion

Universal Oil Products, Wolverine Division (Universal), located in Decatur, Alabama, is involved in the manufacture of aluminum and copper tubing. Universal has petitioned the Agency to exclude its treated sludge presently listed as EPA Hazardous Waste No. F006—Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.

Universal discontinued their electroplating operations in August 1983. The subject of Universal's petition is the sludge that was generated before August 1983, which is contained in two holding lagoons. One of the lagoons is inactive; the other lagoon is still in use but has not received any listed hazardous waste since August 1983. Universal has petitioned to exclude their previously generated sludge, contained in the two holding lagoons, because it does not meet the criteria for which it is listed.[21]

The listed constituents of concern for EPA Hazardous Waste No. F006 are cadmium, hexavalent chromium, nickel, and cyanide (complexed). Universal's sludge resulted from the lime treatment and precipitation of solids from wastewaters from the alkali rinse, acid cleaning, and plating operations. Universal claims that their wastewater treatment system produced a non-hazardous sludge because the constituents of concern are present in either insignificant concentrations (*i.e.*, Universal states that cadmium and cyanide are not used in their process) or in essentially an immobile form. Universal further claims that this waste is not hazardous for any other reason.

Universal has submitted detailed information to describe their electroplating and wastewater treatment processes, including schematic diagrams; total constituent analyses, and EP toxicity and EP for oily waste test results of the sludge for cadmium, chromium, hexavalent chromium, and nickel; and total constituent analyses and distilled water leach tests for cyanide.

Universal also submitted total constituent analyses of the waste and EP and oily toxicity test results for arsenic, barium, lead, mercury, selenium, and silver; and total oil and grease content for representative waste samples. In addition, Universal provided ground water monitoring data in support of its delisting petition. Universal further submitted a list of raw materials used in manufacturing process and test results for Total Toxic Organics on their wastewater for the organic priority pollutants.[22] The Agency requested this information, as noted above, to determine if hazardous constituents other than those for which the waste was originally listed, are present in the waste at levels of regulatory concern.

Universal currently manufactures aluminum and copper tubing, in several alloys, for various final products. Previously, Universal produced a plated copper tubing, but discontinued this operation in August 1983. This plating process generated the listed waste. The plating process involved wrapping the copper tubes with a porous conductive tape and lowering them into a copper sulfate solution for plating. The wastewaters from the electroplating operations (*i.e.*, the rinsewater from electroplating operations, the rinsewater from alkali washings, and the rinsewater from acid cleaning) resulted in the production of the generically listed sludge. This process also involved a vapor degreasing step using 1,1,1-trichloroethane, before plating. Universal claims that no solvent from the degreasing operation entered the wastewater treatment system, and thus this solvent would not be expected to be found in the petitioned sludge.[23]

Universal's waste treatment system consisted of lime slurry neutralization of the acidic wastewater, precipitation, and polymer addition. A high molecular weight polymer was added to precipitate metals not adequately treated by lime. The sludge is contained in two 1.25 million gallon settling lagoons, labeled the active and inactive lagoon. The active lagoon is currently receiving non-listed waste.

To ensure collection of representative samples, a sampling strategy was employed which used composites of randomly collected samples. Each of the two impoundments (called the active lagoon and inactive lagoon) measures 525 × 55 feet; however, significant sludge accumulation is limited to the first 150 feet from the influent points. Less than two inches of waste covers the remainder of the lagoons. Sampling was therefore limited to the 150 × 55 foot area to the influent pipe. This 150 × 55 foot area of each lagoon was divided into quadrants. Using a core sampling, five core samples representing the total depth of the impoundments (4½ feet) were randomly collected from each quadrant. The five cores from each quadrant were composited to produce four separate composite samples for each impoundment. Cores from each quadrant were kept separate. Universal claims that the samples collected are representative of any variation of the listed and unlisted constituent concentrations in the waste. The petitioner further claims that the listed wastes, generated prior to August 1983, and the unlisted wastes, currently being generated, are both from manufacturing processes that operate(d) in a consistent manner and that the use of raw materials do (did) not vary over the time periods that these individual wastestreams were generated.[24]

Total constituent analyses of the sludge for the EP toxic metals, nickel, and cyanide revealed the maximum concentrations reported in Table 1.

TABLE 1.—MAXIMUM TOTAL CONSTITUENT ANALYSIS (mg/kg)

Constituent	Active sludge lagoon	Inactive sludge lagoon
As	4.4	4.8
Be	12	76
Cd	0.1	0.1
Cr	170	648
Pb	26	29
Hg	<0.1	<0.1
Ni	200	250
Se	<0.1	<0.1
Ag	1.0	1.6
CN	<1	<1

Total oil and grease values reported for the active lagoon ranged from 0.27 to 0.40 percent while values for the inactive lagoon ranged from 0.60 to 1.15 percent.[25]

The EP toxicity and the EP for Oily Waste leachate analyses for these same constituents revealed the maximum concentrations reported in Table 2.[26]

TABLE 2.—MAXIMUM EP LEACHATE CONCENTRATIONS (MG/L)

Constituent	Active sludge lagoon	Inactive sludge lagoon
As	<0.1	<0.1
Be [1]	11	7
Cd	<0.01	<0.01
Cr [2]	<0.1	<0.1
Pb	<0.1	0.2
Hg	<0.01	<0.01
Ni	1.8	1.6
Se	<0.02	<0.02
Ag [3]	<0.2	<0.2
CN [4]	0.02	<0.005

[1] The maximum concentration of Be reported in the sludge was 76 ppm. If fully extracted, the calculated concentration in the leachate would be 3.8 ppm. This is less than the reported EP leachate concentrations. Universal claims that these high EP leachate levels result from the high level of calcium in the waste which overwhelms the Be standard additions. The intensity of the Be emissions is secondary to the calcium intensity, causing the depressed standard addition recovery. This problem was not encountered with the Be total constituent analysis.

[2] Hexavalent chromium is listed as the constituent of concern for this waste; however, since the concentration of total chromium is low, a determination of the concentration of hexavalent chromium is unnecessary.

[3] The maximum Ag leachate concentration is greater than predicted based on total constituent analysis. The Agency believes, however, that these values are within the range of the experimental precision of the test methods (*i.e.*, total digestion and EP leachate procedure.)

[4] Distilled water leachate analysis.

Ground water monitoring data indicated excessive levels (1.2 mg/l) of hexavalent chromiun in downgradient monitoring wells. The Agency, therefore, requested additional information from Universal to determine the source of the hexavalent chromium. Information provided by Universal revealed that during the period from 1960 to 1970, the facility stored neutralized chromic acid sludge (sodium dichromate dissolved in sulfuric acid) in their on-site lagoons. Records of analytical test data of this waste show it to be approximately 0 percent chromium, and based on the raw materials used at the time, all of the chromium content was in the form of hexavalent chromium. It was further shown that the hexavalent chromium bearing sludge was completely removed during 1973 and 1974. (Recent analyses of soil samples taken near the storage lagoons show that soil in the lagoon walls still contain excessive levels of hexavalent chromium.) Universal, therefore, claims that the source of contamination is not from the sludge which they request to be listed, but rather the contamination source, Universal claims, is from the chromic acid sludge that was disposed of in the 1960's.

Universal claims that the maximum volume of waste generated typically does not exceed 7,000 pounds per year; however, Universal has approximately 55,000 cubic feet of waste (30,940 cubic feet in the inactive lagoon and 24,750 cubic feet in the active lagoon) currently stored on-site.

B. Agency Analysis and Action

Universal has demonstrated that its wastewater treatment sludge, currently contained in both the active and inactive lagoons, is non-hazardous. The Agency believes that the eight composite samples (four collected from each of the lagoons) were non-biased and adequately represent any variations which may occur in the waste petitioned for exclusion. The Agency believes that, since the samples were complete cores and were taken randomly throughout the section of the lagoons which had significant sludge accumulation, any stratification occurring vertically due to settling or horizontally as a function of distance from the inlet pipe would be represented by the sampling scheme used. The key factor which would vary constituent concentrations in continuously generated sludge would be the use of different raw materials, due to changes in the product line being manufactured. Variations in raw materials used can be expected when a facility either performs as a job shop or when the product line changes on a seasonal basis. Since this facility did not perform as a job shop or have seasonal product variations, the Agency believes that Universal has substantiated their claim that the manufacturing and treatment processes were uniform and consistent.

Although electroplating operations ceased in August of 1983, representative samples were taken from both the inactive lagoon (which contains only the previously generated listed waste) and the active lagoon (which contains both the listed waste and the currently generated unlisted waste). The Agency believes that the samples taken and the analytical data presented from these samples are sufficient to accurately characterize the petitioned waste.

The Agency has evaluated the mobility of the constituents from Universal's waste using a vertical and

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[18] See footnote 12.

[19] A copy of these calculations is available in the public docket for this notice.

[20] Once a final decision on this petition is made, a significant process change would require submission of a new petition or treatment of the waste as hazardous.

[21] Universal originally submitted their petition on March 2, 1982. A supplement to the original petition was received on November 19, 1982. On November 8, 1984, the Hazardous and Solid Waste Amendments of 1984 were enacted. In part, the Amendments require the Agency to consider factors (including additional constituents) other than those for which the waste was listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).) In anticipation of either enactment of this legislation or regulatory changes by the Agency, EPA requested additional information from Universal. This additional information was submitted on February 2, 1984 and March 6, 1985.

[22] Universal has NPDES permits for their outfalls. The facility was re-permitted in 1984 under categorical standards. This required Universal to submit a Baseline Monitoring Report which included a test for Total Toxic Organics (TTO). The TTO were not detected at Outfall 004, the outfall which receives the effluent from the wastewater treatment lagoons which is the subject of this notice.

[23] Process diagrams and waste treatment schematics provided by Universal in support of their delisting petition show that spent solvents resulting from the degreasing step of the electroplating process were treated in a separate waste treatment system and did not enter the petitioned wastestream.

[24] According to Universal, the wastes generated by prior electroplating operations were from processes which operated in a consistent manner and which used raw materials that did not vary over time (*i.e.*, the waste currently stored from these operations, which ceased in August 1983, is representative of the waste generated by that process). In addition, the unlisted waste currently being generated and stored in the active lagoon is representative of the waste generated by current manufactured processes at this facility since these processes operate in consistent manner and the current use of raw materials does not change over time.

[25] Three of the four sludge samples analyzed from the inactive lagoon exhibited total oil and grease levels less than or equal to 0.70 percent.

[26] Although Universal Oil performed the oily waste EP, the Agency does not believe its use is appropriate in this instance. Only 1 out of 8 of the composite samples had an oil and grease content above 1% (*i.e.*, 1.15%). The calculated 95% confidence interval for oil and grease was 0.76%, below the level of 1% at which we currently require the oily waste EP.

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horizontal spread (VHS) model.[27] The Agency's evaluation of Universal's 55,000 cubic feet of lagooned sludge and the maximum extract levels for the constituents using the VHS model has generated the compliance point concentrations exhibited in Table 3.

TABLE 3—MAXIMUM CONCENTRATIONS

Constituent	Calculated compliance point concentration	Regulatory standard
As	0.01	0.05
Be	1.3	1.0
Cd	0.001	0.01
Cr	0.01	0.05
Pb	0.02	0.05
Hg	0.001	0.002
Ni	0.22	0.350
Se	0.002	0.01
Ag	0.02	0.05
CN	0.002	0.20

With the exception of barium, the predicted maximum concentrations of the metals (at the compliance point) are below the National Interim Primary Driking Water Standards (NIPDWS); nickel values were less than the interim Health Advisor;[28] and cyanide levels were less than the U.S. Public Health Service's suggested drinking water standards.[29]

Although the predicted maximum concentration of barium at the compliance point exceeds the NIPDWS, the Agency believes that the results may be spurious. Analysis of the raw data on barium revealed suppressed standard addition results at the highest spike level (60 ppm), resulting in depressed recovery values and in a high calculated concentration. These results are questionable because: (1) Total constituent concentrations are very low (ranging from 7 to 76 ppm); (2) recoveries were good for total analyses; and (3) barium is not used in the manufacturing process or wastewater treatment process.

Cyanide levels in the waste are also not expected to be present at levels of regulatory concern from an air contamination route. Total cyanide levels in the waste are well below the air threshold limit of 10 ppm as set by the American Conference of Governmental Industiral Hygienists.[30]

The Agency also has concluded that no other hazardous constituents are present in the waste at levels of regulatory concern. The raw materials currently used by Universal in their manufacturing process do not contain any additional hazardous constituents, such as organic toxicants. Before August 1983, Universal produced a product which required a vapor degreasing step before plating. No solvent from this operation entered the wastestream.[31] Universal has submitted TTO data for three samples from the active lagoon outfall. No organic priority pollutants, however, were detected in the effluent. In addition, the Agency's evaluation of the processes and raw materials used at Universal indicates that no other Appendix VIII hazardous constituents are present, or are likely to be formed, in Universal's waste.

With respect to the ground water monitoring data, the Agency has a number of concerns. Based on the information and data provided, as well as analytical test results of the sludges currently generated and/or stored however, the Agency believes that Universal has substantiated their claim that the excessive levels of hexavalent chromium found near the storage lagoons and found in the walls are the result of waste previously generated, stored, and removed and that these constituent levels are not the result of wastes currently being generated and included in their petition. Universal detected up to 3600 ppm of hexavalent chromium in the walls of the lagoons. Based on the total constituent analysis, the maximum level of hexavalent chromium measured in Universal's waste is less than 1 ppm. EP data indicated that less than 0.1 ppm of chromium would leach. Accordingly, the Agency believes that the hexavalent chromium in the walls of the lagoon did not come from the waste. It must be noted, that today's proposed rule does not exclude the contaminated soils that have resulted from the previous practice of storing chromic acid sludge in the on-site lagoons. Universal, therefore, remains obligated to remove and dispose of these soils pursuant to the requirements of section 3008 of the Resource Conservation and Recovery Act (RCRA). In addition, pursuant to section 3004(u), Universal is still subject to the corrective action provisions of RCRA.

The Agency believes that the waste is non-hazardous (for all reasons) and as such should be excluded from hazardous waste control. The Agency, therefore, proposes to grant a one-time exclusion to Universal Oil Products Company, Wolverine Division, located in Decatur, Alabama, for their wastewater treatment sludge generated from electroplating operations and contained in two on-site holding lagoons.

V. Whirlpool Corporation

A. Petition for Exclusion

Whirlpool Corporation (Whirlpool), located in Forth Smith, Arkansas, manufactures household refrigerators and freezers. Whirlpool has petitioned the Agency to exclude its treated sludge, presently listed as EPA Hazardous Waste No. F006—Wastewater treatment sludges from electroplating operations except from the following processes: (1) sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (40 aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical-etching and milling of aluminum. The listed constituents of concern for this waste are cadmium, hexavalent chromium, nickel, and cyanide (complexed).

Based upon the Agency's review of their petition, Whirlpool was granted a temporary exclusion on August 6, 1981 (see 46 FR 40156). The basis for granting the exclusion was the low concentration and/or the immobile form of the constituents of concern (cadmium, hexavalent chromium, nickel, and cyanide in the waste. On November 8, 1984, the Hazardous and Solid Waste Amendments were enacted. In part, the Amendments require the Agency to consider factors (including additional constituents) other than those for which the waste was listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous waste. (See section 222 of the Amendments, 42 U.S.C. 6921(f).) In anticipation of either enactment of this legislation or regulatory changes by the Agency, EPA requested additional information from Whirlpool. This information was submitted on December 2, 1983, and January 15, 1986. As a result, the Agnecy has re-evaluated Whirlpool's petition to: (1) Determine whether the temporary exclusion should be made final based on the criteria for which it was originally listed and (2) evaluate the waste for factors (other than those for which the waste was originally listed) to determine whether the waste is non-hazardous. Today's notice is the result of our re-evaluation of their petition.

Whirlpool has submitted a detailed description of its manufacturing and wastewater treatment processes, including schematic diagrams; total constituent analyses and EP toxicity test

[27] See footnote 4.
[28] See footnote 5.
[29] See footnote 6.
[30] See footnote 12.
[31] See footnote 22.

results of the sludge for cadmium, total chromium, and nickel; and results of total constituent analyses and distilled water leach test for cyanide. Whirlpool also submitted total constituent analyses and EP toxicity test results for arsenic, barium, lead, mercury, selenium, and silver, and total oil and grease analyses on representative waste samples. Whirlpool further submitted a list of raw materials used in the manufacturing process. The Agency requested this information, as noted above, to determine whether hazardous constituents, other than those for which the waste was originally listed, are present in the waste at levels of regulatory concern.

In Whirlpool's manufacturing process, metals are coated with an alkaline phosphate, rinsed with chromic acid, and then pickled in preparation for painting and enameling. Whirlpool claims that cadmium and cyanide are not used in their process. Treatment of the rinse water from the phosphating system primarily involves neutralization with lime and the reduction of hexavalent chromium to trivalent chromium. The rinse waters from the pickling stages enter a pH adjustment tank (lime or sulfuric acid is added), a flocculant tank, and then flows to a clarifier. The sludge from the clarifier then joins the phosphating wastes to undergo batch lime treatment before the mixture is dewatered to approximately a 40 percent solids content, using a filter press. Whirlpool claims that its treated wastewater sludge is non-hazardous due to the immobile nature and negligible levels of cadmium, chromium, cyanide, and nickel in the sludge. Whirlpool also believes that their waste is not hazardous for any reason.

Grab samples were collected from the filter press conveyor belt each time the press was dumped (approximately every hour). Six weekly composite samples were formed from these grab samples. The sludge samples that were collected from November 4, 1985 to January 10, 1986 represent sludge that has been treated with approximately three percent lime. Whirlpool's original petition was based on four samples collected within a seven-month period. As noted above, additional information was submitted in December 1983, in anticipation of the Hazardous and Solid Waste Amendments; four additional daily composite samples, taken over a one-week period, were included with this submission. Whirlpool claims, however, that they plan to continue the additional lime treatment demonstrated in their most recent submittal. Whirlpool believes that these samples (collected from November 4, 1985 to January 10, 1986) therefore, are best representative of the listed and unlisted constituent concentrations in the waste.[32]

The petitioner further claims that the manufacturing processes used at the facility are operated in a consistent manner and that the use of raw materials does not vary over time. Consequently, they believe that the samples collected adequately characterize their waste.

Total constitutent analyses and EP toxicity test results of the treatment sludge for the listed constitutents revealed the maximum concentrations reported in Table 1.

TABLE 1.—MAXIMUM CONCENTRATIONS

	Total constituent analyses (mg/kg)	EP leachate analyses (mg/l)
Cd	5.1	0.02
Cr (total) [1]	663	<0.05
Ni [2]	314	1.75
CN [3]	2.5	0.02

[1] Hexavalent chromium is listed as the constituent of concern for this waste; however, the concentration of total chromium is low enough to make a determination of hexavalent chromium unnecessary.
[2] A nickle concentration of 1.75 ppm in the leachate was found in 1 of the 5 samples analyzed. In the remaining samples nickel was not detected at 0.05 ppm.
[3] From distilled water leach test.

The total constituent analyses and EP toxicity test results of the treatment sludge for the on-listed EP toxic metals revealed the maximum concentrations reported in Table 2.

TABLE 2.—MAXIMUM CONCENTRATIONS

	Total constituent analyses (mg/kg)	EP leachate analyses (mg/l)
As	0.14	<0.01
Be	<5.2	<0.1
Pb	29	<0.2
Hg	0.3	<0.01
Se	<5	<0.01
Ag	<0.52	<0.05

The maximum total oil and grease value reported was 0.72 percent. Whirlpool also submitted a list of all raw materials used in their manufacturing and wastewater treatment processes. This list indicated that no Appendix VIII hazardous constituents, other than those tested for, are used in the process and that formation of any of these constituents is highly unlikely. Whirlpool also provided test data indicating that the filter press cake is not ignitable, corrosive, or reactive. Whirlpool claims to generate a maximum of 4000 cubic yards per year of waste from the filter press.

B. Agency Analysis and Action

Whirlpool has demonstrated that its waste treatment system produces a non-hazardous sludge. The Agency believes that the six weekly composite samples collected from the filter press were non-biased and adequately represent any variations that may occur in the waste stream petitioned for exclusion.[33] The key factor that could vary toxicant concentrations in the waste would be the use of different raw materials due to changes in the product line being manufactured. Whirlpool is not a job shop nor does it have seasonal product variations. The Agency, therefore, believes that Whirlpool substantiated their claim that the manufacturing and treatment processes are uniform and consistent. The Agency believes that the samples collected are representative of the waste generated by Whirlpool.

The Agency has evaluated the mobility of the constituents from Whirlpool's waste using a vertical and horizontal spread (VHS) model.[34] The Agency's evaluation of Whirlpool's waste, using the maximum values for the estimated annual sludge generation and reported leachate concentrations as input parameters, has resulted in the maximum predicted compliance point concentrations for the listed constituents exhibited in Table 3.

TABLE 3.—COMPLIANCE POINT CONCENTRATIONS (mg/1)

	Filter press	Regulatory standard
Cd	0.003	0.01
Cr (total)	0.008	0.05
Ni	0.27	0.35
CN	0.003	0.2

The filter press sludge exhibited cadmium and chromium levels (at the compliance point) below the National Interim Primary Drinking Water

[32] In previous submittals, Whirlpool's waste demonstrated nickel EP leachate levels ranging from 0.11 to 8.35 ppm. When these values were used in the evaluation of Whirlpool's petition, it was determined that they were too high to allow for a delisting. The regulatory standard for nickel, however, is an interim number, and the nickel levels demonstrated in Whirlpool's waste were just slightly too high. The Agency stated that a petition would not be denied based solely on the waste's nickel content (see 50 FR 20347, May 15, 1985) until a final regulatory standard was set. Rather then wait for this standard, Whirlpool decided to modify their treatment process. It was determined that 3% lime addition sufficiently bound all of the EP toxic metals, and nickel.

[33] The Agency only considered the samples collected after the 3% lime treatment had begun, since these samples represent the waste as Whirlpool now intends to generate it. This treatment is, therefore, considered necessary for the exclusion to be valid.

[34] See footnote 4.

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Standards and cyanide levels below the U.S. Public Health Service's suggested drinking water standard.[35] The predicted maximum nickel value is below the Agency's interim standard.[36] These constituents are, therefore, not of regulatory concern.

The Agency has concluded that no other inorganic hazardous constituents are present in the filter press sludge at levels of regulatory levels (*i.e.*, none are above any regulatory standard at the compliance point in the VRS model, see Table 4. Where concentrations were below the detection limit for the constituent, the detection limit was used in the VHS calculations). In addition, the Agency also finds that no hazardous organic constituents are present in the waste. The Agency reviewed the list of raw materials used by Whirlpool, as well as the material safety data sheets for these materials, and concluded that no other Appendix VIII toxicants are present in the waste.

TABLE 4.—COMPLIANCE POINT CONCENTRATIONS (mg/1)

	Filter press	Regulatory standard
As	0.002	0.05
Ba	0.015	1
Pb	0.031	0.05
Hg	0.00015	0.002
Se	0.002	0.01
Ag	0.008	0.05

The Agency believes that, based upon the constituents and factors evaluated, Whirlpool's waste is non-hazardous and should be excluded from hazardous waste control. The Agency, therefore, proposes to grant an exclusion to Whirlpool Corporation, located in Fort Smith, Arkansas, for its dewatered electroplating wastewater treatment sludge, as described in its petition. (The Agency notes that any changes to the manufacturing or treatment processes will require Whirlpool to file an addendum to their petition or a new petition.[37] Any future changes to these processes that could effect the physical or chemical characteristics of the sludge will require a redemonstration of the hazards of the waste.)

IX. Effective Date

This rule, if promulgated, will become effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here since this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense which would be imposed on the petitioners by an effective date six months after promulgation and the fact that such a deadline is not necessary to achieve the purpose of Section 3010, we believe that these rules should be effective immediately. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

X. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact analysis. This proposal to grant exclusions is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at specific facilities from EPA's list of hazardous wastes, thereby enabling these facilities to treat their wastes as non-hazardous.

XI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601-612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this proposed regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Dated: April 24, 1986.

Marcia Williams,

Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6922]

2. In Appendix IX, add the following wastestreams in alphabetical order in table 1.

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
Northern Metal Specialty Division of Western Industries, Inc.	Osceola, Wisconsin	Dewatered wastewater treatment sludge (EPA Hazardous Waste Nos. F006 and K062) generated from their electroplating operations and steel finishing after [date of publication]. When the nickel immersion process is in operation with the Phosphating process, NMSD must test weekly composites of the waste for nickel. If nickel leachate values exceed 10 ppm the waste must be managed as a hazardous waste.
Plastene Supply Company	Portageville, Missouri	Dewatered wastewater treatment sludges (EPA Hazardous Waste No. F006) generated from electroplating operations after [date of publication].
Reynolds Metals Company	Sheffield, Alabama	Dewatered wastewater treatment sludges (EPA Hazardous Waste No. F019 generated from the chemical conversion of aluminum after [date of publication].
Universal Oil Products, Wolverine Division	Decatur, Alabama	Wastewater treatment sludges (EPA Hazardous Waste No. F006) generated from electroplating operations and contained in two holding lagoons on [date of publication]. This is a one time exclusion.

[35] See footnote 8.

[36] See footnote 5.

[37] Once a final decision on this petition is made, a significant process change would require submission of a new petition or treatment of the waste as hazardous.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
Whirlpool Corporation	Fort Smith, Arkansas	Dewatered wastewater treatment sludges (EPA Hazardous Waste No. F006) generated from electroplating operations after [date of publication].

[FR Doc. 86-9634 Filed 4-29-86; 8:45 am]

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FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-6706]

Proposed Flood Elevation Determinations

Correction

In FR Doc. 86-8413 beginning on page 12890 in the issue of Wednesday, April 16, 1986, make the following corrections:

1. On pages 12893 and 12894, the entires beginning with "Little Patuxent River" through "Clark's Creek" were printed in the wrong columns and should have appeared as set forth below:

State	City/Town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) Existing	Modified
		Little Patuxent River	At county boundary	*140	*139
			Approximately 1 mile upstream of U.S. Route 1	*164	*166
			At confluence of Middle Patuxent River	None	*180
			Upstream side of Interstate 95 southbound	None	*252
			At confluence of Lake Elkhorn Branch	None	*281
			Upstream side of U.S. Route 29	None	*306
			At confluence of Clark's Creek	None	*325
			At confluence of Stream LRP-6	None	*342
			Upstream side of Bethany Lane	None	*355
			Upstream side of Turf Valley Road	None	*409
			Approximately 1.46 miles upstream of Turf Valley Road	None	*429
		Beaver Run Branch	At confluence with Little Patuxent River	None	*299
			Upstream side of Seneca Drive	None	*309
			Upstream side of U.S. Route 29	None	*335
			Upstream side of Owen Brown Road	None	*370
			Approximately 360 feet upstream of Bright Plume Road.	None	*400
		Tributary to Beaver Run Branch	At confluence with Beaver Run Branch	None	*317
			Approximately 200 feet upstream of footbridge	None	*356
		Lake Elkhorn Branch	At confluence with Little Patuxent River	None	*282
			Upstream side of Lake Elkhorn Dam	None	*289
			Upstreamm side of Oakland Mills Road	None	*316
			Upstream side of Old Montgomery Road	None	*349
			Approximately 0.47 mile upstream of Old Montgomery Road.	None	*357
		Stream LPR-1	At confluence with Little Patuxent River	None	*307
			Approximately 0.38 mile upstream of Old Columbia Road.	None	*321
			Approximately 0.76 mile upstream of Old Columbia Road.	None	*369
			Approximately 1 mile upstream of Old Columbia Road	None	*396
		Wilde Lake Branch	At confluence with Little Patuxent River	None	*308
			Upstream side of Wilde Lake Dam	None	*338
			Approximately 250 feet upstream of Hesperus Drive	None	*365
		Stream LPR-2	At confluence with Little Patuxent River	None	*314
			Approximately 100 feet upstream of U.S. Route 29	None	*332
			Approximately 100 feet upstream of Lighting View Road.	None	*346
		Stream LPR-3	At confluence with Little Patuxent River	None	*316
			Approximately 100 feet upstream of U.S. Route 29	None	*341
			Approximately 75 feet upstream of Old Annapolis Road.	None	*376
		Stream LPR-4	At confluence with Little Patuxent River	None	*318
			Approximately 1,760 feet upstream of Ten Mills Road	None	*385
		Clark's Creek	At confluence with Little Patuxent River	None	*325
			Upstream side of Centennial Lane	None	*350
			Approximately 1.1 miles upstream of Centennial Lane	None	*376

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2. On page 12896, in the second entry for Ohio, in the second column, the entry should read "Unincorporated areas of Franklin county."

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

45 CFR Part 5b

Privacy Act of 1974; Proposed Exempt System

AGENCY: Office of the Secretary, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Health and Human Services proposes to exempt a new system or records, 09–37–0019, "National Medical Expenditure Survey (NMES) Records," to be maintained by National Center for Health Services Research and Health Care Technology Assessment (NCHSR), from the subject access and amendment requirements of the Privacy Act to maintain the statistical nature of these documents.

DATE: Comments on the proposed amendment must be received on or before May 30, 1986.

ADDRESS: Address comments in writing to Carl C. Coleman, Acting Director, Freedom of Information/Privacy Division, Office of the Assistant Secretary for Public Affairs, Room 410 B, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

Comments will be available for public inspection at this address on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Dr. Daniel Walden, Senior Research Manager, Division of Intramual Research, NCHSR, (301)–443–4636.

SUPPLEMENTARY INFORMATION: Section 304 of the Public Health Service (PHS) Act, 42 U.S.C. 242b, authorities the Secretary, acing through the National Center for Health Service Research and Health Care Technology Assessment (NCHSR), to conduct and support research demonstrations, evaluations, and statistical and epidemiological activities for the purpose of improving the effectiveness, efficiency, and quality of health services in the United States.

The National Medical Expenditure Survey (NMES) succeeds a series of national medical expenditure surveys, most notably the 1977 National Medical Care Expediture Survey (NMCES) and the 1980 National Medical Care Utilization and Expenditures Survey (NMCUES). The new survey will collect information on health status, use of health care services, expenditures and sources of payment, insurance coverage, employment, and demographic information for a sample of civilian non-institutionalized as well as institutionalized populations. The data from this survey will be used solely for statistical purposes and for health policy research and analysis. No use will be made of the data which will affect the subject individuals or any of their rights, benefits or privileges.

The data collection activities of NCHSR are governed by 42 U.S.C. 242(d), section 308(d) of the PHS Act. Under this provision, information collected which can be identified with an individual may not be used for any purpose other than the purpose for which it is collected, i.e., statistical and health policy research. Further, no information may be released from health statistical data which might identify individuals or institutions unless the individuals or institution or authorized representative has given specific consent for such release.

Records on identifiable households, health care providers, employers, residents, and next of kin of such residents, of nursing and personal care homes, psychiatric hospitals, facilities for the mentally retarded, will be collected for NMES. Names, addresses and telephone numbers of individuals who respond on behalf of health care facilities and insurers will also be collected. Together, these records will constitute a "system of records" as that term is defined by the Privacy Act. Records will be retrieved by identifier as necessary to corroborate, complete or correct responses. Initially, the records were to be included under the broad National Center for Health Statistics (NCHS) systems of records 09–37–0010 and 09–37–0013 both of which contain prior medical expenditure survey data from the National Medical Care Expenditure Survey (NMCES) and the National Medical Care Utilization and Expenditure Survey (NMCUES). All data in these two systems are exempt from subject access and amendment requirements. However, the PHS has established a separate system of records for new NMES records (09–37–0019) which are to be administered by NCHSR and has published a notice in the **Federal Register** to this effect, 51 FR 2762, January 21, 1986.

It is herein proposed, in accordance with paragraph (k)(4) of the Privacy Act, that the new NMES material compiled y NCHSR and its contractor(s) be maintained solely for health statistical research purposes and, like the original NMCES and NMCUES data, that it be exempted from paragraphs (c)(3), (d), (e)(4) (G) and (H), and (f) of the Privacy Act which essentially pertain to subject access and amendment rights.

The Department has determined that notice of the authorized exemption of this system of records from the above-cited subject access and amendment requirements of the Privacy Act is not a major rule within the meaning of Executive Order 12291, nor will it have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act. Finally, the propoaal does not impose any new information collection requirements within the Paperwork Reduction Act.

List of Subjects in 45 CFR Part 5b

Privacy.

Accordingly, the Department of Health and Human Services proposes to amend 45 CFR Part 5b as set forth below.

Dated: February 18, 1986.

Donald Ian Macdonald,

Acting Assistant Secretary for Health.

Approved: March 24, 1986.

Otis R. Bowen,

Secretary, Department of Health and Human Services.

PART 5b—PRIVACY ACT REGULATION

1. The authority citation for Part 5b continues to read as follows:

Authority: 5 U.S.C. 301, 5 U.S.C. 552a.

2. Section 5b.11 is amended by adding paragraph (b)(2)(iii)(F) as follows:

§ 5b.11 Exempt systems.

* * * * * *

(b) * * *

(2) * * *

(iii) * * *

(F) National Medical Expenditure Survey Records, HHS/OASH/NCHSR

* * * * * *

[FR Doc. 86–9619 Filed 4–29–86; 8:45 am]

BILLING CODE 4150–04–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86–151; RM–4930]

FM Broadcast Station in Hyden, KY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes to allot FM Channel 222A to Hyden, KY as that community's first FM channel in response to a petition filed by Ayers Shortt Sales, Inc.

DATES: Comments must be filed on or before June 16, 1986, and reply comments on or before July 1, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making

In the Matter of amendment of § 73.202(b) Table of Allotments FM Broadcast Stations. (Hyden, Kentucky); MM Docket No. 86–151 RM–4930.

Adopted: April 14, 1986.

Released: April 24, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration a petition for rule making filed by Ayers Shortt Sales, Inc. ("petitioner") requesting the allotment of FM Channel 222A to Hyden, Kentucky as that community's first FM allotment. Petitioner has expressed an intention to apply for the channel, if allotted. The channel can be allocated in compliance with the Commission's minimum distance separation requirements.

PART 73—[AMENDED]

2. In view of the fact that the proposed allotment could provide a first FM channel to Hyden, Kentucky, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules for the following community:

City	Channel No.	
	Present	Proposed
Hyden, KY		222A

3. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note. A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

4. Interested parties may file comments on or before June 16, 1986, and reply comments on or before July 1, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Mark E. Fields, Esq., Miller & Fields, P.C., P.O. Box 33003, Washington, DC 20033 (Counsel to petitioner).

5. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

6. For further information concerning this proceeding, contact D. David Weston, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles G. Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in section 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b)and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Rely Comments; Service.* Pursuant to applicable procedures set out §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 86–9661 Filed 4–29–86; 8:45 am]

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47 CFR Part 73

[MM Docket No. 86-150; RM-5232]

FM Broadcast Station in Loudon, TN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein, at the request of Loudon Broadcasters, Inc., proposes the allotment of Channel 256A to Loudon, Tennessee, as that community's second FM service.

DATES: Comments must be filed on or before June 16, 1986, and reply comments on or before July 1, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making

In the Matter of amendment of § 73.303(b), Table of Allotments, FM Broadcast Stations. (Loudon, Tennessee); MM Docket No. 86-150 RM-5232.

Adopted: April 10, 1986.
Released: April 23, 1986.
By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration a petition for rule making filed by Loudon Broadcasters, Inc., ("petitioner") licensee of AM Station WLOD, Loudon, Tennessee, seeking the allotment of Channel 256A to Loudon, Tennessee, as that community's second FM service. Petitioner has expressed its intention to apply for the channel, if allotted.

2. The channel can be allotted consistent with the Commission's minimum distance separation requirements provided a site restriction of 3.5 kilometers (2.1 miles) northeast of Loudon is imposed to avoid a short spacing to Station WAHR(FM), Channel 250, Huntsville, Alabama.

PART 73—[AMENDED]

3. In view of the fact that the proposed allotment could provide a second FM service to Loudon, Tennessee, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, for the following community:

City	Channel No.	
	Present	Proposed
Loudon, TN	257A	256A, 257A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before June 16, 1986, and reply comments on or before July 1, 1986, and are advised to read the appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Rudolph L. Ennis, McCampbell & Young, 2021 Plaza Tower, P.O. Box 550, Knoxville, TN 37901.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counter proposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 86-9662 Filed 4-29-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-153; RM-5185]

FM Broadcast Station in Kingsville, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: Action taken herein, at the request of Whitlock Communications, Inc., proposes the substitution of Channel 248C1 for Channel 249A at Kingsville, Texas, and modification of the license of Station KDUV(FM), Kingsville, Texas, to specify operation on Channel 248C1, as that community's first wide coverage area FM service.

DATES: Comments must be filed on or before June 16, 1986, and reply comments on or before July 1, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations Kingsville, Texas; MM Docket No. 86-153, RM-5185.

Adopted: April 11, 1986.
Released: April 24, 1986.
By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a petition for rule making filed by Whitlock Communications, Inc. ("petitioner"), licensee of FM Station KDUV, Channel 249A at Kingsville, Texas, proposing the substitution of Class C1 Channel 248 for Channel 249A and modification of its license to specify operation on Channel 248C1. Petitioner submitted information in support of the proposal and states the improved service would provide a new fulltime broadcast service to a substantial population.

2. The substitution can be made in compliance with the Commission's minimum distance separation requirements with a site restriction of 5.2 kilometers (3.2 miles) southeast of Kingsville. This restriction is necessary to avoid short spacing to the buffer zone for Station KAJA(FM), Channel 247, San Antonio, Texas. Additionally, the proposal must conform with the technical requirements of § 73.1030(c)(1)–(5) of the Rules regarding protection to the Commission's monitoring station at Kingsville, Texas. Further, since Kingsville is located within 320 kilometers (200 miles) of the U.S.-Mexican border, concurrence must be obtained from the Mexican government before the channel can be allotted.

3. In accordance with our established policy, we shall propose to modify the license of Station KDUV(FM) to specify operation on Channel 248C1. However, if another party should indicate an interest in the Class C1 allotment, the modification may not be implemented unless an additional equivalent channel is allotted.[1] See, *Modification of FM and TV Station Licenses*, MM Docket No. 83-1148, 98 F.C.C. 2d 916 (1984).

PART 73—[AMENDED]

4. Accordingly, in order to provide Kingsville with its first wide coverage FM station, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Rules, with regard to the community listed below, as follows:

City	Channel No.	
	Present	Proposed
Kingsville, Texas	224A, 249A	224A, 248C1

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

[1] Pending before the Commission is the *Notice of Proposed Rule Making* in MM Docket No. 85-313, 50 FR 45430, published October 31, 1985, proposing to permit FM stations to upgrade to adjacent superior classes of channel in their communities without having to demonstrate the availability of an equivalent channel in this type of proceeding. Parties should consider this proposal when commenting herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before June 16 1986, and reply comments on or before July 1, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Barry D. Wood, Kenneth D. Shirley, Wiley & Rein, Suite 1100, 1776 K Street, NW., Washington, DC 20006. (Counsel for petitioner).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For Further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in section 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amended the FM Table of Allotments, §73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See §1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or the other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of §1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 86-9663 Filed 4-29-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-148; RM-4991]

TV Broadcast Station in Grand Junction, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of VHF television Channel 13 to Grand Junction, Colorado, in response to a petition filed by KOB-TV, Inc.

DATES: Comments must be filed on or before June 16, 1986, and reply comments on or before July 1, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, or Stanley Schmulewitz, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Grand Junction, Colorado); MM Docket No. 86-148, RM-4991.

Adopted: April 9, 1986.
Released: April 23, 1986.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed on behalf of KOB-TV, Inc. ("petitioner") requesting the assignment of VHF television Channel 13 [1] to Grand Junction, Colorado, as that community's sixth local television service. Petitioner indicates that if the channel is assigned to Grand Junction, as requested, it will file an application for a construction permit to build a television station primarily as a satellite of Station KOB-TX, Albuquerque, New Mexico.

2. Grand Junction (population 28,144),[2] the seat of Mesa County (population 81,530), is located in western Colorado, approximately 320 kilometers (200 miles) west of Denver. Currently, it is served by Station KREX-TV (Channel 5), KJCT (TV) (Channel 8), and Channel 12 (vacant). Additionally, Channels 2 and 4 have been proposed for assignment to Grand Junction in MM Docket No. 84-892.

3. A staff engineering study reveals that VHF television Channel 13 can be assigned to Grand Junction with a site restriction 12.3 miles south of the community to avoid short-spacing to Station KWWY-TV (Channel 13), Rock Springs, Wyoming. Moreover, the proposal will require a carrier offset.

PART 73—[AMENDED]

4. In consideration of the above, we believe it is appropriate to elicit comments on the proposal to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed [1]
Grand Junction, CO	5-, 8-, 10+	2+, 4+, 5-, 8-, 13-, and 10+.

[1] Channels 2 and 4 are proposed for assignment in MM Dkt. 84-892, 49 FR 39673, October 1, 1984.

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before June 16, 1986, and reply comments on or before July 1, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Marvin Rosenberg, Esq., Richard S. Myers, Esq., Fletcher, Heald and Hildreth, 1225 Connecticut Avenue, NW., Suite 400, Washington, DC 20036, (Counsel for Petitioner).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(e)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

(4) *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in § 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 86-9664 Filed 4-29-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86-152; RM-5004]

TV Broadcasting Station in Waterville, ME

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to assign UHF Television Channel 23 to Waterville, Maine, in response to a petition filed by Kennebec Valley Television. The proposal could provide a first commercial service to the community.

DATES: Comments must be filed on or before June 16, 1986, and reply comments on or before July 1, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television Broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making

In the Matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Waterville, Maine); MM Docket No. 86-152 RM-5004.

Adopted: April 14, 1986.
Released: April 24, 1986.

By the Chief, Policy and Rules Division.

1. A petition for rule making has been filed by Kennebec Valley Television ("petitioner"), requesting that UHF Television Channel 35 (vacant) be reassigned from Lewiston, Maine to Waterville. The assignment could provide a first commercial television service to Waterville. Petitioner has submitted information in support of the assignment and stated its intention to apply for the channel, if allocated.

2. Waterville (population 17,179) [1], Maine, in Kennebec County (population 109,889), is located approximately 110 kilometers (70 miles) northeast of Portland.

3. A staff study has found that UHF Television Channel 23 could be assigned to Waterville with no change required at Lewiston. Channel 23 can be assigned to Waterville, Maine, in compliance with the minimum distance separation requirements of § 73.610 of the Commission's Rules. Concurrence of the Canadian government is required since Waterville is located within 199 miles of the common U.S.-Canadian border.

PART 73—[AMENDED]

4. Comments are invited on the proposal to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Waterville, ME		23-

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in

[1] Population figures are from the 1980 U.S. Census.

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the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before June 16, 1986, and reply comments on or before July 1, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: David J. Kaufman, Mahn, Franklin & Goldenberg, 1718 Connecticut Avenue, NW., Washington, DC 20009.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Allotments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles G. Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Allotments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposal allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposal Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 86–9665 Filed 4–29–86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 86–149; RM–5171]

TV Broadcast Station in Corning, NY

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of UHF Channel 41 to Corning, New York, as the community's first local commercial television service, at the request of Clarence Smith.

DATES: Comments must be filed on or before June 16, 1986, and reply comments on or before July 1, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rule Making

In the Matter of Amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Corning, New York); MM Docket No. 86–149 RM–5171.

Adopted: April 10, 1986
Released: April 23, 1986

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making filed by Clarence Smith ("petitioner") requesting the assignment of UHF TV Channel 54 to Corning, New York, as the community's first local commercial television service. Petitioner states that he will apply for the channel, if assigned.

2. Corning (population 12,953) [1] in Steuben County (population 99,217), is located in south central New York, approximately 95 kilometers (60 miles) west of Binghamton, New York. Corning currently has assigned to it unoccupied and unapplied for UHF TV Channel *30, which is reserved for noncommercial educational use.

[1] Population figures are taken from the 1980 U.S. Census.

3. Channel 54 can be assigned to Corning in compliance with the Commission's minimum distance separation requirements but would require an excessive site restriction of 36.3 kilometers (22.7 miles) south in order to avoid short-spacings to existing stations in Erie, Pennsylvania, and Binghamton, New York, and to an unused channel assignment at Peterborough, Ontario, Canada.[2] The staff has found that Channel 41 can be assigned to Corning, with a site restriction of only 20.6 kilometers (12.8 miles) southwest to avoid short-spacings to Station WMGC–TV, Binghamton, and to Station WENY–TV, Elmira, New York. Therefore, in light of the less restrictive site requirement, we will propose the assignment of Channel 41 rather than the requested Channel 54.

4. Canadian concurrence in the assignment must be obtained since Corning is located within 400 kilometers (250 miles) of the U.S.-Canada border.

PART 73—[AMENDED]

5. We believe the public interest would be served by proposing to assign a first local commercial channel to Corning. Accordingly, we propose to amend the Television Table of Assignments, § 73.202(b) of the commission's rules, for the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Corning, NY	*30	*30, 41+

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before June 16, 1986, and reply comments on or before July 1, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner as follows: Clarence Smith, SELMARK USA, P.O. Box 151, Buffalo, New York 14205.

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

9. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530. However, members of public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, Section 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See Section 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied be a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 86–9666 Filed 4–29–86; 8:45 am]

BILLING CODE 6712-01-M

[2] The assignment of Channel 41 at Corning would also avoid a conflict with the assignment of a first local television service at Williamsport, Pennsylvania (MM Docket 85–284, 50 FR 41178, published October 9, 1985). While the *Notice* therein proposed the assignment of Channel 32, the staff as found that there is a possible conflict with the use of that channel at Williamsport and existing land mobile operations at Philadelphia. The staff has performed an engineering study and one possible solution to the conflict would be the assignment of Channel 53 to Williamsport. However, first adjacent channel assignments are not possible here since Williamsport and Corning are located only 33 miles apart instead of the required 55 miles.

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DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service

50 CFR Part 23

Information Requested on Changes in Appendices to the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Request for information.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates trade in certain animal and plant species, which are listed in appendices to this treaty. Any nation that is a Party to CITES may propose amendments to Appendices I and II for consideration by the other Parties.

This notice announces plans by the Fish and Wildlife Service (Service) to develop proposals for the United States to amend Appendices I and II. The Service invites information and comments from the public on animal or plant species that should be considered as candidates for U.S. proposals. Such proposals may concern the addition of species to Appendix I or II, the transfer of species from one appendix to another, or the removal of species from Appendix I or II. A proposal may also concern the addition or exemption of parts and derivatives of plant species in Appendix II. The Service will use the information and comments received in determining whether to develop proposals for the next regular meeting of CITES Party nations.

DATE: The Service will consider all information and comments received by August 1, 1986, in determining whether it should develop proposals on particular species.

ADDRESS: Please send correspondence concerning this notice to the Office of Scientific Authority, Mail Stop: Room 527, Matomic Building, U.S. Fish and Wildlife Service, Washington, D.C. 20240. Materials received will be available for public inspection from 8:00 a.m. to 4:00 p.m., Monday through Friday, in room 537, 1717 H Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane, at address given above, or telephone (202) 653–5948.

SUPPLEMENTARY INFORMATION: This is the first in a series of Federal Register notices about proposals to amend CITES Appendix I or II that will be considered at the sixth regular biennial meeting of the Parties. The purpose of this notice is to solicit information that will help the Service to identify species that are candidates for addition, removal, or reclassification in the appendices, and parts and derivatives of Appendix II plants that warrant regulation. This request is not limited to species occurring in the United States. Any Party may submit proposals concerning wild animal or plant species occurring anywhere in the world.

Background

CITES regulates import, export, reexport, and introduction from the sea of certain animal and plant species. The term "species" is defined in CITES as "any species, subspecies, or geographically separate population thereof." Each species for which trade is controlled is included in one of three appendices. The basic standards for including species in the appendices, as set forth below, are contained in Article II of CITES. Appendix I includes species threatened with extinction that are or may be affected by trade. Appendix II includes species that although not necessarily threatened with extinction may become so unless trade in them is strictly controlled. It also lists species that must be subject to regulation in order that trade in other currently or potentially threatened species may be brought under effective control. Such listings frequently are required because of difficulty in distinguishing specimens of currently or potentially threatened species from other species at ports of entry.

For animals in Appendix I or II and plants in Appendix I, any readily recognizable part or derivative thereof is automatically included, by language in CITES, when the species is listed in the Appendices. For any plants added to Appendix II, readily recognizable parts and derivatives thereof must be specified to be included. All readily recognizable parts and derivatives of plants already listed on Appendix II were included, with certain exceptions, by amendment at the last Conference of the Parties held in Buenos Aires in 1985. *See* 50 FR 48212, 48219 (Nov. 22, 1985), *to be codified at* 50 CFR 23.23(d).

Appendix III includes species that any Party nation identifies as being subject to regulation within its jurisdiction for purposes of preventing or restricting exploitation, and for which it needs the cooperation of other Parties in controlling trade. The present notice concerns only Appendices I and II.

The Parties have adopted a format for proposals to amend Appendix I or II, in order to ensure that certain types of information are provided. It is as follows:

A. *Proposal*
B. *Proponent* (nation)
C. Supporting statement
1. *Taxonomy*
11. Class
12. Order
13. Family
14. Genus, species or subspecies, including author(s) and year
15. Common name(s), including English common name(s), when applicable, and French and Spanish common names, if known
16. Code numbers, when applicable, e.g., International Species Inventory System (ISIS) number
2. *Biological data*
21. Distribution (current and historical)
22. Population (estimates and trends), and relevant information on population dynamics
23. Habitat (trends)
3. *Trade data*
31. National utilization
32. Legal international trade
33. Illegal trade
34. Potential trade threats
341. Live specimens
342. Parts and derivatives
4. *Protection status*
41. National
42. International
43. Additional protection needs
5. *Information on similar species* (addressing the issue of similarity in appearance)
6. *Comments from countries of origin* (other than proponent)
7. *Additional remarks*
8. *References (to published literature and other documents)*

Future Actions

The next regular meeting of the Parties is scheduled to be held in Ottawa, Canada, on July 12–24, 1987. Any proposals to amend Appendix I or II at the meeting must be submitted to the CITES Secretariat at least 150 days prior to the meeting (i.e., to be received by the Secretariat no later than February 12, 1987), and the Service plans to send any such proposals to the Secretariat in late January 1987.

The Service plans to publish a Federal Register notice in early November 1986 to announce tentative U.S. species proposals and to invite information and comments on them. Another notice in January 1987 will announce the Service's final decisions on species proposals to be submitted to the CITES Secretariat. In future notices, the Service also will address the development of U.S. negotiating positions on other issues and on proposals by other Parties to amend Appendix I or II.

Persons having comments and information on species that might be potential candidates for CITES proposals are urged to contact the Service's Office of Scientific Authority

This notice ws prepared by Dr. Charles W. Dane, Chief, Office of Scientific Authority, under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et. seq.)

List of Subjects in 50 CFR Part 23

Endangered and threatened wildlife, Endangered and threatened plants, Exports, Fish, Imports, Marine mammals, Plants (agriculture), Treaties.

Dated: April 23, 1986.

Susan E. Recce,
Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-9569 Filed 4-29-86; 8:45 am]
BILLING CODE 4310-55-M

50 CFR Parts 26, 36, and 96

Alaska National Wildlife Refuges, Management Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; withdrawal of previously proposed rules.

SUMMARY: The Fish and Wildlife Service (Service) proposes to issue regulations applicable to all national wildlife refuges (NWRs) in Alaska. These proposed rules will further define and clarify two existing regulations and liberalize another. It is also the intent of this action to propose to remove 50 CFR 26.37, and Part 96, and withdraw proposed Parts 97–107 which were superseded by the enactment of the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) (16 U.S.C. 3101) and the subsequent development of 50 CFR Part 36. No new or additional restriction or closures are proposed in these regulations.

DATE: Comments on these proposed rules must be submitted on or before June 30, 1986.

ADDRESS: Send comments to: Regional Director, (ATTN: William Knauer, Wildlife Resources), U.S. Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503, telephone (907) 786–3399.

FOR FURTHER INFORMATION CONTACT: Mr. William Knauer (address above) or the respective refuge manager at the address or telephone number listed below:

Refuge Manager, Alaska Maritime National Wildlife Refuge (NWR), P.O. Box 3089, Homer, AK 99603, (907) 235–6546
Refuge Manager, Alaska Peninsula NWR, P.O. Box 277, King Salmon, Alaska 99613, (907) 246–3339
Refuge Manager, Arctic NWR, Federal Building and Courthouse, 101 12th Ave. Box 20, Fairbanks, Alaska 99701 (907) 456–0250
Refuge Manager, Becharof NWR, P.O. Box 277, King Salmon, Alaska 99613, (907) 246–3339
Refuge Manager, Innoko NWR, General Delivery, McGrath, Alaska 99627 (907) 524–3251
Refuge Manager, Izembek NWR, Pouch 2, Cold Bay, Alaska 99571, (907) 532–2445
Refuge Manager, Kanuti NWR, Federal Building and Courthouse, 101 12th Ave., P.O. Box 20, Fairbanks, Alaska 99701, (907) 456–0329
Refuge Manager, Kenai NWR, P.O. Box 2139, Soldotna, Alaska 99669, (907) 262–7021
Refuge Manager, Kodiak NWR, P.O. Box 825, Kodiak, Alaska 99615, (907) 487–2600
Refuge Manager, Koyukuk NWR, P.O. Box 287, Galena, Alaska 99741, (907) 656–1231
Refuge Manager, Nowitna NWR, P.O. Box 287, Galena, Alaska 99741, (907) 656–1231
Refuge Manager, Selawik NWR, P.O. Box 270, Kotzebue, Alaska 99752, (907) 442–3799
Refuge Manager, Tetlin NWR, P.O. Box 155, Tok, Alaska 99780, (907) 883–5312
Refuge Manager, Togiak NWR, P.O. Box 10201, Dillingham, Alaska 99576, (907) 842–1063
Refuge Manager, Yukon Delta NWR, P.O. Box 346, Bethel, Alaska 99559, (907) 543–3151
Refuge Manager, Yukon Flats NWR, Federal Building and Courthouse, 101 12th Ave., Box 20, Fairbanks, Alaska 99701, (907) 452–0407.

SUPPLEMENTARY INFORMATION: These proposed rules are to further define and clarify two sections and liberalize another in the Management Regulations for Alaska National Wildlife Refuges (50 CFR Part 36, 46 FR 31827, June 17, 1981). They are proposed in accordance with the requirement for public participation found in 50 CFR 36.42.

The definition of off-road vehicles (ORV) is clarified to reduce confusion and more closely conform to the definitions used by other federal agencies.

The relaxation of regulations governing the use of live standing timber for subsistence purpose is based on a request by the Interior Regional Council Committee in the Annual Report to the Secretary for 1983 and on field examinations, which show the existing regulation to be burdensome and overly restrictive.

To make the present regulation (§ 36.21(e)) prohibiting the harassment of wildlife by aircraft more consistent with the general National Wildlife Refuge System's regulation (§ 27.34), certain terminology will be deleted.

The two rulemaking documents in 50 CFR 26.37 (finalized 3/4/80) and Part 96 (finalized 12/26/78 and amended 3/14/79), have been superseded by 50 CFR Part 36 and are no longer necessary. Proposed Parts 97–106 (general land management regulations for Yukon Flats and Becharof National Wildlife Monuments) (44 FR 37754, June 28, 1979) and Part 107 (mining on the two Monuments) (45 FR 2616, January 11, 1980) address monuments which since have become National Wildlife Refuges and therefore the proposals are no longer relevant.

Corrections include the listing of current Office of Management and Budget (OMB) information collection approval numbers and the listing of new refuge headquarters locations for permit applications and submissions.

The policy of the U.S. Fish and Wildlife Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Interested persons may submit written comments, suggestions, or objections regarding the proposal to the regional office at the address provided above. Public hearings to receive comments will be held in Anchorage, Fairbanks, Fort Yukon, and Galena, Alaska. Prior local notice will be provided in the major affected areas. All relevant comments will be considerd prior to the issuance of final rules.

Conformance With Statutory and Regulatory Authorities

Section 304 of the Alaska National Interest Lands Conservation Act (ANILCA) of 1980 requires the Secretary to prescribe such regulations as may be necessary and appropriate to ensure that any activities carried out on a national wildlife refuge in Alaska are compatible with the purposes of that refuge.

The purposes of all 16 Alaska NWRs are specified in Sections 302 and 303 of ANILCA. The refuges that will be affected by these regulations were all established for the following purposes: (a) Conservation of fish and wildlife populations and habitats, (b) fulfillment of international treaty obligations, and (c) protection of water quality and quantity. All the Alaska refuges except Kenai NWR also have as a purpose the opportunity for continued subsistence use when consistent with purposes (a) and (b) above. In addition to the first

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three purposes mentioned above, Kenai NWR is to provide opportunities for scientific research, interpretation, environmental education, land management training and fish and wildlife oriented recreation. An additional purpose of the Alaska Maritime NWR is to provide a program of scientific research on marine resources.

The proposed regulations were generated because of direct requests by the public to clarify certain sections of the Management Regulations and to alleviate the overly burdensome regulation on tree cutting.

The Service has analyzed the impacts of public use and access on certain Alaska refuges in the following final environmental impact statements: Proposed Alaska Coastal National Wildlife Refuge (October 1974); Proposed Alaska Peninsula National Wildlife Refuge (1976); Proposed Arctic National Wildlife Refuge (October 1974); Proposed Selawik National Wildlife Refuge (1975); Proposed Koyukuk National Wildlife Refuge (1974); Proposed Togiak National Wildlife Refuge (October 1974); Proposed Yukon Delta National Wildlife Refuge (October 1976); Operation of the National Wildlife Refuge System (November 1976); Alternative Administrative Actions, Alaska National Interest Lands (1978); and the Final Comprehensive Conservation Plans, Environmental Impact Statements, and Wilderness Reviews for Kenai, Becharof, Izembek, and Alaska Peninsula National Wildlife Refuges.

Public use and access were also evaluated for compatibility with refuge purposes in an environmental assessment on proposed rules for management of Alaska NWRs in May 1981. Adequately regulated public use is consistent with and will not interfere with the refuge purposes delineated above.

The proposed regulations have also been evaluated as to the impact on subsistence as required by ANILCA Section 810. Based on the determination that the proposed public use and access would not be significantly different from that currently allowed, these proposed regulations are consistent with the purposes and intent of Section 810 and will result in no significant restrictions on subsistence activities.

Environmental Considerations

The Final Environmental Statement for Operation of the National Wildlife Refuge System was filed with the Council on Environmental Quality on November 12, 1976. A notice of availability was published in the Federal Register on November 19, 1976 (41 FR 51131). An environmental assessment and finding of no significant impact for the proposed interim rules for Alaska National Wildlife Refuges was approved on May 13, 1981. These proposed regulations do not involve a significant change in the level of use previously permitted. A thorough review was made of the existing environmental impact statements and assessments. A finding of no significant impact for these proposed rules was executed on May 23, 1985.

Information Collection

The Paperwork Reduction Act (Pub. L. 96-511) requires each information collection requirement to display an OMB clearance number and contain a statement to inform the person receiving the request why the information is being collected, how it will be used, and whether a response is voluntary, mandatory, or required to obtain a benefit. The Service has received approval from OMB for the information collection requirements of these regulations under the approval number cited below.

Type of information collection	OMB approval No.
Special use permits on Alaska refuges	1018-0061

These regulations impose no new reporting or recordkeeping requirements that must be cleared by OMB. The information is being collected to assist the Service in administering these programs in accordance with statutory authorities requiring that public uses be compatible with the primary purposes for which the areas were established. The information will be used to award benefits. A response is required to obtain a benefit.

Economic Effects

Executive Order 12291, "Federal Regulation," of February 17, 1981, requires the preparation of a regulatory impact analysis for major rules. A major rule is one likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, government agencies or geographic regions; or significant adverse effects on the ability of United States-based enterprises to compete with foreign-based enterprises. The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et seq.) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organization or governmental jurisdictions.

The Department of the Interior has determined that this rulemaking is not a "major rule" within the meaning of Executive Order 12291 and certifies that it will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act. This rule is expected to cost the National Wildlife Refuge System less than $1,000 annually for permit processing and is expected to cost the users of refuge resources who need permits less than $1,700 annually (a cost of $20 per individual for time and information to develop a permit application).

This rulemaking will impose no costs on small entities. The exact number of businesses and the amount of trade that will be affected by the rulemaking is unknown since the permits are generally issued to individuals. The aggregate effect will be a positive economic effect on a number of small entities that will be seasonal in nature and will, in most cases, merely continue pre-existing uses of refuge areas.

William Knauer, Wildlife Resources, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska, is the primary author of this proposed rulemaking document.

List of Subjects

50 CFR Part 26

National Wildlife Refuge System, Recreation, Wildlife refuges.

50 CFR Part 36

Alaska, National Wildlife Refuge System, Public land-mineral resources, Public lands-rights-of-way, Recreation, Traffic regulations, Wildlife refuges.

50 CFR Part 96

Alaska, Recreational areas, Wildlife refuges.

Accordingly, the proposed rule on Parts 97-107 is withdrawn, and 50 CFR is proposed to be amended as shown below:

PART 26—[AMENDED]

1. The authority for § 26.37 continues to read as follows:

Authority: National Wildlife Refuge Administration Act, 16 U.S.C. 668dd et seq.; Fish and Wildlife Act of 1956, 16 U.S.C. 742 et seq.; Federal Land Policy and Management Act, 204(j), 43 U.S.C. 1714(j).

§ 26.37 [Removed]

2. Section 26.37 is removed from 50 CFR Part 26.

PART 36—[AMENDED]

3. The authority for Part 36 continues to read as follows:

Authority: The Alaska National Interest Lands Conservation Act, Pub. L. 96-487 (December 2, 1980); the National Wildlife Refuge System Administration Act, as amended, 16 U.S.C. 668dd et seq.; Fish and Wildlife Act of 1956, 16 U.S.C. 742(a) et seq.; Refuge Recreation Act, 16 U.S.C. 460k et seq.; Paperwork Reduction Act of 1980, 94 Stat. 2812, Pub. L. No. 96-511.

§ 36.2 [Amended]

4. Amend § 36.2(h) by adding the sentence "It includes, but is not limited to, four-wheel drive or low-pressure-tire vehicles, motorcycles and related two-, three- or four-wheel vehicles, amphibious machines, ground-effect or air-cushion vehicles, airboats, recreation vehicle campers, and any other means of transportation deriving motive power from any source other than muscle or wind," immediately after the words "as defined in this section."

§ 36.3 [Amended]

5. Revise the first sentence of § 36.3 to read as follows: "The information collection requirements contained in §§ 36.15, 36.21, 36.22, 36.23, 36.24, 36.33, 36.39 and 36.41 of these regulations have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1018-0061."

§ 36.15 [Amended]

6. Amend § 36.15(a) by revising paragraphs (a)(1) and (2), and adding a new paragraph (a)(3), to read as follows: "(1) For live standing timber greater than six inches diameter at breast height (4½ feet above ground level), the refuge manager may allow cutting in accordance with the specifications of a special use permit if such cutting is determined to be compatible with the purposes for which the refuge was established; (2) For live standing timber between three and six inches diameter at breast height, cutting is allowed on the Arctic National Wildlife Refuge south of the divide of the Brooks Range and on the Innoko, Kanuti, Koyukuk, Nowitna, Selawik, Tetlin, and Yukon Flats National Wildlife Refuges unless restricted by the refuge manager. No more than 20 trees may be cut within any 20 acre block without a special use permit. On the remainder of the Arctic National Wildlife Refuge and on all other Alaska National Wildlife Refuges, the refuge manager may allow cutting in accordance with the specifications of a special use permit if such cutting is determined to be compatible with the purposes for which the refuge was established;

(3) For live standing timber less then three inches diameter at breast height, cutting is allowed unless restricted by the refuge manager.

§ 36.21 [Amended]

7. Revise § 36.21(e) to read as follows: "The operation of aircraft resulting in the harassment of wildlife is prohibited".

§ 36.41 [Amended]

8. Revise Subpart F, § 36.41(a)(1), to read as follows: "(1) These regulations and other regulations generally applicable to the National Wildlife Refuge System require that permits be obtained from the refuge manager. For activities on the Arctic, Kanuti, and Yukon Flats Refuges, permits are to be obtained from the respective refuge office in Fairbanks, Alaska. For activities on the Alaska Peninsula and Becharof Refuges, permits are to be obtained from the refuge office in King Salmon, Alaska. For activities on the Koyukuk and Nowitna Refuges, permits are to be obtained from the refuge office in Galena, Alaska. For activities on the Alaska Martime, Innoko, Izembek, Kenai, Kodiak, Selawik, Tetlin, Togiak, and Yukon Delta Refuges and for the Aleutian Islands Unit of the Alaska Martime Refuge, permits are to be obtained from the refuge manager, headquartered, respectively, in Homer, McGrath, Cold Bay, Soldotna, Kodiak, Kotzebue, Tok, Dillingham, Bethel, and Adak, Alaska. In all cases where a permit is required, the permittee must abide by the conditions under which the permit was issued."

PART 96—[REMOVED]

9. In 50 CFR, Part 96 is removed.

Dated: March 28, 1986.

P. Daniel Smith,

Acting Assistant Secretary for Fish, Wildlife and Parks.

[FR Doc. 86-9800 Filed 4-29-86; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 51203-5203]

Regulations Governing the Taking and Importing of Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Denial of a Petition to Undertake Rulemaking.

SUMMARY: On June 21, 1985, the National Marine Fisheries Service (NMFS) published a Notice of Receipt of a petition to undertake rulemaking (50 FR 25725). The petition received from Safari Club International requested several modifications to the U.S. marine mammal regulations that would require periodic review of the status of marine mammal species and a determination on whether the moratorium on the taking and importation of any of these species should be waived. Under the Marine Mammal Protection Act, there is a moratorium on taking marine mammals unless an exception has been made. Under the Safari Club proposal, waivers, if not implemented within two years of publication of the proposed rulemaking, would be withdrawn not later than thirty days thereafter. NMFS is required to publish notice of receipt of a rulemaking petition, solicit comments on its merit, determine whether or not to propose a rule within 120 days of receipt and publish notice of the determination in the Federal Register. This notice of denial of the petition completes these requirements.

ADDRESS: Requests for information on this Notice should be addressed to the Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service, Washington, DC 20235.

FOR FURTHER INFORMATION CONTACT: K. R. Hollingshead (Marine Resource Management Specialist) 202/634-7529.

SUPPLEMENTARY INFORMATION:

Background

On May 7, 1985, the Safari Club International petitioned the Secretary of Commerce, as provided under the Administrative Procedure Act (APA) (5 U.S.C. 553(e)), for rulemaking requiring NMFS to conduct a periodic review of the status of marine mammal species and to determine whether the moratorium on any of these species should be waived. The NOAA Directives require NMFS to publish notice of the receipt of this petition and solicit public comment.

Specifically, the petitioner requested that NMFS implement six changes to 50 CFR Part 216. The proposed changes are as follows: (1) Add a new Subpart J to 50 CFR Part 216 requiring a review of the status of marine mammal species at least once every five years to determine whether the Marine Mammal Protection Act (16 U.S.C. 1361-1407) (MMPA) moratorium on the taking and importing of marine mammals and marine mammal products should be waived for any species;

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(2) With respect to the five-year review, amend § 216.73 of Chapter 50 by adding a new paragraph (c) requiring the Director (Assistant Administrator for Fisheries) to offer the substance of the Federal Register notice required by this section for publication in appropriate scientific journals;

(3) Amend § 216.90(c) by adding the requirement that final regulations waiving the moratorium with respect to any species of marine mammal, or part thereof, will be published in the Federal Register not later than two years after the date of publication of the notice of proposed waiver;

(4) If a final regulation is not adopted within this two-year period, the Director will publish a notice of withdrawal in the Federal Register not later than 30 days after the end of this period;

(5) The Director will not prepare a regulation waiving the moratorium with respect to any species of marine mammals, or part thereof, for which a proposed regulation has been withdrawn unless he receives sufficient new information to warrant the proposal of a regulation, or unless three years have elapsed since the withdrawal of a prior proposed regulation to waive the moratorium; and

(6) Publication in the Federal Register of any final regulation waiving the moratorium will include a summary of the data on which the regulation is based and must show the relationship of the data to the regulations.

Public Comments

NMFS received three letters commenting on the petition. Comment: The Eskimo Walrus Commission stated it agreed that a periodic review of regulations governing marine mammals should be required. They also advocated public hearings in Alaska with the user group protected by the "Native exemption". The Walrus Commission also stated that regulations for importing marine mammals and marine mammal products should be a littel less stringent.

Response: Since NMFS has denied the rulemaking petition for the reasons given below, holding a public hearing would serve no purpose at this time. We regard these comments to be more pertinent to consideration of Management Authority to States, under 50 CFR Part 403, than to the petitioned action.

Comment: The Center for Environmental Education (CEE) stated that a waiver of the moratorium is clearly the intention of the petitioner, that the petitioner should justify such a waiver and that the legislative history of the MMPA is clear in placing this burden of justification on those seeking a waiver to the moratorium. The CEE believes that the cost for conducting such a review, holding hearings and promulgating regulations should be borne by the petitioner. Additionally, CEE recommended that NMFS consult with Fish and Wildlife Service (FWS) which also has responsibilities under the MMPA.

Response: NMFS agrees with the comment that the legislative history of the MMPA places the evidentiary burden on the person seeking a waiver of the moratorium to justify the need for and the appropriateness of the waiver. NMFS did consult with FWS which received an identical rulemaking petition (see 50 FR 32099, August 8, 1985).

Comment: The Marine Mammal Commission provided extensive comments on each aspect of the petition and recommended that the petition be denied in its entirety. The Commission's discussion of the six elements of the petition is summarized below.

1. "The Marine Mammal Protection Act does not require status reviews to be conducted on a set schedule. Instead, it 'authorizes' and 'directs' the Secretary to conduct reviews on the status of species 'from time to time . . .' 16 U.S.C. 1371(a)(3)(A). The apparent intent of this section is to provide the Secretary with flexibility to take action whenever it comes to his attention that it is appropriate to do so and to waive the moratorium. Under this flexible approach, the Secretary is free to initiate steps to waive the moratorium when a legally sufficient request to do so has been submitted by another party or when, based upon agency review of a particular fact situation, it is determined that such action would be consistent with the Marine Mammal Protection Act. Petitioner has set forth no compelling reason why this workable statutory scheme should be abandoned in favor of the more inflexible procedure they propose."

2. "Even if the Service grants Petitioner's five year status review request, we consider it unnecessary to publish notice in scientific journals. Federal Register notice should suffice for purposes of notifying interested parties of agency action under the Marine Mammal Protection Act, and there is no apparent reason to depart from this practice in the case of a five year status review. Such a requirement also could establish an undesirable precedent requiring journal publication of other Marine Mammal Protection Act and Endangered Species Act actions. The request to amend 50 CFR Part 216 for this purpose should therefore be denied."

3. "There is no requirement in the Marine Mammal Protection Act that proceedings on a waiver be completed within a specified time period. Sufficient time limitations on conducting a waiver rulemaking are already contained in the Service's regulations in 50 CFR Part 216, Subpart G. Provided that scheduling problems do not arise, it is likely that most waiver proceedings would be completed within Petitioner's requested two year time frame. It is possible, however, that complicated waiver proceedings would require more time to complete. In such a situation, it would be contrary to section 101(a)(3)(A) of the Act to require by regulation that a waiver review be terminated before the Secretary has had an opportunity to 'determine when, to what extent, if at all, and by what means, it is compatible with this chapter to waive the requirements of this section so as to allow taking, or importing of any marine mammal, or any marine mammal product . . .' 16 U.S.C. 1371(a)(3)(A). For this reason, and because there is no apparent benefit to be derived from such a limitation, the Commission recommends that this request be denied."

4. "As noted above, it is possible that adequate review of a waiver request will require more than two years. In such an instance, it would be inappropriate, if not contrary to the requirements of section 101(a)(3)(A) of the Marine Mammal Protection Act, to mandate withdrawal of a waiver request at the end of the two year period. Section 101(a)(3)(A) requires the Secretary to adopt suitable regulations, issue permits, and make determinations in accordance with section 102, 103, 104, and 111 of the Marine Mammal Protection Act with respect to each proposed waiver 16 U.S.C. 1371(a)(3)(A). This mandatory administrative review and decision-making procedure should be allowed to run its course, regardless of the amount of time required. The request to amend 50 CFR Part 216 for this purpose should therefore be denied."

5. "There is no apparent need for such a regulation [to require that a proposed waiver may not be proposed unless new information is recieved or unless three years has elapsed from proposal.] Moreover, as Petitioner has noted, section 101(a)(3)(A) authorizes and directs the Secretary 'from time to time' to take action, in appropriate cases, to waive the mortorium. *Id.* Petitioner's proposed amendment could produce a result that is inconsistent with these requirements by imposing a mandatory three year period, instead of the Act's more flexible 'from time to time' authorization. Moreover, section 101(a)(3)(A) requires that such action be taken on the basis of the best scientific evidence available. Petitioner would replace this requirement with a 'sufficient new information standard' which also could produce a result that is inconsistent with the Act. The request to amend 50 CFR Part 216 for this purpose should therefore be denied."

6. "This requirement [that a final rule include a summary of the data supporting the waiver] is unnecessary. Section 101(a)(3)(A) requires that the procedures of section 103 of the Marine Mammal Protection Act by followed when promulgating waiver regulations. Section 103(d)(3) requires that the Secretary publish and make available to the public at the time of publication of a notice to waive the moratorium 'a statement describing the evidence before the Secretary upon which he proposes to waive such regulation . . .' 16 U.S.C. 1373(d)(3). Such publication should satisfy Petitioner's request on this point. In addition to this Marine Mammal Protection Act requirement, the general rulemaking requirements of the Administrative Procedure Act also would require that a summary similar to that requested by the petitioner be included in the proposed and final regulations. Petitioner's request on this point would therefore achieve no useful purpose and should be denied."

Response: NMFS agrees with the comments of the Marine Mammal Commission.

Discussion

NMFS has denied the Safari Club International's petition based on the determination that the MMPA does not require that status reviews be conducted on a specific schedule, rather it directs that such reviews be conducted 'from time to time.' This aspect of the statute gives NMFS authority to initiate waiver proceedings prescribed in the MMPA at any time. NMFS believes that administrative resources can best be utilized if waiver proceedings are initiated only when there is an indication that a waiver may be appropriate or when a specific proposal is under consideration. The existing procedures have served in eight previous considerations of waivers of the moratorium, and NMFS has determined that the existing statutory scheme should not be abandoned in favor of the more inflexible procedures proposed in the petition.

NMFS has determined that the existing regulations regarding section 103(d) hearings on waivers of the moratorium are inconformance with the MMPA and the APA. The proposed change to require status reviews of each species to be published in scientific journals has no legal basis and the editorial boards of scientific journals are not under any legal obligation to publish government proceedings. The existing regulatory requirement of publishing waiver proceedings in the Federal Register provides for public participation in the process and preserves due process required by the APA. The petitioner's recommendation to include a "summary by the Director of the data on which such regulations are based. . .", is provided for by the MMPA and has been adhered to by NMFS in all previous waiver proceedings.

For these reasons, the petition of Safari Club International is denied.

Dated: April 25, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-9636 Filed 4-29-86; 8:45 am]

BILLING CODE 3510-22-M

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Notices

Federal Register
Vol. 51, No. 83
Wednesday, April 30, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

April 25, 1986.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250 (202) 447-2118.

Comments on any of items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503. Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

New

- Packers and Stockyards Administration

"Clear Title" Regulations to implement Section 1324 of the Food Security Act of 1985
One time only for each respondent, however, program ongoing
State or local governments; 50 responses; 800 hours; not applicable under 3504(h)
James L. Smith (202) 447-7063

Extension

- Agricultural Stabilization and Conservative Service

7 CFR Parts 726 and 726-MQ-106-1—Report of Unmarketed Tobacco
MQ-106-1
Annually
Farms; 300,000 responses; 20,000 hours; not applicable under 3504(h)
Donald M. Blythe, (202) 447-2715

Donald E. Hulcher,
Acting Departmental Clearance Officer.
[FR Doc 86-9573 Filed 4-29-86; 8:45 am]
BILLING CODE 3410-01-M

Soil Conservation Service

Environmental Statements; Hancock Cove Watershed, UT

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA) of 1969; as amended; the Council on Environmental Quality NEPA Regulations (40 CFR Part 1500-1508); and the Soil Conservation Service NEPA Procedures (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Hancock Cove Watershed, Duchesne County, Utah.

FOR FURTHER INFORMATION CONTACT: Francis T. Holt, State Conservationist, Soil Conservation Service, Room 4402, Federal Building, 125 South State Street, Salt Lake City, Utah 84147, telephone 801-524-5050.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Francis T. Holt, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for irrigation water conservation and improvement of soil resources. The planned works of improvement include 14 structures for water control, 14,000 feet of conveyance pipelines, and lining about 300 feet of Hancock Lateral. Land treatment includes 24 side-roll sprinkler systems on 1,500 acres along with conservation cropping systems and irrigation water management, installing 15,000 feet of group pipelines, and other onfarm conservation practices.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Proection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Francis T. Holt.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

Dated; April 22, 1986.
Francis T. Holt,
State Conservationist.
[FR Doc. 86-9593 Filed 4-29-86; 8:45 am]
BILLING CODE 3410-16-M

Environmental Statements; North Deer Creek Watershed, OK

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Availability of a Record of Decision.

SUMMARY: Roland R. Willis, responsible Federal official for projects administered under the provisions of Pub. L. 83-566, 16 U.S.C. 1001-1006, in the State of Oklahoma, is hereby providing notification that a record of decision to proceed with the installation of the North Deer Creek watershed project is available. Single copies of this record of decision may be obtained from Roland R. Willis at the address shown below.

FOR FURTHER INFORMATION CONTACT: Roland R. Willis, State Conservationist, Soil Conservation Service, USDA Agricultural Center Building, Stillwater, Oklahoma 74074, telephone (405) 624-4360.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention. State and local review procedures for Federal and federally assisted programs and projects are applicable)

Dated: April 22, 1986.
Donald R. Vandersypen,
Assistant State Conservationist (WR).
[FR Doc. 86-9594 Filed 4-29-86; 8:45 am]
BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Michigan Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Michigan Advisory Committee to the Commission will convene at 6:00 p.m. and adjourn at 9:00 p.m., on May 15, 1986, at the Ann Arbor Hilton, Victorian Room, 610 Hilton Blvd. (I-94 & State St.), Ann Arbor, Michigan. The purpose of the meeting is to discuss the status of civil rights in Michigan and committee projects.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Charles H. Tobias, or Clark Roberts, Director of the Midwestern Regional Office at (312) 353-7371, (TDD 312/886-2188). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 24, 1986.
Yvonne E. Schumacher,
Program Specialist for Regional Programs.
[FR Doc. 86-9581 Filed 4-29-86; 8:45 am]
BILLING CODE 6335-01-M

Oregon Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Oregon Advisory Committee to the Commission will convene at 9:45 a.m. and adjourn at 5:30 p.m., on May 8, 1986, at the Kah-Nee-Ta Conference Facility, Warm Springs, Oregon. A factfinding meeting will be held on Indian school dropouts.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, James Huffman or Susan McDuffie Director of the Northwestern Regional Office at (206) 442-1246. (TTD 206/442-4744). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The Meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, April 24, 1986.
Ann E. Goode,
Program Specialist for Regional Programs.
[FR Doc. 86-9580 Filed 4-29-86; 8:45 am]
BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of an Export Trade Certificate of Review.

SUMMARY: The Department of Commerce has issued an export trade certificate of review to Pacific Northwest Fish Export Association, Inc. (PNFEA). This notice summarizes the conduct for which certification has been granted.

FOR FURTHER INFORMATION CONTACT: James V. Lacy, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. 97-290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing Title III are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a certificate in the **Federal Register.** Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

Export Trade

Products: fish and fish products including salmon (fresh, frozen, canned and roe), herring roe, tanner crab, king crab, and black cod (sablefish).

Services: consulting; international market research; advertising; marketing; insurance; product research and design, exclusively for export; legal assistance; transportation, including trade documentation and freight forwarding; communication and processing of foreign orders; warehousing; foreign exchange; financing; and taking title to goods in connection with the export of fish and fish products.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

1. PNFEA may compile for, collect from, and disseminate to its members the following information regarding the export of fish and fish products to the Export Markets:

a. sales and marketing efforts and opportunities in the Export Markets for fish and fish products, including, but not limited to, the pricing of exports and selling strategies, sales, projected demand, standard terms of sale, financing, insurance, transportation, foreign competition and customers' specifications, all in the Export Markets;

b. quality and quantity of fish and fish products available for export by its members, including, but not limited to, export inventory levels and geographic availability; and

c. U.S. and foreign legislation, regulations and policies affecting export sales.

2. The members may, in meetings conducted by PNFEA, discuss information regarding the export of fish and fish products to the Export Markets as enumerated in paragraph 1 above.

3. PNFEA and the members may prescribe the following conditions on the acquisition and sale of PNFEA stock:

a. each new shareholder must execute and accede to the PNFEA shareholders' agreement on the same terms as the original shareholders, and

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b. any shareholder desiring to sell its stock shall offer such stock to PNFEA at book value for thirty (30) days, and after thirty (30) days, shall offer such stock to any other shareholder of the corporation at book value for fifteen (15) days. After such fifteen (15) day period, the shares may be sold to anyone, subject to the same restriction on any subsequent retransfer of shares.

Definitions

For purposes of this certificate, "member" shall have the meaning set forth in § 325.2(e) of the Regulations and does not denote ownership of stock in PNFEA. The following entities are "members" of PNFEA: Icicle Seafoods, Inc., Seattle, WA; Ocean Beauty Seafoods, Inc., Seattle, WA; Peter Pan Seafoods, Inc., Seattle, WA; and Sea-Alaska Products, Inc., Seattle, WA.

A copy of each certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: April 24, 1986.

James V. Lacy,

Director, Office of Export Trading Company Affairs.

[FR Doc. 86-9670 Filed 4-29-86; 8:45 am]

BILLING CODE 3510-DR-M

Petitions by Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance; Deluxe Craft Manufacturing Co., et al.

Petitions have been accepted for filing on the dates indicated from the following firms: (1) DeLuxe Craft Manufacturing Company, 1945 North Fairfield Avenue, Chicago, Illinois 60647, producer of photo albums, scrap books, binders and desk accessories (December 19, 1985); (2) L.E. Jones Company, 1200 34th Avenue, Menominee, Michigan 49858, producer of valve seat inserts (December 20, 1985); (3) U.S. Repeating Arms Company, P.O. Box 30-300, New Haven, Connecticut 06511, producer of firearms (December 23, 1985); (4) Medko, Inc., 4500 Quebec Avenue North, Minneapolis, Minnesota 55428, producer of metal electronic components (December 23, 1985); (5) Coronet Leather Finishing Corporation, 201 Central Street, Georgetown, Massachusetts 01833, processor of leather (December 26, 1985); (6) The Harry Gill Company, P.O. Box 428, Urbana, Illinois 61801, producer of track and field equipment (December 27, 1985); (7) Jerome Industries Corporation, 730 Division Street, Elizabeth, New Jersey 07201, producer of transformers (December 30, 1985); (8) The Carpenter Shoe Company, Inc., P.O. Box 1387, Green Cove Springs, Florida 32043, producer of children's footwear (December 30, 1985); (9) Rochester Button Company, 107 Norris Drive, Rochester, New York 14610, producer of buttons (December 31, 1985); (10) Amtec Enterprises, Inc., 645 North 3rd Street, Newark, New Jersey 07107 (December 31, 1985).

In addition, the following petitions were accepted on April 18, 1986, following the reauthorization of the trade adjustment assistance program: (11) Acme United Corporation, 425 Post Road, Fairfield, Connecticut 06430, producer of scissors, shears, rulers, yardsticks, letter openers, nail clippers, medical instruments and hospital supplies; (12) The American Fabrics Company, 1089 Connecticut Avenue, Bridgeport, Connecticut 06609, producer of lace and embroideries; (13) American Ventures International, 9449 West Jefferson, Culver City, California 90230, producer of fabric; (14) Amkey, Inc., 220 Allardvale Street, Wilmington, Massachusetts 01887, producer of electronic keyboards; (15) Better Coil & Transformer Corporation, 90 East Union Street, Goodland, Indiana 47948, producer of transformers; (16) Bigg Electronics, Inc., 1227 Walt Whitman Road, Melville, New York 11747, producer of audio equipment; (17) Chautauqua Vineyards, Inc., 10001 Route 60, Fredonia, New York 14063, producer of wine and wine jelly; (18) Colloid Chemicals, Inc., P.O. Box 240238, Charlotte, North Carolina 28224, producer of dyestuffs; (19) Crown-Globe, Inc., P.O. Box 228, Philadelphia, Pennsylvania 19526, producer of men's, women's, and children's shirts and underwear (20) Devar, Incorporated, 706 Bostwick Avenue, Bridgeport, Connecticut 06605, producer of computer components and process control instruments; (21) Elkhart Cases, Inc., P.O. Box 1414, Elkhart, Indiana 46515, producer of musical instrument cases and other plastic articles; (22) Flair Manufacturing Corporation, 600 Old Willets Path, Hauppauge, New York 11788, producer of heating and air conditioning controls; (23) Hoskins Lumber Company, 23888 Highway 20, Philomath, Oregon 97370, producer of lumber; (24) J&K Sales Company, Inc., 10 Front Street, Pawtucket, Rhode Island 02860, producer of jewelry; (25) J.W. Bray Company; Inc., 305 East Hawthorne Street, Dalton, Georgia 30720, producer of women's footwear; (26) Keystone Electronics Corporation, 49 Bleecker Street, New York, New York 10012, producer of electronic components and hardware; (27) LeBow Jewelry, Ltd., 50 Vision Boulevard, East Providence, Rhode Island 02914, producer of jewelry and jewelry chains; (28) Letisse, Inc., 330 Fifth Avenue, New York, New York 10001, producer of handbags and belts; (29) P/A Industries, Inc., 522 Cottage Grover Road, Bloomfield, Connecticut 06002, producer of metal stamping and web processing equipment; (30) P.B. Machine Company, Inc., 2 Elm Street, Holcomb, New York 14469, producer of fasteners; (31) Power Systems, Inc., 12 Tobey Road, Bloomfield, Connecticut 06002, producer of electronic voltage regulators; (32) Rochester Metal Products Corporation, P.O. Box 2505, Muncie, Indiana 47302, producer of iron castings; (33) Russell Aives Mills, Ltd., 13 Lucon Drive, Deer Park, New York 11729, producer of men's, women's and children's sweaters; (34) S. Howes Company, Inc., Howard Street, Silvercreek, New York 14136, producer of processing equipment; (35) San Juan Manufacturing, Inc., 3102 B Street Northwest, Auburn, Washington 98001, producer of sailboats; (36) Stylstek, Inc., 1857 Middlesex Street, Lowell, Massachusetts 01851, producer of footwear components; (37) Suncook Woven Label Company, Inc., P.O. Box 234, Suncook, New Hampshire 03275, producer of fabric labels; (38) Topco, Inc., 107 Trumbull Street, Elizabeth, New Jersey 07206, producer of lamps, lamp parts and waste receptacles; (39) Transco Products Corporation, 609 West Elizabeth Avenue, Linden, New Jersey 07036, producer of blank recording discs; and (40) Windstreamers, Inc., 1045 12th Northwest, Issaquah, Washington 98027, producer of wind banners.

The petitions were submitted pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618), as amended. Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Certification Division, Office of Trade Adjustment Assistance, Room 4015A, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

The Catalog of Federal Domestic Assistance official program number and title of the program under which these petitions are submitted is 11.300, Trade Adjustment Assistance. Insofar as this notice involves petitions for the determination of eligibility under the Trade Act of 1974, the requirements of Office of Management and Budget Circular No. A-95 regarding review by clearinghouses do not apply.

Charles L. Smith,

Acting Chief, Certification Division, Office of Trade Adjustment Assistance.

[FR Doc. 86-9668 Filed 4-29-86; 8:45 am]

BILLING CODE 3510-DR-M

Computer Peripherals, Components and Related Test Equipment Technical Advisory Committee; Meeting

A meeting of the Computer Peripherals, Components and Related Test Equipment Technical advisory Committee will be held May 20, 1986, at 9:30 a.m., the Herbert C. Hoover Building, Room B841, 14th and Constitution Avenue, NW., Washington, DC. The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export controls applicable to computer peripherals, components and related test equipment or technology.

General Session

1. Opening remarks by the Chairman.
2. Comments by the public.
3. Up-date on delay in announcement of floppy disk de-control.
4. Up-date on the foreign availability submission re: Floppy disks.
5. ECCN 1572—1" Video Tape: Status of re-defining advisory note 6(C)(3). Video Tape Recorders.
6. ECCN 1565—Plotters: Status of re-defining Supp. No. 1 to 399.1 CCL56.
7. Section 379—Tech Data Regulations: Discussion regarding clarity of recent changes.
8. Public Rule-Making—Discussion regarding practical use within D.O.C.
9. Election of Chairmen: Tech Regulations Sub-Committee and Foreign Availability Sub-Committee.
10. Tutorial Presentation—Tektronix.
11. Introduction of guest attendees.
12. 1986 Charter of CP-TAC.
13. Recommendations for de-control submitted by CDC: Floppy Disks, Mag. Tape, Graphic Displays, Disk Drives.
14. Update on the status of the automated licensing process.
15. New Business.

Executive Session

16. Discussions of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session will be open to the public with a limited number of seats available. A Notice of Determination to close meetings or portions of meetings of the Committee to the public on the basis of 5 U.S.C. 552b(c)(1) was approved on January 10, 1986, in accordance with the Federal Advisory Committee Act. A copy of the Notice is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, (202) 377-4217. For further information or copies of the minutes contact Margaret A. Cornejo, (202) 377-5535.

Dated: April 25, 1986.

Margaret A. Cornejo,

Acting Director, Technical Support Staff, Office of Technology and Policy Analysis.

[FR Doc. 86-9660 Filed 4-29-86; 8:45 am]

BILLING CODE 3510-DT-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Requesting Public Comment on Bilateral Textile Consultations With the Government of Hong Kong To Review Trade in Category 651

April 24, 1986.

On April 1, 1986, the Government of the United States requested consultations with the Government of Hong Kong with respect to man-made fiber textile products in Category 651 (pajamas and nightwear of man-made fiber). This request was made on the basis of the agreement, effected by exchange of notes dated June 23, 1982, as amended, between the governments of the United States and Hong Kong relating to trade in cotton, wool and man-made fiber textiles and textile products.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations between the two governments, the United States may request the Government of Hong Kong to limit exports in Category 651, produced or manufactured in Hong Kong and exported to the United States during 1986. The United States reserves the right to control imports at the established level.

Anyone wishing to comment or provide data or information regarding the treatment of Category 651 under the agreement with Hong Kong, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. Ronald I. Levin, Acting Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-9631 Filed 4-29-86; 8:45 am]

BILLING CODE 3510-DR-M

Combining Import Limits Established for Certain Cotton Textile Products Produced or Manufactured in India

April 24, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on May 1, 1986. For further information contact Claudia Wolfe, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On December 27, 1985 a notice was published in the **Federal Register** (50 FR 52985), which announced the restraint limits for certain specified categories of

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cotton, wool, and man-made fiber textile products, including gingham and other yarn-dyed fabrics in Categories 310 and 318, produced or manufactured in India and exported to the United States during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. Under the terms of their Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 21, 1982, as amended, the Governments of the United States and India have agreed to combine the individual limits of 749,000 square yards and 4,066,000 square yards established, respectively, for Categories 310 and 318 into an overall limit of 4,815,000 square yards for Categories 310 and 318 for the 1986 agreement period. There are no sublimits. Accordingly, in the letter which follows this notice the Chairman of CITA directs the Commissioner of Customs to establish the combined limit.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1986).

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textiles Agreements.

April 24, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of December 23, 1985 which directed you to prohibit entry of cerain cotton, wool and man-made fiber textile products, produced or manufactured in India.

Effective on May 1, 1986, the directive of December 23, 1985 is hereby further amended to combine the previously established limits for cotton textile products in Categories 310 and 318 into a single limit, as follows:

Category	12-month restraint level[1]
310/318	4,815,000 square yards.

[1]The limit has not been adjusted to reflect any imports exported after December 31, 1985.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-9627 Filed 4-29-86; 8:45 am]

BILLING CODE 3510-DR-M

Amending Export Visa Requirement for Certain Cotton Textile Products Produced or Manufactured in India

April 24, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on May 1, 1986. For futher information contact Claudia Wolf, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of December 21, 1982, as amended, the Governments of the United States and India have agreed to further amend the existing export visa requirement to permit the use on the visas of either the merged Category 310/318, or one or the other of the individual categories in the merger. This amendment will apply to cotton fabrics in Category 310/318 which have been produced or manufactured in India and exported to the United States during the twelve-month period which began on January 1, 1986 and until further notice. Merchandise in Category 310/318, exported before January 1, 1986, may be visaged using the merged Category 310/318, provided all other requirements established under this visa arrangement have been met.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1986).

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

April 24, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of November 20, 1979, as amended, which established an export visa requirement for certain cotton, wool and man-made fiber textiles and textile products, produced or manufactured in India.

Effective on May 1, 1986 and until further notice, the existing export visa requirement established by directive of November 28, 1979, as amended, is hereby further amended to permit entry for consumption, or withdrawal from warehouse for consumption, in the United States of cotton textile products in Category 310/318 which have been visaed as Category 310/318, or either one of the categories in the combination, if imported on and after January 1, 1986. Cotton textile products in Category 310/318, exported before January 1, 1986, may be visaed using the merged Category 310/318, provided all other requirements established under this visa arrangement have been met.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-9628 Filed 4-29-86; 8:45 am]

BILLING CODE 3510-DR-M

Import Restraint Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in Korea

April 24, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on May 1, 1986. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On December 18, 1985, a notice was published in the **Federal Register** (50 FR 52356) which established import control limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in Korea and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. In the letter which follows this notice, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to also control imports of man-made fiber textile products in Category 649 (brassieres and body-supporting garments), produced or manufactured in Korea and exported during the same twelve-month period, at 500,752 dozen.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1986).

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

April 24, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive issued to you on December 18, 1985 which directed you to prohibit entry of certain cotton, wool and man-made fiber textile products, produced or manufactured in Korea.

Effective on May 1, 1986, the directive of December 18, 1985 is hereby further amended to include a limit for man-made fiber textile products in Category 649 of 500,752 dozen.[1]

To the extent that there is any unfilled balance in the limit for Category 649, goods exported during the 1985 agreement period should be charged to that limit. Goods in excess of that limit should be charged to the limit established for the category during the 1986 agreement period.

Textile products in Category 649 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Leonard A Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

FR Doc. 86-9632 Filed 4-29-86; 8:45 am]

BILLING CODE 3510-DR-M

[1] The limit has not been adjusted to account for any imports exported after December 31, 1985. Charges for Category 649 for the period January 1, 1986 through February 28, 1986 are 3,734 dozen.

Import Limit for Certain Cotton Textile Products Produced or Manufactured in Sri Lanka

April 25, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on May 1, 1986. For further information contact Nathaniel Cohen, Trade Reference Assistant, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

On March 3, 1986, a notice was published in the **Federal Register** (51 FR 7314), which established an import restraint limit for cotton skirts in Category 342, produced or manufactured in Sri Lanka and exported during the 90-day period which began on January 31, 1986 and extends through April 30, 1986.

During consultations held under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983, as amended, the Governments of the United States and Sri Lanka have agreed to further amend their agreement to establish a specific limit of 59,671 dozen for cotton skirts in Category 342, produced or manufactured in Sri Lanka and exported during the period which began on January 31, 1986 and extends through May 31, 1986. The letter to the Commissioner of Customs which follows this notice implements the agreed amendment.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States annotated (1986).

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

April 25, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on February 20, 1986 which directed you to prohibit entry of certain cotton textile products, produced or manufactured in Sri Lanka and exported during the 90-day period which began on January 31, 1986 and extends through April 30, 1986.

Effective on May 1, 1986, the letter of February 20, 1986 is hereby amended to establish a specific limit of 59,671 dozen [1] for cotton skirts in Category 342, produced or manufactured in Sri Lanka and exported during the period beginning on January 31, 1986 and extending through May 31, 1986.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-9633 Filed 4-29-86; 8:45 am]

BILLING CODE 3510-DR-M

[1] The limit has not been adjusted to account for any imports exported after January 30, 1986.

Officials Authorized To Issue Export Visas for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Sri Lanka

April 24, 1986.

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 10, 1983 between the Governments of the United States and Sri Lanka, the Government of Sri Lanka has notified the United States Government that Mr. R.M.C. Ranasinghe and Mr. Y.A. Dayaratne have been named to sign export visas issued by the Ministry of Textile Industries in place of Mr. H.B. Herath and Mrs. P.G.P. Abeyratna, who will no longer sign export visas. The purpose of this notice is to advise the public of this change.

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-9629 Filed 4-29-86; 8:45 am]

BILLING CODE 3510-DR-M

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Announcing Import Limits for Certain Cotton, Wool, and Man-Made Fiber Textile Products, Produced or Manufactured in Taiwan

April 24, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on May 1, 1986. For further information contact Kathy Davis, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

Under the terms of the bilateral agreement of November 18, 1982, as amended, concerning cotton, wool and man-made fiber textile products, produced or manufactured in Taiwan, a decision has been reached to convert to specific limits in 1986 the levels for certain cotton, wool and man-made fiber textile products in Categories 301, 310/318, 352, parts of 359 (cotton headwear, vests, and infants' sets), 360, 361, 363, 369pt., 436, 440, 442, 443, 611, part of 614, 632, 649, and 651, exported to the United States during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. The letter to the Commissioner of customs which follows this notice establishes the new specific limits.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26822), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

April 24, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the bilateral textile agreement of November 18, 1982, as amended, concerning cotton, wool and man-made fiber textile products from Taiwan; and in accordance with the provisions in Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May 1, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Taiwan and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986, in excess of the indicated restraint limits:

Category	Twelve-mo. restraint limit[1]
301	427,438 pounds.
310/318	5,740,000 square yards.
352	876,387 dozen.
359 pt.[2]	4,100,000 pounds.
359 pt.[3]	1,250,500 pounds.
359 pt.[4]	871,459 pounds.
360	609,384 numbers.
361	1,019,900 numbers.
363	12,117,079 numbers.
369 pt.[5]	2,206,083 pounds.
436	4,394 dozen.
440	16,166 dozen.
442	37,471 dozen.
443	3,924 dozen.
611	1,205,461 square yards.
614 pt.[6]	14,273,125 square yards.
632	4,202,500 dozen pairs.
649	959,075 dozen.
651	393,344 dozen.

[1] The restraint limits have not been adjusted to reflect any imports exported after December 31, 1985.

[2] In Category 359, only T.S.U.S.A. numbers 384.0438, 384.0441, 384.0442, 384.0444, 384.0805, 384.0810, 384.0815, 384.0820, 384.0825, 384.3445, 384.3446, 384.3447, 384.3448, 384.5162, 384.5163, 384.5167, 384.5169, 384.5172.

[3] In Category 359, only T.S.U.S.A. numbers 381.0235, 381.0554, 381.3646, 381.5800, 381.5820, 384.0648, 384.0863, 384.4300, 384.4430.

[4] In Category 359, only T.S.U.S.A. numbers 705.3810, 705.3850, 705.4111.

[5] In Category 369, only T.S.U.S.A. numbers 338.5040, 338.5045, 338.5051, 338.5056, 338.5061, 338.5065, 338.5066, 338.5072, 338.5075, 338.5079, 338.5084, 338.5087, 338.5092, 338.5096, and 338.5098.

Sincerely,

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-9630 Filed 4-29-86; 8:45 am]

BILLING CODE 3510-DR-M

Establishing an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Malaysia

April 28, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on April 30, 1986. For further information contact Claudia Wolfe, International trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

On February 25, 1986, a notice was published in the **Federal Register** (51 FR 6578) which established an import restraint limit for cotton playsuits and sunsuits in Category 337, produced or manufactured in Malaysia and exported during the ninety-day period which began on January 30, 1986 and extends through April 29, 1986. The notice also stated that, if no mutually satisfactory solution is reached on a level for this category during consultations, the United States Government, pursuant to the agreement, may establish a prorated specific limit for the period immediately following the ninety-day consultation period. Inasmuch as no solution has been reached, the United States Government has decided to establish a prorated specific limit of 22,980 dozen for Category 337 for the period beginning April 30, 1986 and extending through December 31, 1986. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of Malaysia, further notice will be published in the **Federal Register**. In the event the limit established for the ninety-day period has been exceeded, such excess amount, if allowed to enter, will be charged to the level established for the designated prorated period.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982, (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26822), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States annotated (1986).

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

April 28, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated July 1 and July 11, 1985, between the Governments of the United States and Malaysia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on April 30, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 337, produced or manufactured in Malaysia and exported during the period beginning April 30, 1986 and extending through December 31, 1986, in excess of 22,980 dozen.[1]

Textile products in Category 337 exported during the ninety-day period which began on January 30, 1986 and which are in excess of the level established for that period shall be charged to the prorated level beginning on April 30, 1986.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26822), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-9741 Filed 4-29-86; 10:58 am]

BILLING CODE 3510-DR-M

[1] The limit has not been adjusted to account for any imports exported after April 29, 1986.

DEPARTMENT OF DEFENSE

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Public Information Collection Requirement Submitted to OMB for Review.

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses ; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Application for a Department of the Army Permit. This program regulates the alteration and quality of U.S. waters. The public submits the application to obtain permission to undertake construction related activities that would affect navigation channels and other U.S. waters. The impacts on navigation, water quality, the environment, and other factors are considered in the Corps review.

Individual or firms making structural changes affecting the navigational waters of the U.S.

Responses: 14,000.

Burden Hours: 70,000.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection proposal may be obtained from Ms. Angela R. Petrarca, DAIM–ADI–M, Room 1C638 The Pentagon, Washington, DC 20310–0700, telephone (202) 695–1671.

Patricia H. Means,

OSD Federal Register Liaison Officer Department of Defense.

April 24, 1986.

[FR Doc. 86-9578 Filed 4-29-86; 8:45 am]

BILLING CODE 3810-01-M

Military Traffic Management Command Directorate of Personal Property; International Program

AGENCY: Military Traffic Management Command (MTMC), Army, DOD.

ACTION: Notice of invitation to comment on the solicitation for movement of unaccompanied baggage and crated household goods under the Direct Procurement Method (DPM) between installation transportation offices and water and aerial ports within the continental United States.

SUMMARY: The MTMC is planning to solicit rates for movement of unaccompanied baggage and crated household goods moving between installations and ports. Your comments are requested for inclusion in our final solicitation. Comments from the freight forwarders/carriers, as well as any other interested persons or agencies, are being solicited for the following proposed provisions:

a. Freight forwarders/carriers will be requested to submit a single factor rate to include the following services:

(1) Pickup shipment at local contractor at origin installation, or from origin port.

(2) Surface transportation to meet desired delivery dates.

(3) Delivery to destination shown on Government Bill of Lading as directed by the installation transportation office.

b. Traffic moving under the DPM method of shipment between ports and installation transportation offices will be offered based on the most favorable rate submitted for each traffic channel. The Government reserves the right to use the method of shipment serving the best interest of the Government and service member.

c. Rates submitted will be for a 6-month period with an option for cancellation at designated periods within the cycle.

This invitation consists of ideas and issues identified by MTMC. Any freight forwarder/carrier interested in participating in the program must write to this office in order to receive a copy of the solicitation.

DATE: submit written comments by May 30, 1986.

FOR FURTHER INFORMATION CONTACT:

Mrs. Naomi King or Mr. Russell MacDonald, HQ, Military Traffic Management Command, ATTN: MT–PPC (Room 408), 5611 Columbia Pike, Falls Church, Virginia 22041–5050, Commercial Phone (202) 756–2385.

Address Comments To: HQ, Military Traffic Management Command, ATTN: MT–PPC (Room 408), 5611 Columbia Pike, Falls Church, Virginia 22041–5050, (FILE: DPM SURFACE).

This request for comments and the resulting determinations are being made under the authority of 10 USC 2301–2314 and DOD Directives 4500.9 and 4500.34.

Joseph R. Marotta,

Colonel, General Staff, Director of Personal Property.

[FR Doc. 86-9595 Filed 4-29-86; 8:45 am]

BILLING CODE 3710-08-M

BEST COPY AVAILABLE

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Corps of Engineers; Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) on Permit Application 85-021 for the Proposed Pamo Dam and Reservoir Project, San Diego County, CA

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a Draft Environmental Impact Statement (DEIS).

SUMMARY: a. *Proposed Action.* The San Diego County Water Authority (SDCWA) has applied to the Corps of Engineers for a permit under Section 404(b)(1) of the Clean Water Act for a proposed emergency water supply project. The SDCWA proposes to construct a dam and reservoir in the Pamo Valley, northeast San Diego County, to supplement the existing emergency and dry year water supply capability of the San Diego Aqueduct system by providing additional local storage capacity for imported water. In addition to its role in regional storage, the Pamo Reservoir would provide the Miramar Water Filtration Plant, the largest in the SDCWA service area, with an adequate emergency supply; presently, this facility has only a minimal emergency supply.

The reservoir would store imported water as well as capture winter runoff from the local watershed and would have a total storage volume of 130,000 acre-feet (af). 100,000 af of this volume would be utilized for storage of imported water for emergency dry-year use, while the remaining 30,000 af would be utilized for storage of local runoff which is expected to produce an average yield of 11,300 af/year. A 66-inch pipeline would be constructed between the reservoir and the First and Second San Diego Aqueducts to pump imported water to the reservoir and to deliver water by gravity to the Miramar Filtration Plant.

The SDCWA also proposes to construct a pipeline between the upstream Sutherland Reservoir and the Pamo Reservoir. The purpose of the pipeline would be to regulate flows from Sutherland Reservoir more efficiently in order to avoid situations where spills over Sutherland Dam occur. A second feature of this portion of the project is the construction of a hydro-electric plant which would be powered by water transported through the pipeline between the Sutherland and Pamo Reservoirs. This facility would produce an estimated 9.3 million kilowatt hours (kwh) of electricity per year. Electricity generated by this project would more than compensate for the energy consumed in pumping imported water to the Pamo Reservoir and would produce a surplus of up to 7.8 million kwh/year which would be sold to the San Diego Gas and Electric Company.

A fishing concession to be operated by the City of San Diego Water Utilities Department is also expected to be located at the Pamo Reservoir. The specific design and opening date for a fishing operation have not been determined at this time.

b. *Alternatives.* The SDCWA has considered several alternatives to the proposed Pamo Dam and Reservoir. They include:

(1) No project,

(2) Improvement of the existing local water delivery system,

(3) Impoundment of natural flow with a new dam in Pamo Valley, with an intertie to San Vicente Reservoir,

(4) Increased storage capacity of Lake Henshaw,

(5) Use of groundwater storage,

(6) Water transfer from the Imperial Irrigation District to the Metropolitan Water District.

(7) Development of a "water banking" system on Lake Mead, and

(8) Storage of excess water in the Chino Basin.

These alternatives will be addressed in the EIS, as would any other reasonable alternatives which could be formulated during the scoping process.

c. *Scoping Process.* The SDCWA prepared an EIR on the proposed project which was completed in March 1984. Public comments were received on this document through letters of comment and verbal comments in public and agency meetings. The Corps released a Public Notice of permit application, dated October 4, 1985, and has received to date approximately 100 letters of comment in response. All of this public input will be considered in the scoping process for the EIS. A range of concerns have been identified thus far, and include:

(1) Potential use of stored water for purposes other than emergencies,

(2) Relationship to other water projects in the region,

(3) Potential growth inducing effects,

(4) Impacts to biological resources and mitigation needs, and

(5) Impacts to cultural resources and mitigation needs.

d. *Future Public Meetings.* A public scoping meeting will be scheduled in the near future to further discuss concerns and identify significant issues for consideration in the DEIS.

e. *Availability of DEIS.* The DEIS is anticipated to be circulated for public review in October 1986.

f. *Address.* Questions and comments about the proposed action and DEIS can be addressed to: Glenn Lukos, Regulatory Functions Branch, U.S. Army Corps of Engineers, P.O. Box 2711, Los Angeles, California 90053.

John O. Roach, II

Army Liaison Officer with the Federal Register.

[FR Doc. 86-9686 Filed 4-29-86; 8:45 am]

BILLING CODE 3710-KF-M

To Prepare a Draft Supplemental Environmental Impact Statement; Atchafalaya Basin Floodway System, Morgan City, LA

AGENCY: U.S. Army Corps of Engineers, DOD, New Orleans District; DOD.

ACTION: Notice of Intent to Prepare a Draft Supplemental Environmental Impact Statement (EIS).

SUMMARY: 1. *Proposed Action.* The New Orleans District, Corps of Engineers, is conducting a reevaluation study of the extension of the authorized East Atchafalaya Basin Protection Levee (Avoca Island Levee) feature of the Atchafalaya Basin Floodway System, Louisiana project. The purpose of this study is to evaluate possible solutions to flooding problems in the Morgan City, Louisiana vicinity, that are directly related to operation of the Atchafalaya Basin Floodway.

2. *Alternatives.* a. Two primary approaches to flood control are being considered. One consists of further extension of the existing Avoca Island Levee beyond the Avoca Island cutoff channel. The other consists of construction of a barrier levee and pumping station system that would lie generally along or parallel to the new U.S. Highway 90 presently being built from Houma to Morgan City. This alternative would also include ring levees around the industrial sections of the Morgan City-Amelia area that lie outside of the protected area of the barrier levee.

b. Where appropriate, nonstructural measures such as flood proofing of building, relocation of structures, and regulation of use of the flood-plain are also being evaluated. To offset any significant environmental losses that would be caused by flood control measures, appropriate fish and wildlife or cultural resources mitigation measures are being studied. The alternative of no action, or future conditions without Federal action, is also being evaluated and will serve as the base line for determination of the effects of alternative plans developed.

3. *Scoping Process.* a. *Public Involvement.* Since initiation of the study in 1983, numerous contacts have been made in person and by letter with various local, state, or Federal governmental groups, private interest groups, and individuals to solicit input regarding issues that should be considered in this study. Major emphasis has been given to meeting with interested groups in Terrebonne Parish and the Morgan City area, the locations likely to be affected most by any flood control alternative eventually implemented.

b. *Significant Issues to be Analyzed in the EIS.* A Cost-effective and publicly acceptable solution to flooding problems in the Morgan City vicinity has been sought for many years. Proposed extension of the Avoca Island Levee has stimulated much controversy, with public and agency opinions being split over the potential wisdom of such an action. Many citizens in Terrebonne Parish and some environmental groups believe levee extension would be harmful to their interests in the rich marsh-estuarine region of the Parish. On the other hand, many citizens and businesses in the Morgan City vicinity continue to suffer from damaging floods related to increasingly high water levels in the Lower Atchafalaya River. Increasingly high water levels in the areas northeast of Morgan City also appear to be causing decreased timberland productivity and loss of income to landowners in that zone. To further complicate the issues, apparent land subsidence appears to be aggravating flooding problems. The reevaluation study and Draft Supplemental EIS will attempt to analyze all of these issues and demonstrate how alternative flood control plans would affect both the human and natural environment. It will also show how proposed fish and wildlife or cultural resource mitigation measures may be used to offset or compensate for significant adverse environmental impacts.

c. *Environmental Review and Consultation Requirements.* The Draft Supplemental EIS will be made available to the public and interested state and Federal agencies for a minimum review period of 45 days. Throughout the study process, consultation has occurred with the U.S. Fish and Wildlife Service, National Marine Fisheries Service, Louisiana Department of Wildlife and Fisheries, and other interested local, state and Federal parties. Such consultation will continue in the future.

4. *Scoping Meeting.* Due to the large amount of public involvement that has already occurred during the initial phases of this study, no plans have been made for an additional formal public scoping meeting. Public input will be solicited regarding any additional issues that should be addressed in the EIS by means of Public Scoping Notice requesting submission of written comments.

5. *Availability.* The Draft EIS is currently scheduled to be available to the public in early 1987.

ADDRESS: Questions about the proposed action and Draft Supplemental EIS can be directed to Dr. Thomas M. Pullen, Jr., U.S. Army Corps of Engineers, Environmental Analysis Branch (LMVPD-R), Lower Mississippi Valley Division, P.O. Box 80, Vicksburg, Mississippi 39180-0080, telephone (601) 634-5851 or Mrs. Sue Hawes, U.S. Army Corps of Engineers, Environmental Quality Section (LMNPD-RE), New Orleans District, P.O. Box 60267, New Orleans, Louisiana 70160-0267, telephone (504) 862-2518.

Dated: April 18, 1986.

Eugene S. Witherspoon,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 86-9618 Filed 4-29-86; 8:45 am]

BILLING CODE 3710-84-M

DEPARTMENT OF EDUCATION

Vocational Education National Council Meeting

AGENCY: National Council on Vocational Education, Education.

ACTION: Notice of Public Meeting of the Council.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Council on Vocational Education. It also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATE: May 21st and 22nd, 1986.

ADDRESS: Holiday Inn, Crowne Plaza, Los Angeles International Airport, 5985 Century Boulevard, Los Angeles, California 90045, (213) 642-7500.

SUPPLEMENTARY INFORMATION: The National Council on Vocational Education is established under Section 104 of the Vocational Education Amendments of 1968, Pub L. 90-576. The Council is established to:

(A) Advise the President, the Congress, and the Secretary of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to Congress; and

(C) Conduct independent evaluations of programs carried out under the title and publish and distribute the results thereof.

FOR FURTHER INFORMATION CONTACT: Carolyn J. Edwards, Executive Assistant, 2000 L Street, NW., Suite 580, Washington, DC 20036, (202) 634-6110.

Records are kept of all Council proceedings, and are available for public inspection at the above address from the hours of 9:00 A.M. to 4:30 P.M.

Signed at Washington, DC, on April 23, 1986.

James W. Griffith,

Executive Director.

[FR Doc. 86-9585 Filed 4-29-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CI86-372-000]

Chevron U.S.A. Inc. and Texas Eastern Transmission Corp.; Application

April 24, 1986.

Take notice that on April 22, 1986, Chevron U.S.A. Inc. ("Chevron") 575 Market Street, San Francisco, California 94105, and Texas Eastern Transmission Corp. ("Texas Eastern"), Post Office Box 2521, Houston, Texas 77252, filed a Joint Application (i) for any necessary Certificates of Public Convenience and Necessity authorizing or an order otherwise approving Chevron to sell quantities of natural gas from certain designated fields to Texas Eastern upon expiration of the contract between Gulf Oil Corporation ("Gulf") and Texas Eastern dated January 6, 1964 ("1964 Contract") and an order approving the

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arrangements described therein for the transportation of such natural gas from the designated fields to Texas Eastern's pipeline system and (ii) for an order or orders amending the order of the Federal Power Commission of December 19, 1963, issuing a certificate of public convenience and necessity to Gulf to sell natural gas to Texas Eastern pursuant to the 1964 Contract and "Opinion No. 760 and Order on Deliveries of Gas Under Certificate and Warranty Contract" issued October 15, 1976, in Docket No. CI64-26, to authorize Chevron to sell and deliver natural gas to Texas Eastern in accordance with an amendment dated April 11, 1986, ("1986 Amendment") to the 1964 Contract, all as more fully described in the Joint Application on file with the Commission and open for public inspection.

The proposal of Chevron and Texas Eastern are contained in four agreements, of which the two basic agreements are the 1986 Amendment and the Tail End Agreement, entered into by them on April 11, 1986. It is alleged that these two agreements constitute an arrangement under which the rate of delivery of natural gas under the 1964 Contract will continue at the current level of approximately 400,000 Mcf per day until its expiration, while providing Texas Eastern with substantial additional natural gas supplies from certain designated fields upon expiration of the 1964 Contract.

The Tail End Gas Agreement sets forth in Appendix A the fields and oil and gas leases which Chevron will commit to Texas Eastern for the delivery of natural gas to Texas Eastern upon expiration of the 1964 Contract. It provides the mechanism for executing and the terms and conditions of the Gas Purchase Contracts under which the natural gas underlying those fields and leases will be sold to Texas Eastern upon expiration of the 1964 Contract. Each Gas Purchase Contract will have a term or provide for extension(s) of term which extends from the expiration of the 1964 Contract until the natural gas reserves underlying the field are depleted. If the price of the natural gas is regulated, it will not be more than the applicable maximum price. The terms and conditions will be representative of the terms and conditions of gas purchase contracts being entered into by willing Sellers and willing Buyers of natural gas for offshore natural gas supplies in the Gulf of Mexico in comparable arms-length transactions. It is the intention of the parties that each Gas Purchase Contract be representative of competitive terms and conditions of the market existing during that period. In addition, each Gas Purchase Contract will contain a provision permitting Texas Eastern to reduce the price payable thereunder to the market clearing level of its markets.

The Tail End Gas Agreement also provides the mechanism for entry into and the terms and conditions of the agreements to transport the remaining natural gas reserves from the delivery point in each of the designated fields to Texas Eastern's pipeline system. It is contemplated that such transportation of natural gas will be through Chevron-owned facilities or pursuant to Chevron third-party transportation and/or exchange agreements that are currently transporting natural gas from these fields for delivery to Texas Eastern under the 1964 Contract. The Tail End Gas Agreement provides that each transportation of the remaining natural gas reserves from the designated fields to Texas Eastern's pipeline system will be at just and reasonable rates determined in accordance with the ratemaking methodolgy used by FERC under the Natural Gas Act for comparable transportation service.

The 1986 Amendment changes the 1964 Contract solely in respect of the daily and annual take quantities thereunder. It does not change, *inter alia*, the price, the total quantity of approximately 4.4 Tcf of warranty natural gas deliverable under the 1964 Contract, the fixed term thereof, or the force majeure provisions. Under the 1986 Amendment the Daily Contract Quantity will be reduced from 500,000 to 400,000 Mcf of natural gas, Texas Eastern will be required to take 400,000 Mcf of natural gas per day averaged over each year and 350,000 Mcf of natural gas each day, and Texas Eastern will have the right to take quantities of natural gas in excess of 400,000 Mcf per day if Chevron determines it has excess quantities of natural gas to sell to Texas Eastern. If Chevron fails to deliver quantities of natural gas up to 50,000 Mcf per day in excess of the Daily Contract Quantity of 400,000 Mcf as requested by Texas Eastern, then Texas Eastern's yearly take obligation will be reduced by the quantity of such excess natural gas which Chevron fails to deliver. The eighty percent take or pay provision and the right of Texas Eastern to call for 625,000 Mcf of natural gas deliveries per day will no longer be applicable.

Texas Eastern and Chevron allege that their proposal as set forth in the 1986 Amendment to the 1964 Contract and the Tail End Gas Agreement are in the public interest. Under the 1986 Amendment deliveries will continue under the 1964 Contract at the current level of approximately 400,000 Mcf of natural gas per day which is expected to be maintained until delivery of all of the natural gas under the 1964 Contract. At that delivery rate all of the approximately 4.4 Tcf of natural gas will be delivered in November, 1988, which is approximately one year before the end of the fixed term of the 1964 Contract, assuring that Texas Eastern will be able to take all of the natual gas before the expiration of the fixed term of the 1964 Contract. Under the Tail End Gas Agreement, deliveries of natural gas will continue without interruption from the dedicated fields under market sensitive agreements upon expiration of the 1964 Contract. Texas Eastern estimates that upon expiration of the 1964 Contract, the natural gas reserves underlying the dedicated fields will range from 300 to 500 Bcf and will have a deliverability of between 200,000 and 400,000 Mcf per day. Texas Eastern and Chevron allege that the proposal is clearly beneficial to Texas Eastern and its customers since they will continue to receive the same benefits they have been recently receiving under the 1964 Contract, while receiving the additional substantial benefit of the continuation without interruption upon termination of the 1964 Contract of estimated deliveries ranging from 200,000 to 400,000 Mcf per day from dedicated natural gas reserves estimated to range from 300 to 500 Bcf.

Two other agreements are part of the overall transaction between Chevron and Texas Eastern. They are the Termination of the 1967 Contract and a Transportation Letter Agreement, both dated April 11, 1986. The 1967 Agreement is a surplus gas purchase contract dated July 1, 1967 covering fields utilized to service the 1964 Contract which has been dormant for many years. No natural gas has been delivered under this contract for approximately seventeen years. Chevron is concurrently filing a separate application with FERC for parmission and approval to abandon service under this terminated contract. Authorization to abandon this service is a condition to the effectiveness of the 1986 Amendment and the Tail End Gas Agreement.

Under the Transportation Letter Agreement Texas Eastern agrees to cooperate with Chevron in a good faith effort to minimize Chevron's third-party transportation costs under the 1964 Contract to the extent it is operationally feasible and Texas Eastern's commitments permit it to receive gas at other receipt points and Texas Eastern does not incur any third-party costs. Any necessary authorizations in respect of specific transportation or exchange arrangements will be applied for as such arrangements are entered into.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 12, 1986, file with the Federal Energy regulatory Commission, Washington, DC 20426, a motion to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211), as amended. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9094 Filed 4-29-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86-340-000 et al.]

Cities Service Oil and Gas Corp.; Application

April 24, 1986.

Take notice that on April 17, 1986, Cities Service Oil and Gas Corporation (Applicant), of P.O. Box 300, Tulsa, Oklahoma 74102, filed an application as successor in interest, and pursuant to § 157.23(b) for Certificates of Public Convenience and Necessity to render service previously authorized by the Commission under Small Producer Certificate of Public Convenience and Necessity heretofore issued by Oxy Petroleum, Inc., et al., all as more fully shown on Exhibit "A" and on file with the Commission and open to public inspection. Applicant also requests to be substituted for Oxy Petroleum, Inc., in any related proceedings presently pending before the Commission.

Any person desiring to be heard or to make any protest with reference to said application should, on or before May 12, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

EXHIBIT A

Docket No.	Purchaser	Contract date	Property covered
CI86-365-000	ANR Pipeline Co	Contract 9/29/78; supplement 1/1/86 (Contract #985)	OCSG-2405, High Island 312, Offshore Texas.
CI86-364-000	do	Mesa Petroleum Co., Contract 4/23/79; ratification 9/26/79, supplement 1/1/86 (Contract #989).	OCSG-2398, High Island 273, Offshore Texas.
CI86-362-000	do	Contract 12/31/74; supplements 12/30/74, 7/11/75, 2/21/78, 1/1/86 (Contract #969).	OCSG-3519, Ship Shoal 115, Offshore Louisiana.
CI86-361-000	Columbia Gas Transmission Corp	Contract 3/22/78; supplement 1/1/86 (Contract #982)	OCSG-2591, S. Marsh Island, 146, Offshore Louisiana.
CI86-360-000	do	Contract 3/22/78; supplement 1/1/86 (Contract #969)	OCSG-2910, Eugene Island 327, Offshore Louisiana.
CI86-359-000	do	Contract 12/8/78; supplement 1/1/86 (Contract #986)	OCSG-3171, S. Pelto 13, Offshore Louisiana.
CI86-358-000	Northern Natural Gas Co	Contract 2/14/78; supplement 1/1/86 (Contract #955)	OCSG-3374, Galveston 144-L, Offshore Texas.
CI86-353-000	Northwest Pipeline Corp	Contract 1/3/58; supplements 2/25/60, 7/14/60, 11/30/61, 9/1/64, 9/1/64, 9/11/64, 10/15/64, 3/21/72, 11/16/73, 2/21/74, 10/30/75, 1/1/86 (Contract #912).	San Juan Basin, Rio Arriba County, New Mexico.
CI86-359-000	Sea Robin Pipeline Co	Contract 11/10/66; supplements 1/1/75, 6/2/76, 1/1/86 (Contract #961).	OCSG-1525, Ship Shoal 222, Offshore Louisiana.
CI86-356-000	Southern Natural Gas Co	Contract 7/22/52; supplements 7/22/52, 1/1/65, 4/23/85, 1/1/86 (Contract #902).	OCSG-3416, S. Pass 57, Offshore Louisiana.
CI86-349-000	Texas Eastern Transmission Corp	Contract 11/20/64; supplements 11/20/64, 1/19/66, 3/1/67, 5/1/67, 10/31/68, 6/13/73, 12/8/74, 8/7/78, 11/30/84, 1/1/86 (Contract #948).	W. Grand Cane Field, DeSoto Parish, Louisiana.
CI86-342-000	Texas Gas Transmission Corp	Contract 11/24/61; supplements 1/5/62, 2/3/82, 4/28/82, 1/1/86 (Contract #903).	OCSG-3411, Ship Shoal Area, Blk. 15, Offshore Louisiana.
CI86-357-000	Transco Gas Supply Co	Contract 11/13/78; supplements 9/29/82, 4/13/83, 6/28/85, 1/1/86 (Contract #972).	OCSG-2426, High Island 340; OCSG-2730, High Island 339, Offshore Texas.
CI86-355-000	do	Contract 9/3/79; supplements 9/29/82, 4/13/83, 6/28/85, 1/1/86, (Contract #975).	OCSG-3410, High Island 313, Offshore Texas.
CI86-354-000	do	Contract 4/20/79; supplements 9/29/82, 4/13/83, 6/28/85, 1/1/86 (Contract #976).	OCSG-2396, High Island 474, OCSG-2372, High Island 468, Offshore Texas.
CI86-341-000	do	Contract 9/29/82; supplements 9/20/82, 1/1/86 (Contract #981)	OCSG-2386, High Island 593; OCSG-2389, High Island 584; OCSG-2730, High Island 588, Offshore Texas.
CI86-352-000	do	Contract 5/10/79; supplements 9/29/82, 4/13/83, 6/28/85, 1/1/86 (Contract #983).	OCSG-2412, High Island 317, Offshore Texas.
CI86-351-000	do	Contract 6/25/79; supplements 9/29/82, 4/13/83, 6/28/85, 1/1/86 (Contract #984).	OCSG-2421, High Island 330; OCSG-2743, High Island 349, Offshore Texas. OCSG-2557, W. Cameron 612, Offshore Louisiana.
CI86-350-000	do	Contract 8/1/79; supplements 9/29/82, 4/13/83, 6/28/85, 1/1/86 (Contract #990).	OCSG-2398, High Island 273, Offshore Texas.
CI86-346-000	Transcontinental Gas Pipe Line Corp	Contract 4/20/79; supplements 9/29/82, 4/13/83, 6/28/85, 1/1/86 (Contract #987).	OCSG-2367, High Island 475, Offshore Texas.
CI86-353-000	do	Contract 4/19/79; supplements 9/29/82, 4/13/83, 6/28/85, 1/1/86 (Contract #988).	OCSG-3298, W. Cameron 613, Offshore Louisiana.
CI86-348-000	do	Contract 5/17/71; supplements 2/20/74, 2/25/74, 9/25/84, 1/1/86 (Contract #904).	OCSG-1994, Ship Shoal 225, Offshore Louisiana.
CI86-348-000	Trunkline Gas Co	Contract 3/11/86; supplement 1/1/86 (Contract #974)	OCSG-2408, High Island 312, Offshore Texas.
CI86-347-000	United Gas Pipe Line Co	Contract 6/3/78; supplements 9/13/80, 1/1/86, (Contract #963)	Do.
CI86-345-000	do	Contract 9/14/79; supplement 1/1/86 (Contract #969)	OCSG-2398, High Island 273, Offshore Texas.
CI86-344-000	do	Contract 3/31/82; supplement 1/1/82 (Contract #969)	OCSG-3116, High Island 468, Offshore Texas.

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[Docket No. ER86-366-000]

Florida Power Corp.; Amended Filing

April 24, 1986.

Take notice that on April 17, 1986, Florida Power Corporation (Florida Power) tendered for filing information intended to supplement its April 9, 1986 filing in the above docket number. The information includes the second of two agreements between Florida Power and the Florida Municipal Power Agency which was omitted from the original filing.

Any person desiring to be heard or to protest the application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before May 1, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9646 Filed 4-29-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA83-20-001]

Frontier Oil and Refining Co., Petition for Exemption From Incremental Pricing Provisions and for Interim Relief

Issued: April 24, 1986.

On March 27, 1986, Frontier Oil and Refining Company (Frontier) filed with the Federal Energy Regulatory Commission (Commission) a petition for an adjustment from the incremental pricing provisions of Title II of the Natural Gas Policy Act of 1978 (NGPA). 15 U.S.C. 3341-3348 (1982). Frontier seeks an interim and permanent exemption from incremental pricing surcharges for its Cheyenne, Wyoming refinery, to be effective August 1, 1985. 18 CFR 385.1101(a)(2) and 385.1113 (1985).

In its petition, Frontier requests the Commission to grant interim relief immediately, pending further review by the Commission, to grant relief for a minimum period of two years after review by the Commission, and to waive the filing fee set for such petitions, since the basis for the petition is out-of-pocket losses. In its petition, Frontier notes that it is a small, independent oil refiner owning only one refinery with an operating capacity of 35,000 barrels per day in Cheyenne, Wyoming. The refinery is classified as an industrial boiler fuel facility using natural gas for boiler fuel use. 15 U.S.C. 3341 (1982). Frontier notes that the Commission has granted similar relief to Husky Oil Company (Husky), Frontier's predecessor-in-interest in the Cheyenne refinery. The Commission's relief to Husky covered billing months from August 1984 through July 1985.

Frontier argues that interim relief is warranted not only because it is in the public interest but also because denial of the interim relief will result in irreparable injury, special hardship, and inequity to Frontier. Frontier also argues that the permanent relief from the Commission's incremental pricing procedures is warranted to prevent and alleviate special financial hardship. According to Frontier, the facility's out-of-pocket costs, including incremental pricing surcharges, exceed the facility's total sales revenues.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure, 18 CFR Part 385, Subpart K (1985). Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of Subpart K. All motions to intervene must be filed within fifteen days after publication of this notice in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9647 Filed 4-29-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. C186-324-000]

Gilliring Oil Co.; Application for Abandonment of Service

April 25, 1986.

Take notice that the Applicant listed herein has filed an application pursuant to section 7 of the Natural Gas Act for authorization to abandon service as described herein.

The circumstances presented in the application meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order No. 436 and 436-A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85-1-000, all as more fully described in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before 15 days after the date of publication of this notice in the Federal Register, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211, .214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in the proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
C186-324-000, B, Apr. 9, 1986	Gilliring Oil Co.	Tennessee Gas Pipeline Company, a Division of Tenneco Inc. Agua Dulce Field, Nueces County, Texas	(2)	

[1] Additional information received April 21, 1986.

[2] Applicant, a small producer certificate holder in Docket No. CS71-983, requests authorization to abandon its sale of gas to Tennessee from twenty wells which produce NGPA section 108 and section 104-replacement, biennium, and Post-1974 gas. Applicant states that the gas purchase contract dated July 22, 1948, and the amendment dated March 1, 1971, expired by their own terms on January 1, 1983. Applicant states that the wells should be prudently produced at 1,729 MCF per day. Tennessee advised it is willing to take only 70 Mcf per day from the field and Tennessee further advised it is not willing to take any gas beyond June 1, 1986. Applicant states that Tennessee is not paying for gas not taken. Applicant desires to secure another market for its gas so it may continue gas sales in a prudent and efficient manner without interruption in order to maintain valid leases.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 86-9699 Filed 4-29-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-33-000]

Northwest Central Pipeline Corp.; Conference

April 24, 1986.

Take notice that a conference will be convened in this proceeding on May 13, 1986, at 1:00 p.m. at the offices of the Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, DC, for the purpose of discussing Order No. 436 transportation services.

The parties and the Commission Staff are invited to attend. Persons wishing to become parties must move to intervene pursuant to the Commission's regulations (18 CFR 385.214 (1985)) and have their motion granted.

For additional information contact Dennis H. Melvin (202-357-8078) or Peter Hirst (202-357-8419).

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9699 Filed 4-29-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-316-000 and EL86-21-000]

Southern California Edison Co.; Order Accepting for Filing and Suspending Rates, Noting Intervention, Denying Requests for Summary Disposition, Denying Request for Declaratory Order, Consolidating Dockets, and Establishing Hearing Procedures

Issued: April 23, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C.M. Naeve.

This order pertains to two related submissions for consideration by this Commission: (1) A petition for declaratory order and complaint filed by the City of Vernon, California (Vernon) in Docket No. EL86-21-000 regarding integration of its interest in Palo Verde Nuclear Generating Station Unit No. 1 (PVNGS 1)[1] as provided by the integrated operations agreement (IOA) between Vernon and Southern California Edison Company (SCE); and (2) two unexecuted agreements submitted for filing by SCE in Docket No. ER86-316-000 to implement the IOA between Vernon and SCE.

A. Docket No. ER86-316-000

On February 24, 1986, SCE submitted for filing two unexecuted agreements: (1) a supplemental agreement providing for the integration of Vernon's entitlement in Palo Verde Nuclear Generating Station No. 1 (PVNGS 1) into the SCE system; and (2) a rate schedule providing for firm transmission service to Vernon of power from PVNGS 1.[2]

The IOA was accepted for filing by the Commission on November 4, 1982, in Docket No. ER82-634-000. The IOA provides for the integration of Vernon's entitlement in PVNGS 1 (including replacement capacity acquired by Vernon from SCR and other parties), and commits SCE to provide replacement energy to Vernon when its resources are unavailable. The IOA also provides for credits to Vernon on its partial requirements bill from SCE for the capacity and energy made available from Vernon's PVNGS 1 interest.[3] SCE's proposed supplement to the IOA provides certain procedures and details relating to the integration of Vernon's PVNGS entitlement and revises the computation of incremental cost to track the resources which will provide the energy. The transmission rate schedule provides for firm wheeling of Vernon's entitlement over SCE's system. The proposed transmission rates are based on SCE's tariff contract rate TN (230 kV network transmission service) and contract rate TP (point-to-point transmission service). SCE also proposes scheduling and dispatching charges for service related to integration of Vernon's interest.

SCE requests waiver of the notice requirements to permit an effective date that corresponds to the date of the Commission's order accepting the agreements for filing.[4]

Notice of SCE's filing was published in the Federal Register [5] with comments due on or before March 13, 1986. On March 5, 1986, Vernon filed a motion to intervene. Vernon supports SCE's request for waiver of the notice requirements, and requests a one day suspension and a hearing. Further, Vernon requests consolidation of this docket with its submission in Docket No. EL86-21-000. Vernon specifically objects to the following aspects of SCE's filing: (1) The computation of Vernon's capacity credits; (2) the revised determination of incremental cost for replacement energy; (3) the charges for scheduling and dispatching services; and (4) use of gross, rather than net, plant for purposes of determining the proposed transmission charges. Vernon also requests that summary disposition be granted to assign an effective date of February 1, 1986, to the filing, and that the Commission direct Edison to effect Vernon's capacity credits as of that date; in the alternative, Vernon requests that the submittals be effective upon acceptance for filing by the Commission. Finally, Vernon expresses concern about the effect of the agreements with regard to the future integration dates of units 2 and 3 of PVNGS.

On March 24, 1986, SCE responded to Vernon's pleading and stated that it does not oppose Vernon's intervention, a one day suspension, evidentiary hearing, or consolidation of this proceeding with Docket No. EL86-21-000. SCE, however, does oppose the request for summary disposition regarding the imposition of an effective date earlier than the date on which the Commission accepts the agreements for filing. In support, SCE states that the IOA requires that the supplemental and transmission agreements be accepted for filing and made effective before Vernon's entitlement in PVNGS may be deemed integrated, and that the integration of this entitlement was conditioned on the execution by both parties of the agreements. Because the parties have been unable to agree upon the terms of these agreements, SCE filed them immediately. SCE states that it is willing to accede to Vernon's alternative request that the effective date of the agreements be the date of acceptance for filing by the Commission provided that this is not construed as a waiver by SCE of its right to later seek to terminate or cancel the rate schedules, if necessary, under section 205 of the FPA.[6] Further, SCE states that the supplemental agreement pertains to all three of the units of PVNGS, including those yet to be activated.

B. Docket No. EL86-21-000

On February 3, 1986, Vernon submitted for filing a complaint [7] and

[1] Vernon owns a 9.2593% interest in each of the three units of PVNGS, including PVNGS 1.

[2] See Attachment for rate schedule designations.

[3] PVNGS 1 commenced commercial operation on January 27, 1986. SCE and Vernon have, for contractual reasons, agreed upon February 1, 1986, as the date of commercial operation.

[4] Both of the proposed agreements state that they shall become effective on the date following their execution by both parties when accepted for filing by the Commission, or such later date, following a hearing, when the agreements are no longer subject to judicial review. However, in its transmittal letter and subsequent pleadings, SCE states that it will recognize as an effective date the date on which the Commission accepts the agreements for filing.

[5] 51 FR 7567 (1986).

[6] SCE states that the purpose of this reservation is to provide it with the opportunity to terminate or cancel either schedule without having to meet the "public interest" standard of the *Mobile-Sierra* doctrine. (*United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956); *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).)

[7] Vernon's complaint alleged that SCE has failed to file the proposed supplemental integration and

Continued

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petition for declaratory order regarding the integration of its ownership interest in PVNGS 1 as of February 1, 1986, pursuant to the IOA between Vernon and SCE. Vernon states the SCE has refused to recognize Vernon's interest in PVNGS under the IOA until the Commission takes action on the filings in Docket No. ER86-316-000. Vernon adds that, since February 1, 1986, the City has been deprived of valuable capacity credits associated with PVNGS on its partial requirements bills rendered by SCE. Vernon also seeks a finding from the Commission that Edison is required to perform services provided for in the IOA in connection with integrating into is operation Vernon's share of PVNGS. Vernon maintained that, absent a timely filing, SCE should have provided service from February 1, 1986, and requested waiver of notice to effect this agreement as of that date. Vernon also alleges discrimination on the ground that SCE has taken no similar action to deprive other municipalities with interests in PVNGS from timely integration into SCE's system.

Notice of Vernon's filing was published in the Federal Register, with comments due on or before February 25, 1986.[1] On February 25, 1986, SCE responded to Vernon's petition, requesting that the Commission deny it. SCE contends again in this docket that the IOA contemplates that the supplemental agreements are to be executed and in place prior to the integration of Vernon's interest into SCE's system and that, since the parties could not agree on these contracts, integration could not take place as of February 1, 1986. SCE claims that providing service prior to filing would place a utility at risk that waiver will not be granted, that it will not be entitled to recover charges for service rendered, and that it will be in violation of the Federal Power Act's and the Commission's notice and filing requirements. With regard to Vernon's claim that it has been prejudiced because SCE has not provided services since February 1, 1986, SCE noted that on February 18, 1986, the parties executed an Interim Purchase Agreement for the purchase by SCE of Vernon's entitlements in PVNGS 1 should the Commission not issue an order providing that the entitlement was integrated as of February 1, 1986. Under the agreement, SCE will pay Vernon an amount equal to the economic benefits which Vernon would have achieved through integration of its PVNGS interest on the commercial operation date of the project. SCE also argues that it would be liable to a claim of discrimination against its other customers if, with respect to Vernon, it alters its position against providing service prior to filing. Finally, SCE claims that it gave Vernon ample opportunity for alternatives to prevent adverse economic impact resulting from delays in integration of PVNGS.

On March 5, 1986, Vernon submitted a motion for summary disposition as to its claim that SCE must integrate the PVNGS 1 resource as of February 1, 1986. Vernon states that no issues of material fact exist which warrant a hearing. Vernon further states that SCE has overstated the risks inherent in providing service prior to filing, suggesting that it has been Commission practice to grant such prior effective dates when supported by the customer.

On March 24, 1986, SCE filed an answer in opposition to Vernon's motion. SCE essentially repeats arguments contained in its answer and its pleadings filed in Docket No. ER86-316-000; *i.e.*, that service should not be effected as of February 1, 1986. SCE contends that Vernon's requested relief be denied and that factual issues be resolved at an evidentiary hearing.

Discussion

Pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely, unopposed motion to intervene in Docket No. ER86-316-000 serves to make Vernon a party to that docket.

Th Commission will consolidate Docket Nos. ER86-316 and EL86-21, given the common issues of fact and law raised in both dockets and the support for consolidation by both parties.

We shall deny, without prejudice, Vernon's request for a declaratory order, and its motions for summary disposition in both dockets to establish a February 1, 1986 effective date for the supplemental and transmission agreements. Contrary to Vernon's claim, there appear to be numerous issues of material fact that need to be resolved at an evidentiary hearing. We are not prepared to impose a retroactive effective date for the filings in Docket Nos. ER86-316-000, based on our initial review of the IOA, the proposed supplemental and transmission agreements, and the pleadings in these dockets. The Commission is not at this point satisfied that the IOA clearly resolves the effective data question in either party's favor. Further, it is conceivable that other arrangements (such as the February 18 Interim Purchase Agreement) may have provided alternative relief to Vernon. Because of the uncertainty surrounding the IOA, the proposed agreements, and the negotiations between the parties regarding the effective date, we conclude that this matter is an appropriate issue for a hearing. However, given the apparent acquiescence by the parties (without abandoning their principal claims) to an effective date coincident with acceptance for filing by the Commission, we shall assign as an effective date, the date of this order, subject to refund, and to resolution of this matter at hearing.

Our review of the company's filings in Docket No. ER86-316-000 and the pleadings indicates that the submittals have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or perferential, or otherwise unlawful. Accordingly, we shall accept the submittals for filing and we shall suspend as ordered below.

In West Texas Utilities Co., 18 FERC ¶ 61,189 (1982), we explained that where our preliminary examination indicates that the proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. Here, our examination suggests that the proposed rates in Docket No. ER86-316-000 may not yield substantially excessive revenues. Further, the customer desires to have the integration arrangement in effect at the earliest possible date. Therefore, we shall impose a nominal suspension and grant waiver of the notice requirements. SCE's submittal in Docket No. ER86-316-000 will be suspended it to become effective as of the date of this order, subject to refund and to final resolution of the issue of an effective date following an evidentiary hearing. As suggested by SCE, this order has no effect on the company's ability to seek to terminate or cancel its rate schedules, in accordance with section 205 of the FPA and the Commission's regulations.

The Commission orders

(A) Vernon's requests for summary judgment are hereby denied without prejudice.

(B) Vernon's request for a declaratory order with respect to an effective date for integration of its PVNGS interest in SCE's system is hereby denied without prejudice.

(C) SCE's request for waiver of the notice requirements is hereby granted.

(D) SCE's submittals in Docket No. ER86-316-000 are hereby accepted for filing and suspended to become effective, subject to refund and to final determination of an effective date, on the date of this order.

(E) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of SCE's rates and the effective date for SCE's rate schedules.

(F) Docket Nos. ER86-316-000 and EL86-21-000 are hereby terminated. The evidentiary proceedings established herein are designated as Docket Nos. ER86-316-001 and EL86-21-001 and the latter dockets are consolidated for purposes of hearing and decision.

(G) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding within approximately fifteen (15) days of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Such conference shall be held for purposes of establishing a procedural schedule, including the submission of a case-in-chief by Edison. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(H) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

Southern California Edison Company, Rate Schedule Designations, Docket No. ER86-316-000

Designation and Description

(1) Supplement No. 6 to Rate Schedule FERC No. 154—Supplemental Agreement to IOA
(2) Supplement No. 7 to Rate Schedule FERC No. 154—Transmission Service Agreement
(3) Supplement No. 1 to Supplement No. 7 to Rate Schedule FERC No. 154—Appendix A—Interest Charge Computation.

[FR Doc. 86-9448 Filed 4-29-86; 8:45 am]

BILLING CODE 6717-01-M

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[1] transmission agreements pursuant to the IOA. Vernon subsequently stated, however, that the complaint portion of its pleading need not be resolved at this time in light of SCE's submission of these documents for filing in Docket No. ER86-316-000.

[1] 51 FR 6302 (a986)

[Docket No. GP86-26-000]

Sunshine Mining Co.; Petition for Declaratory Order

Issued: April 24, 1986.

On April 11, 1986, Sunshine Mining Company (Sunshine) filed a petition for declaratory order pursuant to Rule 207 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), 18 CFR 385.207 (1985), requesting that the Commission determine and declare that for purposes of Section 12 of the Natural Gas Act (NGA), 15 U.S.C. 717k (1982), (i) Sunshine is not a "natural gas company;" (ii) a director of Sunshine, who in fact is not a director of Woods Petroleum Corporation (Woods), will not be deemed to be a director or officer of Woods; and (iii) a director of Sunshine who in fact is not a director of Woods, will not be deemed to be a director or officer of Woods Petroleum Partners (WPP) or Woods Petroleum Operating Partners (WPOP).

In its petition, Sunshine states it is a corporation primarily engaged in the business of mining, refining and marketing precious metals. Sunshine also owns all of the outstanding common stock of four subsidiary corporations that sell or market natural gas in interstate commerce. Sunshine recognizes that these subsidiary corporations are natural gas companies within the meaning of section 2(b) of the NGA. 15 U.S.C. 717a(b) (1982).

Sunshine proposes to combine the oil and gas properties owned by these four subsidiaries into a limited partnership through an offering to exchange units of the limited partnership interests for these oil and gas properties. However, Sunshine states that this limited partnership, WPP, will not own the properties or make any sales of natural gas. Rather, all of the oil and gas properties will be owned, and the business will be conducted, by a second limited partnership, WPOP, of which the initial limited partnership will be the sole limited partner. Sunshine and Woods will be general partners of these two limited partnerships, owning 0.01 percent and 0.99 percent interest in each partnership, respectively. Sunshine notes in its petition that it will have no management powers in either of these limited partnerships. Rather, Woods will be the managing general partner for these two limited partnerships.

According to Sunshine, three national investment banking firms will be retained to provide financial advice and to manage the solicitation of the initial offering for these limited partnerships. Sunshine notes in its petition that one of its directors is an officer for one of these investment banking firms. Sunshine expects this director's investment banking firm may be involved in the future to render services in the offerings of various securities in which Sunshine may be involved either as an acting issuer, as parent to one of its natural gas company subsidiaries acting as issuer, or as non-managing general partner to the limited partnerships acting as issuer.

Therefore, concerned with the absence of applicable judicial and Commission precedent on section 12 of the NGA, Sunshine requests the Commission to declare that present and future securities offerings which may involve Sunshine, or certain of its affiliates, will not result in a violation of section 12 of the NGA by Sunshine's director.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rules 214 or 211 of the Commission's Rules of Practice and Procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, not later than 30 days following publication of this notice in the Federal Register. All protests will be considered by the Commission but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of the petition filed in this proceeding are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9449 Filed 4-29-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-175-004, 005, 006]

Transwestern Pipeline Co.; et al.; Notice

April 24, 1986.

Take notice that on April 8, 1986, Exxon Corporation (Exxon), Pennzoil Company and Pennzoil Producing Company (Pennzoil) and Mobil Oil Corporation, Mobil Producing Texas & New Mexico, Inc. and the Superior Oil

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Company (collectively Mobil), filed with the presiding judge motions to appeal the presiding judge's ruling of March 24, 1986, denying them late intervention in this proceeding. Pennzoil also filed on the same date an exception and brief on exception to the judge's ruling. The judge issued his order denying late intervention simultaneously with an order certifying to the Commission an offer of settlement of Transwestern Peipline Company (Transwestern).

With the certification of the settlement, the judge transferred to the Commission jurisdiction over the proceeding. Accordingly, the Commission will treat the foregoing April 8, 1986, motions to appeal, which were addressed to the judge, and Pennzoil's brief on exception, as motions to the Commission for reconsideration of the judge's order denying late intervention. Any party wishing to respond to the April 8, 1986, motions will have until May 9, 1986, to do so.

Kenneth F. Plumb,

Secretary.

[FR Doc 86-9697 Filed 4-29-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP83-75-002, et al.]

Natural Gas Certificate Filings; Consolidated System LNG Co., et al.

Take notice that the following filings have been made with the Commission:

1. Consolidated System LNG Company

[Docket No. CP83-755-002]

April 23, 1986.

Take notice that on April 10, 1986, Consolidated System LNG Company (Consolidated LNG), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP83-75-002, pursuant to section 7(b) of the Natural Gas Act of 1938, its second amendment to its application for an order permitting and approving the abandonment of facilities and services filed in Docket No. CP83-75-000, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

By its application filed in Docket No. CP83-75-000, Consolidated LNG seeks permission and approval to abandon certain facilities and services appurtenant to the liquefied natural gas (LNG) facilities at Cove Point, Maryland. By its first amendatory application filed in Docket No. CP83-75-001 on November 1, 1985, Consolidated LNG deleted from its application its wholly-owned pipeline for transportation of regasified LNG from Loudoun, Virginia, to Perulack, Pennsylvania, known as Line No. PL-1 and related facilities. By this second amendment, Consolidated LNG proposes to delete from its application, its undivided one-half interest in the Loudoun measuring station, located in Loudoun County, Virginia.

The amendment states that Consolidated Gas Transmission Corporation (Consolidated Transmission), an affiliate of Consolidated LNG, has found a use to which these facilities can be put, and, therefore, their abandonment no longer appears to be necessary. The amendatory application states that Consolidated Transmission proposes to utilize the Loudoun measuring station in connection with its proposal in the pending proceeding in Docket No. CP85-756-000 to render sales and transportation services for Baltimore Gas & Electric Company (Baltimore) and Washington Gas Light Company (Washington). The amendment states that Consolidated LNG's share of the Loudoun measuring station had a net book value of $906,928.39 as of December 31, 1985. The amendment further states that in the near future, Consolidated LNG and Consolidated Transmission would file an amendment to their joint application in Docket No. CP86-208-000 for authorization to transfer Consolidated LNG's undivided one-half interest in the Loudoun measuring station to Consolidated Transmission, and Consolidated Transmission would file an amendment to its application in Docket No. CP85-756-000 for authorization, *inter alia*, to operate the facilities in connection with its proposal to serve Baltimore and Washington.

Comment date: May 16, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

2. Great Lakes Gas Transmission Company

[Docket No. CP86-422-000]

April 21, 1986.

Take notice that on April 8, 1986, Great Lakes Gas Transmission Company (Applicant), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP86-422-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing natural gas transportation services for TransCanada PipeLines Limited (TransCanada), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to modify its existing amended gas transportation contract with TransCanada, dated September 12, 1967. Applicant states that the total contract quantity would be increased from a currently authorized 825,000 Mcf of natural gas per day to 887,500 Mcf per day. It is explained that the additional 62,500 Mcf per day would be received near Emerson, Manitoba, and would be delivered by Applicant to TransCanada at an interconnection located near St. Clair, Michigan. Applicant states that the rate would be the effective T-4 contract rate that was filed on February 28, 1986, in Docket No. RP86-35-002. Applicant also states that no new facilities would be required.

Comment date: May 14, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. Northern Natural Gas Company Division of InterNorth, Inc.

[Docket No. CP86-416-000]

April 23, 1986

Take notice that on April 3, 1986, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86-416-000, an application pursuant to section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the transportation of natural gas on an interruptible basis for HNG/Inter North Gas Marketing, Inc. (HIGMI), as agent for various purchasers (purchasers), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport natural gas for HIGMI, as agent for purchasers, under the terms of a March 24, 1986 gas transportation agreement produced form Eugene Island (EI) Block 372, offshore Louisiana. Applicant states that HIGMI, as agent for purchasers, has contracted to purchase 65 percent of the reserves attributable to EI Block 372, offshore Louisiana, from Cotton Petroleum, Zapata Exploration Company, and Pennzoil Producing Company. Said reserves are subject to drainage from adjacent blocks which are currently producing, it is stated.

Applicant proposes to accept and transport on a best-efforts basis 30,000 Mcf per day for HIGMI, as agent for purchasers. Applicant states that it would receive the gas in EI Block 372 and redeliver such gas to Texas Eastern Transmission Corporation and/or Columbia Gulf Transmission Company in EI Block 342. Applicant states that it would charge HIGMI, as agent for purchasers, 8.71 cents per Mcf received in EI Block 372 for the proposed transportation service. This rate, it is stated, is consistent with the Gulf Coast transportation methodology in Applicant's pending Section 4 rate proceeding in Docket No. RP85-206-000. Applicant states that it would ultimately charge the initial transportation rates approved by the Commission in Docket No. RP85-206-000.

Comment date: May 16, 1986, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9643 Filed 4-29-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF86-661-000, et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status, Certificate Applications, etc.; Ormesa Geothermal II, et al.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

April 24, 1986.

Take notice that the following filings have been made with the Commission.

1. Ormesa Geothermal II

[Docket No. QF86-661-000]

On April 17, 1986, Ormesa Geothermal II (Applicant), of 500 Dermody Way, Sparks, Nevada 89431, submitted for filing an application for certification of a facility as a qualfying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility will be located at East Mesa KGRA, Imperial County, California. The primary energy source will be geothermal resources. The net electric power production capacity will be 15 megawatts.

2. Johnson Cogeneration, Inc.

[Docket No. QF86-674-000]

On April 10, 1986, A. Johnson Cogeneration, Inc. (Applicant), of 110 East 59th Street, New York, New York 10022, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at or adjacent to the Newington Terminal of C. H. Sprague & Son Co. at Newington, New Hampshire. The facility will consist of either a fluidized bed combustor or stoker-fired boilers, and an extraction steam turbine-generator. The extracted steam will be used for petroleum process application at the Newington Terminal of C. H. Sprague & Son Co. The net electric power production capacity of the facility will be 31.5 MW. The primary energy source will be coal. The installation of the facility will commence in 1987.

3. Mobil Joliet Refining Corporation

[Docket No. QF86-662-000]

On April 18, 1986, Mobil Joliet Refining Corporation (Applicant), of P.O. Box 874 Joliet, Illinois 60434 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The bottoming cycle cogeneration facility will be located at the Joliet Refinery, Route 55 and Arsenal Road, Joliet, Illinois. The facility consists of an expander turbine and motor/generator to operate in tandem with the existing Fluidized Catalytic Cracker (FCC) unit's air blower and steam turbine. The expander turbine will drive the air blower in place of the steam turbine reducing refinery steam and fuel usage. The motor/generator will utilize horsepower in excess of air blower requirements to produce electricity. The maximum power production capacity of expander turbine motor/generator is 11,190 kW. The primary energy source of the cogeneration facility will be waste pressure from the FCC unit. The facility is scheduled for operation in June 1986.

4. Pyropower Corporation and General Electric Company

[Docket No. QF86-664-000]

On April 1, 1986, Pyropower Corporation and General Electric Company (Applicant), of 5120 Shoreham Place, San Diego, California 92122 and 1 River Road, Schenectady, New York 12345 respectively, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located in Santa Maria, California. The facility will consist of a circulating atmospheric fluidized bed boiler and a multi-extraction steam turbine generating unit. Extraction steam produced by the facility will be used at the Unocal refinery to meet the steam requirement of its two diethanolamine stripper reboilers. The primary energy source of the facility will be petroleum coke. The net electric power production capacity will be 49.9 MW. The installation of the facility will begin in late 1986.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protect with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment period. Protests will be

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considered by the Commission in determining the appropriate action to be take, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.
[FR Doc. 86-9914 Filed 4-29-86; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PF-466; FRL-3009-2]

Pesticide Tolerance Petitions; Ciba Geigy Corp. et al.

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: EPA has received pesticide, feed, and food additive petitions relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF-466] and the petition number, attention Product Manager (PM-21), at the following address:
Information Services Section (TS-757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.
In person, bring comments to:
Information Services Section (TS-757C), Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:
By mail: Henry Jacoby, (PM-21), Registration Division (TS-767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460.
Office location and telephone number: Room 229, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP), feed, and food additive petitions (FAP), relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

I. Initial filings

1. *PP 6F3387.* Ciba Geigy Corp., P.O. Box 18300, Greensboro, NC 27419. Proposes amending 40 CFR 180.408 by establishing tolerances for the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl) alanine methyl ester], and its metabolites containing the 2,6-dimethylaniline moiety and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl) alanine methyl ester each expressed as metalaxyl in or on the following raw agricultural commodities, fruiting vegetables (except cucurbits) at 1.0 part per million (ppm), sugar beets at 0.1 ppm, and sugar beets tops at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography using an alkali flame ionization detector in the nitrogen-specific mode.

2. *FAP 6H5499.* Ciba Geigy Corp. Proposes amending 21 CFR 193.277 (food) and 561.273 (feed) by establishing regulations permitting residues of metalaxyl in or on the commodity tomato pomace (dry) at 20.0 ppm.

II. Amended Petition

PP 5F3250. EPA issued a notice, published in the Federal Register of May 24, 1985 (50 FR 21502), which announced that Janssen Pharmaceuticals P.O. Box 344, Bear Tavern Road, Washington Crossing, NJ 08560, proposed amending 40 CFR 180.413 by establishing tolerances for the combined residues of the fungicide imazalil (1-[2-[2,4-dichlorophenyl)-2-(2-propenyloxy)ethy]-1*H*-imidazole and its metabolite 1-(2,4-dichlorophenyl)-2-(1*H*-imidazole-lyl)-1-ethanol in or on commodities barley (forage), and wheat (forage) at 2.0 ppm.

Janssen Pharmaceuticals has amended the petition by decreasing the tolerance level on barley and wheat forage from 2.0 to 0.5 ppm and by adding barley and wheat hay and straw at 0.5 ppm.

The proposed analytical method for determining residues is gas liquid chromatograpy.

Authority: 21 U.S.C. 346a and 348.

Dated: April 18, 1986.

Douglas D. Campt,
Director, Registration Division, Office of Pesticide Programs.
[FR Doc. 86-9412 Filed 4-29-86; 8:45 am]
BILLING CODE 6560-50-M

[OPTS-100036; FRL-3010-7]

Pesticide Program; Life Systems, Inc.; Transfer of Data

AGENCY: Environmental Protection Agency, (EPA).
ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Life Systems, Inc. has been awarded a contract to perform work for the EPA Office of Toxic Substances, and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transfered to Life Systems, Inc. consistent with the requirements of 40 CFR 2.307(h) and 40 CFR 2.308(h)(2) respectively. This action will enable Life Systems, Inc. to fulfill the obligations of the contract and serves to notify affected persons.

DATE: Life Systems, Inc. will be given access to this information no sooner than May 5, 1986.

FOR FURTHER INFORMATION CONTACT:
By mail: William C. Grosse, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.
Office location and telephone number: Rm. 222, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-2613).

SUPPLEMENTARY INFORMATION: Under Contract No. 68-02-4228, Life Systems, Inc., 24755 Highpoint Road, Cleveland, OH 44122, will provide technical support to EPA's Office of Toxic Substances by performing ground water vulnerability assessments, peer review reports and provide expert advice concerning ground water vulnerability and ground water contamination potential of specific chemicals. Chemicals currently identified for review by the contractor are alachlor, aldicarb, carbofuran, cyanazine, and metribuzin. This contract involves no subcontractors.

The Office of Toxic Substances and the Office of Pesticide Programs have jointly determined that the contract herein described involves work that is being conducted in connection with FIFRA, in that pesticide chemicals will be the subject of certain evaluations to be made under this contract. These evaluations may be used in subsequent regulatory decisions under FIFRA.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 6, and 7 of FIFRA and obtained under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Life Systems, Inc. prohibits use of the information for any purpose other than purpose(s) specified in the contract; prohibits disclosure of the information in any form to a third party without prior written approval from the Agency or affected business; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release. In addition, Life Systems, Inc. is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officer for this contract in the EPA Office of Toxic Substances. All information supplied to Life Systems, Inc. by EPA for use in connection with this contract will be returned to EPA when Life Systems, Inc. has completed its work.

Dated: April 14, 1986.

Susan H. Sherman,
Acting Director, Office of Pesticide Programs.
[FR Doc. 86-9625 Filed 4-29-86; 8:45 am]
BILLING CODE 6560-50-M

[OW-FRL-3010-4]

Water Quality Criteria; Extension of Public Comment Period

AGENCY: Environmental Protection Agency.
ACTION: Extension of public comment period.

SUMMARY: In the Federal Register of March 11, 1986 (51 FR 8361), the Environmental Protection Agency (EPA) announced the availability for public comment of water quality criteria for aluminum, chloropyrifos, nickel, and pentachlorophenol and asked that public comments be submitted by May 12, 1986. Because of the amount of data to be reviewed and the complexity of the subject, EPA determined that additional time should be allowed for public comment.

DATE: The deadline for submitting written public comments is hereby extended to June 11, 1986.

FOR FURTHER INFORMATION CONTACT:
Dr. Frank Gostomski, U.S. Environmental Protection Agency, Criteria and Standards Division (WH-585), 401 M Street, SW., Washington, DC 20460, (202) 245-3042.

Dated: April 23, 1986.

Edwin L. Johnson,
Acting Assistant Administrator for Water.
[FR Doc. 86-9626 Filed 4-29-86; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing; Northampton Media Associates et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. Kenneth R. Carberry et al, d/b/a Northampton Media Associates; Northampton, MA.	BPH-831216AJ	86-120.
B. Joseph John Jarjoura, d/b/a Northeast Communications; Northampton, MA.	BPH-840419IA	
C. Nassbeck Broadcasting Company, Inc.; Northampton, MA.	BPH-840516IA	
D. Cutler Broadcasting, Inc.; Northampton, MA.	BPH-840516ID	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22426, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, B
2. Comparative, A, B, C, D
3. Ultimate, A, B, C, D

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,
Assistant Chief, Audio Services Division, Mass Media Bureau.
[FR Doc. 9668 Filed 4-29-86; 8:45 am]
BILLING CODE 6712-01

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

April 24, 1986.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of the submissions are available from Jerry Cowden, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202)395-7231.

OMB Number: 3060-0332
Title: Section 76.614, Cable television system regular monitoring
Action: Revision
Respondents: Cable television system operators
Estimated Annual Burden: 1,550 Recordkeepers; 969 Hours

OMB Number: 3060-0331
Title: Section 76.615, Notification requirements
Action: Revision
Respondents: Cable television system operators
Estimated Annual Burden: 1,550 Responses; 775 Hours

OMB Number: None
Title: Section 76.619, Grandfathered operation in the frequency bands 108-136 and 225-400 MHz
Action: Existing collection in use without an OMB control number
Respondents: Cable television system operators

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Estimated Annual Burden: 250 Responses; 6,000 Recordkeepers; 4,375 Hours.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-9667 Filed 4-29-86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-763-DR]

Major Disaster and Related Determinations; Texas

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Texas (FEMA-763-DR), dated April 23, 1986, and related determinations.

DATED: April 23, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice is hereby given that, in a letter of April 23, 1986, the President declared a major disaster under the authority of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*, Pub. L. 93-288), as follows:

I have determined that the damage in certain areas of the State of Texas resulting from severe storms and tornadoes, on April 19, 1986, is of sufficient severity and magnitude to warrant a major disaster declaration under Public Law 93-288. I therefore declare that such a major disaster exists in the State of Texas.

You are authorized to provide Individual Assistance in the affected areas. In order to provide Federal assistance, you are hereby authorized to allocate, from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

The time period prescribed for the implementation of section 313(a), priority to certain applications for public facility and public housing assistance, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that, pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Mr. Robert D. Broussard of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following area of the State of Texas to have been affected adversely by this declared major disaster and is designated eligible as follows:

Nolan County for Individual Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Julius W. Becton, Jr.,

Director, Federal Emergency Management Agency.

[FR Doc. 86-9602 Filed 4-29-86; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL HOME LOAN BANK BOARD

[86-425]

Financial Data Reporting System; Agency Information Collection Activities Under OMB Review

Dated: April 24, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board ("Bank Board" or "Board") has requested Office of Management and Budget approval, pursuant to CFR 1320.12 pertaining to clearance of information requests, of the following changes in the financial reporting requirements for institutions whose accounts are insured by the Federal Saving and Loan Insurance Corporation ("insured institutions"):

(a) Discontinuation of both the Universal Monthly Financial Report, FHLBB Form 1337 and the Sample Monthly Financial Survey, FHLBB Form 1312B after their use to report September 1986 data.

(b) Redesignation of the "Quarterly Financial Report" as the "Thrift Financial Report" containing Sections A, B, C, D, E, F, G, H, I and K corresponding to the same Sections in the present Quarterly Financial Report.

(c) Submission of Thrift Financial Report Sections A through F on a Monthly basis rather than a quarterly basis beginning with data for the month of October 1986. Sections A through F shall be submitted 15 days following the end of the reporting month to the Federal Home Loan Banks.

(d) Minor revisions to Sections A through F to incorporate data items previously contained on either the to-be-discontinued Universal Monthly Financial Report or Sample Monthly Financial Survey.

(e) Continued collection of Sections G, H and K on the same quarterly basis, and section I on the same annual basis as at present. These Sections shall also be submitted 15 days following the end of the reporting month.

Comment: Comments on this information collection request are welcome and must be submitted on or before May 30, 1986. Comments regarding the paperwork-burden aspects of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: Desk Officer for the Federal Home Loan Bank Board.

The Bank Board would appreciate commenters sending copies of their comments to the Board.

Requests for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, Phone: 202-377-6933.

FOR FURTHER INFORMATION CONTACT: Parker Jayne, Assistant Deputy Director, Office of Examinations and Supervision (202-377-6486); or Richard C. Pickering, Deputy Director, Office of Policy and Economic Research (202-377-6770), Federal Home Loan Bank Board, at the above address.

SUPPLEMENTARY INFORMATION: In October 1983, the Federal Home Loan Bank Board modified its financial reporting requirements to provide for detailed financial reporting by insured institutions quarterly rather than semiannually. Coincidentally, the Board indicated its intention to eliminate universe (i.e., reporting by all institutions in the industry) monthly financial reporting by insured institutions but to retain sample surveys.

In November 1984 (Resolution Number 84-660), the Board indicated the need to retain universal monthly reporting by all insured institutions because of the rapid pace of deterioration in financial condition which could be experienced by individual insured thrifts during the three-month period between quarterly reports. At the same time, the Board acknowledged the need to minimize reporting burden on the industry. The Board consequently adopted a new abbreviated Universal Monthly Financial Report form in August 1985 for reporting of July 1985 data.

Subsequent experience has confirmed the key role of monthly financial reporting in the early detection of emerging problem conditions in thrifts. The Board has determined, however, that the current abbreviated Monthly Report does not collect sufficient information to permit adequate monthly monitoring of the financial condition of insured members.

In addition, the Board has become concerned with data reported in error on the Monthly Report as determined by comparisons with reported Quarterly Report data. Correcting these errors have required significant staff effort on the part of the Federal Home Loan Banks, the Federal Home Loan Bank Board and individual institutions.

To address these problems, the Board has decided to discontinue use of the current Universal Monthly Financial Report after reporting of September 1986 data and to begin collecting on a monthly basis Sections A through F of the current Quarterly Report beginning with reporting of October 1986 data. The current Sample Monthly Financial Survey will also be discontinued. Certain data items from this survey and from the current universe monthly report will be incorporated in Section F. (Before implementation in October 1986, other changes to Sections A through F may be required to reflect changes in regulations adopted during that time.)

Under the Board's plan, the Board will redesignate the Quarterly Financial Report as the Thrift Financial Report which will contain Sections A, B, C, D, E, F, G, H, I, and K (corresponding to the same sections of the present Quarterly Financial Report). All institutions will report Sections A through F 15 days following the close of the reporting month. Sections D, E and F will contain income and expense data and activity data each month for the reporting month only (i.e., not for a cumulative period).

As at present, all institutions will report Sections G, H and K quarterly with respect to the quarters ending in March, June, September and December. Similarly, all institutions will report Section I on an annual basis for the calendar year. These Sections will also be reported to the Federal Home Loan Banks 15 days following the close of the reporting period.

These new reporting requirements will not affect or change the type of institution-specific information which is now released under the Freedom of Information Act. Only the type of information which is currently releasable will continue to be releasable using 3-month aggregations where necessary to produce quarterly data. Data which is not releasable will continue to include institution-specific monthly data and institution-specific data for non-quarter end months.

As a result of these changes, thrifts will have one monthly reporting system, rather than overlapping monthly and quarterly systems, for reporting statements of condition, operations and activity data to the Board. This will eliminate duplicative reporting of the same data in different formats and the possibility of inconsistent reporting on two different reports. In particular, institutions will not be required to subtotal detail information prior to submission.

As an alternative, the Board considered adopting an expanded monthly form while at the same time retaining the current Quarterly Financial Report. The Board rejected this option because it did not reduce the potential for inconsistent reporting as exists under the current system of overlapping monthly and quarterly reports. The Board also felt that the extra burden of reporting Sections A through F on a monthly basis was less than the burden associated with creating and maintaining a new, expanded separate monthly report so long as data items in the monthly report must equate to specific data items in a quarterly report.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-9690 Filed 4-29-86; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Application for Certificate [Performance]

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of Section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Dated: April 25, 1986.

Aegean Cruises, S.A. (d/b/a Epirotiki Lines), c/o Epirotiki Lines, Inc., 551 Fifth Avenue, New York, NY 10017

Sun Coast Cruises, Inc., 101 South Jefferson Street, Pensacola, FL 32501.

John Robert Ewers,

Secretary.

[FR Doc. 86-9688 Filed 4-29-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Formations of; Acquisition by; and Mergers of Bank Holding Companies; Bellwood Bancorp., Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 22, 1986.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Bellwood Bancorporation, Inc.*, Bellwood, Illinois; to acquire 60 percent or more of the voting shares of First National Bank of Wheaton, Wheaton, Illinois.

2. *The First State Bank of Thornton, Iowa Employee's Stock Ownership Plan and Trust.* Thornton, Iowa; to become a bank holding company by acquiring 51 percent of the voting shares of Thornton Bancshares, Inc., Thornton, Iowa, and thereby indirectly acquire The First State Bank of Thornton, Iowa, Thornton, Iowa.

3. *Ogle County Bancshares, Inc.*, Rochelle, Illinois; to acquire 10 percent of the voting shares of Leland National Bancorp, Inc., Leland Illinois.

4. *Summcorp*, Fort Wayne, Indiana; to acquire 100 percent of the voting shares of the successor by merger of Kendallville Bank & Trust Co., Kendallville, Indiana.

B. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

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1. *Citizens Fidelity Corporation*, Louisville, Kentucky; to acquire 100 percent of the voting shares of the successor by merger of Madison National Bank of Richmond, Richmond, Kentucky.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Dakota Bankshares, Inc.*, Fargo, North Dakota; to acquire 28.32 percent of the voting shares of Bankers Financial Corporation, Drake, North Dakota, thereby indirectly acquiring First Bank in Drake, Drake, North Dakota.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Garden Plain Bancshares, Inc.*, Garden Plain, Kansas; to become a bank holding company by acquiring 80 percent or more of the voting shares of Garden Plain State Bank, Garden Plain, Kansas.

2. *Madison Bancshares, Inc.*, Madison, Nebraska; to become a bank holding company by acquiring 94 percent of the voting shares of The Bank of Madison, Madison, Nebraska.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Extraco Bankshares, Inc.*, Temple, Texas; to acquire 100 percent of the voting shares of Texana Bank, N.A., Waco, Texas.

2. *Southwest Bankers, Inc.*, San Antonio, Texas; to acquire 80 percent of the voting shares of Bank of San Antonio/Medical Center, San Antonio, Texas.

Board of Governors of the Federal Reserve System, April 25, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-9685 Filed 4-29-86; 8:45 am]

BILLING CODE 6210-01-M

Applications of Company Engaged in Permissible Nonbanking Activities; Dakota Bancshares, Inc.

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Govenors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 16, 1986.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Dakota Bankshares, Inc.*, Fargo, North Dakota; to acquire Dakota First Trust Company, Fargo, North Dakota, and thereby engage in activities that may be performed by a trust company pursuant to § 225.25(b)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 25, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-9686 Filed 4-29-86; 8:45 am]

BILLING CODE 6210-01-M

Applications To Engage de Novo in Permissible Nonbanking Activities; Fleet Financial Group, Inc., et al.

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 20, 1986.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Fleet Financial Group, Inc.*, Providence, Rhode Island; to engage *de novo* through its subsidiary Consumer Life Insurance Company, Atlanta, Georgia, in underwriting, as a reinsurer, of credit life and credit accident and health insurance that is directly related to extensions of credit by Fleet Financial Group, Inc., or its subsidiaries, pursuant to § 225.25(b)(9) of the Board's Regulation Y. These activities will be conducted in Alabama, Colorado, Illinois, Indiana, Michigan, Minnesota, Missouri, Ohio, Oklahoma, Utah, and Wisonsin.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Keystone Bancshares, Inc.*, Monona, Iowa; to engage directly in lending activities for the purpose of purchasing loans from its subsidiary, Peoples State Bank, Elkader, Iowa, and its affiliate Union State Bank of Monona, Iowa, and its correspondent banks, National Bank of Waterloo, Waterloo, Iowa and National Bank of Minneapolis, Minnesota. These loans will be farm loans, commercial loans and real estate loans.

C. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Zions Utah Bancorporation*, Salt Lake City, Utah; to engage *de novo* through its subsidary Zions Mortgage Company, Salt Lake City, Utah, in mortgage banking activities, pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 25, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-9687 Filed 4-29-86; 8:45 am]

BILLING CODE 6210-01-M

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; and Acquisitions of Nonbanking Companies; Marshall & Ilsley Corp., et al.

The companies listed in this notice have applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed companies have also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The applications are available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically and questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 16, 1986.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Marshall & Ilsley Corporation*, Milwaukee, Wisconsin, to acquire 100 percent of the voting shares of M&I Thunderbird Acquisition Corp., Phoenix, Arizona.

M&I Thunderbird Acquisition Corp., Phoenix, Arizona; has applied to become a bank holding company by acquiring 100 percent of the voting shares of Thunderbird Capital Corporation, Phoenix, Arizona, and thereby indirectly acquire Thunderbird Bank, Phoenix, Arizona.

Marshall & Ilsley Corporation and M&I Thunderbird Acquisition Corp., have also applied to acquire the following nonbanking subsidiaries: Thunderbird Equities, Inc., Phoenix, Arizona, Thunderbird Mortgage Corp., Phoenix, Arizona, and Thunderbird Leasing, Inc., Phoenix, Arizona, and thereby engage in making or acquiring secured and unsecured loans and other extensions of credit; purchasing or acquiring receivables or chattel paper (including consumer receivables and paper); issuing letters of credit; and accepting drafts; servicing loans and other extensions of credit pursuant to § 225.25(b)(1) and providing portfolio investment and financial advice to any individual, firm, corporation, partnership or other entity pursuant to § 225.25(b)(4); provide mortgage services pursuant to § 225.25(b)(1)(iii); and engage in leasing services pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 25, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-9688 Filed 4-29-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Research Grants on Alcohol and Immunology Including Acquired Immunodeficiency Syndrome (AIDS)

AGENCY: National Institute on Alcohol Abuse and Alcoholism, HHS.

ACTION: Issuance of a Special Program Announcement for Research Grants on Alcohol and Immunology including Acquired Immunodeficiency Syndrome (AIDS).

SUMMARY: The National Institute on Alcohol Abuse and Alcoholism (NIAAA) announces the availability of a special program announcement for Research Grants on Alcohol and Immunology including Acquired Immunodeficiency Syndrome (AIDS). These awards will be to support research grants to study the role of heavy alcohol consumption in lowering resistance to infectious diseases. Areas of research interest include epidemiology, immunology, bacteriology, nutrition, virology, and pathology as well as other relevant clinical and biomedical disciplines. In addition, studies of the relation of alcohol consumption as a potential cofactor in the development of AIDS are encouraged. Support may be requested for up to 5 years. It is anticipated that up to $1 million per year will be available to support research grants under this announcement.

Receipt Date for Applications: February 1, June 1, and October 1 of each year.

For a Copy of the Announcement, contact: The National Clearinghouse for Alcohol Information (NCALI), Box 2345, Rockville, Maryland 20852, Telephone: (301) 468-2600.

Robert L. Trachtenberg,

Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 86-9658 Filed 4-29-86; 8:45 am]

BILLING CODE 4160-20-M

Food and Drug Administration

[Docket No. 86E-0064]

Determination of Regulatory Review Period for Purposes of Patent Extension; Suprol

Correction

In the document concerning Suprol appearing on page 12570 in the issue of

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Friday, April 11, 1986, make the following corrections:

1. In the first column, under FOR FURTHER INFORMATION CONTACT, the zip code in the last line should read "20857".

2. In the second column, in paragraph 1, "date and exemption" should read "date an exemption".

3. In the third column, the FR Document number was incorrect and should read "FR Doc. 86-8094".

BILLING CODE 1505-01-M

Health Resources and Services Administration

Redesignation of Illinois Health Service Areas 7 and 8; Settlement Agreement

AGENCY: Health Resources and Services Administration, Public Health Service, HHS.

ACTION: On July 25, 1985, a notice was published in the **Federal Register** (50 FR 30301) announcing the Secretary's decision to redesignate Illinois health service areas 7 and 8. The effective date was to have been September 13, 1985. Subsequent to that announcement, an action was filed in the U.S. District Court, District of Columbia, seeking to have the Secretary's area redesignation decision set aside. On August 30, 1985 (50 FR 35324), it was announced that in order to allow that litigation to proceed in an orderly manner, the Department had agreed to postpone the effective date until October 15, 1985. On October 18, 1985, a notice was published (50 FR 42227) announcing postponement of the effective date of the Secretary's decision to redesignate Illinois health service areas 7 and 8 until further notice, pending the outcome of the litigation.

The Department hereby announces that pursuant to a Settlement Agreement, signed February 27, 1986, between the Secretary and Suburban Cook County-DuPage County Health Systems Agency, Inc., through their respective counsel, the decision to redesignate the two Illinois health service areas has been set aside. DuPage County, Illinois, will continue to be part of Illinois Health Service Area 7, served by Suburban Cook County-DuPage County Health Systems Agency, Inc. The two health systems agencies presently serving Illinois health service areas 7 and 8 will continue to be designated Health Systems Agencies for their respective areas.

FOR FURTHER INFORMATION CONTACT: John H. Heyob Acting Director, Division of Agency Operations and Management, OHP, BRD, 5600 Fishers Lane, Room 9A-19, Rockville, Maryland 20857, 301-443-6680.

Dated: April 11, 1986.

John Kelso,

Acting Administrator.

[FR Doc. 86-9697 Filed 4-29-86; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

Division of Research Resources; Meeting of the Animal Resources Review Committee

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Animal Resources Review Committee, Division of Research Resources, starting at 9:00 a.m. on May 20, 1986, in Conference Room 3 and continuing to adjournment in Conference Room 4 on May 21, National Institutes of Health, Building 31, 9000 Rockville Pike, Bethesda, Maryland 20892.

The meeting will be open to the public on May 20 from 1:00 p.m. to approximately 3:00 p.m. in Conference Room 3, for a brief staff presentation on the current status of the Animal Resources Program and the selection of future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 9:00 a.m. to approximately 12:00 noon and from approximately 3:00 p.m. to 5:00 p.m. on May 20 and from 8:30 a.m. to approximately 12:00 noon on May 21 for the review, discussion, and evaluation of individual grant applications submitted to the Animal Resources Program. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Building 31, Room 5B13, Bethesda, Maryland 20892, (301) 496-5545, will provide a summary of the meeting and a roster of the committee members upon request. Dr. Carl E. Miller, Executive Secretary of the Animal Resources Review Committee, Division of Research Resources, National Institutes of Health, Building 31, Room 5B55, Bethesda, Maryland 20892, (301) 496-5175, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Programs No. 13.306, Laboratory Animal Sciences, National Institutes of Health)

Dated: April 24, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-9724 Filed 4-29-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Dental Research; Meeting of the National Advisory Dental Research Council

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Dental Research Council, National Institute of Dental Research, on May 19-20, 1986, Conference Room 4, Building 31A, National Institutes of Health, Bethesda, Maryland. This meeting will be open to the public from 9:00 a.m. to 3:00 p.m. on May 19 for general discussion and program presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting of the Council will be closed to the public on May 20 from 9:00 a.m. to adjournment for the review, discussion and evaluation of individual grant applications and individual programs and projects conducted by the NIDR Intramural Program. These discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications and Program, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

In accordance with the provisions set forth in section 552b(c)(9)(B), Title 5, U.S. Code, the Council meeting will be closed to the public from 3:00 p.m. to recess on May 19 for discussion and preparation of comments Council wishes to submit to the Director, NIH, for inclusion in the biennial report to Congress.

Dr. Marie U. Nylen, Executive Secretary, National Advisory Dental Research Council, and Director, Extramural Programs, National Institute of Dental Research, National Institutes of Health, Westwood Building, Room 503, Bethesda, Maryland 20892, (telephone 301 496-7723) will furnish roster of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program Nos. 13.121—Diseases of the Teeth and Supporting Tissues; Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13.122—Disorders of Structure, Function, and Behavior: Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13.845—Dental Research Institutes; National Institutes of Health.)

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-9725 Filed 4-29-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, and its subcommittees on May 19-20, 1986, at the National Institutes of Health, Building 31C, Conference Room 10, Bethesda, Maryland 20892.

The meeting will be open to the public on May 19 from approximately 9:00 a.m. to 9:30 a.m. for opening remarks of the Institute Director and again from 1:30 p.m. to approximately 5:00 p.m. for discussion of procedural matters, Council business, and a report from the Institute Director which will include a discussion of budgetary matters. The primary program discussions will be on Tropical Medicine and International Health. On May 20 the meeting will be open to the public from approximately 8:30 a.m. to 9:30 a.m. for the reports of the Director of the Microbiology and Infectious Diseases Program and the Director of the Immunology, Allergic and Immunologic Diseases Program.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting of the NAAIDC Allergy and Immunology Subcommittee and of the NAAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately three hours for the review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 9:30 a.m. until approximately 12:30 p.m. on May 19. The meeting of the full Council will be closed from approximately 9:30 a.m. until adjournment on May 20 for the review, evaluation, and discussion of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Lynn Trible, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A-32, National Institutes of Health, Bethesda, Maryland 20892, telephone (301) 496-5717, will provide summaries of the meetings and rosters of the committees members.

Dr. John W. Diggs, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone (301) 496-7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: April 24, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-9723 Filed 4-29-86; 8:45 am]

BILLING CODE 4140-01-M

Division of Research Grants; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of the following study sections for May through June 1986, and the individuals from whom summaries of meetings and rosters of committee members may be obtained.

These meetings will be open to the public to discuss administrative details relating to study section business for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available. These meetings will be closed thereafter in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Grants Inquires Office, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301-496-7441 will furnish summaries of the meetings and rosters of committee members. Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each study section. Since it is necessary to schedule study section meetings months in advance, it is suggested that anyone planning to attend a meeting contract the executive secretary to confirm the exact date, time and location. All times are A.M. unless otherwise specified.

Study section	May-June 1986 meetings	Time	Location
Allergy & Immunology, Dr. Eugene Zimmerman, Rm. 320, Tel. 301-496-7380.	June 19-21	8:30	Holiday Inn, Georgetown, DC.
Bacteriology & Mycology-1, Dr. Milton Gordon, Rm. 304, Tel. 301-496-7340.	June 11-13	8:30	Holiday Inn, Georgetown, DC.
Bacteriology & Mycology-2, Dr. William Branche, Jr., Rm. 306, Tel. 301-496-7981.	June 4-6	8:30	Holiday Inn, Georgetown, DC.
Behavioral Medicine, Dr. Joan Ritterhouse, Rm. 232, Tel. 301-496-7109.	June 11-13	9:00	Holiday Inn, Georgetown, DC.
Biochemical Endocrinology, Dr. Norman Gold, Rm. 226, Tel. 301-496-7340.	June 16-18	8:30	Wellington Hotel, Washington, DC.
Biochemistry-1, Dr. Adolphus P. Toliver, Rm. 316B, Tel. 301-496-7516.	June 5-7	8:30	Linden Hill Hotel, Bethesda, MD.
Biochemistry-2, Dr. Alex Liacouras, Rm. 316A, Tel. 301-496-7516.	June 12-14	8:30	Wellington Hotel, Washington, DC.
Bio-Organic & Natural Products Chemistry, Dr. Michael Rogers, Rm. 5, Tel. 301-496-7107.	June 26-28	9:00	Holiday Inn, Georgetown, DC.
Biophysical Chemistry, Dr. John B. Wolff, Rm. 236B, Tel. 301-496-7070.	June 19-21	8:30	Room 7, Bldg. 31C, Bethesda, MD.
Bio-Psychology, Dr. A. Keith Murray, Rm. 220, Tel. 301-496-7058.	May 19-22	9:00	Ramada Inn, Bethesda, MD.
Cardiovascular & Pulmonary, Dr. Anthony C. Chung, Rm. 2A-04, Tel. 301-496-7316.	June 11-13	8:30	Linden Hill Hotel, Bethesda, MD.
Cardiovascular & Renal, Dr. Rosemary Morris, Rm. 321, Tel. 301-496-7901.	June 16-18	8:30	Holiday Inn, Georgetown, DC.

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Study section	May–June 1986 meetings	Time	Location
Cellular Biology and Physiology-1, Dr. Gerald Greenhouse, Rm. 338, Tel. 301–496–7396.	June 4–6	8:30	Room A, Landow Bldg., Bethesda, MD.
Cellular Biology and Physiology-2, Dr. Evelyn Hanneken, Rm. 306, Tel. 301–496–7581.	June 16–20	8:30	Linden Hill Hotel, Bethesda, MD.
Chemical Pathology, Dr. Edmund Copeland, Rm. 353, Tel. 301–496–7576.	June 16–20	8:00	Sheraton-Potomac, Rockville, MD.
Diagnostic Radiology, Dr. Catherine Wingate, Rm. 2198, Tel. 301–496–7650.	June 9–11	8:30	Linden Hill Hotel, Bethesda, MD.
Endocrinology, Dr. Harry Brodie Rm. 333, Tel. 301–496–7346.	June 16–18	8:30	Dupont Plaza Hotel, Washington, DC.
Epidemiology & Disease Control-1, Dr. Phyllis B. Eveleth, Rm. 203C, Tel. 301–496–7246.	June 3–5	8:30	Linden Hill Hotel, Bethesda, MD.
Epidemiology & Disease Control-2, Dr. Ann Schlueterberg, Rm. 203G, Tel. 301–496–7246.	June 3–5	8:00	Linden Hill Hotel, Bethesda, MD
Experimental Cardiovascular Sciences, Dr. Richard Peabody, Rm. 234, Tel. 301–496–7946.	June 10–12	8:00	Linden Hill Hotel, Bethesda, MD.
Experimental Immunology, Dr. David Lamm, Rm. 222B, Tel. 301–496–7238.	June 16–20	9:00	Keystone Intern'l. Resort, Keystone, CO.
Experimental Therapeutics, Dr. Morris Kelley, Rm. 221, Tel. 301–496–7597.	June 11–13	8:30	Holiday Inn, Bethesda, Md.
Experimental Virology, Dr. Gerrit V. Keefer, Rm. 206, Tel. 301–496–7434.	June 9–11	8:30	Room 9, Bldg. 31C, Bethesda, MD.
General Medicine A–1, Dr. Harold Davidson, Rm. 354A Tel. 301–496–7797.	May 27–30	8:30	Linden Hill Hotel, Bethesda, MD.
General Medicine A–2, Dr. Donna J. Dean, Rm. 354B, Tel. 301–496–7140.	June 16–20	8:30	Room 9, Bldg. 31C, Bethesda, MD.
General Medicine B, Dr. Raymond Bahor, Rm. 322, Tel. 301–496–7730.	June 4–6	8:30	Marbury House, Georgetown, DC.
Genetics, Dr. David Remondini, Rm. 348, Tel. 301–496–7271.	June 12–14	9:00	Holiday Inn, Bethesda, MD.
Hearing Research, Dr. Joseph Kimm, Rm. 225, Tel. 301–496–7464.	June 17–20	8:30	Georgetown Hotel, Washington, DC.
Hematology-1, Dr. Clark Lum, Rm. 355A, Tel. 301–496–7508.	June 12–14	9:00	Holiday Inn, Georgetown, DC.
Hematology-2, Dr. Bruce Maurer, Rm. 355B, Tel. 301–496–7508.	June 16–20	8:30	Holiday Inn, Georgetown, DC.
Human Development & Aging-1, Dr. Teresa Levitin, Rm. 303, Tel. 301–496–7025.	June 16–20	9:00	Marbury House, Georgetown, DC.
Human Development & Aging-2, Dr. Samuel Rawlings, Rm. 305, Tel. 301–496–7640.	June 9–11	8:30	Dupont Plaza Hotel, Washington, DC.
Human Development & Aging-3, Dr. Susan C. Streufert, Rm. 203, Tel. 301–496–9463.	June 12–13	8:30	The Omni Shoreham, Washington, DC.
Human Embryology & Development, Dr. Arthur Hoversland, Rm. 319A, Tel. 301–496–7839.	June 17–20	8:00	Marbury House, Georgetown, DC.
Immunobiology, Dr. William Stylos, Rm. 222A, Tel. 301–496–7760.	June 11–13	8:30	Holiday Inn, Bethesda, MD.
Immunological Sciences, Dr. Hugh Stamper, Rm. 233A, Tel. 301–496–7179.	June 11–13	8:30	Crowne Plaza, Rockville, MD.
Mammalian Genetics, Dr. Jerry Roberts, Rm. 348, Tel. 301–496–7271.	June 12–14	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Medicinal Chemistry, Dr. Ronald Dubois, Rm. 5, Tel. 301–496–7170.	June 26–27	9:00	Holiday Inn, Chevy Chase, MD.
Metabolism, Dr. Krish Krishnan, Rm. 339A, Tel. 301–496–7091.	June 11–13	8:30	Holiday Inn, Bethesda, MD.
Metallobiochemistry, Dr. John A. Beisler, Rm. 310, Tel. 301–496–7733.	June 19–21	8:30	Georgetown Hotel, Washington, DC.
Microbial Physiology & Genetics-1, Dr. Martin Slater, Rm. 238, Tel. 301–496–7183.	June 12–14	8:30	Linden Hill Hotel, Bethesda, MD.
Microbial Physiology & Genetics-2, Dr. Gerald Liddel, Rm. 357, Tel. 301–496–7130.	June 11–13	8:30	Hyatt Regency, Bethesda, MD.
Molecular & Cellular Biophysics, Dr. Patricia Strast, Rm. 236A, Tel. 301–496–7060.	June 12–14	8:30	Holiday Inn, Chevy Chase, MD.
Molecular Biology, Dr. Donald Dique, Rm 328, Tel. 301–496–7830.	June 5–7	8:30	Holiday Inn, Georgetown, DC.

Study section	May–June 1986 meetings	Time	Location
Molecular Cytology, Dr. Ramesh Nayak, Rm. 233D, Tel. 301–496–7149.	June 5–7	8:30	Quality Inn, Washington, DC.
Neurological Sciences-1, Dr. Allee C. Stoelmiller, Rm. 437B, Tel. 301–496–7290.	June 16–20	8:00	Crowne Plaza, Rockville, MD.
Neurological Sciences-2, Dr. Stepan Gobel, Rm. 154, Tel. 301–496–9809.	June 17–19	8:30	Holiday Inn, Bethesda, MD.
Neurology A, Dr. Catherine Woodbury, Rm. 326, Tel. 301–496–7095.	June 11–14	8:30	Dupont Plaza Hotel, Washington, DC.
Neurology B-1, Dr. Jo Ann McConnell, Rm. 152, Tel. 301–496–7846.	June 17–20	8:30	The Omni Shoreham, Washington, DC.
Neurology B-2, Dr. Herman Teitelbaum, Rm. 152, Tel. 301–496–7422.	June 17–20	8:30	Holiday Inn, Chevy Chase, MD.
Neurology C, Dr. Kenneth Newrock, Rm. 154, Tel. 301–496–9809.	June 17–20	8:30	Room 4, Bldg. 31A, Bethesda, Md.
Nutrition, Dr. Ai Lien Wu, Rm. 204, Tel. 301–496–7178.	June 4–6	8:30	Holiday Inn, Bethesda, MD.
Oral Biology & Medicine-1, Dr. J. Terrell Hoffeld, Rm. 325, Tel. 301–496–7818.	June 2–5	8:30	Crowne Plaza, Rockville, MD.
Oral Biology & Medicine-2, Dr. J. Terrell Hoffeld, Rm. 325, Tel. 301–496–7818.	June 10–13	8:30	Crowne Plaza, Rockville, MD.
Orthopedics & Musculoskeletal, Dr. Ilsen Stewart, Rm. 350, Tel. 301–496–7591.	June 11–13	8:30	Crowne Plaza, Rockville, MD.
Pathobiochemistry, Dr. Sharon Johnson, Rm. A–26, Tel. 301–496–7820.	June 5–7	8:30	Room 6, Bldg. 31C, Bethesda, MD.
Pathology A, Dr. John L. Meyer, Rm. 337, Tel. 301–496–7305.	June 11–13	8:00	Keystone Intern'l Resort, Keystone, CO.
Pathology B, Dr. Martin Padarathsingh, Rm. 352, Tel. 301–496–7244.	June 16–20	8:30	Keystone Intern'l Resort, Keystone, CO.
Pharmacology, Dr. Joseph Kaiser, Rm. 208, Tel. 301–496–7408.	June 24–26	8:30	Americas Inn, Bethesda, MD.
Physical Biochemistry, Dr. Gopa Rakhit, Rm. 218B, Tel. 301–496–7120.	June 25–27	8:30	Room 6, Bldg. 31C, Bethesda, MD.
Physiological Chemistry, Dr. Stanley Burrous, Rm. 339B, Tel. 301–496–7837.	June 13–15	8:00	Georgetown Hotel, Washington, DC.
Physiology, Dr. Michael A. Lang, Rm.219–A Tel. 301–496–7878.	June 11–14	9:00	Holiday Inn, Chevy Chase, MD.
Radiation, Dr. John Zimbrick, Rm. 219A, Tel. 301–496–7073.	June 16–18	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Reproductive Biology, Dr. Dharam Dhindsa, Rm. 307, Tel. 301–496–7318.	June 21–24	8:30	Ramada Inn, Anaheim, CA.
Respiratory & Applied Physiology, Dr. Nathan Waterman, Rm.218A, Tel. 301–496–7320.	June 11–13	8:30	Ramada Inn, Bethesda, MD.
Safety & Occupational Health, Dr. Richard Rhoden, Rm. 3A10 Tel. 301–496–6723.	June 24–26	8:30	Holiday Inn, Bethesda, MD.
Sensory Disorders & Language, Dr. Michael Halasz, Rm. 3A–07, Tel. 301–496–7560.	June 16–20	8:30	Holiday Inn, Bethesda, MD.
Social Sciences & Population, Dr. Carol Campbell, Rm. 210, Tel. 301–496–7908.	June 5–7	9:00	Marbury House, Georgetown, DC.
Surgery & Bioengineering, Dr. Paul F. Parsidol, Rm. 303A, Tel. 301–496–7509.	June 16–17	8:00	Crowne Plaza, Rockville, MD.
Surgery, Anesthesiology & Trauma, Dr. Keith Kramer, Rm 319B, Tel. 301–496–7771.	June 16–19	8:30	Westpark Hotel, Rosslyn, VA.
Toxicology, Ms. Faye J. Calhoun, Rm. 206, Tel. 301–496–7570.	June 18–20	8:00	Marbury House, Georgetown, DC.
Tropical Medicine & Parasitology, Dr. Jean Hickmen, Rm. 334, Tel. 301–496–1180.	June 12–14	8:30	Holiday Inn, Bethesda, MD.
Virology, Dr. Clare Winestock, Rm. 308, Tel. 301–496–7605.	June 12–14	8:30	Room 9, Bldg. 31C, Bethesda, MD.
Visual Sciences A–1, Dr. Luigi Giacometti, Rm. 307, Tel. 301–496–7000.	June 11–13	9:00	Linden Hill Hotel, Bethesda, MD.
Visual Sciences A–2, Dr. Jane Hu, Rm. 439A, Tel. 301–496–7310.	June 16–20	8:30	Holiday Inn, Georgetown, DC.
Visual Sciences B, Dr. Earl Fisher, Jr., Rm. 325, Tel. 301–496–7251.	June 4–7	8:30	Linden Hill Hotel, Bethesda, MD.

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(Catalog of Federal Domestic Assistance Program Nos. 13.306 13.333, 13.337, 13.393–13.396, 13.837–13.844, 13.846–13.878, 13.892, 13.893, National Institutes of Health, HHS)

Dated: April 24, 1986.

Betty J. Beveridge,

Committee Management Office, NIH.

[FR Doc. 86-9728 Filed 4-29-86; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA-14017, AA-8889-A]

Alaska Native Claims Selection; Shumagin Corp.

In accordance with Department regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Shumagin Corporation for approximately 3 acres. The lands involved are in the vicinity of Sand Point, Alaska, within T. 56 S., R. 73 W., Seward Meridian.

A notice of the decision will be published once in the ALEUTIAN EAGLE and once a week for four (4) consecutive weeks, in the ANCHORAGE TIMES. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision shall have until May 30, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-9586 Filed 4-29-86; 8:45 am]

BILLING CODE 4310-JA-M

[CA-16536]

Proposed Issuance of Recordable Disclaimer of Interest for Lands in San Diego County, CA

Correction

In FR Doc. 86-8407 appearing on page 12932 in the issue of Wednesday, April 16, 1986, make the following correction:

In the second column, first complete paragraph, eighth line, "54°42'30"" should read "54°41'03"".

BILLING CODE 1505-01-M

Coos Bay District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of Coos Bay District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94–579 and 43 CFR, Part 1780 that a meeting of the Coos Bay District Advisory Council will be held on Friday, June 13, 1986, beginning at 10:00 a.m. The meeting will be held in the conference room of the Coos Bay District Office, 333 South Fourth Street, Coos Bay, Ore.

Agenda

The agenda for the meeting will include:

1. Election of officers.
2. Introduction and orientation for new members.
3. BLM Oregon/Washington land exchange policy.
4. Planning for the 1990s land-use and timber-management plan process.
5. The Department of Interior's "Pride in America" program.
6. Updates on the status of old business issues including: The Coos Bay North Spit, The Coos Bay District Road Management Plan, Coos Head, New River, and the BLM/Forest Service management interchange.
7. Arrangements for the next meeting.

The meeting is open to the public and news media. Interested persons may make oral statements to the council from 1:00 p.m. to 1:30 p.m. on Friday, June 13, or file written statements for the council's consideration. Anyone wishing to make an oral statement must notify the District Manager by close of business on Monday, June 2, 1986 (Telephone 503–269–5880).

ADDRESS: Bureau of Land Management, Coos Bay District Office, 333 South Fourth Street, Coos Bay, OR 97420.

Summary minutes of the meeting will be maintained at the District Office and made available during regular business hours (7:45 a.m. to 4:30 p.m.) for public inspection or reproduction at the cost of duplication.

Dated: April 25, 1986.

Richard M. Popp,

Acting District Manager.

[FR Doc. 86-9659 Filed 4-29-86; 8:45 am]

BILLING CODE 4310-33-M

[A-20346K]

Realty Actions; Public Land Exchange in Mohave and Coconino Counties, AZ

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, Exchange, Public Land, Mohave and Coconino Counties, Arizona.

SUMMARY: The public land and interests therein contained in the sections described below are being considered for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian

T. 27 N., R. 9 E.,
Secs. 6 and 24.
T. 27 N., R. 10 E.,
Secs. 6, 18, 20, and 30.
T. 26 N., R. 10 E.,
Sec. 34.
T. 25 N., R. 1 W.,
Sec. 30.
T. 25 N., R. 11 E.,
Sec. 30.
T. 24 N., R. 11 E.,
Sec. 6.
T. 23 N., R. 10 E.,
Sec. 36.
T. 23 N., R. 11 E.,
Sec. 32.
T. 22 N., R. 14 W.,
Sec. 9.
T. 22 N., R. 15 W.,
Secs. 13, 23, and 34.
T. 21 N., R. 12 W.,
Sec. 4.
T. 20 N., R. 13 W.,
Sec. 36.
T. 20 N., R. 11 E.,
Sec. 22.
T. 19 N., R. 12 W.,
Sec. 21.
T. 19 N., R. 13 W.,
Secs. 2, 7, 32, and 36.
T. 18 N., R. 11 W.,
Sec. 17.
T. 18 N., R. 12 W.,
Secs. 16, 29, and 32.
T. 18 N., R. 13 W.,
Secs. 2, 35, and 36.
T. 17 N., R. 8 W.,
Secs. 22–27 and 33–36.
T. 17 N., R. 12 W.,
Sec. 1.
T. 16 N., R. 20½ W.,
Secs. 14 and 15.
T. 15 N., R. 7 W.,
Secs. 7 and 18.
T. 15 N., R. 8 W.,
Secs. 13–14, 22, 27, and 33.
T. 15 N., R. 9 W.,
Secs. 10, 19–21, 27, 28, and 30.
T. 14½ N., R. 8 W.,
Secs. 30 and 31.
T. 14 N., R. 9 W.,
Secs. 14 and 16.
T. 13 N., R. 8 W.,
Secs. 7, 11, 12, 15, 16, 19–22, 27–29, 33, and 34.
T. 13 N., R. 9 W.,
Secs. 10–15, 20, 22–24, 26, 27, and 35.

Containing 30,100 acres, more or less.

In exchange for these lands the United States would acquire an undetermined number of acres of equal value from the State of Arizona. The Bureau of Land Management has identified approximately 65,720 acres in the Kingman Resource Area for reconveyance by the State. These lands are located within wilderness study areas, contain significant wildlife values, and would consolidate public land ownership for easier program management.

The purpose of this Notice of Realty Action is two-fold. First, this action will provide a response of forty-five (45) days during which public comments will be accepted. Secondly, this action, as provided in 43 CFR 2201.1(b), shall segregate the public lands described herein to the extent that they will not be subject to appropriation under the public land laws, including the mining laws, but not the mineral leasing laws. This segregative effect shall terminate upon issuance of patent to such lands, upon publication in the Federal Register of a termination of the segregation, or 2 years from date of this publication, whichever occurs first.

This action is necessary to avoid the occurrence of nuisance mining claims and land use applications that could encumber the public lands while the preparation of an environmental assessment is ongoing. Upon completion of the environmental assessment and land use decision, a Notice of Realty Action shall be published specifying the land to be exchanged and any reservations of record.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange including a list of the Federal and State lands is available for review at the Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401.

For a period of forty-five (45) days, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: April 21, 1986.

Marlyn V. Jones,

District Manager.

[FR Doc. 86-9586 Filed 4-29-86; 8:45 am]

BILLING CODE 4310-32-M

[U-54841]

Salt Lake District; Realty Action Sale of Public Lands in Wasatch County, Utah

The following described land has been examined and identified as suitable for disposal under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value shown:

T. 2 S., R. 4E., SLM,
Sec. 25, lot 7, containing 3.75 acres.

The appraised fair market value of this tract is $21,750.

The above described land will be sold in order to dispose of lands which because of location and other characteristics are difficult and uneconomical to manage. The sale is consistent with the Bureau's planning system and the public interest will be served by offering these lands for sale.

The lands described are hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action.

The above described land will be sold at 10:00 a.m. on July 9, 1986, without competitive bidding at: Salt Lake District, Bureau of Land Management, 2370 South 2300 West, Salt Lake City, Utah 84119.

The land will be sold directly to Stichting Mayflower Recreational Fonds and Stichting Mayflower Mountain Fonds. The appraised value as shown must be received by the Salt Lake District Office at the date and time shown above. Payment may be made by the principal or a duly qualified agent. Payment shall be by certified check, money order, bank draft or cashier's check made payable to the Department of the Interior, BLM.

At the date of and prior to the sale of the lands, the Stichtings shall relinquish to the United States all interest and rights to the Merling D and Merling D No. 1 unpatented mining claims, UMC numbers 219406 and 219407, respectively.

The terms and conditions applicable to the sale are:

(1) The patent will contain a reservation for ditches and canals and be subject to all valid existing rights including right-of-way U-45963 for a powerline in the name of Utah Power and Light Company.

(2) All minerals will be reserved to the United States including the right of ingress or egress for mineral development.

For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager, BLM, 2370 South 2300 West, Salt Lake City, Utah 84119. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior.

Dated: April 24, 1986.

John H. Stephenson,

Acting District Manager.

[FR Doc. 86-9601 Filed 4-29-86; 8:45 am]

BILLING CODE 4310-DQ-M

National Park Service

Upper Delaware Citizens Advisory Council Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Committe Act.

DATE: May 23, 1986, 7:00 p.m.

Inclement weather reschedule date: June 13, 1986.*

ADDRESS: Town of Tusten Hall, Narrowsburg, New York.

FOR FURTHER INFORMATION CONTACT: John T. Hutzky, Superintendent, Upper Delaware Scenic and Recreational River, Drawer C, Narrowsburg, N.Y. 12764–0159. (717) 729–8251.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704(f) of the National Parks and Recreation Act of 1978, Pub. L. 95–625, 16 U.S.C. 1274 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation of a management plan and on programs which relate to land and water use in the Upper Delaware region. The agenda

*Announcements of cancellation due to inclement weather will be made by radio stations WDNH, WDLC, WSUL, and WVOS.

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for the meeting will include continued review of proposed River Management Plan. The meeting will be open to the public.

Any member of the public may file with the council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, N.Y. 12764. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Upper Delaware Scenic and Recreational River, River Road, 1¾ miles North of Narrowsburg, N.Y., Damascus Township, Pennsylvania.

Dated: April 18, 1986.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 86-9603 Filed 4-29-86; 8:45 am]

BILLING CODE 4310-70-M

Intention To Renovate for Commercial Use—Jacob Riis Park Bathhouse—Gateway National Recreation Area

The National Park Service is seeking interested parties to renovate and operate the Riis Park Bathhouse complex within Gateway National Recreation Area in New York City, Borough of Queens, for commercial, business, retail and/or recreational uses. The property includes 113,000 square feet within the bathhouse, a few smaller buildings, and a 9,700 car parking lot. The property is on the Atlantic Ocean at a heavily used beach and is 25 miles from midtown Manhattan.

This property may be leased under the Historic Preservation Act (Pub. L. 96-516) or operated as a concession under the Concession Policy Act (Pub. L. 89-249), depending on the nature of the offers received. In either case, historic preservation tax credits may be available. The property is on the National Register of Historic Places.

A copy of the "Request for Proposal" (RFP) may be obtained by sending a non-refundable payment of $100, payable to the National Park Service. Mail to the National Park Service, Attention: Mr. Gerald L. Kirwan, 15 State Street, Boston, Massachusetts 02109. Refer to RFP-LRD-6-001. The RFP will be released on May 15, 1986. Offers will be accepted until July 15, 1986.

Dated: April 18, 1986.

Steven H. Lewis,

Deputy Director, North Atlantic Region.

[FR Doc. 86-9581 Filed 4-29-86; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

[Int-Doc 86-20]

Uinta Basin Unit, Colorado River Water Quality Improvement Program; Availability of Planning Report/Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a proposed planning report/draft environmental statement on a proposed salinity-control project that would reduce salt loading to the Colorado River system by lining canals and laterals in Duchesne and Uintah Counties in northeastern Utah. Comments on the draft report must be received by the Bureau of Reclamation by the date indicated on the cover page of the document.

Public hearings will be held on June 4, 1986, at the Uinta Basin Area Vocational School, 1100 East Lagoon, Roosevelt, Utah, from 7 p.m. to 10 p.m. These hearings are designed to receive views and comments relating to the environmental impacts of the unit from interested organizations or individuals. Oral statements at the hearings will be limited to a period of 10 minutes per speaker. While speakers cannot trade their time to obtain a longer oral presentation, the person authorized to conduct the hearings may allow any speaker to provide additional oral comments after all persons wishing to comment have been heard.

Speakers will be scheduled according to their time preference, if any, as requested by letter or telephone. Speakers not present when called will lose their privilege in the scheduled order, and their names will be recalled at the end of presentations by the scheduled speakers. Requests for scheduled presentations will be accepted until 4 p.m. on June 3, 1986. Any subsequent requests will be handled on a first-come, first-served basis following the scheduled presentations at the meeting.

Organizations or individuals desiring to present statements at the hearings should contact Jay Henrie, team leader, Bureau of Reclamation, Utah Projects Office, P.O. Box 1338, Provo, Utah 84603, telephone (801) 379-1172, by letter or telephone, and announce their intention to participate. Written comments from those unable to attend and from those wishing to supplement their oral presentations at the hearings should be sent to the Regional Director, Attention UC-730, in Salt Lake City, Utah, by July 28, 1986, in order to be included in the hearing record. Copies of the planning report/draft environmental statement are available for inspection at the following locations:

Director, Office of Environmental Affairs, Bureau of Reclamation, Room 7423, Washington, D.C. 20240, Telephone: (202) 343-4991

Property and Services Branch, Technical Publications and Library Branch, Engineering and Research Center, Code 980, Denver, Colorado 80225, Telephone: (303) 236-5972

Regional Director, Bureau of Reclamation, Upper Colorado Regional Office, P.O. Box 11568, Salt Lake City, Utah 84147, Telephone: (801) 524-5580

Projects Manager Utah, Projects Office, Bureau of Reclamation, 302 East 1860 South, P.O. Box 1338, Provo, Utah 84603, Telephone: (801) 379-1000

Project Construction Engineer, Uinta Basin Construction Office, Bureau of Reclamation, P.O. Box 420, Duchesne, Utah 84021, Telephone: (801) 738-2441

Single copies of the document may be obtained by request to the addresses listed above. Copies also will be available for inspection in libraries in the project vicinity.

Dated: April 2, 1986.

C. Dale Duvall,

Commission.

[FR Doc. 86-9620 Filed 4-29-86; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

Section 5b Application No. 5; Section 5b Application No. 12

Railroad Interterritorial Agreement; National Railroad Freight Committee Agreement

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Decision.

SUMMARY: The National Railroad Freight Committee (NRFC) filed an agreement under 49 U.S.C. 10706(a) for the joint consideration and standardization of packaging rules, shipping rules, and commodity classification. Modifications of the agreement and the classification system itself are required before the agreement can be approved. Modifications must be made in accordance with the schedule set forth below.

DATES: An amended agreement must be filed by July 29, 1986. Comments on whether the modifications comport with this decision must be filed by August 28, 1986. Replies are due September 17, 1986. Modifications in the classification system must be completed by October 13, 1986.

ADDRESSES: An original and 10 copies should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any comment should be sent to applicants' representative: Norman H. Donald III, 919 Third Avenue, New York, NY 10022.

FOR FURTHER INFORMATION CONTACT:

Elaine A. Sehrt, (202) 275-7899;

or

Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: The National Railroad Freight Committee (NRFC) seeks approval of an agreement under 49 U.S.C. 10706(a) for the joint consideration and standardization of packaging rules, shipping rules, and commodity classification. Section 5b Application No. 5, *Railroad Interterritorial Agreement* is the agreement under which the Uniform Classification Committee (UCC) currently handles national packaging, shipping, and classification matters. (That agreement has received interim approval.) Section 5b Application No. 12, *National Freight Committee Agreement* would transfer these functions of the UCC to the NRFC. Upon approval of the NRFC agreement, to the extent the applications are duplicative, Application No. 12 supersedes Application No. 5.

We are requiring modification of the agreement and the commodity classification system prior to approval. The following subject areas of the agreement must be modified: identification and description of member-carriers; upon meetings and mail voting; confidentiality of independent actions; notice; appeals; antitrust immunity in intrastate matters; and approval for additional rules.

The Uniform Freight Classification System (UFC) must be modified in the following areas: (1) To eliminate consideration of non-transportation related factors; (2) to condense the factors used in classifying to four factors (density, stowability, ease or difficulty of handling, and liability); and (3) to eliminate all related charges.

Antitrust immunity will continue pending final decision, provided that applicant complies with this decision within the timeframes specified.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403).

This action will not significantly affect either the quality of the human environment or the conservation of energy resources.

This notice and accompanying decision are issued pursuant to 49 U.S.C. 10321 and 10706 and 5 U.S.C. 553.

Decided: April 15, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Andre would not have required the agreement to be modified to limit the factors considered in classifications.

James H. Bayne,

Secretary.

[FR Doc. 86-9612 Filed 4-29-86; 8:45 am]

BILLING CODE 7035-01-M

[Fourth Revised I.C.C. Order No. P.-88]

Rail Carriers; Central Vermont Railway, Inc.; Passenger Train Operation

To: Central Vermont Railway, Inc.

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Washington, D.C. and Montreal, Canada. The operation of these trains requires the use of the tracks and other facilities of Boston and Maine Corporation (BM). The BM Line is temporarily out of service because of a labor dispute. An alternate route is available via the Central Vermont Railway, Inc., between Palmer, Massachusetts and White River Junction, Vermont.

It is the opinion of the Commission that the use of such alternate route is necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered,

(a) Pursuant to the authority vested in me by order of the Commission decided January 13, 1986, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), Central Vermont Railway, Inc. (VC), is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between Palmer, Massachusetts and White River Junction, Vermont.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though no agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application*. The provisions of this order shall apply to intrastate, interstate and foreign commerce.

*(d) *Effective date*. This order shall become effective at 11:59 p.m., April 11, 1986.

*(e) *Expiration date*. The provisions of this order shall expire at 11:59 p.m., April 18, 1986, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Central Vermont Railway, Inc., and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., April 11, 1986.

Interstate Commerce Commission.

William J. Love,

Agent.

FR Doc. 86-9616 Filed 4-29-86; 8:45 am]

BILLING CODE 7035-01-M

[Third Revised I.C.C. Order No. P.-88]

Rail Carriers, Central Vermont Railway, Inc.; Passenger Train Operation

To: Central Vermont Railway, Inc.

It appearing, that the National Railroad Passenger Corporation (Amtrak) has established through passenger train service between Washington, D.C. and Montreal, Canada. The operation of these trains requires the use of the tracks and other facilities of Boston and Maine Corporation (BM). The BM Line is temporarily out of service because of a labor dispute. An alternate route is available via the Central Vermont Railway, Inc., between Palmer, Massachusetts and White River Junction, Vermont.

It is the opinion of the Commission that the use of such alternate route is

* Change of effective periods.

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necessary in the interest of the public and the commerce of the people; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered:

(a) Pursuant to the authority vested in me by order of the Commission decided January 13, 1986, and of the authority vested in the Commission by section 402(c) of the Rail Passenger Service Act of 1970 (45 U.S.C. 562(c)), Central Vermont Railway, Inc. (CV), is directed to operate trains of the National Railroad Passenger Corporation (Amtrak) between Palmer, Massachusetts and White River Junction, Vermont.

(b) In executing the provisions of this order, the common carriers involved shall proceed even though agreements or arrangements now exist between them with reference to the compensation terms and conditions applicable to said transportation. The compensation terms and conditions shall be, during the time this order remains in force, those which are voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, the compensation terms and conditions shall be as hereafter fixed by the Commission upon petition of any or all of the said carriers in accordance with pertinent authority conferred upon it by the Interstate Commerce Act and by the Rail Passenger Service Act of 1970, as amended.

(c) *Application.* The provisions of this order shall apply to intrastate, interstate and foreign commerce.

*(d) *Effective date.* This order shall become effective at 11:59 p.m., April 4, 1986.

*(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., April 11, 1986, unless otherwise modified, amended, or vacated by order of this Commission.

This order shall be served upon Central Vermont Railway, Inc., and upon the National Railroad Passenger Corporation (Amtrak), and a copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, DC, April 4, 1986.

Interstate Commerce Commission.

William J. Love,

Agent.

[FR Doc. 86-8015 Filed 4-29-86; 8:45 am]

BILLING CODE 7035-01-M

*Change of effective periods.

Rail Carriers; Release of Waybill Data for use in a Study of Rail Market Share of Refrigerated Commodities

The Commission has received a request from Roberts Associates, Inc. (Roberts) on behalf of its client, a rail car leasing company, for permission to use the 1984 and, when available, 1985 ICC Waybill Sample. These data are needed in a study to determine what commodities are moving in the car types leased by Roberts' client. Specifically, they seek to determine the movements of refrigerated commodities between points in the United States. This requires knowledge of the point of origin and point of destination of specific movements at the level of 2-digit Standard Point Location Codes (SPLC) and 7-digit Standard Transportation Commodity Codes (STCC). This information will be used to compare with truck movements between the same 2-digit SPLCs to determine rail share.

The Commission requires rail carriers to file waybill sample information if in any of the past three years they terminated on their lines at least: (1) 4,500 revenue carloads or (2) 5 percent of revenue carloads in any one State (49 CFR Part 1244). From this Waybill File that has satisfied the majority of all our waybill data requests while protecting the confidentiality of proprietary data submitted by the railroads. However, if confidential waybill data are requested, as in this case, we will consider releasing the data are requested, as in this case, we will consider releasing the data only after certain protective conditions are met and public notice is given. More specifically, under the Commission's current policy for handling waybill requests, we will not release any confidential waybill data until after: (1) public notice is provided so affected parties have an opportunity to object and (2) certain requirements designed to protect the data's confidentiality are agreed to by the requesting party (48 FR 40328, September 6, 1983).

Accordingly, if any parties object to this request, they should file their objections (an original and 2 copies) with the Director of the Commission's Office of Transportation Analysis (OTA) within 14 calendar days of the date of this notice. They should also include all grounds for objection to the full or partial disclosure of the requested data. The Director of OTA will consider these objections in determining whether to release the requested waybill data. Any parties who objected will be timely notified of the Director's decision.

Contact: Elaine Kaiser, (202) 275-7003.

James H. Bayne,

Secretary.

[FR Doc. 86-9014 Filed 4-29-86; 8:45 am]

BILLING CODE 7035-01-M

Rail Carriers; Release of Waybill Data for use in the Study of Potential Interrailroad Pooling Projects

The Commission has received a request from the Association of American Railroads' Freight Equipment Management Program (FEMP) for permission to use the 1984 and, when available, the 1985 ICC Waybill Sample in conducting a study on the feasibility and benefit of potential interrailroad pooling projects. The study covers potential pooling projects for several car types including gondolas, flatcars, and boxcars. Waybill data are needed to identify loaded origin-destination flow volumes and mileages. This information when combined with empty mileage data and an optimization program, would enable FEMP to determine the potential benefits of improved utilization, such as in pooling projects. No revenue related waybill data are needed.

The Commission requires rail carriers to file waybill sample information if in any of the past three years they terminated on their lines at least: (1) 4,500 revenue carloads or (2) 5 percent of revenue carloads in any one State (49 CFR Part 1244). From this waybill information, the Commission has developed a Public Use Waybill File that has satisfied the majority of all our waybill data requests while protecting the confidentiality of proprietary data submitted by the railroads. However, if confidential waybill data are requested, as in this case, we will consider releasing the data only after certain protective conditions are met and public notice is given. More specifically, under the Commission's current policy for handling waybill requests, we will not release any confidential waybill data until after: (1) public notice is provded so affected parties have an opportunity to object and (2) certain requirements designed to protect the data's confidentiality are agreed to by the requesting party (48 FR 40238, September 6, 1983).

Accordingly, if any parties object to this request, they should file their objections (an original and 2 copies) with the Director of the Commission's Office of Transportation Analysis (OTA) within 14 calendar days of the date of this notice. They should also include all grounds for objection to the full or partial disclosure of the requested data. The Director of OTA will consider these objections in determining whether to release the requested waybill data. Any parties who objected will be timely notified of the Director's decision.

Contact: Elaine Kaiser, (202) 275-7003.

James H. Bayne,

Secretary.

[FR Doc. 86-9017 Filed 4-29-86; 8:45 am]

BILLING CODE 7035-01-M

[Order No. 6]

Rail Carriers; Boston and Maine Corp. et al.; Rerouting Traffic

Decided: April 25, 1986.

On April 4, 1986, the Commission issued the above titled order which authorizes the rerouting of traffic normally routed over the Boston and Maine Corporation (BM) and/or Maine Central Railroad Company (MEC). The rerouting was occasioned by a work stoppage and embargo on certain BM and MEC lines.

Since that time connecting carriers have filed tariffs offering new routes for the affected traffic: BM and MEC have modified their embargoes; Guilford Transportation Industries, Inc. (GTI), on April 9, 1986, filed a petition requesting that the above titled order be vacated, and requests have been received to broaden the order to include the Delaware and Hudson Railway Company (DH) and to make the order mandatory.

It appears that the circumstances initially requiring the Commission's action may have changed, and that the continuing necessity for the order should be reconsidered. However, before reconsidering the order's continuation, or its scope, the Commission will allow the carriers named in the order and any other affected parties to provide the Commission with any comments on the continuing need for this authority.

Parties will be given until close of business April 30, 1986, to provide their comments to the Commission on:

(a) How the order is presently being used;

(b) The number of shipments rerouted under this authority since its issuance;

(c) Whether the order in its present form should be vacated and why;

(d) Whether the order should be broadened to include DH, with supporting information on any substantial failure of traffic movement over DH, and,

(e) Whether the presently permissive order should be made mandatory on all Guilford connections.

Comments may be written or telegraphic. Submissions filed since issuance of the Order need not be refiled.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre and Lamboley.

James H. Bayne,

Secretary.

[FR Doc. 86-9674 Filed 4-29-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-172X)]

Railroad Services Abandonment; Seaboard System Railroad, Inc.; Exemption in Hardee County, FL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by Seaboard System Railroad, Inc., of 9.25 miles of railroad in Hardee County, FL, subject to standard employee protective conditions.

DATES: This exemption will be effective on May 30, 1986. Petitions to stay must be filed by May 15, 1986, and petitions for reconsideration must be filed by May 27, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB-55 (Sub-No. 172X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll-free (800) 424-5403.

Decided: April 10, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Vice Chairman Simmons and Commissioner Lamboley dissented with separate expressions.

James H. Bayne,

Secretary.

[FR Doc. 86-9613 Filed 4-29-86; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL SCIENCE FOUNDATION

Measurement Methods and Data Improvement; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel on Measurement Methods and Data Improvement.

Date/time: May 19-20, 1986, 9:00 AM to 6:00 PM.

Place: Room 1242, National Science Foundation, 1800 G Street, NW, Washington, DC 20550.

Type of meeting: Closed—May 19-20, 1986, 9:00 AM to 6:00 PM

Contact person: Dr. Murray Aborn, Program Director, Measurement Methods and Data Improvement, Room 312, National Science Foundation, Washington, DC 20550, Telephone (202) 357-7913.

Summary of minutes: May be obtained from the contact person Dr. Murray Aborn at the above address.

Purpose of advisory panel: To provide advice and recommendations concerning support for research and research-related projects in Measurement Methods and Data Improvement.

Agenda: Review and evaluation of research and research-related proposals as part of the award selection process.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

April 25, 1986.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 86-9684 Filed 4-29-86; 8:45 am]

BILLING CODE 7555-01-M

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NUCLEAR REGULATORY COMMISSION

[Docket No. 50-455]

Commonwealth Edison Co., Byron Station, Unit 2; Order Extending the Latest Construction Completion Date

On December 31, 1975, the Nuclear Regulatory Commission issued to the Commonwealth Edison Company Construction Permits for Byron Station, Units 1 and 2, located in Ogle County, Illinois and Braidwood Station, Units 1 and 2 in Will County, Illinois.

By letter dated April 19, 1982, Commonwealth Edison Company filed a request for extension of the latest construction completion dates for the Byron Station Construction Permits. It was requested that Unit 1 be extended from June 1, 1982 to October 1, 1984 and Unit 2 be extended from November 1, 1983 to April 1, 1986. These permits were extended to October 1, 1984, and April 1, 1986 for the Byron Station, Units 1 and 2, respectively.

By letter dated February 27, 1986, Commonwealth Edison Company requested an extension of the latest construction completion date for CPPR-131, Byron Station, Unit 2 from April 1, 1986, to June 1, 1987. The applicant stated the extension was needed beyond the April 1, 1986 date because of unanticipated extended construction and turnover for testing periods. The longer construction period than originally planned resulted from primarily focusing resources on completion of Unit 1 of the Byron Station which delayed reallocation of construtions workers to Unit 2. Portions of the construction work force for Unit 2 have occasionally shifted back to Unit 1 to make modifications necessary for plant availability.

The longer construction period for Unit 2 can also be attributed to additional work resulting from changed or new requirements and from testing of Unit 1. Additional system turnover delays have been encountered in complying with NRC environmental qualification requirements for electrical equipment. As equipment deficiencies and component malfunctions occurred during preoperational testing, long procurement times for qualified parts added to the delay.

The requested revised completion date extends beyond the date by which Commonwealth Edison currently expects to load fuel to Byron Unit 2, but the current fuel load schedule has not changed. The revised completion date reflects a conservative estimate of actual completion of Unit 2 should any unanticipated delays in construction actually occur. The applicant has requested an extension from April 1, 1986 to June 1, 1987 to cover such contingencies.

As discussed more fully in the staff's related Safety Evaluation, dated April 24, 1986, we have concluded that good cause has been shown for delay, and that the requested extension is for a reasonable period. We have further concluded that the requested extension involves no significant hazards consideration, and therefore no prior public notice is required.

The NRC staff has prepared an environmental assessment and findings of no significant impact which was published in the Federal Register on April 17, 1986 (51 FR 13117). The NRC staff has concluded that this action will not have a significant impact on the quality of the human environment and therefore no environmental impact statement need be prepared.

The applicant's letter, dated February 27, 1986, and the NRC staff's letter and evaluation, dated April 24, 1986, issued in support of this Order are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC., and at the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103.

It is hereby ordered that the latest construction completion date for CPPR-131, Unit 2 of the Byron Station be extended from April 1, 1986 to June 1, 1987.

Date of Issuance: April 24, 1986.

For the Nuclear Regulatory Commission.

Thomas M. Novak,

Acting Director Division of PWR Licensing-A

[FR Doc. 86-9691 Filed 4-29-86; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export Nuclear Facilities or Materials; Westinghouse Electric Corp. et al.

Pursuant to 10 CFR 110.70 (b), Public notice of receipt of an application, please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. Copies of the applications are on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed before May 30, 1986. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

In its review of applications for licenses to export production or utilization facilities and other nuclear related material, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

NRC EXPORT APPLICATIONS

Name of applicant, date of application, date received, and application number	End-use	Country of destination
Westinghouse Electric Corp., February 13, 1986; February 13, 1986, February 18, 1986, February 18, 1986, XR-148.	One (1) primary coolant pump for Taiso Vercellese Reactor	Italy.
Combustion Engineering, February 21, 1986, February 21, 1986, February 24, 1986, February 24, 1986, XR-150.	Two (2) light reactors units KNU-11 and KNU-12, 950 MWe (ea)	South Korea.

Dated: this 24th day of April 1986 at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

Marvin R. Peterson,

Assistant Director, Export/Import and International Safeguards, Office of International Programs.

[FR Doc. 86-9692 Filed 4-29-86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards; Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on May 8-10, 1986, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the Federal Register on April 22, 1986.

Thursday, May 8, 1986

8:30 A.M.-8:45 A.M.: Report of ACRS Chairman (Open)—The ACRS Chairman will report briefly regarding items of current interest to the Committee.

8:45 A.M.-12:00 Noon: Systems Interactions (Open)—The members of the Committee will hear and discuss the report of its subcommittee regarding the NRC Staff's proposed resolution of USI A-17, Systems Interactions in Nuclear Power Plants. Members of the NRC Staff will participate in the presentations and discussion of this matter.

12:00 Noon-12:30 P.M.: ACRS Subcommittee Activities (Open)—The members will hear and discuss the report of the ACRS subcommittee on Thermal Hydraulic Phenomena regarding proposed revisions to 10 CFR Part 50.46, Acceptance criteria for emergency core cooling systems for light water nuclear power reactors and Appendix K, ECCS evaluation models.

1:30 P.M.-1:50 P.M.: Preparation for Meeting with NRC Commissioners (Open)—The members will discuss proposed comments to the Commissioners regarding the ACRS report dated April 15, 1986, Additional ACRS Comments on Proposed NRC Safety Goal Policy Statement.

2:00 P.M.-3:30 P.M.: Meeting with NRC Commissioners (Open)—The ACRS meeting will adjourn so ACRS members can participate in a meeting of Nuclear Regulatory Commission to discuss ACRS recommendations and comments regarding the proposed NRC Safety Goal Policy Statement, as noted above.

3:45 P.M.-5:30 P.M.: Activities of ACRS Subcommittees (Open)—The members of the Committee will hear and discuss the activities of designated ACRS subcommittees regarding:

- Severe (Class 9) Accidents regarding rebaselining studies for reference nuclear power plants.
- Management of ACRS activities—report of Management Group meetings on April 9, 1986 and May 7, 1986.

Friday, May 9, 1986

8:30 A.M.-10:30 A.M.: Management and Disposal of Radioactive Waste (Open)—The members will hear and discuss the report of its Waste Management Subcommittee regarding matters related to the handling and disposal of high- and low-level radioactive wastes including modeling strategy for high-level waste performance assessment; quality assurance for high-level waste geologic repositories; related research efforts; the NRC low-level waste program mandated by the Low-Level Radioactive Waste Policy Amendments Act of 1985; and the salvaging of contaminated smelted alloys. Members of the NRC Staff will participate in the presentations and discussion.

10:45 A.M.-11:00 A.M.: Future ACRS Activities (Open)—The members will discuss anticipated ACRS subcommittee activity and proposed items for consideration by the full Committee.

11:00 A.M.-12:00 Noon: Decay Heat Removal (Open/Closed)—An ACRS member will brief the Committee regarding the type of bleed and feed system proposed for the Westinghouse Advanced Pressurized Water Reactor.

Portions of this session will be closed as necessary to discuss Proprietary Information related to this matter.

1:00 P.M.-2:45 P.M.: Meeting with Representatives of the Federal Republic of Germany (Closed)—The members will meet with representatives of the Federal Republic of Germany to discuss both high- and low-level radioactive waste standards for radionuclide release limits (dose limits), plans for environmental monitoring, and for modeling in connection with performance assessment in order to assure compliance with the standards and thus to ensure the public health and safety.

This session will be closed to discuss information provided in confidence by a foreign source.

3:00 P.M.-3:30 P.M.: Activities of ACRS Members (Open/Closed)—The members will discussed proposed activities of individual ACRS members and the proposed impact of their assignments as ACRS members.

Portions of this session will be closed as necessary to discuss information the release of which would represent an unwarranted invasion of personal privacy.

3:30 P.M.-4:30 P.M.: Emergency Operating Procedures (Open)—The members will discuss a proposed report to NRC regarding the status of emergency operating procedures at nuclear power plants.

4:30 P.M.-5:00 P.M.: NRC Safety Research Program (Open)—The members of the Committee will discuss the scope, fomat, and schedule for the preparation of the ACRS report to the NRC regarding the proposed NRC safety research and budget for FY 1988-89.

5:00 P.M.-6:00 P.M.: Preparation of ACRS Reports to NRC (Open/Closed)—The members will discuss proposed reports to the NRC regarding matters considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matter being discussed.

Saturday, May 10, 1986

8:30 A.M.-9:15 A.M.: Appointment of ACRS Member (Closed)—The members will discuss the qualifications of candidates proposed for appointment to the ACRS.

This portion of the meeting will be closed to discuss information the release of which would represent an unwarranted invasion of personal privacy.

9:15 A.M.-9:45 A.M.: Relocation of ACRS (Open)—The Committee will hear and discuss the report of its delegation of ACRS members to discuss the proposed ACRS move to the Bethesda area.

9:45 A.M.-12:00 Noon and 1:00 P.M.-3:00 P.M.: Preparation of ACRS Reports to NRC (Open/Closed)—The members will discuss proposed reports to the NRC regarding matters considered during this meeting.

Portions of this session will be closed as required to discuss Proprietary Information applicable to the matter being discussed.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 2, 1985 (50 FR 191). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statement. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, R.F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such

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rescheduling would result in major inconvenience.

I have determined in accordance with section 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)), information provided in confidence by a foreign source (5 U.S.C. 552b(c)(4)), and information the release of which would represent a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M.

Dated: April 24, 1986.

John C. Hoyle,

Advisory Committee, Management Officer.

[FR Doc. 86–9640 Filed 4–29–86; 8:45 am]

BILLING CODE 7590–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

State Agency Advisory Committee; Regular Meeting

AGENCY: The Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its State Agency Advisory Committee, to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Action Plan implementation:

—Western Energy Study Workplan

—PUC/IOU Actions

- Power Planning Division's Workplan.
- Decision Analysis Modeling.
- Other issues of interest to the Task Force.

DATE: Tuesday, May 13, 1986, 9:30 a.m.

ADDRESS: The meeting will be held at the World Trade Center; Mezzanine Level; Room 44A; Highway 99 South; Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Jim Litchfield, (503) 222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 86–9584 Filed 4–29–86; 8:45 am]

BILLING CODE 0000–00–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–23171; File No. SR–MSRB–86–6]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Approving Proposed Rule Change

The Municipal Securities Rulemaking Board ("MSRB"), Suite 800, 1818 N Street, NW., Washington, DC 20036–2491, submitted on March 13, 1986, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder, to conform the requirements of MSRB rule G–7(b) to Commission Rule 17a–3 under the Act, as amended, so that the Uniform Application for Securities Industry Registration, Form U–4, will continue to satisfy the requirements of rule G–7(b).

Notice of the proposed rule change was given by the issuance of Securities and Exchange Act Release No. 23017 (March 14, 1986) and by publication in the **Federal Register** (51 FR 10130, March 24, 1986). No comments were received.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB, and, in particular, the requirements of Section 15B and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 23, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–9677 Filed 4–29–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–23173; File No. SR–NASD–86–19]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to the Meaning of an Existing Rule

Pursuant to section 19(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 17, 1986 the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend an interpretation of the Board of Governors, "Forwarding of Proxy and Other Materials," to Article III, Section 1 of the NASD Rules of Fair Practice to change the guidelines for fees that NASD member firms may charge issuers for forwarding proxy and other materials to the issuer's shareholders. The guidelines would be increased as follows: a 10¢ increase for all charges for Initial Proxy and/or Annual Report Mailings, a 10¢ increase for all Charges for Proxy Follow-Up Mailings and a 10¢ increase for all Charges for Interim Report Mailing.

II. Self-Regulatory Organizations Statements Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule changes discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purposes of, and Statutory Basis for, the Proposed Rule Change

(a) *Purpose.* The purpose of the proposed rule change is to modify certain guidelines set forth in an interpretation of the Board of Governors, "Forwarding of Proxy and Other Materials" as reasonable rates of reimbursement for the forwarding of proxy and annual report mailings to beneficial shareowners.

NASD members who possess or control stock for their customers who are beneficial owners of securities are required by the rules of the NASD to transmit proxy soliciting material, interim reports, and other material to each beneficial owner whenever the issuer or other person shall furnish the material and give satisfactory assurance that it will reimburse member firms for all out-of-pocket expenses, including reasonable clerical expenses.

The processing and transmitting of proxy material and the tabulation of votes demand a substantial amount of clerical work by the member firms. NASD members must be prepared to treat each proxy solicitation or other transmittal of material as an individual exercise demanding adherence to detailed corporate instructions. In most instances time is of the essence, since there is a limited period during which material received must be mailed to beneficial owners and their votes received, tabulated and sent to the issuers in advance of the stockholders' meeting date.

(b) *Basis.* Section 15A(b)(5) of the Act provides that the rules of a national securities association must provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the Association operates or controls. It is the NASD's belief that the amended guidelines provide for the equitable allocation of costs between members and issuers and complies with section 15A(b)(5) of the Act and SEC Release No. 34–20021.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Association does not foresee any burden on competition by this proposed rule change not necessary or appropriate in furtherance of the purpose of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments we neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities, and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522 will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organizaton. All submissions should refer to the file number in the caption above and should be submitted in May 21, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated Authority.

Dated: April 24, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–9678 Filed 4–29–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–23158; File No. SR–NASD–86–9]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc.; Relating to the meaning of an Existing Rule

Pursuant to section 19(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 14, 1986 the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD is proposing to amend an interpretation of the Board of Governors, "Forwarding of Proxy and Other Materials," to Article III, Section 1 of the NASD Rules of Fair Practice to allow NASD member firms to charge issuers a second and final surcharge for start up costs associated with complying with Rules 14b–1(c) and 17a–3(a)(9)(ii) under the Securities Exchange Act of 1934, as amended (the "Act") and a fee of six and one half cents per shareholder name provided to the issuer to recover ongoing costs associated with the implementation of these rules.

II. Self-Regulatory Organizations Statements Regarding the Proposed Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule changes discussed any comments it received on the proposed rule changes. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below of the most significant aspect of such statements.

(A) Self-Regulatory Organization's Statement of the Purposes of, and Statutory Basis for, the Proposed Rule Change

(a) *Purpose.* The proposed amendment establishes a second and final surcharge and an additional fee which may be charged by NASD members to issuers in connection with proxy solicitations for the purpose of recouping the direct and indirect start-up costs and ongoing costs incurred to comply with Rules 14b–1(c) and 17a–3(a)(9)(ii) under the Securities Exchange Act of 1934, as amended (the "Act"). These rules were adopted to improve the ability of issuers to identify and communicate with their shareholders whose securities are held in "street name" accounts of broker-dealers. Rule 17a–3(a)(9)(ii) requires that broker-dealers determine and maintain a record as to whether or not a customer objects to disclosure of his name, address and securities positions to issuers. Rule 14b–1(c) requires firms to provide issuers, upon request and assurance of reimbursement of

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reasonable expenses, with names, addresses and security positions of non-objecting beneficial shareholders of the issuer's securities.

The Commission in its Release No. 34-20021 which covered the above-mentioned rules discusses how and by whom the costs associated with this program should be allocated. The Release stated, "The Commission continues to believe that, because the self-regulatory organizations represent the interests of both issuers and brokers, they are in the best position to make a fair allocation of all the costs associated with the amendments, including start-up and overhead costs." The NASD's second and final surcharge and six and one half cent fee per shareholder name provided are an attempt to comply with the SEC's suggestion in this Release and the NASD believes the surcharge and fee are allocated on a fair and equitable basis.

(b) *Basis.* Section 15A(b)(5) of the Act provides that the rules of a national securities association must provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facilty of system which the Association operates or controls. It is the NASD's belief that the surcharge requested provides for the equitable allocation of costs between members and issuers and complies with section 15A(b)(5) of the Act and SEC Release No. 34-20021.

(B) Self Regulatory Organization's Statement on Burden on Competition

The Association does not foresee any burden on competition by this proposed rule change not necessary or appropriate in furtherance of these purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Recieved from Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission has approved the foregoing rule change pursuant to a request for accelerated effectiveness as provided for under section 19(b)(2) of the Securities Exchange Act of 1934. The Commission finds good cause to accelerate the proposed rule change in order that NASD member firms may recoup direct and indirect start-up and ongoing cost incurred in connection with the 1986 proxy season.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522 will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, N.W., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organizations. All submissions should refer to the file number in the caption above and should be submitted by May 21, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated Authority.

John Wheeler,

Secretary.

[FR Doc. 86-9679 Filed 4-29-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23172; File No. 4-284]

Self-Regulatory Organizations, Filing of Proposed Amendment to New York Stock Exchange, Inc. Quarterly Reporting Plan for Minor Disciplinary Rule Violations

Pursuant to Section 19(d)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19d-1(c)(2) thereunder,[1] notice is hereby given that on March 24, 1986, the New York Stock Exchange, Inc. ("NYSE") filed a proposed amendment to its minor rule violation plan. The Commission previously approved a minor disciplinary rule plan filed by the NYSE on September 15, 1985.[2] The proposed amendment adds violations of NYSE Rule 412 to the list of minor rule violations subject to the plan, pursuant to NYSE Rule 476A.[3] Rule 412 was designed to ensure prompt transfers of customer securities accounts between NYSE member organizations, by requiring that, following a customer request of a transfer of his or her account from one NYSE member organization to another, the transfer must take place within ten business days.[4] Violations of Rule 412 are to be reported to the Commission in a manner identical to all other violations subject to the minor rule violation plan: A quarterly report listing the NYSE internal file number for the case, the SEC file number, name of individual or member organization, nature of the violation, specific rule provision violated, date of the violation, fine imposed, an indication of whether the fine is joint and several, the number of times the rule violation has occurred, and the date of disposition.[5]

Publication of the submission is expected to be made in the **Federal Register** during the week of April 21, 1986. In order to assist the Commission in determining whether to approve the proposed amendments to the plan or institute proceeding to determine whether the proposed amendments should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission by [insert 21 days from the date of publication]. Persons desiring to make written comments

[1] *See* Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23636. The Commission adopted amendments to paragraph (c) of Rule 19d-1 to allow self-regulatory organizations ("SROs") to submit, for Commission approval, plans for the abbreviated reporting of minor disciplinary infractions. Under the amendments, any disciplinary action taken by the SRO for violation of an SRO rule that has been designated a minor rule violation pursuant to the plan shall not be considered "final" for purposes of section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his or her administrative remedies.

[2] *See* Securities Exchange Act Release Nos. 22500 (August 6, 1985), 50 FR 32818 and 23415 (September 15, 1985), 50 FR 38600. The plan relieves the NYSE of the current reporting requirement, imposed by section 19(d)(1) of the Act, for final disciplinary actions, with respect to violations listed under NYSE Rule 476A, which are designated as minor rule violations subject to the plan.

[3] *See* Securities Exchange Act Release No. 21466 (January 25, 1985), 50 FR 5025. The Commission approved NYSE Rule 476A ("Imposition of Fines for Minor violations of Rule") which authorizes the Exchange, in lieu of commencing a disciplinary proceeding before a Hearing Panel, to impose a fine, not to exceed $5,000, on any member, member organization, allied member, approved person or registered or non-registered employee of a member organization for any violation of an Exchange rule which the Exchange determines to be minor in nature. The comprehensive list of minor rule violations is contained in Rule 476A.

[4] *See* Securities Exchange Act Release No. 22863 (November 20, 1985), 50 FR 48936.

[5] The fine schedule under Rule 476A is as follows: (1) First offense, a fine of $500 for an individual and $1,000 for a member organization; (2) second offense, a fine of $1,000 for an individual and $2,500 for a member organization; (3) subsequent fines are $2,500 for an individual and $5,000 for a member organization. Fines in excess of $2,000 are not covered by the minor rule violation reporting plan.

should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th St. NW. Washington, D.C. 20549. Reference should be made to File No. *4-284.* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed amendment to the plan which are filed with the Commission, and all written communications relating to the proposed amendment between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street, NW., Washington, DC. Copies of the filing and of any subsequent amendments also will be available at the principal office of the NYSE.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 23, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-9675 Filed 4-29-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23167; File No. SR-OCC-85-21]

Self-Regulatory Organizations; Options Clearing Corp.; Order Approving Proposed Rule Change

On December 23, 1985, the Options Clearing Corporation ("OCC") filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), a proposed rule change that establishes a new margin system for non-equity options. On March 29, 1986, OCC filed amendments to the proposed rule change.[1] The Commission published notice of the proposed rule change on February 3, 1986.[2] No comments were received. This Order approves the proposal.

I. Introduction

The proposed rule change adds a new section 602A to OCC's rules, adopting a new non-equity options ("NEO") margin system amd makes technical and conforming amendments to other OCC Rules and By-Laws to accommodate the new margin system. OCC believes that the new system provides a more accurate basis for margining non-equity options positions than OCC's present system and substantially reduces the potential for over- and under-margining of such positions. OCC states that the system uses options price theory to project the cost of liquidating each portfolio of positions in the event of an assumed "worst case" change in the price of the underlying asset and sets OCC's margin requirements to cover that cost. In addition, options positions on the same underlying asset or on groups of closely-related underlying assets will be margined as integrated portfolios. For the reasons discussed below, the Commission finds the proposed rule change to be consistent with the Act and is approving it. In particular, the Commission finds that the proposal should provide a more refined methodology for calculating margin, resulting in increased protection to OCC against adverse price movement in options' underlying assets, while also providing for substantially reduced margin obligations for OCC Clearing Members.

II. Description

A. OCC's Proposed NEO Margin System

Like OCC's current NEO margin system, the new system calculates margin differently for market professionals and public customers. Each is described below.

1. *Market Professionals: Firm and Market-Maker/Specialist Accounts.*

Under the new system, OCC's Margin Committee will organize all classes of options (*i.e.*, puts and calls, and European and American-style options) on the same underlying asset into "class groups."[3] Where OCC determines that the underlying assets for two or more class groups exhibit close price correlation (*e.g.*, various broad-based stock indices), those class groups will be organized, for margin purposes, into larger "product groups."[4] The positions comprising a product group or class group (if the class group is not part of a larger product group) will be margined as an integrated portfolio.[5]

The first step in calculating margin requirements is to net offsetting positions in each series within each class group [6] (i.e., long and short positions in the same series and type of option) against each other.[7] This can be done in a firm or market-maker/specialist account because OCC has a lien on all long positions in the account to cover the Clearing Member's obligations on short positions in the account. The net long or short position in each series of options is used to calculate the appropriate margin.

Daily margin requirements have two components: "premium margin" and "additional margin." Premium margin is designed to cover the cost of liquidating the positions comprising the group at the previous day's closing prices. "Additional margin" is designed to cover the projected incremental cost of liquidating those positions in the event of, among other things, an adverse change in the price of the underlying asset.

The second step is to calculate premium margin for the remaining net positions in the class group. Premium margin is determined on the basis of the previous day's closing price and represents a position's most current liquidating value or cost to OCC if OCC had to liquidate the position under Chapter 11 of its Rules. Short positions result in a margin requirement and long positions result in a margin credit equal to the position's current liquidating value. Premium margin requirements and credits within a class group are netted yielding either a margin credit or requirement for the group as a whole, depending on whether the positions comprising the class group liquidate to a credit or a deficit.

[1] The amendments delegate authority to the Margin Committee, the Chairman or President of the Corporation to make certain determinations relevant to calculating margin requirements. The amendments also correct a drafting error regarding exercised and assigned foreign currency options and a typographical error in Rule 602A(d)(1).

[2] *See* Securities Exchange Act Release No. 22844 (January 28, 1986), 51 FR 4257 (February 3, 1986).

[3] For example, all OCC-issued options on U.S. Treasury bills—both puts and calls, and American and European-style options—would be margined as a class group.

[4] OCC plans to initiate its margin system using four product groups: (1) S&P 100, S&P 500, New York Composite, Amex Major Market and Value Line indices; (2) OTC indices; (3) 30-year Treasury bonds and 10-year Treasury notes; and (4) all 5-year Treasury notes. OCC states that all of the class groups within these product groups have shown approximately a 96% price correlation during the last year.

[5] When international options are introduced, OCC expects to treat each class of international options as a separate class group (*see* File No. SR-OC-85-13, Securities Exchange Act Release No. 22354 (August 23, 1985), 50 FR 35340 (August 30, 1985)). Furthermore, margin credits for class groups and product groups consisting of international options will not be used to reduce margin requirements for other options positions and vice versa.

[6] The term "series of options" means all option contracts of the same class with the same exercise price, expiration date and unit of trading. *See* OCC By-Law Art. 1, Sec. 1. The term "class of options" means all option contracts of the same type (*i.e.*, put, call, American or European-style) covering the same underlying asset. *Id.*

[7] This procedure is similar to the "Pairing off" of options positions under OCC's current margin system. *See* OCC Rule 601.

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The next set of calculations is to determine the appropriate additional margin for a class group. Generally speaking, additional margin is determined by comparing the actual liquidating value of a class group with the theoretical liquidating value of the class group at several predetermined underlying asset prices. One underlying asset price would include the "maximum" anticipated one-day increase in the underlying asset price, as defined below, and another the maximum one-day decrease. Further, to protect against certain trading strategies that may have their greatest potential loss to OCC at a specific strike price (*e.g.*, a butterfly spread), OCC would calculate, using an options pricing model, a theoretical liquidating value for an underlying asset price equal to any option strike price that falls within the boundaries of the first two underlying asset prices set by OCC. Each theoretical liquidating value would be compared to the current liquidating value to determine at which potential underlying asset price OCC is most at risk. The difference between this "worst case" liquidating value and the current liquidating value would be the additional margin required for the class group.

To determine the maximum one-day price movement in the underlying asset that OCC should anticipate (the "margin interval"), OCC will analyze historical price changes in the underlying asset. OCC's criteria for setting the margin interval are designed: (i) To ensure that additional margin is sufficient to protect against a price movement equal to or exceeding at least 95% of the daily price changes in the underlying asset for the last three months or for the previous year, whichever yields the more conservative result from OCC's perspective,[9] and (ii) to ensure that additional margin would be eroded by no more than 70% in the event of an underlying asset price change equal to the average daily price change during that period.

[9] OCC has determined to use one year's worth of data in addition to the three months' data it now uses to provide both a short and long-term analysis of underlying asset price changes, using the higher result of the two to set margin intervals. OCC concluded that neither the short nor long-term observations taken alone, provide a completely accurate picture of the potential price changes for given underlying assets. Using only one year's data might "hide" the effect of recent large price changes; while using only three months' data might be too short a period to capture the true range of prices over which an underlying asset might change. OCC stated that it will adjust, as it currently does, the margin interval on a monthly basis (or more frequently, if necessary) to assure margin adequacy.

Once OCC determines the appropriate margin interval for the class group's underlying asset, OCC will calculate the theoretical liquidating value of the net series positions within the class group at an underlying asset price equal to (i) the current asset price plus the margin interval (the "upside projection"); (ii) the current asset price minus the margin interval (the "downside projection") and (iii) any strike prices between the asset prices in (i) and (ii). To provide additional protection, OCC will presume the per-unit cost of liquidating out-of-the-money short call positions in the upside projection and short put positions in the downside projection would increase by at least 25% of the margin interval.[9]

To calculate the theoretical net liquidating value of the portfolio at the price levels noted above, OCC will rely on an options pricing model.[10] OCC believes that options price theory has practical applications for calculating margin requirements because it can be used to fairly accurately calculate the theoretical value of an option (*i.e.*, potential liquidating value) when the underlying asset value changes.[11]

That process produces two or more projected liquidating values (costs) for the net series positions. The largest upside variations for all the net series positions (*i.e.*, the greatest change in liquidating value, positive or negative, in the event of an upward movement in the price of the underlying asset), are added together to arrive at the total upside variation for the class group, as are the largest downside variations for the net series positions to arrive at the total downside variation for the class group. If an upside or downside variation reflects an increase in liquidating cost or a decrease in liquidating value, that variation is assigned a positive sign for margin calculation purposes (signifying a margin requirement). Variations reflecting a decrease in liquidating cost or an increase in liquidating value are assigned a negative sign (signifying a margin credit).

The additional margin requirement for the class group is an amount equal to either the total upside variation or the total downside variation, whichever is positive (*i.e.*, reflects an increase in liquidating cost or a decrease in liquidating value for the positions comprising the class group). In cases where both variations are positive, the additional margin requirement is the larger of the two; and where both are negative, the additional margin requirement is zero. Unlike premium margin, which can be either positive or negative (*i.e.*, either a margin requirement or credit), additional margin is always either positive or zero (*i.e.*, never a margin credit against premium margin requirements).

The total margin requirement or credit for the class group is an amount equal to the sum of the net premium margin requirement (or credit, if applicable) and the additional margin requirement. If the premium margin is positive, indicating a margin requirement, additional margin will accordingly add to that requirement. If premium margin is negative indicating a margin credit (as would be the case for a class group predominantly comprised of long positions), additional margin will ordinarily reduce the resulting margin credit (but never to less than zero, because the long positions that generated the credit might cease to be assets, but would never become liabilities).

If the class group is part of a larger product group, a further margin calculation is undertaken. First, all negative upside and downside variations for the class groups comprising the product group (*i.e.*, variations reflecting a decrease in liquidating cost or an increase in liquidating value) are reduced by a percentage predetermined by OCC. OCC stated that the purpose of this reduction is to compensate for any lack of correlation in price movements among the class groups comprising the product group. The specific percentage depends on the degree of correlation OCC observed during the previous year for the particular product group involved.

[9] OCC believes that for deep-out-of-the-money short options, the options pricing model may predict that these options values will be insensitive to the potential one-day change in the underlying asset. This would result in no additional margin requirement for that option. However, should the option move much more than expected and approach an "at-the-money relationship" to the underlying asset price, OCC would be unprotected on a short call option with a rapidly rising value. Therefore, OCC believed that some adjustment to the model was necessary to provide for an absolute minimum additional margin amount. OCC stated that its initial research indicated that it is appropriate to increase the per-unit liquidating cost of the option by 25% of the margin interval. OCC further stated that it will continue to research the problem to determine whether further refinements are appropriate.

[10] OCC has informed the Commission that it is using the Cox-Rubinstein options pricing model. Cox-Rubinstein is a refinement of the Black-Scholes model, an equilibrium options pricing model first introduced in 1973. *See generally* J. Cox & M. Rubinstein, *Options Markets*; R. Jarrow & A. Rudd, *Option Pricing*.

[11] Options pricing models can be used to predict, given a set of inputs (*e.g.*, asset's value, time to expiration, interest rate, dividends, volatility and underlying asset price), what the option is theoretically worth at a specified price for the underlying asset.

Next, the upside variations (highest liquidating values/costs in the event of an underlying asset price increase) for all class groups in the product group are added together, as are the downside variations (highest liquidating values/costs in the event of an underlying asset price decrease). The largest combined result that is positive (*i.e.*, reflects a net increase in liquidating cost or a net decrease in liquidating value for the positions comprising the product group) constitutes the additional margin requirement for the product group.

The total margin requirement or credit for the product group as a whole is an amount equal to the sum of the premium margin requirements for each class group in the product group, increased (in the case of a net premium margin requirement) or reduced (in the case of a net premium margin credit) by the additional margin requirement for the product group. In summary, if the positions in a product group (or a class group that was not part of a product group) liquidate to a deficit, the total margin requirement for the group is an amount equal to the sum of that deficit and the additional margin requirement for the group. If the positions in the group liquidate to a credit, the total margin credit for the group is an amount equal to that credit, reduced by the additional margin requirement for the group.

Finally, if the total margin amount for a product group or a class group that was not part of a product group was a credit (*i.e.*, the combined result was negative), 50% of that credit could be applied against the margin requirements for other NEO class groups and product groups in the account.[12] If the account as a whole showed a margin credit, there would be no margin requirement.

2. *Customers' Accounts and Firm Non-Lien Accounts.* OCC does not have a lien on firm non-lien accounts or long positions carried in customer accounts except to the extent that they comprise the long leg of a specific customer's spread (*i.e.*, constitute "unsegregated long positions"). (Commission rules preclude long value credits where the long positions are segregated.)[13]

[12] On March 18, 1986, OCC filed a related proposed rule change that would further modify its proposed NEO margin system. Specifically, the proposal would permit OCC margin credits on equity options positions partially to offset margin requirements on NEO options, and vice versa. *See* File No. SR–OCC–86–5, Securities Exchange Act Release No. 23107 (April 8, 1986), 51 FR 12958 (April 10, 1986).

[13] *See, e.g.*, 17 CFR 240.8c–1(g).

Accordingly, OCC's proposal establishes slightly different procedures for margining these accounts:

1. Segregated long positions will not be offset against short positions in the same series of options, and are assigned no value for margin calculation purposes.

2. In calculating product group margin, premium margin credits for class groups within the product group are reduced to zero.

3. In calculating margin for the account as a whole, margin credits for class groups that are not part of product groups are reduced to zero. (For firm lien and market-maker/specialist accounts these class group credits are applied, after a 50% reduction, against other class and product group margin requirements).

B. OCC's Current Non-Equity Options System

Similar to OCC's proposed NEO margin system, OCC's current system differentiates between firm lien accounts, on the one hand, and customer accounts and firm non-lien accounts, on the other hand. Also, OCC's current system calculates the current liquidating value of a position (which is referred to as premium margin in the proposed system) and adds to that amount a "minimum amount" [14] (referred to as "additional margin" in the new system) to account for any changes in value of the position that OCC could expect during the next day. The first step under the current system is to calculate the current liquidating value of the positions in an account. All long and short positions within the same class of options are paired (*i.e.*,) long calls are paired with short calls and long puts with short puts). Next the marking prices [15] of the paired longs in the class are added together, as are the marking prices for the paired shorts. Current liquidating value for the paired positions is the difference between those two totals. If there is an excess short value, there will be a margin requirement equal to that excess. The marking price of all unpaired short positions in the class is then added to the result obtained above. That amount, for customer and firm non-lien accounts, is the total current liquidating value for the class. For firm lien accounts and market-maker/specialist accounts, one further step is required to determine total current liquidating value: The liquidating value resulting from the calculations above is reduced by 70% of the sum of (1) the excess long value, if any, for the account plus (2) the sum of the marking prices of any unpaired long contracts of the class.[16]

OCC next calculates the appropriate "minimum amount" for the positions. The "minimum amount" is a certain dollar amount per contract determined by OCC, up to a ceiling set forth in OCC Rules 601(h), (i) and (j),[17] which is intended to protect OCC against adverse options and underlying asset price changes. Within the range set out in OCC's Rules, OCC has discretion to determine the appropriate minimum amount and will vary the amount depending on whether, and the degree to which, the option is in- or out-of-the-money.[18]

The minimum amount for the paired positions in a class is the excess of the minimum amounts for the paired short positions in the class over the minimum amounts for paired long positions (*i.e.*, "net minimum"). To arrive at total margin for the class, the minimum amount for any unpaired short positions must be added to the net minimum calculated above and that sum must be added to the current liquidating value calculated above. For firm lien and market/maker specialist accounts, class margin credits are reduced by 50% and are then used to offset margin requirements for other classes.

C. Differences Between the Proposed Margin System and the Current System

There are two principal differences between the current and proposed NEO-margin systems. The first is the reliance under the proposed system on options pricing theory to calculate aggregate margin obligations. Under OCC's current

[14] The calculation of minimum amount is described, *infra*.

[15] A NEO option's marking price is, generally speaking, the cost to liquidate the option. For example, in the case of unexercised and unassigned Treasury bill options, the marking price is the product of the unit of trading and the current highest asked per unit premium quotation for options of the same series; for exercised and assigned index options, the marking price is the difference between the daily underlying security marking price and the aggregate exercise price.

[16] OCC's Rules thus permit unpaired long positions in firm non-lien and market-maker/specialist accounts to offset, to some degree, the premium margin requirement resulting from the sum of excess short positions or unpaired short positions. This reflects OCC's lien on long positions in these accounts. The 30% reduction is intended to protect OCC against possible unfavorable price changes, including a potential decrease in the liquidating value of those long positions during the next business day. Under the proposed system this reduction is replaced by the additional margin concept.

[17] The ceilings were calculated by OCC to protect OCC against 90% of the historically observed price changes in the underlying asset over a given period.

[18] *See* note 9, *supra* for a discussion of the special considerations involved with deep "out-of-the-money" short options.

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margin system, margin calculations are made on a largely disaggregate basis in an essentially mechanical effort to identify varying degrees of risk represented by different kinds of offset positions. Thus, after netting out identical long and short positions in the same options class, OCC identifies different kinds of spread positions and accords them varying "spread" margins. Unhedged short positions in the options class are then margined based on the amount they are in- or out-of-the-money. The margin percentage varies for different underlying instruments based on their historical volatility. Under the proposed system, OCC attempts to measure the impact of adverse price movements on all options positions in a particular group (*i.e.*, relating to the same underlying instrument). Hence, in reliance on options price theory, margining is based on aggregate portfolio risk exposure.

The second difference is the proposed provision of margin credit between related options classes through the concept of class and product groups. The purpose of these class and product groups is to allow margin credits on certain positions to offset, at a higher ratio than the present system, margin requirements on closely related positions. Under the current system, margin is calculated on the net position for each class of options.[19] Any resultant margin credit for a class of options is reduced by 50% and can then be applied against margin requirements for other classes of options.[20] Under the new system, OCC organizes options positions into class and product groups. All options on the same underlying asset (*i.e.*, puts, calls, American-style or European-style options (are organized into class groups. Product groups are comprised of those class groups which OCC determines exhibit close price correlation.[21] The new system attempts to recognize the hedge value of various closely related positions by allowing a direct offset of credits within class groups and, within product, allowing an offset to the extent that the class groups show close price correlation. OCC will determine the correlation factor among a product group's class groups; reduce any class group credits to account for the correlation factor; then, with those reduced credits, offset margin requirements for other class groups within the product group.

[19] A "class of options" must be distinguished from "class group." OCC By-Law Art. I, Sec. 1 defines "class of options" to mean all options contracts of the same type covering the same underlying asset. "Type" means the classification of an options contract as either a put, call, American-style or European-style option. *See* OCC By-Law Art. I, Sec. 1. by contrast, "class group" means all classes of options on the same underlying asset.

[20] For customer and firm non-lien accounts under the current system, however, a margin credit on one class cannot be used to offset margin requirements for other classes to any degree because OCC does not have a lien on segregated long positions in those accounts.

[21] *See*, supra note 4, for a description of the product groups. A discussion of price correlation follows.

III. OCC's Rationale

OCC believes that the system reflects modern option price and portfolio theories and substantially reduces the potential for over- and under-margining of non-equity option positions. Although OCC's current NEO system has protected OCC adequately, OCC has sought a more refined methodology to calculate margin. OCC believes that the new system is not only more equitable for its Members (and, in general, will lead to a substantial net reduction in margin requirements for Members), but also offers OCC greater protection than the current system. Furthermore, OCC has been interested for some time in developing a system that would allow cross-margining of related options and futures. OCC believes that the new NEO system is one that can serve as an intermarket margin methodology for futures and options if and when cross-marketing becomes a reality.

IV. Statutory Standards

Under section 19(b)(2) of the Act, the Commission must approve OCC's proposed rule change if it finds OCC's proposal is consistent with the Act and Commission rules applicable to registered clearing agencies. The Commission may not approve OCC's proposal if it is unable to make such a finding.

Section 17A sets out the standards the Commission must use in reviewing proposed rule changes of registered clearing agencies. Section 17A(b)(3) provides, among other things, that a clearing agency shall not be registered by the Commission unless the Commission determines that the rules of the clearing agency are designed to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions and to remove impediments to and perfect the mechanism of a national system. Section 17A(b)(3)(F) provides that the rules of a clearing agency must be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. That subsection also provides that the clearing agency's rules be designed to promote the prompt and accurate clearance and settlement of securities transactions and, in general, to protect investors and the public interest. Furthermore, section 17A(b)(3)(I) provides that the rules of a clearing agency must not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Section 17A also sets forth general objectives with respect to the regulation of registered clearing agencies. In the introductory provision of the Section, Congress directs the Commission to facilitate the establishment of a national system for the prompt and accurate clearance and settlement of securities transactions. Congress further charged the Commission to act in accordance with the following specific Congressional findings:

(A) The prompt and accurate clearance and settlement of securities transactions, including the transfer of record ownership and the safeguarding of securities and funds related thereto, are necessary for the protection of investors and persons facilitating transactions by and acting on behalf of investors.

(B) Inefficient procedures for clearance and settlement impose unnecessary costs on investors and persons facilitating transactions by and acting on behalf of investors.

(C) New data processing and communications techniques create the opportunity for more efficient, effective and safe procedures for clearance and settlement.

(D) The linking of all clearance and settlement facilities and the development of uniform standards and procedures for clearance and settlement will reduce unnecessary costs and increase the protection of investors and persons facilitating transactions by and acting on behalf of investors.

Section 17A(a)(2) directs the Commission in using its authority under the Act to have due regard for the public interest, the protection of investors, the safeguarding of securities and funds, and maintenance of fair competition among brokers, dealers, clearing agencies and transfer agents.

V. Discussion

OCC's margin system is designed, among other things, to protect OCC against an erosion in the value of collateral on which OCC asserts a lien. The collateral must be maintained to protect OCC in the event of member failures to meet their settlement obligations. As discussed above, the proposal would use an options pricing model to project liquidating values of

options positions, given underlying asset price movements within certain ranges, and collect margin payments within those parameters based on a worst-case scenario. An effective margin system cannot protect against the risks of all conceivable or potential market movements, however, because it would increase substantially the costs to Clearing Members of posting margin and reduce their trading activity, without providing realistic incremental safety to the clearing agency. Thus, in assessing the proposal, the Commission must determine whether OCC's system strikes a suitable balance between controlling financial exposure to OCC and imposing excessive business costs on OCC Members.

The Commission believes that OCC's decision to incorporate options price theory as the central element of its NEO margin system represents an important improvement over the current system. If the options pricing model more accurately values options positions, the potential for both under- and over-margining positions can be significantly reduced. Options pricing models are well-accepted method for valuing options and have been widely used in the market. Indeed, for options market-makers, arbitrageurs and other active options market participants, their use in pricing options, effecting trading strategies and measuring risk is virtually essential. A sound options pricing model can reasonably predict changes in an option's value by reference to changes in the value of the underlying assets.

OCC has conducted a margin adequacy study to assess the reliability of its new NEO system compared with the reliability of its present system. To make that assessment, OCC compared its Members' margin requirements during a recent period of significant volatility in which sixteen of twenty-five underlying asset price changes equalled or exceeded their margin intervals.[22] Specifically, OCC compared Members' margin requirements[23] as they would have been calculated under the new system, and as they were calculated under the old system, with OCC's actual exposure. Under the new system, thirteen more accounts would have liquidated to a deficit than under the old system. However, after application of those Member's Clearing Fund deposits, only six deficits remained. Furthermore, deficits under the new system, on average, were significantly lower than under the old system. The average deficit under the old system was $115,910 and under the new system, $88,148, a difference of $27,762 per account. There appeared to be fewer deficits under the old system only because OCC over-margined positions in Members' accounts.[24] Accordingly, the Commission believes that the new model provides more precise risk protection than the old system. Nevertheless, because the adequacy study results appear to cause OCC to place greater reliance on Member clearing fund deposits, the Commission expects OCC to continue to monitor the adequacy of the new system and to make adjustments as necessary.

A crucial element in determining potential options liquidating values under the new system, and thus, additional margin requirements, is the margin interval. As discussed above, the margin interval is the range of intra-day underlying asset price movements for which OCC will calculate potential position liquidating values. It establishes the maximum underlying asset price movement for which the proposed margin system is intended to provide protection to OCC. Too narrow a margin interval could expose OCC to significant exposure if underlying asset prices rise or fall beyond the bounds of the chosen interval. At the same time, however, too broad a margin interval could increase OCC member margin requirements substantially without corresponding safeguarding benefits.

The proposal, as amended, delegates authority to the Chairman, the President or the Margin Committee to set margin intervals. In exercising that authority, however, the Margin Committee would be obliged to act without a strict range: (1) the interval must match or exceed 95% of the daily price movements of the underlying asset in the preceding three months and (2) it must be large enough so that additional margin would not be reduced by more than 70% in the event of a price change in the underlying asset equal to the average daily price change during that period. OCC has indicated that, in applying these criteria, only two or three observations of volatility within a three-month period will be permitted to exceed current margin intervals before the intervals would be revised.

In addition to the three-month observations, OCC will also maintain one year's worth of data on underlying asset price changes and will compare the margin interval calculation for a year's worth of price changes with the margin interval calculation for three months' data. OCC believes that maintaining price change date for both periods will provide important additional protection in setting suitable margin intervals. Moreover, although constant monitoring of price changes within a three-month time frame should reliably detect recent underlying asset price change patterns, it could result in under-margining for products which recently experienced uncharacteristically low volatility.[25] On the other had, reliance soley on a one-year time frame might not give recent rapid changes in the underlying asset price the proper weight in margin interval determinations.[26] Therefore, OCC has determined, and the Commission concurs, that it is prudent to examine both short-range (three month) and long-range (twelve month) volatility and calculate margin intervals based on the period demonstrating the greatest range of underlying asset price changes.

Volatility of the price of the underlying asset is also one of the important variables in the options pricing model. OCC stated that there are two basic methods of estimating such volatility. One is to use the historical volatility of the underlying asset as measured over a given prior period. The other is to use "implied" or "market" volatility of an option, which involves plugging an option's actual price into the model and solving "backwards" for the volatility implied by that price.[27] OCC

[22] The fact that many underlying asset price changes exceeded the margin intervals is significant for two reasons. First, since margin intervals are set so they equal or exceed 95% of the underlying asset price changes for the previous three months, the fact that so many asset price changes were outside their margin intervals indeed indicates that the period was one of extraordinary market movements. Second, it is important to note that OCC will allow, at most, two or three instances of underlying asset price changes which exceed their margin intervals before it will change those margin intervals. *See* discussion, supra.

[23] OCC conducted the test for the period from February 12 through 18, 1986, a recent bull market period which was characterized by great upside movements in most products.

[24] In fact, under the old system, OCC would have collected $212,862,270 more than under the new system. Moreover, since the total potential deficit under the old system was only $267,070 less than the total potential deficit under the new system, OCC would be getting comparatively little for that greater than $200 million margin cushion.

[25] In fact, in subsequent information filed by OCC, OCC revealed that, at least for foreign currencies which have experienced dramatic price changes during the preceding year, margin levels based on one year's worth of date were significantly (20–30%) higher than three month's data.

[26] For example, a week or two of rapidly changing prices in three months' data would have a much greater effect on margin interval determinations than if it were contained in a year's worth of data.

[27] As discussed above, the options pricing model is used to calculate the theoretical worth of an

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stated that because implied volatilities can vary significantly from historical volatilities and because both can vary from day-to-day, there is no single volatility measure that can be considered as a totally reliable predictor of theoretical option values across a range of underlying prices. OCC believes, however, that implied volatility represents the most recent market expectation of future volatility (the market's aggregate view based on current prices) and, as such, represents the more accurate measure.

OCC originally indicated that it intended to use the greater of one-year historical or implied volatility, believing this would provide the most conservative margin calculations. It subsequently determined, however, that historical volatility sometimes has the unintended effect of overvaluing long positions in Members' accounts. Moreover, implied volatility reflects actual market expectations of future volatility (*i.e.*, it relies on the views of market participants, not an OCC officer or committee, to assess whether short-range or long-range price movements are better indicators of likely future volatility). Hence, OCC decided to use implied volatility alone. The Commission is satisfied that using only implied volatility for non-equity options should provide OCC adequate protection in making additional margin determinations.

Another fundamental change in OCC's NEO margin system is the offsetting of margin credits and requirements among the class groups within a product group. The theory underlying allowing margin credits to offset margin requirements within product groups is that certain closely related underlying assets exhibit close price correlation. Market participants rely on these relationships in effecting arbitrage and hedging strategies involving related products.[28] OCC's proposal recognizes the close pricing relationship of related assets. At the same time, OCC's new system correctly recognizes that the hedge values of closely related assets are not perfectly correlated. A direct dollar-for-dollar offset of credits against requirements would leave OCC exposed to great risk in the event that closely related assets do not, in fact, move in tandem. Therefore, the Commission believes that the provision in OCC's Rules requiring that any class group credit (for class groups within product groups) be reduced according to the degree the class groups exhibit price correlation is appropriate. Furthermore, OCC has indicated that, although the class groups within each product group have historically exhibited a 95% or higher correlation, OCC will reduce credits as though the class groups exhibited a lower correlation as an additional safeguard.[29] The Commission is satisfied that this extra cushion will protect OCC in the event of an uncharacteristic move in the price of the underlying assets.

Finally, in addition to requiring a high statistical correlation among a product group's class groups, OCC will require that the class groups be rationally and economically related to one another. The same factors that affect one class group must be the same that affect the other class groups. For example, the indices must represent the same general segment of the market and contain enough stocks so that no one stock or industry dominates. For Treasury securities this means that they must be at the same general end of the yield curve.

Cost Implications to OCC Clearing Members

Congress, in Section 17A, instructed the Commission, among other things, to avoid encouraging clearance and settlement procedures that impose unnecessary costs on investors and persons facilitating transactions. In this regard, the Commission believes that the proposed OCC NEO margin system represents a substantial improvement over OCC's current margin system. One of OCC's principal objectives in developing this new system was to make margin contributions more economically rational for its Clearing Members. The Commission believes OCC has achieved this objective: Under the new system OCC's margin requirements more reliably predict OCC's actual exposure. At the same time, OCC's proposal should result in a significant overall reduction in margin requirements for OCC Clearing Members without adversely affecting OCC's risks. In fact, the OCC margin adequacy study described above showed that the new NEO margin system resulted in an overall reduction of Member margin requirements of $212,882,278 for the period chosen, a 23% reduction. Furthermore, for 134 out of 152 Members, margin decreased, with the largest decrease totalling $80,666,678 or 45% of that Member's actual margin requirement. (OCC noted, furthermore, that that particular Member's NEO positions still liquidated to an excess.)

The Commission recognizes that, by relying on an options pricing model that is much more sophisticated than the current margin formulae, OCC is introducing an increased level of complexity into the margin calculation process. The Commission is satisfied, however, that conversion to the new system should not result in significant start-up or continuing costs to Clearing Members. Most Member firms already use one or more options pricing models in their current trading and investment programs and OCC has indicated that it intends to make the software it will use for its calculations available to its Members. Finally, to facilitate conversion, OCC plans to provide Clearing Members, before shifting to the new system, at least two weeks of parallel calculations using both the old and new system to facilitate conversion.

OCC's new system provides a single, rational approach to calculating margin requirements, regardless of how complex Member's hedging, arbitrage and related strategies may be. The Commission therefore believes that the costs to Members of converting to the new system should not be significant and, more importantly, clearly will be outweighed by the benefit to Clearing Members of a fairer, more predictive system reducing overall margin obligations while providing superior protection to OCC.[30]

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option when the underlying asset value and the option's volatility, among other things, are known. The model can also be used, therefore, to calculate the volatility of a particular option by: (1) plugging into the formula the underlying asset value and the historically observed option price for that underlying asset price; and (ii) solving the equation with volatility as the unknow variable.

[28] For example, a trader with a short call position in a Treasury bond option might seek to hedge that position by purchasing call options on a different Treasury bond. Similarly, a trader who believes a particular call option series on one broad-based stock index is over-priced might seek to engage in an arbitrage transaction by selling calls on a different, but closely correlated stock index.

[29] The following are the product groups OCC will establish and the haircuts among the member class groups:

(i) S & P 100, S & P 300, New York Composite, Amex Major Market and Value Line Indices — 80%

(ii) OTC Indices — 70%

(iii) 30-year Treasury Bonds and 10-year Treasury notes — 85%

(iv) 5-year Treasury notes — 90%.

[30] OCC has indicated that the proposed NEO margin system, once in place, easily could be adapted to permit cross-margining of related future and options positions. The Commission is not faced, at this time, with any specific proposals for futures/options cross-margining, although OCC has discussed such an initiative informally with both the Commodity Futures Trading Commission and the SEC. Without addressing the merits or any of the legal or regulatory questions raised by cross-margining under the federal commodities or securities laws, the Commission finds the potential of the proposed NEO margin system to be used for cross-margining to be a significant added advantage.

VI. Conclusion

For the reasons discussed above, the Commission finds that the proposed rule change in File No. SR–OCC–85–21 is consistent with the Act. In particular, the Commission finds that the proposed rule change is consistent with Section 17A and the rules and regulations applicable to clearing agencies.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is approved.

By the Commission.

Dated: April 22, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-9660 Filed 4-29-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22174; File Nos. SR-PCC-85-05 and PSDTC-85-05]

Self-Regulatory Organizations; Pacific Clearing Corp. and Pacific Securities Depository Trust Co.; Order Withdrawing Proposed Rule Changes

On October 17, 1985, Pacific Clearing Corporation ("PCC") and Pacific Securities Depository Trust Company ("PSDTC") filed with the Commission, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), proposed rule changes to permit the PCC/PSDTC to charge non-member entities for account numbers and symbols assigned by PCC/PSDTC for Pacific Stock Exchange ("PSE") audit trail purposes. Notice of the proposed rule changes was published on November 6, 1985.[1] No comments were received. By letters dated March 21, 1986, PCC and PSDTC requested that the proposed rule changes be withdrawn. PCC and PSDTC stated that after internal review and discussions with Commission staff, PCC and PSDTC concluded that because PSE must maintain the audit trail, it would be more appropriate for PSE to file, at a later date, a similar filing charging PSE Members directly for the account numbers and symbols.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, withdrawn.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: April 24, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-9661 Filed 4-29-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22175; File No. SR-PSE-86-05]

Filing and Accelerated Approval of Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to the Restrictions and Duties of Members and Member Clerks While on the Trading Floor

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 3, 1986, the Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE or "Exchange") proposes to amend section 39(b) and add to it Commentary .03 and Commentary .04 of Rule VI of the Rules of the Board of Governors to specify the duties and restrictions of the member clerks, as well as the responsibility of the member to adequately supervise his or her clerks.

Besides amending the body of section 39 to impose upon the member a stated duty to adequately supervise his or her clerks and to ensure that the clerks are adhering to all applicable rules, Commentaries .03 and .04 state more specifically what those clerks duties are. They will state as follows: (additions are italicized)

Commentary:

.03 While on the Trading Floor, clerks shall display at all times the badge(s) supplied to them by the Exchange. Any Market-Maker clerk who writes up an option order on the Options Floor must give his employer a copy of that order before it is delivered; the employer must retain the copy on his person until it is executed. A clerk receiving a phone order must initial, must mark as opening or closing and must time-stamp the order.

.04 A clerk shall remain at a booth assigned to his employer or assigned to his employer's clearing firm unless he is: (1) entering or leaving the trading floor; (2) transmitting or checking the status of an order or reporting a fill; (3) standing in the same crowd as his employer who is a Market Maker or Floor Broker; (4) supervising his firm's clerks if he is a floor manager; or (5) acting as a stock clerk. Only stock clerks and Market Maker or Floor Broker clerks may stand in or near a trading crowd; in the latter case, the Market Maker or Floor Broker must be present in the same trading crowd. Terminals on the trading floor (except quote terminals or those located in the booths) may not be used by a clerk unless his employer is a Market Maker or Floor Broker who is standing near the terminal.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

One of the primary objectives of Rule VI, section 39, is the restriction against non-member trading. However, because of the lack of specific restrictions placed upon the clerks of members, a misunderstanding of the clerk's limitations occurs. In this regard, the PSE proposes to define where the clerks may or may not go while on the Options Trading Floor.

In order to ensure that the member clerk is not entering orders on his own, the proposed rule change imposes requirements on the clerk to present a copy of each order to his or her employer, who must retain the copy until execution. This requirement will serve the purpose of reminding members and clerks of their respective obligations.

Finally, the Exchange has added specific language to the body of section 39, that makes this rule applicable to the members obligations to adequately supervise an employee. This language will place an additional incentive on the members' supervisory role.

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[1] *See* Securities Exchange Act Release Nos. 22809 (November 8, 1985), 50 FR 47485 (November 18, 1985) (File No. SR–PCC–85–05) and 22808 (November 8, 1985), 50 FR 47486 (November 18, 1985) (File No. SR–PSDTC–85–05).

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(B) Self-Regulatory Organization's Statement on Burden on Competition.

The proposed rule change imposes no burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received. However, the proposed rule change was considered and approved by the Board of Governors at its meeting on November 21, 1985.

III. Date of Effectiveness of the Proposed Rule Change

Because the proposed rule change is intended to clarify the duties of PSE members' clerks and thereby prevent unauthorized trading, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 [1] and the rules and regulations thereunder. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication in the **Federal Register** because the proposal amends the stated policies and practices of the PSE with respect to the administration of an existing PSE rule. In addition, the Commission notes that the proposal is substantially similar to an existing rule of the Chicago Board Options Exchange, Inc. (CBOE Rule 6.20).

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[2] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Dated: April 24, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-9682 Filed 4-29-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Wayne-Duplin-Sampson Counties, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Wayne, Duplin and Sampson Counties, North Carolina.

FOR FURTHER INFORMATION CONTACT: Roy C. Shelton, District Engineer, Federal Highway Administration, 310 New Bern Avenue, P.O. Box 26806, Raleigh, North Carolina 27611, Telephone (919) 856-4330.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North Carolina Department of Transportation (NCDOT), will prepare an environmental impact statement (EIS) on a proposed highway project in Wayne, Duplin and Sampson Counties. The proposed action would be the construction of a fully controlled US 117 connector from the Mount Olive Bypass in Wayne County through Duplin County to proposed I-40 in Sampson County. The proposed project is needed to provide a connector to I-40 from the Mount Olive-Goldsboro vicinity. This will allow quicker access to the Wilmington area or the Raleigh area via I-40.

The project consists of widening the existing 2 lane US 117 to a 4 lane divided facility from NC 55 at Mount Olive to the existing 4 lane section at Calypso. From this point a 4 lane divided facility will be build on new location to connect with I-40.

Alternatives under consideration include (1) the "no-build," and (2) a fully controlled access highway, part of which will be on new location.

Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State and local agencies. A public meeting has been held in the study area. A public hearing will also be held. Information on the time and place of the public hearing will be provided in the local news media. The draft EIS will be available for public and agency review and comment at the time of the hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Roy C. Shelton,

District Engineer.

[FR Doc. 86-9657 Filed 4-29-86; 8:45 am]

BILLING CODE 4910-22-M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a reinstatement and lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) how often the form must be filled out, (5) who will be required or asked to report, (6) an estimate of the number of responses, (7) an estimate of the total number of hours needed to fill out the form, and (8) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Nancy C. McCoy, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 389-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: April 24, 1986.

By direction of the Administrator.

Randall H. Bryant II,

Executive Assistant to the Associate Deputy Administrator for Management.

Reinstatement

1. Board of Veterans Appeals
2. Appeal to Board of Veterans Appeals
3. VA Form 1-9
4. On occasion
5. Individuals or households
6. 39,374 responses
7. 39,374 hours
8. Not applicable

[FR Doc. 86-9637 Filed 4-29-86; 8:45 am]

BILLING CODE 8320-01-M

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[1] 15 U.S.C. 78f(1982).

[2] 15 U.S.C. 78s(b)(2)(1982).

[3] 17 CFR 200.30-3(a)(12)(1985).

Sunshine Act Meetings

Federal Register
Vol. 51, No. 83
Wednesday, April 30, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:11 p.m. on Thursday, April 24, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The First National Bank of Bandera, Bandera, Texas, which was closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency, on Thureday, April 24, 1986; (2) accept the bid for the transaction submitted by Bandera Bank, Bandera, Texas, a newly-chartered State nonmember bank; (3) approve the applications of Bandera Bank, Bandera, Texas, for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay deposits made in The First National Bank of Bandera, Bandera, Texas; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(B)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in First National Bank of Irving, Irving, Texas, which was closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency, on Thursday, April 24, 1986; (2) accept the bid for the transaction submitted by City National Bank of Irving, Texas; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive) and seconded by Mr. Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not required consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 25, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-9748 Filed 4-28-86; 11:19 am]

BILLING CODE 6714-01-M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, May 5, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personal actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

James McAfee,

Associate Secretary of the Board.

April 25, 1986.

[FR Doc. 86-9700 Filed 4-25-86; 4:50 pm]

BILLING CODE 6210-01-M

3

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Monday, May 5, 1986 at 4:00 p.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification List
4. Petitions and Complaints.
5. Investigations 731-TA-278/280 [Final] (Certain cast iron pipe fittings from Brazil, Korea, and Taiwan)—briefing and vote.
6. Investigations 701-TA-248 [Final] and 731-TA-259 and 260 [Final] (Offshore platform jackets and piles from the Republic of Korea and Japan)—briefing and vote.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

April 25, 1986.

[FR Doc. 86-9712 Filed 4-28-86; 9:10 am]

BILLING CODE 7020-02-M

4

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Friday, May 9, 1986 at 11:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC., 20436.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Investigations TA-201-58 Certain metal castings)—briefing and vote on injury.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,

Secretary.

April 25, 1986.

[FR Doc. 86-9713 Filed 4-28-86; 9:10 am]

BILLING CODE 7020-02-M

5

RAILROAD RETIREMENT BOARD

Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on May 6, 1986, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611.

The agenda for the meeting follows:

(1) Canadian Service

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(2) Proposed Changes in the RUIA Regulations
(3) Appeal of Nonwaiver of Overpayment, Edna A. Sheppard
(4) Delayed Registrations Made by Dennis J. Cooney
(5) Delayed Registrations Made by David L. Coyle

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, COM No. 312–751–4920, FTS No. 387–4920.

Dated: April 28, 1986.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 86-9758 Filed 4-28-86; 4:02 am]

BILLING CODE 7035-01-M

6

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of May 5, 1986:

An open meeting will be held on Tuesday, May 6, 1986, at 10:00 a.m., in Room 1C30, followed by a closed meeting.

An open meeting will be held on Wednesday, May 7, 1986, at 1:00 p.m., as previously announced in 51 FR 15859.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Grundfest, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the open meeting scheduled for Tuesday, May 6, 1986, at 10:00 a.m., will be:

1. Consideration of whether to issue a release adopting technical amendments to Rule 3A–02 of Regulation S–X, "Consolidated financial statements of the registrant and its subsidiaries." For further information, please contact Robert J. Kueppers at (202) 272–2130.

2. Consideration of whether to approve staff recommendations which would temporarily suspend the requirements to use current prices in applying the ceiling test under the full cost accounting method. Under these recommendations, registrants using other than current prices in applying the test would be required to provide certain disclosures. For further information, please contact John W. Albert at (202) 272–2130 or James W. Ford, Jr., at (202) 272–2553.

3. Consideration of whether to adopt amendments to Rule 31–1 under the Securities Exchange Act of 1934 to exempt OTC/Exchange-Traded NMS Securities transactions from payment of Section 31 fees. For further information, please contact Leland H. Goss, at (202) 272–2827.

4. Consideration of whether to authorize the issuance of a Request for Proposals ("RFP") for the operational Edgar system. The RFP would require the capability for electronic filing and processing of most filings processed by the Divisions of Corporation Finance and Investment Management. In addition, the RFP would require the capability for widespread access by the public to the Edgar data base. For further information, please contact David Copenhafer at (202) 272–3794.

The subject matter of the closed meeting scheduled for Tuesday, May 6, 1986, following the 10:00 a.m. open meeting, will be:

Regulatory matter bearing enforcement implications.
Settlement of injunctive action.
Institution of injunctive actions.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jacqueline Higgs at (202) 272–2149.

John Wheeler,

Secretary.

April 25, 1986.

[FR Doc. 86-9756 Filed 4-28-86; 12:17 pm]

BILLING CODE 8010-01-M

federal register

Wednesday
April 30, 1986

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 335 and 369

Antidiarrheal Drug Products for Over-the-Counter Human Use; Tentative Final Monograph; Proposed Rulemaking

UMI

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 335 and 369

[Docket No. 78N-0360]

Antidiarrheal Drug Products for Over-the-Counter Human Use; Tentative Final Monograph

AGENCY: Food and Drug Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) antidiarrheal drug products (products that treat or control the symptoms of diarrhea) are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Laxative, Antidiarrheal, Emetic, and Antiemetic Drug Products and public comments on an advance notice of proposed rulemaking that was based on those recommendations. This proposal deals only with antidiarrheal drug products and is part of the ongoing review of OTC drug products conducted by FDA.

DATES: Written comments, objections, or requests for oral hearing on the proposed regulation before the Commissioner of Food and Drugs by June 30, 1986. New data by April 30, 1987. Comments on the new data by June 30, 1987. These dates are consistent with the time periods specified in the agency's revised procedural regulations for reviewing and classifying OTC drugs (21 CFR 330.10). Written comments on the agency's economic impact determination by August 28, 1986.

ADDRESS: Written comments, objections, new data, or requests for oral hearing to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drugs and Biologics (HFN-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In the Federal Register of March 21, 1975 (40 FR 12902) FDA published, under § 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC laxative, antidiarrheal, emetic, and antiemetic drug products, together with the recommendations of the Advisory Review Panel on OTC Laxative, Antidiarrheal, Emetic, and Antiemetic Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in these drug classes. Interested persons were invited to submit comments by June 19, 1975. Reply comments in response to comments filed in the initial comment period could be submitted by July 18, 1975.

In a notice published in the Federal Register of March 21, 1980 (45 FR 18336), the agency advised that it had reopened the administrative record for OTC antidiarrheal drug products to allow for consideration of data and information that had been filed in the Dockets Management Branch after the date the administrative record previously had officially closed. The agency concluded that any new data and information filed prior to March 21, 1980 should be available to the agency in developing a proposed regulation in the form of a tentative final monograph.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information. Data and information received after the administrative record was reopened have also been put on display in the Dockets Management Branch. In response to the advance notice of proposed rulemaking, 10 drug manufacturers, 2 trade associations, and 1 State planning and budget office submitted comments on antidiarrheal drug products. Copies of the comments received are on public display in the Dockets Management Branch.

The advance notice of proposed rulemaking, which was published in the Federal Register on March 21, 1975 (40 FR 12902), was designated as a "proposed monograph" in order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10). Similarly, the present document is designated in the OTC drug review regulations as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule) to establish Part 335 (21 CFR Part 335) FDA states for the first time its position on the establishment of a monograph for OTC antidiarrheal drug products. Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing a monograph for OTC antidiarrheal drug products.

This proposal constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC antidiarrheal drug products as modified on the basis of the comments received and the agency's independent evaluation of the Panel's report. Modifications have been made for clarity and regulatory accuracy and to reflect new information. Such new information has been placed on file in the Dockets Management Branch (address above). These modifications are reflected in the following summary of the comments and FDA's responses to them.

The OTC procedural regulations (21 CFR 330.10) now provide that any testing necessary to resolve the safety or effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph. Accordingly, FDA will no longer use the terms "Category I" (generally recognized as safe and effective and not misbranded), "Category II" (not generally recognized as safe and effective or misbranded), and "Category III" (available data are insufficient to classify as safe and effective, and further testing is required) at the final monograph stage, but will use instead the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the Federal Register. On or after that date, no OTC drug product that is subject to the monograph and that contains a nonmonograph condition, i.e., a condition that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless it is the subject of an approved application. Further, any OTC drug product subject to this monograph that is repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC antidiarrheal drug products (published in the Federal Register of March 21, 1975; 40 FR 12902), the agency suggested that the conditions included in the monograph (Category I) be effective 30 days after the date of publication of the final monograph in the Federal Register and that the conditions excluded from the monograph (Category II) be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph, regardless of whether further testing was undertaken to justify their future use. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 30 days after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products will have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss, but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the Federal Register. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and reformulate their products and have them in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmonograph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notice published in the Federal Register of February 8, 1973 (38 FR 3614) or to additional information that has come to the agency's attention since publication of the advance notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

I. The Agency's Tentative Conclusions on the Comments

A. General Comments

1. One comment objected to the Panel's recommendation that the quantity of each active ingredient be stated in OTC drug product labeling, on the grounds that section 502(e)(1)(A) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352(e)(1)(A)) provides for quantitative ingredient labeling only for prescription drugs.

The agency agrees that other than for certain specifically named substances, the act currently requires quantitative ingredient labeling only for prescription drugs. The tentative final monograph does not require active ingredient labeling. However, the agency advises that the Panel's recommendation is consistent with that of the National Advisory Drug Committee, which advocates that all OTC drugs be labeled with a quantitative statement of the active ingredients. It is also consistent with the recommendation in 21 CFR 330.1(j) that the labeling of an OTC drug product contain the quantitative amount of each active ingredient, expressed in terms of the dosage unit stated in the directions for use.

Drug manufacturers who are members of The Proprietary Association, the trade association that represents approximately 85 OTC drug manufacturers who reportedly market between 90 and 95 percent of the volume of all OTC drug products sold in the United States, have been voluntarily including the quantities of active ingredients on OTC drug labels for a number of years (Ref. 1). The agency commends these voluntary efforts and urges all other OTC drug manufacturers to voluntarily label their products in accordance with The Proprietary Association's guidelines.

Reference

(1) "Proprietary Association Adopts Voluntary Disclosure of Inactive Ingredients," News Release, The Proprietary Association, Washington, DC, May 14, 1984, copy included in OTC Volume 00DTFM.

2. Several comments objected to the Panel's recommendation that all inactive ingredients be listed on the labeling, arguing that such a listing would be meaningless, confusing, and misleading to most consumers.

The agency advises that neither the March 21, 1975 advance notice of proposed rulemaking nor the monograph in this tentative final rule requires that all inactive ingredients be listed in OTC drug labeling. However, the agency agrees with the Panel that listing of inactive ingredients in OTC drug product labeling would be in the public interest. Consumers with known allergies or intolerances to certain ingredients would then be able to identify substances that they may wish to avoid.

The Proprietary Association recently announced that its member companies would voluntarily begin to list inactive ingredients in the labeling of OTC drug products under guidelines established by the Assoication (Ref. 1). The agency commends these voluntary efforts and urges all other OTC drug manufacturers to voluntarily label their products in accordance with The Proprietary Association's guidelines.

Reference

(1) "Proprietary Association Adopts Voluntary Disclosure of Inactive Ingredients," News Release, The Proprietary Association, Washington, DC, May 14, 1984, copy included in OTC Volume 00DTFM.

3. Two comments contended that FDA does not have the authority to establish substantive rules.

The agency addressed this issue in paragraphs 85 through 91 of the preamble to the procedures for classification of OTC drug products, published in the Federal Register of May 11, 1972 (37 FR 9464) and in paragraph 3 of the preamble to the tentative final monograph for antacid drug products, published in the Federal Register of November 12, 1973 (38 FR 31260). FDA reaffirms the conclusions stated there. Subsequent court decisions have confirmed the agency's authority to issue substantive regulations by rulemaking. See, e.g., *National Nutritional Foods Association* v. *Weinberger*, 512 F.2d 688, 696-98 (2d Cir. 1975) and *National Association of Pharmaceutical Manufacturers* v. *FDA*, 487 F. Supp. 412 (S.D.N.Y. 1980), *aff'd*, 637 F.2d 887 (2d Cir. 1981).

4. Several comments urged a greater role for pharmacists in the sale of OTC drugs. One comment recommended that OTC drugs be available only through

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pharmacies, and two suggested that any labeling which suggests consultation with a physician should mention a pharmacist as a viable alternative.

These issues were fully discussed in the preamble to the proposal to revise requirements for drug interaction warnings on OTC drug products (see the Federal Register of June 4, 1974 (39 FR 19860)). These views will not be restated here. However, the agency notes that § 330.1(g) (21 CFR 330.1(g)) requires that labeling for OTC drugs include a warning to seek professional assistance in case of accidental overdose. The pharmacist is one of the health professionals that a consumer might choose to consult.

5. One comment noted that on several pages of the Panel's recommended monograph the abbreviation "gm" is used for gram, yet 21 CFR 201.62(1) (formerly 21 CFR 1.102(d)) states that the only abbreviation which may be used for gram is "g."

The situation outlined in the comment was an editorial oversight. The OTC drug labeling regulations cited in the comment permit the use of "g" as the only abbreviation for gram. For clarity, metric units have been fully written out in this tentative final monograph.

6. One comment stated that the Panel's recommendations violate the objectives and philosophy of the OTC drug review and that the Panel failed to discharge its obligations by placing many long-established antidiarrheal ingredients and antidiarrheal combinations in Category III. Other comments contended that the Panel did not consider the extent-of-use and consumer-acceptance data or the professional opinion surveys of physicians and pharmacists submitted for products containing ingredients placed in Category III.

The agency believes that the Panel's recommendations for OTC antidiarrheal drug products are fully in accord with the objectives of the OTC drug review as stated in the applicable regulations (21 CFR Part 330). The Panel reviewed all of the data submitted for each antidiarrheal active ingredient, including marketing histories and information on the extent of use by consumers. In placing antidiarrheal ingredients or combinations in Category III, the Panel concluded that the available data were insufficient to permit classification in Category I or Category II at the time it reviewed those drugs. The agency has also evaluated these data, marketing histories, and information on extent of use, as well as more recent data and information, in reaching its conclusions in this tentative final monograph.

B. General Comments on Antidiarrheal Drug Products

7. One comment disagreed with the definition of "diarrhea" recommended by the Panel in § 335.3(a): "The abnormally frequent passage of watery stools, self-limiting (24 to 48 hours) usually with no identifiable cause." The comment argued that this definition is vague and does not provide any assistance for individuals interested in designing protocols and conducting tests for antidiarrheals. The comment added that evaluations of diarrhea are best determined by a subjective, case-by-case approach and that the definition of the condition should be related to the individual and his or her personal bowel habits, not to the "average" person. The comment proposed the following definition of diarrhea: "An increase in the frequency, fluidity, or volume of bowel movements, relative to the usual habit of each individual."

The agency agrees that the Panel's definition of diarrhea does not provide criteria for use in designing protocols or conducting clinical trials. Therefore, the definition of diarrhea in this tentative final monograph has been revised to read: "*Diarrhea.* A condition characterized by increased frequency of excretion of loose, watery stools (three or more daily) during a limited period (24 to 48 hours), usually with no identifiable cause." This revised definition suggests criteria, i.e., decreased frequency of excretion and/or improved consistency of stools, which can be used in designing clinical protocols to establish the effectiveness of an OTC antidiarrheal drug. In addition, the definition of antidiarrheal has been revised to read: "*Antidiarrheal.* A drug that can be shown by objective measurement to treat or control (stop) the symptoms of diarrhea." The agency believes that this emphasis on relief of symptoms more accurately reflects the expectations for an OTC antidiarrheal and is therefore helpful in designing testing protocols for OTC antidiarrheal drugs.

8. One comment suggested that the term "high fever" in the Panel's recommended warning in § 335.50(c)(1), "Do not use . . . in the presence of high fever" . . .," be clarified by stating a specific temperature, i.e., over 102° F (oral) or 103° F (rectal), in order to provide specific directions.

The agency believes that the use of the term "high fever" is inappropriate for inclusion in the warning. OTC antidiarrheal drug products are intended to be used for the treatment of acute nonspecific diarrhea that is not associated with fever (any temperature above 98.6 °F), because the presence of fever may be indicative of a serious condition that is not amenable to treatment with such products. Because consumers understand the term "fever" to mean any temperature over 98.6° F, there is no need to specify a specific temperature. Therefore, the agency is proposing in this tentative final monograph that the warning in § 335.50(c)(1) read as follows: "Do not use . . . in the presence of fever. . . ."

9. Two comments stated that the Panel's request that the mechanism of action for antidiarrheal ingredients be determined is unnecessary because, as the Panel recognized, there are many safe and effective ingredients whose precise mechanisms of action are unknown (40 FR 12934). One comment added that as long as a product can be shown to be safe and effective, there should be no requirement to demonstrate a precise mechanism of action.

The agency agrees that the precise mechanism of action of an antidiarrheal ingredient need not be demonstrated as long as there is sufficient evidence of safety and effectiveness for its intended use. However, development of such information is certainly encouraged.

10. One comment suggested that the Panel's use of the phrase "to increase the bulk of the stool" as an example of recommended labeling might be misleading when used in the context of antidiarrheal products, because that description is usually associated with laxatives.

The Panel used the phrase "to increase the bulk of the stool" only as an example and did not include it in the labeling requirements for antidiarrheal drug products in § 335.50(a) of its recommended monograph. However, the agency believes that antidiarrheal drug products should be clearly labeled to reflect their intended results because not all antidiarrheal active ingredients have the same effect. Some ingredients may actually control or stop diarrhea. Other ingredients may only improve the consistency of the bowel movement or reduce the number of bowel movements without actually affecting other factors contributing to the diarrheal process, such as increased water content and weight of stools or loss of electrolytes, bile salts, etc. There is no objection to the OTC marketing of antidiarrheal drug products that provide only symptomatic relief of diarrhea because providing symptomatic relief is the intent of these products. However, it is important that consumers be told which action the drug exerts. Therefore, the agency is recommending the following indications for use for these drug products: (1) "For the treatment of diarrhea" or "Controls (stops) diarrhea"; (2) "Reduces the number of bowel movements in diarrhea"; (3) "Improves consistency of loose, watery bowel movements in diarrhea." One or more of these indications may be included in the labeling of OTC antidiarrheal drug products, depending on the results of studies conducted on the ingredient contained in the product. The agency also recognizes that there are other symptoms that are secondary to diarrhea, such as abdominal pain or cramps, and that some antidiarrheal ingredients may also act to relieve these symptoms. The agency has no objection to including information of this type in the indications for OTC antidiarrheal drug products, provided that the results of studies conducted on the ingredients contained in the product support this inclusion. However, the agency does not believe that relief of symptoms that are secondary to diarrhea can be considered as primary indications for use of an OTC antidiarrheal drug product. Therefore, indications for relief of symptoms secondary to diarrhea will be allowed in the labeling of an OTC antidiarrheal drug product only when the product meets the criteria of one or more of the above three indications for OTC antidiarrheal drug products being proposed in this tentative final monograph. The tentative final monograph specified the allowable indications proposed for each ingredient included in the monograph.

C. Comments on Specific Antidiarrheal Active Ingredients

11. One comment asserted that the Panel's recommended pediatric dosage statement for polycarbophil, which provides a dosage for children 3 years of age and under, is in conflict with the Panel's general warning in § 335.50(c)(1), which limits the use of antidiarrheals to children 3 years of age and older unless directed by a physician. The comment urged that the general warning as applied to polycarbophil be revised to delete the phrase "or infants or children under 3 years unless directed by a physician."

The comment is correct that the Panel's recommended pediatric dosage statement for polycarbophil is in conflict with its general warning. The Panel's general warning is in accord with the agency's recommended warning in § 369.20 (21 CFR 369.20), which limits the use of antidiarrheal drug products to children 3 years of age and older, unless directed by a physician. The agency has, therefore, determined that pediatric doses of this ingredient for children under 3 years of age will not appear in the OTC drug labeling, but will be included only in professional labeling. Consumers will be instructed in the OTC drug labeling to consult a doctor for this dosage information.

12. Two comments contended that the studies cited by the Panel in support of the Category I classification of polycarbophil in the treatment of diarrhea do not meet the Panel's own criteria for establishing effectiveness. One of the comments added that the Panel had apparently applied a dual standard of classification in placing polycarbophil and the opiates in Category I although they have not been shown to be effective in double-blind studies for the list of objective parameters prescribed by the Panel for kaolin and pectin. The comment contended that there are no differences in the clinical endpoints which would account for this apparent dual standard for kaolin and pectin vis-a-vis polycarbophil and the opiates. A third comment defended the studies on polycarbophil as having been performed by well-qualified investigators whose findings were carefully documented and published in reputable medical journals. The comment contended that no other OTC antidiarrheal ingredient has been the subject of such competent and well-documented evaluation.

The agency has reviewed the studies cited by the Panel to support the Category I classification of polycarbophil (40 FR 12926). Although the comment is correct that the polycarbophil studies do not demonstrate that polycarbophil is effective for all the objective parameters listed by the Panel, the studies do provide objective evidence that polycarbophil is effective in improving consistency of watery bowel movements and in decreasing the frequency of bowel movements. As discussed in comment 10 above, the agency recognizes that not all OTC antidiarrheals have the same effect. The agency has no objection to the OTC marketing of products which relieve only certain symptoms of diarrhea provided the labeling of the product clearly indicates the expected action. Although there are similarities between the data for polycarbophil and the data for kaolin and pectin, as described in comment 23 below, the kaolin-pectin data have certain deficiencies that prevent conclusions from being drawn at this time. If those deficiencies are remedied, then kaolin and pectin may be placed in Category I. The agency believes that the Panel did not apply a dual standard in its classifications and concurs with the Panel's conclusions. As discussed in comment 20 below, because opiate ingredients may be marketed OTC only in combination in accordance with § 329.20(a)(1) and because no combinations of opiates with other ingredients are in Category I at this time, opiate ingredients are placed in Category III in this document.

13. Two comments questioned whether the calcium salt of polycarbophil should be included in the monograph, noting that two of the studies cited by the Panel in support of its Category I classification of polycarbophil involved calcium polycarbophil (40 FR 12926). A third comment submitted data elucidating the role of the calcium in calcium polycarbophil and supporting the safety and effectiveness of this ingredient (Ref. 1). The comments explained that inclusion of calcium polycarbophil in the monograph would permit the formulation of polycarbophil in liquid as well as solid dosage forms, because calcium polycarbophil is not hydrosorptive and can be used in a liquid medium.

Calcium polycarbophil is a simple salt of polycarbophil in which calcium has been substituted for the acidic hydrogen ions. Following ingestion, the calcium salt is converted to acidic polycarbophil when the calcium is replaced by hydrogen ions of the stomach acid. Polycarbophil is then made available to exert its maximal hydrosorptive effect during intestinal transit (Ref. 2). Because the calcium ion does not alter either the chemical or pharmacological effect of polycarbophil, calcium polycarbophil can be considered to be therapeutically identical to polycarbophil (Ref. 1). Therefore, the agency is proposing to include calcium polycarbophil in the tentative final monograph.

References

(1) Comment No. C00073, Docket No. 78N-036D, Dockets Management Branch.

(2) Rutledge, M.L., et al., "Clinical Comparison of Calcium Polycarbophil and Kaolin-Pectin Suspension in the Treatment of Acute Childhood Diarrhea," *Current Therapeutic Research*, 23:443–447, 1978.

14. One comment contended that polycarbophil, which is a hydrosorptive agent, might be contraindicated in treatment of diarrhea, especially in children, because of the danger that hydrosorption might heighten systemic electrolyte loss and dehydration. The comment further contended that the studies on which the Panel based its evaluation of polycarbophil did not adequately measure stool water content or electrolyte loss.

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The comment submitted no data to support its contention that polycarbophil, as a hydroscorptive agent, might heighten systemic electrolyte loss and dehydration. However, because of the danger of rapid electrolyte imbalance and dehydration in infants and children as a result of diarrhea, the agency believes that no OTC antidiarrheal drug product should be used in children under the age of 3 years, or for more than 2 days in anyone over 3 years of age, except under the advice of a physician. Although the studies cited by the Panel did not adequately measure stool water content or electrolyte loss, no clinically significant side effects were reported either when polycarbophil was used in children for the treatment of acute nonspecific diarrhea (Refs. 1 and 2) or in adults for chronic constipation for up to 2 years (Ref. 3). Moreover, one of the studies cited by the Panel suggests that polycarbophil exhibits the capacity to decrease the abnormally rapid transit of the intestinal contents (Ref. 4). This would possibly allow for the increased absorption of water and electrolytes back into the systemic circulation. Therefore, the agency concludes that there is no basis for the contraindication of polycarbophil in treating symptoms of diarrhea.

References

(1) Rutledge, M.L., et al., "Clinical Comparison of Calcium Polycarbophil and Kaolin-Pectin Suspensions in the Treatment of Acute Childhood Diarrhea," *Current Therapeutic Research*, 23:443–447, 1978.

(2) Rutledge, M.L., et al., "Calcium Polycarbophil in Acute Childhood Diarrhea," *Clinical Pediatrics*, 2:61–63, 1963.

(3) Grossman, A.J., et al., "Polyacrylic Resin: Effective Hydrophilic Colloid for the Treatment of Constipation," *Journal of the American Geriatric Society*, 8:187–192, 1957.

(4) Winkelstein, A., "Effect of Calcium Polycarbophil (Carbofil®) Suspension on Gastrointestinal Transit Time," *Current Therapeutic Research*, 6:573–583, 1964.

15. One comment cited a clinical study submitted to the Panel in 1974 (Ref. 1) and submitted a new clinical study (Refs. 2, 3, and 4) in support of the effectiveness of attapulgite. The comment requested that attapulgite be reclassified from Category III to Category I for use as an OTC antidiarrheal.

The agency has evaluated all of the data and concludes that they are adequate to support the reclassification of attapulgite from Category III to Category I for use as an OTC antidiarrheal.

In the 1974 double-blind randomized placebo-controlled study, the effectiveness of tablets containing 600 milligrams (mg) attapulgite and 50 mg pectin was compared with placebo in subjects with acute gastroenteritis and diarrhea, characterized by abdominal pain and/or discomfort with watery bowel movements (Ref. 1). Four tablets were administered initially with four tablets to be taken after each diarrheal stool. Patients were given report forms to record frequency and consistency of stools as well as frequency of cramps and the duration and severity of pain.

This study was originally submitted to the Advisory Review Panel on OTC Laxative, Antidiarrheal, Emetic and Antiemetic Drug Products, which concluded that the study showed the combination of attapulgite and pectin to be more effective than placebo. However, because there was no assessment of individual ingredients, the study cannot be used to demonstrate the effectiveness of attapulgite alone.

The newly submitted clinical study (Refs. 2, 3, and 4) is identical in format to the 1974 study (Ref. 1), except that it employed a dose of 2 tablets each containing 600 mg attapulgite alone versus placebo. Fifty patients were randomly assigned attapulgite or placebo at the initial visit. Results of the study indicated that the subjects of the active group had significantly fewer bowel movements, better stool consistency, and fewer cramps than the subjects of the placebo group ($p < .0001$). Based on the results of this study, the agency is proposing the following indications for this ingredient: (1) "Reduces the number of bowel movements in diarrhea," and (2) "Improves consistency of loose, watery bowel movements in diarrhea." The following indication may also be used in the labeling of attapulgite products: "Relieves cramps in diarrhea." As discussed in comment 10 above, this indication may be used in addition to one or both of the other indications but may not be used alone.

Although the 1974 study utilized a higher dosage of attapulgite, the agency believes that based on the Panel's recommendations, the results of the new study, and the dosages currently promoted on the marketed products submitted for evaluation, the use of attapulgite should be limited to the following oral dosage:

Adults and children 12 years of age and over: oral dosage is 1,200 mg after initial bowel movement, 1,200 mg after each subsequent bowel movement, not to exceed 6,400 mg in 24 hours. Children 6 to under 12 years of age: oral dosage is 600 mg after initial bowel movement, 600 mg after each subsequent bowel movement, not to exceed 4,200 mg in 24 hours. Children 3 to under 6 years of age: oral dosage is 300 mg after initial bowel movement, 300 mg after each subsequent bowel movement, not to exceed 2,100 mg in 24 hours.

The agency's detailed comments and evaluations on the data are on file with the Dockets Management Branch (Ref. 5).

References

(1) OTC Volume 090133, Docket No. 78N–036D, Dockets Management Branch.

(2) Comment No. SUP005, Docket No. 78N–036D, Dockets Management Branch.

(3) Comment No. AMD002, Docket No. 78N–036D, Dockets Management Branch.

(4) Comment No. SUP006, Docket No. 78N–036D, Dockets Management Branch.

(5) Letter from W.E. Gilbertson, FDA, to D.C. Oppenheimer, Pfizer Pharmaceuticals, ANS LET004, Docket No. 78N–036D, Dockets Management Branch.

16. One comment stated that it would be difficult or impossible to demonstrate the effectiveness of an antidiarrheal agent in vivo in humans by objective double-blind studies because of the self-limiting nature (24 to 48 hours) of acute nonspecific diarrhea. The comment added that, because of the difficulty in conducting clinical studies, evidence developed in double-blind, placebo-controlled primate studies using kaolin and pectin should be sufficient to establish the effectiveness of kaolin and pectin alone and in combination as antidiarrheal agents. The comment pointed out that FDA has endorsed other types of efficacy tests (e.g., an in vitro efficacy test in the monograph for OTC antacid drug products) in situations where human studies are difficult to perform.

This comment is incorrect. Adequate clinical studies in acute nonspecific diarrhea have been carried out in humans and have been submitted to the agency. (See comment 23 below.) Thus, there is no reason to rely solely on primate studies to reach conclusions about the effectiveness of an antidiarrheal drug in humans. The agency concludes that clinical studies in humans are required to establish the effectiveness of OTC antidiarrheal drugs.

17. One comment submitted a clinical study (Ref. 1) and detailed statistical analyses of that study (Refs. 2 and 3) in support of the effectiveness of bismuth subsalicylate. The comment requested that bismuth subsalicylate be reclassified from Category III to Category I for use as an OTC antidiarrheal.

The agency has evaluated all of the data and concludes that they are insufficient to support the reclassification of bismuth subsalicylate from Category III to Category I for use as an OTC antidiarrheal.

In the clinical study submitted the effectiveness of bismuth subsalicylate was compared with placebo in the symptomatic treatment of diarrhea in a double-blind placebo-controlled study among students attending a Mexican University. The study was conducted in two sequential 48 hour phases. Students in Phase I were given a 30-milliliter (mL) dose of a bismuth subsalicylate preparation every ½ hour for eight doses for a total dose of 4.2 g, and students in Phase II were given twice this dose. The objective parameters assessed were frequency, consistency, weight, and water content of the stools. Results of the study indicate that frequency was the only objective parameter that improved after use of the drug. The data were analyzed for the periods 4 to 24 hours and 4 to 48 hours after initiation of the study. For the reasons stated below, the Phase II study will not be further evaluated.

Although no statistically significant difference was shown in the Phase I study for the 4 to 48 hour period, analysis of the data suggests that bismuth subsalicylate may reduce the number of bowel movements in diarrhea when compared to placebo for the time period 4 to 24 hours. However, because no formal protocol was submitted with the study, the agency is unable to determine whether the analyzes performed are consistent with the initial intended objectives of the study. The agency does not believe that it is appropriate to exclude the 0 to 4 hour data from the analysis or to focus on any particular time period, considering that the study was conducted over a 2-day period. The agency's detailed evaluation and comments on the data are on file in the Dockets Management Branch (Refs. 4 through 7).[1]

Although the Panel's report states that bismuth subsalicylate is safe for OTC use in amounts up to 8g (40 FR 12930), the agency believes, for the reasons stated below, that should bismuth subsalicylate be included in the final monograph its dosage should be limited to the following: Adults and children 14 years of age and over: oral dosage is 525 mg every ½ to 1 hour, not to exceed 4,200 mg in 24 hours. Children 10 to under 14 years of age: oral dosage is 350 mg every ½ to 1 hour, not to exceed 2,800 mg in 24 hours. Children 6 to under 10 years of age: oral dosage is 175 mg every ½ to 1 hour, not to exceed 1,400 mg in 24 hours. Children 3 to under 6 years of age: oral dosage is 87.5 every ½ to 1 hour, not to exceed 700 mg in 24 hours. Children under 3 years of age: consult a doctor.

Recent reports on the literature (Refs. 8 through 11) indicate that the salicylate moiety is readily absorbable from bismuth subsalicylate. For this reason, the agency believes the higher dose used in the Phase II study presents a potential for toxicity without a compensating therapeutic benefit. Although the amount of salicylate absorbed from the lower dose used in the Phase I study does not present a safety problem when bismuth subsalicylate is taken alone, the agency is concerned that if products containing this drug were taken with other salicylate-containing products, such as aspirin, the increased blood plasma salicylate concentration could result in adverse side effects. Additionally, the salicylate in bismuth subsalicylate is readily absorbable and salicylates are known to interact with certain other drugs, e.g., anticoagulants, uricosuric drugs. For these reasons, should bismuth subsalicylate be included in the final monograph, the agency will consider requiring the following warning in the monograph for all products containing bismuth subsalicylate: "This product contains salicylate. Do not take this product with other salicylate-containing products, such as aspirin, unless directed by a doctor. If you are taking a prescription drug for anticoagulation (thinning the blood), diabetes, gout, or arthritis, do not take this product unless directed by a doctor." In addition, because bismuth-containing products cause the stools to darken in color and cause a temporary darkening of the tongue (Refs. 12, 13, and 14), the agency will also consider requiring that the following statement be included in the labeling of all products containing bismuth subsalicylate: "This product may cause the stool to darken or cause a temporary darkening of the tongue."

[1] Industry has responded to FDA's concern regarding the need for additional data and is in the process of conducting additional studies (Comment No. PR0002, Docket No. 78N–036D, Dockets Management Branch).

References

(1) Comment No. C00062, Docket No. 78N–036D, Dockets Management Branch.

(2) Comment No. C00074, Docket No. 78N–036D, Dockets Management Branch.

(3) Comment No. 0B062A, Docket No. 78N–036D, Dockets Management Branch.

(4) Letter from W.E. Gilbertson, FDA to S. Mercurio, Norwich Eaton Pharmaceuticals, LET003, Docket No. 78N–036D, Dockets Management Branch.

(5) Letter from W.E. Gilbertson, FDA to W.E. Cooley, Proctor and Gamble Co., LET008, Docket No. 78N–036D, Dockets Management Branch.

(6) Comment No. MM0005, Docket No. 78N–036D, Dockets Management Branch.

(7) Letter from W.E. Gilbertson, FDA to W.E. Cooley, Proctor and Gamble Co., LET009, Docket No. 78N–036D, Dockets Management Branch.

(8) Feldman, S., et al., "Absorption of Salicylate from a Bismuth Subsalicylate Antidiarrheal Preparation (Pepto-Bismol)," *Clinical Pharmacology and Therapeutics*, 27:252, 1980.

(9) Feldman, et al., "Salicylate Absorption From a Bismuth Subsalicylate Preparation," *Clinical Pharmacology and Therapeutics*, 29:788–792, 1981.

(10) Anonymous, "Salicylate in Pepto-Bismol," *The Medical Letter on Drugs and Therapeutics*, 22:83, 1980.

(11) Pickering, L.K., et al., "Absorption of Salicylate and Bismuth from a Bismuth Subsalicylate-Containing Compound (Pepto-Bismol)," *The Journal of Pediatrics*, 99:654–656, 1981.

(12) Bank, S., et al., "Gastro-Intestinal and Hepatic Diseases," *in* "Drug Treatment, Principles and Practice of Clinical Pharmacology and Therapeutics," 2nd Ed., edited by G.S. Avery, Adis Press, New York, pp. 703 and 1248, 1980.

(13) Weiss, G., and W.J. Serfontein, "The Efficacy of a Bismuth-Protein-Complex Compound in the Treatment of Gastric and Duodenal Ulcers," *South African Medical Journal*, 45:467–470, 1971.

(14) Sollmann, T., "A Manual of Pharmacology and Its Applications to Therapeutics and Toxicology," W.B. Saunders Co., Philadelphia, 1957.

18. One comment suggested that the entire paragraph dealing with bismuth subsalicylate labeling claims (40 FR 12931) should be stricken from the Panel's report because the Panel confused the use of a single ingredient for multiple symptoms and the use of multiple ingredients for multiple symptoms. The comment stated that although bismuth subsalicylate is used for treating symptoms of nausea, indigestion, upset stomach, and diarrhea, it is not necessary for a patient to suffer from more than one of these symptoms concurrently for bismuth subsalicylate to be used rationally.

The agency agrees that it is not necessary for a patient to suffer concurrently from more than one of the symptoms described above in order for bismuth subsalicylate to be used rationally. However, the use of bismuth subsalicylate as an antidiarrheal is the only claim discussed in this document. Claims for the treatment of other symptoms, such as nausea, indigestion, or upset stomach, may be included in labeling if the ingredient is proven

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effective for each symptom in other rulemakings. The use of bismuth subsalicylate for the treatment of nausea was discussed in the tentative final monograph for OTC antiemetic drug products, published in the Federal Register of July 13, 1979 (44 FR 41084). Bismuth subsalicylate used for the treatment of upset stomach due to overindulgence in food and alcohol was reviewed by the Advisory Review Panel on OTC Miscellaneous Internal Drug Products, in its advance notice of proposed rulemaking published in the Federal Register of October 1, 1982 (47 FR 43540).

19. One comment stated that the Panel's classification of a product containing *Lactobacillus acidophilus* and sodium carboxymethylcellulose as a combination was in error, noting that the initial submission to the Panel did not make it clear that the sodium carboxymethylcellulose acts as a pharmaceutical necessity by coating and matrixing the lactobacillus organisms to protect them from stomach acid and to transport them to the intestine.

The agency has reviewed the submission to the Panel and notes that sodium carboxymethylcellulose was listed along with *Lactobacillus acidophilus* as an ingredient in the product. Although the label did not specifically claim sodium carboxymethylcellulose as an active ingredient, the Panel assumed it was an active ingredient and reviewed it as such. Although the comment makes it clear that the sodium carboxymethylcellulose in the product is present as a pharmaceutical necessity, the Panel recognized that sodium carboxymethylcellulose can increase the viscosity of fluids and, therefore, might be rational for inclusion in antidiarrheal drug products. However, data were insufficient to establish effectiveness of this ingredient, and the Panel classified it in Category III. The agency concurs with the Panel's conclusions. While the agency has no objection to the use of sodium carboxymethylcellulose as an inactive ingredient in antidiarrheal drug products, the products should be labeled to avoid the appearance that sodium carboxymethylcellulose is an active ingredient.

20. One comment stated that the Panel's recommended monograph is not consistent with existing regulations (21 CFR 329.20(a)(1)) that require the presence of another nonnarcotic active ingredient in OTC drug preparations containing opiates. Another comment expressed the hope that opiates would remain in Category I despite the fact that regulations do not permit OTC marketing of these ingredients as single active ingredient products.

The Panel's recommended monograph is not inconsistent with existing regulations. Section 335.10(a)(2) of that monograph cites the requirements of § 329.20(a)(1), which states that pharmaceutical preparations containing not more than 100 mg of opium per 100 mL or per 100 g may be exempt from prescription status, *provided* that such preparations contain one or more nonnarcotic active medicinal ingredients in sufficient proportion to confer upon the preparation valuable medicinal qualities other than those possessed by the narcotic drug alone. Although the Panel placed opiate ingredients in Category I (for use in combination), the data were insufficient for the Panel to classify any combination of an opiate and other active ingredients in Category I. No new data on such combinations were submittted to the FDA, and the agency concurs with the Panel's Category III classification of these combinations. Therefore, opiate ingredients are placed in Category III in this document and are not included in the tentative final monograph. However, if data are received to support any such opiate-containing combination in accordance with § 329.20(a)(1), opiates will be included in the final monograph. (See comment 22 below.)

21. One comment suggested that the requirement stated in § 329.20(a), that a narcotic-containing product also contain one or more nonnarcotic active medicinal ingredients, is not consistent with the Panel's recommended limitation of antidiarrheal combination products to two active ingredients at 40 FR 12932. The Comment proposed that § 329.20(a) be changed to read, "Provided that the preparations * * * contain one additional (but no more than one) nonnarcotic active medicinal ingredient," etc.

As discussed in comment 27 below, an antidiarrheal combination drug product may contain two or more active ingredients so long as it meets the agency's combination policy. Therefore, the inconsistency has been resolved without any need to modify § 329.20(a).

22. Two comments stated that the Panel's placement of paregoric, which contains six ingredients, in Category I as a single active ingredient is inconsistent and not in keeping with the OTC drug review concept of an ingredient by ingredient review. Citing § 329.20(a), one comment stated that an active ingredient in paregoric in addition to opium must be recognized in order for paregoric to be exempt from prescription status. However, to do so would mean placing paregoric in Category II because the other ingredient would not have been reviewed by the Panel. In addition, the comment stated that camphor should be deleted from the paregoric formula because the alternate name "camphorated tincture of opium" for paregoric implies that camphor at one time was thought to be an active ingredient in the paregoric formula. Therefore, according to the Panel, camphor cannot now be claimed as an inactive ingredient without proper documentation. Also, if camphor is considered inactive, the labeling of paregoric as "camphorated tincture of opium" would be illegal because inactive ingredients must not be emphasized or identified as active ingredients in the labeling or in the advertisement of such products.

The agency acknowledges that the Panel placed "camphorated tincture of opium" in parentheses after paregoric in its recommended monograph. However, the name "camphorated tincture of opium" has not been included in the official compendia since 1960 (USP XVI), and "paregoric" is the official compendial name. Therefore, "camphorated tincture of opium" as an alternate name for paregoric is not allowed, and the comment's argument regarding emphasizing an inactive ingredient in the labeling is moot.

Paregoric is an official article in the USP XXI and is a formulation of six ingredients—powdered opium, anise oil, benzoic acid, camphor, diluted alcohol, and glycerin (Ref. 1). However, only the powered opium is considered to be active as an antidiarrheal. Although the other ingredients when combined with powdered opium constitute what is recognized as paregoric, they do not contribute to the antidiarrheal effect of the product and are considered to be inactive ingredients. Therefore, paregoric is considered to be a single active ingredient formulation and when used alone is a prescription item (See 37 FR 6734; April 4, 1972). Although the Panel listed paregoric, tincture of opium, and powdered opium as allowable sources of opium, the Panel did not provide specific dosages for each individual preparation, but instead based the dosage on the opium component (40 FR 12943). As discussed in comment 20 above, opiate ingredients are not being included in the tentative final monograph. However, should combinations containing an opiate and other active ingredients be included in the final monograph, manufacturers may market their products in the formulation of their choice using any of the allowable sources of opium (i.e., paregoric, tincture of opium, or powdered opium) provided that the dosage is equivalent to the opium dosage provided in the monograph.

Reference

(1) "The United States Pharmacopeia XXI—National Formulary XVI," United States Pharmacopeial Convention, Inc., Rockville, MD, pp. 787–788, 1985.

D. Comments on Antidiarrheal Combinations

23. One comment submitted three new clinical studies and two literature references on the effectiveness of kaolin and pectin in fixed combination for the treatment of acute nonspecific diarrhea (Refs. 1 through 5). The comment requested reclassification of kaolin and pectin in combination from Category III to Category I for the treatment of acute nonspecific diarrhea.

After evaluating all of the available data, the agency concludes that they are insufficient to reclassify kaolin and pectin, alone or in combination, in Category I for the treatment of acute nonspecific diarrhea.

The study by Portnoy seems to indicate some possible benefit in terms of a greater number of formed stools and a smaller number of liquid stools from either the kaolin-pectin combination or pectin alone (Ref. 1). However, because no data were submitted on frequency and consistency of stools prior to accession and randomization or on admission, it is impossible to establish and assess the baseline comparability of the study groups or otherwise statistically evaluate the study.

A study of 61 outpatients in Guadalajara, Mexico, showed virtually no difference in soft-stool frequency between the kaolin-pectin combination and placebo (Ref. 2). The study had relatively few patients (61 in 7 treatment groups) and cannot provide a definitive answer on effectiveness of kaolin and pectin either alone or in combination.

The third study, the United States multicenter study, is a double-blind, randomized, placebo-controlled study of a kaolin-pectin suspension in the treatment of acute nonspecific diarrhea (Ref. 3). The study showed a marginal increase in the frequency of formed stools and improved consistency of stools with the kaolin-pectin suspension compared to placebo, but showed no effect for these ingredients on overall stool frequency. In addition, the study failed to evaluate the ingredients kaolin and pectin separately; therefore, the study cannot be used to demonstrate that each ingredient makes a contribution to the claimed effect of the product.

The two literature references (Refs. 4 and 5) mentioned the use of the kaolin-pectin combination among other ingredients in the treatment of diarrhea, but they contained no specific information that would establish the effectiveness of the combination.

The agency's detailed comments and evaluations on the data are on file with the Dockets Management Branch (Ref. 6).[2]

References

(1) Portnoy, B.L. et al., "Antidiarrheal Agents in the Treatment of Acute Diarrhea in Children," *Journal of the American Medical Association*, 236:844–846, 1976.

(2) DuPont, H.L., "Comparison of the Effectiveness of Kaopectate Concentrate, Kaolin, Pectin, Lomotil® and Placebo in the Treatment of Non-Specific Diarrhea," unpublished study in Comment No. OB0064, Docket No. 78N–036D, Dockets Management Branch.

(3) Study #295 and 295A in Comment OBOO64, RPT, SUP004, and AMD004, Docket No. 78N–036D, Dockets Management Branch.

(4) DuPont, H.L., "Enterpathogenic Organisms—New Etiologic Agents and Concepts of Disease," *Medical Clinics of North America*, 62:945–960, 1978.

(5) DuPont, H.L., "Interventions in Diarrheas of Infants and Young Children," *Journal of the American Veterinary Medical Association*, 173:849–853, 1978.

(6) Letter from W.E. Gilbertson, FDA, to G.H. Ishler, The Upjohn Company, ANS LET002, Docket No. 78N–036D, Dockets Management Branch.

24. One comment requested reclassification of pectin as an antidiarrheal adjunct in a product in which it is used in combination with tincture of opium, which the Panel recommended as a Category I active ingredient. The comment contended that even though the Panel concluded that the effectiveness data are insufficient to classify pectin and a Category I antidiarrheal, it is a useful adjunct which used in combination with an ingredient such as tincure of opium. The comment cited a number of literature articles in support of its request (Ref. 1).

The General Guidelines of OTC Drug Combination Products (Ref. 2) state that an ingredient claimed to be a pharmacological adjuvant will be considered an active ingredient, and that such an ingredient may be included in addition to one or more principal active ingredients only if it meets the combination policy in all respects. None of the articles offers data to demonstrate that pectin makes a contribution to the product, a requirement of the OTC drug combination policy as specified in § 330.10(a)(4)(iv). Therefore, the combination will remain in Category III.

[2] Industry has responded to FDA's concern regarding the need for additional data and is in the process of conducting additional studies (Comment No. LET008, Docket No. 78N–036D, Dockets Management Branch).

References

(1) Comment No. C00039, Docket No. 78N–036D, Dockets Management Branch.

(2) Food and Drug Administration, "General Guidelines for OTC Drug Combination Products," September 1976, Docket No. 78D–0322, Dockets Management Branch.

25. Two comments suggested that morphine and codeine be considered as ingredients in Category I combination antidiarrheal drug products. One comment pointed out that the antidiarrheal action of opium is attributable to its morphine content and that the other ingredients in opium contribute insignificantly to any therapeutic effect. The second comment noted that, similar to morphine, codeine exhibits inhibitive effects on the small intestine and colon, but with fewer side effects (Ref. 1). The comment suggested that an antidiarrheal drug product combining codeine with another active ingredient, possibly kaolin, would be effective and safe for OTC use.

The agency is aware of the constipating effects of both morphine and codeine. However, no data on any drug product used for the treatment of acute, nonspecific diarrhea, containing either morphine or codeine, have been submitted to the Panel or the agency for review. Therefore, neither morphine nor codeine is included in the monograph at this time.

Reference

(1) Miller, J.W., and H.H. Anderson, "The Effect of N-Demethylation on Certain Pharmacologic Actions of Morphine, Codeine, and Meperidine in the Mouse," *Journal of Pharmacology and Experimental Therapeutics*, 112:191–198, 1954.

26. Two comments requested that a combination of polycarbophil and powdered opium, USP be classified in Category I. The comments pointed out that, although both ingredients were recommended as Category I as single ingredients, the Panel did not make any provision for combining them. The comments stated that such a combination is therapeutically rational because the powdered opium acts to inhibit the motility of the intestine and through this action prolongs the transit time of polycarbophil; the prolonged transit time would allow the polycarbophil to exert its maximum hydrosorptive effect.

The agency's General Guidelines for OTC Drug Combination Products (Ref. 1)

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permit combining two Category I active ingredients from the same therapeutic category that have different mechanisms of action if the combination meets the OTC combination policy in all respects and the combination is on a benefit-risk basis equal to or better than each of the active ingredients used alone at its therapeutic dose. However, no data to support the comment's rationale for the combination of polycarbophil and powdered opium, USP have been submitted to the Panel or to the agency. Data demonstrating the combination to be generally recognized as safe and effective must be submitted in order for it to be included in the monograph.

Reference

(1) "Food and Drug Administration General Guidelines for OTC Drug Combination Products," September 1978, Docket No. 78D-0322, Dockets Management Branch.

27. Several comments objected to the Panel's Category II classification of all combination products containing more than two active ingredients. The comments contended that the Panel presented no scientific data to support limiting a product to two active ingredients. Others objected to this limit as being unnecessarily restrictive, arbitrary, and not in agreement with the OTC combination policy set forth in § 330.10(a)(4)(iv). One comment urged that combination products that contain more than two active ingredients, but do not contain a Category II ingredient, be reclassified as Category III so that they might be tested for safety and effectiveness.

The agency agrees with the comments that a fixed limit need not be set on the number of active ingredients an antidiarrheal drug product may contain. However, adequate justification must be presented for the inclusion of each active ingredient in a combination product. Both the General Guidelines for OTC Drug Combination Products (Ref. 1) and the regulations at § 330.10(a)(4)(iv) provide that an OTC drug product may combine two or more safe and effective active ingredients provided the product meets the combination policy in all respects.

Three of the combinations that the Panel placed in Category II are combinations of three active ingredients. Each of the ingredients was placed by the Panel in Category I or Category III as a single ingredient. The combinations are activated attapulgite, pectin, and hydrated alumina powder; kaolin, hydrated alumina powder, and pectin; and paregoric, pectin, and kaolin. The Panel determined that the ingredients in these products are safe, but concluded that adequate data were lacking to establish their effectiveness. The agency believes it reasonable to move these three combination products, which contain no Category II ingredients, from Category II to Category III. The revised procedures for classifying OTC drugs, published in the Federal Register of September 29, 1981 (46 FR 47730), provide for the submission of new data and information for up to 12 months after publication of a tentative final monograph to support any condition excluded from the proposal.

Reference

(1) Food and Drug Administration, "General Guidelines for OTC Drug Combination Products," September 1978 Docket No. 78D-0322, Dockets Management Branch.

28. One comment noted that, although the Panel's report discussed criteria for antidiarrheal combinations, no provision was made in the recommended monograph for antidiarrheal combinations. The comment recommended that a new subsection for combinations of active antidiarrheal ingredients be established in the monograph.

The intended purpose of an OTC drug monograph is to set forth those specific conditions under which drugs that are subject to the monograph are generally recognized as safe and effective for OTC use and not misbranded. The Panel did not include any antidiarrheal combinations in its monograph because the data were insufficient for any of the combinations that were reviewed to be generally recognized as safe and effective. At this time, the agency concurs with the Panel's decision. Should data establishing the safety and effectiveness of any antidiarrheal combination be received in the comment and new data periods following publication of this tentative final monograph, the agency will state the conditions for such combination product(s) in the final monograph.

E. Comments on Data Pertinent to Antidiarrheal Ingredient Evaluation

29. Several comments objected to the Panel's recommended testing guidelines at 40 FR 12933 for establishing the safety and effectiveness of antidiarrheal ingredients. The comments contended that the testing guidelines do not provide adequate time to complete the required testing; the guidelines for antidiarrheals were apparently taken virtually verbatim from a similar provision for laxatives appearing elsewhere in the panel's report, and there is no basis for this apparent incorporation by reference; the guidelines do not adequately describe what test should be conducted or which data should be developed in order to move Category III ingredients to Category I; under the guidelines, manufacturers would not be allowed to use other well-controlled and well-designed studies to obtain necessary data; and many of the testing procedures listed in the guidelines require long-term use of antidiarrheal drug products to obtain the complete data required, thus contradicting the Panel's warning against use of antidiarrheal drug products for more than 2 days.

The agency has not addressed specific testing guidelines in this document. In revising the OTC drug review procedures relating to Category III, published in the Federal Register of September 29, 1981 (46 FR 47730), the agency advised that tentative final and final monographs will not include recommended testing guidelines for conditions that industry wishes to upgrade to monograph status. Instead, the agency will meet with industry representatives at their request to discuss testing protocols. The revised prodecures also state the time in which test data must be submitted for consideration in developing the final monograph. (See also part II. paragraph A. 2. below—*Testing of Category II and Category III conditions.*)

II. The Agency's Tentative Adoption of the Panel's Report

A. Summary of Ingredient Categories and Testing of Category II and Category III Conditions

1. *Summary of ingredient categories.* The agency has reviewed all claimed active ingredients submitted to the Panel, as well as other data and information available at this time, and has proposed the recategorization of attapulgite from Category III to Category I and opiate ingredients (in combination) from Category I and Category III for use as OTC antidiarrheal active ingredients. As a convenience to the reader, the following list is included as a summary of the categorization of antidiarrheal active ingredients recommended by the Panel and the proposed categorization by the agency.

Antidiarrheal active ingredients	Panel	Agency
Alumina powder, hydrated	III	III
Atropine sulfate	III	III
Attapulgite, activated	III	I
Bismuth subnitrate	III	III
Bismuth subsalicylate	III	III
Calcium carbonate precipitated	III	III
Calcium hydroxide	III	III
Calcium polycarbophil	NLC[1]	I
Charcoal, activated	III	III
Glycine [2]	II	II
Homatropine methylbromide	III	III
Hyoscyamine sulfate	III	III
Kaolin	III	III
Lactobacillus acidophilus	III	III
Lactobacillus bulgaricus	III	III
Opiate ingredients (for use in combination):		
Opium powder	I	III
Opium, tincture of	I	III
Paregoric	I	III
Pectin	III	III
Phenyl salicylate (salol)	III	III
Polycarbophil	I	I
Potassium carbonate	II	II
Rhubarb fluidextract	II	II
Scopolamine hydrobromide	II	II
Sodium carboxymethylcellulose	III	III
Zinc phenolsulfonate	III	III

[1] Not classified by Panel.
[2] Although "aminoacetic acid" was the name designated by the Panel for this ingredient, "glycine" is the official title for this ingredient in the "USAN and the USP dictionary of drug names, 1985."

2. Testing of Category II and Category III conditions. The agency's position regarding the Panel's testing guidelines is discussed in comment 29 above. Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any antidiarrheal ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the Federal Register of September 29, 1981 (46 FR 47740) and clarified April 1, 1983 (48 FR 14050). That policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

B. Summary of the Agency's Changes in the Panel's Recommendations

FDA has considered the comments and other relevant information and concludes that it will tentatively adopt the Panel's report and recommended monograph with the changes described in FDA's responses to the comments above and with other changes described in the summary below. A summary of the changes made by the agency follows.

1. Because of the number of changes that have been made, as summarized below, many of the section and paragraph numbers have been redesignated in this tentative final monograph. In addition, Subpart D has been redesignated as Subpart C, and the labeling sections are placed under Subpart C.

2. The following changes have been made to conform to the format and Content of other recent OTC drug tentative final monographs:

a. A "statement of identity" section has been added and identifies the product as an antidiarrheal.

b. The dosage information for each active ingredient has been moved to the directions section for the respective antidiarrheal ingredient.

c. In an effort to simplify OTC drug labeling, the agency proposed in a number of tentative final monographs to substitute the word "doctor" for "physician" in OTC drug monographs on the basis that the word "doctor" is more commonly used and better understood by consumers. Based on comments received to these proposals, the agency has determined that final monographs and any applicable OTC drug regulation will give manufacturers the option of using either the word "physician" or the word "doctor." This tentative final monograph proposes that option.

3. The definitions for antidiarrheal and diarrhea have been revised. (See comment 7 above.)

4. The phrase "high fever" has been replaced with the word "fever" in the general warning for OTC antidiarrheals in § 335.50(c)(1). (See comment 8 above.)

5. The agency recognized that not all OTC antidiarrheals have the same effect and believes that consumers should be aware of the intended results from the use of the products. The agency has proposed expanded indications for use in the tentative final monograph accordingly. (See comment 10 above.)

6. The pediatric dosage for children 3 years of age and under for polycarbophil is proposed in the tentative final monograph under professional labeling only. (See comment 11 above.)

7. The agency has reclassified activated attapulgite from Category III to Category I. (See comment 15 above.)

8. Should bismuth subsalicylate be included in the final monograph, the agency will consider proposing that the directions for use be revised and additional warnings be included in the labeling. (See comment 17 above.)

9. In accordance with § 329.20(a)(1) opiate ingredients may be marketed for OTC use in combination only. Because no data have been submitted to support combinations of opiates and other active ingredients, opiates will not be included in the tentative final monograph. (See comment 20 above.)

10. The Panel recommended in its report that Category I antidiarrheal combination drug products be limited to two Category I active ingredients. The agency has determined that an OTC antidiarrheal drug product may combine two or more safe and effective active ingredients in accordance with the provisions set forth in § 330.10(a)(4)(iv) and the agency's General Guidelines for OTC Drug Combination Products. (See comment 27 above.)

11. The agency has revised the dosage for polycarbophil in the monograph to reflect the dosage used in studies submitted for evaluation. This dosage is also the same as that currently promoted on marketed products.

12. The sodium, potassium, and magnesium warnings have been deleted from the monograph because none of the active antidiarrheal drugs in the monograph contain these ingredients.

The agency proposes to revoke the existing warning statement in § 369.20 for diarrhea preparations at the time that this monograph becomes effective.

The agency has examined the economic consequences of this proposed rulemaking in conjunction with other rules resulting from the OTC drug review. In a notice in the Federal Register of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that not one of these rules, including this proposed rule for OTC antidiarrheal drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Public Law 96-354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC antidiarrheal drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC antidiarrheal drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC antidiarrheal drug products should be accompanied by appropriate documentation. Because the agency has not previously invited specific comment on the economic impact of the OTC drug review on antidiarrheal drug products, a period of

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120 days from the date of publication of this proposed rulemaking in the Federal Register will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has determined that under 21 CFR 25.24(c)(6) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Exclusivity of Labeling

In the Federal Register of April 22, 1985 (50 FR 15810) the agency proposed to change its "exclusivity" policy for the labeling of OTC drug products that has existed during the course of the OTC drug review. Under this policy, the agency has maintained that the terms that may be used in an OTC drug product's labeling are limited to those terms included in a final OTC drug monograph.

The proposed rule would establish three alternatives for stating the indications for use in OTC drug labeling while all other aspects of OTC drug labeling (i.e., statement of identity, warnings, and directions for use) would continue to be subject to the existing exclusivity policy. The proposed rule for OTC antidiarrheal drug products included in this document incorporates the exclusivity proposal by providing for the use of other truthful or nonmisleading statements in the product's labeling to describe the indications for use. After considering all comments submitted on the proposed revision to the exclusivity policy, the agency will announce its final decision on this matter in a future issue of the Federal Register. The final rule for OTC antidiarrheal drug products will incorporate the final decision on exclusivity of labeling.

Interested persons may, on or before June 30, 1986, submit to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before August 28, 1986. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the Federal Register.

Interested persons, on or before April 30, 1987, may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may be submitted on or before June 30, 1987. These dates are consistent with the time and periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the Federal Register of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA–305) (address above). Received data and comments may also be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on June 30, 1987. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the Federal Register, unless the Commissioner finds good cause has been shown that warrants earlier consideration.

List of Subjects

21 CFR Part 335

Over-the-counter drugs, Antidiarrheal drug products.

21 CFR Part 369

Over-the-counter drugs, Warning and caution statements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act and under 21 CFR 5.11, it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended as follows:

PART 335—ANTIDIARRHEAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. By adding new Part 335, to read as follows:

Subpart A—General Provisions

Sec.
335.1 Scope.
335.3 Definitions.

Subpart B—Active Ingredients

335.10 Antidiarrheal active ingredients.

Subpart C—Labeling

335.50 Labeling of antidiarrheal drug products.
335.80 Professional labeling.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.11.

Subpart A—General Provisions

§ 335.1 Scope.

(a) An over-the-counter antidiarrheal drug product in a form suitable for oral administration is generally recognized as safe and effective and is not misbranded if it meets each condition in this part and each general condition established in § 330.1.

(b) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

§ 335.3 Definitions.

As used in this part:

(a) *Antidiarrheal.* A drug that can be shown by objective measurement to treat or control (stop) the symptoms of diarrhea.

(b) *Diarrhea.* A condition characterized by increased frequency of excretion of loose, watery stools (three or more daily) during a limited period (24 to 48 hours), usually with no identifiable cause.

Subpart B—Active Ingredients

§ 335.10 Antidiarrheal active ingredients.

The active ingredient of the product consists of any of the following when used within the dosage limits established for each ingredient in § 335.50(d):

(a) Attapulgite, activated.
(b) Calcium polycarbophil.
(c) Polycarbophil.

Subpart C—Labeling

§ 335.50 Labeling of antidiarrheal drug products.

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the products as an "antidiarrheal."

(b) *Indications.* The labeling of the product states, under the heading "Indications," any of the phrases listed in this paragraph, as appropriate. Other truthful and nonmisleading statements, describing only the indications for use that have been established and listed below, may also be used, as provided in § 330.1(c)(2), subject to the provisions of section 502 of the act relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

(1) *For products containing attapulgite, activated, identified in § 335.10(a).* (i) "Reduces the number of bowel movements in diarrhea."

(ii) "Improves consistency of loose, watery bowel movements in diarrhea."

(iii) "Relieves cramps in diarrhea." This indication is permitted only in addition to one or both of the indications identified in § 335.50(b)(1)(i) or (ii).

(2) *For products containing calcium polycarbophil or polycarbophil identified in § 335.10 (b) or (c).* (i) "Reduces the number of bowel movements in diarrhea."

(ii) "Improves consistency of loose, watery bowel movements in diarrhea."

(c) *Warnings.* The labeling of the product contains the following warnings under the heading "Warnings:" "Do not use for more than 2 days, or in the presence of fever, or in children under 3 years of age unless directed by a doctor."

(d) *Directions.* The labeling of the product contains the following information under the heading "Directions":

(1) *For products containing attapulgite, activated identified in § 335.10(a).* Adults and children 12 years of age and over: oral dosage is 1,200 milligrams after initial bowel movement, 1,200 milligrams after each subsequent bowel movement, not to exceed 8,400 milligrams in 24 hours. Children 6 to under 12 years of age: oral dosage is 600 milligrams after initial bowel movement, 600 milligrams after each subsequent bowel movement, not to exceed 4,200 milligrams in 24 hours. Children 3 to under 6 years of age: oral dosage is 300 milligrams after initial bowel movement, 300 milligrams after each subsequent bowel movement, not to exceed 2,100 milligrams in 24 hours. Children under 3 years of age: consult a doctor.

(2) *For products containing calcium polycarbophil or polycarbophil identified in § 335.10 (b) or (c).* Dosages are based on the polycarbophil equivalent. Adults and children 12 years of age and over: oral daily dosage is 1 gram 4 times a day or 2 grams 3 times a day or as needed, not to exceed 6 grams in 24 hours. Children 6 to under 12 years of age: oral daily dosage is 0.5 to 1 gram 3 times a day or as needed, not to exceed 3 grams in 24 hours. Children 3 to under 6 years of age: oral daily dosage is 0.33 to 0.5 grams 3 times a day or as needed, not to exceed 1.5 grams in 24 hours. Children under 3 years of age: consult a doctor.

(e) The word "physician" may be subatituted for the word "doctor" in any of the labeling statements in this section.

§ 335.80 Professional labeling.

The labeling provided to health professionals (but not to the general public) may contain the following additional dosage information for products containing the active ingredient identified below:

For products containing calcium polycarbophil or polycarbophil identified in § 335.10 (b) or (c). Dosages are based on the polycarbophil equivalent. Children under 3 years of age: oral daily dosage is 166.6 milligrams to 333.3 milligrams 3 times a day or as needed, not to exceed 1 gram in 24 hours.

PART 369—INTERPRETIVE STATEMENTS RE WARNINGS ON DRUGS AND DEVICES FOR OVER-THE-COUNTER SALE

2. The authority citation for Part 369 continues to read as follows:

Authority: Secs. 502, 503, 506, 507, 701, 52 Stat. 1050 as amended, 1052 as amended, 53 Stat. 854, 55 Stat. 851, 59 Stat. 463 as amended, 52 Stat. 1055 as amended (21 U.S.C. 352, 353, 356, 357, 371); 21 CFR 5.11.

3. In § 369.20 *Drugs; recommended warning and caution statements,* by removing the entry for "Diarrhea Preparations."

Frank E. Young,
Commissioner of Food and Drugs.

Dated: April 1, 1986.

Otis R. Bowen,
Secretary of Health and Human Services.

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Part III

Department of Agriculture

Cooperative State Research Service

7 CFR Part 3401

Rangeland Research Grants Program; Administrative Provisions; Final Rule

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DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

7 CFR Part 3401

Rangeland Research Grants Program; Administrative Provisions

AGENCY: Cooperative State Research Service, USDA.

ACTION: Final rule.

SUMMARY: This document establishes Part 3401 of Title 7, Subtitle B, Chapter XXXIV of the Code of Federal Regulations, for the purpose of administering the Rangeland Research Grants Program conducted under authority of Section 1480 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3333). The issuance of this rule establishes the procedures to be followed annually in the solicitation of research grant proposals, the evaluation of such proposals, and the award of research grants under this program.

EFFECTIVE DATE: April 30, 1986.

FOR FURTHER INFORMATION CONTACT: Terry J. Pacovsky, Chief, Grants Administrative Management, Office of Grants and Program Systems, U.S. Department of Agriculture, Room 112, Justin Smith Morrill Building, 15th and Independence Avenue, SW., Washington, DC 20251. (Telephone: (202) 475-5024.)

SUPPLEMENTARY INFORMATION:

Paperwork Reduction

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this rule has been approved under OMB Document No. 0525-0001.

Classification

This rule has been reviewed under Executive Order 12291, and it has been determined that it is not a major rule because it does not involve a substantial or major impact on the Nation's economy or on large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individual industries, Federal, State, or local governmental agencies, or geographic regions. It will not have a significant economic impact on competitive employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, it will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96-534 (5 U.S.C. 601).

Regulatory Analysis

Not required for this rulemaking.

Environmental Impact Statement

This regulation does not significantly affect the environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Catalog of Federal Domestic Assistance

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.200. For the reasons set forth in the Final rule related Notice to 7 CFR Part 3015, Subpart V, 48 FR 29115, June 24, 1983, this program/activity is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Background and Purpose

Under the authority of section 1480 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended, (7 U.S.C. 3333), the Secretary of Agriculture is authorized to make grants to land-grant colleges and universities, State agricultural experiment stations, and colleges, universities, and Federal laboratories having a demonstrable capacity in rangeland research.

This rule establishes Part 3401 of Title 7, Subtitle B, Chapter XXXIV of the Code of Federal Regulations, for the purpose of administering the Rangeland Research Grants Program.

On February 25, 1986, the Department published a Notice in the Federal Register (51 FR 6700) proposing the establishment of this regulation and inviting comments from interested individuals and organizations. Comments were requested by March 27, 1986. No comments were received.

Change

The Department changed section 3401.5, "Indirect Costs and Tuition Remission Costs," to make the rule consistent with the statutory language. This section as revised clarifies the fact that while the law expressly prohibits the payment of indirect costs and tuition remission costs to "State cooperative institutions" such restriction does not apply to Federal laboratories.

List of Subjects in 7 CFR Part 3401

Grant programs—agriculture, Grant administration.

The Department therefore amends Title 7, Subtitle B, Chapter XXXIV of the Code of Federal Regulations by adding Part 3401 to read as follows:

CHAPTER XXXIV—COOPERATIVE STATE RESEARCH SERVICE, DEPARTMENT OF AGRICULTURE

PART 3401—RANGELAND RESEARCH GRANTS PROGRAM

Sec.

3401.1 Applicability of regulations.
3401.2 General regulations.
3401.3 Eligibility requirements.
3401.4 Matching fund requirement.
3401.5 Indirect costs and tuition remission costs.

Authority: Sec. 1470 of the National Agricultural Research, Extension and Teaching Policy Act of 1977 (7 U.S.C. 3316).

§ 3401.1 Applicability of regulations.

(a) The regulations of this part apply to rangeland research grants awarded under the provisions of section 1480 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3333) to land-grant colleges and universities, State agricultural experiment stations, and colleges, universities, and Federal laboratories having a demonstrable capacity in rangeland research. The Secretary, or his or her designee, shall determine and announce, through publication of a Notice in the Federal Register each year, research program areas for which proposals will be solicited to the extent that funds are available.

(b) The regulations of this part do not apply to research grants awarded under any other authorization.

§3401.2 General regulations.

For purposes of this part, the provisions found at Part 3400 of this chapter, excluding the provisions listed in paragraphs (a) through (g) of this section, are applicable to the administration of this research program.

(a) Section 3400.1.

(b) Paragraph 3400.3(a).

(c) The last sentence of paragraph 3400.4(c)(11).

(d) The parenthetical phrase in the last sentence of paragraph 3400.7(c).

(e) Paragraph 3400.7(d)(1).

(f) Paragraph 3400.7(d)(2).

(g) Paragraph 3400.7(d)(3).

§3401.3 Eligibility requirements.

Except where otherwise prohibited by law, any land-grant college and university, State agricultural experiment station, and college, university, and Federal laboratory having a demonstrable capacity in rangeland research shall be eligible to apply for and receive a project grant under this

part, provided that the applicant qualifies as a responsible grantee under the criteria set forth in § 3400.3(b).

§ 3401.4 Matching fund requirement.

In accordance with section 1480 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3333), except in the case of Federal laboratories, each grant recipient must match the Federal funds expended on a research project based on a formula of 50 percent Federal and 50 percent non-Federal funding.

§3401.5 Indirect costs and tuition remission costs.

Pursuant to section 1473 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3319), funds made available under this program to recipients other than Federal laboratories shall not be subject to reduction for indirect costs or for tuition remission. Indirect costs and tuition remission costs, except in the case of Federal laboratories, are not allowable costs for purposes of this program.

Done at Washington, DC, this 24th day of April 1986.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

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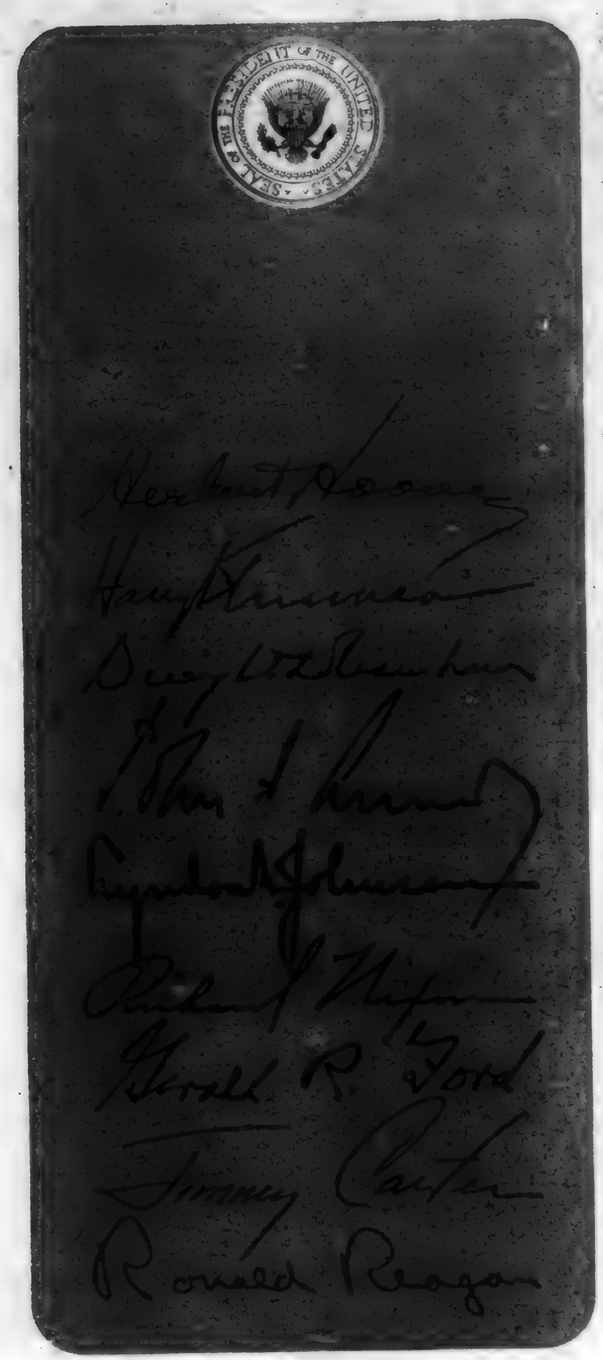
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3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: May 15; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Laurence Davey, 202-523-3517

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Rules and Regulations

Federal Register
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Thursday, May 1, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 246

Selected Provision of the Food Package Regulations for the Special Supplemental Food Program for Women, Infants and Children (WIC Program)

Correction

In FR Doc. 86-8723, beginning on page 13207, in the issue of Friday, April 18, 1986, make the following correction.

1. On page 13207, first column, in the summary seventeenth line, "VI" should read "IV", in the twentieth line "IV" should read "VI", and in the twenty-seventh line after "forth" insert "in".
2. On the same page, third column, first line, "in" should read "on".
3. On page 13208, first column, fifth line, "Program" should read "Programs".
4. On the same page, first column, § 246.10(c)(4)(i), fifth line, after "pasteurized" insert "fluid".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-19-AD; Amdt. 39-5297]

Airworthiness Directives; Boeing Model 747 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective to all known U.S. owners and operators of certain Boeing Model 747 airplanes by individual telegrams. The AD requires repetitive inspections of the external fuselage skin for cracks adjacent to stringers 23 and 24A, between body station 240 and 400, and requires repetitive inspections of body frame structure in certain areas in the forward fuselage section. Failure of the skin and adjacent frames could result in depressurization of the fuselage.

DATES: Effective May 19, 1986. As to all persons except those persons to whom it was made immediately effective by telegraphic AD T86-03-51, issued February 16, 1986, which contained this amendment. Compliance as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Schrader, Airframe Branch, ANM-120S; telephone (206) 431-2923. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On January 31, 1986, the FAA issued Telegraphic AD T86-02-53 which requires repetitive inspections of the external fuselage skin for cracks adjacent to stringers 23 and 24A, on both the left and right side of the airplane, between body station 240 and 400, on airplanes which have accumulated 10,000 or more landings. The AD was prompted by the discovery of cracking of three adjacent frames on one airplane. This was an interim action pending development of further nondestructive inspection techniques. To date, the inspections have revealed no skin cracks. However, since issuance of AD T86-02-53, there were additional reports of cracked body frames in the nose section on twelve airplanes as a result of internal inspections of this area. These findings indicated that additional action was necessary to prevent possible cabin decompression.

The Boeing Company issued Service Bulletin 747-53A2265, dated February 14, 1986, that describes the specific inspection procedures to be used to inspect body frame structure and skin for cracking between stringer 34L up over the crown to stringer 34R between body stations 200 to 520.

On February 16, 1986, the FAA issued telegraphic AD T86-03-51, which superseded AD 86-02-53, and requires additional inspections of Boeing Model 747 series airplanes in accordance with Boeing Service Bulletin 747-53A2265.

Information collection requirements contained in this regulation have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned OMB Control Number 2120-0056.

Since it was found that immediately corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual telegrams issued February 16, 1986, to all known U.S. owners and operators of certain Boeing Model 747 airplanes. These conditions still exist and the AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

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Adoption of Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes, certificated in any category. To detect body structure cracking in the nose section that could lead to decompression, accomplish the following, unless already accomplished:

A. For airplanes that have accumulated 14,000 landings or more, within 25 landings after receipt of this AD perform an external close visual inspection of the fuselage skin lap splice at stringer 23 and the fuselage skin along stringer 24A between body stations 240 and 400 on both the left and right side of the fuselage. Repeat the inspections thereafter at intervals not to exceed 60 landings until inspected in accordance with paragraph D. or E., below.

Note: Per MSG-3, definition of close visual (detailed) inspection method: Close intensive visual inspections of highly defined structural details or locations searching for evidence of structural irregularity. Adequate lighting and, where necessary, inspection aids such as mirrors, etc., surface cleaning and access procedures may be required to gain proximity.

B. For airplanes that have accumulated 10,000 landings but less than 14,000 landings, within 50 landings after the receipt of this AD, perform an external close visual inspection of the fuselage skin lap splice at stringer 23 and the fuselage skin along stringer 24A between body station 240 and 400 on both the left and right side of the fuselage. Repeat the inspections thereafter at intervals not to exceed 120 landings until inspected in accordance with paragraph D. or E., below.

C. If, as a result of the inspections required in paragraphs A. and B., above, the fuselage skin is found cracked, a visual inspection for cracks of the frames from stringer 20 to stringer 28 from fuselage station 240 and 440 on both sides of the airplane must be made before further flight.

D. For airplanes, line numbers 86 through 603, perform a visual or X-ray inspection for cracking of the body structure and skins in the following areas: on the main deck between body stations 240 and 400 from the window belt to the floor, both left and right; between body stations 200 and 240 from stringer 13A to 14E; and at the body station 360 frame web at stringer 3L; in accordance with Boeing Service Bulletin 747-53A2285, dated February 14, 1986, or later FAA-approved revisions, in accordance with the following schedule:

1. On airplanes that have accumulated more than 14,000 landings as of the receipt of this AD, inspect within 100 landings after the receipt of this AD.

2. On airplanes that have accumulated 12,000 to 14,000 landings as of the receipt of this AD, inspect within 200 landings after the receipt of this AD.

3. On airplanes that have accumulated fewer than 12,000 landings as of the receipt of this AD, inspect within 14,000 landings after the receipt of this AD, or prior to the accumulation of 10,000 landings, whichever occurs later.

E. For airplanes, line numbers 1 through 87, perform a visual or X-ray inspection for cracking of the body structure and skins from body station 360 through 380 from stringer 23 to the main deck floor, in accordance with Boeing Service Bulletin 747-53A2285, dated February 14, 1986, or later FAA-approved revisions, in accordance with the schedule described in paragraph D., above.

F. Repeat the inspections required by paragraphs D. and E., above, at the following intervals:

1. If the immediately prior inspection was accomplished using visual methods, perform the next inspection within the next 3,000 landings.

2. If the immediately prior inspection was accomplished using X-ray methods, perform the next inspection within the next 1,500 landings.

G. If any cracking is found, repair prior to further flight in accordance with FAA-approved procedures, unless the provisions of Section III, Paragraph G., of Boeing Service Bulletin 747-53A2285, dated February 14, 1986, are met.

H. For the purpose of complying with this AD, the number of landings may be determined to equal the number of pressurization cycles where the cabin pressure was greater than 2.0 PSI.

I. Upon request of an operator, an assigned FAA Principal Maintenance Inspector, subject to prior approval of the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the inspection time in this AD to permit compliance at an established inspection period of that operator, if the request contains substantiating data to justify the change for that operator.

J. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

K. Aircraft may be ferried unpressurized to a base for maintenance in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations.

L. Report a complete description of the findings of each inspection required by paragraphs D. and E., above, within 48 hours after that inspection to: The Boeing Commercial Airplane Company, Attention: Director, 747 Customer Support Engineering, P.O. Box 3707, Seattle, Washington, 98124-2207.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This document may also be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective May 19, 1986. As to all persons, except those persons to whom it was made immediately effective by telegraphic AD T86-03-51, dated January 31, 1986.

This supersedes telegraphic AD T86-02-53, dated January 31, 1986.

Issued in Seattle, Washington, on April 23, 1986.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-9704 Filed 4-30-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-42-AD; Amdt. 39-5296]

Airworthiness Directives; Gates Learjet Model 55 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This action amends an existing airworthiness directive (AD) which currently applies to Gates Learjet Model 55 airplanes, except for those on which certain specified modifications have been accomplished. The existing AD requires increasing the minimum landing distances by inserting revised information in the Airplane Flight Manual (AFM) and provides for certain modifications which constitute terminating action for the landing distance increases. Modifications referenced as an exception in the existing AD have been determined to create an unsafe condition for airplanes on which thrust reversers have been installed. This revision to the AD expands the applicability of the existing AD to require those airplanes previously excepted to accomplish a modification. The FAA has determined that those incorrect modifications installed on airplanes equipped with thrust reversers may have the effect of shutting off anti-ice bleed air during flight if a thrust reverser unlock indication is experienced. This condition, if not corrected, could result in loss of wing anti-icing capability.

DATES: Effective May 19, 1986.

Comments must be received by May 19, 1986.

ADDRESSES: Send comments in duplicate to FAA, Northwest Mountain Region, Office of the Regional Counsel, ANM-7, Attention: Airworthiness Rules Docket 86-NM-42-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from Gates Learjet Corporation, P.O. Box 7707, Wichita, Kansas 67277. This information may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at FAA, Central Region, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Bennett L. Sorensen, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4433.

SUPPLEMENTARY INFORMATION: This amendment amends AD 85-22-08, Amendment 39-5166 (50 FR 45096; October 30, 1985), as amended by Amendment 39-5223 (AD 85-22-08R1). AD 85-22-08 originally required increasing the minimum landing distances by inserting revised information in the Airplane Flight Manual (AFM), and provided for certain modifications (Gates Learjet Service Bulletin (SB) 55-27-7, Airplane Modification Kit (AMK) 55-84-7A, or Airplane Accessory Kit (AAK 55-83-4)), to constitute a final action that restores the original landing distances. After issuing the original AD, the FAA determined that these modifications (SB 55-27-7 or AMK 55-84-7A) accomplished on airplanes equipped with thrust reversers may have had the hazardous effect of shutting off anti-ice bleed air during flight if a thrust reverser unlock indication is experienced. After the problem with the thrust reverser equipped airplanes was found, Gates Learjet issued SB 55-27-7A (dated December 12, 1985) and AMK 55-84-7B (dated December 12, 1985). These modifications accomplish the intent of SB 55-27-7 and AMK 55-84-7A (the modifications called out in the original AD) without creating the incidental unsafe condition.

The original AD was amended by Amendment 39-5223 in three areas: (1) To allow the correct modification (SB 55-27-7A or AMK 55-86-7B) to be installed as a terminating action for the AD for all affected Model 55 airplanes; (2) to allow SB 55-27-7 or AMK 55-84-7A to remain as a terminating action for non-thrust reverser-equipped airplanes; and (3) to require that thrust reverser-equipped airplanes have the incorrect modification (SB 55-27-7 or AMK 55-85-7A) removed. However, the applicability statement of the amended AD should have been revised to be consistent with the provisions of the amendment. Consequently, the removal of the incorrect modification was not required for thrust reverser-equipped airplanes, and those airplanes that had the incorrect modification were inadvertently excepted in the applicability statement. This amendment revises the applicability statement to properly exclude only those airplanes that have the correct modifications accomplished. It should be noted that Airplane Accessory Kit 55-83-4 (unchanged), referred to in AD 85-22-08 and AD 85-22-08R1, does not create the unsafe conditions and, therefore, continues to accomplish the intent of the original AD.

Since this situation is likely to exist or develop on other airplanes of the same type design, this amendment requires removal of the incorrect modifications from airplanes equipped with thrust reversers, by revising the provisions of the applicability statement of AD 85-22-08R1.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Although this action is in the form of a final rule, which involves an emergency, and thus, was not preceded by notice and public procedure, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, ANM-7, Attention: Airworthiness Rules Docket No. 86-NM-42-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. All communications received before the closing date will be considered by the Administrator, and the AD may be changed in light of the comments received.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By amending Amendment 39-5223 (51 FR 3029; January 23, 1986), AD 85-22-08R1, to change the applicability statement as follows:

"**Gates Learjet Corporation:** Applies to Model 55 airplanes, serial numbers 55-003 through 55-086, except those incorporating Service Bulletin 55-27-7A, Airplane Modification Kit 55-84-7B, or Airplane Accessory Kit 55-83-4."

This Amendment becomes effective May 19, 1986.

Issued in Seattle, Washington, on April 23, 1986.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-9705 Filed 4-30-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM80-53]

Natural Gas Policy Act; Maximum Lawful Prices and Inflation Adjustment Factors

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order of the Director, OPPR.

SUMMARY: Pursuant to the authority delegated by 18 CFR 357.307(i), the Director of the Office of Pipeline and Producer Regulation revises and publishes the maximum lawful prices prescribed under Title I of the Natural Gas Policy Act (NGPA) for the months of May, June and July, 1986. Section

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101(b)(6) of the NGPA requires that the Commission compute and publish the maximum lawful prices before the beginning of each month for which the figures apply.

EFFECTIVE DATE: May 1, 1986.

FOR FURTHER INFORMATION CONTACT: Raymond A. Beirne, Acting Director, OPPR, (202) 357–8500.

Publication of Prescribed Maximum Lawful Prices Under the Natural Gas Policy Act of 1978; Order of the Director, OPPR, Issued: April 23, 1986.

Section 101(b)(6) of the Natural Gas Policy Act of 1978 (NGPA) requires that the Commission compute and make available maximum lawful prices and inflation adjustments prescribed in Title I of the NGPA before the beginning of any month for which such figures apply.

Pursuant to this requirement and § 375.307(l) of the Commission's regulations, which delegates the publication of such prices and inflation adjustments to the Director of the Office of Pipeline and Producer Regulation, the maximum lawful prices for the months of May, June, and July, 1986 are issued by the publication of the price tables for the applicable quarter. Pricing tables are found in § 271.101(a) of the Commission's regulations. Table I of § 271.101(a) specifies the maximum lawful prices for gas subject to NGPA sections 102, 103(b) (1) and (2), 105(b)(3), 106(b)(1)(B), 107(c)(5), 108 and 109. Table II of § 271.101(a) specifies the maximum lawful prices for sections 104 and 106(a) of the NGPA. Table III of § 271.102(c) contains the inflation adjustment factors. The maximum lawful prices and the inflation adjustment factors for the periods prior to May 1986 are found in the tables in §§ 271.101 and 271.102.

List of Subjects in 18 CFR Part 271

Natural gas.

Raymond A. Beirne,

Acting Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

18 CFR Part 271 is amended as follows:

1. The authority citation for Part 271 continues to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.*; Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

§ 271.101 [Amended]

2. Section 271.101(a) is amended by inserting the maximum lawful prices for May, June, and July, 1986 in Tables I and II.

TABLE I—NATURAL GAS CEILING PRICES: MAXIMUM LAWFUL PRICE PER MMBTU FOR DELIVERIES

[Other than NGPA §§ 104 and 106(a)]

Subpart of Part 271	NGPA Section	Category of Gas	May 1986	June 1986	July 1986
B	102	New Natural Gas, Certain OCS Gas [4]	$4.264	$4.287	$4.310
C	103(b)(1)	New Onshore Production Wells [5]	3.089	3.106	3.113
	103(b)(2)	New Onshore Production Wells [6]	3.682	3.697	3.712
E	105(b)(3)	Intrastate Existing Contracts	4.212	4.232	4.252
F	106(b)(1)(B)	Alternative Maximum Lawful Price for Certain Intrastate Rollover Gas [1]	1.775	1.777	1.781
G	107(c)(5)	Gas Produced from Tight Formations [2]	6.196	6.212	6.226
H	108	Stripper Gas	4.565	4.590	4.615
I	109	Not Otherwise covered	2.566	2.572	2.578

[1] Section 271.802(a) provides that for certain gas sold under an intrastate rollover contract the maximum lawful price is the higher of the price paid under the expired contract, adjusted for inflation or an alternative Maximum Lawful Price specified in the Table. This alternative Maximum Lawful Price for each month appears in the this row of Table I. Commencing January 1, 1985, the price of some intrastate rollover gas is deregulated. (See Part 272 of the Commission's regulations.)

[2] The maximum lawful price for tight formation gas is the lesser of the negotiated contract price or 200% of the price specified in Subpart C of Part 271. The maximum lawful price for tight formation gas applies on or after July 16, 1979. (See § 271.703 and § 271.704.)

[3] Commencing January 1, 1985, the price of natural gas finally determined to be new natural gas under section 109(c) is deregulated. (See Part 272 of the Commission's regulations.)

[4] Commencing January 1, 1985, the price of some natural gas finally determined to be natural gas produced from a new, onshore production well under section 103 is deregulated. (See Part 272 of the Commission's regulations.)

TABLE II—NATURAL GAS CEILING PRICES: NGPA §§ 104 AND 106(a) (SUPART D, PART 271)

Category of natural gas	Type of sale or contract	May 1986	June 1986	July 1986
Maximum lawful price per MMBtu for deliveries made in:				
Post-1974 gas	All producers	$2.586	$2.572	$2.578
1973–1974 Biennium gas	Small producer	2.170	2.175	2.180
	Large producer	1.658	1.662	1.666
Interstate Rollover gas	All producers	.954	.956	.958
Replacement contract gas or recompletion gas.	Small producer	1.217	1.220	1.223
	Large producer	.935	.937	.939
Flowing gas	Small producer	.881	.619	.620
	Large producer	.518	.519	.520
Certain Permian Basin gas	Small producer	.728	.728	.730
	Large producer	.844	.845	.846
Certain Rocky Mountain gas	Small producer	.728	.729	.730
	Large producer	.618	.619	.620
Certain Appalachian Basin gas	North subarea contracts dated after 10–7–86	.567	.568	.569
	Other contracts	.542	.543	.544
Minimum rate gas [1]	All producers	.320	.321	.322

[1] Prices for minimum rate gas are expressed in terms of dollars per Mcf, rather than MMBtu.

§ 271.102 [Amended]

3. Section 271.102(c) is amended by inserting the inflation adjustment for the months of May, June, and July, 1986 in Table III.

TABLE III—INFLATION ADJUSTMENT

Month of delivery 1986	Factor by which price in preceding month is multiplied
May	1.00222
June	1.00222
July	1.00222

[FR Doc. 86–9455 Filed 4–30–86; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

[T.D. 86–93]

Change in Hours of Customs Service Provided at Neche, ND

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Change of hours of service.

SUMMARY: This document reduces the hours of service currently provided at the Customs port of entry at Neche, North Dakota, located on the U.S.-Canadian border, in the Pembina, North Dakota, Customs District.

Because the traffic at Neche does not justify the current 8:00 a.m. to midnight schedule, service between 8:00 a.m.–9:00 a.m. and 10:00 p.m.–midnight is being eliminated. The Customs port of Pembina, just 16 miles east of Neche, is in operation 24 hours daily and can easily absorb any additional workload.

This change will enable Customs to obtain more efficient use of its personnel, facilities, and resources. Further, it will not have any major adverse impact on industry, transportation, or the local population.

EFFECTIVE DATE: June 2, 1986.

FOR FURTHER INFORMATION CONTACT: Bernie Harris, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229 (202–566–5157).

SUPPLEMENTARY INFORMATION:

Background

Section 101.6, Customs Regulations (19 CFR 101.6), provides that each Customs office shall be open for the transaction of Customs business between the hours of 8:30 a.m. and 5:00 p.m. on all days of the year except Saturdays, Sundays, and national holidays. It also provides that services performed outside a Customs office generally shall be furnished between the hours of 8:00 a.m. and 5:00 p.m. However, because of local conditions, different but equivalent hours may be necessary to maintain adequate and efficient service.

The Customs port of entry of Neche, North Dakota, located on the U.S.-Canadian border in the Pembina, North Dakota, Customs District is currently open and staffed from 8:00 a.m. to midnight, daily. A recent survey showed that there is an average daily total of less than 10 trucks and other vehicles entering the U.S. through Neche from Canada during the hours of 8:00 a.m.–9:00 a.m. and 10:00 p.m.–midnight. The Customs port of entry at Pembina, North Dakota, which is 16 miles east of Neche, is open for operation 24 hours daily.

Due to the minimal traffic using the port of entry, and current budgetary constraints, Customs published a notice in the **Federal Register** on November 5, 1985 (50 FR 45957), proposing the elimination of those 3 hours of service at the port of Neche. The proposal was consistent with Customs nationwide efforts to obtain more efficient use of personnel, facilities, and resources, and would save one full-time position. In addition, the reduction in hours would not have any major adverse impact on industry, transportation, or the local residents because of the close proximity to Pembina which could easily absorb any additional workload. Public comments were invited on the proposal.

Discussion of Comments

There were 21 responses to the proposal, including one containing a petition signed by 167 area residents. All of the commenters opposed the reduction; some for personal reasons, others for business reasons.

Personal reasons for opposing the change included the disruption to schedules, increased travel time, and the possible weakening of cultural and social ties between U.S. and Canadian neighbors.

Business reasons cited included inconvenience to shoppers and the possible negative impact the change might have on future economic growth.

Although Customs sympathizes with persons inconvenienced by the reduced hours, there does not appear to be a potential significant impact on either area residents or businesses. Eliminating the 3 hours specified is in keeping with Customs goal of using our limited resources as efficiently as possible. Customs realizes that every reduction in hours of service is an inconvenience to some person or business in the area affected. However, based on the minimal amount of traffic using Neche during the hours being eliminated, Customs believes the saving of one full-time position and the more efficient use of personnel, facilities, and resources is justified in this instance.

Accordingly, after consideration of the comments, and further review of the matter, Customs has determined that it is necessary to make the change as proposed.

Change in Hours of Service

Customs service at the port of entry of Neche, North Dakota, will be provided between the hours of 9:00 a.m.–10:00 p.m. daily. No service will be provided from 8:00 a.m.–9:00 a.m., or from 10:00 p.m.–midnight.

Drafting Information

The principal author of this document was John Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: April 8, 1986.

Francis A. Keating II,

Assistant Secretary of the Treasury.

[FR Doc. 86–9622 Filed 4–30–86; 8:45 am]

BILLING CODE 4820–02–M

19 CFR Parts 115 and 178

[T.D. 86–92]

Certification of Cargo Containers and Road Vehicles Pursuant to International Conventions

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect the transfer of functions concerning certification of containers and road vehicles for transportation under Customs seal, pursuant to international Customs conventions, from the Secretary of Transportation (acting through the Coast Guard) to the Secretary of the Treasury (acting through the Customs Service). This transfer is mandated by E.O. 12445 of October 17, 1983.

EFFECTIVE DATE: June 2, 1986.

FOR FURTHER INFORMATION CONTACT: Donald Reusch, Office of Regulations and Rulings (202–566–5706) or Arnold L. Sarasky, Office of Inspection and Control, (202–566–8648), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

SUPPLEMENTARY INFORMATION:

Background

By Executive Order 11459, published in the **Federal Register** (34 FR 5057), March 11, 1969, the President designated the Secretary of Transportation to take all necessary actions to administer the approval and certification of containers and vehicles for International Transport of Goods Under Cover of TIR Carnets (TIR Convention), done at Geneva on January 15, 1959 (TIAS 6633), and the Customs Convention on Containers, done at Geneva on May 18, 1956 (TIAS 6634). Actual administration was undertaken by the Commandant of the U.S. Coast Guard and regulations setting forth the specific requirements are contained in title 49, Code of Federal Regulations, Parts 420 through 424 (49 CFR Parts 420 through 424).

On October 17, 1983, the President signed E.O. 12445, transferring the administration of approval and certification of containers and road vehicles to the Secretary of the Treasury. In addition to the two Conventions previously mentioned, the E.O. mandates the administration of a third, the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), done at Geneva on November 14, 1975 (TIAS), which replaces the 1959 convention as to signatories to both conventions and to those conventions as modified, amended, or otherwise supplemented from time to time. Since the U.S. has recently acceded to the Customs Convention on Containers, 1972, provisions which supplement the 1956 convention are included in this document.

Under the certification program, containers (under the terms of the container convention), and containers and road vehicles (under the terms of the TIR convention), or proposed designs for such conveyances, may be submitted to various certifying authorities worldwide for approval. Three such certifying authorities, all named in the regulations, are designated by the Commissioner of Customs to perform the examination and certification functions for the U.S. The regulations set forth the specifics of the certification program, and the approval of a conveyance would merely expedite its movement along with its merchandise.

The regulations by which the Coast Guard administered this area did not reflect the provisions of the TIR Convention, 1975, or the Customs Convention on Containers, 1972, and did not distinguish between Convention provisions applicable to road vehicles and those applicable to containers. The five parts previously codified in the Coast Guard Regulations (49 CFR Parts 420–424), are re-designated as Subparts A through F of new Part 115, Customs Regulations (19 CFR Part 115). References to Commandant of the Coast Guard are changed to Commissioner of Customs, and section references within the regulations are changed to reflect the recodification.

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The regulations do not include the Oceanographic Society, Inc., which was listed in § 421.1, Coast Guard Regulations (46 CFR 421.1), as a designated Certifying Authority. They cannot be located and are therefore presumed to no longer exist.

On May 15, 1985, Customs published a notice in the **Federal Register** (50 FR 20227), proposing to add the new Part 115 to the regulations and inviting the public to submit comments on the proposal by July 15, 1985.

After analysis of the comments received and further consideration of the matter, the proposal is being adopted with certain changes which have been prompted by suggestions submitted by the commenters. These changes will be discussed in the analysis of the comments received which follows.

Analysis of Comments

Three comments were received in response to the May 15, 1985, **Federal Register** notice. The comments were made in regard to specific sections of the proposed regulations, rather than in general terms.

Two commenters expressed concern over the wording of § 115.2(b) as concerns the physical location of certifying authorities. The proposal provided that a conveyance be presented for approval in a country where the owner is a resident or is established. This was said to be too restrictive, considering existing convention language.

We agree. Accordingly, the language of § 115.2(b) has been changed to permit presentation for approval to any certifying authority to whom an owner or operator is able to present a conveyance.

Two commentors discussed problems with § 115.3(a), which defines "certifying authority" for the purposes of Part 115. It is stated that the section should make it clear that such an "authority" be incorporated or established in the U.S., and be "qualified" to perform the tasks required. In line with these points, we have changed § 115.3(a) to reflect that a certifying authority must be a U.S. company which is competent to carry out all necessary responsibilities.

One commenter objects to the definition of a container as being fully or partially enclosed. This requirement is, however, a direct quote from Chapter I, Article 1(e)(i) of the TIR Convention.

One commenter inquired about the meaning of the phrase "an extended production run" in § 115.8(d), the section dealing with supplementary examinations of road vehicles approved by design type. We consider the phrase to mean a continuous production run of many units over a long period of time, as well as a new production run following the conclusion of a previous run.

Two commenters found a portion of § 115.9 to be cumbersome. The section provides for approval of containers under either of two international container conventions. The commenters believe that the potential need for separate certificates for each container certified could be burdensome and suggest that the possibility of a consolidated form be explored.

We do not believe that the adherence to both conventions will cause a problem. The requirements of both the 1975 TIR and the 1972 Container Conventions are virtually the same. Although there might have been some problem without the inclusion in the regulations of the 1972 Convention because the older convention did not provide for design type approval and reference to it was for information purposes, that problem will no longer exist with inclusion of the 1972 convention. Since the U.S. is a contracting party to both conventions, we believe that we must provide for possible utilization of either or both. In this regard, it is noted that the certificate of approval of both conventions is the same and that check boxes on the certificate and forms utilized by the certifying authority are all that is needed to avoid any possible problem. Insofar as there might be some small difference between the technical requirements of each convention, the certifying authority will normally be able to discharge its functions by complying with the requirements of either convention. We believe that we have made sufficient changes in the language of § 115.9 to eliminate any of the problem areas perceived by the commenters.

One commenter pointed out that § 115.10, relating to approval of containers, contains erroneous cross-references to sections of Part 115 dealing with road vehicles. These incorrect references have been deleted.

One party considers the § 115.11(a) grant of authority to the Commissioner to approve fees established by each certifying authority to be unwarranted. This provision is merely carried over from the long-standing regulations by which the Coast Guard administered this program.

The same commenter believes that as maximum limit should be placed on the length of time a certifying authority must maintain approval files. It is our position that the records should be maintained indefinitely since there may be a need to check, for example, a series of defects common to one production run of vehicles or containers.

A commenter points out certain inconsistencies in §§ 115.25, 115.26, and 115.27, in that in two sections "manufacturers" or "owners" may seek approval of containers by design type, where as "owners" are no mentioned in the third section. We have examined these provisions in light of the Container Convention which provides for "manufacturers" only, seeking such approval. Accordingly, we have deleted references to "owners" in those sections.

All of the commenters expressed problems with §§ 115.28(f), and 115.63(e), which contain identical language concerning the application for approval by design type of containers and road vehicles. Both sections would require a statement that the applicant is a resident of, or established in, the U.S.

Under a procedure which was not in existence when the May 15, 1985, notice was published, U.S. certifying authorities will now be authorized to approve containers and road vehicles manufactured in non-contracting countries. Accordingly, the provision to which the commenters took exception is no longer needed and has been deleted from §§ 115.28(f) and 115.63(e).

One commenter states that § 115.32(a)(2), (3), and (4), needs some adjustment. The section contains the information which must be displayed on a container's metal approval plate. It is stated that (a)(2) does not provide for the identity of the certifying authority, and that (a)(3) and (4) overlap each other. As to (a)(2), we agree, and have added language to provide for the inclusion of a two digit identifying code. As to (a)(3) and (a)(4), we disagree. Paragraph (a)(3) provides for the model or type of container, whereas (a)(4) provides for the manufacturer's serial number. Accordingly, no change has been made to § 115.32(a)(3) and (4).

A commenter notes that § 115.39, as proposed, gives the impression that containers manufactured in non-contracting countries may need to be physically produced in a country other than the place of manufacture in order to be inspected. We agree, and have changed the section to make it clear that a container may be submitted for inspection in the country of manufacture.

It is noted that § 115.40 makes no reference to the 1972 Convention on Containers. This was an oversight and the appropriate reference has been added to the section.

One party suggests that § 115.42 should require a container approval plate to contain a number assigned by the certifying authority if the manufacturer's number is unknown. We wish to point out that the manufacturer's number should always be available, otherwise the acceptability of the approval plate itself would be in doubt.

Finally, a commenter points out our erroneous use of the word "containers" in § 115.66(a)(1). We have made the necessary correction by substituting the word "vehicles".

Executive Order 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

Paperwork Reduction Act

The collection of information requirements in the amendments are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501). Therefore, they have been submitted to and approved by the Office of Management and Budget and assigned control number 1515–0145. Accordingly, Part 178, Customs Regulations (19 CFR Part 178), which lists the information collections contained in the regulations and the control numbers assigned by OMB, is being amended to include this control number.

Regulatory Flexibility Act

Pursuant to section 3 of the Regulatory Flexibility Act (Pub. L. 96–353, 5 U.S.C. 301 *et seq.*), it is hereby certified that the regulations set forth in this document will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Drafting Information

The principal author of this document was Larry L. Burton, Regulations Control Branch, Office of Regulations and Rulings, Customs Headquarters. However, personnel from other Customs offices participated in its development.

List of Subjects

19 CFR Part 115

Cargo vessels, Coastal zone, Freight, Harbors, Maritime carriers, Vessels.

19 CFR Part 178

Reporting and recordkeeping requirements, Paperwork requirements, Collections of information.

Amendments to the Regulations

Chapter I of title 19, Code of Federal Regulations (19 CFR Chapter I), is amended by adding a new Part 115 as set forth below and amending Part 178, Customs Regulations (19 CFR Part 178), in the following manner:

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 178 continues to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 1624, 44 U.S.C. 3501 *et seq.*

2. Section 178.2 is amended by inserting the following in the appropriate numerical sequence according to the section number under the columns indicated:

§ 178.2 Listing of OMB control numbers.

19 CFR section	Description	OMB Control No.
Part 115	Information to obtain certification that containers/road vehicles meet construction requirements.	1515–0145

Title 19, Code of Federal Regulations, Part 115 is added to read as follows:

PART 115—CARGO CONTAINER AND ROAD VEHICLE CERTIFICATION PURSUANT TO INTERNATIONAL CUSTOMS CONVENTIONS

Subpart A—General

115.1 Purpose.
115.2 Application.
115.3 Definitions.
115.4 Conflicting provisions.

Subpart B—Administration

115.6 Designated Certifying Authorities.
115.7 Designation of additional Certifying Authorities.
115.8 Certifying Authorities responsibilities—road vehicles.
115.9 Certifying Authorities responsibilities—containers.
115.10 Certificate of approval.
115.11 Establishment of fees.
115.12 Records maintained by Certifying Authority.
115.13 Records to be furnished Customs.
115.14 Meeting on program.
115.15 Reports by road vehicle or container manufacturer.
115.16 Notification of Certifying Authority by manufacturer.
115.17 Appeal to Commissioner of Customs.
115.18 Decision of Commissioner of Customs final.

Subpart C—Procedures for Approval of Containers by Design Type

115.25 General.
115.26 Eligibility.
115.27 Where to apply.
115.28 Application for approval.
115.29 Plan review.
115.30 Technical requirements for containers by design type.
115.31 Examination, inspection, and testing.
115.32 Approval plates.
115.33 Termination of approval.

Subpart D—Procedures for Approval of Containers After Manufacture

115.37 General.
115.38 Application.
115.39 Eligibility.
115.40 Technical requirements for containers.
115.41 Certificate of approval for containers approved after manufacture.
115.42 Approval plates.
115.43 Termination of approval.

Subpart E—Procedures for Approval of Individual Road Vehicles

115.48 General.
115.49 Application.
115.50 Eligibility.
115.51 Technical requirements.
115.52 Approval.
115.53 Certificate of approval.
115.54 Renewal of certificate.
115.55 Termination of approval.

Subpart F—Procedures for Approval of Road Vehicles by Design Type

115.60 General.
115.61 Eligibility.
115.62 Where to apply.
115.63 Application for approval.
115.64 Plan review.
115.65 Technical requirements for road vehicles by design type.
115.66 Examination, inspection, and testing.
115.67 Approval certificate.
115.68 Termination of approval.

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1624; E.O. 12445 of October 17, 1983.

Subpart A—General

§ 115.1 Purpose.

This chapter establishes procedures for certifying containers and road vehicles in conformance with the Customs Convention on Containers (1956) (TIAS 6634), the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (1959) (TIAS 6633), the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets, November 14, 1975 (TIAS), and the Customs Convention on Containers, 1972 (TIAS), by applying the procedures and technical conditions set forth in the annexes to these conventions.

§ 115.2 Application.

(a) Certification of containers and road vehicles for international transport under Customs seal is voluntary. This chapter does not require certification of containers and road vehicles.

(b) The Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), January 15, 1959 (20 UST 184, TIAS 6633), requires that the approval of road vehicles be made by competent authorities of the country in which the owner or carrier is a resident or is established, and that containers should be either similarly approved, or approved by the competent authority of the country where it is first used for transport under Customs seal. The Customs Convention on Containers, May 18, 1956 (20 UST 301, TIAS 6634),

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requires that the approval of containers be made by competent authorities of the country in which the owner is a resident or is established or by those of the country where the container is used for the first time for transport under Customs seal. The TIR Convention, 1975, generally provides that a road vehicle, for which approval at a stage after manufacture is desired, shall be approved by the competant authority where the vehicle owner or operator is established or located, or where the vehicle is registered. Such approval under the TIR Convention, 1975, or, for containers, the Customs Convention on Containers, 1972, may be accomplished by the competent authority of the country in which the owner or operator is able to produce the conveyance. The 1975 TIR Convention and the Customs Convention on Containers, 1972, also provide that the Certifying Authority of the country of manufacture, if that country is a contracting party to the Convention, may approve a series of road vehicles or containers presented for design type approval. The procedures for applying for certification are contained in §§ 115.28, 115.38, 115.49, and 115.63 of this part.

§ 115.3 Definitions.

For the purpose of this part:

(a) *Certifying Authority.* "Certifying Authority" means a nonprofit firm or association, incorporated or established in the U.S., which the Commissioner finds competent to carry out the functions of this part and which he designates to certify containers and road vehicles for international transport under Customs seal.

(b) *Commissioner.* "Commissioner" means the Commissioner of Customs.

(c) *Container.* "Container" means an article of transport equipment (lift van, portable tank, or other similar structure).

(1) Fully or partially enclosed to constitute a compartment intended for containing goods;

(2) Of a permanent character and strong enough to be suitable for repeated use;

(3) Specifically designed to facilitate the carriage of goods by one or more modes of transport, without intermediate reloading;

(4) Designed for read handling, particularly its transfer from one mode of transport to another;

(5) Designed to be easily filled and emptied; and

(6) Having an internal volume of 1 cubic meter (35.3 cubic feet) or more.

(d) *Manufacturer.* "Manufacturer" means an organization or person constructing containers or road vehicles for certification in accordance with this chapter.

(e) *Prototype.* "Prototype" means a sample unit of a series of identical containers or road vehicles all built, so far as practical, under the same conditions.

(f) *Road vehicle.* "Road Vehicle", as defined in Chapter 1, Article 1 of the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), November 14, 1975 (TIAS), means not only any power-driven road vehicle but also any trailer or semi-trailer designed to be coupled to it.

(g) *Customs and TIR/Container Plan.* "Customs and TIR/Container Plan" means the designer's drawing of a vehicle (for TIR purposes) or container (for TIR and Container Convention purposes) that illustrates each requirement in §§ 115.30, 115.40, 115.51, or 15.65, as appropriate to this part.

(h) The definitions in the subject Conventions shall be considered applicable to terms not specifically defined above.

§ 115.4 Conflicting provisions.

The provisions of the most recent TIR/Container Convention shall apply in the event of conflict between it and an earlier TIR/Container Convention covered by these regulations.

Subpart B—Administration

§ 115.6 Designated Certifying Authorities.

(a) The American Bureau of Shipping, 45 Eisenhower Dr., Paramus, New Jersey 07652.

(b) International Cargo Gear Bureau, Inc., 17 Battery Place, New York, New York 10004.

(c) The National Cargo Bureau, Inc., One World Trade Center, Suite 2757, New York, New York 10048.

§ 115.7 Designation of additional Certifying Authorities.

(a) The Commissioner may designate as a Certifying Authority any nonprofit firm or association that he finds competent to carry out the functions of §§ 115.8 through 115.14 of this subpart.

(b) Any designation as Certifying Authority may be terminated by the Commissioner.

§ 115.8 Certifying Authorities responsibilities—road vehicles.

(a) *General.* Road vehicles may be approved individually or by design type.

(b) *Individual approval.* The Certifying Authority to whom a road vehicle is submitted for approval shall inspect such road vehicle produced in accordance with the general rules contained in Annex 3 of the TIR Convention, 1975.

(c) *Design type approval.* The Certifying Authority to whom a road vehicle is submitted for design type approval shall examine the drawings and detailed design specifications submitted with the application for approval. The Certifying Authority shall advise the applicant of any changes that must be made to the proposed design type in order that approval may be granted. The Certifying Authority shall examine one or more vehicles to confirm that such vehicles comply with the technical conditions contained in Annex 2 of the TIR Convention, 1975. The Certifying Authority shall notify the applicant of its decision to grant design type approval, and it shall issue an approval certificate complying with Annexes 3 and 4 of the TIR Convention, 1975.

(d) *Supplementary examinations.* If a road vehicle approved by design type is the subject of an extended production run under one certificate of approval, the Certifying Authority shall confirm by examination of one or more road vehicles during the manufacturing process, or by other means, that such vehicles continue to meet the approved drawings and detailed design specifications and the technical requirements of Annex 2 of the TIR Convention, 1975.

For the purposes of this section, an extended production run shall be considered a continuous run of many units over long periods of time, as well as a new run following the completion of a previous run.

§ 115.9 Certifying Authorities responsibilities—containers.

(a) *General.* Containers may be approved for transport under seal by design type at the manufacturing stage or, otherwise, at a stage subsequent to manufacture.

(b) *Design type approval.* The Certifying Authority to whom a container is submitted for design type approval shall examine the drawings and detailed design specifications submitted with the application for approval. The Certifying Authority shall advise the applicant of any changes that must be made to the proposed design type so that approval may be granted. The Certifying Authority shall examine one or more containers to confirm that such containers comply with the technical requirements of Part 1, Annex 7, TIR Convention, 1975, and Annex 4 of the Customs Convention on Containers, 1972. The Certifying Authority shall issue a certificate authorizing the applicant to affix an approval plate, as described in Appendix 1 to Part II, Annex 7 of the TIR Convention, 1975, and Annex 5 of the Customs Convention on Containers, 1972, for all containers manufactured in conformity with the specifications of the type of container approved. This certificate shall comply with the model certificate in Appendix 2, Part II, Annex 7 of the TIR Convention, 1975, and Appendix 2 of Annex 5 of the Customs Convention on Containers, 1972.

(c) *After manufacture.* The Certifying Authority to whom containers are submitted for approval after manufacture, shall examine as many containers as necessary to ascertain that they comply with the technical conditions prescribed in Part 1, Annex 7, TIR Convention, 1975, and Annex 5 of the Customs Convention on Containers, 1972. The Certifying Authority shall issue a certificate of approval authorizing the applicant to affix an approval plate to the specific number or series of containers being approved. The certificate shall comply with the model certificate of approval in Appendix 3, Part II, Annex 7, TIR Convention, 1975, and Appendix 3, Annex 5, Customs Convention on Containers, 1972.

(d) *Supplementary examinations.* If a container approved by design type is the subject of an extended production run or several production runs under one certificate of approval, the Certifying Authority shall confirm by examination of one or more containers during the manufacturing process, or by other means, that such containers continue to meet the approved drawings and detailed design specifications and the technical requirements of Annex 7 of the TIR Convention, 1975, and Annex 4 of the Customs Convention on Containers, 1972. For the purposes of this section, an extended production run shall be considered as a continuous run of many units over long periods of time, as well as a new run following completion of a previous run.

§ 115.10 Certificate of approval.

A Certifying Authority shall issue a certificate of approval by design type for a specified number or unlimited series of containers that are approved in accordance with the procedures contained in §§ 115.29, 115.31, 115.38, and 115.41, and road vehicles that are approved in accordance with the procedures contained in §§ 115.49, 115.52, 115.63, and 115.66 of this part.

(a) *Road vehicles.* A Certifying Authority shall issue a certificate of approval conforming to the model in Annex 4 of the 1975 TIR Convention for vehicles submitted for individual or design type approval, if satisfied that the vehicles comply with the technical conditions prescribed in Annex 2 of the TIR Convention, 1975.

(b) *Containers.*—(1) *Approval after Manufacture.* A Certifying Authority shall issue a certificate of approval conforming to the model in Appendix 3, Part II to Annex 7 of the TIR Convention, 1975, and Appendix 3 to Annex 5 of the Customs Convention on Containers, 1972, for containers approved at a stage after manufacture, when it has been ascertained that the containers comply with the technical conditions prescribed in Annex 7 of the TIR Convention, 1975, and Annex 4 of the Customs Convention on Containers, 1972. The certificate shall be valid for the number of containers approved.

(2) *Design type approved.* A Certifying Authority shall issue a single certificate of approval conforming to the model in Appendix 2, Part II to Annex 7 of the TIR Convention, 1975, and Appendix 2 to Annex 5 of the Customs Convention on Containers, 1972, for containers approved by design type when it has been ascertained that the container type complies with the technical conditions prescribed in Annex 7 of the 1975 TIR Convention, and Annex 4 of the Customs Convention on Containers, 1972. The certificate shall be valid for all containers manufactured in conformity with the specifications of the type approved.

(c) *Provisions common to both approval procedures.* The certificate of approval issued pursuant to paragraphs (a) and (b) of this section shall be valid for either the specific number of containers approved, or for an unlimited series of containers of the approved type.

§ 115.11 Establishment of fees.

(a) Each Certifying Authority shall establish and file with the Commissioner a schedule of fees for the performance of the certification procedures under this chapter. The fees shall be based on the costs (including transportation expense) actually incurred by the Certifying Authority. The fees are subject to approval by the Commissioner before their use by the Certifying Authority.

(b) Each Certifying Authority shall make available a schedule of its fees approved by the Commissioner. In addition, the schedules of approved fees for all the Certifying Authorities are available from the Headquarters, U.S. Customs Service, Office of Inspection and Control, 1301 Constitution Avenue, NW., Washington, DC 20229.

§ 115.12 Records maintained by certifying authority.

(a) Each Certifying Authority shall maintain—

(1) A copy of each individual certificate of approval issued, together with a copy of the plans and the application to which the approval refers, along with any information submitted by the manufacturer and/or owner or operator for the certification of a container or a road vehicle.

(2) A record of each serial number assigned and affixed by the manufacturer to the road vehicles and containers manufactured under a design type approval, and containers approved at a stage after manufacture.

(b) The Commissioner may examine the Certifying Authority's files required by paragraph (a) of this section.

§ 115.13 Records to be furnished Customs.

Each Certifying Authority shall furnish the Headquarters, U.S. Customs Service, Office of Inspection and Control, 1301 Constitution Avenue, NW., Washington, DC 20229, unless waived by Customs;

(a) A copy of each issued certificate of approval for containers and road vehicles and a copy of the plans and application to which the approval refers;

(b) A copy of each issued individual approval for a container or road vehicle.

§ 115.14 Meeting on program.

If determined necessary by Customs, each Certifying Authority's representative for certification functions shall meet, after notice, with the Commissioner to review their administration of the certification program.

§ 115.15 Reports by road vehicle or container manufacturer.

Each manufacturer shall forward to the appropriate Certifying Authority, quarterly or when otherwise requested by that Authority:

(a) The registration number or other identifying information on road vehicles, or serial numbers assigned to containers manufactured under a certificate of approval by design type; and

(b) An attestation that each road vehicle or container to which a serial number was assigned was manufactured in full compliance with the certificate of approval by design type.

§ 115.16 Notification of Certifying Authority by manufacturer.

In order that the Certifying Authority can schedule an appropriate inspection, a manufacturer shall give notification to that Authority before each production

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run of road vehicles or containers to be built pursuant either to plans approved by the Certifying Authority, or revised plans (approved or unapproved).

§ 115.17 Appeal to Commissioner of Customs.

(a) Any manufacturer, carrier, or owner may, within 30 days after he has been notified by a Certifying Authority of an adverse determination, including any review provided, appeal that determination to the Commissioner.

(b) Any determination which is appealed remains in effect pending a decision by the Commissioner.

§ 115.18 Decision of Commissioner of Customs final.

The decision of the Commissioner on any matter appealed to him is final.

Subpart C—Procedures for Approval of Containers by Design Type

§ 115.25 General.

The Certifying Authority shall, at the request of a manufacturer, evaluate containers for approval by design type during the manufacturing stage.

§ 115.26 Eligibility.

Any manufacturer of containers to be manufactured in a type series from standard design and specifications so that each container has identical characteristics, may apply for approval by design type.

§ 115.27 Where to apply.

A manufacturer may apply for approval of a container by design type to a Certifying Authority of the country in which the container is manufactured if such country is a contracting party to the TIR Convention, 1975, or the Customs Convention on Containers, 1972.

§ 115.28 Application for approval.

Each application by a manufacturer or an owner for certification of a container by design type must include:

(a) Three copies, each no larger than 3 feet by 4 feet, of the customs and TIR/Container plan;

(b) Customs and TIR/Container plan number;

(c) Three copies of the specifications which include the following information:

(1) The name and address of the manufacturer and the owner; and

(2) A description of the container including the—

(i) Type of construction;

(ii) Dimensions;

(iii) Material of construction;

(iv) Coating system used;

(v) Identification marks and numbers; and

(vi) Tare weight;

(d) The location and date for inspection; and

(e) A statement signed by the manufacturer that:

(1) A container of the design type concerned is available for inspection and approval by the Certifying Authority before, during, and after the production run;

(2) Notification will be given to the Certifying Authority of each change in the design before adoption; and

(3) Each container will be marked with:

(i) The metal plate required in § 115.32;

(ii) The identification number or letter of the design type assigned by the manufacturer; and

(iii) The serial number of the container assigned by the manufacturer.

§ 115.29 Plan review.

(a) A manufacturer or owner who wants containers to be approved by design type must submit the plans and specifications for the container to the Certifying Authority.

(b) The Certifying Authority examining the plans and specifications submitted in accordance with paragraph (a) of this section shall:

(1) Approve the plans and specifications in accordance with the requirements of § 115.30 and arrange to inspect a container in accordance with § 115.31; or

(2) Advise the applicant of any necessary changes to be made for compliance with the requirements of § 115.30.

(c) If changes in the design of the container are made during production but after approval of the plans and specifications by the Certifying Authority and furnish it with "as-built" drawings of the container so that the plans can be reviewed and one or more containers inspected during the production stage to confirm that they continue to comply with the requirements of § 115.30.

§ 115.30 Technical requirements for containers by design type.

The plans and specifications of a container submitted in accordance with the requirements contained in §115.29, and the one or more containers inspected in accordance with the requirements of § 115.31, must comply with the requirements of Annex 7 of the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), November 14, 1975 (TIAS), and Annex 4 of the Customs Convention on Containers (Container Convention), December 2, 1972. Copies of Annex 7 and Annex 4 may be obtained from the Headquarters, U.S. Customs Service, Office of Inspection and Control, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

§ 115.31 Examination, inspection, and testing.

(a) Before the issuance of a certificate of approval by design type, the Certifying Authority shall:

(1) Make a physical examination of one or more containers of the production series concerned;

(2) Assure itself as to the adequacy of the manufacturer's system to control quality of materials used, manufacturing methods, and finished containers; and

(3) Require the manufacturer to make available to the Certifying Authority records of material, including affidavits furnished by suppliers.

(b) The Certifying Authority shall conduct such examinations, inspections, and tests of the production run containers as it deems necessary.

§ 115.32 Approval plates.

The manufacturer shall affix, in a clearly visible place on or near one of the doors or other main openings of each container manufactured to the approved design, a metal approval plate measuring at least 20 by 10 centimeters (7.8 by 3.9 inches). The following shall be embossed on or stamped into the surface of the approval plate:

(a) "Approved for transport under Customs seal."

(b) "USA/(number of the certificate of approval)/(last two digits of year of approval)." (e.g. "USA/1600/84" means "United States of America certificate of approval number 1600, issued in 1984)." A two digit alpha suffix may be added to the certificate of approval number to identify the Certifying Authority, e.g., USA/1600–AB/85, USA/1600–IB/85.

(c) Identification of the type of container and of the number of the container in the type series.

(d) The serial number assigned to the container by the manufacturer (manufacturer's number).

§ 115.33 Termination of approval.

Any container, the essential features of which are changed, shall no longer be covered by the design type approval. Such a container may be made available to a Certifying Authority for inspection and individual approval in accordance with subpart D of the part. However, repairs in kind do not constitute a change of the essential features.

Subpart D—Procedures for Approval of Containers After Manufacture

§ 115.37 General.

This subpart provides for the approval and certification of containers after manufacture, and for those altered so as to void their design type approval.

§ 115.38 Application.

A written request for approval of a container after manufacture may be made by the owner or operator to a Certifying Authority and must include the following:

(a) Three copies, each no longer than 3 feet by 4 feet, of the Customs and TIR/Container plan;

(b) Customs and TIR/Container plan number;

(c) Three copies of the specifications which include the following information:

(1) Type of container;

(2) Name and business address of applicant;

(3) Identification marks and numbers;

(4) Tare weight;

(5) Nominal overall dimensions in centimeters;

(6) Type of construction and essential particulars of structure (nature of materials, coating system used, parts which are reinforced, whether bolts are riveted or welded, and similar matters); and

(7) Proposed location and date for inspection of the container.

§ 115.39 Eligibility.

The owner or operator may submit containers to be approved after the manufacturing stage to:

(a) The Certifying Authority of the country of manufacture if such country is a contracting party to the Convention.

(b) The Certifying Authority of the country where the owner or operator is resident or established, when such Certifying Authority has representatives located in the country of manufacture, which is a noncontracting party to the Convention.

(c) The Certifying Authority of the country where a container is used for the first time for transport of merchandise under Customs seal or where it is otherwise physically located.

§ 115.40 Technical requirements for containers.

A container that is submitted for inspection for approval after manufacture, must comply with the requirements of Annex 7 of the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), November 14, 1975 (TIAS) and Annex 4 of the Customs Convention on Containers (Container Convention), December 2, 1972. Copies of Annex 7 and Annex 4 may be obtained from the Headquarters, U.S. Customs Service, Office of Inspection and Control, 1301 Constitution Avenue, NW., Washington, DC 20229.

§ 115.41 Certificate of approval for containers approved after manufacture.

The Certifying Authority shall issue an individual certificate of approval for each container that meets the requirements in § 115.40.

§ 115.42 Approval plates.

(a) The owner or operator applicant shall, upon receipt of a certificate of approval from the Certifying Authority, affix an approval plate in the manner specified for containers approved by design type (see § 115.32).

(b) Although an entry is not required in the space provided for type identifiers on an approval plate for containers approved after manufacture, identification number and letters indicating that a series of containers comply with the same specifications may be placed in such space. This may be used to assist in the identification of a series of containers in which a common defect may be discovered subsequent to certification. In such case the approval number on the plate shall be altered by an addition to the second or third element of such number. The specific method of altering the approval number may be established by each Certifying Authority, for containers approved by it, and communicated to the U.S. Customs Service.

(c) Two possible methods of accomplishing this are:

(1) Placing an "X" in front of the numeric portion of the middle element of the approval number, e.g., USA/X123–IB/85.

(2) Placing a suffix at the end of the approval number, e.g, USA/123–AB/85–01.

§ 115.43 Termination of approval.

Approval of a container terminates upon a change in the container by a major repair or alteration of any of the essential features required in § 115.40. Repairs by replacement in kind do not constitute a change of the essential features.

Subpart E—Procedures for Approval of Individual Road Vehicles

§ 115.48 General.

This subpart provides for the approval and certification of individual road vehicles that comply with the technical requirements in § 115.51.

§ 115.49 Application.

A written request for approval of an individual road vehicle may be made by the owner, or carrier to a Certifying Authority and must include:

(a) Three copies, each no larger than 3 feet by 4 feet, or the Customs and TIR plan;

(b) Customs and TIR plan number;

(c) Three copies of the specifications which include the following information:

(1) Type of vehicle;

(2) Name and business address of owner or operator;

(3) Name of the manufacturer;

(4) Chassis number;

(5) Engine number (if applicable);

(6) Registration number;

(7) Particulars of construction;

(8) Any photos or diagrams required by the Certifying Authority to facilitate approval; and

(9) A proposed place and date for inspection of the road vehicle.

§ 115.50 Eligibility.

A road vehicle may be submitted for inspection by its owner or operator to a Certifying Authority of the country in which the owner or operator is a resident or is established, or where the vehicle is registered.

§ 115.51 Technical requirements.

A road vehicle that is submitted for inspection for individual approval must comply with the requirements of Annex 2 of the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), November 14, 1975, (TIAS). Copies of Annex 2 may be obtained from the Headquarters, U.S. Customs Service, Office of Inspection and Control, 1301 Constitution Avenue, NW., Washington, DC 20229.

§ 115.52 Approval.

The Certifying Authority shall issue a certificate of approval, valid for 2 years, to each road vehicle that complies with the applicable requirements in § 115.51.

§ 115.53 Certificate of approval.

A certificate of approval must be kept on the vehicle as evidence of approval.

§ 115.54 Renewal of certificate.

A certificate of approval may be renewed if the Certifying Authority determines by inspection every 2 years that the vehicle continues to comply with the applicable requirements in § 115.51.

§ 115.55 Termination of approval.

Approval of a road vehicle terminates:

(a) Upon expiration of the certificate of approval; or

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(b) Upon a change in the road vehicle by a major repair or alteration of any of the essential features required in § 115.51. Repairs by replacement in kind do not constitute a change of the essential features.

Subpart F—Procedures for Approval of Road Vehicles by Design Type

§ 115.60 General.

This subpart provides for the approval and certification of road vehicles manufactured by design type.

§ 115.61 Eligibility.

Any manufacturer of road vehicles which are being manufactured in a type series from a standard design and specifications, so that each road vehicle has identical characteristics, may apply for an approval by design type.

§ 115.62 Where to apply.

A manufacturer may apply for approval of a road vehicle by design type to a Certifying Authority of the country in which the road vehicle is manufactured, if such country is a contracting party to the TIR Convention, 1975.

§ 115.63 Application for approval.

Each application by a manufacturer for certification of a road vehicle by design type must include:

(a) Three copies, each no larger than 3 feet by 4 feet, of the Customs and TIR plan;

(b) Customs and TIR plan number;

(c) Three copies of the specifications which include the following information:

(1) The name and address of the manufacturer and the owner; and

(2) A description of the road vehicle including the:

(i) Particulars of construction;

(ii) Dimensions;

(iii) Construction materials; and

(iv) Marks and numbers, including chassis, engine, and registration numbers.

(d) A statement signed by the manufacturer that:

(1) It will present vehicles of the type concerned to the Certifying Authority which that Authority may wish to examine;

(2) Permit the Certifying Authority to examine further units at any time during or after the production run;

(3) Notify the Certifying Authority of each change in the design or specifications before adoption;

(4) Mark the road vehicles in a visible place with the identification number or letters of the design type and the serial number of the vehicle in the type series manufacturer's number; and

(5) Keep a record of vehicles manufactured according to the design type.

§ 115.64 Plan review.

(a) A manufacturer or owner who wants road vehicles to be approved by design type must submit the plans and specifications of the road vehicles to the Certifying Authority.

(b) The Certifying Authority that examines the plans and specifications submitted in accordance with paragraph (a) of this section shall:

(1) Approve the plans and specifications in accordance with the requirements of § 115.65 and arrange to inspect a road vehicle in accordance with § 115.66; or

(2) Advise the applicant of any necessary changes to be made for compliance with the requirements of § 115.65.

(c) If changes in design of the road vehicle are made during production but after approval of the plans and specifications by the Certifying Authority, the manufacturer shall immediately notify the Certifying Authority and furnish it with "as-built" drawings of the road vehicle so that the plans can be reviewed and one or more road vehicles inspected during the production stage to confirm that they continue to comply with the requirements of § 115.65.

§ 115.65 Technical requirements for road vehicles by design type.

The plans and specifications of a road vehicle that are submitted in accordance with the requirements contained in § 115.64, and the one or more road vehicles that are inspected in accordance with the requirements of § 115.66, must comply with the requirements of Annex 2 of the Customs Convention on the International Transport of Goods Under Cover of TIR Carnets (TIR Convention), November 14, 1975 (TIAS). Copies of Annex 2 may be obtained from the Headquarters, U.S. Customs Service, Office of Inspection and Control, 1301 Constitution Avenue, NW., Washington, DC 20229.

§ 115.66 Examination, inspection, and testing.

(a) Before the issuance of a certificate of approval by design type, the Certifying Authority shall:

(1) Make a physical examination of one or more vehicles of the production series concerned;

(2) Assure itself as to the adequacy of the manufacturer's system to control quality of materials used, manufacturing methods, and finished road vehicles; and

(3) Require the manufacturer to make available to the Certifying Authority records of materials, including affidavits furnished by suppliers.

(b) The Certifying Authority shall conduct such examinations, inspections, and testing of the production run road vehicles as it deems necessary.

§ 115.67 Approval certificate.

The holder of the approval certificate shall, before using the vehicle for the carriage of goods under the cover of a TIR Carnet, fill in as may be required on the approval certificate:

(a) The registration number given to the vehicle (item No. 1); or

(b) In the case of a vehicle not subject to registration, particulars of his name and business address (item No. 8). (See Annex 4 of the Convention for model of certificate of approval.)

§ 115.68 Termination of approval.

Any road vehicle whose essential features are changed shall no longer be covered by the design type approval. Such a road vehicle may be made available to a Certifying Authority for inspection and individual approval in accordance with subpart E of this part. However, repairs in kind do not constitute a change of the essential features.

William von Raab,

Commissioner of Customs.

Approved: April 17, 1986.

Francis A. Keating, II,

Assistant Secretary of the Treasury.

[FR Doc. 86-9821 Filed 4-30-86; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Reg. Nos. 4 and 10]

Social Security Benefits and Supplemental Security Income; Cross Reference Corrections

Correction

In FR Doc. 86-6776, beginning on page 10615, in the issue of Friday, March 28, 1986, make the following correction:

On page 10616, in the first column, in amendatory instruction 3, the last line should read, "(c) from § 404.1501 to § 404.1505.".

BILLING CODE 1505-01-M

Food and Drug Administration

21 CFR Part 176

[Docket No. 85F-0262]

Indirect Food Additives; Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of cationic soy protein hydrolyzed (hydrolyzed soy protein isolate modified by treatment with 3-chloro-2-hydroxypropyltrimethylammonium chloride) in the manufacture of paper and paperboard used in the packaging of dry food. This action responds to a petition filed by Ralston Purina Co.

DATES: Effective May 1, 1986; objections by June 2, 1986.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Edward J. Machuga, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of June 25, 1985 (50 FR 26271), FDA announced that a petition (FAP 5B3865) had been filed by Ralston Purina Co., Checkerboard Square, St. Louis, MO 63164, proposing that § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180) be amended to provide for the safe use of cationic soy protein hydrolyzed (hydrolyzed soy protein isolate modified by treatment with 3-chloro-2-hydroxypropyltrimethylammonium chloride) in the manufacture of paper and paperboard used in the packaging of dry food.

FDA has evaluated the data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended as set forth below.

In accordance with § 171.1(b) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(b), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the **Federal Register** of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(1).

Any person who will be adversely affected by this regulation may at any time on or before June 2, 1986 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Docket Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 176 is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for 21 CFR Part 176 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 176.180(b)(2) by alphabetically inserting a new item in the list of substances to read as follows:

§ 176.180 Components of paper and paperboard in contact with dry food.

* * * * *

(b) * * *

(2) * * *

List of substances	Limitations
* * *	* * *
Cationic soy protein hydrolyzed (hydrolyzed soy protein isolate modified by treatment with 3-chloro-2-hydroxypropyl-trimethylammonium chloride).	For use only as a coating adhesive, pigment structuring agent, and fiber retention aid.
* * *	* * *

Dated: April 18, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-9722 Filed 4-30-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 5

[T.D. ATF-228; re: Notice Nos. 486 & 505]

Elimination of the 500 Milliliter Metric Standard of Fill for Distilled Spirits

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This final rule eliminates the 500 ml size container from the metric standards of fill for distilled spirits. This reduces the total number of authorized metric standards of fill for distilled spirits from eight to seven. This action is in response to our analysis of the metric sizes and to comments on Notice No. 486 (September 23, 1983, 48 FR 43346). This action will be completed in a phase-out period ending June 30, 1989. Beginning July 1, 1989, importers and bottlers will no longer be able to import or bottle distilled spirits in 500 ml containers

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although they may continue to sell existing stocks on hand.

EFFECTIVE DATE: June 2, 1986.

FOR FURTHER INFORMATION CONTACT: Edward A. Reisman, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Summary

375 and 500 milliliter standards of fill. On September 23, 1983, ATF published Treasury Decision ATF-146 (48 FR 43319) adopting the 100 ml size and 375 ml size as standards of fill for distilled spirits. These two metric standards of fill became effective for use in interstate and foreign commerce on January 3, 1984. Concurrent with this Treasury decision, ATF published Notice No. 486 (48 FR 43346) relating to the 375 ml size and 500 ml size.

A major concern with the 375 ml and 500 ml sizes was the similarity in bottle size and shape even though the volumetric difference is 125 ml, or slightly over four fluid ounces. Because of this concern, ATF issued Notice No. 486 which requested comments on whether bottlers should be allowed the option of bottling their products in either the 375 ml size or 500 ml size, but not both; or whether the 500 ml size should be eliminated as a standard of fill for distilled spirits.

After carefully studying the issues, ATF has decided to phase-out the 500 ml metric standard of fill, for the following reasons:

1. The comments were overwhelmingly in favor of elimination of that size.

2. There have been reports of consumer confusion between the 375 ml and 500 ml sizes. Because of the closeness in fill and bottle shape, consumers are having difficulty distinguishing between the two sizes when purchasing distilled spirits products at retail.

3. Retailers and wholesalers strongly objected to the continuance of the 500 ml standard of fill. They claimed that even the members of the alcohol beverage industry were having difficulty distinguishing between the 375 ml and 500 ml sizes. These retail dealers and wholesalers also claimed that stocking both sizes was causing unnecessary additional costs in storage, handling and displaying. They said that the new 375 ml size filled the market need that was previously satisfied by the 500 ml size.

4. One of the purposes for adopting the metric standards of fill in the United States was to reduce the number of confusing bottle sizes available to the consumer. The new metric sizes were intended to offer consumers a rational range of size choices that were easy to distinguish on the store shelf and which could be easily differentiated.

Elimination of the 500 ml size helps prevent size proliferation in the number of metric sizes needed for distilled spirits products. This action eliminates one unnecessary size and leaves a simple rational set of metric bottle sizes to choose from.

Since the introduction of metric bottle sizes in the United States, two additional sizes, the 100 ml and 375 ml sizes, were added because there was strong industry and consumer demand for them. Although there was strong demand to add each of these new metric sizes, it has unfortunately resulted in size proliferation. Elimination of the 500 ml size will help to rectify the problem.

Background

500 ml Metric Standard of Fill. The 500 ml size metric standard of fill was authorized by T.D. ATF-25 (January 6, 1976, 41 FR 1063). That Treasury decision established the original metric standards of fill for distilled spirits in the United States, effective January 1, 1980. The six original sizes were 1.75 liters, 1 liter, 750 ml, 500 ml, 200 ml and 50 ml. Prior to the Treasury decision the Bureau published a Notice of Proposed Rulemaking and Public Hearing in the Federal Register on July 16, 1975.

The Notice contained proposals made by both the Distilled Spirits Council of the United States and ATF. The sizes were adopted on the basis of evidence received at public hearings and in written comments.

375 ml Metric Standard Of Fill. The 100 ml and 375 ml sizes were authorized as metric standards of fill in 1984. In 1981, Bacardi Imports, Inc. petitioned ATF to allow the 375 ml size to be used in interstate and foreign commerce. This petition was supported by various segments of the distilled spirits industry. Bacardi Imports, Inc. maintained in their petition that there was a consumer demand for the 375 ml size and that it would facilitate the international market since Canada, the United Kingdom, and the European Economic Community (EEC) utilize the 375 ml size as one of their standards of fill.

ATF proposed the 375 ml size as a standard of fill for distilled spirits on August 16, 1982 (Notice No. 417; 47 FR 35521). 48 comments were received in response to that notice, of which 37 supported the 375 ml size and 11 were opposed. Seven of the supporters of the 375 ml size wanted industry members to have the option of bottling the 375 ml or 500 ml size but not both sizes. Nine of the supporters of the 375 ml size wanted the 500 ml size eliminated if the 375 ml size was adopted.

Based on these comments, ATF adopted the 375 ml size, effective January 3, 1984, but decided to air the possibility of eliminating or restricting the 500 ml size.

Notice No. 486. In Notice No. 486, September 23, 1983, ATF requested comment from all interested persons on the alternatives raised by the commenters during rulemaking on the 375 ml size. ATF requested comments on the the following specific issues:

(a) Would retention of the 500 ml size lead to consumer confusion or deception because of its similarity to the 375 ml size?

(b) Since there is only slightly over four fluid ounces difference between the 375 ml size and the 500 ml size, is there a need to have both sizes? Would the 375 ml size fulfill the market need for the 500 ml size?

(c) In the event the 500 ml size is eliminated as a standard of fill, what is a reasonable transition period to allow for a use-up of present inventories of this bottle size?

(d) Does the greater benefit to both industry and the consumer exist with both sizes in the market without qualification since it allows greater flexibility in bottling and wider size choices on purchase?

(e) Would repeat purchases negate any confusion or deception that may arise between the 375 ml size and 500 ml size? Does the option of having a purchase choice between the 375 ml size and the 500 ml size outweigh any confusion or deception that may arise?

Extension of Comment Period. The comment period for Notice No. 486 was scheduled to close on March 23, 1984, but was extended by Notice No. 505, March 21, 1984 (49 FR 10563) until January 2, 1985. ATF granted this extension at the request of The Distilled Spirits Council of the United States (DISCUS) and the National Association of Beverage Importers (NABI) who wanted a one year extension to give industry time to make an informed choice through market surveys based on consumer preferences and purchases.

Analysis of Comments. 133 comments were received. 108 of the comments generally were opposed to the retention of the 500 ml size. 24 wanted the 500 ml size retained. The majority (98) of the comments came from wholesalers and retailers.

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SYNOPSIS OF COMMENTS

	Rescind 500	Retain 500
Wholesalers and Retailers	95	2
U.S. Distillers	4	6
Foreign Distillers	0	2
Importers	3	7
Associations	2	3
State Authorities	5	1
Foreign Governments	0	2

The National Liquor Stores Association and the Wine & Spirits Wholesalers of America wanted the 500 ml size rescinded. The National Association of Beverage Importers, the U.S. Metric Association and the Kentucky Wholesale Liquor Dealers wanted the 500 ml size retained. Six state authorities commented. Kentucky, Vermont, Wyoming, Arkansas and Massachusetts favored rescision of the 500 ml size while Iowa favored its retention. Two foreign governments, Germany and France, favored retention of the 500 ml size.

Comments Favoring Elimination Of The 500 ml Size

The basic objection to the 500 ml size was that the 375 ml and 500 ml sizes cause consumer confusion because both sizes have similar shapes and heights. Many commenters said the 375 ml size fulfills the market need for the 500 ml size. The majority of commenters said that there is no greater benefit to industry and consumers to have both sizes even though it would allow greater flexibility in bottling and permit wider consumer choices.

Most commenters said that the option of having a purchase choice between the 375 ml and 500 ml size does not outweigh any confusion or deception that may arise. Some commenters said that the 500 ml size was not a good seller and never a popular container size with the public as compared to other available metric sizes. Ten commenters responded to the question in the notice on a reasonable transition period to allow a use-up of the 500 ml size container. The time requested varied from three months to three years. The following are some specific comments on that issue:

A U.S. distiller said that the 500 ml size is too close to the 750 ml size and does not give the consumer enough of a choice.

A wholesaler stated that existence of both the 500 ml and 375 ml sizes will cause additional costs in storage, handling and displaying these smaller, yet similar quantity sized containers.

A wholesaler said that many wholesalers and retailers claim that adding new metric sizes adds increased inventories, often resulting in financial difficulties. A retail liquor dealer conducted a survey on the 375/500 ml size issue with 250 of their regular customers. The vote resulted in 214 in favor of only one size, the 375 ml, and 36 in favor of the other options.

A state commented that a proliferation in bottle sizes being introduced into the market will cause many customers to have a difficult time trying to compare prices and make economical purchases.

Another state said the introduction of the 375 ml size makes it necessary for the consumer to choose a new bottle size. The consumer would have to evaluate its cost from among a confusing number of container sizes so closely related in size and price that only the most discerning shoppers will choose wisely.

A retail liquor store association stated that the varying bottle shapes between the 375/500 ml sizes may be confusing and misleading to the consumer.

A wholesale liquor dealer association stated that due to space limitations, retailers can stock either the 375 or 500 ml size but not both.

A number of wholesalers said that the 375 ml size will present the best value to the consumer by being half the size of the 750 ml bottle. They also said it will also be easy for the consumer to distinguish by size and price between the 375 ml and 750 ml size. Many of them also claimed that there was no public demand for both the 375 ml and 500 ml sizes.

A wholesaler said that a recent survey of their key retail accounts has indicated that retailers will stock only one size because of inventory, shelf space and cost limitations.

Many retailers said that a consumer who wants one of those sizes is going to be satisfied with the other. Many of them said that the elimination of the 500 ml size would be in the best interest to all.

Comments Favoring Retention of the 500 ml Size

An importer said that retention of the 500 ml size would allow the consumer a wider range of size choices and that the enhanced competition should benefit both industry and consumers. They also said that most sales are made in size grouping and are clearly marked on the shelves in retail liquor stores. The importer noted that net content statements are required to appear in a legible manner on bottles.

One importer claimed that the exclusion of the 500 ml bottle size from the standards of fill would create a non-tariff trade barrier.

Another importer said the elimination of the 500 ml would unfavorably affect the ability to market proprietary brands of distilled spirits. In the past two years they have found increased demand by consumers for both the 500 ml and 375 ml size. They claim this is due to higher prices and the proliferation of imported proprietary products in the United States.

A bottler and wholesaler said that the elimination of the 500 ml would create a void because the difference in retail price between the 375 ml and 750 ml could be as much as $3.50. The same commenter said that the consumer would benefit from the higher degree of marketing flexibility achieved from the free use of both sizes on the market place. The commenter said that some industry members have a substantial investment in their bottle molds and in the equipment specially adapted for use with the 500 ml size. The commenter said that prohibiting the use of the 500 ml size would jeopardize these investments.

A foreign distiller claimed that both the 375 ml and 500 ml bottle sizes are required by various parts of the industry since they serve different purposes. The distiller said the ratio of size difference between the 375 ml and 500 ml size is exactly the same as that between the 750 ml and 1 liter sizes. In addition, the distiller claimed that the 500 ml size is a less expensive way of buying a recognizable brand of distilled spirits, whereas the 375 ml clearly is a small or half bottle. The distiller also said that by allowing both sizes, industry has greater flexibility and the consumer a wider choice to pick from. The distiller stated that familiarity with a product on repeat purchase should eliminate any possible confusion.

A U.S. distiller said that they continue to experience strong consumer demand for both sizes. They claim a greater benefit to both industry and consumers exists with both sizes in the market since it allows a greater flexibility in bottling and wider size choices on purchase. They also said that both sizes are critical to some brands of distilled spirits.

Another U.S. distiller said that the industry best serves the consumer with a broad selection of sizes to fit varied consumer needs.

A French government official stated that the 500 ml size makes an intermediate price for the consumer who can't afford, in a larger size, those expensive liqueurs in which France is well represented.

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An association favored retention of the 500 ml size as a rational metric size and opposed introduction of the 375 ml size.

One commenter said that the elimination of the 500 ml size will create a higher retail price-point position between the 750 ml and 200 ml bottle for the 375 ml bottle. This would mean higher consumer cost per milliliter for the 375 ml bottle. The commenter concluded that the consumer's options are reduced and purchase costs increased because of the elimination of the 500 ml size.

An importer stated that the market place should dictate whether the 500 ml size remains a viable option for American consumers. They now oppose any regulations which restrict the ability to market both sizes.

Conclusion

Based on all the comments received, ATF believes that retention of the 500 ml size would lead to consumer confusion because of its similarity to the 375 ml size.

There is no need for both the 375 ml and 500 ml sizes since there is only a slight difference between the two, and the 375 ml size will fulfill the market need for the 500 ml size. A greater benefit does not exist to either industry or the consumer with both sizes on the market because of the confusion that may develop. While it is possible that future purchases may negate confusion or deception that may arise between the two sizes, it is also possible that they may not because of the closeness of size.

Two of the reasons for the conversion from U.S. measure to metric standards of fill were to reduce the large number of sizes available to the consumer and to eliminate consumer confusion over them.

The majority of comments from the wholesalers and retailers indicated their strong opposition to the 500 ml size not only because the potential confusion that might be experienced by the alcohol beverage industry and consumers but the concurrent use of the 500 ml size and the 375 ml size is creating expensive and complicated inventory problems (storage, handling, and displaying) for the entire wholesale/retail tier of the industry.

We do not feel that a non-tariff trade barrier is created by the phase-out of the 500 ml size because there is still available to bottlers in foreign countries the option of using the 375 ml size standard of fill. Therefore, there would not be differing bottling requirements for domestic and foreign bottlers. Of all the comments received (including those from importers and foreign governments), only one importer raised the non-tariff trade barrier issue.

ATF is rescinding the 500 ml standard of fill for distilled spirits. Since the majority of comments from the industry indicate that the existence of both the 500 ml and the new 375 ml size are creating confusion from the wholesale/retail industry level and the public, ATF believes the elimination of the 500 ml size is the best alternative.

Effective Date: ATF is making this regulation effective July 1, 1989. ATF believes this three year phase-out period will allow industry to make the necessary preparations to eliminate the 500 ml size container, prior to the mandatory phase-out date, will be authorized to be marketed after the mandatory date. No spirits may be imported into this country in the 500 ml size containers unless they are accompanied by a certificate of statement that they were bottled prior to the mandatory date.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory analysis (5 U.S.C. 603, 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. This final rule will not have significant secondary or incidental effects on a substantial number of small entities, or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it was certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605 (b)), in the notice of proposed rulemaking leading to this final rule that regulations would not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

It has been determined that this final rule is not a "major rule" within the meaning of Executive Order 12291, 45 FR 13193 (1981) because it will not have:

(a) An annual effect on the economy of 100 million dollars or more;

(b) It will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and

(c) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Drafting Information

The principal author of this document is Edward A. Reisman of the FAA, Wine and Beer Branch.

List of Subjects in 27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, Packaging and containers.

Authority and Issuance

Part 5—Labeling and Advertising of Distilled Spirits is amended to read as follows:

Paragraph 1. The authority citation in Part 5 is revised to read as follows:

Authority: 26 U.S.C. 5301, 7805; 27 U.S.C. 205.

Par. 2. Section 5.47a is amended by revising paragraph (a) (by qualifying the 500 ml size in the metric standards of fill) to read as follows:

§ 5.47a Metric standards of fill (distilled spirits bottled after December 31, 1979).

(a) *Authorized standards of fill.* The standards of fill for distilled spirits are the following:

1.75 liters
1.00 liter
750 milliliters
500 milliliters (Authorized for bottling until June 30, 1989)
375 milliliters
200 milliliters
100 milliliters
50 milliliters

* * * * *

Par. 3 Section 5.53 is amended by adding a paragraph (b) providing for the importation of 500 ml bottles of distilled spirits bottled prior to July 1, 1980, to read as follows:

§ 5.53 Certificate of nonstandard fill.

* * * * *

(b) Distilled spirits imported in 500 ml containers shall not be released from Customs custody after June 30, 1989:

(1) Unless the distilled spirits are accompanied by a certificate issued by the government of the appropriate foreign country, stating that the distilled spirits were bottled or packed prior to July 1, 1989; or

(2) Unless the distilled spirits are being withdrawn from a Customs bonded warehouse or foreign trade zone into which entered on or before June 30, 1989.

Signed: December 17, 1985.

Stephen E. Higgins,

Director.

Approved: April 11, 1986.

Francis A. Keating II,

Assistant Secretary (Enforcement).

[FR Doc. 86-9787 Filed 4-30-86; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF JUSTICE

28 CFR Part 21

[Order No. 1133-86]

Witness Fees

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This rule revises the regulations for the payment of fees and expenses of witnesses in order to rationalize the fee system for federal witnesses. The revision reflects the current attendance fee of $30 a day and establishes witness transportation and per diem expenses at the same rates as those received by Government employees. In addition, the revision delineates the various classes of aliens who are eligible and ineligible to receive the witness fees and expenses.

EFFECTIVE DATE: April 21, 1986.

FOR FURTHER INFORMATION CONTACT: James E. Williams, Associate Director, Finance Staff, on Telephone Number (202) 633-5538.

SUPPLEMENTARY INFORMATION: On October 25, 1985, the Department of Justice proposed to revise Part 21 of Title 28, Code of Federal Regulations to conform to 28 U.S.C. 1821. The revision contains a new section of definitions to ensure a common understanding of the applicable terms.

In addition, the procedure for computation of the fees and allowances of witnesses is stated in this Part. Fact witness travel is linked to the travel allowances of Government employees. However, it is considered impractical to have fact witnesses travel under the quarter day rule which applies to Government employees. A procedure has been devised to pay fact witnesses the approximate travel expenses Government employees would be entitled to for performing similar travel.

Finally, the Department of Justice revised the certification of attendance of witnesses to include United States Trustees, United States District Judges for criminal *in forma pauperis* proceedings, United States Parole Commission Hearing Examiners in parole proceedings, and the Executive Assistant or Administrative Officer of the President's Commission on Organized Crime.

Interested parties were invited to participate in these rule making proceedings by submitting written comments on the proposal. One comment was received and accepted regarding the designation of a highway mileage guide (Part 21.5). In addition, the reference to the President's Commission on Organized Crime was deleted because the Commission's term has expired. Other than those changes, this rule is the same as that proposed in the notice.

The Department of Justice has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; and will not have significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This is not a rule within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601-612.

List of Subjects in 28 CFR Part 21

Courts, Government employees, Travel and transportation expenses.

By virtue of the authority vested in me, as Attorney General, by 28 U.S.C. 509 and 510; 5 U.S.C. 301 and 5751, and 8 U.S.C. 1103, Part 21 of Title 28, Code of Federal Regulations, is amended to read as follows:

1. The authority citation for Part 21 is added to read as follows:

Authority: 28 U.S.C. 509, 510, 1821-1825, 5 U.S.C. 301.

2. Part 21 is revised to read as follows:

PART 21—WITNESS FEES

Sec.
21.1 Definitions.
21.2 Employees of the United States serving as witnesses.
21.3 Aliens.
21.4 Fees and allowances of fact witnesses.
21.5 Use of table of distances.
21.6 Proceedings *in forma pauperis*.
21.7 Certification of witness attendance.

§ 21.1 Definitions.

(a) *Agency Proceeding.* An agency process as defined by 5 U.S.C. 551 (5), (7) and (9).

(b) *Alien.* Any person who is not a citizen or national of the United States.

(c) *Judicial Proceeding.* Any action or suit, including any condemnation, preliminary, informational or other proceeding of a judicial nature. Examples of the latter include, but are not limited to, hearings and conferences before a committing court, magistrate, or commission, grand jury proceedings, pre-trial conferences, depositions, and coroners' inquests. It does not include information or investigative proceedings conducted by a prosecuting attorney for the purpose of determining whether an information or charge should be made in a particular case. The judicial proceeding may be in the District of Columbia, a State, or a territory or possession of the United States including the Commonwealth of Puerto Rico or the Trust Territory of the Pacific Islands.

(d) *Pre-trial Conference.* A conference between the Government Attorney and a witness to discuss the witness' testimony. The conference must take place after a trial, hearing or grand jury proceeding has been scheduled but prior to the witness' actual appearance at the proceeding.

(e) *Residence.* The term "residence" is not limited to the legal residence, but includes any place at which the witness is actually residing and at which the subpoena or summons is served. If the residence of the witness at the time of appearance is different from the place of subpoena or summons, the new place of residence shall be considered the witness' residence for computation of the transportation allowance; but, if the witness is on a business or vacation trip at the time of appearance, the witness shall be paid for travel from the place of service if this does not result in the witness being paid for more travel than is actually performed.

(f) *Summons.* An official request, invitation or call, evidenced by an official writing of the court, authority, or party responsible for the conduct of the proceeding.

§ 21.2 Employees of the United States serving as witnesses.

(a) *Applicability.* This section applies to employees of the United States as defined by 5 U.S.C. 2105, except those whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.

(b) *Entitlement to Travel Expenses.*—(1) *Official Capacity.* An employee is entitled to travel expenses (in accordance with § 21.2(c)) in connection with any judicial or agency proceeding with respect to which the employee is summoned (and is authorized by the employee's agency to respond to such

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summons), or is assigned by his or her agency: (i) To testify or produce official records on behalf of the United States, or (ii) to testify in his or her official capacity or produce official records on behalf of a party other than the United States. The witness appropriation of the Department of Justice is not available for expenses incurred under these conditions.

(2) *Unofficial Capacity, Federal Involvement.* An employee is entitled to travel expenses (in accordance with § 21.2(c)) in connection with any judicial or agency proceeding with respect to which the employee is summoned to testify on behalf of the United States. If an employee is summoned to testify on behalf of a party other than the United States, the employee's travel expenses shall be payable by the court, authority, or party which caused the employee to be summoned.

(3) *Unofficial Capacity, No Federal Involvement.* An employee who appears as a witness in any judicial proceeding in an unofficial capacity in which there is no Federal involvement is not authorized Government travel expenses and may retain reimbursement for expenses which he or she receives from the court, authority or party which caused the employee to be summoned.

(c) *Allowable Travel Expenses.* An employee qualifying for payment of travel expenses by virtue of being called in an official capacity or on behalf of the United States shall be paid at rates and in amounts allowable for other purposes under the provisions of 5 U.S.C. 5702–5705 and applicable regulations prescribed thereunder by the Administrator, General Services, and the employing agency. Such payment shall be reduced to the extent that the travel expenses are paid to the employee for his or her appearance by the court, authority, or party which caused the employee to be summoned as a witness in an official capacity on behalf of a party other than the United States.

(d) *Payment and Reimbursement.*—(1) *Payable by the Employing Agency.* If an employee serves as a witness, and the case involves the activity in connection with which he or she is employed, the travel expenses are payable from the appropriation of the employing agency. The Comptroller General has defined the extent to which the case must be related to the agency's activity as a condition to the agency's responsibility for payment in 23 Comp. Gen. 47, 49 (1943), which states "the employing agency is required to pay . . . the traveling expenses incurred by the witness only where the information or facts ascertained by the employee as part of his official duties forms the basis of the case, or where the proceeding is predicated upon a law that that agency is required to administer." In 39 Comp. Gen. 1, 2 (1959), the Comptroller General determined that if an employee testifies regarding facts and information he or she acquires in the course of his or her assigned duties, the employing agency is responsible for the payment of the employee's travel expenses. In these instances, the witness appropriation of the Department of Justice is not available for payment of expenses.

(2) *Payable by the Department of Justice.* If an employee appears on behalf of the United States in an unofficial capacity in a judicial proceeding involving the Department of Justice, the employee's travel expenses are payable by the Department of Justice. The employing agency may advance or pay the travel expenses of the employee and later obtain reimbursement from the Department of Justice by submitting an appropriate bill together with a copy of the approved advance or travel voucher.

(e) *Leave and Attendance Fee.*—(1) *Leave.* An employee is considered to be in official duty status when appearing as a witness in his or her official capacity or on behalf of the United States in an unofficial capacity. An employee is entitled to court leave when he or she appears as a witness in an unofficial capacity not on behalf of the United States, and the United States, the District of Columbia, or a State or local government is a party to the case. An employee must use annual leave or leave without pay to appear as a witness when the United States, the District of Columbia, or a State or local government is not a party.

(2) *Attendance Fee.* An employee who appears on behalf of the United States is not entitled to receive an attendance fee. An employee who appears on behalf of a party other than the United States while in official duty status or while on court leave should request an attendance fee from the court, authority, or party which caused the employee to be summoned. Such fee shall be remitted to the employing agency. An employee who must use annual leave or leave without pay to appear as a witness may retain an attendance fee which he or she receives.

§ 21.3 Aliens.

(a) *Aliens Entitled to Payment of $30 Per Day.* The following aliens are entitled to witness fees and allowances provided in § 21.4:

(1) Aliens lawfully admitted for permanent residence (documentary evidence: Form I–151 or Form 1–551, Alien Registration Receipt Card);

(2) Aliens lawfully admitted in one of the nonimmigrant categories described in 8 U.S.C. § 1101(a)(15) (documentary evidence: unexpired Form 1–94, Arrival-Departure Record). But see below § 21.3(b);

(3) Aliens admitted as refugees under 8 U.S.C. 1157 and aliens granted asylum under 8 U.S.C. 1158 (documentary evidence: Form I–94, Arrival Departure Record, indicating admission as refugee under 8 U.S.C. 1157 or granting asylum under 8 U.S.C. 1158, employment authorized);

(4) Aliens who have rendered themselves amenable to deportation proceedings, but have not admitted deportability or have not been determined to be deportable pursuant to Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252).

(b) *Aliens Entitled to Payment of $1 Per Day.* An alien who is "excludable" in accordance with 8 U.S.C. § 1226, but whose removal is stayed by the Attorney General (in accordance with 8 U.S.C. 1227(d)) because: (1) The testimony of the alien is necessary on behalf of the United States in the prosecution of offenders against the United States, or (2) the testimony of the alien is necessary on behalf of an indigent criminal defendant in accordance with Rule 17(b) of the Federal Rules of Criminal Procedures, is entitled to a $1 per day witness fee. No other fees and allowances are authorized.

(c) *Aliens Not Entitled to Payment.* An alien who has been paroled into the United States for prosecution pursuant to 8 U.S.C. 1182(d)(5) (documentary evidence: Form I–94, Arrival-Departure Record, Parole Edition), or an alien who has admitted belonging to a class of aliens who are deportable, or an alien who has been determined pursuant to 8 U.S.C. 1252(b) to be deportable (documentary evidence: decision by a Special Inquiry Officer, Board of Immigration Appeals, or court), is prohibited from receiving fees and allowances in accordance with 28 U.S.C. 1821(e).

(d) *Doubtful Cases.* If the Immigration and Naturalization Service advises that the alien has admitted deportability, or that he or she was paroled into the United States for prosecution, or that deportation proceedings have been completed against the alien with a result favorable to the Government, no payment under 28 U.S.C. § 1821 may be made.

§ 21.4 Fees and allowances of fact witnesses.

The fees and allowances of fact witnesses, other than those covered by § 21.2, attending at any judicial proceeding, shall be a follows:

(a) *Fee.* A witness shall be paid an attendance fee of $30 per day for each day's attendance. A witness shall also be paid the attendance fee for the time necessarily occupied in going to and returning from the place of attendance. However, if both attendance and travel occur on the same day, a witness is entitled to only one fee.

(b) *Allowable Transportation Expenses.* A witness shall be entitled to transportation expenses based on the means of transportation reasonably utilized (based on the nature, duration, location and distance of travel) and the distance necessarily traveled from and to such witness' residence by the shortest practical route and the fastest means of transportation available in going to and returning from the place of attendance. Additional costs incurred (including attendance fees and subsistence allowances) because of a slower means of transportation must be justified for consideration.

(1) A witness who travels by regularly scheduled common carrier shall be paid for the actual expenses of transportation at the most economical rate reasonably available. A receipt or other evidence of actual cost shall be furnished.

(2) A witness who travels by privately owned vehicle shall be paid a transportation allowance equal to the mileage allowance paid for official travel of employees of the Federal Government under the provisions of 5 U.S.C. 5704. However, when two or more witnesses travel in the same privately owned vehicle, only the witness incurring the expense shall receive the mileage allowance.

(3) A witness incurring incidental transportation expenses, such as taxi fares between the place of attendance, residence or lodging and the carrier terminals; bridge, road and tunnel tolls; ferry fares; and parking fees shall be paid in full for such expenses. Receipts or other evidence of actual payment are required for *all parking fees* (if available) and all other single items costing more than $25.

(4) First-class travel by witnesses requires the same justification and approval required for first-class travel by employees of the Federal Government.

(c) *Subsistence Allowance.* A witness (other than a witness detained *in custody*) who is required to be away from his or her residence *overnight* is entitled to a subsistence allowance. A witness who *is not* required to be away from his or her residence overnight *is not* entitled to a subsistence allowance. The witness' subsistence allowance shall not exceed either the per diem rate or the actual subsistence allowance rate prescribed for Government employees for the place of attendance. These rates are established by the Administrator, General Services, for areas within the conterminous United States; the Secretary of Defense for areas of the United States other than conterminous; or the Secretary of State as published in the Standardized Regulations (Government Civilians, Foreign Areas) for foreign areas. The witness' subsistence allowance shall consist of a meal and miscellaneous expense portion and a lodging portion. *When an overnight stay is required,* the witness shall be entitled to: (1) The meal and miscellaneous expense portion for each day (or partial day) the witness is required to remain away from his or her residence and (2) the lodging portion for each night the witness is required to incur a lodging expense. The meal and miscellaneous expense portion shall be 50% of the authorized subsistence allowance rate rounded to the next whole dollar in an actual subsistence rate area, or 45% of the per diem rate rounded to the next whole dollar in a per diem area. The lodging portion shall be the difference between the meal and miscellaneous expense portion and the authorized rate.

(d) *Detained Witness Fee.* A witness (other than an alien covered by § 21.3) detained *in custody* pursuant to 18 U.S.C. 3149 for want of security for his or her appearance shall receive subsistence *in kind* and shall be paid a single daily attendance fee for each day the witness is detained. A witness in custody for purposes other than 18 U.S.C. 3149 is ineligible to receive the attendance and subsistence fees provided by this section.

§ 21.5 Use of table of distances.

Mileage payable to witnesses under 28 U.S.C. 1821 shall be computed on the basis of odometer readings or the highway distances as stated in the Rand McNally Standard Highway Mileage Guide or in any generally accepted highway mileage guide which contains a shortline nationwide table of distances. However, with respect to travel in areas for which no such highway mileage guide exists, mileage payable under 28 U.S.C. 1821 shall be based on the lesser of either (a) the route of travel actually employed or (b) a usually traveled route.

§ 21.6 Proceedings in Forma Pauperis.

28 U.S.C. 1915 provides for the commencement, prosecution or defense of any suit, action, or proceeding without prepayment of fees and costs. Witnesses shall attend as in other cases.

(a) *Civil Cases.* There are currently no provisions for payment of witnesses called by the indigent. If the indigent party prevails, witness fees and expenses may be taxed as costs in accordance with 28 U.S.C. 1920.

(b) *Criminal Cases.* Rule 17(b), Federal Rules of Criminal Procedure, requires that fact witnesses *subpoenaed* on behalf of an indigent defendant be paid in the same manner as witnesses called on behalf of the Government. The attendance must be certified by the presiding officer of the court. The expenses of Federal Government employees are treated in the same manner as they are treated when the employee is called by a Government attorney.

§ 21.7 Certification of witness attendance.

In any case in which the United States Department of Justice, or office or organization thereof, is a party, the Department of Justice shall pay all fees and allowances of witnesses, except for those witnesses as defined in § 21.2, paragraph (d)(1), on the certification of the following officials: The United States Attorney, an Assistant United States Attorney, a United States Trustee, or the United States Department of Justice attorney who actually conducts the case. In criminal proceedings *in forma pauperis* or in proceedings before a United States Commissioner, United States Magistrate or United States Parole Commission Hearing Examiner, the Department of Justice shall pay all fees and allowances of witnesses on the certification of the United States District Judge hearing the case or such Commissioner, Magistrate, or Hearing Examiner.

Dated: April 21, 1986.

Edwin Meese III,

Attorney General.

[FR Doc. 86–9822 Filed 4–30–86; 8:45 am]

BILLING CODE 4410–01–M

VOL 51 ISS 84 MY 1 1986 UMI

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 306

General Regulations Governing United States Securities

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: This amendment permits the delivery by means other than registered mail of registered securities issued by the Department of the Treasury on all transactions except original issue. In cases other than original issue, shipments are made by the Department at the risk of, but not the expense of, the owner. Currently, these are sent by registered mail to establish receipt. However, unless the registered owner requests it and pays for it in advance, shipments are uninsured. Certified mail would serve the same purpose as registered mail in establishing whether the addressee received the package and would be at considerably less expense to the United States. While owners of securities being reissued in registered form have the option of requesting delivery by any means, the present regulations specify that in cases where owners make no special request, the Department will deliver the securities by registered mail. Registered mail was specified because, at the time the regulations were originally promulgated, the only way that the Department could establish whether an article mailed by it was received by the addressee was to send it by registered mail. Certified mail offers the same service at considerably less expense. Because the Department cannot anticipate what similar services may be offered by the Postal Service in the future, it believes the regulations should provide for the use of any means of delivery. Registered security owners will still be able to request that a certain form of delivery be used, including insured registered mail, if they make prior arrangements with the agency to which the original securities were presented.

EFFECTIVE DATE: May 1, 1986.

FOR FURTHER INFORMATION CONTACT: Margaret Marquette, Attorney-Adviser, Divisions Office, Office of the Chief Counsel, Bureau of the Public Debt, (202) 447-9859.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

Because this document relates to agency management it is not subject to Executive Order 12291. Accordingly, a regulatory impact analysis is not required.

Paperwork Reduction Act

The Paperwork reduction Act, Pub. L. 96-511, 94 Stat. 2812 (44 U.S.C. Chapter 35) does not apply to this rule because it does not contain information collection requirements which necessitate approval by the Office of Management and Budget.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required for this document it is not subject to the Regulatory Flexibility Act (5 U.S.C. 601).

Administrative Procedure Act

This regulation relates to agency management and is therefore not subject to the notice and public comment procedures and the delayed effective date requirements of the Administrative Procedure Act (5 U.S.C. 553(a)(2)).

The Department has determined that to maximize the savings which will be realized by using certified rather than registered mail for shipping securities, the new rule should be instituted at the earliest possible date.

List of Subjects in 31 CFR Part 306

Federal Reserve System Government securities.

PART 306—[AMENDED]

Accordingly, 31 CFR Part 306 is amended as follows:

1. Authority citation for part 306 is revised to read as follows:

Authority: R.S. 3706; 40 Stat. 288, 502, 844, 1309; 42 Stat. 321; 46 Stat. 20; 48 Stat. 343; 49 Stat. 20; 50 Stat. 481; 52 Stat. 477; 53 Stat. 1359; 56 Stat. 189; 73 Stat. 622; 85 Stat. 5, 74 (31 U.S.C. 738a, 739, 752, 752a, 753, 754, 754a, and 754b); 98 Stat. 936, 939, 941, 942, 944 to 947 (31 U.S.C. 3102 to 3104, 3107, 3108, 3111, 3121 to 3123, 3125, 3129); 5 U.S.C. 301.

2. Section 306.3 is amended by revising paragraph (e) to read as follows:

§ 306.3 Transportation charges and risks in shipment of securities.

* * * * *

(e) Bearer securities issued on transactions other than original issue will be delivered by registered mail, covered by insurance, at the owner's risk and expense, unless called for in person by the owner or his agent. Registerd securities issued on such transactions will be delivered by certified mail or by any other means, at the risk of, but without expense to, the registered owner. Should delivery by a particular means be desired, advance arrangements should be made with the official agency to which the original securities were presented.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 86-9757 Filed 4-30-86; 8:45 am]

BILLING CODE 4810-11-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS MOBILE BAY (CG 53) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS without interfering with its special function as a naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: April 22, 1986.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS MOBILE BAY (CG 53) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and Annex I, section 3(a), pertaining to the horizontal distance between the forward and aft masthead lights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the vessel. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(ii)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS MOBILE BAY	CG 53						X	X	36

Dated: April 22, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-9780 Filed 4-30-86; 8:45 am]

BILLING CODE 3810-AE-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 513 and 553

[GSAR AC-86-4]

Revised Procedures For Use of the GSA Form 300, Order for Supplies and Services

Correction

In FR Doc. 86-8297 beginning on page 12704 in the issue of Tuesday, April 15, 1986, make the following correction on page 12706: In the second column, the name of the official who signed the document was misspelied and should have read "Richard H. Hopf III".

BILLING CODE 1505-01-M

VOL 51 ISS 84 MY 1 1986 UMI

Proposed Rules

Federal Register
Vol. 51, No. 84
Thursday, May 1, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards; Correction

AGENCY: Small Business Administration.

ACTION: Proposed rule correction.

SUMMARY: This document corrects an SBA notice to retain the 1,000-employee size standard for shipbuilding and ship repair activities which was published in the **Federal Register** on February 28, 1986, 51 FR 7077. This notice was mistakenly identified in the **Federal Register** as a proposed rule. This correction document changes the ACTION line to read "Decision not to Propose a Rule Change," as SBA believes that this wording would provide the clearest indication of SBA's intent to the general public.

FOR FURTHER INFORMATION CONTACT: Andrew Canellas, Director, Size Standard Staff, Small Business Administration, 1441 L Street, NW., Washington, DC 20416, (202) 653–6373.

The following correction is made in FR DOC. 86–4411 appearing on 7077 in the issue of February 28, 1986.

On Page 7077 the introductory section is corrected by revising it to read as follows:

SMALL BUSINESS ADMINISTRATION

Shipbuilding and Ship Repair Size Standards

AGENCY: Small Business Administration.

ACTION: Decision not to Propose a Rule Change.

Dated: April 22, 1986.

Charles L. Heatherly,

Acting Administrator.

[FR Doc. 86–9743 Filed 4–30–86; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86–NM–30–AD]

Airworthiness Directives; McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F, –40, and KC–10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require modification of flight compartment crew seat life vests on certain McDonnell Douglas Model DC–10 and KC–10A (Military) series airplanes. This proposal is prompted by reports of holes in life vests caused by the life vest chafing against a metal plate sewn on the inside forward flap of the storage pouch. This proposed AD is needed to minimize the potential for damage to crew seat life vests that would render the vest useless in an emergency.

DATE: Comments must be received no later than June 23, 1986.

ADDRESS: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, ANM–7, Attention: Airworthiness Rules Docket No. 86–NM–30–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–L65 (54–60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Jerald R. Berube, Aviation Safety Inspector, Manufacturing Inspection Branch, ANM–160L, FAA Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514–6341.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communication received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, ANM–7, Attention: Airworthiness Rules Docket No. 86–NM–30–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion

Two operators have reported several instances of holes in crew seat life vests. Investigation revealed that the holes in the life vests were caused by chafing of the vests against a metal plate (with two grommets installed) sewn on the inside forward flap of the storage pouch. Additional damage to the vests can be caused by the screws that attach the pouch to the seat back. Holes, if worn through both air compartments of a life vest, would render the vests useless in an emergency. The seats affected by this problem include those of the pilot, co-pilot, flight engineer, and first observer; model numbers 1056, 1057, and 1058; serial numbers 001 through 907, and 911; manufactured by Aircraft Mechanics, Inc.

Aircraft Mechanics, Inc. issued Service Bulletin 25–DL–10/678–24, dated May 20, 1984, which describes inspection and modification of Aircraft Mechanics, Inc., seats, model numbers 1056, 1057, and 1058. This modification will minimize the potential for damage to crew seat life vests.

Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive (AD) is being proposed which would require modification of crew seats on McDonnell Douglas DC–10 and KC–10A (Military) series airplanes in accordance with the service bulletin referred to above.

It is estimated that 194 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 manhours per airplane to accomplish the required action, and that the average labor cost would be $40 per manhour. Parts required for the modification would be provided by the seat manufacturer upon request. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $23,280.

For these reasons, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model DC–10 and KC–10A (Military) series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulation as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.85.

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC–10–10, –10F, –15, –30, –30F, –40 and KC–10A (Military) series airplanes, certificated in any category, equipped with Aircraft Mechanics, Inc., crew seats, model numbers 1056, 1057, and 1058, having serial numbers 001 through 907 and 911. Compliance required as indicated, unless previously accomplished.

To preclude the potential of damage to crew seat life vests, accomplish the following:

A. Within 12 months after the effective date of this AD inspect the life vest. If any signs of chafing are found, replace before further flight with a serviceable unit.

B. Within 12 months after the effective date of this AD, modify and re-identify the crew seat in accordance with the accomplishment instructions of Aircraft Mechanics, Inc., Service Bulletin 25–DC–10/678–24, dated May 20, 1984, or later revision approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–L65 (54–60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on April 23, 1986.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–9708 Filed 4–30–86; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 39

[Docket No. 86–NM–29–AD]

Airworthiness Directive; Sperry SPZ–7000 Digital Automatic Flight Control System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing airworthiness directive (AD) applicable to the Sperry SPZ–7000 Digital Automatic Flight Control System installed in any helicopter, including, but not limited to, Sikorsky and S.N.I.A.S. helicopters. The existing AD imposes a restriction on use of the Sperry SPZ–7000 Digital Automatic Flight Control Systems in the instrument landing system (ILS) mode, and includes terminating action for the restriction on Sikorsky helicopters. This amendment is needed to establish terminating action for the restriction on S.N.I.A.S. Model AS–365N helicopters.

DATE: Comments must be received no later than June 23, 1986.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, ANM–7, Attention: Airworthiness Rules Docket No. 86–NM–29–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from Sperry Flight Systems, Avionics Division, P.O. Box 29000, Phoenix, Arizona 85038. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Western Aircraft Certification Office, 15000 Aviation Boulevard, Hawthorne, California.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Thompson, Aerospace Engineer, Systems & Equipment Section, ANM–173W, FAA, Northwest Mountain Region, Western Aircraft Certification Office; telephone (213) 297–1375. Mailing address: FAA, Northwest Mountain Region, Western Aircraft Certification Office, ANM–173W, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communication received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

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Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-NM-28-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

This notice proposes to amend Airworthiness Directive (AD) 85-07-03 Amendment 39-5026 (50 FR 13015; April 2, 1985), which currently imposes a restriction on engagement of the Sperry SPZ-7000 Digital Automatic Flight Control System ILS mode of operation more than 2,000 feet above ground level. The AD was needed to preclude improper excursions from the glide slope during ILS approach. The SPZ-7000 Digital Automatic Flight Control Systems are known to be installed on helicopters, including, but not limited to, Sikorsky Model S-76A helicopters modified in accordance with Supplemental Type Certificate (STC) No. SH2218NM, and S.N.I.A.S. Model AS-365N helicopters modified in accordance with STC No. SH2215NM. The SPZ-7000 Digital Automatic Flight Control System installed in the Sikorsky helicopter has a FZ-700 computer, part number 7003138-002, as a component; the S.N.I.A.S. Model AS-365N helicopter has a FZ-700 computer, part number 7003138-001, installed in place of the part number 7003138-002. These different components are tailored to accommodate the helicopter flight and operational differences. Sperry corrected the problem in the Digital Automatic Flight Control Systems with the 7003138-002 computer and AD 85-07-03 was issued with terminating action for the restriction imposed on the Sikorsky helicopter.

Since issuing Amendment 39-5026, the manufacturer has developed a change (modification "F") to the Sperry SPZ-7000 Digital Automatic Flight Control System with FZ-700 computer, part number 7003138-001, which the FAA has determined corrects the glide slope tracking problem applicable to the S.N.I.A.S. Model AS-365N helicopter. Therefore, the FAA proposes to amend Amendment 39-5026 by removing the restriction on Sperry SPZ-7000 Digital Automatic Flight Control System with FZ-700 computer, part number 7003138-001 with modification "F" incorporated, installed in S.N.I.A.S. Model AS-365N helicopters modified in accordance with STC No. SH2215NM.

For other models of helicopters, incorporation of Sperry SPZ-7000 Digital Automatic Flight Control System with FZ-700 computer, part number 7003138-001 with modification "F," may be approved as terminating action for the restriction if the system's effectivity can be demonstrated as an alternate means of compliance, under paragraph C. of the AD.

It is estimated that five helicopters of U.S. registry would be affected by this AD, that it would take approximately two manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on the U.S. operators is estimated to be $400.

For these reasons, the FAA has determined that this document: (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because there is essentially no expense involved in removing the restriction. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft, Air transportation, Safety.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a); 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.

2. By amending Airworthiness Directive 85-07-03, Amendment 39-5026 (50 FR 13015; April 2, 1985), by revising paragraph B. to read as follows:

B. Installation of FZ-700 computers, P/N 7003138-002 with modification "E" incorporated, on Sikorsky S-76A helicopters; or P/N 7003138-001 with modification "F" incorporated, on S.N.I.A.S. Model AS-365N helicopters; constitutes terminating action for the requirement of paragraph A. of this AD.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to Sperry Flight Systems, Avionics Division, P.O. Box 29000, Phoenix, Arizona 85038. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Western Aircraft Certification Office, 15000 Aviation Boulevard, Hawthorne, California 90250.

Issued in Seattle, Washington, on April 23, 1986.

David E. Jones,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-9707 Filed 4-30-86; 8:45 am]

BILLING CODE 4910-13-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300145; FRL-3003-3]

Pesticides; Technical Amendments to Definition and Interpretation of Certain Raw Agricultural Commodities

Correction

In FR Doc. 86-8504, beginning on page 12887, in the issue of Wednesday, April 16, 1986, make the following correction.

On page 12888, second column, fourth line, "180.2" should read "180.34".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 31

[CC Docket 86-111, FCC 86-146]

Common Carrier Services; Separating Cost of Regulated Telephone Services From Cost of Nonregulated Activity

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Telephone companies engage in both regulated and nonregulated activities. Rates for their regulated services are generally designed to cover costs and to provide an opportunity to earn a return on investment. Under the Communications Act of 1934, the Federal Communications Commission must assure that the rates for interstate telephone services are "just and reasonable." For rates to be reasonable, it is necessary that the expenses and investment for nonregulated activities be excluded from the rate regulation process. This Notice of Proposed Rulemaking is intended to develop rules for separating the costs of regulated telephone services from the costs of other telephone company activities, so that only the cost of regulated service will be borne by the ratepayers for that service. The Commission seeks comment on (1) proposed cost allocation rules for allocating costs between regulated and nonregulated activities; (2) rules governing transactions between telephone companies and their affiliates; and (3) changes in the manner in which nonregulated activities are reflected in the prescribed accounts of telephone companies.

DATES: Comments are due on or before June 30, 1986, and reply comments are due on or before July 30, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Jane Jackson, Accounting and Audits Division, Common Carrier Bureau (202) 632-7500.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking, CC Docket 86-111, adopted April 3, 1986, and released April 17, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rulemaking

By this Notice we seek comment on methods of separating the costs of regulated telephone service from the costs of the nonregulated activities of telephone companies and their affiliates. We intend to (1) establish rules and standards for cost allocations; (2) establish rules for transactions between a regulated telephone company and its corporate affiliates; and (3) establish the accounting procedures, reporting requirements, and other mechanisms, needed for implementation and monitoring of the cost allocation and transfer pricing rules.

Cost Allocations. The essential elements of our cost allocation proposal are: (1) Cost allocation standards and guidelines, to be adopted by this Commission; (2) written cost allocation manuals, to be developed by the companies in accordance with our standards and guidelines; and (3) an oversight and enforcement mechanism which supplements our own audit capability with independent review of both the cost allocation manuals and of the manner in which companies implement the procedures set out in those manuals.

We seek comment on two alternative sets of cost allocation standards. Alternative #1 is based on relative use concepts similar to those which underlie the Jurisdictional Separations Manual (Part 67 of the Commission's Rules). Under Alternative #1, cost allocation manuals would be organized according to Part 31 accounting classifications. A draft model cost allocation manual of this type appears in Appendix 1 of the NPRM. We would require companies to file their manuals with this Commission and to implement them as soon as they are filed. The Common Carrier Bureau would conduct an initial review of each manual and would inform companies as soon as possible of deficiencies. Further review, which would include an opportunity for public comment, would be undertaken after the filing of the initial independent audit reports. A different procedure may be warranted if we decide to eliminate some or all of the existing separate subsidiary requirements for the provision of CPE and enhanced services. We intend to monitor the results of cost allocations, to include review of cost allocations in routine audit processes, and to require each company to submit each year the report of an independent auditor attesting that the company has designed and implemented its cost allocation manual in manner consistent with regulatory requirements.

The cost allocation standards proposed as Alternative #2 would rely on service-specific cost studies and demand forecasts to develop plant cost allocations based on projected utilization, rather than on actual relative use. Under Alternative #2, cost allocation manuals would be organized on a service-by-service basis rather than on an account-by-account basis. We would propose, as under Alternative #1, staff monitoring, Commission audits, and independent audits. Under Alternative #2, however, Commission staff would focus on comparing actual use and forecasted use in order to validate the allocation factors used to assign common costs to each of the various nonregulated activities.

We invite comment on all aspects of the basic proposals summarized above, and on the following specific cost allocation issues: use of fully distributed costing for nonregulated activities; time reporting procedures; the extent to which investment once allocated to nonregulated services should be permitted to enter the ratebase; treatment of combined marketing costs; treatment of overheads; allocation of depreciation reserves; treatment of common costs incurred in holding companies and other telephone company affiliates.

Transactions with affiliates. We seek comment on a proposal to add a new § 31.01-10 to the General Instructions of Part 31. Under the proposal, all transactions between the regulated activity and its affiliates would be recorded at market prices. If market prices are not determinative from prevailing price lists or tariffs, however, assets or services purchased by the regulated activity from an affiliated entity would be recorded on the regulated books at the lower of their cost or their fair market value. On the other hand, if assets or services not determinative from prevailing price lists or tariffs are sold by the regulated activity to the nonregulated activity the sale would be recorded on the regulated books at the higher of cost or fair market value. The proposed sections 31.01-10 would also require the allocation of income taxes between the regulated activity and its affiliates.

Accounting for Nonregulated Activities. We prescribe in Part 31 two accounts for nonregulated activities. Account 106 is an asset account entitled "Nonregulated Investment." Account 317 is a profit and loss account entitled "Income from Nonregulated Activities." Costs associated with nonregulated activities are initially recorded directly in the nonregulated set of accounts or in accounts for regulated operations. All nonregulated costs which are initially recorded in accounts for regulated operations, except for costs representing the nonregulated shares of investments in items of common plant, are transferred to Account 106 at the end of each month. We have not yet specified how companies should account for common plant investment; to do so is a goal of the instant proceeding.

It is our tentative conclusion that a single nonregulated accounting scheme may not be appropriate for every possible type of nonregulated activities. We therefore propose to amend Part 31 in such a way as to allow us to determine separately what should be the accounting treatment for each of the following types of nonregulated activity:

(1) *Incidental activities.* We propose to continue the traditional accounting treatment of incidental activities. We propose to adopt the following criteria for determing whether an activity is "incidental": (a) the activity should be an outgrowth of regulated operations; (b) the revenues from all incidental activities should not exceed .05% of the operating company's total revenues.

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(2) *Activities never subject to tariff.* We propose to continue the current requirement that telephone companies engaged in these traditionally nonregulated activities maintain separate books of accounts and allocate to these activities a fully distributed share of common costs.

(3) *Preemptively detariffed services.* To date, this Commission has preemptively deregulated two categories of telephone company service, of CPE and of enhanced services. We propose to continue to require application of our nonregulated accounting and cost allocation rules for CPE and enhanced services.

(4) *Activities detariffed in the interstate jurisdiction only.* Recently this Commission detariffed interstate billing and collection services, but did not preempt state regulation of intrastate billing and collections. Pending adoption of generic cost allocation rules in the instant proceeding, we requested local exchange carriers to calculate the costs of interstate billing and collections in compliance with Parts 67 and 69 of our Rules.

We believe we should consider on a case-by-case basis the appropriate costing and accounting approach for each service we detariff. We have tentatively concluded that costs attributable to unregulated billing and collection for interstate services should be removed after, rather than before, investment and expenses have been apportioned in accordance with jurisdictional separation procedures. If this procedure is adopted, the Part 69 apportionment procedures could be used to determine costs attributable to an interstate billing and collection category. Other procedures such as marginal costing could also be used.

(5) *Services detariffed by a state.* Our current accounting rules, read literally, could treat detariffed basic services the same as any nonregulated activity. We believe that this result probably would not be appropriate, particularly for detariffed local exchange services such as Centrex. One approach we might take is to amend our rules for accounting for, and allocating costs to, nonregulated activities so that those rules do not apply to services deregulated by a state. Another approach might be to retain a requirement that our separate accounting and cost allocation rules be used for detariffed services, but to allow waivers of that requirement.

We propose two alternative mechanisms for separating the cost of common plant between regulated and nonregulated activities. The first is based on the existing "separate books of account" approach. All common expenses initially recorded in operating accounts would be credited to those accounts and debited to Account 106 just as they are now. Nonregulated use of common plant would be accounted for by compensating the regulated activities for that use. The compensation amount would be charged as an expense to Account 106 and credited as income to Account 526, other operating revenues. The amount of compensation would be calculated as follows: The carrier would follow cost allocation standards and procedures to determine how much of the investment in common plant would be attributed to nonregulated activities. The carrier would then apply the authorized interstate rate of return and income tax factors to that portion of investment.

Under alternative #2, a carrier would use operating accounts for all services provided through the telecommunications network and non-operating accounts (i.e., accounts 106 and 317) for its non-network (*e.g.*, real estate, CPE) services. Costs associated with non-network services will be treated the same way as they would be treated under alternative #1. After closing its books the carrier would assign and allocate the costs and revenues associated with the network services between its regulated and nonregulated operations, following the procedures set out in its cost allocation manual. Costs attributable to nonregulated services would be removed from operating accounts prior to jurisdictional separations, but would remain in the books of account for financial purposes. The carrier would routinely report the regulated and nonregulated network amounts to the Commission. We invite comment on all aspects of these accounting proposals.

We certify that the Regulatory Flexibility Act is not applicable to the rules we are proposing in the proceeding. We do recognize, however, that the proposals we have put forth for comment herein were developed with the larger telephone companies in mind. We therefore solicit comment on the extent to which any rules we adopt in this proceeding should include modifications or exceptions for small telephone companies.

The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified requirements or burdens upon the public. Implementation of any new or modified requirement or burden will be subject to approval by the Office of Management and Budget as prescribed by the Act.

This is a nonrestricted notice and comment rulemaking proceeding, *see* 47 CFR 1.231.

Accordingly, it is ordered, pursuant to the provisions of section 4(i), 201(b), 218, 219, and 220(a) of the Communications Act of 1934, as amended, 47 U.S.C. Secs. 154(i), 201(b), 218, 219 and 220(a), that there is hereby instituted a notice of proposed rulemaking into the foregoing matters.

It is further ordered, that interested persons may file comments on the proposals discussed in this Notice on or before June 30, 1986. Reply comments shall be filed on or before July 30, 1986. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, 47 CFR 1.419, an original and five (5) copies of all comments shall be furnished to the Commission. Copies of the comments will be available for public inspection in the Commission's Docket Reference Room, 1919 M Street, NW., Washington, DC.

It is further ordered, pursuant to Section 220(i), that the Secretary shall serve a copy of this Notice on each state commission.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-9138 Filed 4-30-86; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 51, No. 84
Thursday, May 1, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Designation Renewal of Cedar Rapids Grain Service, Inc. (IA), et al

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of Cedar Rapids Grain Service, Inc. (Cedar Rapids), Champaign-Danville Grain Inspection Departments, Inc. (Champaign), and Springfield Grain Inspection Department (Springfield), as official agencies responsible for providing official services under the U.S. Grain Standards Act, as Amended (ACT).

EFFECTIVE DATE: June 1, 1986.

ADDRESS: James R. Conrad, Chief, Review Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

FGIS announced that Cedar Rapids', Champaign's, and Springfield's designations terminate on May 31, 1986, and requested applications for official agency designation to provide official services within specified geographic areas in the December 2, 1985, **Federal Register** (50 FR 49435). Applications were to be postmarked by January 2, 1986. Cedar Rapids and Champaign were the only applicants for their respective designations and each applied for designation renewal in the areas currently assigned to those agencies. FGIS received two applications for the Springfield area. Springfield applied for designation renewal in the area currently assigned to that agency, except for OK Grain Company, Litchfield, Montgomery County. Southern Illinois Grain Inspection Service, Inc. (Southern Illinois), Fairview Heights, Illinois, applied for designation for OK Grain Company, Litchfield, Montgomery County.

FGIS announced the applicant names and requested comments on the same in the February 3, 1986, **Federal Register** (51 FR 4203). Comments were to be postmarked by March 20, 1986. No comments were received regarding Cedar Rapids', Champaign's, and Springfield's designation renewal, or regarding Southern Illinois' designation.

FGIS evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act, and in accordance with section 7(f)(1)(B), determined that Cedar Rapids, Champaign, and Springfield are able to provide official services in the geographic area for which FGIS is renewing their designation. Effective June 1, 1986, and terminating May 31, 1989, Cedar Rapids and Campaign will provide official inspection services in their specified geographic area, which is the entire area previously described in the December 2 **Federal Register**.

Also effective those dates, Springfield will provide official inspection services to the entire geographic area it applied for in the February 3 **Federal Register**. FGIS also determined that Southern Illinois is able to provide official services in the geographic area for which it applied and FGIS is designating it. Effective June 1, 1986, and terminating September 30, 1987 (the termination of Southern Illinois' present designation), Southern Illinois will provide official inspection services to the area it applied for in the February 3 **Federal Register**. Southern Illinois' present designation is amended accordingly.

In another action, Schneider Inspection Service, Inc. (Schneider), requested amendment of its designation to delete a portion of its assigned geographic area. Champaign was named to provide service on an interim basis to that area until FGIS could decide which official agency to designate for the specified geographic area. FGIS requested applications for official agency designation in that portion of Iroquois County, Illinois, previously assigned to Schneider, in the September 20, 1985, **Federal Register** (50 FR 38147). Applications were to be postmarked by October 21, 1985, and Champaign was the only applicant.

FGIS announced the applicant name and requested comments on the same in the December 2, 1985, **Federal Register** (50 FR 49436). Comments were to be postmarked by January 16, 1986. No comments were received regarding Campaign's designation.

FGIS evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act, and in accordance with section 7(f)(1)(B), determined that Campaign is able to provide official services in the geographic area for which FGIS is designating it. In addition to the geographic area described in the December 2 **Federal Register**, effective June 1, 1986, and terminating May 31, 1989, Campaign will provide official inspection services in that portion of Iroquois County, which was previously described in the September 20 **Federal Register**.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency for the performance of official inspection of Class X or Class Y weighing services and where the agency and one or more of its inspectors or weighers is located. In addition to the specified service points within the assigned geographic area, an agency will provide official services not requiring an inspector or weigher to all locations within its geographic area.

Interested persons may contact the Review Branch, specified in the address section of this notice, to obtain a list of an agency's specified service points. Interested persons also may obtain a list of the specified service points by contacting the agency at the following address:

Cedar Rapids Grain Service, Inc., 1114-55th Avenue, S.W., Cedar Rapids, IA 52404;

Champaign-Danville Grain Inspection Department, Inc., 527 E. Main Street, Danville, IL 61832;

Springfield Grain Inspection Department, 1301 North Fifteenth Street, Springfield, IL 62702.

(Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*))

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Dated: April 23, 1986.

J.T. Abshier,

Director, Compliance Division

[FR Doc. 86-9749 Filed 4-30-86; 8:45 am]

BILLING CODE 3410-EN-M

Request for Comments on Designation Applicants in the Geographic Area Currently Assigned to Fremont Grain Inspection Department, Inc. (NE) and Titus Grain Inspection, Inc. (IN)

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the geographic area currently assigned to Fremont Grain Inspection Department, Inc. (Fremont), and Titus Grain Inspection, Inc. (Titus).

DATE: Comments to be postmarked on or before June 16, 1986.

ADDRESS: Comments must be submitted, in writing, to Lewis Lebakken, Jr., Information Resources Staff, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 1661 South Building, 1400 Independence Avenue, SW., Washington, DC 20250. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382-1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

FGIS requested applications for official agency designation to provide official services within specified geographic areas in the March 3, 1986, **Federal Register** (51 FR 7301). Applications were to be postmarked by April 2, 1986. Fremont and Titus were the only applicants for their respective designations and applied for designation renewal in the area currently assigned to those agencies.

This notice provides interested persons the opportunity to present their comments concerning the designation applicants. All comments must be submitted to the Information Resources Staff, Resources Management Division, specified in the address section of this notice.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the **Federal Register**, and the applicants will be informed of the decision in writing.

Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*))

Dated: April 23, 1986.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 86-9750 Filed 4-30-86; 8:45 am]

BILLING CODE 3410-EN-M

Request for Designation Applicants to Provide Official Services in the Geographic Area Currently Assigned to Cairo Grain Inspection Agency, Inc. (IL)

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. This notice announces that the designation of one agency will terminate, in accordance with the Act, and requests applications from parties, including the agency currently designated, interested in being designated as the official agency to provide official services in the geographic area currently assigned to the specified agency. The official agency is Cairo Grain Inspection Agency, Inc.

DATE: Applications to be postmarked on or before June 2, 1986.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250. All applications received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of FGIS is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Cairo Grain Inspection Agency, Inc. (Cairo), 4007 Sycamore Street, Cairo, IL 62914, was designated under the Act as an official agency to provide inspection functions on November 1, 1983.

The official agency's designation terminates on October 31, 1986. Section 7(g)(1) of the Act states that official agencies' designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Cairo, in the States of Illinois, Kentucky, and Tennessee, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation, is as follows:

In Illinois, the area includes Randolph County (southwest of State Route 150 from the Mississippi River north to State Route 3); Jackson County (southwest of State Route 3 southeast to State Route 149; State Route 149 east to State Route 13; State Route 13 southeast to U.S. Route 51; U.S. Route 51 south to Union County); and Alexander, Johnson, Hardin, Massac, Pope, Pulaski, and Union Counties.

In Kentucky, the area includes Ballard, Calloway, Carlisle, Fulton, Graves, Hickman, Livingston, Lyon, Marshall, McCracken, and Trigg Counties.

In Tennessee, the area includes Benton, Dickson, Henry, Houston, Humphreys, Lake, Montgomery, Obion, Stewart, and Weakley Counties.

The following locations, outside of the foregoing contiguous geographic area, are presently assigned to Cairo and are part of this geographic area assignment: Hopkinsville Elevator Company, Inc., Hopkinsville; and the L&N Railroad Siding on Alternate U.S. Route 41, 5 miles south of Hopkinsville, both in Christian County, Kentucky.

Exceptions to the described geographic area are the following locations situated inside Cairo's area which have been and will continue to be serviced by Memphis Grain and Hay Association: Continental Grain Co., Tiptonville; West Tennessee Soya, Tiptonville; and Planters Gin, Ridgely; all in Lake County, Tennessee.

Interested parties, including Cairo, are hereby given opportunity to apply for official agency designation to provide the official services in the geographic area, as specified above, under the

provisions of section 7(f) of the Act and section 800.196(d) of the regulations issued thereunder. Designation in the specified geographic area is for the period beginning November 1, 1986, and ending October 31, 1989. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

(Pub. L. 94-582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*))

Dated: April 23, 1986.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 86-9751 Filed 4-30-86; 8:45 am]

BILLING CODE 3410-EN-M

Soil Conservation Service

Environmental Statements; Lick Creek Watershed, IL

AGENCY: Soil Conservation, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental statement is not being prepared for the Lick Creek Watershed, Sangamon and Morgan Counties, Illinois.

FOR FURTHER INFORMATION CONTACT: John J. Eckes, State Conservationist, Soil Conservation Service, 301 North Randolph Street, Champaign, Illinois 61820, Telephone (217) 398-5267.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impact on the environment. As a result of these findings, John J. Eckes, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns are erosion, sedimentation, water quality, water quantity, and resource base degradation. The planned works of improvement include conservation tillage sytems, terraces, grassed waterways, grade stabilization structures, land use change, and field border strips.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developing during the environmental assessment are on file and may be reviewed by contacting John J. Eckes.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: April 22, 1986

John J. Eckes,

State Conservationist.

[FR Doc. 86-9810 Filed 4-30-86; 8:45 am]

BILLING CODE 3410-16-M

Watershed Project; Lick Creek Watershed, Tennessee

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of deauthorization of federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Lick Creek Watershed project, Greene County, Tennessee, effective on April 14, 1986.

FOR FURTHER INFORMATION CONTACT: Donald C. Bivens, State Conservationist, Soil Conservation Service, 675 Estes Kefauver FB-USCH, 801 Broadway, Nashville, TN 37203, 615/736-5471.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: April 25, 1986.

Billy K. Benson,

Deputy State Conservationist.

[FR Doc. 86-9790 Filed 4-30-86; 8:45 am]

BILLING CODE 3410-16-M

Watershed Projects; Oil Creek Watershed, Pennsylvania

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Deauthorization of Federal Funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622); the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Oil Creek Watershed project, Crawford, Erie, Venango, and Warren Counties, Pennsylvania, effective on April 14, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. James H. Olson, State Conservationist, Soil Conservation Service, Federal Building, 228 Walnut Street, Harrisburg, Pennsylvania 17108, telephone (717) 782-4453.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program.) Executive order 12372 regarding intergovernmental review of Federal and Federally-assisted programs and projects is applicable.

Dated: April 22, 1986.

James H. Olson,

State Conservationist.

[FR Doc. 86-9718 Filed 4-30-86; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

[Docket Nos. 1625-01, 1625-02, 1625-03, 1625-04, and 1625-05]

Albert A. Goldberg, et al.; Order Vacating Temporary Denial Order

In the Matter of: Albert A. Goldberg, International Affiliates Co. Inc., National-Tronics Company, Sarfraz A. Mir and S.J. Enterprises; Respondents.

By a Temporary Denial Order issued November 19, 1981, 46 FR 57716 (November 25, 1981), upon request of the U.S. Department of Commerce, the following Respondents were temporarily denied all privileges of participating in any manner or capacity in the export or reexport of U.S.-origin commodities or technical data.

Albert A. Goldberg, President,
International Affiliates Co., Inc.
and
National-Tronics Company, 134 West 32nd Street, New York, New York 10001
Sarfraz A. Mir, Managing Director, S.J. Enterprises, 15—Block 14 Super Market, F-6, Islamabad, Pakistan
and

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37–B School Road, 58–9, Islamabad, Pakistan
S.J. Enterprises, 15—Block 14 Super Market, F–6, Islamabad, Pakistan
and
P.O. Box 1361, Islamabad, Pakistan

The Temporary Denial Order extended its denial provisions also, because of relationships of ownership or of affiliation with the Respondents, to the following business organizations.

Gorex Corporation Inc., 134 West 32nd Street, New York, New York 10001
Inter-Tronics Co., Inc., 134 West 32nd Street, New York, New York 10001
ITL Corporation Inc., 134 West 32nd Street, New York, New York 10001
S.J. Enterprises, 10 Wahbat Road, Lahore, Pakistan
S.J. Enterprises, 13–A, Mohammad Ali Housing Society, Miran Mohammad Shad Road, Carachi, Pakistan.

By Order of February 3, 1982, 47 FR 6681 (February 16, 1982), one more business organization was added to this list: K.S. and Associates, 37–B School Road, F/8–1, Islamabad, Pakistan.

The Respondents moved to vacate the Temporary Denial Order, and various filings ensured. The Department has now filed a statement that it does not oppose a vacating of the Temporary Denial Order as to Sarfraz A. Mir, S.J. Enterprises, and K.S. and Associates. Further, the Department's filing noted that Albert A. Goldberg died in 1985 and that National-Tronics Company and International Affiliates Co., Inc. no longer exist, and suggested that, as to these three Respondents, and as to the business organizations related to them, it would now be approrpiate to vacate the Temporary Denial Order.

Based on these representations made by the Department and on a review of the whole record, I conclude that the public interest for which the Temporary Denial Order was issued no longer requires that it be maintained, and that it should be vacated.

Accordingly, it is hereby ordered that, effective immediately, the November 19, 1981 Temporary Denial Order is vacated.

A copy of this Order Vacating the Temporary Denial Order shall be published in the **Federal Register**.

Dated: April 25, 1986.

Thomas W. Hoya,

Administrative Law Judge.

[FR Doc. 86–9783 Filed 4–30–86; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Docket No. 51185–6041]

Allocation of Duty-Exemptions for Calendar Year 1986 Among Watch Producers Located in the Virgin Islands and Guam

AGENCY: Import Administration, International Trade Administration, Department of Commerce; and Office of the Secretary, Department of the Interior.

ACTION: Allocation of duty-exemptions for calender year 1986 among producers located in the Virgin Islands and Guam.

SUMMARY: This action allocates 1986 duty-exemptions for watch producers located in the Virgin Islands and Guam pursuant to Pub. L. 97–446.

FOR FURTHER INFORMATION CONTACT: Faye Robinson, (202) 377–1660.

SUPPLEMENTARY INFORMATION: Pursuant to Pub. L. 97–446, the Departments of the Interior and Commerce (the Departments) share responsibility for the allocation of duty exemptions among watch assembly firms in the insular possessions and the Northern Mariana Islands. The Departments established for 1986 a total quantity of watches and watch movements which could be entered free of duty from the insular possessions and the Northern Mariana Islands of 8,500,000 units, 4,500,000 of which could be allocated to Virgin Islands producers, 1,000,000 to Guam producers, 500,000 to American Samoa producers and 500,000 to Northern Mariana Islands producers (51 FR 14980).

The criteria for the calculation of the 1986 duty-exemption allocations among insular producers are set forth in § 303.14 of the regulations (15 CFR Part 303) as amended on April 22, 1986 (51 FR 14980).

The Departments have verified the data submitted on application form ITA–334P by producers in the territories and inspected the current operations of all producers in accordance with § 303.5 of the regulations.

The verification established that in calendar year 1985 the Virgin Islands watch assembly firms shipped 2,554,334 watches and watch movements into the customs territory of the United States under General Headnote 3(a) of the Tariff Schedules of the United States. The dollar amount of corporate income taxes paid by Virgin Islands producers during calendar year 1985, less penalty payments and refunds and subsidies, plus the creditable wages paid by the industry during calendar year 1985 to residents of the territory totalled $4,162,086.

There is only one producer in Guam. Publication of the Guam data, accordingly, would disclose competitively sensitive information.

The calendar year 1986 Virgin Islands annual allocations set forth below are based on the data verified by the Departments in the Virgin Islands and Guam and are made in accordance with the formula governing the allocation of the duty-exemptions set forth in § 303.14 of the regulations. The allocations reflect: (1) Adjustments made in data supplied on the producers' annual application forms (ITA Form-334P) as a result of the Departments' verification; and in the Virgin Islands allocation (2) Reallocation of duty-exemptions which have been voluntarily reliquished by some producers pursuant to § 303.6(b)(2) of the regulations.

The duty-exemption allocations for calendar year 1986 in the Virgin Islands are as follows:

Name of firm	Annual allocation
1. Belair Quartz, Inc	500,000
2. Hampden Watch Co., Inc	300,000
3. Master Time Co., Inc	650,000
4. Progress Watch Co., Inc	900,000
5. Unitime, Industries, Inc	610,000
6. Tropex, Inc	450,000

The duty-exemption allocation for Guam is as follows:

Name of firm	Annual allocation
Timewise Ltd	500,000

John L. Evans,

Deputy to the Deputy Assistant Secretary for Import Administration, Department of Commerce.

Kittie J. Baier,

Deputy Assistant Secretary for Territorial and International Affairs, Department of Interior.

[FR Doc. 86–9785 Filed 4–30–86; 8:45 am]

BILLING CODE 3510–DS–M, 4310–10–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–505]

Dynamic Random Access Memory Semiconductors of 256 Kilobits and Above (256K and Above DRAMs) From Japan; Postponement of Final Antidumping Duty Determination

AGENCY: International Trade Administration, Import Administration Commerce.

ACTION: Notice of Postponement of Final Antidumping Duty Determination.

SUMMARY: This notice informs the public that we have received requests from all of the respondents in this investigation to postpone the final determination, as permitted in section 735(a)(2)(A) of the Tariff Act of 1930, ("the Act") (19 U.S.C. 1673d(a)(2)(A)). Based on these requests, we are postponing our final determination as to whether sales of 256K and above DRAMs from Japan have occurred at less than fair value until not later than August 1, 1986. We are also postponing our public hearing from April 18, 1986 until May 16, 1986.

EFFECTIVE DATE: May 1, 1986.

FOR FURTHER INFORMATION CONTACT: Stephen Munroe, Office of Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–2923.

SUPPLEMENTARY INFORMATION: On December 6, 1985, the Department of Commerce ("the Department") initiated an antidumping duty investigation under section 732(a) of the Act, to determine whether 256K and above DRAMs from Japan were being, or were likely to be, sold at less than fair value within the meaning of section 731 of the Act, and whether these imports are materially injuring, or are threatening material injury to a United States industry, or are materially retarding the establishment of a United States industry (50 FR 51450, December 17, 1985). On January 22, 1986, the International Trade Commission determined that there is a reasonable indication that imports of 256K and above DRAMs are materially injuring, or are threatening to materially injure a U.S. industry (51 FR 4661, Feb. 6, 1986). On March 19, 1986, we published a preliminary determination of sales at less than fair value with respect to this merchandise (51 FR 9475). The notice stated that if the investigation proceeded normally, we would make our final determination by May 27, 1986.

Pursuant to section 735(a)(2)(A) of the Act, all of the respondents in this investigation requested an extension of the final determination date. The respondents are qualified to make such a request because they account for a significant proportion of exports of the merchandise to the United States. If exporters who account for a significant proportion of exports of the merchandise under investigation properly request an extension after an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the requests.

Accordingly, we are granting the requests and postponing our final determination until not later than August 1, 1986.

Public Comment

In accordance with § 353.47 of our regulations (19 CFR 353.47), if requested, we will hold a public hearing to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on May 16, 1986, at the U.S. Department of Commerce, Room B–841, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary, Import Administration, Room B–099, at the above address within 10 days of this notice's publication. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, prehearing briefs, or supplements to prehearing briefs that have previously been submitted, in at least 10 copies must be submitted to the Deputy Assistant Secretary by May 9, 1986. Oral presentations will be limited to issues raised in the briefs. All written views should be filed in accordance with 19 CFR 353.46.

This notice is published pursuant to section 735(d) of the Act.

The United States International Trade Commission is being advised of this postponement, in accordance with section 735(d) of the Act.

Dated April 25, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86–9786 Filed 4–30–86; 8:45 am]

BILLING CODE 3510–DS–M

Application for Duty-Free Entry of Scientific Articles; Correction

In FR Doc. 86–5507 appearing at page 8691 in the **Federal Register** of March 13, 1986, Docket Number 86–125 is corrected to read: INSTRUMENT: Electron Microscope, Model JEM–100SX.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–9784 Filed 4–30–86; 8:45 am]

BILLING CODE 3510–DS–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Changes to the Textile Category System

April 25, 1986.

The CORRELATION, Textile and Apparel Categories with the Tariff Schedules of the United States, Annotated, provides for placement of Tariff Schedules of the United States Annotated (T.S.U.S.A.) numbers in the Textile Category System. On March 31, 1986, the 484e Committee approved the following amendments to the T.S.U.S.A., reflecting certain administrative changes requiring changes to the CORRELATION. These changes are cited in the list which follows this notice.

EFFECTIVE DATE: March 1, 1986.

FOR FURTHER INFORMATION CONTACT: Martin Walsh, International Agreements and Monitoring Division, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, DC 20230 (202) 377–4212.

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textiles Agreements.

Category	Mar. 1, 1986 changes to the correlation: New T.S.U.S.A. numbers effective Mar. 1, 1986
340	Change 381.0520 to: 381.0522 with two or more colors in the warp and/or the filling. 381.0524 Other.
	Change 381.5635 to: 381.5637 with two or more colors in the warp and/or the filling. 381.5639 Other.
640	Change 381.3130 to: 381.3132 with two or more colors in the warp and/or the filling. 381.3134 Other.
	Change 381.3140 to: 381.3142 with two or more colors in the warp and/or the filling. 381.3144 Other.
	Change 381.3150 to: 381.3152 with two or more colors in the warp and/or the filling. 381.3154 Other.
	Change 381.8545 to: 381.8547 with two or more colors in the warp and/or the filling. 381.8549 Other.

[FR Doc. 86–9742 Filed 4–23–86; 8:45 am]

BILLING CODE 3510–DR–M

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COMMODITY FUTURES TRADING COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of information collection.

SUMMARY: The Commodity Futures Trading Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35.

ADDRESS: Persons wishing to comment on this information collection should contact Katie Lewin, Office of Management and Budget, Room 3235, NEOB, Washington, DC 20503, (202) 395–7231. Copies of the submission are available from Joseph G. Salazar, Agency Clearance Officer, 2033 K Street NW., Washington, DC 20581, (202) 254–9735.

Title: Rules Relating to the Activities of Commodity Pool Operators and Commodity Trading Advisors
Control Number: 3038–0005
Action: Extension
Respondents: Businesses, including small businesses
Estimated Annual Burden: 102,315 hours
Estimated Number of Respondents: 4,625.

Issued in Washington, DC, on April 28, 1986.

Jean A. Webb,
Secretary of the Commission.

[FR Doc. 86-9781 Filed 4-30-86; 8:45 am]
BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Steering Committee on Methylene Chloride; Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of meeting.

SUMMARY: The Commission announces the third meeting of the Steering Committee on Methylene Chloride. The Commission's staff is working with this committee to assist industry, consumer interest representatives, and other interested parties in developing ways to reduce consumer exposure to methylene chloride, a chemical used in certain paint strippers, spray paints, and other consumer products. The meeting is open to the public, and all persons attending are invited to participate in the meeting.

DATE: The meeting will be May 16, 1986, at 8:00 a.m.

ADDRESS: The meeting will be at the National Paint and Coatings Association, 1500 Rhode Island Avenue, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ms. Sandy Bradshaw, Office of Program Management, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 492–6554.

Dated: April 29, 1986.

Sadye E. Dunn,
Secretary, Consumer Product Safety Commission.

[FR Doc. 86-9869 Filed 4-30-86; 8:45 am]
BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Closed Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board will meet in closed session on 14–15 May 1986 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Board will discuss interim findings and tentative recommendations resulting from onging Task Force activities associated with Strategic, Tactical, Intelligence/Command, Control and Communications, and Technology Issues. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly these meetings will be closed to the public.

April 25, 1986.

Patricia H. Means,
OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 86-9754 Filed 4-30-86; 8:45 am]
BILLING CODE 3810-01-M

Department of the Air Force

Determinations of Active Military Service and Discharge; Civilian or Contractual Personnel

Under the provisions of section 401 of Pub. L. 95–202 and DOD Directive 1000.20, "Determinations of Active Military Service and Discharge: Civilian or Contractual Personnel," the Secretary of the Air Force, acting in accordance with authority delegated by the Secretary of the Defense, determined on April 18, 1986, that the service of the group known as "Stevedore Superintendents Who Served with the U.S. Army Transportation Corps during the Period October 1944 to November 1945" shall not be considered active military service in the Armed Forces of the United States for all laws administered by the Veterans Administration.

FOR FURTHER INFORMATION CONTACT: Lt Col Michael Dandar or Lt Col Mary Todd: (202) 692–4744, Office of the Secretary of the Air Force Personnel Council (SAF/MIPC), the Pentagon, Washington, DC 20330–1440.

Patsy J. Conner,
Air Force Federal Register Liaison Officer.

[FR Doc. 86-9618 Filed 4-30-86; 8:45 am]
BILLING CODE 3910-01-M

Cancellation of Intent To Prepare an Environmental Impact Statement for a Proposed Military Operations Area (MOA) Near Lake Louise, Alaska

The Alaskan Air Command has suspended activities for the establishment of a military flight training area west of Lake Louise, Alaska. The additional military operations area was proposed in 1982 when the Alaskan Air Command was to receive a training system known as Air Combat Maneuvering Instrumentation. The system uses ground-based sensors to track and record aircraft flight maneuvers, and provides a highly accurate, three-dimensional video display of all maneuvers during air combat training.

The uncertainty over federal funding and the system's high cost has made near term acquisition of the system for Alaska very questionable. For this reason, the Alaskan Air Command has suspended current efforts to establish Lake Louise Military Operations Area. Another notice of intent to prepare an EIS will be published when the proposal becomes financially feasible.

For further information contact: Lt. Col. T.G. Tilma, Chief, Public Affairs, HQ AAC/PA, Elmendorf AFB, AK 99506–5001, telephone (907) 552–2228.

Patsy J. Conner,
Air Force Federal Register Liaison Officer.

[FR Doc. 86-9619 Filed 4-30-86; 8:45 am]
BILLING CODE 3910-01-M

Department of the Navy

Secretary of the Navy's Advisory Board on Education and Training (SABET); Notice of Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Secretary of the Navy's Advisory Board on Education and Training (SABET) will meet at the Sheraton Hotel on Orme, Columbia Pike Road, Washington, DC on 10, 11, 12 June 1986.

The purpose of SABET is to advise the Secretary of the Navy on policy concerning all facets of education and training for Navy and Marine Corps personnel. This meeting is a follow on to the November meeting which provided an overview of the Naval Medical Command. Follow-on policy issues related to military medicine will be discussed.

The meeting will commence at 2:30 p.m. on 10 June to review the agenda. Regular sessions will run 11 June from 8:00 a.m. until 5:00 p.m. The 12 June executive session will commence at 8:30 a.m. and terminate at 11:00 a.m. All sessions are open to the public.

For further information concerning this meeting, contact Mrs. Carol Osborn (Code 00A1), Professional Assistant to the Principal Civilian Advisory on Education and Training, CNET, Naval Air Station, Pensacola, Florida 32508, telephone (904) 453–4394.

Dated: April 28, 1986.

William F. Ross, Jr.,
Lieutenant, JAGC, U.S. Naval Reserve Federal Register Liaison Officer.

[FR Doc. 86-9779 Filed 4-30-86; 8:45 am]
BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Agency Information Collection Activities Under OMB Review

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Requests.

SUMMARY: The Director, Information Resources Management Service invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before June 2, 1986.

ADDRESSES: Written comments should be addressed to the Office of Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426–7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with an agency's ability to perform its statutory obligations.

The Director, Information Resources Management Service publishes this notice containing proposed information collection requests to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: April 28, 1986.

George P. Sotos,
Director, Information Resources Management Service.

Office of Special Education and Research

Type of Review: New
Title: Longitudinal Study of a Sample of Handicapped Students
Agency Form Number: B20–15P
Frequency: Annually
Affected Public: Individuals or households; State or local governments; Non-profit institutions
Reporting Burden:
Responses: 16,355
Burden Hours: 4,223
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0
Abstract: The study will collect data on the education, employment, and independent living status of a sample of handicapped youth while in school and upon entering adult life. Results will inform the Department and Congress about the transitional progress of handicapped students from special education to work. The affected public includes handicapped youth, parents, local educational agencies, and vocational rehabilitation agencies.

Office of Postsecondary Education

Type of Review: Extension
Title: Performance Report and Financial Status Report Forms for the Veterans' Cost of Instruction Payments Program
Agency Form Number: 289–1, 289–2
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden:
Responses: 800
Burden Hours: 800
Recordkeeping Burden:
Recordkeepers: 800
Burden Hours: 800
Abstract: The Performance and Financial Status Report forms are needed by the Department of Education to monitor and close out grants awarded under the Veterans' Cost-of-Instruction Payments Program.

[FR Doc. 86-9776 Filed 4-30-86; 8:45 am]
BILLING CODE 4000-01-M

Office of Special Education and Rehabilitative Services

Application Notice for Transmittal of Applications for the National Institute of Handicapped Research Fellowships for Fiscal Year 1986

AGENCY: Department of Education.

BEST COPY AVAILABLE

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ACTION: Application Notice for Transmittal of Applications for the National Institute of Handicapped Research Fellowships for Fiscal Year 1986.

Programmatic and Fiscal Information

The Secretary invites applications for new research fellowships in selected priority areas for fiscal year 1986 under the National Institute of Handicapped Research.

The secretary has determined that there are specific area in which research is needed, and has set aside funds to provide fellowship assistance for research in these specific areas.

The Secretary expects to award one Distinguished Fellowship in each of the priority areas that are included in the Notice of Final Funding Priorities for Research Fellowships under the National Institute of Handicapped Research that was published on April 25, 1986 at 51 FR 15663–15665.

Potential applicants are advised to consult the Notice of Final Funding Priorities for Research Fellowships for a detailed description of the scope of the research to be included in each of these priorities.

NIHR expects to make approximately $300,000 available to award six fellowships under this program. NIHR expects to award stipends of up to $50,000 plus $1,500 for expenses in connection with the fellowship, to each successful applicant. All awards will be for a one-year period.

However, these estimates do not bind the U.S. Department of Education to any specific number of awards or to the amount of any award unless that amount is otherwise specified by statute or regulations.

Closing Date for Transmittal of Applications

Applications for new awards must be mailed or hand-delivered on or before July 3, 1986.

Applications sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: (CFDA No. 84.133F), 400 Maryland Avenue, SW., Washington, DC 20202.

Each late applicant will be notified that its application will not be considered.

Applications that are hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays.

Applicable Regulations: Regulations applicable to this program include the following:

(a) The regulations governing the Research Fellowship Program of the National Institute of Handicapped Research in 34 CFR Part 350.

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78.

Application Forms:

Application forms and further information are expected to be available within one week from the date of this notice. These may be obtained by writing to or calling the National Institute of Handicapped Research, U.S. Department of Education, 400 Maryland Avenue, SW., Switzer Office Building, Mailstop 2304, Washington, DC 20202, (Attention: Fellowship Unit), Telephone (202) 732–1207. Deaf and hearing impaired individuals may call (202) 732–1198 for TTY services. Requests should refer to applications for Fellowships, 84.133F.

Further Information: For further information contact Ms. Rheable Edwards, National Institute of Handicapped Research, U.S. Department of Education, 400 Maryland Avenue, SW., Switzer Office Building, Room 3070, Washington, DC 20202, Telephone (202) 732–1200; deaf and hearing impaired individuals may call (202) 732–1198 for TTY services.

Program Authority: (29 U.S.C. 762).

(Catalog of Federal Domestic Assistance No. 84.133F, National Institute of Handicapped Research)

Dated: April 25, 1986.

Madeleine Will,

Assistant Secretary of Education, Special Education and Rehabilitative Services

[FR Doc. 86-9777 Filed 4-30-86; 8:45 am]

BILLING CODE 4000-01-M

National Institute of Handicapped Research; Transmittal of Applications for New Research and Demonstration Projects and Knowledge Dissemination and Utilization Projects for Fiscal Year 1986; Correction

AGENCY: Department of Education.

ACTION: Correction Notice.

SUMMARY: An application notice establishing closing dates for the transmittal of applications for new awards under the Research and Demonstration Program and the Knowledge Dissemination and Utilization Projects Program of the National Institute of Handicapped Research was published in the Federal Register on April 11, 1986 at 51 FR 12542. That notice was in error in setting the anticipated period of support and the approximate funding level for a Research and Demonstration project in Financing Home Care for Seriously Disabled and Chronically Ill Children. NIHR expects to award up to $175,000 per year for up to three years for that priority area.

FURTHER INFORMATION: For further information contact Betty Jo Berland, National Institute of Handicapped Research, U.S. Department of Education, 400 Maryland Avenue, SW., Switzer Office Building, Room 3070, Washington, DC 20202, Telphone (202) 732–1139; deaf and hearing impaired individuals may call (202) 732–1198 for TTY services.

Program Authority: (29 U.S.C. 762).

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research)

Dated: April 28, 1986.

Madeleine Will,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 86-9778 Filed 4-30-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Office of Energy Research

Magnetic Fusion Advisory Committee; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Magnetic Fusion Advisory Committee.

Date and Time: Wednesday, May 21, 1986, 9:00 am–5:00 pm, Thursday, May 22, 1986, 9:00 am–3:00 pm.

Location: Argonne National Laboratory, Building 203, Auditorium, 9700 South Cass Avenue, Argonne, Illinois 60439.

Contact: Rosalie H. Weller, Office of Fusion Energy, Office of Energy Research (ER–50), U.S. Department of Energy, Mail Stop G–236, Washington, DC 20545, Phone: (301)–353–3347.

Purpose of the Committee: To provide advice to the Secretary of Energy on the Department's Magnetic Fusion Energy Program, including periodic reviews of elements of the program and recommendations of changes based on scientific and technological advances or other factors; advice on long-range plans, priorities, and strategies to demonstrate the scientific and engineering feasibility of fusion; advice on recommended appropriate levels of funding to develop those strategies and to help maintain appropriate balance between competing elements of the program.

Agenda Outline

Wednesday, May 21, 1986—9:00 AM

1. Status Report on CIT Engineering and Proposal Planning—Furth, Schmidt (PPPL)
2. Report of Panel XVI on Mirror Program
   A. Review of Charge—Ribe (Univ. of Washington)
   B. Panel Findings/Recommendations—Forsen (Bechtel)
3. MFAC Comments

Lunch

4. Public Comment
5. MFAC Discussion of Panel XVI Findings and Recommendations
6. Presentation on ANL Fusion Program—Baker (ANL)

Adjourn 5:00 PM

Thursday, May 22, 1986—9:00 AM

1. Panel XVI—MFAC Response
2. Status Report on International Collaboration
   A. Recent Progress—Clarke (DOE)
   B. TWP Meeting—Gottlieb (Grumman)
3. Briefing by Panel XV on the Technical Planning Activity
   A. Review of Charge—Ribe (Univ. of Washington)
   B. Summary of Initial TPA Review—Weitzner (NYU)

Lunch

4. MFAC Comments
5. Public Comment
6. Other Business

Adjourn 3:00 PM

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Rosalie Weller at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Minutes: Available for public review and copying approximately 30 days following the meeting at the Public Reading Room, Room 1E190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 8:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 28, 1986.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 86-9812 Filed 4-30-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CP86-424-000]

Crown Zellerbach Corp. and Gaylord Container Limited; Errata Notice and Notice of Application

April 23, 1986.

April 16, 1986.

In paragraph four of notice published April 24, 1986 (51 FR 15536), change "May 12, 1986" to "May 5, 1986". Sentence should read, "Any person desiring to be heard or to make any protest with reference to said application should on or before May 5, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10).

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9845 Filed 4-30-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of March 10 Through March 14, 1986

During the week of March 10 through March 14, 1986, the decisions and orders summarized below were issued with respect to applications for relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Remedial Order

Oklahoma Refining Co., 3/10/86; *HRO—0302, KRD—0008, KRH—0008*

On February 13, 1986, the Economic Regulatory Administration (ERA) of the Department of Energy filed a Motion to Withdraw the Proposed Remedial Order (PRO) issued to Oklahoma Refining Company on May 31, 1985. After considering the ERA's motion and the firm's response, the OHA determined there was good cause to permit the ERA to withdraw the PRO without prejudice to the issuance of a new PRO. Specifically, the dismissal order found that granting the request to withdraw in order to permit ERA to perform additional investigation would allow the agency to correct possible errors in its legal or factual analysis prior to judicial review. The determination also found that Oklahoma Refining would not be prejudiced by the withdrawal of the PRO.

Request for Modification and/or Rescission

Economic Regulatory Administration, 3/10/86; *KRR—0007*

The Economic Regulatory Administration (EPA) sought reconsideration of a denial of its Motion to Place Documents under Seal in a decision and order issued by the Office of Hearings and Appeals on February 11, 1986, in connection with enforcement proceedings against National Hydrocarbons Group, Inc. ERA wished to prevent disclosure of data from 1980 indicating how title to crude oil shipped through the Shell Ship Shoal pipeline passed from one entity to another. The Office of Hearings and Appeals held that ERA had not provided a compelling reason for reconsideration of the previous decision, and the possibility of competitive harm from release of the data was no longer sufficient reason to prevent public disclosure of the data. Accordingly, the Motion was denied.

Motions for Discovery

Edwin Milton Jones, Jr., Dennis Van Matthew, 3/14/86; *HRD—0015, HRD—0226*

On August 2, 1984, Edwin Milton Jones, Jr. (Jones) and Dennis Van Matthew (Matthew) filed Motions for Discovery in connection with their respective Statement of Objections to a Proposed Remedial Order (PRO) issued to them by the Economic Regulatory Administration (ERA) on April 24, 1984. In the PRO, the ERA alleges that Jones and Matthew, acting as officers of Southwest Petrochem, Inc. (Petrochem) violated the "anti-layering" provisions of 10 CFR Part 212, Subpart L. In their Motions for Discovery, Jones and Matthew sought extensive discovery pertaining to: (1) The Petrochem audit and (2) documents which relate to ERA's preparation of the PRO. In addition, Jones and Matthew sought to depose a principal DOE auditor identified in the PRO. The OHA concluded that Jones' and Matthew's Motions for Discovery should be granted to the extent that their requests, encompassed final audit workpapers which underlie the PRO's allegations. The OHA denied Jones' and Matthew's broad requests as being irrelevant to discover documents that encompassed materials beyond the scope on the ERA's audit of Petrochem. Furthermore, the OHA concluded that Jones and Matthew had sought ERA's production of documents principally to support their legal interpretation of the layering rule, rather than to address material factual issues in dispute. Finally, the OHA held that Jones and Matthew had failed to make the requisite showing for the granting of a deposition by demonstrating that they were unable to obtain the information sought through one of the other discovery means. Jones and Matthew were granted permission to

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supplement their present Motions for Discovery, however, in the event that ERA failed to provide them with the final audit workpapers showing the manner in which the overcharges alleged in the PRO were calculated.

Thriftway Co., 3/10/86; KRD-0004

The Thriftway Company filed a Motion for Discovery in connection with a Proposed Remedial Order (PRO) which the Economic Regulatory Administration (ERA) issued to the firm on June 28, 1985. The PRO alleges that Thriftway violated 10 CFR 211.67(e)(2) (1976) in its claim for small refiner bias entitlements for crude oil processed by another refiner pursuant to a processing agreement. Thriftway requested administrative record and contemporaneous construction discovery from the ERA, as well as admissions and answers to interrogatories from two other companies involved in the transactions at issue. The DOE found that (i) only the publicly available administrative record was relevant to Thriftway's claims; (ii) that the circumstances did not warrant the extraordinary device of contemporaneous construction discovery; and (iii) that proof of facts which Thriftway sought to prove through discovery from the other parties to the transaction would not aid Thriftway in its defense of the ERA's charges. The DOE therefore denied Thriftway's Motion for Discovery.

Interlocutory Order

Economic Regulatory Administration, 3/13/86; KRZ-0027

In connection with a Proposed Remedial Order (PRO) issued to Consolidated Materials, Inc., Stonewalk Corporation (Stonewalk), Jahncke Service, Inc. and CLB Enterprises, Inc., on February 28, 1986, the Economic Regulatory Administration (ERA) filed a Motion to Amend the PRO and a Motion to John Donald E. Baxter to the PRO proceedings. In considering the motions, the Office of Hearings and Appeals (OHA) determined that ERA had not presented a *prima facie* case of personal liability in the Motion to Join Mr. Baxter. Specifically, OHA found that ERA had not demonstrated that Mr. Baxter controlled either Stonewalk's organization or its operations at the time of the violation alleged in the PRO proceeding, or shown that Mr. Baxter had enjoyed substantial benefit as a result of the alleged violations. OHA also found that even if the PRO recipients are insolvent, as alleged, that fact in itself would not support joinder. Accordingly, OHA denied ERA's Motion to Join and its Motion to Amend the PRO.

Refund Applications

Gulf Oil Corp./Stuart Gulf Service Station, et al., 3/13/86; RF40-01124, et al.

The DOE issued a Decision and Order concerning five Applications for Refund filed by retailers and resellers that were direct purchasers of Gulf Oil Corporation petroleum products. Each firm applied for a refund based on the procedures outlined in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984), governing the disbursement of settlement funds received from Gulf pursuant to a 1978 consent order. In accordance with those procedures, each applicant demonstrated that it would not have been required to pass through to customers a cost reduction equal to the refund claimed. After examining the applications and supporting documentation submitted by the applicants, the DOE concluded that they should receive a total refund of $12,354, consisting of $10,467 in principal and $1,887 in interest.

Little America Refining Co./Towne Pump Stations, 3/12/86; RF112-160

The DOE granted a refund from the Little America Refining Company (Larco) deposit escrow account to Towne Pump Stations. The applicant, a retailer of Larco covered products, submitted a claim for less than $5,000, and was therefore not required to submit a detailed showing of injury. Accordingly, the DOE granted Towne Pump Stations a refund of $870, representing $584 principal and $286 in interest.

MAPCO, Inc./Northern Illinois Gas Co., 3/13/86; RF108-1

Northern Illinois Gas Company (NI-Gas), an ultimate consumer who converted natural gas liquids into pipeline-quality synthetic natural gas at its Aux Sable SNG refining plant, filed an Application for Refund in the MAPCO special refund proceeding based upon the principles and procedures set forth in *Peoples Energy Corp., et al.* In considering the application, the DOE determined that of the purchase volumes specified in the refund application, 1,302,908,416 gallons of ethane and 335,874 gallons of butane were not relevant since ethane was not a covered product and the butane purchases had occurred after butane was decontrolled effective January 1, 1980. On the basis of the remaining purchase volumes, NI-Gas was found to be entitled to a refund consisting of $1,189,810.94 in principal of $900,689.35 in accrued interest.

National Helium Corp./IN., National Helium Corp./MO., National Helium Corp. FL, 3/13/86; RQ3-259, RQ3-260, RQ3-261

The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) issued a Supplemental Order authorizing the DOE's Office of the Controller to disburse National Helium funds previously approved in *National Helium Corp./Missouri*, 13 DOE ¶ 85,255 (1985), to the States of Indiana, Missouri and Florida. The OHA authorized total disbursements in principal and interest of $30,036 to Indiana and $3,568 each to Missouri and Florida.

National Helium Corp./OH, 3/13/86; RQ3-258

The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) issued a Supplemental Order authorizing the DOE's Office of the Controller to disburse National Helium funds previously approved in *National Helium Corp./Ohio.*, 13 DOE ¶ 85,255 (1985), to the State of Ohio. the OHA authorized a total disbursement of $570,445.03 in principal and interest to Ohio.

Standard Oil Co. (IN)/Northville Industries Corp., 3/12/86; RF21-12578, RF21-12579

Northville Industries Corporation filed two applications in which it sought refunds of a portion of the funds obtained by the DOE through a consent order entered into with Standard Oil Company (Indiana) (Amoco). Having purchased Amoco petroleum products on an irregular basis during the consent order period, the DOE determined that Northville had been a spot purchaser during the consent order period. In view of the rebuttable presumptions in *Amoco* against refunds to spot purchasers, the firm's applications were denied.

Standard Oil Co. (IN)/Runnfeldt & Belmont Service Station, 3/13/86; RF21-3818

The DOE issued a Decision and Order granting a refund from the Standard Oil Company (Indiana) (Amoco) deposit fund escrow account to the Runnfeldt & Belmont Service Station, a retailer of Amoco motor gasoline. The firm applied for a refund based upon the presumption of injury outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering the application, the DOE concluded that the firm should receive a refund based upon the total volume of its motor gasoline purchases. The total refund granted to Runnfeldt & Belmont is $2,019.

Dismissals

The following submissions were dismissed:

Company name	Case No.
Chevron USA, Inc	RF125-9
Michael Caolo & Associates	RF125-8

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 16, 1986.

[FR Doc. 86-9803 Filed 4-30-86; 8:45 am]

BILLING CODE 6450-01-M

Cases Filed; Week of March 28 Through April 4, 1986

During the Week of March 28 through April 4, 1986, the exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within 10 days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 21, 1986.

List of Cases Received by the Office of Hearings and Appeals

[Week of Mar. 28 through Apr. 4, 1986]

Date	Name and location of applicant	Case No.	Type of submission
Mar. 28, 1986	National Helium/Missouri, Webster/Missouri, Vickers Energy/Missouri Jefferson City, Missouri.	RM3-21, RM48-22, RM1-23	Request for modification/rescission in second stage refund proceedings. If granted: The November 5, 1985 and the March 13, 1986 Decisions and Orders (Case Nos. RQ3-197, RQ3-260, RQ48-198 and RQ1-199) issued to Missouri would be modified regarding the state's refund application submitted in the National Helium, Webster Oil and the Vickers Energy second stage refund proceedings.
Mar. 31, 1986	Listo Petroleum, Inc., Washington, DC	KRO-0140, KRH-0140	Request for evidentiary hearing and motion for discovery. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the statement of objections submitted by Listo Petroleum, Inc. in response to the Proposed Remedial Order (Case No. KRO-0140) issued to Listo Petroleum, Inc.
Apr. 1, 1986	Keystone Fuel Oil Company, Washington, DC	KER-0009	Request for modification/rescission. If granted: The March 26, 1986, Decision and Order (Case No. HEE-0104) issued to Keystone Fuel Oil Company by the Office of Hearings and Appeals would be modified regarding the firm's request for exception relief.
Apr. 3, 1986	Mountain Fuel Supply Company, Washington, DC	KEF-0025	Implementation of special refund procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V in connection with March 25, 1985 Stipulation of settlement issued to Mountain Fuel Supply Company.
Do.	UPG, Inc. Washington, DC	KEF-0026	Implementation of Special Refund Procedures. If granted: The Office of Hearings and Appeals would implement Special Refund Procedures pursuant to 10 CFR Part 205, Subpart V, in connection with the December 31, 1985 Consent Order entered into with UPG, Inc.
Apr. 4, 1986	LARCO/Wiles Oil Company, Salt Lake City, Utah	RR112-1	Request for modification in the Larco refund proceeding. If granted: The March 5, 1986 Decision and Order (Case No. RF112-11) issued to Wiles Oil Company would be modified regarding the firm's application for refund submitted in the Little American Refining Company (LARCO) refund proceeding.

Refund Applications Received

[Week of Mar. 28 to Apr. 4, 1986]

Date received	Name of refund proceeding/name of refund applicant	Case No.
03/27/86	Allied Materials/Wisconsin Electric.	RF194-7
03/28/86	MacMillan/Delta Petroleum Co	RF217-2
03/28/86	Mobil/Donald Brohjanel Mobil	RF225-421
03/28/86	Mobil/Rosedale Garage, Inc	RF225-401
03/28/86	Mobil/Fred Harz & Son	RF225-443
03/28/86	Sid Richardson/Pellett Petroleum.	RF28-32
03/28/86	Gulf/Crescent Oil Co	RF40-3134
03/28/86	Belcher/Ray Kelley & Son	RF227-18
03/28/86	Crystal/K-H Oil, Inc	RF234-7
03/28/86	Crystal/Alltawey's Service	RF234-8
03/28/86	Sigmor/U.S. Air, Inc	RF242-1
03/28/86	Vickers Energy/Missouri	RQ1-269
03/31/86	Petrolane/Shawgo Gas Service	RF208-4
03/31/86	Quaker State/Robert Cole Trucking.	RF213-202
03/31/86	Quaker State/Washington County.	RF213-201
03/31/86	Eastern N.J./Hyman Zelt	RF232-295
03/31/86	Eastern N.J./Piscataway Associates.	RF232-296
03/31/86	Eastern N.J./Wilson R. Kaplen	RF232-297
03/31/86	Eastern N.J./Wilson R. Kaplen	RF232-298
03/31/86	Mobil/David E. Ingraham	RF225-402
03/31/86	Mobil/Baldwin Service Station	RF225-403
03/31/86	Mobil/M.G. Mobil	RF225-405
03/31/86	Mobil/Shawmont Serviceriter	RF225-406
03/31/86	Mobil/Lane Service Station	RF225-407
03/31/86	Mobil/Roy Kramer Mobil	RF225-408
03/31/86	Mobil/E.D. Dinkins & Son	RF225/409
03/31/86	Mobil/Masaci Nakamura	RF225-410
03/31/86	Mobil/Dorlestown Mobil	RF225-411
03/31/86	Mobil/Bob's Mobil Service	RF225-412
03/31/86	Mobil/Mehnen Bestgaun	RF225-413
03/31/86	Mobil/Avon Service Station	RF225-414
03/31/86	Eastern N.J./The Towers	RF232-298
03/31/86	Eastern N.J./Wayne Village	RF232-300
03/31/86	Eastern N.J./Huguenot Apartments.	RF232-301
03/31/86	Belcher/D. Petracone & Son Co.	RF227-22
03/31/86	Belcher/Sonsari Oil, Inc	RF227-23
03/31/86	Belcher/McCarthy Bros. Fuel Co.	RF227-24
03/31/86	Belcher/Shanahan Fuel Co	RF227-25
03/31/86	Belcher/Stanley Witek	RF227-21
03/31/86	Belcher/R.H. Clark & Sons	RF227-19
03/31/86	Belcher/Carmek Fuel	RF227-20
03/31/86	Mobil/Oda E. Williamson	RF225-415
03/31/86	Mapco/Shawgo Gas Service	RF108-12
03/31/86	Sid Richardson/Shawgo Gas Service.	RF28-33
03/31/86	Mobil/RJP Service Gas Service	RF225-416
03/31/86	Mobil/W.L. Bartley, Inc., et al	RF225-417 thru RF225-419
03/31/86	Mobil/Mastillowe Bros	RF225-420
03/31/86	Mobil/Beaulier Oil Co	RF225-422
03/31/86	Mobil/Darlene Contreras	RF225-428
03/31/86	Martin/United States Steel Corp	RF240-6
04/01/86	Post/John F. Otto, Inc	RF229-6
04/01/86	Eastern N.J./Daverne Realty, et al.	RF232-302 thru RF232-311
04/01/86	Eastern N.J./Garry Holding Corp.	RF232-312
04/01/86	Martin/Spruce Oil Corp	RF240-7
04/01/86	Eastern N.J./Wilson Kaplen	RF232-313
04/01/86	Quaker State/Kenneth Eddy	RF213-203
04/01/86	Eastern N.J./Leland Gardens	RF232-314
04/01/86	Mobil/Energy Retailers, Inc	RF225-423
04/01/86	Mobil/Scott Van Derzee	RF225-425
04/01/86	Mobil/Eddie's Super Service Station.	RF225-434
04/01/86	Mobil/Mitchell's Mobil Gas	RF225-426
04/01/86	Mobil/Joseph Serrat	RF225-427
04/02/86	General Equities/Feno's Auto Body.	RF224-4
04/02/86	Mobil/East Clairmont Mobil	RF225-429
04/02/86	Mobil/Clarence White	RF225-430
04/02/86	Belcher/A-C Motor Express	RF227-26
04/02/86	Martin/Tiger Petroleum Products.	RF240-8
04/03/86	Mobil-Daly City Mobil	RF225-431
04/03/86	Mobil/Casper Mobil Service	RF225-437
04/03/86	Belcher/Davis Fuel Co	RF227-27
04/03/86	Belcher/John M. Matera Oil Co	RF227-28
04/03/86	Eastern N.J./Briarcliffe Village	RF232-316
04/03/86	Eastern N.J./Mayflower Apartments.	RF232-315
04/03/86	Mobil/Elmwood Service Station	RF225-432
04/03/86	Mobil/Cardillos Service Station	RF225-433
04/03/86	Mobil/James Petrozello Co., Inc	RF225-434
04/03/86	Mobil/Raymond Dalton Taylor	RF225-435
04/03/86	Mobil/Jake O. Davis	RF225-436
04/04/86	Mobil/Landwehr Mobil	RF225-438
04/04/86	Mobil/Fred M. Simmons	RF225-439
04/04/86	Mobil/William R. Hall Service Station.	RF225-440
04/04/86	Mobil/Erwin H. Ford	RF225-441
04/04/86	Mobil/Express Service Station	RF225-442
04/04/86	Quaker State/Illinois Independent Oil Co.	RF213-204

[FR Doc. 86-9802 Filed 4-30-86; 8:45 am]

BILLING CODE 6450-01-M

Objection to Proposed Remedial Order Filed; Period of March 24 Through April 4, 1986

During the period of March 24 through April 4, 1986, the notice of objection to proposed remedial order listed in the Appendix to this Notice was filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who wishes to participate in the proceeding the Department of

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Energy will conduct concerning the proposed remedial order described in the Appendix to this Notice must file a request to participate pursuant to 10 CFR 205.194 within 20 days after publication of this Notice. The Office of Hearings and Appeals will then determine those persons who may participate on an active basis in the proceeding and will prepare an official service list, which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown.

All requests to participate in this proceeding should be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585

Dated: April 21, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Ted True, Inc., Dallas, Texas; KRO-0270, Crude Oil

On April 1, 1986, Ted True, Inc. and Mr. Ted True, president, 1201 Elm Street, Suite 5377, Dallas, Texas 75270 filed a Notice of Objection to a Proposed Remedial Order which the DOE Houston District Office of Enforcement issued to the firm on February 28, 1986. In the PRO the Houston District found that during the period June 1979 through November 1980, the firm miscertified barrels of crude oil in violation of 10 CFR 212.131(b)(1).

According to the PRO the violation resulted in $944,771.00 of overcharges.

[FR Doc. 86-9807 Filed 4-30-86; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to adversely affected parties $33,690.23 obtained as a result of a Consent Order which the DOE entered into with Quarles Petroleum, Inc., a reseller-retailer of petroleum products located in Fredericksburg, Virginia. The money is being held in escrow following the settlement of enforcement proceedings brought by the DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the **Federal Register** and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to case number HEF-0156.

FOR FURTHER INFORMATION CONTACT: Walter J. Marullo, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-6602.

SUPPLEMENTARY INFORMATION: In accordance with section 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision sets forth procedures and standards that the DOE has tentatively formulated to distribute to adversely affected parties $33,690.23 plus accrued interest obtained by the DOE under the terms of a Consent Order entered into with Quarles Petroleum, Inc. (Quarles). The funds were provided to the DOE by Quarles to settle all claims and disputes between the firm and the DOE regarding the manner in which the firm applied the federal price regulations with respect to its sales of motor gasoline during the period January 2, 1979, through September 30, 1979.

OHA proposes that a two-stage refund process be followed. In the first stage, OHA has tentatively determined that a portion of the consent order funds should be distributed to firms and individuals that purchased Quarles motor gasoline during the consent order period. In order to obtain a refund, each claimant will be required to submit a schedule of its monthly purchases of Quarles motor gasoline and to demonstrate that it was injured by Quarles' pricing practices. The specific requirements for proving injury are set forth in the following Proposed Decision and Order.

Applications for Refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Some residual funds may remain after all meritorious first-stage claims have been satisfied. OHA invites interested parties to submit their views concerning alternative methods of distributing any remaining funds in a subsequent proceeding.

Any member of the public may submit written comments regarding the proposed refund procedures. Such parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice. All comments received in this proceeding will be available for public inspection between 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: April 16, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

April 16, 1986.

Name of firm: Quarles Petroleum, Inc.

Date of filing: October 13, 1983.

Case number: HEF-0156.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special procedures to distribute funds received as a result of an enforcement proceeding in order to remedy the effects of actual or alleged violations of the DOE regulations. See 10 C.F.R. Part 205, Subpart V. In accordance with the provisions of Subpart V, on October 13, 1983, ERA filed a Petition for the Implementation of Special Refund Procedures in connection with a consent order entered into with Quarles Petroleum, Inc. (Quarles).

I. Background

Quarles is a "reseller-retailer" of refined petroleum products as that term was defined in 10 CFR 212.31 and is located in Fredericksburg, Virginia. A DOE audit of Quarles' records revealed possible violations of the Mandatory Petroleum Price Regulations. 10 CFR Part 212, Subpart F. The audit alleged that between January 2, 1979, and September 30, 1979, Quarles committed possible pricing violations in its sales of motor gasoline.

In order to settle all claims and disputes between Quarles and the DOE regarding the firm's sales of motor gasoline during the period covered by the audit, Quarles and the DOE entered into a consent order on October 21, 1981. The consent order refers to ERA's allegations of overcharges, but notes that there was no finding that violations occurred. Additionally, the consent order states that Quarles does not admit that it violated the regulations.

Under the terms of the consent order, Quarles was required to deposit $33,690.23 into an interest-bearing escrow account for ultimate distribution by the DOE. Quarles remitted this sum on April 5, 1982.[1]

II. Proposed Refund Procedures

The procedural regulations of the DOE set forth general guidelines to be used by OHA in formulating and implementing a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The Subpart V process may be used in situations where the DOE is unable to identify readily those persons who likely were injured by alleged overcharges or to ascertain readily the amount of such persons' injuries. For a more detailed discussion of Subpart V and the authority of OHA to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981), and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) (*Vickers*).

Our experience with Subpart V cases leads us to believe that the distribution of refunds in this proceeding should take place in two stages. In the first stage, we will accept claims from identifiable purchers of motor gasoline who may have been injured by Quarles' pricing practices during the period January 2, 1979, through September 30, 1979. If any funds remain after all meritorious first-stage claims have been paid, they may be distributed in a second-stage proceeding. *See, e.g., Office of Special Counsel*, 10 DOE ¶ 85,046 (1982) (*Amoco*).

A. Refunds to Identifiable Purchasers

In the first stage of the Quarles refund proceeding, we propose to distribute the funds currently in escrow to claimants who demonstrate that they were injured by Quarles' alleged overcharges. As we have done in many prior refund cases, we propose to adopt certain presumptions and findings which will be used to help determine the level of a purchaser's injury.

The presumptions and findings we plan to adopt in this case are used to permit claimants to participate in the refund process without incurring inordinate expenses and to enable OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. First, we plan to adopt a presumption that the alleged overcharges were dispersed evenly in all of Quarles' sales of motor gasoline made during the consent order period. In the past, we have referred to a refund process that uses this presumption as a volumetric method. Second, we propose to adopt a presumption of injury with respect to small claims. Third, we plan to adopt a presumption that spot purchasers were not injured by the alleged overcharges. Finally, we are making proposed findings that end users, certain types of regulated firms, and cooperatives were injured by Quarles' pricing practices.

The pro rata, or volumetric, refund presumption assumes that alleged overcharges by a consent order firm were spread equally over all gallons of product covered by the consent order. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. This presumption is rebuttable, however. A claimant which believes that it incurred a disproportionate share of the alleged overcharges may submit evidence proving this claim in order to receive a larger refund. *See, e.g., Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 at 88,164 (1984), and cases cited therein.

Under the volumetric method we plan to adopt, a claimant will be eligible to receive a refund equal to the number of gallons of Quarles motor gasoline that it purchased during the consent order period times the volumetric factor. The volumetric factor is the average per gallon refund and in this case equals $0.003662 per gallon.[2] In addition, successful claimants will receive a proportionate share of the accrued interest.

The second presumption we plan to use is that purchasers of Quarles motor gasoline seeking small refunds were injured by the firm's pricing practices. There are a variety of reasons for adopting this presumption. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). These firms were in the chain of distribution where the alleged overcharges occurred and therefore bore some impact of the alleged overcharges, at least initially. In order to support a specific claim of injury, a firm would have to compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive. With small claims, the cost to the firm of gathering the necessary information and the cost to OHA of analyzing it could exceed both the expected refund and the benefits from any additional precision. As a result, without simplified procedures injured parties could effectively be denied the opportunity to receive a refund.

Under the small-claims presumption, a claimant who is a reseller or retailer would not be required to submit any additional evidence of injury beyond volumes of Quarles motor gasoline purchased if its refund claim is below a certain sum. Several factors determine the value of this threshold. For example, the cost to the applicant and the government of compiling and analyzing information sufficient to show injury should not exceed the amount of any relevant refund. In this case, where the refund amount is fairly low and the early months of the consent order period are many years past, $5,000 is a reasonable value for the threshold. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,210 (1984); *Office of Special Counsel*, 11 DOE ¶ 85,228 (1984) (*Conoco*), and cases cited therein.

A reseller or retailer which claims a refund in excess of $5,000 will be required to document its injury. While there are a variety of methods by which a firm might make such a showing, a firm is generally required to demonstrate (i) that it maintained a "bank" of unrecovered costs, in order to show that it did not pass the alleged overcharges through to its own customers, and (ii) that market conditions were the reason that it did not pass through those increased costs.[3]

A modification of the standard injury requirement is necessary in this proceeding because for 6½ months of the 9-month Quarles consent order period, retailers of motor gasoline were not required to compute MLSPs with reference to May 15, 1973 selling prices and increased costs. *See* 10 CFR 212.93; 45 FR 29546 (1980). Instead, effective July 16, 1979, a retailer was required to calculate its MLSP under a fixed-margin approach set forth in the new rule. Unrecouped increased product costs could no longer be banked for later recovery. *Id.* Consequently, retailers were not required to maintain or compute cost banks during the 6½ month period. As a result, any

[1] The total value of the Quarles escrow account stood at $40,025.34 as of March 31, 1986.

[2] This figure is computed by dividing the $33,690.23 received from Quarles by the 9,200,300 gallons of motor gasoline sold by the firm during the consent order period.

[3] This injury requirement reflects the nature of the petroleum price regulations in effect beginning on August 19, 1973, and ending on July 15, 1979 for retailers, and on May 1, 1980 for resellers. Under the original rules, a reseller or retailer of motor gasoline was required to calculate its maximum lawful selling price (MLSP) by summing its selling price on May 15, 1973, with increased costs incurred since that time. A firm which was unable to charge its MLSP in a particular month could "bank" any unrecovered increased product costs, so that those costs could be recouped in a later month, if possible. *See* 10 CFR 212.93; 45 FR 29546 (1980).

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requirement that a retailer claimant make a demonstration of injury like that contemplated for resellers, *i.e.*, based on unrecovered cost banks, would effectively eliminate all non-threshold retailer claimants for a portion of the consent order period. Therefore, in this proceeding, we will allow retailers which lack banks subsequent to July 16, 1979 to file a claim for a refund which exceeds $5,000.[4] However, like resellers, retailers will be required for the entire consent order period to show that market conditions prevented them from recovering those increased product costs, *e.g.*, through a demonstration of reduced profit margins, decreased market shares, depressed sales volumes or competitive disadvantage.[5]

If a reseller or retailer made only spot purchases, we propose that it should not receive a refund since it is unlikely to have been injured. As we have previously stated with respect to spot purchasers:

> [T]hose customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of [the firm's product] at increased prices unless they were able to pass through the full amount of [the firm's] quoted selling price at the time of purchase to their own customers.

Vickers, 8 DOE at 85,396–97. We believe the same rationale applies in the present case. Therefore, we propose that firms which made only spot purchases of Quarles motor gasoline not receive refunds unless they present evidence which rebuts the spot purchaser presumption and establishes the extent to which they were injured as a result of their purchases of Quarles motor gasoline during the consent order period.

As noted above, we have concluded that end users were injured by the alleged overcharges. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period. They were therefore not required to base their pricing decisions on cost increases or to keep records which would show whether they passed through cost increases. An analysis of the impact of the alleged overcharges on the final prices of goods and services which were not covered by the petroleum price regulations would therefore be beyond the scope of a special refund proceedings. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983) (*PVM*); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209, and cases cited therein.[6]

In addition, we propose that firms whose prices for goods and services are regulated by a governmental agency or by the terms of a cooperative agreement not be required to demonstrate that they absorbed the motor gasoline overcharges alleged by ERA. In the case of regulated firms, *e.g.*, public utilities, any overcharges incurred as a result of Quarles' alleged violations of the DOE regulations would routinely be passed through to the utilities' customers. Similarly, any refunds received by such firms would be reflected in the rates they were allowed to charge their customers. Refunds to agricultural cooperatives would likewise directly influence the prices charged to their member customers. Consequently, we propose adding such firms to the class of claimants that are not required to show that they did not pass through to their customers cost increases resulting from alleged overcharges. *See, e.g., Office of Special Counsel*, 9 DOE ¶ 82,538 (1982) (*Tenneco*), *and Office of Special Counsel*, 9 DOE ¶ 82,545 at 85,244 (1982) (*Pennzoil*). Instead, those firms should provide with their application a full explanation of the manner in which refunds would be passed through to their customers and how the appropriate regulatory body or membership group will be advised of the applicant's receipt of any refund money. Sales by cooperatives to nonmembers, however, will be treated the same as sales by any other reseller.

As in previous cases, only claims for at least $15 will be processed. This minimum has been adopted in prior refund cases because the cost of processing claims for refunds of less than $15 outweighs the benefits of restriction in those situations. *See, e.g., Urban Oil Co.*, 9 DOE at 85,225. *See also* 10 CFR 205.286(b). The same principle applies here.

If valid claims exceed the funds available in the escrow account, all refunds will be reduced proportionately. Actual refunds will be determined after analyzing all appropriate claims.

B. Application for Refund

Any purchaser claiming a portion of the consent order funds will be required to file an Application for Refund pursuant to 10 CFR 205.283. In its application, a claimant must include a schedule of its monthly purchases of Quarles motor gasoline as well as all relevant information necessary to support its claim in accordance with the presumptions and findings outlined above. A claimant must also state whether it has previously received a refund, from any source, with respect to the alleged overcharges underlying this proceeding. Each applicant must also state whether there has been a change in ownership of the firm since that audit period. If there has been a change in ownership, the applicant must provide the names and addresses of the other owners, and should either state the reasons why the refund should be paid to the applicant rather than to the other owners or provide a signed statement from the other owners indicating that they do not claim a refund. Finally, an applicant should report whether it is or has been involved as a party in DOE enforcement or private actions filed under § 210 of the Economic Stabilization Act. If these actions have been concluded the applicant should furnish a copy of any final order issued in the matter. If the action is still in progress, the applicant should briefly describe the action and its current status. The applicant must keep OHA informed of any change in status while its Application for Refund is pending. *See* 10 CFR 205.9(d).

C. Distribution of Remaining Consent Order Funds

In the event that money remains after all meritorious claims have been satisfied, residual funds could be distributed in a number of ways in a subsequent proceeding. However, we will not be in a position to decide what should be done with any remaining funds until the initial stage of this refund proceeding has been completed. We encourage the submission by interested parties of proposals which address alternative methods of distributing any remaining funds.

It is therefore ordered that:

The refund amount remitted to the Department of Energy by Quarles Petroleum, Inc. pursuant to the Consent Order executed on October 21, 1981, will be distributed in accordance with the foregoing decision.

[FR Doc. 86-9804 Filed 4-30-86; 8:45 am]

BILLING CODE 6450-01-M

[4] The cost bank requirement ahs been relaxed in other instances involving the change in the pricing regulations for motor gasoline. *See* Tenneco Oil Company/United Fuels Corporation, 10 DOE ¶ 85,085 at 88,017 n.1 (1982).

[5] Resellers or retailers who claim a refund in excess of $5,000 but who cannot establish that they did not pass through the price increases will be eligible for a refund of up to the $5,000 threshold, without being required to submit evidence of injury beyond purchase volumes. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000. *See* Vickers, 8 DOE at 85,396. *See also* Ofice of Enforcement, 10 DOE ¶ 85,029 at 88,122 (1982).

[6] If a firm is both a spot purchaser and an end user, it will be treated as an end user and will not be required to make any showing of injury beyond that required of other end users.

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for disbursement of $172,193.63 (plus accrued interest) obtained as a result of a Consent Order which the DOE entered into with Elm City Filling Stations, Inc. of New Haven, Connecticut (Case No. HEF-0067). The fund will be available to customers who purchased No. 6 residual fuel oil from Elm during the consent order period.

DATE AND ADDRESS: Applications for refund of a portion of the consent order fund must be filed no later than 90 days after publication of this notice in the **Federal Register** and should be addressed to: Elm Consent Order Refund Proceeding, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All applications should conspicuously display a reference to Case No. HEF-0067.

FOR FURTHER INFORMATION CONTACT: Richard W. Dugan, Associate Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252-2860.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order relates to a Consent Order entered into by Elm City Filling Stations, Inc. of New Haven, Connecticut. The Consent Order settled possible pricing violations with respect to the firm's sales of No. 6 residual fuel oil to customers during the November 1, 1973 through December 31, 1973 consent order period.

The Office of Hearings and Appeals previously issued a Proposed Decision and Order which tentatively established a two-stage refund procedure and solicited comments from interested parties concerning the proper disposition of the consent order fund. The Proposed Decision and Order discussing the distribution of the consent order funds was issued on July 3, 1985. 50 FR 28633 (July 15, 1985).

As the Decision and Order indicates, applications for refunds from the consent order fund may now be filed. Applications will be accepted provided they are postmarked no later than 90 days after publication of this Decision and Order in the **Federal Register**.

Applications will be accepted from customers who purchased No. 6 residual fuel oil from Elm during the consent order period. The specified information required in an application for refund is set forth in the Decision and Order. The Decision and Order reserves the question of the proper distribution of any remaining consent order funds until the first-stage claims procedure is completed.

Dated: April 17, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order of The Department of Energy

Special Refund Procedures

April 17, 1986.

Name of firm: Elm City Filling Stations, Inc.

Date of filing: October 13, 1983.

Case number: HEF-0067

In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) of the DOE filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) On October 13, 1983. The petition requests that the OHA formulate and implement procedures for the distribution of funds received pursuant to a Consent Order entered into by the DOE and Elm City Filling Stations, Inc. (Elm) of New Haven, Connecticut.

I. Background

Elm is a "reseller" of "No. 6 residual fuel oil" as these terms were defined in 10 CFR 212.31. On January 2, 1979, a Proposed Remedial Order (PRO) was issued to Elm Subsequently, the OHA issued a Remedial Order (RO) to Elm. which found violations of the Mandatory Petroleum Price Regulations in the amount of $219,797 with respect to the firm's sales of No. 6 residual fuel oil during the two-month period November 1, 1973 through December 31, 1973. *Elm City Filling Stations, Inc.*, 8 DOE ¶ 83,031 (1981) (*Elm City*). In order to settle all claims and disputes between Elm and the DOE regarding these sales, Elm and the DOE entered into a Consent Order on September 1, 1981, in which Elm agreed to remit $141,454 to the DOE. The Consent Order states that the ERA alleges pricing violations and that Elm does not admit that it committed any such violations. Elm's payments, which total $172,193.63 ($141,454 in principal plus $30,739.63 in interest accrued prior to the completion of payments), are currently being held in an interest-bearing escrow account pending distribution by the DOE.

On July 3, 1985, the OHA issued a Proposed Decision and Order (PD&O) setting forth a tentative plan for the distribution of the consent order fund. 50 FR 28633 (July 15, 1985). We stated in the PD&O that the basic purpose of a special refund proceeding is to make restitution for injuries that were suffered as a result of alleged or adjudicated violations of the DOE regulations. In order to effect restitution in this proceeding, we proposed to establish a claims procedure whereby applications for refund would be accepted from customers who can demonstrate that they were injured as a result of Elm's pricing practices during the November 1, 1973 through December 31, 1973 period (hereinafter known as the consent order period). A copy of the PD&O was published in the **Federal Register** on July 15, 1985, and comments were solicited regarding the proposed refund procedures. We have received comments for Ultramar Petroleum, Inc. (Ultramar), successor-in-interest to Metropolitan Petroleum, Inc., which was identified in the Elm audit as a direct purchaser of Elm residual fuel oil. These comments will be addressed in Section III A. of this Decision.

II. Jurisdiction and Authority

The procedural regulations of the DOE set forth general guidelines by which the OHA may formulate and implement a plan of distribution for funds received as a result of an enforcement proceeding. 10 CFR Part 205, Subpart V. The DOE policy is to use the Subpart V process in order to distribute such funds. For a more detailed discussion of Subpart V and the authority of the OHA to fashion procedures to distribute refunds obtained as part of settlement agreements, *see Office of Enforcement*, 9 DOE ¶ 82,553 (1982); *Office of Enforcement*, 9 DOE ¶ 82,508 (1981); *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) *(Vickers)*. As we stated in the PD&O, we have reviewed the record in the present case and have determined that a Subpart V proceeding is an appropriate mechanism for distributing the Elm consent order fund. We will therefore grant the ERA's petition and assume jurisdiction over this fund.

III. Refund Procedures

Other than Ultramar's comments, which we consider below, we have not received any adverse comments regarding our proposed refund procedures. We have thus determined

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that those procedures should be adopted.

The distribution of refunds will take place in two stages. In the first stage refund monies will be refunded to customers who purchased Elm No. 6 residual fuel oil during the consent order period and who demonstrate that they were injured by Elm's pricing practices. Such purchasers must file claims and document their purchases in order to be eligible for a portion of the consent order fund.

After meritorious claims are paid in the first stage, a second stage may become necessary to distribute any remaining funds. *See generally Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) *(Amoco)*. However, we will not discuss second stage refund procedures in this Decision and Order.

A. Refund Claimants

Information in the ERA audit file indicates that there were only three direct purchasers of No. 6 residual fuel oil from Elm during the consent order period, each of which resold the fuel oil to other petroleum marketers and to end-users: Amerada Hess Corporation (Hess), Metropolitan Petroleum, Inc. (Metropolitan), and JOC Oil Company (JOC). According to the RO and other documents in the audit file, JOC and Metropolitan were allegedly overcharged $7,339 and $212,458, respectively, but Hess was not overcharged. Hess is thus ineligible for a refund in this proceeding.

In the PD&O, we tentatively found JOC and Metropolitan to be spot purchasers of the Elm No. 6 residual fuel oil. This finding was based on the fact that JOC and Metropolitan were not regular customers of Elm, and that during the consent order period, each firm made only one purchase of No. 6 residual fuel oil from Elm.[1] Based on this finding, we proposed to establish the rebuttable presumption that JOC and Metropolitan were not injured by Elm's pricing practices during the consent order period. As we have previously stated regarding spot purchasers, these customers tend to have considerable discretion as to where and when to make purchases. The rationale behind our presumption that spot purchasers do not experience injury derives from this concept of choice which characterizes spot purchase transactions. It would appear that, under normal circumstances, a customer would not choose to make a spot market purchase of a firm's high priced product unless it were able to pass through to its own customers the full amount of the firm's quoted selling price at the time of purchase. *See Vickers*, 8 DOE at 85,396–97; *Amoco*, 10 DOE at 88,200; *JOC Oil, Inc./Tenneco Oil Co.*, 13 DOE ¶ 85,312 (1985). Accordingly, we shall adopt the spot purchaser presumption proposed in the PD&O.

We further stated in the PD&O that, in order to rebut the presumption that they were not injured, JOC and Metropolitan would be required to submit evidence to establish that they absorbed the alleged overcharges and that they had no choice as to where and when they made the purchase upon which their refund claim is based. In its comments regarding the PD&O, Ultramar does not contest our finding that its predecessor, Metropolitan, was a spot purchaser of the Elm product. The firm does, however, object to the requirement that it show that Metropolitan's spot purchase was not the result of a discretionary decision to maximize profits. In this regard the firm contends that the length of time since the consent order period precludes it from locating contemporaneous documentation (e.g., telephone memoranda) which might illustrate any unsuccessful attempts by Metropolitan to obtain product from other firms in order to continue its business operations. We recognize that the type of showing which the firm describes might be difficult due to the passage of time. But the difficulty should not be exaggerated. The showing required to rebut the spot purchaser presumption is simply that the firm, as a result of the transaction(s) in question, experienced injury to the extent of suffering actual economic harm. Generally, firms do not engage in a transaction which is disadvantageous if they have another option. In certain cases where we have granted refunds to spot purchasers, applicants have successfully rebutted the spot purchaser presumption by showing that they did not have another option. *See, e.g., Waller Petroleum Co./Wooten Oil Co.*, 13 DOE ¶ 85,110 (1985); *OKC Corp./Pester Refining Co.*, 11 DOE ¶ 85,158 (1983). However, we have not insisted on a detailed explanation if the applicant can make a clear and convincing showing of injury without it and the requested refund is relatively small. *McCarty Oil Co./Watkins Oil Co.*, 13 DOE ¶ 85,213 (1985) (selling price 2¢ per gallon less than purchase price—$2,055 refund). Accordingly, Ultramar may submit any information to demonstrate that Metropolitan was injured by Elm's alleged overcharges and that it did not subsequently recover the additional costs associated with the alleged overcharges.[2]

In the event that JOC and/or Metropolitan/Ultramar fails to rebut the spot purchaser presumption, other firms may be eligible for a refund. As we have indicated, since they were spot purchasers, it is likely that JOC and Metropolitan passed on some or all of the Elm alleged overcharges to their respective customers. Consequently, downstream customers may have been injured by Elm's pricing practices during the consent order period, and they may apply for a refund in this proceeding. Any such applicant must show that it purchased Elm's products and was adversely affected by Elm's alleged overcharges.

B. Showing of Injury

In order to qualify for a refund, any claimant who resold the Elm No. 6 residual fuel oil purchased from JOC or Metropolitan must show that during the consent order period it would have maintained its prices for the product at the same level had the alleged overcharges not occurred. Accordingly, any such reseller of Elm fuel oil should show that during the consent order period, market conditions would not permit it to increase its prices to pass through the additional costs associated with the alleged overcharges. *Office of Enforcement*, 10 DOE ¶ 85,056 (1983); *Office of Enforcement*, 10 DOE ¶ 85,029 (1982). In addition, a reseller must show that it had a "bank" of unrecovered costs in order to demonstrate that it did not subsequently recover these costs by increasing its prices. As we noted in the PD&O, however, the maintenance of a bank will not automatically establish injury. *See Tenneco Oil Co./Chevron U.S.A., Inc.*, 10 DOE ¶ 85,014 (1982).

In the PD&O, we also proposed to adopt presumptions which have been used in many prior refund cases. The presumptions proposed in the PD&O, and being adopted here, will enable the OHA to consider the refund applications in the most efficient way possible in view of the limited resources available. *See* 10 CFR 205.282(e).

[1] Elm's sales to JOC and Metropolitan occurred on November 20, 1973, and December 31, 1973, respectively. *See Elm City*, 8 DOE at 86,287.

[2] In its comments, Ultramar has submitted detailed information about the injury allegedly suffered by Metropolitan as a result of Elm's pricing practices and requests that it be granted a refund without any further proceedings. We cannot approve this request. Ultramar must file a timely Application for Refund. We will make a determination upon the merit of the firm's arguments only after receipt of such an application.

1. Applicants Claiming a Refund of $5,000 or Less

As stated in the PD&O, we recognize that making a detailed showing of injury may be too complicated and burdensome for resellers who purchased relatively small amounts of No. 6 residual fuel oil from Metropolitan or JOC. For example, such firms may have limited accounting and data-retrieval capabilities and may therefore be unable to produce the records necessary to prove that they did not pass on the alleged overcharges to their own customers. We also are concerned that the cost to the applicant and to the government of compiling and analyzing information sufficient to make a detailed showing of injury not exceed the amount of the refund to be gained. In the past we have adopted a small claims presumption to assure that the costs of filing and processing refund applications do not exceed the benefits. *See, e.g., Aztex Energy Co.*, 12 DOE ¶ 85, 116 (1984); *Marion Corp.*, 12 DOE ¶ 85,014 (1984) (*Marion*). We will adopt such a presumption in this case. Therefore, any reseller applicant claiming a refund of $5,000 or less, based upon the volumetric refund amounts in this proceeding (*see* n.3, *infra*), need not make a detailed showing of injury in order to be eligible to receive a refund.

2. Spot Purchasers

As we have stated with regard to Metropolitan and JOC's status as spot purchasers, resellers that made spot purchasers of fuel oil from Metropolitan or JOC will be ineligible to receive a refund unless they can make a showing that rebuts the presumption that they were not injured. Since the small claims procedure was not intended as a means by which applicants otherwise presumed to be ineligible for refunds could receive monies, the spot purchaser presumption also applies to claims below $5,000. *See Stinnes Interoil, Inc./Exxon Co., U.S.A.*, 13 DOE ¶ 85,159 (1985).

3. End-Users

In the PD&O, we made a finding that end-users and ultimate consumers of Elm No. 6 residual fuel oil (purchased from JOC or Metropolitan) whose businesses are unrelated to the petroleum industry were injured by the alleged overcharges settled in the Elm Consent Order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the time covered by the Consent Order, and thus were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final price of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Office of Enforcement*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), and cases cited therein. We have received no comments objecting to this finding. We will therefore adopt our proposal that end-users of No. 6 residual fuel oil need only document their purchase volumes from JOC or Metropolitan that can be traced to Elm to make a showing that they were injured by the alleged overcharges.

C. Calculation of Refund Amounts

We must further determine the proper method for dividing the consent order fund among successful applicants. As we proposed in the PD&O, we will use the information contained in the ERA audit file to divide the Elm consent order fund into two pools, one for JOC and its customers and one for Metropolitan and its customers, in proportion to the amount JOC and Metropolitan were allegedly overcharged by Elm. To calculate the size of these pools, the amount of alleged overcharges experienced by each of the two direct customers (JOC and Metropolitan) is divided by the total alleged overcharges found in the RO ($219,797). This fraction is then multiplied by the amount of funds remitted by Elm to the DOE ($172,193.63). The share of the Elm consent order fund initially attributable to each of the two direct customers is thus $5,749 for JOC ([$7,339 ÷ $219,797] × $172,193.63) and $166,444 for Metropolitan ([$212,458 ÷ $219,797] × $172,193.63). This methodology has been used in prior Subpart V proceedings where the ERA audit was very narrow in scope, the Consent Order was limited to the same product and time period as the audit, and the consent order firm had very few customers during this period. *See, e.g., Marion.*

If JOC and/or Metropolitan/Ultramar fail to establish eligibilty for a refund, these funds will then be available for distribution to each firm's customers in proportion to the amount they purchased from JOC or Metropolitan. *Cf. Office of Special Counsel*, 11 DOE ¶ 85,226 (1984). This distribution scheme presumes that the alleged overcharges by Elm that were passed on by JOC and/or Metropolitan were dispersed equally in these firms' sales. The OHA has referred to this presumption in the past as a volumetric refund amount. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

To determine the volumetric factors for JOC and Metropolitan's customers, the share of the Elm consent order fund attributable to each of the two direct customers is divided by the total amount of No. 6 residual fuel oil sold by that firm during the Elm consent order period.[3] *See Conoco Inc./Banco Properties, Inc.*, 12 DOE ¶85,117 at 88,362 (1984). This results in a refund amount for each gallon of No. 6 residual fuel oil purchased from JOC or Metropolitan during the consent order period.[4] The interest which has accrued on the money in the Elm escrow account will be added to the refund of each successful claimant in proportion to the size of its refund.

v. Application for Refund Procedures

We have determined that the procedures described in the PD&O are the most equitable and efficacious means of distributing the Elm consent order fund. Accordingly, we shall now accept applications for refund from eligible customers who purchased Elm No. 6 residual fuel oil during the consent order period. There is no official application form. Applications for Refund should be written or typed on business letterhead or personal stationery. The following information should be included in all Applications for Refund:

1. The name of the consent order firm: Elm City Filling Stations, Inc., the case number: HEF-0067, and the applicant's name should be prominently displayed on the first page.

2. The name, position title, and telephone number of a person who may be contacted by us for additional information concerning the Application.

3. The manner in which the applicant used the Elm No. 6 residual fuel oil, i.e., whether it was a reseller or end-user.

[3] If a determination is made that Metropolitan/Ultramar and /or JOC is eligible to receive a portion of the Elm consent order fund, the volumetric refund amount for downstream customers of that firm will be based on the share of the Elm consent order fund attributable to that firm minus the refund granted to that firm.

[4] In the event that a downstream customer is able to document that the No. 6 residual fuel oil it purchased from JOC or Metropolitan was supplied entirely by Elm and no refund is granted to its direct supplier (JOC or Metropolitan), the downstream purchaser's per gallon volumetric refund amount will be based on the amount of Elm residual fuel oil it purchased. These volumetric amounts are equal to $0.005695 for JOC's customers ($5,749 ÷ 1,027,459 gallons) and $0.16679 for Metropolitan's customers ($166,44 ÷ 895,905 gallons).

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4. A statement of whether the applicant was in any way affiliated with Elm, and in the case of downstream purchasers, JOC or Metropolitan. If so, the applicant should state the nature of the affiliation.

5. A statement of whether there has been any change in ownership of the entity that purchased No. 6 residual fuel oil from Elm, JOC or Metropolitan since the end of the consent order period. Is so, the name and address of the current (or former) owner should be provided.

In addition, JOC and Metropolitan/Ultramar should include the information requested in items 6 and 7.

6. In order to rebut the spot purchaser presumption that it was not injured, the firm should submit evidence to demonstrate that it experienced actual economic harm as a result of the Elm alleged overcharges.

7. It should also submit evidence to establish that it did not pass through the alleged overcharge to its customers, state whether it maintained banks of unrecouped product cost increases, and furnish the OHA with quarterly bank calculations from the date of purchase through June 1 1976, the date residual fuel oil was decontrolled.

Downstream purchasers of Elm No. 6 residual fuel oil should submit the information requested in items 8 through 10.

8. The applicant should demonstrate that it was either a regular customer or JOC or Metropolitan, or rebut the presumption that it was not injured by its spot purchase of the fuel oil.

9. The volume of fuel oil that the applicant purchased from JOC or Metropolitan for which it is claiming it was injured by the alleged overcharges. The applicant must explain why it believes that this volume of fuel oil was originally supplied by Elm either to JOC in November 1973 or to Metropolitan in December 1973.

10. If the applicant is a reseller who wishes to claim a refund in excess of $5,000 it should also:

(a) state whether it maintained banks of unrecouped product cost increases and furnish the OHA with quarterly bank calculations from the date of purchase through June 1, 1976, the date residual fuel oil was decontrolled, and

(b) submit evidence to establish that it did not pass through the alleged overcharges to its customers. For example, a firm may compare the prices it paid for JOC or Metropolitan No. 6 residual fuel oil with the prices paid for that product by its competitors to show that price increases to recover alleged overcharges were infeasible.

Finally, all applications should include:

11. A statement of whether the applicant is or has been involved as a party in any DOE or private Section 210 enforcement actions, or as a party in any legal proceeding with Elm, JOC or Metropolitan. If these actions have been terminated, the applicant should furnish a copy of any final order issued in the matter. If the action is ongoing, the applicant should describe the action and its current status. The applicant is under a continuing obligation to keep the OHA informed of any change in status during the pendency of its Application for Refund. *See* 10 CFR 205.9(d).

12. The following signed statement:

I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief.

All Applications for Refund must be filed in duplicate and must be received within 90 days after publications of this Decision and Order in the **Federal Register.** A copy of each Application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E–234, 1000 Independence Avenue, SW., Washington, DC. Any applicant that believes that its Application contains confidential information must so indicate on the first page of its Application and submit two additional copies of its Application from which the material alleged to be confidential has been deleted, together with a statement specifying why the information is alleged to be privileged or confidential.

All Applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

It is therefore ordered that:

(1) Applications for Refund from the funds remitted to the Department of Energy by Elm City Filling Stations, Inc. pursuant to the Consent Order executed on September 1, 1981 may now be filed.

(2) All Applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register.**

Dated: April 17, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 86–9805 Filed 4–30–86; 8:45 am]

BILLING CODE 6450–01–M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Notice of Proposed Implementation of Special Refund Procedures and Solicitation of Comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding $21,082,535.86 in consent order funds to members of the public. This money is being held in escrow following the settlement of enforcement proceedings brought by the Economic Regulatory Administration of the Department of Energy involving Marathon Petroleum Company.

DATE AND ADDRESS: Comments must be filed in duplicate within 30 days of the date of publication of this Notice in the **Federal Register** and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. All comments should conspicuously display a reference to the Case Number KEF–0021.

FOR FURTHER INFORMATION CONTACT: Virginia A Lipton, Assistant Director, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–2400.

To receive final decision or refund application forms contact: Marcia B. Proctor, Chief, Docket and Publications Branch, Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–4924.

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision relates to a January 30, 1986 consent order between the DOE and Marathon Petroleum Company. That consent order settled certain disputes between the firm and the DOE concerning Marathon's possible violations of DOE regulations in its sales of crude oil and refined petroleum products. The consent order covers the period January 1, 1973 through January 27, 1981.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of an escrow account in the amount of $21,082,535.86, funded by Marathon pursuant to the consent order. The DOE has tentatively divided the consent order fund into two pools; one relating to Marathon crude oil sales and the other relating to Marathon sales of refined products. Under the DOE's tentative procedures, purchasers of Marathon refined products may file claims for refunds from the escrow fund. The amount of the refund available to an applicant will generally be a pro rata or volumetric share of the Marathon consent order fund. The Proposed Decision provides that in order to receive a portion of its allocable share, a claimant must furnish the DOE with evidence that it was injured by the allegedly unlawful prices for covered products charged by Marathon. However, the Proposed Decision indicates that no separate, detailed showing of injury will be required of end-users of the relevant product, or of firms which file refund claims in amounts of $5,000 or less. The Proposed Decision further indicates that an applicant that maintained banks of unrecovered costs and whose claim, if granted, would result in a refund greater than $5,000 but less than $50,000 may elect to receive a refund based on 35 percent of its allocable share. The Proposed Decision also sets forth a suggested application format which claimants may use and solicits comments regarding the suggested format. The Proposed Decision notes that after all applications for refunds based on refined product purchases have been processed, some funds may remain. The Office of Hearings and Appeals therefore invites interested parties to submit comments concerning alternative methods of distributing any remaining refined product funds in a subsequent proceeding.

With regard to the portion of the consent order fund attributable to Marathon's alleged crude oil violations, the decision proposes to place the money into a pool of crude oil moneys for distribution pursuant to the DOE's Statement of Restitutionary Policy for crude oil claims.

Until a final Decision and Order is issued, no claims for refund can be accepted. Applications for Refund therefore should not be filed at this time. Appropriate public notice, including notice published in the **Federal Register,** will be given when the submission of claims is authorized. The deadline for filing such claims will be no less than 90 days from publication of such notice in the **Federal Register.**

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties should submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the **Federal Register,** and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: April 18, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order

Implementation of Special Refund Procedures

April 18, 1986.

Name of Firm. Marathon Petroleum Company
Date of Filing: March 26, 1986
Case Number: KEF–0021

On March 26, 1986, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a petition with the Office of Hearings and Appeals (OHA), requesting that the OHA formulate and implement procedures for distributing funds obtained through the settlement of enforcement proceedings involving Marathon Petroleum Company (Marathon). *See* 10 CFR Part 205, Subpart V. This proposed decision contains OHA's tentative plan for distributing these funds to qualified refund applicants. Section I below outlines the approach to be used in connection with applicants that purchased crude oil from Marathon. The decision then discusses the considerations applicable for the preparation of refund applications related to purchases of Marathon refined petroleum products. This discussion appears at Section II of this decision. Section II(A) sets forth specific requirements applicable to each of the various types of claimants that are likely to file applications in connection with purchases of Marathon refined products. A claimant should take particular note of those requirements applicable to its particular circumstances. The specific application requirements are followed at Section II(B) by a discussion of general requirements which apply to all refund applications involving refined petroleum products. Since the procedures set forth in this decision are in proposed form, no refund applications should be filed at this time. A final determination will be issued at a later date announcing that the filing of Marathon refund applications is authorized.

During the period covered by the settlement agreement, Marathon was engaged in the production, sale and refining of crude oil, as well as in the sale of refined petroleum products. DOE audits of Marathon's operations revealed possible regulatory violations in the firm's application of the federal petroleum price and allocation regulations. In order to settle claims and disputes between Marathon and the DOE, the parties entered into a consent order which became final on January 30, 1986.[1] Under the terms of the consent order, Marathon remitted $21,082,535.86 to the DOE in settlement of alleged violations occurring between January 1, 1973 and January 27, 1981 (the consent order period). These funds are being held in an escrow account established with the United States Treasury pending a determination of their proper distribution. Because the consent order resolves alleged violations involving both sales of crude oil and refined products, we propose to divide the fund into two pools. *See Standard Oil Co. (Indiana).* 10 DOE ¶ 85,048 (1982) *(Amoco).* According to information set forth in the **Federal Register** Notice announcing the proposed Marathon consent order, it appears that approximately 40 percent of the aggregate amount of the alleged violations settled by the consent order concern Marathon's production and sales of crude oil. 50 F.R. 34901, 34902 (August 28, 1985). We therefore propose that this same percentage of the principal contained in the Marathon escrow account, or $8,344,014, be set aside as a pool of crude oil funds. We further propose that the remaining 60 percent of the Marathon funds, or $12,649,522 be made available for distribution to claimants who demonstrate that they were injured by Marathon's alleged violations in sales of refined petroleum products.

I. Proposed Refund Procedures for Crude Oil Claims

Marathon, like other producers of crude oil, was subject to the Mandatory Petroleum Price Regulations set forth in 6 CFR Part 150 and 10 CFR Part 212.[2] To

[1] Section 501 of the Marathon consent order resolves all pending and potential civil and administrative claims by the DOE against Marathon, which certain enumerated exceptions. See consent order section 501(a) through (g).

[2] The DOE regulations, in effect from August 19, 1973 until January 27, 1981, governed prices charged in crude oil sales to first purchasers by defining ceiling prices for various tier classifications of crude oil. The regulations permitted producers to sell certain crude oil, such as crude oil produced from a "stripper well property," at market price levels. When a producer sold crude oil, it was required to certify in writing to the purchaser the respective volumes of crude oil belonging to each tier

Continued

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the extent that Marathon misscertified old crude oil as new or stripper well crude oil, the impact of the violations was spread throughout the domestic refining industry by the operation of the Entitlements Program, 10 CFR 211.67. *See, e.g., Union Oil Co.* v. *DOE*, 686 F.2d 797 (Temp. Emer. Ct. App. 1982), *cert. denied*, 459 U.S. 1202 (1983). Based on the OHA's report to the District Court in the Stripper Well Exemption Litigation, *see Report of the Office of Hearings and Appeals, In re: The Department of Energy Stripper Well Exemption Litigation*, MDL No. 378 (D. Kan., filed June 21, 1985), 6 Fed. Energy Guidelines ¶ 90,507 at 90,620 (1985) (the OHA Stripper Well Report), the DOE announced that the Department would maintain overcharges associated with such violations in escrow to afford Congress the opportunity to select the means of making indirect restitution. *See* Statement of Restitutionary Policy, 50 FR 27400 (July 2, 1985). The OHA will pool the Marathon funds attributable to alleged crude oil violations with other crude oil funds for distribution in accordance with departmental policies. *See* 50 FR at 27400–02.

II. Proposed Refund Procedures for Refined Product Refund Claims

With regard to the remainder of the Marathon settlement fund, $12,649,522, we propose to implement a two-stage refund proceeding in which purchasers of Marathon refined petroleum products will be afforded an opportunity to submit refund applications during the initial stage. From our experience with Subpart V proceedings, we believe that potential claimants will fall into the following categories: (1) End-users, i.e., consumers who used Marathon refined products; (2) regulated non-petroleum industry entities which used Marathon products in their businesses, or cooperatives which puschased Marathon products in their businesses; and (3) refiners, resellers or retailers who resold Marathon refined products.

In establishing the procedures which will govern the Marathon Special Refund Proceeding, we are adopting certain presumptions which will permit claimants to participate in the refund process without incurring inordinate expense and enable OHA to consider refund applications in the most efficient manner possible.[9] *American Pacific International*, No. HEF-6316, (February 11, 1986) (Proposed Decision) (hereinafter cited as *API*). First, we will adopt a presumption that the alleged overcharges were dispersed equally in all sales of refined product made by Marathon during the consent order period and that refunds should therefore be made on a pro rata or volumetric basis. In the absence of better information, a volumetric refund assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices.

Under the volumetric refund approach we are adopting, a claimant will be eligible to receive a refund equal to the number of gallons purchased times the per gallon refund amount, plus accrued interest. In the present case, we have set the per gallon refund amount at $.00042 per gallon. We derived this figure by dividing the consent order funds available for distribution to non-crude oil claimants ($12,649,522) by the number of gallons of covered products other than crude oil which Marathon indicated to us that it sold from September 1973 through the date of decontrol of the relevant product (29,983,247,000). However, we also recognize that some claimants may have been disproportionately overcharged. Therefore, any purchaser may file a refund application based on a claim that it suffered a disproportionate share of the alleged overcharges. *See Sid Richardson Carbon and Gasoline Co.*, 12 DOE ¶ 85,054 at 88,164 (1984).

We also propose to adopt a number of presumptions concerning injury. These presumptions will excuse certain categories of refund applicants from proving that they were injured by Marathon's alleged overcharges, thus simplifying the refund process for these applicants. We will discuss these presumptions and the showing which each type of applicant must make in Section II(A) below.

(A) Specific Application Requirements for Each Category of Refund Applicants.

(1) Refund Applications of End-Users

We propose to adopt a finding that end-users and ultimate consumers whose businesses are unrelated to the petroleum industry were injured by Marathon's alleged refined product overcharges. Unlike regulated firms in the petroleum industry, end-users generally were not subject to price controls during the consent order period and were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,209 (1984). We propose, therefore, that end-users of Marathon products need only document that they were ultimate consumers of a specific amount of Marathon products to make a sufficient showing that they were injured by the alleged overcharges.

(2) Refund Applications of Cooperatives and Regulated Firms

We also will not require firms whose prices for goods and services are regulated by a government agency or by the terms of a cooperative agreement to demonstrate injury as a result of alleged overcharges on refined products. Although such firms, e.g., public utilities and agricultural cooperatives, generally would have passed overcharges through to their customers, they generally would pass through any refunds as well. Therefore, we will require such applicants to certify that they will pass any refund received through to their customers, to provide us with a full explanation of how they plan to accomplish this restitution, and to explain how they will notify the appropriate regulatory body or membership group of their receipt of the refund money. *See Office of Special Counsel*, 9 DOE ¶ 82,538 at 85,203 (1982). We note, however, that a cooperative's sales of Marathon products to non-members will be treated in the same manner as sales by other resellers.

(3) Refund Applications of Resellers, Retailers and Refiners

a. Refiners, Resellers and Retailers Seeking Refunds of $5,000 or Less: We propose to adopt a presumption, as we have in many previous cases, that purchasers seeking small refunds were injured by Marathon's pricing practices. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 85,224–25 (1982). The cost to the applicant of gathering evidence of injury to support a small refund claim could exceed the expected refund. Consequently, without simplified procedures, some injured parties would be denied an opportunity to obtain a refund. Under the small-claims presumption, a claimant seeking total refunds of $5,000 or less will not be required to submit any evidence of injury beyond establishing the volume of Marathon products it purchased during the settlement period. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 at 88,210 (1984).

b. Refiners, Resellers, and Retailers Seeking Larger Refunds: Refiners, resellers and retailers seeking refunds greater than $5,000 will be expected to provide a more detailed injury showing. We have tentatively adopted a further presumption for refiner, reseller or retailer applicants whose claims, if granted, would result in a total refund greater than $5,000, but less than $50,000, excluding interest (medium range claimants). Based on our review of prior cases, we believe that it is a reasonable presumption that firms that sold Marathon refined products and that maintained banks of unrecovered costs were likely to have experienced some injury as a result of the alleged overcharges. *E.g., Mobil Oil Corp.*, 13 DOE ¶ 85,339 (1985) (*Mobil*); *Amoco*, 10 DOE ¶ 85,048 (1982). In *Mobil*, for example, we found that wholesalers of motor gasoline generally absorbed alleged overcharges in 35 to 45 percent of their sales of Mobil product, and that retailers absorbed alleged overcharges in approximately 20 to 30 percent of their Mobil sales. *Id.* at 88,853. In *Amoco*, we determined that motor gasoline wholesalers absorbed 34 percent of alleged Amoco overcharges and that retailers absorbed 40 percent of the alleged overcharges. *Id.* at 88,212. Amoco middle distillate resellers were found to have been injured in 38 percent of their Amoco sales. *Id.* at 88,216. These percentage figures were derived in part by referring to national average price data. We know of no peculiarities with respect to Marathon's pricing of product that would lead us to conclude that the presumption of injury percentages concerning product resellers used in *Amoco* and *Mobil* cannot reasonably be applied to the present Marathon proceeding. Accordingly, we shall refer to these figures to arrive at an appropriate presumption of injury level for medium range Marathon claimants. The injury percentages in *Amoco* and *Mobil* range between 20 and 45 percent. *Mobil*, 13 DOE at 88,853; *Amoco*, 10 DOE at 88,222–23. We have tentatively decided to adopt an injury presumption of 35 percent in the Marathon refund proceeding. We believe that this presumption represents a reasonable injury level for medium range claimants. Accordingly, any medium range claimant may elect to receive a refund based on 35 percent of its total allocable or volumetric share. In order to receive a refund based on this 35 percent presumption, an applicant will be required to substantiate the volume of product it purchased from Marathon and demonstrate the existence of banks of unrecouped costs at levels at least equal to the refund claimed, beginning with the first month of the period for which a refund is claimed through the date on which that product was decontrolled.[4] However, any medium range claimant may elect not to receive a refund based on this presumption and may, instead, prove the extent of its injury using the criteria set forth below for larger refund claimants.

A large refund applicant in this general category, one whose total claims, if granted, would result in a refund of $50,000 or more excluding interest, will be required to provide an even more detailed showing of injury. In order to show that it did not pass along the alleged overcharges to its own customers, it also will be required to demonstrate that it maintained a bank of unrecovered product costs beginning with the first month of the period for which a refund is claimed through the date on which that product was decontrolled. In addition, a claimant must specifically show that market conditions would not permit it to pass through those increased costs. *See Panhandle Eastern Pipeline Co./I.V. Cole Petroleum Co.*, 10 DOE ¶ 85,051 at 88,265 (1983). For periods in which the DOE regulations did not require retailers or resellers to compute cost banks, a retailer or reseller will only be required to show that market conditions prevented it from recovering increased costs. Such a showing might be made though a demonstration of lowered profit margins, decreased market share, or depressed sales volume during the period of purchases from Marathon. *API*, slip op. at 7.

(4) Applicants Seeking Refunds Based on Allocation Claims

We also recognize that we may receive claims alleging Marathon allocation violations. Such claims are based on the consent order firm's alleged failure to furnish petroleum products that it was obliged to supply to the claimant under the DOE allocation regulations. *See* 10 CFR Part 211. We will evaluate refund applications based on allocation claims by referring to standards such as those set forth in *OKC Corp./Town & Country Markets, Inc.*, 12 DOE ¶ 85,094 (1984), and *Aztex Energy Co.*, 12 DOE ¶ 85,116 (1984).

(B) General Refund Application Requirements

In addition to the specific requirements outlined above, all applications for refund must be in writing and signed by the applicant. An application must make reference to the Marathon Petroleum Company Special Refund Proceeding (Case No. KEF–0021). Each applicant must submit a monthly purchase schedule for Marathon refined petroleum products during the period in which the relevant product was controlled. If an applicant purchased Marathon refined petroleum products from a reseller, it must establish its basis for belief that the products originated with Marathon and identify the reseller from whom the product was purchased.

We will establish a rebuttable presumption that claimants who made only spot purchases from Marathon were not injured. Spot purchasers tend to have considerable discretion in where and when to make purchases and generally would not have made spot market purchases from Marathon at increased prices unles they were able to pass through the full amount of the selling price to their own customers. *See Office of Enforcement*, 8 DOE ¶ 82,597 (1981).

Therefore, a firm which made only spot purchases from Marathon will not receive a refund unless it presents evidence rebutting the spot purchaser presumption and establishing the extent to which it was injured as a result of its spot purchases from Marathon.

In the Appendix to this decision, we hav set forth a suggested form for applications filed by gasoline retailer claimants and one for other applicants. Gasoline retailer applicants using the suggested form must file a separate form for *each gasoline station* for which a refund is requested. All other applicnts using the suggested form must file a separate form for *each product* for which a refund is requested. We will accept all applications that contain the information necessary to process a claim, whether or not the suggested form is used. We request comments and questions with respect to these proposed forms during the 30 day comment period.

All applications for refund must be filed in duplicate. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585. Any applicant that believes that its application contains confidential information must

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classification in each purchase. When a refiner processed the crude oil, it was required to report these certifications to the DOE to enable the agency to administer the Crude Oil Entitlements Program, 10 CFR 211.67.

[9] The Subpart V regulations specifically authorize the use of presumptions in special refund proceedings. *See* 10 CFR Part 205, Subpart V.

[4] However, using the volumetric figure of .00042 per gallon and the 35 percent medium range presumption, an applicant that purchased 34,015,000 gallons of Marathon product would receive a refund of $5,000. Such a claimant may elect to limit his claim to $5,000 under the small claims threshold and would therefore not need to submit bank information.

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so indicate on the first page of its application and submit two additional copies of its application from which the confidential information has been deleted, together with a statement specifying why any such information is privileged or confidential. Applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

Applications for Refund should not be filed at this time. Detailed procedures for filing Applications for Refund will be provided in a final Decision and Order. Before distributing any portion of the consent order fund, we intend to publicize the distribution process, to solicit comments on the proposed refund procedures and to provide dan opportunity for any affected party to file a claim. Comments regarding the tentative distribution process set forth in this Proposed Order should be filed with the Office of Hearings and Appeals within 30 days of publication of this Proposed Order in the Federal Register.

(C) Distribution of the Remainder of the Consent Order Funds Attributable to Marathon's Refined Product Sales

In the event that money remains after all first stage claims have been disposed of, undistributed funds attributable to Marathon's alleged refined product violations could be distributed in a number of different ways. For example, the funds may be distributed through plans formulated by state governments to benefit consumers who were likely injured by Marathon's alleged overcharges. *See, e.g., Northeast Petroleum Industries*, 11 DOE ¶ 85,199 (1983). However, we will not be in a position to decide what should be done with any remaining funds until the first stage refund procedure is completed. We encourage the submission of comments containing proposals for alternative distribution schemes.

It is therefore ordered that:

The refund amount remitted to the Department of Energy by Marathon Petroleum Company pursuant to the consent order made final on January 30, 1986, will be distributed in accordance with the foregoing Decision.

APPENDIX

Gas Station Form

OHA Use Only

GAS STATION FILING FOR MOTOR GASOLINE

Suggested Format for Application for Marathon Refund—KEF–0021

(Separate Application for Each Gas Station Please)

1. Name of Gas Station:

Street address of gas station during refund period:

2. To whom should refund check be made out?

Address to which check should be sent:

Contact Person:

Telephone: (_____) _____

3. Total gallonage for which refund is requested (from page 3):

4. Was the product you bought Marathon-branded? _____ Yes _____ No

5. Were you supplied by Marathon directly _____ Yes _____ No

If yes, please provide information on sales representative in Item 6 and provide Marathon customer number here _____

6. Immediate supplier(s) during refund period name(s):

Address:

Telephone: (_____) _____

7. If the total refund requested by the firm and all affiliated entities for all products exceeds $5,000, attach information on banks of unrecovered costs as well as the required injury showing. (See Decision for injury showing requirements.)

8. Have you been a party or are you currently a party in a DOE enforcement action or private § 210 action? _____ Yes _____No

If yes, please attach an explanation. (See final Decision for specific details.)

9. Have you or a related firm filed any other application for refund involving any Marathon product? If yes, attach an explanation. _____ Yes _____No

10. Have you or a related firm authorized any individual(s) other than those identified on this form to file an application on your behalf? If yes, attach an explanation. _____ Yes _____No

I swear (or affirm) that the information contained in this application and its attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a jail sentence, a fine, or both, pursuant to 18 U.S.C. § 1001. I understand that the information contained in this application is subject to public disclosure. I have enclosed a duplicate of this entire application form which will be placed in the OHA Public Reference Room.

Date _____

Signature of Applicant

Title

Name of Applicant: _____

MONTHLY PURCHASE VOLUMES OF MOTOR GASOLINE

(KEF–0021)

	1973	1974	1975	1976	1977	1978	1979	1980	1981
January	*******								*******
February	*******								*******
March									*******
April									*******
May									*******
June									*******
July									*******
August									*******
September									*******
October									*******
November									*******
December									*******
Yearly Total									

Suggested Format for Application for Marathon Refund—KEF–0021

(Separate Application for Each Product Please)

1. Name of Purchaser:

Address during refund period:

2. To whom should refund check be made out?

Address to which check should be sent:

Contact Person:

Telephone: (_____) _____

3. (a). Total gallonage for which refund is requested (from page 3): _____

(b). Product (e.g., diesel, propane):

4. Was the product you bought Marathon-branded? _____ Yes _____ No

5. Were you supplied by Marathon directly? _____ Yes _____ No

If yes, please provide information on sales representative in Item 7 and provide Marathon customer number here _____

If no to Items 4 and 5, explain why you believe the product was sold by Marathon.

6. Did you firm resell the product?

_____ Yes _____ No

If no, describe the nature of your business.

If yes, and total refund requested by the firm and all affiliated entities for all Marathon products exceeds $5,000, attach information on banks of unrecovered costs as well as the required injury showing. (See Decision for injury showing requirements.)

7. Immediate supplier(s) during refund period name(s):

Address:

Telephone: (_____) _____

8. Have you been a party or are you currently a party in a DOE enforcement action or private § 210 action? _____ Yes _____ No

If yes, please attach an explanation. (See final Decision for specific details.)

9. Have you or a related firm filed any other application for refund invovling any Marathon product? If yes, attach an explanation. _____ Yes _____ No

10. Have you or a related firm authorized any individual(s) other than those identified on this form to file an application on your behalf? If yes, attach an explanation.

_____ Yes _____ No

11. Were you a consignee agent? _____ Yes _____ No

I swear (or affirm) that the information contained in this application and its attachments is true and correct to the best of my knowledge and belief. I understand that anyone who is convicted of providing false information to the federal government may be subject to a jail sentence, a fine, or both, pursuant to 18 U.S.C. § 1001. I understand that the information contained in this application is subject to public disclosure, I have enclosed a duplicate of this entire application form which will be placed in the OHA Public Reference Room.

Date _____

Signature of Applicant

Title

Name of Applicant: _____

MONTHLY PURCHASE VOLUMES OF _____ (PRODUCT)

(KEF–0021)

	1973	1974	1975	1976	1977	1978	1979	1980	1981
January	*******								*******
February	*******								*******
March									*******
April									*******
May									*******
June									*******
July									*******
August									*******
September									*******
October									*******
November									*******
December									*******
Yearly Total									

GRAND TOTAL FOR THIS PRODUCT: _____ GALLONS ($.00042 per gallon)

Do not include any purchase of product after that product's date of decontrol.

**Product and Date Decontrolled*

Butane and Natural Gasoline—January 1, 1980
Aviation Gas and Jet Fuel—February 26, 1979
Naphthas—September 1, 1976
Naptha-Based Jet Fuel—October 1, 1976
Middle Distillates—July 1, 1976
Residual Fuel—June 1, 1976

[FR Doc. 86–9806 Filed 4–30–86; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS–44015; FRL–30111–4]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the data submissions received by EPA during the second quarter of 1986 from negotiated testing programs accepted by EPA in lieu of requiring testing under section 4 of the Toxic Substances Control Act (TSCA). These submissions include results of certain studies and tests on five chemical substances or groups of chemicals.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E–543, 401 M St., SW., Washington, DC 20460, Toll free: (800–424–9065). in Washington, DC: (554–1404). Outside the USA: (Operator–800–554–1404).

SUPPLEMENTARY INFORMATION: Section 4(d) of TSCA requires the EPA to issue a notice in the Federal Register reporting on any test data received pursuant to test rules promulgated under section 4(a). Although not required by section 4(d), EPA also periodically publishes

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notices of receipt of data from negotiated testing programs and other industry programs the conduct of which led EPA not to require testing through test rules.

I. Test Data Submissions

This notice announces test data submissions received during the second quarter of 1986 from such industry testing programs under TSCA.

A. Alkyl Phthalates

On January 14, 1986, EPA received from the Chemical Manufacturers Association (CMA) the results of 21-day feeding studies in rats on di(heptyl, nonyl, undecyl) phthalate (CAS No. 3648-20-2) and butyl benzyl phthalate (CAS No. 85-68-7). On February 10, 1986, EPA received from CMA the results of similar studies on di-(2-ethylhexyl) adipate (CAS No. 103-23-1), di-isononyl phthalate (CAS No. 28553-12-0), di-isodecyl phthalate (CAS No. 26761-40-0), and di-(n-hexyl, n-octyl, n-decyl) phthalate (CAS No. 2572458-7). On March 4, 1986, EPA received from CMA the results of a similar study with di-n-butyl phthalate (CAS No. 84-74-2). On March 4, 1986, EPA received from Eastman Kodak Co. the final report for a study of the early life stage toxicity of di(2-ethylhexyl) terepthalate (CAS No. 6422-86-2) to rainbow trout (*Salmo gairdneri*) eggs in a flow-through system.

B. Hydroquinone

On March 6, 1986, Eastman Kodak Co. submitted to EPA the study, Blood Elimination Kinetics of U-^{14}C-hydroquinone (CAS No. 123-31-9) administered by intragastric intubation, intratracheal instillation, or intravenous injection to male Fischer 344 rats.

C. Hexofluoropropylene

On February 3, 1986, Du Pont submitted to EPA a mutagenicity study on hexafluoropropylene (CAS No. 116-15-4), using the CHO/HGPRT assay.

D. Tris (2-Ethylhexyl) Trimellitate

On January 23, 1986, CMA submitted to EPA a final report on the determination of octanol/water coefficient of tris (2-ethylhexyl) trimellitate (TOTM) (CAS No. 3319-31-1).

On March 21, 1986, CMA submitted to EPA a study on the shake flask biodegradation of ^{14}C-TOTM.

E. Acrylamide

On February 21, 1986 EG&G Bionomics Marine Research Laboratory submitted to the EPA a study on the acute toxicity of acrylamide (CAS No. 79-06-1) to mysid shrimp (*Mysidopsis bahia*).

II. Public Record

EPA has established a public record for this quarterly receipt of data notice (docket number OPTS-44015). This record includes copies of all studies reported in this notice. The record is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the OPTS reading room, E-107, 401 M St., SW., Washington, DC 20460.

Dated: April 25, 1986.

Joseph J. Merenda,

Director, Existing Chemical Assessment Division.

[FR Doc. 86-9768 Filed 4-30-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140076; FRL-3011-9]

Access to Confidential Business Information by Syracuse Research Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized Syracuse Research Corporation (SRC) of Syracuse, New York for access to information which has been submitted to EPA under various sections of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

DATE: Access to the confidential data submitted to EPA will occur no sooner than 10 working days after the date of publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, DC 20460, Toll-free: (800-424-9065), In Washington, DC: (554-1404), Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: Under TSCA, EPA must determine whether the manufacture, processing, distribution in commerce, use, or disposal of certain chemical substances or mixtures may present an unreasonable risk of injury to human health or the environment. New chemical substances, i.e., those not listed on the TSCA Inventory of Chemical Substances, are evaluated by EPA under section 5 of TSCA. Existing chemical substances, i.e., those listed on the TSCA Inventory, are evaluated by the Agency under sections 4, 6, 7, and 8 of TSCA.

EPA has selected SRC, Merrill Lane, Syracuse, N.Y., to perform work under contract number 68-03-3228 in support of the Agnecy's activities under section 4 of TSCA. Specifically, SRC will assist the Agency in identifying chemical substances for which required testing under section 4(a) is appropriate. To provide this assistance, SRC personnel will be given access to TSCA data on chemical substances relating to environmental fate and transport, pharmokinetics, carcinogenicity, mutagenicity, teratogenicity, chronic toxicity, and aquatic toxicity.

The data derived from the section 4(a) required testing will be used by the Office of Toxic Substances to determine whether regulatory action under sections 5, 6, or 7 of TSCA is necessary to prevent or reduce unreasonable risks to human health or the environment. It will also be used by the Office of Research and Development to identify substances for possible inclusion in the Land Disposal Prohibition under section 3004 of the Solid Waste Disposal Act.

In accordance with 40 CFR 2.306(j), EPA had determined that SRC personnel will require access to CBI submitted to EPA under all reporting sections of TSCA to perform work successfully under TSCA. SRC was previously cleared for section 4, 5, and 8 of TSCA CBI access under contract number 68-02-4209, announced in the **Federal Register** of January 28, 1985, (50 FR 3835). EPA is issuing this notice to inform submitters of information under all reporting sections of TSCA that EPA may provide access to TSCA CBI to SRC on a need-to-know basis. All access to TSCA CBI under this contract will take place at either EPA Headquarters or SRC. Clearance for access to TSCA CBI under this contract is scheduled to expire on September 30, 1986.

SRC has been authorized for access to TSCA at its facilities under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. EPA has approved SRC's security plan and has performed the required inspections of their facilities and has found them to be in compliance with the requirements of the manual. SRC personnel will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI. All CBI materials reviewed by SRC personnel under this contract at the contractor's facilities listed above will be returned to EPA upon completion of their review.

Dated: April 28, 1986.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 86-9927 Filed 4-30-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-140074; FRL-3011-3]

Access to Confidential Business Information by the Dynamac Corporation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has authorized the Dynamac Corporation (Dynamac) of Rockville, Maryland for access to information which has been submitted to EPA under sections 4 and 8 of the Toxic Substances Control Act (TSCA). Some of the information may be claimed or determined to be confidential business information (CBI).

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm E-543, 401 M St., SW., Washington, DC 20460, Toll-free (800-424-9065). In Washington, DC: (554-1404). Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: Under TSCA, EPA must determine whether the manufacture, processing, distribution in commerce, use, or disposal of certain chemical substances or mixtures may present an unreasonable risk of injury to human health or the environment. New chemical substances, i.e., those not listed on the TSCA Inventory of Chemical Substances, are evaluated by EPA under section 5 of TSCA. Existing chemical substances, i.e., those listed on the TSCA Inventory, are evaluated by the Agency under sections 4, 6, 7, and 8 of TSCA.

The Interagency Testing Committee (ITC) is required by section 4(e) of TSCA to recommend to the EPA Administrator chemical substances and mixtures which should be given priority consideration for the promulgation of testing rules. In making its recommendations, ITC must consider, among other relevant factors, the quantities of chemicals manufactured, the extent of human and environmental exposure, the existence of data concerning effects on health and environment, and similarity to chemicals known to have adverse health or environmental effects. To accomplish this, ITC required the assistance of outside experts.

Under Contract No. 68-02-4251, Dynamac, 11140 Rockville Pike, Rockville, MD, will perform reviews of information which may be helpful to ITC in making its recommendations. In previous notices published in the **Federal Register** of December 6, 1982, (47 FR 54865) and October 12, 1983 (48 FR 46429), the EPA announced that under other EPA contracts Dynamac would be authorized for access to CBI submitted under section 8(b) of TSCA to perform functions similar to those under this contract.

Pursuant to 40 CFR 2.306(j), EPA has determined that under EPA Contract No. 68-02-4251, Dynamac will require access to CBI submitted to EPA under sections 4 and 8 of TSCA in order to support the ITC in making determinations on the need for further testing of chemicals.

EPA is issuing this notice to inform all submitters of information under sections 4 and 8 of TSCA that EPA may provide Dynamac access to these CBI materials at its facilities and at EPA Headquarters on a need-to-know basis. All access to TSCA CBI under this contract will take place at either EPA Headquarters or Dynamac. Upon completing review of the CBI materials, Dynamac will return all transferred materials to EPA. Clearance for access to TSCA CBI under this contract is scheduled to expire on February 28, 1987.

Dynamac has been authorized for access to TSCA CBI at its facilities under the EPA "Contractor Requirements for the Control and Security of TSCA Confidential Business Information" security manual. EPA has approved Dynamac's security plan and has performed the required inspections of their facilities and has found them to be in compliance with the requirements of the manual.

Dynamac personnel will be required to sign non-disclosure agreements and will be briefed on appropriate security procedures before they are permitted access to TSCA CBI.

Dated: April 24, 1986.

D.R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 86-9770 Filed 4-30-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51617; FRL-2987-6]

Certain Chemicals Premanufacture Notices; E.I. du Pont de Nemours and Co., Inc., et al.

Correction

In FR Doc. 86-7833, beginning on page 12549, in the issue of Friday, April 11, 1986, make the following corrections.

1. On page 12549, in the Dates caption, under "Written Comments by", fourth line, "May 21, 1986" should read "May 22, 1986".

2. On the same page, second column, second and third lines above "Address", "86-610" should read "86-810" and "86-12" should read "86-812".

3. On page 12553, third column, under "P86-769", eighth line, "Confidential" should read "No exposure anticipated."

BILLING CODE 1505-01-M

[OPTS-51618; FRL-3001-2]

Certain Chemicals Premanufacture Notices; Modified Monocyclic Polyester

Correction

In FR Doc. 86-8143, beginning on page 12557, in the issue of Friday, April 11, 1986, make the following correction.

On page 12558, second column, under "P86-824", last paragraph, second line, "108" should read "10".

BILLING CODE 1505-01-M

[OW-FRL-3010-6]

Water Quality Criteria; Request for Comments

AGENCY: Environmental Protection Agency.

ACTION: Notice of request for comments on ambient aquatic life water quality criteria documents.

SUMMARY: EPA announces the availability for public comment, and provides summaries of three ambient aquatic life water quality criteria documents. When published in final form after the review of public comments, these water quality criteria may form the basis for enforceable standards. These criteria are published pursuant to section 304(a)(1) of the Clean Water Act.

DATE: Written comments should be submitted to the person listed directly below by June 30, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. Frank Gostomski, Criteria and Standards Division (WH-585), U.S. Environmental Protection Agency, 401 M

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Street, SW., Washington, DC 20460. (202) 245-3030.

Availability of Documents

This notice contains summaries of three documents containing proposed ambient water quality criteria for the protection of aquatic life and its uses. Copies of the complete criteria documents may be obtained upon request from the person listed above. These documents are also available for public inspection and copying during normal business hours at: Public Information Reference Unit, U.S. Environmental Protection Agency, Room 2404 (rear), 401 M St., SW., Washington, DC 20460. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services. Copies of these documents are also available for review in the EPA Regional Office libraries. A list of the proposed documents is presented below:

1. Ambient Water Quality Criteria for Selenium.
2. Ambient Water Quality Criteria for Parathion.
3. Ambient Water Quality Criteria for Toxaphene.

SUPPLEMENTARY INFORMATION:

Background

Section 304(a)(1) of the Clean Water Act (33 U.S.C. 1314(a)(1)) requires EPA to publish and periodically update ambient water quality criteria. These criteria are to reflect the latest scientific knowledge on the identifiable effects of pollutants on public health and welfare, aquatic life, and recreation.

EPA has periodically issued ambient water quality criteria beginning in 1973 with the publication of the "Blue Book" (Water Quality Criteria 1972). In 1976, the "Red Book" (Quality Criteria for Water) was published. On November 28, 1980 (45 FR 79318), EPA announced the publication of 64 individual ambient water quality criteria documents for pollutants listed as toxic under section 307(a)(1) of the Clean Water Act. A document addressing 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) was announced on February 15, 1984 (49 FR 5831) completing the coverage of the 65 priority pollutants listed in 307(a)(1). Nine ambient water quality criteria documents, including revision of seven of the 1980 documents, were released on July 29, 1985 (50 FR 30784). A bacteriological ambient water quality criteria document was published on March 7, 1986 (51 FR 8012).

Today EPA is announcing the availability for public comment of three proposed individual ambient aquatic life water quality criteria documents. Two of the documents, selenium and toxaphene, upon final publication will update and revise appropriate sections of the 1980 criteria documents. The other, parathion, will update criteria from the 1976 Red Book.

The documents announced today will not contain information on the effects of these pollutants on human health. EPA anticipates the release of a water quality advisory on parathion to specifically address human health concerns. Advisories will also be issued to update the human health section of the 1980 ambient water quality criteria documents for selenium and toxaphene if a review of the available information indicate that such a revision is necessary. Both the criteria documents announced today and the water quality advisories addressing human health may form the basis for enforceable standards, when published in final form.

Dated: April 21, 1986.

Edwin L. Johnson,

Acting Assistant Administrator for Water.

Appendix A—Summary of Water Quality Criteria

1. Selenium

Freshwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of acid-soluble selenium (IV) does not exceed 26 ug/L more than once every three years on the average and if the one-hour average concentration does not exceed 190 ug/L more than once every three years on the average. However, field data indicate that solely using the Guidelines to predict a selenium criterion may be under protective. If species such as the channel catfish and various sunfishes are as sensitive as some data indicate they might be, the criterion should be less than 10 ug/L. The Criteria and Standards Division recommends that the four-day average concentration of acid-soluble selenium (IV) should not exceed 10 ug/L more than once every three years on the average and the one-hour average concentration should not exceed 190 ug/L more than once every three years on the average.

Saltwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, saltwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of acid-soluble selenium (IV) does not exceed 93 ug/L more than once every three years on the average and if the one-hour average concentration does not exceed 300 ug/L more than once every three years on the average. If selenium (IV) is more toxic to saltwater organisms in the field than in the laboratory, this criterion will not adequately protect saltwater organisms.

EPA believes that "acid-soluble" is probably the best measurement at present for expressing criteria for metals and the criteria for selenium (IV) were developed on this basis. However, at this time, no EPA approved method for such a measurement is available to implement criteria for metals through the regulatory programs of the Agency and the States. The Agency is considering development and approval of a method for a measurement such as "acid-soluble." Until one is approved, however, EPA recommends applying criteria for metals using the total recoverable method. This has two impacts: (1) Certain species of some metals cannot be measured because the total recoverable method cannot distinguish between individual oxidation states, and (2) in some cases these criteria might be overly protective when based on the total recoverable method.

The allowed average excursion frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed aquatic ecosystem to recover from a pollution event in which exposure to selenium (IV) exceeds the criterion. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resiliences of ecosystems and their abilities to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

Use of criteria for developing water quality-based permit limits and for designing waste treatment facilities requires selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other considerations might make their use impractical, in which case one must rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for the Criterion Maximum Concentration (CMC) design flow and 7Q5 or 7Q10 for the Criterion Continuous Concentration (CCC) design flow in steady-models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Quality-Based Toxics Control (U.S. EPA, 1985).

2. Parathion

Freshwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of parathion does not exceed 0.013 ug/L more than once every three years on the average and if the one-hour average concentration does not exceed 0.065 ug/L more than once every three years on the average.

Saltwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" require the availability of specified data for the derivation of a criterion. Very few of the required data are available concerning effects of parathion on saltwater species. Consequently, no criterion can be derived for saltwater.

The allowed average excursion frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed aquatic ecosystem to recover from a pollution event in which exposure to parathion exceeds the criterion. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resiliences of ecosystems and their abilities to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

Use of criteria for developing water quality-based permit limits and for designing waste treatment facilities requires selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other considerations might make their use impractical, in which case one must rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for the Criterion Maximum Concentration (CMC) design flow and 7Q5 or 7Q10 for the Criterion Continuous Concentration (CCC) design flow in steady-state models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Quality-Based Toxics Control (U.S. EPA, 1985).

3. Toxaphene

Freshwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, freshwater aquatic organisms and their uses should not be affected unacceptably if the four-day average concentration of toxaphene does not exceed 0.0002 ug/L more than once every three years on the average and if the one-hour average concentration does not exceed 0.73 ug/L more than once every three years on the average. If the channel catfish is as sensitive as some data indicate, it will not be protected by this criterion.

Saltwater Aquatic Life

The procedures described in the "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" indicate that, except possibly where a locally important species is very sensitive, saltwater aquatic organisms and their uses should not be affected unacceptably if the one-hour average concentration of toxaphene does not exceed 0.019 ug/L more than once every three years on the average. If the four-day average concentration of toxaphene exceeds 0.002 ug/L more than once in a three-year period, the edible portions of consumed species should be analyzed to determine whether the concentration of toxaphene exceeds the FDA action level of 5 mg/kg.

The allowed average excursion frequency of three years is the Agency's best scientific judgment of the average amount of time it will take an unstressed aquatic ecosystem to recover from a pollution event in which exposure to toxaphene exceeds the criterion. Stressed systems, for example one in which several outfalls occur in a limited area, would be expected to require more time for recovery. The resiliences of ecosystems and their abilities to recover differ greatly, however, and site-specific criteria may be established if adequate justification is provided.

Use of criteria for developing water quality-based permit limits and for designing waste treatment facilities requires selection of an appropriate wasteload allocation model. Dynamic models are preferred for the application of these criteria. Limited data or other considerations might make their use impractical, in which case one must rely on a steady-state model. The Agency recommends the interim use of 1Q5 or 1Q10 for the Criterion Maximum Concentration (CMC) design flow and 7Q5 or 7Q10 for the Criterion Continuous Concentration (CCC) design flow in steady-state models for unstressed and stressed systems respectively. These matters are discussed in more detail in the Technical Support Document for Water Quality-Based Toxics Control (U.S. EPA, 1985).

[FR Doc. 86-9771 Filed 4-30-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Norwest Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be

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accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 16, 1986.

A. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota; to acquire McKinney Wudel Insurance Service, Rapid City, South Dakota and thereby engage in general insurance agency activities pursuant to section 4(c)(8)(G) of the Bank Holding Company Act. These activities will be conducted in Rapid City, South Dakota.

Board of Governors of the Federal Reserve System, April 25, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-9776 Filed 4-30-86; 8:45 am]

BILLING CODE 6210-01-M

IBT Bankshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 23, 1986.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

11. *IBT Bankshares, Inc.*, Gretna, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of Investors Bank and Trust Company, Gretna, Louisiana.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Community Financial Corp.*, Avilla, Indiana; to become a bank holding company by acquiring 80 percent of the voting shares of Community State Bank, Avilla, Indiana.

Board of Governors of the Federal Reserve System, April 25, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-9764 Filed 4-30-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

Planned Secondary Resettlement (PSR) of Refugees; Availability of Grants for Fiscal Year 1987

AGENCY: Office of Refugee Resettlement (ORR), FSA, HHS.

ACTION: Notice of application due dates and panel review dates for Fiscal Year 1987.

SUMMARY: On May 13, 1985, the Office of Refugee Resettlement (ORR) published a notice in the Federal Register (50 FR 20088) which announced the availability of funding for grants to assist interested refugees to make planned secondary resettlements to favorable communities. This notice amends the May 13 notice by establishing the following schedule of proposal due dates and corresponding panel review dates for the remainder of Fiscal Year 1986 and for Fiscal Year 1987.

Application Due Dates	*Panel Review Dates*
July 15, 1986	July 28, 1986
September 29, 1986	October 21, 1986
December 16, 1986	January 20, 1987
April 6, 1987	April 28, 1987
July 13, 1987	July 28, 1987

EFFECTIVE DATE: May 1, 1986.

FOR FURTHER INFORMATION CONTACT: Toyo Biddle, (202) 245-1960.

Dated: April 21, 1986.

Philip Hohman,

Acting Director, Office of Refugee Resettlement.

[FR Doc. 86-9748 Filed 4-30-86; 8:45 am]

BILLING CODE 4150-11-M

Food and Drug Administration

[Docket No. 86M-0032]

Medical Devices; Iolab Corp.; Premarket Approval of Model 91-50 Anterior Chamber Intraocular Lens; Correction

AGENCY: Food and Drug Administration.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the docket number in the heading of the notice that announced its approval of an application for the premarket approval of the model 91-50 Anterior Chamber Intraocular Lens.

FOR FURTHER INFORMATION CONTACT: Agnes Black, Regulations Editorial Staff (HFC-222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 86-3303, appearing on page 5607 in the Federal Register of Friday, February 14, 1986, the docket number in the heading is changed to read "[Docket No. 86M-0032]."

Dated: April 22, 1986.

John C Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86-9721 Filed 4-30-86; 8:45 am]

BILLING CODE 4160-01-M

Office of Human Development Services

Advisory Board on Child Abuse and Neglect; Meeting

Agency Holding the Meeting: National Center on Child Abuse and Neglect, Children's Bureau, Administration for Children, Youth and Families, Office of Human Development Services, Department of Health and Human Services.

Time and Date: The Advisory Board on Child Abuse and Neglect will meet from 8:30 a.m.-6 p.m., June 4-5, 1986. In addition, the Committee on Indian Child Welfare will meet from 8:30 a.m.-5:30 p.m. on June 3 and from 8:30-11 a.m. on June 6, 1986. The Publications Review Committee will review books from 8:30 a.m.-5:30 p.m. on June 3 and from 8:30 a.m.-3 p.m. on June 6, 1986. The Committee on Private Sector Involvement and the Hearings Committee will meet during the 2-day Board meeting.

Place: The Board will meet in Room 600 of the Humphrey Building, 200 Independence Ave., SW., Washington, DC 20201. The Committee on Indian Child Welfare will meet in Room 405-A of the Humphrey Building. Members of the Publications Review Committee may pick up books for review in Room 252 of the Capitol Holiday Inn, 550 C Street, SW., Washington, DC 20201.

Status: The Board and committee meetings are open to the public. However, because of security precautions at all Government buildings, persons wishing to attend who do not have Government identification should call the contact person below for information about access to the building.

Matters to be Considered: Public Health Response to Child Abuse and Neglect; Victim Assistance Program, National Sheriff's Association; Evaluation of Emergency Foster Care Case Practice and Interpreting Foster Care Entry Rates; Child Abuse and Neglect in the Military; Private Sector Involvement; Child Abuse Regulations; Fiscal Years 1986 and 1987 Coordinated Discretionary Grants Program of the Office of Human Development Services; Child Abuse Legislative Proposal; and Committee Reports. The Board will also have the opportunity to meet with Child Abuse and Neglect State Liaison Officers and Directors of the new National Resource Centers. These groups are meeting at the same time.

Contact Person for More Information: Patricia B. Wood, Special Assistant, Office of the Associate Commissioner, Children's Bureau, Box 1182, Washington, DC 20013, (202) 755-7447 or 755-7800.

Dated: April 25, 1986.

Carolyn Garnett,

HDS Committee Management Officer.

[FR Doc. 86-9747 Filed 4-30-86; 8:45 am]

BILLING CODE 4130-01-M

National Institutes of Health

Division of Research Resources; General Clinical Research Centers Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Clinical Research Centers (GCRC) Committee, Division of Research Resources (DRR), June 11-13, 1986, First Floor Conference Room, American Inn of Bethesda, 8130 Wisconsin Avenue, Bethesda, MD 20814.

The meeting will be open to the public on June 12, from 9:00 a.m. to approximately 11:00 a.m. during which time there will be comments by the Director, DRR; an update of the GCRC Program; and reports on the Clinical Associate Physician Program; the diffusion of the CLINFO System; possible new technologies for GCRCs; and clinical research data management. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.C. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 11 from approximately 6:00 p.m. to recess and on June 12 from approximately 11:00 a.m. to recess and from approximately 8:00 a.m. to adjournment on June 13 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. James Augustine, Information Officer, Division of Research Resources, Bldg. 31, Rm., 5B-10, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-5545, will provide a summary of the meeting and a roster of the Committee members upon request. Dr. Ephraim Y. Levin, Executive Secretary of the General Clinical Research Centers Review Committee, Bldg. 31, Room 5B51, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-5595, will furnish program information upon request.

(Catalog of Federal Domestic Assistance Program No. 13.333, Clinical Research, National Institutes of Health)

Dated: April 24, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-9731 Filed 4-30-86; 8:45 am]

BILLING CODE 4140-01-M

National Eye Institute National Advisory Eye Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Eye Council, National Eye Institute, June 2-3, 1986, Building 31, Conference Room 6, National Institutes of Health, Bethesda, Maryland.

The meeting will be open to the public from 9:00 a.m. until approximately 12:00 noon on Monday, June 2. Following opening remarks by the Director, National Eye Institute, there will be presentations by the staff of the Institute concerning Institute programs and the various research assistance mechanisms.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from approximately 12:00 noon until recess on Monday, June 2, and from 9:00 a.m. to adjournment on Tuesday, June 3, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Kay Valeda, Committee Management Officer, National Eye Institute, Building 31, Room 6A03, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4903, will provide summaries of meetings and rosters of committee members.

Dr. Ronald G. Geller, Associate Director for Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A03, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4903, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs, No. 13.867, Retinal and Choroidal Diseases Research; 13.868, Corneal Diseases Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health.)

Dated: April 24, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-9729 Filed 4-30-86; 8:45 am]

BILLING CODE 4140-01-M

National Eye Institute; Vision Research Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Vision Research Review Committee, National Eye Institute, June 23-24, 1986, Conference Room 6, Building 31, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on June 23 from 8:30 a.m. to 9:30 a.m. for opening remarks and discussion of program guidelines. Attendance by

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the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 9:30 a.m. on June 23 until recess and on June 24 from 8:30 a.m. until adjournment for the review, discussion and evaluation of individual grant applications.These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Kay Valeda, Committee Management Officer, National Eye Institute, Building 31, Room 6A-03, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4903, will provide summaries of the meeting and rosters of committee members.

Dr. Catherine Henley, Review and Special Projects Officer, Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A-06, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-5561, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, Retinal and Choroidal Diseases Research; 13.867, Corneal Diseases Research; 13.868, Cataract Research 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders Visual Research; National Institutes of Health.)

Dated: April 24, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-9736 Filed 4-30-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Environmental Health Sciences; National Advisory Environmental Health Sciences Council; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Advisory Environmental Health Sciences Council, June 2-3, 1986, in Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on June 2 from 9 a.m. to approximately 12 noon for the report of the Director, NIEHS, and for discussion of the NIEHS budget, program policies and issues, recent legislation, and other items of interest. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, the Council meeting will be closed to the public on June 2, from 1:00 p.m. to approximately 2:00 p.m. for discussion and preparation of comments Council wishes to submit to the Director, NIH, for inclusion in the biennial report to the Congress.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public June 2, from approximately 2:00 p.m. to adjournment on June 3, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert Mayfield, Extramural Program, NIEHS, P.O. Box 12233, Research Triangle Park, North Carolina 27709, (919) 541-7648, FTS 629-7628, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.112, Characterization of Environmental Health Hazards; 13.113, Biological Response to Environmental Health Hazards; 13.114, Applied Toxicological Research and Testing; 13.115, Biometry and Risk Estimation; 13.894, Resource and Manpower Development, National Institutes of Health.)

Dated: April 24, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86-9730 Filed 4-30-86; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Clinical Trials Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Clincial Trials Review Committee, National Heart, Lung, and Blood Institute, June 22-25, 1986, at the Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852.

This meeting will be open to the public on June 22, from 7:00 p.m. to approximately 7:30 p.m. to discuss administrative details and to hear a report concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public is limited to space availble.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 22 from approximately 7:30 p.m. to recess, and from 8:00 a.m. on June 23 to adjournment on June 25, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with these applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Therefore, this meeting is concerned with matters exempt from mandatory disclosure under section 552b(c)(4) and 552b(c)(6) of Title 5, U.S. Code.

Ms. Terry Bellicha, Chief, Public Inquiries Reports Branch, National Heart, Lung, and Blood Insitute, Building 31, Room 4A-21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-4236, will provide a summary of the meeting and a roster of the Committee members.

Dr. Norman S. Braveman, Contracts, Clincial Trials and Training Review Section, Division of Extramural Affairs, National Heaft, Lung, and Blood Institute, Westwood Building, Room 556B, Bethesda, Maryland 20892, phone (301) 496-7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: April 24, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-9737 Filed 4-30-86; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Heart, Lung, and Blood Research Review Committee A; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, National Institutes of Health, on June 25, 1986, in Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20892.

This meeting will be open to the public on June 25, 1986 from 8:30 a.m. to approximately 9:30 a.m. to discuss administrative details and to hear

reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 26, from approximately 9:30 a.m. until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of the committee members.

Dr. Peter M. Spooner, Executive Secretary, Heart, Lung, and Blood Research Review Committee A, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-7285, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; National Institutes of Health)

Dated: April 24, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-9740 Filed 4-30-86; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Heart, Lung, and Blood Research Review Committee B; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892, on June 26, 1986, in Building 31, Conference Room 9.

This meeting will be open to the public on June 26, from 8:30 a.m. to approximately 10:00 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 26, from approximately 10:00 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-4236, will provide a summary of the meeting and a roster of the committee members.

Dr. Louis M. Ouellette, Executive Secretary, NHLBI, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-7915, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: April 24, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-9739 Filed 4-30-86; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Research Manpower Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Research Manpower Review Committee, National Heart, Lung, and Blood Institute, National Institutes of Health on June 22-24, 1986, at the Holiday Inn Crowne Plaza Hotel, 1750 Rockville Pike, Rockville, Maryland 20852.

This meeting will be open to the public on June 22, 1986, from 7:00 p.m. until recess, to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 23 and 24, from 8:00 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496-4236, will provide a summary of the meeting and a roster of the committee members.

Dr. Robert M. Chasson, Executive Secretary, NHLBI, Westwood Building, Room 550, Bethesda, Maryland 20892, phone (301) 496-7361, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: April 24, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-9738 Filed 4-30-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute on Aging; Aging Review Subcommittee A; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Aging Review Subcommittee A, National Institute on Aging, on June 17 and 18, 1986, to be held in Building 31, Conference Room 10, National Institutes of Health, Bethesda, Maryland, 20892.

The meeting will be open to the public from 8:30 a.m. to 9:00 a.m. on June 17 for introductory remarks. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 17 from 9:00 a.m. to adjournment on June 18 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

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Ms. June C. McCann, Committee Management Officer, NIA, Building 31, Room 2C05, National Institutes of Health, Bethesda, Maryland, 20892, (301/496-5898), will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Dated: April 24, 1986.

Betty J. Beveridge,
NIH Committee Management Officer.

[FR Doc. 86-9735 Filed 4-30-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute on Aging; Geriatrics Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Geriatrics Review Committee, National Institute on Aging, on June 11, 12, and 13, 1986, to be held in Building 31, Conference Room 4, National Institutes of Health, Bethesda, Maryland, 20892.

The meeting will be open to the public from 8:30 a.m. to 9:00 a.m. on June 11 for introductory remarks. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 11 from 9:00 a.m. to adjournment on June 13 for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June McCann, Committee Management Officer, NIA, Building 31, Room 2C05, National Institutes of Health, Bethesda, Maryland, 20892, (301/496-5898), will provide summaries of meetings and rosters of Committee members as well as substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.866, Aging Research, National Institutes of Health)

Dated: April 24, 1986.

Betty J. Beveridge,
NIH Committee Management Officer.

[FR Doc. 86-9734 Filed 4-30-86; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Child Health and Human Development; National Advisory Child Health and Human Development Council; Meeting

Pursuant to Pub. L. 92-463, notice if hereby given of the meeting of the National Advisory Child Health and Human Development Council, June 2-3, 1986, in Building 31, Conference Room 10, National Institutes of Health, Bethesda, Maryland, and the meeting of the Subcommittee on Planning on June 2 from 8:30 a.m. to 9:30 a.m. in Building 31, Room 2A03.

The Council meeting will be open to the public on June 2 from 9:30 a.m. until 3:00 p.m. The agenda includes a report by the Director, NICHD, and a presentation by the Demographic and Behavioral Sciences Branch, Center for Population Research. The meeting will be open on June 3 immediately following the review of applications if any policy issues are raised which need further discussion. The Subcommittee meeting will be open on June 2 from 8:30 a.m. to 9:30 a.m. to discuss program plans and the agenda for the next Council meeting. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(9)(B), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on June 2 from 3:00 p.m. to 5:00 p.m. for discussion and preparation of comments Council wishes to submit to the Director, NIH, for inclusion in the biennial report to the Congress.

In accordance with the provision set forth in section 552(c)(4) and 552b(c)(6), Title 5, U.S. Code the meeting will be closed to the public on June 3 from 8:30 a.m. to completion of the review, discussion, and evalution of individual grant applications. The applications and the discussions could reveal confidential trade secrets or commerical property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Council Secretary, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland 20205, Area Code 301, 496-1485, will provide a summary of the meeting and a roster of Council members as well as subtantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.864, Population Research, and 13.865, Research for Mothers and Children, National Institutes of Health.)

Dated: April 24, 1986.

Betty J. Beveridge,
Committee Management Officer, NIH.

[FR Doc. 86-9732 Filed 4-30-86; 8:45 am]

BILLING CODE 4140-01-M

NIDR Special Grants Review Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the National Institute of Dental Research Special Grants Review Committee, June 9-10, 1986, in Conference Room 3, Building 31A, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public from 9:00 a.m. to 9:30 a.m. June 9 for general discussions. Attendance by the public is limited to space available.

In accordance with provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 9:30 a.m. June 9 to adjournment June 10 for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. H. George Hausch, Executive Secretary, NIDR Special Grants Review Committee, NIH, Westwood Building, Room 507, Bethesda, MD 20892, (telephone 301/496-7658) will provide a summary of the meeting, roster of committee members and substantive program information upon request.

(Catalog of Federal Domestic Assistance Program Nos. 13.21—Diseases of the Teeth and Supporting Tissues: Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13-122—Disorders of Structure, Function, and Behavior: Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13-845—Dental Research Institutes; National Institute of Health.

Dated: April 24, 1986.

Betty J. Beveridge,
NIH Committee Management Officer.

[FR Doc. 86-9733 Filed 4-30-86; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Privacy Act of 1974; Addition of Routine Uses to an Existing System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of the addition of new routine uses to an existing system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing a notice to add five new routine uses to, and to revise one routine use of, system of records 09-15-0019, entitled "Health and Medical Records System, HHS/HRSA/IHS."

DATES: PHS invites interested persons to submit comments on the proposed new routine uses and the revised routine use on or before June 2, 1986.

PHS will adopt these routine uses without further notice 30 days after the date of publication unless comments are received which would result in a contrary determination.

ADDRESS: Please address comments to the Indian Health Service (IHS) Privacy Act Coordinator, Health Resources and Services Administration (HRSA), Room 6A-30, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. We will make comments received available for public inspection at the above address during normal business hours, 8:30 a.m.-5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Aaron Handler, IHS Privacy Act Coordinator, HRSA, Room 6A-30, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-1180. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: IHS currently maintains the Health and Medical Records System to provide a description of patients' illnesses, treatments administered, and the results achieved. Over time, the records serve as a medical history of the total health care and medical treatment provided to the subject individuals by IHS and its contract health care providers. The system also supports authorized research and statistical evaluations.

A. We are adding five new routine uses as follows:

1. The first proposed new routine use (number eight) will permit disclosure of information regarding suspected cases of physical child abuse and neglect to members of community child protective teams (comprised of representatives of tribes, Bureau of Indian Affairs (BIA), a child protective service agency, IHS, and the judicial systems such as local, State, and tribal and law enforcement officers (State, county, Tribal or local)) for the purposes of establishing a diagnosis, formulating a treatment plan, monitoring the plan, investigating reports of suspected physical child abuse and neglect, and making recommendations to the appropriate court of competent jurisdiction. Many American Indian and Alaska Native communities have established a permanently organized team of persons from various professions and agencies that plan and coordinate services to families in which physical child abuse or neglect occur. Members of child protective teams are required to keep information supplied by fellow members confidential. Each time a child's status is to be reviewed by non-IHS staff members of the child protective team, a notation that such a review has occurred will be documented in the progress notes of the child's health record. The proposed new routine use will assist members of the child protective team to make informed decisions designed to protect the health and safety of the subject children.

2. The second proposed new routine use (number ten) will permit disclosure to the BIA of the Department of Interior and its contractors for the identification of American Indian and Alaska Native handicapped children, in order to carry out the Education for All Handicapped Children Act of 1975 (20 U.S.C. 1401 et. seq.). The purpose of this disclosure is to assist BIA to provide a suitable educational program for such handicapped children by eliminating any need for that agency to conduct duplicate medical evaluations at additional cost to the Federal Government.

3. The third proposed new routine use (number eleven) will permit disclosure to an IHS contractor for the purpose of computerized data entry or maintenance of records contained in this system. In certain health care facilities locations, IHS does not employ staff or equipment required for the performance of such data processing requirements and, therefore, must rely on the use of a contractor to perform these activities. The contractor will be required to maintain Privacy Act safeguards with respect to the receipt and processing of such records. IHS staff will monitor the implementation of the safeguards and all other provisions of the Privacy Act.

4. The fourth proposed new routine use (number twelve) will permit disclosure of a patient's medical history and other relevant information to health care providers under contract to IHS (including tribal contractors) in order to enable the contractor to provide appropriate health services to that individual in an informed manner. Contract care is used when IHS facilities and staff are not available; are not qualified to provide required emergency and/or specialty care, or are overloaded. The contractors will be required to maintain Privacy Act safeguards with respect to the receipt of medical information. IHS staff will monitor the contractors' implementation of these safeguards and all other applicable provisions of the Privacy Act.

5. The fifth proposed new routine use (number thirteen) will permit disclosure to the State of Alaska, Department of Health and Social Services (DHSS) in response to its request, of patient care summaries, portions of immunization registers, disease indices and other computer-generated medical summaries. This information will assist DHSS in its provision of health care to Alaska Natives and its other patients. IHS will supply this information through the Patient Care Information System (PCIS), an automated health and medical records management system, which is in effect in three of IHS' Area Offices (Anchorage, Alaska; Billings, Montana; and Tucson, Arizona). The State of Alaska, DHSS, has requested that medical records information which its staff will provide on PCIS forms for both IHS and non-IHS patients be entered into the PCIS system. On a cost reimbursement basis, IHS will provide to the State of Alaska computer-generated medical summaries of this health and medical information.

B. We are revising routine use number 9 (litigation routine use) to be consistent with guidance issued May 24, 1985, by the Office of Management and Budget on disclosures of Privacy Act records during litigation. This routine use has been limited to disclosure of records to the Department of Justice for the purpose of defending the Department in litigative action. The revision broadens the routine use to permit disclosure of records to a court or other tribunal, or to another party before such tribunal. It also permits the Department to disclose records for purposes of prosecution if such action is compatible with the purpose for which the information was collected.

C. we are making additional minor revisions at this time to improve the clarity and specificity of the system notice, and to incorporate normal updating changes. For example:

1. We are adding an introductory notation at the beginning of the "Routine Uses" section which indicates that in certain specified instances disclosures of portions of records indicating the diagnosis, prognosis, referral or treatment of alcohol and drug abuse can be made without prior patient consent pursuant to the Confidentiality of Alcohol and Drug Abuse Patient Record Statutes and Regulations (42 U.S.C. 290dd-3, 42 U.S.C. 290ee-3, and 42 CFR

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Part 2). The notation also indicates that in all other instances prior to the release of alcohol or drug abuse patient information, written consent of the patient must be obtained. The routine use regarding release of alcohol and drug abuse information (formerly routine use number 8) has been deleted. Routine use number seven and the proposed new routine use number eight have been revised to conform to this introductory statement.

2. We have added a statement at the beginning of the "Routine Uses" section that states that "Individuals acting *in loco parentis* to minors as well as parents, legal guardians, and custodians may act on behalf of the subject individual for purposes of giving consent for disclosures to others when it is determined that the subject individual is a minor who is unable or cannot exercise with appropriate understanding, the right of consent by himself or herself. This statement was found in the "Notification Procedure" section; it has now been moved to be included in the introductory statement to the "Routine Uses" section.

3. We have revised the "Categories of Individuals" section to clarify that both IHS beneficiaries and nonbeneficiaries are being treated at IHS facilities.

4. We have added more specificity to the "Categories of Records" section and are listing items of information contained in the PCIS and third-party reimbursement records.

5. We have revised the "Safeguards" section to include automated data processing safeguards.

6. We have updated the "System Managers and Address" section (Appendix I), to incorporate address changes since the last publication and have deleted the "Attn." reference in Appendix I, which referred the reader (inappropriately) to the Privacy Act Coordinators in each IHS Area/Program Office, since these individuals are not system managers. In addition, we are adding the title and location of the Policy-Coordinating Official.

This system notice was last published in the Federal Register on November 29, 1983 (48 FR 53892–53897). We are republishing the system notice in its entirety below to incorporate the proposed changes.

The following notice is written in the present, rather than future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after the new routine uses have become effective.

Dated: April 24, 1986.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations and Director, Office of Management, PHS.

09–15–0019

SYSTEM NAME:

Health and Medical Records Systems, HHS/HRSA/IHS.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Indian Health Service (IHS) hospitals, health centers, school health centers, health stations, field clinics, Service Units, Area and Program Offices (Appendix 1), and Regional Federal Records Centers (Appendix 2). Automated records, including Patient Care Information System (PICS) records, are stored at the Data Processing Service Center, IHS, located in Albuquerque, New Mexico (Appendix 1). Records may also be located at hospitals and offices of health care providers who are under contract to IHS. A current list of contractor sites is available by writing to the appropriate System Manager (Area or Service Unit Director) at the address shown in Appendix 1.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, including both IHS beneficiaries and nonbeneficiaries, who are examined/treated on an inpatient and/or outpatient basis by IHS staff and/or contract (including tribal contract) health care providers.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Health and medical records containing: Examination, diagnostic and treatment data; proof of eligibility; social data such as name, address, date of birth, tribe; case records for special programs such as: Dental, social service, mental health, nursing; and laboratory test results. 2. Follow-up registers of individuals with specific health conditions or a particular health status such as: Tumors, communicable diseases, hospital commitment, suspected and confirmed physical child abuse and neglect, immunizations, self-destructive behavior, or handicap. 3. Logs of individuals provided health care by staffs of specific hospital components such as: Surgery, emergency, obstetric delivery, x-ray and laboratory. 4. Operation and/or disease indices for particular hospitals which list each relevant patient by the operation or disease. 5. Monitoring strips and tapes such as fetal monitoring strips and EEG and EKG tapes. 6. In the Anchorage, Alaska; Billings, Montana, and Tucson, Arizona Area Offices automated patient medical records and maintained in the Patient Care Information System (PCIS) which provides for structured patient medical summaries to IHS and contract health care providers, such as: Name; beneficiary code; Social Security Number (SSN) (voluntary); address; tribe; date of birth; and examination, diagnostic and treatment results. 7. Third-party reimbursement records containing name, address, date of birth, date of admission and Medicare or Medicaid claim numbers, SSN (voluntary), health plan name, insurance number, employment status, and other relevant claim information necessary to process and validate third-party reimbursement claims.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 321 of the Public Health Service Act, as amended, (42 U.S.C. 248), "Hospitals, Medical Examinations and Medical Care." Section 327A of the Public Health Service Act, as amended, (42 U.S.C. 254a–1), "Hospital-Affiliated Primary Care Centers." Indian Self Determination and Education Assistance Act (25 U.S.C. 450). Snyder Act (25 U.S.C. 13). Indian Health Care Improvement Act (25 U.S.C. 1601 et. seq). Construction of Community Hospitals Act (25 U.S.C. 2005–2005f). Idnian Health Service Transfer Act (42 U.S.C. 2001–2004).

PURPOSES:

The purposes of this system are:

1. To provide a description of a patient's illness, the treatment administered and results achieved, and to plan for future care of the patient.

2. To provide IHS program officials with statistical data upon which the health care program is evaluated and modified to meet future needs.

3. To serve as a means of communication among members of the health care team who contribute to the patient's care by integrating information from field visits with that from IHS facilities which have provided treatment.

4. To serve as the official documentation of health care rendered.

5. To contribute to continuing education of IHS staff to improve their competency to deliver health care services.

6. For disease surveillance purposes. For example:

(a) The Centers for Disease Control may use those records for their monitoring of various communicable diseases among persons residing within the United States; and

(b) The National Institutes of Health may use these records for their review of the prevalence of particular diseases (i.e., malignant neoplasms, diabetes mellitus, arthritis, metabolism and digestive diseases) for various ethnic groups of the Nation.

7. To compile and provide aggregated program statistics. Upon request of other components of the Department, IHS will provide statistical information, from which individual identifiers have been removed, such as:

(a) To the National Center for Health Statistics, for its dissemination of aggregated health statistics for various ethnic groups;

(b) To the Assistant Secretary for Population Affairs to keep a record of the number of sterilizations provided through the use of Federal funds;

(c) To the Health Care Financing Administration for the documentation of IHS health care covered by the Medicare and Medicaid programs for third-party reimbursement; and

(d) To the Bureau of Support Services, Health Care Financing Administration, to determine the prevalence of end-stage renal disease among the American Indian and Alaska Native population and to coordinate the care of American Indian and Alaska Native patients with this condition.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

If a portion of a health or medical record indicates a diagnosis, prognosis, referral, or treatment of alcohol or drug abuse, then the Confidentiality of Alcohol and Drug Abuse Patient Records Regulations, 42 CFR Part 2 apply. In general under these regulations, the only disclosures of a diagnosis, prognosis, referral or treatment of alcohol or drug abuse which may be made without patient consent are: (1) To met medical emergencies (42 CFR Part D, Sec. 2.51), (2) for research, audit, evaluation and examination (42 CFR Part D, Secs. 2.52, 2.53, 2.54 and 2.56), (3) for supervision and regulation of narcotic maintenance and detoxification programs (42 CFR Part D, Sec. 2.55), (4) pursuant to a court order (42 CFR 2.61–2.67), and (5) pursuant to a qualified service organization agreement, as defined in 42 CFR 2.11. In all other situations, written consent of the patient is required prior to disclosure of alcohol or drug abuse information under the routine uses listed below.

Individuals acting *in loco parentis* to minors, as well as parents, legal guardians, and custodians may act on behalf of the subject individual for purposes of giving consent for disclosures to others when it is determined that the subject individual is a minor who is unable to or cannot exercise with appropriate understanding, the right of consent by himself or herself.

1. Records may be disclosed to State, local or other authorized organizations which provide health services to American Indians and Alaska Natives, or provide third-party reimbursement of fiscal intermediary functions, for the purpose of planning for or providing such services, billing or collecting third-party reimbursements and reporting results of medical examination and treatment.

2. Records may be disclosed to Federal and non-Federal school systems which serve American Indians and Alaska Natives for the purpose of student health maintenance.

3. Records may be disclosed to organizations deemed qualified by the Secretary to carry out quality assessment, medical audits, or utilization review.

4. Records may be disclosed to authorized organizations, such as the United States Office of Technology Assessment, or individuals for conduct or analytical and evaluation studies sponsored by the IHS.

5. Records may be disclosed to a congressional office in response to an inquiry from that office made at the request of the subject individual.

6. A record may be disclosed for a research purpose, when the Department:

(a) Has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

(b) Has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

(c) Has required the recipient to—(1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except—(A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

(d) Has secured a written statement attesting to the recipient's understanding of, and willingness to abide by these provisions.

7. Information regarding the commission of crimes or the reporting of occurrences of communicable diseases, suspected or confirmed physical child abuse or neglect, births, or deaths, etc., may be disclosed by health providers and facilities to State and local agencies as required by State and local law. The disclosure of patient information or alcohol or drug abuse for purposes of criminal investigations or prosecution of the patient must be authorized by court order issued under 42 CFR 2.65.

8. Information regarding suspected cases of physical child abuse or neglect may be disclosed to members of community child protective teams (comprised of representatives of tribes, Bureau of Indian Affairs, a child protective service agency, the judicial system(s) (local, State, tribal), law enforcement officers (State, county, Tribal or local)) and IHS for the purposes of establishing a diagnosis, formulating a treatment plan, monitoring the plan, investigating reports of suspected physical child abuse or neglect and making recommendations to the appropriate court of competent jurisdiction. The disclosure of patient information on alcohol or drug abuse for purpose of criminal investigation or prosecution of the patient for suspected child abuse or neglect must be authorized by a court order issued under 42 CFR 2.65.

9. The Department may disclose information from this system of records to the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when:

(a) HHS, or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the

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litigation is likely to affect HHS or any of its components,

is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

10. Records may be disclosed to the Bureau of Indian Affairs and its contractors for the identification of American Indian and Alaska Native handicapped children to permit that Bureau to carry out the Education for All Handicapped Children Act of 1975 (20 U.S.C. 1401 et seq.).

11. Records may be disclosed to an IHS contractor for the purpose of computerized data entry or maintenance of records contained in this system. The contractor shall be required to maintain Privacy Act safeguards with respect to the receipt and processing of such records.

12. Records may be disclosed to a health care provider under contract to IHS (including tribal contractors) to permit the contractor to obtain health and medical information about the subject individual in order to provide appropriate health services to that individual. The contractor shall be required to maintain Privacy Act safeguards with respect to the receipt and processing of such records.

13. Records may be disclosed to the State of Alaska, Department of Health and Social Services (DHSS) (which supplies part or all of this information to IHS), in response to its request for patient summaries, portions of immunization registers, disease indices and other computer-generated medical summaries. This information assists DHSS in its provision of health care to the subject individual. Disclosure to the State of Alaska's DHSS is limited to information concerning its patients.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

File folders, ledgers, card files, microfiche, microfilm, punch cards, computer tapes, disk packs and automatic files.

RETRIEVABILITY:

Indexed by name, record number, and SSN and cross-indexed. SSN is supplied on a voluntary basis.

SAFEGUARDS:

1. *Authorized Users.* Access is limited to authorized IHS personnel and IHS contractors and subcontractors in the performance of their duties. Authorized personnel include: Medical records personnel, health care providers, authorized researchers, medical audit personnel, and health care team members.

2. *Physical Safeguards.* Records are kept in locked metal filing cabinets or in a secured room at all times when not actually in use during working hours and at all times during nonworking hours. Magnetic tapes, disks, other computer equipment and other forms of personal data are stored in areas where fire and life safety codes are strictly enforced.

Telecommunication equipment (computer terminals, modems and disks) of the Patient Care Information System (PCIS) are maintained in locked rooms during nonworking hours. Combinations on door locks are changed periodically and whenever a PCIS employee resigns, retires or is reassigned.

3. *Procedural Safeguards.* Within each facility a list of personnel or categories of personnel having a demonstrable need for the records in the performance of their duties has been developed and is maintained. Procedures have been developed and implemented to review one-time requests for disclosure to personnel who may not be on the authorized user list. Proper charge-out procedures are followed for the removal of all records from the area in which they are maintained. Persons who have a need to know are entrusted with records from this system of records and are instructed to safeguard the confidentiality of these records. They are to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act, and to destroy all copies or to return such records when the need to know has expired. Procedural instructions include the statutory penalties for noncompliance.

The following automated information systems (AIS) security procedural safeguards are in place for automated health and medical records maintained in the Patient Care Information System. A profile of automated systems security is maintained. Security clearance procedures for screening individuals, both Government and contractor personnel, prior to their participation in the design, operation, use or maintenance of IHS automated information systems are implemented. The use of current passwords and log-on codes are required to protect sensitive automated data from unauthorized access. Such passwords and codes are changed periodically. An automated audit trail is maintained. Only authorized IHS Data Processing Service Center staff may modify automated files in batch mode. Personnel at remote terminal sites may only retrieve automated data. Such retrievals are password protected.

Privacy Act requirements and specified Automated Information System security provisions are specifically included in contracts and agreements and the system manager or his/her designee oversee compliance with these contract requirements.

4. *Implementing Guidelines.* DHHS Chapter 45–13 and supplementary Chapter PHS.hf:45–13 of the General Administration Manual; and Part 6, "ADP Systems Security," of the DHHS Information Resources Management Manual.

RETENTION AND DISPOSAL:

Patient listings which may identify individuals are maintained in IHS Area and Program Offices permanently. Inactive records are held at the facility which provided health services from three to seven years and then are transferred to the appropriate Federal Records Center. Monitoring strips and tapes (i.e., fetal monitoring strips and EEG and EKG tapes) which are not stored in the patient's official medical record, are stored at the health facility for one year and are then transferred to the appropriate Federal Records Center. (See Appendix 2 for Federal Record Center addresses.) Records are retained at the Regional Federal Record Centers for 25 years. Disposal methods include burning or shredding of hard copy and erasing of magnetic media.

SYSTEM MANAGER(S) AND ADDRESS:

Policy-Coordinating Official: Director, Division of Clinical and Environmental Health Services Indian Health Service 5600 Fishers Lane, Room 6A55 Rockville, Maryland 20857

See Appendix 1. The IHS Area/Program Office Directors and Service Unit Directors listed in Appendix 1 are System Managers.

NOTIFICATION PROCEDURE:

General Procedure. Requests must be made to the appropriate System Manager (IHS Area/Program Office Director or Service Unit Director). An individual who requests a copy of, or access to, a medical record shall at the time the request is made designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion. Such a representative may be an IHS health professional. When an individual is seeking to obtain information about himself/herself which may be retrieved by a different name or identifier than his/her current name or identifier, he/she shall be required to produce evidence to verify that he/she is the person whose record he/she seeks.

No verification of identity shall be required where the record is one which is required to be disclosed under the Freedom of Information Act.

Requests In Person. Identification papers with current photographs are preferred but not required. If a subject individual has no identification but is personally known to the designated agency employee, such employee shall make a written record verifying the subject individual's identity. If the subject individual has no identification papers, the responsible system manager or designated agency official shall require that the subject individual certify in writing that he/she is the individual whom he/she claims to be and that he/she understands that the knowing and willful request or acquisition of records concerning an individual under false pretenses is a criminal offense subject to a $5,000 fine. If an individual is unable to sign his/her name when required, he/she shall make his/her mark and have the mark verified in writing by two additional persons.

Requests By Mail. Written requests must contain the name and address of the requester, his/her date of birth and at least one piece of information which is also contained in the subject record, and his/her signature for comparison purposes. If the written request does not contain sufficient information, the System Manager shall inform the requester in writing that additional, specified information is required to process the request.

Requests By Telephone. Since positive identification of the caller cannot be established, telephone requests are not honored.

Parents and Legal Guardians. Parents of minor children and legal guardians of legally incompetent individuals shall verify their own identification in the manner described above, as well as that relationship to the individual whose record is sought. A copy of the child's birth certificate or court order establishing legal guardianship may be required if there is any double regarding the relationship of the individual to the patient.

RECORDS ACCESS PROCEDURES:

Same as Notification Procedures. Requesters should also provide a reasonable decription of the record being sought. Requesters may also request an accounting of disclosures that have been made of their record, if any.

CONTESTING RECORD PROCEDURES:

Write to the appropriate IHS Area/Program Office Director or Service Unit Director at his/her address specified in Appendix 1, and specify the information being contested, the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Patient and/or family members, IHS health care personnel, contract health care providers, State and local health care provider organizations, and Medicare and Medicaid funding agencies.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix 1—System Managers and IHS Locations Under Their Jurisdiction Where Records are Maintained

Director, Aberdeen Area Indian Health Service, Federal Building, 115 Fourth Avenue, SE, Aberdeen, South Dakota 57401
Director, Rapid City Service Unit, Rapid City Indian Hospital, Rapid City, South Dakota 57701
Director, Cheyenne River Service Unit, Eagle Butte Indian Hospital, Eagle Butte, South Dakota 57625
Director, Fort Berthold Service Unit, Minni-Tohe Indian Health Center, New Town, North Dakota 58763
Director, Fort Totten Service Unit, Fort Totten Indian Health Center, Fort Totten, North Dakota 58335
Director, Pine Ridge Service Unit, Pine Ridge Indian Hospital, Pine Ridge, South Dakota 57770
Officer in Charge, Wanblee Indian Health Center, Wanblee, South Dakota 57577
Director, Rosebud Service Unit, Rosebud Indian Hospital, Rosebud, South Dakota 57570
Director, Sisseton-Wahpeton Service Unit, Sisseton Indian Hospital, Sisseton, South Dakota 57262
Director, Flandreau Indian School Health Center, Flandreau, South Dakota 57028
Director, Wahpeton Indian School Health Centr, Wahpeton, North Dakota 58075
Director, Standing Rock Service Unit, Fort Yates Indian Hospital, Fort Yates, North Dakota 58538
Director, McLaughlin Indian Health Center, McLaughlin, South Dakota 57642
Director, Turtle Mountain Service Unit, Belcourt Indian Hospital, Belcourt, North Dakota 58316
Director, Omaha-Winnebago Service Unit, Winnebago Indian Hospital, Winnebago, Nebraska 68071
Director, Yankton-Wagner Service Unit, Wagner, South Dakota 57380
Director, Pierre Service Unit, Ft. Thompson Indian Health Station, Ft. Thompson, South Dakota 57339
Director, Pierre Indian School Health Center, c/o Ft. Thompson Indian Health Station, Ft. Thompson, South Dakota 57339
Director, Lower Brule Indian Health Center, Lower Brule, South Dakota 57548
Director, Bemidji Program Office, Indian Health Service, 203 Federal Building, Bemidji, Minnesota 56601
Director, Eastern Michigan Service Unit, Kincheloe Indian Health Center, Kincheloe, Minnesota 49786
Director, Greater Leach Lake Service Unit, Cass Lake Indian Hospital, Cass Lake, Minnesota 56633
Director, Inger Indian Health Station, Inger Route, Deer River, Minnesota 56636
Director, Squaw Lake Indian Health Station, Squaw Lake, Minnesota 56681
Director, Ball Club Indian Health Station, Ball Club, Minnesota 56622
Director, Onigum Indian Health Station, Star Route, Walker, Minnesota 56484
Director, Red Lake Service Unit, Red Lake Indian Hospital Red Lake, Minnesota 56671
Director, Ponemah Indian Health Station, Ponemah, Minnesota 56666
Director, White Earth Service Unit, White Earth Indian Health Center, White Earth, Minnesota 56591
Director, Naytahwaush Indian Health Station, Naytahwaush, Minnesota 56566
Director, Pine Point Indian Health Station, White Earth, Minnesota 56591
Director, Alaska Area Native Health Service, P.O. Box 7–741, Anchorage, Alaska 99510
Director, Anchorage Service Unit, PHS, Alaska Native Medical Center, P.O. Box 7–741, Anchorage, Alaska 99510
Director, Alaska Native Health Center, St. George Island, Alaska 99660
Director, Alaska Native Health Center, St. Paul Island, Alaska 99660
Director, Barrow Service Unit, Barrow Alaska Native Hospital, Barrow, Alaska 99723
Director, Bristol Bay Area Service Unit, Bristol Bay Area Alaska Native Hospital, Dillingham, Alaska 99576
Director, Interior Alaska Service Unit, Alaska Native Health Center, 1638 Cowles Street, Fairbanks, Alaska 99701
Director, PHS Alaska Native Health Center, Tanana, Alaska 99777
Director, Fort Yukon Alaska Native Health Center, Fort Yukon, Alaska 99740
Director, Southeast Area Regional Health Center, 3272 Hospital Drive, Juneau, Alaska 99801
Director, Kotzebue Service Unit, Kotzebue Alaska Native Hospital, Kotzebue, Alaska 99752
Director, Mt. Edgecumbe Service Unit, Mt. Edgecumbe Alaska Hospital, 222 Tongass Drive, Sitka, Alaska 99835

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Director, Ketchikan Alaska Native Health Center, 3289 Tongass Avenue, Ketchikan, Alaska 99901
Director, Annette Island Service Unit, Metlakatla Alaska Native Health Center, Box 428, Metlakatla, Alaska 99926
Director, Yukon-Kuskokwim-Delta Service Unit, Yukon-Kuskokwim-Delta Regional Hospital, Indian Health Service, Bethel, Alaska 99559
Director, Albuquerque Area Indian Health Service, 509 Gold Avenue, SW., Albuquerque, New Mexico 87102–0997
Director, Albuquerque Service Unit, Albuquerque Indian Hospital, 801 Vassar Drive, NE., Albuquerque, New Mexico 87106
Director, Isleta Indian Health Center, P.O. Box 428, Isleta, New Mexico 87022
Director, Jemez Indian Health Center, P.O. Box 250, Jemez Pueblo, New Mexico 87024
Chief Dental Program, IHS Dental Training Center, Southwestern Indian Polytechnical Inst., 9168 Coors Road, NW., P.O. Box 25927, Albuquerque, New Mexico 87125
Director, Indian School Health Center, Southwestern Indian Polytechnical Inst., 9168 Coors Road, NW., P.O. Box 25927, Albuquerque, New Mexico 87125
Director, Sandia Indian Health Station, Sandia, New Mexico 87047
Director, Santa Ana Indian Health Station, P.O. Box 580, Bernalillo, New Mexico 87004
Director, Zia Indian Health Station, General Delivery, San Ysidro, New Mexico 87053
Director, Mescalero Service Unit, Mescalero Indian Hospital, P.O. Box 210, Mescalero, New Mexico 88340
Director, Santa Fe Service Unit, Santa Fe Indian Hospital, 1700 Cerrillos Road, Santa Fe, New Mexico 87501
Director, Dulce Indian Health Center, Dulce, New Mexico 87528
Director, Taos Indian Health Center, Taos, New Mexico 87571
Director, Santa Clara Indian Health Center, P.O. Box 1322, Espanola, New Mexico 87532
Director, Santo Domingo Indian Health Station, Santo Domingo, New Mexico 87052
Director, San Juan Indian Health Station, San Juan, New Mexico 87566
Director, Cochiti Indian Health Station, Cochiti, New Mexico 87041
Director, San Felipe Indian Health Station, General Delivery, San Felipe Pueblo, New Mexico 87001
Director, Southern Colorado-Ute Service Unit, P.O. Box 778, Ignacio, Colorado 81137
Director, Ignacio Indian Health Center, Ignacio, Colorado 81137
Director, Towaoc Indian Health Center, Towaoc, Colorado 81334
Director, White Mesa Indian Health Station, General Delivery, Towaoc, Colorado 81334
Director, Zuni-Ramah Service Unit, Zuni Indian Hospital, Zuni, New Mexico 87327
Director, Acoma-Canoncito-Laguna Service Unit, Acoma-Canoncito-Laguna Indian Hospital, P.O. Box 130, San Fidel, New Mexico 87049
Director, Laguna Indian Health Center, P.O. Box 190, New Laguna, New Mexico 87038
Director, Canoncito Indian Health Station, c/o Acoma-Canoncito-Laguna Indian Hospital, P.O. Box 130, San Fidel, New Mexico 87049
Director, Billings Area Indian Health Service, P.O. Box 2143, Billings, Montana 59103
Director, Blackfeet Service Unit, Browning, Indian Hospital, Browning, Montana 59417
Director, Heart Butte Indian Health Station, Heart Butte, Montana 59448
Director, Crow Service Unit, Crow Indian Hospital, Crow Agency, Montana 59022
Director, Lodge Grass Indian Health Center, Lodge Grass, Montana 59050
Director, Pryor Indian Health Station, Pryor, Montana 59066
Director, Flathead Service Unit, St. Ignatius Indian Health Center, St. Ignatius, Montana 59865
Director, Polson Indian Health Center, 320–B 4th Avenue East, Polson, Montana 59860
Director, Fort Belknap Service Unit, Harlem Indian Hospital, Harlem, Montana 59526
Director, Hays Indian Health Station, Hays, Montana 59527
Director, Fort Peck Service Unit, Poplar Indian Health Center, Poplar, Montana 59255
Director, Wolf Point Indian Health Center, Wolf Point, Montana 59201
Director, Wind River Service Unit, Fort Washakie Indian Health Center, Fort Washakie, Wyoming 82514
Director, Arapahoe Indian Health Center, Arapahoe, Wyoming 82510
Director, Northern Cheyenne Service Unit, Lame Deer Indian Health Center, Lame Deer, Montana 59043
Director, Rocky Boy's Service Unit, Rocky Boy's Indian Health Center, Box Elder, Montana 59521
Director, Navajo Area Indian Health Service, P.O. Box G, Window Rock, Arizona 86515
Director, Chinle Service Unit, Chinle, Comprehensive Health Facility, P.O. Box P.H., Chinle, Arizona 86503
Director, Tuba City Service Unit, Tuba City Indian Hospital, Tuba City, Arizona 86045
Director, Tuba City Service Unit, Tuba City Indian Hospital, Tuba City, Arizona 86045
Director, Winslow Service Unit, Winslow Indian Health Center, P.O. Box 40, Winslow, Arizona 86047
Director, Dilkon Indian Health Center, P.O. Box 40, Winslow, Arizona 86047
Director, Leupp Indian School Health Center, c/o Winslow Indian Health Center, P.O. Drawer 40, Winslow, Arizona 86047
Director, Leupp Indian Health Center, c/o Winslow Indian Health Center, Community Health Services, Winslow, Arizona 86047
Director, Oklahoma City Area Indian Health Service, 215 Dean A. McGee Street NW, Oklahoma City, Oklahoma 73102–3477
Director, Ada Service Unit, Ada Indian Hospital, 1001 North Country Club Drive, Box 1584, Ada, Oklahoma 74820
Director, Wewoka Indian Health Center, Wewoka, Oklahoma 74884
Director, Tishomingo Indian Health Center, Tishomingo, Oklahoma 73460
Director, Claremore Service Unit, Claremore Indian Hospital, Claremore, Oklahoma 74017
Director, Delaware District (Jay) Indian Health Center, Jay, Oklahoma 74346
Director, Miami Indian Health Center, P.O. Box 1498, Miami, Oklahoma 74354
Director, Locust Grove Indian Health Station, Locust Grove Oklahoma 74352
Director, Clinton Service Unit, Clinton Indian Hospital, Clinton, Oklahoma 73601
Director, Watonga Indian Health Center, P.O. Box 878, Watonga, Oklahoma 73772
Director, Concho Indian Health Center, Concho, Oklahoma 73022
Director, Kansas Service Unit, Holton Indian Health Center, Holton, Kansas 66436
Facility Director, Lawrence (Haskell) Indian Health Center, Lawrence, Kansas 66044
Director, Lawton Service Unit, Lawton Indian Hospital, Lawton, Oklahoma 73501
Director, Anadarko Indian Health Center, Anadarko, Oklahoma 73005
Director, Riverside Indian Health Station, Anadarko, Oklahoma 73005
Director, Carnegie Indian Health Center, Carnegie, Oklahoma 73015
Director, Pawnee Service Unit, Pawnee Indian Health Center, Pawnee, Oklahoma 74058
Director, Tahlequah Service Unit, Talihina Indian Hospital, Talihina, Oklahoma 74571
Director, Talihina Service Unit, Talihina Indian Hospital, Talihina, Oklahoma 74571
Director, Tahlequah Service Unit, W.W. Hastings Indian Hospital, 1120 Grand, Tahlequah, Oklahoma 74464
Director, Shiprock Service Unit, Shiprock Indian Hospital, Shiprock, New Mexico 87420
Director, Tohatchi Service Unit, Tohatchi Indian Health Center, Tohatchi, New Mexico 87325
Director, Dzilth-Na-O-Dith-Le Indian Health Center, Star Route 4, P.O. Box 5400, Bloomfield, New Mexico 87413
Director, Sanostee Indian Health Clinic, c/o Shiprock Indian Hospital, Field Health, Shiprock, New Mexico 87420
Director, Toadlena Indian Health Clinic, c/o Shiprock Indian Hospital, Field Health Shiprock, New Mexico 87420
Medical Officer in Charge, Fort Wingate Indian School Health Center, Fort Wingate, New Mexico 87328
Director, Kayenta Service Unit, Kayenta Indian Health Center, Kayenta, Arizona 86033
Director, Inscription House Indian Health Center, P.O. Box 7397, Shonto, Arizona 86054
Director, Dennehotso Indian Health Center, c/o Kayenta Indian Health Center, Kayenta, Arizona 86033
Director, Shiprock Service Unit, Shiprock Indian Hospital, Shiprock, New Mexico 87420
Director, Teec Nos Pos Indian Health Center, P.O. Drawer D., Teec Nos Pos, Arizona 86514
Director, Tuba City Service Unit, Tuba City Indian Hospital, Tuba City, Arizona 86045
Director, Winslow Service Unit, Winslow Indian Health Center, P.O. Box 40, Winslow, Arizona 86047
Director, Dilkon Indian Health Center, P.O. Box 40, Winslow, Arizona 86047
Director, Leupp Indian School Health Center, c/o Winslow Indian Health Center, P.O. Drawer 40, Winslow, Arizona 86047
Director, Leupp Indian Health Center, c/o Winslow Indian Health Center, Community Health Services, Winslow, Arizona 86047
Director, Oklahoma City Area Indian Health Service, 215 Dean A. McGee Street NW, Oklahoma City, Oklahoma 73102–3477
Director, Ada Service Unit, Ada Indian Hospital, 1001 North Country Club Drive, Box 1584, Ada, Oklahoma 74820
Director, Wewoka Indian Health Center, Wewoka, Oklahoma 74884
Director, Tishomingo Indian Health Center, Tishomingo, Oklahoma 73460
Director, Claremore Service Unit, Claremore Indian Hospital, Claremore, Oklahoma 74017
Director, Delaware District (Jay) Indian Health Center, Jay, Oklahoma 74346
Director, Miami Indian Health Center, P.O. Box 1498, Miami, Oklahoma 74354
Director, Locust Grove Indian Health Station, Locust Grove Oklahoma 74352
Director, Clinton Service Unit, Clinton Indian Hospital, Clinton, Oklahoma 73601
Director, Watonga Indian Health Center, P.O. Box 878, Watonga, Oklahoma 73772
Director, Concho Indian Health Center, Concho, Oklahoma 73022
Director, Kansas Service Unit, Holton Indian Health Center, Holton, Kansas 66436
Facility Director, Lawrence (Haskell) Indian Health Center, Lawrence, Kansas 66044
Director, Lawton Service Unit, Lawton Indian Hospital, Lawton, Oklahoma 73501
Director, Anadarko Indian Health Center, Anadarko, Oklahoma 73005
Director, Riverside Indian Health Station, Anadarko, Oklahoma 73005
Director, Carnegie Indian Health Center, Carnegie, Oklahoma 73015
Director, Pawnee Service Unit, Pawnee Indian Health Center, Pawnee, Oklahoma 74058

Director, Pawhuska Indian Health Center, Pawhuska, Oklahoma 74056
Director, White Eagle Indian Health Center, Route 4, Ponca City, Oklahoma 74601
Director, Shawnee Service Unit, Shawnee Indian Health Center, Shawnee, Oklahoma 74801
Director, Tahlequah Service Unit, W.W. Hastings Indian Hospital, 1120 Grand, Tahlequah, Oklahoma 74464
Director, Talihina Service Unit, Talihina Indian Hospital, Talihina, Oklahoma 74571
Director, John Anderson Memorial Health Center, USPHS Indian Health Center, Broken Brow, Oklahoma 74728
Director, Hugo Indian Health Center, 109 E. Main, Hugo, Oklahoma 74743
Director, McAlester Indian Health Center, McAlester, Oklahoma 74501
Director, Jones Academy Indian Health Station, Heartshorne, Oklahoma 74547
Director, Phoenix Area Indian Health Service, 3738 N. 16th Street, Suite A, Phoenix, Arizona 85016–5981
Director, Colorado River Service Unit, Parker Indian Hospital, Route 1, P.O. Box 12, Parker, Arizona 85344
Director, Peach Springs Indian Health Center, Peach Springs, Arizona 86434
Director, Chemehuevi Indian Health Clinic, Chemehuevi Valley, California 92363
Director, Havasupai Indian Clinic, Supi, Arizona 86435
Director, Fort Yuma Service Unit, Winterhaven Indian Hospital, P.O. Box 1368, Yuma, Arizona 85364
Director, Riverside Indian School Health Center, 8934 Magnolia, Riverside, California 92363
Director, Keams Canyon Service Unit, Keams Canyon Indian Hospital, P.O. Box 98, Keams Canyon, Arizona 86034
Director, Second Mesa Indian Health Station, General Delivery, Second Mesa, Arizona 86043
Director, Owyhee Service Unit, Owyhee Indian Hospital, P.O. Box 212, Owyhee, Nevada 89832
Director, Southern Bands Indian Health Clinic, 1545 Silver Eagle Road, Elko, Nevada 89801
Director, Phoenix Service Unit, Phoenix Indian Medical Center, 4212 North 16th St., Phoenix, Arizona 85016
Director, Fort Mcdowell Indian Health Station, c/o Phoenix Indian Medical Center, 4212 North 16th Street, Phoenix, Arizona 85016
Director, Salt River Indian Health Center, Route 1, Box 115, Scottsdale, Arizona 85257
Director, Gila Crossing Indian Health Clinic, Route 1, Box 770, Laveen, Arizona 85339
Director, San Lucy Indian Health Station, c/o Phoenix Indian Medical Center, 4212 North 16th Street, Phoenix, Arizona 85016
Director, Phoenix Indian School Health Center, c/o Phoenix Indian Medical Center, 4212 North 16th St., Phoenix, Arizona 85016
Director, Sacaton Service Unit, Sacaton Indian Hospital, Sacaton, Arizona 85247
Director, San Carlos Service Unit, San Carlos Indian Hospital, San Carlos, Arizona 85550
Director, Bylass Indian Health Clinic, Bylass, Arizona 85530
Director, Schurz Service Unit, Schurz Indian Hospital, Schurz, Nevada 89427
Director, Stewart Indian Health Station, Stewart, Nevada 89437
Director, Fort McDermitt Indian Health Station, P.O. Box 475, McDermitt, Nevada 89421
Director, Pyramid Lake Indian Health Clinic, Nixon, Nevada 89424
Director, Unitah and Ouray Service Unit, Fort Duchesne Indian Health Center, P.O. Box 967, Roosevelt, Utah 84066
Director, Whiteriver Service Unit, Whiteriver Indian Hospital, Whiteriver, Arizona 85941
Director, Cibicue Indian Health Center, Cibicue, Arizona 85911
Director, Portland Area Indian Health Service, Room 476, Federal Building, 1220 Southwest Third Avenue, Portland, Oregon 97204–2893
Director, Chemawa Indian Health Center, 3750 Hazelgreen Road, NE, Salem, Oregon 97303
Director, Colville Service Unit, Colville Indian Health Center, Nespelem, Washington, 99155
Director, Inchellium Indian Health Center, Inchelium, Washington 99138
Director, Fort Hall Service Unit, Fort Hall Indian Health Center, P.O. Box 317, Fort Hall, Idaho 83203
Director, Northern Idaho Service Unit, Northern Idaho Indian Health Center, P.O. Drawer 367, Lapawai, Idaho 83540
Director, Kamiah Indian Health Station, Kamiah, Idaho 83536
Director, Coeur d'Alene Indian Health Station, Coeur d'Alene, Idaho 83814
Director, Warm Springs Service Unit, Warm Springs Indian Health Center, Warm Springs, Oregon 97761
Director, Puget Sound Service Unit, Kitsap Indian Health Center, 1212 South judkins, Seattle, Washington 98144
Director, Yakima Service Unit, Yakima Indian Health Center, Route 1, Box 1104, Toppenish, Washington, 98948
Director, Umatilla Service Unit, Yellowhawk Indian Health Center, P.O. Box 150, Pendleton, Oregon 97801
Director, Taholah Service Unit, Taholah Indian Health Center, P.O. Box 210, Taholah, Washington, 98587
Director, Queets Indian Health Station, c/o Service Unit, Director, Taholah Indian Health Center, P.O. Box 210, Taholah, Washington 98587
Director, Neah Bay Service Unit, Neah Bay Indian Health Center P.O. Box 410, Neah Bay, Washington 98357
Director, Northwest Washington Service Unit, Lummi Indian Health Center, 2592 Kwina Road, Bellingham, Washington 98225
Director, Wellpinit Service Unit, Wellpinit Indian Health Center, P.O. Box 301, Wellpinit, Washington 99040
Director, Tucson Program Office, Indian Health Service, P.O. Box 11340, Tucson, Arizona 85734
Director, Sells Service Unit, Sells Indian Hospital, Sells, Arizona 85634
Director, Santa Rosa Indian Health Center, Star Route, Box 71, Sells, Arizona 85634
Director, San Xavier Indian Health Center, Tucson, Arizona 85734
Director, Nashville Program Office, Indian Health Service, Oak Towers Building, 1101 Kermit Drive, Suite 810, Nashville, Tennessee 37217–2191
Director, Cherokee Service Unit, Cherokee Indian Hospital, Cherokee, North Carolina 28719
Program Office Director, California Program Office, Indian Health Service, 2999 Fulton Avenue, Sacramento, California 95821

Appendix 2—Federal Archives and Records Centers

District of Columbia, Maryland Except U.S. Court Records for Maryland

Washington National Records Center, 4205 Suitland Road, Suitland, Maryland 20409

GSA Region 1—Connecticut, Maine, and Rhode Island

Federal Archives and Records Center, 380 Trapelo Road, Waltham, MA 02154

GSA Region 2—New York

Federal Archives and Records Center, Military Ocean Terminal, Bldg. 22, Bayonne, NJ 07002

GSA Region 3—Pennsylvania

Federal Archives and Records Center, 5000 Wissahickon Avenue, Philadelphia, PA 19144

GSA Region 4—Alabama, Florida, Mississippi and North Carolina

Federal Archives and Records Center, 1557 St. Joseph Avenue, East Point, GA 30344

GSA Region 5—Wisconsin, Minnesota and U.S. Court Records for Michigan

Federal Archives and Records Center, 7358 South Pulaski Rd., Chicago, IL 60629

GSA Region 5—Michigan Except U.S. Court Records

Federal Records Center, 3150 Springboro Road, Dayton, OH 45439

GSA Region 6—Kansas, Iowa and Nebraska

Federal Archives and Records Center, 2306 East Bannister Rd., Kansas City, MO 64131

GSA Region 7—Louisiana, New Mexico, Oklahoma and Texas

Federal Archives and Records Center, P.O. Box 6216, Ft. Worth, TX 76115

GSA Region 8—Colorado, Wyoming, Utah, Montana, North Dakota and South Dakota

Federal Archives and Records Center, P.O. Box 25307, Denver, CO 80225

GSA Region 9—California, Except Southern California, and Nevada, Except Clark County

Federal Archives and Records Center, 1000 Commodore Drive, San Bruno, CA 94066

GSA Region 9—Arizona: Clark County, Nevada and Southern California (Counties of San Luis Obispo, Kern, San Bernardino, Santa Barbara, Ventura, Los Angeles, Riverside, Orange, Imperial Inyo, and San Diego)

Federal Archives and Records Center, 24000 Avila Road, Laguna Niguel, CA 92677

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GSA Region—10 (Washington, Oregon, Idaho and Alaska)

Federal Archives and Records Center, 6125 Sand Point Way, Seattle, WA 98115

[FR Doc. 86-9727 Filed 4-30-86; 8:45 am]

BILLING CODE 4820-29-M

Privacy Act of 1974; Addition of Routine Uses To An Existing System of Records

AGENCY: Public Health Service, HHS.

ACTION: Notification of addition of new routine uses to an existing system of records.

SUMMARY: In accordance with the requirements of the Privacy Act, the Public Health Service (PHS) is publishing a notice to add nine new routine uses and to revise two routine uses to system of records 09-15-0044, entitled "Health Education Assistance Loan Program (HEAL) Loan Control Master File, HHS/HRSA/BHPr."

DATES: PHS invites interested persons to submit comments on the proposed routine uses and the revised routine use on or before June 2, 1986.

PHS will adopt these new and revised routine uses without further notice 30 days after the date of publication, unless comments are received which would result in a contrary determination.

ADDRESS: Please address comments to the Acting HRSA Privacy Act Coordinator, Department of Health and Human Services, Room 14A-20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857. We will make comments received available for public inspection at the above address during normal business hours, 8:30 a.m.–5:00 p.m.

FOR FURTHER INFORMATION CONTACT: Robert H. Handy, Ph.D., Acting Privacy Act Coordinator, HRSA, Room 14A-20 Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443-3760. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Health Resources and Service Administration (HRSA) currently maintains individually identifiable information on students participating in the HEAL program. This information is used primarily to determine the eligibility of loan applicants, and to monitor the loan status of selected HEAL applicants.

A. The Debt Collection Act of 1982 requires Federal Agencies to implement procedures for the collection of overdue debts owed to the Federal Government. Within HRSA, the 09-15-0045 record system entitled "HRSA Loan Repayment/Debt Management Records System, HHS/HRSA/OA," covers debt management activities for individuals who have been determined to be delinquent in repaying their loans. Prior to determining if loan recipients are unable to repay their HEAL loans, official counsel them in preclaim assistance and loan repayment efforts. To aid HEAL officials in identifying and locating delinquent borrowers, we are proposing to add seven new rountine uses for the purpose of managing debts owed under the HEAL program.

The proposed new routine uses numbers 5 to 11 will permit HRSA to disclose necessary information to other Federal agencies, OMB, the Department of the Treasury, consumer reporting agencies, debt collection bureaus, and other private and public parties. The purpose of such disclosures is (1) to locate delinquent borrowers, (2) to determine delinquent borrowers' creditworthiness and their ability to repay their debts, (3) to assist in preclaim assistance and loan repayment/management efforts, (4) to aid in the collection of debts owed under the HEAL program, and (5) to assist HRSA in its debt management activities.

Prior to making any actual disclosure under the fifth new routine use, which will permit disclosure to another Federal agency for salary and administrative offsets, HRSA will take the following due process steps: Verify the existence of the debt, and take reasonable action to locate the debtor to send written notice to him/her that the claim is overdue, that the agency intends to disclose information to debt collection agencies, or another Federal agency, of what the disclosure(s) will consist, and what his/her rights are with respect to the claim as set forth in Guidelines issued by the Office of Management and Budget (48 FR page 15556 and page 15559, April 11, 1983). For example, HRSA will allow the debtor to examine agency documentation of the debt, and provide an opportunity for the individual to enter into a written agreement satisfactory to the agency for repayment of any outstanding debts.

Further, before making any disclosures to debt collection agencies, HRSA will obtain assurance from such agencies that they will comply with the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.) and with any other Federal law governing the provision of consumer credit information. Assurances to this effect will be incorporated in service contracts between the Government and debt collection agencies. The service contracts will contain a provision subjecting the contractors to Section (m) of the Privacy Act, which provides that such contractors are liable under the criminal provisions of the Privacy Act as "employees of the (Federal) agency."

B. Section 222 of the Health Professions Training Assistance Act of 1985 (Pub. L. 99-129) provides for a study to determine if health professions schools are engaged in a pattern or practice (1) of failure to comply with section 12(f) of the Military Selective Service Act (50 U.S.C. App. 462(f)) or (2) of providing loans or work assistance to persons who are required to register for the draft under section 3 of the Military Selective Service Act and have not so registered.

We are, therefore, proposing to add a new routine use (number 12) for disclosure of information from this system of records to the Director, Selective Service, for the purpose of determining if draft-eligible students participating in the HEAL program are registrants of the Military Selective Service System. Disclosure will be limited to the eligible student's name and other information necessary to determine if the individual is a registrant of the Military Selective Service System.

The disclosure of eligible student information to the Selective Service will result in aggregate information being provided to HRSA for analytical purposes in determining whether health professions schools are engaged in a pattern or practice of not complying with the Military Selective Service Act.

C. We are proposing to amend routine use number 1 by deleting the reference to "agency contractors," and are proposing to add a separate routine use (number 13) to further clarify that records may be disclosed to Department contractors and subcontractors. The purpose of this disclosure is to assist program managers in collating, compiling, aggregrating, or analyzing records used in admininstering the HEAL program. The contractors and subcontractors are required to maintain Privacy Act safeguards with respect to such records.

D. We are revising routine use number 3 (litigation routine use) to be consistent with guidance issued May 24, 1985, by the Office of Management and Budget on disclosures of Privacy Act records during litigation. This routine use has been limited to disclosure of records to the Department of Justice for the purpose of defending the Department in litigation action. The revision broadens the routine use to permit disclosure of records to a court or other tribunal, or to another party before such tribunal. It also permits the Department to disclose records for purposes of prosecution if such action is compatible with the purpose for which the information was collected.

E. In conjunction with the above-mentioned routine uses, we are making additional minor revisions to improve the clarity and specificity of the system notice, and to incorporate normal updating changes. For example:

1. We have updated the "Authority" section as follows: (a) To include the authorities under the Debt Collection Act of 1982 which provide for the implementation of debt management activities; and (b) to include the authority under section 222 of the Health Professions Training Assistance Act of 1985 which provides for a study on compliance with the Selective Service Act.

2. We have revised the "Purpose" section to emphasize the monitoring of the loan status of HEAL recipients, which includes the collection of overdue debts owed under the HEAL program.

3. We have revised the "Safeguards" section to clarify authorized users of the record system, and to add a statement that contractors and subcontractors must comply with the Privacy Act.

This system notice was last published in the Federal Register on November 29, 1983 (48 FR 53911–53913). We are republishing the system notice in its entirety below to incorporate the proposed additions.

The following notice is written in the present, rather than the future tense, in order to avoid the unnecessary expenditure of public funds to republish the notice after the new and revised routine uses have become effective.

Dated: April 24, 1986.

Wilford J. Forbush,

Deputy Assistant Secretary for Health Operations, and Director, Office of Management, PHS.

09-15-0044

SYSTEM NAME:

Health Education Assistance Loan Program (HEAL) Loan Control Master File. HHS/HRSA/BHPr.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Division of Student Assistance, Bureau of Health Professions, Health Resources and Services Administration, Room 8-23, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

Records are also located at contractor sites. A list of contractor sites where individually identifiable data are currently located is available upon request to the System Manager.

Washington National Records Center, 4205 Suitland Road, Suitland, MD 20832.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Applicants for and recipients of Health Education Assistance Loans.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains name, social security number or other identifying number, birthdate, demographic background, educational status, loan location and status, and financial information about the individual for whom the record is maintained. Contains lender and school identification.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 727 and 728 of the Public Health Service Act, as amended (42 U.S.C. 294), which authorize the establishment of a Federal program of student loan insurance;

Section 739 of the Public Health Service Act, as amended (42 U.S.C. 2941), which directs the Secretary to require institutions to provide information for each student who has a loan;

Debt Collection Act of 1982 (5 U.S.C. 5514 note); and

Section 222 of the Health Professions Training Assistant Act of 1985 (50 U.S.C. App. 462 note), which provides for a study on compliance with the Selective Service Act.

PURPOSE(S):

Purpose of this system is (1) to identify students participating in the HEAL Program; (2) to determine eligibility of loan applicants and to compute insurance premium for Federal insurance; (3) to monitor the loan status of HEAL recipients, which includes the collection of overdue debts owed under the HEAL program; and (4) to compile and generate managerial and statistical reports.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

1. Disclosure may be made to Federal, State, or local agencies, to private parties such as relatives, present and former employers, business and personal associates, educational and financial institutions, and collection agencies. The purpose of such disclosures is to verify the identity of the loan applicant, to determine program eligibility and benefits, to enforce the conditions or terms of the loan, to counsel the borrower in repayment efforts, to investigate possible fraud and abuse, to verify compliance with program regulations, and to locate delinquent borrowers through preclaims assistance. Information may be disclosed to educational or financial institutions to assist them in loan management.

2. Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

3. The Department may disclose information from this system of records to the Department of Justice, to a court or other tribunal, or to another party before such tribunal, when

(a) HHS, or any component thereof; or

(b) Any HHS employee in his or her official capacity; or

(c) Any HHS employee in his or her individual capacity where the Department of Justice (or HHS, where it is authorized to do so) has agreed to represent the employee; or

(d) The United States or any agency thereof where HHS determines that the litigation is likely to affect HHS or any of its components, is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or the other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, provided, however, that in each case, HHS determines that such disclosure is compatible with the purpose for which the records were collected.

4. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the General Accounting Office, Office of Management and Budget, Department of Justice, and other appropriate Federal and State agencies charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or any rule, regulation or order issued pursuant thereto.

5. HRSA will disclose from this system of records a delinquent debtor's name, address, Social Security number, and other information necessary to identify him/her; the amount, status, and history of the claim, and the agency

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or program under which the claim arose, as follows:

a. To another Federal agency so that agency can effect a salary offset for debts owned by Federal employees; if the claim arose under the Social Security Act, the employee must have agreed in writing to the salary offset.

b. To another Federal agency so that agency can effect an authorized administrative offset; i.e., withhold money payable to or held on behalf of debtors other than Federal employees.

c. To the Treasury Department, Internal Revenue Service (IRS), to request a debtor's current mailing address to locate him/her for purposes of either collecting or compromising a debt, or to have a commercial credit report prepared.

6. Records may be disclosed to the General Accounting Office and to the Office of Management and Budget for auditing financial obligations to determine compliance with programmatic, statutory, and regulatory provisions.

7. HRSA may disclose information from this system of records to a consumer reporting agency (credit bureau) to obtain a commercial credit report for the following purposes:

a. To establish creditworthiness of a loan applicant; and

b. To assess and verify the ability of a debtor to repay debts owed to the Federal Government.

Disclosures are limited to the individual's name, address, Social Security number and other information necessary to identify him/her; the funding being sought or amount and status of the debt; and the program under which the application or claim is being processed.

8. HRSA may disclose to the Treasury Department, Internal Revenue Service (IRS), information about an individual applying for a loan under any loan program authorized by the Public Health Service Act to find out whether the loan applicant has a delinquent tax account. This disclosure is for the sole purpose of determining the applicant's creditworthiness and is limited to the individual's name, address, Social Security number; other information necessary to identify him/her, and the program for which the information is being obtained.

9. HRSA will report to the Treasury Department, Internal Revenue Service (IRS), as taxable income, the written-off amount of a debt owed by an individual to the Federal Government when a debt becomes partly or wholly uncollectable—either because the time period for collection under the statute of limitations has expired, or because the Government agrees with the individual to forgive or compromise the debt.

10. HRSA will disclose to debt collection agents, other Federal agencies, and other third parties who are authorized to collect a Federal debt, information necessary to identify a delinquent debtor. Disclosure will be limited to the debtor's name, address, Social Security number, and other information necessary to identify him/her; the amount, status, and history of the claim, and the agency or program under which the claim arose.

11. HRSA will disclose information from this system of records to any third party that may have information about a delinquent debtor's current address, such as a U.S. post office, a consumer reporting agency (credit bureau), a State motor vehicle administration, a professional organization, an alumni association, etc., for the purpose of obtaining the debtor's current address. This disclosure will be limited to information necessary to identify the individual.

12. Records may be disclosed to the Director, Selective Service, for the purpose of determining if draft eligible students participating in the HEAL program are registrants of the Military Selective Service System. Disclosure will be limited to the eligible student's name and other information necessary to determine if the individual is a registrant of the Military Selective Service System. The purpose of this disclosure will result in aggregate data which HEAL program managers will use to determine if health professions schools are engaged in a pattern or practice of not complying with the Military Selective Service Act.

13. Records may be disclosed to Department contractors and subcontractors for the purpose of assisting HEAL program managers in collating, compiling, aggregating, or analyzing records used in administering the HEAL program. Contractors maintain, and are also required to ensure that subcontractors maintain, Privacy Act safeguards with respect to the records.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552(a)(b)(12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)). The purposes of these disclosures are: (1) To provide an incentive for debtors to repay delinquent Federal Government debts by making these debts part of their credit records, and (2) to enable HRSA to improve the quality of loan and scholarship decisions by taking into account the financial reliability of applicants. Disclosure of records will be limited to the individual's name, Social Security number (SSN), and other information necessary to establish the identity of the individual, the amount, status, and history of the claim, and the agency or program under which the claim arose.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders, magnetic tape, and disc packs.

RETRIEVABILITY:

Social Security Number or other identifying number.

SAFEGUARDS:

1. *Authorized Users:* Access is limited to authorized HEAL personnel and contractors responsible for administering the HEAL program. Authorized personnel include HEAL employees and officials, financial and fiscal management personnel, computer personnel, and program managers who have responsibilities for implementing the HEAL program.

2. *Physical Safeguards:* Magnetic tapes, disc packs, computer equipment and other forms of personal data are stored in areas where fire and life safety codes are strictly enforced. All documents are protected during lunch hours and nonworking hours in locked file cabinets or locked storage areas. Twenty-four hour, seven-day security guards perform random checks on the physical security of the records storage areas.

3. *Procedural Safeguards:* A password is required to access the terminal and a data set name controls the release of data to only authorized users. All users of personal information in connection with the performance of their jobs protect information from public view and from unauthorized personnel entering an unsupervised office.

Access to records is strictly limited to those staff members trained in accordance with the Privacy Act and ADP security procedures. Contractors are required to maintain, and are also required to ensure that subcontractors maintain, confidentiality safeguards with respect to these records. Contractors and subcontractors are instructed to make no further disclosure of the records except as authorized by the System Manager and permitted by the Privacy Act. All individuals who have access to these records receive the appropriate ADP security clearances. HEAL personnel make site visits to ADP facilities for the purpose of ensuring that ADP security procedures continue to be met. Privacy Act and ADP system security requirements are specifically included in contracts. The HRSA project directors, project officers, and the System Manager oversee compliance with these requirements.

4. *Implementing Guidelines.* The safeguards described above were established in accordance with DHHS Chapter 45–13 and supplementary Chapter PHS.hf: 45–13 of the General Administration Manual; and the DHHS Information Resources Management Manual, Part 6, "ADP System Security."

RETENTION AND DISPOSAL:

Records will be retained for 5 years after the loan is repaid (1 year on site and 4 years at the Federal Records Center). Stored computer data is retained for aggregate purposes and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, HEAL Branch/Division of Student Assistance, BHRP/HRSA, Room 8–39, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857.

NOTIFICATION PROCEDURE:

To find out if the system contains records about you contact the System Manager.

Requests in person: A subject individual who apppears in person at a specific location seeking access or disclosure of records relating to him/her shall provide his/her name, current address, and at least one piece of tangible identification such as driver's license, passport, voter registration card, or union card. Identification papers with current photographs are preferred but not required. Additional identification may be requested when there is a request for access to records which contain an apparent discrepancy between information contained in the record and that provided by the individual requesting access to the record. No verification of identity shall be required where the record is one which is required to be disclosed under the Freedom of Information Act.

Requests by mail: Written requests for information and/or access to records received by mail must contain information providing the identity of the writer and a reasonable description of the record desired.

Written requests must contain the name and address of the requester, his/her date of birth and at least one piece of information which is also contained in the subject record, and his/her signature for comparison purposes.

Requests by telephone: Since positive identification of the caller cannot be established, telephone requests are not honored.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also provide a reasonable description of the record being sought.

Requesters may also request an accounting of disclosures that have been made of their records, if any.

CONTESTING RECORD PROCEDURES:

Contact the System Manager, provide a reasonable description of the record, specify the information being contested, the corrective action sought, and the reasons for requesting the correction, along with supporting information to show how the record is inaccurate, incomplete, untimely, or irrelevant.

RECORD SOURCE CATEGORIES:

Individual loan recipients, HEAL schools, lenders, and holders of HEAL loans and their agents.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86-9728 Filed 4-30-86; 8:45 am]

BILLING CODE 4160-15-M 4160-15-M

Social Security Administration

Privacy Act of 1974; Notification of New Routine Use

AGENCY: Social Security Administration (SSA), Department of Health and Human Services (HHS).

ACTION: New Routine Use.

SUMMARY: In accordance with the Privacy Act (5 U.S.C. 552a(e)(11)), we are issuing public notice of our intent to establish a new routine use of information maintained in the system of records entitled "Master Beneficiary Record (MBR), HHS/SSA/OSR, 09–60–0090." The proposed routine use would permit disclosure of Social Security benefit data from the MBR to the Federal Reserve Bank of New York (FRBNY) for the purpose of making direct deposit/electronic funds transfer (EFT) of Social Security benefit payments to foreign-resident Social Security beneficiaries. We invite public comments on this publication.

DATES: The proposed routine use will become effective as proposed without further notice on June 2, 1986, unless we received comments on or before that date which would result in a contrary determination.

ADDRESSES: Interested parties may comment on this proposal by writing to the SSA Privacy Officer, Social Security Administration, 3–F–1 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21230. All comments received will be available for public inspection at that address.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Johnson, Office of Policy Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (Area Code 301) 597–4802.

SUPPLEMENTARY INFORMATION:

I. Background and Purpose

The MBR contains payment data which are used primarily to pay benefits to individual entitled to Social Security Retirement, Survivors and Disability Insurance. The issuing authority for Social Security checks is the Department of the Treasury (Treasury). Social Security beneficiaries residing in the United States (U.S.) may elect to receive their benefits in form of a paper check or via direct deposit/EFT. Heretofore, direct deposit/EFT services have not been available to foreign-resident beneficiaries. Payment delivery to these beneficiaries has been by means of paper checks delivered through the Foreign Service Posts and the postal systems of the countries in which they reside. This method of payment is more labor intensive and, therefore, administratively more costly than payment methods used in the U.S. Advances in the automation of international banking services among industrialized countries offer an opportunity to provide better payment services to foreign-resident beneficiaries. Using the new technology also will result in reduced administrative costs.

Presently, Treasury is undertaking a major systems improvement effort which precludes the development of an international direct deposit payment operation. Treasury, therefore, has delegated the function to FRBNY as its fiscal agent. FRBNY for all intents and purposes will function as a Treasury Regional Financial Center and perform the payment issuance functions normally undertaken by Treasury, until such time that Treasury can perform the functions. This process requires that Treasury delegate disbursing authority to SSA for international funds transfer purposes. As the disbursing authority, SSA must disclose Social Security benefit data to FRBNY to provide direct

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deposit/EFT services. We, therefore, are proposing to establish the routine use below to meet the technical requirements of the Privacy Act before disclosing any data to FRBNY:

Information may be disclosed to the Federal Reserve Bank of New York for the purpose of making direct deposit/electronic funds transfer of Social Security benefits to foreign-resident beneficiaries.

II. Compatibility of the Proposed Routine Use

The Privacy Act (5 U.S.C. 552a(b)(3)) and our disclosure regulation (20 CFR 401.310) permit us to disclose information as a routine use for purposes which are compatible with the purpose for which we collected the information. Section 401.310 of the regulation permits us to disclose information as a routine use for the purpose of administering our programs as well as to assist in the administration of similar income-maintenance and health-maintenance programs of other agencies. Providing timely and economical delivery of Social Security checks is an extension of SSA program administration. Thus, the proposed routine use meets the criteria of the regulation and, therefore, is appropriate.

III. Effect of the Proposed Routine Use on the Rights of Individuals

Only information pertaining to those foreign-resident beneficiaries who request that SSA deliver their Social Security benefits via direct deposit/EFT would be disclosed under the routine use and disclosure would be made only for this purpose. Thus, we do not anticipate that any disclosures under the routine use would have any unwarranted effect on the privacy rights of individuals.

Dated: April 17, 1986.

Martha A. McSteen,

Acting Commissioner of Social Security.

09-60-0090

SYSTEM NAME:

Master Beneficiary Record (MBR), HHS/SSA/OSR.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Social Security Administration, Office of System Operations, 6401 Security Boulevard, Baltimore, MD 21235.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Social Security beneficiaries who are or were entitled to receive Retirement, Survivors, or Disability Insurance (RSDI) benefits, including individuals who have received a RSDI payment since November 1978 even if their payment is not part of an ongoing award of benefits; individuals (nonclaimants) whose former spouses apply for RSDI benefit on their earnings records; persons who are only enrolled in the Hospital and/or Supplementary Medical Insurance (SMI) programs; and claimants whose benefits have been denied or disallowed.

The system also contains short reference to records for persons entitled to Supplemental Security Income payments, Black Lung benefits or Railroad Retirement Board (RRB) benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

The MBR contains information about each claimant who has applied for RSDI benefits, or to be enrolled in the Hospital or SMI programs; a record of the amount of Federal tax withheld on benefits paid to nonresident aliens; and the aggregate amount of benefit payments, repayments and reductions with respect to an individual in a calendar year. A record is maintained under each individual's Social Security number (SSN). However, if the individual has filed on another person's SSN, only a short 'pointer' record is maintained. Personal and general data about the claim is maintained under the SSN of that claim. Data about the claimant can be assessed using the claimant's SSN or the SSN on which benefits have been awarded or claimed (claim account number (CAN)).

There are three types of data in each CAN:

Account data. This includes the primary insurance amount, insured status of the SSN holder (if no monthly benefits are payable), data relating to the computation (use of military service credits, railroad retirement credits, or the foreign country when the primary insurance amount is based on wage credits under a totalization agreement), and, if only survivor's benefits have been paid, identifying data about the SSN holder (full name, date of birth, date of death and verification of date of death).

Payment data. This includes the payee name and address, data about a financial institution (if benefits are sent directly to the institution for deposit), the monthly payment amount, the amount and date of a one-time payment of past due benefits, and, where appropriate, a scheduled future payment. Payment data can refer to one beneficiary or several beneficiaries in a combined payment.

Beneficiary data. This includes personal information (name, date of birth, sex, date of filing, relationship to the SSN holder, other SSN's, benefit amount and payment status), and, if applicable, information about a representative payee, data about disability entitlement, worker's compensation offset data, estimates and report of earnings, or student entitlement information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 202a-205, 223, 226, 228, 1818, 1836, and 1840 of the Social Security Act.

PURPOSE(S):

Data in this system are used by a broad range of Social Security employees for responding to inquiries, generating followups on beneficiary reporting events, computer exception processing, statistical studies, conversion of benefits, and generating records for the Department of the Treasury to pay the correct benefit amount.

Data in this system also are available to the Department of Health and Human Services' (HHS') Inspector General for use in the performance of his/her duties.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Disclosure may be made for uses as indicated below:

1. To applicants or claimants, prospective applicants or claimants (other than the data subject), their authorized representatives or representative payees to the extent necessary to pursue Social Security claims and receive and account for benefits.

2. To third party contacts in situations where the party to be contacted has, or is expected to have, information relating to the individual's capability to manage his/her affairs or his/her eligibility for, or entitlement to, benefits under the Social Security program when:

(a) The individual is unable to provide information being sought. An individual is considered to be unable or provide certain types of information when:

(1) He/she is incapable or of questionable mental capability;

(2) He/she cannot read or write;

(3) He/she cannot afford the cost of obtaining the information;

(4) A language barrier exists; or

(5) The custodian of the information will not, as a matter of policy, provide it to the individual.

(b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following:

(1) His/her eligibility for benefits under the Social Security program;

(2) The amount of his/her benefit payment; or

(3) Any case in which the evidence is being reviewed as a result of suspected fraud, concern for program integrity, quality appraisal, or evaluation and measurement activities.

3. To third party contacts where necessary to establish or verify information provided by representative payees or payee applicants.

4. To a person (or persons) on the rolls when a claim is filed by another individual which is adverse to the person on the rolls:

(a) An award of benefits to a new claimant precludes an award to a prior claimant; or

(b) An award of benefits to a new claimant will reduce the benefit payments to the individual(s) on the roll; but only for information concerning the facts relevant to the interests of each party in a claim.

5. To the Department of the Treasury for:

(a) Collecting Social Security taxes or as otherwise pertinent to tax and benefit payment provisions of the Social Security Act (including SSN verification services);

(b) Investigating the alleged theft, forgery, or unlawful negotiation of Social Security checks;

(c) Determining the Federal tax liability on Social Security benefits pursuant to 26 U.S.C. 6050, as amended by Pub. L. 98-21. The information disclosed will consist of the following:

(1) The aggregate amount of Social Security benefits paid with respect to any individual during any calendar year;

(2) The aggregate amount of Social Security benefits repaid by such individual during such calendar year;

(3) The aggregate reductions under section 224 of the Social Security Act in benefits which would otherwise have been paid to such individual during the calendar year on account of amounts received under a workmen's compensation act; and

(4) The name and address of such individual; and

(d) Depositing the tax withheld on benefits paid to nonresident aliens in the Treasury (Social Security Trust Funds) pursuant to 26 U.S.C. 871, as amended by Pub. L. 98-21.

6. To the United States Postal Service for investigating the alleged theft or forgery of Social Security checks.

7. To the Department of Justice for:

(a) Investigating and prosecuting violations of the Social Security Act to which criminal penalties attach;

(b) Representing the Secretary of HHS; and

(c) Investigating issues of fraud by agency officers or employees, or violation of civil rights.

8. To the Department of State for administering the Social Security Act in foreign countries through services and facilities of that agency.

9. To the American Institute on Taiwan for administering the Social Security Act on Taiwan through services and facilities of that agency.

10. To the Veterans Administration (VA), Philippines Regional Office, for administering the Social Security Act in the Philippines through the services and facilities of that agency.

11. To the Department of the Interior for administering the Social Security Act in the Trust Territory of the Pacific Islands through services and facilities of that agency.

12. Information necessary to adjudicate claims filed under an international Social Security agreement that the United States has entered into pursuant to Section 233 of the Social Security Act may be disclosed to a foreign country which is a party to that agreement.

13. To the Office of the President for the purpose of responding to an individual pursuant to an inquiry received from that individual or from a third party on his/her behalf.

14. To the Office of Education for determining eligibility of applicants for basic educational opportunity grants.

15. To the Bureau of Census when it performs as a collecting agent or data processor for research and statistical purposes directly relating to this system of records.

16. To the Department of the Treasury, Office of Tax Analysis, for studying the effects of income taxes and taxes on earnings.

17. To the Office of Personnel Management for the study of the relationship of civil service annuities to minimum Social Security benefits, and the effects on the trust fund.

18. To State Social Security Administrators for administering agreements pursuant to Section 218 of the Social Security Act.

19. To the Department of Energy for their study of the long-term effects of low-level radiation exposure.

20. To contractors under contract to the Social Security Administration (SSA) (or under contract to another agency with funds provided by SSA) for the performance of research and statistical activities directly relating to this system of records.

21. To a congressional office in response to an inquiry from that office made at the request of the subject of a record.

22. To the Department of Labor for conducting statistical studies of the relationship of private pensions and Social Security benefits to prior earnings.

23. To the Department of Justice in the event of litigation where the defendant is:

(a) HHS, any component of HHS, or any employee of HHS in his/her official capacity;

(b) The United States where HHS determines that the claim, if successful, is likely to directly affect the operations of HHS or any of its components; or

(c) Any HHS employee in his/her individual capacity where the Justice Department has agreed to represent such employee;

HHS may disclose such records as it deems desirable or necessary to the Department of Justice to enable that department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

24. In response to legal process or interrogatories relating to the enforcement of an individual's child support or alimony obligations as required by sections 459 and 461 of the Social Security Act.

25. To Federal, State, or local agencies (or agents on their behalf) for administering income maintenance or health maintenance programs (including programs under the Social Security Act). Such disclosures include, but are not limited to, release of information to:

(a) RRB for administering provisions of the Railroad Retirement Act relating to railroad employment; for administering the Railroad Unemployment Insurance Act and for administering provisions of the Social Security Act relating to railroad employment;

(b) VA for administering 38 U.S.C. 412, and upon request, for determining eligibility for, or amount of, veterans benefits or verifying other information with respect thereto;

(c) State welfare departments for administering sections 205(c)(2)(B)(i)(II) and 401(a)(25) of the Social Security Act requiring information about assigned SSN's for Aid to Families with Dependent Children (AFDC) program purposes and for determining a recipient's eligibility under the AFDC program; and

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(d) State agencies for administering the Medicaid program.

28. Upon request, information on the identity and location of aliens may be disclosed to the Department of Justice (Criminal Division, Office of Special Investigations) for the purpose of detecting, investigating and, where appropriate, taking legal action against suspected Nazi war criminals in the United States.

27. To third party contacts (including private collection agencies under contract with SSA) for the purpose of their assisting SSA is recovering overpayments.

28. Information may be disclosed to contractors and other Federal agencies, as necessary, for the purpose of assisting SSA in the efficient administration of its programs. We contemplate disclosing information under the routine use only in situations in which SSA may enter into a contractual or similar agreement with a third party to assist in accomplishing an agency function relating to this system of records.

29. Information may be disclosed to the Federal Reserve Bank of New York for the purpose of making direct deposit/electronic funds transfer of Social Security benefits to foreign-resident beneficiaries.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in magnetic media (e.g., magnetic tape and magnetic disk) and in microform and paper form.

RETRIEVABILITY:

Records in this system are indexed and retrieved SSN.

SAFEGUARDS:

Safeguards for automated records have been established in accordance with the HHS Automated Data Processing (ADP) Manual, "Part 6, ADP System Security." All magnetic tapes and discs are within an enclosure attended by security guards. Anyone entering or leaving this enclosure must have special badges which are issued only to authorized personnel. All microform and paper files are accessible only by authorized personnel and are locked after working hours.

For computerized records, electronically transmitted between SSA's central office and field office locations (including organizations administering SSA programs under contractual agreements), safeguards include a lock/unlock password system, exclusive use of leased telephone lines, a terminal oriented transaction matrix, and an audit trail. (See Appendix J to this publication for additional information relating to safeguards SSA employs to protect personal information.)

RETENTION AND DISPOSAL:

Primary data storage is on magnetic disc. A new version of the disk file is generated each month based on changes to the beneficiary's record (adjustment in benefit amount, termination, or new entitlements). The prior version is written to tape and retained for 90 days in SSA's main data processing facility and is then sent to a secured storage facility for indefinite retention.

Selected records also are retained on magnetic disc for on-line query purposes. The query files are updated monthly and retained indefinitely. Microform records are disposed of by shredding or the application of heat after periodic replacement of a complete file.

Paper records are usually destroyed after use, by shredding, except where needed for documentation of the claims folder, in which case they are retained therein indefinitely (see the notice for the Claims Folders System, 09–60–0089).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Claims and Payment Requirements, Office of System Requirements, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235.

NOTIFICATION PROCEDURE:

An individual can determine if this system contains a record about him or her by contacting the most convenient Social Security officer and providing his/her name, Social Security claim number (SSN plus alphabetic symbols), address, and proper identification. (See Appendix F.1 for address and telephone information.) (Furnishing the SSN is voluntary, but it will make searching for an individual's record easier and avoid delay.) (See Appendix K to this publication for documentation individuals may be required to furnish to establish their identity when requesting information pertaining to them from SSA.) These procedures are in accordance with HHS Regulations 45 CFR Part 5b.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. These procedures are in accordance with HHS Regulations 45 CFR Part 5b.

CONTESTING RECORD PROCEDURES:

Same as notification procedures. Requesters should also reasonably identify the record, specify the information they are contesting and state the corrective action sought and the reasons for the correction with supporting justification showing how the record is untimely, incomplete, inaccurate or irrelevant. These procedures are in accordance with HHS Regulations 45 CFR Part 5b.

RECORD SOURCE CATEGORIES:

Data for the MBR come primarily from the Claims Folders System (09–60–0089) and/or is furnished by the beneficiary at the time of filing for benefits, via the application form and necessary proofs, and during the period of entitlement when notices of events such as changes of address, work, marriage, are given the SSA by the beneficiary; and from States regarding Health Insurance third party premium payment/buy-in cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86–9755 Filed 4–30–86; 8:45 am]

BILLING CODE 4190–11–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N–86–1607]

Notice of Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ACTION: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to:

Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Proposal: Record of Employee Interview
Office: Labor Relations
Form Number: HUD–11
Frequency of Submission: On Occasion
Affected Public: Individuals or Households, State or Local Governments, Businesses or Other For-Profit, Federal Agencies or Employees, and Small Businesses or Organizations
Estimated Burden Hours: 10,000
Status: Extension
Contact: Elizabeth G. Cronin, HUD (202) 755–5370; Robert Fishman, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: April 10, 1986.

Dennis F. Geer,

Director, Office of Information Policies and Systems.

[FR Doc. 86–9775 Filed 4–30–86; 8:45 am]

BILLING CODE 4210–01–M

Office of Inspector General

[Docket No. N–86–1606; FR–2139]

Privacy Act; Program of Matching Tenant Data in Assisted Housing Programs

AGENCY: Office of Inspector General, HUD.

ACTION: Notice of matching program—HUD/Public Housing Agencies and Subsidized Multifamily Projects.

SUMMARY: In accordance with the Privacy Act of 1974 and the Office of Management and Budget's Revised Supplemental Guidance for Conducting Matching Programs (47 FR 21656, May 19, 1982), on August 6, 1984 (49 FR 31342), the Department published a Notice of Matching Program—HUD/Public Housing Agencies and Subsidized Multifamily Projects. That notice stated that HUD's Office of Inspector General would conduct or directly supervise computer matches of tenant records at Public Housing Agencies and HUD-subsidized multifamily projects with various types of income data maintained by States and by the Office of Personnel Management. This notice expands the coverage of the matching program to include certain computer records from the United States Department of Defense and the United States Postal Service. The matching program will be performed to detect unwarranted benefit payments under the National Housing Act, 12 U.S.C. 1701–1750g, the United States Housing Act of 1937, 42 U.S.C. 1437–1437o, and Section 101 of the Housing and Urban Development Act of 1965, 12 U.S.C. 1701s. Such unwarranted benefits may be paid when family income is unreported or underreported, causing rental payments to be set unduly low, and housing subsidies to be set correspondingly too high. A report on the design of the matching program is set forth in the Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Mr. Steven A. Switzer, Office of Inspector General, Room 8284, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410, telephone (202) 755–6364. (This is not a tool-free telphone number.)

SUPPLEMENTARY INFORMATION: The information supplied below is required by paragraph 5.f.1. of the Revised Supplemental Guidance for Conducting Matching Programs, issued by the Office of Management and Budget (47 FR 21656; May 19, 1982). In accordance with the Revised Supplemental Guidance, copies of this report are being sent to the Office of Management and Budget and both Houses of Congress.

This matching program is exempt under 24 CFR 50.20(k) from the requirements for an environmental review under the National Environmental Policy Act, 42 U.S.C. 4321.

Dated: April 21, 1986.

Paul A. Adams,

Inspector General.

Report of Matching Program: Department of Housing and Urban Development/Public Housing Agencies/ Subsidized Multifamily Projects

A. *Authority.* The matching program will be conducted under Section 4(a) of the Inspector General Act of 1978, Pub. L. 95–452, 5 U.S.C. App. 4(a), and the National Housing Act, 12 U.S.C. 1701–1750g, the United States Housing Act of 1937, 42 U.S.C. 1437–1437o, and Section 101 of the Housing and Urban Development Act of 1965, 12 U.S.C. 1701s. The Inspector General Act authorizes the Inspector General of the Department of Housing and Urban Development to undertake programs to detect and prevent fraud and abuse in all HUD programs.

B. *Program Description.* The matching program is intended to be a continuing program, carried out at selected Public Housing Agencies (PHAs) and subsidized multifamily projects. HUD's Office of Inspector General (OIG) will perform or supervise the performance of the computer matching of tenant social security numbers (SSNs) and additional identifiers such as surname or date of birth in tenant records in HUD's Multifamily Tenant Characteristics System from data submitted by PHAs and HUD subsidized multifamily project owners (or tenant data in the form in which it is maintained by the PHAs or owners) against the States' machine-readable files of quarterly wage data and unemployment insurance benefit data to determine whether tenants have underreported income. State wage agencies or other Federal agencies may, in some instances, perform the actual matching in accordance with a written agreement with HUD and the PHA or project owner. Data on the unverified matches will be provided to HUD's OIG for further follow-up work, as discussed below. In addition, tenant SSNs may be matched to the Office of Personnel Management's General Personnel Records (OPM/GOVT–1) and Civil Service Retirement and Insurance Records System (OPM/Central–1); the Department of Defense's Defense Manpower Data Center Base (S322.10,

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DLA–LZ); and the United States Postal Service's Finance Record-Payroll (USPS 050.020). Routine uses of these automated files are provided at 49 FR 36949, 36950–52 (September 20, 1984) (OPM/Central–1); 49 FR 36949, 36954–57 (September 20, 1984) (OPM/GOVT–1); 49 FR 30834, 30852–54 (August 1, 1984) (S322.10, DLA–LZ); and 50 FR 28862 (July 16, 1985) (USPS 050.020).

HUD's OIG will conduct follow-up work at the PHAs and multifamily projects based on the computer matches. This work will include verification of income sources reported to the PHA or subsidized multifamily project owner, interviews with individuals knowledgeable about the case(s), and preparation of case files for possible investigation and prosecution.

Records created from the computer matching program (case matches and the follow-up data) will be included in the "Investigation Files, HUD/Dept–24" category. Routine uses of these files are described in 49 FR 10372 (March 20, 1984).

HUD will take actions necessary to collect the amount of excess benefits paid on behalf of tenants. In addition, if requested by another Federal agency to provide information on tenants that have underreported income, HUD may supply data on verified cases in accordance with routine uses of HUD's investigative files HUD/Dept 24.

C. *Objectives to be met by the Matching Program:* The matching program will be performed to identify tenants receiving excess housing assistance resulting from unreported or underreported family income. The various HUD assisted housing programs available through PHAs or subsidized multifamily projects require that, in order to be admitted, applicants must meet certain income, as well as other, eligibility requirements. In addition, tenants are required to report amount and sources of income on at least an annual basis. To the extent families do not report all their income as required, HUD may initiate investigation or legal actions against tenants suspected of false reporting or failing to report their incomes.

D. *Period of the Match:* The matching program for HUD/PHA and subsidized multifamily projects has been conducted on a continuing basis since August, 1984 (excluding the use of Department of Defense and United States Postal Service data). HUD will expand the coverage of this continuing program to include the described Department of Defense and United States Postal Service records beginning May 1986. (Please note another agency, the United States Postal Service, has conducted a related computer match of its payroll system file with HUD's records on individuals receiving benefits under the National Housing Act, under a privacy act notice published September 17, 1985 (50 FR 37730).)

Follow-up work on resultant matches under HUD's computer matching program is expected to be completed within 6 months after completion of each computer match.

E. *Security:* To protect the identify of tenants, HUD will restrict access to both the information provided by other sources for the purposes of the matching program and the resulting case match data. The following measures will be taken to assure compliance with the Privacy Act.

If HUD performs the computer match, it will agree in writing to the conditions listed below governing its use of information from another source. If another government agency performs the match, HUD will require the agency enter into a written agreement with HUD and the PHA or project owner to the conditions listed below governing the use of both the source data provided by HUD and the case match data. This agreement will be executed before HUD discloses tenant data from a PHA or project owner to that agency.

The conditions included in the written agreements will include requirements that:

(1) The files to be matched will remain the property of the original sources and will be returned or destroyed at the end of a particular matching program;

(2) The agency performing the match will take sufficient physical, technical and administrative safeguards to maintain reasonable security over data in its possession provided for the match and over data created as a result of a particular matching program;

(3) The records will be used and accessed only to match the file(s) previously agreed to;

(4) The agency performing the match will not use the records to extract information for any purpose concerning individuals who were not a case match;

(5) Machine-readable matching files and any printed form of the data on these files will not be duplicated or disseminated within the agency performing the match for purposes other than the matching program or outside the agency for any purpose, unless authorized by the original source; and

(6) When the tenant data and case match data is used for statistical purposes, all personal identifiers will be deleted.

F. *Disposition of Records:* Upon completion of the match and related follow-up work, all source data received for this match will be returned to the appropriate PHAs, subsidized multifamily project owners, or government agencies, or destroyed. Case match data records will be kept by HUD only so long as criminal or administrative investigation is active and will be disposed of in accordance with the requirements of the Privacy Act of 1974 and the Federal Records Schedule.

[FR Doc. 86-9773 Filed 4-30-86; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-19148-12 and F-19148-15]

Alaska Native Claims Selection; Arctic Slope Regional Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14(e) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(e), will be issued to Arctic Slope Regional Corporation for approximately 4,976 acres. The lands involved are in the vicinity of Point Lay, Alaska.

Umiat Meridian, Alaska

T. 1 S., R. 44 W.
T. 1 S., R. 45 W.
T. 2 S., R. 45 W.

A notice of the decision will be published once a week for four (4) consecutive weeks in the Tundra Times. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until June 2, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,
Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-9767 Filed 4-30-86; 8:45 am]

BILLING CODE 4310-JA-M

Availability of Owl Creek Wilderness Study Area Environmental Impact Statement and Public Hearing Schedule

AGENCY: Worland District, Bureau of Land Management, Interior.

ACTION: Notice of Availability of Owl Creek Wilderness Study Area Environmental Impact Statement and Public Hearing Schedule.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management (BLM), U.S. Department of the Interior, has prepared a draft Environment Impact Statement (EIS) for the Owl Creek Wilderness Study Area (WSA) which will supplement the Grass Creek/Cody Draft Wilderness EIS. This EIS documents the effects expected on 710 acres of public lands from two alternatives; All Wilderness (the proposed action) and No Wilderness (no action). The Owl Creek WSA is located adjacent to the Washakie Wildeness on the western edge of the Big Horn Basin of north-central Wyoming.

DATES: Written comments on the BLM's wilderness recommendation and the adequacy of this document will be accepted during the 90 days following the Environmental Protection Agency's publication of the notice of filing on this EIS in the **Federal Register**. A public hearing to receive oral and written testimony will be held on June 26, 1986, at 7:30 p.m. at the Hot Springs County Museum, Thermopolis, Wyoming.

ADDRESS: Written comment on the recommendation and adequacy of this document should be addressed to: Worland District Office, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401.

The document is available for inspection at the Worland District Office, 101 South 23rd Street, Worland, Wyoming, and the Wyoming State Office, 2515 Warren Avenue, Cheyenne, Wyoming.

F. William Eikenberry,
Associate State Director.

[FR Doc. 86-9811 Filed 4-30-86; 8:45 am]

BILLING CODE 4310-22-M

Oregon: Burns District Advisory Council; Meeting, Tour

AGENCY: Bureau of Land Management, Interior.

ACTION: Burns District Office Advisory Council Meeting and Tour.

SUMMARY: In accordance with Pub. L. 92–463, this notice sets forth the schedule and proposed agenda for a meeting (and tour) of the Burns District Advisory Council at the Harney County Courthouse in Burns, Oregon.

DATE: Tour: May 29, 1986 9:00 a.m.; meeting: May 30, 1986.

FOR FURTHER INFORMATION CONTACT: Joshua L. Warburton, District Manager, Burns District Bureau of Land Management, 74 South Alvord, Burns, Oregon 97720, Telephone (503) 573–5241.

SUPPLEMENTARY INFORMATION: The primary purpose of this meeting is to discuss the following items: the Land Base Adjustment Program for Oregon and Washington, the BLM/Hammond Land Exchange, Harney County's proposal under the Recreation and Public Purposes Act (R&PP) for a recreation vehicle park, the Alvord Desert Winter Use proposal, and the Drewsey Management Framework Plan Amendment.

Persons interested in making an oral statement at this meeting which is open to the public, must notify the District Manager, Burns District Office, 74 South Alvord, Burns, Oregon 97720, by May 26, 1986. Written statements must also be received by this date.

The tour will cover lands involved in the Hammond exchange and will leave from the Burns District Office on Thursday, May 29, 1986, at 9:00 a.m. to return at 5:00 p.m.

Transportation will be provided for the Advisory Council members. Members of the public who wish to participate on the tour will need to provide their own transportation.

Summary minutes of the meeting and tour will be available for public inspection and duplication within 30 days following the meeting.

Dated: April 16, 1986.

Joshua L. Warburton,
District Manager.

[FR Doc. 86-9815 Filed 4-30-86; 8:45 am]

BILLING CODE 4310-33-M

[M60014]

Opening of Public Land in Lewis and Clark Counties, MT

AGENCY: Bureau of Land Managment, Interior.

ACTION: Notice of conveyance and order providing for opening of public land in Lewis and Clark County, Montana.

SUMMARY: This order will open lands reconveyed to the United States in an exchange under the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701 et seq. (FLPMA), to the operation of the public land laws. It also informs the public and interested state and local governmental officials of the issuance of the conveyance document.

DATE: At 9 a.m. on June 16, 1986, the lands reconveyed to the United States shall be open to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. The lands described in paragraph 1 below were segregated from settlement, sale, location and entry, including the mining laws, but not from exchange, by the Notice of Realty Action published in the **Federal Register** on September 26, 1985 (50 FR 39062). The segregation terminated on issuance of the patents on November 26, 1985.

FOR FURTHER INFORMATION CONTACT: Edward H. Croteau, Chief, Lands Adjudication Section, BLM, Montana State Office, P.O. Box 36800, Billings, Montana 59107, Phone (406) 657–6062.

SUPPLEMENTARY INFORMATION:

1. Notice is hereby given that pursuant to Sec. 206 of FLPMA, the following described surface estate was conveyed to the parties shown:

Principal Meridian, Montana

Elmer Joe Brown:
T. 36 N., R. 3 E.,
Sec. 1, NW¼ SW¼
40 acres.

Walter H. Kortum and Betty Kortum:
T. 17N., R. 7 E.,
Sec. 26, NW¼NW¼.
40 acres.

Chris Allen Kolstad and Vicki Kolstad:
T. 30 N., R. 3 E.,
Sec. 27, SE¼ SW¼;
Sec. 28, SW¼
Sec. 29, E½ SE¼.
280 acres.

Total acreage transferred—360 acres.

2. In exchange for the above selected land, the United States acquired the surface estate of the following described

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land in Lewis and Clark County, Montana:

Principal Meridian, Montana

T. 21 N., R. 6 W.,
Sec. 27, That part of the SW¼NW¼ south of the Sun River and west of U.S. Highway 287 and that part of the NW¼SW¼ lying west of said highway; and
Sec. 28, That part of the SE¼NE¼ lying south of the Sun River.
Containing 53.23 acres.

3. The values of federal public land were appraised at $34,000 and the nonfederal land was appraised at $34,400. No minerals were transferred by either party in the exchange.

4. At 9 a.m. on June 16, 1986, the lands described in paragraph 2 above that were conveyed to the United States will be open to the operation of the public land laws.

Dated: April 23, 1986.

James Binando,

Acting Deputy State Director, Division of Lands and Renewable Resources, Montana State Office.

[FR Doc. 86-9617 Filed 4-30-86; 8:45 am]

BILLING CODE 4310-DN-M

[I-19610]

Relinquishment of Recreation and Public Purpose Application

AGENCY: Bureau of Land Management, Idaho, Interior.

ACTION: Notice of realty action, relinquishment of recreation and public purpose application I-19610.

SUMMARY: The following described lands were determined to be suitable for disposal for a county building under provisions of the Recreation and Public Purposes Act of June 14, 1926, as amended (43 Stat. 741; 43 U.S.C. 869-869-4), and the regulations thereunder (43 CFR Part 2740).

Boise Meridian, Idaho

T. 6 S., R. 6 W.,
Sec. 13, W½NW¼SW¼SW¼.
Containing 5 acres.

Relinquishment filed by Owyhee County, Idaho, for Recreation and Public Purposes will return these lands to the public land laws. This Notice of Realty Action cancels the suitable classification of Recreation and Public Purposes I-19610.

Dated: April 23, 1986.

J. David Brunner,

Associate District Manager.

[FR Doc. 86-9702 Filed 4-30-86; 8:45 am]

BILLING CODE 4310-GG-M

[I-13084]

Exchange of Public and State Lands in Owyhee County, ID

AGENCY: Bureau of Land Mangement, Idaho, Interior.

ACTION: Notice of realty action, exchange of public and State lands in Owyhee Country, Idaho.

The following selected lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716.

Boise Meridian, Idaho

T. 6 S., R. 3 W.,
Sec. 4, lot 4, SW¼NW¼, W½SW¼;
Sec. 5;
Sec. 8, W½W½;
Sec. 9, E½;
Sec. 10, W½;
Sec. 14, W½SW¼;
Sec. 15, W½NW¼, S½;
Sec. 16, E½;
Sec. 20, E½E½, W½W½;
Sec. 21, W½;
Sec. 22, E½;
Secs. 23 to 25, inclusive;
Sec. 26, N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 27, E½E½, W½SW¼;
Sec. 29, NW¼NW¼, S½NW¼, SW¼;
Sec. 30, lots 3 and 4, E½SW¼, SE¼;
Sec. 32, E½;
Sec. 33, E½;
Sec. 34, E½E½, W½W½, SE¼SW¼ SE¼SE¼;
Sec. 35, NE¼NW¼, W½W½;
T. 6 S., R. 4 W.,
Secs. 1 and 2;
Sec. 3, lots 1 to 4, inclusive, SE¼NE¼, SE¼NW¼, E½SE¼;
Sec. 4, S½SE¼;
Sec. 5, SW¼SW¼, E½SE¼;
Sec. 7, N½NE¼, NE¼SE¼;
Sec. 8, E½E½, W½W½, E½SW¼;
Sec. 9, E½, N½NW¼, SW¼;
Sec. 10, NW¼, SE¼;
Sec. 11, NE¼, N½NW¼, W½SW¼, N½SE¼, SE¼SE¼;
Sec. 12, W½;
Sec. 14, E½E½;
Sec. 15, W½NE¼;
Sec. 16, lots 1 and 2, E½NW¼;
Sec. 20, E½NW¼;
Sec. 23, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 25, S½;
Sec. 26, E½E½;
Sec. 35, NE¼;
Sec. 36, lots 1 and 2, NE¼, E½NW¼.
T. 8 S., R. 5 W.,
Sec. 13, NE¼NW¼, S½NW¼, N½SW¼.
T. 9 S., R. 2 W.,
Sec. 6, lots 4, 5, 11 and 12, SW¼;
Sec. 7;
Sec. 18, N½, S½SW¼, SE¼;
Sec. 19, W½NE¼, NW¼, W½SW¼.
T. 9 S., R. 3 W.
Sec. 1, lots 1 to 3, inclusive, and 6 to 12, inclusive;
Sec. 3;
Sec. 4, lots 1, 8 and 9, E½SE¼;
Sec. 11, N½, SW¼, SW¼SE¼;
Sec. 12;
Sec. 13, NE¼NE¼, W½E½, SE¼SE¼;
Sec. 14, NW¼;
Sec. 23, E½NE¼;
Sec. 24, N½, W½SW¼, N½SE¼.
Comprising 28,130.51 acres of public land.

In exchange for these lands, the United States will acquire the following offered lands from the State of Idaho.

Boise Meridian, Idaho

T. 9 S., R. 4 W.,
Secs. 16 and 36.
T. 9 S., R. 6 W.,
Sec. 36.
T. 10 S., R. 4 W.,
Secs. 16 and 36.
T. 10 S., R. 6 W.,
Sec. 36.
T. 11 S., R. 3 W.,
Sec. 16.
T. 11 S., R. 4 W.,
Secs. 16 and 36.
T. 11 S., R. 5 W.,
Secs. 16 and 36.
T. 11 S., R. 6 W.,
Sec. 36.
T. 12 S., R. 2 W.,
Sec. 16.
T. 12 S., R. 3 W.,
Secs. 16 and 36.
T. 12 S., R. 4 W.,
Secs. 16 and 36.
T. 12 S., R. 5 W.,
Secs. 16 and 36.
T. 12 S., R. 6 W.,
Sec. 36.
T. 13 S., R. 2 W.,
Secs. 16 and 36.
T. 13 S., R. 3 W.,
Sec. 36.
T. 13 S., R. 4 W.,
Secs. 16 and 36.
T. 13 S., R. 5 W.,
Secs. 16 and 36.
T. 14 S., R. 5 W.,
Sec. 36, NE¼Ne¼, S½N½, NW¼NW¼, S½.
T. 15 S., R. 4 W.,
Secs. 16 and 36.
T. 16 S., R. 3 W.,
Sec. 16.
Comprising 19,669.60 acres of State lands.

The purpose of this exchange is to acquire State of Idaho endowment lands which have high public values for recreation and wildlife. Included in this exchange are offered lands within the Owyhee Canyonlands Wilderness Study Area and the proposed Owyhee Canyonlands Wild and Scenic River designation. Wildlife values on the offered lands include approximately 6,000 acres of mule deer winter range, 4,800 acres of pronghorn habitat, and 14,000 acres of sage grouse habitat of which 2,500 acres are used for nesting. River otter, red band trout, and California bighorn sheep are three sensitive species found on the offered lands. The selected lands contain approximately four miles of red band trout habitat, 19,000 acres of mule deer summer range, and 6,600 acres of sage grouse habitat.

The value of the lands to be exchanged are approximately equal; equalization of values will be by deletion of State or Federal lands. The public interest will be served by completing this exchange.

Publication of this notice in the Federal Register segregates the public lands from the operation of the public land laws, including the mining laws for a period of two years from the date of first publication.

Further information concerning the exchange, including the environmental assessment is available for review at the Bureau of Land Management, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705.

For a period of 45 days from the date of first publication, interested parties may submit written comments to Martin J. Zimmer, Bureau of Land Management, Boise District Office, 3948 Development Avenue, Boise, Idaho 83705.

Dated: April 22, 1986.

J. David Brunner,

Associate District Manager.

[FR Doc. 86-9809 Filed 4-30-86; 8:45 am]

BILLING CODE 4310-GG-M

Colorado; Filing of Plats of Survey

April 25, 1986.

The plat of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Denver, Colorado, effective 10:00 A.M., April 25, 1986.

The plat representing the dependent resurvey of a portion of the New Mexico Guide Meridian (east boundary), a portion of the subdivisional lines, and the survey of the subdivision of section 13, T. 32 N., R. 8 E., New Mexico Principal Meridian, Colorado, Group No. 780, was accepted April 14, 1986.

This survey was executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2020 Arapahoe Street, Denver, Colorado 80205.

Jack A. Eaves,

Acting Chief, Cadastral Surveyor for Colorado.

[FR Doc. 86-9791 Filed 4-30-86; 8:45 am]

BILLING CODE 4310-JB-M

[Nev-044082]

Proposed Continuation of Withdrawal; Nevada

April 24, 1986.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that 19,261 acres of withdrawn land for the Humboldt Sink Project be continued for an additional 50 years. The land will remain closed to surface entry and mining but has been and will remain open to mineral leasing.

DATE: Comments should be received by July 30, 1986.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, (702) 784-5481.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation proposes that a portion of the existing land withdrawal made by Secretarial Order of April 4, 1958, be continued for a period of 50 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

Mount Diablo Meridian, Nevada

T. 24 N., R. 29 E.,
Sec. 12, All;
Sec. 14, That portion east of the Southern Pacific Railroad tracks;
Sec. 24, All;
Sec. 26, N½, S½SE¼, NE¼SE¼.
T. 24 N., R. 30 E.,
Sec. 2, S½;
Sec. 4, All;
Sec. 6, All;
Sec. 8, All;
Sec. 10, All;
Sec. 16, All;
Sec. 18, All;
Sec. 20, All;
Sec. 22, NW¼NW¼;
Sec. 30, All.
T. 25 N., R. 29 E.,
Sec. 24, Lots 1 and 2, NE¼NE¼, E½W½N E¼, SE¼;
Sec. 36, Lots 5 and 6.
T. 25 N., R. 30 E.,
Sec. 2, All;
Sec. 4, All;
Sec. 6, That portion east of Interstate I-80;
Sec. 8, All;
Sec. 10, All;
Sec. 14, S½, NW¼;
Sec. 16, All;
Sec. 18, All;
Sec. 20, All;
Sec. 22, All;
Sec. 24, S½, NW¼;
Sec. 26, All;
Sec. 28, All;
Sec. 30, All;
Sec. 32, All;
Sec. 34, All;
Sec. 36, NW¼.
T. 26 N., R. 30 E.,
Sec. 24, That portion east of Interstate I-80;
Sec. 26, That portion east of Interstate I-80;
Sec. 32, That portion east of Interstate I-80;
Sec. 34, All;
Sec. 36, All.

The area described contains 19,261 acres in Churchill and Pershing Counties.

The purpose of the withdrawal is to protect the construction, operation and maintenance of the Humboldt Sink Project. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the Nevada State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

Dated: April 24, 1986.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 86-9793 Filed 4-30-86; 8:45 am]

BILLING CODE 4310-HC-M

[Nev-054581]

Proposed Continuation of Withdrawal; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Forest Service proposes that a 23-acre withdrawal for the Little Meadows Administrative Site be continued for an additional 25 years. The land will remain closed to surface entry and mining but has been and will remain open to mineral leasing.

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DATE: Comments should be received by July 30, 1986.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Nevada State Office P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, (702) 784–5481.

SUPPLEMENTARY INFORMATION: The U.S. Forest Service proposes that the existing land withdrawal made by the Secretarial Order of June 29, 1908, be continued for a period of 25 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

Mount Diablo Meridian, Nevada

T. 10 N., R. 40 E. (unsurveyed),

Beginning at Cor. No. 1 a juniper post 6" diameter set in a mound of earth and stone and marked R1, whence F.S.M. above described bears N74°30' E. 1.12 chs.

Thence N15° W. 22.52 chs to Cor. No. 2 a dead pine post 8" diameter marked R2 in a blaze, set in a mound of earth and stone. A pine tree 10" diameter bears N18° W. .94 chs. marked W2 in a blaze, another pine tree marked W2 in a blaze bears N38° E. 71 chs.

Thence N75° E. 12.24 chs. to Cor. No. 3 a pine post 8" diameter set in a mound of earth and stone, and marked R3 in a blaze. Whence a pine tree 8" diameter marked W3 in a blaze, bears N27° E. 28 Chs. Another pine tree 10" diameter marked W3 in blaze bears N71° E. .35 chs.

Thence S6°30' E. 20.83 chs to Cor. No. 4 a pine post 6" diameter set in a mound of earth and stone, marked R4 in a blaze, whence a pine tree 8" in diameter, marked W4 in a blaze,m bears N80° E. .64 chs, another pine tree 1' diameter, marked W4 in a blaze, bears S16°30' E. 58 chs.

Thence S62° W. 9.28 chs to place of beginning.

The area described contains 23 acres in Nye County.

The purpose of the withdrawal is to protect the Little Meadows Administrative Site. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change in proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the Nevada State Office.

The authorized officer of the Bureau of Land Management will undertake such investigation as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the contiuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: April 24, 1986.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 86-9794 Filed 4-30-86; 8:45 am]

BILLING CODE 4310-HC-M

[Nev-043896]

Proposed Continuation of Withdrawal; Nevada

April 23, 1986.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Forest Service proposes that 520 acres of withdrawn land for the paleontological Shoshone Mountain Ichthyosaur Site be contined for an additional 25 years. The land will remain closed to surface entry and mining but has been and will remain open to mineral leasing.

DATE: Comments should be received by July 30, 1986.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, (702) 784–5481.

SUPPLEMENTARY INFORMATION: The U.S. Forest Service proposes that the existing land withdrawal made by Public Land Order 1961 of August 25, 1959, be continued for a period of 25 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

Mount Diablo Meridian, Nevada

T. 12N., R. 39 E.,
Sec. 27, N½SW¼, W½SW¼SW¼;
Sec. 28, SE¼, SE¼SW¼;
Sec. 33, NE¼, NE¼NW¼;
Sec. 34, W½NW¼NW¼.

The area described contains 520 acres in Nye County.

The purpose of the withdrawal is to protect the paleontological fossils at the Shoshone Mountain Ichthyosaur Site near Ione, Nevada. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the Nevada State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: April 22, 1986.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 86-9795 Filed 4-30-86; 8:45 am]

BILLING CODE 4310-HC-M

New Mexico; Filing of Plat of Survey

April 23, 1986.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on April 23, 1986.

A survey representing the dependent resurvey of a portion of the subdivisional lines, the adjusted record meander line of the left bank of the Canadian River, the subdivision of section 14 and the survey of the meander line of the present left bank of the Canadian River in section 14, in Township 17 North, Range 22 West, Indian Meridian, Oklahoma, under Group 43 OK.

This survey was requested by the BLM Area Manager, Oklahoma Resource Area, Tulsa District, Oklahoma.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Gary S. Speight,

Chief, Branch of Cadastral Survey.

[FR Doc. 86-9797 Filed 4-30-86; 8:45 am]

BILLING CODE 4310-12-M

[Nev-059798]

Proposed Continuation of Withdrawal, Nevada

April 23, 1986.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that 2,263.71 acres of withdrawn land for the Robert B. Griffith Water Project be continued for an additional 20 years. The land will remain closed to surface entry and mining but has been and will remain open to mineral leasing.

DATE: Comments should be received by July 30, 1986.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Nevada State Office P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, (702) 784–5481.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation proposes that a portion of the existing land withdrawal made by Public Land Order 3512 of December 7, 1964, be continued for a period of 10 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The land is described as follows:

Mount Diablo Meridian, Nevada

T. 21 S., R. 62 E.,
Sec. 23, NE¼NE¼;
Sec. 24, All;
Sec. 25, N½NE¼, SE¼NE¼, NE¼NW¼.
T. 21 S., R. 63 E.,
Sec. 19, lots 3 and 4, E½SW¼;
Sec. 28, SE¼NE¼, N½NW¼, W½SW¼, SE¼SW¼, SE¼;
Sec. 29, N½NE¼, NW¼, S½S½;
Sec. 30, lots 1, 2 and 4, NE¼, E½NW¼, SE¼SW¼, S½SE¼.

The area described contains 2,263.71 acres in Clark County.

The purpose of the withdrawal is to protect the construction, operation and maintenance of certain salinity control units associated with the Robert B. Griffith Water Project (formerly known as the Southern Nevada Water Project). This project supplies southern Nevada with water from the Colorado River. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purposes of segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the Nevada State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: April 22, 1986.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 86-9796 Filed 4-30-86; 8:45 am]

BILLING CODE 4310-HC-M

[ORE-010194]

Proposed Continuation of Withdrawal; Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service, U.S. Department of Agriculture, proposes that a land withdrawal for the Jackson Picnic Ground continue for an additional 20 years. The land would remain closed to mining but has been and would remain open to surface entry and mineral leasing.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208 (Telephone 503–231–6905).

SUPPLEMENTARY INFORMATION: The Forest Service, U.S. Department of Agriculture, proposes that the existing land withdrawal made by Public Land Order No. 2868 of May 3, 1962, be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The land involved is located approximately 20 miles southwest of Medford and contains 40 acres within Section 5, T. 40 S., R. 3 W., W.M., Jackson County, Oregon.

The purpose of the withdrawal is to protect the Jackson Picnic Ground within the Rogue River National Forest. The withdrawal segregates the land from operation of the mining laws, but not from operation of the public land laws or mineral leasing laws, No change is proposed in the purpose for segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination of the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: April 24, 1986.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-9798 Filed 4-30-86; 8:45 am]

BILLING CODE 4310-33-M

[OR-22371(WASH)]

Proposed Continuation of Withdrawal; Washington

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that a land withdrawal for the Yakima Project continue for an additional 100 years. The land would remain closed to surface entry and mining but has been and would remain open to mineral leasing.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208 (Telephone 503–231–6905).

SUPPLEMENTARY INFORMATION: The Department of Interior, Bureau of Reclamation, proposes that the existing land withdrawal made by Secretarial Order of August 9, 1907, be continued for a period of 100 years pursuant to

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section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The land involved is located approximately 30 miles west of Yakima and contains 1,623.43 acres within Section 22, 24, 28, 30, and 32, T. 14 N., R. 15 E., W.M., Yakima County, Washington.

The purpose of the withdrawal is to protect the Yakima-Tieton Diversion Dam and Main Canal and Flume of the Yakima Project. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register**. The existing withdrawal will continue until such final determination is made.

Dated: April 24, 1986.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-9799 Filed 4-30-86; 8:45 am]

BILLING CODE 4310-32-M

[W-87410]

Receipt of Exchange Proposal, Wyoming

AGENCY: Bureau of Land Management, National Park Service, Interior.

ACTION: Notice of receipt of exchange proposal between Laurance S. Rockefeller and the Department of the Interior.

SUMMARY: The proposal involves the exchange of a scenic easement of approximately 902 acres of the Heartland Area of Laurance Rockefeller's J–Y Ranch—an inholding in the Grand Teton National Park—for public coal reserves of approximately identified in the proposal are 2,720 acres in the Young's Creek area of Sheridan County, specifically in all or portions of sections 22, 23, 25, 26, 27, 34, and 35, T. 58 N., R. 84 W., 6th P.M.

The Heartland Area of the J–Y Ranch is described by metes and bounds. It lies, however, within parts of sections 4, 5, 6, and 8 of T. 42 N., R. 116 W., 6th P.M., Teton County.

The Casper District Bureau of Land Management is soliciting public comment on this exchange proposal. All comments must be received by June 9, 1986. Specific areas of interest for public comments are as follows:

(1) What, if any, are the environmental impacts of the proposed exchange?

(2) What are the impacts of the proposed exchange on competitive coal leasing?

(3) Comments or thoughts on public interest involved with processing the proposal.

(4) Comments on the values associated with either the private lands to be acquired or the public coal to be transferred into private ownership.

FOR FURTHER INFORMATION CONTACTS: All comments and any further information should be addressed to: Charles Wilkie, Special Projects Team Leader, Casper District Office, Bureau of Land Management, 951 North Poplar Street, Casper, WY 82601, (307) 261–5554.

Dated: April 24, 1986.

James W. Monroe,

District Manager.

[FR Doc. 86-9801 Filed 4-30-86; 8:45 am]

BILLING CODE 4310-22-M

[W-87105]

Wyoming; Proposed Reinstatement of Terminated Oil and Gas Lease

Pursuant to the provisions of Pub. L. 97–451, 96 Stat. 2462–2466, and Regulation 43 CFR 3108.2–3(a) and (b)(1), a petition for reinstatement of oil and gas lease W–87105 for lands in Carbon County, Wyoming was timely filed and was accompanied by all the required rentals accruing from the date of termination.

The lessee has agreed to the amended lease terms for rentals and royalties at rates of $5.00 per acre, or fraction thereof, per year and 16⅔ percent, respectively.

The lessee has paid the required $500.00 administrative fee and $106.25 to reimburse the Department for the cost of this **Federal Register** notice.

The lessee has met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), and the Bureau of Land Management is proposing to reinstate lease W–87105 effective June 1, 1985, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Andrew L. Tarshis,

Chief, Leasing Section.

[FR Doc. 86-9800 Filed 4-30-86; 8:45 am]

BILLING CODE 4310-22-M

Minerals Management Service

Development Operations Coordination Document; Union Texas Petroleum Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Union Texas Petroleum Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 6677, Block 237, Vermilion Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on April 16, 1986. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the DOCD from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m. Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44396, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Rules and Production, Plans, Platform and Pipeline Section; Exploration/Development Plans Unit, Phone (504) 838–0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: April 22, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-9808 Filed 4-30-86; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–269 and 270 (Preliminary) and 731–TA–311 through 317 (Preliminary)]

Import Investigation; Certain Brass Sheets and Strips From Brazil, Canada, France, Italy, the Republic of Korea, Sweden, and West Germany

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil (investigation No. 701–TA–269 (Preliminary)) and France (investigation No. 701–TA–270 (Preliminary)) of certain brass sheets and strips,[2] provided for in item 612.39 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Governments of Brazil and France.

Further, the Commission determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Brazil (investigation No. 731–TA–311 (Preliminary)), Canada (investigation No. 731–TA–312 (Preliminary)), France (investigation No. 731–TA–313 (Preliminary)), Italy (investigation No. 731–TA–314 (Preliminary)), the Republic of Korea (investigation No. 731–TA–315 (Preliminary)), Sweden (investigation No. 731–TA–316 (Preliminary)), and West Germany (investigation No. 731–TA–317 (Preliminary)) of certain brass sheets and strips,[3] provided for in item 612.39 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On March 10, 1986, petitions were filed with the U.S. International Trade Commission and the U.S. Department of Commerce by counsel on behalf of American Brass, Buffalo, NY; Bridgeport Brass Corp., Indianapolis, IN; Chase Brass & Copper Co., Solon, OH; Hussey Copper Ltd., Lettsdale, PA; The Miller Co., Meriden, CT; Olin Corp. (Brass Group), East Alton, IL; and Revere Copper Products, Inc., Rome, NY. The following trade unions are also petitioners: The International Association of Machinists and Aerospace Workers; the International Union, Allied Industrial Workers of America (AFL–CIO); Mechanics Educational Society of America, Local 56; and the United Steelworkers of America (AFL–CIO/CLC).

The petitions allege that an industry in the United States is materially injured and threatened with material injury by reason of imports from Brazil and France of certain brass sheets and strips which are alleged to be subsidized by the Governments of Brazil and France. In addition, the petitions allege that an industry in the United States is materially injured and threatened with material injury by reason of imports from Brazil, Canada, France, Italy, the Republic of Korea, Sweden, and West Germany of certain brass sheets and strips which are allegedly being sold in the United States at LTFV.

Accordingly, the Commission instituted, effective March 10, 1986, preliminary countervailing duty investigations Nos. 701–TA–269 (Preliminary) (Brazil) and 701–TA–270 (Preliminary) (France), under section 703(a) of the Tariff Act of 1930, and, further, the Commission instituted, under section 733(a) of the Tariff Act of 1930, preliminary antidumping investigations Nos. 731–TA–311 (Preliminary) (Brazil), 731–TA–312 (Preliminary) (Canada), 731–TA–313 (Preliminary) (France), 731–TA–314 (Preliminary) (Italy), 731–TA–315 (Preliminary) (the Republic of Korea), 731–TA–316 (Preliminary) (Sweden), and 731–TA–317 (Preliminary) (West Germany).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 19, 1986, (53 FR 9536). The conference was held in Washington, DC, on April 4, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on April 24, 1986. The views of the Commission are contained in USITC Publication 1837 (May 1986), entitled "Certain Brass Sheets and Strips from Brazil, Canada, France, Italy, the Republic of Korea, Sweden, and West Germany: Determinations of the Commission in Investigations Nos. 701–TA–269 and 270

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[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] For purposes of these investigations, the term "certain brass sheets and strips" refers to brass sheets and strips of solid rectangular cross section, over 0.006 inch but not over 0.188 inch in thickness, in coils or cut to length, whether or not corrugated or crimped, but not cut, pressed, or stamped to nonrectangular shape, provided for in items 612.3960, 612.3962, and 612.3968 of the *Tariff Schedules of the United States Annotated* (TSUSA). The petitions limit the scope of the investigations to sheets and strips of brass alloys designated as "C20000-series" under the nomenclature and numbering system of the Unified Numbering System (UNS) or the equivalent "200-series" under the Copper Development Association (CDA) numbering system.

[3] For purposes of these investigations, the term "certain brass sheets and strips" refers to brass sheets and strips of solid rectangular cross section, over 0.006 inch but not over 0.188 inch in thickness, in coils or cut to length, whether or not corrugated or crimped, but not cut, pressed, or stamped to nonrectangular shape, provided for in items 612.3960, 612.3962, and 612.3968 of the *Tariff Schedules of the United States Annotated* (TSUSA). The petitions limit the scope of the investigations to sheets and strips of brass alloys designated as "C20000-series" under the nomenclature and numbering system of the Unified Numbering System (UNS) or the equivalent "200-series" under the Copper Development Association (CDA) numbering system.

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(Preliminary) and 731-TA-311 through 317 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

Issued: April 24, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-9708 Filed 4-30-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-240]

Import Investigation; Certain Laser Inscribed Diamonds and the Method of Inscription Thereof; Decision Not To Review Initial Determination Adding a Respondent and Amending the Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Nonreview of an initial determination adding a respondent and amending the notice of investigation.

SUMMARY: Notice is hereby given that the Commission has determined not to review an initial determination (ID) (Order No. 4) issued by the presiding administrative law judge (ALJ) in the above-captioned investigation granting the Commission investigative attorney's (IA) motion to add A. Schwartz of Tel Aviv, Israel, as a respondent in the investigation and amending the notice of investigation to reflect this action.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of General Counsel, U.S. International Trade Commission, telephone 202-523-0189.

SUPPLEMENTARY INFORMATION: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.53 of the Commission's rules of Practice and Procedure (19 CFR 210.53).

On February 6, 1986, the Commission voted to institute the above-captioned investigation. At the time of this decision the identity of the foreign source of the allegedly infringing inscribed diamonds was unknown. Subsequently, respondents identified A. Schwartz of Tel Aviv, Israel as the source of their imported inscribed diamonds.

On March 18, 1986, the IA filed a motion to add A. Schwartz as a respondent and to amend the notice of investigation. Motion No. 240-1. On March 26, 1986, the presiding ALJ granted the motion and certified the ID to the Commission. Order No. 4. Counsel for complainant Lazare Kaplan and respondents Sears Roebuck & Co. and I.B. Goodman represented during a preliminary conference that they did not oppose the motion. The Commission did not receive any petitions for review of the ID.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

Hearing-impaired individuals are advised that information concerning this investigation can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Issued: April 22, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-9709 Filed 4-30-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-229]

Import Investigation; Certain Nut Jewelry and Parts Thereof; Receipt of Initial Determination Terminating Respondent on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a consent order agreement: RDCO, Inc. (RDCO).

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on April 23, 1986.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0170.

Issued: April 23, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-0710 Filed 4-30-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-83]

Import Investigation; Certain Window Shades; Commission Decision To Maintain Exclusion Order Pending the Outcome of the Appeal to the Court of Appeals for the Federal Circuit of the Federal District Court Decision Holding Invalid the Patent Underlying the Exclusion Order

AGENCY: International Trade Commission.

ACTION: The Commission has decided not to modify or vacate the exclusion order issued in June 1981 in the above-captioned investigation pending the outcome of the appeal of *Newell Companies Inc.* v. *Kenney Manufacturing Co.*, 606 F. Supp. 1282 (D.R.I. 1985) to the Court of Appeals for the Federal Circuit.

FOR FURTHER INFORMATION CONTACT: Jean Heck, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-1693.

SUPPLEMENTARY INFORMATION: On June 30, 1985, McCrory Corporation, an importer of window shades, informed the Commission that a Federal district court had determined that the patent underlying the exclusion order issued in the above captioned investigation was invalid. *See Newell Companies Inc.* v. *Kenney Manufacturing Co.*, 606 F. Supp. 1282 (D.R.I. 1985). As a result, the Commission instituted a review proceeding pursuant to Commission rule 211.57 to determine whether the *Window Shades* exclusion order should be modified or vacated at this time. Notice of this review proceeding was published in the **Federal Register** on October 9, 1985 (50 FR 41229). Interested parties were invited to file submissions. Submissions were received from the complainant Newell Window Furnishing Company and the McCrory Corporation.

Copies of the Commission's Action and Order and all other nonconfidential documents filed in connection with this review proceeding are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436, telephone 202-523-0161.

Issued: April 21, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-0711 Filed 4-30-86; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No AB-261X and AB-263X]

Staten Island Rapid Transit Operating Authority—Abandonment Exemption—Richmond County, NY and Staten Island Railway Corp.—Discontinuance of Service Exemption—Richmond County, NY

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment and discontinuance of freight service over an entire line of railroad extending approximately 14.5 miles from St. George, Staten Island, NY to Tottenville, Staten Island, NY by Staten Island Rapid Transit Operating Authority and Staten Island Railway Corporation, respectively. the discontinuance of service is subject to standard employee protective conditions.

DATES: This exemption is effective June 2, 1986. Petitions to stay must be filed by May 12, 1986 and petitions for reconsideration must be filed by May 20, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB-261X and Docket No. AB-263X to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Edward D. Greenberg, Esq., 1054 Thirty-First Street, NW., Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Interstate Commerce Commission Building, Room 2229, Washington, DC 20423 or call 289-4357 (DC Metropolitan Area) or toll free (800) 424-5403.

Decided: April 22, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,

Secretary.

[FR Doc. 86-9766- Filed 4-30-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of a Settlement Agreement Pursuant to the Clean Water Act; Victory Polishing & Plating Co., Inc.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed settlement agreement in *United States* v. *Victory Polishing & Plating Co., Inc.*, Civil Action No. 85-0157P, has been reached and a stipulation of dismissal without prejudice was lodged with the United States District Court for the District of Rhode Island on April 28, 1986. The agreement concerns violations of the Clean Water Act's pretreatment standards and reporting requirements, as established under 40 CFR Parts 403 and 413. The proposed agreement requires the defendant to pay $100,000 in civil penalties and maintain compliance with the pretreatment limits for copper, nickel, zinc, lead, cadmium, chromium, silver, cyanide and pH. The settlement agreement also provides for a regular monitoring program beginning as of May 1, 1986.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the settlement agreement. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, DC 20530 and should refer to *United States* v. *Victory Polishing & Plating Co., Inc.*, D.J. Ref. No. 90-5-1-1-2340.

The proposed settlement agreement may be examined at the Office of the United States Attorney, District of Rhode Island, 223 Federal Building & Courthouse, Kennedy Plaza, Providence, Rhode Island 02903; at the Region I office of the Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts 02203; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed settlement agreement may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $2.00 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General Land and Natural Resources Division.

[FR Doc. 86-9679 Filed 4-30-86; 8:45 am]

BILLING CODE 4410-01-M

Lodging of a Consent Decree Pursuant to the Clean Air Act; Andersons

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on April 21, 1986, a proposed consent decree in *United States* v. *The Andersons*, Civil Action No. C-83-455 was lodged with the United States District Court for the Northern District of Ohio. The proposed consent decree concerns the installation of air pollution control equipment to control grain dust emissions that occur during shiploading operations at The Andersons' grain terminal elevator in Toledo, Ohio. The proposed consent decree requires the defendant to undertake remedial measures at its facility and to meet a compliance schedule for the installation and maintenance of a mineral oil spray system and related air pollution control equipment. The decree also requires defendants to pay a civil penalty of $25,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division,

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Department of Justice, Washington, DC 20530, and should refer to *United States v. The Andersons*, D.J. Ref. 90-5-2-1-571.

The proposed consent decree may be examined at the office of the United States Attorney, Northern District of Ohio, 307 U.S. Courthouse, Toledo, Ohio 43624 and at the Region V Office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.50 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-9621 Filed 4-30-86; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes a notice at least once monthly of all agency records schedules (requests for records disposition authority) which include records proposed for disposal. The first notice was published on April 1, 1985. Records schedules identify records of continuing value for eventual preservation in the National Archives of the United States and authorize agencies to dispose of records of temporary value. NARA invites public comment on proposed records disposals as required by 44 U.S.C. 3303a(a).

DATE: Comments must be received in writing on or before June 30, 1986.

ADDRESS: Address comments and requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Achives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parenthesis immediately after the title of the requesting agency.

SUPPLEMENTARY INFORMATION:

Each year U.S. government agencies created billions of records in the form of paper, film, magnetic tape, and other media. In order to control the accumulation of records, Federal agencies prepare records schedules which specify when the agency no longer needs them for current business and what happens to the records after the expiration of this period. Destruction of the records requires the approval of the Archivist of the United States, which is based on a thorough study of their potential value for future use. A few schedules are comprehensive; they list all the records of an agency or one of its major subdivisions. Most schedules cover only one office, or one program, or a few series of records, and many are updates of previously approved schedules.

This public notice identifies the Federal agencies and their appropriate subdivisions requesting disposition authority, includes a control number assigned to each schedule, and briefly identifies the records scheduled for disposal. The complete records schedule contains additional information about the records scheduled for disposal. The complete records schedule contains additional information about the records and their disposition. Additional information about the disposition process will be furnished with each copy of a records schedule requested.

Schedules Pending Approval

1. Department of Agriculture, Science and Education Division, Cooperative State Research Service (N1-164-86-1). Project case files, river basin reports, grant case files, working papers, and routine administrative records relating to house-keeping functions in the Office of Experiment Stations.

2. Department of Agriculture, Forest Service, Office of Information (NC1-95-84-6). Correspondence dealing with production of Forest Service publications and clearances; copies of Forest Service publications located in offices other than the originating office.

3. Department of the Air Force, Directorate of Administration (N1-AFU-86-42). Medical War Reserve Quality Assurance Records.

4. Department of the Air Force, Directorate of Administration (N1-AFU-86-45). Drug abuse testing program records.

5. Department of the Air Force, Directorate of Administration (N1-AFU-86-46). Daily Audit lists.

6. Department of the Army, Records Management Operations Office (N1-AU-86-33). Mapping work assignment files.

7. Department of the Army, Records Management Operations Office (N1-AU-86-34). Mapping production and reproduction control files.

8. Department of the Army, Records Management Operations Office (N1-AU-86-44). Map requisition files.

9. Department of the Army, Records Management Operations Office (N1-AU-86-46). Map stock level files.

10. Department of the Army, Records Management Operations Office (N1-AU-86-47). Map manuscript reproduction control files.

11. Department of Commerce, Bureau of the Census (NC1-29-84-3). Comprehensive schedule for the records of the Agriculture Division, Bureau of the Census.

12. U.S. Geological Survey, National Mapping Division (NC1-57-84-3). Photogrammetric drawings with annotated data that are reproduced on related printed maps.

13. Department of Housing and Urban Development, Office of Inspector General (NC1-207-85-1). Audits and investigation case files, general subject and program files, previous participation check files and ADP tracking systems.

14. Department of Justice, Federal Bureau of Investigation, Records Management Division (N1-65-86-23). Establishment of standards for transfer and custody of materials restricted by statute (tax return information, grand jury and Title III (wire-tap) materials) and found in permanently valuable investigative case files.

15. Department of Labor, Assistant Secretary for Policy, Evaluation and Research (N1-174-86-1). Machine readable records containing information on employment, unemployment, and benefit payments in Arizona and Pennsylvania during the period 1957-1972.

16. Department of the Navy, Commander Caribbean Sea Frontier, Movement Report Center (N1-313-86-4). Hydrographic Office charts annotated with ships position information.

17. Pennsylvania Avenue Development Corporation, Development Division and Real Estate Division (N1-220-86-1). Records relating to the management of real estate, including reports by property management consultants, correspondence, insurance documentation, and related materials.

Dated: April 24, 1986.

Claudine J. Weiher,

Acting Archivist of the United States.

[FR Doc. 86-9717 Filed 4-30-86; 8:45 am]

BILLING CODE 7515-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Northwest Conservation and Electric Power Plan 1986 Revision

AGENCY: Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of revision of the Northwest Conservation and Electric Power Plan.

SUMMARY: The Northwest Power Planning Council is an interstate compact agency formed by the four northwest states under the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (16 U.S.C. 839 (1980)) (Northwest Power Act or Act) for the purpose among others, of developing a 20-year electrical power plan that would ensure the lowest cost electrical energy future for the Pacific Northwest. On April 27, 1983, the Council adopted its first power plan. Although the Act requires the Council to review the plan at least every five years, because of ongoing changes in the regional energy picture and in order to incorporate the latest technology and analysis, the Council determined in the 1983 Plan to review the plan in two years. After several months of public discussion of issue papers on key matters that the Council circulated to interested persons in the region, the Council published a draft revised power plan for comment on August 7, 1985 (50 FR 37100-03, September 11, 1985) and thereafter held public hearings, consultations, and received public comments until the close of the comment period on October 25, 1985. The Council has also voted at its July 10, 1985 meeting to enter rulemaking to amend those portions of the 1983 Plan relating to model conservation standards (50 FR 30854-61, July 26, 1985; 50 FR 33435, August 19, 1985) and accepted comments in that rulemaking through October 23, 1985. Even though the comment periods for the 1986 Power Plan revision and the model conservation standards amendment rulemakings overlapped in large part, the two rulemakings were separate processes. The Council is incorporating the model conservation standards amendments which were adopted at its December 4, 1985 meeting in Portland Oregon. (51 FR 7364-75, March 3, 1985) into this revised plan. Therefore, certain technical non-substantial revisions to the model conservation standards amendments as first published will be made to conform the amendments to the format of this revised power plan.

FOR FURTHER INFORMATION CONTACT: Dulcy Mahar, Director of Public Information and Involvement, at Northwest Power Planning Council, 850 S.W. Broadway, Suite 1100, Portland, Oregon 97205, or at (503) 222-5161, or (toll-free) 1-800-222-3355 (in Montana, Idaho or Washington) or 1-800-452-2324 in Oregon. Copies of this notice and the final revised power plan will be mailed to all those who commented on the draft revised plan. Others may obtain copies upon request.

SUPPLEMENTARY INFORMATION:

Background

The 1983 Power Plan

The Northwest Power Act requires the Council to develop a 20-year regional electrical energy plan, to be carried out by the Bonneville Power Administration, to provide the most economical electrical energy future possible for the Pacific Northwest. In 1983, the Council published its initial 20-year power plan, (48 FR 24493, June 1, 1983).

The 1983 Plan introduced several innovations in the power planning process for the Northwest. First, the Council adopted a policy of range forecasting for estimating future demand for electricity, focusing not on a single predicted rate of growth, but rather on a range of four possible rates, from high to low. Second, the plan incorporated a resource portfolio comprised of energy resources selected in part for their flexibility, to reduce the risk of over or under-building. Third, conservation was chosen as the cornerstone of the region's energy future, based on the determination that it is both the least expensive and most flexible available resource. Finally, the 1983 Plan provided that any new resource development would have to be harmonized with the Council's parallel regional planning mandate, a program to protect, mitigate and enhance the Northwest fish and wildlife and other environmental concerns.

The Council voted on August 7, 1985 to enter rulemaking to amend the 1983 Plan and to release draft revised power plan for public comment. (50 FR 37100-03, September 11, 1985.) Hearings, advertised in the region's largest circulation newspapers, were held in each of the four states in the region and Council members and staff met in consultation with public utility commissions, utility groups, State and local government organizations, and citizen environmental groups. During the comment period, the Northwest Public Power Association sponsored a two-day Draft Power Workshop, featuring four members of the Council, the Council's executive director, staff members, and representatives from utilities, state energy offices, local governments, industries and conservation groups. Finally, in November and December, the Council held a series of meetings open to the public at which important issues raised by the draft plan were discussed and resolved.

Differences in the 1986 Power Plan

The principal differences in the 1986 Plan reflect changed conditions and trends in the Northwest. The surplus that the 1983 Plan identified is now viewed as more expensive and longer lasting than previously expected. Economic growth in the Northwest has been slower than in the rest of the country and electrical demand has grown at a proportionally slower rate. Experience since 1983 has also shown that the surplus is unevenly distributed: Public utilities served by Bonneville appear to have a long term surplus, while some investor owned utilities (IOUs) serving the highest growth areas may require new resources in the very near future. The 1983 Plan expected that Bonneville would lead and unify the region in acquiring new resources. In fact, the region has grown yet more decentralized, with Bonneville supplying less than half the region, primarily the public utility customers and direct service industries. The 1986 Plan calls on Bonneville to develop a predictable, new resource rate as an incentive to bring about better cooperation among the region's utilities. The 1986 Plan also calls for a coordinated approach to resource acquisition for all utilities. Central to the revised power plan approach is regional cooperation, calling for regional sharing of resources such as conservation and better use of the existing hydropower system, as well as equitable sharing of cost allocations for resources and resource options.

The 1986 Plan also focuses on increased uncertainties that have arisen since the 1983 Plan. Chief among these are the future of the direct service industries (DSIs), the future of the region's two partially completed nuclear plants and the future of power sales and purchases outside the region, chiefly in California. The DSIs use about 15% of the region's electrical power, should they leave the Northwest, the cost-effectiveness of completing the

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unfinished nuclear plants would be dramatically affected. In 1983, the Council assumed that Washington Public Power Supply System Nuclear Projects (WNP) 1, 2, and 3 would be completed and therefore considered these plants among existing and soon-to-be-completed resources. Only WNP 2 was finished. WNP 1 and 3 were omitted from the 1986 portfolio because of legal and financial barriers that render the future of the plants too uncertain to meet the "reliable and available" criterion required by the Northwest Power Act for inclusion in the portfolio. The 1986 Plan regards the plants as potential options and encourages resolution of the barriers to their completion, since they would be cost-effective should the power be needed.

The 1986 Plan also reduces significantly the estimate of available hydropower. The 1983 Plan called for 920 megawatts of new hydropower in the high forecast; the 1986 Plan considers only 200 megawatts available. This figure is based on only that hydropower that could be achieved by upgrading existing sites. The region's hydropower assessment study will be completed later in 1986, establishing which sites are acceptable for development, until then, no new hydropower sites are included in the plan.

Strategies to make better use of the existing hydropower system is a 700 megawatt resource that appears for the first time in the 1986 portfolio. This significant source of power would be used to supply firm loads in the Northwest. The hydropower system currently uses the amount of hydropower available in historic low water years to meet firm, or contractual, power loads. In an average water year, however, the system generates 4,100 additional megawatts, termed "nonfirm" because they cannot be counted on every year. The 1986 Plan calls for exploring a number of strategies to back up this nonfirm power, thus increasing the amount of firm power that could be sold in the Northwest.

The 1986 Plan also reduces the amount of conservation available by almost 1,000 megawatts. The region's slow economic growth means that fewer new buildings will be built. If building activity is reduced, the opportunities for conservation are proportionally decreased. The Council also omitted structures that have been weatherized since 1983, thereby further reducing the amount of available conservation.

The 1986 Plan has adopted a new approach in setting out the activities Bonneville is called upon to perform in carrying out its responsibilities under the plan. In 1983, the plan contained an Action Plan that listed in considerable detail the actions that Bonneville was meant to implement. In the 1986 Plan, the Action Plan establishes goals and objectives and particular activities that Bonneville must accomplish if the region is to achieve its lowest cost energy future, but gives Bonneville greater flexibility in how it will meet these obligations. The Action Plan calls upon Bonneville to develop work plans designed to meet the goals and objectives and to brief the Council on its progress.

Description of the 1986 Power Plan

After considering the public comments received the Council voted to adopt the final revised plan at its January 23, 1986 meeting in Portland, Oregon. A summary of the revised plan is provided below. The revised plan itself consists of two volumes. Volume I contains the planning strategy, important regional power issues, lowest cost mix and schedules for new resources acquisitions, and the Action Plan that the region needs to follow to ensure an adequate and reliable supply of electricity at the lowest cost. Volume II is the technical analysis and supporting materials for the policy decisions presented in Volume I. Copies of Volumes I and II of the power plan will be mailed to all those who commented on the draft plan. They are available to others upon request through the Council's Director of Public Information as noted above.

Summary of the 1986 Plan

The new plan emphasizes the following priorities. Specific activities to achieve these objectives are outlined in the Action Plan.

- Securing "lost opportunity" resources: Lost opportunity resources are cost-effective resources, if not developed now, could be lost forever to the region. The most prominent example is found in the Model Conservation Standards for new buildings. If buildings are not constructed to be energy efficient now, they will continue to use electricity inefficiently long after the surplus is over.
- Promoting a stronger regional role for the Bonneville Power Admininstration: The Council is calling on Bonneville to take a more aggressive role in forging regional cooperation. The Council points in particular to the need for Bonneville to develop a predictable rate for new resources so that investor-owned utilities will have an incentive to turn to Bonneville for power as an alternative to developing more expensive resources on their own.
- Developing conservation on a regional basis: The plan calls for the sharing of conservation costs and benefits among utilities.
- Strategies to make better use of the hydropower system: See the Resource Portfolio section below.
- Building conservation capability in all sectors: While there is a current surplus of power, the Council wants conservation programs to the developed and tested so that they can come on line when they are needed.
- Demonstrating the cost effectiveness of renewable resources (wind, geothermal, solar) so they will be available before the region has to build new thermal generating resources.
- Allocating the costs of preserving the two unfinished nuclear plants and removing barriers to their preservation and completion.
- Studying electrical power sales and purchases between regions.

The Council's Planning Strategy

The plan includes a forecast range of future electrical power needs over the next 20 years and a portfolio of new electrical energy resources to meet those needs. The portfolio of new resources specifies the types and amounts of resources that will be needed, and provides a schedule for bringing those resources into service to meet growth in the Northwest.

To minimize the risk of either under- or overbuilding resources, the Council uses a range of forecasts from low to high growth, rather than a single forecast. Because resources are selected for their flexibility they can be developed in increments and brought into service at different times, depending on where growth falls within the forecast range. Under the Council's plan, the region should be prepared to meet a wide range of electrical use over the next 20 years.

At the low end of the forecast range (annual demand growth rate of 0.2 percent), the region would continue with a power surplus over the next 20 years, and conservation could meet all the region's new electrical energy needs. At the high end of the range (annual demand growth rate of 2.7 percent), the region would consume the surplus by 1990, when it would need new resources. In the case of extreme high growth, the region could need as many as 12 new coal plants by the end of the 20-year planning period. Where the region falls between these two extremes will depend largely on its economic growth. The range represents an 11,000 megawatt spread between the two extremes.

The Council's power plan places heavy emphasis on managing risk in order to protect the Northwest's energy supply and to reduce the costs to ratepayers. On one extreme, the risk is an inadequate supply of electricity. The risk on the other end of the spectrum is overbuilding thermal resources, coal and nuclear plants, so that ratepayers are paying for expensive resources they do not need.

The Council's power plan emphasizes energy conservation, flexible resources, and resource "options" to minimize risk. For example, resources that can be developed in increments or resources that have shorter construction lead times are preferred because they can match electrical energy needs more closely. The options concepts gives energy planners two decision points before they commit huge sums of money to construct a new resource. A resource can be taken through the relatively inexpensive but time-consuming stages of design, siting and licensing, then held in reserve as an option until it is needed. When it is needed, the resource can begin construction. If it is not needed, it can be delayed or terminated.

The Resource Portfolio

To be included in the portfolio, a resource must be available, reliable, and its environmental impacts must be controllable and acceptable. New resources are to be brought on line in a specific sequence as the region's power demand grows: the most cost effective are used first and are listed in that order. The megawatt figures following each resource indicate the total amount of that resource the Council has identified as available and reliable in the highest power demand forecast. Lesser amounts of the resource would be used for lower growth in demand.

- *Conservation: 3,900 megawatts.* The Council treats conservation as the equivalent of a generating resource because each megawatt of energy saved is a megawatt that does not need to be produced to serve Northwest electrical power needs. Less conservation is available with lower growth because fewer new buildings are constructed. Conservation is called for in all sectors: Residential, commercial, governmental, industrial and agricultural. The model conservation standards for new buildings, if adopted regionwide, would cover all the region's new electrical power needs if growth proceeds at the low end of the forecast range.
- *Better use of the existing hydropower system: 700 megawatts.* Energy planners estimate the amount of hydropower available based on an historic low water year, which is called the critical water standard. The hydropower produced up to the critical water standard is called firm power because it can be counted on. An average water year, however, produces a third more power, and good water years can nearly double the hydropower available. This additional hydropower is called nonfirm power because its availability depends on the weather.

The Council has identified 700 megawatts of nonfirm power that could be cost effectively "firmed up," that is, backed up with other power sources, to meet the Northwest's firm power needs. Because the surplus provides time to plan, the Council is calling on the region to explore strategies to expand the use of the Northwest's existing hydropower system, which produces electricity at a fraction of the cost of electricity generated at new thermal plants. While the Council is not recommending a particular strategy at this time, possibilities include using combustion turbines, short-term power purchases from Canada or other parts of the U.S., or load-management policies that would more closely match the region's power loads with the output of the hydropower system.

- *Hydropower: 200 megawatts.* The Council has included only new hydropower available through improvements and upgrades at existing hydropower sites. No new sites will be included until the Council completes a regionwide assessment of potential hydropower sites and their impact on the environment. This study will be used to designate areas that should be protected.
- *Cogeneration: 320 megawatts.* Congeneration is the simultaneous production of electricity and other useful heat energy from a fuel source. Often, it involves the recovery of "waste" energy from various industrial and commercial applications. This energy is typically used for industrial processes or space heating applications. There is considerable uncertainty over the amount and cost of the cogeneration potential in the region, and the Council based its estimate on a survey of Northwest industrial companies conducted by the Pacific Northwest Utilities Conference Committee.
- *Coal: 5,425 megawatts (12 plants).* Coal is the last and most expensive resource to come on line and would be used only if high growth made it necessary. Needing all 12 plants would require unprecedented high growth. The plan calls for intensified research and testing of renewable energy resources so that they can be ready and cost effective before the region needs to turn to some or all of the coal plants.

Response to Comments

In the course of the comment period on the draft revised power plan, the Council received written and oral comments from approximately 150 different groups and individuals. Verbatim transcripts of oral comments presented at public hearings amounted to approximately 1,180 pages. Two hundred twelve written comments were received, ranging in length from a single page to volumes of more than 250 pages, including a legislative style mark up of the plan. Summaries of all significant public comments received during the public comment period and the Council's responses to them are incorporated by reference in this notice. The Council's summaries and responses are available from the Public Information and Involvement Division at the address and telephone numbers listed in this notice.

Legal Effect of This Notice

The Act provides that suits seeking judicial review of final amendments to the power plan must be filed on or before June 30, 1986 (16 U.S.C. 839(e)(5)).

Edward Sheets,

Executive Director.

[FR Doc. 86-9579 Filed 4-30-86; 8:45 am]

BILLING CODE 0000-00-M

PRESIDENTIAL COMMISSION ON THE SPACE SHUTTLE CHALLENGER ACCIDENT

[Notice 86-33]

Meeting

AGENCY: Presidential Commission on the Space Shuttle Challenger Accident.

ACTION: Notice of meeting

SUMMARY: In Accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the Commission announces the forthcoming meeting.

DATE AND TIME: May 2, 1986, beginning at 9:30 a.m.

ADDRESS: Old Executive Office Building, Pennsylvania Avenue and 17th Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Dr. Alton G. Keel, Executive Director, Presidential Commission on the Space Shuttle Challenger Accident (202/453-1797).

Purpose of Meeting: To obtain further information on the history of the Solid Rocket Booster joint problems.

SUPPLEMENTARY INFORMATION: The Presidential Commission on the Space Shuttle Challenger Accident was

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established as a group of distinguished leaders of the government and the scientific, technical and management communities to investigate the accident of the Space Shuttle Challenger which occurred on January 28, 1986. The meeting will be closed to the public pursuant to 5 U.S.C. 552b(c)(9)(B) because the nature of the meeting is likely to disclose information if disclosed prematurely would be likely to significant frustrate implementation of proposed action by the Commission.

Exceptional circumstances requiring less than 15 days notice: The meeting was required to be held promptly due to the Presidential direction that the Commission investigate the January 28, 1986, Space Shuttle Challenger accident and submit a final report to the President and the Administrator of the National Aeronautics and Space Administration within 120 days of issuance of Executive Order 12546, dated February 3, 1986.

Dated: April 28, 1986.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 86-9976 Filed 4-30-86; 10:11 pm]

BILLING CODE 7510-01-M

POSTAL SERVICE

Privacy Act of 1974; Matching Program—Postal Service/State of Missouri Department of Social Services

AGENCY: Postal Service.

ACTION: Notice of Computer Matching Program—U.S. Postal Service/State of Missouri Department of Social Services.

SUMMARY: The purpose of this document is to publish notice of the Postal Service's plan to conduct a computer matching program through a comparison of its "Payroll System File" (USPS 050.020, Finance Records—Payroll System) with the Missouri Department of Social Services' (M–DSS) file of absent parents who are legally obligated by judicial or administrative order to pay child support to children receiving social services in Missouri and absent parents on whom such a support order could be entered if their location and/or financial resources were known.

DATE: It is anticipated that the match will begin on or about May 15, 1986.

ADDRESS: Send any comments to Records Officer, Room 8121, U.S. Postal Service, 475 L'Enfant Plaza, SW., Washington, DC 20260–5010. Copies of all written comments will be available for inspection and photocopying between 9:00 a.m. and 4:00 p.m., Monday through Friday, in Room 8121 at the above address.

FOR FURTHER INFORMATION CONTACT: Betty E. Sheriff, Records Office (202) 268–5158.

SUPPLEMENTARY INFORMATION: At the request of the M–DSS, the USPS has agreed to assist the M–DSS in its efforts to locate postal employees who are absent parents against whom the M–DSS is enforcing or seeking to enforce a child support obligation. Set forth below is the information required by paragraph 5.f.(1) of the Revised Supplemental Guidance for Conducting Computerized Matching Programs issued by the Office of Management and Budget (47 FR 21656; May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Report of a Matching Program: U.S. Postal Service (USPS) and Missouri Department of Social Services (M–DSS).

a. *Authority:* 39 U.S.C. 404.

b. *Program Description:* Under the planned program, the M–DSS will provide to the USPS a computer tape of its absent parents who are legally obligated by judicial or administrative order to pay child support, and absent parents on whom a support order could be entered if their location and/or financial resources were known. The USPS will match that tape, using name and Social Security Account Number (SSAN), against its Payroll System file of employees. The purpose of this match is to identify current postal employees who are absent parents of, and have support obligations to, children receiving services in Missouri under Title IV–D of the Social Security Act. In instances where employee SSANs match, i.e., "hits," the USPS will disclose to the M–DSS the following information from its payroll file: Name, SSAN, date of birth, home address, facility where employed and annual gross wage information.

The validity of "matched" employee/absent parent information will be verified by the Division of Child Support Enforcement, M–DSS. Subsequent actions may include further investigation, and, if appropriate, entry of an administrative order or a judicial order, order to withhold earnings, wage assignment, garnishment, or attachment and property liens. Further, the USPS Inspection Service may participate in the investigation of hits as a result of this matching program and establish investigative cases files within the parameters of Privacy Act system USPS 080.010, "Inspection Requirements Investigative File System" (last published in 48 FR 10975 of March 15, 1983). Disclosure of this information is authorized by routine use Nos. 25 and 28 in USPS 050.020, Payroll System, most recently published in 50 FR 28862 of July 16, 1985.

c. *Period of the Match:* The matching program will be on a one-time basis and is expected to begin in May 1986 and end no later than December 1987.

d. *Security:* The USPS personnel who perform the match will: (a) Have the only USPS access to the M–DSS computer tape; (b) use it for the purpose of the match and for no other purpose; and (c) safeguard it from unauthorized access. Likewise, the postal employee information disclosed to M–DSS will be used by authorized M–DSS personnel only for the purpose of the match and for no other purpose and will be safeguarded from unauthorized access. All information exchanged as a result of this matching project will be maintaind in locked file areas when not in use.

e. *Disposition of Records:* The USPS will not retain or copy the tape provided by the M–DSS and will return it to the M–DSS within six months from the date of its receipt. All information compiled as a result of this matching effort must be destroyed as soon as the determination is made that no illegality has occurred.

f. *Further Comments:* No bestowed rights, privileges, or benefits will be terminated solely on the basis of a "hit" or the records provided by the USPS in connection with this program.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86-9782 Filed 4-30-86; 8:45 am]

BILLING CODE 7710-12-M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of proposal(s):

(1) Collection title: Public Service Pension Questionnaire
(2) Form(s) submitted: G–206
(3) Type of request: Revision of a currently approved collection
(4) Frequency of use: On occasion
(5) Respondents: Individuals or households
(6) Annual responses: 10,000
(7) Annual reporting hours: 833
(8) Collection description: A spouse of survivor annuity under the RR Act may be subjected to a reduction for a public service pension. The questionnaire obtains the information needed to determine if the reduction applies and the amount of such reduction.

Additional information or comments: Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312–751–4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Judy McIntosh (202–395–6880), Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 86-9816 Filed 4-30-86; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Holding Company Act Release No. 24067; Administrative Proceeding File No. 3–6649; 70–7112]

The Columbia Gas System, Inc. and TriStar Gas Marketing, Inc.; Notice of and Order for Hearing on Proposed Financing of Newly Organized Nonutility Subsidiary

April 22, 1986.

The Columbia Gas System, Inc. ("Columbia"), 20 Montchanin Road, Wilmington, Delaware 19807, a registered holding company, and its newly organized subsidiary company, TriStar Gas Marketing, Inc. ("TriStar"), 1600 Dublin Road, Columbus, Ohio, have filed an application-declaration with this Commission pursuant to sections 6(a), 7, 9(a), 10, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 promulgated thereunder. Notice of the filing of said application-declaration was given by the Commission on June 20, 1985 (HCAR No. 23737). Requests for a hearing were filed by the Office of Consumers' Counsel, State of Ohio ("OCCO"), and Vescorp Industries ("Vescorp").

TriStar was organized under the laws of Delaware on April 22, 1985, and its authorized capital is $20 million, consisting of 800,000 shares of common stock $25 par value per share. TriStar does not have any issued securities or outstanding capital. It is stated that the availability of deregulated gas and the general surplus of gas supplies in general over the last few years have created a growing spot market which was virtually non-existent two years ago. It is proposed that TriStar would participate in this new aspect of the natural gas industry by offering both local distribution companies and end-use customers an array of marketing services related to the acquisition, sale, exchange, and transportation of a variety of spot market and other gas supplies. TriStar would be staffed with a group of full-time employees who possess experience and expertise in gas marketing, transportation and exchange, procurement, finance, and law. The initial staff would total 10–15 persons inclusive of clerical and secretarial support. Accounting and other services would be procured through the system service corporation or, if not available there, through outside contractors. TriStar may sell spot-market gas to Columbia's distribution subsidiaries, but it will not provide services to nor act as an agent for the distribution companies for a fee without prior approval of this Commission.

For initial start-up costs and capital needs, it is estimated that TriStar will require up to $5 million. It proposed that these funds be provided by the issuance and sale by TriStar, and the acquisition by Columbia, of up to 200,000 shares of TriStar common stock, par value $25 per share, for a total initial capital of $5 million.

In addition, TriStar may require short-term funds of up to $15 million for the purpose of purchasing gas on the spot market for resale to end-users or local distribution companies. Accordingly, TriStar proposes to issue up to $15 million of short-term notes outstanding at any one time to commercial lenders. The notes will be for a term not in excess of 360 days and will bear interest at a rate not in excess of the prime rate in effect at the commercial lender at the time of the issuance of each note. Columbia proposes to guarantee such notes if necessary.

Finally, Columbia proposes to make open account advances of up to $15 million to TriStar, provided, however, that the open account advances will not be made if TriStar can borrow funds from nonassociated lenders on reasonable terms with Columbia's guarantee. If made, the advances will bear interest at a rate equal to Columbia's effective cost of short-term funds and will be repaid as gas is sold, but in any event, no later than 360 days following the date of the advance.

It appears to the Commission that it is appropriate in the public interest and in the interest of investors and consumers that a public hearing be held with respect to the proposed transactions and that interested persons be afforded an opportunity to be heard at such hearing with respect to such matters. Accordingly,

It is ordered, pursuant to section 19 of the Act, that a hearing be held on the application-declaration under the applicable provisions of the Act and the Rules of the Commission at a time and place to be fixed by further order as provided by Rule 6 of the Commission's Rules of Practice (17 CFR 201.6), and that an Administrative Law Judge to be designated by further order preside at said hearing. Any person, other than Columbia and TriStar, desiring to be heard or otherwise wishing to participate in that proceeding is directed to file with the Secretary of the Commission, on or before May 21, 1986, an application as provided by Rule 9 of the Commission's Rules of Practice (17 CFR 201.9), setting forth the nature and extent of his interest in the proceeding and any issues which he deems raised by this Notice and Order or by said application. A copy of that request shall be served personally upon Columbia and TriStar at the addresses noted above, and proof of such service (by affidavit or, in case of an attorney at law, by certificate) shall be filed contemporaneously with the request. Persons filing an application to participate or to be heard will receive notice of the date and place of the hearing and any adjournments thereof, as well as of other actions of the Commission involving the subject matter of this proceeding.

The Division of Investment Management has advised the Commission that it has made an examination of the application-declaration, the requests for hearing, and the responses to those requests by Columbia and that, upon the basis thereof, the following matters and questions are presented for consideration without prejudice to the Commission's specifying additional matters and questions upon further examination:

(1) Whether the proposed issuance and sale by TriStar of its common stock to Columbia and its notes to commercial lenders meet the standards of section 7 of the Act, particularly subsections (c) and (d).

(2) Whether the proposed acquisition of TriStar's common stock by Columbia

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meets the standards of section 10 of the Act, particularly subsections (b) and (c).

(3) Whether the proposed open account advances by Columbia to TriStar should be approved under section 12(b) of the Act and Rule 45 thereunder.

(4) What terms or conditions, if any, the Commission should impose if the proposed transactions are approved.

(5) Generally, whether the proposed transactions are in all respects compatible with the provisions and standards of the applicable sections of the Act and of the rules promulgated thereunder.

It is further ordered that in the aforesaid hearing attention should be given to the foregoing matters.

It is further ordered that the Division of Investment Management shall be a party to the proceedings.

It is further ordered that the Secretary of the Commission shall give notice of the aforesaid hearing by mailing copies of this Notice and Order by certified mail to Columbia and TriStar at the addresses noted above and to OCCO and Vescorp; that notice to all other persons be given by publication of this Notice and Order in the **Federal Register**; that a copy of this Notice and Order shall be published in the "SEC Docket"; and that an announcement of the aforesaid hearing shall be included in the "SEC News Digest."

By the Commission.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 86-9759 Filed 4-30-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15069; File No. 811-3204]

Liquidity Management Group—Short-Term Trust; Application Declaring That Applicant Has Ceased To Be an Investment Company

April 24, 1986.

Notice is hereby given that Liquidity Management Group—Short-Term Trust ("Applicant"), 3390 West 86th Street, Indianapolis, Indiana 46268, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on April 7, 1986, for an order of the Commission pursuant to section 8(f) of the Act, declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and rules thereunder for the applicable provisions thereof.

According to the application, Applicant's net assets decreased substantially during 1984 and in December 1984, virtually all of the unitholders voluntarily redeemed their units at the net asset value per unit of $1.00. Applicant states that as of July 25, 1985, there were 100 units outstanding with a net asset value of $1.00. Applicant's board of trustees recommended the liquidation of Applicant to its sole unitholder who owned the 100 units of beneficial interest on July 26, 1985. Applicant states that a unanimous consent of its sole unitholder approving the termination of Applicant was executed on July 26, 1985, and Applicant was dissolved under Indiana state law on March 17, 1986.

Applicant states that all of its portfolio investments matured on July 26, 1985, the date of liquidation. Applicant represents that it does not propose to engage in any business activities other than those necessary for the winding up of its affairs. Applicant further represents that it has retained no assets, no debts or other liabilities, and that it is not a party to any litigation or administrative proceeding. Finally, Applicant states that it has not within the past 18 months transferred any of its assets to a separate trust.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 16, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of the interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant(s) at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-9760 Filed 4-30-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15072; File No. 812-6323]

MetLife—State Street Equity Trust; Filing Contingent Deferred Sales Charge Application

April 24, 1986.

Notice is hereby given that MetLife—State Street Equity Trust (the "Trust" or "Applicant") One Financial Center, Boston, Massachusetts 02111, filed an application on March 25, 1986, for an order, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting Applicant and all of its future series from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rule 22c-1 thereunder to the extent necessary to permit the assessment and waiver of a contingent deferred sales charge. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the applicable provisions thereof.

Applicant represents that it is an open-end, diversified, management investment company organized as a business trust under the laws of the Commonwealth of Massachusetts. Applicant states that its investment adviser, principal underwriter and distributor will be MetLife—State Street Investment Services, Inc. ("Distributor"), a wholly-owned subsidiary of State Street Research & Management Company ("State Street"), which is a wholly-owned indirect subsidiary of Metropolitan Life Insurance Company. Applicant further states that the Distributor will receive the proceeds of each contingent deferred sales charge.

Applicant states that it is presently comprised of three portfolio series and that its Trustees have authority to create additional porfolio series at any time in the future without shareholder approval. Applicant states that its Trustees from time to time may consider whether it would be in Applicant's best interests to offer one or more new series of Applicant's shares to the public. Applicant states further that it may change the sales load and/or contingent deferred sales charge imposed by it, provided that the aggregate of such sales load and contingent deferred sales charge shall not exceed applicable limitations imposed by the National Association of Securities Dealers, Inc. (Portfolio series subject hereto are sometimes referred to as a "Fund").

Applicant represents that (i) an initial sales charge of 2% generally will be imposed upon purchases of shares of the Trust of less than $500,000, an initial sales charge of 1% generally will be imposed upon purchases of shares of the Trust from $500,000 to $4,000,000, and no initial sales charge will be imposed upon purchases of shares of the Trust in excess of $4,000,000; (ii) the full amount of the applicable sales charge will be reallowed by the Distributor to the securities dealer responsible for each sale; (iii) the Distributor will also pay the securities dealer a supplemental 2% commission on any sale regardless of the amount involved; and (iv) Applicant will adopt a Distribution Plan pursuant to Rule 12b-1 of the Act under which each of its Funds will make monthly payments to the Distributor at the annual rate of 0.75% of the average daily value of its assets. In its periodic review of the proposed Distribution Plan pursuant to Rule 12b-1, the Trust's Board of Trustees will consider, among other things, the effect of the contingent deferred sales charge. In addition, Applicant states that certain redemptions of shares during the first four years following purchase, whether by direct request to the Trust or through a securities dealer acting as principal or agent pursuant to the share repurchase arrangements offered by the Trust and its authorized securities dealers, generally will be subject to a contingent deferred sales charge of up to 2.5%, depending on how long the redeemed shares have been held.

Applicant represents that no contingent deferred sales charge will be imposed by the Trust on redemptions of (a) shares redeemed as a result of exercising an exchange privilege except in connection with exchanges into any Fund managed by the Distributor which does not impose a sales charge, (b) shares acquired through reinvestment of dividends or distributions fromn a Fund, and (c) that number of shares of a Fund which have a value equivalent to the net appreciation of shares of that Fund purchased by the redeeming shareholder within the prior four years. Applicant further represents that the contingent deferred sales charge paid by an investor who reinvests some or all of the proceeds received from the redemption or repurchase of shares of a Fund within 30 days in any other load fund managed by the Distributor will be refunded in whole or in part, depending upon the amount reinvested. Applicant represents that in effecting any redemption the Trust will redeem those shares held longest by a shareholder, and that shares received by virtue of exercising the exchange privilege or upon a transfer (including any transfer to a securities dealer in connection with a repurchase) will be deemed to have been held for as long as the shares exchanged or transferred.

Applicant asserts that the amount of the contingent deferred sales charge, if any, will be calculated by determining the holding period of the redeemed shares which are subject to the charge, and applying the appropriate percentage to the lesser of (a) the initial purchase price of such shares or (b) the net asset value of such shares at the time of redemption. For ease of administration in calculating the contingent deferred sales charge, all purchases of shares will be deemed to have been made on the last day of the month of purchase.

Applicant states that when the contingent deferred sales charge is imposed, the amount of the charge will be 2.5% if the redemption occurs during the twelve-month period following the date upon which the shares being redeemed were purchased; 2% if the redemption occurs during the next twelve-month period; 1.5% if the redemption occurs during the third twelve-month period; and 1.0% if the redemption occurs during the fourth twelve-month period. If the redemption occurs during the fifth or any subsequent year following the date of purchase, no contingent deferred sales charge will be imposed.

Applicant asserts that no initial sales charge or contingent deferred sales charge will be imposed in connection with the sale of shares to, and the redemption of shares by, officers, directors, trustees, employees and sales representatives of the Trust, the Distributor, State Street, or of any selected dealer engaged in the sale of shares of the Funds, or any spouse or minor child of the foregoing (or a trust established for the benefit of such a spouse or minor child), provided that each such purchaser must submit to the Trust at the time of purchase a written assurance that such purchase is being made for investment and that the shares purchased will not be resold except through redemption.

Applicant submits that the proposed waiver of the contingent deferred sales charge under the circumstances described above will not harm Applicant or its remaining shareholders or unfairly discriminate among shareholders or purchasers. Applicant further intends to fully disclose the waiver provisions in its prospectus and to advise existing shareholders of any future variations of the contingent deferred sales charge within one year of the date when that variation is first made available to purchasers of the Applicant's shares, and the waiver provisions will be applied uniformly to specified classes of investors or transactions. Thus, the Applicant submits that it is in compliance with Rule 22d-1 under the Act.

Applicant contends that the proposed contingent deferred sales charge is consistent with all provisions of the Act, is fair and in the best interests of shareholders. Applicant further submits that the exemptions it requests are appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 16, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant(s) at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-9761 Filed 4-30-86; 8:45 am]

BILLING CODE 8010-01-M

Issuer Delisting; Application To Withdraw From Listing and Registration; MGM/UA Entertainment Co. (now Doing Business as MGM Entertainment Co.) (10% Senior Subordinated Notes (the "MGM Notes") due 1993) [File No. 1-7926]

April 25, 1986.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the New York Stock Exchange, Inc. ("NYSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

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There are currently 78 holders of MGM Notes, and $368,794,000 aggregate principal amount of the MGM Notes is outstanding. Turner Broadcasting System, Inc., the Company's parent, holds $343,797,000 aggregate principal amount of the MGM Notes. In addition, approximately $50,000,000 aggregate principal amount of the MGM Notes is expected to be surrendered in connection with the exercise of warrants (the "Warrants") to purchase the common stock of MGM/UA Entertainment Co. After the exercise of the Warrants, approximately $5,000,000 aggregate principal amount of the MGM Notes will remain publicly held.

Any interested person may, on or before May 15, 1986, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-9762 Filed 4-30-86; 8:45 am]

BILLING CODE 8010-01-M

[Released No. 35-24070]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

April 24, 1986.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 19, 1986 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit, or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Mississippi Power & Light Company (70-7189)

Mississippi Power & Light Company ("MP&L"), Electric Building, Jackson, Mississippi 39201, a subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a post-effective amendment, pursuant to sections 6(a), 6(b) and 7 of the Act, to the previously filed joint application-declaration.

By order dated December 30, 1985 (HCAR No. 23867), MP&L was, among other things, authorized to issue and sell notes ("Notes") in the aggregate principal amount of up to $75.2 million at any one time outstanding to commercial banks in its service territory ("Territorial Banks") through December 31, 1986. Pursuant to that authority, MP&L has entered into agreements with three Territorial Banks for credit lines totaling $30 million. All terms will be the same as authorized in the prior order, except that MP&L requests authority to maintain compensating balances, and to issue and sell Notes that will bear interest at an annual rate of ½ of 1% over Prime.

Massachusetts Electric Company et al. (70-7208)

New England Electric System, a registered holding company, and certain of its subsidiary companies, Massachusetts Electric Company ("Mass Electric"), New England Power Company, New England Power Service Company, all of 25 Research Drive, Westborough, Massachusetts 01582, Granite State Electric Company, 33 West Lebanon Road, Lebanon, New Hampshire 03766, and The Narragansett Electric Company, 280 Melrose Street, Providence, Rhode Island 02901, have filed an application-declaration pursuant to sections 6(a), 7, 9(a), 10, 12(b), and 12(c) of the Act and Rules 42, 45, and 50 promulgated thereunder.

Mass Electric proposes (i) to acquire and retire, through September 30, 1987, any or all of its outstanding First Mortgage Bonds, Series O, 12⅛%, due October 1, 2012, (ii) to issue and sell, through December 31, 1987, not exceeding $25,000,000 principal amount of First Mortgage Bonds, Series P, and (iii) to increase its authorization for short-term borrowing, consisting of notes to banks, commercial paper, and advances from the system money pool (File No. 70-7088), from $30 million to $59 million until the sale of Series P Bonds is completed. The price to be paid for the Series O Bonds will not exceed 116% of the principal amount outstanding, currently $25,000,000, plus accrued interest. The Series P Bonds will be sold pursuant to competitive bidding under Rule 50 or in accordance with the alternative procedures contained in HCAR NO. 22823 (September 2, 1982). It is indicated, however, that an exception from competitive bidding may be requested to allow for a negotiated public offering or a private placement.

The Narragansett Electric Company (70-7207)

The Narragansett Electric Company ("Narragansett"), 280 Melrose Street, Providence, Rhode Island 02901, a wholly owned, electric utility subsidiary of New England Electric System, a registered holding company, has filed an application-declaration pursuant to sections 6(b), 9(a), 10, and 12(b) of the Act and Rules 42 and 50 promulgated thereunder.

Narragansett plans to acquire or redeem any or all of its outstanding First Mortgage Bonds, Series J, N, O, and P through December 31, 1987, and seeks the requisite authorization therefor. Such bonds aggregate $73.7 million. In order to finance the acquisitions and redemptions, Narragansett proposes to issue and sell one or more series of first mortgage bonds in an aggregate principal amount not exceeding $75 million. The Series J Bonds may be redeemed at the current redemption price. The Series N, O, and P Bonds are subject to a five-year freeze on redemption with funds borrowed at a lower effective interest cost and would be acquired through a tender offer. (The Series N Bonds may be redeemed without restriction after January 31, 1987.) The purchase price of the Series N, O, and P Bonds will not exceed 119%, 117.75%, and 116.25%, respectively, of the principal amount of these bonds, plus accrued interest to the settlement date of the offer. The proposed new bonds are to be sold pursuant to competitive bidding procedures under Rule 50 (or as Rule 50 has been modified by HCAR No. 22823 (September 2, 1982)), although it is indicated that an exception from competitive bidding may be requested to allow for a negotiated public offering or private placement.

Alabama Power Company (70-7211)

Alabama Power Company ("Alabama"), 600 North 18th Street, Birmingham, Alabama 35291, an electric utility subsidiary of The Southern Company, a registered holding company, has filed an application-declaration with this Commission pursuant to sections 6(a) and (b) and 7 of the Act and Rules 50(a)(2) and 50(a)(5) thereunder.

Alabama proposes to issue and sell from time to time, prior to April 1, 1988, short-term notes to banks and commercial paper to dealers up to an aggregate principal amount of $322,000,000 at any one time outstanding. Alabama also requests authorization to exceed the 5% limit on short-term debt contained in section 6(b) of the Act. The maximum short-term debt authorized for Alabama will be reduced by the amount of net-cash proceeds that Alabama receives from the sale of first mortgage bonds and/or preferred stock prior to April 1, 1988.

Alabama has obtained separate commitments with ten banks located outside its territorial service area providing for revolving credit borrowings aggregating $200,000,000 through April 30, 1989. These borrowings have a maximum maturity of 270 days and are renewable at maturity (but not later than the lending bank's commitment). The current effective annual interest rates on individual borrowings would range from 7.97% to 9.125% for such borrowings.

In addition, Alabama proposes to borrow from other banks up to $122,000,000. These borrowings will be evidenced by notes to be dated as of the date of such borrowings and to mature in not more than nine months after date of issue. The maximum effective cost of amounts borrowed in connection with these arrangements would be 9.320%, assuming a prevailing prime interest rate of 9%.

Rocky Mountain Natural Gas Company (70-7221)

Rocky Mountain Natural Gas Company, Inc. ("Rocky Mountain"), and its pipeline subsidiary, Sunflower Pipeline Company ("Sunflower"), 1600 Sherman Street, Room 420, Capital Life Center, Denver, Colorado 30202, have filed an application pursuant to section 2(a)(4) of the Act.

Rocky Mountain acquired all of the stock of Sunflower on April 16, 1986. Sunflower's principal business is the transport of natural gas and, as a result, it is primarily engaged in a business other than the business of a gas utility company. A majority of the gas carried through its pipeline is transported only and is not sold at retail to customers along the pipeline. Sunflower does sell gas for irrigation purposes to 46 agricultural customers. Rocky Mountain and Sunflower request an order declaring Sunflower not be a "gas utility company" under section 2(a)(4) of the Act due to the small dollar amount of sales to customers for irrigation use along its pipeline, coupled with the fact that those sales are not related to the business Sunflower is primarily engaged in.

Eastern Utilities Associates (70-7251)

Eastern Utilities Associates ("EUA"), P.O. Box 2333, Boston, Massachusetts 02107, a registered holding company, has filed an application pursuant to sections 9(a) and 10 of the Act.

EUA, through Montaup Electric Company ("Montaup"), an indirect, wholly owned, generation and transmission subsidiary company, presently has a 2.89989% joint ownership interest in the Seabrook nuclear generating project ("Seabrook Project"). There are fifteen other owners which are tenants in common with Montaup ("Participants") under an Agreement for Joint Ownership, Construction and Operation of New Hampshire Nuclear Units, dated as of May 1, 1973, as amended from time to time. On October 15, 1985, and April 17, 1986 (HCAR Nos. 23866 and 24085), notice was given of EUA's pending proposal to acquire, through a new, wholly owned, New Hampshire subsidiary, EUA Power Corporation ("EUA Power"), the interests of four Participants aggregating 11.26721%.

Now, in a separate filing, EUA proposes to acquire, again through EUA Power, the ownership interest, amounting to 0.86519%, of Fitchburg Gas and Electric Light Company ("Fitchburg"). The total amount to be paid by EUA Power at the time of the Fitchburg closing (if it occurs on June 30, 1986) is estimated to be $10,673,000. Progress payments to be made by EUA Power thereafter, until the commercial operation date of Seabrook Unit No. 1 (scheduled for October 31, 1986), on remaining construction costs attributable to the interest which it will acquire from Fitchburg, together with carrying charges on those payments at an assumed rate of 25% per annum, are estimated to be $1,316,000, which, when added to the payments at the closing, results in an estimated total cost to EUA Power of $11,989,000 for the 0.86519% ownership share of the completed Unit No. 1. It is stated that no additional financing by EUA Power will be necessary as a result of adding the Fitchburg interest. EUA also proposes to acquire, through EUA Power, at a cost of approximately $606.00, a portion, in accordance with its ownership share of the Seabrook Project, of the common stock of New Hampshire Yankee Electric Corporation which is intended to have primary responsibility for management of the construction and operation of the Seabrook Project.

Consolidated Natural Gas Company (70-7253)

Consolidated Natural Gas Company ("Consolidated"), a registered holding company, Four Gateway Center, Pittsburgh, Pennsylvania 15222, has filed an application-declaration pursuant to sections 9(a), 10, and 12(c) of the Act and Rule 42 thereunder.

Consolidated proposes to acquire for cash, through a tender offer, all or a substantial portion of the outstanding $100,000,000 principal amount of its 11⅛% Debentures due April 1, 2006. It is stated that in order to fund the proposed acquisition of the 11⅛% Debentures, Consolidated will, in a separate filing, seek authorization for the sale of $100,000,000 principal amount of debentures or notes in the Euro market or will issue and sell debentures under the Commission's order of April 5, 1985 (HCAR No. 23655), depending upon market conditions.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-9763 Filed 4-30-86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Incorporated

April 25, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Mylan Lab, Inc.
Common Stock, $0.50 Par Value (File No. 7-8941)

Andal Corporation
Common Stock, $1.00 Par Value (File No. 7-8942)

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These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 15, 1986, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary

[FR Doc. 86-9756 Filed 4-30-86; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 09/09-0292]

California Capital Investors, Ltd., Filing of an Application for an Exemption Under the Conflict of Interest Regulation

Notice is hereby given that California Capital Investors, Ltd. 11612 San Vicente Boulevard, Los Angeles California 90049, a Federal Licensee under the Small Business Investment Act of 1958, as amended, has filed an application with the Small Business Administration (SBA) pursuant to § 107.906 of the Regulations governing small business investment companies (13 CFR 107.903 (1986)) for approval of a conflict of interest transaction.

Subject to SBA approval California Capital Investors, Ltd., proposes to sell its investments in Exvenco Venture 83–01 and Exvenco Resources, Inc., North 9516 Division, Suite B, Spokane, Washington 99218, respectively, to Stephen D. Moses and Katherine C. Keck.

The proposed sale is brought within the purview of § 107.903(b) of the SBA Regulations because Stephen D. Moses and Katherine C. Keck, respectively, are presently being proposed as General Partners, of California Capital Investors, Ltd., subject to SBA approval, and therefore each could be considered an Associate as defined by § 107.3 of the Regulations.

Notice is hereby given that any interested person may, not later than (15) days from the date of publication of this Notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration 1441 "L" Street, NW., Washington, DC 20416.

A copy of this Notice will be published in newspapers of general circulation in Los Angeles, California, and Spokane, Washington.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 25, 1986.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 86-9744 Filed 4-30-86; 8:45 am]

BILLING CODE 8025-01-M

Region IV Advisory Council; Public Meeting

The U.S. Small Business Adminstration Region IV Advisory Council, located in the geographical area of Atlanta, will hold a public meeting from 9:00 A.M. to 4:00 P.M., on Wednesday, May 14, 1986, at the Hyatt Regency Hotel, 265 Peachtree Street, NE., Atlanta, Georgia, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Billy R. Wells, District Director, U.S. Small Business Administration, 1720 Peachtree Road, NW., 6th Floor, Atlanta, Georgia 30309—(404) 347–4749.

Joan M. Nowak,

Director, Office of Advisory Councils.

April 22, 1986.

[FR Doc. 86-9745 Filed 4-30-86; 8:45 am]

BILLING CODE 8025-01-M

Advisory Committee on Veterans Business Affairs; Public Meeting

The U.S. Small Business Administration, Advisory Committee on Veterans Business Affairs will hold a public meeting at 10:00 a.m., on Tuesday, June 3, 1986, at the U.S. Small Business Headquarters, 1441 L Street, NW., Room 1000 Administrator's Conference Room, Washington, DC 20416, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Vincent B. Pagano, Director, Office of Veterans Affairs, U.S. Small Business Administration, 1441 L Street, NW., Room 414, Washington, DC 20416, (202) 653–8220.

Joan M. Nowak,

Director, Office of Advisory Councils.

April 29, 1986.

[FR Doc. 86-9625 Filed 4-30-86; 8:45 am]

BILLING CODE 8025-01-M

[Disaster Loan Area No. 2235]

Texas; Declaration of Disaster Loan Area

As a result of the President's major disaster declaration on April 23, 1986, I find that Nolan County in the State of Texas constitutes a disaster area because of damage from severe storms and tornadoes which occurred on April 19, 1986. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on June 23, 1986, and for economic injury until September 2, 1986, at:

Disaster Area 3 Office, Small Business Administration, 2306 Oak Lane, Suite 110, Grand Prairie, Texas 75051

or other locally announced locations.

The interest rates are:

Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses without credit available elsewhere	4.000
Businesses (EIDL) without credit available elsewhere	4.000
Other (nonprofit organizations including charitable and religious organizations)	10.500

The number assigned to this disaster is 223512 for physical damage and for economic injury the number is 640400.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008).

Dated: April 24, 1986.

Bernard Kulik,

Deputy Associate Administrator for Disaster Assistance.

[FR Doc. 86-9624 Filed 4-30-86; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM–8/965]

Shipping Coordinating Committee, Subcommittee on Safety of Navigation; Meeting

The Working Group on Safety of Navigation of the Subcommittee on Safety of Life at Sea (SOLAS) will hold an open meeting on Thursday, May 29, 1986 at 9:30 AM in Room 6319 of the U.S. Coast Guard Headquarters, Transport Building, 2100 Second Street, SW., Washington, DC.

The purpose of the meeting will be to report on the progress of the Subcommittee at its 32nd session and begin to prepare the U.S. position relating to the below listed agenda items to be considered at the 33rd session of the Subcommittee on Safety of Navigation of the International Maritime Organization (IMO) to be held in London, January 12–16, 1987.

—Decisions of other IMO bodies.
—Routing of ships.
—Vessels constrained by their draft in harbor approaches.
—Matters concerning search rescue.
—Navigational aids and related equipment (electronic charting and worldwide navigation system study, etc.).
—Units of wind speed in international meteorological messages.
—Infringement of safety zones around offshore structures.
—Removal of abandoned or disused offshore platforms.

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Edward J. LaRue, Jr., U.S. Coast Guard (G–WWM), Washington, DC 20593, Telephone: (202) 426–4958.

Dated: April 23, 1986.

Richard C. Scissors,

Director, Shipping Coordinating Committee.

[FR Doc. 86-9716 Filed 4-30-86; 8:45 am]

BILLING CODE 4710-07-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Trade Policy Staff Committee Review; Electric Heaters from Taiwan, Korea and Hong Kong

Notice is hereby given that the Trade Policy Staff Committee (TPSC) has initiated a review concerning the removal of Electric Heaters classified under TSUS 684.40 of the Tariff Schedules of the United States Annotated, when imported from Taiwan, Korea and Hong Kong, from the list of products currently eligible for duty-free treatment under the U.S. Generalized System of Preferences (19 U.S.C. 2461–2465). The review is initiated pursuant to a petition filed by the Patton Electric Company. Anyone interested in this matter is requested to provide written comments to the TPSC regarding the Patton Electric Company request not later than May 28, 1986. A public hearing on the proposed modification will not be scheduled unless a request for such hearing is received no later than close of business May 7, 1986.

All submissions should conform to 15 CFR 2003.2 and be submitted in 20 copies, in English, to the Chairman of the GSP Subcommittee of the Trade Policy Staff Committee, 600 17th Street NW., Room 517, Washington, DC 20506. Information submitted in connection with the proposed modification will be subject to public inspection by appointment with the staff of the GSP Information Center, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2007.7. Parties submitting briefs or statements containing confidential information must indicate clearly on the cover page of each of the twenty copies submitted and each page within the document, where appropriate, that confidential materials are included. Non-confidential summaries of all confidential material must be submitted in twenty copies, in English, at the same time that confidential submissions are filed.

All communications with regard to the proposed modification should be addressed to the GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street NW., Room 517, Washington, DC 20506. Questions may be directed to the GSP Information Center at, (202) 395–6971.

Donald M. Phillips,

Chairman, Trade Policy Staff Committee.

[FR Doc. 86-9719 Filed 4-30-86; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 15–86]

Treasury Notes, Series Y–1988

April 24, 1986.

The Secretary announced on April 23, 1986, that the interest rate on the notes designated Series Y–1988, described in Department Circular—Public Debt Series—No. 15–86 dated April 17, 1986, will be 6¾ percent. Interest on the notes will be payable at the rate of 6¾ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86-9703 Filed 4-30-86; 8:45 am]

BILLING CODE 4810-40-M

Internal Revenue Service

Art Advisory Panel; Closed Meeting

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of Closed Meeting of Art Advisory Panel.

SUMMARY: Closed meeting of the Art Advisory Panel will be held in Washington, DC.

DATE: The meeting will be held May 22, 1986.

FOR FURTHER INFORMATION CONTACT: Karen Carolan, CC:AP:V, 1111 Constitution Avenue, NW., Room 2575, Washington DC, 20224, Telephone No. (202) 566–9259, (not a toll free number).

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1982), that a closed meeting of the Art Advisory Panel will be held on May 22, 1986 beginning at 9:30 a.m. in Room 3029, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC 20224.

The agenda will consist of the review and evaluation of the acceptability of fair market value appraisals of works of art involved in federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that this meeting is concerned with matters listed in section 552(b)(c) (3), (4), (6), and (7) of Title 5 of the United States Code, and that the meeting will not be open to the public.

This document does not meet the criteria for significant regulations set forth in paragraph 8 of the Treasury Directive appearing in the Federal Register for Wednesday, November 8, 1978. (43 FR 52122.)

James I. Owens,

Acting Commissioner.

[FR Doc. 86-9715 Filed 4-30-86; 8:45 am]

BILLING CODE 4830-01-M

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Sunshine Act Meetings

Federal Register
Vol. 51, No. 84
Thursday, May 1, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, May 5, 1986, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Applications for Federal deposit insurance:

American Investment Thrift, an operating noninsured industrial bank located at 50 South Main, Salt Lake City, Utah.

First Thrift and Loan, an operting noninsured industrial bank located at 326 South 580 East, Salt Lake City, Utah.

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:

Case No. 46,497-NR
Penn Square Bank, National Association, Oklahoma City, Oklahoma

Recommendation regarding the Corporation's assistance agreement with an insured bank pursuant to section 13 of the Federal Deposit Insurance Act.

Recommendation regarding the Corporation's corporate and liquidation activities.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: April 28, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-9866 Filed 4-29-86; 11:11 am]

BILLING CODE 6714-01-M

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FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Monday, May 5, 1986, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Application for Federal deposit insurance:

Basin Loans, Inc., an operating noninsured industrial bank located at 74 East Main Street, Vernal, Utah.

Application for consent to purchase assets and assume liabilities:

Harford National Bank, Aberdeen, Maryland, for consent to purchase the assets of and assume the liability to pay deposits made in Enterprise Building and Loan Association of Harford County, Aberdeen, Maryland, a non-federally-insured institution.

Application for consent to merge and establish twelve branches:

The Morris Plan Company of California, Palo Alto, California, an insured industrial loan company, for consent to merge, under its charter and title, with Credithrift & Loan, Inc., Orange, California, a non-federally-insured industrial loan company, and for consent to establish twelve of the offices of Credithrift & Loan, Inc. as branches of the resultent bank.

Application for consent to exercise full trust powers:

Harris Trust Company of California, San Francisco, California.

Memorandum and resolution re: Federal Financial Institutions Examination Council policy statement, entitled "General Policy For Sharing Confidential Supervisory Information With State Banking and Thrift Regulatory Agencies" which policy statement provides for the federal financial institutions regulatory agencies to share with the state regulatory agencies certain confidential supervisory information.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or an Associate Director of the Division of Bank Supervision and the various Regional Directors pursuant to authority delegated by the Board of Directors.

Reports of the Director, Office of Corporate Audits and Internal Investigations:

Summary Audit Report re:
Gilpin County Bank, Black Hawk, Colorado, AP-479 (Memo dated April 4, 1986)
Summary Audit Report re:
Farmers State Bank of Dexter, Kansas, Dexter, Kansas, SR-577 (Memo dated March 17, 1986)
Summary Audit Report re:
Citizens State Bank of El Dorado, El Dorado, Kansas (2484) (Memo dated April 9, 1986)
Summary Audit Report re:
Eskridge State Bank, Eskridge, Kansas, AP-478 (Memo dated April 2, 1986)
Summary Audit Report re:
Madison Bank, Madison, Kansas, AP-476 (Memo dated March 31, 1986)
Summary Audit Report re:
The First National Bank of Onaga, Onaga, Kansas, AP-481 (Memo dated April 2, 1986)
Summary Audit Report re:
Kansas American Bank, Overland Park, Kansas, AP-483 (Memo dated April 3, 1986)
Summary Audit Report re:
Linn County State Bank, Linneus, Missouri, AP-480 (Memo dated April 2, 1986)
Summary Audit Report re:
Farmers State Bank, Rising City, Nebraska (2485) (Memo dated April 9, 1986)
Summary Audit Report re:
Golden Pacific National Bank, New York (Manhattan), New York, NR-580 (Memo dated March 18, 1986)
Summary Audit Report re:
The Crossroads State Bank, Oklahoma City, Oklahoma, SR-584 (Memo dated April 7, 1986)
Summary Audit Report re:
First City Bank, National Association, Oklahoma City, Oklahoma, AP-474 (Memo dated March 18, 1986)
Summary Audit Report re:
First Bank and Trust, Tracy City, Tennessee, AP-475 (Memo dated March 21, 1986)
Summary Audit Report re:
First National Bank of Glenrock, Glenrock, Wyoming, AP-482 (Memo dated April 3, 1986)
Summary Audit Report re:
Addison Consolidated Office, Cost Center 3460 (Memo dated April 4, 1986)
Summary Audit Report re:
Kansas City Consolidated Office, Cost Center 3410 (Memo dated March 31, 1986)
Summary Audit Report re:
New York Regional Office, Cost Center 3500 (Memo dated April 11, 1986)
Summary Audit Report re:
Puerto Rico Consolidated Office, Cost Center 3510 (Memo dated March 31, 1986)
Summary Audit Report re:
First Financial Management Corporation System, Midland Consolidated Office (Memo dated March 31, 1986)
Summary Audit Report re:
Audit Report on Liabilities Incurred in Assistance To or From Failures of Insured Banks (Memo dated April 10, 1986)
Summary Audit Report re:
Status of Auditee Corrective Actions (Memo dated March 27, 1986)

Discussion Agenda

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: April 28, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-9867 Filed 4-29-86 11:11 am]

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FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, May 6, 1986, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

* * * * *

DATE AND TIME: Thursday, May 8, 1986, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates of Future Meetings
Correction and Approval of Minutes
Draft AO 1986-12—Geraldine A. Ferraro
Draft AO 1986-13—Brock R. Landry, on behalf of National Tire Dealers & Retreaders Association PAC
Routine Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202-376-3155.

Marjorie W. Emmons,

Secretary of the Commission.

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INTERSTATE COMMERCE COMMISSION

TIME AND DATE: 10:00 a.m., Thursday, May 8, 1986.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS: Open Special Conference.

MATTER TO BE DISCUSSED:

Ex Parte MC-177—
National Industrial Transportation League—Petition to Institute Rulemaking on Negotiated Motor Common Carrier Rates.

CONTACT PERSON FOR MORE INFORMATION: Alvin H. Brown, Office of Legislative and Public Affairs, Telephone: (202) 275-7252.

James H. Bayne,

Secretary.

[FR Doc. 86-9920 Filed 4-29-86; 3:33 p.m.]

BILLING CODE FR-7035-01-M

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PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

STATUS: Open. The Council will also hold an executive session to discuss pending litigation.

TIME AND DATE: May 14-15, 1986, 9:00 a.m.

PLACE: South Auditorium, Federal Building, 915 Second Avenue, Seattle, Washington.

MATTERS TO BE CONSIDERED:

1. Staff Presentation on Impact of Oil and Gas Price Changes on the Energy Plan.
2. Public Comment on Issue Paper on Bonneville Conservation/Modernization Program and the Resource Acquisition Provisions of the Northwest Power Act.
3. Public Comment on Issue Paper on Hydropower Responsibility for Salmon and Steelhead Losses in the Columbia River Basin.
4. Staf Presentation of Draft Process for Evaluating Petitions to Enter Rulemaking.
5. Staff Briefing on Salmon and Steelhead Production in the Columbia River Basin.
6. Briefing and Public Comment on Applications to Amend Columbia River Fish and Wildlife Program. (For summaries or complete copies of the amendment applications, call Judy Allender in the Council's Public Involvement Division).
7. Council Business.
8. Public Comment.

FOR FURTHER INFORMATION CONTACT: Ms. Bess Atkins at (503) 222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 86-9835 Filed 4-29-86; 10:12 am]

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federal register

Thursday
May 1, 1986

Part II

Department of Agriculture

Agricultural Marketing Service

Wheat and Wheat Foods Research and Nutrition Education; Wheat Industry Council Budget for Fiscal Year 1987; Notice

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. WR-1]

Wheat and Wheat Foods Research and Nutrition Education; Wheat Industry Council Budget for Fiscal Year 1987

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of the Wheat Industry Council Budget for fiscal year 1987.

SUMMARY: This notice presents the proposed July 1986 through June 1987 budget of the Wheat Industry Council. Publication of budget information in the Federal Register is required by the Wheat and Wheat Foods Research and Nutrition Education Act. The purpose is to provide information concerning the emphasis and direction of the Council's nutritional education program for the upcoming year. In addition, it provides those end product manufacturers, who are required to pay assessments on purchases of processed wheat to fund the program, an opportunity to reserve the right to seek a refund of assessments paid.

FOR FURTHER INFORMATION CONTACT: Lowry Mann, Livestock and Seed Division, AMS, USDA, Washington, DC 20250, Phone: 202/447-2650.

SUPPLEMENTARY INFORMATION: The Wheat and Wheat Foods Research and Nutrition Education Act of 1977 (7 U.S.C. 3401-17) authorized a research and nutrition education program for wheat and wheat foods. Formal rulemaking procedures, including a public hearing, were followed in developing the Wheat and Wheat Foods Research and Nutrition Education Order which provides the framework for the program.

In a March 1980 referendum wheat end product manufacturers approved the Wheat and Wheat Foods Research and Nutrition Education Order. The Order provides for a program of research and nutrition education for wheat and wheat-based foods to be administered by a 20-member Wheat Industry Council. The Order requires that all nonexempt wheat end product manufacturers be assessed up to 5 cents per hundredweight of processed wheat purchased to finance the program. The Order limited the assessments to 1 cent per hundredweight during the first 2 years of the program. This budget is based on a continuation of the 1-cent assessment level. Wheat end product manufacturers who purchase less than 2,000 hundredweight of processed wheat per year, those who are defined as retail bakers, and processed wheat used in the manufacture of exempt end products are not assessed.

The Wheat and Wheat Foods Research and Nutrition Education—Rules and Regulations require all nonexempt wheat end product manufacturers to register with the Wheat Industry Council; 1333 H Street, NW., Suite 1200; Washington, DC 20005 (Phone: 202/682-2130). Assessments are due and payable to the Wheat Industry Council on or before the 30th day following the end of each firm's quarterly reporting period.

Wheat end product manufacturers who wish to reserve the right to request refunds of assessments to be paid during the Council's upcoming fiscal year must submit such notification to the Wheat Industry Council by registered or certified mail within 60 days after publication of this notice in the Federal Register. In order to receive a refund of assessments paid, an end product manufacturer must first reserve that right, then pay the assessment on or before the 30th day following the end of the quarterly reporting period. The refund must then be requested on the appropriate form within 60 days following the end of the quarterly reporting period.

The Council's 1986-87 nutrition education program will consist of a generic advertising campaign, "Eat Wheat America," which will emphasize wheat foods with a back-to-school theme. The campaign will use a combination of broadcast and print media and merchandising at point of purchase.

The Wheat Industry Council budget for fiscal year 1987 is as follows:

Wheat Industry Council Budget—July 1, 1986-June 30, 1987

Income: Income from assessments	$1,000,000	
Total		$1,000,000
Expenses:		
Consumer Information/ Education Program	396,500	
Compensation	274,680	
Outside services: Legal, financial audit, USDA oversight	57,300	
Referendum repayment	30,000	
Council meetings/ committee expenses	41,000	
Travel	34,200	
Administration costs: Rent, insurance, property tax, lockbox, telephone	76,470	
Council communications: Newsgram, special mailings	24,670	
Printing and postage	27,330	
Office equipment, maintenance, and supplies	31,170	
Miscellaneous: Memberships, subscriptions	6,700	
Total		$1,000,000

Done at Washington, DC: April 23, 1986.

William T. Manley,

Deputy Administrotor, Marketing Programs.

[FR Doc. 86-9507 Filed 4-30-86; 8:45 am]

BILLING CODE 3410-02-M

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Thursday
May 1, 1986

Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Parts 330, 331, 332, and 357
Labeling of Drug Products for Over-the-Counter Human Use; Final Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 330, 331, 332, and 357

[Docket No. 82N-0154]

Labeling of Drug Products for Over-the-Counter Human Use

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule changing its "exclusivity" policy for the labeling of over-the-counter (OTC) drug products. The final rule establishes three alternatives for stating an OTC drug product's indications for use in OTC drug labeling. The label and labeling of OTC drug products are required to contain, in a prominent and conspicuous location, either (1) the specific wording on indications for use established under an OTC drug monograph, which may appear within a boxed area designated "APPROVED USES"; (2) other wording describing such indications for use that meets the statutory prohibitions against false or misleading labeling, which shall neither appear within a boxed area nor be designated "APPROVED USES"; or (3) the approved monograph language on indications, which may appear within a boxed area designated "APPROVED USES," plus alternative language describing indications for use that is not false or misleading, which shall appear elsewhere in the labeling. All required OTC drug labeling other than indications for use (e.g., statement of identity, warnings, and directions) must appear in the specific wording established under an OTC drug monograph. FDA is issuing this final rule after consideration of the comments submitted in response to the agency's proposed rule that was published in the Federal Register of April 22, 1985 (50 FR 15810).

EFFECTIVE DATE: June 30, 1986.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drugs and Biologics (HFN-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 2, 1982 (47 FR 29002), FDA announced a public hearing to be held on the "exlusivity" policy as it relates to the labeling of OTC drug products. This policy currently limits the terms that may be used in an OTC drug product's labeling to the specific terminology established in a final OTC drug monograph. Thus, when an applicable final monograph became effective, any OTC drug product containing labeling with claims or representations other than those established in the monograph, or using differing terminology, would have been a new drug and/or misbranded under the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(p) and 352).

At the hearing on September 29, 1982, 12 persons presented testimony on behalf of manufacturers, trade associations, and consumers. Written testimony ws submitted by individuals, companies, and organizations. Comments and testimony by manufacturers and trade associations contended that the present exclusivity policy is unconstitutional because it unlawfully restrains free speech; is in violation of the Administrative Procedure Act (APA) because it was implemented without notice and comment and because it is arbitrary and capricious; and is not authorized by the act (21 U.S.C. 321 et seq.). These comments also questioned whether, as a matter of sound agency policy irrespective of its legal status. In general, testimony and comments submitted by individuals or consumer groups urged FDA to retain the exclusivity policy in its present form to avoid confusion and deception and to facilitate comparisons among OTC drug products. However, testimony from one consumer group took the position that while it is important that limitations be placed on labeling so as to avoid confusion, alternative wording of labeling claims could also be advantageous.

In the Federal Register of April 22, 1985 (50 FR 15810), FDA discussed the testimony and information submitted at the hearing and the comments submitted in various proceedings to establish OTC drug monographs. The agency stated that, although the present policy is lawful, there were sound reasons for proposing a modification of that policy. (See 50 FR 15811.) Accordingly, FDA proposed to amend the labeling requirements for OTC drugs in 21 CFR Part 330 by amending § 330.1.

FDA also proposed conforming amendments to the monographs for OTC antacid, antiflatulent, and cholecystokinetic drug products that appear in 21 CFR Parts 331, 332, and 357, respectively. The agency stated that other conforming amendments, as required, may be made to other monographs as they are published in final form. FDA also stated that the provisions of the regulations relating to the amendment of monographs (Section 330.10(a)(12)) would not be affected by the proposed amendment of the exclusivity policy. Persons seeking to amend the language established by a monograph would continue to follow the procedures set out in § 330.10(a)(12).

Interested persons were invited to file written comments regarding the proposal by July 22, 1985. In response to the proposed rule, 54 consumers, 8 manufacturers, 7 health care providers, 9 government agencies, 14 consumer/trade associations, and 1 university submitted comments. Copies of the comments received are on public display in the Dockets Management Branch. Final agency action on this matter occurs with the publication of this final rule.

I. The Agency's Conclusions on the Comments

1. Many of the comments received in support of the proposal to change the existing exclusivity policy were general in nature. Reasons given by these comments for supporting the proposal include the following: The proposal is in the public interest; will meet consumers' needs for accurate labeling information; will improve patients' understanding of OTC drug products; will assist manufacturers in writing clear communications to consumers; will allow manufacturers the opportunity to change label information without complying with unnecessary FDA procedures; will provide for regional differences in the way people refer to the same condition, e.g., acid stomach versus upset stomach; and will provide greater flexibility. Other comments maintained that a revised exclusivity policy would reduce costs, expedite work, and save agency resources by eliminating the costly monograph amendment procedures.

FDA acknowledges these comments in support of the proposed change in the exclusivity policy.

2. A number of comments stated that it is in the consumers' interest to maintain the old exclusivity policy because it assures accurate and uniform labeling of OTC drug products and assists consumers, especially the poor, sick, and elderly, in purchasing OTC drug products through easy comparisons. Reasons given by these comments for maintaining the old policy include the following: Manufacturers cannot be relied upon to provide accurate, nonmisleading label information; a number of products are switching from prescription to OTC marketing status; the manufacturer's choice, consumer interpretation, and differences in regional language would increase communications problems; it is not apparent that the cost of drugs would be lower because of this proposal. One comment argued that confusion already exists because consumers do not realize the limits of FDA's power and therefore expect more control.

Explaining that panel members had debated many hours for years over the wording that would be appropriate for OTC drug labeling, two former panel chairpersons stated that the panel members were acutely aware that many other words could be used, but that approval should be obtained from a responsible FDA group. The former chairpersons expressed concern that the proposed change in the exclusivity policy could result in the public being misled about an OTC drug product's capability.

The concerns expressed in this comment were discussed in depth in the proposed rule (50 FR 15810) and are also discussed in comment 4 below. After careful review and study, the agency believes that the goal of ensuring truthful, nonmisleading labeling without inhibiting effective consumer communication does not require that the existing rigid exclusivity policy be continued. Specific wording established in a final OTC drug monograph will provide a standard for measuring the accuracy of alternative language developed by manufacturers for the indications of OTC drug products. Language which represents or suggests that the drug is safe and effective for an indication for use other than one established in a appropriate final monograph would render the drug product a "new drug" under 21 U.S.C. 321(p) for which appropriate regulatory action could be taken. The monograph amendment procedures in § 330.10(a)(12) would also continue to apply where a manufacturer seeks approval for other language for indications for use already included in the monograph.

3. Three comments argued that the new policy was a license for manufacturers of OTC drug products to use words that are misleading and confusing. One comment stated that the proposed changes in exclusivity would increase the likelihood that the consumer will be misled. According to the comment, this situation could lead to medical problems, and the taxpayer would ultimately pay for up to 40 percent of the costs of dealing with the problems.

Expressing the opposite point of view, another comment stated that consumers will have more useful information on which they can base their purchase and treatment decisions, and thus are more likely to identify quickly and rely on appropriate and effective OTC drug products rather than on more costly or less efficient alternatives.

The agency finds no evidence to support the contention that flexible labeling of the indications for use of OTC drug products will be misleading, confuse the consumer, and lead to medical problems. As discussed later in this document, the monograph language will continue to be used as a benchmark to ensure that any alternative language does not exceed the approved indications. (See comment 4 below.) FDA will continue to review the labeling of OTC drug products and initiate enforcement activities as necessary, thereby ensuring that consumers will continue to be protected. (See comment 12 below.)

The agency's experience to date provides no basis for the presumption that this change in policy will cause any deterioration in OTC drug product labeling practices because, for the most part, rigid adherence to the strict "exclusivity" policy has not been required in the absence of final OTC drug monographs. The vast majority of OTC drug products are now marketed pursuant to statutory and regulatory standards that will remain in effect upon publication of this final rule. Experience does not demonstrate any significant widespread patterns of abuse, even in the absence of established "exclusivity" provisions, and there is no reason to expect such abuses to emerge under the revised policy.

Regardless of which alternative manufacturers choose, FDA regulations require that the labeling of OTC drug products be clear and truthful in all respects, not false or misleading in any particular, and understandable to the ordinary individual, including individuals of low comprehension, under customary conditions of purchase and use. (See 21 CFR 330.10(a)(4)(v).) FDA believes that allowing alternative terminology for describing indications for use that have been developed under a relevant OTC drug monograph is consistent with the purpose of § 330.10(a)(4)(v).

4. A number of comments contended that approval of the new proposal would result in unfair competition between manufacturers of OTC drug products. One comment contended that the proposal would benefit unscrupulous manufacturers and those who are cleverest at bending the truth, and would be most harmful to competing manufacturers of higher integrity and to unwitting consumers. The comment added that in time bad labels would drive good labels out of the marketplace. A second comment stated that unfair competition will result as companies compete to convince consumers that their products are superior to the products of competitors who abide by FDA's monograph.

Another comment stated that it was not confident that companies involved would be either totally truthful or not misleading in their advertising efforts, and added that an increase in the cost of OTC drugs to cover advertising campaigns is likely to occur. Another comment claimed that many consumers are under the false impression that advertising and labeling claims are approved in advance by FDA. Other comments contended that substitute language could be a sales gimmick or possibly "one-up-manship." According to some comments, if the restrictions on drug labeling are lifted, bolder claims, not validated by testing, will in time appear. The comments assert that if drug companies are allowed to use their own format, the company with the best marketing technique, not necessarily with the best drug for the indication, will be the more successful, and this practice in turn will increase costs to the consumer. One comment added that the new policy would undermine confidence in FDA.

As stated in the proposal (50 FR 15810), the agency's principal purpose in establishing and maintaining the exclusivity policy has been to ensure that OTC drug labeling is clear, accurate, and meaningful to the consumer. In the past, the agency has been concerned that unless the policy was rigidly adhered to, there was potential for labeling to be used that was misleading or confusing. The agency's basic premise has not changed. After careful review and study, however, the agency now believes that the goal of ensuring truthful, nonmisleading labeling without inhibiting effective consumer communication does not require the enforcement of a rigid exclusivity policy. Recognizing that, within limits, there can be various ways of accurately stating the same thing, some of which may even be more meaningful to potential purchasers of OTC drug products, the agency has concluded that it can meet its responsibilities by providing greater flexibility for the use of alternative truthful statements without recourse to the time- and resource-consuming monograph amendment process. Rather, the agency will use the monograph language as its standard in determining whether alternative statements are accurate or require regulatory action, thus achieving its goals at a lower cost

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in terms of administrative and enforcement resources. However, FDA emphasizes that the relaxation of the exclusivity policy applies only to indications for use that are established in a final monograph; other required OTC drug labeling continues to be subject to the existing exclusivity standard.

FDA intends to carefully examine the labeling of OTC drug products to ensure that any alternative language that manufacturers use does not go beyond the approved indications for use, thereby causing the drug to become a "new drug" or "misbranded" or both under the act. If unacceptable language is discovered, the agency will take appropriate regulatory action. The agency believes that a sound enforcement program will minimize any unfair competition that would otherwise result from improper labeling.

In response to the comment's concern about the new policy causing untruthful or misleading OTC drug advertising, FDA notes that the Federal Trade Commission (FTC) has the primary responsibility for regulating OTC drug advertising, and that both the past "exclusivity" policy and the revised policy would affect advertising only in those circumstances in which it falls under the act's labeling provisions.[1] In addition, existing regulations in § 330.1(d) (21 CFR 330.1(d)) remain in effect and provide that, for an OTC drug to be generally recognized as safe and effective and not misbranded, its advertising may prescribe, recommend, or suggest the drug's use only under the conditions stated in the labeling.

5. Several comments stated a preference for a specific labeling alternative included in the proposal. Three comments expressed particular support of the provisions in the first alternative that permit the listing in OTC drug labeling of the words "APPROVED USES" or "FDA APPROVED USES" provided the monograph language is used. Other comments, however, argued that the agency should delete the first and third alternatives from the proposal and retain only the second alternative (which permits the use of other truthful and nonmisleading language to describe those indications for use that have been developed under a relevant OTC drug monograph), because any policy other than alternative 2 serves no compelling government interest and indeed disserves the public. Another comment commended FDA for its judgments and wisdom in proposing alternative 2. Two comments supported the third alternative, i.e., the use of monograph language in the boxed area (first alternative) and other truthful and nonmisleading alternative language elsewhere in the labeling. One comment stated that the third alternative appears to be the best for both the consumer and the manufacturer, adding that it "gives the consumer the most information and the manufacturer can indicate uses that the consumer did not know the products could be used for."

Three comments requested a hearing if alternative 2 is not selected and implemented as the only provision of the final rule.

Concerning the comments that stated a preference for one alternative or another, the agency reiterates that the purpose of revising the exclusivity policy was to establish alternative methods of labeling OTC drug products. In particular, the agency disagrees with the comments that contended that only the second labeling alternative should be retained in the final regulation. The agency's reason for changing the exclusivity policy is to make the policy more flexible, not to eliminate entirely the use of specific language developed during the OTC drug review. Moreover, the use of the "FDA Approved" language will enable manufacturers to market OTC drug products knowing that the indications for use are approved by the agency. The availability of this option should enable manufacturers who choose to do so to market OTC drugs without spending time and resources developing alternative language.

The agency does not believe that it would be a disservice to the public, as alleged by some comments, if OTC drug labeling contains a section entitled "APPROVED USES" or "FDA APPROVED USES." The agency believes that some manufacturers and many consumers would favor such information in the labeling of OTC drug products. Many comments made by consumers on the proposal expressed such a view. In response to one comment, the agency also points out that while the third alternative may allow a manufacturer to indicate uses that the consumer was unaware of, such indications for use are limited to those established in an appropriate monograph.

Finally, the requests for a hearing unless only alternative 2 is adopted are denied. The final regulation permits a manufacturer to use only alternative 2 if it so chooses even though other manufacturers may elect to use another alternative. The comments have not raised any new issues appropriate for resolution at another hearing or shown that any policy other than adopting alternative 2 alone would be contrary to the public interest. As described above, the agency has already conducted one hearing on this labeling policy (September 29, 1982). The Commissioner does not believe that a second hearing would yield additional information not already presented at the previous hearing or in the comments on the proposed rule. Accordingly, the requests for a hearing are denied.

6. Several comments stated that the first and third alternatives are "extensions of the exclusivity policy" to the extent that they mandate use of specific language approved by FDA. The comments argued that, as such, the proposed alternatives represent unconstitutional restrictions on first amendment rights to truthful commercial speech; exceed FDA's statutory authority under sections 502, 201(p), and 701(a) of the act (21 U.S.C. 352, 321(p), and 371(a)); are arbitrary and capricious because they are not supported by an adequate administrative record; and are unwise from a public policy standpoint.

One comment referred to a recent case in which the Supreme Court reviewed restrictions on commercial speech by governmental bodies and reiterated its concern for any abridgment of first amendment rights. (*Zauderer* v. *Ohio*, ___ U.S. ___, 105 S. Ct. 2265 (1985).) The comment contended that *Zauderer* further establishes that the exclusivity policy adopted in 1975 is unconstitutional and that the current proposal, while more flexible, continues to raise constitutional questions that must be considered.

Other than the reference to *Zauderer*, the comments did not raise any constitutional or legal issues concerning the existing policy or the proposed changes that had not previously been discussed in the proposed rule. (See 50 FR 15811.)

The agency believes that the new rule is constitutionally sound. As the comments assert, commercial speech is entitled to the protection of the first amendment. However, as noted in recent Supreme Court cases, reasonable restrictions may be imposed to ensure that commercial speech is not false or deceptive, and other restrictions may also be imposed when there is a legitimate and substantial interest to be achieved. See, for example, *Central Hudson Gas & Electric Corp.* v. *Public Services Commission*, 447 U.S. 557, 564, 566 (1980).

[1] See, e.g., *United States* v. *Article of Drug . . . B-Complex Cholinos Capsules*, 362 F.2d 923 (3d Cir. 1966); *V.E. Irons, Inc.* v. *United States*, 244 F.2d 34 (10th Cir. cert. denied, 354 U.S. 923 (1957).

The *Zauderer* case cited by the comments concerned the regulation by the State of Ohio of attorney advertisements. The Supreme Court restated the principle that attorney advertisements are commercial speech entitled to first amendment protection and that commercial speech which is not false or deceptive and does not concern unlawful activities may be restricted only where there is a substantial government interest and then only through means directly advancing that interest. *Zauderer, supra* at 2275–2276. The Court then went on to hold that some of the restrictions imposed by the State on the attorney advertisements were unconstitutional while other restrictions were not.

OTC drug labeling is commercial speech with a special public health function. It helps ensure that OTC drugs are used safely and effectively. In cases involving public health and safety, courts have held that additional restrictions on commercial speech may pass constitutional scrutiny. (See *Central Hudson Gas & Electric Corp., supra.*) As pointed out in the preamble to the proposal (50 FR 15811) and discussed above, the agency has concluded that the exclusivity policy adopted in 1975, while legally supportable, should not be continued for policy reasons: the goal of ensuring truthful, non-misleading labeling without inhibiting effective consumer communication does not require continuation of a rigid exclusivity policy.

The new labeling scheme provided for in this rule permits three alternatives, ranging from specific words established by FDA to other truthful and nonmisleading language, subject only to the minimal restrictions that the labeling not be false or misleading. Manufacturers who believe that one of the three alternatives is overly intrusive may select another alternative, including the development of their own alternative statements. The agency believes that the minimal restrictions contained in this rule clearly fall within the constitutional limits for commercial speech generally as set forth in the cases cited by the comments, and well within constitutional limits for commercial speech dealing directly with matters of public health and safety.

7. Referring to the first alternative of the exclusivity proposal, several comments maintained that "FDA APPROVED USES" language should be permitted for OTC drug products marketed under a new drug application (NDA) as well as for those marketed under an OTC drug monograph.

One comment noted that section 301(1) of the act (21 U.S.C. 331(1)) prohibits the use in labeling of any representation or suggestion that "approval of an application with respect to such drug * * * is in effect under section 355 [the new drug approval provision] * * *." The comment argued that the use of the "FDA APPROVED" language is contrary to the intent and meaning of section 301(1). The comment stated that as a result non-NDA'd OTC drug products would be allowed to use such language, but that NDA'd OTC drug products would be prohibited from using it. The comment maintained that the issue of labeling NDA'd OTC drugs as "FDA APPROVED" could only be adequately resolved legislatively, by amendment to the statute. Citing the pending "FDA Approval Labeling Act" (H.R. 2244), which would allow the statement "FDA APPROVED" followed by the NDA number on prescription drugs, the comment stated that FDA should suggest revisions in this manner to cover the labeling of NDA'd OTC drug products. Another comment contended that section 301(1) can be interpreted to apply only to statements connoting new drug approval pursuant to 21 U.S.C. 355 and therefore any terminology such as "APPROVED USES" connoting use of terminology approved by FDA in a final OTC drug monograph is not prohibited by this section of the law.

The comments maintained that equal treatment of OTC drug products marketed under an NDA and under an OTC drug monograph would be consistent with FDA's policy of promoting uniformity in OTC drug labeling consistent with applicable statutory standards and would lessen consumer confusion about the label indications on OTC drugs because there is no difference to the consumer between an NDA'd and a monograph OTC drug. The comments requested that the agency clarify that the "FDA APPROVED USES" language will also be permitted for NDA'd OTC drugs, and this language will not be in violation of section 301(1) of the act.

To further promote consistency in the labeling of OTC drug products, the agency agrees that OTC drug products approved by an NDA but not included in an OTC drug monograph should also be permitted to use the term "FDA APPROVED USES" or "FDA APPROVED INFORMATION" in their labeling. Because the current regulation is included under Part 330 (21 CFR Part 330), which applies only to OTC drugs that are generally recognized as safe and effective and not misbranded, the agency will propose in a future issue of the Federal Register specific procedures for the labeling of OTC drug products subject to NDA's that will allow use of the "FDA APPROVED USES" terminology.

The agency notes further that section 301(1) of the act by its own terms prohibits only representations or suggestions that an approval of an application under section 505 of the act (21 U.S.C. 355) is in effect for a drug product. It does not apply to requirements for labeling related to indications for use such as those described in the present regulation. Accordingly, FDA believes that it can issue regulations for NDA'd OTC drugs that will be consistent with section 301(1) of the act and that a statutory amendment to section 301(1) is not required for this purpose.

8. One comment stated that the second labeling alternative included in the proposal should permit reference to "FDA Approved Uses" because manufacturers or distributors of OTC drug products who use that alternative will be severely penalized by the inability to make reference to the "FDA Approved Uses." Contending that consumers will almost always choose an OTC drug products that has language such as "FDA Approved Uses," the comment added that marketers would be forced to use either alternative 1 or 3 rather than be disadvantaged in the marketplace by using alternative 2. The comment stated that, in practical terms, this means that the previous policy of rigid exclusivity would be perpetuated.

The comment added that denying the right to make reference to "FDA Approved Uses" to the marketer who elected the second alternative would place that marketer at a competitive disadvantage and also would mislead consumers because they would improperly be led to believe that the product bearing the "FDA Approved Uses" language is somehow better than the competing product that does not have such language.

The proposal, and this final rule, provide three alternatives to every manufacturer. A manufacturer who feels competitively disadvantaged by a particular alternative is free to select another alternative, such as one being used by a competitor. Moreover, the agency does not accept the comment's basic premise, that in every instance consumers will prefer a product bearing "FDA Approved" indications. A principal impetus behind the present rulemaking was the belief that there may be many ways of fairly and accurately stating the same information.

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A manufacturer may well find that consumers prefer the language it develops over the "FDA Approved" language. The agency believes that substantial numbers of manufacturers will elect to use labeling alternative 3, which combines both the monograph language and the manufacturer's alternative language. This alternative will permit use of the "FDA Approved" designation while also allowing manufacturers flexibility in developing their own wording. In any event, it would be false or misleading to use the words "FDA APPROVED USES" for wording that has not, in fact, been approved by the FDA, as requested by the comment. Accordingly, such a designation may not be used where alternative 2 is selected by a manufacturer.

Manufacturers may also wish to use the FDA monograph language but not use the terminology "APPROVED USES" or "APPROVED INFORMATION." Therefore, the agency has revised the requirements of labeling alternative 1 to make the use of the term "APPROVED USES," or similar designations permitted in the regulation, optional. However, if the term "APPROVED USES" is used, then the indication must appear within a boxed area. Also, the boxed area may not be used unless the "APPROVED USES"designation is also used.

The agency has also revised labeling alternative 2 to delete the reference back to the requirements of paragraph (c)(2)(i), because the original wording was unclear. Alternative 2 has also been clarified to refer only to "other truthful and nonmisleading statements."

9. Several comments stated that manufacturers should be allowed to use more than one of the three alternatives provided in the proposal in the labeling of a particular OTC drug product. As an example, one comment stated that a manufacturer might wish to use the first alternative by listing "APPROVED USES" or "FDA APPROVED USES" in a boxed area on the outer container and also use the third alternative by presenting the same FDA approved indications under "APPROVED USES" or "FDA APPROVED USES" together with alternative truthful and nonmisleading terminology outside the boxed area on the immediate container. Arguing that the third alternative recognizes that a combination of the first and second alternatives is appropriate on a single label, one comment maintained that there is no valid legal or policy reason why a company could not choose the first alternative on the outer container label and the second alternative on the immediate container label. Two comments argued that provided each labeling of an OTC drug product is taken as a whole and is complete, the ability to blend or combine alternatives for use in various component labeling sections would be fully consistent with the intent of the proposal. One comment added that this interpretation maintains the substantive standards of the proposal and preserves the overriding statutory requirement that the labeling not be false or misleading. The comments requested that FDA clarify in the final rule whether more than one alternative may be used.

The agency agrees with the comments that the proposal would enable manufacturers to use more than one of the three alternatives in the labeling of OTC drug products provided that each portion of the labeling complies with applicable statutory and regulatory labeling requirements in all respects. The final regulation has been clarified to state that more than one of the three alternatives may be used in the labeling of any particular OTC drug product marketed under the terms of a final OTC drug monograph.

10. Several comments argued that flexibility of labeling should be applied not only to indications but also to other sections of the labeling, e.g., warnings. One comment claimed that the same arguments could be made for the flexibility of other required labeling, such as directions or warnings, and questioned why, if flexibility of labeling is superior, the proposed rule is limited to indications for use. The comment expressed concern that the proposal "is the crack in the door" and that other required labeling will be given the same treatment later on.

One of the comments discussed the effect of the exclusivity policy, as applied to warnings, directions for use, and statements of identity, on the labeling of multiuse products, such as petrolatum. The comment contended that if a product is simultaneously subject to several final monographs, the policy of exclusivity would require that each specific "warning," "direction for use," and "statement of identity" established in each applicable final monograph be included on the product label, even if they are redundant (though not precisely identical), inconsistent, obvious, or even if their inclusion is impossible because of the small available label space. The comment also contended that the manufacturer would not be permitted to eliminate redundancy and inconsistency, and thereby minimize the burden of compliance, by employing terminology of its own expressing in a truthful and nonmisleading way, the appropriate "warnings," "directions for use," and "statements of identity" based on guidance provided in the applicable final monographs.

The flexibility established by the present regulation does not apply to OTC drug labeling other than indications for use. All other OTC drug labeling must continue to be stated in exact language where exact language has been established and identified by quotation marks in an applicable monograph or by regulation. However, in addition to the indications for use, statements of identity, warnings, and directions may appear within the boxed area. The agency's reasons for this policy are as follows:

Indications for use. As stated in the proposal, the agency recognizes that, within limits, there can be various ways of stating the same thing, some of which may even be more meaningful to potential purchasers of OTC drug products. The agency concludes that it can meet its regulatory responsibilities by providing greater flexibility for the use of alternative truthful statements without recourse to the monograph amendment process, which consumes both time and resources. (See comments 2 and 4 above.)

Statement of identity. Where it is feasible, some flexibility of labeling is already allowed in the statement of identity for certain OTC drug products, e.g., any of the following statements of identity could be used to describe OTC external analgesic drug products: "external analgesic," "topical analgesic," or "pain-relieving (insert dosage form, e.g., cream, lotion, or ointment)." See the tentative final monograph for OTC external analgesic drug products, published in the Federal Register of February 8, 1983 (48 FR 5852). For other OTC drug products, only one statement of identity has been proposed, e.g., "nighttime sleep-aid" or "acne medication." The agency concludes that there is no need to extend flexibility of labeling to the statement of identity, because, as stated above, it is already provided for where applicable. The agency believes that uniformity in this area helps avoid consumer confusion and aids consumer selection of competing products. In addition, where a product is marketed with multiple uses, the agency believes that it is essential that each use be identified in the statement of identity, which by regulation (21 CFR 201.61) must appear on the principal display panel of an OTC drug in package form, because the prominent location of this information greatly helps consumers in selecting an appropriate OTC drug product to use.

Warnings. Unlike indications for use, which pertain to a group of similar OTC drug products, warnings are more likely to be specific to ingredients. The agency believes that concisely and consistently worded warnings are essential to the safe use of an OTC drug product and that permitting flexibility in this section of labeling could put consumers at risk in terms of safe use of an OTC drug product. Accordingly, the exact wording of warnings in an OTC drug monograph will continue to be required. However, where applicable, e.g., in the case of a product covered by several monographs, warnings may be combined to eliminate duplicative words and phrases so long as the resulting warning is clear and understandable. The individual OTC drug monographs already provide for this.

Directions. OTC drug monographs do provide for flexibility in directions relating to the dosage for specific ingredients, which is designated in general terms. It is not FDA's intent that certain parts of the dosing information stated in a monograph be used verbatim. Rather, manufacturers, depending on their specific dosage form and the strength of the dosage form, may vary the dosage directions so long as the directions accurately reflect the designated dosage. For example: for a product which contains 25 milligrams (mg) of an active ingredient in a tablet dosage form where the monograph directions are 25 mg three times a day, the directions could read "Take 1 tablet 3 times a day"; or, the same product could be marketed as a 12.5-mg capsule, in which case the directions could read "Take 2 capsules 3 times a day."

In other instances, usually with topical OTC drug products, the agency believes that the safe and effective use of those products would be better ensured by requiring specific monograph language to be used in labeling directions. In these cases the agency has used quotation marks to identify those portions of the monograph directions that must be used exactly. (See the tentative final monograph for OTC wart remover drug products that was published in the Federal Register of September 3, 1982; 47 FR 39102.)

The principles discussed above are applicable to multiuse products, such as petrolatum, which was mentioned in the comment.

11. One comment stated that the "other allowable indications" listed in the more recently published tentative final monographs should also be included in the final monographs and should be allowed to be included in the "FDA Approved Uses" boxed area. The comment contended that only indications that have not been reviewed by the agency should be excluded from the boxed area. Another comment suggested the inclusion in proposed monographs of a section for substitute language.

A number of recently published tentative final monographs have included statements captioned "Other Allowable Indications" or "Other Allowable Statements." These statements are comparable to the substitute language described by one comment. As proposed in those tentative final monographs, other allowable statements describing indications would have been permitted to appear elsewhere on the labeling in addition to the monograph-required information, but could not appear in direct conjuction with the required labeling prescribed by the monograph.

In the exclusivity proposal, the agency stated that these additional indications and statements may be developed during the tentative final monograph stage of the OTC drug review, but would not be included in a final monograph because such statements were only examples of other acceptable language. However, the agency has decided that, because these additional terms have been reviewed by FDA, they should be incorporated, wherever possible, in final OTC drug monographs under the heading "Indications" as part of the indications developed under that monograph. By inclusion in the final monograph, they would therefore be permitted to be included in the boxed area. As future final monographs are published, the indications for use section will include such terms, where appropriate. This approach will provide other substitute language as suggested by one comment. As one comment stated, only indications that have not been reviewed by the agency (as well as those found to be nonmonograph in OTC drug rulemaking would then be excluded from the boxed area.

12. Several comments expressed concern about the agency's review of OTC drug labeling and the enforcement of violations under the revised exclusivity policy. One of the comments recommended that a manufacturer be required to send a registered letter to FDA outlining its intentions prior to ordering the printing of any labeling which changes the labeling contained in an approved monograph. The comment stated that this would not be a request for approval—just apprising FDA of what is being undertaken. Stating that the registering of the letter would be for the manufacturer's protection, the comment added that it would then be up to FDA to expedite an analysis of the change. The comment concluded that in this way FDA could stay abreast of all situations and still give the manufacturer more latitude to develop the product.

Several comments argued that without prior FDA approval the use of alternative indication statements would increase the cost of enforcing violations and strain FDA resources by "adding another layer of waiting, negotiation, and review to validate or prohibit statements which may not be truthful and not misleading." Two comments contended that the agency will find it impossible to review and police the infinite variations in language developed as marketers compete to sell their products.

One comment maintained that enforcement will be more cumbersome and difficult for FDA under a revised policy than under the existing exclusivity policy, but will be easier than if the agency had completely abandoned the approved terminology in the OTC drug monographs. The comment added that the monograph terminology will provide a workable standard by which to measure whether alternative terminology accurately expresses the approved indications for use or misbrands the product. Another comment supporting the more flexible labeling approach added that safeguards on checking the labeling language will need to be implemented, while another comment stated that FDA does not enforce regulations as it should now, thus allowing manufacturers enough freedom as it is.

One comment noted that alternative language used in labeling will still be subject to the controlling safeguard that it must be truthful and not misleading and that its substance not render the product misbranded or a new drug requiring FDA approval. The comment added that these continuing standards and FDA monitoring will provide adequate assurance to the public that health and safety considerations are fully taken into account and not overlooked.

Several comments, although less directly related to the question of FDA's review and enforcement of labeling requirements, are appropriate for inclusion here. Contending that the public does not know the subtleties involved in the wording in each product label, one of these comments stated that it will take a great deal of publicity to inform most people, particularly the most vulnerable, that the policy has

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become caveat emptor (let the buyer beware). Another comment contended that the proposed rule represents abandonment of FDA's commitment to consumer protection for OTC drug products and would "turn back the clock and re-establish the rule of Caveat Emptor wherever these products are sold."

The agency does not believe it is necessary to require manufacturers to notify FDA by registered mail of any intended changes from monograph labeling. A manufacturer may choose other truthful and nonmisleading language to describe the indications for use, subject to the statutory prohibition against misbranding by the use of false or misleading labeling. As comments noted, the agency emphasizes that the monograph language will be used as a regulatory benchmark to ensure that any alternative language does not exceed the approved indications.

In reference to the comments' concern regarding the difficulty and costliness of enforcement, the agency has routine compliance activities to evaluate OTC drug labeling and will in the normal course of business made determinations as to whether a manufacturer has exceeded the labeling allowed by a final monograph. FDA will carefully examine any alternative language that manufacturers use to ensure that it does not go beyond the approved indications. Accordingly, consumers will continue to be protected. In addition, the agency concludes that the revised rule does not reestablish "caveat emptor." As stated above, FDA will continue to review OTC drug labeling and institute appropriate enforcement action when violations are determined to exist.

13. One comment stated that the use of the term "FDA Approved" on OTC drug labeling prior to promulgation of a final OTC drug monograph is not a true statement, and would, therefore, constitute misbranding. Another comment stated that consumer confusion will result in certain categories of OTC drug products that are subject to a final monograph, such as antacids, could use the "FDA Approved" language while other categories of products could not bear the language because final monographs for those products have not yet been issued. The comment contended that it would appear to consumers as though drugs without the "FDA Approved" designation are "unapproved."

The first comment is correct; until relevant individual OTC drug monographs are issued in final form, the boxed area/"APPROVED USES" concept described in this final rule can not be implemented. A product can not bear an "APPROVED USES" designation until the use has, in fact, been approved by FDA, which will only occur when the final monograph is issued.

In response to the second comment, FDA does not believe that consumers will be confused while the use of "FDA Approved" language is being implemented as final monographs are issued. As the "FDA Approved" language is implemented on a class-by-class basis as final monographs for each class of OTC drug products are issued, all drugs within that class will be implementing the monograph and "FDA Approved" language at the same time. Therefore, competitive products within a particular class of OTC drugs will have similar labeling at or about the same time.

14. Two comments requested that the final rule on exclusivity clearly state that the revised labeling requirements do not apply to cosmetic or cosmetic/drug products. One of the comments maintained that the first alternative treats cosmetic/drug and cosmetic products unfairly because cosmetic/drug products may be precluded from using truthful and nonmisleading cosmetic terminology on key parts of a product label if the first or third alternative is used. The comment added that cosmetic terminology is not reviewed and approved by FDA in the OTC drug monographs and therefore could not be placed in the box. Stating that there are many examples in the marketplace of truthful, nonmisleading cosmetic terminology on the label with drug terminology, the comment added that it is not aware of any consumer confusion from this common practice nor of any expressed agency concern that such a practice would adversely affect the public health. Another comment stated that the options included in the proposal are particularly valuable to products that make both drug and cosmetic claims, because consumers could find a complete description of the product's claims at one location on the label, thus minimizing confusion about the product's performance.

OTC drug monographs cover only the drug use of the active ingredients listed therein and do not apply to the use of the same ingredients in products intended solely as cosmetics. Thus, the final rule does not apply to products marketed solely as cosmetics. However, products labeled for both drug and cosmetic use must conform to the requirements of the pertinent final OTC drug monograph(s), the cosmetic labeling requirements of section 602 of the act (21 U.S.C. 362), and 21 CFR Part 701. As one comment pointed out, cosmetic terminology is not reviewed and approved by FDA in the OTC drug monographs and therefore could not be placed in the box. Thus, cosmetic claims may appear elsewhere in the labeling but not in the box should manufacturers choose alternative one or three for labeling cosmetic/drug products.

15. Several comments included suggestions on various aspects of OTC drug labeling. These included use of simple language, larger print size, pictorial illustrations to make labeling more readily understandable to consumers with impaired vision or limited reading skills, print and/or color contrasts to highlight cautions in using the drug(s), and having terms used in a monograph reflect a greater range of detailed language. One comment suggested that indications worded by a manufacturer should also be boxed, i.e., "NOT APPROVED BY FDA" and color-coded red to distinguish them from "FDA APPROVED" language, which would be color-coded green, while another comment asserted that there would be less confusion if an elipse was used for alternative language and entitled "INFORMATION ACCEPTED BY FDA."

The agency appreciates the comments' suggestions about OTC drug labeling. However, most of these items are already covered by other existing regulations, e.g., 21 CFR 201.15 (prominence of required label statements) and 21 CFR 201.60 (principal display panel), and are outside the scope of this rulemaking.

The agency disagrees with the comments' suggestions that indications worded by a manufacturer should be contained in an elipse or be boxed and color-coded to distinguish those indications from "FDA Approved" language. The agency believes that these suggestions would be confusing and would add little to consumer understanding of OTC drug labeling. In addition, because alternative language is not preaccepted by FDA, the agency concludes that it will be less confusing to consumers if only a single boxed area is used in OT drug labeling wherein only exact monograph language need appear.

16. Several comments expressed concern about the inclusion of side effects and warnings in OTC drug labeling. One comment stated that the manufacturer's goal is to make money; consequently, side effects, as well as interaction with foods, are likely to be glossed over. Another comment stated that drugs are potential poisons and that a number of unwanted reactions occur already, while another comment cited

upset stomach or bleeding that may be caused by aspirin as an example. Another comment noted that warning against use by persons with certain conditions, e.g., diabetes, heart conditions, and thyroid problems, are not foremost on the label or container, but are often in small print near the end of the label or are located on the inside of a container. The comment contended that these warnings should be in large print, at the top of the label, and in a boxed area.

Another comment emphasized that all OTC drug labeling should be required to state the age range for usage, e.g., "Administer only to persons aged 12–70. For persons outside this age range, consult your physician before administering it."

The agency shares the comments' concerns over the necessity of OTC drug labeling to alert consumers to the potential side effects of the product, conditions under which the product should be used with caution, and proper directions for use including age ranges. These items are being addressed in individual OTC drug rulemakings, specific to ingredients contained in OTC drug products. Regarding one comment's suggestion that other labeling, e.g., warnings and dosing information, may be included within the boxed area, the agency notes that the proposal and final regulation provide that option.

17. Referring to the proposed conforming amendment for OTC antacid drug products (21 CFR 331.30), published simultaneously with the exclusivity proposal at 50 FR 15814, two comments noted that it is made clear that, of the several indications listed, it is optional to select any one, some, or all of the indications for use on the product label and labeling. The comments requested that this policy expressly be set forth in the exclusivity proposal itself to clarify that such a policy is applicable to all OTC drug monographs, rather than stating it on a monograph-by-monograph basis.

The agency agrees that labeling should be as flexible as possible as evidenced by the final monograph for OTC antacid drug products. Because the various OTC drug monographs differ in the manner in which "indications" are described (e.g., a single indication; a broad indication with optional terms, or several indications), the agency considers it more appropriate to apply this selection policy on a monograph-by-monograph basis where applicable. The agency does not believe it necessary to establish an additional regulation to clarify this policy because manufacturers will need to read individual monographs applicable to their products to determine what options are available.

II. Summary of Changes

1. The agency has clarified the final regulation to state that more than one of the three alternatives may be used in the labeling of an OTC drug product. (See comment 9.)

2. The final rule has been clarified to state that labeling information not identified by quotation marks in a monograph, such as dosage, need not appear in OTC drug product labeling in the exact language established in an OTC final monograph. (See comment 10.)

3. The agency has revised alternative 1 to make the use of the term "FDA APPROVED USES," or similar designations permitted in the regulation, optional. However, as described in the proposal, if the term "FDA APPROVED USES" is used, then the indications information must appear within a boxed area. The boxed area may not be used unless the "FDA APPROVED USES" terminology is also used. The agency has also clarified the wording of alternative 2. (See comment 8.)

4. The agency has clarified the regulatory provisions of alternatives 2 and 3 to read "the provisions of section 502 of the act relating to misbranding" and the "prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act." These changes have also been incorporated into the conforming amendments that were proposed for the monographs for OTC antacid, antiflatulent, and cholecystokinetic drug products in 21 CFR Parts 331, 332, and 357, respectively.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (50 FR 15813). The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the Federal Register of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that not one of these rules, including this final rule for labeling of drug products for OTC human use, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Public Law 96-354. That assessment included a discretionary Regulatory Flexibility Analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for labeling of drug products for OTC human use is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

21 CFR Part 330

OTC drugs, Labeling requirements.

21 CFR Part 331

OTC drugs, Antacid drug products.

21 CFR Part 332

OTC drugs, Antiflatulent drug products.

21 CFR Part 357

OTC drugs, Cholecystokinetic drug products.

Therefore, under the Federal Food, Drug, and Cosmetic Act and the Administrative Procedure Act, Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended in Parts 330, 331, 332, and 357 as follows:

PART 330—OVER-THE-COUNTER (OTC) HUMAN DRUGS WHICH ARE GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED

1. The authority citation for 21 CFR Part 330 is revised as set forth below and the authority citations under §§ 330.2, 330.10, and 330.12 are removed.

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.11.

2. In Part 330, § 330.1 is amended by redesignating existing paragraph (c) as paragraph (c)(1) and by adding new paragraph (c)(2), to read as follows:

§ 330.1 General conditions for general recognition as safe, effective, and not misbranded.

* * * * *

(c)(1) * * *

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(2)(i) The label and labeling of the product contain in a prominent and conspicuous location the labeling describing the "Indications" that have been established in an applicable final monograph. At the option of the manufacturer, this labeling may be designated "APPROVED USES," or be given a similar designation as permitted by this paragraph, each time it appears in the labeling, e.g., on the outer carton, inner bottle label, and on any package insert or display material. If the "APPROVED USES" or a similar designation is used, the labeling involved shall appear within a boxed area. Other applicable labeling established under this Subchapter and Subchapter C of this chapter may be included in the boxed area. If such other labeling is included, the boxed area shall be designated "APPROVED INFORMATION" rather than "APPROVED USES." The "indications" information appearing in the boxed area shall be stated in the exact language of the monograph. Other information within the boxed area also shall be stated in exact language where exact language has been established and identified by quotation marks in an applicable monograph or by regulation (e.g., § 201.63 of this chapter). A statement that the information in the box was "published by the Food and Drug Administration" shall appear within the boxed area, or reasonably close by. In lieu of such statement, the designation of the boxed area may be modified to read: "FDA APPROVED USES" or "FDA APPROVED INFORMATION," as appropriate, or "USES (or "INFORMATION") APPROVED BY THE FOOD AND DRUG ADMINISTRATION," or other similar wording.

(ii) At the option of the manufacturer, as an alternative to the requirements of paragraph (c)(2)(i) of this section, the label and labeling of the product may contain in a prominent and conspicuous location other truthful and nonmisleading statements describing only those indications for use that have been established in an applicable monograph, subject to the provisions of section 502 of the act relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act. Such labeling shall not be boxed and shall not contain the statements provided in paragraph (c)(2)(i) of this section relating to "APPROVED USES," or "APPROVED INFORMATION," or contain a statement that the labeling has been published by the Food and Drug Administration.

(iii) At the option of the manufacturer, the label and labeling may meet the boxed-area requirements of paragraph (c)(2)(i) of this section and, in addition, other truthful and nonmisleading statements describing only those indications for use that have been established in an applicable monograph may appear elsewhere in the labeling, that is, outside the boxed area, subject to the provisions of section 502 of the act relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

(iv) At the option of the manufacturer, more than one of the alternatives described in paragraphs (c)(2)(i), (ii), and (iii) may be used in separate labeling, e.g., container label, outer carton, package insert, display material, for a particular OTC drug product provided each labeling complies with all applicable statutory and regulatory labeling requirements in all respects.

(v) The term "prominent and conspicuous location" as used in paragraph (c)(2)(i) and (ii) of this section means that the labeling within the boxed or nonboxed area shall be presented and displayed in such a manner as to render it likely to be read as understood by the ordinary individual under customary conditions at both time of purchase and use.

(vi) Regardless of the alternative selected by the manufacturer to describe indications, paragraphs (c)(2)(i), (ii), and (iii) of this section require other labeling established under this Subchapter and Subchapter C of this chapter to be stated in the exact language where exact language has been established and identified by quotation marks in an applicable monograph or by regulation (e.g., § 201.63 of this chapter).

* * * * *

PART 331—ANTACID PRODUCTS FOR OVER-THE-COUNTER (OTC) HUMAN USE

3. The authority citation for 21 CFR Part 331 is revised to read as follows:

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.11

4. In Part 331, § 331.30 is amended by revising paragraph (b) to read as follows:

§ 331.30 Labeling of antacid products.

* * * * *

(b) *Indications.* The labeling of the product states, under the heading "Indications," the following: "For the relief of" (optional, any or all of the following:) "heartburn," "sour stomach," and/or "acid indigestion" (which may be followed by the optional statement:) "and upset stomach associated with" (optional, as appropriate) "this symptom" or "these symptoms." Other truthful and nonmisleading statements, describing only the indications for use that have been established and listed above, may also be used, as provided in § 330.1(c)(2) of this chapter, subject to the provisions of section 502 of the act relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

* * * * *

PART 332—ANTIFLATULENT PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

5. The authority citation for 21 CFR Part 332 is revised to read as follows:

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1050–1053 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.11.

6. In Part 332, § 332.30 is amended by revising paragraph (a) to read as follows:

§ 332.30 Labeling of antiflatulent products.

(a) *Indications.* The labeling of the product states, under the heading "Indications," the following: "antiflatulent" and/or "to alleviate or relieve the symptoms of gas." Other truthful and nonmisleading statements, describing only the indications for use that have been established and listed above, may also be used, as provided in § 330.1(c)(2) of this chapter, subject to the provisions of section 502 of the act relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

* * * * *

PART 357—MISCELLANEOUS INTERNAL DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

7. The authority citation for 21 CFR Part 357 is revised to read as follows:

Authority: Secs. 201(p), 502, 505, 701, 52 Stat. 1041–1042 as amended, 1055–1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); 5 U.S.C. 553; 21 CFR 5.11.

8. In Part 357, § 357.250 is amended by revising paragraph (b) to read as follows:

§ 357.250 Labeling of cholecystokinetic drug products.

* * * * *

(b) *Indications.* The labeling of the product states, under the heading "Indications," the following: "For the contraction of the gallbladder during diagnostic gallbladder studies." Other truthful and nonmisleading statements, describing only the indications for use that have been established and listed above, may also be used, as provided in § 330.1(c)(2), subject to the provisions of section 502 of the act relating to misbranding and the prohibition in section 301(d) of the act against the introduction or delivery for introduction into interstate commerce of unapproved new drugs in violation of section 505(a) of the act.

Frank E. Young,
Commissioner of Food and Drugs.
Otis R. Bowen,
Secretary of Health and Human Services.
April 14, 1986.

[FR Doc. 86-8720 Filed 4-30-86; 8:45 am]
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federal register

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Part IV

Department of Agriculture

Office of Grants and Program Systems

Competitive Research Grants Program for Forest and Rangeland Renewable Resources for Fiscal Year 1986; Solicitation of Applications

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DEPARTMENT OF AGRICULTURE

Office of Grants and Program Systems

Competitive Research Grants Program for Forest and Rangeland Renewable Resources for Fiscal Year 1986; Solicitation of Applications

Notice is hereby given that pursuant to the authority contained in section 5 of the Forest and Rangeland Renewable Resources Research Act of 1978, as amended (16 U.S.C. 1644), the Office of Grants and Program Systems (OGPS), United States Department of Agriculture (USDA), anticipates awarding standard project grants for basic research in the areas of harvesting, wood utilization and forest biology. The total amount expected to be available for this program during fiscal year 1986 is approximately $6,168,636. Long-term projects, up to a limitation of five years, will be encouraged. Grants will be awarded by OGPS to the extent that funds are available.

Pursuant to the Secretary's Memorandum 1030-14 dated January 31, 1986, the authority to administer the $6,507,000 ($6,799,000 reduced by approximately 4.3 percent as mandated by Pub. L. No. 99-177) made available by the Continuing Appropriations Act for fiscal year 1986 for a competitive research grants program for forest research, authorized by section 5 of the Forest and Rangeland Renewable Resources Research Act of 1978, has been transferred to the Office of Grants and Program Systems. Under this authority the Office of Grants and Program Systems may award grants to Federal, State, and other governmental agencies, public or private agencies, institutions, universities, and organizations, and businesses and individuals in the United States. Only proposals from applicants in the United States will be considered for support.

Applicable Regulations

This program is subject to the provisions found at 7 CFR Part 3201 (51 FR 15288, April 22, 1986). These provisions set forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals and the awarding of grants, and regulations relating to the post-award administration of grant projects. In addition, USDA Uniform Federal Assistance Regulations, 7 CFR Part 3015, as amended will apply to this program.

How To Obtain Application Materials

Copies of this proposed solicitation, the Research Grant Application Kit, and the proposed Administrative Provisions for this program (7 CFR Part 3201) may be obtained by writing to the address or calling the telephone number which follows: Grants Administrative Management; Attention: Proposal Services Unit; Office of Grants and Program Systems; U.S. Department of Agriculture; Room 007, J.S. Morrill Building; 15th and Independence Avenue SW.; Washington, DC 20251; telephone number (202) 475-5089.

What to Submit

An original and 15 copies of each proposal submitted under this program are requested. This number of copies is necessary to permit thorough, objective peer evaluation of all proposals received before funding decisions are made. In addition to other required forms and certifications included in the Research Grant Application Kit, an original and 15 copies of Form S&E-661, "Grant Application," are requested. Proposers should note that one copy of this form must contain pen-and-ink signatures of the principal investigator(s) and the authorized organizational representative.

All copies of each proposal should be mailed in one package if at all possible. Due to the volume of proposals received, applications submitted in several packages are very difficult to identify. Please see that each copy of each proposal is *stapled securely* in the upper left-hand corner. DO NOT BIND. Information should be typed on one side of the page only.

Every effort should be made to ensure that the proposal contains all pertinent information when submitted. Prior to mailing, compare your proposal with the Application Requirements checklist contained in the Research Grant Application Kit and instructions found in 7 CFR Part 3201.

Where and When To Submit Grant Applications

Each research grant application must be submitted to: Grants Administrative Management; Attention: Proposal Services Unit; Office of Grants and Program Systems; U.S. Department of Agriculture; Room 007, J.S. Morrill Building; 15th and Independence Avenue SW.; Washington, DC 20251.

To be considered for funding during fiscal year 1986, proposals should be *postmarked by June 2, 1986.*

Introduction to Program Description

Standard research grants will be awarded to support basic research in selected areas of (1) harvesting, processing, and utilization of timber resources, with special emphasis on the chemical, mechanical, and engineering properties of wood and wood materials and (2) forest biology, including biotechnology, that are considered by a number of scientific groups to possess exceptional opportunity for fundamental scientific discovery and for contributing, in the long run, to applied research and development vitally needed on important wood utilization and forestry problems. This grants program recognizes that new, innovative approaches and enhanced levels of funding are essential as we seek ways to improve the economic and environmental value of our forest resources.

Consideration will be given to research proposals that address fundamental questions in the areas noted below and that are consistent with the long-range missions of USDA. Basic guidelines are provided to assist members of the scientific community in assessing their interest in the program areas and to delineate certain important areas where new information is vitally needed. However, these guidelines are also meant to be flexible and should not detract from the creativity of potential investigators. OGPS encourages the submission of innovative projects in the so-called "high-risk" category, as well as those that may have greater probability of success.

Workshops or symposia that bring together scientists to identify research needs, update information or advance an area of research are recognized as an integral part of research efforts. Support for a limited number of such meetings covering subject matter encompassed by this Competitive Research Grants Program for Forest and Rangeland Renewable Resources will be considered for partial or, if modest, complete support.

This program is divided into the two program areas outlined below, and funding will be divided equally between them. Proposals submitted in response to this solicitation must be identified as to the program area under which they are to be considered for funding (e.g., Wood Chemistry and Biochemistry).

First, the Department will fund proposals concerning the improved utilization of wood and wood fiber. Public and private forests in the United States contain one of our most important renewable natural resources, providing

a continuing supply of wood for industrial materials, chemicals, and energy, as well as other resources and benefits. National requirements for wood, wood fiber, and chemical products, however, increasingly demand the development of innovative and economical conversion processes that effectively utilize total available wood resources. Thus, as the diverse demands placed upon forest resources grow, the Department of Agriculture is encouraging the development of more efficient harvesting, processing, utilization, and management practices.

Second, the Department will fund proposals concerning forest biology (including biotechnology). Forest systems generally are dominated by long-lived trees in either planted or naturally regenerated stands that may vary in composition from one species to complex mixtures of many. These primarily undomesticated populations of forest trees, while dominant, are but one component of larger communities of diverse numbers and combinations of associated organisms. Productivity of the forest ecosystem is thus dependent upon the many complex processes and interactions among trees, other organisms and the physical factors of the environment. While many of these processes and interactions have been identified, studied and described, very little is known of the basic biological mechanisms that underlie and determine their direction and rates.

The following guidelines are provided as a base from which proposals may be developed.

Specific Areas of Research To Be Supported in Fiscal Year 1986

1. Improved Utilization of Wood and Wood Fiber

Improved wood utilization practices depend upon a continually advancing scientific foundation of basic research in wood properties and fundamental components of wood science. This program area encourages research that addresses critical barriers to improved wood utilization and that will provide the scientific base from which new research and development can proceed. Grants will be awarded to support basic research in the following three categories of wood science:

Wood Chemistry and Biochemistry represents an important area where new basic information is vitally needed and where breakthroughs have a virtually unlimited potential for expanding wood utilization. Basic questions that need to be addressed include the nature of underlying principles governing enzymatic, microbial, and other chemical reactions. Examples of research subjects of interest include bioconversion and deterioration mechanisms, lignin and cellulose polymer modification, surface chemistry, bonding chemistry, and thermal reactions.

Physical/Mechanical Properties of Wood and Basic Processing Technology constitutes an area of investigation in which an improve base of scientific knowledge can ensure future development of new products and processes.

Research is encouraged that furthers our understanding of basic mechanisms that impinge upon the structure, physical properties, and basic processing characteristics of wood and reconstituted wood materials. Examples of such research include, but are not limited to, anatomy, wood formation, viscoelasticity and quality investigations, machining processes, heat and mass transfer phenomena, lignocellulose modification, particle/fiber consolidation, non-destructive property evaluation, and materials science principles.

Structural Wood Engineering has developed empirically over time and has typically involved incremental improvements upon conventional concepts. Significant improvements depend upon developing an expanded scientific base of knowledge about the use and performance of wood as a structural material. The goal of basic research in this field is to support and encourage innovative approaches to the structural use of wood. Examples of research in this category include reliability-based design, systems modeling and validation, wood/non-wood composites, fasteners, and basic failure mechanisms.

To be considered for support, grant proposals should demonstrate applicability to one of the described areas of research emphasis and must offer a resonable probability of contributing significantly to the present body of scientific knowledge. The Department encourages proposals that emphasize innovative approaches to solving fundamental problems in the field of wood science and technology. Although this program area will emphasize research in the above categories, other new or unusual approaches will not be excluded.

If necessary, further information may be obtained from the Associate Program Manager at (202) 475-3310.

2. Forest Biology (Including Biotechnology)

The primary goals of the Forest Biology program area are to promote and fund research that will further the basic knowledge of mechanisms of biological processes in forest organisms and systems and that will contribute to overcoming barriers to optimize the health and productivity of the forest resource. Emphasis will be placed on research proposals that deal with the woody plant component of the forest system. Also, grants will be awarded to support basic studies in the following two categories of forest biology research, each of which has been judged to offer exceptional opportunities for scientific advancement. Thus, proposals in this area of fundamental research are encouraged, but the program will not exclude other new or unusual research approaches.

Genetic Structure and Function is an area of research in which new basic knowledge and technology development are critically needed to support future efforts in more intensive forest management. Forest organisms, by virtue of their wide distribution and occurrence in both natural and manipulated ecosystems, offer unique opportunities to analyze, identify and utilize a broad spectrum of variations and adaptations that still persist in the gene pools of existing populations.

Research should address the genetic limits to the health and productivity of wood species, including: Development of techniques for genetic engineering, including those for DNA transfer systems and for determining molecular mechanisms of gene expression; elucidation of mechanisms of morphogenesis at the cellular and organismal levels, including those controlling the development of productive plants from tissue or cell culture; identification and characterization of valuable genes and simply-inherited traits; and determinations of the organization, structure, and function of genomes.

Mechanisms of Interactions in Forest Systems is an area of research which requires a significant increase in basic knowledge to support subsequent studies of a more applied nature. Forest productivity is determined by complex climatic, geochemical and physical forces interacting with the living component of the ecosystem, the diverse mixtures of woody species of varying genotype, size and age that exist in various stages of equilibria with each other and with a host of other forest organisms. Understanding basic mechanisms that underlie the dynamic changes that occur as a forest regenerates and matures is essential to determining constraints and

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opportunities to improve the health and productivity of the forest resource.

Areas in which basic research is needed to understand mechanisms involved in some of these processes include, but are not limited to: Determining mechanisms driving processes such as mycorrhizal symbioses, carbon and nitrogen metabolism, and elucidating mechanisms involved in antagonistic relationships between forest organisms (interspecific interference) such as allelopathy and host-parasite interactions.

To be considered for support, grant proposals should demonstrate applicability to one of the described areas of research emphasis and must offer a reasonable probability of contributing significantly to the present body of scientific knowledge. It is especially important that proposals emphasize innovative approaches to solving fundamental problems in forest biology.

If necessary, further information may be obtained from the Associate Program Manager at (202) 475-3310.

Supplementary Information

For reasons set forth in the final rule related notice to 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504 (h)), the collection of information requirements contained in this notice have been approved under OMB Document No. 0525-0001.

Done at Washington, DC, this 24th day of April 1986.

John Patrick Jordan,

Acting Administrator Office of Grants and Program Systems.

[FR Doc. 86-9752 Filed 4-30-86; 8:45 am]

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federal register

Thursday
May 1, 1986

Part V

Office of Management and Budget

Budget Rescissions and Deferrals; Notice

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OFFICE OF MANAGEMENT AND BUDGET

Budget Rescissions and Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report three rescission proposals totaling $114,500,000 affecting programs in the Department of Defense—Military.

The details of these rescission proposals are contained in the attached report.

Ronald Reagan.

The White House,

April 25, 1986.

BILLING CODE 3110-01-M

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CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

RESCISSION NO.	ITEM	BUDGET AUTHORITY
	Department of Defense - Military	
	Procurement	
R86-81	Procurement of weapons and tracked combat vehicles, Army	34,400
R86-82	Shipbuilding and conversion, Navy	40,100
R86-83	Other procurement, Air Force	40,000
	Total, rescissions	114,500

SUMMARY OF SPECIAL MESSAGES
FOR FY 1986
(in thousands of dollars)

	Rescissions	Deferrals
Sixth special message:		
New items	114,500	---
Revisions to previous special messages	---	---
Effects of sixth special message	114,500	---
Amounts from previous special messages that are changed by this message (changes noted above)	---	---
Subtotal, rescissions and deferrals	114,500	---
Amounts from previous special messages that are not changed by this message	10,012,392	24,720,727
Total amount proposed to date in all special messages	10,126,892	24,720,727

R86-81

DEPARTMENT OF DEFENSE - MILITARY

Procurement

Procurement of Weapons and Tracked Combat Vehicles, Army

Of the funds made available under this head in Public Law 98-473, $34,400,000 are rescinded.

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Rescission Proposal No: R86-81

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY:
Department of Defense - Military

Bureau:

Appropriation title and symbol:
Procurement of weapons and tracked combat vehicles, Army
214/62033

OMB identification code:
21-2033-0-1-051

Grant program:
[ ] Yes [X] No

Type of account or fund:
[ ] Annual
[X] Multiple-year 9/30/86 (expiration date)
[ ] No-Year

New budget authority..... $
(P.L.)
Other budgetary resources 787,577,501
Total budgetary resources 787,577,501

Amount proposed for rescission $ 34,400,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other

Justification: Procurement of weapons and tracked combat vehicles, Army provides funds for the construction, procurement, production, and modification of weapons and tracked combat vehicles. These funds are being proposed for rescission to offset fiscal year 1986 increases resulting from a proposed supplemental for military and economic assistance to the Philippines.

Estimated Program Effect: This proposal would rescind those funds that were authorized to be transferred under Section 8103 of Public Law 99-190 for "increased readiness of conventional forces in programs funded in the operation and maintenance accounts."

The fiscal year 1986 column of the fiscal year 1987 Budget reflects transfers from prior year unobligated balances in procurement appropriations to operation and maintenance appropriations. The proposed transfers would be reduced by $34.4 million to accommodate this requirement. The following items have been adjusted:

($ in millions)

Productivity improvement equipment	-15.0
Tactical Army Combat Service Computer System (TACCS)	-4.3
Standard Army Automated Contracting System (SAACONS)	-3.0
Standard port system ADP	-1.1
Air defense training development contract	-5.8
Repair parts stockage	-5.0

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
3,767,500	3,743,500	24,000	10,400				

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R86-82

DEPARTMENT OF DEFENSE - MILITARY

Procurement

Shipbuilding and Conversion, Navy

Of the funds made available under this head in Public Law 98-473, $40,100,000 are rescinded.

Rescission Proposal No: R86-82

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency:
Department of Defense - Military

Bureau:

Appropriation title and symbol:
Shipbuilding and conversion, Navy
174/81611

OMB identification code:
17-1611-0-1-051

Grant program: | | Yes | X | No

Type of account or fund:
| | | Annual
| X | | Multiple-year 9/30/88 (expiration date)
| | | No-Year

New budget authority..... $ ____
(P.L. ____)

Other budgetary resources 3,196,322,330

Total budgetary resources 3,196,322,330

Amount proposed for rescission $ 40,100,000

Legal authority (in addition to sec. 1012):
| | | Antideficiency Act
| | | Other ____

Type of budget authority:
| X | | Appropriation
| | | Contract authority
| | | Other ____

Justification: Shipbuilding and conversion, Navy provides funds for the construction, acquisition, or conversion of naval vessels as authorized by law. These funds are being proposed for rescission to offset fiscal year 1986 increases resulting from a proposed supplemental for military and economic assistance to the Philippines.

Estimated Program Effect: This proposal would rescind funds which were authorized to be transferred under Section 8103 of Public Law 99-190 for "increased readiness of conventional forces in programs funded in the operation and maintenance accounts."

The fiscal year 1986 column of the fiscal year 1987 Budget reflects transfers from prior year unobligated balances in procurement appropriations to operation and maintenance appropriations. The proposed transfers would be reduced by $40.1 million to accommodate this requirement. The following item has been adjusted:

	($ in millions)
Aircraft and other depot maintenance...	-40.1

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Outlay Effect (in thousands of dollars):

1986 Outlay Estimate Without Rescission	1986 Outlay Estimate With Rescission	Outlay Savings 1986	1987	1988	1989	1990	1991
9,147,200	9,119,200	28,000	12,100	---	---	---	---

DEPARTMENT OF DEFENSE - MILITARY

Procurement

Other Procurement, Air Force

Of the funds made available under this head in Public Law 98-473, $40,000,000 are rescinded.

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

Agency:
Department of Defense - Military

Bureau:

Appropriation title and symbol:
Other procurement, Air Force
57S/73080

OMB identification code:
57-3080-0-1-051

Grant program: [ ] Yes [X] No

Type of account or fund:
[ ] Annual
[X] Multiple-year 9/30/87 (expiration date)
[ ] No-Year

New budget authority..... $
(P.L.)
Other budgetary resources 2,111,943,437
Total budgetary resources 2,111,943,437

Amount proposed for rescission $ 40,000,000

Legal authority (in addition to sec. 1012):
[ ] Antideficiency Act
[ ] Other

Type of budget authority:
[X] Appropriation
[ ] Contract authority
[ ] Other

Justification: Other procurement, Air Force provides funds for the procurement and modification of equipment including munitions, ground guidance, vehicles, electronic control equipment, and ground electronic and communication equipment. These funds are being proposed for rescission to offset fiscal year 1986 increases resulting from a proposed supplemental for military and economic assistance to the Philippines.

Estimated Program Effect: This proposal would rescind those funds that were authorized to be transferred under Section 8103 of Public Law 99-190 for "increased readiness of conventional forces in programs funded in the operation and maintenance accounts."

The fiscal year 1986 column of the fiscal year 1987 Budget reflects transfers from prior year unobligated balances in procurement appropriations to operation and maintenance appropriations. The proposed transfers would be reduced by $40.0 million to accommodate this requirement. The following item has been adjusted:

	($ in millions)
Real property maintenance.....	-40.0

[FR Doc. 86-9813 Filed 4-30-86; 8:45 am]
BILLING CODE 3110-01-C

Outlay Effect (in thousands of dollars):

1986 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	1986	1987	1988	1989	1990	1991
6,779,300	6,751,300	28,000	12,000	---	---	---	---

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

Last List April 29, 1986.

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TABLE OF EFFECTIVE DATES AND TIME PERIODS—MAY 1986

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
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Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

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Administrative Practice and Procedure
Federal Communications Commission
Veterans Administration
Air Pollution Control
Environmental Protection Agency
Aviation Safety
Federal Aviation Administration
Banks, Banking
Farm Credit Administration
Bridges
Coast Guard
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Endangered and Threatened Species
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Food Stamps
Food and Nutrition Service
Government Contracts
Immigration and Naturalization Service
Government Procurement
Defense Department

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Selected Subjects

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National Aeronautics and Space Administration

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Motor Vehicle Safety
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Federal Communications Commission

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Interstate Commerce Commission

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Federal Home Loan Bank Board

Sugar
Commodity Credit Corporation

Surface Mining
Interior Department

Television Broadcasting
Federal Communications Commission

Vocational Education
Veterans Administration

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WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: May 15; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Laurence Davey, 202-523-3517

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 272 and 273

[Amdt. No. 273]

Food Stamp Program; Alaska Thrifty Food Plan

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: On May 1, 1984, the Department issued an interim rule establishing separate food stamp allotment levels for rural and urban Alaska. Comments were solicited from interested parties through July 2, 1984. On April 8, 1985, the Department issued a final rule which announced that rural and urban allotment levels in Alaska would remain unchanged, but that new levels would be considered when data became available to establish them. This action required new allotment levels in rural and urban Alaska, based upon a Settlement Agreement in *Vera Nevezaroff, et al. v. John R. Block*, U.S.D.C. Alaska, No. A–85–203. (These rules are to be implemented, construed and interpreted in a manner consistent with the terms of that Settlement Agreement.)

DATE: This rule will be effective April 1, 1986.

ADDRESS: Questions or comments should be directed to Thomas O'Connor, Supervisor, State Management Section, Administration and Design Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302. All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Thomas O'Connor, Supervisor, State Management Section, Administration and Design Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302, (703) 756–3385.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291

The Department has reviewed this rule under Executive Order 12291 and Secretary's Memorandum No. 1512–1. This rule will not have significant adverse effects upon competition, employment, investment, productivity, innovation, or upon the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the Department has classified this rule as "not major". Adoption of this action would result in Alaska allotments that are more representative of food costs in the State.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the Final Rule related Notice to 7 CFR 3015, Subpart V (48 FR 29115), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Regulatory Flexibility Act

This action has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (Public Law 96–354, 94 Stat. 1164, September 19, 1980). Robert E. Leard, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This regulation does not contain reporting or recordkeeping requirements subject to approval of the Office of Management and Budget under the Paperwork Reduction Act.

Final Rule

This rule is based on a Settlement Agreement approved by the United States District Court, District of Alaska. Notice and comment rulemaking is unnecessary and contrary to the public interest. The Settlement Agreement is based, in part, on extensive State-wide solicitation of public comment and a review of that public comment. A notice soliciting public comment was sent to food stamp recipients in Alaska, was posted by fee agents in Alaska, and was published in Alaska newspapers of general circulation.

This rule is effective April 1, 1986. The State of Alaska and Alaska Legal Services Corporation have agreed that Alaska will begin implementing the Settlement Agreement on April 1, 1986. Since rapid implementation of these improvements in program operations is in the public interest FNS has determined that good cause exists to make this rule effective on April 1, 1986.

Background

The Agriculture and Food Act of 1981 (Pub. L. 97–98), enacted on December 22, 1981, provided, in part, for differing allotment levels for rural and urban Alaska to recognize significantly higher food costs in rural Alaska. On May 1, 1984, and on April 8, 1985, the Department issued interim and final rules, respectively, implementing this provision of law. A full explanation of the rationale and purposes of those rules was provided when each was published. (See 49 FR 18458–18463 and 50 FR 13759–13761). In the April 8, 1985 final rule, the Department noted that efforts were being undertaken by the State agency, and others, to supply more up-to-date food price data for additional areas of the State. The Department noted that these data might ultimately provide sufficient information to warrant a reconsideration of the Department's initial decisions. Therefore, the Department made a commitment that when these data became available the Department would review them and determine the need for a reassessment in the methodology for establishing urban and rural allotments. In the meantime, a legal action was filed against the Department by several Alaska food stamp recipients who asserted that some areas designated as urban (low cost food areas) by USDA should have been designated rural (high food cost areas). USDA strongly contended that the rules establishing the rural and urban areas in Alaska were

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proper, but that forthcoming food cost information might indicate that changes in the rules would improve the efficiency of the program in Alaska. This new information became available after the legal action was filed.

After reviewing the new data, USDA met with plaintiffs' counsel (Alaska Legal Services Corporation), the Alaska State agency, and the University of Alaska Cooperative Extension Service to consider and discuss discrepancies between the new data base and other information available to USDA and to obtain information concerning areas not covered in either the new data base or the data base used to promulgate USDA's original rules.

The result of this meeting, as well as extensive subsequent discussions, was an agreement among all parties as to which areas of the State were low cost food areas and which areas were high cost food areas. The U.S. District Court for Alaska, based on input from all parties and on public input, approved the Settlement Agreement on January 30, 1986.

Data Base Background

In the Department's previous rules, the Department used data from the State Division of Personnel (SDP) to establish food costs in the State's county equivalent areas.

The data base from the SDP covered a larger proportion of the State than other data bases. It contained food cost data for county equivalent areas which represented 95 percent of the population within the State. For the remaining 5 percent of the population, there was a compatible data base available from the Alaska Department of Commerce. However, the SDP data base was from 1976, and the Department was aware that salient changes might have occurred since then which were not reflected in these data. Although the Department had been advised that the State agency planned to develop a more up-to-date data base, that data base would not be available for some time after the final rule was published, and the Department did not have sufficient advance information to determine whether the forthcoming data base would be suitable to establish Alaska allotments. Therefore, based upon all of the information actually available when comments on the Alaska Thrifty Food Plan (TFP) rule were being considered, the Department concluded that it was necessary and in the public interest to issue a final rule based upon the best data base that existed.

The SDP data were judged to be preferable to other data bases because they were from a single point in time and because they provided broader coverage of the State. At the same time, the Department made a commitment to review and assess the State agency data base when it became available. In keeping with that commitment, the Department maintained close contact with the State agency and made an ongoing effort to assess and comment upon the survey while it was in process and to review the survey data as they became available. Several areas of concern had to be addressed and resolved before these data could be used, and the Department worked closely with the State agency, plaintiffs' counsel, and the Cooperative Extension Service in resolving them.

County Equivalent Concept Background

In the May 1 rule, the Department used the 23 county equivalents in Alaska as the geographic units upon which to base the designations of urban and rural. The Department did not have sufficient data to make a place-by-place designation of urban or rural, and the county equivalent concept was thought to ease the administrative burden of administering the dual allotment system.

Each county equivalent area was designated as either urban or rural based on whether its food costs (weighted by food stamp participants) were comparatively high or low. Thus, an entire county equivalent area would be designated urban, even though a small place within that area had very high food prices because places with lower food stamp participation were given less weight than higher participation places in the Department's mathematical equation. Likewise, an entire county equivalent area would be designated as rural even though a small place within it had relatively low food prices.

Since the Department's initial rules were promulgated, the convergence of two factors warranted a reconsideration of the county equivalent concept. First, the existence of the new data base greatly increased the number of areas for which the Department has food price data, thereby making it possible to make more precise determinations of urban and rural status. Secondly, the State agency acquired a new computer system which will enable them to make accurate place by place determinations of urban or rural status.

Data Base Description

The new data base is described in a survey report entitled, "What does it Cost in Alaska?" dated June 1985. This survey was conducted by the University of Alaska-Cooperative Extension Service (CES). A copy of this survey is available for review at the Department. Copies may be obtained from the Cooperative Extension Service, University of Alaska, Fairbanks, Alaska 99701.

Data were collected in 26 communities throughout Alaska between September 1984 and May 1985 on a food list similar to the USDA TFP described at 48 FR 34700–34702, July 29, 1983. An index of food costs in each community was obtained by comparing each community's surveyed food costs with a "derived" TFP for Anchorage that equalled 81% of CES's low cost food plan costs.

There were salient differences between CES's survey methods and USDA's, which had to be considered before the CES data could be used, however. CES modified the food list USDA used, and collected information for as few as 24 percent of the foods on the list. In addition, the methods used to collect food price information in the Alaska survey were different from those used to establish the TFP. In the national plan, the prices collected reflect differences in container sizes, brands, quality of food and price levels of different stores, so that average prices paid for foods are more closely approximated. However, the Alaskan prices were gathered from the three high-volume supermarkets in each community; and they were collected for the lowest priced item, regardless of brand or size of package. Thus, food prices *seemed* to be understated in the new survey, although this could be quantified only for Anchorage, where costs for the "TFP" calculated by CES were 16 percent below those of the TFP calculated by USDA based upon data collected by the Bureau of Labor Statistics (BLS). Furthermore, the 26 communities surveyed were surveyed at different points in time, making place-by-place comparisons somewhat imprecise. Finally, the CES survey did not cover all areas of the State. The survey covered 26 communities, representing 1.7 percent of the State's population and 64 percent of the Census Regions; but more than one-third of the State's 22 Census Regions were not represented at all.

The most troubling problem area was the apparent understatement of food prices. The differences between CES's modified market basket and USDA's market basket were not great enough to account for a 16 percent difference in cost. Yet, the magnitude of this difference called into question the validity of one or the other survey.

After consultation with the State agency, CES and within the Department, the Department developed a hypothesis why CES's derived food costs in Anchorage were lower than the costs collected by the BLS. The BLS method of obtaining average prices paid resulted in higher costs in Anchorage because the lowest-unit price items were not necessarily selected by their shoppers. Shoppers for CES, on the other hand, consistently selected the lowest-priced items, including those on sale and low-unit-price items. Since Anchorage is a competitive market that includes stores likely to have sales on various items and several sizes of items to choose among, the CES methodology would always result in a lower-cost market basket compared to the BLS procedure. However, in areas other than Anchorage, where there is less competition among stores (sometimes there is only one store in an area) and less selection among food items (sometimes only one size is available), there would not be differences between "lowest prices" and the "average prices" paid. Therefore, CES costs for areas other than Anchorage could be used directly, because they were most comparable to those that would have been obtained had the BLS method been used. However, Anchorage TFP costs imputed by the CES could not be used to establish urban and rural allotments because they were too low. Therefore, the Department decided to continue using Anchorage costs for the TFP as calculated using BLS data, as the base number to establish a food price index for purposes of making an urban or rural designation. The Department believes this results in a more accurate representation of food costs in rural areas compared to Anchorage costs.

In addressing the other areas of concern, the Department made the following decisions:

It decided to use all of the CES survey data (except as already noted), even when only a portion of the market basket was priced or when the food list itself was modified, but it worked closely with the State agency and with CES to assess the validity of the resultant numbers. Thus, the Department learned that certain items simply were not available in some areas, and that comparable food items were substituted using a consistent methodology. Also, the Department asked the State to collect more data in some areas.

The Department decided to combine the CES survey data base with the data base originally used by the Department to calculate urban and rural allotments (the SDP data base). The result is a "merged" new data base, which covers every Census Region within the State and enables the Department to make more precise designations of urban and rural.

Finally, the Department decided to use December 1984 Anchorage TFP costs as the base from which to compute index numbers from the CES survey. December 1984 is close to the midpoint of the CES survey time period and is the reference time period designated by CES.

Urban-rural definition

After reviewing the numbers obtained in the merged data based and consulting with the State agency, the Department decided that it would be appropriate to make some place-by-place designations of food costs, as well as to establish two rural allotment levels. Rural I allotment levels are higher than urban levels, and rural II allotment levels are higher than rural I, reflecting significantly higher food costs in some rural areas.

The Department's designation of each county equivalent or smaller geographic entity as urban, rural I, or rural II, is based largely upon food costs in those areas as shown in the two data bases, and after consultations with the State agency, the CES, and the Alaska Legal Services Corporation. In general, rural II areas are those places which currently are designated as rural, except that parts of the Aleutian Islands are redesignated as rural II, and one place in the Yukon-Koyukuk Census Area is redesignated as rural I. Some places which are currently urban are redesignated as rural I. (These places have food costs significantly higher than Anchorage, but not as high as in the rural areas.)

After aggregating places in the State into the urban, rural I and rural II areas, the Department calculated three weighted averages of food prices—one each for urban, rural I, and rural II areas. Then the weighted average food costs were compared to Anchorage costs to establish a differential for urban, rural I, and rural II allotments. This is the same methodology as was used in the current rules, except that the data base is now larger and the Census Region concept essentially has been abandoned. The new urban differential is 1.0079 percent higher than costs in Anchorage alone. It is lower than the current 6.4 percent urban differential, reflecting the results of pulling out some of the higher priced areas and redesignating them as rural I or rural II. The new rural I differential is 28.52 percent higher than Anchorage costs, and the new rural II differential is 56.42 percent higher than Anchorage costs. The new rural II differential is higher than the current rural differential of 50.7 percent because one lower-priced area was taken out and because the expansion of the data base led to the addition of some higher cost areas.

Urban, Rural I, and Rural II Allotments

Anchorage TFP costs were $350.20 for a family of four in June 1985. Using the new urban differential of 1.0079 percent, the new urban allotment would be $352. This is lower than the current urban allotment of $372, reflecting the mathematical results of taking the higher-priced rural I areas out of the urban designation. However, the Department does not want to reduce allotments in urban areas, so the Department is freezing urban allotments of $372 for a four-person household at the existing level until such time as the annual cost-of-living adjustment, calculated on the basis of the $352 allotment, dictates that they be increased. The same approach will be taken with respect to the one area being reclassified from rural to rural I. The new rural I allotment is $450, approximately 28 percent higher than the new unfrozen urban allotment, reflecting higher food costs in rural I areas. It is 21 percent higher than the current urban allotment, and it is lower than the current rural allotment. The new rural II allotment is approximately 55 percent higher than the new unfrozen urban allotment and 4 percent higher than the current rural allotment, reflecting that these areas have the highest food costs of all.

The current TFP amounts and the revisions for Alaska are as follows:

Household size	Current		New			
	Urban	Rural	Urban (Frozen)	Rural I	Nonarea (Frozen)	Rural II
1	111	198	111	135	158	164
2	204	290	204	247	290	301
3	293	415	293	354	415	431
4	372	527	372	450	527	547
5	442	626	442	534	626	650
6	530	752	530	641	752	780
7	586	831	586	708	831	862
8	670	949	670	810	949	985
+ Each additional	+84	+119	+84	+101	+119	+123

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Implementation

This rule will have an important impact upon households in the State of Alaska. Many Alaskan households receiving food stamps will receive a different allotment amount. Households in many communities will be entitled to higher allotments because they have been reclassified either from urban to rural I or rural II or from rural to rural II. Households in one community, Nenana, will be reclassified from rural to rural I, but their allotments will be temporarily frozen at current levels. Households which remain urban will have their allotments frozen temporarily at current urban levels until cost of living adjustments provided for in the Food Stamp Act require a change.

After extensive discussions between the State of Alaska and the Alaska Legal Services Corporation, it was decided that an April 1, 1986, implementation was appropriate.

Enhanced Benefits and Recoupments

This rule is considered an improvement in the method of issuing benefits in Alaska and is based on new information, previously existing information, and other factors discussed in this docket. Most rural households will receive higher benefit levels, and urban households in areas remaining urban will eventually receive somewhat lower benefit levels than they would have if these rules had never been issued. If these rules had been issued two years ago, urban households remaining in urban areas would have received fewer benefits for two years. However, since their allotments were correctly computed under existing regulations, although based on a different geographic base and methodology (see 49 FR 18458–18463 and 50 FR 13758–13761), the Department decided that claims should not be issued against households living in areas still labelled urban to collect overissuances of benefits. The Department believes it is in the public interest to forgo recouping benefit amounts from urban households.

Likewise, rural households have been receiving the proper amount of benefits in accordance with a properly issued rule and retroactive benefits will not be paid to rural households whose benefits will increase, since no wrong denials of benefits occurred. However, should the State agency delay implementation beyond the April 1, 1986 period, retroactive benefits would be paid subsequently to affected households in rural areas.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Food and Nutrition Service, Food stamps, Grant programs, Social programs, Records, Reporting requirements.

7 CFR Part 273

Administrative practice and procedure, Aliens, Claims, Food and Nutrition Service, Food stamps, Fraud, Grant programs—social programs, Penalties, Records, Reporting requirements, Social Security, Students.

Therefore, Parts 272 and 273 are amended as follows:

1. The authority citations for Parts 272 and 273 continue to read as follows:

Authority: 91 Stat. 958 (7 U.S.C. 2011–2029).

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

2. In § 272.1, a new paragraph (g) (75) is added to read as follows:

§ 272.1 General terms and conditions.

* * * * * * *

(g) *Implementation.* * * *

(75) Amendment No. 273. The State agency shall implement this amendment establishing Alaska urban, Rural I, and Rural II allotment levels by April 1, 1986.

3. In § 272.7(c), the definition for "Urban Alaska TFP" is revised, the definition for "Rural Alaska TFP" is removed and new definitions for "Rural I Alaska TFP" and "Rural II Alaska TFP" are added in alphabetical order. The revisions and additions reads as follows:

§ 272.7 Procedures for program administration in Alaska.

(c) *Definitions* * * *

"Rural I Alaska TFP" refers to a Thrifty Food Plan (TFP) that is the higher of the TFP that was in effect in each area on October 1, 1985, or 26.52 percent higher than the Anchorage TFP, as calculated by FNS, with rounding and other reductions that are appropriate. It is to be used in the following areas: In all places in Kodiak Island Borough with the exception of Kodiak; in all places in the Kenai Peninsula Borough that are west of Cook Inlet (including Tyonek, Kustatan, Kalgin Island, Iliamna, Chenik, and Augustine Island) and Chugach Island, English Bay, Port Graham, Portlock, Pt. Gore, Pye Island, and Seldovia. In the Yukon-Koyukuk Census Area, the city of Nenana; and Skwentna in the Matanuska-Susitna Borough. In the Valdez-Cordova Census Area, all places except Dayville and Valdez; and in the Southeast Fairbanks Census Area all places except Big Delta, Delta Junction, and Fort Greely. In the Skagway-Yakutat-Angoon Census Area, all places except Skagway; in Sitka Borough all places except Sitka; in the Wrangell-Petersburg Census Area, all places except Wrangell and Petersburg; in the Ketchikan Gateway Borough, all places except Ketchikan, Saxman, and Ward Cove; in the Prince of Wales-Outer Ketchikan Census Area, all places except Craig, Hyder, and Metlakatla.

"Rural II Alaska TFP" refers to a TFP that is 58.42 percent higher than the Anchorage TFP, a calculated by FNS, with rounding and other reductions that are appropriate. It is to be used in the following areas: North Slope Borough; Kobuk Census Area; Nome Census Area; Yukon-Koyukuk Census Area except for the city of Nenana; Wade Hampton Census Area; Bethel Census Area; Denali in the Matanuska-Susitna Borough; Dillingham-Bristol Bay Borough; and in all places in the Aleutian Islands except for Cold Bay and Adak.

"Urban Alaska TFP" refers to a TFP that is the higher of the TFP that was in effect in each area on October 1, 1985, or 1.0079 percent higher than the Anchorage TFP, as calculated by FNS, with rounding and other reductions that are appropriate. It is to be used in the following areas: Cold Bay and Adak in the Aleutian Islands; Kodiak in Kodiak Island Borough; Valdez and Dayville in the Valdez-Cordova Census Area; all places in Kenai Peninsula Borough that are on the Kenai Peninsula except for those specifically designated as Rural I; the entire Anchorage Borough; the entire Matanuska-Susitna Borough except for Denali and Skwentna; the entire Fairbanks-North Star Borough; the entire Juneau Borough; the entire Haines Borough; Sitka in the Sitka Borough; Skagway in the Skagway-Yakutat-Angoon Census Area; Wrangell and Petersburg in the Wrangell-Petersburg Census Area; Ketchikan, Saxman, and Ward Cove in the Ketchikan-Gateway Borough; Craig, Hyder, and Metlakatla in the Prince of Wales-Outer Ketchikan Census Area; and Big Delta, Delta Junction, and Fort Greely in the Southeast-Fairbanks Census Area.

* * * * * * *

PART 273—CERTIFICATION OF ELIGIBLE HOUSEHOLDS

4. In § 273.10 paragraph (e)(4)(i) is revised to read as follows:

§ 273.10 Determining household eligibility and benefit levels.

* * * * * * *

(e) Calculating net income and benefit levels. * * *

(4) Thrifty Food Plan (TFP)—(i) Level of the TFP. The TFP shall be uniform by household size throughout the 48 contiguous States and the District of Columbia. The TFP for Hawaii shall be the TFP for the 48 States and DC, adjusted for the price of food in Honolulu. The plans for urban, rural I and rural II parts of Alaska shall be the TFP for the 48 States and DC adjusted by the price of food in Anchorage and further adjusted for urban, rural I and rural II Alaska as defined in § 272.7(c). The TFPs for Guam and the Virgin Islands shall be adjusted for changes in the cost of food in the 48 States and DC, provided that the costs of these plans may not exceed the cost of the highest TFP for the 50 States. The TFP amounts in each area are adjusted annually and will be prescribed in a General Notice published in the **Federal Register**.

* * * * * * *

Dated: April 28, 1986.

Robert E. Leard,

Administrator.

[FR Doc. 86–9934 Filed 5–1–86; 8:45 am]

BILLING CODE 3410–30–M

Agricultural Marketing Service

7 CFR Part 925

Grapes Grown in a Designated Area of Southeastern California and Imported Into the United States; Delay of Effective Dates of 1986 Season Requirements

Correction

In FR Doc. 86–8614 beginning on page 13208 in the issue of Friday, April 18, 1986, make the following correction:

On page 13209, third column, in § 925.304, in the tenth line, "and Riber" should read "Almeria, and Ribier".

BILLING CODE 1505–01–M

Commodity Credit Corporation

7 CFR Part 1435

Protection of Sugar Producers

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This rule sets forth the provisions which are designed to protect sugar producers as mandated by section 401(e)(2) of the Agricultural Act of 1949, as amended by the Food Security Act of 1985. Under the rule, the Commodity Credit Corporation (CCC) will pay sugar producers the maximum benefits of the sugar price support program, less benefits previously received by the producers, in the event of the insolvency of the processor with whom they have entered into a contract for the processing of sugar beets or sugarcane.

EFFECTIVE DATE: April 29, 1986.

FOR FURTHER INFORMATION CONTACT: Ross D. Ballard, Cotton, Grain, and Rice Price Support Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013. Phone: (202) 447–4704.

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

Information collection requirements contained in this regulation (7 CFR §§ 1435.200–1435.206) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35, and have been assigned OMB clearance number 0560–0093.

This final rule has been reviewed under U.S. Department of Agriculture (USDA) procedures established in accordance with provisions of Executive Order 12291 and Departmental Regulation No. 1512–1 and has been classified "not major." It has been determined that the provisions of this final rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

This activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

It has been determined that this action is not expected to have any significant impact on the quality of the human environment. In addition, it has been determined this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The title and number of the Federal Assistance Program to which this final rule applies are: Title—Commodity Loans and Purchases, Number 10.051, as found in the Catalog of Federal Domestic Assistance.

The Rule

Statutory Requirements

Section 401(e) of the Agricultural Act of 1949, as amended by section 903 of the Food Security Act of 1985 (7 U.S.C. 1421(e)), requires that whenever price support for an agricultural commodity is carried out through loans to processors, the Secretary shall obtain from the processors such assurances as the Secretary deems adequate that the producers of the agricultural commodity have received or will receive maximum benefits from the price support program. If the assurances are not adequate to cause the producers of sugar beets and sugarcane, because of the bankruptcy or other insolvency of the processor, to receive maximum benefits from the price support program, within 30 days from the final settlement date of the contract between producers and processors, the Secretary shall pay the producers, on demand, such maximum benefits less benefits previously received.

A proposed rule for implementing the provisions of section 401(e)(2) of the Agricultural Act of 1949, as amended, was published in the **Federal Register** on March 20, 1986 (51 FR 9760). Because some producers of 1984-crop sugar beets are eligible to apply for payment and are currently suffering some financial distress from their failure to receive the maximum benefits of the price support program, the comment period was limited to 21 days.

General Summary of Comments

The public was afforded until April 10, 1986 to comment on the proposed rule. The Department has considered all comments received in developing this final rule. The Department received a total of two sets of comments with respect to the proposed rule.

All comments received are on file and available for public inspection in Room 3627-South Building, 14th and Independence Avenue, SW., Washington, DC 20250.

The following is a summary of comments received and actions taken:

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Comments on Major Program Provisions

1. Gramm-Rudman-Hollings Act

A. *Provisions of the Proposed Rule.* The preamble to the proposed rule provided notice that the payments which are made available to producers in accordance with the terms and conditions of this regulation are subject to reduction to the extent required by the Balanced Budget and Emergency Deficit Control Act of 1985, Title II of Pub. L. 99-177 (popularly known as the "Gramm-Rudman-Hollings Act") (the "Act").

B. *Comment.* One comment proposed amending section 1435.203 to include a statement that benefit payments to producers for 1984 crop sugar beets are exempt from reduction under the Act. The commenter argued that the Act did not apply to payments related to contracts between producers and processors entered into prior to the date of issuance of a sequestration order under section 252 of the Act. The commenter relied on the language of section 256(j)(2)(A) of the Act exempting from reduction "[p]ayments and loan eligibility under any contract entered into with a person by the Commodity Credit Corporation prior to the time an order has been issued under section 252," and asserted that "[w]hile the 1984 sugar beet contracts are technically contracts between the processor and the producer, when the processor participates in the price support loan program, the contracts constructively and legally become contracts between the producer and the Commodity Credit Corporation to the extent of the minimum government support price." The commenter also stated that the effect of the subrogation provisions of section 401(e)(2) of the Agricultural Act of 1949 is that the Secretary of Agriculture has purchased the claims of the producer against the processor, and therefore the Secretary of Agriculture is making a constructive payment under the 1984 sugar beet contracts.

C. *Discussion of Comments.* The suggestions made by the commenter have not been adopted. The exemption in section 256(j)(2)(A) applies only to payments and loan eligibility under a contract *"entered into with a person by the Commodity Credit Corporation"* (emphasis added). There was no contract between CCC and the producers prior to February 1, 1986, the date of issuance of the fiscal year 1986 sequestration order.

CCC had no obligation to make payment to producers prior to enactment of the Food Security Act of 1985. It is incorrect to characterize the contracts between the producer and the processor for the 1984 crop of sugar beets as contracts between CCC and the producer. CCC is not a party to those contracts, does not negotiate their terms and has no contractual rights or obligations under such contracts. Similarly, the fact that CCC is subrogated to the claims of the producer against the processor and others responsible for non-payment does not make payments which are made under the provisions of these regulations payments which can be considered to be made under a contract between the producer and processor. CCC's obligation to make payments is derived from the provisions of section 401(e)(2) of the Agricultural Act of 1949 and not from a contract between the producer and processor. Furthermore, it is inaccurate to say that as a result of the subrogation to CCC, CCC has "purchased" the claims of the producers. The payments by CCC precede the subrogation to CCC. As the same commenter recognizes elsewhere in his set of comments, under the principles of equity, CCC is subrogated to the producers' claims because CCC has made payments to the producers; CCC does not make payments to producers because it is subrogated to their claims.

CCC is required to reduce the payments that are to be made to producers under these regulations since the payments are not exempt from reduction under the Act. Had Congress intended to exempt the payments from the application of the Act, it could and presumably would have done so.

2. Subrogation of Claims

A. *Provisions of the Proposed Rule.* The proposed rule provided that a producer must execute an agreement with CCC, acceptable to CCC, subrogating to CCC all claims of that producer against the processor and other persons responsible for nonpayment.

B. *Comment.* Two comments were received with respect to subrogation of claims. One commenter supported the subrogation requirement as set forth in the proposed rule. The remaining commenter recommended that the subrogation requirement set forth in the proposed rule be clarified to show that the amount of the claim subrogated to CCC is limited to the amount of the benefit payment to which the subrogee is equitably entitled.

C. *Discussion of Comments.* The suggestions made by the second commenter have been adopted. This commenter argued that the intent of section 401(e)(2)(B) of the Agricultural Act of 1949, as amended, is that the subrogation to CCC be limited to the amount of the claims of the producer for such nonpayment against the processor and other persons responsible for such nonpayment corresponding to the amount of the benefit payment. This commenter argued that it is implicit in the equitable principle of subrogation that the assignment in aid of subrogation is limited to that to which the subrogee is equitably entitled. The intent should be clarified, according to this commenter, because producers eligible for benefit payments, as provided for in this rule, have claims against the processor and others for damages in excess of the benefit payment as defined in this rule.

The Department concurs with the respondent recommending clarification of the subrogation provisions of the proposed rule. It is not the intent of CCC to require producers to subrogate claims in excess of the benefit payments which they are eligible to receive. Therefore, the final rule provides that a producer must execute an agreement with CCC, acceptable to CCC, subrogating to CCC all claims of that producer against the processor and other persons responsible for nonpayment up to the amount of the benefit payment to that producer, plus any applicable interest or other charges.

3. Other Program Issues

A. *Sugar beets of average quality.* One commenter suggested that CCC clarify the definition of "benefit payment(s)" in § 1435.201 of the regulations to make it explicit that the price support level used in computing the benefit payment for sugar beets is based on sugar beets of average quality as defined in the applicable price support regulations. This suggestion has not been adopted. Such a clarification is unnecessary. The definition of "benefit payment(s)" already provides that a benefit payment is based in part on "the specified price support level for the applicable crop of sugar beets or sugarcane, after all applicable adjustments." One of the adjustments that may be applicable is if the sugar beets or sugarcane are of non-average quality. For the 1983 through 1985 crops, sugar beets of average quality are defined as sugar beets containing 15.59 percent sucrose (7 CFR 1435.112(j)).

B. *Number of requests for payment.* One comment was received with respect to claims by a producer. The commenter recommended that, in the interest of administrative efficiency, a producer be required to make only one claim to receive benefits for a particular crop year and processor. This suggestion has not been adopted. A producer will be required to file one request for payment with supporting documentation as deemed necessary by CCC for each contract with a processor. Requests for payment on a contract by contract basis are more efficient since each contract constitutes a separate accounting unit.

C. *Lien Waiver.* One comment was received with respect to lien waivers. The commenter proposed that a producer be required to obtain and present evidence of a waiver of all rights from any party claiming a lien in the sugar beets or any party claiming title to the sugar beets. This suggestion has not been adopted. The rule provides that, if there are any existing liens or encumbrances, CCC will make all benefit payments jointly to the producer and lienholder unless the producer provides CCC with waiver of such liens.

If there are existing liens and CCC does not receive a lien waiver, the check will be issued jointly to the producer and lien or encumbrance holder. Section 401(e)(2) of the 1949 Act does not authorize CCC to deny payment to producers absent a lien waiver.

D. *Loan Program.* Two other comments were received regarding the provisions of the sugar price support loan program. These comments have not been considered in promulgating this rule since this rule does not affect the regulations for the sugar price support program.

List of Subjects in 7 CFR Part 1435

Agriculture, Loan programs, Payments, Price support programs, Sugar.

Final Rule

PART 1435—[AMENDED]

Accordingly, 7 CFR Part 1435 is amended by adding a new subpart entitled "Subpart—Regulations Governing the Protection of Sugar Producers" to read as follows:

Subpart—Regulations Governing the Protection of Sugar Producers

Sec.

1435.200 General statement.
1435.201 Definitions.
1435.202 Producer eligibility.
1435.203 Benefit payment of producers.
1435.204 Liens.
1435.205 Subrogation of claims.
1435.206 OMB control number assigned pursuant to Paperwork Reduction Act.

Authority: Sec. 401(e)(2), Agricultural Act of 1949 (7 U.S.C. 1421(e)(2)); 5 U.S.C. 301.

Subpart—Regulations Governing the Protection of Sugar Producers

§ 1435.200 General statement.

If the bankruptcy or other insolvency of a processor has caused producers of sugar beets or sugarcane not to receive maximum benefits from the price support program for sugar beets or sugarcane within 30 days after the final settlement date provided for in the contract between such producers and processor, CCC, on demand of the producers and on such assurances as to nonpayment as CCC may require, shall pay such producers benefit payments.

§ 1435.201 Definitions.

The following definitions apply to terms used in this subpart:

"ASCS" means the Agricultural Stabilization and Conservation Service, United States Department of Agriculture.

"Benefit payment(s)" means an amount to be paid to eligible producers equal to the difference between the specified price support level for the applicable crop of sugar beets or sugarcane, after all applicable adjustments, and any benefits previously received by the producers with respect to such crop of sugar beets and sugarcane.

"CCC" means the Commodity Credit Corporation, United States Department of Agriculture.

§ 1435.202 Producer eligibility.

(a) A producer of sugar beets or sugarcane shall be considered to be eligible for benefit payments only: (1) For that quantity of domestically-produced sugar beets or sugarcane sold under contract to a processor who was a participant in the price support program for sugarcane or sugar beets for the applicable crop; (2) if the contract with the processor provided for a final settlement date after January 1, 1985; (3) if the processor failed to make payment within 30 days after the final settlement date due to bankruptcy or other insolvency; and (4) if the producer was an eligible producer for purposes of the price support program for the applicable crop of sugar beets or sugarcane.

(b) CCC may require as a condition of payment such documentation or other proof of the producer's eligibility, the processor's nonpayment, or other element of the benefit payment as CCC determines appropriate.

§ 1435.203 Benefit payment to producers.

(a) *Where to request benefit payments.* A producer must request a benefit payment from CCC at the producer's local county ASCS office, unless otherwise determined by CCC, in a manner and on a form prescribed by CCC.

(b) *When to request benefit payments.* A producer must request a benefit payment no earlier than 30 days, and no later than 60 days, after the final settlement date provided for in the contract between the producer and the processor, unless otherwise approved by CCC. In the case of eligible producers of 1984-crop sugar beets, the final date for producers to demand a benefit payment shall be 30 days following the effective date of this regulation, unless otherwise approved by CCC.

(c) *Method of payment.* Benefit payments will be made by checks drawn on CCC, by credit to the producer's account, or by such other means as CCC determines appropriate.

§ 1435.204 Liens.

(a) In order to receive a benefit payment, a producer must certify to CCC whether there were any liens or encumbrances on the sugar beets or sugarcane that the producer sold to the applicable processor under the applicable contract as of the time of delivery of the sugar beets or sugarcane to the processor, or as of the time title to the sugar beets or sugarcane transferred from the producer to the processor if title transferred at a time other than at the time of delivery to the processor. If there were any such liens or encumbrances, the producer must provide CCC with a certified list of all such liens or encumbrances together with the names and addresses of the holders of such liens or encumbrances and the amount held by each such holder.

(b) CCC will make all benefit payments jointly to the producer and the holders of such liens or encumbrances unless the producer provides CCC with a waiver of all such liens or encumbrances by each such holder or a certified statement by such holder that the liens or encumbrances have been extinguished. CCC may prescribe the form for such waivers or statements.

§ 1435.205 Subrogation of claims.

(a) A producer must execute an agreement with CCC, acceptable to CCC, subrogating to CCC all claims of that producer against the processor and other persons responsible for nonpayment. The amount subrogated to CCC must be equal to the amount of the producer's claims, up to the amount of the benefit payment plus any applicable interest or other charges. Any recoveries up to the amount subrogated which are received by that producer from any source whatsoever for the processor's nonpayment must be immediately forwarded to CCC. The producer shall cooperate with CCC in CCC's efforts to collect on the claims subrogated to CCC.

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(b) A producer shall maintain the books and records pertaining to the benefit payments and the applicable contracts with the processor for a period of at least 3 years following the producer's demand for payment under this subpart. Authorized officials of the United States Department of Agriculture shall have access to, and right to examine, any pertinent books, documents, papers, and records of the producer.

§ 1435.208 OMB control number assigned pursuant to Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR 1435.200 through 1435.208) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0560-0095.

Signed at Washington, DC on April 29, 1986.

Richard E. Lyng,

Secretary of Agriculture.

[FR Doc. 86-9901 Filed 4-29-86; 1:43 pm]

BILLING CODE 3410-05-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Virgin Atlantic Airways, Ltd.

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Virgin Atlantic Airways, Ltd. to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: April 21, 1986.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-3048.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with Virgin Atlantic Airways, Ltd. on April 21, 1986, to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries. The agreement provides for the waiver of certain documentary requirements and facilitates the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportation lines.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that the rule will not have a significant impact on a substantial number of small entities.

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

Accordingly, Chapter I of Title 8 of the Code of Federal Regulations is amended as follows:

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The authority citation for Part 238 continues to read as follows:

Authority: Secs. 103 and 238 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1228).

§ 238.3 [Amended]

In § 238.3 Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by: Adding in alphabetical sequence, Virgin Atlantic Airways, Ltd.

* * * * *

Dated: April 25, 1986.

Richard E. Norton,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 86-9830 Filed 5-1-86; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 556

[Docket No. 86-423]

Federal Savings and Loan System; Interstate Branching Within the District of Columbia, Maryland, and Virginia Region

Dated April 24, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is amending its policy statement on branching to allow federal associations whose home offices are located in the District of Columbia ("D.C.") to establish branch office in either Virginia or Maryland (but not both), subject to certain restrictions. The Board is also amending that policy statement to allow federal associations whose home offices are in Maryland or Virginia to establish branches in the District of Columbia.

EFFECTIVE DATE: June 2, 1986.

FOR FURTHER INFORMATION PLEASE CONTACT: Gregory B. Smith, Deputy Director for FSLIC Corporate, Corporate and Securities Division, Office of General Counsel, (202) 377-6454; or Donald J. Bisenius Research Economist, Office of Policy and Economic Research, (202) 377-6766.

SUPPLEMENTARY INFORMATION: By Resolution No. 85-1024, dated November 15, 1985 (50 FR 49937, Dec. 6, 1985)), the Board proposed revisions to its policy statement concerning branching by federally chartered savings and loan associations and federal savings banks. In that proposal, the Board requested comments on a revision to its branching policy statement in § 556.5 of the Rules and Regulations for the Federal Savings and Loan System (12 CFR 556.5) that would allow, as an exception to its general policy limiting interstate branching, federal associations with a home office in the District of Columbia to establish branches in either Virginia or Maryland, but not both, and allow federal associations with a home office in Viriginia or Maryland to establish branches in the District of Columbia. After considering the public comments, the Board has determined to adopt the amendments noted hereinafter, substantially as proposed, with some technical revisions made for clarification and some limited substantive changes.

Summary and Discussion of Comments Received on Proposal

The Board received public comments from fourteen organizations in response to its proposal. Nine comments were from savings and loan associations (6 federal associations based in D.C., Maryland or Virginia; 2 state-chartered associations based in Maryland; and 1 state-chartered association based outside Maryland, Virginia, and D.C.). Two comments were received from savings and loan trade associations, two comments were received from commercial bank trade associations and one comment was from a consumer housing trade association. Eleven commenters generally endorsed the proposal, and all generally suggested some changes. Only three commenters objected to the proposal as a whole.

Five of the commenters that supported the proposal suggested that the proposal should be broadened to allow federal associations based in the District of Columbia to branch into both Maryland and Virginia and to allow branching in Maryland by Virginia-based federal associations and branching in Virginia by Maryland-based federal associations. After considering this comment, the Board believes that the proposal should not be broadened in the manner suggested by those commenters since it would not be consistent with the rationale and purpose of the proposed changes—to establish a degree of parity for the District of Columbia and federal associations based in the District of Columbia in recognition of the extremely small geographic size of the District of Columbia and its relationship with Maryland and Virginia.

Two of the commenters supporting the proposal suggested that the Board delete or expand the 120 days period within which federal associations in the District of Columbia may elect Virginia or Maryland for future branching outside the District of Columbia. Upon further consideration the Board has decided to expand that period to 180 days so that the associations would have more time to give due consideration to their options. Once this choice has been made and the Board has approved a branch in the chosen state, however, the choice may not be changed, *e.g.*, by closing or selling branches in the orginally-chosen state and opening new branches in the other state.

Two other commenters claimed that the proposal would put commercial banks at a competitive disadvantage. In that regard the Board notes that recent legislative enactments by the District of Columbia establish interstate banking rights in the District of Columbia without giving similar rights to state-chartered savings and loan associations.

Failure to serve the credit needs of local communities pursuant to the Community Reinvestment Act was raised as a potential problem by two commenters. They contended that the Board's proposal would inevitably result in a draining of deposits from the District of Columbia to the detriment of the credit needs of residents of the District of Columbia. The Board has considered this concern, but has concluded that the proposal should not have that effect. Federally chartered associations have had the authority to make loans outside of their immediate market area for many years, but, nevertheless, have consistently served the credit needs of their local communities.

Two other commenters also objected to the provision that denies branching rights in Virginia or Maryland to a D.C.-based federal association that has acquired rights to establish branches in the other state on a non-supervisory basis, for example, by making a supervisory acquisition in the state. Those two commenters generally objected on the grounds that the provision was unfair to those institutions since they recently acquired branching rights in Virginia by acquiring Federal Savings and Loan Insurance Corporation ("FSLIC")-insured supervisory case institutions in that state. Both of those transactions took place within 12 months prior to when this amendment was proposed by the Board and issued for comment in December of 1985. Those two transactions were the only such transactions involving the District of Columbia and Virginia or Maryland approved by the Board in 1985. The Board does not believe that the institutions in question have been treated unfairly under the proposal, but believes that certain equitable considerations may warrant different treatment under the rule for these two transactions, which were undertaken at a time when the proposal was in various stages of consideration and development by the Board. In addition, the Board notes that one of those institutions also acquired an FSLIC-insured supervisory case institution in the District of Columbia but elected to establish its home office in Virginia as part of that transaction. For purposes of this amendment, however, the Board will consider its home office as being in the District of Columbia for branching purposes. The treatment of these transactions as not precluding branching into the other state is specifically limited to these cases and it may not be construed as precedent to support any claim by any other entity seeking relief from one of the Board's regulatory requirements or limitations.

Background

Section 5 of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464 (1982 & Supp. II 1984)) grants the Board plenary authority to regulate the operations of federal associations. Pursuant to this authority, the Board has always had the ability to permit and to regulate branching of federal associations on both an intrastate and interstate basis. *See IBAA v. Federal Home Loan Bank Board*, 557 F. Supp. 23 (D.D.C., 1982). However, with the passage of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320, 96 Stat. 1469, a federal association that fails to qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1954 or to meet the asset composition test imposed by subparagraph (c) of that section is precluded from operating branch offices outside the state in which the association has its home office. 12 U.S.C. 1464(r) (1982).

The Board has permitted federally chartered associations to branch since 1937, 2 FR 825 (May 14, 1937), although its first policy statement on branching was not adopted until 1967, 32 FR 20630 (Dec. 21, 1967). In 1972, the Board amended the policy to emphasize its preference for intrastate operations by stating that the Board generally would not approve applications for branches outside of the home state of the association, 37 FR 3987 (Feb. 25, 1972). Associations that had acquired out-of-state branches before that 1972 amendment generally were grandfathered and allowed to keep these branches. The Board made it clear, however, that it had the discretionary authority to approve the branching of federal associations irrespective of the location of the branch.

The Board has modified its general policy of preference for intrastate branches, however, because of the economic and financial difficulties facing the thrift industry. In order to limit its exposure in dealing with the most severely crippled thrifts, the FSLIC has used interstate supervisory mergers or acquisitions where no suitable in-state acquiror could be found. In response to these changes and in order to codify its procedures, the Board amended its policy statement on branching to specifically authorize interstate operations by federal institutions resulting from supervisory mergers or acquisitions. *See* Board Resolutions Nos. 82-498, 47 FR 34125 (Aug. 6, 1982); 81-157, 46 FR 19221 (March 30, 1981); and 81-496, 46 FR 45120 (Sept. 10, 1981). These amendments enabled the FSLIC to draw from a wider range of potential merger partners in supervisory situations if a suitable in-state partner could not be found.

The Board has also issued a proposal, Board Resolution No. 85-1198 (51 FR 33 (Dec. 20, 1985)), to amend that policy statement to further expand that supervisory exception and to allow interstate branching by federal

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associations located anywhere in the country on a nonsupervisory basis if the laws of the target state and of the state in which the federal's home office is located ("home state") would allow such branching by associations chartered under the laws of that home state. The present amendment differs from that proposal in that the branching rights granted herein are not dependent upon the existence of similar rights under state law for state-chartered associations.

Purpose of the Final Rule

The amendment to the policy statement now being promulgated recognizes that the basis for and result of treatment of Washington, D.C. as a "state" for branching purposes under § 556.5 may well be inconsistent with the basis for limiting branching by state boundaries in the case of the states. In no other area of the country does the Board restrict the branching activities of a group of institutions to a single city. Since Washington, D.C. falls in no state, federal associations located in Washington, D.C. will be allowed to elect one of the two contiguous states in which to establish branches.

The Board is cognizant of the District of Columbia's unique situation. Although it is currently treated like a state for purposes of branching, it differs from any state in comprising only a 61-square-mile wholly urban area surrounded by two contiguous states. Federal associations with home offices in the District of Columbia are effectively precluded from expanding into major parts of the metropolitan area, but federal associations in Maryland and Virginia can branch throughout their respective states.

Now that the deregulation of deposit rates is complete, the actual and potential adverse financial effects of such an extreme demographic constraint upon District of Columbia-based federal associations is a matter of concern. While the economy of the District of Columbia is relatively strong, its suburbs are experiencing major income, employment, and population growth. Federal associations with home offices in the District of Columbia must rely upon a very mature, highly competitive, and geographically compact area, with a decreasing population, for their retail savings growth. District of Columbia-based federal associations need such growth in order to offset low-yielding portfolios of mortgages accumulated prior to the deregulation of mortgage and deposit rates.

The Board is also proposing to grant federal associations located in Maryland or Virginia reciprocal rights to establish and maintain branch offices in the District of Columbia. The number of associations doing business in the District of Columbia has decreased over the last ten years. The resulting increase in competition for deposits and loans should benefit the residents of the District of Columbia.

The Final rule

This amendment pertains only to institutions with a federal charter. The Board is amending the Board's branching policy statement in 12 CFR 556.5 to allow federally chartered institutions (federal savings and loan associations and federal savings banks) whose home offices are in the District of Columbia to establish and maintain branches in non-supervisory transactions in either Maryland or Virginia (but not both). The amended policy statement specifies a procedure for a federal association headquartered in the District of Columbia to notify its Supervisory Agent of which of the two states it selects for branching. Once branches were established pursuant to such choice, however, the choice could not be reversed, *e.g.*, by closing branches in the originally chosen state and opening branches in the other state. Federal associations whose home offices are in Maryland or Virginia would also be allowed to branch into the District of Columbia in non-supervisory transactions.

District of Columbia-based federal associations with full branching rights in either Maryland or Virginia previously acquired pursuant to another provision of the Board's branching policy statement, § 556.5, *e.g.*, a supervisory acquisition, would not be permitted to branch into the other state pursuant to the branching permitted by the amendment unless those previously acquired branching rights were acquired as part of a supervisory transaction approved by the Board during 1985. However, under the amendment, District of Columbia-based associations not having full branching rights in Maryland or Virginia but having grandfathered branches in such state acquired prior to the effective date (February 25, 1972) of the Board's general policy, § 556.5(a)(3)(i), prohibiting interstate branching, could retain those grandfathered branches and still choose to establish and maintain branches in the state (either Maryland or Virginia) in which it did not have the grandfathered branches or it could choose to pick the state in which its grandfathered branches are located for full branching rights. The amendment would not affect any full branching rights in Virginia and Maryland existing prior to the effective date of this final rule that a District of Columbia-based federal association had acquired under another provision of the Board's branching policy statement.

The interstate branching rights granted under this amendment could not, however, be acquired by an institution not having a home office in Maryland, Virginia or the District of Columbia. Therefore, for example, a Florida-based federal association having full branching rights in Virginia that were acquired in a supervisory transaction under § 556.4(a)(3) (ii) and (iv) would not be entitled to establish and maintain branches in the District of Columbia under the proposed rule. Moreover, that association could not acquire District of Columbia branching rights under the amended rule by changing its home office to Virginia. Nor, for example, could a Pennsylvania-based federal association acquire full branching rights in the District of Columbia by acquiring, through a supervisory merger, a Virginia-based association that had established branches in the District of Columbia pursuant to the amended rule. The Pennsylvania-based association could retain, as grandfathered branches, the existing District of Columbia branches it acquired as part of that merger but it could not establish additional branches in the District of Columbia. Moreover, it could not acquire branching rights in the District of Columbia by changing its home office to Virginia or the District of Columbia.

The Board has made a determination that this amendment would reduce the anomalous treatment of institutions based in the District of Columbia. The amendment also would serve the convenience and needs of consumers in the District of Columbia, Virginia and Maryland, without harming existing institutions in those jurisdictions, by increasing competition in those areas and at the same time reducing the risk to the FSLIC, and by promoting the continued existence of institutions serving the consumers in the District of Columbia by enhancing the financial viability of those institutions.

Final Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, 5 U.S.C. 604, the Board is providing the following regulatory flexibility analysis:

1. *Need for and objectives of the rule.* These elements are discussed above in SUPPLEMENTARY INFORMATION.

2. *Issues raised by comments and agency assessment and response.* These elements are discussed above in SUPPLEMENTARY INFORMATION.

3. *Significant alternatives minimizing small-entity impact and agency response.* There are no alternative approaches that would achieve the Board's goals of the rule which would have less impact on affected entities, including small institutions. The rule will have neither a disproportionate nor adverse impact on small institutions. The Board rejected the alternatives discussed above in SUPPLEMENTARY INFORMATION for the reasons given therein.

List of Subjects in 12 CFR Part 556

Savings and loan associations.

Accordingly, the Board hereby amends Part 556, Subchapter C, Chapter V, Title 12, *Code of Federal Regulations*, as set forth below.

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 556—STATEMENTS OF POLICY

1. The authority citation for Part 556 is revised to read as follows:

Authority: Sec. 5, 48 Stat. 132, as amended; 12 U.S.C. 1464); Sec. 341, 96 Stat. 1505, as amended, (12 U.S.C. 1761j-3); Secs. 402-403, 405-407, 48 Stat. 1256-1257, 1259-1260, as amended (12 U.S.C. 1725-1726, 1729-1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-1948 Comp., P. 1071.

2. Amend § 556.5 by adding new paragraphs (a)(3) (v) and (vi) to read, as follows:

§ 556.5 Establishment of branch offices.

(a) *General.* * * *

(3) * * *

(v) Notwithstanding paragraph (a)(3)(i) of this section, but subject to section 5(r) of the Home Owners' Loan Act of 1933, as amended, the Board may approve the establishment of branches in either Maryland of Virginia, but not both, by an association whose home office is located in the District of Columbia; *Provided,* that if the association may establish branches on a nonsupervisory basis in Maryland or Virginia (excluding and grandfathered branches) under any other paragraph of this section other than (a)(3)(ii), unless those branching rights were acquired under paragraph (a)(3)(iv) as a result of a supervisory transaction approved by the Board in 1985, such association may not branch into the other state solely pursuant to this paragraph, (a)(3)(v); and *Provided further,* that the association has informed the Supervisory Agent in writing of its chosen state for future branching within 180 days after [effective date of final regulation] or at the time of obtaining its Federal charter, which choice may not be changed by the association after it has made its election to branch in that state; and *Provided further,* that the Board generally will not approve a branch under this paragraph, (a)(3)(v), if the association's eligibility for approval of the branch under this paragraph would result from a change in the location of the association's home office.

(vi) Notwithstanding paragraph (a)(3)(i) of this section, but subject to section 5(r) of the Home Owners' Loan Act of 1933, as amended, the Board may approve the establishment of branches in the District of Columbia by an association whose home office is located in Maryland or Virginia: *Provided,* that the Board generally will not approve a branch under this paragraph, (a)(3)(vi), if the branch's eligibility for approval under this paragraph would result from a change in the location of the association's home office.

* * * * *

§§ 556.5 and 556.9 [Amended]

3. Amend § 556.5 and 556.9 by removing the authority citations located at the end of the sections.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-9913 Filed 5-1-86; 8:45 am]

BILLING CODE 6720-01-M

FARM CREDIT ADMINISTRATION

12 CFR Part 611

Farm Credit System Capital Corporation; Organization

AGENCY: Farm Credit Administration.

ACTION: Final Rule with Request for Comments; Final Rule Comment Period Extension.

SUMMARY: The Farm Credit Administration ("FCA") has amended 12 CFR 611.1142(c) relating to meetings of the board of directors of the Farm Credit System Capital Corporation ("Corporation") established under the Farm Credit Amendments Act of 1985 ("1985 Amendments") pursuant to section 4.28A of the Farm Credit Act of 1971, as amended ("Act"). The FCA has also extended the period for public comment on final regulations relating to the Corporation set forth in 12 CFR Part 611, Subpart J (published March 13, 1986; 51 FR 8665-8671).

DATES: Effective April 14, 1986. Written comments must be received on or before May 30, 1986.

ADDRESSES: Submit comments in writing to Frederick R. Medero, General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090. Copies of all communications received will be available for examination by interested parties in the Office of the General Counsel, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Peoples, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090, (703) 883-4020.

SUPPLEMENTARY INFORMATION: On February 24, 1986, the FCA chartered the Corporation pursuant to section 4.28A of the Act (51 FR 7121), and on March 10, 1986, the FCA adopted final regulations relating to the Corporation, including the board of directors, corporate powers, financial assistance, and capitalization (51 FR 8665-8671). Since that time, the FCA concluded that the principal offices of the Corporation should be located in the greater metropolitan area of Kansas City, and that the meetings of the board of directors of the Corporation should be conducted from such offices, except where the board pursuant to the Articles of Incorporation specifically resolves to hold a meeting outside that area. The Articles of Incorporation of the Corporation have been so amended. (Published elsewhere in today's Federal Register.)

In order to implement that amendment the FCA has also amended paragraph (c) of 12 CFR 61.1142 to delete reference in that paragraph to the situs of meetings of the board of directors of the Corporation. The deletion was made because the FCA believes that recent amendments of the Articles of Incorporation adequately address the location of meetings of the board of directors and that reference in the regulation is unnecessary.

In adopting the regulation as a final regulation, the FCA determined that the amendment was necessary to make the regulations consistent with recent amendments to the Articles of Incorporation of the Corporation and to enable the board to conduct meetings unrestricted by the regulation. For this reason, the FCA concluded that public notice and publication for comment are impracticable, unnecessary and contrary to the public interest. For the same reason, the FCA has waived the 30-day period otherwise applicable under paragraph (b)(1) of section 5.17 of the 1971 Act. In accordance with section 5.17(b)(2) of the 1971 Act, the FCA declared the amendment effective April 14, 1986. Although the amendment is effective, the FCA has provided the

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public a period ending May 30, 1986 to submit written comments to the FCA.

In addition, since the publication of the final regulations relating to the Corporation on March 13, 1986 (51 FR 8665–8671), the FCA has received several comments requesting additional time to respond to the regulations. The FCA has determined that an extended comment period would be beneficial in ensuring that all interested parties have an opportunity to comment on the final regulations. Accordingly, the FCA has extended the period for public comment on regulations related to the Corporation set forth in 12 CFR Part 611, Subpart J for an additional period ending May 30, 1986.

List of Subjects in 12 CFR Part 611

Agriculture, Banks, Banking, Organization and functions (Government Agencies), Rural areas.

As stated in the preamble, Part 611, Subpart J of Title 12 of the Code of Federal Regulations is being amended as follows:

PART 611—[AMENDED]

1. The authority citation for Part 611, Subpart J continues to read as follows:

Authority: Secs. 4.28A–4.28L, 5.17, Pub. L. 99–205, 99 Stat. 1678.

2. Paragraph (c) of § 611.1142 is revised to read as follows:

§ 611.1142 General corporate powers.

* * * * *

(c) *Operations.* The Corporation shall be operated on sound business basis, and its directors, officers, employees, and agents shall be subject to the standards of conduct provisions set forth in 12 CFR Part 612, Subpart B. In addition, in order to ensure that transactions between the Corporation and System institutions are conducted impartially and on a sound business basis, no director, officer, employee, or agent of any System institution or System service organization may be affiliated with or employed by the Corporation in a joint capacity, except as an elected director of the Corporation where otherwise eligible. Any joint officer or employee of any System institution and the Predecessor Corporation must resign from the System institution to remain an employee of the Corporation.

* * * * *

Kenneth J. Auberger,

Acting Chairman.

[FR Doc. 86–9911 Filed 5–1–86; 8:45 am]

BILLING CODE 6705–01–M

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Ch. VII

General Policy on Sharing Confidential Supervisory Information With State Banking and Thrift Regulatory Agencies; Interpretive Ruling and Policy Statement Number 86–1

AGENCY: National Credit Union Administration (NCUA).

ACTION: Interpretive Ruling and Policy Statement Number 86–1.

SUMMARY: The NCUA Board has adopted as its statement of general policy for federally insured state-chartered credit unions the Federal Financial Institutions Examination Council (FFIEC) policy entitled "General Policy on Sharing Confidential Supervisory Information with State Banking and Thrift Regulatory Agencies".

EFFECTIVE DATE: April 21, 1986.

FOR FURTHER INFORMATION CONTACT: Timothy P. Hornbrook, Office of Examination and Insurance or Steven R. Bisker, Assistant General Counsel, NCUA 1776 G Street, NW., Washington, DC 20456, or telephone (202) 357–1065 (Mr. Hornbrook) or (202) 357–1030 (Mr. Bisker).

SUPPLEMENTARY INFORMATION: On March 14, 1986, the FFIEC approved a recommendation to each of the participating federal financial institution regulatory agencies to adopt its policy entitled "General Policy on Sharing Confidential Supervisory Information with State Banking and Thrift Regulatory Agencies". The NCUA Board, on April 21, 1986, adopted the General Policy with respect to confidential supervisory information obtained by NCUA. The General Policy states what is already the practice by the NCUA with regard to sharing supervisory information about credit unions with state supervisory authorities. The General Policy adopted by the NCUA Board is as follows:

Interpretive Ruling and Policy Statement Number 86–1

General Policy for Sharing Confidential Supervisory Information With State Credit Union Regulatory Agencies

In view of the increasing interstate activities of U.S. financial institutions and the growing need for federal and state agencies to cooperate in their supervisory efforts, NCUA has adopted this General Policy to share with the states certain confidential supervisory information. This policy recognizes that good communications among the various federal and state authorities are in the best interest of all and are vital for an effective and efficient supervisory system. Accordingly, NCUA shall attempt to accommodate any appropriate informational needs of state supervisory authorities regarding the condition of federally chartered and state-chartered institutions in a full and complete fashion. The general conditions under which confidential information on these institutions would be shared are described below:

1. The requesting state agency should have supervisory jurisdiction over an organization related to the institution for which information is requested or have authority over an application that has been submitted by that institution.

2. The requesting state agency must agree to use the information only for appropriate supervisory purposes and be legally able to protect the confidentiality of the information.

Specific requests from state supervisory authorities should be submitted directly to NCUA. NCUA encourages state authorities to enter into this sharing arrangement and that they will also agree to share their information with NCUA.

Dated this 21st day of April 1986.

By: National Credit Union Administration Board.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 86–9886 Filed 5–1–86; 8:45 am]

BILLING CODE 7535–01–M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 309

[Docket No. 51207–5207]

General Requirements for Financial Assistance; Unfair Competition Prohibitions

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Interim rule.

SUMMARY: This rule amends EDA's regulations concerning general requirements for financial assistance at 13 CFR § 309.2 entitled "Unfair Competition". The rule implements section 702 of the Public Works and Economic Development Act of 1965, as amended, 42 U.S.C. 3121, *et seq.* (PWEDA) which provides that:

No financial assistance under this Act shall be extended to any project when the result would be to increase the production of goods, materials, or commodities, or the availability of services or facilities, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises.

42 U.S.C. 3212

EDA's regulations at 13 CFR 309.2 provide that under certain circumstances, EDA must conduct a study (verification and evaluation) of the capacity and demand for particular goods, materials, commodities, services or facilities, based upon specified information submitted by the applicant for financial assistance under PWEDA. EDA's verification and analysis is referred to as a "702 Study". These amendments revise the conditions under which EDA must conduct a "702 Study".

DATES: Effective Date: May 2, 1986. Comments by: July 1, 1986.

ADDRESS: Send comments to James F. Marten, Deputy Chief Counsel for Operations and Administration, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Room 7009, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Walter Archibald, Director, Office of Compliance Review, Economic Development Administration, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Room 7329, Washington, DC 20230, (202) 377–2710.

SUPPLEMENTARY INFORMATION: EDA is amending 13 CFR Part 309 entitled General Requirements For Financial Assistance. Section 309.2 concerning unfair competition is being revised by raising the threshold amount of EDA funds in paragraphs (a) and (d) from $10,000 to $25,000. This reflects cost changes since the existing paragraphs were adopted over 10 years ago. The removal of portions of paragraphs (e)(1), (e)(2)(ii) and all of paragraph (e)(2)(v) revises the description of projects not requiring a "702 Study."

The amendment at 309.2(a) narrows the part of the definition of "financial assistance" concerning contracts, purchase orders, task orders or work orders to cover only those in an amount in excess of $25,000.

The amendment at § 309.2(d) narrows the definition of technical assistance grants, contracts, or task orders to amounts in excess of $25,000.

The amendment at § 309.2(e)(1) broadens the definition of projects not requiring a "702 Study" to include non-public works projects, and defines firms deemed "primary beneficiaries."

The amendment at § 309.2(e)(2)(ii) narrows the definition of retention of capacity and employment by deleting the word "existing."

The amendment at § 309.2(e)(2)(v) broadens the prohibition against unfair competition by deleting the exception for direct or guaranteed working capital loans.

The addition of § 309.2(e)(3) narrows the unfair competition requirements by adding the exceptions of certain research, planning, and technical assistance grants.

Under Executive Order 12291 the Department must judge whether a regulation is "major" within the meaning of Section 1 of the Order and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. This regulation is not major because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Accordingly, neither a preliminary nor final Regulatory Impact Analysis has to be or will be prepared.

This rule is exempt from all requirements of 5 U.S.C. 553 including notice and opportunity to comment and delayed effective date, because it relates to public property, loans, grants, benefits and contracts.

No other law requires that notice and opportunity for comment be given for the rule.

Accordingly, the Department's General Counsel has determined and so certified to the Office of Management and Budget, that dispensing with notice and opportunity for comment is consistent with the Administrative Procedure Act (APA) and all other relevant laws.

However, because the Department is interested in receiving comments from those who will benefit from this amendment, this rule is being issued as interim final. Public comments on the interim final rule are invited and should be sent to the address listed in the **"ADDRESS"** Section above.

Comments received by July 1, 1986 will be considered in promulgating a final rule.

Since notice and an opportunity for comment are not required to be given for this rule under section 553 of the APA (5 U.S.C. 553) or any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a), 604(a)), no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act (Pub. L. 96–511).

List of Subjects in 13 CFR Part 309

Community development, Grant programs—community development, Loan programs—community development, Penalties.

Accordingly, for the reasons set forth above, 13 CFR Part 309 is amended as follows:

PART 309—[AMENDED]

1. The authority citation for Part 309 is revised to read as follows:

Authority: Sec. 701, Pub. L. 89–136, 79 Stat. 570 (42 U.S.C. 3211); Sec. 1–105, DOC Organization Order 10–4, as amended (40 FR 56702, as amended).

3. In 309.2, in paragraph (a), the definition for "Financial Assistance" is revised, paragraphs (d), (e)(1), (e)(2)(ii) are revised, Paragraph (e)(2)(v) is removed, and new Paragraph (e)(3) is added to read as follows. Paragraph (e) introductory text is shown for the convenience of the user.

§ 309.2 Unfair competition.

* * * * *

(a) Definitions. As used in this section:

* * * * *

"Financial Assistance" means any grant, loan, guarantee, or purchase of evidence of indebtedness by EDA pursuant to the authority of the Act, and any contract, purchase order, task order or work order in an amount in excess of $25,000 which is directed toward an increase in the productive capacity for goods or services by a specific enterprise either existing or prospective.

* * * * *

(d) Technical assistance. Whenever a Technical Assistance grant, contract, or task order in excess of $25,000 is requested for a project which is directed toward an increase in the productive capacity for goods or services by a specific enterprise, either existing or prospective, a "702 Study" will be required. The procedures for preparing such "702 Study" set forth in paragraph (c) of this section shall be followed to the extent necessary to provide the Agency with sufficient information.

(e) Projects not requiring a "702 Study". Financial assistance under the

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Act may be provided to a project without a "702 Study" when EDA determines such project meets one of the following criteria:

(1) The project to be assisted is not designed primarily or essentially to benefit a particular firm or industry, but is designed primarily for the benefit of the community or area as a whole or for general industrial or commercial purposes. When a single firm or industry will utilize 50 percent or more of an EDA financed facility, that firm or industry is considered a "primary beneficiary".

(2) * * *

(ii) assure the retention of capacity and employment, or

* * * * * *

(e) * * *

(3) That the grant is of one of the following categories which have been found not to result in an increase in the productive capacity for goods or services by a specific enterprise, either existing or potential.

(i) Research or study grants designed to: determine the causes of national, regional, or sectoral unemployment, underemployment, underdevelopment or chronic depression, assist in the formulation of programs to address such problems, or provide the personnal needed to conduct such programs;

(ii) Planning grants issued to State or local governments or to regional or area organizations for administrative expenses of a planning process or for the preparation of economic development plans or programs;

(iii) Technical Assistance grants which are not designed to assist a specific firm or group of firms and/or which will not lead directly to capacity development or expansion in the production of goods or services to be offered for sale in competition with existing producers not benefiting from the grant.

* * * * *

Dated: April 28, 1986.

Orson G. Swindle III,

Assistant Secretary for Economic Development.

[FR Doc. 86-9880 Filed 5-1-86; 8:45 am]

BILLING CODE 3510-24-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-CE-09-AD; Amdt. 39-5295]

Airworthiness Directives; Beech Models 1900 and 1900C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) AD 85-21-07, applicable to Beech Models 1900 and 1900C airplanes and codifies the corresponding priority letter AD dated October 22, 1985, into the Federal Register. The AD requires that in-service airplanes be operated in accordance with revised Pilot's Operating Handbook and FAA Approved Airplane Flight Manual (POH/AFM) material which reflects the performance achieved by production airplanes.

DATES: Effective May 6, 1986, to all persons except those to whom it has already been made effective by priority letter AD from the FAA dated October 22, 1985.

Compliance: As indicated in the body of the AD.

ADDRESSES: Beech Letter 52-85-1948 dated October 21, 1985, applicable to this AD, may be obtained upon request to Mr. Lou Gollin, Beech Aircraft Service Engineering, Department 52, Post Office Box 85, Wichita, Kansas 67201, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Charles J. Maple, Wichita Aircraft Certification Office, ACE-160W, Federal Aviation Administration, 1801 Airport Road, Room 100, Wichita, Kansas 67209; Telephone (316) 946-4433.

SUPPLEMENTARY INFORMATION: The one-engine-inoperative takeoff gradient of climb data contained in the Beech Model 1900/1900C airplane POH/AFM are limitations based on the measured performance of a certification prototype Model 1900 airplane. Additional one-engine-inoperative takeoff climb data, presented by Beech as unapproved data in the POH/AFM, also reflect the performance achieved by this prototype airplane. It has been determined that the one-engine-inoperative gradient of climb performance of production Model 1900/1900C airplanes is measurably less than that calculated by reference to the POH/AFM. When production Model 1900/1900C airplanes are operated at a maximum takeoff weight calculated by reference to the POH/AFM for existing conditions of temperature and field elevation, they may not achieve the 2% one-engine-inoperative takeoff gross gradient of climb required by FAR 135, App. A, paragraph 6(b)(2). They therefore may not achieve the level of safety intended by that regulation. The FAA determined that this is an unsafe condition that may exist in other airplanes of the same type design, thereby necessitating the AD. It was also determined that an emergency condition existed, that immediate corresponding action was required and that notice and public procedure thereon was impractical and contrary to the public interest. Accordingly, the FAA notified all known registered owners of the airplanes affected by this AD by priority letter dated October 22, 1985. The AD became effective immediately as to these individuals upon receipt of that letter and is identified as AD 85-21-07. Since the unsafe condition described therein may still exist on other Beech Model 1900 and 1900C airplanes, the AD is being published in the Federal Register as an amendment to Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR Part 39) to make it effective as to all persons.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT".

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

Beech: Applies to Models 1900 and 1900C (all serial numbers) airplanes certificated in any category.

Compliance: Required within 10 hours time-in-service after receipt of this AD, unless already accomplished.

To ensure that required performance can be achieved for each approved combination of take-off configuration, weight, altitude and temperature, accomplish the following:

(a) Revise Beech Model 1900/1900C Pilot's Operating Handbook and FAA Approved Airplane Flight Manual (POH/AFM), P/N 114-590021-3, in accordance with Model 1900 and 1900C Interim Addendum to POH/AFM, P/N 114-590021-3, dated October 21, 1985.

Note.—The above cited interim addendum was transmitted to Model 1900/1900C operators of record by Beech Letter 52-85-1948, dated October 21, 1985.

(b) Conduct further operations in accordance with the POH/AFM so revised.

(c) The requirements of Paragraph (a) of this AD may be accomplished by the holder of a pilot certificate issued under Part 61 of the Federal Aviation Regulations (FAR) on any airplane owned or operated by him. The person accomplishing these actions must make the appropriate aircraft maintenance record entry as prescribed by FAR 91.173.

(d) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Wichita, Kansas 67209; Telephone (316) 946-4400. All persons affected by this directive may obtain copies of the documents referred to herein upon request to Mr. Lou Gollin, Beech Aircraft Service Engineering, Department 52, Post Office Box 85, Wichita, Kansas 67201, or FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective May 6, 1986, as to all persons except those persons to whom it was made immediately effective by priority letter from the FAA, dated October 22, 1985, and is identified as AD 85-21-07.

Issued in Kansas City, Missouri, on April 21, 1986

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 86-9828 Filed 5-1-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 75

[Airspace Docket No. 85-AWA-43]

Establishment of Jet Route J-190 and VOR Federal Airway V-576, New York

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments establish new Jet Route J-190 and Federal Airway V-576, located in northern New York state, due to the increase in traffic in the Hancock, NY, area. These new routes improve traffic flow and reduce congestion in the Bradley, CT, area. This action permits greater flexibility for maneuvering traffic in the Boston Air Route Traffic Control Center area and reduce controller workload.

EFFECTIVE DATE: 0901 U.t.c., July 3, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

History

On November 14, 1985, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to establish new Jet Route J-190 and new VOR Federal Airway V-576 located in the vicinity of Hancock, NY (50 FR 47062). Due to the increase in traffic on J-49, new Jet Route J-190 would parallel J-49 to eliminate opposite direction traffic for aircraft inbound to Bradley, CT, airport. This action alleviates congestion and compression of traffic in the Bradley terminal area and reduces controller workload. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, these amendments are the same as those proposed in the notice. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

The Rule

These amendments to Parts 71 and 75 of the Federal Aviation Regulations establish new Jet Route J-190 and new VOR Federal Airway V-576 located in the vicinity of Hancock, NY. This action alleviates congestion and compression of traffic in the Bradley, CT, terminal area and reduces controller workload.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Parts 71 and 75

Aviation safety, Jet routes and VOR Federal airways.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) are amended, as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.123 is amended as follows:

V-576—[New]

From Philipsburg, PA, via Williamsport, PA; Hancock, NY; to DeLancey, NY.

PART 75—[AMENDED]

3. The authority citation for Part 75 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

4. Section 75.100 is amended as follows:

J-190—[New]

From Carleton, MI, via Slate Run, PA; to Rockdale, NY. The segment within Canada is excluded.

Issued in Washington, DC, on April 25, 1986.

James Burns, Jr.,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-9827 Filed 5-1-86; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 379

[Docket No. 54187-5187]

Export of Technical Data; Commercial Agreements With Certain Countries

Correction

In FR Doc. 86-8075, beginning on page 15315 in the issue of Wednesday, April 23, 1986, make the following corrections:

1. On page 15315, in the third column, the first line of the second paragraph under the heading "Rulemaking Requirements" should read "2. Section 13(a) of the Export".

2. On page 15316, in the first column, in § 379.9, the last word in the second line of paragraph (b) should read "exporter".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 882

[Docket No. R-86-1282; FR-2114]

Low Income Housing; Section 8 Existing Housing Assistance Payments Program, Existing Housing; Termination of Tenancy in First Year of Lease Term

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Final rule.

SUMMARY: This rule revises the regulations concerning termination of tenancy in the section 8 Certificate Program. The revision makes it clear that, during the first year of the term of a lease, the owner may not terminate the tenancy for "other good cause" unless the termination is based on Family malfeasance or nonfeasance. It also provides examples of "other good cause" that may not be used as the basis for terminating a tenancy during the first year of the term of a lease.

EFFECTIVE DATE: June 11, 1986.

FOR FURTHER INFORMATION CONTACT: Madeline Hastings, Existing Housing Division, Office of Elderly and Assisted Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-2000, telephone (202) 755-6887. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: By Order Granting Permanent Injunction entered in *Levy, et al.* v. *HUD et al.*, No. C 84-7983 WWS (N.D. Cal. March 22, 1985), HUD was ordered to suspend and not otherwise enforce or implement its regulation at 24 CFR 882.215, as amended in 49 FR 12235, 12242 (March 29, 1984), insofar as the regulation permits termination of tenancy during the first year of a lease for reasons other than serious or repeated violation of the terms and conditions of the lease; violation of Federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the dwelling unit and surrounding premises; or other malfeasance or nonfeasance of the tenant. The Department was also ordered to publish a notice in the Federal Register setting out a statement contained in the Permanent Injunction and to mail a similar HUD notice to all affected PHAs.

In compliance with the Permanent Injunction, HUD published the statement required by the Court (on May 22, 1985, at 50 FR 15733) suspending that portion of 24 CFR 882.215 that allowed the termination of a tenancy during the first year of a lease for other good cause not based on the malfeasance or nonfeasance of the tenant. The Department also has mailed the HUD notice to the affected public housing agencies (PHAs). In addition, the Department has revised required lease language for the Section 8 Certificate Program to incorporate provisions consistent with the Court Order concerning termination of tenancy during the first year of the lease term.

This final rule adds a new § 882.215(c)(3) to provide explicitly that, in the first year of the term of a lease, the owner may not terminate the tenancy for "other good cause" unless termination is based on Family malfeasance or nonfeasance. The new § 882.215(c)(3) also makes it clear that during the first year of the term of the lease an owner may not terminate a tenancy for other good cause based on any of the following grounds: (1) Failure of a Family to accept the offer of a new lease; (2) an Owner's desire to utilize the unit for personal or family use or for a purpose other than use as a residential rental unit; or (3) a business or economic reason for termination of tenancy (such as sale of the property, renovation of the unit, desire to rent the unit at a higher rental). (The current § 882.215(c)(3) is redesignated as § 882.215(c)(4).)

Other Information

An Environmental Assessment is unnecessary since the Section 8 Certificate Program is categorically excluded from the Department's National Environmental Policy Act procedures under 24 CFR 50.20(d).

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. Analysis of the rule indicates that it would not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the provisions of 5 U.S.C. 605(b), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, because this rule simply clarifies the regulation to make it more explicit in reflecting current HUD policy regarding termination of tenancy during the first year of the term of a lease.

The subject matter of this rulemaking action relates to grants and is, therefore, exempt from the notice and public comment requirements of Section 553 of the Administrative Procedure Act. As a matter of policy, the Department submits many rulemaking actions with such subject matter to public comment either before or after effectiveness of the action, notwithstanding the statutory exemption. The Secretary has, however, determined that in this instance notice and prior public procedure are unnecessary: In compliance with the Court Order in *Levy, et al.*, v. *Pierce, et al., supra*, the Department has already implemented restrictions on termination of tenancy during the first year of the lease term, for other good cause based on Family malfeasance or nonfeasance, by issuing to PHAs, and by publishing in the Federal Register, the statement required by the Court. This rulemaking simply revises the Department's regulations to state explicitly the judicially-determined restrictions on termination of tenancy for other good cause during the first year of a lease term.

This rule was listed as Sequence No. 883 in the Department's Semiannual Agenda of Regulations published on April 21, 1986, (51 FR 14086, 14063) under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program number for this program is 14.156.

List of Subjects in 24 CFR Part 882

Grant programs: housing and community development, Housing, Manufactured homes, Rent subsidies.

Accordingly, the Department amends 24 CFR Part 882 as follows:

PART 882—SECTION 8 HOUSING ASSISTANCE PAYMENTS PROGRAM—EXISTING HOUSING

1. The authority citation for Part 882 continues to read as follows:

Authority: Secs. 3, 5 and 8, United States Housing Act of 1937 (42 U.S.C. 1437a, 1437c, 1437f); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 882.215, paragraph (c)(3) is redesignated as paragraph (c)(4), and a new paragraph (c)(3) is added, to read as follows:

§ 882.215 Assisted tenancy.

* * * * *

(c) * * *

(3) During the first year of the term of a Lease, the Owner may not terminate the tenancy for "other good cause" unless the termination is based on Family malfeasance or nonfeasance. For example, during the first year of the term of Lease, the Owner may not terminate the tenancy for "other good cause" based on any of the following grounds: (i) Failure by the Family to accept the offer of a new Lease; (ii) the Owner's desire to utilize the unit for personal or family use or for a purpose other than as a residential rental unit; or (iii) a business or economic reason for termination of the tenancy (such as sale of the property, renovation of the unit, desire to rent the unit at a higher rental).

* * * * *

Dated: April 25, 1986.

Silvia J. DeBartolomeis,

Acting General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 86-9912 Filed 5-1-86; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8085]

Income Tax; Deduction of Employer Liability Payments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations concerning the deduction of employer liability payments. Changes to the applicable tax law were made by the Multiemployer Pension Plan Amendments Act of 1980. The regulations will provide the public with additional guidance needed to comply with that Act and will affect all employers that maintain qualified plans.

DATES: The amendments are effective for employer payments made after September 25, 1980.

FOR FURTHER INFORMATION CONTACT: Marjorie Hoffman of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224 (Attention: CC:LR:T). Telephone 202-566-3430 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

On May 20, 1985, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 404 of the Internal Revenue Code of 1954 (50 FR 20800). These amendments conform the regulations to section 205 of the Multiemployer Pension Plan Amendments Act of 1980 (94 Stat. 1267). No comments were submitted on the proposed amendments. No public hearing on the proposed amendments was requested. Accordingly, the amendments are adopted by this Treasury decision substantially as they appeared in the Federal Register. Typographical errors which were contained in the notice of proposed rulemaking have been corrected.

Executive Order 12291 and Regulatory Flexibility Act

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Although a notice of proposed rulemaking that solicited public comment was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal author of these final regulations is Marjorie Hoffman of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.401-0—1.425-1

Income taxes, Employee benefit plans, Pensions, Stock options, Individual retirement accounts, Employee stock ownership plans.

Adoption of amendments to the regulations

Accordingly, 26 CFR Part 1 is amended as follows:

The proposed regulations are adopted without change as set forth below.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: April 14, 1986.

J. Roger Mentz,

Assistant Secretary of the Treasury.

PART 1—[AMENDED]

Paragraph 1. The authority citation for Part 1 continues to read, in part:

Authority: 26 U.S.C. 7805. * * *

Par. 2. The following new § 1.404(g)-1 is added immediately after § 1.404(e)-1A.

§ 1.404 (g)-1 Deduction of employer liability payments.

(a) *General rule.* Employer liability payments shall be treated as contributions to a stock bonus, pension, profit-sharing, or annuity plan to which section 404 applies. Such payments that satisfy the limitations of this section shall be deductible under section 404 when paid without regard to any other limitations in section 404.

(b) *Employer liability payments.* For purposes of this section, employer liability payments mean:

(1) Any payment to the Pension Benefit Guaranty Corporation (PBGC) for termination or withdrawal liability imposed under section 4062 (without regard to section 4062(b)(2)), 4063, or 4064 of the Employee Retirement Insurance Security Act of 1974 (ERISA). Any bond or escrow payment furnished under section 4063 of ERISA shall not be considered as a payment of liability until applied against the liability of the employer.

(2) Any payment to a non-multiemployer plan pursuant to a commitment to the PBGC made in accordance with PBGC Determination of Plan Sufficiency and Termination of

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Sufficient Plans. See PBGC regulations, 29 CFR 2617.13(b) for rules concerning these commitments. Such payments shall not exceed an amount necessary to provide for, and used to fund, the benefits guaranteed under section 4022 of ERISA.

(3) Any payment to a multiemployer plan for withdrawal liability imposed under part 1 of subtitle E of title IV of ERISA. Any bond or escrow payment furnished under such part shall not be considered as a payment of liability until applied against the liability of the employer.

(c) *Limitations, etc.*—(1) *Permissible expenses.* A payment shall be deductible under section 404(g) and this section only if the payment satisfies the conditions of section 162 or section 212. Payments made by an entity which is liable for such payments because it is a member of a commonly controlled group of corporations, or trades or businesses, within the meaning of section 414 (b) or (c), shall not fail to satisfy such conditions merely because the entity did not directly employ participants in the plan with respect to which the liability payments were made.

(2) *Qualified plan.* A payment shall be deductible under section 404(g) and this section only if the payment is made in a taxable year of the employer ending within or with a taxable year of the trust for which the trust is exempt under section 501(a). For purposes of this paragraph, the payment timing rules of section 404(a)(6) shall apply.

(3) *Full funding limitation.* (i) If the employer liability payment is to a plan, the total amount deductible for such payment and for other plan contributions may not exceed an amount equal to the full funding limitation as defined in section 412(c)(7) for the taxable year with respect to which the contributions are deemed made under section 404.

(ii) If the total contributions to the plan for the taxable year including the employer liability payment exceed the amount equal to this full funding limitation, the employer liability payment shall be deductible first.

(iii) Any amount paid in a taxable year in excess of the amount deductible in such year under the full funding limitation shall be treated as a liability payment and be deductible in the succeeding taxable years in order of time to the extent of the difference between the employer liability payments made in each succeeding year and the maximum amount deductible for such year under the full funding limitation.

(4) *Maximum deduction allowable under section 404.* The amount deductible under section 404 is limited to the higher of the maximum amount deductible by the employer under section 404(a) or the amount otherwise deductible under section 404(g). If the contributions are to a plan to which more than one employer contributes, this limit shall apply to each employer separately rather than all employers in the aggregate. Thus, each employer may deduct the greater of its allocable share of the deduction determined under sections 404(a) and 413(b)(7) or 413(c)(6) or its allocable share of the amount deductible under section 404(g).

However, pursuant to the rule in subdivision (ii) of subparagraph (3), in determining each employer's allocable share under section 404(a), the total amount deductible under section 404(a) by all employers shall not exceed the difference between the full funding limitation and the total amount deductible by all employers under section 404(g).

(5) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. In the 1983 taxable year, Employer *A* makes a withdrawal liability payment of $700,000 to multiemployer Plan *X* to which Employer *A* and Employer *B* are required to contribute. Employer *A*'s allocable share of the deduction allowable under sections 404(a) and 413(b)(7) in the 1983 taxable year is $600,000. Employer *B*'s allocable share of the deduction allowable under section 404(a) and 413(b)(7) in the 1983 taxable year is $400,000.

The full funding limitation for the 1983 taxable year is $1,000,000. Based on paragraph (c)(4) of this section, Employer *A* may deduct $700,000, the amount of the withdrawal liability payment. However, the deduction of Employer *B* is limited to $300,000, the difference between the full funding limitation and the amount deductible under section 404(g).

(d) *Effective date etc.*—(1) *General rule.* This section is effective for employer payments made after September 25, 1980.

(2) *Transitional rule.* For employer payments made before September 26, 1980, for purposes of section 404, any amount paid by an employer under section 4062, 4063, or 4064 of the Employee Retirement Income Security Act of 1974 shall be treated as a contribution to which section 404 applies by such employer to or under a stock bonus, pension, profit-sharing, or annuity plan.

[FR Doc. 86-9953 Filed 5-1-86; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Parts 1 and 602

[T.D. 8068]

Income Taxes; Election of $10 Million Limitation on Exempt Small Issues of Industrial Development Bonds; Supplemental Capital Expenditure Statements

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final rule; Treasury decision.

SUMMARY: This document contains regulatory amendments that change the existing regulatory requirement for electing the $10 million limitation for exempt small issues of industrial development bonds and eliminate the existing regulatory requirement to file certain supplemental capital expenditure statements with respect to certain small issues of tax-exempt industrial development bonds. The amendments also conform the regulations on exempt small issues to the increase in the limit on the size of such small issues, enacted by the Revenue Act of 1978, and clarify rules regarding capital expenditures. The amendments affect issuers and holders of the exempt small issues, and principal users of facilities financed with the proceeds of these issues.

DATES: The elimination of the requirement to file capital expenditure statements implemented by the amendments to § 1.103–10(b)(2)(vi) is effective on and after September 3, 1971. The amendments relating to the time for and manner of making the $10 million small issue election under § 1.103–10(b)(2)(vi) are effective after May 2, 1986 except that issuers who, before October 29, 1986, make the election in the manner prescribed by § 1.103–10(b)(2)(vi) as in effect prior to amendment by this Treasury decision will be treated as having made the election at the time and in the manner prescribed by § 1.103–10(b)(2)(vi) as amended by this Treasury decision. The amendments to § 1.103–10 relating to the increase in the limit on the size of small issues of industrial development bonds are effective for obligations issued after December 31, 1978, in taxable years ending after such date, and for capital expenditures made after December 31, 1978, with respect to obligations issued before January 1, 1979.

FOR FURTHER INFORMATION CONTACT: John A. Tolleris of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. 20224 (Attention: CC:LR:T) (202–566–3590).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR Part 1) under section 103(b)(6)(D) of the Internal Revenue Code of 1954. These amendments revise the present requirements of § 1.103–10(b)(2)(vi) relating to elections and supplemental capital expenditure statements with respect to certain small issues of tax-exempt industrial development bonds.

The Treasury decision was not preceded by a notice of proposed rulemaking soliciting public comments because the Treasury Department has determined that the rules promulgated herein will not adversely affect any taxpayer. Accordingly, it is found unnecessary to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Explanation of Provisions

This Treasury decision eliminates the requirement that issuers of exempt small issues of industrial development bonds file a statement with the Service in order to elect the $10 million small issue limitation; however, bond issuers would be required to make the election under section 103(b)(6) by timely making a notation thereof on their books or records with respect to the issue.

This Treasury decision also eliminates the requirement that principal users of facilities financed by certain small issues of tax-exempt industrial development bonds (with respect to which the $10 million limitation has been elected under section 103(b)(6)(D)) file annual supplemental capital expenditure statements concerning such facilities and copies of the election statement with certain income tax returns.

This Treasury decision also contains a provision to conform the Income Tax Regulations to the increase in the limitation, from $5 million to $10 million, in the size of certain exempt small issues, enacted by section 331(a) of the Revenue Act of 1978 (92 Stat. 2839). This document also contains amendments to clarify rules regarding capital expenditures.

Nonapplicability of Executive Order 12291

The Commissioner of Internal Revenue has determined that this rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Regulatory Flexibility Act

A general notice of proposed rulemaking is not required by 5 U.S.C. 553 for final regulations subject to 5 U.S.C. 553(b)(B). Therefore, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these proposed amendments is John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Paperwork Reduction Act

The elimination of the collection of information contained in this regulation has been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. This reduction in the requirements had been approved by OMB under control number 1545–0940.

List of Subjects

26 CFR 1.61–1–1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR Parts 1 and 602 are amended as follows:

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953—[AMENDED]

Paragraph 1. The authority for Part 1 is amended by adding the following citation:

Authority: 26 U.S.C. 7805. * * * Section 1.103–10 also issued under 26 U.S.C. 103(b)(6). * * *

Par. 2. Section 1.103–10 (relating to exemption for certain small issues of industrial development bonds) is amended as follows:

(1) The phrase "section 103(c)" is removed each place it appears as a reference or part of a reference and the phrase "section 103(b)" is inserted in lieu thereof as a reference or part of a reference.

(2) Paragraph (a) is amended by adding the following new sentence at the end thereof: "For bonds issued before January 1, 1979, in taxable years ending before such date, and for capital expenditures made before January 1, 1979, with respect to such bonds, paragraphs (b), (c), and (d) of this section shall be applied by substituting $5 million for $10 million."

(3) Paragraph (c)(2) is amended by revising the caption to read "10 million or less refinancing issue." and by removing "$5" each place it appears and inserting in lieu thereof "$10".

(4) Paragraph (d)(1) is amended by removing "$5" and inserting in lieu thereof "$10".

(5) Paragraph (d)(3)(ii) is amended by removing "$5" each place it appears and inserting in lieu thereof "$10".

(6) Paragraph (b)(2) is amended by revising the heading and subdivisions (i), (ii)(*a*), and (vi) thereof, to read as follows:

§ 1.103–10 Exemption for certain small issues of industrial development bonds.

* * * * * * *

(b) *Small issue exemption.* * * *

(2) *$10 million or less.* (i) Under section 103(b)(6)(D), the issuing State or local governmental unit may elect to have an aggregate authorized face amount of $10 million or less, in lieu of the $1 million exemption otherwise provided for in section 103(b)(6)(A), with respect to issues of obligations that are industrial development bonds (within the meaning of section 103(b)(2)) issued after October 24, 1968. If the election is made in a timely manner, the bonds will be treated as obligations of a State or local governmental unit described in section 103(a)(1) and § 1.103–1 if the sum of—

(*a*) The aggregate face amount of the issue including the aggregate outstanding face amount of any prior $1 million or $10 million exempt small issues taken into account under section 103(b)(6)(B) and paragraph (d) of this section, and

(*b*) The aggregate amount of "section 103(b)(6)(D) capital expenditures" (within the meaning of paragraph (b)(2)(ii) of this section), is $10 million or less. In the case of an issue of obligations that qualified for exemption under section 103(b)(6)(A) and this paragraph, if a section (b)(6)(D) capital expenditure made after the date of issue has the effect of making taxable the interest on the issue, under section 103(b)(6)(G) the loss of tax exemption for the interest shall begin only with the

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date on which the expenditure that caused the issue to cease to qualify under the $10 million limit was paid or incurred. See paragraph (b)(2)(vi) of this section for the time and manner in which the issuer may elect the $10 million exemption. See section 103(b)(6)(H) and paragraph (c)(2) of this section for the treatment of certain refinancing issues of $10 million of less.

(ii) * * *

(*a*) The capital expenditure was financed other than out of the proceeds of issues to the extent such issues are taken into account under paragraph (b)(2)(i)(*a*) of this section.

* * * * *

(vi) The issuer may make the election provided by section 103(b)(6)(D) and this paragraph (b)(2) (assuming that the bonds otherwise qualify under section 103(b)(6) by noting the election affirmatively at or before the time of issuance of the issue in question on its books or records with respect to the issue. The term "books or records" includes the bond resolution or other similar legislation for the issue in question as well as the bond transcript or other compilation of bond and bond-related documents. If the issuer fails to make an election at the time and in the manner prescribed in this paragraph (b)(2), the issue will not be treated as described in section 103(b)(6)(D), and interest thereon will be includible in gross income.

* * * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT—[AMENDED]

Par. 3. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 4. Section 602.101(c) is amended by inserting in the appropriate place in the table "§ 1.103–10(b)(2)(vi) . . . 1545–0940".

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: March 28, 1986.

J. Roger Mentz,

Acting Assistant Secretary of the Treasury.

[FR Doc. 86–9951 Filed 5–1–86; 8:45 am]

BILLING CODE 4830–01–M

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26 CFR Parts 53, 54, 141, 301 and 602

[T.D. 8084]

Excise Taxes; Second Tier Excise Taxes

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to second tier excise taxes. Changes to the applicable tax law were made by Pub. L. 96–596. The regulations will affect private foundations, black lung benefit trusts, pension plans, and disqualified persons with respect to the foregoing who may become liable for second tier taxes within the meaning of section 4963(b) of the Internal Revenue Code of 1954.

DATES: The amendments to the CFR are effective upon publication in the **Federal Register**. The amendments to §§ 53.4941(e)–1(a)(1), 53.4942(a)–1(c)(1)(ii), 53.4943–9(a)(1), 53.4944–5(a)(1), and 53.4963–1(e)(7) apply to first tier taxes imposed under sections 4941, 4942, 4943, and 4944 after December 31, 1969. Under § 53.4951–1 (a) and (f), the amendment to § 53.4941(e)–1(a)(1) applies to first tier taxes imposed under section 4951 after December 31, 1977. The amendments to §§ 54.4971–1(e) and § 53.4963–1(e)(7) apply to first tier taxes imposed under section 4971 after September 2, 1974. The amendments to § 54.4975–1(d) apply to first tier taxes imposed under section 4975 after December 31, 1974. The amendments relating to second tier taxes (as defined in section 4963(b)) apply to second tier taxes assessed after December 24, 1980.

FOR FURTHER INFORMATION CONTACT: George B. Baker of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, Attention: CC:LR:T:EE–16–81, 202–566–3422 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On February 13, 1984, the **Federal Register** published proposed amendments to the Foundation and Similar Excise Taxes Regulations (26 CFR Part 53), to the Pension Excise Taxes Regulations (26 CFR Part 54), to the Temporary Excise Tax Regulations under the Employee Retirement Income Security Act of 1974 (26 CFR Part 141), and to the Procedure and Administration Regulations (26 CFR Part 301), under sections 4941, 4942, 4943, 4944, 4945, 4961, 4962, 4971, 4975, 6213, 6503, 6861, and 7422. One correction was published in the issue of Friday, March 2, 1984, at page 7836. The amendments were proposed to conform the regulations to section 2 of the Act of December 24, 1980 (Pub. L. No. 96–596, 94 Stat. 3469). No comments were received; no public hearing was requested or held. The amendments are therefore adopted as revised by this Treasury decision.

Explanation of Provisions

Final Regulations

The amendments conform the regulations to the changes to the Internal Revenue Code made by section 2 of Pub. L. 96–596. The Code imposes excise taxes in two tiers to insure compliance with certain provisions of the Code by private foundations, black lung benefit trusts, pension trusts, and disqualified persons with respect to the foregoing entities. A first tier excise tax is imposed automatically if the foundation, trust, or disqualified person engages in a prohibited act (such as self-dealing between a disqualified person and a private foundation), or fails to perform a required act (such as a private foundation's failure to distribute the amount described in section 4942). The Code provides for a much larger second tier excise tax which is imposed at the end of a "taxable period," which begins with the event giving rise to the tax and ends on the earliest of (i) the date a notice of deficiency with respect to the first tier tax is mailed, or (ii) the date the first tier tax is assessed if no deficiency notice is mailed, or (iii) (in some cases) the date the taxable act is corrected. Although the second tier tax is imposed at the end of the taxable period, it is not assessed until after a notice of deficiency is mailed (see sections 6211 through 6216) unless a termination assessment (section 6851) or jeopardy assessment (section 6861) is made.

Under new section 4961, if the taxpayer corrects the act (or failure to act) giving rise to the second tier tax within a "correction period," the tax is not to be assessed, and if assessed, it is to be abated, and if collected, it is to be credited or refunded as an overpayment. See § 53.4961–1. The correction period begins on the day the taxable event occurs and ends 90 days after the date of mailing of a notice of deficiency with respect to the second tier tax, but may be extended in certain cases. See § 53.4963–1.

Other provisions relate to court proceedings concerning the amount of tax and the timeliness of correction, as well as deferral of assessment or collection during certain court actions. See § 53.4961–2.

Changes to Notice of Proposed Rulemaking

The notice of proposed rulemaking proposed deleting or revising a special rule for determining the end of the taxable period and invited comments on this aspect of the proposal. Although no comments were received, upon reconsideration, the Internal Revenue Service has determined to retain the existing special rule. The rule is also incorporated explicitly in regulations for chapter 43 excise taxes (relating to pension plans) in light of the revision of § 141.4975–13 and in the interest of promoting procedural uniformity between chapter 42 and 43 taxes.

Under the special rule, the taxable period ends upon filing of a waiver of the restrictions on assessment and collection of a deficiency in first tier tax. This rule does not apply under section 4945 because the taxable period does not affect the amount of the first or second tier tax under section 4945.

Thus, the following provisions are not deleted or revised, as originally proposed: § 53.4941 (e)–1(a)(3); Example 3 of § 53.4941 (e)–1(a)(4); § 53.4942(a)–1(c)(1)(ii); § 53.4943–9(a)(2); and § 53.4944–5(a)(2). In addition, a clarifying change has been made to § 53.4961–2, proposed new section 53.4963–1 has been adopted as § 53.4963–1, and cross references to section 4963 have been adopted as cross references to section 4963.

Study of § 53.4943–9(a)(1)(ii)

The Internal Revenue Service believes that § 4943–9(a)(1)(ii), which provides that the taxable period ends upon elimination of excess business holdings, may not be consistent with the statute. The Service is studying the provision and expects to propose a conforming change.

Regulatory Flexibility Act

Although a notice of proposed rulemaking that solicited public comment was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Non-Applicability of Executive Order 12291

The Commissioner of Internal Revenue has determined that this final rule it not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Paperwork Reduction Act

The collection of information requirements contained in these regulations have been submitted to the Office of Management and Budget (OMB) in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB under control number 1545–0024.

Drafting Information

The principal author of these regulations was George B. Baker of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR Part 53

Excise taxes, Foundations, Investments, Trusts and trustees, Black Lung benefit trusts.

26 CFR Part 54

Excise taxes, Pensions.

26 CFR Part 141

Excise taxes, pensions, Employee Retirement Income Security Act of 1974.

26 CFR Part 301

Administrative practice and procedure, Bankruptcy, Courts, Crime, Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Investigations, Law enforcement, Penalties, Pensions, Statistics, Taxes, Disclosure of information, Filing requirements.

26 CFR Part 602

OMB control numbers under the Paperwork Reduction Act, Reporting and recordkeeping requirements.

Adoption of Amendments of the Regulations

Accordingly, amendments to 26 CFR Parts 53, 54, 141, 301, and 602 are adopted as set forth below:

PART 53—FOUNDATION AND SIMILAR EXCISE TAXES—[AMENDED]

Paragraph 1. The authority for Part 53 continues to read in part:

Authority: 26 U.S.C. 7805. * * *

§ 53.4941 [Amended.]

Par. 2. In § 53.4941(b)–1, paragraph (a) is amended by removing the language "correction period (as defined in § 53.4941(e)–1(d))." and adding in its place the language "taxable period (as defined in § 53.4941(e)–1(a))."

Par. 3. Section 53.4941 (e)–1 is amended as follows:

1. In paragraph (b)(3) and in Example (2) of paragraph (e)(ii), the words "correction period" are removed and the words "taxable period" are added in their place; and

2. Paragraph (a)(1), Example (4) of paragraph (b)(4), and paragraph (d) are revised to read as set forth below.

§ 53.4941(e)–1 Definitions.

(a) *Taxable period*—(1) *In general.* For purposes of any act of self-dealing, the term "taxable period" means the period beginning with the date on which the act of self-dealing occurs and ending on the earliest of:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4941(a)(1),

(ii) The date on which correction of the act of self-dealing is completed, or

(iii) The date on which the tax imposed by section 4941(a)(1) is assessed.

* * * * *

(b) *Amount involved.* * * *

(4) *Examples.* * * *

Example (4). D, a disqualified person with respect to private foundation T, purchases 100 shares of stock from T for $5,000 on June 15, 1982. The fair market value of the 100 shares of stock on that date is $4,800. D sells the 100 shares of stock on December 20, 1983, for $6,000. On December 27, 1983, a notice of deficiency with respect to the taxes imposed under subsections (a) and (b) of section 4941 is mailed to D and the taxable period ends. D fails to correct during the taxable period. Between June 15, 1982, and the end of the taxable period, the stock was quoted on the New York Stock Exchange at a high of $67 per share. The amount involved with respect to the tax imposed under subsection (a) is $5,000, and the amount involved with respect to the tax imposed under subsection (b) for failure to correct is $6,700 (100 shares at $67 per share), the highest fair market value during the taxable period.

* * * * *

(d) *Cross reference.* For rules relating to taxable events that are corrected within the correction period, defined in section 4963 (e), see section 4961 (a), and the regulations thereunder.

* * * * *

Par. 4. Section 53.4942(a)–1 is amended as follows:

1. In paragraph (a)(2), the language "correction period" and "paragraph (c)(3)" is removed and the language "taxable period" and "paragraph (c)(1)", respectively, is added in its place;

2. In paragraph (c)(4), Example (3) is removed; and

3. Paragraph (a)(4), paragraph (c)(1)(i), and paragraph (c)(3) are revised to read as set forth below.

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§ 53.4942(a)-1 Taxes for failure to distribute income.

(a) *Imposition of tax.* * * *

(4) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example (1). *M*, a private foundation which uses the calendar year as its taxable year, has at the end of 1981, $50,000 of undistributed income (as defined in paragraph (a) of § 53.4942 (a)-3) for 1981. As of January 1, 1983, $40,000 is still undistributed. On August 15, 1983, a notice of deficiency with respect to the excise taxes imposed by section 4942 (a) and (b) is mailed to *M* under section 6212 (a) and the taxable period ends. Thus, under these facts, an initial excise tax of $8,000 (15 percent of $40,000) is imposed upon *M*. An additional excise tax of $40,000 (100 percent of $40,000) is imposed by section 4942(b). Under section 4961(a), however, if the undistributed income is reduced to zero during the correction period, this latter tax will not be assessed, and if assessed, it will be abated, and if collected, it will be credited or refunded as an overpayment.

Example (2). Assume the facts as stated in example (1), except that the notice of deficiency is mailed to *M* on September 7, 1984, and as of January 1, 1984, only $10,000 of the $50,000 of undistributed income with respect to 1981 is undistributed. Therefore, initial excise taxes of $8,000 (15 percent of $40,000, M's undistributed income from 1981, as of January 1, 1983) and $1,500 (15 percent of $10,000, *M's* undistributed income from 1981 as of January 1, 1984) are imposed by section 4942(a). If the $10,000 remains undistributed as of September 7, 1984, the end of the taxable period, an additional excise tax of $10,000 (100 percent of $10,000, *M's* undistributed income from 1981, as of September 7, 1984) is imposed by section 4942(b).

* * * * *

(c) *Certain periods.* For purposes of this section—

(1) *Taxable period.* (i) The term "taxable period" means, with respect to the undistributed income of a private foundation for any taxable year, the period beginning with the first day of the taxable year and ending on the earlier of:

(A) The date of mailing of a notice of deficiency under section 6212(a) with respect to the initial excise tax imposed under section 4942(a), or

(B) The date on which the initial excise tax imposed under section 4942(a) is assessed.

For example, assume M, a private foundation which uses the calendar year as the taxable year, has $15,000 of undistributed income for 1981. A notice of deficiency is mailed to M under section 6212(a) on June 1, 1983. With respect to the undistributed income of M for 1981, the taxable period began on January 1, 1981, and ended on June 1, 1983.

* * * * *

(3) *Cross reference.* For rules relating to taxable events that are corrected within the correction period, defined in section 4963(e), see section 4961 (a) and the regulations thereunder.

* * * * *

Par. 5. In § 53.4942(a)-3, Example (2) of paragraph (d)(3) is revised to read as follows:

§ 53.4942(a)-3 Qualifying distributions defined.

* * * * *

(d) *Treatment of qualifying distributions.* * * *

(3) *Examples.* * * *

Example (2). *M*, a private foundation which uses the calendar year as the taxable year, has undistributed income of $300 for 1981, $300 for 1982, and $400 for 1983. On January 14, 1983, *M* makes its first qualifying distribution in 1983 when it sets aside (within the meaning of paragraph (b) of this section) $700 for construction of a hospital. On February 24, 1983 a notice of deficiency with respect to the excise taxes imposed by section 4942 (a) and (b) in regard to *M's* undistributed income for 1981 is mailed to *M* under section 6212(a). *M* notifies the Commissioner in writing on March 24, 1983, that it is making an election under subparagraph (2) of this paragraph to have its distribution of January 14th applied first against its undistributed income for 1982, next against its undistributed income for 1981, and last against its undistributed income for 1983. Thus, $200 of the $700 qualifying distribution is treated as made out of the undistributed income for 1982; $300, out of undistributed income for 1981; and $200 ($700 less the sum of $200 and $300), out of the undistributed income for 1983. Thus, an initial excise tax of $45 (15 percent of $300) is imposed under section 4942(a). Since *M* made the election described above, the $300 (treated as distributed out of undistributed income for 1981) corrects (within the meaning of section 4963(d)(2)) the taxable act because the undistributed income for 1981 is reduced to zero. Furthermore, correction is effected within the correction period (as defined in section 4963(e)(1) and § 53.4963-1(e)). Therefore, under the provisions of section 4961(a), the additional tax imposed by section 4942(b) will not be assessed.

* * * * *

Par. 6. In § 53.4943-2, paragraph (b) is revised to read as follows:

§ 53.4943-2 Imposition of tax on excess business holdings of private foundations.

* * * * *

(b) *Additional tax.* In any case in which the initial tax is imposed under section 4943(a) with respect to the holdings of a private foundation in any business enterprise, if, at the close of the taxable period (as defined in section 4943(d)(2) and § 53.4943-9) with respect to such holdings the foundation still has excess business holdings in such enterprise, there is imposed a tax under section 4943(b) equal to 200 percent of the value of such excess holdings as of the last day of the taxable period.

Par. 7. In § 53.4943-9, paragraph (a)(1) and paragraph (b) are revised to read as set forth below.

§ 53.4943-9 Business holdings; certain periods.

(a) *Taxable period*—(1) *In general.* For purposes of section 4943, the term "taxable period" means, with respect to any excess business holdings of a private foundation in a business enterprise, the period beginning with the first day on which there are such excess business holdings and ending on the earliest of:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed on the holdings by the section 4943(a);

(ii) The date on which the excess is eliminated; or

(iii) The date on which the tax imposed by section 4943(a) is assessed.

For example, *M*, a private foundation, first has excess business holdings in *X*, a corporation, on February 5, 1972. A notice of deficiency is mailed under section 6212 to *M* on June 1, 1974. With respect to *M's* excess business holdings in *X*, the taxable period begins on February 5, 1972, and ends on June 1, 1974.

* * * * *

(b) *Cross reference.* For rules relating to taxable events that are corrected within the correction period, defined in section 4963(e), see section 4961(a) and the regulations thereunder.

* * * * *

§ 53.4944-3 [Amended]

Par. 8. Section 53.4944-3 is amended as follows:

1. In paragraph (a), the words "correction period" are removed from the first and third sentences and the words "taxable period" are added in their place, and the language "4944(e)(3)" is removed from the first sentence and the language "4944(e)(1)" is added in its place; and

2. At the end of paragraph (b), in the fourth sentence of Example (1) in paragraph (c), and in the first and second sentence of Example (3) in paragraph (c), the words "correction period" are removed and the words "taxable period" are added in their place.

Par. 9. In § 53.4944-5, paragraphs (a)(1) and (d) are revised to read as set forth below.

§ 53.4944-5 Definitions.

(a) *Taxable period*—(1) *In general.* For purposes of section 4944, the term "taxable period" means, with respect to any investment which jeopardizes the carrying out of a private foundation's exempt purposes, the period beginning with the date on which the amount is invested and ending on the earliest of:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed on the making of the investment by section 4944(a)(1);

(ii) The date on which the amount invested is removed from jeopardy; or

(iii) The date on which the tax imposed by section 4944(a)(1) is assessed.

* * * * *

(d) *Cross reference.* For rules relating to taxable events that are corrected within the correction period, defined in section 4963(e), see section 4961(a) and the regulations thereunder.

Par. 10. Section 53.4945-1 is amended as follows:

1. In the first sentence of paragraph (b)(1), the words "correction period" are removed and the words "taxable period" are added in their place; and

2. Example (2) in paragraph (c)(3) and paragraph (e) are revised to read as set forth below.

§ 53.4945-1 Taxes on taxable expenditures.

* * * * *

(c) *Special rules.* * * *

(3) *Examples.* * * *

Example (2). Assume the same facts as in example (1). Further assume that within the taxable period A makes a motion to correct the taxable expenditure at a meeting of the board of directors. The motion is defeated by a two-to-one vote, A voting for the motion and B and C voting against it. In these circumstances an additional tax is imposed on the private foundation in the amount of $100,000 (100 percent of $100,000). The additional tax imposed on B and C is $10,000 (50 percent of $100,000 subject to a maximum of $10,000). B and C are jointly and severally liable for the $10,000, and this sum may be collected by the Service from either of them.

* * * * *

(e) *Certain periods*—(1) *Taxable period.* For purposes of section 4945, the term "taxable period" means, with respect to any taxable expenditure, the period beginning with the date on which the taxable expenditure occurs and ending on the earlier of:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed on taxable expenditures by section 4945(a)(1); or

(ii) The date on which the tax imposed by section 4945(a)(1) is assessed.

(2) *Cross reference.* For rules relating to taxable events that are corrected within the correction period, defined in section 4963(e), see section 4961(a) and the regulations thereunder.

Par. 11. Sections 53.6001-1 through 53.7101-1 (Subpart K) of Part 53 are redesignated Subpart L, and a new subpart K is added to read as follows:

Subpart K—Second Tier Excise Taxes

Sec.

53.4961-1 Abatement of second tier taxes for correction within correction period.
53.4961-2 Court proceedings to determine liability for second tier tax.
53.4963-1 Definitions.

Subpart K—Second Tier Excise Taxes

§ 53.4961-1 Abatement of second tier taxes for correction within correction period.

If any taxable event is corrected during the correction period for the event, then any second tier tax imposed with respect to the event shall not be assessed. If the tax has been assessed, it shall be abated. If the tax has been collected, it shall be credited or refunded as an overpayment. For purposes of this section, the tax imposed includes interest, additions to the tax and additional amounts. For definitions of the terms "second tier tax," "taxable event," "correct," and "correction period," see § 53.4963-1.

§ 53.4961-2 Court proceedings to determine liability for second tier tax.

(a) *Introduction.* Under section 4961 (b) and (c), the period of limitations on collection may be suspended and assessment or collection of first or second tier tax may be prohibited during the pendency of administrative and judicial proceedings conducted to determine a taxpayer's liability for second tier tax. This section provides rules relating to the suspension of the limitations period and the prohibitions on assessment and collection. In addition, this section describes the administrative and judicial proceedings to which these rules apply.

(b) *Initial proceeding*—(1) *Defined.* For purposes of subpart K, an initial proceeding means a proceeding described in subparagraph (2) or (3).

(2) *Tax Court proceeding before assessment.* A proceeding is described in this subparagraph (2) if it is a proceeding with respect to the taxpayer's liability for second tier tax and is commenced in accordance with section 6213 (a).

(3) *Refund proceeding commenced before correction period ends.* A proceeding is described in this subparagraph (3) if it is a proceeding commenced under section 7422, in accordance with the provisions of § 53.4963-1(e) (4) and (5) (relating to prerequisites to extension of the correction period during certain refund proceedings), and with respect to the taxpayer's liability for second tier tax.

(c) *Supplemental proceeding*—(1) *Jurisdiction.* If a determination in an initial proceeding that a taxpayer is liable for a second tier tax has become final, the court in which the initial proceeding was commenced shall have jurisdiction to conduct any necessary supplemental proceeding to determine whether the taxable event was corrected during the correction period.

(2) *Time for beginning proceeding.* The time for beginning a supplemental proceeding begins on the day after a determination in an initial proceeding becomes final and ends on the 90th day after the last day of the correction period.

(d) *Restriction on assessment during Tax Court proceeding.* If a supplemental proceeding described in section 4961 (b) and § 53.4961-2(c) is commenced in the Tax Court, the provisions of the second and third sentences of section 6213(a) and the first and third sentences of § 301.6213-1(a)(2) apply with respect to a deficiency in second tier tax until the decision of the Tax Court in the supplemental proceeding is final.

(e) *Suspension of period of collection for second tier tax*—(1) *Scope.* Except as provided in subparagraph (6), this paragraph (e) applies to the second tier tax assessed with respect to a taxable event if a claim described in subparagraph (2) is filed.

(2) *Claim for refund.* A claim for refund is described in this subparagraph (2) if, no later than 90 days after the day on which the second tier tax is assessed with respect to a taxable event, the taxpayer—

(i) Pays the full amount of first tier tax for the taxable period, and

(ii) Files a claim for refund of the amount paid.

(3) *Collection prohibited.* No levy or proceeding in court for the collection of the second tier tax shall be made, begun, or prosecuted until the end of the collection prohibition period described in subparagraph (5). Notwithstanding section 7421(a), the collection by levy or proceeding may be enjoined during the collection prohibition period by a proceeding in the proper court.

(4) *Suspension of running of period of limitations on collection.* With respect to a second tier tax to which this paragraph (e) applies, the running of the period of limitations provided in section 6502 (relating to collection of tax by levy

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or by a proceeding in court) shall be suspended for the collection prohibition period described in subparagraph (5).

(5) *Collection prohibition period.* The collection prohibition period begins on the day the second tier tax is assessed and ends on the latest of:

(i) The day a decision in a refund proceeding commenced before the 91st day after denial of the claim described in subparagraph (2) of this paragraph (including any supplemental proceeding under § 53.4961–2(c)) becomes final;

(ii) The 90th day after the claim referred to in subparagraph (2) is denied; or

(iii) The 90th day after the second tier tax is assessed.

(6) *Jeopardy collection.* If the Secretary makes a finding that the collection of the second tier tax is in jeopardy, nothing in this paragraph (e) shall prevent the immediate collection of such tax.

(f) *Finality*—(1) *Tax Court proceeding.* For purposes of this subpart K, section 7481 applies in determining when a decision in a Tax Court proceeding becomes final.

(2) *Refund proceeding.* For purposes of this subpart K, § 301.7422–1 applies in determining when a decision in a refund proceeding becomes final.

§ 53.4963–1 Definitions.

(a) *First tier tax.* For purposes of this subpart K, the term "first tier tax" means any tax imposed by subsection (a) of section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975. A first tier tax may also be referred to as an "initial tax" in parts 53 and 54.

(b) *Second tier tax.* For purposes of this subpart K, the term "second tier tax" means any tax imposed by subsection (b) of section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975. A second tier tax may also be referred to as an "additional tax" in parts 53 and 54.

(c) *Taxable event.* For purposes of this subpart K, the term "taxable event" means any act, or failure to act, giving rise to liability for tax under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975.

(d) *Correct*—(1) *In general.* Except as provided in subparagraph (2), the term "correct" has the same meaning for purposes of this subpart K as in the section which imposes the second tier tax or the regulations thereunder.

(2) *Special rules.* The term "correct" means—

(i) For a second tier tax imposed by section 4942(b), reducing the amount of the undistributed income to zero,

(ii) For a second tier tax imposed by section 4943(b), reducing the amount of the excess business holdings to zero, and

(iii) For a second tier tax imposed by section 4944(b), removing the investment from jeopardy.

(e) *Correction period*—(1) *In general.* The correction period with respect to any taxable event shall begin with the date on which the taxable event occurs and shall end 90 days after the date of mailing of a notice of deficiency under section 6212 with respect to the second tier tax imposed with respect to the taxable event.

(2) *Extensions of correction period.* The correction period referred to in subparagraph (1) of this paragraph shall be extended by any period in which a deficiency cannot be assessed under section 6213(a). In addition, the correction period referred to in subparagraph (1) of this paragraph (e) shall be extended in accordance with subparagraph (3), (4), and (5) of this paragraph except that subparagraph (4), or (5) shall not operate to extend a correction period with respect to which a taxpayer has filed a petition with the United States Tax Court for redetermination of a deficiency within the time prescribed by section 6213(a).

(3) *Extensions by Commissioner.* The correction period referred to in subparagraph (1) of this paragraph may be extended by any period which the Commissioner determines is reasonable and necessary to bring about correction (including, for taxes imposed by section 4975, equitable relief sought by the Secretary of Labor) of the taxable event. The Commissioner ordinarily will not extend the correction period unless the following factors are present.

(i) The taxpayer on whom the second tier tax is imposed, the Secretary of Labor (for taxes imposed by section 4975), or an appropriate State officer (as defined in section 6104(c)(2)) is actively seeking in good faith to correct the taxable event;

(ii) Adequate corrective action cannot reasonably be expected to result during the unextended correction period;

(iii) For taxes imposed by section 4975, the Secretary of Labor requests the extension because subdivision (ii) applies; and

(iv) For taxes imposed by chapter 42 (other than taxes imposed by section 4904), the taxable event appears to have been an isolated occurrence so that it appears unlikely that similar taxable events will occur in the future.

(4) *Extension for payment of first tier tax.* If, within the unexpected correction period, the taxpayer pays the full amount of the first tier tax imposed with respect to the taxable event the Commissioner shall extend the correction period to the later of—

(i) Ninety days after the payment of the first tier tax, or

(ii) The last day of the correction period determined without regard to this paragraph.

(5) *Extensions for filing claim for refund or refund suit.* If prior to the expiration of the correction period (including extensions) a claim for refund is filed with respect to payment of the full amount of the first tier tax imposed with respect to the taxable event, the Commissioner shall extend the correction period during the pendency of the claim plus an additional 90 days. If within that time a suit or proceeding referred to in section 7422(g) with respect to the claim is filed, the Commissioner shall extend the correction period until the determination in the suit for refund (determined without regard to a supplemental proceeding under section 4961(b)) is final, determined under § 301.7422–2(e).

(6) *End of correction period if waiver accepted.* If the notice of deficiency referred to in paragraph (1) is not mailed because there is a waiver of the restrictions on assessment and collection of the deficiency or because the deficiency is paid, the correction period will end with the end of the collection prohibition period described in § 53.4961–2(e)(5).

(7) *Date on which taxable event occurs.* For purposes of subparagraph (1), the taxable event shall be treated as occurring—

(i) Under section 4942, on the first day of the taxable year for which there is undistributed income,

(ii) Under section 4943, on the first day on which there are excess business holdings,

(iii) Under section 4971, on the last day of the plan year in which there is an accumulated funding deficiency, and

(iv) In all other cases, the date on which the event occurred.

(f) *Effective date.* The provisions of this subpart K are effective with respect to second tier taxes assessed after December 24, 1980. The preceding sentence shall not be construed to permit the assessment of a tax in a case to which, on December 24, 1980, the doctrine of res judicata applied.

PART 54—PENSION EXCISE TAX REGULATIONS—[AMENDED]

Par. 12. The authority for Part 54 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 13. Section 54.4971–1 is added immediately after the authority citation for Part 54 to read as follows:

§ 54.4971–1 General rules relating to excise tax on failure to meet minimum funding standards.

(a) [Reserved]

(b) [Reserved]

(c) *Additional tax.* Section 4971(b) imposes an excise tax in any case in which an initial tax is imposed under section 4971(a) on an accumulated funding deficiency and the accumulated funding deficiency is not corrected within the taxable period (as defined in section 4971(c)(3)). The additional tax is 100 percent of the accumulated funding deficiency to the extent not corrected.

(d) [Reserved]

(e) *Definition of taxable period*—(1) *In general.* For purposes of any accumulated funding deficiency, the term "taxable period" means the period beginning with the end of the plan year in which there is an accumulated funding deficiency and ending on the earlier of:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4971(a), or

(ii) The date on which the tax imposed by section 4971(a) is assessed.

(2) *Special rule.* Where a notice of deficiency referred to in paragraph (e)(1)(i) of this section is not mailed because a waiver of the restrictions on assessment and collection of a deficiency has been accepted or because the deficiency is paid, the date of filing of the waiver or the date of such payment, respectively, shall be treated as the end of the taxable period.

Par. 14. Section 54.4975–1 is added immediately after § 54.4974–1 to read as follows:

§ 54.4975–1 General rules relating to excise tax on prohibited transactions.

(a) *Scope.* This section provides general rules for the imposition of the excise taxes on prohibited transactions.

(b) *Initial tax.* Section 4975(a) imposes an initial tax on each prohibited transaction. The initial tax is 5 percent of the amount involved with respect to the prohibited transaction for each year (or part thereof) in the taxable period.

(c) *Additional tax.* Section 4975(b) imposes an excise tax in any case in which an initial tax is imposed under section 4975(a) on a prohibited transaction and the prohibited transaction is not corrected within the taxable period (as defined in paragraph (d) of this section). The additional tax is 100 percent of the amount involved with respect to the prohibited transaction.

(d) *Taxable period*—(1) *In general.* For purposes of any prohibited transaction, the term "taxable period" means the period beginning with the date on which the prohibited transaction occurs and ending on the earliest of:

(i) The date of mailing of a notice of deficiency under section 6212 with respect to the tax imposed by section 4975(a);

(ii) The date on which correction of the prohibited transaction is completed; or

(iii) The date on which the tax imposed by section 4975(a) is assessed.

(2) *Special rule.* Where a notice of deficiency referred to in paragraph (d)(1)(i) of this section is not mailed because a waiver of the restrictions on assessment and collection of a deficiency has been accepted or because the deficiency is paid, the date of filing of the waiver or the date of such payment, respectively, shall be treated as the end of the taxable period.

PART 141—TEMPORARY EXCISE TAX REGULATIONS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974—[AMENDED]

Par. 15. The authority for Part 141 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 16. In § 141.4975–13, the title is revised to read as set forth below, and the language "4975(f) (2), (4), (5) and (6)" is removed and the language "4975(f) (4) and (5)" is added in its place.

§ 141.4975–13 Definition of "amount involved" and "correction".

* * * * *

PART 301—PROCEDURE AND ADMINISTRATION—[AMENDED]

Par. 17. The authority for Part 301 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 18. In § 301.6212–1 the following two sentences are added at the end of paragraph (c):

§ 301.6212–1 Notice of deficiency.

* * * * *

(c) *Further deficiency letters restricted.* * * * Solely for purposes of applying the restriction of section 6212(c), a notice of deficiency with respect to second tier tax under chapter 43 shall be deemed to be a notice of deficiency for the taxable year in which the taxable event occurs. See § 53.4963–1(e)(7) (iii) or (iv) for the date on which the taxable event occurs.

Par. 19. In § 301.6213–1, the first sentence of paragraph (e) is revised to read as follows:

§ 301.6213–1 Restrictions applicable to deficiencies; petition to Tax Court.

* * * * *

(e) *Suspension of filing period for certain chapter 42 and chapter 43 taxes.* The period prescribed by section 6213(a) for filing a petition in the Tax Court with respect to the taxes imposed by section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975, shall be suspended for any other period which the Commissioner has allowed for making correction under § 53.4963–1(e)(3). * * *

Par. 20. Paragraph (a) of § 301.6503 (a)–1 is amended by adding a new subparagraph (3) to read as follows:

§ 301.6503 (a)–1 Suspension of running of period of limitation; issuance of statutory notice of deficiency.

(a) *General rule.* * * *

(3) For provisions relating to suspension of the running of the period of limitation with respect to collection of "second tier" excise taxes (as defined in section 4963) until final resolution of a refund proceeding described in sections 4961 and 7422 for the determination of the taxpayer's liability for the second tier taxes, see § 53.4961–2 (e) (4).

* * * * *

§ 301.6503 [Amended]

Par. 21. Section 301.6503 (g)–1 is amended by removing all of the text that follows the word "correction" and adding the language "under section 4963 (e) (1) (B)." in its place.

§ 301.6861–1 [Amended]

Par. 22. In § 301.6861–1, paragraph (g) is amended by removing the last sentence.

Par. 23. Section 301.7422–1 is revised to read as follows:

§ 301.7422–1 Special rules for certain excise taxes imposed by chapter 42 or 43.

(a) *Finality of refund proceeding.* For purposes of sections 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4961, 4963, 4971, and 4975, and the regulations thereunder, a decision in a suit for refund instituted under the provisions of this section shall be final—

(1) Upon the expiration of the time allowed for filing a notice of appeal from a decision of the United States Claims Court or of the United States District Court, if no timely notice of appeal is filed; or

(2) Upon the expiration of the time allowed for filing a petition for certiorari from a decision of the United States Claims Court, or from a decision of the United States District Court, which has been affirmed or the appeal dismissed by the United States Court of Appeals, if

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no timely petition for certiorari is filed; or

(3) If a petition for certiorari has been filed, thirty days from the denial of such petition; or

(4) Thirty days from the date of a decision of the United States Supreme Court if no timely petition for rehearing is filed; however, if a timely petition for rehearing from such a decision is filed, and is denied, thirty days from the denial thereof; or

(5) If a decision is entered upon a rehearing or if a decision is modified or reversed as the result of a decision of a higher court, upon the expiration, with respect to the decision on rehearing or the modified or reversed decision, of periods similar to those provided in subparagraphs (1) through (4).

(b) *Right to bring action.* With respect to any taxable event, payment of the full amount of first tier tax for the taxable period shall constitute sufficient payment in order to maintain an action under this section with respect to the second tier tax.

(c) *Limitation on suit for refund.* No suit may be maintained under this section for the credit or refund of any tax imposed under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975 with respect to any taxable event unless—

(1) No other suit has been maintained for credit or refund of any tax imposed by such sections with respect to such taxable event; and

(2) No petition has been filed in the Tax Court with respect to a deficiency in any tax imposed by such sections with respect to such taxable event.

(d) *Final determination of issues.* For purposes of this section, any suit for the credit or refund of any tax imposed under section 4941, 4942, 4943, 4944, 4945, 4951, 4952, 4971, or 4975, together with a supplemental proceeding (if any) under section 4961 (b), with respect to any taxable event, shall constitute a suit to determine all questions with respect to any other tax imposed with respect to such taxable event under such sections. Consequently, failure by the parties to the suit to bring before the Court any question described in the preceding sentence shall constitute a bar to the question.

(e) *Definitions.* For definitions of the terms "taxable event," "first tier tax," and "second tier tax," see § 53.4963–1.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT—[AMENDED]

Par. 24. Part 602 is amended as follows:

1. The authority citation for Part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

§ 602.101 [Amended]

2. Section 602.101(c), is amended by inserting in the appropriate places in the tables.

"53.4961–2 (e) (2)..... 1545–0024," and
"53.4963–1 (e) (5)..... 1545–0024".

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: April 3, 1986.

J. Roger Mentz,
Assistant Secretary of the Treasury.

[FR Doc. 86–9954 Filed 5–1–86; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 117 and 118

[CGD 84–022]

Bridge Lighting and Other Signals

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule revises the bridge lighting regulations by adding standards for retroreflectors, daymarks, fog signals, vertical clearance gauges, radar reflectors, racons, and other signals. Due to a history of accidents involving vessels hitting bridges, the old regulations, which refer only to bridge lighting, needed to be expanded to include means of signalling in daylight or fog and of informing vessel operators of the vertical clearance at bridges. These amendments are intended to promote safe navigation through bridges across the navigable waters of the United States.

DATES: This rule is effective on June 2, 1986. The incorporation by reference of the material listed in the rule is approved by the Director of the Federal Register as of June 2, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Alfred T. Meschter, (202) 426–0942.

SUPPLEMENTARY INFORMATION: On January 31, 1985, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (50 FR 4529) proposing to revise 33 CFR Parts 117 and 118. Opportunity for comment on the proposal was given until March 18, 1985.

Forty-four comments were received directly in response to the NPRM from government agencies, railroads, boat owners and associations, and private individuals. Several of the responses did not contain any substantive comments. In addition to the comments submitted directly in response to the NPRM, 36 comments were received at Coast Guard district offices. These comments, along with the views of various Coast Guard officials, have been included in the public docket.

One writer hoped a public hearing would be held but did not indicate a reason why. After considering all comments received, the Coast Guard determined that the opportunity to make oral presentations would not substantially aid the rulemaking process. Therefore, a public hearing was not held.

Drafting Information

The principal persons involved in drafting these regulations are Mr. Alfred T. Meschter, Project Manager, and Mr. Stephen H. Barber, Project Counsel.

Discussion of Comments

Several states and most railroad companies objected on the grounds that, because the proposed signals, such as racons, radar reflectors, lateral lighting, and retroreflective materials, were navigation aids, their cost should be borne by the users or the Federal Government. Bridge owners are allowed to construct bridges over navigable waters of the United States as long as the navigation through or under them is not unreasonably obstructed. The statutes which provide this privilege are clear in requiring the owner to provide lighting and other signals necessary to render the navigation free and reasonably unobstructed. The high frequency and cost of vessel/bridge accidents indicate that additional and standardized signals to reduce or prevent these accidents are necessary.

Several bridge owners stated that the rule is unnecessary and burdensome and questioned the Coast Guard's assessment of economic impact and costs. Coast Guard records show that from 1981 through 1984 there were 401 vessel/bridge accidents totaling $22,030,081 in damage to vessels, $18,827,183 in damage to bridges, and $9,384,112 in damage to cargo. The number of accidents varied between 81 to 111 annually. The cost estimate of $19,000 per bridge assumes a bridge which presently has no signals and which would be required to install all the signals addressed in this rule, including racons. Without racons, which would be required on very few bridges, the cost is estimated to be $4,000. Even if these estimates are low, the cost to the bridge owner would be far less than the

cost of a single, typical vessel/bridge accident.

Several comments concerned the increase in bridge owner's liability resulting from failure of required signals, especially high maintenance items such as racons. There would be an increase in liability only if the bridge owner fails to take reasonable measures to maintain required devices. It would be irresponsible for the Coast Guard to allow continued inadequate marking of bridges and continued accidents for this reason. Most of the additional marking required by these rules will require minimum maintenance. Racons will only be required on those few bridges where installation of these devices will be a clear benefit. As discussed more fully below, even racons have a high degree of reliability when properly installed.

One comment suggested an appeal from the decision of the District Commander concerning the markings or signals required. This suggestion has not been adopted. The District Commander is in the best position to determine the needs of navigation and the cost of even the most expensive equipment does not justify an administrative appeal. The District Commander's decision is final agency action.

One comment suggested that lateral red and green lighting would tend to create confusion if used to mark a main channel span where red pier lights were in use. Section 118.110 has been changed to provide for the marking of adjacent piers with fixed yellow lights in those instances. This provision conforms to the U.S. Aids to Navigation System.

One comment stated that electronic depth gauges should be required to provide real time vertical clearances. This suggestion was not adopted because electronic depth gauges for use as bridge clearance gauges are relatively new. The Coast Guard has no information on their reliability, cost, and accuracy. Furthermore, information from nautical charts and other publications, as well as visual gauges giving vertical clearances of bridges is more than adequate for the needs of navigation.

Many of the comments objecting to costs were by states or railroad companies owning numerous bridges and indicated an expectation that the owners would be required to install many, if not all, of the various signals upon the effective date of the rule. However, as noted in one comment, the signals are required only on a case-by-case, site-specific basis in response to the particular navigational problems presented by the bridge. Because of the site-specific intent of the regulations, we do not expect significant numbers of immediate changes to be required. In the event that new signal equipment was recently installed, the Coast Guard would consider this factor in determining the need for replacement.

A number of comments raised specific questions concerning the effectiveness of retroreflective material. Retroreflective material has been in common use on bridges, aids to navigation structures, and buoys over a number of years and has proven effective.

Several comments asked what color specifications for lights under § 118.60 are required. Though no color specifications are prescribed, § 118.60 has been changed to recommend the use of the chromaticity standards for vessel navigation lights in Annex I, Appendix A of 33 CFR Part 81.

A number of comments suggested that flashing lights be required in § 118.65 instead of fixed lights. The Coast Guard considers the use of flashing lights as more appropriately limited to those instances where they conform to the standard aids to navigation system and have lateral significance; particularly as they relate to the location of the main navigation channel through a bridge. Under § 118.110, the District Commander may require the use of flashing lights in appropriate cases.

A number of comments raised specific questions concerning the reliability of racons under § 118.120. Very few racons are in use or are anticipated to be used on bridges. Because of their solid state construction, racons are considered to be maintenance free for three to five years, if operated within the design standards and installed with anti-vibration mounting properly matched to the intended environment.

A number of comments raised specific questions concerning cost of reflective material and other signals. The economic impact of these rules is discussed in the following Regulatory Evaluation section.

As a result of the comments received, several minor changes were made to the information in Appendix A of Part 117 to correct erroneous locations, names, spellings, call signs, and VHF channels of the listed bridges. In addition, editorial changes have been made in §§ 117.24(b)(2), 118.100(c), and 118.116(d) to clarify the rules.

Incorporation by Reference

The following material has been approved for incorporation by reference by the Director of the Federal Register under 5 U.S.C. 552 and 1 CFR Part 51:

Standard Alphabets for Highway Signs, Federal Highway Administration (FHWA), 1986. (Reprinted April 1984.)

Copies of the material incorporated by reference may be obtained from the sources indicated in § 118.3(c).

If substantive changes are made to the material incorporated, those changes may be considered for incorporation. However, before taking final action, the Coast Guard will publish a separate notice in the **Federal Register** for public comment.

Regulatory Evaluation

These rules are considered to be nonmajor under Executive Order 12291 and nonsignificant under the Department of Transportation Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of May 22, 1980). The economic impact of this rule has been found to be so minimal that a full regulatory evaluation in unnecessary.

These rules would not automatically require all bridges to have all of the various devices considered. Only when the District Commander determines on a case-by-case basis that a particular bridge needs one or more of the devices for reasons of safe navigation would the device or devices be required. In the event the bridge owner voluntarily chooses to comply with one or more of these rules, the owner would still have to receive the District Commander's approval in order to determine whether the measures taken will improve safety of navigation and conform to the regulations.

Because any requirement for installation is on a case-by-case basis and because many bridge owners would prefer to comply with one or more rules even though not required to, it is not known how many bridges would be required to install any of this equipment.

Retroflective material costs less than $10 a square foot, the maximum size required. The cost for painting, day boards, lateral lighting, radar reflectors, traveller lighting, and fog signals range in cost from $100 to $4,000 depending on which are required. The Coast Guard anticipates that the most costly device, racons at $15,000 a unit, would be needed only on large bridges crossing busy waterways. These large bridges, the type owned by railroads and governmental bodies, could, therefore, require up to a $19,000 outlay, though this cost would be exceptional.

We do not have data to estimate accurately the total number of bridges affected. However, that number is unlikely to exceed five or six major bridges and 40 to 50 minor bridges annually for a total cost of less than $224,000 per year. If one accident can be avoided, such as one of the two recent

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collisions with the Popular Street Bridge across the Mississippi River at St. Louis, Missouri, which resulted in damages totalling $9,000,000 and $3,000,000 respectively, these improvements would be cost effective.

Therefore, based upon these estimates, the benefits of these rules are anticipated to exceed their costs.

Regulatory Flexibility Act

These rules would apply mostly to major bridges across busy waterways, the type of bridge usually owned by a railroad or local governmental agency. Smaller bridges affected, ones that might be owned by small entities, would number about 40 to 50 a year. At the most, costs for required equipment for the smaller bridges would not exceed $4,000 per bridge and would probably be considerably less. Therefore, for the above reasons, it is certified, in accordance with section 605(d) of the Regulatory Flexibility Act (94 Stat. 1164; 5 U.S.C. 601), that these rules will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

This rulemaking contains no information collection or recordkeeping requirements.

Environmental Assessment

These rules are limited to actions by the Coast Guard to protect public safety by authorizing or requiring the installation of approved warning devices to reduce the likelihood of vessels striking bridges. Therefore, the rules are of the category that would not significantly affect the environment and do not require an Environmental Assessment, Finding of No Significant Impact, or Environmental Impact Statement (Section 2-B-3-g, COMDTINST M16475.1A).

List of Subjects

33 CFR Part 117

Bridges.

33 CFR Part 118

Bridges, Incorporation by reference.

In consideration of the foregoing, Parts 117 and 118 of Title 33, Code of Federal Regulations, are amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 is revised to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46(c)(5).

2. By adding a note at the end of paragraph (d)(1) of § 117.15 to read as follows:

§ 117.15 Signals.

* * * * *

(d) * * *
(1) * * *

Note.—Call signs and radio channels for drawbridges with radiotelephones are listed in Appendix A to this part.

* * * * *

3. By adding a new § 117.24 to read as follows:

§ 117.24 Radiotelephone installation identification.

(a) The Coast Guard authorizes, and the District Commander may require the installation of a sign on drawbridges, on the upstream and downstream sides, indicating that the bridge is equipped with and operates a VHF radiotelephone in accordance with § 117.23.

(b) The sign shall give notice of the radiotelephone and its calling and working channels—

(1) In plain language; or

(2) By a sign consisting of the outline of a telephone handset with the long axis placed horizontally and a vertical three-legged lightning slash superimposed over the handset. The slash shall be as long vertically as the handset is wide horizontally and normally not less than 27 inches and no more than 36 inches long. The preferred calling channel should be shown in the lower left quadrant and the preferred working channel should be shown in the lower right quadrant.

Note.—It is recommended that the radiotelephone sign be similar in design to the Service Signs established by the Federal Highway Administration (FHWA) in U.S. Road Symbol Signs using Reflective Blue and Reflective White colors. Color and design information is available from the District Commander of the Coast Guard District in which the bridge is located.

4. By revising paragraph (b) in § 117.47, not including the note, to read as follows:

§ 117.47 Clearance guages.

* * * * *

(b) Except for provisions in this part which specify otherwise for particular drawbridges, clearance guages shall be designed, installed, and maintained according to the provisions of § 118.160 of this chapter.

* * * * *

5. By adding a new Appendix A at the end of Part 117 to read as follows:

Appendix A to Part 117—Drawbridges Equipped with Radiotelephones.

Waterway	Mile	Location	Bridge name and owner	Call sign	Calling channel	Working channel
Alabama						
Alabama River	108.3	Coy	Burlington Northern Railroad	WXY 980	16	13
Black Warrior River	287.8	Eutaw	Southern Railway System	KQ 7158	16	13
Chickasaw Creek	0	Pritchard	Seaboard System RR	KQ 7197	16	13
Mobile River	13.3	Mobile	Seaboard System RR	KQ 7197	16	13
Three Mile Creek	0.3	Mobile	Seaboard System RR	KQ 7197	16	13
Tombigbee River	44.9	Jackson	Southern Railway	KQ 9072	16	13
Tennessee River	259.4	East Florence	Wilson Lock, U.S. Army Engineer District, Nashville.	WUE 612	16	13
	304.4	Decatur	Southern Railway System	KQ 8969	16	13
	305.0	Decatur	Keller Highway Bridge, AL, US-3	KYH 502	16	13
	414.4	Bridgeport	Seaboard System RR	KC 9430	16	13
Arkansas						
Arkansas River	67.4	Rob Roy	St. Louis Southwestern Railroad	KTA 436	16	
	118.2	Little Rock	Chicago, Rock Island and Pacific Railroad.	KSK 392	16	13
	118.7	Little Rock	Junction Bridge—Missouri Pacific RR	KSK 392	16	13
	119.6	Little Rock	Baring Cross—Missouri Pacific RR	KSK 392	16	13
White River	98.9	Clarendon	St. Louis Southwestern Railroad	KUF 653	16	14
	198.3	Clarendon	Missouri Pacific RR	KVY 884	13	13
	254.8	Clarendon	Missouri Pacific RR	KIZ 563	16	13
California						
Carquinez Strait	7.0	Martinez	Southern Pacific RR	KQ 7199	16	13
Cerritos Channel	4.4	Long Beach	Henry Ford (Badger) Avenue, Port of Los Angeles.	KVY 723	13	13
	4.5	Long Beach	Schuyler Heim CA DOT	KXJ 749	16	13

Waterway	Mile	Location	Bridge name and owner	Call sign	Calling channel	Working channel
Channel Street	0	San Francisco	3rd Street, San Francisco	KR 4664	16	9
Connection Slough	2.5	Mandeville Island	South Real Estate Company	WHV 225	16	9
Little Potato Slough	1.0	Terminous	Potato Slough, CA DOT, SR12	KSK 278	16	9
Mokelumne River	3.0	Isleton	CA DOT, SR12	KMJ 382	16	9
Napa River	2.8	Vallejo	Mare Island Causeway, Navy	Military license only, No FCC	16	13
Oakland Inner Harbor Tidal Canal	7.3	Oakland	Park Street, Alameda County	WHV 263	16	9
	7.7	Oakland	Fruitvale Avenue, Alameda County	WHV 271	16	9
	8.1	Oakland	High Street, Alameda County	WHV 259	16	9
Sacramento River	12.8	Rio Vista	Rio Vista, CA DOT, SR12	KMJ 364	16	9
	15.7	Isleton	Isleton, CA DOT, SR160	KMJ 383	16	9
	26.7	Walnut Grove	Walnut Grove, Sacto Co., SR E-13	KMJ 491	16	9
	33.4	Painterville	Painterville, CA DOT, SR160	KMJ 381	16	9
	46.0	Freeport	Freeport Sacto Co., SR E-8	KMJ 490	16	9
	59.0	Sacramento	Tower Bridge, CA DOT	KDO 739	16	9
	59.4	Sacramento	I Street Southern Pacific RR	WHX 359	16	9
San Leandro Bay	0	Alameda	Bay Farm Island, CA DOT	WHV 267	16	9
Steamboat Slough	11.2	Courtland	Steamboat Slough, CA DOT, SR160	WHX 295	16	9
Three Mile Slough	0.1	Rio Vista	Three Mile Slough, CA DOT, 160	KMJ 385	16	9
Connecticut						
Connecticut	3.4	Old Seybrook	Amtrak	KT 5414	13	13
	16.8	Haddam	Connecticut, SR82	KXR 913	13	13
Housatonic River	3.5	Stratford	Stratford Avenue, CT	KXJ 695	13	13
	3.9	Devon	Devon RR	KU 6035	13	13
Mystic River	2.4	Mystic	Amtrak	KJA 842	13	13
	2.8	Mystic	Connecticut, US1	KXR 912	13	13
Niantic River	0	Niantic	Amtrak	KGA 511	13	13
	0.1	Niantic	Connecticut, SR156	KXR 911	13	13
Norwalk River	0	South Norwalk	Connecticut, SR136	KXJ 707	13	13
	0.1	South Norwalk	Conrail	KU 6035	13	13
	0.3	Bridgeport	Peck RR	KU 6033	13	13
Pequonnock River	0	New Haven	Connecticut, US1	KXJ 666	13	13
Quinnipiac River	3.0	Groton	Amtrak	KT 5473	13	13
Thames River						
Florida						
Bayou Chico	0.3	Pensacola, Barrances Avenue	FL DOT	WHF 855	16	9
Gulf County Canal	0.1	Port St. Joe	FL DOT	KBA 338	16	13
Gulf Intracoastal WW	119.0	Treasure Island	Treasure Island Causeway	WQZ 367 or KZU 970	16	
Gulf Intracoastal WW	126.0	Indian Rocks Beach	Park Blvd., Pinellas Co	WHV 751	16	13
Gulf Intracoastal WW	132.0	Belleair Beach	Belleair Causeway, Pinellas Co	WHV 752	16	13
Gulf Intracoastal WW	139.0	Dunedin	Dunedin Causeway, Pinellas Co	WHV 750	16	13
Hillsboro Inlet	0.3	Hillsboro	FL DOT		16	13
Intracoastal Waterway	1,050	Deerfield Beach	Hillsboro Blvd., FL DOT			13
	1,055	Pompano Beach	NE 14th St., FL DOT			13
	1,056	Pompano Beach	Atlantic Blvd., FL DOT			13
	1,059	Ft. Lauderdale	Commercial Blvd., FL DOT			13
	1,060.5	Ft. Lauderdale	Oakland Park Blvd., FL DOT			13
	1,062.6	Ft. Lauderdale	Sunrise Blvd			13
	1,064	Ft. Lauderdale	Las Olas Blvd., FL DOT			13
	1,066	Ft. Lauderdale	17th Street, FL DOT			13
	1,068.4	Dania	Dania Bch. Blvd., FL DOT			13
	1,070.5	Hollywood	Sheridan Street, FL DOT			13
	1,072.2	Hollywood	Hollywood Blvd., FL DOT		16	13
	1,074	Hallandale	Hallandale Blvd., FL DOT		16	13
	1,088.4	Miami	Dodge Island, Port of Miami	KCE 254	16	13
Johns Pass	0.1	St. Petersburg	FL DOT	WQZ 213		13
New River	1.4	Ft. Lauderdale	Southeast 3rd Ave., Broward Co.			13
New River	2.3	Ft. Lauderdale	Andrews Ave., Broward Co.			13
New River	2.7	Ft. Lauderdale	Marshall Bridge, Broward Co.		13	
New River, South Fork	0.9	Ft. Lauderdale	Davie Blvd., FL DOT		16	17
St. Johns River	24.7	Jacksonville	Main St., FL DOT	WHV 528	16	17
St. Johns River	24.9	Jacksonville	Acosta, FL DOT, SR13	WHV 529	16	13
St. Johns River	24.9	Jacksonville	FEC RR	KXR 936	16	17
St. Johns River	25.4	Jacksonville	Fuller Warren, JTA	WHV 527	16	13
	138.0	Astor	FL DOT	WXY 904		
Georgia						
Savannah River	21.6	Savannah	Houlihan, GA DOT, US17	WHV 879	16	13
Savannah River	60.9	Clyo	Seaboard System RR	WKB 679	16	13
Intracoastal WW	583	Savannah	Thunderbolt, GA DOT	WHH 007	16	13
Intracoastal WW	592.9	Skidaway Island	Skidaway, Chatham Co, US80		16	13
Intracoastal WW	694.3	Brunswick	Jekyll Creek, GA DOT	WHD 784		
Idaho						
Clearwater River	0.6	Lewiston	Camas Prairie RR	KU 9788	16	13
Illinois						
Illinois River	21.6	Hardin	Illinois DOT, SR16	WZQ 8761	16	14
	43.2	Grand Pass	Illinois Central Gulf RR	KLU 797	16	14
	56.0	Florence	Illinois DOT, US36	WZQ 8761	16	14
	61.4	Valley City	Norfolk and Western RR	KTR 857	16	14
	88.8	Beardstown	Burlington Northern RR	KLU 601	16	14
	151.2	Pekin	Chicago and Northwestern RR	KVF 831	16	14
	152.8	Pekin	Illinois DOT, SR9	WZQ 8761	16	14
	160.7	Peoria	Peoria and Pekin Union Railway Co	WQX 651	16	13
	162.3	Peoria	Franklin Street, Illinois DOT	WZQ 8761	16	13
	224.7	La Salle	Illinois DOT, US51	WZQ 8761	16	13
	239.4	Ottawa	Burlington Northern RR	WRD 810	16	14
	285.9	Rockdale	Brandon Road, Illinois DOT	WZQ 8761	16	13
(Des Plaines River)	287.3	Joliet	McDonough Highway, Illinois DOT	WZQ 8761	16	13
	287.6	Joliet	Chicago, Rock Island and Pacific RR	KUF 907	16	14
	288.7	Joliet	Ruby Street, Illinois DOT	WZQ 8761	16	13
	292.7	Alton	Burlington Northern RR	KXS 240	16	13
Upper Mississippi River	481.4	Rock Island	Crescent RR	WUD 715	16	14

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Waterway	Mile	Location	Bridge name and owner	Call sign	Calling channel	Working channel
	482.9	Rock Island	Department of the Army	AAF 274	16	14
Iowa						
Mississippi River	364.0	Keokuk	City of Keokuk US136	KLG 365	16	14
	363.9	Fort Madison	Atchison, Topeka and Santa Fe RR	KRS 869	16	13
	456.1	Burlington	Burlington Northern RR	KJC 779	16	13
	518.0	Clinton	Chicago and Northwestern RR	KUF 735	16	13
	565.0	Sabula	Chicago, Milwaukee, St. Paul and Pacific RR.	KEA 997	16	13
	579.8	Dubuque	Illinois Central Gulf RR	KQ 9042	16	14
Missouri River	616.3	Council Bluffs	Illinois Central Gulf RR	KD 2970	16	13
Kansas						
Missouri River	392.7	Leavenworth	Chicago and Northwestern RR	KTA 436	16	14
	422.5	Atchison	Missouri Pacific RR	KTD 426	16	14
Kentucky						
Green River	6.3	Spottsville	Seaboard System RR	KT 4181	16	13
Ohio River	604.4	Louisville	Conrail	KUZ 381	13	13
	609.8	Louisville	27th St., McAlpine Lock, Louisville Gas and Electric Co.	WUE 241	16	14
	606.8	Louisville	27th St., McAlpine Lock (Bascule), U.S. Army Engineer District, Louisville.	WUE 241	16	14
Louisiana						
Algiers Canal (GIWW Alternate Route)	1.8	New Orleans	State Highway 407, Louisiana	WDT 574		13
	3.8	Belle Chasse	Judge Perez Bridge Louisiana SR23	WDT 572		13
Atchafalaya River	17.5	Morgan City	Southern Pacific RR	KW 4440		13
	95.7	Krotz Spring	Missouri Pacific RR	KUF 702		13
	107.4	Melville	Missouri Pacific RR	KUF 701		13
Bayou Grosse Tete (GIWW-Port Allen Alternate Route).	0.8	Indian Village	Louisiana, SR77	KTD 559		13
GIWW (Larose-Bourg Cutoff)	35.8	Larose	Louisiana, SR1	KTD 560		13
GIWW (Bayou Blue Pontoon	46.8	Bourg	Louisiana, SR316	KJA 544		13
GIWW	57.8	Houma	East Park, LA, Main Street	KTD 557		13
GIWW	58.9	Houma	Bayou du Large Bridge Louisiana, SR315.	KTD 546		
GIWW	134.0	Cypremort	Louisiana, SR319	KTD 551		13
GIWW	201.4	Grand Lake Ridge	Louisiana	KJA 550		13
GIWW	207.5	Moss Lake	Black Bayou Pontoon, Louisiana	WBY 918		13
GIWW	243.6	Hackberry	Ellender Ferry, Louisiana, SR27	KTD 558		13
Harvey Canal	2.8	Harvey	Lapalco Boulevard, Jefferson Parish Council.	DTR 859	16	13
Houma Navigation Canal	36.0	Houma	Louisiana, SR661	WDT 573		13
Inner Harbor Navigation Canal	0.5	New Orleans	ST. Claude Bridge, Port of New Orleans.	WIG 401	16	13
	1.7	New Orleans	Florida Avenue Bridge, Port of New Orleans.	WUG 408	16	13
	2.8	New Orleans	Old Gentilly Road, Port of New Orleans	KZV 719	16	13
	3.1	New Orleans	Danziger Bridge, LA, US90	KRS 864		13
	4.5	New Orleans	Seabrook, Port of	WDF 839	16	13
	4.8	New Orleans	Seabrook, New Orleans Levee Board	KZV 819	16	13
Lake Pontchartrain	0.8	Slidell	Highway 11—North Diver	KMC 229		13
Ouachita—Black Waterway	40.9	Jonesville	Louisiana, US84	KJA 536	16	13
	57.5	Harrisonburg	Louisiana, SR8	KJA 575	16	13
	190.2	Columbia	Louisiana, US165	KJA 566	16	13
	114.4	Riverton	Missouri Pacific RR	KCE 334	16	9
	191.8	Sterlington	Louisiana	WXZ 3278	16	13
Pass Manchac	6.7	Pass Manchac	Illinois Central Gulf RR	KC 9601	16	13
Port Allen Canal	66.9	Morley	Missouri Pacific RR	KVY 668		13
	64.9	Port Allen	Missouri Pacific RR	KVY 667		13
Rigolets Pass	0	Dumbar	Family Lines Rail System	KQ 7197	16	13
	6.2	Fort Pike	Louisiana, US90	KYZ 729		13
West Pearl River	7.9	Indian Village	Louisiana, US90	KTD 562	16	13
Maryland						
Cambridge Creek	0.5	Cambridge	Maryland, SR343	KZA 685	16	13, 66
Choptank River	15.6	Cambridge	Maryland, US50	KYQ 894	16	13, 66
Fishing Creek	0	Hooper Island	Maryland, US986	KYU 685	16	13, 66
Kent Island Narrows	0.5	Grasonville	Maryland, SR50/301	KXE 254	16	13, 66
Knapps Narrows	0	Tilghman Island	Maryland, SR33	KZA 668	16	13, 66
Nanticoke River	22.0	Vienna	Maryland, US50	KYQ 685	16	13, 66
	28.0	Sharptown	Maryland, SR346	KYQ 686	16	513, 66
Sassafras River	9.0	Georgetown	Maryland, SR213	KYU 669	16	13, 66
Severn River	1.5	Annapolis	Maryland, SR450	KZA 672	16	13, 66
Isle of Wight Bay	1.0	Ocean City	Maryland	KYU 668	16	13, 66
Spa Creek	0.5	Annapolis	Maryland, SR181	KZA 671	16	13, 66
Stoney Creek	1.0	Riverla Beach	Maryland, SR173	KAJ 667	16	13, 66
Wicomico River, North Prong	22.4	Salisbury	Main St., MD	KZA 669	16	13, 66
	22.5	Salisbury	Route 50, MD	KYU 667	16	13, 66
Maine						
Portland Harbor (Fore River)	1.5	Portland	Ocean Avenue DOT ME	KQU 653	16	13
Massachusetts						
Acushnet River	0	New Bedford	MA DPW, US6	WHH 238	16	13
Annisquam River	2.5	Blynman Canal	MA DPW, SR127	WQA 834	16	13
	3.8	Gloucester	Boston & Maine RR		16	13
Chelsea River	0.3	Boston	McArdle Bridge, Boston		16	13
	1.2	Boston	Chelsea St., Boston		16	13
Danvers River	0	Salem-Beverly	MA DPW, SR1A		16	6
	0	Salem-Beverly	MBTA	WRD 626	16	6
	1.0	Salem-Beverly	Kernwood Avenue Bridge, MA DPW	WRD 625	16	6
Merrimack River	3.4	Newburyport	MA DPW, US1	WOA 906	16	13

Waterway	Mile	Location	Bridge name and owner	Call sign	Calling channel	Working channel
Taunton River	1.8	Fall River	Brightman Street Bridge, MA DPW	WQA 833	16	13
Weymouth-Fore River	3.5	Quincy	MA DPW, SR3A	WRD 634	16	13
Michigan						
Rouge River	0.40	Detroit	National Steel Corp	KUZ 371	16	12
	1.48	Detroit	Conrail		16	12
Minnesota						
Mississippi River	813.7	Hastings	Chicago, Milwaukee, St. Paul and Pacific RR.	KTD 538	16	14
	835.7	Newport	Chicago and Northwestern RR	KUZ 544	16	14
	839.2	St. Paul	Chicago and Northwestern RR	KUZ 546	16	14
	841.4	Oranha	Chicago and Northwestern RR	KUZ 545	16	14
Duluth-Superior Harbor, MN-WI	0.25	Duluth	Minnesota Avenue, Duluth	KAN 368	16	13
Mississippi						
Back Bay of Biloxi	9.0	Biloxi	Popps Ferry Road, Harrison County	WXZ 580	16	13
Biloxi Bay	0	Biloxi	Seaboard System RR	KQ 7197	16	13
	0.4	Biloxi	Mississippi, US 90	KUF 720	16	13
Escatawpa River	1.0	Moss Point	Mississippi, SR613	KUF 719	16	13
Pascagoula River	1.5	Pascagoula	Seaboard System RR	KQ 7197	16	13
	1.8	Pascagoula	Mississippi, US90	KUF 722	16	13
St. Louis Bay	1.0	St. Louis	Harrison & Hancock Counties, US90	KUF 721	16	13
Missouri						
Mississippi River	282.1	Louisiana	Illinois Central-Gulf RR	KLU 798	16	14
	309.8	Hannibal	Norfolk and Western RR	KUZ 448	16	14
Missouri River	359.4	Kansas City	Harry S. Truman, Chicago, Milwaukee, St. Paul and Pacific RR.	KVY 575	16	13
	365.6	Kansas City	A-S-B, Burlington Northern RR	KQU 500	16	14
	396.1	Hannibal	Burlington Northern RR	KQU 500	16	14
	448.2	St. Joseph	Union Pacific RR	KTD 409	16	14
New Hampshire						
Piscataqua River	3.5	Portsmouth	Memorial Bridge, US1, NH DPW	KBK 472	16	13
	4.0	Portsmouth	US1 Bypass, NH DPW	KAW-766	16	13
New Jersey						
Cheesequake Creek	0.2	Morgan	NJTRO-Morgan Draw	KT 3656	13	13
Delaware River	107.2	Palmyra	Tacone Palmyra Burlington Co	KBA 326	13	13
	117.8	Bristol	Tacone Palmyra Burlington-Bristol	KBA 330	13	13
Great Egg Inlet	0.3	Ocean City	Cape May County	WQZ 343	13	13
Hackensack River	3.0	Jersey City	PATH-Hack Freight	KQ 7198	13	13
	3.1	Jersey City	Hack Freight, Conrail	KQ 7198	13	13
	3.1	Jersey City	Wtt-Penn, NJDOT		13	13
	3.4	Jersey City	NJTRO-Laurel Hill (Lower Hack)	KR 6939	13	13
	5.0	Snake Hill	Amtrak-Portal	KMC 297	13	13
	5.4	Snake Hill	NJTRO-DB (Erie Swing)	KR 6972	13	13
	6.9	Secaucus	NJTRO-Erie Lift (Upper Hack)	KR 7035	13	13
	7.7	Secaucus	NJTRO-Jackmile (HX)	KR 7034	13	13
Manasquan River	0.9	Brickstownship	NJTRO-Bridle	KT 4203	13	13
Middle Thorofare	0.2	Strathmere	Cape May County	WQZ 342	13	13
Newark Bay	4.3	Port Newark	Lehigh Valley, Conrail	KS 9998	13	13
Passaic River	2.6	Newark	Point-No-Point Conrail	KR 6938	13	13
	5.0	Newark	Amtrak Dock	WRY 583	13	13
	5.8	Newark	Morristown Line	*Pending*	13	13
	8.0	West Arlington	Erie Lackawanna RR	*Pending*	13	13
	11.7	Lyndhurst	Erie Lackawanna RR	*Pending*	13	13
Raritan River	6.5	Perth Amboy	NJTRO	KT 4204	13	13
Shark River	0.1	Belmar	Ocean Avenue Monmouth County	KMD 281	13	13
	0.9	Avon	NJTRO	KT 4202	13	13
	0.9	Avon	New Jersey, SR35	KKR 952	13	13
New York						
Arthur Kill	11.8	Staten Island	S.I. Rapid Transit	KKS 237	13	13
Bronx River	1.1	Bronx	Bruckner Expressway	KK 8189	13	13
East River	8.4	Roosevelt Island	New York City (36 Avenue)	KK 8184	13	13
Flushing Creek	0.4	Flushing	Northern Blvd	KK 8182	13	13
Gowanus Canal	1.2	Brooklyn	Hamilton Avenue, New York City	KK 8183	13	13
	1.4	Brooklyn	Ninth Street, New York City	KK 8186	13	13
Harlem River	0	New York City	103rd Street, New York City	KIL 820	13	13
	1.3	New York City	Triboro Bridge and Tunnel	KGW 395	13	13
	2.1	New York City	Park Avenue, Amtrak Authority	KA 5059	13	13
	7.9	New York City	Spuyten Duevil, Conrail	KU 9797	13	13
Hutchinson River	0.4	New York City	Pelham Parkway, New York City	KU 9759	13	13
	0.5	New York City	Amtrak-Pelham Bay, New York City	KU 6095	13	13
	2.2	Eastchester	New England Thruway, I95	KKS 286	13	13
Jamaica Bay	3.0	Rockaway Inlet	Marine Parkway, New York City	KIL 819	13	13
Mill Basin	0.6	New York City	Mill Basin, New York City	KK 8185	13	13
Newtown Creek	0.6	New York City	Pulaski	KK 8178	13	13
	1.3	New York City	Greenpoint Avenue, New York City	KK 8182	13	13
	3.4	New York City	Metropolitan Avenue	KK 8179	13	13
	2.6	Buffalo	Ferry Street, Buffalo City	WHV 559	16	12
Niagara River—Black Rock Canal	0.4	Atlantic Beach	Nassau County	KPL 349	13	13
Reynolds Channel	1.7	Unionport	Bruckner Expressway	KK 8280	13	13
Westchester Creek						
North Carolina						
Albemarle Sound	47.7	Edenton	NCDOT, SR32	KU 6047	16	13
Cape Fear River	26.8	Wilmington	NCDOT, US17	KQU 609	16	13
Intracoastal WW	84.2	Columbia	NCDOT, US64	KU 9446	16	13
	206.7	Atlantic Beach	NCDOT, SR58	KU 6064	16	13
	260.7	Sears Landing	NCDOT, SR50	KU 6044	16	13
	283.1	Wrightsville Beach	NCDOT, US74	KU 6043	16	13
	328.7	Holden Beach	NCDOT, SR130	KU 6042	16	13

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Waterway	Mile	Location	Bridge name and owner	Call sign	Calling channel	Working channel
	333.7	Ocean Isle	NCDOT, SR904	KJ 6050	16	13
	337.9	Sunset Beach	NCDOT	KU 6040	16	13
Northeast Cape Fear River	0.5	Wilmington	NCDOT, US17	KU 6041	16	13
Ohio						
Cuyahoga River	0.8	Cleveland	Conrail	KUF 618	16	13
Oregon						
Coos Bay	8.0	North Bend	Southern Pacific RR	KT 2906	16A	13
Willamette River	6.9	St. Johns	Burlington Northern RR	KQ 9050	16	13
	11.7	Portland	Broadway Multnomah Co.	KLU 724	16	13
	12.1	Portland	Steel Union Pacific RR	KQU 534	16	13
	12.4	Portland	Burnside Multnomah Co.	KTD 520	16	13
	12.8	Portland	Morrison, Multnomah Co.	KTD 522	16	13
	13.1	Portland	Hawthorne Multnomah Co.	KTD 521	16	13
Youngs Bay	0.7	Astoria	OR DOT, US26	WHQ 914	16	13
Pennsylvania						
Delaware River	104.8	Philadelphia	Delair, Conrail	KS 9970	13	13
	107.2	Tacony	Tacony Palmyra Burlington Co.	KBA 329	13	13
	117.8	Bristol	Burlington-Bristol	KBA 339	13	13
Schuylkill River	5.1	Philadelphia	Tasker Street, B&O Railroad	KKS 239	13	13
South Carolina						
Intracoastal WW	347.3	Myrtle Beach Little River	SC, US17	KT 5433	16	13
	371.0	Socastee	SC, SR544	KT 5439	16	13
	462.2	Sullivans Island	Don Sawyer, SC, SR703	KT 5439	16	13
	470.8	Charleston	Wappoo Creek, SC, SR171	KT 5439	16	13
	536.0	Beaufort	Lady's Island, SC, US21	KT 5439	16	13
Savannah River	21.8	Savannah	Houlihan, GA DOT	WHV 879	16	13
Savannah River	80.9	Clyo	Seaboard System RR	WKB 679	16	13
Tennessee						
Cumberland River	126.5	Clarksville	Seaboard System RR	KF 2204	16	13
	185.2	Bordeaux	Illinois Central Gulf RR (Nashville and Ashland City Railroad (Leased)).	4IX 6369	16	13
	190.4	Nashville	Seaboard System RR	KQ 7187	16	13
Tennessee River	100.5	New Johnsonville	Seaboard System RR	KC 9465	16	13
Texas						
Clear Creek	1.0	Kemah	Texas, SR146	AOKS 381	16	13
Gulf Intracoastal WW (Pelican Island Causeway)	356.1	Galveston	Galveston County Navigation District	KYH 532	16	13
Galveston Causeway RR	357.2	Galveston	Southern Pacific RR	KUF 652	16	13
Gulf Intracoastal WW	397.8	Freeport	Texas, SR1495	KQU 648	16	13
Caney Creek Bridge	418.0	Sargent	Texas, FR457	KQU 644	16	13
Gulf Intracoastal WW	440.7	Matagorda	Texas, FR2031	KQU 645	16	13
San Bernard River	20.7	Brazo Pla	MOPAC RR	KI 2524		12
Virginia						
James River	5.9	Isle of Wight County	Virginia, US17	KQ 7188	13	13
Potomac River	65.9	Prince George County	Virginia, SR156	KQ 7187	13	13
York River	6.9	York County	Virginia, US17	KQ 7186	13	13
Pamunkey River	1.9	King William County	Virginia, SR33	KQ 7188	13	13
Washington						
Blair Waterway	0.3	Tacoma	WA DOT, 11th Street	KZN 573	16	13
Chehalis River	0.1	Aberdeen	WA DOT, US101	KJA 299	16	13
Columbia River	105.6	Vancouver/Portland	Burlington Northern RR	KQ 9049	16	13
	106.5	Vancouver/Portland	OR DOT, I5	KBM Interstate	16	13
	106.8	Hood River, OR	Port of Hood River	KTD 562	16	13
	201.2	Celilo, OR	Burlington Northern RR	KQ 9048	16	13
	323.4	Pasco/Kennewick	Union Pacific RR	KTD 561	16	13
	328.0	Pasco/Kennewick	Burlington Northern RR	KQ 9046	16	13
Duwamish Waterway	0.6	Seattle	Spokane St., City of Seattle	KSK 285	13	13
	2.5	Seattle	1st Ave. So. City of Seattle	WHU 200	13	13
Ebey Slough	1.8	Marysville	WA DOT, US529	KZ 9475	13	13
Hood Canal		Port Gamble	WA DOT, Hood Canal Bridge	KZJ 376	16	13
Hylebos Waterway	1.1	Tacoma	WA DOT, 11th Street	KZN 574	16	13
Lake Washington Ship Canal	0.1	Seattle	Burlington Northern RR	KCE 201	16	13
	1.1	Seattle	Ballard, City of Seattle	KJA 445	13	13
	2.8	Seattle	Fremont, City of Seattle	KJA 442	13	13
	4.3	Seattle	University, City of Seattle	KJA 441	13	13
	5.2	Seattle	Montlake, City of Seattle	KJA 436	13	13
Snake River	1.5	East Pasco/Burbank	Burlington Northern RR	KQ 9047	16	13
Wisconsin						
Mississippi River	699.6	LaCrosse	Chicago, Milwaukee, St. Paul and Pacific RR.	KVY-631	16	13
St. Croix River	0.2	Prescott	Burlington Northern, Inc.	KJC 782	16	14
	0.3	Prescott	Wisconsin and Minnesota	KD 2629	7	14
	17.3	Hudson	Chicago and Northwestern RR	KUZ 549	16	14

[1] Effective April 15, 1983, all state-owned highway drawbridges in Louisiana need not monitor channel 16 (Emergency Channel).

6. By revising the title of Part 118 to read as follows:

PART 118—BRIDGE LIGHTING AND OTHER SIGNALS

7. The authority citation for Part 118 is revised to read as follows and all section authority citations are removed:

Authority: 33 U.S.C. 494; 14 U.S.C. 85, 633; 49 CFR 1.46 (b) and (c).

8. By revising § 118.1 to read as follows:

§ 118.1 General requirements.

All persons owning or operating bridges over the navigable waters of the United States or any international bridge constructed after March 23, 1906, shall maintain at their own expense the lights and other signals required by this part.

9. By adding a new § 118.3 to read as follows:

§ 118.3 Incorporation by reference.

(a) In this part, portions or the entire text of certain standards and specifications are incorporated by reference as the governing requirements for materials, equipment, tests, or procedures to be followed. These standards and specification requirements specifically referred to in this part are the governing requirements for the subject matters covered, unless specifically limited, modified, or replaced by the regulations.

(b) These materials are incorporated by reference into this part under 5 U.S.C. 552(a) with the approval of the Director of the Federal Register. The Office of the Federal Register publishes a table, "Material Approved for Incorporation by Reference," which appears in the Finding Aids section of this volume. In that table are found citations to the particular sections of this part where the material is incorporated. To enforce any edition other than the one listed in paragraph (c) of this section, notice of the change must be published in the Federal Register and the material made available. All approved material is on file at the Office of the Federal Register, Washington, D.C. 20408 and at U.S. Coast Guard, Room 1410, 2100 Second Street, SW., Washington, D.C. 20593. Copies may be obtained from the sources indicated in paragraph (c) of this section.

(c) The materials approved for incorporation by reference in this part are:

Federal Highway Administration (FHWA), 400 Seventh Street, SW., Washington, D.C. 20590

Standard Alphabets for Highways Signs, 1966. (Reprinted April 1984).

10. By revising § 118.40 to read as follows:

§ 118.40 Modification of requirements.

(a) The District Commander may modify the requirements for the display of lights and other signals on any bridge when a change in local conditions warrants the modification.

(b) The District Commander may exempt bridges over waterways with no significant nighttime navigation from the lighting or other signal requirements in this part.

(c) The District Commander may prescribe special lighting or other signals in specific cases when the lighting or other signals in this part may not provide adequately for the safe passage of vessels.

(d) While a bridge is under construction, the District Commander prescribes the temporary lights and other signals to be displayed for the protection of navigation.

11. By revising § 118.50 to read as follows:

§ 118.50 Inspection.

Lights and other signals required or authorized under this part are subject to inspection at any time by Coast Guard personnel or authorized agents.

12. By revising § 118.60 to read as follows:

§ 118.60 Characteristics of lights.

All lights required or authorized under this part must be securely attached to the structure and of sufficient candlepower as to be visible against the background lighting at a distance of at least 2,000 yards 90 percent of the nights of the year. Lights must meet the requirements of this part. Lights shall be fixed lights excepting as provided in §§118.95, 118.110 and 118.150 of this part. Color specifications are not prescribed for bridge lights, however, the chromaticity standards for navigation lights in Annex I, Appendix A of 33 CFR Part 81 are recommended.

13. By revising § 118.95 to read as follows:

§ 118.95 Lights on structures not part of a bridge or approach structure.

Lights on sheer booms, isolated piers, obstructions, and other structures not part of a bridge or approach structure must meet the requirements for aids to navigation in Subpart 66.01 of Part 66 of this chapter.

14. By revising § 118.100 to read as follows:

§ 118.100 Retroreflective panels on bridge piers.

The District Commander may require or authorize the display of high intensity red or green retroreflective panels when the District Commander finds it necessary:

(a) To better identify a hazardous pier.

(b) To provide a backup for red pier lights, red channel margin lights, and green mid channel lights, which are subject to vandalism or otherwise difficult to properly maintain. If the District Commander determines that the nominal nighttime visibility required is less than one-half mile, the panels must be at least six inches square. If the visibility required is more than one-half mile, the panels must be at least 12 inches square.

(c) To mark bridge piers or channel sides on bridges not required to have bridge lighting. Lateral significant red triangles and green square retroreflective panels shall be used. The panels shall be at least 36 square inches in area to provide a nominal nighttime visibility distance of at least one-half mile.

§ 118.105 [Removed]

15. By removing § 118.105, Bridges infrequently used and unusual cases.

16. By adding new §§ 118.110, 118.120, 118.130, 118.140, 118.150 and 118.160 to read as follows:

§ 118.110 Daymarks and lateral lighting on bridges.

(a) The District Commander may require or authorize the marking of the margins of navigation channels through bridges with U.S. aids to navigation system lateral marks and lights installed on the superstructure or on the channel piers. The District Commander may also require or authorize the use of quick flashing, flashing, isophase or occulting red and green lights to mark the main channels.

(b) If lateral system lights are required or authorized to mark the main navigation channels, fixed yellow lights shall be used to mark the adjacent piers and the centerline of the channel shall be marked with the standard lateral system safe water mark and occulting white light, instead of the lights prescribed in § 118.65.

(c) The District Commander may require or authorize the marking of the centerline of the navigation channel drawspan of floating drawbridges with a special mark, diamond in shape, yellow in color, and with a high intensity retroreflective material border. The District Commander may require or authorize the mark to exhibit a flashing yellow light Morse Code "B" characteristic. The mark may not be visible when the drawspan is in the open position.

§ 118.120 Radar reflectors and racons.

The District Commander may require or authorize the installation of radar reflectors and racons on bridge structures, stakes, or buoys. Radar reflectors are used to mark the location of the edge of the navigation channel or bridge channel piers. Racons are used to mark the centerline of the channel.

§ 118.130 Fog signals.

On waterways where visibility is frequently reduced due to fog or other

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causes, the District Commander may require or authorize the installation of one or more fog signals to warn the navigator of the presence of the bridge. The fog signals must conform to the installation, range, and sound frequencies provisions in Subpart 67.10 of Part 67 of this chapter. If more than one fog signal is installed on a bridge or in the vicinity, their characteristics must be different to distinguish each signal. The fog signals must be directional to the fullest extent possible to minimize adverse impact on local residents.

§ 118.140 Painting bridge piers.

The District Commander may require painting the sides of bridge channel piers below the superstructure facing traffic white or yellow when they are significantly darkened by weathering or other causes so as to be poorly visible against a dark background.

§ 118.150 Traveller platforms.

The District Commander may require under deck traveller platforms which may significantly reduce the vertical clearance when operated over navigation channels at night to be lighted with quick flashing red lights on each of the four lower corners.

§ 118.160 Vertical clearance gauges.

(a) When necessary for reasons of safety of navigation, the District Commander may require or authorize the installation of clearance gauges. Except as specified in §117.47(b) of this chapter for certain drawbridges, clearance gauges must meet the requirements of this section.

(b) Clearance gauges must indicate the vertical distance between "low steel" of the bridge channel span and the level of the water, measured to the bottom of the foot marks, read from top to bottom. Each gauge must be installed on the end of the right channel pier or pier protection structure facing approaching vessels and extend to a reasonable height above high water so as to be meaningful to the viewer. Other or additional locations may be prescribed by the District Commander if particular conditions or circumstances warrant.

(c) *Construction.* Each gauge must be premanently fixed to the bridge pier or pier protection structure and made of a durable material of sufficient strength to provide resistence to weather, tide, and current. Gauges may be painted directly on the bridge channel pier or pier protection structure if the surface is suitable and has sufficient width to accommodate the foot marks (graduations) and numerals.

(d) *Numerals.* (1) Each gauge must be marked by black numerals and foot marks on a white background. Paint, if used, must be of good exterior quality, resistant to excessive chalking or bleeding. Manufactured numerals and background material may be used.

(2) The size, type, and spacing of numerals must conform to the Standard Alphabets for Highway Signs and the following table. The nominal day visibility distance is the distance at which the clearance information needs to be ascertained by approaching vessel operators. The District Commander determines this distance for each bridge.

Nominal day visibility distance (feet)	Height of numeral (inches)	Type of numeral	Vertical spacing of numerals (feet)
Less than 500	12	Series C	2
500 to 750	18	Series C	2
750 to 1,000	24	Series D	5
1,000 to 2,000	30	Series E	5
More than 2,000	36	Series E	10

(3) The length of the foot marks must be no less than the width of a single numeral used (except numerals 1 and 4), be the same thickness as the width of stroke of the numeral, and extend to the nearest margin of the white background. Foot marks must be spaced every foot for nominal day visibility of less than 500 feet, every two feet for a nominal day visibility of more than 500 feet but less than 1,000 feet, and every five feet for nominal day visibility of more than 1,000 feet.

(4) Intermediate foot marks may be used when more precise determination of actual clearance is necessary. Such intermediate foot marks must have a width of stroke one-half the width of the stroke required for the numeral and shall be three-quarters as long as the primary foot marks.

(5) The horizontal distance between the numeral and nearest edge of the white background shall be no less than one-half the width of a single numeral (excepting numerals 1 and 4).

(6) The minimum width of the white background shall be no less than three times the width of a single numeral (excepting numerals 1 and 4) plus the widths of each additional numeral (when multiple numerals are used plus numeral spacing).

(e) *Maintenance.* The owner or operator of the bridge shall maintain each gauge in good repair and legible condition. The bridge owner or operator is responsible for the accuracy of the gauge and shall remeasure the vertical distance of the numerals and foot marks below "low steel" of the bridge whenever the gauge is repainted or the structure is repaired.

Dated: April 14, 1986.

T.J. Wojnar,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation.

[FR Doc. 86-8653 Filed 5-1-86; 8:45 am]

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VETERANS ADMINISTRATION

38 CFR Part 21

Veterans Education; Adjustments in the G.I. Bill Resulting From the Veterans' Educational Assistance Act of 1984

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: These regulations implement provisions of the Veteran's Educational Assistance Act of 1984 which affect people eligible to receive benefits under the dependents' educational assistance program or the G.I. Bill. Some regulations which deal primarily with the G.I. Bill are amended to show that they also apply to the new educational program for members of the Armed Forces or to the new educational program for members of the Selected Reserve, or both. These regulations will acquaint the public with the way in which the VA (Veterans Administration) will implement these provisions of law.

EFFECTIVE DATES: The amendment to 38 CFR 21.4005(c) is effective April 14, 1986. In keeping with the Veterans' Educational Assistance Act of 1984, the rest of the regulations are effective October 19, 1984.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420 (202) 389-2092.

SUPPLEMENTARY INFORMATION: On pages 47066 through 47068 of the **Federal Register** of November 14, 1985, it was proposed to amend 38 CFR Part 21 to make it consistent with the Veterans' Educational Assistance Act of 1984. Interested people were given 28 days to submit comments, suggestions or objections.

The VA received one letter from an educational organization. The letter writer commented that he had no problem with the proposal. Accordingly, the VA is making the proposal final without change.

The VA is making these regulations retroactively effective on October 19, 1984. Retroactive effect is justified for

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the following reasons. Most of these regulations are restrictive. A few are liberalizing. They either repeat portions of Public Law 98-525 or construe the meaning of some of the provisions of that law.

The VA finds that good cause exists for making these regulations, like the sections of the statute they implement, retroactively effective on October 19, 1984. This legislation's restrictions are intended to prevent some people from receiving benefits under more than one of the various educational programs the VA administers. Consequently, a delayed effective date for these regulations would be contrary to statutory design; would complicate administration of several provisions of the law; and might result in some people receiving benefits to which they would not be entitled.

The VA has determined that these regulations are not major rules as that term is defined by E.O. 12291, entitled, Federal Regulation. The regulations will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of Veterans' Affairs has certified that the regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b) these regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because most of these changes affect only individual benefit recipients. The impact from those that do not affect individuals will result from the underlying law. It will not result from the regulations themselves.

The Catalog of Federal Domestic Assistance numbers for the programs affected by these regulations are 64.111 and 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, claims, education, grant programs-education, loan programs-education, reporting and recordkeeping requirements, schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: April 14, 1986.

Thomas K. Turnage,

Administrator.

PART 21—[AMENDED]

38 CFR Part 21, Vocational Rehabilitation and Education, is amended as follows:

1. Section 21.1022 is amended by adding a new paragraph (b)(6) and a new paragraph (c) to read as follows:

§ 21.1022 Nonduplication—programs administered by the VA.

* * * * *

(b) * * *

* * * * *

(6) 10 U.S.C. ch. 106.

(38 U.S.C. 1781; Pub. L. 98-223, Pub. L. 98-525)

(c) *Chapters 30 and 34.* A veteran who is eligible for educational assistance under chapters 30 and 34 may not receive assistance under both programs concurrently, but must elect which benefit he or she will receive. (38 U.S.C. 1433; Pub. L. 98-525)

2. Section 21.3022 is revised to read as follows:

§ 21.3022 Nonduplication—programs administered by the VA.

(a) *Chapter 35 and most other programs administered by the VA.* A person who is eligible for educational assistance under 38 U.S.C. ch. 35 and is also eligible for assistance under any of the provisions of law listed in this paragraph, must elect which benefit he or she will receive for each program of education that person will pursue. The election is subject to the conditions specified in § 21.4022. The provisions of law are:

(1) 38 U.S.C. ch. 31,
(2) 38 U.S.C. ch. 32,
(3) 38 U.S.C. ch. 34,
(4) 10 U.S.C. ch. 106,
(5) 10 U.S.C. ch. 107,
(6) Section 903 of the Department of Defense Authorization Act of 1981, or
(7) The Hostage Relief Act of 1980.

(38 U.S.C. 1781; Pub. L. 98-223, Pub. L. 525)

(b) *Chapters 30 and 35.* An individual who is eligible for educational assistance under chapters 30 and 35 may not receive assistance under both programs concurrently, but must elect which benefit he or she will receive. (38 U.S.C. 1433; Pub. L. 98-525)

3. In § 21.4005, paragraphs (a)(1) and (2); (b)(1)(ii) (d) and (e); (b)(2)(ii)(a) and (c)(1) and (2) are revised to read as follows:

§ 21.4005 Conflicting interests.

(a) *General.* (1) An officer or employee of the VA will be immediately dismissed from his or her office or employment, if while such an officer or employee he or she has owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from, any school operated for profit in which a veteran or eligible person was pursuing a course of education under 10 U.S.C. ch. 106 or 38 U.S.C. chs. 30, 32, 34, 35 or 36. (10 U.S.C. 2136(b), 38 U.S.C. 1434(a), 1641, 1783(a); Pub. L. 98-525)

(2) The VA will discontinue payments under § 21.4153 to a State approving agency when the Administrator finds that any person who is an officer or employee of a State approving agency has, while he or she was such an officer or employee, owned any interest in, or received any wages, salary, dividends, profits, gratuities, or services from a school operated for profit in which a veteran or eligible person was pursuing a course of education or training under 10 U.S.C. ch. 106 or 38 U.S.C. chs. 30, 32, 34, 35 or 36 unless that agency takes, without delay such steps as may be necessary to terminate the employment of such a person. The VA will not resume payments while such a person is an officer or employee of [delete]

(i) The State approving agency, or

(ii) State Department of Veterans' Affairs, or

(iii) State Department of Education.

(10 U.S.C. 2136(b), 38 U.S.C. 1434(a), 1641, 1783(b); Pub. L. 98-525)

* * * * *

(b) * * *

(1) * * *

(ii) * * *

(d) His or her position does not require him or her to perform duties involved in the investigation of irregular actions on the part of schools or veterans or eligible persons in connection with 10 U.S.C. ch. 106 or 38 U.S.C. chs. 30, 32, 34, 35 or 36.

(e) His or her position is not connected with the processing of claims by, or payments to, schools, or their students enrolled under the provisions of 10 U.S.C. ch. 106 or 38 U.S.C. chs. 30, 32, 34, 35 or 36.

(10 U.S.C. 2136(b), 38 U.S.C. 1434(a), 1641, 1783(b); Pub. L. 98-525)

* * * * *

(2) * * *

(ii) * * *

(d) His or her position does not require him or her to perform duties involved in the investigation of irregular actions on the part of schools or veterans or eligible persons in connection with 10 U.S.C. ch. 106 or 38 U.S.C. chs. 30, 32, 34, 35 or 36. (10 U.S.C.

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2136(b), 38 U.S.C. 1434(a), 1641, 1789(b); Pub. L. 98–525)

* * * * *

(c) * * *

(1) Authority is delegated to the Director, Education Service, and to the field station head in the cases of VA employees under his or her jurisdiction, to waive the application of paragraph (a)(1) of this section in the case of any VA employee who meets the criteria of paragraph (b)(1) of this section, and to deny request for a waiver which do not meet those criteria. If the circumstances warrant, a waiver request may be submitted to the Administrator for a decision.

(2) Authority is delegated to the Director, Education Service, in cases of State approving agency employees to waive the application of paragraph (a)(2) of this section in the case of anyone who meets the criteria of paragraph (b)(2) of this section, and to deny requests for a waiver which do not meet those criteria. If the circumstances warrant, a waiver request may be submitted to the Administrator for a decision.

(38 U.S.C. 212(a))

* * * * *

4. In § 21.4009, paragraph (c) is revised to read as follows:

§ 21.4009 Overpayments—waiver or recovery.

* * * * *

(c) *Committee on school liability.* Each field station having jurisdiction over schools with courses approved for training under chapter 106, title 10, United States Code, chs. 30, 32, 34, 35 and/or 36, title 38, United States Code shall establish a Committee on School Liability. The committee or a panel designated by the committee chairperson and drawn from the committee, is authorized to find whether a school is liable for an overpayment.

(10 U.S.C. 2136(b), 38 U.S.C. 1434(a), 1641, 1785; Pub. L. 98–525)

* * * * *

5. In § 21.4020, paragraphs (a) (4) through (7) are revised to read as follows:

§ 21.4020 Two or more programs.

(a) * * *

(4) 38 U.S.C. chs. 30, 32, 34, 35 and 36 and the former ch. 33;

(5) 10 U.S.C. chs. 106 and 107;

(6) Section 903 of the Department of Defense Authorization Act, 1981; and

(7) The Hostage Relief Act of 1980.

(38 U.S.C. 1795(a); Pub. L. 90–631, Pub. L. 92–540, Pub. L. 96–466, Pub. L. 98–223, Pub. L. 98–525)

* * * * *

6. In § 21.4022, paragraph (a) is revised to read as follows:

§ 21.4022 Nonduplication—programs administered by the VA.

(a) *Election.* (1) A veteran or eligible person who is eligible for education or training under more than one of the provisions of law listed in this subparagraph based on his or her own service or based on the service of another person must elect which benefit he or she will receive for each program of education he or she wishes to pursue. Except for an election between 38 U.S.C. chs. 32 and 34 which is irrevocable once a check has been negotiated, the person may reelect at any time. The provisions of law are:

(i) 38 U.S.C. ch. 31,
(ii) 38 U.S.C. ch. 32,
(iii) 38 U.S.C. ch. 34,
(iv) 38 U.S.C. ch. 35,
(v) 10 U.S.C. ch. 106,
(vi) 10 U.S.C. ch. 107,
(vii) Section 903 of the Department of Defense Authorization Act, 1981, or
(viii) The Hostage Relief Act of 1980.

(38 U.S.C. 1781; Pub. L. 96–223, Pub. L. 98–525)

(2) A veteran or eligible person who is eligible for educational assistance under chs. 30 and 34 may not receive assistance under both programs concurrently, but must elect which benefit he or she will receive.

(38 U.S.C. 1433, 1781; Pub. L. 96–233, Pub. L. 98–525)

* * * * *

7. In § 21.4134, paragraphs (b) (1) and (2) and (c)(2) are revised to read as follows:

§ 21.4134 Suspension and discontinuance.

* * * * *

(b) * * *

(1) The program of education or any course in which the veteran or eligible person is enrolled fails to meet any of the requirements of chapter 106 of title 10, United States Code or chapter 30, 32, 34, 35 or 36 of title 38, United States Code, or

(2) The educational institution offering the veteran's or eligible person's course has violated or failed to meet any of the requirements of chapter 106 of title 10, United States Code or chapter 30, 32, 34, 35 or 36 of title 38, United States Code, and

(38 U.S.C. 1790(b); Pub. L. 98–525)

* * * * *

(c) * * *

(2) The educational institution offering the course has violated one or more of the recordkeeping or reporting requirements of chapter 106 of title 10, United States Code or chapter 30, 32, 34, 35 or 36 of title 38, United States Code.

(10 U.S.C. 2136, 38 U.S.C. 1434, 1790(b); Pub. L. 97–306, Pub. L. 98–525)

* * * * *

8. In § 21.4153, paragraph (c)(4)(i) is revised to read as follows:

§ 21.4153 Reimbursement of expenses.

* * * * *

(c) * * *

(4) * * *

(i) The work has a direct relationship to the requirements of chapter 106 of title 10, United States Code or chapter 30, 32, 34, 35 or 36 of title 38, United States Code, and (10 U.S.C. 2136, 38 U.S.C. 1434, 1774; Pub. L. 98–525)

* * * * *

9. In § 21.4201, paragraphs (c)(4) introductory text, (e)(2) introductory paragraph, (f)(1)(ii) and (g)(2) introductory paragraph are revised to read as follows:

§ 21.4201 Restrictions on enrollment—percentage of students receiving financial support.

* * * * *

(c) * * *

(4) The provisions of paragraph (a) of this section generally do not apply to a course when the total number of veterans and eligible persons receiving assistances under chapters 30, 31, 32, 34, 35 and 36, title 38, United States Code, who are enrolled in the educational institution offering the course, equals 35 percent or less of the total student enrollment at the educational institution (computed separately for the main campus and any branch or extension of the institution). However, the provisions of paragraph (a) of this section will apply to such a course when—

(38 U.S.C. 1673(d); Pub. L. 98–525)

* * * * *

(e) * * *

(2) Assigning students to each part of the ratio. Notwithstanding the provisions of paragraph (a) of this section, the following students will be considered to be nonsupported provided the VA is not furnishing them with educational assistance under title 38, United States Code: (38 U.S.C. 1673(d); Pub. L. 98–525)

* * * * *

(f) * * *

(1) * * *

(ii) Until such time as the total number of veterans and eligible persons receiving assistance under chs. 30, 31, 32, 34, 35 or 36, title 38, United States Code, who are enrolled in the educational institution offering the course, equals more than 35 percent of the total student enrollment at the educational institution (computed separately for the main campus and any branch or extension of the institution). At that time the procedures contained in paragraph (f)(2) of this section shall apply. (38 U.S.C. 1673(d); Pub. L. 98–525)

* * * * *

(g) * * *

(2) Except for those enrollments with a beginning date before or the same as the date the school completed the most recent computation, no benefits will be paid either under chapter 106, title 10, United States Code or under chs. 30, 32, 34, 35 or 36, title 38, United States Code when that computation established that the course (10 U.S.C. 2136, 38 U.S.C. 1434, 1641, 1673(d); Pub. L. 98–525)

* * * * *

10. In § 21.4206 the introductory paragraph and paragraphs (a) and (e)(1) are revised to read as follows:

§ 21.4206 Reporting fee.

The VA may pay annually to each educational institution furnishing education or each joint apprenticeship training committee acting as a training establishment under 10 U.S.C. ch. 106 or 38 U.S.C. chs. 30, 32, 34, 35 or 36 a reporting fee for required reports or certifications. The reporting fee will be paid as soon as feasible after the end of the calendar year.

(a) Except as provided in paragraph (b) of this section the reporting fee will be computed for each calendar year by multiplying $7.00 by the number of eligible veterans and eligible persons enrolled under 10 U.S.C. ch. 106, or 38 U.S.C. chs. 30, 32, 34, 35 or 36 on October 31 of that year. (10 U.S.C. 2136, 38 U.S.C. 1434, 1641, 1784(c); Pub. L. 90–77; Pub. L. 92–540, Pub. L. 93–508, Pub. L. 94–502, Pub. L. 95–202, Pub. L. 98–525)

* * * * *

(e) * * *

(1) It has exercised reasonable diligence in determining whether it or any course offered by it approved for the enrollment of veterans or eligible persons meets all of the applicable requirements of ch. 106 of title 10, United States Code or chs. 30, 32, 34, 35 and 36 of title 38, United States Code; and (10 U.S.C. 2136, 38 U.S.C. 1434, 1641, 1784(b); Pub. L. 98–525)

* * * * *

11. In § 21.4207, the introductory paragraph is revised to read as follows:

§ 21.4207 Failure of school to meet requirements.

When the VA discovers facts which appear to warrant a finding that the school is in violation of specific criteria of 10 U.S.C. ch. 106, or 38 U.S.C. chs. 30, 32, 34, 35 or 36, including failure to meet requirements for approval of a course offered to a veteran or eligible person and institution of policies regarding payment of tuition and fees so as to deny the benefits of the advance payment program, the facts will be referred to the field station Committee on Educational Allowances. (10 U.S.C. 2136, 38 U.S.C.1434, 1641, 1790(b); Pub. L. 98–525)

* * * * *

12. In § 21.4209, paragraph (a)(1) is revised to read as follows:

§ 21.4209 Examination of records.

(a) * * *

(1) Records and accounts pertaining to veterans or eligible persons who received educational assistance under ch. 106 of title 10, United States Code or chs. 30, 32, 34, 35 or 36 of title 38, United States Code, and (10 U.S.C. 2136, 38 U.S.C. 1434, 1644, 1790; Pub. L. 98–525)

* * * * *

13. In § 21.4250, paragraph (c)(2)(ii) is revised to read as follows:

§ 21.4250 Approval of courses.

* * * * *

(c) * * *

(2) * * *

(ii) A course of education to be pursued under 10 U.S.C. ch. 106 or 38 U.S.C. chs. 30, 32, 34, 35 or 36 offered by a school located in the Canal Zone, Guam or Samoa; (10 U.S.C. 2136, 38 U.S.C. 1434, 1641, 1772; Pub. L. 98–525)

* * * * *

[FR Doc. 86–9958 Filed 5–1–86; 8:45 am]

BILLING CODE 8320–01–M

38 CFR Part 21

Vocational Rehabilitation and Education; Amendments to the Veterans' Job Training Act

AGENCY: Veterans Administration.

ACTION: Final regulations.

SUMMARY: The Veterans' Job Training Act has been amended by the Veterans' Compensation Rate Increase and Job Training Amendments of 1985. These amendments extend the deadline for a veteran to apply for a job training program. They also extend the deadline for beginning a job training program from July 1, 1986 to July 31, 1987. The length of a veteran's period of unemployment which he or she must have in order to qualify as an eligible veteran under the Act is shortened. The regulations which deal with these matters are amended accordingly.

EFFECTIVE DATE: The amendment to 38 CFR 21.4632(e)(2)(ii) is effective February 1, 1986. All other amendments are effective January 13, 1986.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW, Washington, D.C. 20420 (202) 389–2092.

SUPPLEMENTARY INFORMATION: Public Law 99–238 changes the name of the Emergency Veterans' Job Training Act of 1983 to the Veterans' Job Training Act. It permits new applicants for the program; extends the deadline for beginning a job training program; and changes the unemployment criterion which must be met by a veteran before he or she can qualify for the program.

The VA finds that good cause exists for making these amended regulations final without previous publications of a notice of proposed rulemaking. The changes contained in these regulations are directly based upon the law. The VA must make the Code of Federal Regulations agree with the law. Public participation in this rulemaking is, therefore, unnecessary. Since a Notice of Proposed Rulemaking is unnecessary and will not be published, this change does not come within the term "rule" as defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601(2), and is therefore not subject to the requirements of that Act.

Nevertheless, these amended regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the RFA, 5 U.S.C. 601–612. Although small entities will be affected by the extension of the Veterans' Job Training Act, all the effects will derive from the change in the law upon which the regulations are based. The regulations themselves will have no effect upon small entities.

The VA has determined that these amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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The Catalog of Federal Domestic Assistance number for the program affected by these regulations is 64.121.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: April 15, 1986.

Thomas K. Turnage,

Administrator.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

38 CFR Part 21 is amended as follows:

1. In § 21.4131, paragraph (j) is revised to read as follows:

§ 21.4131 Commencing dates.

* * * * *

(j) *Veterans' Job Training Act (§ 21.4632).* The day following the last day for which the veteran's employer received payments on the veteran's behalf under the Veteran's Job Training Act. (Pub. L. 98-77, sec. 13; Pub. L. 99-238, sec. 201(a))

* * * * *

1a. In § 21.4135, paragraph (y) is revised to read as follows:

§ 21.4135 [Amended]

(y) *Veterans' Job Training Act (§ 21.4632).* The first day for which the veteran's employer received payments on the veteran's behalf under the Veterans' Job Training Act. (Pub. L. 98-77, sec. 13; Pub. L. 99-238, sec. 201(a))

* * * * *

2. The title of Subpart F-1 and § 21.4600 are revised to read as follows:

Subpart F-1 Veterans' Job Training

* * * * *

§ 21.4600 Job training program.

Sections 21.4600 through 21.4648 establish a Veterans' Job Training Program to assist eligible veterans in obtaining employment through training for employment in stable and permanent positions that involve significant training. The VA makes payments to employers who employ and train eligible veterans in these jobs. The payments assist employers in defraying the costs of necessary training. (Pub. L. 98-77, sec. 4; Pub. L. 99-238, sec. 201(a))

3. In § 21.4610, paragraph (a)(1)(ii) is revised to read as follows:

§ 21.4610 Eligibility requirements.

* * * * *

(a) * * *

(1) * * *

(ii) Have been unemployed for at least 10 of the 15 weeks immediately preceding the date of his or her application for participation in a job training program. (Pub. L. 98-77, sec. 5; Pub. L. 99-238, sec. 210(c))

* * * * *

4. In § 21.4632, paragraph (e)(2) (i) and (ii) are revised to read as follows:

§ 21.4632 Payments.

* * * * *

(e) * * *

(2) * * *

(i) On behalf of any veteran who initially applies for a job training program after January 31, 1987;

(ii) For any job training program which begins after July 31, 1987; (Pub. L. 98-543, sec. 212; Pub. L. 99-108; Pub. L. 99-238, sec. 201(e))

* * * * *

[FR Doc. 86-9957 Filed 5-1-86; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 433

[BPO-500-FCN]

Medicaid Program; Third Party Liability for Medical Assistance; Correction

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final rule.

SUMMARY: This final rule amends a provision in the Medicaid regulations relating to the methods that a State must use to pay providers for Medicaid claims that involve third party liability payments. The amendment is necessary to assure that regulations published on November 12, 1985, regarding recovery of reimbursement of a claim payment involving third party liability are implemented properly.

EFFECTIVE DATE: These regulations are effective June 2, 1986.

FOR FURTHER INFORMATION CONTACT: Herb Shankroff, (301) 594-6719.

SUPPLEMENTARY INFORMATION:

Background and Provisions of Regulations

Section 1902(a)(25) of the Social Security Act (the Act) requires States with Medicaid programs to seek reimbursement of payment for medical assistance from a third party to the extent that the party is legally liable for services provided under Medicaid. Section 1903(o) prohibits the use of Federal funds for Federal matching of State medical assistance expenditures if there is a liable third party. Medicare regulations under 42 CFR 433.139 implement these provisions. Section 433.139, before it was amended on November 12, 1985 (50 FR 46852), permitted States to use either of two methods of paying claims involving third party liability. Under the first method, States could pay claims involving third party liability only to the extent that the agency's allowed payment exceeded the third party liability. Under the second method, States could pay the full allowed amount of the claim but had to seek recovery from the liable third party within 30 days after payment was made. In the November 12 regulations, we made the following changes:

- For Medicaid claims involving third party liability that are processed on or after May 12, 1986, a State may use the second method of paying the entire claim and then seeking reimbursement only if it has obtained a waiver from HCFA authorizing its use.
- The 30-day requirement for seeking recovery of reimbursement of any third party liability was extended to 60 days. This includes claims paid in which third party liability has been established and claims in which the agency learns of the existence of a liable third party after the claim is paid or benefits become available after the claim is paid.

However, as redrafted, the November 12 regulations did not make explicit that the 30-day requirement, now extended to 60 days, for seeking recovery of reimbursement continues to apply to a State that has obtained a waiver, even though the application of the 60-day requirement for recovery was explained in the preamble to the regulations. Therefore, we are amending § 433.139 as published on November 12 to specify that—

- If the agency has an approved waiver to pay a claim in which probable third party liability has been established and then seek recovery of reimbursement, the agency must seek recovery of reimbursement from the third party to the limit of legal liability within 60 days after the end of the month in which payment is made.
- If the agency learns of the existence of a liable third party after a claim is paid, or benefits become available after the claim is paid, the agency must seek recovery of reimbursement within 60 days after the end of the month it learns of the existence of the liable third party or benefits become available.

Waiver of Notice of Proposed Rulemaking

Consistent with the Administrative Procedure Act, we usually issue a notice of proposed rulemaking and provide the public with an opportunity to comment on changes in our regulations unless we find good cause to waiver this public notice and comment procedure. The correction in these regulations is merely a technical change to clarify existing policy. It does not alter the basic policy in the November 12, 1985 regulations. We do not believe it would be in the best interest of the public to delay the issuance of this clarification in final to obtain public comment. We, therefore, find good cause to waive the notice of proposed rulemaking procedures.

Impact Analysis

Executive Order 12291

Executive Order 12291 requires us to prepare and publish a regulatory impact analysis for any major regulations—that is, those that will have an annual effect on the economy of $100 million or more; cause a major increase in costs or prices for consumers, individual industries, government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises in domestic or export markets. We have determined that this regulation change, which is technical in nature, does not meet any of these criteria. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act of 1980

Consistent with the Regulatory Flexibility Act, we prepare and publish a regulatory flexibility analysis (RFA) for any regulation that will have a significant impact on a substantial number of small entities. A small entity is a small business, a nonprofit enterprise, or a government jurisdiction (such as a county or township) with a population of less than 50,000. The purpose of the analysis would be to anticipate the impact and to seek alternatives that would have a less significant effect. This technical change will have little impact on State Medicaid agencies and Medicaid providers, which are considered small entities, as it merely clarifies existing policy. Therefore, we have determined, and the Secretary certifies, consistent with the Regulatory Flexibility Act, that these final regulations will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act of 1980

Section 433.139(d) does not contain information collection requirements that are subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

List of Subjects in 42 CFR Part 433

Administrative practice and procedure, Claims, Grant programs-health, Medicaid, Reporting and recordkeeping requirements.

42 CFR Part 433 is amended as follows:

PART 433—STATE FISCAL ADMINISTRATION

1. The authority citation for Part 433 continues to read as follows:

Authority: Secs. 1102, 1902(a)(4), 1902(a)(25), 1902(a)(45), 1903(a)(3), 1903(d)(2), 1903(d)(5), 1903(o), 1903(p), 1903(r), and 1912 of the Social Security Act, 42 U.S.C. 1302, 1396a(a)(4), 1396a(a)(25), 1396a(a)(45), 1396b(a)(3), 1396b(d)(2), 1396b(d)(5), 1396b(o), 1396b(p), 1396b(r), and 1396k, unless otherwise noted.

2. Section 433.139 is amended by revising paragraph (d) to read as follows:

§ 433.139 Payment of claims

* * * * *

(d) *Recovery of reimbursement.*

(1) If the agency has an approved waiver under paragraph (e) of this section to pay a claim in which the probable existence of third party liability has been established and then seek reimbursement, the agency must seek recovery of reimbursement from the third party to the limit of legal liability within 60 days after the end of the month in which payment is made.

(2) If the agency learns of the existence of a liable third party after a claim is paid, or benefits become available from a third party after a claim is paid, the agency must seek recovery of reimbursement within 60 days after the end of the month it learns of the existence of the liable third party or benefits become available.

(3) Reimbursement must be sought unless the agency determines that recovery would not be cost effective in accordance with paragraph (f) of this section.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.714—Medical Assistance Program)

Dated: March 12, 1986.

Henry R. Desmarais,

Acting Administrator, Health Care Financing Administration.

Approved: April 16, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-9978 Filed 5-1-86; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF THE INTERIOR

43 CFR Part 3

Special Rules Applicable to Surface Coal Mining Hearings and Appeals

AGENCY: Office of Hearings and Appeals, Interior.

ACTION: Final rule.

SUMMARY: These amendments to existing rules confirm that dismissal of the applicable petition or application is the mandatory sanction for failure to comply with time limits for: (1) Filing petitions for review of proposed civil penalties, (2) filing applications for review of notices of violation or cessation orders, and (3) making full payment of proposed civil penalties under section 518(c) of the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1268(c) (1982).

EFFECTIVE DATE: June 2, 1986.

FOR FURTHER INFORMATION CONTACT: Will A. Irwin, Administrative Judge, Interior Board of Land Appeals, Office of Hearings and Appeals, U.S. Department of the Interior, 4015 Wilson Blvd., Arlington, Virginia 22203; phone (703) 235-3750.

SUPPLEMENTARY INFORMATION: On November 15, 1985, the Office of Hearings and Appeals (OHA) published proposed amendments providing sanctions for failure to comply with the time limit for filing a petition for review of a proposed civil penalty set forth in 43 CFR 4.1151; for failure to comply with the time limit for payment of a proposed assessment set forth in 43 CFR 4.1152; and for failure to comply with the time limit for filing an application for review of a notice of violation or cessation order set forth in 43 CFR 4.1162. *See* 50 FR 47237-38 (Nov. 15, 1985). In each case the sanction proposed was dismissal of the applicable petition or application for review.

Comments on the proposed rules were received from the Mining and Reclamation Council of America, the Pennsylvania Coal Mining Association, and Arch Mineral Corporation. The comments and OHA's responses are set forth below:

Comment 1: It is questionable whether the time limits for filing for administrative review under sections 518(c) and 525(a) of the Act, 30 U.S.C. 1268(c) and 1275(a) (1982), are jurisdictional, as the amendments to the rules assume, or rather are statutes of limitations with which failure to comply must be raised by the Office of Surface Mining (OSM) as an affirmative defense or in a motion to dismiss. *See Zipes* v.

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Trans World Airlines, Inc., 455 U.S. 385, 392–98 (1982). Congress was only concerned that payment of a proposed civil penalty precede a hearing, not that payment occur within 30 days. Section 518(c) states only that failure to forward payment within 30 days results in a "waiver" of the right to contest the amount of the penalty or the fact of the violation; it does not expressly bar jurisdiction to conduct administrative review. OHA should take the opportunity of the proposed rulemaking to rescind its decisions holding that untimely filings of petitions for review or applications for review and untimely submission of the amount of a proposed civil penalty deprive it of jurisdiction to consider an appeal.

Response: Section 525(a)(1), 30 U.S.C. 1275(a)(1) (1982), provides that a permittee issued a notice of violation or cessation order or any person having an interest which is or may be adversely affected by such a notice or order "may apply to the Secretary for review of the notice or order within 30 days of receipt thereof or within 30 days of its modification, vacation, or termination." Congress included this provision "[i]n order to assure expeditious review and the process for persons seeking administrative relief from enforcement decisions of Federal inspectors." H.R. Rep. No. 218, 95th Cong., 1st Sess. 130 (1977). Section 525 "establishes clear, definitive administrative review procedures." Id. at 131.

The reason for such procedures was stated:

> H.R. 2 contains comprehensive provisions for inspections, enforcement notices and orders, administrative and judicial review, and penalties. These requirements are of equal importance to the provisions of the bill regarding mining and reclamation performance standards since experience with State surface mining reclamation laws has amply demonstrated that the most effective reclamation occurs when sound performance standards go hand in hand with strong, equitable enforcement mechanisms.

Id. at 128.

Section 518(c), 30 U.S.C. 1268(c), provides that a person charged with a proposed civil penalty shall have 30 days after being informed of its amount to either pay the penalty or, if the person wishes to contest either the amount of the penalty or the fact of the violation, forward the proposed amount to the Secretary for placement in an escrow account. The Congress stated that the permittee "must forward the amount of the proposed penalty to the Secretary within 30 days of receipt of the notice of proposed penalty." S. Rep. No. 128, 95th Cong., 1st Sess. 1, 88 (1977). A civil penalty would become final after a hearing was held "or waived by act or by operation of law." *Id.* The explanation for this approach was:

> This section also requires the operator (or permittee) to pay the proposed penalty within thirty days after he has been assessed a penalty for violation of the Act or permit. If the permittee wishes to contest either the fact of violation or the amount of the penalty, he shall so notify the Secretary when making the remittance. Upon receipt of a payment from a permittee the Secretary shall place it in an escrow account and should the permittee's challenge by sustained, the payment is to be returned to the permittee with interest. The Committee is of the belief that this procedure will avoid the problem of non-collection of fines.

Id. at 58–59.

The last comment was a reference to difficulties experienced with the civil penalty provisions of the Federal Coal Mine Health and Safety Act of 1969. The Committee stated that variations from the provisions of that law in the surface mining bill were made, in part, "to improve enforcement." *Id.* at 56.

It is OHA's belief that the plain language of Sections 525(a) and 518(c) and the legislative history of these administrative review provisions require that failure to file application for review of notices of violation or cessation orders "within thirty days" of receiving them, as required by Section 525(a), be regarded as failure to meet the jurisdictional prerequisite for administrative review established by the Congress. Interpreting the 30-day period as a matter that OSM must raise as an affirmative defense if it were not complied with would neither "assure expeditious review" nor constitute a "clear, definitive administrative review procedure." Similarly, the language of 518(c) provides that in every case the amount of a proposed civil penalty must be sent to the Department within 30 days of being informed of the amount; only if the person "wishes to contest the amount or the fact of the violation" would the amount be placed in escrow pending the outcome of administrative or judicial review. The consequence of failure to forward the amount of the proposed assessment to the Secretary within 30 days is clearly set forth in the statute: Such a failure "*shall* result in a waiver of *all* legal rights to contest the violation or the amount of the penalty." (Emphasis added.) The statute does not say such a failure may be deemed a waiver, and the Committee report states that a hearing could be waived "by operation of law." The report also states that the permittee "must" forward the amount within 30 days and that the section "requires" this. Nor would allowing the failure to pay within 30 days to be raised as an affirmative defense "improve enforcement" of the civil penalty provisions or "avoid the problem of non-collection of fines."

Zipes v. *Trans World Airlines, Inc.*, *supra*, does not indicate the time limits of the surface mining act should be interpreted as statutes of limitations rather than jurisdictional prerequisites. That was a case under Title VII of the Civil Rights Act of 1964 in which the Court held that filing charges of discrimination with the Equal Employment Opportunity Commission (EEOC) within the time prescribed by statute was not a jurisdictional prerequisite to bringing a Title VII suit in Federal court. The Court found the Act's provisions did not limit Federal court jurisdiction to cases in which there had been a timely filing with the EEOC under a separate provision that did not refer to court jurisdiction. The Court supported its decision by referring to 1972 Congressional action in amending the Act, and to the principle that a literal reading of filing provisions would be "particularly inappropriate in a statutory scheme in which laymen, unassisted by trained lawyers, initiate the process." 455 U.S. at 397. It also noted the "remedial purpose of the legislation as a whole." *Id.* at 398. In the surface mining act the Congress sought to provide a statutory scheme of "strong, equitable enforcement mechanisms" with "clear, definitive administrative review procedures" and a remedial purpose of improving enforcement of civil penalties by requiring that they be paid within 30 days whether or not the person was contesting them. It is apparent that this scheme and purpose are markedly different from the provisions of the Civil Rights Act considered by the Court in *Zipes*.

OHA therefore adheres to its position that compliance with these time limits in the surface mining act is a jurisdictional prerequisite to administrative review and that dismissal is mandatory for failure to comply. The suggestion in the comment is accordingly rejected.

Comment 2: If the Department will not allow a hearing when a person filing a petition for review of a proposed civil penalty pays the amount after 30 days, the preamble to the rule should clarify that such an amount will be returned with the dismissed petition.

Response: The only circumstance under which the amount of a proposed civil penalty or any part of it can be returned is if a person pays it within 30 days of being informed of the amount, contests either the amount of the penalty or the fact of the violation, and successfully demonstrates that no violation occurred or that the amount of the penalty should be reduced. 30 U.S.C. 1268(c); 30 CFR 723.20(c). If the amount is paid after 30 days it will be regarded as payment of the penalty that is due, since there is no jurisdiction to conduct administrative review. 30 U.S.C. 1268(c); 30 CFR 723.20(a). There is no legal authority to support the suggestion in the comment and it is therefore rejected.

Comment 3: There should be a clarification that failure to file a petition for review of a proposed civil penalty or to pay the amount assessed within 30 days does not preclude filing an application for review of a notice of violation or cessation order or operate as an admission of the fact of violation in such proceeding.

Response: The statute establishes separate proceedings to review notices of violation and cessation orders under Section 525 and to review proposed civil penalties under Section 518. Although hearings under Section 518 shall be consolidated with other proceedings resulting from Section 521 when appropriate (30 U.S.C. 1268(b)), a person may elect administrative review under either Section 518 or Section 525 or both and failure to elect one does not affect one's rights under the other. Specifically, dismissal of a petition for review of a proposed civil penalty because the petition or the proposed amount of the penalty was untimely would not be res judicata on the issue of the fact of the violation in an application for review proceeding arising from the same notice of violation or cessation order. The amendments to 43 CFR 4.1151 and 4.1152 have been revised to make this explicit.

Comment 4: The rules should allow the administrative law judge discretion to accept a petition for review or application for review outside of the 30 day time limit for good cause or exigent circumstances.

Response: As discussed in the response to Comment 1, compliance with the 30 day limits for filing is required for OHA jurisdiction. Therefore, neither an administrative law judge nor the Interior Board of Land Appeals may excuse failure to comply with these limits. The suggestion in the comment must be rejected.

Comment 5: Sanctions similar to those contained in the proposed amendments should be adopted for failure to comply with the time limits for filing under 43 CFR 4.1280 *et seq.* and 4.1290 *et seq.*

Response: Although the proceedings referred to are not covered in this rulemaking, the surface mining act does not provide time limits for initiating such proceedings as it does for those that are covered by this rulemaking.

Because these rules simply confirm the mandatory nature of existing filing requirements, the Department has determined that these rules are not major, as defined by E.O. 12291; will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*); and will not significantly affect the quality of the human environment, and therefore no detailed statement is required under the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

The rules contain no information collection requirements requiring Office of Management and Budget approval under 44 U.S.C. 3507.

The author of these regulations is Will A. Irwin, Administrative Judge, Board of Land Appeals, Office of Hearings and Appeals.

List of Subjects in 43 CFR Part 4

Administrative practice and procedure, Surface mining.

For the reasons stated in the preamble and under the authority of 30 U.S.C. 1201 *et seq.* (1982), 4.1151, 4.1152, and 4.1162 of Subpart L of Part 4 of Title 43 of the Code of Federal Regulations are amended as set forth below.

Dated: March 28, 1986.

Ann McLaughlin,

Under Secretary.

PART 4—[AMENDED]

43 CFR Part 4 is amended as follows:

1. The authority citation for Part 4, Subpart L, continues to read as follows:

Authority: 30 U.S.C. 1256, 1260, 1261, 1268, 1271, 1272, 1275, 1293; 5 U.S.C. 301.

2. In part 4, §4.1151 is amended by adding paragraph (c) as follows:

§ 4.1151 Time for filing.

* * * * *

(c) No extension of time will be granted for filing a petition for review of a proposed assessment of a civil penalty as required by paragraph (a) or (b) of this section. If a petition for review is not filed within the time period provided in paragraph (a) or (b) of this section, the appropriateness of the amount of the penalty, and the fact of the violation if there is no proceeding pending under section 525 of the Act to review the notice of violation or cessation order involved, shall be deemed admitted, the petition shall be dismissed, and the civil penalty assessed shall become a final order of the Secretary.

3. In Part 4, § 4.1152 is amended by adding paragraph (d), as follows:

§ 4.1152 Contents of petition; payment required.

* * * * *

(d) No extension of time will be granted for full payment of the proposed assessment. If payment is not made within the time period provided in §4.1151 (a) or (b), the appropriateness of the amount of the penalty, and the fact of the violation if there is no proceeding pending under section 525 of the Act of review the notice of violation or cessation order involved, shall be deemed admitted, the petition shall be dismissed, and the civil penalty assessed shall become a final order of the Secretary.

4. In Part 4, § 4.1162 is revised.

§ 4.1162 Time for filing.

(a) Any person filing an application for review under § 4.1160 *et seq.* shall file that application within 30 days of the receipt of a notice or order or within 30 days of receipt of notice of modification, vacation, or termination of such a notice or order. Any person not served with a copy of the document shall file the application for review within 40 days of the date of issuance of the document.

(b) No extension of time will be granted for filing an application for review as provided by paragraph (a) of this section. If an application for review is not filed within the time period provided in paragraph (a) of this section, the application shall be dismissed.

[FR Doc. 86-9818 Filed 5-1-86; 8:45 am]
BILLING CODE 4310-10-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 86-179]

Revision of the FCC's Rules Requiring the Inclusion of a Table of Contents and Summary of Filing in Documents Longer Than Ten Pages

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document revises the rule governing the preparation of summaries and tables of contents for documents filed in Commission proceedings. This action is necessary to alleviate confusion in the existing rule and has the effect of exempting certain routine filings from these requirements. Unless otherwise exempted, all documents and pleadings filed with the Commission that exceed ten pages must

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include a table of contents and a summary.

EFFECTIVE DATE: May 27, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Joseph S. McBride, Office of General Counsel, (202) 254–6530.

SUPPLEMENTARY INFORMATION:

Third Order

Adopted: April 11, 1986.
Released: April 18, 1986.

By the Commission:

1. On September 5, 1985, the Commission adopted a Second Order in this proceeding that added § 1.49(d) of the Rules. 50 FR 37856 (1985). That provision exempts certain discovery pleadings from the general requirement of Section 1.49 that all pleadings and documents in excess of ten pages filed in any proceeding contain both a summary and table of contents.

2. Since the release of the Second Order, we have had informal discussions with members of the communications bar. They believed that the use of the word "proceeding" in this rule was vague and might require the submission of summaries and tables of contents in instances where they were neither needed nor desired or not require such submissions where they were desired. To avoid any ambiguity they requested that the Commission revise the rule to make it applicable only in specifically enumerated situations. After consideration and review of those suggestions, we find that the clarity and understanding of our Rules would be enhanced by expanding the exclusions listed in § 1.49(d) to include FCC Forms, FCC applications, transcripts, depositions, interrogatories and answers thereto, letters, and exhibits or appendices accompanying any document, application, or pleading submitted to the Commission. For example, with respect to the latter, a report or affidavit accompanying a petition for reconsideration or petition to deny would not require a summary or table of contents.

3. The purpose of this rule is to provide the Commission and its staff with an easy tool for analyzing and retrieving filings expeditiously and effectively. Documents such as petitions to deny, applications for review, petitions for reconsideration, and rule making comments are often lengthy and contain numerous arguments. The documents listed above that are not intended to be covered by the rule are generally either standardized for easy reference, such as FCC forms and applications, address a limited number of preestablished issues, or concern materials that merely support issues raised in the primary filing. In those documents, summaries and tables of contents are unnecessary. On the other hand, we do not believe that the suggestion to apply the rule only to those matters specifically enumerated is sound.

4. Our purpose is to require summaries generally for all documents exceeding 10 pages. We believe that the specific exclusions should adequately address the concerns which arose after the original rules were adopted. Should any ambiguity arise in the future regarding a specific document, the interested party may request an informal interpretative ruling from the Bureau's staff. We again emphasize that all documents, regardless of the nature of the proceeding, must comply with the requirements of § 1.49 of the Rules, unless one of the exceptions in § 1.49(d) applies.

5. We find that prior notice and public comment procedures are unnecessary to implement this amendment involving general rules of agency practice and procedure. 5 U.S.C. 553(b)(3)(A).

6. In view of the foregoing and pursuant to sections 1, 4 (i) and (j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154 (i) and (j), and 303(r), it is hereby ordered that Part 1 of the Commission's Rules is amended as set forth below, effective May 27, 1986.

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Federal Communications Commission.

William J. Tricarico,
Secretary.

Part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 1—PRACTICE AND PROCEDURE

1. The authority citation for Part 1 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended, 47 U.S.C. 154, 303.

2. In § 1.49, paragraphs (b), (c), and (d) are revised to read as follows:

§ 1.49 Specifications as to pleadings and documents.

* * * * *

(b) Except as provided in paragraph (d) of this section, all pleadings and documents filed with the Commission, the length of which as computed under this chapter exceeds ten pages, shall include, as part of the pleading or document, a table of contents with page references.

(c) Except as provided in paragraph (d) of this section, all pleadings and documents filed with the Commission, the length of which filings as computed under this chapter exceeds ten pages, shall include, as part of the pleading or document, a summary of the filing, suitably paragraphed, which should be a succinct, but accurate and clear condensation of the substance of the filing. It should not be a mere repetition of the headings under which the filing is arranged. For pleadings and documents exceeding ten but not twenty-five pages in length, the summary should seldom exceed one and never two pages; for pleadings and documents exceeding twenty-five pages in length, the summary should seldom exceed two and never five pages.

(d) The requirements of paragraphs (b) and (c) of this section shall not apply to:

(1) Interrogatories or answers to interrogatories, and depositions;
(2) FCC forms or applications;
(3) Transcripts;
(4) Contracts and reports;
(5) Letters; or
(6) Hearing exhibits, and exhibits or appendicies accompanying any document or pleading submitted to the Commission.

Note.—The table of contents and the summary pages shall not be included in complying with any page limitation requirements as set forth by Commission rule.

[FR Doc. 86-9861 Filed 5-1-86; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-367; RM-4929]

FM Broadcast Station in Chatom, AL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein substitutes Channel 291A for Channel 276A at Chatom, Alabama, and modifies the permit of Station WCCJ (FM), in response to a joint petition filed by Radio Hattiesburg, Inc. and June G. Fuss. The substitution will enable Station WHER (FM), Hattiesburg, Mississippi, to move its transmitter site and maintain its Class C status.

EFFECTIVE DATE: June 2, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended: 47 U.S.C. 154, 303. Interpret or apply secs. 301, 308, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order; Proceeding Terminated

In the Matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations: (Chatom, Alabama); MM Docket No. 85–367 and RM–4929.

Adopted: April 14, 1986.
Released: April 25, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making and Order to Show Cause*, 50 FR 51712, published December 19, 1985, seeking comments on the proposed substitution of Channel 291A [1] for 276A at Chatom, Alabama, and modification of the license of Station WCCJ (FM) [2] accordingly, at the joint request of Radio Hattiesburg, Inc. ("RHI") and June G. Fuss ("FUSS").[3] The proposal, if implemented, would enable Station WHER to relocate its transmitter and maintain its Class C status at Hattiesburg. The *Notice* also directed the permittee of Station WCCJ (FM), to show cause why its permit should not be modified, as proposed. In response to the *Notice*, supporting comments were filed by RHI, Benchmark and EJM Broadcasting ("EJM"). EJM also filed reply comments.

2. In its comments, Benchmark states that it is willing to modify its permit for Station WCCJ (FM) provided it is reimbursed for expenses incurred in changing frequencies.

3. RHI advises that it will reimburse Benchmark for reasonable costs incurred in changing WCCJ's frequency. Additionally, RHI remarks that it will reimburse Fuss for monies it expended in connection with the original Chatom proposal.

4. In its comments, EJM interposes no objection to the proposed substitution of Channel 291A for 276A, as advanced in the *Notice*. However, it advises that it does object to petitioner's original proposal to substitute Channel 254A for 276A at Chatom which would conflict with its pending proposal to upgrade the facilities of Station WDLT–FM at Chickasaw, Alabama (see fn. 1, *supra*).

5. As set forth in the *Notice and Order to Show Cause*, established Commission policy provides for reimbursement of reasonable costs incurred in changing a station's frequency from the party benefitting from a new channel allotment. Therefore, equitable considerations dictate that RHI should reimburse Benchmark for its reasonable costs in changing channels. Assisted by guidelines such as *Circleville, Ohio*, 8 F.C.C. 2d 159 (1967), the appropriate costs constituting a "reasonable" reimbursement figure are generally left to the good faith judgment of the parties, subject to Commission approval in the event of disagreement. See also, *Mitchell, South Dakota*, 62 F.C.C. 2d 70 (1976).

PART 73—[AMENDED]

6. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, It is ordered, That effective June 2, 1986, the FM Table of Allotments, § 73.202(b) of the Commission's Rules is amended with respect to the community listed below, as follows:

City	Channel No.
Chatom, AL	291A

7. It is further ordered, That, pursuant to section 316(a) of the Communications Act of 1934, as amended, the outstanding permit held by Benchmark Communications Corporation for Station WCCJ(FM), Chatom, Alabama, is modified effective June 2, 1986, to specify operation on Channel 291A in lieu of Channel 276A with the condition it will be reimbursed for the reasonable costs incurred in switching frequencies from Radio Hattiesburg, Inc. The permit modification for Station WCCJ(FM) is subject to the following conditions:

(a) Nothing contained herein shall be construed as authorizing any change in the permit of Station WCCJ except the channel as specified above. Any other changes, except for those so specified under § 73.1690 of the Rules, require prior authorization pursuant to an application for construction permit (FCC Form 301).

(b) Program tests may be conducted in accordance with the provisions of § 73.1620 of the Rules, provided the transmission facilities comply in all respects with the permit except for the channel as specified above and a license application (FCC Form 302) is filed within 10 days of commencement of program tests.

8. It is further ordered, That the Secretary of the Commission shall send a copy of this *Order* by *Certified Mail, Return Receipt Requested*, to Benchmark Communications Corporation, permittee of Station WCCJ(FM), Chatom, Alabama, at the following address: 4709 S.W. 75th Avenue, Miami, Florida 33155; and also a copy thereof, by regular mail to its attorney, John Wells King, Esq., Haley, Bader and Potts, Suite 600, 2000 M Street, NW., Washington, DC 20036–4574.

9. It is further ordered, That this proceeding is terminated.

10. For further information concerning the above, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Charles Schott,
Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–9850 Filed 5–1–86; 8:45 am]
BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 85–222; RM–4977]

FM Broadcast Station in Spencer, OK

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein allocates Channel 289A to Spencer, Oklahoma, as the community's first local FM service, at the request of Lift Him Up Outreach Ministries, Inc.

EFFECTIVE DATE: June 2, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

[1] Petitioners initially proposed the substitution of Channel 254A for Channel 276A at Chatom. However, that proposal conflicted with a separate request to substitute Channel 254C1 for Channel 252A at Chickasaw, Alabama, and to modify the license of Station WDLT–FM (RM–5108), licensed to EJM Broadcasting. As a result, Channel 291A was substituted for consideration herein.

[2] Formerly Station WDAL (FM).

[3] As indicated in the *Notice*, at the time this petition was filed, Fuss was the permittee of Station WDAL (FM). However, the permit was subsequently assigned to Benchmark Communications Corporation and the call letters changed to WCCJ (FM).

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SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Report and Order; Proceeding Terminated

In the Matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations; (Spencer, Oklahoma); MM Docket No. 85-222 and RM-4677.

Adopted: April 9, 1986.
Released: April 24, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 50 FR 30973, published July 31, 1985, seeking comments on the allocation of Channel 289A to Spencer, Oklahoma, as the community's first local FM service, at the request of Lift Him Up Outreach Ministries, Inc. ("petitioner"). Petitioner filed comments reiterating its intention to apply for the frequency, if allocated. No other comments were received. Channel 289A can be allocated to Spencer in compliance with the Commission's minimum distance separation and other technical requirements if the transmitter site is restricted to an area at least 1.1 kilometers (0.7 miles) north in order to avoid a short-spacing to Station KGOU, Channel 292A, Norman, Oklahoma.

PART 73—[AMENDED]

2. We believe the public interest would be served by allocating the channel as proposed since it could provide Spencer with its first local FM service. Accordingly, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective June 2, 1986, the FM Table of Allotments, § 73.202(b) of the Rules, is Amended with respect to the community listed below, to read as follows:

City	Channel No.
Spencer, OK	289A

3. The window period for filing applications on this channel will open on June 3, 1986, and close on July 3, 1986.

4. It is further ordered, That this proceeding is terminated.

5. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-9855 Filed 5-1-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 83-519; RM-4419]

TV Broadcast Station in Gaylea or Shreveport, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF Television Channel 45 to Shreveport, Louisiana as its fourth commercial television channel in response to two petitions for reconsideration filed by Word of Life Ministries, Inc. and Wesley Godfrey. The action reverses an earlier Commission action dismissing the proposal for lack of an expression of interest in the assignment.

EFFECTIVE DATE: June 2, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Memorandum Opinion and Order

(Proceeding Terminated)

In the Matter of Amendment of § 73.606(b), Table of Assignments, TV Broadcast Stations. (Gaylea or Shreveport, Louisiana); MM Docket No. 83-519 and RM-4419.

Adopted: April 8, 1986.
Released: April 23, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it two petitions for reconsideration of the *Report and Order*, 49 FR 30752, published August 1, 1984 dismissing the request of Saul Dresner ("Dresner") to assign UHF Television Channel 45 to either Gayles or Shreveport, Louisiana. Reconsideration of that decision is sought by Word of Life Ministries, Inc. ("Word of Life") and Wesley Godfrey ("Godfrey").

2. The Commission dismissed the proposal of Dresner at his request. No other comments expressing an interest in the proposal were received. Both Word of Life and Godfrey, in their petitions for reconsideration have filed statements of intent to construct and operate a station on Channel 45 if assigned to Shreveport, Louisiana.

3. We believe the public interest would be served by the assignment of UHF Television Channel 45 to Shreveport, Louisiana since it could provide the community with a fourth commercial television service. Inasmuch as the channel would have been assigned earlier had it not been for a lack of expression of interest, we believe that a reversal of our earlier dismissal of the request is warranted.

4. The assignment of UHF Television Channel 45 can be made to Shreveport, Louisiana in compliance with the minimum distance separation and other technical requirements with a positive offset.

5. In view of the above consideration, it is ordered, That the petitions for reconsideration filed by Word of Life Ministries, Inc. and Wesley Godfrey are granted.

PART 73—[AMENDED]

6. It is further ordered, pursuant to the authority contained in Sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, That effective June 2, 1986, the Television Table of Assignments, § 73.606(b) of the Rules, is amended, with respect to the following community.

City	Channel No.
Shreveport, LA	3-, 12, *24-, 33, and 45+

7. It is further ordered, That this proceeding is terminated.

8. For further information contact D. David Weston, Mass Media Bureau, (202) 634-6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-9849 Filed 5-1-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-11; Notice 17]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This notice adopts two new types of standardized replaceable light sources to be used in replaceable bulb headlighting systems on motor vehicles. In a two light source system developed by General Motors Corporation ("GM") one source provides the upper beam, and the other, the lower beam. The new light sources will be known as "HB3" and "HB4". The present standardized replaceable light source is now designated "HB1".

The rule is based upon a notice published January 7, 1986, that proposed dimensional changes differing from those originally proposed on May 13, 1985.

DATE: Effective date of the amendment is June 2, 1986.

ADDRESS: Petitions for reconsideration should be addressed to the Administrator, National Highway Traffic Safety Administration, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Richard Van Iderstine, Office of Rulemaking, NHTSA, Washington, DC (202-426-2720).

SUPPLEMENTARY INFORMATION: On May 13, 1985, NHTSA published a proposal to allow new types of standardized replaceable light sources in motor vehicle headlamps (50 FR 19961). Two of these light sources were designed by GM, one intended to provide the upper beam, which would be denominated HB3, and the other to provide the lower beam, to be denominated HB4. After the close of the comment period, GM submitted new drawings and specifications for the light sources which it felt met the needs of the industry as a result of its efforts with the SAE Replaceable Bulb Task Force. Later it submitted further updates of specifications.

Accordingly, on January 7, 1986, NHTSA published a second NPRM on this subject, proposing a revision in dimensional specifications (Figures 19 and 20) incorporating the GM changes, which included the provision for a seal (51 FR 641). NHTSA is now amending Standard No. 108 to add the HB3 and HB4 light sources in accordance with the previous proposals.

In the May 1985 notice, NHTSA proposed that the light sources meet the photometric requirements of Type F sealed beam headlighting systems. With reference to the internal heat tests of S6.7, no flash rate is currently specified for a turn signal that is incorporated into a headlamp housing. NHTSA, believing that there could be excessive buildup of heat from a steady burning signal, proposed to include a flashing turn signal at the test condition of 90 flashes per minute with a 75 plus or minus 2% current "on-time" performance. Because HB3 and HB4 have filament locations different from that of the current standardized replaceable light source (to be known from now on as "HB1"), NHTSA proposed changing the bulb deflection test to accommodate these differences. The point of deflection would be at a specific measured distance from a reference plane instead of being located by reference to the filament. This change was also proposed for the HB1 with the actual deflection point remaining the same. Additionally, for HB3 and HB4, the direction of force application was specified to be radially inward anywhere in the perpendicular plane located at the application point.

In its proposal, NHTSA also sought comment on whether there were any safety reasons, such as excessive glare, excessive candela, or insufficient illumination to prohibit intermixes of the HB1 with HB3 and HB4 and conversely to seek appropriate photometric and other specifications which would be required to permit such intermix, should commenters deem that course of action desirable.

The proposals in the second notice published in January 1986 were confined to dimensional changes, and the addition of a protective seal for HB3 and HB4 meeting the performance criteria proposed.

Comments were received on both proposals from major vehicle and lighting equipment manufacturers. With regard to the photometry of HB3 and HB4, Chrysler Corporation and Ford Motor Company urged that only one photometric performance requirement be implemented for all headlamp systems. Because three performance requirements currently exist; Type F, SAE J579a, and SAE J579c, this suggestion cannot be implemented at this time. Accordingly, NHTSA has proceeded to adopt the Type F photometrics for the HB3 and HB4, a proposal that was supported by Sylvania GTE, Department of California Highway Patrol, and GM among others. Further, the comments generally supported intermixing of light sources, given that headlamp systems are all required to meet minimum photometric requirements, and that NHTSA has proposed labeling of the headlamp lens to denote the type of light source used. Ford commented that intermixing will permit designers to optimize lighting for glare and seeing distance. On the other hand, GTE Sylvania and General Electric were opposed to intermixing until further study of the likely effects can be completed. Sylvania suggested that the SAE Lighting Committee should resolve the questions of intermixing and the related simplification of photometrics to achieve a single performance level. NHTSA believes that as long as photometric performance is met, and the lens identifies the light source, there is no reason to prohibit intermixing, and is amending the standard to allow it provided that the system meets Type F photometrics.

The proposed bulb deflection test specified that the direction of the application of force be radially inward anywhere in the perpendicular plane located at the application point. All those who commented recommended a revised procedure that would exercise the deflection resistance performance while simplifying the test. The basis for the recommendations is the SAE Replaceable Headlamp Bulb Task Force work on SAE XJ1496, Recommended Practice for Headlamp Light Sources. This states essentially that the deflection force should be applied radially at four equally spaced intervals at the light center length of the lower beam filament (or upper if there is only an upper beam filament), beginning at the weakest axis of the bulb crimp. NHTSA agrees with this recommendation because it is a simpler method of achieving the same goal, and the standard is amended accordingly. Comments also supported the proposed test conditions for turn signals in replaceable bulb headlamps (amended in Item 4, 50 FR 21056) and the standard has been amended accordingly.

Regarding the specification changes proposed in January 1986, all comments except those received from Hella and Sylvania supported the proposal. Hella requested ECE tolerances, but would

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accept the recommendation by the SAE Bulb Task Force. Sylvania in essence requested a capsule and support envelope with a diameter of at least 19.66 mm for the HB6, because of limitations of its manufacturing equipment, and NHTSA is making this change to accommodate this concern. However, it necessitates the addition of a note requiring the capsule and supports to provide for insertion into the lamp without interfering with the lamp's key. The numbers suggested by the SAE Headlamp Bulb Task Force have been added to Figure 20. The larger diameters could create a burden for headlamp manufacturers but not light source manufacturers such as Sylvania because space will be removed that was previously reserved for internal lamp parts; however, the agency knows of no instance in which lamp design has been so far finalized that this would occur. The NPRM of May 1985 contained a note to the Figures: "Bulb envelope must not exceed this area". This was changed to "Bulb envelope must not exceed this volume" in the January 1986 NPRM. To achieve consistency in the standard and to more clearly state the note, NHTSA is adopting the language used in a similar note for the HB1 light source: "Capsule and supports shall not exceed this envelope."

The commenters discussed other issues of interest as well. Both the Federal Highway Administration (FHWA) and Volkswagen addressed the need to assure adequate illumination of overhead signs, and other highway indicators. The FHWA suggested that new minimum test point values be added to the photometric performance requirements for all headlamps. While this is beyond the scope of the present rulemaking, it will remain under consideration.

Hella recommended that a "standardized bulb" rather than "any" bulb be used for compliance testing, specifically the bulb set forth in the SAE XJ1496 document. NHTSA continues to believe that any light source which is available to the consumer in the market place should be used for compliance testing, rather than one specially prepared for laboratory use.

Some commenters felt that industry terms, such as "9004", should be used to designate light sources rather than NHTSA's terminology, such as "HB1". Other commenters felt that the terminology should be applied in a sequence different from that proposed, such as the 9005 being HB5 and 9006 being HB6. The agency does not deem either of these suggestions desirable. In the first case, should a light source meeting HB1 specifications be developed that uses less power to achieve the same performance, the HB1 nomenclature would allow it to be used in any headlamp designed to use the original light source. But the updated replacement would probably have some other trade number, 9006 for example, to indicate its lower power consumption. This difference in trade numbers could be confusing to consumers seeking to replace the light source. Therefore, NHTSA intends to continue Standard No. 106's nomenclature for headlighting systems. Industry, of course, is free to assign any trade numbers it wishes, but is required to certify that the light source is designed to conform to the requirements of Standard No. 108. The same logic has been applied to replaceable headlamp light sources. In the second case, on the application of the NHTSA terminology, NHTSA proposed the HB number sequence based on the order in which light sources were received for incorporation into the Standard. Additionally, because the European H-4 light source could be different from the proposed U.S. version of that light source and not have the same uses in the U.S. market as it has traditionally had, a distinctly different nomenclature is deemed necessary. Therefore, NHTSA is implementing the nomenclature as proposed for the HB1, HB3 and HB4.

With respect to "designed to conform", some commenters noted that the language proposed for S4.1.1.39 contemplated light sources that "conform" as contrasted with the requirement in S4.1.1.36 that headlamps other than sealed beam be equipped with light sources "designed to conform". To remove this inconsistency with paragraph S4.1.1.36, NHTSA has adopted the "design to conform" language in S4.1.1.39.

The comments reflected a wide range of opinion about the need for labelling of headlamp lenses with information such as light source type, beam type, and photometric performance designation. Lamp manufacturers are concerned about the adverse effects on headlamp performance, especially if the location of the labelling is a specified one. NHTSA has concluded that motor vehicle safety requires identification of the light source, and the proper function of a headlamp (upper or lower beam) when two headlamp types are used on a vehicle. It is not necessary to provide photometric performance information when the lens identifies the light source. Replacement of a light source with one of the same type will assure equivalent and compatible lighting performance. However, there is no compelling reason to specify that any information be located at the lens center. NHTSA has decided to leave placement of the information to the discretion of the manufacturer, as long as the information is placed on the lens area in front of, and used by the light source it is designating.

ETL Testing Laboratories asked for three clarifications of the proposal. The language in proposed S4.1.1.39(f) and (h) regarding "low pressure side" was unclear. The "low pressure side" is the connector side of the HB3 or HB4 light source base. This test of the sealing mechanism does not apply to the HB1. The second point of confusion was the extent of the photometry test of S6.7.2. Except for a headlamp with a single HB1 light source, the photometry test is intended to be a complete testing of all test points for the beam or beams produced by the lamp. Finally, in S6.7.2, a statement was requested on the conditions of time lapse or temperature stabilization occurring after the high temperature test and before the photometry test. NHTSA replies that there should be sufficient time for the temperature of the lamp to stabilize to room ambient temperature.

NHTSA has considered this rule and has determined that it is not major within the meaning of Executive Order No. 12291 "Federal Regulation" or significant under Department of Transportation regulatory policies and procedures, and that neither a regulatory impact analysis nor a full regulatory evaluation is required. However, a regulatory evaluation has been prepared and placed in the public docket. Since use of the two light sources is optional, the rule would not impose additional costs or requirements but would permit manufacturers greater flexibility in the use of headlighting systems.

NHTSA has analyzed this rule for the purposes of the National Environmental Policy Act. The rule may have a small positive effect on the human environment since the weight and quantity of materials used in the manufacture of headlamps would be reduced.

The agency has also considered the impacts of this rule in relation to the Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and headlamps, those affected by the rule, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Finally, small organizations and governmental jurisdictions would not be significantly affected since the price of new vehicles, headlamps, and aimer adjusters will be minimally impacted.

Because of the necessity for vehicle, headlamp, and replaceable light source manufacturers to plan production and distribution on an orderly basis, it is hereby found that an effective date earlier than 180 days after issuance of the final rule is in the public interest.

The engineer and lawyer primarily responsible for this rule are Richard Van Iderstine and Taylor Vinson, respectively.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, 49 CFR Part 571 and 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment* is amended as follows:

The authority citation for Part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.108 [Amended]

1. The definition of "Standardized replaceable light source" in S3 *Definitions* is revised to read:

"Standardized replaceable light source" means an assembly of a capsule, base, and terminals that meets the requirements of S4.1.1.39.

2. In paragraph S4.1.1.36, paragraph (a)(1) is revised to read:

(a)(1) Each replaceable bulb headlamp shall include components which are designed to conform to the applicable specifications of paragraphs S4.1.1.37, S4.1.1.38 and S4.1.1.39.

3. The first sentence of Paragraph (b)(2) of S4.1.1.36 is revised to read:

(2) Section 3.1—Test Voltage and Section 3.5—Photometric Design Requirements, excluding Tables 1 and 2 for headlamps equipped with Type HB3, Type HB4, Types HB1 and HB3, or Types HB1 and HB4, and excluding Table 2 of SAE J579c *Sealed Beam Headlamp Units for Motor Vehicles* December 1978 for headlamps in systems with only Type HB1.

4. In Paragraphs (d)(1), (d)(3), (d)(5), (d)(6)(A), (d)(6)(B), and (d)(7) of paragraph S4.1.1.36, the words "of SAE J579c *Sealed Beam Headlamp Units for Motor Vehicles*, December 1978" are removed and the words "applicable to the headlamp system under test" substituted.

5. A new paragraph (e) is added to S4.1.1.36, before (e)(1) to read: "For a headlamp equipped with one or two Type HB1 light sources the following requirements apply."

6. A new paragraph (f) is added to S4.1.1.36 to read:

"For headlamp systems equipped with Type HB3 and HB4, HB1 and HB3, or HB1 and HB4 light sources, the following requirements apply:"

(1) There shall be no mechanism that allows adjustment of an individual light source, or adjustment of reflector aim on a headlamp with two light sources.

(2) Lower beam photometrics shall be provided by filaments with a minimum average design life of not less than 320 hours.

(3) The lower and upper beams of a headlamp system consisting of two lamps, each containing two light sources (type HB3 and HB4, or type HB1 with HB3 or HB4) shall be provided only as follows:

(i) The lower beam shall be produced in one of the following ways:

(A) By the outboard light source (or the uppermost if arranged vertically) or single light source, designed to conform to the lower beam requirements of Figure 17; or;

(B) By both light sources, designed to conform to the lower beam requirements of Figure 17.

(ii) The upper beam shall be provided in one of the following ways:

(A) By the inboard light source (or the lower one if arranged vertically) or single light source, designed to conform to the upper beam requirements of Figure 17; or

(B) By both light sources, designed to conform to the upper beam requirements of Figure 17.

(4) The lower and upper beams of a headlamp system consisting of four lamps, using HB3 and HB4, HB1 and HB3, or HB1 and HB4 light sources, each containing only a single light source, shall be provided only as follows:

(i) The lower beam shall be produced by the outboard lamp (or upper one if arranged vertically), designed to conform to the lower beam requirements of Figure 15. The lens of each such headlamp shall be permanently marked with the letter "L".

(ii) The upper beam shall be produced by the inboard lamp (or lower one if arranged vertically), designed to conform to the upper beam requirements of Figure 15. The lens of each such headlamp shall be permanently marked with the letter "U".

(5) For replaceable bulb headlamps, a ± ¼ degree reaim tolerance is permitted for the test points of Figures 15 and 17. The test point 10U–90U shall be measured from the normally exposed surface of the lens face.

7. Paragraph S4.1.1.37 is revised to read:

S4.1.1.37 Each lens-reflector unit manufactured as replacement equipment for a replaceable bulb headlamp system shall be designed to conform to the requirement of S4.1.1.36 when any standardized replaceable light source appropriate for such unit is inserted in it.

8. Section 4.1.1.39 is removed. S4.1.1.40 is redesignated S4.1.1.38 and revised as follows.

S4.1.1.38 The lens of each replaceable bulb headlamp and the base of each standardized replaceable light source shall be marked as follows:

(a) With the symbol "DOT" horizontally or vertically which shall constitute certification that the headlamp or light source conforms to all applicable Federal motor vehicle safety standards.

(b) The base of each Type HB3 and HB4 light source shall also be marked by its manufacturer or importer with its HB Type Designation and the name or trademark registered with the U.S. Patent Office of the manufacturer and importer (if applicable).

(c) The lens of each replaceable bulb headlamp using HB3 or HB4 light sources, or HB1 light sources in conjunction with HB3 or HB4 light sources within a headlamp system on a motor vehicle shall permanently display the Type Designation(s) for that standardized replaceable light source on the lens in front of each light source.

9. Paragraph S4.1.1.38 is redesignated S4.1.1.39 and revised as follows:

S4.1.1.39 Each standardized replaceable light source shall be designed to conform to the following requirements:

(a) A Type HB1 light source shall be designed to conform to the dimensions specified in Figure 3 and shall incorporate a silicone O-ring. A Type HB3 light source shall be designed to conform to the dimensions specified in Figure 19. A Type HB4 light source shall be designed to conform to the dimensions specified in Figure 20.

(b) Each standardized replaceable light source shall be designed to conform to the following general specifications:

Specification	Lower beam	Upper beam
Maximum power, watts:		
HB1	50	70.
HB3		70.
HB4	60	
Luminous flux, lumens:		

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Specification	Lower beam	Upper beam
HB1	700–15 percent.	1,800±15 percent.
HB3		1,700±12 percent.
HB4	1,000±15 percent.	
Minimum average design life, hours: all	300	150.

(c) The standardized replaceable light source filament(s) shall be subject to seasoning before measurement of maximum power and luminous flux.

(d) Measurement of maximum power and luminous flux shall be made with the direct current test voltage regulated within one quarter of one percent. The test voltage shall be design voltage, 12.8v. The measurement of luminous flux for the HB1 shall be in accordance with the Illuminating Society of North America, LM–45; *IES Approved Method for Electrical and Photometric Measurements of General Service Incandescent Filament Lamps* (April 1980), shall be made with the black cap installed on HB1 and HB4, and shall be made with the electrical connector and light source base shrouded with an opaque white colored cover, except for the portion normally located within the interior of the lamp housing. The measurement of luminous flux for the HB3 and HB4 shall be with the base covered with a white cover shown in Figures 19–1 and 20–1. The white covers are used to eliminate the likelihood of incorrect lumen measurement that will occur should the reflectance of the light source base and electrical connector be low.

(e) Measurement of minimum average design life shall be made at 14.0v for all light sources. Testing is conducted in a completed headlamp assembly, or equivalent, placed in the attitude in which the assembly is to be installed on a motor vehicle.

(f) The capsule, lead wires and/or terminals on each Type HB1, Type HB3 and Type HB4 light source shall be installed in the base so as to provide an airtight seal. Such a seal exists on Type HB3 and Type HB4 when no air bubbles shall appear on the low pressure (connector) side after the light source has been immersed in water for one minute while inserted in a cylindrical aperture of 0.798±0.004 in. (20.22±0.10 mm) (Type HB3) or 0.875±0.004 in. (22.2±0.1 mm) (Type HB4) and subject to a minimum air pressure of 69kPa (10 P.S.I.G.) on the glass capsule side.

(g) After the force deflection test conducted in accordance with S7, the permanent deflection of the glass envelope shall not exceed 0.005 in. (0.13 mm) in the direction of the applied force.

(h) A general tolerance shall apply to Figure 3 as follows: ±0.004 in. (0.10 mm) to all linear dimensions and ±1°00′ to all angular dimensions except for referenced dimensions and unless otherwise specified.

10. Paragraph S4.5.6 is amended by adding the following as a second sentence:

S4.5.6 * * * On a motor vehicle equipped with a headlighting system comprising four replacement bulb headlamps designed to conform to the photometry of Figure 15, the lamps marked "L" may be wired to remain permanently activated when the lamps marked "U" are activated.

11. Paragraph S4.5.9 is revised to read:

S4.5.9 The wiring harness or connector assembly of a replaceable bulb headlamp with two identical standardized replaceable light sources or a four-lamp replaceable bulb headlamp system which uses identical light sources in all four lamps shall be designed so that the filaments not intended to be used with the lens prescription in front of such filament shall not be illuminated.

12. Paragraph S6.1. is revised is to read:

S6.1 *Photometry.* A replaceable bulb headlamp shall be tested according to paragraph S3.5, Photometric Design Requirements, and Table 1 of SAE Standard J579c *Sealed Beam Headlamp Units for Motor Vehicles*, Dec. 1978, or by Figure 15 or 17 of Standard 108, as applicable, after the tests specified in S6.2, S6.4, S6.6, S6.7.1, S6.7.2 and S6.8.

13. Paragraphs S6.7 and S6.8 are revised to read:

S6.7 *Temperature and internal heat tests.* A headlamp with one or more standarized replaceable light sources shall be tested according to S6.7.1 and S6.7.2. Tests shall be made with all filaments lighted at design voltage that are intended to be used simultaneously in the headlamp and which in combination draw the highest total wattage. These include but are not limited to filaments used for turn signal lamps, fog lamps, parking lamps, and headlamp lower beams lighted with upper beams when the wiring harness is so connected on the vehicle. If a turn signal is included in the headlamp assembly, it shall be operated at 90 flashes a minute with a 75±2% current "on time". If the lamp produces both the upper and lower beam, it shall be tested in both the upper beam mode and the lower beam mode under the conditions above described, except for a headlamp with a single HB1 light source.

S6.7.1 *Temperature cycle.* A headlamp mounted on a headlamp test fixture shall be subjected to 10 complete consecutive cycles having the thermal cycle profile shown in Figure 6. During the hot cycle, the lamp shall be energized commencing at point "A" of Figure 6 and de-energized at point "B". Separate or single test chambers may be used to generate the environment of Figure 6. All drain holes, breathing devices or other openings or vents of the headlamps shall be in their normal operating positions.

S6.7.2 *Internal heat test.*

(a) The headlamp lens surface that would normally be exposed to road dirt shall be uniformly sprayed with any appropriate mixture of dust and water or other appropriate materials to reduce the photometric output at the H–V test point of the upper beam (or the 1/2D–1 1/2R test point of the lower beam as appropriate) to 25±2% of the output originally measured in the photometric test performed under S4.1.1.36(b). A headlamp with a single HB1 light source shall be tested on the upper beam only. Such reduction shall be determined under the same conditions as that of the original photometric measurement.

(b) After the determination has been made that the photometric output of the lamp has been reduced as specified in S6.7.2(a), the lamp and its mounting hardware shall be mounted in an environmental chamber in a manner similar to that indicated in Figure 7, "Dirt/Ambient Test Setup". The headlamp shall be soaked for one hour at a temperature of 95+7−0 degrees F (34+4−0 degrees C) and then the lamp shall be energized according to S6.7 for one hour in a still air condition, allowing the temperature to rise from the soak temperature.

(c) The lamp shall be returned to a room ambient temperature of 73+7−0 degrees F (23+4−0 degrees C) and a relative humidity of 40±10% and allowed to stabilize to the room ambient temperature. The lens shall then be cleaned.

S6.8 *Humidity.* The headlamp mounted on a test fixture shall be placed in a controlled environment consisting of a temperature of 100+7−0°F (38+4−0°C) with a relative humidity of not less than 90%. All drain holes, breathing devices, and other designed openings shall be in their normal operating positions. The headlamp shall be subjected to 20 consecutive 6-hour test cycles. In each cycle, it shall be energized at design voltage with the highest combination of filament wattages that are intended to be used, including a turn signal flashing at 90 flashes a minute with a 75±2% current "on-time", if so equipped, and then de-

energized for 5 hours. After completion of the last cycle, the lamp shall be soaked for 1 hour at 73+7−0°F (20+4−0°C) and relative humidity of 40±10% before it is removed for photometric testing. The headlamp shall be tested for photometrics at 10±1 minutes following completion of the humidity test.

14. Section S7 is revised to read:

S7 *Deflection test for standardized replaceable light sources.*

(a) *Type HB1 light source.* With the light source rigidly mounted in a fixture in a manner indicated in Figure 8, apply a force of 4.0±0.1 pounds (17.8±0.4N) at a distance "A" from the reference plane perpendicular to the longitudinal axis of the glass capsule and parallel to the smallest dimension of the pressed glass capsule seal. The force application shall be applied using a rod with a hard rubber tip with a minimum spherical radius of 0.39 in (1 mm). The bulb deflection shall be measured at the glass capsule surface at 180 degrees opposite to the force application.

(b) *Type HB3 and HB4 light sources.* The deflection test is conducted according to paragraph (a), except that the force shall be applied radially to the surface of the glass capsule in four locations in a plane parallel to the reference plane and spaced at a distance "A" from that plane. These force applications shall be spaced 90 degrees apart starting at the point perpendicular to the smallest dimension of the pressed seal of the glass capsule.

15. In Tables II and IV, Column 2 for the Headlamps is revised to read:

Headlamps	On the front, each headlamp providing the upper beam, at the same height, 1 on each side of the vertical centerline, each headlamp providing the lower beam, at the same height, 1 on each side of the vertical centerline, as far apart as practicable. If a single standardized replaceable light source is used to provide the lower beam in a headlamp with two standardized replaceable light sources, it shall be the farthest one from the vertical centerline.

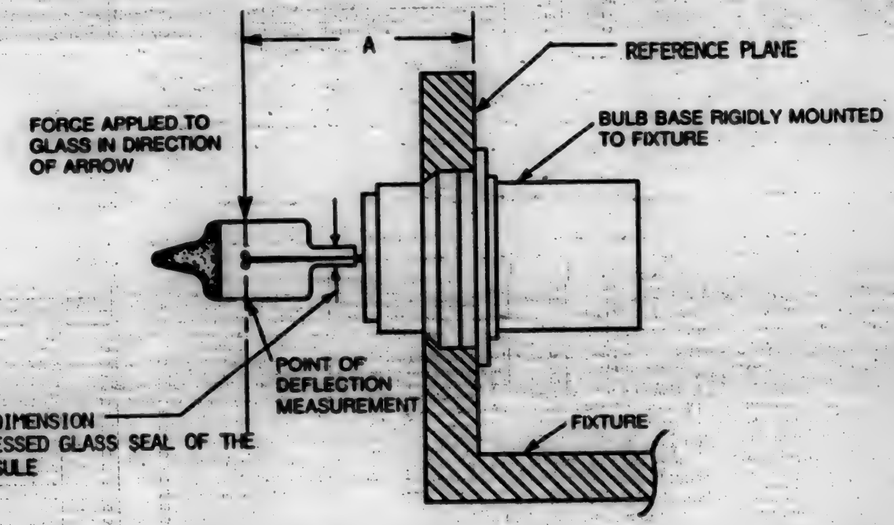
16. The title of Figure 3 is revised to read "Specifications for the Type HB1 Standardized Replaceable Light Source."

17. Figure 8 is revised as follows:

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Figure 8

BULB DEFLECTION TEST



STANDARDIZED REPLACEABLE LIGHT SOURCE TYPE	DIMENSION "A"
HB1	44.50 ± 0.38mm (1.75±0.015IN)
HB3	31.50 ± 0.20mm (1.24±0.008IN)
HB4	31.50 ± 0.20mm (1.24±0.008IN)

18. New Figures 17, 19 and 20 are added as follows:

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FIGURE 17

PHOTOMETRIC TEST POINT VALUES

2-Lamp Systems

UPPER BEAM			LOWER BEAM		
Test Points deg	cd max.	cd min.	Test Points deg	cd max.	cd min.
2U-V	--	1,500	10U-90U	125	--
1U-3R and 3L	--	6,000	1U-1-1/2L to L	700	--
H-V	76,000	40,000	1/2U-1-1/2L to L	1,000	--
			1/2D-1-1/2L to L	3,000	--
			1-1/2U-1R to R	1,400	--
H-3R and 3L	--	15,000			
H-6R and 6L	--	5,000	1/2U-1R to 3R	2,700	--
H-9R and 9L	--	3,000	1/2D-1-1/2R	20,000	10,000
H-12R and 12L	--	1,500	1D-6L	--	1,000
			1-1/2D-2R	--	15,000
1-1/2D-V	--	5,000	1-1/2D-9L and 9R	--	1,000
1-1/2D-9R and 9L	--	2,000	2D-15L and 15R	--	850
2-1/2D-V	--	2,500	4D-4R	12,500	--
2-1/2D-12R and 12L	--	1,000			
4D-V	12,000	--			

FIGURE 19

SPECIFICATIONS FOR THE TYPE HB3 STANDARDIZED REPLACEABLE LIGHT SOURCE

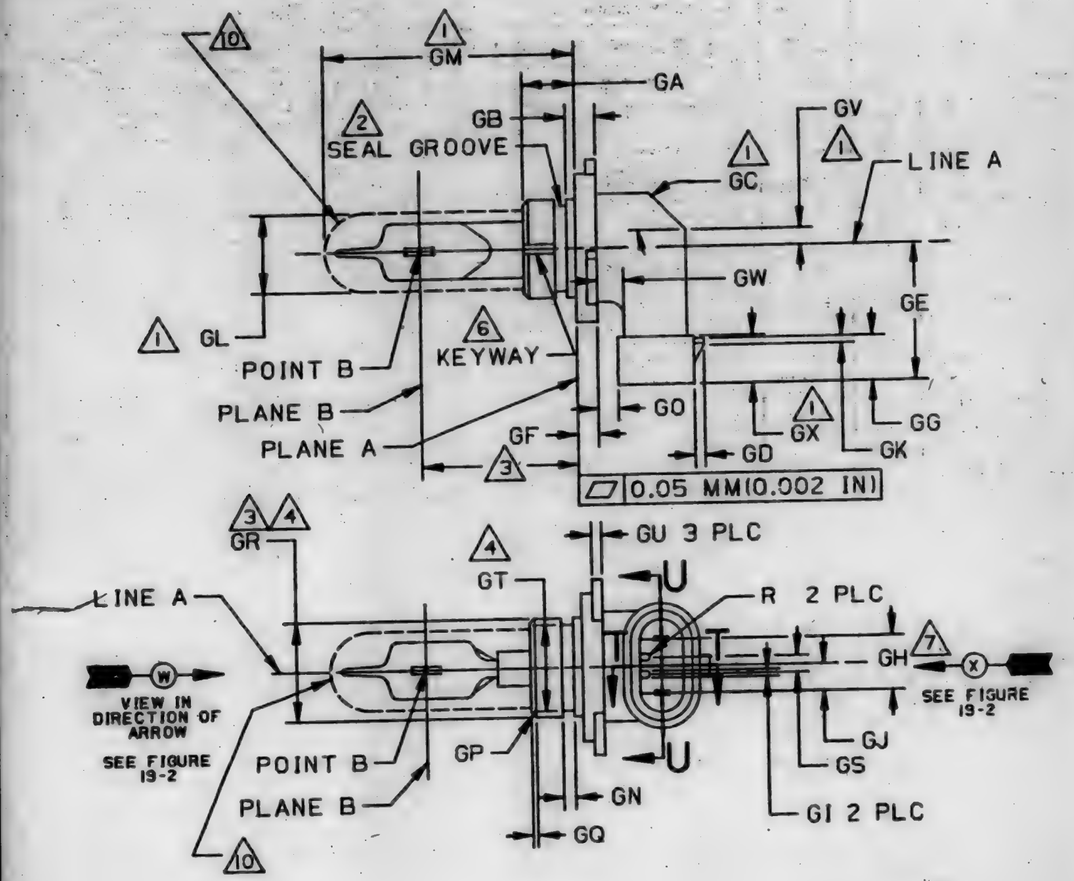


FIGURE 19 (CONT.)

SPECIFICATIONS FOR THE TYPE HB3 STANDARDIZED REPLACEABLE LIGHT SOURCE

DIMENSION	INCHES	MILLIMETRES
GA	0.591 MAX / 0.217 MIN	15.00 MAX / 5.50 MIN
GB	0.236	6.00
GC	45°	45°
GD	0.079	2.00
GE	1.09	27.8
GF	0.165	4.20
GG	0.346	8.80
GH	0.433	11.00
GI	0.055	1.40
GJ	0.217 ± 0.006	5.50 ± 0.15
GK	0.06	1.5
GL	0.775 DIA	19.68 DIA
GM	2.165	55.00
GN	0.093	2.36
GO	0.157	4.00
GP	45° CHAMFER	45° CHAMFER
GQ	0.039	1.00
GR	0.787 ± 0.002 DIA	20.00 ± 0.05 DIA
GS	0.138	3.50
GT	0.687 $^{+0.004}_{-0.000}$ DIA	17.46 $^{+0.10}_{-0.00}$ DIA
GU	0.079	2.00
GV	0.138	3.5
GW	0.209 MIN	5.30 MIN
GX	0.378	9.60

1. DIMENSIONS SHOWN ARE MAXIMUM-MAY BE SMALLER
2. BULBS MUST BE EQUIPPED WITH A SEAL. THE BULB-SEAL ASSEMBLY MUST WITHSTAND A MINIMUM OF 69kPA. (10 P.S.I.G.) WHEN THE ASSEMBLY IS INSERTED INTO A CYLINDRICAL APERTURE OF 20.22±0.10 MM (0.796±0.004 IN).
3. SEE FIGURE 19-5
4. DIAMETERS MUST BE CONCENTRIC WITHIN 0.20 MM (0.008 IN).
5. GLASS BULB PERIPHERY MUST BE OPTICALLY DISTORTION FREE AXIALLY WITHIN THE INCLUDED ANGLES ABOUT POINT B.
6. KEY AND KEYWAY ARE OPTIONAL CONSTRUCTION. KEYWAY REQUIRED FOR AFTERMARKET ONLY.
7. MEASURED AT TERMINAL BASE. TERMINALS MUST BE PERPENDICULAR TO BASE AND PARALLEL WITHIN ±1.5°
8. DIAMETERS MUST BE CONCENTRIC WITHIN 0.20 MM (0.008 IN).
9. ABSOLUTE DIMENSION, NO TOLERANCE.
10. GLASS CAPSULE AND SUPPORTS SHALL NOT EXCEED THIS ENVELOPE AND SHALL NOT INTERFERE WITH INSERTION PAST THE LAMP'S KEY.

TOLERANCES UNLESS OTHERWISE SPECIFIED	
INCHES 2 PLACE DECIMALS ± .02 3 PLACE DECIMALS ± .010 ANGULAR ± 1°	MILLIMETRES 1 PLACE DECIMALS ± 0.5 2 PLACE DECIMALS ± 0.30 ANGULAR ± 1°

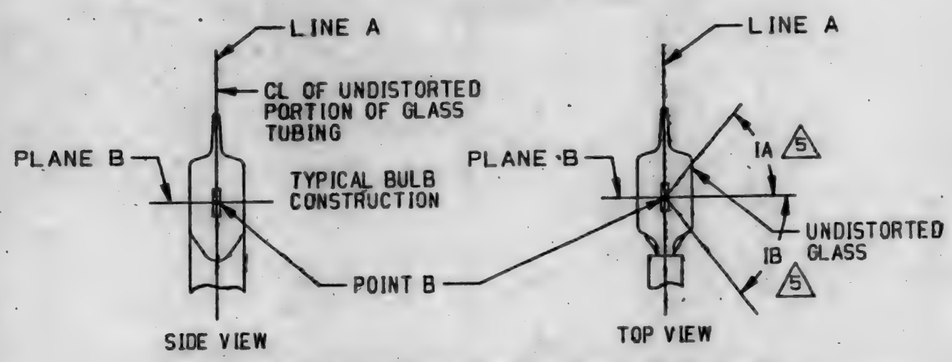
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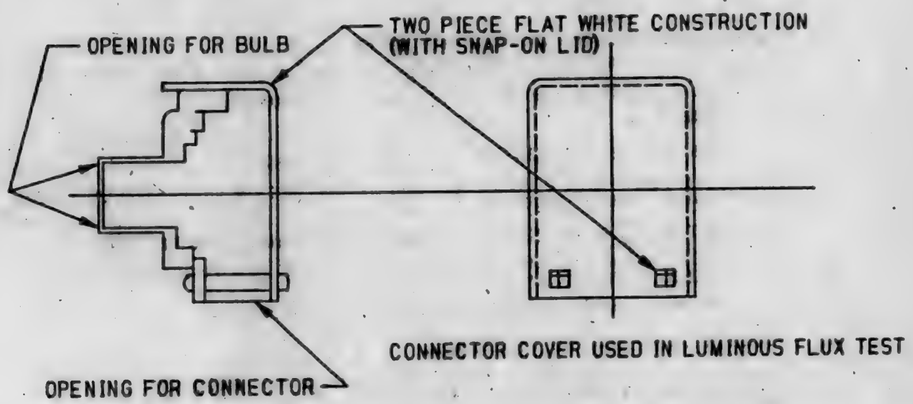
FIGURE 19-1

SPECIFICATIONS FOR THE TYPE HB3 STANDARDIZED REPLACEABLE LIGHT SOURCE



POINT B IS INTERSECTION OF PLANE B AND CENTERLINE OF UNDISTORTED GLASS TUBING

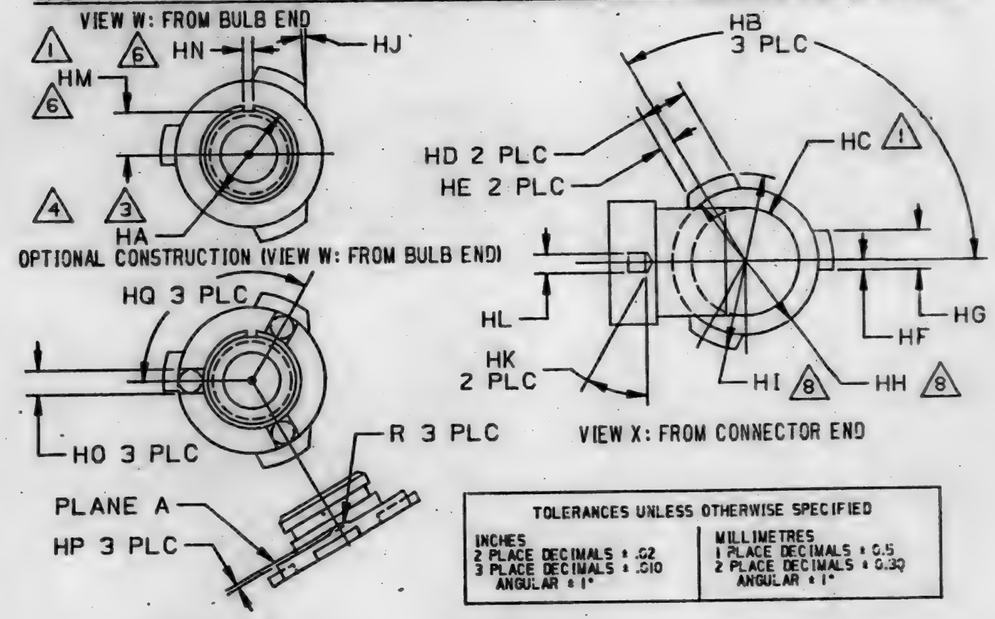
DIMENSION	INCHES	MILLIMETRES
IA	45° MIN	45° MIN
IB	52° MIN	52° MIN



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FIGURE 19-2

SPECIFICATIONS FOR THE TYPE HB3 STANDARDIZED REPLACEABLE LIGHT SOURCE



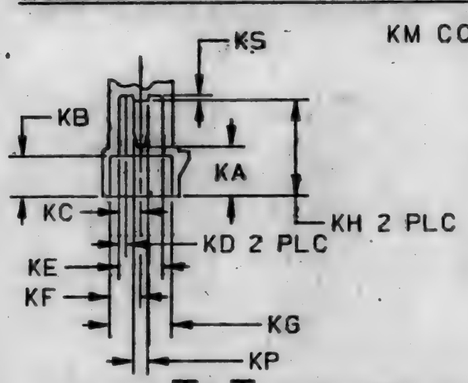
TOLERANCES UNLESS OTHERWISE SPECIFIED	
INCHES 2 PLACE DECIMALS ± .02 3 PLACE DECIMALS ± .010 ANGULAR ± 1°	MILLIMETRES 1 PLACE DECIMALS ± 0.5 2 PLACE DECIMALS ± 0.30 ANGULAR ± 1°

DIMENSIONS	INCHES	MILLIMETRES
HA	0.787±0.002 DIA	20.00±0.05 DIA
HB	120°±0°30	120°±0°30
HC	0.866 DIA	22.00 DIA
HD	0.394	10.00
HE	0.118	3.00
HF	0.079	2.00
HG	0.315	8.00
HH	1.181 DIA	30.00 DIA
HI	1.417 DIA	36.00 DIA
HJ	3°	3°
HK	30°	30°
HL	0.157	4.00
HM	0.35	8.9
HN	0.079±0.004	2.00±0.10
HO	0.20	5.0
HP	0.030	0.75
HQ	120° TYP	120° TYP

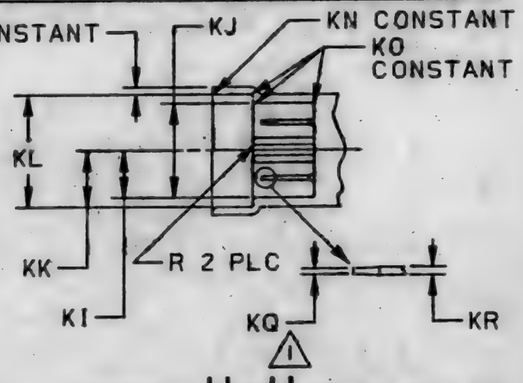
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FIGURE 19-3

SPECIFICATIONS FOR THE TYPE HB3 STANDARDIZED REPLACEABLE LIGHT SOURCE



SECTION T-T (FROM FIG 19)



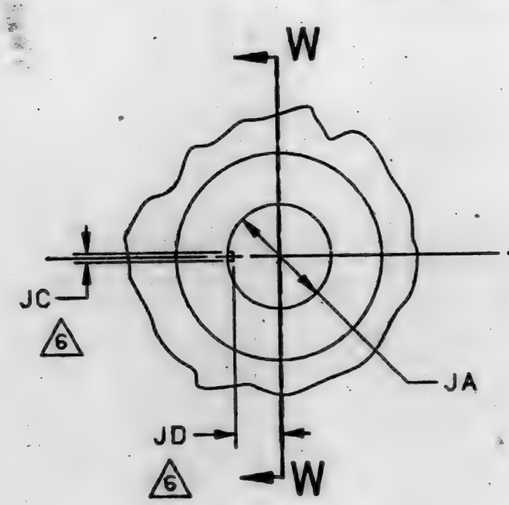
SECTION U-U (FROM FIG 19)

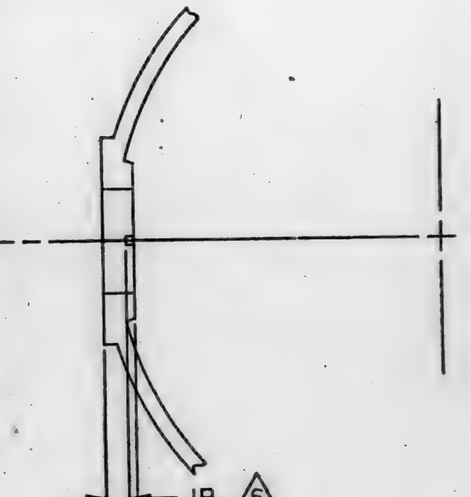
DIMENSIONS	INCHES	MILLIMETRES
KA	0.384	9.75
KB	0.315	8.00
KC	0.171	4.35
KD	0.055	1.40
KE	0.343	8.70
KF	0.242±0.006	6.15±0.15
KG	0.484	12.30
KH	0.748	19.00
KI	0.368±0.006	9.35±0.15
KJ	0.736	18.70
KK	0.439±0.006	11.15±0.15
KL	0.878	22.30
KM	0.059	1.50
KN	0.03 R	0.8 R
KO	0.016 R	0.40 R
KP	0.110±0.004	2.8±0.10
KQ	0.024	0.60
KR	0.033±0.001	0.83±0.03
KS	0.039 MIN	1.00 MIN

TOLERANCES UNLESS OTHERWISE SPECIFIED	
INCHES 2 PLACE DECIMALS ± .02 3 PLACE DECIMALS ± .010 ANGULAR ± 1°	MILLIMETRES 1 PLACE DECIMALS ± 0.5 2 PLACE DECIMALS ± 0.30 ANGULAR ± 1°

FIGURE 19-4

SPECIFICATIONS FOR THE TYPE HB3 STANDARDIZED REPLACEABLE LIGHT SOURCE SOCKET (IN REFLECTOR)





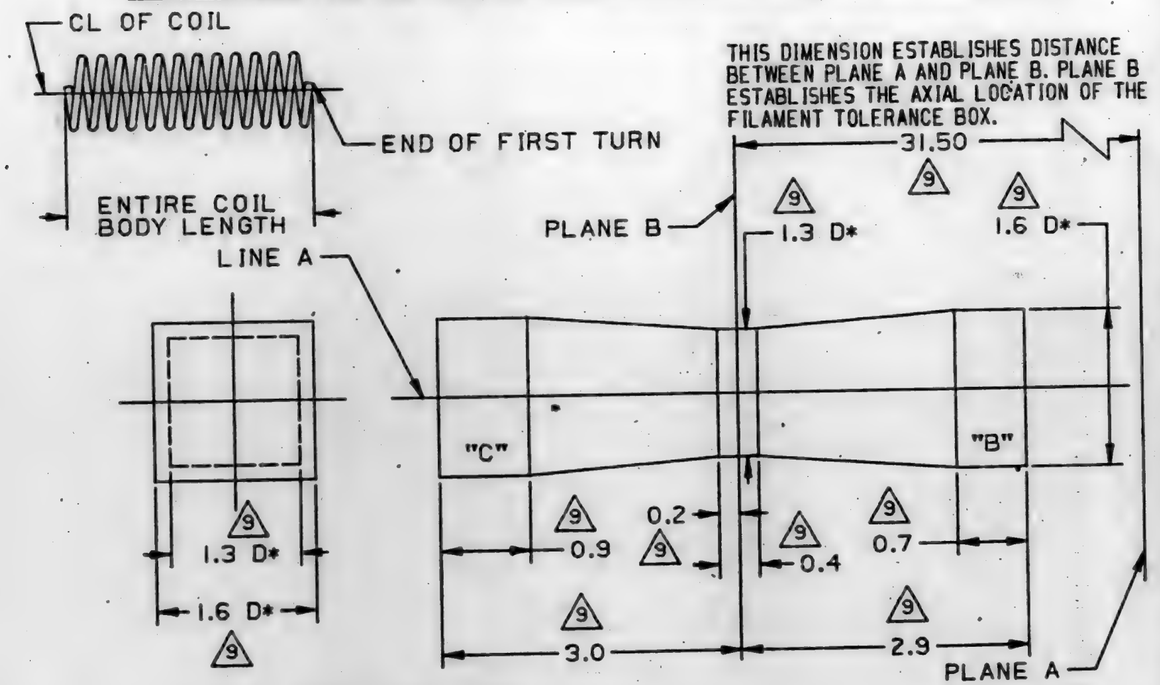
SECTION W-W

DIMENSIONS	INCHES	MILLIMETRES
JA	0.796±0.004 DIA	20.22±0.10 DIA
JB	$0.172^{+0.010}_{-0.000}$	$4.36^{+0.30}_{-0.00}$
JC	0.067±0.004	1.70±0.10
JD	$0.352^{+0.004}_{-0.000}$	$8.95^{+0.10}_{-0.00}$
JE	0.236 MIN	6.00 MIN

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FIGURE 19-5

SPECIFICATIONS FOR THE TYPE HB3 STANDARDIZED REPLACEABLE LIGHT SOURCE



PLANE B IS PARALLEL TO PLANE A.

THE ENTIRE COIL BODY AT DESIGN VOLTS (12.8) MUST BE CONTAINED WITHIN THE VOLUME AS SPECIFIED. THE END OF THE FIRST TURN OF THE COIL MUST LIE WITHIN VOLUME "B" AND THE END OF THE LAST TURN OF THE COIL MUST LIE WITHIN VOLUME "C". LINE A IS PERPENDICULAR TO PLANE A AND CONCENTRIC WITH THE 17.46 MM DIAMETER OF THE BASE.

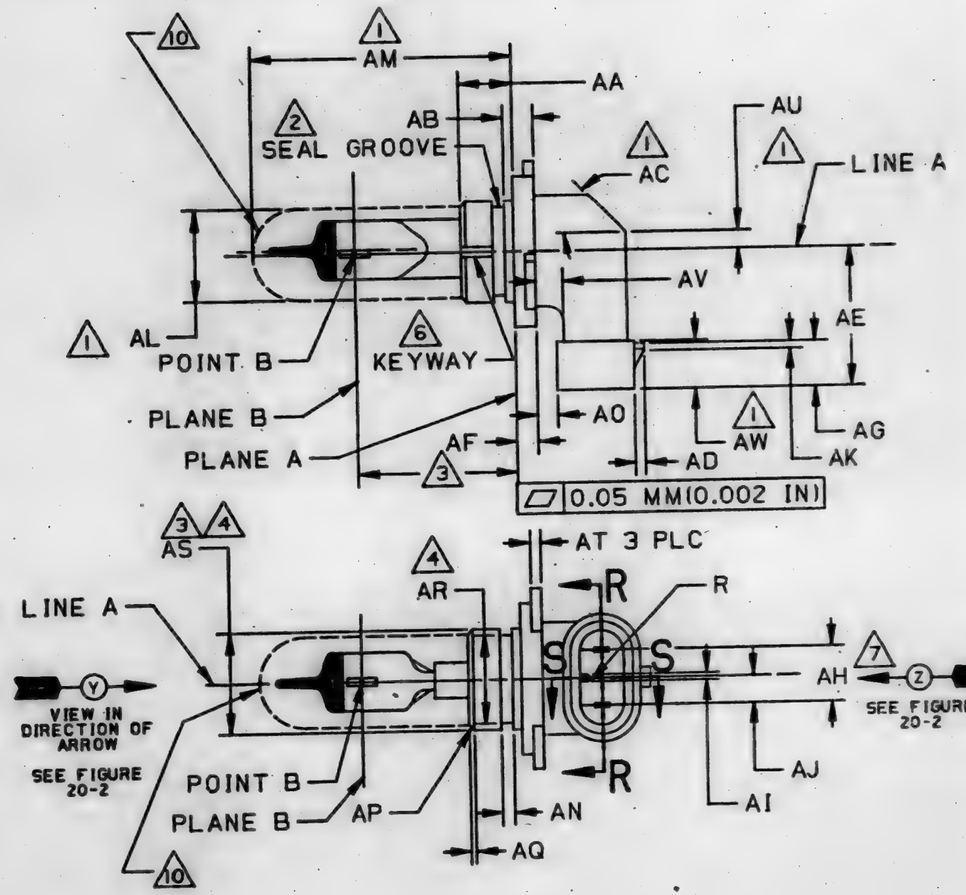
* D = DIAMETER OF FILAMENT COIL

DIMENSIONS SHOWN ARE IN MILLIMETRES

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FIGURE 20

SPECIFICATIONS FOR THE TYPE HB4 STANDARDIZED REPLACEABLE LIGHT SOURCE



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FIGURE 20 (CONT.)

SPECIFICATIONS FOR THE TYPE HB4 STANDARDIZED REPLACEABLE LIGHT SOURCE

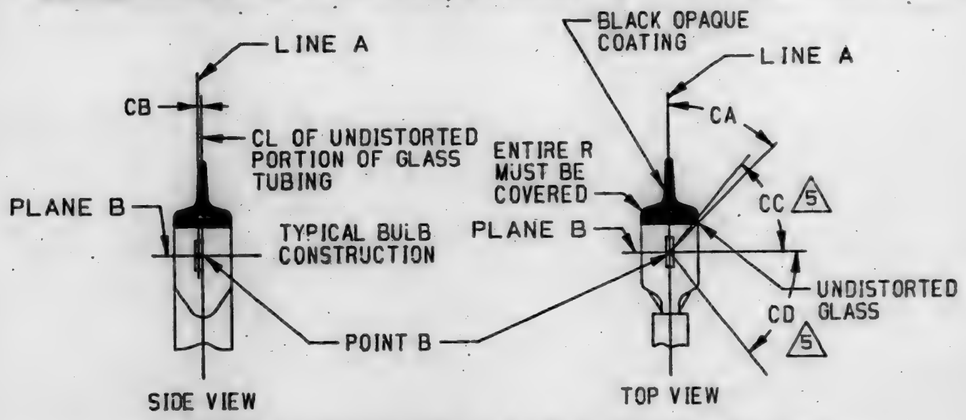
DIMENSION	INCHES	MILLIMETRES
AA	0.591 MAX / 0.217 MIN	15.00 MAX / 5.50 MIN
AB	0.236	6.00
AC	45°	45°
AD	0.079	2.00
AE	1.09	27.8
AF	0.165	4.20
AG	0.346	8.80
AH	0.433	11.00
AI	0.055	1.40
AJ	0.217 ± 0.006	5.50 ± 0.15
AK	0.06	1.5
AL	0.780 DIA	19.81 DIA
AM	2.165	55.00
AN	0.093	2.36
AO	0.157	4.00
AP	45° CHAMFER	45° CHAMFER
AQ	0.039	1.00
AR	$0.766\ ^{+0.004}_{-0.000}$ DIA	$19.46\ ^{+0.10}_{-0.00}$ DIA
AS	0.866 ± 0.002 DIA	22.00 ± 0.05 DIA
AT	0.079	2.00
AU	0.138	3.5
AV	0.209 MIN	5.30 MIN
AW	0.378	9.60

1. DIMENSIONS SHOWN ARE MAXIMUM-MAY BE SMALLER
2. BULBS MUST BE EQUIPPED WITH A SEAL. THE BULB-SEAL ASSEMBLY MUST WITHSTAND A MINIMUM OF 69kPA. (10 P.S.I.G.) WHEN THE ASSEMBLY IS INSERTED INTO A CYLINDRICAL APERTURE OF 22.22±0.10 MM (0.875±0.004 IN).
3. SEE FIGURE 20-5
4. DIAMETERS MUST BE CONCENTRIC WITHIN 0.20 MM (0.008 IN).
5. GLASS BULB PERIPHERY MUST BE OPTICALLY DISTORTION FREE AXIALLY WITHIN THE INCLUDED ANGLES ABOUT POINT B.
6. KEY AND KEYWAY ARE OPTIONAL CONSTRUCTION. KEYWAY REQUIRED FOR AFTERMARKET ONLY.
7. MEASURED AT TERMINAL BASE. TERMINALS MUST BE PERPENDICULAR TO BASE AND PARALLEL WITHIN ±1.5°
8. DIAMETERS MUST BE CONCENTRIC WITHIN 0.20 MM (0.008 IN).
9. ABSOLUTE DIMENSION, NO TOLERANCE.
10. GLASS CAPSULE AND SUPPORTS SHALL NOT EXCEED THIS ENVELOPE.

TOLERANCES UNLESS OTHERWISE SPECIFIED	
INCHES 2 PLACE DECIMALS ± .02 3 PLACE DECIMALS ± .010 ANGULAR ± 1°	MILLIMETRES 1 PLACE DECIMALS ± 0.5 2 PLACE DECIMALS ± 0.30 ANGULAR ± 1°

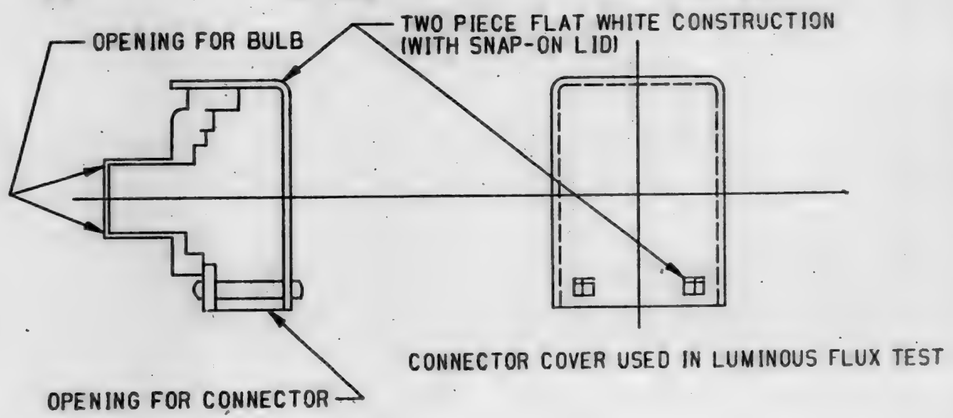
FIGURE 20-1

SPECIFICATIONS FOR THE TYPE HB4 STANDARDIZED REPLACEABLE LIGHT SOURCE



POINT B IS INTERSECTION OF PLANE B AND CENTERLINE OF UNDISTORTED GLASS TUBING

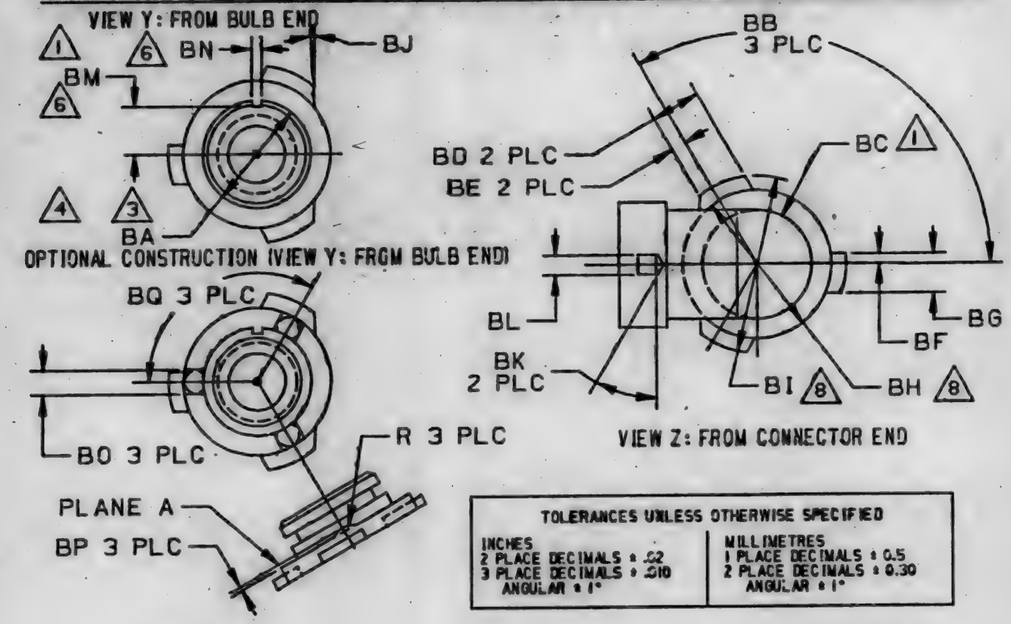
DIMENSION	INCHES	MILLIMETRES
CA	45°±5°	45°±5°
CB	0.030±0.020	0.75±0.50
CC	50° MIN	50° MIN
CD	52° MIN	52° MIN



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FIGURE 20-2

SPECIFICATIONS FOR THE TYPE HB4 STANDARDIZED REPLACEABLE LIGHT SOURCE

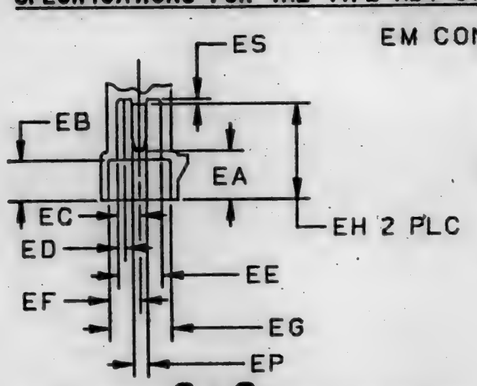


TOLERANCES UNLESS OTHERWISE SPECIFIED	
INCHES 2 PLACE DECIMALS ± .02 3 PLACE DECIMALS ± .010 ANGULAR ± 1°	MILLIMETRES 1 PLACE DECIMALS ± 0.5 2 PLACE DECIMALS ± 0.30 ANGULAR ± 1°

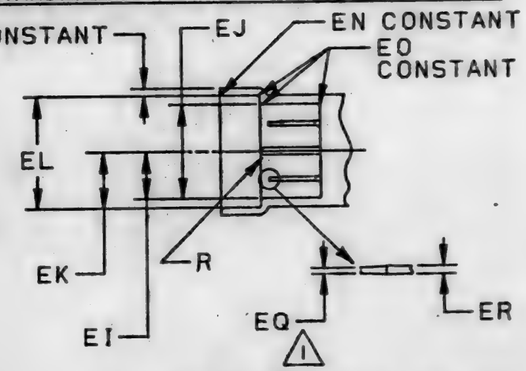
DIMENSIONS	INCHES	MILLIMETRES
BA	0.866±0.002 DIA	22.00±0.05 DIA
BB	120°±0°30	120°±0°30
BC	0.866 DIA	22.00 DIA
BD	0.394	10.00
BE	0.118	3.00
BF	0.079	2.00
BG	0.315	8.00
BH	1.181 DIA	30.00 DIA
BI	1.417 DIA	36.00 DIA
BJ	3°	3°
BK	30°	30°
BL	0.157	4.00
BM	0.39	9.9
BN	0.079±0.004	2.00±0.10
BO	0.20	5.0
BP	0.030	0.75
BQ	120° TYP	120° TYP

FIGURE 20-3

SPECIFICATIONS FOR THE TYPE HB4 STANDARDIZED REPLACEABLE LIGHT SOURCE



SECTION S-S (FROM FIG 20)



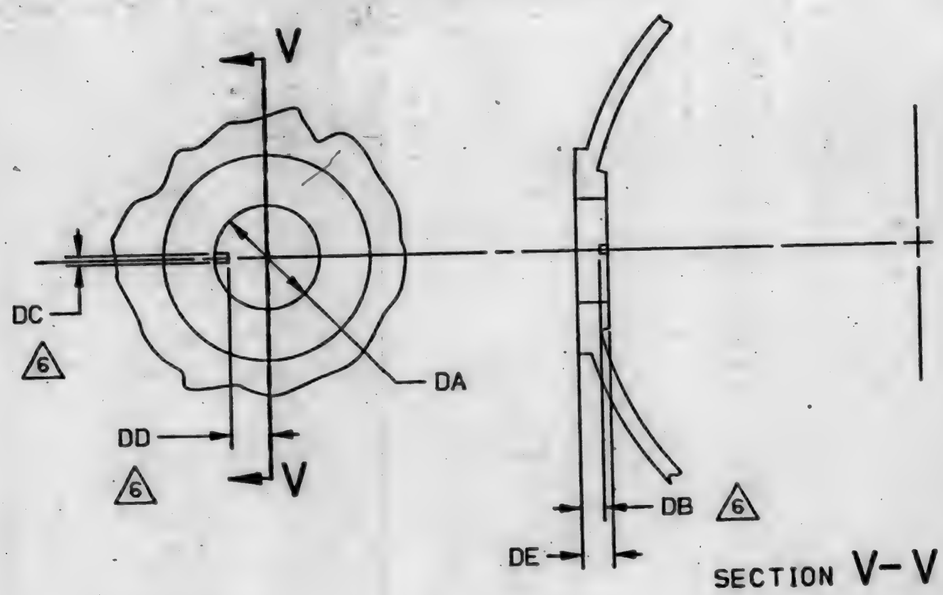
SECTION R-R (FROM FIG 20)

DIMENSIONS	INCHES	MILLIMETRES
EA	0.384	9.75
EB	0.315	8.00
EC	0.171	4.35
ED	0.079	2.00
EE	0.343	8.70
EF	0.242±0.006	6.15±0.15
EG	0.484	12.30
EH	0.748	19.00
EI	0.368±0.006	9.35±0.15
EJ	0.736	18.70
EK	0.439±0.006	11.15±0.15
EL	0.878	22.30
EM	0.059	1.50
EN	0.03 R	0.8 R
EO	0.016 R	0.40 R
EP	0.110±0.004	2.8±0.10
EQ	0.024	0.60
ER	0.033±0.001	0.83±0.03
ES	0.039 MIN	1.00 MIN

TOLERANCES UNLESS OTHERWISE SPECIFIED	
INCHES 2 PLACE DECIMALS ± .02 3 PLACE DECIMALS ± .010 ANGULAR ± 1°	MILLIMETRES 1 PLACE DECIMALS ± 0.5 2 PLACE DECIMALS ± 0.30 ANGULAR ± 1°

FIGURE 20-4

SPECIFICATIONS FOR THE TYPE HB4 STANDARDIZED REPLACEABLE LIGHT SOURCE SOCKET (IN REFLECTOR)



SECTION V-V

DIMENSIONS	INCHES	MILLIMETRES
DA	0.875±0.004 DIA	22.22±0.10 DIA
DB	$0.172^{+0.010}_{-0.000}$	$4.36^{+0.30}_{-0.00}$
DC	0.067±0.004	1.70±0.10
DD	$0.392^{+0.004}_{-0.000}$	$9.95^{+0.10}_{-0.00}$
DE	0.236 MIN	6.00 MIN

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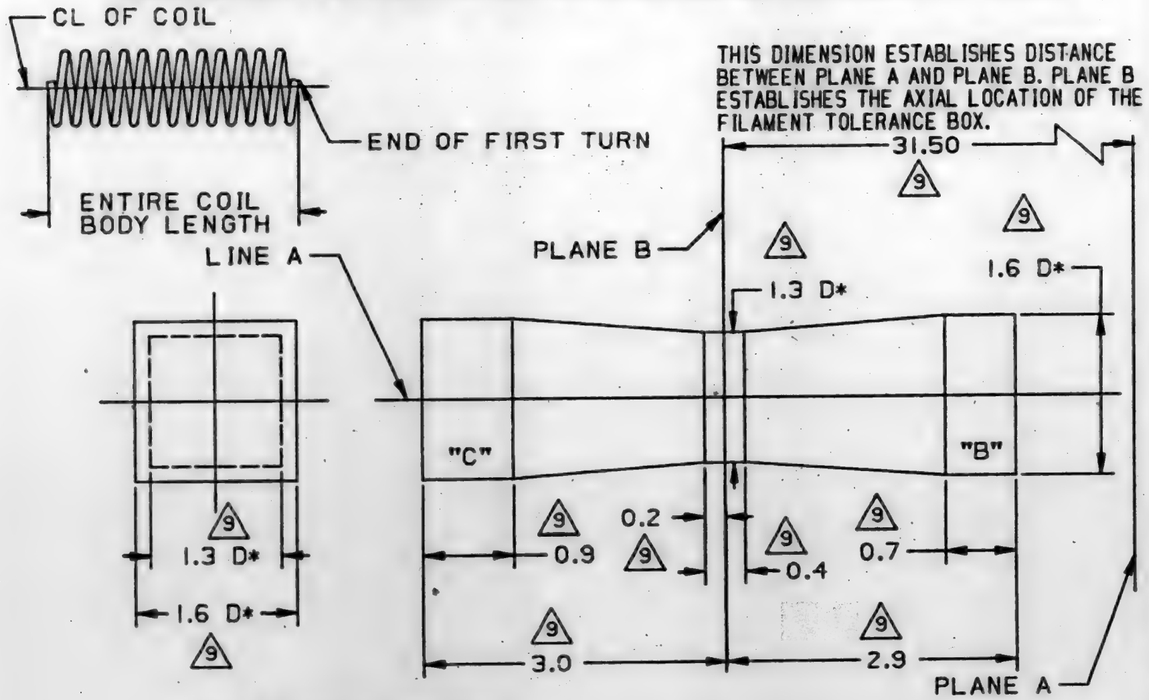
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FIGURE 20-5

SPECIFICATIONS FOR THE TYPE HB4 STANDARDIZED REPLACEABLE LIGHT SOURCE



PLANE B IS PARALLEL TO PLANE A.

THE ENTIRE COIL BODY AT DESIGN VOLTS (12.8) MUST BE CONTAINED WITHIN THE VOLUME AS SPECIFIED. THE END OF THE FIRST TURN OF THE COIL MUST LIE WITHIN VOLUME "B" AND THE END OF THE LAST TURN OF THE COIL MUST LIE WITHIN VOLUME "C". LINE A IS PERPENDICULAR TO PLANE A AND CONCENTRIC WITH THE 19.46 MM DIAMETER OF THE BASE.

*D = DIAMETER OF FILAMENT COIL

DIMENSIONS SHOWN ARE IN MILLIMETRES

BILLING CODE 4910-59-C

Issued on April 28, 1986.
Diane K. Steed,
Administrator.
[FR Doc. 86-9947 Filed 4-29-86; 11:03 am]
BILLING CODE 4910-60-M

Proposed Rules

Federal Register
Vol. 51, No. 85
Friday, May 2, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 911

Limes Grown in Florida; Proposed Amendment to Container Regulation

Correction

In FR Doc. 86-9037 appearing on page 15349 in the issue of Wednesday, April 23, 1986, make the following correction:

In the third column, in amendatory instruction 2, sixth line, "(a)(2)(iv)" should read "(a)(2)(vi)".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-CE-5-AD]

Airworthiness Directive; Government Aircraft Factories Models N22B and N24A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to Government Aircraft Factories (GAF) Models N22B and N24A airplanes which would require the installation of a guard plate on the structure and a low friction button on the rudder pedal pivot pins. The proposed AD is needed because the rudder pedal has jammed at full deflection in some instances. A rudder pedal jammed at full deflection could lead to loss of directional control.

DATE: Comments must be received on or before June 5, 1986.

ADDRESSES: GAF Service Bulletin NMD-27-34, dated October 21, 1985, applicable to this AD may be obtained from Government Aircraft Factories, 226 Lormier Street, Fisherman's Bend, Port Melbourne, Victoria, Australia 3207; Telephone 03-647-3111; Telex 30252; Cable BEAUFAIR or the Rules Docket at the address below.

Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of Regional Counsel, Attention: Rules Docket No. 86-CE-5-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8:00 a.m. and 4:00 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Gene Domich, Aerospace Engineer, Airframe Section, ANM-172W, Western Aircraft Certification Office, Northwest Mountain Region, FAA, Post Office Box 92007, Worldway Postal Center, Los Angeles, California 90009-2007; Telephone (213) 297-1143.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and emergency aspects of the rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-CE-5-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Discussion

There has been an AD (AD/GAF-N22/51) received from the Australian Department of Aviation stating that jamming on the rudder pedals at full deflection has occurred on GAF Models N22B and N24A airplanes. The manufacturer has investigated and found that this happens when the pedals are adjusted at or near full aft position concurrently with landing on rough terrain or nose wheel shimmy. The interference occurs between the sidewall structure and the outboard end of each rudder pedal pivot pin. Since the rudder pedal jammed at full deflection could lead to loss of airplane direction control, GAF has issued Service Bulletin NMD-27-34 dated October 21, 1985, which gives instruction for installing a guard plate on the structure and a low friction button on the rudder pedal pivot pin to eliminate the jamming. GAF compliance with the provisions of Service Bulletin NMD-27-34 is recorded in aircraft log books as Mod N642.

The Australian Department of Aviation, who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Australia, has classified this service bulletin and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Australian regulations, this action has the same effect as an AD on airplanes certificated for operation in the United States.

The FAA relies upon the certification of the Australian Department of Aviation combined with the FAA review of pertinent documentation in finding compliance of the design of these airplanes with applicable United States airworthiness requirements and the airworthiness conformity for products of this design certificated for operation in the United States. The FAA has examined the available information related to the issuance of Service Bulletin NMD-27-34 and the mandatory classification of this service bulletin by the Australian Department of Aviation. Based on the foregoing, the FAA believes that the condition addressed by Service Bulletin NMD-27-34 is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD is

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applicable to GAF N22B and N24A airplanes and would require installation of a manufacturer supplied kit in accordance with GAF Service Bulletin NMD–27–34 to allow jam free operation of the rudder pedals. There are approximately 22 United States registered airplanes affected by the proposed AD. The cost of complying with the proposed AD is estimated to be $320 per airplane. The kit is furnished by GAF at no cost. The cost to the private section is estimated to be $7,040. Few, if any small entities own the affected airplanes. The cost of compliance is so minimal that it would not impose a significant economic burden on any such owner. Therefore, I certify that this action (1) is not major under provisions of Executive Order 12291, (2) is not a significant rule under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation has been prepared for this action and has been placed in the public docket. A copy of it may be obtained by contacting the Rules Docket at the location identified under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aviation, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

Government Aircraft Factories (GAF): Applies to Models N22B and N24A airplanes, (all serial numbers) certificated in any category unless Service Bulletin NMD–27–34 (Mod N642) has been incorporated.

Compliance: Required within 100 hours time-in-service after the effective date of this AD or one calendar year after the effective date of this AD, whichever occurs first, unless already accomplished.

To prevent jamming of the rudder pedals accomplish the following:

(a) Modify the airplane sidewall structure and rudder pedals in accordance with Paragraph 2, "Accomplishment Instructions" of GAF Service Bulletin NMD–27–34 dated October 21, 1985, or later equivalent approved by the Manager, Western Aircraft Certification Office.

(b) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Western Aircraft Certification Office, ANM–170W, Northwest Mountain Region, FAA, Post Office Box 92007, Worldway Postal Center, Los Angeles, California 90009–2007.

All persons affected by this directive may obtain copies of the documents referred to herein upon request to Government Aircraft Factories, 226 Lormier Street, Fisherman's Bend, Port Melbourne, Victoria, Australia 3207, or FAA, Office of Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on April 21, 1986.

Jerold M. Chavkin,
Acting Director, Central Region.

[FR Doc. 86–9839 Filed 5–1–86; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR–50–80]

Income Taxes; Procedure for Electing $10 Million Limitation on Small Issues of Industries Development Bonds; Withdrawal of Notice of Proposed Rulemaking

AGENCY: Internal Revenue Service, Treasury.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document withdraws a notice of proposed rulemaking published in the Federal Register for June 22, 1982 (47 FR 26854) that proposed to revise the procedures for electing the $10 million limitation for exempt small issues of industrial development bonds and for filing supplemental statements of capital expenditures.

DATE: The withdrawal of this notice of proposed rulemaking is effective on May 1, 1986.

FOR FURTHER INFORMATION CONTACT: John A. Tolleris of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, DC 20224 (Telephone: (202) 566–3459).

SUPPLEMENTARY INFORMATION:

Background

On June 22, 1982, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 103(b)(6)(D) of the Internal Revenue Code of 1954 (47 FR 26854). These amendments were proposed to make revisions in the manner of electing the $10 million limitation for exempt small issues of industrial development bonds and for filing supplemental statements of capital expenditures. Several written comments responding to this notice were received, but no public hearing was requested or held. After consideration of all comments regarding the proposed amendments, it was determined that the proposed rules relating to the time and manner of filing small issue elections and capital expenditure statements were inappropriate. Accordingly, those proposed amendments are withdrawn by this document.

Drafting Information

The principal author of this document is John A. Tolleris of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

Withdrawal of Notice of Proposed Rulemaking

Accordingly, the proposed amendments to 26 CFR Part 1 relating to the procedure for electing the $10 million limitation for exempt small issues of industrial development bonds and for filing supplemental statements of capital expenditures, published in the Federal Register for June 22, 1982 (47 FR 26854), are hereby withdrawn.

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

[FR Doc. 86–9852 Filed 5–1–86; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 250 and 256

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Outer Continental Shelf Minerals and Rights-of-Way Management, General

AGENCY: Minerals Management Service, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This notice extends to September 15, 1986, the comment period for the notice of proposed rulemaking concerning the consolidation of the rules

of the Minerals Management Service (MMS) that govern oil, gas, and sulphur operations in the Outer Continental Shelf (OCS). The extension was requested by several commenters due to the extensive nature of the rulemaking.

DATES: Comments must be hand-delivered or postmarked no later than September 15, 1986.

ADDRESSES: Written comments must be mailed or hand-delivered to the Department of the Interior; Minerals Management Service; 12203 Sunrise Valley Drive; Mail Stop 646; Room 6A110, Reston, Virginia 22091; Attention: David A. Schuenke.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke, Telephone: (703) 648–7734.

SUPPLEMENTARY INFORMATION: On March 18, 1986, MMS published a notice of proposed rulemaking in the Federal Register (51 FR 9316) to consolidate into one document the currently multitiered rules that govern oil, gas, and sulphur operations in the OCS. The proposed rule restructures MMS requirements currently contained in regulations at 30 CFR Part 250 and OCS Orders for each of the four OCS Regions. Due to the extensive nature of the rulemaking, commenters have requested additional time to analyze the proposed rule and to prepare comments. The MMS considers the additional time to be warranted and is extending the comment period. The original comment period was through June 16, 1986. This notice extends the comment period through September 15, 1986.

Dated: April 21, 1986.

William D. Bettenberg,
Director, Minerals Management Service.

[FR Doc. 86–9864 Filed 5–1–86; 8:45 am]
BILLING CODE 4310–MR–M

National Park Service

36 CFR Part 62

National Natural Landmarks Program; National Significance Criteria

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This revision to the National Natural Landmarks Program national significance criteria is proposed to clarify the language and sharpen the definition of national significance. The revised criteria will better enable the National Park Service to evaluate additions to the National Registry of Natural Landmarks and better communicate the concept of national significance to the public. Since many persons and organizations seek such recognition for sites they own or administer, a better understanding of our definition of the concept will help them recognize why few sites qualify, and also assist our contractors in providing us with information we need to make good judgements.

DATES: Written comments, suggestions or objections will be accepted until—June 2, 1986.

ADDRESS: Comments should be addressed to: Arthur L. Stewart, Interagency Resources Division, National Park Service, Department of the Interior, P.O. Box 37127, Washington, D.C. 20013–7127, (202) 343–9500.

FOR FURTHER INFORMATION CONTACT: Arthur L. Stewart, Interagency Resources Division, National Park Service, Department of the Interior, P.O. Box 37127, Washington, D.C. 20013–7127, (202) 343–9500.

SUPPLEMENTARY INFORMATION

Background

The Secretary of the Interior established the National Landmarks Program in 1962 as a natural areas survey to identify and encourage the preservation of features that best illustrate the ecological and geological character of the United States, to enhance the educational and scientific value of sites thus identified, to strengthen public appreciation of natural history, and to foster wider support for conservation of the Nation's natural heritage.

Potential National Natural Landmarks are identified primarily through inventory studies conducted for the National Park Service, but also through recommendations received from Federal agencies, State natural heritage programs, and other sources. Recommended areas are surveyed in the field and evaluated with respect to selection criteria by expert natural scientists. If an area is judged nationally significant, it is proposed to the Secretary of the Interior for designation as a National Natural Landmark. Areas so designated are listed on the National Registry of Natural Landmarks, which now includes 569 sites in 48 States, 3 territories, and the Commonwealth of Puerto Rico. Additions to the Registry are published annually in the Federal Register.

Natural landmark designation is not a land withdrawal and affects neither the ownership of a site nor its use. Rather, it is a means of public recognition employed by the Secretary to encourage the preservation, well-informed management, and consideration in public and private planning efforts of nationally significant natural areas without acquisition by the Federal Government.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding this proposed regulation to the address noted at the beginning of this rulemaking.

Drafting Information

Drafting of this regulation was done by National Natural Landmarks Program staff, in consultation with other National Park Service employees, outside scientists, representatives of national conservation organizations, and others.

Compliance With Other Laws

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 (February 19, 1981), 46 FR 13193, and that this document will not have a significant economic effect on a substantial number of small entities as per the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This conclusion is based on the finding that no costs should result for any small entity.

The rule does not contain any information collection or recordkeeping requirements as defined by the Paperwork Reduction Act of 1981.

List of Subjects in 36 CFR Part 62

Natural resources.

PART 62—NATIONAL NATURAL LANDMARKS PROGRAM

For the reasons set out in the preamble, it is proposed to amend 36 CFR Part 62 as follows:

1. The authority citation for Part 62 continues to read as follows:

Authority: Sec. 1, Pub. L. 74–292, 49 Stat. 666 (16 U.S.C. 461 et seq); Sec. 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

2. Section 62.2 is amended by revising the definition "National Significance" to read as follows:

§ 62.2 Definitions.

* * * * *

"National Significance" denotes a site which exemplifies one of a natural region's characteristic biotic or geologic features which has been evaluated, using Department of Interior standards.

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as one of the best known examples of that feature.

* * * * *

3. Section 62.5 is revised to read as follows:

§ 62.5 National natural landmark criteria.

(a) *Introduction:* (1) "National Significance" denotes a site which exemplifies one of a natural region's characteristic biotic or geologic features which has been evaluated, using Department of Interior standards, as one of the best known examples of that feature. Such features include terrestrial and aquatic ecosystems; geologic structures, exposures, and landforms that record active geologic processes or portions of earth history; and fossil evidence for biological evolution. Because the general character of natural diversity is regionally distinct according to broad patterns of physiography, many types of natural features lie wholly within one of the 33 physiographic provinces of the Nation. For that reason, and because no uniform, nationally applicable classification schemes for biotic communities or geologic features have gained wide acceptance and use in lieu of other classification schemes by the majority of organizations involved in natural area inventory activities, individual classification systems developed for regional inventory studies are used to identify the types of regionally characteristic natural features sought for representation on the National Registry of Natural Landmarks. Most types represent the scale of distinct biotic communities or individual geologic, paleontologic or physiographic features, most of which are mappable at the Earth's surface at scales on the order of 1:25,000 or are traceable in the subsurface. Nearly two-thirds of all National Natural Landmarks range in size between about 30 and 2,000 hectares (about 8 and 5,000 acres), but larger and smaller sites also occur owing to the wide variety of natural features recognized by the National Natural Landmarks Program.

(b) *Criteria:* (1) The following criteria form the guidelines used to evaluate the relative quality of sites as examples of regionally characteristic natural features. Primary criteria relating to a specific type of natural feature from the principal basis for selection and must be met for a site to be considered for National Natural Landmark designation. Secondary criteria relating to significant features or qualities in addition to the principal feature are provided for additional consideration when two or more sites are found to meet the primary criteria.

(2) Primary Criteria:

(i) Illustrative Character: A site exhibits an unusual combination of well-developed component features that are recognized in the appropriate scientific literature as characteristic of a particular type of natural feature. What is sought, therefore, is not necessarily the statistically representative, but rather the unusually illustrative.

Example: An alpine glacier, which exhibits classic shape, an unusual number of glaciologic structures like crevasses, and well-developed bordering moraine sequences.

(ii) Present Condition: A site has received less human disturbance than other examples.

Example: A large beech-maple forest, only a small portion of which has been disturbed by logging.

(3) Secondary Criteria:

(i) Diversity: A site, in addition to its primary natural feature, contains high quality examples of other ecological and/or geological features.

Example: A composite volcano, which also illustrates geothermal phenomena.

(ii) Rarity: A site, in addition to its primary natural feature, contains a rare geological or paleontological feature or biotic community, or provides high quality habitat for one or more rare, threatened, or endangered species.

Example: Badlands, which also are composed of strata containing rare fossils.

(iii) Value for Science and Education: A site is associated with a significant scientific discovery or concept, possesses an exceptionally extensive and long-term record of onsite research, or offers unusual opportunities for public interpretation of the natural history of the United States.

Example: A dunes landscape, which was the subject of pioneering studies that first recognized the process of ecological succession.

Dated: February 28, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-9962 Filed 5-1-86; 8:45 am]

BILLING CODE 4310-70-M

VETERANS ADMINISTRATION

38 CFR Part 4

Nomenclature and Descriptive Terms for Mental Disorders

AGENCY: Veterans Administration.

ACTION: Proposed rules.

SUMMARY: The Diagnostic and Statistical Manual of Mental Disorders, Third Edition (DSM–III) changed the diagnostic terms for many mental disorders. The proposed changes to the Schedule for Rating Disabilities (38 CFR Part 4) are designed to comport with the diagnostic terms used in DSM–III.

DATES: Comments must be received on or before June 2, 1986. This rule is proposed to be effective 30 days following date of final publication.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding these proposed regulations to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420. All written comments received will be available for public inspection only in room 132, Veterans Services Unit, at the above address between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until June 16, 1986.

FOR FURTHER INFORMATION CONTACT: Robert M. White, Chief, Regulations Staff, Compensation and Pension Services, Department of Veterans Benefits, (202) 389–3005.

SUPPLEMENTARY INFORMATION: Under the heading of Psychotic Disorders, DSM–III changed the following diagnoses: Schizophrenia, hebephrenic type, changed to schizophrenia, disorganized type—schizophrenia, unspecified type, changed to schizophrenia residual type, schizoaffective disorder, and other and unspecified type—manic depressive illness, changed to bipolar disorder—paranoid state changed to paranoid disorder-involutional melancholia or paranoid state changed to major depression or paranoia—psychosis, unspecified, changed to atypical psychosis—schizophrenia, simple type is deleted as a ratable entity as such is now considered a personality disorder.

The heading of Organic Brain Disorder is changed to Organic Mental Disorders. Under this heading, organic brain syndromes are changed to dementia, and the distinction between psychotic and non-psychotic dementia is deleted.

Under the heading of Psychoneurotic Disorders, the majority of diagnostic entities were referred to as neuroses. The term "neurosis" is changed to "disorder."

The heading of Psychophysiologic Disorders is changed to read Psychological Factors Affecting Physical Conditions, and the individual diagnoses under this heading are changed accordingly.

The Schedule for Rating Disabilities (38 CFR Part 4) is amended to reflect the changes made in DSM–III.

The descriptive adjectives used in the Schedule for Rating Disabilities which characterize the degree of industrial and social impairment for mental disorders are being changed to uniformly describe the degree of impairment as "total" for 100%, "severe" for 70%, "extensive" for 50%, "definite" for 30% and "mild" for 10%. The descriptive terms stated above do not necessarily refer to the severity of the disease, but refer to the impairment such disease entity has on the social and industrial activity of the veteran. It should be noted that disability evaluations assigned under the Schedule for Rating Disabilities are based on the average impairment of earning capacity resulting from a specific disease or injury. The uniform use of the descriptive adjectives are not intended to raise or reduce evaluations for mental disorders, but are designed to reflect consistency in describing social and industrial impairment.

The Administrator hereby certifies that this regulatory amendment will not have a significant impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. §§ 601–612. The reason for this certification is that this amendment changes certain terminology used in the schedule under which the VA rates or evaluates the disabilities of individual veterans. These regulations are in no way directed toward, and impose no regulatory burdens upon, small entities. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, we have determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an effect on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 38 CFR Part 4

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

(Catalog of Federal Domestic Assistance Program numbers are 64.104, 64.109 and 64.110)

Approved: April 2, 1986.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

38 CFR Part 4, SCHEDULE FOR RATING DISABILITIES is amended as follows:

PART 4—[AMENDED]

1. Section 4.125 is revised to read as follows:

§ 4.125 General considerations.

The field of mental disorders represents the greatest possible variety of etiology, chronicity and disabling effects, and requires differential consideration in these respects. These sections under mental disorders are concerned with the rating of psychiatric conditions, specifically psychotic and psychoneurotic disorders and psychological disorders affecting physical conditions as well as organic mental disorders. Advances in modern psychiatry during and since World War II have been rapid and profound and have extended to the entire medical profession a better understanding of an deeper insight into the etiological factors, psychodynamics, and psychopathological changes which occur in mental disease and emotional disturbances. The psychiatric nomenclature employed is based upon the Diagnostic and Statistical Manual of Mental Disorders, Third Edition (DSM–III), American Psychiatric Association. This nomenclature has been adopted by the Department of Medicine and Surgery of the Veterans Administration. It limits itself to the classification of disturbances of mental functioning. To comply with the fundamental requirements for rating psychiatric conditions, it is imperative that rating personnel familiarize themselves thoroughly with this manual (American Psychiatric Association Manual, 1980 Edition) which will be hereinafter referred to as the APA manual. [38 U.S.C. 210(c)]

2. Section 4.126 is revised to read as follows:

§ 4.126 Substantiation of diagnosis.

It must be established first that a true mental disorder exists. The disorder will be diagnosed in accordance with the APA manual. A diagnosis not in accord with this manual is not acceptable for rating purposes and will be returned through channels to the examiner. Normal reactions of discouragement, anxiety, depression, and self-concern in the presence of physical disability, dissatisfaction with work environment, difficulties in securing employment, etc., must not be accepted by the rating board as indicative of psychoneurosis. Moreover mere failure of social or industrial adjustment or the presence of numerous complaints should not, in the absence of definite symptomatology typical of a psychoneurotic or psychological disorder, become the acceptable basis of a diagnosis in this field. It is the responsibility of rating boards to accept or reject diagnoses shown on reports of examination. If a diagnosis is not supported by the findings shown on the examination report, it is incumbent upon the board to return the report for clarification. [38 U.S.C. 210(c)]

3. Section 4.127 is revised to read as follows:

§ 4.127 Mental deficiency and personality disorders.

Mental deficiency and personality disorders will not be considered as disabilities under the terms of the schedule. Attention is directed to the outline of personality disorders in the APA manual. Formal psychometric tests are essential in the diagnosis of mental deficiency. Brief emotional outbursts or periods of confusion are not unusual in mental deficiency or personality disorders and are not acceptable as the basis for a diagnosis of psychotic disorder. However, properly diagnosed superimposed psychotic disorders developing after enlistment, i.e., mental deficiency with psychotic disorder, or personality disorder with psychotic disorder, are to be considered as disabilities analogous to, and ratable as, schizophrenia, unless otherwise diagnosed. (38 U.S.C. 210 (c))

4. Section 4.128 is revised to read as follows:

§ 4.128 Change of diagnosis.

Rating boards encountering a change of diagnosis will exercise caution in the determination as to whether a change in diagnosis represents no more than a progression of an earlier diagnosis, an error in a prior diagnosis, or possibly a disease entity independent of the service-connected psychiatric disorder. (38 U.S.C. 210 (c))

5. Section 4.129 is revised to read as follows:

§ 4.129 Social inadaptability.

Social integration is one of the best evidences of mental health and reflects the ability to establish (together with the desire to establish) healthy and effective interpersonal relationships. Poor contact with other human beings may be an index of emotional illness. However, in evaluating impairment resulting from the

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ratable psychiatric disorders, social inadaptability is to be evaluated only as it affects industrial adaptability. The principle of social and industrial inadaptability as the basic criterion for rating disability from the mental disorders contemplates those abnormalities of conduct, judgment, and emotional reactions which affect economic adjustment, i.e., which produce impairment of earning capacity.

6. Section 4.130 is revised to read as follows:

§ 4.130 Evaluation of psychiatric disability.

The severity of disability is based upon actual symptomatology, as it affects social and industrial adaptability. Two of the most important determinants of disability are time lost from gainful work and decrease in work efficiency. The rating board must not underevaluate the emotionally sick veteran with a good work record, nor must it overevaluate his or her condition on the basis of a poor work record not supported by the psychiatric disability picture. It is for this reason that great emphasis is placed upon the full report of the examiner, descriptive of actual symptomatology. The record of the history and complaints is only preliminary to the examination. The objective findings and the examiner's analysis of the symptomatology are the essentials. The examiner's classification of the disease as "mild," "extensive," or "severe" is not determinative of the degree of disability, but the report and the analysis of the symptomatology and the full consideration of the whole history by the rating agency will be. In evaluating disability from psychotic disorders it is necessary to consider, in addition to present symptomatology or its absence, the frequency, severity, and duration of previous psychotic periods, and the veteran's capacity for adjustment during periods of remission. Repeated psychotic periods, without long remissions, may be expected to have a sustained effect upon employability until elapsed time in good remission and with good capacity for adjustment establishes the contrary. Ratings are to be assigned which represent the impairment of social and industrial adaptability based on all of the evidence of record. Evidence of material improvement in psychotic disorders disclosed by field examination or social survey should be utilized in determinations of competency, but the fact will be borne in mind that a person who has regained competency may still be unemployable, depending upon the level of his or her disability as shown by recent examinations and other evidence of record. (38 U.S.C. 210(c))

7. Section 4.131 is revised to read as follows:

§ 4.131 Mental disorders due to psychic trauma.

Certain mental disorders having their onset as an incident of battle or enemy action, or following bombing, shipwreck, imprisonment, exhaustion, or prolonged operational fatigue may at the outset be designated as gross stress disorder, "combat fatigue," "exhaustion," or any one of a number of special terms. These conditions may clear up entirely, permitting return to full or limited duty, or they may persist as one of the recognized mental disorders, particularly generalized anxiety disorder, or recur as post-traumatic stress disorder. If the mental disorder is sufficiently severe to warrant discharge from service, a minimum rating of 50 percent will be assigned with an examination to be scheduled within 6 months from discharge. (38 U.S.C. 210(c))

8. The four rating tables contained in § 4.132 are revised to read as follows:

§ 4.132 Schedule of ratings—mental disorders.

PSYCHOTIC DISORDERS

	Rating
9200 Removed.	
9201 Schizophrenia, disorganized type.	
9202 Schizophrenia, catatonic type.	
9203 Schizophrenia, paranoid type.	
9204 Schizophrenia, undifferentiated type.	
9205 Schizophrenia, residual type; schizoaffective disorder; other and unspecified types.	
9206 Bipolar disorder, manic, depressed, or mixed.	
9207 Major depression with psychotic features.	
9208 Paranoid disorders (specify type).	
9209 Major depression with melancholia.	
9210 Atypical psychosis.	
General Rating Formula for Psychotic Disorders:	
Active psychotic manifestations of such extent, severity, depth, persistence or bizarreness as to produce total social and industrial inadaptability	100
With lesser symptomatology such as to produce severe impairment of social and industrial adaptability	70
Extensive impairment of social and industrial adaptability	50
Definite impairment of social and industrial adaptability	30
Mild impairment of social and industrial adaptability	10
Psychosis in full remission	0
Convalescent rating in psychotic disorders: Upon regular discharge or release to non-bed care from a hospital where a beneficiary has been under care and treatment for a continuous period in the hospital of not less than 6 months, an open rating of 100 percent will be continued for 6 months. A Veterans Administration examination is mandatory at the expiration of the 6-month period, after which the condition will be rated in accordance with the degree of disability shown. Where the beneficiary has been under hospital care and treatment for less than 6 months and is not ratable at 100 percent under the rating formula, consideration should be given to § 4.29.	

ORGANIC MENTAL DISORDERS

	Rating
9300 Delirium Associated with infection, trauma, circulatory disturbance, etc.	
NOTE: Acute organic mental disorders with or without accompanying psychotic disorder are temporary and reversible. If psychiatric impairment attributable to such diagnosis continues beyond 6 months, the report of examination is to be returned to the examiner for reconsideration of the diagnosis.	
9301 Dementia associated with central nervous system syphilis.	
9302 Dementia associated with intracranial infection other than syphilis.	
9303 Dementia associated with alcoholism.	
9304 Dementia associated with brain trauma.	
9305 Multi-infarct dementia with cerebral arteriosclerosis.	
9306 Multi-infarct dementia due to causes other than cerebral arteriosclerosis.	
9307 Dementia associated with convulsive disorder (idiopathic epilepsy).	
9308 Dementia associated with disturbances of metabolism.	
9309 Dementia associated with brain tumor.	
9310 Dementia due to unknown cause.	
9311 Dementia due to undiagnosed cause.	
9312 Dementia, primary, degenerative.	
9313 Removed.	
9314 Removed.	
9315 Dementia associated with epidemic encephalitis.	
9316-9321 Removed.	
9322 Dementia associated with endocrine disorder.	
9323 Removed.	
9324 Dementia associated with systemic infection.	
9325 Dementia associated with drug or poison intoxication (other than alcohol).	
9326 Removed.	
Before attempting to rate organic mental disorders, rating specialist should become thoroughly acquainted with the relevant concepts presented by the current Diagnostic and Statistical Manual of the American Psychiatric Association and the following:	
(1) Under the codes 9300 through 9325 the basic syndrome of organic mental disorder may be the only mental disturbance present or it may appear with related "psychotic" manifestations. An organic mental disorder with or without such qualifying phrases will be rated according to the general rating formula for organic mental disorders assigning a rating which reflects the entire psychiatric picture.	
(2) An organic mental disorder, as defined in the American Psychiatric Association manual, is characterized solely by psychiatric manifestations. However, neurological or other manifestations of etiology common to the mental disorder may be present, and if present, are to be rated separately as distinct entities under the neurological or other appropriate system and combined with the rating for the mental disorder.	
General Rating Formula for Organic Mental Disorders:	
Impairment of intellectual functions, orientation, memory and judgment, and liability and shallowness of affect of such extent, severity, depth, and persistence as to produce total social and industrial inadaptability	100
Less than 100 percent, in symptom combinations productive of:	
Severe impairment of social and industrial adaptability	70
Extensive impairment of social and industrial adaptability	50
Definite impairment of social and industrial adaptability	30
Mild impairment of social and industrial adaptability	10
No impairment of social and industrial adaptability	0

PSYCHONEUROTIC DISORDERS

	Rating
9400 Generalized anxiety disorder.	
9401 Psychogenic amnesia; psychogenic fugue; multiple personality.	
9402 Conversion disorder; psychogenic pain disorder.	
9403 Phobic disorder.	
9404 Obsessive compulsive disorder.	
9405 Dysthymic disorder; Adjustment disorder with depressed mood; Major depression without melancholia.	
9408 Depersonalization disorder.	
9409 Hypochondriasis.	
9410 Other and unspecified neurosis.	
9411 Post-traumatic stress disorder.	
Read well notes (1) to (4) following general rating formula before applying the general rating formula.	
General Rating Formula for Psychoneurotic Disorders:	
The attitudes of all contacts except the most intimate are so adversely affected as to result in virtual isolation in the community. Totally incapacitating psychoneurotic symptoms bordering on gross repudiation of reality with disturbed thought or behavioral processes associated with almost all daily activities such as fantasy confusion, panic and explosions of aggressive energy resulting in profound retreat from mature behavior. Demonstrably unable to obtain or retain employment	100
Ability to establish and maintain effective or favorable relationships with people is severely impaired. The psychoneurotic symptoms are of such severity and persistence that there is severe impairment in the ability to obtain or retain employment	70
Ability to establish or maintain effective or favorable relationships with people is seriously impaired. By reason of psychoneurotic symptoms the reliability, flexibility and efficiency levels are so reduced as to result in extensive industrial impairment	50
Definite impairment in the ability to establish or maintain effective and wholesome relationships with people. The psychoneurotic symptoms result in such reduction in initiative, flexibility, efficiency and reliability levels as to produce definite industrial impairment	30
Less than criteria for the 30 percent, with emotional tension or other evidence of anxiety productive of mild social and industrial impairment	10
There are neurotic symptoms which may somewhat adversely affect relationships with others but which do not cause impairment of working ability	0
NOTE (1): Social impairment per se will not be used as the sole basis for any specific percentage evaluation, but is of value only in substantiating the degree of disability based on all of the findings.	
NOTE (2): The requirements for a compensable rating are not met when the psychiatric findings are not more characteristic than minor alterations of mood beyond normal limits; fatigue or anxiety incident to actual situations; minor compulsive acts or phobias; occasional stuttering or stammering; minor habit spasms or tics; minor subjective sensory disturbances such as anosmia, dizziness, loss of sense of taste, anesthesia, paresthesia, etc. When such findings actually interfere with employability to a mild, a 10 percent rating under the general rating formula may be assigned.	

PSYCHONEUROTIC DISORDERS—Continued

	Rating
NOTE (3): It is to be emphasized that vague complaints are not to be erected into a concept of conversion disorder. A diagnosis of conversion disorder must be established on the basis of specific distinctive findings characteristic of such disturbance and not merely by exclusion of organic disease. If a diagnosis of conversion disorder is found by the rating board to be inadequately supported by findings, the report of examination will be returned through channels to the examiner for reconsideration.	
NOTE (4): When two diagnoses, one organic and the other psychological or psychoneurotic, are presented covering the organic and psychiatric aspects of a single disability entity, only one percentage evaluation will be assigned under the appropriate diagnostic code determined by the rating board to represent the major degree of disability. When the diagnosis of the same basic disability is changed from an organic one to one in the psychological or psychoneurotic categories, the condition will be rated under the new diagnosis.	

PSYCHOLOGICAL FACTORS AFFECTING PHYSICAL CONDITION

	Rating
9500 Psychological factors affecting skin condition.	
9501 Psychological factors affecting cardiovascular condition.	
9502 Psychological factors affecting gastrointestinal condition.	
9503 Removed.	
9504 Removed.	
9505 Psychological factors affecting musculoskeletal condition.	
9506 Psychological factors affecting respiratory condition.	
9507 Psychological factors affecting hemic and lymphatic condition.	
9508 Psychological factors affecting genitourinary condition.	
9509 Psychological factors affecting endocrine condition.	
9510 Psychological factors affecting condition of organ of special sense (specify sense organ).	
9511 Psychological factors affecting other type of physical condition.	
NOTE (1): It is to be emphasized that vague complaints are not to be erected into a concept of psychological disorder. A diagnosis of psychological disorder affecting physical condition must be established on specific distinctive findings characteristic of such disturbance and not merely by exclusion of organic disease. If a diagnosis of a psychological disorder is found by the rating board to be inadequately supported by findings, the report of examination will be returned.	
NOTE (2): When two diagnoses, one organic and the other psychological or psychoneurotic, are presented covering the organic and psychiatric aspects of a single disability entity, only one percentage evaluation will be assigned under the appropriate diagnostic code determined by the rating board to represent the major degree of disability. When the diagnosis of the same basic disability is changed from an organic one to one in the psychological or psychoneurotic categories, the condition will be rated under the new diagnosis.	

[FR Doc. 86-9958 Filed 5-1-86; 8:45 am]

BILLING CODE 6820-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[A-5-FRL-3010-6]

Air Quality Implementation Plans; Delayed Compliance Order for General Motors Corporation, Saginaw Division, Saginaw, MI

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative order to General Motors Corporation, Saginaw Division. The Order requires the company to bring volatile organic hydrocarbon emissions from its metallic surface coating lines in Saginaw, Michigan, into compliance with the Michigan Department of Natural Resources Air Pollution Control Commission Rule R336.1621 (Michigan Rule 621), part of the federally approved Michigan State Implementation Plan (SIP). The company is unable to comply with these regulations at this time, and the proposed Order would establish an expeditious schedule requiring final compliance by December 31, 1986. Source compliance with the Order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the Order.

DATES: Written comments must be received on or before June 2, 1986, and requests for a public hearing must be received on or before May 19, 1986. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held 21 days after notice of the date, time, and place of the hearing, which will be provided in a separate notice in the **Federal Register**.

ADDRESS: Comments and requests for a public hearing should be submitted to the Office of Regional Counsel, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Material supporting the Order and public comments received in response to this

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notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT: Ms. Dorothy Attermeyer, Associate Regional Counsel, Office of Regional Counsel, U.S. EPA, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, at (312) 886-5312.

SUPPLEMENTARY INFORMATION: General Motors Corporation, Saginaw Division, operates a manufacturing plant in Saginaw, Michigan, which contains coating lines to coat metallic surfaces. The proposed Order addresses volatile organic hydrocarbon emissions from the metal coating lines at the Saginaw Division plant which are subject to Michigan Rule 621, part of a federally approved Michigan State Implementation Plan. This Order requires final compliance with Michigan Rule 621 by December 31, 1988, by coating reformulation or installation of control equipment. The source has consented to the terms of the Order and has agreed to meet the increments established in the Order during the period of this informal Rulemaking.

List of Subjects in 40 CFR Part 65

Air pollution control.

Dated: April 3, 1986.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 86-9905 Filed 5-1-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 572

[Docket No. 86-16]

Maritime Carriers; Conference Service Contract Authority

AGENCY: Federal Maritime Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Maritime Commission proposes to revise its regulations governing Agreements By Ocean Common Carriers and Other Persons Subject to the Shipping Act of 1984. The Proposed Rule would limit the discretion of a conference to implement service contract authority in a manner not expressly stated in its organic agreement prior to the filing of a modification with the Commission.

DATES: Comments due on or before July 1, 1986.

ADDRESS: Send comments (original and fifteen copies) to: John Robert Ewers, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573 (202) 523-5725.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5740.

SUPPLEMENTARY INFORMATION:

I. Background

The Shipping Act of 1984, 46 U.S.C. app. 1701-1720, (the Act or the 1984 Act) provides express statutory authority for individual ocean common carriers or conferences of ocean common carriers to enter into service contracts [1] with shippers or shippers' associations. This authority is stated in section 8(c) of the Act, 46 U.S.C. app. 1707(c), which provides, in relevant part:

> (c) Service Contracts.—An ocean common carrier or conference may enter into a service contract with a shipper or shippers' association subject to the requirements of this Act.

Section 8(c) also requires both individual carriers and conferences to file service contracts with the Commission on a confidential basis and to publish the essential terms of service contracts in tariff format. The purpose of such publication is to ensure that the essential terms of service contracts shall be available to all similarly situated shippers.[2]

Conference agreements on service contracts are subject to the same regulatory regime as other agreements that are within the Act's scope. Any agreement among the members of a conference regarding the regulation of the use of service contracts is made subject to the Act's requirements by section 4 of the Act.[3] Under section 5(a) of the Act, a "true copy" of every agreement described in section 4, including agreements on service contract authority, must be filed with the Commission.[4] In the case of an oral agreement, "a complete memorandum *specifying in detail the substance of the agreement* shall be filed." 46 U.S.C. app. 1704(a) (italics added).

Once filed, agreement provisions relating to service contracts are processed under the same procedures as any other section 4 agreement. Notice of the filing of such an agreement is published in the Federal Register in accordance with section 6(a), 46 U.S.C. app. 1705(a), thereby ensuring an opportunity for public scrutiny and comment. An agreement relating to service contracts is subject to possible rejection pursuant to section 6(b), 46 U.S.C app. 1705(b), and must observe the statutory waiting period before becoming effective, 46 U.S.C. app. 1705(c). Service contract authority is subject to review under the general standard, 46 U.S.C app. 1705(g), and for compliance with the prohibited acts section of the 1984 Act, 46 U.S.C. app. 1709. In short, a conference of ocean common carriers must have express service contract authority in an effective agreement in order to take collective action regarding the use of service contracts under the shield of the antitrust immunity conferred by section 7 of the Act, 46 U.S.C. app. 1706.

Conferences have stated their service contract authority under the 1984 Act in a variety of ways. Of particular concern are certain service contract authorities found in a number of currently effective conference agreements. Some service contract authorities are stated so generally as to allow virtually unlimited discretion with regard to any particular course of conduct that may be taken in regulating service contracts. Other service contract authorities provide, in varying degrees of detail, for a particular method of regulating service contracts but allow for a change from that method, and implementation of that change, upon a vote of the membership and without filing an amendment to the agreement with the Commission.

These service contract authorities do not appear to be in keeping with the regulatory requirements of the 1984 Act. The grant of antitrust immunity for collective action on service contracts is premised on the assumption that the agreement provision authorizing such action has been subjected to the opportunity for public comment and to a meaningful review by the Commission, both under the general standard and the prohibited acts' section of the 1984 Act, *prior to its implementation.* This pre-implementation clearance procedure would appear to be defeated (1) where a statement of authority is so general that it allows for a wide range of implementing actions, including actions which are diametrically opposed (*e.g.*, individual service contracts permitted versus individual service contracts prohibited), or (2) where the method of regulating service contracts may be changed and implemented by a vote of the members without filing an agreement modification with the Commission. The Proposed Rule addresses these types of conference service contract authority provisions.

[1] The term "service contract" is defined at 46 U.S.C. app. 1702(21).

[2] The Commission's rules governing the filing of service contracts and availability of essential terms appear at 46 CFR 580.7. On February 18, 1986, the Commission issued a notice of proposed rulemaking which would substantially revise its service contract regulations. *See* Docket No. 86-6, "Service Contracts", Notice of proposed rulemaking, 51 FR 5734 (February 18, 1986).

[3] Section 4(a)(7) of the Act, 46 U.S.C. app. 1703(a)(7), provides:

> (a) Ocean Common Carriers.—This Act applies to agreements by or among ocean common carriers to—
>
> . . . . .
>
> (7) regulate or prohibit their use of service contracts.

[4] Section 5(a) of the Act, 46 U.S.C. app. 1704(a), states in part:

> (a) Filing Requirements.—A true copy of every agreement entered into with respect to an activity described in section 4 of this Act shall be filed with the Commission . . .

II. The Proposed Rule

The Proposed Rule would require a conference agreement that contained service contract authority to state specifically the method by which the use of service contracts will be regulated pursuant to that authority. A general statement of authority, without more, could not be implemented prior to filing an agreement modification with the Commission. The Proposed Rule would also require that any change in the stated conference method of regulating service contracts could not be implemented prior to filing an agreement modification with the Commission. Finally, as a strictly technical matter of format, the Proposed Rule would reserve a specific numbered article of conference agreements for the statement of service contract authority.

The Proposed Rule would require that any conference agreement that contained service contract authority state the specific method by which service contracts are regulated pursuant to that authority. The Proposed Rule would preclude a conference from implementing a general statement of service contract authority prior to the filing and effectiveness of an agreement modification stating the specific course of conduct that will be followed.

An example of a general statement of service contract authority addressed by the Proposed Rule would be a conference agreement which contained only the following language:

> The conference may regulate or prohibit its member lines from unilaterally entering into service contracts and may also regulate or prohibit any member line from taking independent action on any service contract offered by the conference.

Such a statement is little more than a paraphrase and slight expansion of the jurisdictional language of section 4 of the Act. It provides no indication of the specific course of conduct to be followed with respect to service contracts. Such an agreement, on its face, would not disclose at any particular time whether service contracts are totally prohibited, whether individual service contracts are permitted, whether conference or individual service contracts are subject to terms and conditions, or whether independent action may be taken on any service contract. Such a statement is so broad as to defeat any meaningful pre-implementation review by the Commission under the general standard or the prohibited acts or comment by the shipping public. Moreover, a third party reviewing the effective agreement would be unable to determine what course of conduct the conference was following pursuant to its service contract authority.

A recitation of the jurisdictional language of section 4, without more, would not appear to be an adequate statement of agreement authority that is intended to govern actual business practices. In this regard, it should be noted that section 5(a) of the Act requires that "[i]n the case of an oral agreement, a complete memorandum *specifying in detail* the substance of the agreement shall be filed." Presumably written agreements would also be required to specify in detail the substance of the agreement.[5]

This interpretation is consistent with prior Commission precedent. In *Joint Agreement Between Member Lines of the Far East Conference and the Member Lines of the Pacific Westbound Conference*, 8 F.M.C. 553 (1965), *aff'd in part, rev'd in part, Pacific Westbound Conference v. Federal Maritime Commission*, 440 F.2d 1303 (5th Cir. 1971), *cert. denied*, 404 U.S. 861 (1971) (*Joint Agreement*), the Commission had before it an agreement between two conferences which raised the issue as to whether the agreement was a true and complete agreement between the parties. The Commission found that the agreement was nothing more than ". . . evidence of a general intention of the parties to enter into concerted rate-making. It sets out no details, no procedures . . . nor does it inform any interested person as to how the agreement is to work." *Joint Agreement, supra*, 8 F.M.C. at 558. The Commission formulated the following test for determining whether the agreement is set out in adequate detail:

> Although not articulated in past cases, we are of the opinion that the applicable test here is whether or not the agreement as filed with the Commission and as approved sets out in adequate detail the procedures and arrangements under which the concerted activity permitted by the agreement is to take place. Any interested party should be able, by a reading of the agreement, to ascertain how the agreement is to work, without resort to inquiries of the parties or an investigation by the Commission. This is not to say that we are limiting the scope of "routine actions" which need not be the subject of section 15 filings; we are merely giving purpose to the requirements of the section. We can see no reason for the filing of agreements if they do not inform the Commission and the public in more than the barest outline as to how the agreement is to be carried out. No one reading Agreement No. 8200 could reasonably have been informed as to the procedures under which the respondent conference were carrying out the agreement nor as to the nature of the supplementary agreements which respondents claim are within the contemplation of Agreement No. 8200.

Joint Agreement, supra, 8 F.M.C. at 558. Similarly, in *Agreement 9448—N. Atlantic Outbound/European Trade*, 10 F.M.C. 299, 307 (1967), the Commission held that agreements which were so broadly worded that they failed to ". . . set forth clearly, and in sufficient detail to appraise the public just what activities will be undertaken . . ." would be subject to disapproval under section 15 of the Shipping Act, 1916. Although these cases were decided under the 1916 Act, the same principles regarding the degree of detail and specificity required in agreements would appear to apply to agreements filed under the 1984 Act.

At a minimum, such detail with respect to service contract authority which is intended to govern actual operations would appear to include the following: (1) Whether the conference permits or prohibits service contracts; (2) if conference service contracts are permitted, the significant conditions or terms under which they may be offered; (3) whether the conference permits or prohibits individual service contracts; (4) if individual service contracts are permitted, the significant conditions or terms under which they may be offered; (5) whether the conference permits or prohibits independent action on service contracts. These would appear to be, at a minimum, the items necessary in order that the Commission may adequately review the ongoing rights and responsibilities created under the agreement.

This treatment of service contract authority would be consistent with current Commission policy regarding the review under the 1984 Act of other types of agreement authority. For example, a pooling agreement which merely recited the statutory language stating that the parties are authorized to ". . . pool or apportion traffic revenues, earnings, or

[5] The Commission's Agreement Rules require that an agreement be "complete" and that it "specify in detail the substance of the understanding of the parties." 46 CFR 572.403(a).

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losses . . ." would be deficient. It would provide no information as to pool accounting methods, pool penalties or other types of provisions. Some further agreement as to detail would in fact be necessary for the pool to function. Similarly, an agreement which simply stated that the parties may ". . . allot ports or restrict or otherwise regulate the number and character of sailings between ports . . ." could be said to be inadequate. There would be no indication in such a statement of agreement authority as to how the operations of the parties would be conducted. This same objection would apply to agreement authority that merely authorized the parties to regulate or prohibit the use of service contracts. The Proposed Rule would therefore require that conferences with general service contract authority file a modification stating the specific method of treating service contracts prior to implementing that general authority.

The Proposed Rule would also preclude a conference from implementing changes made in its method of regulating service contracts by a vote of the members prior to filing a modification with the Commission. A number of conference agreements contain provisions which allow the conference a substantial amount of flexibility and discretion to regulate the use of service contracts.[6] Such provisions allow the conference to change its method of regulating service contracts by a vote of the members and without filing a modification with the Commission reflecting that change. In some instances there may be virtually unlimited discretion with regard to whether, and the manner in which, service contracts may be offered. For example, a conference agreement might expressly provide that the members may offer individual service contracts. The agreement authority, however, might state further that the members by a vote at a meeting may prohibit, limit or set standards for the use of individual service contracts. In such a case, the parties to the agreement could abolish the right, granted by the agreement, to enter into individual service contracts, as expressly provided for in the agreement, simply by voting to prohibit them and without formal modification of the conference agreement. The result might be that an agreement would have a provision which, on its face, expressly granted the right to offer individual service contracts while the actual practice under the agreement would be that no individual service contracts could be offered. Or the parties could set limits, establish standards, impose terms and conditions upon the use of service contracts or prohibit or limit independent action with respect to such contracts. Subsequently, the members could reinstate the right to offer individual service contracts by another vote of the members or remove particular terms and conditions. In such an example, it is not possible at any given time to know from the face of the agreement itself the particular course of conduct which a conference has chosen with respect to service contracts. Such provisions therefore raise the same concerns as are raised by general statements of service contract authority.

In addition, a provision which would allow for change by conference vote could be implemented in a manner which might violate the prohibited acts section of the 1984 Act, 46 U.S.C. app. 1709, for example, by applying restrictions on service contracts to an individual conference member. Moreover, it is not inconceivable that a change in the method of regulating service contracts could run afoul of the general standard. Requiring the filing of a modification would allow the Commission an opportunity to evaluate the proposed authority and perhaps negotiate revisions or seek a court injunction prior to effectiveness.

Pre-implementation review of changes in conference service contract authority is also important from the perspective of the shipping public. For example, shippers should have an opportunity to comment if a conference that offered service contracts should decide to prohibit them.[7] While removal of the right to offer individual service contracts is clearly an option available to conference parties, the 1984 Act could be interpreted to require that it be done only through the filing of an appropriate modification with the Commission. This would also appear to be required by § 572.408(b) of the Commission's Agreement Rules.[8]

The only exception to the requirement of § 572.408(b) is in the case of an agreement that is considered interstitial implementation of authority. Such actions would include those which concern routine operational or administrative matters such as the establishment of tariff rates, rules and regulations. *See* 46 CFR 572.408(c). However, a decision to prohibit offering of individual service contracts would not appear to be a "routine operational or administrative matter" as contemplated by subsection (c).

The exercise of service contract authority is unlike the exercise of general ratemaking authority. Certain changes in tariff rates, fares, and changes generally may be made by conference vote without further agreement modification. However, there was express support for this in the legislative history of the 1916 Act. *See Agreement 7770—Establishment of a Rate Structure*, 10 F.M.C. 61, 66 (1966), *aff'd sub nom., Persian Gulf Outward Freight Conference v. Federal Maritime Commission*, 375 F.2d 335 (D.C. Cir. 1967) (*Agreement 7770*). Moreover, it is significant that even in the case of ratemaking authority, rate actions which "have the effect of restructuring competition in a manner not reasonably to be inferred from the basic agreement" could not be implemented without specific agreement authority. *Agreement 7770, supra*, 10 F.M.C. at 66. Thus, in *Agreement 7770*, the Commission held that a two-level rate system based upon vessel flag could not be effectuated prior to Commission approval. This rationale suggests that specific implementation of such conference authority could only be accomplished through the filing of a modification with the Commission.

In *Agreement 7770*, the Commission established general guidelines to determine whether such further agreements are interstitial to the underlying authority. Further agreements are not interstitial if they: (1) Introduce an entirely new scheme of rate combination and discrimination not embodied in the basic agreement, (2) represent a new course of conduct, (3) provide new means of regulating and controlling competition, (4) are not limited to the pure regulation of intraconference competition, or (5) constitute an activity the nature and manner of effectuation of which cannot be ascertained by a mere reading of the basic agreement. *Agreement 7770, supra*, 10 F.M.C. at 65. *See also Tariff FMC 6, Rule 22 of the Continental North Atlantic Westbound Freight Conference*, 21 F.M.C. 594, 597 (1978), *vacated and remanded, Interpool Ltd. v. Federal Maritime Commission*, 663 F.2d 142 (D.C. Cir. 1980). Further agreements made pursuant to such conference authority would appear to fall under at least categories 2 and 3 above and, arguably, category 5.

While the 1984 Act does authorize carrier agreements to control service contracts, including the use of individual service contracts, it would not appear to confer an absolute discretion upon a conference or rate agreement to take any action it wishes by a mere vote of the members without filing a modification. Requiring the filing of a modification with the Commission should not unduly restrict the flexibility of conferences in making changes in their service contract practices in light of the relatively short waiting period under the 1984 Act and the availability of expedited review under section 6(e) of the Act. 46 U.S.C. app. 1705(e).

The Proposed Rule would also include a requirement that service contract authority be contained in Article 14 of conference agreements. This requirement is strictly technical in nature and will facilitate the initial review and periodic evaluation of conference service contract authority.

II. Conclusion

For the reasons stated above, the Commission proposes to promulgate a rule that woud require conferences to file an appropriate agreement modification with the Commission prior to implementing general service contract authority and to file a modification prior to implementing a change in the existing method of regulation service contracts accomplished by a vote of the members. The rule also contains a technical format requirement.

The Federal Maritme Commission has determined that the proposed rule, if adopted, is not a "major rule" as defined in Executive Order 12291, 46 FR 12193, February 27, 1981, because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) a significant adverse effect on competition, employment, investment, productivity, innovations, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the Chairman of the Federal Maritime Commission certifies that the proposed rule will not, if adopted, have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units and small governmental jurisdictions.

The collection of information requirements contained in this rule have been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act of 1980, 44 U.S.C. 3504(h). A copy of the request for OMB review and supporting documentation may be obtained from the Commission's Director, Bureau of Administration. Comments on the information collection aspects of this rule should be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Federal Maritime Commission.

List of Subjects in 46 CFR Part 572

Administrative practice and procedure; Antitrust; Contracts; Maritime carriers; Report and recordkeeping requirements.

PART 572—[AMENDED]

Therefore, Part 572 of Title 46, Code of Federal Regulations, is proposed to be amended as follows:

1. The Authority Citation for Part 572 continues to read as follows:

Authority: 5 U.S.C. 553, 46 U.S.C. app. 1701–1717, 1708–1710, 1712 and 1714–1717.

2. Paragraph (a) of § 572.502 is amended to add a new paragraph (a)(5) to read:

§ 572.502 Organization of conference and interconference agreements.

(a) * * *

(5) *Article 14—Service Contracts.*

(i) Each conference agreement that contains service contract authority shall specify the method for regulating or prohibiting the use of service contracts by the conference or by individual members.

(ii) Any significant change in the method of regulating service contracts, whether accomplished by a vote of the membership or otherwise, shall not be implemented prior to the filing and effectiveness of an agreement modification reflecting that change.

(iii) For the purpose of this section, a significant change includes one which: permits or prohibits conference service contracts; permits or prohibits individual service contracts; establishes terms or conditions under which conference or individual service contracts may be offered; or permits or prohibits independent action on service contracts.

* * * * *

By the Commission.

John Robert Ewers,

Secretary.

[FR Doc. 86-9809 Filed 5-1-86; 8:45 am]

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[6] The voting requirements range from conferences which permit approval by majority vote to conferences which permit individual service contracts only upon a unanimous vote of the members.

[7] The importance of such pre-implementation review is illustrated by the Commission's recent experience with the service contract amendment to the Transpacific Westbound Rate Agreement. On June 10, 1985, the Transpacific Westbound Rate Agreement filed a modification which would have prohibited all new service contracts and the renewal of existing service contracts. The proposed elimination of service contracts produced a storm of protest from shippers (some of whom were parties to existing service contracts) and expressions of concern by members of Congress. Subsequently, the modification was withdrawn.

[8] Section 572.408(b), 46 CFR 572.408(b), states: Except as provided in paragraph (c) of this section, agreement clauses which contemplate a further agreement or give the parties authority to discuss and/or negotiate a further agreement, the terms of which are not fully set forth in the enabling agreement, will be permitted only if the enabling agreement indicates that any such further agreement cannot go into effect unless filed and effective under the Act.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-156; RM-5135]

FM Broadcast Station in Ouray, CO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allotment of Class C Channel 289 to Ouray, Colorado, as that community's second local service, in response to a petition filed by Janice Mittelmark.

DATES: Comments must be filed on or before June 16, 1986, and reply comments on or before July 1, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-8530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Proposed Rule Making

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Ouray, Colorado); MM Docket No. 86-156, RM-5135.

Adopted: April 14, 1986.

By the Chief, Policy and Rules Division.

Released: April 25, 1986.

1. The Commission has before it for consideration a petition for rule making filed by Janice Mittelmark, seeking the

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reallotment of Class C Channel 297 [1] from Silverton, Colorado, to Ouray, Colorado, as that community's second local FM service.

2. A staff engineering study has determined that Channel 289 can be allotted to Ouray in conformity with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

3. Although petitioner indicated she would apply for Channel 297 (see fn. 1, *supra*), in view of our proposed action herein, she should advise in her comments whether she will now apply for Channel 289, if it is allotted.

4. We believe the proposal warrants consideration since it could provide a second local channel at Ouray for the expression of diverse viewpoints and programming. Therefore, we shall seek comments on the proposal to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Ouray, CO	285A	285A, 289

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

6. Interested parties may file comments on or before June 16, 1986, and reply comments on or before July 1, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Janice Mittelmark, P.O. Box 2455, Durango, Colorado 81300.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Nancy J. Joyner, Mass Media Bureau (202) 634–6530. However, members of the public should note that form the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, It is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 86–9853 Filed 5–1–86; 8:45 am]

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[1] Petitioner requested the reallotment of Channel 297 from Silverton to Ouray under the provisions of § 73.203(b) of the Commission's Rules. However, that rule was abolished as a result of the Commission's *Suburban Community Policy*, 53 R.R. 2d 982 (1983). Moreover, an application for Channel 297 at Silverton has been filed by Mrs. Betty Retneke (BPH–850711PG) and accepted for tenderability. Therefore, in accordance with established Commission policy, we shall not consider its reallotment to Ouray, unless it could be accorded a clear comparative preference. See, *Martin and Salyersville, Kentucky*, 60 R.R. 2d 802 (1981). However, rather than delay the process for a comparative analysis, we have substituted Class C Channel 289 for consideration herein in an effort to accommodate petitioner's expressed interest in serving Ouray.

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47 CFR Part 73

[MM Docket No. 86–154; RM–4968; RM–5068; RM–5360]

FM Broadcast Station in Conway, Hot Springs and Wrightsville, AR, Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein considers three mutually-exclusive proposals. The first seeks the allotment of FM Channel 290A to Conway, Arkansas, as that community's third commercial service, in response to a petition filed by KCON Broadcasting Co., Inc. The second requests the substitution of Channel 290C1 for 292A at Hot Springs, Arkansas, and modification of the license of Station KACQ(FM) in response to a request filed by Noalmark Broadcasting Corp. This allotment could provide a second wide area coverage service to that community. The third seeks the allotment of Channel 290A to Wrightsville, Arkansas, as that community's first local broadcast service, in response to a petition filed by Wrightsville Communications Company.

DATES: Comments must be filed on or before June 16, 1986, and reply comments on or before July 1, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Conway, Hot Springs and Wrightsville, Arkansas), MM Docket No. 86–154, RM–4968, RM–5068, and RM–5360.

Adopted: April 11, 1986.
Released: April 25, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration three mutually exclusive petitions for rule making. KCON Broadcasting Company, Inc. ("KCON") [1] seeks the allotment of Channel 290A to Conway, Arkansas (RM–4968), as that community's third commercial FM service. The second proposal, filed by Noalmark Broadcasting Corporation ("Noalmark"), licensee of Station KACQ(FM) (Channel 292A), Hot Springs, Arkansas, requests the substitution of Channel 290C1 for Channel 292A and modification of its license accordingly, in order to provide that community with its second wide area coverage FM service (RM–5068). The third proposal, filed by Wrightsville Communications Company ("WCC") seeks the allotment of Channel 290A to Wrightsville, Arkansas, as that community's first local broadcast service (RM–5360).

2. Conway (population 20,375),[2] in Faulkner County (population 48,192), is located approximately 41 kilometers (25 miles) northwest of Little Rock, Arkansas. The community currently receives local service from Stations KTOD-FM (Channel 224A) and KMJX(FM) (Channel 286), as well as one fulltime and one daytime-only AM stations. Hot Springs (population 35,781), in Garland County (population 70,531), is located approximately 76 kilometers (47 miles) southwest of Little Rock. (it receives local service from commercial FM Stations KSPA (Channel 244A), KWBO (Channel 248C1) and KACQ (Channel 292A), as well as one fulltime and two daytime only AM stations. Wrightsville (population 350),[3] in Pulaski County (population 340,613), is located approximately 17 kilometers (11 miles) southeast of Little Rock. It presently has no local broadcast service.

3. Section 73.207(b) of the Commission's Rules requires that co-channel Class A stations be separated by a distance of 105 kilometers (65 miles). However, the distance between Conway and Wrightsville is 58 kilometers (36 miles). Likewise, co-channel Class A and C1 stations must be 196 kilometers (122 miles) apart whereas here, the distance between Conway and Hot Springs is 85 kilometers (53 miles) and 78 kilometers (48 miles) between Wrightsville and Hot Springs. In an effort to resolve these conflicts, a staff engineering study was performed. Another channel (245A) was found to be available for allotment to either Conway or Wrightsville. Therefore, all three proposals must be considered comparatively.

4. In view of our initial findings, we shall optionally propose to allot Channel 245A or 290A to Conway or Wrightsville, or substitute Channel 290C1 for Channel 292A at Hot Springs. Channel 245A can be allotted to Conway with a site restriction 9.2 kilometers (5.7 miles) southwest to avoid short-spacing to Station KAWW–FM (Channel 244A), Heber Springs, Arkansas. Channel 245A can be allotted to Wrightsville with a site restriction 10.7 kilometers (6.6 miles) northwest to negate a spacing deficiency to Channel 243A, England, Arkansas, for which an application is pending (851213ME), and to Station KWEH(FM) (Channel 246C1), Camden, Arkansas. Optionally, Channel 290A can be allotted to Conway with a site restriction 3.0 kilometers (1.9 miles) northwest to avoid a conflict with the 16 kilometer protected buffer zone of Station WGKX(FM) (Channel 290), Memphis, Tennessee. Channel 290A can be allotted to Wrightsville with a site restriction 12.4 kilometers (7.7 miles) west to also avoid short-spacing to Station WGKX(FM), Memphis. However, at a transmitter site located that distance from Wrightsville, we must require WCC, if it wishes to use that channel, to provide showings reflecting that city-grade service could be provided. The Hot Springs modification proposal to substitute Channel 290C1 for Channel 292A can be accommodated at petitioner's present transmitter site.

5. Although KCON and WCC each indicated their interest in applying for Channel 290A, in view of our optional proposals herein, they should advise in their comments whether they will now apply for Channel 245A.

6. As we are unaware at this time of any other Class A or C1 channels for the proposed communities,[4] we shall provide each proponent the opportunity to demonstrate in their comments why their proposal should prevail. In this regard, the parties should be guided by the priorities set forth in *Revision of FM Assignment Policies and Procedures*, 90 F.C.C. 2d 88 (1982). We shall also propose to modify the license of Station KACQ(FM), at Hot Springs on its requested channel, as requested by Noalmark, in the event Channel 290C1 is substituted for Channel 292A. Pursuant to Commission precedent, should another interest in the Hot Springs allotment be shown, the modification of Station KACQ(FM) could not be made unless at least one additional equivalent channel is available in the community to accommodate any other expressions of interest. See, *Modification of FM and TV Station Licenses*, 98 F.C.C. 2d 916 (1984).[5]

[1] KCON is the licensee of Station KCON(AM), Conway.

[2] Population figures were taken from the 1980 U.S. Census unless otherwise indicated.

[3] Population figure taken from the Rand McNally Atlas, 1985 Ed. Although the 1980 U.S. Census lists "Talton-Wrightsville" (population 1,494), as a census designated place, it cannot be determined therefrom the actual population attributed to Wrightsville.

[4] WCC should note however that Channel 290A may become available at Wrightsville in the event Stations KKTZ(FM) (Channel 290), Mountain Home, Arkansas and KVMA–FM (Channel 300), Magnolia, Arkansas, do not elect to upgrade their facilities to maintain their Class C status. Therefore, WCC may wish to seek a determination from those stations as to their intentions. If, in fact, they are not intending to move within their 16 kilometer protected buffer, such information from them should be submitted in the rule making context to allow our consideration of the availability of Channel 290A at Wrightsville.

[5] See, *Notice of Proposed Rule Making*, MM Docket 85–313, 50 FR 45439, October 31, 1985, wherein the Commission has under consideration a proposal to modify licenses on the co-channel or adjacent channels, such as Hot Springs, without the

Continued

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7. In view of the above, the Commission considers it appropriate to solicit comments on the optional amendments to the FM Table of Allotments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Option I		
Conway, AR	256A, and 288A	256A, 240A, and 288A
Hot Springs, AR	244A, 240, and 288A	244A, 240, and 288A.
Option II		
Wrightsville, AR		288A
Hot Springs, AR	244A, 240, and 288A	244A, 240, and 288C1.
Option III		
Conway, AR	288A, and 288A	288A, 240A, and 288A.
Wrightsville, AR		280A.
Option IV		
Conway, AR	256A, and 288A	288A, 288A, and 288A.
Wrightsville, AR		240A.

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

9. Interested parties may file comments on or before June 16, 1986, and reply comments on or before July 1, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Dan Winn and Associates, P.O. Box 214, Little Rock, Arizona 72203, (consultant to KCON Broadcasting Co., Inc.).

Richard J. Hayes, Jr., Esq., Law Offices of Richard J. Hayes, Jr., 1300 Black Meadow Rd., Spotsylvania, Virginia 22553, (counsel for Wrightsville Communications Company).

Robert W. Coll, Esq., McKenna, Wilkinson & Kittner, 1150 17th Street, N.W., Washington, D.C. 20036, (counsel for Nealmark Broadcasting Corporation).

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 Fed. Reg. 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission,

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 86-9858 Filed 5-1-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-157; RM-5079]

FM Broadcast Station in Spring Valley, MN, Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the allotment of FM Channel 286A to Spring Valley, Minnesota, in response to a petition filed by John M. Rolli. This allotment could provide for a first FM broadcast service for the community.

DATES: Comments must be filed on or before June 16, 1986, and reply comments on or before July 1, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Notice of Proposed Rulemaking

In the matter of amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Spring Valley, Minnesota), MM Docket No. 86-157 RM-5079.

Adopted: April 17, 1986.

Released: April 25, 1986.

By the Chief, Policy and Rules Division:

1. A petition for rule making has been filed by John M. Rolli ("petitioner"), seeking the allotment of FM Channel 286A to Spring Valley, Minnesota, as that community's first broadcast service. Petitioner submitted information in support of the proposal and stated his intention to file an application for the channel.

2. Channel 286A can be allocated to Spring Valley, Minnesota, in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

PART 73—[AMENDED]

§ 73.20 [Amended]

3. In view of the fact that the proposed allocation could provide a first FM broadcast service to Spring Valley, Minnesota, the Commission believes it is appropriate to propose amending the FM Table of Allotments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Spring Valley, MN		286A

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before June 16, 1986, and reply comments on or before July 1, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: James E. Price, Vice President, Sterling Communications, Inc., Suite 418 Uptain Building, Chattanooga, Tennessee 37411-4065 (consultant to the petitioner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend Sections 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(i), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to the effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four

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copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at it headquarters, 1919 M Street, NW., Washington, DC.

[FR Doc. 86-9851 Filed 5-1-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. PS-67; Notice 2]

Transportation of Natural and Other Gas by Pipeline; Interior Piping

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Withdrawal of Advance Notice of Proposed Rulemaking (ANPRM).

SUMMARY: This notice withdraws a proposal published in the Federal Register, Vol. 45, No. 66, at 22118 on April 3, 1980, to generate information to be used in evaluating the need for Federal regulation of gas piping inside buildings. Current pipeline safety regulations apply to gas distribution lines up to the meter at which point it is transferred to the consumer even where the gas meter is located inside a building. Review of comments to Notice 1 of this docket and comments received at both the December 13, 1983, and the December 10, 1985, Technical Pipeline Safety Standards Committee (TPSSC) meetings has convinced the RSPA that existing regulations defining a gas operator's responsibility for gas piping inside a building are appropriate.

FOR FURTHER INFORMATION CONTACT: Robert F. Langley, (202) 426-2082, regarding the contents of this notice or the Dockets Branch, (202) 426-3148, regarding copies of this notice or other information in the docket.

SUPPLEMENTARY INFORMATION: The National Transportation Safety Board (NTSB) in Safety Recommendation P-76-10 in pipeline accident report NTSB-PAR-76-2 issued on February 19, 1976, recommended that the Department "amend 49 CFR Part 192 to define more realistically an operator's responsibility for gas piping inside buildings." The report (a copy of which is in the docket and may be obtained from the NTSB), described an interior piping accident which involved a pressure tank rupture in an office building in New York City. Although it was not a contributing factor in the accident, NTSB made its recommendation, in part, because the New York State gas pipeline safety regulations stopped at the building wall, while the Federal rules in Part 192 extended to the outlet of the interior meter. To the best of RSPA's knowledge, there have been no similar types of accidents anywhere under RSPA's jurisdiction in the more than 12 years since this accident, and the disparity between State and Federal regulatory coverage of interior piping is limited to New York. The State of New York, meanwhile, has instituted more stringent rules, helping to prevent this type of accident.

A Gas Research Institute Report, "Safety Research Plan for Gas Utilization," done by the Arthur D. Little Corporation in June 1983 (GRI No. 5081-352-0489) delves into gas incidents inside buildings at some length. This report shows that there is a probability of 1,854 fires or explosions occurring on interior piping annually out of the 40,000,000 gas service lines. This figure included fires or explosions occurring at gas appliances and piping beyond RSPA's regulations. The report also showed that the probability of a fatal accident occurring on interior piping serving nearly 50,000,000 customers would be one in 18 years.

To get some idea as to whether or not a safety problem existed with the portion of interior gas piping considered to be within the scope of 49 CFR Part 192 and also gain information to aid in responding to the NTSB safety recommendation regarding interior piping, the Office of Pipeline Safety Regulation issued an ANPRM. The ANPRM was published in the Federal Register as Docket No. PS-67; Notice 1 on April 3, 1980, in Vol. 45, No. 66 at 22118.

According to over 90 percent of the gas distribution operators commenting on the ANPRM, who serve at least 70 percent of the 50,000,000 present day gas customers in the nation, the National Fuel Gas Code, or a local version of it, is in effect for interior piping in the area in which they distribute gas. Usually this Code is given the force of law by local building codes. The National Fuel Gas Code covers the installation of gas piping systems inside buildings. This Code is developed by joint committees of the American National Standards Committee Z223 and the National Fire Protection Association and is classified as ANSI Z223.1 and NFPA 54. The Code states in its scope that:

Coverage of piping systems extends from the point of delivery to the connections with each gas utilization device. For other than undiluted liquefied petroleum gas systems, the *point of delivery is the outlet of the service meter assembly*, or the outlet of the service regulator or service shutoff valve when no meter is provided. For undiluted liquefied petroleum gas systems, the point of delivery is the outlet of the first stage pressure regulator. (emphasis added)

There were 14 questions asked in the ANPRM. These questions dealt with the existing extent and coverage of interior piping by the Part 192 regulations. The questions also dealt with the National Fuel Gas Code and similar local codes and whether or not Federal standards should incorporate the National Fuel Gas Code in Part 192.1 Questions on the relative safety of interior piping also were asked. There were 77 commenters who responded. These included several State regulatory agencies, gas distribution system operators, trade associations, including the National Association of Home Builders, and standards committees, including the Building Officials and Code Administrators International, and the ANSI Z223 Committee.

On the question as to whether State and local codes were covering interior piping in satisfactory manner, 81 percent of the commenters thought that they were and only 4 percent thought something additional was needed. Under the existing pipeline regulatory scheme, State codes for interior piping upstream of the meter are at least as stringent as the Federal standards.

Forty-four percent of the commenters through that Federal standards for interior piping (piping upstream of the meter outlet) should continue to apply but only if readily accessible. Twenty-one percent thought that Federal standards should end at the basement wall or the meter outlet whichever is further upstream. The commenters in favor of continuing Federal regulations up to the meters, if the piping was accessible, did so for continuity since NEPA 54 starts at the gas meter. Those commenters in favor of ending jurisdiction at the entrance to the building served cited the difficulties of policing piping on private property and cost of inspections to assure the safety of piping which they believed that once it was completed, was subject to the control of the property owner.

On the question of incorporating the National Fuel Gas Code into Part 192, over 42 percent of the commenters were against it. Three percent favored this idea.

The TPSSC meeting on December 13, 1983, at which the ANPRM was discussed produced about the same

results as the response from the commenters. Some members thought that REPA should not change the existing regulations without more substantive data with regard to interior accidents. The Committee's report issued January 9, 1984, stated in part: "It was a consensus of the Committee that in the absence of any safety data to the contrary, RSPA should withdraw its proposed rulemaking regarding interior piping." At their December 10, 1985, meeting, the TPSSC voted that stopping the pipeline safety regulations at the building wall would not be reasonable. Members were concerned that such a change could cloud the safety of interior piping. The Committee also felt that gas distribution operators are well aware of their responsibilities for gas piping up to and including the gas meter under the present regulations.

Conclusions

In deciding whether to continue this proceeding beyond the ANPRM stage, RSPA has considered the NTSB recommendation, the comments to the ANPRM, the incidence of interior piping accidents, and the TPSSC views. From the NTSB recommendation, one might conclude that operators either are not aware of their obligations under Federal regulations in regard to interior piping or those obligations are somehow inappropriate. Yet, there was no indication from the commenters or the TPSSC that the former might be true. Also, although some industry commenters would like to be absolved of all responsibility for interior piping, no one has seriously made the case that the applicable Federal rules are too onerous or otherwise in appropriate. Certainly there are some "difficulties" in compliance as in gaining access to run leak or corrosion checks, but transportation of gas to an interior delivery point demands close attention to safety. Further, the impact of the "difficulties" has to be considered in view of the small proportion of interior piping (upstream of meters) that is subject to the RSPA rules.

Were RSPA to relax some of the so called "difficult" rules or to pull away entirely from interior piping jurisdiction, other existing standards would not fill the gap. The National Fuel Gas Code, which applies to other interior piping, starts at the outlet of interior meters (not the building wall) and does not apply to operation and maintenance problems associated with the termination of gas service lines inside buildings. It was this potential clouding fof safety control that formed the basis for the TPSSC vote, and has persuaded RSPA not to relax the present rules.

At the same time, neither the RSPA data nor the GRI study show any need for expanded RSPA involvement with interior piping beyond the limits now set by Part 192.

For these reasons, the proposals presented in Docket PS-67; Notice 1 are hereby withdrawn.

Issued in Washington, DC, on April 28, 1986.

Robert L. Paullin,

Director, Office of Pipeline Safety, Research and Special Programs Administration.

[FR Doc. 86-9844 Filed 5-1-86; 8:45 am]

BILLING CODE 4910-60-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1135

[Ex Parte 290 (Sub-2)]

Practice and Procedure; Railroad Cost Recovery Procedures

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking and reopened proceeding.

SUMMARY: The Commission proposes to modify its rules governing railroad cost recovery procedures by requiring railroads to adjust their rates to take into account declines in the rail cost adjustment factor. The recent sharp decline in rail costs has convinced us that we must reexamine our rules to determine whether these adjustments should be adopted. By this notice, the Commission also seeks comments on how the agency can mitigate errors in forecasting costs in a previous quarter, and how compliance with any rate reductions ordered should be monitored.

DATE: Comments are due May 16, 1986. Replies are due May 23, 1986.

FOR FURTHER INFORMATION CONTACT: William T. Bono, Bureau of Accounts, (202) 275-7354

or

Craig M. Keats, Office of General Counsel, (202) 275-7602.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (Washington, DC, metropolitan area), or toll-free (800) 424-5403.

This decision will not significantly affect the quality of the human environment or conservation of energy resources. Although we believe that it will not have a significant adverse impact on a substantial number of small entities, we also request comments on this issue.

List of Subjects in 49 CFR Part 1135

Administrative practice and procedures, Railroads, and Reporting and recordkeeping requirements.

Authority: 49 U.S.C. 10321, 10704, 10707a, and 5 U.S.C. 553.

Decided: April 25, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Andre concurred in the result with a separate expression.

James H. Bayne,

Secretary.

[FR Doc. 86-9921 Filed 5-1-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Findings on Petitions and Initiation of Status Reviews

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of petition findings and status review.

SUMMARY: The Service announces 90-day findings in respect to five petitions and a 12-month finding in respect to one petition to amend the Lists of Endangered and Threatened Wildlife and Plants. Status review is initiated for one plant and one moth species that are subjects of petitions.

DATES: The findings announced in this notice were made between July 19, 1985, and January 28, 1986. Comments and information may be submitted until further notice.

ADDRESSES: Information, comments, or questions should be submitted to the Associate Director—Federal Assistance (OES), U.S. Fish and Wildlife Service, Washington, DC 20240. The petitions, findings, supporting data, and comments are available for public inspection, by appointment, during normal business hours at the Service's Office of Endangered Species, Suite 500, 1000 North Glebe Road, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235-2771 or FTS 235-2771).

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SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended in 1982 (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, this finding is to be made within 90 days of the receipt of the petition, and the finding is to be published promptly in the Federal Register. If the finding is positive, the Service is also required to promptly commence a review of the status of the involved species.

Section 4(b)(3)(B) of the Act, as amended, requires that, for any petition to revise the Lists of Endangered and Threatened Wildlife and Plants that contains substantial scientific or commercial information, a finding be made within 12 months of the date of receipt of the petition on whether the petitioned action is (a) not warranted, (b) warranted, or (c) warranted, but precluded from immediate proposal by other pending proposals. Section 4(b)(3)(C) requires that petitions for which the action requested is found to be warranted but precluded should be treated as though reasubmitted on the date of such finding, i.e. requiring a subsequent finding to be made within 12 months. Such 12-month findings are to be published promptly in the Federal Register.

On July 5, 1985 (50 FR 27637), an initial 90-day finding was announced for a petition to list the Samoan fruit bat. Status review for the bat began also with that notice. Status review for the moth species *Eucosma hennei* mentioned below was initiated when the species was included under category 2 of the comprehensive invertebrate notice of review published May 22, 1984 (49 FR 21664).

Findings

A petition from Professor Paul Alan Cox of Brigham Young University, was dated November 19, 1984, and received by the Service on November 27, 1984. It requested determination of endangered status for the Samoan fruit bat (*Pteropus samoensis samoensis*), which is found in American Samoa and Western Samoa. Observations by the petitioner, who spent several years studying this bat in the field, suggested that it had become extremely rare through destruction of its habitat and killing by people for use as food. On July 5, 1985 (50 FR 27637), the Service announced its 90-day finding that the petition had presented substantial information indicating that the requested action may be warranted.

Service personnel carrier out limited field investigations in American Samoa in June, July, and November of 1985, which indicated that the Samoan fruit bat might not be as rare as suggested by the petition. These observations, together with other information recently compiled by the Service, indicate a need for additional studies to assess the status of this bat and to evaluate the factors that may jeopardize its survival. The Service plans to undertake such studies in July 1986 in connection with bird survey work in Samoa.

The petitioned determination of endangered status for the Samoan fruit bat is considered to be warranted, but precluded by other listing activity. Additional data will be gathered, and expeditious progress is being made to list other species that are thought to be of higher priority.

The following 90-day findings are reported in respect to petitions as noted:

1. The Minnesota Department of Natural Resources (Mr. Roger Holmes, Chief, Nongame Program) submitted a petition to list as endangered the American swallow-tailed kite (*Elanoides forficatus*). The complete petition was received on April 17, 1985, and was dated April 5, 1985. The petition documented the extirpation of this large raptor from the central portions of the United States in the late 1800's and early 1900's. Some nesting occurs from Louisiana to South Carolina with most of the population nesting from southern Georgia southward through Florida. No threats to the extant population were documented. The species has apparently remained stable for some 50 years. The Service, therefore, found that no substantial information had been presented that the requested action may be warranted.

2. A petition from Mr. J. B. Hilmon, Associate Deputy Chief, Forest Service, U.S. Department of Agriculture was dated May 3, 1985, and was received by the Service on May 7, 1985. It requested removal of *Agave arizonica* from the List of Endangered and Threatened Plants. The Forest Service submitted two administrative reports in support of its request. The Service considered these in addition to a symposium proceedings paper by Pinkava and Baker entitled "Chromosome and Hybridization Studies in Agave," that reports low percent stainability of *Agave arizonica* pollen, indicating low fertility and a possibility that the plants are hybrids. The Service found that the petition and other available data presented evidence that the petitioned action may be warranted. However, before a final decision is made to consider *Agave arizonica* a hybrid and therefore delist it, the Service will seek additional information and a peer review of all available data by Arizona plant taxonomists and agave experts.

3. A petition from Mr. Bruce S. Manheim, Jr., Environmental Defense Fund, was dated May 21, 1985, and was received by the Service on May 28, 1985. It requested listing of two moth species, *Eucosma hennei* (family Olethreutidae) and *Lorita Abornana* (family Cochylidae), as endangered. The petition claimed that both moth species are presently know only fro El Segundo San Dunes in Los Angeles County, California. The portions of the dunes where the moths are known to occur have been included in planning for development by the City of Los Angeles, Department of Airports. The Service found that the petition presented substantial information indicating that the requested action may be warranted. Status review for *Eucosma hennei* has already been announced, as noted above. Formal status review for *Lorita abornana* begins herewith.

4. A petition from Dr. Tony Povilitis, Director, Campaign for Yellowstone's Bears, was dated July 31, 1985, and was received by the Service on August 6, 1985. It requested that the Yellowstone population of the grizzly bear (*Ursus arctos horribilis)* be reclassified from threatened to endangered under the Endangered Species Act (ESA) of 1973, as amended. The petitioner submitted information on the current status and threats to the Yellowstone grizzly. This information, along with all other data and expert opinions available to the Service, was considered in reviewing this petition.

An Interagency Grizzly Bear Committee (IGBC) was formed in 1983. It adresses the protection and management needs of the grizzly bear. The Service also appointed a grizzly bear Recovery Coordinator (GBRC), Dr. Christopher Servheen, in 1981. Through the IGBC and the efforts of Dr. Servheen, the Service is continuously aware of the current management and status of the grizzly bear.

After a thorough review of the information presented in the petition and all other information available to the Service, the petition was found to not present substantial information indicating the Yellowstone grizzly should be reclassified from threatened to endangered. A threatened species as defined by section 3 of the Act is "any species which is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range." An endangered species is defined as "any species which is in danger of extinction . . ." The Service believes that the Yellowstone population of the grizzly bear is not in danger of extinction and is properly classified as threatened. Since 1983, increased management efforts have been mounted to address the threats facing the grizzly bear, including habitat destruction and human-induced mortality. Additional management efforts are planned for the future. The threats to the grizzly bear in the yellowstone ecosystem are recognized in a recovery plan and are being actively addressed by the IGBC.

5. A petition from Mr. Paul R. Neal of the Division of Biological Sciences, State University of New York, Stony Brook, New York, was dated October 8, 1985, and was received by the Service's Albuquerque Regional Office on October 15, 1985. It requested that a plant, *Talinum humile*, be added to the List of Endangered and Threatened Plants. This plant has historically been known from three locations, one each in Arizona, New Mexico, and Federal District (Sierra de Ajusco), Mexico. The type locality in New Mexico was recently searched, but no *Talinum humile* individuals were relocated there. The Service will place this species in category 2 of its comprehensive plant notice of review. Additional field searches and threat information are needed prior to proceeding with a proposed rule. The Service has found that the petitioned action may be warranted. Formal review of the status of *Talinum humile* is initiated with publication of this notice.

Section 4(b)(3)(b)(iii) of the Act states that petitioned actions may be found to be warranted but precluded by other listing actions when it is also found that the Service is making expeditious progress in revising the lists. Expeditious progress in listing endangered and threatened species is being made, and is reported annually in the Federal Register. The most recent progress report was published on January 9, 1986 (51 FR 996).

The Service would appreciate any additional data, comments, and suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning the moth species *Lorita abornana* (family Cochylidae) and the plant *Talinum humile* (family Portulacaceae). These species will be included in the next update of comprehensive invertebrate and plant notices of review, respectively.

Author

This notice was prepared by Dr. George Drewry, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235-1975 or FTS 235-1975).

Authority

The Authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*; Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants, (agriculture).

Dated: April 16, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-9838 Filed 5-1-86; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[Docket No. 60231-6031]

Regulations Governing the Taking and Importing of Marine Mammals

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Advance Notice of Proposed rulemaking.

SUMMARY: The General Permit issued in 1981 to the Federation of Japan Salmon Fisheries Cooperative Association to incidentally take marine mammals during the mothership salmon gillnet fishery is scheduled to expire on June 9, 1987. This Notice announces the NMFS' tentative schedule for amending the regulations governing this general permit, whether to reissue a new general permit and on holding formal hearings before an Administrative Law Judge to consider these matters.

DATE: See Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Species and Habitat Conservation, NMFS, Washington, DC 20235, 202-634-7529.

SUPPLEMENTARY INFORMATION: The General Permit issued in 1981 to the Federation of Japan Salmon Fisheries Cooperative Association to incidentally take 5,500 Dall's porpoise, 25 northern sea lions and 450 northern fur seals annually during the mothership salmon gillnet operations is scheduled to expire on June 9, 1987. The NMFS is initiating a rulemaking process to consider the reissuance of the general permit to the Federation in 1987 and beyond and in anticipation of receiving a new application under the Marine Mammal Protection Act from the Federation. The tentative schedule to consider this issue is as follows:

March 6, 1987—Public scoping meeting under NEPA.
August 8, 1986—Release of DEIS and Notice of Proposed Rulemaking
October 20, 1986—Start of Formal Administrative Law Judge (ALJ) Hearings
November 18, 1986—Close of Briefing Schedule
December 12, 1986—Receipt and release of ALJ recommendations.
January 2, 1987—Exceptions to ALJ Decision.
May 1, 1987—Final Decision by Administrator, NOAA. Release of Final EIS.
June 9, 1987—Effective date of action.

The ex parte communications prohibitions at 5 U.S.C. 557(d) shall begin on August 8, 1986, or at such time that the Formal Hearings are actually noticed by the Agency.

Dated: April 29, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

[FR Doc. 86-9933 Filed 5-1-86; 8:45 am]

BILLING CODE 3510-22-M

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Notices

Federal Register
Vol. 51, No. 85
Friday, May 2, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

National Advisory Council on Child Nutrition; Meeting

AGENCY: Food and Nutrition Service.

ACTION: Notice.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, notice is hereby given that the National Advisory Council on Child Nutrition, established by section 15 of the National School Lunch Act to make a continuing study of the Child Nutrition Programs of the U.S. Department of Agriculture, has scheduled a meeting for June 3-5, 1986.

DATE: The meeting will take place from 9:00 a.m. to 5:00 p.m. on Tuesday and Wednesday, June 3 and 4 and Thursday, June 5 from 9:00 a.m. to noon.

ADDRESS: The meeting will be held at the Days Inn of Crystal City, 2000 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: Mr. James P. Gatley, Child Nutrition Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 756-3620.

SUPPLEMENTARY INFORMATION: The meeting will be devoted primarily to a discussion of current program issues and the development of the 1986 biennial report to the President and the Congress. If time permits, the general public will be allowed to participate in the discussions. The agenda will be available 15 days prior to the meeting. Requests for the agenda should be sent to Mr. George A. Braley, Executive Secretary, National Advisory Council on Child Nutrition, U.S. Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, Virginia 22302.

Dated: April 23, 1986.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 86-9935 Filed 5-1-86; 8:45 am]

BILLING CODE 3410-30-M

Foreign Agricultural Service

Import Limitation; Country of Origin Quota Adjustment; Denmark; Condensed Milk

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of Country of Origin Adjustment for Certain Condensed Milk from Denmark.

SUMMARY: Presidential Proclamation 4708 issued December 11, 1979, amended Headnote 3(a) of Part 3 of the Appendix to the Tariff Schedules of the United States to permit the Secretary of Agriculture to make country of origin adjustments for unlicensed quotas that will not be filled by the country of origin listed opposite the quota. This notice implements such an adjustment with respect to the quota quantity assigned to Denmark for condensed milk in airtight containers.

DATE: Effective May 5, 1986.

FOR FURTHER INFORMATION CONTACT: Phillip J. Christie, Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, Room 6616 South Building, Department of Agriculture, Washington, DC 20250 or telephone at (202) 447-5270.

SUPPLEMENTARY INFORMATION: This action has been reviewed under Executive Order 12291 and Secretary's Memorandum 1512-1 and has been determined to be "nonmajor" since it will not have any of the significant effects specified in those documents. Furthermore, to the extent, if any, that the provisions of the Regulatory Flexibility Act (5 U.S.C. 601) apply to this notice, the Administrator, Foreign Agricultural Service, hereby certifies that this notice will not have a significant economic impact on a substantial number of small entities. The adjustment of the country of origin from which the quota item specified herein may be entered does not affect the ability of importers to import this quota item, but only expands the number of countries from which the item may be imported. Also, since this action is being taken in recognition of changes in the market which have already occurred, this action will not cause any new economic impact.

An assessment of the impact of this rule on the environment was made and, based on this evaluation, this action is not a major federal action and will have no foreseeable significant effects on the quality of the human environment. Consequently, no environmental impact statement is necessary for this proposed rule.

Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) sets forth import limitations imposed on certain dairy products, including certain condensed milk. Headnote 3(a)(iii) of that Appendix allows for reallocating the quota amount of a dairy article listed in that Appendix among the countries of origin specified for a given article if it is determined that the quota amount assigned to a particular country is not likely to be entered from that country within a given calendar year. I hereby determine that it is not likely that the amount of condensed milk specified in TSUS Item 949.90 for Denmark will be entered from that country during calendar year 1986.

Notice is hereby given that the 1986 unused quota quantity for condensed milk specified in TSUS Item 949.90 for Denmark may be imported from Canada, Denmark, the Netherlands and Australia for the remainder of the 1986 quota year.

This quota quantity for TSUS Item 949.90 will revert to the original supplying country on January 1, 1987.

Issued at Washington, DC this 24th day of April 1986.

Thomas O. Kay,

Administrator, FAS.

[FR Doc. 86-9960 Filed 5-1-86; 8:45 am]

BILLING CODE 3410-10-M

Forest Service

Santa Fe National Forest; Mora, San Miguel, Santa Fe, Sandoval, Los Alamos, and Rio Arriba Counties, New Mexico; Extension of Public Comment Period

The Department of Agriculture, Forest Service, has extended the public comment period on the Draft Environmental Impact Statement for the proposed Santa Fe National Forest Plan (January 24, 1986, 51 FR 3250). The public comment period is extended through May 30, 1986.

Dated: April 24, 1986.

David F. Jolly,

Deputy Regional Forester.

[FR Doc. 86-9948 Filed 5-1-86; 8:45 am]

BILLING CODE 3410-11-M

COMMISSION ON CIVIL RIGHTS

Tennessee Advisory Committee to the United States Commission on Civil Rights; Cancellation

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Tennessee Advisory Committee to the Commission originally scheduled for May 5, 1986, convening at 6:30 p.m. and adjourning at 9:30 p.m., at the Vanderbilt Plaza Hotel, 2100 West End Avenue, Nashville, Tennessee (FR Doc 86-8089, Page 12533) has been cancelled.

Dated at Washington, DC, April 29, 1986.

Ann Goode,

Program Specialist.

[FR Doc. 86-9947 Filed 5-1-86; 8:45 am]

BILLING CODE 6335-01-M

Tennessee Advisory Committee to the United States Commission on Civil Rights; Cancellation

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Tennessee Advisory Committee to the Commission originally scheduled for May 6, 1986, convening at 6:00 a.m. and adjourning at 5:00 p.m., at the Vanderbilt Plaza Hotel, 2100 West End Avenue, Nashville, Tennessee (FR Doc 86-8088, Page 12534) has been cancelled.

Dated at Washington, DC, April 29, 1986.

Ann Goode,

Program Specialist.

[FR Doc. 86-9946 Filed 5-1-86; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Presidential Board of Advisors on Private Sector Initiatives; Open Meeting

AGENCY: Office of the Secretary, Office of the General Counsel and Office of Business Liaison, Commerce.

SUMMARY: The Communications Committee of the Presidential Board of Advisors on Private Sector Initiatives will hold a meeting on May 9, 1986. The Presidential Board of Advisors was established on August 8, 1985 to advise the President and Secretary of Commerce, through the White House Office of Private Sector Initiatives, with respect to the objectives and conduct of private sector initiative policies. This includes methods of increasing public awareness of the importance of public/private partnerships; removing barriers to development of effective social service programs which are administered by private organizations; strengthening the professional resources of the private social service sector; and studying options for promoting the long-term development of private sector initiatives in the United States.

Time and Place: Friday, May 9, 1986, 3:00 p.m., at the National Association of Broadcasters, 1771 N Street, NW., Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: The Committee Control Officer, Mr. Robert H. Brumley, Deputy General Council, U.S. Department of Commerce, (202/377-4772) or the Alternate Control Officer, Nancy J. Olson, Director Office of Business Liaison, U.S. Department of Commerce (202/377-3942), Main Commerce Building, Washington, DC 20230.

Dated: April 29, 1986.

Nancy J. Olson,

Director, Office of Business Liaison.

FR Doc. 86-9950 Filed 5-1-86; 8:45 am]

BILLING CODE 3510-BW-M

Foreign-Trade Zones Board

[Order No. 329]

Resolution and Order Approving the Application of the Hawaii State Department of Planning and Economic Development for a Subzone at the Maui Pineapple Facility in Kahului, HI; Proceedings of the Foreign-Trade Zones Board, Washington, DC

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 USC 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Hawaii State Department of Planning and Economic Development, submitted on behalf of the State of Hawaii, grantee of Foreign-Trade Zone 9, filed with the Foreign-Trade Zones Board (the Board) on October 18, 1985, requesting subzone status for the pineapple cannery of Maui Pineapple Company, Ltd., in Kahului, Maui, Hawaii, within the Kahului Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone in Kahului, Hawaii

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 USC 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Hawaii State Department of Planning and Economic Development, on behalf of the State of Hawaii, grantee of Foreign-Trade Zone No. 9, has made application (filed October 18, 1985, Docket 37-85, 50 CFR 45137) in due and proper form to the Board for authority to establish a special-purpose subzone at the pineapple cannery and can-making facility of Maui Pineapple Company, Ltd., in Kahului, Hawaii, within the Kahului Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, therefore, in accordance with the application filed October 18, 1985, the Board hereby authorizes the establishment of a subzone at the facilities of Maui Pineapple Company in Kahului, Hawaii, designated on the records of the Board as Foreign-Trade Subzone No. 9D at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same

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were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In Witness Whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C., this 25th day of April 1986, pursuant to Order of the Board.

Foreign-Trade Zones Board

Paul Freedenberg,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

[FR Doc. 86-9936 Filed 5-1-86; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 14-86]

Foreign-Trade Zone 45, Portland, OR; Application for Subzone Floating Point Systems Computer Plant, Beaverton

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Portland, grantee of Foreign-Trade Zone 45, requesting special-purpose subzone status for the computer service operation of Floating Point Systems, Inc., (FPS) in Beaverton, Oregon, within the Portland Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on April 15, 1986.

The FPS plant is located on an 18-acre site at 3601 S.W. Murray Blvd., Beaverton. The facility produces, services, upgrades and repairs special-purpose scientific computers and array processors, employing 1400 persons. Zone procedures would be used for the repair and servicing of FPS products, including many which have been sold abroad and returned to the U.S. for servicing. Certain electronic components for the service and repair operations are sourced abroad.

Zone procedures would exempt FPS from duty payment on computers and foreign components that are reexported. The company would be able to defer duty on foreign components used in the repair and service of computers for the domestic market. The savings will help keep the company's U.S. service operation internationally competitive.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Clyde Kelley, District Director, U.S. Customs Service, Pacific Region, 511 NW. Broadway, Federal Bldg., Room 198, Portland, OR 97209; and Colonel Gary R. Lord, District Engineer, U.S. Army Engineer District Portland, P.O. Box 2946, Portland, OR 97208.

Comments concerning the proposed subzone are invited from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before May 30, 1986.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce, District Office, 1220 S.W. 3rd Ave., Room 618, Portland, OR 97204.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania, NW., Washington, DC 20230.

Dated: April 28, 1986.

John J. De Pauie, Jr.,

Executive Secretary.

[FR Doc. 86-9823 Filed 5-1-86; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Short Supply Review on Certain Steel Wire; Request for Comments

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short supply determination under Article 8 of the U.S.-EC Arrangement on Certain Steel Products with respect to PVC-coated galvanized low carbon steel wire.

EFFECTIVE DATE: Comments must be submitted no later than ten days from publication of this notice.

ADDRESS: Send all comments to Nicholas C. Tolerico, Acting Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230, Room 3099, (202) 377-0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC Arrangement on Certain Steel Products provides that if the U.S. ". . . determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product. . . ."

We have received a short supply request for PVC-coated galvanized low carbon steel wire in coils for the production of gabions, mattresses and related products. The steel wire ranges from 2.2mm to 3.4mm in diameter, has a zinc coating not less than 260 to 290 g/m², and a PVC coating thickness of 0.5mm to 0.6mm with a minimum acceptable thickness of 0.45mm.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than ten days from publication of this notice. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify that portion of their submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B-099 at the above address.

Dated: April 24, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-9925 Filed 5-1-86; 8:45 am]

BILLING CODE 3510-DS-M

The University of Toledo; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 83-215R. Applicant: The University of Toledo, Toledo, OH 43606. Instrument: Heavy Ion Accelerator. Original notice of this resubmitted application was published in the Federal Register of June 30, 1983.

Comments: None received. Decision: Denied. Instruments of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, are being manufactured in the United States. Reasons: The National Bureau of Standards (NBS) advises in its memorandum dated March 26, 1984, that domestic instruments are available which meet the pertinent specifications given in the application and are therefore scientifically equivalent to the foreign instrument for the applicant's intended use. (See § 301.5(d)(1)(i) of the regulations.)

We had denied the application without prejudice to resubmission in accord with § 301.5(e). NBS had previously recommended that the applicant compare the foreign instrument with domestically made instruments from Veeco Instruments Incorporated and from National Electrostatics Corporation (NEC) and show that these were not scientifically equivalent as required by § 301.5(d)(1)(i). The applicant's resubmission failed to demonstrate that use of these domestic instruments would preclude accomplishment of the intended use.

NBS specifically rejected the "deficiencies" alleged by the applicant in the Veeco Model 300R:

1. The Veeco Model 300R is "extremely easy to modify as all optics and beam lines are at ground potential (rather than at high voltage as in the Danfysik machine)"; and it "is intended to be a research accelerator, not merely an automatic ion implanter."

2. Veeco instruments can "isotopically separate masses 1 to 280 (either atoms or molecules) with a FWIM [Full Width at one Tenth Maximum] of 1 atomic mass unit or better."

3. The Veeco 300R "can accelerate all atomic species including iron group and refractory metals and, because of its flexibility, a 911A source could be adapted."

4. Veeco beam currents (up to 270 amperes) are "equal to or greater than those produced by the foreign article."

The applicant also claimed that NEC instruments were not of domestic manufacture since the ion source portion of the accelerator was made by Danfysik in Denmark. NEC, however, was using the Danfysik equipment as an injector or component for its accelerator systems. Section 301.2(g) states that "a domestic instrument need not be made exclusively for domestic components or accessories."

The applicant raised no technical arguments against the NEC instruments and, in fact, characterized the company as "a manufacturer of high quality large accelerators," implying that this domestic manufacturer was capable of supplying instruments fully acceptable for the intended purposes. The applicant claimed that NEC was ". . . not a routine supplier of small machines" and also stated that "This along with the nature of the first bid by NEC as discussed above, led to their being excluded in the second round." In a first round of bid proposals, three manufacturers (including Danfysik) submitted quotations which, by the applicant's admission, exceeded budget expectations. The applicant subsequently sent out a scaled-down request for quotation (RFQ) allowing for possible technical trade-offs to meet budgetary constraints. Neither of the two domestic manufacturers was sent a copy of the scaled-down RFQ. Moreover, NBS asserts that, contrary to the applicant's statements, NEC has made "many such small accelerators" (memorandum of March 26, 1984).

It is thus clear, at least in the case of NEC, that the applicant neglected at least one domestic manufacturer on the basis of considerations of "cost," "convenience" or "personal preference" or to "accommodate institutional commitments or limitations" (see § 301.2(s)).

On the basis of the foregoing as well as of the NBS finding "that the domestically manufactured instruments or apparatus available from both NEC and Veeco are scientifically equivalent to the foreign article for the applicant's intended purposes," we deny the application.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Director Statutory Import Programs Staff.

[FR Doc. 86-9924 Filed 5-1-86; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

National Bureau of Standards' Visiting Committee; Meeting

Pursuant to the Federal Advisory Committee Act, 5 U.S.C. App., notice is hereby given that the National Bureau of Standards' Visiting Committee will meet Monday, June 9, 1986, from 8:30 a.m. to 5:30 p.m., and Tuesday, June 10, 1986, from 8:30 a.m. to 11:30 a.m. in Lecture Room A, Administration Building, National Bureau of Standards, Gaithersburg, Maryland, from 2:00 p.m. to 3:00 p.m. in Room 5854, Department of Commerce, Washington, DC.

The NBS Visiting Committee is composed of five members prominent in the fields of science and technology and appointed by the Secretary of Commerce.

The purpose of the meeting is to review the efficiency of the Bureau's scientific work and the condition of its equipment in order to assist the Committee in reporting to the Secretary of Commerce as required by law.

The public is invited to attend, and the Chairman will entertain comments or questions at an appropriate time during the meeting. Any person wishing to attend the meeting should inform Peggy Webb, Office of the Director, National Bureau of Standards, Gaithersburg, MD 20899, telephone 301-921-2411.

Dated: April 28, 1986.

Ernest Ambler,

Director.

[FR Doc. 86-9846 Filed 5-1-86; 8:45 am]

BILLING CODE 3510-13-M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage

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for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

Department of Agriculture

SN 6–802,902
Wood Bonding with Cellulose Solvents
SN 6–814,944
Modified Plant Fiber Additive for Food Formulations
SN 6–817,374
Novel Phenazine Antibiotic from Pseudomonas Fluorescens
SN 6–818,564
Fluidic Permeability Measurement Bridge
SN 6–825,004
Washer for Plant Roots and Other Articles

Department of Commerce

SN 6–832,935
Transformation Toughening Agents and Transformation Toughened Ceramics and High Pressure Process for Preparing Same

Department of Health and Human Services

SN 6–494,378 (4,573,467)
Optical Coupling Device for Biomicroscope
SN 6–508,323 (4,571,385)
Genetic Reassortment of Rotaviruses for Production of Vaccines and Vaccine Precursors
SN 6–773,089
Derivatization of Amines for Electrochemical Detection
SN 6–784,256
Apparatus and Method for Measuring Muscle Sarcomere Length in Vivo
SN 6–802,680
Antiinflammatory 2,3-Didemethylcolchicine and Additional Derivatives
SN 6–824,467
Preparation of Human T-Cell Lymphotropic Virus Transactivating Protein (p42–LOR)
SN 6–824,848
Metaphit and Related Compounds as Acylating Agents for the [^{3}H] Phencyclidine Receptors
SN 6–843,727
Pertussis Toxin Gene: Cloning and Expression of Protective Antigen
SN 6–847,714
Vinca Alkaloid Photoactive Analogs and Their Uses

Department of the Air Force

SN 6–743,326
Contoured Punch Tool for Removing Semi-Tubular Rivets
SN 6–756,549
Power Sensing Device
SN 6–807,155
Ethynyl-Containing Aromatic Monomers
SN 6–807,426
Ethynyl-Containing Aromatic Polyamide Resins
SN 6–810,140
Paint Removal Process
SN 6–810,432
Fiber Optic Cable Storage Device

Department of the Army

SN 6–526,763 (4,571,632)
Alternate Line Interpolation Method and Apparatus
SN 6–789,258
Quantitative Immunochromatographic Strip Assay Method and Apparatus
SN 6–812,603
Amorphous Silicon Spatial Light Modulator
SN 6–823,975
Piezoelectric Resonators Using Lateral Field Excitation
SN 6–831,027
Method of Monitoring Electrochemical Cells

Department of the Interior

SN 6–536,068 (4,567,763)
Passive Encoder for Range Knobs
SN 6–537,187 (4,568,014)
Bonding of Metallic Glass to Crystalline Metal
SN 6–660,666 (4,568,652)
Soluble Additives to Improve High Temperature Properties of Alumina Refractories

[FR Doc. 86–9869 Filed 5–1–86; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Women in the Services; Meeting

AGENCY: Defense Advisory Committee on Women in the Services (DACOWITS).

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given of a forthcoming meeting of the Executive Committee of the Defense Advisory Committee on Women in the Services (DACOWITS).

The purpose of the meeting is to review the Recommendations, Requests for Information, and Continuing Concerns made by the Committee at the 1986 Spring Meeting; discuss current issues relevant to women in the Services; and plan the program for the next semiannual meeting scheduled for 28–30 October 1986 in Williamsburg, Virginia.

All meeting sessions will be open to the public.

DATES: June 5, 1986, 1:30–5:00 p.m. and June 6, 1986, 9:30–11:30 a.m.

ADDRESS: OSD Conference Room 1E801 #1 (June 5); 1E801 #7 (June 6) The Pentagon, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Major Marilla J. Brown, Executive Secretary, DACOWITS, OASD (Force Management and Personnel), The Pentagon, Room 3D769, Washington, DC 20301–4000; telephone (202) 697–2122.

SUPPLEMENTARY INFORMATION: Persons desiring to (1) attend the Executive Committee Meeting or (2) make oral presentations or submit written statements for consideration at the meeting must notify the point of contact listed above no later than May 22, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

April 29, 1986.

[FR Doc 86–9939 Filed 5–1–86; 8:45 am]

BILLING CODE 3810-01-M

Commercial Activities Inventory Report and Five Year Review Schedule; (OMB A–76 Implementation)

AGENCY: DoD.

ACTION: Notice.

SUMMARY: This notice announces the publication of the DoD Commercial Activities Inventory Report and Five Year Review Schedule for Fiscal Year 1985. This document may be obtained by writing to the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402, referring to stock number 008–000–00453–6, and enclosing a check in the amount of $20.00, payable to the Superintendent of Documents.

SUPPLEMENTARY INFORMATION: This document is published under the provisions of OMB Circular A–76, which requires the Department of Defense to publish an annual inventory report of all commercial activities. The OMB also requires that the Department of Defense publish a five year schedule for reviewing all in-house commercial activities. The purpose of the review is to determine whether the in-house

method of operation should continue or whether an in-house versus contract cost comparison should be performed to determine the most cost effective method of operation.

Patricia Means,

OSD Federal Register Liaison Officer, Department of Defense.

April 29, 1986.

[FR Doc. 86–9938 Filed 5–1–86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board. (ASB).

Dates of Meeting: Tuesday & Wednesday, 20–21 May 1986.

Times of Meeting: 0900–1630.

Places: US Army Concepts Analysis Agency, Bethesda, MD.

Agenda: The Army Science Board Ad Hoc Subgroup on Helicopter Lift Capabilities in Europe will meet to review Army models and processes for determinaiton of requirements and capabilities of helicopters. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

FR Doc. 86–10013 Filed 5–1–86; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Tuesday & Wednesday, 20–21 May 1986.

Times of Meeting: 0700–1700 (20 May 86); 0700–1500 (21 May 86).

Place: Pentagon, Washington, DC.

Agenda: The Science Board 1986 Summer Study Panel on C³I Requirements for AirLand Batle will meet to receive briefings on C³I requirements, funding, and advance technology. This meeting will be closed to the public in accordance with Section 552(c) of Title 5, U.S.C. specifically subparagraph (1) thersof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably interwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

FR Doc. 86–10014 Filed 5–1–86; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Floodplain Involvement Notification for Proposed Remedial Action at the Monticello Uranium Mill Tailings Site, Monticello, UT

AGENCY: Department of Energy.

ACTION: Notice of floodplain involvement and opportunity for public comment.

SUMMARY: The Department of Energy proposes to conduct remedial action at the former Atomic Energy Commission uranium millsite in Monticello, Utah. Monticello lies in the southeast corner of Utah in the northern portion of San Juan County. The millsite will be cleaned up in accordance with the Environmental Protection Agency (EPA) standards for Remedial Action at Inactive Uranium Processing Sites (40 CFR Part 192). The currently proposed remedial action alternative entails removing all contaminated material from within the floodplain and stabilizing approximately 2.4 million tons of tailings contaminated material at the site.

In accordance with DOE regulations for compliance with floodplain/wetlands environmental review requirements (10 CFR Part 1002), DOE will prepare a floodplain assessment to be included in the Environmental Assessment (EA) being prepared for the proposed remedial action. The EA will address disposal of the contaminated material at alternative sites and compare these alternatives to onsite stabilization or performing no remedial action.

Further information is available from the Department of Energy at the address shown below. Public comments or suggestions regarding the proposed activities in the floodplain area are invited.

Requests to receive copies of the Environmental Assessment when published may be sent to the address shown below.

DATE: Any comments are due on or before May 14, 1986.

ADDRESS: Send comments to: W.E. Murphie, U.S. Department of Energy, Division of Facility and Site, Decommissioning Projects, NE–23, Washington, DC 20545.

Dated: April 22, 1986.

William R. Voigt, Jr.,

Director, Office of Remedial Action and Waste Technology, Office of Nuclear Energy.

[FR Doc. 86–9940 Filed 5–1–86; 8:45 am]

BILLING CODE 6450-01-M

Coal Policy Committee of the National Coal Council; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: Coal Policy Committee of the National Coal Council.

Date and Time: Monday, June 2, 1986; 8:30 a.m. to 12:00 Noon.

Place: The Westin Hotel, 2401 M Street NW., Washington, DC 20037.

Contact: Cecilia MacCarthy, U.S. Department of Energy, Office of Fossil Energy (FE–23), Washington; DC 20545. Telephone: 301/353–2847.

Purpose of the Parent Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Purpose of the committee: To review requests for advice, information, etc., from the Secretary of Energy to the National Coal Council, and to recommend to the Council studies to be undertaken by the Council.

Tentative Agenda

—Call to Order by Gerald Blackmore, Chairman
—Report on Work Group Reports of studies for the Secretary of Energy
—Discussion of any other business properly brought before the Committee
—Public Comment—10 Minute Rule
—Adjournment

Public Participation: The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Cecilia MacCarthy at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcripts: Available for public review and copying at the Public Reading Room, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C., between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

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Issued at Washington, DC on April 24, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86-9876 Filed 5-1-86; 8:45 am]

BILLING CODE 6450-01-M

National Coal Council; Notice of Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: National Coal Council.

Date and Time: Tuesday, June 3, 1986; 9:30 a.m. to 11:30 a.m.

Place: The Westin Hotel, 2401 M Street, NW., Washington, DC 20037.

Contact: Cecilia MacCarthy, U.S. Department of Energy, Office of Fossil Energy (FE-23), Germantown, Maryland, 20545, Telephone: 301/353-2847.

Purpose of the Council

To provide advice, information, and recommendations to the Secretary of Energy on matters relating to coal and coal industry issues.

Tentative Agenda

—Opening Remarks by the Chairman.
—Remarks by Donald L. Bauer, Acting Assistant Secretary for Fossil Energy.
—Coal Policy Committee Report—Presentation, dicussion, and action on reports for the Secretary of Energy.
—Report of Nominating Committee and election of officers.
—Comments from incoming Chairman.
—Discussion of any other business properly brought before the Council.
—Public Comment—10 Minute Rule.
—Adjournment.

Public Participation

The meeting is open to the public. The Chairman of the Council is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Council will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Cecilia MacCarthy at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Transcripts

Available for public review and copying at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9:00 a.m., and 4:00 p.m. Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 29, 1986.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR. Doc. 86-9941 Filed 5-1-86; 8:45 am]

BILLING CODE 6450-01-M

Dose Assessment Advisory Group; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given to the following meeting:

Name: Dose Assessment Advisory Group (DAAG).

Date and Time: Wednesday, May 28, 1986, 8:30 a.m.–5:00 p.m.; Thursday, May 29, 1986, 8:30 a.m.–5:00 p.m.; Friday, May 30, 1986, 8:30 a.m.–4:00 p.m.

Place: U.S. Department of Energy, Nevada Operations Office Auditorium, 2753 South Highland Drive, Las Vegas, Nevada.

Contact: Charles M. Campbell, Deputy Project Manager, Off-Site Radiation Exposure Review Project, Nevada Operations Office, U.S. Department of Energy, Post Office Box 14100, Las Vegas, Nevada 89114, Telephone: (702) 295-0991.

Purpose of the Group: To provide the Secretary of Energy and the Manager, Nevada Operations Office (NV), with advice and recommendations pertaining to the Off-Site Radiation Exposure Review Project (ORERP). This project concerns the evaluation and assessment of the amount of radiation received by members of the off-site population surrounding the Nevada Test Site (NTS) as a result of the nuclear test operations conducted at NTS.

Tentative Agenda

May 28, 1986

—Historical Overview of ORERP.
Origin of ORERP.
Development of Methodology.
—Collection of Historical Information.
Coordination and Information Center.
Document Collection.
Compilation of Historical and Radiological Measurements.
Population and Demographic Information.
Survey of Life-Style, Food Habits and Agricultural Practices.
—Reanalysis of Historical Results.
Dosimetry.
Fallout Patterns.
Boltzmann "Hot Spot."
Gum-Film Network and Archived Soil Samples.
—Techniques for Assessing Historical Fallout Deposition Utilizing Current Measurements.
Soil Sampling from Undisturbed Lawns.
Sampling Lake Sediments.
Analyzing Data from Natural Uranium Resources Evaluation (NURE).
Soil Sampling from Pristine Locations.
—Public Comment and Discussion.

May 29, 1986

—Calculations and Data Bases to Define Deposition in the Phase I Area.
Source-Term Calculations.
Town Data Base.
—Calculations for External Dose.
Shielding, Weathering, Energy Dependence, and Life-Style Factors.
Individual and Collective Dose Estimates for Phase I.
—Uptake of Radionuclides via Ingestion.
Screening Calculations.
Pathway Code for Radionuclide Uptake.
Milk Production and Distribution.
—Calculation of Internal Dose.
Inhalation Pathway.
Ingestion Pathway.
Individual and Collective Dose Estimates for Phase I.
—Model Validation and Issues of Uncertainty.
Town Data Base.
External Dose.
Pathway Analysis.
Internal Dose.
—Public Comment and Discussion.

May 30, 1986

—Dosimetry Reconstruction Beyond 200 Miles.
Soil Sampling Program.
Meteorological Modeling of Fallout Deposition.
Sample Results of Dosimetry Calculations for Phase II.
—Quality Assurance.
ORERP Quality Assurance Plan.
Quality Checking of Data Bases.
Final Disposition of CIC/ORERP Documents.
EML Evaluation of ORERP Soil Program.
—Administrative Summary.
Reporting of Project Results.
DAAG Recommendations.
Synopsis by Project Manager.
Synopsis by DAAG Chairman.
—Public Comment and Discussion.
—Press Conference.

Public Participation: The meeting is open to the public. The Chairperson of the Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Charles Campbell, at the address or telephone number listed above.

Transcripts: Available for public review and copy at the Public Reading Room, Room 1E-190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC on April 25, 1986.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 86-9877 Filed 5-1-86; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders; Period of March 17 through April 11, 1986; Burlile Oil Co. et al.

During the period of March 17 through April 11, 1986, the proposed decisions and orders summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to applications for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decison and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these proposed decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

Dated: April 22, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Burlile Oil Company, Gallipolis, Ohio; KEE-0022, reporting requirements

Burlile Oil Company filed an Application for Exception from the provisons of EIA Form EIA-782B. The exception request, if granted, would relieve Burlile from its monthly reporting obligation. On April 8, 1986, the Department of Energy issued Proposed Decision and Order which determined that the exception request be denied.

County Fuel Co., Inc., Baltimore, MD; KEE-0144, motor gasoline

County Fuel Co., Inc. filed an Application for Retroactive Exception from the provisions of the reseller-retailer price rule at 10 CFR 212.93. The exception request, if granted, would excuse the firm from liability for alleged overcharges of $197,305.49, plus interest. On April 8, 1986 the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

[FR Doc. 86-9874 Filed 5-1-86; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of March 24 through March 28, 1986; Bill's Oil Co., Inc., et al.

During the week of March 24 through March 28, 1986, the decisions and orders summarized below were issued with respect to applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Requests for Exception

Bill's Oil Company, Inc., 3/26/86; KEE-0008

Bill's Oil Company, Inc. filed an Application for Exception from the requirement to submit Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering the request, the DOE found that the firm had not shown that it was more adversely affected by the reporting requirement than other reporting firms. Accordingly, exception relief was denied.

Huron Oil Company, 3/26/86; KEE-0001

On September 30, 1985, Huron Oil Company (Huron) filed an Application for Exception from the requirement to file Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In evaluating the request, the DOE found that the eight hours per month the firm requires to complete the form, in addition to other peculiar hardships, placed a disproportionate burden on Huron. The Department of Energy therefore determined that Huron should be granted an exception which permits the firm to file estimated data reports.

Keystone Fuel Oil Co., 3/26/85; HEE-0104

Keystone Fuel Oil Company filed an application seeking retroactive exception relief from the reseller price regulations formerly codified in 10 CFR Part 212, Subpart F. In a Remedial Order issued on July 13, 1984, the OHA found that Keystone made certain overcharges in its sales of coverod products during the period August 1973 through April 1974. If the application were approved, Keystone would be excused from its refund obligations under the Remedial Order. In this Decision, the OHA found that Keystone realized an unusually high level of profit during the year when the price violations occurred, which were apparently attributable to the excessive markups that Keystone charged its customers. The OHA also found that the firm's petroleum operations have been generally profitable in recent years. The OHA concluded that Keystone's retroactive exception request should be denied because it does not satisfy the retroactive exception relief standards.

Ryno Oil, 3/26/86; HEE-0129

On March 12, 1985, Ryno Oil (Ryno) filed an Application for Exception from the requirement to file Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In evaluating the request, the DOE found that the twelve hours per month the firm requires to complete the form, in addition to other peculiar hardships, placed a disproportionate burden on Ryno. The Department of Energy therefore determined that Ryno should be granted an exception which permits the firm to file estimated data reports.

Interlocutory Order

Economic Regulatory Administration, 3/24/86; KRZ-0026

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a Motion to Amend a Proposed Remedial Order (PRO) issued to Tonkawa Refining Company on May 31, 1985. The OHA determined that good cause existed for permitting the amendment and that Tonkawa would not be prejudiced thereby. It noted that in both the original and amended versions of the PRO, the nature of the alleged violations were the same. It noted further that the number of barrels of crude oil at issue were identical. It also determined that because ERA's proposed amendments would actually reduce the total amount of money which Tonkawa might be obliged to pay in restitution for the excessive entitlements benefits it allegedly received, it would benefit substantially from the amendment. Finally, the OHA noted that Tonkawa will be afforded the opportunity to file a Reply in which it can respond to the allegations

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contained in the amended PRO. Accordingly, the motion to amend the PRO was granted.

Supplemental Order

J.R. Cone, 3/24/86; KCX-0009

The Federal Energy Regulatory Commission issued an order responding to the Office of Hearings and Appeals a Remedial Order issued to J.R. Cone. The FERC Order affirmed the Remedial Order in part, but reversed the OHA's findings that (i) Cone improperly considered four wells on the Eubanks Lease as multiply completed; and (ii) received overcharges of $469,650.62 in his sales of crude oil from that lease. On remand, the OHA discussed the standard of proof applicable to enforcement proceedings before the DOE, stating that it had adhered to the "preponderance of the evidence" standard in assessing the merits of the evidence submitted in the Cone proceeding. Finally, the OHA implemented the Commission's order and reduced Cone's overcharges relating to the Eubanks Lease to $280,208.91.

Implementation of Special Refund Procedures

Jimmy's Gas Stations, Inc., 3/27/86; HEF-0102

The DOE issued a Decision and Order implementing a plan for the distribution of $6,275 received as a result of a consent order entered into by the DOE and Jimmy's Gas Stations, Inc. (Jimmy's) on May 12, 1980. The DOE determined that the Jimmy's settlement fund should be distributed to customers who purchased No. 2 heating oil and diesel fuel from Jimmy's during the period November 2, 1973 through May 4, 1974. The specific information requested in refund applications is provided in the Decision.

Key Oil Company, Inc., 3/26/86; HEF-0105

The DOE issued a Decision and Order implementing a plan for the distribution of $69,651 received as a result of a consent order entered into by the DOE and Key Oil Company, Inc. (Key, Inc.) on September 18, 1981. The DOE determined that the Key, Inc. settlement fund should be distributed to customers who purchased motor gasoline from Key, Inc. during the period March 1, 1979 through December 31, 1979. The specific information requested in refund applications is provided in the Decision.

Refund Applications

Aminoil U.S.A., Inc./Land O'Lakes, Inc., 3/26/86; RF139-22

The DOE issued a Decision and Order concerning an Application for Refund filed by an agricultural cooperative, Land O'Lakes, Inc., in connection with the Aminoil U.S.A., Inc. refund proceeding. In considering the application, the DOE found that Land O'Lakes purchased 19,598,198 gallons of propane from Aminoil during the consent order period. The DOE further found that since Land O'Lakes is an agricultural cooperative, it should not be required to provide a detailed demonstration of injury, as long as it certified that it would pass through to its member-customers the total amount of refund received. Having made the proper certification, the DOE granted Land O'Lakes a refund based on 100 percent of its allocable share as determined by the volumetric methodology. The total refund granted was $469,107, representing $291,069 in principal and $178,038 in accrued interest.

Boswell Oil Company/National Steel Corp. Armco Inc., 3/24/86; RF179-4, RF179-15

Applications for refund were filed by two end-users who purchased refined petroleum products from Boswell Oil Company during the consent order period. The applications were evaluated in accordance with the procedures set forth in Boswell Oil Co., 13 DOE ¶ 85,092 (1985). The OHA issued a Decision and Order approving the applications and issuing refunds totalling $18,516.22.

Gulf Oil Corporation/George's Gulf Service, et al., 3/25/86; FR40-80394, et al.

The DOE issued a Decision granting 12 Applications for Refund from the Gulf Oil Corporation consent order fund filed by resellers and retailers of Gulf refined products. In considering the applications, the DOE found that each of the claimants had demonstrated that it would not have been required to pass through to its customers a cost reduction equal to the refund claimed. Accordingly, the firms were granted refunds totalling $19,306 ($16,386 principal plus $2,950 interest).

Gulf Oil Corporation/Mac's Fuel Oil Service, Inc., et al., 3/27/86; RF40-61794, et al.

The DOE issued a Decision and Order granting refunds from the Gulf Oil Corporation deposit fund escrow account to 12 purchasers of Gulf refined petroleum products. The refunds from these firms totaled $17,312.

Gulf Oil Corporation/Navy Resale and Services Support Office, 3/26/86; RF40-1277

The DOE issued a Decision and Order granting a refund from the Gulf Oil Corporation deposit escrow fund to Navy Resale and Services Support Office (NRSSO), a reseller of Gulf refined petroleum products which operates service stations on Navy bases throughout the country. The applicant documented purchases of 11,511,112 gallons of Gulf products. In addition, NRSSO demonstrated that it would not have been required to reduce its selling prices to customers by the amount of the refund claimed. Based on this showing, the DOE granted NRSSO a refund of $10,862, representing $14,044 in principal and $2,848 in accrued interest.

Gulf Oil Corp./Theatres Service Company, et al., 3/28/86; RF40-308, et al.

The DOE issued a Decision and Order concerning seven Applications for Refund filed by end-users of petroleum products purchased from the Gulf Oil Corporation. In its Decision, the DOE granted the seven applications under the standards specified in *Gulf Oil Corp.*, 12 DOE ¶ 85,048 (1984). The refunds granted in this proceeding total $350,368, representing $302,365 in principal and $57,003 in interest.

Harris Enterprises, Inc. Widing Transportation, et al., 3/24/86; RF199-2, et al.

The DOE issued a Decision and Order approving refunds to 19 firms who sought refunds from the fund obtained as a result of a consent order entered into with Harris Enterprises, Inc. Each claimant certified that it purchased Harris petroleum products during the consent order period and stated that it was willing to rely on the information in the audit files in calculating its refund. The DOE determined that the entire escrow account should be proportionately distributed among the applicants according to the methodology set forth in *Harris Enterprises, Inc.*, 13 DOE ¶ 85,179 (1985). The refunds approved in this Decision total $21,300 principal and the total amount of interest accrued on that fund at the time of disbursement.

L & L Oil Company, Inc./Lee & Leon Oil Company, et al., 3/27/86; RF198-1, et al.

The DOE issued a Decision and Order concerning six Applications for Refund filed by Lee & Leon Oil Company, *et al.* Each of the applicants had purchased refined petroleum products from L & L Oil Company, Inc. and each sought a portion of the settlement fund obtained by the DOE through a consent order entered into with L & L. Each of the six firms was identified in the DOE's audit files and was listed in the Appendix to the Decision. *See L&L Oil Company, Inc., Lowe Oil Company, and Moyle Petroleum Company*, 13 DOE ¶ 85,198 (1985). Each of the applicants agreed with the amounts listed in the Appendix, and each of these amounts was under the $5,000 threshold. After examining the applications submitted by the firms, the DOE concluded that each of the firms should receive the refund amount listed in the Appendix, plus its share of accrued interest. The total amount of refunds granted was $11,490.

Seminole Refining, Inc./Sellers Oil Company, Inc., 3/24/86; RF111-13

Sellers Oil Company, Inc. filed an Application for Refund in which the firm sought a portion of the fund obtained by the DOE through a consent order entered into with Seminole Refining, Inc. The firm claimed a refund on the basis of its purchases of No. 2 fuel oil from Seminole during the period July 1, 1977 through August 13, 1980. Since that product was decontrolled effective July 1, 1979, the OHA determined that the firm was not eligible for a refund and that the request for refund should be denied.

Sid Richardson Carbon and Gasoline Company and Richardson Products Company/Manito Oil and Propane, Kerschner's Gas Service, Inc., De Reu Skelgas Company, 3/27/86; RF26-24, RF26-29, RF26-30

The DOE issued a Decision and Order granting refunds from the Sid Richardson Carbon and Gasoline Company and Richardson Products Company deposit escrow account to three purchasers of Sid Richardson propane. Since none of the applicants claimed purchases above the threshold level, the DOE did not require them to submit a detailed showing of injury. The refunds to these firms total $60,928, representing $46,223 principal and $42,706 interest.

Standard Oil Company (Indiana)/American Cyanamid Company, 3/26/86; RF21-12400

The DOE issued a Decision and Order concerning an Application for Refund filed by American Cyanamid Company (ACC), an end-user of No. 6 fuel oil purchased directly from Standard Oil Company (Indiana), commonly known as Amoco, during the period March 1973 through December 1975. In accordance with the procedures established in the Amoco Special Refund Proceeding, the DOE determined that ACC should receive a refund based on the volumes of No. 6 fuel oil it purchased from Amoco during the consent order period. The total refund amount approved in this Decision is $1,728 ($1,300 principal plus $417 interest).

Standard Oil Company (Indiana)/Quality Oil Company, et al., 3/25/86; RF21-12583 et al.

The DOE issued a Decision and Order granting an Application for Refund filed by Quality Oil Company and 168 other firms from the Standard Oil Company (Indiana) consent order fund. The refunds approved in this Decision total $21,180 in principal and $11,924 interest.

Vickers Energy Corp./Minnesota, et al., 3/25/86; RQ1-267, et al.

The DOE issued a Decision approving in part the second-stage refund plans of Minnesota and South Caroline for use of funds from the Vickers, Pennsoil, Belridge, Amoco, Perry Gas, Charter, and Coline escrow accounts. Minnesota plans to use $58,630 plus interest for three energy conservation projects: (1) oat hull test burns, (2) energy conservation assistance for the commercial and industrial sectors, and (3) funding for the Energy Information Center. Because of pending litigation, however, the DOE cannot currently disburse second-stage Vickers and Pennsoil funds, and approval of the plan is contingent upon the DOE's success in this litigation. South Carolina proposes to use $404,600 of principal and interest for four energy-related projects: (1) motor fuel testing, (2) traffic light synchronization, (3) public transit fuel conservation, and (4) vanpool loans. The DOE found these programs restitutionary to injured consumers of motor gasoline and No. 2-D diesel fuel. Accordingly, the refund applications of Minnesota and South Caroline were partially granted.

Dismissals

The following submissions were dismissed:

Name and Case No.

Amerada Hess Corp.—RF189-16, RF189-17
Commonwheel Corp.—RF40-213
Coral Petroleum—RF189-2
Crown Central Petroleum Corp.—KRS-0002
Arthur J. Gobbee—RF225-327
Philip Palme—RF225-57.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: April 24, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 86-9875 Filed 5-1-86; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures for filing Applications for Refund from a fund of $368,000 obtained from American Pacific International, Inc., in settlement of enforcement proceedings brought by DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Applications for refund must be filed by July 31, 1986, should conspicuously display a reference to case number HEF-0316 and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC. 20585, (202) 252-2094.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order establishes procedures to distribute funds obtained as a result of a settlement between American Pacific International, Inc. and DOE. The Consent Order entered in the case settled all disputes between DOE and American Pacific International concerning possible violations of DOE price regulations with respect to the firm's sales of petroleum products to its customers, and possible violations of the regulations governing the Crude Oil Entitlements program, during the period November 1973 through January 1981.

Any members of the public who believe that they are entitled to a refund in this proceeding may file Applications for Refund. All applications should be filed by July 31, 1986, and should be sent to the address set forth at the beginning of this notice. Applications for refunds must be filed in duplicate and these applications will be made available for public inspection between the hours of 1:00 to 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: April 22, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order

Implementation of Special Refund Procedures

April 22, 1986.

Name of Petitioner: American Pacific International, Inc.

Date of Filing: October 13, 1983.

Case Number: HEF-0316.

On October 13, 1983, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) filed a petition with the Office of Hearings and Appeals (OHA), requesting that the OHA formulate and implement procedures for distributing funds obtained through the settlement of enforcement proceedings involving American Pacific International, Inc. (API). *See* 10 CFR Part 205, Subpart V. This Decision and Order establishes the final procedures for distributing funds the DOE received from API to qualified refund applicants. Information necessary to prepare motor gasoline refund applications appears in Section II of this Decision. Section II-A sets forth specific requirements applicable to each of the various types of claimants that are likely to file applications. A claimant should take particular note of those requirements applicable to its particular circumstances. Section II-B sets forth the general requirements which apply to all motor gasoline refund applications.

API was a producer of crude oil and a reseller of motor gasoline. DOE audits of API revealed possible regulatory violations in the firm's first sales of crude oil and in its sales of motor gasoline during the period of federal price controls. In order to settle all claims and disputes between API and the DOE, the two parties entered into a consent order on May 13, 1983. Under the terms of the consent order, API agreed to remit $368,000 plus interest to the DOE in 36 monthly installments beginning June 30, 1983, in settlement of alleged violations occurring between November 1, 1973 and January 27, 1981 (the consent order period). These funds

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have been held in an interest-bearing escrow account established with the United States Treasury pending a determination by the OHA of their proper distribution. As of March 31, 1986, the API escrow account contained approximately $454,000, including accrued interest, although API has not completed making the scheduled payments.

On February 10, 1986, we issued a Proposed Decision and Order which set forth a tentative plan for distributing the API settlement funds. *See* 51 FR 6463 (February 24, 1986). In the Proposed Decision, we described a two-stage process for disbursing refunds. Specifically, we proposed to distribute funds in the first stage to identifiable purchasers of API motor gasoline who could demonstrate that they were injured by the firm's pricing practices during the consent order period. We further stated that if funds remain after these meritorious claims have been paid, a second-stage refund procedure may become necessary. *See generally Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (hereinafter cited as *Amoco*).

The purpose of this Decision and Order is to establish the final procedures to be used for filing and processing claims in the first stage of the API proceeding. Because our determination concerning the final disposition of any remaining funds will necessarily depend on the size of the fund, we will not establish second-stage procedures in this Decision. *See Office of Enforcement*, 9 DOE ¶82,508 (1981) *(Caline)*. Accordingly, it would be premature for us to address at this time issues raised by commenters concerning second-stage refunds.[1]

Because the consent order resolves alleged violations involving sales of both crude oil and refined products, we proposed to divide the fund into two pools. *See Amoco*, 10 DOE 88,193–94. As we discussed in the Proposed Decision, from our review of a Proposed Remedial Order (PRO) issued to the firm by ERA, it appears that 39.82% of the alleged overcharges settled by the consent order concerned API's production and sales of crude oil. Accordingly, 39.82 percent of the principal contained in the API escrow account has been set aside in a pool of crude oil funds. The remaining 60.18 percent of the API funds will be made available for distribution to purchasers of API motor gasoline who demonstrate that they were injured by API's alleged violations.

I. Refund Procedures for Crude Oil Claims

API, like other producers of crude oil, was subject to the Mandatory Petroleum Price Regulations set forth in 6 CFR Part 150 and 10 CFR Part 212.[2] To the extent that API miscertified old crude oil as new or stripper well crude oil, the impact of the violations was spread throughout the domestic refining industry by the operation of the Entitlements Program, 10 CFR 211.67. *See, e.g., Union Oil Co.* v. *DOE*, 666 F 2d 797 (Temp. Emer. Ct. App. 1982), *cert. denied*, 459 U.S. 1202 (1983).

Based on the OHA's report to the District court in the Stripper Well Exemption Litigation, *see Report of the Office of Hearings and Appeals, In re: The Department of Energy Stripper Well Exemption Litigation*, MDL No. 378 (D. Kan., filed June 21, 1985), Fed. Energy Guidelines ¶90,567 at 90,620 (1985) (the OHA Stripper Well Report), the DOE announced that no claims for direct restitution would be accepted, and the Department would maintain overcharges associated with such violations in escrow to afford Congress the opportunity to select the means of making indirect restitution. *See* Statement of Restitutionary Policy, 50 FR 27400 (1985), Fed. Energy Guidelines ¶90,508 (1985).

In light of the DOE policy determination, the OHA issued an order in June 1985 announcing that it intended to apply the policy in special refund proceedings involving overcharge funds attributable to Entitlements-period crude oil certification violations. 50 FR 27402 (1985). After soliciting comments from potentially aggrieved parties regarding the OHA's application of the policy to pending refund proceedings, the OHS stated in *Amber Refining, Inc.*, 13 DOE ¶85,217, (1985), that it would apply the Statement of Restitutionary Policy in all crude oil refund cases.

We have reviewed comments filed on behalf of the Comptroller of the State of California which argue that restitution for crude oil overcharges is best effected through distribution of funds to the States for use in energy-related programs. However, in view of the OHA's decision in *Amber Refining*, we have determined that the funds obtained from American Pacific that are attributable to alleged crude oil violations should be pooled with other crude oil funds for distribution in accordance with departmental policies. *See* 50 FR 27402 (1985); 50 FR 27400 (1985); 50 FR 1919 (1985).

II. Refund Procedures for Motor Gasoline Refund Claims

During the first stage of the refund process, the remainder of the API settlement fund will be distributed to purchasers of API motor gasoline who satisfactorily demonstrate that they were injured by API's alleged pricing violations. It appears from examination of audit records that Tesoro Petroleum Corporation bought significant volumes of API motor gasoline during the consent order period, although it is likely that there are other potential claimants as well. From our experience with Subpart V proceedings, we believe that potential claimants will fall into the following categories: (1) end users, i.e., consumers who used the API motor gasoline; (2) regulated entities not subject to the former federal oil price controls which used API products in their businesses or cooperatives which sold API products in their businesses; (3) and refiners, resellers or retailers who resold the API motor gasoline.

As in many prior special refund cases, we are adopting certain presumptions[3] which will permit claimants to participate in the refund process without incurring inordinate expense and will enable OHA to consider the refund applications in the most efficient manner possible.[3]

We are adopting a presumption that the alleged overcharges were dispersed equally in all sales of motor gasoline made by API during the consent order period and that refunds should therefore be made on a pro-rata or volumetric basis. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in determining its prices. However, we also recognize that the impact on an individual purchaser might have been greater. Therefore, any purchaser may file a refund application

[1] Comments concerning second-stage refunds were submitted on behalf of the States of Arkansas, California, Louisiana, North Dakota, Rhode Island, Utah, and West Virginia.

[2] The DOE regulations, in effect from August 19, 1973 until January 27, 1981, governed prices charged in crude oil sales to first purchasers by defining ceiling prices for various tier classifications of crude oil. The regulations permitted producers to sell certain crude oil such as crude oil produced from "stripper well property," at market price levels. When a producer sold crude oil, it was required to certify in writing to the purchaser the respective volumes of crude oil belonging to each tier classification in each purchase. When a refiner processed the crude oil, it was required to report these certifications to the DOE to enable the agency to administer the Crude Oil Entitlements Program. 10 CFR 211.67.

[3] The Subpart V regulations specifically authorize the use of presumptions in special refund proceedings. *See* 10 CFR Part 205, Subpart V.

based on a claim that it suffered a disproportionate share of the alleged overcharges. *See, e.g., Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 (1984).

Under the volumetric refund approach, a claimant will be eligible to receive a refund equal to the product of the number of gallons purchased times the per gallon refund amount.[4] At the present, however, we cannot determine precisely what the per gallon refund amount will be. Information set forth in the PRO suggests that API may have sold as little as 3.7 million gallons of motor gasoline during the audit period. If this figure represents the totality of API's motor gasoline sales during the consent order period, the per gallon refund would be approximately $.06 per gallon plus a share of the accrued interest. However, we note that information contained in the PRO relating to API's motor gasoline sales encompasses only the period from January 14 through March 31, 1974, whereas the consent order period spans the entire period during which petroleum prices were subject to federal regulation. Thus, there may be additional volumes of motor gasoline to be accounted for in determining a reasonably reliable per gallon refund amount. The Office of Hearings and Appeals has been unable to obtain gasoline sales volume figures for the entire consent order period because the firm has been unable to locate relevant records. *See* Memorandum of Telephone Conversation between Lorraine Loder, Esq. and Meri Arnett-Kremian, OHA Staff Attorney, dated May 20, 1985. For this reason, we will hold all refund applications until the close of the application period in order to determine whether the per gallon refund amount should be reduced in order to insure that sufficient funds are available to pay all valid claims.

(A) Specific Application Requirements for Each Category of Refined Product Refund Applicants

(1) Refund Applications by End Users. We are adopting a finding that end-users or ultimate consumers whose businesses are unrelate to the petroleum industry were injured by the alleged overcharges settled by the API consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the alleged overcharges on the final prices of non-petroleum goods and services would be beyond the scope of a special refund proceeding. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984); *Office of enforcement*, 10 DOE ¶ 85,072 (1983) (*PVM Oil Associates*). We have therefore concluded that end-users of API motor gasoline need only document their purchase volumes of API gasoline to make a sufficient showing that they were injured by the alleged overcharges.

(2) Refund Applications by Regulated Firms or Cooperatives.—In addition, we are adopting the presumption that agricultural cooperatives and regulated firms, such as public utilities, that are required to pass on to their customers the benefit of any refund received will be exempted from the requirement that they make a detailed showing of injury. *See Office of Special Counsel*, 9 DOE ¶ 82,538 (1982) *(Tenneco); Tenneco Oil Company/Farmland Industries, Inc.*, 9 DOE ¶ 82,597 (1982). Instead, those firms and cooperative groups should provide with their applications a full explanation of the manner in which refunds would be passed through to their customers and how the appropriate regulatory body or membership group will be advised of the applicant's receipt of refund money. We note, however, that a cooperative's sales of API products to non-members will be treated in the same manner as sales by other resellers.

(3) Refund Applications by Resellers, Retailers and Refiners.—a. *Spot Purchasers.* If a claimant made only spot purchases, we believe that in most circumstances it should not receive a refund since it is unlikely to have experienced injury. Spot purchasers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of API product at increased prices unless they were able to pass through the full amount of the quoted selling price at the time of purchase to their own customers. *See Office of Enforcement*, 8 DOE ¶ 82,597 at 85,396–97 (1981) *(Vickers)*. Therefore, a firm which made only spot purchases from API will not receive a refund unless it persents evidence rebutting the spot purchaser presumption and establishes the extent to which it was injured as a result of its purchases of API motor gasoline during the consent order period. *See Amoco*, 10 DOE at 88,200. Spot purchasers will *not* be able to use the presumption of injury for small claims described below.

b. *Refiners, Resellers and Retailers Seeking Refunds of $5,000 or Less.* We are also adopting the presumption that purchasers of API motor gasoline seeking small refunds were injured by API's pricing practices. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). With small claims, the cost to the firm of gathering evidence of injury to support a refund claim could exceed the expected refund. Consequently, without simplified procedures, some injured parties would be effectively denied an opportunity to obtain a refund. Under the small-claims presumption, a claimant seeking a refund of $5,000 or less will not be required to submit any evidence of injury beyond establishing the volume of API motor gasoline it purchased during the consent order period.[5] *See Texas Oil & Gas Corp.*, 12 DOE at 88,210; *Marion Corp.*, 12 DOE ¶ 85,014 (1984). In addition to the general information required from all applicants, it need only establish that it is a small-claims applicant.

c. *Refiners, Resellers and Retailers Seeking Refunds Greater than $5,000.* Unlike small-claims applicants, a firm which claims a refund in excess of $5,000 will be required to provide a detailed demonstration of its injury in addition to providing purchase volume informatoin. It will be required to demonstrate that it maintained a "bank" of unrecovered product costs in order to show that it did not pass along the alleged overcharges to its own customers. In addition, a claimant must show that market conditions would not permit it to pass through those increased costs. *See, e.g., Panhandle Eastern Pipeline Co./I.V. Cole Petroleum Co.*, 10 DOE ¶ 85,051 (1983); *Tenneco Oil Co./ Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,000 (1982). For periods in which the DOE regulations did not require retailers or resellers to compute cost bands, a firm will only be required to show the market conditions prevented it from recovering increased costs. Such a showing might be made through a demonstration of lowered profit margins, decreased market shares, or depressed sales volume during the

[4] A volumetric refund amount will be calcuated by dividing the motor gasoline portion of the settlement amount by our estimate of the total gallonage of motor gasoline sold by API during the period encompassed by the consent order.

[5] Claimants whose monthly purchases during the period for which a refund is claimed result in a volumetric refund of greater than $5,000 but who cannot establish that they did not pass through the price increases to their customers, or who limit their claims to the threshold amount, will be eligible for a refund of the $5,000 threshold amount without being required to submit additional evidence of indury. *See* Office of enforcement, 10 DOE ¶ 85,029 at 88,122 (1982) (Ada); Vickers, 8 DOE at 85,396.

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period of purchases from the consent order firm.

(B) General Refund Application Requirements

In addition to the specific requirements outlined above, all refund applicants should furnish the information set forth below.

1. An application for refund must be in writing, signed by the applicant, and specify that it pertains to the American Pacific International, Inc. Special Refund Proceeding, Case No. HEF–0316.

2. Each applicant should furnish its name, street or post office address, and its telephone number. If the applicant is a business firm, it should furnish all other names under which it operated during the period for which the claim is being filed.

3. Each applicant should specify how it used the product—i.e., whether it was a refiner, reseller, retailer or an end-user.

4. Each applicant must submit a monthly purchase schedule for API motor gasoline purchases during the consent order period, November 1, 1973 through January 27, 1981.

5. If an applicant purchased API motor gasoline from a reseller, it must establish its basis for belief that the motor gasoline originated with API and identify the reseller from whom the product was purchased. Indirect purchasers who either fall within a class of applicant whose injury is presumed, or who can prove injury, may be eligible for a refund if the reseller of API products passed through the alleged API overcharges to its own customers.

6. The application for refund should contain the name, address, and telephone number of the person who prepared the application. If the preparer was someone other than the applicant, the applicant should furnish us with the name and telephone number of a contact person familiar with the facts set forth in the application who we may contact for additional information concerning the application. Unless otherwise specified, the refund check will be issued to the preparer.

7. If the applicant is affiliated or associated with API in any manner, it must so indicate and provide information explaining the nature of its relationship with the consent order firm.

8. If the applicant has been involved in enforcement proceedings brought by the DOE, it must provide a summary of the present status of the proceeding, or if the matter is no longer pending, it must indicate how the proceeding was resolved.

9. If the applicant is a firm which did not actually purchase gasoline from API, but is a successor to an API customer, the applicant must provide evidence establishing that it, rather than API's former customer, is entitled to a refund.

10. Each application must include the following statement: "I swear (or affirm) that the information submitted is true and accurate to the best of my knowledge and belief." *See* 10 CFR 205.283(c); 18 U.S.C. 1001.

11. All applications for refund must be filed in duplicate. A copy of each application will be available for public inspection in the Public Reference Room of the Office of Hearings and Appeals, Forrestal Building, Room 1E–234, 1000 Independence Avenue, SW., Washington, DC. Any applicant who believes that its application contains confidential information must so indicate on the first page of its application and submit two additional copies of its application from which the confidential information has been deleted, together with a statement specifying why any such information is privileged or confidential.

12. Applications should be sent to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

13. Applications must be postmarked within 90 days after publication of this Decision and Order in the **Federal Register**. *See* 10 CFR 205.286. All applications for refund received within the time limit specified will be processed pursuant to 10 CFR 205.284 and the procedures set forth in this Decision and Order.

It is Therefore Ordered That:

(1) Applications for Refunds from the fund remitted to the Department of Energy by American Pacific International, Inc. pursuant to the consent order executed on May 13, 1983 may now be filed.

(2) All applications must be filed no later than 90 days after publication of this Decision and Order in the **Federal Register**.

Dated: April 22, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 86–9871 Filed 5–1–86; 8:45 am]

BILLING CODE 6450–01–M

Implementation of Second Stage Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of second stage special refund procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces the procedures to be used by state governments and autonomous American Indian tribes for filing Second Stage Applications for Refund from a fund of $30,938,071 obtained from Standard Oil Company (Indiana), now known as Amoco Corporation, in settlement of enforcement proceedings brought by the DOE.

ADDRESS: Applications for refund should conspicuously display a reference to case number HQF–0588, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–2094.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice is hereby given of the issuance of the Decision and Order set out below. The Decision and Order establishes procedures to distribute funds remaining after the conclusion of the first stage refund proceeding obtained as a result of a settlement between Standard Oil Company (Indiana), now known as Amoco Corporation, and DOE. The Consent Order entered in the case settled nearly all disputes between DOE and Amoco concerning possible violations of DOE price regulations with respect to the firm's sales of crude oil and refined petroleum products during the period March 1973 through December 1979.

The state governments listed in the Appendix to the Decision and Order set out below may file Applications for Refund. In addition, autonomous American Indian tribal groups may submit separate applications for appropriate portions of the refunds which would otherwise go to the states bordering their reservations. All Applications should be sent to the address set forth at the beginning of this notice. Applications for refunds must be filed in duplicate and these applications will be made available for public inspection between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: April 24, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Decision and Order

Second-Stage Refund Procedures

April 24, 1986.

Name of petitioner: Standard Oil Company (Indiana).

Date of filing: June 21, 1985.

Case number: HQF–0588.

This determination announces completion of the first-stage refund process for distributing $72 million plus interest which the Department of Energy (DOE) received under a 1980 consent order from Standard Oil Company (Indiana), now known as Amoco Corporation. Approximately $30.94 million attributable to refined product sales during the consent order period remains in the Amoco escrow account after all claims have been satisfied. This Decision discusses how these unclaimed funds will be distributed.

I. Background

The funds at issue in this proceeding were obtained from Amoco through a February 14, 1980 consent order with the DOE. *See* 45 FR 12287 (1980); *See also* 45 FR 26747 (1980). The consent order made available approximately $72 million for distribution under special refund procedures established by the OHA. *See Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) at 88,193.

Final procedures for refunding the money in the Amoco escrow account to injured consumers were established in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982) (hereinafter cited as *Amoco I*). The OHA divided the settlement fund of $72 million plus interest into two parts: one part (30.7 percent, or $22.1 million) was allowable to Amoco's crude oil sales. The other part (69.3% or $49.9 million) was used to pay claims filed by purchasers of Amoco refined products.

As of March 31, 1986, the OHA had received 12,580 first-stage claims from injured parties and disbursed nearly $30.9 million in principal and interest from the interest-bearing Amoco escrow account to claimants. Virtually all of these claims have now been adjudicated, a sufficient reserve for remaining claims has been calculated, and new applications will no longer be accepted.

On November 10, 1982, the OHA determined that unclaimed funds from the motor gasoline and middle distillate refund pools should be distributed to governments of the states in which these Amoco products were sold to be used for the benefit of injured consumers.[1] *Standard Oil Co. (Indiana)*, 11 DOE ¶ 85,185 (1983) (hereinafter cited as *Amoco II*). At that time $24 million ($21 million for motor gasoline and $3 million for middle distillates) was made available to states to distribute to energy consumers within their states. To date, the OHA has disbursed over $22 million in Amoco refunds to 39 state governments and the District of Columbia and $16,133 to eight federal native American tribal reservations through the second-stage refund process.[2]

II. Remaining Funds

At this point, $70.37 million remains in the Amoco escrow account. Of that amount, $38.03 million[3] represents the current reserve for distribution in accordance with DOE policy for escrow funds attributable alleged crude oil violations. An additional $1.40 million is reserved for second stage refunds allocated in *Amoco II* but not yet disbursed. That leaves $30.94 million, including interest, attributable to refined products.

The following table indicates the source of that amount, after all disbursements to date:

Product pool	Amount
Motor gasoline	$15,407,461
Natural gas liquids	7,334,232
Residual fuel oil and related products	3,889,615
Middle distillates	2,032,327
Jet fuel and aviation gasoline	2,274,436
Total	$30,938,071

III. Distribution of Remaining Funds

The funds remaining from the product pools should be distributed to state governments for indirect restitution. Only states in which Amoco sold the product concerned are eligible to participate, *Amoco I* at 88,202. Each state's share is based on the relative impact of the alleged Amoco overcharges or, in other words, proportional to the ratio which statewide sales of that Amoco product during the consent order period bears to national sales of the Amoco product. This information is summarized in the Appendix. This impact differs from the distribution of refined product sales generally. According to reports which Amoco filed with the Energy Information Administration (EIA), which listed Amoco's sales in each of the 48 contiguous states for each refined product, Amoco's sales were heavily concentrated in a few states, especially in the industrial midwest and Texas. For example, Amoco sold almost one-third of all its products in only three Midwestern states: Illinois, Michigan, and Indiana. Amoco sold 14.5 percent of all of its products in Illinois, 9.9 percent in Michigan, and 6.3 percent in Indiana. Sales in Texas accounted for another 10.7 percent of Amoco's nationwide sales of petroleum products other than crude oil. Sales in these four states—Illinois, Indiana, Michigan, and Texas—accounted for 41.4 percent of all sales made by Amoco during the relevant period. By contrast, these four states accounted for only 18 percent of the total refined products sold nationwide.

As in *Amoco II*, certain autonomous American Indian tribes are eligible to receive some portion of the second-stage refund moneys for the consumers they represent. *See note 1, supra.* The federally-recognized Indian tribes are self-governing political entities that are autonomous from the states within whose borders their reservations lie. *Worcester v. Georgia*, 31 U.S. 515 (1832); *William v. Lee*, 358 U.S. 217 (1959). Consequently, we will accept plans from tribal organizations for using a share of the Amoco funds attributable to products consumed by members residing on their reservations. Those plans should meet the general requirements for state plans which are outlined in this decision. Tribal plans should also include information indicating that tribal members residing on the reservation are not eligible to participate in state programs being funded by the Amoco second-stage refund moneys and a proposal for allocating a portion of state funds to the tribal organization. *See, e.g., Standard Oil Co. (Indiana)/The Navajo Nation*, 13 DOE ¶ 85,266 (1985) and cases cited therein. Of course, many residents of reservations may already be served

[1] Since federally recognized native American tribal organizations are self-governing political entities that are autonomous from the states within whose borders their reservations lie and often administer energy programs that are independent of state programs, tribal organizations were permitted to use portions of the states' shares of the Amoco motor gasoline and middle distillate refunds. *Amoco II* at 88,299,300. The same principles will be applied in this decision.

[2] Some states have only received portions of the refunds allotted to them. In these instances, the states have been required to revise and resubmit portions of their restitutionary plans. *See, e.g., Standard Oil Co. (Indiana)/Iowa*, 12 DOE ¶ 85,005 (1985).

[3] That sum is derived by multiplying 30.7% by the total current equity value ($123,869,459.14) of the Amoco escrow account. The DOE's Statement of Restitutionary Policy governs these funds. 50 FR 27402 (July 2, 1985). The policy statement announced that the Department would maintain crude oil funds in escrow to afford the Congress the opportunity to select the means of making indirect restitution. Should the Congress decline to act on the issue by the fall of 1986, the DOE stated that the funds should be paid to the miscellaneous receipts account of the United States Treasury in order to benefit all Americans.

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through agreements between tribal organizations and the respective state governments, and those tribal organizations need not apply for refund money separately from state governments.

IV. Application Procedure

Funds will be disbursed upon the approval of a plan for spending the money submitted by a jurisdiction in which Amoco products were consumed, as set forth in the Appendix. These plans should meet the general restitutionary objective of this proceeding. Plans will be scrutinized to ensure that administrative costs are minimized. Refunds may be used for new energy-related projects, but they must not be used to implement projects or programs that would be funded regardless of this distribution. In other words, the refund money distributed must be used to supplement, not supplant, any state or federal funds which are already budgeted tor those purposes. Each program must be implemented within a reasonable period following receipt of the funds. Any interest earned after refund moneys have been disbursed shall be allotted to the projects for the purposes approved by OHA.

States should notify affected members of the public that the state is eligible to receive a refund in this case. *See Charter Co.*, 12 DOE ¶ 85,206 (1985) at 88,677–8. The public should be informed about the type of restitutionary plan which each state proposes to submit for approval of the OHA, and accorded an opportunity to contribute its ideas in the course of that process. Each application submitted must contain a statement describing the type of notice that was provided in the course of preparing the proposed plan. *Id.*

Each plan submitted should follow the broad guidelines discussed above, and must include the following information: (1) A description of the programs to be funded; (2) the time frame for implementation of the programs; (3) a statement explaining whether each program is an enlargement of an existing program or a new project; (4) an explanation of the manner in which consumers of refined petroleum products will benefit from the programs; (5) a statement certifying that the submitting agency has authority under state law to submit the plan; (6) a statement certifying either (a) that the tribal organizations responsible for administering reservations located within a state have agreed that the state's proposal will provide an equitable share of the allocated funds for tribal members residing on the reservation or (b) that those tribal organizations will file a separate proposed plan; (7) a statement describing the type of public notice that was provided by the state government in the course of preparing the proposed plan; and (8) a statement committing the agency or office responsible for administering the plan to filing with the OHA a post-plan report, which include a certification that the funds were spent in accordance with the DOE-approval plan. For further information concerning plan approvals, see *Standard Oil Co. (Indiana)/Maryland*, 13 DOE ¶ 85,075 (1985).

V. Conclusion

This determination concludes the distribution of $72 million plus interest to injured purchasers of Amoco products. All first-stage claims remaining have been satisfied, and an additional $30 million in principal and interest will be distributed in a second-staged refund proceeding. State governments and qualified American Indian tribal groups are invited to apply for these funds.

It Is Therefore Ordered That:

(1) The states set forth in the Appendix to this Decision and Order and qualified American Indian tribal groups may submit plans for the use of $30.9 million remaining in the Amoco escrow account. Each state's share of those funds including interest as of March 31, 1986 is set forth in the Appendix.

(2) This is a final order of the Department of Energy.

George B. Breznay,

Director, Office of Hearings and Appeals.

Dated: April 24, 1986.

APPENDIX.—STATE'S SHARES OF UNCLAIMED AMOCO FUNDS

State	Percent of Amoco's sales in state	State share
Alabama	1.7	$525,947
Alaska	0.0	0
Arizona	0.0	0
Arkansas	0.6	185,629
California	0.3	92,814
Colorado	1.3	402,195
Connecticut	0.7	216,566
Dist. of Col.	0.3	92,814
Delaware	0.1	30,938
Florida	2.9	897,204
Georgia	3.1	959,080
Hawaii	0.0	0
Idaho	0.5	154,690
Illinois	14.4	4,456,082
Indiana	6.3	1,949,089
Iowa	3.2	990,018
Kansas	3.2	990,018
Kentucky	0.3	92,814
Louisiana	1.7	525,947
Maine	0.3	92,814
Maryland	2.0	618,761
Massachusetts	0.9	278,443
Michigan	9.9	3,062,998
Minnesota	3.5	1,082,832
Mississippi	1.0	309,381
Missouri	4.3	1,330,337
Montana	0.4	123,752
Nebraska	1.1	340,319
Nevada	0.0	0
New Hampshire	0.1	30,938
New Jersey	1.5	464,071
New Mexico	0.3	92,814
New York	2.7	835,328
North Carolina	2.4	742,514
North Dakota	1.4	433,133
Ohio	1.1	340,319
Oklahoma	1.1	340,319
Oregon	0.0	0
Pennsylvania	2.6	804,390
Rhode Island	0.2	61,876
South Carolina	1.1	340,319
South Dakota	0.9	278,443
Tennessee	1.8	556,885
Texas	10.6	3,279,438
Utah	1.3	402,195
Vermont	0.1	30,938
Virginia	2.8	866,266
Washington	0.3	92,814
West Virginia	0.4	123,752
Wisconsin	2.8	866,266
Wyoming	0.5	154,690
Total	100.0	30,939,071

Source: Sales of Petroleum Products by State, as reported by Amoco to the Energy Information Administration. Numbers do not add to total because of rounding.

[FR Doc. 86-9673 Filed 5-1-86; 8:45 am]

BILLING CODE 6450-01-M

Modification of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of Implementation of Special Refund Procedures.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy announces that it is extending the deadline for filing Applications for Refund from funds obtained from Mobil Oil Corporation in settlement of enforcement proceedings brought by DOE's Economic Regulatory Administration.

DATE AND ADDRESS: Applications for refund must be postmarked by August 1, 1986, should conspicuously display a reference to case number HEF-0508, and should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–2094.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy, 10 CFR 205.282(c), notice was given of the issuance of a Decision and Order which implemented special refund procedures on December 24, 1985. 50 FR 53470 (December 31, 1985). The Decision and Order established procedures to distribute funds obtained as a result of a settlement between Mobil Oil Corporation and the DOE. The settlement resolved all disputes between DOE and Mobile concerning possible violations of DOE price and allocation regulations with respect to the firm's sales of refined petroleum products to its customers during the period March 1973 through January 1981, and its sales of crude oil during the period June 1979 through January 1981.

Any members of the public who believe that they are entitled to a refund in this proceeding may file Applications for Refund. The Department of Energy is hereby extending the deadline for receiving such applications. Applications will now be accepted beyond the deadline of May 1, 1986, as announced in the December 24, 1985 Decision and Order. All applications should be postmarked by August 1, 1986, and should be sent to the address set forth at the beginning of this notice. Applications filed after that date will be accepted only if due cause for delay is demonstrated. Applications for refunds must be filed in duplicate and these applications will be made available for public inspection between the hours of 1:00 and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue, SW., Washington, DC 20585.

Dated: April 22, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 86-9672 Filed 5-1-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3010-9]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075. Availability of Environmental Impact Statements filed April 21, 1986 through April 25, 1986 Pursuant to 40 CFR 1506.9.

EIS No. 860161, Draft, FHW, CA, CA–85 Transportation Corridor Construction, between US 101 in San Jose and I–280 near Stevens Creek Boulevard in Cupertino, Santa Clara County, Due: June 23, 1986, Contact: Dave Eyres (916) 551–1314.

EIS No. 860162, Draft, SCS, OK, Dry Creek Watershed, Protection and Flood Prevention Plan, Lincoln County, Due: June 18, 1986, Contact: Roland Willis (405) 624–4360.

EIS No. 860163, Final, FHW, MT, I–15 Beltview Interchange Construction, I–15 to Colonial Drive, Lewis and Clark County, Due: June 2, 1986, Contact: William Dunbar (406) 444–5310.

EIS No. 860164, Draft, NRC, CA, Humboldt Bay Power Plant, Unit 3, Decommission, Approval, Humboldt County, Due: June 16, 1986, Contact: Peter Erickson (301) 492–8194.

EIS No. 860165, Draft, Joint Lead, AFS, BLM, CA, Lassen National Forest, Geothermal Exploration, Development, and Production, Leasing, Due: June 16, 1986, Contact: Curt Spalding (916) 257–2151.

EIS No. 860166, Final, FHW, TN, Tn–386 Extension, I–65 to Hendersonville Bypass, Construction, Davidson and Sumner Counties, Due: June 2, 1986, Contact: Thomas Ptak (615) 736–5394.

EIS No. 860167, Draft, IBR, UT, Uinta Basin Unit Construction and Operation, Colorado River Water Quality Improvement Program, Duchesne and Uintah Counties, Due: July 28, 1986, Contact: Jay Henry (801) 379–1172.

EIS No. 860168, DSuppl, BLM, WY, Grass Creek and Cody Resource Areas, Wilderness Suitability, Owl Creek Wilderness Study Area, Designation, Hot Springs County, Due: July 31, 1986, Contact: Tim Smith (307) 347–9871.

Amended Notice:

EIS No. 860126, Final, BLM, AK, Central Yukon Planning Area, Land and Resource Management Plan, Due: May 15, 1986, Published FR 4–11–86, Review period extended.

Dated: April 29, 1986.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 86-9943 Filed 5-1-86; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3011-1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 14, 1986 through April 18, 1986 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in Federal Register February 7, 1986 (51 FR 4804).

Draft EISs

ERP No. D–AFS–K65068–CA, Rating EC2, Tahoe Nat'l Forest, Land and Resource Mgmt. Plan, CA. SUMMARY: EPA expressed concerns that forest activities such as timber harvests and vegetative type conversions will degrade water quality, and suggested that timing and guidelines applied to these activities be modified to protect water quality.

ERP No. D–COE–C36103–NY, Rating EC2, Sauquoit Creek Flood Control Plan, NY. SUMMARY: EPA has reviewed the main report and the draft EIS and concurs with the selected high-flow diversion channel alternative. However, there are environmental concerns regarding the implementation and extent of the wetlands mitigation and adequacy of the discussion of cumulative aquatic and wetland impacts.

ERP No. DS–COE–F35029–MN, Rating LO, Upper Mississippi River Lower Pool 5 Channel Maintenance and Weaver Bottoms Rehabilitation Plan, Dredged Material Maintenance, MN. SUMMARY: EPA has no objections to the proposed activity:

ERP No. D–JUS–L81007–OR, Rating EC2, Sheridan Federal Correctional Institution Complex, Construction and Operation, OR. SUMMARY: The draft EIS presents a somewhat confusing discussion of the water supply for the proposed correctional facility. It is not clear how water would be supplied to the facilty, or how supplying this water need would affect the natural or socio-economic environments; nevertheless, the draft EIS provides a good evaluation of the environmental consequences of the action and means for mitigating its impacts.

Final EISs

ERP No. F–AFS–E65034–AL, Alabama Nat'l Forests, Land and Resource Mgmt. Plan, AL. SUMMARY: EPA has no serious objections to the implementation of the preferred alternative. EPA's major concerns relate to the monitoring and follow-up on the use of Best Management Practices (BMP's) to ensure the protection of the Forest's environmental quality. In particular, we are suggesting on-going water quality monitoring—both long-term sampling of a cross-section of watersheds and statistical sampling of regular forest

events (e.g. road construction, timber management; etc.).

ERP No. F-AFS-C65063-80, Ouachita Nat'l Forest, Land and Resource Mgmt. Plan, AL. SUMMARY: EPA has no objections to the proposed action as described.

ERP No. F-CDB-K89059-CA, San Bernadino Enterprise Zone Application, Designation and CDB Grant, CA. SUMMARY: EPA had no comments to offer on this final EIS.

ERP No. F-FHW-L50002-WA, US 101/ Palix River Bridge Replacement and Approach and County Road Connections Realignment, 404 Permit Sect. 9 (CGD) Permit, WA. SUMMARY: The final EIS fully resolved EPA's environmental concerns and a more environmentally benign alternative was selected as the preferred alternative. EPA commended the lead agency for producing an especially clear and readable decision making document.

Dated: April 29, 1986.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 86-9944 Filed 5-1-86; 8:45 am]

BILLING CODE 6560-50-M

[OPPE-FRC-3011-6]

Open Meeting of the New Source Performance Standards for Residential Wood Combustion Units, Negotiated Rulemaking Advisory Committee

As required by section 9(a)(2) of the Federal Advisory Committee Act Pub. L. 92-463), EPA is giving notice of an open meeting of the Advisory Committee on New Source Performance Standards for Residential Wood Combustion Units.

The next meeting is scheduled on May 19 and 20, 1986, and will be held at the Capitol Park International, North Lobby Center, 800 Fourth Street, SW., Washington, DC 20024. Each day the meeting will begin at 9:00 a.m. and will run until completion.

The purpose of the May meeting is to work on the following substantive issues: test methods (sampling train, gas flow measurement procedures); stove certification procedures (notification requirements, submittal of data, EPA approval); and decisions on which laboratories will do certification testing and how those laboratories are selected and accredited. At this meeting, we anticipate the group will also begin working on the draft language of the proposed rule.

If interested in attending, or in receiving more information, please contact Kathy Tyson at (202) 382-5352.

Dated: April 24, 1986.

Milton Russell,

Assistant Administrator for Policy, Planning and Evaluation.

[FR Doc. 86-9909 Filed 5-1-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59709; FRL-2967-7]

Certain Chemicals Premanufacture Notices; Kay-Fries, Inc., et al.

Correction

In FR Doc. 86-7632, appearing on page 12556, in the issue of Friday, April 11, 1986, make the following correction.

In the second column, in "Y86-110", thirteenth line "future" should read "fume".

BILLING CODE 1505-01-M

[OPTS-59210; FRL-2967-6]

Test Marketing Exemption Applications; Westvaco Corp. et al.

Correction

In FR Doc. 86-7631, beginning on page 12556, in the issue of Friday, April 11, 1986, make the following correction.

On page 12557, under "T86-34", fourth line, "benzenesulfonamide" was misspelled.

BILLING CODE 1505-01-M

[OPTS-59219; FRL-3009-7]

Toxic Substances; Fatty Acid Ester; Test Marketing Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for an exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by: May 19, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS-59219]" and the specific TME number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. R-201, 401 M Street, S.W, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, S.W, Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

T 86-48

Close of Review Period. May 25, 1986.
Manufacturer. Confidential.
Chemical. (G) Fatty acid ester.
Use Production. (G) Wood coating. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

Dated: April 18, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 86-9413 Filed 5-1-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59762; FRL-3009-5]

Toxic Substances; Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). In the Federal Register of November 11, 1984, (49 FR 48066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of nine such PMNs and provides a summary of each.

DATES: Close of Review Period:

Y 86-118, 86-119 and 86-120—May 4, 1986.
Y 86-121, 86-122 and 86-123—May 5, 1986.
Y 86-124, 86-125 and 86-126—May 6, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemptions received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 86-118

Manufacturer. S.C. Johnson and Son, Inc.
Chemical. (G) Water soluble acrylate random copolymer.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Y 86-119

Manufacturer. S.C. Johnson and Son, Inc.
Chemical. (G) Water soluble acrylate random copolymer.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Y 86-120

Manufacturer. S.C. Johnson and Son, Inc.
Chemical. (G) Water soluble acrylate random copolymer.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Y 86-121

Manufacturer. S.C. Johnson and Son, Inc.
Chemical. (G) Styrene-acrylate random copolymer emulsion.
Use/Production. (G) Emulsion polymer/film former for floor polich. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Y 86-122

Manufacturer. Confidential.
Chemical. (G) Chain stopped alkyd resin.
Use/Production. (S) Industrial coating resin component. Prod. range: 20,000-100,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86-123

Manufacturer. Confidential.
Chemical. (G) Vinyl modified alkyd resin.
Use/Production. (S) Industrial coating resin component. Prod. range: 115,000-138,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86-124

Importer. Confidential.
Chemical. (G) Copolymer of acrylic and methacrylic esters.
Use/Imports. (S) Industrial, commercial and consumer polymer for use in coatings, adhesives, and inks. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Y 86-125

Manufacturer. Confidential.
Chemical. (G) Polyurethane dispersion.
Use/Production. (G) An additive to be used in the textile industry. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 1 worker, up to 4 hrs/da.
Environmental Release/Disposal. 25 kg/day washout. Disposal by city sewer system.

Y 86-126

Manufacturer. Confidential.
Chemical. (G) Polyurethane dispersion.
Use/Production. (G) An additive to be used in the textile industry. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 1 worker, up to 4 hrs/da.
Environmental Release/Disposal. 25 kg/day washout. Disposal by city sewer system.

Dated: April 18, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 86-9414 Filed 5-1-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51620; FRL-3009-4]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the Federal Register of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty-two PMNs and provides a summary of each.

DATES: Close of Review Period:

P 86-890 and 86-891—July 9, 1986.
P 86-892 and 86-893—July 12, 1986.
P 86-894, 86-895, 86-896, 86-897, 86-898, 86-899, 86-900, 86-901, 86-902, 86-903, 86-904, 86-905, 86-906, 86-907, 86-908, 86-909, 86-910, 86-911 and 86-912—July 13, 1986.
P 86-913, 86-914, 86-915 and 86-916—July 14, 1986.
P 86-917, 86-918, 86-919, 86-920 and 86-921—July 15, 1986.

Written comments by:

P 86-890 and 86-891—June 9, 1986.
P 86-892 and 86-893—June 12, 1986.
P 86-894, 86-895, 86-896, 86-897, 86-898, 86-899, 86-900, 86-901, 86-902, 86-903, 86-904, 86-905, 86-906, 86-907, 86-908, 86-909, 86-910, 86-911 and 86-912—June 13, 1986.

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P 86-013, 86-014, 86-015 and 86-016—June 14, 1986.
P 86-017, 86-018, 86-019, 86-020 and 86-021—June 15, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS-51630]" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street SW, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hannett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street SW, Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 86-000

Manufacturer. Confidential.
Chemical. (G) Polymer of acrylic acid esters, an aromatic vinyl nonomer, and a nitrile monomer.
Use/Production. (G) Print binder for textile goods. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 5 workers, up to 4 hrs/da, up to 49 da/yr.
Environmental Release/Disposal. 1 to 10 kg released to water. Disposal by publicly owned treatment works (POTW).

P 86-001

Importer. Ilford Incorporated.
Chemical. (S) 6-(2-hydroxy-ethoxy)-7-methoxy-2,3-dimethyl-quinoxaline.
Use/Import. (S) Commercial and consumer bleach catalyst in silver - dye bleach photo processing solution. Import range: 200-235 kg/yr.
Toxicity Data. Acute oral: 1,630 mg/kg; Irritation: Skin - Non-irritant, Eye - Irritant; EC_{50} 24 h r (Daphnia magna): 400 mg/1; LC_{50} 96 hr (Zebra fish): 68 mg/l; Ready biodegradability test: Not biodegradable.
Exposure. Processing: dermal, a total of 4 workers, up to 1 hr/da, up to 9 da/yr.
Environmental Release/Disposal. 0.010 to 0.100 kg/batch released to air, water and land. Disposal by landfill and scrubber.

P 86-002

Importer. Confidential
Chemical. (G) Aminophenyl-(substituted)carbomoncyclic sulfonamide.
Use/Import. (S) Industrial intermediate for the manufacture of dyes. Import range: Confidential.
Toxicity Data. Acute oral: 7,100 mg/kg; Ames test: Positive.
Exposure. Processing: dermal, up to 3 hrs/da, up to 19 da/yr.
Environmental Release/Disposal. 1 to 2 lbs/batch released to water. Disposal by POTW.

P 86-003

Manufacturer. Formica Corporation.
Chemical. (G) Modified triazine-formaldehyde polymer.
Use/Production. (S) Site-limited thermosetting laminating resin. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal.
Environmental Release/Disposal. Release to air, water and land. Disposal by POTW, incineration or sanitary landfill.

P 86-004

Manufacturer. Confidential.
Chemical. Alkanoate metal complex.
Use/Production. (G) Contained use. Prod. range: Confidential.
Toxicity Data. Acute oral: > 3,200 mg/kg; Irritation: Skin - Slight, Eye - Moderate; Skin sensitization: Negative.
Exposure. Manufacture and use: dermal, a total of 1 worker, up to 0.25 hr/da, up to 52 da/yr.
Environmental Release/Disposal. No release.

P 86-005

Manufacturer. Confidential.
Chemical. (G) Reaction product of polysubstituted alkanes.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: dermal.
Environmental Release/Disposal. No release.

P 86-006

Importer. SEH America.
Chemical. (G) Siloxanes and silicones, dimethyl, methyl (mercaptoalkyl) trimethyl end blocked.
Use/Import. (G) Open system, non-dispersive application. Import range: Confidential.
Toxicity Data. Acute oral: > 34.6 g/kg; Acute dermal: > 3 g/kg; Irritation: Skin-minimal, Eye-Mild; Inhalation: > 1.1 g/m_3; Skin sensitization: Negative.
Exposure. Processing: dermal and ocular, a total of 50 workers, up to 8 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. No data submitted.

P 86-007

Manufacturer. Confidential.
Chemical. (G) Phosphoric acid, mono and di-(2-ethylhexyl) esters, compounds with N,N-dimethyl alkylamine.
Use/Production. (G) Lubricant additive. Prod. range: Confidential.
Toxicity Data. Irritation: Skin - Non-irritant, Eye - Irritant.
Exposure. Manufacture: dermal, a total of 4 workers, up to 6 hrs/da, up to 16 da/yr.
Environmental Release/Disposal. 0.001 to 0.005 kg/batch released to air. Disposal by company treatment facility.

P 86-008

Manufacturer. Confidential.
Chemical. (G) N-tallow alkyl-2,2'-iminobis-propanol, inorganic salt.
Use/Production. (G) Lubricant additive. Prod. range: 110,000-440,000 kg/yr.
Toxicity Data. Irritation: Skin - Irritant, Eye - Irritant.
Exposure. Manufacture: dermal, a total of 6 workers, up to 6 hrs/da.
Environmental Release/Disposal. 0.001 to 0.3000 kg/batch released to air and water. Disposal by company treatment facility.

P 86-009

Manufacturer. Confidential.
Chemical. (G) calcium sulfonate.
Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 10 workers, up to 4 hrs/da, up to 18 da/yr.
Environmental release/Disposal. Release unknown. Disposal by POTW, approved landfull, heat recovered, in plant treatment, Clean Air Act, Clean Water Act and/or Resource Conservation and Recovery Act (RCRA).

P 86-010

Manufacturer. Confidential.
Chemical. (G) Substituted phenol.
Use/Production. (G) Contained use. Prod. range: Confidential.
Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 30 workers, up to 4 hrs/da, up to 85 da/yr.
Environmental Release/Disposal. Release to air and water. Disposal by POTW, in plant treatment, recycle or burning and Clean Water Act.

P 86-001

Importer. Confidential.
Chemical. (S) Cuprate (4-), [5-(acetylamino)-4-hydroxy-3-[[5-hydroxy-6-[[(2-hydroxy-4-[[2-(sulfooxy)ethyl]sulfonyl]phenyl]azo]-7-sulfo-2-naphthalenyl]azo]-2, 7-naphthalene disulfonate(6-)]-tetrasodium salt.
Use/Import. (S) Reactive dye for textiles. Import range: 30,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No exposure.
Environmental Release/Disposal. No release.

P 86-002

Importer. Confidential.
Chemical. (S) Cupate (4-)[2[[2,4-dihydroxy-3-[[2-hydroxy-5-[[2-(silfooxy)ethyl]sulfonyl]phenyl]azo]-pheny]azo]-4,8-naphthalene disulfonate(-6)]-trisodium salt.
Use/Import. (S) Reactive dye for textiles. Import range: 30,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No exposure.
Environmental Release/Disposal. No release.

4P 86-003

Manufacturer. Amoco Corporation.
Chemical. (G) Succinate ester amide.
Use/Production. (G) Lubricant oil additive. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Not corrosive.
Exposure. Confidential.
Environmental Release Disposal. No release.

P 86-004

Manufacturer. Rohm and Haas Company.
Chemical. (G) Polymer of alkyl methacrylate and substituted methacrylamide.
Use/Production. (G) Lubricant additive. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Manufacture: a total of 4 workers, up to 45 min/da, up to 9 da/yr.
Environmental Release/Disposal. .5 to 1.8 kg/batch released to control technology. Disposal by incineration.

P 86-005

Manufacturer. Confidential.
Chemical. (G) Functionalized ethene copolymer.
Use/Production. (S) Industrial and commercial plastics additive. Prod. range: 80,000-73,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 13 workers, up to 1 hr/da, up to 333 da/yr.
Environmental Release/Disposal. 22 kg/day released to land. Disposal by incisertion or landfill.

P 86-006

Importer. SEH America.
Chemical. (G) Mercaptoalkyl, alkylpolysiloxane.
Use/Import. (G) Open system, non-dispersive application. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 50 workers, up to 8 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. No data submitted.

P 86-007

Importer. SEH America.
Chemical. (G) Siloxanes and silicones, methyl, mercaptoalkyl hydrolysis products with tetraethoxysilane.
Use/Import. (G) Open system, non-dispersive application. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Processing: dermal, a total of 50 workers, up to 8 hrs/da, up 240 da/yr.
Environmental Release/Disposal. No data submitted.

P 86-008

Manufacturer. Confidential.
Chemical. (G) Ester copolymer.
Use/Production. (G) Contained use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 30 workers, up to 4 hrs/da, up to 27 da/yr.
Environmental Release/Disposal. Release unknown. Disposal by POTW, landfill, heat recovered by Clean Air Act, Clean Water Act, RCRA, and/or in-plant treatment.

P 86-009

Manufacturer. Confidential.
Chemical. (G) Alkylated aromatic compound.
Use/Production. (G) Contained use. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 30 workers, up to 4 hrs/da, up to 75 da/yr.
Environmental Release/Disposal. Release unknown. Disposal by POTW, landfill, heat recovered by Clean Air Act, Clean Water Act, RCRA, and/or in-plant treatment.

P 86-010

Manufacturer. Confidential.
Chemical. (G) Substituted alkyl arylamine.
Use/Production. (S) Site-limited isolated intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: a total of 2 workers.
Environmental Release/Disposal. Confidential. Disposal by POTW.

P 86-011

Importer. Ajinomoto U.S.A., Inc.
Chemical. (G) Amine adduct of epoxy resin.
Use/Import. (S) industrial and commercial curing agent and accelerator for epoxy resin. Import range: 1,200-6,000 kg/yr.
Toxicity Data. Acute oral: 20 g/kg; Irritation: Skin—Mild; Skin sensitization: Negative.
Exposure. Use: dermal and inhalation, a total of 5 workers, up to 8 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. Release to air and water.

P 86-012

Importer. Ajinomoto U.S.A., Inc.
Chemical. (G) Amine adduct of epoxy resin.
Use/Import. (S) Industrial and commercial curing agent and accelerator for epoxy resin. Import range: 1,200-6,000 kg/yr.
Toxicity Data. Acute oral: 20 g/kg; Irritation: Skin—Mild; Skin sensitization: Negative.
Exposure. Use: dermal and inhalation, a total of 5 workers, up to 8 hrs/da, up to 240 da/yr.
Environmental Release/Disposal. Release to air and water.

P 86-013

Manufacturer. NL Industries, Inc.
Chemical. (G) High solids oxirane/anhydride polyester resin.
Use/Production. (G) A polyester resin to be used in an open, non-dispersive manner. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

P 86-014

Manufacturer. NL Industries, Inc.
Chemical. (G) High solids oxirane/anhydride polyester resin.

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Use/Production. (G) A polyester resin to be used in an open, non-dispersive manner. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

P 86-615

Importer. Confidential.
Chemical. (G) Phenolic polyester.
Use/Import. (G) Coating. Import range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by POTW and incineration.

P 86-616

Manufacturer. Confidential.
Chemical. (G) Alkyl fatty ester.
Use/Production. (G) Finishes, polishes, mold release agent.
Prod. range: Confidential.
Toxicity Data: No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-617

Importer. Confidential.
Chemical. (G) Alkyl diquaternary.
Use/Import. (G) Catalyst in plastic resins. Import Range: Confidential.
Toxicity Data. No Data on the RMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-618

Manufacturer. Lawter International, Inc.
Chemical. (G) Linseed oil based terephthalic alkyd.
Use/Production. (S) Industrial printing ink vehicle. Prod. range: 22,000-30,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 10 workers, up to 10 hrs/da, up to 3 da/yr.
Environmental Release/Disposal. 0.1 to 2 kg/day released to air and water with 0.5 to 2 kg/day to land. Disposal by POTW and approved landfill.

P 86-619

Manufacturer. Confidential.
Chemical. (G) Substituted phenyl, substituted triazolyl (substituted) alkanamide.
Use/Production. (G) Contained use in an article. Prod. range: 650 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 26 workers, up to 1.0 hr/da, up to 5 da/yr.
Environmental Release/Disposal. No release. Less than 1 kg/batch disposed by biological treatment with less than 3 kg/batch incinerated.

P 86-620

Manufacturer. Confidential.
Chemical. (G) Substituted-3-sulfoalkylbenzothiazole, salt.
Use/Production. (G) Chemical intermediate. Prod. range: 450-500 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture, processing and use: dermal, a total of 9 workers, up to 0.7 hr/da, up to 4 da/yr.
Environmental Release/Disposal. No release. Less than 2 kg/batch incinerated.

P 86-621

Manufacturer. Confidential.
Chemical. (G) (Substituted aromatic heterocyclic) substituted-3-sulfoalkyl.
Use/Production. (G) Chemical intermediate. Prod. range: 200 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 48 workers, up to 1.0 hr/da, up to 10 da/yr.
Environmental Release-Disposal. No release. Less than 0.5 kg/batch disposed by biological treatment with less than 1 kg/batch incinerated.

Dated: April 18, 1986.

Denise Devoe,
Acting Director.

[FR Doc. 86-9415 Filed 5-2-86; 8:45 am]
BILLING CODE 6560-50-M

FARM CREDIT ADMINISTRATION

Organization; Farm Credit System Capital Corporation

AGENCY: Farm Credit Administration.

ACTION: Notice; Amendment to Articles of Incorporation of the Farm Credit System Capital Corporation.

SUMMARY: On April 14, 1986, the Farm Credit Administration ("FCA") amended Article III of the Articles of Incorporation of the Farm Credit System Capital Corporation ("Corporation"), chartered by the FCA on February 24, 1986 (51 FR 7121), pursuant to Title IV, Part D1, section 4.28A of the Farm Credit Act of 1971, as amended ("Act"), relating to the principal offices of the Corporation. As amended, Article III provides that the principal business offices of the Corporation shall be located in the greater metropolitan area of Kansas City, specifies that the business and operations of the Corporation shall be conducted from such offices, and provides that all meetings of the board of directors of the Corporation shall be held in that area, except that a meeting of the board of directors may be held outside the metropolitan area of Kansas City upon a resolution adopted by at least 80 percent of the members of the board. The Articles of Incorporation were also amended to provide that the respective initial terms of the board of directors of the Corporation shall end on December 31, 1986 and December 31, 1987, and that subsequent terms of related and appointed directors shall be for 2 calendar years.

The FCA has determined that Kansas City is a central and strategic location for servicing the loans and other assets likely to be purchased and administered by the Corporation, and from which the business operations and board meetings of the Corporation can be conveniently and efficiently conducted. The FCA believes that the interests of the Corporation will best be served by having the Corporation's principal business offices in a city other than one in which the principal offices of another Farm Credit System ("System") institution is located, and by assuring that meetings of the board of directors of the Corporation are held, as a matter of course, in the Corporation's area in which its principal business offices are located and not generally in conjunction with board meetings of tother System institutions. However, the FCA also believes that the board should be able to hold occasional meetings outside that area.

In order to implement the amendment to Article III of the Articles of Incorporation the FCA has also amended paragraph (c) of 12 CFR 611.1142 to delete reference in that section to the principal offices of the Corporation and to make the language of the section consistent with the related amendment to Article III of the Corporation's Articles of Incorporation. (Published elsewhere in today's Federal Register). The FCA believes that the related amendment to the Articles of Incorporation adequately address matters related to the location of meetings of the board of directors of the Corporation and that no reference is necessary in the regulation.

The aforementioned amendments were made pursuant to section 4.28A of the Act, § 611.1140(a) of the regulations of the FCA (51 FR 8666) and Article X of the Articles of Incorporation of the Corporation, and were effective immediately upon their execution by the Acting Chairman of the Farm Credit Administration Board. The texts of the

articles of incorporation as amended are set forth below.

Kenneth J. Auberger,
Acting Chairman.

Articles of Incorporation of The Farm Credit System Capital Corporation

* * * * *

Article III—Duration And Office

* * * * *

Section 2. Principal Office. The principal business offices of the Corporation shall be located in the greater metropolitan area of Kansas City, from which offices the business and operations of the Corporation shall be conducted. All meetings of the board of directors of the Corporation shall be held in the greater metropolitan area of Kansas City, except that the board may hold any meeting outside such area upon a resolution adopted by at least 80 percent of the members of the board.

* * * * *

Article VII.—Board of Directors

* * * * *

Section 4. Term. The initial term of the first appointed director and the director elected to the position in section 3(c) above shall end December 31, 1986. The initial terms for every other elected or appointed director shall end December 31, 1987. Thereafter, each elected or appointed director shall serve for a term of two calendar years. All directors shall serve until his or her successor becomes appointed or elected and qualified, unless the office becomes vacant or the director is removed, dies, resigns, or is otherwise unable to serve in accordance with the Bylaws or the FCA regulations. Any appointed or elected director may serve any number of terms, unless removed.

[FR Doc. 86-9610 Filed 5-1-86; 8:45 am]
BILLING CODE 6705-01-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Approved by Office of Management and Budget

April 25, 1986.

The following information collection requirements have been approved by the Office of Management and Budget as required by the Paperwork Reduction Act of 1980, Pub. L. 96-511 (44 U.S.C. 3507). For further information contact Boris Benz, (202) 632-7513.

OMB No.: 3060-0040
Title: Application for Aircraft Radio Station License and Temporary Aircraft Radio Station Operating Authority
Form No.: FCC 404/404-A

A revised application form FCC 404/404-A has been approved for use through 3/31/89. The June 1983 and October 1984 editions with the previous expiration date of 3/31/86 will remain in use until revised forms are available.

OMB No.: 3060-0135
Title: Supplemental Return Notice for the General Mobile Radio Service
Form No.: FCC 6024-B

The approval on FCC 6024-B has been extended through 3/31/89. The May 1983 edition with the previous expiration date of 4/30/86 will remain in use until updated forms are available.

OMB No.: 3060-0136
Title: Temporary Permit to Operate a General Mobile Radio Service System
Form No.: FCC 574-T

The approval on FCC 574-T has been extended through 3/31/89. The May 1983 and October 1985 editions with the previous expiration date of 4/30/86 will remain in use until updated forms are available.

OMB No.: 3060-0139
Title: Request for Approval of Proposed Amateur Radio Antenna and Notification of Action
Form No.: FCC 854

A revised form FCC 854 has been approved for use through 3/31/89. The June 1983 edition with a previous expiration date of 4/30/86 will remain in use until revised forms are available.

Federal Communications Commission
William J. Tricarico,
Secretary.

[FR Doc. 86-9858 Filed 5-1-86; 8:45 am]
BILLING CODE 6712-01-M

Public Information Collection Requirements Submitted to the Office of Management and Budget for Review

April 25, 1986.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511 (44 U.S.C. 3507).

Copies of these submissions are available from the Commission by calling Doris Benz, (202) 632-7513. Persons wishing to comment on any information collection should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-7231.

OMB No.: 3060-0017
Title: Application for a Low Power TV, TV Translator or FM Translator Station Licenses
Form No.: FCC 347
Action: Extension
Estimated Annual Burden: 1,120 Responses; 2,520 Hours.

OMB No.: 3060-0027
Title: Application for Construction Permit for Commercial Broadcast Station
Form No.: FCC 301
Action: Revision
Estimated Annual Burden: 2,881 Responses; 359,492 Hours.

Federal Communications Commission
William J. Tricarico,
Secretary.

[FR Doc. 86-9857 Filed 5-1-86; 8:45 am]
BILLING CODE 6712-01-M

Federal Advisory Committee for the 1987 ITU Administrative Radio Conference for the Mobile Services; Meeting

April 28, 1986.

The eighth meeting of the Federal Advisory Committee for the 1987 Mobile World Administrative Radio Conference will be held on Friday, 30 May, 1986, at 9:30 A.M. in the Commission Meeting Room 856, 1919 M Street, NW., Washington, DC.

The meeting agenda is:

1. Approval of meeting agenda.
2. Approval of the summary record of the May 9, 1986, meeting.
3. Report on administrative matters from designated federal employee.
4. Note Report of the Federal Advisory committee being filed in response to Third Notice of Inquiry.
5. Discussion on handling of Reply Comments.
6. Discussion of future work of the Federal Advisory Committee.
7. Other business.
8. Selection of next meeting date.

Anyone desiring further information should contact Robert McIntyre, FCC/PRB at (202) 632-7175. These meetings are open to the public.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 86-9860 Filed 5-1-86; 8:45 am]
BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal

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Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–010485–015

Title: United States Atlantic & Gulf Ports/Italy, France and Spain Freight Conference.

Parties:

Compania Trasatlantica Espanola, S.A.
Costa Line
Farrell Lines, Inc.
Med-America Express Service
Lykes Bros. Steamship Corp.
Sea-Land Service, Inc.
Zim Israel Navigation Co., Ltd.

Synopsis: The proposed amendment would modify the agreement to permit any member, until May 31, 1986, to withdraw from the Conference without penalty on one day's notice. The parties have requested a shortened review period.

Agreement No.: 217–010703–003.

Title: Hyundai Merchant Marine Co., Ltd./Hanjin Container Lines, Ltd., Space Charter and Sailing Agreement.

Parties:

Hyundai Merchant Marine Co., Ltd.
Hanjin Container Lines, Ltd.

Synopsis: The proposed amendment would modify the agreement to substitute the MV Pacific Progress for the vessel MV Pacific Express operating in the Korea/Taiwan/Hong Kong route which slightly increases vessel capacity from 2499 TEU's to 2766 TEU's. The parties have requested a shortened review period.

Agreement No.: 224–010916.

Title: Port of Fernandina Terminal Agreement

Parties:

Nassau Shipping Company, Inc. (Operator)
Ocean Highway and Port Authority of Nassau County (Port Authority)

Synopsis: The proposed agreement would permit the Operator to (1) provide services such as stevedoring, warehousing, storage and reclaim; and (2) handle cargo of all types in and out of the Port of Fernandina and include the collection of all fees. The term of the agreement is fifteen (15) years. The parties have requested a shortened review period.

Agreement No.: 024–010919.

Title: Global Terminal/Hale Container Line Terminal Agreement.

Parties:

Global Terminal & Container Services, Inc. (Global)
Hale Container Line (Hale)

Synopsis: The proposed agreement would permit the Global to provide terminal and stevedoring services at its marine terminal facility located in the Port of New York for containers to be loaded onto, or discharged from barges owned, operated, chartered or controlled by Hale in its container barge feeder service.

Agreement No.: 023–010920.

Title: Port of Portland Terminal Agreement.

Parties:

The Port of Portland (Port)
Matson Navigation Company, Inc. (Matson)

Synopsis: The proposed agreement would permit the Port to utilize a Lash/Cargo Stow Computer Program for which Matson is authorized to grant sublicenses in the performance of terminal and stevedoring services for Matson vessels calling at the Port.

By Order of the Federal Maritime Commission.

Dated: April 29, 1986.

John Robert Ewers,

Secretary.

[FR Doc. 86–9898 Filed 5–1–86; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Central Financial Corp. et al.; Applications to Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23 (a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulations Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 23, 1986.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Central Financial Corporation,* Randolph, Vermont; to engage directly in management consulting services to depository institutions pursuant to § 225.25(b)(11) of the Board's Regulation Y. These activities will be conducted in Vermont.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Illinois Neighborhood Development Corporation,* Chicago, Illinois; to engage *de novo* through its subsidiary TNI Development Corporation, Chicago, Illinois, in organization, development and investment in housing development projects. These activities will be conducted in Illinois. Comments on this application must be received not later than May 20, 1986.

2. *Summcorp,* Fort Wayne, Indiana; to engage *de novo* through its subsidiary Summcorp Financial Services, Inc., Fort Wayne, Indiana, in securities brokerage activities.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Ameritex Bancshares Corporation,* Dallas, Texas; to engage *de novo* through its subsidiary Ameritex Service Corporation, Dallas, Texas, in the activity of providing to others financially related data processing, data transmission services, facilities and data bases or access to them pursuant to § 225.25(b)(7) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 28, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–9836 Filed 5–1–86; 8:45 am]

BILLING CODE 6210–01–M

Graham Shares of Waverly, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 23, 1986.

A. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Graham Shares of Waverly, Inc.,* Waverly, Minnesota; to become a bank holding company by acquiring 100 percent of the voting shares of Citizens State Bank of Waverly, Waverly, Minnesota.

B. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Kosman, Inc.,* Scottsbluff, Nebraska; to become a bank holding company by acquiring 10 percent of the voting shares of Western National Bank, Scottsbluff, Nebraska, and 32.1 percent of the voting shares of Scottsbluff National Corporation, Scottsbluff, Nebraska, and thereby indirectly acquire Scottsbluff National Bank and Trust Company, Scottsbluff, Nebraska.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *San Diego Bancshares, Inc.,* San Diego, Texas; to become a bank holding company by acquiring 99.05 percent of the voting shares of First State Bank of San Diego, San Diego, Texas.

Board of Governors of the Federal Reserve System, April 28, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–9837 Filed 5–1–86; 8:45 am]

BILLING CODE 6210–01–M

DEPARMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on April 25, 1986.

Social Security Administration

(Call Reports Clearance Officer on 301–594–5706 for copies of packages)

Subject: Response to Notice of Revised Determination—Extension SSA–765—(0960–0347)
Respondents: Individuals or households
Subject: Foreign Validation Study Report, Extension—SSA—1305—(0960–0380)
Respondents: Individuals or households
Subject: RSI/DI Quality Review Case Analysis, Annual Earnings Test—Extension—SSA–2930, 2931, 2932 and 4659—(0960–0189)
Respondents: Individuals or households
Subject: Request for Address Information from Motor Vehicle Records, SSA–L 711; Request for Address Information from Employment Commission Records, SSA–L 712:—(0960–0341), Extension
Respondents: State or local governments
Subject: Statement Regarding Student's School Attendance, SSA–2434—(0960–0113), Extension
Respondents: Individuals or households
Subject: Cessation or Continuance of Disability or Blindness Determination and Transmittal, Existing Collection—SSA–833
Respondents: Individuals or households
Subject: Disability Hearings Officer's Decision—Existing Collection
Respondents: Individuals or households
Subject: Reponse to Notice of Revised Determination—Extension—SSA–765—(0960–0347)
Respondents: Individuals or households
OMB Desk Officer: Judy A. McIntosh
Subject: State Estimate Form—Extension—ORR–1 (0960–0298)
Respondents: State or local governments
Subject: Estimate of Monthly Obligations—Extension—(0960–0318)
Respondents: State or local governments
OMB Desk Officer: Fay S. Iudicello

Public Health Service

(Call Reports Clearance Office on 202–245–2100 for copies of packages)

Health Resources Services Administration

Subject: General Notice—Federally Assisted Health Professions and Nurse Teaching Facilities; Federal Right of Recovery and Calculation of Recovery Amount and Interest Charges—New
Respondents: State or local governments; Businesses or other for-profit institutions; Small businesses or organizations

Assistant Secretary for Health

Subject: Laboratory-Based Research on the Cognitive Aspects of Survey Methodology: Selected Reporting Problems in the National Health Interview Survey—Revision—(0937–0140)
Respondents: Individuals or households
OMB Desk Officer: Bruce Artim

Health Care Financing Administration

(Call Reports Clearance Officer on 301–594–8650 for copies of packages)

Subject: Hospice Core Service: Nursing Hospice Manual—New—HCFA–R–69
Respondents: Hospices
Subject: Request to Establish Eligibility in the Medicare and/or Medicaid Program to Provide Outpatient Physical Therapy and/or Speech Pathology Services—Extension—HCFA–1856 & HCFA–1893—(0938–0065)
Respondents: State or local governments; Small businesses or organizations
Subject: Home Health Agency—Request for Certification in the Medicare/Medicaid Program and the Home Health Agency Survey Report Form—HCFA–1515 & HCFA—1572—Extension—(0938–0355)
Respondents: State or local governments
Subject: Physical Therapist in Independent Practice for

Certification—Extension—HCFA-262—(0938-0258)
Respondents: State or local governments
Subject: Request for Certification as a Rural Health Clinic and Rural Health Clinic Survey Report Form—Extension—HCFA-29 and HCFA-30—(0938-0074)
Respondents: State or local governments. Small businesses or organizations
Subject: Contractors Information Collections—Federal Re-review Process (Medicaid Eligibility Quality Control), HCFA-9010—Extension—(0938-0210)
Respondents: State or local governments
OMB Desk Officer: Fay S. Iudicello

Copies of the above information collection clearance packages can be obtained by calling the Reports Clearance Officer on the number shown above.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503. ATTN: (name of OMB Desk Officer).

Dated: April 28, 1986.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86-9881 Filed 5-1-86; 8:45 am]

BILLING CODE 4150-04-M

Public Health Service

Office of the Assistant Secretary for Health; Statement of Organization, Functions and Delegations of Authority

Part H, Public Health Service (PHS), Chapter HA (Office of the Assistant Secretary for Health) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) (42 FR 61318, December 2, 1977, as amended most recently at 50 FR 50847, December 12, 1985), is amended to reflect a reorganization within the National Center for Health Statistics (NCHS), Office of the Assistant Secretary for Health. Specifically, budget activities will be transferred from the Office of Management, Office of Resource Management, Division of Financial Management, OASH Financial Management Branch, to NCHS, Office of Management.

Under Part H, Chapter HA, Office of the Assistant Secretary for Health (OASH), Section HA-20 Functions, under the heading for *the National Center for Health Statistics (HAS),* revise the functional statement for the *Office of Management (HAS13)* by deleting "financial" from item (5); ",and" before item (10); and, adding a new item (11) "and, (11) serves as principal advisor in areas of financial management activities and manages a system of budgetary, expenditure and employment controls."

Effective Date: April 28, 1986.

Wilford J. Forbush,

Director, Office of Management.

[FR Doc. 86-9882 Filed 5-1-86; 8:45 am]

BILLING CODE 4160-17-M

Office of the Assistant Secretary for Health; Statement of Organization, Functions and Delegations of Authority

Part H, Public Health Service (PHS) of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services, Chapter HD (Public Health Service Regional Offices, HD1–HDX), (44 FR 21711, April 11, 1979, as amended most recently at 49 FR 35251, September 6, 1984), is amended to reflect a reorganization in Region IV, Atlanta, Georgia. The Division of Health Services (Region IV) is abolished and its functions are realigned into two divisions: Division of Community Health Services and Division of Family Health and Professional Services. This alignment will provide for a structure that will eliminate duplication of effort by more accurately grouping distinguishable responsibilities and functions to meet the needs of current health policies and programs. There are no organization changes in the remaining nine regional offices.

Public Health Service Regional Offices

Under Chapter HD, Public Health Service Regional Offices, Section HD-00 Mission, title and statement delete Section HD-10 Organization and substitute the following:

Section HD-10 Organization. The Public Health Service Regional Offices (HD1–HDX) consist of:

Office of Regional Health Administrator (HD1–HDX)
Office of Engineering Services (HD*E) [1]
Office of Grants Management (HD*J)
Division of Preventive Health Services (HD*U)
Division of Health Services Delivery (HD*IV) [2]
Division of Community Health Services (HD*C) [2]
Division of Family Health and Professional Services (HD*P) [2]
Division of Health Resources Development (HD*W)
Division of Federal Employee Occupational Health (HD*H)

Under Section HD-20 Functions, Public Health Service (PHS) Regional Offices (HD1–HDX) following the title for the *Office of Engineering Services (HD*E)* change the footnote to 1 stating "Regions II, VI and X."

*After the title for the Division of Health Services Delivery (HD*V),* add a footnote 2 stating "Division in all regions except Region IV."

*After the statement for the Division of Health Services Delivery (HD*V)* add the following title, statements, and footnotes for Region IV only:

Division of Community Health Services (HD4C) [3]

The Division: (1) Directs and coordinates program and activities designed to promote and provide quality health services within the region; (2) provides or arranges professional consultation, guidance, and technical assistance in assigned program areas, including interpretation of national policies and guidelines to contractors and applicants for Federal assistance; (3) promotes and directs activities designed to increase health care capacity and to increase access to quality health services for the medically underserved; (4) services as regional focal point for promoting and directing efforts to integrate services delivery projects in a more comprehensive manner to maximize services available in health scarcity areas; (5) verified accuracy and analyzes programmatic data with respect to health service programs; (6) reviews and recommends action on grant applications and contract proposals, and provides continuous programmatic monitoring of division grants and contracts for compliance with applicable laws, regulations, policies, and performance standards; (7) provides for development, implementation, and monitoring of the annual regional work plan related to assigned program areas, including setting objectives responsive to national and regional priorities and assignments of division resources required to attain these objectives; (8) coordinates with other regional office staff to develop and consolidate objectives which cross program and division lines; (9) serves as a source of expertise in the PHS

[1] Offices located in Regions II, VI, and X.
[2] Division in all regions except Region IV.
[3] Division in Region IV.

Regional Office on assigned program areas and as regional program liaison with PHS headquarters on technical/programmatic areas; (10) establishes effective communication and working relationships with health related organizations of States and other jurisdictions; and (11) serves as a focal point for information on health service programs and related efforts within the region including voluntary, professional and other private sector activities.

Division of Family Health and Professional Services (HD4P) [3]

The Division: (1) Directs and coordinates program and activities designed to promote and provide quality family health services within the region; (2) provides or arranges professional consultation, guidance, and technical assistance in assigned program areas, including interpretation of national policies and guidelines to contractors and applicants for Federal assistance; (3) serves as the regional focal point for promoting and directing efforts to improve the quality of health care provided in PHS supported programs; (4) develops and maintains systems of quality assurance for PHS funded programs; (5) verifies accuracy and analyzes programmatic data with repect to family health programs; (6) reviews and recommends action on grant applications and contract proposals, and provides continuous programmatic monitoring of division grants and contracts for compliance with applicable laws, regulations, policies, and performance standards; (7) provides for development, implementation, and monitoring of the annual work plan related to assigned program areas, including setting objectives responsive to national and regional priorities and assignments of division resources required to attain these objectives; (8) coordinates with other regional staff to develop and consolidate objectives which cross program and division lines; (9) serves as a source of expertise in the PHS Regional Office on assigned program areas and as regional program liaison with PHS Headquarters on technical programmatic areas; (10) establishes effective communication and working relationships with health related organizations of States and other jurisdictions; (11) develops and manages professional staff development program for Regional Office and PHS grantees; and (12) serves as focal point for information on family health programs and related efforts within the region including voluntary, professional and other private sector activities.

Dated: April 22, 1986.

Wilford J. Forbush,

Director, Office of Management.

[FR Doc. 86-9883 Filed 5-1-86; 8:45 am]

BILLING CODE 4160-17-M

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting: Minneapolis District Office, chaired by John Feldman, District Director. The topics to be discussed are Health Fraud and Health Claims for Food.

DATE: Friday, May 16, 1986, 10 a.m. to 12 m.

ADDRESS: University of Minnesota, Rochester, Friedell Bldg., Rm. CD, 1200 South Broadway, Rochester, MN 55904.

FOR FURTHER INFORMATION CONTACT: Donald W. Aird, Consumer Affairs Officer, Food and Drug Administration, 240 Hennepin Ave., Minneapolis, MN 55401, 612-349-3900.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: April 28, 1986.

John M. Taylor,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-9841 Filed 5-1-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84M-0248]

National Patent Development Corp.; Premarket Approval of the Caridex ™ Caries Removal System

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by National Patent Development Corporation, New Brunswick, NJ, for premarket approval, under the Medical Device Amendments of 1976, of the GK-101E Caries Removal Agent/System. After reviewing the recommendation of the Dental Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application. After CDRH approved the application, the application holder submitted to FDA a supplement to the application requesting FDA's approval of certain labeling revisions and distribution of the device by a subsidiary, Princeton Dental Products, Inc., New Brunswick, NJ, under the trademark name Caridex ™ Caries Removal System. After reviewing the supplemental application, CDRH notified the applicant of its approval.

DATE: Petitions for administrative review by June 2, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David A. Segerson, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8185.

SUPPLEMENTARY INFORMATION: On July 1, 1983, the National Patent Development Corporation, New Brunswick, NJ 08901, submitted to CDRH an application for premarket approval of the GK-101E Caries Removal Agent/System. The device is intended for use with conventional dental instruments for removal of dental caries where the applicator tip of the GK-101E Caries Removal Agent/System can directly contact the carious lesion, to reduce use of a dental drill.

On October 21, 1983, the Dental Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On July 6, 1984, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

On May 13, 1985, FDA filed a supplemental application submitted by the National Patent Development Corporation requesting FDA's approval to change the name of the device, to make certain labeling revisions, and to distribute the device through a subsidiary, Princeton Dental Products, Inc., 789 Jersey Ave., New Brunswick, NJ 08901. On August 28, 1985, CDRH approved the supplemental application by a letter to the applicant from the Director, Division of Obstetrics/Gynecology, Ear, Nose and Throat, and Dental Devices, Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval of the original

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application is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David A. Segerson (HFZ–470), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before June 2, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10 and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 25, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86-9840 Filed 5-1-86; 8:45 am]

BILLING CODE 4160-01-M

Office of Human Development Services

Child Abuse and Neglect Prevention Activities

AGENCY: Office of Human Development Services (HDS), HHS.

ACTION: Notice of the availability of Federal funds to support child abuse and neglect prevention activities.

SUMMARY: FY 1985 Federal funds ("challenge grants") are now available to those States that in the previous State or Federal fiscal year, FY 1984, had established or maintained trust funds or other funding mechanisms (including appropriations) available only for child abuse and neglect prevention activities. "States" are defined as the several States, the District of Columbia, and the Commonwealth of Puerto Rico. This Notice sets forth the application and other requirements for these grants.

No funds are proposed for this program in FY 1987. Challenge grants are intended to be a one year transition into the Administration's proposed consolidated Family Crisis and Protective Services (FCPS) program in FY 1987. The FCPS program will give States greater flexibility in addressing the related issues of family violence and child abuse.

DATES: Applications must be received by July 1, 1986. Address applications to: Challenge Grants, National Center on Child Abuse and Neglect, Attention: Mary McKeough, Box 1182, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Jay Olson (202) 245–2859 or Mary McKeough (202) 245–2856.

SUPPLEMENTARY INFORMATION:

Background

On October 12, 1984, Pub. L. 98–473, the continuing appropriations bill for FY 1985, was enacted. The purpose of sections 402 through 409 of that bill is, by providing Federal challenge grants, to encourage States to establish and maintain trust funds or other funding mechanisms, including appropriations, to support child abuse and neglect prevention activities. On August 15, 1985, Pub. L. 99–88, the Supplemental Appropriations Act of 1985, appropriated $5 million for FY 1985 to support these provisions and extended the availability of these funds through FY 1986.

At the time this legislation was enacted, Congress estimated that, approximately 20–25 States had set up trust funds or other funding mechanisms to support child abuse and neglect prevention activities.

Child abuse and neglect prevention activities include the activities specified in section 405:

(1) Providing statewide educational and public informational seminars for the purpose of developing appropriate public awareness regarding the problems of child abuse and neglect;

(2) Encouraging professional persons and groups to recognize and deal with problems of child abuse and neglect;

(3) Making information about the problems of child abuse and neglect available to the public and to organizations and agencies which deal with problems of child abuse and neglect; and

(4) Encouraging the development of community prevention programs, including:

(A) Community based educational programs on parenting, prenatal care, perinatal bonding, child development, basic child care, care of children with special needs, coping with family stress, personal safety and sexual abuse prevention training for children, and self-care training for latchkey children; and

(B) Community-based programs relating to crisis care, aid to parents, child-abuse counseling, peer support groups for abusive parents and their children, lay health visitors, respite or crisis child care, and early identification of families where the potential for child abuse and neglect exists.

Eligibility

States as defined in section 403 are eligible to apply for a grant for these FY 1985 funds if the State had established and maintained in the previous State or Federal fiscal year (FY 1984) a trust fund or other funding mechanism (including appropriations) available only for child abuse prevention activities. We want to emphasize that, based on section 405 which refers to State activities "in the previous fiscal year," these FY 1985 funds can be made available only based on FY 1984 activities. The term "State" as defined in section 403(2) means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

Funds Available and Fiscal Requirements

Pub. L. 99–177, the Gramm-Rudman-Hollings legislation reduces the $5 million appropriated for these grants by 4.3% to $4.785 million.

Section 406(a)(1) of Pub. L. 98–473 provides that any grant to an eligible State shall be the lesser of two amounts:

(1) Twenty five percent of the total amount made available by such State for child abuse and neglect prevention activities and collected in the previous Federal fiscal year (1984) in a trust fund or any other funding mechanism. This amount can include appropriations but cannot include interest income from the principal of such a fund or funding mechanism.

or

(2) An amount equal to 50 cents times the number of children in the State according to the most current data available to the Secretary. (Section 406(a)(2) defines "children" as "individuals who have not attained the State's age of majority.")

In computing a State's allocation, we will use the Bureau of the Census population statistics contained in its publication "Current Population Reports" (Series P–25, No. 970, issued June 1985) which is the most recent satisfactory data available from the Department of Commerce.

Funds available will be divided among the eligible States on a pro-rata basis based on the statutory formula if the amount appropriated is insufficient to fund each State in full.

The Supplemental Appropriations Act specified that the funds appropriated for FY 1985 would remain avilable until September 30, 1986. States must expend these funds by September 30, 1987.

Application Requirements

The application requirements for these grants do not go beyond the requirements of the statute but do require minimum documentation in order to assure compliance. We have cited each requirement to the specific section of the law and suggest that this notice be read in conjunction with the statutes. No application forms or other materials will be needed in order to prepare an application. A State may submit its application in any format it chooses.

The Secretary will approve any application that meets the requirements of section 406(b) and will not disapprove an application unless the State has been given an opportunity to correct any deficiencies (section 406(b)(2)). Any additional materials required to satisfy the requirements of section 406(b) must be submitted within 30 days of the date the State is notified of the deficiency.

The application must be prepared by the agency specified in paragraph one below, signed by the individual authorized to act for the State in administering these funds, and must contain the following information and assurances:

1. The name and address of the trust fund advisory board responsible for administering and awarding these grants to eligible recipients within the State to carry out child abuse and neglect prevention activities, and the name and address of a contact person (section 406(b)(1)(A)).

or

In States that do not have trust funds, the name and address of the State liaison agency to the National Center on Child Abuse and Neglect (section 2 of the Child Abuse Prevention and Treatment Act) and the name and address of a contact person (section 406(b)(1)(A)).

2. A copy of the State law or legal authority:

(a) Establishing the trust fund or other funding mechanism (section 405);

(b) Documenting that the proceeds of the trust fund or other funding mechanism are used only for child abuse and neglect prevention activities (section 405);

Some States have established trust funds for both child abuse and neglect and domestic violence prevention activities. In such cases, Federal funds under this program are available based only on the funds available for the child abuse and neglect prevention activities; and

(c) Defining the State's age of majority (section 406(a)(2) and (b)(1)).

3. Documentation or certification that the trust fund (or other funding mechanism) was in operation during FY 1984 (section 405).

4. Documentation or certification of the total amount of funds collected or allotted for child abuse and neglect prevention activities in fiscal year 1984 in the trust fund or other funding mechanism, including appropriations. This total may not include interest income from the principal of such fund (section 406(a)(1)(A)).

5. An assurance that any funds received under this statutory authority will not be used to meet the non-Federal matching requirement of any other Federal law (section 406(b)(1)—(B)).

6. An assurance that the State will comply with Departmental recordkeeping and reporting requirements and general requirements for the administration of grants under 45 CFR Part 74, and that the Comptroller General of the United States and his authorized representatives will have access to these records for purposes of audit and examination (sections 406(b)(1)(C) and 408).

7. An assurance that, by December 30, 1987, the State will submit a report to the Assistant Secretary for Human Development Services on the purposes for which the funds were spent, including a description of the specific programs, projects, and activities funded (section 406(b)(1)(C) and section 409).

8. The date that the application was made available to the State E.O. 12372 process for review or a statement that the program has not been selected by the State for review.

9. A brief description of the intended use of these funds (section 406(b)(1)).

Notification Under Executive Order 12372

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs" and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

A Single Point of Contact (SPOC) has been established in all States and territories except Alaska, Nebraska, Idaho, American Samoa, and Palau. Applicants from any of these areas need take no action regarding E.O. 12372. Otherwise, applicants must submit the required material to the SPOCs to obtain their comments for consideration by HDS as part of the application review and award process.

SPOCs have sixty (60) days starting from the application deadline to comment on applications for financial assistance under this program. Applicants should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions regarding the process. Required material should be sent to the SPOC as early as possible. HDS will notify the cognizant SPOC of any application received which has no indication that the SPOC has had an opportunity for review. It is imperative that the applicant submit the required materials to the SPOC and indicate the date of this submittal in the application.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to clearly differentiate between advisory comments and those recommendations

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which they expect HDS to accept or accommodate.

SPOCs will submit their comments directly to: Challenge Grants, National Center on Child Abuse and Neglect, Attention: Mary McKeough, Box 1182, Washington, DC 20012.

A list of the Single Points of Contact for each State and territory is included at the end of this announcement.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the application requirements in this Notice have been submitted to the Office of Management and Budget for approval.

(Catalog of Federal Domestic Assistance Program Number 13.672, Child Abuse and Neglect Prevention Activities)

Dated: April 21, 1986.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

February 26, 1986

Executive Order 12372—State Single Points of Contact

Alabama

Mrs. Donna J. Snowden, SPOC, Alabama State Clearinghouse, Alabama Department of Economic and Community Affairs, 3465 Norman Bridge Road, Post Office Box 2939, Montgomery, Alabama 36105-0939, Tel. (205) 284-8905

Alaska

None

Arizona

Department of Commerce, State of Arizona

Note.—Correspondence and questions concerning this State's E.O. 12372 process should be directed to:

Janice Dunn, Attn: Arizona State Clearinghouse, 1700 West Washington, Fourth Floor, Phoenix, Arizona 85007, Tel. (602) 255-5004

Arkansas

State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Tel. (501) 371-1074

California

Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Tel. (916) 323-7480

Colorado

State Clearinghouse, Division of Local Government, 1313 Sherman Street, Rm. 520, Denver, Coloredo 80203, Tel. (303) 866-2156

Connecticut

Gary E. King, Under Secretary, Comprehensive Planning Division, Office of Policy and Management, Hartford, Connecticut 06106-4459

Note.—Correspondence and questions concerning this State's E.O. 12372 process should be directed to:

Intergovernmental Review Coordinator, Comprehensive Planning Division, Office of Policy and Management, 80 Washington Street, Hartford, Connecticut 06106-4459, Tel. (203) 566-3410

Delaware

Executive Department, Thomas Collins Building, Dover, Delaware 19903, Attn: Francine Booth, Tel. (302) 736-4204

Florida

Ron Fahs, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32301, Tel. (904) 488-8114

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street, S.W., Atlanta, Georgia 30334, Tel. (404) 656-3855

Hawaii

Kent M. Keith, Director, Department of Planning and Economic Development, P.O. Box 2359, Honolulu, Hawaii 96804

For Information Contact:

Hawaii State Clearinghouse, Tel. (808) 548-3016 or 548-3085

Idaho

None

Illinois

Tom Berkshire, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Tel. (217) 782-8639

Indiana

Mr. Alexander J. Ingram, Deputy Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Tel. (317) 232-5804

Iowa

Office for Planning and Programming, Capitol Annex, 523 East 12th Street, Des Moines, Iowa 50319, Tel. (515) 281-3864

Kansas

Ms. Judy Krueger, Intergovernmental Liaison, 122 A South, State Office Building, Topeka, Kansas 66612, Tel. (913) 296-3919

Kentucky

Kentucky State Clearinghouse, 2nd Floor, Capital Plaza Tower, Frankfort, Kentucky 40601, Tel. (502) 564-2382

Louisiana

Mr. Ferguson Brew, Assistant Secretary and SPOC, Dept. of Urban & Community Affairs, Office of State Clearinghouse, P.O. Box 94455, Capitol Station, Baton Rouge, Louisiana 70804, Tel. (504) 925-3725

Maine

State Planning Office, Attn: Intergovernmental Review Process/Hal Kimball, State House Station #38, Augusta, Maine 04333, Tel. (207) 289-3154

Maryland

Guy W. Hager, Director, Maryland State Clearinghouse for Intergovernmental Assistance, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201-2385, Tel. (301) 225-4490

Massachusetts

Executive Office of Communities and Development, Attn: Beverly Boyle, 100 Cambridge Street, Rm. 904, Boston, Massachusetts 02202, Tel. (617) 727-3253

Michigan

Michelyn Pasteur, Director, Local Development Services, Department of Commerce, P.O. Box 30225, Lansing, Michigan 48909, Tel. (517) 373-3530

Minnesota

Maurice D. Chandler, Intergovernmental Review, Minnesota State Planning Agency, Room 101, Capitol Square Building, St. Paul, Minnesota 55101, Tel. (612) 296-2571

Mississippi

Office of Federal State Programs, Department of Planning and Policy, 2000 Walter Sillers Bldg., 500 High Street, Jackson, Mississippi 39202

For Information Contact:

Mr. Marlan Baucum, Department of Planning and Policy, Tel. (601) 359-3150

Missouri

Lois Pohl, Coordinator, Missouri Federal Assistance Clearinghouse, Office of Administration, Division of General Services, P.O. Box 809, Room 760, Truman Building, Jefferson City, Missouri 65102, Tel. (314) 751-4834

Montana

Sue Heath, Intergovernmental Review Clearinghouse, c/o Office of the Lieutenant Governor, Capitol Station, Helena, Montana 59620, Tel. (406) 444-5522

Nebraska

None

Nevada

Ms. Jean Ford, Director, Nevada Office of Community Services, Capitol Complex, Carson City, Nevada 89710, Tel. (702) 885-4420

Note.—Corresponsence & questions concerning this State's E.O. 12372 process should to be directed to:
John Walker, Clearinghouse Coordinator, Tel. (702) 885-4420

New Hampshire

David G. Scott, Acting Director, New Hampshire Office of State Planning, 2½ Beacon Street, Concord, New Hampshire 03301, Tel. (603) 271-2155

New Jersey

Mr. Barry Skokowski, Director, Division of Local Government Services; Department of Community Affairs, CN 803, 363 West State Street, Trenton, New Jersey 08625-0803, Tel. (609) 292-6613

BEST COPY AVAILABLE

Note.—Correspondence & questions concerning this State's E.O. 12372 process should be directed to:

Nelson S. Silver, State Review Process, Division of Local Government Services—CN 803, Trenton, New Jersey 08625-0803, Tel. (609) 292-9025

New Mexico

Peter C. Pence, Director, Department of Finance and Administration, Management and Contracts Review Div., Clearinghouse Bureau, Room 424, State Capitol, Santa Fe, New Mexico 87503, Tel. (505) 827-3885

New York

Director of the Budget, New York State

Note.—Correspondence & questions concerning the State's E.O. 12372 process should be directed to:

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, New York 12224, Tel. (518) 474-1605

North Carolina

Mrs. Chrys Baggett, Director, State Clearinghouse, Department of Administration, 116 West Jones Street, Raleigh, North Carolina 27611, Tel. (919) 733-4131

North Dakota

Office of Intergovernmental Assistance, Office of Management and Budget, 14th Floor, State Capitol, Bismarck, North Dakota 58505, Tel. (701) 224-2094

Ohio

State Clearinghouse, Office of Budget and Management, 30 East Broad Street, Columbuis, Ohio 43215

For Information Contact:

Mr. Leonard E. Roberts, Deputy Director, Tel. (614) 466-0699

Oklahoma

Don Strain, Office of Federal Assistance Management, 4545 North Lincoln Blvd., Oklahoma City, Oklahoma 73105, Tel. (405) 528-8200

Oregon

Intergovernmental Relations Division, State Clearinghouse, Attn: Delores Streeter, Executive Building, 155 Cottage Street, N.E., Salem, Oregon 97310, Tel. (503) 378-1998

Pennsylvania

Barbara J. Gontz, Project Coordinator, Pennsylvania Intergovernmental Council, P.O. Box 11880, Harrisburg, Pennsylvania 17108, Tel. (717) 783-3700

Rhode Island

Daniel W. Varin, Chief, Rhode Island Statewide Planning Program, 265 Melrose Street, Providence, Rhode Island 02907, Tel. (401) 277-2656

Note. Questions & correspondence concerning this State's review process should be directed to:

Mr. Michael T. Marfeo, Review Coordinator

South Carolina

Danny L. Cromer, Grant Services, Office of the Governor, 1205 Pendleton Street, Rm. 477, Columbia, South Carolina 29201, Tel. (803) 758-2417

South Dakota

Connie Tveidt, State Clearinghouse Coordinator, State Government Operations, Second Floor, Capitol Building, Pierre, South Dakota 57501, Tel. (605) 773-3661

Tennessee

Tennessee State Planning Office, 1800 James K. Polk Building, 505 Deaderick Street, Nashville, Tennessee 37219, Tel. (615) 741-1676

Texas

Bob McPherson, State Planning Director, Office of the Governor, P.O. Box 13561, Capitol Station, Austin, Texas 78711

Note.—Questions concerning this State's review process should be directed to:

Intergovernmental Relations Division, Tel. (512) 463-1778

Utah

Dale Hatch, Director, Office of Planning and Budget, State of Utah, 116 State Capitol Building, Salt Lake City, Utah 84114, Tel. (801) 533-5245

Vermont

State Planning Office, Attn: Bernie Johnson, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Tel. (802) 828-3326

Virginia

Shawn McNamara, Department of Housing and Community Development, 205 North 4th Street, Richmond, Virginia 23219, Tel. (804) 786-4474

Washington

Washington Department of Community Development, Attn: Washington Intergovernmental Review process, Ninth and Columbia Building, Olympia, Washington 98504-4151, Tel. (206) 586-1240

West Virginia

Mr. Fred Cutlip, Director, Community Development Division, Governor's Office of Community and Industrial Development, Building #6, Rm. 553, Charleston, West Virginia 25305, Tel. (304) 348-4010

Wisconsin

Secretary Doris J. Hanson, Wisconsin Department of Administration, 101 South Webster, GEF #2, P.O. Box 7864, Madison, Wisconsin 53707-7864, Tel. (608) 266-1741

Note. —Correspondence and questions concerning this State's E.O. 12372 process should be directed to:

Thomas Krauskopf, Federal-State Relations Coordinator, Wisconsin Department of Administration, P.O. Box 7864, Madison, Wisconsin 53707-7864, Tel. (608) 266-8349

Wyoming

Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Tel. (307) 777-7574

Virgin Islands

Toya Andrew, Federal Program Coordinator, Office of the Governor, The Virgin Islands of the United States, Charlotte Amalie, St. Thomas 00801, Tel. (809) 774-0517

District of Columbia

Lovetta Davis, D.C. State Single Point of Contact for E.O. 12372, Executive Office of the Mayor, Office of Intergovernmental Relations, Rm. 416, District Building, 1350 Pennsylvania Avenue, N.W., Washington, D.C. 20004, Tel. (202) 727-6265

Puerto Rico

Ms. Patricia G. Custodio, P.E., Chairman, Puerto Rico Planning Board, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940-9985, Tel. (809) 727-4444

Northern Mariana Islands

Planning and Budget Office, Office of the Governor, Saipan, CM 96950

AMERICAN SAMOA

None

GUAM

Guam State Clearinghouse, Office of the Lieutenant Governor, P.O. Box 2950, Agana, Guam 96910.

[FR Doc. 86-9919 Filed 5-1-86; 8:45am]

BILLING CODE 4130-01-M

Public Health Service

National Institutes of Health; Statement of Organization, Functions, and Delegations of Authority

Correction

In FR Doc. 86-8487, beginning on page 12928, in the issue of Wednesday, April 16, 1986, make the following correction.

On page 12929, first column, third complete paragraph, first line, "(HY-" should read "(HN-".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

President's Commission on Americans Outdoors; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub.L. 92-463), as amended, notice is hereby given that a meeting of the President's Commission on Americans Outdoors (Commission) will be held Wednesday,

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May 14, 1986, starting at 9:00 a.m., in the Colorado Supreme Court Chambers, Colorado State Judicial Building, 2 East 14th Avenue, 5th Floor, Denver, 80203

This will be a hearing to obtain information on the kinds of programs that are provided and opportunities afforded in recreation programs in this country. Attendees have been invited by the Commission for this public hearing; however interested parties may request time to testify by contacting the Commission.

This meeting is opened to the public, interested persons my attend. The Commission contact is Mr. James Gasser, and he may be contacted at the President's Commission on Americans Outdoors, P.O. Box 18547, 1111—20th Street, NW., Washington, DC 20036–8547, (202) 634–7310.

Dated: April 28, 1986.

Victor H. Ashe,

Executive Director, President's Commission on American Outdoors.

[FR Doc. 86-9909 Filed 5-1-86; 8:45am]

BILLING CODE 4310-70-M

President's Commission on Americans Outdoors; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub.L. 92–463), as amended, notice is hereby given that a meeting of the President's Commission on Americans Outdoors (Commission) will be held Friday, May 16, 1986, starting at 10:30 a.m., in the Hitching Post Inn, Coach Rooms A&B, 1700 W. Lincoln Way, Cheyenne, WY 82007.

This will be a hearing to obtain information on the kinds of programs that are provided and opportunities afforded in recreation programs in this country. Attendees have been invited by the Commission for this public hearing however interested parties may request time is testify by contacting the Commission.

This meeting is opened to the public, interested persons may attend. The Commission contact 12 Mr. James Gasser, and he may be contacted at the President's Commission on Americans Outdoors, P.O. Box 18547, 1111—20th Street, NW., Washington, DC 20036–8547, (202) 634–7310

Dated: April 28, 1986.

Victor H. Ashe,

Executive Director, President's Commission on American Outdoors.

[FR Doc. 86-9908 Filed 5-1-86; 8:45am]

BILLING CODE 4310-70-M

Bureau of Land Management

[F-14830-A]

Alaska Native Claims Selection; NANA Regional Corp., Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43, U.S.C. 1601, 1613(a), will be issued to NANA Regional Corporation, Inc., for 0.39 acres. The lands involved are in the vicinity of Selawik, Alaska, located within U.S. Survey No. 4492, Tract A, block 8, Lot 31.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Tundra Times. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision shall have until June 2, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Joe J. Labey,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-9820 Filed 5-1-86; 8:45 am]

BILLING CODE 4310-JA-M

[W-81777]

Wyoming; Proposed Spanish Point Cave Withdrawal; Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of a public meeting.

SUMMARY: Pursuant to 43 CFR 2310.3–1(6)(2)(v) a public meeting will be held on Tuesday, June 10, 1986 at 7:00 p.m. at the Worland District Office, 101 South 23rd Street, Worland, Wyoming, to accept public comment on the proposed Spanish Point Cave Withdrawal. The proposed withdrawal affects 6,449 acres of federal mineral estate beneath private surface, and lands administered by the Bureau of Land Management and the Forest Service. These lands are located in Big Horn County, north of Hyattville, Wyoming. The withdrawal will segregate these lands from the operation of the nondiscretionary land laws, including mining claim location under the General Mining Law of 1872, as amended, in order to protect important water recharge and cave areas associated with the Tres Charros and Great Expectations Cave Systems.

ADDRESSES: Written comments may be mailed prior to June 10, 1986 to: Wyoming State Director (931), Bureau of Land Management P.O. Box 1828, Cheyenne, Wyoming 82003. Written or oral comments may be submitted at the public meeting on June 10, 1986, at 101 South 23rd Street, Worland, Wyoming.

FOR FURTHER INFORMATION CONTACT: Tamara Gertsch, Bureau of Land Management, Wyoming State Office, Branch of Land Resources (931), P.O. Box 1828, Cheyenne, Wyoming 82003, (307) 772–2089.

Dated: April 23, 1986.

Chester E. Conard,

District Manager.

[FR Doc. 86-9842 Filed 5-1-86; 8:45 am]

BILLING CODE 4310-22-M

Filing of Plat of Survey

AGENCY: Bureau of Land Management

ACTION: Notice.

SUMMARY: These plats of survey of the following described land will be filed in the Utah State Office, Salt Lake City, Utah, immediately:

Salt Lake Meridian, Utah

T. 11 N., R. 14 W.

This plat represents the dependent resurvey of portions of T. 11 N., R. 14 W., Salt Lake Meridian, Utah, for Group 625 accepted January 16, 1986.

Salt Lake Meridian, Utah

T. 21 S., R. 20 E.

This supplemental plat shows a portion of T. 21 S., R. 20 E., Salt Lake Meridian, Utah, was accepted January 10, 1986.

Salt Lake Meridian, Utah

T. 36 S., R. 22 E.

This plat represents the dependent resurvey and survey of portions of T. 36 S., R. 22 E., Salt Lake Meridian, Utah, for Group 644 accepted January 17, 1986.

Salt Lake Meridian, Utah

T. 33 S., R. 4½ W.

This plat represents the original survey of a portion of T. 33 S., R. 4½ w., Salt Lake Meridian, Utah, for Group 652 accepted February 13, 1986.

Salt Lake Meridian, Utah

T. 39 S., R. 15 W.

This plat represents the dependent resurvey of a portion of T. 39 S., R. 15 W., Salt Lake Meridian, Utah, for Group 674 accepted february 13, 1986.

Salt Lake Meridian, Utah

This plat represents the dependent resurvey and survey of a portion of T. 19 S., R. 7 E., SAlt Lake Meridian, Utah, for Group 619 accepted March 10, 1986.

Salt Lake Meridian, Utah

T. 17 S., R. 8 E.

This plat represents the dependent resurvey and survey of a portion of T. 17 S., R. 8 E., Salt Lake Meridian, Utah, for Group 621 accepted March 24, 1986.

Salt Lake Meridian, Utah

T. 1 N., R. 25 E.

This plat represents the corrective resurvey of a portion of T. 1 N., R. 25 E., Salt Lake Meridian, Utah, for Group 456 accepted March 25, 1986.

Salt Lake Meridian, Utah

T. 13 S., R. 5 E.

This plat represents the dependent resurvey and survey of a portion of T. 13 S., R. 5 E., Salt Lake Meridian, Utah, for Group 639 accepted March 20, 1986

Glen B. Hatch,

Chief, Branch of Cadastral Survey.

[FR Doc. 86-9843 Filed 5-1-86; 8:45 am]

BILLING CODE 4310-DQ-M

[Nev-054560]

Proposed Continuation of Withdrawal; Nevada

Correction

In FR Doc. 86-8224 beginning on page 15552 in the issue of Thursday, April 24, 1986, make the following corrections:

On page 15553, in the first column, in the twenty-seventh line of the Mount Diablo Meridian, Nevada, land description, delete the second "SE¼NE¼," and in the thirty-third line, "Sec. 32 N" should read "Sec. 32".

BILLING CODE 1505-01-M

[OR-2945]

Oregon; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service, U.S. Department of Agriculture, proposes that a land withdrawal for campgrounds and administrative site continue for an additional 20 years. The lands would remain closed to mining but have been and would remain open to surface entry and mineral leasing.

FOR FURTHER INFORMATION CONTACT: Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208 (Telephone 503–231–6905).

SUPPLEMENTARY INFORMATION: The Forest Service, U.S. Department of Agriculture, proposes that the existing land withdrawal made by Pubic Land Order No. 4557 of November 19, 1968, be continued for a period of 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714.

The lands involved are located approximately 20 miles southwest of La Grande and aggregate 296.57 acres within T. 5 S., Rgs. 35 and 36 E., and T. 6 S., R. 36 E., W.M., Union County, Oregon.

The purpose of the withdrawal is to protect the Woodley and River Campgrounds and the Grande Ronde Guard Station Administrative site within the Wallowa-Whitman National Forest. The withdrawal segregates the lands from operation of the mining laws, but not from operation of the public land laws or the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuation may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

B. LaVelle Black,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86-9837 Filed 5-1-86; 8:45 am]

BILLING CODE 4310-33-M

Fish and Wildlife Service

Endangered and Threatened Species; Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT–705711

Applicant: Ray M. Morgan, Lake Charles, LA

The applicant requests a permit to import a sport-hunted trophy of a bontebok *(Damaliscus dorcas dorcas)*, culled from the captive herd of Mr. P.F. Rademeyer of the Republic of South Africa, for the purpose of enhancement of propagation.

PRT–705101

Applicant: Fred Wiedenfeld, San Antonio, TX

The applicant requests a permit to import a sport-hunted trophy of a bontebok *(Damaliscus dorcas dorcas)*, culled from the captive herd of Mr. V. Pringle in Cape Province, Republic of South Africa, for the purpose of enhancement of propagation.

PRT–679823

Applicant: U.S. Fish and Wildlife Service, Regional Director, Region 5, Newton Corner, MA

The applicant requests an amendment to their current permit to take additional species within their region for scientific purposes and the enhancement of propagation or survival in accordance with Recovery Plans, listing, or other Service work for those species.

PRT–705204

Applicant: Buffalo Zoo, Buffalo, NY

The applicant requests a permit to import one female lowland gorilla *(Gorilla gorilla)* from the Granby Zoo, Quebec, Canada. This animal was caught in the wild in Cameroon, Africa in 1983.

PRT–706144

Applicant: Dr. Don Melnick, Columbia Univ., New York, NY

The applicant requests a permit to import 150 to 200 blood samples of black rhinos *(Diceros bicornis)* and Northern white rhinos *(Ceratotherium simum cottoni)* from Kenya Zimbabwe, Africa, for scientific research.

PRT–704949

Applicant: Zoological Society of San Diego, San Diego, CA

The applicant requests a permit to import blood and/or tissue from wild-caught, endangered felids for purposes of determining disease prevalence and exposure to infectious organisms to enhance propagation of the species.

PRT–705626

Applicant: Otter Conservation & Research Center, Inc., Ellabell, GA

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The applicant requests a permit to import 2 female long-tailed otters *(Lutra longicaudis)* taken from the wild in Panama for enhancement of propagation of the species.

PRT-705823

Applicant: Cedar Grove Farm, St. Paul, MN

The applicant requests a permit to import one captive-bred snow leopard *(Panthera unicia)* from West Germany for the purpose of enhancement of propagation and survival of the species.

PRT-705233

Applicant: Dr. Patrick T. Redig, University of Minnesota, St. Paul, MN

The applicant requests a permit to import up to 50 live captive born peregrine falcons *(Falco peregrinus anatum)* per year through 1989 for the purpose of enhancement of survival through reintroduction. Additionally, the applicant requests permission to recapture 3 released birds 2–4 weeks after hacking for the purpose of providing future broodstock for enhancement of propagation. Along with this the applicant wishes to import carcasses of 4 adults, 6 chicks and 5 addled eggs to be used to enhance survival through conservation education.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Dated: April 28,1986.

Larry LaRochelle,

Chief, Permit Branch, Federal Wildlife Permit Office, U.S. Fish and Wildlife Service.

[FR Doc. 86-9932 Filed 5-1-86; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Appeals Decisions: Assertion of Privilege Concerning Proprietary Data; Availability

AGENCY: Minerals Management Service, Interior.

ACTION: Notice.

Pursuant to 30 CFR Part 290, the Director, Minerals Management Service (MMS), issues decisions in appeals from final decisions or orders by other MMS personnel under R.S. 463, 25 U.S.C. 2; R.S. 465, 25 U.S.C. 9; the Mineral Lands Leasing Act, as amended, 30 U.S.C. 181 *et seq.;* the Act of February 7, 1927, 30 U.S.C. 285; the Mineral Leasing Act for Acquired Lands, as amended 30 U.S.C. 351 *et seq.;* the Outer Continental Shelf Lands Act, as amended, 43 U.S.C. 1331 *et seq.;* the Geothermal Steam Act of 1970, 30 U.S.C. 1001 *et seq.;* the Federal Oil and Gas Royalty Management Act of 1982, 30 U.S.C. 1701 *et seq.;* section 2 of Reorganization Plan No. 3 of 1950 (64 stat. 1262); Secretarial Order No. 3071 of January 19, 1982, as amended; and Secretarial Order No. 3087, as amended.

Notice is hereby given that copies of the Director's decisions are available for public inspection during regular business hours at the Division of Appeals, Office of Program Review, MMS, 12203 Sunrise Valley Drive, Reston, Va. 22091. Copies of the decisions may be obtained in accordance with the procedures in 43 CFR Part 2. Proprietary data contained in decisions will be withheld as appropriate.

The Division of Appeals also maintains an index of the Director's decisions which is available to the public in the same manner as the decisions themselves.

Consideration is being given to the publication of the decisions by a private nonprofit entity on a subscription basis. Affected persons are hereby requested to advise the Division of Appeals of any claims of privilege concerning particular proprietary data contained in specific decisions in which they may have been involved. Such claims (together with the statutory basis therefor) must be filed with the Division of Appeals within 60 days after publication of this Notice in the **Federal Register**. In the absence of such filing, any privilege against public disclosure of proprietary data contained in such decisions may be considered to have been waived.

All assertions of privilege filed with the Division of Appeals will be evaluated in accordance with applicable legal principles.

Because of its great volume, publication of a historic index of decisions is impracticable. However, as noted above, such an index is available for inspection and pursuant to 43 CFR Part 2.

FOR FURTHER INFORMATION CONTACT: David Schuenke, Acting Chief, Division of Appeals, Office of Program Review, Minerals Management Service, 12203 Sunrise Valley Drive, Reston, Virginia 22091 (703–648–7729).

Donald T. Sant,

Assistant Director for Program Review.

April 24, 1986.

[FR Doc. 86-9889 Filed 5-1-86; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Missouri National Recreational River Advisory Group; Notice of Meeting

Notice is hereby given, in accordance with the Federal Advisory Committee Act, 86 Stat. 770, 5 U.S.C. App. 1, as amended by the Act of September 13, 1976, 90 Stat. 1247, that a meeting of the Missouri National Recreational River Advisory Group will be held May 15, 1986, beginning at 10 a.m. at the Lewis and Clark Lake Visitors Center at Gavins Point Dam near Yankton, South Dakota.

The group was established on October 26, 1981, pursuant to Pub. L. 95–625 (92 Stat. 3529) as amended by Pub. L. 96–344 (94 Stat. 1137), 16 U.S.C. 1274, to meet and consult with the Secretary of the Interior on matters relating to the administration and development of the Missouri National Recreational River.

Matter to be discussed at the meeting will include revised cost-sharing formula for operation and maintenance of projects in the recreational river, Farm Debt Restructure and Easement Set-Aside Program of the Farmers Home Administration, and development of a biological assessment pursuant to section 7 of the Rare and Endangered Species Act.

The meeting will be open to the public. Interested persons may submit written statements or request information concerning this meeting from David H. Shonk, Associate Regional Director, Cooperative Activities, Midwest Region, National Park Service, 1709 Jackson Street, Omaha, Nebraska 68102, telephone 402–221–4855 (FTS 864–4855). Minutes of the meeting will be available for public inspection at the Midwest Regional Office 4 weeks after the meeting.

Dated: April 22, 1986.

Warren H. Hill,

Acting Regional Director, Midwest Region.

[FR Doc. 86-9901 Filed 5-1-86; 8:45 am]

BILLING CODE 4310-70-M

Office of Surface Mining Reclamation and Enforcement

Intent To Prepare an Environmental Impact Statement on the Proposed Area B Expansion of the Big Sky Mine, Rosebud County, Montana (Federal Coal Lease No. M–15965)

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of intent to prepare an environmental impact statement and announcement of a period during which written comments regarding the scope of the environmental-impact-statement analysis will be received.

SUMMARY: Notice is hereby given that the Office of Surface Mining Reclamation and Enforcement (OSMRE) and the Montana Department of State Lands (DSL) intend to jointly prepare an environmental impact statement (EIS) on the permit application Peabody Coal Company (PCC) has submitted to OSMRE and the State of Montana for its proposal to expand the Big Sky mine into Area B. The EIS will evaluate the alternative actions of approval, disapproval, and no action that are available to the Department of the Interior and the State of Montana regarding PCC's proposal. It will also evaluate other alternative actions that OSMRE and Montana DSL may develop on the basis of comments they may receive during the scoping process. The EIS will assist the Department of the Interior and the State of Montana in making a decision on PCC's application to surface mine coal southwest of Colstrip, Montana. OSMRE and Montana DSL request that other agencies and the public submit written comments or statements to them concerning the scope of the EIS analysis.

DATES: Written comments or statements concerning the scope of the EIS will be accepted through May 30, 1986, as the locations given under "**ADDRESSES.**"

ADDRESSES: Written comments or statements concerning the scope of the EIS should be mailed or hand-delivered to either Allen D. Klein, Administrator, Attn: Acting Chief, Environmental Analysis Branch, OSMRE, Western Technical Center, Second Floor, Brooks Towers, 1020–15th Street, Denver, Colorado 80202, or Kit Walther, Chief, Environmental Analysis Bureau, Montana DSL, 1539 11th Street, Capitol Station, Helena, Montana 59620.

Copies of PCC's permit application, mining plan, and reclamation plan are available for review at the OSMRE and Montana DSL offices listed above and at the OSMRE Casper Field Office, 100 East "B" Street, Room 2128, Federal Building, Casper, Wyoming.

FOR FURTHER INFORMATION CONTACT: Floyd McMullen, Environmental Analysis Branch (telephone: 303–844–2451 (commercial) or 564–2451 (FTS)), at the Denver, Colorado, location given under "**ADDRESSES.**"

SUPPLEMENTARY INFORMATION: PCC's Big Sky mine is an existing surface coal mine located approximately 120 miles east of Billings, Montana, and 5 miles southsouthwest of Colstrip, Montana. PCC intends the mine to eventually cover 8,096 acres of land, of which 2,574 acres have already been or are in the process of being permitted by OSMRE and Montana DSL within Area A of the mine.

PCC is currently seeking approval to mine 83 million tons to coal at the Area B expansion of the mine over a 22-year period at an average rate of approximately 4 million tons per year. The proposed expansion would add 5,522 acres to the Big Sky mine permit area in secs. 23, 24, and 25, T. 1 N., R. 40 E., and secs. 19, 21, 22, and 27 through 33, T. 1 N., R. 41 E., Montana Principal Meridian; 2,270 of these 5,522 acres would be disturbed by mining activities.

OSMRE and Montana DSL are preparing the EIS both to evaluate alternative actions available to the Department of the Interior and the State of Montana on PCC's permit application and to identify and analyze the environmental impacts that would be associated with implementing each such action. The major alternative actions OSMRE and Montana DSL have thus far identified for consideration are (1) approval of the permit application with such conditions, if any, as would assure its compliance with requirements of the Surface Mining Control and Reclamation Act of 1977, the Montana Strip and Underground Mine Reclamation Act, 82–201, *et seq.*, the 1981 Montana Permanent Strip and Underground Mine Reclamation Rules, the Montana Cooperative Agreement with the Department of the Interior (30 CFR 926), and other Federal and State laws; (2) disapproval of the permit application; and (3) no action. OSMRE and Montana DSL may develop other alternative actions on the basis of comments they may receive regarding the scope of the EIS analysis.

OSMRE and Montana DSL are requesting that any interested party submit written comments or statements regarding the scope of the analysis. Comments/statements received by OSMRE and Montana DSL will assist those agencies in gathering information and in defining the scope of issues and concerns to be evaluated in the EIS.

Dated: April 28, 1986.

Brent Wahlquist,

Assistant Director, Program Operations.

[FR Doc. 86-9870 Filed 5-1-86; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–231]

Certain Soft Sculpture Dolls Popularly Known as "Cabbage Patch Kids," Related Literature and Packaging Therefor; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a settlement agreement: Osco Drug, Inc. (Osco) and Sav-On-Drugs, Inc. (Sav-On).

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties in April 25, 1986.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the

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Secretary to the Commission, 701 E Street, NW., Washington, DC 20436, no later than 10 days after publication of this notice in the Federal Register. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202-523-0176.

Issued: April 28, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-9854 Filed 5-1-86; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent corporation and address of principal office: Consir Corporation, 1 Cummings Point Road, Stamford, Connecticut 06904.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Zotos International, Inc.—N.Y. Corporation.

B. 1. Parent corporation and address of principal office: Enamel Products & Plating Company, 3500 Walnut Street, McKeesport, PA 15132.

2. Wholly-owned subsidiaries and divisions which will participate in the operations, and states of incorporation:

Name and State

(i) E.P. & P. Trucking Co., PA;

(ii) Solar Hardware Division, MS; and

(iii) Southern-Gemini Division, MS; and

(iv) Anderson Metal Products, MS.

C. 1. Parent corporation: FAIRWAY FOODS, Northfield, NM & Fargo, ND, (A Minnesota Corporation).

(2) Wholly-owned subsidiaries:

(i) FAIRCO—ASSOCIATED GROCERS, INC., Ankeny, IA (an Iowa Corporation).

(ii) FAIRCO, INC. (Carpenter Cook Co.), Menominee, MI (a Michigan Corporation).

D. 1. Parent corporation: Graves Refrigeration, Inc., 4761 Lewis Road, Stone Mountain, George 30083.

2. Wholly-owned subsidiaries which will participate in the operations:

(i) Knoxville Refrigeration Supply Company, Inc., Post Office Box 3188, 621 Lamar Street, Knoxville, Tennessee 37927 (incorporated in the state of Delaware).

(ii) J & P Supply Company, 1508 East 28th Street, Chattanooga, Tennessee 37407 (incorporated in the state of Tennessee).

E. 1. Parent corporation: J.P. Stevens & Co., Inc., 1185 Avenue of the Americas, New York, New York 10036.

2. Wholly-owned Subsidiaries:

(i) Stevens Aviation, Inc. (DE), Greenville-Spartanburg Jetport, Greer, SC 29651

(ii) Steven Stores, Inc. (DE), 2712 Laurens Road, Greenville, SC 29607

(iii) Stevcoknit, Inc. (DE), 1450 Broadway, New York, NY 10018

Stevcoknit Fabrics, Co., Inc. (NY), 1450 Broadway, New York, NY 10018

Carter Plant (DE), 601 Wilmington Road, Wallace, NC 28466

Fayetteville Plant (NC), 902 Southern Avenue, Fayetteville, NC 28306

Tuxedo Plant (DE), Highway 25, Tuxedo, NC 28784

Ragan Plant (DE), Bessemer City Road, Gastonia, NC 28053

SKT Research & Development and Workshop Corporation (CT), 1450 Broadway, New York, NY 10018

(iv) Gloria Vanderbilt Creations, Inc. (DE), 1185 Ave. of the Americas, New York, NY 10036

(v) Ralph Lauren Home Furnishings, Inc. (DE), 1185 Ave. of the Americas, New York, NY 10036

(vi) Stevens Direct Marketing, Inc. (DE), Commerical Drive, Greenville, SC 29607

(vii) Stevens Freight Service, Inc., U.S. Hwy 29 North, Greensboro, NC 27405

(viii) P. Stevens & Co. (Canada), Ltd., 474 Attwell Drive, Rexdale, Ontario M9W 1M4

(ix) J.P. Stevens & Co. Limited (Great Britain), 26 Dover Street, Longdon, England WI

(x) J.P. Stevens (Deutschland) G.m.b.H. Wanheimerstrasse 39 4000 Dusseldorf, W. Germany 30

(xi) J.P. Stevens International Sales, Inc. (DE), 1185 Ave. of the Americas, New York, NY 10036

(xii) J.P. Stevens (Europe), Ltd., 1185 Ave. of the Americas, New York, NY 10036

(xiii) Courier Graphics, Inc. (KY), 4325 Old Shepherdsville Rd., Louisville, KY 40218

Insurance Field Company, 4325 Old Shepherdsville Rd., Louisville, KY 40218

F. 1. Parent corporation: Super Valu Stores, Inc., P.O. Box 990, Minneapolis Minnesota 55440.

2 Subsidiaries and State of incorporation:

(i) J.M. Jones Company, Champaign, IL—Delaware.

(ii) Lewis Grocer Company, Indianola, MS—Mississippi.

(iii) Preferred Products, Inc., Chaska, NN—Minnesota.

(iv) Shopko Stores, Inc., Green Bay, WI—Minnesota.

(v) SVS Trucking, Inc., Eden Prairie, MN—Minnesota.

(vi) Western Grocers Inc., Albuquerque, NM—Colorado.

(vii) Western Grocers Inc., Denver, CO—Colorado.

(viii) West Coast Grocery Company, Salem, OR—Washington.

(ix) West Coast Grocery Company, Spokane, WA—Washington.

(x) West Coast Grocery Company, Tacoma, WA—Washington.

3. Divisions of Super Valu Stores, Inc.:

(i) Anniston Division, Anniston, AL.

(ii) Atlanta Division, Atlanta, GA.

(iii) Bismarck Division, Bismarck, ND.

(iv) Charley Brothers Division, Greensburg, PA.

(v) Cub Food Division, Stillwater, MN.

(vi) Des Moines Division, Des Moines, IA.

(vii) Fargo Division, Fargo, ND.

(viii) Food Marketing Division, Fort Wayne, IN.

(ix) Green Bay Division, Green Bay, WI.

(x) Minneapolis Division, Hopkins, MN.

(xi) Ohio Valley Distribution, Xenia, OH.

(xii) Ryan's Division, Billings, MT.

(xiii) Ryan's Division, Great Falls, MT.

G. 1. Parent Corporation: VF Corporation, 1047 North Park Road, Wyomissing, PA 19610.

2. Wholly-owned subsidiaries which will participate in the operations:

(i) MODERN GLOBE, INC., State of Incorporation—Delaware;

(ii) WILLIS & GEIGER, INC., State of Incorporation—Delaware;

(iii) VF FACTORY OUTLET, INC., State of Incorporation—Delaware;

(IV) THE LEE APPAREL COMPANY, INC., State of Incorporation—Pennsylvania;

(v) VANITY FAIR MILLS, INC., State of Incorporation—Pennsylvania;

(vi) KAY WINDSOR, INC., State of Incorporation—Pennsylvania;

(vii) TROUTMAN INDUSTRIES, INC., State of Incorporation—North Carolina; and

(viii) BASSETT-WALKER, INC., State of Incorporation—Virginia.

James H. Bayne,

Secretary.

[FR Doc. 86-9922 Filed 5-1-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Pollution Control; Consent Decree: PPG Industries, Inc.

In accordance with Departmental policy, 28 CFR § 50.7, notice is hereby given that on April 9, 1986 a proposed consent decreee in *United States* v. *PPG Industries, Inc.*, Civil Action No. CV86-0768 was lodged with the United States District Court for the Western District of Louisiana. The proposed consent decree concerns a complaint filed by the United States that alleged violations of the Clean Water Act, 33 U.S.C. 1251-1376, by PPG Industries at its Lake Charles plant due to poor operation practices during routine transfer operations. The complaint sought injunctive relief to require defendant to improve its operation practices and civil penalties for past violations. The consent decree provides that PPG Industries will improve its operation practices and comply with its National Pollutant Discharge Elimination System permit under the Clean Water Act. PPG Industries is also required to pay a civil penalty of $35,700 in settlement of the government's civil penalty claims.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *PPG Industries, Inc.*, D.J. Ref. 90-5-1-1-2440.

The proposed consent decree may be examined at the office of the United States Attorney, Western District of Louisiana, Room 306, Federal Bldg. & U.S. Courthouse, 705 Jefferson St., Lafayette, Louisiana 70501 and at the Region Six Office of the Environmental Protection Agency, InterFirst Two Building, 1201 Elm Street, Dallas, Texas 75270. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-9865 Filed 5-1-86; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Proposed Modification of Final Decree

Notice if hereby given that American Pharmaceutical Association has filed with the United States District Court for the Western District of Michigan a motion to modify the final decree in *United States* v. *American Pharmaceutical Association and Michigan State Pharmaceutical Association*, Civil No. G75-558 CA5; and Michigan State Pharmaceutical Association has filed an affidavit of compliance with the decree; and the Department of Justic ("Department"), in a stipulation also filed with the Court, has consented to modification of the judgment, but has reserved the right to withdraw its consent for at least seventy (70) days aftter the publication of this notice. The complaint in this case (filed on November 11, 1975) alleged that the defendants had engaged in a combination and conspiracy to eliminate competition among their members in the sale of prescription drugs and pharmacists' services. The decree (entered on June 18, 1981) enjoins the defandants from: (1) Entering into or in any other way furthering any agreement or conspiracy to limit price or any other type of advertising of prescription drugs (other than false and misleading advertising) or of the provision of pharmactists' services; (2) adopting or enforcing any Code of Ethics or other standard or policy statement that states or implies that price advertising of prescription drugs is unethical, unprofessional or contrary to its policy; and (3) taking any action concerning any person where such action is based on a failure or refusal to restrict price advertising of prescription drugs.

The modification will allow APhA to comment to Congress or other state or federal administrative agencies on prescription drug advertising directed to the public by drug manufacturers. At the same time, APhA will have to make clear that any comments it makes are not intended to discourage pharmacists from advertising prescription drugs.

The Department has filed with the court a a memorandum setting forth the reasons why the Department believes that modification of the judgment would serve the public interest. Copies of the complaint and final judgment, American Pharmaceutical Association's motion papers, Michigan State Pharmaceutical Association's affidavit, the stipulation containing the Government's consent, the Department's memorandum and all further papers filed with the court in connection with this motion will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7233, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530 (telephone 202/633-2481), and at the Office the of Clerk of the United States District Court for the Western District of Michigan, Federal Building, Grand Rapids, Michigan 49503. Copies of any of these materials may be obtained from the Legal Procedure Unit upon request and payment of the copying fee set by Department of Justice regulations.

Interested persons may submit comments regarding the proposed termination of the decree to the Department. Such comments must be received within sixty days, and will be filed with the court. Comments should be addressed to John W. Clark, Chief, Professions and Intellectual Property, Antitrust Division, Department of Justice, Washington, DC 20530 (telephone 202/724-6335).

Dated: April 24, 1986.

Joseph H. Widmar,

Director of Operation, Antitrust Division.

[FR Doc. 86-9946 Filed 5-1-86; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Ganes Chemicals, Inc.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on January 27, 1986, Ganes Chemicals, Inc.; Lessee of Siegfried Chemical, Industrial Park Road, Pennsville, New Jersey 08070, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II

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Drug	Schedule
Methadone (9250)	II
Methadone-Intermediate, 4-cyano-2-dimethylamino-4, 4-diphenyl butane (9254)	II
Bulk dextropropoxyphene (non-dosage forms) (9273)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than (June 2, 1986).

Dated: April 26, 1986.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 86-9831 Filed 5-1-86; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 85-38]

Larry L. Kompus, M.D.; Denial of Application

On July 3, 1985, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) directed an order to show cause to Larry L. Kompus, M.D., 4166 Stoddard Road, Orchard Lake, Michigan 48033 (Respondent). The order sought to deny an application for registration with the DEA under 21 U.S.C. 823(f) executed by Respondent on March 20, 1985. The statutory predicate for the order was the conviction of Respondent on January 15, 1980, in the State of Michigan, Circuit Court for the County of Oakland, of delivery of a controlled substance (non-narcotic) and delivery of Tuinal. These are felonies relating to controlled substances. Respondent, through counsel, requested a hearing on the issues raised by the order to show cause and the Matter was docketed before Administration Law Judge Francis L. Young. Following prehearing procedures, there was a hearing before Judge Young in Detroit, Michigan on November 7, 1985. Judge Young issued his opinion and recommended ruling on January 13, 1986 and transmitted the record to the Administrator on February 10, 1986. Neither side filed exceptions. The Administrator hereby enters this final order based on the record and the findings of fact of the Administrative Law Judge.

The Administrator finds that the investigation of Respondent began in January, 1979, when a young man, accompanied by his attorney, came to the Bloomfield Township, Michigan, Police Department. The young man related to a detective that he had been a patient of Respondent in 1975 and was admitted to a local hospital for treatment of drug and alcohol abuse. Respondent was a psychiatrist specializing in drug detoxification. The young man told the detective that he had been a patient of Respondent from 1975 until December, 1978, a month before. Supposedly Respondent was treating him for drug abuse. The young man told the detective that Respondent had engaged in homosexual relations with him during this three year period, sometimes in Respondent's office and sometimes in hotels in the metropolitan Detroit area. The young man also said that Respondent had given him quantities of controlled substances to consume and sell. The young man had told this same information to a nurse at a local hospital just a few weeks before his coming to the Bloomfield Police Department, which gave rise to an investigation of Respondent by the hospital. Respondent contacted the young man to discuss the matter with him, and the young man and his attorney in turn came to the police with the information.

The relationship between Dr. Kompus and this man originally had the hallmarks of a legitimate patient-physician relationship, but degenerated into one in which Respondent traded drugs and other things to the man for sexual favors. For example, Judge Young found that the young man wanted a handgun. Respondent wrote a letter to the Royal Oak, Michigan, Police Department, telling the department that the man was capable of handling a weapon. Respondent wrote that letter immediately after the young man permitted Respondent to perform oral sex on him in Respondent's office.

Respondent prescribed Quaaludes (methagualone) and "reds", presumably Tuinal, as well as Placidyl and Valium, for the young man. Respondent told the young man not to fill the prescriptions at the same pharmacy so that Respondent would not "get into trouble." A canvass of area pharmacies by the Bloomfield Police uncovered prescriptions for Tuinal, Quaalude and Placidyl written by Respondent during the summer and fall of 1978 for this young man.

The Administrative Law Judge further found that a typical session between Respondent and this young man would involve Respondent renting a movie projector and showing pornographic films depicting homosexual behavior. They would check into a hotel room and Respondent would give the young man a red pill Respondent alleged was an aphrodisiac. Respondent would also bring alcohol and Stelazine, a non-controlled psychoactive substance. The young man would sometimes bring hashish and marijuana. The men would consume the drugs and alcohol and engage in homosexual activities.

Under the direction of the detective, the young man telephoned Respondent and asked to set up an appointment to speak with him. The officer had obtained a search warrant, as required by Michigan law, for the consensual taping. During the conversation that followed, Respondent told the young man that the investigation at the hospital was getting him into trouble. Respondent pressured the young man to write a letter to the hospital authorities saying that the young man had imagined the homosexual activities that gave rise to the complaint. Respondent gave the young man a total of $80 following this conversation and a prescription for Elavil, another non-controlled psychoactive substance.

Respondent and the young man agreed to meet at the Renaissance center Hotel in Detroit to further discuss the letter Respondent told the man to write. Officers arrested Respondent at the hotel. He had planned to have another sexual encounter with the young man on this occasion; the police found the alleged aphrodisiac, alcohol and Stelazine in the hotel room.

The Administrator further finds that investigation by the Bloomfield Police led them to another young man with whom Respondent had engaged in sexual relations while supposedly treating him. Respondent told this second young man, following psychological testing, that he had homosexual tendencies. Such news distressed this man, since he was engaged in a heterosexual relationship with a woman at the time and feared that he had contracted venereal disease from her. At this session at Respondent's office, Respondent told this second young man to undress totally, and ended the session by kissing the young man on the lips. This young man had a history of drug abuse and had never engaged in homosexual activities before he encountered Respondent, who was supposedly treating him for drug abuse. When the Bloomfield detective served a subpoena on this young man in early 1980, his mental state had deteriorated to the point that he was unable to communicate.

The Administrator further finds that Respondent was also sexually involved with a third young man. Again, Respondent was supposedly treating him for drug and alcohol abuse. This young man was blond and blue-eyed, and of small statue. He was 17 years old when Respondent first treated him. Respondent supplied him with Quaalude, Tuinal and Second prescriptions. He and Respondent went on a hunting trip to Harrison, Michigan in November, 1979. Respondent brought along pornographic movies and they engaged in homosexual activities in a motel room. Respondent had registered them as father and son. On one occasion, after refusing several times, this third young man gave in to Respondent's opportuning and dressed in women's undergarments.

The Administrator adopts the finding of the Administrative Law Judge that the preponderance of the evidence establishes that these young men did not manifest any predisposition toward homosexuality prior to becoming involved with Dr. Kompus.

In January, 1980, Respondent pled *nolo contendere* to the controlled substance related felonies and to attempted third degree criminal sexual conduct. He was sentenced to concurrent prison terms of from one to seven years. Respondent actually served about ten months.

The Michigan Board of Medicine summarily suspended Respondent's medical license in early 1979. The summary suspension was dissolved on February 22, 1979, when the Board found that Respondent's ability to practice medicine did not constitute an emergency threat to the public health, safety and welfare. Following a hearing, the Board revoked Respondent's license in August, 1980. In the interim, Respondent agreed to retrict the use of drugs in his practice. Respondent did not surrender a DEA Certificate of Registration previously issued to him until November, 1980. The Board granted Respondent a limited license in 1983, one of the terms being that he remain under the care of a psychiatrist.

The Administrator notes that Respondent is fully licensed to handle controlled substances, with no limitations whatsoever, by the State of Michigan.

Respondent worked briefly at a Veterans' Administration hospital in the Detroit area until he left the position following an exposé of his actions by a Detroit newspaper.

The psychiatrist treating Respondent testified at some length during the hearing. He testified that Respondent's involvements with these patients stemmed from his unhappy relationship with his father, which led to a burning desire to be close to a man. the Administrative Law Judge noted that this same psychiatrist testified in September, 1979, only eight months after Respondent's arrest, that Dr. Kompus "could practice psychiatry with reasonable skill and safety". The Administrator shares the observation of the Administrative Law Judge that this opinion, given so early in the treatment of Respondent, seriously undermines the credibility of the psychiatrist as to his opinion about Respondent's present condition.

Respondent seeks registration in Schedules III, IV and V so he can continue his specialty of drug and alcohol detoxification and treatment. Judge Young found that Dalmane and Librium, two of the drugs Respondent claims he needs in his professional practice, have a street value in Detroit, currently selling for $2 to $5 per dosage unit.

The Administrative Law Judge recommended that the application submitted by Respondent be denied, even as to the limited number of controlled substances Respondent seeks in his practice. The Administrator wholeheartedly adopts this recommendation. The administrator also concurs in this observation of the Administrative Law Judge: "Few, if any, cases coming before this Administrative Law Judge in the past ten years have presented facts showing professional wrongs aproaching the enormity of those in this case. The actions of this Respondent were those of a very sick man."

Examining the criteria in 21 U.S.C. 823(f) he is required to consider in determining whether to register a practitioner, the Administrator finds that the registration of Respondent is most emphatically not in the public interest. This order discussed at length Respondent's experience in dispensing controlled substances and his conviction record relating to controlled substances, two of the factors the Administrator is required to consider. 21 U.S.C. 823(f)(2) and (3). The Administrative Law Judge and the administrator both find the fifth factor, "Such other conduct which may threaten the public health and safety", to be relevant. Judge Young expressed it succinctly: "Surely a psychiatrist's engaging in homosexual conduct with patients coming to him for help in matters of substance abuse constitutes such conduct—particularly so when the psychiatrist uses those substances to obtain his personal gratification."

Dr. Kompus used contolled substances that he prescribed with his DEA registration to help him pursue his own deviant wishes at the expense of the sick individuals who had come to him for help. Even the limited registration sought by Respondent is inappropriate, given his history and convictions. The Administrator can find scant assurance in this record that Respondent will not regress to his past horrific conduct, which involved the DEA registration with which he was entrusted. The Administrator is charged with protecting the public. In this most egregious of cases, he would be abdicating his responsibilities if he were to register Larry Kompus, M.D., in any schedule or for any controlled substance.

Having considered the evidence in the record, the Administrator, under the powers given the Attorney General in 21 U.S.C. 823 and 824 and delegated to the Administrator in 21 U.S.C. 871 and 28 CFR Part 0.100, hereby denies the application for registration executed by Larry L. Kompus, M.D., on March 2, 1985, for the reason that respondent's registration is inconsistent with the public interest, and for the further statutory reason that Respondent was convicted a felony relating to controlled substances. Said denial is effective immediately.

John C. Lawn,

Administrator.

April 28, 1986.

[FR Doc. 86-9832 Filed 5-1-86; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 85-37]

Ozie T. Faison d/b/a Smith Discount Drugs; Denial of Application

On June 17, 1985, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), directed an order to show cause to Ozie T. Faison, Jr., d/b/a Smith Discount Drugs, 1046 Broad Street, New Bern, North Carolina, 28560 (Respondent). The order to show cause sought to deny an application executed on March 28, 1985, by Ozie T. Faison, Jr., R.Ph, the practicing pharmacist at Smith Discount Drugs. The statutory predicate for the order to show cause under 21 U.S.C. 823(f) was the conviction of Ozie T. Faison, Jr., in the United States District Court for the Eastern District of North Carolina, of conspiracy to distribute Schedule II controlled

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substances in violation of 21 U.S.C. 846, a felony relating to controlled substances. Respondent pharmacy, through counsel, requested a hearing on the issues raised by the order to show cause and the matter was docketed before Administrative Law Judge Francis L. Young. Following prehearing procedures, a hearing was held before Judge Young in Washington, DC, on November 13, 1985. Judge Young issued his opinion and recommended ruling on January 14, 1986. Neither side filed exceptions to the recommended ruling. The Administrator hereby enters his final order based on the findings of fact of the Administrative Law Judge.

The Administrator finds that Ozie T. Faison, Jr., was convicted of conspiring with a physician, John Eldridge Littman, M.D., to distribute Schedule II controlled substances. Faison was a corporate officer of Smith Discount Drugs from October, 1980 through July, 1981, and Dr. Littman was a 50% owner of the pharmacy during this time, the period of activities for which both were convicted.

The Administrator further finds that during the spring and summer of 1981, a young woman sold Dilaudid three times to DEA Special Agents in New Bern, North Carolina. She purchased the Dilaudid from Dr. Littman, who in turn had obtained it from Faison at Smith Discount Drugs. The woman sold the Dilaudid to the Agents for $2,000 for a bottle of 100. She was arrested after the third such sale. Following the arrest, a Special Agent of the North Carolina State Bureau of Investigation (SBI) conducted an audit of several Schedule II controlled substances at Respondent pharmacy. This audit revealed a shortage of 300 Dilaudid 4mg., or 15.79%, and 1,460 Sopor 300 mg., or 35.61% of the total for which the pharmacy was accountable.

During a second audit of the pharmacy, the Agent conducting the audit noticed a questionable sequence of Dilaudid prescriptions. Dr. Littman had written prescriptions for 890 Dilaudid between October, 1980 and June, 1981. He wrote the prescriptions for 30, 30 and 40 dosage units per month, except for October, 1980, when he wrote three prescriptions for 30 Dilaudid each. The prescription bore dates that were consecutive or nearly consecutive. In attempting to verify the prescriptions, the SBI Agent learned that several of the addresses on the prescriptions were fictitious, while a number of the "patients" were non-existent or did not live at the addresses indicated. These were the only Dilaudid prescriptions in the pharmacy. Faison admitted to the Agent that it was "unusual" for a "patient" to have two different addresses, since the store was a neighborhood pharmacy and Faison tried to know a majority of his customers.

The Administrator adopts the finding of the Administrative Law Judge that Faison received $1,000 from Dr. Littman for each bottle of 100 Dilaudid he sold to Dr. Littman, although the regular retail price of Dilaudid for legitimately dispensed Dilaudid was $40 per 100. Dilaudid was selling on the streets of New Bern at that time for between $35 and $50 per tablet. Faison maintained at the hearing that he only received the legitimate $40 from Dr. Littman.

As to the other shortages, the Administrator finds that Faison offered various explanations to the SBI Agent. Faison told the Agent that a shortage of Sopor, then a Schedule II controlled substance, occurred when patients brought in bottles for refills and he would forget to fill out prescriptions for signature by a physician, usually Dr. Littman. This explanation indicates that Faison apparently made a practice of writing out the prescriptions and saving them for Dr. Littman's signature. Such a practice is intolerable with regard to a Schedule II substance. Faison also said that he gave quantities of Sopor to two individuals who badgered him for the drug without any prescription. Faison gave quantities of Eskatrol to two female truck drivers who sought the drug to remain awake. This is clearly unlawful. Faison also indicated to the Agent that while his statements about Dr. Littman, an older man and long-time business associate of his father, were true, Faison could not testify in court against Dr. Littman. Faison invited the Agent to return to the pharmacy so that he could supply him with a new story. The Agent declined this invitation.

In mitigation, Faison testified at the hearing that he knew something was wrong with the way in which Dr. Littman was prescribing Dilaudid, but he did nothing since he trusted Dr. Littman and had known him since childhood. Faison was 35 years old at the time of the crimes of which he was convicted and a recent graduate of the University of North Carolina School of Pharmacy. Respondent also presented a character witness and several written statements that Faison enjoys an excellent reputation in the community. Smith Discount Drugs is the only black-owned pharmacy in New Bern and without a DEA registration, would most likely have to close.

The Administrator adopts the findings of fact of the Administrative Law Judge. It is clear that this pharmacy, through Ozie Faison, Jr., abused its controlled substances privileges and caused the diversion of controlled substances into illegitimate channels. Faison now seeks to resume operation at the same pharmacy. His record in the handling of controlled substances is so poor that the Administrator must follow the recommendation of the Administrative Law Judge and deny this application.

Judge Young states that Faison was hardly an immature youngster when he began the practice of pharmacy at Smith Discount Drugs. Within 18 months of taking charge at the pharmacy, he connived with a physician to send about 900 known dosage units of Dilaudid into illegal channels. In addition, Faison liberally dispensed other controlled substances without prescriptions, or in response to prescriptions he knew were suspect. This record is one of an individual who should not be entrusted with a DEA Certificate of Registration.

The Administrator is not unmindful of the unique position of Smith Discount Drugs in the life of New Bern. However, the record in this case clearly shows that Faison cannot be trusted with the handling of controlled substances. The public interest would not be served by the registration of this pharmacy.

Having considered the record in this matter, the Administrator, as the delegee of the Attorney General under 21 U.S.C. 871 and 28 CFR Part 0.100, hereby denies under 21 U.S.S. 823 and 824 the application for DEA registration executed by Ozie T. Faison, Jr., d/b/a Smith Discount Drugs dated March 25, 1985, said denial effective immediately.

John C. Lawn,
Administrator.
April 28, 1986.

[FR Doc. 86-9634 Filed 5-1-86; 8:45 am]
BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application; Penick Corp.

Pursuant to § 1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 26, 1986, Penick Corporation, 158 Mount Olivet Avenue, Newark, New Jersey 07114, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Pholcodine (9314)	II
Alphacetylmethadol (9603)	I
Codeine (9050)	II
Dihydrocodeine (9120)	II
Oxycodone (9143)	II
Diphenoxylate (9170)	II

Drug	Schedule
Hydrocodone (9193)	II
Pethidine (meperidine) (9230)	II
Methadone (9250)	II
Methadone-Intermediate, 4-cyano-2-dimethylamino-4,4-diphenyl butane (9254)	II
Morphine (9300)	II
Thebaine (9333)	II
Opium extracts (9610)	II
Opium fluid extracts (9610)	II
Tincture of opium (9630)	II
Powdered opium (9639)	II
Granulated opium (9640)	II
Mixed alkaloids of opium (9648)	II
Concentrate of poppy straw (9670)	II
Phenazocine (9715)	II
Fentanyl (9801)	II

Any other such applicant and any person who is presently registered with DEA to manufacture such substances, may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, DC 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than June 2, 1986.

Dated: April 28, 1986.

Gene R. Haislip,
Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 86-9633 Filed 5-1-86; 8:45 am]
BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202 523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-1301, Washington, DC 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, Telephone 202 395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, DC 20503.

Any member of the public who wants to comment on a recordkeeping/reporting requirement which as been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New Collection

Bureau of Labor Statistics

New York Business Birth Survey
BLS 790 BBS
Other—one time
State and local government; Business or other for profit;
Federal agencies or employees; Non-profit institutions;
Small business or organizations.
2040 responses; 408 hours; 1 form

The Current Employment Statistics Survey, which produces national employment, hours and earnings data by industry, has a lagtime in estimating new business employment. This survey will lessen this lagtime and provide more acurate estimates of new business employment.

Extension

Employment Standards Administration

Certification by School Official
1215-0061; CM-981
Annually
State or local governments; Non-profit institutions
3,000 responses; 500 hours; 1 form

CM-981 is completed by a school official to verify if a beneficiary's dependent, aged 16 to 23, qualifies as a full-time dependent student.

Notice of Issuance of Insurance Policy
1215-0059; CM-921
Annually
Businesses or other for-profit; Small businesses or organizations
5,000 responses; 833 hours; 1 form

The CM-921 provides insurance carriers with the means to supply DCMWC with information which shows that a responsible coal mine operator is insured pursuant to the requirements set forth by the Black Lung Benefits Reform Act of 1972.

Bureau of Labor Statistics

Report on Employment, Payroll, and Hours
1220-0011; BLS-790 A, B, B-M, C, E, H, J-F, J-Fd, J-L, and S
Monthly
State or local governments, businesses or other for-profit, Federal agencies or employees, non-profit institutions, small businesses or organizations
3,276,000 responses; 380,680 hours; 10 forms

The Current Employment Statistics program provides estimates of current monthly employment, hours, and earnings, by industry, State, and MSA. Data provided are fundamental inputs in the economic decision process at all levels of government, private enterprise, and organized labor. The estimates are vital to the calculation of the Gross National Product and the Federal Reserve Board's Index of Industrial Production.

Reinstatement

Employment and Training Administration

Petition for Adjustment Assistance
1205-0192; ETA 8560 & ETA 8559
On occasion
Individuals or households; Business or other for-profit;
Small businesses or organizations
1,100 respondents; 275 hours; 1 form

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These petitions are filed by American workers applying to U.S. Department of Labor for eligibility to receive work trade adjustment assistance in accordance with provisions of the Trade Act of 1974 as amended. The petition initiates action on the part of the Department to determine if workers are eligible.

Signed at Washington, DC, this 29th day of April, 1986.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 86-9983 Filed 5-1-86; 8:45 am]

BILLING CODE 4510-30-M

Employment and Training Administration

State Employment Security Agency System Administrative Financing; Roundtable Meeting

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and purpose for a meeting of the Roundtable on the administrative financing mechanism for the State Employment Security Agency (SESA) programs.

DATE: May 9, 1986, 9:00 a.m. to 5:00 p.m.

ADDRESS: Frances Perkins Building, Room S2215-C, 200 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carolyn M. Golding, Director, Unemployment Insurance Service, Employment and Training Administration, 601 D Street, NW., Washington, DC 20213 (202/376-6836).

SUPPLEMENTARY INFORMATION: The Roundtable first met on March 25, 1986, and reviewed the results of the public comments on the SESA administrative financing system. The group agreed that the Employment and Training Administration and a technical workgroup composed of State and Federal staff should proceed on a two-track approach of developing both short-term and long-term changes to the present system.

The purpose of this meeting is to review the status of the final package of short-term changes on which the Department of Labor is proceeding. The Roundtable will also continue its exploration of long-term options for change.

Signed at Washington, DC, on April 29, 1986.

Roger D. Semerad,

Assistant Secretary of Labor.

[FR Doc. 86-9937 Filed 5-1-86; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-18,841]

Switchcraft, Incorporated, Paxton, IL; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on November 18, 1986 in response to a worker petition received on November 6, 1986 which was filed on behalf of workers and former workers at Switchcraft, Incorporated, Paxton, Illinois.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 23rd day of April 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-9936 Filed 5-1-86; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-18,595]

Texas Apparel Company, Del Rio, TX; Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on October 28, 1985 in response to a worker petition received on October 7, 1985 which was filed on behalf of workers at the Del Rio, Texas plant of Texas Apparel Company.

An active certification covering the petitioning group of workers remains in effect (TA-W-16, 187A) issued October 30, 1985 with an expiration date of January 1, 1987, two years after the impact date. Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, D.C., this 28rd day of April 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-9935 Filed 5-1-86; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration

Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29

CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions being added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page number(s).

Volume II.

Iowa: IA86-11 ..... pp.60c-60d.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I

Illinois: IL86-18 (Jan. 3, 1986) .. pp.254-256.
Virginia:
VA86-5 (Jan. 3, 1986)..... p.1065.
VA86-15 (Jan. 3, 1986)..... p.1069.

Volume II

Iowa:
IA86-5 (Jan. 3, 1986) ..... pp.43-48.
IA86-6 (Jan. 3, 1986) ..... p.52.
Illinois: IL86-16 (Jan. 3, 1986) .. pp.214-216.
Indiana:
IN86-1 (Jan. 3, 1986) ..... pp.220-223.
IN86-2 (Jan. 3, 1986) ..... pp.234-238, pp.243-245.
IN86-3 (Jan. 3, 1986) ..... pp.251-254.
IN86-4 (Jan. 3, 1986) ..... pp.262-265.
IN86-5 (Jan. 3, 1986) ..... pp.275-277, p.281.
IN86-6 (Jan. 3, 1986) ..... pp.284-285, p.287.
Louisiana:
LA86-4 (Jan. 3, 1986) ..... pp.355-356.
LA86-5 (Jan. 3, 1986) ..... pp.360-361, p.363.
Michigan:
MI86-4 (Jan. 3, 1986)..... pp.424-427.
MI86-6 (Jan. 3, 1986)..... p.443.
MI86-17 (Jan. 3, 1986)..... pp.486-487.
Missouri:
MO86-1 (Jan. 3, 1986)..... pp.541-544.
MO86-2 (Jan. 3, 1986)..... pp.559-562.
MO86-3 (Jan. 3, 1986)..... pp.569-570.
MO86-4 (Jan. 3, 1986)..... p.576.
MO86-6 (Jan. 3, 1986)..... p.583.
MO86-7 (Jan. 3, 1986)..... p.590.
MO86-9 (Jan. 3, 1986)..... pp.598-599.
MO86-10 (Jan. 3, 1986)..... pp.606-607.
MO86-11 (Jan. 3, 1986)..... p.611.
Texas:
TX-1 (Jan. 3, 1986) ..... p.841.
TX-2 (Jan. 3, 1986) ..... pp.845-847.
TX-5 (Jan. 3, 1986) ..... p.854.
TX-7 (Jan. 3, 1986) ..... pp.860-862.
TX-14 (Jan. 3, 1986) ..... p.880.
TX-18 (Jan. 3, 1986) ..... p.891.
TX-19 (Jan. 3, 1986) ..... p.894.
Listing by Decision (index)..... p.xlix.

Volume III

California:
CA86-2 (Jan. 3, 1986)..... pp.43,50.
CA86-4 (Jan. 3, 1986)..... pp.66-73.
Colorado:
CO86-1 (Jan. 3, 1986)..... pp.97-98.
CO86-3 (Jan. 3, 1986)..... pp.108-114.
Listing by Location (index)..... p.xviii.
Listing by Decision (index)..... p.xix.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 80 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The Subscription cost is $277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 25th day of April 1986.

James L. Valin,

Assistant Administrator.

[FR Doc. 86-9689 Filed 5-1-86; 8:45 am]

BILLING CODE 4510-27-M

Mine Safety and Health Administration

Summary of Decisions Granting in Whole or in Part Petitions for Modification

AGENCY: Mine Safety and Health Administration (MSHA), Labor.

ACTION: Notice of affirmative decisions issued by the Administrators for Coal Mine Safety and Health and Metal and Nonmetal Mine Safety and Health on petitions for modification of the application of mandatory safety standards.

SUMMARY: Under section 101(c) of the Federal Mine Safety and Health Act of 1977, the Secretary of Labor may modify the application of a mandatory safety standard to a mine if the Secretary determines either or both of the following: That an alternate method exists at the petitioner's mine that will guarantee no less protection for the miners affected than that provided by the standard, or that the application of the standard to the petitioner's mine will result in a diminution of safety to the affected miners.

Summaries of petitions received by the Secretary appear periodically in the Federal Register. Final decisions on these petitions are based upon the petitioner's statement, comments and information submitted by interested persons and a field investigation of the conditions at the petitioner's mine. The Secretary has granted or partially granted the requests for modification submitted by the petitioners listed below. In some instances the decisions are conditioned upon the petitioner's

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compliance with stipulations stated in the decision.

FOR FURTHER INFORMATION CONTACT: The petitions and copies of the final decisions are available for examination by the public in the Office of Standards, Regulations and Variances, MSHA, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Dated: April 24, 1986.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

AFFIRMATIVE DECISIONS ON PETITIONS FOR MODIFICATION

Docket No.	FR Notice	Petitioner	Regulations affected	Summary of findings
M-76-141-C	FR 13699	Alabama By-Products Corp.	30 CFR 75.1710	Use of cabs or canopies on the mine's electric face equipment in specified low mining heights would result in a diminution of safety. Granted with conditions.
M-86-129-C	FR 16699	Consol Pennsylvania Coal Co	30 CFR 75.1700	Plugging and mining through abandoned oil and gas wells with specified precautions in lieu of establishing and maintaining barriers around such wells considered acceptable alternate method. Granted with conditions.
M-83-174-C	FR 13761	Consolidation Coal Company	30 CFR 75.330	Use of air from the belt entry to ventilate the working face considered acceptable alternate method. Granted with conditions.
M-84-97-C	FR 22577	Olga Coal Company	30 CFR 75.305	Petitioner's proposed to establish an air measurement station where the quantity, quality and the direction of the air current will be measured by a certified person considered acceptable alternate method. Granted with conditions.
M-84-145-C	FR 40489	Kit Energy Corporation	30 CFR 75.1100	Petitioner's proposed to install a low-level carbon monoxide detection system in all belt entries used as intake air courses and to enclose the affected installations in fireproof structures considered acceptable alternate method. Granted in part with conditions.
M-84-169-C	FR 40581	Peabody Coal Company	30 CFR 75.1710	Use of cabs or canopies in specified low mining heights would result in a diminution of safety. Granted.
M-84-171-C	FR 28100	Eastern Associated Coal Corporation	30 CFR 75.1704-2(e)(3)	Petitioner's proposed to store SCSR's while miners use the belts for escapeps considered acceptable alternative. Granted with conditions.
M-84-175-C	FR 40508	Wolf Creek Collieries Company	30 CFR 75.902	Petitioner's proposed to use belt power conductors in lieu of low- and medium-voltage ground check monitor circuits considered acceptable alternate method. Granted with conditions.
M-84-177-C	FR 39050	Barnes & Tucker Company	30 CFR 75.305	Petitioner's proposed to establish inlet and outlet monitoring stations to measure the air on a weekly basis considered acceptable alternative. Granted with conditions.
M-84-207-C	FR 40497	Consolidation Coal Co.	30 CFR 75.1106	Petitioner's proposed to enclose the electric equipment in a fireproof structure and install an automatic dry chemical fire suppression device activated by heat considered acceptable alternate method. Granted with conditions.
M-84-216-C	49 FR 44824	Consolidation Coal Company	30 CFR 75.305	Petitioner's proposed to establish a ventilation evaluation point at a specified location to take air and gas measurements considered acceptable alternate method. Granted with conditions.
M-84-237-C	49 FR 47139	Consolidation Coal Company	30 CFR 75.1106	Petitioner's proposed to enclose the electric equipment in a fireproof structure, equipped with automatic-closing doors activated by thermal-devices, considered acceptable alternate method. Granted with conditions.
M-84-248-C	50 FR 575	Southern Ohio Coal Company	30 CFR 75.1200	Petitioner's proposed to plug and mine through abandoned wells penetrating the coal bed considered acceptable alternate method. Granted with conditions.
M-84-273-C	50 FR 10980	A & F Coal Company, Inc.	30 CFR 75.503	Use of fabricated metal locking devices in lieu of padlocks to secure battery plugs to machine mounted battery receptacles on permissible, mobile, battery-powered machines considered acceptable alternate method. Granted with conditions.
M-85-11-C	50 FR 13988	Consolidation Coal Company	30 CFR 75.326	Use of air from the belt entry to ventilate the working face considered acceptable alternate method. Granted with conditions.
M-85-12-C	50 FR 13988	Consolidation Coal Company	30 CFR 75.1103-4(a)	Installation of a fire detection system using low-level carbon monoxide monitoring devices in all belt entries used as intake air courses considered acceptable alternate method. Granted with conditions.
M-85-17-C	50 FR 27074	Renegade Coal Company	30 CFR 75.301	Proposed airflow reduction, which would maintain a safe and healthful atmosphere, considered acceptable alternate method. Granted with conditions.
M-85-32-C	50 FR 37788	K. & L. Coal Company	30 CFR 75.301	Proposed airflow reduction, which would maintain a safe and healthful atmosphere, considered acceptable alternate method. Granted with conditions.
M-85-49-C	50 FR 32124	Emery Mining Corporation	30 CFR 75.1101-8	Petitioner's proposal to use a single line of automatic water sprinklers for its fire protection system at main and secondary belt conveyor drives considered acceptable alternative, granted with conditions.
M-85-60-C	50 FR 32123	Consolidation Coal Company	30 CFR 75.1700	Plugging and mining through abandoned oil and gas wells with specified precautions in lieu of establishing and maintaining barriers around such wells considered acceptable alternate method. Granted with conditions.
M-85-16-M	50 FR 32123	Tennaco Minerals Company	30 CFR 75.1704G	Petitioner's proposal to develop rooms up to 350 feet before crosscuts or a breakthrough occurs during the retreating phase of panel extraction considered acceptable alternate method. Granted with conditions.
M-85-12-M	50 FR 33122	Chevron Resources Company	30 CFR 75.9008	Petitioner's proposal to use a side boom for positioning pipe along a right-of-way in lieu of ROPS considered acceptable alternate method. Granted with conditions.

[FR Doc. 86-9866 Filed 5-1-86; 8:45 am]

BILLING CODE 4510-43-M

NATIONAL COMMISSION FOR EMPLOYMENT POLICY

Hearing

ACTION: Notice of hearing.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given of a public hearing of the National Commission for Employment Policy in the Ballroom of the Crowne Plaza Holiday Inn at 9985 W. Century Boulevard, Los Angeles, California.

DATE: Thursday, May 22, 1986, 8:00 a.m. to noon.

Status: The hearing is open to the public.

Matters to be discussed: Commission members will hear testimony from various witnesses representing both the public and private sectors. They will focus on the implementation of the Job Training and Partnership Act in the state of California and on economic development and labor market issues, pertinent especially to the region but also to the nation in general.

FOR FURTHER INFORMATION, CONTACT: Mr. Scott W. Gordon, Director, National Commission for Employment Policy, 1522 K Street NW., Suite 300, Washington, DC 20005, (202) 724-1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy is authorized by the Job Training Partnership Act (Pub. L. 97-300). The Act gives the Commission the broad responsibility of advising the President and the Congress. Handicapped individuals wishing to attend should contact the Commission so that appropriate accommodations can be made. No public testimony will be authorized except by those asked to do so prior to the hearing date. However, written testimony for the record will be accepted at the Commission offices through June 16, 1986. Copies of the testimony and material prepared for the hearing will be available for public inspection at the Commission's offices, 1522 K St. NW., Suite 300, Washington, DC 20005.

Signed this 25th day of April, 1986.

Scott W. Gordon,

Director.

[FR Doc. 86-9862 Filed 5-1-86; 8:45 am]

BILLING CODE 4510-30-M

Meeting

ACTION: Notice of meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given of a public meeting of the National Commission for Employment Policy in the Ballroom of the Crowne Plaza Holiday Inn at 9985 W. Century Blvd. Los Angeles, California.

DATE: Thursday, May 22, 1986 1:30 P.M. to 4:30 P.M.

Status: The meeting is open to the public.

Matters to be discussed: Commission members will discuss their policy priorities regarding research and organization for FY 86. Other discussion includes the status of the Commission's *11th Annual Report*, the JTPA-summary report, the outreach program, and findings and policy recommendations concerning adjustment to structural changes in the economy.

FOR FURTHER INFORMATION, CONTACT: Mr. Scott W. Gordon, Director, National Commission for Employment Policy, 1522 K Street, NW, Suite 300, Washington, DC 20005 (202) 724-1545.

SUPPLEMENTARY INFORMATION: The National Commission for Employment Policy is authorized by the Job Training Partnership Act (Pub. L. 97-300). The Act gives the Commission the broad responsibility of advising the President and the Congress, Handicapped individuals wishing to attend should contact the Commission so that appropriate accommodations can be made.

Copies of the minutes and materials prepared for the meeting will be available for public inspection at the Commission's offices, 1522 K St. NW, Suite 300, Washington, DC 20005.

Signed this 25th day of April, 1986.

Scott W. Gordon,

Director.

[FR Doc. 86-9814 Filed 5-1-86; 8:45 am]

BILLING CODE 4510-30-M

NATIONAL COMMISSION ON AGRICULTURAL TRADE AND EXPORT POLICY

Meeting

April 29, 1986.

The next meeting of the National Commission on Agricultural Trade and Export Policy will be held May 12 and May 13 at the Hyatt Arlington, 1325 Wilson Boulevard, Arlington, Virginia.

The purpose of the meeting is to finalize recommendations for the final report of the Commission and *AGEXPORT '86*. The meeting is open to the public.

Kenneth L. Bader,

Chairman.

[FR Doc. 86-9902 Filed 5-1-86; 8:45 am]

BILLING CODE 3410-05-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted by ———.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, (202-786-0233) or Ms. Judy McIntosh, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503, (202-395-6880).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC 20506 (202-786-0233) from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category

Reinstatement
Title: Panelist's Review Comments
Form Number: 3136-0064
Frequency of Collection: 1 per year from each respondent for each proposal
Respondents: Panelists who evaluate proposals
Use: To collect information that reflects a panelist's evaluation and rating of a proposal. The information is used to determine which grants should receive funding, and is provided (without names or other identifying information) to rejected applicants upon written request.
Estimated Number of Respondents: 70 per year.
Estimated Hours for Respondents to Provide Information: 1 hour per proposal: includes time spent reading the proposal and writing evaluation

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on the "Panelist's Review Comments" Form.

Susan Metts,
Director of Administration.
[FR Doc. 86-9930 Filed 5-1-86; 8:45 am]
BILLING CODE 7536-01-M

Expansion Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Expansion Arts Advisory Panel (Interdisciplinary Arts Section) to the National Council on the Arts will be held on May 19-21, 1986 from 9:00 a.m. to 5:30 p.m., Room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public, on May 19, 1986, from 9:00-a.m. to 10:30-a.m., and May 21, 1986 from 2:00-p.m. to 5:30-p.m. to discuss General Program Overview and Policy and Guidelines.

The remaining sessions of this meeting on May 19, 1986 from 10:30-a.m. to 5:30-p.m., and May 20, 1986 from 9:00-a.m. to 5:30-p.m., and May 21, 1986 from 9:00-a.m. to 1:00-p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and 9(B) of section 552b of Title 5, United States Code.

If you need accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW, Washington DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.
April 25, 1986.

[FR Doc. 86-9693 Filed 5-1-86; 8:45 am]
BILLING CODE 7537-01-M

Music Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory Panel (Composers Fellowships Section) to the National Council on the Arts will be held on May 20-21, 1986 from 9:00 a.m. to 6:00 p.m., and May 22, 1986 from 9:00 a.m. to 5:00 p.m., Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 22, 1986 from 1:00 p.m. to 3:00 p.m. to discuss Policy and Guideline Review and 5-Year Planning Document.

The remaining sessions of this meeting on May 20-21, 1986 from 9:00 a.m. to 6:00 p.m., May 22, 1986 from 9:00 a.m. to 1:00 p.m., and May 22, 1986 from 3:00 p.m. to 5:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and 9(B) of section 552b of Title 5, United States Code.

If you need accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.
April 25, 1986.

[FR Doc. 86-9695 Filed 5-1-86; 8:45 am]
BILLING CODE 7537-01-M

Theater Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Theater Advisory Panel (Challenge Section) to the National Council on the Arts will be held on May 20, 1986 from 9:00 a.m. to 5:30 p.m., Room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the Federal Register of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

John H. Clark,
Director, Office of Council and Panel Operations, National Endowment for the Arts.
April 25, 1986.

[FR Doc. 86-9694 Filed 5-1-86; 8:45 am]
BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Advanced Scientific Computing; Meeting

In accordance with the Federal Advisory Committee Act, as amended Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Advanced Scientific Computing
Dates and Times:
May 22—8:00 A.M.—5:00 P.M.
May 23—8:00 A.M.—3:00 P.M.
Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, DC 20550
Type of Meeting:

Open

May 22—8:00 A.M.—4:00 P.M.
May 23—8:00 A.M.—3:00 P.M.

Closed

May 22—4:00 P.M.—5:00 P.M.
Contact Person: Dr. John W.D. Connolly, National Science Foundation, Washington, DC 20550, Phone: 202/357-7558
Summary of Minutes: May be obtained from John W.D. Connolly
Purpose of Meeting: To provide advice and recommendations concerning NSF support of advanced scientific computing.
Agenda: The open session will be focused on planning and policy issues. These will include a review of recent actions and budget priorities. The closed session will discuss pending proposals.
Reason for Closing: The closed session of the meeting will deal with a discussion of proposals containing the names of applicant institutions and principal investigators and privileged institutions and privileged information from the files pertaining to the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.
Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director of NSF on July 6, 1979.

M. Rebecca Winkler,
Committee Management Officer.
April 28, 1986.

[FR Doc. 86-9949 Filed 5-1-86; 8:45 am]
BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. STN 50-529]

Palo Verde Nuclear Generating Station, Unit 2; Arizona Public Service Company, et al. Issuance of Facility Operating License

Notice is hereby given that the U.S. Nuclear Regulatory Commission (the Commission), has issued Facility Operating License No. NPF-51, (License) to Arizona Public Service Company, Salt River Project Agricultural Improvement and Power District, El Paso Electric Company, Southern California Edison Company, Public Service Company of New Mexico, Los Angeles Department of Water and Power, and Southern California Public Authority. This License authorizes operation of the Palo Verde Nuclear Generating Station, Unit 2 (facility) at reactor core power levels not in excess of 3800 megawatts thermal in accordance with the provisions of the License, the Technical Specifications and the Environmental Protection Plan. On December 9, 1985, the Commission issued Facility Operating License No. NPF-46, which authorized operation of Palo Verde Nuclear Generating Station, Unit 2 at power levels not in excess of 190 megawatts thermal. Facility Operating License No. NPF-51 supercedes Facility Operating License No. NPF-46.

Palo Verde Nuclear Generating Station, Unit 2 is a pressurized water reactor which utilizes a CESSAR standard plant design and is located at the licensees' site in Maricopa County, Arizona approximately 36 miles west of the city of Phoenix.

The application for the license, as amended, complies with the standards and requirements of the Atomic Act of 1954, as amended (the Act), and the Commission's regulations. The issuance of this License has been authorized by the Atomic Safety and Licensing Board in its Initial Decision, dated December 30, 1982, and by the Commission at its meeting on April 23, 1986. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the License. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the Federal Register on July 11, 1980 (45 FR 46941) as clarified in a notice published July 25, 1980 (45 FR 49732).

The Commission has determined that the issuance of this License will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity authorized by the License is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details with respect to this section, see (1) Facility Operating License No. NPF-51, with Technical Specifications (NUREG-1181) and Environmental Protection Plan; (2) the report of the Advisory Committee on Reactor Safeguards dated December 15, 1981; (3) the Commission's Safety Evaluation Report on Palo Verde dated November 1981; Supplement Nos. 1 through 10 dated February 1982, May 1982, September 1982, March 1983, October 1984, December 1984, May 1985, December 1985, and April 1986, respectively; (4) the Commission's related Safety Evaluation Report on CESSAR dated November 1981; Supplement No. 1 dated March 1983; Supplement No. 2 September 1983; (5) the Final Safety Analysis Report and amendments thereto; (6) the Environmental Report and supplements thereto; (7) the Draft Environmental Statement dated October 1981, (8) the Final Environmental Statement dated March 1982; and (9) the Initial Decision issued by the Atomic Safety and Licensing Board dated December 30, 1982.

The documents are available for public inspection at the Commission's Public Document Room, 1717 H. Street, NW., Washington, DC, and the Phoenix Public Library, Business, Science and Technology Department, 12 East McDowell Road, Phoenix, Arizona 85004. A copy of Facility Operating License No. NPF-51 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director Division of PWR Licensing-B. Copies of the Safety Evaluation Report and its Supplements 1 through 10 (NUREG-0857), the Final Environmental Statement (NUREG-0841) and the Technical Specifications (NUREG-1181) may be purchased by calling (202) 275-2060 or (202) 275-2171 or by writing to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, DC 20013-7082. NUREG-0857 may also be purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, the 24th day of April, 1986.

For The Nuclear Regulatory Commission.

George W. Knighton,
Director, PWR Project Directorate No. 7, Division of PWR Licensing-B.
[FR Doc. 86-9823 Filed 5-1-86; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50-289]

Applications, Issuance of Amendments to Facility Operating License and Final Determination of No Significant Hazards Consideration; GPU Nuclear Corp.

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 116 to Facility Operating License No. DPR-50 issued to GPU Nuclear Corporation (the licensee), which revised the Technical Specifications for operation of Three Mile Island Nuclear Station, Unit 1 (the facility), located in Dauphin County, Pennsylvania. The amendment is effective as of the date of issuance.

This amendment revises the repair limits for the steam generator tubes under a very restrictive set of circumstances as described in the request. Basically, for certain defects located on the primary side of the tubes, the amendment changes the mandatory repair limit from 40% to 50% throughwall penetration providing the defect is less than 0.55 inches long. The amendment is also only effective until the next refueling outage at which time the steam generator tube repair criteria will be re-evaluated.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the

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Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with this action was published in the Federal Register (51 FR 7157) on February 28, 1986. A request for a hearing was filed on March 10, 1986, by Three Mile Island Alert, Inc.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any persons, in advance of the holding and completion of any required hearing, where it is determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the Safety Evaluation related to this action. Accordingly, as described above, the amendment has been issued and made immediately effective and any hearing will be held after issuance.

The Commission has determined that this amendment satisfies the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no evironmental impact statement or environmental assessment need be prepared for this amendment.

For further details with respect to this action see: (1) The application for amendment dated February 4, 1986, (2) Amendment No. 116 to Facility Operating License No. DPR–50 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 18th day of April 1986.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, PWR Project Directorate No. 6, Division of PWR Licensing–B.

[FR Doc. 86–9931 Filed 5–1–86; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Tracy Spencer, 202–632–6817.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on March 25, 1986 (51 FR 10289). Individual authorities established or revoked under Schedules A, B, or C between March 1, 1986, and March 31, 1986, appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

No Schedule A exceptions were established during March. However, the following exception is revoked:

Department of the Army

Schedule A excepted appointing authority for temporary and intermittent laborers and munitions handlers engaged in handling ordnance materials was revoked, effective March 21, 1986, because it is no longer used.

Schedule B

The following exceptions are established:

Department of Navy

One Director and four Research Psychologists at the GS–15 or professor level in the Defense Personnel Security Research and Education Center. Effective March 26, 1986.

National Endowment for the Humanities

One Humanist Administrator (Assistant Director), Texts Program, Division of Research Programs. Effective March 26, 1986.

One Humanist Administrator, Tools Program, Reference Materials Program, Division of Research Programs. Effective March 26, 1986.

One Humanist Administrator, Access Program, Reference Materials Program, Division of Research Programs. Effective March 26, 1986.

One Humanist Administrator, Project Research, Interpretive Research Program, Division of Research Programs. Effective March 26, 1986.

One Humanist Administrator, Humanities, Science, and Technology Program, Interpretive Research Program, Division of Research Programs. Effective March 26, 1986.

Schedule C

The following exceptions are established:

Department of Agriculture

One Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service. Effective March 5, 1986.

One Private Secretary to the Deputy Assistant Secretary for Food and Consumer Services. Effective March 7, 1986.

One Confidential Assistant to the Secretary. Effective March 11, 1986.

Department of Commerce

One Confidential Aide to the Special Assistant to the Secretary. Effective March 4, 1986.

One Confidential Assistant to the Deputy Assistant Secretary, International Economic Policy. Effective March 14, 1986.

One Special Assistant to the Administrator, National Oceanic and Atmospheric Administration. Effective March 14, 1986.

One Congressional Affairs Officer to the Director, Minority Business Development Agency. Effective March 14, 1986.

One Supervisory Public Affairs Specialist to the Under Secretary for the International Trade Administration. Effective March 14, 1986.

One Congressional Liaison Specialist to the Under Secretary for the International Trade Administration. Effective March 17, 1986.

One Secretary (Typing) to the Special Assistant to the Secretary. Effective March 21, 1986.

One Confidential Assistant to the Deputy Administrator, National Oceanic and Atmospheric Administration. Effective March 26, 1986.

One Confidential Aide to the Deputy Under Secretary for Travel and Tourism. Effective March 28, 1986.

Department of Defense

One Private Secretary to the Deputy Under Secretary of Defense, Defense Test and Evaluation. Effective March 14, 1986.

One Private Secretary to the Deputy Under Secretary of Defense, Strategic and Theater Nuclear Forces. Effective March 17, 1986.

One Private Secretary to the Director for Strategic Defense Initiative Organization. Effective March 20, 1986.

One Special Assistant to the Deputy Assistant Secretary of Defense, Near Eastern and South Eastern Affairs. Effective March 21, 1986.

Department of Education

One Confidential Assistant to the Chief of Staff/Counselor to the Secretary. Effective March 4, 1986.

One Special Assistant to the Assistant Secretary for Vocational and Adult Education. Effective March 10, 1986.

One Special Assistant to the Director, Programs for the Improvement of Practice. Effective March 12, 1986.

One Personal Assistant to the Deputy Under Secretary for Management. Effective March 12, 1986.

One Special Assistant to the Assistant Secretary for Special Education and Rehabilitative Services. Effective March 17, 1986.

One Special Assistant to the Deputy Assistant Secretary for Higher Education Programs. Effective March 21, 1986.

One Special Assistant to the Director, Legislative Liaison Staff, Office of Legislation. Effective March 27, 1986.

Department of Energy

One Staff Assistant to the Special Assistant to the Secretary of Energy. Effective March 6, 1986.

One Legal Advisor to a Member of the Federal Energy Regulatory Commission. Effective March 11, 1986.

One Public Affairs Specialist to the Director, Division of Public Affairs. Effective March 24, 1986.

Department of Health and Human Services

One Special Assistant to the Director of Public Affairs, Office of Human Development Services. Effective March 10, 1986.

One Special Assistant to the Associate Commissioner for Governmental Affairs, Social Security Administration. Effective March 10, 1986.

One Special Assistant to the Commissioner, Administration for Children, Youth and Families, Office of Human Development Services. Effective March 11, 1986.

One Special Assistant to the Chief of Staff. Effective March 17, 1986.

One Confidential Assistant to the Deputy Administrator, Health Care Financing Administration. Effective March 20, 1986.

One Staff Assistant to the Associate Commissioner, Office of Governmental Affairs, Social Security Administration. Effective March 21, 1986.

Department of the Interior

One Deputy Assistant Secretary to the Assistant Secretary for Land and Minerals Management. Effective March 7, 1986.

One Special Assistant to the Assistant Secretary for Territorial and International Affairs. Effective March 7, 1986.

One Public Affairs Specialist to the Deputy Assistant Secretary, Land and Minerals Management. Effective March 14, 1986.

One Congressional Liaison Specialist to the Director, Office of Surface Mining Reclamation and Enforcement. Effective March 17, 1986.

One Congressional Liaison Officer to the Director, Minerals Management Service. Effective March 26, 1986.

One Special Assistant to the Commissioner, Bureau of Reclamation. Effective March 28, 1986.

Department of Justice

One Special Assistant to the Assistant Attorney General, Office of Legal Counsel. Effective March 4, 1986.

One Deputy Assistant Attorney General, Office of Legal Policy. Effective March 4, 1986.

One Confidential Assistant to the Deputy Associate Attorney General. Effective March 4, 1986.

Two Staff Assistants to the Attorney General. Effective March 14, 1986.

One Confidential Assistant to the Deputy Assistant Attorney General, Office of Legislative Affairs. Effective March 21, 1986.

One Confidential Assistant to the Deputy Associate Attorney General. Effective March 27, 1986.

Department of Labor

One Special Assistant to the Assistant Secretary for Occupational Safety and Health. Effective March 11, 1986.

One Special Assistant to the Deputy Under Secretary for Employment Standards. Effective March 24, 1986.

Department of the Navy

One Private Secretary to the Secretary of the Navy. Effective March 21, 1986.

Department of State

One Special Assistant to the Assistant Secretary, Bureau of East Asian Affairs. Effective March 27, 1986.

Department of the Treasury

One Staff Assistant to the Assistant Secretary (Management). Effective March 12, 1986.

One Confidential Assistant to the Deputy Assistant Secretary (Public Liaison). Effective March 17, 1986.

U.S. Arms Control and Disarmament Agency

One Secretary (Steno) to the Special Advisor to the President and Secretary of State on Arms Control Matters. Effective March 28, 1986.

Council of Economic Advisers

One Secretary to the Member. Effective March 14, 1986.

Environmental Protection Agency

One Special Assistant to the Executive Assistant to the Administrator. Effective March 14, 1986.

Federal Mine Safety and Health Review Commission

One Attorney-Advisor to the Chairman. Effective March 21, 1986.

One Confidential Secretary to a Commissioner. Effective March 24, 1986.

One Confidential Assistant to the Chairman. Effective March 28, 1986.

Federal Maritime Commission

One Secretary (Typing) to a Commissioner. Effective March 11, 1986.

One Secretary to the Chairman. Effective March 28, 1986.

General Services Administration

One Confidential Assistant to the General Counsel. Effective March 31, 1986.

National Transportation Safety Board

One Special Assistant to a Member. Effective March 11, 1986.

President's Commission on White House Fellowships

One Special Assistant to the Director. Effective March 27, 1986.

United States Tax Court

One Secretary (Confidential Assistant) to a Judge. Effective March 27, 1986.

United States Information Agency

One Special Assistant to the Director, Office of Public Liaison. Effective March 7, 1986.

One Program Assistant to the Coordinator, U.S.-Soviet Exchange Initiative. Effective March 28, 1986.

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Veterans Administration

One Confidential Assistant to the Associate Deputy Administrator for Logistics. Effective March 27, 1986.

U.S. Office of Personnel Management.
Constance Horner,
Director.
[FR Doc. 86-9955 Filed 5-1-86; 8:45 am]
BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-23179 SR-AMEX-85-4]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change

The American Stock Exchange, Inc. ("Amex") submitted on March 21, 1985, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to amend Amex Rule 602 (Designation of Arbitrators), Rule 605 (Initiation of Proceedings), Rule 606 (Rules of General Application) and Rule 601 (Panel of Arbitrators) relating to arbitration procedures.[1] Amex also proposes to amend Amex Disciplinary Rule 12 (Disclosure of the Result of Disciplinary Proceeding).[2]

The proposed amendment to Amex Rule 602(a) would provide the Exchange's Director of Hearings with discretion to appoint a panel of three or five arbitrators in cases where the amount in controversy is less than $500,000. The Amex states that this change is proposed because of the increase in the number of cases in which $100,000 or more is claimed.[3] Where the amount in controversy is $500,000 or more, the arbitration panel shall consist of five arbitrators, except that the Amex would permit the parties to agree in writing to a panel of three rather than five arbitrators.

Rule 605(b), as amended, would permit the arbitration panel to impose a sanction on a party to an arbitration proceeding who fails to file an answer within the allotted time period from receipt of service. The proposed change would permit an adversary party to file a written objection requesting that the arbitrators, in their discretion, bar the respondent from presenting any matter, arguments or defenses at the hearing. This provision would not prohibit the respondent from submitting a response at the time of the hearing. The arbitration panel would make the final determination as to whether such a response would be accepted.

Amex Rule 606(e), as amended, would require a party requesting adjournment after the panel of arbitrators has been appointed to pay a fee equal to the filing fee, but not exceeding $100. The panel of arbitrators would have the discretion to waive the fee.

Amex Rule 601, as amended, would permit the Chairman of the Exchange to select and approve Exchange arbitrators. This would eliminate the current requirement that arbitrators must be approved by the Amex Board of Governors.

The proposed change to Amex Disciplinary Rule 12 would apply to summary proceedings conducted by Amex Disciplinary Committees the requirement that the results of such proceedings be publicly announced unless the offense relates solely to minor administrative requirements of the Exchange and does not materially affect the public interest or the interest of investors. This publication requirement currently applies only to the results of formal disciplinary proceedings conducted by Amex Disciplinary Panels.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by issuance of a Commission release (Securities Exchange Act Release No. 21910, March 29, 1985) and by publication in the **Federal Register** (50 FR 14063, April 9, 1985). No written comments were received by the Commission on the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and the regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: April 28, 1986.
John Wheeler,
Secretary.
[FR Doc. 86-9900 Filed 5-1-86; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 962]

Agency Forms Submitted for OMB Review

AGENCY: Department of State.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980, the Department has submitted a proposed collection of information to the Office of Management and Budget for review.

SUMMARY: The following summarizes the information collection proposal submitted to OMB:

Title of information collection—
Application/License for Temporary Import of Unclassified Defense Articles
Form Number—DSP-61.
Type of Request—Extension.
Frequency—On occasion.
Respondents—Importers of defense materials.
Estimated number of responses—2,076.
Estimated number of hours needed to respond—713.

Section 3504(h) of Pub. L. 96-511 does not apply.

Additional Information or Comments: Copies of the proposed forms and supporting documents may be obtained from Gail J. Cook (202) 647-3538. Comments and questions should be directed to (OMB) Francine Picoult (202) 395-7231.

Dated: April 18, 1986.
Donald J. Bouchard,
Assistant Secretary for Administration.
[FR Doc. 9902 Filed 5-1-86; 8:45 am]
BILLING CODE 4710-24-M

[1] According to Amex, the proposed amendments to Amex's arbitration rules would bring them into conformity with the recent amendments made to the Uniform Arbitration Code of the Securities Industry Conference on Arbitration ("SICA"). In this regard, the Commission has also received proposed rule changes providing for amendments similar to those proposed by Amex from the New York Stock Exchange, Inc. (File No. SR-NYSE-85-3); the National Association of Securities Dealers (File No. SR-NASD-85-9); the Chicago Board Options Exchange (File No. SR-CBOE-85-46 notice of which was given in Securities Exchange Act Release No. 222749, December 30, 1985; 51 FR 708); the Midwest Stock Exchange, Inc. (File No. SR-MSE-86-2); and the Pacific Stock Exchange, Inc. (File No. SR-PSE-86-6).

[2] On December 30, 1985, Amex submitted Amendment No. 1 to the proposed rule change which, at the request of the Commission staff, supplements the Exchange's statement of the purpose of, and statutory basis for, the proposed changes in the arbitration rules. The substance of these revisions is incorporated into the description of the proposed changes set forth below.

[3] Currently, Amex rule 605(a) provides that where the amount in controversy does not exceed $100,000 the Arbitration Director may appoint a panel of from three to five arbitrators. Where the amount in controversy exceeds $100,000, the rule currently requires the appointment of a panel of five arbitrators.

BEST COPY AVAILABLE

[Public Notice 963]

Privacy Act of 1974; Altered System of Records

Notice is hereby given that the Department of State proposes to alter an existing system of records pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a(o)) and the Office of Management and Budget Circular No. A-130, Appendix I. The Department's report was filed with the Office of Management and Budget on April , 1986.

The altered system is entitled "Family Liaison Office Centralized Data Bank of Family Member Skills and Direct Communication Network Records, STATE-49." The existing system, the "Skills Catalogue Records, STATE-49," will be altered by changing the name; by broadening the categories of individuals covered by the system to include "family members of employees of U.S. foreign affairs agencies covered by the Foreign Service Act of 1980 and their sponsors" rather than "specifically family members of Department of State, Agency for International Development, and International Communications Agency personnel"; by expanding the categories of records in the system to encompass more extensive biographic data on the family members, in addition to specific data regarding the employed sponsor; by adding the most recent authority; by extending retrievability to include all data items within the system; by including the computer system manager; and by limiting the record source categories to the individual family member and the sponsor's Official Personnel File. The purpose of these alterations is to revitalize and streamline the family member employment program and to facilitate direct communication with spouses through the utilization of an automated system which interfaces with the personnel systems of the foreign affairs agencies. Any persons interested in commenting on the altered system of records may do so by submitting comments in writing to the Information and Privacy Coordinator, Foreign Affairs Information Management Center, Room 1239, Department of State, 2201 C Street, N.W., Washington, D.C. 20520. The Department intends to implement the new system sixty days after publication of this notice. The altered system, the "Family Liaison Office Central Data Bank of Family Member Skills and Direct Communication Network Records," will read as set forth below.

Dated: April 21, 1986.
For the Secretary of State.
Donald J. Bouchard,
Assistant Secretary for Administration.

State-49

System name: Family Liaison Office Centralized Data Bank of Family Member Skills and Direct Communication Network Records.

Security classification: Unclassified.

System location: Department of State, 2201 C Street, N.W., Washington, D.C. 20520.

Categories of individuals covered by the system: Family members of employees of U.S. foreign affairs agencies covered by the Foreign Service Act of 1980 and their sponsors.

Categories of records in the system: Family member's name, Social Security Account Number, country of birth, citizenship, level and date of security clearance, GS/FS rating code, work preference code, current mailing address, location code of assignment, and other biographic data including educational background, language skills, specialized training, area of expertise, and work experience; sponsor's name, Social Security Account Number, transfer eligibility date, and foreign affairs agency name and code.

Authority for maintenance of the system: 22 U.S.C. 2693 and 4026.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The Family Liaison Office will use this record system to assist family members of employees of U.S. foreign affairs agencies in acquiring employment and other services. Information from this system will be made available to personnel offices of other Government agencies having employment opportunities. Information may also be disclosed to multinational corporations, international organizations, business firms, foundations, foreign governments, and families at overseas posts who are interested in hiring family members to perform a task commensurate with their work experience or to utilize their services in performing voluntary work.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy, computer media.

Retrievability: By individual name of family member or sponsors, as well as by each of the data items listed as a category in this description.

Safeguards: All employees of the Department of State have undergone a background security investigation. Access to the Department of State and its annexes is controlled by security guards, and admission is limited to those individuals possessing a valid identification card or individuals under proper escort. All records containing personal information are maintained in secured file cabinets or in restricted areas, access to which is limited to authorized personnel. All records containing personal information on a computerized data base are accessible only through computer media under Department of State jurisdiction and placed in restricted areas access to which is limited to authorized personnel. Access to computerized files is password-protected and under the direct responsibility of the system manager. The system manager has the capability of printing audit trails of access from the computer media, thereby permitting regular ad hoc monitoring of computer usage.

Retention and disposal: These records will be maintained in the system for as long as the individual is interested in participating in the employment services and/or the Direct Communication Network provided by the Family Liaison Office. More specific information may be obtained by writing to Director, Foreign Affairs Information Management Center, Room 1239, Department of State, 2201 C Street, N.W., Washington, D.C. 20520.

System manager(s) and address: Director, Family Liaison Office, and Chief, Personnel Management, Operating Systems Division, Department of State, 2201 C Street, N.W., Washington, D.C. 20520.

Notification procedure: Individuals who have reason to believe that the FLO Centralized Data Bank of Family Member Skills and Direct Communication Network Records might contain records pertaining to them should write to the Information and Privacy Coordinator, Foreign Affairs Information Management Center, Room 1239, Department of State, 2201 C Street, N.W. Washington, D.C. 20520. The individual must specify that she/he wishes the records of the FLO Centralized Data Bank of Family Member Skills and Direct Communication Network to be checked. At a minimum, the individual must include: date and place of birth; current mailing address and zip code; signature.

Record access procedures: Individuals who wish to gain access to or amend records pertaining to themselves should write to the Information and Privacy Coordinator, Foreign Affairs Information Management Center (address above).

Contesting record procedures: (See above).

Record source categories: The individual family member for all data

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elements with the exception of the current mailing address, location code of assignment, and sponsors's transfer eligibility data, all of which will be transferred automatically from the sponsor's Official Personnel File.

Systems exempted from certain provisions of the Act: None.

[FR Doc. 86-9991 Filed 5-1-86; 8:45 am]

BILLING CODE 4710-04-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Monterey Peninsula Airport; Receipt of Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces formal receipt of the proposed Monterey Peninsula Airport (MRY) noise compatibility program under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150. The proposed MRY noise compatibility program was submitted to the Western-Pacific Regional Director on January 15, 1986, for review and approval under Part 150 in conjunction with noise exposure maps which were found acceptable by the FAA on March 26, 1986. This program will be approved or disapproved by the Administrator on or before October 3, 1986.

EFFECTIVE DATE: The effective date of the start of the formal 180-day review period for the MRY noise compatibility program is April 7, 1986.

FOR FURTHER INFORMATION CONTACT: L. Yvonne Gibson, Airport Planner, AWP-611.5, Federal Aviation Administration, Western-Pacific Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009, (213) 297-1621.

SUPPLEMENTAL INFORMATION: An airport operator who has submitted noise exposure maps that are accepted by FAA as meeting the criteria published in Part 150 may also submit a noise compatibility program for FAA approval. The program must set forth the measures the airport operator has taken or proposes to take for the reduction of existing noncompatibility land uses and for the prevention of the introduction of additional noncompatible uses.

Monterey Peninsula Airport (MRY) submitted to the FAA on January 15, 1986, a proposed noise compatibility program conducted at MRY from October 10, 1984, to January 8, 1986. It was requested that the FAA approve the submittal to be implemented jointly by the airport, the airport users and the surrounding communities, as a noise compatibility program under section 104(b) of the Aviation Safety and Noise Abatement Act of 1979.

Upon the March 26, 1986, acceptance of the MRY noise exposure maps and completion of the preliminary review of the submitted materials for a noise compatibility program, the FAA has formally received the noise compatibility program for MRY. Preliminary review indicates that the submittal conforms to the requirements of Part 150 for noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program by the Administrator. The formal review period, limited by law to a maximum of 180 days, will be completed on or before October 3, 1986.

The proposed program includes recommended measures relating to flight procedures for noise control purposes which are exempt from the 180-day review procedures. The FAA's detailed evaluation of these measures will be conducted under the provisions of Part 150, § 150.33. The primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, and are reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Because the FAA may approve a proposed noise compatibility program in less than 180 days, no formal comment period has been established. Comments received subsequent to FAA approval or disapproval, even if received beyond the 180-day limit, will be acknowledged and considered in evaluating project applications to implement elements of the program. Copies of the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 617, Washington, DC 20591.

Federal Aviation Administration, Western-Pacific Region, Airports Division, 15000 Aviation Boulevard, Room 6E25, Hawthorne, California 90261.

Mr. O.N. Ford, District Manager, Monterey Peninsula Airport District, P.O. Box 550, Monterey, CA 93940.

Questions may be directed to the individual named above under the heading, "FOR FURTHER INFORMATION CONTACT."

Issued in Hawthorne, California, on April 22, 1986.

B. Keith Potts,

Acting Director.

[FR Doc. 86-9828 Filed 5-1-86; 8:45 am]

BILLING CODE 4910-13-M

Federal Railroad Administration

Petitions for Exemption or Waiver of Compliance, Tioga Centeral Rail Excusion, et al.

In accordance with 49 CFR §§ 211.9 and 211.41, notice is hereby given that the Federal Railroad Administration (FRA) has received requests for an exemption from or waiver of compliance with certain requirements of its safety standards. The indivisual poetitions are described below, including the party seeking relief, the regulatory provisions involved, and the nature of the relief being requested.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the commeat period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number RST-84-21) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590. Communications received before June 18, 1986 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hour (9 a.m.-5 p.m.) in Room 8201 Nassif Building, 400 Seventh Street, SW., Washington, DC 20590.

The individual petitions seeking an exemption or waiver of compliance are as follows:

Tioga Central Rail Excursion

(Waiver Petition Docket Number RSGM-86-5)

The Tioga Central Rail Excusion (TCRX) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for one locomotive, Number 14. The locomotive operates on approximately 15 miles of track located in an entirely rural area between Owego, New York, and Harford, New York. The TCRX feels that compliance with FRA safety glazing requirements is unnecessary due to the area of operation.

Chicago, West Pullman and Southern Railroad Company

(Waiver Petition Docket Number RSGM-86-6)

The Chicago, West Pullman and Southern Railroad Company (CWP) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for two locomotives and one caboose. The CWP operates a switching service on approximately 31 miles of track within and between various commercial facilities in the Chicago area. The petitioner states that they have not encountered any acts of vandalism concerning this equipment and feels that compliance with FRA safety glazing requirements is not necessary.

Southern Pacific Transportation Company

(Waiver Petition Docket Number RSGM-86-7)

The Southern Pacific Transportation Company (SP) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for approximately 385 locomotives. The SP indicates that the glazing in these locomotives meets the requirements of 49 CFR Part 223 with the exception of proper permanent marking of each piece of glazing material. The petitioner states that efforts to mark the glazing with adhesive back stickers has proved ineffective and alternate methods such as acid itching have been rejected due to potential safety hazards.

The railroad is, therefore, seeking a waiver of compliance of Part 223, Appendix A.16.C(1), (2), and (3) covering marking of glazing material.

Falls Creek Railroad Company

(Waiver Petition Docket Number RSGM-86-8)

The Falls Creek Railroad Company (FCRK) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for two locomotives. The locomotives operate on approximately 4 miles of track in a rural area between Falls Creek, Pennsylvania, and Brockway, Pennsylvania. The railroad runs on an average of two days a month and states that they have never had any accidents or acts of vandalism. The petitioner, therefore, feels that compliance with FRA safety glazing requirements is unnecessary.

Grafton and Upton Railroad Company

(Waiver Petition Docket Number RSGM-86-9)

The Grafton and Upton Railroad Company (GU) seeks a permanent waiver of compliance with certain provisions of the Safety Glazing Standards (49 CFR Part 223) for one locomotive. The locomotive, owned by the Northern Equipment Company, will operate on approximately 15 miles of GU track located in a rural and lightly populated area near Worchester, Massachusetts. The GU states that during the past 25 years there have not been any incidents of vandalism involving broken window glazing from objects thrown at locomotives from either the right-of-way or the yards. The petitioner, therefore, feels that compliance with FRA safety glazing requirements is unnecessary.

Issued in Washington, DC, on April 24, 1986.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 86-9845 Filed 5-1-86; 8:45 am]

BILLING CODE 4910-06-M

National Highway Traffic Safety Administration

National Driver Register Advisory Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C. App. I), notice is hereby given of a meeting of the National Driver Register Advisory Committee to be held on May 20, 1986, in Washington, DC. The meeting will be held at the DOT Headquarters Building from 8:30 a.m. to 4:00 p.m. in room 4234. Issues to be discussed are: An update of the recent activities of the NDR; the proposed implementation of a "National Commercial Motor Vehicle Operator's License", and discussions with Problem Driver Pointer System and Rapid Response System Pilot State Representatives.

The meeting is open to the interested public, but may be limited in attendance to the space available. Members of the public may present a written statement to the Committee at any time. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Additional information is available from the NHTSA Executive Secretariat, Room 5221, 400 Seventh Street, SW., Washington, DC 20590, telephone 202-426-2570.

Issued in Washington, DC on: April 29, 1986.

Carole S. Guzzetta,

Director, Executive Secretariat.

[FR Doc. 86-9969 Filed 5-1-86; 8:45am]

BILLING CODE 4910-59-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Income Taxes; 1987 Electronic Filing Test; Forms 1040, 1040A and 1040EZ Returns

AGENCY: Internal Revenue Service, Treasury.

ACTION: Electronic filing test.

SUMMARY: The Internal Revenue Service plans to broaden electronic filing of individual income tax returns in 1987. Under this approach, qualified returns preparers will be permitted to electronically transmit tax year 1986 individual income tax returns to the IRS on behalf of their clients. Under the 1987 program, most of the commonly-used forms and schedules will be accepted; electronic returns can be filed from seven metropolitan areas; and taxpayers filing in three of those areas can elect to have their refunds directly deposited in their bank, savings and loan or credit union account. Firms which prepare returns in one or more of the seven designated metropolitan areas and are interested in participating in the 1987 pilot, and other interested parties, should contact the Service to request detailed specifications.

DATE: Expressions of interest and requests for copies of specifications should be submitted by June 30, 1986.

ADDRESS: Assistant Commission (Planning, Finance and Research), Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224 (Attn: Electronic Filing

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Project). Telephone 202–566–7541 (not a toll-free number).

SUPPLEMENTARY INFORMATION In 1987, Forms 1040EZ, 1040A and 1040 can be filed electronically. Forms 1040 can include Schedules A, B, C, D, E, G, R, SE and W, and Forms 2106, 2119, 2441, 3468, 3903, 4562, 6251, 6252 and 8283. The seven metropolitan areas to be included in the 1987 test are Albany-Schenectady-Troy, New York; Sacramento, California; Milwaukee, Wisconsin; Norfolk-Virginia Beach-Newport News, Virginia; Phoenix, Arizona; Raleigh-Durham-Fayetteville, North Carolina and Cincinnati, Ohio. In addition taxpayers filing in the latter three areas will be permitted to elect to have their refunds directly deposited into their bank, savings and loan or credit union accounts.

The principal advantage of electronic filing are (1) Most taxpayers will receive refunds two or three weeks faster than if their returns had been filed in the form of paper documents, (2) returns preparers will be able to serve their clients more efficiently, (3) the cost to IRS of processing, storing and retrieving these returns will be reduced substantially, and (4) taxpayers participating in direct deposit will obtain their refunds quickly and more conveniently.

A participating electronic filer must meet the following basic qualifications:

1. Prepared at least 100 tax returns for compensation in 1985,
2. used computers to prepare individual income tax returns for tax years 1984 and 1985, either directly or through a service bureau,
3. has substantial communication experience under IBM 3780 RJE bi-synchronous protocol at 4800 BAUD through a dial-up modem, or associated with another firm which has such experience, and
4. has a tax preparation office in one or more of the designated metropolitan areas included in the 1987 pilot.

Electronic preparation offices must be located within the following areas:

Areas	Counties/cities included
Cincinnati/Dayton/ Springfield Ohio.	Counties of Adams, Brown, Butler, Clark, Clermont, Clinton, Fayette, Greene, Hamilton, Highland, Miami, Montgomery, Preble and Warren in Ohio.
Phoenix, Arizona	Counties of Boone, Campbell and Kenton in Kentucky. Dearborn County in Indiana. Maricopa County.
Raleigh/Durham/ Fayetteville.	Counties of Chatham, Cumberland, Durham, Franklin, Harnett, Johnston, Lee, Orange, and Wake in North Carolina.
Albany/Schenectady/ Troy.	Counties of Albany, Fulton, Greene, Montgomery, Rensselaer, Saratoga, Schenectady, Warren and Washington.
Milwaukee, Wisconsin	Counties of Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Washington and Waukesha.
Sacramento/Stockton, California.	Counties of El Dorado, Placer, Sacramento, San Joaquin, Sutter, Yolo, and Yuba.
Norfolk/Virginia Beach/ Newport News, Virginia.	Cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth, Poquoson, Suffolk, Virginia Beach and York County.

While there is no geographic restriction on the taxpayers participating in electronic filing, preparers may not actively solicit business outside of the designated areas.

John L. Wedick, Jr.,

Assistant Commissioner, (Planning, Finance and Research).

[FR Doc. 86–9960 Filed 5–1–86; 8:45 am]

BILLING CODE 4830–01–M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 85
Friday, May 2, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DATE AND TIME: 2:00 p.m. (eastern time), Monday, May 12, 1986.

PLACE: Clarence M. Mitchell, Jr., Conference Room No. 200–C on the 2nd Floor of the Columbia Plaza Office Building, 2401 "E" Street, NW., Washington, DC 20507.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

Closed

1. Litigation Authorization; General Counsel Recommendations
2. Discussion of Subpoena Determinations

Note.—Any matter not discussed or concluded may be carried over to a later meeting. (In addition to publishing notices on EEOC Commission meetings in the **Federal Register**, the Commission also provides a recorded announcement a full week in advance on future Commission sessions. Please telephone (202) 634–6748 at all times for information on these meetings.)

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer at (202) 634–6748.

Dated: April 30, 1986.

Cynthia C. Matthews,

Executive Officer, Executive Secretariat.

This Notice Issued April 30, 1986.

[FR Doc. 86–10008 Filed 4–30–86; 8:45 am]

BILLING CODE 6750–06–M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10:00 a.m., Wednesday, May 7, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Street, NW, Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Federal Reserve Bank and Branch director appointments.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3207. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 30, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–9977 Filed 4–30–86; 9:58 am]

BILLING CODE 6210–01–M

3

FOREIGN CLAIMS SETTLEMENT COMMISSION

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504, and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

DATE AND TIME: Monday, May 19, 1986 at 10:30 a.m.

SUBJECT MATTER: Consideration of claims filed under the Ethiopian Claims Program.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111–20th Street, NW., Washington DC. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign, Claims Settlement Commission, 1111–20th Street, NW., Room 409, Washington, DC 20579. Telephone: (202) 653–6155.

Dated at Washington, DC, on April 30, 1986

Judith H. Lock,

Administrative Officer.

[FR Doc. 86–10022 Filed 4–30–86; 3:35 pm]

BILLING CODE 4410–01–M

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federal register

Friday
May 2, 1986

Part II

Environmental Protection Agency

40 CFR Parts 260, 264, 265, and 270
Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Closure, Post-Closure and Financial Responsibility Requirements; Final Rule

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 264, 265, and 270

[SWH-FRL 2981-6]

Standards Applicable to Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities; Closure/Post-Closure and Financial Responsibility Requirements

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On March 19, 1985, the Environmental Protection Agency (EPA) proposed to amend portions of the closure and post-closure care and financial responsibility requirements applicable to owners and operators of hazardous waste treatment, storage, and disposal facilities (TSDFs) (50 *FR* 11068). EPA is today promulgating the amendments in final form. Many of the amendments conform to a settlement agreement signed by EPA and petitioners in *American Iron and Steel Institute* v. *U.S. Environmental Protection Agency*, renamed *Atlantic Cement Company Incorporated* v. *U.S. Environmental Protection Agency* (D.C. Cir., No. 81–1387 and Consolidated Cases). The remainder of the amendments are designed to clarify the regulations and to address issues that have arisen as EPA has implemented the regulations.

DATES: These regulations shall become effective on October 29, 1986, except for § 270.14(b)(14), which shall be effective on May 2, 1986.

Wording changes for financial instruments issued before the effective date of these regulations must be made at the same time changes are required under §§ 264.142(b), 264.144(b), 265.142(b), and 265.144(b).

ADDRESSES: The public docket for this rulemaking is available for public inspection at Room S–212–E, U.S. EPA, 401 M Street SW., Washington, DC. 20460 from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. The docket number is F–86–FCPC. Call (202) 475–9327 to make an appointment with the docket clerk. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: The RCRA Hotline toll free at (800) 424–9346 or in Washington at (202) 382–3000; or Nancy D. McLaughlin, Office of Solid Waste (WH–562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 475–6677.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

I. Background
A. Subtitle C of the Resource Conservation and Recovery Act (RCRA)
B. Regulations Affected by Today's Amendments
C. Atlantic Cement Company, Incorporated (*ACCI*) Litigation and Settlement
D. Subparts G and H Implementation Experience
E. Hazardous and Solid Waste Amendments of 1984 Codification Rule

II. Analysis of Rules
A. Definitions (Part 260)
1. Active Life of the Facility (§ 260.10)
2. Final Closure (§ 260.10)
3. Hazardous Waste Management Unit (§ 260.10)
4. Partial Closure (§ 260.10)
B. Standards for Permitted Facilities (Part 264) and Conforming Changes to Interim Status Standards (Part 265)
1. Closure and Post-Closure Care (Subpart G)
a. Closure performance standard (§§ 265.111 and 265.111)
b. Requirement to furnish closure and post-closure plans to the Regional Administrator (§§ 264.112(a), 264.118(c), 265.112(a) and 265.118(b))
c. Clarification of contents of closure plan (§§ 264.112(b) and 265.112(b))
d. Description of removal or decontamination of facility structures and soils in closure plan (§§ 264.112(b)(4) and 265.112(b)(4))
e. Requirements to estimate the expected year of closure (§§ 264.112(b)(7) and 265.112(b)(7))
f. Amendments to closure and post-closure plans (§§ 264.112(c), 264.118(d), 265.112(c) and 265.118(d))
g. Notification of partial closure and final closure (§§ 264.112(d) and 265.112(d))
h. Removal of hazardous wastes and decontamination or dismantling of equipment (§§ 264.112(e) and 265.112(e))
i. Time allowed for closure (§§ 264.113 and 265.113)
j. Disposal or decontamination of equipment, structures, and soils (§§ 264.114 and 265.114)
k. Certification of closure (§§ 264.115 and 265.115)
l. Survey plat (§§ 264.116 and 265.116)
m. Post-closure care and use of property (§§ 264.117 and 265.117)
n. Post-closure plans (§§ 264.118 and 265.118)
o. Post-closure notices (§§ 264.119 and 265.119)
p. Certification of completion of post-closure care (§§ 264.120 and 265.120)
2. Financial Assurance Requirements (Subpart H)
a. Cost estimates for closure and post-closure care (§§ 264.142(a), 264.144(a), 265.142(a) and 265.144(a))
b. Anniversary date for updating cost estimates for inflation (§§ 264.142(b), 264.144(b), 265.142(b) and 265.144(b))
c. Revisions to the cost estimates (§§ 264.142(c), 264.144(c), 265.142(c) and 265.144(c))
d. Post-closure cost estimate (§§ 264.144(c), and 265.144(c))
e. Trust fund pay-in period (§§ 264.143(a)(3) and 265.143(a)(3))
f. Reimbursements for closure and post-closure expenditures from trust fund and issuance (§§ 264.143(a)(10), 264.143(e)(5), 264.145(a)(11), 264.145(e)(5), 265.143(a)(10), 265.143(d)(5), 265.145(a)(11), and 265.145(d)(5))
g. Final order required (§§ 264.143(b)(4)(ii), 264.145(b)(4)(ii), 265.143(b)(4)(ii) and 265.145(b)(4)(ii))
h. Final administrative determination required (§§ 264.143 (c)(5) and (d)(8), 264.145 (c)(5) and (d)(9), and 265.143(c)(8), 265.145(b)(5) and 265.145(c)(9))
i. Cost estimates for owners or operators using the financial test or corporate guarantee must include UIC cost estimates for Class I wells (§§ 264.143(f)(1)(i) (B) and (D) and (f)(1)(ii) (B) and (D), 264.145(f)(1)(i) (B) and (D) and (f)(1)(ii) (B) and (D), 265.143(e)(1)(i) (B) and (D) and (e)(1)(ii) (B) and (D), 265.145(e)(1)(i) (B) and (D) and (e)(1)(ii) (B) and (D))
j. Cost estimates must account for all facilities covered by the financial test or corporate guarantee (§§ 264.143(f)(2), 264.145(f)(2), 265.143(e)(2) and 265.145(e)(2))
k. Release of the owner or operator from the requirements of financial assurance for closure and post-closure care (§§ 264.143(i), 264.145(i), 265.143(h), and 265.145(h))
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I. Background

A. Subtitle C of the Resource Conservation and Recovery Act (RCRA)

Subtitle C of RCRA creates a "cradle-to-grave" management system to ensure that hazardous wastes are transported, treated, stored, and disposed of in a manner that ensures the protection of human health and the environment. Section 3004 of Subtitle C requires the Administrator of EPA to promulgate regulations establishing such performance standards applicable to owners and operators of hazardous waste treatment, storage, or disposal facilities (TSDFs), as may be necessary to protect human health and the environment. Section 3005 requires the Administrator to promulgate regulations requiring each person owning or operating a TSDF to have a permit, and to establish requirements for permit applications.

Under Section 3005(a), on the effective date of the Section 3004 standards, all treatment, storage and disposal of hazardous waste is prohibited except in accordance with a permit that implements the Section 3004 standards. Recognizing, however, that not all permits would be issued within six months of the promulgation of Section 3004 standards, Congress created "interim status" in Section 3005(e) of RCRA. Owners and operators of existing hazardous waste TSDFs who qualify for interim status will be treated as having been issued a permit until EPA takes final administrative action on their permit application. Interim status does not relieve a facility owner or operator of complying with Section 3004 standards. The privilege of carrying on operations in the absence of a permit carries with it the responsibility of complying with appropriate portions of the Section 3004 standards.

B. Regulations Affected by Today's Amendments

EPA has issued several sets of regulations to implement the various sections of Subtitle C. Part 260 of 40 CFR, among other provisions, includes definitions that apply to all other parts of the regulations. Part 264 provides standards for owners and operators of TSDFs that have been issued RCRA permits. Part 265 provides interim status standards for owners and operators of TSDFs. Part 270 establishes permitting procedures for TSDFs. These four parts are amended by today's final rule.

C. Atlantic Cement Company, Incorporated (ACCI) Litigation and Settlement

Shortly after EPA promulgated the January 12, 1981 regulations, which, among other requirements, included standards for closure and post-closure care and financial assurance, individual companies and industry trade associations filed 17 separate lawsuits challenging those standards. These cases were consolidated as *American Iron and Steel Institute* v. *U.S. Environmental Protection Agency* (D.C. Cir., No. 81–1387 and Consolidated Cases). On August 16, 1984, the parties (with the exception of several parties who voluntarily dismissed their lawsuits) filed a settlement agreement with the Court. The American Iron and Steel Institute voluntarily dismissed its lawsuit rather than join in the settlement; the case has been renamed *Atlantic Cement Company Incorporated* v. *U.S. Environmental Protection Agency* ("ACCI Litigation").

Under the terms of the settlement agreement, EPA agreed to propose and take final action upon certain amendments to the closure and post-closure regulations that were promulgated on January 12, 1981. The rules proposed on March 19, 1985 contained amendments conforming to the *ACCI* settlement agreement. Among the regulations EPA is promulgating today are amendments to 40 CFR Parts 260, 264, 265, and 270 that are in most cases consistent with the *ACCI* settlement agreement. In addition, certain of these amendments require conforming amendments to financial responsibility regulations in Subpart H of Parts 264 and 265. Those changes are also being made today.

D. Subparts G and H Implementation Experience

Since January 12, 1981, EPA and authorized states have developed considerable experience with the implementation of Subparts G and H. Based on this implementation experience, EPA is today making additional changes to 40 CFR Parts 260, 264, 265, and 270.

E. Hazardous and Solid Waste Amendments of 1984 Codification Rule

On July 15, 1985, EPA published in 50 *FR* 28702 final rules implementing provisions included in the Hazardous and Solid Waste Amendments of 1984 (HSWA) (hereinafter referred to as the "codification rule"). Some of today's final rules have been promulgated to conform to HSWA and to the requirements of the July 15, 1985 codification rule.

II. Analysis of Rules

The following sections of this preamble include discussions of the major issues and summaries of the comments received in response to the March 19, 1985 proposed rule, as well as explanations of EPA's rationale for promulgating the final rules. The preamble is arranged in a section-by-section sequence for ease of reference. Because many of the regulatory amendments to Interim Status Standards (Part 265) are parallel to the Standards for Permitted Facilities (Part 264), only those changes to the Part 265 Interim Status Standards that differ from the Part 264 standards are addressed separately.

A. Definitions (Part 260)

1. Active Life of the Facility (§ 260.10).

In the March 19, 1985 proposed rule, the Agency proposed to redefine "active life" to extend the period from the initial receipt of hazardous wastes until the Regional Administrator receives certification of final closure. Sections 264.112(b) and 265.112(b) previously defined active life of a facility as that period during which wastes are periodically received.

The key concern raised by the commenters was that certain requirements applicable to operating facilities may not be practical or feasible to conduct during the closure period (e.g., inspections, paperwork requirements).

The Agency does not agree that defining the closure period as part of the active life would be burdensome or require activities not otherwise required at the facility. For example, §§ 264.73 and 265.73 now require that the owner or operator maintain the operating record until closure of the facility. The Agency would also expect an owner or operator to conduct inspections as part of a routine closure activities. As discussed in the preamble to the proposed rule, the Agency is primarily concerned with ensuring that all monitoring activities are continued until closure is completed. Therefore, the Agency is promulgating the definition of active life of the facility as proposed.

2. Final Closure (§ 260.10)

In order to clarify the distinction between partial closure and final closure, the Agency proposed to define final closure as closure of all hazardous waste management units at a facility not otherwise covered by the provisions of

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§ 262.34 (exemptions from Subpart G requirements for facilities accumulating hazardous wastes for less than 90 days), in accordance with Subpart G requirements. Closure of the last unit of the facility would be defined as final closure of the facility. No comments were received on this proposal, and the Agency is promulgating the definition as proposed.

3. Hazardous Waste Management Unit (§ 260.10)

The Agency proposed to define a new term—"hazardous waste management unit"—as the smallest area of land on or in which hazardous waste is placed, or the smallest structure on or in which hazardous waste is placed, that isolates hazardous waste within a facility. The proposed definition was designed to be consistent with the preamble to the July 26, 1982 land disposal regulations (47 *FR* 32289), expanded to include storage and treatment tanks and container storage units. The following were defined as hazardous waste management units in the March 19, 1985 proposed rule: a landfill cell, surface impoundment, waste pile, land treatment area, incinerator, tank system (i.e., individual tank and its associated piping and underlying containment system), and a container storage area (i.e., the containers and the land or pad on which they are placed).

A number of commenters were concerned that the proposed definition was still somewhat ambiguous. In particular, the definition did not adequately distinguish between landfill cells, which were defined in the proposed rule as units, and subcells, which are integral subsections of cells and should not be closed separately from the cell as a whole. Another commenter expressed concern that the term "isolates" in the definition implies that all units necessarily isolate wastes, which may not always be the case (e.g., land treatment area).

The Agency agrees that the proposed definition is somewhat ambiguous and not completely consistent with the definition of unit included in the July 26, 1982 preamble. Moreover, the Agency wishes to make the definition consistent with the codification rule. (See 50 *FR* 28706 and 28712, July 15, 1985). Therefore, today's rule defines hazardous waste management unit as a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is a significant likelihood of mixing hazardous waste constituents in the same area. Units include: surface impoundments, waste piles, landfill cells, incinerators, land treatment areas, tanks and their associated piping and underlying containment systems, and container storage areas (i.e., the container and any underlying pad). As discussed in the preamble to the proposed rule, the Agency does not consider each container to be a unit.

4. Partial Closure (§ 260.10).

The March 19, 1985 proposed rule redefined partial closure as closure of a hazardous waste management unit. Partial closures may involve: (1) closing a hazardous waste management unit while another hazardous waste management unit at the facility continues operating (e.g., a surface impoundment or container storage area is closed but a landfill continues to operate), or (2) closing one or more hazardous waste management units while other units associated with the same process remain operational (e.g., one landfill cell of a ten-cell landfill is closed, one tank and its underlying piping is removed from a tank farm). Closure of the *last* hazardous waste management unit at the facility would be considered a *final* closure rather than a partial closure.

The Agency received no substantive comments on the proposed definition of partial closure. The definition is being adopted substantially as proposed, with the following change: In the list of examples, "tank system" has been changed to "tank (including its associated piping and underlying containment system)".

B. Standards for Permitted Facilities (Part 264) and Conforming Changes to Interim Status Standards (Part 265)

1. Closure and Post-Closure Care (Subpart G).

a. *Closure performance standard (§§ 264.111 and 265.111).* The previous sections 264.111 and 265.111 established general closure performance standards applicable to all TSDFs that specified that a facility must be closed in a manner that (1) minimizes the need for further maintenance, and (2) controls, minimizes or eliminates, to the extent necessary to prevent threats to human health and the environment, post-closure escape of hazardous wastes, hazardous waste constituents, leachate, contaminated rainfall, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere. The language in § 265.111 differed slightly and specified that the facility must be closed in a manner "that . . . controls, minimizes or eliminates, to the extent necessary to *protect* human health and the environment. . . ."

In the March 19, 1985 preamble, the Agency proposed to (1) incorporate into the general standard a reference to the process-specific closure standards included in 40 CFR §§ 264.178, 264.197, 264.228, 264.258, 264.280, 264.310, 264.351, and the parallel interim status provisions; (2) make the language in § 265.111 parallel to that in § 264.111; (3) revise the language to require that hazardous constituents, as well as hazardous waste constituents, be appropriately managed at closure; and (4) make a minor change to the wording of the regulation for purposes of clarification.

The Agency proposed to incorporate reference to the specific technical closure requirements into the performance standard to ensure that owners or operators of TSDFs comply with both the general performance standard and the applicable process-specific standards. No comments were submitted on this proposal. The Agency is promulgating the language of §§ 264.111(c) and 265.111(c) substantially as proposed. The reference to § 265.178 in § 265.111(c) has been dropped because there are no process-specific standards for container storage facilities in interim status; in addition, references to §§ 265.381 and 265.404 which had been inadvertently omitted from the proposed rule, are inlcuded in § 265.111(c).

Because the Agency believes that for clarity and consistency the closure performance standard for interim status and permitted facilities should be parallel, the Agency proposed to amend § 265.111(b) to make the language parallel to that in § 264.111(b). One commenter stated that the use of the phrase "prevent threats" could require an owner or operator to conduct closure activities that were not cost-effective and should be replaced by a site-specific risk assessment.

The Agency believes that the environmental goals of closure should be the same for both interim status and permitted facilities. Although the previous language of the closure performance standard in Parts 264 and 265 differed slightly, as discussed in the preamble to the proposed rule, the Agency interpreted them as having the same meaning. As a result, the Agency proposed to amend § 265.111 to be consistent with the Part 264 standards and included the language "to prevent threats".

For the sake of clarity and to be consistent with the statutory language in RCRA mandating EPA to promulgate standards to *protect* human health and the environment, however, the final rule

amends the language of § 264.111(b) to be consistent with the wording of § 265.111(b). The language in § 264.111(b) now specifies that the facility must be closed in a manner "that . . . controls, minimizes, or eliminates, to the extent necessary to protect human health and the environment" the post-closure escape of hazardous wastes, hazardous constituents, etc.

The Agency also proposed to expand the language in §§ 264.111(b) and 265.111(b) to require that closure must control, minimize or eliminate, to the extent necessary, the post-closure escape of *hazardous constituents* instead of only hazardous waste constituents as the previous regulation required. One commenter opposed the proposal on the grounds that requiring owners and operators to address all Appendix VIII constituents rather than only hazardous waste constituents could have costly implications for closure and post-closure care. Moreover, the commenter argued that the Agency did not provide a rationale for this change in the March 19, 1985 proposed rule.

The Agency believes it is necessary to include hazardous constituents in the closure performance standard to ensure that *all* contamination is adequately addressed at closure. Furthermore, this change is consistent with the HSWA. For example, RCRA Section 3004(u) requires corrective action for all releases of hazardous wastes or *hazardous constituents* from any solid waste management unit. Similarly, Section 3001(f) requires the Agency in evaluating delisting petitions to consider, among other things, constituents other than those for which the waste was listed as hazardous. As a result of these considerations, the Agency is adopting §§ 264.111(b) and 265.111(b) as proposed.

Finally, the Agency proposed to clarify the wording in §§ 264.111(b) and 265.111(b) by replacing the phrase "contaminated rainfall" with "contaminated run-off." No comments were received and this change is being promulgated as proposed. In addition, the phrase "waste decomposition products" was changed to "*hazardous* waste decomposition products." Wastes which are not hazardous are not subject to the closure performance standards.

b. *Requirement to furnish closure and post-closure plans to the Regional Administrator (§§ 264.112(a), 264.118(c), 265.112(a), 265.118(b)).* Sections 264.112(a), 264.118(a), 265.112(a), and 265.118(a) previously required the owner or operator of a TSDF to keep a copy of the closure and post-closure plan and all revisions at the facility until closure is completed and certified. (In the case of permitted facilities and interim status facilities with approved plans, the approved plans were to be kept on-site.) Post-closure plans were to be retained at the facility until the post-closure care period began. Petitioners in the *ACCI* litigation argued that a hazardous waste management facility may not be properly equipped to maintain files at the facility and safeguard closure and post-closure plans and that the plans could be kept more efficiently and safely at nearby offices of the owner or operator of the facility. The EPA, however, was concerned that the plans be available on-site to an inspector on the day of inspection.

The Agency proposed to drop the requirement that the closure and post-closure plans be kept at the facility, but to require that they be furnished to the Regional Administrator upon request, including request by mail, and during site inspections, on the day of inspection. This was consistent with the terms of the *ACCI* settlement.

Most of the commenters focused on the applicability of the requirements to permitted facilities, arguing that if the Agency already has a copy of the plan on file, requiring it to be made available on the day of inspection is unnecessary. Another argued that plans should be kept at the facility during the closure period to make them readily available for an unannounced inspection at that time.

The Agency agrees with those commenters who argued that for facilities with approved closure and post-closure plans on file, it is not necessary to make them available on the day of inspection. For interim status facilities, however, the plans may not have been reviewed and it is important that they be available on the day of inspection. Even in the case of unannounced inspections, it should be possible to deliver a copy of the plan to the facility within the same day. Therefore, the Agency is promulgating §§ 264.112(a) and 264.118(c) to require that the plans be furnished only upon request, including request by mail; §§ 265.112(a) and 265.118(b) require that for interim status facilities with *approved* closure and post-closure plans, the plans must be furnished upon request, including request by mail. For facilities without approved plans, the plans must also be provided during site inspections.

Under the requirements of §§ 264.228 and 264.258, an owner or operator of a surface impoundment or waste pile not designed in accordance with the specified liner design standards must prepare a contingent closure and post-closure plan for closure as a landfill. To ensure that such owners and operators recognize that these contingent plans are subject to the requirements of Part 264 Subpart G, the final rule modifies the proposed rule slightly. The final rule clarifies that if a facility is required to have a contingent closure and post-closure plan under § 264.228 or § 264.258, these plans are also subject to the requirements of §§ 264.112 and 264.118.

In some cases, owners or operators of surface impoundments or waste piles not otherwise required to prepare contingent closure and post-closure plans may be required to close their units or facilities as landfills. To clarify that these facilities also must have post-closure plans, the final rule specifies in §§ 264.118(a) and 265.118(a) that an owner or operator must prepare a post-closure plan within 90 days of the date that the owner or operator or Regional Administrator determines that the facility must be closed as a landfill.

c. *Clarification of contents of closure plan (§§ 264.112(b), 265.112(b)).* The Agency proposed a number of changes to §§ 264.112(a) and 265.112(a) to make explicit the level of detail that must be included in the closure plan to eliminate potential ambiguities in the closure plan requirements. First, the proposed rule clarified that the plan must address explicitly the activities to be conducted at all partial closures as well as final closure. The proposed rule also stated in §§ 264.112(b)(6) and 265.112(b)(6) that a schedule for closure activities must be provided for closure of each unit as well as for final closure. In addition, the proposed rule also elaborated on the types of information that should be included in the plan.

For example, the owner or operator must include in the plan not only an estimate of the maximum inventory over the life of the facility, but also a detailed description of the procedures that will be used to handle the hazardous wastes during partial and final closure (e.g., all proposed methods for removing, transporting, treating, or disposing of hazardous wastes at partial and final closure). The plan must also address all ancillary activities necessary during the partial and final closure periods, such as ground-water monitoring, leachate collection, and run-on and run-off control, as applicable.

The Agency received a number of comments supporting increased level of detail in the plans. Most of these commenters favored including even more specificity in the closure plan regulations (e.g., criteria for "how clean is clean"). A number of commenters however, also disagreed with the

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Agency's proposed amendments, arguing that the level of detail proposed is unnecessary and burdensome, especially if the plan must be changed several times to reflect future changes in technology. One commenter expressed concern that the level of detail specified, combined with the permit modification procedures required to make changes to the plan, could lock an owner or operator into an outmoded closure plan.

The Agency believes that it is necessary to require detailed closure and post-closure plans to ensure accurate cost estimates and adequate financial assurance. Implementation experience has shown that poorly detailed plans have been accompanied by inadequate cost estimates. The plans should include sufficient detail to allow a third party to conduct closure or post-closure care in accordance with the plan if the owner or operator fails to do so. Therefore, the Agency is promulgating the final rule as proposed.

The Agency disagrees with those commenters who contend that requiring a greater level of detail will force owners or operators to revise their plans frequently. The types of changes that would require a revision to the closure plan are likely to be the result of a change in facility design or routine operations (e.g., a change in the cover design, off-site vs. on-site management of wastes at closure, closure of a surface impoundment or waste pile as a landfill). These types of changes are unlikely to occur frequently. The Agency does not intend that the owner or operator should revise the plan for insignificant changes (e.g., a change in the particular off-site facility used to handle wastes at closure or the contractor used to install the final cover). The Agency also does not intend this requirement to preclude an owner or operator from revising the plan as appropriate to incorporate technological innovations or to lock owners or operators into outmoded closure plans.

A number of commenters requested that the Agency address "how clean is clean" and include this standard as part of the closure requirements. The Agency is currently developing a policy on this broad issue outside the scope of this rulemaking.

d. *Description of removal or decontamination of facility structures and soils in closure plan (§§ 264.112(b)(4), 265.112(b)(4)).* Sections 264.112(a)(3) and 265.112(a)(3) previously required owners or operators to include a description of the steps needed to decontaminate facility equipment at closure. The proposed amendment expanded this provision to require that the closure plan also must include a description of steps necessary to decontaminate or remove contaminated facility structures, containment systems, and soils in a manner that satisfies the closure performance standard. The plan must include, but not be limited to, a description of the methods for decontaminating the facility, sampling and testing procedures, and criteria to be used for evaluating contamination levels.

Because responsible owners or operators will clean up drips and spills associated with hazardous waste management activities as they occur (see, e.g., 40 CFR § 264.175), many of the activities described in the closure plan for removing or decontaminating soils should be similar to those conducted during the operating life of the facility as part of routine operations. For some types of units (e.g., tanks or container storage), soil testing may not be a routine operating activity and may not be conducted until closure. For these types of units it is especially important that the plan address how the owner or operator intends to determine the extent of soil contamination at closure. The Agency's intent is that the plan should address cleanup of the maximum extent of contamination (including contaminated soil) resulting from the facility's hazardous waste operations that the owner or operator expects to be on-site anytime over the active life of the facility.

While most commenters agreed with the proposal to address contaminated soils, some suggested clarifications. Some commenters were concerned about the ambiguity of the terms "contaminated" and "containment systems." The language might be construed to require decontamination or removal of leachate collection systems and liners. It was suggested that the regulation identify the equipment and structures subject to the decontamination requirement. Another commenter stated that the preamble to the proposed rule implied that the plan must address soil contamination from production activities, which is outside the scope of RCRA.

The Agency agrees that the plan must address soil contamination *only* from hazardous waste management operations. The Agency also does not intend this rule to require that an owner or operator remove structures otherwise required by process-specific requirements to be maintained and used after closure. For example, if an owner or operator closes a surface impoundment as a landfill, the Agency does not intend that the owner or operator remove the containment system as part of closure decontamination procedures. (Similarly, the overlying hazardous wastes are not removed when a disposal facility is closed.) The Agency believes that the language of the proposed rule can be interpreted reasonably and it is not necessary to list in the regulation every piece of equipment and facility that must be decontaminated at every type of facility. As a result, the Agency is promulgating the final rule as proposed.

e. *Requirements to estimate the expected year of closure (§§ 264.112(b)(7) and 265.112(b)(7)).* Sections 264.112(a)(4) and 265.112(a)(4) previously required each owner or operator of a TSDF to include in its written closure plan an estimate of the expected year of closure. Petitioners in the *ACCI* litigation argued that compliance with that provision was unnecessarily burdensome for owners or operators of on-site TSDFs, such as storage and treatment facilities associated with industrial processes. In the case of those facilities, the expected date of closure may not be determined by the hazardous waste management activities but by the primary industrial activity with which the facility is associated, the closure date of which, in many cases, may be difficult to predict.

The Agency was concerned that in the case of owners or operators using trust funds to provide financial assurance, an estimate of the expected year of closure is necessary to enable both the owners or operators and EPA to determine whether appropriate payments have been made into the trust fund. In addition, for interim status facilities without approved closure plans, an estimate of the year of closure is important to allow the Agency the opportunity to conduct facility inspections near the end of the facility's life and ensure that closure will be performed in a manner that will protect human health and the environment. Therefore, the Agency proposed to amend the regulation to require only those owners or operators of permitted facilities who use trust funds to establish financial assurance under § 264.143 and whose facilities are expected to close prior to expiration of their initial permit to estimate the expected year of closure. For owners or operators of interim status facilities, those without approved closure plans or those who use trust funds to demonstrate financial assurance and whose remaining operating life is less than 20 years, would be required to estimate the year of closure.

Most commenters agreed with the Agency's proposed amendment to limit the requirement to owners or operators using trust funds; some questioned retaining the requirement for all interim status facilities without approved closure plans. Those commenters who opposed the proposal argued that it is difficult to predict closure and a date should not be required. Consistent with the discussion in the March 19, 1985 preamble, the Agency feels that a date of closure is imperative for owners or operators using trust funds and for facilities without approved plans and is promulgating the rule as proposed.

f. *Amendments to closure and post-closure plans (§§ 264.112(c), 264.118(d), 265.112(c) and 265.118(d)).* Sections 264.112(b) and 265.112(b) previously allowed an owner or operator to amend the closure plan at any time during the active life of the facility if there was a change in operating plans or facility design which affected the closure plan or if there was a change in the expected year of closure. The Agency proposed amendments to make this regulation consistent with other proposed regulatory amendments. In addition, the proposed amendments established procedures and deadlines for requesting modifications to closure and post-closure plans.

The definition of active life now includes the closure period. Therefore, the language of the previous regulation would have allowed an owner or operator to request modifications to the closure plans during the operating life of the facility through the closure period. To minimize threats to human health and the environment, the Agency considers it important to avoid undue delays in the completion of closure once activities have begun. Therefore, the Agency proposed §§ 264.112(c) and 265.112(c) allowing an owner or operator to modify the closure plans only *prior* to the notification of partial or final closure, or during closure only if unexpected events occur during the closure period that affect the closure plan (e.g., adverse weather conditions, fire, or more extensive soil contamination than anticipated resulting in the need to close the unit as a disposal unit rather than as a storage unit). Consistent with the proposed amendment to §§ 264.112(b)(7) and 265.112(b)(7), the Agency also proposed that the closure and post-closure plans must be amended if there is a change in the expected year of closure *only* for those facilities required to include an expected year of closure in the plan.

One commenter argued that allowing owners or operators to revise their closure plans during closure only to account for "unexpected events" is too restrictive and would preclude the owner or operator from changing the plan to reflect optimum closure methods identified after notification of closure. While the Agency wishes to provide flexibility to owners or operators in developing closure plans and implementing closure, it does not want to prolong the closure period unnecessarily once the unit has ceased operating and is prepared to close. Therefore, the Agency believes that changes in the plan that the owner or operator could reasonably have anticipated should be make *prior* to the beginning of closure. For example, owners or operators should have sufficient time prior to the notification of closure to revise the closure plan to reflect optimum closure methods. Therefore, the Agency believes that changes made during the closure period should be limited only to those events that the owner or operator reasonably could not have expected.

Another commenter was concerned that allowing the plan to be modified during closure *only* if *unexpected* events occur during the closure period could preclude owners or operators of surface impoundments or waste piles required to close as landfills but not otherwise required to have contingent closure plans from amending their plans. The Agency does not agree with this interpretation. The Agency believes that if the owner or operator or Regional Administrator determines *prior* to closure that the unit or facility must be closed as a landfill, this determination would qualify as a change in facility operation or design. Therefore, the owner or operator must amend the closure plan as required by §§ 264.112(c)(2)(i) and 265.112(c)(1)(i) to reflect the fact that the facility is now a disposal facility. If the determination was not foreseen prior to the time of partial or final closure, this determination could be considered an "unexpected" event requiring a modification to the closure plan as specified in §§ 264.112(c)(2)(iii) and 265.112(c)(1)(iii).

To clarify this requirement and avoid potential ambiguities, the final rule specifies in §§ 264.112(c)(3), 264.118(d)(3), 265.112(c)(2), and 265.118(d)(2) that an owner or operator of a surface impoundment or waste pile not otherwise required to prepare a contingent closure or post-closure plan, must revise the closure plan and prepare a post-closure plan following a determination that the unit or facility must be closed as a landfill.

Another commenter stated that modifications to the closure plan during the closure period should be required only if the unexpected event adversely affects human health and the environment. The Agency disagrees on the grounds that the purpose of the closure plan is to describe the activities that will be conducted at closure in the event that a third party is required to conduct closure and to serve as a basis for cost estimates for financial responsibility. In addition, because the purpose of the closure certification is to ensure that closure has been performed in accordance with the approved closure plan, the plan should be modified to reflect the activities that are performed.

In light of the above considerations, the Agency is promulgating today's final rule as proposed to require that plans be modified *prior* to the notification of closure or approval of the plans, whichever is later, or during closure if unexpected events occur during the closure period that affect the plans.

The Agency also proposed a number of procedural changes to the Parts 264 and 265 regulations for modifying closure and post-closure plans. First, the proposed §§ 264.112(c) and 264.118(e) clarified that an owner or operator of a permitted facility must use the permit modification procedures specified in Parts 124 and 270 to amend the closure or post-closure plans. Second, proposed §§ 265.112(c) and 265.118(g) required owners or operators of interim status facilities with approved plans to submit a request to the Regional Administrator to amend the plan. The proposed rule gave the Regional Administrator the discretion to provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments and/or to hold a public hearing on the amendment to the plan.

Many commenters were concerned with the procedural requirements proposed for modifying the plans. Several argued that the Part 270 permit modification requirements are too cumbersome for minor changes in the plan. Another was concerned that modifications to interim status plans should be subject to public participation and should not be left to the Regional Administrator's discretion.

The Agency agrees with many of the commenters that the minor modification procedures in Part 270 are too limited in scope. As part of a forthcoming rulemaking on permit modifications, the Agency will expand the provisions of §270.42 to identify the types of plan amendments that would be considered minor modifications.

The Agency also believes that the modification procedures for interim status facilities with approved closure

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and post-closure plans should be consistent with those for permitted facilities. Therefore, the final rule specifies in §§ 265.112(c)(3) and 265.118(d)(3) that the criteria of §§ 270.41 and 270.42 must be used to determine if a change to the approved closure plan is a "major" or "minor" change. Major changes to the plans are subject to the public participation procedures of §§ 265.112(d)(4) and 265.118(f); minor changes to the plans are not subject to public participation, which is consistent with the procedures of § 270.42.

Another commenter suggested that the Agency establish deadlines for acting upon written requests to modify closure and post-closure plans, after which time, if no action had been taken, the modification would be automatically approved (the commenter suggested 60 days from the day of request). The Agency agrees that it should act expeditiously in approving or disapproving amendments to the plan. However, the Agency cannot agree that the amendment should be considered automatically approved if the Regional Administrator fails to make a determination within the allotted time frame. As a result, §§ 264.112(c), 265.112(c), 264.118(d), 265.118(d) and 265.118(g) have been revised to adopt deadlines for reviewing requests for modifications but do not provide for automatic approval of modifications when the Regional Administrator fails to meet a deadline. For permitted facilities, the Regional Administrator must comply with the procedures established in Parts 124 and 270; for interim status facilities, the deadlines of §§ 265.112(d)(4) and 265.118(f) will apply.

The proposed amendments to the Parts 264 and 265 regulations also specified deadlines for requesting closure and post-closure plan modifications, to ensure that all requests are made in a timely fashion and that the level of financial assurance is adjusted, as necessary, to reflect any approved changes. The proposed rule stated that an owner or operator of a permitted facility or an interim status facility with an approved closure or post-closure plan must submit a written request to the Regional Administrator for approval of a closure or post-closure plan modification within 60 days prior to the change in facility design or operation that resulted in a change in the plan, or within 60 days after an unexpected event has occurred that requires a change to the plans. If an unexpected event occurs during partial or final closure that will affect the closure plan, a request to modify the closure plan must be made within 30 days. As discussed above, requirements applicable to amending plans also apply to owners or operators of surface impoundments or waste piles not otherwise required to prepare contingent plans. Consistent with these requirements, §§ 264.112(c)(3) and 265.112(c)(3) now specify that an owner or operator of a surface impoundment or waste pile not otherwise required to prepare contingent plans must submit a revised closure plan to the Regional Administrator for approval no later than 60 days after the determination is made that the unit or facility must be closed as a landfill. If the determination is made during partial or final closure, the revised plan must be submitted no later than 30 days after the determination is made. For interim status facilities without approved closure plans, owners or operators must prepare a revised closure plan and maintain it at the facility and submit it to the Regional Administrator upon request.

Owners or operators of surface impoundments or waste piles not otherwise required to prepare contingent post-closure plans must submit them to the Regional Administrator for approval no later than 90 days after the determination that the unit or facility must be closed as a landfill. Owners or operators of interim status facilities without approved plans are not required to submit the plan.

The final rule also modifies slightly the language in the proposed rule to make explicit that under § 264.112(c)(3) and 264.118(d), the owner or operator must submit a copy of the revised plan with the written request for a permit application. Similarly, for interim status facilities with approved plans, the revised plan must be submitted to the Regional Administrator for approval.

In analyzing the procedures for modifying the closure and post-closure plans, the Agency also considered whether the Regional Administrator should be given the authority to amend the closure or post-closure plan, especially in circumstances where unexpected events require plan modifications. The Agency believes that the Regional Administrator should be granted the authority to request modifications of the plans. Modifications that are considered "major" under the criteria of §§ 270.41 and 270.42 are subject to Parts 124 and 270 requirements for permitted facilities and to the provisions of §§ 265.112 and 265.118 for interim status facilities.

Consistent with deadlines in §§ 264.112(c)(3), 264.118(d)(3), 265.112(c)(3) and 265.118(d)(3), an owner or operator must submit the modified plan no later than 60 days after the Regional Administrator's request or 30 days if the request is made during partial or final closure. These provisions are included in today's final rule in §§ 264.112(c)(4), 264.118(d)(4), 265.112(c)(4), and 265.118(d)(4).

g. *Notification of partial closure and final closure (§§ 264.112(d), 265.112(d)).* Sections 264.112(c) and 265.112(c) formerly required owners or operators of TSDFs to notify the Regional Administrator at least 180 days prior to the date they expected to begin closure. The following changes were proposed: (1) clarification that the notification requirements apply to partial closures of hazardous waste disposal units and final closure of all TSDFs; (2) modification of some deadlines for notifying the Regional Administrator of partial and final closures, and (3) definition of the "expected date of closure."

The *ACCI* petitioners were concerned that subjecting partial closures of non-land disposal facilities to notification requirements would disrupt routine business operations. The Agency wishes to encourage partial closures and at the same time ensure that partial closures are conducted in accordance with an approved plan. The Agency believes that for permitted facilities and interim status facilities with approved closure plans, it should be possible at the time of final closure to evaluate whether previous closures of non-disposal units have been in accordance with the approved plan. In the case of interim status facilities that do not have approved closure plans, the owner or operator will still be responsible for ensuring that all partial closure activities of incinerators, tanks, and container storage areas are consistent with the closure performance standard of § 265.111 and any process-specific closure standards.

Moreover, all previous partial closure activities will be subject to review when the plans are subsequently approved. For example, if at the time of final closure the Agency determines that additional soil decontamination is required at units that were previously partially closed, the owner or operator will be responsible for completing this activity. In light of these requirements, the Agency proposed to limit the notification requirement to partial closures of hazardous waste disposal units and final closure of non-disposal units. This provision is consistent with the provisions of § 265.112(e) discussed below. No comments were submitted on this proposal and the Agency is promulgating the final rule as proposed.

The proposed rule also amended the deadlines for notification of partial closure for disposal units and final closure, in response to the concerns of petitioners in the *ACCI* litigation. The petitioners argued that the 180-day notice period is unreasonable for many types of facilities and unnecessary for the Agency's purposes (i.e., adequate time to schedule facility inspections). The Agency agreed that for facilities with approved closure plans 180 days prior notice of closure may be unnecessary. The Agency therefore proposed § 264.112(d)(1), which would require the owner or operator to notify the Regional Administrator at least 60 days prior to the date he expects to begin closure of a landfill, land treatment, surface impoundment, or waste pile unit, or final closure of a facility with these types of units. An owner or operator must notify the Regional Administrator at least 45 days prior to the date he expects to begin final closure of a facility with only an incinerator, container storage, or tank units remaining to be closed.

For interim status facilities *without* approved closure plans, the Agency proposed a 180-day notification requirement for partial closure of a landfill, land treatment facility, surface impoundment, or waste pile unit, or final closure of a facility with such units to allow sufficient time to review the plans. For interim status land disposal facilities with approved closure plans (i.e., those that received approval of the entire plan prior to a previous partial closure), the Agency proposed to reduce the notification period to 60 days to be consistent with the deadlines applicable to permitted facilities.

The Agency also proposed, consistent with the interim status deadlines in the *ACCI* settlement agreement, that an owner or operator of an interim status facility without an approved closure plan provide at least 45 days notice prior to the date he expects to begin final closure of a facility with only tanks, incinerators, or container storage areas remaining to be closed.

Several commenters objected to the changes in deadlines, arguing that the same deadlines should apply to all TSDFs. Some argued that a 45-day notice period for tanks, container storage areas, and incinerators does not allow sufficient time for public participation, while others contended that 45 or 90 days is adequate notice for all types of facilities.

The Agency considered these comments and is promulgating the deadlines as proposed. The Agency believes that review of the plans for interim status land disposal units without approved plans is likely to be complex and a 180-day notification requirement is appropriate. Although the Agency recognizes that it may not always be possible to complete the review process for interim status facilities that include only tanks, container storage, and incinerators within 45 days, the provisions of § 265.112(e) allow the owner or operator to remove all hazardous wastes and decontaminate the equipment prior to the completion of the approval process. However, the owner or operator will not be discharged from all obligations or be released from financial responsibility until the closure plan has been approved and a certification of compliance with the approved plan has been submitted.

The third proposed change clarified the definition of the "expected date of closure." The previous regulation stated in a comment to §§ 264.112(c) and 265.112(c) that the expected date of closure should be interpreted as within 30 days of receipt of the "final volume of wastes." The Agency proposed to require explicitly in §§ 264.112(d)(2) and 265.112(d)(2) that an owner or operator notify the Regional Administrator within 30 days after the date on which a hazardous waste management unit received the known final volume of hazardous waste, or, if it is likely that the unit will receive additional hazardous wastes, within one year of receipt of the most recent volume of hazardous waste. To provide flexibility to long-term storage operations, the Agency also proposed to allow an owner or operator of a tank or container storage facility the opportunity to request an extension to the one-year limit if he can demonstrate that he has the capacity to receive additional hazardous wastes and is taking all steps necessary to protect human health and the environment in the interim, including compliance with all applicable permit conditions or interim status requirements.

Several comments were submitted on the proposed requirement. Although an extension to the one-year deadline was proposed for tank and container storage facilities, some commenters felt the requirement still imposed unnecessary burdens on other types of facilities that infrequently handled hazardous wastes (e.g., a storage facility used for hazardous wastes generated as a result of a spill or for off-specification commercial products). Commenters also questioned the need for owners or operators of facilities otherwise in compliance with all applicable regulations to close if hazardous wastes have not been accepted within a year. One commenter suggested that tank and container storage units be exempt from the requirements rather than be required to request extensions to the deadlines. Another commenter was concerned that the variance provisions may discourage resource recovery by requiring owners or operators to close their facilities if additional capacity is not available at their facility and technologies are not available within the allotted deadlines.

The Agency agrees that if hazardous waste management units have the capacity to receive additional hazardous wastes and are otherwise in compliance with all operating requirements they should not necessarily be required to close if hazardous wastes have not been received within a year.

If the Agency is concerned that a particular unit or facility may pose a threat to human health and the environment, if it remains open, a number of other authorities exist to allow the Agency to force a facility to close. For example, the Agency may call in the Part B of a facility in interim status, and require that the facility close if it does not satisfy permitting criteria. Moreover, a number of land disposal facilities may be required to close in response to HSWA provisions. In addition, because the owner or operator is required to maintain financial assurance for closure until final closure has been certified, funds will be available if the owner or operator fails to cover the costs when he does close the facility. In light of these considerations, the final rule extends the variance provisions to all hazardous waste management units.

The Agency does not believe, however, that facilities should be *exempt* from the deadline requirements. To ensure that the owner or operator does not use the variance provision as a way to prolong unnecessarily the commencement of closure, the Agency is allowing the variance *only* if the facility has additional capacity available and the owner or operator demonstrates compliance with all applicable regulations. In the case of a storage facility filled to capacity but intending to employ resource recovery that is not yet on-line, the Agency would extend the one-year variance on the closure deadlines if the owner or operator could demonstrate that on-site resource recovery capacity would be available to handle these hazardous wastes. If the wastes were intended to be sent to an off-site facility that was not yet in operation, unless the owner or operator could demonstrate that the off-site services would be available within a

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year, he would be required to use alternate technologies to handle the hazardous wastes to avoid prolonging the closure period unnecessarily.

h. *Removal of hazardous wastes and decontamination or dismantling of equipment (§§ 264.112(e) and 265.112(e)).* Sections 264.112 and 265.112 previously did not address whether activities such as removing hazardous waste and decontaminating or dismantling equipment could be undertaken prior to closure. The proposed amendment clarified this issue.

Petitioners in the *ACCI* litigation argued that requiring 180-day notification and, in the case of interim status facilities, requiring the completion of all closure plan approval procedures before any hazardous wastes can be removed or facility equipment can be dismantled, unreasonably interferes with routine business operations. In addition, the petitioners argued that postponing the removal of wastes for 180 days or until the approval of the closure plan, whichever is later, might be environmentally unsound.

Consistent with these two concerns, EPA proposed new subsections §§ 264.112(e) and 265.112(e) providing that nothing in §§ 264.112 or 265.112 shall preclude the owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved closure plan at any time before or after notification of partial or final closure. Because the approved closure plan is part of the permit conditions, all such activities at permitted facilities, regardless of when they are undertaken, must be in accordance with the approved closure plan. In the case of interim status facilities, the activities must be in accordance with the subsequently approved closure plan.

The Agency received several comments in response to this Section. Many petitioners objected to the requirement that the removal of hazardous wastes and dismantling of equipment at interim status facilities be in accordance with the *approved* closure plan, arguing that it was contrary to the intent of the *ACCI* settlement agreement. They contended that this requirement either forced an owner or operator of an interim status facility to submit the plan for approval prior to these activities, or subjected him to *post hoc* judgments if the subsequently approved plan differed from the activities previously undertaken. Other commenters opposed allowing owners or operators of interim status facilities to remove hazardous wastes or dismantle equipment without prior approval on the grounds that the provision could be subject to abuse, resulting in potential environmental threats. Others suggested that, at a minimum, the Agency should be notified of such actions so that an inspection can be scheduled.

The Agency does not agree that requiring the removal of hazardous wastes or decontamination of equipment to be in accordance with the approved closure plan is inconsistent with the provisions of the settlement agreement. The Agency agreed with the petitioners in the *ACCI* litigation that, under the previous rules challenged by the petitioners, the owner or operator is not precluded from removing wastes and decontaminating and/or dismantling equipment at any time without providing notice to EPA and, for interim status facilities, prior to submission of a closure plan. Moreover, the Agency agreed with petitioners that it is environmentally sound to remove hazardous wastes as quickly as possible to minimize threats. As a result, the Agency agreed to make this point explicit in the regulations and proposed §§ 264.112(e) and 265.112(e).

The Agency, however, never intended nor agreed that the Agency should be precluded from ensuring that such activities meet the closure standards. The Agency believes that any such activities, like any other hazardous waste management activities, must be in accordance with the regulatory requirements established under RCRA. The Agency does not believe that this requirement will result in an undue burden on owners or operators, even for interim status facilities without approved closure plans. As long as the removal of hazardous wastes and the dismantling or decontamination of equipment conducted prior to the submission of the closure plan are consistent with the closure requirements set forth in the Part 265 regulations, these activities would be approved in the subsequent closure plan and would not render unacceptable activities previously undertaken. Activities would only be rendered unacceptable if they are inconsistent with the closure regulations.

Moreover, the Agency believes that the types of activities that would be included in removing hazardous wastes or dismantling or decontaminating equipment can easily be handled in an environmentally responsible manner that does not give rise to the need for any second-guessing by a regulatory agency. In the infrequent situations where the adequacy of such an activity may be open to serious question, prior Agency review is appropriate and the facility is encouraged to submit its closure plan for approval prior to the commencement of the activity to ensure that the activity satisfies the closure performance standard. In any event, the choice is left to the owner or operator whether to seek approval prior to conducting the activity or to proceed without Agency review and approval.

The Agency does not agree with those commenters who criticized the provision on the grounds that it may allow owners or operators undue discretion in conducting closure activities prior to notification. The language in §§ 264.112(e) and 265.112(e) explicitly limits the types of activities that can be undertaken prior to notification of the removal of hazardous wastes and decontamination/dismantling of equipment. It thus precludes the possibility that an owner or operator could conduct other types of activities that must be subject to EPA notice (e.g., cover installation).

The Agency considered whether to require explicitly in §§ 264.112(e) and 265.112(e) that documentation be prepared to support activities conducted prior to notification. The Agency decided that such a requirement is not necessary for a number of reasons. First, for hazardous wastes sent off-site, the owner or operator is required under § 262.40 to maintain copies of the manifests accompanying the shipments. Second, for wastes handled on-site, information on how it was managed must be included in the operating record as specified in §§ 264.73 and 265.73. Finally, because an independent registered professional engineer must certify that the entire facility has been closed in accordance with the approved closure plan, the owner or operator will need to provide the engineer with appropriate documentation demonstrating that all previous activities have been performed in accordance with the approved closure plan. Therefore, this section is promulgated as proposed.

i. *Time allowed for closure (§§ 264.113 and 265.113).* Sections 264.113(a) and 265.113(a) previously required the owner or operator to treat, remove from the site, or dispose of all hazardous wastes in accordance with the approved closure plan within 90 days after receiving the final volume of hazardous wastes. The Regional Administrator was authorized to extend the deadline if the owner or operator demonstrated, among other things, that there was a reasonable likelihood that a person other than the owner or operator would recommence operation of the facility, and the owner or operator had taken and would continue to take all steps necessary to prevent threats to human health and the environment. Sections 264.113(b) and 265.113(b) required the owner or operator to complete closure activities within 180 days after receiving the final volume of wastes unless the Regional Administrator granted a longer period.

Petitioners in the *ACCI* litigation argued that the deadlines imposed by §§ 264.113 and 265.113 might preclude the *original* owner or operator from temporarily suspending operations as a result of fluctuations in the market or economic conditions. The Agency agreed with these concerns and proposed to amend §§ 264.113(a)(1)(ii)(B), 265.113(a)(1)(ii)(B), 264.113(b)(1)(ii)(B), and 265.113(b)(1)(ii)(B) to allow an owner or operator two one-year extensions to the deadlines for removing hazardous wastes and completing closure. These extensions may be granted if the owner or operator can demonstrate that the partial or final closure will take longer than 90 days (for removal of hazardous wastes) or 180 days (to complete closure) *or:* (1) the facility has the capacity to receive additional hazardous wastes; (2) there is a reasonable likelihood that the owner or operator or another person will recommence operation of the facility; (3) closure would be incompatible with continued operation of the facility; and (4) the necessary steps have been and will be taken to ensure protection of human health and the environment, including compliance with all applicable permit conditions or interim status requirements.

The proposed rule specified that requests for extensions must be made at least 30 days prior to the expiration of the 90-day period established in §§ 264.113(a) and 265.113(a) and the 180-day period established in §§ 264.113(b) and 265.113(b), or within 90 days of the effective date of the regulation, whichever is later. In addition, for interim status facilities the proposed rule stated that extensions must be granted in accordance with the procedures of § 265.112(d).

One commenter correctly noted that the proposed rule was inconsistent with the terms of the *ACCI* settlement. First, in § 265.113(a), the proposal inadvertently omitted the language in the agreement which specified that the 90-day period would be triggered by the approval of the closure plan, if that is later than the final receipt of hazardous wastes. Second, the 180-day period for completing closure was inadvertently shortened to 90 days in §265.113(b). Third, requiring owners or operators to follow the elaborate procedures in § 265.112(d) to extend the time for completion of interim status closure activities would be burdensome and contrary to the parties' intent. Fourth, the settlement did not specify the maximum length of the time extension; the proposed rule included a maximum time period of 2½ years for the completion of closure. (A number of commenters also contended that, to avoid imposing unnecessary burdens on owners or operators, no deadlines should be specified.)

The Agency is making a number of changes from the proposal that will result in a final rule that is consistent with the *ACCI* settlement language. First, the final rule includes the language inadvertently omitted from the proposed rule. The specified 90-day period in § 265.113(a) will begin only after the approval of the closure plan, if that is later than the final receipt of hazardous waste. This will ensure that a reasonable compliance period is provided after the closure requirements are fixed in an approved plan. Second, § 265.113(b) retains the previous period of 180 days to complete closure.

The Agency also agrees with some commenters that including the phrase "using the procedures of § 265.112(d)" in § 265.113 (a) and (b) would have required overly elaborate procedures for what is essentially a minor change to the closure activities. Under the provisions of § 270.42, an extension to the closure period is considered a minor modification for permitted facilities. EPA believes the requirements for interim status facilities should be consistent with the Part 264 standards. As a result, an extension of the closure period for interim status facilities is not subject to the detailed procedures of § 265.112(d).

The Agency also agrees that limiting the length of the closure period to a maximum of 2½ years may be inconsistent with the settlement provisions. Moreover, if the unit or facility has additional capacity to receive additional hazardous wastes and the owner or operator is in compliance with all applicable operating requirements, an owner or operator should not be restricted to the 2½ years for completing closure. Consistent with the discussion above for allowing variances to the expected date of closure for all types of hazardous waste management units, the Agency has a number of authorities already available to ensure that a unit or facility does not pose a threat to human health and the environment. Therefore, the final rule states that the Regional Administrator may approve an extension to the 90- or 180-day periods subject to the conditions of §§ 264.113 and 265.113.

The Agency received a number of other comments applicable to schedules for closing the facility. One commenter noted that a request to extend the closure period should be an option in the permit application. This option, however, is already available to the owner or operator under § 270.32.

Another commenter expressed concern that the requirement to request an extension to the closure period within 90 days of the effective date of the final rule would not provide adequate time to make the required demonstration. In general, the Agency believes that owners and operators should be able to anticipate the likelihood that an extension will be necessary. Moreover, the effective date of today's promulgation is six months from today which should provide more than adequate notice to owners or operators. Because the effective date is six months after promulgation, the final rule drops the provision allowing the owner or operator to request an extension within 90 days of the effective date of the regulation if that is later than the deadlines for removing all hazardous wastes upon completing closure.

In the March 19, 1985 proposed rule, the Agency also proposed to require that closure be completed within 180 days after the final receipt of *hazardous* wastes rather than after the final receipt of wastes. The change makes §§ 264.113(b) and 265.113(b) consistent with §§ 264.113(a) and 265.113(a). Paragraph (a) requires that owners or operators treat, remove from the site, or dispose of on-site, all hazardous wastes in accordance with the approved closure plan within 90 days after receiving the final volume of hazardous wastes. Paragraph (b) requires that the owner or operator complete those activities within 180 days of receiving the final volume of wastes. The Agency was concerned that owners or operators might misinterpret paragraph (b) and delay compliance with the closure performance standards by ceasing to handle hazardous wastes but continuing to manage non-hazardous wastes. The change to §§ 264.113(b) and 265.113(b) is also consistent with the language in §§ 264.112(d)(2) and 265.112(d)(2). These latter sections explain that the date, when the owner or operator expects to begin closure, is no later than 30 days after the date on which a hazardous waste management unit receives the final volume of *hazardous* wastes (or under certain circumstances, one year

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after receipt of the most recent volume of hazardous wastes). It is only logical that if the expected date to begin closure is after the receipt of the final volume of *hazardous* wastes, the date to complete closure would also be after the final receipt of hazardous waste.

One commenter challenged this proposed change, contending that this is inconsistent with the Congressional intent evidenced in the HSWA legislative history regarding closure of surface impoundments. The Agency disagrees with the commentor's reading of HSWA and its legislative history. HSWA contains no provisions addressing the question of whether disposal surface impoundments that cease to accept hazardous waste should be required to close or allowed to stay open to receive non-hazardous waste. HSWA merely addresses retrofitting requirements for surface impoundments by adding Section 3005(j) of RCRA, which requires interim status surface impoundments that receive, store or treat hazardous waste after November 1, 1988 to retrofit to install double liners and leachate collection systems. The legislative history contains a brief discussion that indicates that this provision does not require the closure of an impoundment that ceases to receive hazardous waste but continues to receive non-hazardous wastes, and that requiring such closure would not be proper if the management of the impoundment is protective of human health and the environment.

The legislative history of Section 3005(j) of RCRA merely evidences the fact that Section 3005(j) itself does not mandate closure of interim status surface impoundments that cease to receive hazardous waste. It leaves unimpaired EPA's pre-existing authority to establish by regulation appropriate closure requirements for interim status surface impoundments as necessary to protect human health and the environment. EPA's analysis, set forth below, concludes that the expeditious closure of hazardous waste disposal surface impoundments after they are no longer receiving hazardous waste for disposal would significantly improve protection of human health and the environment. Requiring such closure is thus consistent with Section 3005(j) of RCRA and its legislative history.

The hazardous waste regulations incorporate a two-part "prevention and care" system whose overall goal is to minimize the formation and migration of leachate to the adjacent subsurface soil, ground water, or surface water. The regulatory goal of minimizing the formation and migration of leachate is achieved through the design and operating standards that require (1) the use of a liner that is designed and installed to prevent any migration of waste out of the unit to the adjacent subsurface soil or ground water or surface water throughout the active life of the unit; (2) the installation of leachate collection and removal systems and run-on controls for waste piles and landfills, and the removal or solidification of hazardous wastes and hazardous waste residues at closure for surface impoundments; and (3) the placement of a final cover (cap) placed on top to minimize the percolation of liquids into the unit. EPA is relying principally on the final cover (cap) rather than the bottom liner to provide post-closure protection of ground water.

While the regulations contain provisions for waivers from the liner and leachate collection and removal requirements, no such waivers were allowed for the closure provisions. In addition to providing ground-water protection, the final cover also: (a) Prevents the "bathtub" effect (i.e., filling with leachate and over-flowing); (b) protects surface water from run-off; and (c) discourages direct access to the hazardous waste.

EPA guidance calls for placing final covers at closure or for landfills, preferably, as filling of the cell ends. The purpose of the cover is to minimize infiltration of rain water and the subsequent formation and migration of leachate from the unit. Because liners are intended to perform during the active life of the unit and are not expected to provide long term protection, final covers play a particularly important role in long-term protection of human health and the environment. In addition, many older units are not lined, so early placement of the final cover may be the only way to reduce leachate generation from the unit.

While some units may have liners and leachate collection systems, the expected life of these systems is limited, leachate collection systems can become clogged, and all liners will eventually leak. Therefore, the cap is critical for the long term control of the unit. In addition, while new surface impoundments are required to have leak detection systems, most existing units do not and, therefore, it is often not known whether the unit is leaking until it is detected by ground-water monitoring. Therefore, the cap should be applied to these as soon as possible to minimize infiltration.

In light of these considerations, the final rule retains the proposed requirements to require that closure be completed within 180 days of the final receipt of hazardous waste.

In the proposed rule, the Agency requested comments on the desirability of defining a "reasonable likelihood" for purposes of §§ 264.113 (a) and (b) and 265.113 (a) and (b). One commenter was concerned that the proposed language allowed too much discretion on the part of the permitting agency and the permittee, and that a more objective standard, such as a purchase agreement, should be applied. Another commenter stated that the Agency should wait to develop the "reasonable likelihood" standard until it has accumulated experience with the provision. In the absence of additional information, the Agency is not establishing standards for determining what constitutes a "reasonable likelihood."

j. *Disposal or decontamination of equipment, structures, and soils (§§ 264.114 and 265.114).* Sections 264.114 and 265.114 previously required owners and operators to dispose of or decontaminate all facility equipment and structures. The proposed rule required owners or operators to remove all contaminated soils as part of partial and final closure, as needed.

The comments made concerning these proposed changes were similar to those made on §§ 264.112(b) and 265.112(b). One commenter was concerned that the requirements could be interpreted to require that if it was not possible to remove all contaminated soil from a tank facility, the tank would have to be demolished and the facility converted into a landfill. The Agency believes that at most tank facilities it should be possible to remove all the contamination. In those cases where soil contamination is so extensive as to preclude its removal, stringent closure requirements would indeed be appropriate. HSWA clearly contemplates that contamination remaining at closure must be corrected in a manner that protects human health and the environment (e.g., Section 208 of HSWA, 3004(u) of RCRA). Therefore, the Agency is promulgating §§ 264.114 and 265.114 substantially as proposed. The final rule also clarifies that if the owner or operator removes any hazardous wastes or hazardous constituents during partial or final closure, he may become a generator subject to additional regulations.

k. *Certification of closure (§§ 264.115 and 265.115).* Sections 264.115 and 265.115 previously provided that when closure is completed, an owner or operator must submit certifications from himself and from an independent registered professional engineer that the facility has been closed in accordance with the specifications in the approved closure plan. Petitioners in the *ACCI* litigation challenged the need for an *independent* engineer on the grounds that an in-house engineer would be in the best position to observe closure activities. As agreed to in the *ACCI* settlement, the Agency proposed to drop the requirement that the registered professional engineer be independent.

Some commenters supported the proposal to drop the "independent" requirement while others favored retaining the existing rule. The Agency has reconsidered the issue and is dropping the proposed rule to allow an in-house registered professional engineer to certify closure. Because certification of final closure is the final step in the closure process and triggers the release of the owner or operator from financial responsibility requirements for closure and the third-party liability coverage requirements of §§ 264.147 and 265.147, the Agency believes that the certification should be made by a person who is least subject to conscious or subconscious pressures to certify to the adequacy of a closure that in fact is not in accordance with the approved closure plan. The Agency's position in this regard is consistent with other types of certification programs which require certifications to be made by independent parties. For example, the Securities and Exchange Commission requires that all publicly-traded companies provide independent audits of financial information. Similarly, grants issued under the Clean Water Act must be accompanied by independent audits.

The Agency also proposed a requirement that owners and operators certify partial closures for the closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit; certification of incinerators, tanks, and container storage units could be submitted any time prior to, or at final closure. Deadlines were also proposed for submitting certifications—45 days after the completion of each partial closure, if applicable, and 30 days after final closure. Documentation supporting the certification must be furnished to the Regional Administrator upon request.

The Agency received several comments on the proposed rule to certify, as they are performed, partial closures of all units except tanks, incinerators, and container storage. Most commenters agreed that partial closures should be certified. Some supported the proposal that certification of tanks, containers, and incinerators should not be required until final closure on the grounds that this is consistent with the provisions of §§ 264.112(e) and 265.112(e), which allows an owner or operator to remove wastes or decontaminate equipment without prior notification. Moreover, unlike land disposal units, it should be easy to certify these types of units at final closure. Others, however, argued that *all* partial closures must be certified as soon as they are performed to ensure protection of human health and the environment. The Agency does not consider it necessary to certify these types of units as they are closed and, consistent with the provisions of §§ 264.112(d) and (e) and 265.112(d) and (e), the final rule does not require certification of tanks, container storage, and incinerators until final closure.

A number of commenters disagreed with the proposed deadlines for submitting certifications, arguing that no distinctions should be made between partial and final closure, and that 45 days may be too short. The Agency agrees and is amending the final rule to require certifications for partial and final closures to be submitted within 60 days of the completion of partial or final closure, as applicable.

One commenter also was concerned about the lack of a deadline for maintaining documentation supporting the independent registered professional engineer's certification. The Agency agrees and is requiring that documentation be furnished upon request to the Regional Administrator until the owner or operator is released from financial assurance requirements under §§ 264.143(i) and 265.143(h).

In the proposed rule, the Agency requested comments on three issues relating to closure certification: (1) should the regulations specify the qualifications of engineers who may certify closure; (2) what types of supporting documentation should be required for certification and should they be submitted to the Agency; and (3) should the Regional Administrator formally approve the certification.

A number of comments were submitted on these issues. Most commenters opposed specifying the type of engineer that would be qualified to certify closure, although one commenter suggested that the language in the certification should state explicitly that the engineer has the appropriate qualifications to certify closure. The Agency generally agrees with these commenters and is not specifying qualifications for engineers.

In response to the Agency's request for comments on the appropriateness of requiring that supporting documentation be submitted with the closure certification, one commenter argued that the submission of documentation was unnecessary, while another was concerned that unless the documentation was submitted, it would not be available for public review.

The Agency recognizes the concern of the commenter for ensuring that the documentation be readily available to the public for review. However, rather than requiring that all documentation be submitted, the Regional Administrator may request submission of the documentation if there is a request from the public for review or if the Regional Administrator determines that there is a need for the Agency to review it. Therefore, all interested parties will have access to documentation upon request. In addition, the Regional Administrator may request that documentation be submitted at any other time under the provisions of §§ 264.74 and 265.74.

The Agency received one comment supporting Agency approval of the certification. The Agency has considered this issue further and, in light of the burdens and costs associated with developing criteria and procedures for formally approving the certification, the Agency is not promulgating such procedures at this time. However, the Regional Administrator has the discretion under the authority of §§ 264.143(i) and 265.143(h) not to release the owner or operator from financial responsibility requirements if he has reason to believe that partial or final closure has not been in accordance with the approved closure plan.

l. *Survey plat (§§ 264.116 and 265.116).* Sections 264.119 and 265.119 required the owner or operator of a disposal facility to submit to the local zoning authority, or the authority with jurisdiction over local land use, within 90 days after closure is completed, a survey plat indicating the location and dimensions of landfill cells or other disposal areas with respect to permanently surveyed benchmarks. Because the survey plat must note the location and dimensions of each disposal area, it must be prepared prior to the completion of closure of that unit. Therefore, the Agency proposed to require that the survey plat be submitted to the appropriate local land use authority no later than the certification of closure of each hazardous waste disposal unit. The Agency also added a requirement that the plat must be prepared and certified by a professional land surveyor, to ensure that the surveyor is licensed by a State and can

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be held legally responsible for the survey work.

One commenter questioned the applicability of the survey plat requirement to injection wells. Another challenged the need to submit a plat after each partial closure, arguing that as long as the plat is submitted prior to final closure, adequate protection will be provided. Another commenter was concerned that the deadline for filing the plat was inadequate.

The Agency agrees that the survey plat requirement is not applicable to injection wells. Injection wells are not subject to the requirements of Subparts G and H and therefore are not required to comply with the survey plat provisions (see §§ 264.1(d) and 265.430(a)).

The Agency disagrees with the argument that the plat need not be filed until final closure. First, the Agency is concerned that the local land authority should have information on closed units in a timely fashion in the event that a closed portion of a facility is sold prior to final closure. Second, since the plat must be prepared prior to the completion of the partial closure, the Agency does not consider it burdensome to require it to be submitted at that time. Therefore, the Agency is promulgating §§ 264.116 and 256.116 to require that the survey plat be filed after closure of each hazardous waste disposal unit.

The Agency agrees that the proposed 45-day deadline may not always be adequate. The proposed regulation used the certification date as the deadline for submission of the survey plat. Since the certification date has been extended from 45 days to 60 days, the deadline for filing the survey plat is now within 60 days after completion of partial or final closure. No changes were required to the proposed language of §§ 264.116 and 265.116.

m. *Post-closure care and use of property (§§ 264.117 and 265.117).* Sections 264.117(a) and 265.117(a) previously required post-closure care to continue for 30 years after the date of completing closure. In addition, the regulation allowed requests to reduce or extend the period based on cause to be submitted during the post-closure care period. The previous regulations did not specify whether the period began with closure of a single unit or of the entire facility. Because of the importance of beginning post-closure monitoring and maintenance activities as soon as a hazardous waste management unit has been closed, the Agency proposed to require that the post-closure care period for each hazardous waste management unit subject to post-closure care requirements begin after the closure of each unit.

In determining when the 30-year post-closure care period should begin, the Agency proposed that the 30-year care period apply to each unit (i.e., partial closure) rather than to the entire facility to reduce the burden on an owner or operator who partially closes units prior to closure. The Regional Administrator, however, still retained the authority under the proposed §§ 264.117 and 265.117 to extend the length of the post-closure care period as necessary to protect human health and the environment. Moreover, if the Regional Administrator extended the post-closure care period for any unit during the active life of the facility (i.e., prior to receipt of certification of final closure), the post-closure cost estimate and level of financial assurance must also be adjusted.

The Agency did not receive many comments on the proposal to trigger the beginning of the 30-year post-closure care period with partial closure. Two commenters were concerned that it would be difficult to correlate monitoring results with specific units and, as a result, the 30-year period should be triggered at final closure of the facility. The Agency agrees that at some facilities it may be difficult or impossible to differentiate monitoring results for different units. Therefore, unless the owner or operator can demonstrate that separate monitoring systems are established for each unit, the Regional Administrator may decide to extend the post-closure period for that unit to be consistent with the post-closure care period for the remainder of the units. In developing the final rule, the Agency reconsidered the provisions for requesting reductions or extensions of the post-closure period. Although the Agency believes that in many cases, sufficient data may not be available prior to the beginning of the post-closure care period to support a petition to reduce or extend the period, the Agency does not wish to impose unnecessary requirements. Therefore, §§ 264.117(a)(2), 265.117(a)(2) and 264.118(g) of the final rule allow the Regional Administrator to reduce or extend the post-closure care period based on cause at any time.

n. *Post-closure plans (§§ 264.118, and 265.118).* Sections 264.118(a) and 265.118(a) required owners or operators of hazardous waste disposal facilities to have post-closure plans. In addition, under §§ 264.228(c) and 264.258(c), storage and treatment surface impoundments and waste piles that do not meet the liner design standards are required to prepare contingent closure and post-closure plans in the event that they are closed as landfill facilities.

Because the Agency was concerned that interim status impoundments and waste piles and permitted impoundments and waste piles that meet the design standard may still be required to close as landfills, the Agency proposed in §§ 264.118(b) and 265.118(a) that *these* facilities must prepare post-closure plans if they become subject to post-closure care.

One commenter noted that for interim status surface impoundments and waste piles that do not meet the liner design standard, owners or operators should be able to anticipate prior to the time of closure that they will be unable to remove all contaminated soils, and will be required to close their facilities as landfills. Under the proposed rule, such owners or operators would not be required to prepare revised closure plans or post-closure plans until the time of closure, thus delaying the closure process. This commenter suggested that the regulations require owners and operators of interim status surface impoundments and waste piles that do not meet the design standard of §§ 264.228 and 264.258 to prepare contingent closure and post-closure plans. This would be consistent with the requirements of §§ 264.228 and 264.258 applicable to permitted facilities.

The Agency agrees that it may not be possible to remove *all* contamination at interim status surface impoundments and waste piles not designed in accordance with the liner design standards of §§ 264.228 or 264.258. Requiring that such facilities revise closure plans and prepare post-closure plans would ensure that the owners or operators have adequately planned for closure of the facility as a landfill.

However, owners and operators of interim status facilities with surface impoundments or waste piles were required to make certain certifications and submissions as specified in Section 213 of the Hazardous and Solid Waste Amendments (HSWA, the "Loss of Interim Status" provision), or the facility's interim status would be terminated. Approximately two-thirds of such facilities failed to meet those requirements, and thus had their interim status terminated. Consequently, those owners and operators were required to submit their closure plans by November 23, 1985 and begin closure. The Agency expects that most of the remaining third of these land-based facilities will continue to operate and become subject to the Part 264 standards through the permitting process.

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Today's final rule specifies in §§ 265.118(a) and 264.118(a) that an owner or operator of an interim status facility with a surface impoundment or waste pile or a permitted facility with a surface impoundment or waste pile which is *not* required to prepare a contingent plan must submit a post-closure plan to the Regional Administrator for approval within 90 days of the determination that the unit must be closed as a landfill. This is consistent with the proposed rule. In addition, these facilities must submit revised closure plans in accordance with the requirements of §§ 264.112(c) and 265.112(c).

The Agency is also now clarifying in §§ 264.118(a) and 265.118(d) that owners or operators of permitted facilities must comply with all Parts 124 and 270 procedures applicable to modifying the conditions of their permit. Owners or operators of interim status facilities must submit their post-closure plans in accordance with the provisions of § 265.118(d).

The Agency also has clarified in the final rule in §§ 264.118(b) and 265.118(c) that the post-closure plan must explicitly address the post-closure care activities and the frequency of these activities applicable to each disposal unit.

o. *Post-closure notices (§§ 264.119 and 265.119).* Sections 264.119 and 265.119 previously required the owner or operator of a facility subject to post-closure care to submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Regional Administrator a record of the wastes disposed of within each cell or area of a land disposal facility within 90 days after final closure. Sections 264.120 and 265.120 required that a notation be filed on the deed to the property indicating its use as a disposal facility and indicating that the plat and record of wastes had been filed with the appropriate local land use authority.

The Agency proposed to (1) extend the requirements to partial closure activities; and (2) require owners or operators to request permission from the Regional Administrator if they wish to remove hazardous wastes during the post-closure care period and to remove the notice from the deed.

The Agency considers the deed notation to be an important means of ensuring that prospective and subsequent owners of the property are informed of the presence of hazardous wastes, the existence of federal restrictions on land use, and the availability of the survey plat and waste record from the local land use authority. Therefore, the Agency proposed to require that no later than 60 days after the certification of closure of each hazardous waste disposal unit, the owner or operator record the notation on the deed and submit to the Regional Administrator both the certification stating that the notation has been recorded and a copy of the recorded document. Consistent with this requirement, the Agency proposed that the record of waste also be filed with the local land authority and the Regional Administrator within 60 days after closure of each hazardous waste disposal unit.

A number of comments were received on the deadlines for submitting the record of waste to the local land authority and for filing the notices in the deed. Suggestions included: submitting notices and the record of wastes to the local land authority at final closure only; filing the notice in the deed after the first partial closure and verifying its accuracy at final closure; and filing a notice in the deed prior to transfer of ownership. One commenter expressed concern, that, in many jurisdictions, filing a notice in the deed after each partial closure may be especially burdensome because of the need to transact a dummy "sale" as a condition of filing a deed notation.

The Agency disagrees that submitting the record of hazardous waste to the local land authority and Regional Administrator within 60 days after each partial closure of a hazardous waste disposal unit would be burdensome. Under §§ 264.73 and 265.73, an owner or operator must record, as it becomes available, and maintain in the facility operating record information on the types and quantities of hazardous wastes handled at the facility and the location of hazardous waste within each disposal area. Therefore, the owner or operator would simply be required to submit a copy of readily available records to the local land authority and the Regional Administrator. In light of these considerations, the final rule retains the requirement that within 60 days after the certification of closure of each hazardous waste disposal unit the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Regional Administrator, a record of the type, location, and quantity of hazardous wastes disposed of within that disposal cell or unit.

The Agency agrees with those commenters who argued that filing a notice in the deed after closure of each hazardous waste disposal unit could impose significant burdens, especially if "dummy" sales were required, and would not be necessary to ensure that future purchasers of the land were aware of the land's prior uses. Filing a notice after the first partial closure of a hazardous waste disposal unit and verification of the accuracy of the notice after closure of the last disposal unit should adequately alert all future owners of the land's prior use. Therefore §§ 264.119(b) and 265.119(b) are revised to require that the notice in the deed, as well as the certification to Regional Administrator that the notice has been filed, be filed within 60 days after certification of closure of the first hazardous waste disposal unit. Sixty days after closure of the last disposal unit, the deed and notice to the local land authority must be amended, as necessary. It should be noted that these post-closure notice requirements do not affect the partial closure certification requirements of §§264.115 and 265.115; all partial closures of hazardous waste disposal units must be certified as they are performed.

Section 264.120(b) previously provided that if the owner or operator of a hazardous waste facility subsequently removed all hazardous wastes and waste residues, the liner (if any), and all contaminated underlying and surrounding soils, he could either remove the deed notation required by § 264.120(a), or add a notation indicating that the hazardous wastes have been removed. No similar provisions were allowed for interim status facilities.

The Agency proposed in § 264.119(c) that an owner or operator of a permitted facility must request a modification to the post-closure permit in accordance with Part 270 requirements prior to removing hazardous wastes. For interim status facilities, the proposed language of § 265.119(c) specified that if an owner or operator wishes to remove hazardous wastes, he must request the approval of the Regional Administrator prior to the removal of the hazardous wastes to amend the approved post-closure plan. In addition, the owner or operator must demonstrate compliance with the criteria in §§ 264.117(c) and 265.117(c) for post-closure use of property. Moreover, because the owner or operator would be conducting hazardous waste management activities, he must comply with all applicable generator requirements and with all post-closure permit conditions, if applicable.

One commenter suggested that a subsequent owner or operator who wishes to remove hazardous wastes should notify the previous owner or operator as well as the generators of the wastes in order to alert them of activities of the facility which could subsequently result in future Superfund

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liabilities. The Agency has refrained from adopting this approach because it is not relevant to the standards in Section 3004 of RCRA of protecting human health and the environment.

Finally, the proposed rule required the owner or operator to seek Regional Administrator approval before deleting the deed notation or placing a new notation in the deed regarding removal of the wastes. One commenter argued that this requirement could delay future sales of TSDFs. Because the Agency wishes to ensure that all hazardous wastes have been adequately removed prior to removal of the notice to the deed, the Agency is promulgating the rule as proposed.

In the preamble to the proposed rule, the Agency requested comments on notifying parties with rights-of-way on property used to dispose of hazardous wastes of its prior use. One commenter suggested that TSDF owners or operators should be responsible for notifying such parties, including parties with subsurface rights. While the Agency agrees that it is important to ensure that all interested parties are aware of the prior uses of land used to dispose of hazardous wastes, it does not want to impose unnecessary burdens on owners or operators. The Agency therefore investigated whether state laws currently requires notice to the holders of rights-of-way, easements, or subsurface rights of changes to the land by the owner that could affect their interests or safety.

It appears that in most States there is no duty to inform, but there is a duty not to take actions that render the exercise of the right unreasonable or burdensome. Private rules of property and tort, however, will vary concerning notice. In addition, it is likely that the facility will be subject to security measures as specified by §§ 264.117(b) and §§ 265.117(b) and that these security measures will provide notice to parties who have rights-of-way on land used to dispose of hazardous wastes or subsurface rights on the land. Therefore, the Agency is continuing to analyze options for ensuring that all parties are provided adequate notice of hazardous waste disposal activities. This does not, however, relieve the owner or operator of potential liabilities with respect to such parties.

p. *Certification of completion of post-closure care (§§ 264.120 and 265.120).* The previous regulations did not require that the owner or operator certify that post-closure care activities have been conducted in accordance with the approved post-closure plan. Because of the importance of ensuring that post-closure care has been conducted properly prior to releasing the owner or operator from these obligations (including post-closure care financial responsibility), the Agency proposed that an owner or operator submit to the Regional Administrator within 30 days after completing the established post-closure care period for each disposal unit, a certification signed by him stating that all post-closure care activities have been conducted in accordance with the approved post-closure plan. The Agency also requested comments on the desirability of requiring post-closure certifications on an annual or periodic basis (e.g., every five years) rather than only at the end of the 30-year post-closure care period.

Some commenters questioned the need for any post-closure care certification, arguing that the information provided would duplicate data already available to the Agency (e.g., monitoring results Agency inspection reports). Most of the commenters focused on the appropriate frequency of these certifications. Suggestions included: once at the end of the post-closure care period associated with each unit; every five years; and annually. One commenter requested that an extension to the 30-day period for submitting certifications be provided. Finally, it was suggested that the certification be performed by an independent registered professional engineer consistent with the closure certification.

The Agency remains convinced that certification of post-closure care is necessary both to ensure that the post-closure care activities are conducted in accordance with the approved plan, and to trigger the release of the owner or operator from financial assurance obligations under §§ 264.145(i) and 265.145(h). The Agency agrees with some commenters that annual or periodic certifications may not be necessary and thus is requiring that the the certification be submitted at the end of the post-closure care period of each unit. The Agency is also extending the deadline for submitting the certification to 60 days after the completion of the established post-closure care period for each unit. In developing the final rule, the Agency made two other changes to the proposed rule. First, the Agency added a requirement that the certification be submitted by registered mail, to ensure that a dated record of the submission is available. This requirement is consistent with the closure certification which must be submitted by registered mail. Second, the Agency is convinced that an independent registered professional engineer should also certify the completion of the post-closure care period. This requirement would parallel the closure certification requirement in §§ 264.115 and 265.115. Therefore, §§ 264.120 and 265.120 require that an owner or operator submit a certification prepared by himself and an independent professional engineer stating that the post-closure care activities have been conducted in accordance with the approved post-closure plan.

2. Financial Assurance Requirements (Subpart H)

a. *Cost estimates for closure and post-closure care (§§ 264.142(a), 264.144(a), 265.142(a) and 265.144(a)).* The previous provisions in §§ 264.142(a), 264.144(a), 265.142(a) and 265.144(a) required owners or operators to prepare written estimates of the costs of closure and post-closure care. The previous regulations did not specify the level of detail and did not indicate whether cost estimates should be based on the cost to the owner or operator of supplying his own labor and equipment (first-party costs) or the cost of hiring contractor labor and renting equipment (third-party costs). The previous regulations also did not address whether credit for salvage value from hazardous waste equipment and the like would be credited toward the cost estimate.

In developing the final rules, the Agency has been made aware of confusion over the level of detail required in the cost estimates. The previous regulations stated that the owner or operator must prepare a written cost estimate but did not specify the level of detail. As a result, some have argued that a bottom line estimate should be sufficient. Because the cost estimates are based directly upon the closure and post-closure plans and serve as the basis for financial assurance, the cost estimates must contain sufficient detail to allow them to be evaluated. The Agency expects the detailed cost estimates to support the detailed activities described in the closure and post-closure plans. The Agency is today amending §§ 264.142(a), 265.142(a), 264.144(a), and 265.144(a) to clarify that a detailed cost estimate is required.

In the March 19, 1985 proposed rule, the Agency specified that closure and post-closure cost estimates be based on the costs to the owner or operator of hiring a third party to perform closure or post-closure care activities. The Agency reasoned that use of third-party costs would ensure that if an owner or operator failed to conduct closure or post-closure care, adequate funds would be available to hire a third party to do so. The Agency also proposed to specify explicitly that salvage value may not be

incorporated into the closure cost estimate.

A number of commenters supported the Agency's proposal to require third-party costs. Other commenters opposed the proposed change on three separate grounds: use of third-party costs will increase the cost estimates considerably; cost estimates generated by a third party will not be as accurate as estimates prepared by the owner or operator; and third-party costs will be difficult to generate due to the limited number of contractors available. It also was argued that parties using the financial test should not be required to use third-party costs.

The Agency firmly believes that the cost estimates must be based on third-party costs to ensure that adequate funds are available to cover the costs of closure and post-closure care in the event that the owner or operator fails to cover the costs. The Agency recognizes, however, that in some cases, using third-party costs could increase the size of the estimate. This is especially likely with respect to the costs of on-site vs. off-site disposal of hazardous wastes. Because the objective is to ensure that sufficient funds are available to cover the costs of closure if the owner or operator fails to do so, the Agency will allow the cost estimate to incorporate the costs of on-site disposal of hazardous wastes by a third party if the owner or operator can demonstrate that on-site capacity will always be available over the life of the facility. This will minimize the additional costs of a third-party requirement. Aside from these on-site vs. off-site disposal costs, basing the cost estimate on first or third-party costs will not make much difference for land disposal units. The cost estimates will be similar because many of the activities required for closure will be done by a third party whether or not the cost estimate is first or third-party based. For example, firms may not have the expertise to place a final cover on a landfill themselves or they may not wish to do so because the company selling the materials for the cover normally will not guarantee its impermeability unless it (or its authorized representative) installs it. Certification costs will also be similar whether the cost estimate is based on first or third-party costs as EPA requires that an independent registered professional engineer must certify closure.

The Agency does not agree with commenters who argued that contractor estimates will not be as accurate as estimates made by the owner or operator or that it will be difficult to develop third-party cost estimates because of a lack of contractors. The proposed rule did not require that the cost estimate be prepared by a contractor, but rather required that the cost estimate incorporate the costs incurred if a contractor performed the work. Therefore, the owner or operator may develop the cost estimate using costs estimating manuals or personal experience (e.g., prices charged for off-site management of hazardous wastes). Furthermore, the Agency has found, in developing cost estimates for closure and post-closure care, that standard cost estimating manuals as well as information from contractors are readily available to develop third-party estimates. The Agency believes, therefore, that cost estimates based on third-party costs will be *more* accurate as general information exists on contractor costs which does not exist for first-party costs.

The Agency also remains convinced that eligibility to use the financial test as demonstration of financial assurance should be based on third-party costs. First, the third-party cost estimates are likely to be more accurate than those based on first-party costs. Second, the financial test is intended to ensure that an owner or operator who passes the test has the financial capability to establish one of the alternative forms of assurance should he later fail the test. The criteria of the test that are dependent on the size of the cost estimates are intended to provide an adequate margin of safety so that the alternative mechanisms can be established before any potential insolvency occurs. Because the other forms of financial assurance will be based on third-party costs, the multiples must also be based on third-party costs.

In light of these considerations, the Agency is promulgating a third-party cost estimate requirement in today's final rule. The final rule specifies explicitly that the cost estimate may incorporate the costs of on-site disposal of hazardous wastes by a third party if the owner or operator can demonstrate that capacity will always be available over the life of the facility.

The final rule adds a definition of a third party to Subpart H. For purposes of Subpart H, §§ 264.142(a)(2), 264.144(a)(1), 265.142(a)(2) and 265.144(a)(1) state that a third party is a party who is neither a parent nor a subsidiary of the owner or operator.

On the issue of salvage value, the Agency proposed to disallow salvage value as a credit when calculating cost estimates on the grounds that the Agency cannot be assured that the hazardous wastes will be saleable or that a third party will take them at no charge at closure. One commenter supported the proposal while one argued that salvage value should be allowed if brokers or dealers for used equipment can be identified. The Agency still is convinced that allowing salvage value to be credited towards the cost estimate is inconsistent with the goal of ensuring that adequate funds are available in the event that the owner or operator fails to cover the costs. As a result, in the final rule, §§ 264.142(a)(3) and 265.142(a)(3) prohibit the incorporation of salvage value in the closure cost estimates.

In addition to disallowing a credit for salvage value for hazardous wastes, the Agency also is specifying explicitly in the final rule that an owner or operator cannot assume that at closure a third party will take hazardous wastes at no charge. Consistent with the arguments above, the Agency cannot be assured that if an owner or operator fails to close the facility, a third-party would take the hazardous waste at no charge. To avoid potential ambiguities in the regulatory language, the Agency is explicitly stating in §§ 264.142(a)(4) and 265.142(a)(4) that an owner or operator may not incorporate in the closure cost estimate a zero cost for handling hazardous wastes with potential value.

b. *Anniversary date for updating cost estimates for inflation (§§ 264.142(b), 264.144(b), 265.142(b) and 265.144(b)).* The previous regulations required owners or operators to update their closure and post-closure cost estimates for inflation within 30 days after the anniversary of the date that the first cost estimates were prepared. To ensure that the financial assurance instrument accounts for the most recent cost estimate (including updates to inflation), the Agency proposed to require owners or operators to revise their cost estimates within 60 days *prior* to the anniversary date of the establishment of their financial assurance instrument. For firms using the financial test, the cost estimate should be updated within 30 days of the end of the firm's fiscal year and before submission of updated information to the Regional Administrator as specified in §§ 264.143(f)(3) and 265.143(e)(3).

Most commenters supported the proposal to update the cost estimates prior to the anniversary date of the establishment of the financial instrument and, as a result, the Agency is promulgating the rule as proposed.

The Agency also proposed in the March 19, 1985 promulgation to allow owners or operators the option of recalculating the cost estimates based on current costs as an alternative to

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using the Implicit Price Deflator for GNP published in the *Survey of Current Business*. In addition, the Agency proposed to require that owners or operators use the most recently published annual Implicit Price Deflator in order to reflect the most recent inflation.

One commenter suggested that owners or operators be *required* to recalculate annually the cost estimate based on current costs on the grounds that the Implicit Price Deflator will not account for increases in costs due to reasons other than inflation (e.g., increases in costs of landfilling). While the Agency agrees that requiring owners or operators to recalculate the cost estimate annually based on current costs may result in the most accurate estimate, the Agency recognizes that this could impose a significant burden on owners or operators and would not always be necessary. Therefore, the Agency is promulgating the rule as proposed.

c. *Revisions to the cost estimates (§§ 264.142(c), 264.144(c), 265.142(c) and 265.144(c)).* The previous regulations required the owner or operator to revise the closure and post-closure cost estimates during the operating life of the facility whenever a change in the plans increases the costs of closure or post-closure care. No deadlines were imposed for revising the estimates.

The Agency proposed to require that owners or operators with approved plans adjust their cost estimates within 30 days after the Regional Administrator has approved the modification if the change increases the costs of closure or post-closure care. For interim status facilities without approved closure or post-closure plans, the adjustment must be made within 30 days of the change in the plans if the change increases the cost estimates. Section 264.142(c) of the proposed regulations inadvertently required that the revision be made if the change in the closure plan *affects* the cost of closure. The final rule has been revised to correct this inconsistency. It now reads as it did originally, that the revision is required if the change in the closure plan *increases* the cost of closure.

d. *Post-closure cost estimates (§§ 264.144(c) and 265.144(c)).* Sections 264.144(c) and 265.144(c) previously required the owner or operator to revise the post-closure cost estimates during the operating life of the facility whenever a change in the post-closure plan increased the cost of post-closure care. The previous rules did not define operating life.

The Agency intended that post-closure financial assurance be adjusted as necessary until the facility was closed. Consistent with the new definition of active life, the Agency proposed to require that the post-closure cost estimate be revised as necessary during the active life of the facility. The Agency received no comments to this proposed change and is promulgating §§ 264.144(c) and 265.144(c) as proposed.

e. *Trust fund pay-in period (§§ 264.143(a)(3) and 265.143(a)(3)).* The existing language of § 264.143(a)(3) requires the payments to the trust fund to be made over the term of the initial permit or over the remaining life of the facility, whichever is shorter. For interim status facilities, the pay-in period is 20 years or the remaining operating life of the facility, whichever is shorter. Although the trust fund may cover a number of units with different operating lives, the current regulation ties the pay-in period to the life of the facility rather than to particular units. In the March 19, 1985 proposal, the Agency requested comments on approaches to handling the trust fund pay-in period for multiple process facilities.

Some commenters argued that the pay-in period should be based on the shortest operating life of any unit at a multiple process facility; others suggested retaining the existing requirements. One commenter recommended that, within three years, the trust fund should contain enough funds to close the unit likely to incur the highest closure costs.

As discussed in the preamble to the January 12, 1981 Subpart H regulations, the Agency allowed a 20-year pay-in period to minimize the potential adverse economic impacts on smaller firms most likely to be using trust funds (See 46 *FR* 2823). The Agency is concerned that if the trust fund pay-in period is based on the shortest operating life of a unit of the facility, owners or operators intending to partially close facilities in the near future would face very high costs. For example, if an owner or operator closed a landfill cell after one year rather than at the end of the facility's operating life, he would be required to fully fund the trust fund much earlier than originally intended. Moreover, the Agency is concerned that such an accelerated pay-in period could discourage owners or operators from partially closing their facilities. Therefore, the Agency intends to examine further such questions as the cost effects and enforcement implications of changing the trust fund pay-in period for such facilities before proposing any changes to the current requirements.

f. *Reimbursement for closure and post-closure expenditures from trust fund and insurance (§§ 264.143(a)(10), 264.143(e)(5), 264.145(a)(11), 264.145(e)(5), 265.143(a)(10), 265.143(d)(5), 265.145(a)(11) and 265.145(d)(5)).* The previous closure/post-closure trust fund and insurance provisions allowed an owner or operator, or any other person authorized to conduct closure or post-closure care, to request reimbursement for expenditures from the trust fund or insurance policy by submitting itemized bills to the Regional Administrator. Within 60 days, the Regional Administrator would instruct the trustee or insurer to make reimbursements, if he determined that the activities were in accordance with the approved plans or were otherwise justified. The Regional Administrator could withhold reimbursements if he determined that the total costs of closure would exceed the value of the trust or insurance policy.

In response to a concern from the *ACCI* petitioners that a decision to withhold reimbursements should be supported by a written explanation that can serve as a record for review, the proposed rule required the Regional Administrator to provide a detailed written statement of reasons to the owner or operator if he does not instruct the trustee or insurer to make requested reimbursements. The proposed rule also specified provisions for handling reimbursements for partial closure activities. Under the proposed rule, an owner or operator could be reimbursed for partial closure activities if the partial closure reduced the maximum extent of operation of the facility and the Regional Administrator found that the activities had been in accordance with the approved plan or were otherwise justified.

Commenters generally supported the proposal to require a detailed written statement of reasons why the Regional Administrator was withholding reimbursement. A few commenters were concerned that the Regional Administrator should not be allowed to withhold reimbursements for minor violations of the closure or post-closure plan and/or permit requirements. Other commenters argued that the Regional Administrator should not be allowed to withhold more than 20 percent of the funds, and that reimbursements should be automatic unless, within a specified time, the Regional Administrator provides a statement of reasons for refusing the reimbursements.

It was also suggested that reimbursements for partial closures should be allowed if there are adequate funds remaining in the trust fund or insurance policy to cover the maximum

costs of closing the facility over its remaining life.

The Agency agrees with commenters that the regulations should not preclude reimbursements for minor paperwork violations. The Agency believes, however, that the proposed regulatory language provides the necessary flexibility to the Regional Administrator by allowing reimbursements if the activities are in accordance with the approved plan, or if the activities are otherwise justified. Therefore, the final rule specifies that an owner or operator is eligible for reimbursements if the activities have been performed in accordance with the approved plans or are otherwise justified. As discussed below, reimbursements will be made only if sufficient funds are remaining in the trust fund or insurance policy.

The Agency does not agree that the Regional Administrator should be allowed to withhold only up to 20 percent of the value of the trust fund or insurance policy. As discussed in the preamble to the April 7, 1982 rules, (See 47 *FR* 15040), the Agency is concerned that in some instances where the cost estimate is found to be seriously inadequate, more than 20 percent should be held in reserve. The Agency also disagrees with the suggestion that reimbursements should be made automatically if the Regional Administrator does not act upon the request within a specified length of time. Because of the complexity of certain closure activities and the importance of ensuring that the activities protect human health and the environment, the Agency considers it inappropriate to establish such deadlines. Therefore, the Agency is promulgating the rule substantially as proposed.

The Agency is making a clarifying change to the language in the final rule. The proposed rule allowed reimbursements if partial closure reduced the maximum extent of operation. In developing the final rule for reimbursement provisions, the Agency considered it more appropriate to examine the amount of funds remaining in the fund than the maximum extent of operation. As a result, the final rule specifies that an owner or operator may request reimbursements only if sufficient funds, exclusive of future inflation adjustments, are remaining in the trust fund or insurance policy to cover the maximum costs of closing the facility at any time over its remaining life.

g. *Final administrative order required (§§264.143(b)(4)(ii), 264.145(b)(4)(ii), 265.143(b)(4)(ii) and 265.145(b)(4)(ii)).* The previous regulations provided that an owner or operator may satisfy the financial assurance requirements for closure and/or post-closure care by obtaining a financial guarantee surety bond. The bond provides that if the owner or operator fails to fund a standby trust fund in an amount equal to the penal sum of the bond within 15 days after an order to begin closure or post-closure care is issued by the Regional Administrator or by a court, the surety will become liable. In response to the *ACCI* petitioners, the Agency proposed to provide additional procedural protections to owners or operators by requiring that a *final* administrative order is necessary before action can be required by the surety. EPA wishes to emphasize that only final *administrative* action, not judicial review, is required in all these cases.

No comments were received concerning this amendment, and the Agency is promulgating the rule as proposed.

h. *Final administrative determination required (§§ 264.143(c)(5) and (d)(8), 264.145(c)(5) and (d)(9), 265.143(c)(8), 265.145(b)(5) and 265.145(c)(9)).* The Part 264 regulations provide that an owner or operator may demonstrate financial assurance for closure and/or post-closure care by obtaining a surety bond guaranteeing performance. Under Parts 264 and 265, an owner or operator also could satisfy the financial assurance requirements by obtaining a letter of credit. Under the terms of the performance bond and letter of credit, the surety or bank issuing the letter of credit would become liable on the bond or letter of credit obligation when the owner or operator fails to perform closure or post-closure care as guaranteed by the bond or letter of credit. The previous regulations provided that such a failure was indicated by a determination made pursuant to Section 3008 of RCRA that the owner or operator has failed to perform final closure or post-closure care in accordance with the closure or post-closure plan and other applicable requirements. In response to concerns of the *ACCI* petitioners, the Agency proposed to require that a "final" administrative determination under Section 3008 of RCRA be required before the surety must perform closure or post-closure care or deposit the penal sum of the bond into a trust fund or the Regional Administrator may draw on a letter of credit.

No comments were received concerning this amendment. However, as explained above, the final rule specifies that the determination must be a final determination.

i. *Cost estimates for owners or operators using the financial test or corporate guarantee must include UIC cost estimates for Class I wells (§§ 264.143(f)(1)(i) (B) and (D) and (f)(1)(ii) (B) and (D), 264.145(f)(1)(i) (B) and (D) and (f)(1)(ii) (B) and (D), 265.143(e)(1)(i) (B) and (D) and (e)(1)(ii) (B) and (D), 265.145(e)(1)(i) (B) and (D), and 265.145(e)(1)(ii) (B) and (D)).* On March 19, 1985, the Agency proposed a requirement that an owner or operator seeking to use the financial test to demonstrate financial responsibility must include the most current cost estimates of the plugging and abandonment costs of Class I underground injection control (UIC) facilities, if applicable, when calculating the sum of closure and post-closure cost estimates for the financial test. EPA has established in 40 CFR Part 144 financial responsibility requirements for the owners or operators of Class I UIC facilities paralleling those established in 40 CFR Parts 264 and 265, including the same set of criteria for passing the financial test. Neither the UIC financial test nor the RCRA financial test, however, currently requires inclusion of the most current cost estimates for the other program. EPA was concerned that a firm able to pass the UIC and RCRA financial tests separately might not have the financial strength to take the required actions if UIC plugging and abandonment and RCRA closure and/or post-closure care activities were required simultaneously. Therefore, the Agency proposed that the most current cost estimates prepared as part of the Part 144 requirements be included in the total cost estimate required under 40 CFR Subpart H to evaluate whether a firm is able to pass the financial test.

Commenters generally favored the inclusion of UIC plugging and abandonment cost estimates in the Subpart H financial test requirements, and the Agency is promulgating the rule as proposed. In addition, the Agency is promulgating the proposed language in §§ 264.141 and 265.141 which defines the "current plugging and abandonment cost estimate" as the most recent cost estimates prepared under § 144.62.

j. *Cost estimates must account for all facilities covered by the financial test and corporate guarantee (§§ 264.143(f)(2), 264.145(f)(2), 265.143(e)(2) and 265.145(e)(2)).* The previous regulations specified that the phrase "current closure and post-closure cost estimates" as used in paragraph (f)(1) of §§ 264.143 and 264.145, and paragraph (e)(1) of §§ 265.143 and 265.145, refers to the cost estimates required to be shown in paragraphs 1–4 of the letter from the owner's or operator's chief financial officer (*See*

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§ 264.151(f)). The Agency proposed a minor change to include by reference the UIC cost estimates.

No comments were received concerning this proposal, and the Agency is adopting the rule as proposed.

K. Release of the owner or operator from the requirements of financial assurance for closure and post-closure care (§§ 265.143(i), 264.145(i), 265.143(h) and 265.145(h)). Previously, §§ 265.143(i) and 265.143(h) required the owner or operator to submit certification to the Regional Administrator from himself and from an independent registered professional engineer that closure had been accomplished in accordance with the closure plan. Within 60 days after receiving the certifications, unless the Regional Administrator had reason to believe that closure was not in accordance with the plan, the Regional Administrator was required to notify the owner or operator that he is no longer required to maintain financial assurance for closure. Sections 264.145(i) and 265.145(h) specified that the owner or operator was relieved of his post-closure financial assurance obligations when the owner or operator has completed, to the satisfaction of the Regional Administrator, all post-closure care requirements.

The Agency proposed to drop the reference to the "independent" registered professional engineer in §§ 264.143(i) and 265.143(h) to be consistent with the proposed changes to §§ 264.115 and 265.115. The proposed rule also added a requirement to §§ 264.143(i), 264.145(i), 265.143(h), and 265.145(h) that the Regional Administrator must provide the owner or operator with a detailed written statement of any reasons to believe that closure or post-closure care has not been in accordance with the approved plans.

For the same reasons that the final rule is retaining the independent registered professional engineer certification requirement, the final rule also retains the reference to the independant registered professional engineer in §§ 264.143(i) and 265.143(h). Similarly, because the final rule requires in §§ 264.120 and 265.120 that an owner or operator must submit a certification from himself and an independent registered professional engineer that post-closure care has been completed in accordance with the approved post-closure plan, §§ 264.145(i) and §§ 265.145(h) are revised to specify that within 60 days after receiving the required post-closure care certifications the Regional Administrator will notify the owner or operator in writing that he is no longer required to maintain financial assurance for post-closure care for that unit (or facility). Today's rule promulgates as proposed the requirement that the Regional Administrator must provide the owner or operator with a detailed written statement of any reasons to believe that closure or post-closure care has not been in accordance with the approved plans.

l. Period of liability coverage (§§ 264.147(e) and 265.147(e)). The regulations previously required owners or operators to provide sudden accidental and, if applicable, nonsudden accidental liability coverage until certifications of closure have been received by the Regional Administrator. Because the Agency proposed to require that partial closures of disposal units be certified, units within a facility may be closed and certified while other units continue to operate. The Agency does not consider it appropriate to alter the amount of financial assurance required for sudden or nonsudden liability coverage as a result of such partial closures. Therefore, the proposed rule clarified that an owner or operator must provide liability coverage continuously as required until the certification of *final* closure is received by the Regional Administrator.

The Agency also believes that release from liability coverage requirements should be consistent with the procedures for releasing the owner or operator from closure financial responsibility requirements under §§ 264.143(i) and 265.143(h). Therefore, today's final rule states that owners or operators must maintain liability coverage until the Regional Administrator notifies the owner or operator in writing that he is released from this obligation.

m. Wording of instruments (§ 264.151). On March 19, 1985 the Agency proposed two changes to the wording of the instruments allowed under §§ 264.143, 264.145, 265.143, and 265.145. These changes, intended to ensure consistency with the other amendments in the proposal, modified § 264.151(b) to provide that the surety is responsible for funding the standby trust fund within 15 days after a "final" order to begin closure has been issued, and modified § 264.151(f) by adding an additional paragraph requiring owners and operators using the financial test to list the most current cost estimates associated with their Class I UIC facilities under the Part 144 financial responsibility requirements.

Because some owners or operators may use the financial test to cover closure and post-closure costs as well as liability coverage, the final rule adds a parallel paragraph to § 264.151(f), new paragraph (g), to require these owners or operators to list cost estimates associated with their Class I UIC facilities under the Part 144 final responsibility requirements.

Those firms with surety bonds or letters from the chief financial officer issued before the effective date of these regulations must change those instruments to reflect these wording changes as §§ 264.143, 265.143, 264.145 and 265.145 require that the wording of these instruments be identical to the applicable wording in §264.151. For owners or operators using surety bonds, the wording changes must be made within 60 days prior to the anniversary date of the establishment of the financial instrument(s), as per §§ 264.142(b), 265.142(b), 264.144(b) and 265.144(b). For owners or operators using the financial test or corporate guarantee, the changes must be made within 30 days after the close of the firm's fiscal year and before submission of updated information to the Regional Administrator, as specified in §§ 264.142(f), 265.142(e), 264.145(f), and 265.145(e).

C. Interim Status Standards (Part 265)

1. Applicability of Requirements (§ 265.110(b))

Section 265.110(b) specified that the post-closure care regulations apply to all hazardous waste disposal facilities. Surface impoundments and waste piles that are unable to remove all hazardous wastes are required under §§ 265.228 and 265.258 to be closed as landfills and must comply with the post-closure care requirements. Therefore, in order to clarify the applicability of §§ 265.117–265.120, the Agency proposed in § 265.110(b) that the post-closure care requirements apply to the owners or operators of all hazardous waste disposal facilities and piles and surface impoundments for which the owner or operator intends to remove the wastes at closure but is required to close the facility as a landfill.

The Agency received no comments on this clarification and is promulgating the final rule as proposed.

2. Waste Pile Closure Requirements Included by Reference in the Closure Performance Standard (§ 265.111(c))

Section 265.112(a)(1) previously required the closure plan to include a description of how and when the facility will be partially closed, if applicable, and finally closed. The description must specify how the applicable requirements of the closure performance standard specified in § 265.111 and the process-specific standards in Subparts J through Q will be met. The Agency proposed to incorporate the technical standards in the process-specific regulations into the closure performance standard in § 265.111 and to revise § 265.111 to include a reference to § 265.258, which establishes closure requirements for waste piles. Closure requirements specific to waste pile facilities had not been promulgated prior to the promulgation of the Subpart G regulations, and thus were not previously referenced.

No comments were received concerning this proposal, and the Agency is adopting the rule as proposed.

3. Submission of Interim Status Closure and Post-Closure Plans (§§ 265.112(d), 265.118(e))

Sections 265.112(c) and 265.118(c) required owners or operators to submit their closure and post-closure plans 180 days prior to final closure. The proposed amendment specified that owners or operators of facilities with a landfill, surface impoundment, waste pile, or land treatment unit must submit their closure and post-closure plans for review and approval 180 days prior to the first partial closure. Facilities with only container storage, storage or treatment tanks, or incinerators must submit the closure plan 45 days prior to final closure. After the closure plan has been approved, the owner or operator is required to notify the Regional Administrator prior to all partial closures of landfills, surface impoundments, waste piles, and land treatment units and prior to final closure. Unless changes are made to the approved closure plan, however, the proposed rule did not require the owner or operator to seek reapproval of the closure plan for each subsequent partial closure or final closure.

Some commenters suggested that owners or operators be required to submit only that portion of the closure plan applicable to the unit being closed. The Agency disagrees with this suggestion. All owners or operators of interim status facilities were required to have their plans available on-site by May 19, 1981. Therefore, no additional burden is imposed on the owner or operator by requiring that the entire plan be submitted.

The Agency believes that it is necessary that the entire plan be submitted to ensure that the plans adequately address the activities required at the entire facility. Especially if the owner or operator intends to handle some of the hazardous wastes on-site, it is essential to ensure that the facility has incorporated these requirements into the closure plan. If necessary to ensure protection of human health and the environment, the Regional Administrator may approve only that portion of the plan applicable to the partial closure.

4. Written Statements by Regional Administrator of Reasons for Refusing to Approve or Reasons for Modifying Closure or Post-Closure Plan (§§ 265.112(d)(4), 265.118(f))

Sections 265.112(d) and 265.118(d) previously specified that the Regional Administrator would approve, modify, or disapprove the closure plan and, if applicable, post-closure plan within 90 days of their receipt from the owner or operator. If the Regional Administrator did not approve the plan, the owner or operator was required to modify the plan or submit a new plan for approval within 60 days. If the Regional Administrator modified the plan, this modified plan became the approved closure and post-closure plan.

In response to the contention of the *ACC/* petitioners that this provision provided the Regional Administrator with undue discretion, the Agency proposed in §§ 265.112(d) and 265.118(f) to require the Regional Administrator to provide a detailed written statement of reasons for refusing to approve or reasons for modifying a closure or post-closure plan. In addition, to be consistent with the provisions of § 265.112(d) applicable to approving the closure plan, the Agency also proposed in § 265.118(f) that the Regional Administrator will hold a public hearing on approving the post-closure plan whenever such a hearing would clarify the issues.

The commenters generally favored these proposed changes and the Agency is promulgating the rule as proposed.

D. Typographical Errors

The final rule corrects a number of typographical errors included in the proposed rule.

E. Permitting Standards (Part 270)

1. Contents of Part B: General Requirements (§§ 270.14(b) (14), (15), and (16))

Section 270.14(b)(14) specified that the Part B application must include documentation that the notice in the deed required under § 264.120 has been filed. Because many Part B applications will be filed prior to closure of a hazardous waste disposal unit, it will not be possible to include documentation indicating that the notices have been filed. Therefore, the Agency proposed to amend § 270.14(b)(14) to require documentation to be included in the Part B application only for facilities with hazardous waste disposal units closed prior to the submission of the application. In addition, because the notice in the deed requirement is now included in § 264.119, the reference in § 270.14(b)(14) to § 264.120 has also been amended.

Section 270.14(b) (15) and (16) previously specified that the Part B application must include a copy of the most recent closure and post-closure cost estimates as required by §§ 264.142 and 264.144 and documentation required to demonstrate closure and post-closure financial assurance in accordance with the requirements of §§ 264.143 and 264.145, if applicable. Sections 264.143 and 264.145 require that for new facilities, demonstration of financial assurance must be made at least 60 days prior to the initial receipt of hazardous wastes. Because an owner or operator of a new facility may submit the Part B application more than 60 days prior to the initial receipt of hazardous wastes, the Agency also proposed to amend §§ 270.14(b) (15) and (16) to specify that a copy of the demonstration of financial assurance must be included with the submission of the Part B application, or at least 60 days prior to the initial receipt of hazardous wastes, whichever is later.

The Agency received no comments on any of these proposed changes and is promulgating them as proposed.

2. Minor Modifications of Permits (§ 270.42(d))

Section 270.42(d) previously stated that a change in ownership or operational control of a facility may be considered a minor permit modification provided that the Director determines that no other change is necessary in the permit and that a written agreement has been submitted to the Director which specifies the date for transfer of permit responsibility, coverage, and liability between the current and new permittees. The Agency wishes to ensure that facilities are transferred to financially viable firms and thus proposed to require that the new owner demonstrate compliance with the Subpart H regulations within three months of the transfer of ownership. The preamble inadvertently stated that the proposed rule allowed for a six-month deadline for demonstrating financial assurance although the proposed rule referred to the requirements of § 270.72 which proposed a three-month deadline.

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Some commenters argued that a six-month time limit was too short while others argued that it was too long. Another commenter was concerned that the regulation did not state whether the old owner or operator remains responsible if the new owner or operator fails to demonstrate financial assurance within the allotted time period. Finally, one commenter noted that the reference to the deadlines in § 270.72, which address requirements for interim status facilities, is confusing for permitted facilities.

The Agency disagrees with those commenters who argued that six months is insufficient time to demonstrate financial assurance. The Agency is extending the three-month period allowed in the proposed rule to six months. EPA is also clarifying the Agency's intent that the old owner or operator is responsible for financial assurance obligations if the new owner or operator fails to meet his obligations. Finally, the final rule clarifies the language of § 270.42. The proposal included a reference in § 270.42 to the deadlines of § 270.72. Because § 270.72 refers to interim status facilities, the Agency was concerned that owners or operators may not recognize that the deadlines in § 270.72 also applied to permitted facilities under § 270.42. To avoid potential ambiguities, the final rule states explicitly in § 270.42(d) that the new owner or operator must demonstrate financial assurance within six months of the transfer of ownership.

3. Changes During Interim Status (§ 270.72(d))

Section 270.72(d) stated that when there is a transfer of ownership or operational control of an interim status facility, the old owner or operator is responsible for complying with the Subpart H requirements until the new owner or operator demonstrates compliance with the financial responsibility requirements. Consistent with the proposed changes to § 270.42(d) for permitted facilities, the Agency proposed to require that the new owner or operator demonstrate financial assurance within three months of the transfer of ownership.

For the reasons discussed above, the Agency is allowing the new owner or operator six months to demonstrate financial assurance. The old owner or operator is responsible for financial assurance until the new owner or operator fulfills his obligations under Subpart H.

III. State Authority

A. Applicability of Rules in Authorized States

Under Section 3006 of RCRA, EPA may authorize qualified States to administer and enforce the RCRA program within the State. (*See* 40 CFR Part 271 for the standards and requirements for authorization.) Following authorization, EPA retains enforcement authority under Sections 3008, 7003 and 3013 of RCRA, although authorized States have primary enforcement responsibility.

Prior to HSWA amending RCRA, a State with final authorization administered its hazardous waste program entirely in lieu of the Federal program. The Federal requirements no longer applied in the authorized State, and EPA could not issue permits for any facilities in a State where the State was authorized to permit. When new, more stringent Federal requirements were promulgated or enacted, the State was obligated to enact equivalent authority within specified time frames. New Federal requirements did not take effect in an authorized State until the State adopted the requirements as State law.

In contrast, under newly enacted Section 3006(g) of RCRA, 42 U.S.C. 6928(g), new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time that they take effect in nonauthorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of permits, until the State is granted authorization to do so. While States must still adopt HSWA-related provisions as State law to retain final authorization, the HSWA are applied in authorized States in the interim.

B. Effect on State Authorizations

Today's announcement promulgates standards that will not be effective in authorized States since the requirements will not be imposed pursuant to the HSWA. Thus, the requirements will be applicable only in those States that do not have final authorization. In authorized States, the requirements will not be applicable until the State revises its program to adopt equivalent requirements under State law.

40 CFR 271.21(e)(2) requires that States that have final authorization must revise their programs to include equivalent standards within a year of promulgation of these standards if only regulatory changes are necessary, or within two years of promulgation if statutory changes are necessary. These deadlines can be extended in exceptional cases (40 CFR 271.21(e)(3)). Once EPA approves the revision, the State requirements become Subtitle C RCRA requirements.

States with authorized RCRA programs may already have requirements similar to those in today's rule. These State requirements have not been assessed against the Federal regulations being promulgated today to determine whether they meet the tests for authorization. Thus, a State is not authorized to carry out these requirements in lieu of EPA until the State requirements are approved. Of course, States with existing standards may continue to administer and enforce their standards as a matter of State law.

States that submit official applications for final authorization less than 12 months after promulgation of these standards may be approved without including equivalent standards. However, once authorized, a State must revise its program to include equivalent standards within the time period discussed above. The process and schedule for revision of State programs is described in 40 CFR § 271.21.

It should be noted that authorized States are only required to revise their programs when EPA promulgates standards more stringent than the existing standards. Under Section 3009 of RCRA, States are allowed to impose standards which are more stringent than those in Federal program. Some of the standards promulgated today are considered to be less stringent than or reduce the scope of the previous Federal requirements. Those provisions appear in Sections: 264.112(a), 264.118(a), 265.112(a), 265.118(a), 264.112(b)(7), 264.112(e), 265.112(e), 264.113, 265.113, 264.115, 265.115, 264.143(a)(10), 264.143(e)(5), 264.145(a)(11), 264.145(e)(5), 265.143(a)(10), 265.143(d)(5), 265.145(a)(11), 265.145(d)(5), 264.143(b)(4)(ii), 264.145(b)(4)(ii), 265.143(b)(4)(ii), 265.145(b)(4)(ii), 264.143(c)(5), 264.143(d)(8), 264.145(c)(5), 264.145(d)(9), 265.143(c)(8), 265.145(c)(9), 265.112(b)(7), 264.112(d), 265.112(d), 265.118(e), and 265.118(f). Authorized States will not be required to revise their programs to adopt requirements equivalent or substantially equivalent to the provisions identified above.

IV. Executive Order 12291

This regulation was submitted to the Office of Management and Budget for review as required by Executive Order 12291. The regulatory amendments being promulgated today to Subparts G and H are not "major rules." Some of the amendments are technical corrections designed to clarify the intent of the regulations issued January 12, 1981. The changes are not likely to result in a significant increase in costs and thus are not a major rule. No Regulatory Impact analysis has been prepared.

V. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2050-0036.

VI. Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), Federal agencies must, in developing regulations, analyze their impact on small entities (small businesses, small government jurisdictions, and small organizations). Many of the changes promulgated today clarify the existing regulations and thus result in no additional costs. For those amendments that will result in an increase in costs, the costs are not significant enough to impact adversely the viability of small entities.

Accordingly, I certify that this regulation will not have a significant impact on a substantial number of small entities.

VII. Supporting Documents

A background document was prepared for the Subpart G closure and post-closure care regulations and for the financial assurance regulations promulgated on January 12, 1981. In addition, background documents were prepared for the financial assurance regulations published on April 7, 1982. Supporting materials, including a background document, discussing the most significant issues raised by the amendments promulgated today have been prepared and are included in the docket for these regulations.

The supporting materials are available for review in the public docket, Room S-212-E U.S. EPA, 401 M Street, SW., Washington, D.C. 20460 from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

EPA will prepare guidance manuals to assist owners or operators and regulatory officials and will make them available from EPA Headquarters and the Regional Offices.

VIII. Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. The purpose of this requirement is to allow sufficient lead time for the regulated community to prepare to comply with major new regulatory requirements. Section 553(d) of the Administrative Procedures Act prohibits "publication of service of a substantive rule . . . less than 30 days before its effective date except for good cause." For the amendment to § 270.14(b)(14) promulgated today, however, the Agency believes that an effective date six months or 30 days after promulgation would cause substantial and unnecessary disruption in the implementation of the regulations and would be contrary to the interest of the regulated community and the public.

Today's amendment to § 270.14(b)(14) requires that an owner or operator seeking a permit submit documentation that notices required under § 264.119 have been filed only for hazardous waste disposal units that have been closed. The previous regulations required that documentation of such notices be submitted for the entire facility, whether or not units have been closed at the time the permit application is submitted.

The Agency believes it makes little sense that the intended relief from this requirement be delayed for six months. This is especially true in light of the requirement that owners or operators of land disposal facilities submit their permit applications by November 8, 1985 (see HSWA § 213). Consequently, the Agency is setting an effective date of May 2, 1986, for the amendment to § 270.14(b)(14) promulgated in this rulemaking action.

Dated: March 8, 1986.

Approved:

Lee M. Thomas,

Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is to be amended as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

40 CFR Part 260 is amended as follows:

1. The authority citation for Part 260 continues to read as follows:

Authority: Secs. 1008, 2002(a), 3001 through 3007, 3010, 3014, 3015, 3017, 3018, 3019, and 7004, of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921 through 6927, 6930, 6934, 6935, 6937, 6938, 6939 and 6974).

Subpart B—Definitions

2. In 40 CFR Part 260 Subpart B, § 260.10 is amended by adding the following terms alphabetically to the existing list of terms:

§ 260.10 Definitions.

* * * * *

"Active life" of a facility means the period from the initial receipt of hazardous waste at the facility until the Regional Administrator receives certification of final closure.

"Final closure" means the closure of all hazardous waste management units at the facility in accordance with all applicable closure requirements so that hazardous waste management activities under Parts 264 and 265 of this Chapter are no longer conducted at the facility unless subject to the provisions in § 262.34.

"Hazardous waste management unit" is a contiguous area of land on or in which hazardous waste is placed, or the largest area in which there is significant likelihood of mixing hazardous waste constituents in the same area. Examples of hazardous waste management units include a surface impoundment, a waste pile, a land treatment area, a landfill cell, an incinerator, a tank and its associated piping and underlying containment system and a container storage area. A container alone does not constitute a unit; the unit includes containers and the land or pad upon which they are placed.

"Partial closure" means the closure of a hazardous waste management unit in accordance with the applicable closure requirements of Parts 264 and 265 of this Chapter at a facility that contains other active hazardous waste management units. For example, partial closure may include the closure of a tank (including its associated piping and underlying containment systems), landfill cell, surface impoundment, waste pile, or other hazardous waste management unit, while other units of the same facility continue to operate.

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PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

40 CFR Part 264 is amended as follows:

1. The authority citation for Part 264 continues to read as follows:

Authority: Secs. 1008, 2002(a), 3004 and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924 and 6925).

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2. 40 CFR Part 264 Subpart G, §§ 264.110–264.120 are revised to read as follows:

Subpart G—Closure and Post-Closure

Sec.
264.110 Applicability.
264.111 Closure performance standard.
264.112 Closure plan; amendment of plan.
264.113 Closure; time allowed for closure.
264.114 Disposal or decontamination of equipment, structures and soils.
264.115 Certification of closure.
264.116 Survey plat.
264.117 Post-closure care and use of property.
264.118 Post-closure plan; amendment of plan.
264.119 Post-closure notices.
264.120 Certification of completion of post-closure care.

Subpart G—Closure and Post-Closure

§ 264.110 Applicability.

Except as § 264.1 provides otherwise:

(a) Sections 264.111–264.115 (which concern closure) apply to the owners and operators of all hazardous waste management facilities; and

(b) Sections 264.116–264.120 (which concern post-closure care) apply to the owners and operators of:

(1) All hazardous waste disposal facilities; and

(2) Waste piles and surface impoundments from which the owner or operator intends to remove the wastes at closure to the extent that these sections are made applicable to such facilities in §§ 264.228 or 264.258.

§ 264.111 Closure performance standard.

The owner or operator must close the facility in a manner that:

(a) Minimizes the need for further maintenance; and

(b) Controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere; and

(c) Complies with the closure requirements of this Subpart including, but not limited to, the requirements of §§ 264.178, 264.197, 264.228, 264.258, 264.280, 264.310 and 264.351.

§ 264.112 Closure plan; amendment of plan.

(a) *Written plan.* (1) The owner or operator of a hazardous waste management facility must have a written closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the hazardous waste at partial or final closure are required by §§ 264.228(c)(1)(i) and 264.258(c)(1)(i) to have contingent closure plans. The plan must be submitted with the permit application, in accordance with § 270.14(b)(13) of this Chapter, and approved by the Regional Administrator as part of the permit issuance procedures under Part 124 of this Chapter. In accordance with § 270.32 of this Chapter, the approved closure plan will become a condition of any RCRA permit.

(2) The Regional Administrator's approval of the plan must ensure that the approved closure plan is consistent with §§ 264.111–264.115 and the applicable requirements of §§ 264.90 *et seq.*, 264.178, 264.197, 264.228, 264.258, 264.280, 264.310, and 264.351. Until final closure is completed and certified in accordance with § 264.115, a copy of the approved plan and all approved revisions must be furnished to the Regional Administrator upon request, including request by mail.

(b) *Content of plan.* The plan must identify steps necessary to perform partial and/or final closure of the facility at any point during its active life. The closure plan must include, at least:

(1) A description of how each hazardous waste management unit at the facility will be closed in accordance with § 264.111;

(2) A description of how final closure of the facility will be conducted in accordance with § 264.111. The description must identify the maximum extent of the operations which will be unclosed during the active life of the facility; and

(3) An estimate of the maximum inventory of hazardous wastes ever on-site over the active life of the facility and a detailed description of the methods to be used during partial closures and final closure, including, but not limited to, methods for removing, transporting, treating, storing, or disposing of all hazardous wastes, and identification of the type(s) of the off-site hazardous waste management units to be used, if applicable; and

(4) A detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure, including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination required to satisfy the closure performance standard; and

(5) A detailed description of other activities necessary during the closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, ground-water monitoring, leachate collection, and run-on and run-off control; and

(6) A schedule for closure of each hazardous waste management unit and for final closure of the facility. The schedule must include, at a minimum, the total time required to close each hazardous waste management unit and the time required for intervening closure activities which will allow tracking of the progress of partial and final closure. (For example, in the case of a landfill unit, estimates of the time required to treat or dispose of all hazardous waste inventory and of the time required to place a final cover must be included.)

(7) For facilities that use trust funds to establish financial assurance under §§ 264.143 or 264.145 and that are expected to close prior to the expiration of the permit, an estimate of the expected year of final closure.

(c) *Amendment of plan.* The owner or operator must submit a written request for a permit modification to authorize a change in operating plans, facility design, or the approved closure plan in accordance with the procedures in Parts 124 and 270. The written request must include a copy of the amended closure plan for approval by the Regional Administrator.

(1) The owner or operator may submit a written request to the Regional Administrator for a permit modification to amend the closure plan at any time prior to the notification of partial or final closure of the facility.

(2) The owner or operator must submit a written request for a permit modification to authorize a change in the approved closure plan whenever:

(i) Changes in operating plans or facility design affect the closure plan, or

(ii) There is a change in the expected year of closure, if applicable, or

(iii) In conducting partial or final closure activities, unexpected events require a modification of the approved closure plan.

(3) The owner or operator must submit a written request for a permit modification including a copy of the amended closure plan for approval at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must request a permit

modification no later than 30 days after the unexpected event. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at closure and is not otherwise required to prepare a contingent closure plan under §§ 264.228(c)(1)(i) or 264.258(c)(1)(i), must submit an amended closure plan to the Regional Administrator no later than 60 days from the date that the owner or operator or Regional Administrator determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of § 264.310, or no later than 30 days from that date if the determination is made during partial or final closure. The Regional Administrator will approve, disapprove, or modify this amended plan in accordance with the procedures in Parts 124 and 270. In accordance with § 270.32 of this Chapter, the approved closure plan will become a condition of any RCRA permit issued.

(4) The Regional Administrator may request modifications to the plan under the conditions described in § 264.112(c)(2). The owner or operator must submit the modified plan within 60 days of the Regional Administrator's request, or within 30 days if the change in facility conditions occurs during partial or final closure. Any modifications requested by the Regional Administrator will be approved in accordance with the procedures in Parts 124 and 270.

(d) *Notification of partial closure and final closure.*

(1) The owner or operator must notify the Regional Administrator in writing at least 60 days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, land treatment or landfill unit, or final closure of a facility with such a unit. The owner or operator must notify the Regional Administrator in writing at least 45 days prior to the date on which he expects to begin final closure of a facility with only treatment or storage tanks, container storage, or incinerator units to be closed.

(2) The date when he "expects to begin closure" must be either no later than 30 days after the date on which any hazardous waste management unit receives the known final volume of hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous waste. If the owner or operator of a hazardous waste management unit can demonstrate to the Regional Administrator that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements, the Regional Administrator may approve an extension to this one-year limit.

(3) If the facility's permit is terminated, or if the facility is otherwise ordered, by judicial decree or final order under Section 3008 of RCRA, to cease receiving hazardous wastes or to close, then the requirements of this paragraph do not apply. However, the owner or operator must close the facility in accordance with the deadlines established in § 264.113.

(e) *Removal of wastes and decontamination or dismantling of equipment.* Nothing in this Section shall preclude the owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

§ 264.113 Closure; time allowed for closure.

(a) Within 90 days after receiving the final volume of hazardous wastes at a hazardous waste management unit or facility, the owner or operator must treat, remove from the unit or facility, or dispose of on-site, all hazardous wastes in accordance with the approved closure plan. The Regional Administrator may approve a longer period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that:

(1)(i) The activities required to comply with this paragraph will, of necessity, take longer than 90 days to complete; or

(ii)(A) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes; and

(B) There is a reasonable likelihood that he or another person will recommence operation of the hazardous waste management unit or the facility within one year; and

(C) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

(2) He has taken and will continue to take all steps to prevent threats to human health and the environment, including compliance with all applicable permit requirements.

(b) The owner or operator must complete partial and final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of hazardous wastes at the hazardous waste management unit or facility. The Regional Administrator may approve an extension to the closure period if the owner or operator complies with all applicable requirements for requesting a modification to the permit and demonstrates that:

(1)(i) The partial or final closure activities will, of necessity, take longer than 180 days to complete; or

(ii)(A) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes; and

(B) There is reasonable likelihood that he or another person will recommence operation of the hazardous waste management unit or the facility within one year; and

(C) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

(2) He has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or facility, including compliance with all applicable permit requirements.

(c) The demonstrations referred to in § 264.113(a) and (b) must be made as follows: (1) The demonstrations in paragraph (a) must be made at least 30 days prior to the expiration of the 90-day period in paragraph (a); and (2) the demonstration in paragraph (b) must be made at least 30 days prior to the expiration of the 180-day period in paragraph (b).

§ 264.114 Disposal or decontamination of equipment, structures and soils.

During the partial and final closure periods, all contaminated equipment, structures and soils must be properly disposed of or decontaminated unless otherwise specified in §§ 264.228, 264.258, 264.280, or 264.310. By removing any hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and must handle that waste in accordance with all applicable requirements of Part 262 of this Chapter.

§ 264.115 Certification of closure.

Within 60 days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within 60 days of the completion of final closure, the owner or operator must submit to the Regional Administrator, by

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registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the Regional Administrator upon request until he releases the owner or operator from the financial assurance requirements for closure under § 264.143(i).

§ 264.116 Survey plat.

No later than the submission of the certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Regional Administrator, a survey plat indicating the location and dimensions of landfills cells or other hazardous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority, or the authority with jurisdiction over local land use, must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the hazardous waste disposal unit in accordance with the applicable Subpart G regulations.

§ 264.117 Post-closure care and use of property.

(a)(1) Post-closure care for each hazardous waste management unit subject to the requirements of §§ 264.117–264.120 must begin after completion of closure of the unit and continue for 30 years after that date and must consist of at least the following:

(i) Monitoring and reporting in accordance with the requirements of Subparts F, K, L, M, and N of this Part; and

(ii) Maintenance and monitoring of waste containment systems in accordance with the requirements of Subparts F, K, L, M, and N of this Part.

(2) Any time preceding partial closure of a hazardous waste management unit subject to post-closure care requirements or final closure, or any time during the post-closure period for a particular unit, the Regional Administrator may, in accordance with the permit modification procedures in Parts 124 and 270:

(i) Shorten the post-closure care period applicable to the hazardous waste management unit, or facility, if all disposal units have been closed, if he finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or ground-water monitoring results, characteristics of the hazardous wastes, application of advanced technology, or alternative disposal, treatment, or re-use techniques indicate that the hazardous waste management unit or facility is secure); or

(ii) Extend the post-closure care period applicable to the hazardous waste management unit or facility if he finds that the extended period is necessary to protect human health and the environment (e.g., leachate or ground-water monitoring results indicate a potential for migration of hazardous wastes at levels which may be harmful to human health and the environment).

(b) The Regional Administrator may require, at partial and final closure, continuation of any of the security requirements of § 264.14 during part or all of the post-closure period when:

(1) Hazardous wastes may remain exposed after completion of partial or final closure; or

(2) Access by the public or domestic livestock may pose a hazard to human health.

(c) Post-closure use of property on or in which hazardous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of the containment system, or the function of the facility's monitoring systems, unless the Regional Administrator finds that the disturbance:

(1) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(2) Is necessary to reduce a threat to human health or the environment.

(d) All post-closure care activities must be in accordance with the provisions of the approved post-closure plan as specified in § 264.118.

§ 264.118 Post-closure plan; amendment of plan.

(a) *Written Plan.* The owner or operator of a hazardous waste disposal unit must have a written post-closure plan. In addition, certain surface impoundments and waste piles from which the owner or operator intends to remove or decontaminate the hazardous wastes at partial or final closure are required by §§ 264.228(c)(1)(ii) and 264.258(c)(1)(ii) to have contingent post-closure plans. Owners or operators of surface impoundments and waste piles not otherwise required to prepare contingent post-closure plans under §§ 264.228(c)(1)(ii) and 264.258(c)(1)(ii) must submit a post-closure plan to the Regional Administrator within 90 days from the date that the owner or operator or Regional administrator determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of §§ 264.117–264.120. The plan must be submitted with the permit application, in accordance with § 270.14(b)(13) of this Chapter, and approved by the Regional Administrator as part of the permit issuance procedures under Part 124 of this Chapter. In accordance with § 270.32 of this Chapter, the approved post-closure plan will become a condition of any RCRA permit issued.

(b) For each hazardous waste management unit subject to the requirements of this Section, the post-closure plan must identify the activities that will be carried on after closure of each disposal unit and the frequency of these activities, and include at least:

(1) A description of the planned monitoring activities and frequencies at which they will be performed to comply with Subparts F, K, L, M, and N of this Part during the post-closure care period; and

(2) A description of the planned maintenance activities, and frequencies at which they will be performed, to ensure:

(i) The integrity of the cap and final cover or other containment systems in accordance with the requirements of Subparts K, L, M, and N of this Part; and

(ii) The function of the monitoring equipment in accordance with the requirements of Subparts F, K, L, M, and N of this Part; and

(3) The name, address, and phone number of the person or office to contact about the hazardous waste disposal unit or facility during the post-closure care period.

(c) Until final closure of the facility, a copy of the approved post-closure plan must be furnished to the Regional Administrator upon request, including request by mail. After final closure has been certified, the person or office specified in § 264.188(b)(3) must keep the approved post-closure plan during the remainder of the post-closure period.

(d) *Amendment of plan.* The owner or operator must request a permit modification to authorize a change in the approved post-closure plan in accordance with the applicable requirements of Parts 124 and 270. The written request must include a copy of the amended post-closure plan for approval by the Regional Administrator.

(1) The owner or operator may submit a written request to the Regional Administrator for a permit modification to amend the post-closure plan at any time during the active life of the facility or during the post-closure care period.

(2) The owner or operator must submit a written request for a permit modification to authorize a change in the approved post-closure plan whenever:

(i) Changes in operating plans or facility design affect the approved post-closure plan, or

(ii) There is a change in the expected year of final closure, if applicable, or

(iii) Events which occur during the active life of the facility, including partial and final closures, affect the approved post-closure plan.

(3) The owner or operator must submit a written request for a permit modification at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous waste at closure and is not otherwise required to submit a contingent post-closure plan under §§ 264.228(c)(1)(ii) and 264.258(c)(1)(ii) must submit a post-closure plan to the Regional Administrator no later than 90 days after the date that the owner or operator or Regional Administrator determines that the hazardous waste management unit must be closed as a landfill, subject to the requirements of § 264.310. The Regional Administrator will approve, disapprove or modify this plan in accordance with the procedures in Parts 124 and 270. In accordance with § 270.32 of this Chapter, the approved post-closure plan will become a permit condition.

(4) The Regional Administrator may request modifications to the plan under the conditions described in § 264.118(d)(2). The owner or operator must submit the modified plan no later than 60 days after the Regional Administrator's request, or no later than 90 days if the unit is a surface impoundment or waste pile not previously required to prepare a contingent post-closure plan. Any modifications requested by the Regional Administrator will be approved, disapproved, or modified in accordance with the procedures in Parts 124 and 270.

§ 264.119 Post-closure notices.

(a) No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Regional Administrator a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location, and quantity of the hazardous wastes to the best of his knowledge and in accordance with any records he has kept.

(b) Within 60 days of certification of closure of the first hazardous waste disposal unit and within 60 days of certification of closure of the last hazardous waste disposal unit, the owner or operator must:

(1) Record, in accordance with State law, a notation on the deed to the facility property—or on some other instrument which is normally examined during title search—that will in perpetuity notify any potential purchaser of the property that:

(i) The land has been used to manage hazardous wastes; and

(ii) Its use is restricted under 40 CFR Subpart G regulations; and

(iii) The survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by § 264.116 and § 264.119(a) have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Regional Administrator; and

(2) Submit a certification, signed by the owner or operator, that he has recorded the notation specified in paragraph (b)(1) of this Section, including a copy of the document in which the notation has been placed, to the Regional Administrator.

(c) If the owner or operator or any subsequent owner or operator of the land upon which a hazardous waste disposal unit is located wishes to remove hazardous wastes and hazardous waste residues, the liner, if any, or contaminated soils, he must request a modification to the post-closure permit in accordance with the applicable requirements in Parts 124 and 270. The owner or operator must demonstrate that the removal of hazardous wastes will satisfy the criteria of § 264.117(c). By removing hazardous waste, the owner or operator may become a generator of hazardous waste and must manage it in accordance with all applicable requirements of this Chapter. If he is granted a permit modification or otherwise granted approval to conduct such removal activities, the owner or operator may request that the Regional Administrator approve either:

(1) The removal of the notation on the deed to the facility property or other instrument normally examined during title search; or

(2) The addition of a notation to the deed or instrument indicating the removal of the hazardous waste.

§ 264.120 Certification of completion of post-closure care.

No later than 60 days after completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Regional Administrator, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the Regional Administrator upon request until he releases the owner or operator from the financial assurance requirements for post-closure care under § 264.145(i).

Subpart H—Financial Requirements

40 CFR Part 264 Subpart H is amended as follows:

1. In § 264.141, the following term is added to paragraph (f) in alphabetical order:

§ 264.141 Definitions of terms as used in this subpart.

* * * * *

(f) * * *

"Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with § 144.62(a), (b), and (c) of this title.

* * * * *

2. In § 264.142, paragraphs (a), introductory text of (b) and (c) are revised to read as follows:

§ 264.142 Cost estimate for closure.

(a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in §§ 264.111–264.115 and applicable closure requirements in §§ 264.178, 264.197, 264.228, 264.258, 264.280, 264.310, and 264.351.

(1) The estimate must equal the cost of final closure at the point in the facility's active life when the extent and manner of its operation would make closure the

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most expensive, as indicated by its closure plan (see § 264.112(b)); and

(2) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in § 264.141(d).) The owner or operator may use costs for on-site disposal if he can demonstrate that on-site disposal capacity will exist at all times over the life of the facility.

(3) The closure cost estimate may not incorporate any salvage value that may be realized with the sale of hazardous wastes, facility structures or equipment, land, or other assets associated with the facility at the time of partial or final closure.

(4) The owner or operator may not incorporate a zero cost for hazardous wastes that might have economic value.

(b) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with § 264.143. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before submission of updated information to the Regional Administrator as specified in § 264.143(f)(3). The adjustment may be made by recalculating the maximum costs of closure in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce in its *Survey of Current Business*, as specified in paragraphs (b)(1) and (b)(2) of this section. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

* * * * *

(c) During the active life of the facility, the owner or operator must revise the closure cost estimate no later than 30 days after the Regional Administrator has approved the request to modify the closure plan, if the change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in § 264.142(b).

* * * * *

3. In § 264.143, paragraphs (a)(10), (b)(4)(ii), (c)(5), (d)(8), (e)(5), (f)(1)(i)(B), (f)(1)(i)(D), (f)(1)(ii)(B), (f)(1)(ii)(D), (f)(2), and (i) are revised to read as follows:

§ 264.143 Financial assurance for closure.

* * * * *

(a) * * *

(10) After beginning partial or final closure, an owner or operator or another person authorized to conduct partial or final closure may request reimbursements for partial or final closure expenditures by submitting itemized bills to the Regional Administrator. The owner or operator may request reimbursements for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for partial or final closure activities, the Regional Administrator will instruct the trustee to make reimbursements in those amounts as the Regional Administrator specifies in writing, if the Regional Administrator determines that the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified. If the Regional Administrator has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, he may withhold reimbursements of such amounts as he deems prudent until he determines, in accordance with § 264.143(i) that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the Regional Administrator does not instruct the trustee to make such reimbursements, he will provide the owner or operator with a detailed written statement of reasons.

* * * * *

(b) * * *

(4) * * *

(ii) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an administrative order to begin final closure issued by the Regional Administrator becomes final, or within 15 days after an order to begin final closure is issued by a U.S. district court or other court of competent jurisdiction; or

* * * * *

(c) * * *

(5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a final administrative determination pursuant to section 3008 of RCRA that the owner or operator has failed to perform final closure in accordance with the approved closure plan and other permit requirements when required to do so, under the terms of the bond the surety will perform final closure as guaranteed by the bond or will deposit the amount of the penal sum into the standby trust fund.

* * * * *

(d) * * *

(8) Following a final administrative determination pursuant to section 3008 of RCRA that the owner or operator has failed to perform final closure in accordance with the closure plan and other permit requirements when required to do so, the Regional Administrator may draw on the letter of credit.

* * * * *

(e) * * *

(5) After beginning partial or final closure, an owner or operator or any other person authorized to conduct closure may request reimbursements for closure expenditures by submitting itemized bills to the Regional Administrator. The owner or operator may request reimbursements for partial closure only if the remaining value of the policy is sufficient to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for closure activities, the Regional Administrator will instruct the insurer to make reimbursements in such amounts as the Regional Administrator specifies in writing, if the Regional Administrator determines that the partial or final closure expenditures are in accordance with the approved closure plan or otherwise justified. If the Regional Administrator has reason to believe that the maximum cost of closure over the remaining life of the facility will be signficantly greater than the face amount of the policy, he may withhold reimbursements of such amounts as he deems prudent until he determines, in accordance with § 264.143(i), that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the Regional Administrator does not instruct the insurer to make such reimbursements, he will provide the owner or operator with a detailed written statement of reasons.

* * * * *

(f) * * *

(1) * * *

(i) * * *

(B) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and

* * * * *

(D) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(ii) * * *

(B) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and

* * * * *

(D) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

* * * * *

(2) The phrase "current closure and post-closure cost estimates" as used in paragraph (f)(1) of this section refers to the cost estimates required to be shown in paragraphs 1–4 of the letter from the owner's or operator's chief financial officer (§ 264.151(f)). The phrase "current plugging and abandonment cost estimates" as used in paragraph (f)(1) of this section refers to the cost estimates required to be shown in paragraphs 1–4 of the letter from the owner's or operator's chief financial officer (§ 144.70(f) of this title).

* * * * *

(i) *Release of the owner or operator from the requirements of this section.* Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Regional Administrator will notify the owner or operator in writing that he is no longer required by this section to maintain financial assurance for final closure of the facility, unless the Regional Administrator has reason to believe that final closure has not been in accordance with the approved closure plan. The Regional Administrator shall provide the owner or operator a detailed written statement of any such reason to believe that closure has not been in accordance with the approved closure plan.

4. In § 264.144, paragraphs (a), the introductory text of (b), and paragraph (c) are revised to read as follows:

§ 264.144 Cost estimate for post-closure care.

(a) The owner or operator of a disposal surface impoundment, land treatment, or landfill unit, or of a surface impoundment or waste pile required under §§ 264.228 and 264.258 to prepare a contingent closure and post-closure plan, must have a detailed written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in §§ 264.117–264.120, 264.228, 264.258, 264.280, and 264.310.

(1) The post-closure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct post-closure care activities. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in § 264.141(d).)

(2) The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required under § 264.117.

(b) During the active life of the facility, the owner or operator must adjust the post-closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with § 264.145. For owners or operators using the financial test or corporate guarantee, the post-closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before the submission of updated information to the Regional Administrator as specified in § 264.145(f)(5). The adjustment may be made by recalculating the post-closure cost estimate in current dollars or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce in its *Survey of Current Business* as specified in § 264.145(b)(1) and (b)(2). The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

* * * * *

(c) During the active life of the facility, the owner or operator must revise the post-closure cost estimate within 30 days after the Regional Administrator has approved the request to modify the post-closure plan, if the change in the post-closure plan increases the cost of post-closure care. The revised post-closure cost estimate must be adjusted for inflation as specified in § 264.144(b).

* * * * *

5. In § 264.145, the introductory paragraph and paragraphs (a)(11), (b)(4)(ii), (c)(5), (d)(9), (e)(5), (f)(1)(i)(B), (f)(1)(i)(D), (f)(1)(ii)(B), (f)(1)(ii)(D), (f)(2), and (i) are revised to read as follows:

§ 264.145 Financial assurance for post-closure care.

The owner or operator of a hazardous waste management unit subject to the requirements of § 264.144 must establish financial assurance for post-closure care in accordance with the approved post-closure plan for the facility 60 days prior to the initial receipt of hazardous waste or the effective date of the regulation, whichever is later. He must choose from the following options:

(a) * * *

(11) An owner or operator or any other person authorized to conduct post-closure care may request reimbursements for post-closure care expenditures by submitting itemized bills to the Regional Administrator. Within 60 days after receiving bills for post-closure care activities, the Regional Administrator will instruct the trustee to make reimbursements in those amounts as the Regional Administrator specifies in writing, if the Regional Administrator determines that the post-closure care expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Regional Administrator does not instruct the trustee to make such reimbursements, he will provide the owner or operator with a detailed written statement of reasons.

* * * * *

(b) * * *

(4) * * *

(ii) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an administrative order to begin final closure issued by the Regional Administrator becomes final, or within 15 days after an order to begin final closure is issued by a U.S. district court or other court of competent jurisdiction; or

* * * * *

(c) * * *

(5) Under the terms of the bond, the surety will become liable on the bond obligation when the owner or operator fails to perform as guaranteed by the bond. Following a final administrative determination pursuant to section 3008 of RCRA that the owner or operator has failed to perform post-closure care in accordance with the approved post-closure plan and other permit requirements, under the terms of the bond the surety will perform post-closure care in accordance with the post-closure plan and other permit requirements or will deposit the amount of the penal sum into the standby trust fund.

* * * * *

(d) * * *

(9) Following a final administrative determination pursuant to Section 3008 of RCRA that the owner or operator has failed to perform post-closure care in accordance with the approved post-

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closure plan and other permit requirements, the Regional Administrator may draw on the letter of credit.

* * * * * *

(e) * * *

(5) An owner or operator or any other person authorized to conduct post-closure care may request reimbursements for post-closure care expenditures by submitting itemized bills to the Regional Administrator. Within 60 days after receiving bills for post-closure care activities, the Regional Administrator will instruct the insurer to make reimbursements in those amounts as the Regional Administrator specifies in writing, if the Regional Administrator determines that the post-closure care expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Regional Administrator does not instruct the insurer to make such reimbursements, he will provide the owner or operator with a detailed written statement of reasons.

* * * * * *

(f) * * *

(1) * * *

(i) * * *

(B) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and

* * * * * *

(D) Assets in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

* * * * * *

(ii) * * *

(B) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and

* * * * * *

(D) Assets located in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(2) The phrase "current closure and post-closure cost estimates" as used in paragraph (f)(1) of this section refers to the cost estimates required to be shown in paragraphs 1–4 of the letter from the owner's or operator's chief financial officer (§ 264.151(f)). The phrase "current plugging and abandonment cost estimates" as used in paragraph (f)(1) of this section refers to the cost estimates required to be shown in paragraphs 1–4 of the letter from the owner's or operator's chief financial officer (§ 144.70(f) of this Title).

* * * * * *

(i) *Release of the owner or operator from the requirements of this Section.* Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that the post-closure care period has been completed for a hazardous waste disposal unit in accordance with the approved plan, the Regional Administrator will notify the owner or operator that he is no longer required to maintain financial assurance for post-closure care of that unit, unless the Regional Administrator has reason to believe that post-closure care has not been in accordance with the approved post-closure plan. The Regional Administrator shall provide the owner or operator with a detailed written statement of any such reason to believe that post-closure care has not been in accordance with the approved post-closure plan.

* * * * * *

6. In § 264.147, paragraph (e) is revised to read as follows:

§ 264.147 Liability requirements.

* * * * * *

(e) *Period of coverage.* Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Regional Administrator will notify the owner or operator in writing that he is no longer required by this Section to maintain liability coverage for that facility, unless the Regional Administrator has reason to believe that closure has not been in accordance with the approved closure plan.

* * * * * *

7. In § 264.151 paragraph (b) is revised and paragraphs (f)(5) and (g)(5) are added to read as follows:

§ 264.151 Wording of the instruments.

* * * * * *

(b) A surety bond guaranteeing payment into a trust fund, as specified in § 264.143(b) or § 264.145(b) or § 265.143(b) or § 265.145(b) of this Chapter, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

Financial Guarantee Bond

Date bond executed:
Effective date:
Principal: [legal name and business address of owner or operator]
Type of Organization: [insert "individual," "joint venture," "partnership," or "corporation"]
State of incorporation: _____
Surety(ies): [name(s) and business address(es)]
EPA Identification Number, name, address and closure and/or post-closure amount(s) for each facility guaranteed by this bond [indicate closure and post-closure amounts separately]: _____
Total penal sum of bond: $ _____
Surety's bond number: _____

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the U.S. Environmental Protection Agency (hereinafter called EPA), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as co-sureties, we, the Sureties, bind ourselves in such sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of such sum only as is set forth opposite the name of such Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required, under the Resource Conservation and Recovery Act as amended (RCRA), to have a permit or interim status in order to own or operate each hazardous waste management facility identified above, and

Whereas said Principal is required to provide financial assurance for closure, or closure and post-closure care, as a condition of the permit or interim status, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide such financial assurance;

Now, Therefore, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of each facility identified above, fund the standby trust fund in the amount(s) identified above for the facility,

Or, if the Principal shall fund the standby trust fund in such amount(s) within 15 days after a final order to begin closure is issued by an EPA Regional Administrator or a U.S. district court or other court of competent jurisdiction,

* * * * * *

(f) * * *

(5) This firm is the owner or operator of the following UIC facilities for which financial assurance for plugging and abandonment is required under Part 144. The current closure cost estimates as required by 40 CFR 144.62 are shown for each facility:

* * * * * *

(g) * * *

(5) This firm is the owner or operator of the following UIC facilities for which financial assurance for plugging and abandonment is required under Part 144. The current closure cost estimates as required by 40 CFR 144.62 are shown for each facility:

* * * * * *

PART 265—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE, AND DISPOSAL FACILITIES

40 CFR Part 265 is amended as follows:

1. The authority citation for Part 265 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3004, 3005 and 3015 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6924, 6925 and 6935).

2. In 40 CFR Part 265 Subpart G, §§ 265.110–265.120 are revised as follows:

Subpart G—Closure and Post-Closure

265.110 Applicability.
265.111 Closure performance standard.
265.112 Closure plan; amendment of plan.
265.113 Closure; time allowed for closure.
265.114 Disposal or decontamination of equipment, structures and soils.
265.115 Certification of closure.
265.116 Survey plat.
265.117 Post-closure care and use of property.
265.118 Post-closure plan; amendment of plan.
265.119 Post-closure notices.
265.120 Certification of completion of post-closure care.

Subpart G—Closure and Post-Closure

§ 265.110 Applicability.

Except as § 265.1 provides otherwise:

(a) Sections 265.111–265.115 (which concern closure) apply to the owners and operators of all hazardous waste management facilities; and

(b) Sections 265.116–265.120 (which concern post-closure care) apply to the owners and operators of:

(1) All hazardous waste disposal facilities; and

(2) Waste piles and surface impoundments for which the owner or operator intends to remove the wastes at closure to the extent that these Sections are made applicable to such facilities in §§ 265.228 or 265.258.

§ 265.111 Closure performance standard.

The owner or operator must close the facility in a manner that:

(a) Minimizes the need for further maintenance, and

(b) Controls, minimizes or eliminates, to the extent necessary to protect human health and the environment, post-closure escape of hazardous waste, hazardous constituents, leachate, contaminated run-off, or hazardous waste decomposition products to the ground or surface waters or to the atmosphere, and

(c) Complies with the closure requirements of this Subpart including, but not limited to, the requirements of §§ 265.197, 265.228, 265.258, 265.280, 265.310, 265.351, 265.381 and 265.404.

§ 265.112 Closure plan; amendment of plan.

(a) *Written plan.* By May 19, 1981, the owner or operator of a hazardous waste management facility must have a written closure plan. Until final closure is completed and certified in accordance with § 265.115, a copy of the most current plan must be furnished to the Regional Administrator upon request, including request by mail. In addition, for facilities without approved plans, it must also be provided during site inspections, on the day of inspection, to any officer, employee or representative of the Agency who is duly designated by the Administrator.

(b) *Content of plan.* The plan must identify steps necessary to perform partial and/or final closure of the facility at any point during its active life. The closure plan must include, at least:

(1) A description of how each hazardous waste management unit at the facility will be closed in accordance with § 265.111; and

(2) A description of how final closure of the facility will be conducted in accordance with § 265.111. The description must identify the maximum extent of the operation which will be unclosed during the active life of the facility; and

(3) An estimate of the maximum inventory of hazardous wastes ever on-site over the active life of the facility and a detailed description of the methods to be used during partial and final closure, including, but not limited to methods for removing, transporting, treating, storing or disposing of all hazardous waste, identification of and the type(s) of off-site hazardous waste management unit(s) to be used, if applicable; and

(4) A detailed description of the steps needed to remove or decontaminate all hazardous waste residues and contaminated containment system components, equipment, structures, and soils during partial and final closure including, but not limited to, procedures for cleaning equipment and removing contaminated soils, methods for sampling and testing surrounding soils, and criteria for determining the extent of decontamination necessary to satisfy the closure performance standard; and

(5) A detailed description of other activities necessary during the partial and final closure period to ensure that all partial closures and final closure satisfy the closure performance standards, including, but not limited to, ground-water monitoring, leachate collection, and run-on and run-off control; and

(6) A schedule for closure of each hazardous waste management unit and for final closure of the facility. The schedule must include, at a minimum, the total time required to close each hazardous waste management unit and the time required for intervening closure activities which will allow tracking of the progress of partial and final closure. (For example, in the case of a landfill unit, estimates of the time required to treat or dispose of all hazardous waste inventory and of the time required to place a final cover must be included.); and

(7) An estimate of the expected year of final closure for facilities that use trust funds to demonstrate financial assurance under §§ 265.143 or 265.145 and whose remaining operating life is less than twenty years, and for facilities without approved closure plans.

(c) *Amendment of plan.* The owner or operator may amend the closure plan at any time prior to the notification of partial or final closure of the facility. An owner or operator with an approved closure plan must submit a written request to the Regional Administrator to authorize a change to the approved closure plan. The written request must include a copy of the amended closure plan for approval by the Regional Administrator.

(1) The owner or operator must amend the closure plan whenever:

(i) Changes in operating plans or facility design affect the closure plan, or

(ii) There is a change in the expected year of closure, if applicable, or

(iii) In conducting partial or final closure activities, unexpected events require a modification of the closure plan.

(2) The owner or operator must amend the closure plan at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event occurs during the partial or final closure period, the owner or operator must amend the closure plan no later than 30 days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles who

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intended to remove all hazardous wastes at closure, but are required to close as landfills in accordance with § 265.310.

(3) An owner or operator with an approved closure plan must submit the modified plan to the Regional Administrator at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred which has affected the closure plan. If an unexpected event has occurred during the partial or final closure period, the owner or operator must submit the modified plan no more than 30 days after the unexpected event. These provisions also apply to owners or operators of surface impoundments and waste piles who intended to remove all hazardous wastes at closure but are required to close as landfills in accordance with § 265.310. If the amendment to the plan is a major modification according to the criteria in § 270.41 and §270.42, the modification to the plan will be approved according to the procedures in § 265.112(d)(4).

(4) The Regional Administrator may request modifications to the plan under the conditions described in paragraph (c)(1) of this Section. An owner or operator with an approved closure plan must submit the modified plan within 60 days of the request from the Regional Administrator, or within 30 days if the unexpected event occurs during partial or final closure. If the amendment is considered a major modification according to the criteria in §§ 270.41 and 270.42, the modification to the plan will be approved in accordance with the procedures in § 265.112(d)(4).

(d) *Notification of partial closure and final closure.*

(1) The owner or operator must submit the closure plan to the Regional Administrator at least 180 days prior to the date on which he expects to begin closure of the first surface impoundment, waste pile, land treatment, or landfill unit, or final closure if it involves such a unit, whichever is earlier. The owner or operator must submit the closure plan to the Regional Administrator at least 45 days prior to the date on which he expects to begin final closure of a facility with only tanks, container storage, or incinerator units. Owners or operators with approved closure plans must notify the Regional Administrator in writing at least 60 days prior to the date on which he expects to begin closure of a surface impoundment, waste pile, landfill, or land treatment unit, or final closure of a facility involving such a unit. Owners and operators with approved closure plans must notify the Regional Administrator in writing at least 45 days prior to the date on which he expects to begin final closure of a facility with only tanks, container storage, or incinerator units.

(2) The date when he "expects to begin closure" must be either within 30 days after the date on which any hazardous waste management unit receives the known final volume of hazardous wastes or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous waste. If the owner or operator of a hazardous waste management unit can demonstrate to the Regional Administrator that the hazardous waste management unit or facility has the capacity to receive additional hazardous wastes and he has taken, and will continue to take, all steps to prevent threats to human health and the environment, including compliance with all interim status requirements, the Regional Administrator may approve an extension to this one-year limit.

(3) The owner or operator must submit his closure plan to the Regional Administrator no later than 15 days after:

(i) Termination of interim status except when a permit is issued simultaneously with termination of interim status; or

(ii) Issuance of a judicial decree or final order under Section 3008 of RCRA to cease receiving hazardous wastes or close.

(4) The Regional Administrator will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the plan and request modifications to the plan no later than 30 days from the date of the notice. He will also, in response to a request or at his own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a closure plan. The Regional Administrator will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.) The Regional Administrator will approve, modify, or disapprove the plan within 90 days of its receipt. If the Regional Administrator does not approve the plan he shall provide the owner or operator with a detailed written statement of reasons for the refusal and the owner or operator must modify the plan or submit a new plan for approval within 30 days after receiving such written statement. The Regional Administrator will approve or modify this plan in writing within 60 days. If the Regional Administrator modifies the plan, this modified plan becomes the approved closure plan. The Regional Administrator must assure that the approved plan is consistent with §§ 265.111 through 265.115 and the applicable requirements of §§ 265.90 *et seq.*, 265.197, 265.228, 265.258, 265.280, 265.310, 265.351, 265.381, and 265.404. A copy of the modified plan with a detailed statement of reasons for the modifications must be mailed to the owner or operator.

(e) *Removal of wastes and decontamination or dismantling of equipment.* Nothing in this section shall preclude the owner or operator from removing hazardous wastes and decontaminating or dismantling equipment in accordance with the approved partial or final closure plan at any time before or after notification of partial or final closure.

§ 265.113 Closure; time allowed for closure.

(a) Within 90 days after receiving the final volume of hazardous wastes at a hazardous waste management unit or facility, or within 90 days after approval of the closure plan, whichever is later, the owner or operator must treat, remove from the unit or facility, or dispose of on-site, all hazardous wastes in accordance with the approved closure plan. The Regional Administrator may approve a longer period if the owner or operator demonstrates that:

(1)(i) The activities required to comply with this paragraph will, of necessity, take longer than 90 days to complete; or

(ii)(A) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes; and

(B) There is a reasonable likelihood that he or another person will recommence operation of the hazardous waste management unit or the facility within one year; and

(C) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

(2) He has taken and will continue to take all steps to prevent threats to human health and the environment, including compliance with all applicable interim status requirements.

(b) The owner or operator must complete partial and final closure activities in accordance with the approved closure plan and within 180 days after receiving the final volume of hazardous wastes at the hazardous waste management unit or facility, or 180 days after approval of the closure plan, if that is later. The Regional Administrator may approve an extension to the closure period if the owner or operator demonstrates that:

(1) (i) The partial or final closure activities will, of necessity, take longer than 180 days to complete; or

(ii) (A) The hazardous waste management unit or facility has the capacity to receive additional hazardous wastes; and

(B) There is reasonable likelihood that he or another person will recommence operation of the hazardous waste management unit or the facility within one year; and

(C) Closure of the hazardous waste management unit or facility would be incompatible with continued operation of the site; and

(2) He has taken and will continue to take all steps to prevent threats to human health and the environment from the unclosed but not operating hazardous waste management unit or facility, including compliance with all applicable interim status requirements.

(c) The demonstrations referred to in § 265.113(a) and (b) must be made as follows: (1) The demonstrations in paragraph (a) must be made at least 30 days prior to the expiration of the 90-day period in paragraph (a); and (2) The demonstrations in paragraph (b) must be made at least 30 days prior to the expiration of the 180-day period in paragraph (b).

§ 265.114 Disposal or decontamination of equipment, structures and soils.

During the partial and final closure periods, all contaminated equipment, structures and soil must be properly disposed of, or decontaminated unless specified otherwise in §§ 265.228, 265.258, 265.280, or 265.310. By removing all hazardous wastes or hazardous constituents during partial and final closure, the owner or operator may become a generator of hazardous waste and must handle that hazardous waste in accordance with all applicable requirements of Part 262 of this Chapter.

§ 265.115 Certification of closure.

Within 60 days of completion of closure of each hazardous waste surface impoundment, waste pile, land treatment, and landfill unit, and within 60 days of completion of final closure, the owner or operator must submit to the Regional Administrator, by registered mail, a certification that the hazardous waste management unit or facility, as applicable, has been closed in accordance with the specifications in the approved closure plan. The certification must be signed by the owner or operator and by an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the Regional Administrator upon request until he releases the owner or operator from the financial assurance requirements for closure under § 265.143(h).

§ 265.116 Survey plat.

No later than the submission of the certification of closure of each hazardous waste disposal unit, an owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Regional Administrator, a survey plat indicating the location and dimensions of landfill cells or other hazardous waste disposal units with respect to permanently surveyed benchmarks. This plat must be prepared and certified by a professional land surveyor. The plat filed with the local zoning authority, or the authority with jurisdiction over local land use must contain a note, prominently displayed, which states the owner's or operator's obligation to restrict disturbance of the hazardous waste disposal unit in accordance with the applicable Subpart G regulations.

§ 265.117 Post-closure care and use of property.

(a)(1) Post-closure care for each hazardous waste management unit subject to the requirements of §§ 265.117–265.120 must begin after completion of closure of the unit and continue for 30 years after that date. It must consist of at least the following:

(i) Monitoring and reporting in accordance with the requirements of Subparts F, K, L, M, and N of this Part; and

(ii) Maintenance and monitoring of waste containment systems in accordance with the requirements of Subparts F, K, L, M, and N of this part.

(2) Any time preceding closure of a hazardous waste management unit subject to post-closure care requirements or final closure, or any time during the post-closure period for a particular hazardous waste disposal unit, the Regional Administrator may:

(i) Shorten the post-closure care period applicable to the hazardous waste management unit, or facility, if all disposal units have been closed, if he finds that the reduced period is sufficient to protect human health and the environment (e.g., leachate or ground-water monitoring results, characteristics of the hazardous waste, application of advanced technology, or alternative disposal, treatment, or re-use techniques indicate that the hazardous waste management unit or facility is secure); or

(ii) Extend the post-closure care period applicable to the hazardous waste management unit or facility, if he finds that the extended period is necessary to protect human health and the environment (e.g., leachate or ground-water monitoring results indicate a potential for migration of hazardous wastes at levels which may be harmful to human health and the environment).

(b) The Regional Administator may require, at partial and final closure, continuation of any of the security requirements of § 265.14 during part or all of the post-closure period when:

(1) Hazardous wastes may remain exposed after completion of partial or final closure; or

(2) Access by the public or domestic livestock may pose a hazard to human health.

(c) Post-closure use of property on or in which hazardous wastes remain after partial or final closure must never be allowed to disturb the integrity of the final cover, liner(s), or any other components of the containment system, or the function of the facility's monitoring systems, unless the Regional Administrator finds that the disturbance:

(1) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(2) Is necessary to reduce a threat to human health or the environment.

(d) All post-closure care activities must be in accordance with the provisions of the approved post-closure plan as specified in § 265.118.

§ 265.118 Post-closure plan; amendment of plan.

(a) *Written plan.* By May 19, 1981, the owner or operator of a hazardous waste disposal unit must have a written post-closure plan. An owner or operator of a surface impoundment or waste pile that intends to remove all hazardous wastes at closure must prepare a post-closure plan and submit it to the Regional Administrator within 90 days of the date that the owner or operator or Regional Administrator determines that the hazardous waste management unit or facility must be closed as a landfill, subject to the requirements of §§ 265.117–265.120.

(b) Until final closure of the facility, a copy of the most current post-closure

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plan must be furnished to the Regional Administrator upon request, including request by mail. In addition, for facilities without approved post-closure plans, it must also be provided during site inspections, on the day of inspection, to any officer, employee or representative of the Agency who is duly designated by the Administrator. After final closure has been certified, the person or office specified in § 265.116(c)(3) must keep the approved post-closure plan during the post-closure period.

(c) For each hazardous waste management unit subject to the requirements of this Section, the post-closure plan must identify the activities that will be carried on after closure of each disposal unit and the frequency of these activities, and include at least:

(1) A description of the planned monitoring activities and frequencies at which they will be performed to comply with Subparts F, K, L, M, and N of this Part during the post-closure care period; and

(2) A description of the planned maintenance activities, and frequencies at which they will be performed, to ensure:

(i) The integrity of the cap and final cover or other containment systems in accordance with the requirements of Subparts K, L, M, and N of this Part; and

(ii) The function of the monitoring equipment in accordance with the requirements of Subparts F, K, L, M, and N of this Part; and

(3) The name, address, and phone number of the person or office to contact about the hazardous waste disposal unit or facility during the post-closure care period.

(d) *Amendment of plan.* The owner or operator may amend the post-closure plan any time during the active life of the facility or during the post-closure care period. An owner or operator with an approved post-closure plan must submit a written request to the Regional Administrator to authorize a change to the approved plan. The written request must include a copy of the amended post-closure plan for approval by the Regional Administrator.

(1) The owner or operator must amend the post-closure plan whenever:

(i) Changes in operating plans or facility design affect the post-closure plan, or

(ii) Events which occur during the active life of the facility, including partial and final closures, affect the post-closure plan.

(2) The owner or operator must amend the post-closure plan at least 60 days prior to the proposed change in facility design or operation, or no later than 60 days after an unexpected event has occurred which has affected the post-closure plan.

(3) An owner or operator with an approved post-closure plan must submit the modified plan to the Regional Administrator at least 60 days prior to the proposed change in facility design or operation, or no more than 60 days after an unexpected event has occurred which has affected the post-closure plan. If an owner or operator of a surface impoundment or a waste pile who intended to remove all hazardous wastes at closure in accordance with §§ 265.228(b) or 265.258(a) is required to close as a landfill in accordance with § 265.310, the owner or operator must submit a post-closure plan within 90 days of the determination by the owner or operator or Regional Administrator that the unit must be closed as a landfill. If the amendment to the post-closure plan is a major modification according to the criteria in §§ 270.41 and 270.42, the modification to the plan will be approved according to the procedures in § 265.118(f).

(4) The Regional Administrator may request modifications to the plan under the conditions described in above paragraph (d)(1). An owner or operator with an approved post-closure plan must submit the modified plan no later than 60 days of the request from the Regional Administrator. If the amendment to the plan is considered a major modification according to the criteria in §§ 270.41 and 270.42, the modifications to the post-closure plan will be approved in accordance with the procedures in § 265.118(f). If the Regional Administrator determines that an owner or operator of a surface impoundment or waste pile who intended to remove all hazardous wastes at closure must close the facility as a landfill, the owner or operator must submit a post-closure plan for approval to the Regional Administrator within 90 days of the determination.

(e) The owner or operator of a facility with hazardous waste management units subject to these requirements must submit his post-closure plan to the Regional Administrator at least 180 days before the date he expects to begin partial or final closure of the first hazardous waste disposal unit. The date he "expects to begin closure" of the first hazardous waste disposal unit must be either within 30 days after the date on which the hazardous waste management unit receives the known final volume of hazardous waste or, if there is a reasonable possibility that the hazardous waste management unit will receive additional hazardous wastes, no later than one year after the date on which the unit received the most recent volume of hazardous wastes. The owner or operator must submit the post-closure plan to the Regional Administrator no later than 15 days after:

(1) Termination of interim status (except when a permit is issued to the facility simultaneously with termination of interim status); or

(2) Issuance of a judicial decree or final orders under Section 3008 of RCRA to cease receiving wastes or close.

(f) The Regional Administrator will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments on the post-closure plan and request modifications to the plan no later than 30 days from the date of the notice. He will also, in response to a request or at his own discretion, hold a public hearing whenever such a hearing might clarify one or more issues concerning a post-closure plan. The Regional Administrator will give public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for the public to submit written comments, and the two notices may be combined.) The Regional Administrator will approve, modify, or disapprove the plan within 90 days of its receipt. If the Regional Administrator does not approve the plan he shall provide the owner or operator with a detailed written statement of reasons for the refusal and the owner or operator must modify the plan or submit a new plan for approval within 30 days after receiving such written statement. The Regional Administrator will approve or modify this plan in writing within 60 days. If the Regional Administrator modifies the plan, this modified plan becomes the approved post-closure plan. The Regional Administrator must ensure that the approved post-closure plan is consistent with §§ 265.117 through 265.120. A copy of the modified plan with a detailed statement of reasons for the modifications must be mailed to the owner or operator.

(g) The post-closure plan and length of the post-closure care period may be modified any time prior to the end of the post-closure care period in either of the following two ways:

(1) The owner or operator or any member of the public may petition the Regional Administrator to extend or reduce the post-closure care period applicable to a hazardous waste management unit or facility based on cause, or alter the requirements of the post-closure care period based on cause.

(i) The petition must include evidence demonstrating that:

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(A) The secure nature of the hazardous waste management unit or facility makes the post-closure care requirement(s) unnecessary or supports reduction of the post-closure care period specified in the current post-closure plan (e.g., leachate or ground-water monitoring results, characteristics of the wastes, application of advanced technology, or alternative disposal, treatment, or re-use techniques indicate that the facility is secure), or

(B) The requested extension in the post-closure care period or alteration of post-closure care requirements is necessary to prevent threats to human health and the environment (e.g., leachate or ground-water monitoring results indicate a potential for migration of hazardous wastes at levels which may be harmful to human health and the environment).

(ii) These petitions will be considered by the Regional Administrator only when they present new and relevant information not previously considered by the Regional Administrator. Whenever the Regional Administrator is considering a petition, he will provide the owner or operator and the public, through a newspaper notice, the opportunity to submit written comments within 30 days of the date of the notice. He will also, in response to a request or at his own discretion, hold a public hearing whenever a hearing might clarify one or more issues concerning the post-closure plan. The Regional Administrator will give the public notice of the hearing at least 30 days before it occurs. (Public notice of the hearing may be given at the same time as notice of the opportunity for written public comments, and the two notices may be combined.) After considering the comments, he will issue a final determination, based upon the criteria set forth in paragraph (g)(1) of this section.

(iii) If the Regional Administrator denies the petition, he will send the petitioner a brief written response giving a reason for the denial.

(2) The Regional Administrator may tentatively decide to modify the post-closure plan if he deems it necessary to prevent threats to human health and the environment. He may propose to extend or reduce the post-closure care period applicable to a hazardous waste management unit or facility based on cause or alter the requirements of the post-closure care period based on cause.

(i) The Regional Administrator will provide the owner or operator and the affected public, through a newspaper notice, the opportunity to submit written comments within 30 days of the date of the notice and the opportunity for a public hearing as in subparagraph (g)(1)(ii) of this section. After considering the comments, he will issue a final determination.

(ii) The Regional Administrator will base his final determination upon the same criteria as required for petitions under paragraph (g)(1)(i) of this section. A modification of the post-closure plan may include, where appropriate, the temporary suspension rather than permanent deletion of one or more post-closure care requirements. At the end of the specified period of suspension, the Regional Administrator would then determine whether the requirement(s) should be permanently discontinued or reinstated to prevent threats to human health and the environment.

§ 265.119 Post-closure notices.

(a) No later than 60 days after certification of closure of each hazardous waste disposal unit, the owner or operator must submit to the local zoning authority, or the authority with jurisdiction over local land use, and to the Regional Administrator, a record of the type, location, and quantity of hazardous wastes disposed of within each cell or other disposal unit of the facility. For hazardous wastes disposed of before January 12, 1981, the owner or operator must identify the type, location and quantity of the hazardous wastes to the best of his knowledge and in accordance with any records he has kept.

(b) Within 60 days of certification of closure of the first hazardous waste disposal unit and within 60 days of certification of closure of the last hazardous waste disposal unit, the owner or operator must:

(1) Record, in accordance with State law, a notation on the deed to the facility property—or on some other instrument which is normally examined during title search—that will in perpetuity notify any potential purchaser of the property that:

(i) The land has been used to manage hazardous wastes; and

(ii) Its use is restricted under 40 CFR Subpart G regulations; and

(iii) The survey plat and record of the type, location, and quantity of hazardous wastes disposed of within each cell or other hazardous waste disposal unit of the facility required by § 265.116 and § 265.119(a) have been filed with the local zoning authority or the authority with jurisdiction over local land use and with the Regional Administrator; and

(2) Submit a certification signed by the owner or operator that he has recorded the notation specified in paragraph (b)(1) of this Section and a copy of the document in which the notation has been placed, to the Regional Administrator.

(c) If the owner or operator or any subsequent owner of the land upon which a hazardous waste disposal unit was located wishes to remove hazardous wastes and hazardous waste residues, the liner, if any, and all contaminated structures, equipment, and soils, he must request a modification to the approved post-closure plan in accordance with the requirements of § 265.118(g). The owner or operator must demonstrate that the removal of hazardous wastes will satisfy the criteria of § 265.117(c). By removing hazardous waste, the owner or operator may become a generator of hazardous waste and must manage it in accordance with all applicable requirements of this Chapter. If the owner or operator is granted approval to conduct the removal activities, the owner or operator may request that the Regional Administrator approve either:

(1) The removal of the notation on the deed to the facility property or other instrument normally examined during title search, or

(2) The addition of a notation to the deed or instrument indicating the removal of the hazardous waste.

§ 265.120 Certification of completion of post-closure care.

No later than 60 days after the completion of the established post-closure care period for each hazardous waste disposal unit, the owner or operator must submit to the Regional Administrator, by registered mail, a certification that the post-closure care period for the hazardous waste disposal unit was performed in accordance with the specifications in the approved post-closure plan. The certification must be signed by the owner or operator and an independent registered professional engineer. Documentation supporting the independent registered professional engineer's certification must be furnished to the Regional Administrator upon request until he releases the owner or operator from the financial assurance requirements for post-closure care under § 265.145(h).

Subpart H—Financial Requirements

40 CFR Part 265 Subpart H is amended as follows:

1. In § 265.140, paragraph (a) is revised as follows:

§ 265.140 Applicability.

(a) The requirements of §§ 265.142, 265.143 and 265.147 through 265.150 apply to owners or operators of all

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hazardous waste facilities, except as provided otherwise in this section or in § 265.1.

* * * * *

2. In 40 CFR § 265.141, the following term is added to paragraph (f) in alphabetical order:

§ 265.141 [Amended]

* * * * *

(f) * * *

"Current plugging and abandonment cost estimate" means the most recent of the estimates prepared in accordance with § 144.62(a), (b), and (c) of this Title.

* * * * *

3. In § 265.142, paragraphs (a) and the introductory text of paragraph (b), and paragraph (c) are revised. Paragraphs (b)(i) and (b)(ii) are correctly designated as paragraphs (b)(1) and (b)(2), respectively.

§ 265.142 Cost estimate for closure.

(a) The owner or operator must have a detailed written estimate, in current dollars, of the cost of closing the facility in accordance with the requirements in §§ 265.111–265.115 and applicable closure requirements of §§ 265.178, 265.197, 265.228, 265.258, 265.280, 265.310, 265.351, 265.381 and 265.404.

(1) The estimate must equal the cost of final closure at the point in the facility's active life when the extent and manner of its operation would make closure the most expensive, as indicated by its closure plan (see § 265.112(b)); and

(2) The closure cost estimate must be based on the costs to the owner or operator of hiring a third party to close the facility. A third party is a party who is neither a parent nor a subsidiary of the owner or operator. (See definition of parent corporation in § 265.141(d).) The owner or operator may use costs for on-site disposal if he can demonstrate that on-site disposal capacity will exist at all times over the life of the facility.

(3) The closure cost estimate may not incorporate any salvage value that may be realized by the sale of hazardous wastes, facility structures or equipment, land or other facility assets at the time of partial or final closures.

(4) The owner or operator may not incorporate a zero cost for hazardous waste that might have economic value.

(b) During the active life of the facility, the owner or operator must adjust the closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with § 265.143. For owners and operators using the financial test or corporate guarantee, the closure cost estimate must be updated for inflation within 30 days after the close of the firm's fiscal year and before submission of updated information to the Regional Administrator as specified in § 265.143(e)(3). The adjustment may be made by recalculating the closure cost estimate in current dollars, or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce in its *Survey of Current Business*, as specified in paragraphs (b)(1) and (b)(2) of this section. The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

* * * * *

(c) During the active life of the facility, the owner or operator must revise the closure cost estimate no later than 30 days after a revision has been made to the closure plan which increases the cost of closure. If the owner or operator has an approved closure plan, the closure cost estimate must be revised no later than 30 days after the Regional Administrator has approved the request to modify the closure plan, if the change in the closure plan increases the cost of closure. The revised closure cost estimate must be adjusted for inflation as specified in § 265.142(b).

* * * * *

4. In § 265.143, paragraphs (a)(10), (b)(4)(ii), (c)(8), (d)(5), (e)(1)(i)(B), (e)(1)(i)(D), (e)(1)(ii)(B), (e)(1)(ii)(D), (e)(2), and (h) are revised as follows:

§ 265.143 Financial assurance for closure.

* * * * *

(a) * * *

(10) After beginning partial or final closure, an owner or operator or another person authorized to conduct partial or final closure may request reimbursements for partial or final closure expenditures by submitting itemized bills to the Regional Administrator. The owner or operator may request reimbursements for partial closure only if sufficient funds are remaining in the trust fund to cover the maximum costs of closing the facility over its remaining operating life. No later than 60 days after receiving bills for partial or final closure activities, the Regional Administrator will instruct the trustee to make reimbursements in those amounts as the Regional Administrator specifies in writing, if the Regional Administrator determines that the partial or final closure expenditures are in accordance with the approved closure plan, or otherwise justified. If the Regional Administrator has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the value of the trust fund, he may withhold reimbursements of such amounts as he deems prudent until he determines, in accordance with § 265.143(h) that the owner or operator is no longer required to maintain financial assurance for final closure of the facility. If the Regional Administrator does not instruct the trustee to make such reimbursements, he will provide to the owner or operator a detailed written statement of reasons.

* * * * *

(b) * * *

(4) * * *

(ii) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an administrative order to begin final closure issued by the Regional Administrator becomes final, or within 15 days after an order to begin final closure is issued by a U.S. district court or other court of competent jurisdiction; or

* * * * *

(c) * * *

(8) Following a final administrative determination pursuant to Section 3008 of RCRA that the owner or operator has failed to perform final closure in accordance with the approved closure plan when required to do so, the Regional Administrator may draw on the letter of credit.

* * * * *

(d) * * *

(5) After beginning partial or final closure, an owner or operator or any other person authorized to conduct closure may request reimbursements for closure expenditures by submitting itemized bills to the Regional Administrator. The owner or operator may request reimbursements for partial closure only if the remaining value of the policy is sufficient to cover the maximum costs of closing the facility over its remaining operating life. Within 60 days after receiving bills for closure activities, the Regional Administrator will instruct the insurer to make reimbursements in such amounts as the Regional Administrator specifies in writing if the Regional Administrator determines that the partial or final closure expenditures are in accordance with the approved closure plan or otherwise justified. If the Regional Administrator has reason to believe that the maximum cost of closure over the remaining life of the facility will be significantly greater than the face amount of the policy, he may withhold reimbursement of such amounts as he deems prudent until he determines, in accordance with § 265.143(h), that the owner or operator is no longer required

to maintain financial assurance for final closure of the particular facility. If the Regional Administrator does not instruct the insurer to make such reimbursements, he will provide to the owner or operator a detailed written statement of reasons.

* * * * *

(e) * * *

(1) * * *

(i) * * *

(B) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and

* * * * *

(D) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(ii) * * *

(B) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and

* * * * *

(D) Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(2) The phrase "current closure and post-closure cost estimates" as used in paragraph (e)(1) of this section refers to the cost estimates required to be shown in paragraphs 1–4 of the letter from the owner's or operator's chief financial officer (§ 264.151(f)). The phrase "current plugging and abandonment cost estimates" as used in paragraph (e)(1) of this section refers to the cost estimates required to be shown in paragraphs 1–4 of the letter from the owner's or operator's chief financial officer (§ 144.70(f) of this Title).

* * * * *

(h) *Release of the owner or operator from the requirements of this Section.*

Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Regional Administrator will notify the owner or operator in writing that he is no longer required by this Section to maintain financial assurance for final closure of the facility, unless the Regional Administrator has reason to believe that final closure has not been in accordance with the approved closure plan. The Regional Administrator shall provide the owner or operator a detailed written statement of any such reason to believe that closure has not been in accordance with the approved closure plan.

5. In § 265.144, paragraphs (a), introductory text of (b) and (c) are revised to read as follows:

§ 265.144 Cost estimate for post-closure care.

(a) The owner or operator of a hazardous waste disposal unit must have a detailed written estimate, in current dollars, of the annual cost of post-closure monitoring and maintenance of the facility in accordance with the applicable post-closure regulations in §§ 265.117–265.120, 265.228, 265.258, 265.280, and 265.310.

(1) The post-closure cost estimate must be based on the costs to the owner or operator of hiring a third party to conduct post-closure care activities. A third party is a party who is neither a parent nor subsidiary of the owner or operator. (See definition of parent corporation in § 265.141(d).)

(2) The post-closure cost estimate is calculated by multiplying the annual post-closure cost estimate by the number of years of post-closure care required under § 265.117.

(b) During the active life of the facility, the owner or operator must adjust the post-closure cost estimate for inflation within 60 days prior to the anniversary date of the establishment of the financial instrument(s) used to comply with § 265.145. For owners or operators using the financial test or corporate guarantee, the post-closure care cost estimate must be updated for inflation no later than 30 days after the close of the firm's fiscal year and before submission of updated information to the Regional Administrator as specified in § 265.145(d)(5). The adjustment may be made by recalculating the post-closure cost estimate in current dollars or by using an inflation factor derived from the most recent Implicit Price Deflator for Gross National Product published by the U.S. Department of Commerce in its *Survey of Current Business* as specified in § 265.145 (b)(1) and (b)(2). The inflation factor is the result of dividing the latest published annual Deflator by the Deflator for the previous year.

* * * * *

(c) During the active life of the facility, the owner or operator must revise the post-closure cost estimate no later than 30 days after a revision to the post-closure plan which increases the cost of post-closure care. If the owner or operator has an approved post-closure plan, the post-closure cost estimate must be revised no later than 30 days after the Regional Administrator has approved the request to modify the plan, if the change in the post-closure plan increases the cost of post-closure care. The revised post-closure cost estimate must be adjusted for inflation as specified in § 265.144(b).

* * * * *

4. In § 265.145, the introductory paragraph and paragraphs (a)(11), (b)(4)(ii), (c)(9), (d)(5), (e)(1)(i)(B), (e)(1)(i)(D), (e)(1)(ii)(B), (e)(1)(ii)(D), (e)(2), and (h) are revised as follows:

§ 265.145 Financial assurance for post-closure care.

By the effective date of these regulations, an owner or operator of a facility with a hazardous waste disposal unit must establish financial assurance for post-closure care of the disposal unit(s).

* * * * *

(a) * * *

(11) An owner or operator or any other person authorized to conduct post-closure care may request reimbursements for post-closure expenditures by submitting itemized bills to the Regional Administrator. Within 60 days after receiving bills for post-closure care activities, the Regional Administrator will instruct the trustee to make reimbursements in those amounts as the Regional Administrator specifies in writing, if the Regional Administrator determines that the post-closure expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Regional Administrator does not instruct the trustee to make such reimbursements, he will provide the owner or operator with a detailed written statement of reasons.

* * * * *

(b) * * *

(4) * * *

(ii) Fund the standby trust fund in an amount equal to the penal sum within 15 days after an administrative order to begin final closure issued by the Regional Administrator becomes final, or within 15 days after an order to begin final closure is issued by a U.S. district court or other court of competent jurisdiction; or

(iii) * * *

* * * * *

(c) * * *

(9) Following a final administrative determination pursuant to Section 3008 of RCRA that the owner or operator has failed to perform post-closure care in

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accordance with the approved post-closure plan and other permit requirements, the Regional Administrator may draw on the letter of credit.

* * * * *

(d) * * *

(5) An owner or operator or any other person authorized to perform post-closure care may request reimbursement for post-closure care expenditures by submitting itemized bills to the Regional Administrator. Within 60 days after receiving bills for post-closure care activities, the Regional Administrator will instruct the insurer to make reimbursements in those amounts as the Regional Administrator specifies in writing, if the Regional Administrator determines that the post-closure expenditures are in accordance with the approved post-closure plan or otherwise justified. If the Regional Administrator does not instruct the insurer to make such reimbursements, he will provide a detailed written statement of reasons.

* * * * *

(e) * * *

(1) * * *

(i) * * *

(B) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and

* * * * *

(D) Assets in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

* * * * *

(ii) * * *

(B) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates; and

* * * * *

(D) Assets located in the United States amounting to at least 90 percent of his total assets or at least six times the sum of the current closure and post-closure cost estimates and the current plugging and abandonment cost estimates.

(2) The phrase "current closure and post-closure cost estimates" as used in paragraph (e)(1) of this section refers to the cost estimates required to be shown in paragraphs 1–4 of the letter from the owner's or operator's chief financial officer (§ 264.151(f)). The phrase "current plugging and abandonment cost estimates" as used in paragraph (e)(1) of this section refers to the cost estimates required to be shown in paragraphs 1–4 of the letter from the owner's or operator's chief financial officer (§ 144.70(f) of this Title).

* * * * *

(h) *Release of the owner or operator from the requirements of this Section.* Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that the post-closure care period has been completed in accordance with the approved post-closure plan, the Regional Administrator will notify the owner or operator in writing that he is no longer required by this Section to maintain financial assurance for post-closure care of that unit, unless the Regional Administrator has reason to believe that post-closure care has not been in accordance with the approved post-closure plan. The Regional Administrator will provide the owner or operator a detailed written statement of any such reason to believe that post-closure care has not been in accordance with the approved post-closure plan.

* * * * *

7. In § 265.147, paragraph (e) is revised to read as follows:

§ 265.147 Liability Requirements.

* * * * *

(e) *Period of coverage.* Within 60 days after receiving certifications from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved closure plan, the Regional Administrator will notify the owner or operator in writing that he is no longer required by this Section to maintain liability coverage for that facility, unless the Regional Administrator has reason to believe that closure has not been in accordance with the approved closure plan.

* * * * *

PART 270—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

1. The authority citation for Part 270 continues to read as follows:

Authority: Secs. 1006, 2002, 3005, 3007, 3019, and 7004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912, 6925, 6927, 6939, and 6974).

Subpart B—Permit Application

40 CFR Part 270 Subpart B is amended as follows:

2. In § 270.14, paragraphs (b)(14), (15) and (16) are revised to read as follows:

§ 270.14 Contents of Part B application: General requirements.

* * * * *

(b) * * *

(14) For hazardous waste disposal units that have been closed, documentation that notices required under §264.119 have been filed.

(15) The most recent closure cost estimate for the facility prepared in accordance with §264.142 and a copy of the documentation required to demonstrate financial assurance under § 264.143. For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if that is later than the submission of the Part B.

(16) Where applicable, the most recent post-closure cost estimate for the facility prepared in accordance with § 264.144 plus a copy of the documentation required to demonstrate financial assurance under § 264.145. For a new facility, a copy of the required documentation may be submitted 60 days prior to the initial receipt of hazardous wastes, if that is later than the submission of the Part B.

* * * * *

3. In § 270.42, paragraph (d) is revised to read as follows:

§ 270.42 Minor modifications of permits.

* * * * *

(d) Allow for a change in ownership or operational control of a facility where the Director determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility between the current and new permittees has been submitted to the Director. Changes in the ownership or operational control of a facility may be made if the new owner or operator submits a revised permit application no later than 90 days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of 40 CFR 264, Subpart H (Financial Requirements), until the new owner or operator has demonstrated to the Director that he is complying with the requirements of that Subpart. The new owner or operator must demonstrate compliance with Subpart H requirements within six months of the date of the change in the ownership or operational control of the facility. Upon demonstration to the Director by the new owner or operator of compliance with Subpart H, the Director shall notify the old owner or operator in writing that he no longer needs to comply with Subpart H as of the date of demonstration. All other interim status duties are transferred effective immediately upon the date of the change of ownership or operational control of the facility.

* * * * *

4. In § 270.72, paragraph (d) is revised to read as follows:

§ 270.72 Changes during interim status.

* * * * *

(d) Changes in the ownership or operational control of a facility may be made if the new owner or operator submits a revised Part A permit application no later than 90 days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the old owner or operator shall comply with the requirements of 40 CFR 265, Subpart H (Financial Requirements), until the new owner or operator has demonstrated to the Director that he is complying with the requirements of that Subpart. The new owner or operator must demonstrate compliance with Subpart H requirements within six months of the date of the change in the ownership or operational control of the facility. Upon demonstration to the Director by the new owner or operator of compliance with Subpart H, the Director shall notify the old owner or operator in writing that he no longer needs to comply with Subpart H as of the date of demonstration. All other interim status duties are transferred effective immediately upon the date of the change of ownership or operational control of the facility.

* * * * *

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May 2, 1986

Part III

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Part 52
Federal Acquisition Regulation (FAR); Public Comments Concerning Contract Changes Clauses; Proposed Rule

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 52

Federal Acquisition Regulation (FAR); Public Comments Concerning Contract Changes Clauses

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Defense Acquisition Regulatory Council and the Civilian Agency Acquisition Council are considering changes to Federal Acquisition Regulation (FAR) 52.243–1 through 52.243–4, Changes clauses.

COMMENTS: Comments should be submitted to the FAR Secretariat at the address shown below on or before June 16, 1986, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 85–28 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background.

Because of comments received from industry, it was considered necessary to review the Changes clauses at FAR 52.243–1 through 52.243–4. Comments on this subject were solicited by means of a notice in the **Federal Register** on May 23, 1985 (50 FR 21313). The responses received were evaluated and provide the basis for the proposed revisions appearing herein.

Accordingly, the FAR Changes clauses 52.243–1 through 52.243–4, are revised to provide that the contractor must "assert its right to an adjustment" rather than "submit a proposal for adjustment," within 30 days from the receipt of a written order. These proposed revisions essentially impose the same requirements on the contractor as those previously in effect in the Defense Acquisition Regulation and the Federal Procurement Regulations Changes clauses.

B. Regulatory Flexibility Act Analysis Summary

Economic Impact of Proposed Rule

Incorporation of the proposed rule in the Federal Acquisition Regulation may result in a significant economic impact on a substantial number of small entities. However, information currently available is insufficient to permit a determination as to the extent of such economic impact, and comments that will permit a determination are hereby solicited.

Alternatives to the Proposed Rule

The proposed rule is expected to have a favorable economic impact on small entities. Under the current FAR coverage, the contractor must submit a proposal for adjustment within 30 days after receipt of a change order. Under the proposed revision, the contractor need only assert the right to an adjustment within the 30-day period. Since the rule will not have an unfavorable impact on small entities, consideration of possible alternatives is unnecessary.

C. Paperwork Reduction Act.

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because the proposed changes to FAR 52.243–1 through 52.243–4 do not impose any additional reporting or recordkeeping requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 52

Government procurement.

Dated: April 28, 1986.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Part 52 be amended as follows:

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

1. The authority citation for Part 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

2. Section 52.243–1 is amended by inserting a period in the introductory text following the word "clause" and removing the remainder of the sentence; by removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(MAY 1986)"; by revising the first sentence of paragraph (c) of the clause; and by removing the derivation lines following "(End of clause)" to read as follows:

§ 52.243–1 Changes—Fixed-Price.

* * * * *

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. * * *

* * * * *

3. Section 52.243–2 is amended by inserting a period in the introductory text following the word "clause" and removing the remainder of the sentence; by removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(MAY 1986)"; by revising the first sentence of paragraph (c) of the clause; and by removing the derivation lines following "(End of clause)" to read as follows:

§ 52.243–2 Changes—Cost-Reimbursement.

* * * * *

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. * * *

* * * * *

4. Section 52.243–3 is amended by inserting a period in the introductory text following the word "clause" and removing the remainder of the sentence; by removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(MAY 1986)"; by revising the first sentence of paragraph (c) of the clause; and by removing the derivation lines following "(End of clause)" to read as follows:

§ 52.243–3 Changes—Time-and-Materials or Labor Hours.

* * * * *

(c) The Contractor must assert its right to an adjustment under this clause within 30 days from the date of receipt of the written order. * * *

* * * * *

5. Section 52.243–4 is amended by inserting a period in the introductory text following the word "clause" and removing the remainder of the sentence; by removing in the title of the clause the date "(APR 1984)" and inserting in its place the date "(MAY 1986)"; by revising the second sentence of paragraph (d) of the clause; by revising the first sentence of paragraph (e) of the clause; and by removing the derivation lines following "(End of clause)" to read as follows:

§ 52.243–4 Changes.

* * * * *

(d) * * * However, except for an adjustment based on defective

specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than 20 days before the Contractor gives written notice as required. * * *

(e) The contractor must assert its right to an adjustment under this clause within 30 days after (1) receipt of a written change order under paragraph (a) of this clause or (2) the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of the proposal, unless this period is extended by the Government. * * *

* * * * *

[FR Doc. 86–9830 Filed 5–1–86; 8:45 am]

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Part IV

Department of Commerce

National Oceanic and Atmospheric Administration

50 CFR Part 301
Pacific Halibut Fisheries; Final Rules

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 301

[Docket No. 60475-6075]

Pacific Halibut Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of final rule.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, on behalf of the International Pacific Halibut Commission, publishes notice of regulations promulgated by that Commission and approved by the United States Government to govern the Pacific halibut fishery. These regulations are intended to enhance the conservation of Pacific halibut stocks in order to help rebuild and sustain them at an adequate level in the northern Pacific Ocean and Bering Sea.

EFFECTIVE DATE: April 29, 1986.

FOR FURTHER INFORMATION CONTACT: J. Craig Hamilond, Special Agent in Charge, Law Enforcement Division, Alaska Region, NMFS, P.O. Box 1668, Juneau, AK 99802, 907-586-7225; or Executive Director, International Pacific Halibut Commission, P.O. Box 5009, University Station, Seattle, WA 98105, 206-624-1838.

SUPPLEMENTARY INFORMATION: The International Pacific Halibut Commission (IPHC), under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979), has promulgated new regulations governing the Pacific halibut fishery. The regulations have been approved by the Secretary of State of the United States of America and by the Governor-General of Canada by Order-in-Council. On behalf of the IPHC, these regulations are published in the **Federal Register** to provide notice of their effectiveness, and to inform persons subject to the regulations of the restrictions and requirements established therein.

The substantive changes from the previous regulations, published at 50 FR 13382 (April 4, 1985), are as follows: (1) New halibut fishing seasons and area catch limits are established; (2) changes are made in the boundaries of certain halibut regulatory areas and the closed area, and Subarea 2A-1 is abolished in § 301.4; (3) new requirements for retrieval of halibut fishing gear from closed areas are prescribed; (4) vessel clearance requirements for various parts of Area 4 are changed; (5) new requirements for recording of commercial halibut catches on State or Provincial fish tickets are added; (6) certain vessels fishing in Areas 4C and 4E are excused from the 72-hour prohibition before a halibut fishing season on the use of setline gear to fish for any species; (7) changes are made in the sport fishing seasons for 1986 and 1987.

Because approval by the Secretary of State of the IPHC regulations is a foreign affairs function, Jensen v. National Marine Fisheries Service, 512 F. 2d 1189 (9th Cir. 1975), 5 U.S.C. Section 553 of the Administrative Procedure Act, Executive Order 12291, and the Regulatory Flexibility Act do not apply to this notice of the effectiveness and content of the regulations.

List of Subjects in 50 CFR Part 301

Fish, Fisheries.

Dated: April 29, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 301 is revised to read as follows:

PART 301—PACIFIC HALIBUT FISHERIES

Sec.

301.1 Short title.
301.2 Interpretation.
301.3 Application.
301.4 Regulatory areas.
301.5 Fishing periods.
301.6 Closed periods.
301.7 Closed area.
301.8 Catch limits.
301.9 Size limits.
301.10 Licensing of vessels.
301.11 Vessel clearance and hold inspection.
301.12 Logs.
301.13 Receipt and possession of halibut.
301.14 Fishing gear.
301.15 Retention of tagged halibut.
301.16 Supervision of unloading and weighing.
301.17 Sport fishing for halibut.
301.18 Previous regulations superseded.
Appendix to Part 301.

Authority: 5 UST 5; TIAS 2900; 16 U.S.C. 773-773k.

§ 301.1 Short title.

This part may be cited as the *Pacific Halibut Fishery Regulations.*

§ 301.2 Interpretation.

(a) In this part,

Charter vessel means a hired vessel under direct control of a licensed operator that is used in sport fishing for halibut.

Commercial fishing means fishing the resulting catch of which either is or is intended to be sold or bartered.

Commission means the International Pacific Halibut Commission.

Fishing means the taking, harvesting, or catching of fish; or any activity that can reasonably be expected to result in the taking, harvesting, or catching of fish, including specifically the deployment of any amount or component part of setline gear anywhere in the maritime area.

Land with respect to halibut means to bring to shore and to offload.

License means a halibut fishing license issued by the Commission pursuant to §§ 301.10 and 301.17 of this part.

Maritime area, in respect of the fisheries jurisdiction of a Contracting Party, includes without distinction areas within and seaward of the territorial sea or internal waters of that Party.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Person includes an individual, corporation, firm, or association.

Regulatory area means an area referred to in § 301.4 of this part.

Setline gear means one or more stationary, buoyed, and anchored lines with hooks attached.

Sport fishing means all fishing other than commercial fishing.

(b) In this part, all bearings are magnetic, unless otherwise stated, and all positions are determined by the most recent charts issued by the United States National Ocean Survey or the Canadian Hydrographic Service.

§ 301.3 Application.

(a) This part applies to persons and vessels fishing for halibut in waters off the west coast of Canada and the United States, including the southern as well as the western coasts of Alaska, within the respective maritime areas in which each of those countries exercises exclusive fisheries jurisdiction as of March 29, 1979.

(b) Sections 301.4 to 301.16 apply only to commercial fishing for halibut.

(c) Section 301.17 applies only to sport fishing for halibut.

(d) This part does not apply to fishing operations authorized or conducted by the Commission for research purposes.

§ 301.4 Regulatory areas.

The following areas shall be regulatory areas for the purposes of the Convention (see the map of Regulatory Areas in the Appendix to this part):

(a) Area 2A includes all waters off the coasts of the states of California, Oregon, and Washington.

(b) Area 2B includes all waters off the coast of British Columbia.

(c) Area 2C includes all waters off the coast of Alaska that are east of a line running northwest one-quarter west (312°) from Cape Spencer Light (latitude 58°11'57" N., longitude 136°38'18" W.), and south and east of a line running south one-quarter east (177°) from said light.

(d) Area 3A includes all waters between Area 2C and a line extending from the most northerly point on Cape Aklek (latitude 57°41'15" N., longitude 155°35'00" W.) to Cape Ikolik (latitude 57°17'17" N., longitude 154°47'18" W.), then along the Kodiak Island coastline to Cape Trinity (latitude 56°44'50" N., longitude 154°08'44" W.), then southeast by east one-quarter east (121°).

(e) Area 3B includes all waters between Area 3A and a line extending southeast (135°) from Cape Lutke (latitude 54°29'00" N., longitude 164°20'00" W.) and south of latitude 54°49'00" No. in Isanotski Pass.

(f) Area 4A includes all waters in the Gulf of Alaska west of Area 3B and in the Bering Sea west of the closed area defined in § 301.7 that are east of longitude 172°00'00" W. and south of latitude 56°20'00" N.

(g) Area 4B includes all waters in the Bering Sea and the Gulf of Alaska west of Area 4A and south of latitude 56°20'00" N.

(h) Area 4C includes all waters in the Bering Sea north of Area 4A and north of the closed area defined in § 301.7 which are east of a line extending true northwest (315°) from a point at latitude 56°20'00" N., longitude 170°00'00" W., south of latitude 58°00'00" N., and west of longitude 168°00'00" W.

(i) Area 4D includes all waters in the Bering Sea north of Areas 4A and 4B, north and west of Area 4C, and west of longitude 168°00'00" W.

(j) Area 4E includes all waters in the Bering Sea north of the closed area defined in § 301.7, east of longitude 168°00'00" W., and south of latitude 65°34'00" N.

§ 301.5 Fishing periods.

(a) The fishing periods for each regulatory area are set out in the following table and apply where the catch limits specified in § 301.8 have not been taken.

2A	
6/16-6/28	8/13-8/24
7/15-7/27	9/10-9/22
2B	
5/03-5/11	8/30-9/07
6/07-6/15	9/27-10/05
2C-3A-4B	
4/30-5/02	8/25-8/27
5/29-5/31	9/23-*
4A	
4/30-5/02	7/29-8/05
5/29-5/31	8/25-8/27
6/30-7/03	9/23-*
4B	
5/29-6/01	8/25-8/27
6/30-7/03	9/23-*
7/29-8/05	
4C	
6/01-6/02	7/29-7/30
6/03-6/04	7/31-8/01
6/05-6/06	8/02-8/03
6/07-6/08	8/04-8/05
6/09-6/10	8/06-8/07
6/11-6/12	8/08-8/09
6/13-6/14	8/10-8/11
6/15-6/16	8/12-8/13
6/17-6/18	8/14-8/15
6/19-6/20	8/16-8/17
6/21-6/22	8/18-8/19
6/23-6/24	8/20-8/21
6/25-6/26	8/22-8/23
6/27-6/28	8/24-8/25
6/29-6/30	8/26-8/27
7/01-7/02	8/28-8/29
7/03-7/04	8/30-8/31
7/05-7/06	9/01-9/02
7/07-7/08	9/03-9/04
7/09-7/10	9/05-9/06
7/11-7/12	9/07-9/08
7/13-7/14	9/09-9/10
7/15-7/16	9/11-9/12
7/17-7/18	9/13-9/14
7/19-7/20	9/15-9/16
7/21-7/22	9/17-9/18
7/23-7/24	9/19-9/20
7/25-7/26	9/21-9/22
7/27-7/28	9/23-9/24
4D	
6/30-7/03	9/23-*
7/29-8/06	
4E	
6/01/-6/03	8/18-8/20
6/04-6/06	8/21-8/23
6/07-6/09	8/24-8/26
6/10-6/12	8/27-8/29
6/13-6/15	8/30-9/01
6/16-6/18	9/02-9/04
6/19-6/21	9/05-9/07
6/22-6/24	9/08-9/10
6/25-6/27	9/11-9/13
6/28-6/30	9/14-9/16
7/01-7/03	9/17-9/19
7/04-7/06	9/20-9/22
7/07-7/09	9/23-9/25
7/10-7/12	9/26-9/28
7/13-7/15	9/29-10/01
7/16-7/18	10/02-10/04
7/19-7/21	10/05-10/07
7/22-7/24	10/08/-10/10
7/25-7/27	10/11/-10/13
7/28-7/30	10/14/-10/16
7/31-8/02	10/17/-10/19
8/03-8/05	10/20/-10/22
8/06-8/08	10/23/-10/25
8/09-8/11	10/26/-10/28
8/12-8/14	10/29/-10/03
8/15-8/17	

*Date to be announced by the Commission.

(b) Notwithstanding paragraph (a) of this section, where Area 3A is closed under § 301.8 on a date before the attainment of the catch limit in Area 3B, Area 3B will close on the same date.

(c) Where Area 3B is closed under paragraph (b) of this section, it shall reopen on the next scheduled opening date on the schedule of fishing periods referred to in paragraph (a) of this section and continue on that schedule until the catch limit specified in § 301.8 is attained.

(d) Each fishing period shall begin and terminate at 1200 hours Pacific Standard Time on the date set out in the table to this section, unless the Commission specifies otherwise. See the schedule and map of time zones in the Appendix to this part for correct local time.

(e) All commercial fishing for halibut shall cease at 1200 hours Pacific Standard Time on October 31.

§ 301.6 Closed periods.

(a) No person shall engage in fishing for halibut in any regulatory area other than during the fishing periods set out in § 301.5 in respect of that area.

(b) No person shall land or otherwise retain halibut caught outside a fishing period applicable to the regulatory area where the halibut was taken.

(c) Subject to § 301.14 (f) and (g), this part does not prohibit fishing for any species of fish other than halibut during the closed periods.

(d) Notwithstanding paragraph (c) of this section, no person shall have halibut in his possession while fishing for any other species of fish during the closed periods.

(e) No person shall retrieve any halibut fishing gear from a closed area if the vessel has any halibut on board.

(f) A vessel that has no halibut on board may retrieve any halibut fishing gear in a closed area after notifying a fishery officer or representative of the Commission prior to that retrieval.

(g) After retrieval of halibut gear in accordance with paragraph (f) of this section, the vessel shall submit to a hold inspection at the discretion of the fishery officer or representative of the Commission.

(h) No person shall retain any halibut caught on gear retrieved under paragraph (f) of this section.

§ 301.7 Closed area.

All waters in the Bering Sea that are east of a line from Cape Sarichef Light (latitude 54°36'00" N., longitude 164°55'42" W.) to a point at latitude 56°28'00" N., longitude 168°30'00" W., south of a line from the latter point to

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Cape Newenham (latitude 58°39'00" N., longitude 162°10'25" W.), and north of latitude 54°49'00" N. in Isanotski Pass are closed to halibut fishing and no person shall fish for halibut therein or have halibut in his possession while in those waters except in the course of a continuous transit across those waters.

§ 301.9 Catch limits.

(a) The total allowable catch of halibut to be taken during the halibut fishing periods specified in § 301.5 shall be limited to the weight expressed in pounds or metric tons shown in the following table:

Regulatory area	Catch limits	
	Pounds	Metric tons
2A	550,000	249
2B	11,200,000	5,080
2C	11,200,000	5,080
3A	28,100,000	12,746
3B	10,300,000	4,672
4A	2,000,000	907
4B	1,700,000	771
4C	600,000	272
4D	700,000	318
4E	50,000	23

(b) The weights in each catch limit shall be computed on the basis that the heads of the fish are off and their entrails removed.

(c) The Commission shall determine and announce to the public the date on which the catch limit for each regulatory area will be taken and the specific dates during which fishing will be allowed in each regulatory area.

(d) If the Commission determines that the catch limit specified in paragraph (a) of this section would be exceeded in a 24-hour fishing period in any regulatory area, the catch limit for that area shall be considered to have been taken.

(e) Notwithstanding paragraph (a) of this section, Areas 3A and 3B shall both be closed if the catch limit of 38,400,000 pounds (17,418 metric tons) for the combined areas is taken.

(f) Notwithstanding paragraph (a) of this section, Areas 4A and 4B shall both be closed if the catch limit of 3,700,000 pounds (1,678 metric tons) for the combined areas is taken.

(g) When under paragraphs (c), (d), (e), or (f) of this section the Commission has announced a date on which the catch limit for a regulatory area will be taken, no person shall fish for halibut in that area after that date for the rest of the year, unless the Commission has announced the reopening of that area for halibut fishing.

§ 301.9 Size limits.

(a) No person shall take or possess any halibut that

(1) With the head on, is less than 32 inches (81.3 cm) as measured in a straight line, passing over the pectoral fin from the tip of the lower jaw with the mouth closed, to the extreme end of the middle of the tail, as illustrated in the Appendix to this part, or

(2) With the head removed, is less than 24 inches (61.0 cm) as measured from the base of the pectoral fin at its most anterior point to the extreme end of the middle of the tail, as illustrated in the Appendix to this part.

(b) No person shall mutilate or otherwise disfigure a halibut in any manner that prevents the determination of the minimum size of the halibut for the purpose of paragraph (a) of this section.

§ 301.10 Licensing of vessels.

(a) The Commission may issue a license in respect of a vessel used for halibut fishing.

(b) No person shall fish for halibut from a vessel, nor possess halibut caught from a vessel, unless the Commission has issued a license in respect of that vessel.

(c) A license issued in respect of a vessel referred to in paragraph (b) of this section must be carried on that vessel at all times and the holder of it shall permit its inspection by customs and fishery officers of the Contracting Parties.

(d) A license shall be issued without fee by the Commission from its office in Seattle, Washington, upon receipt of a completed "Application for Vessel License for the Halibut Fishery" form.

(e) Application forms may be obtained from customs or fishery officers of either Contracting Party, or from the Commission.

(f) Licenses issued under this section shall be valid only during the year in which they are issued.

(g) A new license is required for a vessel that is sold, transferred, renamed, or redocumented.

(h) No person shall:

(1) Fish for halibut while on board a vessel in respect of which the Commission has issued a license while that vessel is in an area where commercial fishing for halibut is not permitted under this part; or

(2) Possess halibut while on board a vessel referred to in paragraph (h)(1) of this section in an area referred to in that paragraph unless that vessel is in transit to or within a port in which that halibut may be lawfully sold.

(i) The license required under this section is in addition to any license, however designated, that is required under the laws of Canada or any of its Provinces or the United States or any of its States.

§ 301.11 Vessel clearance and hold inspection.

(a) No person other than a person who lands his total annual halibut catch at ports within Areas 4A, 4B, 4C, 4D, 4E, or the closed area defined in § 301.7 of this part shall fish for halibut in Area 4A, 4B, or 4D from any vessel, unless the operator of that vessel obtains a vessel clearance and hold inspection both before such fishing and before the unloading of any halibut caught in Area 4A, 4B, or 4D.

(b) No person other than a person who lands his total annual halibut catch at a port within Area 4C may fish for halibut in Area 4C from any vessel, unless the operator of that vessel obtains a vessel clearance and hold inspection both before such fishing in each fishing period that applies to Area 4C and before the unloading of any halibut caught in that Area.

(c) No person other than a person who lands his total annual halibut catch at a port within Area 4E, or the closed area defined in § 301.7 may fish for halibut in Area 4E from any vessel, unless the operator of that vessel obtains a vessel clearance and hold inspection both before such fishing in each fishing period that applies to Area 4E and before the unloading of any halibut caught in that Area.

(d) The vessel clearance and hold inspection required under paragraphs (a), (b), and (c) of this section may be obtained only at Dutch Harbor or Akutan, Alaska, from a customs or fishery officer of the United States, a representative of the Commission, or a designated commercial fish processor.

(e) Vessel clearances and hold inspections required under paragraphs (a), (b), and (c) of this section prior to fishing in Area 4 shall be obtained within the 120-hour period before each of the openings in that Area.

(f) No halibut shall be on board at the time of inspection required by paragraph (e) of this section.

(g) Vessel clearances and hold inspections required under paragraphs (a), (b), and (c) of this section after fishing in Area 4 shall be obtained within the 120-hour period after each of the opening in that Area.

(h) The vessel clearance and hold inspection required under paragraphs (b) and (c) of this section is not valid if the vessel has fished for halibut in Area 4A, 4B, or 4D after obtaining the clearance and inspection required for such fishing.

§ 301.12 Logs.

(a) The operator of any vessel five (5) net tons or greater shall keep an accurate log of all halibut fishing operations including the date, locality, amount of gear used, and total weight of halibut taken daily in each locality.

(b) The log referred to in paragraph (a) of this section shall be:

(1) Updated not later than 24 hours after midnight local time for each day fished and within 24 hours following the closure of the area in which the vessel is fishing;

(2) Retained for a period of two years by the owner or operator of the vessel;

(3) Open to inspection by a fishery officer or any authorized representative of the Commission upon demand; and

(4) Kept on board the vessel when engaged in halibut fishing, during transits to port of landing, and for 5 days following off-loading halibut.

(c) No person shall make a false entry in a log referred to in paragraph (a) of this section.

§ 301.13 Receipt and possession of halibut.

(a) A person who purchases or otherwise receives halibut from the owner or operator of the vessel from which that halibut was caught, either directly from that vessel or through another carrier, shall record each such purchase or receipt on State or Provincial fish tickets, showing the date, locality, name of vessel, Halibut Commission license number, and the name of the person from whom the halibut was purchased or received and the amount in pounds according to trade categories of the halibut.

(b) A copy of the fish tickets referred to in paragraph (a) of this section shall be:

(1) Retained by the person making them for a period of two years from the date the fish tickets are made; and

(2) Open to inspection by a fishery officer or any authorized representative of the Commission.

(c) No person shall possess any halibut that he knows to have been taken in contravention of this part.

(d) When halibut are delivered to other than a commercial fish processor or primary fish buyer, the records required by paragraph (a) of this section shall be maintained by the operator of the vessel from which that halibut was caught, in compliance with paragraph (b) of this section.

(e) It shall be illegal to enter a Halibut Commission license number on a State or Provincial fish ticket for any vessel other than the vessel actually used in catching the halibut reported thereon.

§ 301.14 Fishing gear.

(a) No person shall fish for halibut using any gear other than hook and line gear.

(b) No person shall possess halibut taken with any gear other than hook and line gear except as provided in § 301.15.

(c) No person shall possess halibut while on board a vessel carrying any fishing gear other than hook and line gear or nets that are used solely for the capture of bait.

(d) All setline or skate marker buoys carried aboard or used by any United States vessel used for halibut fishing in a regulatory area shall be marked with one of the following:

(1) The vessel's name,

(2) The vessel's state license number, or

(3) The vessel's registration number, which markings shall be in characters at least four inches in height and one-half inch in width in a contrasting color visible above the water and shall be maintained in legible condition.

(e) All setline or skate marker buoys carried aboard or used by a Canadian vessel used for halibut fishing in a regulatory area shall be marked as required by the *British Columbia Fishery (General) Regulations.*

(f) No person on board a vessel from which setline gear was used to fish for any species of fish anywhere in waters described in § 301.3(a) during the 72-hour period immediately before the opening of a halibut fishing period shall catch or possess halibut anywhere in those waters during that halibut fishing period.

(g) No vessel from which setline gear was used to fish for any species of fish anywhere in waters described in § 301.3(a) during the 72-hour period immediately before the opening of a halibut fishing period may be used to catch or possess halibut anywhere in those waters during that halibut fishing period.

(h) Notwithstanding paragraphs (f) and (g) of this section, the 72-hour fishing restriction preceding a halibut fishing period shall not apply to persons and vessels fishing for halibut during fishing periods in Areas 4C and 4E as described in § 301.4 (h) and (j).

§ 301.15 Retention of tagged halibut.

Nothing contained in this part prohibits any vessel at any time from retaining and landing a halibut that bears a Commission tag at the time of capture, if the halibut with the tag still attached is reported at the time of landing and made available for examination by a representative of the Commission or by an officer of the Contracting Parties or a state or provincial government.

§ 301.16 Supervision of unloading and weighing.

The unloading and weighing of halibut may be subject to the supervision of a customs officer or other authorized officers to assure the fulfillment of the provisions of this part.

§ 301.17 Sport fishing for halibut.

(a) Sport fishing for halibut is only permitted from February 1 to December 31, 1986, and from February 1 to October 31, 1987.

(b) No person shall engage in sport fishing for halibut using gear other than a headline or rod with no more than two hooks attached, or a spear.

(c) No person shall catch, possess, or land more than two halibut of any size per day from a vessel that is engaged in sport fishing.

(d) After two halibut have been taken by any person engaged in sport fishing, those halibut shall be landed before that person takes more halibut on any succeeding day.

(e) No halibut caught in sport fishing shall be possessed aboard a vessel when other fish or shellfish aboard the said vessel are destined for commercial use, sale, trade, or barter.

(f) No person shall operate a charter vessel engaged in fishing for halibut unless the Commission has issued a license in respect of that vessel.

(g) A license issued in respect of a vessel referred to in paragraph (f) of this section must be carried on that charter vessel at all times and the holder of it shall permit its inspection by customs and fishery officers of the Contracting Parties.

(h) A license shall be issued without fee by the Commission from its office in Seattle, Washington, upon receipt of a completed "Application for Vessel License for the Halibut Fishery" form.

(i) Licenses issued under this section shall be valid only during the year in which they are issued.

§ 301.18 Previous regulations superseded.

This part shall supersede all previous regulations of the Commission, and this part shall be effective each succeeding year until superseded.

Appendix to Part 301

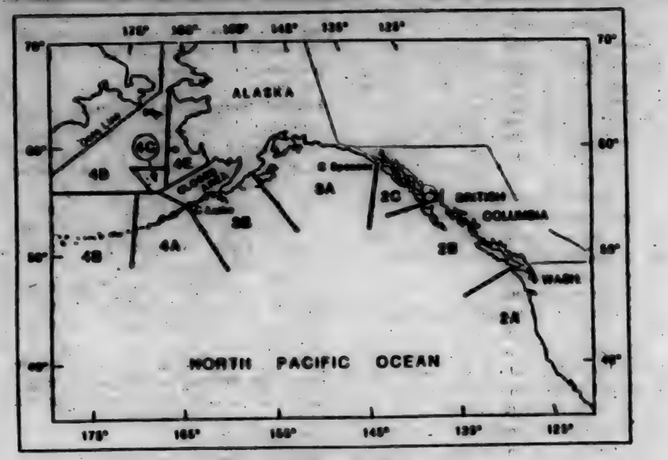
Schedule

Legal Opening and Closing Hours for Halibut Fishing for Standard Time (ST) and Daylight Savings Time (DT) in Different Time Zones of the Northeastern Pacific Ocean.

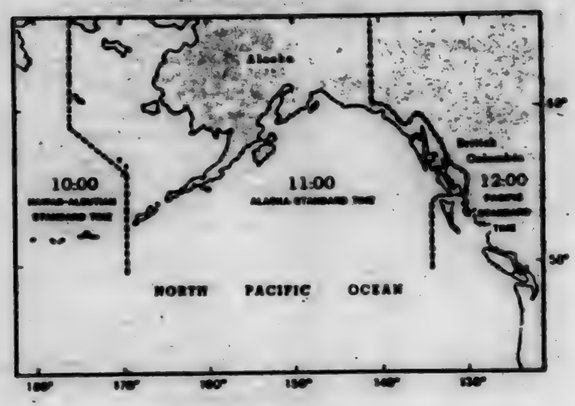
Time zone	Pacific		Alaska		Aleutian	
	PST	PDT	AkST	AkDT	AlST	AlDT
Hours	1200	1300	1100	1200	1000	1100

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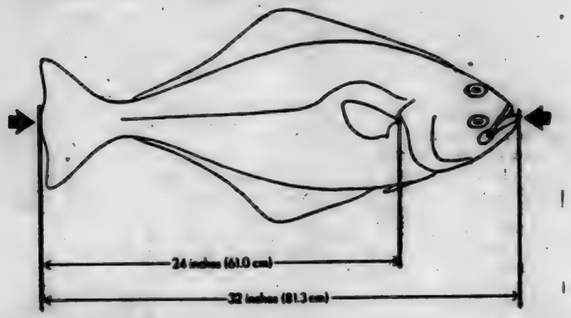
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Regulatory areas



Time zones



[FR Doc. 86-9929 Filed 4-29-86; 5:11 pm]
BILLING CODE 3510-22-C

50 CFR Part 301

[Docket No. 60474-6074]

Pacific Halibut Fisheries—United States Treaty Indian Tribes

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule and request for comment.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, issues an emergency interim rule to implement measures recommended by the International Pacific Halibut Commission (Commission) and approved by the Secretary of Commerce (Secretary) to govern fishing by certain U.S. treaty Indian tribes in the Pacific halibut fishery. These regulations establish a special quota and commercial fishing season for halibut off the State of Washington for members of four U.S. treaty Indian tribes.

DATES: This rule is effective April 29, 1986 until modified, superseded, or rescinded. Comments are due by May 29, 1986.

ADDRESS: Send comments to Mr. Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: R.A. Schmitten at 206-526-6150.

SUPPLEMENTARY INFORMATION: The Commission, under the Convention between the United States of America and Canada for the Preservation of the Halibut Fishery of the Northern Pacific Ocean and Bering Sea (signed at Ottawa, Ontario, on March 2, 1953), as amended by a Protocol Amending the Convention (signed at Washington, DC, on March 29, 1979), recommended at its annual meeting on January 27-30, 1986, that the government of the United States take regulatory action, pursuant to its domestic law and separate from the Commission's action, to provide for the United States' special obligations to four treaty Indian tribes with historic treaties containing fishing provisions. Those recommendations, which have been approved by the Secretary, include establishing a special Subarea 2A-1 under § 301.19 within the Commission's Regulatory Area 2A, providing a suballocation of 50,000 pounds of halibut to the four treaty Indian tribes in Regulatory Area 2A, and setting an open season for commercial halibut fishing by the tribes beginning April 30 and closing when the subquota is reached or on October 31, whichever occurs first.

Consultation was had with the Coast Guard at a meeting of the Pacific Fishery Management Council on March 11-13, 1986, in Portland, Oregon. The Secretary has authority to promulgate regulations implementing the Commission's recommendations under the Northern Pacific Halibut Act of 1982, 16 U.S.C. 773c.

The regulations establish Subarea 2A-1 under § 301.19 which includes the off-reservation halibut fishing areas of the four treaty Indian tribes in the ocean off the coast of Washington and in the Strait of Juan de Fuca. Subarea 2A-1 is not intended to describe precisely the historic off-reservation halibut fishing places of all tribes, as the location of those places has hot been determined. The regulations also provide a tribal suballocation of 50,000 pounds based on the Commission's conservative estimate of the amount of fish equalling half of the exploitable biomass of halibut within Subarea 2A-1 . The regulations establish a special commercial season in Subarea 2A-1 beginning April 30 and ending October 31, or when the tribal subquota is reached, whichever occurs first, which is designed to maximize the tribes' opportunity to harvest their full allocation. The regulations also establish a special U.S. treaty Indian tribal subsistence and ceremonial season in Subarea 2A-1 which begins on April 30 and ends on December 31, 1986. This subsistence and ceremonial fishery allows tribal members to take and retain up to two halibut per day on hook-and-line gear, but not to sell the fish caught.

The regulations are time critical and require implementation without prior public comment and without delaying their effectiveness although public comment has been invited for 30 days after their effective date. They are the result of intricate negotiations following a lawsuit filed by the Makah Tribe in 1985 to force the Federal government to protect their asserted treaty-protected fishing rights. Given the protracted and bitter litigation over treaty Indian salmon rights, now in its eighteenth year, NOAA's representatives to the IPHC deemed it in the best interests of the United States and the halibut fishery to support the tribes' proposals for a special season and allocation beginning in 1986. The United States' position, which resulted in the Commission's recommendations, was based on the outcome of a series of meetings with all affected parties, including all segments of the non-Indian halibut fishing community. The Commission's recommendations and implementing regulations are the popularly preferred alternative to continued litigation.

It was the Commission's recommendation, and the common understanding of the affected parties, that regulations would be promulgated in time to provide for a treaty Indian commercial season beginning on April 30, 1986. Without emergency implementation of the regulations, treaty Indian halibut fishing will be prevented until June 16, the beginning of the regularly scheduled commercial season in Regulatory Area 2A. Failure to promulgate the regulations effective immediately would negate the Commission's action, breach the agreements reached among the affected parties, undermine the Federal government's credibility, and force the matter to the attention of the courts.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is necessary to respond to an emergency situation and is consistent with the Northern Pacific Halibut Act and other applicable law, including the United States obligations to Canada and to U.S. treaty Indians.

Absent emergency issuance, tribal commercial fishing would be prevented until June 16, 1986, the opening of the regularly scheduled commercial season for all citizens in the Commission's Regulatory Area 2A. Given the time constraints, treaty obligations, and international obligations under the Protocol, the Assistant Administrator finds there is good cause to promulgate these regulations on an emergency basis and that it is impracticable and contrary to the public interest in resolving litigation issues to require notice and public comment, or to delay the effective date of the regulations, under the provisions of section 553 (b) and (d) of the Administrative Procedure Act.

The policy of NOAA is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested persons may submit written comments, suggestions, or objections regarding this rule to the Regional Director at the address above. Comments must be received by the date specified above.

This emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that order. This rule is being reported to the Director of the Office of Management and Budget with an explanation of why it is not possible to follow the procedures of that order. In

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addition, NMFS has determined that this rule is not a major rule within the terms of E.O. 12291 because it will not have a major effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions. This rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for prior public comments.

The implementation of a treaty Indian fishery by these regulations is not a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act.

This rule does not contain any collection of information requirement for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 301

Fisheries, Fishing.

Dated: April 28, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR Part 301 is amended as follows:

PART 301 [AMENDED]

1. The authority citation for Part 301 continues to read as follows:

Authority: 5 UST 5; TIAS 2900; 16 USC 773–773k.

2. In the table of contents, a new section designation is added, to read as follows:

§ 301.19 United States treaty Indian tribes.

3. A new § 301.19 is added, to read as follows:

§ 301.19 United States treaty Indian tribes.

(a) *Purpose.* The purpose of this section is to implement recommendations of the International Pacific Halibut Commission (IPHC) to govern fishing for halibut by four United States treaty Indian tribes in certain marine fishing areas off the coast of Washington and in the Strait of Juan de Fuca.

(b) *Relation to other laws.* Except as provided in this section, all regulations of the IPHC in this part apply to halibut fishing by members of United States treaty Indian tribes.

(c) *Definitions.* United States treaty Indian tribes means the Makah, Quileute Hoh, and Quinault tribes located in the State of Washington.

(d) *Area.* Within IPHC Regulatory Area 2A, Subarea 2A–1 includes waters off the coast of Washington from the U.S.-Canada border south to 46°53'18" N. latitude (Point Chehalis) and east of 125°44' W. longitude. Within Subarea 2A–1, boundaries of a tribe's fishery may be revised as ordered by a Federal court.

Tribe	Boundaries
Makah	North of 48°06'15" N. latitude (Norwegian Memorial), east of 125°44'00" W. longitude, and west of longitude 123°42'30".
Quileute	Between 48°07'36" N. latitude (Sand Point) and 47°31'00" N. latitude (Queets River), and east of longitude 125°44'00".
Hoh	Between 47°54'18" N. latitude (Quillayute River) and 47°21'00" N. latitude (Quinault River), and east of longitude 125°44'00".
Quinault	Between 47°40'06" N. latitude (Destruction Island) and 46°53'18" N. latitude (Point Chehalis), and east of longitude 125°44'00".

(e) *Quota.* Of the total allowable catch in IPHC Regulatory Area 2A, 50,000 pounds (23 metric tons) is suballocated to the U.S. treaty Indian tribes regardless of where the fish are taken by those tribes in Regulatory Area 2A. All fish taken by members of U.S. treaty Indian tribes in Subarea 2A during the season described in paragraph (f)(1) of this section will count toward this quota whether or not the fish are sold.

(f) *Season.* (1) For members of U.S. treaty Indian tribes, the commercial fishing season in Subarea 2A–1 shall commence on April 30 and terminate when the quota for the tribes specified in paragraph (e) of this section is reached, or on October 31, whichever is earlier.

(2) For members of the U.S. treaty Indian tribes, a subsistence and ceremonial fishing season in Subarea 2A–1 shall commence on April 30, 1986 and 1987, and terminate on December 31, 1986, and October 31, 1987. In this subsistence and ceremonial fishery, treaty Indians may take and retain, but not sell, up to two halibut per day caught on hook-and-line gear.

(g) *Identification of U.S. treaty Indian.* Any member of a U.S. treaty Indian tribe as defined in paragraph (c) of this section who is fishing under this part shall have in his or her possession a valid treaty Indian identification card issued pursuant to 25 CFR Part 249, Subpart A. This identification is not a substitute for the commercial halibut vessel license required of all commercial halibut fishermen by the IPHC.

[FR Doc. 86-9828 Filed 4-29-86; 5:11 pm]

BILLING CODE 3510-22-M

federal register

Friday
May 2, 1986

Part V

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Least Bell's Vireo; Determination of Endangered Status, and Reopening of Comment Period on the Proposed Critical Habitat Designation

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Least Bell's Vireo

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines the least Bell's vireo (*Vireo bellii pusillus*) to be an endangered species. This action is being taken because loss of habitat has greatly restricted the vireo's breeding range, and nest parasitism by the brown-headed cowbird (*Molothrus ater*) has greatly reduced nesting success within much of its remaining breeding habitat. The action is based, in part, on a petition received by the Service on November 8, 1979. The least Bell's vireo presently occurs in southwestern California and northwestern Baja California, Mexico, an area representing only a fraction of its former range. The final decision on determination of critical habitat included in the proposed rule is postponed in accordance with section 4(b)(6)(C) of the Endangered Species Act. The rule provides protection to all populations of this bird.

DATES: The effective date of this rule is June 2, 1986. In a separate document published in today's **Federal Register**, the Service reopens the comment period on the proposed critical habitat designation.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE. Multnomah Street, Suite 1692, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231–6131 or FTS 429–6131).

SUPPLEMENTARY INFORMATION:

Background

The least Bell's vireo is a small, gray, migratory songbird that feeds mainly on insects. The bird usually constructs its nest low in thickets along willow-dominated riparian habitats. The normal clutch of four eggs is incubated about 14 days. The young remain in the nest approximately 10–12 days. The least Bell's vireo arrives in its breeding habitat in mid-March to early April, and departs in late August and September for its wintering range in Mexico.

Three other subspecies of Bell's vireo are recognized by the American Ornithologists' Union (1957): *Vireo bellii bellii* of the midwestern United States; *V. b. medius* of Texas; and *V. b. arizonae* of the southwestern United States and northern Mexico. While all are fairly similar in behavior and life history, all the subspecies are geographically separated on their breeding ranges (Hamilton 1962). Virtually all Bell's vireos winter in Mexico.

The least Bell's vireo occupies a more restricted nesting habitat than the other subspecies. It primarily inhabits dense, willow-dominated riparian habitats with lush understory vegetation, which is limited to the immediate vicinity of water courses. The other subspecies of Bell's vireo also inhabit upland areas such as desert scrub. Thus, the narrow and limited nature of the habitat of the least Bell's vireo makes the subspecies more susceptible to major population reductions than are the other subspecies. At the present time no population of more than five pairs is known to occur below a major water control project.

Least Bell's vireos are known to nest primarily in willows but also use a variety of shrubs, trees, and vines. The birds forage in riparian and adjoining chaparral habitat (Salata 1983a). Preliminary studies of vireo foraging behavior along the Santa Ynez River and within the Mono Creek Basin (Santa Barbara County) indicate that more than 50 percent of the foraging occurs in the adjacent chaparral community; approximately 70 percent of the foraging observations were obtained from about 200 to 300 yards from the nest (Tom Keeney, biologist, U.S. Army Corps of Engineers, personal communication, July 31, 1985).

No other passerine (perching songbirds) species in California is known to have declined as dramatically as the least Bell's vireo. It primarily nests in small, remnant segments of willow-dominated riparian habitats. Most populations contain less than five breeding pairs. Once widespread and abundant throughout the Central Valley and other low-elevation riverine valleys, its historical breeding range extended from interior northern California (near Red Bluff, Tehama County) to northwestern Baja California, Mexico. In the last several decades, the subspecies apparently has been totally extirpated from the Sacramento and San Joaquin Valleys, which once were at the center of its breeding range. Its breeding range is now restricted (as of 1983–1984) to several localities in the Salinas River Valley, Monterey and San Benito Counties; one locality (as of 1979) along the Amargosa River, Inyo County; and numerous small populations in southern California south of the Tehachapi Mountains and in northwestern Baja California, Mexico.

Widespread loss of riparian habitats and brood parasitism by the brown-headed cowbird (*Molothrus ater*) have precipitated the decline in the least Bell's vireo. Destruction of riparian woodlands may have rendered the least Bell's vireo incapable of withstanding the spectacular increase in brown-headed cowbirds that began in the 1920's (Grinnell and Miller 1944, Gaines 1974, Laymon 1980). The population decline of the vireo has been well documented.

In 1973 no least Bell's vireo was found during an intensive search in formerly occupied habitat between Red Bluff, Tehama County, and Stockton, San Joaquin County (Gaines 1974). In 1977, the U.S. Fish and Wildlife Service reviewed the literature, examined museum material, and contacted numerous National Audubon Society chapters and knowledgeable field observers for information on the status of the least Bell's vireo (Wilbur 1980a).

Since then, several intensive vireo surveys of virtually all potential breeding habitat in California have been conducted (Gaines 1977, Goldwasser 1978, Goldwasser *et al.* 1980, unpublished Fish and Wildlife Service data). In total, least Bell's vireos have been reported from only 46 of over 150 former localities (some localities cover several miles of a water course) surveyed in the U.S. from 1977 through 1985. The surveys are based upon singing (or territorial) males. Counts of such males are an index to the population levels and are considered to be the maximum number present, since one male in five may not be paired or breeding at the time of the count. Based on this information, the present breeding population status of least Bell's vireo per county in California is as follows:

County	Sites [a]	Males [b]
San Benito	1	1
Monterey [c]	0	0
Inyo [c]	0	0
San Bernardino [c]	0	0
Santa Barbara	3	26
Ventura	1	5
Los Angeles	2	6
Orange	1	1
Riverside	9	29
San Diego	30	223
Total	46	291

[a] Number of different known breeding localities.
[b] Number of known territorial males.
[c] No known breeding in 1985.

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Based on surveys conducted from 1977 to 1985, the Service estimates that approximately 300 territorial male least Bell's vireos occur in California (Fish and Wildlife Service, unpublished data). Preliminary surveys in Baja California, Mexico, resulted in the location of a number of small populations, but suitable habitat is declining and limited (Wilbur 1980b). There are probably several hundred breeding pairs in Baja California (Wilbur 1980b).

On November 8, 1979, the Service received a petition from James M. Greaves to list the Arizona and least Bell's vireos as endangered. A notice of acceptance of the petition and status review was published on February 6, 1980 (FR 8030). Based on the best scientific and commercial data available and other comments submitted during the status review, the Service found that the petitioned action was warranted for the least Bell's vireo on October 13, 1983 (49 FR 2485, January 20, 1984); however, action was precluded by other pending listing actions, in accordance with section 4(b)(3)(C)(i) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Section 4(b)(3)(C)(i) recycles such petitions, which resulted in a new finding deadline of October 13, 1984. A finding was made October 12, 1984, that this action on the least Bell's vireo was still warranted but precluded. Publication of the proposed rule appeared on May 3, 1985 (50 FR 18968), fulfilling the next finding required under section 4(b)(3)(B)(ii) of the Act.

Information generated from the above February 6, 1980, Notice of Status Review indicates that the Arizona Bell's vireo if relatively common and widely distributed in a variety of habitats in Arizona, New Mexico, and Mexico. It is not primarily restricted to early riparian successional stages as is *V. b. pusillus*. Although density estimates of *V. b. arizonae* along the Colorado River and adjacent areas are very low, the subspecies appears to be doing well throughout most of its geographical range (USFWS status review data). Thus, the proposal published by the Service was restricted to the least Bell's vireo (*V. b. pusillus*). A finding that the petitioned action for the Arizona Bell's vireo was not warranted was published January 20, 1984 (49 FR 2487).

Summary of Comments and Recommendations

In the May 3, 1985, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the *Blade Tribune* (May 31, 1985), *San Diego Transcript* (May 29, 1985), *San Bernardino Sun* (May 29, 1985), *San Diego Tribune* (May 30, 1985), *News Press* (May 29, 1985), *Enterprise* (May 31, 1985), *Los Angeles Times* (June 7, 1985), *Riverside Press* (May 30, 1985), and *San Diego Union* (May 30, 1985), all of which invited general public comment. A public hearing was requested by a number of interested parties. Public hearings were conducted in San Diego on July 30, 1985; in Oxnard on July 31, 1985; and in Anaheim, on August 1, 1985. A total of 370 individuals attended the hearings. Notification of the public hearings and an extension of the comment period to August 30, 1985, was published on July 9, 1985 (50 FR 27992). An additional notification extending the comment period to December 2, 1985, was published on October 3, 1985 (50 FR 40424). These two additional notifications were also published in the aforementioned nine newspapers in July and October, respectively.

During the comment period, totaling approximately 6 months, 219 comments on listing were received. Of the 180 comments that stated a position on listing, 171 (95%) supported listing and 9 (5%) did not; 39 comments were non-substantive. These comments are discussed below.

Support for the listing proposal was voiced by four elected officials, California Department of Fish and Game, several local government entities, 15 conservation organizations (or branches thereof), and 139 other interested parties.

Little opposition was received regarding the need to list the least Bell's vireo; however, concern over the listing was voiced from three local agencies, one organization, two landowners, and three other private parties. A number of developers, landowners, local agencies, several State agencies including the California Department of Transportation, and local governments submitted comments regarding the possible effects that listing, and particularly, designation of critical habitat, might have on planned activities and development.

Because of the complexity of the economic analysis that must accompany the final rule designating critical habitats and the large number of comments and data received on these habitats, the Service has decided to make final only the listing portion of this rule at this time so that immediate protection of the least Bell's vireo would be possible. Section 4(b)(6)(C)(ii) of the Act allows the Service to extend the deadline for designating critical habitat for up to one year (May 3, 1987, in this case), if critical habitat is not yet determinable and/or immediate protection is needed for the species through a final listing action. Both of these reasons apply in this instance; therefore, the Service is now going forward with this final listing rule. Hence, the comments pertaining to designation of critical habitat or the potential economic impacts of such designation will not be discussed here but will be addressed when a final decision on critical habitat is made. Only comments addressing the issue of listing this species are responded to here. Numerous comments on administrative procedures, document availability, and future management of the vireo were received. Those comments that do not address the issue of listing will not be specifically responded to here.

Written comments and oral statements obtained during the public hearings and comment periods are combined in the following discussion. Opposing comments and other comments questioning the rule can be placed in a number of general groups, depending on content. These categories of comment, and the Service's response to each, are listed below.

Comment 1: What studies were used by the Service to support the decision to list the vireo and where are these available for review?

Service response: The studies reviewed by the Service are listed in the Reference Cited section of the proposed rule and in this final rule. In some cases, the data were supplied by personal communication with field biologists. Cited reports are available in the Service's Regional Office in Portland, Oregon, or in the Laguna Niguel, California, and Sacramento, California, field offices. Articles that were published in journals and were cited are available in many university libraries.

Comment 2: The notices for the public hearings and comments were inadequate and were not made public.

Service response: The Service's notification process is extensive and is summarized at the beginning of this section. The Service is required to publish a notice in local newspapers soliciting comments on the proposal and stating the particulars of any public hearing, if such is scheduled; to give notice of the proposal to appropriate scientific organizations; and to hold a

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public hearing, if requested to do so within 45 days of the date of publication of the proposed rule. All requirements pertaining to the notification process were met by the Service as indicated at the beginning of this section.

Comment 3: The least Bell's vireo is already protected because it is listed as an endangered species by the State of California. Nesting habitat is adequately protected by county policies and State procedures. Section 4(b)(1)(A) of the Act states that those efforts being made by any state or political subdivision to protect such species must be considered in the decision to designate the species as federally listed.

Service response: In 1980 the least Bell's vireo was listed as endangered by the State of California. Since that time vireo numbers have continued to decline throughout most of its range. As set forth under Factor E in the section below on Summary of Factors Affecting the Species, the recent increases along the Santa Margarita River can be attributed to an active cowbird trapping program and not to a natural increase. Vireo habitat continues to disappear and/or be adversely modified in spite of its State listing. Recognition of the least Bell's vireo as a federally listed species will provide additional protection and the further potential for restoring its habitat and for managing the bird.

Comment 4: Significant habitat has been developed along minor streams and in narrow canyons from agricultural runoff. Expansion of the imported water supply and hillside agriculture has changed the runoff pattern so that year-round flow is now common. Riparian vegetation, especially willows, has developed in these narrow canyons and may be suitable for least Bell's vireos. These areas should be surveyed before any action is taken on listing the least Bell's vireo.

Service response: The Service is obligated to use the best available biological information to determine whether a species warrants listing. The Service has checked many sites with this type of habitat and found virtually no vireos. No data are currently available to support the suggestion that these small willow-dominated areas created by agricultural runoff or other small sites are important to the known status of the vireo or that such areas may be used for breeding purposes by vireos. The future of these artificially-created habitats is precarious because agricultural runoff water can be discontinued at any time. Alternatively, over time these habitats may be otherwise suitable for several decades, but may become too mature for the vireo because of a lack of scouring or other forces needed for long-term habitat maintenance. Mature riparian forests are not selected by the vireos for nesting; the birds select younger growths of willows and associated vegetation. The total number of vireos using such habitats (i.e., from agricultural runoff), even in the aggregate, appears to be very small.

Comment 5: In the Fallbrook area, habitat losses are not attributable to agricultural development. In fact 25–30 percent of all irrigation water applied to orchards ends up as return flow into channels. During 1978–1985 when most of the orchards were planted, the nitrate rich runoff water contributed significantly to enhancing the depth and breadth of the willow groves where little growth occurred previously.

Service response: The Service evaluated the past and current threats to determine if the least Bell's vireo should be designated as endangered. This evaluation indicates that conversion of land throughout the range of the vireo for agricultural purposes; pumping to withdraw water for crop maintenance; and construction of dams, channels, and other water conveyance systems have resulted in the loss of substantial vireo habitat. Agricultural practices have also inadvertently encouraged the expansion of the range of the brown-headed cowbird (Wilbur 1980a, Laymon 1980).

As far as the Fallbrook area is concerned, no data were supplied or available to the Service indicating that agricultural runoff was largely responsible for creating these willow habitats. There are other possible explanations for these changes. For example, as 1978–1980 were particularly wet years in this area, it appears possible that the recharging of the groundwater table after a lengthy dry period may have contributed to some of the new or expanded willow growth. Ground water may allow for riparian growth, but it does not provide for the periodic scouring that is a principal feature of the riparian habitat normally used by the vireo. Many riparian plants are routinely scoured by heavy water flows. The regrowth referred to by the commenter may be a response to natural patterns of scouring and regrowth rather than to the agricultural runoff. Periodic scouring would have to recur in order to maintain the vireo habitat in its early successional stages.

Comment 6: It is incorrect to say that San Diego County has sustained a loss of habitat. For example, the Tijuana River was devoid of riparian vegetation until the 100-year flood in 1980 caused regrowth. As the result of water importation, many new habitats have been created, supporting many more least Bell's vireos in southern California. All species of birds have increased because of the greater availability of water, including the native cowbird. In fact, the least Bell's vireo is not endangered.

Service response: Importation of water and groundwater pumping has encouraged agricultural conversion of riparian habitat because of a reliable, constantly available, and relatively inexpensive source of water. Some habitat undoubtedly has been created by agricultural runoff, but it appears to mainly entail small, isolated islands of riparian habitat that are little used by vireos. The creation of such isolated pockets of riparian habitat does not offset the more widespread losses of larger riparian areas in the past 80 years. There is no evidence to support the contention that the brown-headed cowbird is a native species of California, with the possible exception of a portion of the lower Colorado River and as an occasional vagrant. Its range expansion to the north and west has been well documented since the early 1900's (Laymon 1980).

There is no evidence to support the contention that all species of birds have increased in southern California as the result of importation of water or for any other reason. On the contrary, available data indicate that numerous species are experiencing declines in population numbers, several bird species are listed as endangered in southern California, and a number of species are considered candidates for listing. The Tijuana River, prior to settlement, was subject to regular scouring floods. Flood control projects in Mexico and agricultural practices in San Diego County had largely eliminated the habitat of the vireo sometime prior to the 1980's.

Comment 7: Surveys for the least Bell's vireo were started during a time of very adverse hydrologic conditions and the results are not representative of actual conditions today. A 32-year drought (1946–1977) ended with abnormally high rainfall in 1978. During 1978–1980, rainfall was exceptionally heavy. Only in the last year has large-scale regrowth of willows occurred to the extent that protected nesting sites were available to the least Bell's vireo. As the level of water in groundwater basins declines, there will be times when habitat will contract and disappear. The importance of a perennial water supply in creating and maintaining riparian vegetation should be assessed. Also, heavy precipitation and runoff from the wet winters (1978 to 1983) caused an increase in the width of some riparian habitat. Because the recent wet period has ended, much of the recently expanded vegetation is expected to die back. Long-term protection should concentrate on riparian habitat that is dependent on stream flow and not currently existing groundwater sources.

Another commenter offered views directly contrary to the above and stated that many climatologists believe the weather has been unusually benign the last 30 years and that climate is now returning to the normal pattern of instability. Dry periods will be drier and wet periods will be wetter. Groundwater in the river basins will be the most stable element because of its ability to absorb, store, and slowly release accumulated surface flows. Unless additional dams are constructed and/or excessive pumping is done, the groundwater basin will continue to recharge and support willows as it has in the past.

Service response: The riparian ecosystems required by the vireo are dynamic systems, and the scouring of vegetation during periodic floods is required to create the low dense vegetation favored by the bird. At the present time, the Service knows of no significant numbers of vireos inhabiting below any major water control project in California or Mexico. Therefore, a surge of groundwater flow to surface flows would be required for scouring to maintain habitat quality. Otherwise, the willows will grow beyond the needs of the vireo, and a riparian forest will be created, which is habitat unsuitable to vireos. This is part of the problem in the Central Valley of California.

Natural expansion and contraction of riparian habitat is expected. However, because of the very low number of vireos, extensive contractions of habitat for more than a couple of years may suppress vireo numbers and reproduction to a point from which they could not recover.

Whether or not vireo habitat can be maintained by groundwater basins has bearing on the need to list the vireo. Groundwater tables apparently are in good condition now because of the series of wet winters, yet the vireo is still suffering from low numbers. As indicated above, high ground water levels (or low stream floods) allows the riparian vegetation to mature beyond the needs of the vireo. Periodic and regular scouring floods or some other agent must cause the habitat to revert to early successional stages. Willows and other vegetation over several yards (meters) in height are of little value to the vireo, except for some feeding.

Comment 8: Suitable habitat for the least Bell's vireo is plentiful. Rather than habitat being the critical limiting factor, it is predation and parasitism that are primarily responsible for the vireo's low numbers. Loss of riparian habitat and urban encroachment are clearly secondary factors. The San Luis Rey River and other existing and potential habitat in southern California have the capacity to support large populations of least Bell's vireos. During a 1978 survey of 69 miles (110 kilometers) of potential nesting habitat along the San Luis Rey River, Goldwasser (1978) found that only 13 miles (21 kilometers) or 19 percent of the habitat was occupied. What is the relative contribution of cowbird parasitism towards extinction of the vireo versus habitat disturbance?

Service response: The least Bell's vireo has been extirpated from over 95 percent of its former range. The contraction of range and reduction in numbers from a "common" species to an "extremely rare" one, has resulted, in part, from loss and/or adverse modification of habitat as described in the Summary of Factors Affecting the Species section. The Service also recognizes the substantial adverse impact from nest parasitism and predation. However, the Service has seen no evidence to document that cowbird parasitism plays the sole or primary role in the reduction in vireo numbers and range. The Service agrees that some apparently suitable vireo habitat is unoccupied, possibly because the previous population has been extirpated and vireo numbers are not high enough to provide a substantial pool of individuals to recolonize. In summary, the Service believes that the vireo is endangered by a combination of these factors and that the loss of habitat has been a significant contributory element along with the cowbirds.

Comment 9: Many wildlife species are numerous at Prado Dam only because of the artificial expansion of the riparian habitat created by the operation of Prado Dam.

Service response: Historically the Prado Basin area and adjacent Santa Ana River supported large numbers of wildlife species. Channelizing and concrete lining of the majority of the Santa Ana River downstream of Prado Dam has greatly diminished the amount of riparian habitat available for wildlife. Prado Dam encompasses an area that contained large amounts of riparian vegetation, much of which was destroyed when the basin was first flooded. Prado Dam may provide more wildlife habitat in Prado Basin than the latter had historically. In the Service's review of the status of the least Bell's vireo, the Service has considered the large reduction (hundreds of miles) in available riparian habitat throughout the vireo's overall range, not just the Santa Ana River area. Only two pairs of vireos are known to breed below Prado Dam on the Santa Ana River.

Comment 10: Riparian habitat along the San Dieguito River in the San Pasqual Valley did not exist in the 1950's prior to acquisition by the City of San Diego or in the 1960's prior to the sand mining activities associated with development of the flood control channels.

Service response: The presence of riparian vegetation as discussed in the response to a previous comment is dependent upon a number of factors. The San Pasqual Valley is owned by the City of San Diego and is an agricultural preserve. Riparian vegetation in the valley is limited by agricultural and sand mining operations. The Service believes that the San Dieguito River was typical of rivers in the area and was capable historically of supporting suitable riparian vegetation for least Bell's vireo. Construction of the Sutherland Dam approximately 50 years ago along the San Dieguito River resulted in loss of suitable vireo habitat downstream. The Service received no data to support the suggestion that sand mining operations or the City of San Diego have contributed directly to the establishment of significant amounts of riparian habitat where historically there has been none. Some suitable habitat is present now and is supporting a limited number of breeding least Bell's vireos.

Comment 11: The Service needs to assess the impacts on the survival of least Bell's vireos if no Federal or State projects are permitted, thereby eliminating a source of funding for habitat restoration.

Service response: The Service must base its decision to list a species on the five factors given in the "Summary of Factors Affecting the Species" section as mandated by the Act. Economics may not be considered in making the final decision on a listing proposal. It is not the intention of the Service to stop Federal or other projects. However, projects involving Federal funding or approval will be evaluated through the Section 7 consultation process. If through consultation the Service determines that a Federal project is likely to jeopardize the continued existence of the least Bell's vireo or result in the destruction or adverse modification of any designated critical habitat, which may be determined later, the Service may recommend reasonable and prudent alternatives to the proposed action.

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Comment 12: The least Bell's vireo does not currently nest in Prado Basin. In the near future conditions will be too inhospitable for the vireo. The bird should have been protected years ago before plans were made to develop the area. The natural living and breeding habits of the vireo are not conductive to long-term preservation.

Service response: Recent surveys indicate that the vireo population in the Prado Basin-Santa Ana River area has declined to 14 territorial males (U.S. Fish & Wildlife Service, unpublished data). Cowbirds are ubiquitous in much of this area and are seriously reducing vireo productivity. The Service believes that with a suitable cowbird control program, vireo numbers in this area would increase. Plans to develop the area are a further indication that habitat loss and modification are a continuing threat to the vireo.

Comment 13: According to a description of the species and information on its range found in a field guide, the Bell's vireo is widespread and therefore not endangered.

Service response: The cited field guide was referring to the full species of Bell's vireo. The least Bell's vireo is one of four subspecies of Bell's vireo. Restricted to less than 5 percent of its original breeding habitat in California, the least Bell's vireo has approximately 300 territorial males in the United States and an undetermined number (thought to number several hundred pairs) in Mexico. The other three subspecies do not now appear to be at any risk to their continued existence.

Comment 14: Even with preservation of habitat, is it not too late to save the vireo?

Service response: The Service believes that it is not too late and an active recovery program will substantially augment vireo numbers to a point where extinction is far less probable. Prospect for recovery, however, is not a factor to be considered in listing a species (see below).

Comment 15: Listing the least Bell's vireo is premature. The listing process should be suspended for 24 months during which time local agencies will establish a cooperative cowbird trapping program. Local policies will be reviewed and modified to increase protection. Listing is only a passive response, whereas the above program would provide an actual process to conserve the least Bell's vireo.

Service response: The State of California listed the least Bell's vireo as endangered in 1980. The species continues to lose habitat and decline. The Service has carefully reviewed the status of the vireo and believes immediate listing is warranted. A host of actions will be required to conserve the least Bell's vireo, only one of which is cowbird control. While the desire of local agencies to aid in vireo recovery actions is commendable, the Service recognizes that more far reaching action is required. There is also no provision in the Act to delay listing for 24 months. The Service can postpone listing for 6 months pursuant to section 4(b)(6)(B)(i) of the Act but only if substantial disagreement among experts exists regarding the sufficiency or accuracy of the available data on the status of the species. No such disagreement exists for the least Bell's vireo.

Comment 16: Many comments anticipated future Section 7 consultations on Federal projects involving habitat areas occupied by the least Bell's vireo. Highway projects, oil drilling, recreational facilities, and other types of construction activities were identified. One comment implied that the "traditional concept of mitigation" could be used to resolve project impacts if no critical habitat was designated.

Service response: Federal agencies are required to consult formally with the Service if they propose to authorize, fund, or carry out any activity that may affect the least Bell's vireo, wherever these birds are found and regardless of any critical habitat designation.

Through formal consultation with the Service, the Federal agency determines whether, and in what manner, it can carry out its action consistent with the "jeopardy" prohibition of section 7(a)(2). The traditional concept of mitigation does not control in the assessment of the likelihood of jeopardy. If the Service finds that the action is not likely to jeopardize the vireo, then project modifications are not required by section 7(a)(2). However, if it is determined that the action is likely to jeopardize the continued existence of the vireo, then reasonable and prudent alternatives to the proposal should be considered. Such alternatives, which satisfy the requirements of Section 7(a)(2), may also involve significant project modifications.

Comment 17: Several commenters requested that the Service prepare an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) before issuing a critical habitat rule.

Service response: For the reasons set out in the NEPA section toward the end of this document, the Service takes the position that rules issued pursuant to section 4(a) of the Endangered Species Act, including critical habitat rules, do not require the preparation of an EIS.

To summarize the comments and data provided under the proposal, the Service received no data indicating that the status of the vireo is far healthier than previously thought, that there were "thousands of vireos" still breeding in California, or that large blocks of appropriate habitat can be found below flood control dams or in some other parts of California or Mexico. No data were presented contradicting the effects of cowbirds on the reproductive success of the vireos. A few hundred pairs of vireos in several dozen locations exist in California, with probably similar numbers in Baja California, Mexico.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the least Bell's vireo (*Vireo bellii pusillus*) should be classified as an endangered species. Procedures found at section 4(a)(1) of the Act and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the least Bell's vireo (*Vireo bellii pusillus*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The least Bell's vireo is predominantly restricted to dense riparian habitat on its breeding range in California and northwestern Baja California. Over 95 percent of historic riparian habitat has been lost throughout its former breeding range in the Central Valley of California, which may have accounted for 60–80 percent of the original population. Similar habitat losses have also occurred throughout its remaining stronghold in southern California, and habitats are currently declining in Baja California as well (Wilbur 1980b). These widespread losses are mainly attributable to flood control and water development projects, agricultural development, livestock grazing, invasive exotic plants, off-road vehicles, and urban development resulting from rapidly expanding human populations. Despite growing concern at all levels of government for declining riparian vegetation, substantial amounts of riparian habitat continue to be lost each year.

In summary, with about 65 percent of the remaining United States population threatened by at least four major construction projects (see below) and the remaining 35 percent restricted to small, isolated habitats vulnerable to a variety of imminent threats, the least Bell's vireo is becoming increasingly threatened by extinction.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not applicable.

C. *Disease or predation.* As with other song birds (passerines), the least Bell's vireo has always been subject to nest predation. Unlike many other passerines, however, least Bell's vireos typically build their nests within about 40 inches (1 meter) of the ground, where they are accessible to a variety of terrestrial predators that prey on eggs or young (Wilbur 1980a; Salata 1981, 1983a). Male vireos often sing while on the nest, thereby potentially increasing predation rates by attracting predators. With the introduction of house pets and feral cats and with the surrounding of remnant breeding habitats by encroaching urban development, abnormally high predator densities may occur. In such situations, vireos undoubtedly face greater predation pressure than in larger, more natural habitats.

Recent multi-year studies by Greaves and Gray (unpublished reports) and Salata (1981, 1983a) quantified predation rates at the Santa Ynez River and Santa Margarita River populations, respectively. They found that about 40 percent of all nesting attempts along the Santa Ynez River failed because of predation and that about 30 percent failed because of predation along the Santa Margarita River. Predation rates of approximately 25 percent were noted during 1984 along the San Diego, Sweetwater, and San Luis Rey Rivers (Jones 1985).

D. *The inadequacy of existing regulatory mechanisms.* The least Bell's vireo is protected by both State of California and Federal laws. It is also protected under the land management plans of some local jurisdictions (e.g., zoning, parks). The Migratory Bird Treaty Act (16 U.S.C. 701–711) establishes provisions regulating the taking, possessing, transporting, and import of migratory birds, including all Bell's vireos. The vireo has not been subjected to any commercial activities. However, its habitat is not protected under those laws and is being incrementally destroyed and degraded. The Endangered Species Act offers additional possibilities for protection and management of this species' habitat.

E. *Other natural or manmade factors affecting its continued existence.* The effect of nest parasitism by the brown-headed cowbird has been greatly enhanced by anthropogenic factors, resulting in increased cowbird habitat and range and decreased vireo habitat. The brown-headed cowbird was rare in California prior to 1900, but expanded tremendously in both range and numbers (Garrett and Dunn 1981) as irrigated agriculture and animal husbandry increased (Wilbur 1980a). Cowbirds do not build their own nests but instead parasitize the nests of other bird species (i.e., lay their eggs in the nests of other species), usually to the detriment of the host birds' own eggs or young. The first record of nest parasitism on the least Bell's vireo was in 1907, after which reported incidences increased rapidly (Wilbur 1980a). The cowbird is not dependent upon the vireo, as it can use a large number of other species as host for its eggs. Vireo nests appear to be among the easiest to locate by cowbirds and may be favored, if present.

Recent studies by Greaves and Gray (unpublished reports) and Salata (1981, 1983a) have documented parasitism rates of between 20 and 47 percent from 1980 to 1982 along the Santa Ynez and Santa Margarita Rivers, respectively. Laymon (in litt.) suggests rates above 20% are probably detrimental to the vireo population's recruitment; at levels above 40% the local population may be expected to decline. Although the results of these studies do not indicate inordinately high parasitism rates compared to those of other common host species of brown-headed cowbirds, they do support the hypothesis that cowbird parasitism is significantly reducing least Bell's vireo reproductive success. During 1984 in a study of least Bell's vireo reproductive success along several rivers in San Diego County, Jones (1985) found a parasitism rate of 80 percent, a high rate that significantly affected vireo reproductive success.

Different rates would be expected at other breeding locales of least Bell's vireo, depending on an array of environmental factors. Considering the present widespread abundance of cowbirds throughout the historic range of the vireo, it appears that cowbird parasitism may greatly increase the probabilities of localized extinction to many of the small, vulnerable breeding populations. Further, depressed nesting productivity in the larger vireo breeding populations may: (1) Limit the opportunities (a) for population dispersal into unoccupied habitats or (b) to augment smaller populations and (2) may prevent founding pairs from successfully producing enough young to establish a new local population. An active cowbird control program by the Marine Corps on Camp Pendleton (Santa Margarita River), during April through July in 1983, is credited with increasing the vireo productivity within the study area from 104 fledglings per 100 breeding adults in 1982 to 143 fledglings per 100 breeding adults in 1983 (Salata 1983b).

The widespread habitat losses described above have fragmented remaining breeding populations into small, disjunct, widely dispersed subpopulations. Of the 46 localities currently known to support breeding populations, 34 support 4 or fewer territorial males, and only 7 sites support more than 10 breeding pairs. The 5 largest remaining populations, the Sweetwater River (46 territorial males), Prado Basin-Santa Ana River (14 territorial males), Santa Margarita River (85 territorial males), Santa Ysabel Creek (16 territorial males), and Santa Ynez River (26 territorial males), represent about 65 percent of the extant population in the United States; each is imminently threatened by a major urban development or water control project planned in the near future. Many of the smaller subpopulations are similarly threatened by a variety of projects associated with the increasing human population throughout the range of the vireo.

Biogeographic theories suggest that these small, remnant populations (accounting for about 35 percent of the total population) are more vulnerable to extirpation than several larger populations. In short, the smaller and more isolated a given local population, the more likely its chances of extinction. Given the high mortality rates of all small migratory songbirds, the significant threat posed by brown-headed cowbird parasitism (see above), and the site tenacity of the subspecies, localized extinctions are a high probability, even without natural or human-caused destruction of local habitats. In many instances, there may be no other vireo populations close enough or there may not be sufficient population recruitment at other breeding areas to repopulate extirpated populations in later years. Also, if local habitats are decimated for a year or two (e.g., by flooding such as occurred in southern California in 1978 and 1980), there may be no nearby habitat available to which vireos can disperse until the scoured riparian habitat regenerates. In this case, vireos may be forced into habitats less suitable to their nesting and foraging requirements, resulting in heightened mortality and reduced reproductive success.

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by this species in

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determining to make this rule final. Based on this evaluation, the preferred action is to list the least Bell's vireo as endangered. Its greatly reduced distribution and small population size, loss of habitat, and substantial potential for habitat modification or loss from future development projects, indicate the species warrants endangered rather than threatened status. The bird is clearly in danger of becoming extinct throughout its range in the foreseeable future. A decision to take no action would exclude the least Bell's vireo from needed protection available under theEndangered Species Act. Therefore, no action or listing as threatened would be contrary to the Act's intent. The reasons for postponing the designation of critical habitat are given in the following section. Designation of critical habitat will be addressed in a subsequent Federal Register notice. Elsewhere in this issue of the Federal Register the Service has reopened the comment period on the proposed critical habitat of May 3, 1985 (50 FR 18968).

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. Section 4(b)(6)(C) further indicates that a concurrent critical habitat determination is not required if the Service finds that a prompt determination of endangered or threatened status is essential to the conservation of the involved species, or that critical habitat is not then determinable. The Service believes that a prompt determination of endangered status for the least Bell's vireo is essential. If the least Bell's vireo were only proposed, but not listed, it would be eligible only for the consideration given under the conference requirement of section 7(a)(4) of the Act, as amended. This does not require a limitation on the commitment of resources on the part of the concerned Federal agencies or applicants for Federal permits. Therefore, in order to ensure that the full benefits of Section 7 and other conservation measures under the Act will apply to the least Bell's vireo, prompt determination of endangered status is essential.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. The Service is in the process of evaluating the information on economic impacts of designating critical habitat that was submitted during the comment period. However, because of the complexities and extent of the activities being assessed, the Service has not completed the evaluation. The Service today reopens the comment period on the critical habitat proposal in order to gather further data on economic impacts, boundaries, and precise habitat needs of the species in order to define more precisely the critical habitat of the vireo. The Service is in the process of performing the economic and other impact analyses required for a determination of critical habitat for the species, and plans to consider a final determination in the near future. The decision on designation of critical habitat must be made by May 3, 1987, pursuant to section 4(b)(6)(C)(ii) of the Act, as amended.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990: June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Critical habitat is not being designated for the vireo at this time.

A variety of Federal agencies have jurisdiction and responsibilities within vireo habitat, and Section 7 consultation might be required in a number of instances. At this point, known proposals that could require consultation include: modification of Gibraltar Reservoir on the Santa Ynez River (Army Corps of Engineers (CE) and U.S. Forest Service), a flood control project on the Santa Ana River (CE), a flood control project (CE), highway construction projects (Federal Highway Administration), urban development in wetlands at the Sweetwater Reservoir (CE), and a water project on the Santa Margarita River (Bureau of Reclamation and U.S. Marine Corps). These and other projects have the potential for significant adverse effects on the least Bell's vireo.

The Bureau of Reclamation and U.S. Marine Corps have coordinated with the Service concerning possible projects that may be authorized for the Santa Margarita River at Camp Pendleton. An interagency agreement has been established to provide a mechanism leading to the timely implementation of a conservation strategy for native flora and wildlife species at Camp Pendleton and their habitats in the Santa Margarita floodplain and estuary. This agreement has identified the least Bell's vireo and other listed species as important public trust resources to be conserved.

Controlled burning by various government agencies to reduce fuel loads in uninhabited areas may benefit the vireo, if done at the right time and in the proper manner. The Forest Service may have to consult on some of their controlled burning programs in areas where vireos are present.

In the case of highway projects in southern California, those that may affect the vireo are major bridge crossings of riparian habitat. Many similar crossings already exist in vireo habitat that do not appear to be substantial adverse influences on the vireo, although this needs further study. Each such future project may become the subject of a consultation to see what, if any, effects are likely. Only projects with Federal approval or funding are possible candidates for such consultations.

This rule brings sections 5 and 6 of the Endangered Species Act into effect with respect to the least Bell's vireo. Section 5 authorizes the acquisition of lands for the purpose of conserving endangered and threatened species. Pursuant to section 6, the Fish and Wildlife Service would be able to grant funds (should they become available) to the State of California for management actions aiding the protection and recovery of the vireo.

Listing the least Bell's vireo as endangered allows for development of a recovery plan for this bird. Such a plan will draw together the State, Federal, and local agencies having responsibility for conservation of the vireo. The recovery plan will outline an administrative framework, sanctioned by the Act, for agencies to coordinate activities and cooperate in their conservation efforts. Habitat Conservation Plans (HCPs) and other comprehensive plans, such as those being coordinated by the San Diego Assocation of Governments task force on the vireo, will be a part of and coordinated through the recovery plan process. The recovery plan will describe recovery priorities and estimate the cost of various tasks necessary to accomplish them. It will recommend appropriate functions to each agency and a time frame within which to complete them.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, etc.—see definitions at 50 CFR 17.3), import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any endangered wildlife species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities.

The least Bell's vireo is not used for economic purposes, is not a commercial species, and is not legally hunted, sold, or traded. Only a few requests for taking permits are anticipated. This bird is presently protected under 50 CFR Parts 10 and 20 as a migratory bird.

The Service will review the least Bell's vireo to determine whether it should be placed upon the Annex of the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, which is implemented through Section 8A(e) of the Act, and whether it should be considered for other appropriate international agreements.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to Section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244). The Service's determination includes and applies to critical habitat rules, none of which in the past have been found to be major Federal actions under NEPA.

References Cited

American Ornithologists' Union. 1957. Check-list of North American birds. 5th edition. American Ornithologists' Union [Washington, D.C.] 691 pp.

Gaines, D. 1974. A new look at the nesting riparian avifauna of the Sacramento Valley, California. Western Birds 5:61–79.

Gaines, D. 1977. The status of selected riparian forest birds in California. Unpublished report to California Department of Fish and Game. 56 + viii pp.

Garrett, K., and J. Dunn. 1981. Birds of southern California: status and distribution. Los Angeles Audubon Society. 408 pp.

Goldwasser, S. 1978. Distribution, reproductive success and impact of nest parasitism by brown-headed cowbirds on least Bell's vireos. California Department of Fish and Game. Nongame Wildlife Investigations. Job IV–1.5.1. 27 pp.

Goldwasser, S., D. Gaines, and S. Wilbur. 1980. The least Bell's vireo in California: a de facto endangered race. American Birds 34:742–745.

Grinnell, J., and A. Miller. 1944. The distribution of the birds of California. Pacific Coast Avifauna 27. 608 pp.

Hamilton, T. 1962. Species relationships and adaptations for sympatry in the avian genus *Vireo*. Condor 64:40–68.

Jones, B. 1985. A report on the status of the least Bell's vireo on the San Diego, Sweetwater, and San Luis Rey Rivers, San Diego County, CA. Unpublished report. U.S. Fish and Wildlife Service, Laguna Niguel, CA, and San Diego County Fish and Game Commission. 52 pp.

Laymon, S. 1980. Winter brown-headed cowbird concentrations in the Central Valley, California: feasibility of trapping for population control and historical range changes of the species. Unpublished report. California Department of Fish and Game, Sacramento. 28 pp.

Salata, L. 1981. Least Bell's vireo research, Camp Pendleton Marine Corps Base, San Diego County, California. Unpublished report. Natural Resources Office, Camp Pendleton, CA. 28 pp.

Salata, L. 1983a. Status of the least Bell's vireo on Camp Pendleton, California. Unpublished report. U.S. Fish and Wildlife Service, Laguna Niguel, CA. 62 pp.

Salata, L. 1983b. Status of the least Bell's vireo on Camp Pendleton, California: report on research done in 1983. Unpublished report. U.S. Fish and Wildlife Service, Laguna Niguel, CA. 53 pp.

Wilbur, S. 1980a. Status report on the least Bell's vireo. Unpublished report. U.S. Fish and Wildlife Service, Portland, Oregon. 46 pp.

Wilbur, S. 1980b. The least Bell's vireo in Baja California, Mexico. Western Birds 11:129–133.

Author

The primary author of this final rule is Dr. Kathleen E. Franzreb, Endangered Species Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Sacramento, California 95625 (916–978–4866 or FTS 460–4866).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.11(h) by adding the following, in alphabetical order under Birds, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

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Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Birds							
Vireo, least Bell's	*Vireo bellii pusillus*	U.S.A. (CA), Mexico	Entire	E	226	NA	NA

Dated: April 29, 1986.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-9830 Filed 5-1-86; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on the Proposed Critical Habitat Designation for the Endangered Least Bell's Vireo

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Service gives notice that the comment period is reopened for 90 days to receive further comments concerning the proposed designation of critical habitat for the least Bell's vireo. The vireo has been listed as an endangered species as published in today's **Federal Register.** A final decision regarding designation of critical habitat will be made after all materials received by the Service have been evaluated.

DATE: Comments from all interested parties must be received by July 31, 1986.

ADDRESS: Comments and materials should be sent to the Regional Director, U.S. Fish and Wildlife Service, Suite 1692, Lloyd 500 Building, 500 NE. Multnomah Street, Portland, Oregon 97232. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address (503/231-6131 or FTS 429-6131).

SUPPLEMENTARY INFORMATION:

Background

In today's **Federal Register,** the Service issues a final rule to list the least Bell's vireo (*Vireo bellii pusillus*) as an endangered species and afford it immediate protection under the Endangered Species Act (16 U.S.C. 1531 *et seq.*). Due to the nature and extent of the threats faced by the least Bell's vireo, it is deemed to be essential to the conservation of the species that it be listed without further delay. As explained in the final rule, because of the complexity of the economic analysis that must accompany the designation of critical habitat, the large number of comments and data received, and the difficulty and significance of the issues pertaining to the proposed critical habitat designation, the Service has decided to defer a decision on the critical habitat designation. Section 4(b)(6)(C) of the Act allows the Service to extend the prescribed period for designation of critical habitat for up to one year: May 3, 1987, in this case. Accordingly, the Service reopens, for 90 days, the comment period on the proposed designation of critical habitat (May 3, 1985; 50 FR 18968) for the least Bell's vireo.

Because the comments previously submitted by all parties in 1985 on the proposed rule concerning critical habitat for this species will still be considered, there is no need for duplicate comments to be resubmitted during this comment period by any party. Comments made at past public hearings carry equal weight with written comments.

Author

The primary author of this notice is Ms. Carolyn Bohan, U.S. Fish and Wildlife Service, 500 NE. Multnomah St., Suite 1692, Portland, Oregon 97232 (503)/231-6131 or FTS 429-6131).

Authority

The authority for this action is the Endangered Species Act (16 U.S.C. 1531 *et seq.*; Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Dated: April 29, 1986.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-9979 Filed 5-1-86; 8:45 am]

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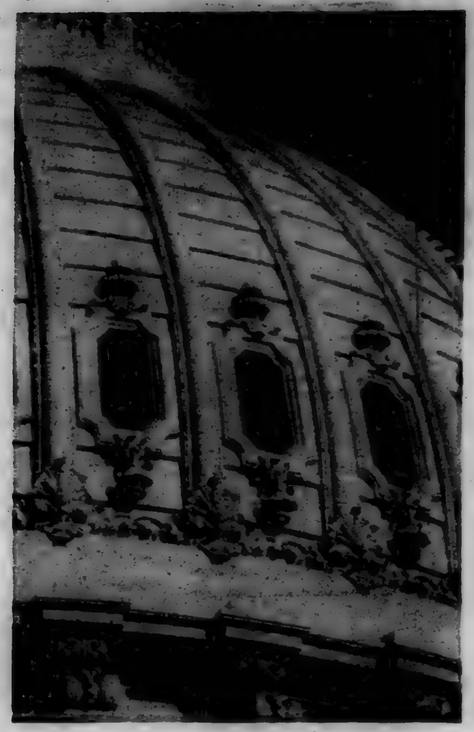
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FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

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1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: May 15; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Laurence Davey, 202-523-3517

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 86-045]

Limited Ports of Entry; Atlanta, GA

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which amended the regulations in 9 CFR Part 92 by adding Atlanta, Georgia, to the list of limited ports of entry for animals and animal products (such as animal semen, animal test specimens, hatching eggs, and day old chicks) which do not appear to require restraint and holding inspection facilities. It was necessary to add Atlanta, Georgia, to this list to reflect the availability of the Veterinary Services inspection facilities and personnel so that importers can make arrangements for the importation of such animals and animal products.

EFFECTIVE DATE: May 5, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. S.S. Richeson, Import-Export Animals and Products Staff, VS, APHIS, USDA, Room 843, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8172.

SUPPLEMENTARY INFORMATION:

Background

The regulations in § 92.3 of 9 CFR Part 92 list a large number of ports with inspection stations or quarantine stations maintained by Veterinary Services for the importation of animals and animal products. In addition to air and ocean ports and several other types of ports, § 92.3 lists certain limited ports for the importation of animals and animal products (such as animal semen, animal test specimens, hatching eggs, and day old chicks) which do not appear to require restraint and holding inspection facilities.

An interim rule published in the Federal Register on February 5, 1986 (51 FR 4480-4481), amended § 92.3(e) of the regulations by adding Atlanta, Georgia, to the list of such limited ports for entry. The interim rule was made effective upon publication. Comments were solicited for 60 days following publication. No comments were received. The factual situation which was set forth in the interim rule still provides a basis for the amendment.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in accordance with Executive Order 12291 and has been classified as not a major rule. The Department has determined that this action will not have a significant effect on the economy; will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this rulemaking action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

It is anticipated that the addition of Atlanta, Georgia, to the list of limited ports for the importation of animals and animal products which do not appear to require restraint and holding inspection facilities will not cause a substantial change in the number of such animals and animal products entering the United States or in the number of persons importing such animals and animal products.

Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR 3015, Subpart V).

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Animal diseases, Canada, Imports, Livestock and livestock products, Mexico, Poultry and poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMAL AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, the interim rule amending 9 CFR Part 92 which was published at 51 FR 4479-4480 on February 5, 1986, is adopted as a final rule.

Authority: 7 U.S.C. 1622; 19 U.S.C. 1306; 21 U.S.C. 102-105, 111, 134a, 134b, 134c, 134d, 134f, and 135; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 29th day of April 1986.

Gerald J. Fichtner,
Acting Deputy Administrator, Veterinary Services.

[FR Doc. 86-9995 Filed 5-2-86; 8:45 am]
BILLING CODE 3410-34-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 353

Reports of Apparent Crimes Affecting Insured Nonmember Banks

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The FDIC has adopted a regulation to require insured nonmember banks to report, on a prescribed form, criminal violations of the United states Code that involve or affect such banks to the appropriate investigatory and prosecuting authorities, as well as to the FDIC. Robberies, burglaries and nonemployee larcenies, which are subject to the requirements of 12 CFR 326.5(c), are exempt from the requirements of the rule. The central purpose of the report form requirement is to assure that the information needed by investigators and

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prosecutors for effective law enforcement is provided in an orderly and timely fashion. Also, the FDIC, by receiving a copy of the reports, will be better able to monitor, and to act to reduce, losses to insured nonmember banks as a result of criminal activity.

EFFECTIVE DATE: June 4, 1986.

FOR FURTHER INFORMATION CONTACT: James R. Dudine, Chief, Special Activities Section, Division of Bank Supervision, FDIC, 550 17th Street, N.W., Washington, D.C. 20429; (202) 898-6750.

SUPPLEMENTARY INFORMATION: The directors of an insured nonmember bank are obligated, by virtue of their fiduciary duties, to cause reports of crimes against the bank to be made to the cognizant investigatory and prosecuting authorities. The FDIC, in the course of exercising its supervisory responsibilities and in the interest of safety and soundness, presently monitors the fulfillment of this obligation through the bank examination process. In view of the threat of increasing bank losses through criminal activity, particularly through crimes involving "insiders", the new rule formalizes the crime reporting requirement, improves the quality and usefulness of crime reports by specifying the information needed for effective law enforcement, and enhances the ability of the FDIC to monitor, and to act to reduce, losses to banks through criminal activity. The rule, including the report form, results from the work and recommendations of an interagency group comprised of representatives of the Federal financial institutions regulatory agencies, the U.S. Department of Justice, Criminal Division, and the Federal Bureau of Investigation.

This rule is adopted following publication by the FDIC of a similar proposed rule on October 24, 1985 on which comments were solicited. 50 FR 43209 (1985). The comments were carefully considered in the course of framing the rule.

Four of the twenty-one comments received addressed the proposed requirement (§ 353.2) that each nonmember insured bank notify the FDIC if its fidelity bond coverage were cancelled or the coverage changed significantly, with one in favor and two opposed. The fourth favored notification but thought it should be given by the bonding company. This requirement has been deleted from the rule in the belief that there are more effective and efficient ways to gather the information and to achieve the objective sought.

Seven commenters opposed the proposed rule in its entirety as unnecessary and unwarranted. Other commenters, while expressing general agreement with the objectives of the proposed rule, raised concern about the lack of a minimum dollar amount for triggering the filing of a report, the shortness of the fourteen-day period for the filing of a required report, and bank customer privacy rights, and suggested that because of the vagueness of criminal law, it would be difficult for banks to determine when the filing of a report was appropriate.

Instructions have been added to the report form that incorporate a $2500 potential loss threshold for the required filing of a report, if the bank is unable to identify a possible perpetrator. The time for the filing of a report after the discovery of an apparent crime that is subject to this part has been changed from fourteen days to thirty days. Of course, the fact that a report is required should not deter a bank from first informing the cognizant authorities by telephone, or by other expeditious means, of an apparent violation, when such action is appropriate.

A notice has been added to the report form stating that the information contained therein is subject to the Privacy Act of 1974, 5 U.S.C. 552a, and to 12 CFR Part 310. The Right to Financial Privacy Act of 1978 specifically authorizes financial institutions voluntarily to report "possible" criminal violations to "any agency or department of the United States, or any officer, employee, or agent thereof." See 12 U.S.C. 3401(3); 3403(c).

The sentence in the proposed rule (§ 353.1) stating that "Doubts as to whether a report should be filed in any particular case should be resolved in favor of doing so" has been deleted, and the following sentence has been added: "For purposes of this part, the phrase 'apparent violation' implies that there is a reasonable basis for believing that a crime has occurred, is occurring, or may occur." An addition to the report form similarly amplifies the phrase "suspected criminal activity."

The requirement in the proposed rule (§ 353.1) that a report of an apparent criminal violation of the United States Code be transmitted also to the state prosecuting attorney if a state law violation may be involved has been deleted. The instructions in the report form have been amended to indicate that the use of the form for this purpose is optional.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–12), the Board of Directors certifies that the rule will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

Inasmuch as the rule formalizes the existing obligation of insured nonmember banks to report criminal violations, the additional burden placed upon most such institutions by this requirement will not be significant. The reporting and notification requirements in the rule were approved by the Office of Management and Budget under control number 3064-0077 pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3504(h)).

List of Subjects in 12 CFR Part 353

Banks, banking, State nonmember banks, Reporting and recordkeeping requirements.

Accordingly, the FDIC hereby adds Part 353 to Title 12, CFR, as follows:

PART 353—REPORTS OF APPARENT CRIMES AFFECTING INSURED NONMEMBER BANKS

Sec.
353.0 Purpose and scope.
353.1 Reports and records.

Appendix A—Form 6710/06 and 6710/06A, Report of Apparent Crime (Short Form and Long Form), and Instructions for Its Preparation and Filing

Authority: 12 U.S.C. 1818, 1819.

§ 353.0 Purpose and scope.

The purpose of this part is to reduce losses to insured nonmember banks resulting from criminal violations of the United States Code involving or affecting the assets or affairs of such banks through the requirement of prompt and systematic reports by such banks of such crimes or attempted crimes. This part complements, and does not supplant any of the requirements of, Part 326. Neither the particular requirements of this part nor of Part 326 shall be construed as reducing in any way the general responsibility of insured nonmember banks to report apparent criminal violations to the appropriate investigatory and prosecuting authorities.

§ 353.1 Reports and records.

(a) Whenever it appears that a criminal violation of the United States Code involving or affecting the assets or affairs of an insured nonmember bank (excluding a federal savings bank) has been committed or attempted, then the bank (using Form 6710/06 or 6710/06A and the instructions therefor, appearing in Appendix A) shall promptly report the apparent violation to the appropriate field office of the Federal Bureau of Investigation, to the appropriate office of the United States Attorney, and to the regional director (Division of Bank Supervision (DBS)) of the FDIC region in which the bank is located. The bank shall maintain a copy of each such report in its records. For purposes of this part, the phrase "apparent violation" implies that there is a reasonable basis for believing that a crime has occurred, is occurring, or may occur. The fact that a report is required by this part should not in any case deter a bank from first informing the appropriate authorities by telephone, or other expeditious means, of an apparent violation, when such action is deemed fitting.

(b) Robberies, burglaries and nonemployee larcenies, which are subject to the requirements of 12 CFR 326.5(c), are exempt from the requirements of this part.

(c) Supplies of Form 6710/06 and 6710/06A can be obtained from the FDIC regional office (DBS), which will also provide, if needed, the addresses of the investigatory and prosecuting authorities with which reports required by this part are to be filed.

(Approved by the Office of Management and Budget under control number 3064-0077)

Appendix A—Form 6710/06 and 6710/06A, Report of Apparent Crime (Short Form and Log Form), and Instructions for Its Preparation and Filing

BILLING CODE 6714-01-M

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CONTROL NO. (AGENCY USE ONLY)

OMB No. 3064-0077
Expiration Date: 7/31/88

FDIC

REPORT OF APPARENT CRIME (SHORT FORM)

Federal Deposit Insurance Corporation

ATTENTION:
Use this form only if suspected criminal activity (see 12 C.F.R. §353.1) involves actual or probable loss of less than $10,000 (prior to any recovery or reimbursement) not involving an executive officer, director or principal shareholder of the institution within the meaning of 12 C.F.R. §215.2 (with the term "member bank" deemed to mean "insured non-member bank"). All other referrals should be submitted on FDIC Form 6710/06A, Report of Apparent Crime (Long Form). For purposes of this form, "suspected criminal activity" implies that there is a reasonable basis for believing that a crime has occurred, is occurring or may occur.

This form should be promptly filed by the bank, but no later than thirty days following discovery of the suspected violation. Where appropriate, law enforcement authorities should be immediately notified by telephone or other expeditious means.

The information in this report is confidential and subject to the applicable provisions of the Privacy Act of 1974, 5 U.S.C. 552a and Part 310 (12 C.F.R.) of the FDIC's Rules and Regulations.

1. Name and Location of Financial Institution

NAME _____

LOCATION _____ (STREET) _____ (CITY) ____ (ST) _____ (ZIP)

CERTIFICATE NUMBER _____ If activity occurred at branch office(s) please identify _____

2. Asset Size of Financial Institution (*millions of dollars*) _____

3. Approximate date and dollar amount of suspected violation

DATE _____ (Month Day Year) AMOUNT (*thousands of dollars*) _____

4. Summary characterization of the suspected violation. Check appropriate box(es)

☐ Defalcation/Embezzlement ☐ Bribery/Gratuity ☐ Other (Describe) _____
☐ False Statement ☐ Misuse of Position or Self Dealing _____
☐ Check Kiting ☐ Mysterious Disappearance _____

Applicable Section(s) of the U.S. Code (if known). (See list on page 4) _____

5. This matter is being referred to the FBI in _____ (CITY) ____ (ST)

and the U.S. Attorney in _____ (CITY) ____ (ST) _____ (JUDICIAL DISTRICT (if known))

6. Person(s) Suspected of Criminal Violation (if more than one, use continuation sheet)

a. NAME _____ (FIRST) ____ (MI) _____ (LAST)

ADDRESS _____ (STREET) _____ (CITY) ____ (ST) _____ (ZIP)

DATE OF BIRTH _____ (if known) (Month Day Year) SOCIAL SECURITY NO. _____ (if known)

b. Relationship to the financial institution (check all applicable blocks)

☐ Officer ☐ Employee ☐ Broker ☐ Shareholder
☐ Director ☐ Agent ☐ Borrower ☐ Other, Specify _____

c. Is person still affiliated with the financial institution ☐ Yes ☐ No

If no, ☐ terminated ☐ resigned. DATE _____ (Month Day Year)

Describe Circumstances (if necessary, use continuation sheet) _____

d. Prior or related referrals ☐ Yes ☐ No. If yes, please identify _____

e. Is person affiliated with any other financial institution ☐ Yes ☐ No or business enterprise ☐ Yes ☐ No. If yes to either or both, please identify _____

7. Explanation/Description of Suspected Violation. (Give brief summary of the suspected violation, explaining what is unusual or irregular about the transaction.) (If necessary, use continuation sheet.)

8. Has there been a confession? ☐ Yes ☐ No. If so, by whom? _____

9. Offer of Assistance
The individuals listed below are/will be authorized to discuss this referral with FBI and Department of Justice officials and to assist in locating or explaining any documents pertinent to this referral, **provided that contact is first made with**
Name _____ Position _____
Phone No. _____

Name _____ Tele. No. _____
Name _____ Tele. No. _____
Name _____ Tele. No. _____

10. Form Prepared by _____
Position _____
Agency/Institution _____
Phone No. _____ Date _____

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CONTINUATION SHEET

Item No.	Remarks

FDIC 6710/06 (3-85) Page Three

PRINCIPAL CRIMINAL STATUTES

18 U.S.C. 2	To aid, abet, counsel, command, induce or procure the commission of federal offense
18 U.S.C. 201	Bribery of public officials, including elected representatives, jurors and employees of any department or agency of the federal government, and witnesses in official proceedings, e.g., anyone who gives, offers or promises anything of value to a public official or a witness with the intent to influence that person's official functions.
18 U.S.C. 215	Kickbacks, bribes. Makes it unlawful for any officer, director, employee, agent or attorney to solicit, accept or give anything of value in connection with any transaction or business of any financial institution
18 U.S.C. 371	Conspiracy of two or more persons to either commit a federal offense or to defraud the United States (or any agency of the U.S.)
18 U.S.C. 656	Theft, embezzlement or misapplication of bank funds, willfully by an officer, director, agent or employee of a bank, with intent to injure or defraud the bank. Can infer intent to injure from the fact of injury or from acts knowingly done in reckless disregard for the interests of the bank
18 U.S.C. 709	False advertising or misuse of words "National," "Federal Reserve," "Deposit Insurance," etc., to convey impression of federal agency affiliation
18 U.S.C. 1001	General false statements statute - knowingly and willfully falsifying or concealing a material fact or making a false statement or making or using false writing knowing it to be false
18 U.S.C. 1005	False entries and reports or statements, including material omissions, with intent to injure or defraud the bank, the OCC (or Fed or FDIC), bank examiners or other individuals or companies
18 U.S.C. 1014	False statement (oral or written) e.g., loan application, made knowingly for the purpose of influencing any bank whose deposits are federally insured, upon any application, purchase agreement, commitment, loan (or any change or extension of same) including willfully overvaluing land, property or security
18 U.S.C. 1029	Credit Card fraud - knowingly and with intent to defraud, produce, use or traffic in counterfeit access devices
18 U.S.C. 1030	Computer fraud - knowingly accessing a computer without authorization, or using it for unauthorized purposes, including obtaining information contained in records of financial institutions
18 U.S.C. 1341	Mail fraud - scheme or artifice to defraud that makes use of the Postal Service
18 U.S.C. 1343	Wire fraud - scheme or artifice to defraud using transmission by wire, radio or TV for the purpose of carrying out the scheme
18 U.S.C. 1344	Bank fraud - scheme or artifice to defraud a federally insured institution or take money, funds, credits, assets, securities or other property by misrepresentation
18 U.S.C. 1621	Perjury/false statement made under oath (if false statement is not made under oath, individual may still be prosecuted under 18 U.S.C. 1001 or 1014)
18 U.S.C. 1951 **18 U.S.C. 1961**	Racketeer Influenced and Corrupt Organizations ("RICO") statutes. Investing in any enterprise affecting interstate commerce if the funds for the investment are derived from a pattern of racketeering activity. (these activities are defined to include: murder, drug dealing, bribery, robbery, extortion, counterfeiting, mail fraud, wire fraud, embezzlement from pension funds, obstruction of criminal investigations, fraud in the sale of securities, etc.)
31 U.S.C. 5311 **31 C.F.R. 103**	Currency Transactions/Bank Secrecy Act
15 U.S.C. 78dd	Foreign Corrupt Practices Act of 1977. Payment of anything of value to any foreign official, foreign political party or candidate or, any other person where the American corporation knows or has reason to know the thing of value would be offered to a foreign official, foreign political party or candidate for foreign political office
15 U.S.C. 78ff	Criminal violations of securities laws
15 U.S.C. 78x	Criminal penalty provisions of securities laws

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INSTRUCTIONS FOR FILING THE SHORT FORM

The purpose of this report is to provide a consistent means by which financial institutions can make referrals of known or suspected criminal activity perpetrated against the institutions whether by insiders or those outside the institution. The report will provide an effective means by which appropriate law enforcement and supervisory authorities will be made aware of known or suspected criminal activity. Institutions should use care in filling out this report and should insure that it is filled out in as complete a manner as practicable under the circumstances.

When a financial institution concludes that a crime has probably occurred involving less than $2,500 where the institution has no basis for identifying a possible suspect or group of suspects (as often occurs with a check forgery or an unauthorized use of a credit card), then reporting the violation to the United States Attorney and federal law enforcement is optional. But if (1) the apparent crime involves $2,500 or more or (2) the institution has a reasonable basis for identifying the suspect or group of suspects, *regardless of the dollar amount involved in the apparent crime*, then reporting is mandatory.

DISTRIBUTION:

1. Retain one copy in bank's files.
2. Send one copy to Regional Director, Division of Bank Supervision, Federal Deposit Insurance Corporation.
3. Send one copy to the nearest office of the FBI.
4. Send one copy to nearest office of the U.S. Attorney.
5. If the violation involves 31 C.F.R. 103, send one copy to the local IRS office, Criminal Investigation Division.
6. In cases involving the unauthorized use of a credit card or credit card number (18 U.S.C. §1029) or computer fraud (18 U.S.C. §1030), perpetrated without any apparent complicity of a bank employee or officer, the financial institution should send the form to the local office of the Secret Service in lieu of sending the referral to the FBI.
7. If also a criminal violation of state law, consider sending the form to the appropriate state prosecuting authority.

CONTROL NO. (AGENCY USE ONLY)

OMB No. 3064-0077
Expiration Date: 7/31/86

FDIC

REPORT OF APPARENT CRIME (LONG FORM)

Federal Deposit Insurance Corporation

ATTENTION:
Use this form in all cases where suspected criminal activity (see 12 C.F.R. §353.1) involves probable loss (before reimbursement or recovery) of $10,000 or greater and in all cases, regardless of amount, involving an executive officer, director or principal shareholder of the institution within the meaning of 12 C.F.R. §215.2 (with the term "member bank" deemed to mean "insured nonmember bank"). For purposes of this form, "suspected criminal activity" implies that there is a reasonable basis for believing that a crime has occurred, is occurring or may occur.

This form should be promptly filed by the bank, but no later than thirty days following discovery of the suspected violation. Where appropriate, law enforcement authorities should be immediately notified by telephone or other expeditious means.

The information in this report is subject to the applicable provisions of the Privacy Act of 1974, 5 U.S.C. 552a and Part 310 (12 C.F.R.) of the FDIC's Rules and Regulations.

1. Name and Location of Financial Institution

NAME _____

LOCATION _____ (STREET) _____ (CITY) ____ (ST) _____ (ZIP)

CERTIFICATE NUMBER _____ If activity occurred at branch office(s), please identify _____

2. Asset Size of Financial Institution (*millions of dollars*) _____

3. Approximate date and dollar amount (prior to any allowance for restitution or recovery) of suspected violation

DATE _____ (Month Day Year) AMOUNT (*thousands of dollars*) _____

4. Summary characterization of the suspected violation. Check appropriate box(es)

☐ Defalcation/Embezzlement ☐ Bribery/Gratuity ☐ Other (Describe) _____
☐ False Statement ☐ Misuse of Position or Self Dealing _____
☐ Check Kiting ☐ Mysterious Disappearance _____

Applicable Section(s) of the U.S. Code (if known). (See list on page 7) _____

5. This matter is being referred to the FBI in _____ (CITY) ____ (ST)

and the U.S. Attorney in _____ (CITY) ____ (ST) _____ (JUDICIAL DISTRICT (*if known*))

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6. Person(s) Suspected of Criminal Violation. Complete subparagraphs (a) through (e) on **each** individual suspected of criminal activity (if more than one, use continuation sheet). Include primary suspects only. Individuals who may have knowledge of the suspected criminal activity, but who are not themselves suspected of being involved should be listed as witnesses under item 10. Provide any additional details known with respect to prior referrals or affiliations.

a. NAME _____ (FIRST) _____ (MI) _____ (LAST)

ADDRESS _____ (STREET) _____ (CITY) _____ (ST) _____ (ZIP)

DATE OF BIRTH _____ (If known) (Month Day Year) SOCIAL SECURITY NO _____ (If known)

b. Relationship to the financial institution (check all applicable blocks)
☐ Officer ☐ Employee ☐ Broker ☐ Shareholder
☐ Director ☐ Agent ☐ Borrower ☐ Other, Specify _____

c. Is person still affiliated with the financial institution ☐ Yes ☐ No

If no, ☐ terminated ☐ resigned. DATE _____ (Month Day Year)

Describe Circumstances (if necessary, use continuation sheet) _____

d. Prior or related referrals ☐ Yes ☐ No. If yes, please identify

e. Is person affiliated with any other financial institution ☐ Yes ☐ No or business enterprise ☐ Yes ☐ No. If yes to either or both, please identify

7. a. Explanation/Description of Suspected Violation. Provide a **brief** narrative description of the activity giving rise to the referral explaining what is unusual or irregular about the transaction. Details will be provided later in the form. The purpose of this paragraph is to provide a **summary** description of the overall transaction.

b. Give a chronological and complete account of the suspected violation. (Use continuation sheet, if necessary)
- Relate key events to documents and attach copies of those documents.
- Explain who benefited, financially or otherwise, from the transaction, how much, and how.
- Furnish any explanation of the transaction provided by the suspect and indicate to whom and when it was given.
- Furnish any explanation of the transaction provided by any other person.
- Furnish any evidence of cover-up by the suspect or evidence of an attempt to deceive federal or state examiners or others.
- Indicate where the suspected violation took place (*e.g.*, main office, branch, other).
- Recommend any further investigation that might assist law enforcement in fully examining the potential violation.

THIS SECTION OF THE REFERRAL IS CRITICAL. It should be as detailed as circumstances permit. The care with which this section is written may make the difference in whether or not the described conduct and its criminal nature are clearly understood. The discussion points listed in this section are not exhaustive. They should be covered but to the extent additional explanation would be useful as to any particular item or to the extent an additional category should be addressed, it should be done here. Feel free to use attachments or to continue the description on a separate sheet. Include any suggestions for the interviewing of any witnesses, gathering of any documents or methods of investigation which might prove useful in following up on the referral (e.g., tracing of proceeds).

c Indicate whether the suspected violation appears to be an isolated incident or whether it relates to other transactions (Explain)

8 Exclusion of Information from the Referral
Has any pertinent information been excluded from this referral as a result of any legal or other restraint? ☐ Yes ☐ No
If so, why? _____

Have the excluded information or documents been segregated for later retrieval? ☐ Yes ☐ No

9 Has there been a confession? ☐ Yes ☐ No If so, by whom? _____

10 Witnesses
List any witnesses who might have information about the suspected violation and describe their position or employment. Indicate if they have been interviewed. (Use continuation sheet if necessary.)

	Name	Position	Address	Tele.	Interviewed Yes	Interviewed No
1					☐	☐
2					☐	☐
3					☐	☐
4					☐	☐
5					☐	☐

11 Discovery and Reporting
a Who discovered the suspected violation and when?

b Has the suspected violation been reported to the Board of Directors? ☐ Yes ☐ No By whom and when?

c Has the Board of Directors taken action? ☐ Yes ☐ No If so, what and when?

d Has the suspected violation previously been reported to federal or local law enforcement or to any federal or state supervisory agency? ☐ Yes ☐ No If so, by whom, to whom, and when?

12 Loss
a Amount of loss known $ _____
b Restitution by _____
In the amount of $ _____
c Name of Applicable Surety Bond Company _____
d Amount of Bond $ _____
e Amount of deductible $ _____
f Was claim filed? ☐ Yes ☐ No
g Settlement by Surety Company $ _____
h Total restitution and settlement to date $ _____
i Net loss (after subtracting any amounts paid in the form of restitution or settlement) $ _____
j Is additional loss suspected? ☐ Yes ☐ No (If yes, explain)

k. Has the suspected violation had a material impact on or otherwise affected the financial soundness of the institution? If so, please explain.

13 Offer of Assistance
The individuals listed below are/will be authorized to discuss this referral with FBI and Department of Justice officials and to assist in locating or explaining any documents pertinent to this referral, **provided that contact is first made with**
Name _____ Position _____
Phone No. _____

Name _____ Tele. No. _____
Name _____ Tele. No. _____
Name _____ Tele. No. _____
Name _____ Tele. No. _____

14 Form Prepared by _____
Position _____
Agency/Institution _____
Phone No. _____ Date _____

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CONTINUATION SHEET

Item No.	Remarks

PRINCIPAL CRIMINAL STATUTES

18 U.S.C. 2	"To aid, abet, counsel, command, induce or procure" the commission of federal offense
18 U.S.C. 201	Bribery of public officials, including elected representatives, jurors and employees of any department or agency of the federal government and witnesses in official proceedings (e.g., anyone who gives, offers or promises anything of value to a public official or a witness with the intent to influence that person's official functions)
18 U.S.C. 215	Kickbacks, bribes. Makes it unlawful for any officer, director, employee, agent or attorney to solicit, accept or give anything of value in connection with any transaction or business of any financial institution
18 U.S.C. 371	Conspiracy of two or more persons to either commit a federal offense or to defraud the United States (or any agency of the U.S.)
18 U.S.C. 656	Theft, embezzlement or misapplication of bank funds, willfully by an officer, director, agent or employee of a bank, with intent to injure or defraud the bank. Can infer intent to injure from the fact of injury or from acts knowingly done in reckless disregard for the interests of the bank
18 U.S.C. 709	False advertising or misuse of words "National," "Federal Reserve," "Deposit Insurance," etc., to convey impression of federal agency affiliation
18 U.S.C. 1001	General false statements statute—knowingly and willfully falsifying or concealing a material fact or making a false statement or making or using false writing knowing it to be false
18 U.S.C. 1005	False entries and reports or statements, including material omissions, with intent to injure or defraud the bank, the OCC (or Fed or FDIC) bank examiners or other individuals or companies
18 U.S.C. 1014	False statement (oral or written) (e.g., loan application) made knowingly for the purpose of influencing any bank whose deposits are federally insured, upon any application, purchase agreement, commitment, loan (or any change or extension of same) including willfully over valuing land, property or security
18 U.S.C. 1029	Credit Card fraud—knowingly and with intent to defraud, produce, use or traffic in counterfeit access devices
18 U.S.C. 1030	Computer fraud—knowingly accessing a computer without authorization, or using it for unauthorized purposes, including obtaining information contained in records of financial institutions
18 U.S.C. 1341	Mail fraud—scheme or artifice to defraud that makes use of the Postal Service
18 U.S.C. 1343	Wire fraud—scheme or artifice to defraud using transmission by wire, radio or TV for the purpose of carrying out the scheme
18 U.S.C. 1344	Bank fraud—scheme or artifice to defraud a federally insured institution or take money, funds, credits, assets, securities or other property by misrepresentation
18 U.S.C. 1621	Perjury/false statement made under oath (if false statement is not made under oath, individual may still be prosecuted under 18 U.S.C. 1001 or 1014)
18 U.S.C. 1951 **18 U.S.C. 1961**	Racketeer Influenced and Corrupt Organizations ("RICO") statutes. Investing in any enterprise affecting interstate commerce if the funds for the investment are derived from a pattern of racketeering activity. (these activities are defined to include: murder, drug dealing, bribery, robbery, extortion, counterfeiting, mail fraud, wire fraud, embezzlement from pension funds, obstruction of criminal investigations, fraud in the sale of securities, etc.)
31 U.S.C. 5311 **31 C.F.R. 103**	Currency Transactions/Bank Secrecy Act
15 U.S.C. 78dd	Foreign Corrupt Practices Act of 1977. Payment of anything of value to any foreign official, foreign political party or candidate or any other person where the American corporation knows or has reason to know the thing of value would be offered to a foreign official, foreign political party or candidate for foreign political office
15 U.S.C. 78ff	Criminal violations of securities laws
15 U.S.C. 78x	Criminal penalty provisions of securities laws

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INSTRUCTIONS FOR FILING THE LONG FORM

The purpose of this report is to provide a consistent means by which financial institutions can make referrals of known or suspected criminal activity perpetrated against the institutions whether by insiders or those outside the institution. The report will provide an effective means by which appropriate law enforcement and supervisory authorities will be made aware of known or suspected criminal activity. Institutions should use care in filling out this report and should insure that it is filled out in as complete a manner as practicable under the circumstances.

All information requested within the body of the report should be supplied at the time of the report unless such information is not known or can only be supplied at a later date. Documents not provided with this report should be segregated and safeguarded in order that they might be subsequently supplied upon request or service of subpoena.

DISTRIBUTION:

1. Retain one copy in bank's files.
2. Send one copy to Regional Director, Division of Bank Supervision, Federal Deposit Insurance Corporation.
3. Send one copy to the nearest office of the FBI.
4. Send one copy to nearest office of the U.S. Attorney.
5. Send one copy to the State Banking Authority.
6. If the violation involves 31 C.F.R. 103, send one copy to the local IRS office, Criminal Investigation Division.
7. In cases involving the unauthorized use of a credit card or credit card number (18 U.S.C. §1029) or computer fraud (18 U.S.C. §1030), perpetrated without any apparent complicity of a bank employee or officer, the financial institution should send the form to the local office of the Secret Service in lieu of sending the referral to the FBI.
8. If also a criminal violation of state law, consider sending the form to the appropriate state prosecuting authority.

ADDITIONAL INSTRUCTIONS FOR EXAMINERS

Examiners should fill out this report whenever suspected criminal activity has been identified in a banking institution and either has not yet been reported by the institution or the report made by the institution is deemed to be inadequate. It is important to note that this report should be filled out whenever criminal activity is suspected; examiners are not required to make any initial finding that such reports would, if pursued, result in a criminal conviction. That judgment will be made by responsible law enforcement authorities. Any questions regarding whether or not any particular activity would constitute a crime for purposes of making a criminal referral should be resolved through communications with the Regional Office. In filling out this report, examiners should avoid overly technical descriptions of transactions which might not be readily understood by law enforcement authorities unfamiliar with banking operations.

DISTRIBUTION BY EXAMINER/REGIONAL OFFICE

Examiner

1. Retain one copy in field office file under name of the bank.
2. Send original to the Regional Office.

Regional Office

3. Retain one copy in Regional Office under name of the bank.
4. Send one copy to the Chief, Special Activities Section, Washington, D.C. 20429, accompanied by a signed cover letter indicating, in appropriate cases, the priority to be given the referral.
5. Send one copy to the nearest office of the FBI.
6. Send one copy to the U.S. Attorney.
7. If violation of state law, consider sending the referral to the appropriate state prosecuting authority.
8. If the violation involves 31 C.F.R. 103, send one copy to the local IRS office, Criminal Investigation Division.
9. Send a copy to the State Banking Authority.

BILLING CODE 6714-01-C

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By Order of the Board of Directors, April 21, 1986.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 86-9603 Filed 5-2-86; 8:45 am]
BILLING CODE 6714-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 556

[No. 86-424]

Interstate Branching

Date: April 24, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule with request for comments.

SUMMARY: The Federal Home Loan Bank Board ("Board") is amending its statement of policy on branching by Federal savings and loan associations and Federal savings banks ("Federal associations") to provide: (1) General equality of Federal associations with state-chartered thrift institutions of a Federal association's home office state with respect to branching across state lines and (2) possibly broader branching rights for a Federal association acquiring a failing institution in the form of regional branching rights as well as single target state branching rights. The Board is also soliciting comments on further amending its statement of policy to provide general equality of Federal associations with state-chartered financial institutions, including banks, or their holding companies with respect to branching and acquisitions.

DATES: The rule becomes effective May 5, 1986. Comments concerning branching or acquisition equality with banks and bank holding companies must be received before August 4, 1986.

ADDRESSES: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

FOR FURTHER INFORMATION CONTACT: Winifred Sutton, Attorney, Blue Division (202) 377-7044; David Wall, Attorney, Red Division (202) 377-7397; or Mary Rawlings-Milton, Chief Paralegal, Federal Savings and Loan Insurance Corporation Attorneys Group, (202) 377-7048, Office of the General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552.

SUPPLEMENTARY INFORMATION: On December 20, 1985, the Board proposed amendments to § 556.5 of its Federal Regulations (12 CFR 556.5 (1985)) regarding interstate branching by thrifts. The proposed revisions related to branching in both supervisory and nonsupervisory contexts. In the latter respect, the proposal would have provided Federal associations generally with the same ability to branch or to merge across state lines granted by state law to state-chartered associations headquartered in the state in which a Federal association's home office is located.

The proposal also provided in essence that a Federal association in a holding company structure might not exercise the new branching rights granted under this proposal to Federal associations generally if another insured institution in that structure exercised such rights.

In the supervisory context, the proposal would permit the Board to allow a Federal association acquiring a failing institution to obtain entry into a region rather than being limited to the state of the failing target institution. The region could not exceed three states in addition to the state of the target, unless the target state was itself part of a regional compact specifically authorized "by statute laws of such states, by language to that effect and not merely by implication," in which case the Board might consider an application for branching capacity within the states of the regional compact even if in excess of the target's state plus three others. The proposed rule set forth a preference for applications contemplating a region of contiguous states, but did not prohibit the Board from allowing branching capacity in non-contiguous states.

After considering the public comments received and other information, the Board has determined to adopt the amendments substantially as proposed, altering certain language to clarify provisions applicable to Federal associations in a holding company structure and to emphasize that supervisory context branching beyond the state of a target will be granted only upon a showing of reasonableness and very substantial benefit to the Federal Savings and Loan Insurance Corporation ("FSLIC") in a measure sufficient to constitute a compelling factor in determining to make such an award.

Discussion of Comment Letters

The Board received letters from 76 commenters, including: thirty-one from state and federally-chartered thrifts and from thrift holding companies; thirteen from various financial institution leagues and professional associations; eight from commercial banks; and ten from State government officials and regulators. Six members of Congress referred comments written by their constituents and others to the Board for consideration. The Board considered late-filed and late-received letters. Most comments generally favored adoption of the proposed amendment, but many requested substantive and technical changes to the amendment. These comments are discussed below, as are the modifications to the proposal that the Board has incorporated in the final rule.

Most commenters considered the proposed amendment in two parts: the nonsupervisory part, which is that portion of the amendment dealing with interstate branching generally by healthy Federal associations ("Nonsupervisory Amendment"), and the supervisory part, which addresses branching rights that may be granted acquirers of failing institutions ("Supervisory Amendment").

The majority of commenters favored adoption of the Nonsupervisory Amendment as proposed; however, several commenters suggested modifications. Some desired to expand the scope of the Nonsupervisory Amendment to provide a Federal association with the same branching rights allowed by the law of its home office state to state-chartered commercial banks. These commenters urged that Federal associations compete with commercial banks and that to deny such branching parity with commercial banks would disadvantage Federal associations. Several commenters noted that state regional branching laws often apply only to state-chartered commercial banks or holding companies and not state-chartered thrifts. One such letter asserted that state thrifts often do not have the political power necessary to convince state legislators to include thrifts in state regional banking compacts and urged the Board to lead the way for these state thrifts by granting Federal associations branching parity with state-chartered commercial banks, thus encouraging state legislators to include state thrifts in branching legislation.

Some commenters advocated expanding the Nonsupervisory Amendment by allowing a Federal association to have branching parity with state-chartered thrifts in any state in which the Federal association operates, not only in its home office state as proposed. The reason voiced for this position was that Federal associations should be afforded the benefits of the laws of any state in which they operate. Others wished to expand the Nonsupervisory Amendment

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by allowing Federal associations to branch in any state that allowed out-of-state financial institutions to enter.

Several commenters expressed concern that Federal associations might weaken their financial condition in taking advantage of new branching rights, thereby increasing the risk to the FSLIC. These commenters favored a policy of controlled growth for Federal associations, and one suggested that the Board allow only Federal associations with net worth in excess of regulatory requirements to take advantage of interstate branching in the nonsupervisory context.

One commenter was of the opinion that the Board's Nonsupervisory Amendment contravened the Congressional policy expressed in the provisions of the Garn-St Germain Depository Institutions Act of 1982, Pub. L. 97-320, 96 Stat. 1469 ("Garn-St Germain Act"), that allow the emergency interstate acquisition of thrifts. The commenter believed that Congress intended interstate branching by thrifts only in extraordinary cases, justified by the existence of severe financial conditions which threaten the stability of a significant number of insured institutions. Accordingly, the commenter concluded that Congress did not intend Federal associations to branch in the non-supervisory context.

The Board in its proposal requested comments on the portion of the Nonsupervisory Amendment that provided in essence that a Federal association in a holding company structure may not exercise the new branching rights if another insured institution in that structure possesses or exercises branching rights. Of the letters submitted that specifically addressed these holding company provisions, most opposed the restrictions. Several commenters argued that they were unfair. Most of these commenters were of the opinion that the holding company provisions of the proposed amendment, if adopted, should be modified to allow management solely to decide which institution within the holding company could exercise the new branching rights. These commenters reasoned that such a decision should be based on management's business judgment and not on a regulatory designation.

Several letters asserted that the holding company provisions were ambiguous and requested clarification.

Other commenters wished to ensure that state law restrictions or requirements on interstate branching by state-chartered thrifts would also be applied to Federal associations under the proposal, in the interests of true branching parity between Federal associations and state-chartered thrifts. One letter gave as an example of such a state law restriction the requirement of continuing reinvestment by thrifts in the host state as a condition of interstate branching.

Commenters opposed to the Nonsupervisory Amendment often expressed concern over the current condition of the thrift industry as the reason for their opposition. Some commenters feared that allowing thrifts to expand interstate would result in weakening the condition of these thrifts. In addition, several argued that the increase in competition would hurt local thrifts and ultimately increase the risk to the FSLIC.

While the majority of comments addressing the Supervisory Amendment generally favored its adoption, the range of comments on that part of the proposal was broad. Most commenters favoring adoption desired modifications. Some commenters advocated eliminating all restrictions on the Board's authority to grant branching rights to acquirers of failing institutions. Several suggested that the Board adopt formal guidelines for its implementation of those provisions. Others felt there should be no change in the Board's branching policy statement concerning supervisory cases, and a few opposed granting interstate branching rights in any event, even under current regulations.

Many commenters opposed the Supervisory Amendment. One such commenter argued that granting branching rights in up to three additional states to acquirers of failing institutions was "an unwarranted override of state prerogative in determining the makeup and direction of regulated institutions in [the] state".

At the other end of the spectrum, several commenters desired to expand the Supervisory Amendment to grant automatically branching rights in three states to acquirers of failing institutions. Some suggested that the Supervisory Amendment should apply retroactively to past acquirers of failing institutions to recognize benefits afforded the FSLIC by those entities. One commenter suggested that acquirers of failed institutions be granted branching rights in three states on a "to be named later" basis by the acquirer.

Many who supported adoption of the Supervisory Amendment desired modifications. For example, several letters suggested removing the reference to "three" states, arguing that this numerical limitation would soon become the minimum number of states in which branching rights were granted in supervisory cases. Others argued that eliminating the reference to "three" states would allow the Board maximum flexibility in granting interstate branching rights in supervisory cases. Several commenters recognized the Board's need to grant branching rights in supervisory cases, but stressed that the Board should adopt a conservative approach in applying the Supervisory Amendment. These commenters asked the Board to articulate formally its policy for implementing the Supervisory Amendment. One suggested that the Board grant branching rights in more than one state to acquirers in supervisory cases, but only as related to the magnitude of the failing institution's problems or contingent upon the acquirer picking up a smaller institution in a state in which branching rights would be granted.

Of the commenters who argued that branching rights should be granted acquirers of failing institutions only in the state of the target institution, several supported allowing the acquirer to take advantage of any regional compact in which the target state was involved.

Several commenters claimed that the supervisory provisions violated traditional notions of comity, upsetting the balance of power between federal and state governments; and some claimed that the proposed regulation, and in particular the Supervisory Amendment, was directly opposed to Congressional policy on interstate branching by thrifts.

One commenter was of the opinion that the proposed amendment was in "direct contravention of Congressional policy expressed in two major statutory enactments." The acts cited were 12 U.S.C. 1730a(e) (1982), and the Garn-St Germain Act. A few commenters argued that the provisions of the Garn-St Germain Act that required notification of state authorities and other procedural requirements prior to approving an interstate acquisition or merger in a supervisory case indicated Congressional intent to restrain interstate branching by thrifts.

Authority

The Board is authorized to regulate the operations of Federal associations by section 5 of the Home Owners' Loan Act of 1933, as amended ("HOLA"), 12 U.S.C. 1464 (1982 & Supp. II 1984), and it has regulated the branching of Federal associations under this authority. The Board's authority in this respect is plenary and not bounded by any restrictions of state law, and it is clear that the Board may authorize Federal associations to branch or acquire other federal associations by merger across state lines. *IBAA v. FHLBB*, 557 F. Supp. 23 (D.D.C. 1982).

Section 334 of the Garn-St Germain Act added a new subsection (r) to section 5 of the HOLA, 12 U.S.C. 1464(r) (1982), which recognized and confirmed the Board's authority to authorize interstate branching for Federal associations, but imposed a requirement that, with certain specific exceptions, any such Federal association branching across state lines must qualify as a domestic building and loan association under the Internal Revenue Code and meet the Code's asset composition test.

The case law and section 5(r) confirm the Board's authority in this area and clearly contradict the assertions of those commenters who challenged the legal basis of such authority.

Background

The Board permitted Federal associations to branch well before the publication of its first policy statement on branching in 1967, 32 FR 20630 (Dec. 21, 1967). The Board generally limited Federal associations to branching within the states of their home offices, however, until the issuance of an amendment to its statement of policy, Board Resolution No. 81-157, 46 FR 19221 (March 30, 1981), to provide for interstate branch operations that resulted from certain supervisory acquisitions. The Board resolution provided in part:

> The scope of the interstate branching prohibition in section 556.5(a)(3) is qualified by the word "generally", which reserves to the Board discretion to approve interstate branch operations in special circumstances. The exceptional nature of acquisition transactions supervised by the Federal Savings and Loan Insurance Corporation (FSLIC) to prevent the failure of an insured institution gives rise to such special circumstances. Though the Board has authority to approve interstate acquisitions in supervisory cases, the Board's regulations do not presently set forth any policy guidelines regarding factors it will consider when deciding whether to exercise this authority.
>
> This resolution amends the Board's policy statement to clarify that the Board may approve a merger, consolidation, or purchase of assets involving a Federal association that would not otherwise be permissible under the general rule if (1) the proposed acquisition will be effected pursuant to a plan to prevent the failure of an institution insured by the FSLIC, (2) the Board determines that the insurance liability or risk of the FSLIC will be reduced as a result of the proposed acquisition, and (3) the Board determines that the insurance liability or risk of the FSLIC resulting from the proposed acquisition transaction will be substantially less than the liability or risk that would result from otherwise equally desirable acquisition alternatives, if any, that would not result in interstate branch operations. . . . It should be noted that the amendment accomplished by this Resolution applies only to the specific types of supervisory cases described therein. This final rule does not alter the Board's policy regarding interstate branching in non-supervisory contexts. With respect to supervisory cases to which the rule applies, the amendment does not alter the Board's long-standing preference for intrastate supervisory mergers and acquisitions.

The policy statement on interstate branching has been amended since the issuance of Resolution No. 81-157, by Resolution Nos. 81-496, 46 FR 45120 (Oct. 10, 1981), and 82-496, 47 FR 34125 (Aug. 6, 1982), but such amendments have clarified the original policy statement without altering its basic purposes and limitations. A proposed rule that would have enlarged the scope of interstate branching and acquisition by all institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation ("insured institutions") was published for notice and comment in 1983, but was not adopted. Board Resolution No. 83-244, 48 FR 20930 (May 10, 1983).

The Board has also adopted a final rule concerning branching across state lines within the region formed by the District of Columbia, Maryland, and Virginia. Board Resolution No. 86-423 (April 24, 1986). The amendment set forth in the present resolution is general and does not supersede the Board's specific rulemaking for that region.

It should be noted that the Board may authorize acquisitions of failing insured institutions by out of state acquirers under the temporary authority of section 408(m) of the National Housing Act, 12 U.S.C. 1730a(m) (1982), added by Section 123 of the Garn-St Germain Act, and the Board has employed this authority on several occasions. This extraordinary authority, which is separate from the Board's general rulemaking power over Federal association branching under section 5 of the HOLA, will expire in the middle of July, unless extended by Congress. Pub. L. No. 99-278 (1986).

On June 10, 1985, the United States Supreme Court decided that state statutes that selectively authorized interstate branch acquisitions on a regional basis did not violate the "Douglas Amendment" to the Bank Holding Company Act or the Constitution of the United States. *Northeast Bancorp, Inc.* v. *Board of Governors of the Federal Reserve System*, No. 84-363 (U.S. June 10, 1985). Section 3(d) of the Bank Holding Company Act, 12 U.S.C. 1824(d) (1982), known as the "Douglas Amendment", prohibits the Board of governors from approving an application of a bank holding company or bank located in one state to acquire a bank located in another state unless the acquisition "is specifically authorized by the statute laws of the State in which such bank is located by language to that effect and not merely by implication." From 1956 to 1972, the Douglas Amendment had the effect of barring interstate bank acquisitions because no state had enacted the requisite authorizing statutes. Beginning in 1972, some states enacted statutes permitting such acquisitions in limited circumstances or for specific purposes. Beginning with Massachusetts in 1982, several states enacted statutes authorizing interstate acquisitions on a reciprocal basis within their geographical regions. In *Northeast Bancorp*, the Supreme Court upheld Massachusetts and Connecticut statutes allowing regional acquisitions as consistent with the Douglas Amendment and the Bank Holding Company Act as a whole, and as not violating the Commerce Clause, the Compact Clause, or the Equal Protection Clause of the United States Constitution.

In regulating branching of Federal associations generally, the Board has traditionally provided Federal associations with potential branching rights as broad as those that would be provided under State law for thrifts or commercial banks in the state in which a Federal association is located (as set forth, for example, in the 1979 codification of the Board's policy statement on the organization and branching of Federal associations, at 12 CFR 556.5(b)(1) (1979)).

State law regarding interstate expansion by financial institutions can best be described in terms of emerging trends. Roughly speaking, the states fall into three categories in their articulated statutory attitudes toward interstate expansion. First, there are states that do not allow any form of interstate expansion. Second, there are a growing number that have authorized interstate expansion on a regional, often reciprocal, basis. Finally, there are states which have authorized potential entry by out of the state institutions not limited to a region. There remain, of course, a number of states that do not address this issue by statute, as well as state statutes that defy easy categorization.

There are differences among those states that permit some sort of interstate expansion by financial institutions concerning the type of institution that may branch or acquire and what form the expansion may take: merger, acquisition, establishment of de novo branches, etc. A majority permits some

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form of interstate expansion by banks, and at least half of those allow expansion by thrifts. Regional limitations vary considerably; some states provide for future regional expansion through reciprocity.

Most of the states that permit interstate expansion by thrifts permit entry by merger or acquisition. Maine limits entry by out-of state financial institutions to the establishment of, or the acquisition of control over, a Maine financial institution or holding company by an out of state holding company.

Request for Further Comment

The Board's proposal diverged from its traditional approach to the application of state law standards to Federal association branching in that the proposed rule was more conservative, looking only to state law applicable to thrift institutions instead of that applicable to "state financial depository institutions" generally, as expressed in 12 CFR 556.5(a)(2) (1985). Upon consideration of the comments received and a review of state legislation in this area, the Board has determined that a conservative standard, looking only to state law applicable to thrift institutions, should be employed at this time as the standard for Federal association branching across state lines in a nonsupervisory context.

The Board has also decided, however, to invite further comment, for a ninety day period, upon this standard and the possibility of using other standards: state law applicable to all financial depository institutions insured by the FSLIC or the Federal Deposit Insurance Corporation, or state law applicable to such financial depository institutions and their holding companies.

Final rule

The Board's final rule applies a thrift institution standard to determine interstate Federal association branching rights in a nonsupervisory context, as proposed, but the amendment further clarifies the proposal by providing that state law shall be looked to only with respect to basic authority to establish branch offices; approvals by state authority are not incorporated, nor are related state law investment standards or prerequisites, which would be inconsistent with a federal rule for Federal associations already subject to regulation in these matters. State law will be followed, however, in distinguishing the capacity to branch *de novo* from the capacity to acquire offices by merger. The amendment does not authorize a Federal association to become a saving and loan holding company.

The Board has determined to adopt the proposed special rules concerning Federal associations within a holding company structure, but has attempted to clarify these rules. In many ways, these rules embody principles explicitly or implicitly set forth in the structure of the Federal savings and loan system, the Savings and Loan Holding Company Amendments of 1967, and Board actions in which aquisition limitations of the Savings and Loan Holding Company Amendments of 1967 were overriden by the FSLIC under the temporary special authority of section 408(m) of the National Housing Act, 12 U.S.C. 1730a(m) (1982). A Federal association that is itself the ultimate parent holding company in a holding company structure is treated, in substance, as if the other associations in the structure were its branches. Extraordinary acquisitions under temporary provisions of the Garn-St Germain Act are not made a basis to "leverage" wide ranging branching authority. And the basic purposes of the Savings and Loan Holding Company Amendments are observed. In response to comments received, and subject to these limitations, the Board has determined to adopt a final rule that provides greater scope for management decision. Except for certain delineated circumstances, a Federal association would not be precluded from utilizing interstate branching rights solely because another institution in the holding company structure possessed such rights, but only if such other institution exercised such rights.

Since 1981, the Board has recognized that different rules should apply to the acquisition of branches and branching rights in connection with actions to prevent the failure of institutions the accounts of which are insured by the FSLIC. The Board's basic policy initiative of 1981, granting interstate branching capacity in connection with the acquisition of a failing institution, preceded the Garn-St Germain Act and was fully implemented prior to the enactment of that statute. The amended final rule is consistent with that initiative. In a context of expanding opportunities for financial institutions, represented by the growth of "regional compacts", and increasing costs of FSLIC actions with respect to failing institutions, it is appropriate to modify the existing rules for the acquisition of failing institutions to provide a potential branching capacity that is more consistent with the greater opportunities now available to financial institutions and with the assistance programs of the FSLIC.

The Board continues to favor limited interstate acquisitions and branching, however, and the rule gives preference to simpler, limited applications, such as those seeking entry only into the state of a failing target institution, over those seeking wider capacity. As stated in the proposal, the amended rule merely expands the Board's flexibility under its own rules to grant branching capacity in connection with the acquisition of assets or liabilities of failing institutions and for the purpose of serving the needs of the FSLIC. It is not the Board's purpose to signal a move toward general unrestricted branching on a national or broad scale in connection with supervisory cases. The Board has considered the variations suggested by the commenters that would be within its authority, but has determined that the steps taken by the amended rule are appropriate at this time. The Board has also decided that implementation of the principles of the amended rule should proceed on a case by case basis without imposing deductive restrictions that are not based upon experience. The Board has decided, however, to clarify the rule by requiring that a grant of branching rights in states other than the state of the target must be supported by a showing that the additional branching is reasonably related to the structure of the applicant, before or after acquisition of a target institution, and that the proposed acquisition is of very substantial benefit to the FSLIC, in a measure sufficient to constitute a compelling factor in determining to make an award to the applicant.

As indicated, the amendment addresses branching capacity for Federal associations generally and in connection with the acquisition of failing institutions. The approval of particular branches remains, of course, subject to standard regulatory procedures.

The Board has determined that this amendment shall become effective immediately upon publication. In the present circumstances of the savings and loan industry, and in particular in view of the large and growing number of distressed insured institutions that are eligible for FSLIC assistance and the increasing cost to the FSLIC of delays in the marketing and acquisition of distressed institutions, it is imperative that the improvements made under this rule be effected without delay. There is no reason to expect that any person or interest will be harmed by making this rule effective upon publication. Any interested party's ability to prepare to take action or to enjoy a reasonable time in which to respond to proposed actions under the new rule would not be impaired by an immediate effective

date. The benefits derived from not delaying the effective date are substantial and compelling from the standpoint of the FSLIC. Accordingly, the Board has determined that good cause exists for providing that this rule shall be effective upon publication and that such good cause satisfies the requirements of 12 CFR 508.14 (1985) and the rulemaking provisions of the Administrative Procedure Act, 5 U.S.C. 553(d) (1982).

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 604, the Board is providing the following regulatory flexibility:

1. *Need for and objectives of the rule.* These elements are incorporated above in the **SUPPLEMENTARY INFORMATION** regarding the rule.

2. *Issues raised by comments and agency assessment and response.* These elements are incorporated above in the **SUPPLEMENTARY INFORMATION** regarding the rule.

3. *Significant alternatives minimizing small-entity impact and agency response.* There are no alternatives that would have less impact on small institutions, consistent with the intended result and existing statutory requirements. Further, the rule will not involve any significant new reporting or compliance costs that could impose a disproportionate burden on small institutions.

List of Subjects in 12 CFR Part 556

Savings and loan associations.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 556, Subchapter C, Chapter V, Title 12, *Code of Federal Regulations*, as set forth below.

Subchapter C—Federal Savings and Loan System

PART 556—STATEMENTS OF POLICY

1. The authority citation for Part 556 continues to read as follows:

Authority: Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Sec. 341, 96 Stat. 1505, as amended (12 U.S.C. 1701j–3); Secs. 402–403, 408–407, 48 Stat. 1256–1257, 1259–1260, as amended (12 U.S.C. 1725–1726, 1729–1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., P. 1071.

2. Amending § 556.5 by revising paragraphs (a)(1) through (a)(3)(iv) to read as follows:

§ 556.5 Establishment of branch offices

(a) *General.* (1) The Board encourages a competitive savings and loan system that provides choices of facilities for improved financial services to the public. The Board believes that branching is a primary means to increase competition and serve the public. The Board recognizes that establishment of a full service branch is only one means for improving service and competition in an area and, therefore, encourages innovative ideas for branches designed to suit the needs of a particular community.

(2) As a general policy, the Board permits a Federal association to branch within the state in which its home office is located.

(3)(i)(*a*)(*1*) Additionally, the Board will permit a Federal association to establish or operate a branch office in a state other than the state in which its home office is located if the law of the state in which a Federal association's home office is located and the law of the state in which the branch is to be located would permit the establishment of such branch if the Federal association were an institution of the savings and loan or savings bank type chartered by the state in which the Federal association's home office is located.

(*2*) For the purposes of this paragraph (a)(3)(i)(*a*), state law is employed to determine basic authority to branch, or to acquire branch offices by merger or acquisition of assets or liabilities, but authorization by a state official is not required, and other state law limitations or requirements, such as those concerning investment standards, do not apply.

(*3*) This paragraph (a)(3)(i)(*a*) does not authorize a Federal association to become a savings and loan holding company controlling an insured institution located in a state other than the state in which the Federal association's home office is located.

(*b*) For the purposes of this paragraph (a)(3), the home office of a Federal association shall be deemed to be its home office as of the later of the date of its chartering or December 20, 1985, unless an association clearly demonstrates to the satisfaction of the Board that relocation to another state was not effected primarily to obtain branching advantages under this § 556.5(a).

(*c*) If a Federal association is a holding company or a subsidiary of an insured institution that is a holding company, it shall have a home office for the purposes of paragraph (a)(3)(i) only if no other insured institution in its holding company structure exercises or has exercised branching rights described in paragraph (a)(3)(i)(*a*);

(*d*) If a Federal association is an ultimate parent holding company, and no state chartered insured institution in the holding company structure exercises or has exercised branching rights described in paragraph (a)(3)(i)(*a*), such ultimate parent holding company shall be the sole association in the holding company structure that may acquire such branching rights under paragraph (a)(3)(i)(*a*). For the purposes of this paragraph (a)(3)(i), "ultimate parent holding company" means a savings and loan holding company not controlled by another company.

(*e*) *Multiple holding companies* (*1*) A Federal association that is a subsidiary of a multiple savings and loan holding company that controls insured institutions located in more than one state shall have a home office for the purposes of paragraph (a)(3)(i) only if no other subsidiary insured institution of its holding company exercises or has exercised branching rights described in paragraph (a)(3)(i)(*a*).

(*2*) Such a subsidiary Federal association may not exercise branching rights described in paragraph (a)(3)(i)(*a*) if a single state has been designated by its parent pursuant to section 408(e)(3)(B) of the National Housing Act, 12 U.S.C. 1730a(e)(3)(B), that is not the state in which such subsidiary Federal association has its home office, or if it became a subsidiary of its parent holding company pursuant to an acquisition or acquisitions effected pursuant to section 408(m) of the National Housing Act at a time when that parent was an existing savings and loan holding company, unless no subsidiary of such parent in a state designated pursuant to § 408(e)(3)(B) or existing prior to such section 408(m) acquisition posesses branching rights described in paragraph (a)(3)(i)(*a*).

(*f*) A Federal association that acquires and exercises branching rights pursuant to any of subparagraphs (a)(3)(i)(*a*) through (*e*) may not operate or retain branches established pursuant to such exercise if another insured institution in its holding company structure exercises branching rights described in paragraph (a)(3)(i)(*a*).

(ii)(*a*) Notwithstanding the limitations of paragraph (a)(3)(i) of this section, but subject to section 5(r) of the Home Owner's Loan Act of 1933, as amended, the Board may approve the establishment or operation of a branch office by a Federal association in a state other than the state in which its home office is located; *Provided* that:

(*1*) The establishment of the branch office will be achieved as part of or as a result of a transaction in which assets or liabilities of a failing insured institution ("target institution") are acquired by another institution, by merger or otherwise, as part of a transaction in

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which the insured accounts of a target institution are assumed by and transferred to an insured institution as a means of payment of insurance by the Federal Savings and Loan Insurance Corporation ("Corporation") or pursuant to an action by the Corporation to prevent the failure of a target institution;

(*2*) The Board determines that the Corporation's insurance liability or risk, including cost or potential cost to the Corporation, will be reduced as a result of the transaction involving a target institution; and

(*3*) If any alternative has been submitted that is not objectionable on supervisory grounds and could be approved in accordance with paragraph (a)(2), (a)(3)(i), or (a)(3)(iii) of this section or that would involve an acquisition by, or transfer of accounts to, a state chartered institution and would be in accordance with the laws governing the chartering and operation of all parties to the transaction, the Board determines that the Corporation's insurance liability or risk, including cost or potential cost to the Corporation, resulting from the proposed interstate acquisition by, or transfer of accounts to, a Federal association under this paragraph (a)(3)(ii) will be substantially less than the liability or risk that would result from such other alternative.

(*b*) Branching approved or permitted pursuant to this paragraph (a)(3)(ii) may be:

(*1*) Operation of a former office or offices of a target institution; and

(*2*) Permission to establish branch offices in a state or states other than the state or states in which a target institution operates: *Provided* that branching rights permitted pursuant to this paragraph (a)(3)(ii)(*b*)(*2*) shall not in any event include any state in addition to the greater of (A) three (3) states in addition to the state or states in which the target institution operates, or (B) if the home office of the target institution is located in a state that, as of the date of acquisition of the target institution, is included in a regional compact of states specifically authorizing branching or acquisition across state lines by institutions of the savings and loan or savings bank type by statute laws of such states, by language to that effect and not merely by implication, the states included within such as regional compact: *Provided further,* that the Board shall give preference to an application seeking limited branching authority over an application seeking wider branching capacity under paragraphs (a)(3)(ii)(*b*) (*1*) and (*2*); *Provided further,* that in considering applications to approve transactions involving the exercise of authority under this paragraph (a)(3)(ii)(*b*)(*2*), the Board shall prefer an application involving branching in states within a regional compact for institutions of the savings and loan or savings bank type or in a state having boundary lines contiguous with boundary lines of the state in which the target institution's home office is located; and *Provided further,* that no application for branching capacity under this paragraph (a)(3)(ii)(*b*)(*2*) shall be approved unless the Board finds that such branching capacity is reasonably related to the office structure of the applicant, before or after acquisition of the target institution or its assets or liabilities, and that an acquisition effected pursuant to such application is of very substantial benefit to the FSLIC in a measure sufficient to constitute a compelling factor in determining to make an award to the applicant.

(*c*) The principles of this paragraph (a)(3)(ii) shall also apply in reverse mergers in which the target institution is the surviving entity and in the acquisition of control of subsidiary insured institutions in a state or states in which a Federal association is not authorized to branch pursuant to paragraph (a)(3)(i).

(iii) Notwithstanding paragraph (a)(3)(i) of this section, but subject to section 5(r) of the Home Owners' Loan Act of 1933, as amended, the Board may approve the establishment of a branch office in a state or states other than the state in which the home office is located, provided that the establishment of the branch office will be achieved by the consolidation of some or all of the savings and loan subsidiaries, or of some or all of the offices of the savings and loan subsidiaries, of a multiple savings and loan holding company. The Board may approve the establishment of a branch office by a resulting institution in any state or states in which it maintains branch offices as a result of the consolidation.

(iv) Notwithstanding paragraph (a)(3)(i) of this section, but subject to section 5(r) or the Home Owners' Loan Act of 1933, as amended, in a transaction not involving an action by the Corporation for transfer of accounts or to prevent the failure of an insured institution, the Board may approve the establishment of a branch office in any state in which the applicant has established or has been permitted to operate a branch office pursuant to the conditions set forth in paragraph (a)(3)(ii) of this section.

* * * * *

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-10025 Filed 5-2-86; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-ANE-30; Amdt. 39-5293]

Airworthiness Directives; Avco Lycoming Division T5313B and T5317A Series Turboshaft Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an initial and repetitive dye penetrant inspections for cracks, and removal as necessary, of the centrifugal compressor impeller installed on Avco Lycoming T5313B and T5317A series turboshaft engines. The AD is needed to prevent an impeller failure that can cause an uncontained engine failure.

DATES: Effective May 6, 1986.

Compliance Schedule—As prescribed in the body of the AD.

Incorporation by Reference—Approved by the Director of the Federal Register effective May 6, 1986.

ADDRESSES: The applicable service bulletin (SB) may be obtained from Avco Lycoming Division, 550 South Main Street, Stratford, Connecticut 06497.

A copy of the SB is contained in the Rules Docket Number 85-ANE-30, in the Office of the Regional Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Chris Gavriel, Engine Certification Branch, ANE-141, Engine Certification Office, Aircraft Certification Division, Federal Aviation Administration, New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7084.

SUPPLEMENTARY INFORMATION: The FAA has determined that cracks can develop in the perimeter of the two drain holes on the centrifugal compressor impeller due to low cycle fatigue, and can propagate to a critical length before the published service life limit can be realized. This can precipitate a rapid tensile fracture of the impeller and can result in an uncontained engine failure. Two impellers have been found with cracks at the drain holes at 5,610 cycles and at 12,691 cycles, and one ruptured at 8,907 cycles causing an uncontained engine failure. Although the ruptured impeller was installed in an engine that was used in a non-aviation application, the mechanism of failure is the same in both aviation and non-aviation engines, yet the consequences of the failure are potentially different.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedures hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

List of Subjects in 14 CFR Part 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding to § 39.13 the following new airworthiness directive (AD):

Avco Lycoming Division: Applies to Avco Lycoming Division T5313B and T5317A turboshaft engines.

Compliance is required as indicated unless already accomplished.

To prevent centrifugal compressor impeller rupture that can cause uncontained engine failure, accomplish the following in accordance with Avco Lycoming Service Bulletin (SB) 0052, Paragraph 2A and 2B, dated November 26, 1985, or FAA approved equivalent:

(a) Inspect centrifugal compressor impeller Part Number 1-100-078-08, upon meeting the criteria as stated in (1), (2), or (3) below, within the next 200 cycles in service from the effective date of this AD, and reinspect thereafter per paragraph (b):

(1) Impellers with 4,000 cycles or more in service, installed in T5313B engines.

(2) Impellers with 3,500 cycles or more in service, installed in T513B engines, that have been previously installed and operated in a T5317A engine.

(3) Impellers with 3,500 cycles or more in service, installed in T5317A engines.

(b) Reinspect impellers with no cracks detected at intervals not to exceed 500 cycles in service since last inspection.

(c) Remove from service cracked impellers as follows:

(1) Prior to further flight, if cracks of 0.050 inch or greater are present.

(2) Within the next 10 cycles, if cracks of less than 0.050 inch are present.

Aircraft may be ferried in accordance with the provisions of FAR Parts 21.197 and 21.199 to a base where the AD can be accomplished.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Engine Certification Office, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Engine Certification Office, New England Region, may adjust the compliance times specified in this AD.

Avco Lycoming SB Number 0052, dated November 26, 1985, identified and described in this document, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Avco Lycoming Division, 550 South Main Street, Stratford, Connecticut 06497. This document also may be examined at the Office of the Regional Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, Room Number 311, Rules Docket Number 85-ANE-30, Monday through Friday between the hours of 8:00 a.m. and 4:30 p.m., except Federal holidays.

This amendment becomes effective on May 6, 1986.

Issued in Burlington, Massachusetts, on April 14, 1986.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 86-10001 Filed 5-2-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-ANE-38; Amdt. 39-5291]

Airworthiness Directives; Glasflugel "Standard Libelle," "Standard Libelle-201B," and H301 and H301B "Libelle" Gliders

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain Glasflugel "Standard Libelle" and "Libelle" gliders by individual letters. The AD requires inspection of the elevator linkage in the area of the welded seam at the base of the control stick for cracks, and eventual replacement of the elevator linkage. The AD is needed to prevent fatigue failure of the elevator linkage which could result in loss of elevator control.

DATES: Effective May 6, 1986, as to all persons except those persons to whom it was made immediately effective by priority letter ADs No. 85-22-11 and 85-22-11R1, issued October 30, 1985 and December 31, 1985, respectively, which contained this amendment.

Compliance schedule—As prescribed in body of AD.

Incorporation by Reference—Approved by the Director of the Federal Register effective May 6, 1986.

ADDRESSES: The applicable technical notes and the elevator linkage Part Number 301-41-4/2 may be obtained from Mr. Hansjoerg Streifender, Bruelstrasse 12, 7318 Lenningen 2, Federal Republic of Germany.

A copy of the technical notes is contained in the Rules Docket, Regional Counsel, ANE-7, FAA New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

FOR FURTHER INFORMATION CONTACT: Munro Dearing, Brussels Aircraft Certification Office, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 15 Rue de la Loi B-1040 Brussels, Belgium telephone 513.38.30 ext. 2710, or Richard B. Noll, ANE-152, Boston Aircraft Certification Office,

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FAA New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7111.

SUPPLEMENTARY INFORMATION: On October 30, 1985, priority letter AD 85-22-11 was issued and made effective immediately to all known U.S. owners and operators of certain Glasflugel "Standard Libelle," Standard Libelle-201B," and H301 and H301B "Libelle" gliders. The AD required inspection of the elevator linkage in the area of the welded seam at the base of the control stick for cracks within 10 hours time in service, and replacement of the elevator linkage within 25 hours time in service after receipt of the AD, but not later than December 31, 1985. AD action was necessary to prevent fatigue failure of the elevator linkage which could result in loss of elevator control. The AD was amended by priority letter AD 85-22-11 R1, issued December 31, 1985, which was necessary to extend the compliance period for replacement of the elevator linkage because of the unavailability of the required replacement part within the originally established schedule, and to ensure aircraft safety during the extended compliance period by requiring repetitive inspections of the elevator linkage for cracks.

Applicability information was provided because not all aircraft serial numbers of the named models were affected by the AD; the replacement part number omitted from the original AD was identified; and the source of the replacement part was given because Glasflugel is no longer in business.

Since it was found that immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual letters, issued October 30, 1985 and December 31, 1985, to all known U.S. owners and operators of certain Glasflugel "Standard Libelle," "Standard Libelle-201B," and H301 and H301B "Libelle" gliders. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

Conclusion

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding to Part 39 the following new airworthiness directive (AD):

Glasflugel: Applies to "Standard Libelle" and "Standard Libelle-201B" (aircraft serial numbers 1 through 470), and H301 and H301B "Libelle" (all aircraft serial numbers) gliders.

Compliance is required as indicated unless already accomplished.

To prevent fatigue failure of the elevator linkage in the area of the welded seam at the base of the control stick which could result in loss of elevator control, accomplish the following:

(a) Within the next 10 hours time in service after the effective date of this AD, and thereafter at intervals not to exceed 10 hours time in service after the last inspection, unless compliance with paragraph (c) is already accomplished, visually inspect the elevator linkage, part number (P/N) 301-41-3/2, by means of a magnifying glass of at least 5 times magnification for cracks in the area of the welded seam at the base of the control stick.

(b) If a crack is found during the inspection required by paragraph (a) of this AD, before further flight, replace elevator linkage, P/N 301-41-3/2, with a serviceable part.

(c) Within the next 50 hours time in service after the effective date of this AD, but no later than July 1, 1986, replace the elevator linkage, P/N 301-41-3/2, with P/N 301-41-4/2, in accordance with Glasflugel-Technical Notes Nos. 201-22, dated July 29, 1980, for Models "Standard Libelle" and "Standard Libelle-201B," and 301-31, dated July 29, 1980, for Models H 301 and H 301B "Libelle" gliders, or an FAA-approved equivalent.

Upon request, an equivalent means of compliance with the requirements of this AD may be approved by the Manager, Brussels Aircraft Certification Office, ABU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 15 Rue de la Loi B-1040 Brussels, Belgium, telephone 513.38.30 ext. 2710.

Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Brussels Aircraft Certification Office, may adjust the compliance time specified in this AD.

Glasflugel Technical Notes Nos. 201-22 and 301-31, dated July 29, 1980, identified and described in this document, are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Mr. Hansjoerg Streifender, Bruelstrasse 12, 7319 Lenningen 2, Federal Republic of Germany. These documents also may be examined at Regional Counsel, ANE-7, FAA New England Region, 12 New England Executive Park, Burlington, Massachusetts 01803.

This amendment becomes effective May 6, 1986, as to all persons except those persons to whom it was made immediately effective by priority letters AD No. 85-22-11 and 85-22-11R1, issued October 30 and December 31, 1985, respectively, which contained this amendment.

Issued in Burlington, Massachusetts, on April 14, 1986.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 86-9999 Filed 5-2-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-ANE-22; Amdt. 39-5292]

Airworthiness Directive: Pratt & Whitney (PW) JT9D-3A Series Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts an airworthiness directive (AD) that requires initial and repetitive radioisotope inspections of the second stage turbine nozzle guide vanes for detection of second stage turbine vane inner shroud rearward deflection, and removal of the affected parts from service if excessive deflection is discovered. The AD is needed to institute an inspection program that would maintain a safe clearance between the vane inner shroud and the second stage turbine disk, and eliminate uncontained engine failures that can be initiated by excessive vane deflection.

DATE: Effective June 5, 1986.

Compliance schedule—As prescribed in the body of the AD.

Incorporation by reference—Approved by the Director of the Federal Register effective June 5, 1986.

ADDRESSES: The applicable Alert Service Bulletin (ASB) may be obtained from Pratt & Whitney, Publication Department, P.O Box 611, Middletown, Connecticut 06457. A copy of the ASB is contained in the Rules Docket Number 85-ANE-22 in the Office of the Regional Counsel, New England Region Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803 and may be examined between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Chris Gavriel, Engine certification Branch, ANE-141, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7084.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include a new AD requiring initial and repetitive inspections of the second stage turbine nozzle guide vanes, Part Number 770372, and PW JT9D-3A engines for rearward deflection and removal of vanes with excessive rearward deflection, was published in the **Federal Register** on October 24, 1985, (50 FR 43222). The FAA has determined that there have been five events of excessive vane rearward deflection to date, not six as previously reported, one of which has resulted in an uncontained engine failure. In this instance, a section of the second stage turbine disk was liberated and an adjacent engine was damaged while the aircraft was executing a takeoff roll. Since this condition is likely to exist or develop on other engines of the same design, a new AD is being issued which requires initial and repetitive radioisotope inspections of the second stage turbine nozzle guide vanes for rearward deflection and removal of vanes that have deflected in excess of established limits per PW ASB 5619, dated July 31, 1985.

Interested persons have been afforded the opportunity to participate in the making of this amendment and due consideration has been given to all relevant data and comments received. One comment was received concerning the proposed rule. The one commenter conducted an industry-wide survey on the proposed rule and received two responses. One participant in the survey recommended, through the commenter, that the proposed rule have provisions to allow monitoring of the vane burning and bowing every 1,000 hours as an equivalent means of compliance. The FAA disagrees. Experience at other JT9D-3A operators has shown that second stage turbine nozzle guide vane deflection is possible without burning or bowing. Vane and shroud deflection is the main concern since this can and has led to second turbine disk contact. Therefore, vane and shroud deflection is the primary criteria for engine removal and the vane deflection limits of ASB 5619 must be adhered to.

A second participant in the survey requested, through the commenter, that the appropriate section of the Engine Manual Part Number 770407 be added to the proposed rule as an alternate reference. The request is denied in that the ASB 5619 is a self contained document that includes all aspects of compliance with this rule. The Engine Manual is referenced in the ASB as a supporting document.

Conclusion

The FAA has determined that this regulation involves 167 JT9D engines installed on Boeing 747 series aircraft and the approximate total annual cost is $112,000. It has also determined that few, if any, small entities within the meaning of the Regulatory Flexibility Act will be affected since the rule affects only operators using Boeing 747 aircraft in which the JT9D engines are installed, none of which are believed to be small entities. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT".**

List of Subjects in 14 CFR 39

Engines, Air transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354 (a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding to § 39.13 the following new airworthiness directive (AD):

Pratt & Whitney: Applies to Pratt & Whitney (PW) JT9D-3A series turbofan engines.

Compliance is required as indicated, unless already accomplished.

To preclude second stage turbine disk failures resulting from rearward deflection of the second stage turbine nozzle guide vane inner shroud, inspect second stage nozzle guide vanes, Part Number (P/N) 770372, in accordance with the Accomplishment Instructions of PW Alert Service Bulletin (ASB) 5619, dated July 31, 1985, or FAA approved equivalent, per the following schedule:

(a) Inspect vanes for rearward deflection prior to accumulating 4,000 hours in service since new or since the vanes were refurbished, and reinspect thereafter per paragraph (b).

(b) Reinspect at the following intervals and until such time as the engine incorporates a complete set of new or refurbished vanes with zero time in service, at which time the requirements of paragraph (a) become applicable.

(1) Within the next 1,000 hours in service since last inspection, if the vane deflection is greater than 0.050 inches but not greater than 0.070 inches.

(2) Within the next 2,000 hours in service since last inspection, if the vane deflection is less than or equal to 0.050 inches.

(c) Remove from service, prior to further flight, vanes that have a rearward deflection greater than 0.070 inches.

Notes: 1. Refurbished vanes are defined as vanes which have been operated in service and have subsequently been inspected and repaired to the specifications in Pratt & Whitney Engine Manual, P/N 646028.

2. Engine Manuals P/N 646028 and 770407 are identical for the JT9D-3A engine model and are both FAA approved.

Upon request, an equivalent means of compliance may be approved by the Manager, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

Aircraft may be ferried in accordance with the provisions of FAR Parts 21.197 and 21.199 to a base where the AD can be accomplished.

Upon submission of substantiating data by an owner or operator through the FAA maintenance inspector, the Manager, Engine Certification Office, New England Region, may adjust the compliance time specified in this AD.

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PW ASB-5834, dated July 31, 1985, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Pratt & Whitney, Publication Department, P.O. Box 611, Middletown, Connecticut 06457.

This document also may be examined at the Office of the Regional Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, Rules Docket Number 85-ANE-22, Room Number 311, between the hours of 8:00 a.m. and 4.30 p.m., Monday through Friday except Federal holidays.

This amendment becomes effective on June 5, 1986.

Issued in Burlington, Massachusetts, on April 14, 1986.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 86-10080 Filed 5-2-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 85-AWA-5]

Establishment of Airport Radar Service Areas; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects the description of the Michiana Regional Airport, South Bend, IN, Airport Radar Service Area (ARSA). An ARSA is operational only during the hours of operation of the control tower and associated radar approach control facility. Michiana Regional Airport, South Bend Tower and Approach Control Facility provide services only during a portion of the day. The description of these hours was inadvertently omitted from the ARSA description as published on April 7, 1986. This action corrects that description.

EFFECTIVE DATE: 0901 G.m.t., May 8, 1986.

FOR FURTHER INFORMATION CONTACT: Robert Burns, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 86-7886 was published on April 7, 1986, establishing the Michiana Regional Airport, South Bend, IN, ARSA. The legal description of the ARSA inadvertently omitted a narrative description of the limited hours of operation. An ARSA is operational during the hours the control tower and approach control facility are operating. This action corrects that omission.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar services areas

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, Federal Register Document 86-7886, as published in the Federal Register on April 7, 1986, (51 FR 11686) is corrected as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1354(a) and 1354(a); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.501 is amended as follows:

Michiana Regional Airport, South Bend, IN [Amended]

By adding the words "This airport radar service area is effective during the specific days and times of the South Bend Tower and Approach Control Facility as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory."

Issued in Washington, D.C., on April 29, 1986.

Daniel J. Peterson,

Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 86-10002 Filed 5-2-86; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9148]

Flowers Industries, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying order.

SUMMARY: The Federal Trade Commission has modified a 1983 consent order with Flowers Industries, Inc., a Thomasville, Ga. baker (48 FR 53403), by appointing a trustee to divest two bakeries and extending for six months the deadline for the divestitures.

DATES: Consent Order Issued Nov. 3, 1983. Modified Order Issued April 16, 1986.

FOR FURTHER INFORMATION CONTACT: Elliot Feinberg, FTC/L-301, Washington, D.C. 20580. (202) 694-4604.

SUPPLEMENTARY INFORMATION: In the Matter of Flowers Industries, Inc., a corporation. The prohibited trade practices and/or corrective actions, as set forth at 48 FR 53403, remain unchanged.

List of Subjects in 16 CFR Part 13

Bakeries, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

[Docket No. 9148]

Order Modifying Order to Divest

In the matter of Flowers Industries, Inc., a corporation.

Commissioners: Terry Calvani, Acting Chairman; Patricia P. Bailey; Mary L. Azcuenaga; Andrew J. Strenio, Jr.

On November 3, 1983, the Commission issued its Order in this matter requiring, *inter alia*, that respondent Flowers Industries, Inc. ("Flowers") "divest itself absolutely and in good faith of the High Point Baker Plant . . . [and] of the Gadsden Bakery Plant to an Eligible Person including, without limitation, land, buildings, fixtures attached thereto, machinery and equipment." As of the date of this order, neither plant has been divested by Flowers. Because it appeared that the public interest would be served by modifying the order to allow for the appointment of a trustee to accomplish divestiture, on March 19, 1986, the Commission issued its Order To show Cause why Order Requiring Divestiture Should Not Be Modified ("Order To Show Cause") pursuant to § 3.72 of the Commission's Rules of Practice. The Order to Show Cause

proposed the insertion of a new Paragraph VII of the Order to appoint Graham Humes of Mellon Bank (East) N.A. as trustee. On March 31, 1986, the Order To Show Cause was served on Flowers, and Flowers answered on April 2, 1986, stating that it consents to the modifications.

After reviewing Flowers's answer and the materials submitted with its compliance reports, the Commission has concluded that the public interest warrants modifying the order as proposed in the Order To Show Cause. As the Commission observed in the Order To Show Cause, the appointment of the trustee appears likely to advance the remedial objectives of the order.

Accordingly,

It is hereby ordered that pursuant to 15 U.S.C. 45 (b), and § 3.72 of the Commission's Rules of Practice, 16 CFR § 3.72, (1) Paragraphs VII, VIII, IX, X and XI of the order in this matter be modified to renumber these Paragraphs VIII, IX, X, XI, and XII respectively, and (2) a new Paragraph VII be added to the order, as follows:

VII

The Commission hereby appoints Graham Humes, of Mellon Bank (East) N.A., as Trustee to serve subject to all the terms and conditions specified herein.

A. Powers and Duties of Trustee; Conditions of Trusteeship

1. The Trustee shall have the duty and authority to effect the divestiture of the properties and assets of Flowers subject to divestiture pursuant to Paragraphs I and II of this Order ("the Assets") as quickly as possible in good faith to an Eligible Person who has represented in good faith that the Assets will, if acquired, be used in accordance with subparagraphs I(B) and II(B) of the Order. The Trustee may divest the plants separately or together.

2. The duty and authority of the Trustee to divest the Assets shall be at the most favorable price and terms available, but there shall be no minimum price therefor.

3. If requested by Flowers or the Commission, the Trustee shall furnish a surety bond, the cost of which may be included in the Trustee's expenses as provided in subparagraph VII(D).

4. Except for cases of misfeasance, negligence, willful or wanton acts, or bad faith by the Trustee, the Trustee shall not be liable to Flowers for any action taken or not taken in the performance of the trusteeship. Flowers shall indemnify the Trustee and hold the Trustee harmless against any liabilities, claims, or expenses arising out of performance of the trusteeship, including all reasonable fees of counsel and other expenses incurred in connection with the preparation for or defense of any claim, whether or not resulting in any liability, except to the extent that such liabilities, claims, or expenses result from misfeasance, negligence, willful or wanton acts, or bad faith by the Trustee.

5. Rule 2.41(f) of the Commission's Rules of Practice and Procedures shall apply to the Trustee in the same manner as it would be applicable to Flowers.

6. The Trustee may seek approval of a proposed acquirer at any time during the period specified in subparagraphs VII(B)(1) and VII(B)(2), and the Trustee may seek approval for more than one proposed acquirer. After the expiration of the time for seeking approval of a proposed acquirer, the Trustee shall have no duty or authority to seek approval of a proposed acquirer.

7. Each request to the Commission for approval of a proposed acquirer shall be in writing and shall include a definitive written agreement between the proposed acquirer and the Trustee. The agreement shall be conditional upon approval of the transaction by the Commission.

8. The Trustee shall have the power (a) to retain the services of attorneys, appraisers, consultants, investment bankers, and such others as may be reasonably necessary to assist in the divestiture of the Assets; (b) to disclose confidential information and data respecting the Assets to any person who, in the opinion of the Trustee, shows a bona fide interest in acquiring the Assets or any portion thereof; (c) to enter into such contracts and execute such documents on behalf of Flowers as may be reasonable and necessary to effect divestiture in accordance with the terms of this Order, provided that such contracts and documents may include representations, warranties covenants, and indemnity agreements only as to clear title; and (d) to take such other actions as may be reasonable and necessary to effect divestiture in accordance with the terms of this Order.

9. Within thirty days following appointment of the Trustee and every thirty days thereafter, until the Commission approves a proposed acquirer or the time for seeking approval of a proposed acquirer has expired, the Trustee shall submit a verified report in writing to the Commission, with a copy to Flowers, setting forth (a) the steps taken by the Trustee to make public the availability for purchase of the Assets, (b) a list of all persons or organizations to whom notice of availability for purchase has been given directly, (c) a summary of all discussions and negotiations together with the indentities and addresses of all interested persons or organizations, and (d) copies of all internal memoranda, offers, counter-offers, communications, and correspondence concerning divestiture. The Trustee shall provide such other reports as may be required by the Commission.

10. The Trustee shall account for all monies derived from any divestiture. All funds received by the Trustee from a prospective acquirer shall be deposited immediately in a federally chartered bank in an interest-bearing account until settlement of the Trustee's account.

11. Within sixty days after divestiture or after expiration of the time for seeking approval of a proposed acquirer, the Trustee shall submit to the Commission a detailed final accounting, including all amounts received or paid by the Trustee and all unpaid amounts still owing to the Trustee or others. Upon approval of the accounting by the Commission, the Trustee shall pay the approved unpaid expenses and pay the balance of the funds, together with all interest earned, to Flowers. Should the amount in the Trustee's account be insufficient to pay the approved unpaid expenses and to compensate the Trustee, Flowers, within 15 days after receiving notice thereof from the Commission, shall deliver to the Trustee an amount sufficient to compensate the Trustee pursuant to subparagraph VII(D) and to permit the Trustee to pay all approved unpaid expenses.

12. The Trustee may be removed by the Commission for failure to discharge the Trustee's obligations diligently or faithfully, or for other good cause. Upon the removal, death, or resignation of the Trustee, a successor Trustee shall be appointed by the Commission. Selection of such successor Trustee shall be subject to the consent of Flowers, which consent shall not be unreasonably withheld.

B. Term of Trusteeship; Extension

1. The Trustee shall have 180 days from the date of appointment to submit requests for approval of a proposed acquirer to the Commission.

2. That time period may be extended by the Commission (a) upon the removal, death, or resignation of the Trustee, for an additional thirty days plus a period equal to the time during which there was no Trustee; (b) for a period necessary to remedy any delay in the submission of a request for approval of a proposed acquirer that has been substantially caused by any violation of this Order by Flowers; or (c) for a period

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equal to such time as there exists any unresolved dispute with Flowers over the interpretation of this Order.

3. The trusteeship shall terminate upon the Trustee's discharge of the obligations set forth in subparagraph VII(A)(II).

C. Additional Obligations of Flowers

1. Flowers shall cooperate fully with the Trustee in the Trustee's efforts to effect divestiture of the Assets. Flowers will do nothing to impede or interfere with those efforts.

2. When requested to do so by the Trustee, Flowers shall promptly empower the Trustee to perform, on Flower's behalf, every act necessary to convey clear title to the Assets from Flowers to any Eligible Person in accordance with the terms of this Order. All documents to be executed in compliance with this subparagraph shall first be submitted to and approved by the Director of the Bureau of Competition.

3. When requested to do so by the Trustee, Flowers shall promptly provide the Trustee and prospective acquirers with existing information relating to the Assets, including but not limited to, written information and data, access to the Assets, access to records relating to the Assets, access to personnel for tours and inspections of the Assets, access to knowledgeable personnel for answering questions about the Assets, and information previously submitted to the Commission regarding Flowers' prior divestiture efforts.

4. Flowers shall not cause or permit the Assets to become subject to any new lien or encumbrance, and no existing lien or encumbrance shall be increased.

D. Compensation and Expenses of Trustee

1. The Trustee's compensation shall be paid by Flowers, and the Trustee's reasonable expenses shall be reimbursed by Flowers.

2. The Trustee's compensation shall consist of a flat fee and a contingent fee, as follows:

(a) The Trustee shall be paid a flat fee of $5000 per month from the date hereof until the first to occur of either:

(i) Divestiture of the Assets as provided for herein, or

(ii) The Expiration of the time provided for seeking approval of a proposed acquirer.

(b) In addition to the flat fee specified in subparagraph VII(D)(2)(a), the Trustee shall be paid a fee contingent upon the consummation of the divestitures contemplated hereunder from the proceeds of the divestitures.

(c) If the combined purchase price of the Assets is less than or equal to six million dollars, the contingent fee shall be $10,000 for the divestiture of the properties and assets subject to divestiture pursuant to Paragraph I of this Order and $10,000 for the divestiture of the properties and assets subject to divestiture pursuant to Paragraph II of this Order, plus an additional amount based on the combined purchase price of the Assets and calculated as follows:

(i) 3% of that portion of the purchase price less than or equal to one million dollars; plus

(ii) 1% of that portion of the purchase price greater than one million dollars but less than or equal to two million dollars; plus

(iii) 2% of that portion of the purchase price greater than two million dollars but less than or equal to three million dollars; plus

(iv) 3% of that portion of the purchase price greater than three million dollars but less than or equal to four million dollars; plus

(v) 4% of that portion of the purchase price greater than four million dollars but less than or equal to five million dollars; plus

(vi) 5% of that portion of the purchase price greater than five million dollars but less than or equal to six million dollars.

(d) If the combined purchase price of the Assets is greater than six million dollars, the contingent fee shall be based on the combined purchase price of the Assets and calculated as follows:

(i) If the purchase price is greater than six million dollars but less than or equal to seven million dollars, 6% of the purchase price;

(ii) If the purchase price is greater than seven million dollars but less than or equal to eight million dollars, 7% of the purchase price;

(iii) If the purchase price is greater than eight million dollars but less than or equal to nine million dollars, 8% of the purchase price;

(iv) If the purchase price is greater than nine million dollars but less than or equal to ten million dollars, 9% of the purchase price;

(v) If the purchase price is greater than ten million dollars, 10% of the purchase price.

3. Notwithstanding any other term of this Order, Flowers shall not be obligated to reimburse the Trustee for any expenses in excess of $30,000 unless those expenses have been approved by the Commission.

4. Each month the Trustee shall present Flowers with a detailed written statement of the Trustee's expenses for the previous month. A copy of each monthly expense statement shall be sent to the Director of the Bureau of Competition. Subject o the condition set forth in subparagraph VII(D)(3), Flowers shall reimburse the Trustee for such expenses within five days of receipt of each monthly statement.

E. Resolution of Disputes

1. If Flowers and the Trustee are unable to resolve any dispute arising out of the interpretation of this Order, either party may notify the Commission thereof in writing.

2. The Commission shall resolve a dispute arising under subparagraph VII(E)(1) without unreasonable delay. With regard to any dispute arising out of the interpretation of subparagraphs VII(A)(8)(a), VII(A)(8)(b), VII(C)(3), or VII(D) of this Order, the Commission's determination shall be final and binding upon Flowers and the Trustee.

3. For the purpose of subparagraph VII(B)(2)(c), an unresolved dispute shall exist as of the date the Commission (a) receives notice under subparagraph VII(E)(1), or (b) in the case of a dispute between it and Flowers, notifies Flowers in writing thereof.

F. Termination of Obligation To Divest

Except upon a showing that any act or omission by Flowers in violation of the terms of this Order has contributed substantially to the Trustee's inability to divest the Assets, Flowers's obligation to divest the Assets under this Order shall terminate upon expiration of the time for seeking approval of a proposed acquirer; provided, however, that Flowers shall proceed to accomplish any divestiture that has been approved by the Commission, or that is subsequently approved by the Commission if the request for approval was received by the Commission before the expiration of the time for seeking approval of a proposed acquirer.

By the Commission. Commissioner Strenio was recorded as not participating.

Issued: April 16, 1986.

Emily H. Rock,

Secretary.

[FR Doc. 86-9973 Filed 5-2-86; 8:45 am]

BILLING CODE 6750-01

16 CFR Part 13

[Docket No. C-3183]

Saab-Scania of America, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Consent order.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent order requires an Orange, Conn. wholly-owned subsidiary of a Swedish automobile company, among other things, to make repairs or reimburse consumers for costs they incurred because of paint problems with Saab cars assembled at the company's factory in Malines, Belgium, from 1970 to 1976. The offer to repair or reimburse will be made to consumers who bought a new Belgian-made Saab after Dec. 31, 1977 and to subsequent owners who bought their vehicle within the first 36 months after the original purchase. The repair or reimbursement cost will be up to $2,000 per car, except for cars purchased in Massachusetts. The Attorneys General in Massachusetts, Maine and Vermont have reached separate agreements with Saab in those states over the paint problem, but Saab consumers in Maine and Vermont are eligible for the repair or reimbursement program. Date: Complaint and Order issued April 16, 1986.[1]

FOR FURTHER INFORMATION CONTACT: Phoebe Morse, Director, Boston Regional Office, Federal Trade Commission, 150 Causeway St., Room 1301, Boston, MA 02114. (312) 353-4423.

SUPPLEMENTARY INFORMATION: On Thursday, Dec. 12, 1985, there was published in the **Federal Register**, 50 FR 50800, a proposed consent agreement with analysis In the Matter of Saab-Scania of America, Inc., a corporation, for the purpose of soliciting public comment. Interested parties were given sixty (60) days in which to submit comments, suggestions or objections regarding the proposed form of order.

Comments were filed and considered by the Commission. The Commission has ordered the issuance of the complaint in the form contemplated by the agreement, made its jurisdictional findings and entered its modified order to cease and desist, as set forth below, in disposition of this proceeding.

The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: S 13.533 Corrective actions and/or requirements; 13.533-45 Maintain records; 13.533-55 Refunds, rebates, and/or credit.

List of Subjects in 16 CFR Part 13

Automobiles, Trade practices.

[1] Copies of the Complaint are available from the Commission's Public Reference Branch, H-130, 6th & Pa. Ave., NW., Washington, D.C. 20580.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Emily H. Rock,

Secretary.

[FR Doc. 86-9972 Filed 5-2-86; 8:45 am]

BILLING CODE 6750-01

16 CFR Part 13

[Docket No. 9166]

Figgie International, Inc.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This final order requires, among other things, a Richmond, Va. manufacturer and seller of home heat detectors to provide notification that smoke detectors give earlier warning than heat detectors in nearly all residential fires to past purchasers of its heat detectors. Respondent must also disclose that fact in any future promotional materials that make claims about the residential fire protection provided by heat detectors. Additionally, respondent is prohibited from misrepresenting: (1) The performance characteristics of any heat or smoke detector, or any system containing both; or (2) any standard or recommendation established by the National Fire Protection Association or any other group concerning fire warning systems.

DATES: Complaint issued May 17, 1983. Final Order issued April 11, 1986.[1]

FOR FURTHER INFORMATION CONTACT: Christopher Schwartz, New York Regional Office, Federal Trade Commission, 2243-EB Federal Bldg., 26 Federal Plaza, New York, NY 10278. (212) 264-1207.

SUPPLEMENTARY INFORMATION: In the Matter of Figgie International, Inc., a corporation. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Advertising Falsely or Misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.170 Qualities or properties of product or service; § 13.195 Safety; § 13.205 Scientific or other relevant facts; § 13.245 Specifications or standards conformance. Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements; § 13.533-20 Disclosures; § 13.533-45 Maintain records.

List of Subjects in 16 CFR Part 13

Residential heat detectors, Trade practices.

(Authority: Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

Before Federal Trade Commission

[Docket No. 9166]

Commissioners: Terry Calvani, Acting Chairman, Patricia P. Bailey, Mary L. Azcuenaga, Andrew J. Strenio, Jr.

In the Matter of Figgie International, Inc., a corporation.

Final Order

This matter has been heard by the Commission upon the appeals of respondent and complaint counsel from the initial decision, and upon briefs and oral argument in support of and in opposition to the appeals. For the reasons stated in the accompanying opinion, the Commission has denied the appeal of the respondent and has granted in part and denied in part the appeal of complaint counsel.

It is ordered that the initial decision of the administrative law judge be adopted as the findings of fact and conclusions of law of the Commission except where it is inconsistent with the accompanying opinion. Other findings of fact and conclusions of law of the Commission are contained in the accompanying opinion.

It is further ordered that the following order to cease and desist be entered:

I

It is ordered that respondent, Figgie International, Inc., its successors and assigns, and respondent's officers, agents, representatives and employees, directly or through any corporate or other device, in connection with the advertising, offering for sale or distribution of any heat detector or any residential fire alarm system containing a heat detector, as the term "heat detector" is defined by the National Fire Protection Association's Standard 74, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Representing in any manner, directly or by implication:

(1) That heat detectors provide the necessary warning to allow safe escape from most residential fires; or

(2) That fire alarm systems combining heat detectors and smoke detectors provide significantly greater fire warning protection than smoke

[1] Copies of the Complaint, Initial Decision and Opinion of the Commission are available from the Commission's Public Reference Branch, H-130, 6th & Pa. Ave., NW., Washington, D.C. 20580.

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detectors alone because heat detectors give earlier warning of hot, flaming fires.

B. Misrepresenting in any manner, directly or by implication:

(1) The performance characteristics of any heat detector or any residential fire alarm system containing a heat detector including, but not limited to, the capability of the heat detector to provide the necessary warning to occupants to allow them to escape safely in the event of fire; or

(2) The existence or content of any standard or recommendation established or made by the National Fire Protection Association or any other entity regarding the location, number or type of fire protection devices to be installed in a residence, or compliance of any heat detector or residential fire alarm system containing a heat detector with any such standard or recommendation; or

(3) The performance characteristics of any smoke detectors or any residential fire alarm system containing a smoke detector; or

C. Representing in any manner, directly or by implication, the performance characteristics of any heat detector or any fire alarm system containing a heat detector including, but not limited to, the capability of the heat detector to provide fire warning protection, unless at the time of making any such representation respondent possesses and relies upon competent and reliable scientific evidence which substantiates such representation.

II.

It is further ordered that respondent shall, within 120 days from the date of service of this Order, include the following notice in all print advertising or print promotional material for all heat detectors manufactured or sold by respondent or for any fire warning system containing such heat detectors, if that advertising or promotional material expressly or impliedly represents that heat detectors provide the necessary warning to allow safe escape in the event of fire or that a combination system of heat and smoke detectors provides significantly greater protection than smoke detectors alone:

NOTICE: Smoke detectors give earlier warning than heat detectors in nearly all residential fires. That is because detectable amounts of smoke almost always develop before detectable levels of heat.

The above-required language shall be printed in a typeface and color that are clear and conspicuous, and, in multipage documents, shall appear on the cover or first page. Nothing contrary to, inconsistent with, or in mitigation of the above-required language shall be used in any advertising or promotional materials. With respect to any film, video tape, or slide promotional material, the above-required language shall be included both orally and visually within the first minute of the presentation, in a matter designed to ensure clarity and prominence.

III.

It is further ordered that respondent shall, within 180 days after service of this Order, send by first-class mail, to each identifiable purchaser of respondent's fire alarm products since January 1, 1979, the disclosure required by part II.

Purchasers shall be deemed identifiable if they can be traced using warranty cards or testimonial letters in respondent's possession and/or using sales records maintained by respondent's dealers.

IV.

It is further ordered that respondent shall:

A. Distribute a copy of this Order to all of its officers and to all employees, agents or representatives having sales or promotional responsibilities with respect to the subject matter of this Order. The respondent shall also distribute a copy of this Order to each dealer of its fire alarm products.

B. Provide each of its dealers with a form clearly stating that dealer's intention to conform his or her sales practices to the requirements of this Order.

C. Cease selling its fire warning devices to any dealer who does not sign and return that form to respondent or fails to conform his or her sales practices to the requirements of this Order.

D. Investigate and make good faith efforts to resolve any complaints it receives that any dealer has failed to conform his or her sales practices to the requirements of this Order.

V.

It is further ordered that respondent shall maintain such documents as will demonstrate compliance with this Order for a period of three years from the date the document is created or used, whichever is later. Such documents shall be made available to the Commission or its staff for inspection and copying upon reasonable request and shall include, but not be limited to, the following:

(a) A copy of each nonidentical form of promotional and training materials disseminated by respondent;

(b) The name and last known address of each dealer of respondent's first fire alarm products;

(c) The name and last known address of each purchaser identified under Part III of this Order; and

(d) A copy of each complaint it receives that any of its dealers has failed to conform his or her sales practices to the requirements of this Order, and a record of the investigation and disposition of the complaint.

VI.

It is further ordered that respondent shall notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondent such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporation which may affect compliance obligations arising out of the Order.

VII.

It is further ordered that respondent shall, within 120 days after service upon it of this Order, file with the Commission a report, in writing, setting forth in detail the manner and form in which it has complied with this Order.

By the Commission, Commissioner Bailey concurring in part and dissenting in part and Commissioner Strenio did not participate.

Issued: April 11, 1986.

Emily H. Rock,

Secretary.

Statement of Commissioner Bailey Concurring in Part and Dissenting in Part

Figgie International, Inc.

[Docket No. 9166]

April 11, 1986.

The Commission rules today that respondent Figgie International, Inc. (Figgie) misrepresented the performance of its Vanguard heat detectors. I agree. Figgie claimed that its heat detectors "provide the necessary warning to occupants to allow them to escape safely" from residential fires. That is untrue for nearly all residential fires, and the Commission's order prohibits Figgie from repeating that claim.

The complaint in this matter also alleged that respondent claimed that its "fire alarm systems combining heat detectors and smoke detectors provide *significantly greater* fire warning protection for occupants than smoke detectors alone." Complaint para. 5 (emphasis added). The Commission agrees that this claim was made in three forms, but concludes that complaint counsel failed to prove that two of them were false[1] I believe

[1] The opinion examines three different ways in which Figgie represented that its heat detectors

Continued

complaint counsel adequately proved that heat detectors do not provide "significantly greater" protection in any of the three fashions claimed, and so I dissent from that part of the Commission's opinion.

Figgie made the following statements, all of which contribute to the notion that heat detectors provide significantly greater protection from fires than smoke detectors alone: "HEAT DETECTORS HAVE PROBABLY SAVED MORE LIVES AND PROPERTY THAN ANY OTHER FIRE DETECTION DEVICE" (CX 63); combining heat detectors with smoke detectors gives consumers "the combination needed to give a greater measure of life safety" and is needed "to maximize chances for survival" (CXs 69, 68); and "to have adequate protection, the home must have heat detectors as well as smoke detectors." (CX 130) In the face of this and other evidence, the ALJ found that a claim of "significantly greater benefit" was made, and the Commission expressly adopts that conclusion. Opinion at 11 & n. 12.

The record evidence of how heat detectors actually perform compared to smoke detectors contrasts sharply with the picture Figgie painted in its advertising and marketing materials. For example, Figgie claimed that its heat detectors are significantly more protective because they can be placed where smoke detectors are not recommended (such as kitchens, garages, and attics). However, the expert testimony and test data introduced at trial establish that this confers virtually no life safety protection benefit over smoke detectors because smoke detectors almost always alarm before heat detectors, regardless of their respective locations.[2] Figgie also claimed that heat detectors provide significantly more protection because they are mechanically reliable. Smoke detectors, which rely on outside power sources, are theoretically less reliable than mechanically operated heat detectors. But the most reliable empirical data in the record suggests that the difference is quite small so that characterizing it as "significantly greater" life safety protection is inaccurate.[3]

Moreover, this record demonstrates that: (1) Smoke detectors provide the best protection for saving lives in case of fire; and (2) heat detectors, wherever placed, do not alarm soon enough to allow safe escape in most residential fires. Since heat detectors do not allow consumers to escape safely from most fires, but smoke detectors do, it is difficult to understand how heat detectors could be said to provide "significantly greater" protection than smoke detectors, or even any "significant" degree of protection at all.

The Commission's failure to enter a finding that Figgie's "significantly greater" benefit claims are deceptive stems primarily from what I believe to be a misreading of the complaint and complaint counsel's burden. The Commission agrees that the relevant claims were made and reaches conclusions not too dissimilar from my own about what level of increased protection heat detectors provide in the two situations in dispute. However the Commission then asks not whether that level of increase is "significant," but whether even a small or slight increase might nevertheless be "important" or "meaningful" or "significant" to at least some consumers. This is the crux of the Commission's error: a shift in emphasis away from the complaint's focus on whether the *increase* is significant and towards a new focus, not pled in the complaint and thus not litigated at trial, on whether the *protection* is or may be significant to some consumers.[4]

While this may appear to be only a subtle shift in emphasis, it reverses the result in the case. I would prohibit Figgie from repeating any claims to the effect that heat detectors provide "significantly greater" protection than smoke detectors, although I would permit the company to publicize whatever marginal increases in protection are demonstrated by the evidence because I agree with the opinion's conclusion that some consumers might consider even slight increases in fire protection "important" (particularly if they are highly risk averse). The Commission appears to agree that at least some of Figgie's increased benefit claims are false (concluding, for example, that placement of heat detectors confers only a "slightly," not a significantly, better level of protection), but refuses to ban those false claims outright because complaint counsel failed to prove that no one would find slight increases in fire protection significant.[5]

I think the opinion is trying to say that if consumers have no other protection, then heat detectors in their garages may help to prevent property damage, and that should consumers with smoke detectors fail to maintain them then a heat detector may provide an alarm that is late, but better than nothing. In other words, the Commission believes Figgie should be allowed to continue selling heat detectors to consumers who are sufficiently risk averse that they are willing to spend between $500 and $600 for a heat detector system that adds at most a slight increment of protection to smoke detectors. I do not disagree with that goal. I simply disagree with the notion that Figgie can continue to sell its heat detectors by convincing consumers that they are more valuable, and more beneficial in protecting the lives of consumers and their families, than the evidence shows to be true.

My dissent is tempered only by the fact that the order entered in this case prohibits Figgie from making performance claims for its heat detectors which cannot be substantiated. I believe the record of this proceeding contains clear evidence that Figgie cannot substantiate claims that its heat detectors provide "significantly greater" life safety protection than do smoke detectors alone. For that reason, therefore, the order should have the effect of restraining Figgie indirectly from making exaggerated claims of this kind in the future But there is not the slightest reason, on this record, to have left open any doubt on this point. Figgie's heat detectors do not provide "significantly

were significantly better than smoke detectors alone: in their response to hot, flaming fires; in their ability to be located where smoke detectors are not recommended; and in their mechancial reliability. The Commission rules the first claim deceptive, and I agree. My dissent focuses on the resolution of the second two claims. I join the Commission's opinion and order in all other respects.

[2] The record includes a test report in which a heat detector was placed in a kitchen and a smoke detector was placed in an adjacent hallway; after a fire was set in the kitchen, the smoke detector located elsewhere in the house alarmed before the heat detector located in the same kitchen. (I.D. 149) While this represents the result of only a single test, the conclusion about the respective performance of the devices holds true in almost all cases, according to experts who testified. They asserted that smoke detectors would almost always alarm before heat detectors because smoke disperses quickly and evenly throughout a home, while heat buildup is highly uneven. Detectors that react to smoke are not limited in space coverage the way that detectors that react to heat are. As a consequence, these experts testified that heat detectors would *not* significantly increase consumers' life safety potential and would provide only marginal benefits by increasing property protection. (Bukowski Tr. 1058–59; Clark Tr. 711–12).

Other test data in the record confirm that smoke detectors virtually always outperform heat detectors, regardless of location. For example, the Indiana Dunes I and II tests, showed that heat detectors provided no increase in escape time compared to smoke detectors. (Bukowski Tr. 966–81) In Dunes I, heat detectors never activated first and in one-third of the tests no heat detectors ever activated at all. (Bukowski Tr. 966) In Dunes II, not one heat detector alarmed in time to provide three minutes of escape time. (Bukowski Tr. 961) The California Fire Chiefs' tests, which included tests where fires were set in the kitchen, similarly reported that heat detectors never responded first to fires. (Martin Tr. 679) The Commission's opinion discounts the results of these tests because it claims the tests measured only comparative heat and smoke detector performance in the same room. However, each test involved detector arrays in several locations in each house, so that the responses of heat and smoke detectors in different rooms were recorded and compared. The results show that smoke detectors alarmed in time to give the necessary three-minute warning in 80 percent of the tests in Dunes I, and that heat detectors add *no* increase in protection. (Bukowski Tr. 980, 982–83).

[3] The only objective data on comparative smoke detector reliability are from three tests, one showing a failure rate of approximately two percent over several years, and a third showing that 16 percent of smoke detectors surveyed in the field over an indeterminate period were not operational. (Bukowski Tr. 1048) Because the definition of failure used to compile these figures encompasses a range of performance well short of mechanical failure—such as slight decreases in smoke detector sensitivity and removal of batteries (Bukowski Tr. 1051)—the rates of actual smoke detector failure are even lower than these figures suggest.

[4] This focus is especially curious since the actual claims Figgie made did not by any stretch of the imagination suggest that heat detectors added only slight increments of protection that could be important to some people. To the contrary, Figgie repeatedly stressed that consumers' chances for survival were significantly greater, or "maximize[d]," with heat detectors and that smoke detectors alone were inadequate to save them and their families from death by fire.

[5] The suggestion that complaint counsel should have provided testimony or survey evidence to show what level of additional protection consumers find "significant" is in my view unwarranted. *See* Opinion at 33. Once the Commission determines what claims Figgie made, this case simply does not present questions of consumer perception. Surely the Commission does not mean to suggest that complaint counsel must prove first that a claim is false as a matter of scientific fact and second that it is false in the subjective view of consumers.

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greater" fire warning protection for occupants than smoke detectors alone, and Figgie should have been told directly in the order not to make that claim again or any of the statements that contributed to it.

[FR Doc. 86-9974 Filed 5-2-86; 8:45 am]

BILLING CODE 6750-01-M

16 CFR Part 305

Rules for Using Energy Cost and Consumption Information Provided in Labeling and Advertising of Consumer Appliances

AGENCY: Federal Trade Commission.

ACTION: Final rule revision.

SUMMARY: The Federal Trade Commission's Appliance Labeling Rule requires that the table in § 305.9, which sets forth the representative average unit energy costs for four residential energy sources, be revised periodically on the basis of updated information provided by the Department of Energy ("DOE").

This notice revised the table to incorporate the latest figures for average unit energy costs as published in the Federal Register on February 20, 1986 by DOE.

EFFECTIVE DATE: The revised Table 1 is effective May 5, 1986. The mandatory dates for using these revised DOE cost figures are detailed below.

FOR FURTHER INFORMATION CONTACT: James Mills, 202-376-8934, attorney, Division of Enforcement, Federal Trade Commission, Washington, DC 20580.

SUPPLEMENTARY INFORMATION: On November 19, 1979, the Federal Trade Commission issued a final Appliance Labeling Rule (44 FR 66466) in response to a directive in section 324 of the Energy Policy and Conservation Act ("EPCA"), 42 U.S.C. 6201 (1975). The rule requires the disclosure of energy efficiency or cost information on labels and in retail sales catalogs for seven categories of appliances, and mandates that these energy costs or energy efficiency ratings be based on standardized test procedures developed by DOE. The rule also requires a general disclosure, on certain point-of-sale promotional materials, of the availability of energy cost or energy efficiency information, and requires that any claims concerning energy consumption made in writing or in broadcast advertisements be based on results of the standardized test procedures. The cost and efficiency information obtained by followed the test procedures is derived by using the representative average unit energy costs provided by DOE.

Table 1 in § 305.9 of the rule sets forth the representative average unit energy costs to be used for all requirements of the rule. As stated in § 305.9(b), the Table is intended to be revised periodically on the basis of updated information provided by DOE. Table 1 was first revised by publication of new DOE figures on January 13, 1981 in the Federal Register (46 FR 2974).

On February 20, 1986, DOE published (51 FR 6165) the most recent figures for representative average unit energy costs. Consequently, Table 1 must again be updated in order to reflect these latest cost figures. Accordingly, Table 1 is revised to read as set forth below.

Mandatory Use of Revised Cost Figures

The dates when use of the figures in the Revised Table 1 becomes mandatory in calculating cost disclosures for use in reporting, labeling and advertising products covered by the Commission's rule and/or EPCA are as follows:

For 1986 Submissions of Data Under § 305.8 of the Commission's Rule: The new cost figures must be used in all 1986 submissions except clothes washers. Because the 1986 costs were not published in time for use in preparing data for the mandatory submission date for these products, clothes washer submissions for 1986 could be based on the 1985 cost figures.

For Labeling and Advertising of Products Under the Commission's Rule: Only those products for which new ranges are published that are based on 1986 submissions using these 1986 DOE cost figures should be labeled with estimated annual cost figures calculated using these 1986 DOE cost figures. If such new ranges are published, the effective date for labeling new products will be ninety days after publication of the ranges in the Federal Register. Advertising for such products will also have to be based on the new costs and ranges beginning ninety days after publication of the new ranges in the Register.

Advertising of Products Covered by EPCA but not by the Commission's Rule: Manufacturers of products covered by section 323(c) of EPCA, but not by the Appliance Labeling Rule (clothes dryers, television sets, kitchen ranges and ovens, humidifiers and dehumidifiers, central air conditioners, and space heaters) must use the 1986 representative average unit costs for energy in all representations effective August 4, 1986.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

PART 305 [AMENDED]

Accordingly, 16 CFR Part 305 is amended as follows:

1. The authority citation for Part 305 continues to read as follows, and the authority citation following 305.9 is removed.

Authority: Sec. 324, Energy Policy and Conservation Act, (Pub. L. 94-163, (42 U.S.C. 6294)); as amended by the National Energy Conservation Policy Act (Pub. L. 95-619)

2. Section 305.9(a) is amended by revising Table 1 to read as follows:

§ 305.9 Representative average unit energy costs.

(a) * * *

TABLE 1.—REPRESENTATIVE AVERAGE UNIT COSTS OF ENERGY FOR FOUR RESIDENTIAL ENERGY SOURCES (1986)

Type of energy	In common terms	As required by DOE test procedure	Dollars per million Btu's [1]
Electricity	8.20¢/kWh [2]	$0.0820/kWh	$24.03
Natural Gas	62.0¢/therm [3] or 66.36¢/MCF [4, 5]	0.00060820/Btu.	6.30
No. 2 heating Oil	$1.04/gallon [6]	0.00000750/Btu.	7.50
Propane	$1.69/gallon [7]	0.00000697/Btu.	8.97

[1] Btu stands for British thermal unit.
[2] kWh stands for kilowatt hour.
[3] 1 kWh=3,413 Btu's.
[4] 1 therm=100,000 Btu's.
[5] MCF stands for 1,000 cubic feet.
[6] For the purposes of this table, 1 cubic foot of natural gas has an energy equivalence of 1,016 Btu's.
[7] For the purposes of this table, 1 gallon of No. 2 heating oil has an energy equivalence of 138,700 Btu's.
[8] For the purposes of the table, 1 gallon of liquid propane has an energy equivalence of 91,600 Btu's.

* * * * *

Emily H. Rock,
Secretary.

[FR Doc. 86-9906 Filed 5-2-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 441

[Docket No. 86N-0070]

Antibiotic Drugs; Imipenem Monohydrate-Cilastatin Sodium for Injection

Correction

In FR Doc. 86-7369, beginning on page 11571, in the issue of Friday, April 4, 1986, make the following corrections:

1. On page 11573, third column, § 441.20a(a)(3)(i), third line, "of" should read "on".

2. On page 11574, first column, in § 441.20a(b)(1), first line, "at" should read "a", and in the second line, "and" should read "an".

3. On the same page and column, in § 441.20a(b)(1)(i)(*a*), fourth line, "with" should read "of".

4. On the same page and column, in § 441.20a(b)(1)(i)(*d*), fourth line, "deionized" was misspelled.

5. On the same page and column, in § 441.20a(b)(1)(ii), first line, "standards" should read "standard".

6. On the same page and column, in § 441.20a(b)(1)(ii)(*a*), eleventh line, "nor" should read "no".

7. On the same page, following the formula definitions, in § 441.20a(b)(1)(iv), paragraphs (b) (2) through (6) were omitted. The omitted text reads as follows:

§ 441.20a Sterile imipenem monohydrate.

* * * * *

(b) * * *

(2) *Sterility.* Proceed as directed in § 436.20 of this chapter, using the method described in paragraph (e)(1) of that section.

(3) *Pyrogens.* Proceed as directed in § 436.32(a) of this chapter, using a solution containing 5.0 milligrams of imipenem per milliliter, except inject 10 milliliters per kilogram of rabbit weight.

(4) *Loss on drying.* Proceed as directed in § 436.200(i) of this chapter.

(5) *Specific rotation.* Dilute an accurately weighed sample with sufficient pH 7.0 phosphate buffer to give a concentration of approximately 5.0 milligrams of imipenem per milliliter. Proceed as directed in § 436.210 of this chapter, using a 1.0-decimeter polarimeter tube. To prepare the pH 7.0 phosphate buffer, transfer 5 grams of monobasic potassium phosphate and 11 grams of dibasic potassium phosphate to a 1.0-liter volumetric flask. Dissolve and dilute to volume with distilled water.

(6) *Identity.* Proceed as directed in § 436.211 of this chapter, using the sample preparation described in paragraph (b)(2) of that section.

* * * * *

BILLING CODE 1505-01-M

VETERANS ADMINISTRATION

DEPARTMENT OF DEFENSE

38 CFR Part 21

Veterans Education; Waiver of Right To Receive Benefits Under the G.I. Bill

Correction

In FR Doc. 86-8458, beginning on page 12852, in the issue of Wednesday, April 16, 1986, make the following correction:

In the third column, § 21.5022(b), second line, "open" should read "one".

BILLING CODE 1505-01-M

POSTAL SERVICE

39 CFR Part 951

Eligibility to Practice Before the Postal Service

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service is adopting this final rule to make it clear that whenever the Judicial Officer is unavailable, other postal officials may decide cases relating to the misconduct of persons who practice before the Postal Service. The rule is intended to give the Postal Service maximum flexibility in assigning misconduct cases to ensure that these cases are timely resolved and decided by individuals who did not participate in the original postal proceeding that resulted in the misconduct charge.

EFFECTIVE DATE: May 12, 1986.

FOR FURTHER INFORMATION CONTACT: Maureen C. Lindsey (202) 268-5438.

For the reasons set out above, the Postal Service amends title 39 CFR as follows:

List of Subjects in 39 CFR Part 951

Administrative practice and procedure, Lawyers, Postal Service.

PART 951—PROCEDURE GOVERNING THE ELIGIBILITY OF PERSONS TO PRACTICE BEFORE THE POSTAL SERVICE

1. The authority citation for Part 951 continues to read as follows:

Authority: 39 U.S.C. 204, 401.

2. In § 951.6, revise paragraph (c) to read as follows:

§ 951.6 Censure, suspension or disbarment; grounds

* * * * *

(c) In the event the Judicial Officer is unavailable for any reason, he may assign complaints of misconduct to the Associate Judicial Officer, an Administrative Law Judge appointed pursuant to the provisions of the Administrative Procedure Act, an Administrative Judge appointed pursuant to the provisions of the Contract Disputes Act of 1978, or some other disinterested member of the headquarters staff of the Postal Service recommended by the Deputy Postmaster General, for the determinations required by § 951.5, the conduct of the hearings, and the decision to censure, suspend, or debar persons as provided herein.

Fred Eggleston,
Assistant General Counsel, Legislative Division.

[FR Doc. 86-10003 Filed 5-2-86; 8:45 am]

BILLING CODE 7710-12-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 85-09; Notice 02]

Federal Motor Vehicle Safety Standards; New Pneumatic Tires on Passenger Cars

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This notice amends Federal Motor Vehicle Safety Standard (FMVSS) No. 109, *New Pneumatic Tires on Passenger Cars*, to delete paragraph S4.2.2.2(b) of the standard. Paragraph S4.2.2.2(b) imposes a size factor dimensional requirement on tires manufactured for passenger cars. The agency has concluded that the size factor requirement provides no safety benefits, and that removing that requirement relieves an unnecessary restriction on tire manufacturers.

EFFECTIVE DATE: This amendment is effective May 5, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Cook, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590 (202) 426-1750.

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard (FMVSS) No. 109, *New Pneumatic Tires—Passenger Cars*, 49 CFR 571.109, specifies the requirements for all tires manufactured for use on passenger cars manufactured after 1948. Under that safety standard, tires must meet

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specified dimensional, strength, resistance to bead unseating, endurance, and high speed requirements, and be labeled with certain safety information.

The European Tyre and Rim Technical Organisation (ETRTO) petitioned NHTSA to amend Standard No. 109 to delete the size factor requirement in paragraph S4.2.2.2(b). "Size factor" is defined in paragraph S3 of the standard as "the sum of the section width and the outer diameter of a tire determined on the test rim." The basis for ETRTO's request was that size factor provides no safety benefits and should be deleted for the same reasons stated by the agency for deleting the minimum size factor requirement. (*See*, 46 FR 61473, December 17, 1981; 47 FR 36180; August 19, 1982.) NHTSA tentatively agreed that the size factor dimensional requirement provides no safety benefits and issued a notice on July 12, 1985 (50 FR 28428), granting ETRTO's petition and proposing to delete the size factor requirement.

Background

A rule published in December 1981, deleted an informational table (referred to as "Table 1") that had been included in FMVSS No. 109 to list dimensional and loading information for all passenger car tire sizes, including dimensional specifications for "minimum size factor." The information had been used by the agency for testing tires for compliance with FMVSS No. 109 and for determining the appropriateness of the tires used on particular vehicles, in accordance with FMVSS No. 110, *Tire Selection and Rims*. NHTSA determined that retaining Table 1 was not necessary because the required specifications for compliance testing could be determined from the information labeled on the sidewall of the tires, and because no safety-related justifications for keeping the table were found to exist.

In deleting Table 1 from Standard No. 109, NHTSA intended to reduce unnecessary paperwork burdens for manufacturers and facilitate the introduction of new technology in tires, and thus amended the standard's requirements for tire sizes and load factors to reference publications of private standards groups. Commenters to the NPRM on this action has requested the agency to delete the dimensional requirements of Standard No. 109 in its final rule, but NHTSA determined that those requests could not be considered since the public was not given an opportunity to comment on such a change. NHTSA thus issued the final rule which amended S4.2.2.2 to simply delete reference to Table 1 and instead include the new references to the private publications.

Since dimensional requirements were being retained in S4.2.2.2, several commenters were concerned that some of the standardization organizations do not publish the size factor dimension. NHTSA addressed this concern by explaining that all yearbooks specify a tire's overall diameter and section width, and that added together, those dimensions equal the size factor. However, when Table I was deleted from Standard No. 109, NHTSA should have distinguished between specifications referring to "size factor" and those which had referred previously to "minimum size factor." As explained below, this oversight resulted in an unintended removal of dimensional tolerances previously permitted by the standard.

Size factor

Prior to the deletion of Table 1, paragaph S4.2.2.2(b) of the standard had required that a tire's size factor be *at least as large as* the size factor provided by the table. Accordingly, a "minimum size factor" was specified in Table 1 for each tire size designation. The minimum size facter for a particular tire size was always less than the size factor of that tire. A tire could meet the size factor dimensional requirement of FMVSS No. 109 when its size factor was equal to or greater than the size factor provided by Table 1 for its size designation. (For example, according to data from the 1982 Tire and Rim Association Yearbook, the size factor for the tire listed as P195/75R14 is 33.23 inches, while its minimum size factor is calculated as 32.64 inches.)

When the agency deleted Table 1, NHTSA removed Standard No. 109's listing of minimum size factors for tire sizes. NHTSA determined that the requirement was no longer necessary because manufacturers would not undersize their tire absent such a requirement. The agency amended the standard to require that a tire's size factor be at least as large as that specified in a submission made by an individual manufacturer to NHTSA, pursuant to the requirements of paragraph S4.4.1(a) of the standard, or in one of the standardization organization's publications described in S4.4.1(b), for the tire's size designation and type. However, since size factor is simply the sum of the section width and the outer diameter of a tire and is actually a design goal, the unintended effect of specifying that a tire's size factor be "at least as large as" that specified in a publication or yearbook was to revise S4.2.2.2(b) to remove the dimensional tolerances previously permitted by the minimum size factors provided in Table 1.

ETRTO's petition

When the agency denied petitions for reconsideration of its decision to delete the minimum size factor requirement, NHTSA reiterated its conclusion that such a requirement was not needed in Standard No. 109. 47 FR at 36181. ETRTO subsequently petitioned the agency to delete or amend S4.2.2.2(b) to accord with NHTSA's determination that a dimensional requirement for tire size factor was unnecessary and "to avoid any confusion" regarding that matter. NHTSA granted the petition and issued an NPRM proposing to remove paragraph S4.2.2.2(b) from Standard No. 109 and the definition of "size factor" from paragraph S3 (50 FR 28426; July 12, 1985).

The July 1985 NPRM explained that the size factor requirement should be deleted for the same reasons that minimum size factor was deleted. As explained in that notice, the agency tentatively determined that there were no safety benefits to retaining the size factor requirements since it would be implausible that tire manufacturers would either intentionally or inadvertently undersize their passenger car tires, due to the engineering and quality control efforts that are involved in designing and producing new tire sizes. First, the size factor of a tire cannot be changed after the mold is set up to produce that tire size. Second, tire manufacturers are required to certify that their tires can carry 100 percent of its maximum load at a speed of 50 miles per hour for 24 hours. Undersized tires would be overloaded and would predictably have a high failure rate during this test, which would alert tire manufacturers and NHTSA to any undersizing. Further, product liability awards and negative publicity would more than offset the few dollars saved by undersizing, and would serve as compelling disincentives to manufacturers. Finally, NHTSA believed that the size factor requirement was unnecessary because the absence of such a requirement in Safety Standard No. 119, which applies to tires for use on all motor vehicles other than passenger cars, had not created any problems. Accordingly, since NHTSA believed that tire manufacturers would not intentionally or inadvertently produce a tire which was smaller than the size labelled on the sidewall, the agency proposed to delete the size factor requirement as a means of relieving an unnecessary restriction on tire manufacturers.

Comments

The agency received four comments on the proposal. Ford agreed that the size requirement provides no safety benefits and should therefore be deleted from Standard No. 109, while Volkswagen, BMW, and Daimler-Benz AG (Mercedes-Benz) opposed the proposal.

Volkswagen (VW) argued that deleting the size factor requirement would eliminate one of the last constraints on tire manufacturers. VW cited examples of identical tires being marked with different sizes due to the overlap between maximum and minimum dimensions. That company believed that the performance requirements of Standard No. 109 do not represent a safeguard against undersizing or tire section width, so that tire manufacturers could continue to designate a tire in different ways which can enable them to charge unjustified premiums for certain tires marked with larger sizes. VW suggested NHTSA adopt lower tolerance limits for tire section width.

In response to this comment, NHTSA believes that motor vehicle manufacturers must use their own expertise in tire selection to comply with both FMVSS No. 109 and FMVSS No. 110. The practices of some tire manufacturers to supply identical tires at different prices is one which can occur regardless of the size factor requirement in Standard No.109. Since there are means available to motor vehicle manufacturers to guard against those types of actions, NHTSA has concluded that VW has not provided a sufficient basis for retaining the size factor requirement.

BMW believed that the agency should not limit its consideration of undersized tires to tire strength and durability. BMW urged NHTSA to consider that tire size affects drivability, braking and steering, and is dependent on wheelwell clearances, and that tire revolutions per mile affect speedometer and odometer accuracy, noise and exhaust emission and fuel economy. That commenter also believed that a minimum dimensional requirement is necessary in light of the use of aftermarket tires, and that, given the entry of other countries into tire production, "compliance with some existing voluntary size standard could become a nebulous quantity."

NHTSA agrees that the factors cited by BMW can be affected by tire size. However, the agency believes that the effect, if any, would be significant. Further, there is no reason to believe that manufacturers will produce tires which do not accord with their labeled sizes.

In their petitions for reconsideration of NHTSA's decision to remove the minimum size factor requirement, commenters argued that, absent a minimum size factor requirement, it would be possible for manufacturers to undersize their tires. The agency did not agree that manufacturers will undersize their tires absent a minimum size factor requirement, and explained its decision in the following manner:

> The size factor of a tire cannot change after the mold is set up to begin producing that size of tire. With all of the engineering and quality control effort involved in designing and producing new tire sizes, it is simply implausible that a tire manufacturer would either intentionally or inadevertently undersize the molds. The undersize tires that would be produced might save the manufacturers a few dollars per tire, but the savings would be more than offset by product liability awards and negative publicity generated. Since automobile manufacturers design cars to a tire's rated load, undersized tires would be overloaded on those cars, and would predictably exhibit higher failure rates than properly sized tires made by other manufacturers. This appears to be a very compelling disincentive to undersizing tires. Hence, the agency concludes that the minimum size factor is not needed in Standard No. 109. (47 FR at 36181; August 19, 1982.)

The agency has concluded that the rationale against undersizing is still valid. Therefore, NHTSA does not agree with BMW that tire undersizing by aftermarket or foreign tire manufacturers might occur absent a size factor requirement.

Daimler-Benz AG (DBAG) agreed with NHTSA that it is highly improbable that tires with insufficient load carrying capacities will be produced, even in the absence of a size factor requirement. However, that company believed that future tires will have less width than current tires if the size factor requirement were deleted. Although DBAG acknowledged that this might not necessarily result in a direct safety hazard with respect to tire strength and endurance, that commenter was concerned about decreased in tire width. DBAG believed that, since the wheelwell spaces have to be determined on the basis of the largest possible dimensions of the designated tire size, narrower tires in set wheelwells might not be esthetically pleasing to customers. Customers might therefore replace their original tires with large sizes which could interfere with the surrounding body and suspension parts. DBAG was also concerned that customer cost and dissatisfaction could increase if smaller tires were produced, since smaller tires tend to wear more rapidly.

NHTSA does not agree that customers will purchase tires that are oversized for their vehicles. FMVSS No. 110 requires that consumers be informed of recommended tire sizes for their vehicles, to ensure that existing tires are not replaced with tires of sizes not recommended for a particular vehicle. Further, the agency believes that tire dealers will exercise great care in order to avoid tort liability for selling incompatible tires.

NHTSA has concluded that the size factor requirement in Standard No. 109 provides no safety benefits. The agency has concluded that removing size factor not only relieves an unnecessary restriction on tire manufacturers but also recognizes that mass-produced products have some minor product-to-product variations, and that these variations can be perfectly acceptable. Therefore, NHTSA is amending FMVSS No. 109 to delete S4.2.2.2(b), and the definition of "size factor' from paragraph S3.

Effective date

The changes to Standard No. 109 described herein are effective upon publication of this rule in the Federal Register. These changes relieve a restriction on tire manufacture which the agency has determined to be unnecessary. The revisions to the standard do not specify different test procedures or additional requirements, and no leadtime for preparation by tire or vehicle manufacturers is required. NHTSA therefore finds good cause for making these changes effective upon publication of this final rule in the Federal Register.

Analysis of regulatory impacts

The changes to Safety Standard No. 109 made by this rule removes an unnecessary requirement from the standard. The elimination of unnecessary regulation is a useful step for the industry, the general public, and this agency.

NHTSA has examined the effect of this rulemaking action and determined that it is not major within the meaning of Executive Order 12291 or significant within the meaning of the Department of Transportation's regulatory policies and procedures. The agency has also determined that the economic and other effects of this rulemaking action are so minimal that a regulatory evaluation is not required. NHTSA believes that the implementation of this rule would not

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increase the costs or burdens for any party.

Regulatory Flexibility Act

NHTSA has also considered the effects of this rulemaking action under the Regulatory Flexibility Act. The agency believes that few of the tire manufacturers would qualify as small businesses. Any tire manufacturer that do qualify as small business might benefit to a small extent by the changes made by this rule, since removing size factor allows manufacturers the leeway to produce tires of sizes which are within acceptable industry standards.

Small governmental units and small organizations are generally affected by amendments to the Federal motor vehicle safety standards as purchasers of new motor vehicles and new motor vehicle equipment. However, these entities will not be affected by the revisions made by this rule since the changes will not singificantly affect the price of tires. For the reasons stated above, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities, and that a regulatory flexibility analysis is, therefore, not required.

Environmental effects

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action will not have any significant impact on the quality of the human environment.

List of Subjects in 49 CFR 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, 49 CFR Part 571 is amended as follows:

1. The authority citation for Part 571 will continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

§ 571.109 Standard No. 109, new pneumatic tires—passenger cars. [Amended]

2. Paragraph S3 is amended by removing the following paragraph:

"Size Factor" means the sum of the section width and the outer diameter of a tire determined on the test rim.

3. Paragraph S4.2.2.2 is revised to read as follows:

• • • • •

S4.2.2.2 *Physical Dimensions.* The actual section width and overall width for each tire measured in accordance with S5.1, shall not exceed the section width specified in a submission made by an individual manufacturer, pursuant to S4.4.1(a) or in one of the publications described in S4.4.1.(b) for its size designation and type by more than:

(1) (For tires with a maximum permissible inflation pressure of 32, 36, or 40 psi) 7 percent, or

(2) (For tires with a maximum permissible inflation pressure of 60 psi or 240, 280, or 300kPa) 7 percent or 0.4 inch, whichever is larger.

• • • • •

Issued on April 29, 1986.

Diane K. Steed,

Administrator.

[FR Doc. 86-10020 Filed 5-2-86; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 650

[Docket No. 51222-5222]

Fishery and Conservation Management; Atlantic Sea Scallop Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule; extension of effective date.

SUMMARY: The Secretary of Commerce extends an emergency interim rule which delayed implementation of Amendment 1 to the Fishery Management Plan for Atlantic Sea Scallops (FMP) and reestablished the 35-meats-per-pound standard until May 5, 1986. It is necessary to extend this emergency rule for an additional 60 days, through July 3, 1986, because the conditions requiring the emergency measure still exist. This action is intended to avert severe immediate economic hardship while processors revise, as necessary, their handling procedures.

EFFECTIVE DATE: The effective date of Amendment 1 to 50 CFR Part 650 is delayed through July 3, 1986.

FOR FURTHER INFORMATION CONTACT: Carol J. Kilbride, 617-281-3600.

SUPPLEMENTARY INFORMATION: Under section 305(e)(1) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary issued an emergency rule on January 3, 1986, at 51 FR 208, delaying the effective date of Amendment 1 for 90 days until April 1, 1986. On April 8, 1986, NOAA further delayed the effective date of Amendment 1 an additional 30 days from April 4, until May 5, 1986, at 51 FR 11927.

This rule delays the implementation of Amendment 1 for an additional 60 days and extends the regulations implementing the FMP which established a minimum size at harvest within a range from 40-25 meats per pound (47 FR 35990, August 18, 1982). This rule also continues the 35-meats-per-pound standard provided in the emergency rule of January 3, 1986, and April 8, 1986.

The New England Fishery Management Council has voted to extend this emergency rule for the full 90 days since the conditions within the fishery requiring the original emergency rule still exist. This action is authorized by section 305(e)(3) of the Magnuson Act. The emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided for in section 8(a)(1) of the order. This rule is being reported to the Office of Management and Budget with an explanation of why it is not possible to follow the procedures of that order.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: April 30, 1986.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86-10065 Filed 5-1-86; 11:11 am]

BILLING CODE 3510-22-M

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50 CFR Part 661

[Docket No. 60477-6077]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final 1986 fishery management measures and request for comments.

SUMMARY: NOAA issues this notice establishing final fishery management measures for the commercial and recreational ocean salmon fisheries off Washington, Oregon, and California for 1986. Specific measures vary by fishery and area. Together they establish fishing areas, seasons, quotas, legal gear, recreational fishing days and catch limits, possession and landing restrictions, and minimum sizes for salmon taken in the fishery conservation zone (3-200 miles) off Washington, Oregon, and California. Similar regulations are being adopted for the territorial sea (0-3 miles) by the States of Washington, Oregon, and California. The management measures are intended to prevent overfishing and to apportion the ocean harvest equitably among non-treaty commercial and recreational and treaty Indian fisheries. The regulations also are calculated to allow salmon to escape the ocean fisheries to provide for treaty Indian and non-Indian inside fisheries and spawning. These management measures were established using the procedures instituted by the framework amendment to the ocean salmon fishery management plan.

EFFECTIVE DATE: This notice will be effective from 0001 hours (Pacific Daylight Time) April 30, 1986 until modified, superseded or rescinded. Comments will be accepted until May 15, 1986.

ADDRESSES: Comments on this notice may be submitted to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115; or Mr. E. Charles Fullerton, Director, Southwest Region, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206-526-6150; E. Charles Fullerton, 213-514-6196; or the Pacific Fishery Management Council, 503-221-6352.

SUPPLEMENTARY INFORMATION:

Background

The ocean salmon fisheries off Washington, Oregon, and California are managed under a "framework" fishery management plan (FMP). Regulations at 50 CFR Part 661 provide the mechanism for making preseason and inseason adjustments to the management measures, within limits set by the FMP, by notice in the **Federal Register**.

The majority of the 1985 management measures, which were implemented under the framework FMP (50 FR 18672, May 2, 1985), remain in effect until modified, superseded, or rescinded.

This notice implements management measures for the 1986 ocean salmon fisheries recommended by the Pacific Fishery Management Council (Council).

Schedule for Establishing or Adjusting Annual Management Measures

During the first week of March, the Council's Salmon Plan Development Team (Team) and staff economist prepared two reports for the Council, its advisors and the public. The first report, "Review of 1985 Ocean Salmon Fisheries," summarizes the 1985 ocean salmon fisheries and assesses how well the Council's management objectives were met in 1985. The second report, "Preseason Report I: Stock Abundance Analysis for 1986 Ocean Salmon Fisheries," provides the 1986 salmon stock status projections and analyzes the impacts on the stocks and FMP management goals if the 1985 regulations were to be used in 1986.

On March 10-13, the Council met in Portland, Oregon, to develop proposed management options for 1986. Three troll and three recreational fishery management options were proposed for further analysis and public comment. These options presented various combinations of management measures calculated to protect the weak stocks and provide for maximum harvests of more abundant stocks of coho and chinook salmon.

During the third week of March, the Team and staff economist prepared a third report, "Preseason Report II: Analysis of Proposed Regulatory Options for 1986 Ocean Salmon Fisheries," which analyzes the effects of the proposed 1986 management options. This report also was distributed to the Council, its advisors, and the public.

On April 1, 2, and 7, public hearings on the proposed options were held in Renton, Washington, Coos Bay and Astoria, Oregon, and Sacramento and Eureka, California.

On April 8-11, the Council met in Eureka to adopt its final 1986 management measures and its recommendations to the Secretary of Commerce (Secretary). The Team and staff economist prepared a fourth report, "Preseason Report III: 1986 Ocean Salmon Fisheries, Analysis of Impacts of Council Adopted 1986 Regulations," which analyzes the effects of the Council's final recommendations. This report also was distributed to the Council, its advisors, and the public.

Resource Status

Most salmon runs returning to Washington, Oregon, and California rivers and streams in 1986 are expected to be about the same as or larger than in 1985. Bright spots include predicted ocean abundance of three-year-old Klamath River fall-run chinook, which at 213,000 fish is 87 percent above the 1979-85 average; hatchery coho stocks contributing to the Oregon Production Index (OPI), which are expected to be nearly 2½ times more abundant than in 1985, and a predicted return of 286,100 Columbia River bright fall chinook salmon destined for areas above Bonneville Dam, which is about 50 percent greater than the 191,100 fish that returned in 1985.

Primary resource management concerns are for stocks predicted to be substantially below last year's abundance, including Bonneville Pool (Spring Creek) hatchery chinook, Oregon coastal natural coho, and some Washington coastal natural coho stocks.

Chinook Salmon Stocks. The Sacramento and San Joaquin river chinook stocks are expected to return in numbers comparable to recent years. These stocks are expected to permit a harvest only slightly smaller than in 1985 and still provide spawning escapement slightly below the upper end of the goal range.

Primary management concerns in the area south of Cape Blanco, Oregon, are for Klamath River fall chinook. The estimated total ocean population of Klamath River fall chinook in 1986 is 286,000 fish, compared with the 1985 estimate of 102,000. Although the abundance of age three chinook is improved over recent years, the abundance of age four chinook is predicted to be five percent below the 1979-1985 average.

Oregon coastal chinook stocks include south-migrating and localized stocks primarily from southern Oregon streams, and north-migrating chinook stocks which generally originate in central and northern Oregon streams. The southern stocks were depressed in 1983 and 1984 from the effects of El Nino. It is predicted that the 1986 abundance will continue to improve over 1984 and 1985 levels. North-migrating chinook stocks are in stable condition, and are expected to contribute to the ocean catch at about the same level as in 1985 and meet escapement goals.

Estimates of Columbia River chinook abundance vary by stock. The number of upriver spring chinook predicted to return to the river is well above the 84,700 fish that returned in 1985, an encouraging sign for this stock which has been severely depressed for many years. Upriver summer chinook stocks continue to be severely depressed. They are affected insignificantly by ocean harvests off Oregon and Washington. The projected 1986 ocean escapement is slightly below the 1985 ocean escapement of 21,400 fish and far short of the spawning escapement goal of 80,000 fish above Bonneville Dam. Lower river spring (Willamette) chinook returns should be nearly as good as in 1985. The upriver bright fall chinook run is in excellent condition with 286,100 fish forecasted to return to the river. The inriver return of this stock in 1985 was also excellent, the largest since 1973. The escapement goal for upriver bright chinook is 40,000 fish above McNary Dam. Although the total 1986 lower river hatchery stock abundance is expected to

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increase from the 1985 level. Bonneville Pool hatchery fall chinook stocks are depressed; only 16,200 Spring Creek hatchery chinook are expected to return to the river, compared with 33,000 fish in 1985.

Washington coastal and Puget Sound chinook are generally far-north migrating, and are affected insignificantly by ocean harvests from Cape Falcon to the U.S.-Canada border.

Coho Salmon Stocks. Oregon coastal and Columbia River coho stocks are the primary components of the Oregon Production Index (OPI). The OPI is an annual index of coho abundance from Leadbetter Point, Washington, south through California. The 1986 OPI is 1,793,000 coho, a 147 percent increase over the 1985 OPI of 727,100 fish. Estimated private hatchery production within the OPI area is 285,500 coho salmon which is added to the OPI to estimate total coho abundance in the area.

Columbia River and Oregon coastal coho are managed as one stock under the framework of the OPI because they are largely mixed in the ocean fisheries. However, Columbia River stocks are managed for full utilization of hatchery production, while Oregon coastal stocks are managed to achieve the rebuilding schedule for naturally-spawning adults. The Oregon Department of Fish and Wildlife estimates Oregon coastal natural (OCN) coho abundance in 1986 at 285,600 fish, below the abundance of recent years. The natural stocks returning this year come from a parent run that spawned in the El Nino year of 1983. Only 57,000 wild fish returned to spawn that year, the lowest return on record and only about one-third of the escapement goal. Of particular concern to fishery managers is that to meet the 1986 OCN coho ocean escapement goal with this level of abundance, the ocean harvest rate must be considerably less than the rates the other stocks in the OPI could sustain.

The 1986 abundance of several northern Washington coastal natural coho stocks is expected to be lower than the preseason estimates used for planning ocean seasons in 1985. The predicted low ocean escapement of Queets River natural coho salmon of 5,200 fish, compared to 6,100 fish in 1985, is of particular concern.

All Puget Sound coho stocks are expected to meet ocean escapement goals, although most stocks have declined in abundance from 1985.

Management Measures for 1986

The Council adopted allowable ocean harvest levels and management measures for 1986, which are designed to protect the weak stocks discussed above, while at the same time allowing maximum harvest of runs with surplus hatchery stocks available to the ocean fisheries.

Only one change in the 1985 regulations was proposed for ocean salmon fisheries south of Point Delgada, California. A subarea coho quota was established to reduce the fishery impacts on OCN coho. It is predicted that ocean escapement of chinook will be slightly below the upper end of the Sacramento River fall chinook spawning escapement goal range of 122,000 to 180-000 adults.

From Point Delgada to Cape Blanco, harvests are constrained by quotas to protect Klamath River fall chinook. The 1986 quotas were proposed by the Klamath River Salmon Management Group (KRSMG), an advisory group of managers of both ocean and inriver Indian and non-Indian fisheries. The ocean quotas are larger than those needed to meet the 1986 ocean escapement goal of 115,100 Klamath River chinook, and reflect the poor socioeconomic condition of affected communities brought about by the lower-than-average ocean harvests in recent years. The area was closed to commercial fishing in 1985. Nevertheless, the Council estimated that 97,200 chinook will escape the ocean fisheries in 1986, compared with 59,300 chinook in 1985 and 43,300 chinook in 1984. Resulting spawning escapement in 1986 is predicted to be 61,200 fish, compared to 43,000 fish in 1985 and 22,700 fish in 1984.

Coho quotas south of Cape Falcon (troll 409,800; recreational 189,000) are higher than in 1985 (troll 45,000; recreational 170,000), because of the predicted high abundance of 1986 OPI coho. The ocean quotas exceed the levels necessary to meet the 1986 escapement goal for Oregon coastal natural coho spawning adults (170,000), to maximize the catch of hatchery stocks surplus to inside fishery and spawning needs. Estimated spawning escapement for OCN coho stocks in 1986 is 142,800.

North of Cape Falcon, as in recent years, ocean treaty and non-treaty harvests and management measures were established by the Council based on negotiations among fishery managers and user group representatives as authorized by the U.S. District Court in *U.S.* v. *Washington, U.S.* v. *Oregon,* and *Hoh Indian Tribe et al.* v. *Baldrige.* Ocean regulations will allow an inside fishery in north coastal streams and will provide spawning escapements at levels agreed to by the negotiators. Ocean management measures are designed to protect weak Washington coastal natural coho stocks in 1986, including Queets River natural fall coho, as well as to minimize the ocean harvest of Bonneville Pool hatchery chinook. A deviation from the framework allocation scale to allocate coho salmon to ocean fisheries north of Cape Falcon in 1986 is being implemented by an emergency rule to be promulgated shortly. Puget Sound escapements are expected to be above established goals for Skagit and Stillaguamish naturally spawning coho.

The Makah, Quileute, Quinault, and Hoh ocean troll fisheries will have a quota of 12,500 chinook and 86,000 coho during May–September, somewhat higher than 1985 quota levels. These quotas are separate from the non-Indian troll and recreational quotas. When tribal quotas are reached, the tribal fishery will close regardless of the number of fish, if any, remaining in the non-Indian quotas; there will be no transfer of overages or underages between non-Indian and Indian ocean quotas.

The following tables and text reflect the management measures recommended by the Council for 1986. The Secretary concurs with these recommendations and finds them responsive to the goals of the FMP, requirements of the resource, and the socio-economic factors affecting resource users. The recommendations are consistent with the requirements of the Magnuson Fishery Conservation and Management Act and other applicable law.

The following management measures are adopted for 1986 under 50 CFR Part 661.

TABLE 1.—COMMERCIAL MANAGEMENT MEASURES FOR 1986 OCEAN SALMON FISHERIES.[a]

[NOTE: Footnotes to this table contain important additional restrictions which must be followed for lawful participation in the fishery.]

Area and season	Salmon species possession and landing restrictions	Quotas		Minimum size limit (inches)		Special restrictions by area
		Chinook	Coho	Chinook	Coho	
United States-Canada Border to Cape Falcon:						
May 1 through earlier of May 10 or chinook quota	All except coho	[b] 33,700		28		Barbless hooks; Conservation Zone 1[f] Columbia River mouth) is closed.
May 14 through earlier of May 31 or chinook quota						
United States-Canada Border to Carroll Island:						
Aug. 2 through Aug. 3	All	[b] 4,000	[b] 30,000	28	16	Barbless hooks.
Aug. 7 through earliest of Sept. 15,[c] coho quota, or chinook quota.	All					
Leadbetter Point to Cape Falcon		[b c] 13,300	[b d] 110,600	28	16	Barbless hooks; Conservation Zone 1[f] (Columbia River mouth) is closed.
Aug. 2 through Aug. 3	All					
Aug. 7 through earliest of Sept. 15, coho quota, or chinook quota.	All					
Cape Falcon to Cape Perpetua		None	(*)	26	16	Barbless hooks.
May 1 through June 30	All except coho					
July 1 through July 20	All, with restrictions [b]					
July 23 through coho quota	All					
Coho quota through Oct. 31	All except coho					
Cape Perpetua to Cape Blanco		None	(*)	26	16	Barbless hooks.
May 1 through June 30	All except coho					
July 1 through July 20	All, with restrictions [b]					
July 23 through coho quota	All					
Coho quota through Oct. 31	All except coho					
Cape Blanco to Point Delgada		[g] 68,200	(*)	26	22	Barbless hooks; not more than 6 lines per boat off California; Conservation Zones 2 (Humbug Mountain to Sisters Rocks), 3 (Punta Gorda to Point Delgada), and 4 (12-mile square at the mouth of the Klamath River) are closed.[i]
June 16 through June 19	All, with restrictions [b]					
June 23 through June 26	All, with restrictions [b]					
June 30 through earlier of Aug. 31 coho quota, or chinook quota.	All, with restrictions [b]					
Coho quota through earlier of Aug. 31 or chinook quota						
Sisters Rocks to Chetco Point:						
May 1 through earlier of June 7 or chinook subarea quota.	All except coho	[j] 7,500		28		Barbless hooks; open only within six nautical miles of the baseline from which the territorial sea is measured.
Sisters Rocks to Mack Arch:						
Lastest of Aug. 7 or chinook quota through earlier of Sept. 15 or chinook subarea quota.	All except coho	[j] 7,500				Barbless hooks; open only within six nautical miles of the baseline from which the territorial sea is measured.
South Jetty, Humboldt Bay to Punta Gorda:						
Sept. 8 through earlier of Sept. 30 or chinook subarea quota.	All	[k] 10,000	(*)	26	22	Barbless hooks; open only within six nautical miles of the baseline from which the territorial sea is measured; no more than 6 lines per boat.
Point Delgada to United States-Mexico Border		None	(*)	26	22	Barbless hooks; no more than 6 lines per boat.
May 1 through May 31	All except coho					
June 1 through earlier of Sept. 30 or coho quota	All					
Coho quota through Sept. 30	All except coho					

[a] In addition to the troll seasons listed, the Oregon Fish and Wildlife Commission may establish limited additional late all-salmon-except-coho seasons inside State waters near the mouths of the Elk, Sixes, and Chetco rivers, which seasons will be consistent with the objectives of these regulations.

[b] The non-treaty ocean fisheries north of Cape Falcon (recreational and troll) will be managed not to exceed either (1) an overall 88,100 chinook quota or (2) impacts on Washington coastal natural coho stocks equivalent, but not necessarily equal to, the subarea quotas set forth in tables 1 and 2.

[c] The season will reopen on August 7 only if at least one full day of fishing on both coho and chinook remains. Fishing continues for both species until either the chinook or coho quota is projected to be attained.

[d] Coho quotas north of Cape Falcon, Oregon, are being implemented by an emergency rule which provides for a deviation from the framework allocation scale for 1986.

[e] Any quota overage or underage in the troll quotas from the United States-Canada Border to Carroll Island August troll fishery will be subtracted from or added to the troll quotas beginning August 7 from Leadbetter Point to Cape Falcon.

[f] Conservation Zone 1 is defined as: The ocean area surrounding the Columbia River mouth bounded by a line extending for 6 nautical miles due west from North Head along 46°18'00" N. latitude to 124°13'18" W. longitude, then southerly along a line of 167° True to 46°11'06" N. latitude and 124°11'00" W. longitude (Lighthouse Buoy), then due east to shore along 46°11'06" N. latitude.

[g] The non-treaty ocean troll fishery south of Cape Falcon will be managed not to exceed harvest quotas and hooking mortality of 463,000 coho From Cape Falcon to Pt. Delgada, the subarea harvest quota is 363,000 coho salmon and there is a mortality of 50,000 coho salmon. South of Pt. Delgada, the subarea harvest quota is 26,800 coho salmon and there is a hooking mortality of 3,200 coho salmon.

[h] (1) From July 1 through July 20: A single daily possession or landing per boat of 50 coho is permitted without chinook restrictions. For over 50 coho, chinook also must be possessed and landed and there cannot be more than two coho possessed or landed for each chinook possessed or landed over 50 coho. Mixed loads of chinook and coho and coho-only loads must be delivered in the area. There are no restrictions on the place of delivery of chinook-only loads. Chinook salmon possessed or landed in this management area may not be returned or transferred to any vessel engaged in the commercial salmon fishery.

(2) If there are less than 200,000 coho remaining in the subarea quota when the fishery reopens on July 23, the above restrictions will remain in effect until the coho quota is reached. This determination will be made by the Pacific Fishery Management Council's Salmon Plan Development Team by July 22 and will be announced by notice in the FEDERAL REGISTER. If more than 200,000 coho remain, no ratio restrictions will apply in the fishery beginning July 23.

[i] (1) From July 1 through July 20: At least one chinook must be possessed or landed for each two coho possessed or landed. Coho may not be possessed without a chinook salmon in possession. The chinook must be delivered with the coho. Chinook salmon possessed or landed in this management area may not be returned or transferred to any vessel engaged in the commercial salmon fishery.

(2) If there are less than 200,000 coho remaining in the subarea quota when the fishery reopens on July 23, then a single daily possession or landing per boat of 50 coho is permitted without chinook restrictions. For over 50 coho, chinook also must be possessed and landed and there cannot be more than two coho possessed or landed for each chinook possessed or landed over 50 coho. Chinook salmon possessed or landed in this management area may not be returned or transferred to any vessel engaged in the commercial salmon fishery. This determination will be made by the Pacific Fishery Management Council's Salmon Plan Development Team by July 22 and will be announced by notice in the FEDERAL REGISTER. If more than 200,000 coho remain, no ratio restrictions will apply in the fishery beginning July 23.

[j] The total chinook quota of 123,200 for all ocean salmon fisheries in this area consists of 83,200 chinook for the troll fishery and 40,000 chinook for the recreational fishery. On July 16, the Salmon Plan Development Team will determine how many chinook will be required to complete the recreational season, not to exceed its 40,000 quota. Any remaining allowable catch will be allocated to the troll fishery. The total troll quota includes subarea quotas for fisheries from Sisters Rocks to Chetco Point (7,500 chinook) and Sisters Rocks to Mack Arch (7,500 chinook). Any overage or underage in the subarea chinook quota from Sisters Rocks to Chetco Point will be added to or subtracted from the troll quota from Cape Blanco to Point Delgada. Any overage in the troll fishery from Cape Blanco to Point Delgada will be subtracted from the subarea troll quota from Sisters Rocks to Mack Arch.

[k] (1) At least one chinook must be possessed or landed for each two coho possessed or landed. The chinook must be delivered with the coho. Coho may not be possessed without a chinook salmon in possession. Chinook salmon possessed or landed in this management area may not be returned or transferred to any vessel engaged in the commercial salmon fishery.

(2) From June 16 through June 30: Salmon may not be possessed in a closed area more than 12 hours after that area is closed. Except for the 12-hour period following closure, no vessel may enter the closed area with salmon on board without prior notification of the Commander, Pacific Area, U.S. Coast Guard, through the nearest Coast Guard station. It is unlawful for a vessel to which has been issued an ocean salmon fishing permit by any state to have troll gear in the water during the closed periods between June 20 and June 22, and June 27 and June 29.

[l] Conservation zones 2, 3, and 4 are defined as follows:
Conservation zone 2: The ocean area bounded on the north by 42°40'30" N. latitude, and on the south by 42°35'45" N. latitude.
Conservation zone 3: The ocean area bounded on the north by 40°15'30" N. latitude, and on the south by 40°01'24" N. latitude.

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Conservation zone 4: The ocean area surrounding the Klamath River mouth bounded on the north by 41°38'48" N. latitude (approximately 6 nautical miles north of the Klamath River mouth), on the west by 124°23'00" W. longitude (approximately 12 miles from shore), and on the south by 41°26'48" N. latitude (approximately 6 nautical miles south of the Klamath River mouth).

[2] The Klamath River fall chinook portion of the catch after September 7, as determined by the Salmon Plan Development Team, will be subtracted from the 1987 troll allocation.

[3] Coho catches in this fishery will not count toward any coho quota.

TABLE 2.—RECREATIONAL MANAGEMENT MEASURES FOR 1986 OCEAN SALMON FISHERIES [1]

[NOTE: Footnotes to this table contain important additional restrictions which must be followed for lawful participation in the fishery.]

Area and season	Salmon Species	Quota Chinook	Quota Coho	Minimum size limit (inches) Chinook	Minimum size limit (inches) Coho	Daily bag limit and special restrictions by area
United States-Canada Border to Queets River	All	[5] 2,300	[5] 26,000	24	16	2 fish.
June 29 through earliest of Sept. 25, chinook quota, or coho quota						
Sunday through Thursday only						
Queets River to Klipsan Beach:						
June 29 through earliest of Sept. 25, chinook quota, or coho quota.	All	[5] 23,100	[5] 78,300	24	16	2 fish; closed within 0–3 nautical miles.
Sunday through Thursday only.						
Klipsan Beach to Red Buoy Line: (Closed)						
Red Buoy Line to Cape Falcon:						
June 29 through earliest of Sept. 25, chinook quota, or coho quota.	All	[5] 11,700	[5] 103,200	24	16	2 fish.
Sunday through Thursday only.						
Cape Falcon to Cape Blanco:						
May 24 through May 30	All	None	∞	None	None	First 2 fish hooked per day must be retained, no more than 2 fish may be retained per day, and no more than 6 fish may be retained in 7 consecutive days.[4]
June 28 through earlier of Sept. 4 or coho quota						
Cape Blanco to Point Delgada [7]	All	[6] 40,000	∞	20	20	From May 24 through June 22, not more than 1 coho and 1 chinook; after June 22, 2 salmon of any species. No more than 6 fish may be retained in 7 consecutive days; barbless hooks; Conservation zone 4 (12-mile square at Klamath River mouth) is closed Aug. 1 thru Aug. 31.[8]
Effective immediately, closed until May 24						
May 24 through earlier of Sept. 7 or chinook quota						
Point Delgada to United States-Mexico Border	All	None	∞	20	20	2 fish; barbless hooks.
Nearest Saturday to Feb. 15 through nearest Sunday to November 15						

[1] These management measures assume a Buoy 10 recreational fishery in Washington and Oregon State waters (Columbia River mouth to the Astoria-Megler Bridge) with total state quotas of 10,000 chinook and 67,000 coho. Washington and Oregon will negotiate a Buoy 10 fishery within these parameters at a later date. In addition to the ocean recreational seasons listed, the Oregon Fish and Wildlife Commission may establish limited additional late all-salmon-except-coho seasons inside State waters near the mouths of the Elk, Siuslaw and Chetco rivers and Tillamook Bay, which seasons will be consistent with the objectives of these regulations.

[2] The non-treaty ocean fisheries north of Cape Falcon (recreational and troll) will be managed not to exceed either (1) an overall 69,100 chinook quota, or (2) impacts on Washington coastal natural coho stocks equivalent, but not necessarily equal to, the subarea quotas set forth in tables 1 and 2.

[3] Coho quota south of Cape Falcon is 169,000 fish. Coho caught south of Cape Blanco count toward the total quota, but the fishery south of Cape Blanco will not close when the coho quota is met.

[4] If this recreational catch rate indicates the possibility of reaching the recreational quota before Labor Day, inseason revision of fishing days per week to extend the season through Labor Day will be involved. The order of preference for daily closures will be (1) Sundays, (2) Sundays and Mondays, and (3) other combination of days.

[5] On July 16, the Salmon Plan Development Team will determine how many chinook will be required to complete the recreational season. Any portion of the recreational chinook quota (40,000 fish) not needed to complete the recreational season will be reallocated to the troll fishery. Troll and recreational fisheries from Cape Blanco to Point Delgada will be managed not to exceed a total quota of 123,200 chinook.

[6] Federal regulations for 1985 allowed the recreational fishery to open on February 15, 1986. The State of California closed the fishery in territorial waters north of Point Delgada on March 28, 1986. Effective upon filing of these regulations, the recreational fishery in the FCZ from the Oregon-California Border to Point Delgada will close until opened by these regulations on May 24.

[7] If 14,000 or more chinook are caught by July 1, no more than 1 chinook may be retained per day, fishing for all species will be open only Thursday through Monday each week, and no more than 4 salmon may be retained in 7 consecutive days. This determination will be made by the Pacific Fishery Management Council's Salmon Plan Development Team, and will be announced by notice in the FEDERAL REGISTER. Conservation Zone 4 is defined as The ocean area surrounding the Klamath River mouth bounded on the north by 41°38'48" N. latitude (approximately 6 nautical miles north of the Klamath River mouth) on the west by 124°23'00" W. longitude (approximately 12 miles from shore), and on the south by 41°26'48" N. latitude (approximately 6 nautical miles south of the Klamath River mouth).

TABLE 3.—TREATY INDIAN MANAGEMENT MEASURES

[NOTE: Footnotes to this table contain important additional restrictions which must be followed for lawful participation in the fishery.]

Tribe	Boundaries [1]	Open seasons	Species	Minimum lengths [2] Chinook	Minimum lengths [2] Coho	Special restrictions by area
Makah	That portion of the Fishery Management Area north of 48°02'15" N. latitude (Normanger Mansmid) and east of 125°44'00" W. longitude.	May 1 to earlier of May 31 or chinook quota [3].	All salmon except coho	24"		Barbless hooks, except that hooks used with bait and plugs may be barbed. No more than 8 lines/boat, or no more than 4 hand-held lines per person.
		June 1 to earlier of Oct. 31 or chinook or coho quota [3].	All salmon	24"	16"	Barbless hooks, except that hooks used with bait and plugs may be barbed. No more than 8 lines/boat, or no more than 4 hand-held lines per person.
Quileute	That portion of the Fishery Management Area between 48°07'36" N. latitude (Sand Point) and 47°31'42" N. latitude (Queets River).	May 1 to earlier of May 31 or chinook quota [3].	All salmon except coho	28"		Barbless hooks, except that hooks used with bait and plugs may be barbed. No more than 8 lines/boat. [4]
		June 1 to earlier of Sept. 15 or chinook or coho quota [3].	All salmon	28"	16"	Barbless hooks, except that hooks used with bait and plugs may be barbed. No more than 8 lines/boat. [4]
Hoh	That portion of the Fishery Management Area between 47°54'18" N. latitude (Quillayute River) and 47°21'00" N. latitude (Quaxsult River).	May 1 to earlier of May 31 or chinook quota [3].	All salmon except coho	28"		Barbless hooks, except that hooks used with bait and plugs may be barbed. No more than 8 lines/boat. [4]
		June 1 to earlier of Sept. 15 or chinook or coho quota [3].	All salmon	28"	16"	Barbless hooks, except that hooks used with bait and plugs may be barbed. No more than 8 lines/boat. [4]

TABLE 3.—TREATY INDIAN MANAGEMENT MEASURES—Continued

[NOTE: Footnotes to this table contain important additional restrictions which must be followed for lawful participation in the fishery.]

Tribe	Boundaries [1]	Open seasons	Species	Minimum lengths [2] Chinook	Minimum lengths [2] Coho	Special restrictions by area
Quinault	That portion of the Fishery Management Area between 47°40'06" N. latitude (Destruction Island) and 46°53'18" N. latitude (Point Chehalis).	May 1 to earlier of May 31 or chinook quota [3].	All salmon except coho	28"		Barbless hooks, except that hooks used with bait and plugs may be barbed. No more than 8 lines/boat. [4]
		June 1 to earlier of Sept. 15 or chinook or coho quota [3].	All salmon	28"	16"	Barbless hooks, except that hooks used with bait and plugs may be barbed. No more than 8 lines/boat. [4]

[1] All boundaries may be changed to include such other areas as may hereafter be authorized for that tribe's treaty fishery by a federal court.

[2] For subsistence and ceremonial purposes, the minimum total lengths of salmon are:
Makah Tribe: None.
Quileute, Hoh, and Quinault Tribes: Not more than two chinook salmon between the lengths of 24 and 28 inches per day may be retained.

[3] The overall ocean quotas for the Washington Coastal Tribes are: 12,500 chinook and 86,000 coho salmon. These quotas include troll catches by the Klallam and Makah tribes in Area 4B.

[4] The area within a 6 miles radius of the mouths of the Queets River (47°31'42" N. latitude), the Hoh River (47°45'12" N. latitude) and the Quillayute River (47°54'18" N. latitude) will be closed to commercial fishing. A closure within 2 miles of the mouth of the Quinault River (47°21'00" N. latitude) may be enacted by the Tribe and/or the State of Washington and will not adversely affect the Secretary's management regime.

Gear Definitions and Restrictions

In addition to gear restrictions shown in Tables 1, 2, and 3, the following gear definitions and restrictions will be in effect until modified, superseded or rescinded.

Troll Fishing Gear

Troll fishing gear for the FMA is defined as one or more lines that drag hooks with bait or lures behind a moving fishing vessel.

In that portion of the FMA off Oregon and Washington, the line or lines must be affixed to the vessel and must not be disengaged from the vessel at any time during the fishing operation.

Recreational Fishing Gear

Recreational fishing gear for the Fishery Management Area (FMA) is defined as angling tackle consisting of a line with not more than one artificial lure or natural bait attached.

In that portion of the FMA off Oregon and Washington, the line must be attached to a rod and reel held by hand or closely attended; the rod and reel must be held by hand while playing a hooked fish. No person may use more than one rod and line while fishing off Oregon or Washington. Off Oregon, not more than three hooks can be used. There is no limit to the number of hooks that can be used off Washington and California.

In that portion of the FMA off California, weights directly attached to a line may not exceed four (4) pounds. There is no limit to the number of lines that a person may use while recreationally fishing off California.

Geographical Landmarks

Geographical landmarks referenced in this notice are at the following locations:

Carroll Island	46°00'16" N. lat.
Queets River	47°31'42" N. lat.
Leadbetter Point	46°38'10" N. lat.
Klipsan Beach	46°28'12" N. lat.
Red Buoy Line	Seaward along the south jetty of the Columbia River to the visible tip of the jetty and then to Buoy #2SJ, then southwesterly to Buoy #4, continuing southwesterly to Buoy #2, and then to the Columbia River Buoy, then due west along 46°11'06" N. latitude.
Cape Falcon	45°46'00" N. lat.
Cape Perpetua	44°17'30" N. lat.
Cape Blanco	42°50'20" N. lat.
Humbug Mountain.	42°40'30" N. lat.
Sisters Rocks	42°35'45" N. lat.
Mack Arch	42°13'40" N. lat.
Chetco Point	42°02'35" N. lat.
South Jetty, Humboldt Bay.	40°45'30" N. lat.
Punta Gorda	40°15'30" N. lat.
Point Delgada	40°01'24" N. lat.

Classification

The 1986 management measures established under the provisions of the FMP and its implementing regulations are based on the most recent data available. The aggregate data upon which the measures are based are available for public inspection at the offices of the Regional Directors (see **ADDRESSES**) during business hours until the end of the comment period.

These actions are taken under 50 CFR Part 661, are in compliance with Executive Order 12291, and are covered by the Regulatory Flexibility Analysis RFA/Final Supplemental Environmental Impact Statement (SEIS) prepared for the framework amendment to the FMP. These actions impose no information collection requirements under the Paperwork Reduction Act.

Section 661.23 of the ocean salmon regulations states that the Secretary will publish a notice establishing management measures for 1986 and will invite public comments prior to its effective date. If the Secretary determines, for good cause, that a notice must be issued without affording a prior opportunity for public comment, comments on the notice will be received by the Secretary for a period of 15 days after the effective date of the notice.

Because of the depressed status of some salmon stocks, and the need to reduce harvest in some areas or to establish different opening dates than those in the 1985 regulations for some fisheries, the Secretary has determined that time does not permit a comment period prior to the date the management measures must be in effect. Comments will be accepted for 15 days after the effective date of this notice.

The public has had opportunity to comment on these management measures during the process of their development. The public participated in the March and April Council, Team, and Advisor meetings, and in public hearings held in Washington, Oregon, and California in early April, which generated the management actions recommended by the Council and approved by the Secretary. Written public comments were invited by the Council between the March and April Council meetings.

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Authority: 16 U.S.C. 1801 *et seq.*

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

Dated: April 30, 1986.

William G. Gordon,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86-10023 Filed 4-30-86; 4:14 pm]

BILLING CODE 3510-22-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Rule to Determine Cycladenia Humilis var. Jonesii (Jones Cycladenia) to be a Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Cycladenia humilis* var. *jonesii* (Jones cycladenia) to be a threatened species under the authority of the Endangered Species Act of 1973, as amended. This taxon occurs in three general areas in the Canyonlands section of southeastern Utah, in Emery, Garfield, and Grand Counties. The three populations total about 7,500 individuals, with over half on pubic land managed by the Bureau of Land Management, approximately 2,500 on National Park Service lands at Glen Canyon National Recreation Area and Capitol Reef National Park, and approximately 500 at one site on State of Utah land. A fourth population may still occur in Kane County, Utah, or in Mohave County, Arizona, but is known only from a collection with general location information made in 1882, before the boundary between the territories of Utah and Arizona was surveyed. The taxon grows on barren clay hills forming the steep side slopes and bases of mesas in the canyon country. The species is vulnerable due to its rarity, and is threatened by impacts from mineral and oil and gas exploration and off-road vehicle disturbance.

DATES: The effective date of this rule is June 4, 1986.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours of the Service's Endangered Species Staff at the following locations: 134 Union Boulevard, Fourth Floor, Lakewood, Colorado 80228; Room 2078 Administration Building, 1745 West 1700 South, Salt Lake City, Utah 84140; and Suite B-109, Independence Plaza, 529 25-½ Road, Grand Junction, Colorado 81505.

FOR FURTHER INFORMATION CONTACT: John L. England, Salt Lake City (801/524-4430 or FTS 588-4430), or John Anderson, Grand Junction (303/241-0563 or FTS 322-0348), at the above address.

SUPPLEMENTARY INFORMATION:

Background

Cycladenia humilis var. *jonesii* (Jones cycladenia) is a herbaceous perennial 4 to 6 inches (10-15 centimeters) tall, with clumps of bright green leaves and ". . . rosy flowers (that) somewhat resemble small morning-glories and have a charm that thrills the beholder" (Eastwood 1942). Alice Eastwood described the plant in 1942 as *Cycladenia jonesii* based on a collection from the San Rafael Swell (Emery County) made by Marcus E. Jones in 1914. Except for two other San Rafael Swell collections in the 1930's, this taxon was not seen again until a single plant was discovered by Dr. Stanley Welsh in 1968 in Castle Valley, northeast of Moab (Grand County), about 65 miles east of the San Rafael Swell (Welsh 1970). He and Dr. Duane Atwood later reduced the Jones cycladenia to varietal status (Welsh, Atwood, and Reveal 1975). During inventories in the spring of 1985, since the proposal of endangered status on January 10, 1985, about 1,000 individuals were located in Castle Valley on Bureau of Land Management (BLM) land and another 1,000 individuals about 5 miles (8 kilometers) to the northeast along Onion Creek below Fisher Mesa, also on BLM land. These plants are growing in mixed desert shrub and the lower edge of the pinyon pine and juniper community at 5,000-5,600 feet (1,500-1,700 meters) on sparsely vegetated hills derived from arkosic (containing unweathered feldspar) sandstone of the Permian Cutler Formation.

In 1979, James Harris, then a graduate student at Brigham Young University, rediscovered Jones cycladenia at two sites 2 miles (3 kilometers) apart in the area of the 1914 collection. The larger site, with some 2,000 plants, is on public land managed by the BLM; the other has some 500 plants on State of Utah land. This San Rafael Desert population, which is just east of the San Rafael Reef and south of Interstate 70, consists of mostly mature plants, many of which are connected by underground stems (rhizomes). Therefore, the number of separate individual plants is hard to determine but is certainly lower than the number of above-ground stems. These plants are growing on sparsely vegetated "badland" hills, a habitat similar in aspect to the one in Castle Valley, but with fine-textured soils derived from a different formation, the Jurassic Summerville, at a slightly lower elevation (4,600 feet—1,400 meters) in the mixed desert shrub community with Mormon tea (*Ephedra torreyana*), shrubby wild-buckwheat (*Eriogonum corymbosum*), and *Enceliopsis nudicaulis*, a herbaceous perennial.

A third population was found during the 1984 field season on the Purple Hills, within the Circle Cliffs area of the Glen Canyon National Recreation Area (GCNRA), administered by the National Park Service (NPS), in Garfield County, Utah, (Welsh 1984). This population was discovered during a rare plant inventory as part of a biological baseline study for an Environmental Impact Statement on Federal tar sand leasing. This population is about 90 miles (145 kilometers) south of the San Rafael Swell population. Subsequently, inventories by Jim Holland (NPS), Steve Hedges (BLM), and John Anderson of the Fish and Wildlife Service in the spring of 1985 located three other sites of the Jones cycladenia with a total of 3,000 plants near the Purple Hills over an area about 5 miles (8 kilometers) long. These sites occur on sparsely vegetated "badland" hills and steep side slopes of mesas, as do the two previously discussed more northern populations, but at a slightly higher elevation (5,600-6,600 feet—1,700-2,000 meters), on another formation, the Triassic Chinle, and with the primarily herbaceous perennial plant associates, *Brickellia oblongifolia* and *Oenothera brachycarpa*. A fourth population from further south in Utah or from northern Arizona (the Pipe Spring area in Mohave County, Arizona and Kane County, Utah) may remain; it is known only from an 1882 collection by Andrew Siler, but the locality information is indefinite and the site has never been relocated (Holmgren 1984).

Cycladenia humilis var. *jonesii* is the only member of its genus in the Intermountain West; the genus consists of only the one species with its other varieties restricted to California. Because the Jones cycladenia has a disjunct distribution pattern in three localized areas over 100 miles apart and its nearest relatives are in California, it is believed to be a Tertiary relict. This taxon thus may be ill adapted to the present-day climatic regime of the Intermountain West, increasing its vulnerability.

The Canyonlands section of Utah has more endemic plants than any other portion of the State, about 70 taxa. In addition to the *Cycladenia*, about 13 of these taxa are candidates for possible listing under the Endangered Species Act (48 FR 53639). The Canyonlands are considered relatively ancient floristically, having "been less affected by the special conditions of recent changing [geological] epochs" (Holmgren 1972, p. 103).

Threats to the Jones cycladenia include habitat disturbance from exploration for oil and gas, tar sands, and minerals (primarily uranium), and from recreational and other off-road vehicle (ORV) use.

Section 12 of the Endangered Species Act of 1973 (Act) directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of this report as a petition within the context of section 4(c)(2) of the Act (petition acceptance is now governed by section 4(b)(3) of the Act, as amended), and of its intention thereby to review the status of the plant taxa named within. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant taxa to be endangered species pursuant to section 4 of the Act. This list was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94-51 and the July 1, 1975, **Federal Register** notice. *Cycladenia humilis* var. *jonesii* was included (as *Cycladenia jonesii*) in the July, 1975, notice (40 FR 27880) and the June, 1976, proposal (41 FR 24527). General comments received in relation to the 1976 proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909).

The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn, but established a 1-year grace period for proposals that were already 2 years old. On December 10, 1979, the Service published a notice of the withdrawal of the still-applicable portions of the June, 1976, proposal, along with other proposals that had expired. On December 15, 1980, the Service published a new notice of review for plants in the **Federal Register** (45 FR 82480), which included *Cycladenia humilis* var. *jonesii* as a category-1 species, indicating that the Service then possessed substantial information to support a proposal of

endangered or threatened status. No comments on this taxon were received in response to the 1980 notice. On February 15, 1983, the Service published a notice in the **Federal Register** (48 FR 6752) of its prior finding that the petitioned action on this taxon may be warranted, in accordance with section 4(b)(3)(A) of the Act as amended in 1982.

On October 13, 1983, and again on October 12, 1984, the petition finding was made that listing the Jones cycladenia was warranted but precluded by other listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Such a finding requires a recycling of the petition, pursuant to section 4(b)(3)(C)(i) of the Act and another finding becomes due within 12 months. The Service published a proposed rule, constituting a finding that the petitioned section was warranted, to list *Cycladenia humilis* var. *jonesii* as an endangered species in the January 10, 1985, **Federal Register** (50 FR 1247).

Endangered status was proposed for the Jones cycladenia based upon then-current status information, which indicated that the species comprised about 2,900 individuals in three populations. The Service's Grand Junction Field Office obtained additional status information after the publication of the proposed rule indicating the existence of two additional sites, one each in Grand County and Garfield County, and 7,500 individuals altogether. The Service, after evaluating the threats and the biological status of *Cycladenia humilis* var. *jonesii*, has determined that the species should be listed as threatened, rather than endangered as was proposed in the January 10, 1985, **Federal Register**.

Summary of Comments and Recommendations

In the January 10, 1985, proposed rule (50 FR 1247) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices that invited general public comment were published in the *Salt Lake Tribune* and *Deseret News* on February 12, 1985. Seven comments were received and are discussed below. No public hearing was requested or held.

The National Park Service supported the listing and reported an inventory that located three additional sites in the Purple Hills area: Middle Moody Canyon (GCNRA), Deer Point (BLM), and an adjacent site in Capitol Reef National Park (CRNP). The Park Service enumerated threats to the Purple Hills sites including nine oil and gas leases and five lease applications around the Purple Hills site within GCNRA, a proposal to develop the Circle Cliffs Special Tar Sands Area, ORV activity associated with uranium exploration, and the possibility of increased visitor access and recreational ORV activity associated with new road construction. The Middle Moody Canyon site is within the park natural zone. It and the CRNP site are protected from energy developments. The Park Service also noted that all of the Purple Hills sites are within grazing allotments. Recently, Service and NPS personnel visited the Purple Hills sites and observed the new sites and impacts to them. The Service agrees with the NPS comments.

The Bureau of Land Management submitted a comment in which it identified no threats to the BLM site in the Purple Hills. However, since the site is on the uranium-bearing Chinle Formation and the area is open to mining claims, there is a potential threat from uranium exploration. Although Kirkwood Oil and Gas Company has withdrawn its plan of operation for tar sand development, the threat of future tar sand development in the Circle Cliffs Special Tar Sands area remains, as noted by NPS. The BLM also noted that the Mohave County, Arizona, site was within Pipe Spring National Monument, on NPS land, not public domain land. However, the locality given for this collection is vague, and it could have been made anywhere in the vicinity of Pipe Spring National Monument, which is only 40 acres in size. There is potential habitat in this area on the slopes and foothills of the Chinle Formation, below the Vermillion Cliffs, between Cane Beds, Arizona, and Kanab, Utah.

The Smithsonian Institution and the State of Utah supported the listing; the State agreed there is no need to designate critical habitat. The Utah Native Plant Society also supported the listing and expressed the hope that listing would stimulate protection for the Jones cycladenia.

A comment from two individuals supported the listing. They mentioned that a graded road bisects the larger San Rafael site. This road has also been observed by the Service and is in an area of uranium exploration.

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Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Cycladenia humilis* var. *jonesii* should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) were followed. A species may be determined to be an endangered or a threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Cycladenia humilis* Bentham var. *jonesii* (Eastwood) Welsh & Atwood (Jones cycladenia) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Off-road vehicle use for recreation and exploration for minerals, tar sands, and oil and gas is impacting the habitat of *Cycladenia humilis* var. *jonesii*. The San Rafael Swell population is crisscrossed with vehicle tracks and pockmarked from uranium exploration (Anderson 1981, Hreha and Greenwood 1980). This habitat has also been staked with mining claims. Although none of the claims have been developed and most may be simply speculative, the danger of future mining for uranium remains a possibility. In addition, annual assessment work is required to maintain a valid claim. This assessment work causes continual distrubance of the habitat. Vehicle tracts and mining claims are also evident at the Purple Hills population (Welsh pers. comm.).

Oil and gas leases have been issued either on or immediately adjacent to all known extant population sites. There is active exploratory drilling for oil and gas adjacent to the Castle Valley site. The BLM site at the Purple Hills is within the Circle Cliffs Special Tar Sands Area, but no development is planned at present. Off-road vehicle use at the Castle Valley and Fisher Mesa (Onion Creek) sites has denuded strips through the population.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Not known.

C. *Disease or predation.* All populations are within grazing allotments, but the probability of serious damage is low.

D. *The inadequacy of existing regulatory mechanisms.* No Federal or State laws directly protect *Cycladenia humilis* var. *jonesii*. Although the BLM is aware of this taxon, it is not currently obligated to regulate activities so as to provide for the conservation of the *Cycladenia*, and the sites on BLM land and the Purple Hills site on GCNRA are under multiple-use management.

E. *Other natural or manmade factors affecting its continued existence.* The arid climate and harsh soils of the habitat of the Jones cycladenia make its ecosystem a fragile one, easily degraded by surface distrubances, and slow to recover its natural condition. As an apparent relict species, it may not be well-adapted to present-day climatic conditions in the Intermountain region and may be especially susceptible to habitat disturbance through reduced ability for seedling establishment. Its low numbers in only three known extant populations increase its vulnerability to significant loss from a single inadvertent catastrophic disturbance.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Cycladenia humilis* var. *jonesii* as a threatened species. The Jones cycladenia was proposed as endangered based on its rarity and evidence of threats. In the last year, new sites for two of the populations have been found: At Purple Hills and Castle Valley. These new findings have raised the total population estimate to 7,500 individuals from the 2,900 estimated in the proposal. Most of the new sites face the same threats and impacts as the others, and the Jones cycladenia remains a vulnerable species. Because of the increased numbers but continuing threats, threatened status is more appropriate than either endangered status or no action. Critical habitat is not being determined for this species for the reasons detailed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for *Cycladenia humilis* var. *jonesii* at this time. The designation of critical habitat is not considered to be prudent when such designation would not be of benefit to the taxon involved (50 CFR 424.12). The Service finds that designation of critical habitat is not prudent because the species would derive no additional benefits from the critical habitat designation that do not already arise from listing and that would outweigh the possible negative effects of such designation. Listing highlights the rarity of a plant and can lead to vandalism or collecting as well as positive attention. Publication of critical habitat descriptions and maps could be detrimental to the species by singling out the location of each occurrence, thus increasing risk to the species. The plant is attractive and conspicuous, and could be taken despite the Federal collecting prohibition. Also, the BLM, NPS, and the State are already aware of the occurrences on their land.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required by Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Possible effects from BLM and NPS activities are expected to be limited. The two agencies funded some of the field surveys on this taxon and are aware of it for planning purposes. Management by these agencies would be affected. Restricting traffic to some existing roads and fencing some areas might be required, as well as special care in administering mining claims and oil and gas and tar sands leases so that

the taxon is accommodated in exploration or any development activity.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plant species. With respect to *Cycladenia humilis* var. *jonesii*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. No such trade in *Cycladenia humilis* var. *jonesii* is known. It is anticipated that few trade permits would ever be sought or issued since the species is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. Regulations implementing this prohibition were published on September 30, 1985 (50 FR 39681). The protection is also extended to threatened plant species under 50 CFR 17.71. These regulations also provide for the issuance of permits for exceptions to this prohibition under 50 CFR 17.72. The Jones cycladenia occurs in large part on land managed by the BLM and NPS. It is likely that few collecting permits for the Jones cycladenia will be requested, as the plant is not common in the wild and has not been of interest to collectors.

Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Literature Cited

Anderson, J. 1981. Unpublished trip report—field trip with Larry England, Staff Botanist, Salt Lake City Area Office, U.S. Fish and Wildlife Service, Denver, Colorado.

Eastwood, A. 1942. New western plants IV. Leaflets of Western Botany 3:157–160.

Holmgren, A.H., L.M. Shultz, and J.S. Shultz. 1977. Unpublished report on rare plant species for the Bureau of Land Management, Moab, Utah, District (Grand Resource Area). Utah State University, Logan, Utah.

Holmgren, N.H. 1972. Plant Geography of the Intermountain Region, pp. 77–161 *In* A. Cronquist, A.H. Holmgren, N.H. Holmgren, and J.L. Reveal, Intermountain Flora, Vol. 1. Hafner Publishing Co., New York.

Holmgren, N.H. 1984. *Cycladenia*, pp. 30–31 *In* A Cronquist, A.H. Holmgren, N.H. Holmgren, J.L Reveal, and P.K. Holmgren, Intermountain Flora, Vol. 4. New York Botanical Garden, Bronx, New York.

Hreha, A.M. and L.R. Greenwood. 1980. Unpublished field report on *Cycladenia* on the San Rafael Swell. Meiiji Resource Consultants, Layton, Utah.

Welsh, S.L. 1970. New and unusual plants from Utah. Great Basin Naturalist 30:10–32.

Welsh, S.L. 1978. Unpublished status report—*Cycladenia humilis* var. *jonesii*. U.S. Fish and Wildlife Service, Denver, Colorado.

Welsh, S.L. 1984. Flora of the Glen Canyon National Recreation Area, pp. 19–20. Glen Canyon National Recreation Area Research Management Team, Page, Arizona.

Welsh, S.L., N.D. Atwood, and J.L. Reveal. 1975. Endangered, threatened, extinct, endemic, and rare or restricted Utah vascular plants. Great Basin Naturalist 35:327–376.

Authors

The author of this rule is John Anderson, Botanist, Grand Junction Field Office, at the address given above. John L. England, Botanist, Salt Lake City Field Office, at the address given above, served as editor.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Apocynaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

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Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Apocynaceae—Dogbane family: *Cycladenia humilis* var. *jonesii*	Jones cycladenia	U.S.A. (AZ, UT)	T	NA	NA	

Dated: April 12, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-9983 Filed 5-2-86; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 604 and 630

[Docket No. 50581-5127]

Reporting and Recordkeeping Requirements for Atlantic Swordfish Fishery; Technical Amendment

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule; technical amendment.

SUMMARY: NOAA issues this final rule implementing a technical amendment to the regulations for the Fishery Management Plan for the Atlantic Swordfish Fishery (FMP). This rule clarifies the reporting requirements for vessels harvesting swordfish from the Caribbean. The intended effect is to implement the intent of the FMP.

EFFECTIVE DATE: May 5, 1986. The information collection requirements at § 630.5 have been approved by the Office of Management and Budget and are effective as of September 18, 1985.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-893-3722.

SUPPLEMENTARY INFORMATION: NOAA published a final rule on August 25, 1985 (50 FR 33956) to implement the Fishery Management Plan for the Atlantic Swordfish Fishery (FMP).

The time limit for submission of reports of the Center Director was omitted inadvertently from § 630.5. This rule revises § 630.5 by adding a statement requiring that reports be submitted within 10 days after swordfish are landed. Without this time limit, the reporting requirement is unenforceable.

Other Matters

This action is taken under the authority of 50 CFR Part 630 and is taken in compliance with Executive Order 12291.

List of Subjects

50 CFR Part 604

Reporting and recordkeeping requirements.

50 CFR Part 630

Fisheries, Reporting and recordkeeping requirements.

Dated: April 30, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

For the reasons set forth in the preamble, NOAA amends 50 CFR Parts 604 and 630 as set forth below:

PART 604—OMB CONTROL NUMBERS FOR NOAA INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 604 continues to read:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520 (1982).

2. The table in § 604.1 is amended by adding the following entry in numerical order by section number:

§ 604.1 OMB control numbers assigned under the Paperwork Reduction Act.

* * * * *

50 CFR part or section where the information collection requirement is located	Current OBM control No. (all numbers begin 0648-)
§ 630.5	-0013

PART 630—ATLANTIC SWORDFISH FISHERY

1. The authority citation for Part 630 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 630.5 is amended by adding a new last sentence to read as follows:

§ 630.5 Reporting requirements.

* * * Copies of the weigh-out sheets must be provided to the Center Director within 10 days after the swordfish are landed.

[FR Doc. 86-10010 Filed 4-30-86; 3:36 pm]

BILLING CODE 3510-22-M

50 CFR Part 642

[Docket No. 60339-6039]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic; Extension of Effective Date

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Emergency interim rule; extension of effective date.

SUMMARY: An emergency interim rule amending the regulations for the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and the South Atlantic (FMP) is in effect through June 4, 1986. The Secretary of Commerce (Secretary) extends this rule for an additional 26 days (through June 30, 1986). This extension maintains the total allowable catch (TAC), allocations, and quotas established for the Gulf migratory group of king mackerel by the initial emergency regulations and continues in effect a closure of the commercial fishery. The intent of this rule is to protect the Gulf migratory group of king mackerel from being over-fished during the remainder of the fishing year ending June 30, 1986.

EFFECTIVE DATE: From 0001 hours June 5, 1986, through 2400 hours June 30, 1986.

ADDRESS: Copies of an environmental assessment may be obtained from and comments on this action may be sent to Donald W. Geagan, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan, 813-893-3722.

SUPPLEMENTARY INFORMATION: Under section 305(e)(3)(B) of the Magnuson Fishery Conservation and Management Act the Secretary issued an emergency interim rule amending the FMP implementing regulations on March 11, 1986 (51 FR 8325). The rule reduced the TAC, allocations, and quotas for the Gulf migratory group of king mackerel.

The emergency rule set TAC at 5.2 million pounds with recreational and commercial allocations of 3.54 and 1.66 million pounds, respectively. The commercial allocation was exceeded and this fishery was closed by notice effective March 12, 1986, through June 4, 1986 (51 FR 9012, March 17, 1986). The closure notice provided for extension pending continuance of the initial emergency interim rule. Therefore, by implementation of this emergency rule, the Secretary extends the closure of the commercial fishery for the Gulf migratory group through June 30, 1986, unchanged from the emergency rule published March 11, 1986.

A detailed discussion of the background, issues, regulations, and the classification of the rulemaking is set forth in the preamble to the emergency interim rule and is not repeated here. Extension of the emergency interim rule was requested by the Gulf of Mexico and South Atlantic Fishery Management Councils.

This emergency interim rule is exempt from the normal review procedures of Executive Order 12291 as provided for in section 8(a)(1) of that order. This rule is being reported to the Director of the Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that order.

List of Subjects in 50 CFR Part 642

Fisheries, Fishing.

Dated: April 29, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management, National Marine Fisheries Service.

For reasons set forth in the preamble, 50 CFR Part 642 is amended as follows:

PART 642—COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND THE SOUTH ATLANTIC

1. The authority citation for Part 642 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 642.7 is amended by adding a new paragraph (a)(27) to be effective from 0001 hours June 5, 1986, through 2400 hours June 30, 1986, to read as follows:

§ 642.7 Prohibitions.

(a) * * *

(27) Possess Gulf migratory group king mackerel harvested in the FCZ under the recreational allocation set forth at § 642.21(h) after closure has been invoked as specified in § 642.22.

* * * * *

3. Section 642.21 is amended by suspending all of paragraph (a) except the last two sentences and paragraph (c), from 0001 hours June 5, 1986, through 2400 hours June 30, 1986, and adding new paragraphs (f), (g) and (h) to be effective from 0001 hours June 5, 1986, through 2400 hours June 30, 1986, to read as follows:

§ 642.21 Quotas.

* * * * *

(f) The commercial allocation for the Gulf migratory group of king mackerel is 1.66 million pounds for the current fishing year (July 1, 1985-June 30, 1986). This allocation is divided into quotas as follows:

(1) 1.08 million pounds for the eastern zone;

(2) 0.48 million pounds for the western zone; and

(3) 0.10 million pounds for purse seines (see Figure 2 of § 642.29, and paragraph (i) of this section for a description of allocation zones).

(g) *Purse seine quota for king mackerel.* (1) The harvest of king mackerel by purse seines from the Gulf migratory group is limited to 0.10 million pounds for the current fishing year.

(2) The total harvest of king mackerel by purse seines from the Atlantic Ocean is limited to 400,000 pounds each fishing year.

(3) King mackerel harvested by purse seines are counted in the commercial allocations and quotas specified in paragraphs (a) and (f) of this section.

(h) *Recreational quota for king mackerel.* The recreational allocation for the Gulf migratory group of king mackerel is 3.54 million pounds for the current fishing year (July 1, 1985-June 30, 1986).

[FR Doc. 86-9942 Filed 5-2-86; 8:45 am]

BILLING CODE 3510-22-M

VOL 51 ISS 86 MY 5 1986 UMI

Proposed Rules

Federal Register
Vol. 51, No. 86
Monday, May 5, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1493

CCC Export Credit Guarantee Program (GSM–102) and CCC Intermediate Export Credit Guarantee Program (GSM–103), Amendment 2

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Commodity Credit Corporation (CCC) Export Credit Guarantee Program (GSM–102) Regulations (7 CFR Part 1493) to include a new program, the Intermediate Export Credit Guarantee Program (GSM–103). The GSM–103 program would allow U.S. exporters to apply for payment guarantees which would protect the exporter or the exporter's assignee against loss due to defaults in payment by foreign banks when commodities are sold on credit terms in excess of three years but not more than ten years. This rule will help promote the export of U.S. agricultural commodities since a U.S. exporter would be able to extend credit for a longer term when selling those commodities and obtain payment guarantee coverage for that sale. In addition, this rule will (i) permit CCC to adjust the maximum amount of interest which CCC guarantees to pay to the exporter or its assignee; (ii) permit freight cost to be covered under the CCC payment guarantees for breeding animals that are financed under GSM–102 and GSM–103 and (iii) permit CCC to enter into agreements with exporters/assignees for alternative methods of satisfying payment guarantees.

DATE: In order to assure consideration comments must be received by May 27, 1986.

ADDRESS: Mail or deliver comments to the General Sales Manager, Foreign Agricultural Service, Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: L.T. McElvain, Director, CCC Operations Division, Export Credits, Foreign Agricultural Service, USDA, Washington, D.C. 20250, Telephone: (202) 447–6225.

SUPPLEMENTARY INFORMATION:

Discussion of Rule

The current provisions of 7 CFR Part 1493, Subpart A, containing the CCC Export Credit Guarantee Program (GSM–102) regulations, protect an exporter or an exporter's assignee against loss from defaults in payment by foreign banks due to commercial or noncommercial reasons when commodities are sold on deferred payment terms of not more than three years. Section 1131 of the Food Security Act of 1985 (Pub L. 99–198) amended section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a) to provide for CCC guarantees of the repayment of credit extended in connection with export sales where the credit terms are in excess of three years but not more than ten years. Pursuant to this authority, CCC propose to amend Subpart A in general to include a new program, the Intermediate Export Credit Guarantee Program (GSM–103). It was determined that for purposes of program management, the proposed CCC Intermediate Export Credit Guarantee Program (GSM–103) and the current CCC Export Credit Guarantee Program (GSM–102) should be codified together in the same regulations. Accordingly, this rule would amend the title of Part 1493 and several sections of Subpart A to include both programs.

The GSM–103 program would provide coverage to U.S. exporters who sell commodities on deferred payment terms in excess of three years but not more than ten years if repayment is secured by a foreign bank approved by CCC.

Under the rule, U.S. exporters would submit applications to CCC for payment guarantees. The exporter, among other things, would furnish information concerning the credit terms needed to finance the export sale. If the credit terms were for three years or less, the application would request coverage under the GSM–102 program. Applications with credit terms in excess of three years but not more than 10 years would request coverage under the GSM–103 program. If the application is accepted by CCC, a GSM–102 or GSM–103 payment guarantee, as applicable, would be issued to the U.S. exporter. CCC would permit the proceeds payable under the payment guarantee issued to be assigned to a financing institution in the U.S.

Sections 1493.1, 1493.2, 1493.3, 1493.4, 1493.5, 1493.10 and 1493.12 would be amended to include the GSM–103 program. Some of the language in these sections, as well as sections 1493.8 and 1493.9, would be revised slightly in the interest of greater clarity. This rule would also amend 1493.2(e) to permit CCC to adjust, during the period of repayment by the foreign banks, the maximum rate of interest which CCC guarantees. The present regulations only provide for a fixed-rate maximum interest coverage. The inability to adjust the interest rate coverage in response to changes in interest rates may inhibit export financing under the program. This rule would permit the interest rate coverage to be adjusted, but in any event the coverage would be limited to the average investment rate of the most recently auctioned 52-week Treasury bills as announced by the Department of Treasury at the time CCC determines the interest rate coverage or at the time the interest rate coverage is adjusted.

Paragraphs 1493.2 (f) and (m) would be amended to redefine "exported value" and "port value" to include freight for breeding animals and paragraph (m) would be redesignated as paragraph (o). Permitting freight to be covered by CCC payments guarantees for breeding animals would provide greater incentive for foreign countries to increase their purchase of breeding animals over what they would normally purchase. Transportation expenses for breeding animals can represent a significant cost for importers of breeding animals and their ability to have such expenses financed could influence them to buy U.S. breeding animals.

A new section 1493.16 would be added to make clear that CCC may establish alternative procedures in settling its obligations to U.S. exporters or their assignees in the course of rescheduling a foreign country's debt covered by a CCC payment guarantee.

Rulemaking Requirements

This rule has been reviewed under USDA procedures required by Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "not major" since the rule would not have any of the effects specified in those documents.

Melvin E. Sims, General Sales Manager, Foreign Agricultural Service, has determined that it is appropriate to have less than a 60-day comment period on this proposed action because a timely adoption of the final rule is crucial to comply with statutory provisions requiring CCC to make available credit guarantees for at least $500 million of credit extended on terms in excess of three years but not more than ten years during Fiscal Year 1986. Section 4 of the Food for Peace Act of 1966, as amended by Section 1131 of the Food Security Act of 1985, requires CCC to make available payment guarantees for each fiscal year ending September 30, 1986, through September 30, 1988, for not less than $500 million of export sales and for each of the fiscal years ending September 30, 1989 and September 30, 1990, for not more than $1 billion of export sales. These guarantees must be made available for credits calling for terms of more than three years but not more than ten years.

To the extent that the provisions of the Regulatory Flexibility Act apply, if any, the General Sales Manager, Foreign Agricultural Service (FAS), certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities since there will not be a substantial number of such entities affected by this proposed rule. Consequently, no regulatory flexibility analysis is required under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The public is invited to comment on the impact of this rule on small entities, and the General Sales Manager will review this determination in light of those comments.

An assessment of the impact of this proposed rule, if promulgated, on the environment was made, and based on that evaluation, this action is not a major federal action and will have no foreseeable significant effects on the quality of the human environment. Consequently, no environmental impact statement is necessary for this rule. The environmental assessment is available for review in Room 4525, South Building, USDA, during normal business hours.

The public is invited to submit written comments regarding the proposed rule. Each person submitting comments regarding the proposed rule must include his or her name and address and give reasons for any suggested changes in the proposed rule. Copies of all written communications received will be available for examination by interested persons in Room 4525, South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, D.C. 20250, during regular business hours.

List of Subjects in 7 CFR Part 1493

Agricultural commodities, Credit, Exports, Financing, Guarantees.

PART 1493—[AMENDED]

Accordingly, it is proposed to amend Part 1493 of Title 7 of the Code of Federal Regulations as follows:

1. The authority citation for Subpart A of Part 1493 is revised to read as follows:

Authority: Sec. 5(f), Pub. L. 80–89, 62 Stat. 1072, as amended by Sec. 405(a), Pub. L. 98–623, 98 Stat. 3409 (15 U.S.C. 714c(f)); Sec. 4(b), Pub. L. 89–808, 80 Stat. 1537, as amended by Sec. 101, Pub. L. 95–501, 92 Stat. 1685 and Sec. 1131, Pub. L. 99–198, 99 Stat. 1486 (7 U.S.C. 1707a(b)); 5 U.S.C. 301.

2. The title of Part 1493 is revised to read as follows: Part 1493—CCC Export Credit Guarantee Program (GSM–102) and CCC Intermediate Export Credit Guarantee Program (GSM–103).

3. The table of contents for Subpart A of Part 1493 is amended by adding at the end the following:

Sec.
1493.16 Alternative satisfaction of payment guarantees.
1493.17 OMB Control Number assigned pursuant to the Paperwork Reduction Act.

4. Section 1493.1 is revised to read as follows:

§ 1493.1 General statement.

(a) This part contains the regulations governing the Commodity Credit Corporation (CCC) Export Credit Guarantee Program (GSM–102) and the CCC Intermediate Export Credit Guarantee Program (GSM–103). Exporters of U.S. agricultural commodities usually require importers to guarantee payment of the selling price of commodities sold to such importers. The guarantee may be in the form of (1) an irrevocable foreign bank letter of credit issued in favor of the exporter who may draw drafts for the deferred payments to be presented to the foreign bank as such payments become due; or (2) an irrevocable foreign bank letter of credit which authorizes the exporter to draw drafts on a U.S. correspondent bank of the foreign bank. The exporter may assign the account receivable to a U.S. bank or financial institution so that the exporter may realize the proceeds of the sale prior to the deferred payment dates, as called for in the export credit sale. GSM–102 and GSM–103 are designed to protect the exporter or the exporter's assignee against loss from non-payment due to commercial and noncommercial risks under the foreign bank letter of credit or related obligation. By transferring some of the risk of loss due to non-payment by foreign banks from the exporters or their financing institutions to CCC, GSM–102 and GSM–103 are intended to: facilitate exportation; forestall or limit declines in exports; permit exporters to meet competition from other countries; and increase commercial exports of U.S. agricultural commodities.

(b) GSM–102 and GSM–103 will be administered by the General Sales Manager, Foreign Agricultural Service (FAS), U.S. Department of Agriculture.

(c) The provisions of Public Law 83–664 (Cargo Preference Act) are not applicable to the shipment of commodities under GSM–102 and GSM–103.

(d) GSM–102 and GSM–103 may be supplemented by USDA announcements.

5. Section 1493.2 is amended by revising paragraphs (e) and (f) to read as follows; adding new paragraphs (j) and (k) to read as follows; redesignating previous paragraphs (j) through (n) as (l) through (p), respectively; and revising newly redesignated paragraphs (n) and (o) to read as follows:

§ 1493.2 Definition of terms.

* * * * *

(e) "Eligible interest" means the maximum rate of interest which CCC agrees to pay the exporter, or the exporter's assignee, as indicated in CCC's payment guarantee, including any amendments to the payment guarantee. The payment guarantee may provide for automatic adjustments in the eligible interest during the term of the credit. Eligible interest shall not exceed the average investment rate of the most recent 52-week Treasury bills as announced by the Department of Treasury at the time CCC determines the eligible interest or at the time the eligible interest is adjusted.

(f) "Exported value" means the value of the commodity exported under the payment guarantee, basis f.a.s. or f.o.b. point of export, except that "exported value" may, upon approval by CCC, include freight costs for breeding animals if the animals are sold on c.&f. or c.i.f. basis. The exported value for breeding animals shall not include marine and war risk insurance for c.i.f. sales.

* * * * *

(j) "GSM–102" means the program under this subpart, also referred to as the "Export Credit Guarantee Program", under which the payment guarantees

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issued are for a period not exceeding 3 years from the date of export.

(k) "GSM–103" means the program under this subpart, also referred to as the "Intermediate Export Credit Guarantee Program", under which the payment guarantees issued are for a period exceeding 3 years but not exceeding 10 years from the date of export.

* * * * *

(n) "Payment guarantee" means the written agreement under which CCC undertakes to protect the exporter or the exporter's assignee from losses due to non-payment by a foreign bank under the foreign bank's letter of credit supporting the exporter's export credit sales contract or under the foreign bank's obligation owed to the exporter's assignee related to the foreign bank's letter of credit issued in favor of the U.S. exporter.

(o) "Port value" means the total value of the export credit sales, less any discounts or allowances, basis f.a.s. or f.o.b. at U.S. points of export. Port value may, upon approval by CCC, include freight cost for breeding animals if the export credit sale is made basis c.&f. or c.i.f., less any discounts or allowances. Such values shall include the amount of the upward loading tolerance, if any, as provided for by the export credit sales contract.

* * * * *

6. Section 1493.3 is amended by revising the first sentence of paragraph (a) to read as follows:

§ 1493.3 Application for payment guarantee.

(a) An exporter shall submit a written application (e.g., letter, telex, or TWX) for a payment guarantee to the USDA office specified in section 1493.15 and should request coverage under GSM–102, if the credit terms are three years or less, or GSM–103, if the credit terms are more than three years but not more than 10 years. * * *

* * * * *

7. Section 1493.4 is amended by revising paragraphs (b), (c) and (d) to read as follows:

§ 1493.4 Payment guarantee.

* * * * *

(b) The payment guarantee shall become effective on the date(s) of export(s) of the agricultural commodities sold by the exporter to the importer and continue in force with respect to payments due during the period covered by the final payment schedule not exceeding (1) 36 months for credits covered by GSM–102 and (2) 120 months for credits covered by GSM–103, from the date(s) of such export(s). Exports made prior to receipt by CCC of a telephonic or written application for a payment guarantee or exports made after the final date for export shown on the payment guarantee or amendment thereof are ineligible for GSM–102 or GSM–103 coverage, except where it is determined by the Assistant General Sales Manager to be in the interest of CCC.

(c) The payment guarantee may contain such additional terms, conditions, and limitations as are deemed necessary or desirable by the Assistant General Sales Manager.

(d) The payment guarantee may be amended by the parties thereto, provided that such amendment is in conformity with GSM–102 and GSM–103 at the time the amendment is approved. Amendments may include a change in the credit period or an extension of time to export. Any amendment to the payment guarantee may be subject to an increase in the guarantee fee. The assignee may submit corrections to the payment schedule.

* * * * *

8. Section 1493.5 is amended by revising the second sentence to read as follows:

§ 1493.5 Guarantee rates.

* * * Guarantee rates charged by CCC under GSM–102 and GSM–103 will be available upon request from the USDA office specified in § 1493.15.

9. Section 1493.8 is amended by revising paragraph (a) and (b) (3) (iii) and (iv) to read as follows:

§ 1493.8 Notice of default.

(a) If the foreign bank issuing the letter of credit fails to make a remittance on the due date pursuant to the terms of the foreign bank letter of credit or related obligation, the exporter or the exporter's assignee shall notify CCC at the address indicated in Section 1493.15 by phone or wire within 10 calendar days of the due date, or any extension thereof by the Treasurer, or Assistant Treasurer, CCC. If made by phone it must be confirmed in writing. The notice shall include the payment guarantee number, the amount due, the date of refusal to pay and reason for default, if known.

(b) * * *

(3) * * *

(iii) Invoice(s) showing the exported value. If there is an intervening purchaser both the exporter's invoice to the intervening purchaser and the invoice to the foreign buyer should be included.

(iv) An instrument, in form and substance satisfactory to CCC, subrogating to CCC their respective rights for the amount of payment in default under the applicable export credit sale.

* * * * *

10. Section 1493.9 is amended by revising the second sentence of paragraph (a) to read as follows:

§ 1493.9 Payment of loss.

(a) * * * If CCC determines that it is liable to the exporter and/or the exporter's assignee, CCC will remit to the exporter or the exporter's assignee the amount of the combined principal and interest loss covered by the payment guarantee plus interest at the latest average investment rate of the most recent 52-week Treasury bills as announced by the Department of Treasury as of the date of default. * * *

* * * * *

11. Section 1493.10 is amended by revising paragraph (d) to read as follows:

§ 1493.10 Recovery of losses.

* * * * *

(d) Notwithstanding any other terms of the payment guarantee, the exporter shall be liable to CCC for any amount paid by CCC under the payment guarantee when and if it is determined by CCC that the exporter has been or is in breach of any contractual obligation, certification or warranty made by the exporter for the purpose of obtaining the payment guarantee or in fulfilling obligations under GSM–102 or GSM–103, and the exporter's assignee shall be liable to CCC for any amounts paid by CCC under the payment guarantee when and if it is determined by CCC that the exporter's assignee has not fulfilled any of the obligations under GSM–102 or GSM–103.

* * * * *

12. Section 1493.12 is amended by revising the second sentence to read as follows:

§ 1493.12 Covenant against contingent fees.

* * * For breach or violation of this or other obligations or warranties undertaken by the exporter in regard to a GSM–102 or GSM–103 payment guarantee, CCC shall have the right notwithstanding other rights provided under these regulations to annul coverage for any commodities not yet shipped and/or to proceed against the exporter.

13. A new § 1493.16 is added to read as follows:

§ 1493.16 Alternative satisfaction of payment guarantees.

CCC may, upon agreement of the exporter (or if the proceeds payable under the payment guarantee have been properly assigned, then the exporter's assignee), establish procedures, terms and conditions for the satisfaction of CCC's obligations under a payment guarantee other than those provided for in this subpart if CCC determines that those alternative procedures, terms and conditions are appropriate in rescheduling the debts arising out of any transaction covered by the payment guarantee and would not result in CCC paying more for an obligation than the amount of CCC's obligation.

14. A new § 1493.17 is added to read as follows:

§ 1493.17 OMB Control Number assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in this regulation (7 CFR Part 1493, Subpart A) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0551–0004.

Dated: April 25, 1986.

George J. Pope,

Acting General Sales Manager and Acting Associate Administrator, FAS, and Acting Vice President, Commodity Credit Corporation.

[FR Doc. 86–9959 Filed 4–30–86; 8:45 am]

BILLING CODE 3410–10–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

[Docket No. 20–16]

A.N. Tschaeche; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission is denying a petition for rulemaking submitted by A.N. Tschaeche. The petitioner requested that the Commission amend its regulations to state that full compliance with the Commission's regulations is evidence acceptable in a court of law that the licensee was not negligent, and that the Commission's regulations must be violated before a *prima facie* case is pleaded on the issues of negligence and causation in any action based on injuries claimed to have resulted from exposure to ionizing radiation. The Commission is denying the petition because it is inconsistent with the intent of the Commission's regulations and because the Commission lacks the legal authority to grant the petitioner's request.

ADDRESS: Copies of the petition are available for public inspection or copying for a fee at the NRC's Public Document Room at 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Linda S. Gilbert, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–7678.

SUPPLEMENTARY INFORMATION:

The Petition

On October 28, 1985, the Commission received a petition for rulemaking from A.N. Tschaeche. The petitioner requested that the NRC amend its regulations to state that a licensee's full compliance with the Commission's regulations, and particularly with the regulations set forth in 10 CFR Part 20, is evidence acceptable in a court of law that the licensee was not negligent, and that the Commission's regulations must be violated before a *prima facie* case is pleaded on the issues of negligence and causation in any action based on injuries claimed to have resulted from exposure to ionizing radiation. The petitioner further requested that the amended regulations clearly state that noncompliance with the Commission's regulations, and in particular, exceeding the standards set forth in 10 CFR Part 20, does not in and of itself confer negligence on the licensee. Finally, the petitioner requested that, if the Commission determines that it does not have the authority to comply with the petition, the Commission seek the requisite authority from the Congress.

Basis for the Request

The petitioner asserts that resources are being "recklessly, wantonly, and uselessly squandered on radiation injury claims cases, both Workman's compensation and in tort, that are brought against NRC licensees who have demonstrably complied with the Commission's regulations." He cites the *Silkwood* case as a well-known example, and questions the reasonableness of allowing a jury of laypersons to determine whether the Commission's regulations result in safety.

According to the petitioner, the specific issue is whether a licensee who complies with the Commission's regulations can be considered to have met its obligation to provide an adequately safe working environment for conducting its licensed activities. The petition encompasses all NRC regulations, but emphasizes those set forth in 10 CFR Part 20, particularly the external occupational dose limits in § 20.101 and the limits for intake of radionuclides in air and water in § 20.103. The petitioner argues that there is no evidence based on observation of humans that demonstrates any harm to an individual or group from NRC-licensed activities performed in accordance with NRC regulations. In addition, he states that there is no evidence from animal or other studies that demonstrates any harm or risk of harm to workers or the general public from such activities.

The petitioner urges that his proposal would save money, alleviate public fear of radiation, protect licensees against claims of negligence, and clarify the intent of NRC regulations. He therefore requests that the Commission affirmatively state that compliance with its regulations is sufficient to demonstrate the absence of negligence. If the Commission considers that statement overly broad, the petitioner requests that the Commission apply it to all of Part 20 and to Appendix I of Part 50. If the Commission finds even that statement too broad, the petitioner requests that the Commission apply it to §§ 20.101 and 20.103. According to the petitioner, this could be easily accomplished if the Commission were to adopt the point of view that activities performed in accordance with its regulations are safe unless and until experience demonstrates differently.

Reasons for Denial

As the petitioner anticipated, the Commission has no legal authority to grant the petitioner's request. In essence, the petitioner would have the Commission promulgate rules of evidence for the courts. This would clearly exceed the Commission's rulemaking authority. Rules of evidence are derived from statutes, case law, and court rules.

In addition, the petitioner's request is contrary to judicial precedent. In general, compliance with government safety regulations is accepted as evidence of a person's having acted reasonably but is not considered

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conclusive proof of the absence of negligence. In its *Silkwood* decision, the District Court examined a number of cases in various contexts and reaffirmed that general rule. *Silkwood* v. *Kerr-McGee Corp.*, 485 F. Supp. 566, 577–79 (W. D. Okla. 1979), *aff'd in part and rev'd in part*, 667 F.2d 908 (10th Cir. 1981), *rev'd and remanded*, 464 U.S. 236 (1984), *on remand*, 769 F.2d 1451 (1985). The court found no authority for the proposition that a different rule should apply to nuclear safety regulations. Accordingly, the court held that evidence of Kerr-McGee's compliance with the Commission's regulations was not conclusive proof of the absence of negligence. Subsequent decisions in the case did not disturb that holding. Thus, *Silkwood* is controlling on this point.

As the petitioner pointed out, the District Court considered the intent of the Atomic Energy Commission (AEC) in promulgating its radiation protection standards. Because the AEC did not intend the standards to establish absolute safe levels of exposure below which no injury could occur, the court concluded that the standards were not dispositive of the issues of negligence or causation. The petitioner urges that the NRC change the intent of its regulations to establish such absolute levels and thereby preclude a finding of negligence if a licensee complies with NRC standards. However, the Commission has never taken the position that there is a level of radiation exposure below which one can conclusively presume that no injury will result. Rather, in view of scientific uncertainty about radiation exposure, the Commission has required its licensees to ensure that radiation exposures are kept "as low as is reasonably achievable." In short, the Commission lacks the technical basis to make the finding that the petitioner requests.

For this reason, it would be pointless for the Commission to ask Congress to give it the necessary legal authority to promulgate the requested rules. Similarly, it would serve no purpose to seek public comments on this petition for rulemaking, as is the Commission's usual practice. See 10 CFR 2.802(e).

Accordingly, the Commission denies the petition.

Dated at Bethesda, Maryland, this 23rd day of April, 1986.

For The Nuclear Regulatory Commission.

Jack W. Roe,

Acting Executive Director for Operations.

[FR Doc. 86-10026 Filed 5-2-86; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 523

[No. 86-428]

Liquidity Requirements

Dated: April 24, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") is proposing to amend its regulations governing the liquidity requirements applicable to members of the Federal Home Loan Bank system and to institutions whose accounts are insured by the Federal Savings and Loan Insurance Corporation ("FSLIC") ("insured institutions"). The proposed amendments would make three significant changes to the requirements currently in effect. First, the Board proposes to amend the regulations to recognize the connection between an institution's liquidity needs and its outstanding firm commitments and loans in process. Therefore, these liquidity amendments would permit an institution to use its liquid assets to satisfy its liquidity requirement only to the extent that those assets exceed the total of the institution's firm commitments to disburse funds less 12.5 percent of its liquidity base. For purposes of this proposal, however, an institution would be required to perform this offset of liquid assets only against firm commitments requiring disbursements within six months of the date on which the institution must report its liquidity requirement.

Secondly, the Board proposes to exercise its authority to classify institutions for purposes of setting required liquidity and to implement variable liquidity requirements. Based on its supervisory experience and assessment of institutions' liquidity needs, the Board has developed a measure of an institution's asset/liability structure and resulting need for liquidity called the Liquidity Coverage Index ("LCI"). The Board proposes to use the LCI in classifying institutions for the purpose of setting required liquidity ratios. Each institution would then determine its liquidity requirement based on its LCI.

Finally, the Board proposes increasing the minimum liquidity required of all institutions to 6 percent of an institution's liquidity base, thereby increasing the current requirement of 5 percent by one percentage point.

The Board believes that these amendments are needed to raise levels of minimum required liquidity, to set different liquidity requirements based on different asset/liability structures and needs for liquidity, and to discourage institutions from making commitments in excess of their ability to deliver the funds committed.

DATE: Comments must be received by July 7, 1986.

ADDRESS: Send comments to Director, Information Services, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552. Comments will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Ben F. Dixon (202–377–6399), Financial Analyst, Office of Examinations and Supervision; Donald G. Edwards (202–377–6914), Director, General Research Division, Office of Policy and Economic Research; or Karen Knopp O'Konski (202–377–7240), Attorney, Office of General Counsel, Federal Home Loan Bank Board, at the above address.

SUPPLEMENTARY INFORMATION:

A. Background

Section 5A of the Federal Home Loan Bank Act, 12 U.S.C. 1425a (1982 & Supp. II 1984) ("Bank Act"), requires the Board to set liquidity requirements for institutions that are members of the Federal Home Loan Bank system or are insured by the FSLIC. By delegating this authority to the Board, Congress sought to create "meaningful and flexible liquidity" that could be increased "when mortgage money is plentiful, maintained in easily liquidated instruments, and reduced to add to the flow of funds to the mortgage market in periods of credit stringency." *Id.* at 1425a(a). Congress intended flexible liquidity "to support two main purposes" of the Bank Act, namely "sound mortgage credit and a more stable supply of such credit." *Id.* The regulatory tools given to the Board to achieve these purposes include the authority to define terms, to classify institutions for liquidity purposes on any basis it finds reasonably necessary or appropriate, to set the liquidity requirement anywhere between a minimum of 4% and a maximum of 10% of an institution's liquidity base, and to prescribe the method of calculating the liquidity requirement. *Id.*

The Board's current regulations require each institution to maintain an average daily balance of liquid assets not less than 5 percent of the average daily balance of its liquidity base during the preceding calendar month. In addition, each institution must maintain an average daily balance of short-term liquid assets not less than 1 percent of

the average daily balance of its liquidity base during the preceding calendar month. 12 CFR 523.11 (1985). The regulation also prescribes the method for calculating an average daily balance. *Id.* A member with less than $25,000,000 in total assets at the beginning of a fiscal year may, by resolution of its board of directors, figure the liquidity requirement as a percentage of its liquidity base at the end of the preceding calendar month, rather than as a percentage of the average daily balance of its liquidity base. The liquidity requirement may vary if the member is a mutual savings bank ("MSB"). An MSB must maintain an average daily balance of liquid assets not less than 5 percent of the average daily balance of its liquidity base. In lieu of the short-term liquid asset requirement prescribed for other members, however, a member MSB may elect to maintain commercial paper aggregating not less than the difference between the amount of liquid assets it would have been required to maintain absent its election and the actual amount of its liquid assets. *Id.*

In the Board's view, these regulations are no longer adequate to achieve the purposes intended by Congress because they do not permit adequate monitoring of an institution's true liquidity position or its true liquidity needs. Specifically, the regulations do not recognize the connection between an institution's liquidity needs and the commitments it has made to disburse funds. Sound business practices require that before an institution enters into legally binding commitments to disburse money, it should plan how it will fund those commitments as they come due. Otherwise, the institution will be required to drain its available liquidity in order to meet its obligations. As discussed in greater detail below, however, the Board has found among some segments of the industry a disturbing failure to engage in advance planning to fund commitments.

In addition, certain developments within the savings and loan industry have affected thrifts' liquidity needs. The advent of a secondary market for one-to-four family mortgages and of a repurchase market and the development of mortgage-backed securities mean that thrifts can readily convert certain types of loans into cash. The current liquidity regulations do not recognize these new sources of cash. They therefore do not permit the Board accurately to gauge an institution's true need for liquidity.

Moreover, recent financial deregulation and innovations have led to a far more complicated and heterogeneous industry than previously existed. As a result, institutions now have a diverse range of financial strategies, asset/liability structures, sources and uses of funds, and liquidity needs. The current liquidity requirements ignore this diversity by treating all institutions as if they were identical in nature and therefore had identical liquidity needs. A corollary to this problem of inflexibility is that the current regulations present the Board with a dilemma in that it must choose between liquidity requirements which are either clearly too high or too low for many institutions, since it is unable to differentiate among needs under the current regulations.

The Board believes that the best way to address these problems is to amend its regulations to take into account the effect on liquidity needs of new sources of ready cash and the extent of commitments an institution has made and to permit the Board to assess the relative needs of individual institutions for liquidity. This proposal is designed to achieve those results.

B. Description of Proposed Amendments

1. Overview

The proposed amendments to the liquidity requirements would make three significant changes to the requirements currently in effect. First, the amendments would require an institution to offset its liquid assets, as they are currently defined in 50 FR 13988 (1985) (to be codified at 12 CFR 523.10) and 12 CFR 523.10(gf) (1985), against its outstanding firm commitments to disburse funds (in excess of 12.5 percent of its liquidity base) before it could count those liquid assets toward meeting its liquidity requirement. Only disbursements that the institution is committed to make within six months of the date it reports its liquidity requirement would be included in this computation. The purpose of this portion of the proposal is to ensure that the institution can meet its obligations to disburse funds without draining its available liquidity.

Second, the amendments would establish a classification scheme for purposes of determining what an institution's liquidity requirement would be. The tool for establishing this scheme would be the LCI, which is designed to measure need for liquidity. Each institution would first calculate the value of its LCI. The figure obtained from this calculation would then be used to determine the institution's liquidity requirement, expressed as a percentage of its liquidity base.

Finally, the amendments would propose higher liquidity requirements industry-wide by setting a minimum liquidity requirement of 6 percent. Further, they would impose variable liquidity requirements ranging from 6 percent for institutions with positive LCI—indicating a moderate need for liquidity—to 10 percent for institutions with a significantly negative LCI—indicating a need for a relatively high level of liquidity.

2. Assets Eligible To Satisfy the Liquidity Requirement

Congress has given the Board plenary authority to regulate with respect to liquidity requirements. 12 U.S.C. 1425a (1982 & Supp. II 1984). This authority includes the authority to define terms as well as to prescribe the method by which the liquidity requirement is calculated. In accordance with its statutory authority, the Board's current regulations define, among other terms, the term "liquid assets." Moreover, the current regulations impose no conditions on an institution's use of liquid assets to meet its liquidity requirement. They permit an institution to use any asset defined as liquid in any amount to satisfy the requirement. The Board does not now propose to modify its current definitions of liquid assets. It does, however, propose to place a condition on an institution's use of its liquid assets to meet its liquidity requirement. Specifically, an institution could count liquid assets toward meeting its requirement only to the extent they exceed the amount of its firm commitments less 12.5 percent of liquidity base.

"Firm commitments" are defined in proposed § 523.10(o) as the total of a member's net commitments and its loans in process. Net commitments are commitments, due to be funded within six months of the date on which the liquidity requirement is reported, to originate loans (both residential and non-residential), plus commitments to purchase loans and other assets, plus firm take-out commitments, minus commitments to sell loans and other assets. For liquidity purposes, loans in process are loans that have been funded, not yet disbursed, but on which disbursements are due within six months of the reporting date. Commitments are not counted for this purpose unless they are legally binding, since the Board would otherwise require an institution to match its liquid assets against unenforceable obligations.

In essence, the eligible-assets portion of the proposal requires a dollar-for-dollar matching of liquid assets against

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an institution's excess obligations to disburse funds before those assets may be used to satisfy the liquidity requirement. For purposes of the proposed rule, an institution is considered over-extended if its firm commitments exceed 12.5 percent of its liquidity base. Aside from the growth that such commitments imply, the Board also notes that some institutions have used loan commitments to generate disproportionately large front-end profit in the form of fees. The Board disapproves neither growth, within certain capitalization limits prescribed in its net-worth rule,[1] nor the generation of profits. What the Board wishes to discourage, however, is the practice of making commitments without adequate ready cash to fund those commitments.

The Board's Office of Policy and Economic Research ("OPER") has performed statistical analyses that show a drastic diminution in true liquidity for some institutions once their outstanding firm commitments are taken into account.[2] One such analysis, based on data reported as of the end of the second quarter of 1985, shows the amount of liquidity held by institutions if their commitments and loans in process are deducted from the amount of their liquid assets as defined in the Board's current liquidity regulations ("eligible liquidity"). 50 FR 13988 (1985) (to be codified at 12 CFR 523.10) and 12 CFR 523.10(g) (1985). For purposes of this analysis, OPER defined an "experimental liquidity variable" as an institution's eligible liquidity less its commitments and loans in process in excess of 10 percent of its liquidity base. OPER found that the 100 institutions with the lowest values of the experimental liquidity variable held a median value of—11 percent liquidity, as compared with an industry median of 13.1 percent. Under the currently applicable regulations, that some 100-firm sample was reporting a median liquidity of 7.2 percent, lower than the industry median of 13.3 percent, but still in excess of the Board's current requirement of 5 percent.

Under the current regulations, then, it is possible for institutions to report adequate regulatory liquidity at a time when their outstanding commitments and loans in process threaten a cash drain that significantly exceeds their true liquidity. Thus, under the current regulations, which do not take account of an institution's commitments and loans in process, an institution may mask its true liquidity position.

This statistical analysis is borne out by the Board's supervisory experience. For example, one institution that was declared insolvent by the FSLIC had reported liquidity of 4.9 percent as of the end of the third quarter of 1985. At that same time, however, the institution had $232,233,000 in outstanding commitments, an amount that its reported liquidity was inadequate to cover. Thus, although the institution reported liquidity of just under the regulatory requirement, it had committed itself to a cash outflow that its ready cash was insufficient to cover.

An institution that is over-extended in this way may turn to the secondary-mortgage or the repurchase market to obtain cash to fund its commitments, or it may seek advances from its Federal Home Loan Bank ("FHLBank") for that purpose. The first solution requires that the institution sell its prime assets, perhaps at "distress" prices, in order to meet its short-term need for cash. Having done so, it may have only poor-quality collateral to offer its Bank in exchange for an advance. In either case, the institution decreases the quality of its asset portfolio in exchange for cash that does not enhance its liquidity position.

The Board would add two observations regarding the portion of the proposed rule pertaining to eligible assets. First, it is intended to achieve results not accomplished by other regulations. For example, the Board is also proposing new regulatory capital requirements, published elsewhere in today's **Federal Register**. That proposal addresses, among other things, contingency capital requirements for certain types of loans. These proposed contingency capital requirements are designed to encourage prudent risk-taking by providing investors with a sufficient capital stake and to assure the FSLIC an adequate buffer against losses. By contrast, the portion of the liquidity amendments under discussion here addresses the institution's need for cash before its committed funds must be disbursed. Thus, it acts to smooth an institution's daily operations and reduce risk to operational stability, rather than to provide a cushion against losses. In short, the requirement imposed by the eligible-assets portion of the proposal is merely that an institution have enough cash to meet the commitments it has made.

Second, the Board anticipates that the eligible-assets portion of the regulation will primarily affect those institutions with disproportionately large amounts of firm commitments. Institutions that have heretofore engaged in prudent, balanced lending will not experience a significant impact. The work-sheet, which appears as an Appendix to this preamble for the purpose of illustrating the calculations it would require, should enable institutions to gauge the degree to which they will be affected by the eligible-assets portion of the regulation.

3. Liquidity Coverage Index

The Bank Act empowers the Board to set the liquidity requirement at any amount it deems appropriate on a scale of between 4 percent and 10 percent of a member-institution's liquidity base. 12 U.S.C. 1425a(b)(1), (b)(2) (1982 & Supp. II 1984). Liquidity base is statutorily defined as "withdrawable accounts and borrowings payable on demand or with unexpired maturities of one year or less . . ." *Id.* at 1425a(b)(2).[3] The Board is proposing to vary the liquidity requirement on a scale of between a minimum of 6 percent and a maximum of 10 percent of liquidity base according to an institution's need for liquidity.

No measure of this need is currently available. The Board's OPER has, however, developed a tool for this purpose, which it has designated the LCI. The LCI is the measure by which the Board proposes to classify institutions for purposes of setting their liquidity requirement.

Simply stated, the LCI is a measure of an institution's ability to generate ready cash as compared with its potential need for cash. Accordingly, proposed § 523.10(i) includes in the LCI the total of a member's liquid assets, together with its borrowing power and the repayments and prepayments of loans it can reasonably expect to receive. All these items represent sources of readily available funds.

The component of the LCI called "borrowing power" is intended to reflect an institution's ability to obtain ready cash by borrowing on the collateral of certain assets. Accordingly, it is defined in proposed § 523.10(j) as 80 percent of the book-value of the member's one-to-four-family mortgages; [4] 90 percent of the book-value of its mortgage-backed securities ("MBSs"); 80 percent of the book-value of assets that would qualify as liquid under current § 523.10(g) of the Board's liquidity regulations; less FHLBank advances; less reverse repurchase agreements; and less mortgage-backed bonds.

As mentioned previously both one-to-four-family mortgages and MBSs are easily convertible into cash. The LCI reflects book value rather than market value so that the value of these assets for purposes of calculating the liquidity requirement will not fluctuate with interest rates. Otherwise—in a rising interest-rate environment, for example—the LCI would work to increase an institution's liquidity requirement as the supply of mortgage money was becoming more constricted. Including one-to-four-family mortgages and MBSs in the LCI at their book value is therefore consistent with the statutory mandate of adjusting the liquidity requirements in accordance with the relative availability of mortgage credit. The Board recognizes, however, that inclusion of these assets in the LCI at their book value will preclude an institution from obtaining the benefit of any appreciation on those assets. Therefore, the Board specifically invites comments on whether the advantages of the book-value approach, as outlined, outweigh the advantages of a market-value approach. Finally, the discount factor applied in the LCI to these types of assets is intended to reflect the discount at which such assets are normally sold or accepted as collateral by the FHLBanks.

If a member institution has obtained FHLBank advances, entered into reverse repurchase agreements, or issued mortgage-backed bonds, it will have used some of its available collateral. Use of collateral reduces borrowing power: Assets pledged to obtain the funds are not available to collateralize new applications for cash. Thus, the value of advances, reverse repurchase agreement and mortgage-backed bonds is subtracted from borrowing power.

In addition to liquid assets and borrowing power, the LCI also permits inclusion of an amount for repayments of loan principal (including prepayments) since repayments also represent a source of readily available cash for the institution. The amount is determined by computing the total of repayments of loan principal that the institution received during the twelve-month period immediately preceding the liquidity reporting date and dividing that figure by 2. In this way, the figure used in the LCI is adjusted for seasonal variations, provides a reasonable basis for predicting the institution's anticipated loan repayments, and is computed for a time-period consistent with that used for maturing liabilities, which are discussed below.

The elements of the LCI described so far, that is, liquid assets, borrowing power, and loan repayments, all represent positive contributions, or potential contributions, to an institution's ready cash. In contrast, that ready cash will be negatively affected to the extent an institution must meet obligations in the near term. Therefore, to compute its LCI, a member must subtract the value of its maturing liabilities, which are defined, at proposed § 523.10(k), as financial liabilities with a fixed maturity date of six months or less from the reporting date.[5] FHLBank advances and passbook accounts are excluded from the definition of maturing liabilities because both are stable liabilities that the institution is unlikely to have to pay quickly or without notice.

As a final step, the total of all of the components of the LCI is multiplied by 100 and then divided by the member's liquidity base. This step converts a dollar amount into a ratio that is scaled to the institution's size. That ratio is the LCI. The worksheet appended to this preamble shows how the LCI is to be calculated.

4. Liquidity Requirement

The liquidity requirement is currently fixed at 5 percent of the liquidity base for all institutions. The Board proposes to raise the minimum requirement to 6 percent. An institution's liquidity requirement would increase, along a scale of between 6 percent and 10 percent of liquidity base, as its LCI diminished. This progression is indicated in the table set forth in proposed § 523.11. That section would first require a member to calculate its LCI. It would then impose a liquidity requirement of 6 percent for a member with an LCI of greater than 0, and 8 percent requirement for a member whose LCI fell between 0 and −25; and a 10 percent requirement for a member whose LCI was below −25.

The proposed increase in the minimum liquidity requirement serves one of the purposes for which the liquidity statute was enacted. By imposing liquidity requirements, Congress intended to provide the Board with a regulatory tool to expand the supply of mortgage credit in periods of credit stringency and to restrict that supply when such credit was plentiful. 12 U.S.C. 1425a(a) (1982 & Supp. II 1984). For example, the Board has previously lowered the liquidity requirement to compensate for "reduced savings flows into member institutions" in order to "help fund the large volume of forward mortgage commitments that institutions have outstanding, and to reduce the pressure for advances from Federal Home Loan Banks." 44 FR 62481 (Oct. 31, 1979). Data concerning the relative availability of mortgage credit are routinely prepared by the Board's OPER and presented to the Board on a regular basis. Based on the most recent such data, prepared by OPER in April, 1986, the Board notes that the value of mortgage loans closed, mortgage commitments made and outstanding, and private housing starts are currently at or near record highs. Further, the recent, dramatic decline in mortgage interest rates had led to a surge in demand for refinancing that is currently straining the capacity of origination and appraisal departments of mortgage lenders. In such an economic climate, the Board believes that an increase in the minimum liquidity requirement is consistent with the purposes of the statute.

This proposal would preserve the definition of "short-term liquid assets" and would continue the requirement that a member hold 1 percent of its liquidity base in short-term liquid assets. The proposal also retains the requirement that the value of the assets a member may use to satisfy its liquidity requirement and the member's liquidity base be computed as average daily balances. The LCI, however, is to be calculated at the end of each quarter for use in determining liquidity required in each of the following three months. Quarterly calculation of the LCI will insure that a member's liquidity requirement will remain stable through at least a quarter, enabling an institution to better predict its liquidity needs.

As described above, the current regulations provide special rules for MSBs, which are permitted to hold commercial paper to satisfy their liquidity requirements to an extent greater than that permitted other institutions, and for small institutions (defined as institutions with assets totalling less than $25,000,000), which may compute their liquidity requirement as a percentage not of the average daily balance of liquidity base, but of liquidity base as of the end of the preceding calendar month. The Board believes that these special rules are no longer necessary and, accordingly, it has deleted them from the proposed rule.

The election for MSBs was adopted at a time when such institutions could invest in commercial paper to a greater

[1] *See* 50 FR 6991 (Feb. 9, 1985).

[2] The discussion in this paragraph is based upon statistical analyses performed during the period from October 1985 to February 1986 by OPER to aid the Board as it considered proposing changes to the liquidity regulations.

[3] The statute permits the Board to determine the liquidity base for a member which is an insurance company. The Board has done so by defining that base as "the policy reserve of a member insurance company required by State law" plus its short-term borrowings. 12 CFR 523.10(c) (1985).

[4] The proposed section includes all mortgage loans and contracts that are federally insured or guaranteed; e.g., FHA- and VA-insured loans.

[5] Liquidity reporting requirements are discussed in greater detail in subsection 5, below.

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extent than other members. The election was intended to accommodate this difference. The Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320, 96 Stat. 1469, liberalized investment powers for federally-chartered savings and loan institutions. Moreover, many states have enacted parallel statutes giving similarly expanded investment powers to state-chartered institutions. The distinction between MSBs and other thrift institutions has, therefore, become blurred, and the need for a special election for MSBs is, in the Board's view, outdated.

Under the current regulations, small institutions may use a month-end figure rather than an average daily balance, in computing their liquidity base. The Board believes, however, that there is no longer a discernible difference between the operations of small institutions and their larger counterparts that would justify continuing this exception. Moreover, given the other reporting requirements to which small institutions are subject under this proposal, the requirement that such an institution compute its liquidity base as an average daily balance would not constitute a significant additional burden. The Board therefore proposes to eliminate the limited special exception currently available to small institutions, and invites comment concerning whether any reasons remain to continue the exception or whether there are any reasonable alternatives to eliminating it.

5. Miscellaneous Provisions

The Board recognizes that some institutions may be significantly affected by the eligible-assets portion of this proposal, which may in some cases result in an institution's failure to comply with the liquidity requirement immediately upon the effective date of any substantially similar final regulation. To mitigate this potential effect, the Board proposes a temporary exemption from compliance with the terms of the regulation for an institution that can show that its liquidity deficiency is primarily attributable to the amount of firm commitments it has made. The determination whether this showing has been adequately made would rest with the Principal Supervisory Agent ("PSA") and the Director of the Board's Office of Examinations and Supervision or his designee.

If the requisite showing has been made, then the institution would be required to submit a business plan to the PSA setting forth a plan to achieve compliance with its liquidity requirement. The Board wishes to emphasize the importance of such a plan. Today's amendments are designed to encourage sound cash-management policies. The business plan would promote such policies by requiring affected institutions to devise strategies to meet their liquidity needs.

Pursuant to a plan approved by the PSA, a member qualifying for this exemption may, for an interim period, use its liquid assets, without regard to its outstanding firm commitments, for purposes of meeting its liquidity requirement. The interim period could not exceed two calendar quarters from the effective date of the final regulation, starting with the first full calendar quarter after the effective date.

Moreover, such a member could seek and obtain the PSA's approval to fund its temporary liquidity deficiency with firm lines of credit from its FHLBank. A firm line of credit, as defined in proposed § 523.10(l), is a properly collateralized line of credit extended by a FHLBank to a member institution. The Board considers resort to this device for liquidity purposes to be an interim short-term solution to a member's liquidity problem. Accordingly, firm lines of credit could not be used for this purpose except for a period of two calendar quarters from the effective date of the final regulation.

This proposal would also amend § 523.10 to require reports and records that would enable the Board to monitor compliance with the amendments. The proposed amendments § 523.13 would require institutions to report their requied liquidity, assets eligible to satisfy the requirement, and any penalties assessed for deficiencies, as well as any other information that the Board finds necessary to monitor compliance with the requirements of the liquidity regulation. The Board anticipates that these reporting requirements would be incorporated into its current monthly and quarterly reporting system so that institutions could include the liquidity figures on forms amended for that purposes.

Finally, the proposal contains a provision invalidating, for liquidity purposes, any transaction into which an institution enters in order to evade compliance with the liquidity requirements.

APPENDIX—LIQUIDITY REQUIREMENT WORKSHEET

Part A—Required liquidity Ratio (Complete at end of Quarter)

1. Cash and liquid assets as defined in § 523.10(g) ..... 1. $____
2. Borrowing power based on uncommitted qualifying collateral:
   (a) Borrowing power of total qualifying collateral
   80 percent of book value of convential mortgage loans and contracts on 1-4 family dwelling units and FHA/VA and other federally insured or guaranteed mortgage loans and contracts ..... $____
   90 percent of book value of mortgage-backed backed securities ..... $____
   80 percent of book value of assets that would qualify as liquid under § 523.10(g) but for their remaining maturities ..... $____
   Total ..... (a) $____
   (b) Uses of qualifying collateral:
   FHLB advances ..... $____
   Reverse repurchase agreements ..... $____
   Mortgage-backed bonds ..... $____
   Total ..... (b) $____
   Borrowing power available (subtract line 2(b) from line 2(a)) ..... 2. $____
3. Cash repayment of loan principal at six-month rate (enter one-half of repayments received during past 12 months) ..... 3. $____
4. Financial liabilities maturing in six months or less, excluding passbook accounts and FHLB advances ..... 4. $____
5. Net liquidity coverage gap (subtract line 4 from the sum of lines 1, 2, and 3) ..... 5. $____
6. Liquidity base at end of quarter ..... 6. $____
7. liquidity coverage index (LCI) (divide line 5 by line 6 and multiply by 100) ..... 7. $____
8. Required liquidity ratio (%) (select requirement from following schedule based on value of LCI on line 7)
   If LCI is greater than zero, enter "0"
   If LCI is greater than -25 but not greater than zero, enter "5"
   If LCI is -25 or less, enter "10" ..... 8. $____

*Part B—Liquidity Requirement (Complete at end of Month)**

Liquidity requirement for month just ended

9. Required liquidity ratio in *decimal form* for month just ended (as calculated at end of previous quarter, line 8, Part A) ..... 9. $____
10. Average daily balance of liquidity base during preceding month ..... 10. $____
11. Liquidity requirement (multiply line 9 by 10 and enter requirement here) ..... 11. $____

Assets eligible to satisfy liquidity requirement

12. Liquid assets (as defined in § 523.10(g)) ..... 12. $____
13. Amount by which firm commitments exceed 12.5 percent of liquidity base Firm commitments outstanding (as defined in proposed amended § 523.10(o)) ..... (a) $____
    12.5 percent of liquidity base ..... (b) $____
    Subtract (b) from (a); if less then zero, enter zero ..... 13. $____
14. Liquid assets to the extent they exceed outstanding firm commitments less 12.5 percent of liquidity base (subtract line 13 from line 12; if less than zero, enter zero) ..... 14. $____

* Note.—All dollar amounts in Part B are averages of daily balances during month.

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Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Board is providing the following initial regulatory flexibility analysis.

1. Reasons, objectives, and legal bases underlying the proposed rules. These elements have been discussed elsewhere in the **SUPPLEMENTARY INFORMATION** regarding the proposal.

2. Small entities to which the rules will apply. This rule would apply to all members of Federal Home Loan Banks.

3. Impact of the proposed rules on small institutions. This rule would eliminate a current exception applicable to small institutions. This portion of the proposal is discussed elsewhere in the **SUPPLEMENTARY INFORMATION.**

4. Overlapping or conflicting rules. The Board has no rules prescribing liquidity requirements other than those contained in 12 CFR 523.10 through 523.14, which are the rules that would be amended by the proposed regulation.

5. Alternatives to the proposed rules. There are no alternatives that would achieve the Board's objectives as described elsewhere in the Supplementary Information.

The Board is providing a 60-day comment period for this rule. Comment is invited on all aspects of the proposal, including the appropriateness and effect of the proposed changes, and any additional or alternative measures that would serve the goals of the Board as outlined in the proposal. In addition, the Board specifically solicits comment on the effect this proposal would have in combination with others published elsewhere in today's **Federal Register**, such as the proposed rule on regulatory capital requirements.

List of Subjects in 12 CFR Part 523

Federal home loan banks, Flood insurance, Mortgages, Reporting and recordkeeping requirements.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Part 523, Subchapter B, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

PART 523—MEMBERS OF BANKS

1. The authority citation for Part 523 is revised to read as follows:

Authority: Sec. 5, 47 Stat. 727, sec. 416(a), 83 Stat. 401, as amended (12 U.S.C. 1425); sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425a); sec. 17, 47 Stat. 736, sec. 405, 94 Stat. 132, sec. 25, 94 Stat. 1649, as amended (12 U.S.C. 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401–403, 405–407, 48 Stat. 1255–1257, 1259–1260, as amended (12 U.S.C. 1724–1726, 1728–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); sec. 503, 88 Stat. 1521, as amended (15 U.S.C. 1691, 1691a); sec. 302(b), 87 Stat. 982, as amended (42 U.S.C. 4106(b)); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1947 Supp., 1943–48 Comp., p. 1071.

2. Amend § 523.10 by adding the following new paragraphs (i) through (o) to read as follows:

§ 523.10 Definitions for purposes of this section, § 523.11 and § 523.12.

* * * * *

(i) *Liquidity Coverage Index.* A fraction, the numerator of which is 100, multiplied by the total derived by adding a member's liquid assets, its borrowing power, and ½ of the cash repayments (including prepayments) of loan principal it has received during the twelve months immediately preceding the reporting date, and subtracting from such sum its maturing liabilities; and the denominator of which is the member's liquidity base.

(j) *Borrowing power.* The total derived by adding the sum of 80 percent of the book value of a member's outstanding one-to-four-family mortgages, plus 90 percent of the book value of its mortgage-backed securities, plus 80 percent of the book value of assets that would qualify as liquid under § 523.10(g) but for their remaining maturities; and subtracting from such sum advances made to the member by the Federal Home Loan Bank in which it has membership, the member's reverse repurchase agreements, and the member's mortgage-backed bonds. For purposes of this section, one-to-four-family mortgages include FHA- and VA-insured mortgages and other federally insured or guaranteed mortgage loans and contracts.

(k) *Maturing Liabilities.* A member's financial liabilities with a fixed maturity date of six months or less from the reporting date. The term maturing liabilities does not include passbook accounts or advances made to a member by the Federal Home Loan Bank in which it has membership.

(l) *Firm line of credit.* A line of credit for an advance extended to a member institution by the Federal Home Loan Bank in which it has membership, so long as the line of credit is collateralized in accordance with the prevailing policies of collateralization for advances of that Federal Home Loan Bank.

(m) *Net commitments.* A member's commitments, other than loans in process, to originate loans; plus its commitments to purchase loans and other assets; plus its firm take-out commitments; minus its commitments to sell loans and other assets: *Provided,* that such commitments are due to be funded within 6 months of the date of the member's required liquidity report under § 523.13(a), and are evidenced by a writing whose terms impose a legally binding obligation upon the member to deliver or to accept delivery of the commitment that is the subject of the writing.

(n) *Loans in process.* Loans that a member has committed to fund and for which all proceeds have not been disbursed to the borrower: *Provided,* that the member is scheduled to disburse funds for such loans within six months of the date of its required liquidity report.

(o) *Firm commitments.* A figure equal to the total of net commitments and loans in process.

3. Amend § 523.11 by removing paragraph (e), by redesignating paragraphs (c) and (d) as paragraphs (d) and (e), respectively, by revising paragraphs (a) and (b) and by adding a new paragraph (c) to read as follows:

§ 523.11 Liquidity requirements.

(a) *Calculation of liquidity coverage index.* In order to determine its liquidity requirement for each calendar quarter, each member shall first calculate its liquidity coverage index. The liquidity coverage index shall be calculated at the end of each quarter, using figures accurate as of the last business day of that quarter, for use in determining the liquidity required in each of the following three months.

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(b) *Calculation of liquidity requirement.* Except as otherwise provided in paragraph (d) of this section, for each calendar month, each member shall maintain an average daily balance of liquid assets, expressed as a percentage of the average daily balance of its liquidity base during the preceding calendar month, that corresponds with its liquidity coverage index as shown in the table set forth below. Each member, other than an insurance company, shall maintain an average daily balance of short-term liquid assets of not less than 1 percent of the average daily balance of its liquidity base during the preceding calendar month.

TABLE 1

Liquidity coverage index	Liquidity requirement (percent)
Greater than 0	8
Greater than −.25 but less than or equal to 0	9
Less than or equal to −.25	10

(c) *Assets eligible to satisfy the liquidity requirement.* A member may satisfy its liquidity requirement by maintaining an average daily balance of the required percentage of liquid assets, *Provided:* that the amount of such liquid assets eligible to satisfy the liquidity requirement must exceed the total of the member's outstanding firm commitments minus 12.5 percent of the member's liquidity base.

* * * * *

4. Amend § 523.12 by removing paragraph (a)(2)(i); by removing the paragraph designation "(ii)", and the heading "New Rule", and by removing paragraph (a)(2)(iii). The colon at the end of paragraph (a)(2) introductory text is changed to a period.

5. Amend § 523.12 by adding new paragraphs (d) and (e) to read as follows:

§ 523.12 Deficiencies and penalties.

* * * * *

(d) *Temporary Exemption from Deficiency.* During a period commencing on [effective date of final rule] and extending until [last business day of the second full quarter following the effective date of final rule] if, in the opinion of the Principal Supervisory Agent, and the Director of the Office of Examinations and Supervision or his designee, a deficiency in the amount of a member's assets eligible to satisfy the liquidity requirement results primarily from the large amounts of that member's firm commitments, the Principal Supervisory Agent shall require the member to submit for approval a business plan setting forth how the member will achieve compliance with its liquidity requirement. The business plan shall include the member's proposed restructuring of its assets and liabilities and shall specify the time within which the member will achieve compliance with the liquidity requirements. *Provided,* however, that the Principal Supervisory Agent shall not approve any such business plan that projects the member's compliance with the liquidity requirements at a time later than [last business day of the second full quarter following the effective date of final rule]. During such time period, the member may use the full extent of its liquid assets, its firm commitments notwithstanding, or if the Principal Supervisory Agent approves a business plan that specifically calls for the member temporarily to reduce its deficiency in assets eligible to satisfy the liquidity requirement by including firm lines of credit in such assets, the member may use such lines of credit, to such extent as the Principal Supervisory Agent may allow, so long as firm lines of credit are not included for a period longer than [last business day of the second full calendar quarter after effective date of final rule].

(e) *Transactions for purposes of evasion.* An institution's Principal Supervisory Agent may disregard any transaction entered into primarily for the purpose of evading the requirements of this section. An institution may seek review of any such determination by the Board.

6. Amend § 523.13 by adding the following sentences to the end of paragraph (a) to read as follows:

§ 523.13 Reports; records.

(a) *Reports.* Each member shall also report data relating to the determination of and compliance with liquidity requirements as specified in the periodic reports required by the Board in § 563.18 and related sections. The reported data shall include, but not be limited to, the liquidity required of the member, assets eligible to satisfy the liquidity requirement, and penalties assessed for deficiencies under § 523.12(c).

* * * * *

§ 523.3–3, 523.10, 523.11, 523.12, and 523.29 [Amended]

7. Amend § 523.3–3, § 523.10, § 523.11, § 523.12, and § 523.29, by removing the authority citations located at the end of the sections.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86–9916 Filed 5–2–86; 8:45 am]

BILLING CODE 6720–01–M

12 CFR Parts 541, 545, 561, 565, 570, and Ch. V

[No. 86–427]

Definition of Regulatory Capital

Dated: April 24, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Federal Home Loan Bank Board ("Board") as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), is proposing to amend its regulations pertaining to the definition of regulatory net worth applicable to all institutions the accounts of which are insured by the FSLIC ("insured institutions"). First, the Board is proposing to require that all financial statements issued by insured instititutions (including statements of condition required pursuant to 50 FR 2,662, 2,663 (1985) (to be codified at 12 CFR 545.115)) and all financial reports filed with the Board shall be prepared in accordance with generally accepted accounting principles ("GAAP"). Second, the proposed rule would substitute the term "regulatory capital" for "regulatory net worth" and would define "regulatory capital" to mean the sum of equity capital as determined in accordance with GAAP plus certain other items as determined appropriate by the Board based on risk analysis report ("RAR"). The Board believes that these actions will aid its supervisory efforts in evaluating the viability of insured institutions and the related risk to the Corporation.

This proposal is part of the Board's comprehensive review of appropriate capital requirements for insured institutions. The Board is also proposing today amendments to its regulatory capital requirements for insured institutions. Board Res. No. 86–426, published elsewhere in the Proposed Rules section of this issue. The proposals are designed to complement each other, and to operate in tandem to further the Board's goals of more effective monitoring the condition of insured institutions and the related risks to the Corporation. The Board will consider jointly comments filed on either proposal.

DATE: Comments must be received by July 7, 1986.

ADDRESS: Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552. Public comments received on this proposal and materials referred to in the preamble of this document will be publicly available at this address.

FOR FURTHER INFORMATION CONTACT: Christine M. Gattuso, Attorney, Office of General Counsel, (202) 377–6649; Thomas R. Bloom, Professional Accounting Fellow, Office of Examinations and Supervision, (202) 377–6392; M. Christian Mitchell, Professional Accounting Fellow, Office of Examinations and Supervision, (202) 377–6837; or Robert J. Pomeranz, Senior Policy Analyst, Office of Policy and Economic Research, (202) 377–6209, Federal Home Loan Bank Board, at the above address.

SUPPLEMENTARY INFORMATION: This proposal is adopted pursuant to the provisions of section 403(b) of the National Housing Act ("NHA"), 12 U.S.C. 1726(b), as amended by the Garn-St Germain Depository Institutions Act of 1982 ("DIA"), Pub. L. 97–320, 96 Stat. 1469, which gives the Board broad discretion to determine appropriate reserve requirements for insured institutions. Specifically, section 403(b) of the NHA requires all insured institutions to "provide adequate reserves in a form satisfactory to the Corporation, to be established in accordance with regulations made by the Corporation". Pursuant to its authority under this section, the Board established regulatory capital requirements for insured institutions and determined those components of capital which may be included in computing regulatory net worth.

Current Regulatory Practice and Net Worth Definition

Section 561.13 of the Insurance Regulations (50 FR 20,550, 20,553 (1985) and 50 FR 46,739, 46,742 (1985) (to be codified at 12 CFR 561.13)) sets forth the current definition of "regulatory net worth," which includes components of net worth as determined in accordance with GAAP as well as other components the Board has determined constitute net worth in accordance with regulatory accounting practices. The current differences in the definition and calculation of equity capital under GAAP and regulatory net worth for insured institutions reflect the fundamental distinctions in the basis and purpose of these concepts. GAAP developed to establish consistent accounting measurements and provides a uniform standard for investors and regulatory agencies to compare the financial condition of various entities. Regulatory accounting practices were developed by the Board as a supplement or substitute for GAAP in certain instances deemed appropriate to more effectively assess risk of loss to the FSLIC, to better evaluate the underlying viability of insured institutions or to establish standards where GAAP had not been clearly enunciated.

The Board recognizes that GAAP is a comprehensive basis of accounting and always has required insured institutions to prepare their financial statements on the basis of GAAP unless, by regulation or otherwise, the Board has permitted the use of regulatory accounting practices. *See* 12 CFR 563.23–3 (1985). Over a period of time, a number of concerns unique to the Board's regulatory role in evaluating risk to the FSLIC led it to permit or require insured institutions to depart from GAAP in certain instances. The Board believed that without those changes, GAAP could not fully reflect the ability of certain forms of capital to buffer the FSLIC from loss, or the risks attendant on certain transactions.

For example, certain Board-authorized practices affecting the definition of regulatory net worth evolved in response to unprecedented strains on thrift earnings and viability earlier in this decade, when rate deregulation and soaring interest rates severely eroded the value of the business' predominantly long-term, fixed-rate mortgage portfolio. The Board recognized that the state of the industry at the time and the uncertain economic environment made it very difficult for most insured institutions to obtain added capital through the issuance of those instruments which traditionally have constituted the capital accounts of insured institutions. Given the need to maintain public confidence in the industry during a period of financial and operational transition and the need to more precisely monitor the viability of the industry, the Board found it was appropriate to include in regulatory net worth certain items which served to buffer institutions and the FSLIC from losses, but which did not comprise equity capital under GAAP. *See e.g.* 47 FR 52,961 (Nov. 22, 1982) ("Appraised Equity Capital"). The Board recognized at the time that its actions were a departure from its past policy and from GAAP. *Id.*

Other regulatory practices affecting the net worth definition resulted from congressional action. Thus, by statute, Congress has mandated that for statutory and regulatory purposes mutual capital certificates and net worth certificates (authorized under section 202 of the DIA) shall be included in the general reserves and net worth of insured institutions. 12 U.S.C. 1464(b)(5)(A), (B), 1726(b) (1982 & Supp. II 1984)). These items, however, do not qualify as equity capital under GAAP.

A third category of regulatory practices affecting net worth include those designed to provide specific guidance during periods when GAAP had not yet been established for certain transactions. This was the case, for example, when the Board adopted accounting guidelines for insured institution transactions in futures. *See* 12 CFR 563.17–4(a) (1985).

Finally, the Board adopted certain other practices affecting net worth because of its view that GAAP did not accurately reflect the economic risks to institutions, and to the FSLIC, which might result from certain transactions. *See e.g.*, 50 FR 53,275 (Dec. 31, 1985) ("Classification of Assets").

Purpose and Description of Proposal

Upon reconsideration of the bases for the existing variances between GAAP and regulatory accounting practices affecting net worth for insured institutions, the Board is proposing to require insured institutions to rely more significantly on GAAP in computing and reporting their financial condition and results of operations. The proposal would therefore require all insured institutions to file all financial statements, including statements of condition required pursuant to 50 FR 2,622, 2,663 (1985) (to be codified at 12 CFR 545.115), and reports to the Board, on a GAAP basis with a reconciliation to regulatory capital.

In conjunction with this GAAP reporting requirement, the proposal also restructures the definition of regulatory capital to reflect the concepts embodied in RAR, and to streamline and remove those procedures the Board no longer deems appropriate for risk analysis reporting. This feature of the proposal should ensure comprehensive disclosure and minimize any potential for confusion on behalf of the public.

This restructured definition, in the Board's view, provides the most appropriate means of integrating the benefits of GAAP and regulatory accounting practices. The proposal achieves this balance by revising the provisions of § 561.13 to define "regulatory capital" as the sum of amounts derived by adding together (1) the amount of equity capital determined in accordance with GAAP, and (2) the amount of capital representing the sum of selected components now reflected in "regulatory net worth," the total of which the Board views as appropriate supplemental indices of risk. The sum of regulatory capital so computed would be

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used to determine the institution's compliance with the Board's minimum regulatory capital requirements under § 563.13, as proposed to be amended and published elsewhere in the Proposed Rules section of this issue.

The Board also proposes to substitute the term "regulatory capital" for the term "regulatory net worth" in § 561.13. This change recognizes that the term "regulatory net worth" does not precisely parallel "net worth" or "equity" as defined by accounting literature, and reaffirms the Board's discretion to define the components of regulatory capital for purposes of its regulations, in a manner most appropriately suited to the objectives and responsibilities of the Board. The proposal would also amend Chapter V to clarify that all existing references in the Board's Regulations to "regulatory net worth" and "net worth" shall be construed to mean "regulatory capital."

The Board's modifications to GAAP are commonly referred to in the industry as "regulatory accounting practices," "regulatory accounting principles," or "RAP." Further, certain memoranda of the Board's Office of Examination and Supervision refer to this regulatory body of accounting as RAP. The Board recognizes that regulatory accounting guidelines do not constitute a comprehensive basis of accounting, and could prove misleading if categorized as "accounting principles." Thus, consistent with its goal of reaffirming the district purposes and functions of GAAP and regulatory risk analysis, this preamble as well as the proposed regulatory language substitute the term "risk analysis reporting" for "regulatory accounting practices" in describing the Board's modification of GAAP in determining the capital components considered appropriate for evaluating risk to the FSLIC.

A. Reporting in Accordance with GAAP

To assure consistency with the elements of the proposal affecting the components of regulatory capital, the Board is proposing to amend § 563.23–3 to require that all financial statements issued by insured institutions (including statements of condition required to be made publicly available pursuant to 50 FR 2.662, 2.663 (1985) (to be codified at 12 CFR 545.115) and all financial reports filed with the Board after the effective date of any final rule adopted shall be prepared in accordance with GAAP. At the same time, given the very different purposes of GAAP and regulatory measures of net worth, the Board also recognizes that many of the concepts embodied in regulatory accounting practices and "regulatory net worth" continue to serve a useful and valid role, complementing GAAP, in evaluating the viability of insured institutions and the related risk to the FSLIC. The proposal therefore requires institutions to include in all such financial statements and reports a full and fair disclosure of the reconciliation of equity captial, as determined in accordance with GAAP, with regulatory capital, as defined herein. The Board is reviewing all reports and forms currently required to be filed by insured institutions and will be revising such reports and forms if this rule is adopted as a substantially similar final rule.

The Board believes that requiring insured institutions to prepare all financial statements and all reports to the Board in accordance with GAAP will best serve the public interest for four reasons. First, requiring insured institutions to report on this basis would provide the Board a more consistent basis for analyzing and comparing the financial statements filed by all insured institutions. Currently, institutions subject to the Securities Exchange Act of 1934 (15 U.S.C. 78a. *et seq.*) are required to file financial statements prepared in accordance with GAAP with the Board or the Securities and Exchange Commission,[1] while other institutions may file regulatory reports with the Board based on regulatory accounting practices.

Because of the predominant role of GAAP in the public disclosure and reporting of other financial institutions as well as other entities in the business community, a greater reliance on uniform reporting in accordance with GAAP should provide the Board a more consistent, comprehensive basis to monitor the performance and soundness of the industry. This should significantly enhance industry stability by providing the Board with an additional tool to analyze and address supervisory concerns.

Second, the proposal also would benefit readers and users of financial statements by providing a consistent basis for analyzing and comparing insured institutions' financial statements. Third, the requirement also would give insured institutions an improved measure of their capacity to access the capital markets. Finally, by encouraging the use of GAAP, a recognized comprehensive body of accounting, the proposal will assure consistency with the accounting practices of other sectors of the business community.

[1] *See* 50 FR 53.294, 53.296 (1985) (to be codified at 12 CFR 563c.1(a)(2)) and 12 CFR 563c.1 (1985)); 17 CFR 210.4–01 (1986).

B. Components Included in Regulatory Capital

As explained in more detail below, the proposal would define regulatory capital as the sum of: (1) Equity capital as determined in accordance with GAAP ("equity captial"), (2) items which serve as the functional equivalents of capital for the FSLIC by providing a buffer against loss, and specific capital instruments created by congressional action and Board authority ("definitional capital"), (3) certain other components of capital as the Board determines to be consistent with its risk analysis conventions, and (4) risk analysis reporting forbearances.

In connection with this definition of regulatory capital, the components of definitional capital and certain other regualtory risk analysis conventions will continue to reflect RAR based on the Board's determination that risk analysis reporting better serves the Board's goal of assessing risk of loss to the FSLIC and assessing amounts available to buffer such loss. At the same time, the Board also is proposing to eliminate many of its current risk analysis conventions because it believes that such conventions are no longer appropriate.

1. Equity Capital

The Board proposes that equity capital shall be determined in accordance with GAAP. Equity capital represents the difference between the recorded values of an institution's assets and its liabilities, as determined under GAAP.[2] *See FASB Statement of*

[2] The Board notes that institutions may continue to use "push-down" accounting as set forth in the Board's Office of Examinations and Supervision Memorandum No. R 55. Push-down accounting is the establishment of a new accounting and reporting basis for a savings and loan association in its separate financial statements based on a purchase transaction in its voting stock that results in a substantial change in the ownership of the outstanding voting stock of the association. The purchaser may be an individual, a group of individuals, a corporation, or any other entity. While "push-down" accounting is recognized under GAAP, the Board believes that while GAAP continues to evolve in this area, continued specific guidance by the Board is necessary.

Additionally, the Board notes that insured institutions will continue to use the Board's current accounting procedures for wash sale transactions as set forth in the Board's Office of Examinations and Supervision Memorandum No. T 80–8 ("T80–8). T80–8 requires institutions to recognize profit or losses from those transactions in income currently unless the gain or loss is deferred in accordance with 50 FR 20.395 (1985) (to be codified at 12 CFR 563c.14(a)) and 12 CFR 563c.14 (1985). The Board recognizes that there currently is a divergence in application of GAAP and thus, the Board believes continued specific guidance is necessary with respect to these transactions.

Financial Accounting Concepts No. 6 (December 1985), which set forth a detailed discussion of equity capital.

2. Definitional Capital

This proposed category closely parallels the provisions of current § 561.13 and would include qualified subordinated debt, qualified redeemable preferred stock, income capital certificates, mutual capital certificates, outstanding net worth certificates, pledged certificates of deposit, and other nonwithdrawable accounts (excluding any treasury shares held by the insured institution), to the extent such nonwithdrawable accounts are not included in equity capital.

In the Board's experience, the inclusion of items such as subordinated debt and redeemable preferred stock in regulatory capital has had a beneficial effect on both insured institutions and the Corporation. Structurally, these items have two characteristics important for any component of capital: (1) They are subordinate to other obligations of the insured institution and (2) their medium-to-long-term nature makes them a reliable buffer against losses. Thus, the Board believes that for purposes of risk analysis these items should continue to be included in regulatory capital.[3] In the Board's view, these components, although not equity capital under GAAP, provide the FSLIC with protection analogous to traditional equity capital in the event of insolvency, and accordingly should be added to GAAP equity capital to arrive at regulatory capital.

Additionally, the Board believes that including mutual capital certificates, net worth certificates and income capital certificate in regulatory capital has also had a beneficial effect on insured institutions. Congress, by statute, has mandated that mutual capital certificates and net worth certificates shall constitute capital infusion and be included in the regulatory capital of insured institutions. 12 U.S.C. 1464(b)(5)(A), (B), 1728(b) (1982 & Supp. II 1984).[4] Income capital certificates were designed to provide a similar function.

3. Risk Analysis Reporting Pre-[Effective Date of Final Rule]

This category of regulatory capital would include only the components of risk analysis reporting permitted prior to the effective date of any final rule adopted, and for which further elections cannot be made. This category includes appraised equity capital, the deferral of certain gains and losses pursuant to 12 CFR 563c.14, and certain other practices enumerated in detail below.

a. *Appraised Equity Capital.* Under this category, an insured insititution may add to equity capital the amount of appraised equity capital as defined in 12 CFR 563.13(c), provided that the insured institution has included appraised equity capital as part of its regulatory capital prior to December 31, 1986.

The Board promulgated the appraised-equity-capital regulation in 1982 in response to serve industry-wide distress. Unprecedented losses severely depleted the industry's net worth and made it difficult for many institutions—the vast majority of which were then in the mutual form—to generate added capital through retained earnings or the issuance of traditional capital instruments. The Board determined that including this item in net worth was preferrable to forcing insured institutions that had experienced property appreciation to sell and leaseback their properties merely in order to maintain net worth. In the Board's view, during this period, such sale and leaseback transactions could have adversely affected the best interests of the association and the FSLIC fund. Moreover, the Board found that appraised equity capital represented a real, though unrealized, equity value that, in the case of merger or liquidation, would serve to protect the interests of the Corporation.

Because the rule was designed to bolster net worth during a limited recovery period for the industry, the authority to include appraised equity capital in regulatory capital was originally scheduled to expire on December 31, 1985. On October 24, 1985, by board Resolution No. 85–849, the Board extended that authority to December 31, 1986, and "grandfathered" elections under the appraised-equity-capital regulation so that insured institutions could continue to receive the benefit of the election after the provision expires. *See* 50 FR 45,986 (Nov. 6, 1985).

The Board believes that the current expiration date for the use of the appraised equity capital rule is appropriate. To avoid undue hardship for those institutions who relied on the rule, however, the proposal would permit those insured institutions that inlcuded appraised equity capital in their regulatory capital prior to December 31, 1986 to continue to include that appraised equity capital in their regulatory capital after the effective date of a final rule.

b. *Deferral of Loan Gains and Losses.* The proposal would also permit an insured institution, in computing its regulatory capital, to continue to exclude the unamortized amount of loan gains and to include the unamortized amount of loan losses, which were deferred pursuant to 12 CFR 563c.14, provided that the insured institution has excluded such gains and included such losses, in computing its regulatory capital prior to the effective date of a final rule. The Board originally authorized such deferrals of loan gains and losses in computing regulatory capital to facilitate the restructuring of insured institutions' portfolios. *See* 46 FR 42,275 (Aug. 20, 1981). The Board believes that insured institutions have had adequate time to achieve this purpose. The proposal therefore authorizes such gain and loss deferrals as a component of regulatory capital only if and to the extent that the insured institution has excluded such gains and included such losses prior to the effective date of a final rule.

In the Board's view, continued availability of this regulation until the effective date of a final rule and the current economic conditions provide insured institutions an opportunity to complete restructuring plans which depend on such factors.

c. *Miscellaneous.* In addition to the items referenced above, the proposal also would permit an insured institution to continue to include in regulatory capital amounts reflecting the RAR/GAAP differential for specific items provided that the insured institution elected to use RAR for these items prior to the effective date of a final rule. Under the proposal, an insured institution would include in its regulatory capital the amount representing the RAR/GAAP differential for the following items: accounting for the sale of real estate developed by the association or its subsidiary (12 CFR 563.23–1(f) (1985)), futures transactions (12 CFR 563.17–4(g) (1985)), and accretion of discounts and amortization of premiums on securities (12 CFR 563.23–1(a)(b) (1985)).

As discussed more fully below in subpart C, the Board is proposing to eliminate future RAR elections for these

[3] The Board notes that other financial regulatory agencies advocate the use of subordinated debt for these same reasons. *See* 50 FR 18,057 (April 24, 1985) (Federal Reserve System), 50 FR 11,128 (March 19, 1985) (Federal Deposit Insurance Corporation), and 50 FR 10,307 (March 14, 1985) (Office of the Comptroller of the Currency).

[4] For a detailed discussion of the Board's reasoning for originally including the items designated in this proposal as definitional capital as part of "regulatory net worth" *see* 50 FR 20,550 (May 17, 1985) (subordinated debt); 50 FR 46,739 (Nov. 13, 1985) (redeemable preferred stock); 45 FR 82,154 (Dec. 18, 1980) (mutual capital certificates); and 47 FR 58, 219 (Dec. 30, 1982) (net worth certificates)

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items and to prospectively require insured institutions to account for such items under GAAP. The Board recognizes, however, that insured institutions currently may be accounting for these items under existing RAR and that treatment under proposed RAR may affect the amounts includable in regulatory capital for a period of years. For example, an insured institution may have elected in 1984 to accrete discounts on certain securities in accordance with RAR over a ten-year period. Under the proposal, the institution would be allowed to include in regulatory capital the amount representing the RAR/GAAP differential for the accretion of the discounts with respect to those securities through 1994. However, no future elections of RAR for these items would be permitted after the effective date of a final rule. The Board specifically seeks public comment on the appropriateness of including the RAR/GAAP differential amount of these miscellaneous items in the computation of insured institutions' regulatory capital.

4. Risk Analysis Reporting Post—[Effective Date of Final Rule]

The Board is also proposing to allow insured institutions to continue to include in their regulatory capital after the effective date of any final rule an amount which represents the difference between the treatment of certain items under GAAP and the treatment of those same items under RAR. Under the proposal, an insured institution would compute the items in this category under both RAR and GAAP for purposes of regulatory capital. The amount which represents the RAR/GAAP differential for a particular item would be added to or substracted from equity capital to arrive at regulatory capital. The Board believes that continuing to supplement GAAP with RAR with respect to these items will provide the Board with a more effective tool for analyzing risk of loss to the FSLIC.

First, this category would include amounts reflecting the RAR/GAAP differential treatment of loan origination and commitment fees pursuant to 12 CFR 563.23–1(f)(3) (1985).[6] The Board notes that the Financial Accounting Standards Board ("FASB") is in the process of changing GAAP for loan origination and commitment fees. However, the extent of the FASB's proposed changes and their resultant effect on the industry are unknown at this time. The proposal therefore authorizes continued use of the accounting procedures set forth in § 563.23–1(f)(3) with respect to these fees for purposes of determining regulatory capital until such time as the Board reevaluates the practicality of its continued use.

The second item in this proposed category is the amount of the RAR/GAAP differential in the treatment of gains or losses realized on options transactions pursuant to 12 CFR 563.17–5(g). *See* 50 FR 53,336, 53,340 (Dec. 31, 1985). The Board is proposing to allow the continued use of RAR with respect to options transactions because GAAP in this regard has not yet been defined by an authoritative body, such as the FASB or the AICPA. While the Board proposes to continue to specify regulatory accounting procedures in this area, the Board notes that the comment period for its proposed rule on accounting for options (50 FR 53,336 (Dec. 31, 1985)) has expired and that a final rule may change existing accounting procedures in this area.

The Board also proposes to continue use of RAR with respect to recordation of loss reserves pursuant to its classification of assets rule,[6] reevaluation of assets; adjustment of book value; and adjustment charges [7] and accounting for uncollectible interest with respect to 1–4 family mortgage loans pursuant to 12 CFR 563c.11. The Board's regulations in these areas are more restrictive than GAAP, and, consequently, an institution may be required to record a larger loss reserve than that required under GAAP.[8] In the Board's experience, GAAP understates the loss exposure to the FSLIC with respect to these items and, therefore, the Board believes that retention of RAR will serve to reduce the risk of loss to the FSLIC.

For example, § 563c.11 provides that any uncollected interest on certain loans [9] which have any portion due but uncollected for a period in excess of 90 days shall be classified as uncollectible, and, therefore, not included in an institution's net income or regulatory capital. Under GAAP, the accrual of interest on delinquent loans is discontinued when it is probable that the interest will not be received. GAAP relies heavily on management's judgment as to the probability of collection of delinquent interest. The Board believes that its regulations represent a conservative, objective accounting practice which provides insured institutions, their accountants, and the Board with uniform standards to evaluate uncollected interest on an industry-wide basis. In its experience, the Board has found that the regulation assists in the analysis of loan portfolio quality and institution collection policy. Additionally, the regulation prevents overstatement of income through long-term accrual of uncollected interest, which potentially could undermine the integrity of financial statements and reports. Thus, the Board proposes to retain its regulatory guidelines in this area.

While the Board has initially determined to permit continued adjustments to regulatory capital for these items, it may determine at a later date to adjust RAR to include or exclude certain other items as the Board determines to be appropriate for risk analysis.

5. Risk Analysis Reporting—Forbearances

The Board is also proposing to allow insured institutions to include in their regulatory capital after the effective date of a final rule additional items reflecting forbearances previously authorized, or which may be authorized in the future, by the Corporation, the Board, or the Principal Supervisory Agents. Most of the forbearances included in this category result from FSLIC merger transactions. In order to facilitate the acquisition of a troubled insured institution, the Principal Supervisory Agent or the Corporation, with Board approval, will in certain cases approve regulatory treatment for specific transactions which departs from GAAP. The Board believes that such forbearances are often required to facilitate the acquisition of a failed institution. Such forbearances are directly relevant to effective supervision and monitoring of risk to the FSLIC, and should be governed by risk analysis reporting. Thus, the Board believes it is in the best interests of the FSLIC fund and the thrift industry to continue to allow RAR in those instances where forbearance is authorized.

C. Elimination of Certain Risk Analysis Reporting Requirements

The Board proposes to eliminate altogether prospective authority for insured institutions to rely on five other accounting procedures heretofore permitted by the Board which represent departures from GAAP. By requiring

[6] The Board's accounting procedures with respect to loan origination and commitment fees are currently set forth in § 563.23–1(g)(3). If this proposal is adopted in final, paragraph (g) would be redesignated as paragraph (f).

[6] 50 FR 53,275 (1985) (to be codified at 12 CFR 561.16c, 571.1a).

[7] 50 FR 53,275 (1985) (to be codified at 12 CFR 563.17–2).

[8] *See e.g.*, 50 FR 53,275, *supra*.

[9] *See* 12 CFR 563c.11(b) (1985).

insured institutions to report the following items in accordance with GAAP, the proposal will afford the Board a more effective means of monitoring the effect of such transactions on institutions' condition for the reasons discussed below.

1. Sales of Real Estate Developed by the Association or its Subsidiary

The proposal would eliminate the Board's accounting regulations at 12 CFR 563.23–1(f) and require insured institutions and their service corporations to account for the sales of such real estate in accordance with GAAP. When the Board promulgated regulatory accounting procedures for this area, insured institutions were subject to more rigid downpayment requirements due to regulatory restrictions on loan-to-value ratios. Consequently, RAR was more restrictive than GAAP. The Board noted at the time that it would continue to review its accounting procedures in this area as GAAP evolved. Subsequently, the Board eased its loan-to-value requirements for real estate loans and, as a result, RAR became more liberal than GAAP. (*See* 48 FR 23,032, 23,037 (May 23, 1983)). The Board's supervisory experience indicates that GAAP now more consistently reflects the attendant risks to the FSLIC with respect to these sales of real estate. As a result, the proposal requires institutions to record the sale of such real estate in accordance with GAAP. *See FASB Statement of Financial Accounting Standards No. 66.*

2. Marketable Equity Securities

Under RAR (as set forth in the Board's "Examinations Objectives and Procedures" manual), institutions may record and carry marketable [10] equity securities at historical cost. GAAP, on the other hand, requires institutions to record and carry defined marketable equity securities at the lower of aggregate cost or market value. In the Board's experience, the variance from GAAP in this area does not result in increased protection to the FSLIC. The Board believes that GAAP more accurately reflects the risk to the FSLIC attendant in such transactions and therefore proposes that insured institutions record marketable equity securities in accordance with GAAP. *See FASB Statement of Financial Accounting Standards No. 12.*

3. Futures Transactions

The Board is proposing that institutions determine gains or losses arising from futures transactions in accordance with GAAP. When the Board developed RAR in this area, GAAP for such transactions had not been established. Because GAAP now provides definitive rules with respect to futures transactions, continued reliance on RAR is no longer appropriate. Accordingly, the Board is proposing to amend 12 CFR 563.17–4(g) to remove the accounting procedures for futures transactions. *See FASB Statement of Financial Accounting Standards No. 80.*

4. Accretion of Discounts on Securities and Amortization of Premiums on Securities

The Board is proposing to eliminate RAR in this area. Under the Board's regulations, premiums and discounts must be amortized or accreted over the life of the security or 10 years, whichever is less. GAAP currently requires that such items be amortized or accreted over the estimated life of the security. The Board now believes that the distinction between GAAP and RAR in this area is inconsequential. The Board believes that, to the extent that GAAP fully addresses a particular transaction and the attendant risks to the FSLIC, use of GAAP is preferable in order to promote uniform reporting standards. Thus, the Board is proposing to amend 12 CFR 563.23–1 to require that such premiums and discounts be determined in accordance with GAAP. *See FASB Statement of Financial Accounting Standards No. 65.*

5. Accounting for Gains and Losses With Respect to Transactions in Securities

The Board also is proposing to remove the accounting procedures set forth in 12 CFR 563.23–2 (1985). This section was promulgated in 1969 and provided for the deferral and amortization of gains and losses on the disposition of securities made for purposes of meeting the Board's liquidity requirements during the period beginning on December 11, 1969 and ending December 31, 1971. The regulation permitted such deferral and amortization only for a period of ten years from the dates referenced above, and is therefore obsolete. Accordingly, the Board is proposing to amend Part 563 by removing section 563.23–2.

The Board is providing a 60-day comment period for this proposal. Comment is invited on all aspects of the proposal, including the appropriateness of greater reliance on reporting in accordance with GAAP by insured institutions, the elements of regulatory capital as proposed and any recommended revisions to the proposal which would further the Board's stated goals of enhancing industry stability, improving accounting disclosures and more effective supervision, and maintaining a consistent, comprehensive basis for evaluating risk to the FSLIC.

[10] "Marketable" means those securities for which prices are readily available on a national market or in the over-the-counter market. The Board notes that mortgage-backed securities are not considered to be marketable equity securities. *See FASB Statement of Financial Accounting Standards No. 12*, for a more detailed description of marketable equity securities.

Initial Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, 5 U.S.C. 603 the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objectives and legal basis underlying the proposed rule.* These elements are incorporated above in the **SUPPLEMENTARY INFORMATION** regarding the proposal.

2. *Small entities to which the proposed rule would apply.* The proposed rule would apply to institutions whose accounts are insured by the FSLIC.

3. *Impact of the proposed rule on small institutions.* The proposed rule would not have a substantial impact on small insured institutions.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that duplicate, overlap, or conflict with this proposal.

5. *Alternatives to the proposed rule.* There are no alternatives that would be less burdensome than the proposal in addressing the concerns expressed in the **SUPPLEMENTARY INFORMATION** set forth above.

List of Subjects in 12 CFR Parts 541, 545, 561, 563, and 570

Accounting, Bank deposit insurance, Consumer protection, Credit, Electronic funds transfers, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings and loan associations.

Accordingly, the Board hereby proposes to amend Parts 541 and 545 of Subchapter C; Parts 561, 563, and 570 of Subchapter D, Chapter V; and references contained in Chapter V, Title 12, Code of Federal Regulations, as set forth below.

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

1. Amend this Chapter V by removing the phrases "net worth" and "regulatory net worth" wherever they appear in this Chapter and by inserting, in lieu thereof, the phrase "regulatory capital "

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SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

PART 541—DEFINITIONS

2. The authority citation for 12 CFR Part 541 is revised to read as follows:

Authority: Sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425a); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–48 Comp., p. 1071.

3. Revise § 541.17 to read as follows:

§ 541.17 Regulatory capital.

Any reference to the terms "net worth" or "regulatory net worth" included in this subchapter shall mean "regulatory capital" as defined in § 561.13 of this Chapter.

§ 541.20 [Amended]

4. Amend § 541.20 by removing the authority citation located at the end of the section.

PART 545—OPERATIONS

5. The authority citation for 12 CFR Part 545 continues to read as follows:

Authority: Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 3 CFR, 1943–1948 Comp., p. 1071, unless otherwise noted.

6. Amend § 545.115 by revising paragraph (b) to read as follows:

§ 545.115 Statement of condition.

* * * * *

(b) Format. The information set forth in a Statement of Condition shall be presented in accordance with generally accepted accounting principles and shall include a full and fair disclosure of the reconciliation of equity capital, as determined in accordance with generally accepted accounting principles, with regulatory capital, as defined in § 561.13 of this chapter.

* * * * *

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

7. The authority citation for 12 CFR Part 561 continues ot read as follows:

Authority: Pub. L. 95–147 of Oct. 28, 1977, Sec. 4, 82 Stat. 858, sec. 4, 80 Stat. 824, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425a, 1425b, and 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 202, 90 Stat. 1469; sec. 409, 94 Stat. 160; secs. 401–407, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071, unless otherwise noted.

8. Revise § 561.13 to read as follows:

§ 561.13 Regulatory Capital.

Regulatory Capital is the sum of:

(a) Equity capital, as determined in accordance with generally accepted accounting principles ("equity capital");

(b) Definitional Capital, which is the sum of:

(1) income capital certificates, mutual capital certificates (issued pursuant to § 563.7–4 of this subchapter), outstanding net worth certificates issued in accordance with Part 572 of this subchapter or which the Corporation is committed to purchase by virtue of § 572.1(c), pledged certificates of deposit, and any other nonwithdrawable accounts (excluding any treasury shares held by the insured institution) to the extent such nonwithdrawable accounts are not included in equity capital. *Provided,* that for any non-permanent instrument qualifying as regulatory capital under this paragraph, either (i) the remaining period to maturity or required redemption (or time of any required sinking fund or other prepayment or reserve allocation, with respect to the amount of such prepayment or reserve) is not less than one year, or (ii) the redemption or prepayment is only at the option of the issuing insured institution and such payments would not cause the insured institution to fail or continue to fail to meet its regulatory capital requirement under § 563.13 of this subchapter; and *Provided further,* that capital stock may be included as regulatory capital without limitation if it would otherwise qualify but for either (A) a provision permitting redemption, in the event of a merger, consolidation, or reorganization approved by the Corporation where the issuing institution is not the survivor, or (B) a provision permitting a redemption where the funds for redemption are raised by the issuance of permanent stock;

(2) (i)Subordinated debt securities issued pursuant to § 563.8–1 of this subchapter: *Provided,* that an institution whose application to include subordinated debt in net worth pursuant to § 563.8–1 was approved prior to December 5, 1984, shall be permitted to continue to include 100 percent of the principal amount of such subordinated debt as regulatory capital until the remaining period to maturity (or time of any required sinking fund or other prepayment or reserve allocation, with respect to the amount of such prepayment or reserve) is less than one year; *Provided further,* that an institution that had filed a substantially complete application pursuant to § 563.8–1 prior to December 5, 1984, shall be permitted to include 100 percent of the subordinated debt issued pursuant to such application as regulatory capital until the remaining period to maturity (or time of any required sinking fund or other prepayment or reserve allocation, with respect to the amount of such prepayment or reserve) is less than one year if such subordinated debt otherwise is in compliance with the requirements of § 563.8–1 and if such application is not amended in any material respect subsequent to December 5, 1984; and *Provided further,* that except as otherwise provided in this paragraph (2)(i) and unless otherwise approved by the Corporation in writing, subordinated debt securities issued pursuant to § 563.8–1 after December 5, 1984, may be included as regulatory capital only in accordance with the following schedule:

Years to maturity of outstanding subordinated debt	Percent included in regulatory capital
Greater than or equal to 7	100
Less than 7 but greater than or equal to 6	86
Less than 6 but greater than or equal to 5	71
Less than 5 but greater than or equal to 4	57
Less than 4 but greater than or equal to 3	43
Less than 3 but greater than or equal to 2	29
Less than 2 but greater than or equal to 1	14
Less than 1	0

(ii) For purposes of determining the principal amount outstanding of an obligation issued at a discount which exceeds 10 percent of the face amount, the issuing institution shall treat as principal only the gross consideration actually received upon issuance plus the accrued interest not payable until maturity, as of the date of the computation. In the case of an instrument sold at a discount which exceeds 10 percent and which bears no stated rate of interest, the amount which can be added to principal each period is an amount equal to the accrued interest payable computed on the "level-yield" or "interest" method.

(iii) For purposes of computing the amount of subordinated debt includable as regulatory capital pursuant to this paragraph, the issuing institution must determine the effective maturity of each portion of the principal amount outstanding of the subordinated debt which is subject to required sinking-fund payments, other required prepayments and required reserve allocations, and calculate the percentage amount of each portion of the principal amount outstanding which may be included pursuant to the schedule set forth in this paragraph; and

(3) (i) Preferred stock that is redeemable at the option of the issuer (A) which was issued prior to July 23, 1985, or (B) which was issued after July 23, 1985: *Provided,* that the form of the security was approved prior to issuance pursuant to § 563.1 of this subchapter and states that no redemption may be made by the issuing institution if, after giving effect to such redemption, the insured institution would fail to meet its regulatory capital requirement under § 563.13 of this subchapter;

(ii) Mandatorily redeemable preferred stock which (A) was issued prior to July 23, 1985, or (B) was issued pursuant to § 563.7–5 of this subchapter, after July 23, 1985, was approved as to its form prior to issuance pursuant to § 563.1 of this subchapter, and was approved in writing by the Corporation for inclusion as regulatory capital, before or after its issuance, pursuant to § 563.7–5: *Provided,* that unless otherwise approved by the Corporation in writing, mandatorily redeemable preferred stock issued after July 23, 1985, may be included as regulatory capital only in accordance with the schedule set forth in paragraph (2)(i) of this section and consistent with the provisions of paragraphs (2)(ii) and (2)(iii) of this section:

(c) The sum of the following items determined in accordance with risk analysis reporting in effect prior to [effective date of final rule], and which an insured institution has included in computing and reporting its regulatory capital to the Corporation prior to [effective date of final rule]:

(1) Appraised equity capital (as defined in § 563.13(c) of this subchapter);

(2) The amount of unamortized loan gains and losses the exclusion or inclusion of which was deferred pursuant to § 563c.14 of this subchapter; and

(3) The amount of the following items computed by an insured institution in accordance with risk analysis reporting in effect prior to [effective date of final rule] and included in its financial statements prior to [effective date of final rule]. An institution may include an amount which represents the sum of the differences between the treatment of the following items under generally accepted accounting principles and the treatment under risk analysis reporting after [effective date of final rule]:

(i) Sales of real estate developed by the association or its subsidiary;

(ii) Futures transactions; and

(iii) Accretion of discounts and amortization of premiums on securities;

(d) The amount which represents the sum of the differences between the treatment of the following items under generally accepted accounting principles and the treatment under risk analysis reporting after [effective date of final rule]:

(1) loan origination and commitment fees calculated pursuant to § 563.23–1(f)(3) of this subchapter;

(2) gains or losses realized on options transactions pursuant to § 563.17–5(g) of this subchapter;

(3) valuation allowances established pursuant to asset classification and appraisals under §§ 561.16c, 563.17–2, and 571.1a of this subchapter; and

(4) uncollectible interest determined pursuant to § 563c.11 of this subchapter; and

(e) Risk analysis reporting for forbearances which shall include all forbearances and other practices authorized by the Corporation, the Board, or its Supervisory Agents.

(f) Notwithstanding paragraphs (a), (b), (c), (d), and (e) of this section, the term "regulatory capital" does not include any capital instrument or security which may be included as regulatory capital pursuant to any of those paragraphs if such capital instrument or security is held by a service corporations or other subsidiary, regardless of the organizational form of that entity, in which the insured institution directly or indirectly, (1) owns, controls, or holds with power to vote, or holds proxies representing, ten percent or more of the voting shares or rights, or (2) invested or contributed more than ten percent of such entity's capital, unless inclusion of regulatory capital is specifically approved by the Corporation in writing.

(g) Unless the context indicates otherwise, the term "net worth" or "regulatory net worth" wherever used in this subchapter shall mean "regulatory capital" as defined in this section, except that the term as used in § 563.8–4 shall not include items permitted to be used pursuant to § 563.13(c).

PART 563—OPERATIONS

9. The authority citation for 12 CFR Part 563 continues to read as follows:

Authority: Pub. L. 95–147 of Oct. 28, 1977, Sec. 4, 82 Stat. 858, sec. 4, 80 Stat. 824, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425a, 1425b, and 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 202, 90 Stat. 1469; sec. 409, 94 Stat. 160; secs. 401–407, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071, unless otherwise noted.

§ 563.17–4 [Amended]

10. Amend § 563.17–4 by removing paragraph (g).

11. Amend § 563.23–1 by revising paragraphs (a) and (b) to read as follows:

§ 563.23–1 Premiums, discounts, charges and credits with respect to loans; and related items.

(a) *Purchase at a premium.* A premium paid by an insured institutin in connection with acquisition of a loan shall be accounted for in accordance with generally accepted accounting principles.

(b) *Purchase at a discount.* If an insured institution purchases a loan at a discount, the discount shall be deferred by a credit to an account descriptive of deferred income and shall thereafter be credited to income in accordance with generally accepted accounting principles. For purposes of this section, a loan shall be deemed to have been purchased at a discount if the price paid by the institution for the loan is less than the amount of the loan balance. Any charges by the purchaser in connection with the purchase of a loan shall be deducted from the purchase price to determine the amount of the discount.

* * * * *

§ 563.23–1 [Amended]

12. Amend § 563.23–1 by removing paragraph (f) and redesignating paragraph (g) as paragraph (f).

§ 563.23–2 [Amended]

13. Amend Part 563 by removing § 563.23–2.

14. Amend § 563.23–3 by revising paragraph (c) to read as follows:

§ 563.23–3 Accounting Principles and Procedures.

* * * * *

(c) Prepare all financial statements and financial reports to the Corporation on the basis of generally accepted accounting principles and include in all such financial statements and reports a full and fair disclosure of the reconciliation of equity capital, as determined in accordance with generally accepted accounting principles, to regulatory capital, as defined in § 561.13 of this subchapter.

15. Amend § 563c.14 by adding a new paragraph (f).

§ 563c.14 Accounting for gains and losses on the sale or other disposition of mortgage loans, redeemable ground-rent leases, and certain securities; matching the amortization of discounts and losses.

* * * * *

(f) *'Sunset' and 'Grandfather' Provisions.* Authority to exclude the unamortized amount of gain deferrals

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and to include the unamortized amount of loss deferrals pursuant to § 561.13 in computing an institution's regulatory capital will cease as of [effective date of final rule]. Any insured institution that has excluded gain deferrals and included loss deferrals in computing its regulatory capital as of [effective date of final rule], may continue to exclude the unamortized amount of such gain deferrals and include the unamortized amount of such loss deferrals in computing its regulatory capital after [effective date of final rule].

PART 570—BOARD RULINGS

16. The authority citation for Part 570 is revised to read as follows:

Authority: Secs. 552, 559, 80 Stat. 383, 388, as amended (5 U.S.C. 552, 559); sec. 11, 47 Stat. 733, as amended (12 U.S.C. 1431(e)(2)(C); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401–403, 405, 407, 48 Stat. 1255–1257, 1259–1260, as amended (12 U.S.C. 1724–1726, 1728, 1730; sec. 414, as added by sec. 522, 94 Stat. 165, as amended (12 U.S.C. 1730g); Reorg. Plan No. 3 of 1947, 3 CFR, 1943–48 Comp., p. 1071.

17. Amend § 570.4 by revising paragraph (a) to read as follows:

§ 570.4 Regulatory Capital.

(a) The term "regulatory capital" is defined in § 561.13 of this subchapter to mean the sum of equity capital as determined in accordance with generally accepted accounting principles, definitional capital, certain other components of capital as the Board determines consistent with its risk analysis conventions, and risk analysis reporting forbearances. To the extent regulatory capital would include reserves (except specific or valuation reserves), the rules set forth in paragraphs (b) and (c) of this section shall apply.

* * * * *

§ 570.11 [Amended]

18. Amend § 570.11 and § 570.12 by removing the authority citations located at the end of the sections.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-9915 Filed 5-2-86; 8:45 am]

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12 CFR Parts 561, 563 and Ch. V

[No. 86-426]

Federal Savings and Loan Insurance Corporation; Regulatory Capital Requirements of Insured Institutions

Dated: April 24, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed Rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as the operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), is proposed to amend its regulations pertaining to the level of and the method for calculating the minimum amount of regulatory capital [previously referred to as "regulatory net worth" or "net worth"] required for all institutions whose accounts are insured by the FSLIC ("insured institutions" or "institutions"). Based upon its supervisory experience and analysis of the industry's capital needs, the Board is proposing to revise and simplify the structure of its current net-worth regulation[1] to increase insured institutions' capital requirements to 6 percent of total liabilities over a six-year period with certain risk-related credits and incremental capital requirements (qualifying balance deductions and contingency components, respectively) applied to specified types of assets and liabilities. This proposed Board action would provide better protection for insured institutions, depositors, and the FSLIC deposit insurance fund from interest-rate risk, credit risk, and other conditions in the current financial environment that could compromise thrifts' financial stability.

If adopted as a final rule, this change would take effect beginning with the fourth quarter of this year (beginning October 1, 1986). Institutions would be required to satisfy these increased capital requirements for the first time on December 31, 1986, the last day of the fourth quarter of calendar year 1986. Institutions would be required to capitalize liability growth on or after October 1, 1986 at 6 percent, but could attain the 6 percent requirement for levels of liabilities existing prior to October 1, 1986 over six years.

DATE: Comments should be received by July 7, 1986.

ADDRESS: Send comments to the Director, Public Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at the above address. Economic studies upon which this regulation relies in part also will be available for public inspection, and any additional relevant studies also will be made available upon completion.

[1] Board Res. No. 85-798, 50 FR 6991 (Feb 19, 1985) ("net-worth regulation").

FOR FURTHER INFORMATION CONTACT:

Base and Liability Components: John F. Connolly, Attorney, Regulation and Legislation, Division, Office of General Counsel (202) 377-6455;

Contingency Component: Sandra L. Richardson, Assistant Director, Regulations and Legislation Division, Office of General Counsel (202) 377-6446;

Qualifying Balance Deduction: Wendy Samuel, Deputy Director, Regulations and Legislation Division, Office of General Counsel (202) 377-6445;

Redefinition of Regulatory Capital: Christina Gattuso, Attorney, Regulations and Legislation Division, Office of General Counsel, (202) 377-6649;

Economic Questions, Statistical Studies: Donald J. Bisenius; Research Economist; Office of Policy and Economic Research (202) 377-6766; and

All other aspects not specifically listed above: Gwenn L. Hibbs, Director (202) 377-7054, or John F. Connolly, Attorney (202) 377-6455, Regulations and Legislation Division, Office of General Counsel.

SUPPLEMENTARY INFORMATION: This regulation is revised pursuant to the Board's general authority under the National Housing Act ("NHA") and specifically under section 403(b), 12 U.S.C. 1726(b), as amended by the Garn-St Germain Depository Institutions Act of 1982 ("DIA").[2]

Overview

Adequate capital is a crucial factor in assuring the viability of insured institutions and shielding the FSLIC fund from excessive losses. First, adequate capital enhances stability by allowing thrifts to absorb losses in the value of their portfolios resulting from adverse economic factors. Furthermore, by limiting the extent of leveraging firms can undertake, higher capital ratios encourage prudent risk-taking. Higher capital requirements also stimulate more effective monitoring and control of management by thrifts' shareholders by forcing such shareholders to bear a higher proportion of the losses that result from risky investments or excessive growth.

The current net-worth regulation increased FSLIC-insured institutions' average regulatory capital requirements from approximately 1.8 percent as of December 31, 1984 to 2.9 percent as of December 31, 1985. The Board believes that further increasing this general

[2] Pub. L. 97-320, § 202(d) Stat. 1469, 1492.

capital requirement to 6 percent over time is appropriate to afford insured institutions, their depositors, and the FSLIC a more effective buffer against the risk inherent in the deregulated and highly competitive environment for thrift operations. The Board further believes that it is appropriate to adjust the 6 percent capital requirement to the extent that insured institutions reduce the risk (as reflected by their qualifying balances) or increase such risk (as reflected by their contingency factors and their rates of growth).

Immediate attainment of this level of capitalization is not feasible for a substantial number of institutions with the exception of those institutions that are currently required to have capital at or near the 6 percent level.[3] Accordingly, the proposal permits insured institutions to phase up to the 6 percent capital standard on their levels of liabilities existing prior to October 1, 1986 over a six-year period on a straight-line basis. To secure the maximum feasible benefits of increased capital on operations without undue disruption, this proposal requires institutions to capitalize liability growth over the institutions' levels as of October 1, 1986 at 6 percent. At moderate growth rates and current levels of profitability, the large majority of insured institutions should be able to meet the 6 percent regulatory capital requirement (before risk adjustment) over six years.

The Board is also proposing to modify the contingency factor of the current net-worth regulation to require: (1) 10 percent incremental capital on all direct investments; (2) 4 percent incremental capital on land loans and nonresidential construction loans; and (3) 2 percent incremental capital on letters of credit. The Board also proposes to recognize to a greater extent the risk reduction achieved by an institution holding a maturity-matched portfolio of housing-related investments with limited credit risk. Accordingly, the proposal modifies the qualifying balance deduction by decreasing an institution's capital requirement by an amount equal to the sum of: (1) 2 percent of the institution's eligible liquid assets; (2) 1 or 2 percent of the institution's qualifying adjustable-rate mortgages ("ARMs") depending on the ARMs' remaining adjustment level; (3) 2 percent of fixed-rate liabilities with remaining maturity of 3 years or more (the dollar weighted average remaining term-to-maturity of liabilities used in this exclusion must be at least 5 years) for which the institution has a corresponding amount of fixed-rate permanent 1–4 family residential mortgages or mortgage-backed securities (as defined in 12 U.S.C. 1464(c)(1)(S)) with equal or greater maturity; and (4) 2 percent of fixed-rate permanent 1–4 family residential mortgages or investment-grade mortgage-backed securities with remaining contractual term-to-maturity of two years or less.

The proposal also places a limitation on these qualifying balance deductions. For the first three years after the effective date of any final regulation adopted, an institution could not reduce its regulatory capital below 3 percent. During the fourth through sixth years, an institution could not reduce its minimum amounts of regulatory capital below 4 percent. After the sixth year an institution's minimum amount of regulatory capital could not drop below 5 percent.

The Board's proposal also would eliminate from its current net-worth regulation (1) the amortization factor; (2) the sliding-scale growth factor, (3) the current base factor calculation; and (4) the preferential growth treatment of institutions with assets of $100 million or less.

Related Regulatory Action

In addition to proposing this regulation, the Board today also is proposing amendments to its insurance regulations that would define regulatory capital in accordance with generally accepted accounting principles ("GAAP"), as modified by the Board to reflect regulatory risk. *See* Board Res. No. 86-427, published elsewhere in the Proposed Rule section of this issue. The proposal would also require insured institutions to prepare in accordance with GAAP all financial statements and financial reports which the Board requires to be issued to the public or submitted to the Board. Because defining regulatory capital is closely related to this proposed revision to the minimum required amount of regulatory capital, the Board will consider jointly comments filed on either proposal.

Prior Reserve and Net-Worth Regulations

From the time of its enactment in 1934 until 1980, Section 403(b) of the NHA, 12 U.S.C. 1726(b), contained a requirement that institutions establish a Federal insurance reserve of 5 percent of their insured accounts ("statutory reserve requirement"). Since the 1950's, the Board incorporated this statutory reserve requirement in its regulations and adopted its own regulatory reserve requirements. Most of the regulatory reserve accounts, plus other state-required reserves, could be used to satisfy the statutory reserve requirement. An institution could use five-year averaging and 20-year phase-in techniques to satisfy this requirement. One early regulatory reserve requirement, adopted by the Board in 1956, required institutions annually to credit 10 percent of their net income to reserves until their reserves equalled 12 percent of their insured accounts. Board Res. No. 9826, 21 FR 5483 (July 21, 1956). The requirement for a periodic net income credit to institutions' reserve accounts was preserved until 1972, but the criteria triggering the credit requirement were modified several times. In 1963, for example, the credit requirement was imposed when an institution's adjusted net worth was less than 12 percent of its "risk assets" (defined as total assets less cash, government obligations, Federal Home Loan Bank ("FHLB") stock, prepaid FSLIC premiums, and 60 percent of investments in insured and guaranteed loans). Board Res. No. 63-1712, 29 FR 45 (Jan. 3, 1964). Pursuant to that regulation, if an institution's adjusted net worth was less than 8 percent of its risk assets, its required credit-to-reserves ratio was the greater of 10 percent of its required net income or 6 percent of its growth in risk assets.

In 1972, the Board replaced the requirement to credit a portion of net income to reserves with a requirement that an institution maintain net worth equal to the greater of (1) 5 percent of insured accounts, plus 20 percent of scheduled items, or (2) the amount determined by the so-called Asset Composition and Net-Worth Index ("ACNWI"). The ACNWI assigned minimum net-worth percentages to specific types of assets, including real estate held for development or investment (7 percent) and investments in service corporations (10 percent). Board Res. No. 72-1415, 37 FR 26579 (Dec. 14, 1972).

In 1980, the Depository Institutions Deregulation and Monetary Control Act of 1980, [4] amended section 403(b) of the National Housing Act by replacing the former statutory reserve requirement of 5 percent of insured accounts with a range of 3 percent to 6 percent of insured accounts, with the specific percentage to be established by Board regulation. Following this amendment, the Board exercised its expanded discretion by establishing 4 percent of

[3] These include "de novo" institutions, and institutions that were previously insured by the Federal Deposit Insurance Corporation ("FDIC") or private-insurance systems and that converted to FSLIC insurance.

[4] Pub. L. No. 96-221, 94 Stat. 132.

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insured accounts as the minimum reserve level needed to satisfy the statutory reserve requirement. Board Res. No. 80-694, 45 FR 76111 (Nov. 18, 1980). it simultaneously eliminated the former net-worth requirement of 5 percent of insured accounts and replaced it with a new liability-based test since the Board recognized that changed economic conditions, including greater competition for deposits, would cause institutions to issue securities and types of liabilities other than traditional deposits as sources of funds. That regulation required institutions to have net worth equal to at least 4 percent of liabilities. In 1982, the Board further exercised its statutory authority by reducing the reserve requirement to 3 percent of insured accounts and the net worth requirement to 3 percent of liabilities. Board Res. No. 82-19, 47 FR 3543 (Jan. 26, 1982). Both this 3 percent requirement and the earlier 4 percent requirement were calculated using 5-year-averaging and 20-year phase-in methods and permitted institutions to use the items in their net worth to satisfy their reserve requirements with the exception of subordinated-debt securities and specific-loss reserves. In adopting this reduction the Board found that it was unrealistic to impose higher reserve and net-worth requirements in the economic environment at that time and also stated that "many institutions are facing operating losses resulting almost exclusively from the disparity between the relatively low return received on their asset portfolio and the considerably higher return [paid] on their liabilities." The Board further concluded that "such losses are therefore largely beyond the current control of the institution." 47 FR at 3543.

The DIA gave the Board further discretion to set reserve standards by eliminating any specific statutory reserve range from 12 U.S.C. 1726(b) and left the Board discretion to establish such "adequate reserves" requirements as it considered satisfactory. DIA § 202(d). This action by Congress authorizes the Board to raise, as well as to lower, reserve requirements when necessary or appropriate.

These actions of Congress and the Board in the early 1980's in response to the industry's deteriorated financial condition directly resulted in significantly reducing the amount of capital that institutions were required to hold. The continued use of twenty-year phase-in and 5-year-averaging greatly exacerbated this situation. By December 1984, some institutions had minimum capital requirements of less than 1 percent of liabilities.

By adopting the current net-worth regulation in January 1985, the Board used its authority to reverse this trend. In response to the high-risk strategies and excessive leveraging that low levels of capital encourage, the Board increased its minimum net-worth requirements and structured the system of risk incentives and disincentives contained in the current regulation. The revised net-worth requirements were designed to enhance stability by discouraging growth at above-normal rates without sufficient capital to support such growth, and by discouraging excessive direct investments unsupported by adequate capital.

The Current Net-Worth Requirement

Insured institutions' minimum net-worth requirements are currently calculated using a four-factor formula. The four factors include a base factor, an amortization factor, a contingency factor, and a growth factor. Institutions' 1986 base factors are based on their minimum net-worth requirements as of December 31, 1985, including their 1985 growth factors and amortization factors but excluding their contingency factors and deductions for their qualifying balances. The amortization factors gradually eliminate the effects of using five-year-averaging and 20-year phase-in techniques on pre-1985 liabilities (these techniques were used in deriving the 1985 base factors from institutions' 1984 net-worth requirements). To phase out these techniques, the current rule requires institutions to have adequate net-worth to satisfy their amortization factors, which are calculated for each quarter (for twenty quarters beginning in March 1985) by adding 1/20 of the difference between 3 percent of their 1984 liabilities and their 1985 base factors. Their contingency factors are found by summing: (1) 2 percent of loans sold with recourse against the institution; (2) 10 percent of direct investments (excluding grandfathered investments) that exceed the greater of 10 percent of assets or twice regulatory net worth; and (3) 20 percent of scheduled items.

In general, under the current net-worth regulation growth factors vary on a sliding scale from 2.35 to 5 percent depending on an institution's size (treatment differs for an institution with $100 million or less of assets) and growth rate calculated on the basis of the institution's increase in total liabilities from the beginning of a calendar year to the end of the quarter for which the computation is made. If the institution has zero or negative growth, it receives a credit in the fourth quarter equal to the decline in liabilities multiplied by a fraction the numerator of which is the base factor at the beginning of the calendar year and the denominator of which is total liabilities as of the close of business of the last day of the preceding calendar year.

After summing these four factors (base, amortization, contingency, and growth factors) the institution makes a final adjustment to determine required net worth. This adjustment is called the qualifying balance deduction. Qualifying balances include interest-bearing liquid assets, one-half of adjustable-rate mortgages, and fixed rate liability sources that have remaining term to maturity of more than five years. An institution can reduce its minimum net-worth requirement by 3 percent of qualifying balances but cannot reduce it by more than ten percent of its requirement computed absent deduction of qualifying balances.

Board's Policy Rationale for Increasing Capital Requirements

After evaluating a number of factors, the Board believes that the current capital level of the industry is too low to serve as an adequate buffer against the economic and financial risk confronting insured institutions and the FSLIC.

First, institutions' capital reserves must be large enough to withstand "normal" variations in institutions' earnings. Since most financial institutions earnings are closely related to interest-rate movements, the increased volatility in interest rates since 1979 is reflected in correspondingly increased volatility in institutions' "normal" earnings. Thus, such institutions' capital buffers must protect the institutions, depositors, and the FSLIC against increased risk of financial loss stemming from interest-rate mismatches in institutions' portfolios. This risk from interest-rate fluctuations is exacerbated further by the nature of thrift portfolios, which have traditionally been composed of long-term fixed-rate assets and short-term liabilities.[5] Given the current

[5] Adjustable-rate mortgages ("ARMs") are key assets for insured institutions seeking to protect themselves from the effects of interest-rate risk, but there has been great fluctuation in their issuance and market acceptance in the last several years. Such ARMs represented approximately 45 percent of all single family conventional mortgages originated by insured institutions in January 1982. This figure dropped to about 30 percent in May 1983, but dramatically increased to 75 percent in August 1984. In March 1986, they represented about 27 percent of such mortgage originations.

interest-rate environment, the Board is concerned that unless institutions have an increased incentive to maturity match their portfolios, institutions may mismatch their return on assets and cost of funds in the same manner that led them to their financial difficulties in the early 1980s. The proposal would provide such incentives by requiring higher capital to induce management to protect their portfolios against future losses from interest-rate fluctuations, by permitting institutions to decrease their required regulatory capital through qualifying balance deductions that recognize investment and financing strategies undertaken to decrease interest-rate risk.

Second, the Board's decision to reduce reserve and capital requirements in the 1980 to 1983 period was in response to the major financial problems of insured institutions resulting from substantial negative spreads between institutions' asset yields and liability costs during that period. Current interest rates and the interest-rate spreads between institutions' assets and liabilities, however, have returned to 1978 levels thereby making it feasible for the large majority of institutions to attain a higher capital requirement over a six year period. For example, in 1981 and 1982 thrifts' average annualized cost of funds were 10.42 and 11.38 percent respectively, while their average annualized return on mortgages was 9.91 and 10.65 respectively. On the other hand, for 1984 and 1985 their average annualized cost of funds was 10.03 and 9.20 percent respectively, while their average annualized return on mortgages was significantly higher, 11.66 and 11.53 percent respectively. Furthermore, as a result of the improvement in thrifts' profits, a favorable market for thrift equity issues and the effects of the current net-worth regulation, the regulatory net worth of thrifts rose to $46.6 billion at the end of 1985, increasing thrifts' average regulatory net worth-to-assets ratio to 4.36 percent from 3.67 percent at the end of 1984. Although current spreads between thrifts' assets and liabilities are favorable to thrifts and their average net-worth ratios have increased, the fact that the interest-rate environment remains highly volatile by historical standards damands that increased capital cushions be developed while feasible to protect against future adverse interest-rate movements.

Third, the far more competitive environment in which thrifts operate necessitates greater minimum capital requirements. Insured institutions have in recent years been required to compete with other types of financial institutions by offering high investment yields in order to attract and retain deposits and capital. This competitive environment reduces operating margins and increases the need for additional capital to buffer potential losses.

Fourth, the new expanded asset powers of federally–and state–chartered insured institutions have provided beneficial diversification opportunities for insured institutions, but have also increased the risk-taking opportunities of such institutions. Some institutions that have exercised these expanded asset powers without adequate risk evaluation or protection have developed severe asset-quality problems that until recently had not existed to any substantial extent in the thrift industry. Four years ago roughly 80 percent of FSLIC's cases were primarily caused by interest-rate-problems, while 20 percent were due primarily to asset-quality problems. Recently that ratio has almost completely reversed itself to 30 percent interest-rate-spread problems and 70 percent asset-quality problems. This is particularly significant because resolution of asset-quality problems is substantially more costly for the FSLIC. Given the crucial role that capital plays in influencing firms' risk-taking behavior, the Board believes that higher capital requirements will result in prudent use of expanded asset powers.

Finally, raising industry capital requirements is appropriate in view of the commercial lending powers granted to insured institutions by the DIA and state legislation. Currently, commercial banks are required to maintain significantly higher capital ratios than thrifts. The Federal bank supervisory agencies (the Federal Reserve Board, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation) all generally require ratios of total capital to total assets of not less than 6 percent, with required ratios of primary capital to total assets of not less than 5.5 percent. The FDIC, as did the other banking regulators in adopting these standards, fully considered and discussed the needs of insured commercial banks for the levels of capital in the interest of bank safety and soundness. *See* 50 FR 11136 (March 19, 1985). The Board's current proposal would raise thrifts' capital ratio requirements toward parity with the capital ratio requirements for commercial banks. Furthermore, attaining such parity was recommended by the Bush Task Group on Regulation of Financial Services,[6] which concluded that comparable capital requirements for federally-insured banks and thrifts were appropriate to improve the overall safety and soundness of the financial system.

Liability Component

The Board is proposing to require insured institutions to have, after a six-year phase-in period, regulatory capital equal to 6 percent of all liabilities ("liability component") before adjustment for institutions' qualifying balances or contingency components, as discussed below. Institutions would have six years to achieve this capitalization rate on their level of liabilities on the proposed October 1, 1986 effective date of this regulation ("base liabilities").[7] The proposal would require institutions immediately to capitalize at 6 percent growth over their levels of total liabilities existing on October 1, 1986 ("increased liabilities"). Institutions would be required to calculate and satisfy the increased requirement both as to the first phase-in for base liabilities, as well as the 6 percent requirement on growth over base liabilities, for the first time on December 31, 1986.

Base Liabilities Amount

Institutions would determine their minimum required amount of regulatory capital for their base liabilities for a quarter ("base liabilities amount") by multiplying their base liabilities by the liability factor for that quarter. The liability factor is a percentage rate increasing from the initial rate of 3 percent by .125 percent per quarter (.5 percent per year) until reaching 6 percent in six years. For example, an institution with $100 million of liabilities on October 1, 1986, would compute its base liabilities amount for its first-quarter computation by multiplying $100 million (its base liabilities) times 3 percent (the first quarter's liability factor).

The proposal would require an institutional to maintain a base amount of regulatory capital equal to the greater of (1) 3 percent of its total liabilities or (2) the sum of its base factor, growth factor (adjusted to reflect any decrease in liabilities in 1986 computed pursuant to § 563.13(g)(4)(b)), and amortization factor under the current net-worth

[6] Blueprint for Reform: The Report of the Task Group on Regulation of Financial Services 83–84 (1984).

[7] Base liabilities would equal the book value of an institution's total liabilities on the proposed October 1, 1986 effective date and does not refer to specific liabilities on an institution's balance sheet.

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regulation as of October 1, 1986 ("October base"). Certain institutions, because of relatively higher rates of growth, will have an October base requirement exceeding 3 percent of total liabilities. The proposal would require such an institution to meet the schedule for attaining 6 percent capitalization on base liabilities only when the quarterly increase in the liability factor reaches a level that makes such an institution's required base liabilities amount exceed its October base requirement. For example, institution A may have an October base requirement of 4 percent for total liabilities. Based on increases of .5 percent a year in the liability factor, the standard industry liability factor will reach 4 percent for the quarter beginning October 1, 1986. Thus, beginning with the quarter commencing January 1, 1986, Institution A will be required to increase its liability factor at .125 per quarter and correspondingly increase its base liabilities amount to track the phase-in schedule for those institutions that would have been required initially to maintain a 3 percent base liabilities amount of regulatory capital assuming that the regulation becomes effective on October 1, 1986. Until that time, it would be required to maintain a 4 percent level.

Amortization Factor Elimination

Under the current net-worth regulation, this factor would be eliminated by 1990; the Board's proposal would eliminate it immediately. In the Board's view, continued retention of an amortization factor would inhibit progress toward the goal of 6 percent required capital. The proposed six year phase-in for requiring 6 percent capital on base liabilities provides ample time for most institutions to comply. Preserving the factor would, in effect, unjustifiably allow the five-year averaging and twenty-year phase-in techniques (the effects of which are being eliminated over five years by the amortization factor) to continue to decrease capital requirements.

Retaining this provision also would increase the need for rapid capital accumulation in the later years of the transition period. By eliminating the current amortization factor, the Board's proposal provides for an orderly transition to more appropriate capital rates.

Increased Liabilities

A. General

The Board believes that it is essential for institutions immediately to capitalize at 6 percent all liabilities in excess of their levels existing on the proposed October 1, 1986 effective date. Requiring 6 percent capital for all such increased liabilities would immediately encourage more prudent risk-taking and sounder risk underwriting, and provide better portfolio protection with regard to such growth. Furthermore, requiring institutions to capitalize all net increments to their liability bases at 6 percent would reduce the need to raise an even larger amount of capital at the end of the six year transition period for liabilities incurred during the transition period. Board experience indicates that raising such a level of capital in a short period could cause significant industry problems, especially for institutions growing at slower rates, who could be forced to raise large amounts of capital in a relatively brief time period. Such institutions might be forced to make asset sales on terms less favorable than would otherwise be deemed satisfactory. On the other hand, efforts to rapidly accumulate capital through the issuance of a high volume of securities could create a temporary market glut of such securities significantly exceeding the market demand for such securities, and thereby adversely affecting the price and marketability of such securities. The proposal averts the necessity for such a rapid accumulation of capital by requiring six percent capitalization of institutions' liability increases over current levels, as well as phasing in over six years the 6 percent requirement on current liability levels.

B. Neutral Treatment of all Institutions

The Board also is proposing to delete the special lower capital requirement for institutions with assets of $100 million or less. Under the current rule, such institutions growing at an annual rate not exceeding 15 percent may continue to use five-year averaging in computing their minimum net-worth requirements. This computation method allows institutions to average their liabilities over a five year period and to apply their capitalization requirements to this averaged number, thereby understating real growth, decreasing the institutions' capital requirements and allowing increased leverage of investments. Institutions having $100 million or less in assets are also exempt from the preapproval requirement for growth at annual rates exceeding 25 percent. The Board's supervisory experience reflects the problems that can be caused by unrestrained growth, particularly when combined with risky investments, by even very small institutions. Furthermore, the supervisory records of such institutions reflect considerable manipulation of the $100 million threshold by some of them. By eliminating preferential treatment for such institutions, the proposal will better serve the Board's goal of ensuring adequate capital levels and enhanced safety and soundness throughout the industry.

C. Pre-approval for Certain Growth Rates

The Board is concerned that a 6 percent capital requirement augmented by the contingency component, but offset by the qualifying balances deduction, may not be sufficient to prevent the harmful effects of high growth levels and to induce prudent risk-taking by insured institutions growing at high rates. Accordingly, the Board is also proposing to supplement the basic increase in capital requirements with the retention of its current growth regulation, § 563.13–1, which requires prior approval by institutions' Principal Supervisory Agents ("PSAs") for growth by institutions at rates higher than 25 percent annually (i.e., institutions with ending total liabilities on a given quarterly report that are more than 12.50 percent above total liabilities as of the beginning of that two-quarter period). The amended language of the proposed regulation would rephrase the prior requirement to prohibit institutions from increasing their total liabilities within any two quarter period at a rate greater than 12.50 without prior approval of the institution's PSAs. In addition, the proposal authorizes the PSAs of institutions growing at faster rates to require such institutions to have up to 4 percent incremental capital for such growth.

The Board believes that retaining its growth regulation, as amended, is necessary to address its continuing concerns about the inherent riskiness of rapid growth unaccompanied by an adequate capital buffer. The Board discussed extensively in the preamble to the net-worth regulation the dangers of such highly leveraged growth. *See* 50 FR at 6694–6697. Between December 1983 and December 1984, the industry's liability base grew at a rate of 19.46 percent. At the same time, its capital base grew only 11.74 percent. Most alarming was the rapid growth of institutions with low net worth. Institutions with less than 1 percent net worth at year-end 1984 had average growth in 1984 of 30.6 percent. Those with between 1 and 3 percent net worth grew at a 22.2 percent rate. The current net worth rule focused on curbing such practices by requiring institutions to earn their growth. The trend towards

unrestrained, highly leveraged growth was halted in 1985: The 1985 industry-wide rate of growth was 7.9 percent. Institutions hving less than 1 percent net worth at year-end 1984 shrunk during 1985 by 3.4 percent. Institutions with between 1 and 3 percent net worth grew by only 4.6 percent. At the other end of the spectrum, institutions with over 5 percent net worth grew at an 11.7 percent rate, down only slightly from their 15 percent rate in 1984. The Board seeks to benefit the industry by continuing to restrain highly leveraged growth.

Combining the growth regulation with a 6 percent capital requirement as adjusted for risk also will assure evenhanded treatment of all institutions during and after the six-year phase-in period and will also achieve the stated goal. In fact, the combination of the increased capital requirements and the growth regulation moots the need for a sliding scale growth factor. The proposal simply deals with varying rates of growth by different methods. First, the proposal would retain the growth regulation requiring PSA approval for growth over 12.5 percent in a two-quarter period and would authorize PSAs to require up to four percent incremental capital on growth over this level by such institutions. Institutions that grew rapidly and were subject to a 5 percent marginal capital requirement under the current net-worth regulation would have this fact reflected in their October bases. As noted previously, if an institution's October base exceeds 3 percent, it may not reduce its base liabilities amount below that level. Finaly, and most importantly for the Board's goals, institutions would have to capitalize at 6 percent any growth over existing levels on October 1, 1986. Institutions growing more rapidly than other institutions after that date would have a correspondingly higher capital requirement resulting from such incremental growth. Therefore, the Board believes that its proposal has adequate provisions to restrain highly leveraged, undercapitalized growth.

The Board specifically requests comment, however, on whether Supervisory Agents should be authorized to notify institutions within ten days of the filing of a growth plan required by § 563.13–1(b) that all requested information has been filed or that additional information is necessary. The Board has become aware that in some instances requiring PSAs to act within this ten day timeframe can be logistically difficult or create undue pressure.

De Novo Institutions

As stated above, the Board has preliminarily decided to implement a gradual transition over six years to 6 percent capital levels for all insured institutions. Given this Board goal, the Board believes that it would be inappropriate to allow institutions already required to maintain capital ratios exceeding 3 percent to retreat before moving toward 6 percent. Consistent with this preliminary determination, "de novo" institutions' liability components (*i.e.* required amount of regulatory capital on base liabilities) shall be the higher of their "de novo" requirements pursuant to § 563.13(b)(2) or six percent of total liabilities. The proposal also requires "de novo" institutions to continue to satisfy the incremental capital requirements under their contingency components and permits them to continue to incorporate the benefits of qualifying balance deductions. However, consistent with the Board's goal for all insured institutions at the end of the transition period, the proposal would not allow the minimum required regulatory capital of "de novo" institutions to fall below 5 percent after qualifying balances deductions.

For the same reasons, the proposal also mandates that other institutions currently required to meet net worth standards exceeding three percent (*i.e.*, institutions formerly insured by the Federal Deposit Insurance Corporation or by privately-funded insurance systems) maintain their liability components at the higher of their current requirements or their minimum required amounts of regulatory capital under this regulation.

Growth Through Merger or Acquisition

The Board would treat mergers (i.e. mergers, consolidations, or purchases of assets and assumptions of liabilities) and branch acquisitions (acquisitions of less than substantially all of the liabilities of institutions in which the selling institutions continue in operation as separate entities, which includes but is not limited to branch acquisitions) (hereafter referred to as "branch acquisitions") consistently with their treatment under the current net worth regulation, with modifications for consistency with changes that would be made by the proposed regulation. The minimum regulatory capital requirement, beginning in the quarter the transaction becomes effective, would be equal to the sum of each of the institutions' liability components (consisting of their base liabilities amounts plus increased liabilities amounts) and contingency components minus any qualifying balance deductions [subject to the applicable minimum requirements (three, four, or five percent depending on the number of years after the regulation's effective date, if adopted)] set forth in § 563.13(b)(1)]. "De novo" institutions and other types of institutions not subject to the standard regulatory requirements (*i.e.* former FDIC- or privately-insured institutions) will calculate their minimum required regulatory capital after mergers by combining the institutions' liability-based requirements (such as seven percent or six percent of total liabilities for "de novo" institutions) plus their contingency components minus their qualifying balances. For example, excluding contingency components and qualifying balances, if a "de novo" institution with a capital requirement of 6 percent of $300 million in total liabilities (amounting to an $18 million capital requirement) merged with another "de novo" institution with a 7 percent requirement on total liabilities of $200 million (amounting to a $14 million capital requirement) on December 31, 1986, the merged institution would have a $32 million capital requirement on combined liabilities of $500 million, for a liability-based capital requirement of 6.4 percent. The minimum required amounts of regulatory capital of such institutions, however, would not be allowed to drop below 5 percent of total liabilities after adding their contingency component amounts and subtracting their amounts of qualifying balance deductions.

In computing the minimum regulatory capital of an insured institution after it has made a branch acquisition, the base liabilities of the acquiring institution beginning in the quarter in which the transaction becomes effective shall be the base liabilities of the acquiring institution calculated to include the amount of liabilities acquired. Using that level of base liabitities, the acquiring institution would compute its minimum required amount of regulatory capital pursuant to § 563.13(b)(1). For example, if an institution with base liabilities on January 1, 1987 of $100 million (and a base liabilities amount of $3 million) acquired $10 million of liabilities on February 1, 1987, the acquiring institution's base liabilities would increase to $110 million and be subject to the 3.125 percent liability factor on March 31, 1987.

For purposes of computing institutions' growth pursuant to § 563.13–1, institutions' total liabilities as of the beginning of a two-

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consecutive-quarter period ("beginning liabilities") shall be computed as follows for branch acquisitions and mergers. First, beginning liabilities shall be deemed to include any increases in total liabilities from branch acquisitions during the two-quarter period. Second, in the case of mergers occurring during the two-quarter period, the beginning liabilities of the combined institution would be deemed to include the total liabilities of the merged and continuing institutions as of the first day of that two-quarter period.

Contingency Component

The current net-worth regulation includes a contingency factor which requires incremental capital, above, and beyond that required by application of the base factor, for certain assets that pose additional risk to insured institutions and the FSLIC. 50 FR 6891, 6911 (1985) (to be codified at 12 CFR 563.13(g)(5)). The contigency factor presently requires additional capital equal to the sum of 2 percent of recourse liabilities (as that term is defined in 50 FR 38636, 38639 (1985) (to be codified at 12 CFR 561.8)), 20 percent of scheduled items (as that term is defined in 50 FR 53275, 53282 (1985) (to be codified at 12 CFR 561.15)), and 10 percent of total direct investments made after December 10, 1984, which exceed the greater of 10% of an institution's total assets or twice its regulatory net worth. *Id.*

The Board is proposing substantial modifications to the contingency factor, and redesignating it the "contingency component", based upon its determination that the current provision does not provide a sufficient capital reserve against the risks posed by certain types of investments. The current incremental capital requirements for scheduled items and recourse liabilities would remain unchanged. The Board is proposing, however, to amend the direct-investment component of the contingency component to require 10 percent incremental capital for all direct investments, except certain "granfathered" investments made prior to December 10, 1984, by deleting from the contingency component the current provision that excludes direct investments which are less than or equal to 10 percent of an institution's total assets or twice its regulatory net worth. The Board is also proposing to include in the contingency component a 4 percent capital requirement on loans for unimproved land, developed building lots, and acquisition and development of land ("ADL") (collectively referred to as "land loans"), a 4 percent capital requirement on nonresidential-construction loans, and a 2 percent capital requirement applicable to letters of credit.

1. Direct Investment

The Board is proposing to require a 10 percent capital reserve against aggregate direct investment as defined in 50 FR 6912, 6928 (1985) (to be codified at 12 CFR 563.9–8(b)(1)). Under the current regulation, the amount of direct investment that must be included in the net worth calculation depends on the amount of such investments held by the institution on the December 10, 1984 date of publication of the proposal in the **Federal Register.** If direct investments at that time exceeded a threshold amount, direct investments made after that date are subject to a 10 percent reserve requirement. Otherwise, the current regulation assesses no capital requirement on aggregate direct investments up to the threshold amount, but direct investments in excess of such an amount require a ten percent capital reserve. On the basis of more than one year's experience with the direct investment component of the contingency factor, and statistical studies indicating that high levels of direct investments are associated with high FSLIC costs from failed institutions even if such institutions had less than the greater or twice net worth or 10 percent of assets in direct investments, the Board is proposing to extend the 10 percent reserve requirement to all direct investments, no matter when made.

The Thrift Failures Study, performed by the Bank Board's Office of Policy and Economic Research ("OPER"),[8] found that the greater the direct investments of a failed institution, the greater the losses incurred by the FSLIC. These results were statistically significant at a 95 percent confidence level. The study covered 31 institutions (all the institutions for which there were complete data on FSLIC costs) that had failed in 1982 and 1983 and which required FSLIC outlays to resolve. A second study, the FSLIC Losses Study, completed in February 1986,[9] expanded the Thrift Failures Study to include an examination of 88 institutions that failed between 1982 and 1984 and required FSLIC outlays to resolve. Again the study found that the greater the level of direct investments, the greater were the FSLIC losses when an institution failed. A study completed in April 1986, the Updated FSLIC Losses Study, used an expanded sample that included 324 institutions that failed between 1982 and October 1985 and obtained results similar to those of the earlier studies.[10] Because most of the institutions surveyed in these studies had direct investments significantly less than 10 percent of assets, the findings suggest that regardless of their level, direct investments are associated with higher FSLIC costs.

Statistical studies done by OPER also indicate that more prudent selection of direct investments—even for nondistressed thrift institutions—may be neded. In order to evaluate the effect of direct investments on the performance of thrift institutions, OPER statistically examined the effect of direct investments on net worth for a sample of 488 randomly selected thrift institutions in 1982–1984.[11] The results, again significant at a 95% confidence level, suggest that direct investments pose a threat to net worth in nondistressed as well as distressed institutions.

A further statistical study examined the effects of direct investment on net worth in 1985.[12] A study of the 1985 period is important because the 1984 adoption of the quarterly financial report ("Quarterly Report") and the 1985 requirement to report as direct investments certain ADL loans that had characteristics more like direct investments than loans [13] meant that for 1985 better data were available than in the past regarding the effect of direct investments, land loans and nonresidential-construction loans on net worth. In addition, the study used data for all FSLIC-insured thrift institutions whereas all previous studies used a smaller sample of institutions. The study found that in 1985 increases in direct investments were associated with a decline in Section H market-value net worth, suggesting that for the period studied direct investments posed a threat to thrift industry net worth. The results of this study with regard to land loans and non-residential construction loans are discussed *Infra.*

In addition to statistical studies, evidence from the Board's supervisory experience with direct investments of particular institutions has demonstrated the tremendous potential of such investments to damage net worth irreparably. For example, in an institution placed in receivership in 1985, direct real estate investments close to $240 million contributed to a negative net worth of $4 million. Another institution placed in receivership in 1985 has been required to recognize losses of more than $60 million on direct real estate investments of $170 million. Also in 1985, FSLIC made contributions to capital of an institution that had direct real estate investments of over $200 million, which required loss reserves of up to $100 million. In a large institution that was placed in receivership in 1986, direct investments constituted 8.8% of assets. The exclusion of direct investments under 10 percent of assets from the net worth calculation permitted $6.8 million to be excluded from the institution's calculation of required net worth. A higher net worth requirement reflecting these investments would have provided a significantly larger cushion for the institutions and the FSLIC.

The problem of losses associated with direct investments identified by these studies and supervisory experience is addressed to a certain extent by the classification of assets regulation recently adopted by the Board. Board Res. No. 85–1154, 50 FR 53275 (Dec. 31, 1985). This regulation requires additional net worth or the establishment of reserves for those assets which, upon examination, are found to be either nonperforming or exhibiting substantial weakness. Classification is a method for identifying, at an earlier date than is otherwise possible, assets that may result in losses, but it does not provide significant incentive for more than prudent investments. Nor does it require the institution to provide a cushion of extra capital before losses occur, at a time when the institution is more likely to have resources to absorb losses that may be realized at a later date. Furthermore, investments in securities, a significant component of direct investment, are excluded entirely from the classification of assets regulation. The Board has as a result determined that the classification of assets regulation is not a substitute for requiring increased capital reserves against direct investments.

Because both statistical and supervisory evidence have lent support to the connection between even small amounts of direct investment and thrift and FSLIC losses, the Board is proposing to require further protection in the form of additional capital reserves against direct investments. The Board believes that, as an initial step in this direction, the exemption for the first ten percent of direct investments should be deleted. As a result, the contingency factor component of regulatory capital would include 10 percent of all direct investments.

The current net worth regulation effectively grandfathers direct investments made prior to the December 10, 1984 date of publication of the proposal in the **Federal Register.** The Board believes that imposing a capital requirement on these previously exempt investments would unduly disrupt operations, and consequently is grandfathering these investments. Consequently, the new requirement would apply only to direct investments acquired after December 10, 1984.

Because the net worth regulation permits consolidated treatment for direct investments of service corporations and finance subsidiaries as an alternative to considering investment in the subsidiary a direct investment, the proposal would retain this exclusion for direct investments in subsidiaries, provided that all investments made by the subsidiary which would be subject to the contingency component if made by the parent are aggregated with those of its parent for purposes of computing the parent's contingency component.

2. Land Loans and Nonresidential-Construction Loans

As indicated above, the Board is proposing to include in the contingency component a 4 percent incremental capital requirement for land loans and nonresidential-construction loans. It is the Board's view that additional risks inherent in each of these types of assets necessitate an incremental capital requirement.

More specifically, the Board's examination experience has demonstrated that land loans are inherently more risky than residential mortgage loans because the land providing collateral for such loans generates no income or cash flow and has substaintial carrying costs in the form of debt service and property tax. Because of the absence of any cash flow associated with such loans, these loans pose a high degree of credit risk. Further, land, as a commodity, is subject to very wide fluctuations in value depending on any number of factors, including trends in the local economy.

The Board's concern with land loans and nonresidential-construction loans also stems from the nature of the underlying product. Because these types of assets are associated with nonstandard and nonfinished product, it is inherently more difficult to obtain an accurate appraisal of the value of the anticipated final product. In fact, the Board's supervisory experience is replete with cases which demonstrate that virtually any institution can obtain a grossly inflated appraisal for a project of this type, if it so desires.[14] The collateral for these types of loans, however, rests primarily on the value of the final product. Lack of an accurate appraisal, therefore, leads to significant uncertainty regarding the value of the collateral. As a result, these assets are subject to more uncertainty in their returns.

These assets are also associated with projects that require substantial time to complete. The need for long lead times between initial loan commitments and completion of the final products results in substantial market risk. Further, uncertainties regarding possible market absorption, performance of the developer or builder, possible interest-rate risk, and appraisal of such projects

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[8] "Thrift Institution Failures: Causes and Policy Issues," presented at the Conference on Bank Structure and Competition of the Federal Reserve Board of Chicago, May 1986, and published in the 1985 *Proceedings of A Conference on Bank Structure and Competition*, pp. 186–216 (hereafter referred to as "Thrift Failures Study").

[9] "Empirical Evaluation of the Determinants of Losses for the Federal Savings and Loan Insurance Corporation 1982–1984," forthcoming OPER Working Paper #125, February 28, 1986 (hereafter referred to as "FSLIC Losses Study").

[10] "Failure Costs of Government-Regulated Financial Firms: the Case of Thrift Institutions", proposed OPER Working Paper, April 1986 (hereafter referred to as "Updated FSLIC Losses Study").

[11] "Empirical Evaluation of the Determinants of Net Worth for the Thrift Institutions Insured by the Federal Savings and Loan Insurance Corporation 1982–1984," forthcoming OPER Working Paper No. 127, March 5, 1986 hereafter referred to as "Net Worth Study"). In this study, the OPER evaluated the effect of diffrent variables upon four measures of net worth, including net worth as defined by regulatory accounting principles ("RAP"), and generally accepted accounting principles ("GAAP"); tangible net worth (calculated by adjusting GAAP net worth to omit intangible assets); and a proxy for market value net worth (calculated by adjusting tangible net worth for the market value of an institution's fixed rate mortgage portfolio based on prevailing interest rates).

[12] Memorandum from R. Dan Brumbaugh, Director, Policy Analysis Division, OPER to Robert J. Sahadi, Acting Director, OPER (April 22, 1986) ("1985 Net Worth Study"). In this study, the proxy for market value net worth was calculated by using the interest-rate gaps reported in Section H of institutions' Quarterly Reports. The other measures of net worth utilized in this study were the same as those used in OPER's Net Worth Study discussed above. Because this study used information from the entire industry (*i.e.*, the total population), reference to confidence intervals is inappropriate.

[13] See 50 FR 18233, 18236 (1985) (to be codified at 12 CFR 571.17).

[14] One institution, placed in FSLIC receivership in 1984, grew from $22.6 million in assets to $320.2 million in one year. This growth was due in part to an expansion in land loans secured by the underlying properties. The institution committed to provide all or substantially all of the necessary funds to acquire the properties. The land loans typically had a one year term and were made to shell corporations with investors guaranteeing the loans. In many instances, the land was sold and resold many times in one day to artificially inflate prices. Often the loans were based on appraisals that used the inflated price of the last sale, and they covered full purchase price, loan fees, interest and closing costs. One hundred nineteen of these land loans were made by the institution, totalling $73,943,000. Losses to the FSLIC were estimated at $48,636,000 on these loans. Independent appraisals were received on 42 additional land loans, which indicated a loss of $31 million or 76.4 percent on the $40.6 million of land loans.

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when future demand is unclear are inherent characteristics of these types of assets.

The risks and uncertainties associated with these types of loans are exacerbated by the fact that the actual life of these loans may be longer than the initial term. Thus, it has been the Board's experience that the evolving practice in nonresidential construction lending is not to insist on a firm take-out from another lender to provide the permanent financing. Instead, the lender may be forced to provide interim financing by committing to extend a "mini-perm" loan, which is an intermediate-term balloon note, until long-term financing can be arranged. This can effectively convert a three year loan into, *e.g.*, a six or seven year loan. This practice exposes a lender to substantial credit risk associated with extending a loan beyond the originally contemplated term, market risk arising due to the extended period between conception and completion of such projects and the possibility that the project may be sold or leased for less than the projected price, and interest-rate risk where the lender is forced to extend the mini-perm at a fixed or concessionary interest rate.

Studies performed by the OPER, which are described above, strongly indicate that problems associated with these types of loans are a relatively recent phenomenon for insured institutions, first identified in 1984 and becoming a significant problem in 1985.[16] These studies suggest that, since 1984, these types of loans have been associated with reductions in the market value of institutions and have negative effects on other measures of new worth.

More specifically, the Net Worth Study discussed above also evaluated the effect of construction loans on net worth in 1984[16] and the effect of land loans on net worth for the period 1982 to 1984. The results regarding construction loans indicated that increases in levels of construction loans were statistically associated with a decline in estimated market-value net worth. The results were significant at a 95 percent confidence level.[17]

[16] FSLIC Losses Study, *supra;* Net Worth Study, *supra;* and Updated FSLIC Losses Study, *supra.*

[16] Data regarding construction loans were derived from the Quarterly Reports filed with the Office of Examinations and Supervision, the first of which were filed in March, 1984. Prior to this time, data were not available to separately analyze the effect of construction loans on net worth.

[17] Although the results indicated that construction loans pose a threat to market-value net worth, the availability of only one period's data suggested the need for further study of the correlation between these variables.

The Net Worth Study also found that in 1984 increased levels of land loans[18] were statistically associated with a decline in net worth calculated under RAP and GAAP, as well as tangible net worth. These results were significant at 90 and 95 percent confidence levels. As with the results for the construction loan variable, these results suggested that land loans posed a threat to net worth which developed in 1984.

The effect of land loans on FSLIC losses was separately examined in the original FSLIC Losses Study and the Updated FSLIC Losses Study. Both studies showed at a 95 percent confidence level that land loans were associated with higher costs to the FSLIC. These results confirm that land loans became a significant problem for insured institutions in 1985.

The 1985 Net Worth Study described above also examined the effects of land loans and nonresidential-construction loans on net worth of FSLIC-insured institutions. The results of this study overwhelmingly confirmed the results derived in the prior Net Worth Study of the 1982 to 1984 period. The updated study found that increases in land loans and nonresidential-construction loans in 1985 were associated with a decline in market-value net worth. These results indicate that for the period studied land loans and nonresidential-construction loans posed a threat to thrift-industry net worth.

Statistics computed by the OPER also show that thrifts with very high levels of land loans and nonresidential-construction loans reported substantially higher levels of problem assets (real-estate owned ("REO") and loans to facilitate sale of REO ("LTFS")) than other institutions.[19] More specifically, as of December 31, 1985, all insured institutions with January 1, 1985 assets of $100 million or more had a ratio of REO and LTFS to assets of 1.324 percent. The 40 institutions in the country with assets of at least $100 million and the highest proportion of nonresidential-construction loans had a ratio of REO and LTFS to assets of 2.304 percent, a statistically significant departure from the industry average.

The Board's supervisory experience supports these statistics and confirms that a number of institutions have experienced severe financial difficulties because of these types of loans. The institutions that have failed recently and caused the largest losses to the FSLIC have all involved substantial losses from land and nonresidential-construction loans (collectively referred to as "ADC-type loans"). Examples include Mainland Savings Association of Houston, Texas, Bell Savings and Loan Association of San Mateo, California, and State Federal Savings and Loan Association of Corvalis, Oregon. The bank regulatory agencies also have increasingly experienced similar problems with commercial real-estate loans.[20]

Examination of the FSLIC's experience at an institution, for which the FSLIC was appointed receiver in 1986, illustrates the risk associated with ADC-type loans and the potential for substantial losses to the FSLIC fund due to such loans. The assets of this institution increased 224 percent between December 1983 and February 1985, from $340 million to $760 million. It net worth, however, during this period declined precipitiously from $10,913,284 (or 3 percent of assets) to negative $4,453,000 (or −.7 percent of assets). The institution's rapid decline into insolvency was due primarily to its decision to invest 76 percent of its assets in high-risk ADC-type loans. It is estimated at this time that the decision of this institution to pursue a high-risk asset portfolio—in essence gambling at the FSLIC's expense—will result in losses to the FSLIC of up to $400 million. The Board believes that the incentive to gamble at the expense of the FSLIC, which at this time is shared by all institutions with low net worth, would be removed by requiring an adequate capital reserve against such high-risk assets as proposed in this rule *before* an institution may make such investments.

The Board has found that increased supervision cannot adequately curb the risk posed by these loans. The problems associated with these loans are often masked by the very nature of the loans. These assets are often characterized by high fee income, the payment of interest through an interest reserve, and the establishment of associated loan-in-process accounts. Because such loans often have nominal periodic "paper" payments from an interest reserve, such loans cannot become delinquent as long as the interest reserve lasts.

[18] While the OPER studies (the FSLIC Losses, Net Worth, and Updated FSLIC Losses Studies) refer to the land loan variable as "ADL", the data analyzed in the ADL variable for each of these studies included all information set forth in the relevant Quarterly Reports for line item A060, which includes developed building lot, unimproved land and ADL loans.

[19] Memorandum from Joseph A. McKenzie and Connie Young to Robert Sahadi, Acting Director, OPER, dated April 14, 1986.

[20] *See, e.g.*, "Guidelines for Troubled Real Estate Loans," Examining Circular of the OCC (Oct. 30, 1985).

Indeed, ADC-type loans and similar assets can allow thrifts to report dramatic profitability from large up-front fees and high interest rates credited from an interest reserve at the same time that the underlying project becomes a disaster. For example, one institution, for which the FSLIC was appointed received in 1985, reported profits, due to large self-funded fees, just before it in fact became hopelessly insolvent. Thus, reported profits at thrifts with high levels of ADC-type loans and similar assets can be grossly exaggerated.[21]

As indicated above, these problems are addressed to a certain extent by the classification of assets regulation recently adopted by the Board. Board Res. No. 85–1154, 50 FR 53275 (Dec. 31, 1985). Classification of assets, however, is an after-the-fact measure which, by itself, clearly does not sufficiently protect the FSLIC fund for two reasons. First, the validity of classification of assets cannot be determined until an examination is conducted; these examinations can only be performed on a periodic basis. The Board's supervisory experience indicates, however, that the overall financial stability of an institution and the performance of assets can change drastically between one examination and another and even between submissions of financial reports.

A second reason the classification of assets regulation alone is inadequate to fully address the risks associated with these types of assets is the fact that the establishment of loss reserves for specific assets to protect the FSLIC from losses quickly becomes meaningless where adjustments to income, and establishment of loss reserves under that regulation render an institution insolvent, due to inadequate capital reserves to absorb the realization of such losses. Two institutions for which FSLIC recently was appointed conservator illustrate this problem. Each of these institutions reported total net assets as of December 1985 of $665,755,000 and $306,455,000, respectively. Each institution had heavy concentrations of ADC-type loans. As a result of an examination which commenced in June 1985, it became apparent that between January 1984 and September 1985 the institutions had jointly originated 95 ADC-type loans, in excess of $1 million each, totaling $350 million.

After a review of loan appraisals by examiners, it was determined that many of these ADC-type assets should have been classified as loss or doubtful pursuant to the classification of assets regulation. Classification of the problem assets and establishment of specific loss reserves for these assets revealed that each institution was in fact insolvent. If, however, these institutions had been required to support their heavy asset concentration in ADC-type loans (29 percent and 58 percent of total net assets, respectively) with incremental capital, insolvency and potential losses to the FSLIC may have been avoided.

In these circumstances, the Board believes that it is essential that an insured institution accumulates a certain level of capital to absorb potential losses *before* it embarks upon lending strategies that entail an above-average degree of risk to it and to the FSLIC. For this reason, the incremental capital requirement proposed by the Board for such loans as part of the regulatory capital contingency factor would be in addition to any reserve required pursuant to the classification of assets regulation.

An additional problem inherent in ADC-type assets is that these assets can be improperly reported by thrifts as loans when, under proper accounting procedures, they are direct investments. To the extent that loans such as these are properly classified as direct investments, the 10 percent capital requirement proposed for all direct investments, which is discussed above, would address risk associated with such loans. However, it has been the Board's supervisory experience that even though classification problems with these types of assets should be diminished due to issuance of the Board's accounting guidelines (50 FR 18233, 18236 (1985) (to be codified at 12 CFR 571.17)), distinguishing between these types of loans and direct investments continues to be a difficult exercise. Furthermore, while examining institutions, examiners have routinely encountered ADC-type direct investments which were either intentionally or unintentionally misclassified as loans. The Board is considering issuing new accounting guidelines to address this problem; it is not clear, however, that issuance of such guidelines will be sufficient to prevent this misclassification.

The critical effect of such misclassification upon the net worth of an institution and the FSLIC fund in general is demonstrated in the examination reports of a number of failed institutions and can be illustrated by reference to an institution which required FSLIC assistance in 1985. The institution became insolvent during January, 1985, when it reported a deficit net worth of $433,151 which declined rapidly to $9.16 million. The majority of this decline was due to imprudent acquisition, development, and construction lending.

In an audit of this institution performed for the fiscal year ended June 30, 1984, pursuant to GAAP the auditors reclassified 37 ADC-type assets totalling $76,612,840 as direct investments rather than loans. That amount represented 17.1 percent of total assets for the period, and was considered to be an extremely high concentration in projects in which the institution had assumed virtually all of the economic risk. Moreover, that reclassification required corresponding adjustments to income—a reduction of $1.9 million for interest and fees not actually received from the loans and interest capitalization in the amount of $1.2 million at the institution's weighted average cost of funds—thus further reducing the institution's net worth. In addition to the auditors' findings, the examiners found $32.4 million in loans which were required to be reclassified as direct investments, with a corresponding income adjustment of $594,000.

In the Board's view, failure to require additional capital for these ADC-type assets could result in the FSLIC alone assuming the risk of misclassification and adjustments of an institution's income and net worth. In fact, failure to require additional capital for these types of loans could provide an incentive to institutions to misclassify direct investments as ADC-type loans in order to avoid the 10 percent capital requirement for direct investments.

It has been the Board's examination experience that unlike losses from the realization of adverse interest-rate risk, which often are due to changes in the macroeconomic operating environment and which may be beyond the control of individual institutions, losses on ADC-type loans stem largely from the underwriting and investment policies ("operating policies") of individual institutions. The examples discussed above reveal severe loan underwriting and loan administration deficiencies with regard to these types of loans, including failure to verify project progress prior to disbursing draws,

[21] Indeed, by growing rapidly, an institution can run a variant of a pyramid scheme whereby it keeps its reported net income positive even after the earlier real estate loans begin to go into default and the thirft plummets into even greater insolvency in reality (but not on its books). This situation was virtually out of control before the Board adopted the current net-worth rule. Even after the effective date of the current rule, however, thrifts with very large ADC portfolios grew roughly 220% faster than other thrifts. Memorandum from Joseph A. McKenzie and Connie Young to Robert Sahadi, Acting Director, OPER, dated April 14, 1986.

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appraisals not conforming with the Board's Memorandum R–41b, and little or no management analysis of project feasibility or the ability of the borrower to repay the loan.

In the present deregulated environment, the operating policies adopted by each institution often assume much greater importance as the major determinant of overall performance. The Board recognizes that a principal element of deregulation is greater freedom for an individual institution to select its own operating policy.[23] Further, detailed regulation of each institution's operating policies is neither feasible due to staffing limitations nor necessary—most institutions are capable of selecting prudent operating policies if motivated to do so.

The Board also recognizes that institutions with low net worth do have an incentive to invest heavily in ADC-type loans or other high-risk investments and gamble on the return on these assets at the FSLIC's risk; in a very real sense these institutions have nothing to lose. Implementing additional capital requirements for such loans, however, would provide motivation for each institution to make prudent operating decisions and to set prudent operating policies by giving it a significant stake in adverse as well as positive outcomes for its decisions. Conversely, requiring additional capital would discourage irresponsible operating policies because the first brunt of losses from "bad" operating policies would fall on the institution's capital reserve rather than on the FSLIC insurance fund. For these reasons, the Board has preliminarily concluded that, while selection and implementation of operating policies are in an institution's discretion (with Board oversight where necessary), the freedom to set such policies should be contingent upon the institution maintaining adequate regulatory capital to assure that the brunt of "bad" operating decisions is borne first by the institution and not the FSLIC fund.

Because, as discussed above, the threat of loss to the FSLIC fund due to these types of loans is a relatively recent phenomenon and the threat, at this time, is not perceived to be as great for these loans as for direct investments, the Board is proposing a 4-percent additional capital requirement applicable to these assets. It may well be, however, that the potential threat posed to the FSLIC by these assets is as great as that posed by direct investments, and that a comparable capital requirement (10 percent) should, therefore, be assessed. The Board specifically requests comment regarding the sufficiency of a 4-percent additional capital requirement for these assets.

3. Letters of Credit

The Board is proposing a 2-percent capital requirement on letters of credit. The Board of Governors of the Federal Reserve System recently proposed a rule requiring supplemental capital on letters of credit issued by state member banks. *See* 51 FR 3976 (Jan. 31, 1986).

A letter of credit is a contingent liability of the issuer. Most letters of credit unconditionally obligate the issuer to immediately honor the letter of credit when presented for payment. While some letters of credit, namely, standby letters of credit, are written with the expectation that they will never have to be honored, they will be presented for payment only if the party that obtained the letter of credit defaulted on an obligation. Since some act of default triggers the presentation of such a letter of credit, the honoring of this type of letter of credit amounts to the extension of credit to a borrower that is in default. Letters of credit which are not triggered by an act of default, such as trade or standard letters of credit, also amount to an extension of credit to the person or entity seeking the letter of credit.

For this reason, the Board believes that it is appropriate to require a modest capital holding against these contingent liabilities. The Board specifically solicits comment regarding the appropriateness and sufficiency of a 2-percent additional capital requirement for all letters of credit.

Reduction in Required Capital for Certain Classes of Assets and Liabilities

The current net-worth requirement permits an institution to reduce its minimum required capital by deducting specified "qualifying balances". Board Res. No. 85–79B, 50 FR 6691, 6909 (1985) (to be codified at 12 CFR 563.13(b)(4)). The Board is proposing to expand the qualifying balance deduction by including additional items as eligible for this deduction and raising the maximum amount that may be deducted; it is also proposing to alter the proportion of these items eligible for the deduction. The Board believes that these changes are appropriate to more accurately reflect the reduction in an institution's risk exposure associated with a maturity-matched portfolio that has limited credit risk.

Specifically, the Board is proposing to define qualifying balances to include the institution's liquid assets as defined in 12 CFR 523.10,[23] plus its qualifying ARMs, plus one-to-four family residential mortgages represents permanent rather than construction financing or investment-grade mortgage-related securities with remaining contractual term-to-maturity of two years or less, fixed-rate liabilities with remaining term-to-maturity of three years or more (the dollar weighted average term to maturity of liabilities used in this exclusion must be at least five years) for which the institution has a comparable amount fixed-rate permanent one-to-four family residential mortgages and/or investment-grade mortgage backed securities of equal or greater maturity. This increase in the qualifying balance deduction would be subject to the limitation that for the first three years after the effective date of the regulation, if adopted in final form, an institution would not be allowed to reduce its overall capital requirement below three percent. After the third year, an institution would not be allowed to reduce its overall requirement below four percent and after the sixth year the minimum would be five percent. Because this cap is substantially higher than the current maximum deduction of ten percent of the amount of net worth that would otherwise be required, the Board is proposing to reduce from three percent to two the proportion of qualifying balances that may be deducted from the net worth requirement, except that only one percent of the amount of ARMS with lifetime caps less than 250 basis points above the rate may be excluded.

The original rationale for the qualifying balance deduction was to recognize the lessened interest rate and credit risk associated with certain types of investments and to give institutions some incentive to reduce risk. At the time that the qualifying balance deduction was adopted, the Board noted:

As proposed, the Board has adopted a reduction of the net worth requirements for insured institutions holding certain qualifying balances. The reduction is structured to

[22] In a policy statement adopted by the Board on June 23, 1984, the Board specifically recognized that the duties of boards of directors of insured institutions include overseeing the management of the various types of risk which effect their institutions. 12 CFR 571.3 (1986).

[23] A proposed amendment to the liquidity requirements, Board Res. No 86–428, published elsewhere in the Proposed Rule section of this issue, if adopted in final might result in a numbering change and could also affect the substance of the definition. When adopting any final amendments to the net worth requirement, the Board will take into account the impact of any amendments to the definition of liquid asset.

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reflect the lower reserve needs, due to reduced risk, of institutions that hold such qualifying balances.

* * * * *

In the past, restricted asset and liability powers made it difficult for many insured institutions to alleviate maturity imbalances. At present, however, due to expanded borrowing authority, flexible-yield mortgage authority, and a growing control over deposit composition resulting from the phase-out of deposit rate controls, the Board believes these associations have the ability to begin to alleviate their maturity imbalances. Through this amendment, the Board seeks to structure the net worth requirements to reflect the reserve needs of institutions holding maturity-balancing assets and liabilities and to provide institutions with maturity imbalance problems with an incentive for restructuring their holdings of assets and liabilities to make cyclical fluctuations in profitability more manageable.

Board Res. No. 80–694 p. 6–7, 45 FR 76,111 (Nov. 6, 1980). The intervening years have demonstrated that the management of interest-rate risk through maturity matching, and credit risk through prudent investment, is imperative, and that it is incumbent on the Board to promote prudent risk management strategies by insured institutions.

Furthermore, the three Federal regulators for commercial banks have proposed a system for adjusting their current capital requirements according to the degree of risk of certain bank assets. Various types of assets, including certain off-balance sheet items, are assigned one of four broad risk categories, which are then weighted. The regulation proposed by the Federal Reserve Board ("FRB"), for example, cited the need for certain changes:

While there may be a number of reasons for these balance sheet adjustments, the Board is concerned that they may be, in part, a response to the imposition of capital requirements that do not distinguish explicitly among various risk categories of assets and that do not make explicit allowance for the lessened threat to capital inherent in low-risk activities. Thus, some banking organizations appear to be reducing their holdings of low-risk assets and deemphasizing their conduct of low-risk activities in an effort to meet more stringent capital requirements. Although these adjustments may improve or otherwise maintain capital ratios at what appear to be acceptable levels, they do not, especially in conjunction with the growth in off-balance-sheet risks, strengthen an organization's risk profile. Indeed, such adjustments could, under certain circumstances, undermine an organization's financial condition.

51 FR 3976, 3977 (Jan. 31, 1986). The Office of the Comptroller of the Currency's ("OCC") advance notice of proposed rulemaking explains the basic components of the system. This document states that this system shall not increase the capital requirements of most institutions, but could well decrease the OCC's capital requirements of 6 percent total capital and 5.5 percent primary capital. Although the risk-related elements (qualifying balances and contingency component) of the Board's current proposal differ from the FRB's and the OCC's proposed system by recognizing the land and housing-related character of thrifts' traditional assets, the risk-related considerations of the proposals are similar. *Id.*

The Board recognizes that by expanding the qualifying balance deduction it will establish an effective minimum net-worth requirement of less than six percent for some institutions. The Board wishes to encourage institutions to make loans and investments with low levels of both credit risk and interest-rate risk. Market conditions, however, may be such that institutions specializing in low-risk housing-related investments may be unable to achieve a competitive rate of return on their equity if minimum regulatory capital is set at six percent of liabilities. In expanding the qualifying balance deduction, the Board is proposing to allow institutions specializing in low-risk investments to achieve higher leverage and thereby generate a competitive rate of return on equity.

Specifically, the Board is proposing to allow inclusion in the qualifying balance of all "qualifying" adjustable-rate mortgages. This would replace the current regulation permitting qualifying balance treatment for half of all adjustable-rate mortgages. A qualifying adjustable-rate mortgage is one that meets *all* the following criteria:

- It is secured by an owner-occupied, one-to-four family dwelling;
- The initial loan-to-value ratio is 80 percent or less, or amounts in excess of 80 percent are covered by private mortgage insurance;
- The first rate-change date is no more than 24 months after closing;
- Subsequent rate-change dates are at intervals no greater than one year;
- Limitations on the amount of annual rate-change, if included, permit annual changes of at least one percent;
- If a maximum lifetime rate is included, it must be at least five percent above the fully indexed initial rate (this is what the first-year rate would be without any initial rate concession);
- The rate on the loan is not at its life-of-loan maximum rate, provided that if the rate is less than 250 basis points below the maximum, the deduction is limited to one percent of the amount of the loan.

A mortgage that meets these conditions has the limited credit risk usually associated with home mortgages, and is protected from interest-rate risk by the adjustment feature.

Second, the Board is proposing to include in the qualifying balance deduction certain one-to-four family mortgage loans. This deduction would be limited to loans secured by first liens, not including loans for construction or home improvement. The proposal also includes investment grade mortgage-backed securities (as defined in 12 U.S.C. 1464(c)(1)(S))[24] that have a contractual remaining term to maturity of two years or less. These securities are generally backed by one-to-four family mortgages, or guaranteed by a government agency such as the Federal National Mortgage Association or the Federal Home Loan Mortgage Corporation. Securities that are backed by nontraditional mortgages, such as mortgages on commercial property, are overcollateralized as much as 250% in order to secure the investment-grade rating, thus making credit risk to the purchaser of the security slight [25]. Therefore, these mortgages and mortgage-backed securities generally are intrinsically safe investments with little credit risk; the short time to maturity reduces interest-rate risk to acceptable levels.

The Board is also proposing to impose new limits on one aspect of qualifying balances. The current credit for fixed-rate liabilities with remaining maturity of more than five years will be revised so that the remaining maturity is three years or more but the weighted average is at least five years. Also, the deduction will be allowed only so long as the institution has one-to-four family residential mortgages or investment-grade mortgage-related securities of equal or greater maturity. This recognizes the appropriate match already existing at many institutions between these assets and liabilities.

Finally, the Board is proposing that during the first three years after the effective date of this amendment, an institution could not use the deduction to reduce its overall capital requirement

[24] Section 5(c)(1)(S) of the Home Owners' Loan Act, 12 U.S.C. 1464(c)(1)(S) (1982 & Supp. II 1984) permits investment by federally-chartered associations in mortgage-backed securities, defined to include mortgage-related securities as defined in section 3(a)(41) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(41)). This definition generally encompasses collateralized mortgage obligations.

[25] As noted below, overcollateralization may indicate some risk to the issuer of such a security.

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below three percent. For years four through six, the minimum would be four percent, and thereafter the deduction for qualifying balances could not reduce an institution's overall requirement below five percent. The Board believes that this phased approach will encourage lower-risk investment without permitting net worth to be impaired.

The rationale for these changes is to recognize the low level of interest-rate risk associated with these assets and liabilities. The Board believes the approach of giving credit for certain categories is the best practicable operational scheme.

The most comprehensive measure of interest-rate risk is duration gap. [26] This is the difference between duration of assets and duration of liabilities. Duration is a concept of corporate finance, and it is a time-denominated summary measure of the receipt of the cash flows from an asset. For example, since mortgages have periodic interest payments, repayments, an prepayments, the duration of a mortgage is much less than its stated maturity.

While duration gap is the ideal interest-rate risk measure, it is operationally difficult to compute. It would require institutions to report the information currently required on section H of the Board's Quarterly Report in much more detail. This would impose an additional reporting burden, and the data would be difficult to verify. Furthermore, the calculation of duration requires a set of explicit assumptions regarding the rate of prepayment of every coupon class of mortgages.

Alternatively, the Board could use a hedged gap figure it now computes from the section H data from each institution. The hedged gap is the difference between the dollar value of assets maturing or repricing within a set time period and the corresponding liabilities, all divided by assets; the data are adjusted for hedging activities. The hedged gap, like duration, depends upon explicit prepayment assumptions. Unlike duration, the hedged gap is not a summary measure; rather it is a one-year gap, a two-year gap, and a forth. However, the Board believes that to select a specific gap to be the key element in net worth calculation would decrease an association's inclination and responsibility to monitor all gaps. The limiting effect of a rigid decision to determine a single point above which extra capital is required and beneath which less capital is required is also a consideration. Consequently, the Board has, for pruposes of this proposal, adopted the approach of recognizing matches between specific assets and liabilities rather than a gap analysis approach.

The Board specifically solicits comments on whether to give consideration to hedging techniques and/or interest-rate swaps that may significantly reduce an institution's interest-rate risk exposure. The Board is concerned with the feasibility of monitoring the use of these techniques to assure that they are effectively reducing an institution's interest-rate risk.

[26] See Macauley, F.R. *Some Theoretical Problems Suggested by the Movement of Interest Rates, Bond Yields, and Stock Prices in the U.S. Since 1856.* New York: National Bureau of Economic Research (1938).

Miscellaneous

Finance Subsidiary Exclusions. Section 563.13–2(c)(1) of the Board's regulation excludes from computation of a parent institution's total liabilities for net worth purposes the amount of new proceeds of certain securities issued through finance subsidiaries and certain other designated subsidiaries, if the securities issuance and the supporting collateral are substantilly duration matched. Board Res. No. 85–1155, 50 FR 53260 (Dec. 31, 1985). This exclusion was justified on the grounds that this duration-matching virtually eliminated any interest-rate risk for the parent institution from the finance subsidiary's securities issuance. While the Board still believes that such an exclusion gives institutions greater flexibility in financing, the Board is concerned that the finance subsidiary may subject the parent to credit risk without a corresponding capital requirement. Many securities issuances issued directly or indirectly by finance subsidiaries are collateralized at rates of between 103 and 105 percent by mortgage-backed securities issued by, or guaranteed as to principal and interest by the Federal Home Loan Mortgage Corporation, Federal National Mortgage Corporation or Government National Mortgage Corporation. However, a limited number of securities issuances backed by other types of mortgages and receivables are collateralized (as authorized by the regulation) at up to 250 percent of the gross proceeds of the securities issued. Such overcollateralization can reflect market concern for the quality of the underlying collateral. Therefore, investors may demand concessions on price, collateral level, and collateral substitution that will cause significant credit risk to be absorbed by the issuing finance subsidiary and its parent institution. The Board also seeks to remove any regulatory incentive for institutions to originate or purchase assets of dubious quality. For these reasons, the Board is hesitant to exclude from an institution's total liabilities the new proceeds of issuances that require substantial overcollateralization.

Accordingly, the Board proposes to limit the execlusion under § 563.13–2(b)(1) to those securities that are substantially duration-matched and that are collateralized by assets whose market value is less than 110 percent of the gross proceeds of the securities issuance. The Board solicits comment on the appropriateness of this overcollateralization maximum for duration-matched securities issuances and on other means of addressing the credit risk of such issuances.

Solicitation of Comments

The Board solicits comments on all aspects of this proposed regulation. The Board specifically requests comments on the relationship of this proposal with the rule also proposed today defining regulatory capital in accordance with GAAP as modified by the Board to reflect regulatory risk and requiring insured institutions to prepare all Board-required financial statements and financial reports in accordance with GAAP. Commenters also should address alternative methods of addressing the Board's concerns and achieving the Board's goals set forth in either regulation in an equally effective manner.

Finally, the Board wishes to reiterate that if this proposed regulation is adopted substantially as proposed, the Board anticipates that it would become effective on October 1, 1986. If adopted in final, insured institutions would be required to compute their regulatory capital requirements under this regulation for the first time on December 31, 1986. As under the current regulation, insured institutions would be required to meet this regulatory capital requirement on the date it is computed, in this case on December 31, 1986.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objectives and legal basis underlying the proposed rule.* These elements are incorporated above in the **SUPPLEMENTARY INFORMATION** regarding the proposal.

2. *Small entities to which the proposed rule would apply.* The proposed rule would apply to institutions whose accounts are insured by the FSLIC.

3. *Impact of the proposed rule on small institutions.* The proposed rule would eliminate for insured institutions with assets of $100 million or less preferential treatment in calculating the growth factor under § 563.3(g)(4) of the Board's regulations and the exemption for such institutions from § 563.13–1 for the reasons discussed above in the **SUPPLEMENTARY INFORMATION** regarding the proposal. The proposed regulations would treat all institutions identically regardless of their size.

4. *Overlopping or conflicting federal rules.* There are no known federal rules that duplicate, overlap, or conflict with this proposal.

5. *Alternatives to the proposed rule.* There are no alternatives that would be less burdensome than the proposal in addressing the concerns expressed in the **SUPPLEMENTARY INFORMATION** set forth above.

List of Subjects in 12 CFR Parts 561 and 563.

Bank deposit insurance, Investments, Reporting and recordkeeping requirements, Savings and loan associations.

Accordingly, the Board hereby proposes to amend Parts 561 and 563 of Subchapter D, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

1. Amend this Chapter V by removing the phrases "net-worth" or "regulatory net worth" wherever they appear in this chapter and by substituting the phrase "regulatory capital".

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 561—DEFINITIONS

2. The authority citation for Part 561 continues to read as follows:

Authority: Pub. L. 95–147 of Oct. 28, 1977, Sec. 4, 82 Stat. 856, sec. 4, 80 Stat. 824, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425a, 1425b, and 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 202, 96 Stat. 1469; sec. 409, 94 Stat. 160; secs. 401–407, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071, unless otherwise noted.

3. Amend Part 561 by adding new §§ 561.18 and 561.19 to read as follows:

§ 561.18 Land loan.

The term "land loans" means a loan:

(a) Secured by real estate upon which all facilities and improvements have been completely installed, as required by local regulations and practices, so that it is entirely prepared for the erection of structures thereon;

(b) To finance the purchase of land and the accomplishment of all improvements required to convert it to developed building lots; and

(c) Secured by land upon which there is no structure.

§ 561.19 Nonresidential construction loan.

The term "nonresidential construction loan" means a loan for the construciton of structures other than one-to-four family residences.

PART 563—OPERATIONS

4. The authority citation for Part 563 continues to read as follows:

Authority: Pub. L. 95–147 of Oct. 28, 1977, Sec. 4, 82 Stat. 856, sec. 4, 80 Stat. 824, sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1425a, 1425b, and 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 202, 96 Stat. 1469; sec. 409, 94 Stat. 160; secs. 401–407, 48 Stat. 1255–1260, as amended (12 U.S.C. 1724–1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071, unless otherwise noted.

5. Amend § 563.13 by revising paragraph (a)(1), (b)(1), (2), (3)(i), (ii), (b)(4) and (5), and paragraphs (g) and (h) to read as follows:

§ 563.13 Regulatory Capital Requirement.

(a) *Scope.* (1) This section sets forth the requirements for the maintenance of regulatory capital, as defined in § 563.13 of this subchapter, by insured institutions. Compliance with the requirements of this section shall be considered to be compliance with the reserve requirements of section 403(b) of the National Housing Act (12 U.S.C. 1726(b)). Any reference to "net worth" or "regulatory new worth" in this subchapter shall be deemed to be a reference to regualtory capital.

* * * * *

(b) *Minimum required amount.*—(1) *General Rule.* Except as provided in paragaphs (b)(2) and (b)(3) of this section, the minimum regulatory capital requirement for any calendar quarter (commencing with the quarter ending December 31, 1986) shall be an amount equal to the sum of the following:

(i) The liability component; and

(ii) The contingency component

minus any deduction for qualifying balances (as defined in paragraph (b)(4) of this section).

An institution's required amount of regulatory capital under this computation method shall not be less than three percent of total liabilities for the period from December 31, 1986 until December 31, 1988; and shall not be less than four percent of total liabilities for the period from December 31, 1988 until December 31, 1992; and shall not be less than five percent of total liabilities on or after January 1, 1993.

(2) *Exceptions for de novo and other institutions.* (i) The minimum regulatory capital requirement for *de novo* institutions shall be an amount computed in accordance with paragraph (b)(1), but the liability component for such an institution shall be seven percent of its total liabilities from its commencement of operations through its first full fiscal year, and six percent of total liabilities thereafter: *Provided,* that the mininim required amount of regulatory capital for such institutions shall not be less than five percent of their total liabilities.

(ii) *De novo* institutions which elect to have their applications for insurance of accounts processed in accordance with the policy set forth in § 571.6(a)(2) of this subchapter, but that do not additionally qualify under § 571.6(a)(3), shall have a minimum amount of regulatory capital computed in accordance with paragraph (b)(1), but the liability component for such an institution shall be seven percent of its total liabilities for the period between the commencement of operations through its first three full fiscal years, and six percent of liabilities thereafter: *Provided,* that the minimum required amount of regulatory capital for such institutions shall not be less than five percent of their total liabilities.

(iii) Institutions other than *de novo* institutions that are required to meet regulatory capital requirements exceeding the initial minimum three percent requirement under paragraph (b)(1) of this section (including institutions formerly insured by the Federal Deposit Insurance Corporation or by privately funded insurance systems) shall have liability components equal to the higher of the liabilities-related portion of their specifically mandated capital requirements or the minimum amount of regulatory capital required under paragraph (b)(1).

(3) *Mergers, consolidations, or purchases of assets and assumption of liabilities.* (i) Except as provided in paragraph (b)(3)(ii) and (iii), for any merge, consolidation, or purchase of assets and assumption of liabilities, the minimum regulatory capital requirement, beginning in the quarter in which the transaction became effective, shall be equal to the sum of each of the institutions' liability components (which for *de novo* institutions and other types of institutions not subject to the initial minimum three percent requirement

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shall constitute the liability-based portion of their minimum regulatory capital requirements) and contingency components minus any qualifying balance deductions, and subject to the applicable minimum requirements (three, four or five percent depending on the time period) set forth in paragraph (b)(1).

(ii) For any acquisition of less than substantially all of the liabilities of an institution in which the selling institution continues in operation as a separate entity (including, but not limited to, branch acquisitions), the base liabilities of the acquired institution beginning in the quarter in which the transaction becomes effective shall be the base liabilities of the acquiring institution calculated to include an amount equal to the liabilities so acquired. The acquiring institution's minimum amount of regulatory capital shall be computed by the method set forth in paragraph (b)(1) of this section.

(iii) * * *

(4) *Qualifying Balance Deduction.* (i) The amount of the minimum regulatory capital requirement imposed by paragraphs (b) (1), (2), (3) or (4) of this section will be reduced by two cents for each dollar of "qualifying balances" held by an institution: *Provided,* that the total amount of deductions allowed pursuant to this paragraph shall not reduce an institution's minimum regulatory capital requirement otherwise imposed by paragraphs (b) (1), (2), (3) of (4) below three percent of total liabilities for any period until December 31, 1989; below four percent of total liabilities for the period from December 31, 1989, until December 31, 1992; and shall not be less than five percent of total liabilities on or after January 1, 1993.

(ii) "Qualifying balances," as used in this paragraph means

(*a*) Interest-bearing liquid assets, as described in § 523.10 of this Chapter (including accrued interest on unpledged assets that qualify as liquid assets within that definition or that would so qualify except for their maturities), provided that they will mature within one year;

(*b*) All "qualifying" adjustable-rate mortgages, which include only those adjustable-rate mortgages that meet all of the following criteria: (*i*) are secured by owner-occupied, one-to-four family dwellings, (*ii*) incorporate a first rate-change date no more than 24 months after closing, (*iii*) establish subsequent rate-change dates at intervals no greater than one year with permissible rate-changes of at least one percent, (*iv*) include a maximum life-of-loan rate at least five percent above the fully indexed first-year initial rate, excluding any initial rate concession, (*v*) include a maximum loan-to-value ratio of 80 percent or private mortgage insurance on the difference between the loan amount and 80 percent of value, and (*vi*) the current rate of the loan is not at its life-of-loan maximum rate, *Provided,* that if the current rate is less than 250 basis points below the maximum rate, the qualifying balance deduction pursuant to subparagraph (b) will be limited to one percent of the amount of the loan;

(*c*) All one-to-four family residential mortgage loans secured by first liens that are not for the purpose of financing construction, and investment-grade mortgage-backed securities (as defined in 12 U.S.C. 1464(c)(1)(S)) with a remaining term to maturity of two years or less; and

(*d*) Fixed-rate liability sources of funds (including outside borrowings and Federal Home Loan Bank advances but excluding certificate accounts permitting withdrawal of account funds prior to maturity) that have a remaining term to maturity of more than three years (the dollar weighted average term-to-maturity of liabilities used in this exclusion must be at least 5 years) only so long as such sources of funds are offset by permanent one-to-four family residential mortgages or investment-grade mortgage-backed securities (as defined in 12 U.S.C. 1464(c)(1)(S)) of equal or greater maturity.

(5) *Calculation period and maintenance requirement.* An institution shall calculate its minimum regulatory capital requirement pursuant to this section as of the end of each calendar quarter commencing with the quarter ending December 31, 1986 and shall maintain regulatory capital in an amount not less than the minimum requirement so calculated from the end of the quarter for which the minimum requirement was calculated until the end of the next succeeding calendar quarter.

* * * * *

(g) *Definitions.* For purposes of this section.

(1) "Total liabilities" means total assets net of loans in process, specific reserves and deferred credits other than deferred taxes, minus regulatory capital as defined in § 561.13 of this subchapter.

(2) "Base liabilities amount" means an amount of capital which equals the higher of

(i) An institution's base liabilities multiplied by the liability factor for that quarter, or

(ii) The sum of an institution's base factor, growth factor (adjusted for decreases in liabilities in accordance with § 563.13(g)(4)(i)(*b*)), and amortization factor as of October 1, 1986 (its "October base").

(3) "Base liabilities" means an institution's level of total liabilities on [the effective date of this regulation] or the institution's total liabilities at the end of a quarter for which regulatory capital is being computed if less than its total liabilities on [the effective date of this regulation].

(4) "Increased liabilities amount" means an amount of capital equal of six percent of an institution's total liabilities in excess of its base liabilities.

(5) "Liability component", except as otherwise provided in paragraph (b)(2) and (b)(3) of this section, means an amount of capital equal to

(i) For the period commencing October 1, 1986 and ending December 31, 1992 an institution's base liabilities amount plus its increased liabilities amount;

(ii) For the period commencing January 1, 1993 six percent of total liabilities.

(6) "Liability factor" means a percentage rate of base liabilities that will be three percent in the first quarter that this regulation is effective and that will increase by .125 percent per quarter (.5 percent per year) until equal to six percent.

(7) "Contingency Component" is the sum of:

(i) Two percent of recourse liabilities (as that term is defined in § 561.8 of this subchapter) resulting from the sale of any loan;

(ii) Twenty percent of the institution's scheduled items (as that term is defined in § 561.15 of this subchapter);

(iii) Subject to the provisions of paragraph (g)(7)(iii)(*b*) of this section,

(*a*) An amount equal to ten percent of the dollar amount of aggregate direct investment as defined in § 563.9–8(b)(1) of this subchapter made after December 10, 1984;

(*b*) For the purposes of paragraph (g)(7)(iii)(*a*) of this section,

(*1*) "Made after December 10, 1984" excludes such investments to which the institution was legally committed on or before that date, or such projects for which definitive plans were in existence on or before that date;

(*2*) Investments made in any service corporation or operating subsidiary may be excluded *Provided,* that any investment made by such service corporation or operating subsidiary which if made by the parent would be included in the parent's contingency component shall be included in the total of such investments of the parent institution.

(iv) Four percent of all land loans and nonresidential construction loans;

(v) Two percent of all letters of credit.

(8) "De novo institution" means a savings and loan association, building and loan association, homestead association, cooperative bank or savings bank which has filed with the appropriate Federal Home Loan Bank and application for insurance of accounts, or a request for a commitment to insure accounts, or an application to organize a Federal association, which was not approved prior to December 2, 1983, and the business of which has not been conducted previously under any charter.

(h) *Transactions for purpose of evasion.* An institution's Principal Supervisory Agent may disregard any transaction entered into primarily for the purposes of reducing an institution's minimum required amount of regulatory capital, or otherwise evading the requirements of this section. An institution may seek review and final decision by the Corporation of any such determination.

6. Revise § 563.13–1 to read as follows:

§ 563.13–1 Liability growth.

(a)(1) No insured institution shall increase its total liabilities within any two-quarter period at a rate greater than 12.50 percent without prior approval of the institution's Principal Supervisory Agent.

(2)(i) The rate of increase in liability growth requiring prior approval under paragraph (a)(1) shall be computed by subtracting an institution's total liabilities as of the beginning of a two-consecutive-quarter period from its total liabilities as of the end of the two-consecutive-quarter period. This amount shall not exceed 12.5 percent of the institution's total liabilities as of the beginning of the two-consecutive-quarter period, unless expressly approved in advance by the institution's Principal Supervisory Agent.

(ii) The method of computation set forth in paragraph (a)(2)(i) of this section shall be used by an institution commencing operations as an insured institution or initially becoming subject to this regulation, although such an institution's first computation under this section must be made at the end of the second quarter during which the institution operates or is subject to this regulation for all or a portion of the quarter. If an institution commences operation or initially becomes subject to this regulation within a quarter, the institution shall be permitted to grow up to 6.25 percent during that quarter.

(iii) For purposes of computing an institution's growth pursuant to paragraph (b)(i) and (ii) of this section, an institution's total liabilities as of the beginning of a two-consecutive-quarter period shall include (*a*) any increases in liabilities during the two-quarter period resulting from the acquisition of substantially less than all of the liabilities of an institution after which the selling institution continues in operation as a separate entity (including, but not limited to, branch acquisitions), and (*b*) the total liabilities of the merged and continuing institutions as of the beginning of the two-quarter period in the case of a merger, consolidation, or purchase of assets and assumption of liabilities that occur during the two-quarter period.

(3) Nothwithstanding the provisions of paragraphs (a)(1) or (2) of this section, an insured institution which increases its liabilities through merger, consolidation, or purchase of assets and assumption of liabilities, for which prior review and approval under §563.22 of this part is required, shall not be required to file an application under paragraph (b) unless such institution otherwise increases its liabilities by an amount in excess of 12.50 percent within any two consecutive quarter period.

(b) To obtain the prior written approval from its Principal Supervisory Agent, an institution shall submit a written growth plan. A growth plan shall cover a period of time not to exceed one year, and shall include the following information:

(1) The institution's regulatory capital as of the end of the preceding calendar quarter and its estimated regulatory capital as of the end of the period covered by the growth plan;

(2) The amount of liabilities the institution expects to obtain;

(3) A listing of the proposed sources of and the methods by which the liabilities will be obtained;

(4) The costs, rates, and maturities of liabilities sought to be obtained; and

(5) The planned uses of any liabilities obtained.

(c) No institution shall alter a written growth plan upon which approval has been granted or materially diverge from such a plan without the prior approval of its Principal Supervisory Agent.

(d) Within ten days of the filing of a growth plan or any additional information, the Principal Supervisory Agent shall notify the applicant in writing either that all information required under paragraph (b) of this section has been filed or that additional specified information must be filed. Unless the Principal Supervisory Agent takes objection to, or conditionally approves the plan within 30 days of the date of written notice that all required information has been filed, the plan shall be deemed to be approved. Based on the institution's growth plan, the Principal Supervisory Agent may require an institution to maintain not more than four percent additional regulatory capital over that required by § 563.13(b)(1) on all or a portion of the institution's growth over the 12.50 percent rate computed in accordance with paragraph (a) of this section. In determining whether to take objection to a growth plan, to conditionally approve a growth plan, or to require additional regulatory capital, the Principal Supervisory Agent shall consider the following factors:

(1) The impact of the plan upon the institution's regulatory capital;

(2) The risk of the corresponding investments, the likelihood of obtaining the projected return, the level of diversification, and the ability of the institution to underwrite the incremental volume of investments;

(3) The relative maturities of the liabilities and corresponding investments;

(4) The extent to which the liabilities are derived from or through a single source;

(5) Whether the interest to be paid on the liabilities corresponds with generally prevailing rates for similar liabilities;

(6) The financial strength of the institution, including the level of its regulatory capital which shall not be less than that required by § 563.13(b);

(7) The stability of the institution's earnings over the six preceding calendar quarters;

(8) The extent to which the institution's overall policies are consistent with economical home financing, as evidenced by whether the institution would comply with the definition of "qualified institution" set forth in § 584.2–2(b) of this chapter; and

(9) Whether the overall policies, conditions, and operation of the applicant afford a basis for supervisory objection.

§ 563.13–2 [Amended]

7. Amend § 563.13–2(c)(1) by adding after the word "management" the phrase "and collateralized by assets whose market value (exclusive of the reduction of such market values for credit considerations) is less than 110 percent of the gross proceeds of the securities issuance."

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By the Federal Home Loan Bank Board.
Jeff Sconyers,
Secretary.
[FR Doc. 86-9914 Filed 5-2-86; 8:45 am]
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FEDERAL TRADE COMMISSON

16 CFR Part 13

[File No. 821-0143]

Lithium Corporation of America; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, a Gastonia, North Carolina chemical company from entering into any agreements fixing prices or restricting sales of any lithium product. Additionally, respondent would be prohibited from acting as an agent for any lithium producer when such action might unreasonably restrain competition.

DATE: Comments will be received until July 7, 1986.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: FTC/G-402, Jerry Philpott, Washington, DC 20580. (202) 254-7051.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Chemicals, Trade practices.

Before Federal Trade Commission

[File No. 821-0143]

Agreement Containing Consent Order

In the Matter of Lithium Corporation of America, a corporation.

The Federal Trade Commission (Commission) has initiated a non-public investigation of certain aspects of the structure and conduct of the market for lithium and certain producers and sellers thereof including Glithco Energy Corporation (Glithco), formerly Lithium Corporation of America, a wholly owned subsidiary of Gulf Resources and Chemical Corp. On or about July 19, 1985, Lithium Corporation of America (LCA), a new corporate entity, acquired substantially all of the assets of Glithco Energy Corporation. LCA and Glithco having been furnished with a copy of a draft complaint that the Bureau of Competition proposed to present to the Commission for its consideration and which, if issued by the Commission, would have charged Glithco with violating the Federal Trade Commission Act; and it now appearing that counsel for the Commission and for LCA are willing to enter into an agreement containing an Order in settlement of that complaint:

It is hereby agreed by and between LCA, by its duly authorized officer and attorney, and counsel for the Commission, that:

1. Lithium Corporation of America (LCA) is a corporation organized, existing and doing business under and by virtue of the laws of the State of Delaware maintaining its principal offices at 449 North Cox Road, Gastonia, North Carolina 28052.

2. On or about July 19, 1985, LCA acquired substantially all of the assets of Glithco Energy Corporation, formerly Lithium Corporation of America, a wholly owned subsidiary of Gulf Resources and Chemical Corporation.

3. LCA admits all of the jurisdictional facts set forth in the draft complaint attached hereto.

4. LCA waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seeks judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and,

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify LCA, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by LCA that the law has been violated as alleged in the draft complaint attached hereto.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to provisions of § 2.34 of the Commission's Rules, 16. CFR 2.34, the Commission may, without further notice to LCA, (1) issue its complaint corresponding in form and substance with the draft complaint attached hereto and its decision containing the following order to cease and desist in disposition of the proceeding and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service upon LCA. Delivery by the U.S. Postal Service of the complaint and decision containing the following order to LCA's address as stated in this agreement shall constitute sufficient service. LCA waives any right it may have to any other manner of service.

8. The complaint contemplated hereby may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

9. LCA has read the complaint and order contemplated hereby. LCA understands that once the order has been issued, it will be required to file one or more compliance reports showing it has fully complied with the order. LCA further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

Order

For the purpose of this Order, the following definitions shall apply:

1. "LCA" means Lithium Corporation of America, as well as its officers, employees, divisions, subsidiaries, successors, assigns and the officers or employees of LCA's divisions, subsidiaries, successors and assigns.

2. "Lithium product(s)" means any lithium chemical mined, extracted or milled from a natural resource including but not limited to: (a) Lithium ore (petalite, lepidolite or spodumene); (b) lithium carbonate; (c) lithium hydroxide; (d) lithium chloride; and (e) lithium sulfate.

3. "Person" means any natural person, corporate entity (including subsidiaries thereof), partnership, joint venture, trust, association, governmental or other legal entity whether foreign or domestic.

4. "Lithium seller" means any person engaged in the mining, extracting, milling or sale of any lithium product.

5. "Lithium producer" means any person engaged in the production of any lithium product by mining, extracting, or milling such product from a natural resource, or the exclusive or substantially exclusive agent or distributor of such person in the sale or distribution of such lithium product. Lithium producer does not include any joint venture between LCA and other persons none of which is engaged in the production by mining, extracting or milling of any lithium product or is the exclusive or substantially exclusive agent or distributor of such person in the sale or distribution of such lithium product.

6. "Nonpublic information" means trade secrets or commercial or financial information which is confidential and has not been disseminated to the public.

7. "Sub-HSR transaction" means acquiring, directly or indirectly, the stock, share capital or assets of or any other interest in any lithium seller that is not reportable under the provisions of Section 7A of the Clayton Act, 15 U.S.C. 18a, and the rules promulgated thereunder but would be reportable if:

A. the Size-of-the-Parties Test as set forth in Section 7A(a)(2) of the Clayton Act were deemed inapplicable; and

B. five (5) million dollars were substituted for fifteen (15) million dollars in the size of transaction test set forth in Section 7A(a)(3)(B) as well as The Minimum Dollar Value Exemption set forth in Rule § 802.20(a).

8. "Tolling" means the secondary-recovery of any lithium chemical by a person for which such services are compensated.

I.

It is ordered that LCA shall cease and desist, directly or indirectly, or through any corporate or other device in connection with the offering for sale, sale or distribution of any lithium product in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, as amended, from, directly or indirectly:

A. Entering into, cooperating in or carrying out any agreement, combination, conspiracy, understanding or planned common course of action between or among itself and any lithium producer to:

1. Adopt, establish, fix or maintain, directly or indirectly, the price, terms or conditions of sale for the sale of any lithium product to any third person; or

2. Refuse to deal with any third person seeking to purchase any lithium product from any lithium producer.

B. Soliciting, inducing, coercing, intimidating or compelling any lithium producer to refuse to deal with any person seeking to purchase any lithium product.

C. Taking any action to communicate, furnish, exchange, receive or discuss, directly or indirectly, with any lithium producer any nonpublic information relating to:

1. The price, terms or conditions of sale for any lithium product;

2. The costs of mining, extracting, milling, or selling any lithium product;

3. Forecasts of sales or supply of any lithium product; or

4. Plans for marketing any lithium product.

Provided, however, that nothing contained in Subparagraph C of this Paragraph shall prohibit LCA from:

Providing to or receiving from any lithium producer such information as is reasonably necessary for and solely related to the good faith negotiating for, entering into, or carrying out (a) a purchase, sale or tolling agreement of any lithium product between LCA and such lithium producer; (b) acquisition of LCA or a substantial portion of its business or the acquisition by LCA of all or a substantial part of any lithium producer; and (c) any joint venture involving another lithium producer that is not reportable under Paragraph IV of this Order.

II.

It is further ordered that LCA shall cease and desist, directly or indirectly, or through any corporate or other device in connection with the offering for sale, sale or distribution of any lithium product in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, as amended, from purchasing from any lithium producer and reselling, or acting as an agent for any lithium producer in the sale of, any lithium product where such purchase, resale or agency unreasonably restrains competition.

III.

Paragraphs I and II of this Order do not prohibit conduct that is permitted by the Export Trading Company Act of 1982, 15 U.S.C. 4001-4021 (1982), or the Webb-Pomerene Act, 15 U.S.C. 61-66 (1982), or any amendments thereto, or conduct to which Subsection (a) of Section 5 of the Federal Trade Commission Act does not apply under the Foreign Trade Antitrust Improvements Act of 1982, Public Law 97-290, Title IV, or any amendments thereto. If within five (5) years from the date this Order becomes final, an application is made by LCA under Title III of the Export Trading Company Act of 1982 for an Export Trade Certificate of Review relating to any lithium product, copies of the application and all documents filed by LCA in support thereof shall be filed simultaneously with the Commission.

IV.

It is further ordered that for a period of five (5) years from the date this Order becomes final, LCA shall within twenty (20) days after entering into any sub-HSR transaction provide the Federal Trade Commission written notification of such transaction and provide such information for LCA and the acquired party as required by the Notification and Report Form set forth in the Appendix to Part 803 of Title 16 of the Code of Federal Regulations, as amended.

V.

It is further ordered that LCA shall, within sixty (60) days after service upon it of this Order, file with the Commission a report in writing, setting forth in detail the manner and form in which it has complied with this Order. LCA also shall submit such further written reports as the staff of the Commission may from time to time request in writing to assure compliance with this Order.

VI.

It is further ordered that LCA shall notify the Commission at least thirty (30)

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days prior to any proposed corporate change, such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries, or any other change in the corporation that may affect compliance with the obligations arising out of this Order.

Analysis of Proposed Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Lithium Corporation of American (LCA).

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The Complaint

LCA is a Delaware corporation that mines lithium ore and processes it into lithium chemicals, which it sells in the United States and elsewhere. The complaint prepared for issuance by the Commission with the proposed order alleges that since at least 1980 and continuing at least until June 1984, Glithco Energy Corporation [1] agreed with two Chinese companies to restrain trade in lithium products. According to the complaint, Glithco agreed with China Metallurgical Import and Export Corporation (CMIEC) and Xinjiang Non-Ferrous Metals Corporation (XNMC) that Glithco would purchase lithium hydroxide from CMIEC and that CMIEC would refuse to deal with chemical traders seeking to purchase lithium. XNMC manufactured, and CMIEC sold, lithium in competition with Glithco.

As a result of this conduct, the complaint alleges, competition between Glithco, CMIEC, and XNMC in the sale of lithium products was reduced or eliminated. Competition between Glithco and other chemical traders of lithium products was also reduced or eliminated as a result of Glithco's exclusive distribution agreement with CMIEC and its actions to ensure that CMIEC would refuse to deal with such traders. The complaint also alleges that consumers of lithium products have been deprived of free and open competition in the trading of those products and that the importation of lithium products into the United States has been restrained.

The Proposed Order

The proposed order is intended to prohibit LCA from restraining competition in lithium products and thereby to assure that the market is open to competition by the Chinese firms, chemical traders, and others who wish to sell lithium products in United States commerce.

Paragraph I of the order prohibits LCA from entering into or carrying out any agreement involving any other lithium producer to fix the price of any lithium product or to refuse to deal with any third person that seeks to purchase any lithium product. LCA is also prohibited by this paragraph from soliciting or coercing any such agreement to refuse to deal and from exchanging certain categories of non-public information with any other lithium producer.

Paragraph II of the order prohibits LCA from purchasing and reselling any lithium product, or acting as an agent in the sale of any lithium product, where its activities unreasonably restrain competition.

Paragraph III of the order provides that Paragraphs I and II do not prohibit conduct permitted under the Export Trading Company At of 1982 or the Webb-Pomerene Act.

Paragraph IV of the order requires that for a five-year period, LCA must notify the Commission within twenty days after it enters into certain acquisitions of lithium sellers that would not be reportable under the Hart-Scott-Rodino Act's premerger notification provisions.

Paragraphs V and VI are procedural. Paragraph V requires LCA to file a compliance report within sixty days of service of the order. Paragraph VI requires LCA to notify the Commission at least thirty days in advance of any important changes in its corporate structure, such as dissolution or sale.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 86-9907 Filed 5-2-86; 8:45 am]

BILLING CODE 6750-01-M

[1] Glithco was formerly Lithium Corporation of America, as wholly owned subsidiary of Gulf Resources and Chemical Corporation. On or about July 19, 1985, LCA, a new corporate entity, acquired substantially all of the assets of Glithco.

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD796-12]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, SC

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the South Carolina Department of Highways and Public Transportation and local government representatives the Coast Guard is considering changing the regulations governing the Ben Sawyer Bridge, mile 462.2 at Sullivans Island, by permitting weekend openings to be further limited. This proposed is being made because of reports of vehicular congestion. This action should accommodate the needs of vehicular trafic yet still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before June 19, 1986.

ADDRESSES: Comments should be mailed to Commander (oan), Seventh Coast Guard District, 51 SW. 1st Avenue, Miami, Florida 33130. The comments and other materials referenced in this notice will be available for inspection and copying at 51 SW. 1st Avenue, Room 816, Miami, Florida. Normal office hours are from 7:30 a.m. to 4 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskowsky, (305) 536-4103.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Seventh Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafters of this notice are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander Ken Gray, project attorney.

Discussion of Proposed Regulations

The bridge presently opens on signal on Saturdays, Sundays, and federal holidays except from 2 p.m. to 6 p.m. when it need open only on the hour and half hour. The proposed rule would extend this time period by six hours (9 a.m. to 7 p.m.) and limit routine openings to one per hour during this period. This change was temporarily implemented in the summer of 1985 for evaluation purposes (50 FR 31367) and generated no complaints from mariners. This change is intended to space draw openings and virtually eliminate "back to back" openings which can contribute significantly to vehicular traffic delays during these periods.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations exempt tugs with tows. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulations

PART 117—DRAWBRIDGE OPERATION REGULATIONS

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05-1(g).

2. Section 117.911 is proposed to be amended by revising paragraph (c) to read as follows:

§ 117.911 Atlantic Intracoastal Waterway, Little River to Savannah River.

* * * * *

(c) *Ben Sawyer (SR 703) bridge across Sullivans Island Narrows, mile 462.2 between Sullivans Island and Mount Pleasant.* The draw shall open on signal; except that, the draw need not open from 7 a.m. to 9 a.m. and from 4 p.m. to 6 p.m., Monday through Friday, except federal holidays. On Saturdays, Sundays, and federal holidays from 9 a.m. to 7 p.m. the draw need open only on the hour.

* * * * *

Dated: April 21, 1986.

R.P. Cueroni,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. 86-10034 Filed 5-2-86; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Cambarus Zophonastes

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine a cave crayfish, *Cambarus zophonastes*, to be an endangered species under the authority contained in the Endangered Species Act of 1973, as amended. This obligate cave dweller has been found only in one cave in Stone County, Arkansas. The species does not have an acepted common name. Groundwater contamination, collecting, and low population levels represent major potential threats to *Cambarus zophonastes*. Groundwater contamination is especially important because most of the stream channels in the cave's recharge area are sinking streams, which can readily introduce pollutants or contaminants into the cave system. This proposal, if made final, will implement the protection of the Endangered Species Act of 1973, as amended, for this cave crayfish. The Service seeks relevant data and comments from the public.

DATES: Comments from all interested parties must be received by July 7, 1986. Public hearing requests must be received by June 19, 1986.

ADDRESS: Comments and materials concerning this proposal should be sent to the Endangered Species Field Station, U.S. Fish and Wildlife Service, Jackson Mall Office Center, Suite 316, 300 Woodrow Wilson Avenue, Jackson, Mississippi 39213. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Dennis B. Jordan at the above address (601/960-4900 or FTS 490-4900).

SUPPLEMENTARY INFORMATION:

Background

Cambarus zophonastes is an albinistic cave crayfish endemic to the White River Basin in north-central Arkansas (Smith 1984). This obligate cave crayfish was first collected in 1961 and described in 1964 from five specimens takens from the type locality (Hobbs and Bedinger 1964). *Cambarus zophonastes* lacks pigment in the body and eyes, which are reduced, and the overall body length reaches about 65mm. It can be distinguished from related species by the following features of its carapace: the rostrum has strongly convergent margins bearing spines, and the areola is more than 29 times longer than wide. The species is known from only the type locality and only eight specimens are known to exist in zoological collections. Over 170 additional caves in north-central Arkansas have been searched without *Cambarus zophonastes* being found. A survey of 436 caves and ten springs in Missouri revealed two closely related species *(Cambarus hubrichti* and *Cambarus setosus)* but failed to reveal *Cambarus zophonastes* (Smith 1984).

The type locality is situated in the Ozark Mountains, and the cave is formed in the Plattin Limestone (Hobbs and Bedinger 1964). This cave is a solution channel, most of which is wet year-round. It contains much mud, and many of its passages are flooded during storms and wet seasons. About 150 feet (45 meters) inside the cave is a pool ranging from 1 to at least 20 feet (0.3-7 meters) in depth with a narrow, shallow stream entering it from the cave's interior, This stream flows through 1,400 feet (425 meters) of cave passage (Smith 1984). Water from the cave emerges as three springs located about 150 feet (45 meters) from the cave entrance. The crayfish has been found only in the cave pool. The Arkansas Natural Heritage Commission and The Nature Conservancy recently purchased a 160-acre (65-hectare) tract that includes the cave's entrance. The primary recharge area consists of 3.51 square miles (9 square kilometers) (Aley and Aley 1985) and is largely privately owned. Population trends for *Cambarus zophonastes* have not been documented. The largest number of individuals sighted during a single trip was 15 crayfish recorded by a scuba diver in 1983. The toal population is estimated to be fewer than 50 individuals (Smith 1984).

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Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) set forth the procedures for adding species to the Federal lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Cambarus zophonastes* (no common name) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Groundwater contamination represents a major threat to *Cambarus zophonastes*. The only known population is in a geographic area characterized by sinking streams. A sinking stream is a surface water course that loses significant quantities of water into the subsurface in very localized areas. Sinking streams are of extreme importance in supplying water and nutrients to caves. This rapid flow of water into caves also allows the easy introduction of pollutants. A hydrological study of the area (Aley and Aley 1985) has identified threats to this system. An electrical transmission line crosses the recharge area for this cave. The use of herbicides to clear the right-of-way for this line could contaminate the cave. A State highway borders the recharge area for the cave and is a potential source for accidental spills of materials hazardous to water quality. A 4,000 gallon (15,140 liter) spill of gasoline occurred on the highway in March 1985. There are three industrial operations within the cave recharge area that threaten the water quality. All three industries store petroleum products that could spill or leak into the cave. One of the industries, a concrete plant, contributes silt to the cave when its sediment ponds overflow (Aley and Aley 1985). The City of Mountain View has grown rapidly and will likely expand into the topographic basin, within which some subdivision roads have already been built. Continuing development presents a major threat to water quality in the cave from the use of septic tanks to dispose of wastewater.

B. *Overutilization for commercial, recreation, scientific, or educational purposes.* Obligate cave species characteristically live longer and have considerably lower reproductive capacities than their surface relatives. Cooper (1975), in his study of crayfish in Shelta Cave, Alabama, found the cave species *Orconectes australis* to have only 10 to 60 attached ova, while surface species of *Orconectes* had up to 574 attached ova. *Cambarus zophonastes* probably also has low reproductive capabilities. The removal of adults from a limited population with a likely low reproductive potential would seriously endanger the existence of the population. With a maximum of 15 individuals of *Cambarus zophonastes* ever observed and with a total population estimate of 50 individuals, the removal of any reproducing females would dramatically impact and could eliminate a year's recruitment. The limited habitat and population size make the species vulnerable to vandalism and taking.

C. *Disease or predation.* Disease and predation have not been documented for this species.

D. *The inadequacy of existing regulatory mechanisms.* This species is not recognized or protected as a rare species by any existing Federal or State regulation. Arkansas requires a scientific collecting permit for collecting any species, except taking for fish bait under other State regulations. This affords very limited protection owing to the difficulty of apprehending violators and limited resources for law enforcement.

E. *Other natural or manmade factors affecting its continued existence.* Obligate cave species apparently have very low reproductive rates, as evidenced by the limited information available on other cave species (Poulson 1961). This low reproductivity is partially due to the limited energy availability in caves. This cave likely served as a maternity roost site for gray bats (*Myotis grisescens*), a species listed as endangered, at one time in the past (Harvey *et al.* 1981). The abandonment of this roost site represents a loss of energy input, in the form of guano, to the cave's aquatic community. This loss of energy reduces the available food supply and may have limited or reduced the population size of *Cambarus zophonastes*. Reproduction of *Cambarus zophonastes* is further impacted by low numbers of mature individuals, which reduces genetic diversity and the likelihood of successful mating encounters. Low reproductive capabilities and the small, single population naturally limit this species' ability to recover from any adversity.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Cambarus zophonastes* as endangered. Endangered status was chosen because this species is known from only one cave system with an estimated population of only 50 individuals. The species is especially vulnerable to water quality degradation at this site. It therefore requires the greatest possible protection available under the Act. The reason critical habitat is not being proposed is discussed in the next section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extend prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. As discussed under Factor B in the "Summary of Factors Affecting the Species," *Cambarus zophonastes* is endangered by taking, an activity difficult to prevent. Publication of critical habitat descriptions would make this species even more vulnerable and increase enforcement problems. All involved parties and land owners will be notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will be addressed through the recovery process and through the section 7 jeopardy standard (see below). Therefore, it would not be prudent to determine critical habitat for *Cambarus zophonastes* at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Federal involvement with this species is expected to be minimal. The continuing development of this region could lead to sub-surface water degradation that may involve the Environmental Protection Agency or other agencies with jurisdiction over groundwater. The Federal Housing Authority may be required to consult with the Service on Federal loans for housing development within the cave's recharge area.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not available.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Cambarus zophonastes;*

(2) The location of any additional populations of *Cambarus zophonastes* and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject area and their possible impacts on *Cambarus zophonastes.*

Final promulgation of the regulation on *Cambarus zophonastes* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Endangered Species Field Supervisor (see **ADDRESSES** section).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Literature Cited

Aley, T., and C. Aley. 1985. Water Quality Protection Studies Hell Creek Cave, Arkansas. A contract report for the Arkansas Natural Heritage Commission.

Cooper, J.E. 1975. Ecological and Behavioral Studies in Shelta Cave, Arkansas, with Emphasis on Decapod Crustaceans. Ph. D. Dissertation, University of Kentucky.

Harvey, M.J., J.J. Cassidy, and G.G. O'Hagan. 1981. Endangered Bats of Arkansas: Distribution, Status, Ecology, and Management. A report to Arkansas Game and Fish Commission, Little Rock.

Hobbs, H.H., Jr., and M.S. Bedinger. 1964. A New Troglobitic Crayfish of the Genus *Cambarus* (Decapoda, Astacidae) from Arkansas with a Note on the Range of *Cambarus cryptodytes* Hobbs. Proc. Biol. Soc. Wash., 77:9–15.

Poulson, T.L. 1961. Cave Adaptation in Amblyopsid Fishes. Ph. D. Dissertation, University of Michigan.

Smith, K.L. 1984. The Status of *Cambarus zophonastes* Hobbs and Bedinger, An Endemic Cave Crayfish from Arkansas. A status survey report for the U.S. Fish and Wildlife Service.

Author

The primary author of this proposed rule is James Stewart (see **ADDRESSES** section).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend part 17, Subchapter B of Chapter I, Title 50 of the Code Federal Regulations, as set forth below:

1. The Authority citation for Part 17, continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order under CRUSTACEANS, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

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Species: Common name	Species: Scientific name	Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
CRUSTACEANS							
Crayfish (no common name)	*Cambarus zophonastes*	U.S.A. (AR)	NA	E		NA	NA

Dated: March 28, 1986.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-9994 Filed 5-2-86; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 51, No. 86
Monday, May 5, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 86-318]

USDA Cooperative Gypsy Moth Suppression and Regulatory Projects—1985: Availability of Site-Specific Environmental Analysis; Finding of No Significant Impact; and Decision to Cooperate

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document provides notice that site-specific environmental impact statements have been prepared for proposed gypsy moth treatment areas in Minnesota and Oregon. The States of Minnesota and Oregon have decided to initiate gypsy moth eradication programs using *Bacillus thuringiensis (B.t.)*. Based on the evaluation of the Final Environmental Impact Statement, as Supplemented—1985 (EIS) and the site-specific environmental analysis prepared for the proposed treatment areas in Minnesota and Oregon, the Animal and Plant Health Inspection Service (APHIS) has determined that the proposed treatments pose no significant adverse impact on the environment of those areas and, accordingly, has decided to cooperate with the States of Minnesota and Oregon in gypsy moth eradication programs.

ADDRESSES: Copies of this site-specific environmental analysis prepared for the proposed treatment area(s) in Minnesota and Oregon are available for public inspection in a State office in the State where the analysis was conducted. Addresses of these State offices are as follows:

Minnesota Department of Agriculture, Division of Plant Industry, 90 West Plato Boulevard, St. Paul, Minnesota 55107;

Oregon Department of Agriculture, Plant Division, Agriculture Building, Salem, Oregon 97310.

Copies are also available for public inspection at the Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663, Federal Building, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Gary Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663, Federal Building, Hyattsville, MD 20782, (301) 436-8295.

SUPPLEMENTARY INFORMATION: The final Environmental Impact Statement (FEIS), as supplemented 1985, on the Gypsy Moth Suppression and Eradication Projects was filed with the U.S. Environmental Protection Agency (EPA) on March 18, 1985. A notice was published in the **Federal Register** on February 18, 1986 (51 FR 5750–5751) announcing the availability of the final addendum to the FEIS. A notice was published in the **Federal Register** on April 7, 1986 (51 FR 11769) announcing that the Animal and Plant Health Inspection Service had decided to adopt Alternative 4, Integrated Pest Management (IPM), for gypsy moth eradication projects. The document of April 7, 1986, also stated that decisions concerning APHIS participation in cooperating with States on eradication projects will be on the basis of site-specific environmental analyses prepared for proposed treatment areas in the States in accordance with the National Environmental Policy Act (NEPA) regulations, APHIS guidelines implementing NEPA, and other applicable laws.

The States of Minnesota and Oregon have prepared a separate site-specific environmental analysis for proposed treatment areas in their States for 1986. The site-specific environmental analyses are available upon request (see "**ADDRESSES**"). Site-specific environmental analysis were prepared for each of the following proposed treatment areas:

Minnesota: approximately 225 acres in the city of Apple Valley;

Oregon: approximately 195,000 acres in the county of Lane, and approximately 5,000 acres in the county of Douglas.

Each site-specific environmental analysis discusses the environmental effects of the program for those areas that are proposed to be treated. Based on a review of these site-specific environmental analyses, it has been determined that there are no unique characteristics or aspects of or within the proposed treatment areas or any treatment options discussed for possible use in the site-specific environmental analysis that would place any of these areas or treatment options outside the scope of considerations addressed in the EIS.

Further, the Department has been notified by the State Departments of Agriculture for the States of Minnesota and Oregon that each of these States have decided to conduct aerial spray treatment programs using *B.t.* and appropriate other tools.

Based on the Department's review of the EIS and each site-specific analysis, and in accordance with the National Environmental Policy Act and the Department's EIS, the Department has decided to cooperate with the States of Minnesota and Oregon in the conduct of these programs.

The Organic Act of September 21, 1944, as amended (7 U.S.C. 147a), authorizes APHIS to cooperate with States to retard the artificial, long-range spread of the gypsy moth and to eradicate isolated infestations of the pest.

B.t., in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136 *et. seq.*), are registered by the Environmental Protection Agency (EPA) for use against gypsy moth. They will be applied according to the label directions and APHIS operating procedures.

Done at Washington, D.C., this 30th day of April, 1986.

A. P. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 86-9994 Filed 5-2-86; 8:45 am]

BILLING CODE 3410-34-M

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[Docket No. 85-042]

Interstate Transportation of Animals and Animal Products; Laboratories Approved To Conduct Official Pseudorabies Tests

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document gives notice of laboratories approved under the pseudorabies regulations (9 CFR Part 85) to conduct official pseudorabies tests.

FOR FURTHER INFORMATION CONTACT: Dr. L.W. Schnurrenberger, VS, APHIS, USDA, Room 820, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8487.

SUPPLEMENTARY INFORMATION:

The pseudorabies regulations (contained in 9 CFR Part 85 and referred to below as the regulations) include provisions concerning the use of official pseudorabies tests for determining the disease status of swine and certain other livestock. Under the regulations, a test may be designated as an official pseudorabies test if the test is approved by the Deputy Administrator of Veterinary Services (referred to below as the Deputy Administrator) and if the test is conducted in a laboratory approved by the Deputy Administrator.

Laboratories have been approved by the Deputy Administrator to conduct the Microtitration Serum-Virus Neutralization Test (referred to in the list below as SN), the Enzyme-Linked Immunosorbent Assay Test (referred to in the list below as ELISA), or both tests. The regulations also state that such approved laboratories will be listed in a Federal Register notice. Accordingly, this notice lists those laboratories which are approved by the Deputy Administrator and indicates the test or tests for which they are approved.

Laboratories Approved to Conduct Official Pseudorabies Tests

Alabama

Alabama Veterinary Diagnostic Laboratory, P.O. Box 2209, Auburn, AL 36830—SN

Arkansas

Arkansas Livestock and Poultry Commission, Diagnostic Laboratory, #1 Natural Resources Drive, Little Rock, AR 72205—SN

Arizona

Arizona Veterinary Diagnostic Laboratory, University of Arizona, Tucson, AZ 85721—SN

California

Department of Food and Agriculture, Veterinary Laboratory Services, 2789 South Orange Avenue, Fresno, CA 93725—SN

Colorado

College of Veterinary Medicine, Diagnostic Laboratory, Building 115, Colorado State University, Fort Collins, CO 80523—SN

Florida

Division of Animal Industry, Kissimmee Diagnostic Laboratory, P.O. Box 490, Kissimmee, FL 32741—SN

Georgia

College of Veterinary Medicine, Diagnostic Laboratory, University of Georgia, Athens, GA 30602—SN

Diagnostic Laboratory, University of Georgia, Tifton, GA 31794—SN and ELISA

Hawaii

Department of Agriculture, Veterinary Laboratory, 99-762 Moanalua Road, Aiea, HI 96701—SN

Idaho

Bureau of Animal Laboratories, 2230 Old Penitentiary Road, P.O. Box 7249, Boise, ID 83707—SN

Illinois

Illinois Department of Agriculture, Animal Disease Laboratory, P.O. Box 587, Shattuc Road, Centralia, IL 62801—SN or ELISA

Illinois Department of Agriculture, Animal Disease Laboratory, 1801 North Seminary Street, Galesburg, IL 61401—SN and ELISA

Indiana

Purdue Animal Disease Diagnostic Laboratory, West Lafayette, IN 47906—SN

Iowa

Veterinary Diagnostic Laboratory, Iowa State University, Ames, IA 50011—SN and ELISA

Kansas

Veterinary Diagnostic Laboratory, Veterinary Medical Science, Kansas State University, Manhattan, KS 66506—SN and ELISA

Kentucky

Murray State University Diagnostic Laboratory, North Drive, Hopkinsville, KY 42240—SN

Central Kentucky Animal Disease Diagnostic Laboratory, RR #8, Newton Pike, Lexington, KY 40505—SN

Louisiana

Louisiana Veterinary Medical Diagnostic Laboratory, School of Veterinary Medicine, Louisiana State University, Baton Rouge, LA 70803—SN

Maryland

Animal Health Laboratory, 4901 Calvert Road, College Park, MD 20740—SN

Michigan

Michigan Department of Agriculture Laboratory, Division, 1615 South Harrison Road, East Lansing, MI 48823—SN

Minnesota

College of Veterinary Medicine, University of Minnesota, St. Paul, MN 53108—SN

Mississippi

Veterinary Diagnostic Laboratory, 2531 North West Street, Jackson, MS 39216—SN

Missouri

Veterinary Medical Diagnostic Laboratory, College of Veterinary Medicine, University of Missouri, Columbia, MO 65201—SN and ELISA

Montana

Diagnostic Laboratory, State-Federal Bureau Laboratory, P.O. Box 997, Bozeman, MT 59715—SN

Nebraska

Veterinary Diagnostic Center, Department of Veterinary Service, Fair Street and East Campus Loop, University of Nebraska-Lincoln, Lincoln, NE 68503—SN and ELISA

New Jersey

State of New Jersey, Department of Agriculture, P.O. Box 1888, Trenton, NJ 08625—SN

New Mexico

New Mexico Veterinary Diagnostic Services, 700 Camino de Salud NE, Albuquerque, NM 87106—ELISA

New York

Diagnostic Laboratory, Cornell University, New York State Veterinary College at Cornell University, Box 786, Ithaca, NY 14850—SN and ELISA

North Carolina

Rollins Animal Disease Diagnostic Laboratory, Box 12223, Cameron Village Station, Raleigh, NC 27605—SN and ELISA

North Dakota

Department of Veterinary Science, North Dakota State University, Fargo, ND 58102—SN

Ohio

Ohio Department of Agriculture, Animal Disease Diagnostic Laboratory, 8995 East Main Street, Reynoldsburg, OH 43068—SN

Oklahoma

State-Federal Laboratory, 50 Northeast 23rd Street, Oklahoma City, OK 73105—SN and ELISA

Oklahoma Animal Disease Diagnostic Laboratory, College of Veterinary Medicine, Oklahoma State University, Stillwater, OK 74074—SN and ELISA

Oregon

Oregon State Veterinary Diagnostic Laboratory, Oregon State University, Corvallis, OR 97331—SN

State-Federal Laboratory, 635 Capitol Steet, NE, Salem, OR 97310—ELISA

Pennsylvania

Pennsylvania Department of Agriculture, Bureau of Animal Industry, Summerdale Laboratory, Box 1490, Harrisburg, PA 17105—SN and ELISA

South Carolina

Clemson University Livestock-Poultry Health Department, P.O. Box 218, Elgin, SC 29045—SN

South Dakota

Animal Disease Research and Diagnostic Laboratory, Veterinary Science Department, South Dakota State University, Brookings, SD 57006—SN and ELISA

Tennessee

C.E. Kord Animal Disease Diagnostic Laboratory, Ellington Agricultural Center, Box 40627, Melrose Station, Nashville, TN 37204—SN

Texas

Texas Veterinary Medical Diagnostic Laboratory, Drawer 3040, College Station, TX 77841—SN

Texas A&M Veterinary Diagnostic Laboratory, S.B. Whittenburg Building, 6610 Amarillo Boulevard West, Amarillo, TX 79106—SN and ELISA

Utah

Utah State Veterinary Diagnostic Laboratory, Utah State University, Logan, UT 84321—SN

Virginia

Virginia Department of Agriculture, Animal Health and Diagnostic Laboratory, 1 North 14 Street, Room 161, Richmond, VA 23219—SN

Washington

Diagnostic Laboratory, College of Veterinary Medicine, Washington State University, Pullman, WA 99163—SN

Wisconsin

Central Animal Health Lab, 6101 Mineral Point Road, Madison, WI 53705—SN.

Dated: April 29, 1986.

Gerald J. Fichtner,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 86-9996 Filed 5-2-86; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Stabilization and Conservation Service

Virginia Sun-Cured, Maryland, Cigar-Filler (Type 41) and Cigar Binder (Types 51 and 52) Tobaccos; Referenda Results for 1986 Through 1988 Crops

ACTION: Notice of Results of Marketing Quota Referenda for 1986 Through 1988 Crops of Virginia Sun-Cured, Maryland, Cigar-Filler (Type 41) and Cigar Binder (Types 51 and 52) Tobaccos.

SUMMARY: This notice proclaims the results of marketing quota referenda for Virginia sun-cured, Maryland, cigar-filler (type 41), and cigar binder (types 51 and 52) tobaccos which were held during the period February 24 through February 27, 1986, in accordance with section 312(c) of the Agricultural Adjustment Act of 1938, as amended.

The referenda were conducted in order to determine whether producers of these kinds of tobacco favor or oppose marketing quotas. Since Virginia sun-cured tobacco producers did not disapprove national marketing quotas, such quotas will be in effect for the three marketing years 1986-1987, 1987-1988, and 1988-1989. Since Maryland, cigar-filler (type 41) and cigar binder (type 51 and 52) tobacco producers opposed national marketing quotas, such quotas will not be in effect for the three marketing years 1986-1987, 1987-1988, and 1988-1989.

EFFECTIVE DATE: May 5, 1986.

FOR FURTHER INFORMATION CONTACT: Donald M. Blythe, Tobacco and Peanuts Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, 20013, (202) 447-2715.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified "not major". This notice has been classified as "not major" since it will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local government agencies, or a geographic region; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of Federal Assistance Program to which this notice applies as set forth in the Catalog of Federal Domestic Assistance are: Title: Commodity Loan and Purchases; Number: 10.051.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since the Agricultural Stabilization and Conservation Service is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this notice.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, Published at 48 FR 29115 (June 24, 1983).

On January 31, 1986, the Secretary of Agriculture announced that national marketing quotas would be in effect for Virginia sun-cured, Maryland, cigar-filler (type 41) and cigar binder (types 51 and 52) tobaccos for the three marketing years beginning on October 1, 1986, subject to approval by producers of each of these kinds of tobaccos in separate referenda.

During the period February 24 through February 27, 1986, referenda for Virginia sun-cured, Maryland, cigar-filler (type 41) and cigar binder (types 51 and 52) tobaccos were conducted. Section 312(c) of the 1938 Act provides that if more than one-third of such producers voting in the referenda oppose national marketing quotas such results shall be proclaimed by the Secretary and national marketing quotas shall not be in effect.

Since the only purpose of this notice is to announce the results of referenda, it is hereby determined that no further public rulemaking is required. Accordingly, the results of such referenda are set forth below:

Notice

Results of the national marketing quota referenda for the 1986 through 1988 crops Virginia sun-cured, Maryland, cigar-filler (type 41) and cigar binder types 51 and 52) tobaccos.

(1) Referenda period. The national marketing quota referenda for the 1986-1987, 1987-1988, and 1988-1989 marketing years for Virginia sun-cured, Maryland, cigar-filler (type 41) and cigar binder (types 51 and 52) tobaccos were held during the period February 24 through February 27, 1986, in accordance with 7 CFR Part 717.

(2) *Farmers Voting.* The following is a summary, by State, of the results of each referendum:

State	Yes	No	Total
Virginia Sun-Cured [1]			
Virginia	96	5	101
Totals	96	5	101
Maryland [2]			
Maryland	202	641	843
Pennsylvania	20	191	211
Virginia	2	2	4
Totals	224	834	1,058
Cigar-Filler (Type 41) [3]			
Pennsylvania	46	296	342
Totals	46	296	342
Cigar-Binder (Types 51 and 52) [4]			
Connecticut	1	59	60
Massachusetts	6	18	24
Totals	7	77	84

[1] Of those voting, 96 producers, or 95.05 percent, favored Virginia sun-cured tobacco marketing quota and 5 producers, or 4.95 percent, opposed quotas.

[2] Of those voting, 224 producers, or 21.17 percent, favored Maryland tobacco marketing quotas and 834 producers, or 78.83 percent, opposed quotas.

[3] Of those voting, 46 producers, or 13.46 percent, favored cigar-filler (type 41) tobacco marketing quotas and 296 producers, or 86.55 percent, opposed quotas.

* Of those voting, 7 producers or 8.33 percent favored cigar binder (types 51 and 52) tobacco marketing quotas and 77 producers, or 91.67 percent, opposed quotas.

(3) *Marketing quotas will be in effect for the 1986 through 1988 crops for Virginia sun-cured tobacco.* Since less than one-third of the producers of Virginia sun-cured tobacco voting in the referenda voted to disapprove marketing quotas and since the 1985–1986 marketing year is the last of three consecutive years for which marketing quotas previously proclaimed will be in effect, national marketing quota shall be in effect for Virginia sun-cured tobaccos for the marketing years 1986–1987, 1987–1988, and 1988–1989.

(4) *Marketing quotas will not be in effect for the 1986 through 1988 crops of Maryland, cigar-filler (type 41) and cigar binder (type 51 and 52) tobaccos.* Since more than one-third of the producers of Maryland, cigar-filler (type 41) and cigar binder (types 51 and 52) tobacco voting in the referenda opposed quotas, national marketing quotas shall not be in effect for Maryland, cigar-filler (type 41) and cigar binder (types 51 and 52) tobaccos for the marketing years 1986–1987, 1987–1988, and 1988–1989.

Authority: Secs. 312(c), 52 Stat. 46, as amended, 7 U.S.C. 1312(c).

Signed at Washington, DC, on April 29, 1986.

Milt Hertz,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 86-9993 Filed 5-2-86; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

April 28, 1986.

The USAF Scientific Advisory Board Ad Hoc Committee on Appropriate Air Force Technology efforts to Complement the Strategic Defense Initiative Program will meet at the Pentagon, Washington, DC, on May 19, 1986, from 1:30 pm to 5:00 pm and on May 20, 1986, from 8:00 am to 3:30 pm.

The purpose of the meeting will be for the Directed Energy Weapons (DEW) Subpanel to review and discuss Air Force space-related DEW programs.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-10045 Filed 5-2-86; 8:45 am]

BILLING CODE 3910-01-M

Department of the Air Force, USAF Scientific Advisory Board; Meeting

April 28, 1986.

The USAF Scientific Advisory Board Ad Hoc Committee on Appropriate Air Force Technology efforts to Complement the Strategic Defense Initiative Program will meet at the Pentagon, Washington, DC, on May 19, 1986, from 1:30 pm to 5:00 pm and on May 20, 1986, from 8:00 am to 3:30 pm.

The purpose of the meeting will be for the Directed Energy Weapons (DEW) Subpanel to review and discuss Air Force space-related DEW programs.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-10136 Filed 5-2-86; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Friday, 23 May 1986.

Times of Meeting: 0830–1630 hours.

Place: Pentagon (Room 2E715B), Washington, DC.

Agenda: The Army Science Board Ad Hoc Subgroup on Chemical/Biological Warfare Intelligence will meet for its initial meeting to discuss CBW intelligence research and development needs, intelligence gaps, and current analytic efforts in the CBW arena. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86-10011 Filed 5-2-86; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Thursday & Friday, 22–23 May 1986.

Times of Meeting: 0900–1700 (Thursday), 0600–1500 (Friday).

Place: Pentagon, Room 2E715B, Washington, DC 20310.

Agenda: The Army Science Board Ad Hoc Subgroup on Ballistic Missile Defense will meet for discussions on interactive discriminations study and targets for SDI test program. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695–3039 or 695–7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86-10012 Filed 5-2-86; 8:45 am]

BILLING CODE 3710-08-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Supplemental Environmental Impact Statement (DSEIS) for the Agana River Flood Control Improvements, Agana, Territory of Guam.

AGENCY: US Army Corps of Engineers, DOD Honolulu District.

ACTION: Notice of intent to prepare draft Supplemental Environmental Impact Statement (DSEIS).

SUMMARY: 1. The US Army District, Engineer, Honolulu is studying the feasibility of constructing flood control improvements of the Agana River, Territory of Guam. The purpose of the project is to eliminate the flooding problems which occur in Agana during heavy rains.

2. The Corps published a final Environmental Impact Statement (EIS) for the project in March 1977. This DSEIS will address impacts associated with changes to the project, and will include new information developed since the original FEIS.

3. As part of the original EIS process, the Corps held meetings and workshops in Agana. They have participated with Government of Guam agencies in an additional workshop held in June 1985. Local interest groups, private organizations and parties, and Federal and local agencies have been contacted during the course of the study. At this time, the DSEIS will address the effects of the proposed changes to the project on fish and wildlife resources, historic sites, water resources, parks and social considerations identified by local residents at the public workshops. The U.S. Fish and Wildlife Service will provide their opinion of the project effects on fish and wildlife resources for inclusion in the DSEIS. Consultation with the US Advisory Council on Historic Preservation, National Park Service, Territorial Historic Preservation Officer, Guam Environmental Protection Agency, US Environmental Protection Agency, National Marine Fisheries Services, Guam Division of Aquatic and Wildlife Resources and the Guam Coastal Management Program will be competed during the study as appropriate.

4. Scoping meetings were held in 1984 and 1985 and additional meetings are not planned at this time.

5. The DSEIS will be made available for public review about May 15, 1986.

Questions about the proposed action and DSEIS can be answered by: Mr. James Pennaz, Project Manager, US Army Engineer District, Honolulu, Building T–1, Fort Shafter, Hawaii, 96858–5440. Telephone: (808) 438–1907.

Dated: April 18, 1986.

John O. Roach, II,

Army Liaison Officer with the Federal Register.

[FR Doc. 86-9991 Filed 5-2-86; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed Variable Industrial Rate; Close of Comment Deadline

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of Close of Comment.

BPA File No.: VI–86. BPA requests that all comments submitted in response to this notice contain the file number designation VI–86.

SUMMARY: On December 18, 1985, BPA published a notice of Proposed Variable Industrial Rate and Opportunity for Public Review and Comment in the **Federal Register** (FR 51577). The notice included a request for comments on the variable industrial rate proposal, and stated that a deadline for submitting comments to BPA would be announced in a subsequent published notice.

BPA is now announcing the close of comment date. Comments must be received by 5 p.m., May 16, 1986, in order to be considered and included in the Official Record on the development of the variable industrial rate. Address comments to Ms. Donna L. Geiger, BPA Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 98212.

FOR FURTHER INFORMATION CONTACT: Ms. Kathleen S. Johnson, Public Involvement office at the address above. Telebone numbers, voice/TTY, for the Public Involvement office are: 503–230–3478 in Portland; toll-free 800–452–8429 for Oregon outside of Portland; 800–547–6048 for Washington, Idaho, Montana, Wyoming, Utah, Nevada, and California.

Issued in Portland, Oregon, on April 24, 1986.

Peter T. Johnson,

Administrator.

[FR Doc. 86-10177 Filed 5-2-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER85-644-004 et al.]

Duke Power Co. et al.; Electric Rate and Corporate Regulation Filings

April 28, 1986.

Take notice that the following filing have been made with the Commission:

1. Duke Power Company

[Docket No. ER85-644-004]

Take notice that on April 23, 1986 Duke Power Company tendered for filing a refund report in compliance with the Commission's letter order date March 13, 1986. Refunds were made to Duke Power Company's wholesale customers.

Comment date: May 12, 1986, in accordance with Standard Paragraph H at the end of this notice.

2. New England Electric Transmission Corporation, Vermont Electric Transmission Company

[Docket No. ER86-421-000]

Taken notice that New England Electric Transmission Corporation (NEET), and Vermont Electric Transmission Company (VETCO) on April 24, 1986 tendered for filing executed amendments to two existing agreements relating to the transmission of electricity between Hydro-Quebec and the New England Power Pool.

The amendments are: (i) Amendment No. 3 to the Phase 1 Terminal Support Agreement between NEET and the participating New England utilities; and (ii) Amendment No. 3 to the Phase I Vermont Transmission Line Support Agreement between VECTO and the participating New England utilities. According to the applicants, the Amendments are necessary to (i) make changes and clarifications needed to prevent the loss of investment tax credits, and (ii) extend the initial terms of the agreement. The proposed effective date of the amendments is June 30, 1986.

Comment date: May 12, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Kansas Gas and Electric

[Docket No. ER85-432-003]

Take notice that in April 21, 1986, Kansas Gas and Electric Company tendered for filing a report of refunds made to Chanute, Fredonia, and Iola, Kansas. The refund amount reflects the final settlement rates for Service Schedule E.

The refund amounts include interest from the date payment was received through April 18, 1986 at the appropriate interest rate.

Comment date: May 12, 1986, in accordance with Standard Paragraph H at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

H. Any person desiring to be heard or to protest the filing should file comments with the Federal Energy Regulatory Commission 825 North Capitol Street, NE., Washington, D.C. 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on

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file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10006 Filed 5-2-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-416-000 et al.]

Electric Rate and Corporate Regulation Filings; Black Hills Corp. et al.

April 25, 1986.

Take notice that the following filings have been made with the Commission:

1. Black Hills Corporation dba Black Hills Power and Light Company

[Docket No. ER86-416-000]

Take Notice that Black Hills Corporation, doing business as Black Hills Power and Light Company (Black Hills) on April 21, 1986, tendered for filing an agreement between Black Hills and the City of Gillette, Wyoming which provides for an amendment and extension of Black Hills Rate Schedule FERC No. 28 and its Supplement No. 1 to provide for the continued sale of seasonal non-firm power and energy.

The reasons for the proposed changes are to extend the term until September 30, 1988, provide for the extension of the term for additional seasons, if not cancelled by either party, and provide rate changes which reflect the competitive market for non-firm power deliveries.

Copies of the filing were supplied to City of Gillette, Wyoming and the regulatory commissions of the states of Wyoming, South Dakota, and Montana.

Comment date: May 8, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Central Illinois Public Service Company

[Docket No. ER86-420]

Take notice that Central Illinois Public Service Company (Central Company) on April 21, 1986, tendered for filing an Interconnection Agreement dated June 1, 1986, and a Facilities Agreement dated October 1, 1982 and amended on November 1, 1985, between Central Illinois Public Service Company (Central Company) and Northern Indiana Public Service Company (Northern Company).

The Interconnection Agreement provides for coordinated interconnection operation including the interchange of Power and Energy under Service Schedule A, Emergency Service, Service Schedule B, Short Term Power Service Schedule C, Interchange Power, Service Schedule D, Coordination of Scheduled Maintenance of Generating Facilities, and Service Schedule E, Limited Term Power.

The Facilities Agreement and Amendment No. 1 cover a 138 KV interconnection being established between Central Company and Northern Company with an inservice date of June 1, 1986.

Copies of this filing have been sent to Northern Indiana Public Service Company, the Public Service Commission of Indiana and the Illinois Commerce Commission.

Comment date: May 8, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Illinois Power Company

[Docket No. ER86-419-000]

Take notice that on April 21, 1986, Illinois Power Company ("Illinois Power") tendered for filing Amendment No. 16 dated April 1, 1986 to the Interconnection Agreement dated March 1, 1964 between Illinois Power and Commonwealth Edison Company ("Edison").

Amendment No. 16 incorporates a new Service Schedule F, Term Energy; replaced existing Service Schedule B, Interchange Power with a new Service Schedule B, Economy Energy and Service Schedule E, General Purpose Energy; amends Serivce Schedules A, Emergency Energy, C, Short-Term Power and D, Maintenance Energy to include specific energy charges when a third party is involved in the interchange transaction; and also amends Service Schedule C, Short-Term Power to include flexibility in the demand charge.

The parties request an effective date of June 15, 1986.

Illinois Power states that a copy of this filing was served upon Commonwealth Edison Company and the Illinois Commerce Commission.

Comment date: May 8, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. El Paso Electric Company

[Docket No. EC86-18-000]

Take notice that on April 21, 1986, El Paso Electric Company ("EPEC") filed, pursuant to Rule 207 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission ("Commission") and section 204 of the Federal Power Act, a combined Petition for Order Disclaiming Jurisdiction and Application for Authorization of the Issuance of Securities and Assumption of Liabilities. In its Petition for Order Disclaiming Jurisdiction, EPEC requests that the Commission (i) issue an order disclaiming jurisdiction over a proposed sale and leaseback of up to all of EPEC's undivided ownership interest in Unit 2 at the Palo Verde Nuclear Generating Station ("PVNGS") and up to all or a proportionate share of EPEC's interest in one-third of certain of the common facilities at PVNGS (the "PVNGS Unit 2 Facilities") for the reason that the PNGS Unit 2 Facilities are nonjurisdictional generating facilities and (ii) issue an order disclaiming jurisdiction over the proposed institutional investors, who would be owner participants under the lease documents (the "Equity Investors") and owner trustees (the "Lessors") of the PVNGS Unit 2 Facilities and determining that the Equity Investors and the Lessors will not, as a result of their acquiring an ownership interest in PVNGS or the leaseback of such interest to EPEC, become "public utilities" as that term is defined in section 201(e) of the Federal Power Act. In its petition, EPEC states that the Equity Investors and the Lessors of the PVNGS Unit 2 Facilities will purchase and leaseback such Facilities solely as an investment and that the Equity Investors and the Lessors will assert no operating control over the PVNGS Unit 2 Facilities and that such Facilities will be used for the same purposes as previously by EPEC.

In its Application under section 204 of the Federal Power Act for Authorization of the Issuance of Securities and Assumption of Liabilities, EPEC seeks authorization from the Commission to issue securities and assume obligations and liabilities in connection with the proposed sale and leaseback transactions.

EPEC is an electric utility incorporated and existing under the laws of the State of Texas, with its principal place of business at 303 North Oregon Street, El Paso, Texas 79901. It is authorized to transact business as a foreign corporation in the State of New Mexico adn Arizona. EPEC owns a 15.8% undivided ownership interest in the PVNGS Unit 2 Facilities.

Under the construction and completion schedule established for PVNGS Unit 2, Unit 2 is expected to be synchronized with EPEC's main transmission grid on or about April 29, 1986. The purchase price for the PVNGS Unit 2 Facilities is estimated at up to approximately $700,000,000. EPEC requests that the Commission issue its orders and authorizations in this proceeding on or before June 15, 1986 in order for the proposed transactions to be closed on or before July 15, 1986.

Comment date: May 8, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Western Massachusetts Electric Company

[Docket No. ER86-416-000]

Take notice that on April 18, 1986, Western Massachusetts Electric Company (WMECO) tendered for filing Notices of Termination of the folloiwng rate schedules:

Purchase Agreement With Respect to Doreen and Woodland Road Gas Turbine Units between Western Massachusetts Electric Company and Vermont Electric Generation and Transmission Cooperative, Inc. ("VEG&T"), effective date November 1, 1982 (WMEC) rate schedule number 212).

Agreement With Respect to Gas Turbine Units located at Doreen and Woodland Road Substations between Western Massachusetts Electric Company and Vermont Electric Generation and Transmission Cooperative, Inc., effective date December 1, 1982 (WMEC rate schedule number 219).

Comment date: May 6, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Tampa Electric Company

[Docket No. ER86-294-000]

Take notice that on February 11, 1986, Tampa Electric Company (Tampa Electric) tendered for filing Service Schedule J providing for negotiated interchange service between Tampa Electric and Florida Power Corporation (Florida Power). Tampa Electric submitted Service Schedule J for inclusion as a supplement under the existing contract for interchange service between Tampa Electric and Florida Power, designated as Tampa Electric's Rate Schedule FPC No. 6, and Florida Power's Rate Schedule FPC No. 60. Tampa Electric's filing includes a Certificate of Concurrence submitted by Florida Power in lieu of an independent filing.

Tampa Electric also tendered for filing, as a supplement to the Service Schedule J under its rate schedule, a Letter of Commitment providing for the sale by Tampa Electric to Florida Power of energy from up to 300 megawatts of reserved, coal-fired capacity. On April 21, 1986, Tampa Electric tendered for filing supplemental information with respect to the reservation charge under the Letter of Commitment.

Tampa Electric proposes an effective date of February 6, 1986 for the Service Schedule J and Letter of Commitment, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing, as amended, have been served on Florida Power and the Florida Public Service Commission.

Comment date: May 6, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9967 Filed 5-2-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP86-441-000 et al.]

Natural Gas Certificate Filings; Northwest Pipeline Corp. et al.

Take notice that the followings filings have been made with the Commission:

1. Northwest Pipeline Corporation

[Docket No. CP86-441-000]

April 24, 1986.

Take notice that on April 14, 1986, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP86-441-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate certain natural gas facilities for the sale and delivery of natural gas to The Washington Water Power Company (WWP), an existing customer of Northwest's under the certificate issued to Northwest in Docket No. CP82-433-000 pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

It is stated that Northwest proposes to provide an additional 6-inch tap on its 16-inch Spokane sales lateral adjacent to an existing WWP sales delivery point, the Kettle Falls meter station.

Northwest further states that in maintaining various mainline facilities along the Spokane lateral, it plans to install a 16-inch block value adjacent to the existing Kettle Falls Tap which would permit isolation of that segment of the pipeline. Northwest says the Spokane lateral has gas supply inputs at both ends. It is explained that the proposed tap would be located on the opposite side of the block valve from the existing tap thus enabling Northwest to provide back-up service to the Kettle Falls meter station should the block valve be closed due to line failure or maintenance requirements in the segment of the pipeline serving the existing tap. Northwest states it would pay for all construction costs associated with the tap. Northwest estimates that the total cost of the proposed construction would be approximately $12,600, including the Commission filing fee.

Northwest intends to provide firm service to the proposed tap by utilizing quantities of natural gas presently authorized for sale and delivery to WWP at the Kettle Falls meter station, under the existing ODL-1 Rate Schedule now in effect.

Northwest states that the proposed service is conditioned upon the availability of pipeline capacity sufficient to provide such service without detriment or disadvantage to Northwest's existing customers who are dependent on Northwest's general system supply.

Comment date: June 9, 1986, in accordance with Standard Paragraph G at the end of this notice.

2. Northern Natural Gas Company, Division of InterNorth, Inc.

[Docket No. CP86-435-000]

April 25, 1986.

Take notice that on April 11, 1986, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street Omaha, Nebraska 68102, filed in Docket No. CP86-435-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of others, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that it intends to transport natural gas on behalf of shippers and elects to become a transporter under the terms and conditions of the Commission's Order No. 436, in Docket No. RM85-1, as

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amended. Northern states that it accepts and will comply with the conditions in paragraph (c) of § 284.221, which paragraph references Subpart A of Part 284 of the Commission's Regulations. Northern notes that its transportation rates to be charged under Part 284 of the Commission's Regulations are set forth in the stipulation and agreement as filed in Docket No. RP85–206–000 currently pending before the Commission. Northern further states that acceptance of a blanket certificate would be contingent upon the Commission's approval of the stipulation and agreement as filed in Docket No. RP85–206–000.

Comment date: May 20, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

[Docket No. CP86–443–000]

April 24, 1986.

Take notice that on April 14, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP86–443–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Olin Corporation (Olin), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee requests authorization to transport up to 32 billion Btu equivalent of natural gas per day on an interruptible basis for Olin. Tennessee states that the gas to be transported is produced from reserves located within Louisiana which Olin has the right to purchase. Tennessee proposes to receive these quantities for the account of Olin at the tailgate of the Acadia processing plant, Acadia Parish, Louisiana (Acadia), and the existing interconnections between the facilities of Tennessee and United Gas Pipe Line Company at Tennessee's Meter No. 2–0391 in Jefferson Davis Parish, Louisiana (Iowa), at Tennessee's Meter No. 1–0864 in Ouachita Parish, Louisiana (West Monroe), at Tennessee's Meter No. 2–0500 in St. Mary's Parish, Louisiana (Centerville), and at Tennessee's Meter No. 2–0538 in Terrebonne Parish, Louisiana (Lirette). Tennessee states that it would, in turn, transport and deliver thermally equivalent quantities of gas, less any quantities retained for Tennessee's fuel and uses and gas lost and unaccounted for, to Olin at a point of delivery located at the Gabe extraction plant, in Gabe, Kentucky (Gabe). Tennessee states that it would have the right but not the obligation to accept quantities of gas in excess of the transportation quantity, provided that such excess quantity not exceed 25 percent of the 32 billion Btu transportation quantity.

Tennessee proposes to charge a rate for this transportation service consisting of the following charges:

Point of receipt	Rate per million btu's (cents)	GRI (cents)	Fuel percent
Acadia	32.72	1.32	3.31
Iowa	32.72	1.32	3.31
West Monroe	24.66	1.32	2.59
Centerville	32.72	1.32	3.31
Lirette	32.72	1.32	3.31

Tennessee states that the applicable rate, indicated above, plus the applicable GRI surcharge, would be multiplied by the total quantity of million Btu's of gas delivered by Tennessee for the account of Olin during the month. Tennessee further states that Olin would provide to Tennessee, at no cost to Tennessee, a daily quantity in million Btu's of gas for Tennessee's system fuel and uses and gas lost and unaccounted for equal to the applicable percentage indicated above. Tennessee states that it may, at its sole option, elect to provide the applicable fuel quantities to Olin at Tennessee's weighted average cost of gas.

Tennessee explains that Olin's Doe Run Plant, an organic chemicals plant at Brandenburg, Kentucky, was built and historically operated using as its raw materials low cost ethane and higher hydrocarbons extracted by Tennessee at Tennessee's stripping plant near Gabe, Kentucky. Tennessee asserts that the continued viability of the Gabe plant as a source of ethane depends on access to lower priced gas available on the spot market and the ability to have that gas transported to Gabe.

Comment date: May 16, 1986, in accordance with Standard Paragraph F at the end of this notice.

4. Southern Natural Gas Company

[Docket No. CP86–432–000]

April 25, 1986.

Take notice that on April 10, 1986, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP86–432–000 an application pursuant to section 7 of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas for Alabama Gas Corporation (Alagasco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Southern proposes to transport up to 17 billion Btu of natural gas per day for Alagasco, as agent for Gulf States Steel (Gulf States), on an interruptible basis, for a one-year term. It is indicated that Gulf States would purchase the gas from Consolidated Fuel Supply, Inc. (Consolidated) for its Gadsden, Alabama, plant. Southern states that it would receive the gas for the account of Alagasco at various existing points on Southern's contiguous pipeline system. Southern proposes to redeliver equivalent volumes of gas, less 3.25 percent for fuel and company-use gas, at an existing delivery point to Alagasco at the Gadsden area delivery point.

Southern proposes to charge Alagasco a transportation rate of 39.9 cents per million Btu where the aggregate of the volumes transported by Southern for Alagasco under any and all transportation agreements between Southern and Alagsco, when added to the volumes delivered under Southern's Rate Schedule OCD, does not exceed Alagasco's daily contract demand from Southern. For those volumes that exceed Alagasco's daily contract demand, Southern proposes to charge 64.9 cents per million Btu. In addition Southern proposes to collect the GRI surcharge of 1.35 cents per Mcf.

Southern also requests flexible authority to add delivery points in the event that Gulf States obtains alternative sources of supply of natural gas. It is stated that the redelivery point, the recipient, and the maximum daily transportation volume would remain unchanged. It is further stated that providing certain information with regard to the addition of any delivery points.

Southern states that the transportation arrangement would enable Gulf States to diversify its natural gas supply sources and to obtain gas at competitive prices. In addition, it is indicated that Southern would obtain take-or-pay relief on all volumes transportation pursuant to the agreement.

Comment date: May 16, 1986, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance

with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules and Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–9989 Filed 5–2–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ID 2218–000]

Robert E. Boardman; Notice of Application

April 28, 1986.

Take notice that on April 21, 1986, Robert E. Boardman filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Director, Green Mountain Power Corporation

Director, National Life Insurance Company

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before 5/12/86. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–10004 Filed 5–2–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP85–8–003, et al.]

Canyon Creek Compression Co., et al.; Filing of Pipeline Refund Reports and Refund Plans

April 25, 1986.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 12, 1986. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
12/26/85	Canyon Creek Compression Co.	RP85–8–003	Report.
12/30/85	Lawrenceburg Gas Transmission Corp.	RP78–37–016	Do.
2/25/86	Inter-City Minnesota Pipelines, Ltd.	RP85–152–003	Do.
4/14/86	South Georgia Natural Gas Co.	RP73–48–007	Do.
4/21/86	Lawrenceburg Gas Transmission Corp.	RP78–37–017	Do.

[FR Doc. 86–9963 Filed 5–2–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP86–54–001]

Florida Gas Transmission Co.; Proposed Changes in FERC Gas Tariff

April 25, 1986.

Take notice that Florida Gas Transmission (FGT) on April 23, 1986, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

Substitute Original Sheet No. 50A
Substitute Original Sheet No. 50B

The above listed tariff sheets are being filed pursuant to the Commission's order issued March 28, 1986 accepting and suspending subject to refund and conditions, the proposed tariff sheets filed on February 28, 1986 in Docket No. RP86–54–000. FGT states these tariff sheets are in full compliance with the Commission's order of March 28, 1986. The proposed effective date is April 1, 1986, the date previously approved by the Commission.

Copies of the filing were served on FGT's jurisdictional customers, interested state commissions and parties on the official service list in the instant docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 2, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party

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must file Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-9964 Filed 5-3-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. G-11815-000, et al.]

Marathon Oil Co. (Operator), et al.; Application for Certificates, Abandonments of Service and Petitions to Amend Certificates [1]

April 25, 1986.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before May 13, 1986, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price Per Mcf	Pressure base
G-11815-000, E, Apr. 10, 1986	Marathon Oil Company (Operator), P.O. Box 3128, Houston, Texas 77253.	Transcontinental Gas Pipe Line Corp., North Markham-North Bay City Field, Matagorda County, Texas.	(1)	
G-14143-002, D, Apr. 14, 1986	Sun Exploration & Production Co., P.O. Box 2880, Dallas Texas 75221-2880.	Northern Natural Gas Company, Northeast Glenwood Field, Beaver County, Oklahoma.	(2)	
G-16134-000, D, Apr. 14, 1986	do	Natural Gas Pipeline Company of America, Guymon-Hugoton Field, Beaver County, Oklahoma.	(3)	
CI-62-367-000, D, Apr. 14, 1986	do	Arkansas Louisiana Gas Company, Vixen Field, Caldwell Parish, Louisiana.	(4)	
CI63-1407-002, D, Apr. 14, 1986	do	Kansas-Nebraska Natural Gas Co., Inc., Various Fields, Hamilton County, Kansas.	(5)	
CI65-1327-004, D, Apr. 14, 1986	do	ANR Pipeline Company, Mocane-Laverne Gas Area Field, Harper County, Oklahoma.	(6)	
CI66-470-007, D, Apr. 14, 1986	do	Arkla Energy Resources, South Bokoshe Field, LeFlore County, Oklahoma.	(7)	
CI67-230-001, D, Apr. 14, 1986	do	Trunkline Gas Company, Shoats Creek Field, Beauregard Parish, Louisiana.	(8)	
CI67-557-001, D, Mar. 17, 1986	ARCO Oil & Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Trunkline Gas Company, East Lake Arthur Field, Jefferson Davis Parish, Louisiana.	(9)	
CI68-1435-000, Feb. 1, 1986	Diamond Shamrock Exploration Company, et al	Arkla Energy Resources, a division of Arkla, Inc., Coronado "A" No. 1 well, Pittsburgh County, Oklahoma.	(10)	
CI71-925-001, D, Apr. 14, 1986	Sun Exploration & Production Co.	Arkansas Louisiana Gas Company, Witcherville Field, Sebastian County, Arkansas.	(9)	
CI75-171-001, D, Apr. 11, 1986	ARCO Oil & Gas Company, Division of Atlantic Richfield Company.	Tennessee Gas Pipeline Company, East Gueydon Field, Vermilion Parish, Louisiana.	(11)	
CI83G-305-001, D, Apr. 10, 1986	Texaco Inc., P.O. Box 52332, Houston, Texas 77052.	Bridgeline Gas Distribution Co., Vermilion Blocks 30, 12 & 29, and certain portions of OCS-G-0310, Offshore Louisiana.	(12)	
CI86-320-000 (CI84-129-000), B, Apr. 4, 1986	Matagorda Island Development Corp., P.O. Box 1330, Houston, Texas 77251-1330.	Amoco Gas Company, Matagorda Island Block 623, Offshore Texas.	(13)	
CI86-321-000 (CI75-86), B, Apr. 8, 1986	Diamond Shamrock Exploration Co., LTV Center—Suite 1500, 2001 Ross Avenue, Dallas, Texas 75201.	Transcontinental Gas Pipe Line Corp., State Tract 22-L, Jefferson County, Offshore Texas.	(14)	
CI86-322-000 (CI69-25), B, Apr. 8, 1986	do	Transcontinental Gas Pipe Line Corp., Midland Field, Acadia Parish, Louisiana.	(15)	
CI86-323-000, F, Apr. 9, 1986	ARCO Oil & Gas Company, Division of Atlantic Richfield Company (Partial Succ. to Sun Exploration & Production Co.), P.O. Box 2819, Dallas, Texas 75221.	Michigan Wisconsin Pipeline Company, Zoldoske Unit, Lizzie E. Howell Unit, Harper County, Oklahoma.	(16)	
CI86-327-000, B, Apr. 9, 1986	Darrell G. Goe	Consolidated Gas Supply, Albion Field, Erie County, Pennsylvania.	(16)	
CI86-328-000, B, Apr. 9, 1986	Darrell Goe, Dodds, et al	do	(16)	
CI86-329-000, B, Apr. 9, 1986	do	do	(16)	
CI86-330-000, B, Apr. 9, 1986	Darrell G. Goe	do	(16)	
CI86-331-000, B, Apr. 9 1986	do	do	(16)	
CI86-332-000 (G-8683), B, Apr. 10, 1986	Union Texas Petroleum Corp., P.O. Box 2120, Houston, Texas 77252-2120.	Texas Eastern Transmission Corporation, Fain-Beck Unit, San Domingo Field, Bee County, Texas.	(17)	
CI86-333-000 (CI75-675), B, Apr. 14, 1986	do	Northern Natural Gas Company, Louise Field, Gaines County, Texas.	(18)	
CI86-334-000 (CI62-1395), B, Apr. 14, 1986	Triton Oil & Gas Corp., 1000 Two Energy Square, 4849 Greenville Avenue, Dallas, Texas 75206.	Texas Gas Transmission Corporation, Chacahoula Field, LaFourche Parish, Louisiana.	(19)	
CI86-335-000, B, Apr. 14, 1986	Ron Ricks, Jr. & George B. Kaiser, 5600 N. May—Suite 350, Oklahoma City, Okla. 73112.	Panhandle Eastern Pipeline Company, Oakdale Field, Woods County, Oklahoma.	(20)	
CI86-336-000 (CI78-564), B, Apr. 14, 1986	Cities Service Oil and Gas Corp., P.O. Box 300, Tulsa, Okla 74102.	Northern Natural Gas Company, Overocker Field, Comanche County, Kansas.	(21)	
CI86-337-000 (CI62-367), B, Apr. 14, 1986	Sun Exploration & Production Co., P.O. Box 2880, Dallas, Texas 75221-2880.	Arkansas Louisiana Gas Company, Vixen Field, Caldwell Parish, Louisiana.	(4)	
G-12334-000, CI84-202-000, D, Apr. 16, 1986	Phillips Petroleum Company, 336 H&L Bldg., Bartlesville, Okla. 74004.	Southern Natural Gas Company, Eloi Bay Field Bernard Parish, Louisiana.	(22)	

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price Per Mcf	Pressure base
G-4690-000, D, Apr. 21, 1986	ARCO Oil & Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Arkansas Louisiana Gas Company, Sentell Field, Bossier Parish, Louisiana.	(*)	
G-5013-002, D, Apr. 17, 1986	Shell Western E&P Inc., *et al*, P.O. Box 4864, Houston, Texas 77210.	El Paso Natural Gas Company, Wasson (San Andres) Field, Gaines and Yoakum Counties, Texas.	(**)	
G-6837-001, D, Apr. 21, 1986	Sun Exploration & Production Co.	Tennessee Gas Pipeline Company, Grand Chenier & Midland Fields, Cameron and Acadia Parishes, Louisiana.	(**)	
G-14348-001, D, Apr. 17, 1986	Shell Western E&P Inc.	West Texas Gathering Company, Emperor Field, Winkler County, Texas.	(**)	
G-17520-000, D Apr. 17, 1986	Conoco Inc., P.O. Box 2197 Houston, Texas 77252	Southern Natural Gas Company, North Bayou Long Field, Iberia Parish, Louisiana.	(**)	
CI68-197-000, D, Apr. 21, 1986	ARCO Oil & Gas Company, Division of Atlantic Richfield Company.	Southern Natural Gas Company, Bayou Gentilly Field, Plaquemines Parish, Louisiana.	(*)	
CI75-353-001, D, Apr. 21, 1986	Sun Exploration & Production Co.	Transcontinental Gas Pipe Line Corp., Live Oak Field, Vermilion Parish, Louisiana.	(*)	
CI86-338-000, A, Apr. 16, 1986	Matagorda Island Development Corp., P.O. Box 1330, Houston, Texas 77251-1330.	Texas Eastern Transmission Corporation, Matagorda Island Block 623 (OCS-G3068), Offshore Texas.	(**)	
CI86-367-000, B, Apr. 17, 1986	Shell Western E&P Inc.	Texas Transmission Corporation Sligo Field, Bossier Parish, Louisiana.	(**)	

[1] By Partial Assignment and Bill of Sale executed 1-13-86, effective 12-1-85, Sun Exploration and Production Company assigned all of its interest in the Ohio-Sun Unit to Marathon Oil Company.
[2] Property sold to Ollsearch Corporation.
[3] Property sold to Vernon E. Faulconer, Inc.
[4] Property sold to Combined Resources Corporation.
[5] Property sold to Childress Royalty Company.
[6] Property sold to Kaiser-Francis Oil Company.
[7] Property sold to Source Petroleum, Inc.
[8] Deletion of acreage. Leases have been released and ARCO no longer owns an interest in acreage to be deleted.
[9] By Assignment effective 10-1-73, Diamond Shamrock assigned acreage to RPL Oil Company, small producer certificate holder in Docket No. CS64-41.
[10] Property sold to Thomas C. Mueller Oil & Gas.
[11] Federal Lease OCS-G-5398 (Vermilion Blocks 12 & 29) was released on 12-31-85, when no longer deemed to be capable of producing gas in paying quantities.
[12] Pursuant to Article XII, Paragraph F of the Agreement dated 10-12-83, MIDCO elected to terminate the Agreement as of 6-15-86 due to Amoco's imposition of an unacceptable alternate price as well as a lack of concurrence as to the construction of certain key contractual provisions, particularly, the market-tracking pricing mechanism.
[13] Gas depleted and wells were plugged and abandoned in August 1985. The Contract has been terminated effective 2-14-86.
[14] Gas depleted and the Contract has been terminated effective 1-27-86.
[15] Applicant acquired certain interests in the Lizzie E. Howell Unit and Zoldoske Unit from Sun Exploration and Production Company, under two instruments entitled "Partial Assignment and Bill of Sale" executed on 10-17-85, effective 9-1-85.
[16] Not economically feasible to produce at this rate.
[17] Effective 2-13-86 applicant assigned its interest in the leases and wells dedicated to the contract filed in Docket No. G-8683 to Mr. W. S. (Bill) Chesnutt.
[18] Contract Expired 1-19-86. There have been no deliveries of gas to the purchaser since January 1983. Purchaser removed sales meter in May 1985. No gas production from fields dedicated to the contract and rate schedule is anticipated.
[19] The natural gas reserves are depleted to the extent that continuance of service is unwarranted.
[20] To market gas to Union Texas Petroleum in order to increase sale volumes. Due to oversupply of gas, Panhandle Eastern has been unable to market gas at an acceptable rate.
[21] By Assignment of Oil and Gas Lease and Bill of Sale effective 7-15-85, Cities Service Oil and Gas Corporation sold and assigned to W. L. Kirtman, Inc., all of its interest in the Hinkhouse A Lease, Comanche County, Kansas, Lease No. 6-1547404, limited to the Morrow Formation.
[22] Phillips Petroleum Company assigned its interest in a portion of State Lease Nos. 2220 and 2221, and in TIPCO Lease No. LA 622-01, and State Lease No. 11423 to TIPCO Offshore Development by assignment dated 11-15-85.
[*] The wells contain a heavy concentration of carbon dioxide.
[**] Property sold to Delaware Royalty Company, Inc.
[**] A portion of Shell Western E&P Inc. acreage, has been assigned to BILL C. Cotner dba Meadco Properties effective 11-1-85.
[**] Partial surrender of acreage back to lessor(s).
[**] Applicant is filing under Gas Purchase Contract dated 2-26-86.
[**] All acreage has been assigned to Rosewood Resources Inc.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 86-9988 Filed 5-2-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-68-000]

Northwest Central Pipeline Corp.; Proposed Changes in FERC Gas Tariff

April 25, 1986.

Take notice that on April 22, 1986 Northwest Central Pipeline Corporation (Northwest Central) tendered for filing Eighth Revised Sheet No. 6 to Original Volume No. 1 and Second Revised Sheet No. 2A, Second Revised Sheet No. 91 and Second Revised Sheet No. 219 to Original Volume No. 2 of its FERC Gas Tariff. The proposed effective date of these revised tariff sheets is May 23, 1986.

Northwest Central states that the filing proposes a change in its currently effective rates which would result in an increase in annual revenues of approximately $25.3 million, inclusive of transportation and gathering services, based on the test period (the twelve months ended December 31, 1985, adjusted for known changes through September 30, 1986). Northwest Central states that the increased rates are required to reflect an overall rate of return of 14.61 percent, increases in administrative and general expenses and a decline in sales volumes.

Northwest Central also states that Second Revised Sheet No. 2A reflects an increase in the presently effective Rate Schedule T-1 interruptible transportation rates, and Second Revised Sheet Nos. 91 and 219 reflect an increase in the gathering rate in Rate Schedule X-12 and X-21. Further, the Company indicates that the new Rate Schedule T-1 rates have been designed in accord with 18 CFR 284.7, promulgated in Order Nos. 436, *et seq.*, so as to permit the continuation on the Company's system of certain "grandfathered" transportation.

Northwest Central states that this filing was served on each of its customers and affected state commissions pursuant to § 154.16(b) of the Commission's Regulations.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 2, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb

Secretary.

[FR Doc. 86-9965 Filed 5-2-86; 8:45 am]

BILLING CODE 6717-01-M

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[Docket No. CP86-438-000]

Tennessee Gas Pipeline Company, a Division of Tenneco Inc.

April 24, 1986.

Take notice that on April 9, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP86-438-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Tenngasco Corporation (Tenngasco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Tennessee requests authorization to transport up to 32 billion Btu equivalent of natural gas per day on an interruptible basis for Tenngasco, as agent for Olin Corporation (Olin), pursuant to the terms of a gas transportation agreement dated April 4, 1986. Tennessee states that, in those instances where interim transportation agreements are not utilized, Tennessee would receive the natural gas from Tenngasco at various receipt points upstream of its station 95 (see appendix [1]) and would deliver a thermally equivalent quantity of gas, less quantities for Tennessee's fuel and uses, gas lost and unaccounted for, and plant thermal reduction due to processing, to Tenngasco at the Gabe delivery point. It is stated that, where interim transportation agreements are utilized, Tennessee would receive the natural gas from Tenngasco at the receipt points and would transport an equivalent quantity to the interim delivery points set forth in the agreement with Tenngasco. Tennessee requests the right but not the obligation to accept quantities of gas in excess of the proposed 32 billion Btu but not to exceed 25 percent of the 32 billion Btu transportation quantity. Tennessee states that Tenngasco would provide to Tennessee, at no cost to Tennessee, a daily quantity of gas for Tennessee's system fuel and uses and gas lost and unaccounted for.

Tennessee proposes to charge for this transportation service the product of the rate set forth in the appendix hereto and the total million Btu of gas delivered by Tennessee for the account of Tenngasco during the month from each source. Tennessee also proposes to charge Tenngasco a GRI surcharge of 1.32 cents per million Btu of gas delivered to the Gabe delivery point.

Tennessee states that it would accept the associated liquid hydrocarbons (exclusive of oil) produced with the transportation quantity, when applicable, and transport and deliver such liquid hydrocarbons for the account of Tenngasco or to Tenngasco's producers' separation and storage facilities. Tennessee proposes to charge Tenngasco for the transportation of liquids the applicable charges set forth in the appendix hereto. Tennessee states that it may, at its sole option, elect to provide the applicable fuel quantities to Olin at Tennessee's weighted average cost of gas. Tennessee further states that it would charge for plant thermal reduction (PTR), when applicable, a rate equal to that specified in the appendix multiplied by the total million Btu for PTR delivered.

Tennessee explains that Olin's Doe Run plant, an organic chemical plant at Brandenburg, Kentucky, was built and historically operated using as its raw materials low cost ethane and higher hydrocarbons extracted by Tennessee at Tennessee's stripping plant near Gabe, Kentucky. Tennessee asserts that the continued viability of the Gabe plant as a source of ethane depends on access to lower priced gas available on the spot market and the ability to have that gas transported to Gabe.

Any person desiring to be heard or to make any protest with reference to said application should on or before May 16, 1986, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Tennessee to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10005 Filed 5-2-86; 8:45 am]

BILLING CODE 6717-01-M

[1] The appendix is available from the Commission's Division of Public Information.

[Docket No. RP86-53-001]

Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff

April 25, 1986.

Take notice that Transwestern Pipeline Company (Transwestern) on April 23, 1986, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets:

Substitute First Revised Sheet No. 76D
Substitute Original Sheet No. 76E

The above listed tariff sheets are being filed pursuant to the Commission's order issued March 28, 1986 accepting and suspending subject to refund and conditions, the proposed tariff sheets filed on February 28, 1986 in Docket No. RP86-53-000. Transwestern states these tariff are in full compliance with the Commission's order of March 28, 1986. The proposed effective date is April 1, 1986, the date previously approved by the Commission.

Copies of the filing were served on Transwestern's jurisdictional customers, interested state commissions and parties on the official service list in the instant docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 2, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR. Doc. 9860 Filed 5-2-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the disposition of $748,515.01 in court-ordered settlement funds obtained from Southland Royalty Company, a crude oil producer. This money is being held in escrow following the settlement of litigation involving Southland Royalty Company and the Department of Energy.

DATE AND ADDRESS: Comments must be filed within 30 days of publication of this notice in the Federal Register and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case number HEF-0582.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Dependence Avenue, S.W. Washington, D.C. 20585.

SUPPLEMENTARY INFORMATION: In accordance with the procedural regulations of the Department of Energy (DOE), 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision concerns funds obtained as a result of a December 5, 1984 Agreed Final Judgment entered by the United States District Court for the Western District of Oklahoma in settlement of litigation between Southland Royalty Company and the DOE. In that litigation, Southland challenged the DOE's interpretation of the "newly discovered crude oil" regulations.

The Proposed Decision sets forth the procedures and standards that the DOE has tentatively formulated to dispose of the contents of an escrow account funded by the firm pursuant to the court order. The decision proposes to place the money into a pool of crude oil moneys pursuant to the DOE's Statement of Restitutionary Policy for crude oil claims. *See* 50 FR 27400 (1985), Fed. Energy Guidelines ¶ 90,508 (1985).

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments should be submitted within 30 days of publication of this notice in the Federal Register, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection between the hours of 1:00 to 5:00 p.m., Monday thorugh Friday, except Federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E-234, Independence Avenue SW., Washington, D.C. 20585.

Dated: April 22, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

April 22, 1986

Name of Firm: Southland Royalty Company

Date of Filing: May 10, 1985

Case Number: HEF-0582

Pursuant to the procedural regulations of the Department of Energy (DOE), 10 CFR Part 205, Subpart V, the Economic Regulatory Administration (ERA) filed a Petition for the Implementation of Special Refund Procedures with the Office of Hearings and Appeals (OHA) in connection with a court order involving Southland Royalty Company (hereinafter referred to as Southland). The petition requests that OHA formulate and implement procedures to distribute funds obtained pursuant to the court order to remedy the effects of alleged violations of DOE regulations. Pursuant to the order, Southland remitted $748,515.01 in principal and interest to the DOE as restitution for violations of the DOE pricing and certification regulations. Those funds are being held in an interest-bearing escrow account under the jurisdiction of the DOE pending receipt of instructions from the OHA regarding their final distribution.

I. Jurisdiction

The Subpart V regulations set forth general guidelines by which the OHA may formulate and implement a plan to distribute funds received as a result of an enforcement proceeding. The Subpart V process may be used in situations where the DOE is unable to identify readily the persons who may be eligible to receive refunds or to ascertain readily the amounts that such persons should receive. 10 C.F.R. § 205.280. For a more detailed discussion of Subpart V and the OHA's authority to fashion procedures to distribute refunds, *see Office of Enforcement*, 9 DOE ¶ 82,508 (1981) *(Coline)* and *Office of Enforcement*, 8 DOE ¶ 82,597 (1981) *(Vickers)*.

We have reviewed the record in the present case and have concluded that it would be difficult to identify the parties who may be entitled to receive restitution from the funds paid to the DOE pursuant to the court order and to determine the amounts such persons should receive. Therefore, we accept jurisdiction over the funds at issue.

II. Background

A. History of the Proceedings

In 1981, Southland joined Seneca Oil Company and others in a lawsuit against the Department of Energy challenging the DOE's interpretation of the "newly discovered crude oil" regulations. *Seneca Oil Co. v. DOE*, Civil Action No. 81-215-T (W.D. Okla.). The Temporary Emergency Court of Appeals upheld the DOE's interpretation of those regulations and directed the District Court to grant the DOE's motions for appropriate orders to secure recovery of overcharges from Southland and the other plaintiffs. *Seneca Oil Co. v. DOE*, 712 F.2d 1384 (Temp. Emer. Ct. App. 1983). Accordingly, the United States District Court for the Western District of Oklahoma entered an Agreed Final Judgment in favor of the DOE in the *Southland* proceeding. The judgment settled all matters between the DOE and Southland concerning Southland's pricing and certification of crude oil produced and sold from four properties (Jordan, Frazier, Reay, and Simmons) as newly discovered crude oil. The judgment provided that the amount remitted to the DOE pursuant to the court order was to be distributed in a Subpart V proceeding.

B. Regulatory Background

Southland, like other producers of crude oil, was subject to the Mandatory Petroleum Price Regulations set forth in 6 C.F.R. Part 150 and 10 CFR Part 212. The DOE regulations, in effect from August 19, 1973 until January 27, 1981, governed prices charged in crude oil sales to first purchasers by defining ceiling prices for various tier classifications of crude oil. The regulations permitted producers to sell certain crude oil, such as "newly discovered crude oil" and crude oil

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produced from a "stripper well property" at market price levels. When a producer sold crude oil, it was required to certify in writing to the purchaser the respective volumes of crude oil belonging to each tier classification in each purchase. 10 CFR § 212.131. When a refiner processed the crude oil, it was required to report these certifications to the DOE to enable the agency to administer the Crude Oil Entitlements Program. 10 CFR 211.67.

Under the Entitlements Program, refiners with above-average access to price-controlled oil made cash payments, through the purchase of entitlements, to refiners with below-average access to price-controlled oil. The program was intended generally to equalize access to the benefits of crude oil price controls among all domestic refiners and among all consumers of petroleum products. Because of the way the program worked, it also had the effect of dispersing overcharges resulting from crude oil miscertifications throughout the domestic refining industry. This aspect of the Entitlements Program is discussed at length in *Union Oil Co. v. DOE*, 668 F.2d 797 (Temp. Emer. Ct. App. 1982), *cert. denied*, 459 U.S. 1202 (1983), and in the OHA's report to the District Court in the Stripper Well Exemption Litigation, *Report of the Office of Hearings and Appeals, In re The Department of Energy Stripper Well Exemption Litigation*, MDL No. 378 (D. Kan., filed June 21, 1985); 13 DOE ¶ 90,507 (1985) (hereinafter referred to as "OHA Stripper Well Report"). Thus, to the extent that Southland miscertified old crude oil as newly discovered crude oil, the impact of the violations was spread throughout the domestic refining industry by the operation of the Entitlements Program.

C. DOE Policy regarding Crude Oil Overcharges

The OHA Stripper Well Report was issued on June 19, 1985. As a result of the findings in the Report, the DOE issued a Statement of Restitutionary Policy regarding overcharge funds associated with entitlements-period crude oil miscertifications whose impact was spread through the Entitlements Program. 50 FR 27400 (July 2, 1985), Fed. Energy Guidelines, § 90,508 (1985). The statement, issued on June 21, 1985, announced that no claims for direct restitution would be accepted in such cases, and the Department would maintain such overcharges in escrow to afford the Congress the opportunity to select the means of making indirect restitution *Id.*

In light of the DOE policy statement, the OHA issued an order announcing that it would apply the policy in special refund proceedings involving overcharge funds attributable to entitlements-period crude oil certification violations. 50 FR 27402 (July 2, 1985). After soliciting comments from potentially aggrieved parties regarding the application of the policy to pending refund proceedings, the OHA stated in *Amber Refining, Inc.*, 13 DOE § 85,217 (1985) that it will apply the DOE policy in crude oil refund cases.

III. Proposed Procedures

In view of the Departmental reatitutionary policy regarding entitlements-period crude oil certification violations, we propose that no claims be allowed with respect to the Southland crude oil overcharges and that the funds be pooled with other crude oil funds for disposition in accordance with departmental policies. *See* 50 FR 27402 (July 2, 1985); 50 FR 27400 (July 2, 1985); 50 FR 1919 (January 14, 1985).

It Is Therefore Ordered That: The refund amount remitted to the Department of Energy by Southland Royalty Company on January 4, 1985, pursuant to the court's order in *Seneca Oil Company v. DOE*, Civil Action No. 81-215-T shall be distributed in the manner set forth in the foregoing Decision.

[FR Doc. 86-10007 Filed 5-2-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE FRI-3011-7]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicittion and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Patricia Minami, (202) 382-2712 or FIS 382-2712.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: Development of New Source Performance Standards for Large Boilers (EPA ICR #1294). (This request is for a new, one-time collection.)

Abstract: The purpose of this ICR is to grather information to respond to anticipated public comments addressing the effect of a New Source Performance Standard (NSPS) for industrial-commercial-institutional steam generating units on the number of steam generating units constructed or refurbished.

Respondents: Owners of large boilers (over 100 million BTUs).

Office of Policy, Planning and Evaluation

Title: Radon Information Effectiveness Survey (EPA ICR #1296). (This is a request for a new survey.)

Abstract: EPA will obtain data from respondents in New York State on how well different information formats and delivery methods lead those at higher risks from radon to seek more corrective measures than those at lower risks. The Agency will evaluate the effectiveness of the information program in reducing the risks from radon as an alternative to regulatory actions.

Respondents: Two thousand households in New York State which have been measured for radon levels.

Office of Pesticides and Toxic Substances

Title: Tolerance Petitions and New Inert Ingredient Clearance (EPA ICR #0597). (This is a request to renew a previously approved ICR; it now includes the clearance or exemption from clearance for inert ingredients.)

Abstract: The Federal Food, Drug, and Cosmetic Act requires that an acceptable level of pesticide residue be established before it can be used on food or feed crop. Information and data are developed in support of the requested tolerance, exemption, or new inert ingredient clearance.

Respondents: Pesticide manufacturers. * * *

Comments on all parts of this notice may be sent to:

Nanette Liepman, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), Information and Regulatory Systems Division, 401 M Street, SW., Washington, DC 20460
and
Wayne Leiss (ICRs #1294 and 1296), or Carlos Tellez (ICR #0597), Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, DC 20503

Dated: April 28, 1986.

Daniel J. Fiorino,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 86-9904 Filed 5-2-86; 8:45 am]

BILLING CODE 6560-50-M

[OPP-66129; FRL-3004-4]

Pesticide Products Containing Carbon Tetrachloride; Notice of Intent To Cancel Registrations and Notice of Transmittal and Availability of Draft Notice To Cancel

Correction

In FR Doc. 86-8606 beginning on page 15372 in the issue of Wednesday, April 23, 1986, make the following corrections:

1. On page 15372 in **SUPPLEMENT INFORMATION**, in the second column, in the fifteenth line from the bottom, and in the third column, in the second full paragraph, first and seventeenth lines, "CCl_4" should read "CCl_4"; and

2. On page 15373, in the first column, in the fourth line of the third complete paragraph, "not" should read "now", and in the next line insert "not" after "chosen".

BILLING CODE 1505-01

[OPTS-51621; FRL-3012-5]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of twenty-seven PMNs and provides a summary of each.

DATES: Close of Review Period:

P 86-922, 86-923, 86-924, 86-925, 86-926 and 86-927—July 16, 1986;
P 86-928 and 86-929—July 19, 1986;
P 86-930, 86-931, 86-932, 86-933, 86-934, 86-935, 86-936, 86-937, 86-938 and 86-939—July 20, 1986;
P 86-940, 86-941, 86-942, 86-943 and 86-944—July 21, 1986;
P 86-945, 86-946, 86-947 and 86-948—July 22, 1986.

Written comments by:

P 86-922, 86-923, 86-924, 86-925, 86-926 and 86-927—June 16, 1986;
P 86-928 and 86-929—June 19, 1986;
P 86-930, 86-931, 86-932, 86-933, 86-934, 86-935, 86-936, 86-937, 86-938 and 86-939—June 20, 1986;
P 86-940, 86-941, 86-942, 86-943 and 86-944—June 21, 1986;
P 86-945, 86-946, 86-947 and 86-948—June 22, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS-51621]" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW, Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 86-922

Manufacturer. Confidential.
Chemical. (G) Rubber modified epoxy.
Use/Production. (G) Intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-923

Manufacturer. E.I. du Pont de Nemours and Company.
Chemical. (G) Zirconium (4+) alkanolamine complex.
Use/Production. (G) An additive; non-dispersive, destructive use. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Slight; Eye—Mild; LC_{50} 96 hr (Fathead minnow): 388 mg/L.
Exposure. Manufacture: dermal.
Environmental Release/Disposal. Release to water and land. Disposal by on-site waste water treatment facility.

P 86-924

Manufacturer. Confidential.
Chemical. (G) Acrylate ester.
Use/Production. (S) Site-limited monomer. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: a total of 10 workers, up to 4 hrs/da, up to 10 da/yr.
Environmental Release/Disposal. Release unknown. Disposal by publicly owned treatment works (POTW), approved landfill or heat recovered. Resource Conservation and Recovery Act (RCRA), Clean Air Act, and Clean Water Act.

P 86-925

Importer. Marubeni America Corporation.
Chemical. (G) Modified polyvinyl alcohol.
Use/Import. (S) Stabilizer and dispersed stabilizer of emulsion and developer for industrial and commercial use. Import range: 60,000-300,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

P 86-926

Manufacturer. Confidential.
Chemical. (S) 1 H-isoindole-5-carboxylic acid, 2,2'-[methylene di-4, 1-phenylene)bis[2,3-dihydro-1,3-dioxo-].
Use/Production. (G) Component in a coating material. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 10 workers, up to 6 hrs/da, up to 16 da/yr.
Environmental Release/Disposal. Less than 0.01 to <10 kg released to air with ~ 6.0 kg to land. Disposal by biological treatment system, incineration, municipal landfill and privately owned treatment work.

P 86-927

Manufacturer. Confidential.
Chemical. (G) Organo nickel complex.
Use/Production. (G) Component in an additive. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 8 workers, up to 9 batch/da, up to 12 day/yr, and up to 6 persons/shift, 3 hrs/shift.
Environmental Release/Disposal. 0.5 to 15 kg released to water. Disposal by incineration, degradation and privately owned treatment plant.

P 86-928

Manufacturer. Confidential.
Chemical. (G) Alkyl aryl phosphine.

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Use/Import. (S) Site limited to industrial catalyst. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: 2,500 mg/kg; Irritation: Skin—Moderate; Eye—Minimal.

Exposure. Processing: dermal, a total of 7 workers, up to 12 hrs/da, up to 360 da/yr.

Environmental Release/Disposal. Trace release to air. Disposal by burning (as waste or fuel in plant).

P 86-829

Importer. Confidential.

Chemical. (G) Amps copolymer.

Use/Import. (G) Consumptive use. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal Confidential.

P 86-830

Manufacturer. Southland Corporation.

Chemical. (G) Mono amide of a disubstituted carboxyalkene.

Use/Production. (S) Surfactant compounds. Prod. range: 1,000–2,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 5 workers, up to 2 hrs/da, up to 2 da/yr.

Environmental Release/Disposal. 40 kg/batch released to water. Disposal by POTW, approved landfill and waste treatment facility.

P 86-831

Manufacturer. Southland Corporation.

Chemical. (G) Diamide of a disubstituted carboxyalkene.

Use/Production. (S) Surfactant compounds. Prod. range: 1,1000–2,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 5 workers, up to 2 hrs/da, up to 2 da/yr.

Environmental Release/Disposal. 40 kg/batch released to water. Disposal by POTW, approved landfill and waste treatment facility.

P 86-832

Manufacturer. Southland Corporation.

Chemical. (G) Mono amide of a disubstituted carboxyalkene.

Use/Production. (S) Surfactant compounds. Prod. range: 1,000–2,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 5 workers, up to 2 hrs/da, up to 2 da/yr.

Environmental Release/Disposal. 40 kg/batch released to water. Disposal by POTW, approved landfill and waste treatment facility.

P 86-833

Manufacturer. Southland Corporation.

Chemical. (G) Diamide of a disubstituted carboxyalkene.

Use/Production. (S) Surfactant compounds. Prod. range: 1,000–2,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 5 workers, up to 2 hrs/da, up to 2 da/yr.

Environmental Release/Disposal. 40 kg/batch released to water. Disposal by POTW, approved landfill and waste treatment facility.

P 86-834

Manufacturer. Confidential.

Chemical. (G) Ethylene vinyl fatty ester copolymer.

Use/Production. (G) Consumption use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-835

Manufacturer. Confidential.

Chemical. (S) Polymer of methyl methacrylate, butyl acrylate, hydroxy ethyl acrylate.

Use/Production. (G) An open use. Prod. range: 60,000–500,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 6 workers, up to 2 hrs/da, up to 300 da/yr.

Environmental Release/Disposal. Minimal release to air. Disposal by biological treatment lagoons and licensed landfill.

P 86-836

Manufacturer. Confidential.

Chemical. (G) Polyester urethane methacrylate blocked.

Use/Production. (G) Industrial component of radiation cure elastomeric printing plate resin. Prod. range: 50,000–200,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 18 workers, up to 6 hrs/da, up to 50 da/yr.

Environmental Release/Disposal. 1 to 8 kg/batch released to control technology. Disposal by incineration.

P 86-837

Manufacturer. Confidential.

Chemical. (G) Industrial lubricant additive. Prod. range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >2 g/kg; Irritation: Skin—Moderate, Eye—Moderate; Ames test: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

P 86-838

Manufacturer. Confidential.

Chemical. (G) Polyisobutenylsuccinimide.

Use/Production. (G) Destructive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 30 workers, up to 4 hrs/da, up to 72 da/yr.

Environmental Release/Disposal. Release unknown. Disposal by approved landfill, RCRA, heat recovered, in plant treatment, Clean Air Act, and Clean Water Act.

P 86-839

Importer. Confidential.

Chemical. (G) Polyester/polyamide copolymer.

Use/Import. (G) Dispersing agent. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Mild; Ames test: Negative; Skin sensitization: Non-sensitizer.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86-840

Manufacturer. Wilmington Chemical Corporation.

Chemical. (G) Aromatic methyl oxirane.

Use/Production. (G) Open, non-dispersive and destructive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-841

Manufacturer. Confidential.

Chemical. (G) Functionalized styrenated acrylic polymer.

Use/Production. (G) Industrial coating. Prod. range: 60,000–300,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal and ocular, a total of 31 workers, up to 8 hrs/da, up to 62 da/yr.

Environmental Release/Disposal. 5 to 98 kg/batch released to land. Disposal by incineration and approved landfill.

P 86-842

Manufacturer. Confidential.

Chemical. (G) Copolymer of methacrylic and acrylic esters.

Use/Production. (S) Pressure sensitive, modifier for coatings, inks and adhesives for industrial, commercial and consumer use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-843

Importer. Shin-Etsu Silicones of America, Inc.

Chemical. (S) Ethenyl tris[(1-methylethenyl)oxy]silane.

Use/Import. (S) Industrial cross-linking agent for one part silicone RTV rubber. Import range: 60–800 kg/yr.

Toxicity Data. LC_{50} 48 hr (Orange-red killifish): >1,000 mg/1; Bioaccumulation test: Low potential.

Exposure. Processing: dermal.

Environmental Release/Disposal. 6 to 100 gm released.

P 86-844

Importer. Shin-Etsu Silicones of America, Inc.

Chemical. (S) Tris[(1-methylethenyl)oxy]phenyl silane.

Use/Import. (S) Industrial cross-linking agent for one part silicone RTV rubber. Import range: 60–800 kg/yr.

Toxicity Data. No data submitted.

Exposure. Processing: dermal.

Environmental Release/Disposal. 5 to 100 gm released.

P 86-845

Manufacturer. Sylvachem Corporation.

Chemical. (G) Ester of long chain fatty acids.

Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 8 workers, up to 8 hrs/da.

Environmental Release/Disposal. 0.5 to 2 lbs released to land. Disposal by approved landfill.

P 86-846

Manufacturer. Confidential.

Chemical. (G) Perfluoroalkyl propoxy polyalkyl ethers.

Use/Production. (G) Fluorinated surfactant. Prod. range: Confidential.

Toxicity Data. Acute oral: >5/kg; Irritation: Skin—Irritant, Eye—Non-irritant.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. 0 to 1 kg/batch released. Disposal by waste treatment plant.

P 86-847

Manufacturer. Confidential.

Chemical. (G) Perfluoroalkyl propoxy polyalkyl ethers.

Use/Production. (G) Fluorinated surfactant. Prod. range: Confidential.

Toxicity Data. Acute oral: >5g/kg; Irritation: Skin—Irritant, Eye—Non-irritant.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. 0 to 1 kg/batch released. Disposal by waste treatment plant.

P 86-848

Manufacturer. Confidential.

Chemical. (G) Perfluoroalkyl propoxy polyalkyl ethers.

Use/Production. (G) Fluorinated surfactant. Prod. range: Confidential.

Toxicity Data. Acute oral: >g/kg; Irritation: Skin—Irritant, Eye—Non-irritant.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. 0 to 1 kg/batch released. Disposal by waste treatment plant.

Dated: April 28, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 10015 Filed 5-2-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59763 FRL-3012-4]

Alkyd; Certain Chemical Premanufacture Notice

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 48066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of one such PMN and provides a summary of it.

DATES: Close of Review Period:

Y 86-127—May 14, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemption received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday excluding legal holidays.

Y 86-127

Manufacturer. Confidential.

Chemical. (G) Alkyd.

Use/Production. (G) Coating. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

Dated April 28, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 86-10016 Filed 5-2-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

April 29, 1986.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received on or before May 20, 1986.

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ADDRESS: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, D.C. 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Martha Bethea—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3822).

Proposal to approve under OMB delegated authority the extension without revision of the following reports:

1. Report title: Statement Regarding Security Devices that do not meet the Minimum Requirements of Regulation P.
Agency form number: FR 4003
OMB Docket number: 7100-0112
Frequency: On occasion
Reporters: State member banks.
Small businesses are affected.
General description of report: This recordkeeping requirement is mandatory [12 U.S.C. 1882(b)]; no confidentiality issues arise since the information is maintained in the files of the State member banks.

Any state member bank not meeting the minimum standards for security devices, as outlined in Regulation P, must maintain in its files a record outlining the reasons for not meeting the standards.

2. Report title: Written Security Program for State Member Banks as Required by Regulation P.
Agency form number: FR 4004
OMB Docket number: 7100-0112
Frequency: One-time
Reporters: State member banks.
Small businesses are affected.
General description of report: This recordkeeping requirement is mandatory [12 U.S.C. 1882(b)]; no confidentiality issues arise because the records are maintained in the files of the state member banks.

All state member banks must maintain in their files a written security program outlining procedures to deter external crime and to assist in the apprehension of persons who commit these crimes.

3. Report title: Annual Statement of Compliance with the Bank Protection Act of 1968.
Agency form number: FR 4005
OMB Docket number: 7100-0112
Frequency: Annually
Reporters: State member banks.
Small businesses are affected.
General description of report: The annual statement is mandatory [12 U.S.C. 1882(b)] and is given confidential treatment [5 U.S.C. 552(b)(4)].

State member banks are required by the Federal Reserve Board to file with the appropriate Federal Reserve Bank an annual statement of compliance with Regulation P.

Board of Governors of the Federal Reserve System, April 29, 1986.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 86-9969 Filed 5-2-86; 8:45 am]
BILLING CODE 6210-01-M

Bankers Trust New York Corp., New York, NY; Propose to Underwrite and Deal in Certain Securities to a Limited Extent

Bankers Trust New York Corporation, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for permission to engage through BT Securities Corporation ("Company"), in the activities of underwriting and dealing in, to a limited extent, the following securities which are eligible for purchase by banks for their own account but not eligible for banks to underwrite and deal in (hereinafter "ineligible securities"):

(1) Commercial paper;

(2) Municipal revenue bonds (obligations issued or guaranteed by a state or any political subdivision thereof, including industrial development bonds as to which the issuer or the governmental unit on behalf of which the industrial development bonds are issued is treated for federal tax purposes as the owner of the facility financed by bond proceeds);

(3) Mortgage-related securities (certificates representing fractional, undivided beneficial ownership interests in promissory notes secured by residential real estate mortgages and obligations collateralized by pass-through certificates of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association or the Government National Mortgage Association or by residential mortgage whole loans, where the debt service requirement for these obligations are met by the cash flow from the pledged mortgage collateral); and

(4) Consumer-receivable-related securities (obligations secured by or representing an interest in loans or receivables of a type generally made to or due from consumers) (hereinafter "CRRs").

Company has previously applied for approval under § 225.25(b)(16) of Regulation Y (12 CFR 225.25(b)(16)) to underwrite and deal in securities and money market instruments that banks are expressly authorized to underwrite and deal in under section 16 of the Glass-Steagall Act (12 U.S.C. 24 Seventh), including U.S. government obligations and general obligations of states and their political subdivisions. The foregoing activities are presently conducted by Applicant and Applicant's principal banking subsidiary, Bankers Trust Company, but would be transferred to Company. Thereafter and upon consummation of the proposal, Company would commence underwriting and dealing in ineligible securities subject to the limitations set forth in the application. The activities would be performed through Company's offices in New York, serving customers in the United States and abroad.

Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." The Board has not previously approved the proposed activities for bank holding companies.

Applicant states that the proposed activitis are so closely related to banking or managing or controlling banks as to be a proper incident thereto on the basis of its belief that banks engage in activities that it believes are functionally and operationally similar to those involved in the application, including discounting commercial paper; underwriting and dealing in eligible U.S. government and municipal securities, mortgage-backed securities and money market instruements; assessing credit and interest rate risk; and purchasing and pooling mortgage loans.

In determining whether a particular activity is a proper incident to banking, the Board considers whether the performance of the activity by an affiliate of a holding company can reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest or unsound banking practices. Applicant maintains that permitting bank holding companies to engage in the proposed activities would be procompetitive and would enable holding companies to provide increased services to customers. In addition, Applicant believes the proposal would not result in adverse effects.

The application also presents issues under section 20 of the Glass-Steagall Act (12 U.S.C. 377). Section 20 of the Glass-Steagall Act prohibits the affiliation of a member bank, such as Bankers Trust Company, with a firm that is "engaged principally" in the "underwriting, public sale or distribution" of securities.

Applicant states that it would not be "engaged principally" in such activities on the basis of restrictions that would limit the amount of the proposed activity relative to the total business conducted by Company and relative to the total market in such activity.

During any two-calendar-year period, the Company's underwriting and dealing in ineligible securities ("ineligible activity") will account for no more than 15 percent of its total activities, measured by compliance at any time with two of the three indicia set forth below:

(1) The dollar volume of underwriting commitments (or underwriting sales if larger) and dealer sales attributable to ineligible activities as a percentage of the total dollar volume of all of Company's activities;

(2) The average assets acquired in connection with ineligible activity as a percentage of the average assets acquired in connection with all of Company's activities; and

(3) The gross income (*i.e.*, income, including gross interest income, before expenses and taxes) from ineligible activities as a percentage of the gross income from all of Company's activities.

In addition, Applicant will limit Company's involvement in the market for ineligible activity so that:

(1) The amount of commercial paper outstanding at any time underwritten by Company, and the amount of commercial paper held in inventory by Company on any day, will not exceed 10% of the average amount of dealer-placed commercial paper outstanding during the prior four calendar quarters (Applicant would reduce this limit from 10 percent to 3 percent if the Board determines that such a reduction in market share is legally required);

(2) With respect to the municipal securities covered by this Application, the volume of such securities underwritten domestically by Company in each calendar year will not exceed 3% of the total amount of such securities underwritten domestically by all firms during the prior calendar year, and the amount of such securities held by Company for dealing would not exceed at any time 3% of the total amount of such securities underwritten domestically by all firms during the prior year;

(3) With respect to the mortgage-related securities and CRRs covered by the application, taken together, the volume of such securities underwritten domestically by Company in each calendar year will not exceed 3% of the total amount of such securities underwritten domestically by all firms during the prior calendar year, and the amount of such securities held by the Company for dealing would not exceed at any time 3% of the total amount of such type of security underwritten domestically by all firms during the prior year.

While the Board has decided to publish Bankers Trust's proposal for comment, the Board does not thereby take any position on the "engaged principally" issue under the Glass-Steagall Act or other issues raised by the proposal under the Bank Holding Company Act. Publication of the proposal has been ordered by the Board solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal is consistent or inconsistent with the Glass-Steagall Act or that the proposal meets or is likely to meet the standards of the Bank Holding Company Act. The Board previously published for comment applications by Citicorp (50 FR 20847) and J.P. Morgan & Co. Incorporated (50 FR 41025) to underwrite and deal in the proposed ineligible securities.

Comments are requested on the scope of activity permitted by the phrase "engaged principally" under the Glass-Steagall Act, including whether the phrase contemplates the type of limitations involved in this application, which are based on the Applicant's market share and on a percentage of the affiliate's total business activities. The Board also seeks comment on whether the term "engaged principally" in section 20 would preclude a member bank affiliate from engaging in activities restricted by this section on a substantial and regular or non-incidental basis and without regard to the amount of other activities conducted by the affiliate.

Comments are also requested on whether the proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto," and whether the proposal as a whole can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices."

Upon the expiration of the public comment period, depending upon the comments received, the Board may wish first to consider the legal issue presented by the application under the Glass-Steagall Act in order to determine whether there is a legal basis for considering whether the activities could be permitted for a bank holding company under the Bank Holding Company Act.

Any request for a hearing on these questions must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than June 2, 1986.

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Board of Governors of the Federal Reserve System, April 30, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-10035 Filed 5-2-86; 8:45 am]

BILLING CODE 6210-01-M

First Colonial Bankshares Corp., Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than May 27, 1986.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Colonial Bankshares Corporation,* Chicago, Illinois; to acquire 91.02 percent of Avenue Bancorporation, Oak Park, Illinois, and thereby indirectly acquiring 86.3 percent of the voting shares of Avenue Bank and Trust Company of Oak Park, Oak Park, Illinois, and 88.0 percent of the voting shares of Avenue Financial Corporation, Oak Park, Illinois, and thereby indirectly acquire 86.7 percent of the voting shares of Avenue Bank Northwest, Niles, Illinois; 94.5 percent of the shares of Avenue Bank of Elk Grove, Elk Grove Village, Illinois; and 96.1 percent of the voting shares of The Northlake Bank, Northlake, Illinois.

Board of Governors of the Federal Reserve System, April 29, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-9986 Filed 5-2-86; 8:45 am]

BILLING CODE 6210-01-M

First Corp.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 23, 1986.

A. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First Corporation,* Henderson, Kentucky; to engage *de novo* through its subsidiary in the offering and sale of insurance by a finance company to a borrower to insure tangible personal property, except household goods, offered as security for a loan exceeding $300 against any substantial risk of loss, damage, or destruction for an amount not to exceed the actual value of such property or the approximate amount of the loan, whichever is greater, pursuant to § 225.25(b)(8)(i)(A) of the Board's Regulation Y and section 4(c)(8)(B) of the Bank Holding Company Act. These activities will be conducted in Madisonville, Kentucky and at loan branch offices in the cities of Madisonville, Owensboro, Henderson, Hopkinsville, Paducah, Central City, Franklin, Bowling Green and Glasgow, Kentucky.

Board of Governors of the Federal Reserve System, April 29, 1986.

James McAfee,

Associated Secretary of the Board.

[FR Doc. 86-9987 Filed 5-2-86; 8:45 am]

BILLING CODE 6210-01-M

Security Pacific Corp.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 23, 1986.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Security Pacific Corporation,* Los Angeles, California; to acquire 100 percent of the voting shares of Arizona Bancwest Corporation, Phoenix, Arizona, and thereby indirectly acquire The Arizona Bank, Phoenix, Arizona. In connection with this application, SPC Acquisition Inc. has applied to become a bank holding company by acquiring Arizona Bancwest Corporation.

Security Pacific Corporation, Los Angeles, California, and SPC Acquisition Inc., have also applied to acquire:

(1) Bancwest Life Insurance Company, Phoenix, Arizona, and thereby engage in the reinsurance of life insurance issued by others in respect of credit extended by SPC affiliates to the extent authorized by § 225.25(b)(9) of the Board's Regulation Y;

(2) Bancwest Insurance Agency, Inc., Phoenix, Arizona, and thereby engage in business as an agent for the sale of credit life and disability insurance in respect of credit extended by SPC affiliates to the extent authorized by § 225.25(b)(8) of the Board's Regulation Y; and

(3) Bancwest Financial Services Company, Phoenix, Arizona, and thereby engage in commercial finance and leasing to the extent authorized by § 225.25(b)(1)(iv) and (b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 28, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-9988 Filed 5-2-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86E-0096]

Determination of Regulatory Review Period for Purposes of Patent Extension; Mexitil

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Mexitil and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims this human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael W. Cogan, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: A testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Mexitil, an antiarrhythmic indicated for supression of symptomatic ventricular arrhythmias. Following FDA's approval, Boehringer-Ingelheim International GmbH filed a patent term restoration application with the U.S. Patent and Trademark Office, which then requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated March 24, 1986, FDA advised the Patent Office that the product had undergone a regulatory review period and that Mexitil represented the first commercial marketing or use of its active ingredient, mexiltine hydrochloride. Shortly thereafter, the Patent Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Mexitil is 5,588 days. Of this time, 4,401 days occurred during the testing phase of the regulatory review period, while 1,187 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* September 14, 1970. FDA records show that the investigational new drug application (IND) became effective on September 14, 1970 (30 days after its receipt by the agency; see 21 CFR 312.1(b)(4)). The applicant refers to a later IND more directly relied upon by the sponsor seeking marketing approval of Mexitil. However, because some data essential to the agency's approval of Mexitil were gathered under the earlier IND, FDA has used the effective date of the earlier IND to calculate the regulatory review period.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* October 1, 1982. FDA has verified that the new drug application (NDA 18-873) was initially submitted on October 1, 1982.

3. *The date the application was approved:* December 30, 1985. FDA has verified that NDA 18-873 was approved on December 30, 1985.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations

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of the actual period for patent extension. In its application for patent extension, this applicant seeks 2 years of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before July 7, 1986, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 31, 1986, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 29, 1986.

Allen B. Duncan,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 86-9978 Filed 4-30-86; 11:50 am]

BILLING CODE 4160-01-M

[Docket No. 86E-0111]

Determination of Regulatory Review Period for Purposes of Patent Extension; Wellbutrin

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Wellbutrin and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims this human drug product.

ADDRESS: Written comments and petitions should be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Michael W. Cogan, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Wellbutrin, an antidepressant for treatment of depression in patients who fail to respond adequately to or who cannot tolerate alternative antidepressant treatments. Following FDA's approval, Burroughs Wellcome Co. filed a patent term restoration application with the U.S. Patent and Trademark Office, which then requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated March 26, 1986, FDA advised the Patent Office that the product had undergone a regulatory review period and that Wellbutrin represented the first commercial marketing or use of its active ingredient, bupropion hydrochloride. Shortly thereafter, the Patent Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Wellbutrin is 5,634 days. Of this time, 4,165 days occurred during the testing phase of the regulatory review period, while 1,469 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* July 30, 1970. FDA has verified that the investigational new drug application (IND) became effective on July 30, 1970 (30 days after its receipt by the agency; see 21 CFR 312.1(b)(4)). The applicant refers to a later IND more directly relied upon by the sponsor seeking marketing approval of Wellbutrin. However, Because some of the data essential to the agency's approval of Wellbutrin were gathered under the earlier IND, FDA thus used the effective date of the earlier IND to calculate the regulatory review period.

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* December 23, 1981. FDA has verified that the new drug application (NDA 18–644) was initially submitted on December 23, 1981.

3. *The date the application was approved:* December 30, 1985. FDA has verified that NDA 18–644 was approved on December 30, 1985.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In it application for patent extension, this applicant seeks 2 years of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before July 7, 1986, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 31, 1986, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit burden, the petition must contain an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 29, 1986.

Allen B. Duncan

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 86-9981 Filed 4-30-86; 11:50 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Meetings; Alaska Land Use Council

As required by the Alaska National Interest Lands Conservation Act (ANILCA), Pub. L. 96–487, dated December 2, 1980, section 1201, Paragraph (h), the Alaska Land Use Council will meet at 9:00 a.m., Monday, June 9, 1986, in the room 117, U.S. Federal Building and Court House, 701 C Street, Anchorage, Alaska.

The tentative agenda will include Council consideration of:

—Alaska Land Use Council Work Program Recommendations for 1986–87
—Aniakchak National Monument and Preserve General Management Plan
—Bering Land Bridge National Preserve General Management Plan
—Cape Krusenstern National Monument General Management Plan
—Katmai National Park and Preserve General Management Plan
—Kobuk Valley National Park General Management Plan
—Noatak National Preserve General Management Plan
—Wrangell/St. Elias National Park and Preserve General Management Plan
—State Cultural Assistance Directory
—Stikine River Access Study Report, and
—Other items as may be appropriately considered by the Council.

Any individual desiring to appear before the Council to address any of the above matters or matters of general concern to the Council should contact either Cochairman's office before the close of business Tuesday, May 27, 1986.

For further information contact:

Alaska Land Use Council, Office of the Federal Cochairman, P.O. Box 100120, Anchorage, Alaska 99510, (907) 272–3422, (FTS) 271–5485

Alaska Land Use Council, Office of the State Cochairman Designee, Pouch AM, Juneau, AK 99811, (907) 465–3562

2800 Denali St, Suite 700, Anchorage, AK 99503, (907) 274–1581.

The public is invited to attend.

William P. Horn,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-9997 Filed 5-2-86; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

Nevada: Proposed Withdrawal and Reservation of Lands

Correction

In FR Doc. 86–8157, appearing on page 12574, in the issue of Friday, April 11, 1986, make the following correction.

In the third column, second line, after the first W½ insert a "comma".

BILLING CODE 1505-01-M

Bureau of Reclamation

[INT—DES 86–21]

Kesterson Program; Merced and Fresno Counties, CA.; Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the Department of the Interior has prepared a draft environmental impact statement (DEIS) addressing alternative plans for the cleanup of Kesterson Reservoir and the San Luis Drain (SLD). This DEIS has been prepared in cooperation with the Fish and Wildlife Service and the Army Corps of Engineers.

Kesterson Reservoir and the SLD are contaminated with selenium originating from drainwater discharges that are scheduled to cease on June 30, 1986. This DEIS describes the environmental impacts of four alternative plans, in addition to a No-Action Alternative, for Kesterson Reservoir and SLD cleanup and disposition, and potential offsite wetland mitigation. Alternative plans for reservoir cleanup consist of: 1) Vegetation harvesting, maintaining the ponds wet or dry and monitoring (Flexible Response Plan); 2) using a water or soil cover to immobilize selenium in the reservoir sediments (Immobilization Plan); 3) onsite disposal of contaminated sediments and vegetation, and restoring the majority of the reservoir to wetland habitat (Onsite Disposal Plan); and 4) offsite disposal of contaminated sediments and vegetation, and creating upland habitat on the majority of the reservoir (Offsite Disposal Plan). Each of the four plans includes complementary alternatives for the SLD and potential offsite mitigation for loss of Kesterson Reservoir wetland habitat.

Reclamation's proposed action is a phased approach. The Flexible Response Plan (wet option) would be implemented first. If water quality or biological monitoring indicates the plan is unsuccessful, the Immobilization Plan would be implemented. If monitoring indicates the Immobilization plan is also unsuccessful, the Onsite Disposal Plan would be implemented.

Copies are available for inspection at the following locations:

Director, Office of Environmental Affairs, Room 7429, Bureau of Reclamation, Washington, DC 20240, Telephone: (202) 343–4991

Regional Director, Bureau of Reclamation, Mid-Pacific Region, 2800 Cottage Way, Sacramento, CA 95825, Telephone: (916) 978–5048

Division of Acquisition and Property Management, Document Systems Management Branch, Library Section, Code 823, Engineering and Research Center, Denver Federal Center, Denver, CO 80225, Telephone: (303) 236–6963.

Single copies of the statement may be obtained on request to the Director, Office of Environmental Affairs, or the Regional Director at the above addresses. Copies will also be available for inspection in libraries in the project vicinity. Review comments must be received by the date indicated on the cover sheet of the document.

Public Hearings will be held at the following times and places:

June 17, 1986, 7:00 p.m., Merced county Fairgrounds (Floral Bldg.), 4th and F Streets, Los Banos, CA

June 18, 1986, 7:00 p.m., Fresno Convention Center (Wine Room), 700 M Street, Fresno, CA

June 19, 1986, 7:00 p.m., Gustine Elementary School Gymnasium, Highway 33 and Grove Street, Gustine, CA.

Individuals and representatives of interested organizations will have an opportunity to make oral presentations for the record on the DEIS at the hearings. Those persons intending to testify should limit their oral presentation to 10 minutes. A sign-up sheet for presentations will be provided at each hearing. Written statements from those unable to attend and from those wishing to supplement their oral presentation at a hearing should be received at the Bureau of Reclamation's Sacramento, California, office by June 26, 1986, for inclusion in the hearing record.

Dated: April 30, 1986.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 86-10009 Filed 5-2-86; 8:45 am]

BILLING CODE 4310-48-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[V-85-2]

Variance Applications; AMAX Lead Company of Missouri

AGENCY: Occupational Safety and Health Administration, Labor Department.

ACTION: Notice of Cancellation of Hearing on Application for Permanent Variance.

SUMMARY: This notice announces cancellation of the hearing scheduled for May 6, 1986, on the application of AMAX Lead Company of Missouri for a permanent variance from Table II of the standard prescribed in 29 CFR 1910.1025(f)(2). The variance application concerns the limitation on the use of half-mask, air-purifying respirators to areas where the lead concentration in air is less than 10 times the permissible exposure limit (PEL). The Occupational Safety and Health Administration has determined, after additional investigation, that a permanent variance will be granted in this matter.

DATES: The hearing had been scheduled to begin at 9:30 a.m. on May 6, 1986, at the Federal Building, Courtroom No. 2, Room 502, U.S. court of Appeals, U.S. Courthouse and Custom House, 1114 Market Street, St. Louis, Missouri 63101.

FOR FURTHER INFORMATION CONTACT: James J. Concannon, Director, Office of Variance Determination, U.S. Department of Labor, Room N-3656, 200 Constitution Avenue, NW., Washington, D.C. 20210, telephone: 202-523-7193.

Authority: This document was prepared under the direction of Patrick R. Tyson, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20210 (Sec. 6, 84 Stat. 1593 (29 U.S.C. 655); 29 CFR Part 1911; and Secretary of Labor's Order No. 9-83 (48 FR 35736)).

Signed at Washington, D.C. this 30th day of April, 1986.

Patrick R. Tyson,

Acting Assistant Secretary.

[FR Doc. 86-10160 Filed 5-2-86; 10:59 am]

BILLING CODE 4510-26-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-155]

Consumers Power Co., Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the approval of disposal of approximately 5300 cubic feet of contaminated soil by leaving it in place proposed by Consumers Power Company (the licensee) for the Big Rock Point Plant, located in Charlevoix County, Michigan.

Environmental Assessment

Identification of Proposed Action: The proposed action by the NRC would approve the disposal of contaminated soil by leaving it in place at the facility, as proposed by the licensee's request dated August 16, 1985. The request for approval is submitted pursuant to 10 CFR 20.302. The total volume of contaminated soil is estimated to be 5300 cubic feet.

The Need for the Proposed Action: In May of 1984, soil underneath the turbine building was contaminated by a leak of condensate from a 2-inch diameter aluminum pipe also located under the floor of the turbine building. The pipe normally carries condensate to the condensate storage tank. Approximately 3×10^{-3} Ci of Co-60, Mn-54, Ce-134 and Ce-137, plus shorter-lived radionuclides, may have been released into the soil. After removal of eight 55-gallon drums of contaminated soil, and reduction by radioactive decay, the quantities remaining as of July 1985 are estimated by the licensee to be about 7×10^{-6} Ci of Co-60, 2×10^{-3} Ci of Mn-54, 1.1×10^{-3} Ci of Ce-134 and 1.0×10^{-3} Ci of Ce-137, totalling about 3×10^{-6} Ci.

Environmental Impacts of the Proposed Action: In the attachment to the letter of August 16, 1985, the licensee provided information on the geology and hydrology of the area, on behavior of currents in the adjacent waters of Lake Michigan, and on the soil sampling done to determine the extent of the contamination. The licensee also provided an assessment of the potential radiological impacts of leaving the soil in place.

The staff has reviewed the information submitted by the licensee. Considering the size of storage tanks involved and measured concentrations of radionuclides, the staff judges that the licensee's estimates of the quantity of water and the quantities of radionuclides leaked to the soil are reasonable but subject to some uncertainty. The analyses of soil samples show that the concentrations of radionuclides remaining in the soil are small. The staff judges the licensee's estimates of the volume of soil contaminated and of the total quantities of radionuclides remaining in the soil to be only approximate. However, based on review of the submitted information on the site geology and hydrology and the results of soil sampling, the staff considers the concentrations of radionuclides in the soil and the potential extent of the soil contamination to be adequately defined.

The staff has evaluated the impacts of leaving the contaminated soil in place, and finds that the potential environmental impacts are insignificant. For conservatism, the staff based its estimates of doses from the soil on the radioactivity concentrations in the soil at the sampling point (outside of the excavated area) showing the highest concentrations of contamination.

The average concentrations of the significant radionuclides at this location, with some correction for background, are:

Mn-54	2.5×10^{-7} Ci/m³	2.6×10^{-11} Ci/m³
Co-60	3.2×10^{-7} Ci/m³	7.3×10^{-5} Ci/m³
Ce-134	2.0×10^{-6} Ci/m³	4.3×10^{-6} Ci/m³
Ce-137	2.4×10^{-6} Ci/m³	1.9×10^{-6} Ci/m³
	8.0×10^{-6} Ci/m³ * (July 10, 1984)	2.8×10^{-4} Ci/m³ * (10 years from now)

*For comparison, radioactive K-40 occurs naturally in soil at an average concentration of 1.0×10^{-5} Ci/m³.

For its estimates of the potential impacts of any release of the radioactivity to the waters of Lake Michigan, the staff used the licensee's estimate of the total quantities leaked. The total quantities of the more important radionuclides leaked were estimated by the licensee to be, as of May 30, 1984:

Mn-54	1.30×10^{-4} Ci
Co-60	2.40×10^{-4} Ci
Ce-134	1.22×10^{-4} Ci
Ce-137	1.74×10^{-4} Ci
	6.33×10^{-4} Ci

Results of the staff's evaluation of the impacts are provided in Table 1.

TABLE 1.—Potential Impacts of Leaving the Soil in Place

	Estimated dose rate *
Occupational Radiation Exposure:	
Working above the contaminated soil, 1000 hours/year.	1.0 mrem
Working in a hole in the soil, per week	(*)
Inhalation of contaminated dust, dose to the lung, per year.	(*)

TABLE 1.—Potential Impacts of Leaving the Soil in Place—Continued

	Estimated dose rate *
Potential Exposure of the Public:	
Living above the contaminated soil, per year	(b,d)
Eating vegetables grown in the soil, per year	(c,d)
Shoreline recreation	(*)
Eating fish	(*)
Drinking water	(*)

*=All doses are radiation dose to the total body of an individual unless otherwise specified. Dose estimates are primarily based on the methodology of U.S. NRC Regulatory Guide 1.109, Rev. 1, and on the concentrations of radionuclides in the soil at the maximum sampling point outside the excavated area.

b=Less than 1.0 mrem.

c=Less than 0.1 mrem.

d=With 10 more years' radioactive decay, but no further removal by groundwater transport or other processes.

*=Less than 0.1 mrem to any individual if all leaked quantities were released to Lake Michigan at once; release by groundwater transport through the soil will result in smaller doses.

These results show that exposure rates due to leaving the contaminated soil in place are at most only about 3 mrem per year to the total body. For perspective, the radiation from the naturally occurring radionuclides in soils and rocks plus cosmic radiation give a person in Michigan a whole-body dose rate of about 89 mrem per year outdoors, which may be altered as much as 20 mrem per year by the type of construction of the person's residence (e.g., wood frame or brick) and the amount of time spent in it. The staff's estimate of about 3 mrem per year is highly conservative because the soil sampling indicates that at most only a few hundred square feet are so highly contaminated, and that most of the contamination is at depths where the overlying soil and concrete would shield people from the radioactivity more effectively than is assumed in the staff's calculations. It is unlikely that a member of the general public would be exposed to the contaminated soil until after the plant decommissioning, 10 years or more in the future, since most of the contaminated soil is located under the turbine building. The staff's estimates of potential exposures from release of the contamination to the waters of Lake Michigan are conservative because they are based on the modeling assumption of an instantaneous release of all the leaked quantities (as of May 30, 1984) of radionuclides into Lake Michigan, with no allowance for the retention of contamination in the soil which is evidenced by the results of analysis of soil samples.

With regard to the nonradiological impacts, the staff judges that leaving the soil in place has the smallest impact.

Based on our review and evaluation of the proposed disposal, we find that:

(1) The radiation exposures to the nuclear station workers involved in the disposal are small compared to the routine occupational exposures at the Big Rock Point Plant.

(2) The possible radiation risks to members of the general public as a result of such disposal are well below regulatory limits and small in comparison to the doses they receive each year from natural background radiation.

(3) The nonradiological environmental impacts of the proposed procedure are minor.

Alternatives to the Proposed Action: The principal alternative to leaving the contaminated soil in place would be to dig it up, package it in 55-gallon drums or other suitable containers and ship it to a disposal facility licensed to dispose of low level radioactive waste. This would be costly, requiring, for example, the shipping of more than 700 55-gallon drums. It could also require the disruption of the overlying turbine building. On the basis of the above analysis and evaluations and after weighing the environmental, technical, and other benefit against the environmental costs, the staff concludes that the action called for under NEPA and 10 CFR Part 51 is the issuance of an approval of the proposed waste disposal procedure.

Alternative Use of Resources: The principal result of this action does involve the use of resources beyond the scope used during normal plant operations; however, this new use of land is not significant, as the land involved is located, and will remain in place, underneath the floor of the turbine building. This action involves no other critical materials or resources.

Agencies and Persons Consulted: The Commission's staff reviewed the licensee's request and has not consulted other agencies or persons.

Finding of no Significant Impact

The Commission has determined not to prepare an evnironmental impact statement for the proposed action.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the licensee's request for approval dated August 16, 1985, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC 20555 and at North Central Michigan College, 1515 Harvard Street, Petosky, Michigan 49770.

Dated at Bethesda, Maryland, this 29th day of April 1986.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, BWR Project Directorate No. 1, Division of BWR Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 86-10028 Filed 5-2-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-498 and 50-499]

Houston Lighting and Power Co.; Availability of Safety Evaluation Report for the South Texas Project, Units 1 and 2

The Office of Nuclear Reactor Regulation has published its Safety Evaluation Report related to the proposed operation of the South Texas Project, Units 1 and 2, nuclear plants located near Bay City, Texas. Notice of receipt of Houston Lighting and Power Company's application for facility licenses for the South Texas Project, Units 1 and 2 was published in the **Federal Register** on December 20, 1977 (42 FR 63826).

The report is being referred to the Advisory Committee on Reactor Safeguards and is being made available at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Local Public Document Rooms in the Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488 and in the Austin Public Library, Austin Travis County Collection, Austin History Center, 810 Guadalupe Street, P.O. Box 2287, Austin, Texas 78701 for inspection and copying. Copies of NUREG-0781 may be purchased through the U.S. Government Printing Office by calling (202) 275-2060 or by writing to the U.S. Government Printing Office, P.O. Box 37082, Washington, DC 20013-7082. Copies may also be purchased from the National Technical Information Service, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 29th day of April 1986.

Leonard N. Olshan,

Acting Director, PWR Project Directorate No. 5, Division of PWR Licensing-A.

[FR Doc. 86-10027 Filed 5-2-86; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a new guide planned for its Regulatory Guide Series together with a draft of the associated value/impact statement. This

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series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft guide, temporarily identified by its task number, WM 407-4 (which should be mentioned in all correspondence concerning this draft guide), is entitled "Methods for Estimating Radioactive and Toxic Airborne Source Terms for Uranium Milling Operations" and is intended for Division 3, "Fuels and Materials Facilities." It is being developed to provide guidance acceptable to the NRC staff on methods, models, data, and assumptions for estimating airborne emissions of radioactive and toxic materials from uranium mills to be used in preparing environmental reports. NUREG/CR-4068, "Methods for Estimating Radioactive and Toxic Airborne Source Terms for Uranium Milling Operations," provides additional information on radioactive and toxic material releases.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. Comments will be most helpful if received by July 7, 1986.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement in an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at this 28th day of April 1986.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Radiation Programs and Earth Sciences, Office of Nuclear Regulatory Research.

[FR Doc. 86-10029 Filed 5-2-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-382]

Louisiana Power & Light Co.; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (The Commission) has granted the request of Louisiana Power and Light Company (the licensee) to withdraw a portion of its December 2, 1985 application for a proposed amendment to Facility Operating License No. NPF-38, which authorizes operation of the Waterford Steam Electric Station, Unit No. 3, located in St. Charles Parish, Louisiana. The proposed amendment would have changed a reference in Administrative Control 6.4.1 of the Technical Specifications from section 5.2 of ANSI 3.1-1978 to section 5.5 of the same ANSI Standard. The Commission issued a Notice of Consideration of Issuance of Amendment in the **Federal Register** on January 29, 1986 (51 FR 3715). By letter dated April 15, 1986, the licensee withdrew this portion of its application for the proposed amendment. The Commission has considered the licensee's April 15, 1986 letter and has determined that permission to withdraw this portion of the December 2, 1985 application for amendment should be granted.

For further details with respect to this action, see (1) the application for amendment dated December 2, 1985; and (2) the licensee's letter dated April 15, 1986, withdrawing a portion of the application for license amendment. The above documents are available for public inspection at the Commission Public Document Room, 1717 H Street NW., Washington, DC and at the University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Dated at Bethesda, Maryland, this 28 day of April, 1986.

For the Nuclear Regulatory Commission.

George W. Knighton,

Director, Project Directorate No. 7, Division of PWR Licensing-B.

[FR Doc. 86-10030 Filed 5-2-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-275-OLA and 50-323-OLA; ASLBP No. 86-523-03-LA]

Atomic Safety and Licensing Board, Order Designating Location of Prehearing Conference; Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant, Units 1 and 2)

April 29, 1986.

Before Administrative Judges: B. Paul Cotter, Jr., Chairman Glenn O. Bright, Dr. Jerry Harbour.

Please take notice that th prehearing conference in the above-identified proceeding scheduled for May 13, 1986, commencing at 9:30 a.m. local time, will be held in: Cabana Room, San Luis Bay Inn Avila Beach, California 93424.

The date of the prehearing conference, but not the location or time, were announced in the Board's Memorandum and Order of March 28, 1986.

Limited appearances will not be entertained at that time but will be scheduled to take place at a future date.

Dated at Bethesda, Maryland, his 29th day of May, 1985.

For the Atomic Safety and Licensing Board.

B. Paul Cotter, Jr.,

Chairman, Administrative Judge.

[FR Doc. 86-10036 Filed 5-2-86; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

White House Science Council; Meeting

The White House Science Council, the purpose of which is to advise the Director, Office of Science and Technology Policy (OSTP), will meet on May 15 and 16, 1986 in Room 5104, New Executive Office Building, Washington, D.C. The meeting will begin at 6:00 p.m. on May 15, recess and reconvene at 8:00 a.m. on May 16. Following is the proposed agenda for the meeting:

(1) Briefing of the Council, by the Assistant Directors of OSTP, on the current activities of OSTP.

(2) Briefing of the Council by OSTP personnel and personnel of other agencies on proposed, ongoing, and completed panel studies.

(3) Discussion of composition of panels to conduct studies.

The May 15 session and a portion of the May 16 session will be closed to the public.

The briefing on some of the current activities of OSTP necessarily will involve discussion of material that is formally classified in the interest of national defense or for foreign policy reasons. This is also true for a portion of the briefing on panel studies. As well, a portion of both of these briefings will require discussion of internal personnel procedures of the Executive Office of the President and information which, if prematurely disclosed, would significantly frustrate the implementation of decisions made requiring agency action. These portions of the meeting will be closed to the public pursuant to 5 U.S.C. 552b(c) (1), (2), and 9(B).

A portion of the discussion of panel composition will necessitate the disclosure of information of a personal nature, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Accordingly, this portion of the meeting will also be closed to the public, pursuant to 5 U.S.C. 552b(c)(6).

Because of the security in the New Executive Office Building, persons wishing to attend the open portion of the meeting should contact Annie L. Boyd, Secretary, White House Science Council at (202) 456-7740, prior to 3:00 p.m. on May 14. Ms. Boyd is also available to provide specific information regarding time, place and agenda for the open session.

Jerry D. Jennings,

Executive Director, Office of Science and Technology Policy.

April 30, 1986.

[FR Doc. 86-10114 Filed 5-2-86; 8:45 am]

BILLING CODE 3170-01-M

PEACE CORPS

Agency Information Collection Activities Under OMB Review

AGENCY: Peace Corps.

ACTION: Notice of submission of public use form review request to the Office of Management and Budget.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C. Chapter 35), the Peace Corps has submitted to the Office of Management and Budget a request to approve the use of the Peace Corps Volunteer Delivery System Questionnaire through July 31, 1989. The form is completed voluntarily by those invited to attend a staging event prior to Peace Corps training and by those attending a stateside training. The Questionnaire provides information concerning individual experiences in being processed through the Volunteer Delivery System. This information is necessary for Peace Corps to evaluate the effectiveness of the Volunteer Delivery System. Though there are demographic questions, such questions will not/cannot be used to identify specific individuals who have filled out the Questionnaire. Information about the form:

Agency Address: Peace Corps, 806 Connecticut Avenue, NW., Washington, DC 20526

Title of Request: Approval of use

Frequency of Collection: On occasion

General Description of Respondents: Individuals who attend pre-training stagings prior to becoming a Peace Corps Volunteer

Estimated Number of Responses: 3,000 annually

Estimated Hours for Respondents to Furnish Information: Thirty (30) minutes each

Respondents Obligation to Reply: Voluntary

Comments: Comments on this form request should be directed to Francine Picoult, Desk Officer, Officer of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

A copy of the form may be obtained from Phillip Seder, Office of Placement, 806 Connecticut Avenue, NW., Room 906, Washington, DC 20526. Mr. Seder may be called on area code 202-632-6595.

This is not a request to which 44 U.S.C. 3504(h) applies.

This notice is issued in Washington, DC, on April 30, 1986.

Linda Rae Gregory,

Associate Director for Management.

Robert E. McClendon,

Certifying Officer, Peace Corps.

[FR Doc. 86-9992 Filed 5-2-86; 8:45 am]

BILLING CODE 6051-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-23187; File Nos. SR-PSDTC-84-16; SR-PCC-85-04; and SR-PSDTC-83-09]

Self-Regulatory Organizations; Pacific Securities Depository Trust Co. and Pacific Clearing Corp.; Order Approving and Withdrawing Proposed Rule Change

The Pacific Securities Depository Trust Company ("PSDTC"), on December 17, 1984, filed a proposed rule change (File No. SR-PSDTC-84-16) under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). The Pacific Clearing Corporation ("PCC"), PSDTC's sister clearing agency, on June 5, 1985, filed a companion proposed rule change (File No. SR-PCC-85-04) under that Section of the Act. The Commission published notice of the proposals in the **Federal Register** on January 24 and June 17, 1985, respectively, to solicit public comment.[1] No public comment was received. This Order approves the proposals.[2]

I. Introduction

PSDTC's proposal would establish a bearer municipal bond program. Specifically, the proposal would make certain bearer municipal bonds eligible for deposit at PSDTC and would establish procedures for their book-entry processing. The proposed procedures, among other things, govern deposits of certificates, book-entry deposits, book-entry deliveries, pledges, interest collection and payment, call and maturity processing and withdrawals in bearer or, in some cases, registered form.[3]

PCC's proposal would authorize PCC to provide services to PSDTC participants using the bearer municipal bond program. Specifically, PCC securities proceesing windows could be used to deposit and withdraw bonds. Also, interest payable to PSDTC participants with respect to bearer

[1] Securities Exchange Act Release No. 21660 (January 14, 1985), 50 FR 3440 (January 24, 1985) and Securities Exchange Act Release No. 22132 (June 1[illegible] 1985), 50 FR 25144 (June 17, 1985).

[2] The Commission also is granting PSDTC's request to withdrew File No. SR-PSDTC-83-09, which was published for comment in Securities Exchange Act Release No. 20340 (November 2, 1983), 48 FR 51301 (November 18, 1983). The proposals approved today replace File No. SR-PSDTC-83-09.

[3] Because PCC/PSDTC already provide almost identical services for registered municipal securities, PCC/PSDTC participants now will be able to use the same processing system to handle all municipal securities transactions, rather than dual systems depending upon form of issuance.

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bonds on deposit at PSDTC will be reflected on PCC transaction blotters, settlement sheets and pay/collect reports.

II. Description

Under the proposals, all processing must occur in special PSDTC Bearer Municipal Bond Accounts. Participants may make deposits to these accounts by delivering certificates, in good deliverable form,[4] to a PCC or PSDTC processing window at any of PCC/PSDTC's offices. Similarly, participants may withdraw certificates from these accounts or convert book-entry positions in bearer bonds to registered form (when conversion is authorized by the issuer) by submitting appropriate instructions to one of PCC/PSDTC's offices.

PSDTC's proposed system would enable PSDTC's participants to make book-entry deliveries and pledges of bearer bond positions to other participants, including pledgee-participants banks. PSDTC participants could effect free and valued book-entry deliveries of bearer bond positions by manual or PCC/PSDTC's Pacific Participant Terminal System ("PPTS") instructions. Participants could instruct PSDTC to make book-entry deliveries to their accounts or to third parties' accounts at other registered securities depositories, *i.e.*, the Depository Trust Company ("DTC") the Midwest Securities Trust Company ("MSTC") and the Philadelphia Depository Trust Company ("Philadep"). Participants would effect pledges by forwarding instructions to PSDTC on a special pledge deposit form or by entering an appropriate instruction on PPTS.

The proposals would provide participants with several important ancillary services. First, PSDTC would provide a coupon clipping, collection and payment service. PSDTC participants would receive coupon interest payments for deposited bearer municipal bonds automatically (*i.e.*, without any participant instruction). On record dates, PSDTC will advise participants of their account positions and projected interest payments. PSDTC will forward clipped bond coupons to issuer's paying agents. On payable date, PCC will include the interest payments in participants' next-day settlement reports. On the following day, the interest payments will be included in participants' PCC Net Settlement Sheets and reflected on participants' PCC Pay/Collect Reports. PSDTC plans to pay interest to participants, even if PSDTC does not receive interest payments from paying agents prior to paying interest to participants. In that case, PSDTC will recover any finance costs by changing each participant a daily finance charge on the uncollected balance.[5] This charge will be reflected as Bearer Interest Charges on nonthly billing statements.

Second, PSDTC would provide bond call processing services. PSDTC will monitor and be responsible for processing calls published in the *Standard and Poor's Called Bond Report, Wall Street Journal (West Coast Edition)* and *Los Angeles Times*. Participants will remain responsible for monitoring bond call notices in other financial publications. PSDTC will be responsible for processing these other calls if a participant advises PSDTC of the pending call at least five business days before the call date. PSDTC will submit called certificates to the redemption agent, cancel participants' positions in redeemed bonds, collect redemption proceeds and disburse proceeds to participants by issuing checks.[6] For whole issue calls and redemptions, PSDTC will submit to the issuer's redemption agent all positions in the called security issue and will make the security issue ineligible for continued and future deposit at PSDTC. For partial redemptions, PSDTC will use an impartial lottery to allocate the call among all participants' positions.[7]

Third, PSDTC will process maturing bonds. PSDTC will submit maturing certificates to the appropriate paying agent. On maturity date, maturity values will be reflected on PSDTC Member Position and Cash Reports and all participants' positions in the maturing bond issue will be cancelled. PSDTC will issue checks for maturing bonds on the business day after maturity date. Like uncollected interest payments, maturity payments not collected by PSDTC from paying agents prior to PSDTC's payment to participants will result in daily finance charges to participants.

PSDTC's proposal includes a fee schedule for these proposed services. The fees cover account dues,[8] book-entry movements,[9] custody services,[10] deposits[11] and withdrawals.[12] Incidental expenses and research costs associated wtih special requests will be passed through to participants.

PSDTC plans initially to operate the program on a limited basis with a small number of bearer municipal bond issues eligible for deposit. To be included in the initial operation of the program, certificates must be in multiples of $1000 and must have imprinted CUSIP numbers. PSDTC intends gradually to increase eligible issues to meet its participants' needs. (In fact, participants can request that PSDTC make an issue eligible.) In addition, PSDTC and the other depositories hope to standardize their eligibility criteria. In any event, PSDTC currently is receiving daily computer tapes from DTC containing a listing of all DTC-eligible issues. PSDTC compares this report to its eligibility list and any issues not yet PSDTC-eligible are made eligible immediately.

Under an agreement between PSDTC and Security Pacific Clearing and Services Corporation ("Security Pacific"), Security Pacific will perform most custodial and certificate handling services for PSDTC's bearer municipal securities bond program. Security Pacific at all times will maintain custody of deposited bonds in California. Security Pacific will collect interest, redemption and maturity payments from paying agents and will pay PSDTC these amounts in next-day funds on applicable payable dates. If Security Pacific experiences delays in collecting payments from paying agents, Security Pacific will charge PSDTC a daily financing charge for payments advanced to PSDTC.[13] If, however, Security Pacific fails timely to present bonds for call or maturity payments or to make interest payments to PSDTC, Security Pacific will pay PSDTC the applicable daily finance charges. PSDTC and Security Pacific each will bear the risk of damages arising out of their own acts or omissions. Moreover, Security Pacific's performance under the Agreement, including the full and prompt payment of all monies due PSDTC (after due notice from PSDTC), would be guaranteed by Security Pacific's parent, Security Pacific Corporation ("SPC"), a regulated bank holding company.

PCC/PSDTC and Security Pacific have created an elaborate safeguarding system designed to ensure the safeguarding of securities and finds in their possession or for which they are responsible. First, access to Security Pacific's securities processing area will be restricted to employees with security badges and visitors who must be "signed in" by appropriate Security Pacific personnel. All securities processing areas will be monitored by cameras. Similarly, access to Security Pacific's vault will be restricted to certain employees and elaborate vault control procedures have been developed for opening and closing the vault. Furthermore, Security Pacific will microfilm (in duplicate) and verify all deposited securities. PSDTC and Security Pacific will reconcile their bearer municipal bond positions each week and all activity will be monitored daily. The reconciliation will be done automatically and breaks will be immediately researched. Any needed adjustments will be researched and completed by PCC/PSDTC's Stock Record department in San Francisco. Security Pacific plans to audit vault contents at least three times per year, and SPC will continue to audit Security Pacific each year, focusing on securities processing controls. Finally, PSDTC, on request, will be able to inspect, during regular business hours, Security Pacific's facilities and audit its books and records as they relate to Security Pacific's PSDTC processing activities.

III. PCC/PSDTC's Rationale

PCC/PSDTC believe that the proposals are consistent with the Act because they would reduce physical deliveries of bearer municipal securities, enhance the safekeeping of those securities, and enhance the interface between registered securities depositories. PCC/PSDTC also believe that the proposals are consistent with the Act because they equitably allocate fees and other charges among participants.

[4] A security is in "good deliverable form" under PSDTC's procedures if: (1) The issue must be eligible for deposit as bearer bond; (2) an appropriate deposit must be correctly completed; (3) the CUSIP number must be printed on the certificate; (4) therpar value of the certificates must equal the share quantity on the deposit form; (5) deposits presented up to and on payable date, minus one month, must have all the current coupons attached in correct sequence and not mutilated or cancelled; (6) legal opinions must be printed on the bond or attached to the cetificate and (7) certificates for which a call notice has been published on or prior to delivery date will not constitute good delivery.

[5] PSDTC will calculate finance charges by averaging the daily high and low New York broker call rate in the Los Angeles edition of the *Wall Street Journal*.

[6] Participants that do not want PSDTC to process their called bonds must withdraw them from PSDTC prior to a date to be specified for each call.

[7] *See* Part X(B) of the proposed procedures in File No. SR-PSDTC-86-16 for a detailed description. PSDTC's lottery procedures are similar to those used by other registered clearing agencies.

[8] Dues are $250 per month for the first bearer municipal bond account and $60 per month for each sub-account.

[9] Most book-entry movement fees are $1.50.

[10] Custody service fees are $1.85 per issue per month, plus $0.01 per CUSIP value on deposit each month (as of the escond to last day of the month).

[11] Deposit fees range from $5 to $13, depending on time of deposit.

[12] PSDTC would assess $5 for each withdrawal instruction (per issue), plus $0.04 per $1000 per value, up to $20. In addition, PSDTC would assess participants requesting certificates in registered form $2.50 per transfer.

[13] The finance charge will be based on the broker call rate in the Los Angeles edition of the *Wall Street Journal*.

IV. Discussion

As discussed below, the Commission is approving PCC/PSDTC's proposals. The Commission believes that the proposals promote the prompt and accurate processing of municipal securities transactions and are consistent with PCC/PSDTC's duty to safeguard securities and funds under Section 17A of the Act. The Commission also believes that the proposed fees are equitably allocated consistent with that Section of the Act.

Under the proposal, PSDTC will make its automated depository services available to participants for bearer municipal bonds for the first time. Currently, PSDTC participants must process and settle their bearer municipal securities transactions outside the depository environment using labor-intensive, inefficient and costly procedures or by becoming direct or indirect participants in one of the securities depositories with a bearer municipal bond processing program (DTC or MSTC). PSDTC's new program should enable PSDTC participants to compare and settle eligible bearer municipal securities trades in an automated, centralized system using procedures that generally are far more efficient than physical processing. Indeed, the proposed program should promote the increased immobilization of bearer municipal bonds that, until now, have remained outside the automated, safe and efficient National Clearance and Settlement System (the "National System").[14] In fact, certain classes of institutional investors in California for the first time will have the opportunity to use National System facilities for their large municipal bearer bond holdings.[15]

These proposals also will enable PSDTC participants to access the entire National System. That is, they now will have a door through which they can compare and book-entry settle their bearer municipal bond transactions with remote municipal securities dealers. For the first time, PSDTC participants will be able to compare and book-entry settle promptly and accurately their transactions in those securities with DTC participants in New York or MSTC participants in Chicago.[16] Moreover, the addition of PSDTC should enhance competition among depositories for bearer municipal bond business and, as a result, encourage more efficient bearer municipal securities processing systems.

With respect to the safeguarding of securities and funds, the Commission believes that PCC/PSDTC have chosen to rely on a subcustodian that has extensive experience safekeeping bearer instruments and processing payments related to those instruments, particularly interest payments made in exchange for bearer certificate coupons. This experience is particularly significant regarding bearer securities because of their ready negotiability. Moreover, the subcustodian's performance will be guaranteed by SPC, thereby reinforcing the elaborate system of protections and internal controls established under the proposal. As described above, this specially designed system should protect PSDTC and its participants against the risk of loss inherent in bearer securities.[17] The Commission notes, however, that PSDTC's determination to utilize a subcustodian in no way releases PSDTC of its securities and funds safeguarding and other responsibilities under section 17A of the Act. In this regard, the Commission believes that the reporting, auditing and related oversight measures

[14] The proposals will promote municipal dealer compliance with Municipal Securities Rulemaking Board ("MSRB") Rules G-12 and G-15. Since February 1, 1985, those Rules have required municipal securities dealers that participate in a registered clearing agency to use that clearing agency's automoated comparison and book-entry settlement services for certain transactions. *See* Securities Exchange Act Release No. 20365 (November 14, 1983, 48 FR 52531 (November 18, 1983), approving these amendments to MSRB Rules G-12 and G-15.

[15] The Commission understands that California-domiciled insurance companies are unable to deposit portfolio and special deposit securities (including bearer municipal bonds) in out-of-state depositories. *See* Letter dated February 4, 1986, to Bruce Bunner, Commissioner, California Insurance Department from Richard Ketchum, Director, Division of Market Regulation. The proposal would enable these insurance companies to deposit eligible bearer municipal securities in PSDTC, an important depository component of the National System, and to take advantage of such services as the National Institutional Delivery System, which provides automated customer-side confirmation, affirmation and book-entry settlement capabilities.

[16] Both MSTC and DTC have bearer municipal bond processing systems in place. *See* File No. SR-MSTC-83-2, Securities and Exchange Act Release No. 19888 (June 20, 1983), 48 FR 29083 (June 24, 1983) and File No. SR-DTC-83-03, Securities Exchange Act Release No. 18094 (August 14, 1981), 46 FR 42559 (August 21, 1981).

[17] As described above, PSDTC (and several other depositories) advance to participants municipal bond interest and maturity payments on payment date in next-day funds, even when an issuer's paying agent failes to pay PSDTC on time. While PSDTC charges its participants interest on these extensions of credit from payment date, PSDTC remains exposed to financial risk for the entire amount of the advanced funds if an issuer first delays paying PSDTC and then becomes insolvent and defaults in its payment obligations and a participant to whom PSDTC advances funds uses them and also becomes insolvent. The Commission requests PSDTC (and the other depositories) to reconsider the risks of this payment policy and to analyze whether existing financial safeguards meet this risk.

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with respect to Security Pacific that have been incorporated into the proposed rule change, if carefully followed, should enable PSDTC to determine whether Security Pacific is discharging its subcustodial responsibilities.

The Commission also agrees with PCC/PSDTC that its decision to limit the number of municipal securities issues eligible for deposit during initial phases of its program is consistent with PCC/PSDTC's obligation to safeguard securities and funds under the Act. The Commission, however, encourages PCC/PSDTC to expand the number of eligible issues as expeditiously as possible, consistent with its statutory obligations, to provide uniform eligibility in the National System. Uniform eligibility enables dealers and custodians that participate in more than one depository to settle all transactions conveniently through a single settlement account, without additional expense or delays associated with monitoring different depository eligibility lists.[18]

Finally, the Commission believes that PSDTC's proposed fees for bearer municipal securities processing services are equitably allocated among PDSTC's participants using those services. Although the proposal would establish higher fees for deposits close to PCC/PSDTC cut-off times, those fees may encourage participants to deposit securities earlier in the day when PCC/PSDTC can process them more efficiently. As most recently discussed in Securities Exchange Act Release No. 23080,[19] the Commission believes that a registered clearing agency, consistent with the Act, may impose graduated service fees that encourage participants to use clearing agency services efficiently.

V. Withdrawal of File No. SR–PSDTC–83–09

PSDTC requested that the Commission order the withdrawal of File No. SR–PSDTC–83–09 because the proposals approved today were to replace it. The Commission is granting that request.

[18] *See* Division of Market Regulation, United States Securities and Exchange Commission, *Draft Staff Report, Progress and Prospects: Depository Immobilization of Securities and Use of Book-Entry Systems*, at 31 (June 14, 1985); Division of Market Regulation, United States Securities and Exchange Commission, *Report of the Division of Market Regulation 1984 Securities Processing Roundtable*, at 20–22 (May 31, 1984).

[19] *See* 51 FR 12415 at 12420 (April 10, 1986) (approval of similar above-cost deposit fees at DTC).

VI. Conclusion

On the basis of the foregoing, the Commission finds the proposed rule changes (File Nos. SR–PSDTC–84–16 and SR–PCC–85–04) consistent with the Act and, more specifically, with section 17A of the Act.

Accordingly, it is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule changes (SR–PSDTC–84–16 and SR–PCC–85–04) be, and they hereby are approved.

It is also ordered, pursuant to section 19(b)(2) of the Act, that File No. SR–PSDTC–83–09 be, and hereby is, withdrawn.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: April 29, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–10033 Filed 5–2–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 15075; File No. 812–6316]

Freedom Investment Trust; Application for Order Relating to Contingent Deferred Sales Loads and Quarterly Distributions of Long-Term Capital Gains

April 28, 1986.

Notice is hereby given that Freedom Investment Trust ("Applicant"), Three Center Plaza, Boston, MA 02108, filed an application on March 11, 1986, and an amendment thereto on April 15, 1986, for a Commission order pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") exempting Applicant from the provisions of (i) sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rule 22c–1 thereunder, to permit assessment of a contingent deferred sales load ("CDSL") on certain redemptions of shares of Freedom Equity Value Fund ("Equity Series"), Freedom Government Plus Fund ("Government Series") and any subsequent similar series (collectively, "Funds"); (ii) section 22(d) to permit waiver or deferral of any otherwise applicable CDSL; and (iii) section 19(b) of the Act and Rule 19b–1 thereunder to permit the Government Series to make quarterly distributions of long-term capital gains on certain options and futures transactions. All interested person are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable provisions.

Applicant represents that it is registered under the Act as a diversified, open-end, management investment company. Applicant's shares are offered to the public through broker-dealers pursuant to distribution agreements with Tucker, Anthony & R. L. Day, Inc. ("Tucker Anthony"), Applicant's principal underwriter. Applicant's investment adviser is Tucker Anthony Management Corporation.

Applicant proposes to offer Fund shares without the imposition of a front-end sales load and proposes instead to impose a CDSL upon redemption, with certain exceptions described in the application. Applicant represents that no CDSL will be imposed upon redemption on amounts derived from: (1) Increases in the value of an account, including reinvestment of dividend income and capital gains distributions, above the total cost of shares being redeemed due to increases in the net asset value per share of the Fund; or (2) purchases made more than three years prior to the redemption. Applicant states that the amount of the CDSL, if any, will depend upon the year during which the shares being redeemed were purchased; the CDSL will be 3.0% if redemption occurs within twelve-months of purchase, 2.0% if redemption occurs during the next twelve-month period, 1.0% if redemption occurs during the third twelve-month period, and 0% if redemption occurs thereafter. The CDSL imposed upon redemption would not, in the aggregate, exceed 3% of the aggregate purchase payments made by the investor. Applicant also states that in determining the amount of the CDSL, shares held the longest will be assumed to be the first redeemed. According to the application, this will result in any CDSL being imposed at the lowest possible rate.

Applicant proposes to assist in financing the distribution of shares pursuant to plans adopted under Rule 12b–1 under the Act (the "Plans"). The Plans currently provide that the Value Series and the Government Series will accrue daily and pay monthly to Tucker Anthony a distribution fee calculated at the rate of .75% and 50%, respectively, of average daily net assets. Tucker Anthony also will receive the proceeds of any unwaived CDSL. Applicant represents that its Board of Trustees, in their periodic review of the Plans, will consider the use by Tucker Anthony of revenues raised by the CDSL.

Applicant proposes to waive the CDSL under certain circumstances described in the application. Applicant also proposes to defer the CDSL on certain exchanges of shares between Funds. Any applicable CDSL will be payable when a shareholder redeems shares of the Fund acquired as a result of the exchange rather than at the time of exchange. The amount of the CDSL will be calculated from the date of the initial purchase of the exchanged shares. Applicant represents that it will comply with the provisions of Rule 22d-1 under the Act in connection with the proposed waivers and deferrals of the CDSL.

Applicant also requests permission for the Government Series to distribute quarterly net long-term capital gains on transactions in options, futures and options on futures. The Government Series will seek a high current return by investing in securities issued, guaranteed or otherwise backed by the United States Government ("Government Securities"), by writing covered call and put options on Government Securities and by purchasing put options on such securities. It also reserves the right to purchase and sell futures contracts with respect to Government Securities and options thereon for hedging purposes. The Government Series has been designed for investors who seek a high current return with frequent, periodic distributions and not for those who seek long-term capital appreciation. Its current return will be derived from interest income from Government Securities, premiums from expired put and call options on Government Securities, net gains from closing purchase and sale transactions with respect to certain options and futures contracts on Government Securities, premiums from expired put and call options on such futures contracts, net gains from closing purchase and sale transactions with respect to certain of those options and net gains from sales of Portfolio securities on the exercise of options or otherwise. The Government Series will pay dividends from net investment income monthly; distributions of net short-term capital gains will be made quarterly.

Applicant seeks an exemption that would allow the Government Series to distribute quarterly net long-term capital gains recognized on transactions in options, futures and options on futures. Distribution of any net long-term capital gains recognized or deemed recognized on other investments during a fiscal year will be made with the first quarterly distribution after the fiscal year closes. Applicant represents that under the Internal Revenue Code of 1954, options on Government Securities, futures contracts and options thereon are all considered "Section 1256 Contracts." In general, 60% of the realized gain or loss with respect to 1256 Contracts are treated as long-term capital gain or loss, and 40% are treated as short-term capital gain or loss ("60/40 rule"). Applicant submits that the 60/40 rule was devised to prevent possible tax abuses and not to limit the frequency with which registered investment companies may distribute capital gains from transactions in section 1256 Contracts. Applicant states that the Government Series objective of a high current return clearly contemplates the seeking of net gains from options on Government Securities and attempts to hedge its portfolio with futures contracts and options thereon. Further, Applicant states that permitting quarterly distributions of capital gains will not encourage more frequent trading in the Government Series portfolio than what is appropriate in light of the investment objective. Therefore, Applicant contends that whether the entire amount of these gains, as opposed to only the short-term portion, is distributed quarterly will not affect the investment decisions of the investment adviser. Applicant represents that it will clearly distinguish any distribution of capital gains from distribution out of net interest income in the notice to shareholders accompanying the distribution.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 23, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant(s) at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86–10032 Filed 5–2–86; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–86–9]

Petition for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions; Correction.

SUMMARY: The issue of Federal Register on April 24, 1986 (51 FR 15568), in FR Doc. 86–9112, on page 15570 Docket No. 24628, The Airial Advantage, under the heading "Description of relief sought and disposition," after the word "areas." add the words "Denied 4/8/86."

Issued in Washington, D.C., on April 29, 1986.

John H. Cassady,

Assistant Chief Counsel, Regulations and Enforcement Division.

[FR Doc. 86–9870 Filed 5–2–86; 8:45 am]

BILLING CODE 4910–13–M

Federal Highway Administration

Environmental Impact Statement; Wayne-Duplin-Sampson Counties, NC

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Wayne, Duplin and Sampson Counties, North Carolina.

FOR FURTHER INFORMATION CONTACT: Roy C. Shelton, District Engineer, Federal Highway Administration, 310 New Bern Avenue, P.O. Box 26806, Raleigh, North Carolina 27611, Telephone (919) 856–4330.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the North carolina Department of Transportation (NCDOT), will prepare an environmental impact statement (EIS) on a proposed highway project in Wayne, Duplin and Sampson Counties. The proposed action would be the construction of a fully controlled US 117 connector from the Mount Olive Bypass in Wayne County through Duplin County to proposed I–40 in Sampson County. The proposed project is needed to provide a connector to I–40 from the Mount olive-Goldsboro vicinity. This will allow quicker access to the

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Wilmington area or the Raleigh area via I-40.

The project consists of widening the existing 2 lane US 117 to a 4 lane divided facility from NC 55 at Mount Olive to the existing 4 lane section at Calypso. From this point a 4 lane divided facility will be built on new location to connect with I-40.

Alternatives under consideration include (1) the "no-build," and (2) a fully controlled access highway, part of which will be on new location.

Letters describing the proposed action and soliciting comments are being sent to appropriate Federal, State and local agencies. A public meeting has been held in the study area. A public hearing will also be held. Information on the time and place of the public hearing will be provided in the local news media. The Draft EIS will be available for public and agency review and comment at the time of the hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects apply to this program)

Issued on April 25, 1986.

Roy C. Shelton,

District Engineer.

[FR Doc. 86-9875 Filed 5-2-86; 8:45 am]

BILLING CODE 4910-22-M

Weight-Distance Truck Tax Study; Workshop on Alternative Federal/State Administrative Plans for Administering a Weight-Distance Tax

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of workshop on Federal/State administrative plans.

SUMMARY: Section 933 of the 1984 Deficit Reduction Act (DRA), requires the Secretary of Transportation, in consultation with the Secretary of the Treasury to conduct a study to evaluate the feasibility and ability of a national weight-distance tax (WDT) to: (1) Provide the greatest degree of equity among users; (2) ease the costs of compliance for Federal highway use taxes; (3) improve the efficiency of administering highway use taxes; (4) evaluate the evasion potential; and (5) assess the benefits to interstate commerce.

Under the concept being evaluated, a national WDT would replace all Federal heavy vehicle highway use taxes other than fuel. The report is due to Congress by October 1, 1987.

The purpose of this notice is to announce a workshop, open to the public, at which Federal/State cooperative approaches for administering a national WDT will be presented and discussed.

DATE: The workshop will be held from 8:00 a.m. to 4:00 p.m. on June 4 and from 8:00 a.m. to 3:00 p.m. on June 5, 1986, in Washington, D.C.

ADDRESS: The workshop will be held in the auditorium of the Federal Aviation Administration, U.S. Department of Transportation, 800 Independence Avenue SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. James R. Link, Chief, Highway Revenue Analysis Branch, (202) 426-0570; or Mr. Michael J. Laska, Office of the Chief Counsel, (202) 426-0762, Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION:

Background

Section 933 of the DRA of 1984 (Pub. L. 98-369, 98 Stat. 494) directs the Department of Transportation, in consultation with the Department of the Treasury to conduct a study of the feasibility and ability of weight-distance truck taxes to provide equity among highway users, to ease compliance costs, and improve administrative efficiency. Further, the study is to evaluate the evasion potential of such taxes and assess the benefits to interstate commerce of replacing all Federal heavy vehicle highway use taxes, except the fuel taxes, with a WDT.

The FHWA has explicitly structured the study to solicit pertinent information and to keep the public informed. An initial study plan was published in the **Federal Register** on April 17, 1985 (50 FR 15270), and comments were requested to be submitted to Docket 85-20 which is open until October 1, 1986. The FHWA has consulted with representatives of the trucking industry and State officials since the beginning of the study and will continue to do so in a variety of ways throughout the study.

Study Approach

The FHWA is the lead agency for the national WDT study. The overall technical approach is to:

—Prepare a working paper to analyze a wide range of alternative weight-distance tax options.

—Document procedures for administering the current Federal truck taxes (heavy vehicle use tax and excise taxes on truck and tire sales).

—Identify at least two specific WDT options and develop at least two plans for administering a national WDT. One plan would involve Federal agencies only; the other plan would be a Federal/State cooperative effort.

—Assess the feasibility of the tax options and administrative plans using the criteria provided by the Congress under Section 933 of the 1984 DRA.

—Compare the existing tax structure to alternative weight-distance taxes and the existing administrative structure to alternative WDT administrative plans.

Briefing Package

A briefing package describing the study approach in more detail was distributed to industry representatives and others in December 1985 by FHWA. The package contained four sections:

Section 1—Overall study approach;
Section 2—Chronology of completed work;
Section 3—Tasks underway and future direction of the study;
Section 4—Request for comments on the weight-distance tax study approach and activities presented.

Working Paper

The FHWA will make available shortly a working paper that describes the development and screening of alternative national weight-distance taxes. It discusses the following:

—Recent major WDT studies;
—Characteristics of State weight-distance taxes;
—Components of a national WDT;
—Criteria for screening tax options;
—Tax options recommended for detailed analysis to study the feasibility of a national WDT.

Public Meeting

A public meeting, as announced in the **Federal Register** January 31, 1986, was held March 19 in Washington D.C., to discuss the overall study approach and information requested in the briefing paper. Prepared statements were given by representatives of the Private Truck Council of America; American Retreaders' Association; Western Highway Institute; American Trucking Associations; and the Association of American Railroads. Two individuals representing carriers made brief statements from the floor.

Workshop

Four Federal/State cooperative scenarios for administering a WDT will be presented and discussed at a workshop in Washington, D.C., on June 4 and 5, 1986.

Three scenarios are alternative approaches to administering a national WDT. A fourth scenario explores a two-tiered tax structure (heavy vehicle use tax and fuel tax) as an option to a national WDT.

The first Federal/State scenario assumes there is a strong Federal role in the administration of a national WDT. The Federal Government would be responsible for processing, auditing, and collecting a national WDT. The State role would be primarily checking for proof-of-payment of a national WDT.

The second scenario assumes a strong State role in the administration of a national WDT. States would process, audit, collect, and enforce a national WDT. The Federal Government would provide standards and guidelines to the States for the respective administrative activities. This scenario will be discussed from the perspective of States that do not have a WDT.

The third scenario is similar to the second except that it is to be discussed from the perspective of a State that has WDT and explicity considers how the administration of a national WDT might be combined with the administration of other State truck taxes such as registration, fuel, and a WDT.

The fourth scenario focuses on a two-tiered truck tax structure. The two taxes are assumed to be a heavy vehicle use tax and fuel tax. The Federal/State administration of this type of tax will be explored based first on a strong Federal and limited State role and then based on a strong State and reduced Federal role.

A paper is being written for each scenario that discusses the issues and probable impacts involved in administering a national WDT under a Federal/State approach. The papers will be made available at the workshop and summarized by the authors. Panelists representing State and Federal Government perspectives and the trucking industry will comment on each plan. Workshop attendees will be invited to comment on each plan in a general session as well as in small working groups.

The workshop is open to the public, but space is limited to about 200 people. There is no registration fee or pre-registration necessary for the workshop, however, participants will be asked to sign a register list between 8:00 and 8:30 a.m. on June 4 and will be assigned to a group to discuss one of the four scenarios.

Issued on: April 28, 1986.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 86-10039 Filed 5-2-86; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: April 29, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of this submission may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0184
Form Number: ATF F 5400.4 (4710)
Type of Review: Extension
Title: Explosives Transaction Record (non-license/non permittee)

OMB Number: 1512-u202
Form Number: ATF F 5110.34
Type of Review: Extension
Title: Notice of Change in Plant Status (Supplemental)

OMB Number: 1512-0204
Form Number: ATF F 5110.38
Type of Review: Extension
Title: Formula for Distilled Spirits under the Federal Alcohol Administration Act-Supplemental

OMB Number: 1512-0209
Form Number: ATF F 5110.50
Type of Review: Extension
Title: Tax Deferral Bond-Distilled Spirits (Puerto Rico)

OMB Number: 1512-0371
Form Number: ATF REC 5400/1
Type of Review: Extension
Title: Inventories: Licensed Explosives Importers, Manufacturers, Dealers, and Permittees

Clearance Officer: Robert G. Masarsky, (202) 566-7077, Bureau of Alcohol, Tobacco and Firearms, Room 7202, Federal Building, 1200 Pennsylvania Avenue NW., Washington, DC 20226

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

U.S. Customs Service

OMB Number: 1515-0048
Form Number: CF 7529
Type of Review: Extension
Title: Carrier Certification and Release Order

Clearance Officer: Vince Olive, (202) 566-9181, U.S. Custom Service, Room 6321, 1301 Constitution Avenue NW., Washington, DC 20229

OMB Reviewer: Milo Sunderhauf, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Internal Revenue Service

OMB Number: 1545-0710
Form Number: IRS Forms 5500, 5500-C, 5500-R
Type of Review: Revision
Title: Annual Return/Report of Employee Benefit Plan, Return/Report of Employee Benefit Plan and Associated Schedules

OMB Number: 1545-0763
Form Number: LR-200-76
Type of Review: Extension
Title: Qualified Conservation Contributions

Clearance Officer: Garrick Shear, (202) 566-6150, Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224

OMB Reviewer: Robert Neal, (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Joseph F. Maty,

Departmental Reports Management Office.

[FR Doc. 86-10040 Filed 5-2-86; 8:45 am]

BILLING CODE 4810-25-M

Fiscal Service

[Dept. Circ. 570, 1985 Rev., Supp. No. 20]

Surety Companies Acceptable on Federal Bonds; Termination of Authority; Foremost Insurance Company

Notice is hereby given that the Certificate of Authority issued by the Treasury to Foremost Insurance Company, of Grand Rapids, Michigan, under the United States Code, Title 31, Sections 9304-9308, to qualify as an acceptable surety on Federal bonds is terminated effective this date.

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The Company was first listed as an acceptable surety on Federal bonds at 50 FR 27115, July 1, 1985.

With respect to any bonds currently in force with Foremost Insurance Company, bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, bonds that are continuous in nature should not be renewed at their anniversary date.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance division, Surety Bond Branch, Washington, D.C. 20226, telephone (202) 634–2319.

W.E. Douglas,

Commissioner, Financial Management Service.

[FR Doc. 86–9971 Filed 5–2–86; 8:45 am]

BILLING CODE 4810–35–M

Sunshine Act Meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94–409) 5 U.S.C. 552b(e)(3).

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Tennessee Valley Authority	8

1

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, May 7, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

—Rule Enforcement Review
—Enforcement Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–10060 File 5–1–86; 10:58 am]

BILLING CODE 6351–01–M

2

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, May 14, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

—Enforcement Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–10061 Filed 5–1–86; 10:58 am]

BILLING CODE 6351–01–M

3

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Tuesday, May 20, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Open.

MATTERS TO BE CONSIDERED:

—Fourth Quarter Objectives FY 1986
—Application of the New York Futures Exchange for designation as a contract market in the CRB Futures Price Index

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–10062 Filed 5–1–86; 10:58 am]

BILLING CODE 6351–01–M

4

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Wednesday, May 21, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

—Enforcement Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–10063 Filed 5–1–86; 10:58 am]

BILLING CODE 6351–01–M

5

COMMODITY FUTURES TRADING COMMISSION

TIME AND DATE: 10:00 a.m., Friday, May 30, 1986.

PLACE: 2033 K Street, NW., Washington, DC, 8th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

—Options Sales Practices Reviews
—Enforcement Matters

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 254–6314.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86–10064 Filed 5–1–86; 10:58 am]

BILLING CODE 6351–01–M

6

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: April 29, 1986, 51 FR 15995.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: April 30, 1986, 10:00 a.m.

CHANGE IN THE MEETING: The following docket number has been added to Item RP–2:

Item No., Docket No., and Company

RP–2
TA86–1–29–002, Transcontinental Gas Pipe Line Corporation

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–10072 Filed 5–1–86; 11:45 am]

BILLING CODE 6717–01–M

7

NATIONAL COUNCIL ON THE HANDICAPPED

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Council on the Handicapped. This notice also describes the functions of the Council. Notice of this meeting is required under section 522 (b)(10) of the "Government in Sunshine Act" (Pub. L. 94–409).

DATE: May 12, 1986, 9:00 a.m. to 4:00 p.m.; May 13, 1986, 2:00 p.m. to 4:00 p.m.; May 14, 1986, 9:00 a.m. to 3:30 p.m.

ADDRESS: Radisson Mark Plaza Hotel; 5000 Seminary Road West; Alexandria, Virginia.

FOR FURTHER INFORMATION CONTACT: Maureen McInerny, National Council on the Handicapped, 800 Independence Avenue, SW, Suite 814, Washington, DC 20591 (202) 453–3846.

The National Council on the Handicapped is an independent Federal agency comprised of 15 members appointed by the President of the United States and confirmed by the Senate. Established by the 95th Congress in Title IV of the Rehabilitation Act of 1973 (as amended by Pub. L. No. 95–602 in 1978), the Council was initially an advisory board within the Department of Education. In 1984, however, the Council was transformed into an independent agency by the Rehabilitation Act Amendments of 1984 (Pub. L. No. 98–221).

The Council is charged with reviewing all laws, programs, and policies of the Federal Government affecting disabled individuals and making such recommendations as it deems necessary to the President, the Congress, the Secretary of the Department of Education, the Commissioner of the

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Rehabilitation Services Administration, and the Director of the National Institute of Handicapped Research (NIHR).

The meeting of the Council shall be open to the public. The proposed agenda includes:

Reports from the Chairman and the Executive Director Workplan Development
Committee Reports in the areas of research, adult services, children's issues, and public affairs
NIHR briefing
Communications seminar
Council's discussion of unfinished business
Council's discussion of new business

Records shall be kept of all Council proceedings and shall be available after the meeting for public inspection at the National Council on the Handicapped.

Signed at Washington, DC, on April 30, 1986.

Lex Frieden,

Executive Director.

[FR Doc. 86-10123 Filed 5-1-86; 3:32 pm]

BILLING CODE 8130-02-M

8

TENNESSEE VALLEY AUTHORITY

TIME AND DATE: 10:30 a.m. (CDT), May 7, 1986.

PLACE: Hopkinsville Community College Auditorium, Academic Building, North Drive Hopkinsville, Kentucky.

STATUS: Open.

Agenda

Approval of minutes of meeting held on April 10, 1986.

Discussion Items

1. An Update on the Effects of the Tennessee Valley Drought.

Action Items

B—Purchase Awards

B1. Negotiation CG-459613—Indefinite quantity term agreement for genuine Ingersoll-Rand pump parts for any TVA fossil or hydro plant.

C—Power Items

C1. Memorandum of Understanding with United States of America, Department of the Army, covering arrangements for TVA to relocate certain of Army's electric power facilities located on the Redstone Arsenal reservation.

D—Personnel Items

D1. Creation of an Ungraded Executive Group titled the Senior Management Service within the Management and Specialist Schedule, which is to be initially established in the Office of Nuclear Power.

E—Real Property Transactions

E1. Grant of permanent easement to City of Huntsville, Alabama, for a sewerline affecting 0.87 acre of Wheeler Reservior land in Madison County, Alabama—Tract XTWR-94S.

E2. Sale of Permanent Easement to South Central Bell Telephone Company for the construction, operation, and maintenance of a telephone equipment building, affecting approximately 0.06 acre of Wheeler Reservoir land located in Limestone County, Alabama—Tract XWR-617B.

F—Unclassified

F1. Contract No. TV-69457A Between TVA and Center for Occupational Research and Development providing for cooperation in a skills retraining program for dislocated Tennessee Chemical Company workers in Copper Hill, Tennessee.

F2. Supplement to Agreement No. TV-42893A with the Alabama Elk River Development Agency providing for continued cooperation in the Elkmont rural village demonstration project in Limestone County, Alabama.

F3. Supplement to Cooperative Agreement among TVA, Agricultural Stabilization and Conservation Service, and Soil Conservation Service covering arrangements for a project to demonstrate the use of animal waste management systems to improve water quality in the Bear Creek floatway in Franklin and Marion Counties, Alabama (TV-66539A).

F4. Supplement to Contract No. TV-66199A with W.S. Fleming & Associates, Inc., providing for research activities by TVA in support of the Mountain Cloud Chemistry/Forest Exposure Study.

F5. Supplement to Interagency Agreement No. TV-61855A with the U.S. Department of Energy covering arrangements for a Southeastern Regional Biomass Energy Program.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call (615) 632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245-0101.

Dated: April 30, 1986.

John G. Stewart,

Manager of Corporate Administration and Planning.

[FR Doc. 86-10084 Filed 5-1-86; 12:04 pm]

BILLING CODE 8120-01-M

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federal register

Monday
May 5, 1986

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

Establishment of Airport Radar Service Areas; Final Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-AWA-6]

Establishment of Airport Radar Service Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates Airport Radar Service Areas (ARSA) at the seven airports listed below. Each location designated is a public or military airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of each ARSA will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at each of the affected locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

EFFECTIVE DATE: 0901 U.t.c., June 5, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Burns, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On April 22, 1982, the National Airspace Review (NAR) plan was published in the **Federal Register** (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. The FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas (TRSA) with Model B Airspace and Service (Airport Radar Service Areas)," in Notice 83-9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at Columbus, OH, and Austin, TX. Those locations were designated ARSA's by SFAR No. 45 (48 FR 50038, October 28, 1983) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis. The original expiration dates for SFAR 45, December 22, 1984, for Austin and January 19, 1985, for Columbus were extended to June 20, 1985 (49 FR 47170, November 30, 1984).

On March 6, 1985, the FAA adopted the NAR recommendation and amended Parts 71, 91, 103 and 105 of the Federal Aviation Regulations (14 CFR Parts 71, 91, 103 and 105) to establish the general definition and operating rules for an ARSA (50 FR 9252), and designated Austin and Columbus airports as ARSA's as well as the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250). Thus far the FAA has designated 11 ARSA's as published in the **Federal Register** on November 1, 1985 (50 FR 45718), 11 ARSA's on December 9, 1985 (50 FR 50254), 12 on February 7, 1986 (51 FR 4872), 11 on March 10, 1986 (51 FR 8284), and 6 on May 8, 1986 (51 FR 11886) in the implementation of this NAR recommendation.

On September 30, 1985, the FAA proposed to designate ARSA's at 8 airports under Airspace Docket No. 85-AWA-6 (50 FR 39822). This rule designates ARSA's at seven of these airports. Interested parties were invited to participate in this rulemaking proceeding by submitting comments on the proposals to the FAA. Additionally, the FAA has held informal airspace meetings for each of the proposed airports. In response to public comments received the FAA has modified several of the proposals.

Related Rulemaking

In addition to the airports addressed here and those previously designated, the FAA published proposed ARSA designations for 4 additional airports on September 30, 1985 (50 FR 39822).

Discussion of Comments

The FAA received comments on the basic ARSA program as well as comments directed toward the proposed individual designations. Additionally, several of the comments on individual designations are common or speak to the basic program itself. Discussion of the comments is divided into two sections. The first addresses common and ARSA program comments, the second addresses comments on the proposals at particular locations.

ARSA Program Comments

Comments received from the Aircraft Owners and Pilots Association (AOPA) and several others claimed that the notification for some of the informal airspace meetings held for some of the candidate airports was inadequate. The schedule of the meetings was published in the Notice of Proposed Rulemaking (NPRM) on September 30, 1985 (50 FR 39822). Additionally, the FAA sent announcements to individuals, fixed-base operators, aviation user organizations, and to the news media organizations in each airport's area. The ARSA program has received considerable coverage in newsletters and official publications of aviation organizations and the schedule of the meetings mailed to members. Furthermore, a 182-day comment period was provided for Airspace Docket No. 85-AWA-6 in which the public could make comment to the public docket on the proposals. For the above reasons the FAA believes the opportunity was sufficient to permit full public comment on the proposals.

AOPA and others commented that, notwithstanding the statement by the FAA in the Regulatory Evaluation contained in the notice, increased air traffic controller personnel and equipment would be needed to handle the increased traffic expected due to the mandatory provisions of the ARSA. FAA's experience with the current ARSA's has been that while there is an increase in the amount of traffic being handled by controllers, this increase is significantly offset by the reduction in the amount of control instructions that must be issued under ARSA procedures as compared to TRSA procedures. However, the FAA recognizes that the potential exists for a need to establish additional controller positions at some facilities due to increased workload should the expected efficiency improvements in handling traffic not fully offset the increased number of aircraft handled. Further, FAA does not expect to incur additional equipment costs in implementing the ARSA program. In some instances, previously adopted plans to replace or modify older existing equipment may be rescheduled to accommodate the ARSA program. However, no new equipment is expected to be required as a result of the ARSA program.

Several commenters, including AOPA and the Experimental Aircraft Association (EAA), disagreed with the FAA's conclusion that the additional air traffic could be accommodated with existing manpower at locations where TRSA participation was low. The FAA's conclusion for the total program was in part based upon the fact that participation in the existing TRSA's was quite high and, therefore, an increase from the present levels to 100% would not be a significant change. The commenters, while not agreeing with this conclusion, claimed that the FAA's rationale did not apply where participation was low and thus additional manpower would be needed at these locations if ARSA was designated. The FAA recognizes that participation in the TRSA program is relatively low at some of the candidate locations. However, this is in large part due to the controllers' walkout of 1981 and the subsequent reduction in fully qualified controllers which led to the discontinuance of TRSA services. A sufficient number of controllers is assigned at the facilities to which the commenters refer and those facilities are ready to provide the service to the increased number of pilots. This factor was considered by the FAA in its initial evaluation of the ARSA program.

AOPA claimed the staffing at one facility more than doubled in the year prior to implementation of their ARSA. The facility's authorized staffing of 26 controllers did not change. In the facility in question, on January 1, 1985, there were 27 controllers on board but in January 1986, there were the authorized 26 on board. The FAA finds the AOPA claim to be without merit.

The Soaring Society of America (SSA) objected to the ARSA program because it does not provide the same level of safety and service to all classes of aviation. As with other regulations, this rule affects different operators in different ways depending on their respective need to operate in controlled airspace or near the airports involved. The FAA does not agree that this variation in impact is reason not to adopt a rule which benefits the majority of users.

The SSR claims the FAA is changing the criteria that an operating control tower is the only requirement for an airport to be eligible for an ARSA. The FAA has not departed from the NAR criteria which would replace TRSA with ARSA at airports with an operating control tower served by a level III, IV, or V Radar Approach Control Facility.

The SSA claimed that the ARSA rule should state that the ultimate responsibility for separation from other aircraft operating in VFR conditions rests with the pilot. While the FAA agrees that such is the case, the agency does not agree that the ARSA rule must so state. Unless a new or amending provision to the Federal Aviation Regulations (FAR) specifically deletes, amends, or supersedes existing sections, the existing regulations still apply. The ARSA rule (50 FR 9252, 9257, March 6, 1985) did not alter the sections of the FAR that establish that level of responsibility.

AOPA faulted the FAA's implementation of the ARSA program. The FAA stated in the proposal that the benefits of standardization and simplicity were nonquantifiable, and that the safety benefits anticipated by the FAA were not attributable to any given candidate but were based upon implementation of the program on a national basis. According to AOPA this evidenced the need to further evaluate the program at the current locations so that benefits could be individually assessed and each candidate evaluated accordingly. The FAA does not agree. The benefits of standardization and simplicity would always be nonquantifiable regardless of the amount of evaluation, yet they received considerable emphasis by the NAR Task Group. Overall national midair collision accident rates are relatively low, and accident rates within individual categories of airspace are lower still. Additionally, accidents at specific locations are random occurrences. Therefore, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Additionally, the FAA does not believe that these considerations should be cause for delaying a program that was recommended by a majority of the members of the National Airspace Review, and which has already produced positive results at most of the designate locations.

Numerous commenters also objected to the proposals based upon their belief that air traffic in several of the proposed locations was too great for the ARSA program. The FAA believes that such a point argues strongly for the establishment of an ARSA rather than the converse.

Some commenters, including AOPA, predicted that user costs incurred due to delays will be greater than was estimated by the FAA, and that these costs will be experienced more at some sites than at others. In the NPRM, FAA acknowledged that initial delay problems would vary from site to site, that estimates of delays were quite preliminary, that at some facilities the transition process is expected to go very smoothly, and that at other sites delay problems will dominate the initial adjustment period. These cost estimates are expected to be transitory in nature in that actual delays will be reduced as pilots and controllers become exprienced with ARSA procedures. This has been the case at the three locations where ARSA has been in effect for an appreciable period, and is the trend at those locations more recently designated.

AOPA discounted the FAA delay estimates claiming that they were based upon a standard ARSA. The FAA does not agree. FAA's preliminary delay estimates were based upon the ARSA proposed for the individual locations, whether standard or modified.

Several commenters questioned the validity of FAA's estimates of the time savings expected to be realized as a result of the greater flexibility allowed air traffic controllers in handling traffic within an ARSA. FAA wants to reemphasize that its estimates of expected savings in time and money which will result from the greater flexibility allowed air traffic controllers in handling traffic within an ARSA are quite preliminary. These estimated savings may or may not offset the delay anticipated at some sites after initial establishment of an ARSA, but are expected to provide overall time savings to all traffic, IFR as well as VFR, which will exceed delay as controllers gain experience with ARSA operating procedures.

Other commenters questioned the operating cost and passenger time values used to calculate delay costs and time savings. The values used are weighted averages of overall activity within an aircraft category for various aircraft types, and represent a typical mix of air passengers. FAA recognizes that for some specific operations actual operating cost and passenger time values will exceed the average values used, while in other cases, the actual values will be less. However, weighted averages represent the most appropriate and equitable measure to use when assessing *overall* impacts. Further, because the delay resulting from implementing ARSA procedures is expected to be transitory and efficiency improvements in the movement of traffic are ultimately expected to result, those operators whose variable cost and passenger time values exceed the averages used in the regulatory evaluation may in fact realize above average benefits.

AOPA claimed that at least half the number of NORDO aircraft in the United States, or 20,900 aircraft, would have to purchase two-way radios in order to enter the ARSA and land at or depart from airports within the ARSA. This is well in excess of the number estimated by the FAA. The FAA does not agree with the AOPA conclusion because each airport receiving ARSA designation has an airport traffic area requiring two-way radio communications at the primary airport at present. Therefore, no additional cost will be incurred for purchase of radios for aircraft landing at or departing from primary airports receiving ARSA designation.

Further, some commenters, including AOPA, expressed concern that older 360 channel transceivers would not be adequate to operate within an ARSA. Frequencies compatible with 360

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channel transceivers are available at all ARSA locations. Therefore, operators of 360 channel equipment will not need to install new radios to operate within an ARSA.

SSA claimed that some FAA field personnel had indicated that a transponder would be needed to enter an ARSA, and thus, the cost to implement the program was grossly underestimated. An operable two-way radio is the only avionics required for flight in an ARSA. A transponder is not required and the costing estimates are correct.

AOPA and other commenters stated that the proposed ARSA's would derogate rather than improve safety, as a result of increased frequency congestion, pilots concentrating on their instruments and placing too much reliance upon ACT rather than "see and avoid," and the compression of air traffic into narrow corridors as pilots elect to circumnavigate an ARSA rather than receive ARSA services. In addition to increasing the risk of aircraft collision, the commenters claimed that compression would increase the impact of aircraft noise on underlying communities and cause aircraft to be flown closer to obstructions.

As indicated above, while an increased number of aircraft will be using radio frequencies, the amount of "frequency time" needed for each aircraft is reduced in an ARSA compared to the current TRSA. This has been the experience of the FAA at the current ARSA facilities.

AOPA claims that since the communications and readback procedures in ARSA's do not differ from those utilized in TRSA's there would be no reduction in "frequency time" needed for each pilot to acknowledge instructions or information, and thus, the partial offset indicated by the FAA was not justified. The offset in based upon fewer as well as shorter transmissions for each pilot, thus the FAA does not agree with this claim.

The FAA evaluated the flow of air traffic around the Austin, TX, and Columbus, OH, ARSA's during the confirmation period to determine if compression was occurring. This evaluation was performed by observing the radar at Austin, TX, and by both radar observations and the use of extracted computer data at Columbus, OH. Following the designation of an ARSA at Baltimore/Washington International Airport (BWI), the FAA evaluated the flow of air traffic there for a period of 90 days by observing the radar and extracting computer data to determine if compression was occurring. Additionally, the FAA has continually monitored for the possibility of compression at all recently designated locations. Compression has not been detected at any of these locations. However, compression of air traffic is a site-specific effect that could occur at a particular location regardless of its absence elsewhere. Thus, although the FAA does not believe compression of traffic will occur at any of the proposed airports, the agency will continue to monitor each designated ARSA and make adjustments if necessary.

AOPA, SSA, and other commenters claimed that the FAA provided no demonstrable evidence that the ARSA program would improve aviation safety. The FAA continues to believe the implementation of the ARSA program will enhance aviation safety. The program requires two-way radio communication between ATC and all pilots within the designated areas. Air traffic controllers will thus be in a much improved position to issue complete traffic information to the pilots involved, and thus, safety will be improved.

AOPA, and several other commenters, requested that VFR corridors be established at several of the subject locations along routes that are currently contained within an airport traffic area (ATA). The NAR Task Group noted in their evaluation of the TRSA program that under FAR § 91.87 pilots operating under VFR to or from a satellite airport within an ATA are excluded from the two-way radio communications requirement. The Task Group noted that this was acceptable until the volume of air traffic at the primary airport dictated the installation of a radar approach control. The Task Group recommended, and the FAA adopted, the ARSA program as a safety improvement addressing this problem. Thus, the FAA does not believe provisions for VFR corridors that penetrate an ATA in most cases are warranted or in keeping with that recommendation.

SSA claimed that the grouping of ARSA's such as that adopted in the Sacramento Valley area would create "squeezing" of traffic in the corridors between the blocks of ARSA airspace. One area in question, between Sacramento and Beale Air Force Base (AFB), is approximately 20 miles wide. The FAA does not agree that "squeezing" will occur in this area. Additionally, other user organizations have requested VFR corridors between adjacent or grouped ARSA's and these ARSA's have been modified to accommodate this request.

AOPA and others commented that several of the proposals will require pilots to violate FAR § 91.79 (14 CFR 91.79) regarding minimum safe altitudes. The section states in part, "Except when necessary for takeoff or landing, no person may operate an aircraft below . . . an altitude of 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet of the aircraft [when over any congested area of a city, town, or settlement, or over any open air assembly of persons]." The commenters claim that the 1,200-foot base altitude of the 5- to 10-mile portion of the ARSA will force pilots to violate FAR § 91.79 where obstacles extend more than 200 feet above the ground. There are two alternatives available to pilots in such a situation which permit compliance with the regulation. Namely, pilots may participate in ARSA services and thus not be limited to the 1,200-foot base, and secondly, a pilot may deviate 2,000 feet horizontally from the obstacle.

Furthermore, AOPA claims that the above response does not adequately respond to the issue. They claim that deviations of 2,000 feet horizontally would increase workload and reduce the efficiency of see-and-avoid, and thus, potentially reduce safety. The FAA does not encourage deviation but encourages participation which will not require deviation and will result in controllers providing radar assistance for see-and-avoid.

SSA, and other commenters, claimed that designation of these ARSA's may negatively impact cross-country glider flights operating out of airports 20 miles, or more, from these ARSA's. While some deviations may be required, the FAA does not agree that the minor deviations that may be required will result in negatively impacting cross-country glider operations.

Several commenters noted that the proposal did not contain an environmental assessment. Under existing environmental regulations the proposed establishment of a Terminal Control Area (TCA) or a TRSA does not require an environmental assessment. The agency environmental regulations have not yet been amended to reflect ARSA procedures. However, because the potential environmental impact and regulatory effects of ARSA designation fall between those of the TCA and ARSA designations, the FAA finds that no environmental assessment is required for an ARSA designation.

AOPA, EAA, and other commenters indicated that the FAA had failed to demonstrate a need for the ARSA program itself, as well as a need for several of the individual proposed locations. Additionally, comments were received that faulted some of the features of the ARSA. Most of these comments went beyond the scope of the subject proposal and were addressed when the FAA adopted the recommendation of National Airspace Review (NAR) Task Group 1–2.2 (50 FR 9252, March 6, 1985). However, the FAA believes the need for the ARSA program was adequately demonstrated by the task group that reviewed the TRSA program and recommended the ARSA as the former's replacement. The task group faulted the TRSA program in several of its aspects and through consensus agreement determined the preferred features of the ARSA prior to making their recommendation to the FAA. Justification for the ARSA program has been the subject of previous FAA rulemaking, and the program was adopted after consideration of public comment. Response to comments on ARSA's at particular locations is made below.

AOPA, EAA, SSA, and others commented that several of the proposed ARSA's failed to meet the criteria for designation. The criteria for this group of candidates was recommended by the NAR Task Group and adopted by the FAA. Namely, ". . . excluding TCA locations, all airports with an operational airport traffic control tower and currently contained within a TRSA serviced by a Level III, IV, or V radar approach control facility shall have [an ARSA] designated; unless a study indicates that such designation is inappropriate for a particular location." (49 FR 47184, November 30, 1984).

AOPA, EAA, and others commented that the existence of a TRSA in the above mentioned category should not be considered as justification for an ARSA. After a review of all comments received to the above referenced proposal, the FAA adopted that NAR recommendation (50 FR 9252, March 6, 1985). Therefore, absent a finding that designation would be inappropriate, the existence of a TRSA within that criteria is deemed sufficient for designation.

AOPA, EAA, and others indicated that several of the proposed locations do not meet the criteria that the FAA is considering for future ARSA candidates. The FAA has circulated proposed criteria for future application. However, whatever the nature of any criteria eventually adopted, this group of locations which qualify as ARSA candidates under the adopted NAR criteria would not be affected.

Several commenters suggested the top of the ARSA be lowered from 4,000 feet above field elevation. Absent strong justification for lowering this altitude, the FAA has not adopted these recommendations. The agency's rationale for nonadoption is set forth immediately above.

Several commenters, including AOPA and EAA, indicated that at several of the proposed ARSA's the TRSA was working quite well and that there was no need to change something that was working. The FAA acknowledges that TRSA's are functional and beneficial, to a point. However, the NAR Task Group did not fault individual TRSA locations but the TRSA program itself and recommended its replacement. The FAA concurred with the assessment and has determined that the ARSA program is an improvement over the TRSA program from the standpoints of both safety and service. Thus, the quality of service being provided at TRSA locations should not constitute a roadblock to improvement.

Several commenters claimed the reduced separation standards of the ARSA program would derogate rather than enhance safety. The elimination of the Stage III separation requirements was recommended by users, all of whom are vitally interested in aviation safety, and adopted by the FAA. This aspect of the ARSA program received considerable FAA attention during the confirmation period at Austin, TX, and Columbus, OH. The FAA agrees with the task group that the Stage III separation standards are not needed for safety in a mandatory participation area.

Several commenters requested that the ARSA be described in statute rather than nautical miles. Numerous user organizations and the NAR itself have recommended that the FAA adopt nautical-mile descriptions rather than statute. It is the intention of the FAA to establish all new descriptions according to that recommendation.

Several commenters objected to proposals where the ARSA was in proximity to other airports. According to these commenters pilots would not know whether they should be in contact with the ARSA approach control facility or in contact with the control tower at the secondary airport, or on unicom. The FAA does not view this situation as different from that existing at many of these locations today. Through pilot education programs and experience with ARSA procedures this situation will improve. Also, as at present, when a pilot contacts the wrong FAA facility the controllers will give appropriate instructions.

AOPA, SSA, and other commenters objected to several of the proposed ARSA's based upon the claim that the FAA had failed to evaluate the cumulative effect of the proposed ARSA's and other regulatory airspace. The evaluation for each ARSA included all factors known to the FAA, including the proximity of other regulatory airspace.

AOPA and SSA objected to the ARSA's based upon a claim that an insufficient amount of pilot education had been accomplished by the agency. AOPA cited South Bend, IN as an example where there were 19 days between the informal airspace meeting and the closing of the comment period, and SSA claimed that the comment period and a single informal airspace meeting were insufficient. The FAA does not agree. The example cited by AOPA and SSA referenced the comment period, not the total period to provide for pilot education. Pilot education will continue after the comment period has ended and beyond the effective date of the ARSA's. Further user meetings will be held for each designated location following implementation of the ARSA's.

Underlying a great many of the comments received was the idea that some provision should be made so that pilots could continue their current practices without contacting the responsible ATC facility. While the FAA has made modifications from the standard ARSA in cases where circumstances warrant, the basic thrust of the ARSA program is to require two-way communication with the responsible approach control facility, and not to make modifications in the program to provide for nonparticipation.

AOPA commented that FAA underestimated the one-time cost of distributing Letters to Airmen and the Advisory Circular, and neglected costs related to the informal public meetings. Both of these issues were discussed in the detailed regulatory evaluation of the NPRM, which has been available in the regulatory docket since publication of the NPRM. The availability of this detailed evaluation was indicated in the introductory paragraph of the regulatory evaluation summary included in the **Federal Register** NPRM (50 FR 39822, 39824, September 30, 1985). AOPA's comments assumed that every active pilot would be notified as least once. However, FAA intends to mail individual Letters to Airmen only to those pilots living in the vicinity of ARSA sites, and consequently its cost estimate is less than that of AOPA. The total one-time cost of distributing Letters to Airmen and the Advisory Circular was also prorated to reflect only those sites included in the notice, and both total and prorated cost estimates were provided in the notice. Further, as FAA indicated in the detailed regulatory evaluation, the expenses associated with public meetings will be incurred

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regardless of whether or not an ARSA is ultimately established at a proposed site, and consequently these expenses are more appropriately considered sunkeh costs attributable to the rulemaking process rather than implementation costs of the ARSA program. Similarly, information on ARSA's following the establishment of a new site will also be disseminated at aviation safety seminars conducted throughout the country by various district offices. These seminars are regularly provided by the FAA to discuss a variety of aviation safety issues, and, therefore, will not involve additional costs strictly as a result of the ARSA program.

SSA faulted the FAA for using the aviation safety seminars for pilot education on ARSA's. They claim these seminars do not reach many pilots and the seminars are reserved during this year for the FAA "Back to Basics" program. The FAA does not agree. The aviation safety seminars are for all pilots and for education on all aspects of aviation which would include the ARSA program.

SSA, and other commenters questioned whether the FAA considered the impact of the proposed ARSA's on individuals in making its Regulatory Flexibility Determination, and whether the threshold for determining if a significant economic impact on a substantial number of small entities had been exceeded because some small entities might be impacted. The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. Individual citizens, as such, are not considered small entities under the terms of the RFA; however, an individual whose business is a sole proprietorship would be considered a small entity under the RFA. Some of the small entities which could be potentially affected by implementation of the ARSA program include the fixed-base operators, flight schools, agricultural operations and other small aviation businesses located at satellite airports located within 5 miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in the TRSA and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. Because FAA is excluding almost every satellite airport located within the 5-mile ring to avoid adversely impacting their operations, and in some cases will achieve the same purposes through Letters of Agreement between ATC and the affected airports establishing special procedures for operating to and from these airports, FAA expects to virtually eliminate any adverse impact on the operations of small satellite airports which potentially could result from the ARSA program. Similarly, FAA expects to eliminate potential adverse impacts on existing flight training practice areas, as well as, soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures which will accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, a substantial number of small entities, defined in FAA Order 2100.14, "Regulatory Flexibility Criteria and Guidance," as more than one-third (but not less than eleven) of the small entities subject to a proposed rule, clearly will not be impacted by this rulemaking. Therefore, adoption of this final rule will not result in a significant economic impact on a substantial number of small entities.

Numerous commenters objected to the ARSA designations claiming they would simply provide the FAA with the basis for additional regulatory restrictions. The FAA does not believe this to be a valid objection. While the agency has no current plans for further regulatory action which imposes additional restrictions, such action if it should ever become a reality would be the subject of additional rulemaking and would of necessity be judged on its own merits, as should these proposals.

The Air Line Pilots Association concurred with the proposal as an improvement in operational efficiency and a significant contribution to a reduction of midair collision potential.

The Air Transport Association endorsed the proposed designations as an improvement in safety with specific comments indicated below.

The General Aviation Manufacturers Association endorsed the ARSA's as an improvement in safety and concurred with the FAA's philosophy regarding some deviation from the standard model.

Comments were received which were supportive of each of the ARSA's addressed here as an improvement in aviation safety, and stating that participation by all pilots was only equitable and that normal safety concerns dictated mandatory two-way communications. The FAA agrees.

Comments on Particular Locations

Albuquerque International Airport, NM

The manager of Double Eagle Aviation claims that aircraft departing Double Eagle II Airport who wish to proceed east or south will be in the ARSA before two-way radio communications can be established. The aircraft in question are primarily fast turboprop-powered aircraft. He also claims the ARSA shelf altitude of 6,900 feet will interfere with the traffic pattern altitude at Double Eagle II Airport. The FAA does not agree. Departures from Double Eagle II Airport routinely establish two-way communications with Albuquerque Approach Control before proceeding east or south because of the proximity to the final approach courses at Albuquerque International Airport. Therefore, the rule requiring two-way communications prior to entering the ARSA should cause no adverse impact over present operations. The base of the shelf area which begins approximately 1½ miles east of Double Eagle II Airport is 6,900 feet MSL which provides adequate relief for the traffic pattern. For these reasons, the FAA finds the operation at Double Eagle II Airport should not be adversely impacted by the ARSA.

The manager of Double Eagle Aviation offered to provide a location for a transceiver to allow two-way communications to be established prior to departure from the airport. The FAA appreciates the generous offer but will evaluate total operations prior to considering additional radio coverage for this area.

The Soaring Society of America stated that the proposed Albuquerque ARSA will not affect their training and towing routes but claimed their cross-country routes might be affected. As stated above, the FAA will watch this operation closely and, if necessary, enter into local agreements to minimize or eliminate adverse effects on the cross-country soaring operations.

The Air Transport Association commented supporting the proposed Albuquerque ARSA.

Greater Cincinnati International Airport, Covington, KY

Several commenters claimed the ARSA should be tailored by omitting the area beyond the Ohio River to the northwest to alleviate impact on present training areas. The FAA does not agree. As stated above, the FAA can enter into agreements with affected parties for the use of training areas and practice areas within the ARSA.

The Chairman of the Aviation Administration Department of Northern Kentucky University, AOPA, and other commenters claimed that the floor of the outer core was too low and suggested raising the floor of the outer core to 2,500 feet. The FAA does not agree. The proposed altitude of 2,100 feet MSL provides more than the 1,200 feet above ground level base altitude provided for in the basic ARSA design.

The Lunken Airport Users Committee and other commenters requested a delay in implementation of the ARSA until runway repairs at Lunken Airport are completed. They claimed the runway construction requires use of an alternate runway that in turn will force pilots to fly under the ARSA shelf at unsafe altitudes in order to depart the traffic pattern, to avoid entering the ARSA within a mile of the departure end of the runway. The FAA does not agree. Lunken Airport has an operating control tower and use of the mutual airspace will be jointly agreed to between the facilities.

Indianapolis International Airport, IN

Several commenters claimed the ARSA would adversely affect the traffic pattern at Eagle Creek Airport which is located 6 miles north of Indianapolis International Airport. The FAA does not agree. The altitude of the outer core in the vicinity of Eagle Creek Airport is 2,100 feet MSL. The traffic pattern altitude at the airport is from 1,650 to 1,900 feet MSL. This is safely below the proposed altitude of the ARSA shelf.

Several commenters claimed it would be difficult to be informed of a letter of agreement dealing with operations in the traffic pattern at Speedway Airport. Other commenters claimed the ARSA would have an adverse impact on operations in the Speedway Airport traffic pattern. The FAA agrees. For these reasons, an airspace cutout of the inner core has been made to allow for operations in the traffic pattern at Speedway Airport.

A commenter claimed the ARSA would have an adverse effect on banner towing operations over Indiana University/Purdue University at Indianapolis (IUPUI). The FAA does not agree. IUPUI is located approximately 6½ miles east of the airport under the core shelf. Normal banner towing activities in this area would not require prior ATC approval.

The Indianapolis Airport Authority, AOPA, and others expressed concern that the proposed ARSA will adversely affect operations at the airports in the Greater Indianapolis area. The FAA has made allowances and modifications to the ARSA to allow operations to and from these airports to continue with little or no change from past operations.

The Air Transport Association supports the proposed Indianapolis ARSA.

Phoenix Sky Harbor International Airport, AZ

The Arizona Pilots Association (APA), AOPA, and the Scottsdale Pilots and Aviation Assocation (SPAA) objected to the ARSA as proposed for Phoenix stating it is unsafe and utilizes more airspace than necessary. The APA and SPAA submitted alternate proposals which proposed to raise the floor to the north of the airport by defining a new quadrant. The FAA does not agree that the proposed ARSA is unsafe. The FAA has studied both the APA and SPAA proposals in depth. The FAA agrees that portions of both proposals can meet the aviation community's needs and provide the safety intended in the ARSA. The SPAA proposal does not entirely conform to the basic ARSA configuration as adopted by the FAA. The APA proposal conforms to the ARSA criteria and will be adopted in part by the FAA. The FAA wishes to commend the SPAA and the SPA for their contributions to aviation safety in the ARSA program.

The Arizona Balloon Club and the Arizona Soaring Association objected to the meeting claiming that their members were not notified in the same manner as pilots with medical certificates. Investigation into this allegation disclosed that a special mailing to these balloon and glider pilots had been made. It was pointed out that some pilots may have moved and had not updated their current addresses either with the post office or the FAA.

The owner of an air freight company and AOPA objected to the proposal citing the possibility of delays into and out of the ARSA. As previously stated, the FAA recognizes that delays initially may occur but will vary from one airport to another. However, delays are expected to be transitory in nature and will decrease as both pilots and controllers gain more familiarity with the ARSA.

The United States Air Force and the Commanders of Luke and Williams AFB's objected to the implementation of an ARSA at Phoenix Sky Harbor International Airport at this time. All agreed with the basic ARSA program but requested a delay in implementation at Phoenix until such time as ARSA's at Luke and Williams AFB's could be implemented. The FAA does not agree. The AFB's in question do not qualify as ARSA candidates under existing criteria. The benefits derived from the proposed ARSA at Phoenix should not be withheld from users of the system until such time as the AFB's in question qualify for and are proposed as ARSA candidates. If at a future date these bases qualify for and are proposed as ARSA candidates, there is no assurance an ARSA would be implemented at either.

The United States Air Force Reserve based at Phoenix Sky Harbor International Airport supports the Headquarters United States Air Force position on the Phoenix ARSA.

The Arizona Hang Gliding Association opposed the proposed ARSA in areas of concern for their members claiming that the southwest segment encompassing South Mountain was not needed. The association requested that the 4,000 to 5,100 feet MSL area encompassing South Mountain be omitted from the ARSA. They claimed the area would restrict their flying and soaring in this area and that it is not necessary since it is only 1,100 feet from the base to the top. The FAA does not agree. The FAA believes the benefits of the ARSA are for all pilots and to deny this area of protection to those who traverse this area would not be consistent with the overall ARSA program. Local procedures may be agreed to whereby the hang gliding and soaring activities in this area may continue as usual. It will be in the best interest of all users for the FAA to be aware of specific activity in this area.

The City of Phoenix, Office of the Police Chief, claimed the ARSA may possibly have an adverse effect on the police fixed-wing aircraft response and surveillance activities over the city. The FAA, through local agreements if necessary, has and will continue to work with law enforcement agencies to eliminate most negative impact on necessary police activities.

The City of Casa Grande voiced opposition to the implementation of an ARSA at Phoenix. The concern of the city is appreciated but they should not be affected by the ARSA as the city is located approximately 30 miles southeast of Phoenix Sky Harbor Airport.

The City of Scottsdale and the Arizona Airspace Utilization Committee supported the Arizona Pilots Association position on the ARSA.

The Arizona Department of Transportation objects to the proposal as a safety detractor.

The Tucson Department of Transportation objected to the proposed

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ARSA, citing altitudes to the north as a major safety concern.

Numerous individuals and corporations voiced approval of the ARSA program at Phoenix.

Standiford Field Airport, Louisville, KY

Letters to Airmen notifying pilots of the Informal Airspace Meeting and the proposed Standiford Field ARSA were scheduled to be mailed in mid-December, 1985. Due to the failure of the contractor to mail the notifications until approximately two weeks prior to the meeting, the FAA, in keeping with the policy to notify pilots of ARSA meetings at least 60 days in advance, has extended the comment period and will hold another Informal Airspace Meeting for Standiford Field Airport, Louisville, KY. Thus, no action on the proposed Louisville ARSA is being taken at this time.

Tucson International Airport, AZ, and Davis-Monthan AFB, AZ.

One commenter claimed the proposed ARSA would negatively impact balloon operations in the outer core in the vicinity of the Catalina Mountains particularly in the area of Tanque-Verde and Rillito washes. The commenter requested a blanket exemption for balloon operations in the outer core in the above areas. The FAA does not agree. As stated above, the local facility will make every effort to eliminate any adverse impact on these operations, through local agreements if necessary.

The Arizona Soaring Association opposed the proposed ARSA in the Tucson area. They stated that if an ARSA is implemented, the base altitude in the outer core should be raised to that of the present TRSA. The FAA does not agree. The proposed base altitude of 4,200 affords more terrain clearance than the TRSA.

The Soaring Society of America claims that although the Tucson and Davis-Monthan ARSA's will not impact local towing routes, training areas, and landing areas, there may be an impact on cross-country routes. As stated above, the FAA will monitor these operations and, if necessary, take positive steps to eliminate adverse effects on these routes.

AOPA and others objected to the ARSA's basing their claims on compression of air traffic and the lack of need for ARSA's at Tucson and Davis-Monthan AFB. These comments have been addressed above.

The Arizona Pilots Association, in its letter of January 15, 1986, endorsed the proposed ARSA in Tucson. However, in its letter of March 15, 1986, the Association claimed the Tucson ARSA was not needed, but stated that if an ARSA is to be implemented in Tucson, the proposed ARSA is both safe and workable.

The Cochise County Aviation Planning Commission endorsed the January 15, 1986, position of the Arizona Pilots Association.

The Arizona Airspace Utilization Committee supported the Tucson and Davis-Monthan proposals without reservation.

The United States Air Force fully supports the implementation of an ARSA at both Tucson International Airport and Davis-Monthan AFB.

Several commenters expressed thoughts that the ARSA was a good idea.

Wichita Mid-Continent Airport, KS

AOPA and other commenters claimed the ARSA as proposed at Wichita would serve no purpose as the TRSA is operating well. The FAA does not agree that an ARSA will serve no purpose at Wichita. As stated above, the NAR recommended and the FAA adopted the recommendation to propose to replace TRSA with ARSA.

The United States Air Force, the Commander 384th Air Refueling Wing, and the Director of Air Traffic Services, Strategic Air Command, support the ARSA concept and program. However, all opposed the implementation of an ARSA at Wichita Mid-Continent Airport at this time. They requested the implementation be delayed until an ARSA could be proposed and implemented simultaneously at McConnell AFB. McConnell AFB does not qualify as an ARSA candidate under existing criteria. To delay implementation of an ARSA at Wichita Mid-Continent Airport until criteria are developed, staff studies made and candidacy proposed for McConnell would deny the benefits of the ARSA to the majority of the airspace users in the Wichita area. For these reasons, the FAA does not agree.

AOPA, Beech Aircraft Corporation, and other commenters objected to the proposal citing the possibility of delays entering and leaving the ARSA. These comments have been addressed above.

The Beech Aircraft Corporation objected to the ARSA supporting, for the most part, the AOPA position.

AOPA claimed that six NORDO aircraft based at Westport Airport would have to install radios to operate in the ARSA. Aircraft operations at Westport Airport will be covered by a Letter of Agreement.

Other Comments

A number of other comments were received addressing matters beyond the scope of these proposals such as charting, the number of frequencies depicted on a chart, the general design features of an ARSA, etc. The FAA will give consideration to all of the points raised in these comments but will not address them as a part of this rulemaking.

Regulatory Evaluation

Those comments which addressed information presented in the Regulatory Evaluations of the notices for the dockets included in this final rule have been discussed above. A detailed Regulatory Evaluation of this final rule has been placed in the regulatory docket.

Briefly, the FAA finds that a direct comparison of the costs and benefits of this rule is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, especially those associated with simplification and standardization of terminal airspace procedures. Further, the benefits of standardization result collectively from the overall ARSA program, and as discussed previously, estimates of potential reductions in absolute accident rates resulting from the ARSA program cannot realistically be disaggregated below the national level. Therefore, it is difficult to specifically attribute these benefits to individual ARSA sites. Finally, until more experience has been gained with ARSA operations, estimates of *both* the efficiency improvements resulting in time savings to aircraft operators, and the potential delays resulting from mandatory participation, will be quite preliminary.

ATC personnel at some facilities anticipate that the process will go very smoothly, that delays will be minimal, and that efficiency gains will be realized from the start. Other sites anticipate that delay problems will dominate the initial adjustment period.

FAA believes these adjustment problems will only be temporary, and that once established, the ARSA program will result in an overall improvement in efficiency in terminal area operations at those airports where ARSA's are established. These overall gains which FAA expects for the group of ARSA sites established by this rule typify the benefits which FAA expects to achieve nationally from the ARSA program. These benefits are expected to be achieved without any additional controller staffing or radar equipment costs to the FAA.

In addition to these operational efficiency improvements, establishment of these ARSA sites will contribute to a reduction in midair collisions. The quantifiable benefits of this safety improvement could range from less than $100 thousand, to as much as $300 million, for each accident prevented.

For these reasons, FAA expects that the ARSA sites established in this rule will produce long term, ongoing benefits which will exceed their costs, which are essentially transitional in nature.

Regulatory Flexibility Determination

Under the terms of the Regulatory Flexibility Act, the FAA has reviewed this rulemaking action to determine what impact it may have on small entities. FAA's Regulatory Flexibility Determination was published in the NPRM, and those comments which addressed it have been discussed above. For the reasons presented in the NPRM and clarified in the Discussion of Comments, FAA has determined that this rulemaking action is not expected to affect a substantial number of small entities. Therefore, the FAA certifies that this regulatory action will not result in a significant economic impact on a substantial number of small entities.

The Rule

This action designates Airport Radar Service Areas (ARSA) at the seven airports listed below. Each location designated is a public or military airport at which a nonregulatory Terminal Radar Service Area is currently in effect. Establishment of each ARSA will require that pilots maintain two-way radio communication with air traffic control while in the ARSA. Implementation of ARSA procedures at each of the affected locations will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a) and 1354(a); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.501 is amended as follows:

Albuquerque International Airport, NM—[New]

That airspace extending upward from the surface to and including 9,400 feet MSL within a 5-mile radius of Albuquerque International Airport (lat. 35°02'30" N., 106°36'23" W.), and that airspace extending upward from 7,800 feet MSL to 9,400 feet MSL within a 10-mile radius of the airport from the 072° bearing from the airport clockwise to the 117° bearing from the airport and that airspace extending upward from 6,900 feet MSL to 9,400 feet MSL within a 10-mile radius of the airport from the 117° bearing from the airport clockwise to the 034° bearing from the airport at 10 miles thence southerly along a line direct to a point 7 miles from the airport on the 072° bearing from the airport then southwesterly along this 072° bearing from the airport to the 5-mile radius from the airport.

Davis-Monthan AFB, AZ—[New]

That airspace extending upward from the surface to and including 6,600 feet MSL within a 5-mile radius of the Davis-Monthan AFB (lat. 32°09'54" N., long. 110°52'54" W.) to the points where the 5-mile arc joins a 5-mile arc from the Tucson International Airport, AZ, (lat. 32°07'06" N., long. 110° 56'35" W.) Airport Radar Service Area (ARSA), and that airspace extending upward from 4,200 feet MSL to 6,600 feet MSL within a 10-mile radius of Davis-Monthan AFB to the points where the 10-mile arc joins a 10-mile arc from the Tucson International Airport ARSA.

Greater Cincinnati International Airport, Covington, KY—[New]

That airspace extending upward from the surface to and including 4,900 feet MSL within a 5-mile radius of the Greater Cincinnati International Airport (lat. 39°02'52" N., long. 84° 40'00" W.), and that airspace extending upward from 2,100 feet MSL to 4,900 feet MSL within a 10-mile radius of the Greater Cincinnati International Airport.

Indianapolis International Airport, IN—[New]

That airspace extending upward from the surface to and including 4,800 feet MSL within a 5-mile radius of the Indianapolis International Airport (lat. 39°43'26" N., long. 86°17'00" W.), excluding that airspace extending upward from the surface to but not including 1,700 feet MSL within a 1-mile radius of Speedway Airport (lat. 39°47'55" N., long. 86°21'20" W.); and that airspace extending upward from 2,100 feet MSL within a 10-mile radius of the Indianapolis International Airport.

Phoenix Sky Harbor International Airport, AZ—[New]

That airspace extending upward from the surface to and including 5,100 feet MSL within a 5-mile radius of the Phoenix Sky Harbor Airport (lat. 33°26'10" N. 112°00'32" W.); and that airspace within a 10-mile radius of Phoenix Sky Harbor Airport extending upward from 4,000 feet MSL to and including 5,100 feet MSL from the 166° bearing from the airport clockwise to the 243° bearing from the airport, and that airspace within a 10-mile radius of the airport extending upward from 2,300 feet MSL to and including 5,100 feet MSL from the 243° bearing clockwise to Grand Boulevard, and that airspace within a 10-mile radius of the airport extending upward from 2,800 feet MSL to and including 5,100 feet MSL from Grand Boulevard clockwise to lat. 33°30'00" N., and that airspace within a 10-mile radius of the airport extending upward from 2,300 feet MSL to and including 5,100 feet MSL from lat. 33°30'00" N., clockwise to the 166° bearing from the Phoenix Sky Harbor Airport.

Tucson International Airport, AZ—[New]

That airspace extending upward from the surface to 6,600 feet MSL within a 5-mile radius of the Tucson International Airport (lat. 32°07'06" N., long. 110°56'35" W.) to the points where the 5-mile arc joins a 5-mile arc from the Davis-Monthan AFB, AZ, (lat. 32°09'54" N., long. 110°52'54" W.) Airport Radar Service Area (ARSA), and that airspace extending upward from 4,200 feet MSL to and including 6,600 feet MSL to the points where the 10-mile arc joins a 10 mile arc from the Davis-Monthan AFB ARSA.

Wichita Mid-Continent Airport, KS—[New]

That airspace extending upward from the surface to and including 5,300 feet MSL within a 5-mile radius of the Wichita Mid-Continent Airport (lat. 37°39'00" N., long. 97°25'58" W.), and that airspace extending upward from 2,700 feet to 5,300 feet MSL within a 10-mile radius of the Wichita Mid-Continent Airport.

Issued in Washington, DC, on April 29, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

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Part III

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 630

Additional Standards for Viral Vaccines; Poliovirus Vaccine Live Oral; Proposed Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 630

[Docket No. 86N-0027]

Additional Standards for Viral Vaccines; Poliovirus Vaccine Live Oral

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the biologics regulations governing the manufacture of Poliovirus Vaccine Live Oral. FDA has reviewed these regulations and is proposing amendments to update the regulations consistent with current scientific knowledge and to remove unnecessary regulatory burdens. FDA is also proposing amendments that will make its standards more consistent with the requirements for manufacturing and testing oral poliovirus vaccine issued by the World Health Organization (WHO). The proposed amendments would facilitate the licensure for U.S. distribution of oral poliovirus vaccine currently meeting international standards of safety and effectiveness.

DATES: Comments by July 7, 1986. FDA proposes that the effective date of any final rule based on this proposal be 30 days after the date of its publicatin in the Federal Register. For additional information concerning the proposed effective date, see section III.Y. "Proposed Effective Date" appearing in the preamble of this document.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Steven F. Falter, Center for Drugs and Biologics (HFN–364), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8046.

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I. History of the Manufacture and Regulation of the Vaccine

Poliovirus Vaccine Live Oral (hereafter referred to generically as oral poliovirus vaccine) is a preparation of live, attenuated, poliovirus grown either in monkey kidney cell cultures or in a cell line of human origin. The vaccine is prepared in a form suitable for oral administration. The vaccine currently is administered exclusively as Poliovirus Vaccine Live Oral Trivalent, containing the three types of poliovirus that may infect humans: Type 1, Type 2, and Type 3.

Oral poliovirus vaccine is a biological product subject to licensure under section 351 of the Public Health Service Act (the PHS act) (42 U.S.C. 262). Under the PHS act, oral poliovirus vaccine must meet standards prescribed in regulations designed to ensure the continued safety, purity, and potency of the product. The additional standards for Poliovirus Vaccine Live Oral, now codified under 21 CFR 630.10 through 630.17, originally were issued on March 25, 1961, and were subsequently recodified in Title 21 of the Code of Federal Regulations. The first of the monovalent forms of Poliovirus Vaccine Live Oral was licensed in the United States in August 1961. The trivalent form of the vaccine, first licensed in June 1963, is the principal vaccine for the prevention of poliomyelitis in the United States. The monovalent forms of oral poliovirus vaccine are no longer used for immunization purposes. Currently, one firm is licensed for the manufacture of Poliovirus Vaccine Live Oral Trivalent.

II. Reasons for the Rulemaking

FDA has reviewed the additional standards for Poliovirus Vaccine Live Oral and is proposing to revise the regulations for several reasons.

1. *To update the regulations consistent with current scientific knowledge and the standards of the World Health Organization (WHO).* During the past 20 years, FDA and other health agencies worldwide have gathered considerable information and scientific understanding concerning the manufacture, testing, and use of oral poliovirus vaccine. With this increased scientific knowledge, the world's health agencies have recognized the need to update the standards by which oral poliovirus vaccine is manufactured and tested. Accordingly, FDA and other health agencies have cooperated in the development of revised WHO standards concerning the manufacture and testing of any oral poliovirus vaccine. WHO published its revised standards in 1983 ("Requirements for Poliomyelitis Vaccine (Oral) (Requirements for Biological Substances No. 7)," *World Health Organization Technical Report Series*, No. 687, 1983). Most countries now will accept for domestic use oral poliovirus vaccine manufactured according to WHO standards. FDA has reviewed the revised WHO standards and believes that, for the most part, they are appropriate for assuring the safety and effectiveness of oral poliovirus vaccine licensed for use in the United States. FDA has also reviewed its standards, independent of the WHO review, to identify areas where the regulations could be updated based on current scientific knowledge. Accordingly, FDA is proposing to revise its additional standards for oral poliovirus vaccine to be more consistent with the WHO standards and is also proposing other amendments consistent with the findings of FDA's independent review of the current regulations. FDA discusses each of the changes individually later in this preamble.

Under this proposed rule, some differences between FDA's standards and WHO's standards would still remain; however, FDA believes the remaining differences will not inhibit the manufacture of a domestically and internationally acceptable vaccine.

2. *To facilitate the licensure of safe and effective vaccines.* Since 1979 only one manufacturer has remained licensed for Poliovirus Vaccine Live Oral Trivalent. The one manufacturer has met consistently the Nation's needs for oral poliovirus vaccine. FDA recognizes, however, that dependence on a sole source for an essential vaccine leaves immunization programs vulnerable to any of a variety of circumstances that may disrupt vaccine supplies from the sole manufacturer. Occasional minor outbreaks of poliomyelitis occurring in unimmunized populations in the United States and abroad illustrate the need to continue, uninterrupted, immunization of children with oral poliovirus vaccine. Multiple sources of oral poliovirus vaccine would assure the continuation of immunization programs, even if supplies from one of the manufacturers were temporarily interrupted. Likely candidates for obtaining licensure of oral poliovirus vaccine include those manufacturers who are already supplying a safe and effective oral poliovirus vaccine to other countries. FDA believes that licensure of such vaccines will become feasible only if FDA's standards and international (WHO) standards are reasonably consistent. FDA has found that there are differences between FDA's standards and international standards which do not affect the assurances of safety and effectiveness of the vaccine, but which would preclude the U.S. licensure and sale of a scientifically acceptable poliovirus oral vaccine, manufactured and tested under international (WHO) standards. FDA believes that these existing differences may deter manufacturers from seeking licensure in the United States of oral poliovirus vaccine currently used safely and effectively in other countries. Accordingly, FDA is proposing to amend the additional standards to be more consistent with acceptable international standards so as to facilitate the U.S. licensure of oral poliovirus vaccine from multiple sources.

3. *To reduce the regulatory burdens of the regulations.* Under the Regulatory Flexibility Act (Pub. L. 96–354) and Executive Order 12291, FDA is required to systematically undertake a periodic review of its regulations to identify and appropriately revise or remove unduly burdensome regulations. FDA has systematically reviewed the regulations in §§ 630.10 through 630.17 and is proposing amendments to reduce or remove unduly burdensome regulations while assuring the continued safety and effectiveness of oral poliovirus vaccine. For example, the proposed requirements would reduce the number of primates used to test for vaccine safety without affecting adversely the reliability of the test.

4. *To improve the clarity of the regulations.* FDA is proposing numerous editorial amendments in the regulations. Except for amendments involving reorganization and redesignation of regulations, FDA does not discuss further in this preamble specific editorial amendments.

III. Proposed Amendments to the Regulations

In the Federal Register of December 6, 1984 (49 FR 47622), FDA proposed to amend its biologics regulations to establish general requirements for cell lines used for manufacturing any biological product for human use. In that proposed rule, FDA proposed to remove specific requirements concerning the use of cell lines from §§ 630.10, 630.12, and 630.13 of the additional standards for Poliovirus Vaccine Live Oral and, instead, reference in the additional standards the proposed general requirements for cell lines in 21 CFR 610.18. This proposed rule is consistent with the December 1984 proposed rule.

FDA is discussing below each significant proposed change to the regulations.

A. Proper Name and Definition

FDA proposes to amend § 630.10(a) to provide the proper name and definition of only the trivalent form of oral poliovirus vaccine. FDA is proposing related amendments in §§ 630.11 and 630.17(c) that would remove requirements affecting monovalent vaccines. For many years, monovalent oral poliovirus vaccine has not been manufactured as a final product in the United States. FDA believes that it is highly unlikely that there will be any indication for use of a monovalent vaccine in the future. Accordingly, FDA proposes that § 630.10(a) define oral poliovirus vaccine only in terms of the trivalent vaccine. For the same reason, FDA is proposing to amend § 630.11 by removing the references to monovalent vaccine and to amend § 630.17(c) (redesignated in this proposed rule as § 630.15(b)) by removing the potency requirements for the monovalent vaccines.

B. Criteria for Virus Strains and Seed Virus

FDA proposes to reorganize § 630.10 by including in paragraph (b) the criteria for acceptable virus strains and in paragraph (c) the criteria for qualification of the seed virus. Currently, the criteria for virus strains and for seed virus are both under § 630.10(b). FDA has found that the terms "virus strain" and "seed virus" are sometimes confused and, on occasion, have been misinterpreted by lay persons to be identical in meaning. The virus strain is the genetic variety of poliovirus used to make the vaccine. In most countries, a combination of the three types of the Sabin strains of poliovirus is used for vaccine manufacture. A seed virus is the virus culture, prepared from the virus strain, selected by a manufacturer for use in manufacturing vaccine. Thus, a licensed manufacturer will continually use the same virus strain but may repeatedly select a new seed virus for vaccine manufacture. The proposed amendments would clarify the differences in the meaning between the two terms and the differences in regulatory criteria governing the virus strain and the seed virus.

C. Acceptability of Sabin Strains of Attenuated Poliovirus

FDA proposes to amend § 630.10(b)(1) to specify the criteria that apply to the acceptance of Sabin strains and § 630.10(b)(2) to specify the criteria that would apply to the acceptance of other poliovirus strains. The acceptability of the Sabin strains of attenauted poliovirus for vaccine manufacture has been documented both by extensive studies at the time of the vaccine's initial licensure and by 25 years of safe and effective use in the United States and elsewhere. FDA is proposing that Sabin strains intended for vaccine manufacture meet the criteria specified in proposed § 630.10(b)(1) (i) through (vi). These criteria are intended to affirm the identity of the Sabin strains. FDA proposes to remove the criterion in current § 630.10(b)(1)(iv) which requires information concerning the pathogenicity of poliovirus strains in animals other than monkeys. This information has not proven useful in the past in assessing the safety of real poliovirus vaccine. Because of the extensive information already available which demonstrates the safety of the Sabin strains this information is no longer necessary.

D. Acceptance Criteria for Other Poliovirus Strains

In § 630.10(b)(2), FDA proposes to require that a poliovirus strain other than a Sabin strain be shown: (1) To meet the criteria of § 630.10(b)(1), also applicable to Sabin strains; (2) to be at least as safe as the corresponding Sabin strain; and (3) to produce a vaccine meeting the safety and potency requirements of §§ 630.11, 630.15, and 630.16.

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Under current § 630.10(b)(2), a manufacturer must demonstrate the safety of a new viral strain by conducting a clinical study involving at least 1 million people shown to be susceptible to poliomyelitis. FDA believes that any new oral poliovirus vaccine must be shown to be at least as safe and effective as the current vaccine using Sabin strains. However, the specific type of clinical trial necessary to document safety may vary significantly. For example, different evidence may be required depending on whether the new viral strain has been genetically engineered to make it less likely to mutate and unable to replicate in the central nervous system or, in contrast, is a new, wild, attenuated strain with unstable genetic properties. Therefore, FDA cannot predetermine what laboratory and clinical evidence would be necessary to demonstrate the safety of an oral poliovirus vaccine using a new viral strain. Under the regulations governing the investigation of biological products (21 CFR Part 312), FDA would consider the type of clinical studies necessary to document the safety of a new oral poliovirus vaccine before initiation of any clinical study. Accordingly, FDA is proposing to remove the current requirement concerning clinical studies for determining vaccine safety and to replace it with the more general requirement that a vaccine using a new poliovirus strain be shown to be at least as safe as the current vaccine.

E. Preparation of Seed Virus in Monkey Kidney Cells

FDA is proposing to amend § 630.10(b)(3) (redesignated in this proposed rule as § 630.10(c)(1)) to require that seed virus be prepared in acceptable monkey kidney cell cultures.

FDA believes that the seed virus intended for use in vaccine preparation should be prepared only in a monkey kidney cell culture. In effect, the proposed amendment would prohibit the passage of the virus through human cell lines except, if the manufacturer so chooses and FDA agrees, for the one passage used for preparing the vaccine itself. There is evidence suggesting that repeated passages of the virus in human cells may increase the possibility of the virus reverting to a more neurovirulent state after ingestion. The virus for the currently licensed vaccine is grown solely in monkey kidney cell cultures and its manufacture would not be affected by proposed § 630.10(c)(1).

F. The Intramuscular Test in Monkeys

FDA is proposing to amend § 630.10(b)(4) (redesignated in this proposed rule as § 630.10(c)(2)) by removing the requirement that seed virus be tested for neurovirulence by an intramuscular test in monkeys.

During the 25 years of manufacture of oral poliovirus vaccine, no seed virus produced from a Sabin strain has failed the intramuscular test, even though vaccines produced from some seed virus preparations subsequently were found to have an unacceptable level of neurovirulence that precluded their use. Because of the minimal neuropathologic findings resulting from this test, FDA and manufacturers of oral vaccine have been unable to develop quantitative criteria for assessing the results of the intramuscular test. Because the test has not been useful in assessing product safety, elimination of the test requirements would not decrease the assurances of safety of oral poliovirus vaccine. Removal of this requirement would result in conservation of test monkeys and in reduced expenses for manufacturers.

G. Preparation of Seed Virus in a Virus Seed Lot System

FDA is proposing to add § 630.10(c)(4), which would require that seed virus be prepared in a virus seed lot system. The current manufacture of oral poliovirus vaccine in the United States uses a seed lot system for the preparation of seed virus. To assure the continued genetic integrity of the seed virus, a manufacturer prepares a "Master seed lot" from which new seed virus used for vaccine manufacture is prepared. A large number of lots of seed virus may be prepared from the same master seed lot. FDA is aware that theoretically a new seed virus may be prepared from a seed virus previously used for vaccine production. Use of a seed lot system avoids needless increases in the number of passages from the original virus strain, thereby decreasing the likelihood that the seed virus will vary genetically from the original virus strain.

H. Assessment of Seed Virus Neurovirulence

FDA is proposing several amendments relevant to the assessment of the neurovirulence of seed virus:

(1) FDA is proposing to remove § 630.10(b)(5), which requires the testing of the seed virus for neurovirulence in monkeys as often as necessary to establish that the seed virus used for vaccine manufacture has maintained its neurovirulence properties. FDA believes that when there is evidence that the seed virus may be producing vaccines with an unacceptable neurovirulence, a new seed virus should be prepared and qualified for vaccine production. Under proposed § 630.10(c)(5), discussed elsewhere in this preamble, FDA is proposing to require the disqualification of a seed virus when the rate of unacceptable neurovirulence for vaccine lots prepared from the seed virus is higher than predicted.

(2) FDA is proposing in § 630.10(c) (2) and (3) to require that a new seed virus and the first five consecutive monovalent virus pools prepared from that seed virus be of acceptable neurovirulence as determined by the intraspinal test in monkeys and that evidence showing acceptability of a new seed virus be submitted to FDA as a license amendment. The requirements in proposed § 630.10(c) (2) and (3) are consistent with the requirements in portions of current §§ 630.10(b)(4) and 630.17(b), which FDA is proposing to remove. The testing requirements of proposed § 630.10(c) (2) and (3) are necessary to demonstrate that the seed virus is of acceptable neurovirulence and is capable of consistently producing vaccine of acceptable neurovirulence. Once the new seed virus has been approved by FDA, the consistency of the neurovirulence properties of the vaccine produced from the seed virus would be monitored under § 630.10(c)(5), as discussed below.

(3) FDA is proposing to add new § 630.10(c)(5) to require the disqualification of a seed virus when the frequency of monovalent pools that exceed the criteria for neurovirulence in monkeys under § 630.16(b)(1)(ii) is higher than the predicted rate. Under the criteria in proposed § 630.16(b)(1), monovalent virus pools prepared with neurovirulence identical to the appropriate reference would be expected to fail the intraspinal test at a frequency of 1 in 100, when 1 group of monkeys is inoculated. The expected frequency of failure of 1 in 100 does not mean that, for any given number of tests, exactly 1 failure out of 100 tests will occur. Test failure of a monovalent virus pool, unrelated to an actual increase in neurovirulence, is a random event that may occur at any time. Therefore, after a limited number of tests, the failure rate may appear to be somewhat more than 1, but when enough tests are conducted, however, the frequency of failure should average 1 in 100.

To allow for the unpredictability of this event, FDA is proposing in § 630.10(c)(5) to require the use of a common statistical analysis to determine whether a rate of failure apparently exceeding 1 in 100 of monovalent virus pools from the same seed virus is readily explainable by random variation of test results or is statistically significant, indicating that the seed virus is producing vaccine with a higher neurovirulence than the reference virus preparation. Under proposed § 630.10(c)(5), a manufacturer may continue to use a seed virus for vaccine preparation only if the frequency of test failures of monovalent virus pools prepared from the same seed virus does not exceed the predicted rate. If the predicted rate of failure is exceeded, FDA is proposing that the seed virus be disqualified from further use in manufacturing vaccine.

(4) FDA is also proposing to add new § 630.10(c)(6), which would allow existing seed virus prepared and tested under the current regulations to continue to be used in vaccine production without retesting under the revised regulations. The agency believes that both the current and the proposed regulations provide adequate assurances of the safety of the seed virus for use in oral poliovirus vaccine. Seed virus may be used acceptably for many years after it is first prepared and tested. Retesting existing seed virus under the revised regulations would entail needless use of monkeys and needless expense. The time necessary to complete such retesting might also result in delays in vaccine preparation that could lead to a shortage of supply.

Because the retesting is unnecessary to assure the safety of the vaccine products, FDA believes that it is most appropriate to allow continued use of seed virus properly tested under the current regulations. However, the agency also believes that it is appropriate to subject the existing seed virus to disqualification under § 630.10(c)(5) if the frequency of monovalent pools that exceed the criteria for neurovirulence in monkeys under § 630.16(b)(1)(ii) is higher than the predicted rate. Thus, if evidence should develop concerning either an existing seed virus or a new seed virus that suggests the seed virus may be producing vaccines with unacceptable neurovirulence, that seed virus could no longer be used.

I. Clinical Trials to Qualify for License

FDA is proposing to amend § 630.11 by removing one of two alternatives currently offered for assessing the antigenicity of oral poliovirus vaccine used in clinical trails to qualify for license.

Under current § 630.11, oral poliovirus vaccine administered in clinical trials to qualify for license must induce type specific neutralizing antibodies in at least 90 percent of susceptible recipients when administered as a single dose or at least 90 percent of recipients when administered in a series of doses. FDA believes that the dosage schedule used in clinical trials to qualify for licensure of a vaccine should be consistent with the intended dosage schedule of the licensed vaccine. Oral poliovirus vaccine is administered in a series of doses to assure maximum protective antibody production. Accordingly, FDA is proposing that the criteria for assessing the antigenicity of oral poliovirus vaccine be based only on clinical studies using a series of doses.

J. Acceptance Criteria for Human Cell Lines

FDA is proposing to remove § 630.12(b). In the December 6, 1984, proposed rule (49 FR 47622), with which this proposed rule is consistent, FDA proposed to remove § 630.12(b) (1) and (2) and replace these requirements with new requirements in § 610.18(c) that would apply to all biological products using cell lines, including oral poliovirus vaccine. FDA now is proposing to remove the remainder of § 630.12(b), which prescribes specific requirements for conducting clinical studies to demonstrate the safety and antigenicity of oral poliovirus vaccine manufactured from a human cell line. FDA believes that the appropriate design of such clinical studies would depend on the previous experience with, and available data on, the cell line when used for vaccine manufacture, and the availability of suitable test populations. Accoringly, FDA cannot predetermine what laboratory and clinical data would be necessary to demonstrate the safety and antigenicity of an oral poliovirus vaccine manufactured from a human cell line. Under regulations governing the investigation of biological products (21 CFR Part 312), FDA would consider the type of clinical studies appropriate for documenting the safety and effectiveness, including antigenicity, of any new oral poliovirus vaccine manufactured using a human cell line. Accordingly, FDA believes that § 630.12(b) is no longer necessary or appropriate.

K. Virus Passages From the Original Strain

FDA is proposing to amend § 630.13(a) by requiring that virus in the final vaccine may represent no more than five passages from the original strain or no more than five passages from a virus clone derived from one of the first five passages from the original strain. FDA is also proposing to amend § 630.13(a) by removing the requirement that each tissue culture passage be shown to meet the acceptability criteria of § 630.10(b) (redesignated in this proposed rule as § 630.10(c)).

Current § 630.13(a) requires that virus in the final vaccine represent no more than five passages from the original strain. FDA limits the number of virus passages through which poliovirus may pass to assure that the virus used in vaccine retains the characteristics of the original strain. FDA now believes that the restriction of five passages from the original strain is unnecessarily rigid. Using modern cloning techniques, a virus clone, derived from one of the first five tissue culture passages, can be developed that is equivalent to the original strain in its ability to produce safe and effective vaccine. A virus is cloned by isolating a single virus particle and propagating the single virus in tissue culture to producer a culture of genetically identical virus. Once seed virus prepared from the virus clone is determined to be acceptable by the criteria in proposed § 630.10(c) and shown to meet the other requirements of the proposed standards, the clone can be considered to have retained the properties of the original virus strain and up to five tissue culture passages from the virus clone may be used for vaccine manufacture.

Under current § 630.10(b) (proposed § 630.10(c)), each seed virus used for vaccine manufacture must meet specific acceptability criteria before use. Current § 630.13(a) requires that any tissue culture passage, including not only seed virus but also master seed lots used only for production of seed virus, meet the criteria of § 630.10(b). FDA believes that it is unnecessary to show that a master seed lot meets the acceptability criteria for seed virus. Under proposed § 630.10(c), the manufacturer would assure that any seed virus prepared from the master seed lot meets the acceptability criteria, thereby assuring that the seed virus is accepable for the manufacture of vaccine.

L. Inoculation of Cell Cultures; Ratio of Test Material to Culture Medium

FDA is proposing to amend §§ 630.13(b)(3) and 630.16(b) (5), (6), and (7) to make the terminology consistent with WHO requirements and current scientific usage. Each of the regulations above describes a test of vaccine material in one or more types of cell cultures for the detection of viable microbial agents. Currently, FDA requires that the ratio of test inoculum to culture medium be between 1:1 and 1:3. FDA is proposing to amend these requirements editorially to state that the dilution of test inoculum with culture medium shall be no greater than 1:4,

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consistent with the terminology used in the WHO requirements. The current statements and the proposed statements are equivalent in meaning.

M. Temperature of Incubation of Kidney Cell Cultures After Virus Inoculation

FDA is proposing to amend § 630.13(b)(6) to require that production vessels be maintained at 33.0 to 35.0 °C during the course of virus propagation. Current § 630.13(b)(6) requires that production vessels be maintained at a temperature not to exceed 35 °C during virus propagation. The temperature at which poliovirus is grown may affect both the antigenicity and neurovirulence of the virus. Accordingly, FDA believes it important to propagate poliovirus at a consistent temperature shown to produce a safe and effective vaccine. The proposed amendment is consistent with current manufactuing practices and WHO standards.

N. Availability of Reference Virus Preparations

FDA is proposing to amend § 630.14 by reorganizing the section into paragraphs (a) and (b). In paragraph (a), FDA is proposing to include provisions of current § 630.14 that announce the availability of Reference Poliovirus, Live, Attenuated, for use as a control for correlation of virus titers in tissue cultures. In paragraph (b), FDA is proposing to require that manufacturers obtain either Reference Attenuated Poliovirus of the appropriate type from the Office of Biologics Research and Review or WHO reference virus preparations of the appropriate type for use as controls for the evaluation of monkey neurovirulence tests.

The reference virus preparations listed in proposed § 630.14(a) usually are used by manufacturers to establish in-house reference virus preparations which, in turn, are used as controls in the potency test required by § 630.15. FDA does not require that FDA's reference virus preparations be used as a control in the potency test, but the reference virus preparation in use must be calibrated against FDA's reference virus preparations. Under proposed § 630.14(b), FDA would require that manufacturers use the reference virus preparations provided by either FDA or WHO as controls for the neurovirulence test in monkeys required by § 630.16(b)(1). As discussed elsewhere in this preamble, FDA is proposing to amend § 630.16(b)(1) to require that the Reference Attenuated Poliovirus of the corresponding type be used as a control when testing a monovalent virus pool for neurovirulence by the intraspinal test in monkeys. Accordingly, FDA is listing reference virus preparations of all three types in proposed in § 630.14(b)(1).

O. Reorganization and Amendment of Potency Requirements

FDA is proposing to redesignate current § 630.15 as § 630.15(a); remove current § 630.16(b)(2), which is redundant with proposed § 630.15(a); redesignate current § 630.17(c) as § 630.15(b); and remove the infectivity titer standards for monovalent vaccine from redesignated § 630.15(b). The reorganization would place the standards for potency under one section in the regulations. FDA is proposing to remove the standards for potency of monovalent vaccine because it is highly unlikely that monovalent vaccine will be manufactured as a final product in the future.

FDA is proposing to amend § 630.15(a) to clarify that in-house reference preparations may be used as a control in the potency test and that the in-house reference preparations must be calibrated against FDA's reference virus preparations. The proposed amendment is consistent with current manufacturing practices.

FDA is proposing in § 630.15(b) to clarify that numerical values of potency equivalent to those specified in § 630.15(b) are acceptable. Any of several methods may be used for determining vaccine potency. FDA has found that at some laboratories the numerical values of potency for the same vaccine tested by two different methods will consistently differ by a set amount. Thus, a vaccine meeting FDA's potency requirements when tested by one method may appear to fail the potency test if tested by a different method, unless the numerical value is adjusted because of the known differences in test methods. FDA has previously approved these alternative potency test methods and adjusted potency values under the equivalent methods provisions of 21 CFR 610.9.

P. Testing of Monovalent Virus Pools for Adventitious and Infectious Agents

FDA is proposing to amend § 630.16(a) by removing the list of the specific microbial agents for the presence of which oral poliovirus vaccine must be tested. FDA is not proposing to change the methods for their detection. FDA is also proposing to amend § 630.16(a)(7) by substituting the more scientifically accepted name, cercopithecid herpesvirus 1, for the name in the current regulation, B virus. FDA believes it is unnecessary to list all the infectious agents for the absence of which oral poliovirus vaccine must be tested. Sections 630.16(a) (1) through (7) would continue to require specific tests for detecting significant infectious agents, many of which are also listed in current § 630.16(a).

Q. Safety Tests in Monkey Kidney and Human Cell Cultures

FDA is proposing technical amendments to § 630.16(a) (5) and (6), which prescribe safety tests by inoculation of monkey kidney tissue cultures and by inoculation of human cell cultures, respectively. The amendments would require that the antiserum used in the tests be prepared by using antigen grown in a cell line other than that used for the safety test. The proposed requirement would assure that the antiserum does not contain antibodies that may interfere with the performance of the test. The proposed amendment is consistent with current manufacturing practices and WHO requirements.

FDA is also proposing to amend § 630.16(a)(6)(iii) to clarify that a cell system used for detecting the presence of measles virus in a monovalent virus pool may be of human or nonhuman origin, provided the cell system is of comparable susceptibility to measles virus as the cell systems identified in § 630.16(a)(6) (i) and (ii).

R. Neurovirulence in Monkeys—Revised Test Method

FDA is proposing to amend § 630.16(b)(1) by removing the current methodology for conducting and evaluating the test for neurovirulence in monkeys and replacing it with updated methodology based upon the method recommended by WHO.

In 1962, WHO adopted its current test for determining the neurovirulence of oral poliovirus vaccine in monkeys. FDA, in cooperation with health agencies of other countries, aided in the development and validation of the WHO test method. The revised WHO test was developed as a standardized test to replace the various tests for neurovirulence used worldwide since the early 1960's. All countries except the United States now accept the WHO test for determining the neurovirulence of oral poliovirus vaccine in monkeys.

FDA is proposing to revise its required neurovirulence test procedures consistent with scientific knowledge. The proposed procedures are quite similar to those recommended by WHO; however, FDA's proposed method differs in some minor respects, consistent with FDA's experience and current good manufacturing practices. Despite these differences, a manufacturer will readily be able to test

oral poliovirus vaccine for neurovirulence in monkeys by a method that meets both FDA's and WHO's standards.

FDA's current test and the proposed test are similar, but several differences are significant. FDA discusses the proposed method in detail later in this preamble. In the following chart, FDA is comparing the significant differences between the current test and the test proposed to replace it in § 630.16(b)(1).

	Current test	Proposed test
A. Intrathalamic inoculation	Thirty monkeys injected intrathalamically for each monovalent pool.	Intrathalamic inoculation not required.
b Intraspinal inoculation: (1) Inoculum	Median tissue culture infective dose ($TCID_{50}$) of at least $10^{7.0}$ and dilutions of 1:1,000 and 1:10,000.	$TCID_{50}$ of between $10^{6.5}$ and $10^{7.5}$, no dilutions tested.
(2) Number of monkeys inoculated	Fifteen monkeys injected for each monovalent virus pool	At least 12 monkeys inoculated if testing either Type 1 or Type 2 poliovirus, and at least 20 monkeys if testing Type 3 poliovirus.
(3) Reference attenuated poliovirus—type	Reference Attenuated Poliovirus, Type 1, used as control for test, regardless of virus type being tested.	Referenced attenuated poliovirus of corresponding type (Type 1, Type 2, or Type 3) used as control.
(4) Reference attenuated poliovirus—frequency of testing.	Reference attenuated poliovirus tested at least every 10 production lots of vaccine, but must be tested within 3 months of test of vaccine lots.	Reference attenuated poliovirus tested concurrently with testing of vaccine, certain exceptions provided.
(5) Basis of comparison	Comparative evaluation made of evidence of neurovirulence of poliovirus under test and reference attenuated poliovirus using histo-pathological criteria specified in the regulations.	Comparative evaluation made of magnitude of neurovirulence of polio virus under test with results of test using reference attenuated poliovirus by a mathematical method that is expected to reject poliovirus vaccine lots with neurovirulence identical to the reference at a frequency of not less than 1 in 100.

FDA is proposing to remove the requirements for intrathalamic inoculation of test vaccine and intraspinal inoculation of 1:1,000 and 1:10,000 dilutions of test vaccine. Experience has demonstrated that, when groups of 30 monkeys are inoculated by the intrathalamic route with monovalent virus pools prepared from a seed virus in current use, the frequency of monkeys developing specific lesions is so low that a meaningful assessment of the degree of neurovirulence of the pool cannot be made. Similarly, FDA has found that the 1:1,000 and 1:10,000 dilutions of poliovirus tested by intraspinal inoculation do not yield useful information for assessing vaccine neurovirulence. Thus, FDA is eliminating testing requirements that have not been useful in assessing vaccine neurovirulence. In addition, by removing these testing requirements, FDA would conserve the number of test monkeys, a scarce and expensive resource, without impairing the assurances of vaccine safety.

FDA is proposing that the inoculum for the intraspinal test contain between $10^{6.5}$ and $10^{7.5}$ $TCID_{50}$ per milliliter. The current regulation requires that the inoculum contain at least $10^{7.0}$ $TCID_{50}$ per milliliter, but does not limit the maximum level of infectivity. The proposed infectivity of the inoculum is based on data from a collaborative study involving FDA that showed no differences between the results of intraspinal tests carried out with the proposed upper and lower range of infectivity of inoculum. The proposed rule would assure comparability in inoculum infectivity of vaccine and reference, thereby controlling an important variable in the test procedure. With the proposed lower minimum infectivity, testing laboratories will be able to better conserve supplies of reference virus preparations, without affecting the reliability of the test.

FDA is proposing that each monovalent pool of oral poliovirus vaccine be tested and compared with the reference attenuated poliovirus of the corresponding type, i.e., Type 1, Type 2, or Type 3. FDA is also proposing that the monovalent virus pool and Reference Attenuated Poliovirus be tested concurrently, if possible. Under the current requirements, monovalent virus pools, regardless of type, are compared with Reference Attenuated Poliovirus, Type 1. In both the current and proposed tests, an acceptable monovalent virus pool should display neurovirulence in monkeys comparable to that displayed by the reference attenuated poliovirus. However, Type 2 poliovirus generally displays less neurovirulence than Type 1 poliovirus and always passes the current neurovirulence test when compared with a Type 1 reference. In contrast, Type 3 poliovirus displays a greater variability in neurovirulence in monkeys than Type 1. Accordingly, a Type 3 monovalent virus pool known to meet current neurovirulence requirements and used to manufacture safe vaccine could exceed the limits of acceptability if tested by the proposed method while using a Type 1 reference preparation. FDA believes that the proposed amendment provides a more precise and reproducible means of determining the neurovirulence of each type of poliovirus.

FDA is proposing that the monovalent virus pool and reference attenuated poliovirus be tested concurrently. Concurrent testing will allow the testing laboratory to determine whether the limits of acceptability for neurovirulence are satisfied in each test of a monovalent virus pool. As with most comparative biological assays, FDA believes it is important to test the vaccine and reference preparation concurrently to eliminate any variable related to time and environment that may affect test results. FDA is proposing to provide exceptions to this requirement when the monkeys used for the test are in short supply and are not available from any supplier.

FDA is proposing to require that manufacturers use either the reference virus preparations provided by FDA or WHO reference virus preparations as a control for evaluation of monkey neurovirulence tests. FDA has participated in a comparison of the reference virus preparations made available by FDA and WHO and found that they display equivalent neurovirulence in monkeys and are equally suitable for use as controls for evaluation of neurovirulence tests. No other reference virus preparations have been shown equivalent to FDA's reference virus preparation.

FDA is proposing to require that, whenever possible, the monkeys inoculated with a monovalent virus pool and reference virus preparation be from the same quarantine group and be distributed randomly between the two test groups. This requirement would assure that the test animals used in testing the vaccine virus and the reference virus preparations are uniform.

Consistent with current practice, FDA is proposing to require that the test monkeys be suitably anesthetized before inoculation. All testing laboratories rountinely anesthetize monkeys before inoculation. FDA believes that it is important that the

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regulations reflect that the welfare of the animals is properly considered.

FDA is proposing several requirements concerning the number of monkeys that must be inoculated, survive the observation period, and evaluated for evidence of neurovirulence. The proposed requirements, as summarized below, apply equally to monkeys inoculated with a monovalent virus pool or with a reference virus preparation.

(1) For tests with Type 1 and Type 2 poliovirus, at least 12 monkeys shall be inoculated, and for Type 3 poliovirus, at least 20 monkeys shall be inoculated.

(2) At least 80 percent of the monkeys inoculated in a group shall survive 48 hours after inoculation. Those animals (up to 40 percent) that do not survive this period may be replaced by additional monkeys.

(3) If more than 20 percent of the monkeys in a group do not survive the observation period, excluding the first 48 hours after inoculation, for reasons unrelated to poliovirus infection, that portion of the test shall be considered invalid and shall be repeated.

(4) The evaluation of neurovirulence shall be based upon at least 11 positive monkeys for Type 1 and Type 2 virus pools and at least 18 positive monkeys for Type 3 virus pools.

As described in (1) above, FDA's proposed rule would increase the number of monkeys that are tested by the intraspinal test. Because FDA is proposing to remove the intrathalamic test and the intraspinal test of 1:1,000- and 1:10,000 dilutions, testing laboratories would be able to test additional monkeys in the proposed intraspinal test while experiencing a significant reduction in the overall number of monkeys tested for neurovirulence.

FDA is proposing to require that more monkeys be tested for Type 3 poliovirus than for Type 1 or Type 2 to compensate for the higher variability experienced when Type 3 virus is tested. FDA believes that the proposed requirements described in (1) and (4) above will assure adequate data to permit a precise and statistically valid comparison between the neurovirulence of vaccine virus and the reference virus preparation while conserving monkeys and reducing overall testing requirements. The term "positive monkey," as used in (4) above and as defined in proposed § 630.16(b)(1)(i), is an animal which either survives for at least 11 days after inoculation or succumbs or is sacrificed due to a severe poliovirus infection in which neural lesions specific for poliovirus are seen in the central nervous system.

Such "positive" monkeys may be used for assessing neurovirulence, regardless of whether microscopic evidence of inoculation is found in the gray matter of the spinal cord. Under current § 630.16(b)(1)(ii), only monkeys that show microscopic evidence of inoculation into the gray matter of the spinal cord may be considered properly inoculated. Through experience, FDA has found that only monkeys that are properly inoculated will develop specific lesions caused by poliovirus. Testing laboratories often experience difficulty in locating the injection site microscopically, especially if the site is obscured by lesions. Under current requirements failure to find the injection site would mean that the monkeys could not be considered as positive even though the presence of specific lesions is adequate evidence of proper inoculation.

FDA is proposing that the neuropathology of monkeys inoculated with a monovalent virus pool be quantified and compared with the neuropathology exhibited by monkeys in the concurrent test and all previous tests of the reference virus preparation of the corresponding type. FDA is proposing that the lumbar and cervical areas of the spinal cord, and the medulla and mesencephalon of the brain of each positive monkey, be examined for evidence of lesions caused by poliovirus. The thalamus and motor cortex would also be examined, primarily for nonspecific lesions caused by agents other than poliovirus. However, unlike the current test, the evaluation of the thalamus and motor cortex would not be part of the basis of comparison for determining neurovirulence. In the early days of testing, it was common that monkeys would carry lesion-causing diseases and these nonspecific lesions could be mistaken for lesions caused by poliovirus. Through careful selection and handling of test animals, this problem has been virtually eliminated. Accordingly, FDA is proposing to require that the monkeys' tissue be examined for nonspecific lesions but evaluation and comparison of the nonspecific lesions would no longer be required.

Because of the complexity of the specific method of determining and scoring the magnitude of neurovirulence, FDA is proposing not to include it in the regulations. However, FDA is proposing that the method of evaluation be equivalent to that recommended by WHO. A manufacturer would be required to describe the method of evaluating and scoring poliovirus lesions in an amendment to its product license. To determine the magnitude of neurovirulence, a testing laboratory would grade the severity of specific lesions in the specified tissue sections examined for each monkey and the grades would be converted into a numerical value or "lesion score." The mean lesion score assigned to neurovirulence displayed by monkeys inoculated with the monovalent virus pool can then be compared with the score assigned to the neurovirulence displayed by the reference virus preparation.

FDA is proposing that a monovalent virus pool is acceptable for vaccine use if (1) the numerical value assigned for neurovirulence of the monovalent virus pool is equal to or less than that of the reference virus preparation; or (2) if the value for the monovalent virus pool is greater than that of the reference virus preparation, the difference be not greater than that calculated by a mathematical method that is expected to reject a poliovirus preparation with neurovirulence identical to the reference virus preparation at a frequency of not less than 1 in 100 when 1 group of monkeys is tested. When the numerical value assigned for neurovirulence of the monovalent virus pool is greater than that of the reference virus preparation, the difference in numerical values may be due to the inherent variability of the assay and not due to any real difference in neurovirulence.

Under the proposed rule, a testing laboratory would be required to determine whether the difference is due to the variability of the test method, or whether the difference in scores indicates that the monovalent virus pool is more neurovirulent than the reference virus preparation and is unacceptable for vaccine manufacture. If the difference in scores is greater than that calculated, a monovalent virus pool would be unacceptable for use in vaccine manufacture, regardless of which reference preparation was used in the test. For example, if a manufacturer finds that a monovalent virus pool meets the neurovirulence requirements when tested with a WHO reference preparation but FDA finds that the monovalent virus pool does not meet the neurovirulence requirements when tested with the Office of Biologics Research and Review reference preparation, the monovalent virus pool would not be acceptable for use in vaccine manufacture.

Based on the experience of testing the reference virus preparation, a testing laboratory can calculate the upper limit of the range of values within which will fall the numerical values for

neurovirulence of 99 percent of poliovirus preparations with an actual neurovirulence equal to the reference virus preparation. If the upper limit of this range is exceeded by the numerical value assigned to the neurovirulence of a monovalent virus pool, FDA is proposing that the monovalent virus pool be considered unacceptable and not used for vaccine manufacture. Under the current regulations, the neurovirulence displayed by the monovalent virus pool is compared with records of all results obtained using the reference virus preparations. If the pattern of neurovirulence displayed in the test of the monovalent virus pool is equal to or less than the results obtained in the current test or any previous test of the reference virus preparation, the monovalent virus is considered acceptable for vaccine manufacture. The comparison does not include a mathematical method for determining the probability that the monovalent virus pool has an actual neurovirulence equal to or less than the reference virus preparation.

FDA is proposing to provide for the enlargement or extension of a test for neurovirulence in monkeys if the initial results are not within the required limits. The proposed rule would provide for the inclusion of one or two additional groups of monkeys by the method previously described. The acceptability of the monovalent virus pool would be determined by comparing the cumulative results of the testing of the initial group of monkeys and the one or two additional groups with the results of testing the reference virus preparation in the same number of groups.

With the inclusion of additional monkeys, the numerical value assigned to a monovalent virus pool of acceptable neurovirulence would be expected to be closer to the mean value assigned to the reference virus preparation and the criteria for determining acceptability when one group of monkeys is tested would not be appropriate. Accordingly, FDA is proposing to require more stringent criteria when additional groups of monkeys are tested. FDA is proposing that if a total of 2 groups are tested with the same monovalent virus pool, the frequency of rejection shall be not less than 5 in 100, and if a total of 3 groups of monkeys are tested, the frequency of rejection shall be not less than 10 in 100.

FDA is proposing to require that a testing laboratory perform a minimum of four tests of each reference virus preparation to provide sufficient experience to define the performance of the reference and establish the variability of the assay. FDA believes that a minimum of four tests is necessary to assure that the range of values defining the variability of the assay is statistically valid. Once established, the upper limit calculated from the range of values defining assay variability would be used to determine the acceptability of those monovalent virus pools assigned to a numercial value of neurovirulence higher than that assigned to the reference virus preparation. Each time a reference virus preparation is tested, assuming the results are statistically compatible with previous tests of the same reference preparation, the testing laboratory would add the results to the previous testing experience of that reference virus preparation and the variability of the assay adjusted accordingly.

S. Neurovirulence in Monkeys—Use of Medical Professionals in Assessing Test Results

FDA is proposing to amend § 630.16(b)(1) by removing the requirement that observation of test monkeys for abnormalities indicative of poliomyelitis be performed under the supervision of a qualified pathologist, physician, or veterinarian. Under 21 CFR 600.10(b), caretakers and attendants of animals used in the manufacture of a biological product must be of adequate number and abilities to assure adequate animal care and otherwise fulfill their assigned functions. FDA has decided that personnel who are qualified for the care and handling of monkeys used in the manufacture and testing of vaccine are competent to carry out the observation of monkeys for clinical evidence of poliomyelitis and other viral diseases, without the direct supervision of a veterinarian or other medical professional.

FDA is also proposing to amend § 630.16(b)(1)(iii) (redesignated in this proposed rule as § 630.16(b)(1)(ii) to require that the histopathologic examination of monkeys be performed by a qualified pathologist. The examination of tissue from the central nervous system of monkeys for neuropathy is a highly technical function which has always been peformed by qualified pathologists at establishments licensed for oral poliovirus vaccine. Consistent with current practice, FDA is proposing to require that a qualified pathologist perform the histopathologic examination.

T. Tests for rct/40 Marker and d Marker—Culture Vessels

FDA is proposing to amend § 630.16(b)(3) (i) and (ii) (redesignated in this proposed rule as § 630.16(b)(2) (i) and (ii)) by removing restrictions concerning what types of culture vessels may be used to culture poliovirus in the tests for the rct/40 Marker and the d Marker, respectively. With advances in laboratory technology, there are a number of types of vessels now available that are suitable for culturing poliovirus for these tests; therefore, the restrictions in § 630.16(b)(3) (i) and (ii) are no longer appropriate.

U. Exemption From Final Container Sterility Test

FDA is proposing to redesignate § 630.17(a) as § 630.16(c) and to redesignate the remaining paragraphs in § 630.17 to be consistent. Current § 630.17(a) provides an exemption for oral poliovirus vaccine from the final container sterility test required for certain biological products by § 610.12. Because the test for final container sterility is generally a safety test, FDA proposes that the exemption be included under § 630.16 *Tests for safety.*

V. Consistency of Manufacture

FDA is proposing to amend § 630.17(b) (redesignated in this proposed rule as § 630.17(a)) by removing the requirement that each monovalent virus pool contained in a trivalent vaccine be one of a series of five consecutive lots shown to meet the criteria of neurovirulence in monkeys (§ 630.16(b)(1)) and the criteria for in vitro markers (§ 630.16(b)(3)). When these additional standards were promulgated originally, FDA was concerned that the failure of a lot of poliovirus vaccine to meet the standards for acceptable neurovirulence could be related to a deficiency in the manufacturing process. Therefore, FDA required that each monovalent pool used in vaccine be one of five consecutive lots meeting neurovirulence requirements, as a demonstration of the manufacturer's ability to produce safe vaccine consistently. Each time a monovalent virus pool failed, the manufacturer was required to manufacture and test five additional monovalent virus pools before any vaccine could be released for distribution.

FDA has now determined that failure of the neurovirulence test in monkeys is a random event related to the genetic instability of the seed virus which may result in a slight increase in neurovirulence. Accordingly, FDA is proposing under § 630.10(c)(5) that the total history of neurovirulence test results for monovalent virus pools produced from the same seed virus be reviewed each time a new pool is tested and, if the rate of failure is higher than

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predicted, that seed virus would be disqualified from further use in vaccine manufacture. FDA believes that § 600.10(c)(5) will assure the continued manufacture of safe vaccine and the consistency of manufacture requirements in § 600.17(b) are inappropriate and no longer necessary. FDA believes that the proposed rule will assure the continued low neurovirulence of oral poliovirus vaccine while not requiring interruption of trivalent vaccine production each time a single monovalent lot fails the neurovirulence test.

W. Submission of Protocols to FDA for all Monovalent Virus Pools

FDA is proposing to amend § 630.17(b) (redesignated in this proposed rule as § 630.17(a)) to require that protocols for all monovalent virus pools produced sequentially from the same seed virus be submitted to the Director, Office of Biologics Research and Review, FDA, regardless of whether the manufacturer is requesting release of the pool for further manufacturing into vaccine. Under current requirements, submission of a protocol for a monovalent virus pool is not required when the pool is not intended for further manufacture into oral poliovirus vaccine.

FDA believes that its review of the manufacturing history, including test results, of all monovalent virus pools grown from each seed virus is necessary for assuring the continued safety of oral poliovirus vaccine. For example, proposed requirements in § 630.10(c) (4) and (5) (see III. G. of this preamble) are predicated on FDA's ability to review the history of results of the neurovirulence test in monkeys for each monovalent pool. FDA can accomplish this review only if protocols containing the manufacturing history of all monovalent virus pools are made available to the agency. FDA expects that the proposed rule would not increase the regulatory burdens imposed upon the manufacturer. The information to be included in a protocol is described in § 630.17(e)(1) (redesignated in this proposed rule as § 630.17(c)(1)).

X. Sample Volumes Submitted to FDA for Lot Release

In § 630.17(e) (2) and (3) (redesignated in this proposed rule as § 630.17(c) (2) and (3)), FDA specifies the sample volumes of each monovalent virus pool or trivalent vaccine that shall be submitted to FDA so that the agency may conduct confirmatory testing of the vaccine. FDA is proposing to add § 630.17(c)(4), which would provide for the submission of sample volumes other than those specified in the regulations upon the request or with the agreement of FDA. Occasionally, FDA requires less sample volume for testing because of modifications in test methods or changing testing priorities. In rare cases, FDA may require greater volumes for special testing programs. Proposed § 630.17(c)(4) would permit FDA to change the sample volumes requested without necessitating amendment of the regulations.

Y. Proposed Effective Date

FDA is proposing that any final rule based on this proposal be effective 30 days after its date of publication in the Federal Register. Except as described below, FDA is proposing that any monovalent virus pool or seed virus manufactured on or after the effective date be manufactured in accordance with any final rule resulting from this proposed rule. Because FDA believes that the current regulations provide adequate assurances of the safety and effectiveness of vaccine and in order to ensure that there is no period of time in which there might be a shortage of vaccine, the agency is proposing that the current regulations also remain in effect for 180 days after publication of the final rule amending those regulations. Therefore, during a transitional period of 150 days following the effective date of the amended regulations, a seed virus or monovalent virus pool could be manufactured in accordance with the provisions of either the current regulations or the amended regulations.

As discussed above, under new § 630.10(c)(6) FDA would permit the use for an indefinite period of time of any seed virus manufactured and tested in accordance with current requirements prior to 150 days after the effective date of the final rule.

Similarly, FDA is proposing in revised § 630.17(a) to permit the use of monovalent virus pools manufactured and tested in accordance with current requirements prior to 150 days after this effective date. Monovalent virus pools may be used over a period of several years to produce trivalent vaccines. Requiring manufacturers to retest these monovalent pools would be unnecessarily wasteful of animals, expensive, and time-consuming. Because the current regulations provide adequate assurances of the safety of the monovalent pools, the agency believes that it is most appropriate not to require retesting of the existing monovalent pools that have been properly manufactured and tested under current requirements.

IV. Environmental, Economic and Information Collection Considerations

The agency has determined under 21 CFR 25.24(c)(10) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

The agency has examined the economic consequences of this proposed rulemaking and has determined that it does not require either a regulatory impact analysis, as specified in Executive Order 12291, or a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96-354). Many of the amendments in the proposed rule would relieve minor burdens or increase the flexibility of the regulations, resulting in minor economic benefits for the manufacturer of oral poliovirus vaccine. FDA believes the proposed rule would promote the licensure of alternative sources of oral poliovirus vaccine. The availability of alternative sources of vaccine would benefit the public by assuring a continual supply of this necessary vaccine. FDA estimates that the proposed revised test for neurovirulence would reduce the number of primates required for the test by an average of 40 percent. Based on information from an international manufacturer of oral poliovirus vaccine, the proposed rule would result in savings related to the purchase and care of primates of $750,000 per year.

The agency concludes that the proposed rule is not a major rule as defined by Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act.

Section 630.17 of this proposed rule contains collection of information requirements already reviewed and approved by the Office of Management and Budget (OMB) under section 3507 of the Paperwork Reduction Act of 1980. OMB assigned these collection of information requirements approval number 0910-0206. In this proposal, FDA is continuing these collection of information requirements.

Interested persons may, on or before July 7, 1986, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy.

Comments are to be identified with the docket number in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 630

Biologics.

Therefore, under the Public Health Service Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that Part 630 be amended as follows:

PART 630—ADDITIONAL STANDARDS FOR VIRAL VACCINES

1. The authority citation for Part 630 continues to read as follows:

Authority: Secs. 215, 351, 58 Stat. 690 as amended, 702 as amended (42 U.S.C. 216, 262); 21 CFR 5.10.

2. Subpart B of Part 630 is revised to read as follows:

Subpart B—Poliovirus Vaccine Live Oral Trivalent

Sec.

630.10 Poliovirus Vaccine Live Oral Trivalent.
630.11 Clinical trials to qualify for license.
630.12 Animal source and quarantine; personnel.
630.13 Manufacture of Poliovirus Vaccine Live Oral Trivalent.
630.14 Reference virus preparations.
630.15 Potency test.
630.16 Tests for safety.
630.17 General requirements.

Subpart B—Poliovirus Vaccine Live Oral Trivalent

§ 630.10 Poliovirus Vaccine Live Oral Trivalent.

(a) *Proper name and definition.* The proper name of this product shall be "Poliovirus Vaccine Live Oral Trivalent." The vaccine shall be a preparation containing the three types of live, attenuated polioviruses grown in monkey kidney cell cultures, or in a cell line found by the Director, Office of Biologics Research and Review, to meet the requirements of § 610.18(c) of this chapter. The vaccine shall be prepared in a form suitable for oral administration.

(b) *Criteria for acceptable strains.* (1) The Sabin strains of attenuated poliovirus, Type 1 (LS-c, 2ab/KP_3), Type 2 (P712, Ch, 2ab/KP_3), and Type 3 (Leon $12a_1b/KP_3$), or derivatives from them, may be used in the manufacture of vaccine. These strains shall be identified by historical records including (i) origin, (ii) techniques of attenuation, (iii) antigenic properties, (iv) neurovirulence for monkeys, (v) pathogenicity for tissue cultures of various cell types, and (vi) established virus markers, including rct/40, and d.

(2) Other poliovirus strains may be used in the manufacture of Poliovirus Vaccine Live Oral Trivalent provided that (i) data specified in paragraph (b)(1) of this section are submitted to the Director, Office of Biologics Research and Review, along with other data that establish that each such strain is at least as safe as the Sabin strain of the corresponding type and (ii) that each such strain has been used to produce vaccines meeting the safety and potency requirements of §§ 630.11, 630.15, and 630.16.

(3) The Director, Office of Biologics Research and Review, may prohibit the use of a specified strain whenever the Director finds that it is practicable to use another strain of the same type that will produce a vaccine of greater safety and of at least equivalent potency.

(c) *Criteria for qualification of the seed virus.* (1) Each seed virus used in vaccine manufacture shall be prepared from an acceptable strain in monkey kidney cell cultures, derived from animals which have met all of the requirements of § 630.12(a), and demonstrated to be free of extraneous microbial agents except for unavoidable bacteriophage.

(2) Seed virus used for the manufacture of oral poliovirus vaccine shall meet the requirements of §§ 630.13 and 630.16, including the intraspinal test for neurovirulence prescribed in § 630.16(b)(1). In addition, the neurovirulence of the first five consecutive monovalent virus pools prepared from the seed virus when tested by intraspinal inoculation in Macaca monkeys shall be no greater than that of the Reference Attenuated Poliovirus of the corresponding type available under § 630.14(b).

(3) A new seed virus may be used for production provided data are submitted in the form of a product license amendment that show the new seed virus and the first five consecutive monovalent virus pools prepared from it meet the safety requirements of §§ 630.13 and 630.16 and approval for the use of the seed virus is received in writing from the Director, Office of Biologics Research and Review.

(4) Seed virus in vaccine manufacture shall be prepared in a seed lot system from a master virus seed lot at a passage level consistent with § 630.13(a).

(5) The use of the seed virus may continue provided that the frequency of monovalent virus pools produced with it which fail to meet the criteria of neurovirulence for monkeys prescribed in § 630.16(b)(1)(ii) is not greater than predicted on the basis of comparison with the corresponding reference preparation. If the frequency of monovalent virus pools produced with the same seed virus which fail to meet the criteria of neurovirulence for monkeys prescribed in § 630.16(b)(1)(ii) is greater than the predicted 1 percent on the basis of the 99 percent fiduciary one-sided upper limit, that seed virus shall be disqualified for further use in vaccine production.

(6) Seed virus prepared and tested prior to [180 days after date of publication of revised rule] in accordance with the regulations applicable at that time may continue to be used for the manufacture of oral poliovirus vaccine without retesting to meet the revised specifications of this subsection. However, such seed virus shall be disqualified for vaccine use if it fails to meet the criteria of § 630.10(c)(5).

§ 630.11 Clinical trials to qualify for license.

To qualify for license, the antigenicity of the vaccine shall have been determined by clinical trials of adequate statistical design conducted in compliance with Part 56 of this chapter, unless exempted under § 56.104 or granted a waiver under § 56.105, and with Part 50 of this chapter. Such clinical trials shall be conducted with five lots of oral poliovirus vaccine that have been manufactured by the same methods. Type specific neutralizing antibody for each type of poliovirus in the vaccine shall be induced in 90 percent or more of susceptibles after a series of doses.

§ 630.12 Animal source and quarantine; personnel.

(a) *Monkeys*—(1) *Species permissible as source of kidney tissue.* Only Macaca monkeys, Cercopithecus monkeys, or other species found by the Director, Office of Biologics Research and Review, to be equally suitable, which meet the requirements of § 600.11(f) (2) and (8) of this chapter, shall be used as the source of kidney tissue for the manufacture of Poliovirus Vaccine Live Oral Trivalent.

(2) *Experimental and test monkeys.* Monkeys that have been used previously for experimental or test purposes shall not be used as a source of kidney tissue in the processing of vaccine.

(3) *Quarantine; additional requirements.* Excluding deaths from accidents or causes not due to infectious diseases, if the death rate of any group of monkeys being conditioned in

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accordance with § 600.11(f)(2) of this chapter exceeds 5 percent per month, the remaining monkeys may be used for the manufacture of Poliovirus Vaccine Live Oral Trivalent only if all of the monkeys survive a new quarantine period.

(b) *Personnel.* All reasonably possible steps shall be taken to ensure that personnel involved in processing the vaccine are immune to all three types of poliovirus and do not excrete poliovirus.

§ 630.13 Manufacture of Poliovirus Vaccine Live Oral Trivalent.

(a) *Virus passages.* Virus in the final vaccine shall represent no more than five tissue culture passages from the original strain or no more than five passages from a virus clone derived from one of the first five passages.

(b) *Virus propagated in monkey kidney cell cultures*—(1) *Continuous cell lines.* When primary monkey kidney cell cultures are used in the manufacture of poliovirus vaccine, continuous cell lines shall not be introduced or propagated in vaccine manufacturing areas.

(2) *Identification of processed kidneys.* The kidneys from each monkey shall be processed separately. The resulting viral fluid shall be identified as a separate monovalent harvest and kept separately from other monovalent harvests until all samples for the tests prescribed in paragraph (b) (3) and (4) relating to that pair of kidneys have been withdrawn from the harvest.

(3) *Monkey kidney tissue production vessels prior to virus inoculation.* Prior to inoculation with the seed virus and at least 3 days after complete formation of the tissue sheet, the tissue culture growth in vessels derived from each pair of kidneys shall be examined microscopically for evidence of cell degeneration. If such evidence is observed, the tissue cultures from that pair of kidneys shall not be used for poliovirus vaccine manufacture. To test the tissue found free of cell degeneration for further evidence of freedom from demonstrable viable microbial agents, the fluid shall be removed from the cell cultures immediately prior to virus inoculation and tested in each of four culture systems:

(i) Macaca monkey kidney cells,

(ii) Cercopithecus monkey kidney cells,

(iii) Primary rabbit kidney cells, and

(iv) Human cells from one of the systems described in § 630.16(a)(6).

The fluid shall be tested in the following manner: Aliquots of fluid from each vessel shall be pooled and at least 10 milliliters of the pool inoculated into each system. The dilution of the pool with medium shall be no greater than 1:4 and the area of surface growth of cells shall be at least 3 square centimeters per milliliter of test inoculum. The cultures shall be observed for at least 14 days. At the end of the observation period, at least one subculture of fluid from the Cercopithecus monkey kidney cell cultures shall be made in the same tissue culture system and the subculture shall be observed for at least 14 days. If these tests indicate the presence in the monkey kidney tissue culture production vessels of any viable microbial agent, the viral harvest from these tissue cultures so implicated shall not be used for poliovirus vaccine manufacture.

(4) *Control vessels.* At least 25 percent of the cell suspension from each pair of kidneys shall be set aside and used to establish control cultures. The control cultures shall be examined microscopically for cell degeneration for an additional 14 days after the time of viral harvest. The culture fluids from such control cells shall be tested, both at the time of virus harvest and at the end of the additional observation period, by the method described for testing of fluids in paragraph (b)(3) of this section. In addition, the control cell sheet shall be examined for presence of hemadsorption viruses by the addition of guinea pig red blood cells.

(5) *Interpretation of test results.* At least 80 percent of the control vessels shall be free of cell degeneration at the end of the observation period to qualify the kidneys for poliovirus vaccine manufacture. If the test results of the control cells indicate the presence of any extraneous agent at the time of virus harvest, the virus harvest from that tissue culture preparation shall not be used for poliovirus vaccine manufacture. If any of the tests or observations described in paragraph (b) (3) or (4) of this section demonstrate the presence in the tissue culture preparation of any microbial agent known to be capable of producing human disease, the virus grown in each tissue culture preparation shall not be used for poliovirus vaccine manufacture.

(6) *Temperature of kidney tissue production vessels after virus inoculation.* After virus inoculation, production vessels shall be maintained at 33.9 to 35.0 °C during the course of virus propagation.

(7) *Kidney tissue virus harvests.* Virus shall be harvested not later than 72 hours after virus inoculation. Virus harvested from vessels containing the kidney tissue from one monkey may be tested separately, or samples of viral harvests from more than one pair of kidneys may be combined, identified, and tested as a monovalent virus pool. Each pool shall be mixed thoroughly and samples withdrawn for testing as prescribed in § 630.16(a). The samples shall be withdrawn immediately after harvesting and prior to further processing, except that samples of test materials frozen immediately after harvesting and maintained at −60 °C or below, may be tested upon thawing, provided no more than one freeze-thaw cycle is employed.

(8) *Filtration.* After harvesting and removal of samples for the safety tests prescribed in § 630.16(a), the pool shall be passed through sterile filters having a sufficiently small porosity to assure bacteriologically sterile filtrates.

§ 630.14 Reference virus preparations.

(a) *Titration test controls.* The following reference viruses may be obtained from the Office of Biologics Research and Review:

(1) Reference Poliovirus, Live, Attenuated, Type 1, as a control for correlation of virus titers in tissue cultures.

(2) Reference Poliovirus, Live, Attenuated, Type 2, as a control for correlation of virus titers in tissue cultures.

(3) Reference Poliovirus, Live, Attenuated, Type 3, as a control for correlation of virus titers in tissue cultures.

(4) Reference Poliovirus, Live, Attenuated, Trivalent, as a control for correlation of virus titers in tissue cultures.

(b) *Neurovirulence test controls.* Except as provided in paragraph (b)(2) of this section, the following reference virus shall be obtained from the Office of Biologics Research and Review:

(i) Reference Attenuated Poliovirus, Type 1, as a control for evaluation of monkey neurovirulence tests.

(ii) Reference Attenuated Poliovirus, Type 2, as a control for evaluation of monkey neurovirulence tests.

(iii) Reference Attenuated Poliovirus, Type 3, as a control for evaluation of monkey neurovirulence tests.

(2) Alternatively, WHO reference standards of the corresponding type, WHO/I, WHO/II, and WHO/III, may be used as controls for evaluation of monkey neurovirulence tests.

§ 630.15 Potency test.

(a) *Test for virus titer.* The concentration of living virus in each monovalent virus pool and in each trivalent vaccine, expressed as infectivity titer per milliliter for cell cultures, shall be determined using the Reference Poliovirus, Live, Attenuated of the same type as a control or using another reference preparation of the same type that has been calibrated against the appropriate reference preparation listed in § 630.14(a). A titration of the monovalent virus pool or the trivalent vaccine shall not constitute a valid test unless the titration of the reference virus when tested in parallel is within ± 0.5 $\log_{10}$ of its established titer. The titration of the parallel reference is intended to validate the test system and shall not be used to adjust the titer of the pool or lot under test.

(b) *Dose.* The human dose of trivalent vaccines shall be constituted to have infectivity titers in the final container material of $10^{5.6}$ to $10^{6.6}$ for Type 1, $10^{4.5}$ to $10^{5.5}$ for Type 2, and $10^{5.2}$ to $10^{6.2}$ for Type 3, or the equivalent.

§ 630.16 Tests for Safety.

(a) *Tests prior to filtration.* Monovalent virus pools shall contain no demonstrable viable microbial agent, except for unavoidable bacteriophage and the intended attenuated live poliovirus. The vaccine shall be tested for the absence of other infectious agents, including polioviruses of other types or strains. Testing of each monovalent pool shall include the following procedures:

(1) *Inoculation of rabbits.* A minimum of 100 milliliters of each monovalent virus pool shall be tested by inoculation into at least 10 healthy rabbits, each weighing 1,500 to 2,500 grams. Each rabbit shall be injected with a total of 1.0 milliliter intradermally in multiple sites, and subcutaneously with 9.0 milliliters, of the monovalent virus pool and the animals observed for at least 3 weeks. Each rabbit that dies after the first 24 hours of the test, or is sacrificed because of illness, shall be necropsied and the brain and organs removed and examined. The monovalent virus pool may be used for poliovirus vaccine only if at least 80 percent of the rabbits remain healthy and survive the entire period and if all the rabbits used in the test fail to show lesions of any kind at the sites of inoculation and fail to show evidence of cercopithecid herpesvirus 1 or any other viral infection.

(2) *Inoculation of adult mice.* Each of at least 20 adult mice, each weighing 15 to 20 grams, shall be inoculated intraperitoneally with 0.5 milliliter and intracerebrally with 0.03 milliliter of each monovalent virus pool. The mice shall be observed for 21 days. Each mouse that dies after the first 24 hours of the test, or is sacrificed because of illness, shall be necropsied and examined for evidence of viral infection by direct observation and subinoculation of appropriate tissue into at least five additional mice which shall be observed for 21 days. The monovalent virus pool may be used for poliovirus vaccine only if at least 80 percent of the mice remain healthy and survive the entire period and if all the mice used in the test fail to show evidence of lymphocytic choriomeningitis virus or other viral infection.

(3) *Inoculation of suckling mice.* Each of at least 20 suckling mice less than 24 hours old shall be inoculated intracerebrally with 0.01 milliliter and intraperitoneally with 0.1 milliliter of the monovalent virus pool. The mice shall be observed daily for at least 14 days. Each mouse that dies after the first 24 hours of the test, or is sacrificed because of illness, shall be necropsied and examined for evidence of viral infection. Such examination shall include subinoculation of appropriate tissue suspensions into an additional group of at least five suckling mice by the intracerebral and intraperitoneal routes and observed daily for 14 days. In addition, a blind passage shall be made of a single pool of the emulsified tissue (minus skin and viscera) of all mice surviving the original 14-day test. The monovalent virus pool may be used for poliovirus vaccine only if at least 80 percent of the mice remain healthy and survive the entire period and if all the mice used in the test fail to show evidence of Coxsackie or other viral infection.

(4) *Inoculation of guinea pigs.* Each of at least five guinea pigs, each weighing 350 to 450 grams, shall be inoculated intracerebrally with 0.1 milliliter and intraperitoneally with 5.0 milliliters of the monovalent virus pool to be tested. The animals shall be observed for at least 42 days and rectal temperatures recorded daily for the last 3 weeks of the test. Each animal that dies after the first 24 hours of the test, or is sacrificed because of illness, shall be necropsied and its tissues shall be examined both microscopically and culturally for evidence of tubercle bacilli, and by passage of tissue suspensions into at least three other guinea pigs by the intracerebral and intraperitoneal routes of inoculation for evidence of viral infection. If clinical signs suggest infection with lymphocytic choriomeningitis virus, serological tests shall be performed on blood samples of the test guinea pigs to confirm the clinical observations. Animals that die or are sacrificed during the first 3 weeks after inoculation with the monovalent virus pool shall be examined for infection with lymphocytic choriomeningitis virus. Animals that die in the final 3 weeks shall be examined both microscopically and culturally for *Mycobacterium tuberculosis*. The monovalent virus pool may be used for poliovirus vaccine only if at least 80 percent of all animals remain healthy and survive the observation period and if all the animals used in the test fail to show evidence of infection with *Mycobacterium tuberculosis* or any viral infection.

(5) *Inoculation of monkey kidney tissue cultures.* At least 500 doses or 50 milliliters, whichever is a greater volume of virus, taken either from each undiluted monovalent virus pool or, in equal proportions from individual harvests or subpools, shall be tested for simian viruses in Macaca monkey kidney tissue cultures and, in the same volume, in Cercopithecus monkey kidney tissue cultures. A dilution of the virus pool in medium not to exceed 1:4 shall be used. The area of surface growth of the cells shall be at least 3 square centimeters per milliliter of test inoculum. The test poliovirus shall be neutralized by high-titer specific antiserum of nonprimate origin. The immunizing antigens used for the preparation of antisera shall be grown in a cell line other than the cell line used for testing the vaccine. The cultures shall be observed for at least 14 days. At the end of the observation period at least one subculture of fluid from the Cercopithecus kidney cell culture shall be made in the same tissue culture system and the subculture shall be observed for at least 14 days. The monovalent virus pool may be used for poliovirus vaccine only if all the tissue cultures fail to show evidence of the presence of simian viruses or any other viral infection.

(6) *Inoculation of human cell cultures.* At least 500 doses or 50 milliliters, whichever represents a greater volume of virus, taken from either a single monovalent pool or, in equal proportions from individual harvests or subpools, shall be tested for the presence of measles virus in either (i) primary human amnion cells, (ii) primary human kidney cells, or (iii) any other human or nonhuman cell system of comparable susceptibility to unmodified measles virus. The virus pool shall be diluted with medium not to exceed 1:4. The area of surface growth of cells shall be at least 3 square centimeters per milliliter of test inoculum. The test material shall be neutralized with poliovirus antiserum of other than primate origin if the tissue culture cell system used is susceptible to poliovirus. The immunizing antigens used for the preparation of antiserum shall be grown in a cell line other than the cell line used for testing the vaccine. The culture shall be observed for at least 14 days. The monovalent virus

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pool may be used for poliovirus vaccine only if all tissue cultures fail to show evidence of the presence of measles virus or any other viral infection.

(7) *Inoculation of a rabbit kidney tissue culture.* At least 500 milliliters of virus pool taken from either a single monovalent pool or, in equal proportions from individual harvests or subpools, shall be tested in primary rabbit kidney tissue culture preparations for evidence of cercopithecid herpesvirus 1. The virus pool shall be diluted with medium not to exceed 1:4. The area of surface growth of cells shall be at least 3 square centimeters per milliliter of test inoculum. The culture shall be observed for at least 14 days. The monovalent virus pool may be used for poliovirus vaccine only if all tissue cultures fail to show evidence of the presence of herpesvirus.

(b) *Tests after filtration.* The following tests relating to safety shall be performed on each monovalent virus pool after the filtration process:

(1) *Neurovirulence in monkeys.* Each monovalent virus pool shall be tested concurrently, if possible, with the corresponding type Reference Attenuated Poliovirus for neurovirulence by the intraspinal route of injection in Macaca monkeys. Whenever possible the monkeys should be from the same quarantine group and distributed randomly between the two test groups. If the number of monkeys included in both groups precludes completion during a single workday, equal numbers of monkeys shall be inoculated with the monovalent virus pool and the reference preparation during each of the testing days. A preinjection serum sample obtained from each monkey shall be shown to contain no neutralizing antibody in a dilution of 1:4 when tested against no more than 1,000 $TCID_{50}$ of each of the three types of poliovirus. The neurovirulence test is not valid unless the inoculation sample contains $10^{6.5}$ to $10^{7.5}$ $TCID_{50}$ per milliliter when titrated in comparison with the Reference Poliovirus, Live, Attenuated of the appropriate type. All monkeys shall be observed for 17 to 21 days and any evidence of physical abnormalities indicative of poliomyelitis or other viral infections shall be recorded.

(i) *Intraspinal inoculation.* For tests with Type 1 and Type 2 monovalent virus pools and the Reference Attenuated Poliovirus of the corresponding types, each of a group of at least 12 monkeys after being suitable anesthetized shall be injected intraspinally into the enlargement of the lumbar cord with 0.1 milliliter of the inoculation sample. For tests with Type 3 poliovirus materials groups of at least 20 monkeys shall be used after being suitably anesthetized. A test of a virus pool shall include at least one group of monkeys, and no more than three groups shall be inoculated. If on examination there is no evidence of correct inoculation, additional animals may be inoculated in order to restablish the minimum number of 11 positive monkeys for tests of Types 1 and 2 virus pools and the minimum number of 16 positive monkeys for tests of Type 3 virus pools. A positive monkey is an animal which either survives for 11 or more days or succumbs or is sacrificed due to a severe poliovirus infection at any time before the 11th day of the observation period and in which neural lesions specific for poliovirus are seen in the central nervous system. If at least 60 percent of the animals of a group survive 48 hours after inoculation, those animals that did not survive may be replaced by additional animals. If less than 60 percent of the animals in a group survive 48 hours after inoculation, the test shall be considered invalid and shall be repeated.

(ii) *Determination of neurovirulence.* At the conclusion of the observation period, a comparable evaluation shall be made of the evidence of neurovirulence of the monovalent virus pool under test and the Reference Attenuated Poliovirus of the corresponding type with respect to the histopathology of lesions caused by poliovirus, except that for animals dying or sacrificed when severely paralyzed or moribund during the test period, these examinations shall be made immediately after death. Histopathological examinations by a qualified pathologist shall be made of at least the lumbar and cervical enlargements, the medulla, the mescencephalon, the thalamus, and motor cortex of each monkey in the groups injected with the monovalent virus pool or with the reference under test. The magnitude of the neuropathology exhibited in the lumbar and cervical areas, the medulla, and mesencephalon of all positive monkeys inoculated with the monovalent virus pool shall be quantified and compared to the magnitude of the neuropathology exhibited in the same anatomical areas of monkeys in the current test and all previous tests of the Reference Attenuated Poliovirus of the corresponding type. If, in the current test, monkeys were not inoculated with the Reference Attenuated Poliovirus of the corresponding type because of a shortage of monkeys, the magnitude of the neuropathology of the monovalent virus pool shall be compared to the magnitude of the neuropathology exhibited in all previous tests of the corresponding Reference Attenuated Poliovirus. The monovalent virus pool may be used for poliovirus vaccine if a comparative analysis of the test results demonstrates that the numerical value assigned for neurovirulence of the monovalent virus pool is equal to or less than that of the Reference Attenuated Poliovirus of the corresponding type. If the numerical value assigned for neurovirulence of the monovalent virus pool is greater than that of the Reference Attenuated Poliovirus, the monovalent virus pool is acceptable if the difference is not greater than that calculated by a mathematical method that is expected to reject vaccines with neurovirulence identical to the reference at a frequency of not less than 1 in 100 when 1 group of monkeys is inoculated. If 2 groups are injected with the same monovalent virus pool under test, the frequency or rejection shall be not less than 5 in 100 and for 3 groups, not less than 10 in 100. If the difference in numerical values is greater than that calculated, irrespective of which reference preparation was used in the test, the monovalent virus pool shall be considered unacceptable and shall not be used for vaccine manufacture.

(iii) *Test with Reference Attenuated Poliovirus.* The Reference Attenuated Poliovirus of the appropriate type shall be tested as prescribed in paragraph (b)(1)(i) of this section concurrently with the monovalent virus pool, unless such testing is not possible because of insufficient numbers of monkeys. More than one monovalent virus pool of the same type may be tested with the same corresponding Reference Attenuated Poliovirus. A minimum of four tests by the testing laboratory of each Reference Attenuated Poliovirus is required to provide sufficient experience to define its performance and establish the variability of the assay. Each test of the Reference Attenuated Poliovirus shall be considered acceptable and added to the previous testing experience only if the magnitude of its poliovirus neuropathology is statistically compatible with the results of all previous tests with the same reference preparations of the same type performed by the test laboratory.

(2) *Tests for in vitro markers.* A test shall be performed on each monovalent virus pool using the rct/40 Marker or another marker method shown to be of value in identification of the attenuated strain. A second test shall be performed using the d Marker. The test results shall demonstrate that the monovalent virus pool under test and the seed virus have

substantially the same marker characteristics.

(i) *rct/40 Marker.* Attenuated strains which grow readily at 40 °C (±0.5 °C) are classified as rct/40 positive (+) in contrast to the rct/40 negative (−) strains, which show an increased growth of at least 100,000 fold at 36 °C over that obtained at 40 °C. Comparative determination shall be made in suitable culture vessels.

(ii) *d Marker.* Attenuated strains which grow readily at low concentrations of bicarbonate under agar are classified as d positive (+) in contrast to the d negative (−) strains, which exhibit delayed growth under the same conditions. The cultures shall be grown in a 36 °C incubator, in suitable culture vessels in an environment of 5 percent CO_2 in air.

(c) *Final container sterility test.* The final container sterility test need not be performed provided aseptic techniques are used in the filling process.

§ 630.17 General requirements.

(a) *Vaccine release.* No lot of trivalent vaccine shall be released unless each monovalent virus pool contained therein:

(1) Has been manufactured by the same procedures;

(2) Has met the criteria of neurovirulence for monkeys prescribed in § 630.16(b)(1);

(3) Has met the criteria of in vitro markers prescribed in § 630.16(b)(2); and

(4) Has been released for further manufacturing by the Director, Office of Biologics Research and Review.

However, monovalent virus pools manufactured and tested prior to [180 days after date of publication of revised rule] in accordance with regulations applicable at that time may continue to be used to produce trivalent vaccine without additional testing of the monovalent virus pools by the manufacturer. The protocols for all monovalent virus pools produced sequentially from the same seed shall be submitted to the Director, Office of Biologics Research and Review, whether or not release of the pool for futher manufacturing is requested.

(b) *Labeling.* In addition to the items required by other applicable labeling provisions of this chapter, the final container label shall bear a statement indicating that liquid vaccine may not be used for more than 7 days after opening the container. Labeling may include a statement indicating that, for frozen vaccine, a maximum of 10 freeze-thaw cycles is permissible provided the total cumulative duration of thaw does not exceed 24 hours, and provided the temperature does not exceed 6 °C during the periods of thaw.

(c) *Samples and protocols.* For each trivalent lot of vaccine and for each monovalent virus pool, the following materials shall be submitted in accordance with instructions received from the Director, Office of Biologics Research and Review, Center for Drugs and Biologics, 8800 Rockville Pike, Bethesda, MD 20892:

(1) A protocol that consists of a summary of the history of manufacture of each trivalent lot or monovalent virus pool, including any test results requested by the Director, Office of Biologics Research and Review.

(2) A 200-milliliter bulk sample of each final monovalent virus pool having a virus titer of no less than $10^{7.5}$ $TCID_{50}$ per milliliter; if the titer is greater, a correspondingly smaller volume may be submitted.

(3) A total of at least 200 doses or 6 final containers of the trivalent vaccine, whichever is the larger amount.

(4) When deemed appropriate, the Director, Office of Biologics Research and Review, may require submission of sample volumes other than those specified in paragraphs (c)(2) and (3) of this section.

Dated: April 28, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

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43 CFR Part 11

Natural Resource Damage Assessments; Proposed Rule

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DEPARTMENT OF THE INTERIOR

Office of the Secretary

43 CFR Part 11

Natural Resource Damage Assessments

AGENCY: Office of the Secretary, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The proposed rule establishes simplified procedures for assessing damages to natural resources from a discharge of oil or release of a hazardous substance and compensable under either the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601 *et seq.*, or under the Clean Water Act (CWA), 33 U.S.C. 1251 *et seq.* (also known as the Federal Water Pollution Control Act). Responsibility for preparation of this proposed rule was delegated by the President to the Department of the Interior in Executive Order 12316, August 14, 1981, 46 FR 42237. The proposed rule supplements the procedures for performing assessments published at 50 FR 52126 (December 20, 1985) referred to as the "type B" procedures. The proposed rule is applicable only to the assessment of damages in coastal and marine environments.

DATE: Comments should be submitted by June 18, 1986. Comments received on or before the above date will be considered in the decisionmaking process on the final rulemaking. The short comment period is required because of the court-ordered deadline that requires publication of the final rule by October 7, 1986.

ADDRESS: Comments should be sent to Keith Eastin, Deputy Under Secretary, CERCLA 301 Project Director, Room 4354, Department of the Interior, 1801 "C" St. NW, Washington, DC 20240. Comments will be available for review at the above address during regular business hours (7:45 a.m. to 4:15 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT:
Keith Eastin, (202) 343–5183
Alison Ling, (202) 343–1301

SUPPLEMENTARY INFORMATION:

I. Background

A. Statutory Background

Section 301(c) of CERCLA requires the promulgation of rules for the assessment of damages for injury to, destruction of, or loss of natural resources resulting from a discharge of oil or a release of a hazardous substance for the purposes of CERCLA and of section 311(f) (4) and (5) of the CWA. Section 301(c) states:

(c)(1) The President, acting through Federal officials designated by the National Contingency Plan published under section 105 of this Act, shall study and, not later than two years after the enactment of this Act, shall promulgate regulations for the assessment of damages for injury to, destruction of, or loss of natural resources resulting from a release of oil or a hazardous substance for the purpose of this Act and section 311(f) (4) and (5) of the Federal Water Pollution Control Act.

(2) Such regulations shall specify: (A) Standard procedures for simplified assessments requiring minimal field observation, including establishing measures of damages based on units of discharge or release or units of affected area, and (B) alternative protocols for conducting assessments in individual cases to determine the type and extent of short- and long-term injury, destruction, or loss. Such regulations shall identify the best available procedures to determine such damages, including both direct and indirect injury, destruction, or loss and shall take into consideration factors, including, but not limited to, replacement value, use value, and ability of the ecosystem or resource to recover.

(3) Such regulations shall be reviewed and revised as appropriate every two years.

The proposed rule, when final, will be used by Federal and State authorized officials acting as trustees of natural resources to assess damages to natural resources for purposes of section 107(a) and 111 (a) and (d) of CERCLA and section 311(f) (4) and (5) of the CWA. The results of assessments performed by a Federal official according to these procedures shall be accorded the evidentiary status of a rebuttable presumption as provided in 111(h) of CERCLA.

Section 301(c) of CERCLA specifies two types of procedures to be developed. The type A procedures are to be standard procedures for simplified assessments requiring minimal field observation. The type B procedures are to include alternative methodologies for conducting assessments in individual cases.

B. Regulatory Background

On December 20, 1985, the Department of the Interior proposed the alternative methodologies for conducting assessments in individual cases, otherwise known as the "type B" procedures. The proposed rule was published at 50 FR 52126. The rationale set forth in that proposed rule and explained in the preamble is also applicable to this proposed rule, which is a more specific application of the concepts expressed in the type B proposal. This proposed rule comprises the "type A" procedures, or the standard procedures for simplified assessments requiring minimal field observation.

The December 20, 1985, proposed rulemaking explained that the type A and type B proposed rules were being promulgated under court-imposed deadlines in a consent order entered in *State of New Jersey et al.* v. *Ruckelshaus et al.*, (now Thomas), Civ. No. 84–1668 (D.N.J.). On February 3, 1986, Judge Rodriguez entered an order modifying the previously established deadlines. The modified schedule is as follows:

1. The Secretary will promulgate and submit to the Federal Register the final type B regulations on or before June 23, 1986.

2. The Secretary will propose for public comment the type A regulations on or before May 5, 1986, and promulgate final type A regulations and submit them to the Federal Register for publication by October 7, 1986.

This change in deadlines resulted largely from numerous requests for extension of time to provide public comment on the type B proposed rule and was agreed to by the parties to the litigation. Because of the court mandated deadline, the comment period for this proposed rule is limited to 45 days.

C. Concepts Embodied in the Proposed Rule

1. The Model

The type A procedure described in this proposed rule uses a computer model to perform the numerous mathematical computations required for the simplified assessment of damages in coastal and marine environments. Accordingly, this assessment model is referred to as the Natural Resource Damage Assessment Model for Coastal and Marine Environments (NRDAM/CME). The model incorporates the concepts enunciated in the type B proposal. The computer program is designed so that it can be run on widely available microcomputers.

This proposed rule is the first type A procedure being developed by the Department of the Interior. At some future date this system may be expanded or new systems developed to cover other ecosystems, natural resources and different types of discharges or releases. Coastal and marine environments were chosen as the subject of the first type A procedure because much more extensive information was available on the fate and effects of discharges or releases of oil or hazardous substances in these environments than for other ecosystems and natural resources.

The NRDAM/CME, which represents the state-of-the-art in computer modeling and techniques, was developed with contractor assistance provided by Economic Analysis, Inc., of Wakefield, Rhode Island, and Applied Science Associates, Inc., of Narragansett, Rhode Island. The contractor's work was reviewed by a number of experts in ocean and marine biology, computer modeling, natural resources economics, and toxicology. Prior to the drafting of this proposed rule, a draft of the contractor's technical report and the NRDAM/CME was circulated to the Department of the Interior bureaus and offices and to Federal agencies represented on the National Response Team for review and comment. The contractor's technical report is entitled: Measuring Damages to Coastal and Marine Natural Resources: Concepts and Data Relevant for CERCLA Type A Damage Assessments.

The report and the NRDAM/CME are available from the CERCLA 301 Project at the address listed at the beginning of this document. The report contains a detailed discussion of the model, its documentation, and its limitations.

2. Selecting Between a Type A or Type B Assessment

Whenever a discharge or release occurs in the coastal or marine environment a type A assessment should be performed unless the limtations of the model make it inappropriate to a given incident. The NRDAM/CME cannot be applied universally. It is applicable only to selected types of discharges or releases. Fundamentally, before the NRDAM/CME may be used, the discharge or release must occur in a coastal or marine environment. Certain other conditions also apply. The substance discharged or released must be contained in the data base of the model. Special resources, as that term is defined in the type B proposed rule, are not addressed in the biological data base and therefore cannot be assessed using the NRDAM/CME. If estimates of the natural resources potentially injured would differ significantly from the averages listed within the NRDAM/CME for the area in which the discharge or release occurred, the model may not be appropriate for assessing damages. The discharge or release must be a relatively minor, single event of short duration occurring at the water surface or in the intertidal zone. The injury to biological resources must be primarily due to direct or indirect mortality, or damage must occur due to closure of a fishing area or closure of a bench. In addition, mortality to biological resources must be due primarily to the direct and indirect effects of the discharge or release rather than the effects of any chemical agents or other clean up activities.

Whether or not certain of these conditions exist will necessarily be a subjective decision in some incidents. It may be clear in the case of a barge spill or the rupture of a vessel hull by grounding that the incident is a "single event" which occurred over a "short duration of time." However, it is impossible to formulate a uniform definition of the term "relatively minor" that will be able to cover all types of discharges and releases. There is no clear definition in CERCLA concerning the threshold amount of a discharge or release or the perceived extent of natural resource damages that will separate a type A from a type B assessment. In fact, the consequences of seemingly similar incidents can vary greatly, depending upon such factors as the amount and characteristics of the discharge or release and the location and season of the events. For example, a release of a hazardous substance in a highly productive estuary will likely cause greater biological injuries and economic damages than an identical discharge in other less productive areas. Potential natural resources damages will depend upon the location and season of the incident as well as the quantity and toxicity of oil and hazardous substances discharged or released.

If the conditions under which the NRDAM/CME can be used do not exist, the authorized official performing the assessment should use a type B procedure. Future models or other procedures may be developed that will allow for type A assessments involving other ecosystems or other types of discharges or releases.

Use of the NRDAM/CME requires little or no field observation of the pathway of contamination or of the biological resources injured. The model and its supporting data bases are based upon averaged values and may not necessarily reflect the actual events of any specific incident. Accordingly, there may be times when the authorized official performing the assessment or the potentially responsible party may conclude that a type B assessment that examines actual occurrences would be a more accurate measure of damages. For this reason, the following discretion is allowed as to selection of assessment procedures.

If the authorized official determines that one of the conditions listed above is not satisfied, the authorized official may make a determination that the NRDAM/CME is not applicable to the discharge or release, and that a type B assessment will be performed. Conversely, it may be the potentially responsible party that prefers that a type B assessment be performed for a particular incident. The proposed rule allows the potentially responsible party to request that a type B assessment be conducted even if the NRDAM/CME is applicable to the discharge or release, on the condition that the potentially responsible party agrees to advance and ultimately bear responsibility for all reasonable costs of the assessment regardless of the outcome. In this case, the authorized official performing the assessment must then perform a type B. As stated in § 11.32(d) of the type B proposed rule, the authorized official may allow the potentially responsible party to perform all or any part of the Assessment Plan under the direction and guidance of the authorized official.

The potentially responsible party will be offered the opportunity to exercise the option to request that a type B assessment be performed even if the NRDAM/CME is applicable to the discharge or release after: (1) The preassessment screen has been completed, including the identification of resources potentially at risk; and (2) the authorized official has determined that a type A assessment will be performed. The Assessment Plan will include documentation setting forth the fact that such an opportunity was offered to the potentially responsible party, and that party's decision as to whether (1) the type B assessment will be performed upon its advancement of costs, or (2) type A procedures will be used. Should the potentially responsible party select type B procedures, the Assessment Plan will be completed on that basis and all requirements for a type B assessment must be fulfilled, including confirmation of exposure and determination of injury.

I. Overview of the Proposed Rule

A. The type A assessment

1. Preassessment Screen

A type A assessment includes the same preliminary steps as the type B assessment. The authorized official must perform a preassessment screen to determine that a CERCLA or CWA covered incident has occurred and that resources for which a Federal or State agency may act as trustee have been affected. Multiple trusteeship issues will require resolution in accordance with

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the provisions proposed in the type B procedures.

2. Assessment Plan

An Assessment Plan as described in § 11.30 through §11.33 of the type B proposed rule is required before a type A assessment may be performed. Specifically, the authorized official must comply with the development requirements of § 11.32 including coordination with co-trustees, identification and involvement of the potentially responsible party, and public involvement in the Assessment Plan. Unlike the plan for a type B assessment, the type A Assessment Plan need not contain a plan for field testing and sampling, nor is a confirmation of exposure required. An Economic Methodology Determination is also unnecessary since the NRDAM/CME incorporates the use value methodology. What is required for the type A Assessment Plan is a list of the specific data inputs described in § 11.41(c) of this Part that will be used to apply the NRDAM/CME. The Assessment Plan shall document how the specific data inputs were derived or obtained.

Some of these data inputs are required for each incident that is assessed. For other data inputs the model will supply default values if estimates of site-specific information are not available. The default values pertain to environmental characteristics of the site such as the air temperature, surface currents and water depth. Site-specific information or estimates of this information should be used whenever it is reasonably available.

Basic information such as the type, amount, location, and date for each discharge or release should be available from the On-Scene Coordinator (OSC), normally the U.S. Coast Guard in coastal and marine areas. The OSC may often have available pertinent supplemental information, such as the mean ocean surface current and the mean wind speed and direction at the approximate time of the discharge or release.

Additional information on data input parameters that were not specifically measured at the time of the discharge or release is available from a number of sources. Surface currents can be obtained from the *Surface Currents* atlas series published by the Department of Navy, Naval Oceanographic Office, Bay St. Louis, NSTL Station, MS 39522, and available from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161. Tidal velocities can be obtained or calculated from data values available in the *Tide Tables* or *Tidal Current Tables* published annually by the National Oceanographic and Atmospheric Administration (NOAA) National Ocean Service. More detailed information on tides for some locations can be found in *Tidal Current Charts* or *Tidal Current Diagrams*, also published by NOAA. Information on distance to land boundaries and bottom types can be found in *Standard Nautical Charts*. All of these NOAA documents are published by geographic regions and may be ordered from: U.S. Department of Commerce, Distribution Branch, NCG 22, Riverdale, MD 20737–1199; (301) 436–6194. Another source of information on bottom types or sediment characteristics is the National Geophysical Data Center, which has data files that can be searched by location. The address is: National Geophysical Data Center, NOAA/NESDIS, Mail Code E/GC, 325 Broadway, Boulder, CO 80303; (303) 497–6487.

The National Oceanographic Data Center collects historical survey data for a large number of variables, including suface current, upper and lower water column depth and density, water temperature, suspended sediment concentration, and wind speed and direction, though not all information may be available for a specific location or time period. They can be contacted for an inventory of the data available for a particular location at: National Oceanographic Data Center, NOAA/NESID, NODE/OC21, Page Bldg. 1, Rm. 406, 2001 Wisconsin Ave., NW, Washington, DC 20235; (202) 634–7500. A User's Guide to their data files can also be obtained at that address.

Similar information on weather related parameters at the approximate time of the discharge or release, including air temperature, wind speed, and wind direction is available from the National Climatic Data Center. Their address is: National Climatic Data Center, NOAA/NESDIS, Federal Building, Asheville, NC 28801; (704) 259–0682.

B. Overview of the NRDAM/CME

The NRDAM/CME contains all of the chemical, biological, and economic data required to determine injury, quantify that injury, and determine damages for natural resources in the coastal and marine environments of the United States, and its territories and possessions. The NRDAM/CME is comprised of physical fates, biological effects, and economic damages submodels.

The model defines injury as a result of the discharge or release, as: (1) direct mortality to adult and larval fish, shellfish, waterfowl, shorebirds, fur seals, and lower trophic organisms due to toxic concentrations of the spilled substance, and (2) indirect mortality to fish and shellfish due to a loss of foodstuff from the food chain. The model also calculates damages due to the closure of a fishing area, or the closure of a public beach. The model does not consider possible injuries to air resources or species using the air resources that could occur due to the evaporation or volatization of the spilled substance, as there is a lack of reliable data on these effects.

The areal extent of a fishing area subject to closure is a data input made by the user based upon the authorized official's determination of the actual area closed, not a fact developed from the NRDAM/CME. The length of beach closed, if any, is also an input made by the user. Data on the length of beach closed is required rather than the area closed. This is because most of the State-supplied visitation data was in the form of trips made to, and footage of, public beaches. Use of this data allowed calculation of trips made per foot of public beach. In addition, total visits forgone and the value of each visit are adjusted [without further user input) for the time of year that the closure of the beach took place.

The physical fates submodel determines the transport of the substance in the water pathway. The user supplies information on the type of substance spilled, weather conditions, the physical conditions of the coastal or marine environment in which the discharge or release occurred, and whether the discharge or release occurred in the intertidal or subtidal area. With this information the submodel calculates the expected concentration, transport, and dispersion of the substance over time.

The quantification of the loss to biological resources injured by the substance is determined by the interaction of the physical fates and biological effects submodels. The user supplies information on ecosystem province type, predominant bottom type, whether the spill occurred in the marine or estuarine environment, and the extent of beach or fishing area that was closed. With this information the model calculates the loss of biomass due to direct and indirect mortality. In the case of fishing closures, the model also determines the lost catch attributable to the closure. The biological data base for this submodel contains information on the average density of biomass for over 150 commercially and recreationally important species, grouped by species category and by season and location; primary and secondary productivity estimates for the phytoplankton, zooplankton, and benthic populations of food chains in each of the ecosystem province types; and selected population parameter measures, such as growth rates, mortality rates, and fishing mortality rates for each ecosystem province type.

The NRDAM/CME incorporates the use value methodology of § 11.83 of the type B procedures instead of balancing restoration costs against lost use values. Restoration costs were not used because the number of circumstances addressed by the physical fates and biological effects submodels made calculation of average restoration costs technically infeasible. The economic data base contains province specific ex-vessel prices for the value of commercially harvested fish and all shellfish not caught due to the discharge or release. These prices are three year averages for 1982–84. The data base also contains information on visitor days and length of stays for National Seashores and other public beaches. Beach days lost are valued using average non-market prices obtained from existing studies of recreational beach use. The data base contains non-market marginal prices for the value of waterfowl, recreational fishing, and shorebirds. All non-market prices come from a review of the economic literature in their respective areas.

To apply the model, the authorized official need only supply the necessary site-specific data. Little or no actual field observation is necessary if the chemical and quantity discharged or released are known. The NRDAM/CME data bases contain the information required to determine injury, specify the pathway through which injury occurred, quantify the effects of injury, and determine damages, based on the scientific knowledge and the concepts developed in the type B proposed rule. This level of detail allows the NRDAM/CME to be presumptive.

C. Post-Assessment Phase

The proposed rule for type B assessments requires that the responsible party establish a fund when the damage award is made. Restoration actions are to be planned, and the fund is to pay for actions taken pursuant to the Restoration Plan. For type A assessments it may not always be feasible to prepare a separate full scale Restoration Plan for each award, since amounts recovered may be less than amounts recovered as a result of a type B assessment. These smaller recoveries will result since the type A assessments are generally designed for relatively smaller and simpler incidents than type B assessments.

Accordingly, the proposed rule now provides that when recoveries occur from type A assessments the agency acting as trustee may apply several type A recoveries to one Restoration Plan. One or more type A recoveries can be added to any existing restoration effort if a plan has been developed that incorporates similar requirements to those in § 11.82. The requirements of § 11.82 are that the plan incorporate: (1) cost-effectiveness; (2) public participation; (3) a no-action alternative; (4) the use of interdisciplinary techniques; and (5) a thorough examination of alternatives, as appropriate to the amount of the monies available and the extent of the existing restoration effort. The Restoration Plan must describe how sums from more than one recovery will be used for restoration, replacement, or acquisition of equivalent resources.

For example, discharges or releases may occur in the X Bay. State Y could develop a Restoration Plan for X Bay. Whenever a type A incident occurred in X Bay, damages for that particular incident would be used to fund actions under the X Bay Restoration Plan. Alternatively, if a "Restoration Plan" which is similar to that required in § 11.82 is in effect for X Bay, monies recovered from a type A assessment may be included in that Restoration Plan.

III. Summary and Analysis of Major Issues Included in the Comments Received from the Advance Notices of Proposed Rulemaking

A. Introduction

Three Advance Notices of Proposed Rulemaking (ANPRM's) were issued by the Department during the course of the development of the rules required under § 301(c) of CERCLA. These ANPRM's were issued on January 10, 1983, August 1, 1983, and January 11, 1985. Most of the comments received in response to the three Notices were either on the overall principles that should govern the development of both type A and type B assessments, or on type B assessments in particular. All of these comments were addressed at length in the preamble to the proposed rule for type B assessments. Since the type A assessments are based on the underlying concepts in the type B proposed rule, these basic issues are not discussed again here.

Comments specifically directed toward type A assessments fell into two general categories. The first centers on the appropriate criteria for selecting between a type A or type B assessment. The second includes suggestions and recommendations on the format and design of the type A assessments.

B. Comments on the Selection of a Type A or Type B Assessment Procedure

Comments on deciding between an A and a B assessment covered both the issue of how the decision should be made and of who should make the decision.

Some comments assumed that an A or a B assessment would be selected on the basis of the size of a discharge or release. Others suggested taking into consideration such factors as the duration of the discharge or release, the units or degree of resources damaged, the kinds of ecosystems affected, or the amount of remedial action required. Some recommended statistical analyses of these factors or others to reveal patterns of characteristics indicative of major and minor events. One comment said that most hazardous substance releases should require a type B assessment, another said that a type B should be mandated when endangered or threatened species were involved, and another stated that a type A should only be used for brief, discrete spills to surface waterways. Some comments recommended an economic criteria, such as allowing a type B only when the parties involved refused to accept type A damage results, or requiring a type A if the cost of doing a type B would be equal to or exceed the amount of damage determined by a type B assessment. One comment suggested that a type B only be done in special cases, and that the cost of type B assessments be split between the discharger and the trustee as an incentive to reach agreement based on a type A assessment. Many comments requested flexibility in the decision of whether to do a type A or a type B rather than the imposition of a hard and fast rule.

A few comments expressed the opinion that a "de minimus" level for spill amounts should be set, and that discharges or releases under this amount should be automatically excluded from either a type A or a type B assessment. About half of the comments on the type A's maintained that the official authorized to act as trustee should be the one to decide between a type A or a type B assessment. An equal number of comments held that the decision should either have input from the responsible party, be left entirely up to the responsible party, or be made by the responsible party and the On-Scene

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Coordinator. One comment suggested that the decision be made entirely by the On-Scene Coordinator and the Regional Response Team.

The criteria set forth in the proposed rule for selecting between a type A or a type B assessment incorporate many of the ideas expressed in the comments. These criteria are discussed in detail in part (I)(c)(2) of this preamble. The information necessary for the decision includes the type, size, impact, duration and location of the discharge or release, and whether special resources or significantly above-average amounts of natural resources are affected. Both the authorized official and the responsible party are given some discretion in the choice of assessment type. Allowing flexibility in the decision to select an A or a B assessment, providing some incentive to use the less elaborate A assessment when appropriate, and limiting type A's to certain situations, should act to ensure that all assessments performed exhibit both reasonable cost and an appropriate assessment of damage.

No de minimus levels prohibiting assessments for discharges or releases below a certain amount have been set in the proposed rule. Since the degree of injury potentially caused by a discharge or release varies according to many factors in addition to the amount spilled, including aquatic toxicity, solubility, and geography, it would be unrealistic to attempt to set any one level or even several levels as a cut-off point for an assessment. Type A assessments using the NRDAM/CME yield a damage amount that is functionally related to the injury to natural resources from any particular discharge or release. The fact that many relatively small spills result in insignificant damage amounts guards against the performance of unnecessary assessments. In these cases the costs of pursuing an assessment would not be reasonable in comparison with any possible awards.

C. Comments on the Format and Design of Type A Assessments

Almost all comments received opposed the use of simple tables or charts of organism prices for type A assessments. A number of comments insisted that injury always be directly linked with a discharge or release. Some comments suggested that "formula-type" procedures using statistical analyses of existing data along with the best current technology and techniques would be appropriate.

The Department investigated statistical procedures to correlate existing information on actual injuries, damages, or restoration costs to amounts discharged or released. There were three major problems that made this type of analysis unproductive. First, most previously reported damage amounts are the result of negotiated settlements. This means the damage award may have little, if any, relationship to the injury to natural resources. Because of this it is difficult, if not impossible, to determine the value of the injured resource or even a "correct" restoration cost in most cases.

Second, only a few actual damage assessments or restorations have been performed under CERCLA or the CWA, giving an insufficient number of data points necessary for a high degree of statistical confidence. Moreover, these assessments have been done, quite logically, mainly for relatively large discharges or releases. An extensive literature search did not reveal any damage assessments done under CERCLA or the CWA in coastal or marine environments for the more common relatively small discharge or release. For example, according to the preliminary 1983 figures published by the U.S. Coast Guard ("Pollution Incidents In and Around U.S. Waters," COMDTINST, M16450.2F) the average discharge of oil per incident in marine and estuarine areas in the Pacific and Atlantic Oceans and the Gulf of Mexico was about 12 barrels. The Department is not aware of any damage assessments performed for discharges this small in coastal or marine environments. Casual empiricism suggests, and is borne out by the results of the NRDAM/CME, that the relationship between "large" and "small" discharges or releases is not necessarily linear. Therefore, even if there were sufficient information on large discharges or releases, we would not expect to be able to extrapolate this information for application to relatively small discharges or releases.

Third, while some information is available for large discharges of oil, CERCLA is too new to have generated many natural resource damage assessments even for large releases of hazardous substances. Therefore, even less information exists for natural resource damages associated with releases of hazardous substances than those associated with discharges of oil. These problems prompted the Department to investigate other ways to estimate injury and damages in a simplified manner. This investigation led to the development of the NRDAM/CME.

The computer model described in this proposed rule uses statistical averages to estimate injuries caused by specific oils or hazardous substances under specific ecological, environmental, and physical conditions. This method allows a more technically accurate and realistic assessment of damages than those obtainable from any kind of simplistic table or chart. At the same time, the model retains the advantage of a simplified procedure by not requiring the extensive field testing necessary to establish a causal connection between injury and a discharge or release.

General comments on the content of type A procedures included a variety of suggestions. It was recommended that the assessments should: recognize fate and effect differences; incorporate information on toxicity, persistence, amount spilled, area affected, natural resources, ecosystems, and habitats; require minimum field observation; be concerned with effects on marinas and beaches; or concentrate on areas and resources where spills have occurred in the past and might be expected in the future. A number of comments maintained that separate procedures be established for oil and hazardous substances.

The decision by the Department to develop a coastal and marine model as the initial type A procedure reflects an awareness of the magnitude of previous discharges and releases in these environments. The model incorporates detailed information on oil and hazardous substances and resources as suggested by the comments, but requires minimum field observation. Since the model takes into account differences in fate, effect, toxicity, etc., between oils and hazardous substances, it is able to handle both without the need for separate sets of procedures.

A number of comments addressed the economic methodology to be used for determining damage amounts in type A assessments. Many maintained that the law indicated compensation for injuries rather than the imposition of penalties. Comments variously suggested that damages be limited to economically measurable amounts as measured using sound economic evaluation techniques, that only consumptive losses be included unless data is available on non-consumptive losses, or that damages include all lost use values and thus be a disincentive to possible polluters. Most comments expressed a concern about restoration, and many recommended that restoration costs, taking into account the ability of the resource to recover naturally, be used as the basis for determining damage. An additional concern was that parties causing the discharge or release not be charged with damages caused by negligent response activities performed by other parties.

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The NRDAM/CME calculates damages based on the reduction in consumptive and non-consumptive value of the in situ use of the affected resource during the period of natural recovery. The model uses an ecological food chain approach for assessing value to lower trophic organisms and bases damage to fisheries and beaches on regional market prices, recreational values, and lost days of use due to closure. Amounts of oil or hazardous substances removed during response actions can be accounted for by the model, but additional injury caused by cleanup activities are not.

Due to a lack of available data, it was not possible to design an economically sound model using restoration costs as the basis for damage calculation. Two points should be emphasized in this regard. First, as is discussed in section (I)(C)(2) of this preamble, the potentially responsible party has the option to have a type B assessment performed, upon that party's agreement to advance and bear responsibility for its costs. The determination of damages in a type B assessment will always include an evaluation of restoration costs as compared with diminution of use values. Second, the use of all awards resulting from type A assessments must be used for restoration purposes as mandated in §§ 11.92 and 11.93 of the type B proposed rule. This is in keeping with the overall mandate of CERCLA that natural resource damages be used to benefit the resource that was injured, lost, or destroyed.

Authorship

The primary authors of this proposed rulemaking are Keith Eastin, Deputy Under Secretary, Alison Ling, Office of the Solicitor, David Rosenberger, U.S. Fish and Wildlife Service, and Willie Taylor, Office of Policy Analysis, all with the Department of the Interior, Sheryl Katz, formerly with the Office of the Solicitor, and Richard Aiken, formerly with the Bureau of Land Management, Department of the Interior.

National Environmental Policy Act, Executive Order 12291, Regulatory Flexibility Act, and Paperwork Reduction Act

The Department of the Interior has determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, no further analysis pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (43 U.S.C. 4332(2)(C)) has been prepared.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and certifies that this document will not have significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The proposed rule provides technical procedural guidance for the assessment of damages to natural resources. It does not directly impose any additional cost. In addition, estimates of the potential economic effects of this proposed rule are well below $100 million annually. As the proposed rule applies to Federal and State agencies acting as trustees for natural resources, it is not expected to have an effect on a substantial number of small entities. It has been determined that these amendments to 43 CFR Part 11 do not contain any information collection requirements which require approval by the Office of Management and Budget under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 43 CFR Part 11

Coastal zone, Continental shelf, Environmental protection, Fish, Hazardous substances, Marine resources, National parks, Natural resources, Oil pollution, Public lands, Recreation areas, Sea shores, Wildlife, Wildlife refuges.

For the reasons set out in the preamble, and under the authority of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 it is proposed to amend proposed 43 CFR Part 11 (50 FR 52128) as set forth below.

Dated: April 29, 1986.

Joseph J. Martyak,

Deputy Under Secretary.

PART 11—NATURAL RESOURCE DAMAGE ASSESSMENTS

1. The authority citation for 43 CFR Part 11 continues to read as follows:

Authority: 42 U.S.C. 9651(c).

Subpart A—Introduction

2. It is proposed to amend § 11.15 by adding paragraph (a)(1)(iii), by revising paragraph (b) to read as follows:

§ 11.15 Actions against the responsible party for damages.

(a) * * *

(1) * * *

(iii) The determination of the damage amount under this Part shall be based entirely on either a type A or type B assessment and may not constitute any combination thereof.

* * * * *

(b)(1) In a claim filed pursuant to section 311(f) (4) and (5) of the CWA, a Federal or State agency acting as trustee may only claim damages for restoration or replacement.

(2) The measure of damages as determined in accordance with the requirements and guidance of § 11.40 shall be considered damages for restoration or replacement in an action against a responsible party under section 311(f)(4) and (5) of the CWA, except where § 11.33(a)(2)(i) or (ii) applies.

* * * * *

Subpart B—Preassessment Phase

3. It is proposed to amend § 11.24 by adding paragraph (c) to read as follows:

§ 11.24 Preassessment screen—information on the site.

* * * * *

(c) *Damages excluded from liability under the CWA.* (1) The authorized official shall determine whether the discharge meets one or more of the exclusions provided in sections 311(a)(2) or (b)(3) of the CWA.

(2) An assessment under this Part shall not be continued for potential injuries from discharges meeting one or more of the CWA exclusions described in paragraph (c)(1) of this section.

Subpart C—Assessment Plan Phase

4. It is proposed to amend § 11.31 by adding paragraph (d) to read as follows:

§ 11.31 Assessment Plan—content.

* * * * *

(d) *Specific requirements for type A assessments.* When a type A natural resource damage assessment is performed, the assessment shall contain the information specified in § 11.40 of this Part.

5. It is proposed to add § 11.33 to read as follows:

§ 11.33 Assessment Plan—deciding between a type A or type B assessment.

(a) *Coastal and marine environments.* (1) When a discharge or release occurs in a coastal or marine environment, the authorized official shall determine whether the following conditions apply to the discharge or release:

(i) The substance discharged or released is included within the list provided in Appendix C of U.S. Department of the Interior, "Measuring Damages to Coastal and Marine Natural Resources: Concepts and Data Relevant

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to CERCLA Type A Damage Assessments," Economics Analysis, Inc., Wakefield, RI, and Applied Sciences Associates, Narragansett, RI, DOI 14-01-0001-85-C-20, April 1986, available from CERCLA 301 Project, Room 4354, Department of the Interior, 1801 "C" St., NW, Washington, DC 20240;

(ii) Special resources are not included in the assessment;

(iii) The estimated quantity and type of resources potentially injured are not expected to differ significantly from the average biomass listed in Appendix B of U.S. Department of the Interior, "Measuring Damages to Coastal and Marine Natural Resources: Concepts and Data Relevant to CERCLA Type A Damage Assessments," Economics Analysis, Inc., Wakefield, RI, and Applied Sciences Associates, Narragansett, RI, DOI 14-01-0001-85-C-20, April 1986, available from CERCLA 301 Project, Room 4354, Department of the Interior, 1801 "C" St., NW, Washington, DC 20240, for the province and bottom type in which the discharge or release occurred;

(iv) The discharge or release was of a short duration;

(v) The discharge or release was relatively minor;

(vi) The discharge or release was a single event;

(vii) The estimated injury to biological resources is expected to be primarily due to mortality or to closure of a fishing area;

(viii) The use of chemical dispersants or other agents used in a cleanup, if one takes place, are not estimated to have caused significant injury to natural resources; and

(ix) The discharge or release occurred at the water surface or in the intertidal zone.

(2) The authorized official must select the NRDAM/CME procedure if the discharge or release occurred in a coastal or marine environment unless:

(i) The potentially responsible party requests that a type B assessment be performed and agrees to advance and bear responsibility for all reasonable assessment costs; or

(ii) The authorized official makes a determination that one or more of the conditions listed in (a)(1) are not satisfied. This determination shall be included in the Assessment Plan. If the authorized official cannot confirm exposure when using the type B procedures, he may not then re-select the type A procedure.

(b)–(e) [Reserved]

6. It is proposed to add Subpart D consisting of §§ 11.40 and 11.41 to read as follows:

Subpart D—Type A Assessments.

11.40 Type A assessments—general.
11.41 Coastal and marine environments.

§ 11.40 Type A assessments—general.

(a) The procedures in § 11.41 of this subpart may be used to assess damages in coastal and marine environments. The procedures require the use of a model referred to as the Natural Resource Damage Assessment Model for Coastal and Marine Environments (NRDAM/CME). The NRDAM/CME and the procedures in § 11.41 provide a simplified assessment process involving minimal field observation to determine injury, quantify that injury, and determine damages in coastal and marine environments resulting from a discharge or release.

(b)–(e) [Reserved]

§ 11.41 Coastal and marine environments.

(a) *NRDAM/CME—general.* (1) *Purpose.* The purpose of the NRDAM/CME is to provide a standard assessment methodology for conducting simplified natural resource damage assessments when a discharge or release occurs in a coastal or marine environment.

(2) *Availability.* Requests for a copy of the NRDAM/CME should be sent to: CERCLA 301 Project, Room 4354, Department of the Interior, 1801 "C" St., NW, Washington, DC 20240.

(3) *Steps in the NRDAM/CME.* The NRDAM/CME assessment methodology consists of four phases: § 11.41(c) Coastal and marine environments—Assessment Plan; § 11.41(d) Coastal and marine environments—injury determination; § 11.41(e) Coastal and marine environments—qualification; § 11.41(f) Coastal and marine environments—damage determination.

(4) *Completion of type A assessment.* After completion of the type A assessment, a Report of Assessment as described in § 11.90 of this Part shall be prepared. The Report of Assessment shall include the determinations made in each phase. The determinations shall consist of the printed output from the model runs, the determinations made in Subpart B of this Part, and the determinations of site-specific data inputs required in paragraph (c) of this section.

(b) *Definitions.* As used in this Subpart the phrase:

"Area affected" means the number of square meters of an intertidal area affected by a release of a hazardous substance where a minimum of 90 percent mortality of individuals of at least 90 percent of the resident species is observed using standard and widely accepted methods for estimating populations.

"Biomass" means the weight of living organisms per unit of prescribed area or volume.

"Bottom type" means one of the sediment types used by the NRDAM/CME.[1] These bottom types are: rock, rocky shore, cobble, cobbled beach, sand, sand beach, mud, mud flat, saltmarsh, seagrass, macroalgal bed (kelp), mangrove swamp, coral reef, mollusk reef, and worm reef.

"CAS number" means the Chemical Abstract Service Registry Number assigned to a hazardous substance by the American Chemical Society, Chemical Abstract Service, or the number assigned to oils by the NRDAM/CME.

"Closure of a beach" means the prohibition of recreational or other uses in a specified length of a beach by an appropriate Federal or State agency, due to a discharge or release in a coastal or marine environment.

"Closure of a fishing area" means the prohibition of commercial and recreational fishing in a specified area by an appropriate Federal or State health agency, due to a discharge or release in a coastal or marine environment.

"Coastal environment" means the area incorporating: (1) The splash zone, which lies above the extreme high water level of spring tide; (2) the upper shore, which lies between the average high tide level and the extreme high water level of spring tides; (3) the midshore, which lies between the average low tide level and the average high tide level; (4) the lower shore, which lies between the extreme low water level of spring tides to the average spring tide level; and (5) the sublittoral fringe, which lies below the extreme low water level of spring tides.

"Default parameter(s)" means the value assigned by the NRDAM/CME to any parameter listed in § 11.41(c)(3) of this Part for which the authorized official does not have an estimate of a site-specific value.

"Estuarine environment" means deepwater tidal habitats that are usually semi-enclosed by land but have an open, partially obstructed, or sporadic access to the open ocean and in which ocean water is at least occasionally diluted by freshwater runoff from the land. The estuarine environment extends upstream and landward to where ocean-driven salts measure less than 0.5 parts per thousand during the period of average annual low flow; and (1) seaward to an imaginary straight line closing the mouth of a river, bay, or sound; or (2) to the seaward limit of wetland emergents, shrubs, or trees where not included in number (1) of this definition. The estuarine environment also includes offshore areas of continuous upwellings of freshwater containing typical estuarine plants and animals.

"Intertidal" means a coastal or marine environment in which the substrate is exposed and flooded by tides, including the associated splash zone.

"Marine environment" means the open ocean extending landward from the seaward limit of the fishery conservation zone established by the Magnuson Fishery Conservation and Management Act of 1976, to one of the following: (1) The seaward limit of the coastal environment; or (2) the seaward limit of the estuarine environment. The marine environment does not include offshore areas of continuous upwellings of freshwater containing typical estuarine plants and animals.

"NRDAM/CME" means the Natural Resource Damage Assessment Model for Coastal and Marine Environments, which is an integrated physical fates, biological effects, and economic damages model.

"Predominant bottom type" means the prevailing bottom type in the area of the discharge or release.

"Province" means one of the ten geographical areas used by the NRDAM/CME.[2] These provinces and their respective boundaries are:

(1) Arcadian (Northeast: Canadian border to Cape Cod, MA);

(2) Virginian (Mid-Atlantic: Cape Cod, MA, to Cape Hatteras, NC);

(3) Carolinian (South-Atlantic: Cape Hatteras, NC, to Cape Canaveral, FL);

(4) Louisiannian (Gulf Coast: Cedar Key, FL, to Aransas, TX);

(5) West Indian (South Florida: Cape Canaveral, FL, to Cedar Key, FL; all Caribbean Islands; and Aransas, TX, to the Mexican border);

(6) Californian (California: Mexican border to Cape Mendocino, CA);

(7) Columbian (Pacific Northwest: Cape Mendocino, CA, to Canadian border);

(8) Fjord (Gulf of Alaska: Canadian border to Aleutian chain);

(9) Arctic (Alaska: Alaska north of the Aleutian chain); and

(10) Pacific Insular (Hawaii and other Pacific islands).

"Pycnocline" means a region in the ocean or in an estuary where a marked change in the density of the water column occurs. The change in density acts as a partial barrier between the upper and lower water columns.

"Species category" means one of the twelve groupings of biological resources used by the NRDAM/CME to aggregate the biomass of similar species in coastal and marine environments.

"Study area" means the geographical area included in the boundaries required to run the NRDAM/CME. Boundaries are established based on the direction of the mean ocean surface current, called the +X direction; 180 degrees from the direction of the mean ocean surface current, called the −X direction; 90 degrees counterclockwise from the direction of the mean ocean surface current, called the +Y direction; and 270 degrees counterclockwise from the direction of the mean ocean surface current, called the −Y direction.

"Subtidal" means a coastal or marine environment in which the substrate is continuously submerged.

(c) *Coastal and marine environments—Assessment Plan.* (1) *Required information.* When the NRDAM/CME is used, the Assessment Plan shall incorporate:

(i) The chemical CAS number of the substance discharged or released, derived from the NRDAM/CME;

(ii) The estimated total mass discharged or released stated in metric tons;

(iii) The date and the year of the discharge or release;

(iv) The province in which the discharge or release occurred;

(v) Whether the discharge or release occurred in the marine or estuarine environment;

(vi) Whether the discharge or release occurred in a subtidal or intertidal area; and

(vii) The predominant bottom type.

(2) *Supplemental information.* The following information on the discharge or release shall be incorporated into the Assessment Plan and used as a data input for the NRDAM/CME:

(i) Whether a cleanup activity has been conducted and the approximate amount of material removed, stated in metric tons;

(ii) The distance, in kilometers, to the study area boundaries including, as appropriate, the presence of a land boundary;

(iii) Whether a fishing area was closed and, if so, the area closed expressed in square meters, and the number of days or fractions of days of closure; and

(iv) Whether a recreational beach was closed and, if so, the length closed expressed in meters, and the number of days or fractions of days of closure.

(3) *Environmental parameters.* The following information on the characteristics of the environment at the approximate time and site of the discharge or release shall be incorporated into the Assessment Plan and used as a data input for the NRDAM/CME if site-specific information is available. Efforts expended in the collection data should be consistent with the reasonable cost of performing the assessment. If no site-specific information is supplied the NRDAM/CME will automatically provide default parameters:

(i) The mean ocean surface current and the direction of mean flow expressed in meters per second;

(ii) The tidal velocities expressed both in the direction of, and perpendicular to, the mean ocean current expressed in meters per second;

(iii) The wind speed expressed in meters per second;

(iv) The wind direction expressed in degrees measured counterclockwise to the mean ocean current;

(v) The upper water depth expressed in meters;

(vi) The lower water depth expressed in meters;

(vii) The air temperature expressed in degrees Celsius;

(viii) The surface water temperature expressed in degrees Celsius;

(ix) The presence or absence of a pycnocline;

(x) The density of the upper and lower water columns expressed in kilograms per liter;

(xi) The total suspended sediment concentration expressed in milligrams per liter; and

(xii) The mean settling velocity of suspended solids expressed in meters per day.

(4) *Discharges or releases of multiple substances and mixtures.* (i) The NRDAM/CME may be used only in accordance with the requirements of this paragraph in assessing incidents involving the simultaneous discharge or release of two or more oils or hazardous substances, or when a mixture of one or more oils or hazardous substances has

[1] These sediment types are derived from the descriptions in "Classification of Wetlands and Deepwater Habitats of the United States." Cowardin, Carter, Golet, and LaRoe, Department of the Interior/Fish and Wildlife Service, FWS/OBS–79/31, 1979; available from the National Technical Information Service: 5285 Port Royal Road; Springfield, VA 22161; PB 80-168784/LP.

[2] These geographical areas are derived from the descriptions in "Classification of Wetlands and Deepwater Habitats of the United States." Cowardin, Carter, Golet, and LaRoe, Department of the Interior/Fish and Wildlife Service, FEW/OBS—79/31, 1979; available from the National Technical Information Service: 5285 Port Royal Road; Springfield, VA 22161; PB 80-168784/LP.

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been discharged or released in a single incident.

(ii) The authorized official shall select one of the oils or hazardous substances present in the simultaneous discharge or release, or in the mixture. The selected substance shall be identified in the Assessment Plan, and the NRDAM/CME shall be applied only to the quantity of that substance selected that was discharged or released.

(d) *Coastal and marine environments—injury determination.* (1) *General.* Unless otherwise provided for in this Subpart, all injury determinations for coastal and marine environments shall be established through the use of the physical fates and biological effects submodels of the NRDAM/CME.

(2) *Pathway of contamination.* (i) The methodology for determining the pathway of contamination is the physical fates submodel.

(ii) The chemical parameter values of the oil or hazardous substance discharged or released are provided in the chemical data base contained within the NRDAM/CME.

(iii) The environmental parameters are listed in paragraph (c)(3) of this section and shall be provided by either the authorized official or by the default parameters contained in the NRDAM/CME.

(3) *Confirmation of exposure.* When the NRDAM/CME is used no sampling is required to confirm exposure, as described in § 11.34 of this Part. The interaction and results of the physical fates and biological effects submodels establish a presumption of exposure.

(4) *Determination of injury.* The methodology for determining that injury has occured to natural resources is provided by the biological effects submodel. The biological parameter values of acute toxicity of the oil or hazardous substances discharged or released are provided in the data base contained within the NRDAM/CME.

(5) *Time and location.* The time and location of the discharge or release shall be established consistent with 40 CFR 300.63 of the NCP for the discovery and notification of a discharge or release.

(6) *Discharged or released substance.* Discharges of oil shall be identified consistent with 40 CFR 110. Released hazardous substances shall be identified consistent with 40 CFR Part 302.

(7) *Results of cleanup actions.* (i) The results of cleanup actions that have been performed as part of response actions authorized in 40 CFR Part 300 shall be included within the NRDAM/CME procedures.

(ii) Cleanup actions include such actions as the physical removal of the oil or hazardous substance from the coastal or marine environment and the application of chemical agents, dispersants, surface collecting agents, burning agents, or other such agents authorized in 40 CFR Part 300 Subpart H for use on oil discharges. The use of chemical agents, burning agents, or other such agents shall not be considered a discharge or release for the purposes of this Subpart.

(iii) The authorized official shall determine the quantity of oil or hazardous substance cleaned up by the response action based on information or data obtained from the OSC.

(e) *Coastal and marine environments—quantification.* (1) *General.* Unless otherwise provided for in this Subpart, all quantification of injury for coastal and marine environments shall be established through the use of the biological effects submodel of the NRDAM/CME.

(i) The NRDAM/CME includes a biological data base for each province and bottom type. The results of the injury determination are quantified by the biological effects submodel of the NRDAM/CME to provide an estimate of biomass killed.

(ii) Based upon the results of the physical fates submodel and biological effects portion of the injury determination the authorized official shall make the determinations required in paragraphs (A) and (B) of this section.

(A) The authorized official shall determine whether any intertidal areas are affected. If any intertidal areas are determined to be affected, the authorized official shall follow the procedures provided in paragraph (e)(3) of this section.

(B) The authorized official shall determine whether any toxic threshold concentrations that migrated across the province boundary are to be included in the assessment. If any inter-provincial migration is to be included, the authorized official shall follow the procedures provided in paragraph (e)(4) of this section.

(C) The authorized official shall determine whether any toxic threshold concentrations that migrated across the boundary of an estuarine/marine area are to be included in the assessment. If estuarine/marine migration is to be included, the authorized official shall follow the procedures provided in paragraph (e)(5) of this section.

(2) *Study area boundaries.* (i) When the discharge or release migrates outside of the original study area, the user may redefine the study area boundaries, and reapply the NRDAM/CME. The boundaries of the new study area should be redefined such that, to the extent practicable, the new boundaries encompass all the area in which the toxic threshold concentrations have been exceeded in the upper or lower water columns or in which the discharge or release exists as a surface slick, except as specified in paragraphs (e) (3), (4), or (5) of this section.

(ii) The damages determined through multiple applications of the NRDAM/CME to adjust study boundaries or any other parameter values, specified in paragraph (e)(2) of this section, are not additive, except as described in paragraphs (e) (3), (4), or (5) of this section.

(3) *Estimating the intertidal area affected.* (i) When the release of a hazardous substance occurs in an intertidal area, the authorized official shall estimate the area affected, as that phrase is used in this Subpart, and the number of days the area remains affected.

(ii) When the discharge of oil occurs in an intertidal area, no further information is required to apply the NRDAM/CME.

(iii) When the NRDAM/CME indicates that a subtidal discharge or release migrates onshore, the NRDAM/CME should be applied a second time to the intertidal area affected. The mass of substance that is specified by the NRDAM/CME to have come ashore is the quantity discharged or released in an intertidal area for the second application.

(4) *Inter-province effects.* (i) As appropriate, the boundary of a province shall be included as one or more of the boundaries of the study area.

(ii) When the NRDAM/CME indicates that the oil or hazardous substance has migrated from one province into another province, the NRDAM/CME may be also applied in that second province, provided that when inter-provincial migration occurred, the oil or hazardous substance exceeded toxic threshold concentrations in either the upper or lower water columns or existed as a surface slick.

(iii) The quantity of the substance to be used in the second application of the NRDAM/CME shall be calculated as the sum of the percentages of the mass in the surface, upper water column, and lower water column at the time the substance migrated outside the study area multiplied by the mass of the original discharge or release.

(5) *Estuarine/marine.* (i) As appropriate, a boundary between the estuarine and marine environments shall be included as one, or more, of the boundaries of the study area.

(ii) When the NRDAM/CME indicates that the oil or hazardous substance has migrated across a boundary between estuarine and marine environments, the NRDAM/CME may be applied in the second environment, provided that the oil or hazardous substance exceeded toxic threshold concentrations in either the upper or lower water column at the boundary or existed as a surface slick at the boundary. The mass discharged or released for the second application shall be calculated in accordance with paragraph (e)(4)(iii) of this section.

(f) *Coastal and marine environments—damage determination.* (1) *General.* Unless otherwise provided for in this Subpart, all damage determinations for coastal and marine environments shall be established through the use of the economic damages submodel of the NRDAM/CME.

(i) Damages, as determined by the NRDAM/CME, are the average diminution in in situ use values due to the discharge of oil or release of a hazardous substance.

(ii) Damages are calculated for direct, short-term lethal effects on lower trophic biota, fur seals, ducks, geese and shorebirds; direct and indirect lethal effects on fish and shellfish, the reduction in catch from the closure of a fishing area; and the direct loss of use of a public beach due to closure.

(2) *Estimating damages for fishery closures.* To determine damages for the closure of a fishing area the authorized official shall specify, as a data input for the NRDAM/CME, the amount of area closed to fishing and the length of time the area is closed to fishing due solely to the discharge or release.

(3) *Estimating damages for beach closure.* To determine damages for loss of beach use the authorized official shall estimate the length of the area closed and the amount of time this area is closed due solely to the discharge or release.

(4) *Estimating other damages.* Only those damages determined by the NRDAM/CME may be claimed as damages in a type A damage assessment for coastal and marine environments.

(g) *Coastal and marine environments—NRDAM/CME availability, security, and verification.* (1) *General.* (i) The NRDAM/CME that may be used for assessment of damages to coastal and marine environments is that which is published or made available concurrent with this rulemaking, or which is published or made available as a result of modification in accordance with § 11.12 of this Part.

(ii) No alterations, substitutions, additions, or deletions may be made to the logic structure, to any of the mathematical equations, including their numerical coefficients and rate functions, or to any other program element of the NRDAM/CME.

(iii) No alterations, substitutions, additions, or deletions may be made to any of the data bases that accompany and are interactive with the NRDAM/CME unless such alterations, substitutions, additions, or deletions have been specifically authorized and allowed for elsewhere in this Subpart.

(2) *Official Reference Documentation.* (i) The Department of the Interior shall maintain and hold secure the Official Reference Documentation of the NRDAM/CME. The Official Reference Documentation shall include a printed copy of the NRDAM/CME computer program, written documentation of the NRDAM/CME, printed copies of the data bases, and the three computer disks, which shall be referenced as:

(A) Disk #1 (FATES) and contains the physical/biological model system files;

(B) Disk #2 (PHYSCHEM) and contains the chemicals and chemical parameters for the model; and

(C) Disk #3 (ECON) and contains the economic model and data files for the model.

(ii) The Department of the Interior shall make available upon request copies of such information as may be contained in the Official Reference Documentation.

(3) *Model verification.* (i) In such instances as may arise where verification of the NRDAM/CME is needed, the responsible party or the authorized official may obtain such information as may be needed from the Official Reference Documentation.

(ii) Verification may be accomplished by one of the following:

(A) Comparison of any given application of the model output from the copy of the NRDAM/CME and model output from the verified copy, when the same data input parameters are used. The outputs must be identical.

(B) Comparison of the computer program and data base files on the verified disks and the disks used, using a file comparison program. All program and data base input files must be identical.

(iii) The Department of the Interior may charge an appropriate fee for providing such verification, as provided for in 31 U.S.C. 9701.

Subpart F—Post-Assessment Phase

7. It is proposed to amend § 11.91 by revising paragraph (a) to read as follows:

§ 11.91 Post-assessment phase—demand.

(a) *Requirement and content.* At the conclusion of the assessment the authorized official shall present to the responsible party a demand in writing for a sum certain, representing the damages determined in accordance with the requirements and guidance of § 11.40 or § 11.80 and including the reasonable cost of the assessment, delivered in such a manner as will establish the date of receipt. The demand shall adequately identify the Federal or State agency asserting the claim, the general location and description of the injured resource, identification of the type of discharge or release determined to have resulted in the injuries, and the damages sought from that party.

* * * * *

8. It is proposed to amend § 11.93 by adding paragraph (c) to read as follows:

§ 11.93 Post-assessment phase—Restoration Plan.

* * * * *

(c) If the measure of damages was determined in accordance with Subpart D, the Restoration Plan may describe actions to be taken that are to be financed from more than one trust fund established pursuant to § 11.92(a) of this Part.

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Part V

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 884

Obstetrical-Gynecological Devices; Effective Date of Requirement for Premarket Approval; Contraceptive Intrauterine Device (IUD) and Introducer; Final Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 884

[Docket No. 84N-0375]

Obstetrical-Gynecological Devices; Effective Date of Requirement for Premarket Approval; Contraceptive Intrauterine Device (IUD) and Introducer

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule to require the filing of a premarket approval application or a notice of completion of a product development protocol for the contraceptive intrauterine device (IUD) and introducer, a medical device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: August 4, 1986.

FOR FURTHER INFORMATION CONTACT: Raju G. Kammula, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 28, 1980 (45 FR 12711), FDA published a final rule (21 CFR 884.5360) classifying into class III (premarket approval) the IUD and introducer, a medical device. Section 884.5360 of FDA's regulations setting forth the classification of obstetrical and gynecological devices intended for medical use applies to (1) any IUD and introducer that was in commercial distribution before May 28, 1976, and (2) any device that FDA has found to be substantially equivalent to an IUD and introducer described in (1) and that has been marketed on or after May 28, 1976.

In the **Federal Register** of August 19, 1985 (50 FR 33500), FDA published a proposed rule to require the filing under section 515(b) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(b)) of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for the IUD and introducer. In accordance with section 515(b)(2)(A) of the act, FDA included in the preamble to the proposal the agency's proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to meet the premarket approval requirements of the act, and on the benefits to the public from use of the device (50 FR 33501). The preamble to the proposal also provided an opportunity for interested persons to submit comments on the proposed rule and the agency's proposed findings, and, under section 515(b)(2)(B) of the act, provided an opportunity for interested persons to request a change in the classification of the device based on new information relevant to its classification. Any petition requesting a change in the classification of the IUD and introducer was required to be submitted by September 3, 1985. The comment period closed on October 16, 1985.

Although FDA did not receive any petitions requesting a change in the classification of the IUD and introducer, the agency received one comment in response to the August 19, 1985, proposal. The comment, from a former manufacturer of the device, disagreed with the factual basis for "many" of FDA's "asserted risks of the device," and alleged that FDA's decision to initiate a proceeding to require premarket approval for the IUD and introducer is "not justified by sound scientific principles." The comment did not provide any rationale for its objections or any data to support the objections.

FDA has reexamined its proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the IUD and introducer to meet the statute's approval requirements. The agency concludes that its proposed findings and its conclusions discussed in the preamble to the proposed rule are appropriate. Accordingly, FDA is promulgating a final rule requiring premarket approval for the IUD and introducer under section 515(b)(3) of the act and is summarizing its findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the IUD and introducer to have an approved PMA or declared completed PDP, and the benefits to the public from the use of the device.

Findings With Respect to Risks and Benefits

Degree of Risk

1. *Pelvic inflammatory disease (PID).* The incidence of infection of the internal female reproductive organs, commonly described by the term "pelvic inflammatory diseases" (PID), is higher for IUD users than for nonusers. Among the sequelae of PID are loss of reproductive functions, increased incidence of ectopic pregnancy, and even death.

2. *Tubal infertility.* Use of an IUD increases the risk of acute PID leading to tubal infertility.

3. *Perforation.* Uterine perforation is the most serious complication associated with IUD insertion. Most instances of complete uterine perforation are believed to occur at the time of insertion. Partial perforation, which may also occur at the time of insertion, can allow the IUD to pass completely outside the confines of the uterus causing foreign body reactions, peritonitis, adhesions, and intestinal obstructions. A number of factors are related to the causation and frequency of perforation. Primary among these is the skill of the individual performing the insertion.

4. *Pregnancy.* Pregnancy may occur either after an unnoticed expulsion of an IUD or with the device still in place. New data suggest that the use of an IUD is associated with an increased incidence of ectopic pregnancy. Data also demonstrate that the risk of midtrimester fetal loss increases tenfold when the pregnancy occurs with an IUD in situ. Also, pregnancy with an IUD in situ increases the risk of septic midtrimester abortion endangering the life of the user.

5. *Bleeding and pain.* The bleeding associated with the IUD may be intermenstrual but more often occurs as an increase in menstrual flow. Bleeding and pain are believed to be due to direct erosion into the endometrium by the device or to a generalized increase in vascularity of the entire endometrium which leads to localized hemorrhage. Indeed, bleeding and pain associated with the IUD may be due to both conditions.

6. *Expulsion.* Explusion of an IUD can be complete or partial. If complete expulsion of the IUD goes unnoticed, it places the woman at risk of pregnancy. Partial displacement or expulsion of the device into the lower uterine segment also presents the risk of pregnancy. Partial displacement may also result in an increased risk of ascending uterine infection from the vagina.

FDA concludes that these risks could be eliminated or reduced by requiring the IUD and introducer to undergo premarket approval.

Benefits of the Device

The most recent study of contraceptive effectiveness of the IUD showed an IUD failure rate of 4.2 per 100 married women aged 15 to 44 (50 FR 33503). The failure rate was much lower among women who were in their 30's and who were careful in checking for expulsion. The primary advantage of IUD's is that the effectiveness of the device does not entirely depend upon specific actions of the user such as taking an oral contraceptive every morning or using a barrier method of contraception at each act of intercourse.

In terms of mortality, IUD's are about twice as safe as oral contraceptives used by young women without conditions predisposing them to circulatory disease and three to five times safer than oral contraceptives used by older women (50 FR 33503).

Final Rule

Under section 515(b)(3) of the act, FDA is adopting the proposed findings as published in the preamble to the proposed rule and is issuing a final rule to require premarket approval of the generic type of device, the IUD and introducer.

Under the final rule, a PMA or a notice of completion of a PDP is required to be filed on or before August 4, 1986, for any IUD and introducer that was in commercial distribution before May 28, 1976, or that has been found by FDA to be substantially equivalent to such a device on or before August 4, 1986. An approved PMA or a declared completed PDP is required to be in effect for any such device on or before January 30, 1987. (If FDA finds that continued availability of an IUD and introducer for which a PMA has been timely filed is necessary for the public health, FDA may, under section 515(d)(1)(B)(i) of the act, extend the 180-day period for taking action on the PMA.) Any IUD and introducer that was not in commercial distribution before May 28, 1976 or that has not on or before August 4, 1986, been found by FDA to be substantially equivalent to an IUD and introducer that was in commercial distribution before May 28, 1976, is required to have an approved PMA or a declared completed PDP in effect before it may be marketed.

If a PMA or a notice of completion of a PDP for an IUD and introducer is not filed on or before August 4, 1986, that device will be deemed adulterated under section 501(f)(1)(A) of the act (21 U.S.C. 351(f)(1)(A)), and commercial distribution of the device will be required to cease. The device may, however, be distributed for investigational use, if the requirements of the investigational device exemption (IDF) regulations (21 CFR Part 812) are met.

Under § 812.2(d) of the IDE regulations, FDA hereby stipulates that the exemptions from the IDE requirements in § 812.2(c)(1) and (2) will no longer apply to clinical investigations of the IUD and introducer. Further, FDA concludes that investigational IUD's and introducers are significant risk devices as defined in § 812.3(m), and advises that as of the effective date of § 884.5360(d) the requirements of the IDE regulations regarding significant risk devices will apply to any clinical investigation of an IUD and introducer. For any such device, therefore, an IDE submitted to FDA, under § 812.20, is required to be in effect under § 812.30 before an investigation is initiated or continued on or after August 4, 1986. FDA advises all persons who intend to sponsor any clinical investigation involving the IUD and introducer to submit an IDE application to FDA no later than July 7, 1986, to avoid the interruption of ongoing investigations.

Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Economic Impact

FDA has examined the economic consequences of this final rule in accordance with the criteria in section 1(b) of Executive Order 12291 and found that the rule will not be a major rule as specified in the Order. The agency believes that only one or two firms will be affected by this rule. Therefore, the agency certifies under the Regulatory Flexibility Act (Pub. L. 96-354) that the rule will not have a significant economic impact on a substantial number of small entities. An assessment of the economic impact of this final rule has been placed on file in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 884

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 884 is amended as follows:

PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

1. The authority citation for 21 CFR Part 884 is revised to read as follows:

Authority: Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)); 21 CFR 5.10; § 884.5360(d) also is issued under secs. 501, 515, and 520(g), 52 Stat. 1049-1050 as amended, 90 Stat. 552-559, 569-571 (21 U.S.C. 351, 360e, 360j(g)).

2. In § 884.5360 by adding new paragraph (d), to read as follows:

§ 884.5360 Contraceptive intrauterine device (IUD) and introducer.

* * * * *

(d) *Date premarket approval application (PMA) or notice of completion of a product development protocol (PDP) is required.* A PMA or a notice of completion of a PDP is required to be filed with the Food and Drug Administration on or before August 4, 1986, for any IUD and introducer that was in commercial distribution before May 28, 1976, or that has on or before August 4, 1986, been found to be substantially equivalent to an IUD and introducer that was in commercial distribution before May 28, 1976. Any other IUD and introducer shall have an approved PMA or a declared completed PDP in effect before being placed in commercial distribution.

Dated: April 3, 1986.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

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Part VI

Department of Justice

Bureau of Justice Assistance

State Reimbursement Program for Incarcerated Mariel-Cubans; Notice

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DEPARTMENT OF JUSTICE

Bureau of Justice Assistance

State Reimbursement Program for Incarcerated Mariel-Cubans

AGENCY: Bureau of Justice Assistance, Justice.

ACTION: Notice of issuance of solicitation for applications to reimburse states for the expenses incurred by the incarceration of Mariel-Cubans.

SUMMARY: The Bureau of Justice Assistance (BJA) is administering a program to reimburse states for expenses incurred by the incarceration of certain Mariel-Cubans in state facilities.

ADDRESS: Henry T. Tubbs, Bureau of Justice Assistance, 633 Indiana Avenue NW., Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: Kim C. Rendelson, (202) 272-4605. (This is not a toll free number).

SUPPLEMENTARY INFORMATION: The Bureau of Justice Assistance (BJA) is publishing a notice of issuance of solicitation to implement a State Reimbursement Program for Incarcerated Mariel-Cubans. The Department of Justice Appropriation Act for 1986 (Pub. L. 99-180) allocates up to $5 million (reduced by Gramm-Rudman-Hollings sequester to $4,785,000) for the purpose of making grants to states for their expenses for the incarceration of Mariel-Cubans in state facilities.

I. General Provisions

Statutory authority: The statutory authority is the Department of Justice Appropriation Act for 1986 (Pub. L. 99-180).

Submission date: The submission date for state applications is no later than 30 days after publication of the Program Guidelines in the Federal Register.

Eligible applicants: All states are eligible to apply for and receive grants. *States*, means any state of the United States and includes the District of Columbia and the Commonwealth of Puerto Rico.

Participating states: It is expected that the sixteen states that participated last year will participate again this year, specifically, Alaska, California, Florida, Georgia, Illinois, Michigan, Minnesota, Nevada, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas, Washington, and Wisconsin. There may be the possibility of a few additional states participating also.

II. Allocations and Uses of Funds

Fund availability: The Act provides a total of $5 million (reduced by Gramm-Rudman-Hollings sequester to $4,785,000) for the purpose of making grants to states. The total amount of funds awarded will be on the basis that the certified number of incarcerated persons in a state bears to the total certified number of such incarcerated persons. The amount of reimbursement per prisoner per annum will not exceed $12,000.

Fund use: The intent of the public law is to reimburse the States for their expenses by reason of Mariel-Cubans having to be incarcerated in state facilities. A budget or expenditure plan is not required as the award will be solely for reimbursement. No match funds are required.

III. Application Content

(a) All state applicants must submit Standard Form 424, (Application for Federal Assistance), and a *certified listing* of incarcerated Mariel-Cuban prisoners. This listing will include the following information in the suggested sequence:

(1) Name (last name first),
(2) AKA (also known as),
(3) Alien Identification Number (e.g., A24456788),
(4) Date of birth,
(5) Last known address,
(6) Conviction date,
(7) Conviction offense,
(8) Probable earliest release date,
(9) State facility housing the prisoner,
(10) State facility address,
(11) Dates of incarceration of the prisoner,
(12) I-247 Form-Immigration Detainer Notice (If INS has filed a Detainer on this prisoner, submit a copy)
(13) Fingerprint card.

(b) The certified listing must be signed by the Governor or his authorized representatives.

(c) The period of incarceration for reimbursement purposes is October 1, 1985 to September 30, 1986. The computation of funds will be based on an aggregate total of certified prisoners incarcerated for a twelve month period (e.g., if two prisoners are incarcerated for six months during the period the state will be reimbursed the full amount for one year).

(d) The Act is specific in that the prisoner must have been paroled into the United States by the Attorney General during the 1980 influx of Mariel-Cubans. This means those Cubans who *Entered Without Inspection* (EWI), earlier arrivals (pre-boatlift), and/or later arrivals (post-boatlift) cannot be included and, thus, no expense will be reimbursed.

(e) State law will prevail when a determination is required as to what constitutes a state facility and/or a state prisoner.

IV. Review of State Applications

State applications must be submitted in the form and at the time prescribed.

(a) The application and certified listing will be reviewed by BJA and a cross-check verification of prisoners will be made by the Immigration and Naturalization Service of the U.S. Department of Justice. This review will be accomplished not later than 90 days after publication of program guidelines in the Federal Register and grants will be immediately made to States.

(b) Compliance with Executive Order 12372, "Intergovernmental Review of Federal Programs." This program is covered by Executive Order 12372 and Department of Justice implementing regulations 28 CFR Part 30. States must submit grant applications to the State's *Single Point of Contact*, if there is a *Single Point of Contact*, and if this program has been selected for coverage by the State process, at the same time applications are submitted to the Federal agency. State processes have 60 days starting from the application deadline to comment on applications. Applicants should contact their state "Single Point of Contact" as soon as possible to alert them of the prospective applications and receive instructions regarding the process.

(c) The BJA will notify the applicant in writing of the specific reasons for the disapproval of the application or amendment, in whole or in part.

V. Civil Rights Assurances

The applicant State must specifically assure that it will comply, and that subgrantees and contractors will comply, with all applicable Federal non-discrimination laws and regulations, including the following:

(a) Title VI of the Civil Rights Act of 1964,
(b) Section 809(C) of Justice Assistance Act of 1984,
(c) Section 504 of the Rehabilitation Act of 1973, as amended,
(d) Title IX of the Education Amendments of 1972,
(e) The Age Discrimination Act of 1975, and,
(f) The Department of Justice Non-Discrimination Regulations, 28 CFR Part 42, Subparts, C, D, E, and G.

Any application for $500,000 or more shall be accompanied by a copy of the current Equal Employment Opportunity Program of the corrections department in accordance with the provisions of 28 CFR 42.301 *et seq.* State applicants that previously applied for and received

funding under this initiative and had an Office of Justice Programs' approval of their Equal Employment Opportunity Program need only submit a statistical update of the previously approved program.

VI. Non-Discrimination

The state assures that it will comply, and that subgrantees and contractors will comply, with all applicable Federal non-discrimination requirements, including:

(a) Title VI of the Civil Rights Act of 1964,
(b) Section 504 of the Rehabilitation Act of 1973, as amended;
(c) Title IX of the Education Amendments of 1972,
(d) The Age Discrimination Act of 1975; and,
(e) The Department of Justice Non-Discrimination Regulations, 28 CFR Part 42, Subparts, C, D, E, and G.

Mack M. Vines,
Director, Bureau of Justice Assistance.

[FR Doc. 86-10024 Filed 5-2-86; 8:45 am]
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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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[2] No amendments to this volume were promulgated during the period Apr. 1, 1984 to March 31, 1985. The CFR volume issued as of Apr. 1, 1984, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1985. The CFR volume issued as of July 1, 1984, should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[6] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

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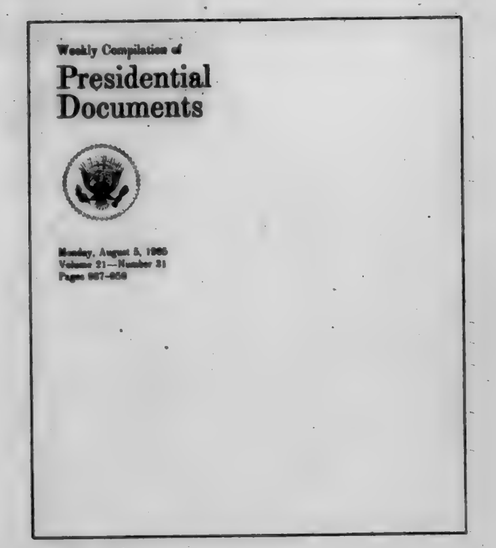
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WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: May 15; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Laurence Davey, 202-523-3517

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Medicare
Health Care Financing Administration

Motor Vehicle Safety
National Highway Traffic Safety Administration

National Forests
Forest Service

Navigation (Water)
Navy Department

Privacy
Justice Department

Radio Broadcasting
Federal Communications Commission

Reporting and Recordkeeping Requirements
International Trade Administration

Retirement
Personnel Management Office

Surface Mining
Surface Mining Reclamation and Enforcement Office

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Title 3—

The President

Proclamation 5470 of April 30, 1986

Fair Housing Month, 1986

By the President of the United States of America

A Proclamation

The year 1986 marks the eighteenth anniversary of the passage of title VIII of the Civil Rights Act of 1968, commonly referred to as the "Fair Housing Act," declaring it a national policy that housing throughout the United States should be made available to all citizens on the basis of equality and fairness.

The Federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, or national origin.

Fairness is the foundation of our way of life and reflects the best of our traditional American values. Invidious discriminatory housing practices are abhorrent to the American sense of fair play.

In this eighteenth year since the passage of the Fair Housing Act, Americans should continue to work together to uphold the Fair Housing Act and the principle of equal opportunity on which it is based.

The Congress, by Senate Joint Resolution 303, has authorized and requested the President to issue a proclamation designating the month of April 1986 as "Fair Housing Month."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim April 1986 as Fair Housing Month.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of April, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

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Presidential Documents

Proclamation 5471 of May 1, 1986

Loyalty Day, 1986

By the President of the United States of America

A Proclamation

The freedom of thought and action we Americans enjoy today seems as natural as the air we breathe. But there is a danger we may take this freedom for granted. We must never forget it was bought for us at a great price. The brave and resourceful Americans whose sacrifices gained our Independence and preserved it for more than 200 years against formidable foes have set an example of unflinching loyalty to the ideal of liberty and justice for all.

Our great Nation is at peace, but peace demands of us a commitment to defend the system of government that has so effectively ensured our freedoms. To encourage our vigilance and so that we may rededicate ourselves to sustaining the great American ideals, the Congress, by joint resolution approved July 18, 1958 (72 Stat. 369, 36 U.S.C. 162), has designated May 1 of each year as "Loyalty Day."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim May 1, 1986, as Loyalty Day and call upon all Americans and all patriotic, civic, fraternal, and educational organizations to observe that day with appropriate ceremonies. I also call upon government officials to display the flag of the United States on all government buildings and grounds on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this first day of May, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

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Rules and Regulations

Federal Register
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Tuesday, May 6, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Part 315

Model Rules for Implementation of the Equal Access to Justice Act

AGENCY: Administrative Conference of the United States.

ACTION: Issuance of Final Revised Model Rules.

SUMMARY: The Chairman, Administrative Conference of the United States, issues final revised model rules to implement the Equal Access to Justice Act, Pub. L. 96-481, 94 Stat. 2325, as amended by Pub. L. 99-80, 99 Stat. 183. The Act provides for the award of attorney fees and other expenses to parties who prevail over the Federal government in certain administrative and court proceedings. These revised model rules, which reflect the changes in the law made by Pub. L. 99-80, are designed to assist agencies in adopting or amending their own regulations for implementation of the Equal Access to Justice Act. Where appropriate, alternative provisions suitable for use by contract appeals boards are included; they are displayed in smaller type.

FOR FURTHER INFORMATION CONTACT: Mary Candace Fowler, Staff Attorney, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037; (202) 254-7065.

SUPPLEMENTARY INFORMATION: On November 6, 1985, the Chairman of the Administrative Conference of the United States published draft revised model rules for implementation of the Equal Access to Justice Act in Federal agency proceedings. [50 FR 46250 (November 6, 1985)]. The Act provides for the award of attorney fees and other expenses to certain parties who prevail over Federal government in court cases and adversary administrative proceedings. Prevailing parties may receive awards if they meet the Act's eligibility standards (which set ceilings on the net worth and number of employees of parties) and if the government's position was not substantially justified.

After considering comments received on the draft, the Chairman is now issuing final revised model rules. These rules are intended to help fulfill the Chairman's responsibility, assigned by Congress under the Equal Access to Justice Act, to consult with agencies establishing uniform procedures for handling applications for fee awards in their own proceedings. 5 U.S.C. 504(c)(1), Pub. L. 96-481, 94 Stat. 2325, as amended by Pub. L. 99-80, 99 Stat. 183. The Chairman first issued model procedural rules for agencies in 1981. 46 FR 32900 (June 25, 1981), reprinted in Administrative Conference of the U.S., *Federal Administrative Procedure Sourcebook* (Office of the Chairman, 1985), at 353-84.

Pub. L. 99-80, enacted August 5, 1985, reauthorized the Act, which had expired on September 30, 1984. It also made several amendments, including the following:

1. Net worth ceilings for eligible parties have been raised to $2,000,000 for individuals and $7,000,000 for partnerships, corporations, and other entities;

2. Units of local government that fall within the ceilings on net worth and number of employees have been made eligible for fee awards;

3. The position of the government that must be substantially justified has been specifically defined to include the underlying action or failure to act on which the proceedings is based as well as the position in litigation; and

4. Contract dispute proceedings before agency contract appeals boards have been included in the proceedings covered by the Act.

The draft revised model rules were prepared with two purposes in mind: to assist agencies in amending their Equal Access to Justice Act procedures to reflect these statutory changes, and to adapt the existing rules as necessary for use by agency contract appeals boards. The draft revised model rules noted that application of the Act to contract appeals proceedings raises some problems that may require specialized treatment. These issues are discussed in the section-by-section analysis below, and the model rules contain italicized alternative contract appeals board provisions where appropriate.

The Office of the Chairman received twelve comments on the draft rules, most from federal agencies and most concerning various issues related to implementation of the Act by contract appeals boards. We have made some changes to the draft in response to the comments; both these and our decisions not to adopt other suggestions are discussed below.

One commenter, James McQuiston, of McQuiston Associates, submitted an entirely redrafted set of rules. Significant substantive issues raised by these rules are discussed in connection with the relevant rule provisions. To the extent that the changes made by this alternative set of rules are organizational or stylistic, we will not address them individually. Agencies have worked with their existing rules, most of which are closely based on the ACUS model rules, for over three years. To propose a wholesale redrafting and reorganization at this time would be unnecessarily burdensome and confusing.

As a preliminary matter, we would like to set forth our expectations of how agencies can fulfill the statutory requirement of consultation with the ACUS Chairman. Agencies that publish proposed rules for comment may simply notify us of the publication of their proposals; the Chairman will then provide any suggestions by filing comments. Agencies that intend to publish final rules without providing a notice and comment period should send a draft to the Office of Chairman for review and comment before publication if their rules depart significantly from the model; we will expedite this review to the extent possible.

Of course, as with the original model rules, agencies will not be bound to follow either the model rules or the suggestions made by the Chairman, whose authority is consultative only. However, to promote the uniformity of agency procedure contemplated by the Equal Access to Justice Act and to conserve their own time and resources, we strongly encourage agencies to follow the model to the greatest extent possible.

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Section-by-Section Analysis

Subpart A—General Provisions

The basic changes recommended in this subpart to conform the model rules to the provisions of the amended Equal Access to Justice Act (such as deletion of references to the agency's position "as a party" and revision of the net worth ceilings on eligibility) were not controversial, and we have adopted them. However, some sections of the subpart provoked extensive comment.

Applicability: Comments from the Civil Division of the Department of Justice raised substantial questions about the draft rules' discussion of applicability and retroactivity of the new provisions of the Act. We proposed that all cases in which fee applications were pending on August 5, 1985 be treated as "pending" on the date of enactment of Pub. L. 99–80, and thus covered by the amended Act rather than by the old Act (under its savings clause for cases pending on September 30, 1984). The Civil Division, however, has pointed out legislative history that casts doubt on our interpretation. During debate in the House of Representatives before passage of the Act, Representative Kastenmeier stated:

> I would like to clarify the effective date provisions of H.R. 2378 and the relationship of these provisions with the original Act. Cases which were pending on October 1, 1984, including fee application proceedings would be governed by the original act, provided that the time to file the fee application expired before the date of enactment of this bill. This bill would apply to any case pending on October 1, 1984, and finally disposed of before the date of enactment of this bill, if the time for filing an application for fees and other expenses had not expired as of such date of enactment. 131 Cong. Rec. H4782 (June 24, 1985).

Relevant language also appears in the House Report on H.R. 2378: "The changes which are made by H.R. 2378 which merely clarify existing law are retroactive, and apply to matters which were pending on, or commenced on or after October 1, 1981. However, changes which are made by H.R. 2378 and which expand or otherwise change existing law shall take effect on the date of enactment and shall apply to matters pending on or commenced after that date." H.R. Rep. 99–120, 99th Cong., 1st Sess. 11 (1985). See also *Id.* at 21. This distinction, the Civil Division comments argue, would be meaningless if all provisions of the new act applied retroactively to cases in which only the fee application remained pending on the date of enactment. *Bradley* v. *School Board* 416 U.S. 696 (1974), which stands for the proposition that a court will apply the law in effect at the time it makes its decision (and itself involved application of an attorneys' fee statute to a case in which only the fee application was pending), makes an explicit exception for situations in which legislative history indicates that Congress did not intend a retroactive application.

We are persuaded that the provisions of the new Act (and the amended rules) as a whole should not apply to cases in which only fee applications remained pending on August 5, 1985. Instead, as envisioned by the House Report, those provisions that expand or change existing law (such as the expanded eligibility ceilings) should apply to cases on which the substantive portion of the case was still pending on the date of enactment, or the time for filing a fee application has not expired on that date, and to those other classes of cases explicitly mentioned in Pub. L. 99–80. We do not believe it is necessary to revise § 315.102 of the draft model rules, which tracks the language of Pub. L. 99–80, to accommodate this change in interpretation. Most agencies had few, if any, fee applications pending on August 5; these agencies will surely find it easier to inform affected parties directly that the old rules will continue to apply than to adopt a special rule covering the cases. Even agencies with a larger application volume, such as the NLRB, may prefer to follow this course. If not, such agencies can simply retain their old rules for as long as necessary while also adopting new rules for newer cases.

We note, in this connection, that the definition of "position of the agency" to include the underlying position as well as the litigation position is explicitly described in the House Report as a clarifying amendment:

> Part of the problem in implementing the Act has been that agencies and courts are misconstruing the Act. Some courts have construed the "position of the United States" which must be "substantially justified" in a narrow fashion which has helped the Federal Government escape liability for awards. H.R. 2378 clarifies both of those points. When the escape clause was originally written, it was understood that "position of the United States" was not limited to the government's litigation position but included the action—including agency action—which led to the litigation. However, courts have been divided on the meaning of "position of the United States." H.R. 2378 clarifies that the broader meaning applies.

H.R. Rep. 99–120, at 9 (footnotes omitted). In *Russell* v. *National Mediation Board*, 775 F.2d 1284 (5th Cir. 1985), the Fifth Circuit agreed that the definition of "position of the agency" clarified the original Act and thus should apply even to cases in which only a fee application remained pending. While we do not propose to treat this issue explicitly in the rules, we recommend that agencies with a backlog of fee applications pending on August 5, 1985, give careful consideration to the distinction between clarifying amendments and modifying amendments in disposing of these applications.

The Agriculture Board of Contract Appeals has raised a question as to what constitutes a timely filed application dismissed for lack of jurisdiction under the special retroactive applicability clause for contract appeals. Would a general request for fees in the initial pleading, denied by the Board in its substantive order in the case, qualify? This is a difficult question. A potential applicant that stated its intent to file for fees and was explicitly informed (by denial in an agency order) that such an application would not be entertained would in all probability not have bothered to file such an application. However, Pub. L. 99–80 contemplate that an "application" within the terms of the Act must have been filed: "[The Act] shall apply to any adversary adjudication pending on or commenced on or after October 1, 1981, in which applications for fees and other expenses were timely filed. . . ." Pub. L. 99–80, sec. 7(c). We suggest that the boards require that a formal application have been filed. An applicant who feels unfairly disadvantaged by this interpretation may wish to file under the new law and take the issue before the appellate court.

Proceedings Covered: The Agriculture Board of Contract Appeals has also suggested a clarifying change to § 315.103, identifying the proceedings to which the Act applies. For contract appeals, the Board suggests the rules refer to "final decisions of contracting officers" rather than simply "decisions" made under the relevant statutory provisions. We have added the words "of contracting officers," which we agree are helpful. However, we have not added the word "final," since the Contract Disputes Act refers only to "decisions." Thus the term "final" could be more confusing than clarifying.

Eligibility: Two commenters made suggestions on the eligibility provisions of § 315.104. The Armed Services Board of Contract Appeals said the definition of "party" should follow existing Board rules; however, since the EAJA explicitly defines a party and the rules follow this definition, we cannot adopt this suggestion. The Postal Service Board of Contract Appeals noted that the word "proceeding" may be ambiguous for contract appeals, and that in these cases eligibility should be determined as of the time the appeal was filed, rather than the claim. We agree with this interpretation, which parallels that for other proceedings, in which the commencement of the formal litigation stage is the point at which eligibility is measured. We have included appropriate alternate language for contract appeals boards in the rules.

We received no comments or suggestions on how to determine the net worth of units of local government (other than an informal comment to the effect that housing authorities, mentioned in our discussion of this issue, are virtually always independent of individual local municipalities). This difficult issue will have to be resolved on a case-by-case basis, in the context of concrete fact situations. We will monitor developments in this area in order to circulate any useful information that becomes available.

Standards for Awards: Comments on § 315.105, standards for awards, concerned two points. Some Boards of Contract Appeals suggested elimination of the "burden of proof" sentence in this rule, suggesting it is unnecessary, confusing, and unwarranted by amendments to the Act. This language appeared in the original model rules, and we see no reason to eliminate it now. However, we agree that the sentence may be ambiguous without its original ending explicitly linking it to the substantial justification determination rather than other issues, and we have revised the sentence to resolve this problem. One commenter objected to the term "agency counsel"; as explained in our original model rules, we selected this term to distinguish between the agency as a party to the proceeding and the agency as a decisionmaking body. If a clearer term will be workable in the context of contract appeals, the boards are invited to use it.

A larger issue concerns our decision to delete the phrase "reasonable in law and fact" from our rules. The Civil Division of the Justice Department and the General Counsel of the Securities and Exchange Commission have expressed doubts about whether the standard to be applied in determining substantial justification must be, as the House Report on H.R. 2378 suggests, "more than reasonable." The SEC General Counsel specifically suggests that we retain the previous language.

It is true that statements on the floor of the House of Representatives question the accuracy of certain parts of the discussion of the substantial justification standard in the House Report, particularly its suggestion that administrative actions found to be arbitrary and capricious or unsupported by substantial evidence can virtually never be substantially justified. These statements, however, do not directly question the report's assertion that the correct test, as applied in several cited court cases, is "more than mere reasonableness." And the fact that the statutory language itself was not changed is not dispositive, for the House report language makes clear that it is intended to clarify the committee's preference for one of two interpretations of the existing language.

One the other hand, the floor statements inevitably raise some questions about Congress' endorsement of the substantial justification section of the report, and the case law remains unsettled. In *Russell* v. *National Mediation Board*, the fullest treatment of the issue since passage of the new law, the Fifth Circuit decided to continue applying the "reasonable in fact and law" standard in the face of what it saw as irreconcilable inconsistencies in the legislative history of Pub. L. 99–80. On the other hand, the D.C. Circuit has continued to apply its standard of "more than mere reasonableness." *Massachusetts Fair Share* v. *LEAA*, 776 F.2d 1066 (D.C. Cir. 1985). And the SEC General Counsel notes that, in any event, "reasonable in fact and law" may itself be "more than mere reasonableness."

The underlying difficulty is that all the definitions of "substantially justified" are themselves no more concrete and specific than the term itself. Inevitably, the determination of what is substantially justified must be made in the context of the individual case. We are not certain that the "reasonable in fact and law" formulation reflects Congressional intent, nor can we predict whether a consensus test will emerge from consideration of this question by additional circuits. We suggest that, in making individual determinations, agencies and their adjudicative officers should ensure that they are looking closely at the government's position, while looking to the courts (as we will) for further guidance.

In one other point related to this section, the Civil Division of the Justice Department said that fee awards should be apportioned to cover only the amount of time litigating against unjustified positions. While we agree with the spirit of this proposition, we think it must be applied on a case-by-case basis, and thus does not lend itself to an unambiguous and helpful model rule. For example, courts and agencies might reach very different conclusions about what fees are awardable and what are not when the "justified" and "unjustified" positions are related to two separate claims combined in the same case, to technical and substantive defenses, or to alternative substantive legal theories arising out of the same facts. See *Hensley* v. *Eckerhart*, 461 U.S. 424 (1983). We are not aware that agencies have had any significant problems in dealing with such cases as they arise, and we would prefer to avoid adding a rule that may create more confusion than clarity in this area.

Fees and Expenses: Three commenters suggested changes to § 315.106, on allowable fees and expenses, which we had not proposed to amend. The Department of Transportation Board of Contract Appeals suggests that fees should be limited to reimbursement of actual fees incurred, and should not be determined by reference to customary fees. We do not agree, as we explained in adopting our original model rules, and we believe the law is clear that fee awards are not limited to reimbursement. 5 U.S.C. 504(b)(1)(A); 28 U.S.C. 2412(d)(2)(A).

The Armed Services Board of Contract Appeals suggests addition of a sentence stating that *pro se* litigants may not recover attorney fees. However, we believe this sentence might imply, inaccurately, that such litigants may not recover expert witness fees and other expenses. Moreover, we continue to believe, as discussed in our original model rules, that the eligiblity of *pro se* litigants should be determined on a case-by-case basis; in any event, this issue has not often arisen in agency proceedings.

James McQuiston suggests listing in this rule twelve factors for evaluating attorney fee requests, first formulated in *Johnson* v. *Georgia Highway Express*, 488 F. 2d 714 (5th Cir. 1974), and widely applied in civil rights and other fee cases. The rule would require discussion of each relevant factor by agencies making awards. The 11th Circuit requires courts determining EAJA petitions to apply these factors, even though the Act includes its own standards for determining an appropriate fee, and some other courts have referred to *Johnson* in evaluating EAJA fee requests. *Florida Suncoast Villa* v. *United States*, 776 F. 2d 974 (11th Cir. 1985); *see* also, *e.g.*, *Kennedy* v. *Heckler*, 598 F. Supp. 124 (D. Md. 1984); *Belton* v. *Commissioner of Internal Revenue*, 595 F. Supp. 494 (D.D.C. 1984). However, judicial understanding of the *Johnson* factors and of other approaches to calculating fees (such as the lodestar concept applied in the D.C. Circuit, see *Copeland* v. *Marshall*, 641 F. 2d 880 (D.C. Cir. 1980)) is continually evolving,

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and incorporation of the exact formulation of *Johnson* into the model rules will fail to take these developments into account. For example, the Supreme Court has recently said that the starting point for fee determinations should be a reasonable number of hours worked times a reasonable fee, with other factors considered after this basic calculation. *Hensley* v. *Eckerhart*, 461 U.S. 424 (1983). This starting determination is very close to the standard articulated by Congress in the Act: "[t]he amount of fees . . . shall be based upon prevailing market rates for the kind and quality of the services furnished" up to the limit of $75 per hour. 5 U.S.C. 504(b)(1)(A); 28 U.S.C. 2412(d)(2)(A).

The existing model rule requires consideration of the factors clearly relevant to the determination and permits consideration when relevant of other, unspecified factors, such as those identified in *Johnson*. Agency adjudicative officers have had no apparent problems with applying existing law on the calculation of attorney fees in an informal way, considering the difficulty of the issues, the skill of the attorney, and similar factors in determining the appropriateness of the hours billed and the hourly rate requested. We believe the *Johnson* factors will continue to inform the work of the adjudicative officers (and agency reviewers), as will other developments in attorney fee case law, without the need for detailed rules that would probably require frequent amendment.

Subpart B—Information Required from Applicants

Two significant—and related—issues in this subpart provoked comment: the proper handling of bifurcated contract appeals board proceedings, in which government liability is determined first and only then (assuming there is liability) are damages assessed, and the meaning of "final disposition."

Bifurcated Proceedings: As to this issue, commenters generally favored concluding both the liability and damages portions of a case before deciding fee applications; the Civil Division of the Justice Department pointed out that the government's position cannot always be accurately evaluated when only liability has been determined. The Veterans' Administration Board of Contract Appeals, on the other hand, suggested that it would generally work better to decide applications at the end of the liability phase; however, the Board believed the decision should be made on a case-by-case basis.

We believe that the bifurcation problem does not require a special amendment to § 315.204 of the rules. We agree with most of the commenters that in the ordinary case, fee applications can be more appropriately handled after the determination of damages (whether this determination is made by settlement or litigated). But we also agree with the VA Board that the issue should be determined on a case-by-case basis. The legislative history of the original Act clearly contemplates that there may be cases in which a court or agency may entertain an application before conclusion of the entire case. H.R. Rep. 96-1434, 96th Cong., 2d Sess. 21-22 (1981). While these cases are likely to be rare (particularly in light of the new statutory provision prohibiting agencies from finally deciding applications in cases where a government court appeal of the merits is pending), we think that agencies, like the courts, should have discretion to decide such applications when they believe the circumstances warrant it, but should not bind themselves to do so (or not to do so) by a categorical rule.

Final Disposition: Two commenters—the Transportation and Armed Services Boards of Contract Appeals—said that final disposition, in the context of contract appeals, should occur when the time for appealing the decision has expired. This approach parallels the new language in the court provisions of the Act. The commenters noted that either the contractor or the government has 120 days to appeal the final decision of a board of contract appeals. This period is longer than that for appeal from most administrative agency decisions, and the situation is complicated by the fact that the government as well as the contractor may appeal. (In most administrative proceedings covered by EAJA, of course, there is no agency appeal because the agency would be appealing its own decision.)

The point is well taken. While the contractor would be free to file its application earlier in any event, realistically, the board is unlikely to take final action on a fee application when the government might still appeal the substantive decision. (Anticipating this problem, Pub. L. 99-80 added a provision to the Act prohibiting agencies from deciding fee applications in proceedings where the government has appealed.) There is no point in requiring the applicant to meet an arbitrary filing deadline of 30 days after issuance of the decision if the agency will not consider the application for an additional 90 days.

While the same considerations will not apply in most other agency proceedings, where the government will not appeal, we believe the best approach is to modify the definition of "final disposition" for all proceedings. This will provide consistency among agency proceedings as well as with court cases, and will avoid the confusion that sometimes arises as to whether an application must be filed with an agency to preserve rights even though some portion of a case is being appealed to the courts.

Other Issues: Commenters raised a few smaller points about this subpart. The Agriculture Board of Contract Appeals suggested that the applicant "certify" its net worth in § 315.201(b). We believe the verification requirement of § 315.201(e), which applies to every portion of the application, is adequate. The DOT Board of Contract Appeals said that applicants should be permitted to file EAJA applications with their initial contract appeals, so that relevant testimony may be taken at the trial on the merits. It would be possible for a contractor to include a generalized statement of intent to seek fees, along with a statement of net worth and an allegation that the government's underlying position is not substantially justified, in its initial contract appeal. Realistically, however, this will not save much time or effort. As to substantial justification, the testimony on the merits will be the relevant testimony. As to the appropriate amount of any award (the item which, according to the Civil Division of the Justice Department, is most likely to prompt a dispute requiring further exploration of facts), the necessary information will not be available until after the trial on the merits. So the only thing that could be accomplished would be to take testimony on the eligibility of a potential applicant who may not even prevail in the underlying proceeding.

We have revised § 315.203, concerning documentation of fees and expenses, in response to a suggestion from the General Counsel's Office of the Department of Transportation that the existing language could be read to imply that adjudicative officers may only require further substantiation of expenses and not of attorney fees. This is not the intent of the rule.

Subpart C—Procedures for Considering Applications

Comments on this subpart of the rules focused largely on their suitability for use by contract appeals boards. One general comment, filed by the DOT Board of Contract Appeals, noted that the boards already have general rules on filing and service of pleadings and do not need separate EAJA rules. We believe there may be some benefit in having separate rules clearly stating EAJA procedure. To the extent, however, that existing board rules clearly cover the necessary procedures, they can be incorporated by reference in lieu of separate rules.

James McQuiston proposed a complete restructuring of the procedure for handling fee applications. He believes Congress' provision that the final decision be made by the agency, coupled with its direction that the substantial justification determination be made on the existing record, describes something other than a quasi-judicial procedure. Instead, he proposes that agency adjudicative officers function more like agency contracting officers, determining fee applications based on an informal review of the file and, where appropriate, negotiating a settlement with the applicant on the agency's behalf. The adjudicative officer's decision would then be subject to approval by an agency supervisor. Under this system, there would be no need for responsive pleadings (although the agency litigators could submit comments on the application if they chose to), nor would the applicant be required to serve copies of its application on agency litigators or any other parties to the proceeding. Similarly, no agency review process, other than the approval of the supervisor mentioned above, is provided for.

Mr. McQuiston contends that the award of fees ("negotiating a fee for services" in his words) is essentially an executive act, very similar to awarding a contract, rather than a judicial one. He argues that this approach will be much faster and will avoid the unfairness of having an agency adjudicate a dispute to which it is a party.

We do not believe this to be a better approach. The role of an agency official deciding what is a reasonable price to pay for goods or services provided directly to the agency by contractors is not clearly analogous to the role of the adjudicative officer in determining the agency's potential liability for services provided by a private attorney to a third party, particularly when a concept of agency fault enters into the decision. While an adjudicative officer might possibly function in such an "executive" capacity, this would be a very unaccustomed and probably difficult role for such an officer. Moreover, Pub. L. 99-80 and its legislative history reveal no Congressional intent to eliminate pleadings and adversary proceedings as a method of focussing the issues for the adjudicative officer, though Congress was certainly aware that this is the procedure in common use.

It seems more rational to keep the process for determining fee applications in administrative proceedings as parallel as possible to the procedure in court cases, and to preserve fee proceedings as an integral part of the proceeding in which they arose, rather than to create an entirely new procedure. While we agree that the proposed approach might save time, if administered with that goal in mind, we don't think that is the most important consideration. And we don't agree that changing the decision-making process from a quasi-judicial to an administrative one will remove a taint of unfairness. If anything, it exacerbates this problem, since the adjudicative officer as contracting officer would be explicitly charged with representing and advancing the interests of the agency in a way that the adjudicative officer as quasi-neutral arbiter is not. Accordingly, we have retained the basic approach of the original model rules.

Settlements: Two commenters objected to the requirement of § 315.305 that parties who reach settlement on attorney fees before an application is filed file their application with the proposed settlement. We have two reasons for retaining this provision, which we continue to think is a good one. First, Congress has explicitly instructed ACUS to report annually on fee awards in administrative proceedings under the Act. Information about the applicant and the proceeding, as well as the amount of the settlement, are necessary to provide a complete report. Second, this filing permits at least brief consideration by the adjudicative officer of information on the eligibility of the applicant, an extra step that seems appropriate where a waiver of sovereign immunity is involved. In many administrative proceedings, the adjudicative officer and/or the agency must approve settlements in any event, so the submission of information on matters such as eligibility would be a logical part of this process. If this is not the case in contract appeals, and the boards believe the filing of an application would be too cumbersome, we would still suggest that the boards request the settling parties to file some basic information including a statement of eligibility and the amount of the settlement on fees, if for no other reasons than to keep Congress informed.

Further Proceedings: Several commenters made suggestions about § 315.306. The DOT Board of Contract Appeals urged that the rule preserve a full opportunity for discovery by the government as well as the availability of full open hearings on all issues rather than confinement to the written record. The General Counsels of DOT and NASA also suggested amending the rule to clarify that discovery and even evidentiary hearings are still permissible as to issues such as eligibility and the amount of fees.

We believe the statute is clear that substantial justification determinations must be made on the written record. We also feel, in the interest of avoiding delay and expense, that it is appropriate to encourage proceedings on the written record whenever possible as to other issues. Accordingly, we have not adopted the suggestion of the DOT Board of Contract Appeals. We agree, however, that the rule could be clearer on the extent to which discovery and hearings are still permissible, and we have modified the rule accordingly.

The Agriculture Board of Contract Appeals suggested an amendment to indicate that the determination of when further proceedings are necessary is a judgement within the discretion of the adjudicative officer. We are not aware of any problems that have arisen over this issue under the existing regulation, nor of any disputes over the extent of further proceedings provided; thus we have not revised the rule. We agree, however, that this is essentially a discretionary determination, and would not object if an agency feels the need to say so explicitly.

Decision: This section raises the question of who is the "adjudicative officer" in contract appeals proceedings. The two comments we received addressing this point generally agreed with our original formulation, that whatever unit of the board made the first decision on the merits should be considered the "adjudicative officer." The Postal Service Board of Contract Appeals, however, went on to suggest that the "adjudicative officer" should not be limited to the particular presiding officer or panel that made the original decision, because this would unnecessarily limit flexibility in work allocation. We believe that agencies can properly assign EAJA petitions to new board members or panels where illness, retirement or other specific circumstances would prevent assignment to the original member or panel, and we have revised the rule to reflect this. However, the statute defines the "adjudicative officer" as "the

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deciding official. ... who presided at the adversary adjudication;" thus the decisionmakers should be the same for the merits and the fee application whenever possible. Similiarly, where boards have relied on hearing examiners to take evidence, but not to make decisions, in contract disputes, the boards may wish to have these examiners recommend EAJA decisions; the examiners should not, however, actually *make* the EAJA decisions, since they were not the "deciding officials" on the merits. We repeat here our earlier suggestion, endorsed by the Armed Services Board of Contract Appeals, that boards may wish to use the term "presiding officer" to distinguish between officials authorized to make procedural rulings and those who must make the ultimate decisions.

Two other contract appeals boards oppose § 315.307's provision of a time limit (to be specified by the agency) for EAJA decisions, which they regard as unnecessary and not legally required. It is the position of the Administrative Conference that agency-established time limits or guidelines can be an effective way to reduce administrative delay. ACUS Recommendation 78-3, *Time Limits on Agency Actions*, 1 CFR 305.78-3. This provision of the model rules reflects that position.

Commenters from the Civil Division of the Department of Justice anticipated problems in determining which agency should pay when two or more are involved and recommended that the model rules resolve this question. For example, a contractor might file a claim under the Contract Disputes Act because it was required to pay wages higher than the contract rate, but the contracting officer may have been bound to impose the higher rate by a ruling or regulation of the Department of Labor. This particular example seems like one where the contracting officer could demonstate substantial justification, or at least special circumstances that would make an award unjust, so the issue might never arise. In any event, it is impossitlbe to predict and resolve every possible two-agency situation in advance. We believe these problems must be dealt with on a case-by-case basis, as they arise.

Agency Review: We received extensive comment on the question of who should be the "agency" which makes the final EAJA decisions in contract appeals board proceedings. Most of the commenters (including the Boards of Contract Appeals of the Department of Transportation, Postal Service, and Veterans Administration and Attorney Robert J. Robertory) strongly urged us to maintain the independence of the boards of contract appeals, noting the importance of that independence in the statutory scheme of the Contract Disputes Act. Comments submitted by Ronald Kienlen, Deputy Chief Trial Attorney with the Department of the Army, took the contrary position. He argued that the boards exercise authority delegated by agency heads, as circumscribed by the Contract Disputes Act. Authority to award fees under EAJA must also be delegated by the head of the agency *conducting* the proceeding (the litigating agency), and this authority is not subject to the Contract Disputes Act limitations. Congress could have authorized the boards explicitly to make awards, but instead merely stated that Contract Disputes Act proceedings were covered by the Act. Finally, the comments noted that, if Board decisions are final, the agency will have no right of appeal, even though the final decision is not its own.

These comments raise serious concerns. After careful consideration of them, of the statute, and of the legislative history, however, we have decided to stay with our original approach. Pub. L. 99-80 provides that the Act applies to "any appeal of a decision made pursuant to section 6 of the Contract Disputes Act of 1978 . . . before an agency board of contract appeals. . . ." The House Report on the legislation elaborates:

> Subsection (c) adds new language expressly making proceedings before agency boards of contract appeals covered by the Act, as are adversary adjudications. . . . The expansion of coverage in this provision is necessary to preserve the balance of alternative remedies for government contractors found in the Contract Disputes Act of 1978 (CDA), 41 U.S.C. 601-613. Under the CDA, the contractor may either bring his contract dispute before an agency board or file suit directly in the Claims Court. However, if eligible prevailing contractors can recover attorney fees only in the latter forum, there will be a disincentive to bring cases before the agency boards. Thus, unless a statutory modification occurs, the complete remedy for contract cases will be frustrated.

In *Fidelity Construction Co. v. United States*, 700 F.2d 1379 (Fed. Cir. 1983), the court held that agency boards of contract appeals are without jurisdiction to award fees against the government under the Act. The *Fidelity* court reasoned that Congress must explicitly authorize an award of fees against the United States with specific statutory language. H.R. 2378 would legislatively overrule the result in *Fidelity* by providing statutory authority for attorneys fees.

Congress' intent to authorize the contract appeals boards themselves to award fees seems clear from this language. Moreover, Congress' obvious concern with maintaining the equivalence of contract appeals board and Claims Court remedies under the Contract Disputes Act argues strongly in favor of making contract appeals board decisions on EAJA applications the final agency decisions. The contracting agency does not review other decisions by the boards or by the Claims Court. Moreover, it would be neither efficient nor logical for the decision on whether the government's position in litigation was substantially justified to be made by an official (or body) that had no authority to decide (or review the decision in) the substantive case.

It is true that only the non-governmental party may appeal agency fee determinations under the Equal Access to Justice Act to the courts. In the usual agency situation, the agency would not need appeal rights since it would effectively be appealing its own decision—an obviously illogical outcome. By contrast, the contract appeals boards' decisions are ordinarily not reviewable by the litigating agency; instead, their decisions on the merits may be appealed to the Court of Appeals for the Federal Circuit (with the concurrence of the Attorney General). But the contract appeal situation is not unprecedented. Since passage of the original Act, the National Transportation Safety Board has made awards against the Federal Aviation Administration, and the Occupational Safety and Health Review Commission and the Federal Mine Safety and Health Review Commission have made awards against the Department of Labor. These awards were also unappealable, even though the litigating agency had no power of review over the decisions (the original Act provided for appeals by "parties," defined to exclude agencies). When it passed Public Law 99-80, Congress made no effort either to create court appeal rights or to give final authority for fee awards to the litigating rather than the deciding agencies in these cases.

We recommend, therefore, that the contract appeals boards' EAJA decisions be unreviewable by agencies, and alternate § 315.308 reflects this view. We note that the government will be able to raise this issue in court if it chooses to, since it can defend against a contractor's appeal of an EAJA decision by arguing failure to exhaust administrative remedies.

Other Issues: James McQuiston recommends amendment of § 315.309, on judicial review, to provide that parties who wish to appeal fee determinations may file a notice of appeal with the agency, which will then transmit it to the court. Under the statute (as in other agency appeals), it is the responsibility of the dissatisfied party to appeal the decision; this responsibility extends, of course, to the filing of a notice of appeal with the proper court within the statutory time limit.

The DOT Board of Contract Appeals raised questions about § 315.310, concerning payment of awards. First, the Board states, section 13(a) of the Contract Disputes Act provides for payment of damages in substantive contract proceedings through 31 U.S.C. 724a, upon certification by a contract appeals board to the Comptroller General. EAJA awards should be handled the same way. Moreover, the agency should not be required to pay within 60 days, since it has 120 days to appeal the decision.

In each of these cases, the Equal Access to Justice Act provides explicitly for different treatment than the standard procedure in contract appeals. Under 5 U.S.C. 504(d), as amended by Pub. L. 99-80, "[f]ees and other expenses awarded under this subsection shall be paid by any agency over which the party prevails from any funds made available to the agency by appropriation or otherwise." The new law specifically eliminated previous language permitting the payment of awards out of general funds for the payment of judgments against the United States. (Because of another provision of the original Act, Equal Access to Justice Act awards could not actually be paid out of these funds even before the passage of Pub. L. 99-80.) Similarly, awards made in contract appeals proceedings should be payable by the agency over which the applicant prevailed.

Likewise, the 120-day appeal provision of the Contract Disputes Act does not affect the suitability of § 315.310 for contract appeals. The Equal Access to Justice Act expressly provides that appeals from decisions on fee applications must be made within 30 days, not 120. And if a government appeal of the substantive decision is pending, under 5 U.S.C. 504(a)(2), the contract appeals board may not reach a final decision on an EAJA application in any event.

James McQuiston has suggested that the rules contain provisions directly related to the Administrative Conference's EAJA data collection effort. He would require applicants for awards to submit a partially-completed Administrative Conference report form, including data from their applications as to eligibility, fees claimed, and the proceeding involved, with their applications. He also suggests provisions identifying the agency personnel responsible for gathering EAJA data and the procedures they are to follow in collecting and submitting the data to the Conference.

We appreciate this concern for the effectiveness of our data-collection efforts. However, we are not certain whether the rules proposed would significantly aid those efforts. Requiring applicants to submit an ACUS form with their fee applications may be an efficient way of initiating the data collection process for some agencies and unnecessarily burdensome for others. (For example, it might be difficult for agencies holding hearings in many locations around the country to make the forms readily available to applicants.) Although we are not including this proposal in our model rules, we suggest that individual agencies consider it, reaching their own conclusions as to whether it would be helpful.

The other suggested rules on data collection relate to internal agency procedures rather than to matters that directly affect the public. The agencies are already bound by statute to provide the Conference with necessary data, and an agency rule will not add anything to this statutory requirement. Thus we don't see any clear purpose in detailing the procedures in regulations. However, if individual agencies believe that the adoption of a rule describing their data collection procedures will help to strengthen those procedures, they may wish to consider this suggestion further.

List of Subjects in 1 CFR Part 315

Administrative practice and procedure, Equal access to justice.

Chapter III of Title 1, CFR is amended to add Part 315 to read as follows:

PART 315—MODEL RULES FOR IMPLEMENTATION OF THE EQUAL ACCESS TO JUSTICE ACT IN AGENCY PROCEEDINGS

Subpart A—General Provisions

Sec.

315.101 Purpose of these rules.
315.102 When the Act applies.
315.103 Proceedings covered.
315.104 Eligibility of applicants.
315.105 Standards for awards.
315.106 Allowable fees and expenses.
315.107 Rulemaking on maximum rates for attorney fees.
315.108 Awards against other agencies.
315.109 Delegations of authority.

Subpart B—Information Required From Applicants

315.201 Contents of application.
315.202 Net worth exhibit.
315.203 Documentation of fees and expenses.
315.204 When the application may be filed.

Subpart C—Procedures for Considering Applications

315.301 Filing and service of documents.
315.302 Answer to application.
315.303 Reply.
315.304 Comments by other parties.
315.305 Settlement.
315.306 Further proceedings.
315.307 Decision.
315.308 Agency review.
315.309 Judicial review.
315.310 Payment of award.

Authority: Sec. 203(a)(1), Pub. L. 98-461, 94 Stat. 2325 [5 U.S.C. 504(c)(1)]; Pub. L. 99-80, 99 Stat. 183.

Subpart A—General Provisions

§ 315.101 Purpose of these rules.

The Equal Access to Justice Act, 5 U.S.C. 504 (called "the Act" in this part), provides for the award of attorney fees and other expenses to eligible individuals and entities who are parties to certain administrative proceedings (called "adversary adjudications") before this agency. An eligible party may receive an award when it prevails over an agency, unless the agency's position was substantially justified or special circumstances make an award unjust. The rules in this part describe the parties eligible for awards and the proceedings that are covered. They also explain how to apply for awards, and the procedures and standards that this agency will use to make them.

§ 315.102 When the Act applies.

The Act applies to any adversary adjudication pending or commenced before this agency on or after August 5, 1985. It also applies to any adversary adjudication commenced on or after October 1, 1984, and finally disposed of before August 5, 1985, provided that an application for fees and expenses, as described in subpart B of these rules, has been filed with the agency within 30 days after August 5, 1985, and to any adversary adjudication pending on or commenced on or after October 1, 1981, in which an application for fees and other expenses was timely filed and was dismissed for lack of jurisdiction.

§ 315.103 Proceedings covered.

(a) The Act applies to adversary adjudications conducted by this agency. These are (i) adjudications under 5 U.S.C. 554 in which the position of this or any other agency of the United States, or any component of an agency, is presented by an attorney or other representative who enters an appearance and participates in the proceeding, and (ii) appeals of decisions of contracting officers made pursuant to

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section 8 of the Contract Disputes Act of 1978 (41 U.S.C. 606) before agency boards of contract appeals as provided in section 8 of that Act (41 U.S.C. 607). Any proceeding in which this agency may prescribe a lawful present or future rate is not covered by the Act. Proceedings to grant or renew licenses are also excluded, but proceedings to modify, suspend, or revoke licenses are covered if they are otherwise "adversary adjudications." For this agency, the types of proceedings generally covered include: [to be supplied by the agency]

Alt. 315.103(a): [for use by contract appeals boards] The Act applies to appeals of decisions of contracting officers made pursuant to section 6 of the Contract Disputes Act of 1978 (41 U.S.C. 605) before this board as provided in section 8 of that Act (41 U.S.C. 607).

(b) This agency's failure to identify a type of proceeding as an adversary adjudication shall not preclude the filing of an application by a party who believes the proceeding is covered by the Act; whether the proceeding is covered will then be an issue for resolution in proceedings on the application.

(c) If a proceeding includes both matters covered by the Act and matters specifically excluded from coverage, any award made will include only fees and expenses related to covered issues.

§ 315.104 Eligibility of applicants.

(a) To be eligible for an award of attorney fees and other expenses under the Act, the applicant must be a party to the adversary adjudication for which it seeks an award. The term "party" is defined in 5 U.S.C. 551(3). The applicant must show that it meets all conditions of eligibility set out in this subpart and in subpart B.

(b) The types of eligible applicants are as follows:

(1) An individual with a net worth of not more than $2 million;

(2) The sole owner of an unincorporated business who has a net worth of not more than $7 million, including both personal and business interests, and not more than 500 employees;

(3) A charitable or other tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) with not more than 500 employees;

(4) A cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)) with not more than 500 employees; and

(5) Any other partnership, corporation, association, unit of local government, or organization with a net worth of not more than $7 million and not more than 500 employees.

(c) For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the proceeding was initiated.

Alt. 315.104(c): [for use by contract appeals boards] For the purpose of eligibility, the net worth and number of employees of an applicant shall be determined as of the date the applicant filed its appeal under 41 U.S.C. 606.

(d) An applicant who owns an unincorporated business will be considered as an "individual" rather than a "sole owner of an unincorporated business" if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.

(e) The employees of an applicant include all persons who regularly perform services for renumeration for the applicant, under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(f) The net worth and number of employees of the applicant and all of its affiliates shall be aggregated to determine eligibility. Any individual, corporation or other entity that directly or indirectly controls or owns a majority of the voting shares or other interests of the applicant, or any corporation or other entity of which the applicant directly or indirectly owns or controls a majority of the voting shares or other interest, will be considered an affiliate for purposes of this part, unless the adjudicative officer determines that such treatment would be unjust and contrary to the purposes of the Act in light of the actual relationship between the affiliated entities. In addition, the adjudicative officer may determine that financial relationships of the applicant other than those described in this paragraph constitute special circumstances that would make an award unjust.

(g) An applicant that participates in a proceeding primarily on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

§ 315.105 Standards for awards.

(a) A prevailing applicant may receive an award for fees and expenses incurred in connection with a proceeding or in a significant and discrete substantive portion of the proceeding, unless the position of the agency over which the applicant has prevailed was substantially justified. The position of the agency includes, in addition to the position taken by the agency in the adversary adjudication, the action or failure to act by the agency upon which the adversary adjudication is based. The burden of proof that an award should not be made to an ineligible prevailing applicant because the agency's position was substantially justified is on the agency counsel.

(b) An award will be reduced or denied if the applicant has unduly or unreasonably protracted the proceeding or if special circumstances make the award sought unjust.

§ 315.105 Allowable fees and expenses.

(a) Awards will be based on rates customarily charged by persons engaged in the business of acting as attorneys, agents and expert witnesses, even if the services were made available without charge or at reduced rate to the applicant.

(b) No award for the fee of an attorney or agent under these rules may exceed $75.00 per hour. No award to compensate an expert witness may exceed the highest rate at which this agency pays expert witnesses, which is [to be supplied by the agency]. However, an award may also include the reasonable expenses of the attorney, agent, or witness as a separate item, if the attorney, agent or witness ordinarily charges clients separately for such expenses.

(c) In determining the reasonableness of the fee sought for an attorney, agent or expert witness, the adjudicative officer shall consider the following:

(1) If the attorney, agent or witness is in private practice, his or her customary fees for similar services, or, if an employee of the applicant, the fully allocated costs of the services;

(2) The prevailing rate for similar services in the community in which the attorney, agent or witness ordinarily performs services;

(3) The time actually spent in the representation of the applicant;

(4) The time reasonably spent in light of the difficulty or complexity of the issues in the proceeding; and

(5) Such other factors as may bear on the value of the services provided.

(d) The reasonable cost of any study, analysis, engineering report, test, project or similar matter prepared on behalf of a party may be awarded, to the extent that the charge for the services does not exceed the prevailing rate for similar services, and the study or other matter was necessary for preparation of applicant's case.

§ 315.107 Rulemaking on maximum rates for attorney fees.

(a) If warranted by an increase in the cost of living or by special circumstances (such as limited availability of attorneys qualified to handle certain types of proceedings), this agency may adopt regulations providing that attorney fees may be awarded at a rate higher than $75 per hour in some or all of the types of proceedings covered by this part. This agency will conduct any rulemaking proceedings for this purpose under the informal rulemaking procedures of the Administrative Procedure Act.

(b) Any person may file with this agency a petition for rulemaking to increase the maximum rate for attorney fees, in accordance with [cross-reference to, or description of, standard agency procedure for rulemaking petitions.] The petition should identify the rate the petitioner believes this agency should establish and the types of proceedings in which the rate should be used. It should also explain fully the reasons why the higher rate is warranted. This agency will respond to the petition within 60 days after it is filed, by initiating a rulemaking proceeding, denying the petition, or taking other appropriate action.

§ 315.108 Awards against other agencies.

If an applicant is entitled to an award because it prevails over another agency of the United States that participates in a proceeding before this agency and takes a position that is not substantially justified, the award or an appropriate portion of the award shall be made against that agency.

§ 315.109 Delegations of authority.

This agency delegates to [identify appropriate agency unit or officer] authority to take final action on matters pertaining to the Equal Access to Justice Act, 5 U.S.C. 504, in actions arising under [list statutes or types of proceedings.] This agency may by order delegate authority to take final action on matters pertaining to the Equal Access to Justice Act in particular cases to other subordinate officials or bodies.

Alt. 315.109: [Contract appeals boards may omit this section.]

Subpart B—Information Required From Applicants

§ 315.201 Contents of application.

(a) An application for an award of fees and expenses under the Act shall identify the applicant and the proceeding for which an award is sought. The application shall show that the applicant has prevailed and identify the position of an agency or agencies that the applicant alleges was not substantially justified. Unless the applicant is an individual, the application shall also state the number of employees of the applicant and describe briefly the type and purpose of its organization or business.

(b) The application shall also include a statement that the applicant's net worth does not exceed $2 million (if an individual) or $7 million (for all other applicants, including their affiliates). However, an applicant may omit this statement if:

(1) It attaches a copy of a ruling by the Internal Revenue Service that it qualifies as an organization described in section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) or, in the case of a tax-exempt organization not required to obtain a ruling from the Internal Revenue Service on its exempt status, a statement that describes the basis for the applicant's belief that it qualifies under such section; or

(2) It states that it is a cooperative association as defined in section 15(a) of the Agricultural Marketing Act (12 U.S.C. 1141j(a)).

(c) The application shall state the amount of fees and expenses for which an award is sought.

(d) The application may also include any other matters that the applicant wishes this agency to consider in determining whether and in what amount an award should be made.

(e) The application shall be signed by the applicant or an authorized officer or attorney of the applicant. It shall also contain or be accompanied by a written verification under oath or under penalty of perjury that the information provided in the application is true and correct.

§ 315.202 Net worth exhibit.

(a) Each applicant except a qualified tax-exempt organization or cooperative association must provide with its application a detailed exhibit showing the new worth of the applicant and any affiliates (as defined in § 315.104(f) of this part) when the proceeding was initiated. The exhibit may be in any form convenient to the applicant that provides full disclosure of the applicant's and its affiliates' assets and liabilities and is sufficient to determine whether the applicant qualifies under the standards in this part. The adjudicative officer may require an applicant to file additional information to determine its eligibility for an award.

(b) Ordinarily, the net worth exhibit will be included in the public record of the proceeding. However, an applicant that objects to public disclosure of information in any portion of the exhibit and believes there are legal grounds for withholding it from disclosure may submit that portion of the exhibit directly to the adjudicative offices in a sealed envelope labeled "Confidential Financial Information," accompanied by a motion to withhold the information from public disclosure. The motion shall describe the information sought to be withheld and explain, in detail, why it falls within one or more of the specific exemptions from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552(b) (1)–(9), why public disclosure of the information would adversely affect the applicant, and why disclosure is not required in the public interest. The material in question shall be served on counsel representing the agency against which the applicant seeks an award, but need not be served on any other party to the proceeding. If the adjudicative officer finds that the information should not be withheld from disclosure, it shall be placed in the public record of the proceeding. Otherwise, any request to inspect or copy the exhibit shall be disposed of in accordance with this agency's established procedures under the Freedom of Information Act [insert cross reference to agency FOIA rules].

§ 315.203 Documentation of fees and expenses.

The application shall be accompanied by full documentation of the fees and expenses, including the cost of any study, analysis, engineering report, test, project or similar matter, for which an award is sought. A separate itemized statement shall be submitted for each professional firm or individual whose services are covered by the application, showing the hours spent in connection with the proceeding by each individual, a description of the specific services performed, the rates at which each fee has been computed, any expenses for which reimbursement is sought, the total amount claimed, and the total amount paid or payable by the applicant or by any other person or entity for the services provided. The adjudicative officer may require the applicant to provide vouchers, receipts, logs, or other substantiation for any fees or expenses claimed, pursuant to § 315.306 of these rules.

§ 315.204 When an application may be filed.

(a) An application may be filed whenever the applicant has prevailed in the proceeding or in a significant and discrete substantive portion of the proceeding, but in no case later than 30

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days after this agency's final disposition of the proceeding.

(b) For purposes of this rule, final disposition means the date on which a decision or order disposing of the merits of the proceeding or any other complete resolution of the proceeding, such as a settlement or voluntary dismissal, become a final and unappealable, both within the agency and to the courts.

(c) If review or reconsideration is sought or taken of a decision as to which an applicant believes it has prevailed, proceedings for the award of fees shall be stayed pending final disposition of the underlying controversy. When the United States appeals the underlying merits of an adversary adjudication to a court, no decision on an application for fees and other expenses in connection with that adversary adjudication shall be made until a final and unreviewable decision is rendered by the court on the appeal or until the underlying merits of the case have been finally determined pursuant to the appeal.

Subpart C—Procedures for Considering Applications

§ 315.301 Filing and service of documents.

Any application for an award or other pleading or document related to an application shall be filed and served on all parties to the proceeding in the same manner as other pleadings in the proceeding, except as provided in § 315.202(b) for confidential financial information.

§ 315.302 Answer to application.

(a) Within 30 days after service of an application, counsel representing the agency against which an award is sought may file an answer to the application. Unless agency counsel requests an extension of time for filing or files a statement of intent to negotiate under paragraph (b) of this section, failure to file an answer within the 30-day period may be treated as a consent to the award requested.

(b) If agency counsel and the applicant believe that the issues in the fee application can be settled, they may jointly file a statement of their intent to negotiate a settlement. The filing of this statement shall extend the time for filing an answer for an additional 30 days, and further extensions may be granted by the adjudicative officer upon request by agency counsel and the applicant.

(c) The answer shall explain in detail any objections to the award requested and identify the facts relied on in support of agency counsel's position. If the answer is based on any alleged facts not already in the record of the proceeding, agency counsel shall include with the answer either supporting affidavits or a request for further proceedings under § 315.306.

§ 315.303 Reply.

Within 15 days after service of an answer, the applicant may file a reply. If the reply is based on any alleged facts not already in the record of the proceeding, the applicant shall include with the reply either supporting affidavits or a request for further proceedings under §315.306.

§ 315.304 Comments by other parties.

Any party to a proceeding other than the applicant and agency counsel may file comments on an application within 30 days after it is served or on an answer within 15 days after it is served. A commenting party may not participate further in proceedings on the application unless the adjudicative officer determines that the public interest requires such participation in order to permit full exploration of matters raised in the comments.

§ 315.305 Settlement.

The application and agency counsel may agree on a proposed settlement of the award before final action on the application, either in connection with a settlement of the underlying proceeding, or after the underlying proceeding has been concluded, in accordance with the agency's standard settlement procedure. If a prevailing party and agency counsel agree on a proposed settlement of an award before an application has been filed, the application shall be filed with the proposed settlement.

§ 315.306 Further proceedings.

(a) Ordinarily, the determination of an award will be made on the basis of the written record. However, on request of either the applicant or agency counsel, or on his or her own initiative, the adjudicative officer may order further proceedings, such as an informal conference, oral argument, additional written submissions or, as to issues other than substantial justification (such as the applicant's eligibility or substantiation of fees and expenses), pertinent discovery or an evidentiary hearing. Such further proceedings shall be held only when necessary for full and fair resolution of the issues arising from the application, and shall be conducted as promptly as possible. Whether or not the position of the agency was substantially justified shall be determined on the basis of the administrative record, as a whole, which is made in the adversary adjudication for which fees and other expenses are sought.

(b) A request that the adjudicative officer order further proceedings under this section shall specifically identify the information sought or the disputed issues and shall explain why the additional proceedings are necessary to resolve the issues.

§ 315.307 Decision.

The adjudicative officer shall issue an initial decision on the application within [to be supplied by the agency] days after completion of proceedings on the application. The decision shall include written findings and conclusions on the applicant's eligibility and status as a prevailing party, and an explanation of the reasons for any difference between the amount requested and the amount awarded. The decision shall also include, if at issue, findings on whether the agency's position was substantially justified, whether the applicant unduly protracted the proceedings, or whether special circumstances make an award unjust. If the applicant has sought an award against more than one agency, the decision shall allocate responsibility for payment of any award made among the agencies, and shall explain the reasons for the allocation made.

Alt. 315.307 [for use by contract appeals boards] The Board shall issue its decision on the application within [to be supplied by the agency] days after completion of proceedings on the application. Whenever possible, the decision shall be made by the same administrative judge or panel that decided the contract appeal for which fees are sought. The decision shall include written findings . . . . [Continue as in 315.307, from the second sentence to the end.]

§ 315.308 Agency review.

Either the applicant or agency counsel may seek review of the initial decision on the fee application, or the agency may decide to review the decision on its own initiative, in accordance with [cross-reference to agency's regular review procedures.] If neither the applicant nor agency counsel seeks review and the agency does not take review on its own initiative, the initial decision on the application shall become a final decision of the agency [30] days after it is issued. Whether to review a decision is a matter within the discretion of the agency. If review is taken, the agency will issue a final decision on the application or remand the application to the adjudicative officer for further proceedings.

Alt. 315.308: (for use by contract appeals board) Reconsideration. Either party may seak reconsideration of the decision on the fee application in accordance with [cross-reference to rule on reconsideration of contract appeals board decisions].

§ 315.309 Judicial review.

Judicial review of final agency decisions on awards may be sought as provided in 5 U.S.C. 504(c)(2).

§ 315.310 Payment of award.

An applicant seeking payment of an award shall submit to the [comptroller or other disbursing official] of the paying agency a copy of the agency's final decision granting the award, accompanied by a certification that the applicant will not seek review of the decision in the United States courts. [Include here address for submissions at specific agency.] The agency will pay the amount awarded to the applicant within 60 days.

Dated: April 28, 1986.

Marshall J. Breger,

Chairman.

[FR Doc. 86-9789 Filed 5-5-86; 8:45 am]

BILLING CODE 6110-01-M

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 550

Pay Administration (General)

AGENCY: Office of Personnel Management.

ACTION: Final regulations.

SUMMARY: The Office of Personnel Management (OPM) is revising its regulations on offsetting debts due the United States from the current pay of a Federal employee. These revisions are necessary (1) to make the definition of "agency" reflect the full range of governmental entities authorized to use the provisions of 5 U.S.C. 5514; and (2) to establish a system through which Federal agencies can obtain an official to conduct salary offset hearings when they cannot make adequate arrangements by some other means.

EFFECTIVE DATE: June 5, 1986.

FOR FURTHER INFORMATION CONTACT: Patricia A. Rochester, (202) 632-1285.

SUPPLEMENTARY INFORMATION: These final regulations incorporate two regulations previously published separately. On October 31, 1984, OPM published interim regulations (49 FR 43619) to establish an emergency system so creditor agencies could arrange for a Federal employee to serve as a hearing official for salary offsets. On April 30, 1985, OPM published proposed regulations (50 FR 18287) revising the definition of "agency" and deleting some extraneous material inadvertently included in 5 CFR 550.1106(b)(3). Both regulations provided a 60-day comment period. A summary of the comments received and an explanation of any resulting changes to the regulatory text follows.

1. The Definition of Agency

We received three comments on our proposed regulations—two from Federal agencies and one from a labor organization.

The two agencies recommended changes to the proposed amendment of the definition. Both recommendations were incorporated. The final regulations expand the description of the judicial branch and add a new category for Government entities not directly classifiable in any of the three branches, such as the Smithsonian Institution.

The labor organization questioned whether the scope of 5 U.S.C. 5514 could be extended to include the legislative and judicial branches. The General Accounting Office (GAO) believes that it can and we agree. (See GAO decision B-217402 dated June 10, 1985). The original legislation (Pub. L. 83-497, 68 Stat. 482 (1954)) authorized administrative offset of current pay for erroneous payments made to or on behalf of civilian or military personnel of the Government. No qualifications were mentioned that would have restricted the authority to any particular branch of the Government. It does not appear that either the recodification of title 5 in 1966 (Pub. L. 89-554, 80 Stat. 477) or the subsequent amendments by the Debt Collection Act of 1982 (Pub. L. 97-365, 96 Stat. 1749) made any substantive change in the scope of the original statute.

2. A System for Obtaining Hearing Officers

We received eight comments on the interim regulations—six from Federal agencies and two from labor organizations. The labor organizations did not object to the regulations.

a. *Burden on agency personnel.* Five of the six agencies commented on the potential burden on the debtor's employing agency if a significant number of employees were subjected to a salary offset at the same time. They believe the 60-day turnaround requirement may handicap agencies in performing their own missions.

We appreciate the concern expressed in these comments. We would like to stress, however, that this procedure for obtaining hearing officials applies in the event that "the creditor agency cannot provide a prompt and appropriate hearing before an administrative law judge or before a hearing official furnished pursuant to another lawful arrangement . . . ." [Emphasis added.] Agencies are free to establish a system that will meet their particular needs. These regulations establish an emergency procedure that was never intended to be the sole or primary system for obtaining hearing officials.

b. *Cost and reimbursement.* Four agencies were concerned about reimbursement for costs associated with the hearings. Some agencies believe that a requirement to provide hearing officials must be accompanied by a clear requirement for reimbursement.

Although the final salary offset regulations state that the arrangements for a salary offset hearing official are to be made by the creditor agency, the factors to be considered in determining which party bears the financial responsibility for salary offset hearings may vary from case to case. Therefore, agencies are free to arrive at any mutually satisfactory arrangements consistent with any applicable limitations on the expenditure of their appropriated funds.

c. *Competency of hearing officials and consistency of decisions.* Two agencies noted that the method of selecting hearing officials can affect consistency in the hearings and decisions. One agency believed that specific qualifications criteria provided by OPM would produce consistency in selecting individuals for hearing officials. This would in turn produce some consistency in the quality of hearings given Government-wide. Another agency believed that a plan requiring the creditor agency to obtain a hearing official from the debtor's employing agency would not permit the creditor agency to select specific hearing officers by name. The agency believed that if it could select an individual by name, repeated use of the same individual would permit him or her to become familar with the statutory basis of the debts under review, thus producing consistency in the decisions.

Both creditor and employing agencies should be aware of the importance of reliable and consistent debt collection procedures. However, the salary offset hearing is primarily a fact-finding proceeding. The primary plan established by an agency for requiring hearing officials, should be designed to ensure that each employee obtains a fair hearing and that the Government's

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interest in collecting the debt is well represented.

d. *Requests for assignments of hearing officials.* Two agencies questioned the method we proposed for contracting Federal agencies to obtain the appointment of a hearing official. These agencies believed that using the officials designated to receive garnishment orders in the appendix to 5 CFR Part 581, might delay getting the request to the appropriate agency contact for appointing hearing officials.

We realize that agency contacts for garnishments may not be the contacts designated to assign available hearing officers. However, because this is an emergency procedure and will not be used routinely, we suggest that agencies keep their garnishment contacts advised of the appropriate hearing officer contact so that a timely referral may be made.

e. *Transmitting confidential material.* One agency commented on the fact that some hearings will require the transfer of confidential material from one agency to another—a matter we do not address in these regulations. We do not believe it is necessary to include this discussion in the regulations. Any necessary guidance will be included in our FPM letter.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations are on administrative practices that affect only the Federal Government.

List of Subjects in 5 CFR Part 550

Administrative practice and procedures, Government employees, Wages.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is amending 5 CFR Part 550 as follows:

PART 550—PAY ADMINISTRATION (GENERAL)

* * * * *

Subpart K—Collection by Offset From Indebted Government Employee

1. The authority citation for Subpart K of Part 550 continues to read as follows:

Authority: 5 U.S.C. 5514; sec. 6(1), E.O. 11609, 3 CFR, 1971–1975 Comp., 586; redesignated in sec. 2–2, E.O. 12107, 3 CFR, 1978 Comp., 264.

2. In § 550.1103, the definition of "agency" is revised to read as follows:

§ 550.1103 Definitions.

* * * * *

"Agency" means (a) an Executive agency as defined in Section 105 of title 5, United States Code, including the U.S. Postal Service and the U.S. Postal Rate Commission; (b) a military department as defined in Section 102 of title 5, United States Code; (c) an agency or court in the judicial branch, including a court as defined in Section 610 of title 28, United States Code, the District Court for the Northern Mariana Islands, and the Judicial Panel on Multidistrict Litigation; (d) an agency of the legislative branch, including the U.S. Senate and the U.S. House of Representatives; and (e) other independent establishments that are entities of the Federal Government.

* * * * *

§ 550.1106 [Amended]

3. In § 550.1100, paragraph (b)(3) is amended by removing the last three sentences in the paragraph, commencing with the sentence—"Ordinarily, hearings may consist of informal conferences . . . ."

4. A new § 550.1107 is revised to read as follows:

§ 550.1107 Obtaining the services of a hearing official.

(a) When the debtor does not work for the creditor agency and the creditor agency cannot provide a prompt and appropriate hearing before an administrative law judge or before a hearing official furnished pursuant to another lawful arrangement, the creditor agency may contact an agent of the paying agency designated in Appendix A of Part 581 of this chapter to arrange for a hearing official, and the paying agency must then cooperate as provided by 4 CFR 102.1 and provide a hearing official.

(b) When the debtor works for the creditor agency, the creditor agency may contact any agent (of another agency) designated in Appendix A of Part 581 of this chapter to arrange for a hearing official. Agencies must then cooperate as required by 4 CFR 102.1 and provide a hearing official.

[FR Doc. 86–10139 Filed 5–5–86; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 917

[Plum Regs. 17 and 19; Amdt. 3 and 8]

Pears, Plums and Peaches Grown in California; Amendment of Container and Pack Requirements; Amendment of Grade and Size Requirements for Plums

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends container and pack requirements and grade and size requirements for shipments of fresh plums grown in California. These amendments are designed to provide uniformity of sizes of the plums in containers and assure adequate quality of plum pack during the 1986 season.

EFFECTIVE DATE: April 30, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250 (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through the group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that approximately 606 handlers will be subject to regulation under the Marketing Order for California pears, peaches, and plums (7 CFR Part 917) during the course of the current season and the great majority of this group may be classified as small entities. While the final rule may impose some costs on affected handlers, and that the number of such firms may be substantial, the added burden on small entities, if present at all, is not significant.

This final rule is issued under the marketing agreement, as amended, and Marketing Order 917, as amended (7 CFR Part 917), regulating the handling of pears, plums, and peaches grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). Shipment of these California plums are regulated by container and pack under Plum Regulation 17 (7 CFR Part 917.454) and by grade and size under Plum Regulation 19 (7 CFR Part 917.460). Because these regulations do not change substantially from season to season, they are issued on a continuing basis subject to amendment, modification or suspension as may be recommended by the applicable committee and approved by the Secretary.

Notice of the proposed amendment of the respective requirements was published in the Federal Register (51 FR 9827) on March 21, 1986. It invited interested persons to file comments on the proposal through April 7, 1986. No comments were received.

This final rule is based upon the recommendation and information submitted by the Plum Commodity Committee, the information contained in the notice, and other available information.

With respect to container and pack requirements, the final rule allows a size variance between the smallest and largest plums of ⅝ inch for plums 2¼ inch in diameter and larger when packed in volume-filled containers. Previously, the maximum variation permitted was ½ inch (or ⅝ inch) regardless of the diameter of the plums and the type of container. The size variation requirement should allow handlers additional flexibility in packing larger size plums in volume-filled containers, whereas for any size plums packed in tray packs the ⅝ inch size variance continues to apply. In addition, because the ⅝ inch size variance is greater than the ⅝ inch size variance permitted in the standard pack requirements in the United States Standards for Grades of Fresh Plums and Prunes (7 CFR 51.1520 to 51.1538), the requirement that shipments of plums meet all standard pack requirements is deleted. Instead, the final rule lists the specified pack requirements for shipments of plums.

With respect to size requirements, the final rule requires that all plums regulated by size be subject to a two-pound subsample of the smallest plums taken from each eight-pound sample used in checking compliance with size requirements. The volume-filled container is the most frequently used container in the California plum industry (it comprised more than 89 percent of total 1985 shipments). However, the nature of such packs allows for significant diameter variation. The additional two-pound subsample should limit such variation and help assure that the individual plums in each pack are uniformly sized.

Another size requirement change establishes minimum size requirements for three varieties of plums and removes minimum size requirements for six plum varieties. This change brings the variety-specific size regulation established for plums into conformity with a long-standing industry practice of applying such regulation to varieties produced in commercially significant quantities. Shipments of the varieties that are regulated exceeded 10,000 packages per variety during the 1985 season. Shipments of the varieties that have been removed from the variety-specific size regulation fell below 5,000 packages per variety during the season.

A final size requirement change requires all varieties not subject to the variety-specific regulations to be subject to a minimum size requirement. This size requirement will subject these varities of plums to the eight-pound sample and two-pound subsample tests. The eight-pound sample cannot contain more than 130 plums, and the two-pound subsample of the smallest plums in each eight-pound sample cannot contain more than 38 plums. This change should help to improve the size and maturity of the varieties not specifically regulated by size and thereby promote the availability of suitable quality fruit in the interest of producers and consumers.

After considering the recommendations submitted by the Plum Commodity Committee, the information contained in the notice, and other available information, the Department has determined that the action hereinafter set forth tends to effectuate the declared policy of the act and should be issued.

In addition, it is found that it is impracticable, unnecessary, and contrary to the public interest to postpone the effective date of this final rule until 30 days after publication in the Federal Register (5 U.S.C. 553). The harvest and shipment of these plums is expected to begin soon. Hence, this action must be effective promptly to minimize any inequity among producers or handlers due to different requirements for different parts of the 1986 shipping season. Moreover, the provisions in the final rule are the same as those contained in the proposal which was published in the Federal Register on March 21, 1986. Growers and handlers have been preparing to conduct their operations in light of the proposed changes and do not require any additional time for preparation. No useful purpose would be served by delaying the effective date of these actions.

This final rule amends Subpart—Container and Pack Regulation (7 CFR §§ 917.454; 50 FR 39073) by revising § 917.454(a)(1), (a)(2), and (d) and Subpart—Grade and Size Regulation (7 CFR §§ 917.460; 50 FR 27813) by revising § 917.460(a), (b), and (c).

List of Subjects in 7 CFR Part 917

Marketing agreements and orders, Pears, Plums, and Peaches from California.

1. The authority citation for 7 CFR Part 917 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

2. Section 917.454(a)(1), (a)(2), and (d) is revised to read as follows:

Subpart—Container and Pack Regulation

§ 917.454 Plum Regulation 17.

(a) * * *

(1) Such plums, when shipped in closed packages or containers, except master containers of consumer packages and individual consumer packages therein, shall meet the following pack requirements as set forth below.

(i) All packages shall be tightly packed or well filled, according to the approved and recognized methods.

(ii) The plums in the top layer of any package shall be reasonably representative in quality and size of those in the remainder of the package.

(iii) Four-basket crates shall not be more than three layers deep. The arrangement of the bottom layer shall be one row less one way, and may be one row less each way than the arrangement of the top layer; the arrangement of the middle layer may be the same as the top layer, or may be one row less one way than the arrangement of the top layer. In the 3½—4x5 and 3½—4x4 packs the face of each half of the crate shall be packed as a unit, with no shim between the two baskets.

(2) The diameter of the smallest and largest plums in any individual pack or container shall not vary more than one-fourth (¼) inch, except that plums which

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are placed in volume-fill or tight-fill type containers and have a diameter of two and one-fourth (2¼) inches or larger shall not vary more than three-eighths (⅜) inch. A total of not more than five (5) percent, by count, of the plums in any package or container may fail to meet this requirement.

* * * * *

(d) When used herein "diameter" shall have the same meaning as set forth in the U.S. Standards for Grades of Fresh Plums and Prunes (7 CFR 51.1520 to 51.1538) and all other terms shall have the same meaning as when used in the amended marketing agreement and order. "No. 12B standard fruit box" measures 2⅝ to 7⅛ x 11½ x 16½ inches, "No. 22D standard lug box" measures 2⅞ to 7⅛ x 13¼ x 16⅝ inches, "No. 22G standard lug box" measures 7⅝ to 7⅛ x 13¼ x 15⅝ inches. All dimensions are given in depth (inside dimensions) by width by length (outside dimensions).

3. Section 917.460 is revised to read as follows:

§ 917.460 Plum Regulation 18.

(a) No handler shall ship any lot of packages or containers of any plums unless such plums grade at least U.S. No. 1, except that maturity shall be determined by the application of color standards by variety or such other tests as determined to be proper by the Federal or Federal-State Inspection Service. Internal discoloration not considered serious damage and healed growth cracks emanating from the stem end which do not cause serious damage shall be permitted. In addition to the above, any lot of Tragedy or Kelsey plums shall be permitted an additional 10 percent tolerance for defects not considered serious damage.

(b) No handler shall ship any package or other container of any variety of plums listed in Column A of the following Table I unless such plums are of a size that an eight-pound sample, representative of the sizes of the plums in the package or container, contains not more than the number of plums listed for the variety in Column B of said table, and that a two pound subsample of the smallest plums in each eight-pound sample contains not more than the number of plums listed for the variety in Column C of said table.

TABLE I

Column A, variety	Plums per sample	Column C, plums per subsample
Amesun	64	17
Ambra	67	18
Andys Pride	69	18
Angeleno	67	18
Angeo	67	18
Autumn Rose	72	19
Bee Gee	65	17
Blackamber	56	15
Black Beauty	69	18
Black Diamond	69	18
Black Jewel	54	14
Black Knight	58	16
Cecilya Nanta	61	17
Cassalman	63	17
Catalina	59	16
Dorado	74	20
Early Hawaiian Ann	60	16
Ebony	66	18
El Dorado	69	18
Empress	57	15
Freedom	56	15
Friar	56	15
Frontier	61	17
Gar-Rose	71	19
Grand Rose	54	14
July Red	64	17
July Santa Rose	69	18
Kelsey	47	13
King David	53	14
King Richard	54	14
King's Black	58	16
Laroda	58	16
Late Santa Rose (including Improved Late Santa Rose and Swell Rose	64	17
Linda Rose	63	17
Mariposa	61	17
Midsummer	63	17
Nubiana	56	15
President	57	15
Prime Black	69	18
Queen Ann	53	14
Queen Rose	53	14
Red Beauty	74	20
Red Glow	69	18
Red Rose	64	17
Redroy	58	16
Rish Red	74	20
Rose Ann	69	18
Rosemary	50	14
Rose Ann	60	16
Royal Red	74	20
Royoum	74	20
Santa Rosa	69	18
Simka, Arroza, New Yorker	50	14
Spring Beauty	74	20
Standard	63	21
Wickson	51	14

(c) No handler shall ship any package or container of any variety of plums not specifically named in paragraph (b) of this section, unless such plums are of a size that an eight-pound sample representative of the sizes of the plums in the package or container contains not more than 139 plums, and that a two-pound subsample of the smallest plums in each eight-pound sample contains not more than 36 plums.

(d) As used herein, "U.S. No. 1" and "serious damage" mean the same as defined in the United States Standards for Grades of Fresh Plums and Prunes (7 CFR 51.1529 through 51.1538).

Dated: April 30, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division.

[FR Doc. 86-10071 Filed 5-5-86; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks; Changes in Discount Rates

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors has amended its Regulation A, "Extensions of Credit by Federal Reserve Banks," for the purpose of reducing discount rates. The discount rate action was taken in the context of similar action by other important industrial countries and sizable declines in most market interest rates in recent weeks. More broadly, growth in the various monetary aggregates has been more limited this year, prospects for sustaining impoved price performance and continuing restraint on costs have been further enhanced by the recent sharp declines in oil prices, and the economic expansion appears to be proceeding within the nation's growth potential.

EFFECTIVE DATES: The changes were effective on the dates specified below.

FOR FURTHER INFORMATION CONTACT: William W. Wiles, Secretary of the Board (202/452-3257), or Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (TDD) (202/452-3544), Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: Pursuant to the authority of sections 10(b), 13, 14, 19, et al., of the Federal Reserve Act, the Board has amended its Regulation A to incorporate changes in discount rates on Reserve Bank extensions of credit. Further, under the authority of 5 U.S.C. 553(b)(3)(B) and (d)(3), these amendments are being published without prior general notice of proposed rulemaking, public participation, or deferred effective date. The Board has for good cause found that current economic and financial considerations require that these amendments be adopted immediately.

List of Subjects in 12 CFR Part 201

Banks, banking; Credit; Federal Reserve System.

For the reasons outlined above, the Board of Governors amends Part 201 as set forth below:

1. The authority citation for 12 CFR Part 201 is revised to read as follows:

Authority: Secs. 10(a), 10(b), 13, 13a, 14(d) and 19 of the Federal Reserve Act (12 U.S.C. 347a, 347b, 343 et seq., 347c, 348 et seq., 357, 374, 374a, and 461); and sec. 7(b) of the International Bank Act of 1978 (12 U.S.C. 347d), unless otherwise noted.

2. Section 201.51 is revised to read as follows:

§ 201.51 Short-term adjustment credit for depository institutions.

The rates for short-term adjustment credit provided to depository institutions under § 201.3(a) of Regulation A are:

Federal Reserve Bank	Rate	Effective
Boston	6½	Apr. 21, 1986.
New York	6½	Do.
Philadelphia	6½	Apr. 23, 1986.
Cleveland	6½	Apr. 21, 1986.
Richmond	6½	Do.
Atlanta	6½	Apr. 22, 1986.
Chicago	6½	Apr. 21, 1986.
St. Louis	6½	Apr. 22, 1986.
Minneapolis	6½	Apr. 21, 1986.
Kansas City	6½	Do.
Dallas	6½	Do.
San Francisco	6½	Do.

3. Section 201.52 is revised to read as follows:

§ 201.52 Extended credit for depository institutions.

(a) *Seasonal credit.* The rates for regular seasonal credit extended to depository institutions under § 201.3(b)(1) of Regulation A are:

Federal Reserve Bank	Rate	Effective
Boston	6½	Apr. 21, 1986.
New York	6½	Do.
Philadelphia	6½	Apr. 23, 1986.
Cleveland	6½	Apr. 21, 1986.
Richmond	6½	Do.
Atlanta	6½	Apr. 22, 1986.
Chicago	6½	Apr. 21, 1986.
St. Louis	6½	Apr. 22, 1986.
Minneapolis	6½	Apr. 21, 1986.
Kansas City	6½	Do.
Dallas	6½	Do.
San Francisco	6½	Do.

(b) *Temporary seasonal credit program.* At the option of the borrower, interest on credit advanced under the temporary simplified seasonal credit program as revised on February 18, 1986, can be either at the basic discount rate (see § 201.51) or at a rate that is one-half percentage point above the basic rate and that will remain fixed during the time the credit is outstanding. The fixed rate for new loans may be changed as the basic discount rate and extended credit rates are changed. In no case should such borrowing, including renewals, be outstanding beyond February 1987.

(c) *Other extended credit.* The rates for other extended credit provided to depository institutions under sustained liquidity pressures or where there are exceptional circumstances or practices involving a particular institution under § 201.3(b)(2) of Regulation A are:

Federal Reserve Bank	Rate	Effective
Boston	6½	Apr. 21, 1986.
New York	6½	Do.
Philadelphia	6½	Apr. 23, 1986.
Cleveland	6½	Apr. 21, 1986.
Richmond	6½	Do.
Atlanta	6½	Apr. 22, 1986.
Chicago	6½	Apr. 21, 1986.
St. Louis	6½	Apr. 22, 1986.
Minneapolis	6½	Apr. 21, 1986.
Kansas City	6½	Do.
Dallas	6½	Do.
San Francisco	6½	Do.

These rates apply for the first 60 days of borrowing. A one percentage point surcharge applies for borrowing during the next 90 days, and a two percentage point surcharge applies for borrowing thereafter. Where credit provided to a particular depository institution is anticipated to be outstanding for an unusually prolonged period and in relatively large amounts, the time period in which each rate under the structure is applied may be shortened, and the rate may be established on a more flexible basis, taking into account rates on market sources of funds.

By order of the Board of Governors of the Federal Reserve System, April 29, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-9985 Filed 5-5-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-ASO-12]

Alteration of Certain Control Zones and Transition Areas in Florida and Georgia

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment updates the names and geographical coordinates of various airports which have been changed but which have not yet been included in the individual airport control zone and/or transition area descriptions. No significant change in airspace designation will result from this action.

DATES: Effective date: 0901 UTC, July 3, 1986.

Comments must be received on or before June 15, 1986.

ADDRESSES: Send comments on the rule in triplicate to: Federal Aviation Administration, ASO-530, Manager, Airspace and Procedures Branch, Docket No. 86-ASO-12, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel, Room 652, 3400 Norman Berry Drive, East Point, Georgia 30344, telephone: (404) 763-7646.

FOR FURTHER INFORMATION CONTACT: Donald Ross, Supervisor, Airspace Section, Airspace and Procedures Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone: (404) 763-7646.

SUPPLEMENTARY INFORMATION:

Request for Comments on the Rule

Although this action is in the form of a final rule, which involves editorial corrections to certain control zones and transition areas, and was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory aeronautical, economic, environmental, and energy aspects of the rule that might suggest the need to modify the rule.

The Rule

The purpose of this amendment to § 71.171 and § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to correctly list the names and geographical coordinates of airports specified in certain airspace designations. Various political bodies have officially changed the names of certain airports and past airport alterations have resulted in changes in geographical coordinates. It, therefore, is necessary to alter the control zone and transition area descriptions to reflect these changes. Sections 71.171 and 71.181 of Part 71 of the Federal Aviation Regulations were republished in FAA Handbook 7400.6B dated January 2, 1986.

Under the circumstances presented, the FAA concludes that there is a need

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to alter the various control zone and transition area descriptions to reflect the changes in airport names and geographical coordinates. The changes are so minor and nonsubstantive I find that notice or public procedure under 5 U.S.C. 553(b) is unnecessary.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zone, Transition area.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 108(g) (Revised Public Law 97-449, January 12, 1983); 14 CFR 11.69.

2. Section 71.171 is amended as follows:

Titusville, FL—[Amended]

By removing the words "Titusville-Cocoa Airport (lat. 28°30'45" N., long. 80°45'11" W.);" and replacing them with the words "Space Center Executive Airport (lat. 28°30'49" N., long. 80°47'50" W.);".

Valdosta Municipal Airport, GA—[Amended]

By removing the word "Municipal" from the title and replacing it with the word "Regional" and by removing from the description the following words "Valdosta Municipal Airport (lat. 30°46'56" N., long. 83°16'44" W.);" and replacing them with the words "Valdosta Regional Airport (lat. 30°46'56" N., long. 83°16'37" W.).".

3. Section 71.181 is amended as follows:

Marathon, FL—[Amended]

By removing the words "Flight Strip" and replacing them with the word "Airport".

Titusville, FL—[Amended]

By removing the words "Titusville-Cocoa Airport (lat. 28°30'45" N., long. 80°45'11" W.);" and replacing them with the words "Space Center Executive Airport (lat. 28°30'49" N., long. 80°47'50" W.);".

Valdosta, GA—[Amended]

By removing the words "Valdosta Municipal Airport (lat. 30°46'56" N., long. 83°16'44" W.);" and replacing them with the words "Valdosta Regional Airport (lat. 30°46'56" N., long. 80°16'37" W.);".

Issued in East Point, Georgia, on April 15, 1986.

James L. Wright,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 86-10041 Filed 5-5-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 376

[Docket No. 60460-6060]

Information Collection Control Numbers

AGENCY: Export Administration, Commerce.

ACTION: Final rule; notice of OMB approval.

SUMMARY: The Export Administration Regulations (EAR) contain provisions relating to the licensing for export or reexport of numerical control units, numerically controlled machine tools, and dimensional inspection machines. The final rule containing these provisions was published in the Federal Register on September 11, 1985 (50 FR 37112) and became effective on October 23, 1985. This document adds the Office of Management and Budget (OMB) control number 0625-0152 to the information collection requirements of the rule.

DATE: The regulation became effective on October 23, 1985.

FOR FURTHER INFORMATION CONTACT: Richard Usrey, Regulations Branch, Export Administration, Telephone (202) 377-4479.

SUPPLEMENTARY INFORMATION: OMB control number 0625-0152.

As required by the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., Export Administration submitted this regulation on reporting of certain information for export or reexport of numerical control units, numerically controlled machine tools, and dimensional inspection machines, to proscribed destinations. As stated in the final rule, the approval of this reporting requirement was pending with OMB. On October 23, 1985, OMB approved this collection of information and assigned control number 0625-0152.

List of Subjects in 15 CFR Part 376

Exports.

Accordingly, Part 376 of the Export Administration Regulations (15 CFR Parts 368-399) is amended as follows:

1. The authority for 15 CFR Part 376 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; and E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985).

2. OMB control number 0625-0152 is added to the end of § 376.11 to read as follows:

§ 376.11 Numerical control units, numerically controlled machine tools, dimensional inspection machines, direct numerical control systems, specially designed assemblies, and specially designed software.

* * * * *

(Approved by the Office of Management and Budget under control number 0625-0152)

Dated: April 30, 1986.

Walter J. Olson,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 86-10049 Filed 5-5-86; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket Nos. 84N-0319 and 76N-0366]

FD&C Yellow No. 5 and its Lakes; Postponement of Closing Date, Provisional Listing, and Continued Stay of Effectiveness

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of FD&C Yellow No. 5 for use in coloring cosmetics generally and externally applied drugs and of its lakes for use in coloring food and ingested drugs. FDA is establishing a new closing date for FD&C Yellow No. 5 to give the agency time to complete its evaluation of the objections that it received in response to the final rule on the use of FD&C Yellow No. 5 that FDA published in the Federal Register of September 4, 1985 (50 FR 35774). The regulations that permanently list FD&C Yellow No. 5 and that remove it from the provisional list are stayed until July 7, 1986.

DATES: Effective May 6, 1986, the new closing date for FD&C Yellow No. 5 will be July 7, 1986. The effective date of the final rule published September 4, 1985, is stayed pending final FDA action on the objections that it received.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of May 6, 1986, for the provisional listing of FD&C Yellow No. 5 in a regulation published in the Federal Register of March 7, 1986 (51 FR 7933). The agency established the May 6, 1986, closing date for FD&C Yellow No. 5 to provide time for its evaluation of three objections to the final rule on the use of this color additive, which FDA published on September 4, 1985.

Previously, after review and evaluation of the data relevant to the petition to list FD&C Yellow No. 5 for use in externally applied drugs and in cosmetics generally, the agency had concluded that FD&C Yellow No. 5 is safe for these uses. Therefore, FDA issued a final rule in the Federal Register of September 4, 1985 (50 FR 35774), that would permanently list FD&C Yellow No. 5 for those uses and would remove the stay on the use of FD&C Yellow No. 5 in external cosmetics. FDA stated that the final rule would become effective on October 7, 1985, unless stayed by the filing of proper objections.

FDA received three letters stating objections to this final rule. Because of the objections, under section 701(e)(2) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 371(e)(2)], the effect of this final rule is stayed until the agency can rule upon the objections. FDA expects that it will need only a small amount of additional time to complete its evaluation of the objections. Therefore, FDA concludes that only a brief postponement is necessary at this time. The regulation set forth below will postpone the May 6, 1986, closing date for the provisional listing of FD&C Yellow No. 5 until July 7, 1986.

Because the current closing date expires on May 6, 1986, FDA has concluded that the use of notice and public procedure on this regulation is impracticable. Thus, good cause exists for issuing the postponement as a final rule. Moreover, this action is consistent with the protection of the public health because the agency has previously concluded that FD&C Yellow No. 5 is safe for its intended use under the Color Additive Amendments of 1960. This regulation will permit the uninterrupted use of the color additive until July 7, 1986. To prevent any interruption in the provisional listing of FD&C Yellow No. 5 and in accordance with 5 U.S.C. 553(d)(1) and (3), this regulation is being made effective on May 6, 1986. Any person who wishes to comment on the regulation may do so in accordance with 21 CFR 10.40(e)(1).

List of Subjects

21 CFR Part 74

Color additives, Cosmetics, Drugs, Medical devices.

21 CFR Part 81

Color additives, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 74, 81, and 82 are amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 74 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055-1056 as amended, 74 Stat. 399-407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

§ 74.1705 [Stayed]

2. The modifications of § 74.1705 *FD&C Yellow No. 5* included in the September 4, 1985, final rule continue to be stayed.

§ 74.2705 [Stayed]

3. Section 74.2705 *FD&C Yellow No. 5* continues to be stayed.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

4. The authority citation for 21 CFR Part 81 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055-1056 as amended, 74 Stat. 399-407 as amended (21 U.S.C. 371, 376); Title II, Pub. L. 96-618; sec. 203, 74 Stat. 404-407 (21 U.S.C. 376, note); 21 CFR 5.10.

§ 81.1 [Amended]

5. Section 81.1 *Provisional list of color additives* is amended in paragraph (a) by revising the closing date for "FD&C Yellow No. 5" to read "July 7, 1986."

§ 81.27 [Amended]

6. Section 81.27 *Conditions of provisional listing* is amended in paragraph (d) by revising the closing date for "FD&C Yellow No. 5" to read "July 7, 1986."

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

7. The authority citation for 21 CFR Part 82 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055-1056 as amended, 74 Stat. 399-407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

§ 82.705 [Stayed]

8. The modifications of § 82.705 *FD&C Yellow No. 5* included in the September 4, 1985 final rule continue to be stayed.

Dated: April 25, 1986.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-10193 Filed 5-5-86; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs For Use in Animal Feeds; Oxytetracycline With Monensin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Pfizer, Inc., providing for safe and effective use of certain Type C broiler feeds made by combining separately approved oxytetracycline and monensin Type A articles. The Type C broiler feed is used as an aid in the reduction of mortality due to air-sacculitis (air-sac infection) caused by *E. coli* sensitive to oxytetracycline, and as an aid in the prevention of coccidiosis caused by *E. necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.*

EFFECTIVE DATE: May 6, 1986.

FOR FURTHER INFORMATION CONTACT: Adriano R. Gabuten, Center for Veterinary Medicine (HFV-135), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4913.

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d Street, New York, NY 10017, has filed a supplement of NADA 99-006 providing for combining separately approved oxytetracycline and monensin Type A articles to make Type C broiler feeds containing 500

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grams of oxytetracycline and 90 to 110 grams of monensin per ton as an aid in the reduction of mortality due to air-sacculitis (air-sac infection) caused by *Escherichia coli* sensitive to oxytetracycline, and as an aid in the prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima.* Based on the data and information submitted, the supplement is approved and the regulations are amended accordingly. The basis of approval is discussed in the freedom of information summary.

In addition, the regulations in 21 CFR 558.450 for use of oxytetracycline (200 grams per ton) with monensin (90 to 110 grams per ton) and for oxytetracycline (500 grams per ton) had been approved for the mono-alkyl (C_8–C_{18}) trimethylammonium salt. The regulations had inadvertently failed to identify the approved salt. The regulations are further amended to specify the approved oxytetracycline salt.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Room 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(ii) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs; Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR Part 558 continues to read as follows:

Authority: Sec. 512, 82 Stat. 343–351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

2. Section 558.355 is amended by adding new paragraphs (b)(12) and (f)(1)(xxii) to read as follows:

§ 558.355 Monensin.

* * * * *

(b) * * *

(12) To 000069: paragraph (f)(1)(xxii) of this section.

* * * * *

(f) * * *

(1) * * *

(xxii) *Amount per ton.* Monensin, 90 to 110 grams plus oxytetracycline, 500 grams.

(*a*) *Indications for use.* As an aid in the prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. brunetti, E. Mivati,* and *E. maxima;* as an aid in the reduction of mortality due to air-sacculities (air-sac infection) caused by *Escherichia coli* sensitive to oxytetracycline.

(*b*) *Limitations.* Feed for 5 days as sole ration. Do not feed to laying chickens. Withdraw 24 hours before slaughter. As monensin sodium provided by No. 000986 in § 510.600(c) of this chapter. As mono-alkyl (C_8-C_{18}) trimethylammonium oxytetracycline provided by No. 000069 in § 510.600(c) of this chapter.

* * * * *

3. Section 558.450 is amended in paragraph (d)(1), Table 1, in item (iv) by adding an additional limitation for oxytetracycline with monensin and in item (v) by adding an additional limitation and a new entry; and in paragraph (d)(2) by adding (ii) [Reserved] to read as follows:

§ 558.450 Oxytetracycline.

* * * * *

(d) * * *

(1) * * *

TABLE 1.—IN COMPLETE CHICKEN AND TURKEY FEED

Oxytetracycline in grams per ton	Combination in grams per ton	Indications for use	Limitations	Sponsor
(iv) * * *	* * * Monensin 90 to 110	* * *	* * * As monoalkyl (C_8-C_{18}) trimethyl-ammonium oxytetra-cycline.	*
(v) * * *	* * * Monensin 90 to 110	* * * Broiler chickens; as an aid in the reduction of mortality due to air-sacculities (air-sac infection) caused by *Escherichia coli* sensitive to oxytetracy-cline; as an aid in the prevention of coccidiosis caused by *Eimeria necatrix, E. tenella, E. acervulina, E. brunetti, E. mivati,* and *E. maxima*	* * * As mono-alkyl (C_8 C_{18}) trimethyl-ammonium oxytetra- cycline Feed for 5 days as sole ration; do not feed to laying chickens; with-draw 24 hours before slaughter. As monensin sodium. As mono-alkyl (C_8-C_{18}) trimethyl-ammonium oxytetra-cycline	

* * * * *

(2) * * *

(ii) [Reserved]

Dated: April 29, 1986.

Marvin A. Norcross,

Acting Associate Director for New Animal Drug Evaluation.

[FR Doc. 86–10056 Filed 5–5–86; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[Order No. 1134–86]

Fees for the Federal Bureau of Investigation Identification Record

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: Final rule.

SUMMARY: This final rule permits the FBI Identification Division to increase the fee for the production of identification records to the subjects of such records set forth in § 16.33 of Title 28 of the Code of Federal Regulations (CFR). It also revises certain sections to reflect the FBI Identification Division's new nine-digit ZIP Code.

EFFECTIVE DATE: May 1, 1986.

FOR FURTHER INFORMATION CONTACT: Melvin D. Mercer, Jr., Chief of the Recording and Posting Sections, Identification Division, FBI, Washington, D.C. 20537–9700, telephone number (202) 324–5454.

SUPPLEMENTARY INFORMATION: A proposed rule to increase the fee for the production of identification records to the subjects of such records was published in the **Federal Register** on February 6, 1986 (51 FR 4614, 4615). Interested persons were allowed 30 days to submit comments on the proposal. No comments were received.

Departmental Order 556–73 (38 FR 32806, November 28, 1973) directed that the FBI publish rules for the dissemination of arrest and conviction records upon request. This order resulted from a determination that section 534 of Title 28 of the United States Code (U.S.C.) does not prohibit the subjects of arrest and conviction records from having access to those records. In accordance with the Attorney General's order, the FBI will release to the subjects of identification records copies of such records upon submission of a written request, a set of rolled-inked fingerprint impressions and the appropriate processing fee. Based on current cost analysis, the cost for production of an FBI identification record has increased from $11.00 to $14.00.

This final rule also revises the five-digit ZIP Code appearing in 28 CFR 16.32 and 16.34 to reflect the FBI Identification Division's new nine-digit ZIP Code, 20537–9700.

List of Subjects in 28 CFR Part 16

Archives and records, Freedom of Information, Privacy, Sunshine Act.

PART 16—[AMENDED]

By virtue of the authority vested in me as Attorney General, including 28 U.S.C. 509, 510, and 5 U.S.C. 301, Part 16, Subpart C of Title 28 of the CFR is amended as follows:

1. The authority citation for Part 16 is revised to read as follows:

Authority: 5 U.S.C. 301, 552, 552a, 552b(g), 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510; 28 U.S.C. 534; 31 U.S.C. 9701.

2. All other authority citations are removed from this Part.

3. Section 16.32 is revised to read as follows:

§ 16.32 Procedure to obtain an identification record.

The subject of an identification record may obtain a copy thereof by submitting a written request via the U.S. mails directly to the FBI, Identification Division, Washington, D.C. 20537–9700, or may present his/her written request in person during regular business hours to the FBI Identification Division, Room 11262, J. Edgar Hoover F.B.I. Building, Tenth Street and Pennsylvania Avenue, NW., Washington, D.C. Such request must be accompanied by satisfactory proof of identity, which shall consist of name, date and place of birth and a set of rolled-inked fingerprint impressions placed upon fingerprint cards or forms commonly utilized for applicant or law enforcement purposes by law enforcement agencies.

4. Section 16.33 is revised to read as follows:

§ 16.33 Fee for production of identification record.

Each written request for production of an identification record must be accompanied by a fee of $14.00 in the form of a certified check or money order, payable to the Treasury of the United States. This fee is established pursuant to the provisions of 31 U.S.C. 9701 and is based upon the clerical time beyond the first quarter hour to be spent in searching for, identifying, and reproducing each identification record requested as specified in § 16.10 of this part. Any request for waiver of the fee shall accompany the original request for the identification record and shall include a claim and proof of indigency.

5. Section 16.34 is revised to read as follows:

§ 16.34 Procedure to obtain change, correction or updating of identification records.

If, after reviewing his/her identification record, the subject thereof believes that it is incorrect or incomplete in any respect and wishes changes, corrections or updating of the alleged deficiency, he/she should make application directly to the agency which contributed the questioned information. The subject of a record may also direct his/her challenge as to the accuracy or completeness of any entry on his/her record to the Assistant Director of the FBI Identification Division, Washington, D.C. 20537–9700. The FBI will then forward the challenge to the agency which submitted the data requesting that agency to verify or correct the challenged entry. Upon the receipt of an official communication directly from the agency which contributed the original information, the FBI Identification Division will make any changes necessary in accordance with the information supplied by that agency.

Dated: April 29, 1986.

Edwin Meese III,

Attorney General.

[FR Doc. 86–10047 Filed 5–5–86; 8:45 am]

BILLING CODE 4410–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2676

Valuation of Plan Assets and Plan Benefits Following Mass Withdrawal-Interest Rates

Correction

In FR Doc. 86–9582 beginning on page 16021 in the issue of Wednesday, April 30, 1986, make the following correction:

On page 16022 in § 2676.15(c), in the first column of the table, "April 1986" should read "May 1986".

BILLING CODE 1505–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 935

Approval of Permanent Program Amendments for the State of Ohio, Under the Surface Mining Control Land Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval, with certain exceptions, of certain amendments to the Ohio permanent regulatory program (hereinafter referred to as the Ohio program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

By a letter dated January 15, 1986, the Ohio Department of Natural Resources (ODNR) submitted amendments to the rules of procedures for the Reclamation Board of Review (RBR, the Board). OSMRE published a notice in the **Federal Register** on February 26, 1986, inviting public comment on the adequacy of the proposed amendments (51 FR 6752).

By a letter dated March 7, 1986, ODNR resubmitted the RBR rules as they were promulgated as final rules. The final RBR rules contained some differences from the rules announced in the February 26 **Federal Register** and from the proposed RBR rules approved by OSMRE on May 23, 1985 and September 18, 1985 (50 FR 21258, 50 FR 37848). As a result, OSMRE reopened and extended the public comment period on April 1, 1986 (51 FR 11055).

After providing an opportunity for public comment and conducting a thorough review of the program amendments, the Director of OSMRE has determined that all but one of the amendments meet the requirements of SMCRA and the Federal regulations. Accordingly, the Director is approving these program amendments and requiring the ODNR to amend the one rule. The Federal rules at 30 CFR Part 935 which codify decisions on the Ohio program are being amended to implement this decision.

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This final rule is being made effective immediately to expedite the State program amendment process and encourage States to bring their programs into conformity with the Federal standards without delay. Consistency of State and Federal standards is required by SMCRA.

EFFECTIVE DATE: May 6, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Nina Rose Hatfield, Director, Columbus Field Office, Office of Surface Mining Reclamation and Enforcement, Room 202, 2242 Hamilton Road, Columbus, Ohio 43232; Telephone: (614) 866-0578.

SUPPLEMENTARY INFORMATION:

I. Background

The Ohio program was approved effective August 16, 1982, by the notice published in the August 10, 1982 Federal Register. Information pertinent to the general background, revisions, modifications, and amendments to the Ohio program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Ohio program can be found in the August 10, 1982 Federal Register (47 FR 34688). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 935.11 and 935.15.

II. Discussion of Amendments

By letter dated January 15, 1986, the Ohio Department of Natural Resources submitted proposed amendments to the Reclamation Board of Review rules at 1513-3-01, 1513-3-02, 1513-3-03, 1513-3-04, 1513-3-16, 1513-3-17, and 1513-3-21. The proposed amendments consist of the following:

(1) Revisions to 1513-3-01 *Definitions*, "burden of pursuasion" and "proffer";

(2) Revision to 1513-3-02 *Internal regulations*, rules for a quorum, deciding tie votes, keeping records of the RBR's actions, issuance of subpoenas, and governing proceedings following amendment of the RBR's rules;

(3) Revisions to 1513-3-03 *Appearance and practice before the board*, concerning ethical standards of persons appearing before the board and representation before the RBR;

(4) Revisions to 1513-3-04 *Appeals to the RBR*, concerning identification of counsel, if counsel is used, contents of an appeal, and grounds for dismissing an appeal;

(5) Revisions to 1513-3-16 *Conduct of evidentiary hearings*, rules concerning evidence, stipulation, written testimony, witnesses, post-hearing briefs, and additional oral arguments;

(6) Revisions to 1513-3-17 *Voluntary dismissal and settlement* setting forth rules for a settlement prior to a final order by the RBR; and

(7) Revisions to 1513-3-21 *Award of costs and expenses*.

On February 28, 1986, OSMRE published an announcement of the receipt of the amendments and inviting public comment on the adequacy of the proposed amendments (51 FR 6752). The notice stated that a public hearing would be held only if requested. Since there were no requests for hearing, a hearing was not held. The comment period closed on March 28, 1986.

During the comment period, the State resubmitted to OSMRE a set of the RBR rules as they were promulgated in final form (by letter dated March 7, 1986). These final rules contained some differences from the RBR rules dated January 15, 1986, and announced in the Federal Register on February 28, 1986, and the proposed RBR rules previously approved by OSMRE on May 23, 1985, and September 18, 1985 (50 FR 21256, 50 FR 37846). Accordingly, OSMRE reopened and extended the comment period to allow consideration of the final version of the RBR rules. The reopening was announced in the Federal Register on April 1, 1986 (51 FR 11065). The comment period closed on April 16, 1986. No comments were received.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendments submitted by Ohio on January 15, 1986, and resubmitted on March 7, 1986, meet the requirements of SMCRA and 30 CFR Chapter VII, with one exception as discussed below.

Ohio has previously submitted its RBR regulations to OSMRE for approval. The regulations were approved by OSMRE before they were promulgated by ODNR in final form in the May 23, and September 18, 1985 Federal Register (50 FR 21256, 50 FR 37846). The revisions submitted to OSMRE on January 15, 1986, are incorporated into the final rules submitted on March 7, 1986 with the exception of 1513-3-21 which now contains language which the Director finds less effective than the Federal regulations.

Ohio Administrative Code Regulation—Reclamation Board of Review Rules of Procedure

1513-3-01—Definitions. Ohio has added a definition of "burden of persuasion". It is defined as proof by a preponderance of evidence. The definition of "proffer" was amended to include the offer or tender of "testimony or documents or other tangible objects" into evidence. The Director finds the definitions to be in accordance with the requirements of SMCRA and no less effective than the Federal regulations at 43 CFR Part 4.

1513-3-02—Internal regulations. Ohio has amended this section to set forth the procedures for obtaining concurrence on Board decisions if at least four Board members do not concur. It further sets forth procedures for deciding a tied vote. It also establishes that the papers and files of the Board may not be removed from the secretary's custody without the secretary's consent; the records and files of the Board are available for inspection during regular business hours; Board proceedings shall be recorded by audio electronic devices and other means if requested, and proceedings transcripts will be available for reproduction. Section (I) establishes the procedures used for the issuance of subpoenas and section (K) states how Board proceedings will be handled following amendment of any RBR rules. The RBR regulations are in accordance with SMCRA and no less effective than the Federal regulations at 43 CFR Part 4.

1513-3-03—Appearance and practice before the Board. This amendment requires all persons appearing before the Board to conform to the standards of ethical conduct required in appearances before the State courts. The Board may bar participation in a particular proceeding for good cause. The rule also sets forth who may represent whom in the absence of an attorney. The Director finds the amendment to be in accordance with SMCRA and no less effective than the Federal regulations at 43 CFR Part 4.

1513-3-04—Appeals to the RBR. This regulation requires an appellant to supply the name, address and telephone number of his/her counsel, if used, in an appeal. The regulation also adds to the information that the appellant must supply if a review is sought. Specifically, the appellant must identify the manner in which he/she is aggrieved and the relief sought. Finally, the regulation states that failure to comply with the provisions of 1513.13 of the Revised Code is grounds for dismissing the appeal and confirming the action of the Board or Chief of the Division of Reclamation. The Director finds the amendment to be in accordance with SMCRA and no less effective than Federal regulations at 43 CFR Part 4.

1513-3-16—Conduct of evidentiary hearings. This regulation contains minor editorial changes; it also allows objections to evidence and cross-examinations with a brief statement of the grounds for the objection and allows the record to include argument on the objection. The regulation also establishes that an exception at any stage of the hearing is unnecessary to lay a foundation for review whenever a matter has been called to the attention of the Board. The regulation sets forth the manner and circumstances in which a proffer may be made. The regulation specifies that public documents entered as part of the record must be held by the Board. If the documents are necessary for the Chief, Division of Reclamation to use in preparing the case, the Chief may keep the documents pending recall by the Board. The regulation states that stipulations concerning issues of facts or authenticity of documents before the Board must have concurrences from all of the parties to an appeal. A new section has been added that sets forth the procedures for the use of written testimony and adds procedures for the use of witnesses and the issues on which the Board may request post hearing briefs. The regulation also allows the Board to order additional oral arguments. The Director finds the amendment to be in accordance with SMCRA and no less effective than 43 CFR Part 4.

1513-3-17—Voluntary dismissal and settlement. A new section has been added to allow a settlement prior to a final order if all parties agree. The terms of the settlement must be submitted to the Board for final action. The Director finds the amendment to be in accordance with SMCRA and no less effective than 30 CFR Part 4.

1513-3-21—Award of costs and expenses. This regulation allows the award of costs and expenses to a permittee from any person or the State if the permittee participates in any proceeding under Chapter 1513 of the Revised Code upon a finding that the permittee made a substantial contribution to a full and fair determination of the issues. It also allows the award of costs and expenses to the State upon a finding that it made a substantial contribution to a full and fair determination of the issues. This is less effective than the Federal regulations at 43 CFR 4.1294. The Federal regulations establish a different more stringent test for the awarding of costs and expenses to permittees and the State. The higher standard set forth in 43 CFR 4.1294 allows the awarding of costs or expenses only if the permittee or State can prove that the proceeding was initiated in bad faith for the purpose of harassing or embarrassing the permittee or State. The Director finds that OAC 1513-3-21 is less effective than 43 CFR 4.1294, and he is not approving it.

IV. Public Comments

No public comments were received.

V. Director's Decision

The Director, based on the above findings, is approving the RBR final rules of procedures as submitted to OSMRE on March 7, 1986, with the exception of OAC 1513-3-21. The Director is amending Part 935 of 30 CFR Chapter VII to reflect approval of the State program amendments, except OAC 1513-3-21 which he is not approving. Part 935 will also be amended to require an amendment to OAC 1513-3-21.

VI. Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSMRE is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule will not have significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 935

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: April 30, 1986.

Brent Wahlquist,

Acting Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

PART 935—OHIO

30 CFR Part 935 is amended as follows:

1. The authority citation for Part 935 continues to read as follows:

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 et seq.).

2. 30 CFR Part 935, is being amended to add a new § 935.12 to read as follows:

§ 935.12 State program provisions disapproved.

The following provision of the Ohio permanent regulatory program submission is hereby disapproved:

(a) Section 1513-3-21 of the Ohio Administrative Code is not approved to the extent that it states: "(3) To a permittee from any person or the State of Ohio, if the permittee initiates or participates in any proceeding under Chapter 1513 of the Revised Code upon a finding that the permittee made a substantial contribution to a full and fair determination of the issues and (4) To the Division of Reclamation where it participates in any proceeding under Chapter 1513 of the Revised Code upon a finding that the Division made a substantial contribution to a full and fair determination of the issues."

(b) [Reserved]

3. In part 935, § 935.15 is amended by adding a new paragraph (t) as follows:

§ 935.15 Approval of regulatory program amendments.

* * * * *

(t) The following amendments submitted to OSMRE on January 15, 1986, as modified on March 7, 1986, are approved effective May 6, 1986: Ohio Administrative Code, Sections 1513-3-01, 1513-3-02, 1513-3-03, 1513-3-04, 1513-3-16, and 1513-3-17.

4. 30 CFR Part 935 is being amended to add a new § 935.16 to read as follows:

§ 935.16 Required program amendments.

Pursuant to 30 CFR 732.17, Ohio is required to submit for OSMRE's approval the following proposed amendment by the date specified.

(a) By January 30, 1987, Ohio shall amend its program at OAC 1513-3-21 to be no less effective than 43 CFR Part 4 concerning the award of costs and expenses.

(b) [Reserved]

[FR Doc. 86-10063 Filed 5-5-86; 8:45 am]
BILLING CODE 4310-05-M

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DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment, USS Fort McHenry

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS FORT McHENRY (LSD 43) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval dock landing ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: April 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS FORT McHENRY (LSD 43) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special function as a dock landing ship. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the ship's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine Safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	AR masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when tawing less than required by Annex I, sec. 2(a)(ii)	AR masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than 1/2 ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS FORT McHENRY	LSD 43							X	64

Date: April 24, 1986.

Approved:

John Lehman,

Secretary of the Navy.

FR Doc. 86-10110 Filed 5-5-86; 8:45am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment; USS Truxtun

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS TRUXTUN (CGN 35) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS without interfering with its special function as a naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: April 24, 1986.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS TRUXTUN (CGN 35) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and Annex I, section 3(a), pertaining to the horizontal distance between the forward and aft masthead lights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the vessel. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	AR masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(ii)	AR mast head lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS TRUXTON	CGN 35						X	X	21

Date: April 24, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-10111 Filed 5-5-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment; USS Elk River

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972, (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS ELK RIVER (LX 501) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a miscellaneous vessel. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: April 22, 1986.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS ELK RIVER (LX 501) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a miscellaneous vessel. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel.

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	AR masthead light less than 4.5 meters above forward masthead light. sec. Annex I, 2(a)(ii)	Masthead lights not over all other lights and obstruction Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(ii)	AR masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS ELK RIVER	LX 501							x	18.4

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Date: April 22, 1986.
Approved:
John Lehman,
Secretary of the Navy.
[FR Doc. 86-10112 Filed 5-5-86; 8:45 am]
BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment; USS Leahy

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS LEAHY (CG 16) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS without interfering with its special function as a naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: April 25, 1986.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria VA 22332/2400. Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS LEAHY (CG 16) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 2(a)(i), pertaining to the distance in meters of the forward masthead light above the hull; Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the vessel; and Annex I, section 3(a), pertaining to the horizontal distance between the forward and aft masthead lights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special function and purpose of the vessel. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by revising the entry for USS LEAHY (CG 16) to read as follows:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	AR masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(i)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(ii)	AR masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained.
USS LEAHY	CG 16	×					×	×	30

Dated: April 25, 1986.
John Lehman,
Secretary of the Navy.
[FR Doc. 86-10109 Filed 5-5-86; 8:45 am]
BILLING CODE 3810-AE-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 251

Special Uses and Rental Fees; Mark Twain National Forest

AGENCY: Forest Service, USDA.

ACTION: Interim rule; request for public comment.

SUMMARY: As part of a pilot program to study methods of improved management of National Forest System lands, the Forest Service is waiving, under limited conditions and for a limited duration, the required payment of rental fees for special use authorizations on the Mark Twain National Forest. The objective is to see if this method will save money when compared to the current practice, particularly for those minor uses where it is impractical to set a fee high enough to cover costs.

EFFECTIVE DATE: This rule is effective upon publication in the **Federal Register**. A final rule will be published following public comment. Comments must be received by June 5, 1986.

ADDRESS: Send written comments to R. Max Peterson, Chief (2720), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

The public may inspect comments received on this interim rule in the office of the Director, Lands Staff, Room 1011B, Rosslyn Plaza E Building, 1621 North Kent Street, Rosslyn, Virginia, between the hours of 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Paul M. Stockinger, Land Specialist, Lands Staff, Forest Service, USDA, P. O. Box 2417, Washington, DC 20013, (703) 235-2410.

SUPPLEMENTARY INFORMATION:

Background

The Forest Service has begun a pilot management improvement program involving three National Forests. Under the pilot program, these National Forests test a variety of new management strategies and techniques in order to determine whether or not the proposals could result in improved operational efficiency if applied agencywide. One pilot forest, the Mark Twain National Forest, headquartered in Rolla, Missouri, plans to waive certain special use rental fees on a trial basis, under limited conditions.

Current Forest Service regulations at 36 CFR 251.57 do not permit waivers of fees for management improvement, even on a trial basis; therefore, the Forest Service is amending 36 CFR 251.57 to allow the Mark Twain National Forest to waive the rental fees for special uses, but only if the administrative costs of collection are greater than the annual fee or, where applicable, the 5-year advance payment of the annual fee. The waiver is authorized until 1990, unless it is modified or removed before that time. The objective is to save the Federal Government money.

The Mark Twain National Forest will observe whether or not applications increase as a result of the lack of fees for various uses, will analyze the actual administrative collection costs involved, and will determine if any decrease in administrative collection costs causes an increase in another administrative cost area or areas. Finally, the Forest will determine whether or not such a program can be effectively administered. Upon completion of the test, the procedure will either be discontinued, or a general regulatory change will be proposed to make this waiver applicable to the entire Forest Service.

Regulatory Impact

This interim rule has been reviewed under USDA procedures and Executive Order 12291, and it has been determined that this regulation is not a major rule. The regulation will have little or no effect on the economy since only one activity on one National Forest is involved. The Forest Service anticipates that the fees initially waived under this interim rule may approximate $1,000 on an annual basis.

Small Business Entity and Information Collection Requirement Statement

The Assistant Secretary of Agriculture for Natural Resources and the Environment has determined that this rule does not have a significant economic impact on a substantial number of small entities because of its limited scope and application.

List of Subjects in 36 CFR Part 251

Recreation uses, Electric power, Mineral Resources, Rights-of-way, Water uses.

Therefore, for the reasons set forth in the preamble, Part 251 of Title 36 of the code of Federal Regulations is hereby amended as follows:

PART 251—[AMENDED]

1. Revise the authority citation for Part 251 to read as follows:

Authority: 16 U.S.C. 472; 16 U.S.C. 551; 30 U.S.C. 185; 43 U.S.C. 1761–1771.

2. In § 251.57, add a new paragraph (g) to read as follows:

251.57 Rental Fees

* * * * *

(g) In addition to the fee waiver provisions of paragraph (b) of this section, the Forest Supervisor of the Mark Twain National Forest may, until December 31, 1990, waive rental fees for special use permits when all of the following conditions are met:

(1) The rental fee established for the use reflects the current market value for the use;

(2) The cost of collecting the rental fee would exceed either the amount of the rental fee itself, or the amount of any advance lump sum payment of the rental fee as specified in paragraph (a) of this section, and

(3) The Forest Supervisor has exhausted all other reasonable alternatives, such as consolidated billing or similar cost saving measures.

* * * * *

Dated: April 16, 1986.
Peter C. Myers,
Assistant Secretary, National Resources and Environment.
[FR Doc. 86-10124 Filed 5-5-86; 8:45 am]
BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 147

[OW-10-FRL-3007-3]

Alaska Oil and Gas Conservation Commission Underground Injection Control Program Approval

AGENCY: Environmental Protection Agency.

ACTION: Approval of State program.

SUMMARY: The State of Alaska has submitted an application under section 1425 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) program governing Class II injection wells. After careful review of the application, the Agency had determined that the State's injection well program meets the requirements of the Act and, therefore, approves it.

EFFECTIVE DATE: This approval shall be promulgated for purposes of judicial review at 1:00 p.m. eastern time on May 20, 1986. This approval shall become effective on June 19, 1986.

FOR FURTHER INFORMATION CONTACT: Harold Scott, MS 409, Environmental Protection Agency, Region X, 120 Sixth Avenue, Seattle, Washington 98101 PH: (206) 442-1846, (FTS) 399-1846.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which, in his judgment, a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make such reports with respect to its activities under its UIC program as the Administrator may require by regulations. Section 1425 provides that for oil and gas related injection control programs the State may in lieu of the showing required under section 1422(b)(1)(A) demonstrate that the State program meets the requirements of section 1421(b)(1)(A)–(D) and represents an effective program to prevent underground injection which endangers drinking water sources. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The State of Alaska was listed as needing a UIC program on March 19, 1980 (45 FR 17832). The State submitted an application under section 1425 on October 15, 1985, for a UIC program to regulate Class II injection wells to be administered by the Alaska Oil and Gas Conservation Commission (AOGCC).

On November 20, 1985, (50 FR 47761) EPA published notice of receipt of the application, requested public comments, and offered a public hearing on the UIC program submitted by the AOGCC. A public hearing was held on December 19, 1985, in Anchorage.

After careful review of the application, I have determined that the

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portion of the Alaska program submitted by the AOGCC to regulate Class II injection well applicable on all lands in the State other than Indian lands meets the requirements of Section 1425 of the SDWA and, hereby, approve it. The effect of this approval is to establish this program as the applicable underground injection control program under the SDWA for all Class II wells on all non-Indian lands in the State of Alaska.

This program replaces the existing EPA-administered program for all Class II wells (except on Indian lands). EPA promulgated a UIC program for Alaska on May 11, 1984, (49 FR 20200) in order to comply with the requirement of the SDWA to promulgate a Federally-administered program if a State-administered program cannot be approved within a certain time. Now that EPA has determined that the State-administered program meets all applicable Federal requirements, the Agency is withdrawing the EPA-administered program for Class II wells (except on Indian lands) and establishing the State-administered program as the applicable UIC program in the State, because of the preference in the SDWA for State Administration of UIC programs.

This approval will be codified in 40 CFR section 147.100. State statutes and regulations that contain standards, requirements, and procedures applicable to owners or operators are incorporated by reference. These provisions incorporated by reference, as well as all permit conditions or permit denials issued pursuant to such provisions, are enforceable by EPA pursuant to section 1423 of the SDWA.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 147, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 147

Indian lands, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water Supply, and Incorporation by reference.

OMB Review

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Certification under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. § 605(b), I certify that approval by EPA under section 1425 of the Safe Drinking Water Act of the application by the Alaska Oil and Gas Conservation Commission will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entities.

Dated: April 29, 1986.

Lee M. Thomas,

Administrator.

As set forth in the preamble, Part 147 of Title 40 of the Code of Federal Regulations is amended as follows:

PART 147—STATE UNDERGROUND INJECTION CONTROL PROGRAMS

Subpart C—Alaska

1. The authority for Part 147 continues to read as follows:

Authority: 42 U.S.C. 300h, 300h–1, 300–h–2, 300i, 300j–4, 300j–6, 300j–9, 6912 and 6921 to 6939e

2. Section 147.100 is revised to read as follows:

§ 147.100 State-administered program—Class II wells.

The UIC program for Class II wells in the State of Alaska, other than those on Indian lands, is the program administered by the Alaska Oil and Gas Conservation Commission approved by EPA pursuant to Section 1425 of the SDWA. Notice of this approval was published in the **Federal Register** [May 6, 1986]; the effective date of this program is June 19, 1986. This program consists of the following elements, as submitted to EPA in the State's program application.

(a) *Incorporation by reference.* The requirements set forth in the State statutes and regulations cited in this paragraph are hereby incorporated by reference and made a part of the applicable UIC program under the SDWA for the State of Alaska. This incorporation by reference was approved by the Director of the **Federal Register** effective June 19, 1986.

(1) Alaska Statutes, Alaska Oil and Gas Conservation Act, Title 31, §§ 31.05.005 through 31.30.010 (1979 and Cum. Supp. 1984);

(2) Alaska Statutes, Administrative Procedures Act, Title 44; §§ 44.62.010 through 44.62.650 (1984);

(3) Alaska Administrative Code, Alaska Oil and Gas Conservation Commission, 20 AAC 25.005 through 20 AAC 25.570 (Supp. 1986).

(b) The Memorandum of Agreement between EPA Region 10, and the Alaska Oil and Gas Conservation Commission, signed by the EPA Regional Administrator on January 29, 1986.

(c) *Statement of Legal Authority.* Statement from the Attorney General of the State of Alaska, signed by the Assistant Attorney General on December 10, 1985.

(d) The Program Description and any other materials submitted as part of the original application or as supplements thereto.

[FR Doc. 86–10100 Filed 5–5–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 721

[OPTS–50518A; FRL–2926–9]

Benzoic Acid, 3, 3'-Methylenebis [6-Amino-, Di–2–Propenyl Ester; Significant New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for a chemical substance which was the subject of premanufacture notice (PMN) P–82–438. The Agency believes that this substance may be hazardous to human health and the environment and that the uses described in this rule may result in significant human or environmental exposure.

DATES: In accordance with 40 CFR 23.5 (50 FR 7271), this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern standard time on May 20, 1986 14 days. This rule shall become effective July 21, 1986.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Room 543, 401 M St., SW., Washington, D.C. 20460. Toll free: (800–424–9065). In Washington, D.C.: (554–1404), Outside the USA: (Operator-202–554–1404).

SUPPLEMENTARY INFORMATION: OMB Control Number 2070–0012.

I. Authority

Section 5(a)(2) of TSCA authorizes EPA to determine that a use of a chemical substanee is a "significant new use." EPA must make this determination by rule, after considering all relevant factors, including those listed in section 5(a)(2). Once a use is determined to be a significant new use, persons must, under section 5(a)(1)(B) of TSCA, submit a notice to EPA at least 90 days before they manufacture, import, or process the substance for that use. Such a notice is subject generally to the same requirements and procedures as a PMN submitted under section 5(a)(1)(A) of TSCA which are interpreted at 40 CFR Part 720 published in the **Federal Register** of May 13, 1983 (48 FR 21722). In particular, these include the information submission requirements of section 5(b) and (d)(1) of TSCA. In addition, such notices are subject to the regulatory authorities of section 5(e) and (f) of TSCA. If EPA does not take regulatory action under section 5, 6, or 7 to control activities on which it has received a SNUR notice, section 5(g) requires the Agency to explain in the **Federal Register** its reasons for not taking action.

Persons who intend to export a substance indentified in a proposed or final SNUR are subject to the export reporting provisions of TSCA section 12(b). The regulations that interpret section 12(b) requirements appear at 40 CFR Part 707. Persons who intend to import a substance identified in a final SNUR are subject to TSCA section 13 import certification requirements, which are codified at 19 CFR 12.118 through 12.127 and 127.28. The EPA policy in support of the import certification requirements appears at 40 CFR Part 707.

II. Applicability of General Provisions

In the **Federal Register** of September 5, 1984, (49 FR 35011), EPA promulgated general provisions applicable to SNURS (40 CFR Part 721, Subpart A). The general provisions are discussed there in detail and interested persons should refer to that document for further information. These general provisions apply to this SNUR. On April 22, 1986, EPA proposed revisions to the general provisions (51 FR 15104), some of which would apply to this SNUR.

III. Summary of this Rule

The chemical substance which is the subject of this rule is identified as benzoic acid, 3,3'-methylenebis [6-amino-, di-2-propenyl ester, CAS No. 61386–02–5. It was the subject of PMN number P–82–438. EPA is designating the following as significant new uses of the substance: (1) Any use other than the use described in PMN P–82–438 and (2) any manner or method of manufacturing or processing the substance for the use described in PMN P–82–438 different than the manner or method described in PMN P–82–438.

IV. Background

The chemical substance which is the subject of this rule was the subject of a PMN designated P–82–438. The notice submitter claimed the following as confidential business information (CBI): Company name, the specific chemical name, the intended use, the production volume, and information concerning processing. The Agency, believing that the proposed generic chemical name would not provide adequate specificity for this proposed rulemaking, requested that the PMN submitter relinquish its CBI claim with regard to the specific chemical identity. The PMN submitter agreed, but retained its claim for all other items of information. For purposes of clarity, the substance is referred to in this preamble by its chemical name and PMN number.

The Agency proposed a SNUR for this substance which was published in the **Federal Register** of January 2, 1985 (50 FR 127). The background of the PMN and the reasons for proposing the SNUR are set forth in the preamble to the proposed rule.

V. Designation of Significant New Uses

To determine what would constitute significant new uses of this chemical substance, EPA considered relevant information about the toxicity of the substance and likely exposures and releases associated with possible uses, and the four factors listed in section 5(a)(2) of TSCA. Based on these considerations, EPA is defining the significant new uses of P–82–438 as set forth in paragraph (a)(2) of § 721.205.

Given EPA's concerns about P–82–438, EPA believes the potential levels of exposure and release could result in significant risks to workers and/or the environment. Based on data available on structural analogues, primarily benzoic acid, 3,3'—methylenebis[6-amino-, dimethyl ester (MBMA) and 4,4' methylenedianiline, the Agency believes that any significant exposure would present a carcinogenic, hepatotoxic, teratogenic, reproductive, and neurotoxic risk to workers and toxic effects in aquatic organisms.

The Agency believes that the data described in this preamble and in the preamble to the proposed rule are sufficient to substantiate the contention that the significant new uses of P–82–438 present a potentially significant increase in the magnitude and type of exposure and release. Section 5(a)(2) of TSCA does not require the Agency to make either a "may present" or a "will present" risk finding with regard to satisfying the requirements for a significant new use. The statute imposes the requirement that the Agency provide for a "consideration of all relevant factors" in specifying a significant new use, including the four exposure related factors in section 5(a)(2). The Agency believes that a reasonable qualitative assessment of these factors was incorporated in the preamble of the proposed rule published in the **Federal Register** of January 2, 1985 (50 FR 127).

VI. Alternatives

In the proposed SNUR, EPA considered other possible approaches. These alternatives included the promulgation of a section 8(a) reporting rule, and/or a regulation under section 6. In the absence of comments and for the reasons discussed in the preamble to the proposed rule, the Agency has elected to proceed with the promulgation of a SNUR covering significant new uses of P–82–438.

VII. Exemptions to Reporting Requirements

The Agency has codified, in § 721.19, general exemption provisions covering SNUR reporting. In the case of P–82–438, the terms of § 721.19 apply without change.

On April 22, 1986, EPA issued amendments to 40 CFR Part 720, the premanufacture notification rule (51 FR 15098), including revisions of §§ 720.36 and 720.78(b) which contain detailed rules for the section 5(h)(3) exemption for chemical substances manufactured or imported in "small quantities solely for research and development" in § 720.3(cc) and section 5(h)(3) of TSCA to determine whether activities by manufacturers, importers, and processors of substances identified in SNURs qualify under this exemption. On April 22, 1986, EPA proposed amendments to 40 CFR Part 721 which would redesignate § 721.19 as § 721.18 and which would contain a new § 721.19 establishing detailed rules for the section 5(h)(3) exemption for SNURs and which would ultimately apply to this SNUR. The proposed new § 721.19 is similar to the revised §§ 720.36 and 720.78(b). Until the SNUR amendments

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are promulgated, manufacturers, importers, and processors of chemical substances identified in SNURs may look to §§ 720.38 and 720.78(b) and the proposed new § 721.10 for guidance in complying with the section 5(b)(3) exemption.

Section 721.10(g) of the general SNUR provisions exempts persons from SNUR reporting when they manufacture (the term manufacture includes import) or process the substance solely for export and label the substance in accordance with section 12(a)(1)(B) of TSCA. While EPA is concerned about worker exposure and/or environmental release during manufacture and processing of the substance, section 21(a) of TSCA prohibits EPA from requiring reporting of such manufacture or processing for a significant new use. However, such persons would be required to notify EPA of such export under section 12(b) of TSCA (see § 721.7 of the general SNUR provisions). Such notification will allow EPA to monitor manufacture and processing activities which are not subject to significant new use reporting.

The term "manufacture solely for export" is defined in § 720.3(s) of the PMN rule; an amendment clarifying this definition was issued on April 22, 1986 (51 FR 15096). The term "process solely for export" is defined in § 721.3 of the general SNUR provisions in a similar fashion. Thus, persons would be exempt from reporting under this SNUR if they manufacture or process the substance solely for export from the U.S. under the following restrictions: (1) There is no use of the substance in the U.S. except in small quantities solely for research and development; (2) processing is restricted to sites under the control of the manufacturer or processor; and (3) distribution in commerce is limited to purposes of export or processing solely for export. If a person manufactured or processed the substance both for export and for use in the U.S., the manufacturing or processing activity would not be "solely for export" because the manufacture and processing would be for use in the U.S.

VIII. Applicability To Uses Which May Have Occurred Before Promulgation of Final Rule

To establish a significant new use rule, the Agency must, among other things, determine that the use is not ongoing. In this case, the chemical substance in question has undergone premanufacture review. The Agency received no information that the significant new uses are ongoing. Therefore, at this time, the Agency believes that these uses are significant new uses.

As indicated in the proposal, EPA has found that the intent of section 5(a)(1)(B) is best served by determining whether a use is a significant new use as of the proposal date of the SNUR. If uses begun during the proposal period were not considered to be significant new uses, it would be almost impossible for the Agency to establish SNUR notice requirements, since any person could defeat the SNUR by initiating a proposed significant new use before the rule became final. This is contrary to the general intent of section 5(a)(1)(B).

Thus, even if the substance was manufactured, imported, or processed for the significant new uses between proposal and promulgation of this rule, such activities may not continue after the effective date of this rule. Any such person must cease such activity pending compliance with all SNUR notice requirements.

IX. Determining When Use Is Subject to this Rule

The Agency has designated two significant new uses of P-82-438 which include CBI. The first is any use other than the use described in the PMN, and the second is any manner or method of manufacturing or processing P-82-438 for the use described in the PMN different than the manner or method described in the PMN. EPA has concluded that it is appropriate to keep the significant new uses confidential to protect the claims of the original PMN submitter. Therefore, EPA will only reveal one of the significant new uses to a manufacturer, importer, or processor who has shown a *bona fide* intent to manufacture, import, or process the substance under the procedure described in § 721.205(b)(1). This will enable the manufacturer, importer, or processor to determine whether a SNUR notice will be necessary.

To determine whether its intended use of the substance is a significant new use, a manufacturer, importer, or processor of the substance, in addition to complying with the requirements of 40 CFR 721.6, would have to describe its intended use of the substance in its *bona fide* submission under § 721.25(b)(1). If the use described in the *bona fide* submission would be a significant new use under § 721.25(a)(2)(i), EPA would so inform the submitter but would not reveal the use described in P-82-436. If the use described in the *bona fide* submission were the use described in P-82-438, EPA would so inform the submitter and would also reveal the manner of manufacturing the processing described in P-82-438 for that use. Thus the *bona fide* submitter could determine whether a significant new use notice would be necessary under § 721.205(a)(2)(ii). In this way, EPA will minimize the disclosure of CBI about the use and manufacturing and processing methods described in P-82-438 to the extent necessary to implement the SNUR.

X. Test Data and Other Information

EPA recognizes that, under TSCA section 5, persons are not required to develop any particular test data before submitting a notice. Rather, persons are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them. However, in view of the potential health and environmental risks that may be posed by a significant new use of this substance, EPA encourages possible SNUR notice submitters to test the substance's potential for carcinogenic, hepatotoxic, teratogenic, reproductive, and neurotoxic effects in humans and toxic effects in aquatic organisms. The Agency believes that the results of a 2-year rodent bioassay would adequately characterize possible carcinogenic effects of the substance. A more reasoned evaluation of hepatotoxic and neurotoxic effects could be made using data generated in a 90-day subchronic study in the rodent. Similarly, rodent tetratology and 2-generation reproduction studies with P-82-438 would allow a more reasoned evaluation of those risks. A 96-hour LC_{50} study conducted on daphnia would permit a more reasoned evaluation of risks to aquatic species. These studies may not be the only means of addressing the potential risks.

If a SNUR notice is submitted for a use involving significant human exposure or environmental release without adequate test data, EPA is likely to take action under section 5(e). As an alternative to testing the substance, potential notice submitters may want to consider the use of engineering controls and/or personal protective equipment to reduce exposure to or release of the substance.

EPA encourages persons to consult with the Agency before selecting a protocol for testing the substance. As part of this premotice consultation, EPA will discuss the test data it believes necessary to evaluate significant new uses of the substance. Data should be developed and submitted in accordance with the TSCA good laboratory practices regulations at 40 CFR Part 792.

EPA urges SNUR notice submitters to provide detailed information on human exposure that will result from the significant new uses. In addition, EPA urges persons to submit information on potential benefits of the substance and information on risks posed by the substance compared to risks posed by substitutes.

XI. Economic Analysis

The Agency has evaluated the potential costs of establishing significant new use reporting requirements for this substance. This evaluation is summarized in the preamble to the proposed rule published in the Federal Register of January 2, 1985 (50 FR 127).

The Agency's complete economic analysis is available to the public file.

XII. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS-50518A). A public version of this record from which CBI has been deleted is available to the public from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in the OTS Reading Room, Rm. E-107, 401 M Street SW., Washington, D.C.

The record includes basic information considered by the Agency in developing this rule. The record now includes the following:

1. The PMN for the substance.
2. The Federal Register notice of receipt of the PMN.
3. The proposed SNUR.
4. The toxicity support document.
5. The economic analysis of this SNUR.

XIII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this rule is not a "Major Rule" because it will not have an effect on the economy of $100 million or more and it will not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the annual cost of this rule, for the reason explained in the preamble to the proposal for this rule, EPA believes that the cost will be low. In addition, because of the nature of the rule and the substance subject to it, EPA believes that there will be few significant new use notices submitted. Further, while the expense of a notice and the suggested testing and the uncertainty of possible EPA regulation may discourage certain innovation, that impact may be limited because such factors are unlikely to discourage innovation of high potential value. Finally, this SNUR may encourage innovation in safe chemical substances or highly beneficial uses.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 605(b), EPA certifies that this rule will not have a significant economic impact on a substantial number of small businesses. The Agency cannot determine whether parties affected by this rule are likely to be small businesses. However, EPA believes that the number of small businesses affected by this rule would not be substantial even if all the potential significant new uses were developed by small companies. EPA expects to receive few SNUR notices for the substance.

C. Paperwork Reduction Act

Information collection requirements contained in this rule have been approved by the OMB under the provisions of the Paperwork Reduction Act of 1980, U.S.C. 3501 *et seq.* and have been assigned OMB control number 2070-0012.

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous substances, Recordkeeping and reporting requirements, Significant new uses.

Dated: April 28, 1986.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 721—[AMENDED]

Therefore, 40 CFR Part 721 is amended as follows:

1. The authority citation for Part 721 continues to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

2. By adding a new § 721.205 to read as follows:

§ 721.205 Benzoic acid, 3,3'-methylenebis [6 amino-, di-2-propenyl ester.

(a) *Chemical substance and significant new uses subject to reporting.* (1) The following chemical substance, referred to by its CAS Number and chemical name, is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section: 61386-02-5, Benzoic acid, 3,3'-methylenebis [6 amino-, di-2-propenyl ester.

(2) The significant new uses are: (i) Any use other than the use described in Premanufacture Notice P-82-438.

(ii) Any manner or method of manufacturing or processing the substance for the use described in Premanufacture Notice P-82-438 different than the manner or method described in Premanufacture Notice P-82-438.

(b) *Special provisions.* The provisions of Subpart A of this Part apply to this section except as modified by this paragraph.

(1) *Determining whether a specific use is subject to this rule.* (i) A person who intends to manufacture, import, or process the chemical substance identified in paragraph (a)(1) of this section may ask EPA whether the use for which the person intends to manufacture, import, or process the substance is a significant new use under paragraph (a)(2)(i) of this section. EPA will answer such an inquiry only if EPA determines that the person has a *bona fide* intent to manufacture, import, or process the chemical substance.

(ii) To establish a *bona fide* intent to manufacture, import, or process the chemical substance, the person must submit to EPA:

(A) All materials and statements required under § 721.6.

(B) The specific use for which the person intends to manufacture, import, or process the chemical substance.

(iii) EPA will review the information submitted by the person under this paragraph to determine whether the person has a *bona fide* intent to manufacture, import, or process the chemical substance.

(iv) If EPA determines that the person has a *bona fide* intent to manufacture, import, or process the chemical substance, EPA will tell the person whether the use for which the person intends to manufacture, import, or process the substance is a significant new use under paragraph (a)(2)(i) of this section. If EPA tells the person that the intended use is not a significant new use under paragraph (a)(2)(i) of this section, EPA will tell the person what activities would constitute a significant new use under paragraph (a)(2)(ii) of this section.

(v) A disclosure to a person with a *bona fide* intent to manufacture, import, or process the chemical substance of the significant new uses subject to this section will not be considered public disclosure of confidential business information under section 14 of the Act.

(vi) EPA will answer an inquiry on whether a particular use is subject to this section within 30 days after receipt of a complete submission under paragraph (b)(1) of this section.

(2) [Reserved].

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[Approved by the Office of Management and Budget under control number 2070-0012]
[FR Doc. 86-10108 Filed 5-5-86; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 180

[PP 5E3210/R624; FRL-3007-1]

Pesticide Tolerances for Norflurazon

Correction

In FR Doc. 86-9850, appearing on page 15323, in the issue of Wednesday, April 23, 1986, make the following correction:

In the second column, eleventh line, "alpha-trifluro-*m*-tolyl" was misspelled.

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 442

[BERC-352-F]

Medicaid Program; Fire Safety Standards for ICFs/MR

Correction

In FR Doc. 86-8647, beginning on page 13224, in the issue of Friday, April 18, 1986, make the following correction:

On page 13227, third column, § 442.508 (b)(1)(iii), second line, "1987" should read "1987".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Ch. I

[CC Docket No. 78-374; FCC 86-133]

Deregulation of Domestic Receive-Only Satellite Earth Stations

AGENCY: Federal Communications Commission.

ACTION: Report and Order; Procedural changes.

SUMMARY: In 1979, the Commission initiated a proceeding to improve the efficacy of the receive-only earth station licensing program through the elimination of unnecessary regulatory policies. The docket was left open to consider additional improvements to the program. The purpose of this *Second Report and Order* is to close the docket and to further streamline the processing of receive-only earth station applications by adopting certain improvements to the licensing program. Pursuant to this Commission action, applicants no longer need submit small antenna performance or interference analyses with their receive-only earth station applications. The Commission has also decided to discontinue the unnecessary practice of putting applications for assignment of license and transfer of control of receive-only earth station facilities on public notice. Instead, the Commission will only issue notice of their grant. Finally, the Commission will not require or accept any applications for any receive-only facility in the 12 GHz band. Instead, operators are encouraged to provide notification directly to the secondary operators of the band.

EFFECTIVE DATE: March 25, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Wilbert E. Nixon, Jr., Domestic Facilities Division, Common Carrier Bureau, (202) 634-1624.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order, CC Docket 78-374, adopted March 25, 1986, and released April 10, 1986.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC dockets branch (room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of Second Report and Order

1. In the Notice of Inquiry (*Notice*), CC Docket No. 78-374, 70 FCC 2d 1460 (1979), the Commission initiated this proceeding to improve the efficacy of the receive-only earth station licensing program through the elimination of unnecessary regulatory policies. The Commission described the workings of the receive-only licensing program at that time and solicited public comment on the benefits and detriments of that mandatory licensing program through the elimination of unnecessary regulatory policies. The Commission described the workings of the receive-only licensing programs at the time and solicited public comment on the benefits and detriments of that mandatory licensing program. In the Deregulation of Receive-Only Earth Stations, 74 FCC 2d 205 (1979), the Commission addressed those issues raised in the *Notice*, eliminated the mandatory aspects of the program and adopted: (1) Immediate implementation of a voluntary licensing program for receive-only earth stations; (2) complete deregulation under Title III of the Act of the receive-only earth stations; and (3) streamlining of the licensing procedures for those who decide to obtain a receive-only earth station license to secure protection from interference. This docket was left open to consider additional improvements to the program. The purpose of the *Second Report and Order* is to announce those additional improvements and to close the docket.

2. The Commission, in resolving other broader issues, has made several decisions affecting receive-only earth station licensing regulations. The *Second Report and Order* compiles and reiterates earlier Commission decisions which have an impact on receive-only earth station licensing. In light of its experience and its decisions in other proceedings, the Commission decided to eliminate certain application requirements and further simplify the receive-only earth station licensing program. The following is a categorical breakdown of the compilation of current Commission decisions and policies with regard to receive-only earth station regulation.

3. In *American Broadcasting Companies, Inc.*, 62 FCC 2d 901 (1977) (*ABC*), the Commission required applicants, in the form of a supplemental analysis, to demonstrate the acceptability of television receive-only earth station facilities with antennas between 4.5 and 9.0 meters in diameter on the basis of signal quality regulations for cable television use. Since *ABC*, the Commission has revised its rules to specify signal-to-noise criteria for cable television systems only for guideline purposes. For that reason, the Commission no longer requires the filing of the small antenna performance analysis with the receive-only earth station application.

4. In *ABC*, the Commission determined that small diameter antennas could be routinely licensed if a showing were made that their use was consistent with desirable orbital spacings between domestic satellites. In Licensing of Space Stations in the Domestic Fixed-Satellite Service 54 Rad. Reg. 577 (1983), the Commission adopted a reduction in orbital separation to 2° in both the 4/6 GHz and 12/14 GHz bands for the domestic fixed-satellite service. This decision was based on the new earth station antenna performance standard of §25.209 of the rules. Operators may choose the type of antenna performance they desire by the type of earth station equipment they purchase. Therefore, the Commission will no longer perform case-by-case reviews pursuant to *ABC*. The supplemental interference analysis currently being filed with receive-only earth station applications will no longer be required.

5. To date, the Commission has required assignors and transferors of receive-only licenses to file FCC Forms 702 and 704, respectively. Applications are put on public notice for 30 days and routinely granted a few days after the close of the public notice period as long as grant of the application is not opposed. There is no provision in the Commissions Act requiring the public notice be given of the filing of these applications. Therefore, the Commission will discontinue this unnecessary and resource-consuming practice. Instead, the Commission will only issue notice of their grant.

6. In the frequency band 11.7-12.2 GHz (12 GHz), the only radio service given primary frequency allocation status is the fixed-satellite service downlink. All other services are secondary in relation to the fixed-satellite receiving facility. Because receive-only facilities are licensed only to protect the facilities from harmful interference, there is no reason to require a formal application and licensing procedure to protect them from harmful interference caused by the transmitters licensed on a secondary basis. Therefore, the Commission will not require or accept any applications for any receive-only facility in the 12 GHz band. Instead, operators are encouraged to provide notification directly to the secondary operators of this band.

7. A separate public notice will be released in accordance with this *Second Report and Order* describing the Commission's policy regarding receive-only earth station licensing. The public notice will also detail filing requirements for receive-only earth station applications. No new information is being requested from applicants. In fact, less information is now required. The purpose of the public notice is to compile and restate the simplified filing requirements and to encourage applicants to submit their applications in a format that will aid the Commission's staff in processing.

8. Because the benefits of these procedural rule changes would be made available to the public immediately, and these changes in policy relieve certain restrictions, the *Second Report and Order* shall be effective within less than thirty days from the time its summary is published in the Federal Register. 5 U.S.C. 553(d)(1).

9. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose a new or modified requirement will be subject to approval by the Office of Management and Budget as prescribed by the Act.

10. Accordingly, It is ordered that the requirements of receive-only earth station applicants specified in paragraphs 6 and 8 are eliminated and the application procedures specified in paragraphs 11, 12 and 16 above are adopted.

11. It is further ordered that these procedures are effective March 25, 1986.

12. It is further ordered that the proceedings in CC Docket No. 78-374 are terminated.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 86-9850 Filed 5-5-86; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 68

[CC Docket No. 81-216; CC Docket No. 84-490]

Connection of Terminal Equipment to the Telephone Network

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects several typographical errors and provides missing phrases in a document concerning connection of terminal equipment to the telephone network (CC Docket No. 81-216; RM-2845 et al.; CC Docket No. 84-490; RM-4456; FCC 85-580) which were published in the Federal Register of January 9, 1986 (51 FR 929).

FOR FURTHER INFORMATION CONTACT: William H. von Alven, Common Carrier Bureau (202) 634 1833.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 68

Communications, common carriers, Communications equipment, Federal Communications Commission, telephone.

In the matter of corrections to part 68 of the Commission's Rules (47 CFR Part 68); CC Docket No. 81-216, CC Docket No. 84-490.

Erratum

Released: April 24, 1986.

1. The following corrections are made in the Appendix of the Report and Order in the captioned proceeding released November 4, 1985. (*See*, 51 FR 929, January 9, 1986). The corrections are underscored.

§ 68.2 [Corrected]

2. Section 68.2(a)(7): Should read in part ". . . ringdown *or* inband . . ." instead of ". . . ringdown on inband . . .".

Section 68.2(h)(1): Should read in part ". . . voiceband private . . ." rather than ". . . voiceband *and* private . . .": and ". . . connected to *that* private line . . ." line . . ." rather than ". . . connected to hat private line . . .".

§ 68.302 [Corrected]

3. Section 68.302(f): Should read in part ". . . § 68.310, and *for* terminal equipment . . ." instead of § 68.310, and or terminal equipment . . .".

§ 68.306 [Corrected]

4. Section 68.306(a)(8): Should read "voiceband" instead of "viocband".

§ 68.308 [Corrected]

5. Section 68.308(b)(1)(i): Should read in part ". . . when *averaged over* . . ." instead of "when average over . . .".

6. Section 68.308(b)(5)(i)(A): Should read in part ". . . terminating *set* losses" instead of "terminating losses . . .".

7. Section 68.308(d): Insert missing asterisk: "The weighted root-mean-squared voltage* . . ." The associated footnote should be added: "* Note: Average magnitudes may be used for signals that have peak-to-RMS ratios of 20 dB and less. RMS limitations must be used instead of average values if the peak-to-RMS ratio of the interfering signal exceeds this value."

8. Section 68.308 (g)(1), (g)(2), and (g)(3) are corrected as follows:

§ 68.308 Signal power limitations.

* * * * *

(g) * * *

(1) All registered terminal equipment, except equipment to be used on LADC, and all registered protective circuitry must comply with the limitations when connected to as termination equivalent to the circuit depicted in Figure 68.308(b) and *when placed in all operating states of the equipment except* during network control signaling. For message registration in the ground return mode, a termination equivalent to Figure 68.308(c) is required, and metallic voltage limitations dc not apply. LADC registered terminal equipment must comply with the matallic voltage limitations when connected to the circuits of Figure 68.3(k) and must comply with the longitudinal limitations when connected to the circuits of Figure 68.308(b), as indicated.

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(2) All registered terminal equipment and registered protective circuitry must comply with the limitations in the offhook state over the range of loop current that would flow with the equipment *connected* to an appropriate loop simulator circuit.

(3) Registered terminal equipment and registered protective circuitry with provision for through-transmission from other equipments shall comply with the limitations with a 1000 Hz tone applied *from a 600-ohm source (or, if appropriate, a source which reflects a 600-ohm impedance across tip and ring) at the maximum level that would be applied* during normal operation. Registered protective circuitary for data shall also comply with the tone level 10 dB higher than that expected during normal operation.

* * * * *

§ 68.310 [Corrected]

9. Section 68.310(e)(i)(1): Should read in part ". . . transmit and receive *pairs* of the 4-wire . . ." instead of ". . . transmit and receive parts of the 4-wire. . .."; also Figure 68.130(j) should read *Figure 68.310(j).*

10. Section 68.314(d) is corrected as follows:

§ 68.314 Billing protection.

* * * * *

(d) *Signaling interference requirements*

(1) Terminal equipment connected to the Public Switched Network or private lines identified in § 68.2(a) (2) and (3). Registered terminal equipment and registered protective circuitry shall not deliver signals into a 2-wire loop simulator circuit or the transmit and receive pairs of a 4-wire loop simulator circuit or a 600-ohm termination (where appropriate) from sources internal to the registered equipment or circuitry, with energy in the 2450 to 2750 Hertz band unless an equal amount of energy is presented in the 800 to 2450 Hertz band.

(2) Registered terminal equipment for connection to subrate or 1.544 Mbps digital services shall not deliver digital signals to the telephone network with encoded analog content energy in the 2450 to 2750 Hertz band unless at least an equal amount of encoded analog energy is present in the 800 to 2450 Hertz band.

* * * * *

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-9656 Filed 5-5-86; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 501, 504, 514, 515, and 553

[APD 2800.12 CHGE 25]

General Services Administration Acquisition Regulation; Miscellaneous Changes

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR), Chapter 5, is amended to revise Part 501 to modify the requirements for training under the contracting officer warrant program; to revise Part 504 to clarify the requirements for use of the uniform procurement instrument identification system; to add Section 514.408-1 to provide for the use of a new GSA Form 3577, Notification of Contract Award, to notify an unsuccessful bidder that its bid was not accepted; to revise Parts 514 and 515 to emphasize the need for limiting access to Government coat estimates, to provide guidance on the use of estimates in negotiating fair and reasonable prices; and to revise Part 553 to illustrate the new GSA Form 3577, Notification of Contract Award, and the revised GSA Form 3501, Solicitation Provisions (Sealed bid) and GSA Form 3502, Solicitation Provisions (Negotiated).

EFFECTIVE DATE: April 17, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Ida M. Ustad, Office of GSA Acquisition Policy and Regulations (VP) on (202) 566-1224.

SUPPLEMENTARY INFORMATION:

Background

On December 17, 1985, the General Services Administration published in the **Federal Register** (50 FR 51435) GSAR Notice No. 5-127 inviting comments from interested parties on proposed changes to the regulation and provided a 30-day comment period. Comments from various GSA offices were received, reconciled, and incorporated, when appropriate, in this final rule.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exception applies to this rule. The General Services Administration certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). The rule primarily relates to the internal operations of the agency and will not have a significant impact on contractors and offerors. Therefore, no regulatory flexibility analysis has been prepared. This rule does not contain any information collection requirements which are subject to OMB approval under the Paperwork Reduction Act 44 U.S.C. 3501 et. seq.).

List of Subjects in 48 CFR Parts 501, 504, 514, 515, and 553

Government procurement.

1. The authority citation for 48 CFR Parts 501, 504, 514, 515, and 553 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. Section 501.603-2 is amended to revise paragraphs (c)(1) and the introductory paragraph of (c)(3); to revise paragraph (c)(3)(ii)(E); by redesignating and revising subparagraphs (F) thru (K) as (G) thru (L) and adding a new subparagraph (F); to revise paragraph (c)(3)(v)(C) and adding a new subparagraph (D); to revise paragraph (c)(4) and the introductory paragraph of (c)(5); to redesignate paragraph (c)(6) as (c)(7) and to add a new paragraph (c)(6) to read as follows:

501.603-2 Selection.

(c) * * *

(1) *Knowledge and skill.* Written statements of fact must be presented by supervisors of CO candidates to the warrant board, covering the knowledge and abilities of candidates and their specific level of skill which are appropriate to the activity in the following areas:

* * * * *

(3) *Mandatory training requirements for contracting officer candidates.* A candidate must complete the minimum core training required for the warrant levels described below. To qualify for a intermediate level warrant, a candidate must complete the basic, intermediate, and senior level training in order to qualify for a senior level warrant. Supervisors are responsible for providing their employees with advice and assistance necessary to complete this required training. Mandatory training includes the following general topics as a minimum:

* * * * *

(ii) *Intermediate level* (Does not apply to realty leasing and sales personnel.)

* * * * *

(E) Cost and Price Analysis or Cost Analysis—40 hours,

(F) GSA Price Analysis—40 hours,

(G) Government ADP Resource Acquisition—40 hours (Applicable to ADP acquisition personnel only.)

(H) Termination Settlements—40 hours,

(I) Services Contracting—40 hours,

(J) Public Utility Contracts—40 hours (Applicable to personnel handling public utility procurements.)

(K) Architect-Engineer Contracting—40 hours (Applicable to personnel handling Architect-Engineer service procurements.)

(L) Construction Contracts—40 hours. (Applicable to personnel handling procurement of construction.)

* * * * *

(v) *Realty Leasing Personnel.*

* * * * *

(C) Cost and Price Analysis or Pricing of Lease Proposals—40 hours, and

(D) GSA Price Analysis—40 hours.

* * * * *

(4) *Substitution of experience for training.* Individuals currently serving and classified in 1102 positions for an uninterrupted period of three years will not be required to take the basic level courses under the COWP if they are proposed for intermediate or senior level warrants.

(5) *Substitute courses.* Training courses of equivalent content will be allowable substitutes. Personnel involved in motor pool operations may substitute the GSA Fleet Management Procurement course for the requirement for 40 hours of training in small purchases and Federal supply schedules. Courses from the following sources are considered to be equivalent provided the training meets the minimum hours required in (c) of this subsection:

* * * * *

(6) *Refresher training.* Contracting officers in the Federal Supply Service are encouraged to attend the Contract Quality Assurance course (40 hours) in fulfilling the continuing education requirements of § 501.603-3(c).

(7) *Tests.* Tests administered either by the GSA Office of Civil Rights, Organization, and Training or by DOD training facilities may be taken as an alternative to training, to demonstrate career knowledge. The GSA training office may be contacted for referral to DOD testing facilities such as Fort Lee, VA. Other tests may be considered on a case by case basis.

3. Section 501.603-3 is amended to revise paragraph (a) to read as follows:

501.603-3 Appointment.

(a) The recommending official may nominate candidates for contracting officer warrants to the designating official subject to the approval of the warrant board. Only the Administrator or the Associate Administrator for Acquisition Policy is authorized to sign the Standard Form 1402, Certificate of Appointment.

* * * * *

4. Section 504.7001 is revised to read as follows:

504.7001 Uniform procurement instrument identification.

This section prescribes procedures for the identification of GSA contracts, orders, and other procurement instruments regardless of dollar threshold and applies to all GSA contracting activities except those within the Federal Supply Service.

5. Section 504.7001-1 is amended to revise paragraph (b) to read as follows:

504.7001-1 Policy.

(a) * * *

(b) Identification should be placed in the contract number block provided on the applicable forms. If a space is not reserved for the prescribed number, it should be placed in the upper right-hand corner of the form.

* * * * *

6. Section 504.7001-2 is amended by deleting from paragraph (c) items A and N and revising items F, H, and K and paragraph (f) is amended by revising items C and D as follows:

504.7001-2 Basic procurement instrument identification number.

* * * * *

(c) The fifth character shall be a capital letter assigned to the service/office preparing the instrument as follows:

A Office of Acquisition Policy and Management Systems [Deleted]

* * * * *

F Federal Supply Service

* * * * *

H Office of Associate Administrator for Administration

* * * * *

K Information Resources Management Service

* * * * *

N National Archives and Records Service [Deleted]

(f) The tenth character shall be a capital letter assigned to indicate the type of procurement instrument code as follows:

* * * * *

C Contracts, including letter contracts, contracts referencing basic agreements, or basic ordering agreements, excluding indefinite delivery type contracts.

D Indefinite delivery contracts, including definite quantity, requirements contracts and indefinite quantity contracts.

* * * * *

7. Section 504.7001-3 is amended by revising the introductory paragraph, paragraph (a) and the introductory text of paragraph (e) to read as follows:

504.7001-3 Order and call instrument identification number.

Delivery orders under indefinite delivery contracts (orders), and orders under schedule contracts must be identified by an "11" character alphanumeric identification number placed in the order number block of the order form. The basic indefinite delivery or schedule contract number must be placed in the contract number block of the order form.

(a) The first character shall be a capital letter assigned to the service/office issuing the order. This code will be identical to those assigned in paragraph (c) of GSAR 504.7001-2.

* * * * *

(e) The eighth through the eleventh characters shall be the serial number of the order. Each contracting office shall maintain its own serial number. Alphanumeric numbers shall be used when more than 9999 numbers are required. Alphanumeric numbers shall be serially assigned with an alpha in the first position followed by the numeric serial number. The following sequences, excluding alpha I or O shall be used:

* * * * *

8. The Table of Contents for Part 514 is amended to add new entries for Sections 514.211 and 514.408-1 as set forth below.

PART 514—SEALED BIDDING

Sec.

Subpart 514.2—Solicitation of Bids

* * * * *

514.211 Release of acquisition information.

* * * * *

Subpart 514.4—Opening of Bids and Award of Contract

* * * * *

514.408-1 Award of unclassified contracts.

Authority: 40 U.S.C. 486(c).

9. Section 514.205-1 is amended by revising paragraph (a) to read as follows:

514.205-1 Establishment of lists.

(a) Solicitation mailing lists shall be established in accordance with FAR

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14.205. Contracting officers within FSS shall use the computerized central solicitation mailing list maintained by Region 8 for supplies and services for all procurements expected to exceed the small purchase limitations. Other GSA services/offices may maintain local lists. Services/offices that maintain local mailing lists shall inform the GSA Business Service Center of the list and provide related information regarding the list.

* * * * *

10. Section 514.211 is added to read as follows:

514.211 Release of acquisition information.

Access to information concerning the Government cost estimate must be limited to Government personnel whose official duties require knowledge of the estimate. After award, the total amount of the Government estimate may be revealed, upon request, to those firms or individuals who submitted bids. Information on the basis for calculation of the estimate may not be released at any time.

11. Section 514.408–1 is added to read as follows:

514.408–1 Award of unclassified contracts.

The GSA Form 3577, Notification of Contract Award, may be used on an optional basis to notify unsuccessful bidders, as required by FAR 14.408–1, that their bids were not accepted. When award is made to other than an apparent low bidder(s), the form should not be used to notify the unsuccessful low bidder(s). Such bidder(s) must be notified of the reasons for rejection of their bids.

12. Section 515.803 is revised to read as follows:

515.803 General.

Access to information concerning the Government cost estimate must be limited to Government personnel whose official duties require knowledge of the estimate. An exception to this rule may be made during contract negotiations to allow the contracting officer to identify a specialized task and disclose the associated cost breakdown figures in the Government estimate, but only to the extent necessary to arrive at a fair and reasonable price. After award, the total amount of the independent Government estimate may be revealed, upon written request, to those firms or individuals who submitted proposals.

13. Section 515.805–5 is revised to read as follows:

515.805–5 Field pricing support.

(a) Within GSA, "field pricing support" is provided by the Assistant Inspector General-Auditing, or the Regional Inspector General-Auditing, as appropriate.

(b) When applying the threshold at FAR 15.805–5 for requesting field pricing support, the value of the proposal (including any priced options) must be used.

14. The Table of Contents for Part 553 is amended to add a new entry for Section 553.370–3577 as set forth below:

PART 553—FORMS

Sec.

Subpart 553.3—Illustration of Forms

* * * * *

553.370–3577 GSA Form 3577, Notification of Contracting Award.

* * * * *

Authority: 40 U.S.C. 486(c).

Editorial Note: The forms listed above are illustrated in and made a part of the regulation. However, the forms are not illustrated in the **Federal Register** or the Code of Federal Regulations. Individual copies may be obtained from any GSA contracting activity or the Director of the Office of GSA Acquisition Policy and Regulations (VP), 18th and F Streets, NW., Washington, DC 20405.

16. Section 553.173 is amended to revise paragraph (c) to add GSA Form 3577 to read as follows:

553.173 Responsibility for maintenance of forms.

(c) * * *

GSA Form Number	Responsible office
3577	V

Dated: April 17, 1986.

Richard H. Hopf, III,

Acting Associate Administrator for Acquisition Policy.

[FR Doc. 86–10083 Filed 5–5–86; 8:45 am]

BILLING CODE 6820–61–M

48 CFR Parts 525 and 552

[GSAR AC–86–5]

Restrictions on Procurement of Hand or Measuring Tools

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This Acquisition Circular temporarily amends sections §§525.105 and 552.225 of the General Services Administraton Acquisition Regulation (GSAR), 48 CFR Ch. 5 (APD 2800.12), to reflect procurement restrictions in the current GSA and DOD Appropriation Act on the acquisition of hand or measuring tools. The intended effect is to implement the appropriation restrictions and provide procedures and guidance to GSA contracting activities.

DATES: *Effective:* April 18, 1986.

Expiration: October 17, 1986, unless cancelled earlier.

Comment: Comments must be submitted on or before June 5, 1986.

ADDRESS: Comments may be submitted to Mrs. Marjorie Ashby, Office of GSA Acquisition Policy and Regulations, 18 and F Sts., NW, Washington, DC 20405, (202) 523–3822.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph DeStefano, Office of GSA Acquisition Policy and Regulations, (202) 523–4763.

SUPPLEMENTARY INFORMATION: Pursuant to Section 22(d) of the Office of Federal Procurement Policy Act, as amended, a determination has been made to waive the requirement for publication of procurement procedures for public comment before the regulation takes effect. The need to comply with the FY 1986 Appropriation Act creates an urgent and compelling circumstance which makes advance publication impracticable. The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. The General Services Administration (GSA) certifies that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.) because it represents a continuation of existing policy. Therefore, no regulatory flexibility analysis has been prepared. This circular does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 48 CFR Parts 525 and 552

Government procurement.

PARTS 525 AND 552—[AMENDED]

1. The authority citation for 48 CFR Parts 525 and 552 continue to read as follows:

Authority: 40 U.S.C. 486(c).

2. 48 CFR Parts 525 and 552 are amended by the following Acquisition Circular:

General Services Administration Acquisition Regulation Acquisition Circular AC–86–5

To: All contracting activities
Subject: Restrictions on Procurements of Hand or Measuring Tools

1. *Purpose.* This Acquisition Circular temporarily amends Sections 525.105 and 552.225 of the General Services Administration Acquisition Regulation (GSAR), 48 CFR Ch. 5 (APD 2800.12), to reflect procurement restrictions in the current GSA and DOD Appropriation Acts on the acquisition of hand or measuring tools.

2. *Cancellation.* AC–85–3 and supplement 1 are cancelled.

3. *Background.* The FY 1986 GSA Appropriation Act continues the procurement restrictions on the acquisition of hand or measuring tools and stainless steel flatware from the FY 1985 GSA Appropriation Act. Also, the FY 1986 DOD Appropriation Act continues the FY 1985 DOD Appropriation Act restrictions for acquisitions of electric and air-motor driven hand tools. All other procurement restrictions on the acquisition of hand or measuring tools in support of DOD requirements that were in the FY 1985 DOD Appropriation Act are continued in the FY 1986 DOD Appropriation Act. The procurement restrictions in the FY 1986 DOD Appropriation Act shall be applied in GSA procurements where such procurements satisfy requirements that are predominantly DOD requirements.

4. *Effective date.* April 18, 1986.

5. *Expiration date.* This circular expires October 17, 1986, unless cancelled earlier.

6. *Reference to regulation.* Sections 525.105–70(c), 525.105–71, and 552.225–71 of the GSAR.

7. *Explanation of change.*

a. Section 525.105–70(c) is amended as follows to cite the FY 1986 GSA Appropriation Act:

525.105–70 Evaluating offers—Hand or measuring tools for other than the Department of Defense.

(a) * * *

(b) * * *

(c) *GSA Appropriation Act restrictions.* Section 101(h) of Pub. L. 99–190 [H.J. Res. 465] December 19, 1985, makes GSA appropriations subject to H.R. 3036 to the extent and in the manner provided for in the conference report and joint explanatory statement of the committee of conference (House Report 99–349) as passed by the House of Representatives and the Senate on November 7, 1985, as if enacted into law. Section 506 of H.R. 3036 continues the Congressional policy contained in previous GSA Appropriation Acts that require GSA purchases of hand or measuring tools be from domestic sources or be made in accordance with procedures prescribed by section 6–104.4(b) of the Armed Services Procurement Regulation (ASPR) (now the Defense Acquisition Regulation) as such regulation existed on June 15, 1970, and further provides that a factor of 75 percent in lieu of 50 percent shall be used for evaluating foreign source end products in § 6–104.4(b).

* * * * *

b. Section 525.105–71 is retitled and amended as follows to cite the FY 1986 DOD Appropriation Act, codify GSA's determination to apply the current DOD Appropriation Act restrictions in GSA procurements for requirements that are predominantly DOD requirements, and provide policy guidance on the requirements for full and open competition in acquisitions where the current DOD Appropriation Act restrictions are to be applied:

525.105–71 Acquisition of hand or measuring tools for the Department of Defense (DOD).

(a) *DOD Appropriation Act restrictions.*

(1) Congressional policy on DOD's acquisition of hand or measuring tools is expressed in Section 101(a) of Pub. L. 99–190 [H.J. Res. 465], December 19, 1985, which contains the DOD Appropriation Act of 1986, and the House of Representatives Report No. 99–1086 on the DOD Appropriation Bill for FY 1985. The following restrictions applicable to DOD's acquisition of hand or measuring tools are set forth in the current DOD Appropriation Act:

(i) Except for electric or air-motor driven hand tools, DOD is prohibited from acquiring hand or measuring tools that are not wholly produced or manufactured in the United States.

(ii) Electric or air-motor driven hand tools shall be considered of domestic origin if the cost of components produced or manufactured in the United States exceeds 75 percent of the cost of all components in the end product.

(2) Pursuant to subsection 6–104.4(d)(3)(ii) of the Armed Services Procurement Regulation (now the Defense Acquisition Regulation) as it existed on June 15, 1970, GSA has determined that accepting offers from firms offering foreign products is not in the national interest when DOD is the predominant user of the items being procured. As a result, the current DOD Appropriation Act restrictions shall apply in GSA procurements rather than the current GSA Appropriation Act restrictions where such procurements satisfy requirements that are predominantly DOD requirements. The basis for this determination are:

(i) The current DOD Appropriation Act prohibits DOD's acquisition of foreign hand or measuring tools. This restriction also applies when DOD requisitions such items through the GSA stock program.

(ii) It is not feasible for GSA to maintain separate supply systems to satisfy the requirements of civilian and military agencies.

(iii) The current GSA Appropriation Act prescribes the use of the procedures in the ASPR 6–104.4, dated June 15, 1970. These procedures provide that offers may be rejected when it is considered necessary for reasons of national interest.

(3) Acquisitions of hand or measuring tools, pursuant to the current DOD Appropriation Act restrictions, meet the requirements for full and open competition in FAR Subpart 6.1 if all responsible sources offering domestic end products, as defined by the current DOD Appropriation Act restrictions, are permitted to submit offers.

(4) Acquisitions of hand or measuring tools pursuant to the DOD Appropriation Act restrictions without full and open competition (i.e., all otherwise responsible sources are not permitted to submit offers) shall be made under the authorities in FAR Subpart 6.2 or 6.3 and comply with the respective requirements of these FAR subparts for determinations and findings or approved justifications.

(b) *Solicitation provision.* The contracting officer shall insert the provision at § 552.225–71, Procurement Restriction—Hand or Measuring Tools, in solicitations for the acquisition of hand or measuring tools for the Department of Defense.

c. Section 552.225–71 is retitled and amended as follows to incorporate the procurement restrictions in the FY 1986 DOD Appropriation Act:

552.225–71 Procurement Restriction—Hand or Measuring Tools.

As prescribed in § 525.105–71(b), insert the following provision in solicitations and contracts for the acquisition of hand or measuring tools for the Department of Defense.

Procurement Restriction—Hand or Measuring Tools (Apr 1985)

(a) The current Department of Defense (DOD) Appropriation Act prohibits DOD from directly or indirectly acquiring hand or measuring tools classified under Federal Supply Classification (FSC) Group 51, Hand

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Tools, or FSC Group 52, Measuring Tools, that are not domestic end products.

"Domestic end product," as used in this provision, means—

(1) Any hand or measuring tool, except for any electric or air-motor driven hand tool, wholly produced or manufactured, including all components, in the United States or its possessions; or,

(2) Any electric or air-motor driven hand tool if the cost of its components produced or manufactured in the United States exceeds 75 percent of the cost of all its components.

"Components," as used in this provision, means those articles, materials, and supplies incorporated directly into the hand or measuring tools.

(b) Awards under this solicitation will only be made to offerors that will furnish hand or measuring tools that are domestic end products.

(c) Tools kits or sets, being procured under this solicitation, will not be considered domestic end products if any individual tool classified in FSC Group 51 or 52 and included in a tool kit or set is not a domestic end product as defined in paragraph (a) of this provision. The restrictions of this clause do not apply to individual hand or measuring tools that are contained in the tool kit or set but are not classified in FSC Group 51 or 52.

(d) Offers of hand or measuring tools that are not domestic end products are unacceptable and will not be considered for award under this solicitation.

(End of Clause)

Richard H. Hopf III,

Acting Associate Administrator for Acquisition Policy.

[FR Doc. 86-10094 Filed 5-5-86; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 85-02, Notice 02]

Federal Motor Vehicle Safety Standards for Brake Fluids and Brake Hoses

AGENCY: National Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: The purpose of this notice is to amend Federal Motor Vehicle Safety Standard (FMVSS) No. 116, *Motor Vehicle Brake Fluids*, and FMVSS No. 106, *Brake Hoses*, to revise the referee materials and test procedures referenced in portions of those standards. FMVSS No. 116 and FMVSS No. 106 currently reference the referee material (RM) identified as RM–1 fluid by the Society of Automotive Engineers (SAE). However, RM–1 fluid is now commercially unavailable, and is less representative of brake fluids used in vehicles on the road today. The SAE in its January 1980 revision of Standard J1703, "Motor Vehicle Brake Fluid," substituted a new referee material, RM–66–03, in place of RM–1 for use in the J1703 compatibility test. This final rule adopts this revision and references RM–66–03 for use in the compatibility test of Standard No. 106, and the compatibility and fluid chemical stability tests of Standard No. 116 This notice also references a new referee material, TEGME, in the humidification procedure of Standard No. 116, adjusts the water content level and test temperature referenced in the test procedures, and amends the number of sets of stroking test materials in the stroking test procedures. This notice also makes procedural modifications to Standard No. 116's humidification procedure adopted from the SAE, and corrects the description of test procedures used to evaluate brake fluid stroking properties.

EFFECTIVE DATES: Due to the commercial unavailability of RM–1 fluid, this rule is effective May 6, 1986. However, because the agency is concerned that manufacturers who might still be using RM–1 fluid to test their products should be able to use their existing supplies, use of RM–1 fluid may continue until November 3, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Vernon Bloom, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202–426–2153).

SUPPLEMENTARY INFORMATION: Federal Motor Vehicle Safety Standard (FMVSS) No. 116, *Motor Vehicle Brake Fluids*, and FMVSS No. 106 *Brake Hoses*, specify performance requirements for motor vehicle brake fluids and brake hoses. Included in the performance requirements of Standard No. 106, is a brake fluid compatibility test, and included in Standard No. 116 are compatibility, chemical stability, and humidification tests. Referee materials are used to test specimens of brake hose and brake fluid for compliance with the standards' requirements. These materials provide a basis of comparison between the results of the tests and the specifications of the standards. The procedures for the compatibility, chemical stability, and humidification tests currently reference the referee material brake fluid specified by the Society of Automotive Engineers (SAE) in the April 1966 version of SAE Standard J1703b. Standard J1703b, in turn, references a referee material (RM) identified as RM–1. (Standard No. 116's description of SAE Standard J1703b, "Motor Vehicle Brake Fluid," April 1966, is incorrect in that the correct reference should be to J1703b, July 1970. In 1970, the agency proposed to reference test procedures of J1703a, April 1966, in Standard No. 116. Subsequently, NHTSA changed reference from J1703a to J1703b. The effort to make this change inadvertently resulted in showing April 1966, the date of J1703a, as the date of J1703b. This notice corrects the error by referencing J1703b, July 1970.)

This rule amends FMVSS Nos. 116 and 106 to revise the referee materials and test procedures referenced in portions of those standards. The SAE, in its January 1980 and November 1983 revisions of Standard J1703, "Motor Vehicle Brake Fluid," substituted a new referee material, RM–66–03, in place of RM–1 for use in the J1703 compatibility test. This notice adopts this revision and references RM–66–03 for use in the compatibility test of Standard No. 106, and the compatibility and fluid chemical stability tests of Standard No. 116. This notice also references a new referee material, TEGME, in the humidification procedures of Standard No. 116, adjusts the water content level and test temperature referenced in the test procedures, and amends the number of sets of stroking test materials in the stroking test of Standard No. 116. This notice also adopts SAE revisions to FMVSS No. 116's humidification test which had been inadvertently omitted from the amendatory language of the proposed rule, and corrects the description of test procedures used to evaluate brake fluid stroking properties.

Testing Brake Hose/Fluid Characteristics

Brake fluid compatibility is an important factor in establishing brake hose life and strength characteristics. The compatibility test of FMVSS No. 106 measures hydraulic brake hose compatibility with brake fluid. The brake hose test specimen is filled with the SAE Compatibility Fluid for a required number of hours at specified temperatures, and is then subjected to constriction and burst strength tests. Currently, RM–1 fluid is referenced in the test procedures for the standard's brake fluid compatibility test.

Under the compatibility requirements of FMVSS No. 116, the compatibility of a brake fluid with a RM fluid is determined. The compatibility fluid that is used in these tests as a referee material should be representative of the fluids found in a braking system in service. The tests measure the compatibility of fluids of different chemical bases by checking whether there are undesirable chemical interactions resulting from the mixture of fluids. Paragraph S6.10 sets out the procedures for evaluating the compatibility of a brake fluid with other liquids used in a hydraulic brake system (i.e., other brake fluids). This section currently references RM–1 fluid as the referee material used in that test procedure.

The humidification tests of FMVSS No. 116 measure the amount of water absorbed by a brake fluid as compared to a reference fluid. The presence of water in a brake system degrades braking performance and safety by lowering the boiling point of brake fluid, increasing the possibility of vapor lock and the corroding of system components, and the deposition of sediment in wheel cylinders that could cause a system malfunction.

Standard No. 116 establishes minimum wet equilibrium reflux boiling points (ERBP's) for different grades of brake fluid, and the test procedures of S6.2 determine the water content and wet ERBP of brake fluid specimens. The current test procedure specifies that sample fluids of RM–1 and the test specimen are to be humidified simultaneously under controlled conditions. The SAE RM–1 fluid is used as the reference fluid that establishes the "endpoint" for humidification. When the water content of the RM–1 fluid is measured to be 3.50±0.05 percent by weight, the test fluid sample is removed from the humidification apparatus. After humidification, the water content and ERBP of the sample are determined.

Section 7.2 of FMVSS No. 116 also refers to RM–1 fluid as a reference for measuring the water content of brake fluids.

RM–66–03 Fluid

A notice of proposed rulemaking (NPRM) on this rulemaking action was published on March 7, 1985 (50 FR 9294). The NPRM explained that FMVSS Nos. 106 and 116 currently reference SAE RM–1 Compatibility Fluid in their test procedures. In that notice, the agency announced its tentative finding that the inclusion of RM–1 fluid is no longer desirable for the following reasons.

The agency stated its belief that reference to RM–1 fluid should be changed because manufacture of the fluid has ceased. A new fluid, identified as RM–66–03 Compatibility Fluid, has replaced the RM–1 fluid in test procedures described in the January 1980 and November 1983 revisions of SAE Standard J1703. This new fluid is described by the SAE as a blend of four proprietary polyglycol brake fluids of fixed composition, in equal parts by volume. The four fluids selected comprise three factory-fill and one after market fluid as follows: DOW HD50–4, DOW 455, Delco Supreme II, and Olin HDS–79.

While RM–1 fluid is not readily available, RM–66–03 fluid is available from the SAE in the blend and formulation developed by the SAE for J1703. The individual manufacturers of the four proprietary fluids have indicatd to the SAE Brake Fluids Subcommittee and Reference Materials Subcommittee that the proprietary formulation might be changed in the commercial market, but that the formulations developed for the RM–66–03 fluid would be guaranteed to be available for a minimum five-year period commencing May 1983, i.e., at least until May 1988.

The updated reference to RM–66–03 fluid by the SAE is a result of the termination of the manufacturing of the RM–1 fluid. Several of the ingredients contained in the RM–1 fluid are not available to fluid manufacturers since the materials are no longer used in today's fluids, or have become prohibitively costly to obtain. As a result, manufacturers are unwilling to produce more RM–1 fluid.

In addition, RM–1 fluid is not representative of fluids in service today. The agency stated its belief that revising the referee material used in the compatibility test is warranted since the purposes of that test would be better served by a referee material more representative of today's fluids. Inclusion of RM–1 fluid in FMVSS Nos. 116 and 106 is also undesirable because RM–1 fluid contains toxic materials which require elaborate protective procedures and special handling and manufacturing processes.

In consideration of the foregoing, NHTSA proposed an amendment to FMVSS Nos. 106 and 116 to substitute new referee materials for the compatibility and humidification tests. For Standard No. 106's compatibility requirement and test procedures (S5.3.9 and S6.7), and Standard No. 116's compatibility (6.10), fluid chemical stability (6.5), and water content (7.2) tests, the new referee material was proposed to be RM–66–03 fluid as described in the January 1980 version of SAE Standard J1703.

Seven commenters responded to the NPRM. Each commenter agreed with the proposal to reference RM–66–03 fluid in FMVSS Nos. 106 and 116. General Motors Corporation (GM) and Chrysler Corporation agreed with the agency's tentative conclusion that the new referee material would be more available and compatible with current brake fluids than RM–1 fluid. Other commenters believed that the change would be practical and reasonable.

NHTSA has considered the comments to the NPRM and has decided to amend FMVSS Nos. 106 and 116 to reference RM–66–03 compatibility fluid. One slight change has been made to the NPRM's proposal. The NPRM proposed to reference the RM–66–03 fluid as described in the January 1980 revision of SAE Standard J1703. This rule will reference RM–66–03 fluid as described in the November 1983 revision of J1703. The two SAE revisions of J1703 are identical in their descriptions of RM–66–03; the agency is making this change in order to keep FMVSS Nos. 106 and 116 current by referencing the more recent SAE standard.

Use of the RM–66–03 fluid in the test procedures of Standards Nos. 116 and 106 should have a beneficial impact on safety. Since the RM–1 compatibility fluid currently referenced in FMVSS Nos. 106 and 116 is not commercially available, ascertaining whether hoses and fluids comply with certain requirements related to compatibility and boiling points is difficult. Amending the standards to allow the use of RM–66–03 fluid in place of RM–1 provides a readily available compatibility fluid for the compliance tests which is more representative of fluids used in today's vehicles.

TEGME, Brake Fluid Grade

In humidification test procedures under FMVSS No. 116, the referee material fluid is used as a reference to determine when to terminate the humidification procedure. Currently RM–1 fluid is used as this referee material. NHTSA proposed to amend Standard No. 116 to reference a new referee fluid, triethylene glycol monomethyl ether (TEGME), brake fluid grade, as the referee material noted in Standard No. 116's procedures for a brake fluid's wet equilibrium reflux boiling point (S6.2). TEGME has been referenced by the SAE in J1703 Jan 80 and J1703 Nov 83 as the referee material used in the humidification test procedure.

In addition to referencing the TEGME material, the agency also proposed to amend S6.2 of FMVSS No. 116 to adjust the final water content of the referee material fluid to 3.70% water (instead of the current requirement of 3.5%), change the test temperature to 50 °C. (from 23 °C.), and add a cooling period for the sealed jar sample. As explained in the NPRM, those changes (use of TEGME fluid, change in water pickup and test temperature, and the cool-down to room

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temperature) were proposed as part of the overall changes adopted from SAE J1703 procedures.

All but one of the commenters to the notice supported the changes to the TEGME fluid. Commenters believed that the changes would simplify the test procedures and make them more cost effective.

In its comment on the NPRM, Union Carbide questioned whether there are adequate data to show that the new humidification test procedure will produce comparable test results when applied to DOT–4 and DOT–5 brake fluids. That commenter suggested that NHTSA reconsider adopting the SAE J1703 Jan 80 humidification test method or adopt it as an alternative to the current method that uses RM–1 fluid until complete comparative testing could be performed.

The agency does not agree with Union Carbide that the humidification test method of SAE J1703 Jan 80 should not be adopted as the new Standard No. 116 test procedure. The TEGME fluid is capable of absorbing a measurable amount of water in a given time and is only used as a reference to determine when to terminate the humidification process. Under the humidification test procedure, samples of brake fluid and TEGME are humidified simultaneously until a measured quantity of fluid is picked up in the TEGME. When the water content of the TEGME fluid reaches 3.7 percent, the brake fluid test specimens are removed from the test apparatus and their water contents and ERBP's are measured. TEGME, the referee material used in the humidification procedure, thus serves only to establish the end point of a test procedure.

The 3.7 percent TEGME water pick up (at 50 °C) corresponds to the 3.5 percent water pickup (at 23 °C) of the referee fluid (RM–1) used previously to determine the end point of the humidification procedure. The agency has determined that DOT–3 fluid picks up the same amount of water when humidified under procedures which use TEGME as the referee material, as it does when humidified under procedures using RM–1. Therefore, the agency believes that the water pickup of test fluids, including DOT–4 and DOT–5 fluids, would not be affected by the change to TEGME. Accordingly, NHTSA is amending FMVSS No. 116 to reference the TEGME referee material.

The NPRM proposed to reference the TEGME fluid as described in the January 1980 revision of SAE Standard J1703. This rule will instead reference TEGME as described in the November 1983 revision of J1703. The two SAE revisions of J1703 are identical in their descriptions of TEGME; the agency is making this change in order to keep FMVSS No. 116 current by referencing the more recent SAE standard.

Humidification Test Procedures

All commenters supported the additional changes to the humidification procedure of S6.2 adopted from SAE Standard J1703. This rule adopts the proposed changes to S6.2 and adjusts the final water content of the referee material fluid to 3.70%, changes the test temperature to 50 °C, and adds a cooling period for the sealed jar sample.

Other changes to the humidification procedure were suggested in the comments to the NPRM. GM and Union Carbide Corporation pointed out that while NHTSA proposed to adopt the humidification test procedures from SAE J1703, the procedural modifications proposed in the amendatory language differed slightly from the SAE standard. GM suggested changing FMVSS No. 116's humidification procedure to agree with that of SAE J1703 Jan 80 in order to facilitate testing. The following changes were suggested: S6.2.1 should be revised to require 150 ml. samples of brake fluid and TEGME instead of the proposed 100 ml. samples; S6.2.3 should be revised to eliminate ammonium sulfate from the list of reagents and materials and to specify distilled water and TEGME; S6.2.4 should be revised to load the dessicators with 450 ml. of distilled water instead of the ammonium sulfate/distilled water slurry; and S6.2.5 should be revised to use 150 ml. samples of the brake fluid and TEGME instead of the proposed 100 ml. samples.

As evidenced by the GM and Union Carbide comments, it was clear that the agency intended to facilitate testing by adopting the overall changes to the humidification test from SAE J1703. Therefore, NHTSA agrees that those additional changes should be incorporated into this final rule. This rule amends S6.2.1, S6.2.3, S6.2.4. and S6.2.5 to correct the minor omissions noted above. Further, S6.2.2 is revised to clarify that distilled water would be substituted for the salt slurry in Figure 3 of FMVSS No. 116, *Humidification Apparatus*, when TEGME is used as the referee material.

Stroking Test

The stroking test in FMVSS No. 116 checks the lubricity effect of a brake fluid on rubber components. The NPRM explained that the SAE had determined, in its revision of J1703 Jan 80, that three sets of test material are sufficient to analyze the adequacy of test results. The notice announced that, based on NHTSA's tentative agreement with that SAE conclusion and its belief that compliance testing costs would be reduced by that change without an adverse effect on safety, the agency was proposing to amend the requirements of S5.1.13 and S6.13 to require testing of only three sets of test material (consisting of wheel cylinders, drums, shoe assemblies, etc.) instead of four sets, and eight new brake cups instead of 10. Since NHTSA proposed to reduce the number of cups tested, a reduction in the number of cups checked for unsatisfactory operating condition was also proposed.

All comments supported the agency's proposal to revise the stroking test procedures. The commenters believed that the changes proposed in the NPRM would simplify the test procedures and make them more cost effective. NHTSA agrees, and has revised S5.1.13 and S6.13 as proposed in the NPRM.

In addition, this rule makes several changes to the stroking test procedures in FMVSS No. 116 which directly relate to the agency's adoption of the SAE stroking test revision. Currently, S6.13.2 describes the apparatus and equipment used for the stroking test and refers to figures in SAE Standard J1703b which depict stroking apparatuses. Figure 1 of J1703b depicts four sets of drum and shoe assemblies. Since NHTSA has reduced the number of sets of test materials to three, the agency believes that the description of the test apparatuses and arrangement of test materials should also be revised to reflect this change. The description of the apparatuses used in the stroking test is changed only to clarify that three sets of materials are used, instead of four.

The following related revisions to the stroking test procedure are necessary to facilitate the change to three sets of materials. Paragraph S6.13.4(c) describes the preparation and assembly of test apparatuses. When a shoe and drum type apparatus is used, S6.13.4(c) specifies a 23 mm. stroke length, based on output piston movement of four sets of wheel cylinders. Stroke length refers to the distance traveled by the master cylinder piston to displace a certain volume of fluid in the test system which, in turn, forces the wheel cylinder pistons to travel a specified distance. Since the stroking test is revised to require only three sets of materials, the stroke length of the master cylinder would no longer be 23 mm.

This rule deletes reference in S6.13.4(c) to exact piston displacement measurements and a 23 mm. stroke length. The agency has determined that it is not necessary to specify master cylinder and wheel cylinder piston travel since those values are determined by the characteristics of the system which are specified in the standard (i.e., dimensions of the master cylinder and wheel cylinders, and pressure). The stroking test apparatus is a closed hydraulic system; pressure of 1,000 pounds per square inch (p.s.i.) is generated at the outlet port of the master cylinder, and all pistons have the same diameters of 1⅛ inch. Given the above, displacement of the wheel cylinders is directly proportional to the displacement of the master cylinder, and in the given test apparatus the stroke length of the master cylinder is dependent on system pressure. Stroke length would therefore be adjusted by the characteristics of the system from the former value of 23 mm. to a value proportioned for three wheel cylinders.

Since the agency is eliminating exact wheel cylinder piston travel measurements and is specifying that only three sets of test materials are required in the stroking test, this rule also deletes reference in S6.13.4(c) to Figure 4 of SAE Standard J1703b. That figure illustrated the approximate pressure buildup versus the master cylinder piston movement, and was based on the use of four sets of materials. S6.13.4(c) would continue, however, to specify that the pressure buildup is relatively low during the first part of the stroke, in order to avoid damage of the master cylinder's primary cup by ensuring that the primary cup passes the compensating port at a relatively low pressure.

Typographical Errors

This notice corrects the typographical errors in S5.1.9(a), S5.1.9(b) and S5.1.12 of Standard No. 116, as proposed in the NPRM.

Effective Date

This rule is effective upon publication in the **Federal Register**. As explained in the NPRM, the agency finds good cause for this expedited effective date because the RM–1 fluid used in the testing procedures of FMVSS Nos. 116 and 106 is commercially unavailable. Use of the RM–66–03 fluid will facilitate compliance testing by utilizing a referee material that is currently available and more representative of fluids in service. However, because the agency is concerned that manufacturers who might still be using RM–1 fluid to test their products should be able to use their existing supplies, use of RM–1 fluid may continue until November 3, 1986, i.e., 180 days after publication of this rule.

In accordance with the above provision permitting the use of RM–1 during the interim period, this rule describes separate test procedures appropriate for use with RM–1 and for the new referee materials (i.e., RM–66–03 and TEGME). Test procedures for RM–1 usage are specified for those manufacturers who choose to use that fluid during the 180-day period.

Environmental Effects

NHTSA has analyzed this final rule under the National Environmental Policy Act and has determined that it would not have a significant effect on the quality of the human environment.

Economic Effects

NHTSA has concluded that this final rule does not qualify as a "major rule" within the meaning of Executive Order 12291, and that it is not "significant" within the meaning of the Department of Transportation's regulatory procedures. Preparation of a regulatory impact analysis is not necessary for this rulemaking. The agency has determined further that the effects of this rulemaking are minor and that a full regulatory evaluation is not warranted. The rule references referee materials in Standards Nos. 116 and 106 that are readily available to manufacturers of brake fluids and brake hoses.

The agency believes that manufacturers will benefit by the change to RM–66–03 fluid and TEGME fluid in FMVSS No. 116 and RM–66–03 fluid in FMVSS No. 106. The fluids are readily available whereas RM–1 is not, and are more representative of fluids in service today. The agency knows of no problems resulting from tests conducted with the RM–66–03 and TEGME fluids.

Some cost savings would be realized with this amendment. The utilization of RM–66–03 fluid will reduce the costs of fluids used in compliance testing without sacrificing adequate test results. For example, as cited in the NPRM, when last available, RM–1 fluid cost approximately $27.00 per quart. The cost of RM–66–03 fluid is approximately $8.00 per quart.

Cost savings will be realized by the use of the TEGME fluid in the humidification tests of FMVSS No. 116. The TEGME fluid costs approximately $3.30 per quart. Further, using the TEGME fluid in compliance testing would conserve the more expensive supply of RM–66–03 brake fluid material.

The change in the stroking test procedures will also result in some cost savings. The costs related to the quantities of materials tested will be reduced about 25 percent.

Any changes to Standard Nos. 106 and 116 referencing the RM–66–03 and TEGME fluids and reducing the number of test materials used in the stroking test will not significantly affect manufacturers of brake hoses and referee materials. These manufacturers may benefit from some cost savings resulting from the changes to the standards, but will not otherwise be significantly affected by this amendment.

NHTSA has considered the impacts of this final rule in relation to the Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of brake hoses and referee materials referenced in FMVSS Nos. 116 and 106 are generally not small businesses within the meaning of the Regulatory Flexibility Act. However, even if such manufacturers were considered small businesses within the Regulatory Flexibility Act, the potential costs of this rulemaking are minimal and are outweighed by the potential benefits.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

§ 571.106—[Amended]

In consideration of the foregoing, 49 CFR 571.106, *Brake Hoses*, is amended as follows:

1. The authority citation for Part 571 will continue to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

2. S5.3.9 is revised to read as follows:

S5.3.9 *Brake fluid compatibility, constriction, and burst strength.* Except for brake hose assemblies designed for use with mineral or petroleum-based brake fluids, a hydraulic brake hose assembly shall meet the constriction requirement of S5.3.1 after having been subjected to a temperature of 200 °F for 70 hours while filled with SAE RM–66–03 Compatibility Fluid, as described in Appendix A of SAE Standard J1703 Nov 83, "Motor Vehicle Brake Fluid," November 1983 (S6.7). It shall then withstand water pressure of 4,000 psi for 2 minutes and thereafter shall not rupture at less than 5,000 psi (S6.2). (SAE RM–1 Compatibility Fluid, as described in Appendix A of SAE Standard J1703b, "Motor Vehicle Brake Fluid," July 1970, may be used in place

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of SAE RM–66–03 until November 3, 1986.

3. Paragraph S6.7.1(a) is revised to read as follows:

S6.7.1 *Preparation.*

(a) Attach a hose assembly below a 1-pint reservoir filled with 100 ml of SAE RM–66–03 Compatibility Fluid as shown in Figure 2. (SAE RM–1 Compatibility Fluid, as described in Appendix A of SAE Standard J1703b, "Motor Vehicle Brake Fluid," July 1970, may be used in place of SAE RM–66–03 until November 3, 1986.

* * * * *

§ 571.116—[Amended]

In consideration of the foregoing, 49 CFR 571.116, *Motor Vehicle Brake Fluids,* is amended as follows:

1. S5.1.9 (a) and (b) introductory texts are revised to read as follows:

S5.1.9 *Water Tolerance.*

(a) *At low temperature.* When brake fluid is tested according to S6.9.3(a)—

* * * * *

(b) *At 60 °C (140 °F).* When brake fluid is tested according to S6.9.3(b)—

* * * * *

2. S5.1.12 introductory text is revised to read as follows:

S5.1.12 *Effects on cups.* When brake cups are subjected to brake fluid in accordance with S6.12—

* * * * *

3. S5.1.13 (c), (d), (e), and (f) are revised to read as follows:

S5.1.13 *Stroking properties.* When brake fluid is tested according to S6.13—

* * * * *

(c) The average decrease in hardness of seven of the eight cups tested (six wheel cylinder and one master cylinder primary) shall not exceed 15 IRHD. Not more than one of the seven cups shall have a decrease in hardness greater than 17 IRHD;

(d) None of the eight cups shall be in an unsatisfactory operating condition as evidenced by stickiness, scuffing, blisters, cracking, chipping, or other change in shape from its original appearance;

(e) None of the eight cups shall show an increase in base diameter greater than 0.90 mm (0.035 inch);

(f) The average lip diameter set of the eight cups shall not be greater than 65 percent.

* * * * *

4. S6 is revised to read as follows:

S6. *Test procedures.* Until November 3, 1986, SAE RM–1 Compatibility Fluid, as described in Appendix A of SAE Standard J1703b, "Motor Vehicle Brake Fluid," July 1970, may be used in place of TEGME and SAE RM–66–03 in the humidification (S6.2), chemical stability (S6.5.4), and compatibility (S6.10) test procedures, and as a referee material in S7.2.

* * * * *

5. S6.2.1 is revised to read as follows:

S6.2.1 *Summary of the procedure.*

(a) *With TEGME:* Except as provided in paragraph S6.2.1(b), a 150 ml. sample of the brake fluid is humidified under controlled conditions; 150 ml. of SAE triethylene glycol monomethyl ether, brake fluid grade, referee material (TEGME) as described in Appendix E of SAE Standard J1703Nov83, "Motor Vehicle Brake Fluid," November 1983, is used to establish the end point for humidification. After humidification the water content and ERBP of the brake fluid are determined.

(b) *With RM–1:* Until November 3, 1986, SAE RM–1 Compatibility Fluid, as described in Appendix A of SAE Standard J1703b, "Motor Vehicle Brake Fluid," July 1970, may be used with the following procedures. See S6. A 100-ml sample of the brake fluid is humidified under controlled conditions; 100 ml. of SAE RM–1 Compatibility Fluid is used to establish the end point for humidification. After humidification the water content and ERBP of the brake fluid are determined.

6. S6.2.2. introductory text is revised to read as follows:

S6.2.2 *Apparatus for humidification.* (See Figure 3. November 3, 1986, a manufacturer may use either TEGME or RM–1 Compatibility Fluid. If TEGME is used, substitute 450 ml. of distilled water in place of the salt slurry and disregard the "45±7 mm." dimension.)

Test apparatus shall consist of—

* * * * *

7. S6.2.3 is revised to read as follows:

S6.2.3 *Reagents and Materials.*

(a) Distilled water, see S7.1.

(b) Except as provided in S6.2.3(c), SAE TEGME referee material.

(c) Until November 3, 1986, a manufacturer may use either TEGME or SAE RM–1 Compatibility Fluid. See S6.

(d) If RM–1 is used, also use ammonium sulfate $(NH_4)_2SO_4$, Reagent or A.C.S. grade.

8. S6.2.4 is revised to read as follows:

S6.2.4 *Preparation of Apparatus.*

(a) *With TEGME:* Except as provided in S6.2.4(b), lubricate the ground-glass joint of the desiccator. Pour 450±10 ml of distilled water into each desiccator and insert perforated porcelain desiccator plates. Place the desiccators in an oven with temperature controlled at 50±1 °C (122±1.8 °F) throughout the humidification procedure.

(b) *With RM–1:* Until November 3, 1986, a manufacturer may use either TEGME or SAE RM–1 Compatibility Fluid. See S6. Lubricate the ground-glass joint of the desiccator. Load each desiccator with 450±25 grams of the ammonium sulfate and add 125±10 ml. of distilled water. The surface of the salt slurry shall lie within 45±7 mm. of the top surface of the desiccator plate. Place the desiccators in an area with temperature controlled at 23±2 °C. (73.4±3.6 °F.) throughout the humidification procedure. Condition the loaded desiccator with the covers on the stoppers in place at least 12 hours before use. Use a fresh charge of salt slurry for each test.

9. S6.2.5 is revised to read as follows:

S6.2.5 *Procedure.*

(a) *With TEGME:* Except as provided by S6.2.5(b), pour 150±5 ml of the brake fluid into an open corrosion test jar. Place the jar into a desiccator. Prepare in the same manner a duplicate test fluid sample and two duplicate specimens of the SAE TEGME referee material (150±4 ml of TEGME in each jar). The water content of the SAE TEGME fluid is adjusted to 0.50±0.05 percent by weight at the start of the test in accordance with S7.2. Place these samples in the desiccators in the 50 °C (122°F) controlled oven and replace desiccator covers. At intervals, during oven humidification, remove the rubber stopper in the top of each desiccator containing SAE TEGME fluid. Using a long needled hypodermic syringe, take a sample of not more than 2 ml from each jar and determine its water content. Remove no more than 10 ml of fluid from each SAE TEGME sample during the humidification procedure. When the water content of the SAE fluid reaches 3.70±0.05 percent by weight (average of the duplicates), remove the two test fluid specimens from their desiccators and promptly cap each jar tightly. Allow the sealed jars to cool for 60–90 minutes at 23±5 °C (73.4±9 °F). Measure the water contents of the test fluid specimens in accordance with S7.2 and determine their ERBP's in accordance with S6.1. If the two ERBP's agree within 4 °C (8 °F), average them to determine the wet ERBP; otherwise repeat and average the four individual ERBP's as the wet ERBP of the brake fluid.

(b) *With RM–1:* Until November 3, 1986, a manufacturer may use either TEGME or SAE RM–1 Compatibility Fluid. See S6. Pour 100±1 ml of the brake fluid into a corrosion test jar. Promptly place the jar into a desiccator. Prepare duplicate test sample, and two duplicate specimens of the SAE RM–1 compatibility fluid. Adjust water content of the SAE RM–1 fluid to 0.50±0.05 percent by weight at the start of the test in accordance with S7.2. At intervals

remove the rubber stopper in the top of each desiccator containing SAE RM–1 fluid. Using a long needled hypodermic syringe, take a sample of not more than 2 ml from each jar and determine its water content. Remove no more than 10 ml of fluid from each SAE RM–1 sample during the humidification procedure. When the water content of the RM–1 fluid reaches 3.50±0.05 percent by weight (average of the duplicates), remove the two test fluid specimens from their desiccators and promptly cap each jar tightly. Measure the water contents of the test fluid specimens in accordance with S7.2 and determine their ERBP's in accordance with S6.1 through S6.1.5. If the two ERBP's agree within 4 °C. (8 °F.), average them to determine the wet ERBP; otherwise repeat and average the four individual ERBP's as the wet ERBP of the brake fluid.)

10. S6.5.4.1 is revised to read as follows:

S6.5.4.1 *Materials.*

(a) Except as provided in S6.5.4.1(b), SAE RM–66–03 Compatibility Fluid, as described in Appendix A of SAE Standard J1703Nov83, "Motor Vehicle Brake Fluid," November 1983.

(b) Until November 3, 1986, a manufacturer may use either SAE RM–66–03, or SAE RM–1 Compatibility Fluid as described in Appendix A of SAE Standard J1703b, "Motor Vehicle Brake Fluid," July 1970. See S6.

11. Paragraph S6.5.4.2 is revised to read as follows:

S6.5.4.2 *Procedure.*

(a) *With RM–66–03:* Except as provided in S6.5.4.2(b), mix 30±1 ml of the brake fluid with 30±1 ml of SAE RM–66–03 Compatibility Fluid in a boiling point flash (S6.1.2(a)). Determine the initial ERBP of the mixture by applying heat to the flask so that the fluid is refluxing in 10±2 minutes at a rate in excess of 1 drop per second, but not more than 5 drops per second. Note the maximum fluid temperature observed during the first minute after the fluid begins refluxing at a rate in excess of 1 drop per second. Over the next 15±1 minutes, adjust and maintain the reflux rate at 1 to 2 drops per second. Maintain this rate for an additional 2 minutes, recording the average value of four temperature readings taken at 30-second intervals as the final ERBP.

(b) *With RM–1:* Until November 3, 1986, a manufacturer may use either RM–66–03, or SAE RM–1 Compatibility Fluid as described in Appendix A of SAE Standard J1703b, "Motor Vehicle Brake Fluid," July 1970. See S6.

(c) Thermometer and barometic corrections are not required.

12. S6.10.1 is revised to read as follows:

S6.10.1 *Summary of the procedure.*

(a) *With RM–66–03:* Except as provided in S6.10.1(b), brake fluid is mixed with an equal volume of SAE RM–66–03 Compatibility Fluid, then tested in the same way as for water tolerance (S6.9) except that the bubble flow time is not measured. This test is an indication of the compatibility of the test fluid with other motor vehicle brake fluids at both high and low temperatures.

(b) *With RM–1:* Until November 3, 1986, a manufacturer may use either RM–66–03, or SAE RM–1 Compatibility Fluid as described in Appendix A of SAE Standard J1703b, "Motor Vehicle Brake Fluid," July 1970. See S6. This test is an indication of the compatibility of the test fluid with other motor vehicle brake fluids at both high and low temperatures.

13. Paragraph S6.10.2(e) is revised and (f) is added to read as follows:

S6.10.2 *Apparatus and materials.*

* * * * *

(e) Except as provided in S6.10(f), *SAE RM–66–03 Compatibility Fluid.* As described in Appendix A of SAE Standard J1703Nov83, "Motor Vehicle Brake Fluid," November 1983.

(f) Until November 3, 1986, a manufacturer may use either RM–66–03, or SAE RM–1 Compatibility Fluid as described in Appendix A of SAE Standard J1703b, "Motor Vehicle Brake Fluid," July 1970. See S6.

14. Paragraph S6.10.3(a) is revised to read as follows:

S6.10.3 *Procedure.*

(a) *At low temperature.*

(1) *With RM–66–03:* Except as provided in S6.10.3(a)(2), mix 50±0.5 ml. of brake fluid with 50±0.5 ml. of SAE RM–66–03 Compatibility Fluid. Pour this mixture into a centrifuge tube and stopper with a clean dry cork. Place tube in the cold chamber maintained at minus 40°±2 °C (minus 40°±3.6 °F). After 24±2 hours, remove tube, quickly wipe with a clean lint-free cloth saturated with ethanol (isopropanol when testing DOT 5 fluids) or acetone. Examine the test specimen for evidence of sludging, sedimentation, or crystallization. DOT 3 and DOT 4 test fluids shall also be examined for stratification.

(2) *With RM–1:* Until November 3, 1986, a manufacturer may use either RM–66–03, or SAE RM–1 Compatibility Fluid as described in Appendix A of SAE Standard J1703b, "Motor Vehicle Brake Fluid," July 1970. See S6.

* * * * *

15. S6.13.1 is revised to read as follows:

S6.13.1 *Summary of the procedure.* Brake fluid is stroked under controlled conditions at an elevated temperature in a simulated motor vehicle hydraulic braking system consisting of three slave wheel cylinders and an actuating master cylinder connected by steel tubing. Referee standard parts are used. All parts are carefully cleaned, examined, and certain measurements made immediately prior to assembly for test. During the test, temperature, rate of pressure rise, maximum pressure, and rate of stroking are specified and controlled. The system is examined periodically during stroking to assure that excessive leakage of fluid is not occurring. Afterwards, the system is torn down. Metal parts and SBR cups are examined and remeasured. The brake fluid and any resultant sludge and debris are collected, examined, and tested.

16. S6.13.2 introductory text, (a), (c), and (f) are revised to read as follows:

S6.13.2 *Apparatus and equipment.*

Either the drum and shoe type of stroking apparatus (see Figure 1 of SAE Standard J1703b) except using only three sets of drum and shoe assemblies, or the stroking fixture type apparatus as shown in Figure 2 of SAE J1703Nov83, with the components arranged as shown in Figure 1 of SAE J1703Nov83. The following components are required.

(a) *Brake assemblies.* With the drum and shoe apparatus: three drum and shoe assembly units (SAE RM–29a) consisting of three forward brake shoes and three reverse brake shoes with linings and three front wheel brake drum assemblies with assembly component parts. With stroking fixture type apparatus: three fixture units including appropriate adapter mounting plates to hold brake wheel cylinder assemblies.

* * * * *

(c) *Heated air bath cabinet.* An insulated cabinet or oven having sufficient capacity to house the three mounted brake assemblies or stroking fixture assemblies, master cylinder, and necessary connections. A thermostatically controlled heating system is required to maintain a temperature of 70°±5 °C (158°±9 °F) or 120°±5 °C (248°±9 °F). Heaters shall be shielded to prevent direct radiation to wheel or master cylinder.

* * * * *

(f) *Wheel cylinder (WC) assemblies (SAE RM–14a).* Three unused cast iron housing straight bore hydraulic brake WC assemblies having diameters of

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approximately 28 mm (1⅛ inch) for each test. Pistons shall be made from unanodized SAE AA 2024 aluminum alloy.

* * * * *

17. Paragraph S6.13.3(a) is revised to read as follows:

S6.13.3 *Materials.*

(a) *Standard SBR brake cups.* Six standard SAE SBR wheel cylinder test cups, one primary MC test cup, and one secondary MC test cup, all as described in S7.6, for each test.

* * * * *

18. Paragraph S6.13.4(c) is revised to read as follows:

S6.13.4 *Preparation of test apparatus.*

* * * * *

(c) *Assembly and adjustment of test apparatus.*

(1) When using a shoe and drum type apparatus, adjust the brake shoe toe clearances to 1.0±0.1 mm. (0.040±0.004 inch). Fill the system with brake fluid, bleeding all wheel cylinders and the pressure gage to remove entrapped air. Operate the actuator manually to apply a pressure greater than the required operating pressure and inspect the system for leaks. Adjust the actuator and/or pressure relief valve to obtain a pressure of 70±3.5 kg./sq. cm. (1,000±50 p.s.i.). A smooth pressure-stroke pattern is required when using a shoe and drum type apparatus. The pressure is relatively low during the first part of the stroke and then builds up smoothly to the maximum stroking pressure at the end of the stroke, to permit the primary cup to pass the compensating hole at a relatively low pressure. Using stroking fixtures, adjust the actuator and/or pressure relief valve to obtain a pressure of 70±3.5 kg./sq. cm. (1,000±50 p.s.i.).

(2) Adjust the stroking rate to 1,000±100 strokes per hour. Record the fluid level in the master cylinder standpipe.

19. S6.13.6(b) and S6.13.6(c) are revised to read as follows:

S6.13.6 *Calculation.*

* * * * *

(b) Calculate the average decrease in hardness of the seven cups tested, as well as the individual values (see S5.1.13(c)).

(c) Calculate the increases in base diameters of the eight cups (see S5.1.13(e)).

* * * * *

20. The first sentence of Paragraph S6.13.6(d) is revised to read as follows:

* * * * *

(d) Calculate the lip diameter interference set for each of the eight cups by the following formula and average the eight values (see S5.1.13(f)).

* * * * *

21. S7.2 is revised to read as follows:

S7.2 *Water content of motor vehicle brake fluids.* (a) Use analytical methods based on ASTM D1123–59, "Standard Method of Test for Water in Concentrated Engine Antifreezes by the Iodine Reagent Method," for determining the water content of brake fluids, or other methods of analysis yielding comparable results. To be acceptable for use, such other method must measure the weight of water added to samples of the SAE RM–66–03 and TEGME Compatibility Fluids within ±15 percent of the water added for additions up to 0.8 percent by weight, and within ±5 percent of the water added for additions greater than 0.8 percent by weight. The SAE RM–66–03 Compatibility Fluid used to prepare the samples must have an original ERBP of not less than 205 °C (401 °F) when tested in accordance with S6.1. The SAE TEGME fluid used to prepare the samples must have an original ERBP of not less than 240 °C (464 °F) when tested in accordance with S6.1.

(b) Until November 3, 1986, a manufacturer may use either RM–66–03 and TEGME or SAE RM–1 Compatibility Fluid. See S6. To be acceptable for use, such other method must measure the weight of water added to samples of the SAE RM–1 Compatibility Fluid within ±15 percent of the water added for additions up to 0.8 percent by weight, and within ±5 percent of the water added for additions greater than 0.8 percent by weight. The SAE RM–1 Compatibility Fluid used to prepare the samples must have an original ERBP of not less than 182 °C. (360 °F.) when tested in accordance with S6.1.

Issued on April 29, 1986.

Diane K. Steed,

Administrator.

[FR Doc. 86–10037 Filed 5–5–86; 8:45 am]

BILLING CODE 4910–59–M

Proposed Rules

Federal Register
Vol. 51, No. 87
Tuesday, May 6, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 831

Retirement

AGENCY: Office of Personnel Management.

ACTION: Proposed rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is proposing to revise its civil service retirement regulations to formally establish an order of precedence for applying installments paid by individuals to cover past civilian service not currently covered by retirement deductions. These regulations would give the public notice of the order of precedence now applied by OPM.

DATE: Comments must be received on or before July 7, 1986.

ADDRESS: Send comments to Reginald M. Jones, Jr., Assistant Director for Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, DC 20044, or deliver to OPM, Room 4351, 1900 E Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mary Angel, (202) 632–1285.

SUPPLEMENTARY INFORMATION: The Civil Service Retirement (CSR) law (5 U.S.C. 8334 (c) and (d)) allows employees to make payments for periods of past civilian service not covered by retirement deductions. (Payments to cover military service are also permitted but are not pertinent here). In OPM regulations, the payments are termed "deposits" when they apply to periods when CSR deductions were not originally taken from pay. The basic amount due represents the amount of deductions that would have been taken if the period of service had been subject to CSR deductions. OPM uses the term "redeposits" when the payments apply to periods previously covered by deductions that were later refunded to the employee. The basic amount due is the amount of the refund paid.

The law requires OPM to add an interest charge on both deposits and redeposits. Interest rates are established under subsection (e) of section 8334 of title 5, United States Code. Beginning in 1985, the rate changed from 3 percent to an annually-variable rate reflecting the average yield on new interest-bearing securities purchased by the Civil Service Retirement Fund during the previous fiscal year. The 1985 rate is 13 percent, but that rate applies only to deposits for service performed after September 1982, and to redeposits of amounts paid on refund applications filed after September 1982. The 3 percent rate applies to all other deposits and redeposits, except that a 4 percent rate would still apply for interest computations before 1948.

Accordingly, there are now four kinds of civilian service that must be distinguished in computing interest on deposits and redeposits: (1) 13 percent redeposits; (2) 3 percent (or 4%) redeposits; (3) 13 percent deposits; and (4) 3 percent (or 4%) deposits. An employee may have any combination.

Because installment payments are permitted, OPM uses an order of precedence in deciding how to apply the installments as they are received. The order of precedence currently in use is the order numbered (1) through (4) above. OPM believes that this is the appropriate order of precedence since it automatically applies the payments first to reduce previous refunds of deductions and second to cover any nondeduction service.

Because the total amount paid by an individual depends on, among other things, the combination of types of service involved, the monetary impact of the order of precedence may vary from case to case. Moreover, the law allows individuals a choice of whether or not to pay into the Fund for any period of service. Therefore, the attached proposed regulations would permit a qualified employee to request OPM to use a different order of precedence when applying installment payments to the balance outstanding for more than one category of service.

E.O. 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that, within the scope of the Regulatory Flexibility Act, this regulation will not have a significant economic impact on a substantial number of small entities because it would affect Federal employees only.

List of Subjects in 5 CFR Part 831

Administrative practice and procedure, Claims, Disability benefits, Firefighters, Government employees, Income taxes, Intergovernmental relations, Law enforcement officers, Pensions, Retirement.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM proposes to amend 5 CFR Part 831 as follows:

PART 831—RETIREMENT

1. The authority citation for Subpart A of Part 831 is added to read as follows:

Authority: 5 U.S.C. 8347; § 831.102 also issued under 5 U.S.C. 8334; § 831.106 also issued under 5 U.S.C. 552a; § 831.108 also issued under 5 U.S.C. 8336(d)(2).

2. Section 831.105 is amended by adding paragraph (h) to read as follows:

§ 831.105 Computation of interest.

* * * * *

(h) When an individual's civilian service involves several deposit and/or redeposit periods, OPM will normally use the following order of precedence in applying each installment payment against the full amount due: (1) Redeposits of refunds paid on applications received by the individual's employing agency or OPM on or after October 1, 1982; (2) Redeposits of refunds paid on applications received by the individual's employing agency or OPM before October 1, 1982; (3) Deposits for noncontributory civilian service performed on or after October 1, 1982; and (4) Deposits for noncontributory service performed before October 1, 1982.

However, if the individual specifically requests a different order of precedence, the request will be honored.

[FR Doc. 86–10138 Filed 5–5–86; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1240

[Docket No. HRPCIA-1]

Honey Research, Promotion, and Consumer Information Order; Decision and Referendum Order on Proposed Order

AGENCY: Agricultural Market Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision proposes a Honey Research, Promotion, and Consumer Information Order and provides honey producers and importers with the opportunity to vote in a referendum on the proposed order. The proposed order would authorize establishment of projects relating to research, consumer information, advertising, sales promotion, producer information, and market development to assist, improve, or promote the marketing, distribution, and utilization of honey and honey products.

DATE: The representative period for purposes of the referendum herein ordered is January 1, 1984 to December 31, 1984. The referendum shall be conducted between May 19 and May 31, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Washington, DC 20250, telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION:

Prior Documents in This Proceeding

Pre-notice press release issued May 29, 1985; Notice of Hearing—Issued June 25, 1985, and published June 28, 1985 (50 FR 26942). Correction of Docket Number, published July 12, 1985 (50 FR 28404). Recommended Decision—Issued January 23, 1986, and published January 29, 1986 (51 FR 3605).

Preliminary Statement

This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is not subject to the requirements of Executive Order 12291.

This notice is issued pursuant to the applicable rules of practice and procedure governing proceedings to formulate and amend an order (7 CFR Part 1200). Any order that may result from this proceeding would be effective pursuant to the provisions of the Honey Research, Promotion, and Consumer Information Act, hereafter referred to as the "Act" (7 U.S.C. 4601-4612).

The proposed order was formulated on the record of a public hearing with sessions in Washington, DC, on July 16, 1985, and Denver, Colorado, on July 30, 1985. Notice of the sessions was published in the June 28, 1985, issue of the Federal Register (50 FR 26942). That notice contained a proposed order submitted by the American Beekeeping Federation, Inc. (ABF).

The Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq). As stated in the notice of hearing, interested persons were invited to present evidence at the hearing on the probable regulatory and informational impacts of the proposal on small business. Based on the record evidence, a sizeable majority of the honey producers and handlers could be considered small businesses for the purposes of the RFA. In that regard testimony was presented that the production, harvesting, and preparation of honey for market is relatively similar among all honey producers. No clear relationship could be drawn between the size of producers and corresponding costs. No testimony was presented on handler costs or variations of these costs.

Honey is produced and/or marketed in all fifty States including the District of Columbia and the Commonwealth of Puerto Rico. The top twenty honey producing States produce about 80 percent of the total domestic honey production. The record shows that substantial quantities of honey and honey products are imported into and exported from the United States. The record also indicates that there are numerous honey handlers who receive honey from producers, process it, and market it. At least one of these handlers has nationwide distribution.

Honey production in the United States approximates 200 million pounds annually, although there is some year-to-year fluctuation due to weather conditions. The 1981 value of U.S. production of honey was about $90.1 million. This was based on 4.2 million colonies of bees with an average honey yield per colony of 44 pounds.

The record evidence shows that the honey industry is made up of many small entities, and some larger entities, engaged in the production and marketing of honey. In general, there are three categories of honey producers; the hobbyist, the part-time beekeeper or sideliner, and commercial beekeepers. Because the order exempts persons who produce or import less than 6,000 pounds of honey per year, hobbyist beekeepers and a significant number of sideline beekeepers would not be required to pay assessments under this order. One witness cited a 1975 International Trade Commission study which estimated that there were about 10,000 sideline beekeepers and about 1,600 commercial beekeepers in the United States at that time.

The record indicates that the world market price of honey is now far below the cost of production in the U.S. This, coupled with the strength of the U.S. dollar relative to other currencies, has encouraged large quantities of honey to be imported into the United States. According to the record evidence, importations of honey have increased from 10.6 million pounds in 1973 to 128.6 million pounds in 1984. During this period, honey under government loan with the Commodity Credit Corporation increased from zero during the 1970's to almost 115 million pounds in 1984.

The record indicates that various organizations operate promotional activities. Most States have state beekeeping associations which represent a group of people with a common interest, namely to promote honey and beekeeping in that particular State. Some state associations collect an assessment for promotional purposes. The California Honey Advisory Board, which is funded through an assessment program, has been in operation since 1952. It has conducted several honey promotion campaigns and published a well-known honey cookbook. These efforts tend to be independent of one another and operate on a relatively small scale compared to the proposed national program.

At one time, the American Honey Institute conducted a national promotion effort, which was funded through a voluntary check-off plan. It published recipes and provided information on uses of honey through food service editors. After several years of operation, participation in the program fell to such a low level that the Institute ceased operations. Since then, the only national promotional effort has been by the American Beekeeping Federation (ABF), which devotes about one-third of its annual budget to promotion. Its promotional efforts include the American Honey Queen Program, printing and distribution of honey recipe leaflets, and development and distribution of bulk recipes to school food service personnel.

While the efforts of the ABF and others have been helpful, the record evidence is that much more must be done to increase domestic consumption. Statistics in the record indicate that the total per capita consumption of all sweeteners, including honey, in the U.S. is 128 pounds annually. Of that amount, slightly more than one pound is honey, which compares with over three pounds per person in other countries. The evidence of record is that the American honey industry needs and would benefit from a program to promote the domestic consumption of honey and honey products through promotion and advertising and market research to increase consumer awareness of honey and increase its consumption.

The evidence also is that funds to finance these activities must be obtained by the honey industry through a structure such as the proposed order to assure industry-wide participation and sufficient income on a regular basis to finance those activities. Various alternatives to this national program have been considered, and, in some cases previously tried, but without success. If adopted by producers, this national program would collect one cent per pound of honey, or less than two percent of the gross revenue generated by producers annually. The recordkeeping and report requirements of the order are minimal.

These requirements have been carefully evaluated against the potential benefits of the program. While the order imposes regulations on affected businesses, the added burden resulting from these requirements should not be significant when compared to the benefits which are expected to accrue to such businesses. All entities would be treated equally under the order. Furthermore, pursuant to the Act, the order provides for the exemption of all honey producers and importers who produce or import less than 6,000 pounds of honey annually. This exemption was included in the Act to reduce the burden on small business.

The record supports the view that additional promotion would benefit the honey industry by enabling it to reach more potential consumers. Also, the industry would benefit from an organization unifying those in the industry desiring to promote honey and honey products. This would be achieved by making the contribution of funds by producers and importers mandatory. However, these contributors will have the right to obtain a refund of their assessments if they choose not to support the program.

It has been determined that the program should be submitted to producers and importers for a referendum vote.

Rulings on Briefs of Interested Parties

At the conclusion of the hearing the Administrative Law Judge fixed August 30, 1985, as the final date for interested parties to file proposed findings, conclusions, and written arguments or briefs based upon the evidence received at the hearing. No briefs were filed.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Agricultural Marketing Service, on January 23, 1986, filed with the Hearing Clerk, U.S. Department of Agriculture, the recommended decision containing the notice of the opportunity to file written exceptions thereto. Exceptions were received from Binford Weaver, Past President, American Beekeeping Federation, Inc.; E. Randall Johnson, President, American Beekeeping Federation, Inc., and President, Honeygold Corporation; Frank A. Robinson, Secretary/Treasurer, American Beekeeping Federation, Inc.; Troy H. Fore, Jr., Editor/Publisher *The Speedy Bee;* Harry Rodenburg, Chairman of the Board, Sioux Honey Association; Larry Gunther, Immediate Past-President, American Beekeeping Federation, Inc.; Joe Graham, Editor, *American Bee Journal;* Melaine A. Odlum, Extension Apiculturalist, Maryland Department of Agriculture; Mel Disselkoen, President, International Mating Nuc, Inc.; Reg Wilbanks, Wilbanks Apiaries, Inc.; Alan King, Executive Committee, American Beekeeping Federation, Inc.; Gary Becker, Becker's Busy Bee, Inc.; Morris Weaver, Howard Weaver and Sons, Inc.; William Waugh, Waugh Apiaries, Inc.; L. John Milham, Director, Sioux Honey Association; Loys O. Milham, Robert B. White, Owner/Manager, Sandwich Island Jams and Honey; Joann Manes Olstrom, Owner, Bees and Bylines; Frank Randall, Randall's Wax Works; Charlie G. Miller, Director, Sioux Honey Assn.; Donald R. Schmidt, Schmidt's Honey Farms; and Carol Miller, Secretary/Treaturer, Wyoming Beekeepers Assn. Comments were also received from 221 others representing honey associations, cooperatives, importers, and individuals, all of whom supported the general findings and conclusions of the recommended decision. In addition, there were three comments received opposing the order in general and three were received discussing the government price support program. Discussions and rulings included in the discussions of the material issues, findings and conclusions, rulings, and general findings of the recommended decision set forth in the January 29, 1986 issue of the Federal Register (51 FR 3605) are hereby approved and adopted subject to modifications as hereinafter set forth. On the basis of the exceptions filed by February 28, 1986, this decision grants two exceptions to the recommended decision and denies three exceptions. A minor change in Board voting requirements, a change in the definition of producer, and a number of other minor changes, which are incorporated into the decision, are added for clarity and to correct grammatical and typographical errors.

Findings and Conclusions

The material issues, findings and conclusions, rulings, general findings, and regulatory provisions of the recommended decision published in the January 29, 1986, issue of the Federal Register (51 FR 3605) are hereby incorporated herein and made a part thereof subject to the following modifications and corrections:

The findings and conclusions in material issue 3(a) of the recommended decision concerning the definition of producers are amended by adding a new paragraph after the sixth paragraph to read as follows:

"Messrs. Weaver and King filed exceptions stating that the discussion on the definition of producer was misconstrued and that testimony at the hearing was concerned only with the owners and operators of honey bee colonies and beekeeping equipment and about the various types of rental and lease arrangements that might be made among owners and operators. Both commentors suggested that "honey bee colonies and beekeeping equipment," rather than "land" and "farmland" would more accurately express the intent of testimony given at the hearing. Since the proposed order supports assessments on producers and importers and not persons who own land, this exception is granted and the decision is modified accordingly."

The findings and conclusions in material issue 3(b) of the recommended decision concerning quorums are amended by adding a new paragraph after the eighteenth paragraph to read as follows:

"Messrs. Weaver, King, and Fore filed exceptions which pointed out that § 1240.35 (a) of the order and the discussion on that section contained in the recommended decision (FR 3610) were inconsistent. A quorum is defined in the recommended order as a majority of the 13 member Board (seven members), and any action of the Board requires the concurring votes of a majority of those present and voting.

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The discussion defined a quorum as nine members and stipulated that at least seven of the nine members voting would be necessary for an action of the Board to be recommended. The record evidence supports a determination that seven members should constitute a quorum, and that a majority of those present and voting must concur before any action of the Board can be recommended. In addition, the proposed order also provides that a majority of a seven member quorum be required for any action of the Board. The discussion is hereby modified to reflect the evidence of record."

The findings and conclusions in material issue 3(d) of the recommended decision concerning the one-cent assessment are amended by adding a new paragraph as the last paragraph to read as follows:

"Ms. Olstrom and Mr. Becker filed exceptions asking that the one-cent assessment be reduced. The Honey Research, Promotion, and Consumer Information Act stipulates that any order issued under it contains a minimum of one cent assessment. Therefore, the exception is denied."

The findings and conclusions in material issue 3(h) of the recommended decision concerning recordkeeping and reports are amended by deleting the third paragraph in its entirety and adding the following in lieu thereof:

"Any reports and records submitted for Board use by the first handler should remain confidential and be disclosed to no person other than the Secretary and persons authorized by the Secretary. Under certain circumstances, the release of information compiled from reports may be helpful to the Board and the industry generally in planning for operations under the order. Section 1240.52(c) of the proposal included in the notice of hearing stated that the names and addresses of those persons receiving refunds should not be considered confidential information."

"It has been and continues to be the policy of USDA not to publish nor to authorize administrative committees and boards responsible for the administration of research and promotion programs, involving voluntary assessment provisions, to make public the names of persons requesting refunds. It is the Department's view that publication of the names of producers and importers seeking refunds would adversely impact upon participation in the honey order program. Although several exceptions were filed objecting to the Department's determination to remove § 1240.52(c) from the proposal, it has been determined that for the reasons stated herein the proposed provision should be deleted."

The findings and conclusions in material issue 3(i) of the recommended decision concerning the use of funds generated by any patents, copyrights, publications, or inventions are amended by adding a new paragraph as the last paragraph to read as follows:

Mr. Disselkoen filed an exception to § 1240.67 stating the patents should be owned by beekeepers and packers under the trust of the Board. If assessments are used to develop patents, it is only proper that any funds generated as a result of patents, copyrights, publications, or inventions, after sufficient royalty is paid to the inventor of the patented invention, be the property of the Board and would be treated as assessments funds. Therefore, the exception is denied.

The following corrections implement the changes outlined above and correct any typographical and grammatical errors contained in the recommended decision:

Page	Column	Paragraph	Line	Correction
3608	1	3	13	"Farmland" to "honey bee colonies or beekeeping equipment."
3608	2	1	3	"Land" to "honey bee colonies or beekeeping equipment."
3608	2	1	3	"Farm" to "operate."
3608	2	1	9	"On land" to "honey bee colonies or beekeeping equipment."
3610	3	4	10	"Hire" to "serve".
3610	3	4	14	"Seven members" to "a majority of those present and voting."
3611	3	1	2	"And" to "any."
3615	3	(1)	2	Comma after "Promotion."
3610	2	4	5	"Produces" to "produces."
3610	1	2	1	"Iow" to "Iowa."
3610	1	2	8	"Operting" to "operating."
3619	1	2	14	"§ 1240.1" to "§ 1240.41."
3619	1	2	15	"Assessment" to "assessments."

[1] Heading.

Ruling on exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, the exceptions to the recommended decision were carefuly and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions and the regulatory provisions of this decision are at variance with the exceptions, such exceptions are hereby denied for the reasons previously stated in this decision.

General Findings

Upon the basis of the evidence introduced at such hearing, and the record thereof, it is found that:

(1) The order, and all of the items and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The said order regulates the marketing of honey and honey products in the "States" in the same manner as, and is applicable only to persons in the respective classes of commercial or industrial activity specified in, a proposed order upon which a hearing has been held;

(3) The said order is limited in its application to the only marketing area which is practicable consistent with carrying out the declared purposes of the Act; and

(4) The marketing of honey and honey products in the "States," as defined in said order, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce. *It is hereby ordered,* that this entire decision be published in the **Federal Register.**

Referendum Order

It is herby directed that a referendum be conducted for the Honey Order in accordance with the procedure for the conduct of referenda (7 CFR Part 1240.200) to determine whether the issuance of the Honey Order is approved or favored by the producers and importers as defined under the terms of the order, who during the representative period were engaged in the production or importation of honey or honey products within the States as defined in this order. The referendum ballot shall provide only for the approval or disapproval of the order. The representative period is hereby determined to be January 1, 1984 through December 31, 1984. The Agents of the Secretary to conduct the referenda are hereby designated to be Jerry W. Brooks and James B. Wendland, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250. The referendum shall be conducted between May 19 and May 31, 1986.

Signed this day at Washington, DC, May 2, 1986.

Alan T. Tracy,

Acting Assistant Secretary, Marketing and Inspection Service.

List of Subjects in 7 CFR Part 1240

Honey, Agricultural Research, Reporting and Recordkeeping Requirements, Market Development, and Consumer Information.

Final Order

The following order shall be the detailed means by which the foregoing conclusions may be carried out:

Chapter XI of Title 7 shall be amended by adding Part 1240 to read as follows:

PART 1240—HONEY RESEARCH, PROMOTION, AND CONSUMER INFORMATION ORDER

Definitions

Sec.
1240.1 Secretary.
1240.2 Act.
1240.3 Person.
1240.4 Honey.
1240.5 Honey products.
1240.6 Producer.
1240.7 Handle.
1240.8 Handler.
1240.9 Producer—packer.
1240.10 Importer.
1240.11 Promotion.
1240.12 Research.
1240.13 Consumer education.
1240.14 Marketing.
1240.15 Committee.
1240.16 State association.
1240.17 Honey Board.
1240.18 State.
1240.19 Fiscal period and marketing year.
1240.20 Plans and projects.
1240.21 Part and subpart.

Honey Board

1240.30 Establishment and membership.
1240.31 Term of office.
1240.32 Nominations.
1240.34 Vacancies.
1240.35 Procedure.
1240.36 Attendance.
1240.37 Powers.
1240.38 Duties.

Research, Promotion, and Consumer Education

1240.39 Research, promotion, and consumer education.

Expenses and Assessments

1240.40 Budget and expenses.
1240.41 Assessments.
1240.42 Exemption from assessment.
1240.43 Producer, Importer and State Assessment Plan Refund.
1240.44 Operating reserve.

Reports, Books and Records

1240.50 Reports.
1240.51 Books and records.
1240.52 Confidential treatment.

Miscellaneous

1240.60 Influencing governmental action.
1240.61 Right of the Secretary.
1240.62 Suspension or termination.
1240.63 Proceedings after termination.
1240.64 Effect of termination or amendment.
1240.65 Personal liability.
1240.66 Separability.
1240.67 Patents, copyrights, inventions, and publications.

Authority: Honey Research Promotion, and Consumers Information Act; 7 U.S.C. 4601, 4612.

Definitions

§ 1240.1 Secretary.

"Secretary" means the Secretary of Agriculture of the United States, or any other officer or employee of the Department of Agriculture to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his/her stead.

§ 1240.2 Act.

"Act" means the Honey Research, Promotion, and Consumer Information Act (P.L. 98–590) and any amendments thereto.

§ 1240.3 Person.

"Person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

§ 1240.4 Honey.

"Honey" means the nectar and saccharine exudations of plants which are gathered, modified, and stored in the comb by honey bees.

§ 1240.5 Honey products.

"Honey products" means products wherein honey is a principal ingredient.

§ 1240.6 Producer.

"Producer" means any person who produces honey in any State for sale in commerce.

§ 1240.7 Handle.

"Handle" means to process, package, sell, transport, purchase or in any other way place honey or honey products, or cause them to be placed, in the current of commerce. Such term shall include selling unprocessed honey that will be consumed without further processing or packaging. Such term shall not include the transportation of unprocessed honey by the producer to a handler or transportation by a commercial carrier of honey, whether processed or unprocessed for the account of the handler or producer.

§ 1240.8 Handler.

"Handler" means any person who handles honey or honey products.

§ 1240.9 Producer-packer.

"Producer-packer" means any person who is both a producer and handler of honey or honey products.

§ 1240.10 Importer.

"Importer" means any person who imports honey or honey products into the United States as principal or as an agent, broker, or consignee for any person who produces honey outside of the United States for sale in the United States.

§ 1240.11 Promotion.

"Promotion" means any action, including paid advertising and public relations, to present a favorable image for honey or honey products to the public with the express intent of improving the competitive position and stimulating sales of honey or honey products.

§ 1240.12 Research.

"Research" means any type of systematic study or investigation, and/or the evaluation of any study or investigation designed to advance the image, desirability, usage, marketability, production, or quality of honey or honey products.

§ 1240.13 Consumer education.

"Consumer education" means the act of providing information to the public on the usage and care of honey and honey products.

§ 1240.14 Marketing.

"Marketing" means the sale or other disposition in commerce of honey or honey products.

§ 1240.15 Committee.

"Committee" or the "National Honey Nominations Committee" means the Committee established pursuant to § 1240.32.

§ 1240.16 State association.

"State association" or "association" means that organization of beekeepers in a State which is generally recognized as representing the beekeepers of that State.

§ 1240.17 Honey Board.

"Honey Board" or the "Board" means the administrative body established pursuant to § 1240.30.

§ 1240.18 State.

"State" means any of the fifty States of the United States of America, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 1240.19 Fiscal period and marketing year.

"Fiscal period" and "marketing year" means the 12-month period ending on December 31 or such other consecutive 12-month period as shall be recommended by the Board and approved by the Secretary.

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§ 1240.29 Plans and projects.

"Plans" and "projects" means those research, promotion, and consumer education plans, studies, or projects established pursuant to §§ 1240.38 and 1240.39.

§ 1240.21 Part and Subpart.

"Part" means the Honey Research, Promotion, and Consumer Information Order and all rules, regulations, and supplemental orders issued thereunder, and the order shall be a "subpart" of such part.

Honey Board

§ 1240.30 Establishment and membership.

A Honey Board (hereinafter called the "Board") is hereby established to administer the terms and provisions of this part. The Board shall consist of thirteen (13) members, each of whom shall have an alternate. Seven members and seven alternates shall be honey producers, two members and two alternates shall be honey handlers, two members and two alternates shall be honey importers, one member and one alternate shall be an officer or employee of a honey marketing cooperative, and one member and one alternate shall be selected to represent the general public. The Board shall be appointed by the Secretary from nominations submitted by the National Honey Nominations Committee pursuant to § 1240.32.

§ 1240.31 Term of office.

The members of the Board and their alternatives shall serve for terms of three years, except the members of the initial Board shall be designated for, and shall serve terms as follows: Four members and alternates shall serve for one-year terms; four shall serve for two-year terms; and five shall serve for three-year terms. No member or alternate shall serve more than two consecutive terms: *Provided,* That those members and alternative serving the initial term of one year may serve two additional consecutive three-year terms. The term of office for the initial Board shall begin immediately on appointment by the Secretary. In subsequent years, the term of office shall begin on April 1. Each member and alternate member shall continue to serve until his/her successor is selected and has accepted.

§ 1240.32 Nominations.

All nominations to the Board authorized under § 1240.30 herein shall be made in the following manner.

(a) Establishment of National Honey Nominations Committee. (1) There is hereby established a National Honey Nominations Committee, hereinafter called the "Committee", which shall consist of not more than one member from each State, appointed by the Secretary from nominations submitted by each State Association. Whenever there is more than one eligible association within a State, the Secretary shall designate the association most representative of the honey producers, handlers, and importers not exempt under § 1240.42(a) to make nominations for that State.

(2) If a State Association does not submit a nomination for the Committee, the Secretary may select a member of the honey industry from that State to represent that State on the Committee. However, if a State which is not one of the top twenty honey producing States (as determined by the Secretary) does not submit a nomination, such State shall not be represented on the Committee.

(3) Members of the Committee shall serve for three-year terms, except members of the initial Committee shall serve for terms as follows: One-third of such members shall serve one-year terms; one-third shall serve two-year terms; and one-third shall serve three-year terms. No member shall serve more than two consecutive three-year terms: *Provided,* That those members serving the initial term of one year may serve two additional consecutive three-year terms. The term of office for the initial Committee shall begin immediately on appointment by the Secretary. In subsequent years, the term of office shall begin on January 1.

(4) The Committee shall select its Chairperson by a majority vote.

(5) The members of the Committee shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in performing their duties as members of the Committee and approved by the Board. Such expenses shall be paid from funds collected by the Board pursuant to § 1240.41.

(b) Nominations to the Board. (1) Except for the member and alternate who represent the general public, the Committee shall nominate the members and alternate members of the Honey Board and submit such nominations promptly to the Secretary for approval. The Committee shall also submit a list of candidates to the Secretary for the public member and alternative public member position. The Secretary may choose from that list of names or, at his/her discretion, choose other candidates to fill the public member and alternate position.

(2) After the first meeting, the Committee shall meet annually to make such nominations, or at the determination of the Chairperson, the Committee may conduct its business by mail ballot in lieu of an annual meeting.

(3) A majority of the Committee shall constitute a quorum for voting at an annual meeting. In the event of a mail ballot, votes must be received from a majority of the Committee to constitute a quorum.

(4) At least 50 percent of the members from the twenty leading honey-producing states must vote in any nomination of members to the Board.

(5) For the purpose of nominating producer members to the Board, the Secretary shall establish seven regions on the basis of the production of honey.

For the purpose of facilitating initial nominations to the Honey Board, the following regions shall be the initial regions:

Region 1: Washington, Oregon, Idaho, California, Nevada, Utah, Alaska, and Hawaii.

Region 2: Montana, Wyoming, Nebraska, Kansas, Colorado, Arizona, and New Mexico.

Region 3: North Dakota and South Dakota.

Region 4: Minnesota, Iowa, Wisconsin, and Michigan.

Region 5: Texas, Oklahoma, Missouri, Arkansas, Tennessee, Louisiana, Mississippi, and Alabama.

Region 6: Florida, Georgia, and Puerto Rico.

Region 7: Illinois, Indiana, Ohio, Kentucky, Virginia, North Carolina, South Carolina, West Virginia, Maryland, District of Columbia, Delaware, New Jersey, New York, Pennsylvania, Connecticut, Rhode Island, Massachusetts, New Hampshire, Vermont, and Maine.

(6) Every five years, the Board shall review the regions to determine whether new regions should be established. In making such review, it shall give consideration to: (A) The average quantity of honey produced during the most recent three years; (B) shifts and trends in quantities of honey produced; (C) the equitable relationship of Board membership and districts; and (D) other relevant factors. As a result of this review, the Board may recommend for the Secretary's approval the reestablishment of such regions.

Any such reestablishment of regions shall be made at least six months prior to the date on which terms of office of the Board begin each year and shall become effective at least 30 days prior to such date.

(7) The initial Committee shall within 90 days of the announcement of issuance of this order, or such other period as prescribed by the Secretary, submit in a manner prescribed by the Secretary the following nominations:

One producer member and one alternate producer member from each of the seven regions established by the Secretary;

Two handler members and two alternate handler members from recommendations made by industry organizations representing handler interests;

Two importer members and two alternate importer members from recommendations made by industry organizations representing importer interests; and

One member and one alternate who are officers or employees of honey marketing cooperatives.

For subsequent years, the Committee shall submit its nominations to the Secretary one month before the new Board terms begin.

§ 1240.34 Vacancies.

(a) In the event any member of the Board ceases to be a member of the category of members from which the member was appointed to the Board, such position shall automatically become vacant.

(b) If a member of the Board consistently refuses to perform the duties of a member of the Board, or if a member of the Board engages in acts of dishonesty or willful misconduct, the Board may recommend to the Secretary that he/she be removed from office. If the Secretary finds the recommendation of the Board shows adequate cause, he/she shall remove such member from office.

(c) Should any member position become vacant, the alternate of that member shall automatically assume the position of said member. At its next meeting, the Honey Nominations Committee shall nominate a replacement for said alternate. Should the positions of both a member and such member's alternate become vacant, successors for the unexpired terms of such member and alternate shall be nominated and appointed in the manner specified in §§ 1240.30 and 1240.32, except that said nomination and replacement shall not be required if said unexpired terms are less than six months.

§ 1240.35 Procedure.

(a) Seven members, including alternates acting in place of members of the Board, shall constitute a quorum: *Provided,* That such alternates shall serve only whenever the member is absent from a meeting or is disqualified. Any action of the Board shall require the concurring votes of a majority of those present and voting. At assembled meetings, all votes shall be cast in person.

(b) In matters of an emergency nature when there is not enough time to call an assembled meeting of the Board, the Board may act upon the concurring votes of a majority of its members by mail, telephone, telegraph, or by other means of communication: *Provided,* That each proposition is explained accurately, fully, and substantially identically to each member. All telephone votes shall be promptly confirmed in writing and recorded in the Board minutes.

§ 1240.36 Attendance.

Members of the Board and the members of any special panels shall be reimbursed for reasonable out-of-pocket expenses incurred when performing Board business. The Board shall have the authority to request the attendance of alternates at any or all meetings, notwithstanding the expected or actual presence of the respective members.

§ 1240.37 Powers.

The Board shall have the following powers subject to § 1240.61:

(a) To administer this subpart in accordance with its terms and provisions of the Act;

(b) To make rules and regulations to effectuate the terms and conditions of this subpart;

(c) To require its employees to receive, investigate, and report to the Secretary complaints of violations of this part; and

(d) To recommend to the Secretary amendments to this part.

§ 1240.38 Duties.

The Board shall have, among other things, the following duties:

(a) To meet and organize and to select from among its members a chairperson and such other officers as may be necessary; to select committees and subcommittees from its membership and consultants; to adopt such rules, regulations, and by-laws for the conduct of its business as it may deem advisable.

(b) To employ such persons as it may deem necessary and to determine the compensation and define the duties of each; and to protect the handling of Board funds through fidelity bonds;

(c) To prepare and submit to the Secretary for his/her approval, a budget on a fiscal period basis of its anticipated expenses in the administration of this part including the probable costs of all programs or projects and to recommend a rate of assessment with respect thereto;

(d) To investigate violations of the order and report the results of such investigations to the Secretary for appropriate action to enforce the provisions of the order.

(e) To develop programs and projects and to enter into contracts or agreements with the approval of the Secretary for the development and carrying out of programs or projects of research, development, advertising, promotion, or education, and the payment of costs thereof with funds collected pursuant to this part;

(f) To maintain minutes, books, and records and prepare and submit to the Secretary such reports from time to time as may be required for appropriate accounting with respect to the receipt and disbursement of funds entrusted to it;

(g) To periodically prepare and make public and to make available to producers and importers, reports of its activities carried out, and at least once each fiscal period to make public an accounting of funds received and expended;

(h) To cause its books to be audited by a certified public accountant at the end of each fiscal year and to submit a copy of each audit to the Secretary;

(i) To give to the Secretary the same notice of meetings of the Board and subcommittees as is given to members in order that representatives of the Secretary may attend such meetings;

(j) To submit to the Secretary such information pertaining to this subpart as he/she may request;

(k) To notify honey producers, producer-packers, handlers, and importers of all Board meetings through press releases or other means;

(l) To appoint and convene, from time to time, working committees drawn from producers, honey handlers, importers, exporters, members of the wholesale or retail outlets for honey, or other members of the public to assist in the development of research, promotion, and consumer education programs for honey; and

(m) To develop and recommend such rules and regulations to the Secretary for approval as may be necessary for the development and execution of projects or activities to effectuate the declared purpose of the Act.

Research, Promotion, and Consumer Education

§ 1240.39 Research, promotion, and consumer education.

The Board shall develop and submit to the Secretary for approval any plans or projects authorized in this section. Such plans or projects shall provide for:

(a) The establishment, issuance, effectuation and administration of appropriate plans or projects for consumer education, advertising, and promotion of honey and honey products designed to strengthen the position of the honey industry in the marketplace and to maintain, develop, and expand markets for honey and honey products;

(b) The establishment and conduct of marketing research and development projects to the end that the acquisition

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of knowledge pertaining to honey and honey products or their consumption and use may be encouraged or expanded, or to the end that the marketing and utilization of honey and honey products may be encouraged, expanded, improved or made more efficient: *Provided,* That quality control, grade standards, supply management programs, or other programs that would otherwise limit the right of the individual honey producer to produce honey shall not be conducted under, or as part of this subpart;

(c) The development and expansion of honey and honey product sales in foreign markets;

(d) A prohibition on advertising or other promotion programs that make any false or unwarranted claims on behalf of honey or its products or false or unwarranted statements with respect to the attributes or use of any competing product;

(e) Periodic evaluation by the Board of each plan or project authorized under this part to insure that each plan or project contributes to an effective and coordinated program of research, education, and promotion and submit such evaluation to the Secretary. If the Board or the Secretary finds that a plan or project does not further the purposes of the Act, then the Board shall terminate such plan or project; and

(f) The Board to enter into contracts or make agreements for the development and carrying out of research, promotion, and consumer education, and pay for the costs of such contracts or agreements with funds collected pursuant to § 1240.41.

Expenses and Assessments

§ 1240.40 Budget and expenses.

(a) At the beginning of each fiscal period, or as may be necessary thereafter, the Board shall prepare and recommend a budget on a fiscal period basis of its anticipated expenses and disbursements in the administration of the Order, including expenses of the Committee and probable costs of research, promotion, and consumer education.

(b) The Board is authorized to incur expenses for research, promotion, and consumer education, such other expenses for the administration, maintenance, and functioning of the Board and the Committee as may be authorized by the Secretary, any operating reserve established pursuant to §1240.44, and those administrative costs incurred by the Department specified in paragraph (c) of this section. The funds to cover such expenses shall be paid from assessments collected pursuant to § 1240.41, donations from any person not subject to assessments under this order and other funds available to the Board including those collected pursuant to § 1240.67 and subject to the limitations contained therein.

(c) The Board shall reimburse the Department from assessments for administrative costs incurred by the Department with respect to this order after its promulgation. The Department shall also be reimbursed for administrative expenses incurred by it for the conduct of referenda.

§ 1240.41 Assessments.

(a) Each producer and importer shall pay to the Board, upon demand, his/her pro rata share of such expenses as may be approved by the Secretary pursuant to § 1240.40. Such pro rata share shall be the amount established by the Secretary pursuant to paragraph (c) of this section.

(b) Except as provided in § 1240.42 and in paragraphs (e), (f), and (g) of this section, the first handler shall be responsible for the collection of such assessment from the producer and payment thereof to the Board. The first handler shall maintain separate records for each producer's honey handled, including honey produced by said handler.

(c) The assessment on honey shall be levied at a rate fixed by the Secretary which shall be $0.01 per pound of honey or honey used in honey products during the first fiscal period (or portion thereof) after this order is approved in referendum. After that first year, the Board may request the Secretary to increase the assessment rate not more than $0.005 per pound of honey per year: *Provided,* That the assessment never exceeds $0.04 per pound of honey per year. After the first year, the Board may request the Secretary to decrease the assessment rate by any amount it sees fit.

(d) Should a deficit occur during any fiscal period, funds to cover the deficit may be obtained by increasing the rate of assessment subject to the limitations in paragraph (c) of this section. The increased rate of assessment shall be applied to all honey and the honey used in products wherein honey is the primary ingredient sold in the States during that particular fiscal period so that the total payments by each person during each fiscal period will be proportional to the total value of the honey and honey products sold during that period.

(e) The importer of imported honey and honey products shall pay the assessment to the Board at the time of entry of such honey and honey products into any State.

(f) Producer-packers shall pay to the Board the assessment on the honey for which they act as first handler.

(g) Whenever a loan is made on honey under the Honey Loan-Price Support Program, the Secretary shall provide that the assessment be deducted from the proceeds of the loan, and that the amount of such assessment shall be forwarded to the Board, except that the assessment shall not be deducted by the Secretary in the case of a honey marketing cooperative that has already deducted the assessment. When such loan is redeemed, the Secretary shall provide the producer with proof of payment of the assessment.

(h) Assessments shall be paid to the Board at such time and in such manner as the Board, with the Secretary's approval, directs pursuant to regulations issued hereunder. Such regulations may provide for different handler, importer, or producer-packer payment schedules so as to recognize differences in marketing or purchasing practices and procedures.

(i) There shall be a late payment charge imposed on any handler, importer, or producer-packer who fails to remit to the Board the total amount for which any such handler, importer, or producer-packer is liable on or before the payment due rate established by the Board under paragraph (h) of this section. The amount of the late payment charge shall be set by the Board subject to approval by the Secretary.

(j) There shall also be imposed on any handler, importer, or producer-packer subject to late payment charge, an additional charge in the form of interest on the outstanding portion of any amount for which the handler, importer, or producer-packer is liable. The rate of such interest shall be prescribed by the Board subject to approval by the Secretary, but shall not exceed the maximum legal rate of interest, if any, as established by Congress.

(k) The Board is hereby authorized to accept advance payment of assessments by handlers, importers, or producer-packers that shall be credited toward any amount for which the handlers, importers or producer-packer may become liable. The Board is not obligated to pay interest on any advance payment.

(l) The Board is hereby authorized to borrow money for the payment of expenses subject to the same fiscal, budget, and audit controls as other funds of the Board.

§ 1240.42 Exemption from assessment.

(a) A producer who produces less than 6,000 pounds of honey per year, or a producer-packer who produces and handles less than 6,000 pounds of honey per year or an importer who imports less than 6,000 pounds of honey per year shall be exempt from the assessment.

(b) To claim such exemption, a producer, producer-packer, or importer shall submit an application to the Board stating that his/her production, handling or importation of honey shall not exceed 6,000 pounds for the year for which the exemption is claimed.

(c) The Board may recommend to the Secretary that honey exported from the States be exempted from the provisions of this order, and include procedures for the refund of assessments on such honey and such safeguards as may be necessary to prevent improper use of this exemption.

(d) The Board shall determine those States that are operating a program with objectives comparable to the objectives of the Act and recommend to the Secretary that they be exempted from a portion of the assessments collected by the Federal program. The amount of such assessments subject to exemption shall not exceed the amount authorized by the State plan on January 1, 1985, unless a State provides evidence that it was in the process of promulgating a different assessment level on January 1, 1985, then the new assessment level promulgated will be exempt upon approval of the honey producers in that State. Producers having an exemption from a portion of the assessments under this order, due to payment of assessments to a State plan, shall be required to furnish evidence to the Board that the assessments to the State plan have been paid.

§ 1240.43 Producer, importer, and State assessment plan refund.

(a) Any producer or importer who pays an assessment under the authority of this part shall have the right to demand and receive from the Board a refund of such assessment upon submission of proof to the staff of the Board that the producer or importer paid the assessment for which refund is sought, except that producers who have honey pledged as collateral for a loan under the Honey Loan-Price Support Program and therefore have paid the assessment, shall not be eligible for a refund until the loan has been repaid, or the honey has been turned over to the Commodity Credit Corporation. The amount of refunds during any year made to importers, as a percentage of total assessments collected from all importers shall not exceed the amount of refunds made to domestic producers, as a percentage of total assessments collected from such producers. Any demand for refund shall be made by the producer or importer within the time and in the manner prescribed by the Board and approved by the Secretary. Refunds made in accordance with this section shall be paid by the Board in June and December of each year.

(b) Any State authority operating pursuant to a State assessment plan satisfying the conditions of paragraph (b)(1) of this section may obtain a refund of assessments collected by the Board on honey and/or honey products produced in that State except as provided in paragraph (b)(2) of this section.

(1) Refunds shall be paid only if the Secretary certifies that the State assessment plan: (i) Is comparable to the program established under the Act and this part; and (ii) was in existence and in operation on January 1, 1985.

(2) Refunds shall be made directly to States, except that any refunds due directly to producers under this part shall take precedence over State programs and in no event exceed the amount collected by the Board on honey produced in the requesting State, and the amount of any refund shall be limited in accordance with the provisions of this subpart.

(3) Refunds made to a State authority pursuant to this paragraph shall not be included in the formula pertaining to importer refunds as set forth in paragraph (a) of this section.

§ 1240.44 Operating reserve.

The Board may establish an operating monetary reserve and may carry over to subsequent fiscal periods excess funds in any reserve so established: *Provided,* That the funds in the reserve shall not exceed one fiscal period's budget. Subject to approval by the Secretary, such reserve funds may be used to defray any expenses authorized under this part.

Reports, Books, and Records

§ 1240.50 Reports.

Each handler, importer, and producer-packer who is subject to this part shall be required to report to the employees of the Board, at such times and in such manner as it may prescribe, such information as may be necessary for the Board to perform its duties. Such reports shall include, but shall not be limited to the following:

(a) For handlers and producer-packers; total quantity of honey acquired during the reporting period; total quantity handled during period; amount of honey acquired from each producer, giving name and address of each producer, including those producers who claim exemption from assessment; copy of statement claiming exemption from assessment from those who claim such exemption; assessments collected or collectable during the reporting period; quantity of honey processed for sale from producer-packer's own production; and record of each transaction for honey on which assessment had already been paid, including statement from seller that assessment had been paid.

(b) For importers; total quantity of honey imported during the reporting period and a record of each importation of honey during such period, giving quantity, date, and port of entry.

§ 1240.51 Books and records.

Each handler, importer, and producer-packer shall maintain and during normal business hours make available for inspection by employees of the Board or the Secretary, such books and records as are necessary to carry out the provisions of this subpart and the regulations issued thereunder, including such records as are necessary to verify any required reports. Such records shall be maintained for two years beyond the fiscal period of their applicability.

§ 1240.52 Confidential treatment.

All information obtained from the books, records, or reports required to be maintained under §§ 1240.50 and 1240.51 shall be kept confidential and shall not be disclosed to the public by any person. Only such information as the Secretary deems relevant shall be disclosed to the public and then only in a suit or administrative hearing brought at the direction, or upon the request, of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving this subpart: Except that nothing in this subpart shall be deemed to prohibit; (a) The issuance of general statements based upon the reports of a number of handlers or importers subject to any order, if such statements do not identify the information furnished by any person; (b) the publication by direction of the Secretary, of the name of any person convicted of violating this subpart, together with a statement of the particular provisions of the Order violated by such person. Any disclosure of any confidential information by any employee of the Board shall be considered willful misconduct.

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Miscellaneous

§ 1240.60 Influencing governmental action.

No funds collected by the Board under this order shall in any manner be used for the purpose of influencing governmental policy or action, except for making recommendations to the Secretary as provided for in this subpart.

§ 1240.61 Right of the Secretary.

All fiscal matters, programs or projects, rules or regulations, reports, or other substantive actions proposed and prepared by the Board shall be submitted to the Secretary for approval.

§ 1240.62 Suspension or termination.

(a) The Secretary shall, whenever he/she finds that this subpart or any provision thereof obstructs or does not tend to effectuate the declared policy of the Act, terminate or suspend the operation of this subpart or such provisions thereof.

(b) Five years from the date the Secretary issues an order authorizing the collection of assessments on honey under provisions of this subpart, and every five years thereafter, the Secretary shall conduct a referendum to determine if honey producers and importers favor the continuation, termination, or suspension of this subpart.

(c) The Secretary shall hold a referendum on the request of the Board, or when petitioned by 10 percent or more of the honey producers and importers to determine if the honey producers and importers favor termination or suspension of this subpart.

§ 1240.63 Proceedings after termination.

(a) Upon the termination of this subpart, the Board shall recommend to the Secretary not more than five of its members to serve as trustees for the purpose of liquidating the affairs of the Board. Such persons, upon designation by the Secretary, shall become trustees of all funds and property then in possession or under control of the Board, including claims for any funds unpaid or property not delivered or any other claim existing at the time of such termination.

(b) The said trustees shall: (1) Continue in such capacity until discharged by the Secretary; (2) carry out the obligations of the board under any contracts or agreements entered into by it pursuant to § 1240.30; (3) from time to time account for all receipts and disbursements and deliver all property on hand, together with all books and records of the Board and of the trustees, to such person as the Secretary may direct; and (4) upon the direction of the Secretary, execute such assignments or other instruments necessary or appropriate to vest in such person full title and right to all of the funds, property, and claims vested in the Board or the trustees pursuant to this subpart.

(c) Any person to whom funds, property, or claims have been transferred or delivered pursuant to this subpart shall be subject to the same obligations as imposed upon the trustees.

(d) Any residual funds not required to defray the necessary expenses of liquidation shall be returned to the persons who contributed such funds, or paid assessments, or if not practicable, shall be turned over to the Department to be utilized, to the extent practicable, in the interest of continuing one or more of the honey research or education programs hitherto authorized.

§ 1240.64 Effect of termination or amendment.

Unless otherwise expressly provided by the Secretary, the termination of this subpart or any regulation issued thereunder, or the issuance of any amendment to either thereof, shall not:

(a) Affect or waive any right, duty, obligation, or liability which shall have arisen or which may thereafter arise in connection with any provision of this subpart or any regulation issued thereunder;

(b) Release or extinguish any violation of this subpart or of any regulation issued thereunder; or

(c) Affect or impair any rights or remedies of the United States, or of any person, with respect to any such violation.

§ 1240.65 Personal liability.

No member, alternate member, or employee of the board shall be held personally responsible, either individually or jointly with others, in any way whatsoever to any person for errors in judgment, mistakes, or other acts, either of commission or omission, as such member, alternate member, or employee, except for acts of dishonesty or willful misconduct.

§ 1240.66 Separability.

If any provision of this subpart is declared invalid or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of this subpart, or the applicability thereof to other persons or circumstances shall not be affected thereby.

§ 1240.67 Patents, copyrights, inventions, and publications.

Except for a reasonable royalty paid to the inventor of a patented invention, any patents, copyrights, inventions, product formulations, or publications developed through the use of funds collected under the provisions of this subpart shall be the property of the United States government as represented by the Board. Funds generated by such patents, copyrights, inventions, product formulations, or publications shall be considered income subject to the same fiscal, budget, and audit controls as other funds of the Board.

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NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 740, 741 and 745

Federal Credit Unions; National Credit Union Share Insurance Fund

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The NCUA Board proposes to amend its regulations relating to the insurance provided by the National Credit Union Share Insurance Fund. The regulations to be amended address advertising by federally-insured credit unions, termination or conversion of Federal insurance, and the extent of insurance coverage provided on accounts. The proposed rules seek to (1) incorporate current practices, policies and interpretations in the regulations themselves and (2) clarify parts 740, 741 and 475 so that they may be more easily understood by the public. Additional clarification of insurance on accounts is provided in an appendix, which has been added in the proposed rules.

DATE: Comments must be received on or before May 30, 1986.

ADDRESS: Send comments to Rosemary Brady, Secretary, National Credit Union Administration Board, 1776 G Street NW., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: D. Michael Riley, Director, Office of Examination and Insurance, or James J. Engel, Deputy General Counsel, at the above address, or telephone: (202) 357-1065 (Mr. Riley) or (202) 357-1090 (Mr. Engel).

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SUPPLEMENTARY INFORMATION:

Overview

As a result of its regulatory review process, NCUA proposes certain changes to its regulations related to Federal share insurance with a view toward simplification and clarification. Of particular concern to NCUA are ambiguities and other shortcomings in these regulations which have contributed to undesirable consequences. For example, many credit unions and their members have conveyed considerable misunderstanding as to how insurance coverage is determined. Similarly, some State credit unions applying for Federal insurance have objected to requirements that are not in the regulations but are in the Insurance Agreement that state credit unions must enter into with the National Credit Union Share Insurance Fund (NCUSIF). The purpose of this notice or proposed rulemaking is to identify and request public comment on the issues related to these concerns and to improve the regulations.

Certain technical amendments have been made throughout Parts 740, 741, and 745 to coincide with the definitions contained in Part 700. The terms "Act," "Administration," "Board," and "Regional Director" are already defined in section 700.1. Therefore, phrases have been reduced to the appropriate individual terms. Since these substitutions are nonsubstantive, they are not specifically identified as amendments each time they appear.

Part 740—Advertising

This Part was formerly titled "Advertisement of Insured Status." That title was revised because it did not accurately reflect the full scope of this Part. This Part primarily addresses the advertisement of a credit union's insured status but, as set forth in the present § 740.2, advertising in general by a federally-insured credit union is also covered. In this regard, § 740.0 would be amended to clarify the applicability of Part 740 to all federally-insured credit unions and to all types of advertising.

Section 740.1 would now have three Subsections. Subsection (a) is the former 740.1, that defined the term "deposit." Subsection (a) now defines "account," that term being substituted for "deposit" in the remaining provisions of this Part. The substance of the definition, however, is essentially the same. "Share draft account" has been substituted for "share deposit account" and the language "or their equivalent under State law" has been added to conform the definition to that contained in section 101(5) of the Act (12 U.S.C. 1752(5)). Subsection (b) adds the definition of "insured credit union" to mean a credit union insured by the NCUSIF, and Subsection (c) explains the acronym "NCUSIF."

Section 740.2, requires all advertising to be accurate. The title and wording are revised with a view towards simplification. The requirement that advertising by a branch office must state the location of the main office has been deleted. Added is a requirement that any advertising mentioning insurance by a party other than the NCUSIF must explain the insurance provided, the identity of the insurer and the fact that the insurer is not affiliated with the NCUSIF or Federal Government.

Several minor wording changes are made to section 740.3 regarding the official sign. The italicized phrases at the beginning of each subsection are considered redundant and are deleted. In Subsection (a), requiring the display of the official sign at teller stations, the proviso regarding the 30-day period for displaying the official sign is reworded and incorporated within the first sentence. The second sentence permitting display prior to the required display date is omitted as unnecessary. Subsection (b) is modified to denote the color of the official sign since Subsection (a) refers to the use of other colors at locations other than stations or windows. In Subsection (c), the statement to be displayed along with the official sign at those facilities where both federally-insured and other credit unions may receive funds is modified to refer specifically to Federal insurance by the NCUSIF. The last sentence is modified to require the statement be legible rather than stating the precise size of the lettering. There are no changes to Subsections (d) and (e).

Changes or deletions are made to § 740.4, regarding the official advertising statement, to reorganize, simplify and clarify this Section. As in the case of § 740.3, italicized introductory language is deleted. Paragraph (a)(1) is reworded and now provides that the Regional Director can grant extensions of the required 30-day period for using the advertising statement. Former subparagraphs (a)(2) (i) and (ii), that addressed temporary exemptions from the advertising requirements, have been deleted as unnecessary since the Board retains the authority to act on a case-by-case basis and the need for an exemption is rarely requested. Subsection (c) has been revised by combining paragraphs (12) through (15) into 740.4(c)(12). Subsection (d), "outside billboard advertising," has been deleted as unnecessary because such advertising would be covered under Subsection (a). Former Subsection (e), use of non-English equivalent of the official advertising statement, is now changed to (d). The subsection has been changed to require prior written approval of the Regional Director rather than the NCUA Board.

One of the major concerns of the Board is public awareness and recognition of the National Credit Union Share Insurance Fund as a Federal entity providing protection for member savings. The Board believes the public is familiar with and understands the terms "FDIC" and "FSLIC" and regards that same familiarity and understanding as desirable for the NCUSIF. For that reason, the phrase "National Credit Union Share Insurance Fund" and the term "NCUSIF" have been added or substituted for NCUA in various provisions of the proposed amendments. (See, for example, the advertising statement in § 740.4(b).) The proposal does not, however, contain a change in the language used in the official sign, § 740.3(b), that contains the terms "NCUA" and "National Credit Union Administration." Since the sign and the regulation should be consistent, the Board requests comments on which terminology is preferable. The appropriate changes would then be made to the sign or the regulations to make them consistent. Additionally, the Board would appreciate any other comments regarding changes to the language on the official sign that would aid the public in understanding the nature of protection afforded by share insurance. An example might be changing the phrase "Your savings insured to $100,000" to read "Your savings federally insured to $100,000."

Part 741—Requirements for Insurance and Voluntary Termination or Conversion of Insurance

The title of this Part was changed to reflect the addition of a new subsection (Section 741.9(b)) that requires notice of Federal insurance cancellation be provided to all members of a credit union that voluntarily converts from Federal to non-Federal insurance. This notice requirement is contained in section 206(d)(2) of the Act (12 U.S.C. 1786(d)(2)). A new § 741.0 is added. This Section sets forth the scope of Part 741 and defines "insured credit union" to mean one insured by the NCUSIF.

One change is made to § 741.1. The word "surety" was changed to "fidelity" wherever it appears, to be consistent with § 701.20 of NCUA Regulations and the Insurance Agreement that is entered into between NCUA and a credit union.

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Nonsubstantive changes are made to § 741.2, maximum period for verification of accounts, and 741.3, maximum borrowing authority. Due to the fact that the requirements of §§ 741.2 and 741.3 must be met in order for insurance to continue, language has been added to clarify that both sections apply to credit unions after insurance is approved.

Section 741.4 is a new Section. This Section incorporates items 1 and 2 of the Insurance Agreement and is based on the authority contained in sections 201 and 206 of the Federal Credit Union Act (FCU Act) (12 U.S.C. 1781 and 1784). More specifically, § 741.4 addresses the examination of credit unions applying for Federal insurance and provides that such credit unions may be required to pay the costs incurred by the NCUSIF in carrying out the examination. It also provides, in accordance with the Act, that the Board will rely on examinations conducted by state agencies to the maximum extent feasible.

Section 741.5 is the former § 741.4. Subsection (a), adequacy of reserves, was revised to make the requirements consistent with item 4 of the Insurance Agreement, i.e., a State credit union must, at a minimum, meet the reserve and full and fair disclosure requirements imposed under Title I of the FCU Act and Part 702 of NCUA Rules and Regulations. Unnecessary introductory language was deleted from subsection (b). Subsection 741.5(b)(2) was amended by deleting reference to the Credit Manual and by adding the requirement that lending policies be written. There is no change to (b)(3). Subsection 741.5(b)(4) was added to incorporate item 3 of the Insurance Agreement, types of accounts or securities, into the criteria for insurability. Subsection 741.5(c) was amended by adding a reference to full and fair disclosure requirements. Also, a reference to the Act and the Regulations was added to § 741.5(c) to make it consistent with § 741.5(a). The word "fidelity" is substituted for "surety" in § 741.5(d) for conformity. The words "for its members" is added to § 741.5(e) to clarify that the general purpose of credit unions is to serve members and not the general public. Additionally, a new § 741.5(g) has been added to clarify the Board's authority to impose additional terms or conditions in the Insurance Agreement.

A new § 741.6 is added. This Section applies only in cases where a credit union has obtained non-Federal insurance coverage on amounts in excess of that provided by the NCUSIF. It clarifies the NCUSIF's priority over other insurers in the event of liquidation.

Although not contained in the proposal, the Board requests comments on whether a provision should be added to require notification to members when an insured credit union that does have excess share insurance coverage terminates such coverage. The Board is of the opinion that such a requirement would benefit the membership that may have relied on such excess coverage in establishing their accounts. For example, a husband and wife may utilize one joint account to maintain savings in amounts above the $100,000 coverage provided by the NCUSIF because of the existence of excess coverage. However, if such coverage were terminated, the couple may well want to restructure their savings by using a combination of joint and individual accounts in order to be fully insured. Without notice of termination, they would be unaware that a large portion of their savings would be uninsured.

Section 741.7, the former § 741.5, is amended by changing the definition of "Insurance year" in subsection (b)(1) from "January 1 through December 31" to "July 1 through June 30." This change is made for administrative and operating purposes of the NCUSIF and will not have a substantive effect on credit unions.

A new Subsection (i) is added to 741.7 requiring immediate payment of a capitalization deposit and prorated insurance premiums (if any) by a continuing federally-insured credit union when it has absorbed a nonfederally-insured credit union through a merger. This change coincides with the language of Part 708—Merger of Credit Unions—that is currently in proposed form and has been published for public comment. (See 51 FR 3793, Jan. 30, 1986).

One sentence was added to § 741.7(j), the former § 741.5(i), to clarify that a solvent credit union's capitalization deposit will be refunded in case of a voluntary liquidation.

A new § 741.8 was added. This Section requires a Federal credit union converting to a state charter to submit an insurance application if it desires to maintain Federal insurance of its accounts. This requirement was previously contained in Part 708 of NCUA's Regulations. Part 708 was deleted effective January 12, 1984. (48 FR 56041, Dec. 19, 1983) because it was essentially duplicative of the conversion provisions of the Act. The requirement is still contained in NCUA publication 4411, "Credit Union Conversion Procedure and Conversion Forms" (exp. 12/31/86). It is now proposed that, for purposes of consistency and clarity, the requirement be set forth in these Regulations.

The language and notice contained in former § 741.6 is now designated § 741.9(a). As previously noted, a new subsection (b) has been added to § 741.9. Paragraph (b) addresses the Federal insurance cancellation notice to members referenced in section 206(d)(2) of the Act, 12 U.S.C. 1786(d)(2), where a credit union converts to private share insurance. A notification form is also included.

Section 741.10 is the former § 741.7.

Part 745—Clarification and Definition of Account Insurance Coverage

A new scope section, 745.0, was added to this Part to state as simply as possible, the general principles providing the basis for member account insurance. It is hoped that this Section will aid in the general public's understanding of how member accounts are insured in credit unions. Wherever possible in this Part, the terms "deposit(s)" or "depositor" have been deleted or changed to "account" or "member" to conform the regulation to credit union terminology. The term "deposit" has a different legal significance from "share," "share account," or "account." A deposit represents a debtor/creditor relationship whereas shares in a credit union represent equity. NCUA believes that the previous use of "deposit" caused confusion in credit union liquidations, especially where accountholders' funds exceeded the maximum insurance coverage. Accordingly, the former § 745.1 (a) and (b) have been deleted, and replaced with a new Subsection (a) defining "account."

In addition, three other terms have been added to the definition section to further clarify account coverage. The term "member" has been defined to include those nonmembers permitted to have accounts pursuant to the FCU Act. (§ 745.1(b).) "Public unit" and "political subdivision" were previously defined in § 701.32 (d) and (e), payments on shares by public units, and crossed referenced in § 754.10(c). In April, 1982, however, § 701.32 was deleted and the terms were no longer defined in any regulation. They are now added as §§ 745.1 (c) and (d). The term "public unit" was further defined to specifically include Indian tribes as provided in section 207(c)(2)(A)(v) or the Act (12 U.S.C. 1787(c)(2)(A)(v)).

Section 745.2 was revised to conform to the definitional changes and to reference the Appendix of Examples, which is a major explanatory addition to this Part. Section 745.3(c), "Accounts held by guardians, custodians, or conservators," is changed to clarify that funds are treated as being owned by the ward or minor for whose benefit the account is established. The title of Subsection (d) is changed from "Custodial Accounts" to "Custodial Loan Accounts" to distinguish the Subsection's applicability to temporary accounts covered in Subsection (c).

Section 745.4, "Testamentary Accounts," has been reorganized into three Subsections. The current Subsection (a) has been divided into Subsections (a) and (b) to separate the definition of a testamentary account from the operative provisions on insurance coverage. The new Subsection (c) is essentially the same as the current Subsection (b). These changes were made for clarification purposes. There are no substantive changes to § 745.5. Those changes which are made are intended to clarify insurance coverage.

Section 745.6 was revised to incorporate § 745.7 with no change as to insurance coverage. Thus, the account coverage of corporations, partnerships and unincorporated associations is now addressed in this one Section. The definition of "independent activity," as that term has been applied by NCUA, as well as the FSLIC and FDIC in those agencies' rules, has been added to this Section. Section 745.7 is reserved, for purposes of the proposal, to avoid renumbering subsequent provisions and thus reduce confusion in comparing the changes proposed for the remainder of this Part with the current provisions.

Sections 745.8, "Joint Accounts," 745.9–1, "Trust Accounts," and 745.9–2, retitled as "IRA/Keogh Accounts," are revised to simplify and clarify account coverage with no change to the actual coverage provided. Section 745.9–2 now expressly states that IRA's are separately insured from Keogh accounts, an interpretation that has been previously applied by NCUA. Section 745.9–3, "Deferred Compensation Accounts," is revised to include specific reference to "§ 401(K)" plans.

Two new subsections were added to § 745.10. The first, § 745.10(a)(5), adds Indian tribes to the list of public units. This change conforms the regulation to section 207(c)(2)(A)(v) of the Act. The second, § 745.10(d) was added with the intent of clarifying that only public unit funds lawfully invested in credit unions will receive insurance coverage. This has been a point of considerable misunderstanding and in some cases has resulted in a loss of funds for the custodian or public unit. The addition of this Subsection should reduce the potential for loss due to misunderstanding about the insured status of the account. Present paragraphs (5) and (6) are changed to (b) and (c) with attendant changes to punctuation.

No substantive changes were made to §§ 745.11, "Accounts evidenced by negotiable instruments," and 745.12, "Accounts obligations for payment of items forwarded for collection by depository institutions acting as agent," but technical change is made to § 745.12. This change reflects NCUA's policy of honoring claims for the insurance on a member's account by parties that have honored items drawn on the account, but where the credit union is closed prior to presentment of the item. Inadvertently, the term "credit union" had been used. Generally, however, the presenting party is another depository institution. Therefore, "depository institution" has been substituted. Section 754.13, "Notification to members/shareholders," is replaced by a more concise provision. The substantive requirement of the former § 745.13, that members be provided information concerning the insurance coverage of their accounts, has been retained. The remaining portion, covering time periods for providing notice and obtaining brochures from NCUA, have been deleted as unnecessary.

Appendix

Previously, NCUA has published a booklet for members describing their insurance coverage and providing examples of such coverage. This booklet has proven to be very helpful to members. NCUA believes it would be even more useful to include with the regulation examples that provide more depth on insurance coverage than the booklet. Accordingly, NCUA has added an appendix, providing further amplification of the insurance rules.

Regulatory Procedures

The NCUA Board has determined and certifies that the proposed amendments, if adopted, will not have significant economic impact on a substantial number of small credit unions (primarily those under $1 million dollars in assets). Further, this rule is largely a clarification and simplication of the current rules. Accordingly, the Board has determined that a Regulatory Flexibility Analysis is not required.

Paperwork Reduction Act

The proposed changes include two new notification requirements. Section 741.6 requires annual notification to members of the amount in their accounts that are not federally insured. This only applies to a very few credit unions that have share insurance from a private carrier in excess of Federal insurance. Section 741.9(b) sets forth the current statutory notice requirement when a credit union converts from Federal insurance to insurance provided by a non-Federal carrier.

These notice requirements will be submitted to the Office of Management and Budget for review under the Paperwork Reduction Act. Written comments and recommendations regarding the notice requirements of these proposed rules should be forwarded directly to the OMB Desk Officer indicated below at the following address:

OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503

Attn: Robert Neal

List of Subjects

12 CFR Part 740

Credit unions, Advertisements.

12 CFR Part 741

Credit unions, Requirements for insurance.

12 CFR Part 745

Credit unions, Accounts insurance coverage.

By the National Credit Union Administration Board on April 25, 1986.

Rosemary Brady,

Secretary of the Board.

PART 701—[AMENDED]

Accordingly, NCUA proposes to amend its regulations as follows:

1. It is proposed that Parts 740, 741 and 745 be revised to read as follows:

PART 740—ADVERTISING

Sec.

740.0 Scope.
740.1 Definition.
740.2 Accuracy of advertising.
740.3 Mandatory requirements with regard to the official sign and its display.
740.4 Mandatory requirements with regard to official advertising statement and manner of use.

Authority: The authority citation continues to read as 12 U.S.C. 1766, 12 U.S.C. 1781, 12 U.S.C. 1789.

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§ 740.0 Scope.

This Part applies to all federally-insured credit unions. It prescribes the requirements with regard to the official sign insured credit unions must display and the requirements with regard to the official advertising statement insured credit unions must include in their advertisements. It also prescribes a general requirement that all other kinds of advertisements must be accurate.

§ 740.1 Definition.

(a) "Account" as used in this Part means share, share certificate or share draft account or their equivalent under state law, of a member or individual of a credit union of a type approved by the Board which evidences money or its equivalent received or held by a credit union in the usual course of business and for which it has given or is obligated to give credit to the account of the member or individual.

(b) "Insured credit union" as used in this Part means a credit union insured by the National Credit Credit Union Share Insurance Fund.

(c) "NCUSIF" means the National Credit Union Share Insurance Fund.

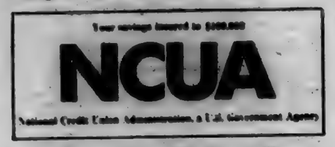
§ 740.2 Accuracy of advertising.

No insured credit union shall use any advertising (which includes print or broadcast media, displays and signs, stationery and all other promotional material) or make any representation which is inaccurate or deceptive in any particular, or which in any way misrepresents its services, contracts, investments, or financial condition. Any advertising that mentions account insurance provided by a party other than the NCUSIF must clearly explain the type and amount of such insurance, the identity of the carrier and the fact that the carrier has no affiliation with the NCUSIF or the Federal Government.

§ 740.3 Mandatory requirements with regard to the official sign and its display.

(a) Each insured credit union shall continuously display the official sign described in paragraph (b) at each station or window where insured account funds or deposits are usually and normally received in its principal place of business and in all its branches 30 days after its first day of operation as an insured credit union. Additional signs in other sizes, colors, or materials, incorporating the basic design of the official sign, may be displayed in other locations within an insured credit union.

(b) The official sign shall be as depicted below, having a blue background with white lettering:



(1) All insured credit unions will automatically be furnished an initial supply of official signs, at no cost, from the Administration for compliance with paragraph (a) of this Section. If the initial supply is not adequate, an immediate request for additional signs must be made. Any credit union that does not have an adequate supply but requests additional signs from the Administration, shall not be deemed to have violated this regulation on account of not displaying an official sign or signs unless the credit union shall omit to display such official sign or signs after receipt thereof.

(2) Official signs reflecting variations in color and materials and additional signs reflecting variations in size, color and materials for use other than as prescribed in paragraph (a) of this section may be procured by insured credit unions from commercial suppliers.

(c) An insured credit union shall not receive account funds at any teller's station or window where any noninsured credit union or institution receives deposits. Excepted from this prohibition are credit union centers, service centers, or branches servicing more than one credit union where only some of the credit unions are insured by the NCUSIF. In such instances there must be placed immediately above or beside each official sign another sign stating "only the following credit unions serviced by this facility are federally insured by the NCUSIF ———" (the full name of each credit union insured will follow the word NCUSIF). The lettering will be of such size and print to be clearly legible to all members conducting share or share deposit transactions.

(d) The Board may require any insured credit union, upon at least 30 days' written notice, to change the wording of its official signs in a manner deemed necessary for the protection of shareholders or others.

(e) For purposes of this section the terms "branch," "station," "teller station," and "window" do not include automated teller machines or point-of-sale terminals.

§ 740.4 Mandatory requirements with regard to the official advertising statement and manner of use.

(a) Each insured credit union shall include the official advertising statement, prescribed in paragraph (b) of this Section, in all of its advertisements except as provided in paragraph (c) of this section.

(1) An insured credit union must include the official advertising statement in its advertisements thirty (30) days after its first day of operations as an insured credit union unless it has been granted an extension by the Regional Director.

(2) In cases where advertising copy not including the official advertising statement is on hand on the date the requirements of this section become operative, the insured credit union may cause the official advertising statement to be included by use of an overstamp or by other means for a period of 6 months or until the supplies are exhausted, whicheyer, occurs first.

(b) The official advertising statement shall be in substance as follows: "This credit union is insured by the National Credit Union Share Insurance Fund." The short title "Insured by NCUSIF" and a reproduction of the official sign may be used by insured credit unions at their options as the official advertising statement. The official advertising statement shall be of such size and print to be clearly legible.

(c) The following is an enumeration of the types of advertisements that need not include the official advertising statement:

(1) Statements of conditions and reports of condition of an insured credit union which are required to be published by State and Federal law or regulation;

(2) Credit union supplies such as stationery (except when used for circular letters), envelopes, deposits slips, checks, drafts, signature cards, account passbooks, and noninsurable certificates, etc.;

(3) Signs or plates in the credit union office or attached to the buildings or buildings in which the offices are located;

(4) Listings in directories;

(5) Advertisements not setting forth the name of the insured credit union;

(6) Display advertisements in credit union directory, provided the name of the credit union is listed on any page in the directory with a symbol or other descriptive matter indicating it is insured;

(7) Joint or group advertisements of credit union services where the names of insured credit unions and noninsured credit unions are listed and form a part of such advertisement;

(8) Advertisements by radio which do not exceed thirty (30) seconds in time;

(9) Advertisements by television, other than display advertisement, which do not exceed thirty (30) seconds in time;

(10) Advertisements which are of the type or character making it impractical to include thereon the official advertising statement, including but not limited to, promotional items such as calenders, matchbooks, pens, pencils, and key chains;

(11) Advertisements which contain a statement to the effect that the credit union is insured by the National Credit Union Administration or NCUSIF, or that its accounts and shares or members are insured by the Administration or NCUSIF to the maximum of $100,000 for each member or shareholder;

(12) Advertisements which do not relate to member accounts, including but not limited to:

(i) Advertisements relating specifically and only to the making of loans by the credit union or loan services;

(ii) Advertisements relating specifically and only to safekeeping box business or services;

(iii) Advertisements relating specifically and only to travelers' checks on which the credit union issuing or causing to be issued the advertisement is not primarily liable;

(iv) Advertisements relating specifically and only to loan life insurance.

(d) The non-English equivalent of the official advertising statement may be used in any advertisement: Provided, That the translation has had the prior written approval of the Regional Director.

PART 741—REQUIREMENTS OF INSURANCE AND VOLUNTARY TERMINATION OF CONVERSION OF INSURANCE

Sec. 741.0 Scope.
Sec. 741.1 Minimum fidelity bond requirements.
Sec. 741.2 Minimum period for verification of accounts.
Sec. 741.3 Maximum borrowing authority.
Sec. 741.4 Examination.
Sec. 741.5 Criteria.
Sec. 741.6 Other insurance or guaranty.
Sec. 741.7 Insurance premium and one percent deposit.
Sec. 741.8 Conversion to a state-chartered credit union.
Sec. 741.9 Notice of voluntary termination or conversion of Insured Status.
Sec. 741.10 Financial and statistical and other reports.

Authority: The authority citation continues to read as 12 U.S.C. 1766, 12 U.S.C. 1761, 12 U.S.C. 1786.

§ 741.0 Scope.

The provisions of this Part apply to Federal credit unions, federally-insured state credit unions, and credit unions making application for insurance of accounts pursuant to Title II of the Act unless the context of a provision indicates its application is otherwise limited. It prescribes various requirements for obtaining, maintaining and terminating Federal insurance and the payment of insurance premiums and capitalization deposit. As used in this Part, "insured credit union" means a credit union whose accounts are insured by the National Credit Union Share Insurance Fund (NCUSIF).

§ 741.1 Minimum fidelity bond requirements.

Any credit union which makes application for insurance of its accounts pursuant to Title II of the Act must possess the minimum fidelity bond coverage stated in §701.20 of this Chapter in order for its application for such insurance to be aproved and for such insurance coverage to continue. A federally-insured credit union whose fidelity bond coverage is terminated shall mail notice of such termination to the Regional Director not less than thirty-five (35) days prior to the effective date of such termination.

§ 741.2 Minimum period for verification of accounts.

The Supervisory Committee of any credit union which makes application for insurance of its accounts pursuant to Title II of the Act must verify or cause to be verified, under controlled conditions, the members' passbooks and accounts with the records of the treasurer not less frequently than once every 2 years. If such verification has not been made within 2 years prior to the date of submission of the application for insurance, the credit union concerned shall cause such verification to be completed prior to submission of such application and at least every 2 years after an application is approved. Information on the verification procedures can be found in §701.12(e).

§ 741.3 Maximum borrowing authority.

Any credit union which makes application for insurance of its accounts pursuant to Title II of the Act, or any insured credit union, must not borrow, from any source, an aggregate amount in excess of 50 per centum of its paid-in and unimpaired capital and surplus, in order for such application to be approved or for such insurance coverage to continue.

§ 741.4 Examination.

As provided in sections 201 and 204 of the Act (12 U.S.C. §§ 1761 and 1784), the Board is authorized to examine any insured credit union or any credit union making application for insurance of its accounts. Such examination may require access to all records, reports, contracts to which the credit union is a party, and information concerning the affairs of the credit union. Upon request, such documentation will be provided to the Board. Any insured credit union or credit union which makes application for insurance may be required to pay the cost of such examination and processing. To the maximum extent feasible, the Board will utilize examinations conducted by state regulatory agencies.

§ 741.5 Criteria.

In determining the insurability of a credit union which makes application for insurance of its accounts pursuant to Title II of the Act, the following criteria shall be applied:

(a) Adequacy of reserves. The credit union must be solvent. In the case of a state-chartered credit union, that credit union must meet, at a minimum, the statutory reserve and full and fair disclosure requirements imposed on Federal credit unions by section 116 of the Act and Part 702 of NCUA's Rules and Regulations. State-chartered credit unions may be required to establish an additional special reserve for investments if those credit unions are permitted by their respective state laws to make investments not authorized in the Federal Credit Union Act.

(b) Financial condition and policies. The following factors are to be considered in determining whether the credit union's financial condition and policies are both safe and sound:

(1) The existence of unfavorable trends which may include excessive losses on loans (i.e., losses which exceed the regular reserve or its equivalent [in the case of state-chartered credit unions] plus other irrevocable reserves established as a contingent against losses on loans), the presence of special reserve accounts used specifically for charging-off loan balances of deceased borrowers, and an expense ratio so high that the required transfers to reserves create a net operating loss for the period or that the net gain after these transfers is not sufficient to permit the payment of a nominal dividend.

(2) The existence of written lending policies, including adequate documentation of secured loans and the protection of security interests by

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recording, bond, insurance, or other adequate means, adequate determination of the financial capacity of borrowers and comakers for repayment of the loan, and adequate determination of value of security on loans to ascertain that said security is adequate to repay the loan in the event of default;

(3) Investment policies which are within the provisions of applicable law and regulations, i.e., the Act and Part 703 of this Chapter for Federal credit unions and the laws of the state in which the credit union operates for state-chartered credit unions.

(4) The presence of any account or security, the form of which has not been approved by the Board, except for accounts authorized by state law for state-chartered credit unions.

(c) Fitness of management. The officers, directors, and committee members of the credit union must adhere to the provisions of applicable law, regulations, its charter and bylaws, and with full and fair disclosure requirements in accordance with Section 116 of the Act and Part 702 of NCUA's Rules and Regulations. No person shall serve as a director, officer, committee member, or employee of an insured credit union who has been convicted of any criminal offense involving dishonesty or breach of trust, except with the written consent of the Board.

(d) Insurance of member accounts would not otherwise involve undue risk to the NCUSIF. The credit union must maintain adequate fidelity bond coverage as specified in § 741.1. Any circumstances which may be unique to the particular credit union concerned shall also be considered in arriving at the determination of whether or not an undue risk to the NCUSIF is or may be present. For purposes of this Section, the term "undue risk to the NCUSIF" is defined as a condition which creates a probability of loss in excess of that normally found in a credit union and which indicates a reasonably forseeable probability of the credit union becoming insolvent because of such condition, with a resultant claim against the NCUSIF and a decrease therein.

(e) Powers and purposes. The credit union must not perform services other than those which are consistent with the promotion of thrift and the creation of a source of credit for its members except as otherwise permitted by law or regulation.

(f) Letters of disapproval. A credit union which makes application for share insurance and its application is disapproved shall receive a letter indicating the reasons for such disapproval, a citation of the authority for such disapproval, and suggested methods by which the applying credit union may correct these deficiencies and thereby qualify for share insurance.

(g) Nothing herein shall preclude the Board from imposing additional terms or conditions pursuant to the insurance agreement.

§ 741.6 Other insurance or guaranty.

The presence of excess insurance coverage provided by a party other than the NCUSIF shall in no way impair or affect the rights and priorities of the NCUSIF. In the event of insolvency, the NCUSIF has priority over all other insurers to a claim against credit union assets in an amount no less than its aggregate insurance coverage.

§ 741.7 Insurance premium and one percent deposit.

(a) *Scope.* This Section implements the requirements of section 202 of the Act (12 U.S.C. 1782) providing for capitalization of the NCUSIF through the maintenance of a deposit by each insured credit union in an amount equalling one percent of its insured shares and payment of annual insurance premium.

(b) *Definitions.* For purposes of this Section:

(1) "Insurance year" means the period from July 1 through June 30;

(2) "Insured shares" means the total amount of a credit union's share, share draft and share certificate accounts authorized to be issued to members, other credit unions or public units, exclusive of amounts in excess of insurance coverage limits as provided in 12 CFR Part 745, and, in the case of a federally-insured state-chartered credit union, shall include deposit accounts of members, other credit unions and public units if authorized by state law; and

(3) "Normal operating level" means a total value of the NCUSIF equity equalling 1.3 percent of the aggregate of all insured shares in insured credit unions as of the end of the preceding insurance year.

(c) *One Percent Deposit.* Each insured credit union shall maintain with the NCUSIF a deposit in an amount equalling one percent of the total of the credit union's insured shares as of the close of the preceding insurance year. The deposit amount shall be adjusted annually on or before January 31, or as otherwise directed by the Board.

(d) *Premium.* Each insured credit union shall pay to the NCUSIF, on or before January 31 or as otherwise directed by the Board, an insurance premium for that insurance year in an amount equalling one-twelfth of one percent of the credit union's total insured shares as of the close of the preceding insurance year.

(e) *Redistribution of NCUSIF Equity.* When the NCUSIF exceeds its normal operating level, the Board will, at least annually, make a proportionate adjustment for insured credit unions of the amount necessary to reduce the NCUSIF to its normal operating level. Such adjustment will be in the form determined by the Board and may include a waiver of insurance premiums, premium rebates and/or distributions from NCUSIF equity.

(f) *Form 1308.* A certified copy of NCUA Form 1308 will be completed by each insured credit union in connection with its computation and funding of its annual premium payment and any change in its one percent deposit. The Form 1308 provides for any adjustments declared by the Board, resulting in a single net transfer of funds between the credit union and NCUA. Copies of Form 1308 may be obtained from any NCUA Regional office.

(g) *New Charters.* A newly chartered credit union that obtains share insurance coverage from the NCUSIF during the insurance year in which it has obtained its charter shall not be required to pay an insurance premium for that insurance year. The credit union shall fund its one percent deposit on or before January 31 of the following insurance year, but shall not participate in any distribution from NCUSIF equity related to the period prior to the credit union's funding of its deposit.

(h) *Conversion to Federal Insurance.* An existing credit union that converts to insurance coverage with the NCUSIF during an insurance year shall immediately fund its one percent deposit based on the total of its insured shares as of the close of the month prior to conversion and shall pay a premium (unless waived in whole or in part for all insured credit unions during that year) in an amount that is prorated to reflect the remaining number of months in the insurance year. The credit union will be entitled to a prorated share of any distribution from NCUSIF equity declared subsequent to the credit union's conversion.

(i) *Mergers of Non Federally-Insured Credit Unions.* Where a non federally-insured credit union merges into a federally-insured credit union the continuning federally-insured credit union shall immediately pay to the NCUSIF a prorated insurance premium (unless waived in whole or in part for all federally insured credit unions), and an additional one percent deposit based upon the increase in insured shares resulting from the merger.

(j) *Return of Deposit.* Any insolvent credit union that is closed for involuntary liquidation will not be entitled to a return of its deposit. Any solvent credit union that is closed due to voluntary liquidation shall be entitled to a return of its deposit prior to final distribution of member shares. Any other credit union whose insurance coverage with the NCUSIF terminates will be entitled to a return of the full amount of its deposit immediately after the final date on which any shares of the credit union are insured, except that the Board reserves the right to delay payment by up to one year if it determines that immediate payment would jeopardize the financial condition of the NCUSIF. A credit union that receives a return of its deposit during an insurance year shall have the option of leaving a nominal sum on deposit with the NCUSIF until the next distribution from NCUSIF equity and will thus qualify for a prorated share of the distribution.

§ 741.8 Conversion to a state-chartered credit union.

Any Federal credit union which petitions to convert to a state-chartered federally-insured credit union must make application with the Regional Director for continued insurance of its accounts and meet the requirements as stated in the Act and this Part. If the application for continued insurance is not approved, such insurance ceases on the day immediately preceding the date on which the Federal credit union becomes a state credit union.

§ 741.9 Notice of voluntary termination or conversion of insured status.

(a) In the event of the termination of a credit union's status as an insured credit union as provided under subsection 206(a)(1) of the Act, the credit union shall give prompt notice to all of its members that it has ceased to be an insured credit union. The notice, which shall be mailed to each member's last address of record on the books of the credit union shall be as follows:

Notice of Termination

(Date)_____

1. The status of the _____ as an insured credit union under the provisions of the Federal Credit Union Act, will terminate as of the close of business on the _____ day of _____;

2. Any deposits made by you after that date, either new deposits or additions to existing accounts, will not be insured by the National Credit Union Administration;

3. Accounts in the credit union on the _____, day of _____, up to a maximum of $100,000 for each member, will continue to be insured, as provided by the Federal Credit Union Act, for one (1) year after the close of business on the day of _____, _____;

Provided, however, that any withdrawals after the close of business on the _____ day of _____, _____, will reduce the insurance coverage by the amount of such withdrawals.

(Name of Credit Union)

(Address)

(b) In the event of the conversion of a credit union's status as an insured credit union as provided under subsection 206(a)(2) of the Act, the credit union shall give prompt notice to all of its members that it has ceased to be a federally-insured credit union. The notice, which shall be mailed to each member's last address of record on the books of the credit union, shall be as follows:

Notice of Conversion

(Date)_____

1. The status of the _____ as an insured credit union under the provisions of the Federal Credit Union Act, will cease as of the close of business on the day of _____;

2. As of that date, your deposits are no longer insured by the National Credit Union Share Insurance Fund.

3. Accounts in the credit union on the _____ day of _____, _____, up to a maximum of $ _____ for each member, will be insured by _____, an organization not affiliated with the NCUSIF or the United States Government.

(Name of Credit Union)

(Address)

§ 741.10 Financial and statistical and other reports.

(a) Each operating insured credit union shall file with the National Credit Union Administration on or before January 31 and on or before July 31 of each year a semiannual Financial and Statistical report on Form NCUA 5300, as of the previous December 31 (in the case of the January filing) on June 30 (in the case of the July filing).

(b) Insured credit unions shall, upon written notice from the Board or Regional Director, file such financial or other reports in accordance with instructions contained in such notice.

PART 745—CLARIFICATION AND DEFINITION OF ACCOUNT INSURANCE COVERAGE

Secs.

745.0 Scope.

745.1 Definitions.

745.2 General principles applicable in determining insurance of accounts.

745.3 Single ownership accounts.

745.4 Testamentary accounts.

745.5 Accounts held by executors or administrators.

745.6 Accounts held by a corporation, partnership, or unincorporated association.

745.7 [Reserved]

745.8 Joint accounts.

745.9-1 Trust accounts.

745.9-2 IRA/Keogh accounts.

745.9-3 Deferred compensation accounts.

745.10 Public unit accounts.

745.11 Accounts evidenced by negotiable instruments.

745.12 Account obligations for payment of items forwarded for collection by depository institution acting as agent.

745.13 Notification to members/shareholders.

Appendix—Examples of insurance coverage afforded accounts in credit unions.

Authority: The authority citation continues to read as 12 U.S.C. 1766, 12 U.S.C. 1781, 12 U.S.C. 1789.

PART 745—CLARIFICATION AND DEFINITIONS OF ACCOUNT INSURANCE COVERAGE

§ 745.0 Scope.

The regulation and appendix contained in this part describe the insurance coverage of various types of member accounts. In general, all types of member share accounts received by the credit union in its usual course of business, including regular shares, share certificates, and share draft accounts are insured. For the purposes of applying the rules in this Part, it is presumed that the owner of funds in an account is an insured credit union member or otherwise eligible to maintain an insured account in a credit union. These rules do not extend insurance coverage to persons not entitled to maintain an insured account or to account relationships that have not been approved by the Board as an insured account. Where there are multiple owners of a single account, generally only that part which is allocable to the member(s) is insured.

§ 745.1 Definitions.

(a) The terms "account" or "accounts" as used in this Part means share, share certificate or share draft account of a member (which includes a nonmember where permitted under the Act) or a credit union of a type approved by the Board which evidences money or its equivalent received or held by a credit union in the usual course of business for which it has given or is obligated to give credit to the account of the member or nonmember: Provided, that for purposes of insured state credit unions, reference in this Part to "share," "share certificate" or "share draft" accounts includes, as determined by the Board,

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the equivalent of such accounts under state law.

(b) The terms "member" or "members" as used in this part include those nonmembers permitted under the Act to maintain accounts in an insured credit union including nonmember credit unions and nonmember public units and political subdivisions.

(c) The term "public unit" means the United States, any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Panama Canal Zone, any territory or possession of the United States, any county, municipality, or political subdivision thereof or any Indian tribe as defined in section 3(c) of the Indian Financing Act of 1974.

(d) The term "political subdivision" includes any subdivision of a public unit, as defined in paragraph (c) of the section, or any principal department of such public unit, (1) the creation of which subdivision or department has been expressly authorized by state statute, (2) to which some functions of government have been delegated by state statute, and (3) to which funds have been allocated by statute or ordinance for its exclusive use and control. It also includes drainage, irrigation, navigation improvement, levee, sanitary, school or power districts and bridge or port authorities and other special districts created by state statute or compacts between the states. Excluded from the term are subordinate or nonautonomous divisions, agencies, or boards within principal departments.

§ 745.2 General principles applicable in determining insurance of accounts.

(a) General: This Part provides for determination by the Board of the amount of members' insured accounts. The rules for determining the insurance coverage of accounts maintained by members in the same or different rights and capacities in the same insured credit union are set forth in the following provisions of this Part. The Appendix provides examples of the application of these rules to various factual situations. Insofar as rules or local law enter into such determinations, the law of the jurisdiction in which the insured credit union's principal office is located shall govern.

(b) The regulations in this Part in no way are to be interpreted to authorize any type of account that is not authorized by the Federal Law or Regulation or State Law or Regulation or by the bylaws of a particular credit union. The purpose is to be as inclusive as possible of all possible situations.

(c) Records: (1) The account records of the insured credit union shall be conclusive as to the existence of any relationship pursuant to which the funds in the account are deposited and on which a claim insurance coverage is founded. Examples would be trustee, agent, custodian, or executor. No claim for insurance based on such a relationship will be recognized in the absence of such disclosure.

(2) If the account records of an insured credit union disclose the existence of a relationship which may provide a basis for additional insurance, the details of the relationship and the interest of other parties in the account must be ascertainable either from the records of the credit union or the records of the member maintained in good faith and in the regular course of business.

(3) The account records of an insured credit union in connection with a trust account shall disclose the name of both the settlor (grantor) and the trustee of the trust and shall contain an account signature card executed by the trustee.

(4) The interests of the co-owners of a joint account shall be deemed equal, unless otherwise stated on the insured credit union's records in the case of a tenancy in common.

(d) Valuation of trust interests: (1) Trust interests in the same trust deposited in the same account will be separately insured if the value of the trust interest is capable of determination, without evaluation of contingencies, except for those covered by the present worth tables and rules of calculation for their use set forth in § 20.2031–7 of the Federal Estate Tax Regulations (26 CFR 20.2031–7).

(2) In connection with any trust in which certain trust interests are not capable of evaluation in accordance with the foregoing rule, payment by the Board to the trustee with respect to all such trust interests shall not exceed the basic insured amount of $100,000.

(3) Each trust interest in any trust established by two or more settlors shall be deemed to be derived from each settlor pro rata to his contribution to the trust.

(4) The term "trust interest" means the interest of a beneficiary in an irrevocable express trust, whether created by trust instrument or statute, but does not include any interest retained by the settlor.

§ 745.3 Single ownership accounts.

Funds owned by an individual and deposited in the manner set forth below shall be added together and insured up to $100,000 in the aggregate.

(a) *Individual accounts.* Funds owned by an individual (or by the husband-wife community of which the individual is a member) and deposited in one or more accounts in his own name shall be insured up to $100,000 in the aggregate.

(b) *Accounts held by agents or nominees.* Funds owned by a principal and deposited in one or more accounts in the name or names of agents or nominees shall be added to any individual account of the principal and insured up to $100,000 in the aggregate.

(c) *Accounts held by guardians, custodian, or conservators.*

Funds held by a guardian, custodian, or conservator for the benefit of his ward or for the benefit of a minor under a Uniform Gifts to Minors Act and deposited in one or more accounts in the name of the guardian, custodian, or conservator are insured as funds owned by the ward or minor and shall be added to any individual accounts of the ward or minor and insured up to $100,000 in the aggregate.

(d) *Custodial Loan Accounts.* Loan payments received by a Federal credit union prior to remittance to other parties to whom the loan was sold pursuant to section 107(13) of the Federal Credit Union Act and § 701.23 of NCUA's regulations shall be considered to be funds owned by the borrower and shall be added to any individual accounts of the borrower and insured up to $100,000 in the aggregate.

§ 745.4 Testamentary accounts.

(a) The term "testamentary account" refers to a revocable trust account, tentative or "Totten" trust account, "payable-on-death" account or any similar account which evidences an intention that the funds shall pass on the death of the owner of the funds to a named beneficiary.

(b) If the named beneficiary of a testamentary account is a spouse, child or grandchild of the owner, the account shall be insured up to $100,000 in the aggregate as to each such beneficiary, separately from any other accounts of the owner.

(c) If the named beneficiary of a testamentary account is other than the owner's spouse, child, or grandchild, the funds in such account shall be added to any individual accounts of such owner and insured up to $100,000 in the aggregate.

§ 745.5 Accounts held by executors or administrators.

Funds of a decedent held in the name of the decedent or in the name of the executor or administrator of the decedent's estate and deposited in one or more accounts shall be insured up to $100,000 in the aggregate for all such accounts, separately from the individual accounts of the beneficiaries of the estate or of the executor or administrator.

§ 745.6 Accounts held by a corporation, partnership, or unincorporated association.

Accounts of a corporation, partnership, or unincorporated association engaged in any independent activity shall be insured up to $100,000 in the aggregate. The account of a corporation, partnership or unincorporated association not engaged in an independent activity shall be deemed to be owned by the person or persons owning such corporation or comprising such partnership or unincorporated association and, for account insurance purposes, the interest of each person in such an account shall be added to any other account individually owned by such person and insured up to $100,000 in the aggregate. For purposes of this section, "independent activity" means an activity other than one directed solely at increasing insurance coverage.

§ 745.7 [Reserved]

§ 745.8 Joint accounts.

(a) *Separate insurance coverage.* Accounts owned jointly, whether as joint tenants with right of survivorship, as tenants by the entireties, as tenants in common, or by husband and wife as community property, shall be insured separately from accounts individually owned by any of the co-owners.

(b) *Qualifying Joint Accounts.* Joint accounts are insured separately from individual accounts up to a maximum of $100,000 provided that each of the co-owners has personally signed an account signature card and has a right of withdrawal on the same basis as the other co-owners. The restrictions of this paragraph shall not apply to co-owners of a time certificate of deposit or to any deposit obligations evidenced by a negotiable instrument, but such account must in fact be jointly owned.

(c) *Failure to qualify.* An account owned jointly which does not qualify as a joint account for purposes of insurance of accounts shall be treated as owned by the named persons as individuals and the actual ownership interest of each such person in such account shall be added to any other accounts individually owned by such person and insured up to $100,000 in the aggregate.

(d) *Same combination of individuals.* All joint accounts owned by the same combination of individuals shall be added together and insured up to $100,000 in the aggregate.

(e) *Different combination of individuals.* A person holding an interest in more than one joint account owned by different combinations of individuals may receive a maximum of $100,000 insurance coverage on the total of his interest in those joint accounts.

§ 745.9–1 Trust accounts.

(a) For purposes of this section, "trust" refers to an irrevocable trust.

(b) All trust interests, for the same beneficiary, deposited in an account and established pursuant to valid trust agreements created by the same settlor (grantor) shall be added together and insured up to $100,000 in the aggregate, separately from other accounts of the trustee of such trust funds or the settlor or beneficiary of such trust arrangements.

§ 745.9–2 IRA/Keogh accounts.

(a) The present vested ascertainable interest of a participant or designated beneficiary in a trust or custodial account maintained pursuant to a pension or profit-sharing plan described under section 401(d) (Keogh account) or section 408(a) (IRA) of the Internal Revenue Code shall each be insured up to $100,000 separately from other accounts of the participant or designated beneficiary. An IRA account shall be separately insured from a Keogh account.

§ 745.9–3 Deferred compensation accounts.

Funds deposited by an employer pursuant to a deferred compensation plan (including section 401(K) of the Internal Revenue Code) shall be insured up to $100,000 as to the interest of each plan participant who is a member, separately from other accounts of the participant or employer.

§ 745.10 Public unit accounts.

(a) Public funds invested in Federal credit unions and federally-insured state credit unions authorized to accept such investment shall be insured as follows:

(1) Each official custodian of funds of the United States lawfully investing the same in a federally-insured credit union shall be separately insured up to $100,000;

(2) Each official custodian of funds of any state of the United States or any county, municipality, or political subdivision thereof lawfully investing the same in a federally-insured credit union in the same state shall be separately insured up to $100,000;

(3) Each official custodian of funds of the District of Columbia lawfully investing the same in a federally-insured credit union in the District of Columbia shall be separately insured up to $100,000;

(4) Each official custodian of funds of the Commonwealth of Puerto Rico, the Panama Canal Zone, or any territory or possession of the United States, or any county, municipality, or political subdivision thereof lawfully investing the same in a federally-insured credit union in Puerto Rico, the Panama Canal Zone, or any such territory or possession, respectively, shall be separately insured up to $100,000;

(5) Each official custodian of tribal funds of any Indian tribe (as defined in section 3(c) of the Indian Financing Act of 1974) or agency thereof lawfully investing the same in a federally insured credit union shall be separately insured up to $100,000.

(b) Each official custodian referred to in subsection (a)(2), (3), and (4) of this section lawfully investing such funds in a federally-insured credit union outside their respective jurisdictions shall be separately insured up to $100,000; and

(c) For purposes of this section, if the same person is an official custodian of more than one public unit, he shall be separately insured with respect to the public funds held by him for each such unit, but shall not be separately insured with respect to all public funds of the same public unit by virtue of holding different offices in such unit or by holding such funds for different purposes.

(d) For purposes of this section, "lawfully investing" means pursuant to the statutory or regulatory authority of the custodian or public unit.

§ 745.11 Accounts evidenced by negotiable instruments.

If any insured account obligation of a credit union is evidenced by a negotiable certificate account, negotiable draft, negotiable cashier's or officer's check, negotiable certified check, or negotiable traveler's check or letter of credit, the owner of such account obligation will be recognized for all purposes of a claim for insured accounts to the same extent as if his name and interest were disclosed on the records of the credit union provided the instrument was in fact negotiated to such owner prior to the date of the closing of the credit union. Affirmative proof of such negotiation must be offered in all cases to substantiate the claim.

§ 745.12 Account obligations for payment of items forwarded for collection by depositary institution acting as agent.

Where a closed credit union has become obligated for the payment of items forwarded for collection by a depository institution acting solely as

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agent, the owner of such items will be recognized for all purposes of a claim for insured accounts to the same extent as if his name and interest were disclosed on the records of the credit union when such claim for insured accounts, if otherwise payable, has been established by the executive and delivery of prescribed forms. Such depository institution forwarding such items for the owners thereof will be recognized as agent for such owners for the purpose of making an assignment of the rights of such owners against the closed insured credit union to the Board and for the purpose of receiving payment on behalf of such owners.

§ 745.13 Notification to members/shareholders.

Information regarding insurance coverage and these rules and regulations shall be conspicuously placed in each branch office and main office of the credit union, and shall also be made available to members upon request. For purposes of this section, an automated teller machine or point of sale terminal is not a branch office.

Appendix—Examples of Insurance Coverage Afforded Accounts in Credit Unions Insured by the National Credit Union Share Insurance Fund

The following examples illustrate insurance coverage on accounts maintained in the same federally insured credit union. They are intended to cover various types of ownership interests and combinations of accounts which may occur in connection with funds invested in insured credit unions. These examples interpret the rules for insurance of accounts contained in 12 CFR Part 745.

The examples, as well as the rules which they interpret, are predicated upon the assumption that, (1) invested funds are actually owned in the manner indicated on the credit union's records and (2) the owner of funds in an account is an insured credit union member or otherwise eligible to maintain an insured account in a credit union. If available evidence shows that ownership is different from that on the institution's records, the National Credit Union Share Insurance Fund may pay claims for insured accounts on the basis of actual rather than ostensible ownership. Further, the examples and the rules which they interpret do not extend insurance coverage to persons otherwise not entitled to maintain an insured account or to account relationships that have not been approved by the Board as an insured account.

A. Single Ownership Accounts

All funds owned by an individual member (or, in a community property state, by the husband-wife community of which the individual is a member) and invested by the member in one or more individual accounts are added together and insured to the $100,000 maximum. This is true whether the accounts are maintained in the name of the individual member owning the funds, in the name of the member's agent or nominee, or in the name of a guardian, conservator or custodian holding the funds for the member's benefit.

Example 1

Question: Members A and B, husband and wife, each maintain an individual account containing $100,000. In addition, they hold a joint account containing $100,000. What is the insurance coverage?

Answer: Each account is separately insured up to $100,000, for a total coverage of $300,000. The coverage would be the same whether the individual accounts contain funds owned as community property or as individual property of the spouses (§ 745.3(a) and § 745.3(a)).

Example 2

Question: Members H and W, husband and wife, reside in a community property state. H maintains a $100,000 account consisting of his separately owned funds and invests $100,000 of community property funds in another account, both of which are in his name alone. What is the insurance coverage?

Answer: The two accounts are added together and insured to a total of $100,000. $100,000 is uninsured (§ 745.3(a)).

Example 3

Question: Member A has $92,500 invested in an individual account, and his agent, Member B invests $25,000 of A's funds in a properly designated agency account. B also holds a $100,000 individual account. What is the insurance coverage?

Answer: A's individual account and the agency account are added together and insured to the $100,000 maximum, leaving $17,500 uninsured. The investment of funds through an agent does not result in additional insurance coverage for the principal (§ 745.3(b)). B's individual account is insured separately from the agency account (§ 745.3(a)). However, if the account records of the credit union do not show the agency relationship under which the funds in the $25,000 account are held, the $25,000 in B's name could, at the option of the NCUSIF, be added to his individual account and insured to $100,000 in the aggregate, leaving $25,000 uninsured (§ 745.2(c)).

Example 4

Question: Member A holds a $100,000 individual account. Member B holds two accounts in his own name, the first containing $25,000 and the second containing $92,500. In processing the claims for payment of insurance on these accounts, the NCUSIF discovers that the funds in the $25,000 account actually belong to A and that B had invested these funds as agent for A, his undisclosed principal. What is the insurance coverage?

Answer: Since the available evidence shows that A is the actual owner of the funds in the $25,000 account, those funds would be added to the $100,00 individual account held by A (rather than to B's $92,500 account) and insured to the $100,000 maximum, leaving $25,000 uninsured. (745.3(b).) B's $92,500 individual account would be separately insured.

Example 5

Question: Member C, a minor, maintains an individual account of $750. C's grandfather makes a gift to him of $100,000, which is invested in another account by C's father, designated on the credit union's records as custodian under a Uniform Gifts to Minors Act. C's father, also a member, maintains an individual account of $100,000. What is the insurance coverage?

Answer: C's individual account and the custodianship account held for him by his father are added together and would be insured to the $100,000 maximum, leaving $750 uninsured (§ 745.3(c)). the individual account held by C's father is separately insured to the $100,000 maximum (§ 745.3(a)).

Example 6

Question: Member G, a court appointed guardian, invests in a properly designated account $100,00 of funds in his custody which belong to member W, his ward. W and G each maintain $25,000 individual accounts. What is the insurance coverage?

Answer: W's individual account and the guardianship account in G's name are added together and insured to $100,000 in the aggregate leaving W with $25,000 in uninsured funds. The fact that a guardian has been judicially appointed does not alter the fact that the guardianship funds legally belong to W, the ward, and are insured as W's individually owned funds (§ 745.3(c)). G's individual account is separately insured (§ 745.3(a)).

Example 7

Question: X Credit Union acts as a servicer of FHA, VA, and conventional mortgage loans made to its members but sold to other parties. Each month X receives loan payments, for remittance to the other parties, from approximately 2,000 member mortgagors. The monies received each month total $1,000,000 and are maintained in a custodial loan account. What is the insurance coverage?

Answer: X Credit Union acts as custodian for the 2,000 individual mortgagors. The interest of each mortgagor is separately insured as his individual account (but added to any other individual accounts which the mortgagor holds in the Credit Union) (§ 745.3(d)).

B. Testamentary Accounts

The term "testamentary account" refers to a revocable trust account, tentative or "Totten" trust account, "payable-on-death" account or any similar account which evidences an intention that the funds shall pass on the death of the owner of the funds to a named beneficiary. If the beneficiary is a spouse, child or grandchild of the owner, the funds in all such accounts are insured for the owner up to $100,000 in the aggregate as to each such beneficiary, *separately* from any other individual accounts of the owner. If the beneficiary of such an account is other than a spouse, child or grandchild of the owner, the funds in the account are, for insurance purposes, added to any other individual accounts of the owner and insured up to $100,000 in the aggregate. In the case of a revocable trust account, the person who holds the power of revocation is deemed to be the owner of the funds in the account. If a revocable trust account is held in the name of a fiduciary other than the owner of the funds, any other accounts held by the fiduciary are insured separately from such revocable trust account.

Example 1

Question: Member H invests $200,000 in a revocable trust account with his son, S, and his daughter, D, as named beneficiaries. What is the insurance coverage?

Answer: Since S and D are children of H, the owner of the account, the funds are insured up to $100,000 as to each beneficiary (§ 745.4(c)). Assuming that S and D have equal beneficial interests ($100,000 each), H is fully insured for this account.

Example 2

Question: Member H invests $100,000 in each of four "payable-on-death" accounts. Under the terms of each account contract, H has the right to withdraw any or all of the funds in the account at any time. Any funds remaining in the account at the time of H's death are to be paid to a named beneficiary. The respective beneficiaries of the four accounts are H's wife, his mother, his brother and his son. H also holds an individual account containing $100,000. What is the insurance coverage?

Answer: The accounts payable on death to H's wife and son are each separately insured to the $100,000 maximum (§ 745.4(b)). The accounts payable to H's mother and brother are added to H's individual account and insured to $100,000 in the aggregate, leaving $200,000 uninsured (§ 745.4(c)).

Example 3

Question: Members H and W jointly invest in a "payable on death" account for the benefit of their son, S, and daughter, D. The account is held by H and W with right of survivorship. What is the maximum insurance coverage available on the account?

Answer: Since S and D are the children of H and W, the account will be insured up to $100,000 as to each beneficiary separately from any accounts of the owners. H and W (§ 745.4(b)). H would be entitled to $100,000 insurance for S and $100,000 for D. W would be entitled to the same coverage for a total of $400,000 on the account. However, upon the death of either H or W, insurance coverage would be reduced to $200,000.

C. Accounts Held by Executors or Administrators

All funds belonging to a decedent and invested in one or more accounts, whether held in the name of the decedent or in the name of his executor or administrator, are added together and insured to the $100,000 maximum. Such funds are insured separately from the individual accounts of any of the beneficiaries of the estate or of the executor or administrator.

Example 1

Question: Member A, administrator of Member D's estate, sells D's automobile and invests the proceeds of $12,500 in an account entitled "A Administrator for the estate of D." A has an individual account in that same credit union containing $100,000. Prior to his death, D had opened an individual account of $100,000. What is the insurance coverage?

Answer: The $12,500 is added to D's individual account and insured to $100,000, leaving $12,500 uninsured. A's individual account is separately insured for $100,000 (§ 745.5).

D. Accounts Held by a Corporation, Partnership or Unincorporated Association

All funds invested in an account or accounts by a corporation, a partnership or an unincorporated association engaged in any independent activity are added together and insured to the $100,000 maximum. The term "independent activity" means any activity other than the one directed solely at increasing coverage. If the corporation, partnership or unincorporated association is not engaged in an independent activity, any account held by the entity is insured as if owned by the persons owning or comprising the entity, and the imputed interest of each such person is added for insurance purposes to any individual account which he maintains.

Example 1

Question: Member X Corporation maintains a $100,000 account. The stock of the corporation is owned by members A, B, C and D in equal shares. Each of these stockholders also maintains an individual account of $100,000 with the same credit union. What is the insurance coverage?

Answer: Each of the five accounts would be separately insured to $100,000 if the corporation is engaged in an independent activity and has not been established merely for the purpose of increasing insurance coverage. The same would be true if the business were operated as a bona fide partnership instead of as a corporation (§ 745.5). However, if X corporation was not engaged in an independent activity, then $25,000 (¼ interest) would be added to each account of A, B, C and D. The accounts of A, B, C and D would then each be insured to $100,000, leaving $25,000 in each account uninsured.

Example 2

Question: Member C College maintains three separate accounts with the same credit union under the titles: "General Operating Fund," Teachers Salaries," and "Building Fund." What is the insurance coverage?

Answer: Since all of the funds are the property of the college, the three accounts are added together and insured only to the $100,000 maximum (§ 745.5).

Example 3

Question: The men's club of X Church carries on various social activities in addition to holding several fund raising campaigns for the church each year. The club is supported by membership dues. Both the club and X Church maintain member accounts in the same credit union. What is the insurance coverage?

Answer: The men's club is an unincorporated association engaged in an independent activity. If the club funds are, in fact, legally owned by the club itself and not the church, each account is separately insured to the $100,000 maximum (§ 745.5).

Example 4

Question: The PQR Union, a member of the ABC Federal Credit Union, has three locals in a certain city. Each of the locals maintains an account containing funds belonging to the parent organization. All three accounts are in the same insured credit union. What is the insurance coverage?

Answer: The three accounts are added together and insured up to the $100,000 maximum (§ 745.5).

E. Public Unit Accounts

For insurance purposes, the official custodian of funds belonging to a public unit, rather than the public unit itself, is insured as the account holder. All funds belonging to a public unit and invested by the same custodian in an insured credit union are added together and insured to the $100,000 maximum, regardless of the number of accounts involved and regardless of whether the funds are invested in accounts located in or outside the state. If there is more than one official custodian for the same public unit, the funds invested by each custodian are separately insured up to $100,000. If the same person is custodian of funds for more than one public unit, he is separately insured to $100,000 with respect to the funds of each unit held by him in properly designated accounts. The maximum coverage for an official custodian of funds of the United States would be $100,000.

For insurance purposes, a "political subdivision" is entitled to the same insurance coverage as any other public unit. "Political subdivision" includes any subdivision of a public unit or any principal department of such unit (1) the creation of which has been expressly authorized by state statute, (2) to which some functions of government have been allocated by state statute, and (3) to which funds have been allocated by statute or ordinance for its exclusive use and control.

Example 1

Question: As Comptroller of Y Consolidated School District, A maintains a $125,000 account in the credit union containing school district funds. He also maintains his own $100,000 member account in the same credit union. What is the insurance coverage?

Answer: The two accounts will be separately insured, assuming the credit union's records indicate that the account containing the school district funds is held by A in a fiduciary capacity. Thus, $100,000 of the school's funds and the entire $100,000 in A's personal account will be insured (§ 745.10(a)(2) and 745.3).

Example 2

Question: A, as city treasurer, and B, as chief of the city police department, each have $100,000 in city funds invested in custodial accounts. What is the insurance coverage?

Answer: Assuming that both A and B have official custody of the city funds, each account is separately insured to the $100,000 maximum (§ 745.10(a)(2)).

Example 3

Question: A is Treasurer of X County and collects certain tax assessments, a portion of

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which must be paid to the state under statutory requirement. A maintains an account for general funds of the county and establishes a separate account for the funds which belong to the State Treasurer. The credit union's records indicate that the separate account contains funds held for the State. What is the insurance coverage?

Answer: Since two public units own the funds held by A, the accounts would each be separately insured to the $100,000 maximum (§ 745.10(A)(2)).

Example 4

Question: A city treasurer invests city funds in each of the following accounts: "General Operating Account," "School Transportation Fund," "Local Maintenance Fund," and "Payroll Fund." By administrative direction, the city treasurer has allocated the funds for the use of and control by separate departments of the city. What is the insurance coverage?

Answer: All of the accounts are added together and insured in the aggregate to $100,000. Because the allocation of the city's funds is not by statute or ordinance for the specific use of and control by separate departments of the city, separate insurance coverage to the maximum of $100,000 is not afforded to each account (§§ 745.1(c) and 745.10(a)(2)).

Example 5

Question: A, the custodian of retirement funds of a military exchange, invests $1,000,000 in an insured credit union. The military exchange, a nonappropriated fund instrumentality of the United States, is deemed to be a public unit. The employees of the exchange are the beneficiaries of the retirement funds but are not members of the credit union. What is the insurance coverage?

Answer: Because A invested the funds on behalf of a public unit, in his capacity as custodian, those funds qualify for $100,000 share insurance even though A and the public unit are not within the credit union's field of membership. Since the beneficiaries are neither public units nor members of the credit union they are not entitled to separate share insurance. Therefore, $900,000 is uninsured (§ 745.10(a)(1)).

Example 6

Question: A is the custodian of the County's employee retirement funds. He deposits $1,000,000 in the retirement funds with the credit union. The "beneficiaries" of the retirement fund are not themselves public units nor are they within the credit union's field of membership. What is the insurance coverage?

Answer: Because A invested the funds on behalf of a public unit, in his capacity as custodian, those funds qualify for $100,000 share insurance even though A and the public unit are not within the credit union's field of membership. Since the beneficiaries are neither public nor members of the credit union they are not entitled to separate share insurance. Therefore, $900,000 is uninsured (§ 745.10(a)(2)).

Example 7

Question: A county treasurer deposits in an insured credit union $100,000 in each of the following accounts:

"General Operating Fund"
"County Roads Department Fund"
"County Water District Fund"
"County Public Improvement District Fund"
"County Emergency Fund"

What is the insurance coverage?

Answer: The "County Roads Department," "County Water District" and "County Public Improvement District" accounts would each be separately insured to $100,000 if the funds in each such account have been allocated by law for the exclusive use of a separate county department or subdivision expressly authorized by State statute.

Funds in the "General Operating" and "Emergency Fund" accounts would be added together and insured in the aggregate to $100,000, if such funds are for countywide use and not for the exclusive use of any subdivision or principal department of the county, expressly authorized by State statute (§§ 745.1(c) and 745.10(a)(2)).

Example 8

Question: A, the custodian of Indian tribal funds, lawfully invests $1,000,000 in an account in an insured credit union on behalf of 15 different tribes; the records of the credit union show that no tribe's interest exceeds $100,000. A, as official custodian, also invests $1,000,000 in the same credit union on behalf of 100 individual Indians, who are not members. Each Indian's interest is $10,000. What is the insurance coverage?

Answer: Because each tribe is considered a separate public unit, the custodian of each tribe, even though the same person, is entitled to separate insurance for each tribe (§ 745.10(5)). Since the credit union's records indicate no tribe has more than $100,000 in the account, the $1,000,000 would be fully insured as 15 separate tribal accounts. If any one tribe had more than a $100,000 interest in the funds, it would be insured only to $100,000 and any excess would be uninsured.

However, the $1,000,000 invested on behalf of the individual Indians would not be insured since the individual Indians are neither public units nor, in the example, members of the credit union. If A, is the custodian of the funds in his capacity as an official of a governmental body that qualified as a public unit, then the account would be insured for $100,000, leaving $900,000 uninsured.

F. Joint Accounts

Accounts held under any form of joint ownership valid under state law (whether as joint tenants with right of survivorship, tenants by the entireties, tenants in common or by husband and wife as community property) are insured up to $100,000. This insurance is separate from that afforded individual accounts held by any of the co-owners.

An account is insured as a joint account only if each of the co-owners has personally executed an account signature card and possesses withdrawal rights. An account owned jointly which does not qualify as a joint account for insurance purposes is insured as if owned by the named persons as individuals. In that case, the actual ownership interest in the account of each person is added to any other accounts individually owned by such person and insured up to $100,000 in the aggregate.

Any individual, including a minor, may be a co-owner of a joint account provided that, under State law, he may execute a signature card and withdraw funds from the account on the same basis as the other co-owners.

All funds invested in joint accounts owned by the same combination of individuals are first added together and insured to the $100,000 maximum. Where a member has an interest in more than one joint account and different joint owners are involved, his interests in all of such joint accounts are then added together and insured to $100,000 in the aggregate.

For insurance purposes, the co-owners of any joint account are deemed to have equal interests in the account, except in the case of a tenancy in common. With a tenancy in common, equal interests are presumed unless otherwise stated on the records of the credit union.

Example 1

Question: Members A and B maintain an account as joint tenants with right of survivorship and, in addition, each holds an individual account. Is each account separately insured?

Answer: If both A and B have executed the signature card and possess withdrawal rights with respect to the joint funds, each account is separately insured to the $100,000 maximum (§ 745.8 (a) and (b)).

Example 2

Question: Members H and W, husband and wife, reside in a community property state. Each holds an individual account and, in addition, they hold a qualifying joint account. The funds in all three accounts consist of community property. Is each account separately insured?

Answer: Yes. An account in the individual name of a spouse will be insured up to $100,000 whether the funds consist of community property or separate property of the spouse. A joint account containing community property is also insured up to $100,000. Thus, community property can be used for individual accounts in the name of each spouse and for a joint account in the name of both spouses, each of which accounts is separately insured up to $100,000 (§ 745.3(a) and 745.8(a)).

Example 3

Question: Two accounts of $100,000 each are held by a member and his wife under the following names:

John Doe and Mary Doe, husband and wife, as joint tenants with right of survivorship.
Mrs. John Doe and John Q. Doe (community property).

Are the accounts separately insured?

Answer: No. Both accounts are considered joint accounts owned by the same combination of individuals, regardless of the form of joint ownership. Reversal of names or use of different styles does not change the result, as long as the account owners are in fact the same in both cases. For insurance purposes, the accounts are added together and insured to the maximum of $100,000 leaving $100,000 uninsured (745.8(b)).

Example 4

Question: The following accounts are held by members A, B and C, each of whom has personally executed signature cards for the accounts in which he has an interest. Each co-owner of a joint account possesses the necessary withdrawals rights.

1. A, as an individual—$100,000
2. B, as an individual—$100,000
3. C, as an individual—$100,000
4. A and B, as joint tenants w/r/o survivorship—$90,000
5. A and C, as joint tenants w/r/o survivorship—$90,000
6. B and C, as joint tenants w/r/o survivorship—$90,000
7. A, B and C, as joint tenants w/r/o survivorship—$90,000.

What is the insurance coverage?

Answer: Accounts numbered 1, 2 and 3 are each separately insured for $100,000 as individual accounts held by A, B and C, respectively (§ 745.3(a)). With regard to accounts number 4, 5, 6 and 7, the respective interests of A, B and C in such accounts are added together for insurance purposes (§ 745.8(c)). The interest of the co-owners of each joint account are deemed equal for insurance purposes (§ 745.2(c)(4)). Thus, A has an interest of $45,000 in account No. 4, $45,000 in account No. 5 and $30,000 in account No. 7, for a total joint account interest of $120,000, of which $100,000 is insured. The interest of B and C are similarly insured.

Example 5

Question: A, B and C hold accounts as set forth in Example 4. Members A and B are husband and wife. C, their minor child, has failed to execute the signature card for account No. 7. In account No. 5, C cannot make a withdrawal without A's written consent. In account No. 6, the signatures of both B and C are required for withdrawal. A has provided all of the funds for accounts numbered 5 and 7. What is the insurance coverage?

Answer: If any of the co-owners of a joint account have failed to meet any of the joint account requirements, the account is not insured as a joint account. Instead, the account is insured as if it consisted of commingled individual accounts of each of the co-owners in accordance with his actual ownership funds, as determined under applicable state law (§ 745.8(c)). Account No. 5 is not insured as a joint account because C does not possess the right to withdraw the funds in accordance with his purported interest in the account. However, account No. 6 does qualify as a joint account for insurance purposes since each co-owner possesses the right to withdraw funds on the same basis. Account No. 7 is not insured as a joint account since C did not personally execute the signature card. Assuming that, under applicable state law, A has the entire actual ownership interest in accounts 5 and 7, all of the funds in these accounts are treated for insurance purposes as individually owned by A (§ 745.8(c)). Thus, the $180,000 in these accounts is added to the $100,000 in account No. 1, A's individual account, and insured up to $100,000 in the aggregate, leaving $180,000 uninsured. Accounts 4 and 6, the remaining joint accounts, are each insured to the $100,000 limit, since they are owned by different combinations of individuals and no co-owner has an aggregate interest in the two accounts in excess of $100,000 (§ 745.8(e)).

Example 6

Question: The following accounts are owned by members A, B and C, each of whom has personnally executed signature cards for the accounts in which he has an interest. Each co-owner possesses withdrawal rights.

1. A, as an individual—$100,000
2. B, as an individual—$100,000
3. A, B and C, as joint tenants w/r/o survivorship—$100,000
4. A, B and C, as joint tenants w/r/o survivorship—$200,000
5. A, and B, as joint tenants w/r/o survivorship—$100,000

What is the insurance coverage?

Answer: Accounts numbered 1 and 2 are each separately insured for $100,000 as individual accounts held by A and B, respectively (§ 745.3(a)). With respect to the joint accounts, accounts numbered 3 and 4 are owned by the same combination of individuals and are added together and insured to a maximum of $100,000 leaving $200,000 uninsured (§ 745.8(d)). A, B and C each have a $33,334 insured interest in accounts 3 and 4. A and B also maintain a joint account, account number 5. Because C has no interest in this account, it is owned by a combination of individuals different from accounts 3 and 4. The interests of A and B in account number 5 are deemed to be equal (§ 745.2(c)(4)). A's $50,000 interest in account 5 is added to his insured interest in accounts 3 and 4, giving him a total of $83,334 insurance coverage for his interests in the verious joint accounts, in addition to the insurance in the amount of $100,000 provided for his individual account. B's interests in accounts 3, 4 and 5 are identical to A's and her interests are insured in a like manner.

G. Trust Accounts

A trust estate is the interest of a beneficiary in an irrevocable express trust, whether created by trust instrument or statute, that is valid under state law. Thus, funds invested in an account by a trustee under an irrevocable express trust are insured on the basis of the beneficial interests under such trust. The interest of each beneficiary in an account (or accounts) established under such a trust arrangement is insured to $100,000 separately from other accounts held by the trustee, the settlor (grantor) or the beneficiary. However, in cases where a beneficiary has an interest in more than one trust arrangement created by the same settlor, the interests of the beneficiary in all accounts established under such trusts are added together for insurance purposes, and the beneficiary's aggregate interest derived from the same settlor is separately insured to the $100,000 maximum.

A beneficiary's interest in an account established pursuant to an irrevocable express trust arrangement is insured separately from other beneficial interests (trust estates) invested in the same account if the value of the beneficiary's interest (trust estate) can be determined (as of the date of a credit union's insolvency) without evaluation of contingencies except for those covered by the present worth tables and rules of calculation for their use set forth in § 20.2031–10 of the Federal Estate Tax Regulations (26 CFR 20.2031–10). If any trust estates in such an account cannot be so determined, the insurance with respect to all such trust estates together shall not exceed the basic insured amount of $100,000.

In order for insurance coverage of trust accounts to be effective in accordance with the foregoing rules, certain recordkeeping requirements must be met. In connection with each trust account, the credit union's records must indicate the name of both the settlor and the trustee of the trust and must contain an account signature card executed by the trustee indicating the fiduciary capacity of the trustee. In addition, the interests of the beneficiaries under the trust must be ascertainable from the records of either the credit union or the trustee, and the settlor or beneficiary must be a member of the credit union. If there are two or more settlors or beneficiaries, then either all the settlors or all the beneficiaries must be members of the credit union.

Although each ascertainable trust estate is separately insured, it should be noted that in short-term trusts the insurable interest or interests may be very samll, since the interests are computed only for the duration of the trust. Thus, if a trust is made irrevocable for a specified period of time, the beneficial interest will be calculated in terms of the length of time stated. A reversionary interest retained by the settlor is treated in the same manner as an individual account of the settlor.

As stated, the trust must be valid under local law. A trust which does not meet local requirements, such as one imposing no duties on the trustee or conveying no interest to the beneficiary, is of no effect for insurance purposes. An account in which such funds are invested is considered to be an individual account.

An account established pursuant to a revocable trust arrangement is insured as a form of individual account and is treated under Section B, supra, dealing with Testamentary Accounts.

Example 1

Question: Member S invests $45,000 in trust for B, the beneficiary. S also has an individual account containing $90,000 in the same credit union. What is the insurance coverage?

Answer: Both accounts are fully insured. The trust account is separately insured from the individual account of S (§§ 745.3(a) and 745.9–1(a)).

Example 2

Question: S invests funds in trust for A, B, C, D, and E. A, B, and C are members of the credit union, D, E and S are not. What is the insurance coverage?

Answer: This is an uninsurable account. Where there is more than one settlor or more than one beneficiary, all the settlors or all the

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beneficiaries must be members to establish this type of account. Since D, E and S are not members, this account cannot legally be established or insured.

Example 3

Question: Member S invests $500,000 in trust for ABC Employees Retirement Fund. Some of the beneficiaries are members and some are not. What is the insurance coverage?

Answer: The account is insured as to the determinable interests of each member beneficiary to a maximum of $100,000 per member. Member interests not capable of evaluation and nonmember interests shall be added together and insured to a maximum of $100,000 in the aggregate (§ 745.9–1).

Example 4

Question: Member A has an individual account of $100,000 and establishes an IRA and accumulates $50,000 in that account. Subsequently A becomes self employed and establishes a Keogh account in the same credit union and accumulates $100,000 in that account. What is the insurance coverage?

Answer: Each of A's accounts would be separately insured for up to $100,000. In the example, A would be fully insured for $250,000 (§ 745.3(a) and § 745.9–2).

[FR Doc. 86–9697 Filed 5–5–86; 8:45 am]

BILLING CODE 7535–01–M

DEPARTMENT OF JUSTICE

28 CFR Part 16

[AAG/A Order No. 9–86]

Exemption of Records Systems Under the Privacy Act

AGENCY: Department of Justice.

ACTION: Proposed rule.

SUMMARY: The Department of Justice, Executive Office for Immigration Review, proposes to exempt a new system of records entitled "Records and Management Information System, JUSTICE/EOIR–001," from the access and amendment provisions of the Privacy Act, 5 U.S.C. 552a(d). This exemption is needed to preclude access to any information in the system which has been properly classified under an Executive Order for national security reasons. It is also needed to preclude unauthorized access to certain confidential investigation materials compiled for the purposes of enforcing immigration laws. In addition, the exemption is needed to preclude the amendment of the Record of Proceeding which constitutes the official record of quasi-judicial administrative proceedings. The records may include transcripts of the proceedings, charging documents, investigatory reports, decisional memoranda, and evidentiary materials, such as exhibits and other case-related papers concerning aliens brought into the administrative adjudication process. These records are compiled during the course of proper hearings, established due process procedures; and any relevant investigations, if the individual who is the subject of the record could make ex parte correction of the material, administrative due process could not be achieved.

DATE: All comments must be received by June 5, 1986.

ADDRESS: All comments should be addressed to J. Michael Clark, Acting Assistant Director, General Services Staff, Justice Management Division, Room 6002, Department of Justice, 601 D Street, NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: J. Michael Clark, (202) 272–6474.

SUPPLEMENTARY INFORMATION: A description of the "Records and Management Information System" is being published in the Notice section of today's **Federal Register.**

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601–612, it is hereby stated that the order will not have a significant economic impact on a substantial number of small entities."

List of Subjects in 28 CFR Part 16

Administrative Practice and Procedure; Courts; Freedom of Information; Privacy; and Sunshine Act.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General No. 793–78, 28 CFR Part 16 is amended to add § 16.83 as set forth below.

Dated: April 24, 1986.

W. Lawrence Wallace,

Assistant Attorney General for Administration.

1. The authority for Part 16 continues to read as follows:

Authority: 28 U.S.C. 509, 510; 5 U.S.C. 301, 552, 552a; 31 U.S.C. 483a unless otherwise noted.

2. It is proposed to amend 28 CFR Part 16 by adding § 16.83 to read as follows:

§ 16.83 Exemption of the Executive Office for Immigration Review System—Limited Access.

(a) The following system of records is exempt from 5 U.S.C. 552a(d):

(1) The Executive Office for Immigration Review's Records and Management Information System (JUSTICE/EOIR–001). This exemption applies only to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a(k)(1) and (2).

(b) Exemption from the particular subsections are justified for the following reasons:

(1) From subsection (d) because access to information which has been properly classified pursuant to an Executive Order could have an adverse effect on the national security. In addition, from subsection (d) because unauthorized access to certain investigatory material could compromise ongoing or potential investigations; reveal the identity of confidential informants; or constitute unwarranted invasions of the personal privacy of third parties.

(2) From subsection (d) (2), (3), and (4) because the Record of Proceeding constitutes an official record which includes transcripts of quasi-judicial administrative proceedings, investigatory materials, evidentiary materials such as exhibits, decisional memoranda, and other case-related papers. Administrative due process could not be achieved by the ex parte "correction" of such materials by the individual who is the subject thereof.

[FR Doc. 86–10056 Filed 5–5–86; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 51e

Project Grants for Health Programs for Refugees

AGENCY: Centers for Disease Control, Public Health Service, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Public Health Service proposes to develop regulations which would establish a regulatory base for project grants awarded to State and local health departments to assist them in providing initial health assessments and public health follow-up activities to refugees. These health assessments specifically indentify conditions of possible public health concern such as tuberculosis, and personal health problems such as anemia and dental caries, which could impair the effective resettlement of refugees. The Health Programs for Refugees (HPR) grant program which is authorized by section 412(b)(5) of the Immigration and Nationality Act (INA) is administered by the Centers for Disease Control (CDC) through an intra-agency agreement with the Office of Refugee Resettlement (ORR), HHS.

DATE: Written comments are invited and must be received on or before July 7, 1986.

ADDRESS: Comments should be addressed in writing to the Director, Division of Quarantine, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333. Comments received will be available for public inspection between 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) in Room 211, 1600 Tullie Circle, Atlanta, Georgia. All relevant comments received during the comment period will be considered in developing the final rule.

FOR FURTHER INFORMATION CONTACT: Dr. Laurence S. Farer, Director, Division of Quarantine, Center for Prevention Services, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 329–2574, or FTS 236–2574.

SUPPLEMENTARY INFORMATION: This NPRM proposes regulations which would govern a grant program first authorized under the broad authority of section 412(c)(3) of the INA (8 U.S.C. 1522(c)(3)), as amended by the Refugee Act of 1980, Pub. L. 96–212, approved March 17, 1980. The Refugee Assistance Amendments of 1982, Pub. L. 97–363, approved October 25, 1982, established a specific authority at section 412(b)(5) of the INA (8 U.S.C. 1522(b)(5)). CDC is responsible for administering this project grant program through an intra-agency agreement with the ORR. This grant program is designed to assist State and local governments in providing public health and general health assessments for refugees. These health assessments specifically identify conditions of possible public health concern and health problems which could impair the effective resettlement of refugees. The term "refugee" is defined in section 101(a)(42) of the INA (8 U.S.C. 1101(a)(42)). Individuals classified as refugees are eligible for services under this program, except certain refugees whose medical care and other resettlement needs are provided through a special matching grant program also administered by the ORR under section 412(c) of the INA (8 U.S.C. 1522(c)).

The provisions of this proposed rule are very similar to regulations under 42 CFR Part 51b, which are applicable to other preventive health service grant programs administered by CDC. This new part contains similar application requirements, including the applicant's plan of operation, the long-term and short-term objectives of the project, an evaluation plan, and a justification for the funds requested. The regulations describe the manner in which the applications will be evaluated and approved, with emphasis on the size of the applicant's refugee population, the extent of health problems among the refugee population, the applicant's ability to coordinate the delivery of needed services, and the consistency of the proposed program with comprehensive refugee resettlement plans required by 45 CFR Part 400.

The Secretary has determined that this proposed rule will not significantly impact on a substantial number of small entities and therefore does not require preparation of a regulatory flexibility analysis under the Regulatory Flexibility Act, Pub. L. 96–345.

The Secretary has also determined that this proposed rule is not a "major rule" under Executive Order 12291. Thus, a regulatory impact analysis is not required because it will not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Impose a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions; or

(3) Result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Section 51e.4 of this proposed rule contains information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we have submitted a copy of this proposed rule to the Office of Management and Budget (OMB) for its review of these information collection requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, Room 3208, New Executive Office Building, Washington, DC 20503, Attention: Fay S. Iudicello.

List of Subjects in 42 CFR 51e

Communicable diseases, Grant programs-health, Refugees.

It is, therefore, proposed to amend Title 42 of the Code of Federal Regulations by adding a new Park 51e as set forth below.

Dated: April 22, 1986.

Approved: April 29, 1986.

Otis R. Bowen,

Secretary.

Donald Ian Macdonald M.D.,

Acting Assistant Secretary for Health.

PART 51e—PROJECT GRANTS FOR HEALTH PROGRAMS FOR REFUGEES

Sec.

51e.1 To which programs do these regulations apply?
51e.2 Definitions.
51e.3 Who is eligible to apply for a grant?
51e.4 What information is required in the application?
51e.5 How will grant applications be evaluated and the grants awarded?
51e.6 How can grant funds be used?
51e.7 What other HHS regulations apply to these grants?
51e.8 What other conditions apply to these grants?

Authority: Sec. 412(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1522(b)(5)).

§ 51e.1 To which programs do these regulations apply?

The regulations in this part apply to project grants awarded for health assessments for refugees as authorized under section 412(b)(5) of the Immigration and Nationality Act, as amended.

§ 51e.2 Definitions.

As used in the regulations:

"Health assessment" means a physical and clinical examination to determine the health status of a refugee which may include the provision of diagnostic and treatment services and preventive health activities, as related to the presence and severity of a health condition of public health concern or of personal health consequence which could impede the refugee from becoming economically self-sufficient. The term "refugee" is defined in section 101(a)(42) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(42)).

"Secretary" means the Secretary of Health and Human Services (HHS) and any other officer or employee of that Department to whom the authority involved has been delegated.

"State" means one of the 50 States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, American Samoa, and the Trust Territory of the Pacific Islands.

§ 51e.3 Who is eligible to apply for a grant?

An applicant must be a State health agency with responsibility for disease control under State law or a health agency of a political subdivision of a

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State which has responsibility for disease control under such law.

§ 51e.4 What information is required in the application?

(a) The initial or renewal application for a project period must include a description of the following:

(1) An assessment of the scope, magnitude, and duration of the problems to which the program will be addressed. If the applicant is a political subdivision of a State, the application must reflect consultation with the State health agency.

(2) The intermediate (1-year budget period) and long-range (2- to 5-year project period) objectives of the project which are specific, measurable, realistic, and time-phased.

(3) A plan of operation, including the relationship of this project to the State's comprehensive refugee resettlement plan as implemented by regulations at 45 CFR Part 400.

(4) An evaluation plan for measuring the achievement of project objectives and the effectiveness with which the plan of operation is carried out.

(5) Prior progress toward the achievement of project objectives when the applicant has received prior health assessment grant funds.

(6) A budget and justification for the grant funds requested, including a description of direct health services that are provided by other health or resettlement agencies and which are related to referral and followup recommendation resulting from the health assessment.

(b) An application for a continuation grant must be submitted for each funding period. This continuation application must include the following:

(1) A budget and justification for the grant funds requested.

(2) A summary of the program activities achieved during the previous budget period, with a review of the extent of achievement of each objective.

(3) A description of any changes in the information shown in the initial application for the project period.

§ 51e.5 How will grant applications be evaluated and the grants awarded?

(a) Within the limits of funds available, the Secretary may award a grant to assist the applicant in carrying out a health program for refugees. Before awarding a grant to a political subdivision of a State, the Secretary will consult with the State health agency. Funds will normally be provided for a period not to exceed one year.

(b) Priorities for funding initial or continuing grants will be based on the following factors:

(1) Evidence of an assessment of the relationship of the proposed project to existing services.

(2) The size of the refugee population, including secondary migrants.

(3) The extent of unmet public health problems among refugees, based upon criteria to be developed by the Secretary.

(4) The need for general health assessments for refugees.

(5) The ability of the applicant to deliver and coordinate the delivery of needed services, including referrals and financing arrangements.

(6) Consistency with the State's comprehensive refugee resettlement plan.

(7) Current performance and ability to maintain program momentum.

§ 51e.6 How can grant funds be used?

(a) Grant funds may be used for costs associated with planning, organizing, and implementing health assessment activities directed to refugees. Such funds may also be used to assist in meeting the cost of:

(1) Activities designed to assure that refugees entering the United States with problems of public health concern receive appropriate follow-up care, and

(2) Activities designed to provide diagnostic and treatment services which are integral to the conduct of public health programs and are otherwise not available.

Any person classified as a refugee is eligible for services under this program, except those refugees whose medical care and other resettlement services are provided through a special matching grant program administered under section 412(c) of the Immigration and Nationality Act (8 U.S.C. 1522(c)).

(b) Grant funds may not be used for construction costs, inpatient care, or rehabilitative services.

§ 51e.7 What other HHS regulations apply to these grants?

Several other HHS regulations apply to grants under this part. These include, but are not limited to:

42 CFR Part 50, Subpart D—PHS grant appeals procedure

45 CFR Part 16—Procedures of the Departmental Grant Appeals Board

45 CFR Part 46—Protection of human subjects

45 CFR Part 74—Administration of grants

45 CFR Part 75—Informal grant appeals procedures

45 CFR Part 76—Debarment and suspension from eligibility for financial assistance

45 CFR Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964

45 CFR Part 81—Practice and procedure for hearings under Part 80 of this Title

45 CFR Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance

45 CFR Part 86 and Appendix A—Nondiscrimination on the basis of sex in education programs and activities receiving or benefiting from Federal financial assistance

45 CFR Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

§ 51e.8 What other conditions apply to these grants?

(a) Neither the approval of any application nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental continuation, or other award with respect to any approved application or portion of an approved application.

(b) Any funds granted pursuant to this part shall be expended solely for the purposes for which the funds were granted in accordance with the approved application and budget, the regulations of this part, the terms and conditions of the award; and the applicable cost principles prescribed in 45 CFR Part 74, Subpart Q.

(c) The Secretary may, at the time of award, impose additional conditions, including conditions governing the use of information or consent forms and requirements for periodic performance reports, when, in the Secretary's judgment, they are necessary to advance the approved program, the interest of the public health, or the conservation of grant funds.

[FR Doc. 86-10130 Filed 5-5-86; 8:45 am]
BILLING CODE 4160-18-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86-29; RM-4941]

FM Broadcast Station in Greenup, KY

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein denies a request for extension of time for filing reply comments in a proceeding involving the proposed allotment of Channel 289B1 to Greenup, Kentucky.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1061, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Order Denying Extension of Time for Filing Reply Comments

In the Matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Greenup, Kentucky); MM Docket No. 86-29; RM-4941.

Adopted: April 22, 1986.
Released: April 25, 1986.

By the Chief, Policy and Rules Division.

1. On January 21, 1986, the Commission adopted the *Notice of Proposed Rule Making*, 51 FR 4940, February 10, 1986, proposing the allotment of Channel 289B1 to Greenup, Kentucky, and modification of license of Station WLGC(FM), Channel 288A to specify operation on that channel. The *Notice* was adopted in response to a petition filed by Greenup County Broadcasting, Inc. ("petitioner"), licensee of Station WGLC(FM), Greenup, Kentucky. The reply comment date is April 11, 1986.

2. On April 4, 1986 petitioner filed a motion for extension of time to, and including, April 25, 1986, in which to file reply comments. Petitioner states that the additional time is needed for newly retained engineering counsel to familiarize himself with the pleadings and to prepare a proper response.

3. As stated in § 1.46(a) of the Rules, the Commission does not routinely grant an extension request without good cause. An insufficient basis for an exception to that policy appears to exist here. Petitioner states that since an issue has been raised as to the appropriate class of channel in the particular transmitter site zone, its engineering counsel needs extra time to prepare a reply. However, in the event additional time is justified, petitioner can submit late filed engineering comments accompanied by a motion setting forth sufficient reason for their acceptance in this proceeding.

4. In view of the foregoing, it is ordered, that the motion of petitioner to extend the reply comment date is denied.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86-10103 Filed 5-5-86; 8:45 am]
BILLING CODE 6712-01-M

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Notices

Federal Register
Vol. 51, No. 87
Tuesday, May 6, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement: Emergency Repair of Flood Levees in Illinois

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Council proposes to execute a Programmatic Memorandum of Agreement pursuant to § 800.8 of its regulations (36 CFR Part 800) that provides for the U.S. Army Corps of Engineers, Rock Island District; to make emergency repairs of flood levees along rivers in Illinois. Repair will be conducted in a way that minimizes or mitigates damage to historic properties, and review of such work will be reduced. Interested parties are encouraged to obtain a copy of the proposed Agreement from the Council and submit comments.

DATE: Comments Due: June 5, 1986.

ADDRESS: Advisory Council on Historic Preservation, ATT: Michael C. Quinn, 1100 Pennsylvania Avenue, NW., Room 803, Washington, DC 20004. Telephone (202) 786-0505.

John M. Fowler,
Acting Executive Director.

[FR Doc. 86-10091 Filed 5-5-86; 8:45 am]
BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

Wallace Watershed, SC; Finding of No Significant Impact

AGENCY: Soil Conservation Service.

ACTION: Notice of a finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on Environmental Quality Guidelines (40 CFR Part 1500), and the Soil Conservation Service Guidelines (7 CFR Part 650), the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Wallace Watershed, Marlboro County, South Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Billy Abercrombie, State Conservationist, Soil Conservation Service, 1835 Assembly Street, Room 950, Columbia, South Carolina 29201, telephone (803) 765-5681.

SUPPLEMENTARY INFORMATION: The environmental assessment of this Federally-assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Billy Abercrombie, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The project concerns a plan for erosion control on 9,194 acres of cropland in Marlboro County. The work will be accomplished through conservation plans and long-term contracts involving about 90 farms. The soil and water conservation district will provide leadership for installing the project.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Billy Abercrombie.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10-904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: April 28, 1986.
Billy Abercrombie,
State Conservationist.

[FR Doc. 86-10092 Filed 5-5-86; 8:45 am]
BILLING CODE 3410-16-M

Environmental Statements; Wabbaseka East RC&D Measure Plan, AR

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Wabbaseka East RC&D Measure Plan, Jefferson County, Arkansas.

FOR FURTHER INFORMATION CONTACT: Jack C. Davis, State Conservationist, Soil Conservation Service, 2405 Federal Office Building, 700 West Capitol Avenue, Little Rock, Arkansas 72201, telephone (501) 378-5445.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Jack C. Davis, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a measure plan for reducing flooding and improving drainage on agricultural cropland. The planned work includes 8.2 miles of channel work which includes widening and deepening. Approximately 35 small pipe drops will be installed for erosion control along the ditches. Two low-water weirs will be installed for fish habitat. Turkey nesting areas will be created.

The Notice of a Finding of No Significant Impact (FNSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FNSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Jack C. Davis.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: April 22, 1986.
Jack C. Davis,
State Conservationist.

[FR Doc. 86-10051 Filed 5-5-86; 8:45 am]
BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments; Rush-Presbyterian-St. Luke's Medical Center et al.

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86-155. Applicant: Rush-Presbyterian-St. Luke's Medical Center, 1753 W. Congress Parkway, Chicago, IL 60612. Instrument: Electron Microscope System, Model JEM-1200 EX. Manufacturer: JEOL, Ltd., Japan. Intended use: The instrument is intended to be used to study the ultrastructure of tumor cells, red blood cells and ocular and endocrine tissues. Most specimens studied will be of biological origin, some from experimental animals and some from patients with pathological disorders. Application received by Commissioner of Customs: March 13, 1986.

Docket No. 86-179. Applicant: Cornell University, Materials Science Center, 308-A Thurston Hall, Ithaca, NY 14853. Instrument: Laser Interferometer System. Manufacturer: Transelek Enr., Canada. Intended use: The instrument is intended to be used to perform quantitative acoustic emission studies of indentation-produced cracks in composite materials. In addition, the instrument will be used for the following applications:

(1) Transducer characterization studies;

(2) Non-contact, long-working distance ultrasonic materials testing; and

(3) Quantitative materials absorption/microstructure measurements.

Application received by Commissioner of Customs: April 2, 1986.

Docket No. 86-182. Applicant: The Research Foundation of SUNY, Purchasing, ULB 66, 1400 Washington Avenue, Albany, NY 12222. Instrument: Spectrometer System for Atmospheric Measurements, Model TAMS 150. Manufacturer: Unisearch Associates, Inc., Canada. Intended use: The instrument is intended to be used for the study of the possible damage of Eastern U.S. forests by air pollutants especially sulfur dioxide and hydrogen peroxide. The instrument will also be used for measuring other very important pollutants including nitric acid, nitric oxide, nitrogen dioxide and ammonia. In addition to making measurements in the field for this research project, the instrument will be used as a calibration reference standard. Students working toward their Ph.D. will use the instrument to perform their required original research work. Application received by Commissioner of Customs: April 3, 1986.

Docket No. 86-183. Applicant: Montana College of Mineral Science and Technology, West Park Street, Butte, MT 59701. Instrument: Inductive Ground conductivity Meter, Model EM34-3. Manufacturer: Geonics Ltd., Canada. Intended use: The instrument is intended to be used for educational purposes in the following geophysics courses:

(1) Geophysics 410—Methods of Electrical Exploration;

(2) Geophysics 421—Geophysics Field Camp; and

(3) Geophysics 510—Problems in Electrical Exploration.

Application received by Commissioner of Customs: April 3, 1986.

Docket No. 86-184. Applicant: University of California, Los Alamos National Laboratory, SM-30 Bikini Road, P.O. Box 990, Los Alamos, NM 87545. Instrument: FT Spectrometer, Model DA3.25 with Accessories. Manufacturer: Bomen Inc., Canada. Intended use: The instrument is intended to be used for the study of the molecular structure, properties and energy levels of actinide molecular species and fluorine compounds. Application received by Commissioner of Customs: April 14, 1986.

Docket No. 86-185. Applicant: The Nebraska Methodist Hospital, 8303 Dodge Street, Omaha NE 68114. Instrument: Lithotripter. Manufacturer: Dornier Medizintechnick GmbH, West Germany. Intended use: The instrument is intended to be used for research relating to the cognitive skills of the urologist in the evaluation, treatment, and long-term management of the kidney stone patient. In addition, the instrument will be used for research in the use of lithotripter technology in the treatment of kidney stones versus the use of percutaneous techniques. Other research will include:

(1) Short-term and long-term evaluation of the effects of shock wave application upon renal structure and function.

(2) Short-term and long-term comparison of the use of extracorporeal shock wave treatment and precutaneous treatment upon the incidence of kidney stone recurrence.

(3) Evaluation of the impact of blast path angle and intensity of voltage of the shock wave generator, upon the incidence of post-extracorporeal shock wave lithotripter perirenal hematoma. The instrument will also be used for the training of medical students.

Application received by Commissioner of Customs: April 14, 1986.

Docket No. 86-186. Applicant: University of Nevada-Reno, Reno, NV 89557. Instrument: Circular Dichroism Spectropolarimeter, Model J-500A with Accessories. Manufacturer: JASCO, Japan. Intended use: The instrument will be used for spectroscopic studies, magnetic circular dichroism, kinetics measurements and UV/CD protein studies. The materials to be studied will include bile pigments, proteins, magnetic CD of aromatic hydrocarbons and porphyrins. Educational purposes will include pursuing research objectives in the courses Independent Studies, Thesis and Dissertation (Chemistry 793, 797, 799; Biochemistry 793, 797, 799). Application received by Commissioner of Customs: April 14, 1986.

BEST COPY AVAILABLE

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(Catalog of Federal Domestic Assistance Program No. 11.305, Importation of Duty-Free Educational and Scientific Materials)
[FR Doc. 86-10095 Filed 5-5-86; 8:45 am]
BILLING CODE 3510-DS-M

National Bureau of Standards

[Docket No. 51288-6206]

Continuation of Fire Research Grants Program

AGENCY: National Bureau of Standards, Commerce.

ACTION: Announcing Continuation of Fire Research Grants Program.

SUMMARY: The purpose of this notice is to inform potential applicants that the Center for Fire Research, National Bureau of Standards, is continuing an approximately $2 million per year Fire Research Program. Previous notices of this research grant program were published in the Federal Register on February 20, 1981 (46 FR 13260) and November 19, 1984 (49 FR 45839). (Catalog of Federal Domestic Assistance No. 11.609 "Measurement and Engineering Research and Standards.")

DATE: *Closing Date for Applications:* Proposals must be received no later than close of business May 30, 1986.

ADDRESS: Applicants must submit one signed original plus two (2) copies of the proposal along with the Grant Application, Standard Form 424 as referenced under the provisions of OMB Circular A-110 to:

Center for Fire Research, Attn: Dr. Robert S. Levine, National Bureau of Standards, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Levine, (301) 921-3645.

Eligibility: Academic institutions, Non-Federal agencies, and independent and industrial laboratories.

SUPPLEMENTARY INFORMATION: As authorized by section 18 of the Act of March 3, 1901, as amended (15 U.S.C. 278f), the NBS Center for Fire Research conducts directly and through grants and cooperative agreements, a basic and applied fire research program. This program has been in existence for several years at approximately the same funding level. No increase in funds has taken place. All grant proposals submitted must be in accordance with the programs and objectives listed below.

Program Objectives

(a) *Exploratory Fire Research*—Ignition and combustion of solids, action of fire retardants, soot formation, and polymer gasification and char formation chemistry.

(b) *Flammability and Toxicity Measurement*—Measurement of the acute toxicity of fire gases, development of test methods and safety criteria, research into the additive or synergistic acute effects of multiple gaseous toxicants, and development of behavior models for incapacitation. Development of laboratory size tests and measurements that are of use in predicting the performance of combustible items (including heat release rate, toxic gas production, and smoke production in full scale fire).

(c) *Fire Performance and Validation*—Obtaining and analyzing experimental data from full scale tests for input to model development. Evaluation of mathematical models and methodology for quantitatively assessing the correlation between the models and full-scale fire test data.

(d) *Hazard Analysis*—Development and evaluation of mathematical smoke and toxic species transport models for large, complex structures. Methods to calculate hazard development vs. time. Methods to stimulate the operation and impact of ventilation systems and components under conditions created by unwanted fires. Some research is carried out into the behavior of persons at risk in fire to calculate how rapidly such persons can evacuate the structure or otherwise find refuge.

(e) *Fire Growth and Extinction*—Research into the physics and chemistry of fire processes such as burning rate, flame spread, fire gas flows, fire suppression, and the development of an understanding of the relationship between these processes as they contribute to compartment fire growth and spread, fire suppression system performance and smoke transport in buildings.

(f) *Compartment Fire Modeling Research*—The development, improvement and validation of: (1) "benchmark" compartment fire model computer codes, and (2) their submodel algorithm components which describe individual fire compartment processes.

(g) *Fire Simulation*—Integration of the results of the above programs to create new methods of design for fire safety and calculational tools for such designs.

Application Requirements

The Fire Research Grants Program is limited to innovative ideas which are generated by the proposal writer on what research to carry out and how to carry it out. Proposals will be considered for research projects for one to three years. When a proposal for a multi-year grant is approved, funding will be provided for only the first year of the program. Funding for the remaining years of the program is contingent on satisfactory performance and subject to the availability of funds, but no liability shall be assumed by the government because of non-renewal or extension of a grant. Applicant's proposals should provide:

1. *A brief statementof the basic objectives and research plan.*

a. State concisely the objectives of the proposed research. Describe the present state of knowledge of the problem. An exhaustive review is not needed, but the discussion should show a familiarity with past and current work in the area and demonstrate how the proposed work will advance our understanding of the problem.

b. Describe how the work will be accomplished. Indicate, where appropriate, the range of variables to be explored, the number of tests to be performed, and the method of presenting the results. Describe any unusual techniques, apparatus, or special facilities to be employed in the program.

2. *Statement of Work.* State concisely just what will be accomplished during the program.

3. *Schedule.* Show dates at which major milestones are expected to be attained, including technical reports, papers, and presentations.

4. *Utilization of Results.* Show how the results of the proposed research relate to the Basic Center for Fire Research objective of providing the technical base for reducing the nation's fire loss. Describe how the results will be utilized for this purpose. This may range from the publication of basic data to the development of improved materials and systems to the introduction of findings to regulations and codes.

5. *Program Organization.* Identify the principal professional staff members who will participate in the program and describe their roles and level of effort.

6. *For clarity* of the program objectives, you may contact Dr. Levine by calling (301) 921-3645.

Proposal Review Process

All proposals are assigned to the appropriate group leader of the seven programs listed above for review, including external peer review, and recommendations on funding. Both technical value of the proposal and the relationship of the work proposed to the needs of the specific program are taken into consideration in the group leader's recommendation to the Center Director. Applicants should allow up to 60 days processing time.

Proposals are evaluated for technical merit by at least three professionals from NBS, the Center for Fire Research, or technical experts from other interested government agencies and in the case of new proposals, experts from the fire research community at large.

Evaluation Criteria

	Points
Rationality	0-20
Qualification of Technical Personnel	0-20
Resources Availability	0-20
Technical Merit of Contribution	0-40

The results of these evaluations are transmitted to the head of the appropriate research unit in the Center for Fire Research who prepares an analysis of comments and makes a recommendation. The Center for Fire Research unit head will also consider compatibility with programmatic goals and financial feasibility.

Paperwork Reduction Act

The Paperwork Reduction Act of 1980 does not apply since this notice does not impose any additional burdens, such as reporting or recordkeeping requirements or collection of information from offerors, contractors, or members of the public. The reporting requirement will be those contained in OMB Circular A-110.

Additional Requirements

Applicants are reminded that a false statement may be grounds for denial or termination of funds and grounds for possible punishment by fine or imprisonment. Any recipients/applicants who have an outstanding indebtedness to the Department of Commerce will not receive a new award until the debt is paid or arrangements satisfactory to the department are made to pay the debt.

Administrative questions pertaining to the grant process may be directed to the Grant Specialists, Sharon Green, National Bureau of Standards, Room B-158, Gaithersburg, Maryland 20899, telephone number (303) 921-2971.

Dated: May 1, 1986.
Ernest Ambler
Director.

[FR Doc. 86-10069 Filed 5-5-86; 8:45 am]
BILLING CODE 3510-13-M

[Docket No. 60111-6011]

Federal Information Processing Standard 121, Videotex/Teletext Presentation Level Protocol Syntax (North American PLPS)

AGENCY: National Bureau of Standards, Commerce.

ACTION: The purpose of this notice is to announce that the Secretary of Commerce (Secretary) has approved a new standard, which will be published as FIPS Publication 121.

SUMMARY: On April 10, 1985, notice was published in the Federal Register (50 FR 14128-29) that a Federal Information Processing Standard for Videotex/Teletext Presentation Level Protocol Syntax (North American PLPS) was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended that the Secretary approve the standard as a Federal Information Processing Standard (FIPS) and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20234.

This approved standard contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard, and (2) a specifications protion which deals with the technical requirements of the standard. Only the announcement portion of the standard is provided in this notice.

ADDRESS: Interested parties may purchase copies of this new standard, including the technical specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement portion of the standard.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Little, Center for Computer Systems Engineering, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, MD 20899, (301) 921-3723.

Dated: May 1, 1986.
Ernest Ambler,
Director.

Federal Information Processing Standards Publication 121

(date)

Announcing the Standard for Videotex/Teletext Presentation Level Protocol Syntax (North American PLPS)

Federal Information Processing Standards Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15, Code of Federal Regulations (CFR).

Name of Standard. Videotex/Teletext Presentation Level Protocol Syntax (North American PLPS) (FIPS 121).

Category of Standard. Hardware and Software Standard, Interchange Codes.

Explanation. This standard describes the formats, rules, and procedures for the encoding of alphanumeric text and pictorial information for videotex and teletext applications. This standard is based upon the architecture defined in the multilayered reference model of open systems interconnection (OSI), under development by the International Organization for Standardization (ISO), but this standard does not define the OSI Standard presentation layer protocol itself. This standard defines a specific data syntax for use by OSI presentation layer protocols and some specific semantics for use at the application layer in videotex and teletext applications. This standard is based upon the American National Standard Code for Information Interchange (ASCII) and its extensions (as specified in FIPS 1-2). It is intended to be used in Federal information processing systems, communications systems, and associated videotex and teletext equipment.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standards (Institute for Computer Sciences and Technology).

Cross Index. American National Standard X3.110-1983/Canadian Standard T500-1983, Videotex/Teletext Presentation Level Protocol Syntax (North American PLPS).

Related Documents.

a. FIPS PUB 1-2, Code for Information Interchange, Its Representations, Subsets and Extensions (adopts three ANSI standards: X3.4-1977, X3.32-1973,

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X3.41–1974 and also has further specifications).

b. FIPS PUB 16–1, Bit Sequencing of the Code for Information Interchange in Serial-by-Bit Data Transmission (adopts ANSI X3.15–1976).

c. FIPS PUB 17–1, Character Structure and Character Parity Sense for Serial-by-Serial-Bit Data Communication in the Code for Information Interchange (adopts ANSI X3.16–1976).

d. FIPS PUB 18–1, Character Structure and Character Parity Sense for Parallel-by-Bit Data Communication in the Code for Information Interchange (adopts ANSI X3.25–1976).

e. FIPS PUB 80, Additional Controls for Use with American National Standard Code for Information Interchange (adopts ANSI X3.64–1979).

f. American National Standard X3.4–1977, Code for Information Interchange (ASCII).

g. American National Standard X3.41–1974, Code Extension Techniques for Use with the 7-Bit Coded Character Set of American National Standard Code for Information Interchange.

h. American National Standard X3.64–1979, Additional Controls for Use with American National Standard Code for Information Interchange.

i. International Standard ISO 646–1983, Information Processing—ISO 7-bit Coded Character Set for Information Interchange.

j. International Standard ISO 2022–1982, Information Processing—ISO 7-Bit and 8-Bit Coded Character Sets—Code Extension Techniques.

k. International Standard ISO 2375–1974, Data Processing—Procedure for Registration of Escape Sequences.

l. International Standard ISO 4873–1979, Information Processing—8-Bit Coded Character Set for Information Interchange.

m. International Standard ISO 6429–1983, Information Processing—ISO 7-Bit and 8-Bit Coded Character Set—Additional Control Functions for Character Imaging Devices.

n. International Standard ISO 6937/1–1982, Information Processing—Coded Character Sets for Text Communication, Part 1: General Introduction.

o. International Standard ISO 6937/2–1982, Information Processing—Coded Character Sets for Text Communication, Part 2: Latin Alphabetic and Non-Alphabetic Graphic Characters.

p. International Standard ISO 7498–1983, Data Processing—Open Systems Interconnection Basic Reference Model.

q. CCITT Recommendation V.3, 1972, International Alphabet No. 5.

r. CCITT Recommendation F.300–1980, Videotex Service.

s. CCITT Recommendation S.100–1980, International Information Exchange for Interactive Videotex.

Objective. The objective of this standard is to facilitate the interchange of videotex and teletext information between different transaction services and between equipment developed by different manufacturer's of videotex and teletext devices.

Applicability. This standard is applicable to Federal acquisition and use of data processing and communication systems, data systems, system components, and related equipment that may be required to accept, process, store, transmit or interchange character coded information representing alphanumeric text or pictorial information to be displayed or printed on videotex or teletext terminals. This standard is applicable to the representation of alphanumeric text and pictorial information at the interface between host computers and videotex terminals or between teletext data and teletext decoders.

Implementation. This standard becomes effective November 3, 1986. All equipment and data systems to which this standard is applicable that are brought into the Federal Government inventory on or after the effective date of this FIPS PUB must be in conformance with this standard unless a waiver has been obtained in accordance with the waiver provisions given below.

Specifications. This standard adopts in whole American National Standard X3.110–1983/Canadian Standard T500–1983, Videotex/Teletext Presentation Level Protocol Syntax (North American PLPS).

Waivers. Under certain exceptional circumstances, the head of the agency is authorized to waive the application of the provisions of this FIPS PUB. Exceptional circumstances which would warrant a waiver are:

a. Significant, continuing cost or efficiency disadvantages will be encountered by the use of this standard and,

b. The interchange of information between the system for which the waiver is sought and other systems is not anticipated.

Agency heads may act only upon written waiver requests containing the information detailed above. Agency heads may approve requests for waivers only by a written decision which explains the basis upon which the agency head made the required finding(s). A copy of each such decision, with procurement sensitive or classified portions clearly identified, shall be sent to the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaithersburg, Maryland 20899.

When the determination on a waiver request applies to the procurement of equipment and/or services, a notice of the waiver determination must be published in the *Commerce Business Daily* as a part of the notice of solicitation for offers on an acquisition or, if the waiver determination is made after that notice is published, by amendment to such notice.

A copy of the waiver request, any supporting documents, the document approving the waiver request and any supporting and accompanying document(s), with such deletions as the agency is authorized and decides to make under 5 U.S.C. Sec. 552(b), shall be part of the procurement documentation and retained by the agency.

Where to Obtain Copies. Copies of this publication are available for sale from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22161. (Sale of the included specifications document is by arrangement with the American National Standards Institute.) When ordering, refer to Federal Information Processing Standards Publication 121 (FIPSPUB121), and title. Payment may be made by check, money order, or deposit account.

[FR Doc. 86–10090 Filed 5–5–86; 8:45 am]
BILLING CODE 3510-CN-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Apparel Products Produced or Manufactured in Sri Lanka

April 30, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on May 7, 1986. For further information contact Nathaniel Cohen, Trade Reference Assistant, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

A CITA directive dated May 24, 1985 (50 FR 21923) established limits for certain specified categories of cotton, wool and man-made fiber textile products, including Categories 348 (women's, girls' and infants' cotton trousers), 634 (men's and boys' other coats of man-made fibers) and 648 (women's, girls' and infants' trousers of man-made fibers), produced or manufactured in Sri Lanka and exported during the agreement year which began on June 1, 1985 and extends through May 31, 1986. At the request of the Government of Sri Lanka, carryforward and swing are being applied to the restraint limits for Category 348, increasing it from 239,709 dozen to 272,745 dozen, and Category 648, increasing it from 184,868 dozen to 185,092 dozen, for the current agreement year. The limit for Category 634 is being reduced from 103,894 dozen to 92,417 dozen to account for the amount of swing applied to Categories 348 and 648, as provided in the agreement. The letter to the Commissioner of Customs which follows this notice implements the above amendments.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 28622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

Leonard A. Mobley,
Acting Chairman, Committee for the Implementation of Textile Agreements.

April 30, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of May 24, 1985, from the Chairman of the Committee for the Implementation of Textile Agreements, concerning imports into the United States of certain cotton, wool, and man-made fiber textile products, produced or manufactured in Sri Lanka and exported during the agreement period which began on June 1, 1985 and extends through May 31, 1986.

Effective on May 7, 1986, the directive of May 24, 1985, as amended, is hereby further amended to include the following adjusted restraint limits for Categories 348, 634 and 648:[1]

Category	Adjusted 12-mo limit [1]
348	272,745 dozen
634	92,417 dozen
648	185,092 dozen

[1] The limits have not been adjusted to account for any imports exported after May 31, 1986.

Also effective on May 7, 1986, I request that you deduct 2,986 dozen from charges to the adjusted restraint limit for Category 648.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553 (a)(1).

Sincerely,

Leonard A. Mobley,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–10098 Filed 5–5–86; 8:45 am]
BILLING CODE 3510-CN-M

Announcing Import Restraint Limits for Certain Cotton Textiles and Cotton Textile Products Produced or Manufactured in Egypt

April 30, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on May 6, 1986. For further information contact Eve Anderson, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377–4212.

Background

The Bilateral Cotton Textile Agreement of December 7, and 28, 1977, as amended and extended, between the Governments of the United States and the Arab Republic of Egypt establishes specific limits for carded and combed yarn in Categories 300/301, sheeting in Category 313, and twills and sateens in Category 317, produced or manufactured in Egypt and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986. Flexibility in the form of swing is available for application to these categories, except that there will be no swing between Categories 300/301, 300 and 301. Carryforward and carryover are not available in the 1986 Agreement year.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 28622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

Leonard A. Mobley,
Acting Chairman, Committee for the Implementation of Textile Agreements.

April 30, 1986.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Agreement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton Textile Agreement of December 7 and 28, 1977, as amended and extended, between the Governments of the United States and the Arab Republic of Egypt; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May 6, 1986, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 300/301, 313 and 317, produced or manufactured in Egypt and exported during the twelve-month period which began on January 1, 1986 and extends through December 31, 1986, in excess of the following restraint limits:

Category	12-mo restraint limits
300/301	9,031,250 pounds of which not more than 7,766,875 pounds shall be in Category 300 and not more than 1,264,375 pounds shall be in Category 301.
313	14,177,812 square yards.
317	7,599,308 square yards.

In 1986 restraint limits are subject to adjustment in the future, as applicable, according to the provisions of the bilateral agreement of December 7, and 28, 1977, as amended and extended, between the Governments of the United States and the Arab Republic of Egypt which provide, in part, that: specific limits may be exceeded by designated percentages to account for swing, except that no swing will be available between Categories 300/301, 300 and 301, provided that a corresponding reduction in equivalent square yards is made in another specific limit during the same agreement year. Any appropriate adjustments under the provisions of the bilateral agreement referred to above will be made to you by letter.

In carrying out this directive, entries of textile products in the foregoing categories, produced or manufactured in Egypt, which have been exported to the United States on

[1] The bilateral agreement provides, in part, that: (1) Specific limits and sublimits may be exceeded by certain designated percentages of the square yard equivalent total, provided the amount of the increase is compensated for by a decrease in equivalent square yards in one or more other specific limits; (2) specific limits may be increased for carryover or carryforward; (3) administrative adjustments or arrangements may be made to resolve minor problems arising in the implementation of the agreement.

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and after January 1, 1985 and extending through December 31, 1985, shall, to the extent of any unfilled balances, be charged against the levels established for that twelve-month period. To the extent levels established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this letter.

Textile products in Categories 306/361, 313 and 317 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 18, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1986).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86-10097 Filed 5-5-86; 8:45 am]

BILLING CODE 3510-DR-M

Changes to the Textile Category System

April 30, 1986.

The CORRELATION, Textile and Apparel Categories with the Tariff Schedules of the United States, Annotated, provides for placement of Tariff Schedules of the United States Annotated (T.S.U.S.A.) numbers in the Textile Category System. On March 31, 1986, the 484e Committee approved the following amendments to the T.S.U.S.A., reflecting certain administrative changes requiring changes to the CORRELATION. These changes are cited in the list which follows this notice.

EFFECTIVE DATE: July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Martin Walsh, International Agreements and Monitoring Division, Office of Textiles and Apparel, U.S. Department of Commerce, Washington, DC 20230, (202) 377-4212.

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

July 1, 1986—Changes to the Correlation

Category and New TSUSA numbers effective July 1, 1986.

410—Change 336.6241 to:
336.6305—worsted
336.6210—woolen
410—Change 336.6243 to:
336.6205—worsted
336.6210—woolen
410—Change 336.6247 to:
336.6265—worsted, less than 6 oz.
336.6275—woolen, less than 9 oz.
410—Change 336.6249 to:
336.6260—worsted, 6 oz. and over
410—Change 336.6251 to:
336.6275—woolen, less than 9 oz.
410—Change 336.6253 to:
336.6260—worsted, 6 oz. and over
410—Change 336.6254 to:
336.6270—woolen, 9 oz. and over
336.6275—woolen, less than 9 oz.
410—Change 336.6255 to:
336.6260—worsted, 6 oz. and over
336.6270—woolen, 9 oz. and over
336.6275—woolen, less than 9 oz.
410—Change 336.6257 to:
336.6260—worsted, 6 oz. and over
336.6270—woolen, 9 oz and over
336.6275—woolen, less than 9 oz.
410—Change 336.6441 to:
336.6405—worsted
336.6410—woolen
410—Change 336.6443 to:
336.6405—worsted
336.6410—woolen
410—Change 336.6447 to:
336.6465—worsted, less than 6 oz.
336.6475—woolen, less than 9 oz.
410—Change 336.6449 to:
336.6460—worsted, 6 oz. and over
410—Change 336.6451 to:
336.6475—woolen, less than 9 oz.
410—Change 336.6452 to:
336.6460—worsted, 6 oz. and over
410—Change 336.6454 to:
336.6470—woolen, 9 oz. and over
336.6475—woolen, less than 9 oz.
410—Change 336.6455 to:
336.6460—worsted, 6 oz. and over
336.6470—woolen, 9 oz. and over
336.6475—woolen, less than 9 oz.
410—Change 336.6457 to:
336.6460—worsted, 6 oz. and over
336.6470—woolen, 9 oz. and over
336.6475—woolen, less than 9 oz.
410—Change 337.5070 to:
337.5060—combed
337.5090—Not-combed
666—Change 363.2560 to:
363.2583—sheets
.363.2585—Pillowcases
.363.2587—Other
363—Change 365.6400 to:
365.6410—towels
360—Change 365.6400 to:
365.6430—wash cloths

[FR doc. 86-10096 Filed 5-5-86; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of information collection.

SUMMARY: The Commodity Futures Trading Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

ADDRESS: Persons wishing to comment on this information collection should contact Katie Lewin, Office of Management and Budget, Room 3235, NEOB, Washington, DC 20503, (202) 395-7231. Copies of the submission are available for Joseph G. Salazar, Agency Clearance Officer, (202) 254-9735.

Title: Large Trader Reports.

Abstract: This data collection operation concerns Federal Regulation of clearing members, futures commission merchants, foreign brokers and large traders holding large futures positions on commodity exchanges.

Control Number: 3038-0009.

ACTION: Revision of a currently approved collection.

Respondents: Individuals or households, farms, and businesses or others for-profit.

Estimated annual burden: 16,670 hours.

Issued in Washington, DC, on April 30, 1986.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 86-10050 Filed 5-5-86; 8:45 am]

BILLING CODE 6351-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following request for renewal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C., Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact for whom a copy of the information proposal may be obtained.

Revision

Information Collection Support of the DOD Acquisition Process (Solicitation Requirements) and Related Form (DD Form 1155).

Information concerns contractors' responses to government solicitations and is required to enable the evaluation and processing of contractors' offers.

Reporting is required to permit evaluation of offers.

Businesses or others for profit/small businesses or organizations and nonprofit institutions.

Responses: 27,050,000.

Burden Hours: 85,210,000.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503, and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302 telephone (202) 746-0933.

SUPPLEMENTARY INFORMATION: A copy of the information collection proposal may be obtained from Mr. Fred J. Kohout, ODASD(P)CPA, Room 3D116, Pentagon, Washington, DC 20301-8000, telephone (202) 697-8334. This is a revision of an existing collection.

Patricia H. Means,

OSD Federal Register Liaison Officer Department of Defense.

April 30, 1986.

[FR Doc. 86-10042 Filed 5-5-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

April 30, 1986.

The USAF Scientific Advisory Board Ad Hoc Committee to Review the Air Force Science and Technology Programs for Reliability, Maintainability and Logistics will conduct a closed meeting at Luke AFB, AZ and Dyess AFB, TX on 4-5 June 1986, from 8:00 am to 5:00 pm.

The purpose of the meeting will be to review Air Force Reliability, Maintainability and Logistics technology programs and evaluate their completeness and innovativeness to achieve Air Force goals.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-10046 Filed 5-5-86; 8:45 am]

BILLING CODE 3910-01-M

Privacy Act of 1974; New and Altered Record Systems

AGENCY: Department of the Air Force (DAF), DoD.

ACTION: Notices of a new and altered record systems subject to the Privacy Act.

SUMMARY: The Air Force is altering an existing record system and adding a new one to its inventory of record systems subject to the Privacy Act of 1974, as appended. The specific changes to the altered system are set forth below, followed by the altered system notice as amended in its entirety.

DATE: This proposed action will be effective without further notice June 5, 1986, unless comments are received which would result in a contrary determination.

ADDRESS: Send comments to Mr. Jon Updike, HQ USAF/DAQD, the Pentagon, Washington, D.C. 2033-5024. Telephone: 202-694-3431. Autovon: 224-3431.

SUPPLEMENTARY INFORMATION: Department of the Air Force systems of records notices subject to the Privacy Act of 1974, as amended. (5 U.S.C. 552a) have been published in the Federal Register as follows:

FR Doc. 85-10237 (50 FR 22332) May 29, 1985
FR Doc. 85-14122 (50 FR 24672) June 12, 1985
FR Doc. 85-15062 (50 FR 25737) June 21, 1985
FR Doc. 85-26775 (50 FR 46477) November 8, 1985
FR Doc. 85-29281 (50 FR 50337) December 10, 1985
FR Doc. 85-2527 (50 FR 4531) February 5, 1986
FR Doc. 85-4546 (50 FR 7371) March 3, 1986

An altered systems report as required by 5 U.S.C. 552a(o) of the Privacy Act and under guidelines established by paragraph 4b of Appendix 1 for OMB Circular No. A-130—Federal Agency Responsibilities for Maintaining Records About Individuals, dated December 12, 1985, was submitted on March 17, 1986. the new system report was submitted on March 31, 1986.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

April 30, 1986.

ALTERED RECORD SYSTEM

F 900 AF MP B

System Name:

900 AF MP B Suggestions, Inventions, Scientific Achievements (50 FR 22 560) May 29, 1985.

Changes:

System Location:

Delete entry, substitute: "Suggestion Program Division, Directorate of Requirements, Air Force Management Engineering Agency, Randolph AFB TX 78150-6431. Headquarters of major commands and separate operating agencies and direct reporting units. Base personnel offices. Official mailing addresses are in the Department of Defense Directory in the appendix to the Air Force's systems notices and in Air Force Pamphlet (AFP) 12.36, attachment 3."

Categories of individuals covered by the system:

Delete entry, substitute: "Any individual submitting a suggestion, invention, scientific achievement."

Authority for maintenance of the system:

Delete entry and substitute: "5 USC, chapter 45, Incentive Awards; and 10 USC 1124, Cash awards for suggestions, inventions or scientific achievements; as implemented by Air Force Regulation 900-4, The Air Force Suggestion Program."

Purpose(s):

Delete entry and substitute: "Files are originated when personnel initiate a suggestion, invention, or scientific achievement. Case files and computer output products are reviewed by the suggestion office personnel, and are referred to the suggestion awards committee for review when required by governing directives. Copy of approved award is filed in civilian employee's official personnel file. Copy of approved award is not retained elsewhere for military member."

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Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Add: ", computer and computer output products." to existing sentence.

Retrievability:

Add: "or SSN" to the sentence.

Retention and disposal:

Delete and substitute: "Individual name files are retained for not more than one year after end of year in which the final actions was taken. Records of committee action are retained for two years."

System manager(s) and address:

Delete and substitute: "HQ Management Engineering Agency, Randolph AFB TX 78150-6431."

Record access procedures:

Add to existing sentence: "or the installation suggestion program manager."

Contesting record procedures:

Add to existing sentence: "and are published in AFB 12-35. (32 CFR Part 806b)."

F900 AF MP B

SYSTEM NAME:

900 AF MP B Suggestions, Inventions, Scientific Achievements.

SYSTEM LOCATION:

Suggestion Program Divisions, Directorate of Requirements, Air Force Management Engineering Agency, Randolph AFB TX 78150-6431. Headquarters of major commands and separate operating agencies and direct reporting units. Base personnel offices. Official mailing addresses are in the Department of Defense Directory in the appendix to the Air Force's systems notices and in Air Force Pamphlet (AFP) 12-36, attachment 3.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Any individual submitting a suggestion, invention, scientific achievement.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files include suggestion forms, evaluations and substantiating documentation consisting of forms, certificates, administrative correspondence; records of committee actions; award actions; reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 USC, chapter 45, Incentive Awards; and 10 USC 1124, Cash awards for suggestions, inventions or scientific achievements; as implemented by Air Force Regulation 900-4, The Air Force Suggestion Program.

PURPOSE(S):

Files are originated when personnel initiate a suggestion, invention, or scientific achievement. Case files and computer output products are reviewed by the suggestion office personnel, and are referred to the suggestion awards committee for review when required by governing directives. Copy of approved award is filed in civilian employee's official personnel file. Copy of approved award is not retained elsewhere for military member.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket routine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders and on cards, computer and computer output products.

RETRIEVABILITY:

Filed by name or SSN

SAFEGUARDS:

Records are accessed by custodian of the record system and by persons(s) responsible for servicing the records in performance of their official duties who are properly screened and cleared of need-to-know.

RETENTION AND DISPOSAL:

Individual name files are retained for not more then one year after end of year in which the final action was taken. Records of committee action are retained for two years.

SYSTEM MANAGER(S) AND ADDRESS:

HQ Management Engineering Agency, Randolph AFB TX 78150-6431.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the System Manager.

RECORD ACCESS PROCEDURE:

Individual can obtain assistance in gaining access from the System Manager or the installation suggestion program manager.

CONTESTING RECORDS PROCEDURE:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in AFR 12-35. (32 CFR Part 806b).

RECORD SOURCE CATEGORIES:

Information obtained from source document (Suggestion Form) include name, Social Security Number, job title, home or mailing address, grade and organizational address.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

New Record System

F125 AFSC A

SYSTEM NAME:

125 AFSC A AFSC Badge and Vehicle Control Records

SYSTEM LOCATION:

Headquarters Air Force Systems Command (HQ AFSC/SIRS and HQ AFSC/SP), Andrews AFB MD 20334-5000; AFSC bases.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

AFSC military and civilian personnel and visitors to AFSC headquarters and installations.

CATEGORIES OF RECORDS IN THE SYSTEM:

Badge and vehicle control records to include name; home address; home telephone; citizenship; grade or rank; SSN; clearance level; company employed by; military address; vehicle state license tag data; vehicle make, year, type and color; decal number; revoked license status.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 USC 8012, Secretary of the Air Force: Powers and duties; delegation by.

PURPOSE(S):

Badge records are used to record building/area-entry credential information, including information on the loss or theft of these credentials. Motor vehicle records are used to identify vehicles parked in an unsafe manner, enforce vehicle flow plan, notify owners, in case of evacuation and maintain effective security plan.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records from this system of records may be disclosed for any of the blanket rourtine uses published by the Air Force.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computers and computer output products, and in paper form.

RETRIEVABILITY:

Records are retrieved by SSN.

SAFEGUARDS:

Records are accessed by persons responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in locked babinets, locked rooms, or buildings with controlled entry. Computer records are controlled by computer system software.

RETENTION AND DISPOSAL:

Badge records are destroyed immediately after badge is premanently surrendered or confiscated. Vehicle records are destroved immediately after termination of registration.

SYSTEM MANAGER(S) AND ADDRESS:

Hq AFSC/SP, Andrews AFB MD 20334-5000 for HQ AFSC, or Chief of Security Police for AFSC installations.

NOTIFICATION PROCEDURE:

Requests from individuals should be addressed to the system manager.

RECORD ACCESS PROCEDURE:

Individuals may gain access from the system manager

CONTESTING RECORD PROCEDURES:

The Air Force's rules for access to records and for contesting and appealing initial determinations by the individual concerned may be obtained from the System Manager and are published in Air Force Regulation 12-35.

RECORD SOURCE CATEGORIES:

Information obtained from individuals and from automated system interface.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 86-10044 Filed 5-5-86; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Contingency Arrangements for the Coastal Engineering Research Board (CERB) Meeting

In the event of adverse weather conditions or unforeseen circumstances, the following alternate agendas or changes will be made at the 45th meeting of CERB now scheduled in Fairbanks, Prudhoe Bay, Valdez, and Homer, Alaska, on May 14-16 1986. See announcement of meeting published in the **Federal Register**, Vol. 51, No. 78, dated Wednesday, April 23, 1986, 15361.

Change Number 1: In the event of adverse weather in Prudhoe Bay causing the cancellation of the field trip on May 14, there will be presentations and discussions scheduled on that day in Fairbanks. On May 15 the flight of Valdez with tour is scheduled, and a discussion of the field trip is scheduled in Homer, Alaska. On May 16 presentations will be made and participation by the public is scheduled in Homer for 10:00 a.m. The meeting will adjourn at 11:30 a.m.

Change Number 2: In the event that the field trip to Valdez on May 15 is cancelled due to adverse weather, the following will apply: On May 14 there will still be presentations in Fairbanks and a field trip on Prudhoe Bay; on May 15 there will be a fligh to Homer, Alaska, and discussions and presentations in the afternoon; the session on May 16 will consist of presentations and participation by the public is scheduled for 1:55 p.m. The meeting will adjourn at 3:30 p.m.

Change Number 3: In the event the trip to Homer on May 14 is cancelled due to adverse weather or other unforeseen events, the entire meeting will be held in Fairbanks. The session on May 14 will still consist of presentations and a tour of Prudhoe Bay. On May 15 a flight to Valdez and a tour of their facilities is planning, return to Fairbanks, and a discussion of the field trip is planned. The May 16 session will consist of presentations and participation by the public is scheduled for 3:05 p.m. The meeting will adjust at 4:35 p.m.

To find out if the original agenda has been changed, please call Mr. Carl D. Stormer, U.S. Army Engineer District, Alaska, at 907/753-2741.

Allen F. Grum,

Colonel USA, Executive Secretary.

[FR Doc. 86-10106 Filed 5-5-86; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; (8) The point of contact from whom a copy of the information proposal may be obtained.

Extension

Application for MSC Afloat Employment MSC 12310/1

The information obtained is used to establish eligibility for MSC afloat employment and provide information for applicant evaluation for employment based on past work experience and education. Because the need for specific license and certification information is required, a custom form is necessary. The MSC Form is used in lieu of an SF-171.

Individuals

Responses 11,500

Burden hours 17,250

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson-Davis Highway, Suite 1204, Arlington, VA 22202-4302, telephone (202) 746-0933.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection proposal may be obtained from Mr. John J. Foley, Department of the Navy, Military Sealift Command, Washington, DC 20390, telephone 202-282-2624.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

April 30, 1986.

[FR Doc. 86-10043 Filed 5-5-86; 8:45 am]

BILLING CODE 3810-01-M

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Chief of Naval Operations, Executive Panel Advisory Committee, Strategic Defense and Naval Warfare Task Force; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Chief of Naval Operations (CNO) Executive Panel Advisory Committee Strategic Defense and Naval Warfare Task Force will meet May 29–30, 1986, from 9 a.m. to 5 p.m. each day, at 4401 Ford Avenue, Alexandria, Virginia. All sessions will be closed to the public.

The purpose of this meeting is to assess the Navy's potential role in strategic defense architecture, and related intelligence. The entire agenda for the meeting will consist of discussions of key issues regarding strategic defense systems in support of U.S. national security. These matters constitute classified information that is specifically authorized by Executive order to be kept secret in the interest of national defense and is, in fact, properly classified pursuant to such Executive order. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting, contact Lieutenant Paul G. Butler, Executive Secretary of the CNO Executive Panel Advisory Committee, 4401 Ford Avenue, Room 908, Alexandria, Virginia 22302–0268. Phone (703) 756–1205.

Dated: May 1, 1986.

William F. Ross, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 86–10207 Filed 5–5–86; 8:45 am]

BILLING CODE 3810-AE-M

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Naval Research Advisory Committee Panel on Over the Horizon Targeting Capabilities will meet on May 22–23, 1986, at the Science Applications International Corporation, 1710 Goodridge Drive, McLean, Virginia. The meeting will commence at 9:00 A.M. and terminate at 4:30 P.M. on May 22 and commence at 9:00 A.M. and terminate at 12:30 P.M. on May 23, 1986. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to conduct a comprehensive review of existing and planned over the horizon targeting programs; determine current and projected over the horizon targeting and related command and control capabilities and limitations; identify any problems and recommend solutions. The agenda for the meeting will consist of technical briefings addressing over the horizon targeting capabilities, programs, funding and shortfalls. These briefings will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and are in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting.

Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander T.C. Fritz, U.S. Navy, Office of the Chief of Naval Research (Code 00NR), 800 North Quincy Street, Arlington, VA 22217–5000, Telephone number (202) 696–4870.

Dated: May 1, 1986.

William F. Ross, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 86–10208 Filed 5–5–86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(i)), the following meeting notice is provided:

A joint meeting of Subcommittees A and C of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on May 13, 14 and 15, 1986, at the offices of Exxon Corporation, 1251 Avenue of the Americas, New York, New York, beginning at 9:00 a.m. on May 13. The agenda for the meeting is as follows:

1. Opening remarks.
2. U.S. Plan of Action.
3. Future work programs.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting is open only to representatives of members of Subcommittees A and C of the IAB, their counsel, representatives of the Departments of Energy, Justice, State, the Federal Trade Commission, and the General Accounting Office, representatives of committees of Congress, representatives of the IEA, representatives of the Commission of the European Communities, and invitees of the IAB or the IEA.

Issued in Washington, DC, May 1, 1986.

Eric J. Fygi,

Acting General Counsel.

[FR Doc. 86–10179 Filed 5–5–86; 8:45 am]

BILLING CODE 6450-01-M

Energy Information Administration

Agency Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration.

ACTION: Notice of submission of request for clearance to the Office of Management and Budget.

SUMMARY: The Department of Energy (DOE) has submitted the energy information collections, listed at the end of this notice, to the Office of Management and Budget (OMB) for approval under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The listing does not contain information collection requirements contained in regulations which are to be submitted under 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by DOE.

Each entry contains the following information and is listed by the DOE sponsoring office: (1) The collection number(s); (2) Collection title; (3) Type of request, e.g., new, revision, or extension; (4) Frequency of collection; (5) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (6) Affected public; (7) An estimate of the number of respondents; (8) Annual respondent burden, i.e., an estimate of the total number of hours needed to respond to the collection; and (9) A brief abstract describing the proposed collection and, briefly, the respondents.

DATE: Comments should be filed within 10 days of publication of this notice. Last notice published Wednesday, April 2, 1986 (51 FR 11336).

ADDRESS: Address comments to Mr. Vartkes Broussalian, Department of Energy Desk Officer, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503. (Comments may also be addressed to, and copies of the submissions obtained from, Mr. Gross at the address below.)

FOR FURTHER INFORMATION CONTACT: John Gross, Director, Data Collection Services Division (EI–73), Energy Information Administration, M.S. 1H–023, Forrestal Building, 1000 Independence Ave., SW., Washington, DC 20585, (202) 252–2308.

SUPPLEMENTARY INFORMATION: This request constitutes a revision to the original proposal submitted to OMB on Thursday, October 17, 1985 (50 FR 42078) covering Forms EIA–1, 3, 4, 5, 5A, 6, 7A, 7A(Supp), 20, and 97. In this proposal we are no longer seeking approval for Forms EIA–5A and EIA–7A(SPP); we also have modified the proposal for the Forms EIA–3, 5 and 97. Forms EIA–1, 4, 6, 7A and 20 will remain the same.

Furthermore, we are seeking approval for this proposal only through March 1987. Within the next several months, however, we intend to propose further modifications to the EIA–3, 5, 6 and 7A. We will provide ample opportunity for public and other agency comments during the period. In any event, we plan to submit this revised proposal to OMB in the early autumn of 1986.

If you anticipate commenting on a collection, but find that time to prepare these comments will prevent you from submitting comments promptly, you should advise Mr. Broussalian of your intent as early as possible.

Issued in Washington, DC, May 2, 1986.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

DOE Collections Under Review by OMB

Collection No. (1)	Collection title (2)	Type of request (3)	Response frequency (4)	Response obligation (5)	Affected public (6)	Estimated number of respondents (7)	Annual respondent burden hrs (8)	Abstract (9)
EIA–1, 3, 4, 5, 6, 7A, 20 and 97.	Coal program package.	Revision	Weekly, quarterly, annual.	Mandatory	Businesses or other for profit.	9627	25737	The coal surveys collect data on coal production, consumption, stocks, prices, imports, and exports. Data are collected from manufacturing plants, coke producers, coal mining operations, coal purchasers and distributors, coal-consuming electric utilities, and boiler manufacturers. The data are published, used in EIA models and analyses, and used by other government and private organizations.

[FR Doc. 86–10222 Filed 5–5–86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA86–3–2–000,001]

East Tennessee Natural Gas Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

April 29, 1986.

Take notice that on April 23, 1986, East Tennessee Natural Gas Company (East Tennessee) filed Seventeenth Revised No. 4 to Original Volume No. 1 of its FERC Gas Tariff, to be effective April 25, 1986.

East Tennessee states that the purpose of the filing is to reflect a gas rate reduction based on the projected cost of gas supplies purchased from East Tennessee's local producers during the period April 25, 1986 throught June 30, 1986.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street N.E., Washington, D.C. 20426 in accordance with Rules 206 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before May 7, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestant's parties to the proceeding. Any persons wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–10076 Filed 5–5–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA86–4–2000 and 001]

Granite State Gas Transmission, Inc.; Proposed Changes in Rates

April 29, 1986.

Take notice that on April 23, 1986, Granite State Gas Transmission, Inc. (Granite State), 120 Royall Street, Canton, Massachusetts 02021 tendered for filing with the Commission the following revised tariff sheets containing changes in rates in its FERC Gas Tariff, First Revised Volume No. 1.

Proposed Tariff Sheets and Effective Dates

Substitute Fifteen Revised Sheet No. 7—April 1, 1986
Substitute Thirteenth Revised Sheet No. 7—November 1, 1985
Substitute Second Revised Sheet No. 7–A—November 1, 1985
Second Substitute Thirteenth Revised Sheet No. 7—December 31, 1985
Third Revised Sheet No. 7–A—December 31, 1985
Substitute Fifth Revised Sheet No. 8—August 1, 1985
Sixth Revised Sheet No. 8—November 1, 1985
Seventh Revised Sheet No. 8—January 1, 1986

According to Granite State, the filing includes reduced sales rates reflecting an out-of-cycle purchased gas cost adjustment applicable to sales to Bay State Gas Company (Bay State) and Northern Utilities, Inc. (Northern Utilities), effective April 1, 1986. Granite State further states that its reduced gas costs result from a change in its gas purchase pattern, reducing purchases of available firm supplies to utilize a favorable "spot market" purchase. Also, Granite State states that the reduced gas costs reflect a reduction in gas costs from a firm supplier, effective April 1, 1986.

The effect of the reduction in gas costs, according to Granite State, is an annual reduction in the rates for sales to Bay State of $12,092,706 and an annual reduction in the rates for sales to Northern Utilities of $1,566,130. Bay State will also experience an additional annual reduction of $528,000 as a result

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of a reduction in certain transportation costs, Granite State further states.

According to Granite State, the filing also includes revised rates for a storage service, a storage-related transportation service and other transportation services for Bay State which track changes in suppliers' rates for these services pursuant to certificate orders issued by the Commission.

According to Granite State, copies of the filing were served upon its customers and the regulatory commissions of the States of Maine, Massachusetts and New Hampshire.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20428, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before May 7, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10077 Filed 5-5-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA86-6-51-003]

Great Lakes Gas Transmission Company; Proposed Changes in FERC Gas Tariff Under Purchased Gas Adjustment Clause Provisions

April 29, 1986.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes"), on April 24, 1986, tendered for filing Second Substitute Fifty-Eighth Revised Sheet No. 57, First Revised Volume No. 1 to its FERC Gas Tariff.

Great Lakes states that the filing provides for a purchased gas cost adjustment to reflect a reduction, of 3¢ to 41¢ per MMBtu in its cost of gas purchased for resale to certain of its customers, namely Michigan Power Company, Peoples Natural Gas Company, Inter-City Gas Corporation and ANR Pipeline Company as well as the surcharge rate filed for on March 31, 1986. These reductions result from the operation of indexing mechanisms in Great Lakes' gas purchase contracts with TransCanada Pipelines Limited which have been previously filed with the Commission in various filings by Great Lakes.

Great Lakes further states that due to an extremely heavy work load related to numerous discovery requests in its presently pending general rate increase application these reductions were inadvertently overlooked in Great Lakes' purchased gas cost surcharge filing of March 31, 1986 in Docket No. TA86-6-51-003,001. Therefore Great Lakes requests that Second Substitute Fifty-Eighth Revised Sheet No. 57 replace the similar tariff sheet filed on March 31, 1986 to be effective May 1, 1986.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20428, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before May 7, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10078 Filed 5-5-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER86-453-000]

Southern California Edison Co.; Filing

April 30, 1986

The filing company submits the following:

Take notice that, on April 29, 1986, Southern California Edison Company ("Edison") tendered for filing an agreement entitled "Edison-Salt River Project Interruptible Transmission Service Agreement", which has been executed by Edison and the Salt River Project Agricultural Improvement and Power District ("Salt River Project").

Under the terms and conditions of the Agreement, Edison will make available to Salt River Project interruptible transmission service from a specified point of receipt to specified point of delivery.

The Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the Salt River Project Agricultural Improvement and Power District.

Any person desiring to be heard or to protest this application should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20428, in accordance with Section 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 9, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10079 Filed 5-5-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. C86-339-000]

Sugar Creek Producing Co.; Application for Limited-Term Abandonment

April 30, 1986.

Take notice that on April 17, 1986, as supplemented on April 25, 1986, Sugar Creek Producing Company (Applicant), One Texas Centre, 415 Texas Street, Suite 410, Post Office Box 1758, Shreveport, Louisiana 71166, filed in the above docket an application pursuant to section 7(b) of the Natural Gas Act, the Commission's Regulations thereunder and the Commission's declaration of policy in Order No. 436, for authorization to abandon for a limited term certain sales and its service obligations with respect thereto established under the small producer certificate of public convenience and necessity issued to Applicant in Docket No. CS77-382. Applicant states that it is subject to substantially reduced takes without payment.

Applicant states that it is an independent producer which sells natural gas to United Gas Pipe Line Company (United) pursuant to a sales contract dated April 1, 1982, which superseded a contract dated August 21, 1959. The term of the contract, according to Applicant, is for the life of the leases covered by the contract, and under the contract Applicant sells gas to United from the following described wells:

Well Name and NGPA Well Pricing Category

Averett No. 1—Section 108
Brown No. A-1—Section 108
Brownfield No. 1—Section 104
Hodges No. A-1—Section 104
Sims No. B-1—Section 104
Stevenson-Kilpatrick No. 1—Section 104
White No. 1—Section 108

These wells are located in Sugar Creek Field, Claiborne Parish, Louisiana.

Applicant states that United is taking only approximately 26 Mcf/d of the available deliverability of approximately 382 Mcf/d from the above-described wells which are covered by the contract. Accordingly, Applicant desires to abandon for a term of 2½ years its service and sales with respect to the gas produced from the above-described wells in order to enable Applicant to seek other markets for this gas.

The circumstances presented in the application meet the criteria for consideration on an expedited basis, pursuant to Section 2.77 of the Commission's rules as promulgated by Order Nos. 436 and 436-A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85-1-000, all as more fully described in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should, on or before 15 days after the date of publication of this notice in the Federal Register, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in the proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10080 Filed 5-5-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP80-97-005]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Tariff Revisions

April 29, 1986.

Take notice that on April 23, 1986, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing the following revised tariff sheets to its FERC Gas Tariff.

First Revised Volume No. 1

Second Substitute Original Sheet No. 394
Second Substitute Original Sheet No. 395
Second Substitute Original Sheet No. 396

Sixth Revised Volume No. 2

First Revised Sheet No. 299AAA
First Revised Sheet No. 299AAA1
First Revised Sheet No. 299AAA2
First Revised Sheet No. 299AAA3
First Revised Sheet No. 299AAA4
First Revised Sheet No. 299AAA5
First Revised Sheet No. 299AAA6
First Revised Sheet No. 299AAA7
First Revised Sheet No. 299AAA8
First Revised Sheet No. 299AAA9
First Revised Sheet No. 299AAA10
First Revised Sheet No. 299AAA11

These tariff sheets are proposed to be effective December 1, 1985. The purpose of the tariff sheets is to correct certain technical errors and omissions in Tennessee's April 7, 1986 tariff filing in this docket.

Tennessee states that Revised Sheet Nos. 394 through 396 in First Revised Volume No. 1 contain an effective date of December 1, 1985, instead of November 1, 1985, to reflect the fact that the rates and entitlements for Rate Schedules FSST-E and FSST-NE became effective on December 1, 1985. Tennessee asserts that these sheets also correct rounding errors in the entitlements for Rate Schedule CGT-NY and CGT-NE customers.

Tennessee states that Revised Sheet Nos. 299AAA through 299AAA11 in Sixth Revised Volume No. 2 constitute Rate Schedule T-130 with rates expressed on a dekatherm basis and with reduced service authorizations in accord with the Commission's order issued June 14, 1985 in Docket Nos. CP84-441, *et al.* Tennessee requests an effective date of December 1, 1985, consistent with the effective date of the reduced service authorizations.

Tennessee requests any waivers the Commission deems necessary in order to permit these tariff sheets to become effective as proposed. Tennessee states that copies of the filing have been mailed to all of its customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214, 385.214). All such motions or protests should be filed on or before May 7, 1986. Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

FR Doc. 86-10081 Filed 5-5-86; 8:45am]

BILLING CODE 6717-01-M

[Docket Nos. ES86-38-000 et al.]

Edison Sault Electric Company et al.; Electric Rate and Corporate Regulation Filings

April 30, 1986.

Take notice that the following filings have been made with the Commission:

1. Edison Sault Power Company

[Docket No. ER86-38-000]

Take notice that on April 23, 1986, Edison Sault Electric Company (Applicant) filed an application seeking authority pursuant to section 204 of the Federal Power Act to issue up to $2,500,000 principal amount of short-term debt with final maturities of no later than December 31, 1986.

Comment date: May 22, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Southern California Edison Company.

[Docket No. ER86-425-000]

Take notice that, on April 25, 1986, Southern California Edison Company ("Edison") tendered for filing, as a supplement to the Integrated Operations Agreement ("IOA"), designated Rate Schedule FERC No. 94, the following agreement, which has been executed by Edison and the City of Riverside, California ("Riverside"): Supplemental Agreement for the Integration of Riverside's Entitlement in the Palo Verde Nuclear Generating Station.

The Supplemental Agreement provides for certain specific details relating to the integration of Riverside's entitlement to power from the Palo Verde Nuclear Generating Station as required by the IOA.

The Supplemental Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission; and as such,

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Edison requests, to the extent necessary, waiver of notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Riverside, California.

Comment date: May 13, 1986, in accordance with Standard Paragraph E at the end of this document.

3. Bangor Hydro-Electric Company

[Docket Nos. ER86-145-000 and ER86-146-000]

Take notice that on April 21, 1986, Bangor-Hydro Electric Company tendered for filing an explanation of its deficiencies in its previous filing with respect to Part 35 of the Commission's Regulations.

Bangor Hydro states as follows:

Bangor Hydro has revised its energy charge as requested by FERC and filed an amended schedule on February 11, 1986.

Bangor Hydro did not prepare any cost of service studies for this rate. The maximum reservation charge is associated with Mystic #7 is a fossil fuel unit and typical of the type of unit being bought and sold in New England at this time.

Bangor Hydro does not currently have any similar rate schedule on file with FERC. However, it buys under this type of arrangements from Central Vermont Public Service Corporation (FERC Rate Schedules Nos. 127 and 129; Docket Nos. ER86-147-000 and ER86-148-000), Northeast Utilities (FERC Docket No. ER84-264-000) and the New Brunswick Electric Power Commission.

Bangor Hydro requires the customer of this rate to be an interconnected electric utility and is competing with other interconnected electric utilities to supply and sell capacity and energy. The utilities named in the above paragraph offer this similar service. Bangor's service compares favorably with similar services in availability, firmness, price and terms. Availability is directly associated with the ability of one or more units to provide power. This is firm power. The price is set on a competitive basis so that the buyer will request the service. Terms are substantially the same as the rate schedules mentioned above. Transmission limitations are not expected to affect the purchaser's alternatives. This is an economic transaction and alternatives are almost always available either on the purchaser's own system or from a competitor and the availability of these alternatives determines the negotiated price.

Comment date: May 12, 1986, in accordance with Standard paragraph E at the end of this notice.

4. The Kansas Power and Light Company and Midwest Energy, Inc.

[Docket No. ER86-423-000]

Take notice that the Kansas Power and Light Company and Midwest Energy, Inc., on April 24, 1986 tendered for filing proposed changes in its Federal Energy Regulatory Commission Electric Service Tariff No. 123.

Schedule H and Addendum No. 2 to Service Schedule K—Participation Power Service provides for the purchase of Participation Power by Midwest Energy, Inc. for the period June 1, 1986 through September 30, 1986 and minor contract wording changes.

Copies of the filing were served upon Kansas Corporation Commission.

Comment date: May 13, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Tampa Electric Company

[Docket No. ER86-423-000]

Take notice that on April 24, 1986, Tampa Electric Company (Tampa Electric) tendered for filing an Agreement for Interchange Service between Tampa Electric and the Florida Municipal Power Agency (FMPA). The Agreement was supplemented with Service Schedules A, B, C, J, and X, providing for emergency, scheduled, (short-term) economy, negotiated, and extended economy interchange service, respectively.

Tampa Electric proposes an effective date of May 1, 1986, and therefore requests waiver of the Commission's notive requirements.

Copies of the filing have been served on FMPA and the Florida Public Service Commission.

Comment date: May 13, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR 86-10075 Filed 5-5-86; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 8833-001]

Enco Development Corp., Surrender of Preliminary Permit

April 25, 1986.

Take notice that Enco Development Corporation, permittee for the Yaak Falls Hydropower Project No. 8833 has requested that its preliminary permit be terminated. The preliminary permit for Project No. 8833 was issued on July 19, 1985, and would have expired on December 30, 1986. The project would have been located on the Yaak River, within the Kootenai National Forest in Lincoln County, Montana.

The permittee filed the request on October 30, 1985, and the preliminary permit for Project No. 8833 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb
Secretary.

[FR Doc. 86-10073 Filed 5-5-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CS86-40 et al.]

First City National Bank of Midland, Trustee (Midland National Bank, Trustee), et al.; Applications for Small Producer Certificates[1]

April 30, 1986.

Take notice that each of the Applicants listed herein has filed an application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a small producer certificate of public convience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with Commission and open to public inspection.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Any person desiring to be heard or to make protest with reference to said applications should on or before May 15, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211,385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

Docket No.	Date filed	Applicant
CS86-40	[1] 3-28-86	First City National Bank, of Midland, Trustee, (Midland National Bank, Trustee) P.O. Box 10066, Midland, TX 79702.
CS71-987-001	[2] 4-16-86	Westland Oil Development Corp. and Westland Oil & Gas Properties, Inc. (Westland Oil Development Corp.) P.O. Box 900, Montgomery, TX 77356.
CS72-177-000	[3] 4-21-86	Mark H. Adams, *et al.* (Mark H. Adams) P.O. Box 273, Wichita, KS 67201-0273.
CS72-235-001	[4] 4-21-86	Nelle Son De Regger Trust, *et al.* (Mrs. Nelle Son de Regger) P.O. Box 1178, Wichita, KS 67201.
CS74-320	[5] 3-28-86	Bellwether Exploration Co. (Bellwether, Ltd.) 600 Seventeenth Street, Suite 400-N Denver, CO 80202.
CS86-44-000	3-26-86	Border Company, a Partnership, 1063 Du Pont Building, Wilmington, DE 19898.
CS86-49-000	3-26-86	Virginia Storey Wilson, 1400 Tilden Street, Wichita Falls, TX 76309.
CS86-50-000	3-27-86	Western Gas Processors, Ltd., 10701 Melody Drive, Northglenn, CO 80234.
CS86-51-000	3-27-86	Asher Resources, *et al.* 909 N.E. Loop 410 Ste. 820, San Antonio, TX 78209.
CS86-53-000	4-2-86	Legacy Energy Corp. 7909 Wrenwood Blvd. Suite D, Baton Rouge, LA 70809.
CS86-55-000	4-7-86	Fell Oil & Gas Co., P.O. Box 9467, Tulsa, OK 74157.
CS86-57-000	4-22-86	Elmore U. Chase, P.O. Box 11274, Midland, TX 79702.
CS86-58-000	4-21-86	Sunland Oil Co. P.O. Drawer 1977, El Paso, TX 79950-1977.

[1] By letter dated March 25, 1986, Applicant requests that its small producer certificate be redesignated under the name of First City National Bank of Midland, Trustee.

[2] By letter dated April 14, 1986, Applicant requests that its small producer certificate be amended to include Westland Oil & Gas Properties, Inc.

[3] By letter dated February 26, 1986, as supplemented by letter dated April 17, 1986, Applicant requests that its certificate be amended to include Mark H. Adams, II, Mark H. Adams Estate, Lucille Hammerly, Jeanne E. Hibbs, Russell S. Howard, Jr., Helen G. Walton, Robert H. Walton, Helen L. Westfall, Charles A. Williams, Jr., and Wilbur McBride.

[4] By letter dated April 18, 1986, Applicant requests that its certificate include Nelle Son de Regger Trust; Martha Johnson; John F. Hamilton, Jr. 1965 Trust; John H. McCulchen; Robert N. McCulchen; James F. Corcoran; Mary Jane Morgan; Warren M. Sparks; Carl K. Welton; John Hesling; Mary Anne Hesling; Suzanne Robinson, Trustee of the Floribel Hamilton Trust; Jeanette C. Adams; and Rosemary Boren Morche.

[5] Letter dated March 25, 1986, reflecting change in name of certificate holder.

[FR Doc. 86-10074 Filed 5-5-86; 8:45 am]
BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53077; FRL-2995-5]

Premanufacture Notices; Monthly Status Report for August 1985

Correction

In FR Doc. 86-6996, beginning on page 15374, in the issue of Wednesday, April 23, 1986, make the following corrections:

1. On page 15376, in Table I, in entry P 85-1368, the last column should read "Nov. 16, 1985".

2. Also on page 15376, the portion of Table II that appears on that page should read as follows:

II. 156 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH

PMN NO.	
P 85-1141	P 85-1163
P 85-1142	P 85-1164
P 85-1143	P 85-1165
P 85-1144	P 85-1166
P 85-1145	P 85-1167
P 85-1146	P 85-1168
P 85-1147	P 85-1169
P 85-1148	P 85-1170
P 85-1149	P 85-1171
P 85-1150	P 85-1172
P 85-1151	P 85-1173
P 85-1152	P 85-1174
P 85-1153	P 85-1175
P 85-1154	P 85-1176
P 85-1155	P 85-1177
P 85-1156	P 85-1178
P 85-1157	P 85-1179
P 85-1158	P 85-1180
P 85-1159	P 85-1181
P 85-1160	P 85-1182
P 85-1161	P 85-1183
P 85-1162	P 85-1184

BILLING CODE 6560-01-M

[OPTS-59218; FRL-3005-9]

Certain Chemicals Test Marketing Exemption Applications; Coatex Circuit Products/USA et al.

Correction

In FR Doc. 86-8836, beginning on page 15685, in the issue of Friday, April 25, 1986, make the following correction:

On page 15686, first column, under "T86-37", first line, "May 2, 1986" should read "May 22, 1986".

BILLING CODE 6560-01-M

[FRL-3012-7]

M-44 Sodium Cyanide Capsules: Filing of Objections to Intent to Modify Order

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Filing of Objections and Notices of Intent to Participate in Hearing.

Notice is hereby given, pursuant to 40 CFR 164.8 issued under the Federal Insecticide, Fungicide, and Rodenticide Act as amended (7 U.S.C. 136 *et seq.*) that objections to all proposed modifications and notices of intent to participate in hearings were filed by interested persons in connection with the Administrator's March 11, 1986, Notice of Hearing and Notice of Intent to Modify the 1975 Order relating to M-44 sodium cyanide capsules, 51 Federal Register 9515 (March 16, 1986). These proceedings have been consolidated.

For further information, interested persons may refer to the dockets on file with the Hearing Clerk, U.S. Environmental Protection Agency (Mail Code A-110) Room 3706, Waterside Mall, 401 M Street, SW., Washington, DC 20460 [(202) 382-4865].

J.F. Greene,
Administrative Law Judge.

April 22, 1986.

[FR Doc. 86-10101 Filed 5-5-86; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1586]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

April 28, 1986.

Petitions for reconsideration have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these

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documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, D.C., or may be purchased from the Commission's copy contractor, International Transcription Service (202–857–3800). Oppositions to these petitions must be filed within 15 days after publication of this Public Notice in the Federal Register. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Part 74 of the Commission's Rules and Regulations in Regard to the Instructional Television Fixed Service. (MM Docket No. 83–523).

Number of petitions received: 6.

Federal Communications Commission.

William J. Tricarico,

Secretary

[FR Doc. 86–10100 Filed 5–5–86; 8:45 am]

BILLING CODE 6712–01–M

[CC Docket No. 86–125]

Common Carrier Services; Interstate Access Charges; Order Designating Issues for Investigation

AGENCY: Federal Communications Commission.

ACTION: Order designating issues for investigation.

SUMMARY: The Common Carrier Bureau has adopted an Order designating for investigation issues concerning the reasonableness and accuracy of the interstate access charges that the local exchange carriers (LECs) and National Exchange Carrier Association (NECA) proposed on July 2, 1985, which became effective, subject to investigation, on September 30, 1985. The Bureau has tentatively concluded that NECA's Common Line rate and certain access rates of some LECs are too high, and that historical demand data submitted by the LECs and NECA are inconsistent. In order to make a final determination concerning the correct level of access charges, the Bureau requires that the LECs and NECA reconcile their demand data and provide updated information. To the extent that the LECs' and NECA's current rates are excessive, the Bureau proposes requiring refunds to customers of interstate access service.

FOR FURTHER INFORMATION CONTACT: Mark Uretsky, Public Utility Specialist, Common Carrier Bureau, (202) 632–6312.

SUPPLEMENTARY INFORMATION: This is a summary of the Common Carrier Bureau's Order Designating Investigation in CC Docket No. 86–125, Phase I, adopted April 4, 1986 and released April 14, 1986. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Order Designating Issues for Investigation

(1) The Bureau presents tentative conclusions regarding the reasonableness of the interstate access rates filed on July 2, 1985 which generally became effective on October 1, 1985, proposes adjustments to those rates and solicits public comment so that, in a following Order, modifications of existing rates can be required as necessary. The Bureau tentatively concludes that many rates, including the currently effective carrier common line (CCL) rate, should be reduced. The Bureau's analysis of cost trends indicates that aggregate LEC test year costs are overstated by $295.157 million and should be adjusted downward by that amount. Of the $295.157 million, $213 million has already been reduced by the September 30 Order. Of this amount, $143.932 million represents an overstatement of common line costs; the remainder represents an overstatement of non-common line costs. This Order also considers the depreciation expenses projected by all Tier 1 companies (companies with over $100 million in revenues), and their projections of costs in three key accounts.

(2) *Cost Forecasts:* The Bureau analyzed the key accounts that are used by each Tier 1 operating company to develop the interstate revenue requirement, including Accounts 100.1, 171 and 608, and an amalgam of costs labeled "Expenses and Other Taxes less Depreciation." These were analyzed on a "subject to separations" (*i.e.* "unseparated") basis. The Bureau made necessary adjustments to these forecasts, and flowed them through to the interstate jurisdiction, and ultimately, to the relevant access elements.

(3) *Demand Forecasts:* The Bureau estimated both aggregate and disaggregate (individual company) Tier 1 demand, improving the method employed to estimate NECA's CCL demand in the *January 17 Order*. Because the Bureau's forecast of demand proved to be highly accurate, it decided to forecast directly aggregate and disaggregate demand for the test period on which the LECs' July 2 filing is based (*i.e.*, June 1, 1985 to May 31, 1986). The analysis of demand [usage] trends indicates that aggregate LEC test year billable minutes of use [MOU] is understated by 5.086 percent or 9,950,381 million MOU and should be adjusted upward by that amount. The Bureau tentatively concludes that the CCL rate should be revised to incorporate this adjustment, and that each LEC for which billable MOU adjustments are proposed should revise its line termination rate by incorporating the proposed billable MOU adjustment. Revisions based on billable MOU adjustments to other access rates are not required. Also, historical demand data provided by NECA and the LECs are seriously inconsistent. NECA's measure of historical usage being, on average, approximately 2.5 percent less than the sum of the LECs'. The Bureau requires that NECA and LEC views of historical demand be reconciled to the extent possible.

(4) *Effect of Demand Changes on ISFs:* Because interstate separations factors (ISFs) are essentially ratios of interstate usage to total company usage, there is, for certain traffic sensitive (TS) access elements, a very strong feedback effect between demand changes and changes in ISFs and, as a result, interstate costs. Therefore, the Bureau's adjustments to test year demand should flow through to test year ISFs, and no direct adjustments to TS ISFs are necessary. The feedback effect does not affect the Line Termination and Common Line rate elements, however, because these are not traffic sensitive. Therefore, the Bureau proposes that each LEC found to have understated test year demand recompute its Line Termination access rate using the Bureau's demand estimate. Further, the Bureau proposes that NECA adjust its estimate of test year billable MOU by 9,950,381,000 MOU (the estimated Tier 1 LECs' aggregate understatement of test year billable MOU) and employ that adjusted amount to recompute its CCL rate.

Refunds to Compensate for Delayed Effectiveness of Corrected Rates: If the Bureau later adopts its tentative conclusions that some rates are unreasonably high, it will require refunds to customers of interstate access service. The refunds should be calculated by multiplying the excess of the rates that are currently in effect over the rates that are found reasonable by the demand accumulated during the time the unreasonable rates were in effect. The amounts thus calculated should be refunded with interest to customers of interstate access service based on relevant measures of customer usage during the relevant time period.

(5) *Retrospective Monitoring of Forecast Data:* The Bureau will continue to review the LECs' operating statistics through forecasting and monitoring. The Order includes an analysis of June 1, 1984–May 31, 1985 test year forecasts made by NECA on October 17, 1984 and by the Bureau of January 17, 1984. Comparisons of the two projections show that NECA substantially underestimated test year demand and overestimated test year costs. The comparisons also show that in both instances, the Bureau's forecasts were more accurate, especially for demand. On the basis of this one example, however, the Bureau will not draw any conclusions concerning the quality or accuracy of NECA's forecasting process versus the Bureau's.

(6) *Deferred Rate Increases:* In its *September 30 Order*, the bureau identified a number of proposed switched and special access rate increases which proposed, without adequate explanation, to increase rates which already earned returns at or above the authorized rate of return. The concerned carriers agreed to defer their tariff changes for one month and to submit additional information. The Bureau ultimately allowed the proposed tariffs, as amended in some cases, to become effective without further suspension after deferrals of one or two months. This Order concludes that the additional information provided by the carriers offered plausible explanations for the apparent anomalies. The decision to refrain from suspending these rates is not, however, a final determination with respect to the lawfulness of these rates. As part of their direct cases, each of the exchange carriers subject to the suspension or deferral of rates under the *September 30 Order* is directed to submit a report on actual earnings and operational results for the rates at issue. This report should show the actual rate of return for the service for the period since the rate change became effective and the information underlying this calculation. The carrier should also re-examine the factual claims presented in support of the rate increases and state the extent to which those factual claims have proved to be accurate.

(7) *Rate Issues Raised by Commenters:* After reviewing comments of numerous parties, the Bureau has reached the following tentative conclusions: Ohio Bell failed to rebut arguments that it seeks to recover the same expenses in both state and interstate rates. It should also recompute its Account 2296 expenses. Southwestern Bell and Pacific Bell should not include in their revenue requirements expenses related to intrastate operator takeback without additional cost support. Southwestern Bell used an improperly long lead-lag period in calculating working capital. Michigan Bell used an improperly high uncollectibles ratio in calculating uncollectible revenues. Bell Atlantic should exclude from its revenue requirement presubription expenses incurred prior to June 1, 1985. New York Telephone and C&P (D.C.) improperly included gross receipts taxes in their revenue requirements. Contel and United should submit additional information regarding Central Office Equipment and Outside Plant investments. NECA should submit additional information regarding the independent telephone companies' CPE revenue requirement. GTE California and Florida should recompute subscriber plant factor. GTE Florida and Illinois should submit additional information regarding use of five and seven day traffic studies.

(8) *Procedural Requirements:* The Bureau's view that certain access tariff rates are unreasonable is not final. Carriers and other commenters are invited to present evidence and comments relevant to this issue. The fundamental issue which the comments should address is whether the Bureau's analytical approach establishes adequate grounds for the initial conclusion that certain of the access rates are or will be unreasonable, and that the revisions proposed in the Order would be reasonable. The Bureau encourages comments suggesting improvements in its method, but notes that the fact that this method might be improved is not grounds for rejecting its use, so long as it is reasonable and produces reasonable results.

(9) By a recent Order (Revisions of Part 69 of the Commission's Rules and Regulations, CC Docket No. 85–385, FCC 86–70, released Feb. 6, 1986), carriers are not now required to revise the underlying support for their rates until the next annual access filing, to be effective January 1, 1987. *See also* Midyear 1986 Access Tariff Filings, Memorandum Opinion and Order, Mimeo No. 3414, released Mar. 26, 1986, at para. 2. Although carriers are scheduled to revise their rates to reflect other access rule changes effective June 1, 1986, these revisions can be made based on the July 2, 1985 data. Comments should address the reasonableness of using the tentative conclusions presented in this Order concerning the accuracy of the cost and demand data submitted in support of the July 2 rates as a benchmark for evaluating the rates scheduled to be effective June 1.

(1) In order to refine its forecasts, the Bureau requires some additional data, consisting primarily of data for the third and fourth quarters of 1985. Certain other information from Tier 1 companies is also required. The Industry Task Force is requested to organize the provision of this information. Additional information requested in the discussion of Rate Issues Raised By Commenters should be provided directly by the LECs in question by inclusion in their Direct Cases.

(11) LECs will have an opportunity to comment on the Bureau's analytical methods and tentative conclusions when they submit their Direct Cases, and interested parties may include such comments in their Oppositions. Filing parties are requested to comply with the following format in their filings. Filing parties should use the outline embodied in the Order's Table of Contents as headings for the various sections of their filings. Formal submissions should include the title and docket number of the proceeding in the heading, and reference the specific tariff or tariffs to which the pleading is directed (if appropriate). For example:

In the Matter of	CC Docket No. 86–125, Phase I
Annual 1985 Access Tariffs Filings	Transmittal No(s). XXX
Tariff F.C.C. No(s). XXX	

(12) The investigation in this docket will be conducted as a notice and comment proceeding. The initial round of filings by the LECs and NECA should be captioned "Direct Cases." The pleadings opposing the direct cases should be captioned "Opposition to Direct Cases" or "Comments on Direct Case," not as petitions to suspend or reject, and the LECs' and NECA's rebuttals to the oppositions and comments must be captioned "Rebuttals." Direct cases should be submitted on May 15, 1986; oppositions and comments should be submitted on June 5, 1986; and rebuttals should be submitted on June 16, 1986.

(13) This is a non-restricted notice and comment proceeding. *See* § 1.1231 of the Commission's rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

(14) Therefore, it is ordered that the above mentioned carries comply with the information requirements as described in the text of this Order.

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(15) It is further ordered that all mandatory and voluntary submissions be filed in accordance with the deadline established in paragraph 101 and the pleading cycle established in paragraph 104 above.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-9859 Filed 5-5-86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 86-17]

Mobil Oil Corp. v. Barber Blue Sea Lines; Filing of Complaint and Assignment

Notice is given that a complaint filed by Mobil Oil Corp. (Mobil) against Barber Blue Sea Lines (Barber) was served May 1, 1986. Mobil alleges that Barber has violated section 10(b)(1), Shipping Act of 1984, through the application of an improper rate.

This proceeding has been assigned to Administrative Law Judge Seymour Glanzer. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by May 1, 1987, and the final decision of the Commission shall be issued by September 1, 1987.

John Robert Ewers,

Secretary.

[FR Doc. 86-10113 Filed 5-5-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

The Summit Bancorporation et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the office of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 29, 1986.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Summit Bancorporation,* Summit, New Jersey; to acquire 100 percent of the voting shares of The Trust Company of Princeton, Princeton, New Jersey, a *de novo* bank.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *One Valley Bancorp of West Virginia, Inc.,* Charleston, West Virginia; to acquire 100 percent of the voting shares of Financial Management Bancshares of West Virginia, Inc., Morgantown, West Virginia, and thereby indirectly acquire Farmers' and Merchants' Bank, Morgantown, West Virginia and the First National Bank of Terra Alta, Terra Alta, West Virginia.

C. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Parker Bank Holding Company,* Muncie, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of The Parker Banking Company, Parker City, Indiana.

Board of Governors of the Federal Reserve System, April 30, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-10068 Filed 5-5-86; 8:45 am]

BILLING CODE 6210-01-M

First Jersey National Corporation et al.; Applications to Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 27, 1986.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *First Jersey National Corporation,* Jersey City, New Jersey; to engage directly in making, acquiring and/or servicing loans for itself or for others of the type made by a consumer finance company or a commercial finance company pursuant to § 225.25(b)(1) of the Board's Regulation Y.

B. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

11. *Toledo Trustcorp, Inc.,* Toledo, Ohio; to engage *de novo* through its subsidiary Trustcorp of Florida National Association, Naples, Florida, in trust company activities pursuant to § 225.25(b)(3) of the Board's Regulation Y. Comments on this application must be received not later than May 21, 1986.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Moore Financial Group Incorporated,* Boise, Idaho; to engage *de novo* through its subsidiary Moore Financial Services, Incorportated, Boise, Idaho, in making and servicing commercial and mortgage loans, and leasing personal or real property pursuant to § 225.25(b) (1) and (5) of the Board's Regulation Y.

2. *Midland Bank plc,* London, England, Midland California Holdings Limited, London, England, and Midland America Corporation, San Francisco, California, to engage *de novo* in underwriting and dealing in United States government securities through Midland-Montagu Government Securities, Inc., San Francisco, California, and in underwriting and dealing in general obligations of states and political subdivisions through Midland-Montagu Securities, Inc., San Francisco, California, pursuant to § 225.25(b)(16) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 1, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-10126 Filed 5-5-86; 8:45 am]

BILLING CODE 6210-01-M

Guaranty Bancshares Corporation et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 29, 1986.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Guaranty Bancshares Corporation,* Shamokin, Pennsylvania; to acquire 100 percent of the voting shares of First National Bank of Nicholson, Nicholson, Pennsylvania.

B. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Independent Community Banc Corp.,* Norwalk, Ohio; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens National Bank of Norwalk, Norwalk, Ohio.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First Bank of Indiantown Holding Co.,* Indiantown, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of First Bank of Indiantown, Indiantown, Florida.

D. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Tyronza Bancshares,* Tyronza, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Tyronza Bank, Tyronza, Arkansas.

E. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Harry A. Lowe Agency, Inc.,* Ouray, Colorado; to acquire 97.3 percent of the voting shares of Montrose County Bank Naturita, Colorado.

Board of Governors of the Federal Reserve System, May 1, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-10127 Filed 5-5-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

Project Grants for Health Programs for Refugees, Availability of Funds for Fiscal Year 1986

The Centers for Disease Control (CDC) announces the availability of funds for Fiscal Year 1986 for Project Grants for Health Programs for Refugees.

This grant program is authorized by section 412(b)(5) of the Immigration and Nationality Act (8 U.S.C. 1522(b)(5)), as amended by the Refugee Act of 1980, Pub. L. 96-212; the Refuge Amendments of 1982, Pub. L. 97-363; and the Further continuing Appropriations for Fiscal Year 1985, Pub. L. 98-473. The Catalog of Federal Domestic Assistance Number is 13.987.

Eligible applicants are the official State helath agencies and, in certain situations, health agencies of political subdivisions of a State. Direct grants to health agencies of political subdivisions will be considered for funding only in special situations which are clearly justified and after consultation with the official State health agency, the CDC Health Program for Refugees, and the Regional Health Administrator, Public Health Service, of the appropriate Department of Health and Human Services Regional Office. States are expected to work with agencies and organizations in localities with significant refugee populations to identify their health needs and to develop programs to meet these needs.

The purpose of the program is to augment State and local resources in providing public health and general health assessments for refugees newly arrived in the United States. The term "refugee" is defined in section 101(a)(42) of the INA (8 U.S.C. 1101(a)(42)). Individuals classified as refugees are eligible for services under this program, except certain refugees whose medical care and other resettlement needs are provided through a special matching grant program administered by the Office of Refugee Resettlement under section 412(c) of the INA (8 U.S.C. 1522(c)).

Approximately $5,489,000 is available to award up to 6 new and approximately 46 continuation grants with the average award expected to be $105,000, ranging from $6,000 to $1,600,000. Grants are usually funded for 12 months in a 2- to 5-year project period. Funding estimates outlined above may vary and are subject to change.

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Priority for funding initial grants or applications for a new project period will be placed on: (1) The extent of unmet public health needs associated with refugees; and (2) the need for general health assessments for refugees, with particular attention given to the identification of health problems which might affect employability, the referral of refugees for appropriate diagnostic and treatment services, and the identification of funding sources for needed services. Continuation awards within the project period are made on the basis of satisfactory progress in meeting project objectives and on the availability of funds.

The initial application for a new project period will be reviewed and evaluated on the basis of:

(1) Evidence of an assessment of the relationship of the proposed project to existing services.

(2) The size of the refugee population, including secondary migrants.

(3) The extent of unmet public health problems among refugees.

(4) The need for general health assessments for refugees.

(5) The ability of the applicant to deliver and coordinate the delivery of needed services, particularly in those areas with high concentration of refugees needing intensified outreach and followup services for tuberculosis preventive therapy, including referrals and financing arrangements.

(6) Consistency with the State's comprehensive refugee resettlement plan.

(7) Current performance and ability to maintain program momentum.

Applications are subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs. Information on application and review procedures, deadlines, the consequences of late submission, and other materials may be obtained from the appropriate Department of Health and Human Services Regional Office as set forth below.

Dated: April 29, 1986.

William E. Muldoon,

Director, Office of Program Support Centers for Disease Control.

Department of Health and Human Services (HHS) Regional Offices

Regional Health Administrator, PHS, HHS Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223–6827

Regional Health Administrator, PHS, HHS Region II, Federal Building, 26 Federal Plaza, Room 3337, New York, New York 10278, (212) 264–2561

Regional Health Administrator, PHS, HHS Region III, Gateway Building #1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637

Regional Health Administrator, PHS, HHS Region IV, 101 Marietta Tower, Suite 1007, Atlanta, Georgia 30323, (404) 221–2316

Regional Health Administrator, PHS, HHS Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606, (312) 353–1385

Regional Health Administrator, PHS, HHS Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767–3879

Regional Health Administrator, PHS, HHS Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291

Regional Health Administrator, PHS, HHS Region VIII, 1185 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 844–6163

Regional Health Administrator, PHS, HHS Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810

Regional Health Administrator, PHS, HHS Region X, 2901 Third Avenue, M.S. 402, Seattle, Washington 98121, (206) 442–0430

[FR Doc. 86–10067 Filed 5–5–86; 8:45 am]

BILLING CODE 4160–18–M

Food and Drug Administration

Advisory Committee; Notice of Meeting

Correction

In FR Doc. 86–8537 beginning on page 13097 in the issue of Thursday, April 17, 1986, make the following correction: On page 13098, in the second column, in the third complete paragraph, in the ninth line "95–409" should read "94–409".

BILLING CODE 1505–01–M

National Institutes of Health

Advisory Committee to the Director, NIH; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Advisory Committee to the Director, NIH, on June 9–10, 1986, at the National Institutes of Health, Bethesda, Maryland 20892. The meeting will take place from 9:00 a.m. to 5:30 p.m. on June 9, and from 9:00 to approximately 11:45 a.m. on June 10, in Building 31, Conference Room 10, C Wing. The meeting will be open to the public.

The meeting will be devoted to discussions of "The Impact of Cost Containment Measures on Clinical Research and Research Training in Academic Health Centers."

The Executive Secretary, Jay Moskowitz, Ph.D., National Institutes of Health, Shannon Building, Room 137, Bethesda, Maryland 20892, (301) 496–3152, will furnish the meeting agenda, rosters of Committee members and consultants, and substantive program information.

Dated: April 28, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–10115 Filed 5–5–86; 8:45 am]

BILLING CODE 4140–01–M

Consensus Development Conference on the Utility of Therapeutic Plasmapheresis for Neurological Disorders; Meeting

Notice is hereby given of the NIH Consensus Development Conference on "The Utility of Therapeutic Plasmapheresis for Neurological Disorders," sponsored by the National Institute of Neurological and Communicative Disorders and Stroke, the Warren Grant Magnuson Clinical Center, and the Office of Medical Applications of Research, NIH. The conference will be held June 2–4, 1986, in the Masur Auditorium of the Warren Grant Magnuson Clinical Center (Building 10) at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

Plasmapheresis (or plasma exchange), a technique for removing substances from the blood that may cause or promote disease, has been used for a wide variety of neurological illnesses, but proper indications and the risk-benefit ratio have been uncertain. A conference to develop consensus on these and other issues concerning plasmapheresis is timely since evidence about the therapy's efficacy, which until recently was only anecdotal, has been expanded by a number of controlled studies.

Participants at the two-and-a-half day conference will review and evaluate information on the efficacy of plasmapheresis as a treatment for neurological disorders. Illnesses that will be discussed include myasthenia gravis, Eaton-Lambert syndrome, Guillain-Barre syndrome, chronic inflammatory neuropathy, paraproteinemic neuropathies, amyotophic lateral sclerosis, and multiple sclerosis.

Conference participants will include research scientists and physicians, other health care practitioners, and members of voluntary health organizations concerned with neurological disease. Following two days of presentations by medical experts and discussion by the audience, a consensus panel, drawn from the medical and lay communities, will formulate a draft statement responding to the following key questions:

- Is therapeutic plasmapheresis of benefit for neurological disease? if so, for which diseases and under what circumstances?
- What are the risks of plasmapheresis?
- If effective, what are the mechanisms of action?
- Is efficacy influenced by technique?
- What is the relationship of plasmapheresis to other therapies?
- What insights has plasmapheresis provided to suggest relevant clinical or basic strategies?

Evidence relating to the utility of therapeutic plasmapheresis for neurological disorders will be presented by experts in the field and evaluated by a panel composed of representatives from neurology, blood banking, immunology, biostatistics, and the public. Presentations will continue until 5 p.m. Monday, June 2, and until noon on Tuesday, June 3. The information presented will be discussed by the panel and there will be opportunity for questions and comments from the audience.

On the third and final day of the conference, Consensus Panel Chairman Dr. Barry Arnason, Professor and Chairman of the Department of Neurology, University of Chicago, Pritzker School of Medicine, will read to the audience the draft consensus statement summarizing the scientific issues raised and the conclusions drawn by the panel. A press conference will follow open discussion of the consensus statement.

Information on the program may be obtained from Ms. Nancy Cowan, Prospect Associates, 2115 East Jefferson Street, Suite 401, Rockville, Maryland 20852; telephone (301) 468–6555.

Dated: April 28, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–10117 Filed 5–5–86; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting

Notice is hereby given of the meeting of the National Cholesterol Education Program Coordinating Committee sponsored by the National Heart, Lung, and Blood Institute, on May 29, 1986, 8:30 a.m. to 3:30 p.m., Crowne Plaza Holiday Inn, 1750 Rockville Pike, Rockville, Maryland 20850, 301–468–1100.

The entire meeting is open to the public. The Coordinating Committee is meeting to define the priorities, activities, and needs of the participating groups in the National Cholesterol Education Program. Attendance by the public will be limited to space available.

For the detailed program information, agenda, list of participants, and meeting summary, contact: Dr. James I. Cleeman, Coordinator, National Cholesterol Education Program, Office of Prevention, Education and Control, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, Room 4A18, Bethesda, Maryland 20892, 301–496–1051.

Dated: April 28, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–10116 Filed 5–5–86; 8:45 am]

BILLING CODE 4140–01

National Heart, Lung, and Blood Institute; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Sickle Cell Disease Advisory Committee, National Heart, Lung, and Blood Institute, June 13, 1986. The meeting will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892, Building 31, Conference Room 7, C-Wing. The entire meeting will be open to the public from 9:00 a.m. to 5:00 p.m., to discuss recommendations on the implementation and evaluation of the Sickle Cell Disease Program. Attendance by the public will be limited to space available.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, National Institutes of Health, Building 31, Room 4A–21, (301) 496–4236, will provide a summary of the meeting and a roster of the committee members.

Dr. Clarice D. Reid, Chief, Sickle Cell Disease Branch, Division of Blood Diseases and Resources, NHLBI, Federal Building, Room 508, (301) 496–6931, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: April 28, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86–10118 Filed 5–5–86; 8:45 am]

BILLING CODE 4140–01

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Pilot Study of Commercial Rafting on the Wild & Scenic Section of the North Fork of the American River

AGENCY: Bureau of Land Management, Interior.

ACTION: A Pilot Study Based on a Scoping Paper, to Determine the Feasibility of Commercial Rafting on the Wild & Scenic Section of the North Fork of the American River.

SUMMARY: The Bureau of Land Management, Folsom Resource Area and Tahoe National Forest are considering a study to determine the feasibility of providing commercial whitewater rafting opportunities on the North Fork of the American River between Euchure Bar and Iowa Hill Bridge.

The pilot study is needed to determine what level, if any, of commercial activity will satisfy the public needs and still be commensurate with maintaining those values which made it possible for the North Fork of the American River to be included in the Wild and Scenic System.

The study will begin in May of 1986 and could last up to three years. Upon completion of the study, the Bureau of Land Management, Folsom Resource Area, and the Tahoe National Forest will prepare an Environmental Analysis to analyze the various alternatives.

The scoping paper that was developed by the BLM and FS identified the critical issues and concerns and provides the direction for the pilot study. A copy of this scoping paper may be obtained from the Bureau of Land Management, Folsom Resource Area, 63 Natoma Street, Folsom, California 95630.

The following seven outfitters have been accepted by the Bureau of Land Management, Folsom Resource Area and Tahoe National Forest to conduct the pilot study in 1986.

Whitewater Mailing List

Mr. Dan Buckley, III, Tributory Whitewater, 55 Sutter St., Suite 65, San Francisco, CA 94104

Mr. Mark Helmus, Wild Water West, 2 Virginia Gardens, Berkeley, CA 94702

Mr. Monte Osborn, A.B.L.E., Rafting Co., 4965 Little Road, Coloma, CA 95613

Mr. Bob DeVisscher, River Rat & Company, Inc. 9840 Fair Oaks Blvd., Fair Oaks, CA 95628

Mr. William McGinnis, Whitewater Voyages, P.O. Box 906, El Sobrante, CA 94803–0906

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Mr. Jon Osgood, Libra Expeditions, 11017 Sevenhills Dr., Tujunga, CA 91042
Mr. John Vail, Outdoors Unlimited River Trips, Box 22513, Sacramento, CA 95811

ADDRESS: Comments and suggestions should be sent to: Area Manager, Bureau of Land Management, Folsom Resource Area, 63 Natoma Street, Folsom, CA 95630.

Deane K. Swickard,
Area Manager.
[FR Doc. 86-10054 Filed 5-5-86; 8:45 am]
BILLING CODE 4310-84-M

Filing of Plat of Survey; New Mexico

April 29, 1986.

The plat of survey described below was officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, effective at 10:00 a.m. on April 29, 1986.

A survey of the west and north boundaries and subdivisional lines of T. 26 N., Rs. 15 and 16 W. under Group 812, accepted April 16, 1986.

This survey was requested by the Bureau of Indian Affairs, Navajo Area Office, Window Rock, Arizona.

The plat will be in the open files of the New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504. Copies of the plat may be obtained from that office upon payment of $2.50 per sheet.

Kelley R. Williamson, Jr.,
Acting Chief, Branch of Cadastral Survey.
[FR Doc. 86-10053 Filed 5-5-86; 8:45 am]
BILLING CODE 4310-FB-M

Temporary Closure of Certain Public Lands in the Las Vegas District to Off Road Vehicle Use

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Temporary closure of certain Public Lands in the Las Vegas District, Clark County, Nevada, on and adjacent to the Mint 400 ORV race course, on May 10 and 11, 1986. Access will be limited to race officials, entrants, law enforcement, BLM emergency personnel licensees, permittees and right-of-way grantees and other authorized personnel as designated during the period of the closure.

SUPPLEMENTARY INFORMATION: Certain public lands in the Las Vegas District, Clark Count, Nevada will be temporary closed to public access from 00:01 hours May 10, 1986 through 08:00 hours May 11, 1986 to protect persons, property, and public lands and resources on and adjacent to the 1986 Mint 400 ORV race course. This temporary closure is made pursuant to 43 CFR 8364.

The public lands to be closed are those lands adjacent to and roads, trails, and washes identifed as the 1986 Mint 400 ORV race course and certain lands adjacent to the course within the southern Eldorado Valley area, further described as: T.25S, R.62E., all of section 10, 11, 12, 13, 14, 15, 16, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 33, 34, 35, and 36.

A map showing specific areas closed to public access is available from the Las Vegas District Office, P.O. Box 26569, Las Vegas, Nevada, 89126 (702) 388-6403 and the Stateline Resource Area Office, P.O. Box 7384, Las Vegas, Nevada (702) 388-6627. Any person who fails to comply with this closure order issued under 43 CFR 8364 may be subject to the penalties provided in 43 CFR 8360.0-7.

Ben F. Collins,
District Manager, Las Vegas District.
[FR Doc. 86-10052 Filed 5-5-86; 8:45 am]
BILLING CODE 4310-HC-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before April 26, 1986. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by May 21, 1986.

Carol D. Shull,
Chief of Registration, National Register.

Alabama

Escambia County
Flomation, *Commercial Hotel-Hart Hotel*, 120 Palafox St.

Montgomery County
Montgomery, *Sheperd Building*, 312 Montgomery St.

Talladega County
Talledega, *Lawler—Whiting House*, AL 21, S. of Talladega

Arizona

Coconino County
Flagstaff, *Northern Arizona Normal School Historic District*, Northern Arizona University on US 89

Navajo County
Homolovi Four (IV)

Colorado

Boulder County
Allenspark, *Bunce School*, CO 7, S. of Allenspark
Boulder, *Northern Colorado Power Company Substation*, 1590 Broadway

Kit Carson County
Burlington, *Winegar Building*, 494—498 14th St.

Pueblo County
Pueblo, *McCarthy, T.G., House*, 317 N. Grand Ave.

Florida

Collier County
Burns Lake Site (8 CR259)
Plaza Site (8 CR303)

Georgia

Bibb County
Macon, *Pleasant Hill Historic District*, Roughly bounded by Neal & Sheridan Aves., Schofield, Madison & Jefferson Sts., First Ave., Ferguson, Holts Lane, and Galliard St.

Iowa

Story County
Story City, *Herschel—Spillman Two-Row Portable Menagerie Carousel*, North Park, Story St., and Greve Ave.

Maryland

Frederick County
Sabillasville, *Cullen, Victor, School Power House*, MD 81

Kent County
Kennedyville vicinity, *Shrewsbury Church*, Shrewsbury Lane

Massachusetts

Norfolk County
Milton, *United States Post Office—Milton Main*, 499 Adams St.

New York

Madison County
Lenox, *Roberts, Judge Nathan S., House (Canastota Village MRA)*, W. Seneca Ave.

New York County
New York, *Hopper, Isaac T., Home*, 110 Second Ave.

Onondoga County
Delphi Falls, *Delphi Village School*, East Rd.

Ohio

Cuyahoga County
Cleveland, *Woodland Cemetery*, 8001 Woodland Ave.

Portage County
Aurora, *Aurora Train Station*, 13 New Hudson Rd.

Tennessee

Maury County
Culleoka, *Culleoka Methodist Episcopal Church South*, Quality St.

Texas

Bexar County
San Antonio, *Franklin, Thomas H., House*, 105 E. French Pl.

Virginia

Accomack County
Assawoman, *Arbuckle Place*, Seaside Rd, VA 679

Wisconsin

Winnebago County
Oshkosh, *Washington Avenue Historic District*, Roughly bounded by Merritt Ave., Linde and Lampert Sts., Washington Ave., Bowen, and Evans Sts.

[FR Doc. 86-10140 Filed 5-5-86; 8:45 am]
BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30809]

Gary W. Flanders—Exemption—Continuance of Control

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Commission exempts from prior approval under 49 U.S.C. 11343, *et seq.* the continuance of control by Gary W. Flanders of two Class III non-connecting carriers, the Fore River Railway Company and the Colorado and Eastern Railroad Company, subject to standard labor protective conditions.

DATES: This decision is effective on May 10, 1986. Petitions to reopen must be filed by May 26, 1986.

ADDRESSES: Send petition referring to Finance Docket No. 30809 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner's representative: Joseph H. Dettmar, 1000 Potomac Street, NW., Washington, DC 20007.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Addition information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423 or call 289-4357 (DC Metropolitan Area) or toll free (800) 424-5403.

Decided: April 29, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,
Secretary.
[FR Doc. 86-10085 Filed 5-5-86; 8:45 am]
BILLING CODE 7035-01-M

[Finance Docket No. 30799]

Gloster Southern Railroad Co., and Georgia-Pacific Corp., Exemption; 49 U.S.C. 11343 and 11322

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: Under 49 U.S.C. 10505, the Commission exempts from the requirements of 49 U.S.C. 11343 the continuation of control of Gloster Southern Railroad Company (GSR) by Georgia-Pacific Corporation, subject to employee protective conditions in New York Dock Ry. Co.-Control-Brooklyn East. Dist., 360 I.C.C. 60 (1979).

DATES: This exemption is effective May 5, 1986. Petitions to reopen must be filed by May 27, 1986.

ADDRESSES: Send pleadings referring to Finance Docket No. 30799 to:

(1) Office of the Secretary Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioners' representative: David H. Baker, Suite 400, 888 17th Street, NW., Washington, DC 20006

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: A Notice of Exemption for GSR's operation of the line is directly-related Finance Docket No. 30799 (Sub-No. 1) was published March 28, 1986 at 51 FR 10680.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to TS InfoSystems, Room 2229, Interstate Commerce Commission Building, Washington, DC 20423 or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: April 16, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,
Secretary.
[FR Doc. 86-10086 Filed 5-5-86; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-55; (Sub-163X)]

Seaboard System Railroad, Inc.; Exemption; Abandonment in Bell County, KY

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission Seaboard System Railroad, Inc. (SBD), from the requirements of 49 U.S.C. 10903 *et seq.*, to abandon its 2.16-mile line of railroad from milepost WE-213.61 at Amru to the end of SBD's ownership at milepost WE-215.77 in Bell County, KY, subject to standard employee protection conditions.

DATES: This exemption is effective May 6, 1986. Petitions to reopen must be filed by May 27, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB-55 (Sub-No. 163X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioners' representative: Charles M. Rosenberger, 500, Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275-7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to TS InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423 or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: April 25, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,
Secretary.
[FR Doc. 86-10087 Filed 5-5-86; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-57 (Sub-15X)]

Soo Line Railroad Co; Abandonment Exemption; in Hennepin County, MN

AGENCY: Interstate Commerce Commission.

ACTION: Notice Commerce Commission.

SUMMARY: Soo Line Railroad Company filed a petition seeking an exemption under 49 U.S.C. 10505 from the requirements of 49 U.S.C. 10903, *et seq.*, to abandon its 0.58-mile line of railroad in Minneapolis, Hennepin County, MN. The Commission has determined that there should be notice and comment

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because the impact of the proposed abandonment cannot be fully ascertained form the present record.

DATE: Comments must be filed with the Commission and served on petitioner's representative by June 5, 1986. Replies to the comments must be filed by June 25, 1986.

ADDRESSES: Send an original and 10 copies of comments referring to Docket No. AB–57 (Sub-No. 15X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative (1 copy): Charles H. Clay, 2110 First Bank Place West, Minneapolis, MN 55402.

FOR FURTHER INFORMATION CONTACT: Louis E. Citomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area), or toll-free (800) 424–5403.

Decide: April 25, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Chairman Gradison and Commissioner Andre would have granted the exemption.

James H. Bayne,

Secretary

[FR Doc. 86–10086 Filed 5–5–86; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. MC–178 (Sub-No. 3)]

Investigation Into Motor Carrier Insurance Rates—Conference of Interested Parties

AGENCY: Interstate Commerce Commission.

ACTION: Institution of proceeding.

SUMMARY: The Commission is instituting a proceeding to provide a forum for discussion by interested and affected parties of insurance-related problems in the motor carrier industry. We anticipate that this conference will contribute to a more thorough understanding of: (1) the nature and extent of the insurance crisis confronting motor carriers, (2) the various factors contributing to the prevailing conditions, and (3) administrative and/or legislative actions that may help alleviate the problems.

DATES: Notice of Intent to Participate should be filed by May 20, 1986. A docket management conference is scheduled for May 30, 1986.

ADDRESS: Direct notices and related correspondence to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423.

Pleadings should refer to: Conference—Ex Parte No. MC–178 (Sub-No. 3).

FOR FURTHER INFORMATION CONTACT: Mary Kelly, Chief of Staff, Office of Commissioner Lamboley (202) 275–7419.

SUPPLEMENTARY INFORMATION: In response to a petition filed by the American Trucking Associations, Inc. (ATA), the Commission instituted a proceeding in Ex Parte No. MC–178, *Investigation into Motor Carrier Insurance Rates* (not printed), served October 31, 1985, and issued a supplemental decision and notice concerning self-insurance (not printed), served April 22, 1986. The initial notice invited comments concerning: (1) The extent of bodily injury and property damage (BI&PD) insurance problems facing the motor carrier industry; (2) the causes of these problems; and (3) what action, if any, the Commission could take to alleviate the problems. Comments relating to these matters were introduced by 75 parties, including motor property and passenger carriers, their representatives and trade associations, independent trucking interests, shippers and shipper associations, and insurance industry representatives.

By motion filed February 11, 1986, ATA requests that the Commission appoint a hearing officer for purposes of holding a conference of interested parties in this proceeding pursuant to 49 CFR 1110.4. Statements in support of ATA's motion were filed by the United Bus Owners of America, the Movers' and Warehousemen's Association of America, the National Industrial Transportation League, and jointly by the National Small Shipments Traffic Conference, Inc. and the Drug and Toliet Preparation Traffic Conference, Inc.

The initial comments filed in this proceeding indicate that the insurance problem is attributable to a range of factors. An informal conference of interested parties conducted before a Commission official could be useful in promoting full and frank discussions among the affected groups. Accordingly, pursuant to 49 U.S.C. 10321 and 10311, and 49 CFR 1110.4, we are instituting such a proceeding. Our purpose in taking this action is consistent with that announced in our prior decision inviting written comments: to collect and analyze, with the assistance of those parties most directly affected, information concerning the extent, causes, and recommended solutions to problems affecting the cost and availability of motor carrier BI&PD insurance.

A docket management conference is set for 10:00 a.m. on May 30, 1986, in Hearing Room C of the Interstate Commerce Commission Building, Washington, D.C., before the Honorable Paul H. Lamboley, Commissioner. Under the supervision of Commissioner Lamboley, common interest conference groups may be formed, if useful, to focus on specific areas material to the situation.

In advance of the docket management conference, parties should meet, where practical, to discuss organizational and topical agenda suggestions, and submit ideas to the Commissioner no later than 2 days before the conference date. An agenda for the docket management conference will be avaflable from the Commission's Office of Legislative and Public Affairs at noon on the day before the conference.

At the conference, parties should be prepared to discuss the most effective means of using this forum to ameliorate or eliminate the insurance crisis in the motor carrier industry. They also should be prepared to discuss and offer suggestions towards developing the most practicable, effective, and administratively feasible course of Commission action to assist carriers in resolving the insurance crisis consistent with our statutory responsibilities to promote safe operations.

The record, including findings and recommendations developed in the conference group, shall be certified by Commissioner Lamboley to the Commission.

This decision will not significantly affect the quality of the human environment or conservation of energy resources and will not have an adverse impact on small business.

Authority: 49 U.S.C. 10321 and 10311.

It is Ordered

1. A proceeding is instituted to provde a forum for discussion of motor carrier liability insurance issues, with a view toward developing recommendations for Commission action to alleviate insurance cost and availability problems.

2. A docket management conference on this subject will be held before the Honorable Paul H. Lamboley, Commissioner, in Hearing Room C of the Interstate Commerce Commission Building in Washington, D.C., at 10:00 a.m. on May 30, 1986,

3. After the initial docket management conference, a service list shall be established and served to permit notice to all interested parties. Copies of all materials filed with the Commission in this proceeding must be served on all parties on that list.

4. This notice will be published in both the *ICC* and **Federal Register.**

Decided: April 24, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Andre would have assigned the conference to one of the Commission's professional hearing officers. Chairman Gradison dissented with a separate expression.

James H. Bayne,

Secretary.

Chairman Gradison, dissenting:

I am opposed to further expansion of the Commission's involvement in this area of limited ICC jurisdiction. I view the conference as needless duplication of our existing rulemaking in Ex Parte No. MC–178, *Investigation Into Motor Carrier Insurance Rates.*

[FR Doc. 86–10184 Filed 5–5–86; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 463]

Railroad Revenue Adequacy—1984 Determination

AGENCY: Interstate Commerce Commission.

ACTION: Notice of 1984 determination of rail revenue adequacy.

SUMMARY: Applying the return on investment/cost of capital formula adopted in *Standards for Railroad Revenue Adequacy*, 364 I.C.C. 803 (1981) and its previous determination that the cost of capital for 1984 was 15.78 percent, the Commission finds that none of the 31 Class I railroads in the nation met that test of revenue adequacy in 1984. However, the Commission also explains that the findings produced by the calculations performed in accordance with its existing procedures do not appear to produce a realistic picture of the state of the rail industry. Because the agency is not sure of the reason for this anomaly, it announces its intent to promptly issue a broad notice reopening Ex Parte No. 393 in order to re-evalute the manner in which it measures and determines revenue adequacy, including its use of the current cost of capital as the sole standard for revenue adequacy. In the interim, it will continue to apply the revenue adequacy determination made under the current methodology for purposes of establishing eligiblity for However, it will not necessarily treat the finding made under the current methodology as determinative of a revenue adequacy issue raised in individual rate reasonableness proceedings conducted under 49 U.S.C. 10701a. Rather, it will consider all probative evidence submitted in such cases pertaining to the revenue adequacy of the particular carrier involved.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr., (202) 275–7489.

SUPPLEMENTARY INFORMATION: To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423; or call 289–4357 (D.C. Metropolitan area) or toll free 800–424–5403.

Authority: (49 U.S.C. 10704(a)).

Decided: May 1, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Chairman Gradison concurred with a separate expression. Commissioner Andre concurred in part and dissented in part with a separate expression.

James H. Bayne,

Secretary.

[FR Doc. 86–10183 Filed 5–5–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 8–86]

Privacy Act of 1974; New System of Records; Privacy Act Extract Program

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Department of Justice proposes to establish a new system of records to be maintained by the Executive Office for Immigration Review (EOIR).

The Records and Management Information System (JUSTICE/EOIR–001) is a new system of records for which no public notice consistent with the provisions of 5 U.S.C. 552a (e)(4) and (11) has been published in the Federal Register. The new system will contain records and information which are relevant to administrative immigration proceedings for aliens, alleged aliens and aliens lawfully admitted for permanent residence.

In the Proposed Rules Section of today's Federal Register, the Executive Office for Immigration Review proposes to exempt the system from 5 U.S.C. 552a(d) of the Privacy Act pursuant to 5 U.S.C. 552a(k)(1) and (k)(2).

5 U.S.C. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment on the routine uses of this system; the Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 60-day period in which to review the system. However, a waiver of the 60-day requirement has been requested of OMB. Therefore, please submit any comments by June 5, 1986. The public, OMB, and the Congress are invited to submit comments to J. Michael Clark, Acting Assistant Director, General Services Staff, Justice Management Division, Department of Justice, Room 9002, 601 D Street, NW., Washington, D.C. 20530.

A report of the proposed system has been provided to the Director, OMB, the President of the Senate, and the Speaker of the House of Representatives.

Dated: April 24, 1986.

W. Lawrence Wallace,

Assistant Attorney General for Administration.

JUSTICE/EOIR–001

SYSTEM NAME:

Records and Management Information System (JUSTICE/EOIR–001).

SYSTEM LOCATION:

Executive Office for Immigration Review, Department of Justice, 5201 Leesburg Pike, Suite 1501, Falls Church, Virginia 22041. The system is also located in EOIR field offices (see appendix identified as JUSTICE/EOIR–999)

CATEGORY OF INDIVIDUALS COVERED BY THE SYSTEM:

This system contains case-related information pertaining to aliens and alleged aliens brought into the immigration hearing process, including certain aliens previously or subsequently admitted for lawful permanent residence.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system includes the name, file number, address and nationality of aliens and alleged aliens, decision memoranda, investigatory reports and materials compiled for the purpose of enforcing immigration laws, exhibits, transcripts, and other case-related papers concerning aliens, alleged aliens or lawful permanent residents brought into the administrative adjudication process.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is established and maintained under the authority granted the Attorney General pursuant to 44 U.S.C. 3101 and 3103 and to fulfill the legislative mandate under 8 U.S.C. 1103,

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1226 and 1252. Such authority has been delegated to EOIR by 8 CFR Part 3.

PURPOSE OF THE SYSTEM:

Information in this system serves as the official record of immigration proceedings. EOIR employees use the information to prepare, process and track the proceedings. The information is further used to generate statistical reports and various documents, i.e., hearing calendars and administrative orders.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information may be disseminated to the Department of State; Federal courts; Members of Congress; the alien or alleged alien's representative or attorney of record; and, to Federal, State and local agencies. Information is disseminated to the Department of State, pursuant to 8 CFR 208.10(b), to allow its preparation of advisory opinions regarding applications for political asylum; to the Federal courts to enable their review of EOIR administrative decisions on appeal; to Members of Congress to respond to consititituent inquiries; and, to the representative or attorney of record to ensure fair representation. Finally, in any claim in which there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, information, including investigatory information, may be disseminated to the appropriate Federal, State or local agency charged with the responsibility of investigating or prosecuting such violation or with enforcing or implementing such law.

Release of information to the news media and the public: Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular matter would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress: Information contained in the system, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Release of information to the National Archives and Records Administration: A record from the system of records may be disclosed to the National Archives and Records Administration (NARA) for records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in file folders which are stored in file cabinets. A subset of the records is maintained on fixed disks or removable disk packs which are stored in file cabinets. All records are stored in secured EOIR office space.

RETRIEVABILITY:

Manual records are indexed by alien file number. Automated records are retrievable by a variety of indentifying data elements including, but not limited to, alien file number, alien name and nationality.

SAFEGUARDS:

Information maintained in the system is safeguarded in accordance with Department of Justice rules and procedures. Record files are maintained in file cabinets accessible only to EOIR employees. Automated information is stored on either fixed disks or removable disk packs which are stored in cabinets. Only EOIR employees in possession of specific access codes and passwords will be able to access automated information. All manual and automated records and mediums are located in EOIR office space accessible only to EOIR employees and locked during off-duty hours.

RETENTION AND DISPOSAL:

Record files are retained for six months after the final disposition of the case, then forwarded to regional Federal Records Centers. Automated records are maintained in EOIR field office data bases for ninety days after final disposition, then transferred to the host computer at EOIR headquarters and retained indefinitely.

SYSTEM MANAGER AND ADDRESS:

Counsel to the Chief Immigration Judge, Executive Office for Immigration Review, Office of the Chief Immigration Judge, U.S. Department of Justice, 5201 Leesburg Pike, Suite 1501, Falls Church, Virginia 22041.

NOTIFICATION PROCEDURE:

Address all inquiries to the system manager listed above.

RECORD ACCESS PROCEDURES:

Portions of this system are exempt from disclosure and contest by 5 U.S.C. 522a (k)(1) and (k)(2). Make all request for access to those portions not so exempted by writing to the system manager identified above. Clearly mark the envelope and letter "Privacy Access Requests"; provide the full name and notarized signature to the individual who is the subject of the record, his/her date and place of birth, or any other identifying number or information which may assist in locating the record; and, a return address.

CONTESTING RECORD PROCEDURE:

Direct all requests to contest or amend information maintained to the system manager listed above. State clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

Department of Justice offices and employees, primarily those of the Immigration and Naturalization Service; the Department of State and other Federal, State and local agencies; and the parties to immigration proceedings and their witnesses.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted certain records of this system from the access provisions of the Privacy Act (5 U.S.C. 552a (d)) pursuant to 5 U.S.C. 552a (k)(1) and (k)(2). Rules have promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the Federal Register.

JUSTICE/EOIR-999

SYSTEM NAME:

Appendix to Executive Office for Immigration Review System of Records.

EOIR field offices are located as follows:

Executive Office for Immigration Review, Office of the Immigration Judge, Richard B. Russell Federal Building, 75 Spring Street, SW., Room 1310, Atlanta, Georgia 30303
Executive Office for Immigration Review, Office of the Immigration Judge, E.A. Garmatz Federal Building, 100 South Hanover Street, Room 3100, Baltimore, Maryland 21210
Executive Office for Immigration Review, Office of the Immigration Judge, John F. Kennedy Federal Building, Government Center, Room E-431, Boston, Massachusetts 02203
Executive Office for Immigration Review, Office of the Immigration Judge, Statler Building, 8th Floor, Buffalo, New York 14202
Executive Office for Immigration Review, Office of the Immigration Judge, 219 South Dearborn Street, Room 423, Chicago, Illinois 60604

Executive Office for Immigration Review, Office of the Immigration Judge, Federal Building, 1100 Commerce Street, Room 3A6, Dallas, Texas 75242
Executive Office for Immigration Review, Office of the Immigration Judge, Federal Office Building, 1961 Stout Street, Room 1706, Denver, Colorado 80202
Executive Office for Immigration Review, Office of the Immigration Judge, 511 East San Antonio, U.S. Courthouse, Room 509, El Paso, Texas 79901
El Paso Service Processing Center, 8915 Montana, El Paso, TX 79925
Executive Office for Immigration Review, Office of the Immigration Judge, 2320 La Branch Street, Room 2235, Houston, Texas 77004
Houston Detention Facility, 15850 Export Plaza Drive, Houston, TX 77032
Executive Office for Immigration Review, Office of the Immigration Judge, 300 North Los Angeles Street, Room 8110, Los Angeles, California 90012
Executive Office for Immigration Review, Office of the Immigration Judge, Interfirst Bank Tower, 222 East Van Buren, Harlingen, Texas 78550
Port Isabel Service Processing Center, Route 3, Box 1200, Building 37, Los Fresnos, TX 78566
Executive Office for Immigration Review, Office of the Immigration Judge, 7880 Biscayne Boulevard, 8th Floor, Miami, Florida 33138
Krome North Processing Center, Office of the Immigration Judge, Snapper Creek Station, Miami, Florida 33116
Executive Office for Immigration Review, Office of the Immigration Judge, Federal Building, 970 Broad Street, Room 308, Newark, New Jersey 07102
Executive Office for Immigration Review, Office of the Immigration Judge, 26 Federal Plaza, Room 13130, New York, New York 10278
Varick Street Service Processing Center, 201 Varick Street, Room 645, New York, New York 10014
Executive Office for Immigration Review, Office of the Immigration Judge, Federal Building, Room 3425, 230 North First Avenue, Phoenix, Arizona 85025
INS Detention Camp, Highways 80 and 80, Florence, Arizona 85232
Executive Office for Immigration Review, Office of the Immigration Judge, 727 East Durango Boulevard, Room B-322, San Antonio, Texas 78206
Executive Office for Immigration Review, Office of the Immigration Judge, New Federal Building, 880 Front Street, Room 5N44, San Diego, California 92188
Office of the Immigration Judge, 1115 N. Imperial Avenue, First Floor, El Centro, California 92243
Executive Office for Immigration Review, Office of the Immigration Judge, 630 Sansome Street, Room 404, San Francisco, California 94111
Executive Office for Immigration Review, Office of the Immigration Judge, 815 Airport Way, South, Room 108, Seattle, Washington 98134
Executive Office for Immigration Review, Office of the Immigration Judge, 25 "E" Street, N.W.—Lobby Door, Washington, D.C. 20538
Office of the Immigration Judge, Federal Detention Center, P.O. Box 5050, Oakdale, Louisiana 71460

[FR Doc. 86-10055 Filed 5-5-86; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Business Research Advisory Board and Committee; Meetings and Agenda

The regular spring meetings of the Board and Committees of the Business Research Advisory Council will be held on May 28, 29, and 30, 1986. All of the meetings will be held in Washington, DC.

The Business Research Advisory Board and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of technical officers from American business and industry.

The schedule and agenda for the meetings are as follows:

Wednesday, May 28

10 a.m.—Committee on Employment and Unemployment Statistics, Room N-3437 A and B, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW.

1. Impact of FY 1986-87 Budgets on Programs
2. Status of On-going Programs
   a. Plant Closing-Mass Layoff Reporting
   b. Status of Improvements to Local Area Statistics
   c. Measurement of Trends in Temporary Help Sector
   d. Occupational Employment Statistics
   e. Adjustments to CPS for Hispanics and Undocumented Workers
   f. Displaced Worker Data
   g. Employment and Trade Statistics
3. Special Topics:
   a. SIC Revision
   b. Part-time Employment Trends
4. Other Business

Wednesday, May 28

1:30 p.m.—Committee on Economic Growth, Room N-3437 A and B, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW.

1. Update on Budget Situation
2. Outline of Time Schedule for 1986-2000 Projections
3. Review of Three On-going Studies
   a. De-industrialization
   b. The Declining Middle
   c. Outlook for the Medical Services Industry
4. Other Business

Thursday, May 29

9:30 a.m.—Committee on Productivity/Foreign Labor, Room S-4215, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW.

1. Impact of GNP Revisions on Productivity Measures
2. Report of Work on Multi-Factor Productivity Measures for 2-digit Manufacturing Industries
3. New OMB Government Productivity Program and Relation to BLS Productivity Program
4. Developments in International Comparisons Work
5. Other Business

10 a.m.—Committee on Occupational Safety and Health Statistics, Room N-4437, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW.

1. National Academy of Sciences Study and General Program Developments
2. Recordkeeping Guidelines
3. On-Site Case Study and Post Symposium Developments
4. WIR Updates
5. SDS Updates
6. Other Business

1:30 p.m.—Committee on Price Indexes, Room N-4437, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW.

1. Derivation of Personal Consumption Expenditures and Department of Energy Consumption Estimates
2. Other Business

Friday, May 30

9 a.m.—BRAC Board, Room N-4437, Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW.

1. Chairperson's Opening Remarks
2. Commissioner's Remarks—Janet L. Norwood
3. Committee Reports:
   a. Employment and Unemployment Statistics
   b. Economic Growth
   c. Occupational Safety and Health Statistics
   d. Productivity/Foreign Labor
   e. Price Indexes
4. Other Business
5. Chairperson's Closing Remarks

The meetings are open to the public. It is suggested that persons planning to attend these meetings as observers contact Janice D. Murphey, Liaison, Business Research Advisory Council on Area Code (202) 523-1347.

Signed at Washington, DC, this 29th day of April 1986.

Janet L. Norwood,

Commissioner of Labor Statistics.

[FR Doc. 86-10131 Filed 5-5-86; 8:45 am]

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Pension and Welfare Benefits Administration

[Application No. D-6071 et al.]

Proposed Exemptions; United Parcel Service Thrift Plan et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Regulations and Interpretations, Room N-5669, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

United Parcel Service Thrift Plan (the Thrift Plan) and United Parcel Service Retirement Plan (the Retirement Plan; Together, the Plans) Located in Greenwich, Connecticut

[Application Nos. D-6071 and D-6366]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to (1) the acquisition by the Plans of six aircraft from United Parcel Service Co. (UPS Co.), provided the Plans pay no more than the fair market value of the aircraft on the date of acquisition; (2) the leaseback of the aircraft by the Plans to UPS Co., under the terms described in this notice of proposed exemption, provided such terms are not less favorable to the Plans than those terms obtainable in an arm's-length transaction with an unrelated party; (3) the guarantee of UPS Co.'s payments under the lease by United Parcel Service of America, Inc. (UPS); (4) the acquisition of notes issued by the Plans by Overseas Partners, Ltd. (OPL), in connection with the transaction; and (5) the possible future reacquisition of the aircraft by UPS Co. for cash pursuant to the terms of the lease.

Summary of Facts and Representations

1. The sponsors of the Plans are UPS and several of its domestic subsidiaries. UPS is a holding and management company, the principal subsidiaries of which provide specialized transportation services, primarily through the delivery of small parcels, throughout the United States, portions of Canada, and all of West Germany. UPS is the largest motor carrier in the United States. With minor exceptions, all UPS stock is owned by or for the benefit of over 10,000 managers and supervisors in the employ of UPS and its subsidiaries, or by former employees and their families. UPS Co., one of the employers participating in the Plans, is an operating subsidiary of UPS which provides parcel delivery services.

2. The Thrift Plan is a savings and profit sharing plan designed to provide benefits to employees of UPS and certain of its subsidiaries, upon their retirement, death, or other separation from service. As of June 30, 1985, the Thrift Plan had approximately 91,800 participants. The Thrift Plan had assets of approximately $461,577,000 as of October 31, 1985. The Retirement Plan is a non-contributory defined benefit pension plan. As of June 30, 1985, the number of active participants in the Retirement Plan was approximately 22,200, all of whom are employees of UPS and its subsidiaries. The Retirement Plan had approximately $439,834,000 in assets as of October 31, 1985. Bankers Trust Company (BTC) serves as a directed trustee of the assets of the Plans, taking its directions from the Plans' Administrative Committees.

3. UPS Co. owns approximately 60 aircraft which it uses in its air service operations. The applicants have requested an exemption to permit UPS Co. to sell six Boeing 747-123SF aircraft (the Aircraft) to the Plans and to lease the Aircraft back from the Plans. The purchase price for the Aircraft would be their current fair market value as determined by Avmark Services, Ltd. (Avmark), an experienced, independent appraiser of aircraft. Avmark has performed a preliminary appraisal of the Aircraft as of August 30, 1985, and has estimated their fair market value at approximately $151,000,000. It is proposed that the Thrift Plan will take a two-thirds participation in this transaction, and that the Retirement Plan will take a one-third participation. Thus, as of October 31, 1985, the transaction would involve approximately 19.7% of the Thrift Plan's assets, and approximately 13.3% of the Retirement Plan's assets.

4. It is anticipated that $50,000,000 of the purchase price for the Aircraft will be provided by the two Plans. The Plans would obtain the balance by issuing interest-bearing evidence of

indebtedness (Secured Equipment Certificates) to OPL, in exchange for which OPL would provide the Plans with an amount equal to approximately $101,000,000 of the purchase price of the Aircraft. OPL is a Bermuda corporation, engaged in the property and casualty reinsurance business, 97% of whose stock is owned by shareholders of UPS. None of such shareholders owns 10% or more of OPL's stock. However, one or more members of the Plans' Administrative Committees are also officers or directors of OPL. Payment of interest and principal on the Secured Equipment Certificate would be secured by the pledge of the Aircraft, the lease of the Aircraft by the Plans to UPS Co., the residual value insurance (see rep. 6, below), and UPS's guarantee of UPS Co.'s payment obligations under the lease. The holders of the Secured Equipment Certificates have no recourse to any assets of the Plans.

5. Immediately following the sale, the Plans would lease the Aircraft to UPS Co. for a term of 15 years. Rental under the lease would equal both the debt service for the Secured Equipment Certificates and payment to the Plans to amortize their cost and provide them with a return on their investment. Rental rates have been calculated so that over the first 10 years of the lease, the Plans will be paid their total investment plus an annual yield of 12.5%. If the lease continues for the full 15 year term, the average annual rate of return over the 15 year term will be 15%. The lease may be terminated by UPS Co. (i) at any time if the payments on the Secured Equipment Certificates become subject to Federal income tax withholding in certain circumstances; and (ii) otherwise at any time after 1990. Upon termination, UPS Co. is required to attempt to obtain a purchaser for the Aircraft or may purchase the Aircraft itself, in which event it would be required to make up the deficiency between (i) Termination Value (the amount necessary to liquidate the Secured Equipment Certificates plus the amount necessary to return the Plans' investment and provide their expected 15% return to the date of payment) and (ii) the proceeds of such purchase or purchases. In addition, if the Aircraft are destroyed and not replaced by UPS Co., UPS Co. is required to pay the Plans Stipulated Loss Value, which is equal to Termination Value.

6. Two additional termination features have been provided to cause the lease to be characterized as an operating lease for financial reporting purposes but as a financing transaction for tax purposes. To provide the required financial reporting treatment, UPS Co. has been given the option at the end of 10 years to either purchase the Aircraft or to "walk away" (i.e., to cancel the lease, without making further payments, and without acquiring the Aircraft), in which case the Plans would sell the Aircraft. If UPS Co. exercises the purchase option, which is at the lower of fair market value or Termination Value, or the "walk away" option, and the resultant sale of the Aircraft does not produce an amount which will discharge the Secured Equipment Certificates, an insurer would be required to pay the difference under a residual insurance policy to be purchased at the inception of the transaction by UPS Co. and maintained by it during the first 10 years of the lease (see rep. 4, above). At that point, rentals received by the Plans would have provided a return of their total investment and an average annual 12.5% yield. The inclusion of the "walk away", and the purchase option at the lower of fair market value or Termination Value, at the end of 10 years, is intended to support the characterization of the lease as an operating lease under generally accepted accounting principles. By using the lesser (instead of the greater) of fair market value or Termination Value for the purchase option, the applicants represent that the Plans' income from the transaction will not be subject to taxation under the unrelated business taxable income provisions of the Code. The Plans are assured the expected minimum rate of return of 12.5% through lease payments, and the payment for the Aircraft will bring that return to 15% if Termination Value is paid, and something in excess of 12.5% in the event that fair market value is less than Termination Value at the time in question. Termination Value at the ten year point is based on an appraisal by Avmark indicating that the fair market value of the Aircraft at that time is expected to approximate Termination Value at that time. To obtain the desired tax treatment, if UPS Co. continues the lease for its full 15 year term, then, at the end of this period, it has an option to purchase any or all of the Aircraft at the nominal price of $1.00. The lease ensures that the exercise of this option will not be unfair to the Plans, because at the end of 15 years, the Plans would have been repaid their investment and an effective annual 15% yield over the 15 year term.

7. The applicants represent that the proposed transactions provide a number of important benefits and protections for the Plans. UPS Co.'s payments under the lease are guaranteed by UPS. Thus, the Plans can look for payment to the creditworthiness of UPS, a corporation with over $3 billion in total assets. At closing, the Plans will pay for the Aircraft their current fair market value as determined by Avmark, a firm of nationally recognized, independent aircraft appraisers. UPS Co. is required to pay rent until the lease expires or is terminated, regardless of any or all circumstances. The lease is net, such that UPS Co. is responsible for all the costs of insuring, maintaining and operating the Aircraft. In addition, UPS Co. will pay all transaction costs relating to the transaction. The lease contains a number of remedies for the Plans if UPS Co. defaults, including the right to take possession and sell the Aircraft and to obtain a cash payment from UPS Co. in an amount that when added to the sale proceeds will provide the Plans with a return of their total investment and expected return.

8. For purposes of the proposed transaction, the Plans have retained an independent trustee, the Connecticut National Bank (the Bank). The Bank is independent of and unrelated to the Plans, UPS Co., and all other employers participating in the Plans, and has no commercial or business relationship to these employers, except that it acts as an investment advisor to the Retirement Plan. The Bank has extensive experience as a corporate fiduciary which includes management of assets in excess of $2,175,000,000, both real and personal, held by the Bank as trustee for plans which are subject to the Act. The Bank has consulted with counsel familiar with the provisions of the Act, and has been advised of its duties, liabilities and responsibilities as a fiduciary under the Act.

9. The Bank has concluded that the proposed transaction is in the interest of both Plans and is protective of the rights of the participants and beneficiaries of the Plans. The Bank represents that the terms and conditions of the transaction are at least as favorable to the Plans as those generally obtainable from unrelated parties in a similar investment. The Bank also represents that, in its opinion, the subject transaction or a like transaction would be marketable to unrelated third parties. In reaching these conclusions, the Bank represents that it has considered the following factors to be particularly significant:

(a) The Bank has the authority necessary to monitor and enforce the transaction for the benefit of the Plans;

(b) The Plans will pay no investment management fees, advisory fees, underwriting fees, sales commissions or

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similar compensation in connection with the proposed transaction;

(c) The percentages of the Plans' assets invested in the transaction will be approximately 19.7% of the Thrift Plan's assets and 13.3% of the Retirement Plan's assets, and these percentages are likely to decrease as the Plans' assets increase;

(d) Considering the Plans' overall investment portfolios, the investments of the Plans, after the Plans enter into the proposed transaction, will be sufficiently diversified and adequately liquid;

(e) The risk of loss to the Plans is minimal given the size and creditworthiness of UPS Co., and its guarantor UPS, and give other protections provided in the documents governing the proposed transaction;

(f) The return to the Plans compares favorably with other types of investments of similar quality generally available to the Plans, and the Plans will not sell any of their existing assets earning more than the projected rate of return on the proposed transaction in order to enter into the proposed transaction;

(g) The Plans will provide only the equity funds needed to consummate the proposed transaction and will have no liability under any circumstances to make any payments with respect to the loan made in connection with the proposed transaction;

(h) The provisions of the lease for UPS Co., at the end of the 10th year or thereafter, to purchase the Aircraft, to terminate the lease, or to "walk away" from the lease, are all carefully designed to ensure that the Plans will be adequately protected under all of those circumstances;

(i) The lease requires UPS Co. to continue making payments under the lease, without set-off or recoupment, regardless of the condition or fitness of the Aircraft, except in stated circumstances in which the Plans would be adequately protected;

(j) The lease is a net lease, with all costs, taxes and expenses of the Aircraft to be borne by UPS Co.;

(k) The Bank is satisfied that income received by the Plans pursuant to the proposed transaction will not be taxable as unrelated business taxable income;

(l) The Bank has reviewed and relied upon Avmark's preliminary appraisal dated August 30, 1985, indicating the fair market value of the Aircraft to be approximately $151,000,000, and will require a final appraisal of the Aircraft by Avmark as of the closing date, which must be satisfactory to the Bank in its absolute discretion; and

(m) The Bank has extensive experience with leveraged lease transactions and is of the view that, in general, the proposed transaction is customary for the industry, except that the transaction is structured to provide the user of the equipment with the tax benefits inherent to ownership while still treating the transaction as an operating lease for accounting purposes. This difference is embodied in the purchase and "walk away" options after 10 years, and the nominal purchase option after 15 years. The inclusion of these options in the proposed transaction and the results thereof are not detrimental to the Plans or to the returns the Plans will receive from the proposed transaction.

10. BTC, which has extensive experience with regard to sale/leaseback transactions, has represented that it believes the transaction is fair, equitable and attractive to all participants. BTC further represents that it is willing and able to place third party debt in the transaction, and would be willing to step in as an equity participant in the transaction as well. BTC represents that it has closed several financing materially similar to the proposed transactions, and has several others pending. The applicants represent that the subject transaction is closely modeled upon a $146,400,000 leveraged lease financing for American Airlines, Inc., involving seven McDonnell Douglas DC-82 aircraft, which closed in July, 1983. The equity participants in that transaction were subsidiaries of BTC and UPS.

11. In summary, the applicants represent that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (a) The transaction involves less than 25% of the assets of each Plan; (b) the purchase price for the Aircraft will be determined by an appraisal conducted by Avmark, a qualified, independent appraiser as of the date of closing; (c) the Plans' independent fiduciary, the Bank, has determined that the proposed transaction is appropriate for, in the best interest of, and protective of the rights of the Plans and their participants and beneficiaries; and (d) the Bank will monitor the transaction throughout its duration and will take whatever action is necessary to enforce the Plans' rights.

For futher information contact: Mr. Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Fred A. Loe, D.D.S., P.A. Profit-Sharing Plan (the Plan) Located in Las Cruces, New Mexico

[Application No. D-6485]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the code [1] and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to (1) the purchase by the Plan of approximately 10.03 acres of vacant land located in Las Cruces, New Mexico, from Fred A. Loe, D.D.S. (Loe) for Loe's segregated account in the Plan, provided the Plan pays no more than fair market value for the property and the transaction represents no more than 25 percent of the assets in Loe's account at the time of purchase; and (2) the proposed transfer to the Plan in connection with the Plan's purchase of the real property of a real estate contract executed by Loe with unrelated third parties.

Summary of Facts and Representations

1. The Plan is a profit-sharing plan that provides an individual, segregated account for each participant. As of January 1, 1986, the Plan had one participant, although there have been other participants in the past and may be others in the future. The Plan provides that each participant may direct the investments in his or her individual account.

2. Loe is a participant in the Plan as well as the Plan trustee and the sole shareholder of Fred A. Loe, D.D.S., P.A. The total assets in Loe's account as of January 1, 1986, equaled $167,678. Loe is the owner of approximately 10.03 acres of vacant land located just outside the border of Las Cruces, New Mexico.

3. An appraisal was made on the parcel of real property on June 24, 1985, by Milton A. Romney (Romney), a real estate appraiser located in Las Cruces, New Mexico. According to the applicant, Romney is independent of Loe. Using the direct sales comparison approach, Romney placed the fair market value of the property at $40,000. The parcel of land contains no on-site

[1] Because Fred A. Loe is the sole shareholder of the Employer and the only participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under Title II of the Act under section 4975 of the Code.

improvements. Romney states that the subject property is located in the path of city growth and, therefore, potential value is inherent.

4. the Plan proposes to purchase the real property from Loe for Loe's individual account in the Plan. Loe believes that the land represents a good investment for the account because he anticipates that the property will substantially appreciate in value. The Plan will pay the appraisal price stated in the application for the property or fair market value at the time of purchase, whichever is lower. Based on the most recent available data, the transaction will represent approximately 23.8 percent of the assets in Loe's account.

5. The Plan will pay no sales commissions or fees in connection with the purchase. The Plan will pay $8,864 in cash and will assume an existing real estate contract on the property in the remaining principal amount of $31,136. These figures will be adjusted at the closing to reflect payments made in the interim on the contract. The real estate contact bears an interest rate of 10 percent per annum, with 3½ years remaining to maturity as of February 1986. The contract will be repaid monthly in equal installments of principal and interest. The contract is presently held by the sellers of the land, Ysidro and Mary Lopez, who are unrelated to Loe and the Plan.

6. In summary, the applicant represents that the proposed transaction will satisfy the statutory criteria of section 408(a) of the Act because: (1) The Plan will pay no more than fair market value for the real property at the time of purchase, based on a current independent appraisal; (2) the purchase of the property will involve no fees or commissions; (3) the transaction will involve only Loe's individual account in the Plan and will represent less than 25 percent of the assets in that account; and (4) the applicant believes that the property should appreciate in value, resulting in further growth of the account.

For Further Information Contact: Paul Kelty of the Department, telephone (202) 523-8882. (This is not a toll-free number.)

Union Gas System, Inc. and Affiliates Pension Trust Agreement (the Plan) Located in Independence, Kansas

[Application No. D-6489]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of 216 shares of common stock (the Stock) of Citizens National Bank, Independence, Kansas (the Bank) by the Plan to William H. Reeder [2] (Mr. Reeder), a party in interest with respect to the Plan, provided that the consideration paid for the Stock is not less than the higher of either $600 per share or the fair market value of the Stock on the date of the sale.

Summary of Facts and Representations

1. The Plan is a qualified money purchase pension plan, created in January 1944, with 614 participants and total assets of $9,865,428.83, as of August 31, 1985. These assets of the Plan consist of stocks, bonds, nongovernment obligations, and other securities. Included in the assets of the Plan is the Stock, which represents approximately a 5-percent interest in the Bank. Beginning June 25, 1947 and ending June 5, 1959, the Stock was acquired by the Plan in five different purchases, at varying prices per share, for a total expenditure of $16,354.17. Fiduciaries for the Plan are six individuals who are officers of the sponsoring employer, Union Gas System, Inc. (the Employer), located in Independence, Kansas. None of the fiduciaries is a shareholder or director of the Employer. The Employer is a diversified energy company whose activities include being (a) an interstate operator for distribution and transmission systems of natural gas; (b) an interstate distributor of propane gas; (c) a producer of oil and gas in two states; and (d) in the Kansas City metropolitan area, an owner and operator of mobile home subdivisions, industrial parks, shopping centers, and food supermarkets.

2. The Bank is primarily owned and controlled by a local family with whom Mr. Reeder is not related. The facilities of the Bank are located in three different small communities in the State of Kansas, where the prime economic activities are agriculture and the oil business. Both these economic activities are currently depressed and it appears they will be for the foreseeable future. The dividend history of the Stock for the past three years has been limited to $14 per share in 1983 and $10 per share in both 1984 and 1985. There is virtually no market for the Stock and its trading activities have been confined to transactions between shareholders of the Bank. Currently, of the 4,000 shares issued and outstanding, Mr. Reeder owns 26 shares of the common stock of the Bank. Mr. Paul Viets, President of the Bank, indicates that there is a very limited market for the Stock. Furthermore, he speculates that the only likely purchasers of the Stock would be the other directors of the Bank who own stock in the Bank. However, he is doubtful of their financial ability to acquire an additional 216 shares for themselves at $600 per share. In 1977, 160 shares were sold in seven different blocks at an average price of $486 per share. After receiving the offer made by Mr. Reeder and considering the limited market, the other five fiduciaries concluded that it was in the interest of the Plan and its participants and beneficiaries to sell the Stock to Mr. Reeder. Since Mr. Reeder was an interested party, he was not permitted to vote as a fiduciary of the Plan on this matter of selling the Stock to himself.

3. Mr. Grafton M. Potter, of the United Missouri Bank of Kansas City, determined that the market price for the common stock of the Bank would be realistic at $525 per share, as of December 31, 1984. He computed the book value at the same date to be $1,684.25 per share; and then, discounted the book value of the Bank's stock after noting that a few shares were sold during 1984 for $525 per share. Also, Mr. Potter noted that the President of the Bank, Mr. Viets, had represented to him that the principal reason the market price is discounted so extensively is because of the small dividend payout by the Bank and the lack of prospective purchasers of the Bank's common stock. In addition to Mr. Potter's appraisal, Mr. Walter I. Cole, of Beecroft-Cole & Company, Topeka, Kansas, a member of the Midwest Stock exchange, was requested to make an appraisal of the Stock. Mr. Cole determined that, as of June 1, 1985, the Stock, as a minority interest in a basically unmarketable security, had a value in the range of $550 to $600 per share.

4. Mr. Reeder, as an individual, proposes to purchase the Stock from the Plan for the higher of either the cash sum of $600 per share or the fair market value of the Stock on the date of the sale. The Plan will incur no expenses with respect to the proposed transaction. Mr. Reeder represents that his reasons for desiring to purchase the

[2] Mr. Reeder is one of six fiduciaries of the Plan and he is also one of seven directors of the Bank. In addition, Mr. Reeder is Senior Vice President and General Counsel of the sponsoring employer of the Plan, Union Gas Systems, Inc.

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Stock are that he currently has the funds available; he believes that the Stock has long-term potential; and most importantly, as he is currently serving on the board of directors of the Bank, he will be able to have a direct control of his investment.

5. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because (a) the proposed sale of the Stock will be a one-time transaction for cash; (b) the Plan will be able to invest the proceeds from the sale in better income producing assets; and (c) the Plan will receive the highest fair market price for the Stock as determined by a qualified independent appraiser.

For Further Information Contact: Mr. C.E. Beaver of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Aerosol Services Company, Inc. Profit Sharing Plan (the Plan) Located in Industry, California

[Application No. D-6490]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of a parcel of real property (the Property) by the Plan to Aerosol Services Company, Inc. (Aerosol), or to Howard and Walter Lim (the Lims), parties in interest with respect to the Plan, for the greater of $725,000 or the fair market value of the Property on the date of the sale.

Summary of Facts and Representations

1. Aerosol is a California corporation involved in developing aerosol-related products and providing services in connection with the aerosol industry. Aerosol is owned by two brothers, the Lims, who are also trustees of the Plan. The Plan had approximately 115 participants as of June 30, 1985, and had assets of approximately $875,000.

2. On December 12, 1972, the Plan purchased the Property from an unrelated party in an arm's-length transaction for $120,676. The Property is approximately 3.33 acres in size, is unimproved and is located in Industry, California. On the same date as the purchase, the Plan leased a portion of the Property to Aerosol. The leased portion of the Property represented approximately ⅓ of the Property, or about 20,000 square feet of the 145,000 square feet. Aerosol uses the leased portion for packing by its employees. The initial term of the lease was for a period of 10 years and called for monthly payments of $1,000. since the lease expired in December, 1982, the Plan has continued to lease the portion of the Property to Aerosol on a month-to-month basis for the same rental, $1,000 per month.[3]

3. The applicants now seek an exemption to permit the Plan to sell the Property to Aerosol, or alternatively, to the Lims. The sale will be for cash, and no commissions will be paid. Mr. Phillip Gottfried, M.A.I. (Mr. Gottfried), an independent appraiser located in Ontario, California, has determined the fair market value of the Property to be $725,000 as of May 10, 1985. The applicants represent that the fair market value of the Property will be updated by an M.A.I. appraisal immediately prior to its sale, and the sales price to be paid to the Plan will be the higher of $725,000 or its updated appraised value. Mr. Gottfried represents that the Property has no special value to Aerosol by virtue of its proximity to Aerosol's present location.

4. The applicants represent that the Plan has been receiving at least fair market rental value since July 1, 1984, for Aerosol's use of the portion of the Property. Mr. Gottfried determined that as of July 1, 1984, the portion of the Property leased to Aerosol had a fair market rental value of $833 per month, and that the rent of $1,000 per month currently being paid by aerosol to the Plan is a fair amount. However, the applicants recognize that the leasing of the portion of the Property by the Plan to Aerosol since July 1, 1984 constitutes a prohibited transaction, for which no exemptive relief is being proposed by the Department. Accordingly, Aerosol represents that it will pay all excise taxes due to the Internal Revenue Service by reason of its use of the Property, within 60 days of the granting of the exemption proposed herein.

5. In summary, the applicants represent that the proposed transaction meets the criteria of section 408(a) of the Act because: 1) the sale is a one-time transaction for cash; 2) no commissions will be paid on the sale; 3) the sales price is to be determined by an independent M.A.I. appraisal; and 4) with respect to the past prohibited lease, Aerosol will pay all excise taxes due within 60 days of the date of granting of the exemption proposed herein.

For Further Information Contact: Mr. Gary H. Lefkowitz of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Michigan Lithographing Retirement Plan (the Plan) Located in Grand Rapids, Michigan

[Application No. D-6498]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale by the Plan of a certain parcel of improved real property (the Property) to the Michigan Lithographing Company (the Employer), the sponsor of the Plan, provided that the sales price is no less than the fair market value of the Property on the date of sale.

Summary of Facts and Representations

1. The Plan is a defined benefit plan which, as of January 1, 1985, had approximately 128 participants and total assets of approximately $535,074. The trustee of the Plan is Union Bank and Trust Company of Grand Rapids, Michigan (Union Bank). The applicant states that Union Bank is an independent trustee, exercising independent judgement and discretion over Plan investments with respect to assets of the Plan other than the Property. However, the applicant states further that with respect to the Property, Union Bank is a directed trustee and the Board of Directors of the Employer has investment discretion. The Employer is a Michigan corporation, located at 1 Carlton Avenue, S.E., Grand Rapids, Michigan, engaged in the lithographing business.

2. The Property is a rectangularly shaped parcel of land located at 25 Carlton Avenue, S.E., Grand Rapids, Michigan. The Property is the site of an existing two story, wood frame coverted residence occupied as an office, plus an asphalt paved parking lot. The Plan acquired the Property from the Employer in 1983. Since that time, the Plan has leased the Property to the Employer for use as an office, for storage, and for parking. The Property is adjacent to the Employer's property. The Employer is currently paying the Plan $550 per month in rent for the Property. The applicant states that the Plan is currently receiving fair market value rent for the Property as the result of an audit by the Internal Revenue Service (the Service). In addition, the Employer has paid to the Plan a sum of money determined by the Service as a "correction" to make the Plan whole for amounts due with respect to the difference between the past rents paid by the Employer and the past fair market value rental for the Property. The applicant states further that Form 5330, Return of Initial Excise Taxes Related to Pension and Profit Sharing Plans, has been filed with the Service. In addition, the Employer represents that additional Forms 5330 will be filed and appropriate excise taxes for the remainder of the leasing transaction will be paid within 60 days of the date of a grant of an exemption for the proposed sale of the Property.

3. The Property was appraised on March 4, 1986 by Joseph H. Foster, M.A.I. (Mr. Foster), an independent real estate appraiser in Grand Rapids, Michigan, as having a fair market value of $57,000. Mr. Foster states that consideration was given to the plottage value of the Property and the Property's proximity to the Employer's adjacent location in arriving at the appropriate fair market value. Mr. Foster represents that in his opinion the market value for the Property would be lower if it were not located adjacent to an industrial district. However, the applicant states that other potential purchasers are not as likely to pay as much for the Property as the Employer because of its proximity to the Employer's property.

4. The Employer proposes to purchase the Property for $57,000 in cash in accordance with Mr. Foster's appraisal. The applicant represents that the sale of the Property to the Employer is in the best interest of the Plan's participants and beneficiaries since the proceeds of the sale can be reinvested in other assets and create greater diversity. The Plan will not pay any fees or commissions in connection with the sale.

5. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act because: (a) the sale will be a one-time tansaction for cash; (b) the Plan will receive the fair market value for the Property as determined by an independent qualified appraiser; and (c) the Plan will not pay any commissions or other expenses in connection with the sale.

For Further Information Contact: Mr. E.F. Williams of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Michigan National Bank Pooled Fund for Qualified Retirement Plans (MNB Grand Rapids Pooled Fund) and Michigan National Bank of Detroit Pooled Trust Fund A (MNB Detroit Pooled Fund) Located in Grand Rapids and Detroit, Michigan

[Application No. D-6506]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(b)(2) of the Act shall not apply to the proposed merger of the MNB Detroit Pooled Fund into the MNB Grand Rapids Pooled Fund, provided that the aggregate fair market value of the interests of each plan participating in these two funds (collectively, the Funds), upon completion of the merger transaction, equals the aggregate fair market value of such plan's interest in the Funds immediately preceding the merger.

Summary of Facts and Representations

1. Both Michigan National Bank of Detroit (MNB Detroit) and Michigan National Bank (MNB Grand Rapids) are National Banking Associations, whose capital stock, other than qualifying shares held by directors, is owned by Michigan National Corporation, a registered bank holding company under the Bank Holding Company Act of 1956. MNB Detroit serves as trustee for numerous qualified retirement benefit plans which participate in the MNB Detroit Pooled Fund, and MNB Grand Rapids serves as trustee, or agent for the trustee, of numerous qualified retirement benefit plans which participate in the MNB Grand Rapids Pooled Fund.

2. The MNB Detroit Pooled Fund had 42 participating plans with total net assets of $18,742,514, as of March 31, 1986. These participating plans are offered by the MNB Detroit Pooled Fund three options in investment funds: an Equity Fund, a Fixed Income Fund, and a Limited Volatility Fund. Pursuant to the terms and conditions of the MNB Detroit Pooled Fund, MNB Detroit has the privilege and authority to divide any of its investment funds into a greater number of units of a lesser value or into a smaller number of units of a greater value, as long as the proportionate interest of each participating plan is not changed. Furthermore, MNB Detroit has the right to sell, transfer, or dispose of any assets of the respective investment funds and to terminate any of the investment funds at the discretion of its board of directors. Upon a decision to terminate an investment fund, and after providing the required notice to interested parties, MNB Detroit would be required to transfer the assets of the terminating investment fund into a separate liquidating account for disposition for the sole benefit of the participating plans. Distributions from the liquidating account must be made ratably in accordance with respective unit interests of the participating plans.

3. The MNB Grand Rapids Pooled Fund had 333 participating plans and total net assets of $67,009,094.71, as of June 30, 1985. These participating plans are offered five choices as to investment funds: a Liquidity Fund, a Limited Volatility Fund, a Fixed Income Fund, an Equity Fund, and a Mutual Equity Fund. The terms and conditions of the MNB Grand Rapids Pooled Fund permit MNB Grand Rapids to divide any of its investment funds into a greater number of units of lesser value or into a smaller number of units of greater value as long as the proportionate interest of each participating plan is not changed. Furthermore, MNB Grand Rapids is authorized to accept deposits to any of its investment funds in even multiples of the then fair value of each unit in that investment fund.

4. The applicants propose that the MNB Detroit Pooled Fund be merged into the MNB Grand Rapids Pooled Fund. This merger will be accomplished in two steps which will occur simultaneously with no cash exchanged between the funds. The first step will involve MNB Detroit transferring the majority[4] of the assets in its MNB Detroit Pooled Fund at fair market value, based upon values reflected on national securities exchanges, to the MNB Grand Rapids Pooled Fund. Any securities not traded on national securities exchanges will have their fair market value determined by MNB Detroit with information available to it. There are only two securities[5] of the

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[3] The applicants represent that the leasing of the portion of the Property by the Plan to Aerosol was exempt through June 30, 1984 from the prohibitions of sections 406 and 407(a) of the Act and section 4975 of the Code by reason of sections 414(c)(2) and 2003(c)(2)(B) of the Act. The Department expresses no opinion as to whether the lease satisfied the conditions of Act sections 414(c)(2) and 2003(c)(2)(B).

[4] It is not known how many of the participating plans will transfer to the MNB Grand Rapids Pooled Fund; however, it is anticipated most will do so.

[5] The securities are two bonds, each in the principal amount of $80,000, issued by the City of

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MNB Detroit Pooled Fund which are not listed on a national securities exchange. In addition, each participating plan will be given the opportunity to discontinue its participation in the MNB Detroit Pooled Fund immediately prior to the proposed transfer and have its assets invested in a different manner than being invested in the MNB Grand Rapids Pooled Fund. The second step of the proposed merger will involve the issuance of units in MNB Grand Rapids Pooled Fund to the former participating plans in the MNB Detroit Pooled Fund. The portion of the proceeds attributable to each investment fund from the MNB Detroit Pooled Fund will be invested in a comparable investment fund under the MNB Grand Rapids Pooled Fund. No fractional units of participation will be issued. The MNB Grand Rapids Pooled Fund will pay each participating plan cash equal to the fair market value of any fractional units to which the plan would otherwise be entitled. MNB Grand Rapids has reviewed the assets of MNB Detroit Pooled Fund and has determined that the assets to be received from MNB Detroit Pooled Fund are appropriate investments for the MNB Grand Rapids Pooled Fund. Neither MNB Detroit nor MNB Grand Rapids will receive any fee or commission with respect to the transfer of assets in the proposed transactions. It is further represented by the applicants that each participating plan in the MNB Detroit Pooled Fund (other than those discontinuing participation) will obtain units of equal value in the corresponding investment fund of the MNB Grant Rapids Pooled Fund. The only difference will be a further diversification of each investment represented by each unit in the MNB Grand Rapids Pooled Fund. MNB Grand Rapids will become solely responsible for the administration and investment of all the remaining assets which were previously and separately held by the Funds.

5. The applicants represent that although both of the existing Funds are adequately diversified, their merger would produce a single, larger pooled fund with a greater diversification of investments, which will benefit the participating plans. Moreover, the increased amount of assets in the resulting pooled fund will broaden the range of its potential investments and permit it to benefit from volume discounts on certain services it purchases. Also, the new pooled fund will permit a more efficient and economical administration of the investment of assets, eliminating the duplication of efforts by the Funds. The merger will centralize and enhance the expertise in administering the Funds.

6. In summary, the applicants represent that the proposed transactions meet the statutory criteria contained in section 408(a) of the Act because (a) neither MNB Detroit, MNB Grand Rapids, nor any affiliate of either bank will receive any fee or commission in connection with the transactions; (b) the fair market value of the interest of a participating plan in the Funds will remain unchanged by the proposed transactions; (c) the assets of each participating plan will be invested in the same type of investments both before and after the proposed transactions; (d) the proposed transactions wil result in additional diversification of current investments of participating plans and will permit further diversification in the future because the larger size of the resulting pooled fund; and (e) the proposed transactions will permit the more efficient administration of the funds by the banks owned by Michigan National Corporation.

For Further Information Contact: Mr. C.E. Beaver of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

Thayer E. and Anne K. Merrill, Ltd. Defined Benefit Pension Plan (the Plan) Located in Scottsdale, Arizona

[Application No. D–6509]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed purchase by the Plan of a mortgage note (the Note) from Thayer E. Merrill and Anne K. Merrill (the Merrills), who are the sole participants in and trustees of the Plan and disqualified persons with respect to the Plan,[*] for cash in the amount of $42,812.20, provided that such amount does not exceed the fair market value of the Note on the date of sale; and (2) the fair market value of the Note constitutes no more than 25% of the Plan's net assets after its purchase.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan with two participants, Thayer E. Merrill and his wife, Anne K. Merrill, who are also the sole shareholders of Thayer E. and Anne K. Merrill, Ltd. (the Plan Sponsor) and the trustees of the Plan. The Plan had net assets, as of January 31, 1986, of approximately $151,973.

2. The Merrills are the holders of and payees on a first deed of trust note (the Note) in the face amount of $45,000, bearing interest at the rate of 10% per annum payable annually from December 16, 1985 until December 16, 1987, at which time the principal balance, together with any accrued interest, must be paid in full. The Merrills represent that all payments on the Note have been made in a timely manner. The makers of the Note (the Makers) are Mr. and Mrs. Douglas D. Sutton, Mr. and Mrs. Dean K. Woodward and Mr. and Mrs. George E. Hanson, all of whom are unrelated to the Plan and to the Merrills. The Note is the result of the December 16, 1984 sale of three undivided one-third interests in certain unimproved real property (the Property) by the Merrills to the Makers. The Property was sold to the Makers for $65,000, of which $20,000 was paid in cash. The Note is secured by the Property. The Property is otherwise unencumbered.

3. The Note was appraised on March 7, 1986 by Mr. Donald J. Bernstein, president of Mutual Mortgage, Inc., a business which has been engaged in the buying and selling of trust deeds for over five years. Mr. Bernstein determined the fair market value of the Note on that date to be $42,812.20, based on a discount rate of 15%. Mr. Bernstein states that 15% is an appropriate discount rate as the real estate underlying the Note is raw land and there are no current payments of principal on the Note. Mr. Bernstein is independent of the Merrills.

4. The Merrills propose to sell the Note to the Plan for cash in the amount of $42,812.20. The Merrills, as trustees of the Plan, state that the purchase of the Note would be an excellent investment for the Plan as the Plan will have a high rate of return on a very well secured investment. The applicants represent that, prior to the Plan's purchase of the Note, the Plan Sponsor will make an additional contribution to the Plan in an amount such that the value of the Note after its purchase by the Plan will represent no more than 25% of the Plan's net assets. The Plan will pay no brokerage fees or commissions with respect to the purchase of the Note. The applicants represent also that if any present or future employees of the Plan Sponsor become eligible to participate in the Plan, a separate, comparable Plan will be established so that the Merrills will be the only participants affected by the proposed transaction.

5. In summary, the applicants represent that the proposed transaction meets the statutory criteria of section 4975(c)(2) of the Code because:

(a) The Plan will purchase the Note for its fair market value as determined by a qualified, independent appraiser;

(b) The Plan's trustees have determined that the proposed purchase of the Note is protective of and in the best interest of the Plan;

(c) The purchase of the Note by the Plan will be a one-time transaction for cash;

(d) The Plan will pay no fees or commissions with respect to its purchase of the Note; and

(e) The transaction will at all times only affect the Merrills' interests in the Plan.

Since the Merrills are the only participants in the Plan and the sole owners of the Plan Sponsor, it has been determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments with respect to this proposed exemption are due 30 days after the date of publication of this notice in the **Federal Register**.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523–8194. (This is not a toll-free number.)

NBD Banks Short-term Investment Fund for Master Trust/Custodian Accounts (the Fund) Located in Detroit, Michigan

[Application No. D–6578]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of sections 406(a) and 406(b)(1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the making of a three-day repurchase agreement that was entered into on September 27, 1985, between the Fund and the National Bank of Detroit (NBD).

Summary of Facts and Representations

1. NBD is a national banking association with its principal offices in Detroit, Michigan. NBD has established and maintains the Fund as a domestic trust within the United States for the collective investment and reinvestment of moneys contributed thereto by NBD and its affiliate banks in their capacity as fiduciaries of participating trusts that are qualified under section 401 of the Code and exempt from income taxation under section 501(a) of the Code. At the time of the transaction described below, the Fund had 369 participating investment accounts representing 105 trust, agency, and custodial relationships. As a group trust, the Fund is a trust that constitutes a part of each of the qualified plans that is a participating account. NBD as Trustee (the Trustee) of the Fund is thereby subject to the duties and responsibilities of a fiduciary with respect to each such qualified plan.

2. Designated personnel in NBD's Trust Division execute NBD's responsibilities as Trustee of the Fund. Each day NBD's Trust Division calculates the amount of cash in the Fund available for investment in various types of short-term money market instruments. NBD has established guidelines for such investments which include an approved list of banks and broker-dealers through which the Trust Division's investment officers may invest the cash of the Fund. These investments typically are made through the New York City financial markets. NBD does not have established contracts with financial markets in other areas of the country.

3. Early in the day on Friday, September 27, 1985, Hurricane Gloria threatened the East Coast and, in particular, New York City. The threat was sufficiently severe to cause the financial markets in New York and in some other parts of the country either not to open or to close by the middle of the morning. An NBD Trust Division cash investment officer was able to invest most of the cash of the Fund available on September 27 through the New York markets before those markets closed at about 10:00 a.m. Until approximately 11:00 a.m. the officer investor some of the remaining money with direct issuers in Detroit. However, as revised cash-for-investment figures for the Fund later became available, the officer was unable to find a direct issuer on the NBD approved list that was still open for investment. Finally, $12,000,000 of Fund cash remained uninvested. The $12,000,000 represented 11 percent of the Fund cash available that day for investment. Of the Fund's total assets of $886,921,129, the $12,000,000 represented 1.35 percent.

4. One of the purposes of the Fund is to keep all available cash invested at all times. In light of NBD's obligation as Trustee of the Fund to invest the remaining $12,000,000 in cash, and with no apparent external sources available, the investment officer called the Bank Investment Division of NBD to determine the availability of suitable investment vehicles. The Bank Investment Division offered a three-day repurchase agreement with NBD at the market rate of 7.375 percent. The investment was made at 1:15 p.m. on September 27. Pursuant to the agreement, United States Treasury Notes having a market value of $12,375,010 were transferred to the Fund. Consequently, under the repurchase agreement, the Fund held U.S. Government securities having a market value of more than 103 percent of the purchase price paid by the Fund. On Monday morning, September 30, the Government securities underlying the repurchase agreement were transferred back to the Bank Investment Division in exchange for $12,007,375 pursuant to the terms of the agreement.

5. NBD loaned the $12,000,000 at the Federal funds rate on September 27 and made net earnings of $595, after taking account of the interest paid to the Fund on the repurchase agreement. NBD received no fees or commissions in connection with the agreement, and will return to the Fund the net earnings of $595 it made from the $12,000,000 during the term of the repurchase agreement.

6. The applicant represents that the repurchase agreement with NBD was entered into because of the extraordinary circumstances caused by Hurricane Gloria and because the only reasonable alternative was to leave the remaining $12,000,000 of Fund cash uninvested for the weekend. The applicant represents further that the terms and conditions of the repurchase agreement were at least as favorable to the Fund as those the Fund could have obtained from an unrelated party, and that the terms and conditions of the agreement were the same as those NBD would have used in dealing with an unrelated party.

7. In summary, the applicant represents that the transaction satisfies the statutory criteria of section 408(a) of the Act because: (1) NBD cash

London, Ontario and maturing December 15, 1986, and 1987, respectively. They were each acquired for $60,438 in a private placement and were last valued, as of March 31, 1986, with the 1986 bond valued at $58,083 and the 1987 bond valued at $56,550. These two bonds represent less than ¾ of 1-percent of the total assets of the MNB Detroit Pooled Fund.

[*] Because Thayer E. Merrill and Anne K. Merrill (the Merrills) are husband and wife and are the sole shareholders of the plan sponsor as well as the sole participants in the Plan, there is no jurisdiction under Title I of the Employee Retirement Income Security Act of 1974 (the Act) pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

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investment officers made reasonable efforts to invest as much as possible of the Fund cash available for investment on September 27, 1985, with unrelated parties; (2) due to the unusual circumstances caused by Hurricane Gloria, the only reasonable alternative was to leave $12,000,000 of Fund cash uninvested for the weekend; (3) under the terms of the repurchase agreement, the agreement was entered into for only three days; (4) the repurchase agreement was made at the market rate of 7.375 percent; (5) the assets of the Fund involved in the repurchase agreement were protected at all times during the term of the agreement because the Fund received U.S. Government securities having a market value of more than 103 percent of the purchase price paid by the Fund; (6) NBD received no fees or commissions and will return to the Fund any net earnings it made from the agreement; and (7) the terms and conditions of the repurchase agreement were the same as those NBD would have used in dealing with an unrelated party.

For further information contract: Paul Kelty of the department, telephone (202) 523-8882. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 1st day of May, 1986.

Robert J. Doyle,

Deputy Assistant Administrator for Regulations and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 86-10132 Filed 5-5-86; 8:45 am]

BILLING CODE 4510-29-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN 50-455, STN 50-456 and STN 50-457]

Commonwealth Edison Co.; Issuance of Amendments to Construction Permits

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Construction Permit Nos. CPPR-131, CPPR-132 and CPPR-133 for the Byron Station, Unit 2 and the Braidwood Station, Units 1 and 2. Amendment No. 1 modifies the construction permits to reflect issuance, by the Commission, of an Exemption dated October 28, 1985. The Exemption, from a portion of the requirements of General Design Criterion 4 (GDC-4) of Appendix A to 10 CFR Part 50, was granted for the first two cycles of operation for Byron Station, Unit 2 and Braidwood Station, Units 1 and 2 to eliminate the need for pipe whip restraints and jet impingement shields on primary loop piping. The amendments are effective as of the date of issuance.

The application for the amendments comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the amendments. Prior public notice of these amendments were not required since the amendments do not involve a significant hazards consideration.

For further details with respect to this action, see (1) the application for amendments dated September 25, 1985; (2) Amendment No. 1 to Construction Permits Nos. CPPR-131, CPPR-132 and CPPR-133; (3) the Exemption dated October 28, 1985; (4) the Commission's related Safety Evaluation; and (5) the Notice of Environmental Assessment and Finding of No Significant Impact dated October 21, 1985. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Local Public Document Rooms located in the Rockford Public Library, 215 N. Wyman Street, Rockford, Illinois 61103 and in the Wilmington Township Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481. In addition, a copy of items (2), (3), (4), and (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of PWR Licensing-A, Office of Nuclear Reactor Regulation.

Dated this 29th day of April, 1986 in Bethesda, Maryland.

For the Nulear Regulatory Commission.

Vincent S. Noonan,

Director, PWR Project Directorate No. 5, Division of PWR Licensing-A.

[FR Doc. 86-10125 Filed 5-5-86; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-53]

Initiation of Investigation Under Section 301; National Soybean Processors Association

On April 4, 1986, the National Soybean Processors Association (NSPA) filed a petition under section 301 of the Trade Act of 1974, as amended (19 U.S.C. 2411 et seq.) seeking relief from the effects of certain policies and practices of the Government of Argentina.

Argentina applies a 28.5 percent export tax on soybeans, and an 16.5 percent export tax on soybean oil and meal. NSPA argues that the export tax differential is unreasonable and burdens or restricts U.S. commerce. More specifically, NSPA contends that the export tax differential results in an artificial and unfair cost advantage to Argentine soybean crushers, essentially because the export tax suppresses the domestic Argentine price of soybeans to a level well below world (and U.S.) prices—an advantage for Argentine processors that far exceeds the cost to them of the export tax on oil and meal.

NSPA claims the tax differential has distorted Argentina's export mix of soybean and soybean products and has resulted in vastly increased Argentine exports of oil and meal, suppression of world prices for oil and meal, and significantly reduced U.S. exports of oil and meal. NSPA also contends that the system costs Argentina both export earnings and tax revenues, relative to an equalized export tax.

On April 25, 1986, the United States Trade Representative decided to initiate an investigation based on the petition filed by NSPA in accordance with the provisions of 19 U.S.C. 2412(b).

USTR has requested bilateral consultations with representatives of the Government of Argentina. To assist USTR in preparing for these discussions, interested parties are invited to submit written comments with respect to issues raised in the petition. USTR is particularly interested in information on the following points:

(1) To what extent does the export tax on soybeans suppress the domestic price of Argentine soybeans?

(2) To what extent does the export tax differential distort the mixture of soybeans and soybean products exported from Argentina?

(3) What effect, if any, do factors other than the export tax differential have on exports of soybeans and soybean products from Argentina?

(4) What would be the economic effects on U.S. and Argentine growers and processors of eliminating the export tax differential by (a) raising the export tax on soybean products to the level for soybeans; (b) lowering the export tax on soybeans to the level of soybean products; and (c) equalizing the export taxes at another rate?

Comments should be filed in accordance with the procedures set forth in 15 CFR 2006.8 and should be submitted to the Chairman, Section 301 Committee, Office of the U.S. Trade Representative, Room 223, 600 17th Street NW., Washington, DC 20506 no later than June 5, 1986. Copies of the petition are available at the above address.

C. Christopher Parlin,

Acting Chairman, Section 301 Committee.

[FR Doc. 86-10069 Filed 5-5-86; 8:45 am]

BILLING CODE 3190-01-M

PRESIDENTIAL COMMISSION ON THE SPACE SHUTTLE CHALLENGER ACCIDENT

[Notice 86-34]

Presidential Commission on the Space Shuttle Challenger Accident; Meeting Change

AGENCY: Presidential Commission on the Space Shuttle Accident.

ACTION: Notice of Meeting Change.

SUMMARY: The scheduled meeting on May 2, 1986, of the Presidential Commission on the Space Shuttle Challenger Accident, published in the **Federal Register** on May 1, 1986 (51 FR 16241), Notice No. 86-33, has been changed as follows:

DATE: Date and time: May 2, 1986, beginning at 10:00 a.m.

ADDRESS: Department of Transportation, NASSIF Building, 10th floor, MIC Room, 400 7th Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dr. Alton G. Keel, Executive Director Presidential Commission on the Space Shuttle Challenger Accident (202/453-1797)

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

April 30, 1986.

[FR Doc. 86-10048 Filed 5-5-86; 8:45 am]

BILLING CODE 7510-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review of Office of Management and Budget

Agency clearance officer:—Kenneth A. Fogash, (202) 272-2142.

Upon written request copy available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval

13e-3

270-255

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 13e-3 (17 CFR 240.13e-3) under the Securities Exchange Act of 1934 ("Exchange Act") which provides that no issuer which has a class of equity securities registered pursuant to section 12 of the Securities Exchange Act of 1934 shall engage in a Rule 13e-3 transaction unless a statement on Schedule 13E-3 with respect to the transaction has been filed with the Commission and the information contained therein has been sent to its equity security holders. The number of affected entities are approximately 196 per year.

Submit comments to OMB Desk Officer: Ms. Sheri Fox (202) 395-3785, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

John Wheeler,

Secretary.

April 29, 1986.

[FR Doc. 86-10134 Filed 5-5-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23180; File No. SR-CBOE-86-10]

Self-Regulatory Organizations; Proposed Rule Change by the Chicago Board Options Exchange, Inc.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 16, 1986, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

The proposed rule change provides for a 6 month pilot program for the participation of three different groups on RAES: individuals, joint accounts, and member organizations with multiple nominees. Each is treated somewhat differently under the eligibility provisions. Individual market-makers may log onto RAES, are expected to continue on the system whenever present in the OEX pit for the remainder of the week, and may log on and off of the system whenever they leave the trading crowd.[1] Failure to meet the obligation to stay on the system while present in the OEX pit will disqualify a member from signing onto RAES for a period of one month, absent a good cause circumstance.

Joint account participants must all be on RAES simultaneously. Once the joint account has been logged onto RAES all

[1] The proposal, however, requires individual market makers to be on the system for the next expiration Friday.

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members of the joint account will automatically remain on the system for the remainder of that week *and* will automatically be present on the system for the entire week containing the next expiration Friday. Members of the joint account will not be able to log off of RAES at will during a trading day, although relief can be obtained from the OEX Floor Procedure Committee. Such relief may be necessary, for example, where position limits would otherwise be violated or for financial capital reasons.

Member organizations may have multiple nominees on the system.[2] Any of the organizations nominees may log all such nominees onto the RAES system, using their acronyms and passwords. All nominees' trades will clear into the account of the designated nominee, as designated by each nominee. Whenever any of the participating nominees is logged onto the system, all must be. As a joint account, a group consisting of nominees of a member organization will log onto the system for a week at a time and will automatically be logged onto the system for the week containing expiration Friday. Release from these obligations can only be obtained from the OEX Floor Procedure Committee.

OEX Floor Procedure Committee reserves the authority to establish limits on the size of groups eligible to use RAES. The Committee also retains the right to disallow any group from participating in RAES where it appears to the Committee that such group is disproportionately large in comparison to other users of RAES, appears to have been formed solely for the purpose of engaging in RAES trades, and is not reasonably necessary to the efficient functioning of the system.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

[2] Joint accounts, and the designated nominee of a member organization, will incur the customary trade match and transaction fees.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The Exchange introduced its retail automatic execution system ("RAES") in options on the Standard & Poor's 100 Index ("OEX") in February, 1986. Since then, the daily volume of RAES-executed trades has grown at a substantial rate. At present, only individual market-makers are eligible to participate in the RAES system as contra-brokers. Each market-maker logged onto RAES is assigned RAES trades on a rotating basis.

As originally conceived, RAES was to have been a system utilized chiefly, if not exclusively, by individual market-makers. Recently, however, the noticeable increase in volatility that has characterized the marketplace has discouraged individual participation in RAES by increasing the potential exposure of an individual to substantial, one-sided market movements. At the same time, market-makers have shown tremendous interest in pooling their RAES trading activity, thereby lessening their exposure to the vagaries of the market.

The proposed rule change reflects a careful balancing of the Exchange's desire to open the RAES system to groups of participants, and thereby ensure both the integrity and the continued availability of the system to public customers, with the realistic expectation that certain affirmative obligations may be expected of market-makers who use RAES. As the guidelines make clear, stricter market-making obligations are imposed upon groups than upon individuals, since the sudden departure from the system of a group of participants could have more deleterious consequences to the remaining users of RAES than would the logging off of an individual market-maker.

The Exchange believes that only the quickest possible implementation of these guidelines will enable the Exchange accurately to gauge their efficacy in guaranteeing that the RAES system remains available to public customers in all market conditions.

The Exchange believes that the proposed rule change is consistent with the provisions of the Securities Exchange Act of 1934, and the rules and regulations promulgated thereunder, and in particular section 6(b)(5) of the Act, in that the proposal is designed to improve market efficiency and enhance the market functioning of the automatic execution system utilized at the Exchange.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 27, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

April 28, 1986.

[FR Doc. 86-10133 Filed 5-5-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23188; File No. SR-Phlx-86-1]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

On January 27, 1986, the Philadelphia Stock Exchange, Inc. ("Phlx"), submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 thereunder,[2] a proposed rule change to narrow the bid-ask differentials applicable to individual stock options and index options and change the reference point for applying the differentials from the last preceding transaction to the prevailing bid.

The proposed rule change was noticed in Securities Exchange Act Release No. 22950 (February 26, 1986), 51 FR 7513. No comments were received on the proposed rule change.

Under Phlx's proposd rule change the maximum allowable bid-ask differentals for individual stock options and index options will be narrowed in cases where the prevailing bid does not exceed $3.00.[3] In addition, the Phlx proposal changes the reference point for establishing which differential applies to the prevailing bid rather than the last preceding transaction as required under the existing rule.[4]

In its filing, the Phlx states that the proposed changes will improve price continuity in stock options and index options. In reviewing the proposed rule change, the Commission generally believes that the narrowing of the bid-ask differentials should allow for tighter markets and improved price continuity. In addition, the change in reference points for the differentials from the last preceding transaction to the prevailing bid does not appear to create any problems. In this regard, we note that the Chicago Board Options Exchange, Inc., ("CBOE") uses the prevailing bid as its reference point for its bid-ask differentials.[5]

For these reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 [6] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Dated: April 30, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-10135 Filed 5-5-86; 8:45 am]

BILLING CODE 8010-01-M

[1] 15 U.S.C. 78s(b)(1)(1982).

[2] 17 CFR 240.19b-4 (1985)

[3] The maximum allowable bid-ask differentials for contracts where the bid is over $3.00 will remain unchanged. The reference point, however, also will be changed for such contracts to the prevailing bid rather than the last preceding transaction price.

[4] The Phlx proposal also eliminates a portion of the rule that currently sets the bid-ask differentials for options series fo more than nine months at twice the amounts stated in the rule. Accordingly, the bid-ask differentials in the rule apply to all series of stock options and index options.

[5] *See* CBOE Rule 8.7.

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78 s(b)(2)(1982).

[8] 17 CFR 200.30-3(a)(12)(1985).

[File No. 22-15218]

Application and Opportunity for Hearing; Trans World Airlines Inc.

May 2, 1986.

Notice is hereby given that Trans World Airlines, Inc. (the "Applicant") has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeship of The Connecticut National Bank, a national banking association ("CNB"), under the Equipment Trust Agreement (the "Equipment Trust Agreement") dated as of February 18, 1986, as amended and supplemented, between CNB and the Applicant is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify CNB from acting as trustee thereunder and under the following other indentures (the "Indentures") between the Applicant and CNB, as trustee: (i) The Equipment Trust Agreement dated as of February 15, 1983, (ii) the Equipment Trust Agreement dated as of April 1, 1983, as amended by Amendment No. 1 dated as of May 25, 1983, (iii) the Equipment Trust Agreement dated as of July 15, 1983, (iv) the Equipment Trust Agreement dated as of August 25, 1983, (v) the Equipment Trust Agreement dated as of September 15, 1983, (vi) The Equipment Trust Agreement dated as of November 15, 1983 and (vii) the Mortgage and Trust Indenture dated as of April 10, 1985.

Section 310(b) of the Act provides, in part, that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in such Section), it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides that, with certain exceptions, a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same obligor are outstanding. However, pursuant to clause (ii) of subsection (1), there may be excluded from the operation of this provision another indenture under which other securities of the same obligor are outstanding, if the obligor shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that the trusteeship under the qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under any of such indentures.

The Applicant alleges that:

(1) The Applicant, a Delaware corporation, sold $209,700,000 aggregate principal amount of Equipment Trust Certificates under the Equipment Trust Agreement in a private placement on February 20, 1986 and $103,000,000 aggregate principal amount of Equipment Trust Certificates under the Equipment Trust Agreement, as amended, in a private placement on March 25, 1986.

(2) Under related Registration Rights Agreements dated February 20, 1986 and March 25, 1986, the Applicant agreed with the purchasers of the Equipment Trust Certificates to file a registration statement pursuant to Rule 415 under the Securities Act of 1933, as amended (the "Securities Act"), and to use its best efforts to have such registration statement declared effective by June 2, 1986. The Applicant intends that, pursuant thereto, the Equipment Trust Certificates will be registered under the Securities Act and the Equipment Trust Agreement will be qualifed under the Act.

(3) As of the date hereof, the Applicant has outstanding $195,123,658

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aggregate principal amount under the following Indentures, other than the Equipment Trust Agreement, for which CNB is trustee:

(A) $35,159,021 principal amount outstanding, maturing in March 1998, under the Equipment Trust Agreement dated as of February 15, 1983, between CNB and the Applicant, covering one Boeing Model 767–231 Aircraft (United States Registration No. N604 TW);

(B) $25,808,113 principal amount outstanding, maturing in April 1993, under the Equipment Trust Amendment dated as of April 1, 1983, as amended by Amendment No. 1 dated as of May 25, 1983, between CNB and the Applicant, covering one Boeing Model 767–231 Aircraft (United States Registration No. N606 TW);

(C) $24,064,617 principal amount outstanding, maturing in July 1993, under the Equipment Trust Amendment dated as of July 15, 1983, between CNB and the Applicant, covering one Boeing Model 767–231 Aircraft (United States Registration No. N607 TW);

(D) $24,054,617 principal amount outstanding, maturing in August 1993, under the Equipment Trust Agreement dated as of August 25, 1983, between CNB and the Applicant, covering one Boeing Model 767–231 Aircraft (United States Registration No. N609 TW);

(E) $24,064,617 principal amount outstanding, maturing in September 1993, under the Equipment Trust Agreement dated as of September 15, 1983 between CNB and the Applicant, covering one Boeing Model 767–231 Aircraft (United States Registration No. N608 TW);

(F) $25,992,673 principal amount outstanding, maturing in November 1993, under the Equipment Trust Agreement dated as of November 15, 1983 between CNB and the Applicant, covering one Boeing Model 767–231 Aircraft (United States Registration No. N610 TW; and

(G) $36,000,000 principal amount outstanding maturing in May 1995, under the Mortgage and Trust Indenture dated as of April 10, 1985, between CNB as Loan Trustee and the Applicant, relating to one Boeing 747–284–B Aircraft (United States Registration No. N305–TW) and one Boeing 747–131 Aircraft (United States Registration No. N93109).

(4) The Indentures were not qualified under the Act, since the Indentures were exempt from qualification thereunder by reason of Section 304(b) thereof as privately placed securities exempt from registration under the Securities Act.

(5) The Applicant is not in default under any of its obligations with respect to the Equipment Trust Agreement or any of the Indentures.

(6) Such differences as exist between the Equipment Trust Agreement and the other Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify CNB from acting as trustee under the Equipment Trust Agreement or the other Indentures. The Equipment Trust Certificates and the securities issued under each of the Indentures are secured by separate and distinct sets of identified aircraft and engines. A default resulting in the acceleration by CNB of the maturity of the securities issued pursuant to any of the Indentures, or the acceleration by CNB of the maturity of the Equipment Trust Certificates, could trigger a similar default with respect to the Equipment Trust Certificates and the securities issued pursuant to the Indentures. If CNB enforces its security interest under the Equipment Trust Agreement or any of the Indentures, such action would not affect CNB's security interest or its ability to enforce its security interest under the Equipment Trust Agreement or any of the other Indentures. Accordingly, the existence of the several trusteeships should not place CNB in a situation where a potential material conflict of interest could arise.

The Applicant has waived notice of hearing, hearing, and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application which is a public document on file in the offices of the Commission at the Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

Notice is further given that any interested persons may, not later than May 20, 1986, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and in the interest of investors.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secetary.

[FR Doc. 86–10246 Filed 5–5–86; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF STATE

[Public Notice 961]

Delegation of Authority No. 120–3; Procurement Executive

By virtue of the authority vested in me by Department of State Delegation of Authority No. 120 (34 FR 18095) and in order to implement the Office of Federal Procurement Policy Act (41 U.S.C. 401 et set.), it is directed as follows:

1. Functions Delegated to the Procurement Executive

I hereby delegate to the Procurement Executive authority to:

a. Prescribe, promulgate and amend the Department's procurement and grant policies, rules and regulations;

b. Review all Department contracts over $100,000 for compliance with law and regulations;

c. Provide advice and guidance, in consultation with the Office of the Legal Adviser as appropriate, to all Department offices and to diplomatic and consular posts on all matters of procurement law and policy;

d. Make determinations and findings or justifications and approvals and take other actions as are deemed consistent with applicable policies, procedures or regulations, with respect to purchases, contracts, grants, leases, sales agreements and other transactions, except where such determinations and findings or justifications and approvals are required by law or regulation to be made by another officer;

e. Select, certify and appoint contracting officers and grant officers, and representatives thereof, by written instrument;

f. Evaluate, monitor and report on the performance of the Department's procurement system as may be required by law, regulation or directive, and certify to the Assistant Secretary for Administration that the Department's procurement system meets approved standards;

g. Develop and maintain a procurement career management program to assure an adequate professional work force;

h. Examine the Department's procurement system, in coordination with the Office of Federal Procurement Policy, to determine specific areas where government-wide performance standards should be established and applied;

i. Participate in the development of government-wide procurement policies, regulations and standards, and represent the Department on all councils, interagency task forces, working groups, and other bodies concerned with acquisition policy and procedures;

j. Select and designate an independent advocate for competition for Department of State procurements, and provide advice and counsel to such advocate in accordance with the Office of Federal Procurement Policy Act;

2. Re-Delegation

The Procurement Executive is authorized to redelegate to the employees of the Department any of the authorities or functions, delegated herein, except that the certification responsibility under section 1.f may not be redelegated. Any redelegation may include authority for further redelegation.

3. General Provisions

a. Any official actions within the scope of this delegation taken prior to the effective date hereof by officers duly authorized are hereby continued in effect, according to their terms, until modified, revoked, or superseded by action of the Procurement Executive or other officer of the Department acting under authority of this delegation.

b. All authorities delegated herein shall be exercised in accordance with the applicable limitations and requirements of the Federal Acquisition Regulation (48 CFR Chapter 1) and other Federal procurement laws and regulations.

Donald J. Bouchard,

Assistant Secretary for Administration.

[FR Doc. 86–10057 Filed 5–5–86; 8:45 am]

BILLING CODE 4710–24–M

DEPARTMENT OF TRANSPORTATION

Aviation Proceedings; Agreements Filed During the Week Ending April 25, 1986.

Answers may be filed within 21 Days from the date of filing.

Date filed	Docket No.	Parties	Subject	Proposed effective date
Apr. 22, 1986	43975, R–1—R–16.	Members of International Air Transport Association	Canada-Europe fares	May 1, 1986
Apr. 22, 1986	43976	Members of International Air Transport Association	Increase in Zaire fares	May 1, 1986
Apr. 22, 1986	43977	Members of International Air Transport Association	North-Atlantic cargo rates	May 1, 1986
Apr. 23, 1986	43980	Members of International Air Transport Association	Videotex systems	Oct. 1, 1986
Apr. 23, 1986	43981, R–1—R–19.	Members of International Air Transport Association	TC123 fares—No. Atlantic	May 1, 1986
Apr. 23, 1986	43982	Members of International Air Transport Association	Cargo rates Europe-So. Pacific	Apr. 1, 1986
Apr. 23, 1986	43983	Members of International Air Transport Association	Hungary Canada apex fares	May 1, 1986
Apr. 23, 1986	43984	Members of International Air Transport Association	Mileage manual revision	May 1, 1986
Apr. 23, 1986	43985	Members of International Air Transport Association	UK proportional fares—Mid Atlantic	June 15, 1986
Apr. 25, 1986	43989, R–1—R–20.	Members of International Air Transport Association	North Atlantic-Africa fare	May 1, 1986
Apr. 25, 1986	43990	Members of International Air Transport Association	Canada-Finland apex fares	May 15, 1986
Apr. 25, 1986	43991, R–1 and R–2.	Members of International Air Transport Association	Mexico-Mideast/Israel baggage	May 1, 1986

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86–10121 Filed 5–5–86; 8:45 am]

BILLING CODE 4910–62–M

[Docket 43687]

Denver-London Route Proceeding

This proceeding was instituted by Order 85–12–70 issued December 26, 1985. Pursuant to section 302.1753(a) of the Department's procedural regulations in 14 CFR the 136-day period for service of an initial decision by the Chief Judge would have expired on May 12, 1986. However, several delays in the procedural schedule have occurred within the meaning of section 401(c)(2) of the Federal Aviation Act. Accordingly, in compliance with section 302.1753(a)(2) of the regulations, this notice extends the due date for service of the initial decision for a period of 63 days, to July 14, 1986.

Entered this 30th day of April, 1986.

Elias C. Rodriguez,

Chief Administrative Law Judge.

[FR Doc. 86–10122 Filed 5–5–86; 8:45 am]

BILLING CODE 4910–62–M

BEST COPY AVAILABLE

VOL 51 ISS 87 MY 6 1986 UMI

Sunshine Act Meetings

Federal Register
Vol. 51, No. 87
Tuesday, May 6, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (eastern time), Monday, May 12, 1986.

CHANGE IN THE MEETING:

Change from: Discussion of Subpoena Determinations
Change to: Discussion of Certain Commissioners' Charges

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat, at (202) 634-6748.

Dated: May 1, 1986.

Barbara Parris,
Policy Analyst.

This Notice Issued May 1, 1986.

[FR Doc. 86-10192 Filed 5-2-86; 12:36 pm]
BILLING CODE 6750-06-M

2

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:00 a.m., Tuesday, May 13, 1986.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC, 20594.

STATUS: The first two items will be open to the public; the last item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Special Investigation:* Failure of Cargo Tank Transporting Hazardous Waste on the Washington DC Beltway, I-95, in Fairfax, Virginia, August 12, 1985.
2. *Railroad Accident Report:* Head On Collision of Two Burlington Northern Railroad Company Trains Extra 6311 West and Extra 6575 East near Westminster, Colorado, August 2, 1985.
3. *Opinion and Order:* Administrator v. Vance, Docket SE-6546; disposition of respondent's appeal.

FOR MORE INFORMATION, CONTACT: Catherine T. Kaputa, (202) 382-6525.

Catherine T. Kaputa,
Federal Register Liaison Officer.
May 1, 1986.

[FR Doc. 86-10144 Filed 5-2-86; 9:17 am]
BILLING CODE 7533-01-M

federal register

Tuesday
May 6, 1986

Part II

Department of Health and Human Services

Health Care Financing Administration

42 CFR Parts 400, 405, 412, and 489
Medicare Program; Fiscal Year 1986 Changes to the Inpatient Hospital Prospective Payment System; Interim Final Rule With Comment Period

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 400, 405, 412, and 489

[BERC-385-IFC]

Medicare Program; Fiscal Year 1986 Changes to the Inpatient Hospital Prospective Payment System

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule sets forth revisions to the Medicare inpatient hospital prospective payment system. This rule is needed to implement those portions of sections 9101 through 9105 and 9112 of the Consolidated Omnibus Budget Reconciliation Act of 1985 having an effective date of May 1, 1986 or earlier. The changes required by this legislation affect the fiscal year 1986 prospective payment rates; the rate-of-increase limits (target amounts) for hospitals excluded from the prospective payment system; the length of the transition period and the method of payment; application of the hospital wage index; payment for the indirect costs of medical education; and payments for hospitals that serve a disproportionate share of low-income patients.

DATES: Effective date: With certain exceptions, this interim final rule is effective on May 1, 1986. We refer the reader to section VII.B. of this preamble for a detailed discussion of effective dates.

Comment Date: To be considered, comments must be mailed or delivered to the appropriate address, as provided below, and must be received by 5:00 p.m. on June 5, 1986.

ADDRESS: Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BERC-385-IFC, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

In commenting, please refer to file code BERC-285-IFC. Comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in Room 309-G of the Department's offices at 200 Independence Avenue SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (phone: 202-245-7890).

FOR FURTHER INFORMATION CONTACT: Linda Magno, (301) 594-9343.

SUPPLEMENTARY INFORMATION:

I. Background

On September 3, 1985, we published a final rule in the **Federal Register** (50 FR 35646) that made the following changes to the Medicare inpatient hospital prospective payment system:

- We adjusted the diagnosis-related groups (DRG) classifications and weighting factors for discharges occurring on or after October 1, 1985.
- For cost reporting periods beginning on or after October 1, 1983, we adopted a new hospital wage index that was based on the HCFA survey of hospital wages.
- We made several changes to the regulations in 42 CFR Parts 405 and 412 concerning—

—The rate-of-increase limits for hospitals excluded from the prospective payment system;
—Payments for indirect costs of medical education;
—Limitations on charges to beneficiaries for hospitals paid under State reimbursement control systems or demonstration projects;
—The exclusion of alcohol/drug hospitals and units;
—Review of cost outliers; and
—Qualifying criteria for referral centers.

- We established the FY 1986 Federal rates by—

—Restandardizing the base year cost data to reflect the new wage index;
—Grouping the standardized costs per case for urban/rural averages for the nine census regions and the nation, reflecting the most recent geopgraphic designations;
—Updating the standardized amounts by zero percent; and
—Applying the same adjustment factors for nonphysician anesthetist costs and outlier payments as were used for FY 1985.

- We did not increase either the hospital-specific rates for hospitals under the prospective payment system or the rate-of-increase limits for hospitals excluded from the prospective payment system.

With certain exceptions, the September 3 final rule was to be effective on October 1, 1985.

On September 30, 1985, the Emergency Extension Act of 1985 (Pub. L. 99-107) was enacted. Section 5 of Pub. L. 99-107 extended through November 14, 1985 the Medicare payment rates for inpatient hospital services that were in effect on September 30, 1985. A result of this delay was that certain changes in the rules that govern Medicare payment for inpatient hospital services, which would have become effective on October 1, 1985, for FY 1986 as a result of the September 3, 1985 final rule, were postponed initially until November 15, 1985. The affected changes concerned the rules for determining payment rates for hospitals covered by the prospective payment system and the rate-of-increase limits for hospitals excluded from that system. In addition, the amendments to 42 CFR 412.118(f)(2) and (f)(3) concerning determination of indirect medical education costs that were scheduled to be effective on October 1, 1985 under the September 3, 1985 final rule were also postponed until November 15, 1985. We announced this postponement in a notice in the **Federal Register** published on November 12, 1985 (50 FR 46851).

Since publication of that notice, several more laws were enacted that further delayed the implementation of revised Medicare inpatient hospital services payment rules as follows:

- Pub. L. 99-155, enacted December 14, 1985, extended the delay through December 14, 1985.
- Pub. L. 99-181, enacted December 13, 1985, extended the delay through December 16, 1985.
- Pub. L. 99-189, enacted December 16, 1985, extended the delay through December 19, 1985.
- Pub. L. 99-201 enacted December 23, 1985, extended the delay through March 14, 1986.

To announce the first of these extensions of the delay, we published a notice in the **Federal Register**, on December 6, 1985 (50 FR 49930); the remaining extensions were described in a notice published February 3, 1986 (51 FR 4166). The result of these extensions is that, for the period of the extension, we continued to pay for hospital discharges under the rules that were in effect in FY 1985. Thus, we did not implement the following changes that were included in the September 3, 1985 final rule:

- Revised DRG classifications and weights.
- Revised wage index.
- Revised adjusted standardized amounts.
- Revised regulations concerning exclusions on the count of interns and residents assigned to outpatient and ancillary department of a hospital to be used in determining the cost of indirect medical education.

II. New Legislation

On April 7, 1986, the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272) was enacted. Sections 9101, 9102, 9104, and 9105 of Pub. L. 99-272 made the following amendments, which concern payment to hospitals in FY 1986, to section 1886 of the Social Security Act:

- The FY 1985 inpatient hospital payment rates are extended through April 30, 1986.
- For discharges occurring on or after May 1, 1986 and before October 1, 1986, the standardized amounts for prospective payment hospitals are increased by one-half of one percent.
- For cost reporting periods beginning in FY 1986, the hospital-specific rates are increased by zero percent for the first seven months of a hospital's cost reporting period and by one-half of one percent for the remaining five months of the cost reporting period.
- For cost reporting periods beginning in FY 1986, the rate-of-increase limits for hospitals excluded from the prospective payment system are increased by five-twenty-fourths of one percent.
- Except for hospitals in the State of Oregon as discussed in greater detail below, the prospective payment system transition period is extended through FY 1987, thus delaying the transition to full Federal rates for one year.

—The national/regional blend of the Federal portion remains at 25 percent national and 75 percent regional through FY 1986.
—The hospital-specific and Federal portion percentages for cost reporting periods beginning in FY 1986 remain at 50/50 for the first seven months of the cost reporting period and change to 45 percent of the hospital-specific portion and 55 percent of the Federal portion for the remaining five months of the hospital's cost reporting period.

- For discharges occurring on or after May 1, 1986 and before October 1, 1986, the indirect teaching adjustment is changed from 11.59 percent, paid on a linear basis (that is, for each one-tenth of the hospital's intern and resident to bed ratio), to 8.1 percent, paid on a variable or curvilinear basis. In addition, interns and residents assigned to outpatient departments of a hospital will continue to be counted for purposes of determining the indirect teaching adjustment.
- For discharges occurring on or after May 1, 1986, and before October 1, 1986, an additional payment will be made to each prospective payment hospital that serves a disproportionate share of low-income patients (as defined in the statute).

Section 9103 of Pub. L. 99-272 amends section 2316(b) of the Deficit Reduction Act of 1984 (Pub. L. 98-369) to specify that the hospital wage index based on the HCFA survey, which was published in the September 3, 1985 final rule, must be used to determine payment for discharges occurring on or after May 1, 1986.

Section 9112 of Pub. L. 99-272 amends section 602(k) of the Social Security Amendments of 1983 (Pub. L. 98-21) to provide that—

- For hospitals that have a waiver under section 602(k) of Pub. L. 98-21, the payment for their indirect costs of medical education is to be made as if the hospitals were receiving under Medicare Part A (Hospital Insurance) all the payments that are made under Medicare Part B (Supplementary Medical Insurance) because of the waiver; and
- Any Part B payments made to suppliers under a waiver are to equal 100 percent of the reasonable charge for the service and, in order to retain its waiver, the hospital must assure us that the supplier will accept that payment as payment in full.

These provisions are discussed in detail below.

III. FY 1986 Changes to the Prospective Payment System

A. Payment for Inpatient Hospital Services

For the period of the extension described above, payment to hospitals under the prospective payment system is made under the payment rates and rules in effect on September 30, 1985. Thus, the adjusted standardized amounts and hospital-specific rates and the list of DRG weights that were set forth in the August 31, 1984 final rule (49 FR 34728) remained in effect for discharges occurring in the extension period. Similarly, for hospitals that are not subject to the prospective payment system, each hospital's target amount for its cost reporting period beginning in FY 1985 has been carried forward for its next cost reporting period.

Section 9101(a) of Pub. L. 99-272 amends section 5(c) of Pub. L. 99-107 to extend the FY 1985 inpatient hospital prospective payment rates through April 30, 1986. Therefore, the DRG classification changes and recalibrated DRG weights that were set forth in the September 3, 1985 final rule (50 FR 35722) are effective for discharges occurring on or after May 1, 1986.

Section 9101(b) of Pub. L. 99-272 amends section 1886(b)(3)(B) of the Act to provide that the adjusted standardized rates, the hospital-specific rates, and the target rate-of-increase limits are increased by one-half of one percent for cost reporting periods beginning in or discharges occurring in FY 1986, as applicable. Section 9101(e) of the law further specifies the following:

- For prospective payment hospitals, the update to the adjusted standardized rates of one-half of one percent is effective for discharges occurring on or after May 1, 1986. The hospital-specific rates are increased by zero percent for discharges occurring during the first seven months of a hospital's cost reporting period beginning in FY 1986 and by one-half of one percent for discharges occurring during the remaining five months of that cost reporting period.
- For hospitals excluded from the prospective payment system, the hospital's target amount for cost reporting periods beginning in FY 1986 is the previous year's target amount increased by five-twenty-fourths of one percent (that is, an increase of one-half of one percent for five months of the 12-month cost reporting period.
- For purposes of determining update percentages for discharges occurring on or after October 1, 1986 or cost reporting periods beginning on or after October 1, 1986, as appropriate, the applicable percentage increase for both prospective payment hospitals and excluded hospitals, for discharges occurring in FY 1986 or cost reporting periods beginning in FY 1986, as appropriate, is deemed to have been one-half of one percent.

In accordance with the provisions of section 9101(b) and (e) of Pub. L. 99-272, the adjusted standardized amounts that were published in the September 3, 1985 final rule (which reflected a zero percent update) are updated by one-half of one percent effective for discharges on or after May 1, 1986. The revised standardized amounts are set forth in Table 1, below.

The amendment made to section 1886(b)(3)(B) of the Act by section 9101(b) of Pub. L. 99-272 also sets forth the methodology the Secretary is to use to update the prospective payment adjusted standardized amounts, the hospital-specific rates and the target rate-of-increase limits for excluded hospitals for discharges occurring on or cost reporting periods beginning on or after October 1, 1986, as applicable. The provisions are as follows:

- Beginning with FY 1987, the standardized amounts are to be updated

by the percentage determined by the Secretary under section 1886(e)(4) of the Act; that is, the percentage determined by the Secretary that takes into account amounts the Secretary believes are necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality. For FY 1987 and FY 1988, this percentage cannot exceed the percentage change in the hospital market basket.

- For cost reporting periods beginning on or after October 1, 1986, the hospital-specific rates are to be updated by the percentage determined by the Secretary under section 1886(e)(4) of the Act. As with the standardized amounts, the update percentage for cost reporting periods beginning in FY 1987 and FY 1988 is limited by the percentage change in the market basket.
- Starting with cost reporting periods beginning on or after October 1, 1986, the target rate-of-increase limits are to be updated by the percentage determined by the Secretary under section 1886(e)(4) of the Act. Once again, the rate-of-increase update percentage for cost reporting periods beginning in FY 1987 and FY 1988 is limited by the percentage change in the hospital market basket.

We are revising §§ 405.463, 412.63, and 412.73 to implement sections 9101 (b) and (e) of Pub. L. 99-272.

B. Extension of the Prospective Payment System Transition Period

Section 9102 of Pub. L. 99-272 revises sections 1886(b)(1) (A), (C), and (D) of the Act to extend the three-year transition to a fully national prospective payment system by one additional year. During the transition period, payment to hospitals is based on a combination of the Federal prospective payment rates and hospital-specific rates. The Federal and hospital-specific portions change with the hospital's cost reporting period. In addition, during that period, the Federal rate is a combination of regional and national rates, the proportions of which change with the Federal fiscal year. The two tables set forth below demonstrate the composition of a hospital's payment rate prior to the enactment of Pub. L. 99-272.

SUMMARY OF HOSPITAL-SPECIFIC AND FEDERAL PERCENTAGES

Cost reporting period beginning on or after	Hospital-specific percentage	Federal percentage
Oct. 1, 1985	75	25
Oct. 1, 1986	50	50
Oct. 1, 1987	25	75
Oct. 1, 1988	0	100

SUMMARY OF REGIONAL AND NATIONAL PERCENTAGES OF THE FEDERAL PORTION

Federal fiscal year beginning	Regional percentage	National percentage
Oct. 1, 1985	100	0
Oct. 1, 1986	75	25
Oct. 1, 1987	50	50
Oct. 1, 1988	0	100

The provisions concerning the transition period are set forth in regulations at § 412.70.

Section 9102 of Pub. L. 99-272 extends the transition by making the following changes:

- For cost reporting periods beginning on or after October 1, 1985 and before October 1, 1986, the blend of hospital-specific and Federal portions is 50 percent hospital-specific and 50 percent Federal for the first seven months of the cost reporting period and 45 percent hospital-specific and 55 percent Federal for the remaining five months of the cost reporting period. For cost reporting periods beginning in FY 1987, the blend is 25 percent hospital-specific and 75 percent Federal. Starting with cost reporting periods beginning in FY 1988, the payment rate is based exclusively on the Federal portion.
- For discharges occurring in FY 1986, the Federal portion is made up of 25 percent national and 75 percent regional. For discharges occurring in FY 1987, the combined rate is 50 percent national and 50 percent regional. The Federal portion is based exclusively on the national rate beginning in FY 1988.

Therefore, the revised transition prospective payment rates are determined as follows:

SUMMARY OF HOSPITAL-SPECIFIC AND FEDERAL PERCENTAGES

Cost reporting period beginning on or after	Hospital-specific percentage	Federal percentage
Oct. 1, 1985	75	25
Oct. 1, 1986	50	50
Oct. 1, 1986:		
—The first seven months of the cost reporting period	50	50
—The remaining five months of the cost reporting period	45	55
Oct. 1, 1986	25	75
Oct. 1, 1987	0	100

SUMMARY OF REGIONAL AND NATIONAL PERCENTAGES OF THE FEDERAL PORTION

Federal fiscal year beginning	Regional percentage	National percentage
Oct. 1, 1985	100	0
Oct. 1, 1986	75	25
Oct. 1, 1987	50	50
Oct. 1, 1988	0	100

We are revising the following sections to reflect the change in the transition period: §§ 412.1, 412.70, 412.80, 412.82, and 412.115.

Under the provisions set forth in section 9102 (d)(4) of Pub. L. 99-272, all hospitals subject to the prospective payment system that are located in the State of Oregon are excepted from the changes made to the transition period by sections 9102(a), (b), (c), and (d)(1) through (d)(3) of Pub. L. 99-272. Section 9102(d)(4) of Pub. L. 99-272 further specifies that for those hospitals located in Oregon, the following applies:

- *Hospital-specific/Federal blend.* Section 9102(d)(4)(B) states that for the first seven months of a cost reporting period beginning in FY 1986, the payment rate consists of a blend of 50 percent of the hospital-specific rate and 50 percent of the Federal rate. For the remaining five months of a cost reporting period beginning in FY 1986, the blend is 25 percent of the hospital-specific rate and 75 percent of the Federal rate. For cost reporting periods beginning on or after October 1, 1986, the payment rate is comprised solely of the Federal rate.
- *Regional/National blend of Federal rate.* For discharges occurring on or after October 1, 1985 and before May 1, 1986, section 9102(d)(4)(C) provides that the Federal rate consists of 75 percent of the regional rate and 25 percent of the national rate. In the absence of a special provision applicable to Oregon beginning May 1, 1986, the provisions of section 1886(d)(1)(D) of the Act would apply.

However, section 1886(d)(1)(D) of the Act applies in its form prior to the enactment of Pub. L. 99-272 since section 9102(d)(4)(A) makes the amendments of that law to section 1886(d)(1)(D) of the Act inapplicable to Oregon. Therefore, for discharges occurring on or after May 1, 1986 and before October 1, 1986, the Federal rate consists of 50 percent of the regional rate and 50 percent of the national rate. For discharges occurring on or after October 1, 1986, the Federal rate is comprised solely of the national rate.

C. Hospital Wage Index

Section 1886(d)(2)(C)(ii) of the Act requires that we standardize the average cost per case of each hospital used to develop the separate urban and rural standardized amounts for differences in wage levels. Section 1886(d)(2)(H) of the Act requires that the standardized amounts be adjusted for hospital area wage levels as part of the methodology for determining prospective payments to hospitals. To fulfill both of these requirements, we constructed a wage index to eliminate variations in the average cost per case.

For purposes of determining the prospective payments to hospitals in FY 1984 and FY 1985, we used calendar year 1981 hospital wage and employment data obtained from the Bureau of Labor Statistics' (BLS's) ES 202 Employment, Wages and Contributions file for hospital workers to construct the wage index. However, the September 3, 1985 final rule set forth a revised hospital wage index that is based on an HCFA survey of hospital wage and salary data as well as data on paid hours in hospitals. This wage index was developed in an attempt to overcome the limitation of the BLS data with regard to full-time and part-time employment.

This revised wage index was not implemented because of the provisions of the Emergency Extension Act of 1985 (Pub. L. 99-107) and the succeeding amendments to that Act. Section 9103(a) of Pub. L. 99-272 specifies that, for discharges occurring on or after May 1, 1986, prospective payments to hospitals are to be adjusted to reflect the changes made in the September 3, 1985 final rule relating to the hospital wage index. The retroactive application of the revised wage index to cost reporting periods beginning on or after October 1, 1983 is repealed.

We are making adjustments to the wage index published in the September 3, 1985 final rule to correct data errors. These changes are similar to those that we made between the publication of the June 10, 1985 proposed rule (50 FR 24366) and the September 3, 1985 final rule, which are described in the final rule (50 FR 35663). By making these corrections, we can ensure that the wage index used to determine payment for discharges occurring on or after May 1, 1986 is as accurate as possible. The wage index is set forth in Tables 4a and 4b, below.

D. Payment for Medical Education

1. Indirect Costs of Medical Education

Section 1886(d)(5)(B) of the Act provides that prospective payment hospitals receive an additional payment for the indirect costs of medical education computed in the same manner as the adjustment for those costs under regulations in effect as of January 1, 1983. Under those regulations, we provided that the indirect costs of medical education incurred by teaching hospitals are the increased operating costs (that is, patient care costs) that are associated with approved intern and resident programs. These increased costs may reflect a number of factors; for example, an increase in the number of tests and procedures ordered by interns and residents relative to the number ordered by more experienced physicians or the need of hospitals with teaching programs to maintain more detailed medical records.

Because the indirect costs of medical education are defined in terms of increased operating costs, they are not separately identifiable on the cost report or in other financial or accounting records.

Rather, these incremental costs have been statistically estimated as function of teaching intensity, and a proxy measure (the hospital's ratio of the number of interns and residents to the number of beds) has been used to measure teaching intensity. The coefficient describing this statistical relationship has been expressed as a percentage and applied as the indirect medical eduction factor. This factor was first used as an adjustment to the routine operating cost limits and the total operating cost limits under the reasonable cost reimbursement system. The regulations governing this matter under the prospective payment system are found at § 412.118.

Currently, § 412.118(d) provides that each hospital's indirect medical education payment is determined by multiplying the following three factors:

(1) Total DRG revenue based on the Federal rates.

(2) A factor for each ten percent increment above zero in the hospital's ratio of full-time equivalent interns and residents to beds.

(3) An education adjustment factor, expressed as a percentage, that represents double the statistically-estimated effect of teaching activity on operating costs. The current adjustment factor is 11.59 percent.

As a part of the September 3, 1985 final rule, we revised § 412.118, effective for cost reporting periods beginning on or after October 1, 1984, to—

- Change the method used to determine the number of beds in a hospital for purposes of counting interns and residents;
- Provide for an annual report of the count, by specialty, of the number of interns and residents in each hospital on September 1 or the first business day after September 1 if that day falls on a weekend or Federal holiday (with an additional count on April 15, 1985 for hospitals with cost reporting periods beginning on or after October 1, 1984 and before July 1, 1985);
- Count as full-time all interns and residents assigned to the hospital on September 1 (or April 15, 1985, if applicable) except for those individuals splitting their time between prospective payment areas and one or more areas excluded from the prospective payment system or spending all their time in excluded areas; and
- Provide for intermediary reviews of hospital documentation to verify the hospital's intern and resident-to-bed ratio.

The following revisions (set forth at § 412.118(f)(2) and (3)) were to be effective for cost reporting periods beginning on or after October 1, 1985:

- Interns and residents assigned to the outpatient department of the hospital on the day the count of interns and residents is made are not counted as full-time equivalents. Only the percentage of time that these interns and residents spend in the portion of the hospital subject to the prospective payment system on the day of the count is used in determining the indirect medical education adjustment.
- The number of interns and residents assigned to ancillary departments of the hospital are apportioned between inpatient and outpatient settings based on the ratios of each ancillary department's inpatient and outpatient charges, respectively, to total department charges. Only the number of full-time equivalent interns and residents thus determined to be furnishing inpatient services is included in the count.

These last two changes did not become effective on October 1, 1985 because of the enactment of Pub. L. 99-107 and the amendment to that law, as we discussed earlier.

Section 9104(a) of Pub. L. 99-272 revises section 1886(d)(5)(B) of the Act of reduce the education adjustment factor used to determine the indirect medical education payment from 11.59 percent to 8.1 percent for discharges occurring on or after May 1, 1986 and before October 1, 1988. For discharges occurring on or after October 1, 1988, the adjustment factor is equal to 6.7 percent. In addition to being reduced, the adjustment factor is no longer applied on a linear basis, but rather on a curvilinear or variable basis. An adjustment made on a curvilinear basis reflects a nonlinear cost relationship; that is, each absolute increment in a hospital's ratio of interns and residents to beds does not result in an equal proportional increase in costs. Therefore, the adjustment factors are only approximately 8.1 percent and 6.7 percent.

We are revising § 412.118 to provide that for discharges occurring on or after May 1, 1986 and before October 1, 1988, the indirect medical education factor equals the following:

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$$2 \times \left[\left(1 + \frac{\text{interns and residents}}{\text{beds}}\right)^{.405} - 1\right]$$

For Example: A hospital has an intern and resident to bed ratio of .2. Its adjustment factor is computed in the following way:

$2 \times [(1+.2)^{.405} - 1] = 2 \times [.07663] = .1533$

This hospital's indirect medical education adjustment factor is .1533. To determine the hospital's additional payment, this factor is multiplied by the hospital's total DRG revenue based on the DRG-adjusted prospective payment rates (for transition period payments, the Federal portion of the hospital's payment) including outlier payments but excluding any other additional payments such as the payment for hospitals that serve a disproportionate share of low-income patients as discussed below.

For discharges occurring on or after October 1, 1988, that factor equals the following:

$$1.5 \times \left[\left(1 + \frac{\text{interns and residents}}{\text{beds}}\right)^{.405} - 1\right]$$

On February 20, 1986, we published a notice of proposed rulemaking in the **Federal Register** (51 FR 6755) to revise the application of the formula used to calculate payment for the indirect costs of medical education for prospective payment hospitals. We proposed to apply the education adjustment factor of 11.59 on a curvilinear basis.

Since the provisions of section 9104 of Pub. L. 99-272 supersede that proposal, we are withdrawing it from consideration.

Section 9104(a) of Pub. L. 99-272 also amended section 1886(d)(5)(B) of the Act to provide that, for discharges occurring on or after May 1, 1986, interns and residents assigned to outpatient departments of a hospital are included in the count of interns and residents for the purpose of determining the indirect medical education adjustment factor. Thus, we are deleting from the regulations the changes we made to § 412.118(f) in the September 3, 1985 final rule concerning the exclusion from the count of interns and residents of those individuals who are assigned to outpatient departments or are furnishing outpatient services in ancillary departments. Because of the provisions of Pub. L. 99-107, the changes we made to § 412.188(f) never became effective.

2. Direct Costs of Medical Education

We note here that Pub. L. 99-272 changes the way Medicare pays for the direct costs of medical education. Under section 1886(a)(4) of the Act, direct costs of medical education are excluded from the definition of inpatient operating costs that are covered by the prospective payment system. Thus, the direct costs of approved medical education programs (for example, salaries for interns and residents and overhead costs) are not included in hospital-specific, regional, or national payment rates to hospitals subject to the prospective payment system, but are reimbursed on a reasonable cost basis. The provisions governing reimbursement for the services of interns and residents appear at section 1832(a)(2)(B)(i) and 1861(b)(6) of the Act.

On July 5, 1985, we published a final rule in the **Federal Register** (50 FR 27722) that placed a one-year limit on the amount of reimbursement for providers for their direct costs of approved medical eduction activities for cost reporting periods beginning on or after July 1, 1985 and before July 1, 1986. Section 9202 of Pub. L. 99-272 specifies a different approach to reimbursement of direct medical education costs starting with cost reporting periods beginning on or after July 1, 1985. The provisions of this section of the law supersede the provisions set forth in the July 5, 1985 final rule, thus making that rule no longer effective. We plan to publish revised regulations to implement section 9202 of Pub. L. 99-272 in the near future.

E. Payments for Hospitals That Serve a Disproportionate Share of Low-Income Patients

Section 1886(d)(5)(C)(i) of the Act authorizes the Secretary to make adjustments to the prospective payment rates to take into account the special needs of certain classes of hospitals, including public or other hospitals that serve a significantly disproportionate number of low-income patients or Medicare Part A beneficiaries. We had not made special provisions for these hospitals in the Medicare regulations because, based on our past analyses (which are described in several **Federal Register** publications at 47 FR 43285, 48 FR 39416, 49 FR 39783, 49 FR 276-277, 50 FR 24384-24385 and 50 FR 35685-35686), we believed that there had not been sufficient evidence to demonstrate that an adjustment is warranted.

Section 9105 of Pub. L. 99-272 adds a new section 1886(d)(5)(F) to the Act to require that we make an additional payment for hospitals that serve a disproportionate share of low-income patients. Section 1886(d)(5)(F)(i) of the Act provides that for discharges occurring on or after May 1, 1986 and before October 1, 1988, an additional payment must be made for each prospective payment must be made for each prospective payment hospital that meets one of the following criteria:

- During the hospital's cost reporting period, the hospital has a disproportionate patient percentage that is at least equal to—
  - —15 percent if the hospital is located in an urban area and has 100 or more beds;
  - —40 percent, if the hospital is located in an urban area and has fewer than 100 beds; or
  - —45 percent if the hospital is located in an rural area. (Sections 1886(d)(5)(F)(i)(I) and (v) of the Act).
- The hospital is located in an urban area, has 100 or more beds, and can demonstrate that, during its cost reporting period, more than 30 percent of its total inpatient care revenues is derived from State and local government payments for indigent care furnished to patients not covered by Medicare or Medicaid. (Section 1886(d)(5)(F)(i)(II) of the Act).

For purposes of meeting the latter criterion, it is incumbent upon a hospital to demonstrate that more than 30 percent of its total inpatient care revenues are from State and local government sources and that these revenues are specifically earmarked for the care of indigents (that is, none of that money may be used for any purposes other than indigent care). The following are among the types of care that are not to be included by the hospital as indigent care:

- Free care furnished to satisfy the hospital's Hill-Burton obligation.
- Free care or care furnished at reduced rates made available by the hospital to its employees or by a government hospital to any category of public employees.
- Funds furnished to the hospital to cover general operating deficits.

For purposes of determining a hospital's bed size, we are using the same definition that is currently used for determining number of beds for purposes of calculating the indirect medical education adjustment [§ 412.118(b)]. That is, the number of beds in a hospital is determined by counting the number of available bed days during the hospital's cost reporting period, not including beds assigned to newborns, custodial care, and excluded distinct part hospital units, and dividing that number by the number of days in the cost reporting period.

Section 1886(d)(5)(F)(vi) states that the term "disproportionate patient percentage," which is used in the criterion implementing section 1886(d)(5)(F)(i)(I) and (v) of the Act, which is described above, means the sum of the following two fractions, which is expressed as a percentage:

$$\frac{\text{1. Patient days of those patients entitled to both Medicare Part A and Supplemental Security Income (SSI) (excluding } \textit{those patients receiving State supplementation only}\text{)}}{\text{Patient days of those patients entitled to Medicare Part A}}$$

$$+ \frac{\text{2. Patient days of those patients entitled to } \textit{Medicaid but not to Medicare Part A}}{\text{Total number of patient days}}$$

The number of patient days of those patients entitled to both Medicare Part A and SSI will be determined by matching data from the Medicare Part A Tape Bill (PATBILL) file with the Social Security Administration's (SSA's) SSI file. This match will be done at least annually and will involve a match of the individuals who are SSI recipients for each month during the Federal fiscal year in which the hospital's cost reporting period begins with the Medicare Part A beneficiaries who received inpatient hospital services during the same month. Thus, if a Medicare beneficiary is eligible for SSI benefits (excluding State supplementation only) during a month in which the beneficiary is a patient in the hospital, the covered Medicare Part A inpatient days of hospitalization in that month will be counted for the purpose of determining the hospital's disproportionate patient percentage. The match of SSI eligibility records to Medicare inpatient hospital days for a hospital will consist of counting the days in which Medicare inpatient hospital services are furnished during each month to patients entitled to both Medicare Part A and SSI, summing those days, and dividing by the total number of days for which Medicare inpatient hospital services are furnished to all Medicare Part A beneficiaries in the hospital.

Although section 1886(d)(5)(F)(vi)(I) of the Act specifies that the match is done on a cost reporting period basis, we believe that matching Social Security numbers on a Federal fiscal year basis is the most feasible approach. A monthly match of SSI eligibility files to Medicare hospital records would be administratively more cumbersome and costly and could not be accomplished in a timely manner. Relying on Medicare billing records for the Federal fiscal year rather than the hospital cost reporting period avoids the problem of billing lag at the end of the cost reporting period. We do not believe that there are likely to be significant fluctuations from one year to the next in the percentage of patients served by the hospital who are dually entitled to Medicare Part A and SSI. Consequently, the percentage for a hospital's own experience during the Federal fiscal year should be reasonably close to the percentage specific to the hospital's cost reporting period.

However, we are affording all hospitals the option to determine their number of patient days of those dually entitled to Medicare Part A and SSI for their own cost reporting periods. A hospital that avails itself of this option must furnish to its fiscal intermediary, in a manner and format to be prescribed by HCFA, data on its Medicare patients for its cost reporting period. These data will then be matched by SSA to determine those patients dually entitled to Medicare and SSI for the hospital's cost reporting period. The full cost of this process, including the cost of verification by SSA, will be borne by the hospital.

The number of patient days of those patients entitled to Medicaid but not to Medicare Part A will be determined by the hospital's Medicare fiscal intermediary based on Medicaid statistical data reported on the hospital's Medicare cost report. Total Medicaid inpatient days will include all covered days attributable to Medicaid patients including any inpatient days for Medicaid patients who are members of a health maintenance organization.

Section 1886(d)(5)(F)(vi)(II) of the Act describes Medicaid patient days at those ". . . which consist of patients who (for such days) were eligible for medical assistance under a State plan approved under title XIX . . . ." Therefore, Medicaid covered days will include only those days for which benefits are payable under title XIX. Any day of a Medicaid patient's hospital stay that is not payable by the Medicaid program will not be counted as a Medicaid patient day since the patient is not considered eligible for Medicaid coverage on those days. For example, if a patient is hospitalized for 15 days and is eligible for Medicaid benefits for 10 of those days, only the 10 covered days will be considered Medicaid patient days for purposes of determining a hospital's disproportionate patient percentage.

The process we will use for making payments to hospitals that serve a disporprotionate share of low-income patients will be similar to the process we use to make the additional payment for the indirect medical education costs; that is, we will make interim payments based on the latest available data subject to a year-end settlement on a cost reporting period basis. For purposes of making these interim payments, the initial determination of a hospital's eligibility for this payment will be made by the hospital's Medicare fiscal intermediary based on Medicaid statistical data as reported on the hospital's most recent cost report and the SSI and Medicare data to be supplied by HCFA central office. If a hospital disagrees with the intermediary's determination of its Medicaid patient days, it will be the hospital's responsibility to demonstrate to the intermediary that the Medicaid statistics reported on its cost report are incorrect or were improperly applied. Medicaid data submitted by the hospital, whether on the cost report or furnished subsequently, are subject to intermediary audit to ensure their accuracy.

Sections 1886(d)(5)(f) (ii) and (iv) of the Act specify that the additional payment adjustment for hospitals that meet the disproportionate patient percentage criterion (section 1886(d)(5)(F)(i)(I) of the Act) is determined as follows:

- For urban hospitals with 100 or more beds, the hospital's total DRG revenue (as defined below) is increased by 2.5 percent plus one-half the difference between the hospital's percentage of low-income patients and 15 percent, up to a maximum of 15 percent; that is, the disproportionate share adjustment factor is the lesser of 15 percent or $(P-.15)(.5)+.025$, where P equals the hospital's disproportionate patient percentage expressed as a decimal.
- For urban hospitals with fewer than 100 beds, the hospital's total DRG revenue is increased by five percent.

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• For rural hospitals the hospital's total DRG revenue is increased by four percent.

As specified in sections 1886(d)(5)(F)(ii) and (iii) of the Act, for those hospitals that meet the indigent care revenue criterion (section 1886(d)(5)(F)(i)(II) of the Act), the payment adjustment is determined by increasing the hospital's total DRG revenue by 15 percent. A hospital's total DRG revenue is the revenue based on DRG-adjusted prospective payment rates (for transition period payments, the Federal portion of the hospital's payment rates) including outlier payments but excluding any other additional payments such as the indirect medical education payment.

The provisions for adjusting the prospective payment rates for hospitals serving a disproportionate share of low-income patients are set forth in regulations at a new §412.106.

F. Hospitals that Qualify for Waiver of Requirements Concerning Part A Billing

Section 602(k) of Pub. L. 98–21 authorizes a temporary waiver, in certain circumstances, of the requirement, set forth in sections 1862(a)(14) and 1866(a)(1)(H) of the Act, that hospitals bill for all nonphysician inpatient hospital services under Medicare Part A. This waiver authority is implemented through our regulations governing provider agreements (42 CFR Part 489). Essentially, a hospital qualifies for a waiver if it—

• Had traditionally followed the practice of allowing suppliers of items and services furnished to its inpatients to bill directly under Medicare Part B for those items and services; and

• This practice was so extensive that the hospital's immediate compliance with the new requirement would threaten the stability of patient care.

These provisions are set forth at §489.23.

Section 602(k) of Pub. L. 98–21 requires that we reduce the Medicare Part A payment to a hospital that has a waiver for the amount of Part B billings for nonphysician services furnished to the hospital's inpatients. Therefore, our regulations (§412.120(c)) state that payments for inpatient services are reduced to take into account 100 percent of the reasonable charges (before application of the Medicare Part B deductible and coinsurance amounts) for nonphysician services furnished by an outside supplier.

As mentioned earlier in section III.D.1. of this preamble, §412.118 provides that a hospital's indirect medical education payment is determined on the basis of the total DRG revenue based on the Federal rates received by the hospital. The DRG revenue received by hospitals that qualify for a waiver under §489.23 does not include the Part B reasonable charges for nonphysician services furnished by an outside supplier. Therefore, our policy for determining the amount of the indirect medical education payment for a hospital that has a waiver has been to base the payment on the DRG revenue based on Federal rates after it has been reduced for Part B billings.

Section 9112(a) of Pub. L. 99–272 amends section 602(k) of Pub. L. 98–21 by adding a provision that specifies that the indirect medical education payment for hospitals that have a waiver is to be computed as if the hospital were receiving under Part A all the payments that were made under Part B because of the waiver. That is, a hospital with a waiver under section 602(k) of Pub. L. 98–21 is treated as if the waiver is not in effect for purposes of computing the additional payment for the indirect costs of medical education. Section 9112(b) of Pub. L. 99–272 specifies that this amendment is effective for cost reporting periods beginning on or after January 1, 1986. Therefore, we are revising § 412.118(a)(2) to include in the computation of the additional payment for the costs of indirect medical education the payments made under Part B to hospitals that have a waiver.

In addition, section 9112(a) of Pub. L. 99–272 amended section 602(k) of Pub. L. 98–21 to specify that Part A services billed under Part B under a waiver will be paid at 100 percent of the reasonable charge (or other applicable basis of payment) and that in order to retain its waiver, the hospital must ensure that the supplier that bills for the services accepts this payment as payment in full (that is, the beneficiary is not responsible for payment of the coinsurance). In section 9112 of Pub. L. 99–272, Congress specifically stated that payment for Part A services billed under Part B is equal to 100 percent of the reasonable charge and that the entity furnishing the services must accept *this amount* as the full charge. Because there is no mention of a reduction of this amount by the Part B deductible, for administrative simplicity, we will not apply the deductible to these payments. We are revising § 489.23 to include this requirement, which is effective 10 days after the day of enactment of Pub. L. 99–272, that is, April 17, 1986.

V. Tables

This section contains the tables referred to in this preamble. For tables 2, 3a, and 3b, refer to the September 1, 1983 interim final rule (48 FR 39845). For Table 5, refer to the September 3, 1985 final rule (50 FR 35646).

TABLE 1.—ADJUSTED STANDARDIZED AMOUNTS, LABOR/NONLABOR

Region	Urban		Rural	
	Labor related	Nonlabor related	Labor related	Nonlabor related
1. New England (CT, ME, MA, NH, RI, VT)	2373.04	671.90	2143.01	509.76
2. Middle Atlantic (PA, NJ, NY)	2228.39	664.01	2177.08	516.97
3. South Atlantic (DE, DC, FL, GA, MD, NC, SC, VA, WV)	2366.53	615.20	1997.46	429.17
4. East North Central (IL, IN, MI, OH, WI)	2447.91	716.24	1981.59	481.18
5. East South Central (AL, KY, MS, TN)	2246.22	546.88	1987.01	401.85
6. West North Central (IA, KS, MN, MO, NB, ND, SD)	2271.87	636.26	1845.52	412.88
7. West South Central (AR, LA, OK, TX)	2319.16	602.67	1862.71	400.46
8. Mountain (AZ, CO, ID, MT, NV, NM, UT, WY)	2214.72	637.66	1828.56	447.96
9. Pacific (AK, CA, HI, OR, WA)	2219.61	749.07	1837.86	524.10
10. National	2319.83	667.48	1930.06	440.16

TABLE 4A.—WAGE INDEX FOR URBAN AREAS

Urban area (constituent counties or county equivalents)	Wage index
Abilene, TX	.8936
Taylor, TX	

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Akron, OH	1.0998
Portage, OH	

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Summit, OH	
Albany, GA	.8122
Dougherty, GA	
Lee, GA	
Albany-Schenectady-Troy, NY	.9180
Albany, NY	
Greene, NY	
Montgomery, NY	
Rensselaer, NY	
Saratoga, NY	
Schenectady, NY	
Albuquerque, NM	1.0997
Bernalillo, NM	
Alexandria, LA	.9101
Rapides, LA	
Allentown-Bethlehem, PA–NJ	1.0377
Warren, NJ	
Carbon, PA	
Lehigh, PA	
Northampton, PA	
Altoona, PA	.9948
Blair, PA	
Amarillo, TX	.9524
Potter, TX	
Randall, TX	
Ansheim-Santa Ana, CA	1.2523
Orange, CA	
Anchorage, AK	1.5732
Anchorage, AK	
Anderson, IN	.9701
Madison, IN	
Anderson, SC	.8307
Anderson, SC	
Ann Arbor, MI	1.2513
Washtenaw, MI	
Anniston, AL	.8456
Calhoun, AL	
Appleton-Oshkosh-Neenah, WI	1.0587
Calumet, WI	
Outagamie, WI	
Winnebago, WI	
Asheville, NC	.8779
Buncombe, NC	
Athens, GA	.8119
Clarke, GA	
Jackson, GA	
Madison, GA	
Oconee, GA	
Atlanta, GA	.9592
Barrow, GA	
Butts, GA	
Cherokee, GA	
Clayton, GA	
Cobb, GA	
Coweta, GA	
De Kalb, GA	
Douglas, GA	
Fayette, GA	
Forsyth, GA	
Fulton, GA	
Gwinnett, GA	
Henry, GA	
Newton, GA	
Paulding, GA	
Rockdale, GA	
Spalding, GA	
Walton, GA	
Atlantic City, NJ	1.0488

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Atlantic, NJ	
Cape May, NJ	
Augusta, GA–SC	.9531
Columbia, GA	
McDuffie, GA	
Richmond, GA	
Aiken, SC	
Aurora-Elgin, IL	1.0934
Kane, IL	
Kendall, IL	
Austin, TX	1.1094
Hays, TX	
Travis, TX	
Williamson, TX	
Bakersfield, CA	1.1970
Kern, CA	
Baltimore, MD	1.1068
Anne Arundel, MD	
Baltimore, MD	
Baltimore City, MD	
Carroll, MD	
Harford, MD	
Howard, MD	
Queen Annes, MD	
Bangor, ME	.9216
Penobscot, ME	
Baton Rouge, LA	.9753
Ascension, LA	
East Baton Rouge, LA	
Livingston, LA	
West Baton Rouge, LA	
Battle Creek, MI	1.0226
Calhoun, MI	
Beaumont-Port Arthur, TX	1.0008
Hardin, TX	
Jefferson, TX	
Orange, TX	
Beaver County, PA	1.0838
Beaver, PA	
Bellingham, WA	1.1387
Whatcom, WA	
Benton Harbor, MI	.8845
Berrien, MI	
Bergen-Passaic, NJ	1.0668
Bergen, NJ	
Passaic, NJ	
Billings, MT	1.0151
Yellowstone, MT	
Biloxi-Gulfport, MS	.8426
Hancock, MS	
Harrison, MS	
Binghamton, NY	.9488
Broome, NY	
Tioga, NY	
Birmingham, AL	.9592
Blount, AL	
Jefferson, AL	
Saint Clair, AL	
Shelby, AL	
Walker, AL	
Bismarck, ND	.9870
Burleigh, ND	
Morton, ND	
Bloomington, IN	.9826
Monroe, IN	
Bloomington-Normal, IL	.9772
McLean, IL	
Boise City, ID	1.0506

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Ada, ID	
Boston-Lawrence-Salem-Lowell-Brockton, MA	1.1474
Essex, MA	
Middlesex, MA	
Norfolk, MA	
Plymouth, MA	
Suffolk, MA	
Boulder-Longmont, CO	1.1242
Boulder, CO	
Bradenton, FL	.9128
Manatee, FL	
Brazoria, TX	.8678
Brazoria, TX	
Bremerton, WA	.9740
Kitsap, WA	
Bridgeport-Stamford-Norwalk-Danbury, CT	1.1759
Fairfield, CT	
Brownsville-Harlingen, TX	.8911
Cameron, TX	
Bryan-College Station, TX	.9498
Brazos, TX	
Buffalo, NY	1.0808
Erie, NY	
Burlington, NC	.7867
Alamance, NC	
Burlington, VT	1.0056
Chittenden, VT	
Grand Isle, VT	
Canton, OH	1.0006
Carroll, OH	
Stark, OH	
Casper, WY	1.0962
Natrona, WY	
Cedar Rapids, IA	1.0090
Linn, IA	
Champaign-Urbana-Rantoul, IL	.9892
Champaign, IL	
Charleston, SC	.8846
Berkeley, SC	
Charleston, SC	
Dorchester, SC	
Charleston, WV	1.0405
Kanawha, WV	
Putnam, WV	
Charlotte-Gastonia-Rock Hill, NC–SC	.8925
Cabarrus, NC	
Gaston, NC	
Lincoln, NC	
Mecklenburg, NC	
Rowan, NC	
Union, NC	
York, SC	
Charlottesville, VA	.9276
Albermarle, VA	
Charlottesville City, VA	
Fluvanna, VA	
Greene, VA	
Chattanooga, TN–GA	.9967
Catoosa, GA	
Dade, GA	
Walker, GA	
Hamilton, TN	
Marion, TN	
Sequatchie, TN	
Cheyenne, WY	.9630

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TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Laramie, WY	
Chicago, IL	1.2260
Cook, IL	
Du Page, IL	
McHenry, IL	
Chico, CA	1.2371
Butte, CA	
Cincinnati, OH–KY–IN	1.0969
Dearborn, IN	
Boone, KY	
Campbell, KY	
Kenton, KY	
Clermont, OH	
Hamilton, OH	
Warren, OH	
Clarksville-Hopkinsville, TN–KY	.8123
Christian, KY	
Montgomery, TN	
Cleveland, OH	1.1479
Cuyahoga, OH	
Geauga, OH	
Lake, OH	
Medina, OH	
Colorado Springs, CO	1.0362
El Paso, CO	
Columbus, MO	1.0940
Boone, MO	
Columbia, SC	.9100
Lexington, SC	
Richland, SC	
Columbia, GA–AL	.7871
Russell, AL	
Chattanoochee, GA	
Muscogee, GA	
Columbus, OH	.9613
Delaware, OH	
Fairfield, OH	
Franklin, OH	
Licking, OH	
Madison, OH	
Pickaway, OH	
Union, OH	
Corpus Christi, TX	.9626
Nueces, TX	
San Patricio, TX	
Cumberland, MD–WV	.8930
Allegany, MD	
Mineral, WV	
Dallas,TX	1.0654
Collin, TX	
Dallas, TX	
Denton, TX	
Ellis, TX	
Kaufman, TX	
Rockwall, TX	
Danville, VA	.8027
Danville City, VA	
Pittsylvania, VA	
Davenport-Rock Island-Moline, IA–IL	1.0582
Scott, IA	
Henry, IL	
Rock Island, IL	
Dayton-Springfield, OH	1.0859
Clark, OH	
Greene, OH	
Miami, OH	
Montgomery, OH	
Daytona Beach, FL	.9071
Volusia, FL	
Decatur, IL	.9521
Macon, IL	
Denver, CO	1.2770
Adams, CO	
Arapahoe, CO	
Denver, CO	
Douglas, CO	
Jefferson, CO	
Des Monies, IA	1.0478
Dallas, IA	
Polk, IA	
Warren, IA	
Detroit, MI	1.1639
Lapeer, MI	
Livingston, MI	
Macomb, MI	
Monroe, MI	
Oakland, MI	
Saint Clair, MI	
Wayne, MI	
Dothan, AL	.8395
Dale, AL	
Houston, AL	
Dubuque, IA	1.0512
Dubuque, IA	
Duluth, MN–WI	.9857
St. Louis, MN	
Douglas, WI	
Eau Claire, WI	.9427
Chippewa, WI	
Eau Claire, WI	
El Paso, TX	.9367
El Paso, TX	
Elkhart-Goshen, IN	.9579
Elkhart, IN	
Elmira, NY	.9669
Chemung, NY	
Enid, OK	.9555
Garfield, OK	
Erie, PA	.9917
Erie, PA	
Eugene-Springfield, OR	1.1080
Lane, OR	
Evansville, IN–KY	1.0142
Posey, IN	
Vanderburgh, IN	
Warrick, IN	
Henderson, KY	
Fargo-Moorhead, ND–MN	1.0565
Clay, MN	
Cass, ND	
Fayetteville, NC	.8268
Cumberland, NC	
Fayetteville-Springdale, AR	.8018
Washington, AR	
Flint, MI	1.2014
Genesee, MI	
Florence, AL	.7831
Colbert, AL	
Lauderdale, AL	
Florence, SC	.7629
Florence, SC	
Fort Collins-Loveland, CO	1.0786
Larimor, CO	
Fort Lauderdale-Hollywood-Pompeno Beach, FL	1.1166
Broward, FL	
Fort Myers-Cape Coral, FL	.9463
Lee, FL	
Fort Pierce, FL	1.0140
Martin, FL	
St. Lucie, FL	
Fort Smith, AR–OK	.9175
Crawford, AR	
Sebastian, AR	
Sequoyah, OK	
Fort Walton Beach, FL	.8686
Okaloosa, FL	
Fort Wayne, IN	.9497
Allen, IN	
De Kalb, IN	
Whitley, IN	
Fort Worth-Arlington, TX	.9925
Johnson, TX	
Parker, TX	
Tarrant, TX	
Fresno, CA	1.1405
Fresno, CA	
Gadsden, AL	.8712
Etowah, AL	
Gainesville, FL	.9571
Alachua, FL	
Bradford, FL	
Galveston-Texas City, TX	1.1327
Galveston, TX	
Gary-Hammond, IN	1.0697
Lake, IN	
Porter, IN	
Glens Falls, NY	.9536
Warren, NY	
Washington, NY	
Grand Forks, ND	.9798
Grand Forks, ND	
Grand Rapids, MI	1.0585
Kent, MI	
Ottawa, MI	
Great Falls, MT	1.0642
Cascade, MT	
Greeley, CO	1.0683
Weld, CO	
Green Bay, WI	1.0250
Brown, WI	
Greensboro-Winston-Salem-High Point, NC	.9319
Davidson, NC	
Davie, NC	
Forsyth, NC	
Guilford, NC	
Randolph, NC	
Stokes, NC	
Yadkin, NC	
Greenville-Spartanburg, SC	.9062
Greenville, SC	
Pickens, SC	
Spartanburg, SC	
Hagerstown, MD	.9515
Washington, MD	
Hamilton-Middletown, OH	1.0138
Butler, OH	
Harrisburg-Lebanon-Carlisle, PA	.9795
Cumberland, PA	
Dauphin, PA	
Lebanon, PA	
Perry, PA	

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Hartford-New Middletown-Britian-Bristol, CT	1.1377
Hartford, CT	
Litchfield, CT	
Middlesex, CT	
Tolland, CT	
Hickory, NC	.8915
Alexander, NC	
Burke, NC	
Catawba, NC	
Honolulu, HI	1.1933
Honolulu, HI	
Houma-Thibodaux, LA	.9161
Lafourche, LA	
Terrebonne, LA	
Houston, TX	1.0589
Fort Bend, TX	
Harris, TX	
Liberty, TX	
Montgomery, TX	
Waller, TX	
Huntington-Ashland, WV–KY–OH	.9439
Boyd, KY	
Carter, KY	
Greenup, KY	
Lawrence, OH	
Cabell, WV	
Wayne, WV	
Huntsville, AL	.8597
Madison, Al	
Indianapolis, IN	1.0516
Boone, IN	
Hamilton, IN	
Hancock, IN	
Hendricks, IN	
Johnson, IN	
Marion, IN	
Morgan, IN	
Shelby, IN	
Iowa City, IA	1.2988
Johnson, IA	
Jackson, MI	1.0130
Jackson, MI	
Jackson, MS	.9285
Hinds, MS	
Madison, MS	
Rankin, MS	
Jackson, TN	.7857
Madison, TN	
Jacksonville, FL	.9410
Clay, FL	
Duval, FL	
Nassau, FL	
St. Johns, FL	
Jacksonville, NC	.7907
Onslow, NC	
Janesville-Beloit, WI	.9352
Rock, WI	
Jersey City, NJ	1.1026
Hudson, NJ	
Johnson City-Kingsport-Bristol, TN–VA	.8553
Carter, TN	
Hawkins, TN	
Sullivan, TN	
Unicoi, TN	
Washington, TN	
Bristol City, VA	
Scott, VA	
Washington, VA	
Johnstown, PA	.9456
Cambria, PA	
Somerset, PA	
Joliet, IL	1.1170
Grundy, IL	
Will, IL	
Joplin, MO	.9135
Jasper, MO	
Newton, MO	
Kalamazoo, MI	1.2250
Kalamazoo, MI	
Kankakee, IL	.9439
Kankakee, IL	
Kansas City, KS–MO	1.0581
Johnson, KS	
Leavenworth, KS	
Miami, KS	
Wyandotte, KS	
Cass, MO	
Clay, MO	
Jackson, MO	
Lafayette, MO	
Platte, MO	
Ray, MO	
Kenosha, WI	1.0795
Kenosha, WI	
Killeen-Temple, TX	.8784
Bell, TX	
Coryell, TX	
Knoxville, TN	.8930
Anderson, TN	
Blount, TN	
Grainger, TN	
Jefferson, TN	
Knox, TN	
Sevier, TN	
Union, TN	
Kokomo, IN	.9797
Howard, IN	
Tipton, IN	
LaCrosse, WI	1.0092
LaCrosse, WI	
Lafayette, LA	1.0040
Lafayette, LA	
St. Martin, LA	
Lafayette, IN	.9096
Tippecanoe, IN	
Lake Charles, LA	.9962
Calcasieu, LA	
Lake County, IL	1.1551
Lake IL	
Lakeland-Winter Haven, FL	.8785
Polk, FL	
Lancaster, PA	1.0319
Lancaster, PA	
Lansing-East Lansing, MI	1.0690
Clinton, MI	
Eaton, MI	
Ingham, MI	
Laredo, TX	.8103
Webb, TX	
Las Cruces, NM	.8702
Dona Ana, NM	
Las Vegas, NV	1.1171
Clark, NV	
Lawrence, KS	1.0105
Douglas, KS	
Lawton, OK	.9399
Comanche, OK	
Lewiston-Auburn, ME	.9356
Androscoggin, ME	
Lexington-Fayette, KY	.9800
Bourbon, KY	
Clark, KY	
Fayette, KY	
Jessamine, KY	
Scott, KY	
Woodford, KY	
Lima, OH	.9793
Allen, OH	
Auglaize, OH	
Lincoln, NE	.9639
Lancaster, NE	
Little Rock-North Little Rock, AR	1.1053
Faulkner, AR	
Lonoke, AR	
Pulaski, AR	
Saline, AR	
Longview-Marshall, TX	.8348
Gregg, TX	
Harrison, TX	
Lorain-Elyria, OH	1.0204
Lorain, OH	
Los Angeles-Long Beach, CA	1.3192
Los Angeles, CA	
Louisville, KY–IN	1.0007
Clark, IN	
Floyd, IN	
Harrison, IN	
Bullitt, KY	
Jefferson, KY	
Oldham, KY	
Shelby, KY	
Lubbock, TX	1.0053
Lubbock, TX	
Lynchburg, VA	.9147
Amherst, VA	
Campbell, VA	
Lynchburg City, VA	
Macon-Warner Robins, GA	.9256
Bibb, GA	
Houston, GA	
Jones, GA	
Peach, GA	
Madison, WI	1.0621
Dane, WI	
Manchester-Nashua, NH	.9506
Hillsboro, NH	
Merrimack, NH	
Mansfield, OH	.9846
Richland, OH	
McAllen-Edinburg-Mission, TX	.8045
Hidalgo, TX	
Medford, OR	1.0279
Jackson, OR	
Melbourne-Titusville, FL	.9309
Brevard, FL	
Memphis, TN–AR–MS	1.0416
Crittenden, AR	
De Soto, MS	
Shelby, TN	
Tipton, TN	
Miami-Hialeah, FL	1.0624
Dade, FL	

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TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Middlesex-Somerset-Hunterdon NJ	1.0373
Hunterdon, NJ	
Middlesex, NJ	
Somerset, NJ	
Midland, TX	1.1221
Midland, TX	
Milwaukee, WI	1.1327
Milwaukee, WI	
Ozaukee, WI	
Washington, WI	
Waukesha, WI	
Minneapolis-St. Paul, MN-WI	1.1685
Anoka, MN	
Carver, MN	
Chisago, MN	
Dakota, MN	
Hennepin, MN	
Isanti, MN	
Ramsey, MN	
Scott, MN	
Washington, MN	
Wright, MN	
St. Croix, WI	
Mobile, AL	.8862
Baldwin, AL	
Mobile, AL	
Modesto, CA	1.2013
Stanislaus, CA	
Monmouth-Ocean, NJ	.9851
Monmouth, NJ	
Ocean, NJ	
Monroe, LA	.9274
Ouachita, LA	
Montgomery, AL	.8810
Autauga, AL	
Elmore, AL	
Montgomery, AL	
Muncie, IN	.9991
Delaware, IN	
Muskegon, MI	.9638
Muskegon, MI	
Naples, FL	1.0371
Collier, FL	
Nashville, TN	.9345
Cheatham, TN	
Davidson, TN	
Dickson, TN	
Robertson, TN	
Rutherford, TN	
Sumner, TN	
Williamson, TN	
Wilson, TN	
Nassau-Suffolk, NY	1.3300
Nassau, NY	
Suffolk, NY	
New Bedford-Fall River-Attleboro, MA	.9723
Bristol, MA	
New Haven-West Haven-Waterbury-Meriden, CT	1.1189
New Haven, CT	
New London-Norwich, CT	1.1021
New London, CT	
New Orleans, LA	.9275
Jefferson, LA	
Orleans, LA	
St. Bernard, LA	
St. Charles, LA	
St. John The Baptist, LA	
St. Tammany, LA	
New York, NY	1.3767
Bronx, NY	
Kings, NY	
New York City, NY	
Putnam, NY	
Queens, NY	
Richmond, NY	
Rockland, NY	
Westchester, NY	
Newark, NJ	1.1319
Essex, NJ	
Morris, NJ	
Sussex, NJ	
Union, NJ	
Niagara Falls, NY	.8896
Niagara, NY	
Norfolk-Virginia Beach-Newport News, VA	.9620
Chesapeake City, VA	
Gloucester, VA	
Hampton City, VA	
James City Co., VA	
Newport News City, VA	
Norfolk City, VA	
Poquoson, VA	
Portsmouth City, VA	
Suffolk City, VA	
Virginia Beach City, VA	
Williamsburg City, VA	
York, VA	
Oakland, CA	1.4783
Alameda, CA	
Contra Costa, CA	
Ocala, FL	.8670
Marion, FL	
Odessa, TX	.9548
Ector, TX	
Oklahoma City, OK	1.0849
Canadian, OK	
Cleveland, OK	
Logan, OK	
McClain, OK	
Oklahoma, OK	
Pottawatomie, OK	
Olympia, WA	1.0707
Thurston, WA	
Omaha, NE-IA	1.0432
Pottawattamie, IA	
Douglas, NE	
Sarpy, NE	
Washington, NE	
Orange County, NY	.9290
Orange, NY	
Orlando, FL	1.0113
Orange, FL	
Osceola, FL	
Seminole, FL	
Owensboro, KY	.8163
Daviess, KY	
Oxnard-Ventura, CA	1.2756
Ventura, CA	
Panama City, FL	.8292
Bay, FL	
Parkersburg-Marietta, WV-OH	.9053
Washington, OH	
Wood, WV	
Pascagoula, MS	.9606
Jackson, MS	
Pensacola, FL	.8677
Escambia, FL	
Santa Rosa, FL	
Peoria, IL	1.0506
Peoria, IL	
Tazewell, IL	
Woodford, IL	
Philadelphia, PA-NJ	1.1896
Burlington, NJ	
Camden, NJ	
Gloucester, NJ	
Bucks, PA	
Chester, PA	
Delaware, PA	
Montgomery, PA	
Philadelphia, PA	
Phoenix, AZ	1.0721
Maricopa, AZ	
Pine Bluff, AR	.7950
Jefferson, AR	
Pittsburgh, PA	1.0930
Allegheny, PA	
Fayette, PA	
Washington, PA	
Westmoreland, PA	
Pittsfield, MA	1.0170
Berkshire, MA	
Portland, ME	.9807
Cumberland, ME	
Sagadahoc, ME	
York, ME	
Portland, OR	1.1985
Clackamas, OR	
Multnomah, OR	
Washington, OR	
Yamhill, OR	
Portsmouth-Dover-Rochester, NH	.9304
Rockingham, NH	
Strafford, NH	
Poughkeepsie, NY	.9978
Dutchess, NY	
Providence-Pawtucket-Woonsocket, RI	1.0424
Bristol, RI	
Kent, RI	
Newport, RI	
Providence, RI	
Statewide, RI	
Washington, RI	
Provo-Orem, UT	.9785
Utah, UT	
Pueblo, CO	1.1127
Pueblo, CO	
Racine, WI	.9928
Racine, WI	
Raleigh-Durham, NC	.9648
Durham, NC	
Franklin, NC	
Orange, NC	
Wake, NC	
Rapid City, SD	.9552
Pennington, SD	
Reading, PA	1.0172
Berks, PA	
Redding, CA	1.2204
Shasta, CA	

TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
Reno, NV	1.1751
Washoe, NV	
Richland-Kennewick, WA	1.0180
Benton, WA	
Franklin, WA	
Richmond-Petersburg, VA	.9494
Charles City Co., VA	
Chesterfield, VA	
Colonial Heights City, VA	
Dinwiddie, VA	
Goochland, VA	
Hanover, VA	
Henrico, VA	
Hopewell City, VA	
New Kent, VA	
Petersburg City, VA	
Powhatan, VA	
Prince George, VA	
Richmond City, VA	
Riverside-San Bernardino, GA	1.2424
Riverside, CA	
San Bernardino, CA	
Roanoke, VA	.8930
Botetourt, VA	
Roanoke, VA	
Roanoke City, VA	
Salem City, VA	
Rochester, MN	1.0208
Olmsted, MN	
Rochester, NY	1.0151
Livingston, NY	
Monroe, NY	
Ontario, NY	
Orleans, NY	
Wayne, NY	
Rockford, IL	1.1270
Boone, IL	
Winnebago, IL	
Sacramento, CA	1.2873
Eldorado, CA	
Placer, CA	
Sacramento, CA	
Yolo, CA	
Saginaw-Bay City-Midland, MI	1.0989
Bay, MI	
Midland, MI	
Saginaw, MI	
St. Cloud, MN	.9944
Benton, MN	
Sherburne, MN	
Stearns, MN	
St. Joseph, MO	.9417
Buchanan, MO	
St. Louis, MO-IL	1.0747
Clinton, IL	
Jersey, IL	
Madison, IL	
Monroe, IL	
St. Clair, IL	
Franklin, MO	
Jefferson, MO	
St. Charles, MO	
St. Louis, MO	
St. Louis City, MO	
Salem, OR	1.0890
Marion, OR	
Polk, OR	
Salinas-Seaside-Monterey, CA	1.2478
Monterey, CA	
Salt Lake City-Ogden, UT	1.0277
Davis, UT	
Salt Lake, UT	
Weber, UT	
San Angelo, TX	.8654
Tom Green, TX	
San Antonio, TX	.8877
Bexar, TX	
Comal, TX	
Guadalupe, TX	
San Diego, CA	1.3007
San Diego, CA	
San Francisco, CA	1.6395
Marin, CA	
San Francisco, CA	
San Mateo, CA	
San Jose, CA	1.4696
Santa Clara, CA	
Santa Barbara-Santa Maria-Lompoc, CA	1.1734
Santa Barbara, CA	
Santa Cruz, CA	1.2341
Santa Cruz, CA	
Santa Fe, NM	.9737
Los Alamos, NM	
Santa Fe, NM	
Santa Rosa-Petaluma, CA	1.3015
Sonoma, CA	
Sarasota, FL	.9568
Sarasota, FL	
Savannah, GA	.8851
Chatham, GA	
Effingham, GA	
Scranton-Wilkes Barre, PA	.9908
Columbia, PA	
Lackawanna, PA	
Luzerne, PA	
Monroe, PA	
Wyoming, PA	
Seattle, WA	1.1493
King, WA	
Snohomish, WA	
Sharon, PA	.9685
Mercer, PA	
Sheboygan, WI	.9812
Sheboygan, WI	
Sherman-Denison, TX	.8556
Grayson, TX	
Shreveport, LA	.9542
Bossier, LA	
Caddo, LA	
Sioux City, IA-NE	.9988
Woodbury, IA	
Dakota, NE	
Sioux Falls, SD	1.0135
Minnehaha, SD	
South Bend-Mishawaka, IN	1.0012
St. Joseph, IN	
Spokane, WA	1.1473
Spokane, WA	
Springfield, IL	1.0585
Menard, IL	
Sangamon, IL	
Springfield, MO	.9790
Christian, MO	
Greene, MO	
Springfield, MA	.9986
Hampden, MA	
Hampshire, MA	
State College, PA	1.0692
Centre, PA	
Steubenville-Weirton, OH-WV	.9564
Jefferson, OH	
Brooke, WV	
Hancock, WV	
Stockton, CA	1.2776
San Joaquin, CA	
Syracuse, NY	1.0225
Madison, NY	
Onondaga, NY	
Oswego, NY	
Tacoma, WA	1.0971
Pierce, WA	
Tallahassee, FL	.9439
Gadsden, FL	
Leon, FL	
Tampa-St. Petersburg-Clearwater, FL	.9758
Hernando, FL	
Hillsborough, FL	
Pasco, FL	
Pinellas, FL	
Terre Haute, IN	.8393
Clay, IN	
Vigo, IN	
Texarkana-TX-Texarkana, AR	.8586
Miller, AR	
Bowie, TX	
Toledo, OH	1.2176
Fulton, OH	
Lucas, OH	
Wood, OH	
Topeka, KS	1.0554
Shawnee, KS	
Trenton, NJ	1.0241
Mercer, NJ	
Tucson, AZ	1.0015
Pima, AZ	
Tulsa, OK	1.0056
Creeks, OK	
Osage, OK	
Rogers, OK	
Tulsa, OK	
Wagoner, OK	
Tuscaloosa, AL	1.0097
Tuscaloosa, AL	
Tyler, TX	.9961
Smith, TX	
Utica-Rome, NY	.8775
Herkimer, NY	
Oneida, NY	
Vallejo-Fairfield-Napa, CA	1.3298
Napa, CA	
Solano, CA	
Vancouver, WA	1.1573
Clark, WA	
Victoria, TX	.8144
Victoria, TX	
Vineland-Millville-Bridgeton, NJ	.9856
Cumberland, NJ	
Visalia-Tulare-Porterville, CA	1.0564
Tulare, CA	
Waco, TX	.9049
McLennan, TX	
Washington, D.C.-MD-VA	1.1876

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TABLE 4A.—WAGE INDEX FOR URBAN AREAS—Continued

Urban area (constituent counties or county equivalents)	Wage index
District of Columbia, DC	
Calvert, MD	
Charles, MD	
Frederick, MD	
Montgomery, MD	
Prince Georges, MD	
Alexandria City, VA	
Arlington, VA	
Fairfax, VA	
Fairfax, City, VA	
Falls Church City, VA	
Loudoun, VA	
Manassas City, VA	
Manassas Park City, VA	
Prince William, VA	
Stafford, VA	
Waterloo-Cedar Falls, IA	.9919
Black Hawk, IA	
Bremer, IA	
Wausau, WI	.9798
Marathon, WI	
West Palm Beach-Boca Raton-Delray Beach, FL	.9889
Palm Beach, FL	
Wheeling, WV-OH	.9699
Belmont, OH	
Marshall, WV	
Ohio, WV	
Wichita, KS	1.1504
Butler, KS	
Sedgwick, KS	
Wichita Falls, TX	.8711
Wichita, TX	
Williamsport, PA	.8981
Lycoming, PA	
Wilmington, DE-NJ-MD	1.0509
New Castle, DE	
Cecil, MD	
Salem, NJ	
Wilmington, NC	.9520
New Hanover, NC	
Worcester-Fitchburg-Leominster, MA	1.0020
Worcester, MA	
Yakima, WA	1.0312
Yakima, WA	
York, PA	.9780
Adams, PA	
York, PA	
Youngstown-Warren, OH	1.0403
Mahoning, OH	
Trumbull, OH	
Yuba City, CA	1.0383
Sutter, CA	
Yuba, CA	

TABLE 4B.—WAGE INDEX FOR RURAL AREAS

Non-urban area	Wage index
Alabama	.7411
Alaska	1.4878
Arizona	.9254
Arkansas	.7646
California	1.1372
Colorado	.9267
Connecticut	1.0362
Delaware	.8581
Florida	.8750
Georgia	.7721
Hawaii	1.0082
Idaho	.9062
Illinois	.8851
Indiana	.8621
Iowa	.8654
Kansas	.8418
Kentucky	.7977
Louisiana	.8542
Maine	.9291
Maryland	.8709
Massachusetts	1.0470
Michigan	.9518
Minnesota	.8723
Mississippi	.7648
Missouri	.8264
Montana	.9066
Nebraska	.8249
Nevada	1.0719
New Hampshire	.9189
New Jersey*	
New Mexico	.9145
New York	.8666
North Carolina	.8970
North Dakota	.8994
Ohio	.9033
Oklahoma	.8399
Oregon	1.0702
Pennsylvania	.9357
Rhode Island*	
South Carolina	.7769
South Dakota	.8202
Tennessee	.7675
Texas	.8120
Utah	.9495
Vermont	.8823
Virginia	.8133
Washington	1.0197
West Virginia	.8751
Wisconsin	.8926
Wyoming	.9673

*All counties within the State are classified urban.

VI. Regulatory Impact Statement

A. Executive Order 12291

Section 3(a) of Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for regulations that meet the criteria of a "major rule". Under section 1(b) of E.O. 12291, a major rule is a regulation that would be likely to result in—

1. An annual effect on the economy of $100 million or more;

2. A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

3. Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Generally, the consequences of the provisions contained in this interim final rule flow from the statute, not the regulation itself. Nonetheless, their magnitude is substantial, and, in such cases, we voluntarily prepare a regulatory impact analysis, even if the rule, in itself, may not meet the definition of a major rule. It is unpractical for us either to determine whether or not this rule is a major rule or to prepare and consider a regulatory impact analysis within the time allowed by Pub. L. 99-272 for implementation of its provisions. Section 8 of E.O. 12291 provides for exemption from the requirements for impact analysis in cases in which compliance with the terms of E.O. 12291 would conflict with deadlines imposed by statute. Therefore, we have sought and received an exemption from the Director of the Executive Office of Management and Budget (EOMB).

We are in the process of preparing a proposed rule setting forth the FY 1987 prospective payment rates, which will include a regulatory impact analysis in accordance with the E.O. 12291. We plan to include in that impact analysis an analysis of the provisions of this interim final rule. By so doing, we will adhere to the requirements of E.O. 12291 as closely as is feasible in view of the statutory deadline.

B. Regulatory Flexibility Act

We prepare and publish a regulatory flexibility analysis, consistent with the Regulatory Flexibility Act of 1980 (RFA) (5 U.S.C. 601 through 612), for regulations unless the Secretary certifies that implementation of the regulations would not have a significant economic impact on a substantial number of small entities. We treat all hospitals under the prospective payment system as small entities for purposes of the RFA. Therefore, this rule clearly affects a substantial number of small entities.

Preparation of a regulatory flexibility analysis is not feasible for this rule in view of the time allowed under Pub. L. 99-272. Moreover, section 606 of the RFA authorizes the Secretary to delay completion of a regulatory flexibility analysis under certain conditions. However, a final regulatory flexibility analysis must be prepared no later than 180 days after the date of publication in the Federal Register of a final rule.

The Secretary finds that, due to the necessity for the timely implementation of sections 9101 through 9105 and 9112 of Pub. L. 99-272, an emergency exists that makes timely preparation of a regulatory flexibility analysis impracticable. However, we propose to prepare and publish a regulatory flexibility analysis, including an analysis of the provisions of this interim final, in the forthcoming proposed rule setting forth the proposed FY 1987 prospective payment rates.

VII. Other Required Information

A. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the Federal Register for substantive rules to afford a period for public comment. However, we may waive that procedure if we find good cause that notice and comment are impractical, unnecessary, or contrary to the public interest. When we do so, we incorporate an explanation of our findings in the rule to be issued.

Section 9115(b) of Pub. L. 99-272 provides that we may issue the regulations that implement sections 9101 through 9105 and 9112 of Pub. L. 99-272 on an interim of other basis as may be necessary. The statute, which was enacted on April 7, 1986, provided that these provisions are generally effective on May 1, 1986. It is clear, therefore, that undergoing a proposed rulemaking process for this rule, which is effective May 1, 1986, would be impactical and, in terms of notifying affected parties of final implementing regulations as soon as possible, would not be in the public interest. Therefore, we find good cause to waive proposed rulemaking and to issue these regulations as final. Nonetheless, we are providing a 30-day comment period as indicated at the beginning of this preamble.

Because of the large number of items of correspondence we normally receive on regulations, we cannot acknowledge or respond to them individually. However, we will consider all comments that are received by the date and time specified in the "Dates" section of this preamble and we will respond to those comments in the preamble to the final rule that announces the FY 1987 prospective payment rates

B. Effective Dates

Based on the provisions of Pub. L. 99-272, the effective date of this interim final rule is May 1, 1986. Changes to the regulation are effective as follows:

- May 1, 1986:

§ 400.310 Display of currently valid OMB control numbers.
§ 405.463 Rate of increase limits.
§ 412.1 Scope of part.
§ 412.63 Federal rates for fiscal years after Federal fiscal year 1984.
§ 412.70 General description.
§ 412.73 Determination of the hospital-specific rate.
§ 412.80 General provisions.
§ 412.82 Payment for extended length-of-stay cases (day outliers).
§ 412.90 General rules.
§ 412.106 Special treatment: Hospitals that serve a disproportionate share of low-income patients.
§ 412.113 Payments determined on a reasonable cost basis.
§ 412.118 Determination of indirect medical education costs.

The changes affecting the determination of indirect medical education costs are all effective on May 1, 1986 except that the provision under which HCFA will no longer offset the total DRG revenue used to compute the payment for indirect medical education costs for payments made to outside suppliers under a section 602(k) waiver (§ 412.118(a)(2)) is effective for cost reporting periods beginning on or after January 1, 1986.

- April 17, 1986:

§ 489.23 Special provisions for waiver of certain inpatient hospital services requirements.

- Cost reporting periods beginning on or after January 1, 1986:

§ 412.118(a)(2)—Calculation of a hospital's total DRG revenue for purposes of determining the payment for the indirect medical education costs.

C. Waiver of 30-Day Delay in Effective Dates

We normally provide a delay of 30 days in the effective date of all final rules. However, the effective dates of the provisions of sections 9101, 9102, 9103, 9104, 9105, and 9112 of Pub. L. 99-272 that are being implemented by these regulations are specified in those sections of the law. The provisions of these interim final regulations conform to the clear direction provided in the law. For this reason, and also for purposes of placing the regulations into operation as soon as possible, a delayed effective date is both impractical and unnecessary. Therefore, we find good cause to waive the usual 30-day delay.

D. Paperwork Reduction Act

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3511) requires that any information collection requirements included in a regulatory document must be submitted to and approved by the EOMB before the public is required to comply with those requirements. However, section 9115(a) of Pub. L. 99-272 specifies that the Paperwork Reduction Act of 1980 does not apply to information required for purposes of carrying out Subpart A, Part 1, Subtitle A, Title IX of Pub. L. 99-272 (that is, sections 9101 through 9115). Therefore, any information collection requirements that stem from the changes made by this interim final rule, which implements sections 9101, 9102, 9103, 9104, 9105, and 9112 of Pub. L. 99-272, are not subject to EOMB approval.

List of Subjects

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 412

Health facilities. Medicare.

42 CFR Part 489

Health facilities, Medicare.

42 CFR Chapter IV is amended as set forth below:

CHAPTER IV—HEALTH CARE FINANCING ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

I. Part 400, Subpart C is amended as follows:

PART 400—INTRODUCTION; DEFINITIONS

Subpart C—OMB Control Numbers for Approved Collections of Information

A. The authority citation for Part 400 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) and 44 U.S.C. Chapter 35.

§ 400.310 [Amended]

B. In § 400.310, the line that reads "412.118(d)(2) . . . 0938-0337" is revised to read "412.118(f)(2) . . . 0938-0337".

B. II. Part 405, Subpart D is amended as follows:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

Subpart D—Principles of Reimbursement for Providers, Outpatient Maintenance Dialysis, and Services by Hospital-Based Physicians

A. The authority citation for Subpart D continues to read as follows:

Authority: Secs. 1102, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881, 1886, and 1887 of the Social Security Act as amended (42 U.S.C. 1302, 1395f(b), 1395g, 1395l(a), 1395x(v), 1395hh, 1395rr, 1395ww, and 1395xx).

B. In § 405.463, paragraph (c)(3)(i) is revised to read as follows:

§ 405.463 Ceiling on rate of hospital cost increases.

* * * * *

(c) *Procedure for establishing the ceiling (target amount).* * * *

(3) *Target rate percentage.* (i) The applicable target rate percentage is determined as follows:

(A) *Federal fiscal year 1986.* The applicable target rate percentage for cost reporting periods beginning on or after October 1, 1985 and before September 30, 1986 is five-twenty-fourths of one percent. For purposes of determining the target amount for cost reporting periods beginning on or after October 1, 1986, the applicable percentage increase with respect to cost reporting periods beginning during Federal fiscal year 1986 is deemed to have been one-half percent.

(B) *Federal fiscal years 1987 and following.* Subject to the limitation set forth in paragraph (c)(3)(i)(C) of this section, the applicable target rate percentage for cost reporting periods beginning during fiscal year 1987 and in all fiscal years thereafter is determined using the methodology set forth in §412.63 (e)(1) through (e)(3).

(C) *Limitation for Federal fiscal years 1987 and 1988.* For cost reporting periods beginning in fiscal years 1987 and 1988, the applicable percentage determined under paragraph (c)(3)(i)(B) of this section is not to exceed the prospectively estimated increase in the market basket index for the cost reporting period.

* * * * *

III. Part 412 is amended as follows:

PART 412—PROSPECTIVE PAYMENT SYSTEM FOR INPATIENT HOSPITAL SERVICES

A. The authority citation for Part 412 continues to read as follows:

Authority: Secs. 1102, 1871, and 1886 of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395ww).

B. The table of contents of Part 412 is amended by adding the title of a new § 412.106 to Subpart G to read as follows:

Subpart G—Special Treatment of Certain Facilities

Sec.

* * * * *

412.106 Special treatment: Hospitals that serve a disproportionate share of low-income patients.

* * * * *

§ 421.1 [Amended]

C. In Subpart A, § 412.1, in the fifth sentence of paragraph (b), "Three years" is changed to read "four years".

D. In Subpart D, § 412.63, the introductory language of paragraphs (c)(2) and (c)(3) is reprinted without change for the convenience of the reader; paragraphs (c)(2)(iv) and (c)(3)(i) are revised; current paragraphs (d), (e), (f), and (g) are redesignated as paragraphs (e), (f), (g), and (h), respectively; a new paragraph (d) is added; and newly redesignated paragraphs (e) and (h) are revised to read as follows:

Subpart D—Basic Methodology for Determining Federal Prospective Payment Rates

§ 412.63 Federal rates for fiscal years after Federal fiscal year 1984.

* * * * *

(c) *Updating previous standardized amounts.* * * *

(2) Each of those amounts is equal to the respective adjusted average standardized amount computed for fiscal year 1984 under § 412.62(g)—

* * * * *

(iv) Adjusted for budget neutrality under paragraph (f) of this section.

(3) For fiscal year 1986 and thereafter, HCFA computes, for urban and rural hospitals in the United States and for urban and rural hospitals in each region, average standardized amounts equal to the respective adjusted average standardized amounts computed for the previous fiscal year—

(i) Increased by the applicable percentage increase determined under paragraph (e) of this section;

* * * * *

(d) *Applicable percentage change for fiscal year 1986.*

(1) The applicable percentage change for fiscal year 1986 is—

(i) For discharges occurring on or after October 1, 1985 and before May 1, 1986, zero percent; and

(ii) For discharges occurring on or after May 1, 1986, one-half of one percent.

(2) For purposes of determining the standardized amounts for discharges occurring on or after October 1, 1986, the applicable percentage increase for fiscal year 1986 is deemed to have been one-half of one percent.

(e) *Determining applicable percentage changes for fiscal years 1987 and following.*

(1) Subject to the limitations described in paragraph (e)(4) of this section, beginning with fiscal year 1987, the Secretary determines for each fiscal year the applicable percentage change that applies for purposes of paragraph (c)(3) of this section as the applicable percentage increase for discharges in that fiscal year.

(2) The percentage change takes into account amounts the Secretary believes necessary for the efficient and effective delivery of medically appropriate and necessary care of high quality.

(3) In making this determination, the Secretary considers the recommendations of the Prospective Payment Assessment Commission.

(4) For fiscal years 1987 and 1988, the applicable percentage change is not to exceed the prospectively estimated increase in the market basket index (as described in § 405.463 of this chapter) for the fiscal year.

* * * * *

(h) *Adjusting for different area wage levels.* HCFA adjusts the proportion (as estimated by HCFA from time to time) of Federal rates computed under paragraph (g) of this section that are attributable to wages and labor-related costs for area differences in hospital wage levels by a factor (established by HCFA) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level.

E. Subpart E is amended as follows:

Subpart E—Determination of Transition Period Payment Rates

1. Section 412.70 is revised to read as follows:

§ 412.70 General description.

(a) *Basic rules.* (1) During the initial four-year transition period, payments to all hospitals paid under the prospective payment system are based on a combination of the Federal prospective payment rates, as determined under Subpart D of this part, and hospital-specific rates determined under this subpart.

(2) For the first two years of the transition period, both portions of the payment rates are also adjusted to ensure budget neutrality.

(3) At the end of the transition period (that is, for cost reporting periods beginning on or after October 1, 1987, payments are based on the national prospective payment rates determined under Subpart D of this part, except for payments that may be made under the special treatment provisions of Subpart G of this part.

(b) *Payment amounts based on the hospital-specific portion and the Federal portion.* For discharges occurring in cost reporting periods beginning on or after October 1, 1983 and before October 1, 1987, the Medicare transition payment rate for a particular covered discharge equals a blend of the applicable portion of the hospital-specific rate, as determined under § 412.73, plus the applicable portions of the Federal national and regional prospective payment rates, as described in paragraph (c) of this section, and summarized in the Table. Payments to new hospitals are based on the Federal national and regional prospective payment rates, as described in paragraph (d) of this section.

(c) *Amount of blended portions.*[1] The blends of hospital-specific and Federal portions are as follows:

(1) For cost reporting periods beginning on or after October 1, 1983 and before October 1, 1984, the blend is—

(i) 75 percent of the hospital-specific rate; and

(ii) 25 percent of the appropriate Federal prospective payment rate.

(2) For cost reporting periods beginning on or after October 1, 1984 and before October 1, 1985, the blend is—

(i) 50 percent of the hospital-specific rate; and

(ii) 50 percent of the appropriate Federal prospective payment rate.

(3) For cost reporting periods beginning on or after October 1, 1985 and before October 1, 1986, the blend is as follows:

(i) For the first seven months of the cost reporting period, the blend is—

(A) 50 percent of the hospital-specific rate; and

(B) 50 percent of the appropriate Federal prospective payment rate.

(ii) For the remaining five months of the cost reporting period, the blend is—

(A) 45 percent of the hospital-specific rate; and

(B) 55 percent of the appropriate Federal prospective payment rate.

(4) For cost reporting periods beginning on or after October 1, 1986 and before October 1, 1987, the blend is—

(i) 25 percent of the hospital-specific rate; and

(ii) 75 percent of the appropriate Federal prospective payment rate.

(5) The appropriate Federal prospective payment rate is a combined regional and national rate and changes with the Federal fiscal year. For Federal fiscal year 1984, which begins October 1, 1983, the Federal prospective payment rate is 100 percent regional. For Federal fiscal years 1985 and 1986, which begin October 1, 1984 and October 1, 1985, respectively, the combined rate is 75 percent regional and 25 percent national. For Federal fiscal year 1987, which begins October 1, 1986, the combined rate is 50 percent regional and 50 percent national. Effective with Federal fiscal year 1988, which begins October 1, 1987, the Federal prospective payment rate is 100 percent national.

[1] For purposes of this paragraph and §§ 412.80(a)(1)(ii)(B) and 412.82(c), see section 9162(d)(4) of Pub. L. 99-272 for special provisions concerning the transition period applicable to hospitals in the State of Oregon.

TABLE—SUMMARY OF HOSPITAL-SPECIFIC AND FEDERAL PORTION PERCENTAGES FOR DETERMINING TRANSITION PAYMENT RATES

Cost reporting period beginning on or after	Hospital-specific portion percentage	Federal portion percentage*
October 1, 1983	75	25
October 1, 1984	50	50
October 1, 1985—		
The first seven months of the cost reporting period	50	50
The remaining five months of the cost reporting period	45	55
October 1, 1986	25	75
October 1, 1987	0	100

* NOTE: The Federal portion percentages are applied to the combined national or regional prospective payment rates, as appropriate, as determined under Subpart D of this part for the Federal fiscal year in which the discharge occurs.

(d) *Blended portions for new hospitals.* The prospective payment rates for new hospitals are a blend of the Federal regional and national rates as follows:

(1) For discharges occurring on or after October 1, 1983, and before October 1, 1984, the prospective payment rate equals the appropriate Federal regional rate.

(2) For discharges occurring on or after October 1, 1984 and before October 1, 1986, the prospective payment rate is a blend of—

(i) 75 percent of the appropriate Federal regional prospective payment rate; and

(ii) 25 percent of the appropriate Federal national rate.

(3) For discharges occurring on or after October 1, 1986 and before October 1, 1987, the prospective payment rate is a blend of—

(i) 50 percent of the appropriate Federal regional prospective payment rate; and

(ii) 50 percent of the appropriate Federal national prospective payment rate.

(4) For discharges occurring on or after October 1, 1987, the prospective payment rate equals the appropriate Federal national rate.

2. In § 412.73, paragraph (c)(3) is revised and new paragraphs (c)(4) and (c)(5) are added to read as follows:

§ 412.73 Determination of the hospital-specific rate.

* * * * *

(c) *Updating base-year costs.* * * *

(3) *For Federal fiscal year 1986.* (i) The amount determined under paragraph (c)(2) of this section is updated by—

(A) Zero percent for the first seven months of the hospital's cost reporting period; and

(B) One-half of one percent for the remaining five months of the hospital's cost reporting period.

(ii) For purposes of determining the updated base-year costs for cost reporting periods beginning in Federal fiscal year 1987 (that is, on or after October 1, 1986 and before October 1, 1987), the update factor for the previous cost reporting period is deemed to have been one-half of one percent.

(4) *For Federal fiscal year 1987.* The amount determined under paragraph (c)(3)(ii) of this section is updated by the target rate percentage determined under § 405.463(c)(3) of this chapter.

(5) *For Federal fiscal years 1988 and following.* For purposes of determining the prospective payment rates for sole community hospitals under § 412.92(d), the base-year cost per discharge continues to be updated for each Federal fiscal year after Federal fiscal year 1987 by the target rate percentage determined under § 405.463(c)(3) of this chapter.

* * * * *

F. Subpart F is amended as follows:

Subpart F—Payment for Outlier Cases

§ 412.80 [Amended]

1. In § 412.80, the chart in paragraph (e)(1)(ii)(B) is revised to read as follows:

Federal fiscal year	Regional rate percentage	National rate percentage
October 1, 1983	100	0
October 1, 1984	75	25
October 1, 1985	75	25
October 1, 1986	50	50
October 1, 1987	0	100

§ 412.82 [Amended]

2. In § 412.82, the chart in paragraph (c) is revised to read as follows:

Cost reporting periods beginning on or after	Federal portion (percent)
October 1, 1983	25
October 1, 1984	50
October 1, 1985—	
The first seven months of the cost reporting period	50
The remaining five months of the cost reporting period	55
October 1, 1986	75
October 1, 1987	100

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G. Subpart G is amended as follows:

Subpart G—Special Treatment of Certain Facilities

1. In § 412.90, a new paragraph (h) is added to read as follows:

§ 412.90 General rules.

* * * * *

(h) *Hospitals that serve a disproportionate share of low-income patients.* For discharges occurring on or after May 1, 1986 and before October 1, 1986, HCFA makes an additional payment to hospitals that serve a disproportionate share of low-income patients. The criteria for this additional payment are set forth in § 412.106.

2. A new § 412.106 is added to read as follows:

§ 412.106 Special treatment: Hospitals that serve a disproportionate share of low-income patients.

(a) *Basic rule.* (1) Unless a hospital elects the option concerning the period of time used for counting the number of patient days (that is, the hospital's cost reporting period rather than the Federal fiscal year), as described in paragraph (a)(2) of this section, a hospital's disproportionate patient percentage is the sum of the following, expressed as a percentage:

(i) Number of covered patient days during each month of the Federal fiscal year in which the hospital's cost reporting period begins of those patients who are entitled during that month to both Medicare Part A and Supplemental Security Income benefits under title XVI of the Act (excluding those patients receiving State supplementation only), summed for the months of the Federal fiscal year, and divided by the number of patient days during that same Federal fiscal year of those patients entitled to Medicare Part A.

(ii) Number of patient days during the hospital's cost reporting period of those patients who are entitled to Medicaid but not to Medicare Part A divided by the total number of patient days in that same period.

(2) For purposes of making the calculation in paragraph (a)(1)(i) of this section, a hospital may elect to have the count of the number of patient days made on the basis of its cost reporting period, rather than by Federal fiscal year, if the following conditions are met:

(i) The hospital furnishes to its intermediary, in a manner and format prescribed by HCFA, data on its Medicare Part A patients for its cost reporting period.

(ii) The hospital bears the full cost of preparing its submittal as described in paragraph (a)(2)(i) of this paragraph and the cost incurred by SSA in determining the number of beneficiaries entitled to both Medicare Part A and Supplemental Security Income benefits for each month of the cost reporting period.

(3) The number of beds in a hospital is determined as specified in § 412.118(b).

(4) The definitions for urban and rural areas are the same as those set forth in § 412.62(f).

(b) *Criteria for classification.* For discharges occurring on or after May 1, 1986 and before October 1, 1986, a payment adjustment (as described in paragraph (c) of this section) is made for each hospital that meets one of the following criteria:

(1) During the hospital's cost reporting period, the hospital has a disproportionate patient percentage that is at least equal to—

(i) 15 percent, if the hospital is located in an urban area and has 100 or more beds;

(ii) 40 percent, if the hospital is located in an urban area and has fewer than 100 beds; or

(iii) 45 percent, if the hospital is located in a rural area.

(2) The hospital is located in an urban area, has 100 or more beds, and can demonstrate that, during its cost reporting period, more than 30 percent of its total inpatient care revenues are derived from State and local government payments for indigent care furnished to patients who are not covered by Medicare or Medicaid.

(c) *Payment adjustment.* If a hospital meets one of the criteria in paragraph (b) of this section, the hospital's total DRG revenue based on DRG-adjusted prospective payment rates (for transition period payments, the Federal portion of the hospital's payment rates), including outlier payments determined under Subpart F of this part but excluding additional payments made under the provisions of this subpart or § 412.116, is increased by the disproportionate share payment adjustment factor, determined as follows:

(1) If the hospital meets the criteria of paragraph (b)(1) (i) of this section, the disproportionate share payment adjustment factor is the lesser of—

(i) 15 percent; or

(ii) 2.5 percent plus one-half the difference between the hospital's disproportionate patient percentage and 15 percent.

(2) If the hospital meets the criteria of paragraph (b)(1)(ii) of this section, the disproportionate share payment adjustment factor is five percent.

(3) If the hospital meets the criteria of paragraph (b)(1)(iii) of this section, the disproportionate share payment adjustment factor is four percent.

(4) If the hospital meets the criteria of paragraph (b)(2) of this section, the disproportionate share payment adjustment factor is 15 percent.

F. Subpart H is amended as follows:

Subpart H—Payments to Hospitals under the Prospective Payment System

§ 412.113 [Amended]

1. In § 412.113, paragraph (b) is amended by revising the date in the third sentence from "Ootober 1, 1986" to "October 1, 1987".

2. Section 412.116 is amended by revising the introductory language; revising paragraphs (a) and (c); redesignating current paragraphs (d), (e), (f), and (g) as paragraphs (e), (f), (g), and (h), respectively; adding a new paragraph (d); and revising newly redesignated paragraphs (e) and (g) to read as follows:

§ 412.116 Determination of indirect medical education costs.

To determine the indirect medical education costs, HCFA uses the following procedures:

(a) *Basic data.* HCFA determines the following for each hospital:

(1) The hospital's ratio of full-time equivalent interns and residents, except as limited under paragraph (g) of this section, to number of beds (as determined in paragraph (b) of this section).

(2) The hospital's total DRG revenue based on DRG-adjusted prospective payment rates (for transition period payments, the Federal portion of the hospital's payment rates), including outlier payments determined under Subpart F of this part but excluding additional payments made under the provisions of Subpart G of this Part. For cost reporting periods beginning on or after January 1, 1986, for purposes of this section, the total DRG revenue is not offset for payments made to outside suppliers under § 489.23 of this chapter for nonphysician services furnished to beneficiaries entitled to Medicare Part A.

* * * * *

(c) *Measurement for teaching activity.* The factor representing the effect of teaching activity on inpatient operating costs is equal to the following:

(1) For discharges occurring on or after May 1, 1986 and before October 1, 1988, the factor equals .405.

(2) For discharges occurring on or after October 1, 1988, the factor is equal to .5795.

(d) *Determination of education adjustment factor.* (1) For discharges occurring on or after May 1, 1986 and before October 1, 1988, each hospital's education adjustment factor is calculated as follows:

(i) *Step one*—A factor representing the sum of 1.00 plus the hospital's ratio of full-time equivalent interns and residents to beds, as determined under paragraph (a)(1) of this section, is raised to an exponential power equal to the factor set forth in paragraph (c)(1) of this section.

(ii) *Step two*—The factor derived from step one is reduced by 1.00.

(iii) *Step three*—The factor derived from completing steps one and two is multiplied by 2.00.

(2) For discharges occurring on or after October 1, 1988, each hospital's education adjustment factor is calculated as follows:

(i) *Step one*—A factor representing the sum of 1.00 plus the hospital's ratio of full-time equivalent interns and residents to beds, as determined under paragraph (a)(1) of this section, is raised to an exponential power equal to the factor set forth in paragraph (c)(2) of this section.

(ii) *Step two*—The factor derived from step one is reduced by 1.00.

(iii) *Step three*—The factor derived from completing steps one and two is multiplied by 1.50.

(e) *Determination of payment amount.* Each hospital's indirect medical education payment is determined by multiplying the total DRG revenue, as determined under paragraph (a)(2) of this section, by the applicable education adjustment factor derived in paragraph (d) of this section.

* * * * *

(g) *Limits on count of interns and residents.* (1) Interns and residents who are assigned to a freestanding family practice center or an excluded distinct part hospital unit on the day that the count of interns and residents (as described in paragraph (f)(2)(i) of this section) is made are not counted as full-time equivalents. Only the percentage of time that these interns and residents spend in the portion of the hospital subject to the prospective payment system on the day the count is made is used to determine the indirect medical education adjustment.

(2) Interns and residents in anesthesiology who are employed to replace anesthetists are not counted as full-time equivalents.

* * * * *

IV. Part 489, Subpart B is amended as follows:

PART 489—PROVIDER AGREEMENTS UNDER MEDICARE

Subpart B—Essentials of Provider Agreements

1. The authority citation for Part 489 is revised to read as follows:

Authority: Secs. 1102, 1861, 1864, 1866, and 1871 of the Social Security Act as amended (42 U.S.C. 1302, 1395x, 1395aa, 1395cc, and 1395hh); section 602(k) of Pub. L. 98–21 (42 U.S.C. 1395ww note).

2. Section 489.23 is amended by adding a new paragraph (d) to read as follows:

§ 489.23 Special provisions for waiver of certain inpatient hospital services requirements.

* * * * *

(d) *Special waiver criteria effective April 17, 1986.* (1) For items and services furnished on or after April 17, 1986, a hospital that has received a waiver under this section must show that outside supplier's furnishing the items and services to the hospital's Medicare inpatients under the waiver have agreed to accept the amount paid under paragraph (d)(2) of this section as the full charge for the items and services.

(2) For items and services furnished on or after April 17, 1986, the Medicare Part B payment for items and services furnished by outside suppliers to beneficiaries who are inpatients of a hospital that has a waiver under this section is equal to 100 percent of the reasonable charge or other applicable Medicare Part B payment for the items and services and is not subject to the deductible amounts specified in § 405.245 of this chapter.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: April 24, 1986.

Henry R. Desmarais,

Acting Administrator, Health Care Financing Administration.

Approved: April 30, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86–10137 Filed 5–1–86; 5:04 pm]

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Part III

Department of Health and Human Services

Food and Drug Administration
Health Care Financing Administration

21 CFR Part 805
42 CFR Parts 400, 405, and 489
Cardiac Pacemaker Registry; Proposed Rule

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Health Care Financing Administration

21 CFR Part 805

42 CFR Parts 400, 405, and 489

[Docket Nos. 85N-0322 and BERC-324-P]

Cardiac Pacemaker Registry

AGENCIES: Food and Drug Administration and Health Care Financing Administration.

ACTION: Proposed rule.

SUMMARY: This proposed rule, prepared jointly by the Food and Drug Administration (FDA) and the Health Care Financing Administration (HCFA) is being issued to establish a national cardiac pacemaker registry, as mandated by the Deficit Reduction Act of 1984. The proposed rule would require that certain information be submitted to FDA for inclusion in the registry from providers and physicians requesting Medicare payment for an implantation, removal, or replacement of cardiac pacemaker devices and pacemaker leads. The proposed rule would permit HCFA to deny Medicare payment to physicians and providers of services who fail to submit the required information to the registry. The proposed rule would also permit HCFA to deny payment to providers who fail to return removed pacemaker devices or leads to the manufacturer if required by subsequent FDA regulations or fail to obtain a report of the manufacturer's test results on such returned pacemaker devices or leads.

DATES: Comments by July 7, 1986. We propose that any final rule based on this proposal become effective 60 days after the date of publication in the Federal Register of the final rule. The final rule would apply to cardiac pacemaker devices and leads implanted or removed on or after the effective date.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

A copy of comments on information collection requirements to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: Faye Iudicello, Rm. 3208, New Executive Office Bldg., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: For FDA information: Les Weinstein, Center for Devices and Radiological Health (HFZ-84), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4874.

For Medicare information: Stan Katz, Bureau of Eligibility, Reimbursement and Coverage, Health Care Financing Administration, Rm. 489, East High Rise Bldg., 6325 Security Blvd., Baltimore, MD 21207, 301-594-8561.

SUPPLEMENTARY INFORMATION:

Statutory Authority

The Deficit Reduction Act of 1984 (Pub. L. 98-369), which was enacted on July 18, 1984, amends title XVIII of the Social Security Act (the Act) and mandates the establishment of a national pacemaker registry.

An important purpose of section 2304, the pacemaker registry portion of the Deficit Reduction Act of 1984, is to reduce unnecessary Medicare expenditures for pacemakers and pacemaker lead implants and removals. Specifically, paragraph (A) and (C) of new section 1862(h)(1) of the Act require that, by regulations, the Secretary of Health and Human Services (the Secretary), through the Commissioner of Food and Drugs (the Commissioner), provide for a registry of all cardiac pacemaker devices and pacemaker leads implanted or removed, for which Medicare is requested to make, or has made, payment. Under section 1862(h)(1)(B) of the Act, the registry is to include, but is not limited to, data regarding the manufacturer, model number, and serial number of the device; the name of the recipient; the date and location of the implantation or removal of the device; the name of the physician implanting or removing the device; the name of the provider; and any express or implied warranties associated with the device.

The purposes of the registry are: to assist the Secretary in determining when Medicare payments for pacemaker devices may properly be made; to track the performance of the devices; to assist FDA in determining when testing or analyzing of any device by the manufacturer may be necessary; and to assist the Secretary in carrying out studies regarding the use of the devices.

Under section 1862(h)(1)(C) of the Act, each physician and each provider of services engaged in the implantation, removal, or replacement of cardiac pacemaker pulse generators and pacemaker leads for which payment is made or requested under Medicare is required, in accordance with the Secretary's regulations, to furnish information to FDA regarding such implantation, removal, or replacement for the pacemaker registry maintained by FDA.

Section 1862(h)(2) of the Act provides that the Secretary may by regulation require providers of services (1) to return to the manufacturer for testing any cardiac pacemaker or pacemaker lead which has been removed from a patient for whom Medicare payment is claimed, and (2) to forego charging any beneficiary for replacement of the pacemaker or pacemaker lead if the removed device has not been returned to the manufacturer for testing if required.

Section 1862(h)(3) of the Act provides that the Secretary may also require by regulation that the manufacturer of any cardiac pacemaker or pacemaker lead returned to the manufacturer under section 1862(h)(2) of the Act test or analyze the device and provide the results of the testing or analysis to the appropriate provider, together with information and documentation with respect to any warranties covering the pacemaker or the pacemaker lead. In any case in which the Secretary has reason to believe, based on information obtained from the registry or any other source, that removal of a cardiac pacemaker or pacemaker leads for which payment is or may be requested under Medicare is related to the malfunction of the pacemaker or lead, the Secretary may require that FDA personnel be present at the testing of the device by the manufacturer to determine whether the device was functioning properly.

Section 1862(h)(4) of the Act provides that the Secretary may deny payment under Medicare, in whole or in part, and for so long as the Secretary determines to be appropriate, for the implantation, removal, or replacement of a pacemaker or pacemaker lead by a physician or provider of services, if the Secretary determines in accordance with procedures established under section 1862(d) (2) and (3) of the Act that (1) the physician or provider failed to submit the required information to the registry, (2) the provider failed to return to the manfacturer any removed pacemaker or pacemaker lead as required by regulations issued under the Act, (3) the provider charged Medicare beneficiaries for replacement of a removed pacemaker or pacemaker lead that the provider failed to return to the manufacturer, or (4) the manufacturer of the pacemaker or pacemaker lead failed to test and report to the provider on the condition of, and any warranties applicable to, the returned device. (Paragraphs (2) and (3) of section 1862(d) of the Act require notice in accordance with regulations and allow administrative and judicial appeals from determinations.)

The Proposed Regulations

The proposed regulations would (1) implement the mandatory provisions of section 1862(h)(1)(A) of the Act by providing for an FDA pacemaker registry of all cardiac pacemaker devices and leads for which Medicare payment is requested or made; (2) implement the mandatory provisions of section 1862(h)(1) (B), (C), and (D) of the Act by specifying the information that is to be required to be submitted to the registry, and when, how, and by whom it is to be submitted; and (3) implement the discretionary provisions of section 1862(h)(4) of the Act which authorize withholding of Medicare payments to physicians and providers who fail to submit the required information to the registry, or to providers when testing of pacemaker devices is not ordered or conducted if required by subsequent FDA regulations.

As proposed in 21 CFR 805.1(a) of FDA's regulations and 42 CFR 405.232(k) of HCFA's regulations, only those physicians and providers who engage in the implantation, removal, or replacement of cardiac pacemakers or leads paid for by Medicare would be required to submit data to the registry. It is estimated that approximately 85,000 to 100,000 pacemaker implants and replacements are performed annually on Medicare beneficiaries. Because these procedures involved the insertion of a pulse generator and pacemaker lead, however, the total number of devices on which information would be collected would equal approximately 170,000 to 200,000 per year.

Under proposed 21 CFR 805.10 of FDA's regulations and 42 CFR 405.232(k) of HCFA's regulations, physicians and providers of services who engage in the implantation, removal, or replacement of pacemakers and pacemaker leads, for which payment is made or requested under Medicare, would be required to supply information specified by FDA for the pacemaker registry for each procedure performed. Proposed 42 CFR 405.232(k) would require that the information by submitted in the form and manner provided under general instructions of the Medicare program.

Proposed 42 405.180 would authorize denial of Medicare payment to physicians or providers who the Secretary determines failed to submit required information for the registry. Under proposed 42 CFR 405.180(b), the affected physician or provider would be provided a 45-day notice and the physician or provider would be able to appeal the Secretary's determination under 42 CFR Part 405, Subpart O.

The proposed regulations would amend the existing regulations governing provider agreements (see proposed 42 CFR 489.21(g)) to ensure that patients are not charged (except for coinsurance and deductible amounts) by providers for covered services furnished in connection with the implantation, removal, or replacement of a pacemaker or pacemaker lead in any case in which HCFA denies payment for failure to submit the required information to the registry or failure to comply with any subsequent FDA regulations regarding return, testing, and reporting. If the provider later submits the appropriate information required by FDA, payment would be made if the provider resubmits the claim timely.

Under section 1866(a)(1)(A) of the Act, providers may not charge beneficiaries for items or services that are covered by the Medicare program except as provided under section 1866(a)(2)(A) of the Act. Under section 1866(a)(2)(A) of the Act and regulations at 42 CFR 489.30 providers may charge beneficiaries for deductible and coinsurance amounts for covered services. This provision applies regardless of whether HCFA denies payment to the provider for failure to comply with pacemaker registry requirements. Accordingly, the deductible and coinsurance amounts for implantation, removal, or replacement of a pacemaker or pacemaker lead would not be affected by a denial of payment to the provider under section 1862(h)(4) of the Act.

Denials of provider reimbursement claims because of failure to comply with the proposed regulations and any subsequent FDA pacemaker registry regulations are technical denials of otherwise covered services (that is, they do not relate to the medical need for, or appropriateness of, the services) and would, therefore, not be made by a Utilization Quality Control and Peer Review Organization (see 42 CFR 405.162).

FDA intends not to develop at this time regulations to implement other provisions of section 1862(h) of the Act that are discretionary. These provisions of the Act (1) provide for the return by providers of removed pacemakers and leads to manufacturers (section 1862(h)(2)(A) of the Act), and (2) provide for the testing of returned devices by manufacturers and the sharing of test results with providers and describe the circumstances under which FDA will participate in the testing (section 1862(h)(3) of the Act).

FDA believes that it should defer to subsequent regulations any implementation of section 1862(h) (2)(A) and (3) of the Act because the means to implement these provisions, and the degree of specificity that is needed, will depend to a large degree on the actual functioning of the pacemaker registry. The legislation itself recognizes this, in that it provides that once the registry is in operation, information derived from the registry will be used to identify pacemakers and pacemaker leads which are to be tested, and that information from the registry will be used to determine whether FDA personnel are to be present at the testing of specific pacemakers and leads. The agencies, however, invite comments on the deferral of regulations implementing these discretionary portions of the legislation. Any such comments should address (1) the need for implementing either or both of the discretionary provisions of the legislation and (2) the nature and extent of the regulations that should be established.

Although FDA has decided to defer to subsequent regulations any implementation of those portions of the Act pertaining to the return and testing of pacemakers and pacemaker leads and the sharing of test results, the HCFA portion of the proposed regulations (see 42 CFR 405.180 (a)(2) and (4)) would deny Medicare payment to providers of services if providers or manufacturers fail to comply with any return, testing, and reporting requirements that may be established by subsequent FDA regulations.

Submission of Data to the Registry

Under the proposed regulations, physicians and providers of services who engage in, and request or receive Medicare reimbursement for the implantation, removal, or replacement of pacemakers and pacemaker leads would be required to supply information specified by FDA to the pacemaker registry for initial implants, removals, and replacements in the form and manner required under general instructions of the Medicare program (see proposed 42 CFR 405.232(k)). Section 1862(h)(1)(B) of the Act requires that the registry include the following data elements: manufacturer name, model and serial numbers of the pacemaker or pacemaker lead; name of the recipient of the pacemaker or lead; date and location of implantation or removal of the pacemaker or lead; name of the physician implanting or removing the pacemaker or lead; name of the hospital or other provider billing for the procedure; any express or implied

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warranties associated with the pacemaker or lead under contract or State law; and any other information that the Secretary deems appropriate.

FDA's regulations in proposed 21 CFR 805.10 would require the submission of each of these data elements when a pacemaker or pacemaker lead is implanted, removed, or replaced plus the following additional data elements deemed necessary for purposes of the registry: the patient's name and health insurance claim number (HICN), the provider number, the date of the procedure, the name and identification number of the physician who ordered the procedure, and the name and identification number of the operating physician. In addition, if the procedure about which the submission to the registry is being made was the removal or replacement of a pacemaker and/or lead, the following data elements would also have to be submitted: the date the device was initially implanted; whether a device that was replaced was left in the body; whether a device not left in the body was returned to the manufacturer; if the pulse generator was removed or replaced, whether a lead also was removed or replaced; and if the procedure involved a lead implant, whether a former lead was left in the body. Although the agencies believe we have identified the data elements essential to achievement of the statutory purpose, we will consider additional elements and may incorporate them in the final rule if such additional elements are identified and found to be necessary.

Section 1862(h)(1)(F) of the Act states that any person or organization other than those required by the Act to submit registry information respecting pacemakers or pacemaker leads may provide to the registry such information. The proposed rule would not require this information from anyone other than physicians and providers reimbursed by Medicare. We, however, encourage all persons who implant, remove, or replace cardiac pacemakers or pacemaker leads in non-Medicare patients to provide such information to the registry. We request that these reports include the data elements described in 21 CFR 805.10.

How Registry Data Would Be Used

FDA plans to use the data from the registry to monitor the performance of pacemakers and leads. The registry will provide FDA with a mechanism for monitoring and evaluating the long-term performance of pacemakers and leads in order to identify generic failures or defects. This information, along with notification of recalls resulting from product malfunctions identified by the registry, would be made available to HCFA and accessible to other Department of Health and Human Services components in connection with their statutory responsibilities.

FDA may notify HCFA of risks associated with a particular device and HCFA could make appropriate adjustments in Medicare coverage of the device. Also, the information generated by examination of pacemaker data may lead FDA to promulgate regulations that would set forth criteria for requesting that certain types of pacemakers and leads be returned to the manufacturers for testing. If in accordance with any such regulations, these devices are not tested and the results are not sent to the providers and FDA, FDA may notify HCFA that payment should be denied for the services provided in connection with the devices.

Public Availability of Registry Data

Public availability of information submitted to or stored in the registry or contained in agency studies regarding the use of pacemakers and pacemaker leads will be governed by section 1862(h)(D) of the Act which prohibits the Secretary from releasing any specific information that identifies by name a recipient of any pacemaker device or lead or that would otherwise identify a specific recipient. Moreover, information reported to the registry would be made available to the public on request in accordance with the Freedom of Information Act (the FOIA) (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), the Department's public information regulations (45 CFR Part 5), FDA's public information regulations (21 CFR Part 20), and HCFA's public information regulations (42 CFR Part 401).

Delegation of Authority

The Secretary plans to delegate to FDA the authority to establish and maintain the registry and to HCFA the authority to require Medicare physicians and providers to comply with the requirements of furnishing information for the registry.

Interagency Task Force/Interagency Agreement

FDA and HCFA each are mindful of the need to cooperate and coordinate their activities related to the registry. To accomplish this, they have formed an interagency task force consisting of representatives from FDA and HCFA. The task force is charged with developing the implementing regulations, developing policies on data collection and analysis, and working out the details necessary for the registry to become operational efficiently and successfully. Moreover, FDA and HCFA will sign an interagency agreement defining their respective responsibilities in accordance with the Secretary's delegation of authority.

Educational Initiatives

FDA and HCFA will undertake educational initiatives for informing physicians, providers of services, and pacemaker and pacemaker lead manufacturers of their responsibilities under the registry and the regulations.

Regulatory Impact Statement

A. General

Executive Order 12291 requires Federal agencies to prepare and publish an initial regulatory impact analysis for any proposed major rule. A major rule is defined as any rule that is likely to: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, and local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Consistent with the Regulatory Flexibility Act (5 U.S.C. 601–612), we prepare and publish a regulatory flexibility analysis for any proposed rule unless the Secretary or an agency head certifies that the rule would not have a significant economic impact on a substantial number of small entities. (See discussion under section F. below.)

The regulatory impact of the rule proposed by this document would result primarily from the statutory mandate to establish a pacemaker registry. The probable impact of this requirement would not exceed any threshold requiring analysis. Because of the widespread interest in the pacemaker program, however, we are voluntarily providing an initial impact analysis in this preamble.

The pacemaker registry will impose costs on both providers of health care services and the Federal government. It may also provide benefit payment savings to the Medicare program by enabling purchasers of pacemaker leads to make more informed decisions. Private sector costs would arise from the requirement for physicians and health care providers to supply information for the registry regarding implanted,

removed, or replaced pacemakers and pacemaker leads and, if required by the Secretary in accordance with any subsequent FDA regulations, to return any removed pacemaker or pacemaker lead to the manufacturer of the device. Federal government costs would arise from the administration and data management of the registry. Any offsetting government savings from Medicare would depend on the content and functions of the registry and its impact on provider behavior.

Potential savings cannot be estimated with any confidence at this time. Both savings (that is, reductions of program expenditures) and the costs that would result from implementation of this proposal would be functions of the number of pacemaker implants.

We estimate, based on data supplied by the industry, that 85,000 to 100,000 pacemaker implants (this estimate includes both original implants and replacements) are performed annually on Medicare beneficiaries. Further, we estimate that about 20 percent of all such procedures are for the purpose of replacing, for various reasons, pulse generators or pacemaker leads previously implanted. Because an implant involves the insertion of a pulse generator and a pacemaker lead, however, the total number of devices on which information is collected could equal approximately 170,000 to 200,000 per year.

B. Effects on Providers—Administrative Costs

We are not specifying the exact methods to be used by hospitals for collecting and retaining information about pacemakers for the registry but only the form and manner in which they are to be supplied to HCFA for transmittal to FDA. We believe, however, that a relatively simple system of recordkeeping could be established that would require minimum effort and facility expense. Administrative costs can be expressed by the following formula:

$$\text{Cost of establishing recordkeeping system (one-time)} + \text{Number of devices} \left(\begin{array}{c} \text{Cost of recording information on each device} + \text{Cost of reporting information on each device} \end{array} \right)$$

We do not have data available from the industry to calculate precisely the cost elements of the formula above. We believe that it would cost a typical hospital about $2 per device to record the required information and an additional $2 per device to report information on it. The cost of establishing a system to record, maintain, and report the information would vary considerably from hospital to hospital, depending on the record management capabilities already available, and the number of records and reports required in addition to those already maintained.

Only 2,000 hospitals performed more than 90 percent of all the pacemaker procedures for which Medicare received bills for FY 1984. Those bills showed that many hospitals performed only a few pacemaker procedures during the year, and that a very few performed several hundred. Considering both pacemakers and leads, a typical hospital would be required to maintain data on 85 to 100 devices per year. Few would have to retain data on more than 400 devices per year. Most hospitals would be required to maintain data on relatively few devices.

Proposed 42 CFR 405.360 would require hospitals to return removed devices to the manufacturer for testing if required by subsequent FDA regulations. At the present time, we do not have any estimate of the number of devices that might be returned under such subsequent regulations.

The expenses incurred by hospitals in recording, maintaining, and reporting required data would be considered reasonable costs for hospitals paid on a cost basis. Hospitals under the prospective payment system are paid for such administrative expenses related to inpatient procedures under the prospective payment amount.

C. Effects on Physicians

As discussed in the section of this preamble entitled "Statutory Authority," physicians, as well as providers of services, are responsible for submitting information to the registry. New section 1862(h)(4) of the Act also grants the Secretary the authority to deny payment to physicians for noncompliance with certain requirements specified in regulations issued by the Secretary. Thus, the statute clearly makes the provider of services and the physician who implants, removes, or replaces a pacemaker or pacemaker lead jointly responsible for complying with the regulations and proposed 42 CFR 405.232(k) and 405.252(b) so provide.

Although we expect the information to be supplied by hospitals to HCFA for the registry, if the surgeon or attending physician is found not to be supplying information necessary for the program to the hospital, authority would exist to deny payment to the physician for each case. If payment already had been made to the physician, HCFA could reduce future payments by the amounts paid for the cases denied or take other appropriate recovery action as specified in proposed 42 CFR 405.180. This action could result in denial or recovery of payments to physicians of several thousand dollars per case. As in the case of hospitals, however, we expect physicians to comply. Therefore, the provision permitting denial of payment to physicians should not have any significant economic impact. Further, because the hospital will be accumulating and reporting the data, we believe that physicians would not incur any significant additional administrative costs associated with the rule to be based on this proposal.

D. Effects on Medicare Expenditures

1. Administrative Costs

The costs for collecting, processing, and transmitting data to the registry would equal approximately $750,000 per year. Administrative costs for organizing and processing the data received would equal about $250,000 per year. Therefore, total costs to the Federal government for administering the registry would be approximately $1 million per year.

2. Denial of Payment

We anticipate support for the pacemaker program by the industry and do not anticipate noncompliance with the rule. Providers of services and physicians would be able to avoid any financial impact as a result of denial of payment for not providing information by complying with the requirements of the proposed rule. Therefore, Medicare program expenditures should not be affected by potential denials of payment.

3. Long-Term Effects on Medicare Expenditures

The proposed rule should have several long-term beneficial effects on Medicare beneficiaries and expenditures through implementation of the pacemaker registry and testing of devices: (1) Models of pacemakers with greater than expected replacement rates

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could be more readily identified; and (2) the operation of the registry may lead to improvements in manufacturing and testing which, in the long term, could result in the need for fewer operations for replacements and fewer hospitalizations for adverse effects associated with pacemakers and pacemaker leads. To illustrate the magnitude of such potential savings, assume the following:

Average Medicare payment to hospital per case=$4,200

(The average national urban payment rate under the prospective payment system for DRG No. 118, pulse generator replacement, in FY 1985 is $4,208.)

Average payment to attending physician and surgeon=$3,000

20,000 operations for replacements are performed each year.

At this time, we cannot estimate how great a reduction in replacement operations would result. We expect that each percentage point reduction of the number of replacements of pacemakers and pacemaker leads would result in savings to the Medicare program of approximately $1.4 million per year.

E. Effects on Medicare Beneficiaries

Beneficiaries will not be negatively affected by the proposed rule. If payment is denied to a hospital for noncompliance with the rule, the hospital is prohibited by proposed 42 CFR 489.21(g) from increasing charges to beneficiaries to recover such denied payments. Although we do not expect implementation of the proposed rule to have a financial impact on patients in the short term, we expect long-term beneficial effects in the form of fewer complications and possibly fewer deaths associated with malfunctioning pacemaker devices. The magnitude of such effects can only be determined after the registry is implemented and we have a period of experience under the program.

F. Impact on Small Entities

The proposed rule would require the physicians and providers of services, all of which may be considered small entities under the Regulatory Flexibility Act, submit to FDA and HCFA certain information regarding pacemakers and pacemaker leads. Although this requirement would obligate hospitals to record and report the information, we do not believe that it represents a significant increase in hospitals' overall paperwork or human resources requirements. To a large extent, much of this information is already kept by hospitals.

Manufactures of cardiac pacemaker devices and pacemaker leads may be required by subsequent FDA regulations to test and report on devices that are returned by providers of services. We would review the impact of any such regulations at the time that they are issued. We understand from discussions with representatives in the industry, however, that the manufacturers currently test returned products for quality control purposes. We believe that any increased costs of retaining test results or of preparing reports on test results would not represent a significant portion of manufacturers' total costs.

G. Conclusion

We conclude, based on the analysis above, that the proposed rule is not a major rule under Executive Order 12291. Further, we have determined, and the Secretary certifies, that the proposed rule will not have a significant economic impact on a substantial number of small entities. We have therefore not prepared a regulatory flexibility analysis.

Environmental Considerations

We have determined under 21 CFR 25.24(a)(8) (April 26, 1985; 50 FR 16636) that this action is a type that does not individually or cumulatively have a significant effort on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Information Collection Requirements

42 CFR 405.232(k) and 21 CFR 805.10 of this proposed rule contain information collections which are subject to review by the Office of Management and Budget (OMB) under section 3504(h) of the Paperwork Reduction Act of 1980. FDA and HCFA have submitted a copy of this proposed rule to OMB for its review of these information collections. Other organizations and individuals desiring to submit comments on the information collections should direct them to FDA's Dockets Management Branch (address above), and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., Rm. 3208, Washington, DC 20503, ATTN. Fay Iudicello.

HCFA has already obtained OMB approval of the Form HCFA-497, HCFA Pacemaker Related Data, which implements the collection of information requirements contained in this rule. The OMB control number, which reflects approval of that form, is 0938-0436.

Interested persons may, on or before (July 7, 1986), submit to FDA's Dockets Management Branch (address above) written comments regarding the proposed rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket numbers found in brackets in the heading of this document. Received comments may be seen in FDA's Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 805

Medical devices; Medicare records; Reporting and recordkeeping requirements.

List of Subjects in 42 CFR Parts 400, 405, and 489

Part 400

Grant programs-health; Health facilities; Health maintenance organizations (HMO); Medicaid, Medicare; Reporting and recordkeeping requirements.

Part 405

Administrative practice and procedure; Health facilities; Health professions; Kidney diseases; Laboratories; Medicare; Reporting and recordkeeping requirements; Rural areas; X-rays.

Part 489

Health facilities; Medicare.

Therefore, under the Social Security Act and the Deficit Reduction Act, it is proposed that Title 21 and Title 42 of the Code of Federal Regulations be amended as follows:

1. By adding new 21 CFR Part 805 to read as follows:

PART 805—CARDIAC PACEMAKER REGISTRY

Subpart A—General Provisions

Sec.
805.1 Scope.
805.3 Definitions.

Subpart B—Submission of Information

805.10 Submission of information by physicians and providers.
805.20 How to submit information.
805.23 Confidentiality.

Authority: Sec. 1862(h) of the Social Security Act and sec. 2306(d) of the Deficit Reduction Act, 98 Stat. 1066–1089 (42 U.S.C. 1395y(h), 1395y note); 21 CFR 5.10 and 5.11.

Subpart A—General Provisions

§ 805.1 Scope.

(a) FDA providing for a nationwide cardiac pacemaker registry and is requiring any physician and any provider of services who engage in the implantation, removal, or replacement of cardiac pacemaker devices and pacemaker leads for which the physician or provider of services receives or requests payment from the Medicare program to submit certain information to the registry. If the physician or the provider of services does not submit the information according to this part and 42 CFR 405.180(b), 405.232(k), and 405.380, HCFA, which administers the Medicare program, may deny payment to the physician or the provider in whole or in part. FDA will use the information submitted to the registry to track the performance of pacemakers and pacemaker leads and to perform studies and analyses regarding the use of the devices, and to transmit data to HCFA to assist HCFA in administering the Medicare program and to other Department of Health and Human Services components to carry out statutory responsibilities.

(b) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21, unless otherwise noted.

§ 805.3 Definitions.

(a) "FDA" means the Food and Drug Administration.

(b) "HCFA" means the Health Financing Administration.

(c) A "pacemaker" or "pacemaker device" is a device that produces priodic electrical impulses to stimulate the heart. It consists of two basic components: a pulse generator and one or more leads. See § 870.3610 for a more detailed definition.

(d) A "pacemaker lead" is a flexible, insulated wire connected at one end to a pacemaker's pulse generator and at the other end to the heart. It transmits electrical stimuli to and from the heart. See § 870.3680(b) for a more detailed definition.

(e) A "physician" is a doctor of medicine or osteopathy legally authorized to practice medicine and surgery by applicable laws of the State in which he or she performs such function or actions. (This definition includes an osteopathic practitioner.).

(f) A "PRO" is a Utilization Quality Control and Peer Review Organization that contracts with the Secretary of Health and Human Services to review health care services funded by the Medicare program to determine whether those services are reasonable, medically necessary, furnished in the appropriate setting, and are of a quality which meets professionally recognized standards.

(g) A "provider" is a hospital, skilled nursing facility, comprehensive outpatient rehabilitation facility, home health agency, or (effective November 1, 1983, through September 30, 1986) a hospice, that has in effect an agreement to participate in Medicare.

(h) A "warranty" is an express or implied guarantee, under contract or State law, of the integrity of a pacemaker device or pacemaker lead and of the manufacturer's responsibility for the repair or replacement of defective parts of a pacemaker device or pacemaker lead.

(i) Any terms defined in section 201 of the Federal Food, Drug, and Cosmetic Act will have that definition.

Subpart B—Submission of Information

§ 805.10 Submission of information by physicians and providers.

A physician or a provider of services that requests or receives reimbursement from Medicare for the implantation, removal, or replacement of a cardiac pacemaker device or pacemaker lead shall submit the following information on a specified form to HCFA for inclusion in the pacemaker registry provided for by FDA under § 805.1:

(a) Provider number.

(b) Patient's health insurance claim number (HICN).

(c) Patient's name.

(d) Date of the procedure.

(e) Identification number (used by PRO's) and name of the physician who ordered the procedure.

(f) Identification number (used by PRO's) and name of the operating physician.

(g) For each device (pulse generator, atrial lead, ventricular lead) implanted during the procedure about which the report is being made: the name of the manufacturer, model number, serial number, and the warranty expiration date.

(h) For each device (pulse generator, atrial lead, ventricular lead) removed or replaced during the procedure about which the report is being made: The name of the manufacturer; model number; serial number; the warranty expiration date; the date the device was initially implanted; whether a device that was replaced was left in the body; if the device was not left in the body, whether it was returned to the manufacturer; if the pulse generator was removed or replaced, whether a lead also was removed or replaced; and, if the procedure involved a lead implant, whether a former lead was left in the body.

§ 805.20 How to submit information.

Information shall be submitted to the registry in the form and manner required under general instructions of the Medicare program (see 42 CFR 405.232(k)).

§ 805.25 Confidentiality.

(a) FDA and HCFA will keep confidential, and will not reveal to the public, any specific information that identifies by name a recipient of any pacemaker device or lead or that would otherwise identify a specific recipient.

(b) All other information under this part is available for public disclosure in accordance with Part 20.

PART 400—INTRODUCTION; DEFINITIONS

Subpart B—Definitions

2. The authority citation for 42 CFR Part 400 continues to read as follows:

Authority: Secs 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh) and 44 U.S.C. Chapter 35.

3. In § 400.200 by adding the definition of "FDA" in alphabetical order to read as follows:

§ 400.200 General Definitions.

* * * * *

"FDA" stands for Food and Drug Administration.

* * * * *

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

4. The table of contents is amended by adding the title of § 405.180, revising the title of § 405.252, and adding a center heading and § 405.380 to read as follows:

Subpart A—Hospital Insurance Benefits

* * * * *

§ 405.180 Denial of payment for implantation or replacement of cardiac pacemakers and leads; conditions.

* * * * *

Subpart B—Supplementary Medical Insurance Benefits; Enrollment, Coverage, Exclusions, and Payment

* * * * *

§ 405.252 Conditions affecting payment of benefits.

* * * * *

Subpart C—Exclusions, Recovery of Overpayment, Liability of a Certifying Officer and Suspension of Payment

* * * * *

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Payment Requirements for Cardiac Pacemakers

§ 405.380 Return and testing of pacemakers or leads.

Subpart A—Hospital Insurance Benefits

5. The authority citation for 42 CFR Part 405, Subpart A, continues to read as follows:

Authority: Secs. 1102, 1814, 1815, 1881, 1866(d), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395f, 1395g, 1395x, 1395cc(d), and 1395hh).

6. By adding § 405.180 to read as follows:

§ 405.180 Denial of payment for implantation or replacement of cardiac pacemakers and leads; conditions.

(a) Notwithstanding any other provision of this chapter, payment will be denied to a provider of services with respect to the implantation, removal, or replacement of any cardiac pacemaker or pacemaker lead when, and for so long as, HCFA determines, in accordance with the procedures established in paragraph (b) of this section, that:

(1) The provider has failed to submit information required by FDA (under 21 CFR Part 805) for the pacemaker registry, as required by § 405.232(k).

(2) The provider did not return the removed pacemaker or pacemaker lead to the manufacturer of the pacemaker or pacemaker lead for testing and reporting when required to do so under FDA regulations.

(3) The provider has made any charges to Medicare beneficiaries in violation of § 405.380.

(4) The manufacturer to whom any pacemaker or pacemaker lead was returned in accordance with FDA regulations has failed to test the device and report to the provider if required under FDA regulations.

(b)(1) Whenever HCFA determines that a physician or a provider of services has failed to meet any of the requirements contained in §§ 405.232(k) or 405.380 or 21 CFR Part 805, HCFA will send written notice of its determination to the affected party at least 45 days before the determination becomes effective.

(2) The notice will state the reasons for the determination and its effective date, and will provide the affected party 45 days from the date of the notice to submit information or evidence to demonstrate that HCFA's determination is in error. The notice will also inform the affected party of its right to a hearing.

(3) Following the expiration of the 45-day notice period provided in paragraph (b)(1) of this section, HCFA's determination and notice constitute an "initial determination" and a "notice of initial determination" for purposes of the administrative and judicial appeal procedures specified in Part 405, Subpart O of this chapter.

Subpart B—Supplementary Medical Insurance Benefits; Enrollment, Coverage, Exclusions, and Payment

7. The authority citation for 42 CFR Part 405, Subpart B, continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh), unless otherwise noted.

8. In § 405.232 by adding paragraph (k) to read as follows:

§ 405.232 Medical and other health services; conditions, limitations, and exclusions.

* * * * *

(k) *Cardiac pacemakers and leads.* For cardiac pacemakers and pacemaker leads covered as prosthetic devices under § 405.231(h), physicians and providers of services engaged in the implantation, removal, or replacement of cardiac pacemakers and pacemaker leads must submit information required by FDA under 21 CFR Part 805 for the pacemaker registry to HCFA in the form and manner set forth in the general instructions of the Medicare program.

9. In § 405.252 by revising the section heading and by adding paragraph (b) to read as follows:

§ 405.252 Conditions affecting payment of benefits.

* * * * *

(b) *Denial of payment for cardiac pacemakers and leads.* Payment may be denied in whole or in part to a physician who performs the implantation, removal, or replacement of any cardiac pacemaker or pacemaker lead when, and for so long as, HCFA determines in accordance with the procedures established in § 405.180(b) that the physician does not meet the reporting requirements in § 405.232(k).

* * * * *

Subpart C—Exclusions, Recovery of Overpayment, Liability of a Certifying Officer and Suspension of Payment

10. The authority citation for Part 405, Subpart C, continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act as amended (42 U.S.C. 1302 and 1395hh), unless otherwise noted.

11. By adding an undesignated center heading at the end of Subpart C and new § 405.380 to read as follows:

PAYMENT REQUIREMENTS FOR CARDIAC PACEMAKERS

§ 405.380 Return and testing of pacemakers or leads.

In cases in which HCFA notifies a provider that the return of any removed or replaced pacemaker or pacemaker lead for testing and reporting is required under FDA regulations with respect to a pacemaker or pacemaker lead or a type or class of pacemakers or pacemaker leads, providers of services are prohibited from charging Medicare beneficiaries for any services furnished in connection with such removal or replacement if the device has not been returned to the manufacturer as required.

Subpart O—Providers of Services, Emergency Service Hospitals, Independent Laboratories, Suppliers of Portable X-Ray Services, Ambulatory Surgical Centers, End-Stage Renal Disease Treatment Facilities, and Persons; Determinations and Appeals Procedures

12. The authority citation for 42 CFR Part 405, Subpart O, continues to read as follows:

Authority: Secs. 1102, 1866, 1869, 1871, and 1872 of the Social Security Act; 42 U.S.C. 1302, 1395cc, 1395ff, 1395hh, and 1395ii; unless otherwise noted.

13. In § 405.1502 by adding new paragraph (g) to read as follows:

§ 405.1502 Initial determinations.

* * * * *

(g) A determination to deny payment under §§ 405.180 or 405.252, pertaining to cardiac pacemakers and the pacemaker registry.

PART 489—PROVIDER AGREEMENTS UNDER MEDICARE

14. The authority citation for 42 CFR Part 489 continues to read as follows:

Authority: Secs. 1102, 1861, 1864, 1866, and 1871 of the Social Security Act (42 U.S.C. 1302, and 1395x, 1395aa, 1395cc, and 1395hh).

15. In § 489.21 the introductory text is repeated unchanged for the convenience of the reader and new paragraph (g) is added to read as follows:

§ 489.21 Specific limitations on charges.

Except as specified in Subpart C of this part, the provider agrees not to charge a beneficiary for any of the following:

* * * * *

(g) Items and services furnished in connection with the implantation of cardiac pacemakers or pacemaker leads when HCFA denies payment for those devices under §§ 405.180 or 405.252 of this chapter.

Dated: February 2, 1986.
Frank E. Young,
Commissioner of Food and Drugs.

Dated: March 5, 1986.
Henry R. Desmarais,
Acting Administrator of Health Care Financing Administration.

Dated: April 8, 1986.
Otis R. Bowen,
Secretary of Health and Human Services.

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May 6, 1986

Part IV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 25 and 52
Federal Acquisition Regulation; Interim Rule With Request for Comment

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DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 25 and 52

[Federal Acquisition Circular 84-17]

Federal Acquisition Regulation

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Interim rule with request for comment.

SUMMARY: Federal Acquisition Circular (FAC) 84-17 amends the Federal Acquisition Regulation (FAR) with respect to Government purchases of products from countries designated under the Caribbean Basin Economic Recovery Act.

DATES: *Effective date:* May 6, 1986.

Comment Date: Comments must be received on or before July 7, 1986. Please cite FAC 84-17 in all correspondence on this subject.

ADDRESS: Interested parties should submit written comments to: GSA, Attn: FAR Secretariat, 18th & F Streets NW., Room 4041, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Telephone (202) 523-4755.

SUPPLEMENTARY INFORMATION:

A. Background

The United States Trade Representative, under the authority delegated by the President in section 1-201 of Executive Order 12260 of December 31, 1980, has determined that countries designated by the President as beneficiaries under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.) provide appropriate reciprocal competitive government procurement opportunities for United States products and suppliers of such products.

The Trade Representative made a public announcement to this effect in the Federal Register on February 27, 1986 (51 FR 6964-6965), and by means of an additional notice in the Federal Register on April 4, 1986 (51 FR 11660), further requested implementation of such policies in the Federal Acquisition Regulation to be effective for solicitations issued after April 30, 1986.

B. Regulatory Flexibility Act

In the initial regulatory flexibility analysis it was concluded that this interim rule is not likely to have a significant economic impact on a substantial number of small entities. However, publication of this rule as an interim rule will afford the public the opportunity to comment with respect to this rule's economic impact on small entities, and such comments will be considered in the formulation of the final regulatory flexibility analysis and the final rule.

C. Determination to Issue an Interim Regulation

A determination has been made under the authority of the Secretary of Defense, the Administrator of General Services, and the Administrator of the National Aeronautics and Space Administration that the regulation in FAC 84-17 must be issued as an interim regulation in compliance with the request from the Office of the U.S. Trade Representative that the FAR be amended by April 30, 1986, to implement the Caribbean Basin Initiative policy published in the Federal Register on February 27, 1986 (51 FR 6964-6965).

D. Paperwork Reduction Act

FAC 84-17 does not contain any additional information collection requirements which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 25 and 52

Government procurement.

Dated: May 2, 1986.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Unless otherwise specified, all Federal Acquisition Regulation (FAR) and other directive material contained in FAC 84-17 is effective immediately.

Eleanor R. Spector,

Deputy Assistant Secretary of Defense for Procurement.

T.C. Golden,

Administrator.

S.J. Evans,

Assistant Administrator for Procurement.

Federal Acquisition Circular (FAC) 84-17 amends the Federal Acquisition Regulation (FAR) as specified below:

Item—Revision to Subpart 25.4, Concerning Caribbean Basin Countries

Subpart 25.4, Purchases Under the Trade Agreements Act of 1979, and the clauses at 52.225-6 and 52.225-9 are revised to include requirements with respect to acquisitions from the Caribbean Basin countries and to delete a reference to the Civil Aeronautics Board, which has been disestablished.

Therefore, 48 CFR Parts 25 and 52 are amended as set forth below.

1. The authority citation for 48 CFR Parts 25 and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

PART 25—FOREIGN ACQUISITION

2. Section 25.400 is revised to read as follows:

25.400 Scope of subpart.

This subpart provides additional policies and procedures peculiar to acquisitions subject to the Agreement on Government Procurement and the Trade Agreements Act of 1979 (19 U.S.C. 2501-2582) and acquisitions from countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.).

3. Section 25.401 is amended by adding in alphabetical sequence two definitions, "Caribbean Basin country" and "Caribbean Basin country end product," and by revising the definition "Eligible product" to read as follows:

25.401 Definitions.

"Caribbean Basin country," as used in this subpart, means a country designated by the President as a beneficiary under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.) and listed below:

Antigua and Barbuda
Aruba
Bahamas
Barbados
Belize
British Virgin Islands
Costa Rica
Dominica
Dominican Republic
El Salvador
Grenada
Guatemala
Honduras
Jamaica
Montserrat
Netherlands Antilles
Panama
St. Christopher-Nevis
St. Lucia
St. Vincent and the Grenadines
Tobago
Trinidad

"Caribbean Basin country end product," as used in this subpart, means an article that: (a) Is wholly the growth, product, or manufacture of the Caribbean Basin country, or (b) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term *includes* services (except transportation services) incidental to its supply; provided, that the value of those incidental services does not exceed that of the product itself. It does not include service contracts as such. The term *excludes* products that are excluded from duty free treatment for Caribbean countries under 19 U.S.C. 2703(b), which presently are—

(1) Textiles and apparel articles that are subject to textile agreements;

(2) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated as eligible articles for the purpose of the Generalized System of Preferences under Title V of the Trade Act of 1974;

(3) Tuna, prepared or preserved in any manner in airtight containers;

(4) Petroleum, or any product derived from petroleum; and

(5) Watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the Tariff Schedule of the United States (TSUS) column 2 rates of duty apply.

* * * * *

"Eligible product," as used in this subpart, means a designated country end product or a Caribbean Basin country end product.

4. Section 25.402 is amended by adding a new paragraph (b); by revising the existing paragraph (b) and redesignating it as paragraph (c); and by redesignating the existing paragraphs (c) and (d) as (d) and (e) as follows:

25.402 Policy.

* * * * *

(b) The U.S. Trade Representative has determined that in order to promote further the economic recovery of the Caribbean Basin countries (as defined in 25.401), products originating in those countries which are eligible for duty free treatment under the Caribbean Basin Economic Recovery Act shall be treated as eligible products for the purposes of this subpart (see 51 FR 6964-6965, February 27, 1986). This determination is effective until September 30, 1995, unless otherwise extended by the U.S. Trade Representative by means of a notice in the Federal Register.

(c) Except when waived under section 302(b)(2) of the Trade Agreements Act, there shall be no purchases of foreign end products subject to the Act unless the foreign end products are designated country end products or Caribbean Basin country end products.

* * * * *

5. Section 25.403 is amended by adding paragraph (m) to read as follows:

25.403 Exceptions.

* * * * *

(m) Purchases of products that are excluded from duty free treatment for Caribbean countries under 19 U.S.C. 2703 (b), which presently are—

(1) Textiles and apparel articles that are subject to textile agreements;

(2) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated as eligible articles for the purpose of the Generalized System of Preferences under Title V of the Trade Act of 1974;

(3) Tuna, prepared or preserved in any manner in airtight containers;

(4) Petroleum, or any product derived from petroleum; and

(5) Watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the Tariff Schedule of the United States (TSUS) column 2 rates of duty apply.

6. Section 25.405 is amended by revising paragraph (d) to read as follows:

25.405 Procedures.

* * * * *

(d) Solicitations shall not specify that offers involving eligible products from designated countries or Caribbean Basin countries shall be submitted in the English language and in U.S. dollars.

* * * * *

25.406 [Amended]

7. Section 25.406 is amended by removing in the alphabetical listing the agency "Civil Aeronautics Board".

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

8. Section 52.225-6 is amended by inserting in the introductory text a colon following the word "provision" and removing the remainder of the sentence; by removing in the title of the provision the date "(APR 1984)" and inserting in its place the date "(MAY 1986)"; by revising paragraphs (a) and (c) of the provision; and by removing both derivation lines following "(End of provision)" as follows:

52.225-6 Buy American Act—Trade Agreements Act—Balance of Payments Program Certificate.

* * * * *

(a) The offeror hereby certifies that each end product, except those listed in paragraph (b) of this provision, is a domestic end product (as defined in the clause entitled "Buy American Act—Trade Agreements Act—Balance of Payments Program") and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States, a designated country, or a Caribbean Basin country, as defined in section 25.401 of the Federal Acquisition Regulation.

* * * * *

(c) Offers will be evaluated by giving certain preferences to domestic end products, designated country end products, and Caribbean Basin country end products over other end products. In order to obtain these preferences in the evaluation of each excluded end product listed in paragraph (b) of this provision, offerors must identify and certify below those excluded end products that are designated country end products or Caribbean Basin country end products. Products that are not identified and certified below will not be deemed designated country end products or Caribbean Basin country end products. Offerors must certify by inserting the applicable line item numbers in the following:

(1) The offeror certifies that the following supplies qualify as "designated country end products" as that term is defined in the clause entitled "Buy American Act—Trade Agreements Act—Balance of Payments Program":

(Insert line item numbers)

(2) The offeror certifies that the following supplies qualify as "Caribbean Basin country end products" as that term is defined in the clause entitled "Buy American Act—Trade Agreements Act—Balance of Payments Program":

(Insert line item numbers)

* * * * *

9. Section 52.225-9 is amended by removing in the title of the clause the date "(APR 1985)" and inserting in its place the date "(MAY 1986)"; by adding alphabetically in paragraph (a) the definition "Caribbean Basin country end product"; and by revising the introductory text of paragraph (a) and (b) to read as follows:

52.225-9 Buy American Act—Trade Agreements Act—Balance of Payments Program.

* * * * *

(a) This clause implements the Buy American Act (41 U.S.C. 10), the Trade Agreements Act of 1979 (19 U.S.C. 2501-2582), and the Balance of Payments Program by providing a preference for domestic end products over foreign end products, except for certain foreign end products which meet

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the requirements for classification as designated country end products or Caribbean Basin country end products.

"Caribbean Basin country end product," as used in this clause, means an article that: (1) Is wholly the growth, product, or manufacture of a Caribbean Basin country (as defined in section 25.401 of the Federal Acquisition Regulation (FAR)), or (2) in the case of an article which consists in whole or in part of materials from another country or instrumentality, has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed. The term includes services (except transportation services) incidental to its supply; provided that the value of those incidental services does not exceed that of the product itself. It does not include service contracts as such. The term *excludes* products that are excluded from duty free treatment for Caribbean countries under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(b)). These exclusions presently consist of (i) textiles and apparel articles that are subject to textile agreements; (ii) footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel not designated as eligible articles for the purpose of the Generalized System of Preferences under title V of the Trade Act of 1974; (iii) tuna, prepared or preserved in any manner in airtight containers; (iv) petroleum, or any product derived from petroleum; and (v) watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material that is the product of any country to which the Tariff Schedule of the United States (TSUS) column 2 rates of duty apply.

* * * * * *

(b) The Contractor agrees to deliver under this contract only domestic end products unless, in its offer, it specifies delivery of foreign end products in the provision entitled "Buy American Act—Trade Agreements Act—Balance of Payments Program Certificate." An offer certifying that a designated country end product or a Caribbean Basin country end product will be supplied requires the Contractor to supply a designated country end product or a Caribbean Basin country end product or, at the Contractor's option, a domestic end product. Contractors may not supply a foreign end product with a total value of $. . . *[Contracting Officers shall insert the dollar threshold amount distributed through agency procedures in accordance with FAR 25.402(a)]* or more unless the foreign end product is a designated country end product or a Caribbean Basin country end product (see FAR 25.401), or unless a waiver is granted under section 302 of the Trade Agreements Act of 1979 (see FAR 25.402(c)).

* * * * * *

[FR Doc. 86-10218 Filed 5-5-86; 8:45 am]
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federal register

Tuesday
May 6, 1986

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 39

Airworthiness Directives: Pratt & Whitney Canada (PWC) PT6A-42 Turboprop Engines; Final Rule

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-ANE-29; Amdt. 39-5266]

Airworthiness Directives: Pratt & Whitney Canada (PWC) PT6A-42 Turboprop Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires the removal and replacement of the PT6A-42 first stage compressor hub Part Number (P/N) 3030356 at or before 5,000 cycles in accordance with PWC Service Bulletin (SB) 3002, Revision 12. The AD is needed to prevent first stage compressor hub failure and possible engine failure.

DATES: Effective June 5, 1986.

Compliance schedule—as prescribed in body of AD.

Incorporation by reference—approved by the Director of the Federal Register effective June 5, 1986.

ADDRESSES: The applicable SB may be obtained from Pratt & Whitney Canada, Box 10, Longueuil, Quebec, Canada J4K 4X9.

A copy of the SB is contained in Rules Docket Number 85-ANE-29, in the Office of the Regional Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, and may be examined between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Diane Kirk, Engine Certification Branch, ANE-142, Engine Certification Office, Aircraft Certification Division, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273-7082.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FAR) to include an AD which requires the removal and replacement of the first stage compressor hub on certain PT6A-42 turboprop engines was published in the **Federal Register** on November 18, 1985 (50 FR 12172). The FAA has determined that the originally published low cycle fatigue (LCF) life limit for the stage 1 compressor hub P/N 3030356 on certain PWC PT6A-42 turboprop engines must be adjusted downward based on a re-analysis by PWC. This action is required to assure against hub and possible engine failures.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment was received.

The commenter suggested that a list of applicable engine serial numbers be included for ease of locating the subject hubs. The FAA has added the engine serial numbers as suggested.

Conclusion

The FAA has determined that this regulation involves 803 engines installed on Beech Super King Air B200T and B200CT Aircraft. The operator will receive financial credit for the subject hub on a pro-rated basis during engine overhaul. These aircraft are not operated by small entities. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT"**.

List of Subjects in 14 CFR Part 39

Engines, Air Transportation, Aircraft, Aviation safety, Incorporation by reference.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) amends Part 39 of the Federal Aviation Regulation (FAR) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12 1983); and 14 CFR 11.89.

2. By adding to § 39.13 the following new AD:

Pratt & Whitney Canada: Applies to Pratt & Whitney Canada (PWC) PT6A-42 turboprop engines.

Compliance is required as indicated unless already accomplished.

To prevent first stage compressor hub failure, and possible engine failure, accomplish the following:

Remove from service Part Number(P/N) 3030356 first stage compressor hub on PWC Engine Model PT6A-42 with engine Serial Numbers 93001 thru 93804 inclusive at or before 5,000 total cycles in accordance with PWC Service Bulletin (SB) 3002, Revision 12, dated November 9, 1983, or FAA approved equivalent.

Note.—The 15,000 hour life limit remains unaffected by this airworthiness directive (AD).

Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

PWC SB 3002, Revision 12, dated November 9, 1983, is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552 (a)(1). All persons affected by this directive who have not already received this document from the manufacturer may obtain copies upon request to Pratt & Whitney Canada, Longueuil, Quebec, Canada, J4K-4X9. This document also may be examined at the Office of the Regional Counsel, Rules Docket 85-ANE-29, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts 01803.

This amendment becomes effective on June 5, 1986.

Issued in Burlington, Massachusetts, on March 21, 1986.

Clyde DeHart, Jr.

Acting Director, New England Region.

[FR Doc. 86-8307 Filed 5-5-86; 9:52 am]

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THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

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WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: May 15; at 9 am.

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Laurence Davey, 202-523-3517

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Rules and Regulations

Federal Register
Vol. 51, No. 88
Wednesday, May 7, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 225, and 226

Meat Alternates Used in Child Nutrition Programs

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends regulations governing the meal pattern requirements for the National School Lunch Program, Summer Food Service Program and Child Care Food Program to allow the use of nuts and seeds and nut and seed butters as meat alternates. Peanut butter has always been included as a meat alternate in the Child Nutrition Programs. However, despite their nutritional comparability to peanut butter and other authorized meat alternate items, nuts and seeds and other nut and seed butters are not currently recognized as making a contribution toward child nutrition meal pattern requirements. With the changing trend in food habits, participants in the Child Nutrition Programs have requested that the list of allowable meat alternates be expanded to accommodate these changes. The Department is issuing this rule in response to these requests, in an effort to establish more consistent crediting standards and to provide increased flexibility in menu planning. This final rule allows peanuts, soynuts, tree nuts such as walnuts (excluding acorns, chestnuts, and coconuts), and seeds (that are nutritionally comparable to meat or other meat alternates) to fulfill: (1) No more than one-half of the meat/meat alternate requirement for lunch/supper patterns for all Child Nutrition Programs; and (2) all of the meat/meat alternate requirement for the supplemental food (snack) patterns for the child care and summer programs. Additionally, this rule allows peanut butter and other nut and seed butters to fulfill all of the meat/meat alternate requirement for all Child Nutrition Programs.

EFFECTIVE DATE: June 6, 1986.

FOR FURTHER INFORMATION CONTACT: Alberta C. Frost, Director, Nutrition and Technical Services Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 756-3556.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Executive Order 12291 and has been classified nonmajor because it does not meet any of the three criteria of the Executive Order. It will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets. This rule provides greater flexibility to schools and institutions participating in the Child Nutrition Programs, rather than imposing more restrictive requirements upon them. The overall types and frequency of service of foods used in the Child Nutrition programs should not be significantly affected by this rule. Nuts and seeds and nut and seed butters are currently served as "other foods" which are used to complement meal pattern requirements in the Child Nutrition Programs to meet regional and ethnic food preferences.

This rule has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601-612). The Administrator of the Food and Nutrition Service has certified that this rule will not have a significant economic impact on a substantial number of small entities.

These programs are listed in the Catalog of Federal Domestic Assistance under Nos. 10.555, 10.556, and 10.559 and are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR Part 3015, Subpart V, 49 FR 22675, May 31, 1984.)

No new collection or recordkeeping requirements are included which require Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520). The programs being amended are approved by OMB under the following control numbers: National School Lunch Program, 0584-0006; Summer Food Service Program, 0584-0057; and Child Care Food Program, 0584-0055.

Background

The National School Lunch Act and Child Nutrition Act of 1966 require that the Secretary of Agriculture set minimal nutritional requirements for meals served in the Child Nutrition Programs. Meal pattern requirements have been established for specific types and amounts of food to be served in each of the programs that the Department administers. These meal patterns are designed to provide a flexible framework for foodservice managers to use in planning nutritious meals and snacks from a wide variety of foods and within a diversity of regional, cultural, and ethnic food preferences. From time to time, the Department has revised these meal patterns to reflect new knowledge about food consumption habits and the food preferences of children, as well as nutritional needs.

The meal pattern requirements for the National School Lunch Program, Summer Food Service Program, and Child Care Food Program specify amounts of various food items to be served from four basic food components. One of these is the meat/meat alternate component. In addition to meat, poultry, and fish, various meat alternates are allowed to be used to fulfull all or part of the requirement for this component. Currently approved meat alternates are cheese, cooked dry beans or peas, eggs, and peanut butter. The Department authorized specific quantities of these foods as meat alternates based on their protein and vitamin/mineral content (e.g. iron) as compared to meat and practicality of serving size. In approving these foods as meat alternates, the Department also considered the meal pattern requirement for lunch/supper that foods used to fulfill the meat/meat alternate component be served in the main dish or in the main dish and one other menu item. Consistent with this requirement, the Department limited allowable meat alternates to those foods

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that were not only nutritionally comparable to meat, but were also traditionally recognized as main dish items. This recognition was based on knowledge of food consumption habits and food preferences at the time.

Food consumption habits and food preferences are influenced by many cultural, ethnic, economic, religious, and environmental factors and are constantly changing. These changes can affect how foods are used in meals. Nuts and seeds and a variety of nut and seed butters are now playing a more conventional and popular role in meals as or in main dish items. In view of these changes and the nutritional value of nuts and seeds and their butters, on December 6, 1985 (50 FR 49933), the Department issued a proposed rule to add nuts and seeds and nut and seed butters to the list of acceptable meat alternates for the Child Nutrition Programs. The proposal also solicited comments on allowing yogurt and tofu as meat alternates.

Comment Analysis

The Department provided the general public with 45 days to comment on the proposed rule. On January 21, 1986, the comment period closed. During the comment period, 181 comments were received from a variety of sources, including State educational agencies, foodservice personnel, teachers, medical and nutrition professionals, food industry associations, universities, advocacy groups, and the general public. Of the 181 comments received, 148 were in favor of and 19 were opposed to the use of nuts and seeds and nut and seed butters in the Child Nutrition Programs. Additionally, 11 comments only addressed the use of tofu and yogurt as meat alternates, and 3 commenters did not understand or did not address the issues in the proposal.

Comments in Favor

In general, commenters favoring the proposal agreed that allowing nuts and seeds and their butters as meat alternates is nutritionally sound and provides increased flexibility in menu planning to meet local preferences. Several of these commenters stated that it is time that nuts and seeds and their butters are recognized for their contribution to the diet in the Child Nutrition Programs. Many commenters also stated that nutritionally it has been impossible to defend the allowance of peanut butter as a meat alternate, when not allowing the same for peanuts and other nuts and seeds and their butters. Although favoring the proposal, 13 commenters expressed concerns about nuts being served to young children due to possible problems with choking. To prevent the problem of children choking on nuts, the Department is following recommendations cited in the *Journal of the American Medical Association*, May 4, 1984, Volume 25, No. 17, page 2231. The Department will provide information to School Food Authorities on this subject and recommend product modification. Guidance material will contain recommendations on the age to introduce whole nuts and seeds into children's diets, as well as encouraging the use of ground or chopped nuts and seeds for children under age 5. The guidance material also will include information on choking problems children have with other types of food.

Comments in Opposition

In general, commenters opposing the proposal were concerned that nuts and seeds and their butters are not nutritionally comparable to meat. Several of these commenters were concerned about the frequency of use of meat alternates and a decrease in the use of meat in the Child Nutrition Programs.

As stated in the proposed rule, the protein level of peanuts is comparable to meat, and soynuts are greater in protein value than meat. The Department also recognized in the proposal that some tree nuts and seeds and their butters do not have a protein level comparable to meat. However, with a few exceptions, all commonly available tree nuts and seeds and their butters have a protein level comparable to other currently approved meat alternates and most are comparable to or greater in iron value than meat. These exceptions include acorns, chestnuts, and coconuts which are excluded from this rule. Pecans and macadamia nuts do have a slightly lower protein value than other meat alternates. However, they are good sources of iron. Studies have shown that meeting the protein requirement of children in the Child Nutrition Programs is not a problem. However, meeting the iron requirement has been difficult. Allowing nuts and seeds and their butters as meat alternates will provide additional foods to be used which are good sources of iron. Although the meat/meat alternate component of the meal pattern supplies the major contribution of protein and iron to the diet, it is not designed to be the only component that contributes these nutrients. The requirements and recommendations of the four food components are designed to provide nutritious and well-balanced meals to each child. The nutrients of the lunch or supper, averaged over a period of time, should approximate one-third of the Recommended Dietary Allowance for children of each group. Some commenters questioned our basis for the nutritional comparison between nuts, seeds, and their butters and meat or other meat alternates. The basis used for the nutritional comparability is determined by the grams of protein and iron per one ounce of product to one ounce of cooked lean meat or equivalent serving size for other meat alternates. This comparison is consistent with the basis used for determining nutritional comparability between meat and other meat alternates.

The Department does not expect this rule to significantly affect the frequency of service of meat or the quantity of meat used in the Child Nutrition Programs. With the limitations placed on the service of nuts and seeds in this rule, it is most likely that these foods will be used in small quantities: (1) In recipes to meet local and ethnic food preferences; (2) to add variety and additional choices to menus; and (3) to increase the quantity of meat/meat alternate served to junior and senior high school students. Additionally, since the inception of the Child Nutrition Programs, peanut butter has been allowed as a meat alternate. Therefore, it is expected that other nut and seed butters allowed by this rule will be used as an alternate to peanut butter and not in place of meat.

Discussion

The following is a discussion of comments received on specific issues surrounding the service of nuts and seeds and their butters in the Child Nutrition Programs. Additionally, comments concerning the use of tofu and yogurt as meat alternates are discussed. It should be noted that a thorough understanding of the issues presented below requires reference to the December 6, 1985, proposal.

1. *Allow nuts and seeds to meet no more than one-half of the meat/meat alternate requirement for lunch/supper patterns and the full requirement for the supplemental food patterns.* A total of 134 commenters favored limiting the use of nuts and seeds to meet no more than one-half of the meat/meat alternate requirement for lunch/supper. In general, these commenters supported the Department's position which would maintain the service of a traditionally recognized entree. Several of these commenters also stated that this limitation would avoid impractical serving sizes. Only 11 commenters opposed this provision and favored allowing nuts and seeds to fulfill all of the meat/meat alternate requirement at the option of local foodservice personnel. No commenters expressed opposition to allowing nuts and seeds to meet the full requirement for the supplemental food (snack) patterns.

The provision on the quantity of nuts and seeds allowed to meet child nutrition meal pattern requirements remains unchanged in the final rule. This supports the meal pattern requirement for lunch/supper that the meat/meat alternate component be served in the main dish or in the main dish and one other menu item.

2. *Proposal—Allow peanut butter and other nut and seed butters to fullfill no more than one-half of the meat/meat alternate requirement for the school lunch and child care lunch/supper pattern and the full requirement for the supplemental food (snack) patterns and summer lunch/supper pattern.*

Alternate Proposal—Allow peanut butter and other nut and seed butters to fulfill all of the meat/meat alternate requirement for all Child Nutrition Program meal patterns.

Comments in favor of allowing nut and seed butters to fulfill no more than one-half of the meat/meat alternate requirement for the school lunch and child care lunch/supper pattern numbered 116. In general, these commenters felt that this limitation would provide for a practical serving size and consistency with the proposal on nuts and seeds. Of the 116 commenters in favor, 18 wanted an exception to keep peanut butter at full credit as it has always been. Additionally, 12 commenters wanted the summer program to be consistent with other programs.

A total of 28 commenters favored the alternate proposal to allow nut and seed butters to fulfill the entire meat/meat alternate requirement for all Child Nutrition Program meal patterns. In general, the commenters supported full credit because maintaining the current requirement for peanut butter would minimize confusion. They stated that it would be less confusing to allow full credit for nut and seed butters for all meal patterns than to try to monitor exceptions. Many also felt that limiting peanut butter to one-half credit would make it difficult for foodservice personnel to plan acceptable menus using this food.

More than 30 percent of the comments in favor of nut and seed butters in the Child Nutrition Programs addressed specific concerns about crediting. These comments favored consistency in all programs and/or consistency with the current policy that allows peanut butter to fulfill the entire meat/meat alternate requirement.

In view of the 18 commenters who favored keeping peanut butter at full credit, the 12 commenters who favored consistency of the summer program with other programs and the 28 commenters who favored the alternate proposal, the Department feels that adopting the alternate proposal (nut and seed butters at full credit) is warranted. Since other nut and seed butters are nutritionally equivalent to peanut butter, there is no basis to differentiate peanut butter from other nut and seed butters. Furthermore, nut and seed butters are expected to be used in limited amounts, as peanut butter has been, mainly in the summer program and when off-site bag lunches are served. The Department feels that the alternate proposal will ease the understanding of crediting issues by having consistency in crediting nut and seed butters in all programs. Therefore, the final rule allows nut and seed butters to fulfill all of the meat/meat alternate requirement for all child nutrition meal pattern requirements.

3. *Comments on allowing tofu and yogurt as meat alternates in the Child Nutrition Programs.* Of the total comments received, 58 percent addressed tofu and 56 percent addressed yogurt being allowed as a meat alternate. Most of the commenters stated that they either favored or opposed these issues. The comments did not provide any new nutritional research data on tofu and yogurt nor any sanitation information regarding the control of bacteria in tofu. The Department will continue to study these issues and would like to express its appreciation to those commenters who took time to respond.

Breakfast Program

This final rule does not amend the meal pattern requirements for the School Breakfast Program (7 CFR Part 220) and the summer and child care breakfast programs because the service of meat/meat alternates is a recommendation and not a requirement for these programs. However, nuts and seeds and nut and seed buttters as defined in this rule, may also be used as meat alternates in the breakfast programs.

Final Rule

In response to all comments received on the proposed rule, only one substantive revision has been made in the final rule as referenced under specific issues for nut and seed butters. This revision allows nut and seed butters to fulfill the entire meat/meat alternate requirement for all Child Nutrition Programs. Additionally, minor revisions have been made to provide clarity. Footnotes presented in the proposed rule have been rearranged and incorporated into regulatory text as appropriate, and the meal pattern charts appear in their entirety.

List of Subjects

7 CFR Part 210

Food assistance programs, National School Lunch Program, Commodity School Program, Grant programs—social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 225

Food assistance program, Grant programs—health, Infant and children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 226

Daycare, Food assistance programs, Grant programs—health, Infants and children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, Parts 210, 225, and 226 are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

1. The authority citation for Part 210 continues to read as follows:

Authority: Secs. 2–12, 60 Stat. 230, as amended; sec. 10, 80 Stat. 889, as amended; 84 Stat. 270; 42 U.S.C. 1751–1760, 1779, unless otherwise noted.

2. In § 210.10:

a. Paragraph (a)(2)(ii)(A) is redesignated as paragraph (a)(2)(ii)(A)(*1*) and a new paragraph (a)(2)(ii)(A)(*2*) is added;

b. The School Lunch Pattern table is revised.

The revisions and additions read as follows:

§ 210.10 Requirements for lunches.

(a) * * *

(2) * * *

(ii) (A) * * *

(2) Nuts and seeds and their butters listed in program guidance are nutritionally comparable to meat or other meat alternates based on available nutritional data. Acorns, chestnuts, and coconuts shall *not* be used as meat alternates due to their low protein content. Nut and seed meals or flours shall *not* be used as a meat alternate except and defined in this part under Appendix A: Alternate Foods for

Meals. As noted in the School Lunch Pattern table of this section, nuts or seeds may be used to meet no more than one-half of the meat/meat alternate requirement. Therefore, nuts and seeds must be combined with another meat/meat alternate to fulfill the requirement.

* * * * *

SCHOOL LUNCH PATTERN—PER LUNCH MINIMUMS

Components	Minimum quantities	Group I, age 1–2 (preschool)	Group II, age 3–4 (preschool)	Group III, age 5–8 (K–3)	Group IV, age 9 and older (4–12)	Recommended quantities, group V, 12 years and older (7–12 [2])
Milk	Unflavored, fluid lowfat, skim, or buttermilk must be offered [1]	½ cup (8 fl. oz.)	¾ cup (6 fl. oz.)	½ pint (8 fl.oz.)	½ pint (8 fl.oz.)	½ pint (8 fl.oz.)
Meat or meat alternate (quantity of the edible portion as served).	Lean meat, poultry, or fish	1 oz.	1½ oz.	1½ oz.	2 oz.	3 oz.
	Cheese	1 oz.	1½ oz.	1½ oz.	2 oz.	3 oz.
	Large egg	½	¾	¾	1	1½.
	Cooked dry beans or peas	¼ cup	⅜ cup	⅜ cup	½ cup	¾ cup.
	Peanut butter or soynut butter or other nut or seed butters.	2 Tbsp	3 Tbsp	3 Tbsp	4 Tbsp	6 Tbsp.
	Peanuts or soynuts of tree nuts or seeds [3] or an equivalent quantity of any combination of the above meat/meat alternates.	½ oz. [4] = 50%	¾ oz. [4] = 50%	¾ oz. [4] = 50%	1 oz. [4] = 50%	1½ oz. [4] = 50%.
Vegetable or fruit	2 or more servings of vegetable or fruit or both	½ cup	½ cup	½ cup	¾ cup	¾ cup.
Bread or bread alternate (servings per week).	Must be enriched or whole-grain. At least ½ serving [5] for group I or one serving [5] for groups II–V must be served daily.	5	8	8	8	10.

[1] If a school serves another form of milk (whole or flavored), it must offer its children unflavored fluid lowfat milk, skim milk, or buttermilk as a beverage choice.
[2] The *minimum* portion sizes for these children are the portion sizes for group IV.
[3] Tree nuts and seeds that may be used as meat alternates are listed in program guidance.
[4] No more than 50% of the requirements shall be met with nuts or seeds. Nuts or seeds *shall* be combined with another meat/meat alternate to fulfill the requirement. For purposes of determining combinations, 1 oz. of nuts or seeds is equal to 1 oz. of cooked lean meat, poultry or fish.
[5] Serving 1 slice of bread; or ½ cup of cooked rice, macaroni, noodles, other pasta products, other cereal product such as bulgar or corn grits; or as stated in the *Food Buying Guide for Child Nutrition Programs* (PA 1331) for biscuits, rolls, muffins, and similar products.

* * * * *

PART 225—SUMMER FOOD SERVICE PROGRAM

1. The authority citation for Part 225 continues to read as follows:

Authority: Secs. 803, 807, 809, 816, and 817, Pub. L. 97–35, secs. 203 and 206, Pub. L. 96–499, secs. 5, 7, 10, Pub. L. 95–627, 95 Stat. 3603 (42 U.S.C. 1771); sec. 2, Pub. L. 95–166, 91 Stat. 1325 (42 U.S.C. 1761); Sec. 7, Pub. L. 91–248, 84 Stat. 211 (42 U.S.C. 1859a), unless otherwise noted.

§ 225.20 [Amended]

2. In § 225.20:

a. Paragraph (b)(2), lunch or supper meal pattern, and paragraph (b)(3), supplemental food pattern, are revised;

b. Paragraph (c) is amended by adding a new paragraph (5).

The revisions and additions read as follows:

§ 225.20 Meal Service Requirements.

* * * * *

(b) * * *

Lunch or Supper

(2) The minimum amounts of food components to be served as lunch or supper are as follows:

Food components	Minimum amount
Meat and Meat Alternates	
Lean meat or poultry or fish	2 oz.
or	
Cheese	2 oz.
or	
Eggs	1 large egg.
or	
Cooked dry beans or peas	¼ [1] cup.
or	
Peanut butter or soynut butter or other nut or seed butters.	4 tbsp.
or	
Peanuts or soynuts or tree nuts or seeds [2]	1 oz. [3] = 50%.
or	
An equivalent quantity of any combination of the above meat/meat alternates	
Vegetables and Fruits	
Vegetable(s) and/or fruit(s) [4]	¾ cup total.
Bread and Bread Alternates [5]	
Bread	1 slice.
or	
Cornbread, biscuits, rolls, muffins, etc.	1 serving [6]
or	
Cooked pasta or noodle products	¼ cup.
or	
Cooked cereal grains of an equivalent quantity of any combination of bread/bread alternate.	¼ cup.
Milk	
Milk, fluid, served as a beverage	1 cup (½ pint, 8 fl. oz.).

[1] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
[2] Tree nuts and seeds that may be used as meat alternates are listed in program guidance.
[3] No more than 50% of the requirement shall be met with nuts or seeds. Nuts or seeds *shall* be combined with another meat/meat alternate to fulfill the requirement. For purposes of determining combinations, 1 oz. of nuts or seeds is equal to 1 oz. of cooked lean meat, poultry or fish.
[4] Serve 2 of more kinds of vegetable(s) and/or fruit(s) or a combination of both. Full-strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.
[5] Bread, pasta or noodle products, and cereal grains (such as rice, bulgur, or corn grits) shall be whole-grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour, cereal shall be whole-grain or enriched or fortified.
[6] Serving sizes and equivalents will be in guidance materials to be distributed by FNS to State agencies.

Supplemental Food

(3) The minimum amounts of food components to be served as supplemental food are as follows: Select two of the following four components. (Juice may not be served when milk is served as the only other component.)

Food components	Minimum amount
Meat and Meat Alternates	
Lean meat or poultry or fish	1 oz.
or	
Cheese	1 oz.
or	
Eggs	1 large egg.
or	
Cooked dry beans or peas	1/2 [1] cup.
or	
Peanut butter or soynut butter or other nut or seed butters.	2 tbsp.
or	
Peanuts or soynuts or tree nuts or seeds [2]	1 oz.
or	
An equivalent quantity of any combination of the above meat/meat alternates.	
Vegetables and Fruits	
Vegetable(s) and/or fruit(s)	3/4 cup.
or	
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s), and juice.	3/4 cup (6 fl. oz.).

Food components	Minimum amount
Bread and Bread Alternates [3]	
Bread	1 slice.
or	
Cornbread, biscuits, rolls, muffins, etc [4]	1 serving.
or	
Cold dry cereal [5]	3/4 cup or 1 oz.
or	
Cooked cereal	1/2 cup.
or	
Cooked pasta or noodle products	1/2 cup.
or	
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	1/2 cup.
Milk [6]	
Milk, fluid	1 cup (1/2 pint, 8 fl. oz.).

[1] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
[2] Tree nuts and seeds that may be used as meat alternates are listed in program guidance.
[3] Bread, pasta or noodle products, and cereal grains (such as rice, bulgur, or corn grits shall be whole-grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour, cereal shall be whole-grain or enriched or fortified.
[4] Serving sizes and equivalents will be in guidance materials to be distributed by FNS to State agencies.
[5] Either volume (cup) or weight (oz.), whichever is less.
[6] Milk should be served as a beverage or on cereal, or used in part for each purpose.

(c) * * *

(5) Nuts and seeds and their butters listed in program guidance are nutritionally comparable to meat or other meat alternates based on available nutritional data. Acorns, chestnuts, and coconuts shall *not* be used as meat alternates due to their low protein content. Nut and seed, meals or flours shall *not* be used as a meat alternate except as defined in this section under paragraph (c)(3) and in this part under Appendix A: Alternate Foods for Meals. As noted in paragraph (b)(2) of this section, nuts or seeds may be used to meet no more than one-half of the meat/meat alternate requirement for lunch or supper. Therefore, nuts or seeds must be combined with another meat/meat alternate to fulfill the requirement. For the supplemental food pattern, nuts or seeds may be used to fulfill all of the meat/meat alternate requirement.

* * * * *

PART 226—CHILD CARE FOOD PROGRAM

1. The authority citation for Part 226 continues to read as follows:

Authority: Secs. 803,810, and 820, Pub. L. 97–35, 95 Stat. 521–535 (42 U.S.C. 1758, 1766); sec. 2, Pub. L. 95–627, 92 Stat. 3603 (42 U.S.C. 1766); sec. 10, Pub. L. 89–642, 80 Stat. 889 (42 U.S.C. 1779), unless otherwise noted.

2. In § 226.20:

a. Paragraph (a)(2)(ii) is redesignated as paragraph (a)(2)(ii)(A) and a new paragraph (a)(2)(ii)(B) is added;

b. Paragraph (a)(3)(ii) is revised;

c. Paragraph (c)(2), lunch or supper pattern, and paragraph (c)(3), supplemental food pattern, are revised.

The revisions and additions read as follows:

§ 226.20 Requirements for Meals.

(a) * * *

(2) * * *

(ii) * * *

(B) Nuts and seeds and their butters listed in program guidance are nutritionally comparable to meat or other meat alternates based on available nutritional data. Acorns, chestnuts, and coconuts shall *not* be used as meat alternates due to their low protein content. Nut or seed meals or flours may be used as an ingredient in a bread/bread alternate, but shall *not* be used as a meat alternate except as defined in this part under Appendix A: Alternate Foods for Meals, and in program guidance materials. As noted in paragraph (c)(2) of this section, nuts or seeds may be used to meet no more than one-half of the meat/meat alternate requirements. Therefore, nuts or seeds must be combined with another meat/meat alternateto fulfill the requirement;

* * * * *

(3) * * *

(ii) A serving of meat or meat alternate. Nuts and seeds and their butters listed in program guidance are nutritionally comparable to meat or other meat alternates based on available nutritional data. Acorns, chestnuts, and coconuts are excluded and shall *not* be used as meat alternates due to their low protein content. Nut or seed meals or flours shall *not* be used as a meat alternate except as defined in this part under Appendix A: Alternate Foods for Meals;

* * * * *

(c) * * *

Lunch or Supper

(2) The minimum amounts of food components to be served as lunch or supper as set forth in paragraph (a)(2) of this section are as follows:

Food components	Age 1 up to 3	Age 3 up to 6	Age 6 up to 12 [1]
Milk			
Milk, fluid	½ cup [2]	¾ cup	1 cup.
Vegetables and Fruits [3]			
Vegetable(s) and/or fruit(s)	¼ cup total	½ cup total	¾ cup total.
Bread and Bread Alternates [4]			
Bread	½ slice	½ slice	1 slice.
or			
Cornbread, biscuits, rolls muffins, etc. [5]	½ serving	½ serving	1 serving.
or			
Cooked pasta or noodle products	¼ cup	¼ cup	½ cup.
or			
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.			
Meat and Meat Alternates			
Lean meat or poultry or fish [6]	1 oz	1 ½ oz	2 oz.
or			
Cheese	1 oz	1 ½ oz	2 oz.
or			
Eggs	1 egg	1 egg	1 egg.
or			
Cooked dry beans or peas	¼ cup	⅜ cup	½ cup.
or			
Peanut butter or soynut butter or other nut or seed butters	2 tbsp	3 tbsp	4 tbsp.
or			
Peanuts or soynuts or tree nuts or seeds [7]	½ oz [8] = 50%	¾ oz [8] = 50%	1 oz [8] = 50%.
or			
An equivalent quantity of any combination of the above meat/meat alternates.			

[1] Children age 12 and up may be served adult size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 up to 12.
[2] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.

[1] Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full-strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.
[2] Bread, pasta or noodle products, and cereal grains shall be wholegrain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour.
[3] Serving sizes equivalents to be published in guidance materials by FNS.
[4] Edible portion as served.
[5] Tree nuts and seeds that may be used as meat alternates are listed in program guidance.
[6] No more than 50% of this requirement shall be met with nuts or seeds. Nuts or seeds shall be combined with another meat/meat alternate to fulfill the requirement. For purpose of determining combinations, 1 oz. of nuts or seeds is equal to 1 oz. of cooked lean meat, poultry or fish

Supplemental Food

(3) The minimum amounts of food components to be served as supplemental food as set forth in paragraph (a)(3) of this section are as follows. Select two of the following four components. (Juice may not be served when milk is served as the only other component.)

Food components	Age 1 up to 3	Age 3 up to 6	Age 6 up to 12
Milk			
Milk, fluid	½ cup [8]	½ cup	1 cup.
Vegetables and Fruits			
Vegetable(s) and/or fruit(s)	¼ cup	½ cup	½ cup.
or			
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s) and juice.	¼ cup	½ cup	½ cup
Bread and Bread Alternates [9]			
Bread	½ slice	½ slice	1 slice.
or			
Cornbread, biscuits, rolls, muffins, etc [4]	½ serving	½ serving	1 serving.
or			
Cold dry cereal [5]	¼ cup or ½ oz.	½ cup or ½ oz.	¾ cup or 1 oz.
or			
Cooked cereal	¼ cup	¼ cup	½ cup.
or			
Cooked pasta or noodle products	¼ cup	½ cup	½ cup.
or			
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate	¼ cup	½ cup	½ cup.
Meat and Meat Alternates			
Lean meat or poultry or fish [6]	½ oz	½ oz	1 oz.
or			
Cheese	½ oz	½ oz	1 oz.
or			
Eggs	½ egg	½ egg	1 egg.
or			
Cooked dry beans or peas	¼ cup	¼ cup	½ cup.
or			
Peanut butter or soynut butter or other nut or seed butters	1 tbsp.	1 tbsp.	2 tbsp.
or			
Peanuts or soynuts or tree nuts or seeds [7]	½ oz	½ oz	1 oz.
or			
An equivalent quantity of any combination of the above meat/meat alternates.			

[1] Children age 12 and up may be served adult size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 up to 12.
[2] For purposes of the requirements outlined in this paragraph, a cup means a standard measuring cup.
[3] Bread, pasta or noodle products, and cereal grains shall be wholegrain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with wholegrain or enriched meal or flour; cereal shall be wholegrain or enriched or fortified.
[4] Serving size and equivalents to be published in guidance materials by FNS.
[5] Either volume (cup) or weight (oz.), whichever is less.
[6] Edible portion as served.
[7] Tree nuts and seeds that may be used as meat alternates are listed in program guidance.

(42 U.S.C. 1758, 1761, 1766)

Dated: May 1, 1986.

John W. Bode,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 86-10225 Filed 5-6-86; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 918

[Georgia Peach Regulation 3; Amendment 3]

Fresh Peaches Grown in Georgia; Change in Quality Requirements for 1986 and Subsequent Seasons

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule and opportunity to file comments.

SUMMARY: This interim final rule adds a tolerance for decay to the maturity, size, and inspection requirements currently in effect for Georgia peaches to assure that only good quality peaches will be available for fresh market shipment. The action recognizes the expected composition of the 1986 crop, the current and prospective marketing conditions for Georgia peaches, and is in the interest of producers and consumers.

DATES: Interim final rule effective May 1, 1986. Comments which are received by June 6, 1986 will be considered prior to issuance of the final rule.

ADDRESS: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2085–S, U.S. Department of Agriculture, Washington, DC 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250. Telephone: (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1521–1 and Executive Order 12291 and has been designated a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such action in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities for their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that about 35 handlers of Georgia peaches under the marketing order for fresh peaches grown in Georgia will be subject to regulation during the course of the current season and that the majority of this group may be classified as small entites. While regulations issued under this order impose some costs on affected handlers and the number of such persons may be substantial, the added burden on small entities, if present at all, is not significant.

This interim final rule is issued under the marketing agreement and Order No. 918, both as amended (7 CFR Part 918), regulating the handling of peaches grown in Georgia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based on a recommendation and information submitted by the Georgia Peach Industry Committee. That committee, established under the marketing agreement and order, works with the Department in administering the program.

Shipments of Georgia peaches, except peaches in bulk to adjacent markets (The States of Florida, Alabama, Tennessee, North Carolina, South Carolina, Mississippi, and the portion of Louisiana which is east of the Mississippi River) currently are required to be mature as provided in § 918.400, and not be smaller than 1⅝ inches in diameter, except that not more than 10 percent, by count, of such peaches in any lot, and not more than 15 percent, by count, of such peaches in any container in such lot may be smaller than 1⅝ inches in diameter. All such peaches must be inspected and certified as meeting these requirements prior to shipment.

In making its recommendation, the Committee considered supply and market conditions and other factors affecting the need for and type of regulations suitable for the 1986 Georgia peach crop. On the basis of these considerations, the committee recommended continuation of the currently prescribed maturity, size, and inspection requirements and the establishment of a one-percent tolerance for decay.

This season, decay is expected to be unsually severe, and the overall quality of the crop is expected to be lower because of adverse weather conditions during the growing season. Hence, this action will assure that only good quality peaches will be available for fresh market shipment. Such shipments are expected to begin about May 1. The recommended requirements are not expected to eliminate any appreciable quantity of fresh peaches from commercial channels other than low quality fruit.

The 1986 regulations are designed to assure the shipment of suitable quality peaches consistent with the expected composition of the crop, the expected supply, and current and prospective demand conditions. They are expected to maximize benefits to producers and consumers by preventing the shipment of undesirable peaches.

The Georgia peach production area is one of the first each season to market an appreciable amount of fresh peaches. During the early weeks of the season there is tendency to ship immature and smaller size fruit. Also, last season some problems with decay surfaced during the shipping season. Shipment of such fruit early in the season tends to adversely affect consumer demand, with resultant depressing effects on grower returns.

The 1986 crop of Georgia peaches is expected to total 2,000 equivalent trailer loads (based on 786 bushels per load) as compared to 1,433 equivalent trailer loads in 1985. Shipments of Georgia peaches compete with peach shipments from adjoining states. The recommended requirements for shipments of Georgia peaches are necessary to provide consumers with suitable quality peaches and promote orderly marketing of shipments from the 1986 crop. The committee unanimously adopted and has submitted to the Secretary a marketing policy for the 1986 season Georgia peach crop including an analysis of supply, demand, and other factors having a bearing on the marketing of the crop.

The regulation currently in effect (Peach Regulation 3, Amendment 2), was issued May 1, 1985 (50 FR 19321), on a continuing basis subject to modification, suspension, or termination upon recommendation by the committee and approval by the Secretary. The regulations for Georgia peaches established by this action, if finalized after the comment period, will continue to be in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary. The issuance of seasonal regulations which continue in effect from marketing season to marketing season reflect the fact that such regulations change infrequently from season to season and it is believed unnecessary to issue them for only a single season. In addition, this action could result in a reduction in operational costs to the committee and the government.

Although the seasonal regulations will be effective for an indefinite period, the committee will continue to meet prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Georgia peaches. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will review committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

After consideration of all relevant matter presented, the information and recommendation submitted by the committee, and other available information, it is found that Peach Regulation 3, Amendment 3, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days

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after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this interim final rule is based and the effective date necessary to effectuate the declared purposes of the Act. The harvest and shipment of 1986 Georgia peaches is expected to begin soon. Hence, this action must be effective promptly to minimize any inequity among producers or handlers due to different requirements for different parts of the 1986 shipping season. This change in the administrative rules and regulations was recommended by unanimous vote of the committee at an open meeting held April 3, 1986. Information regarding this anticipated action has been disseminated among growers and handlers of peaches in the production area and they have been preparing to conduct their operations in light thereof. Hence, they do not require additional time or notice for preparation. However, because of the future effect of this action, it is appropriate to request comments on the action before finalizing it.

List of Subjects in 7 CFR Part 918

Marketing agreements and orders, Peaches, Georgia.

1. The authority citation for 7 CFR Part 918 continues to read as follows:

Authority. Secs. 1–19, 48 Stat. 31, as amended; U.S.C. 601–674.

2. Section 918.325 is revised to read as follows:

§ 918.325 Peach Regulation 3, Amendment 3.

On and after (May 1, 1986) no handler shall ship peaches unless such peaches are mature as provided in § 918.400, contain no more than one percent decay, and are not smaller than 1⅝ inches in diameter, except that not more than 10 percent, by count, of such peaches in any lot, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1⅝ inches in diameter: *Provided*, That peaches shipped to adjacent markets in bulk are exempt from such maturity, decay, and size requirements, and the inspection requirements in § 918.64 shall not apply.

Dated: May 1, 1986.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86-10186 Filed 5-6-86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 75

[Airspace Docket No. 85-AWA-48]

Realignment and Revocation of Jet Routes

Correction

In FR Doc. 86-9013, beginning on page 15310, in the issue of Wednesday, April 23, 1986, make the following correction:

On page 15311, first column, under "J-50 [Amended]", fourth line, "CA" should be removed.

BILLING CODE 1505-01-M

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14 CFR Part 95

[Docket No. 24977; Amdt. No. 330]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: May 8, 1986.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3)

does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Issued in Washington, DC, on May 2, 1986.

John S. Kern,

Director of Flight Standards.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.M.T.:

1. The authority citation for Part 95 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354 and 1510; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 95 is amended to read as follows:

BILLING CODE 4910-13-M

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

AMENDMENT 330 EFFECTIVE DATE, MAY 08, 1986

FROM	TO	MEA
§95.6001 VOR FEDERAL AIRWAY 1		
IS AMENDED TO READ IN PART		
CHARLESTON, SC VORTAC *3000 - MRA	*INLET, SC FIX	2000
INLET, SC FIX *2500 - MRA	*PLAIN, SC FIX	2000
§95.6005 VOR FEDERAL AIRWAY 5		
IS AMENDED TO DELETE		
WIREGRASS, AL VORTAC *1800 - MOCA	ALBANY, GA VORTAC	*2500
§95.6007 VOR FEDERAL AIRWAY 7		
IS AMENDED TO READ IN PART		
GRAHAM, TN VORTAC	VALER, TN FIX	3000
§95.6010 VOR FEDERAL AIRWAY 10		
IS AMENDED TO READ IN PART		
ADEER, KS FIX *4400 - MOCA	GARDEN CITY, KS VORTAC	*5000
DODGE CITY, KS VORTAC *4200 - MRA	*STAFF, KS FIX	4300
§95.6017 VOR FEDERAL AIRWAY 17		
IS AMENDED TO READ IN PART		
LAREDO, TX VORTAC *5000 - MRA	*KAHAN, TX FIX	2400
KAHAN, TX FIX	COTULLA, TX VORTAC	2400
AUSTIN, TX VORTAC	BELTO, TX FIX	2500
§95.6035 VOR FEDERAL AIRWAY 35		
IS AMENDED TO READ IN PART		
DEEDS, FL FIX FORT MYERS, FL VORTAC MURDO, FL FIX	FORT MYERS, FL VORTAC MURDO, FL FIX SAINT PETERSBURG, FL VORTAC	2000 2000 2100
§95.6045 VOR FEDERAL AIRWAY 45		
IS AMENDED BY ADDING		
HENDERSON, WV VORTAC YOUNGSTOWN, OH VORTAC DROVE, OH FIX	APPLETON, OH VORTAC DROVE, OH FIX VARYS, OH FIX	3000 3000 3500
IS AMENDED TO READ IN PART		
KINSTON, NC VORTAC KIMES, NC FIX	WENDI, NC FIX GREENSBORO, NC VORTAC	2000 2800
§95.6056 VOR FEDERAL AIRWAY 56		
IS AMENDED TO READ IN PART		
FLORENCE, SC VORTAC	FAYETTEVILLE, NC VOR/DME	2200
§95.6060 VOR FEDERAL AIRWAY 60		
IS AMENDED TO READ IN PART		
GALLUP, NM VORTAC CROWN, NM FIX *10000 - MCA CUBBA FIX, W BND	CROWN, NM FIX *CUBBA, NM FIX	11000 11200
§95.6069 VOR FEDERAL AIRWAY 69		
IS AMENDED TO DELETE		
SHREVEPORT, LA VORTAC VIA W ALTER *3000 - MRA	*COTTA, LA FIX VIA W ALTER	2000
COTTA, LA FIX VIA W ALTER *3500 - MRA	*FOSTE, LA FIX VIA W ALTER	2000
FOSTE, LA FIX VIA W ALTER	EL DORADO, AR VORTAC VIA W ALTER	2000

FROM	TO	MEA
§95.6095 VOR FEDERAL AIRWAY 95		
IS AMENDED TO READ IN PART		
FARMINGTON, NM VORTAC *13200 - MCA DURANGO VOR/DME, N BND	*DURANGO, CO VOR/DME	9700
§95.6136 VOR FEDERAL AIRWAY 136		
IS AMENDED TO READ IN PART		
RALEIGH-DURHAM, NC VORTAC	LANNO, NC FIX	3000
§95.6144 VOR FEDERAL AIRWAY 144		
IS AMENDED TO READ IN PART		
FORT WAYNE, IN VORTAC *3000 - MOCA	APPLETON, OH VORTAC	*6000
IS AMENDED TO DELETE		
FINDLAY, OH VORTAC	APPLETON, OH VORTAC	3000
§95.6152 VOR FEDERAL AIRWAY 152		
IS AMENDED TO READ IN PART		
SAINT PETERSBURG, FL VORTAC	JENSN, FL FIX	2500
§95.6189 VOR FEDERAL AIRWAY 189		
IS AMENDED TO READ IN PART		
TAR RIVER, NC VORTAC *2100 - MOCA	WRIGHT BROTHERS, NC VOR/DME	*4000
§95.6213 VOR FEDERAL AIRWAY 213		
IS AMENDED TO READ IN PART		
ESTER, NC FIX	TAR RIVER, NC VORTAC	2100
§95.6305 VOR FEDERAL AIRWAY 305		
IS AMENDED BY ADDING		
SHREVEPORT, LA VORTAC *3000 - MRA	*COTTA, LA FIX	2000
COTTA, LA FIX *3500 - MRA	*FOSTE, LA FIX	2000
§95.6404 NAVAID VOR FEDERAL AIRWAY 4		
IS AMENDED TO READ IN PART		
BIMJO, IN FIX	ZORKY, IN FIX W BND	29000

FROM	TO	MEA
§95.6305 VOR FEDERAL AIRWAY 305—Continued		
FOSTE, LA FIX	EL DORADO, AR VORTAC	2000
§95.6310 VOR FEDERAL AIRWAY 310		
IS AMENDED TO READ IN PART		
GREENSBORO, NC VORTAC	KIMES, NC FIX	2800
§95.6344 VOR FEDERAL AIRWAY 344		
IS AMENDED TO READ IN PART		
ABERDEEN, SD VORTAC *3000 - MOCA	FARGO, ND VORTAC	*3900
§95.6409 VOR FEDERAL AIRWAY 409		
IS AMENDED TO READ IN PART		
LOCAS, NC FIX *2200 - MOCA #MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.	RALEIGH-DURHAM, NC VORTAC	#*6000
§95.6421 VOR FEDERAL AIRWAY 421		
IS AMENDED TO READ IN PART		
FARMINGTON, NM VORTAC *13200 - MCA DURANGO VOR/DME, N BND	*DURANGO, CO VOR/DME	9700
§95.6430 VOR FEDERAL AIRWAY 430		
IS AMENDED TO READ IN PART		
HAVRE, MT VOR/DME GLASGOW, MT VOR/DME *6600 - MOCA	GLASGOW, MT VOR/DME WILLISTON, ND VORTAC	5500 *6000
§95.6441 VOR FEDERAL AIRWAY 441		
IS AMENDED TO READ IN PART		
HOMOE, FL FIX *2400 - MOCA	OCALA, FL VORTAC	*3000
§95.6454 VOR FEDERAL AIRWAY 454		
IS AMENDED TO READ IN PART		
LIBERTY, NC VORTAC *2800 - MOCA	LAWRENCEVILLE, VA VORTAC	*6000
§95.6404 NAVAID VOR FEDERAL AIRWAY 4—Continued		
E BND		14000

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FROM	TO	MEA	MAA
§95.7079 JET ROUTE NO. 79			
	IS AMENDED TO READ IN PART		
CHARLESTON, SC VORTAC	TAR RIVER, NC VORTAC	18000	45000
TAR RIVER, NC VORTAC	FRANKLIN, VA VORTAC	18000	45000
FRANKLIN, VA VORTAC	SALISBURY, MD VORTAC	18000	45000
SALISBURY, MD VORTAC	SEA ISLE, NJ VORTAC	18000	45000
SEA ISLE, NJ VORTAC	KENNEDY, NY VORTAC	18000	45000
§95.7198 JET ROUTE NO. 198			
	IS ADDED TO READ		
WILMINGTON, NC VORTAC	FRANKLIN, VA VORTAC	18000	45000
§95.7908 JET ROUTE NO. 908			
	IS ADDED TO READ		
ATHENS, GA VORTAC	LIBERTY, NC VORTAC	18000	45000
LIBERTY, NC VORTAC	HOPEWELL, VA VORTAC	18000	45000
§95.7209 JET ROUTE NO. 209			
	IS ADDED TO READ		
GREENWOOD, SC VORTAC	TAR RIVER, NC VORTAC	#18000	45000
#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.			
TAR RIVER, NC VORTAC	NORFOLK, VA VORTAC	18000	45000
§95.7210 JET ROUTE NO. 210			
	IS ADDED TO READ		
DUNKN, GA FIX	VANCE, SC VORTAC	18000	45000
VANCE, SC VORTAC	WILMINGTON, NC VORTAC	18000	45000

[FR Doc. 86-10143 Filed 5-6-86; 8:45 am]
BILLING CODE 4910-13-C

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
	V-189		
	IS AMENDED BY ADDING		
TAR RIVER, NC VORTAC	WRIGHT BROTHERS, NC VOR/DME	58	TAR RIVER

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT		CHANGEOVER POINTS	
FROM	TO	DISTANCE	FROM
	J-60		
	IS AMENDED BY ADDING		
HANKSVILLE, UT VORTAC	RED TABLE, CO VOR/DME	75	HANKSVILLE
	J-79		
	IS AMENDED BY ADDING		
FRANKLIN, VA VORTAC	SALISBURY, MD VORTAC	20	FRANKLIN
	J-209		
	IS AMENDED BY ADDING		
GREENWOOD, SC VORTAC	TAR RIVER, NC VORTAC	127	GREENWOOD

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DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

[Docket No. 60353-6053]

Amendment to the Commodity Control List; GLV Dollar Value Limit

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Office of Export Administration published (49 FR 50606-50631, December 31, 1984) a final rule amending the Commodity Control List (CCL). That rule established a new classification category, ECCN 1567A, for certain stored program controlled switching equipment.

The CCL provides a General (export) License GLV value limit on commodities in the list. The GLV value is the maximum value allowed for exporting the commodity without a validated license to the designated Country Groups.

This rule, which neither expands nor limits the provisions of the Export Administration Regulations, corrects the GLV value limit for exports of ECCN 1567A commodities to the People's Republic of China and all destinations in Country Groups QSWYZ. The GLV value was incorrectly stated in the December 31, 1984 rule as being $1,000 for exports to all destinations.

EFFECTIVE DATE: May 7, 1986.

FOR FURTHER INFORMATION CONTACT: John Black or Patti Muldonian, Export Administration, (Telephone (202) 377-2440).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Written comments (six copies) should be submitted to: Betty Ferrell, Regulations Branch, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule does not contain a collection of information subject to the requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Part 399

Exports.

Accordingly, 15 CFR Part 399 of the Export Administration Regulations is amended as follows:

1. The authority citation for 15 CFR Part 399 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 96-223, 50 U.S.C. 1701 *et seq.*; E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985).

2. Supplement No. 1 to § 399.1 (the Commodity Control List) is amended by revising the *GLV $ Value Limit* paragraph for ECCN 1567A (in Commodity Group 5, Electronics and Precision Instruments) to read as follows:

1567A Stored Program Controlled Communication Switching Equipment or Systems and Technology Therefor; and Specially Designed Components Therefor, for the Use of These Equipment or Systems

* * * * *

GLV $ Value Limit: $1,000 for Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations.

Dated: April 30, 1986.

Walter J. Olson,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 86-10050 Filed 5-6-86; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

[Regs. No. 4 and 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Determining Disability and Blindness Frequency and Notice of Continuing Eligibility Reviews

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: Section 15 of the Social Security Disability Benefits Reform Act of 1984, Pub. L. 98-460 (the 1984 Disability Amendments) requires the Secretary to issue regulations which establish the rules to be used to schedule reviews of continuing entitlement of persons receiving benefits because of disability or blindness. Section 221(i) of the Social Security Act requires that all persons with nonpermanent impairments receiving benefits because of disability must generally be reviewed at least once every 3 years. Section 221(i) also requires that the eligibility of persons having permanent impairments be reviewed at such times as the Secretary deems appropriate. There is no definition of "permanent impairment" in the statute. The identification of impairments now considered permanent is based on administrative experience with continuation rates for certain impairments and age groups or combinations thereof. The categories of impairments considered permanent will be continually modified with increased experience and medical developments. In addition there is a body of cases involving medical conditions which we expect to improve within a short time. These are referred to as medical improvement expected cases (formerly called medical reexamination diary cases) and under administrative procedures are diaried for review. These rules set forth the standards pursuant to which continuing disability reviews (CDR) will be scheduled so that those receiving disability benefits may better understand the review process and its timing. Appropriate definitions are provided, including definitions of permanent and nonpermanent impairments. These regulations also implement sections 6 (a) and (b) of the 1984 Amendments, which require notice to an individual preceding the CDR of his or her case. These rules apply to persons receiving benefits because of disability or blindness under title II or title XVI of the Act.

DATE: These rules are effective May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone (301) 594-7337.

SUPPLEMENTARY INFORMATION: Section 15 of the 1984 Disability Amendments requires the Secretary to publish in regulations the standards to be used in determining the frequency of reviews under section 221(i) of the Social Security Act. Prior to the Social Security Disability Amendments of 1980, Pub. L. 96-265 (the 1980 Disability Amendments), which added section 221(i) to the Act, there was no requirement for a periodic review of disability for all persons who were receiving disability benefits. SSA generally reviewed only those individuals whose conditions were expected to improve. In determining whether such a medical review was appropriate, the nature of the impairment, whether significant medical improvement could be expected, and the individual's age were all considered. An initial medical review diary would generally be set for not less than 6 months or more than 18 months following the most recent decision. A rediary following such a review which resulted in a person's benefits being continued would be established when there was clear reason to expect subsequent improvement and was usually set for a shorter period than the initial diary, generally less than 12 months.

In the 1980 Disability Amendments Congress expressed its concern that looking only at individuals whose conditions were expected to improve was not adequate. Congress, therefore, mandated a review of all individuals receiving disability benefits under title II at least once every 3 years for those whose impairments are not permanent and on a schedule to be determined by the Secretary for those whose impairments are permanent. The 1982 Amendments (Pub. L. 97-455) provided the Secretary flexibility in carrying out CDR's. In determining the number of cases to be reviewed by any given State over a specific period of time, the Secretary may consider backlogs of pending reviews as well as current and projected staffing levels in the Social Security field offices and State agency and the availability of adequate medical resources which are necessary to do a complete and accurate review. In the 1984 amendments Congress required the Secretary to publish regulations which explain the frequency with which the various periodic continuing disability reviews will be conducted. This mandate was in response to Congressional concern that disabled beneficiaries be generally aware of when their claims will be reviewed and that such reviews not be conducted soon after an individual establishes continuing eligibility following a lengthy appeal.

When We Will Conduct a Continuing Disability Review

A continuing disability review may be conducted if one or more of the following events occurs:

(1) The individual has been scheduled for a medical improvement expected diary review;

(2) The individual has been scheduled for a medical improvement possible or medical improvement not expected diary review (formerly called periodic review) in accordance with the provisions of regulation §§ 404.1590(d) or 416.990(d);

(3) We need a current medical or other report to see if the individual's disability continues. (This could happen when, for example, an advance in medical technology, such as improved treatment for Alzheimer's disease or a change in vocational therapy or technology raises a disability issue);

(4) The individuual returned to work and successfully completed a trial work period;

(5) Substantial earnings are reported to the individual's wage record;

(6) The individual tells us that he or she has recovered from his or her disability or has returned to work;

(7) A State vocational rehabilitation agency reports that its services have been completed or that the individual is now working or is able to work;

(8) Someone in a position to know of the individual's physical or mental condition reports that the individual is not disabled, is not following prescribed treatment, has returned to work or is failing to follow the provisions of the Social Security Act and regulations, and it appears the report could be substantially correct;

(9) Evidence we receive raises a question as to whether the individual's disability continues; or

(10) The individual has been scheduled for a vocational reexamination diary review.

Additional Regulatory Provisions

Other than administrative guidelines which provide that medical improvement expected diary cases generally will be reviewed between 6 and 18 months following entitlement and that medical improvement possible diary cases will be reviewed every 3 years, SSA has not published specific rules with respect to frequency of review.

These final regulations apply to persons receiving benefits because of disability or blindness under either title II or title XVI of the Social Security Act. Although section 221(i) of the Act does not mandate periodic eligibility review of persons receiving benefits under title XVI because of disability or blindness, these final regulations extend the periodic continuing disability review procedures to title XVI blind and disabled beneficiaries. This extension is within the Secretary's regulatory authority under title XVI of the Social Security Act, sections 1631(d)(1) and 1633, and is in accord with the legislative history of the 1980 Amendments to the Act which added section 221(i). The report of the Senate Committee on Finance states:

> The committee believes that such [periodic review] procedures should be applied on the same basis to the DI and SSI programs.

We plan to review periodically the eligibility of persons receiving benefits solely under title XVI because of disability or blindness with the same frequency as we review the eligibility of persons receiving disability benefits under title II. This will establish consistency in the operation of the disability programs. When we begin the periodic review of these cases is dependent on such considerations as the backlog of pending reviews, the projected number of new applications, and the availability of resources needed to ensure careful and accurate reviews.

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Before we begin these periodic reviews, we will notify the public of the beginning date of the review program by publication of a Notice in the Federal Register.

These regulations also reflect sections 6 (a) and (b) of Pub. L. 98-460, which require that when we begin a periodic review of an individual's eligibility to benefits we inform the individual of the nature of the review, the possibility that the review could result in termination of his or her benefits, and his or her right to submit medical evidence for our consideration during the review. We will apply this provision to all continuing disability reviews. Changes to §§ 404.1589 and 416.989 reflect this policy.

In §§ 404.1590 (c), (d) and (e) and 416.990 (c), (d) and (e) we have defined "permanent" (medical improvement not expected) and "nonpermanent" (medical improvement possible) impairments, "vocational reexamination diary" and "medical reexamination diary," discussed the frequency with which we will conduct CDR's, and provided for potential changes in the classification of a person's impairment. We have provided that a nonpermanent impairment that does not require a medical improvement expected diary will be reviewed at least once every 3 years and a permanent impairment at least once every 7 years, but no more frequently than once every 5 years unless a question of continuing eligibility is raised. We also explain in §§ 404.1590(f) and 416.990(f) that we will not conduct a review earlier than 3 years following establishment of continuing eligibility by an administrative law judge, the Appeals Council or a Federal Court, unless the case should be scheduled for medical improvement expected or vocational reexamination diary or a question of continuing eligibility is raised.

Comments Received Following Publication of the Notice of Proposed Rulemaking

These regulations were published as proposed rules on June 18, 1985 (50 FR 25400). Interested parties were given 45 days to submit comments. We received letters from 14 different sources, including some State agencies that make disability determinations, other State agencies such as those concerned with problems of aged and disabled persons, and several legal aid groups. Although most of the commenters expressed more than one concern, many recommended that regulation §§ 404.1589 and 416.989 be amended to provide that the medical improvement review standard be addressed in the notice informing individuals of a continuing disability review. Many commenters also suggested that we clarify the meaning of "erroneous" shown in §§ 404.1590(b)(3) and 416.990(b)(3). We have addressed these comments, as well as the others that we received, below.

Reasons for Continuing Disability Review

Comment: Several commenters stated that the regulations should specifically list all reasons for conducting a continuing disability review, and delete the general reason in § 404.1590(b)(9) (and similar language in § 416.990(b)(9)) which states, "evidence we receive raises a question as to whether your disability continues". They believe that this reason is so broadly written that it may lead to the abuse of reviewing claims at any time without justification.

Response: Although we have listed the principal reasons for conducting a continuing disability review, we cannot identify every possible event which may occur and which may require a CDR.

We must be able to conduct a review when an event occurs that gives a strong indication that the individual's impairment has improved. For example, a physician may submit an unsolicited medical report or evidence may be received in connection with a nondisability issue which raises a question. We are not including this general reason for review in order to permit reviews without justification, but to permit a review when some unforeseen event occurs which reasonably raises a question of continued disability and, therefore, justifies a review. Accordingly, we have decided to retain this reason for starting a continuing disability review.

Comment: One commenter suggested that we revise the reasons for conducting a continuing disability review upon receipt of information from the Vocational Rehabilitation Agency as follows: (1) the services have been completed (instead of "the individual's training has been completed"); (2) you are now working (instead of "the individual has returned to work"); or (3) you are able to work. The basis for this suggestion was that many individuals receive vocational rehabilitation services but are not trained and have never worked.

Response: We agree with the suggestion and have made the appropriate changes in §§ 404.1590(b)(7) and 416.990(b)(7).

Comment: Several commenters urged that we delete from §§ 404.1590(b)(3) and 416.990(b)(3), "it appears that a decision may have been erroneous" as a reason for conducting a continuing disability review. They believe this language is so broad that it will permit a medical review soon after an individual's disability is established following a lengthy appeal. Such a review could result in a determination to reverse the favorable administrative law judge, Appeals Council or court decision.

Response: It is our intent that these regulations fully protect against early disability reviews after favorable appeal decisions and that they will prevent improper reviews. As such, we have decided to delete the questioned phrase because the possible erroneous decision situation is covered in regulation §§ 404.989 and 416.1488, entitled, "Good cause for reopening."

Comment: A number of commenters believe the reason for conducting a CDR because a current medical or other report is needed to see if disability continues is worded too broadly. Generally, these commenters feel these sections could be interpreted to affect almost everyone receiving disability benefits.

Response: We believe we must be able to review the claims of individuals with any impairment in which advances in the medical field may change the severity of the impairment. As we cannot anticipate what changes might occur, we cannot identify what the standards might be for conducting the reviews specified in §§ 404.1590(b)(3) and 416.990(b)(3). However, as illustrated by the example in these regulatory sections, the most likely reason for conducting such reviews will be when advances in medical technology or changes in vocational therapy or technology raise an issue as to whether an individual's disability is continuing.

Comment: One commenter stated that we should delete "you return to work and successfully complete a period of trial work" as a reason for conducting a continuing disability review. The reason given is that the issue is already covered by the rule that we will conduct a review when substantial earnings are reported to an individual's wage record. The commenter believes that listing both reasons will cause confusion and will lead to inappropriate reviews each time there are intermittent periods of work during a trial work period.

Response: The two reasons for conducting a continuing disability review mentioned by the commenter refer to two different issues. When a person returns to work, one of two actions can occur. A trial work period can be established for an individual, and a review will not be conducted until

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the individual has worked during 9 months. Or, on the other hand, a review can be conducted immediately when substantial earnings are reported to an individual's wage record. Because two different issues are involved, both reasons need to be retained.

Comment: A few commenters objected to providing for CDRs based on information received from a source as described in §§ 404.1590(b)(8) and 416.990(b)(8). One commenter believes that this provision could encourage the filing of nuisance charges against disabled individuals for other than sound medical reasons.

Response: We must investigate reports which raise an issue of continuing disability in order to assure that benefits are being paid only to those who are entitled to them under the law. This reason for conducting a CDR was added when we revised §§ 404.1590(b) and 416.990(b) in 1980. If we are to properly administer the disability program, we cannot ignore unsolicited information such as a medical report or information on work activity which raises a disability issue. However, §§ 404.1590(b)(8) and 416.990(b)(8) state that the report must be from someone in a position to know about the individual and that it could be substantially correct. Thus, CDR's will not be conducted on the basis of rumor or conjecture.

Frequency of Review

Comment: One commenter indicated that the phrase "at least once every 3 years" should be changed to "no more frequently than once every 3 years".

Response: Since the law itself, in addressing this issue, specified "reviews will be conducted at least once every 3 years", we have maintained the language as shown in the proposed regulations.

Comment: A commenter suggested that if no improvement is found after the initial medical improvement expected continuing disability review, the new review should be scheduled for 3 years rather than an "automatic rescheduling." (We assume automatic rescheduling means a 6 to 18 months review diary.)

Response: The regulations do not require "automatic rescheduling." The frequency of reviews as explained in §§ 404.1590(d) and 416.990(d) depends upon whether a person's impairment(s) is: (1) Expected to improve; (2) such that medical improvement cannot be accurately predicted; or (3) permanent. These sections further explain that reviews will generally be done at intervals from 6 months to 18 months if improvement is expected; at least once every 3 years if medical improvement cannot be accurately predicted; and no less than once every 7 years but no more often than once every 5 years if the person's disability is considered permanent. Furthermore, §§ 404.1590(e) and 416.990(e) specify that impairments may be reclassified. If a person's impairment is reclassified, the frequency with which the case will be reviewed will depend upon the new classification. For example, if a person's impairment was previously expected to improve and following a continuing disability review it is determined that medical improvement cannot now be accurately predicted, the frequency of review will convert to at least once every 3 years.

Although we felt the regulations were clear in this area, we have revised §§ 404.1590(e) and 416.990(e) to specify that a change in the classification of an impairment will change the frequency with which a case will be reviewed.

Comment: One commenter objected to assigning review dates from once every 5 years to once every 7 years for permanently impaired individuals. The objection was based on the feeling that the same review period may not be given to all individuals with the same impairment.

Response: All individuals with permanent impairments will be assigned a 7-year review cycle. However, flexibility in the frequency of review has been established to permit assigning different review periods to different permanent impairment categories should future experience indicate it to be more appropriate to review certain impairments on different time cycles than others. Thus, the timeframes for the review of individuals with permanent impairments may vary based on impairment categories, but individuals with the same impairments will be assigned the same review cycle.

Comment: Another commenter believes that after an individual has been reviewed once and no improvement is found, subsequent reviews should not be more frequent than once every 5 years.

Response: We agree that less frequent reviews may be appropriate if evidence continues to show no improvement in an individual's impairment(s). However, frequency of review depends on a variety of factors such as, the expectations for recovery from specific impairments, treatments, breakthroughs in medical science, etc. Sections 404.1590(e) and 416.990(e) of the regulations, which provide for changing an individual's medical classification, will permit us to extend review cycles appropriately. Individuals may be classified after such review as being permanently disabled regardless of the type of impairment. Development of procedures for less frequent reviews will be based on experience with reviews under the schedules established by these regulations.

Comment: One commenter stated that the interval for periodic review of permanent disabilities is too brief.

Response: We recognize that the nature of impairments classified as permanent is such that there is little likelihood of recovery and in many cases there will be progressive worsening of the conditions. Nevertheless, we believe that a flexible review period of no less frequently than once every 7 years but no more frequently than once every 5 years is responsive to the congressional concern for a less frequent review cycle for permanent impairment cases.

Comment: Some commenters voiced their concerns regarding reviews after administrative appeals. One commenter suggested that we state we will not conduct a review earlier than 3 years after a decision resulting from an administrative appeal unless the case is scheduled for a medical reexamination diary review because medical improvement can be expected. Other commenters believe the regulations should be clarified to ensure that a continuing disability review will not be conducted within 3 years of a decision by the Appeals Council or a Federal Court.

Response: The final regulations have been amended to define a medical or vocational reexamination diary review as a review for medical or vocational improvement expected cases. We believe the regulations now address the concerns of these commenters as §§ 404.1590(f) and 416.990(f) now provide that a continuing disability review will not be conducted earlier than 3 years after a favorable decision by an administrative law judge, the Appeals Council, or a Federal Court unless medical or vocational improvement is expected before expiration of a 3-year period or a question of continuing disability is raised under one of the other provisions of the regulations.

Permanent Impairments

Comment: A few commenters requested that the list of impairments considered permanent be stated in the regulations. A related comment suggested that the regulations clearly state that the list of permanent impairments is not limited to the examples provided in the regulation. It was further suggested that we more clearly state that the permanent

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impairments are those currently maintained in our Program Operations Manual System instructions.

Response: We decided against publishing a specific list of permanent impairments in the regulations. Such a list would be administratively cumbersome and would limit our ability to respond quickly to required revisions in the classification of an individual's impairment due to changes in medical therapy, technology, and administrative experience, etc. Further, whether an impairment is classified as permanent depends on a variety of factors (age, severity, availability of treatment, etc.). As these factors change and influence the classification of an impairment, we need the flexibility to revise the list of impairments considered permanent without having to go through the regulatory process.

Rather than list the permanent impairments in the regulations, we have revised the regulations to indicate that the list of impairments classified as permanent is contained in our operating instructions (Program Operations Manual System) and that the examples cited in the regulations are taken from this list and are not intended to be all inclusive.

Comment: A few commenters indicated that once an individual has been classified as permanently disabled with no likelihood of improvement, it is unfair to require the person to again prove disability. One commenter noted that it is a serious matter for an individual designated as permanently disabled for many years to suddenly be subjected to a review every 7 years as it could lower the morale and esteem of such an individual. It was further suggested that a physician should perform a folder review of the medical evidence of record for individuals determined to be permanently disabled before the regulations are published, and that only individuals with a strong probability of improvement should be notified of and subjected to a review. No reviews should be required for individuals determined to be permanently disabled with no likelihood of improvement after the regulations are published.

Response: Section 221(i) of the Social Security Act requires that the eligibility of individuals with permanent impairments be reviewed at such times as we determine to be appropriate. We are well aware of the sensitivities involved with the review of this category of impairments and have taken precautions to lessen the effect on individuals. A special process for conducting reviews of individuals classified as permanently disabled is being developed. This process emphasizes paper reviews and telephone contacts to verify that the impairment is continuing. It should eliminate the need for most individuals to visit a Social Security office. Although these are impairments that, by definition, are not expected to improve, we cannot be sure in all instances that a case has been adequately documented or that the condition still exists. Therefore, we must conduct a review as described above. However, regardless of the type of review being conducted, all individuals will receive notice of the review as required by section 221(i)(4) of the Social Security Act.

Comment: One commenter indicated that the definition of permanent impairment should be amended to include a statement that an impairment subject to occasional remission can be included as a permanent classification. The rationale for this is the phrase "and unlikely to improve so as to permit the individual to engage in substantial gainful activity" suggests that conditions subject to temporary remission are not classifiable as permanent.

Response: We agree with the suggestion to amend the definition and have made the necessary change to indicate that temporary remission in the severity of an impairment will not be a factor in deciding if an impairment is permanent. A prime example of such an impairment is multiple sclerosis which has reached the level of severity necessary to meet the medical listing of 20 CFR Part 404, Subpart P, Appendix 1 which our other written guidelines classify as permanent but which has periods of remission.

Comment: One commenter stated §§ 416.990(c) and 404.1590(c) would more clearly define permanent impairments by the use of an example like amputation. The commenter further stated that most individuals believe their impairments are "permanent," and by saying that we might someday review the claims of individuals with Alzheimer's disease and that Parkinsonian Syndrome is "permanent" doesn't clarify to the individual whether or not he or she has a "permanent" impairment. It was also suggested that examples of nonpermanent impairments should be given to help clarify this issue.

Response: We agree with these suggestions and have added "amputation of leg at hip" to the examples in §§ 404.1590(c) and 416.990(c), and have amended these sections to reflect three examples of nonpermenent impairments.

Notices

Comment: Several commenters suggested that the language in the notice to the recipient contained in the proposed revisions to §§ 404.1589 and 416.989 be amended to include information that the beneficiary will be reviewed under the medical improvement review standard, what the standard means and the exceptions to the standards.

Response: We agree with this suggestion and have made the appropriate changes. In most cases, the prereview notice will contain an explanation of the medical improvement review standard and the exceptions to the standard. In SSI blindness cases, however, the medical improvement standard does not apply. Therefore, the notices for those cases will not mention the suggested information.

Comment: One commenter suggested that any notice of termination after a CDR should include a list of legal resources which would enable the individual whose benefits have been curtailed to obtain legal assistance in fighting the termination.

Response: It is not administratively feasible to include such specific information in individual notices. However, Social Security disability termination notices advise individuals that their local Social Security office can provide the names of individuals and groups that can help with appeals. Providing this information at local levels should yield the most helpful, accurate and up-to-date information for these individuals.

Comment: One commenter stated that blind persons need to receive notices in Braille, while many mentally retarded persons must have notices read to them.

Response: Social Security currently offers blind persons the opportunity of receiving notices in Braille translations.

District office staff explain this right to blind individuals during the interview process. If this option is selected, the case is identified for preparation and release of a notice in Braille.

Social Security notices include a statement that a person may call or visit any Social Security office if they have any questions about the notice. If a mentally retarded person does not have a representative selected to receive his or her notice and explain what the notice says, the concluding paragraph of the notice directs the person to request assistance in understanding the notice. This paragraph begins with the following *underlined* statement: *"If you have any questions . . . ."* Instructions are then provided that if an individual has any questions about the notice, he or she should call, write or visit any Social Security office to have the questions resolved. We believe that this information satisfies the concerns expressed by the commenter.

Comment: One commenter questioned how disabled individuals and the public are to know which impairments have been reclassified. The commenters asked, "Will there be brochures available and public affairs announcements, or will it only be made available at the time someone receives a letter indicating a review is imminent?"

Response: We do not anticipate that a change in classification of an impairment would generate the need for a wide-spread media campaign. Generally, the way individuals will be aware of the classification of their impairments is by the notice informing them when they will be scheduled for a continuing disability review. However, a list of impairments which are expected to improve (i.e., impairments for which medical reexamination diaries are established), and a list of impairments which are not expected to improve (i.e., permanent impairments) are published in our Program Operations Manual System instructions. These instructions are available to the public and may be reviewed at any Social Security office.

Comment: Several commenters suggested that the regulations specify that written cessation determination notices sent to the beneficiaries should contain notice of their right to benefit continuation during appeal through the Administrative Law Judge decision.

Response: Written cessation notices will contain information about benefit continuation.

Comment: One commenter suggested that notices must be received at least 60 days in advance to allow individuals sufficient time to make arrangements for transportation and assistance for required physical examinations.

Response: The consultative examination regulations (20 CFR 404.1517 and 416.917) provide regulatory authority for scheduling consultative examinations. We believe our procedures allow sufficient time before a scheduled examination. Notices of these examinations explain that a more suitable examination appointment may be requested if the individual cannot keep a scheduled appointment. The notice tells the person to let the Disability Determination Service know right away if the appointment cannot be kept. We believe that this policy allows for the greatest flexibility in meeting both the administration's case development needs and the individual's personal needs. The prereview notices, which are referenced in 20 CFR 404.1589 and 20 CFR 416.989, are not used to schedule consultative medical examinations.

Comment: One commenter suggested that prereview notices issued under §§ 404.1589 and 416.989 specify that current benefits will not be stopped prior to a final termination that the determination is justified, that the review is periodic (if applicable), and the review is routine (if applicable).

Response: We agree with this commenter, and we believe the prereview notice responds to these concerns.

Waiver of Timeframes

Comment: A number of commenters expressed concern about §§ 404.1590(g) and 416.990(g) regarding waiver of timeframes. Some commenters stated that this provision could result in some individuals being exempt from review and others not. Other commenters stated that the wavier of timefrsmes for conducting CDRs should be based on negotiations with the State agency. It was further stated that any such waiver should take into account the size and financial resources of the agency and the number of claims to be processed in order to prevent unrealistic workloads which could lead to inaccurate determinations.

Response: Our response to each specific comment is:

(1) The waiver of timeframes will not exclude anyone from a CDR. The regulations will only provide that in certain specific circumstances States may take a longer time period to complete a review cycle. This waiver provision is essential to assuring that all reviews are done carefully and accurately as required by Pub. L. 98-460.

(2) Negotiations with State agencies are a vital part of the waiver process. Such negotiations help assure compliance with these regulatory provisions.

(3) We have not adopted the suggestion that the size and financial resources of the state agency be considered a factor when determination whether a state should be given a waiver of the timeframes for conducting CDR's since such factors are not authorized by the statute. However, we believe consideration of the factors authorized by the statute responds to the commenter's concerns.

Miscellaneous Comments

Comment: A few commenters stated that the language concerning the reclassification of impairments is not clear and should be clarified by setting out the standards for making a change. One commenter stated that the beginning of the proposed section should require a regular medical improvement diary for individuals rather than a change in classification. The same commenter stated, "administrative reclassification of types of disabilities for (sic) permanent to nonpermanent or changes in listing or severity should only occur after opportunity for notice and comments on the general reclassification which also notes the CDR impact so that disabled people could properly evaluate the impact of such changes."

Response: Provisions for reclassifying impairments are essential to ensuring that reviews are conducted at correct frequencies. As we are unable to anticipate what changes in medical treatment or technology may occur, we cannot establish more specific regulatory standards for changing the classification of impairments. If we were to wait to reclassify an impairment until individuals were notified and provided an opportunity to comment on the reclassification, we would be unable to conduct reviews at appropriate frequencies. However, as indicated in an earlier response, we have amended §§ 404.1590(e) and 416.990(e) to specify that a change in the classification of an impairment will change the frequency with which a case will be reviewed.

Comment: One commenter suggested that because individuals have already been determined to be disabled, a CDR decision should be called a "redetermination" rather than a "determination."

Response: Each CDR is a new review of a disabled individual with a decision being made as to whether new evidence indicates a determination of medical improvement and whether disability is continuing or has ceased. The term "determination" has been used to describe the written disability decision since the inception of the disability program. On the other hand, the term "redetermination" is used in the Supplemental Security Income Program to describe the written decision covering the review of nondisability factors. We believe that to use the same term for different functions in the two programs would lead to confusion.

Comment: A few commenters raised the issue of who will assign diaries on appeal cases. It was suggested that, to ensure uniformity, administrative law judges establish the medical review diaries on cases which they decide.

Response: Regardless of the level of decisionmaking, diaries are assigned based on the nature and severity of the impairment. Although they are usually

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assigned by the decisionmaker at any decision level, there are instances when someone other than the decisionmaker assigns the diary (e.g., the SSA operating component that effectuates the ALJ decision assigns the diary, unless one is specified by the ALJ). When this becomes necessary, the diary is assigned based on the nature and severity of the impairment as reflected in the decision. Considering these factors, we believe we cannot establish regulatory provisions which would restrict a component other than the one that made the decision from establishing a diary. To do so would result in inefficient case processing and ineffective administration of the disability program.

Comment: One commenter stated that in the event a premature review occurs, the review should be stopped as soon as the error is discovered or that any negative determination resulting from such a review be vacated.

Response: Current procedures direct interviewers not to start the CDR if the review category or the date for review is inappropriate. If the review is in progress when the inappropriate category is discovered, ordinarily the review will not be completed. However, should evidence have been secured which shows medical improvement and an ability to engage in substantial gainful activity, we cannot ignore such evidence solely on the basis that we conducted an early review.

Comment: One commenter stated that there is a conflict between the provision for developing at least 12 months of medical history and the need to compare the prior decision to current evidence under the Medical Improvement Review Standard (MIRS).

Response: We believe there is no conflict. The requirement to secure evidence for at least 12 months preceding the review enables us to better assess the individual's impairment at the time of review. Moreover, the requirement is in the statute.

Comment: One commenter recommended that "advances in medical technology which affect eligibility requirements" be clarified.

Response: We refer to an advance in medical technology only as an example to illustrate when we will conduct an unscheduled CDR. This refers to any unforeseen medical discovery which could affect an individual's impairment to the point that it raises a question of whether the individual is still disabled. Since it is used as an example only, we are not defining this further in the regulation.

Comment: One commenter questioned the accuracy of the Regulatory Flexibility Act statement as shown in the proposed rules. This commenter stated, "The Administration's implementation of CDR's for title XVI clients would invariably 'bump from the benefit rolls people who should still be receiving benefits, and this would, in turn, increase the demand for state-funded programs (e.g., Home Relief)."

Response: An individual's payments will be terminated only after he or she has been determined to have medically improved and he or she is able to work or one of the exceptions applies. Therefore, such an individual should not continue to receive SSI benefits based on disability. His/her eligibility for State funded programs would not result directly from SSA's finding that he/she was no longer disabled but from the eligibility requirements for such programs.

Additional Changes in the Regulations

Vocational reexamination diary review has been added to the list of events which will initate a continuing disability review in §§ 404.1590 and 416.990. We have added this event to these final regulations because of the exceptions to the medical improvement standard required by Pub. L. 98-460 that the individual has benefited from advances in vocational therapy or has undergone vocational therapy related to his or her ability to work and is now able to perform substantial gainful activity. Thus, it seemed advisable to add this event to permit a CDR when an individual, at the time of an initial or CDR decision, is in a vocational therapy, training or other educational program which may improve his or her ability to work.

We have also removed blindness from the general SSI review regulation, § 416.989. That section indicates that a medical improvement standard applies in the reviews discussed in that section. The medical improvement standard does not apply in SSI blindness cases. Therefore, we have added a new § 416.989a to explain when we will review SSI blindness cases and describe the notice we will send in these cases.

Regulatory Procedures

Executive Order No. 12291

These final regulations have been reviewed under Executive Order 12291 and we have determined that they do not create costs of $100 million or more yearly, or otherwise meet the threshold of the Executive Order. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These final regulations will impose no new reporting or recordkeeping requirements subject to clearance by the Office of Management and Budget.

Regulatory Flexibility Act

We certify that these final regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect only disabled or blind individuals who are receiving title II or title XVI benefits because of disability or blindness. These final regulations should have little or no effect on the States since they reflect the present title II frequency of review cycles. Additionally, the review of title XVI cases (when implemented) should have minimal impact on State-funded programs as individuals whose payments are terminated as a result of such reviews are expected to seek employment rather than assistance from State-funded programs. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13.802, Disability Insurance; No. 13.807, Supplemental Security Income Program)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Survivors and Disability Insurance.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI).

Dated: January 22, 1986.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: March 12, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

PART 404—[AMENDED]

Part 404 of Chapter III of title 20 of the Code of Federal Regulations is amended to read as follows:

1. The authority citation for Subpart P of Part 404 is revised to read as follows:

Authority: Secs. 202, 205, 216, 221, 222, 223, 225, and 1102 of the Social Security Act, as amended; 42 U.S.C. 402, 405, 416, 421, 422, 423, 425, and 1302; sec. 505(a) and (c) of Pub. L. 96-265, secs. 2, 5, 6 and 15 of Pub. L. 98-460.

2. Section 404.1589 is revised to read as follows:

§ 404.1589 We may conduct a review to find out whether you continue to be disabled.

After we find that you are disabled, we must evaluate your impairment(s) from time to time to determine if you are still eligible for disability cash benefits. We call this evaluation a continuing disability review. We may begin a continuing disability review for any number of reasons including your failure to follow the provisions of the Social Security Act or these regulations. When we begin such a review, we will notify you that we are reviewing your eligibility for disability benefits, why we are reviewing your eligibility, that in medical reviews the medical improvement review standard will apply, that our review could result in the termination of your benefits, and that you have the right to submit medical and other evidence for our consideration during the continuing disability review. In doing a medical review, we will develop a complete medical history of at least the preceding 12 months in any case in which a determination is made that you are no longer under a disability. If this review shows that we should stop payment of your benefits, we will notify you in writing and give you an opportunity to appeal. In § 404.1590 we describe those events that may prompt us to review whether you continue to be disabled.

3. Section 404.1590 is revised to read as follows:

§ 404.1590 When and how often we will conduct a continuing disability review.

(a) *General.* We conduct continuing disability reviews to determine whether or not you continue to meet the disability requirements of the law. Payment of cash benefits or a period of disability ends if the medical or other evidence shows that you are not disabled as determined under the standards set out in section 223(f) of the Social Security Act.

(b) *When we will conduct a continuing disability review.* A continuing disability review will be started if—

(1) You have been scheduled for a medical improvement expected diary review;

(2) You have been scheduled for a periodic review (medical improvement possible or medical improvement not expected) in accordance with the provisions of paragraph (d) of this section;

(3) We need a current medical or other report to see if your disability continues. (This could happen when, for example, an advance in medical technology, such as improved treatment for Alzheimer's disease or a change in vocational therapy or technology raises a disability issue.);

(4) You return to work and successfully complete a period of trial work;

(5) Substantial earnings are reported to your wage record;

(6) You tell us that you have recovered from your disability or that you have returned to work;

(7) Your State Vocational Rehabilitation Agency tells us that—

(i) The services have been completed; or

(ii) You are now working; or

(iii) You are able to work;

(8) Someone in a position to know of your physical or mental condition tells us that you are not disabled, that you are not following prescribed treatment, that you have returned to work, or that you are failing to follow the provisions of the Social Security Act or these regulations, and it appears that the report could be substantially correct;

(9) Evidence we receive raises a question as to whether your disability continues; or

(10) You have been scheduled for a vocational reexamination diary review.

(c) *Definitions.* As used in this section—

"Medical improvement expected diary"—refers to a case which is scheduled for review at a later date because the individual's impairment(s) is expected to improve. Generally, the diary period is set for not less than 6 months or for not more than 18 months. Examples of cases likely to be scheduled for medical improvement expected diary are fractures and cases in which corrective surgery is planned and recovery can be anticipated.

"Permanent impairment"—medical improvement not expected—refers to a case in which any medical improvement in the person's impairment(s) is not expected. This means an extremely severe condition determined on the basis of our experience in administering the disability programs to be at least static, but more likely to be progressively disabling either by itself or by reason of impairment complications, and unlikely to improve so as to permit the individual to engage in substantial gainful activity. The interaction of the individual's age, impairment consequences and lack of recent attachment to the labor market may also be considered in determining whether an impairment is permanent. Improvement which is considered temporary under §§ 404.1579(c)(4) or 404.1594(c)(3)(iv), as appropriate, will not be considered in deciding if an impairment is permanent. Examples of permanent impairments taken from the list contained in our other written guidelines which are available for public review are as follows and are not intended to be all inclusive:

(1) Parkinsonian Syndrome which has reached the level of severity necessary to meet the Listing in Appendix 1.

(2) Amyotrophic Lateral Sclerosis which has reached the level of severity necessary to meet the Listing in Appendix 1.

(3) Diffuse pulmonary fibrosis in an individual age 55 or over which has reached the level of severity necessary to meet the Listing in Appendix 1.

(4) Amputation of leg at hip.

"Nonpermanent impairment"—refers to a case in which any medical improvement in the person's impairment(s) is possible. This means an impairment for which improvement cannot be predicted based on current experience and the facts of the particular case but which is not at the level of severity of an impairment that is considered permanent. Examples of nonpermanent impairments are: regional enteritis, hyperthyroidism, and chronic ulcerative colitis.

"Vocational reexamination diary"—refers to a case which is scheduled for review at a later date because the individual is undergoing vocational therapy, training or an educational program which may improve his or her ability to work so that the disability requirement of the law is no longer met. Generally, the diary period will be set for the length of the training, therapy, or program of education.

(d) *Frequency of review.* If your impairment is expected to improve, generally we will review your continuing eligibility for disability benefits at intervals from 6 months to 18 months following our most recent decision. Our notice to you about the review of your case will tell you more precisely when the review will be conducted. If your disability is not considered permanent but is such that any medical improvement in your impairment(s) cannot be accurately predicted, we will review your continuing eligibility for disability benefits at least once every 3 years. If your disability is considered permanent, we will review your continuing eligibility for benefits no less frequently than once every 7 years but no more frequently than once every 5 years. Regardless of your classification, we will conduct an immediate continuing disability review if a question of continuing disability is raised pursuant to paragraph (b) of this section.

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(e) *Change in classification of impairment.* If the evidence developed during a continuing disability review demonstrates that your impairment has improved, is expected to improve, or has worsened since the last review, we may reclassify your impairment to reflect this change in severity. A change in the classification of your impairment will change the frequency with which we will review your case. We may also reclassify certain impairments because of improved tests, treatment, and other technical advances concerning those impairments.

(f) *Review after administrative appeal.* If you were found eligible to receive or to continue to receive disability benefits on the basis of a decision by an administrative law judge, the Appeals Council or a Federal court, we will not conduct a continuing disability review earlier than 3 years after that decision unless your case should be scheduled for a medical improvement expected or vocational reexamination diary review or a question of continuing disability is raised pursuant to paragraph (b) of this section.

(g) *Waiver of timeframes.* All cases involving a nonpermanent impairment will be reviewed by us at least once every 3 years unless we, after consultation with the State agency, determine that the requirement should be waived to ensure that only the appropriate number of cases are reviewed. The appropriate number of cases to be reviewed is to be based on such considerations as the backlog of pending reviews, the projected number of new applications, and projected staffing levels. Such waiver shall be given only after good faith effort on the part of the State to meet staffing requirements and to process the reviews on a timely basis. Availability of independent medical resources may also be a factor. A "waiver" in this context refers to our administrative discretion to determine the appropriate number of cases to be reviewed on a State by State basis. Therefore, your continuing disability review may be delayed longer than 3 years following our original decision or other review under certain circumstances. Such a delay would be based on our need to ensure that backlogs, reviews required to be performed by the Social Security Disability Benefits Reform Act of 1984 (Pub. L. 98-460), and new disability claims workloads are accomplished within available medical and other resources in the State agency and that such reviews are done carefully and accurately.

PART 416—[AMENDED]

Part 416 of Chapter III of title 20 of the Code of Federal Regulations is amended to read as follows:

1. The authority citation for Subpart I of Part 416 is revised to read as follows:

Authority: Secs. 1102, 1614, 1631, and 1633 of the Social Security Act; 42 U.S.C. 1302, 1382, and 1383; secs. 2, 5, 6, and 15 of Pub. L. 98-460.

2. Section 416.989 is revised to read as follows:

§ 416.989 We may conduct a review to find out whether you continue to be disabled.

After we find that you are disabled, we must evaluate your impairment(s) from time to time to determine if you are still eligible for payments based on disability. We call this evaluation a continuing disability review. We may begin a continuing disability review for any number of reasons including your failure to follow the provisions of the Social Security Act or these regulations. When we begin such a review, we will notify you that we are reviewing your eligibility for payments, why we are reviewing your eligibility, that in medical reviews the medical improvement review standard will apply, that our review could result in the termination of your payments, and that you have the right to submit medical and other evidence for our consideration during the continuing disability review. In doing a medical review, we will develop a complete medical history of at least the preceding 12 months in any case in which a determination is made that you are no longer under a disability. If this review shows that we should stop your payments, we will notify you in writing and give you an opportunity to appeal. In § 416.990 we describe those events that may prompt us to review whether you continue to be disabled.

3. A new § 416.989a is added to read as follows:

§ 416.989a We may conduct a review to find out whether you continue to be blind.

After we find that you are blind, we must evaluate your impairment(s) from time to time to determine if you are still eligible for payments based on blindness. We call this evaluation a continuing disability review. We may begin a continuing disability review for any number of reasons including your failure to follow the provisions of the Social Security Act or these regulations. When we begin such a review, we will notify you that we are reviewing your eligibility for payments, why we are reviewing your eligibility, that our review could result in the termination of your payments, and that you have the right to submit medical and other evidence for our consideration during the continuing disability review. In doing a medical review, we will develop a complete medical history of at least the preceding 12 months in any case in which a determination is made that you are no longer blind. If this review shows that we should stop your payments, we will notify you in writing and give you an opportunity to appeal. In § 416.990 we describe those events that may prompt us to review whether you continue to be blind.

4. Section 416.990 is revised to read as follows:

§ 416.990 When and how often we will conduct a continuing disability review.

(a) *General.* We conduct continuing disability reviews to determine whether or not you continue to meet the disability or blindness requirements of the law. Payment ends if the medical or other evidence shows that you are not disabled or blind as determined under the standards set out in section 1614(a) of the Social Security Act if you receive benefits based on disability or § 416.986 of this subpart if you receive benefits based on blindness.

(b) *When we will conduct a continuing disability review.* A continuing disability review will be started if—

(1) You have been scheduled for a medical improvement expected diary review;

(2) You have been scheduled for a periodic review (medical improvement possible or medical improvement not expected) in accordance with the provisions of paragraph (d) of this section;

(3) We need a current medical or other report to see if your disability continues. (This could happen when, for example, an advance in medical technology, such as improved treatment for Alzheimer's disease, or a change in vocational therapy or technology raises a disability issue);

(4) You return to work and successfully complete a period of trial work;

(5) Substantial earnings are reported to your wage record;

(6) You tell us that you have recovered from your disability or that you have returned to work;

(7) Your State Vocational Rehabilitation Agency tells us that—

(i) The services have been completed; or

(ii) You are now working; or

(iii) You are able to work;

(8) Someone in a position to know of your physical or mental condition tells us that you are not disabled or blind, that you are not following prescribed treatment, that you have returned to work, or that you are failing to follow the provisions of the Social Security Act or these regulations, and it appears that the report could be substantially correct;

(9) Evidence we receive raises a question as to whether your disability or blindness continues; or

(10) You have been scheduled for a vocational reexamination diary review.

(c) *Definitions.* As used in this section—

"Medical improvement expected diary"—refers to a case which is scheduled for review as a later date because the individual's impairment(s) is expected to improve. Generally, the diary period is set for not less than 6 months or for not more than 18 months. Examples of cases likely to be scheduled for medical improvement expected diary are fractures and cases in which corrective surgery is planned and recovery can be anticipated.

"Permanent impairment"—medical improvement not expected—refers to a case in which any medical improvement in a person's impairment(s) is not expected. This means an extremely severe condition determined on the basis of our experience in administering the disability programs to be at least static, but more likely to be progressively disabling either by itself or by reason of impairment complications, and unlikely to improve so as to permit the individual to engage in substantial gainful activity. The interaction of the individual's age, impairment consequences and the lack of recent attachment to the labor market may also be considered in determining whether an impairment is permanent. Improvement which is considered temporary under §§ 416.994(b)(2)(iv)(D) or 416.994(c)(2)(iv), as appropriate, will not be considered in deciding if an impairment is permanent. Examples of permanent impairments taken from the list contained in our other written guidelines which are available for public review are as follows and are not intended to be all inclusive:

(1) Parkinsonian Syndrome which has reached the level of severity necessary to meet the Listing in Appendix 1 of Subpart P or Part 404 of this chapter.

(2) Amyotrophic Lateral Sclerosis which has reached the level of severity necessary to meet the Listing in Appendix 1 of Subpart P of Part 404 of this chapter.

(3) Diffuse pulmonary fibrosis in an individual age 55 or over which has reached the level of severity necessary to meet the Listing in Appendix 1 of Subpart P of Part 404 of this chapter.

(4) Amputation of leg at hip.

"Nonpermanent impairment"—refers to a case in which any medical improvement in the person's impairment(s) is possible. This means an impairment for which improvement cannot be predicted based on current experience and the facts of the particular case but which is not at the level of severity of an impairment that is considered permanent. Examples of nonpermanent impairments are: regional enteritis, hyperthyroidism, and chronic ulcerative colitis.

"Vocational reexamination diary"—refers to a case which is scheduled for review at a later date because the individual is undergoing vocational therapy, training or an educational program which may improve his or her ability to work so that the disability or blindness requirement of the Law is no longer met. Generally, the diary period will be set for the length of the training, therapy, or program of education.

(d) *Frequency of review.* If your impairment is expected to improve, generally we will review your continuing eligibility for payments based on disability or blindness at intervals from 6 months to 18 months following our most recent decision. Our notice to you about the review of your case will tell you more precisely when the review will be conducted. If your disability is not considered permanent but is such that any medical improvement in your impairment(s) cannot be accurately predicted, we will review your continuing eligibility for payments at least once every 3 years. If your disability is considered permanent, we will review your continuing eligibility for payments no less frequently than once every 7 years but no more frequently than once every 5 years. Regardless of your classification we will conduct an immediate continuing disability review if a question of continuing disability is raised pursuant to paragraph (b) of this section.

(e) *Change in classification of impairment.* If the evidence developed during a continuing disability review demonstrates that your impairment has improved, is expected to improve, or has worsened since the last review, we may reclassify your impairment to reflect this change in severity. A change in the classification of your impairment will change the frequency with which we will review your case. We may also reclassify certain impairments because of improved tests, treatment, and other technical advances concerning those impairments.

(f) *Review after administrative appeal.* If you were found eligible to receive or to continue to receive, payments on the basis of a decision by an administrative law judge, the Appeals Council or a Federal court, we will not conduct a continuing disability review earlier than 3 years after that decision unless your case should be scheduled for a medical improvement expected or vocational reexamination diary review or a question of continuing disability is raised pursuant to paragraph (b) of this section.

(g) *Waiver of timeframes.* All cases involving a nonpermanent impairment will be reviewed by us at least once every 3 years unless we, after consultation with the State agency, determine that the requirement should be waived to ensure that only the appropriate number of cases are reviewed. The appropriate number of cases to be reviewed is to be based on such considerations as the backlog of pending reviews, the projected number of new applications, and projected staffing levels. Such waiver shall be given only after good faith effort on the part of the State to meet staffing requirements and to process the reviews on a timely basis. Availability of independent medical resources may also be a factor. A "waiver" in this context refers to our administrative discretion to determine the appropriate number of cases to be reviewed on a State by State basis. Therefore, your continuing disability review may be delayed longer than 3 years following our original decision or other review under certain circumstances. Such a delay would be based on our need to ensure that backlogs, reviews required to be performed by the Social Security Disability Benefits Reform Act (Pub. L. 98-460), and new disability claims workloads are accomplished within available medical and other resources in the State agency and that such reviews are done carefully and accurately.

[FR Doc. 86-10123 Filed 5-6-86; 8:45 am]
BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 177

[Docket No. 85F-0109]

Indirect Food Additives; Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations for the use of

styrene block polymers with 2-methyl-1-1,3-butadiene in food-contact articles to include an optional chloroform-soluble extractive limitation and to eliminate the conditions of use limitations. This action responds to a petition filed by Shell Oil Co.

DATES: Effective May 7, 1986. Objections by June 7, 1986.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville MD 20857.

FOR FURTHER INFORMATION CONTACT: Rudolph Harris, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of March 18, 1985 (50 FR 10860), FDA announced that a petition (FAP 5B3853) had been filed by Shell Oil Co., 1025 Connecticut Ave. NW., Suite 200, Washington, DC 20036, proposing that the entry for styrene block polymers with 2-methyl-1,3-butadiene in 21 CFR 177.1810 be amended to (1) allow for an increase in the maximum extractable fraction in distilled water and 50 percent ethanol; (2) include chloroform-soluble extractives limitations; and (3) eliminate the conditions of use limitations.

The petitioner requested an increase in the maximum extractable fraction specifications for distilled water and 50 percent ethanol because the processing water it uses in the production of the styrene block polymers causes an accumulation of salts and hydrated salts in the extractable fractions. The level of these salts exceeds the current extraction specifications. In addition, the petitioner requested that chloroform-soluble extractives specifications be established for use with the increased maximum extractable fraction specifications.

FDA has evaluated the data in the petition and believes that the current maximum extractable fraction specifications for distilled water and 50 percent ethanol do not need to be changed. Instead, the agency is adopting optional chloroform-soluble extractives specifications for use when the maximum extractable fraction specifications for distilled water and 50 percent ethanol cannot be met.

Based on the data in the petition, the agency agrees with the petitioner that the reason that the petitioner's polymer does not meet the current specifications for maximum extractives in water and 50 percent ethanol is the presence of salts and hydrated salts in the firm's processing water.

The agency finds that the optional chloroform-soluble extractives specifications requested by the petition will ensure the safe use of these polymers because the chloroform extraction step will extract any residual organic material derived from the polymer while leaving the salts and hydrated salts in the distilled water and 50 percent ethanol extracts. FDA, therefore, concludes that adoption of optional chloroform-soluble extractives specifications obviates the petitioner's request to increase the maximum extractable fraction specifications for distilled water and 50 percent ethanol. The agency consequently is adding optional specifications in § 177.1810(b)(2) for chloroform-soluble extractives that may be used when the specifications for distilled water and 50 percent ethanol cannot be met.

In addition, as the petitioner also requested, the agency is eliminating the conditions of use temperature limitations that have been cross-referenced in the regulation from 21 CFR 176.170(c), Table 2. The agency has reviewed the data submitted in this petition and in previous petitions on this regulation concerning the conditions of use of this additive. The data reveal that the petitioner has carried out extractions on the additive at the time and temperature conditions specified for use condition A, described in Table 2 of § 176.170(c). The petitioner, therefore, has submitted data for the worst-case condition of use of the additive. Consequently, there is no reason to restrict use of the additive to conditions of use D, E, F, and G, as currently provided for in the entry for this additive in § 177.1810(b)(2). The agency is thus removing the conditions of use temperature limitations in this final rule.

FDA concludes that the amendments, as set forth below, will assure the safe use of the additive.

Additionally, FDA is amending the regulation to include both metric and English units in the regulation.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has determined under 21 CFR 25.24(a)(9) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Any person who will be adversely affected by this regulation may at any time on or before June 7, 1986 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objections is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for Part 177 continues to read as follows:

Authority: Secs. 201(s), 408, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 346); 21 CFR 5.10 and 5.61.

2. In § 177.1810 by revising the table in paragraph (b) and by revising paragraph (c)(3) to read as follows:

§ 177.1810 Styrene block polymers.

* * * * *

(b) * * *

Styrene block polymers	Molecular weight (minimum)	Solubility	Glass transition points	Maximum extractable fraction in distilled water at specified temperatures, times, and thicknesses	Maximum extractable fraction in 50 percent ethanol at specified temperatures, times, and thicknesses
1. (i) Styrene block polymers with 1,3-butadiene; for use as articles or as components of articles that contact food of Types I, II, IV–B, VI, VII–B, and VIII identified in Table 1 in § 176.170(c) of this chapter under conditions of use D, E, F, and G described in Table 2 in § 176.170(c) of this chapter.	29,000	Completely soluble in toluene.	−98 °C (−144 °F) to −71 °C (−96 °F) and 86 °C (187 °F) to 122 °C (252 °F).	0.0039 mg/cm² (0.025 mg/in²) of surface at reflux temperature for 30 min on a 0.19 cm (0.075 in) thick sample.	0.002 mg/cm² (0.01 mg/in²) of surface at 66 °C (150 °F) for 2 hr on a 0.19 cm (0.075 in) thick sample.
(ii) Styrene block polymers with 1,3-butadiene; for use as components of pressure-sensitive adhesives that contact food of Types I, II, IV–B, VI, VII–B, and VIII identified in Table 1 in § 176.170(c) of this chapter under conditions of use C, D, E, F and G described in Table 2 in § 176.170(c) of this chapter, provided the pressure-sensitive adhesives be applied only to closure tapes for sealing containers having a capacity of not less than 160 cc (5.5 fluid ounces) and that the area of the adhesive exposed to food shall not exceed 4.03 cm² (0.625 in²). The pressure-sensitive adhesive may contain terpene resins as identified in § 175.125(b)(2) of this chapter.	29,000	do	do	do	Do.
2. Styrene block polymers with 2-methyl-1,3-butadiene; for use as articles or as components of articles that contact food of Types I, II, IV–B, VI, VII–B, and VIII identified in Table 1 in § 176.170(c) of this chapter.	29,000	do	−85 °C (−85 °F) to −47 °C (−53 °F) and 86 °C (187 °F) to 122 °C (252 °F).	0.002 mg/cm² (0.01 mg/in²) of surface at reflux temperature for 2 hr on a 0.071 cm (0.028 in) thick sample. (Optionally, maximum net residue soluble in chloroform shall not exceed 0.00020 mg/cm² (0.0013 mg/in²) of surface.).	0.002 mg/cm² (0.01 mg/in²) of surface at 66 °C (150 °F) for 2 hr on a 0.071 cm (0.028 in) thick sample. (Optionally, maximum net residue soluble in chloroform shall not exceed 0.00040 mg/cm² (0.0025 mg/in²) of surface.)
3. Styrene block polymers with 1,3-butadiene, hydrogenated; for use as articles or as components of articles that contact food of Types I, II, IV–B, VI, VII–B, and VIII identified in Table 1 in § 176.170(c) of this chapter.	16,000	do	−50 °C (−58 °F) to −30 °C (−22 °F) and 92 °C (198 °F) to 98 °C (208 °F).	0.002 mg/cm² (0.01 mg/in²) of surface at reflux temperature for 2 hr on a 0.071 cm (0.028 in) thick sample.	0.002 mg/cm² (0.01 mg/in²) of surface at 66 °C (150 °F) for 2 hr on a 0.071 cm (0.028 in) thick sample.

(c) * * *

(3) *Maximum extractable fractions in distilled water and 50 percent ethanol and the maximum net residue solubles in chloroform.* The maximum extractable fractions in distilled water and 50 percent ethanol, and the maximum net residue solubles in chloroform, shall be determined in accordance with § 176.170(d)(3) of this chapter using a sandwich form of the finished copolymer of the specified thickness and for the time and temperature specified in paragraph (b) of this section.

* * * * *

Dated: April 29, 1986.

Richard J. Rouk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–10167 Filed 5–6–86; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Parts 182 and 186

[Docket No. 78N–0032]

Tall Oil; Affirmation of GRAS Status as Indirect Human Food Ingredient

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that tall oil is generally recognized as safe (GRAS) as an indirect human food ingredient for use in cotton and cotton fabric used in dry food packaging. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

EFFECTIVE DATE: June 7, 1986.

FOR FURTHER INFORMATION CONTACT: Leonard C. Gosule, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In the Federal Register of June 2, 1978 (43 FR 24067), FDA published a proposal to affirm that tall oil is GRAS for use in cotton and cotton fabrics used in dry food packaging. FDA published the proposal in accordance with its announced review of the safety of GRAS and prior-sanctioned food ingredients.

Subsequently, in the Federal Register of October 2, 1985 (50 FR 40204), FDA published a tentative final rule in which FDA proposed to affirm that tall oil is GRAS for use in cotton and cotton fabrics used in dry packaging, without the specifications listed in the June 2, 1978, proposal.

No comments were received in response to the tentative final rule on tall oil. The agency is, therefore, adopting § 186.1557 without change.

The agency has previously determined under 21 CFR 25.24(b)(7) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. No new information or comments have been received that would affect the agency's previous determination. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

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In accordance with Executive Order 12291, FDA has previously analyzed the potential economic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by the Order. The agency has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

List of Subjects

21 CFR Part 182

Food ingredients, Species and flavorings.

21 CFR Part 186

Food ingredients, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Food Safety and Applied Nutrition, Parts 182 and 186 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. The authority citation for CFR Part 182 is revised to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046–1047 as amended, 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 371); 21 CFR 5.10 and 5.61.

§ 182.70 [Amended]

2. In § 182.70 *Substances migrating from cotton and cotton fabrics used in dry food packaging* by removing the entry for "Tall oil."

PART 186—INDIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. The authority citations under the sections are removed and the authority citation for 21 CFR Part 186 is revised to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046–1047 as amended, 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 371); 21 CFR 5.10 and 5.61.

4. Part 186 is amended by adding new § 186.1557 to read as follows:

§ 186.1557 Tall oil.

(a) Tall oil (CAS Reg. No. 8002–26–4) is essentially the sap of the pine tree. It is obtained commercially from the waste liquors of pinewood pulp mills and consists mainly of tall oil resin acids and tall oil fatty acids.

(b) In accordance with § 186.1(b)(1), the ingredient is used as an indirect human food ingredient with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as an indirect human food ingredient is based on the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a constituent of cotton and cotton fabrics used for dry food packaging.

(2) The ingredient is used at levels not to exceed current good manufacturing practice.

(c) Prior sanctions for this ingredient different from the uses established in this section, or from those listed in Part 181 of this chapter, do not exist or have been waived.

Dated: April 29, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-10168 Filed 5-6-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 625, 626, 630, 645, 650, 655, 666, 810, and 922

Design Standards for Highways; Technical Amendments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Highway Administration (FHWA) is updating the list of citations to publications which are incorporated by reference in 23 CFR Part 625 for application on Federal-aid projects. The list includes citations to publications containing standards, specifications, policies, guides, and references which have been approved for application in the geometric and structural design of federally funded highways. The revisions amend the regulations by: (1) Updating citations to reflect current publication dates and titles; (2) removing obsolete documents which are currently cited; (3) relocating citations to the appropriate section; (4) correcting citations to incorporate prior rulemaking actions; and (5) redesignating and adding certain publications that contain guidance and informational material to a new section. While the revisions are nonsubstantive in nature, they will serve to clarify the existing rule which was last completely updated in 1978.

EFFECTIVE DATE: May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Seppo I. Sillan, Chief, Geometric Design Branch, Office of Engineering (202) 426–0312 of Mr. Michael J. Laska, Office of the Chief Counsel (202) 426–0762, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The standards, specifications, policies, guides, and references (publications) that have been approved by the FHWA for application on all Federal-aid highway projects have been incorporated by reference in 23 CFR Part 625. Periodically, the publications that are incorporated by reference in Part 625 are reviewed by the initiating organizations. As a result of these reviews, certain publications are updated or replaced with new editions. For publications which are updated or replaced with new editions, the citations to the publications referenced in Part 625 must be revised.

In addition, as the title to § 625.3 indicates, the FHWA has not differentiated, for the purpose of incorporation by reference, between publications that contain standards and policies and those that contain guides and references. In order to accurately reflect a publication list which differentiates between publications establishing Federal standards, and publications containing guidance and informational material, a new section entitled "Guides and references"

(references) is being added to Part 625. As a result, the incorporation by reference will be removed for certain publications which are guidance and informational material. The citations to these publications will be transferred to the new section for references. Other informational publications which are valuable in attaining good design and uniformity will be added to the new section.

In addition to citations being added, updated, or redesignated, other technical amendments to Part 625 are required in order to maintain a current and accurate listing of publications which are approved for application on Federal-aid projects. The technical amendments contained in this document include: The deletion of citations to publications which are obsolete or no longer applicable; the relocation of citations to a more appropriate section; and the correction of citations to incorporate actions which have been the subject of prior rulemaking actions. The following actions are being taken in order to update Part 625 to reflect current practice.

1. General—Former Section 625.3 "Standards, specifications, policies, guides and references."

Section 625.3 has been redesignated to read Section 625.4 "Standards, policies, and standard specifications."

This section will list the citations to those publications that are incorporated by reference and contain specific criteria and controls for the design of highways.

A portion of the introductory text included in former § 625.3 was added at 50 FR 14914, April 15, 1985. The additional text specified where and how copies of the publications cited in Part 625 can be inspected, copied, or purchased. This supplemental information will be placed in the appendix.

A number of publications incorporated by reference in this section have been replaced with updated editions. The reference citations for these publications are being revised to reflect the dates and titles of the most current editions.

2. Revisions—Former § 625.3(a) "Roadway and appurtenances."

Former § 625.3(a)(5) "A Policy on the Accommodation Of Utilities on Freeway Rights-of-Way, AASHO 1969" (Policy) is being replaced to include the current citation to the Policy which is incorporated by reference in the final rule on accommodation of utilities published on May 15, 1985 (50 FR 20351). The reference will now read "Accommodation of Utilities, FHWA, 23 CFR Part 645, Subpart B."

Former § 625.3(a)(10) "AASHTO Interim Guide for Design of Pavement Structures—1972 Chapter III Revised, 1981, AASHTO" (Guide) is being replaced by a reference to 23 CFR Part 626. Part 626 sets forth the pavement design policy for Federal-aid highway projects and currently approves the Guide for Federal application. The reference will now read "Pavement Design, FHWA, 23 CFR Part 626."

3. Deletions—Former § 625.3(a), "Roadway and appurtenances."

Former § 625.3(a)(9), "Policy on Interstate System Projects, FHWA, FHPM 6–3–2–4," is being deleted because enactment of the Federal-aid Highway Act of 1981 redefined the term "Interstate Completion"; therefore, the policy contained in the Federal-aid Highway Program Manual (FHPM) section is no longer required to be applied to Interstate System projects. The section will be retained in the FHPM for informational purposes.

Former § 625.3(a)(16) "Safer Off-System Roads, FHWA, 23 CFR Part 922" is being deleted because the program is no longer being funded. Since the Safer Off-System Road program is no longer being appropriated funding, no new projects have been initiated and existing projects are being completed and closed out. For this reason, the reference is obsolete and being removed.

4. Relocation—Former § 625.3(c) "Traffic control" and Part 655 "Traffic Operations."

The references in former § 625.3(c) "Traffic control" address the subject areas of traffic control, traffic signs, traffic surveillance, motorist aid systems, etc. The primary regulations dealing with these subject areas are located in Part 655 "Traffic Operations." In order to more accurately reflect regulatory material with the appropriate references, the publications listed in § 625.3(c) are transferred to Part 655. Former § 625.3(c)(7), "National Standards for Signs Giving Specific Information in the Interest of the Traveling Public, FHWA, 23 CFR Part 655, Subpart C" is being deleted because the standards have been incorporated in the "Manual on Uniform Traffic Control Devices for Streets and Highways, FHWA, 1978, as amended January 1985" which is incorporated by reference and will be located in § 655.601(a).

5. Redesignations and additions—New § 625.5 "Guides and references."

A new § 625.5 entitled "Guides and references" is being added to Part 625 in order to give notice to the public of those publications used or referred to by the FHWA and the States in the design of highways. The publications listed in this section are not incorporated by reference because they are only guidance in character. After a review of the publications currently incorporated by reference in Part 625, the following are transferred from former § 625.3 and placed in new § 625.5 as a guide or informational reference.

Redesignations to 625.5(a), "Roadway and appurtenances."

—An Informational Guide for Roadway Lighting, AASHTO, 1984.

—Highway Design and Operational Practices Related to Highway Safety, Report of the Special AASHTO Traffic Safety Committee, AASHTO, 1974.

—Guide for Selecting, Locating, and Designing Traffic Barriers, AASHTO, 1977. Barriers classified as either operational or experimental, except Type MB1 median barriers, are acceptable for Federal-aid projects.

—Skid Accident Reduction Program, FHWA, FHPM 6–2–4–3.

—Guidelines for Skid Resistant Pavement Design, AASHTO 1976.

Redesignation to 625.5(b), "Bridges and structures."

—A Guide for Protective Screening of Overpass Structures, AASHO, 1969.

Redesignations to 625.5(d), "Other."

—Transportation Glossary, AASHTO, 1983.

—A Guide on Safety Rest Areas for the National System of Interstate and Defense Highways, AASHO, 1966.

In order for Part 625 to reflect a complete and accurate list of guides and references pertinent to highway design, the following publications are being added to new § 625.5.

Additions to 625.5(a), "Roadway and appurtenances."

—An Informational Guide on Fencing Controlled Access Highways, AASHO, 1967.

—An Informational Guide for Preparing Private Driveway Regulations for Major Highways, AASHO, 1960.

—Highway Capacity Special Report 209, Highway Capacity Manual, Transportation Research Board, 1985.

—Handbook of Highway Safety Design and Operating Practices, FHWA, 1978.

—Guidelines on Pavement Management, AASHTO, 1985.

Additions to 625.5(b), "Bridges and structures."

—Manual for Maintenance Inspection of Bridges, AASHTO, 1983.

—Guide Specifications for Fracture Critical Non-Redundant Steel Bridge Members, AASHTO, 1978, and Interim Specifications, Bridges, AASHTO, 1981.

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—Guide Specifications for Horizontally Curved Highway Bridges, 1980, and Interim Specifications, Bridges, AASHTO, 1981 and 1982.
—Guide Specifications for Seismic Design of Highway Bridges, AASHTO, 1983.
—Highway Drainage Guidelines, Volumes I through VI, AASHTO, 1979, Volume VII, AASHTO, 1982.
Additions to 625.5(c), "Materials."
—Guide Specifications for Highway Construction, AASHTO, 1979.
Additions to 625.5(d), "Other."
—A Guide for Erecting Mailboxes on Highways, AASHTO, 1984.
—Guide for Development of New Bicycle Facilities, AASHTO, 1981.

6. Elimination—Section 625.7 "Special considerations."

This section establishes the requirement for curb ramps on pedestrian crosswalks for physically handicapped persons. Since this provision was added to section 625, regulations on pedestrian and bicycle accommodations contained in Part 652 were extensively revised (March 22, 1984; 49 FR 10682). Because § 652.13(b) contains the curb ramp requirement, § 625.7 is considered duplicative and is deleted.

Regulatory Impact

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. The revisions contained in these amendments are primarily editorial in nature. For publications which have become obsolete, the citations have been deleted. For publications which have been replaced with new editions, the citations have been updated to reflect current publication dates and titles. In some cases, the current editions contain minor changes in content, but the overall basic geometric design criteria remains essentially the same. For those publications that are being added, the new material is not in fact a standard or requirement. These new nonregulatory publications simply provide guidance and information for use at the discretion of the designer. Since the revisions included in this document are technical in nature and make no substantive changes to the regulations, the FHWA finds good cause to make the amendments final without the opportunity for comment and without a 30-day delay in effective date required by the Administrative Procedure Act. Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information due to the technical nature of the document. Accordingly, the amendments are effective upon publication.

Since these amendments do not alter the basic design criteria and the burdens imposed on the States are not affected, the impact on the overall highway program is negligible. Therefore, a full regulatory evaluation has not been prepared. For the foregoing reasons, and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

List of Subjects in 23 CFR Parts 625 and 655

Design standards, Grant programs—transportation, Highways and roads, Incorporation by reference, Signs and symbols, Traffic regulations.

In consideration of the foregoing, the Federal Highway Administration is amending Chapter I of Title 23, Code of Federal Regulations, as set forth below.

Issued on: May 2, 1986.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

The FHWA hereby amends Chapter I of Title 23, Code of Federal Regulations, as follows:

1. Part 625 is revised to read as follows:

PART 625—DESIGN STANDARDS FOR HIGHWAYS

Sec.
625.1 Purpose.
625.2 Policy.
625.3 Application.
625.4 Standards, policies, and standard specifications.
625.5 Guides and references.

Appendix A—Documents cited in Part 625.

Authority: 23 U.S.C. 109, 315, and 402; 49 CFR 1.48(b).

§ 625.1 Purpose.

To designate those standards, specifications, policies, guides and references that are acceptable to the Federal Highway Administration (FHWA) for application in the geometric and structural design of highways.

§ 625.2 Policy.

(a) Plans and specifications for proposed Federal-aid highway projects shall provide for a facility that will—

(1) Adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance; and

(2) Be designed and contracted in accordance with standards best suited to accomplish the foregoing objectives and to conform to the particular needs of each locality.

(b) The development and overall management of highway facilities must be considered as a continuing program. This process of highway management commences with planning and extends through design, construction, maintenance, and operation. To assure a continuing acceptable level of safe traffic service, it is essential to provide for adequate maintenance and periodic resurfacing, restoration, and rehabilitation (RRR) throughout the life of the highway. The RRR work is defined as work undertaken to extend the service life of an existing highway and enhance highway safety. This includes placement of additional surface material and/or other work necessary to return an existing roadway, including shoulders, bridges, the roadside, and appurtenances to a condition of structural or functional adequacy. The RRR work may include upgrading of geometric features, such as minor roadway widening, flattening curves, or improving sight distances. The RRR work is an essential part of any highway program, and each State and local agency should provide for these types of improvements in each annual highway program.

(c) An important goal of the FHWA is to provide the highest practical and feasible level of safety for people and property associated with the Nation's highway transportation systems and to reduce highway hazards and the resulting number and severity of accidents on all the Nation's highways. Accordingly, the only constraint on the application of Federal-aid funds to RRR work is that they must be used to provide a facility that adequately meets existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance, and acceptable levels of community and environmental impact. The RRR projects shall be designed and constructed in a manner that will enhance highway safety and accomplish the foregoing objectives according to the particular needs of each State and locality.

§ 625.3 Application.

(a) The standards, policies, and standard specifications contain specific criteria and controls for the design of highways. Deviations from specific minimum values therein are to be handled in accordance with procedures in paragraph (f) of this section. If there is a conflict between criteria in the documents enumerated in § 625.4 of this part, the latest listed standard, policy, or standard specification will govern.

(b) The guides and references (handbooks, reports, etc.) include information and general controls that are valuable in attaining good design and in promoting uniformity. They are intended to provide general program direction. Project-by-project deviations from the criteria in guides and references do not require handling as exceptions under paragraph (f) of this section.

(c) Application of FHWA regulations, although cited in § 625.4 of this part as standards, policies, and standard specifications, shall be as set forth therein.

(d) This regulation does not establish Federal standards for work that is not federally funded; however, the safety related criteria of the referenced documents are established as goals for developing State and local safety programs for all public highways as required by Highway Safety Program Standard 12, 23 CFR 1204.4.

(e) The Division Administrator shall determine the applicability of the roadway geometric design standards to traffic engineering and safety projects for signing, marking, signal installation, and traffic barriers which include very minor or no roadway work. Formal findings of applicability are expected only as needed to resolve controversies.

(f) Exceptions. (1) Approval within the delegated authority provided by FHWA Order 1-1(2) may be given on a project basis to designs which do not conform to the minimum criteria as set forth in the standards, policies, and standard specifications for:

(i) Experimental features on projects; and

(ii) Projects where conditions warrant that exceptions be made.

(2) The determination to approve a project design that does not conform to the minimum criteria is to be made only after due consideration is given to all project conditions such as maximum service and safety benefits for the dollar invested, compatibility with adjacent sections of roadway and the probable time before reconstruction of the section due to increased traffic demands or changed conditions.

§ 625.4 Standards, policies, and standard specifications.

(a) *Roadway and appurtenances.* (1,2)
(1) A Policy on Geometric Design of Highways and Streets, AASHTO 1984.(3)
(2) A Policy on Design Standards—Interstate System, AASHO 1967.(3)
(3) The geometric design standards for resurfacing, restoration, and rehabilitation (RRR) projects on highways other than freeways shall be the procedures and the design or design criteria established for individual projects, groups of projects, or all nonfreeway RRR projects in a State, and as approved by the FHWA. The other geometric design standards in this section do not apply to RRR projects on highways other than freeways, except as adopted on an individual State basis. The RRR design standards shall reflect the consideration of the traffic, safety, economic, physical, community, and environmental needs of the projects.
(4) A Policy on U-Turn Median Openings on Freeways, AASHO 1960.(3)
(5) A Policy on Access Between Adjacent Railroads and Interstate Highways, AASHO 1960.(3)
(6) Erosion and Sediment Control on Highway Construction Projects, FHWA, 23 CFR Part 650, Subpart B.
(7) Location and Hydraulic Design of Encroachments on Flood Plains, FHWA, 23 CFR Part 650, Subpart A.
(8) Water Supply and Sewage Treatment at Safety Rest Areas, FHWA, 23 CFR Part 650, Subpart E.
(9) Procedures for Abatement of Highway Traffic Noise and Construction Noise, FHWA, 23 CFR Part 772.
(10) Accommodation of Utilities, FHWA, 23 CFR Part 645, Subpart B.
(11) Pavement Design, FHWA, 23 CFR Part 626.

(b) *Bridges and structures.* (1) Standard Specifications for Highway Bridges, Thirteenth Edition, AASHTO 1983, and Interim Specifications, Bridges, AASHTO 1984 and 1985.(3)
(2) Standard Specifications for Movable Highway Bridges, AASHTO 1978.(3)
(3) Standard Specifications for Welding of Structural Steel Highway Bridges, Third Edition, AASHTO 1981.(3)
(4) Reinforcing Steel Welding Code AWS D 1.4-79.(4)
(5) Standard Specifications for Structural Supports for Highway Signs, Luminaries, and Traffic Signals, AASHTO 1975.(3)

(c) *Materials.* (1) General Materials Requirements, FHWA, 23 CFR Part 635, Subpart D.
(2) Standard Specifications for Transportation Materials and Methods of Sampling and Testing, Part I and Part II, AASHTO 1982.(3)
(3) Sampling and Testing of Materials and Construction, FHWA, 23 CFR Part 637, Subpart B.

§ 625.5 Guides and references.

The following are citations to publications which are primarily informational or guidance in character and serve to assist the public in knowing those materials which are considered by FHWA to provide valuable information in attaining good design.

(a) *Roadway and appurtenances.* (1) An Informational Guide for Roadway Lighting, AASHTO 1984.(3)
(2) Highway Design and Operational Practices Related to Highway Safety, Report of the Special AASHTO Traffic Safety Committee, AASHTO 1974.(3)
(3) Guide for Selecting, Locating and Designing Traffic Barriers, AASHTO 1977.(3) Barriers classified as either operational or experimental, except Type MB 1 median barriers, are acceptable for Federal-aid projects.
(4) An Informational Guide on Fencing Controlled Access Highways, AASHO 1967.(3)
(5) An Informational Guide for Preparing Private Driveway Regulations for Major Highways, AASHO 1960.(3)
(6) Highway Capacity Special Report 209, Highway Capacity Manual, Transportation Research Board 1985.(5)
(7) Guidelines on Pavement Management, AASHTO 1985.
(8) Handbook of Highway Safety Design and Operating Practices, FHWA 1978.(2)
(9) Skid Accident Reduction Program, FHWA, FHPM 6-2-4-3.(2)
(10) Guidelines for Skid Resistant Pavement Design, AASHTO 1976.(3)

(b) *Bridges and structures.* (1) A Guide for Protective Screening of Overpass Structures, AASHO 1969.(3)
(2) Manual for Maintenance Inspection of Bridges, AASHTO 1983.(3)
(3) Guide Specifications for Fracture Critical Non-Redundant Steel Bridge Members, AASHTO 1978, and Interim Specifications, Bridges, AASHTO 1981.(3)
(4) Guide Specifications for Horizontally Curved Highway Bridges

[2] For footnotes to this part, see Appendix A.

1980, and Interim Specifications, Bridges, AASHTO 1981 and 1982.(3)

(5) Guide Specifications for Seismic Design of Highway Bridges, AASHTO 1983.(3)

(6) Highway Drainage Guidelines, Volumes I through VI, AASHTO 1979, Volume VII, AASHTO 1982.(3)

(c) *Materials.* Guide Specifications for Highway Construction, AASHTO 1979.(3)

(d) *Other.* (1) Transportation Glossary, AASHTO 1983.(3)

(2) A Guide for Erecting Mailboxes on Highways, AASHTO 1984.(3)

(3) A Guide on Safety Rest Areas for the National System of Interstate and Defense Highways, AASHO 1968.(3)

(4) Guide for Development of New Bicycle Facilities, AASHTO 1981.(3)

Appendix A—Documents Cited in Part 625

1. The design standards listed in § 625.4 are incorporated by reference and are on file at the Office of the Federal Register in Washington, DC.

2. These documents may be reviewed at the Department of Transportation Library, Room 2200, DOT Headquarters Building, 400 7th Street, SW., Washington, DC 20590. These documents are also available for inspection and copying as provided in 49 CFR Part 7, Appendix D.

3. American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street, NW., Washington, DC 20001.

4. American Welding Society, 2501 Northwest 7th Street, Miami, Florida 33125.

5. Transportation Research Board, 2101 Constitution Avenue, NW., Washington, DC 20418.

PART 655—TRAFFIC OPERATIONS

Subpart F—Traffic Control Devices on Federal-Aid and Other Streets and Highways [Amended]

2. The authority citation for Part 655 continues to read as follows:

Authority: 23 U.S.C. 109(d), 114(a), 217, 315, 402(a); 23 CFR 1204.4; and 49 CFR 1.48(b).

3. Part 655, Subpart F is amended by revising § 655.601 to read as follows:

§ 655.601 Purpose.

To prescribe the policies and procedures of the Federal Highway Administration (FHWA) to obtain basic uniformity of traffic control devices on all streets and highways in accordance with the following references that are approved by the FHWA for application on Federal-aid projects:

(a) Manual on Uniform Traffic Control Devices for Streets and Highways, FHWA, 1978, as amended January 1985. (This publication is incorporated by reference and is on file at the Office of the Federal Register in Washington, DC. It may be purchased from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402 and has Stock No. 050-001-81001-8. It is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D).

(b) Standard Alphabets for Highway Signs, FHWA, 1986 Edition, Reprinted May 1972. (This publication is incorporated by reference and is on file at the Office of the Federal Register in Washington, DC. This document is available for inspection and copying as provided in 49 CFR Part 7, Appendix D).

(c) Traffic Surveillance and Control, FHWA, 23 CFR Part 655, Subpart D.

(d) Motorist Aid Systems, FHWA, 23 CFR Part 655, Subpart G.

(e) Pavement Marking Demonstration Program, FHWA, 23 CFR Part 920.

Technical Amendments

Due to the revision of 23 CFR Part 625 and the transfer of references from former § 625.3(c) to Part 655, Subpart F, the following technical amendments are necessary to correct citations found in other parts of title 23, CFR, and are set forth below.

PART 626—[AMENDED]

4. In § 626.5, paragraph (a) is amended by removing footnote number one and adding the following parenthetical text after the first full sentence which ends with the words "highway projects.":

§ 626.5 Policy.

(a) * * * (This publication is incorporated by reference and is on file at the Office of the Federal Register in Washington, DC. It is available for inspection from the FHWA Washington Headquarters and all FHWA Division and Regional Offices as prescribed in 49 CFR Part 7, Appendix D.)

* * * * *

PART 630—[AMENDED]

Subpart J—[Amended]

5. In § 630.1004, the citation in the footnote is corrected by removing "23 CFR 625.3" and inserting in lieu thereof "23 CFR 655, Subpart F."

PART 645—[AMENDED]

Subpart B—[Amended]

6. In § 645.207, paragraph (b) is amended by removing the sentence which reads, "This publication is incorporated by reference and is on file at the Office of the Federal Register in Washington, D.C."

PART 650—[AMENDED]

Subpart C—[Amended]

7. In § 650.301, the paragraph is amended by removing the words "Highway Definitions Manual" and inserting in lieu thereof the words "Transportation Glossary."

PART 650—[AMENDED]

Subpart F—[Amended]

8. In § 650.605(a), the references are corrected by removing "23 CFR 625.5" and "23 CFR 625.3" and inserting in lieu thereof "23 CFR 625.3" and "23 CFR 625.4", respectively.

PART 655—[AMENDED]

Subpart F—[Amended]

9. In § 655.603, paragraph (e) is revised to read as follows:

§655.603 Standards.

* * * * *

(e) *Specific information signs.* Standards for specific information signs are contained in the MUTCD.

PART 666—[AMENDED]

§ 666.9 [Amended]

10. In § 666.9, the AASHO publication "Highway Definition" has been superseded and removed from incorporation by reference in title 23, CFR, therefore § 666.9 is amended by removing the title "Highway Definitions" and inserting in its place "Transportation Glossary." Also, in footnote number three, the title is similarly changed and the second sentence concerning incorporation by reference is removed.

PART 810—[AMENDED]

§ 810.4 [Amended]

11. In § 810.4(b)(4), footnote number one is corrected by removing the citation "23 CFR 625.3" and inserting in lieu thereof "23 CFR 655, Subpart F."

PART 922—[AMENDED]

§ 922.13 [Amended]

12. In § 922.13(c), footnote number one is corrected by removing the citation "23 CFR 625.3(c)(1)" and inserting in lieu thereof "23 CFR 655, Subpart F."

[FR Doc. 86-10347 Filed 5-6-86; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 990

[Docket No. R-86-1126; FR-1775]

Annual Contributions for Operating Subsidy-Performance Funding System; Determination of Operating Subsidy

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This final rule establishes new conditions under which a Public Housing Agency (including an Indian Housing Authority) may use a Projected Occupancy Percentage of less than 97% in computing its per-unit Operating Income Level under the Performance Funding System. A PHA that is defined as a low occupancy PHA is required to have a HUD-approved Comprehensive Occupancy Plan in order to use a Projected Occupancy Percentage of less than 97%. The Plan includes yearly, PHA-wide occupancy goals. A PHA that is defined as a low occupancy PHA may use its yearly, PHA-wide occupancy goal, rather than 97%, to compute its Operating Income Level if it has a HUD-approved Comprehensive Occupancy Plan. A PHA with a high occupancy rate (equal to or greater than 97%) may use 97% as its Projected Occupancy Percentage in computing its per-unit Operating Income Level. These changes encourage a PHA to maximize its total income by reducing its vacancies. They eliminate provisions in the the former rule that created disincentives for reducing vacancy rates.

DATES: Effective date: June 13, 1986.

FOR FURTHER INFORMATION CONTACT: Nancy S. Chisholm, Director, Policy Staff, Room 4118, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-5000, telephone (202) 755-6713. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

On June 24, 1985, the Department published an interim rule (50 FR 25951). (A correction and extension of comment period was published at 50 FR 40196 on October 2, 1985.) The interim rule which became effective on August 2, 1985, established new conditions under which a Public Housing Agency (including an Indian Housing Authority) may use a Projected Occupancy Percentage of less than 97% in computing its per-unit Operating Income Level under the Performance Funding System (PFS).

Discussion of Public Comments and Changes Made in the Final Rule

The Department received nine public comments in response to the interim rule. (The interim rule, itself, followed a proposed rule published at 49 FR 22663 on May 31, 1985. For the response to the 43 public comments on the proposed rule see the preamble to the interim rule at 50 FR 25954 to 25957.)

There follows a discussion of the public comments on the interim rule and of the changes in the final rule made in response to the public comment.

General Comments

While most of the commenters perceived the interim rule to be a significant improvement over the proposed rule, certain commenters raised generalized objections to either the substance of the rule or its method of development.

One commenter characterized the rule as a major structural change in the calculation of the PFS which contravened former OMB Director David Stockman's commitment to Senator Jake Garn and Congressman Fernand St Germain that there would be no major changes in the PFS until Congress had the opportunity to draft a new authorization bill (an issue that also was raised with respect to the proposed rule). Some commenters reiterated another objection made to the proposed rule, namely, that the rulemaking constituted a piecemeal approach and should be made as part of a comprehensive revision of the PFS. Certain other changes to the PFS identified as desirable as part of an overall revision to the PFS included: Providing adjustments to the Allowable Expense Level beyond the base year, developing a system for funding costs that are beyond the PHA's control and establishing a "peer review" process of HUD decisions (including PFS-related decisions) that have a major impact on PHAs and the public.

The Department addressed similar issues in the preamble to the interim rule beginning at 50 FR 25954. The Department continues to believe its position on these issues is sound. This rulemaking does not effect fundamental changes or structural program reforms, but rather is designed to correct identified deficiences in existing regulations. As stated in the preamble to the interim rule, "the rule addresses a discrete problem that does not need to be merged with other issues. The Department believes that the public interest is best served by implementing this rule quickly."

One commenter criticized the lack of any specific commitment of money by HUD to match PHA initiatives for reducing vacancies. This commenter also noted that HUD should press PHAs for well-rounded management efforts and not simply for one isolated, albeit important, housing initiative. This rule, it is true, does not provide additional funding for initiatives undertaken by PHAs to reduce vacancies. Establishing a new funding mechanism would be a fundamental change which the Department is committed not to make without seeking authorizing legislation. Furthermore, the Department already provides funding through the Comprehensive Improvement Assistance Program (CIAP) which may be used by PHAs under a comprehensive modernization program to address vacancy problems. CIAP also provides management improvement funds which may be used by PHAs to improve their management.

Comments Addressed to Specific Sections

Section 990.102 Definitions.

Among other changes, the interim rule revised the definition of "Unit Months Available" in § 990.102(q) to provide that, for PHA Requested Budget Years starting on or after July 1, 1991, a unit in a vacant building that is in a project determined by HUD to be nonviable is not considered available for occupancy and is not counted as a unit eligible for subsidy. One commenter objected to including a July 1, 1991, cutoff of subsidy for these units on the grounds that the problem of public housing developments being considered nonviable will not be resolved by eliminating funding for units in these developments. The Department believes that this objection is based on a misunderstanding of the purpose of the cutoff and its relationship to the Department's efforts to modernize units. CIAP funding of projects with serious physical, locational, or other problems is provided when HUD determines that the proposed modernization program will eliminate or effectively mitigate the problems, at a reasonable cost. If the proposed modernization seems unlikely to eliminate or sufficiently mitigate the underlying problems, or if it is not cost reasonable, the project is considered nonviable. Nonviability is a determination that applies to a project in light of a specific modernization application. It is possible that a different modernization program could be

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submitted that would determined likely to make the project viable.

Under CIAP, all large and medium sized PHAs are to have submitted a comprehensive plan assessing the modernization needs for each project by early 1987. Before July 1, 1991, HUD will have had an opportunity to review these plans and to identify projects that are not likely to be viable under the treatment proposed in the plans and PHAs will have had time to revise their modernization plans, for these projects or to determine to dispose of the projects. With respect to small PHAs, the Department will make viability determinations for individual projects when application is made for modernization funds.

The Department has adopted the July 1, 1991, cutoff of operating subsidy for units in vacant buildings in projects determined to be nonviable because the Department believes that it should not continue to provide operating subsidy for units that clearly are not providing adequate housing to anyone and for which there are no reasonable plans to create decent living conditions.

The same commenter requester that the regulation specifically state that vacant units in vacant viable buildings will continue to receive subsidy after 1991. The rule defines "unit months available" and creates an exception for one category of vacant units, namely, those that are located in vacant buildings in nonviable projects after July 1, 1991. It would unnecessarily complicate the rule to restate that other vacant units are considered available for occupancy.

Another commenter objected to the cutoff of funds bacause PHAs are not given a voice in the viability decision or in establishing procedures for determining when projects are considered nonviable. This commenter argued that any decision to find a project nonviable should include a review of whether HUD has fulfilled its responsibilities in providing modernization and other funding, of the need for public housing in the community, and of the feasibility of providing replacement housing for lower income families in any other way.

Decisions on whether a project should be funded for modernization are made by HUD under 24 CFR Part 968, which was promulgated through rulemaking (see 47 FR 22315, May 21, 1982). PHAs are involved in the determination of viability in that they design the treatment plans for modernization. Nevertheless, the final viability determinations must be made by HUD, since HUD is responsible for the administration of CIAP. These determinations assess the likely viability of a project if funds were available; lack of MUD rehabilitation funding is not a basis for finding a project nonviable. HUD does an assessment of the feasibility of relocation as a standard part of its viability determination and will provide modernization funds for a nonviable project if relocation of tenants is not feasible.

The Department has not adopted the commenter's suggestion that a determination of nonviability take into consideration an assessment of the need for public housing in the community in deciding whether a project is viable. Such an assessment is not relevant to the issue of viability, since vacant, nonviable projects are not currently contributing to meeting this need nor can they be rehabilitated to provide adequate housing.

Several commenters argued that units that have been approved for nondwelling use should be considered in determining the PHA's Allowable Expense Level (AEL). They argued that such units enhance the quality of life for existing residents and surrounding neighborhoods but usually generate only nominal rents while still generating costs for the PHA. Units approved by HUD for nondwelling use are not considered available for occupancy within the definition of "unit months available" in § 990.102 and, therefore, are not included in the determination of the PHA's Allowable Expense Level. This exclusion of units approved for nondwelling use has been in the PFS definition of "unit months available" since the Performance Funding System regulations were first promulgated on April 16, 1975, at 40 FR 17008. While the interim rule revised the definition, it did not propose to change this exclusion. The Department recognizes that there is a benefit to project residents for units that are used for nondwelling purposes and permits such use, conditioned upon HUD approval. However, this benefit must be measured against the fact that units approved for nondwelling use are no longer available to house families. After considering the public comment, the Department has not adopted the suggestion because it believes that the current rule strikes the appropriate balance by permitting units to be used for nondwelling purposes but not providing operating subsidies for these units.

Several commenters also urged that PHAs be permitted to use their original housing unit configuration for the purpose of calculating their AEL even though the unit configuration has been altered subsequently and reduced by combining smaller bedroom-sized units to create larger bedroom-sized units. This recommendation is outside the scope of the changes made in the interim rule. It involves a basis change in the computation of the Allowable Expense Level which the Department does not consider an appropriate subject matter for this final rule.

The Department has made "Vacant On-Schedule Modernization Units" a defined term to make the regulation text easier to read.

Section 990.109 Projected Operating Income Level.

Section 990.109(b)(3)(i) authorizes a PHA with an Actual Occupancy Percentage equal to or greater than 97% to use 97% as its Projected Occupancy Percentage. One commenter recommended that a PHA in this category be allowed to use a 97% Projected Occupancy Percentage immediately. It was the Department's intent when it published the interim rule to have the revisions apply uniformly to a PHA's first Requested Budget Year beginning on or after July 1, 1986. The Department published a correction document on October 2, 1985, at 50 FR 40196 to add a new § 990.119 to make it clear that the revisions made by the interim rule would not apply to Requested Budget Years beginning October 1, 1985, and January 1, and April 1, 1986. The Department does not believe there is any compelling reason to accelerate implementation of the provisions which would benefit only high occupancy PHAs.

The comments urging the Department to use an Actual Occupancy Percentage of less than 95% (rather than less than 97%) as the threshold for determining when a PHA must do a Comprehensive Occupancy Plan also apply under this section to how a PHA determines its Projected Occupancy Percentage. For the reasons stated in the discussion of § 990.118 below, the Department has retained the 97% criterion.

Section 990.109(b)(3)(iv) has been revised to make it clear that there are three types of PHAs that fall within the category of low occupancy PHAs without an approved Comprehensive Occupancy Plan. The first type is a PHA that has completed the term of a Comprehensive Occupancy Plan but has not, either under the Plan or afterwards, achieved an Actual Occupancy Percentage of 97% or had five or fewer vacant units other than vacant, on-schedule modernization units. The second is a low occupancy PHA that could submit a Comprehensive Occupancy Plan but elects not to submit one. The third is a PHA that submits a Plan that is disapproved by HUD. The reason for these changes are set out in the discussion of related changes to § 990.118(a) below.

Section 990.109(b)(3)(iv) permits the first type of low occupancy PHA described above, in determining its Projected Occupancy Percentage, to discount vacant units that are vacant for reasons beyond the PHA's control, as described in § 990.118(i). This type of PHA, however, is not authorized to do another Comprehensive Occupancy Plan unless it first achieves a 97% Actual Occupancy Rate and subsequently falls below that level. The other two types of low occupancy PHAs can only discount these units if they develop approved Comprehensive Occupancy Plans.

Section 990.117 Determining Actual Occupancy Percentage.

Under the interim rule, PHAs for their first Requested Budget Year on or after July 1, 1986, would determine whether they are required to submit a Comprehensive Occupancy Plan based on their Actual Occupancy Percentage as of September 30, 1984. For subsequent Requested Budget Years, the PHAs would make this determination based on their Actual Occupancy Percentage as of the first day of the month that is six months before the respective Requested Budget Year.

Several commenters questioned the use of the September 30, 1984, date for determining a PHA's Actual Occupancy Percentage for its first Requested Budget Year on or after July 1, 1986, because the data would be stale. They recommended using the same criterion that is used for subsequent Requested Budget Years. The commenters also recommended that HUD either provide exceptions to the so-called "snapshot" approach to determining Actual Occupancy Percentages to account for aberrations in the vacancy rate, or permit the use of an average over time. The Department agrees with these recommendations and has revised § 990.117 to (1) eliminate September 30, 1984, as a date for determining Actual Occupancy Percentage, except as discussed below, and (2) permit a PHA to determine its Actual Occupancy Percentage, at its option, either as of the last day of the month ending six months before the Requested Budget Year or as an average for the month ending six months before the Requested Budget Year. For example, a PHA with a Requested Budget Year beginning October 1, 1986, could determine its Actual Occupancy Percentage either *as of* March 31, 1986, or based on its average occupancy *during* March of 1986. (If a PHA elects to use the average approach, it must maintain records to document its computation of its Actual Occupancy Percentage.)

The Department has recently started the process to change the Report Date for Form HUD–51234, Report on Occupancy for Public and Indian Housing, to coincide with the last day of the month ending six months before the start of the PHA's fiscal year. Currently, the Report Date for this Form, for all PHAs, is September 30th. Since this change is not expected to become effective until after a PHA with a fiscal year beginning July 1, 1986, could submit a Comprehensive Occupancy Plan, the Department has determined that good cause exists and, under § 999.101, waives the requirements of § 990.117 to permit a PHA that has a fiscal year beginning July 1, 1986, and chooses to use the "snapshot" method to determine its Actual Occupancy Percentage, to use any of the following dates: September 30, 1984, as provided in the interim rule; September 30, 1985, the Report Date for Form HUD–51234 as of January 1, 1986; or December 31, 1985, the date provided in this final rule. If a PHA with a fiscal year beginning July 1, 1986 chooses to use a monthly average to determine its Actual Occupancy Percentage, it must determine the average for December 1985.

Section 990.118 Comprehensive Occupancy Plan Requirements.

In the interim rule, paragraph (a) of this section provides that a PHA with an Actual Occupancy Percentage of less than 97% shall prepare and submit a Comprehensive Occupancy Plan to HUD. One commenter recommended revising the paragraph to permit a PHA to elect to use 97% rather than do a Plan. The interim rule already permits a PHA to take this course of action, since a PHA that failed to submit a Comprehensive Occupancy Plan and had an Actual Occupancy Percentage less than 97% would be a "low occupancy PHA without an approved Comprehensive Occupancy Plan" under § 990.109(b)(3)(iv) and would be required to use 97% as its Projected Occupancy Percentage. The Department recognizes, however, that the regulation could be clearer on this point and has made the following revisions: First, § 990.118(a) has been revised to make the preparation of a Comprehensive Occupancy Plan permissive. Second, as discussed above, § 990.109(b)(3)(iv) has been revised to make it explicitly applicable to a PHA that is authorized to submit a Comprehensive Occupancy Plan but elects not to submit one—thereby making it clearer that such a PHA must use 97% as its Projected Occupancy Percentage.

Several commenters argued that the cutoff point for requiring a Comprehensive Occupancy Plan should be an Actual Occupancy Percentage of less than 95%, rather than less than 97%. This issue was also raised by public comments on the proposed rule, and was addressed by HUD in the preamble to the proposed rule at 50 FR 25955. The Department continues to believe that the 97% standard is preferable. It is important that Federal funds provided to house lower income families be used efficiently. The rule is intended to encourage maximum utilization of available units. That purpose is better achieved by having a PHA focus on vacancy problems when there is a vacancy rate in excess of 3%.

One commenter suggested that units that are held vacant as a result of federally required desegregation efforts not be considered vacant units for purposes of determining whether a Comprehensive Occupancy Plan must be prepared, or for determining a PHA's operating subsidy. It was the Department's intent, in creating the interim rule's "litigation category" of units vacant for reasons beyond a PHA's control, to cover only units that are vacant as a result of court-ordered constraints based on a cause of action arising under Title VI of the Civil Rights Act of 1964, or as a result of HUD-approved constraints related to such litigation or potential litigation. The Department has revised § 990.118(i)(3) accordingly. The Department, however, has not adopted the suggestion that these units be disregarded in determining whether a Comprehensive Occupancy Plan must be prepared, since the Comprehensive Occupancy Plan is a logical place for a PHA to address the actions it needs to take to return these units to occupancy.

There were many comments on the approval process for the Comprehensive Occupancy Plan. These comments included requests for criteria governing HUD's approval of the plan and for a procedures manual (including a commenter's request for an opportunity to participate in the development of the manual); and questions concerning how many times HUD would permit a revision of the Comprehensive Operating Plans; under what criteria HUD would approve and extension of a Plan; and who would make final decisions on competing ways to meet goals. More specifically, a commenter inquired whether HUD would force PHAs to repair efficiency and one bedroom units (which would have a

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greater effect on vacancy rate) rather than repair 4, 5, and 6 bedroom units (which could house more persons). It was also suggested that the Comprehensive Occupancy Plan be automatically approved if HUD does not respond to it within 60 days of receipt.

With respect to this last issue, the Department intends to review Comprehensive Occupancy Plans promptly. Nonetheless, it does not believe that automatic approval of an entire Comprehensive Occupancy Plan based solely on HUD's failure to meet a review deadline is a sound administrative practice. Balancing the need for review of the Plan against a PHA's need to know what its operating subsidy for the next year will be, the Department has added a new paragraph (f) under which a PHA's PHA-wide yearly occupancy goal for the first year of its Plan will be considered approved for the purpose of calculating its operating subsidy, if HUD fails to approve, disapprove or otherwise substantively comment on the Comprehensive Occupancy Plan within 45 days of receipt of the Plan.

With respect to the questions raised concerning the approval process, the Department, in developing the interim rule, considered and rejected an approach under which it would adjust operating subsidy based upon a PHA's measured progress in completing specific actions, detailed in plan, within an agreed upon time frame. Such a plan would require that HUD and the PHA negotiate the details of the action a PHA must take and provide for yearly revision of the milestones to reflect changing circumstances. Many of the comments received suggest that the commenters perceive the Comprehensive Occupancy Plan to function in this manner.

The Comprehensive Occupancy Plan, however, is not designed to function this way. The primary purpose of the Comprehensive Occupancy Plan is to arrive at a set of yearly occupancy goals which lead to a 97% Actual Occupancy Percentage by the end of the period provided in the Plan. The purpose of the general and specific strategies that are a part of the Comprehensive Occupancy Plan is to enable HUD to assess in its review the reasonableness of the goals, not to dictate to PHA what actions it must take at any given point. Under this approach, it is not necessary for the Comprehensive Occupancy Plan to provide (and the regulation does not require that it provide) for revision of the general or specific strategies. A PHA, at its discretion, may alter its strategies as it believes necessary to meet its goals. In addition, the rule does not provide for revision of the yearly goals. Both the interim rule and the final rule provide for an adjustment to the PHA-wide occupancy goal to discount units vacant for reasons beyond a PHA's control when that goal is used to compute the PHA's projected operating income level (final rule § 990.118(h), interim rule § 990.118(b).

Contrary to the implication of some of the comments, the interim rule does not provide for extending the term of a Comprehensive Occupancy Plan after the Plan has been approved. Rather, § 990.118(c)(3) authorizes a term for a Comprehensive Occupancy Plan that exceeds the normal five- or two-year maximum only on the written approval of the Assistant Secretary for Public and Indian Housing. The decision to allow a period in excess of the normal maximum period is made at the time of approval of the Comprehensive Occupancy Plan.

The Department does not believe that it is either necessary or desirable to set out criteria for the approval of a Comprehensive Occupancy or for when the Plan may exceed the normal maximum term. The determination of whether a particular PHA's Comprehensive Occupancy Plan provides attainable occupancy goals does not lend itself to *a priori* standards. Rather, it must be determined case-by-case based on the particular circumstances of the PHA.

One commenter believed that the rule should be clearer regarding HUD's treatment of a PHA that meets the 97% rate by the end of a five-year Comprehensive Occupancy Plan, but subsequently falls below 97%. The commenter asked whether the PHA would use its Actual Occupancy Percentage, continue to use 97%, or submit a Comprehensive Occupancy Plan with a two-year term. The answer under the interim rule depends upon what the PHA's Actual Occupancy Percentage is for the respective Requested Budget Year. If the PHA would qualify as a high occupancy PHA *but for* on-schedule modernization, it may use its Actual Occupancy Percentage (see interim rule § 990.118(b)(3)(ii)). If it is a low occupancy PHA, it would be required to prepare a Comprehensive Occupancy Plan (interim rule § 990.118(a)), and if the Plan were approved by HUD, it would use the greater of its Actual Occupancy Percentage or its yearly PHA-wide occupancy goal (interim rule § 990.109(b)(3)(iii)). Such a Plan normally would not exceed a period of two years (interim rule § 990.118(c)(2)). If it was a low occupancy PHA without an approved Comprehensive Occupancy Plan, it would be required to use 97% as its Projected Occupancy Percentage (interim rule § 990.109(b)(3)(iv)).

The commenter's question focused attention on another situation, namely, a PHA which, at the expiration of the period covered by the Comprehensive Occupancy Plan, has not achieved an Actual Occupancy Percentage equal to or greater than 97%. Under the interim rule, a PHA in this situation would determine its Projected Occupancy Percentage in the same manner as described above for a PHA that achieves a 97% Actual Occupancy Percentage. Under the interim rule a PHA which, at the completion of a five-year Comprehensive Occupancy Plan, had an Actual Occupancy Rate less than 97% could immediately be eligible for a two-year Comprehensive Occupancy Plan, followed by additional two-year Plans if it still failed to reach 97% Actual Occupancy Percentage. The Department never intended the two-year Comprehensive Occupancy Plan to be used in this manner. Rather, it was intended to be available to a PHA that has had a 97% Actual Occupancy Percentage but later drops below this percentage. The two-year maximum period was established because such a PHA's vacancy problems should normally be less severe than those of a PHA with vacancy problems that would be covered by five-year Comprehensive Occupancy Plans.

The final rule has been revised so that a PHA that has a five-year (or longer) Comprehensive Occupancy Plan and fails to achieve a 97% Actual Occupancy Percentage by the end of the Plan period must use 97% as its Projected Occupancy Percentage, adjusted to discount units that are vacant for reasons beyond its control. Such a PHA may prepare another Comprehensive Occupancy Plan only if it falls below a 97% Actual Occupancy Percentage *after having achieved* a 97% Actual Occupancy Percentage for at least one fiscal year.

On the basis of the above discussion, the Department has revised § 990.118 as follows:

Paragraph (a) is now permissive rather than mandatory, to conform with § 990.109(b)(3)(iv), which, as discussed above, now explicitly provides that a low-occupancy PHA that elects not to submit a Comprehensive Occupancy Plan must use 97% as its Projected Occupancy Percentage. Paragraph (a)(1) in the final rule applies to a PHA's first Requested Budget Year beginning on or after July 1, 1986, and contains the same condition for submitting a Comprehensive Occupancy Plan as in § 990.118(a) of the interim rule, namely, the PHA must have an Actual Occupancy Percentage less than 97% and have more than five vacant units, not solely because of vacant, on-schedule modernization units. For subsequent Requested Budget Years, paragraphs (a)(2) (ii) and (iii) make it clear that, in addition to projecting itself to be a low-occupancy PHA for the Requested Budget Year, a PHA must meet the following conditions: (1) It must have had a 97% Actual Occupancy Percentage (or five or fewer vacant units other than vacant, on-schedule modernization units) in the current year; and (2) it is not currently under a Comprehensive Occupancy Plan.

Paragraph (c) in the interim rule has been restructured as paragraphs (c) and (d) in the final rule. New paragraph (c) now provides that Comprehensive Occupancy Plans are to be submitted with a PHA's budget. New paragraph (d)(1)(i) provides the maximum term for a Comprehensive Occupancy Plan submitted for a PHA's first Requested Budget Year beginning on or after July 1, 1986, and paragraph (d)(1)(ii) provides the maximum term for a Comprehensive Occupancy Plan submitted in a subsequent Requested Budget Year beginning on or after July 1, 1987. Paragraph (d)(2) of the final rule (which is substantially the same as § 990.118(c)(3) of the interim rule) provides that a Comprehensive Occupancy Plan may be approved for a term that exceeds the normal maximum but only with the prior written authorization of the Assistant Secretary for Public and Indian Housing.

Under § 990.118(h) of the final rule (interim rule § 990.118(f)), a PHA under an approved Comprehensive Occupancy Plan uses as its Projected Occupancy Percentage the greater of (1) its Actual Occupancy Percentage or (2) its approved, yearly PHA-wide occupancy goal. Two commenters recommended that a PHA that exceeds its goals should still be allowed to use its goal in determining its Projected Occupancy Percentage. The commenters believed such a change would give PHAs incentive not just to meet their goals but to exceed them. The Department considered this approach in developing the interim rule but decided against it because it creates a strong incentive for establishing very low goals in the early years of a Comprehensive Occupancy Plan.

Section 990.118(i) of the final rule (interim rule § 990.118(g)) identifies three categories of vacant units that are considered vacant for reasons beyond a PHA's control and which may be discounted in determining a PHA's Projected Occupancy Percentage under § 990.118(h) of the final rule. The litigation category in the interim rule has been made more specific in § 990.118(i)(3), as described above. One commenter suggested that HUD should consider the following factors: (1) Location in terms of any conditions in the surrounding neighborhoods that adversely affect the health, life and safety of project residents; (2) social conditions that have seriously affected the marketability of the project; and (3) physical conditions that have continuously hampered the marketability of the project. Another commenter claimed this paragraph did not list other causes of vacancies that may be beyond a PHA's control, e.g., overbuilding of section 8 new construction and section 202 projects; limited money for modernization; need for extraordinary maintenance, betterments and additions; increasing rent to income ratios and elimination of ceiling rents which result in the moveout of higher income families.

The factors enumerated by the commenters are very relevant to a PHA's consideration of what to do to eliminate vacancies. They represent the type of issues a PHA must deal with in a Comprehensive Occupancy Plan to eliminate vacancy problems. The Department does not believe that these market-related considerations, however, are appropriate for adjusting a PHA's Projected Occupancy Percentage, since such adjustments would reduce the incentive to face these issues.

Findings

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410-0500.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. Analysis of the rule indicates that it would not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities, because a significant number of very small PHAs that have high vacancies are currently using a 97% Projected Occupancy Percentage to compute their Operating Expense Level. Accordingly, the funds available to these PHAs should not be significantly affected.

This rule was listed as Sequence Number 956 in the Department's Semiannual Agenda of Regulations published on April 21, 1986 (51 FR 14036 at page 14077), under Executive Order 12291 and the Regulatory Flexibility Act.

The information collection requirements contained in § 990.118 of this rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520) and assigned OMB control number 2577-0086.

The Catalog of Federal Domestic Assistance program numbers are 14.146 and 14.156.

List of Subjects in 24 CFR Part 990

Housing and community development, Lower-income housing, Public housing.

PART 990—[AMENDED]

Accordingly, the Department amends 24 CFR Part 990 as follows:

1. The authority citation for Part 990 continues to read as follows:

Authority: Sec. 9, United States Housing Act of 1937, 42 U.S.C. 1437g; sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

2. The amendments published on June 24, 1985 (50 FR 25951), and October 2, 1985 (50 FR 40196) are adopted as final, with the following changes.

3. In § 990.102, the definition of "Unit Approved for Deprogramming" is revised and a new defined term "Vacant, On-Schedule Modernization Units" is added in alphabetical order, to read as follows:

§ 990.102 Definitions.

* * * * *

Unit Approved for Deprogramming. (a) A dwelling unit for which HUD has approved the PHA's formal request to remove the dwelling unit from the PHA's

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inventory and the Annual Contributions Contract but for which removal, *i.e.*, deprogramming, has not yet been completed, or (b) a nondwelling structure or a dwelling unit used for nondwelling purposes which the PHA has determined will no longer be used for PHA purposes and which HUD has approved for removal from the PHA's inventory and Annual Contributions Contract.

* * * * *

Vacant, On-Schedule Modernization Units. Vacant, On-Schedule Modernization Units are vacant units in an otherwise occupiable project that has received funding for modernization through the Comprehensive Improvement Assistance Program (24 CFR Part 968) or other sources; and for which

(a) It is expected that the vacant units will be occupied on completion of modernization work;

(b) The PHA has a schedule for carrying out the modernization which is acceptable to HUD; and

(c) The modernization work is on schedule.

4. In § 990.109, paragraph (b)(3) is revised to read as follows:

§ 990.109 Projected Operating Income Level.

* * * * *

(b) * * *

(3) *Projected Occupancy Percentage.* The PHA shall determine its projected percentage of occupancy for all Project Units (Projected Occupancy Percentage), as follows:

(i) *High occupancy PHAs.* If the PHA's Actual Occupancy Percentage (see § 990.117) is equal to or greater than 97%, the PHA's Projected Occupancy Percentage is 97%.

(ii) *High occupancy PHAs but for on-schedule modernization.* If the PHA's Actual Occupancy Percentage (see § 990.117), is less than 97% solely because of Vacant, On-Schedule Modernization Units, the PHA's Projected Occupancy Percentage is its Actual Occupancy Percentage. A PHA may also use its Actual Occupancy Percentage as its Projected Occupancy Percentage if the PHA has five or fewer vacant units other than Vacant, On-Schedule Modernization Units.

(iii) *Low occupancy PHAs with an approved Comprehensive Occupancy Plan.* If the PHA has an Actual Occupancy Percentage (see § 990.117) less than 97% and more than five vacant units, not solely because of Vacant, On-Schedule Modernization Units; and if the PHA has a HUD-approved Comprehensive Occupancy Plan, the PHA's Projected Occupancy Percentage is determined under § 990.118(h).

(iv) *Low occupancy PHAs without an approved Comprehensive Occupancy Plan.* Except as provided in the next sentence, the PHA shall use 97% as its Projected Occupancy Percentage, if the PHA: (A) has an Actual Occupancy Percentage (see § 990.117) less than 97% and has more than five vacant units, not solely because of Vacant, On-Schedule Modernization Units; and the PHA: (B) (*1*) Has completed the term of its approved Comprehensive Occupancy Plan but has not achieved a 97% Actual Occupancy Percentage or has not had five or fewer vacant units other than Vacant On-Schedule Modernization Units; or (*2*) is authorized to submit a Comprehensive Occupancy Plan but elects not to submit one, or (*3*) submits a Comprehensive Occupancy Plan that is disapproved by HUD. A low occupancy PHA without an approved Comprehensive Occupancy Plan that meets the conditions described in paragraph (B)(*1*) of this paragraph (iv) may adjust the 97% Projected Occupancy Percentage to discount units that are vacant for reasons beyond its control, as provided in § 990.118(i).

* * * * *

5. Section 990.117 is revised to read as follows:

§ 990.117 Determining Actual Occupancy Percentage.

For each Requested Budget Year beginning on or after July 1, 1986, the PHA shall determine the percentage of occupancy for all Project Units included in the Unit Months Available (Actual Occupancy Percentage), at its option, either for the last day of the month that ends six months before the beginning of the Requested Budget Year, or based on the average occupancy during the month ending six months before the beginning of the Requested Budget Year. If the PHA elects to use an average, it shall maintain a record of its computation of its Actual Occupancy Percentage. The Actual Occupancy Percentage shall be adjusted to reflect expected changes in occupancy because of modernization, new development, demolition, or disposition in order to reflect the expected average occupancy rate throughout the year. If, after that date, there are changes, up or down, in occupancy because of modernization, new development, demolition or disposition not reflected in the adjustment, the PHA shall submit a budget revision to reflect the actual change in occupancy due to these actions.

6. Section 990.118 is revised to read as follows:

§ 990.118 Comprehensive Occupancy Plan requirements.

(a) *PHAs that may submit a Comprehensive Occupancy Plan.* A PHA may prepare and submit a Comprehensive Occupancy Plan to HUD in accordance with the provisions of this section:

(1) For its first Requested Budget Year beginning on or after July 1, 1986, if the PHA has an Actual Occupancy Percentage (§ 990.117) less than 97%, and has more than five vacant units, not solely because of Vacant, On-Schedule Modernization Units; or

(2) For a Requested Budget Year beginning on or after July 1, 1987, if:

(i) The PHA projects an Actual Occupancy Percentage (§ 990.117) for the Requested Budget Year of less than 97% and has more than five vacant units, other than Vacant, On-Schedule Modernization Units;

(ii) The PHA is not currently a low occupancy PHA, that is, the PHA had an Actual Occupancy Percentage determined under § 990.117 for the current Requested Budget Year that equalled or exceeded 97% or had five or fewer vacant units other than Vacant, On-Schedule Modernization Units; and

(iii) The PHA is not currently under a Comprehensive Occupancy Plan.

(b) *Comprehensive Occupancy Plan content.* A Comprehensive Occupancy Plan shall provide a general PHA-wide strategy for returning to occupancy or deprogramming all vacant units and a specific strategy for returning to occupancy or deprogramming vacant units for each project that has an occupancy percentage of less than 97%.

(1) The general PHA-wide strategy for returning to occupancy or deprogramming all vacant units shall specify management actions the PHA is taking or intends to take to eliminate vacancies, such as revised occupancy policies, actions to reduce time to return vacated units to occupancy, and identification of the need to use the exception for nonelderly tenants in elderly projects, and shall include a schedule for completing these actions.

(2) The project-specific strategy shall:

(i) Identify each project that has a percentage of occupancy less than 97%;

(ii) State the project-specific actions the PHA is taking or intends to take to eliminate vacancies, such as (A) modernization, (B) demolition, (C) disposition, (D) change in occupancy policy, or (E) physical or management improvements; and

(iii) For each project identified, include a schedule for completing these actions and returning the units to occupancy.

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(3) The Comprehensive Occupancy Plan shall also include yearly PHA-wide occupancy goals and yearly occupancy goals for each project with an occupancy rate below 97% stated for each year until there is a projected PHA-wide occupancy rate of at least 97% or an estimate that the PHA will have five or fewer vacant units, excluding units that are Vacant, On-Schedule Modernization Units. These goals should reflect the average occupancy percentage for each year. The yearly occupancy goals (both PHA-wide and project specific) for the first year of a Comprehensive Occupancy Plan that is submitted with a PHA's budget for its first Requested Budget Year beginning on or after July 1, 1986, shall take into account actions taken by the PHA from August 2, 1985, to reduce vacancies.

(c) *Time for submitting a Comprehensive Occupancy Plan.* A PHA that submits a Comprehensive Occupancy Plan to HUD for approval in accordance with paragraph (a) of this section shall submit the Comprehensive Occupancy Plan with its budget.

(d) *Maximum term of a Comprehensive Occupancy Plan.* (1) Except as provided in paragraph (d)(2) of this section, a Comprehensive Occupancy Plan:

(i) For a Comprehensive Occupancy Plan submitted for a PHA's first Requested Budget Year beginning on or after July 1, 1986, shall be for a period approved by HUD as reasonable which, shall not exceed five years; or

(ii) For a Comprehensive Occupancy Plan submitted for a Requested Budget Year beginning on or after July 1, 1987, shall be for a period of one or two years, as approved by HUD.

(2) A Comprehensive Occupancy Plan that exceeds the maximum period provided in paragraphs (d)(1) (i) or (ii) of this section may be approved only if the Assistant Secretary for Public and Indian Housing has given written authorization for such longer period before the approval of the Plan.

(e) *Local governing body review.* The PHA shall have the Comprehensive Occupancy Plan reviewed by the local governing body for comment and shall submit any comments from the local governing body to HUD with the Comprehensive Occupancy Plan.

(f) *HUD review of Comprehensive Occupancy Plan.* If HUD fails to approve, disapprove or otherwise substantively comment on a Comprehensive Occupancy Plan within 45 days of receipt of the Plan, the PHA-wide yearly occupancy goal for the first year of the Comprehensive Occupancy Plan shall be considered approved for the purpose of determining the PHA's Projected Occupancy Percentage under paragraph (h) of this section.

(g) *Financially or Operationally Troubled PHA.* If a PHA is a Financially or an Operationally Troubled PHA (see HUD Handbook 7475.14 (April 1984), Chapter 3) and has an approved Workout Plan, the Comprehensive Occupancy Plan shall be made an addendum to the Workout Plan.

(h) *Projected Occupancy Percentage (Comprehensive Occupancy Plan PHA).* A PHA that has a HUD-approved Comprehensive Occupancy Plan shall use as its Projected Occupancy Percentage for computing its projected operating income level under § 990.109 the greater of (1) its Actual Occupancy Percentage, as determined under § 990.117 or (2) its approved, yearly PHA-wide occupancy goal, adjusted, as necessary, to discount units that are vacant for reasons beyond the PHA's control, as provided in paragraph (i) of this section.

(i) *Units vacant for reasons beyond a PHAs control.* A vacant unit is considered vacant for reasons beyond a PHA's control only if the unit is located in a project that meets one of the following conditions:

(1) The PHA has applied for modernization, HUD cannot fund the project because of lack of sufficient funding, and it is expected that the units will be occupied when the units are modernized.

(2) The vacant units are Vacant, On-Schedule Modernization Units.

(3) The units are vacant because of natural disasters or as a result of a court-ordered, or HUD-approved, constraints relating to Title VI of the Civil Rights Act of 1964.

(Information collection requirements contained in this section have been approved by the Office of Management and Budget under control number 2577-0088.)

10. Section 990.119 is revised to read as follows:

§ 990.119 Transition provision.

In determining operating subsidy for Requested Budget Years beginning October 1, 1985, January 1, 1986, and April 1, 1986, the definition of "Unit Approved for Deprogramming" in § 990.102 and the provisions of §§ 990.117, and 990.118 do not apply, and the provisions of §§ 990.101(c)(4), 990.102(g), 990.108(b), and 990.109(e) and (b)(3) apply as they were in effect on August 1, 1985 (*see* 24 CFR Part 990, rev. April 1, 1985).

Dated: April 21, 1986.

James E. Baugh,

General Deputy Assistant, Secretary for Public and Indian Housing.

[FR Doc. 86-10107 Filed 5-6-86; 8:45 am]

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DEPARTMENT OF JUSTICE

28 CFR Part 0

[Tax Division Directive No. 55]

Redelegation of Authority to Release Rights of Redemption in Certain Cases

AGENCY: Justice.

ACTION: Final rule.

SUMMARY: This directive increases the United States Attorneys' authority to release rights of redemption in certain cases to $200,000. This directive supersedes Tax Division Directive No. 30.

EFFECTIVE DATE: This directive shall become effective on May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Milan Karlan, Tax Division, Department of Justice, Washington, DC 20530 (202) 724-6567.

SUPPLEMENTARY INFORMATION: The Acting Assistant Attorney General for the Tax Division has determined that this directive is not a rule within the meaning of Executive Order 12291 or the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 0

Authority delegations (Government Agencies), Government employees, Organization and functions (Government Agencies).

PART 0—[AMENDED]

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, unless otherwise noted.

2. In the appendix to Part 0, Subpart Y, under Tax Division, remove Directive No. 30 and add Directive No. 55 to read as follows:

[Directive No. 55]

By virtue of the authority vested in me by Part 0 of Title 28 of the Code of Federal Regulations, particularly §§ 0.70, 0.160, 0.162, 0.164, 0.166, and 0.168, it is hereby ordered as follows:

Section 1. The U.S. Attorney for each district in which is located real property, which is subject to a right of redemption of the United States in respect of Federal tax liens, arising under section 2410(c) of Title 28 of the United States Code, or under State law when the United States has been joined as a party to a suit, is authorized to release the

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right of redemption, subject to the following limitations and conditions—

(1) This redelegation of authority relates only to real property on which is located only one single-family residence, and to all other real property having a fair market value not exceeding $200,000. That limitation as to value or use shall not apply in those cases in which the release is requested by the Veterans Administration or any other Federal agency.

(2) The consideration paid for the release must be equal to the value of the right of redemption, or fifty dollars ($50), whichever is greater. However, no consideration shall be required for releases issued to the Veterans Administration or any other Federal agency.

(3) The following described documents must be placed in the U.S. Attorney's file in each case in which a release is issued—

(A) The favorable recommendation of the appropriate Regional Counsel of the Internal Revenue Service.

(B) Appraisals by two disinterested and well-qualified persons. In those cases in which the applicant is a Federal agency, the appraisal of that agency may be substituted for the two appraisals generally required.

(C) Such other information and documents as the Tax Division may prescribe.

Section 2. This directive supersedes Tax Division Directive No. 30, effective August 1, 1978.

Section 3. This directive shall become effective on the date of its publication in the **Federal Register.**

Roger M. Olsen,

Acting Assistant Attorney General, Tax Division.

Approved: April 2, 1986.

D. Lowell Jensen,

Deputy Attorney General.

[FR Doc. 86-8405 Filed 5-6-86; 8:45 am]

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28 CFR Part 0

[Tax Division Directive No. 54]

Redelegation of Authority to Compromise and Close Civil Claims

AGENCY: Justice.

ACTION: Final rule.

SUMMARY: This directive gives the Chief of the Office of Special Litigation authority to accept and reject offers in compromise and approve administrative settlements and concessions in the same manner, and subject to the same limitations, as the Chiefs of the Civil Trial Sections and the Claims Court Section, and increases the United States Attorneys' authority to compromise and close judgments referred to them to judgments which do not exceed $200,000. This directive supersedes Tax Division Directive No. 47.

EFFECTIVE DATE: This directive shall become effective on May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Milan Karlan, Tax Division, Department of Justice, Washington, DC 20530 (202) 724-6567.

SUPPLEMENTARY INFORMATION: The Acting Assistant Attorney General for the Tax Division has determined that this directive is not a rule within the meaning of Executive Order 12291 or the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 0

Authority delegations (Government Agencies), Government employees, Organization and functions (Government Agencies).

PART 0—[AMENDED]

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, unless otherwise noted.

2. In the appendix to Part 0, Subpart Y, under Tax Division, remove Directive No. 47 and add Directive No. 54 to read as follows:

[Directive No. 54]

By virtue of the authority vested in me by Part 0 of Title 28 of the Code of Federal Regulations, particularly §§ 0.70, 0.160, 0.162, 0.164, 0.166, and 0.168, it is ordered as follows:

Section 1. The Chiefs of the Civil Trial Sections, the Claims Court Section, the Appellate Section, the Office of Special Litigation, and the Attorney-in-Charge of the Dallas Field Office are authorized to reject offers in compromise, regardless of amount, provided that such action is not opposed by the agency or agencies involved.

Section 2. Subject to the conditions and limitations set forth in Section 8 hereof, the Chiefs of the Civil Trial Sections, the Claims Court Section and the Office of Special Litigation are authorized to:

(A) Accept offers in compromise in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $200,000,

(B) Approve administrative settlements not exceeding $100,000,

(C) Approve concessions (other than by compromise) of civil claims asserted by the Government in all cases in which the gross amount of the original claim does not exceed $100,000,

(D) Accept offers in compromise in injunction or declaratory judgment suits against the United States in which the amount of the related liability, if any, does not exceed $200,000, and

(E) Accept offers in compromise in all other non-monetary cases,

provided that such action is not opposed by the agency or agencies involved, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 3. Subject to the conditions and limitations set forth in Section 8 hereof, the Chief of the Appellate Section is authorized to:

(A) Accept offers in compromise with reference to litigating hazards of the issues on appeal in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $200,000,

(B) Accept offers in compromise in declaratory judgment suits against the United States in which the amount of the related liability, if any, does not exceed $200,000, and

(C) Accept offers in compromise in all other nonmonetary cases which do not involve issues concerning collectibility,

provided that such action is not opposed by the agency or agencies involved or the chief of the section in which the case originated, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 4. Subject to the conditions and limitations set forth in Section 8 hereof, the Attorney-in-Charge of the Dallas Field Office is authorized to accept offers in compromise in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $10,000, provided that such action is not opposed by the agency or agencies involved, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 5. Subject to the conditions and limitations set forth in Section 8 hereof, the Chief of the Office of Review is authorized to:

(A) Accept offers in compromise in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $500,000,

(B) Approve administrative settlements not exceeding $500,000,

(C) Approve concessions (other than by compromise) of civil claims asserted by the Government in all case in which the gross amount of the original claim does not exceed $500,000,

(D) Accept offers in compromise in all nonmonetary cases, and

(E) Reject offers in compromise, or disapprove administrative settlements or concessions, regardless of amount,

provided that the action is not opposed by the agency or agencies involved or the chief of the section to which the case is assigned, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 6. Subject to the conditions and limitations set forth in Section 8 hereof, the Deputy Assistant Attorneys General and the Special Counsel to the Assistant Attorney General each is authorized to:

(A) Accept offers in compromise of claims against the Government in all cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $750,000,

(B) Approve administrative settlements not exceeding $750,000,

(C) Accept offers in compromise of claims in behalf of the Government th all cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed $750,000 or 10 percent of the original claim, whichever is greater,

(D) Approve concessions (other than by compromise) of civil claims asserted by the Government in all cases in which the gross amount of the original claim does not exceed $750,000,

(E) Accept offers in compromise in all nonmonetary cases, and

(F) Reject offers in compromise, or disapprove administrative settlements or concessions, regardless of amount,

provided that such action is not opposed by the agency or agencies involved, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 7. Subject to the conditions and limitations set forth in Section 8 hereof, United States Attorneys are authorized to:

(A) Reject offers in compromise of judgments in favor of the Government, regardless of amount,

(B) Accept offers in compromise of judgments in favor of the Government where the amount of the judgment does not exceed $200,000, and

(C) Terminate collection activity by that office as to judgments in favor of the Government which do not exceed $200,000 if the United States Attorney concludes that the judgment is uncollectible,

provided that such action has the concurrence in writing of the agency or agencies involved, and provided further that this authorization extends only to judgments which have been formally referred to the United States Attorney for collection.

Section 8. The authority redelegated herein shall be subject to the following conditions and limitations:

(A) When, for any reason, the compromise or administrative settlement or concession of a particular claim, as a practical matter, will control or adversely influence the disposition of other claims totalling more than the respective amounts designated in Sections 2, 3, 4, 5, 6, and 7 the case shall be forwarded for review at the appropriate level.

(B) When, because of the importance of a question of law or policy presented, the position taken by the agency or agencies or by the United States Attorney involved, or any other considerations, the person otherwise authorized herein to take final action (or the Chief of the Office of Review, in cases which have been considered by such office) is of the opinion that the proposed disposition should be reviewed at a higher level, the case shall be forwarded for such review.

(C) If the Department has previously submitted a case to the Joint Committee on Taxation leaving one or more issues unresolved, any subsequent compromise or concession in that case must be submitted to the Joint Committee, whether or not the overpayment exceeds the amount specified in Section 6405 of the Internal Revenue Code.

(D) Nothing in this Directive shall be construed as altering any provision of Subpart Y of Part O of Title 28 of the Code of Federal Regulations requiring the submission of certain cases to the Attorney General, the Deputy Attorney General, or the Solicitor General.

(E) Authority to approve recommendations that the Government confess error, or make administrative settlements, in cases on appeal, is excepted from the foregoing redelegations.

(F) The Assistant Attorney General, at any time, may withdraw any authority delegated by this Directive as it relates to any particular case or category of cases, or to any part thereof.

Section 9. This Directive supersedes Tax Division Directive No. 47, effective March 29, 1984.

Section 10. This Directive shall become effective on the date of its publication in the **Federal Register.**

Approved: April 1, 1986.

Roger M. Olsen,

Acting Assistant Attorney General, Tax Division.

D. Lowell Jensen,

Deputy Attorney General.

[FR Doc. 86-8404 Filed 5-6-86; 8:45 am]

BILLING CODE 4410-19-M

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 402

Tariff of Tolls

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Tariff of Tolls for the use of the St. Lawrence Seaway which is established and administered jointly by the Saint Lawrence Seaway Development Corporation, United States, and The St. Lawrence Seaway Authority, Canada, was formally revised on April 11, 1986, by means of an international agreement in the form of an exchange of diplomatic notes between the Governments of the United States and Canada. This agreement further amended the agreement dated March 9, 1959, between these two governments.

The effect of this revision is to raise the level of tolls assessed on all commodities and vessels transiting the Welland Canal section of the St. Lawrence Seaway. Increases are scheduled to become effective at the beginning of the 1986 navigation season and are necessary because of the increased costs encountered by the St. Lawrence Seaway Authority.

Under the terms of the 1986 exchange of notes the Corporation will receive, during the 1986 navigation season, 27% of the revenues generated on the Montreal-Lake Ontario section of the Seaway.

EFFECTIVE DATE: May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Frederick A. Bush, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street SW., Washington, DC 20590, (202) 426-3325.

SUPPLEMENTARY INFORMATION: On December 19, 1985, the Saint Lawrence Seaway Development Corporation published in the **Federal Register** (50 FR 244) a notice of the proposed changes to the commodity and vessel charges for the use of the Welland Canal which are prescribed in 33 CFR Part 402.

The proposed action was to raise the level of the tolls at the Welland Canal and the proposal included the level of tolls which were to be assessed starting at the beginning of the 1986 navigation season.

In the notice of December 19, 1985, interested parties were invited to submit written views and data regarding the proposal on or before February 21, 1986, and to present oral testimony at a public hearing held in Washington, DC, on February 5, 1986. As a result, several comments were received regarding the proposed revision to the joint Tariff of Tolls.

After consideration of the proposal, the comments of interested parties and other relevant material, the Administrator of the Corporation and the President of the Authority held further discussions. These discussions led to an agreement between the Saint Lawrence Seaway Development Corporation of the United States and The St. Lawrence Seaway Authority of Canada on February 21, 1986, in which the two Seaway agencies recommended to their governments that the St. Lawrence Seaway Tariff of Tolls be modified as proposed in the December 19, 1985 notice.

As a result of this modification to the Tariff of Tolls, the average charge for moving a metric ton of cargo through the Welland Canal will increase approximately 15 percent.

Although the charges and tolls applicable to the Montreal-Lake Ontario section are not changed by this revision, § 402.6 is revised by removing from the Schedule of tolls the column headed "1982" and changing the "1983" heading to "1986", both of which are presently contained under the heading "Montreal to or from Lake Ontario."

Regulatory Evaluation

This revision involves a foreign affairs function of the United States, and therefore, Executive Order 12291 does not apply. This regulation has also been evaluated under the Department of Transportation's Regulatory Policies and Procedures and the regulation is not considered significant under those procedures and its economic impact is

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expected to be so minimal that a full economic evaluation is not warranted.

Regulatory Flexibility Act Determination

The Saint Lawrence Seaway Development Corporation certifies that this regulation does not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls relates to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne by foreign vessels.

Environmental Impact

This regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) because it is not a major federal action significantly affecting the quality of human environment.

List of Subjects in 33 CFR Part 402

Vessels, Waterways.

PART 402—[AMENDED]

Accordingly, Part 402—Tariff to Tolls (33 CFR Part 402) is amended as follows:

1. The authority citation for 33 CFR Part 402 continues to read as follows:

Authority: 60 Stat. 93–96, 33 U.S.C. 981–990, as amended.

2. Section 402.6 is revised to read as follows:

§ 402.6 Schedule of tolls.

	Tolls	
	Montreal to or from Lake Ontario	Lake Ontario to or from Lake Erie (Welland Canal)
	1986	1986
(a) For transit of the Seaway, a composite toll, comprising:		
(1) A charge in dollars per registered ton, according to national registry of the vessel, applicable whether the vessel is wholly or partially laden, or is in ballast. (All vessels shall have an option to calculate gross registered tonnage according to prescribed rules for measurement in either Canada or the United States)	$0.08	$0.08
(2) A charge in dollars per metric ton of cargo as certified on ship's manifest or other document, as follows:		
—Bulk cargo	0.85	0.36
—General cargo	2.06	0.58
—Containerized cargo	0.85	0.36
—Government aid cargo	0.52	0.36
—Food grains	0.52	0.36
—Feed grains	0.52	0.36
(3) A charge in dollars per passenger per lock	1.00	1.00
(4) A charge in dollars per lock for complete or partial transit of the Welland Canal in either direction by cargo or passenger vessels, which may be shared by vessels in tandem:		
(i) loaded: Per Lock	NA	280.00
(ii) in ballast: Per Lock	NA	215.00
(b) For partial transit of the Seaway:		
(1) Between Montreal and Lake Ontario, in either direction 15 percent per lock of the applicable toll		
(2) Between Lake Ontario and Lake Erie, in either direction (Welland Canal), 13 percent per lock of the applicable toll		
(c) Minimum charge in dollars per vessel per lock transited for full or partial transit of the Seaway:		
—Pleasure craft	5.00	6.00
—Other vessels	10.00	11.00

Issued at Washington, DC on April 28, 1986.

Saint Lawrence Seaway Development Corporation.

James L. Emery,

Administrator.

[FR Doc. 86-10151 Filed 5-6-86; 8:45 am]

BILLING CODE 4910-61-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 166

[OPP-250075; FRL-3012-3]

Exemption of Federal and State Agencies for Use of Pesticides Under Emergency Conditions; Effective Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; effective date.

SUMMARY: As required by section 25(a)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA submitted a final regulation under FIFRA to both Houses of Congress for review prior to the regulation taking effect. This regulation was published in the **Federal Register** of January 15, 1986 (51 FR 1696). The minimum 60-day period for Congressional review ended on April 14, 1986.

EFFECTIVE DATE: The regulation is effective on May 7, 1986.

FOR FURTHER INFORMATION CONTACT: By mail: Franklin Gee, Registration Division (TS–767C), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 1120B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–0592).

SUPPLEMENTARY INFORMATION: EPA issued a final regulation, which was published in the **Federal Register** of January 15, 1986 (51 FR 1696), under section 16 of FIFRA, as amended. The regulation, under 40 CFR Part 180, exempts Federal and State agencies for use of pesticides under emergency conditions. However, as required by section 25(a)(4) of FIFRA, the regulation could not take effect until it had been submitted to both Houses of Congress for a period of 60 days of continuous Congressional session, as defined by section 25(a)(4). Since it was not possible to predict an exact date on which the Congressional review period would end, the preamble to the final regulation stated that EPA would issue a separate **Federal Register** notice after the review period was over announcing the effective date of the regulation. On April 14, 1986, the 60 days of continuous Congressional session elapsed.

Accordingly, the final regulation published on January 15, 1986 (51 FR 1696) is effective on May 7, 1986.

Authority: 7 U.S.C. 136w.

List of Subjects in 40 CFR Part 166

Environmental protection, Pesticides and pests.

Dated: April 25, 1986.

Victor J. Kimm,

Deputy Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 86-10017 Filed 5-6-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 4F2968/R634 FRL-3012-2]

Pesticide Tolerance; Amitraz

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of the insecticide amitraz in or on the following commodities: cattle, fat; cattle, meat, cattle, meat; by-products (mbyp); milk; and milk, fat. This rule to establish the maximum permissible level for residues of amitraz in or on the above-named commodities was requested by the Nor-Am Chemical Co.

EFFECTIVE DATE: Effective on May 7, 1986.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110),

Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Jay Ellenberger, Product Manager (12), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 202, Crystal Mall Building #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of December 14, 1983 (48 FR 55622), that Nor-Am Chemical Co., 3509 Silverside Rd., P.O. Box 7495, Wilmington, DE 19803, had filed a petition proposing to amend 40 CFR 180.287 by establishing tolerances for the combined residues of the insecticide amitraz (*N*-(2,4-dimethylphenyl)-*N*-[[(2,4-dimethylphenyl) imino]methyl]-*N*-methylmethanimidamide) and its metabolites containing the 2,4-dimethyl aniline moiety (calculated as the parent compound) in or on the following commodities: Cattle, fat at 0.1 part per million (ppm); cattle, kidney at 0.3 ppm; cattle, liver at 0.02 ppm; cattle, meat and mbyp at 0.05 ppm; milk at 0.02 ppm; and milk, fat at 0.2 ppm. No comments were received in response to the notice of filing.

The petition was later amended by increasing the cattle mbyp from 0.05 to 0.3 ppm, increasing milk from 0.02 to 0.03 ppm, and increasing milk, fat from 0.2 to 0.3 ppm.

In April 1977, the Agency initiated a Special Review for amitraz because an 80-week mouse oncogenicity study showed a significant increase in the incidence of lymphoreticular tumors in mice. Proposed uses for amitraz pending with the Agency were for apples and pears. To determine the risks, the Agency conducted a dietary and occupational risk assessment. In reviewing the benefits and risks, the Agency determined that there would be significant benefits from the use on pears with little or no benefits from the use on apples since there were suitable alternatives. After weighing the benefits and risks, the Agency determined that the registration of amitraz for use on pears would not cause unreasonable adverse effects and would be in the public interest because it would result in substantial benefits and very small risks. Therefore, the Agency issued a conditional registration for 4 years for use of amitraz on pears. Recently, this decision was reevaluated and reaffirmed via the Registration Standard process.

One of the conditions under which amitraz was conditionally registered was the requirement that an additional mouse oncogenicity study be submitted. This study was submitted and referred to the Agency's Carcinogen Assessment Group (CAG) for evaluation. The results of this study show an increase in the incidence of hepatocellular tumors (both benign and malignant) in female mice. Based on this study and the first mouse study, CAG has determined that amitraz has carcinogenic activity in the mouse. The second study did not appreciably change the Agency's quantitative assessment of the potency of amitraz from the first mouse study. Based on the weight of evidence of analysis, CAG concluded that amitraz should be considered a possible human (a Group "C") carcinogen. The qualitative designation "C" refers to EPA's weight-of-the-evidence classification, which in this case shows amitraz to be a "possible human carcinogen." This classification is based on the Agency's published Proposed Guidelines for Carcinogen Risk Assessment (**Federal Register** of November 23, 1984 (49 FR 46294)).

In reaching this conclusion, CAG considered the following information:

1. The positive carcinogenic effects were found in only one species, the mouse;

2. Tumors were discovered mostly in animals at the scheduled terminal sacrifice;

3. The rat was negative for oncogenic effects at doses as high as 200 ppm; and,

4. There are no positive epidemiological carcinogenicity data for amitraz.

In addition, the mutagenic potential of amitraz has been determined to be negative in the gene mutation, host-mediated and dominant-lethal test systems. Studies including the Ames bacterial test, a mouse lymphoma assay, and an unscheduled DNA synthesis in human embryonic cells have been conducted with amitraz with negative results.

From the mouse oncogenicity data, the Agency has calculated upper-bound estimates of risks from the use of amitraz on cattle. The risk from dietary exposure is approximately 10^{-5}, i.e., 1 chance in 100,000. It should be noted that this number represents the upper bound estimate of excess oncogenic risk at the 95-percent confidence level and that the actual risk may be lower.

The assessment is also based on the following assumptions:

1. The metabolic pathway of amitraz in humans is presumed to be the same as that found in test animals;

2. The highest value of risk obtainable from the animal data is applicable to humans.

3. All cattle raised in the United States will be treated with amitraz; and,

4. All edible cattle tissue and milk will contain amitraz at the full tolerance levels.

As stated above, however, EPA believes that the actual risks will be less than 10^{-5}.

For the proposed use of cattle, the Agency has also calculated a risk estimate from dermal exposure to applicators. The risk to applicators is between 10^{-6} and 10^{-5}.

As previously stated in this document, the Agency conducted a dietary and applicator risk assessment to determine the risks from the pear use. The risks were reassessed during the development of the registration standard for amitraz using the results of the second mouse oncogenicity study. The dietary risk from consuming amitraz-treated pears, using the same conservative assumptions described above, is estimated to be 10^{-5}, and the applicator risk is between 10^{-4} and 10^{-6}. The Agency also assessed the dietary and applicator risks associated with the use on pears using more realistic assumptions. These assumptions were as follows: Only 40 to 50 percent of the pears acreage is treated annually with amitraz and that the residues present average only 1.0 ppm instead of the full tolerance of 3.0 ppm. Also, applicators, mixers, and loaders are required to wear protective clothing. This more realistic approach leads of risks to 10^{-6} for dietary and 10^{-5} to 10^{-6} for applicator exposure.

The dietary risk estimated to occur from the use of amitraz on cattle is the same level as the risk estimated from the use of amitraz on pears, using the most conservative approach of calculating risk. The risk estimated for applicators from the proposed cattle use is very similar to risks expected from the use on pears. Therefore, the Agency expects little if any incremental increase in risk to occur as the result of the use of amitraz on cattle.

The chronic toxicology data base for amitraz is complete. The toxicological data considered in support of this petition include a 2-year rat feeding/oncogenicity study which was negative for oncogenic effects with a no-observed-effect level (NOEL) of 200 ppm; a three-generation rat reproduction study with a NOEL of 15 ppm; rat and rabbit teratology studies which were negative; and a 2-year mouse oncogenicity study which demonstrated an increase in the incidence of

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hepatocellular tumors in female mice. Based on a 2-year dog feeding study with a NOEL of 10 ppm and using a safety factor of 100, the acceptable daily intake (ADI) for humans is calculated to be 0.0025 mg/kg of body weight (bw) day. The theoretical maximum residue contribution (TMRC) resulting in the human diet from this and previously established tolerances utilizes 37.8 percent of the ADI.

On the basis of the available data on amitraz, the Agency has concluded that the human risk posed by the use of amitraz on cattle does not raise prudent concerns of unreasonable adverse effects.

The nature of the residue is adequately understood, and an adequate analytical method, gas chromatography, is available for enforcement purposes.

There are no regulatory actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, it is concluded that the pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 25, 1986.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.287 is amended by revising the entries for cattle, fat; cattle, mbyp; and cattle, meat and by adding and alphabetically inserting entries for milk and milk, fat, to read as follows:

§ 180.287 Amitraz; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Cattle, fat	0.1
Cattle, mbyp	0.3
Cattle, meat	0.05
* * * * *	
Milk	0.03
Milk, fat	0.3
* * * * *	

[FR Doc. 86–10018 Filed 5–6–86; 8:45 am]

BILLING CODE 6560–50–M

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1502

National Environmental Policy Act Regulations; Incomplete or Unavailable Information; Correction

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Final rule correction.

SUMMARY: On Friday, April 25, 1986, the Council on Environmental Quality (CEQ) published a final rule which amended 40 CFR 1502.22, "Incomplete or unavailable information." 51 FR 15,618. The preamble to the regulation contained five textual errors which we correct with this notice.

FOR FURTHER INFORMATION CONTACT: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, DC 20006. (202) 395–5754.

SUPPLEMENTARY INFORMATION:

At page 15619, top of second column: Delete first two lines of text. In the same column, in the paragraph beginning with the word "Because": at line ten, insert a space and the word "The" between "(1978)." and "Council."

At page 15620, last paragraph of third column: Delete beginning at the word "environment" in the eleventh line through the end of the third column, except for the footnote.

At page 15621, first full paragraph of the first column, beginning with "Subsection (b)", substitute the following paragraph:

"Subsection (b) is amended to require federal agencies to include four items in an EIS if the information relevant to reasonably foreseeable significant adverse impacts remains unavailable because the overall costs of obtaining it are exorbitant or the means to obtain it are not know. The first step is disclosure of the fact that such information is incomplete or unavailable; that is, "a statement that such information is incomplete or unavailable." The second step is to discuss why this incomplete or unavailable information is relevant to the task of evaluating reasonably foreseeable significant adverse impacts; thus, "a statement of the relevance of the imcomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment." Third, the agencies must state what existing credible scientific evidence says about such impacts; therefore, "a summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment." Fourth, the agency must use sound scientific methods to evaluate the potential impacts; or in the words of the regulation, "the agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community."

At page 15625, the first full paragraph of the second column, beginning with *"Response:* CEQ", subsitute the following paragraphs:

"Response: CEQ manifests its oversight of the NEPA process in a number of ways on a daily basis; for example, reviews agency NEPA procedures, resolves referrals of proposals for major federal actions, and assists parties on an individual basis in resolving difficulties with the NEPA process.

"In the course of reviewing the regulation, considering the need for amendment of the regulation, and development of the proposed amendment, CEQ consulted with all federal agencies.

Such consultation is a normal part of developing or amending the NEPA regulations, which are binding on all federal agencies. CEQ also expended considerable efforts to consult with all interested parties outside of the federal government.

"Collateral estoppel is a doctrine by which a party may be barred from relitigating a question decided in a prior case. It does not bar an agency from changing a regulation that the courts have interpreted."

Dated: May 1, 1986.

A. Alan Hill,

Chairman.

[FR Doc. 86–10172 Filed 5–6–86; 8:45 am]

BILLING CODE 3125–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[General Dockets 84–689 and 84–690; FCC 86–163]

Amendment of the Commission's Rules To Allocate Spectrum for, and To Establish Other Rules and Policies Pertaining to, a Radiodetermination Satellite Service; and Policies and Procedures for the Licensing of Space and Earth Stations in the Radiodetermination Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Memorandum opinion and order granting in part and denying in part three petitions for reconsideration and a petition for clarification of final order.

SUMMARY: This action responds to petitions filed by four parties requesting reconsideration and clarification of the Commission's decision to allocate spectrum for a Radiodetermination-Satellite Service (RDSS). RDSS is a new service whereby accurate position information will be provided via statellite to terrestrial receivers. This action addresses issues raised in the petitions, in particular, the question of need for a specrum allocation for RDSS in view of other available systems. The Commission, in this document, affirms its initial decision and clarifies certain points.

EFFECTIVE DATE: June 6, 1986.

ADDRESS: Federal Communications Commission, 1919 M Street N.W. Washington, DC. 20554.

FOR FURTHER INFORMATION CONTACT: Julius P. Knapp, Office of Engineering and Technology, Spectrum Engineering Division, Frequency Allocations Branch, Telephone: (202) 653–8113.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in General Dockets 84–689 and 84–690, FCC 86–163, Adopted April 10, 1986, and Release April 28, 1986.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 837–3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order

In this *Memorandum Opinion and Order* (MO&O), we are considering petitions for reconsideration filed by Omninet Corporations, Wismer and Becker Contracting Engineers/Transit Communications Inc. and the National Academy of Sciences, and a petition for clarifications filed by Rockwell International Corp., with regard to the *Report and Order* (*R&O*) in the above captioned proceeding (50 FR 39101). The R&O allocated frequencies for a radiodetermination satellite service (RDSS).

The Commission confirms, as requested by Omninet, that the earlier decision did not specifically limit the services that RDSS licensees may provide nor was any finding made with regard to comparative accuracies of RDSS technologies.

The Commission finds that the existence of the federal government's Global Positioning Service (GPS) does not make superfluous that allocation of spectrum for GPS. Transit's petition presents no new information and lacks merit.

As requested by Rockwell, the Commission clarifies that it did not intend to imply that an enhanced GPS system could not provide the same degree of accuracy as RDSS.

The National Academy of Sciences request to establish a primary allocation status in one of the bands allocated to RDSS was denied. Primary allocation status has not been shown to be necessary at this time.

Ordering Clause

Accordingly, it is ordered that the petition for reconsideration filed by Omninet Corporation and petition for limited clarification filed by Rockwell International Corporation are granted to the extent indicated herein; and, the petition for reconsideration filed by Wisemer and Becker/Transit Communications, Incorporated and the petition for partial reconsideration filed by the National Academy of Sciences are denied. Authority for this action is contained in 47 U.S.C. 4(i) and 303(r).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86–10104 Filed 5–6–86; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81–11; Notice 16]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: *Changes in Replaceable Light Source Specifications.* This notice amends Safety Standard No. 108 to modify the specifications for the standardized replaceable light source. This will allow a manufacturer to determine the diameter of the glass capsule, while specifying the location of the black cap for assuring the interchangeability of the standardized light source in different lamp designs to achieve the required photometric performance. The amendment relieves certain design restrictions currently in effect, and achieves greater interchangeability for the light source. A notice of proposed rulemaking was published on September 18, 1985.

EFFECTIVE DATES: The effective date for the amendment to Figure 3–2 is November 3, 1986. The effective date for the remaining amendments is May 7, 1986.

ADDRESS: Petitions for reconsideration should be addressed to: Administrator, NHTSA, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Richard Van Iderstine, Office of Rulemaking, National Highway Traffic Safety Administration, Washington, DC 20590 (202–426–2720).

SUPPLEMENTARY INFORMATION: On September 18, 1985, NHTSA proposed certain modifications to the standardized replaceable light source which is specified by Motor Vehicle Safety Standard No. 108 for use in headlamps (50 FR 37882). The purpose of the proposal was to allow a manufacturer more flexibility in

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specifying the diameter of the glass capsule of the light source, and to revise the method for specifying the location of the black cap.

The proposal incorporated the following elements: a revised "interchangeability drawing" for the headlamp bulb assembly's halogen capsule (Figure 3–5) with certain angles and dimensions different than those presently specified; a revised lumen test necessitated by testing the light source with the black cap in place, requiring amendments to paragraph S4.1.1.38 (the test being currently performed without the black cap); finally, a modification in the allowable tolerances of the light source with a view towards a more accurate orientation of beam pattern, while permitting greater headlamp styling freedom. Here NHTA proposed tolerances petitioned for by General Motors, and NHTSA's own alternative values.

Comments were received on the proposal from vehicle manufacturers (Chrysler Corporation, American Motors Coporation, SAAB-Scania of North America, Volkswagen of America, General Motors Corporation, Ford Motor Company), lighting equipment manufacturers (Koito Manufacturing Co., GTE/Sylvania, General Electric Company, North American Philips Lighting Corporation), the Department of California Highway Patrol, and the SAE Replaceable Headlamp Bulb Task Force. The proposal was supported, with suggested modifications.

The purpose of the rulemaking with respect to the location of the black cap was to relieve a burden to manufacturers of having to build a light source with a narrowly specified glass cap diameter. To accomplish this, the location of the black cap and that of the undistorted glass must be specified in a manner which would be tolerant of changes in diameter while assuring that photometric performance was maintained. This led to the angular method used in the Notice of Proposed Rulemaking for specifying these locations. The method of dimensioning used the light source base as a reference because this would provide the easiest measurement reference for determining compliance of these parameters, and measurements could be more easily performed using vernier calipers rather than the more difficult optical comparator.

The proposed method of specifying the black cap location assumed that it would be installed on the light source after the capsule was installed on the base, but as commenters pointed out, this is not always the way that a light source is manufactured. Sylvania, for example, first installs the black cap on the capsule, then determines for what application the completed capsule will be used. This, the method NHTSA proposed would impose a burden of tolerance stackup which has the potential of creating noncompliances or possible photometric errors if the assembly procedure remained unchanged. Therefore, Sylvania and other commenters recommended using the actual location of the lower beam filament as a reference. NHTSA considers this a reasonable alternative, and in view of the fact that some manufacturers are already producing light sources in the fashion, the agency is amending Figure 3–5 to accommodate this comment.

Commenters also suggested that NHTSA adopt other changes for Figure 3–5 which would help clarify it, namely the revisions put forth by the SAE Replaceable Headlamp Bulb Task Force. These involve deletion of certain dimensions and redrawing of others, and changes in Notes. NHTSA has made appropriate modifications in line with the comments.

The September 1985 notice proposed alternative tolerances for the lower beam filament, one based upon a set of tolerances petitioned for by General Motors, and the other developed by NHTSA. Commenters objected to both alternatives, and recommended the tolerances developed by the SAE Task Force. These tolerances are based upon those that industry believes are consistently achievable with today's state-of-the-art in production machinery and quality assurance equipment. Ford and VW commented that the SAE tolerances would help improve the maintenance of beam pattern after bulb replacement. Tighter filament tolerances will also permit greater freedom in headlamp styling and manufacture. Judging by the comments received on the notice, there is little support for retaining the existing tolerances, and little support for either the GM or NHTSA alternative tolerances that were proposed. The SAE tolerances lie between the current ones and those proposed; since this represents a consensus among those who chose to comment, NHTSA has adopted it, and is amending the dimensions in Figure 3–2 appropriately. The new tolerances for the lower beam ahead/behind are plus or minus 0.010 inch, and plus or minus 0.015 inch for up/down and left/right. For the upper beam, the tolerance is 0.025 inch for ahead/behind and up/down, and 0.032 inch for left/right.

Comments about lumen values generally accorded with the proposal, to test with the black cap on, rather than without. SAAB argued that the values were too low while the California Highway Patrol thought that there was a large disparity in making the conversion from values without a black cap to those with a cap. NHTSA believes that a number of factors must be considered when making such a conversion. The black cap blocks off light to the front of the capsule and causes a drop in light output, but the filament still emits the same amount of light as it did without the cap. The location of the cap may vary plus or minus 1 mm. Filament variances plus cap location will cause a greater variation of light output from a capped bulb, than one that has no cap, where only the filament variances affect light output. These two factors cause a drop in measured light output from capped bulbs and cause the tolerance to increase. However, the light source is still the same one that had previously been tested without the black cap, and is still designed to conform to the other requirements so that the headlamp will perform in accordance with the requirements of the standard, and thus the lumen values have been adopted as proposed.

Koito requested that a more detailed specification be provided for the "opaque white colored cover" that is to be used in the lumen test (S4.1.1.38(b)(7)). The agency has added this clarification to the language otherwise proposed and adopted: "This cover shall be used to eliminate the likelihood of incorrect lumen measurement that would occur should the reflectance of the light source base and electrical connector be low."

The agency had proposed that the amendments be effective upon publication of the final rule in the **Federal Register**. Ford commented that this would be impracticable in that it would not allow enough time for both vehicle and light source manufacturers to prepare for building complying hardware, and it asked for lead time of one year. No other vehicle or light source manufacturer requested such an extension, and the agency has concluded that no need has been shown for a delay of the nature Ford requested.

Therefore, amendments that reduce an industry burden (those pertaining to capsule diameter, black cap placement, and revised lumen values) are made effective on the publication date of the final rule, as proposed. However, the amendment that places tighter tolerances on the filaments, and thus which has the potential of increasing an industry burden, will become effective six months following the publication of the rule.

Except for the amendment to Figure 3–2, the amendments are effective upon publication of the final rule in the **Federal Register**. Because the rule would relieve a restriction and create no additional burden, it is hereby found for good cause shown that an effective date earlier than 180 days after issuance of the final rule is the public interest. The amendment to Figure 3.2 is effective November 3, 1986.

NHTSA has considered this rule and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation" or significant under Department of Transportation regulatory policies and procedures, and that neither a regulatory impact analysis nor a full regulatory evaluation is required. While the rule does impose minor additional requirements and costs, it also permits manufacturers greater flexibility in the styling and design of headlighting systems.

NHTSA has analyzed this rule for the purposes of the National Environmental Policy Act. The rule would have no effect on the human environment since the weight and quantity of materials used in the manufacture of headlamps would not be changed.

The agency has also considered the impacts of the rule in relation to the Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and headlamps, those affected by the rule are generally not small businesses within the meaning of the Regulatory Flexibility Act. Finally, small organizations and governmental jurisdictions will not be significantly affected since the price of new vehicles and headlamps will be minimally impacted.

The engineer and lawyer primarily responsible for this proposal are Richard Van Iderstine and Taylor Vinson, respectively.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, is amended as follows:

1. The authority citation for Part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.108 [Amended]

2. The first sentence of paragraph (b) of paragraph S4.1.1.38 is revised to read:

(b) The standardized replaceable light source shall meet the requirements in paragraphs (b)(1) through (b)(7) of this section.

3. In paragraph (b)(1) of paragraph S4.1.1.38 the tabular portion of the general specifications is amended by revising the entry for lumens to read as follows:

	Lower beam	Upper beam
Lumens (with black cap at 12.8V design voltage)	700+/−15%	1200+/−15%

4. A new paragraph (b)(7) is added to paragraph S4.1.1.38 to read:

(b)(7) Lumens shall be measured in accordance with the Illuminating Society of North America, LM–45: IES Approved Method for Electrical and Photometric Measurements of General Service Incandescent Filaments Lamps (April 1980), and with that electrical connector and light source base (except for the portion normally located within the interior of a lamp housing) shrouded with an opaque white colored cover. This cover shall be used to eliminate the likelihood of incorrect lumen measurement that would occur should the reflectance of the light source base and electrical connector be low.

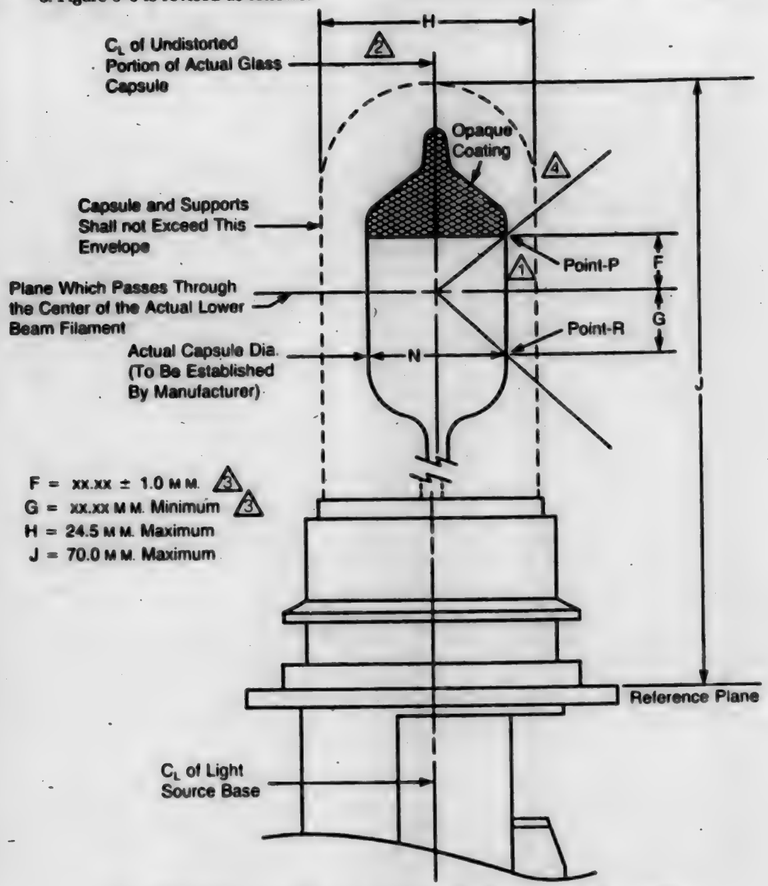
5. Figure 3–2 is revised as follows:

FIGURE 3-2
INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY

[Dimensional specifications for Figure 3-1]

DIMENSION	INCHES	MILLIMETERS
A	(0.085 to 0.083) 0.002 either side CL	(2.15 to 2.10) 0.05 either side CL
F	0.906	23.00
H	0.079	2.00
K: Lower beam	1.752+/-0.010	44.50+/-0.25
Upper beam	CL to be within +/-0.025 of CL of lower beam	CL to be within +/-0.64 of CL of lower beam
M	0.974	24.75
N	(1.335 to 1.331) 0.002 either side CL	(33.90) to (33.80) 0.05 either side CL
O	0.517+/-0.020	13.13+/-0.50
P	1.673	42.50
R	(1.126 to 1.122) 0.002 either side CL	(28.60 to 28.50) 0.05 either side CL
U	1.181	30.00
V	0.413	10.50
W	0.128	3.25
X	0.189	4.80
AC	0.045+/-0.015	1.15+/-0.38
AD	0.091+/-0.025	2.30+/-0.64
AE	0.047+/-0.015	1.20+/-0.38
AF	0.094+/-0.032	2.40+/-0.81
AH	0.356	9.05
AH	0.415	10.54
AN	0.673	17.10

6. Figure 3–5 is revised as follows:



1. Glass Capsule Periphery Shall be Optically Distortion Free Between the Planes Perpendicular to the Centerline at Points P and R.

2. Diameter "H" Shall be Concentric with the Centerline of the Light Source Base.

3. Exact Values of F and G Shall be Determined by Using the Following:
F = (N/2) Tan 38
G = (N/2) Tan 43

4. Entire Radius and Distorted Glass Shall be Covered to the Plane Passing Through Point "P", Perpendicular to the Glass Capsule Centerline.

Figure 3-5. Halogen Capsule

7. Figure 3–6 is removed.

Issued on April 29, 1986.

Diane K. Steed,

Administrator.

[FR Doc. 86–10021 Filed 5–6–86; 8:45 am]

BILLING CODE 4910–59–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1011

Delegation of Authority to the Motor Carrier Board

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission is exercising its authority under 49 U.S.C. 10305(a) to delegate the processing of certain types of finance transactions from Divisions of the Commission to the Office of Proceedings' Motor Carrier Board. These transactions include the transfer of brokers' licenses and Certificates of Registration, and the change in control of brokers. The Commission has determined that these proceedings can be processed more efficiently by the Office of Proceedings. Appropriate revisions in the Code of Federal Regulations will be made to reflect this action.

EFFECTIVE DATE: This decision is effective May 8, 1986.

FOR FURTHER INFORMATION CONTACT:
Howell I. Sporn, (202) 275–7691
or
Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: By action of July 26, 1984, 49 FR 31070 (August 3, 1984), the Commission recalled certain types of finance transactions that were previously handled by the Office of Proceedings' Review Board and delegated the processing of these transactions to Divisions of the Commission. These transactions included applications seeking the transfer of brokers' licenses and Certificates of Registration and applications for approval of the change in control of brokers. See 49 CFR 1011.6(e)(3).

We have determined that these proceedings can be processed more efficiently by the Office of Proceedings' Motor Carrier Board. Accordingly, under 49 U.S.C. 10305(a), we shall revise the regulations at 49 CFR 1011.6(e)(3) and 1011.6(k), as set forth in the Appendix, to reflect this action. Because the rule revisions only affect internal Commission procedures, they are issued here in final form. Public comment is not required. 5 U.S.C. 553(b)(A).

This action does not significantly affect the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1011

Administrative practice and procedure, Authority delegations.

Dated: April 4, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre and Lamboley.

James H. Bayne,

Secretary.

Appendix

PART 1011—[AMENDED]

Part 1011 of Title 49 of the CFR is amended as follows:

1. The authority citations following §§ 1011.4, 1011.5, 1011.6, 1011.7 and 1011.8 are removed, and the authority citation for 49 CFR Part 1011 continues to read as follows:

Authority: 49 U.S.C. 10301, 10302, 10304, 10305, 10321; 31 U.S.C. 9701; 5 U.S.C. 553.

2. Paragraph (e)(3) of § 1011.6 is removed, and paragraphs (e)(4), (5), and (6) are redesignated as (e)(3), (4), and (5), respectively.

3. Section 1011.6 is amended by removing the word "and" at the end of paragraph (k)(2).

4. Section 1011.6 is amended by replacing the period at the end of paragraph (k)(3) with a comma.

5. Section 1011.6 is amended by replacing the period at the end of paragraph (k)(4) with a comma and by adding the word "and" to follow that comma.

6. Section 1011.6 is amended by revising the heading and by adding a new paragraph (k)(5) to read as follows:

§ 1011.6 Employee Boards and Divisions of the Commission.

* * * * *

(k) * * *

(5) Applications which have not involved taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits, under (i) 49 U.S.C. 10321, relating to the transfer of brokers' licenses and changes in control of brokers, and (ii) 49 U.S.C. 10931 and 10932 relating to transfer of Certificates of Registration and rights to operate pending determination of application for Certificates of Registration.

[FR Doc. 86–10215 Filed 5–6–86; 8:45 am]

BILLING CODE 7035–01–M

49 CFR Parts 1105 and 1152

[Ex Parte No. 274 (Sub-13)]

Rail Abandonments—Use of Rights-of-Way as Trails

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting final rules to implement section 208 of the National Trails System Act Amendments of 1983, Pub. L. No. 98–11, [codified at 16 U.S.C. 1247(d)]. The rules give interested persons the opportunity to negotiate voluntary agreements to use, for recreational trails, rights-of-way of railroad lines approved for abandonment. Trail use is subject to future restoration and reconstruction of the right-of-way for railroad purposes. In addition, trail use is not to be treated as an abandonment of the right-of-way for railroad purposes. Therefore, any law that would otherwise result in reversion of the right-of-way is preempted. The regulations at 49 CFR Parts 1105 and 1152 are amended as set forth in the Appendix.

DATE: The rules will be effective on June 6, 1986.

FOR FURTHER INFORMATION CONTACT:
Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

This action will not have a significant economic impact on a substantial number of small entities.

This action will enhance the quality of the human environment and energy conservation.

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List of Subjects in 49 CFR Parts 1105 and 1152

Administrative practice and procedure, Environmental protection, National trails systems, Natural resources, Recreation, Recreation areas, Railroads.

Decided: April 16, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley commented with a separate expression.

James H. Bayne,
Secretary.

Appendix

Title 49, Subtitle B, Chapter X, Parts 1152 and 1105 of the Code of Federal Regulations are amended as follows:

PART 1152—[AMENDED]

1. The authority citation for 49 CFR Part 1152 is revised to read as follows:

Authority: 49 U.S.C 10321, 10326, and 10905; 16 U.S.C. 1247(d); and 5 U.S.C. 553.

2. The notice form in § 1152.21 is amended by: (1) Removing the word "and" in item (iv) of the form; (2) changing the period to a semicolon at the end of item (v) of the form and adding the word "and" after that semicolon; and (3) adding a new item item (vi) to the form at the end of the list of terms preceded by the words: "In addition, a commenting party or protestant may provide a statement of position and a summary of evidence regarding:" to read as follows:

§ 1152.21 Form of notice.

* * * * *

(vi) prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29.

* * * * *

3. Section 1152.25 is amended by: (1) removing the word "and" in paragraph (a)(2)(iv); (2) changing the period to semicolon at the end of paragraph (v) and adding the word "and" after the semicolon and (3) adding a new paragraph (vi) to read as follows:

§ 1152.25 Participation in abandonment or discontinuance proceedings.

(a) * * *

(2) * * *

(vi) prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29.

* * * * *

4. Part 1152 is amended by adding new § 1152.29 to read as follows:

§ 1152.29 Prospective use of rights-of-way for interim trail use and rail banking.

(a) If any state, political subdivision, or qualified private organization is interested in acquiring or using a right-of-way of a rail line proposed to be abandoned for interim trail use and rail banking pursuant to 16 U.S.C. 1247(d), it must file a comment (in a regulated abandonment proceeding) or a petition (in an exemption proceeding) indicating that it would like to do so. The comment or petition must include:

(1) A map depicting, and an accurate description of, the right-of-way, or portion thereof (including mileposts), proposed to be acquired or used;

(2) A statement indicating the user's willingness to assume full responsibility: for managing the right-of-way; for any legal liability arising out of the use of the right-of-way (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability); and for the payment of all taxes assessed against the right-of-way; and

(3) An acknowledgment that interim trail use is subject to the user's continuing to meet its responsibilities described in paragraph (a)(2) of this section, and subject to possible future reconstruction and reactivation of the right-of-way rail service. The statement must be in the following form:

Statement of Willingness to Assume Financial Responsibility

In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29, _____ (Interim Trail User) is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by _____ (Railroad) and operated by _____ (Railroad). The property, known as _____ (Name of Branch Line), extends from railroad milepost _____ near _____ (Station name), to railroad milepost _____ near _____ (Station name), a distance of _____ miles in _____ County(ies), _____ (State(s)). The right-of-way is part of a line of railroad proposed for abandonment in Docket No. AB–_____ (Sub-No. _____)

A map of the property depicting the right-of-way is attached.

_____ (Interim Trail User) acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad(s) on the same date it is being served on the Commission.

(b) (1) In regular (regulated) abandonment proceedings under 49 U.S.C. 10903–04, interim trail use statements must be filed within the 30-day protest and comment period following the date the abandonment application is filed. *See* § 1152.25(c).

(2) In exemption proceedings, a petition containing an interim trail use statement must be filed within 10 days after the date the Notice of Exemption is published in the **Federal Register.**

(3) If the regular abandonment or exemption request is investigated, comments will be accepted at any time during the time provided for making evidentiary filings in the investigation.

(4) In Conrail abandonment proceedings under NERSA, interim trail use statements must be filed within 60 days after the date that Conrail's abandonment application is filed.

(5) When an interim trail use comment(s) or petition(s) is filed, the railroad must submit a reply to the Commission within 10 days after the date the Commission issues a Notice of Findings in regular abandonment proceedings, and within 10 days after the date a petition requesting interim trail use is filed in an exemption or NERSA proceeding indicating whether and with whom it intends to negotiate an agreement.

(c) *Regular and NERSA Abandonment Proceedings.* (1) If continued rail service does not occur pursuant to § 1152.27, and a railroad intends to enter into an interim trail use/rail banking agreement, then the Commission will issue a Certificate of Interim Trail Use or Abandonment (CITU) to the railroad and to the interim trail user for that portion of the right-of-way to be covered by the agreement. The CITU will: permit the railroad to discontinue service, cancel tariffs, and salvage track and material consistent with interim trail use and rail banking, as long as it is consistent with any other Commission order, 30 days after the date it is issued (10 days after issuance in Conrail proceedings); and permit the railroad to fully abandon the line if no agreement is reached 180 days after it is issued, subject to appropriate conditions, including labor protection, and environmental matters.

(2) The CITU will indicate that interim trail use is subject to future restoration of rail service, and subject to the user continuing to meet the financial obligations for the right-of-way. The CITU will also indicate that, if the user intends to terminate trail use, it must send the Commission a copy of the CITU and request that it be vacated on a specified date. The owner of the right-of-way will be permitted to abandon it on that date.

(3) If an application to construct and operate a rail line over the right-of-way is authorized under 49 U.S.C. 10901 and 49 CFR 1150, or exempted under 49 U.S.C. 10505, then the CITU will be vacated accordingly.

(d) *Exempt Abandonment Proceedings.* (1) If a railroad intends to enter into an interim trail use/rail banking agreement, then the Commission will issue a Notice of Interim Trail Use or Abandonment (NITU) to the railroad and to the interim trail user for the portion of the right-of-way to be covered by the agreement. The NITU will permit the railroad to discontinue service, cancel tariffs, and salvage track and materials, consistent with interim trail use and rail banking, 30 days after the date it is issued, and permit the railroad to fully abandon the line if no agreement is reached 180 days after it is issued, subject to appropriate conditions, including labor protection, and environmental matters.

(2) The NITU will indicate that interim trail use is subject to future restoration of rail service, and subject to the user continuing to meet the financial obligations for the right-of-way. The NITU will also indicate that if the user intends to terminate trail use, it must send the Commission a copy of the NITU and request that it be vacated on a specific date. The Commission will reopen the exemption proceeding, vacate the NITU, and reissue a Notice of exemption for that portion of the right-of-way. Copies of the reissued Notice of exemption will be sent to the owner of the right-of-way and the former trail user.

(3) If an application to construct and operate a rail line over the right-of-way is authorized under 49 U.S.C. 10901 and 49 CFR Part 1150, or exempted under 49 U.S.C. 10505, then the NITU will be vacated accordingly.

4. Section 1152.50(d)(4) is revised to read as follows:

§ 1152.50 Exempt abandonments and discontinuances of service and trackage rights.

* * * * *

(d) * * *

(4) Exempt abandonments and discontinuances of service and trackage rights. To address: (i) environmental issues; (ii) whether the right-of-way is suitable for other public purposes under 49 U.S.C. 10906; and (iii) in abandonment proceedings only, prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d), interested persons must submit evidence and comments within 10 days of publication in the **Federal Register.** [Follow § 1152.28(a)(2) for public use conditions under section 10906, and follow § 1152.29(a) and (d) for interim trail use and rail banking under section 1247(d).] A notice to the parties will be issued if use of the exemption is subject to environmental or public use conditions, and if interim trail use and rail banking is feasible.

PART 1105—[AMENDED]

5. The authority citation for 49 CFR Part 1105 is revised to read as follows:

Authority: 49 U.S.C. 10321, 10505, and 10903–10905; 16 U.S.C. 1247(d); 42 U.S.C. 4332; and 5 U.S.C. 553 and 559.

6. The Form For Environmental Notice in § 1105.11 is amended by adding a new item (11) at the end of the list of issues proceded by the words: "Areas of concern, which you and other interested State and local agencies are invited to address, include but are not limited to the following:" to read as follows:

§ 1105.11 Environmental notice.

* * * * *

(11) Prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29.

* * * * *

[FR Doc. 86–10168 Filed 5–6–86; 8:45 am]
BILLING CODE 7035–01–M

VOL 51 ISS 88 MY 7 1986 UMI

Proposed Rules

Federal Register
Vol. 51, No. 88
Wednesday, May 7, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

10 CFR Part 300

Coal Loan Guarantee Program

AGENCY: Department of Energy.

ACTION: Proposed Suspension of Activity Under the Coal Loan Guarantee Program.

SUMMARY: This is notice that the Department of Energy (DOE) proposes to suspend activity under the Coal Loan Guarantee Program, 10 CFR Part 300, for loan guarantees for the purposes of developing, expanding, or reopening underground coal mines, and to terminate the acceptance of applications thereunder. This action is being taken in view of the fact that no loan guarantees have been granted since the program's implementation in 1978.

DATE: Comment must be received no later than June 6, 1986.

ADDRESS: Address comments to the Office of Coal Utilization Systems, FE–23, Department of Energy, Washington, DC 20545. The envelope must also display the following designation: "CLGP activity suspension."

FOR FURTHER INFORMATION CONTACT:

Mr. Peter Muchunas, Department of Energy, Office of Coal Utilization Systems, FE–23, Room C–156, Washington, DC 20545, Telephone 301–353–2603.

Mr. Lawrence R. Oliver, Department of Energy, Office of General Counsel, GC–43, Room 6B–190, Washington, DC 20585, Telephone 202–252–2440.

SUPPLEMENTARY INFORMATION: The Coal Loan Guarantee Program (the Program) was designed to encourage and assist relatively small coal producers to increase the Nation's coal production from low-sulfur underground coal mines; to enhance competition within the coal industry; to encourage new market entry by small coal producers who, historically, have been unable to obtain adequate long-term project financing; and to encourage the construction of coal preparation plants designed to reduce the sulfur content of coal.

The Program was authorized by Congress in 1975, by section 102 of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94–163). EPCA gave the Federal Energy Administration—and ultimately DOE [1]—authority to guarantee loans to develop new underground coal mines. This authority was enlarged in 1976 to cover guarantees for underground coal mine expansions and reopenings.[2] The regulations governing the Program were published in the Federal Register on November 7, 1978 (43 FR 51956).

Throughout the Program's 6-year existence, only 30 applications have been received, and only one within the past 4 years. Because no applicants have been able to satisfy the law's requirements, no loan guarantees have been granted; and only two applicants have qualified for DOE conditional commitments, which have since expired. Therefore, in light of the lack of public interest in the Program, DOE proposes to suspend activity under the Program.

Review Under Executive Order 12291

Today's proposal was reviewed under Executive Order 12291 (February 17, 1981). DOE has concluded that it is not a "major rule" because suspension of activity under the Coal Loan Guarantee Program will not result in (1) an annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State of local government agencies, or geographic regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprised to compete in domestic or export markets.

In accordance with requirements of the Executive Order, this rulemaking has been reviewed by OMB.

Review Under the Regulatory Flexibility Act

This proposed rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have a significant economic impact on a substantial number of small entities. Pursuant to section 605 of the Regulatory Flexibility Act, the Department certifies that this proposal is not a regulation which will have significant economic impact on a substantial number of small entities within the meaning of the Act, and, therefore, does not require preparation of an initial regulatory flexibility analysis. DOE has transmitted that certification to the Small Business Administration. The basis for certification is that, since its implementation in 1978, DOE's activities under the Coal Loan Guarantee Program have not resulted in the opening of any new underground coal mines, or the expansion or reopening of any existing underground coal mines.

Review Under the National Environmental Policy Act

DOE has determined that this proposal does not constitute a major Federal action significantly affecting the quality of the human environment and, therefore, does not require the preparation of an Environmental Impact Statement.

Review Under the Paperwork Reduction Act

This proposal does not impose a collection of information requirement. It therefore, is not necessary to submit this proposal to the Office of Management and Budget for review under the Paperwork Reduction Act.

(44 U.S.C. 3501–3520).

Comment Procedures

Section 501 of the DOE Act provides that if the Secretary determines that a substantial issue of fact or law exists or that a proposed rule is likely to have a substantial impact on the Nation's economy or on large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be provided. For the reasons discussed above, DOE has concluded that this proposal does not involve a substantial issue of fact or law, and that it should not have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Therefore, DOE does not plan to hold a public hearing. Interested persons are invited to submit data, views, or arguments with respect to the proposal set forth in this notice. Three copies of written comments should be submitted by June 6, 1986, to the address indicated in the "Address" section above and should be identified on the outside envelope and on the document with the designation "CLGP activity suspension." If any information is considered proprietary or confidential, it should be marked accordingly, and only one copy of that information should be submitted. DOE shall make a determination of any such claim in accordance with 10 CFR 1004.11.

[1] The 1977 DOE Act (Pub. L. 95–91) transferred, inter alia, the functions vested by law in the Administrator of the Federal Energy Administration to the Secretary of Energy.

[2] Energy Conservation and Production Act (ECPA) (Pub. L. 94–385), section 104, dated August 14, 1976.

List of Subjects in 10 CFR Part 300

Coal, Loan programs/energy, Mines.

Catalog of Federal Domestic Assistance Number

The Coal Loan Guarantee Program of the Department of Energy is listed as number 81.056 in the Catalog of Federal Domestic Assistance, which is available for inspection at the DOE Public Information Office, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, and available for purchase from the Superintendent of Documents, Government Printing Office, Washington, DC 20402.

Authority: Sections 501 and 644 of the DOE Organization Act (Pub. L. 95–91) (42 U.S.C. 7191; 7254), section 102 of the Energy Policy and Conservation Act (Pub. L. 94–163) (42 U.S.C. 6211), as amended by section 164 of the Energy Conservation and Production Act (Pub. L. 94–385), and by section 802 of the Powerplant and Industrial Fuel Use Act (Pub. L. 95–620).

Issued in Washington, DC, May 2, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86–10223 Filed 5–6–86; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D; Docket No. R–0571]

Definition of Deposit

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for public comment on proposed rules.

SUMMARY: Pursuant to its authority under section 19 of the Federal Reserve Act, as amended, the Board requests comment on proposed amendments to 12 CFR Part 204 (Regulation D—Reserve Requirements of Depository Institutions). After considering several requests for interpretations of Regulation D regarding the reservability of certain types of transactions, particularly sales of assets by depository institutions where the depository institution retains conditional liability for the assets sold and certain transactions with affiliates, the Board is proposing these amendments in order to clarify when such transactions give rise to deposits for purposes of the regulation.

Under the proposed amendments, the reservability of such transactions generally would depend upon the nature of the liability of the depository institution. Currently, the Board's Regulation D provides that the term "deposit" includes any liability of a depository institution on any promissory note, acknowledgment of advance, bankers' acceptance, or similar obligation (written or oral), including mortgage-backed bonds, that is issued or undertaken as a means of obtaining funds. The regulation currently excludes from this general rule certain of these liabilities, most notably repurchase agreements involving federal government and federal agency securities and certain interbank obligations. The regulation also excludes from the definition of "deposit" an obligation that represents a conditional, contingent or endorser's liability. Under the current regulation, most asset sales in which the depository institution retains some risk of loss are considered deposits, but the regulation is not clear or several technical points. The proposal is intended primarily to clarify the application of reserve requirements to these and related situations.

The proposal would amend the definition of "deposit" specifically to include sales of assets where the depository institution issues or undertakes a liability supporting the assets sold or retains a reversionary interest in these assets, regardless of whether the liability or interest is conditional, unconditional or contingent or whether the liability covers all or a portion of the assets sold. Transactions in which the depository institution's liability on any particular asset is shared with the purchaser as the loss is realized and is less than 75 percent of the loss would not give rise to a deposit. Where the depository institution's share of risk is 75 percent or more of losses realized, the transaction would give rise to a deposit. Generally, transactions in which the depository institution's only liability is to reimburse a third-party guarantor of the assets sold also would not give rise to a deposit under the proposal.

Under the current regulation, obligations of affiliates are reservable when they are used to supply or maintain funds to a depository institution, provided the affiliate's obligation would have been considered a reservable liability if it had been issued by the depository institution itself. The proposal would exclude obligations of affiliates from the definition of deposit if the proceeds of an affiliate's obligation are used to purchase assets from a depository institution without recourse; that is, if the depository institution retains no interest in, or liability for, the assets sold. The proposal would include as a deposit an affiliate's obligation if the depository institution undertakes a liability, conditional or otherwise, to support the affiliate's obligation even if the depository institution does not receive the proceeds of the obligation. In addition, the proposal would amend the definition of "affiliate" to include any organization that a depository institution effectively manages or controls even if it does not meet the formal requisites for ownership or control of the organization. Finally, the proposal seeks to clarify how maturities of deposits should be measured for the purposes of Regulation D.

DATE: Comments on the proposed rule should be submitted no later than July 11, 1986.

ADDRESS: Interested parties are invited to submit written data, views, or comments concerning the proposal to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or to deliver such comments to the Guard Station in the Eccles Building Courtyard on 20th Street, NW. (between Constitution Avenue and C Street, NW.) between 8:45 a.m. and 5:15 p.m. on business days. Submissions shall refer to Regulation D Docket No. 0571. Comments may be inspected in room B–1122 between 8:45 a.m. and 5:15 p.m. on business days, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: John Harry Jorgenson, Senior Attorney (202/452–3778), or Patrick J. McDivitt, Attorney (202/452–3818), Legal Division; Frederick H. Jensen, Economist (202/452–3022), Division of Research and Statistics; for Telecommunications Device for the Deaf (TDD) users, Earnestine Hill or Dorothea Thompson (202/452–3544); Board of Governors of

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the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Section 19(b) of the Federal Reserve Act, 12 U.S.C. 461(b), provides the Board with the authority to impose reserve requirements on deposits held by depository institutions, and section 19(a) of that Act, 12 U.S.C. 461(a), gives the Board the authority to define terms used in section 19 and to prevent evasions of section 19. Pursuant to this authority, the Board promulgated its current Regulation D.

Generally, the Board's current Regulation D provides that the term "deposit" includes liabilities of a depository institution that are issued or undertaken as a means of obtaining funds. The regulation excludes from the definition of "deposit" certain obligations that represent a conditional, contingent, or endorser's liability.

Increasingly, depository institutions are selling assets by means of transactions under which the institution guarantees, may be required to repurchase, or retains a reversionary interest in, all or a portion of the assets sold. These transactions take various forms, and the guarantee or interest may be conditional (as in the case of a standby letter of credit) or partial (by limiting liability to some percentage of the assets sold). Under the current Regulation D and the proposal, these transactions give rise to deposits for reserve requirement purposes because they are the functional equivalent of conventional deposits; that is, they raise funds for the depository institution, and the purchaser looks to the depository institution as the source of creditworthiness.

The Board is proposing these amendments to its Regulation D in order to clarify the types of transactions and attendant liabilities that give rise to a deposit under the regulation. The proposal provides that, generally, a transaction that involves a conditional liability or reversionary interest of a depository institution will be considered a deposit if the transaction is undertaken to obtain funds for the depository institution other than fee income. Thus, a sale of assets involving a guarantee by a depository institution in which the depository institution retains the risk of borrower default after the asset is sold gives rise to a deposit. In addition, under the proposal, the term "deposit" would include liabilities issued by affiliates and captive organizations when backed by conditional obligations of a depository institution. These organizations may act as an arm of the depository institution which would otherwise have to fund the lending activities with reservable liabilities.

The proposal also would clarify how maturities of deposits are measured for purposes of Regulation D. These proposed amendments concerning asset sales and other transactions are discussed below.

Clarification of Current Definition of "Deposit"

1. Subject to specified exceptions, Regulation D treats any liability of a depository institution undertaken as a means of obtaining funds, other than fee income, as a deposit. Thus, a sale of assets with recourse generally will be regarded as a deposit. "With recourse" in this context includes undertaking a conditional obligation to repurchase or to guarantee against loss all or a portion of the assets sold. The proposal also would clarify that reversionary or residual interests give rise to a deposit. Thus, when the depository institution sells a pool of assets but retains an interest in the principal or interest on these assets that will revert to the depository institution after a specified period of time or after losses have been deducted from the reverting assets, a deposit would be created. The proposal also would clarify that obligations representing a conditional or endorser's liability, other than fee income, are excluded from the definition of deposit only where they rise in the ordinary course of business, such as from the collection of checks. Other transactions involving similar liabilities on the part of the depository institution may be considered to be deposits.

The Board previously created an exception to the definition of "deposit" for obligations arising from the sales with recourse of pools of one to four-family mortgages provided that the recourse is limited to no more than a ten percent interest in the pool. The Board created this exclusion in order to encourage the growth of the secondary mortgage market so that institutions holding long-term mortgages could more easily sell their relatively illiquid assets. The proposal would not extend this exception to other types of assets.

In the case of a guarantee or other conditional liability provided to support a pool of assets sold, the full value of the assets sold generally would be considered a deposit whether the guarantee or other conditional liability applies to all or only a portion of the loss. For example, in the case of a sale of a pool or automobile loans where the depository institution guarantees or agrees to repurchase up to ten percent of the total value of the pool in the event of default, all proceeds of the sale of the pool would be considered a deposit. However, if a guarantee represents an agreement with the purchaser to share in losses arising from defaults on or claims against the individual assets sold as the losses occur, no deposit would result where the risk borne by the purchaser of the assets is 25 percent or more of any loss on individual assets in the pool of assets sold.

2. Regulation D currently treats an obligation of an affiliate, as defined by Regulation D, as a deposit of the depository institution to the extent that the proceeds are used to supply or to maintain funds (other than capital) to the depository institution, provided the affiliate's obligation would have been a deposit if it had been issued by the depository institution itself. Thus, under the current regulation, an affiliate's obligation issued in connection with the affiliate's purchase of assets from a depository institution is considered a deposit regardless of whether the assets are sold to the affiliate without recourse or are sold with a depository institution's guarantee or other conditional liability.

The Board proposes to change the current treatment of an affiliate's liability to provide that the sale of assets without recourse to an affiliate by the depository institution does not give rise to a deposit. However, if the depository institution provides a guarantee or otherwise assumes a conditional liability in connection with the sale of assets to the affiliate, either to support the assets or to support obligations of the affiliate issued to acquire the assets, the affiliate's obligation would continue to be considered a deposit. If such a guarantee or other conditional liability is issued by a nondepository affiliate of a depository institution to support assets sold without recourse by the depository institution to another affiliate, the Board would continue to view the transaction as not giving rise to a deposit. An obligation of a depository institution's subsidiary (50 percent or more owned by the depository institution) would continue to be regarded as a deposit, regardless of whether the proceeds are passed to the depository institution.

The proposal also provides that an affiliate's obligation is a deposit if that obligation is supported directly by a guarantee or other conditional liability of the depository institution or indirectly by supporting the affiliate's assets, regardless of whether the proceeds of the obligation are channelled to the depository institution. The maturity of such a deposit would be the maturity of the affiliate's obligation. Under these circumstances, the affiliate's reliance on the credit support of the depository institution enables the affiliate to operate as an arm of the depository institution. For example, affiliates have been established to lend money to customers of the depository institution with the affiliate relying on a letter of credit or other form of credit support from the depository institution to back the affiliate's loans or market obligations. These arrangements, while not directly channeling funds to the depository institution, use the creditworthiness of the depository institution to circumvent the need to fund assest on the books of the depository itself with reservable liabilities.

3. Currently, under staff interpretations, the term "deposit" does not include a sale of assets without recourse where the assets are guaranteed by a third party and the depository institution, in turn, is obligated to reimburse or indemnify the third party for any loss on the assets. Under the proposal, the Board would not consider such an arrangement to give rise to a deposit unless the claims under the guarantee or relating to or arising out of the assets sold could be made against the depository institution as well as, or instead of, the third party guarantor. The Board solicits comment on the benefits of excepting such indirect obligations from definition of deposit and the potential for abuse of such an exception.

4. The Board also proposes to amend the definition of "affiliate" in Regulation D to include any organization that does not meet the definition of "affiliate" in the current Regulation D but that nevertheless functions as an arm of the depository institution. For example, depository institutions have entered into transactions with organizations whose sole function is to issue obligations, such as commercial paper or collaterized securities, in order to finance the acquisition of assets from, or to place long-term nonreservable time deposits in, or to fund loans to customers of, the depository institution. In such a case, the assets or liabilities of the organization are backed by a letter of credit or other obligation of the depository institution. The proposal would include such transactions in the definition of "deposit" by amending the definition of "affiliate" in Regulation D specifically to include these "captive" organizations which are effectively managed by or under the control of the depository institution or that are formed to engage primarily in transactions with the depository institution or its customers even though not formally affiliated under the current definition.

Measuring Maturities on Deposits

If a liability is a deposit under section 204.2(a) of Regulation D, its maturity must be established in order to determine whether it is a transaction account or a time deposit, and if it is a nonpersonal time deposit, whether its maturity is less than one and one-half years. Transaction accounts are subject to a twelve percent reseve requirement and nonpersonal time deposits with maturities of less than one and one-half years have a three percent reserve requirement. Nonpersonal time deposits with a longer maturity have a zero percent reserve requirement. The term "maturity" is not defined in Regulation D, although the issue is addressed, in part, with respect to obligations of affiliates. With respect to the proceeds of a sale of assets and related transactions, the Board proposes to determine the maturity by looking to the remaining maturity of the assets sold unless the maturity is effectively shortened by the nature of the assets or the guarantee. For example, an obligation calling for amortized repayments of principal could be treated as a multiple maturity time deposit with each portion of the principal having its own maturity date established by the required date of repayment.

With regard to underlying guarantees, the Board is considering viewing any provision allowing a "put" by the depositor or a "call" by the depository institution resulting in any principal payment prior to the original maturity as setting that maturity at the earliest time the put or call could be exercised. Provisions in these and other types of deposits may also require the depository institution to disburse funds prior to the original maturity date. The Board prefers to allow the parties to include usual acceleration clauses (such as events of default, prepayments, and events outside the control of the parties) in the obligation without affecting the maturity of the deposit. One difficulty with this approach is deciding what are "usual" acceleration clauses. The Board requests comment on the issue of the appropriate method for determining maturity in asset sales and other transactions including, but not limited to, prepayments (expected and unexpected), guarantees against default (whether full or partial), escrow accounts, sinking funds, accruals, and put and call options.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires the Board to consider the impact of this proposal on small entities. In this regard, it is the Board's view that the proposal would not impose any additional reporting or recordkeeping requirements. The purpose of this proposal is to request comment on any alternatives that the public believes may be preferable to the Board's proposed amendment of its Regulation D set out below. Suggested alternatives will be considered when comments are analyzed. The proposed rule would apply to all depository institutions. It is not anticipated that the proposal will have a negative impact on the ability of small depository institutions to attract deposits.

List of Subjects in 12 CFR Part 204

Banks, Banking, Federal Reserve System, Foreign banking.

Pursuant to its authority under section 19(a) of the Federal Reserve Act (12 U.S.C. 461(a)), the Board proposes to amend Regulation D (12 CFR Part 204) as follows:

1. The authority citation for 12 CFR Part 204 would continue to read:

Authority: Secs. 19, 25, 25(a) of the Federal Reserve Act (12 U.S.C. 461, 601, 611); and sec. 7 of the International Banking Act of 1978 (12 U.S.C. 3105), unless otherwise noted.

2. Section 204.2 would be amended by revising paragraphs (a)(1)(v), (a)(1)(vi), (a)(1)(vii), (a)(2)(ii), and (q)(5) to read:

§ 204.2 Definitions.

For purposes of this part, the following definitions apply unless otherwise specified:

(a)(1) "Deposit" means:

* * * * *

(v) Any liability of a depository institution's affiliate that is not itself a depository institution on any promissory note, acknowledgment of advance, due bill, or similar obligation (written or oral), with a maturity of less than one and one-half years, except any such obligation that, had it been issued directly by the depository institution, would not constitute a deposit. Such a liability includes any affiliate's liability:

(A) The proceeds of which are used to supply or to maintain the availability of funds (other than capital) to the depository institution, except any such obligation issued to purchase assets from the depository institution where the depository institution retains no interest in and is not obligated directly or conditionally on the assets sold; or

(B) The proceeds of which are not used to supply or maintain the

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availability of funds to the depository institution but that is supported by an obligation of the depository institution, regardless of whether such obligation is conditional, unconditional, contingent, complete, partial, or supports the affiliate's obligation directly (as with a letter of credit backing the affiliate's liability) or indirectly by supporting the affiliate's assets.

If a liability of an affiliate of a depository institution is regarded as a deposit because the proceeds are used to purchase assets from the depository institution, then the maturity of the deposit shall be the shorter of the maturity of the obligation issued or the remaining maturity of the assets purchased. If a liability of an affiliate is regarded as a deposit because it is supported by an obligation of the depository institution and the proceeds are not used to purchase assets from the depository institution, then the maturity of the deposit shall be maturity of the obligation of the affiliate. If the proceeds from an affiliate's obligation are placed in the depository institution in the form of a reservable deposit, than no reserves are required on the obligation of the affiliate because reserves are required to be maintained against the deposit issued by the depository institution, but the maturity of the deposit shall be the shorter of the maturity of the affiliate's obligation or the maturity of the deposit itself;

(vi) Credit balances;

(vii) Any liability of a depository institution on any promissory note, acknowledgment of advance, bankers' acceptance, or similar obligation (written or oral), including mortgage-backed bonds and borrowings in the form of sales of assets where the depository institution retains an interest in or is liable for the assets sold (whether the interest or liability retained is conditional, unconditional, contingent, complete, or partial), provided that the liability, obligation, or borrowing is issued or undertaken by a depository institution as a means of obtaining funds other than fee income, except any such liability, obligation, or borrowing that:

(A) Is issued or undertaken and held for the account of:

(1) An office located in the United States of another depository institution, foreign bank, Edge or agreement corporation, or New York Investment (Article IXX) Company;

(2) The United States Government or an agency thereof; or

(3) The Export-Import Bank of the United States, Minbanc Capital Corporation, the Government Development Bank for Puerto Rico, a Federal Reserve Bank, a Federal Home Loan Bank, or the National Credit Union Administration Central Liquidity Facility;

(B) Arises from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States Government or any agency thereof that the depository institution is obligated to repurchase;

(C) Is not insured by a Federal agency, is subordinated to the claims of depositors, have a weighted average maturity of seven years or more, is considered to be capital by its primary Federal supervisor, and is issued by a depository institution with the approval of, or under the rules and regulations of, its primary Federal supervisor;

(D) Arises from borrowing by a depository institution from a dealer in securities, for one business day, or proceeds of a transfer of deposit credit in a Federal Reserve Bank or other immediately available funds (commonly referred to as "Federal funds"), received by such dealer on the date of the loan in connection with clearance of securities transactions;

(E) Arises from the creation, discount and subsequent sale by a depository institution of its bankers' acceptance of the type described in paragraph 7 of section 13 of the Federal Reserve Act (12 U.S.C. 372);

(F) Arises from a sale of assets that are held by the depository institution for a short period of time as part of the depository institution's ordinary underwriting, trading, or private placement activities;

(G) Arises from a sale of assets where the depository institution is liable only for a specified portion or share in any losses that arise from individual assets sold as the losses are realized, provided the depository institution's liability does not exceed 75 percent of any losses; or

(H) Arises from a sale of assets: (*1*) Where a third party is directly liable on the assets sold; (*2*) the depository institution's only obligation is to indemnify the third party guarantor; and (*3*) the claims under the guarantee relating to or arising out of the assets sold cannot be made against the depository institution by the purchaser of the assets.

* * * * *

(2) "Deposit" does not include:

* * * * *

(ii) An obligation, such as an endorser's liability on an item in process of collection, that represents a conditional, contingent, or endorser's liability arising from a transaction in the ordinary course of business and that is not incurred for the primary purpose of obtaining or maintaining the availability of funds (other than fee income).

* * * * *

(q) "Affiliate" includes any corporation, association, or other organization:

* * * * *

(5) Which the depository institution effectively manages or controls, directly or indirectly, or which is formed for the purpose of engaging primarily in transactions with the depository institution or its customers even if such organization is not formally owned or controlled by the depository institution.

* * * * *

By order of the Board of Governors of the Federal Reserve System,

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-10036 Filed 5-6-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 86-AWA-10]

Proposed Subdivision of R-6412, Camp Williams, UT

Correction

In FR Doc. 86-9011, beginning on page 15349, in the issue of Wednesday, April 23, 1986, make the following correction:

On page 15350, third column, in the "Authority", second line, "49 U.S.C. 1089(g)" should read "49 U.S.C. 106(g)".

BILLING CODE 1505-01-M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 211

Advance Notice of Intent To Revise Enforcement Procedures Applicable to Investigations of Unfair Practices in Import Trade

AGENCY: U.S. International Trade Commission.

ACTION: Advance notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. International Trade Commission is considering revision of its rules concerning enforcement procedures applicable to investigations of unfair practices in import trade conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). These rules are contained in 19 CFR Part 211. The Commission requests comments regarding in what respects, if at all, the Part 211 rules should be amended.

DATE: Comments must be received no later than July 7, 1986.

ADDRESS: Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Tim Yaworski, Esq., or Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436, telephone 202-523-0311 and 202-523-3395, respectively.

SUPPLEMENTARY INFORMATION: The Commission's Part 211 rules concern procedures for the settlement by consent of matters which involve alleged violations of section 337 and for the enforcement, modification, and revocation of final Commission actions. The rules were promulgated in final form on March 18, 1981 (46 FR 17531) and have been amended subsequently only in minor aspects.

Issued: April 30, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-10234 Filed 5-6-86; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 731, 732, 761, 772, 773, 779, 780, 783, and 784

Protecting Historic Properties From Surface Coal Mining Operations

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of Public Hearing.

SUMMARY: On March 11, 1986, the Office of Surface Mining Reclamation and Enforcement (OSMRE) of the U.S. Department of the Interior (DOI) proposed to amend its rules with respect to the consideration of cultural and historic properties to clarify existing provisions in its regulatory program (51 FR 8466 March 11, 1986). Provisions addressing the definition of cemetery, collection of information on known historic properties by applicants for permits to conduct coal mining operations, consideration of historic properties by State regulatory authorities, collection of environmental information by applicants for permits to conduct coal mining operations, and preparation of reclamation plans by applicants for plans by applicants for permits to conduct coal mining operations were proposed.

In response to a request from interested citizens a public hearing on the proposed Historic properties rules revisions is hereby scheduled at the location and time given below.

DATE: June 3, 1986, 9:00 a.m. to 1200 p.m.

ADDRESS: Office of Surface Mining reclamation and Enforcement, Columbus Field Office, 2242 South Hamilton, Room 200, Columbus, Ohio 43232.

FOR FURTHER INFORMATION CONTACT: Dr. Annetta I. Cheek, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Ave., NW., Washington, DC 20240; telephone: 202-343-7951.

SUPPLEMENTARY INFORMATION:

I. Public Hearing
II. Background

I. Public Hearing

The public hearing will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSM requests that persons who testify at the hearing give the transcriber a written copy of their testimony. OSMRE also requests that persons who plan to testify submit to OSMRE an advance copy of their testimony at the following address: Office of Surface Mining, Administrative Record, Room 5124B-L, 1951 Constitution Avenue, NW., Washington, DC 20240.

II. Background

Consideration of historic properties is required by the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act), as well as by other Federal statutes. Historic properties are addressed in sections 507(b)(13), 522(a)(3)(B) and 522(e)(3) of the Act. Additional requirements applicable to OSMRE's programs are found in sections 106 and 110 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.*

Section 507(b)(13) of the Act requires applicants for permits to conduct coal mining operations to include in their applications accurate maps showing all manmade features and significant known archeological sites existing on the date of application.

Section 522(a)(3)(B) of the Act authorizes regulatory authorities to determine that a surface area is unsuitable for all or certain types of coal mining if it would affect fragile or historic lands on which such operations could result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems.

Section 522(e) of the Act lists several property types on which mining is prohibited. Specifically, this section states that no surface coal mining operations will be permitted "within one hundred feet of a cemetery" or "which will adversely affect any publicly owned park or places included in the National Register of Historic Sites (sic) unless approved jointly by the regulatory authority and the Federal, State, or local agency with jurisdiction over the park or the historic site." Exceptions exist for valid existing rights and operations existing on August 3, 1977.

Section 106 of the National Historic Preservation Act, as amended, required Federal agency heads, prior to authorizing expenditure of Federal funds on a Federal or federally assisted undertaking, or prior to issuing a Federal license for such an undertaking, to consider the effect of the undertaking on historic resources and to provide the Advisory Council on Historic Preservation with a reasonable opportunity to comment on the undertaking. Under the NHPA, OSMRE reviews State program provisions as well as its own operations to ensure that appropriate consideration is being given to important historic properties.

The revisions to the existing regulations proposed respond to three basic concerns. First, opinions issued by the District Court of the District of Columbia require certain changes to the existing language. Second, the petition for rulemaking on this issue, submitted by SOPA, was determined to have merit and OSMRE has decided to propose regulations to respond to the issues raised in that petition. See the discussion of the Director's decision on this petition at 51 FR 3802, January 30, 1986, which is part of the basis and purpose for this rule. Third, OSMRE's experience with the process as it now operates, and comments from various interest groups, both suggest that greater clarity and specificity in the regulations is required so that the regulatory authorities can better assist the Secretary of the Interior in implementing his responsibilities concerning historic resources.

A detailed discussion of these issues is set forth in the preamble to the proposed rule (51 FR 8466 March 11, 1986).

Dated: May 2, 1986.

H. Leonard Richason,

Acting Assistant Director, Program Operations.

[FR Doc. 86-10170 Filed 5-6-86; 8:45 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3012-8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) today is proposing to exclude the solid wastes generated at seven facilities from the list of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to delisting petitions submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 265, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific basis" from the hazardous waste list. The effect of this action, if promulgated, would be to exclude certain wastes generated at particular facilities from listing as hazardous wastes under 40 CFR Part 261.

The Agency has previously evaluated five of the petitions which are discussed in today's notice. Based on our review at that time, five of these petitioners were granted a temporary exclusion. Due to changes to the delisting criteria required by the Hazardous and Solid Waste Amendments of 1984, however, these petitions as well as the other two petitions for which we propose to grant an exclusion have been evaluated both for the factors for which the wastes were originally listed, as well as all other factors and toxicants which might reasonably cause the wastes to be hazardous.

DATES: EPA will accept public comments on these proposed exclusions until June 6, 1986. Any person may request a hearing on these proposed exclusions by filing a request with Eileen B. Claussen, whose address appears below, by May 22, 1986. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send two copies of your comments to EPA. One copy should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. A second copy should be sent to Jim Kent, Delisting Section, Waste Identification Branch, CAD/OSW (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Identify your comments at the top with this statement: "Section 3001—Delisting Petition: Proposed Exclusions Beginning with Arco Building Products; May 7, 1986."

Requests for a hearing should be addressed to Eileen B. Claussen, Director, Characterization and Assessment Division, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

The public docket for these proposed exclusions is located in Room S-212, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-5096.

SUPPLEMENTARY INFORMATION:

Background

On January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in 40 CFR 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit any of the characteristics of hazardous wastes identified in Subpart C of Part 261 (*i.e.*, ignitability, corrosivity, reactivity, and extraction procedure [EP] toxicity) or meet the criteria for listing contained in 40 CFR 261.11 (a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To be excluded, petitioners must show that a waste generated at their facility does not meet any of the criteria under which the waste was listed. (See 40 CFR 260.22(a) and the background documents for the listed wastes.) In addition, the Hazardous and Solid Waste Amendments of 1984 (HSWA) require the Agency to consider factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics, as well as present sufficient information for the Agency to determine whether the waste contains any other taxicants at hazardous levels. (See 40 CFR 260.22(a); section 222 of the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. 6921(f); and the background documents for the listed wastes.) Although wastes which are "delisted" (*i.e.*, excluded) habe been evaluated to determine whether or not they exhibit any of the characteristics of a hazardous waste, generators remain obligated to determine whether their waste remains non-hazardous based on the hazardous waste characteristics.

In addition to wastes listed as hazardous in 40 CFR 261.31 and 261.32, residues from the treatment, storage, or disposal of listed hazardous wastes also are eligible for exclusion and remain hazardous wastes until excluded. (See 40 CFR 261.3 (c) and (d)(2).) Again, the substantive standard for "delisting" is: (1) That the waste not meet any of the criteria for which it was listed originally; and (2) that the waste is not hazardous after considering factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Where the waste is derived from one or more listed hazarous waste, the demonstration may be made with respect to each constituent or the waste mixture as a whole. (See 40 CFR 260.22(b).) Generators of these excluded treatment, storage, or disposal residues remain obligated to determine whether these residues exhibit any of the hazardous waste characteristics on a periodic basis.

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Approach Used To Evaluate Delisting Petitions

The Agency first will evaluate the petition to determine whether the waste (for which the petition was submitted) is non-hazardous based on the criteria for which the waste was originally listed. If the Agency believes that the waste is still hazardous (based on the original listing criteria), it will propose to deny the petition. If, however, the Agency agrees with the petitioner that the waste is non-hazardous with respect to the criteria for which the waste was listed, it then will evaluate the waste with respect to other factors or criteria, if there is a resonable basis to believe that such additional factors could cause the waste to be hazardous.

The Agency is using a hierarchical approach in evaluating petitions for the other factors or contaminants (*i.e.*, those listed in Appendix VIII of Part 261). This approach may, in some cases, eliminate the need for additional testing. The petitioner can choose to submit a raw materials list and process descriptions. The Agency will evaluate this information to determine whether any Appendix VIII hazardous constitutents are used or formed in the manufacturing and treatment process and are likely to be present in the waste at significant levels. If so, the Agency then will request that the petitioner perform additional analytical testing. If the petitioner disagrees, he may present arguments on why the toxicants would not be present in the waste, or, if present, why they would pose no toxicological hazard. The reasoning may include descriptions of closed or segregated systems, or mass balance arguments relating volume of raw materials used to the rate of waste generation. If the Agency finds that the arguments presented by the petitioner are not sufficient to eliminate the reasonable likelihood of the toxicant's presence in the waste, the petition would be tentatively denied on the basis of insufficient information. The petitioner then may choose to submit the additional analytical data on representative samples of the waste during the public comment period.

Rather than submitting a raw materials list, petitioners may test their waste for any additional toxic constituents that may be present and submit this data to the Agency. In this case, the petitioner should submit an explanation of why any constituents from Appendix VIII of Part 261, for which no testing was done, would not be present in the waste or, if present, why they would not pose a toxicological hazard.

In making a delisting determination, the Agency evaluates each petitioned waste against the listing criteria and factors cited in 40 CFR 261.11 (a)(2) and (a)(3). Specifically, the Agency considers whether the waste is acutely toxic, as well as the toxicity of the constitutents, the concentrations of the constitutents in the waste, their tendency to migrate and bioaccumulate, their persistence in the environment once released from the waste, plausible types of management of the waste, and the quantities of waste generated. In this regard, the Agency has developed an analytical approach to the evaluation of wastes that are landfilled and land treated. See 50 FR 7882 (February 26, 1985), 50 FR 48886 (November 27, 1985), and 50 FR 48943 (November 27, 1985). The overall approach, which includes a ground water transport model, is used to predict reasonable worst-case contaminant levels in ground water in nearby receptor wells (*i.e.*, the model estimates the ability of an aquifer to dilute the toxicant from a specific volume of waste). The land treatment model also has an air component and predicts the concentration of specific toxicants at some distance downwind of the facility. The compliance point concentration determined by the model then is compared directly to a level of regulatory concern. If the value at the compliance point predicted by the model is less than the level of regulatory concern, then the waste could be considered non-hazardous and a candidate for delisting. If the value at the compliance point is above this level, however, than the waste probably still will be considered hazardous, and not excluded from Subtitle C control.[1]

This approach evaluates the petitioned wastes by assuming reasonable worst-case land disposal scenarios. This approach has resulted in the development of a sliding regualtory scale which suggestes that a large volume of waste exhibiting a particular extract level would be considered hazardous, while a smaller volume of the same waste could be considered non-hazardous.[2] The Agency believes this to be a reasonable outcome since a larger quantity of the waste (and the toxicants in the waste) might not be diluted sufficiently to result in compliance point concentrations that are less than the level of regulatory concern. The selected approach predicts that the larger the waste volume, the higher the level of toxicants at the compliance point. The mathematical relationship (with respect to ground water) yields at least six-fold dilution of the toxicant concentration initially entering the aquifer (*i.e.*, any waste exhibiting extract levels equal to or less than six times a level of regulatory concern will generate a toxicant concentration at the compliance point equal to or less than the level of regulatory concern). Depending on the volume of waste, an additional five-fold dilution may be imparted, resulting in a total dilution of up to thirty-two times..

The Agency is using this approach as one factor in determining the potential impact of the unregulated disposal of petitioned waste on human health and the environment. The Agency has used this approach in evaluting each of the waste proposed for exclusion in today's publication. As a result of this evaluation, the Agency is proposing to grant the petitions discussed in this notice.

It should be noted EPA has not verified the submitted test data before proposing to grant these exclusions. The sworn affidavits submitted with each petition bind the petitioners to present truthful and accurate results. The Agency, however, has initiated a spot sampling and analysis program to verify the representative nature of the data for some percentage of the submitted petitions before final exclusions will be granted.

Finally, before the Hazardous and Solid Waste Amedments of 1984, the Agency granted temporary exclusion without first requesting public comment. The Admendments specifically require the Agency to provide notice and an opportunity for comment before granting a final exclusion. Thus, a final exclusion will not be granted for any of the petitions proposed today until all public comments (including those at requested hearings, if any) are addressed.

Petitioners

The proposed exclusions published today involve the following petitioners:

Arco Building Products, Sugarcreek, Ohio;

Hanover Wire Cloth Division, Hanover, Pennsylvania;

International MInerals and Chemical Corporation, Terre Haute, Indiana;

[1] The Agency recently proposed a similar approach, including a ground water transport model, as part of the land disposal restrictions rule (see 51 *FR* 1602, January 14, 1986). The Agency, however, has not yet evaluated the comments on this proposal. If this approach is promulgated, the Agency will consider revising the delisting analysis at the time.

[2] Other factors may result in the denial of a petition, such as actual ground water monitoring data or spot check verification data.

Monsanto Industrial Chemicals Company, Sauget, Illinois;
Square D Company, Oxford, Ohio;
Vulcan Materials Company, Port Edwards, Wisconsin;
Whirlpool Corporation, Danville, Kentucky.

I. Arco Building Products

A. Petition for Exclusion

Arco Building Products (Arco), located in Sugarcreek, Ohio, fabricates a variety of aluminum extrusions into prime replacement windows, storm doors, and storm windows for distribution to residential home builders and other contractors. Arco has petitioned the Agency to exclude its wastewater treatment sludge, presently listed as EPA Hazardous Waste No. F019—Wastewater treatment sludge from the chemical conversion coating of aluminum. The listed constituents of concern for EPA Hazardous Waste No. F019 are hexavalent chromium and complexed cyanide.

Based upon the Agency's review of their petition, Arco was granted a temporary exclusion on January 13, 1983.[3] The Agency's basis for granting the informal exclusion was the low migration potential of the constituents of concern; namely hexavalent chromium and complexed cyanide. On November 8, 1984, the Hazardous and Solid Waste Amendments were enacted. In part, the Amendments require the Agency to consider factors (including additional constituents) other than those for which the waste was originally listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).) As a result, the Agency has re-evaluated Arco's petition to: (1) Determine if the petition should be granted based on the original listing criteria; and (2) evaluate the waste for additional factors (other than those for which the waste was listed) to determine whether or not the waste is hazardous. Today's notice is the Agency's re-evaluation of this petition.

In support of their petition, Arco submitted a detailed description of its manufacturing and treatment processes, including schematic diagrams; total constituent analyses and EP toxicity test results of the sludge for chromium; and analytical test results for total, amenable, and leachable cyanide.[4] Arco also submitted total constituent analyses and EP toxicity test results for arsenic, barium, cadmium, lead, mercury, nickel, selenium, and silver; and total oil and grease analyses on representative waste samples. Arco further submitted a list of raw materials used in the manufacturing process to demonstrate that no other hazardous constituents are present in the waste at levels of regulatory concern. As noted above, the Agency requested this information to determine if toxicants, other than those for which the waste was listed, are present in the waste at levels of regulatory concern.

Arco's manufacturing process includes washing and conversion coating of aluminum extrusions in preparation for painting with turbine disks, oven curing and cutting, and fabricating the extrusions into window and door products. Arco claims that cyanide is not used in their process. Treatment of the wastewater from the chemical conversion coating process involves ferric sulfate addition to aid phosphate removal. Sodium bisulfite is added to the treatment tank to reduce hexavalent chromium to the trivalent state. The reduced solution is neutralized with calcium hydroxide lime. A flocculent is then added to the suspended solids to precipitate chromic hydroxide. The supernatant is pumped to the Sugarcreek publicly owned treatment works, and the sludge is passed through a filter press to achieve a 30 percent solids content.

Four weekly composite samples were collected from the sludge storage drums. Each composite sample was composed of five sample cores from each drum. The samples were collected over a 1-month period (November, 1985) to reflect process changes. ARCO claims that the samples collected are representative of any variation of the listed and unlisted constituent concentrations in the waste. ARCO further claims that although the facility could be considered a job shop, the manufacturing processes used at the facility are predictable and the use of raw materials only increases during September, October, and November. In addition, the petitioner claims that the sampling period was long enough to cover any scheduled changes in the product line and, therefore, all raw materials used in the process are represented by the samples collected.

Total constituent and EP toxicity analyses of the sludge for the listed constituents revealed the maximum concentrations reported in Table 1.

TABLE 1.—MAXIMUM CONCENTRATIONS (ppm)

Constituent	Total constituent analysis	EP leachate analysis
Cr (total)	91,000	[1] 0.43
CN	<0.5	[2] 0.03

[1] Hexavalent chromium is listed as the constituent of concern for this waste; however, the concentration of total chromium in the EP extract is low enough to make a determination of hexavalent chromium unnecessary.
[2] From distilled water leach test.

The total constituent and EP toxicity analyses of the sludge for the non-listed EP toxic metals and nickel revealed the maximum concentrations reported in Table 2.

TABLE 2.—MAXIMUM CONCENTRATIONS (ppm)

Constituent	Total constituent analysis	EP leachate analysis
As	5.8	<0.01
Ba	34	0.1
Cd	2.1	0.01
Pb	50	0.13
Hg	0.27	0.0006
Ni	180	0.45
Se	<1	<0.01
Ag	<0.1	<0.01

The maximum total oil and grease value reported was 0.41 percent. Arco also submitted a list of all raw materials used in their manufacturing and wastewater treatment processes. This list indicates that no Appendix VIII hazardous constituents (other than those tested for) are used in the process and that formation of any of these constituents is highly unlikely. Arco also provided test data indicating that the sludge is not ignitable, corrosive, or reactive. Arco claims to generate a maximum of 30 tons of sludge per year.

B. Agency Analysis and Action

Arco has demonstrated that its waste treatment system produces a non-hazardous sludge. The Agency believes that the four composite samples collected from the drums over a one-month period were non-biased and adequately represent any variations that may occur in the waste stream petitioned for exclusion. The key factor that could vary toxicant concentrations in the waste would be the use of different raw materials due to changes in the product line being manufactured. The Agency believes that Arco's sampling period was long enough to cover any scheduled changes in the product line since the petitioner has verified that all of the process lines were in operation during the sampling period.

[3] This exclusion was not published in the Federal Register. Since the Assistant Administrator for Solid Waste and Emergency Response approved the decision however, we have concluded that Arco was granted a temporary exclusion. See public docket for specific documentation.

[4] Leachable cyanide was determined using a distilled water extractant. Distilled water is used rather than the normal acidic EP extraction medium to avoid the destruction of cyanide during the extraction procedure.

We believe, therefore, that the samples are representative of the waste Arco generated.

The Agency has evaluated the mobility of the listed constituents from Arco's waste using a vertical and horizontal spread (VHS) model.[5] The compliance point values were calculated using a minimum waste generation rate of 475 cubic yards per year as specified by the VHS model [6] and the maximum reported extract levels as input parameters. These compliance point concentrations are exhibited in Table 3.

TABLE 3.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS (ppm)

Constituent	Compliance-point concentration	Regulatory standard
Cr (total)	0.004	0.05
CN	0.0008	0.2

The sludge exhibited chromium levels (at the compliance point) below the National Interim Primary Drinking Water standard and cyanide levels below the U.S. Public Health Service's suggested drinking water standard.[7] The total cyanide levels in the waste are also below the air threshold limit set by the American Conference of Governmental Hygienists.[8] These constituents therefore are not of regulatory concern.

The Agency also concluded, through the use of the VHS model, that no other toxic metals are present in the sludge at levels of regulatory concern (*i.e.*, none are above any regulatory standard at the compliance point in the VHS model). The compliance point values generated from these extract levels are displayed in Table 4. (Where concentrations were below detection limits, the detection limit was used in the VHS calculations.)

[5] See 50 *FR* 7882, Appendix I, February 26, 1985, for a detailed explanation of the development of the VHS model for use in the delisting program. See also the final version of the VHS model, 50 *FR* 48890, Appendix, November 27, 1985.

[6] Arco generates 30 tons of sludge per year of waste; however, the VHS model uses a minimum waste generation rate of 475 cubic yards. The Agency assumes the density of the waste to be 1 ton/cu. yd. unless otherwise specified. See 50 *FR* 46900 (November 27, 1985) for a discussion of the minimum waste generation rate.

[7] Drinking Water Standards, U.S. Public Health Service, Publication 956, 1962 (0.2 ppm).

[8] See Documentation of Threshold Limit Values for Substances in Workroom Air. American Conference of Governmental Industrial Hygienists, third edition, 1971, Cincinnati, Ohio.

TABLE 4.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATION (ppm)

Constituent	Compliance-point concentration	Regulatory standards
As	<0.0003	0.05
Ba	0.003	1.0
Cd	0.0003	0.01
Pb	0.004	0.05
Hg	0.00002	0.002
Ni	0.014	0.35
Se	<0.0003	0.01
Ag	<0.0009	0.05

The Agency also reviewed Arco's raw materials lists and Material Safety Data Sheets for each component in the raw materials lists. The Agency has concluded from this review that no other Appendix VIII hazardous constituents are present in the waste.

The Agency believes that ARCO's treatment process generates a non-hazardous waste. The Agency therefore proposes to grant an exclusion to Arco's Sugarcreek, Ohio facility for its dewatered wastewater treatment sludge, as described in its petition. (The Agency notes that any changes to Arco's manufacturing or treatment processes will require Arco to file an addendum to their petition or a new petition.[9] Any future changes to these processes that could affect the physical or chemical characteristics of the sludge will require a redemonstration of the hazard of the waste).

II. Hanover Wire Cloth.

Petition for Exclusion

A.

Hanover Wire Cloth (Hanover), located in Hanover, Pennsylvania, manufactures wire cloth or screen material. Hanover has petitioned the Agency to exclude its treated sludge, presently listed as EPA Hazardous Waste No. F006—Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.[10] The listed constituents of concern for EPA Hazardous Waste No. F006 are cadmium, hexavalent chromium, nickel, and cyanide (complexed).

Based upon the Agency's review of their petition, Hanover was granted temporary exclusion on January 13, 1983.[11] The Agency basis for granting the informal exclusion was the low migration potential of the constituents of concern, namely hexavalent chromium, cadmium, nickel, and cyanide. On November 8, 1984, the Hazardous and Solid Waste Amendments were enacted. In part, the Amendments require the Agency to consider factors (including additional constituents) other than those for which the waste was originally listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).). As a result, the Agency has re-evaluated Hanover's petition to: (1) Determine if the petition should be granted based on the original listing criteria; and (2) evaluate the waste for additional factors (other than those for which the waste was listed) to determine whether or not the waste is hazardous. Today's notice is our re-evaluation of this petition.

In support of their petition, Hanover submitted a detailed description of their manufacturing and wastewater treatment processes, including schematic diagrams; total constituent and EP toxicity analyses of the waste for chromium, cadmium, and nickle; and total analyses for cyanide. Hanover also submitted total constitutent and EP toxicity analyses for arsenic, barium, lead, mercury, selenium, and silver; and total oil and grease analyses on representative waste samples. Hanover further submitted a list of raw materials used in their processes that contribute to the petitioned waste. The Agency requested this information, as noted above, to determine whether hazardous constituents, other than those for which the waste is listed, are present in the waste at levels of regulatory concern.

Hanover's manufacturing processes are divided into three categories; wire drawing, weaving, and screen finishing. The wire drawing operation involves annealing coils of steel, dipping in sulfuric acid, and copper coating with a copper sulfate solution. The wire

[9] Once a final decision on this petition is made, a significant process change would require submission of a new petition or treatment of the waste as hazardous.

[10] The original petition submitted by Hanover also requested that the Agency exclude EPA Hazardous Waste No. F019—Wastewater treatment sludges from the chemical conversion coating of aluminum. Since that time, the source for the F019 Waste has been eliminated. Hanover is therefore requesting a final exclusion only for the F006 waste.

[11] This exclusion was not published in the Federal Register. Since the Assistant Administrator for Solid Waste and Emergency Response approved the decision, however, we have concluded that Hanover was granted a temporary exclusion. See public docket for specific documentation.

produced is woven into screen material (cloth). Steel Cloth is then cleaned and painted or Zinc plated; bronze and aluminum cloth are also cleaned and painted. Wastewaters from the drawing and finishing operations are sent to the wastewater treatment system. There are no wastewaters generated from the painting process (after the paint is applied, it is cured and the cloth is packaged for sale; water does not contact the product after coating).

Wastewater from the wire drawing and finishing operations are sent to a flash mix tank where excess lime and a coagulant are added to control pH and enhance sedimentation. The waste then flows to a flocculant tank and into a clarifier. The sludge is collected in the clarifier hopper and pumped to a disc vacuum filter. Filter cake accumulates in a drum, and once the drum is filled, the waste is dumped into a container. The filter cake accumulates in the container for approximately one month before disposal.

Hanover collected, in total, 12 samples that were generated from the vacuum filter.[12] Four grab samples were collected in January, April, June, and July 1985, and were used for the metals analyses, while four grab samples were collected in October, 1985, and analyzed for total oil and grease, pH, and percent solids. Four additional samples were collected, over a 15 day period in December, 1985, and also analyzed for the toxic metals. Hanover states that the manufacturing processes used at the facility are operated in a consistent manner, and that the use of raw materials does not vary over time. Hanover claims, therefore, that the samples collected are representative of any variation of the listed and non-listed constitutent concentrations of the waste.

Total constituent analyses and EP toxicity test results of the treatment sludge for the listed constituents, as well as the other EP toxic metals, revealed the maximum concentrations reported in Tables 1 and 2.

TABLE 1.—MAXIMUM CONCENTRATIONS

	Total constituent analyses (mg/kg)	EP leachate results (mg/l)
Cd	0.5	0.05
Cr (total)	47	[1]0.12
Ni	31.2	0.53
CN (total)	0.29	

[12] In Hanover's original petition, four composite samples were analyzed for chromium content, and one composite sample was analyzed for the remainder of the metals. This information, however, included the F019 wastestream and is, therefore, not considered in this evaluation.

[1] Hexavalent chromium is listed as the constituent of concern for this waste; however, the concentration of total chromium is low enough to make a determination of hexavalent chromium unnecessary.

TABLE 2.—MAXIMUM CONCENTRATIONS [1]

	Total constituent analyses (mg/kg)	EP leachate results (mg/l) [1]
As	0.25	<0.02
Ba	6	0.4
Pb	5.8	0.18
Hg	0.6	0.0023
Se	<0.02	0.11
Ag	1.1	0.03

[1] The EP leachate values and maximum constituent analyses reported in Table 2 represent the maximum levels reported for particular metal and do not necessarily represent the same sample.

The maximum total oil and grease content of Hanover's waste was 0.05 percent. This list of raw materials Hanover provided indicates that no Appendix VIII hazardous constituents, other than those tested for, are used in the process, nor are any other toxicants expected to enter or be formed in the sludge. Further, Hanover claims that the maximum amount of waste generated in 255 tons annually.

B. Agency Analysis and Action

Hanover has demonstrated that its wastewater treatment system generates a non-hazardous sluge. The Agency believes that the samples collected by Hanover were non-biased and adequately reflect and variations that may occur in the waste stream petitioned for exclusion. The key factor that could vary toxicant concentrations in the waste would be the use of different raw materials due to a change in the product line being manufactured. Hanover is not a job shop nor are there seasonal product variations. The Agency believes Hanover's claim that manufacturing and treatment processes are uniform and consistent. The Agency, therefore, believes that the samples collected are representative of the waste generated by Hanover.

The Agency has evaluated the mobility of the listed constituents from Hanover's waste using a vertical and horizontal spread (VHS) model.[13] The Agency's evaluation of Hanover's waste, using the maximum values for estimated annual sluge generation [14] and reported leachate concentrations as input parameters, has resulted in the maximum predicted compliance point concentrations exhibited in Table 3.

[13] See footnote 5.

[14] Hanover generates 255 tons of sludge per year of waste; however, the VHS model specifies a minimum waste generation rate of 475 cubic yards. The Agency assumes the density of the waste to be 1 ton/cu. yd. unless otherwise specified. See 50 *FR* 48900 (November 27, 1985) for a discussion of the minimum waste generation rate.

TABLE 3.—COMPLIANCE POINT CONCENTRATIONS (mg/l)

	Predicted Compliance point concentration	Regulation standard
Cd	0.002	0.01
Cr (total)	0.004	0.05
Ni	0.016	0.35
CN [1]	0.008	0.2

[1] The maximum total concentration of cyanide found in the waste was used in the VHS calculation because even if all of the cyanide were to leach out of the waste, the resultant level at the compliance point would still be below the regulatory standard.

The vacuum filter sludge exhibited cadmium and chromium levels (at the compliance point) below the National Interim Primary Drinking Water standards, and cyanide levels below the U.S. Public Health Service's suggested drinking water standard.[15] The predicted maximum nickel value is also below the Agency's interim standard.[16] These constituents are, therefore, not of regulatory concern.

The Agency also has concluded that no other inorganic hazardous constituents are present in the filter cake at levels of regulatory concern (*i.e.*, none are above any regulatory standard at the compliance point in the VHS model, see Table 4; where concentrations were below the detection limit, the detection limit was used in the VHS calculations). In addition, we also find that no hazardous organic constituents are present in the waste based on our review of the list of raw materials used by Hanover in the processes that contribute to the petitioned waste.

TABLE 4.—COMPLIANCE POINT CONCENTRATIONS (mg/l)

	Compliance point concentration	Regulatory standard
As	<0.001	0.05
Be	0.012	1
Pb	0.006	0.05
Hg	<0.001	0.002
Se	<0.001	0.01
Ag	<0.001	0.05

The Agency believes that, based upon the constituents and factors evaluated, Hanover's waste is non-hazardous and should be excluded from hazardous waste control. The Agency, therefore, proposes to grant an exclusion to Hanover Wire Cloth, located in

[15] See footnote 7.

[16] In previous notices, the Agency has used 632 ppb as the regulatory standard for nickel. Pending the completion of current EPA studies on the health effects of nickel, the Agency is using 350 ppb for the purpose of evaluating delisting petitions. The basis for this standard and its intended use are explained at 50 FR 20239–20348, May 15, 1985.

Hanover, Pennsylvania, for its dewatered electroplating wastewater treatment sludge, as described in its petition. (The Agency notes that any changes to the manufacturing or treatment processes will require Hanover to file an addendum to their petition or a new petition.[17] Any future changes that could effect the physical and chemical characteristics of the filter cake will require a redemonstration of the hazard of the waste.)

III. International Minerals and Chemical Corporation

A. Petition for Exclusion

International Minerals and Chemical Corporation (IMC), located in Terre Haute, Indiana, is involved in the manufacture of pharmaceutical bacitracin. IMC has petitioned the Agency to exclude its still botton waste, listed as EPA Hazardous Waste No. F003—The following spent non-halogenated solvent: n-butyl alcohol (n-butanol) and the still bottoms from the recovery of this solvent. IMC has petitioned to exclude its waste because it does not meet the criteria for which it was listed.

Based upon our review of their petition, IMC was granted a temporary exclusion on August 6, 1981 (see 46 *FR* 40155). The Agency's basis for granting the exclusion was the low percentage of n-butanol (<1.0%) present in the distillation still bottoms; this is well below the limit (24 percent alcohol by volume) set in § 261.21(a)(1) of the RCRA regulations for ignitable wastes which contain alcohol. In addition, flash point tests run on IMC's distillation still bottoms indicated that the flash point for the waste was greater than 210°F. (*i.e.*, was not ignitable pursuant to 40 CFR 261.21(a)(1)).

Since that time, the Hazardous and Solid Waste Amendments (HSWA) of 1984 were enacted. In part, the Amendments require the Agency to consider factors (including additional constituents) other than those for which the waste was listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).) In anticipation of either the enactment of this legislation or regulatory changes by the Agency, EPA requested additional information from IMC. (This additional information was submitted by IMC on June 7, 1985 and January 13, 1986.) As a result, the Agency has reevaluated IMC's petition to determine whether the temporary exclusion should be made final. This evaluation was based on the original listing criteria as well as other factors.

IMC submitted a detailed description of its bacitracin production and n-butanol recovery processes, including schematic diagrams; total constituent analyses of the distillation bottoms for n-butanol; and flash point tests for this material.[18] In addition, IMC has submitted EP toxicity test results for arsenic, barium, cadmium, chromium, lead, silver, mercury, and selenium; analyses for reactive cyanide and sulfide; and a list of the raw materials used in the production and recovery processes. The Agency requested this information, as noted above, to determine if hazardous constituents other than those for which the waste was originally listed are present in the waste.

IMC produces bacitracin from bacterial cultures, and recovers this bacitracin after fermentation using n-butanol. IMC's n-butanol recovery process involves steam distillation, condensation, azeotropic separation, and re-circulation. The still bottoms produced are largely water (>99%), with n-butanol, suspended biological solids, and fermentative enzymes comprising the balance. The still bottoms are routed to a spray irrigation system, where they are diluted with water to a concentration of 0.2 percent and sprayed over a 100 acre lot. IMC claims that its distillation process generates a non-hazardous waste with the listed constituent of concern not present at levels of regulatory concern. IMC also claims that this waste is not hazardous for any other reason.

Twenty grab samples of the still bottoms were collected by IMC during the period from October 1980 to February 1981. In order to obtain representative samples of individual batches, the still bottoms were circulated in the still for several hours, then routed to a storage tank where 10–20 gallons of still bottoms were bled off and mixed to ensure homogenity. A quart sample was taken from the large sample, sealed, and subsequently analyzed for total n-butanol content, flash point determinations, and EP toxicity. The 20 single grab samples were taken from 20 individual samples. Two additional samples were also taken in this way in December 1984 for additional EP toxicity analyses. Testing was not conducted for the other constituents of F003 (acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, cyclohexanone, and methanol) since they are not used in IMC's processes and are reasonably not expected to be present in the waste. Due to the uniformity with which the fermentation and distillation processes operate, and because no raw materials containing hazardous constituents are used in the processes, IMC claims that the samples collected and analyzed are representative of the variations in constituent concentrations of the waste.

Ignitability tests using the Pensky-Martens closed cup tester revealed a flash point of at least 210 °F for all samples. The analytical data indicated that n-butanol was present at concentrations of less than 0.5 percent.

EP toxicity analyses of the still bottoms for the EP toxic metals revealed the maximum concentrations reported in Table 1.[19]

TABLE 1.—MAXIMUM CONCENTRATIONS

	EP leachate test results (mg/l)
As	0.004
Be	<0.01
Cd	<0.1
Cr	0.24
Pb	0.62
Hg	0.0046
Se	0.023
Ag	0.006

Based upon the Agency's review of the raw materials lists provided by IMC, the Agency concludes that no other hazardous constituents are likely to be present or subsequently formed in the waste. Reactive cyanide and sulfide were identified at the following levels, respectively: 0.2 mg/l and 0.52 mg/l. Oil and grease content of the waste reached a maximum of 280 mg/l. IMC claims that the maximum volume of waste generated per year at their facility is 4200 cubic yards.

B. Agency Analysis and Action

IMC has demonstrated that its solvent recovery system produces a non-hazardous waste. The Agency believes that the twenty two samples collected from the still bottoms over a four-month period (October 1980–February 1981) and in December 1984 were non-biased and more than adequately represent any variations which may occur in the waste stream petitioned for exclusion. Each sample is indicative of a waste produced by a batch process which is

[17] See Footnote 9.

[18] IMC has determined, through testing of a series of spiked still bottom samples, that up to two percent of n-butanol in the still bottoms would still maintain a flash point of greater than 140 °F.

[19] Since the waste is less than 0.5% solids by weight, the total constituent concentrations of the waste serve as the EP leachate concentrations. (See 40 CFR 261, Appendix I, for the EP toxicity test procedure.)

conducted regularly (up to four times a week) and which is highly consistent from batch to batch. The chosen sampling method is believed by the Agency to adequately characterize the waste, and does not mask the variability of the waste. Due to the nature and consistency of the manufacturing operations involved (*i.e.*, the facility is not a job shop and production does not vary seasonally), the Agency believes that the samples are representative of the waste generated by IMC.

This waste was listed solely for ignitability. The waste does not exhibit any of the characteristics of hazardous waste, including ignitability.[20]

The Agency has evaluated the mobility of the EP toxic metals from the still bottom wastes using the vertical and horizontal spread (VHS) model.[21] The Agency's evluation of the 4200 cubic yards of waste generated annually and the corresponding maximum extract levels, using the VHS model, generated the compliance point concentrations given in Table 2.

TABLE 2.—VHS MODEL: COMPLIANCE POINT CONCENTRATIONS (mg/l)

	Still bottom	Regulatory standard
As	0.0008	0.05
Ba	<0.0015	1.0
Cd	0.015	0.01
Cr	0.037	0.05
Pb	0.095	0.05
Hg	0.0007	0.002
Se	0.0035	0.01
Ag	0.0009	0.05

The still bottom exhibited arsenic, barium, chromium, mercury, selenium, and silver levels below their respective National Interim Primary Drinking Water Standards (NIPDWS). These constituents, therefore, are not of regulatory concern.

The maximum values produced for cadmium and lead both exceed their respective NIPDWS. Based on further testing, however, we believe the levels of cadmium and lead are not of concern. In particular, the cadmium value can be traced to a relatively high detection limit (<0.1 mg/l) used in early analyses; subsequent analyses with a lower detection limit produced maximum EP leachate values of <0.001 mg/l for Cd, yielding a maximum VHS value of <0.00015 mg/l at the compliance point. The maximum value for lead was found to be due to the presence of soldered pipes in the solvent recovery apparatus. These pipes have since been replaced with stainless steel pipes, and subsequent analyses produced maximum EP values of <0.01 mg/l Pb, which yield a maximum VHS value of <0.0015 mg/l. Cadmium and lead, therefore, are not of regulatory concern.

Since this waste is being land applied, the waste was also evaluated using the Agency's proposed land application VHS model.[22] This model, which allows approximately a three-fold dilution in the aquifer, yielded the following constituent concentrations.

TABLE 3.—VHS MODEL FOR LAND APPLICATION (mg/l)

	Still bottom	Regulatory standard
As	0.001	0.05
Ba	0.003	1.0
Cd	<.0003	0.01
Cr	0.077	0.05
Pb	0.003	0.05
Hg	0.0015	0.002
Se	0.007	0.01
Ag	0.002	0.05

Of all the EP toxic metals tested with the land application model, only chromium was found to exceed its National Interim Primary Drinking Water Standard (*i.e.*, all the EP metals, except chromium, are not of regulatory concern). This leachate value was generated in early analyses of the waste, however; subsequent analyses produced maximum EP values of <0.001 mg/l Cr, which yield a compliance point concentration of <0.0003 mg/l. Since no metal-containing compounds are used in IMC's process, and none are expected to be present in the waste, we believe the source of chromium was the soldered pipes formerly present in the solvent recovery apparatus. Since these pipes have been replaced with stainless steel pipes, and additional analyses for chromium show it to be present in the waste at levels below the National Interim Primary Drinking Water Standard, we believe that chromium is not of regulatory concern.

Reactive cyanide and sulfide in the waste are not considered to be of environmental concern. Cyanide is not used in IMC's process, and the total concentration of reactive cyanide in the waste (0.2 mg/l) does not exceed the U.S. Public Health Service's suggested drinking water standard.[23] Reactive cyanide and sulfide levels in the waste are also below the air threshold limits of 10 ppm set by the American Conference of Governmental Industrial Hygienists.[24] These constituents are, therefore, not of regulatory concern. Furthermore, the Agency believes that no other hazardous constituents are present in the waste based on our review of the raw materials used by IMC in their production processes.

The Agency believes that this waste is non-hazardous (for all reasons) and as such should be excluded from hazardous waste control. The Agency proposes, therefore, to grant a final exclusion to International Minerals and Chemical Corporation, located in Terre Haute, Indiana, for its still bottom residues from its bacitracin production process. The Agency also believes that IMC should be allowed to continue to handle their waste as non-hazardous under their existing temporary exclusion. (The Agency notes that any changes to the manufacturing or treatment processes will require IMC to file an addendum to their petition.[25] Any future changes to these processes that could affect the physical or chemical characteristics of the sludge will require a re-demonstration of the non-hazardousness of the waste.).

IV. Monsanto Industrial Chemicals Company

A. Petition for Exclusion

Monsanto Industrial Chemicals Company's (Monsanto), W.C. Krummich facility located in Sauget, Illinois, produces chlorine from the electrolysis of aqueous sodium chloride or potassium chloride in DeNora mercury cells. In October, 1981, Monsanto petitioned the Agency to exclude its treated brine purification muds presently listed as EPA Hazardous Waste No. K071—Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used. The listed constituent of concern is mercury.

Based upon the Agency's review of their petition, Monsanto was granted an informal conditional exclusion in March, 1982.[26] The basis for granting the informal exclusion was the low total concentration and the immobile form of the constituent of concern (mercury) in the waste. On November 8, 1984, the Hazardous and Solid Waste Amendments were enacted. In part, the Amendments require the Agency to consider factors (including additional constituents) other than those for which the waste was originally listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).) As a result, the Agency has re-evaluated Monsanto's petition to: (1) Determine if the petition should be granted based on the original listing criteria, and (2) evaluate the waste for factors (other than those for which the waste was originally listed) to determine whether the waste is non-hazardous. Today's notice summarizes and gives the results of our re-evaluation of their petition.

Monsanto has submitted a detailed description of its manufacturing and treatment processes, including schematic diagrams; total constituent analyses and EP toxicity teat results of the treated brine purification muds for mercury. Monsanto also submitted total constituent analyses of the waste for arsenic, barium, cadmium, chromium, cyanide, lead, nickel, selenium, and silver; EP toxicity test results of the treated brine purification muds for lead;[27] and total oil and grease analyses on repreentative waste samples. Monsanto further submitted a list of raw materials used in the manufacturing process. The Agency requested this information, as noted above, to determine whether hazardous constituents, other than those for which the waste was originally listed, are present in the waste at levels of regulatory concern.

Monsanto produces chlorine gas and either sodium hydroxide or potassium hydroxide using a mercury cell (DeNora) process (i.e., electrolysis of sodium chloride brine or potassium muriate). Depleted brines are dechlorinated and resaturated with rock salt for the sodium system or chemical grade potassium muriate for the potassium system. These purified brines are then fed, on a continuous basis, to the mercury cells. The DeNora cells contain metal anodes and flowing mercury cathodes. Mercury amalgams of either sodium or potassium, formed in the cells, react with soft water in the decomposers to form hydrogen and caustics.

The chlorine gas is cooled, dried, compressed, and distributed to on-site users; the hydrogen gas is also cooled and distributed to on-site users; and the caustic is filtered, cooled, and stored for both on-site use and off-site sale. Process waste liquors and rain water are collected and treated in a sodium hydrosulfide process and Akzo resin to remove mercury prior to discharge.

Brine purification muds are discharged from the bottom of the sodium chloride saturator once per week. The material is collected in a dumpster/drain box. The brine purification muds are kept in the dumpster/drain box for 24 hours, during which time, the liquid portion drains through the screen partitions to a lower level of the box. The wet solids remain above the screen partitions. The liquid portion is combined with make-up water, sodium hydroxide, and chlorine gas, and the mixture is agitated and sparged in the NaOCl tank. This liquid is used to leach the mercury from the solids retained inthe top layer of the dumpster/drainer box.

The leaching solution is pumped into the dumpster/drainer box until all solids are covered. After a period of 24 hours, the leaching solution is drained from the box and the brine purification muds are then water washed twice for a period of two hours each. The leaching solution and spent water washes are discharged from the bottom of the dumpster/drainer box to the liquids treatment (sulfide precipitation/Akzo resin process) area. Monsanto claims that the treated brine purification muds contained in the dumpster/drainer box are non-hazardous due to the immobile nature and negligible level of mercury in the waste. Monsanto also believes that their waste is not hazardous for any other reason.

Six random samples of the treated brine purification muds were collected from the dumpster/drainer box each week (generated once weekly). The six samples were placed in a one gallon jar and sent to the laboratory for complete compositing and analyses. Monsanto's original petition was based on 15 composite samples collected between October 28, 1980 and September 22, 1981. The brine purification mud, composed mainly of insolubles ($ClSO_4$, $CaCO_3$ and Na_2SO_4), rocks dirt, and trace amounts of carbon, was analyzed for total and EP concentrations of mercury. The total concentration of mercury ranged from a low of 2 ppm to a high of 15 ppm, with the average value being 7.8 ppm. The EP toxicity concentration of mercury ranged from a low of 0.0005 ppm to a high of 0.037 ppm. The average value and 95 percent confidence level for the EP toxicity concentration of mercury was 0.0123 ppm, and 0.0170 ppm, respectively.

Monsanto sampled another 8 batches from the dumpster/drainer box (2 on September 12, 1983, and 3 each on September 19 and 26, 1983) in order to analyze for total oil and grease (TOG) content. The TOG content of the treated brine purification muds ranged from a low of 1.5 ppm to a high of 42 ppm, with the average total oil and grease concentration of 9.31 ppm.[28] On February 6, 1984 and January 21, 1985, Monsanto collected an analyzed an additional five composite samples of the treated brine purification muds for total constituent analysis of the non-listed EP toxic metals, nickel, and cyanide; these samples were randomly collected from the dumpster/drain box. The maximum total constituent concentrations are presented in Table 1.

Monsanto elected not to perform leachate analyses on the non-listed metals due to the low total constituent concentrations (see footnote 19). Upon Agency review of this data, however, Monsanto was requested to provide a minimum of four representative samples tested for lead using the EP toxicity test. The agency requested this analysis because ½oth of the total concentration of lead (55.0 ppm) exceeded the level of regulatory concern for lead in drinking water.

TABLE 1.—MAXIMUM TOTAL CONSTITUENT CONCENTRATIONS BRINE PURIFICATION MUDS (mg/kg)

As	Ba	Total [1]		CN	Pb	Ni	Se	Ag
		Cd	Cr					
0.5	40	1.5	4.8	1.0	55	131	0.38	1.0

[1] Hexavalent chromium is the listed constituent of concern; however, the concentration of total chromium is low enough to make a determination of hexavalent chromium unnecessary.

Monsanto collected, using the above methodology (*i.e.*, one composite sample

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[20] The Agency has not evaluated this waste in terms of the toxicity of n-butanol, since the basis for listing was only ignitability and since n-butanol is not an Appendix VIII hazardous constituent.

[21] See footnote 5.

[22] See the November 27, 1985 Federal Register, Appendix I, 50 *FR* 48953.

[23] See footnote 7.

[24] See footnote 8.

[25] See footnote 9.

[26] On March 11, 1982, a memorandum was sent from the Acting Deputy Associate Enforcement Counsel to the Regions indicating, among other things, that the Office of Solid Waste had made a peliminary determination to grant the delisting petition submitted by Monsanto for the K071 wastes generated at their Sauget, Illinois plant. The memo suggested that the Region use discretion when dealing with this waste until our decision was published in the Federal Register. Since that time, however, another letter was sent to the company indicating that the informal exclusion has been withdrawn and that Monsanto would have to handle this waste as hazardous until a final decision was granted.

[27] EP toxicity analyses for the treated brine purification muds were not required for arsenic, barium, cadmium, chromium, cyanide, nickel, selenium, and silver due to the low total constituent concentrations of these contaminants in the waste (*i.e.*, assuming a 20-fold dilution when extracting 100 grams of solids into 2 liters of water and a theoretical 100% leaching, the maximum possible EP extract concentration was below the constituents' level of regulatory concern).

[28] The one sample which resulted in 42 ppm of TOG, was the only sample stored in a sample bottle having a cap with a wax paper lining. The remaining 7 sample bottles had aluminum lined caps.

Continued

per week), an additional five samples of the treated brine purification muds between June 7, and July 27, 1985, and analyzed them for lead using the EP toxicity test. All five values were below the detection limit of 0.5 mg/l. Table 2 presents the maximum EP toxicity concentrations of the non-listed metals and cyanide.[29]

TABLE 2.—MAXIMUM EP TOXICITY CONCENTRATIONS BRINE PURIFICATION MUDS (mg/l)

As	Ba	Cd	Cr	CN	Pb	Hl	Se	Ag
0.025	2.0	0.075	0.240	0.05	0.5	0.5	0.010	0.05

Monsanto believes that all of the samples collected during the following periods, October 28, 1980 to September 22, 1981; September 12, 1983 to September 26, 1983; February 6, 1984 to January 21, 1985; and June 7, 1985 to July 27, 1985, are representative of both the listed and non-listed constituent concentrations in the waste. The petitioner further states that the manufacturing process used at the facility is operated in a consistent manner and that the use of raw materials does not vary over time. Consequently, they believe that the samples collected adequately characterize their brine muds.

Monsanto also submitted a complete list of all raw materials used in their production process and treatment process. This list indicates that no Appendix VIII hazardous constituents, other than those tested for, are used in the process and that formation of any of these constituents is highly unlikely. Monsanto also provided data indicating that the treated brine muds are not ignitable, corrosive, or reactive as defined in 40 CFR Part 261.21–23. The Monsanto petition states that a maximum of 480 tons of treated brine purification muds are generated per year.

B. Agency Analysis and Action

Monsanto has sufficiently demonstrated that its waste treatment system produces a non-hazardous brine purification mud. The Agency believes that the batch composite samples tested for total constituent analyses and EP toxicity concentrations of mercury; the batch composite samples tested for total constituent concentrations of the non-listed metals and cyanide; and the batch composite samples tested for EP toxicity concentrations of lead, collected from the dumpster/drainer box were not biased and adequately represent any variations that may occur in the waste stream petitioned for exclusion. The key factor that could vary toxicant concentrations in the waste would be the use of different raw materials due to changes in the product line being manufactured. Monsanto is not a job shop nor does it have seasonal product variations; therefore, the Agency believes Monsanto has substantiated their claim that the manufacturing and treatment processes are uniform and consistent and believes that the samples collected are representative of the waste generated and treated by Monsanto.

The Agency has evaluated the mobility of the constituents from Monsanto's waste using the vertical and horizontal spread (VHS) model.[30] The Agency's evaluation of Monsanto's treated brine purification muds, using the maximum values for estimated annual muds generation and reported/calculated EP leachate concentrations as input parameters, has resulted in the maximum predicted compliance point concentrations for both the listed and non-listed constituents exhibited in Tables 3 and 4, respectively.

TABLE 3.—COMPLIANCE POINT CONCENTRATION FOR THE LISTED CONSTITUENTS (mg/l)

Constituent	Compliance point concentration	Regulatory standard
Hg (maximum)	0.0011	0.002

The treated brine purification muds exhibited mercury levels below the National Primary Drinking Water Standard. Mercury is, therefore, not of regulatory concern.

TABLE 4.—COMPLIANCE POINT CONCENTRATION FOR THE NON-LISTED CONSTITUENTS (mg/l)

Constituent	Compliance point concentration	Regulatory standard
As	0.0008	0.05
Be	0.065	1.0
Cd	0.002	0.01
Cr	0.0008	0.05
CN	0.002	0.2
Ni	0.201	0.350
Pb	0.075	0.05
Se	0.0008	0.01
Ag	0.002	0.05

The Agency has also concluded that no other inorganic hazardous constituents are present in the treated brine purification muds at levels of regulatory concern (*i.e.*, none of the non-listed constituents exhibit compliance point concentrations exceeding the regulatory standard (see Table 4)). In particular, the VHS model predicted that the treated brine purification muds would exhibit levels of arsenic, barium, cadmium, chromium, lead, selenium, and silver (at the compliance point) significantly below the National Primary Drinking Water Standard, as well as nickel levels below the interim standard currently being used by the Agency.[31] These constituents, therefore, are not of regulatory concern.

The total cyanide levels in the treated brine purification muds would not exhibit free cyanide at levels expected to create a health hazard through exposure to contaminated ground water. This conclusion is based on the VHS model, using the total cyanide content of the wastes as the input to the aquifer (0.006 mg/l).[32] The cyanide concentration predicted at the compliance point is well below the U.S. Public Health Service's suggested drinking water standard.[33]

The free cyanide levels in the treated waste are also not expected to create a health hazard through inhalation. The level of total cyanide and the levels of free cyanide and photodegradable cyanide are not sufficient to generate cyanide vapors at levels exceeding the workroom air threshold limit of 10 ppm set by the American Conference of Governmental Industrial Hygienists (ACHIH).[34]

In addition, the Agency finds no hazardous organic constituents (listed in Appendix VIII) present in the waste. The Agency's review of the list of raw materials used by Monsanto in their production process shows that Monsanto does not use any other Appendix VIII constituents in their processes.

The Agency believes that, based upon the constituents and factors evaluated, Monsanto's treated brine purification muds are non-hazardous and should be excluded from hazardous waste control. The Agency, therefore, proposes to grant an exclusion to Monsanto Industrial Chemicals Company's W.C. Krummich facility, located in Sauget, Illinois, for its treated brine purification muds, as described in its petition. (The Agency notes that any changes to the manufacturing or treatment processes will require Monsanto to file an addendum to their petition or a new petition.[35] Any future changes to these processes that could affect the physical or chemical characteristics of the sludge will require a re-demonstration of the non-hazardousness of the waste.)

V. Square D Company

A. Petition for Exclusion

Square D Company (Square D), located in Oxford, Ohio, is involved in the manufacture of products that distribute and control electricity (*e.g.*, ducts, junction boxes, and service fittings). Square D has petitioned the Agency to exclude its treated sludge, presently listed as EPA Hazardous Waste No. F006—Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum. Square D has petitioned to exclude its waste because it does not meet the criteria for which it was listed.[36]

The listed constituents of concern for EPA Hazardous Waste No. F006 are cadmium, hexavalent chromium, nickel, and cyanide (complexed). Square D claims that its wastewater treatment process generates a non-hazardous sludge because the constituents of concern, although present in the waste, are in essentially an immobile form. They further believe that this waste is not hazardous for any other reason.

Square D has submitted a detailed description of its electroplating and wastewater treatment processes, including schematic diagrams; total constituent analyses and EP toxicity test results of the sludge for cadmium, total chromium, and nickel; and total constituent analysis and a distilled water leach test for total cyanide. Free cyanide concentrations in the sludge were also determined. In addition, Square D submitted total constitutent analyses and EP toxicity test results for arsenic, barium, lead, mercury, selenium, and silver; and total oil and grease analyses on representative waste samples. Furthermore, Square D submitted detailed descriptions of all raw materials used in the manufacturing process and test results on representative waste samples for methyl ethyl ketone, 1,1,1-trichloroethane, xylene, and polychlorinated biphenyls. These organic contaminants were analyzed since they were identified as components of materials used in the process. The Agency requested this information, as noted above, to determine if hazardous constituents other than those for which the waste was originally listed are present in the waste.

Square D manufactures electrical distribution and control equipment, including junction boxes, ducts, and service fittings. This equipment is plated and/or painted in two plating lines and a paint line. One of the plating lines consists of a steel cycle and a copper cycle and involves alkaline and acid cleaning, non-cyanide zinc plating, and tin plating. The other plating line consists of an aluminum cycle and a copper cycle and involves alkaline and acid cleaning, tin immersion, copper cyanide plating, and tin plating. The paint line involves two iron phosphate pretreatment systems which use alkaline cleaners, acid phosphate cleaners, and non-chromic sealers.

Square D's waste treatment system involves chlorine destruction of cyanide, sodium metabisulfite reduction of hexavalent chromium, neutralization, polymer addition, and clarification. The clarified sludge is then pumped to a 5,000 gallon holding cell, air agitated into a homogeneous mixture, and pumped to a filter press for dewatering. The resultant sludge has a solids content of between 30 and 50 percent.

A total of 17 filter press sludge samples were collected and analyzed. Square D's initial demonstration was based upon four grab samples collected during a three-month period in 1982. Samples were collected twice from random areas of the filter press on each sampling day and placed, unpreserved, into polyethylene containers. The sealed samples were shipped to a labgratory and analyzed within 30 days of sampling. These grab samples were subjected to EP leachate analysis for all EP toxic metals and a distilled water leach test for cyanide, and a total constituent analysis for the listed constituents of concern. An additional four samples were collected from the filter press over a one-week period and analyzed for total and free cyanide. A composite of these four samples also analyzed for leachable cyanide. In addition, Square D collected four composite samples over a two-month period in 1983. Random grab samples were taken from the filter press plate daily between June 17 and 27, 1983, July 1, and 26, 1983, July 29 and August 10, 1983, and August 10 through August 24, 1983. The samples were composited per period and subsequently analyzed for leachable and total concentrations of all the EP toxic metals, nickel, and cyanide; these samples were also analyzed for their oil and grease content. A final set of samples was collected in 1984. Four of the samples were analyzed for methyl ethyl ketone, 1,1,1-trichloroethane, xylene, and polychlorinated biphenyls; a fifth sample was analyzed for leachable concentrations of all the EP toxic metals, nickel, and cyanide. Square D claims that the samples collected are representative of any variation of the listed and unlisted constituent concentrations in the waste. The petitioner further claims that the manufacturing processes used at the facility are operated on a 16-hour per day schedule, 260 days per year and that during all times the inputs to the treatment plant remain constant. Consequently, they believe that the samples collected and analyzed fully characterize their waste.

Total constituent analyses of the filter press sludge for the listed constituents revealed the maximum concentrations reported in Table 1. EP toxicity analyses for these same constituents revealed the maximum concentrations reported in Table 2.

TABLE 1.—MAXIMUM TOTAL CONSTITUENT ANALYSES FOR THE LISTED CONSTITUENTS (mg/kg)

	Cd	Cr	Ni	CN total	CN free
Filter press sludge	5.06	1600	102.5	7.4	6.06

TABLE 2.—MAXIMUM EP LEACHATE CONCENTRATIONS FOR THE LISTED CONSTITUENTS (mg/1)

	Cd	Cr total[1]	Ni	CN total
Filter press sludge	0.18	1.1	0.67	[2] 0.27

[1] Hexavalent chromium is listed as the constituent of concern for this waste; however, since the concentration of total chromium is low, a determination of the concentration of hexavalent chromium is unnecessary.
[2] From distilled water leach test.

Total constituent and EP toxicity analyses for the non-listed metals revealed the maximum concentrations reported in Table 3. Total oil and grease

[29] All values were calculated by taking 1/20 of the total constituent concentration, except for lead which are actual extraction results.

[30] See footnote 5.

[31] See footnote 10.

[32] Although an EP extraction for cyanide was not done, the total constituent concentration was used. If one were to assume 100 percent leaching and the 20X dilution allowed by the EP extraction test, the EP leachate value would be 0.01 mg/l.

[33] See footnote 7.

[34] See footnote 8.

[35] See footnote 9.

[36] Square D originally submitted their petition on November 12, 1982. On November 8, 1984, the Hazardous and Solid Waste Amendments of 1984 were enacted. In part the Amendments require the Agency to consider factors (including additional constituents) other than those for which the waste was originally listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).) In anticipation of either enactment of this legislation or regulatory changes by the Agency, EPA requested additional information from Square D. This information was submitted by Square D on July 5, 1984, and December 12, 1985.

content reported for the filter press sludge did not exceed 0.56 percent. Square D also submitted a list of raw materials used in their process. This list indicated that methyl ethyl ketone, 1,1,1-trichloroethane, and xylene are used in their processes. Polychlorinated biphenyls (PCBs) were also indicated as possible constituents of the waste stream.

TABLE 3.—MAXIMUM CONCENTRATIONS FOR THE NON-LISTED CONSTITUENTS

	Total constituent analysis (mg/kg)	EP Leachate Analysis (mg/l)
As	<0.05	<0.05
Ba	49.1	[1]15.0
Pb	50.1	2.2
Hg	0.09	<0.005
Se	1.95	<0.1
Ag	9.70	0.18

[1] The Agency considers this value as an outlier since it is outside of the calculated 95% confidence interval (3.6 mg/l) using a sample population of 17. The next highest leachate value is <1.0 mg/l. Additionally, a total constituent analysis for barium was not processed for this sample.

Square D therefore, was asked to analyze for these contaminants; the maximum concentrations of these organics found in the filter press sludge are reported in Table 4. The list of raw materials submitted by Square D indicated that no other Appendix VIII hazardous constituents, other than those tested for, are used in their processes and that formation of any of these constituents is highly unlikely. Square D also provided test data indicating that the sludge is not ignitable, corrosive, or reactive. Square D claims to generate a maximum of 120 tons per year of filter press sludge.

TABLE 4.—MAXIMUM TOTAL CONCENTRATIONS OF THE ORGANIC CONSTITUENTS

Filter press sludge	Total constituent analysis (ppm)
Methyl ethyl ketone	<1
1,1,1-trichloroethane	<1
Xylene	<1
Polychlorinated biphenyls	<1

B. Agency Analysis and Action

Square D has demonstrated that its waste treatment system produces a non-hazardous sludge. The Agency believes that the seventeen samples collected from the filter press were non-biased and more than adequately represent any variations which may occur in the waste stream petitioned for exclusion. Manufacturing process wastes are discharged to the wastewater treatment facility according to the chemical composition of the stream. Spent acid and alkali, hexavalent chromium-bearing solutions, acid and alkaline rinses, and cyanide-bearing solutions are discharged to separate pits for treatment. These reaction pits are controlled automatically by pH and or REDOX equipment. The treated waste streams are combined, neutralized, and dewatered. The Agency is satisfied that the sampling methods conducted by Square D are valid since samples collected on any day would not be expected to vary widely from any other day based upon process engineering considerations. The Agency believes Square D's claim that the manufacturing and treatment processes are uniform and consistent are well substantiated, since this facility does not perform as a job shop or have seasonal product variations. The Agency's conclusion was confirmed by a comparison of the total constituent analyses of each sample as well as a statistical analysis of the EP toxicity data from each sample. This analysis would have detected any significant variability in the waste, however, no significant variability was detected (i.e., the standard deviation was low).[37]

The Agency has evaluated the mobility of the constituents from Square D's waste using a vertical and horizontal spread (VHS) model.[38] The Agency's evaluation of Square D's 120 tons of filtered sludge[39] and the maximum extract levels for the listed constituents of concern using the VHS model has generated the compliance point concentrations shown in Table 5.

TABLE 5.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS FOR THE LISTED CONSTITUENTS (ppm)

	Cd	Cr total	Ni	Cn
Filter press sludge	0.006	0.034	0.021	0.008
Regulatory standard	0.010	0.050	0.350	0.200

The filter press sludge exhibited cadmium and chromium levels (at the compliance point) below the National Interim Primary Drinking Water Standards, nickel levels below the Agency's interim standard,[40] and cyanide levels below the U.S. Public Health Service's suggested drinking water standard.[41]

The free cyanide levels in the treated waste are also not expected to create a health hazard through inhalation. The level of total cyanide, and the levels of free cyanide and photodegradable cyanide are not sufficent to generate cyanide vapors at levels exceeding the workroom air threshold limit of 10 ppm set by the American Conference of Government Industrial Hygienists (ACGIH).[42] These constituents, therefore, are not of regulatory concern.

The Agency has also evaluated the mobility of the non-listed EP toxic metals from Square D's waste using the VHS model. The model generated compliance point concentrations below the National Interim Primary Drinking Water Standards for each metal as shown in Table 6. We believe, therefore, that these contaminants are not of regulatory concern.

TABLE 6.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS FOR THE NON-LISTED CONSTITUENTS (ppm)

	As	Ba	Pb	Hg	Se	Ag
Filter press sludge	0.0015	0.49	[1] 0.028	0.0015	0.003	0.006
Regulatory standards	0.05	1.0	0.05	0.002	0.01	0.05

[1] Although the maximum EP leachate concentration for lead was reported as 2.2 ppm, the Agency chose to use the 95 percent confidence level instead, based partly on the large number of samples analyzed. The Agency believes that the 2.2 ppm value was an outlier (non-representative) value, and this conclusion is supported by the calculated 95 percent confidence value of 0.898 ppm.

Furthermore, the Agency concludes that no organic hazardous constituents are present in the waste at levels of regulatory concern (*i.e.*, none are above their respective regulatory standard at the compliance point). In particular, the raw materials used by Square D in their manufacturing process indicate that methyl ethyl ketone, polychlorinated biphenyls, 1,1,1-trichloroethane, and xylene are either used in the process, or although not used, may be present in the filtered press sludge. In analyzing for these contaminants, we found no detectable levels of these contaminants in the waste.

To confirm that the detection limits are not too high, the Agency has evaluated the mobility of the toxic organic constituents from Square D's filter press sludge using the methods outlined in Appendix I of the November 27, 1985, Federal Register notice (50 FR 48953–87).[43] Compliance point concentrations of the constituents of concern are calculated and presented in Table 7. In all cases, the concentration of these contaminants at the compliance point is below the regulatory standard. We, therefore, believe that these contaminants are not of regulatory concern.

TABLE 7.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS OF ORGANIC CONTAMINANTS (PPM)

Constituent	Filter press sludge [1]	Regulatory standard [2] (mg/l)
Methyl ethyl ketone	0.018	2.0
1,1,1-trichloroethane	0.001	1.0
Polychlorinated biphenyls	1.32×10^{-7}	8×10^{-5}

[1] Maximum total concentrations were assumed to be the detection limit (i.e., detection limits—1 ppm, thus maximum total concentration—1 ppm).
[2] See the public docket for an explanation of the derivation of these regulatory standards.

The Agency believes that this waste is non-hazardous (for all reasons) and as such should be excluded from hazardous waste control. The Agency, therefore, proposes to grant an exclusion to Square D Company (Oxford Plant) located in Oxford, Ohio, for its filter press sludge generated by its electroplating operations, as described in its petition. (The Agency notes that any changes to the manufacturing or treatment processes will require Square D to file an addendum to their petition or anew petition.[44] Any future changes to these processes that could effect the physical or chemical characteristics of the sludge will require a redemonstration of the hazard of the waste.)

VI. Vulcan Materials Company

A. Petition For Exclusion

Vulcan Materials Company (Vulcan), located in Port Edwards, Wisconsin, produces chlorine and caustics for commercial use. In March 1981, Vulcan petitioned the Agency to exclude its brine purification muds and saturator insolubles, presently listed as EPA Hazardous Waste No. K071—Brine purification muds from the mercury cell process in chlorine production where separately prepurified brine is not used. The listed constituent of concern is mercury.

Based upon the Agency's review of their petition, Vulcan was granted a temporary exclusion in December 1981 (See 46 *FR* 61283). The Agency's basis for granting the temporary exclusion was the low migration potential of the constituent of concern, namely mercury. Due to the inherent variability of the waste, however, the exclusion was conditioned to ensure that each batch of brine muds exhibited acceptable levels (less than 50 ppb) of leachable mercury.

On November 8, 1984, the Hazardous and Solid Waste Amendments were enacted. In part, the Amendments require the Agency to consider factors (including additional constituents) other than those for which the waste was originally listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).) As a result, the Agency, has re-evaluated Vulcan's petition to: (1) Determine whether the temporary exclusion should be made final based on the original listing criteria, and (2) evaluate the waste for factors other than those for which the waste was originally listed to determine whether the waste is non-hazardous. Today's notice presents the results of the Agency's re-evaluation of this petition.

Vulcan has submitted a detailed description of its production and treatment processes, including schematic diagrams; total constituent and EP toxicity analyses of the wastes for all the EP toxic metals and nickel; total constituent and distilled water leachate analysis for cyanide; total oil and grease content of the waste; and ignitability, corrosivity, and reactivity data. Vulcan also submitted a list of all raw materials and feed stocks (and Material Safety Data Sheets for all trade name materials) used in the production processes. The Agency requested this information, as noted above, to determine whether constituents other than those for which the waste was listed are present in the waste at levels of regulatory concern.

Vulcan produces chlorine and muriatic acid using a mercury cell process (*i.e.*, electrolysis of sodium chloride brine). Rock salt is dissolved and purified to form sodium chloride brine. The brine flows into one of 24 electrolytic cells containing metal anodes and flowing mercury cathodes. Sodium chloride is removed from the brine by electrolysis and the depleted brine is pumped back to the brine system, where additional rock salt is added. The brine is purified and pumped to the electrolytic cells, as a recirculating system. As the brine goes through the electrolytic cells, it is contaminated with mercury; thus, the brine purification muds contain mercury. The depleted brine is then pumped to the brine treatment tanks.

During the brine manufacturing process, rock salt is dissolved in the depleted brine. Approximately 97 percent of the rock salt dissolves, while the remaining three percent is removed as brine saturator insolubles. These insolubles consist of calcium, magnesium, sulfates, dirt, and rocks originating from the salt mining process. The brine saturator insolubles, resulting from the brine system, necessarily come into contact with the depleted brine, and thus, also contain mercury. The saturator insolubles are purged and pumped to the saturator purge pit for treatment.

Soda ash is added to the brine treatment tanks in order to precipitate calcium as calcium carbonate, while sodium hydroxide is added to precipitate magnesium as magnesium hydroxide. The resulting slurry is pumped to a clarifier, where the precipitates are removed as brine purification solids, and the wastewater is sent to the wastewater treatment unit (which is not considered in Vulcan's petition). The resulting brine purification solids are pumped to the clarifier purge pit.

In a smaller reactor, sulfates are removed from the brine by adding calcium chloride. The sulfates precipitate out as calcium sulfate. The slurry is then separated in the clarifier, and the resulting solids are pumped to the clarifier purge pit.

The saturator insolubles are pumped from the saturator purge pit once every two weeks, and the brine purification solids are pumped from the clarifier purge pit once every one to three days and are treated separately. The brine purification solids are pumped to a surge tank where sulfuric acid is added, thus converting calcium carbonate to calcium sulfate, and also increasing mercury solubility. The acidified calcium sulfate is then nuetralized with sodium hypochlorite to completely solubilize the mercury. The slurry is pumped to a vacuum drum filer where a filter cake is generated. The filter cake is then washed with a two stage pH water spray and is then neutralized with an additional water spray to further reduce the mercury content. The resulting filtrate is routed to the liquids treatment facility.

The saturator insolubles are treated by complete submergence in a low pH dechlorinated brine, which also reduces

[37] See standard T-test in Biometry: The Principles and Practices of Statistics in Biological Research; Sokal, R. and Rohlf, F.J., 1980.
[38] See footnote 8.
[39] Square D generate 120 tons of sludge per year of waste; however, the VHS model specifies a minimum waste generation rate of 475 cubic yards. The Agency assumes the density of the waste to be 1 ton/cu/ yd. unless otherwise specified. See 50 *FR* 46900 (November 27, 1985) for a discussion of the minimum waste generation rate.
[40] See footnote 18.
[41] See footnote 7.
[42] See footnote 8.
[43] Xylene is considered hazardous only because it is ignitable (*i.e.*, xylene is not considered toxic). Since the waste is not ignitable, any xylene that may be present in the waste is not of regulatory concern.
[44] See footnote 8

the leachable mercury content of the waste. The liquid portion is pumped back to the brine system. In both cases, the treated brine purification muds and treated saturator insolubles are batch tested for leachable mercury concentration. If acceptable levels of leachable mercury are determined, the dewatered brine purification muds and saturator insolubles are shipped to a sanitary landfill. If higher than permissible levels of leachable mercury are found, however, the waste is either reworked or disposed of as a hazardous waste.

Vulcan sampled each batch of saturator insolubles by taking a single four ounce sample from the center of eah 2–4 cubic foot batch. The rationale for this sampling procedure ws that treatment from submergence is least effective in treating the geometric center of the mound. Vulcan also sampled each treated batch of the brine purification muds. Vulcan took one four ounce grab sample directly from the filter wheel every two hours. The grab samples were then composited and analyzed each day. A total of 286 batch composites were analyzed.

Vulcan believes that by testing each batch of treated brine purification muds and saturator insolubles they were able to detect any day to day variations in waste composition. Also, by sampling from the center of each saturator insolubles pile, a relatively small pile (2–4 cubic feet), they were able to characterize the worst case constituent concentrations of the waste. Vulcan believes that these daily samples (saturator insolubles) and daily composites (brine clarification needs) are representative of the waste because: (1) The production and treatment processes are uniform; and more importantly (2) sampling every batch allows for the detection of unacceptable leachate concentrations due to unexpected variations in raw materials, production process, and treatment process.

When the Agency requested analyses of the wastes for the other EP toxic metals, cyanide, and nickel, Vulcan, using the same sampling procedures as above, took four additional samples of the saturator insolubles and brine purification muds.

Vulcan submitted the EP extraction results from 1985 for each batch of the treated brine purification muds and the treated saturator insolubles. Using the 0.05 ppm cut-off level, as conditioned by their temporary exclusion (for mercury), 218 of the 286 (82.0%) batches of treated brine purification muds and 96 of the 101 (95.%) batches of treated saturator insolubles exhibited EP leachate levels of mercury at 0.012 ppm or less. Only one batch of treated brine purification muds exhibited an EP leachate concentration for mercury at the 0.05 ppm cut-off level. The highest EP leachate concentration for mercury, exhibited by the treated saturator insolubles, was 0.021 ppm.

The results of total constituent analyses for the non-listed metals and cyanide are presented in Table 1. Table 2 presents maximum leachate concentrations detected for the non-listed metals and cyanide contained in the treated brine purification muds, and saturator insolubles. Results from the analyses of the waste for total oil and grease ranged from 62 mg/kg to 92 mg/kg in both the treated brine purification muds and saturator insolubles.

TABLE 1.— MAXIMUM TOTAL CONSTITUENT CONCENTRATIONS (mg/kg)

Process wastes	Ag	As	Ba	Cd	Total Cr	Ni	Pb	Se	CN
Brine clarifier muds	6.7	51.2	41.0	0.074	1.8	2.0	0.661	2.6	0.2
Saturator insolubles	7.1	41.8	639	0.61	1.9	4.0	0.53	0.01	0.2

TABLE 2.—MAXIMUM EP LEACHATE CONCENTRATIONS (mg/l)

Process waste	Ag	As	Ba	Cd	Cr[1]	Ni	Pb	Se	CN
Brine purification muds	0.006	0.003	0.731	.001	0.004	[2] ND	[2] ND	0.012	[2] ND
Saturator insolubles	0.005	0.006	0.498	0.005	0.027	[2] ND	[2] ND	0.014	[2] ND

[1] Hexavalent chromium is listed as the constituent of concern; however, the low total chromium concentration indicates that hexavalent chromium would not be present at levels of regulatory concern.
[2] ND—Not Done. Analysis not completed because of low total constituent concentrations in waste (*i.e.*, assuming a theoretical 100 percent leaching of the constituent and a 20 times dilution factor when extracting 100 grams of solids into 2 liters of water, the concentration was less than the interim standard).

None of the samples exhibited any of the characteristics of ignitability, corrosivity, or reactivity as specified in 40 CFR Part 261.21-23. In addition, examination of the Material Safety Data Sheets for all materials used, which could possibly enter the petitioned wastes, did not identify any other Appendix VIII hazardous constituents. Vulcan generates a maximum of 4463 tons of treated materials (4074 tons of treated clarifier brine muds and 389 tons of treated saturator insolubles) a year.

B. Agency Analysis and Action

Vulcan has sufficiently demonstrated that the treated clarifier brine muds and saturator insoluables are non-hazardous. Based on the data presented in Vulcan's petition, the Agency believes that the petitioner has adequately characterized the treated brine clarifier muds and saturator insolubles, and that the samples analyzed reflect the day to day variation in production. The Agency believes Vulcan's claim that the manufacturing and treatment processes can be operated in a uniform manner, since this facility does not perform as a job shop and there are no seasonal product variations. We also agree with Vulcan that the sampling procedure used represents a relatively worst-case. Thus, the Agency considers the sampling procedures used by Vulcan to be adequate, and as such, no significant day-to-day variation in constituent concentrations was detected. A comparison of the total constituent concentration with the EP leachate concentration of each constituent, as well as an evaluation of the QA/QC data (spike concentrations and percent recovery data) did not detect any significant variability in the waste (*i.e.*, the standard deviation was very low).[45] The Agency, therefore, concludes that the samples collected by Vulcan are representative of the treated brine clarifier muds and saturator insolubles.

The Agency has evaluated the mobility of the constituents from Vulcan's treated brine clarifier muds and saturator insolubles using the vertical and horizontal spread (VHS) model.[46] The Agency's evaluation of Vulcan's 4,463 tons of waste and the maximum EP leachate extracts levels for the non-listed constituents of concern using the VHS model generated the

[45] See footnote 37.
[46] See footnote 5.

compliance point concentrations presented in Table 3. The VHS model predicted that both the treated brine clarifier muds and saturator insolubles would exhibit levels of arsenic, barium, cadmium, chromium, lead, selenium, and silver (at the compliance point) significantly below the National Primary Drinking Water Standards, as well as nickel levels [47] below the interim standard. These constituents therefore, are not of regulatory concern.

TABLE 3.—CALCULATED COMPLIANCE POINT CONCENTRATIONS (mg/l)

Constituents	Brine clarifier muds	Saturator insolubles	Regulatory standard (mg/l)
Ag	.0009	.0008	0.05
As	.0005	.0009	0.05
Ba	.1139	.0778	1.0
Cd	.0002	.0008	0.01
Cr	.0008	.0042	0.05
Ni	[1] ND	[1] ND	0.350
Pb	[1] ND	[1] ND	0.05
Se	.0019	.0022	0.01
CN	[1] ND	[1] ND	0.2

[1] See footnote 2 of Table 2.

The total cyanide levels in the treated brine clarifier muds and saturator insolubles would not exhibit levels expected to create a health hazard through exposure to contaminated ground water. This conclusion is based on the calculated compliance point concentration from the VHS model, using the total cyanide content of the wastes as the input (0.2 ppm).[48] The cyanide concentration predicted at the compliance point was well below the U.S. Public Health Service's suggested drinking water standard.[49]

In addition, the free cyanide levels in the treated waste are not expected to create a health hazard through inhalation. In particular, the level of total cyanide, and free cyanide and photodegradable cyanide are not sufficient to generate cyanide vapors at levels exceeding the workroom air threshold limit of 10 ppm set by the American Conference of Governmental Industrial Hygienists (ACGIH).[50]

The Agency has also concluded that there are no organic constituents present in the treated waste. The Agency's conclusions are based on the examination of Vulcan's raw materials, knowledge of the process, and analytical test results provided by Vulcan.

Using Vulcan's maximum annual waste generation rate of 4463 tons and the VHS model, the Agency computed the maximum allowable EP extract concentration of mercury in the waste.[51] In order for Vulcan's waste to be considered non-hazardous, the maximum EP leachate concentration for mercury has to be 0.0129 ppm or less. The EP extraction data for mercury provided by Vulcan was when they were required to assure that no batch exhibited an EP leachate concentration above 0.05 ppm. Analyis of the 1985 batch treatment records for both the brine clarifier and saturator insolubles revealed that 82 percent of the brine clarifier muds and 95 percent of the saturator insolubles exhibited EP leachate concentrations at 0.012 ppm or less. Additionally, 52.6 percent of the treated brine clarifier muds and 66 percent of the treated saturator insolubles exhibited EP leachate levels of 0.002 ppm or less.

Vulcan asserts that if they reprocessed all batches exhibiting EP leachate concentrations exceeding 0.0129 ppm, instead of the presently stipulated level of 0.05 ppm, they would significantly reduce the number of treated batches exceeding the cut-off level. The Agency agrees with Vulcan, in that if the maximum allowable EP extract level of mercury was 0.0129 ppm, instead of the current 0.05 ppm level, Vulcan would have reprocessed those batches, thereby reducing both the EP leachate concentration of mercury and the number of failing batches. The Agency is still concerned, however, with the possible batch to batch variation in EP leachate mercury levels. We will continue to require, therefore, that each and every batch be analyzed for EP leachable mercury.

The Agency believes that Vulcan has submitted data indicating that the concentration of leachable mercury can be controlled by its treatment system. To assure that the level of mercury in the leachate is maintained at an acceptable level, the Agency will continue to require Vulcan to test each batch of treated brine clarifier muds and saturator insolubles prior to disposal. If EP analyses indicate that the leachate concentration of mercury exceeds 0.0129 ppm, the waste must be re-treated or disposal of as a hazardous waste and will be subject to the regulatory requirements of 40 CFR Parts 262 through 267.

The Agency, therefore, concludes pursuant to this condition, that the treated brine clarifier muds and saturator insolubles, are non-hazardous (for all reasons), and as such, should continue to be excluded from hazardous wastes controls, if conditions permit. The Agency, therefore, proposes to grant a final conditional exclusion to the Vulcan Materials Company located in Port Edwards, Wisconsin, for its treated brine clarification muds and its treated saturator insolubles, as described in its petition. (The Agency notes that any changes to the manufacturing or treatment processes will require Vulcan to file an addendum to their petition or a new petition.[52] Any future changes to these processes that could effect the physical or chemical characteristics of the sludge will require a redemonstration of the hazard of the waste.)

VIII. Whirlpool Corporation.

A. Petition for Exclusion

Whirlpool Corporaion (Whirlpool), located in Danville, Kentucky, is involved in the production of trash compactors, refrigerator ice makers, refrigerator compressor electric motors, and miscellaneous electrical wiring components. Whirlpool has petitioned the Agency to exclude its wastewater treatment sludge, presently listed as EPA Hazardous Waste No. F006—Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin Plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum. Whirlpool has petitioned to exclude its waste because it does not meet the criterial for which it was listed.

Based upon the Agency's review of their petition, Whirlpool was granted a temporary exclusion in August 1981 (see 46 FR 40158). The Agency's basis for granting the temporary exclusion was the low migration potential of the constituents of concern, namely cadmium, hexavalent chromium, cyanide (complexed), and nickel. Since that time, the Hazardous and Solid Waste Amendments of 1984 were enacted. In part, the Amendments require the Agency to consider factors

[47] See footnote 10.
[48] The total constituent concentration was used in calculating the leachate concentration since an extraction for cyanide was not conducted. If one were to assume 100 percent leaching and the 20X dilution allowed by the leachate test, the EP leachate value would be 0.01 mg/L.
[49] See footnote 7.
[50] See Footnote. 8.
[51] The VHS model allows a dilution factor of 6.43 when evaluating 4463 tons of waste. The maximum allowable EP extraction level of mercury, therefore, would be: 0.083 (NIPDW Standard) X 6.43 (dilution factor), or 0.0129 ppm.
[52] See footnote 9.

(including additional constituents) other than those for which the waste was listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (see section 222 of the Amendments, 42 U.S.C. 6921(f).) The Agency, therefore, has re-evaluated Whirlpool's petition to: (1) Determine whether the temporary exclusion should be made final based on the original listing criteria; and (2) evaluate the waste for factors (other than those for which the waste was listed) to determine whether the waste is non-hazardous. This notice presents the results of the Agency's re-evaluation of this petition.

Whirlpool has submitted a detailed description of its manufacturing and treatment processes, including schematic diagrams; total constituent and oily EP toxicity analyses of the waste for all the EP toxic metals and nickel; total constituent analyses for total cyanide and cyanide amenable to chlorination; the total oil and grease content of the waste; and ignitability, corrosivity, and reactivity data. Whirlpool also submitted a list of raw materials and feed stocks (and material safety data sheets for all trade name materials) used in the manufacturing processes. The Agency requested this information, as noted above, to determine whether constituents other than those for which the waste was listed are present in the waste at levels of regulatory regualtory concern.

Whirlpool assembles residential trash compactors, vacuum cleaners, refrigerator ice makers, refrigerator compressor electric motors, and miscellaneous electrical wiring components. At this facility Whirlpool also manufactures the parts for the trash compactors, as well as assembles them. The remaining products are assembled from parts (manufactured elsewhere) on an assembly line. In the first phase, cold rolled steel is cut, formed, and welded. The welded parts are then carried by conveyor through a seven stage phosphating system: (1) And (2) alkaline cleaning; (3) water rinse; (4) iron phosphating; (5) water rinse; (6) sealing; and (7) deionized water rinse. The parts are then air dried in a cool down tunnel.

Next, trash compactor parts are electronically charged and conveyed through an electrodepositing tank in order to deposit a uniform coating of epoxy-brown anionic paste primer on the part. This paint system uses a solvent containing 0.3 percent paraffins, 0.3 percent naphthenes, and 99.4 percent aromatic hydrocarbons (C_9 or larger). The parts are then rinsed and conveyed through an oven for drying.

When the rinsate from the electrodepositing process is contaminated, it is recycled back into the electrodepositing tank as make-up, and fresh deionized water in added in its place. In the last phase, a final coat of paint is sprayed onto the parts using electrostatic semi-airless hand sprayers or electrostatic automatic Ransbury disks (xylene is the solvent used in this process). In the hand spraying process, the electronically charged parts are sprayed over a continually recirculating water wash spray booth. Over spray, if any, is chemically floculated and skimmed from the tank daily. The collected paint material is then drum and disposed, separately, as a hazardous waste. In the automatic spraying process, parts are again electronically charged and sprayed, only this time, the over-spray is caught by disposable cardboard walls. The parts are then oven dried and sent to final assembly.

The contaminated rinse waters (from stages 3, 5, and 7), the spent alkaline cleaners (neutralized with HCL) and the spent phosphating/sealing baths are all sent to a collection tank, where they are held prior to treatment. These waters account for 99 percent of the generated wastewaters. The remaining one percent of total wastewater generated, arise from annual discharges of (1) the electrodeposition spent rinse water (when the tank is cleaned); (2) the decant water from the water paint touch-up booths (used to catch over-spray from the electrostatic semi-airless hand spraying process); (3) infrequent floor washing; (4) discharge from a small alkaline parts washer and associated rinse water used in stages 1 and 2; and (5) water soluble oils generated from coolant fluid replacement. Over spray and gun cleaning solvent (xylene) never enter the waste water treatment system. The over spray is collected and disposed of as a hazardous waste, as described earlier; and solvent used for cleaning spray guns are sprayed directly into a drum for disposal.

The annual cleaning of the water wash tanks, used in the final paint application process, results in the discharge of approximately 10,000 gallons of wastewater containing no more than one percent xylene to the wastewater treatment system. This discharge becomes mixed with another 40,000 to 50,000 gallons of normal process wastewater. Whirlpool believes that this dilution is sufficient to render the mixture non-ignitable.

The Agency has reviewed the material safety data sheets for all trade name raw materials and has not identified any organic constitutents listed in Appendix VIII and, therefore, concludes that no organic hazardous constitutents enter the wastewater treatment system.

The wastewater from the collection tank and miscellaneous wastewaters flow to an automated pH adjustment unit. The pH of the wastewater is maintained at 8.0. If the pH exceeds 8.1, however, aluminum sulfite is added, and should the pH fall below 7.9, hydrated lime is added. The neutralized wastewater is then pumped from the holding tank to a clarifier. In the pumping process, a liquid polymer is added to the stream. In the clarifier, the solids (aided by the polymer) settle to the bottom, and the supernatant is discharged directly to the municipal treatment plant. The sludge is removed from the clarifier every 2–3 working days and sent to the rotating vacuum filter press. The resulting filter cake is passed through a cake of amorphous diatomaceous earth and sent by conveyor to a dumpster for shipment to a sanitary landfill. The supernatant resulting from the vacuum filter is routed to the pH adjustment unit and reworked.

Filter cake samples were taken one day a week for four weeks.[53] These samples were collected every half hour, and between 7 and 9 samples were composited for each daily sample. Since only one total constituent analysis for arsenic, barium, lead, mercury, selenium, and silver was performed, an additional three samples were requested. Three grab samples were taken randomly from the filter press on January 27, 29, and 31, 1986. Whirlpool claims that these composites are representative of the waste because of the uniformity of the manufacturing and treatment process, and because the sampling from the filter press allows a consistent and un-biased sampling of daily filter cake production. Whirlpool claims that these samples reflect any variation of constitutent concentration in the waste, and that the raw materials do not change over time. Whirlpool, therefore, believes that the samples collected are representative and thus adequately characterize the waste filter cake.

Total constituent analysis for the listed and non-listed constitutents in the sampled filter-cake resulted in the concentrations shown in Table 1.

[53] Whirlpool's initial demonstration for EP leachate was not considered (since the total oil and grease content of the waste exceeded one percent, and thus, were invalidated).

TABLE 1.—FILTER CAKE, TOTAL CONSTITUENT ANALYSIS (mg/kg)

As	Ba	Cd	Cr	Pb	Hg	Se	Ag	Ni	Total CN
1.98	51	0.3	67	120	0.075	0.48	2.3	5.5	<0.2

Analyses for total oil and grease content were completed and the oil and grease content of the waste ranged from 6.0 to 7.6 percent. Due to the waste's high oil and grease content, Whirlpool completed the EP extraction on a minimum of four representative samples using the oily waste methology. Table 2 presents the maximum oily-EP leachate concentrations detected for both the listed and non-listed constitutents.

TABLE 2.—FILTER CAKE, MAXIMUM OILY EP EXTRACTION ANALYSIS, MOBILE METAL CONCENTRATION (mg/l)

As	Ba	Cd	Cr	Pb	Hg	Se	CN[1]	Ag	Ni
0.017	1.37	<0.006	0.436	0.086	<0.004	<0.013	ND	0.388	2.89

[1] An analysis for leachable cyanide was not completed because of the low total concentration of cyanide in the waste (*i.e.*, total and free cyanide were less than 20 times the drinking standard for cyanide 0.2 mg/l).

Examination of the Material Safety Data Sheets, as stated earlier, did not detect any other Appendix VIII compounds. It is possible for the solvent containing 0.3 percent naphthenes, 0.3 percent paraffins, and 99.4 percent aromatic hydrocarbons (C_9 or larger), and xylene to enter the wastestream; however, it is expected that these solvents would flash off in the clarifier and not be present in the dewatered filter cake.[54] Additionally, the solvent's only access to the wastewater treatment system is through a annual discharge which only contributes one percent of the overall total wastewater generated and thus, would be rendered non-ignitable by dilution. Furthermore, none of the samples exhibited any of the characteristics of ignitability, corrosivity, or reactivity as specified in 40 CFR Part 261.21-.23. Whirlpool claims to generate a maximum of 294 tons of sludge per year.

B. Agency Analysis and Action

Whirlpool has demonstrated that the filter cake generated at their Danville, Kentucky facility is non-hazardous. Based on the data presented in Whirlpool's petition, the Agency believes that the petitioner has adequately characterized the waste filter cake, and that the samples analyzed reflect the day to day variation in production. The Agency believes Whirlpool's claim that the manufacturing and treatment process are uniform and consistent are well substaniated, since this facility does not perform as a job shop and there are no seasonal product variations. Thus, we consider the sampling procedures used by Whirlpool to be adequate, and as such, no significant day-to-day variation in constituent concentrations were detected. A comparison of the total constituent concentration with the oily-EP leachate concentration of each constituent, as well as an evaluation of the QA/QC data (spike concentrations and percent recovery data) did not detect any significant variability in the waste (*i.e.*, the standard deviation was very low).[55] The Agency, therefore, concludes that the analytical information provided by Whirlpool is representative of the waste filter cake.

The Agency has evaluated the mobility of the constituents from Whirlpool's waste filter cake using the vertical and horizontal spread (VHS) model.[56] The Agency's evaluation of Whirlpool's 294 tons of filter cake using the maximum oily EP extract levels for the constituents of concern in the VHS model generated the compliance point concentrations presented in Table 3.[57]

TABLE 4.—VHS Model: Calculated Compliance Point Concentrations (ppm)

	Cd	Cr	Ni	CN
Filter cake	<0.0002	0.013	0.089	<0.006
Regulatory standards (ppm)	0.01	0.05	0.350	0.20

The VHS model predicted that the waste filter cake material would exhibit cadmium and chromium levels (at the compliance point) significantly below the National Interim Primary Drinking Water Standards, as well as nickel levels[58] below the interim standard. These constituents, therefore, are not of regulatory concern.

The total cyanide levels in the waste filter cake would not exhibit free cyanide at levels expected to create a health hazard through exposure from contaminated ground water. This conclusion is based on the VHS model using the free cyanide content of the waste as the input. Although a leachate test for cycnide was not performed, the total constituent concentration was used (*i.e.*, if one were to assume 100 percent leaching and only dilution permitted by the oily-EP extraction test, the leachate value would be 0.01 mg/l). The cyanide concentration predicted at the compliance point was well below the U.S. Public Health Service's suggested drinking water standard.[59]

In addition, the free cyanide levels in the filter cake are also not expected to create a health hazard through inhalation. In particular, the level of total cyanide, an thus free cyanide and photodegradable cyanide, is not present in sufficient concentrations in order to volatilize at concentrations exceeding the workroom air threshold limit of 10 ppm set by the American Conference of Government Industrial Hygienists (ACGIH).[60]

The Agency has also concluded that there are no other hazardous inorganic or organic constituents present in the waste filter cake at levels of regulatory concern. The Agency's conclusions are based on the examination of Whirlpool's raw materials, knowledge of the process, and analytical test results provided by Whirlpool. In particular, the non-listed EP toxic metals' Oily-EP extraction concentrations (Table 3) were evaluated using the VHS model. Using these values, the Agency predicts levels at the compliance point to be significantly below the applicable regulatory standards, as seen in Table 5.

Table 5.— VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS (ppm)

	As	Ba	Pb	Hg	Se	Ag
Filter cake	0.0005	0.042	0.002	<0.0002	<0.0004	0.012
Regulatory standards	0.05	1.0	0.5	0.002	0.01	0.05

[54] The aromatic hydrocarbon solvent has a measured 100 percent evaporation rate of 65 minutes.

[55] See footnote 37.

[56] See footnote 5.

[57] Whirlpool generates 294 tons of sludge per year of waste; however, the VHS model specifies a minimum waste generation rate of 475 cubic yards. The Agency assumes the density of the waste to be 1 ton/cubic yard unless otherwise specified. (See 50 FR 49800, (November 27, 1985) for a discussion of the minimum waste generation rate.)

[58] See footnote 18.

[59] See footnote 7.

[60] See footnote 6.

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The Agency also has reviewed each of the chemical components used in each raw material, as supplied by raw material lists, and material safety data sheets. The Agency has concluded from this review that no other Appendix VIII hazardous constituents are present in the petitioned waste. We also agree with Whirlpool that neither solvents, aromatic hydrocarbon, nor xylene, could be present in the waste at sufficient levels since the waste is not ignitable.

The Agency concludes that the waste filter-cake is non-hazardous (for all reasons), and as such, should continue to be excluded from hazardous waste control. The Agency, therefore, proposes to grant a final exclusion to Whirlpool Corporation's Danville division located in Danville, Kentucky for its dewatered phosphating filter cake, as described in their petition. [The Agency notes that any changes to the manufacturing or treatment processes will require Whirlpool to file an addendum to their petition or a new petition.[61] Any future changes to these processes that could effect the physical or chemical characteristics of the sludge will require a redemonstration of the hazard of the waste.]

Effective Date

This rule, if promulgated, will become effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here since this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense which would be imposed on the petitioners by an effective date six months after promulgation and the fact that such a deadline is not necessary to achieve the purpose of section 3010, we believe that these rules should be effective immediately. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposal to grant exclusions is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at specific facilities from EPA's list of hazardous wastes, thereby enabling the facility to treat its waste as non-hazardous.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this proposed regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Dated: April 29, 1986.

Marcia Williams,

Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is proposed to be amended as follows:

PART 261—INDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation of Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1970, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6922].

2. In Appendix IX, add the following wastestreams in alphabetical order:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste Description
Acro Building Products.	Sugarcreek OH	Dewatered wastewater treatment sludge (EPA Hazardous Waste No. F019) generated from the chemical conversion coating of aluminum after [insert date of final publication].
Hanover Wire Cloth Division.	Hanover, PA	Dewatered filter cake (EPA Hazardous Waste No. F006) generated from electroplating operations after [insert date of final publication].
International Minerals and Chemical Corp.	Terre Haute, IN	Spent non-halogenated solvents and still bottoms (EPA Hazardous Waste No. F003) generated from the recovery of n-butyl alcohol after [insert date of final publication].
Square D Co	Oxford, OH	Dewatered filter press sludge (EPA Hazardous Waste No. F006) generated from electroplating operations after [insert date of final publication].
Whirlpool Corp	Danville, KY	Dewatered filter cake (EPA Hazardous Waste No. F006) generated from electroplating operations after [insert date of final publication].

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Monsanto Industrial Chemicals Co.	Suget, IL	Brine purification muds (EPA Hazardous Waste No. K071) generated from the mercury cell process in chlorine production, where separately prepurified brine is not used after [insert date of final publication].
Vulcan Materials Co.	Port Edwards, WI	Brine purification muds (EPA Hazardous Waste No. K071) generated from the mercury cell process in chlorine production, where separately prepurified brine is not used after [insert date of final publication]. To assure that mercury levels in this waste are maintained at acceptable levels, the following conditions apply to this exclusion: Each batch of treated brine clarifier muds and saturator insolubles must be tested (by the extraction procedure) prior to disposal and the leachate concentration of mercury must be less than or equal to 0.0129 ppm. This exclusion does not apply to wastes for which either of these conditions is not satisfied.

[FR Doc. 86-10099 Filed 5-6-86; 8:45 am]

BILLING CODE 6560-50-M

[61] See footnote 9.

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1312

[Ex Parte No. MC-170 (Sub-No. 1)]

Short Notice Effectiveness for Independently Filed Single-Factor Motor-Water Rates

AGENCY: Interstate Commerce Commission.

ACTION: Supplemental request for comments to notice of proposed rules.

SUMMARY: The Commission held an open voting conference on March 12, 1986, to consider the issues in this proceeding. Notice of the proposed rule change was published at 50 FR 20920 (1985). At the conference, the Commission voted to request comments from the Federal Maritime Commission (FMC) on the merits of the proposal. In light of this action, and in an effort to develop a more complete record, the record has been reopened for additional comments from the parties as well as any other interested persons on the merits of the proposed rule. Comments are sought specifically with regard to the effect of the proposal on port-to-port water carrier operations under the jurisdiction of the FMC, on the degree and type of competition within the various markets involved, and on the various competitive relationships that exist in this trade, including the effect of the different notice periods and tariff filing requirements. Comments are also invited on TOTE's request in No. MC-C-10924, *Sea-Land Freight Service, Inc., and Sea-Land Service, Inc.—Alaskan Trade Substituted Service—Petition for Declaratory Order*, for a broad investigation of the Alaska trade, as it relates to this proceeding.

DATE: Comments are due June 6, 1986.

ADDRESS: The original and, if possible, 10 copies of comments should be sent to: Ex Parte No. MC-170 (Sub-No. 1), Case Control Branch, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:

Ardith M. Horne, (202) 275-1764

or

Howell I. Sporn, (202) 275-7691.

SUPPLEMENTARY INFORMATION: Pursuant to a petition filed by Carolina Freight Carriers Corporation (Carolina), the Commission proposed amending 49 CFR 1312.39 to reduce the notice period for independently filed single-factor domestic motor-water property rates. Rate reductions and new rates would become effective on 1-day's notice and rate increases would become effective on 7-workdays' notice, rather than on the 30-days' notice currently required. Comments supporting the proposal were filed by Carolina, Foss L&T Co., Matson Navigation Company, and William J. Monheim. Comments in opposition were filed by Crowley Maritime Corporation and its subsidiary, Trailer Marine Transport Corporation, Sea-Land Service, Inc., Totem, Ocean Trailer Express, Inc. (TOTE), and the Puerto Rico Maritime Shipping Authority.

Additional information is contained in the Commission's decision. To purchase a copy of the decision, write to T. S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

The Commission certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. To the extent that small entities will be affected, the effects should be positive. Regulatory lag will be reduced, and small carriers will be able to price their services more competitively, to their benefit and the benefit of their shippers.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

List of Subjects in 49 CFR Part 1312

Motor carriers, Freight forwarders, Maritime carriers, Freight, exports, Imports, and intermodal transportation.

Decided: April 24, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne

Secretary.

Appendix

Part 1312 of Title 49 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1312—[AMENDED]

1. The authority citation for 49 CFR Part 1312 continues to read as follows:

Authority: 49 U.S.C. 10762; 5 U.S.C. 553.

2. Paragraph (h)(4) of § 1312.39 would be revised to read as follows:

§ 1312.39 Miscellaneous provisions which may be filed on less than statutory notice.

* * * * *

(h) * * *

(4) *Joint intermodal traffic.* This paragraph (h) applies to single-factor, motor-water property rates, charges, rules and other provisions, but does not apply to any other single-factor rate, charge, rule, or other provision having application over any segment of the lines of another transportation mode.

* * * * *

[FR Doc. 86-10167 Filed 5-6-86; 8:45 am]

BILLING CODE 7035-01-M

VOL 51 ISS 88 MY 7 1986 UMI

Notices

Federal Register
Vol. 51, No. 88
Wednesday, May 7, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

May 2, 1986.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from:

Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118

Comments on any of the items listed should be submitted directly to:

Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

• Food and Nutrition Service
OMB Circular A–102 (Financial Status Report)
SF–269 and SF–270
Recordkeeping; Quarterly
State or local governments; Businesses or other for-profit; Federal agencies or employees; 985 responses; 1,489 hours; not applicable under 3504(h)
Anneva Hackley (703) 756–3166

• Statistical Reporting Service
June & December Enumerative Survey
Semi-Annually; Annually
Farms; 153,140 responses; 53,570 hours; not applicable under 3504(h)
Lee Sandberg (202) 447–6820

New

• Agricultural Stabilization and Conservation Service
Poll of Wheat Producers
One time
Farms; 984,850 responses; 32,828 hours; not applicable under 3504(h)
Larry Walker (202) 382–9685

Reinstatement

• Rural Electrification Administration
Uniform System of Accounts Prescribed for REA Electric Borrowers
REA Bulletin 181–1
Recordkeeping
Small businesses or organizations; recordkeeping; 1 hour; not applicable under 3504(h)
Roland S. Heard (202) 382–8227

Revision

• Agricultural Stabilization and Conservation Service
7 CFR Part 1430, Dairy Products; Dairy Termination Program ASCS–304, ASCS–305, ASCS–306, ASCS–309, ASCS–313, ASCS–315, ASCS–316, and CCC–312
On occasion
Farms; 654,000 responses; 124,165 hours; not applicable under 3504(h)
Clarence Domire (202) 447–7873

• Farmers Home Administration
7 CFR 1944–N, Housing Preservation Grants
On occasion; Quarterly, Recordkeeping
Individuals or households; State or local governments; Non-profit institutions; 3,800 responses; 9,700 hours; not applicable under 3504(h)

John H. Pentecost (202) 382–8983
Jane A. Benoit,
Departmental Clearance Officer.
[FR Doc. 86–10228 Filed 5–6–86; 8:45 am]
BILLING CODE 3410–01–M

Food Safety and Inspection Service

[Docket No. 86–018N]

SLD Policy Memoranda; Semi-Annual Listing

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document lists and makes available to the public memoranda issued by the Standards and Labeling Division (SLD), Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service (FSIS), which contain significant new applications or interpretations of the Federal Meat Inspection Act, the Poultry Products Inspection Act, the regulations promulgated thereunder, or departmental policy concerning labeling.

FOR FURTHER INFORMATION CONTACT: Margaret O'K. Glavin, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION: FSIS conducts a prior approval program for labels or other labeling (specified in 9 CFR 317.4, 317.5, 381.132, and 381.134) to be used on federally inspected meat and poultry products. Pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), and the regulations promulgated thereunder, meat and poultry products which do not bear approved labels may not be distributed in commerce.

FSIS' prior label approval program is conducted by label review experts within SLD. A Variety of factors, such as continuing technological innovations in food processing and expanded public concern regarding the presence of various substances in food, has generated a series of increasingly complex issues which SLD must resolve as part of the prior label approval process. In interpreting the Acts or regulations to resolve these issues, SLD may modify its policies on labeling or develop new ones.

Significant or novel interpretations or determinations made by SLD are issued in writing in memorandum form. This document lists those SLD policy memoranda issued from October 1, 1985, through April 1, 1986.

Persons interested in obtaining copies of any of the following SLD policy memoranda, or in being included on a list for automatic distribution of future SLD policy memoranda, may write to: Printing and Distribution Section, Paperwork Management Branch, Administrative Services Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

Memo No.	Title and date	Issue	Reference
081A	Rescindment of Policy Memo 081, October 22, 1985	What processing procedures must be used for a meat or poultry product to be labeled as "marinated"?	(Replaces Policy Memo 081).
018A	Dual Weight Requirements for Stuffed Poultry Labels, December 20, 1985.	When must the label on consumer size retail packages of stuffed poultry and other poultry products declare the total net weight of the product and the minimum weight of the poultry in the product?	9 CFR 381.121(b). (Replaces Policy Memo 018).
50–B	Canadian Style Bacon, December 19, 1985	Appropriate labeling and standards of identity for "Canadian Style Bacon"?	(Replaces Policy Memo 50A).
070A	Fat and Lean Claims, March 31, 1986	What are the guidelines for the review and approval of labeling claims relating to the fat and lean content of meat and poultry products?	(Replaces Policy Memo 070).
071A	Lite and Similar Terms, March 31, 1986	What are the guidelines for the review and approval of labeling terms such as "Lite," "Light," "Lightly" and similar terms?	(Replaces Policy Memo 071).
092	Veal Parmagiana Made With Veal Patties, December 16, 1985	What is the appropriate labeling for Veal Parmagiana made with Veal Patties?	N/A
093	Adjusting for Protein Fat Free (PFF) Controlled Pork, December 19, 1985.	What formula adjustments are necessary when using protein fat free (PFF) controlled pork to meet minimum meat content standards in other products?	9 CFR 319.104, 9 CFR 319.105, and 9 CFR 301.2(ll).
094	Sulfiting Agents, February 19, 1986	Whether sulfiting agents present in processed fruits or vegetables used as ingredients of meat food products or poultry food products need to be declared on the label of the finished product	9 CFR 381.7(d)(2).
094–A	Sulfiting Agents, March 13, 1986	Whether sulfiting agents present in processed fruits or vegetables used as ingredients of meat food products or poultry food products need to be declared on the label of the finished product	9 CFR 318.7(d)(2). (Replaces Policy Memo 094).
095	Colored Casings-Labeling of Meat and Poultry Products, February 27, 1986.	What are the labeling requirements for meat and poultry products in colored casings that do not transfer color to the products?	9 CFR 301.2(ll)(4), 9 CFR 381.1(b)(30)(iv), and 9 CFR 317.2(ll).

The SLD policies specified in these memoranda will be uniformly applied to all relevant labeling applications unless modified by future memoranda or more formal Agency action. Applicants retain all rights of appeal regarding decisions bases upon these memoranda.

Done at Washington, DC, on May 2, 1986.

Margaret O'K. Glavin,
Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service.
[FR Doc. 86–10040 Filed 5–6–86; 8:45 am]
BILLING CODE 3410–DM–M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with § 553.53a of 335.10 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review

Not later than May 31, 1986, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in May, for the following periods:

	Period
Antidumping Duty Proceeding	
Portland cement from the Dominican Republic	05/01/85–04/30/86
Circular pipes & tubes from Taiwan	05/01/85–04/30/86
Portable electric typewriters from Japan	05/01/85–04/30/86
Impression fabric from Japan	05/01/85–04/30/86
Countervailing Duty Proceeding	
Bricks from Mexico	01/01/85–12/31/85
Ceramic tile from Mexico	01/01/85–12/31/85
Viscose rayon staple fiber from Sweden	01/01/85–12/31/85

A request must conform to the Department's interim final rule published in the **Federal Register** (50 FR 32556) on August 13, 1985. Seven copies of the request should be submitted to the Deputy Assistant Secretary for Import Administration, International Trade Administration, Room B–099, U.S. Department of Commerce, Washington, DC 20230.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review," for requests received by May 31, 1986.

If the Department does not receive by May 31, 1986 a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: April 30, 1986.

Gilbert B. Kaplan,
Deputy Assistant Secretary, Import Administration.
[FR Doc. 86–10210 Filed 5–6–86; 8:45 am]
BILLING CODE 3510–DS–M

BEST COPY AVAILABLE

[C-201-401]

Bars and Shapes From Mexico; Final Results of Changed Circumstances Administrative Review and Revocation of Countervailing Duty Orders

AGENCY: International Trade Administration, Import Administration Commerce.

ACTION: Notice of Final Results of Changed Circumstances Administrative Review and Revocation of Countervailing Duty Orders.

SUMMARY: On February 21, 1986, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty orders on bars and shapes from Mexico and announced its tentative determination to revoke the order. The review covers the period from October 1, 1984.

We gave interested parties an opportunity to comment. We received no comments. We determine that domestic interested parties are no longer interested in continuation of the orders. Therefore, we will revoke the orders in accordance with the petitioner's notification, the revocation will apply to all bars and shapes entered, or withdrawn from warehouse, for consumption on or after October 1, 1984.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Richard Carreau or Stephen Nyschot, Office of Compliance, International Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 6292) the preliminary results of its changed circumstances administrative review of the countervailing duty orders on bars and shapes from Mexico (49 FR 32887, August 17, 1984). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Mexican certain deformed concrete reinforcing bars, hot-rolling carbon steel bars, and hot-rolled carbon steel bar-size shapes. For a further description of these products, see Appendix A of this notice. The review covers the period from October 1, 1984.

Final Results of Review and Revocation

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments.

As a result of our review, we determine that domestic interested parties are no longer interested in continuation of the countervailing duty orders on bars and shapes from Mexico and that the orders should be revoked on this basis.

Therefore, we are revoking the orders on bars and shapes from Mexico effective October 1, 1984. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn for warehouse, for consumption on or after October 1, 1984 without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to those entries.

This notice does not cover unliquidated entries of bars and shapes from Mexico which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984. The Department will cover any entries not covered in a prior administrative review and entered, or withdrawn from warehouse, for consumption before October 1, 1984 in a separate review, if one is requested.

This administrative review, revocation, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: April 30, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

Appendix A—Product Description

1. The term "certain deformed concrete reinforcing bars" covers hot-rolled steel bars, of solid cross-section, having deformations of various patterns on their surfaces, as currently provided for in items 606.7900 and 606.8100 of the Tariff Schedules of the United States Annotated (TSUSA).

2. The term "hot-rolled carbon steel bars" covers hot-rolled carbon steel products of solid section not conforming completely to the respective specifications given in the headnotes to Schedule G, Part 2, Subpart B of the TSUSA for blooms, billets, slabs, sheet pads, wire rods, plates, sheets, strip, wire, rails, joint bars or tie plates which have cross-sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons, as currently provided for in items 606.8310, 606.8330, 606.8350, and 606.8600 of the TSUSA. This description includes flat hot-rolled carbon steel products in coils or cut to length with a width of 8 inches or less and a thickness of 0.1875 inch or more.

3. The term "hot-rolled carbon steel bar-size shapes" covers hot-rolled carbon steel angles, shapes and sections, not drilled, not punched and not otherwise advanced, and not conforming completely to the specifications given in the headnotes to Schedule G, Part 2, Subpart B of the TSUSA for blooms, billets, slabs, sheet bars, bars, wire rods, plates, sheets, strip, wire, rails, joint bars, tie plates or any tubular products set forth in the TSUSA having a maximum cross-sectional dimension of less than 3 inches, as currently provided for it items 609.8050, 609.8070, and 609.8090. This definition includes carbon steel angles, channels, special sections and other assorted carbon steel shapes with a maximum cross-sectional dimension of less than 3 inches.

[FR Doc. 86-10207 Filed 5-6-86; 8:45 am]
BILLING CODE 3510-DC-M

[C-433-402]

Carbon Steel Products From Austria; Final Results of Changed Circumstances; Administrative Review and Revovation of Countervailing Duty Order

AGENCY: International Trade Administration, Import Administration Commerce.

ACTION: Notice of final results of changed circumstances; administrative review and revocation of countervailing duty order.

SUMMARY: On March 14, 1986, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on carbon steel products from Austria and announced its tentative determination to revoke the order. The review covers the period from March 20, 1985.

We gave interested parties an opportunity to comment. We received no comments. We determine that domestic interested parties are no longer interested in continuation of the order. Therefore, we will revoke the order. In accordance with the petitioner's and the domestic interested parties; notifications, the revocation will apply to all carbon steel products entered, or withdrawn from warehouse, for consumption on or after March 20, 1985.

EFFECTIVE DATE: March 20, 1985.

FOR FURTHER INFORMATION CONTACT: Cynthia Gozigian or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On March 14, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 8866) the preliminary results of its changed circumstances administrative review of the countervailing duty order on carbon steel products from Austria (50 FR 41546, October 11, 1985). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Austrian cold-rolled carbon steel flat-rolled products. For a further description of these products, see Appendix A of this notice. The review covers the period from March 20, 1985.

Final Results of Review and Revocation

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments.

As a result of our review, we determine that the domestic interested parties are no longer interested in continuation of the countervailing duty order on carbon steel products from Austria and that the order should be revoked on this basis.

Therefore, we are revoking the order on carbon steel products from Austria effective March 20, 1985. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after March 20, 1985 without regard to countervailing duties and to refund any estimated countervailing duites collected with respect to those entries.

This administrative review, revocation, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: April 30, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

Appendix A

The term "cold-rolled carbon steel flat-rolled products" covers cold-rolled carbon steel products, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, nor pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; over 12 inches in width and 0.1875 inch or more in thickness, as currently provided for in item 607.8320 of the Tariff Schedules of the United States Annotated ("TSUSA"); or over 12 inches in width and under 0.1875 inch in thickness, whether or not in coils, as currently provided for in items 607.8350, 607.8365, or 607.8390 of the TSUSA.

[FR Doc. 86-10208 Filed 5-6-86; 8:45 am]
BILLING CODE 3510-DS-M

[A-588-007]

Certain High Capacity Pagers From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration; Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On August 2, 1984, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on certain high capacity pagers from Japan. The review covered the three known manufacturers and/or exporters of this merchandise to the United States and the period November 1, 1982 through August 31, 1983.

We gave interested parties an opportunity to comment on the preliminary results. After review of the one comment we received, the final results of review are unchanged from those in the preliminary results for the two firms covered by these final results.

EFFECTIVE DATE: May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Laurie A. Lucksinger or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–1130/5255.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 30866) the preliminary results of its administrative review of the antidumping duty order on certain high capacity pagers from Japan (48 FR 37058, August 16, 1983). The preliminary results covered the three known manufacturers and/or exporters of certain Japanese high capacity pagers to the United States and the period November 1, 1982 through August 31, 1983. In accordance with 353.53a(a) of the Commerce Regulations the petitioner, Motorola Corporation, requested that we complete the administrative review for two firms. The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Japanese tone-only high capacity pagers. This merchandise is currently classifiable under items 685.1600 and 685.7030 of the Tariff Schedules of the United States Annotated.

The review covers two of the three known manufacturers and/or exporters, Matsushita Communication Industrial Co. and NEC Corporation, and the period November 1, 1982 through August 31, 1983.

Analysis of Comment Received

We invited interested parties to comment on the preliminary results. We received one written comment from the petitioner.

Comment: Motorola contends that NEC may be continuing to import large numbers of tone-only pagers, in unfinished condition, but identifying them as component parts rather than as "pagers". As a result, such pagers may be escaping from the coverage of the antidumping duty order. Motorola urges the Department to request certain items in the next review questionnaire: (1) Specific information on the nature of the tone-only pager components which NEC America imports; (2) the nature of the additional work NEC America performs on those components in the United States; and (3) the extent of the U.S. facilities involved in the operations. Motorola requests that the Department then verify the response.

Department's Position

We intend to act on Motorola's request in the next review.

Final Results of the Review

After review of the comment, the final results of our review are unchanged from those we presented in the preliminary results. We determine that the following margins exist for the period November 1, 1982 through August 31, 1983:

Manufacturer/exporter	Margin (percent)
Matsushita Communication Industrial Co.	109.00*
NEC Corporation	70.35

*No shipments during the period.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

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Further, the Department will instruct the Customs Service to collect a cash deposit of estimated antidumping duties for each firm based upon the above margins as provided in section 751(a)(1) of the Tariff Act. For any shipments from the remaining known manufacturer and exporter, not covered by this review, the cash deposit will continue to be at the rate for "other manufacturers" published in the antidumping duty order. For any shipments from a new exporter not covered by this or prior administrative reviews, whose first shipment of certain Japanese high capacity pagers occurred after August 31, 1983, and who is unrelated to any covered firm, a cash deposit of 89.97 percent shall be required. These deposit requirements are effective for all shipments of certain Japanese high capacity pagers entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556, August 13, 1985).

Dated: April 30, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-10206 Filed 5-6-86; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the certificate should be issued.

FOR FURTHER INFORMATION CONTACT: James V. Lacy, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the Federal Register identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a certificate should be issued. An original and five (5) copies should be submitted not later than May 27, 1986 to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 86-00003."

Applicant: International Shippers Association, 821 Second Avenue, Suite 1400, Seattle, Washington 98104.

Application #: 86-00003.

Date Deemed Submitted: April 22, 1986.

Members (in addition to applicant): Alaska Canada Fisheries, Inc., Renton, WA; Booth Fisheries Corporation, Seattle, WA, and its controlling entity, Sara Lee Corporation, Park Ridge, IL; George S. Bush Export, Inc., Seattle, WA, and its parent company, George S. Bush & Company, Seattle, WA; Gwin, White & Prince, Inc., Wenatchee, WA; Interocean Seafoods Co., Seattle WA; Merco Intertrade, Inc., Seattle, WA; National Food Corporation, Walnut Creek, CA; Northern Products Corp., Seattle, WA; Pacific Salmon Company, Seattle WA; Pelican Seafoods, Inc., Seattle, WA; E.C. Phillips & Son, Inc., Ketchikan, AK; Rushton & Co., Oakland, CA; Seafood Producers Cooperative, Bellingham, WA; Seafood Sales, Seattle, WA; Sitka Sound Seafoods, Inc., Seattle, WA.

Summary of the Application:

International Shippers Association ("ISA") seeks certification for the following export-related activities:

A. Export Trade and Export Markets

ISA intends to negotiate, procure, and administer Transportation Services for its Members to export finfish, shellfish, hatchery products, agricultural produce, and processed food products worldwide. Transportation Services include inland freight transportation for export shipments to a U.S. export terminal, port, or gateway; overseas freight transportation; wharfage and handling; stevedoring; storage and warehousing; insurance; forwarder services; trade documentation and services; leasing of transportation equipment and facilities; and customs clearance.

B. Export Trade Activities and Methods of Operation

ISA intends to procure and administer Transportation Services on behalf of its Members, including the negotiation of advantageous freight contracts with individual carriers, and conferences of carriers. These Export Trade Activities will be conducted for shipper Members by George S. Bush Export, Inc., an independent administrative organization. ISA Members may, independently of ISA, negotiate for and secure Transportation Services.

Membership in ISA is subject to a majority vote of the Board of Directors, and to the credit-worthiness and ability of the potential member to pay a pro-rata share of assessments to cover costs and expenses of ISA. Any Member of ISA may be removed by a majority vote, with prior notice of the vote given to the Member. Removal shall be for due cause including, but not limited to, violation of ISA Bylaws and loss of credit-worthiness. Any member may withdraw or resign from ISA, subject to obligations to pay previous assessments and to pay for services arranged by or through ISA.

Dated: May 1, 1986.

George Muller,

Deputy Director, Office of Export Trading Company Affairs.

[FR Doc. 86-10175 Filed 5-6-86; 8:45 am]

BILLING CODE 3510-DR-M

[C-580-602 and C-583-604]

Extension of the Deadline Dates for the Final Countervailing Duty Determinations and Rescheduling of the Public Hearings; Certain Stainless Steel Cooking Ware From Korea and Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: Based upon the request of petitioner, the Fair Trade Committee of the Cookware Manufacturers Association, we are extending the deadline dates for the final determinations in the countervailing duty investigations of certain stainless steel cooking ware from Korea and Taiwan to correspond to the dates of the final determinations in the antidumping investigations of the same product pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984 (Pub. L. 98-573). In addition, we are rescheduling the public hearings.

EFFECTIVE DATE: May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Gary Taverman or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-0161 or 377-2438.

SUPPLEMENTARY INFORMATION:

Case Histories

On January 21, 1986, we received antidumping and countervailing duty petitions filed by the Fair Trade Committee of the Cookware Manufacturers Association on certain stainless steel cooking ware from Korea and Taiwan.

In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the antidumping petitions alleged that imports of certain stainless steel cooking ware from Korea and Taiwan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petitions contained sufficient grounds on which to initiate antidumping duty investigations, and on February 11, 1986, we initiated such investigations (51 FR 6018 and 51 FR 6019). The preliminary determinations in these antidumping investigations will be made on or before June 30, 1986.

In compliance with the filing requirements of §355.26 of our regulations (19 CFR 355.26), the countervailing duty petitions alleged that manufacturers, producers, or exporters in Korea and Taiwan of certain stainless steel cooking ware directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petitions contained sufficient grounds on which to initiate countervailing duty investigations, and on February 11, 1986, we initiated such investigations (51 FR 6019 and 51 FR 6020). On April 16, 1986, we issued preliminary negative determinations in the countervailing duty investigations on Korea (51 FR 15520) and on Taiwan (51 FR 15523).

On April 23, 1986, petitioner filed a request for extension of the deadline dates for the final determinations in the countervailing duty investigations to correspond with the dates of the final determinations in the antidumping investigations.

Section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984, provides that when a countervailing duty investigation is "initiated simultaneously with an (antidumping) investigation . . . which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination (in the countervailing duty investigation) to the date of the final determination" in the antidumping investigation (19 U.S.C. 1671(a)(1). Pursuant to this provision, we are granting an extension of the deadline dates for the final determinations in the countervailing duty investigations of certain stainless steel cooking ware from Korea and Taiwan to September 15, 1986, the current deadline for the final determinations in the antidumping investigations.

In addition, due to the extension of the final determinations in the countervailing duty investigations, we are rescheduling the dates of the public hearings, originally set for May 29, 1986 (Taiwan), and June 4, 1986 (Korea). These hearings, which were requested by the petitioner will now be held at 10:00 a.m. on June 13, 1986 (Korea), and August 6, 1986 (Taiwan), at the U.S. Department of Commerce, Room 1413, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearings must submit a request to the Deputy Assistant Secretary for Import Administration, Room B-099, at the above address within 10 days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, at least 10 copies of pre-hearing briefs must be submitted to the Deputy Assistant Secretary by June 6, 1986 (Korea), and July 30, 1986 (Taiwan). Oral presentations will be limited to issues raised in the briefs.

In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received within 10 days after the hearing transcript is available.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

April 30, 1986.

[FR Doc. 86-10205 Filed 5-6-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-429-101]

Unrefined Montan Wax From the German Democratic Republic; Final Results of Antidumping Duty Administrative Review and Revocation of Antidumping Duty Order

AGENCY: International Trade Administration, Import Administration Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review and Revocation of Antidumping Duty Order.

SUMMARY: On February 21, 1986, the Department of Commerce published the preliminary results of its administrative review and intent to revoke the antidumping duty order on unrefined montan wax from the German Democratic Republic. The review covers the one known exporter of this merchandise to the United States and the period September 1, 1983 through April 30, 1984.

We gave interested parties an opportunity to submit comments on the preliminary results and intent to revoke. We received no comments. Based on our analysis, the final results of our review are the same as the preliminary results, and we revoke the antidumping duty order on unrefined montan wax from the German Democratic Republic.

FOR FURTHER INFORMATION CONTACT: Laurie A. Lucksinger or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-1130/5255.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1986, the Department of Commerce ("the Department") published in the Federal Register (51 FR 6292) the preliminary results of its administrative review and intent to revoke the antidumping duty order on unrefined montan wax from the German Democratic Republic ("GDR") (46 FR 45177, September 10, 1981). The Department has now completed that administrative review.

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Scope of the Review

Imports covered by the review are shipments of unrefined montan wax, which is a non-oxidized mineral extracted from lignite, not advanced beyond extraction or cleaning by solvent. This product is primarily used as a flow agent in one-time carbon ink formulas. It is also used for producing polishes, mold release agents and for casting, and is currently classifiable under item 494.2000 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of unrefined montan wax from the GDR to the United States, VEB Braunkohlenwerk "Gustav Sobottka," and the period September 1, 1983 through April 30, 1984, the date of our tentative determination to revoke the antidumping duty order.

Final Results of the Review and Revocation

We invited interested parties to comment on the preliminary results and intent to revoke. We received no comments or requests for a hearing. Based on our analysis, the final results of our review are the same as those we presented in the preliminary results.

For the reasons set forth in the preliminary results we are satisfied that there is no likelihood of resumption of sales at less than fair value. Accordingly, we revoke the antidumping duty order on unrefined montan wax from the GDR. This revocation applies to all unliquidated entries of unrefined montan wax from the GDR entered, or withdrawn from warehouse, for consumption on or after April 30, 1984.

The administrative review, revocation, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act of 1930 (19 U.S.C. 1675 (a)(1), (c)) and §§ 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556, August 13, 1985; 353.54).

Dated: April 30, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-10289 Filed 5-6-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Deep Seabed Mining—Proposed Revision of Exploration License

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of receipt of application by Ocean Management, Inc., to revise exploration plan incorporated into exploration license issued August 29, 1984 and request for comments.

SUMMARY: On November 19, 1985, Ocean Management, Inc. (OMI), c/o INCO Limited, One New York Plaza, New York, New York 10004 submitted to the National Oceanic and Atmospheric Administration (NOAA) a proposal to change the exploration plan incorporated into the deep seabed mining exploration license issued to OMI by NOAA on August 29, 1984, pursuant to the Deep Seabed Hard Mineral Resources Act (DSHMRA) and 15 CFR Part 970. The Ocean Minerals and Energy Division of the Office of Ocean and Coastal Resources Management conducted a preliminary review of the OMI request to determine the appropriate procedures for processing this license modification. In a letter of January 9, 1986, OMI was informed of NOAA's preliminary determination to process the change as a revision to the license in accordance with § 970.513 of the NOAA regulations. Supplemental information was also requested and was submitted on March 27 and April 3. Following review of the supplemented application, NOAA has determined that this proposal constitutes an application for revision of the license under 15 CFR 970.513 and is commencing appropriate public review procedures prescribed in 15 CFR 970.514(b).

In essence, OMI proposes two principal changes in the exploration plan. First a revised strategy would adopt a two-stage approach wherein "prime areas" identified using available data, are selected and intensively explored. Subsequently exploration of non-prime areas would be undertaken to establish a resource base adequate for a commercial minesite and upon which an application for a commercial recovery permit could be based. The goal of the revised exploration program would be to complete, within the license term, such exploration as is needed to define a logical mining unit, as required by the DSHMRA. OMI proposes to postpone to the subsequent commercial permit phase, those aspects of detailed exploration of the non-prime areas which are not essential to OMI's determination of the feasibility of commercial mining.

Secondly, OMI proposes to reduce its level of projected expenditures during the license term from $21 million (1981 dollars) to $4.6–$6.6 million (1981 dollars). The revised estimates of projected expenditures take into account the resource knowledge possessed by OMI acquired during many years of exploration prior to the DSHMRA, augmented by information obtained as a result of the conflict-resolution agreement between international consortia, as well as the use of state of the art technology already developed. According to OMI the increased efficiency of this technology, as well as the acquired data, will reduce the amount of at-sea exploration needed. Therefore, OMI is proposing to reduce projected ship time from 310 days to a maximum of 180 days. No at-sea testing of new survey systems is proposed. No change is proposed in the objective of filing for a deep seabed mining commercial recovery permit within the 10 year license period.

Subject to 15 CFR 970.902, which excludes confidential information from public disclosure, interested persons will be permitted to examine the application for revision and to provide comments by July 7, 1986.

These documents may be examined in Suite 704, 1825 Connecticut Avenue NW., Washington, DC

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Carter or John W. Padan, Ocean Minerals and Energy Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 2001 Wisconsin Avenue NW., Washington, DC 20235.

Dated: May 1, 1986.

James P. Blizzard,

Acting Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 86-10146 Filed 5-6-86; 8:45 am]

BILLING CODE 3510-12-M

Issuance of General Permit

A general permit was issued to the China National Marine Fisheries Corporation, Anchorage, Alaska, to take marine mammals incidental to commercial fishing operations under Category 1: Towed or Dragged Gear, pursuant to 50 CFR 216.24.

The general permit allows the taking of not more than 24 cetaceans and 70 pinnipeds annually by certificate holders operating under this permit within the U.S. fishery conservation zone of the North Pacific Ocean. The permit is valid until December 31, 1986.

This general permit is available for public review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC.

Dated: May 2, 1986.

Samuel W. McKeen,

Chief, Management & Budget Staff, National Marine Fisheries Service.

[FR Doc. 86-10169 Filed 5-6-86; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Software: Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Software will meet in open session on 27 May 1986 at the Software Engineering Institute, Pittsburgh, Pa.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. The May meeting will consist of discussion by the Task Force members on various software issues.

Persons interested in attending should contact Major Susan Swift, Task Force Executive Secretary, approximately one week prior to the scheduled meeting times. Space is limited and will be awarded on a first come first served basis. Telephone (202) 695-7181.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

May 2, 1986.

[FR Doc. 86-9772 Filed 5-6-86; 8:45 am]

BILLING CODE 3810-01-M

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee.

ACTION: Publication of Changes in Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 132. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 132 is being published in the Federal Register to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: May 1, 1986.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the Federal Register now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

CIVILIAN PERSONNEL PER DIEM BULLETIN NUMBER 132

TO THE HEADS OF THE EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: TABLE OF MAXIMUM PER DIEM RATES IN LIEU OF SUBSISTENCE FOR UNITED STATES GOVERNMENT CIVILIAN OFFICERS AND EMPLOYEES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTH OF PUERTO RICO AND POSSESSIONS OF THE UNITED STATES

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense dated 17 August 1966, subject: Executive Order 11294, August 4, 1966, "Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status; in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702 (a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rico, the Canal Zone, and possessions of the United States. When appropriate, and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 131 except for the cases identified by asterisks which rates are effective on the date of this Bulletin.

3. Each Department or establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak[1]	$19
Anaktuvuk Pass	140
Anchorage	122
Atqasuk	215
Barrow	144
Bethel	124
*Cold Bay	120
Coldfoot	122
College	105
Cordova	113
Deadhorse	113
Dillingham	114
Dutch Harbor—Unalaska	105
Eielson AFB	105
Elmendorf	122
Fairbanks	105
Ft. Richardson	122
Ft. Wainwright	105
Juneau	109
Kenai	119
Ketchikan	113
Kodiak	110
Kotzebue[2]	126
Murphy Dome[2]	105
Noatak	128
Nome	136
Noorvik	126
Petersburg	113
Point Hope	160
Point Lay	178
Prudhoe Bay	113
Sand Point	103
Shemya AFB[3]	30
Shungnak	126
Sitka-Mt. Edgecombe	113
Skagway	113
Spruce Cape	110
St. Mary's	100
Tanana	136
Valdez	136
Wainwright	165
Wrangell	113
Yakutat	100
All Other Localities[3]	91
American Samoa	61
*Guam M.I.	83
*Hawaii:	
Hawaii, Island of:	
Hilo	59
Other	84
Oahu	98
All Other Islands	84
Johnston Atoll[3]	23
Midway Islands[1]	13
Puerto Rico:	
Bayamon:	
12-16—5-15	132
5-16—12-15	105
Carolina:	
12-16—5-15	132
5-16—12-15	105
Fajardo (including Luquillo):	
12-16—5-15	132
5-16—12-15	105
Ft. Buchanan (Incl GSA Service Center, Guaynabo):	
12-16—5-15	132
5-16—12-15	105
Ponce (Incl. Ft. Allen NCS)	99
Roosevelt Roads:	
12-16—5-15	132
5-16—12-15	105
Sabana Seca:	
12-16—5-15	132
5-16—12-15	105
San Juan (Including San Juan Coast Guard Units):	
12-16—5-15	132
5-16—12-15	105
All Other Localities	111
Virgin Islands of U.S.:	
12-1—4-30	139
5-1—11-30	112
Wake Island[3]	20
All Other Localities	20

[1] Commercial facilities are not available. The per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler. For Adak, Alaska—when Government quarters are not utilized, and quarters are obtained at the Simone

Construction, Inc. camp, a daily travel per diem allowance of $71.50 is prescribed to cover the cost of lodging, meals and incidental expenses at the facility.

² Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

³ On any day when US Government or contractor quarters and US Government or contractor messing facilities are used, a per diem rate of $13 is prescribed to cover meals and incidental expenses at Shemya AFB and the following Air Force Stations: Cape Lisburne, Cape Newenham, Cape Romanzof, Clear, Cold Bay, Fort Yukon, Galena, Indian Mountain, King Salmon, Kotzebue, Murphy Dome, Sparrevohn, Tatalina and Tin City. This rate will be increased by the amount paid for US Government or contractor quarters and by $4 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

May 2, 1986.

[FR Doc. 86-10213 Filed 5-6-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Armed Forces Institute of Pathology Scientific Advisory Board; Meeting

In order to comply with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the meeting of the Armed Forces Institute of Pathology's Scientific Advisory Board, June 5-6, 1986, 0830 hours in the Director's Conference Room, Armed Forces Institute of Pathology, Washington, DC 20306-6000. This meeting will be open to the public.

The proposed agenda will include professional discussion of the mission of the Armed Forces Institute of Pathology relating to consultation, education and research. The Executive Secretary from whom substantive program information may be obtained is Colonel William R. Tuten, III, Executive Officer, Armed Forces Institute of Pathology, Washington, DC 20306-6000, telephone 202-576-2900.

For the director.

William R. Tuten, III,

Colonel, MS, USA Executive Officer.

[FR Doc. 86-10171 Filed 5-6-86; 8:45 am]

BILLING CODE 3710-08-M

Defense Nuclear Agency (DNA)

Scientific Advisory Group on Effects (SAGE); Closed Meeting

Scientific Advisory Group on Effects (SAGE) will meet in closed session June 10 to June 12, 1986 at the Lawrence Livermore National Laboratories in Livermore, California. AGENDA: June 10 to June 12 (0800-1700): Presentations, Discussions and Executive Sessions on Issues Related to DNA Technology Program supporting the Hard Target Kill. The presentations and discussions in the above cited agenda will focus on current and planned activities of the Defense Nuclear Agency (DNA) supporting the Strategic Defense Initiatives Organization. Executive sessions will be held for the primary purpose of advising the Director, DNA, as to the adequacy of ongoing and planned activities. All planned presentations, discussions, and executive sessions may include classified defense information; therefore, under the provisions of sections 552b(c)(1) and (3), Title 5, U.S.C., this meeting is closed to the public. Any additional information concerning the meeting may be obtained from: Lt Col Gary C. Gibson, USAF, Scientific Secretary, SAGE, Headquarters, Defense Nuclear Agency, ATTN: DDST, Washington, DC 20305-1000.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

May 2, 1986.

[FR Doc. 86-10214 Filed 5-6-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before June 6,1986.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Management Service publishes this notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title: (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: May 2, 1986.

George P. Sotos,

Director, Information Resources Management Service.

Office of Elementary and Secondary Education

Type of Review: Extension
Title: Application for Civil Rights Technical Assistance and Training State Education Agency Program
Agency Form Number: ED 296
Frequency: Annually
Affected Public: State or local governments
Reporting Burden:
Responses: 120
Burden Hours: 2400
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: The application is used by State education agencies to apply for assistance under Title IV of the Civil Rights Act of 1964. The Department uses this information to evaluate the proposed projects and make awards in accordance with program regulations.

Office of Elementary and Secondary Education

Type of Review: Extension
Title: Application for Civil Rights Technical Assistance and Training Desegregation Assistance Center Program
Agency Form Number: A10-7P
Frequency: Annually

Affected Public: Non-profit institutions
Reporting Burden:
Responses: 20
Burden Hours: 2000
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: The application is used by non-profit institutions to apply for desegregation assistance center awards under Title IV of the Civil Rights Act of 1964. The Department needs this information to evaluate proposed projects and make awards in accordance with program regulations.

Office of Planning, Budget and Evaluation

Type of Review: New
Title: Survey of Parents of Bilingual Students
Agency Form Number: P75-6P
Frequency: One time only
Affected Public: Individuals and households
Reporting Burden:
Responses: 304,564
Burden Hours: .01
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: The purpose of this study is to survey 4000 Asian and Hispanic parents to determine their educational preferences for their children. The information will be used by the Department of Education to develop alternative guidelines and policies.

Office of Postsecondary Education

Type of Review: New
Title: Application for Funds for the Improvement of Postsecondary Education (FIPSE) Lectures Program
Agency Form Number: ED 0005
Frequency: On occasion
Affected Public: State or local governments; Non-profit institutions; Small businesses or organizations.
Reporting Burden:
Responses: 100
Burden Hours: 800
Recordkeeping Burden:
Recordkeepers: NA
Burden Hours: NA

Abstract: The Fund for the Improvement of Postsecondary Education (FIPSE) Lectures Program supports presentations about the improvement of postsecondary education at conferences and meetings.

Office of Postsecondary Education

Type of Review: Extension
Title: Loan Transaction Statement
Agency Form Number: ED 1190
Frequency: On occasion
Affected Public: Businesses or other for profit
Reporting Burden:
Responses: 5
Burden Hours: 1
Recordkeeping Burden:
Recordkeepers: 20,000
Burden Hours: 5,000

Abstract: The ED Form 1199 is used by the U.S. Department of Education, Guarenteed Student Loan Branch to bill lenders for insurance premiums. It is also used by lenders to report changes in the status of existing loans and to report loans paid in full.

Office of Postsecondary Education

Type of Review: Extension
Title: Application for Grants Under the Law School Clinical Experience Program
Agency Form Number: ED 595
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden:
Responses: 100
Burden Hours: 2,500
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This form is used by institutions of higher education applying for grants under the Law School Clinical Experience Program.

[FR Doc. 86-10203 Filed 5-6-86; 8:45 am]

BILLING CODE 4000-01-M

Secretary's Discretionary Fund; Critical Foreign Languages Program

AGENCY: Department Of Education.

ACTION: Application notice for new awards under the Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages for fiscal year 1986.

Programmatic And Fiscal Information

The Secretary of Education, under the Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Language (Critical Foreign Language Program), announces a grant competition for fiscal year 1986 and invites applications from institutions of higher education for projects designed to improve and expand instruction in critical foreign languages.

The Secretary invites a broad range of approaches designed to improve and expand foreign language instruction. For fiscal year 1986, the Secretary invites applications for projects in the following foreign languages: Arabic, Cambodian, Chinese, French, German, Haitian Creole, Italian, Korean, Japanese, Polish, Portuguese, Russian, Spanish, and Vietnamese. However, these language categories (chosen from the final List of Critical Foreign Languages published in the Federal Register on August 2, 1985) and the types of projects and activities suggested below are invitational only and will receive no competitive advantage.

While only public and private institutions of higher education are eligible to apply for assistance under this program, the Secretary strongly believes that the greatest and most urgent need to improve and expand foreign language instruction is at the elementary and secondary school levels. Therefore, the Secretary especially encourages institutions of higher education to propose activities that will benefit directly both students and teachers at the elementary and secondary school levels.

Further, the Secretary is interested in programs that demonstrate the capacity not only to serve an individual school, institution, or school district, but that can be adapted to statewide and regional interests and needs.

The Secretary is particularly interested in projects that will:

- Provide opportunities to upgrade and strengthen the knowledge and proficiency of foreign language teachers currently in the classroom;
- Provide opportunities to recruit and train individuals who are proficient in a foreign language, but who lack pedagogical preparation in that language;
- Increase the opportunities for foreign language instruction at the elementary school level;
- Provide opportunities to extend instruction in foreign languages and culture to historically underserved and underrepresented populations;
- Strengthen existing foreign language programs to improve and increase language proficiency; or
- Develop new instructional approaches or broaden existing approaches to increase access to and effectiveness of foreign language study and instruction.

Activities

The following examples are offered to illustrate the types of activities an institution could propose and that the Secretary is interested in supporting.

Project activities may include, but are not limited to:

- The establishment of collaborative efforts between institutions of higher education and State and local educational agencies to develop both short and long-term teacher training programs.

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• The development of programs to recruit and prepare individuals for teaching who are proficient in a foreign language, but who lack pedagogical training, through such means as exchange programs or accelerated training programs.

• The development of intensive foreign language summer programs for exceptional secondary school students and teachers.

• The development of programs that provide outstanding foreign language teachers with research opportunities, sabbaticals, or advanced training in their second language.

• The review of textbooks and other foreign language instructional materials to identify specific weaknesses such as inadequate scholarship, poor writing, or lack of challenging material.

• The establishment of collaborative efforts between individual schools, State and local educational agencies, and institutions of higher education to develop new approaches to upgrading foreign language instructional methods and materials.

• The establishment of joint efforts between State and local educational agencies, communities, and institutions of higher education to develop innovative approaches to increase student interest in foreign language study.

• The development of guidelines or criteria to review and establish the curriculum and course contant in foreign languages.

• The establishment of collaborative efforts between local school districts and institutions of higher education to develop approaches for introducing foreign language instruction to the elementary school curriculum.

Approximately $1,600,000 is available in fiscal year 1986 for awards under the Critical Foreign Languages Program. The Secretary urges applicants to limit the amount of Federal assistance requested, since resources available under this competition are limited. The Secretary anticipates that no award will exceed $125,000.

Because of the limited available resources, the Secretary encourages applicants to propose projects that would use the funds awarded under this competition to supplement other sources of funding and that will have the potential for support from other sources upon completion of the grant period. These estimates of the approximate funds available and of the maximum amount of an award, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of up to 12 months.

Selection Criteria

The program regulations at § 755.30(b) authorize the Secretary to distribute an additional 15 points among the criteria described in the regulations at § 755.32 to bring the total to a maximum of 100 points. For the purposes of this competition, the Secretary will distribute the additional points as follows:

Improvement of expansion of instruction in critical foreign languages. Ten (10) additional points will be added for a possible total of 30 points.

Applicant's commitment and capacity. Five (5) additional points will be added for a possible total of 20 points.

Closing Date for Transmittal of Applications

Applications for new awards must be mailed or hand-delivered on or before July 1, 1986.

Applications sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: CFDA No. 84.168F, 400 Maryland Avenue SW., Washington, DC. 20202.

Each late applicant will be notified that its application will not be considered.

Applications that are hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building 3, 7th and D Streets SW., Washington, DC.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on he closing date.

Applicable regulations

Regulations applicable to this program include the following:

(a) The regulations governing the Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages in 34 CFR Part 755.

(b) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78.

(c) The list of Critical Foreign Languages published on August 2, 1985 (50 FR 31412).

Application Forms

Application forms and program information packages are expected to be available by May 16, 1986. They may be obtained by writing to: Secretary's Discretionary Fund, (Attn: Critical Foreign Languages Program), U.S. Department of Education, 1200 19th Street NW., Room 722, Washington, DC 20208.

Further Information

For further information contact Patricia L. Alexander, Secretary's Discretionary Fund, U.S. Department of Education, 1200 19th Street NW., Room 722, Washington, DC 20208. Telephone: (202) 254–8227.

Program Authority

20 U.S.C. 3972.

(Catalog of Federal Domestic Assistance Number 84.168F, Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages)

Dated: May 2, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86–10200 Filed 5–6–86; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 86–28–NG]

NHP Energy, Inc.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Application for Blanket Authorization to Import Natural Gas from Canada for Short-Term and Spot Sales.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on April 18, 1986, of an application filed by NHP Energy, Inc. (NHP), a Minnesota corporation, for a blanket authorization to import from Canada up to 50 MMcf of natural gas per day and a maximum of 3 Bcf over a two-year period beginning on the date of first delivery. NHP anticipates that it will contract with a number of Canadian suppliers and marketers for available supplies. Under the proposal, NHP will import natural gas for its own account as well as for the accounts of Canadian suppliers and U.S. purchasers. NHP proposes to file quarterly reports to the ERA showing the specific terms of each import and sale, including the price and volumes.

NHP also requests expedited treatment of its application given the fact that the authorization requested is identical to existing import authorizations and the granting of its request will serve the public interest by providing competitively priced imported gas supplies to U.S. markets.

The application was filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, or notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than June 6, 1986.

FOR FURTHER INFORMATION CONTACT:

John Glynn, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9482

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6667

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive.

Parties opposing the arrangement bear the burden of overcoming this assertion.

In making its request for expedited treatment of its application to import natural gas from Canada, NHP states that prompt ERA action will serve the public interest by allowing competitively priced gas supplies to be imported into U.S. markets for the benefit of U.S. consumers. NHP further states that its requested authorization duplicates existing authorizations granted by the ERA; consequently, its application should be reviewed on an expedited basis, including the dispensing of any procedure providing for additional comments. The ERA has determined that the reasons cited by NHP in requesting expedited treatment of its application do not justify limiting the opportunity for parties to request additional procedures.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9478. They must be filed no later than 4:30 p.m. June 6, 1986.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trail-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of NHP's application is available for inspection and copying in the Natural Gas Divison Docket Room, GA–076, (202) 252–9478, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, April 29, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–10181 Filed 5–6–86; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 86–14–NG]

Yankee International Co.; Order Approving an Amendment to an Authorization To Export Natural Gas to Canada on a Short-Term Basis

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Order Approving an Amendment to an Authorization To Export Natural Gas to Canada on a Short-Term Basis.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order approving an amendment to an existing authorization of Yankee International Company (Yankee) to export natural gas to Canada on a short-term basis. The order issued in ERA Docket No. 86–14–NG extendes the term of Yankee's existing export authorization from April 30, 1986, to February 4, 1988, and increases the maximum export levels to 65 MMcf per day and up to 10 Bcf for the duration of the term.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA–076, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, April 30, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–10180 Filed 5–6–86; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RP83-34-006]

Great Lakes Gas Transmission Co.; Tariff Filing To Implement Court Mandate

April 30, 1986.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes") on April 22, 1986 tendered for filing Ninth Revised Sheet No. 151, Original Volume 2 of Great Lakes' FERC Gas Tariff to be effective January 1, 1984.

Great Lakes states that on December 16, 1983, it filed certain tariff sheets with the Commission in compliance with a "Stipulation and Agreement in Settlement of Rate Proceeding" in Docket No. RP83-34 and in compliance with Commission Opinions 179 and 179-A. Such tariff sheets implemented on a prospective basis, effective January 1, 1984, rates based upon the new ratemaking methodology established by Opinions 179 and 179-A. However, on September 4, 1984 the Commission reversed its acceptance of and rejected Ninth Revised Sheet No. 151, Original Volume No. 2 relating to Great Lakes' T-6 Rate Schedule. On January 29, 1986, the United States Court of Appeals for the District of Columbia Circuit issued its judgment in *Great Lakes Gas Transmission Company* v. *FERC*, No. 85-1035, which reversed the Commission's September 4, 1984 order and remanded the case to the Commission for proceedings not inconsistent with the Court's opinion. On March 20, 1986, the Court forwarded to the General Counsel of the Commission a certified copy of the Court Judgment with Memorandum in lieu of formal mandate.

By its filing Great Lakes seeks to reinstate Ninth Revised Sheet No. 151, Original Volume 2 of its FERC Gas Tariff effective January 1, 1984 consistent with the Court Judgment.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before May 8, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10157 Filed 5-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL86-26-001]

San Diego Gas and Electric Co. v. Alamito Co.; Amended Complaint and Motion for Summary Judgment of San Diego Gas and Electric Co.

May 1, 1986.

Take notice that on April 23, 1986, San Diego Gas and Electric Company (SDG&E) submitted for filing an amended complaint and motion for summary judgment pursuant to sections 206 and 306 of the Federal Power Act ("Act"), 16 U.S.C. 824e and 825e, and Rules 206, 212, 215, and 217 of the rules of practice and procedure of the Federal Energy Regulatory Commission ("Commission"), 18 CFR 385.206, 385.212, 385.217. This amended complaint and motion are submitted as the result of the answer filed by Alamito Company ("Alamito") to the original complaint and motion for summary judgment filed herein on February 28, 1986. Alamito's answer consists of a claim that SDG&E's original complaint and motion for summary judgment are moot.

According to the Commission's rules of practice and procedure, the Commission would be authorized to take Alamito's failure to respond on the merits as a concession of each material point raised in SDG&E's motion, and accordingly grant summary judgment. However, because Alamito has raised a claim of mootness, which claim the Commission may credit, SDG&E amends its complaint to encompass specifically the Osceola Energy, Inc. ("Osceola") merger proposal that may now take place, or any other like transaction, that is based upon the substitution of debt for equity as the capital used to finance rate base assets used to make sales to SDG&E.

SDG&E's complaint is not concerned with the identity of the owners of Alamito, but with the financing of the assets used to make sales to SDG&E. Under the proposed management leveraged buyout, either as originally proposed or as later amended during the bidding for Alamito, and under the apparent winning proposal reflected in an Agreement of Merger between Osceola, Alamito Holdings, Inc. ("Subco"), and Alamito, debt will be substituted for equity and Alamito's assets will be financed with substantially more leverage, and therefore at lower cost, than is reflected in the rates that SDG&E is required to pay under Alamito Rate Schedule No. 1. Accordingly, the Commission should grant immediate rate relief upon the consummation of the merger.

Any person desiring to be heard or to protest the application should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before June 2, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10158 Filed 5-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL86-34-000]

San Diego Gas and Electric Co. v. Alamito Co., Osceola Energy, Inc., and Alamito Holdings, Inc.; Complaint of San Diego Gas and Electric Co.

May 1, 1986.

Take notice that on April 23, 1986, San Diego Gas and Electric Company tendered for filing a complaint pursuant to sections 204, 306, 309, and 314 of the Federal Power Act ("FPA"), 16 U.S.C. 824c, 824e, 825h, and 825m, and Rules 206 of the Commission's rules of practice and procedure. The complaint relates to an existing agreement to merger between Osceola Energy, Inc. ("Osceola"), Alamito Holdings, Inc. ("Subco"), and Alamito Company ("Alamito"). The agreement of merger, to which SDG&E has no opposition, could result in an increase in capital costs and other expenses charged to SDG&E under Alamito Rate Schedule No. 1, unless the Commission grants the relief requested in the instant complaint, namely that any authority granted to Osceola pursuant to Section 204 of the FPA relating to its financing of the proposed merger be conditioned upon the collection of revenues from SDG&E subject to refund from and after closing of the merger agreement, pending a Commission decision on whether and how the increased leverage used to finance Alamito's assets should be reflected in Alamito's Rate Schedule No. 1, and whether other costs associated with this transaction may properly be charged to SDG&E under Alamito Rate Schedule No. 1.

Specifically, SDG&E respectfully requests that the Commission, if it approves the transaction, grant immediate and simultaneous rate relief, and authorize the transaction on condition that any collections by Alamito or Osceola after the consummation of the merger be subject to refund, with interest, as prescribed in the Commission's regulations pending hearings and decision to consider the cost recovery issues in this complaint.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before June 2, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10159 Filed 5-6-86; 8:45 am]

BILLING CODE 6717-01-M

Issuance of Proposed Decision and Order; Office of Hearings and Appeals Week of April 14, Through April 18, 1986

During the week of April 14 through April 18, 1986, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 28, 1986.

Warrior Asphalt Company of Alabama, Inc., Cities Service Co., Washington, D.C., Tulsa, OK; BYX-0197, HER-0052, Crude Oil

On April 15, 1981, the Warrior Asphalt Company of Alabama, Inc. (Warrior) submitted financial and operating data to the Office of Hearings and Appeals (OHA) for a review of the *Delta/Beacon* entitlements exception relief that the firm had received for the period April 1, 1980 through January 31, 1981. On March 14, 1983, the Cities Service Company (Cities) filed an Application for Modification in which it stated that Warrior's financial results for the firm's 1980 fiscal year should be adjusted to exclude an expense item which reflected the monies paid by Warrior to the DOE in settlement of various alleged violations. According to Cities, by including the settlement payment as an expense, Warrior had artificially increased its apparent need for *Delta/Beacon* entitlements relief by the same amount, and thus had transferred the cost of the settlement agreement to other entitlements program participants. On April 18, 1986, the OHA issued a Proposed Decision and Order (PDO) consolidating the two proceedings. With regard to Warrior's partial year-end review, the OHA determined (1) that the review period of Warrior's partial fiscal year-end review be limited to the period from April 1, 1980 through December 31, 1980, and (2) that Warrior received $102,394 of excessive entitlements relief during that period. In response to the Cities Service submission, the OHA determined that Cities claim was correct and that Warrior had improperly reduced its 1980 fiscal year profitability—and increased its apparent need for entitlements exception relief—by including as an expense item monies paid to the DOE in connection with a consent order. As Cities claimed, Warrior had improperly burdened other entitlements program participants with the cost of the settlement agreement and Warrior itself bore *no* cost. As a result, the DOE proposed that Warrior had an additional dispense obligation of $407,224 and thus a total final net dispense obligation of $599,618. The DOE noted, however, that in accordance with the current policy of the DOE, 50 Fed. Reg. 1919 (1985), Warrior's additional dispense obligation would not be effectuated.

[FR Doc. 86-10178 Filed 5-6-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51619; FRL-3006-1]

Certain Chemicals Premanufacture Notices

Correction

In FR Doc. 86-8835, beginning on page 15681, in the issue of Friday, April 25, 1986, make the following corrections:

1. On page 15682, second column, under "P86-846", thirteenth line, "up to hrs" should read "up to 6 hrs."

2. On the same page, under "P86-848", first line, "Confidential" was misspelled and on the second line, "Pol" should read "Poly".

3. On page 15683, third column, under "P86-866", fifth line, "41000" should read "4,000".

4. On page 15684, second column, under "P86-872", sixth line, "5" should read "2".

BILLING CODE 1505-01-M

[OPP-30263A; FRL-3011-2]

ICI Americas, Inc.; Approval of a Pesticide Product Registration

AGENCY: Enviromental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application submitted by ICI Americas, Inc. to register the pesticide product Demon™ WP containing an active ingredient involving a changed use pattern pursuant to the provision of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This notice also corrects an error in the notice of filing.

FOR FURTHER INFORMATION CONTACT:

By mail: George LaRocca, Product Manager (PM) 15, Registration Division (TS-767C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460

Office location and telephone number: Rm. 204, TS-767C, Environmental Protection Agency, 1921 Jefferson

Davis Hwy, Arlington, VA 22202, (703–557–2400)

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of February 12, 1986 (51 FR 5247), which announced that ICI Americas, Inc., Agricultural Chemicals Div., Wilmington, DE 19897, had submitted an application to register the peaticide product Demon™ WP containing the active ingredient cypermethrin (±)alpha-cyano-(3-phenoxyphenyl) methyl (±)-*cis, trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate at 40.0 percent; involving a changed use pattern of the product.

In the notice the Agency announced receipt of an application to conditionally register a pesticide product involving a changed use pattern. The notice should have stated that ICI Americas, Inc., had submitted an application to unconditionally register the pesticide product "Demon™ WP" containing the active ingredient cypermethrin. This notice corrects that error.

The application was approved on March 20, 1986 for Demon™ WP, for indoor non-agricultural use. The product was assigned EPA Registration No. 10182–71.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 236, CM#2, Arlington, VA 22202 (703–557–3262). Request for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 401 M St., SW., Washington, DC 20460.

Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: April 21, 1986.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

[FR Doc. 86–9760 Filed 5–6–86; 8:45 am]

BILLING CODE 6560–50–M

[PF–451; FRL–3012–1]

Shell Oil Co.; Withdrawal of Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the withdrawal by Shell Oil Co., of pesticide tolerance petitions for residues of the insecticide cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(methylethyl) benzeneacetate in on certain commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF–451] and the petition number, attention Product Manager (PM–15), at the following address:

Information Services Section (TS–757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Information Services Section (TS–757C), Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: George T. LaRocca, (PM–15), Registration Division (TS–767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460

Office location and telephone number: Rm. 204, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703–557–2400)

SUPPLEMENTARY INFORMATION: EPA issued notices cited below, which announced filing of petitions by the Shell Oil Co., 1025 Connecticut Ave., NW., Washington, DC 20036, proposing tolerances for residues of the insecticide cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate in or on certain commodities as follows:

Petition ID	Pub. Date (FR citation)	CFR affected	Commodities	Parts per million
PP 4F3022	Feb. 23, 1984 (49 FR 6794)	40 CFR 180.379	Citrus fruits	2.0
FAP 4H5424	...do...	21 CFR Part 561	Dried citrus pulp	20.0
PP 2F2599	Dec. 5, 1984 (49 FR 47548)	40 CFR 180.379	Head lettuce	25.0

Shell Oil Co. has withdrawn these petitions without prejudice to future filing in accordance with 40 CFR 160.8.

Authority: 21 U.S.C. 346a and 348.

Dated: April 29, 1986.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86–10019 Filed 5–6–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Privacy Act of 1974; New System of Records and Amendment to Existing System of Records

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Notice of Proposed New System of Records and Amendment to Existing System of Records.

SUMMARY: The FDIC proposes to establish a new system of records under the Privacy Act of 1974 pertaining to an automated case management system. The FDIC also proposes to amend a routine use of information contained in the FDIC's system of records concerning consummated changes in bank control (30–60–0004).

DATE: Comments on the changes to the systems of records must be received on or before June 6, 1986.

ADDRESS: Comments may be addressed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429, or hand delivered to Room 6108, 550 17th St. NW, Washington, DC between 9:00 a.m. and 5:00 p.m., Monday through Friday. Comments received may also be inspected during work days in Room 6108 between 9:00 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Gail K. Jensen, Attorney, Federal Deposit Insurance Corporation, 550 17th St., NW, Washington, DC 20429, (202) 898–3758.

SUPPLEMENTARY INFORMATION: Due to the expansion of the FDIC's liquidation activities in handling insured bank failures and the ensuing increased volume of litigation, a number of internal procedures are planned within the FDIC's Legal Division to manage the increased work load. Included in these changes is the need to establish a system of records under the Privacy Act of 1974 (5 U.S.C. 552a).

The proposed system of records pertains to an automated case management system developed within the Legal Division. The case management system will track legal fees generated by law firms and lawyers retained by the FDIC as well as the costs of in-house FDIC attorneys. The case management system will also provide the ability to track specific cases by the type of case, the issue in the case, and the status of the case.

There will be various means of access to the information contained in the automated case management system. The principal means of access will be the names listed in the headings to lawsuits. Information in the system, however, also will be accessed by the name of an in-house FDIC attorney assigned to the case. Similarly, the system will provide access by the name of outside counsel retained by the FDIC to handle a case. Access to records by the name of a sole practitioner and by name of an in-house FDIC attorney establishes a system of records for purposes of the Privacy Act. There would be records under the FDIC's control that are retrieved by reference to an individual's name.

Access to records by the names of parties to lawsuits would not establish a system of records for Privacy Act purposes. The names listed in the heading to a lawsuit would not be complete names. The records in the system would not be retrieved by reference to an individual's complete name. In the context of a data base that contains entries from some 20,000 lawsuits, access by a party's last name and not complete name does not satisfy the criterion that the records be retrieved by reference to an individual's name. Similarly, access to records by the name of a law firm retained by the FDIC does not establish a "system of records." Partnerships and corporations are excluded from the Privacy Act's coverage.

The FDIC also proposes to amend its existing system of records titled "Changes in Bank Control Ownership Records" (30–60–0004). The FDIC has proposed disclosing publicly notices of acquisition of control filed under the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)). As a result, the FDIC proposes an amendment that will expand a "routine use" of the records maintained in the system of records on changes in bank control.

The proposed systems of records and amendment are set forth below.

30–64–0019

SYSTEM NAME:

Legal Case Management System.

SYSTEM LOCATION:

Data base located at Office of the General Counsel, FDIC, 550 17th St., NW., Washington, DC 20429 with access from FDIC offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FDIC staff attorneys, individuals practicing law as sole proprietors who are providing or have provided legal services to the FDIC, and certain individuals who have made inquiries for administrative and legal responses from the FDIC's Legal Division.

CATEGORIES OF RECORDS IN THE SYSTEM:

Consists of information as to certain individuals who have made inquiries for administrative and legal responses from the FDIC's Legal Division; the names of the lawsuits involving the FDIC; court/docket numbers; forum/venue; the subject matter of the lawsuit; status of the case; with respect to administrative actions, the name of the administrative law judge, address, and telephone number; with respect to litigation involving an FDIC-owned asset, asset numbers; bank or opposing counsel name, address, and telephone number; name of the bank involved; an open bank's insurance certificate number; claim amount of lawsuit; cumulative in-house expense, fees, and hours; cumulative outside expense and fees; various dates pertaining to litigation activity; estimated cost of litigation; litigation analysis; estimated time to completion of litigation; names of FDIC attorney and FDIC reviewing attorney; name of law firm or lawyer retained by the FDIC and identifying number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) In the event that information contained in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(2) In the event of litigation, the appropriate records may be presented to the appropriate court, magistrate, or administrative tribunal as evidence, or to counsel for the presentation of evidence and/or in the course of discovery.

(3) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

(4) Disclosure may be made to the appropriate state banking authority and the appropriate Federal financial institution regulatory agency that has or has had a supervisory concern for the financial institution that is the subject of the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored on computer discs and tapes.

RETRIEVABILITY:

Indexed by FDIC staff attorney names and names of sole practitioners retained by FDIC.

SAFEGUARDS:

Access to the system is limited to authorized personnel. Entry into the computer is by password.

RETENTION AND DISPOSAL:

Indefinitely.

SYSTEM MANAGER AND ADDRESS:

Office of the General Counsel, FDIC, 550 17th St., NW., Washington, DC 20429.

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NOTIFICATION PROCEDURE:
Executive Secretary, FDIC, 550 17th St., NW., Washington, DC 20429.

RECORD ACCESS PROCEDURES:
Same as "Notification" above.

CONTESTING ACCESS PROCEDURES:
Same as "Notification" above.

RECORD SOURCE CATEGORIES:
Information is obtained from attorneys handling the cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:
None.

30-64-0004

In the Changes in Bank Control Ownership Records System (30-64-0004) subparagraph (1) of the paragraph entitled "Routine uses of records maintained in the system, including categories of uses and the purposes of such uses" is revised to read as follows:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

(1) The name of the bank whose control is changing, the seller and purchaser, the number of shares involved, the number of outstanding shares, the date that a notice of acquisition of control (filed under the Change in Bank Control Act) has been accepted by the FDIC, and the date of acquistion will be released to the public upon request.

* * * * *

By order of the Board of Directors, April 30, 1986.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 86-10182 Filed 5-6-86; 8:45 am]
BILLING CODE 6714-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-759-DR]

Nevada; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Nevada (FEMA-759-DR), dated February 28, 1986, and related determinations.

DATED: May 1, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice

The notice of a major disaster for the State of Nevada, dated February 28, 1986, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 28, 1986:

That portion of the Fort McDermitt Indian Reservation located in the State of Nevada for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,
Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 86-10174 Filed 5-6-86; 8:45 am]
BILLING CODE 6718-02-M

FEDERAL HOME LOAN BANK BOARD

[No. 86-457]

Agency Information Collection Activities Under OMB Review; Monthly Survey of Rates on Conventional 1-Family Nonfarm Mortgage Loans

Dated: May 1, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board ("Board") has submitted for extension, without revision, an information collection request, "Monthly Survey of Rates on Conventional 1-Family Nonfarm Mortgage Loans" to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Comments

Comments on the information collection request are welcome and should be submitted within 15 days of publication of this notice in the Federal Register. Comments regarding the paperwork-burden aspects of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503. Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Requests for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552, Phone: 202-377-6933.

FOR FURTHER INFORMATION CONTACT: Steven Zabremski, Office of Policy and Economic Research, (202) 377-6780, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

By the Federal Home Loan Bank Board.

Jeff Sconyers,
Secretary.

[FR Doc. 86-10196 Filed 5-6-86; 8:45 am]
BILLING CODE 6720-01-M

[86-456]

Agency Information Collection Activities Under OMB Review; Trust Department Application

Dated: May 1, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board ("Board") has submitted a new information collection request, "Trust Department Application" to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Comments

Comments on the information collection request are welcome and should be submitted within 5 days of publication of this notice in the Federal Register. Comments regarding the paperwork-burden aspects of the request should be be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503. Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Request for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552, Phone: 202-377-6933.

FOR FURTHER INFORMATION CONTACT: Kathy O' Dea, Office of District Banks, (202) 377-6788, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

By the Federal Home Loan Bank Board.

Jeff Sconyers,
Secretary.

[FR Doc. 86-10195 Filed 5-6-86; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-476]

Bay View Federal Savings & Loan Association, San Mateo, CA; Final Action Approval of Conversion Application

Dated: May 1, 1986.

Notice is hereby given that on April 9, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Bay View Federal Savings and Loan Association, San Mateo, California for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of San Francisco, Post Office Box 7948, San Francisco, California 94120.

By the Federal Home Loan Bank Board.

Jeff Sconyers,
Secretary.

[FR Doc. 86-10199 Filed 5-6-86; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-475]

Twin City Federal Savings & Loan Association, Minneapolis, MN; Final Action Approval of Conversion Application

Dated: May 1, 1986.

Notice is hereby given that on April 15, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Twin City Federal Savings and Loan Association, Minneapolis, Minnesota, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Des Moines, 907 Walnut Street, Des Moines, Iowa 50309.

By the Federal Home Loan Bank Board.

Jeff Sconyers,
Secretary.

[FR Doc. 86-10198 Filed 5-6-86; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreements pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in §572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212-009847-014.
Title: U.S. Atlantic Coast/Brazil Agreement.
Parties:
Companhia de Navegacao Lloyd Brasileiro
Companhia de Navegacao Maritime Netumar
United States Lines (S.A.) Inc.

Synopsis: The proposed amendment would modify the agreement to change the date from March 31, 1986 to August 31, 1986, in order to extend the temporary adjustments necessitated by the integration of alternate coast service into the pooling arrangements.

Agreement No.: 212-009848-016.
Title: U.S. Gulf Ports/Brazil Agreement.
Parties:
Companhia de Navegacao Lloyd Brasileiro
Companhia Maritima Nacional
United States Lines (S.A.) Inc.

Synopsis: The proposed amendment would extend until August 31, 1986 previously approved adjustments necessitated by the integration of alternate coast service into the pooling arrangements.

Agreement No.: 212-010320-011.
Title: Brazil/U.S. Gulf Ports Agreement.
Parties:
Companhia de Navegacao Lloyd Brasileiro
Companhia Maritimas Nacional
United States Lines (S.A.) Inc.
Empresa Lineas Maritimas Argentinas S.A.
A. Bottacchi S.A. de Navegacion C.F.I.I.
Transportacion Maritima Mexicana S.A.

Synopsis: The proposed amendment would modify the agreement to change the date from March 31, 1986 to August 31, 1986, in order to extend the temporary adjustments necessitated by the integration of alternate coast service into the pooling arrangements.

Agreement No.: 212-010362-009.
Title: Argentina/U.S. Gulf Ports Agreement.
Parties:
A. Bottacchi S.A. de Navegacion C.F.I.I.
Cia. de Navegacao Lloyd Brasileiro
Companhia Maritima Nacional
Empresa Lineas Maritimas Argentinas S.A.
Reefer Express Lines Pty, Ltd.
Transportacion Maritima Mexicana S.A.
United States Lines (S.A.) Inc.

Synopsis: The proposed amendment would modify the agreement to increase the amount of iron and steel articles exempted from the pooling requirements.

Agreement No.: 212-010366-008.
Title: Argentina/U.S. Atlantic Coast Agreement.
Parties:
A. Bottacchi S.A. de Navegacion C.F.I.I.
Cia. de Navegacao Lloyd Brasileiro
Empresa Lineas Maritimas Argentinas S.A.
United States Lines (S.A.) Inc.
Reefer Express Lines Pty, Ltd.
Van Nievelt, Goudriaan & Co.

Synopsis: The amendment would add "open rated iron and steel articles" to the list of commodities not subject to the pool. Under the terms of the agreement the amendment may become effective upon filing.

Agreement No.: 217-010823-003.
Title: Canadian Transport Company/C.M.B. n.v. Joint Container Service Agreement.
Parties:
Canadian Transport Company (CTCO)
C.M.B. n.v. (CMB)

Synopsis: The proposed amendment would enlarge the scope of the agreement to include ports and points in Italy, Alaska and Hawaii. It would also permit CTCO to provide additional container space to the joint container service by chartering space at CTCO's expense from other vessel operators and

would authorize CTCO and CMB to agree upon the amounts of such vessel space to be chartered by CTCO for the service.

Agreement No.: 24–010921.

Title: Port of Portland Terminal Agreement.

Parties:

The Port of Portland (Port)
The EAC Lines Transpacific Service, Ltd. (Lines)
Kawasaki Kisen Kaisha, Ltd. (Lines)
Mitsui O.S.K. Lines, Ltd. (Lines)

Synopsis: The proposed agreement would provide for the preferential use by the Lines of 7 acres of container yard, a berth, and two container cranes. The preferential berthing period shall be for a fixed 48-hour period each week. The Port will perform all terminal and stevedoring services at the premises, and the Lines agree to pay for these services in accordance with the Port's terminal tariff. The Lines will compensate the Port at a minimum annual fee of $500,000 for the first year and escalating on an annual basis thereafter. Revenues from dockage, wharfage, wharf demurrage, and storage paid by the Lines on their vessels and cargoes will be applied against the minimum annual guarantee. The term of the agreement is three years, with the option to renew for an additional two-year term.

Agreement No.: 213–010922.

Title: Convoy Intercontinental Container Transport/Canadian Transport Company Space Charter Agreement.

Parties:

Canadian Transport Company (CTCO)
Convoy Intercontinental Container Transport GmbH & Co. KG (Convoy)

Synopsis: The proposed agreement would permit CTCO to charter space on Convoy's vessels for the carriage of cargo in the trades between ports on the West Coast of the United States and ports in the United Kingdom and North Europe (Bordeaux-Hamburg range). It would also permit the parties to agree upon the sailing schedules of their vessels.

By Order of the Federal Maritime Commission.

Dated May 2, 1986.

John Robert Ewers,

Secretary.

[FR Doc. 86–10212 Filed 5–6–86; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86F–0158]

Betz Laboratories, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Betz Laboratories, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 2-bromo-2-nitropropane-1,3-diol as a slimicide in the manufacture of paper and paperboard for food-contact use.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3915) has been filed by Betz Laboratories, Inc., Somerton Rd., Trevose, PA 19047, proposing that § 176.300 *Slimicides* of the food additive regulations (21 CFR 176.300) be amended to provide for the safe use of 2-bromo-2-nitropropane-1,3-diol as a slimicide in the manufacture of paper and paperboard for food-contact use.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: April 29, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–10161 Filed 5–6–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86F–0159]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of poly[[6-[(1,1,3,3-tetramethylbutyl) amino]-*s*-triazine-2,4-diyl] [(2,2,6,6-tetramethyl-4-piperidyl) imino]hexamethylene[(2,2,6,6-tetramethyl-4-piperidyl)imino]] as a stabilizer for polyethylene and olefin copolymers used in the manufacture of articles or components of articles intended for food-contact use.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3921) has been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of poly[[6-[(1,1,3,3-tetramethylbutyl) amino]-*s* triazine-2,4-diyl] [2,2,6,6-tetramethyl-4-piperidyl) imino]hexamethylene[(2,2,6,6-tetramethyl-4-piperidyl)imino]] as a stabilizer for polyethylene and olefin copolymers used in the manufacture of articles or components of articles intended for food-contact use.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: April 29, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–10162 Filed 5–6–86; 8:45 am]

BILLING Code 4160–01–M

[Docket No. 86F–0151]

Dow Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Dow Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of hydrogen peroxide solution to sterilize polymeric food-contact surfaces prepared from ethylene-acrylic acid copolymers.

FOR FURTHER INFORMATION CONTACT: Leonard C. Gosule, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3928) has been filed by the Dow Chemical Co. Midland, MI 48674, proposing that § 178.1005 *Hydrogen peroxide solution* (21 CFR 178.1005) be amended to provide for the safe use of hydrogen peroxide solution to sterilize food-contact surfaces prepared from ethylene-acrylic acid copolymers complying with § 177.1310 (21 CFR 177.1310).

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: April 29, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–10164 Filed 5–6–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86F–0153]

Radiation Technology, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Radiation Technology, Inc. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a source of gamma radiation to control spoilage bacteria and/or pathogens and parasites in seafoods.

FOR FURTHER INFORMATION CONTACT: Clyde A. Takeguchi, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6M3907) has been filed by Radiation Technology, Inc., Lake Denmark Rd., Rockaway, NJ 07860, proposing that Part 179 (21 CFR Part 179) of the food additive regulations be amended to provide for the safe use of a cobalt 60 or cesium 137 source of gamma radiation to control spoilage bacteria and/or pathogens and parasites in seafoods, including fishes, molluscs, crustaceans, and amphibians, at doses not to exceed 3 kilogray (300 kilorad).

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: April 29, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–10165 Filed 5–6–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86F–0154]

The Goodyear Tire & Rubber Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that The Goodyear Tire & Rubber Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of ethylene terephthalate-isophthalate copolymers containing a minimum of 97 weight percent of polymer units derived from ethylene terephthalate for use as components of food-contact articles.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–426–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(c)(5))), notice is given that a petition (FAP 5B3884) has been filed by The Goodyear Tire & Rubber Co., 130 Johns Ave., Akron, OH 44316–0001, proposing that § 177.1630 *Polyethylene phthalate polymers* (21 CFR 177.1630) be amended to provide for the safe use of ethylene terephthalate-isophthalate copolymers containing a minimum of 97 weight percent of polymer units derived from ethylene terephthalate for use as components of food-contact articles.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: April 29, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–10166 Filed 5–6–86; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Health Education Assistance Loan Program; Maximum Interest Rates for Quarter Ending June 30, 1986 and Rate of Insurance Premium

Section 727 of the Public Health Service Act (42 U.S.C. 294) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools.

A. Section 60.13(a)(4) of the program's implementing regulations (42 CFR Part 60, previously 45 CFR Part 126) provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending June 30, 1986, three interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 10¾ percent. Using the regulatory formula (45 CFR 126.13(a) (2) and (3)), in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding

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calendar quarter (7.06 percent), and rounding the result (10.56 percent) upward to the nearest ⅛ percent (10⅝ percent). However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. Because the average rate of the 4 quarters ending March 31, 1986 is not in excess of 12 percent, there is no necessity for reducing the interest rate. For the previous 3 quarters the variable interest at the annual rate was as follows: 11⅜ percent for the quarter ending September 30, 1985; 10⅞ percent for the quarter ending December 31, 1985; and 11 percent for the quarter ending March 31, 1986.

2. For variable rate loans executed during the period of January 27, 1981 through October 21, 1985, the interest rate is 10⅝ percent. Using the regulatory formula (42 CFR 60.13(a)(3)) in effect since January 27, 1981, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (7.06 percent); adding 3.50 percent (10.56 percent); and rounding that figure to the next higher one-eighth of 1 percent (10⅝ percent).

3. For fixed rate loans executed during the period of April 1, 1986 through June 30, 1986, and for variable rate loans executed on or after October 22, 1985, the interest rate is 10⅛ percent. The Health Professions Training Assistance Act of 1985 (Pub. L. 99–129), enacted October 22, 1985, amended the formula for calculating the interest rate by changing 3.5 percent to 3 percent. Using the regulatory formula (42 CFR 60.13(a)(2) and (3)) and substituting the new statutory change of 3 percent, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (7.06 percent); adding 3.0 percent (10.06 percent) and rounding that figure to the next higher one-eighth of 1 percent (10⅛ percent).

B. Pub. L. 99–129 also contains modifications to the insurance premium calculation that become effective 9 months after enactment of the statute (July 21, 1986). Until that date, § 60.14(b) of the regulations remains in effect.

It provides that the rate of the insurance premium shall not exceed 2 percent per year of the loan principal and that the Secretary will announce the rate of the insurance premium on a quarterly basis through a notice published in the **Federal Register**.

The Secretary announces that for the period ending June 30, 1986, the rate of the insurance premium continues to be 2 percent per year of the loan principal for loans executed through the HEAL program.

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: May 1, 1986.

John H. Kelso,

Acting Administrator.

[FR Doc. 86–10169 Filed 5–6–86; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

National Cancer Advisory Board and Board Subcommittees; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board, May 19–21, 1986, National Cancer Institute, Building 31C, Conference Room 6, 6th floor, National Institutes of Health, Bethesda, Maryland 20892. Meetings of Subcommittees of the Board will be held at the times and places listed below. Portions of the Board meeting and its Subcommittees will be open to the public to discuss committee business as indicated in the notice. Attendance by the public will be limited to space available.

Portions of these meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Subcommittee on Planning and Budget will be closed to the public as indicated below in accordance with the provisions set forth in Section 552b(c)(9)(B), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, to discuss the 1988 preliminary budget.

Mrs. Winifred Lumsden, the Committee Management Officer, NCI, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meetings and rosters of Board members, upon request.

Mrs. Barbara S. Bynum, Executive Secretary, National Cancer Advisory Board, National Cancer Institute, Building 31, Room 10A03, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5147) will furnish substantive program information.

Name of committee: *National Cancer Advisory Board*
Dates of Meeting: May 19–21, 1986
Place of Meeting: Building 31C, Conference Room 6, 6th floor, National Institutes of Health
Open:
May 19, 8:30 a.m.—recess
May 21, 8:00 a.m.—adjournment
Agenda: Reports on activities of the President's Cancer Panel and the Director's Report on the National Cancer Institute; Subcommittee Reports and New Business.
Closed Session: May 20, 8:30 a.m.—recess
Closure Reason: To review grant applications.
Name of committee: *Subcommittee on Planning and Budget*
Dates of Meeting: May 19, 1986
Place of Meeting: Building 31, A Wing, Conference Room 11A10, 11th Floor National Institutes of Health
Closed: May 19, 7:30 p.m.—adjournment
Closure Reason: To discuss the preliminary FY 88 budget.
Name of committee: *Subcommittee on Special Actions for Grants*
Dates of Meeting: May 20, 1986
Place of Meeting: Building 31, C Wing, Conference Room 6, 6th Floor, National Institutes of Health
Closed: May 20, 8:30 a.m.—adjournment
Closure Reason: To review grant applications.

(Catalog of Federal Domestic Assistance Program Numbers:
13.392, project grants in cancer construction.
13.393, project grants in cancer cause and prevention.
13.394, project grants in cancer detection and diagnosis.
13.395, project grants in cancer treatment.
13.396, project grants in cancer biology.
13.397, project grants in cancer centers support.
13.398, project grants in cancer research manpower.
13.399, project grants and contracts in cancer control.)

[FR Doc. 86–10310 Filed 5–6–86; 11:27 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

President's Commission on Americans Outdoors

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amendd, notice is hereby given that a meeting of the President's Commission on American Outdoors (Commission) will be held Wednesday, May 14, 1986, starting at 10:30 am, in the Ballroom of the Brown Palace Hotel/ Denver Inn, 310–17th Street, Denver, CO 80202. Due to heavy demand for presentations to the Commission this second site has been selected for the Commission hearing to be held in Denver on this date.

This will be a hearing to obtain information on the kinds of programs that are provided and opportunities afforded in recreation programs in this country. Attendees have been invited by the Commission for this public hearing; however interested parties may request time to testify by contacting the Commission.

This meeting is opened to the public, interested persons may attend. The Commission contact is Mr. James Gasser, and he may be contacted at the President's Commission on Americans Outdoors, P.O. Box 18547, 1111—20th Street, NW, Washington, DC 20036–8547, (202) 634–7310.

Dated: May 2, 1986.

Victor H. Ashe,

Executive Director, President's Commission on Americans Outdoors.

[FR Doc. 86–10201 Filed 5–6–86; 8:45 am]

BILLING CODE 4310–70

Bureau of Land Management

Extension of Information Collection Approval

Extension of approval for the information collection listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the information and collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on extension of the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget at 202–395–7340.

Title: 43 CFR Parts 2800 and 2880, Additional Information for Right-of-Way Application
Bureau Form Number: No form—only a regulatory requirement
Frequency: Once when an application is filed
Description of Respondents: Applicants needing a right-of-way on Federal lands
Annual Responses: 1,000
Annual Burden Hours: 16,800
Bureau Clearance Officer: Rebecca Daugherty: 202–653–8853.

Vincent J. Hecker,

Acting Assistant Director, Land Resources.

March 3, 1986.

[FR Doc. 86–10154 Filed 5–6–86; 8:45 am]

BILLING CODE 4310–84–M

[M 63882]

Notice of Conveyance; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of conveyance of public land in Fergus, Hill, Valley, and Chouteau Counties, Montana.

SUMMARY: This notice informs the public and interested state and local governmental officials of the transfer of certain public lands to private ownership pursuant to the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701.

FOR FURTHER INFORMATION CONTACT: Edward H. Croteau, Chief, Lands Adjudication Section, BLM, Montana State Office, P.O. Box 36800, Billings, Montana 59107, Phone (406) 657–6062.

SUPPLEMENTARY INFORMATION:

1. Notice is hereby given that pursuant to Sec. 206 of FLPMA, the following described surface estate was conveyed to the parties shown:

Principal Meridian, Montana

Honrud Enterprises, Inc.:
T. 34 N., R. 40 E.,
Sec. 4, lot 1, SE¼NE¼.
80.15 acres.
Ted Solomon:
T. 31 N., R. 16 E.,
Sec. 25, lot 4.
3.90 acres.
Steve and Wanda McIntosh:
T. 37 N., R. 10 E.,
Sec. 24, NE¼NE¼.
T. 37 N., R. 11 E.,
Sec. 19, lot 1.
80.31 acres.
Richard W. Cook:
T. 28 N., R. 15 E.,
Sec. 34, SE¼SE¼.
40 acres.
James C. Taylor:
T. 19 N., R. 21 E.,
Sec. 6, S½SE¼, SE¼SW¼.
120 acres.
Robert E. Lee Ranch Co.:
T. 11 N., R. 17 E.,
Sec. 13, SW¼NE¼.
40 acres.
Robert Bold:
T. 20 N., R. 20 E.,
Sec. 8, NE¼NE¼, W½NE¼, NW¼.
280 acres.
Total 644.36 acres.

2. In exchange for the above selected land, the United States acquired the surface estate of the following described land in Chouteau County, Montana:

Principal Meridian, Montana

An island in the Missouri River more particularly described as follows:
T. 24 N., R. 9 E.,
Sec. 9, lot 5 and all accretions thereto;
Sec. 10, lot 3 and all accretions thereto.
Containing 38.30 acres, more or less.
and
T. 24 N., R. 13 E.,
Sec. 23, lots 3 and 5 and all accretions thereto;
Sec. 25, lots 6, 7, 8 and all accretions thereto, NW¼SW¼, SE¼SW¼, SW¼SE¼;
Sec. 26, lots 2 and 3 and all accretions thereto; N½NW¼.
Containing 398.16 acres, more or less.
Total acreage acquired—436.46 acres.

3. The values of federal public land were appraised at $76,680 and the nonfederal land was appraised at $75,700. A cash equalization payment of $980 was made to the United States.

Edward H. Croteau,

Chief, Lands Adjudication Section, Montana State Office.

April 29, 1986.

[FR Doc. 86–10156 Filed 5–6–86; 8:45 am]

BILLING CODE 4310–DN–M

[A–20346–B]

Realty Action; Exchange of Public Lands, Pinal County, AZ

SUMMARY: The following described lands and interests therein have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

A 20346–B
T. 6 S., R. 13 E.,
Sec. 1, Lot 7, SW¼SE¼.
T. 6 S., R. 14 E.,
Sec. 1, S½SE¼.
T. 7 S., R. 13 E.,
Sec. 3, Lot 4, S½N½;
Sec. 8, E½;

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Sec. 19, Lots 1–4, E½, E½W½;
Sec. 20, All;
Sec. 21, All;
Sec. 28, N½NE¼.
T. 7 S., R. 14 E.,
Sec. 6, Lots 1–4, SE¼NE¼;
Sec. 30, Lots 1–4, W½NE¼, SE¼NE¼, E½NW¼, NE¼SW¼, N½SE¼.
T. 10 S., R. 11 E.,
Sec. 6, NE¼;
Sec. 19, Lots 2, 3, E½SW¼, SE¼;
Sec. 21, All;
Sec. 28, NW¼, S½;
Sec. 29, W½.
T. 10 S., R. 12 E.,
Sec. 22, SW¼NW¼, N½SW¼;
Sec. 27, SE¼;
Sec. 30, Lots 1, 2;
Sec. 34, E½;
Sec. 35, SE¼NE¼, S½NW¼, S½.

The above described 5437.68 acres will be exchanged under the federal-state exchange program for Arizona State Land Department lands of equal value.

The public land will be transferred subject to road right-of-way A 21186 and excepting and reserving to the United States the following:

Right-of-way thereon for ditches and canals pursuant to the Act of August 30, 1890.

El Paso Natural Gas Company gas pipeline rights-of-way PHX 078163 and AR 08324.

Right of Entry for Reach 3 of Tucson Adqueduct of CAP (Right-of-way A 20875 if authorized).

Oil and gas leases A 10916, A 18941 and A 19646 for the duration of the leases.

Detailed information concerning this exchange can be obtained from the Phoenix Resource Area Office, 2015 West Dear Valley Road, Phoenix, Arizona 85027. For a period of forty-five (45) days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 W. Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: April 28, 1986.

Marlyn V. Jones,

District Manager.

[FR Doc. 86–10155 Filed 5–6–86; 8:45 am]

BILLING CODE 4310-32-M

[CA 18105]

Realty Action; Exchange of Public and Private Lands in San Bernardino County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

San Bernardino Meridian, California

T. 4 N., R. 14 E.,
Sec. 2: ALL;
Sec. 3: ALL;
Sec. 4: ALL.
T. 5 N., R. 14 E.,
Sec. 8: All;
Sec. 18: All;
Sec. 19: All;
Sec. 20: All;
Sec. 22: All;
Sec. 23: All;
Sec. 24: All;
Sec. 26: NE¼, W½, N½SE¼;
Sec. 27: All;
Sec. 28: All;
Sec. 32: All;
Sec. 34: All;
Sec. 35: All.
T. 5 N., R. 15 E.,
Sec. 6: All;
Sec. 18: All.

Containing 11,389.22 acres of public land.

In exchange for these lands the Federal Government will acquire scattered tracts of non-Federal land from Santa Fe Pacific Realty Corporation, 201 Mission Street, San Francisco, California 94105. The lands are described as follows:

San Bernardino Meridian, California

T. 2 N., R. 15 E.,
Sec. 1: Lots 1 & 2 of NW¼, lots 1 & 2 of NE¼.
T. 2 N., R. 16 E.,
Sec. 5: Lots 1 & 2 of NW¼, Lots 1 & 2 of NE¼;
Sec. 9: All;
Sec. 17: N½, SW¼.
T. 3 N., R. 15 E.,
Sec. 13: All;
Sec. 25: All.
T. 5 N., R. 11 E.,
Sec. 1: All.
T. 8 N., R. 13 E.,
Sec. 1: All.
T. 8 N., R. 14 E.,
Sec. 5: All.
T. 9 N., R. 11 E.,
Sec. 1: Lot 1 of NW¼, SW¼, S½SE¼;
Sec. 5: All;
Sec. 9: All;
Sec. 13: All;
Sec. 17: All;
Sec. 21: All.
T. 9 N., R. 12 E.,
Sec. 7: Lots 1–4, E½SW¼, W½SE¼;
Sec. 17: W½NW¼, SW¼, W½SE¼.
T. 9 N., R. 13 E.,
Sec. 25: All.
T. 9 N., R. 14 E.,
Sec. 5: Lots 1, 2, 5, 6, 7, W½SW¼, SE¼;
Sec. 7: Lots 2, 3, 4, E½;
Sec. 21: E½, SE¼NW¼, E½SW¼;
Sec. 33: All.
T. 10 N., R. 11 E.,
Sec. 19: Lots 1 & 2 of NW¼, Lots 1 & 2 of SW¼, W½NE¼, SE¼NE¼, SE¼;
Sec. 21: SW¼SW¼;
Sec. 27: W½SW¼;
Sec. 29: All;
Sec. 33: All;
Sec. 35: SW¼NW¼, W½SW¼, SE¼SW¼, SW¼SE¼.
T. 10N., R. 14 E.,
Sec. 1: Lots 1 & 2.
T. 10N., R. 15 E.,
Sec. 5: Lots 1–4;
Sec. 9: All;
Sec. 17: All.
T. 11N., R. 15 E.,
Sec. 13: (Tract 36);
Sec. 25: (Tract 41);
Sec. 29: Lot 1, S½NE¼, S½SW¼, NE¼SE¼, W½SE¼.
T. 11N., R. 21 E.,
Sec. 5: (Tract 37).
T. 12N., R. 17 E.,
Sec. 9: (Tract 67);
Sec. 13: Lots 2, 3, 5, 7, 21, and SW¼, and SW¼SE¼ of Tract 79.
T. 13 N., R. 18 E.,
Sec. 25: All.

Containing 18,993.02 acres of non-Federal land.

The purpose of the exchange is to acquire the non-Federal lands for use in Federal recreation programs in the southern California Desert. The exchange is consistent with the Bureau's planning for the lands involved and has been discussed with San Bernardino County officials. The public interest will be well served by making the exchange.

The values of the lands to be exchanged are approximately equal. Full equalization of values will be achieved by acreage adjustments. The surface and mineral estates will be exchanged on both the non-Federal and public lands, subject to valid existing rights.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions:

1. A right-of-way will be reserved for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945; 26 Stat. 391).

2. Right-of-way for a communication site granted to the Atchinson, Topeka and Santa Fe Railroad by LA 0168288 under Act of March 4, 1911 (43 U.S.C. 961) in Sec. 26, and 35 of T. 5N., R. 14 E. SBM.

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3. Right-of-way for cathodic protection granted to Four Corners Pipeline Company by LA 0169486 under Act of February 25, 1920 show U.S. code also (41 Stat. 437, 30 U.S.C. 181) in Sec. 35 of T. 5 N., R. 14 E., SBM.

4. Existing oil and gas leases granted to Harper Oil Company, its successor and assigns, by leases CA–9302 and CA 9305 under the authority of the Act of February 25, 1920 (41 Stat. 437, 30 U.S.C. 181).

5. An existing railroad right-of-way granted to Arizona and California Railroad Company, its successors and assigns, by right-of-way grant LA–011100 under the authority of the Act of March 3, 1875 (43 U.S.C. 934–939) in Secs. 22, 23 and 26 of T. 5 N., R. 14 E., SBM.

6. An existing electric powerline right-of-way granted to Southern California Edison Company, its successors and assigns, by right-of-way grant LA–0166523 under the authority of the Act of March 4, 1911 (43 U.S.C. 961) in Secs 22, 26, 27, and 35 of T. 5 N., R. 14 E., SBM.

7. An existing telephone line right-of-way granted to Pacific Bell, its successors and assigns, by right-of-way grant LA–047694 under authority of the Act of March 4, 1911 (43 U.S.C. 961) in Secs. 22, 23, 27 and 28 of T. 5 N., R. 14 E., SBM.

8. An existing telephone line right-of-way granted to Southern California Telephone Company, its successors and assigns, by right-of-way grant LA–055377 under authority of the Act of March 4, 1911 (43 U.S.C. 961) in Sec. 8 of T. 5 N., R. 14 E., SBM.

9. An existing gas pipeline right-of-way granted to Four Corners Pipeline Company, its successors and assigns, by right-of-way grant LA–0152777 under authority of the Act of February 25, 1920 (41 Stat. 437, 30 U.S.C. 181) in Secs. 3 and 4 of T. 4 N., R. 14 E., SBM, and Sec. 26, 34, and 35 of T. 5 N., R. 14 E., SBM.

10. An existing oil pipeline right-of-way granted to Celeron/All American Pipeline Company, its successors and assigns, by right-of-way grant CA–14013 under the authority of Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185) in Secs. 18, 20, 22, 26, and 27 of T. 5 N., R. 14 E., SBM.

Publication of this notice in the **Federal Register** segregates the public lands from the operation of the public land laws and the mining laws, except for mineral leasing. The segregative effect will end upon issuance of patent or two (2) years from the date of publication, whichever occurs first. Detailed information concerning the exchange, including the environmental assessment, is available for review at the California Desert District Office, 1695 Spruce Street, Riverside, California 92507, and at the Needles Resource Area Office, 901 Third Street, Needles, California 92363.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507. Objections will be reviewed by the State Director, who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: April 30, 1986.

H. W. Riecken,

Acting District Manager.

[FR Doc. 86–10173 Filed 5–6–86; 8:45 am]

BILLING CODE 4310-40-M

Fish and Wildlife Service

Receipt of Application for Permit; Janmark, Inc.

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals. (50 CFR Part 18).

Applicant:
Name: Janmark, Inc., File no. PRT–706641.
Address: 236 Third Ave., Suite E, Chula Vista, CA 92010
Type of Permit: Scientific Research
Name and Number of Animals: polar bear (*Ursus maritimus*); 15
Summary of Activity to be Authorized: The applicant proposes to Import (elaborate on reasons) one blood sample from each of these animals to determine their reproductive condition at the time of sampling.
Source of Marine Mammals for Research: Northwest Territories Wildlife Service, Rankin Inlet, N.W.T., CANADA XOC OGO
Period of Activity: 2 yrs.

Concurrent with the publication of this notice in the **Federal Register**, the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (FWPO), 1000 North Glebe Road, Room 611, Arlington, Virginia 22201, within 30 days of the publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents submitted in connections with the above application(s) are available for review during normal business hours (7:45 am to 4:15 pm) in Room 601 N. Glebe Road, Arlington, Virginia.

Dated: April 30, 1986.

Larry LaRochelle,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 86–10142 Filed 5–6–86; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Consolidation of Eastern/Western Distribution Branches

Notice is hereby given that the U.S. Geological Survey's two regional branches responsible for distributing USGS maps and text products are being consolidated and will operate from a single location at the Federal Center in Denver, Colorado.

As a result of the consolidation of the Eastern Distribution Branch and the Western Distribution Branch, the Eastern Branch in Northern Virginia will be permanently closed in order to bring about a more cost-efficient operation from a single facility. Products presently distributed by the Eastern Distribution Branch include USGS topographic quadrangle and other maps for the area east of the Mississippi River, including Minnesota, Puerto Rico, and the Virgin Islands, and all Geological Survey books, leaflets, and other text products. On the following effective dates, all U.S. Geological Survey products will be available at the Denver location.

Maps:
Over-the-counter.....May 1, 1986
Mail orders.....July 1, 1986
Text Products:
Leaflets, etc., over-the-counter and mail order.....April 21, 1986
Books.....September 1, 1986

Addresses for the consolidated facilities are:
Maps:
U.S. Geological Survey, Map Distribution, Box 25286 Federal Center, Denver, Colorado 80225
Text Products:
U.S. Geological Survey, Books and Open-File Reports, Box 25425 Federal Center, Denver, Colorado 80225.

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Dated: April 30, 1986.

Lowell E. Starr,

Chief, National Mapping Division, U.S. Geological Survey.

[FR Doc. 86-10152 Filed 5-6-86; 8:45 am]

BILLING CODE 4310-31-M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4231, Block 181, Ship Shoal Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on April 25, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Rules and Production, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected States, local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: April 30, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-10153 Filed 5-6-86; 8:45 am]

BILLING CODE 4310-MR-M

[DES 86-22]

Gulf of Mexico Region; Availability of the Draft Environmental Impact Statement and Intent To Hold a Public Hearing Regarding Proposed Central and Western Gulf of Mexico Lease Sales 110 (April 1987) and 112 (August 1987)

Pursuant to section 102(2)(C) of the National Evironmental Policy Act of 1969, the Minerals Management Service (MMS) has prepared a draft environmental impact statement (EIS) relating to proposed 1987 Outer Continental Shelf (OCS) oil and gas lease sales of available unleased blocks in the Central and Western Gulf of Mexico (GOM). The proposed Central Gulf Sale 110 will offer for lease approximately 31.4 million acres, and the Western Gulf Sale 112 will offer approximately 27.3 million acres. Single copies of the draft EIS can be obtained from the Minerals Management Service, Gulf of Mexico Region, 3301 N. Causeway Blvd., Post Office Box 7944, Metairie, Louisiana 70010.

Copies of the draft EIS will be available for review by the public in the following libraries: Austin Public Library, 402 West Ninth Street, Austin Texas; Houston Public Library, 500 McKinney Street, Houston, Texas; Dallas Public Library, 1513 Young Street, Dallas, Texas; Brazoria County Library, 410 Brazoport Boulevard, Freeport, Texas; LaRatama Library, 505 Mesquite Street, Corpus Christi, Texas; Texas Southmost College Library, 1825 May Street, Brownsville, Texas; Rosenburg Library, 2310 Sealy Street, Galveston, Texas; New Orleans Public Library, 219 Loyola Avenue, New Orleans, Louisiana; Louisiana State Library, 760 Riverside, Baton Rouge, Louisiana; Lafayette Public Library, 301 W. Congress, Lafayette, Louisiana; Calcasieu Parish Library, Downtown Branch, 411 Pujo Street, Lake Charles, Louisiana; Nicholls State Library, Nicholls State University, Thibodaux, Louisiana; Harrison County Library, 14th and 21st Avenue, Gulfport, Mississippi; Mobile Public Library, 701 Government Street, Mobile, Alabama; Montgomery Public Library, 445 South Lawrence Street, Montgomery, Alabama; St. Petersburg Public Library, 3745 Ninth Avenue North, St. Petersburg, Florida; West Florida Regional Library, 200 West Gregory Street, Pensacola, Florida; Northwest Regional Library System, 25 West Government Street, Panama City, Florida; Leon County Public Library, 127 North Monroe Street, Tallahassee, Florida; Lee County Library, 3355 Fowler Street, Fort Myers, Florida; Charlotte-Glades Regional Library System, 2280 NW Aaron Street, Port Charlotte, Florida; Tampa-Hillsborough County Public Library System, 600 North Ashley Street, Tampa, Florida.

In accordance with 30 CFR 256.26, a public hearing pertaining to these lease sales will be held at the following location and time: Minerals Management Service, Gulf of Mexico Region, Imperial Office Building, Conference Room 437, 3301 North Causeway Boulevard, Metairie, Louisiana 70010, June 19, 1986, 9:00 a.m.

The purpose of the public hearing is to provide the Department of the Interior and the Minerals Management Service with information from individuals, public and private groups, and Government Agencies to further evaluate the potential effects of the proposed lease sales. Pertinent testimony and comments will be addressed in the final EIS for Sales 110 and 112.

Persons who wish to testify at this hearing are rquested to contact the Regional Supervisor, Leasing and Environment (LE-2), Gulf of Mexico Region, at the above address, or by telephone (504) 838-0775 no later than 3:30 p.m., June 13, 1986. Others may have an opportunity to speak following testimony of those who have made arrangements in advance, if time permits. Oral testimony should be limited to 10 minutes. Testimony may be supplemented by a written statement which, if submitted at a hearing, will be considered as part of the hearing record. Those unable to attend the hearing may submit written statements until the close of the comment period, July 3, 1986. Written statements will receive the same degree of consideration in the final EIS as oral testimony presented at the hearing.

John B. Rigg,

Acting Director, Minerals Management Service.

Approved:

Dated: May 1, 1986.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 86-10145 Filed 5-6-86; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intention to Negotiate Concession Contract; Island Packers, Inc.

Pursuant to the provisions of Section 5 of the Act of October 9, 1965, (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Island Packers, Inc. authorizing it to continue to provide tourboat transportation facilities and services for the public at Channel Islands National Park for a period of ten (10) years from January 1, 1987 through December 31, 1996.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act, and no environmental document with be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1986, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand-delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Western Regional Office, 450 Golden Gate Avenue, San Francisco, California 94102, for information as to the requirements of the proposed contract.

Dated: April 8, 1986.

W. Lowell White,

Acting Regional Director, Western Region.

[FR Doc. 86-10151 Filed 5-6-86; 8:45 am]

BILLING CODE 4310-70-M

Environmental Impact Statement Preparation for Mining In Three National Park Service Units in Alaska

AGENCY: Nationa Park Service, Interior.

ACTION: Notice of Intent.

SUMMARY: The National Park Service (NPS) is beginning preparation of environmental impact statatements (EIS) for three national parks and preserves in the State of Alaska. The affected NPS units are Denali National Park and Preserve, Wrangell-St. Elias National Park and Preserve, and Yukon-Charley Rivers National Preserve. The purpose of the environmental impact statements is to evaluate the management of mineral development activities within these parks and to assess the cumulative environmental effects of mining operations on park resources. These studies will be used to guide future management of mineral operations in the three units.

From previsous studies and observations over the last few years the NPS has become increasingly aware of and concerned about the combined effects of several mining operations on park resources. The proposed EIS's have been designed to address these concerns by evaluating the cumulative effects of all past, present, and reasonably forseeable future mining and mineral development activities in each park. From this analysis of potential maximum impacts under current regulations, alternative mineral activity management proposals will be developed. A proposed action will be selected comprised of a mineral management plan which provides guidance to the affected park unit for the management of mineral activities and a cumulative environmental impact analysis to which future environmental assessments on specific mining proposals can be tiered. In addition, these environmental impact statements will meet the requirements imposed by the U.S. District Court pursuant to the injunction of July 22, 1985, as amended on December 4, 1985 (Northern Alaska Environmental Center v. Hodel, Case No J85-009 CIV).

Interested groups, organizations, individuals, and government agencies will be kept informed of the progress of the efforts and any proposals developed. Scoping meetings will be scheduled with interested parties to solicit input regarding cumulative environmental impacts from mining operations on park resources and to identify major issues of concern. Those not interested in attending a scoping meeting are encouraged to submit their ideas and suggestions in writing to the address below, so that they may be considered in preparation of the environmental impact statements.

FOR FURTHER INFORMATION CONTACT: Floyd Sharrock, Chief of Land Resources, National Park Service, Alaska Region, 2525 Gambell St., Room 107, Anchorage, Alaska 99503-2892, Telephone: (907) 271-2618 or (907) 271-2690.

Dated: April 28, 1986.

Boyd Evison,

Regional Director, Alaska Region.

[FR Doc. 86-10220 Filed 5-6-86; 8:45 am]

BILLING CODE 4310-70

Kobuk Valley National Park Subsistence Resoruce Commission and Cape Krusenstern National Monument Subsistence Resource Commission; Meeting

AGENCY: National Park Service, Alaska Region, Interior.

ACTION: Joint Meeting of the Kobuk Valley National Park Subsistence Resource Commission and Cape Krusenstern National Monument Subsistence Resource Commission.

SUMMARY: The Alaska Regional Office of the National Park Service announces a forthcoming meeting of the Cape Krusenstern National Monument and Kobuk Valley National Park Subsistence Resource Commissions. The following agenda items will be discussed:

1. Discussion of Resolution #86-001.
2. Subsistence Management in the parks.
3. National Park Service enforcement policies for commercial and subsistence activities.
4. National Park Service general management plan.
5. Review of federal/state game regulations.

DATE: The meeting will begin at 9:00 a.m. on June 6, 1986, and will conclude at 5:00 p.m. on June 6, 1986.

ADDRESS: The meeting will be held in the NANA Conference Room, Drift Inn Building, Kotzebue, Alaska.

FOR FURTHER INFORMATION CONTACT: Mack Shaver, Superintendent, Northwest Alaska Areas, P.O. Box 287, Kotzebue, Alaska 99752.

SUPPLEMENTARY INFORMATION: The Cape Krusenstern National Monument and Kobuk Valley National Park Subsistence Resource Commissions are authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act Pub. L. 96-487.

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Dated: April 28, 1986.

M. V. Finley,

Acting Regional Director, Alaska Region.

[FR Doc. 86-10219 Filed 5-6-86; 8:45 am]

BILLING CODE 4310-70-M

National Capital Memorial Advisory Committee Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Advisory Committee will be held on Thursday, May 22, 1986, at 1:00 p.m., in the Meeting Room of the National Capital Planning Commission, 1325 G Street, NW., Washington, DC.

The Committee was established, by the Secretary of the Interior, for the purpose of preparing and recommending to the Secretary broad criteria, guidelines and policies for memorializing persons and events on Federal lands in the National Capital Region (as defined in the National Capital Planning Act of 1952, as amended), through the media of monuments, memorials and statues. It is to examine each memorial proposal for adequacy and appropriateness, make recommendations to the Secretary with respect to site location on Federal land in the National Capital Region and to serve as an information focal point for those seeking to erect memorials on Federal land in the National Capital Region.

The members of the Committee are as follows:

William Penn Mott, Chairman, Director, National Park Service, Washington, DC

Glen Urquhart, Chairman, National Capital Planning Commission, Washington, DC

George H. White, Architect of the Capitol, Washington, DC

Andrew J. Goodpaster, Chairman, American Battle Monuments Commission, Washington, DC

J. Carter Brown, Chairman, Commission of Fine Arts, Washington, DC

Marion S. Barry, Jr., Mayor of the District of Columbia, Washington, DC

William Sullivan, Commissioner, Public Buildings Service, Washington, DC.

The purpose of the meeting will be to review the following memorial legislative proposals and other matters pertaining to memorials.

1. H.J. Res. 463—Establishment of a memorial to honor members of the American Press and other news media who have been killed as a result of hostilities while covering a war or other armed conflict.

2. H.R. 3764—Establishment of a memorial to honor Native American members of the Armed Forces who served during periods of war or national conflict in defense of our nation.

3. H.J. Res. 504—Establishment of a memorial to honor America's astronauts.

4. H.R. 3785—Establishment of a memorial to honor Hispanic American members of the Armed Forces who served during periods of war or national conflict in defense of our nation.

5. H.R. 3629—To establish an American Slavery Memorial Council and to provide for the construction of a permanent museum memorializing the victims of slavery.

6. H.R. 4378—To govern the establishment of commemorative works within the National Capital Region of the National Park System.

7. H.R. 4467—Establishment of a "Peace Garden".

Also, the Committee will review its "Criteria and Guidelines" which were published in the Federal Register on April 1, 1985, Vol. 50, No. 62).

Persons who wish to file a written statement or testify at the meeting or who want further information concerning the meeting may contact Mr. John G. Parsons, Associate Regional Director, Land Use Coordination, National Capital Region, at 202-426-7750. Minutes of the meeting will be available for public inspection four weeks after the meeting at the Office of Land Use Coordination, National Capital Region, Room 206, 1100 Ohio Drive, SW., Washington, DC 20242.

Dated: April 28, 1986.

Manus J. Fish, Jr.,

Regional Director, National Capital Region.

[FR Doc. 86-10221 Filed 5-6-86; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-199 (Final)]

Certain Dried Salted Codfish From Canada

AGENCY: International Trade Commission.

ACTION: Dismissal of a request to institute a section 751(b) review investigation concerning affirmative determination in investigation No. 731-TA-199 (Final).

SUMMARY: The Commission determines, pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)) and rule 207.45 of the Commission's rules (19 CFR 207.45), that the petition does not show changed circumstances sufficient to warrant institution of an investigation to review the Commission's affirmative determination in investigation no. 731-TA-199 (Final), regarding certain dried salted codfish from Canada provided for in item 111.22 of the Tariff Schedules of the United States.

SUPPLEMENTARY INFORMATION: On June 27, 1985, the Commission determined that the establishment of an industry in the United States was materially retarded by reason of imports from Canada of certain dried heavy salted codfish which had been found to be sold at less than fair value (LTFV).

On July 8, 1985, the Department of Commerce published notice of the issuance of an Antidumping Duty Order in the Federal Register (50 FR 27836).

On February 6, 1986, the Commission received a request to review its affirmative determination in investigation No. 731-TA-199 (Final). The request was filed pursuant to section 751 (b) by the law firm of Freeman, Wasserman and Schneider on behalf of BMT Commodity Corp., New York, NY, a domestic buyer of dried salted codfish from Canada, and Delca Distributors, Inc., San Juan, P.R., its wholly owned subsidary which sells the salted codfish product.

On February 28, 1986, the Commission published a notice in the Federal Register (51 FR 7136) requesting public comment concerning whether the following alleged changed circumstances were sufficient to warrant institution of a review investigation: (1) Codfish Corp., the only known potential producer, ceased prodution in November 1984, has not recommenced production, and filed for bankruptcy on November 18, 1985, (2) the continuing unavailability of a domestic source of supply has resulted in American consumers paying higher prices for imported codfish as a result of the dumping duties and in a decline in demand for codfish in Puerto Rico as the competitive gap widens between dried salted codfish and other less expensive sources of protein such as chicken and pork, and (3) even if Codfish Corp. were producing, it could not attain the level of production necessary to be a viable producer.

The Commission received comments supporting the institution of the investigation from Freeman, Wasserman and Schneider, counsel for the petitioner; from the Canadian Embassy; the Fisheries Council of Canada on behalf of Canadian producers and exporters of dried salted codfish; and Worldwide Fish Products, Inc., a U.S. importer/exporter of fish products. Comments opposing institution of the investigation were received from Patton, Boggs & Blow, counsel for Codfish Corp., Ponce, P.R., the petitioner in investigation No. 731-TA-199.

After review of the request for review and the comments received, the Commission has determine, pursuant to 19 U.S.C. 1675(b) and 19 CFR 207.45, that the request does not show changed circumstances sufficient to warrant institution of a review investigation regarding dried salted codfish from Canada.

The petition states Codfish Corp. ceased production in November 1984, filed for bankruptcy on November 18, 1985, and had not recommenced production at the time of the filing of the petition on February 6, 1986. It is true that the Codfish Corp. ceased production and filed for reorganization under the bankruptcy law, as alleged. However, Codfish Corp. recommenced production prior to the filing of the petition for a review investigation and is currently producing dried salted codfish at its plant in Puerto Rico.

The petition alleges that the nonavailability of a domestic source of supply and the imposition of dumping duties has resulted in consumers paying higher prices for imported codfish. An increase in the price of an imported product is not an unexpected result of the issuance of a dumping order and is not, of itself, a changed circumstance sufficient to warrant instituting a review investigation.

The petition also alleges that even if Codfish Corp. were producing, it could not attain the level of production necessary to be a viable producer. The question of Codfish Corp.'s viability was before the Commission at the time of its final determination. Allegations concerning the issue of whether or not Codfish Corp. can attain a level of production necessary to be a viable producer do not raise changed circumstances sufficient to warrant institution of a review investigation.

For the foregoing reasons, the Commission has determined that the petition does not show changed circumstances sufficient to warrant institution of a review investigation and has, therefore, dismissed the petition.

FOR FURTHER INFORMATION CONTACT: Vera Libeau, (202-523-0368) or David Coombs (202-523-1376), Office of Investigations, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436.

By order of the Commission.

Issued: April 29, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-10235 Filed 5-6-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-154]

Certain DOT Matrix Line Printers and Components Thereof; Provisional Acceptance of Joint Motions for Modification of Consent Order Agreement and for Issuance of a Consent Order; Referral to the Chief Administrative Law Judge for Issuance of a Recommended Determination

AGENCY: International Trade Commission.

ACTION: Provisional acceptance of joint motions for modification of consent order agreement and for issuance of a consent order (Motion No. 154-32) and referral to the Chief administrative law judge (ALJ) for issuance of a recommended determination.

SUMMARY: The Commission has determined to provisionally accept the joint motions for modification of the consent order agreement and for issuance of a consent order in the above-captioned case and to refer the motions to the Chief ALJ for issuance of a recommended determination.

FOR FURTHER INFORMATION CONTACT: Carolyn E. Galbreath, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202 523-0143.

SUPPLEMENTARY INFORMATION: On July 23, 1985, the Commission issued an action and order denying the Joint Motion to Withdraw the Motion for Modification of Consent Order Agreement and to Maintain the Underlying Settlement Agreement as Confidential Business Information (Motion No. 154-31). 50 FR 31049 (July 31, 1985). Among other provisions, the action and order stated that any motions to modify the terms of the consent order agreement, and thereby the terms of the Commission's consent order, should be made in accordance with § 211.57 of the Commission's Rules of Practice and Procedure (19 U.S.C. 211.57).

Accordingly, on December 24, 1985, the parties filed Joint Motions to Withdraw the "Motion for Modification of Consent Order Agreement and for Declassification of Information Under Protective Order," for Modification of Consent Order Agreement, and for Issuance of a Consent Order (Motion No. 154-32).

Authority for this action is found in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule 211.57 (19 CFR 211.57).

Copies of the Commission's action and order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 am to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

Hearing-impaired individuals are advised that information concerning this investigation can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Issued: May 2, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-10236 Filed 5-6-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-288 (Final)]

Erasable Programmable Read Only Memories (EPROMS) From Japan

AGENCY: International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: April 23, 1986.

FOR FURTHER INFORMATION CONTACT: Judith C. Zeck (202-523-0339), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202-724-0002.

SUPPLEMENTARY INFORMATION: On March 17, 1986, the Commission instituted the subject investigation and established a schedule for its conduct (51 FR 11358, Apr. 2, 1986). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from May 27, 1986 to July 30, 1986. The Commission, therefore is revising its schedule in the investigation to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than July 23, 1986; the prehearing conference will be held in room 117 of the U.S. International Trade Commission Building at 9:30 a.m. on July 25, 1986; the public version of the prehearing staff report will be placed on the public record on July 16, 1986; the

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deadline for filing prehearing briefs is August 1, 1986; the hearing will be held in room 331 of the U.S. International Trade Commission Building on August 5, 1986; and the deadline for filing all other written submissions, including posthearing briefs, is August 14, 1986.

For further information concerning this investigation see the Commission's notice of investigation cited above and the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and part 201, subparts A through E (19 CFR Part 201).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: April 28, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-10237 Filed 5-6-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-163]

Certain Indomethacin; Commission Decision Not To Review Initial Determination Terminating Respondent on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of an initial determination (ID) terminating respondent Lederle Laboratories (Lederle) on the basis of a settlement agreement.

SUMMARY: The U.S. International Trade Commission has determined not to review an ID (Order No. 43) terminating respondent Lederle in the above-captioned investigation on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Marcia H. Sundeen, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0480.

SUPPLEMENTARY INFORMATION: On Jan. 23, 1986, complainant Merck & Co., Inc. (Merck) and respondent Lederle filed a joint motion (Motion No. 183-77"C") to terminate Lederle as a respondent in the investigation on the basis of a settlement agreement. The presiding administrative law judge issued an ID granting the motion for termination on April 7, 1986.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule 210.53 (19 CFR 210.53). Notice of the ID was published in the **Federal Register** of April 16, 1986 (51 FR 12938). No petitions for review of the ID were received, nor were any comments received from other Government agencies or the public.

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Issued: May 2, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-10238 Filed 5-6-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-249 (Final) and 731-TA-262, 264, and 265 (Final)]

Iron Construction Castings From Brazil, India, and the People's Republic of China

Determinations

On the basis of the record,[1] developed in the subject countervailing duty investigation, the Commission determines, [2] [3] pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), that an industry in the United States is materially injured by reason of imports from Brazil of heavy iron construction castings,[4] provided for in item 657.00 of the Tariff Schedules of the United States (TSUS), which have been found by the Department of Commerce to be subsidized by the Government of Brazil.

The Commission further determines,[5] pursuant to section 735(b) of Tariff Act of 1930 (19 U.S.C. 1673(b)), that an industry in the United States is materially injured by reason of imports from Brazil, India, and the People's Republic of China (China) of heavy iron construction castings and that an industry in the United States is threatened with material injury [6] [7] by reason of imports from Brazil, India, and China of light iron construction castings,[8] provided for in item 657.00 of the TSUS, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV) (investigations Nos. 731-TA-262, 264, and 265, respectively). The Commission further finds that it would not have found material injury but for the suspension of liquidation of entries of light iron construction castings.

Background

The Commission instituted the countervailing duty investigation effective August 12, 1985, following a preliminary determination by the Department of Commerce that imports of heavy iron construction castings from Brazil were being subsidized within the meaning of section 701 of the Act (19 U.S.C. 1671). The Commission instituted the antidumping investigations effective October 28, 1985, following preliminary determinations by the Department of Commerce that imports of iron construction castings from Brazil, India, and China were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the **Federal Register** of October 2, 1985 (50 FR 40243, and November 15, 1985 (50 FR 47287). The hearing for all of these investigations was held in Washington, DC, on January 16, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to the Secretary of Commerce on April 25, 1986. The views of the Commission are contained in USITC Publication 1838 (April 1986), entitled "Iron Construction Castings from Brazil, India, and the People's Republic of China: Determination of the Commission in Investigations Nos. 701-TA-249 and 731-TA-262, 264, and 265 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

[1] The record is defined in section 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR (207.2(i)).

[2] Vice Chairman Liebeler dissenting.

[3] Commissioner Brunsdale finds threat of material injury. She further determines that she would not have found material injury but for the suspension of liquidation of entries of heavy iron construction castings.

[4] For the purposes of this investigation, the term heavy iron construction castings is limited to manhole covers, rings and frames; catch basin grates and frames; and cleanout covers and frames.

[5] Vice Chairman Liebeler dissenting with respect to heavy iron construction castings.

[6] Chairwoman Stern and Commissioner Lodwick find that a domestic industry is materially injured by reason of imports of light construction castings.

[7] Commissioner Brunsdale finds threat of material injury with respect to both heavy and light iron construction castings. She further determines that she would not have found material injury but for the suspension of liquidation of entries of heavy and light iron construction castings.

[8] For the purposes of these investigations, the term light iron construction castings is limited to valve, service, and meter boxes.

Issued: April 30, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-10239 Filed 5-6-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-229]

Certain Nut Jewelry and Parts Thereof; Commission Decision Not To Review Initial Determination Granting Motion for Summary Determination

AGENCY: International Trade Commission.

ACTION: Nonreview of an initial determination granting a motion for summary determination of no violation of section 337 of the Tariff Act of 1930 as to one respondent.

SUMMARY: Notice is hereby given that the Commission has determined not to review the administrative law judge's initial determination (ID) granting the motion of respondent Betty's Import & Export, Inc. for summary determination that it has not violated section 337 of the Tariff Act of 1930 in the above captioned investigation.

FOR FURTHER INFORMATION CONTACT: Randi S. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0375.

SUPPLEMENTARY INFORMATION: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.53 of the Commission's Rules of Practice and Procedure (19 CFR 210.53). On March 4, 1986, respondent Betty's Import & Export, Inc., moved for summary determination to terminate the investigation as to it because it allegedly had not violated section 337. The complainant did not oppose this motion, and the motion was supported by the Commission investigative attorney. The presiding administrative law judge issued an ID granting the motion for summary determination. No petitions for review or comments from Government agencies or the public were received.

Copies of the administrative law judge's ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Issued: May 1, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-10240 Filed 5-6-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-271 (Preliminary) and 731-TA-318 (Preliminary)]

Oil Country Tubular Goods From Israel

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured [3] by reason of imports from Israel (investigation No. 701-TA-271 (Preliminary)) of oil country tubular goods,[4] provided for in items 610.32, 610.37, 610.39, 610.40, 610.42, 610.43, 610.49, and 610.52 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of Israel.

Further, the Commission determines,[5] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured [3] by reason of imports from Israel (investigation No. 731-TA-318 (Preliminary)) of oil country tubular goods,[4] provided for in items 610.32, 610.37, 610.39, 610.40, 610.42, 610.43, 610.49, and 610.52 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On March 12, 1986, a petition was filed with the Commission and the Department of Commerce by Lone Star Steel Co., Dallas, TX and CF&I Steel Corp., Pueblo, CO, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized imports of oil country tubular goods from Israel, and by reason of imports of oil country tubular goods from Israel which are allegedly being sold in the United States at less than fair value. Accordingly, effective March 12, 1986, the Commission instituted preliminary investigations Nos. 701-TA-271 (Preliminary) and 731-TA-318 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 19, 1986 (51 FR 9540). The conference was held in Washington, DC, on April 7, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on April 28, 1986. The views of the Commission are contained in USITC Publication 1840 (April 1986), entitled "Oil Country Tubular Goods from Israel: Determinations of the Commission in Investigations Nos. 701-TA-271 (Preliminary) and 731-TA-318 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: April 29, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-10241 Filed 5-6-86; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Vice Chairman Liebeler determines that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Israel which are alleged to be subsidized or to be sold at less than fair value.

[3] Chairwoman Stern determines that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury.

[4] For purposes of these investigations, the term "oil country tubular goods" includes drill pipe, casing and tubing for drilling oil or gas wells, of carbon or alloy steel, whether such articles are welded or seamless, whether finished or unfinished, and whether or not meeting American Petroleum Institute (API) specifications, provided for in items 610.32, 610.37, 610.39, 610.40, 610.42, 610.43, 610.49, and 610.52 of the Tariff Schedules of the United States.

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[Investigation No. 337-TA-233]

Certain Pharmaceutical Closures; Commission Decision Not To Review Initial Determination Granting Motion To Terminate Investigation as to a Respondent on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of an initial determination terminating the investigation as to respondent Pohl on the basis of a settlement agreement.

SUMMARY: Notice is hereby given that the Commission has determined not to review an initial determination (ID) (Order No. 7) granting joint motion to terminate the investigation as to respondent Pohl on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Carolyn E. Galbreath, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0143.

SUPPLEMENTARY INFORMATION: The authority for disposition of the matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in Commission rule 210.53 (19 CFR 210.53).

On November 8, 1985, in response to a complaint filed by the West Company (West), the Commission instituted an investigation of allegations of unfair methods of competition and unfair acts in the importation and sale of certain pharmaceutical closures pursuant to section 337 of the Trade Act of 1930. Franz Pohl Metall-und Kunststoffwarenfabrik GmbH (Pohl) was named as a respondent on the basis of allegations of infringement of complainant West's common-law trademark and trade dress in violation of the Lanham Act, 15 U.S.C. 1125.

On March 9, 1986, West and Pohl entered into a settlement agreement. Certain contingencies in the settlement agreement were fulfilled on March 14, 1986. On March 21, 1986, pursuant to Commission rule 210.52 (19 CFR 210.51), West and Pohl filed a joint motion to terminate the investigation as to respondent Pohl on the basis of the settlement agreement (Motion No. 233-6). On April 2, 1986, the investigative attorney filed a response in support of the motion. On April 7, 1986, the investigative law judge issued an ID granting a joint motion to terminate. The Commission did not receive any petitions for review of the ID or any Government agency or public comments.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

Issued: May 2, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-10242 Filed 5-6-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-236]

Certain Vacuum Cleaner Foot Switches

AGENCY: International Trade Commission.

ACTION: Nonreview of an initial determination granting a motion to terminate the investigation.

SUMMARY: On March 12, 1986, complainant The Scott & Fetzer Company (S&F) moved to terminate the investigation based on settlement agreement with respondent Buckeye Vacuum Cleaner Supply Company (Buckeye). S&F supplemented its motion on March 25, 1986. On April 1, 1986, the presiding administrative law judge (ALJ) issued an initial determination (ID) granting the motion to terminate the investigation. The ID also terminated the investigation with respect to the only other respondent, Torii Electric Co. (Torii). Torii did not participate in the investigation. Pursuant to section 337 of the Tariff Act of 1930, the Commission determined not to review the ID. The Commission's decision terminates the entire investigation.

FOR FURTHER INFORMATION CONTACT: Kristian Anderson, Esq., Office of the General Counsel, U.S. International Trade Commission, Washington, DC 20436, telephone 202-523-0074.

SUPPLEMENTARY INFORMATION: This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rules 210.51 and 210.53 (19 CFR §§ 210.51 and 210.53).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002

Issued: May 1, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-10243 Filed 5-6-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-271 Through 273 (Final)]

Certain Welded Carbon Steel Pipes and Tubes From India, Taiwan, and Turkey

Determinations

On the basis of the record [1] developed in investigation No. 731-TA-271 (Final) the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is materially injured, or threatened with material injury, by reason of imports from India of standard pipes and tubes,[3] which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). Chairwoman Paula Stern and Commissioners Alfred E. Eckes and Seeley G. Lodwick determine that an industry in the United States is materially injured by reason of the subject imports. Commissioner David B. Rohr determines that a domestic industry is threatened with material injury by reason of the subject imports. Commissioner Rohr further determines, pursuant to section 735(b)(4)(B) of the Act (19 U.S.C. 1673d(b)(4)(B)), that he would not have found material injury but for any suspension of liquidation of entries of the subject merchandise.

The Commission also determines, on the basis of the record developed in investigation No. 731-TA-272 (Final),[4] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Taiwan of line pipes and tubes,[5] which have been found by the Department of Commerce to be sold in the United States at LTFV.

The Commission also determines, on the basis of the record developed in investigation No. 731-TA-273 (Final),[6] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry is the United States in materially injured, or threatened with material injury, by reason of imports form Turkey of standard pipes and tubes, which have been found by the Department of Commerce to be sold in the United States at LTFV. Chairwoman Paula Stern and Commissioners Alfred E. Eckes and Seeley G. Lodwick determine that an industry in the United States is materially injured by reason of the subject imports. Commissioner David B. Rohr determines that a domestic industry is threatened with material injury by reason of the subject imports. Commissioner Rohr further determines, pursuant to section 735(b)(4)(B) of the Act (19 U.S.C. 1673d(b)(4)(B)), that he would not have found material injury but for any suspension of liquidation of entries of the subject merchandise.

The Commission finally determines, on the basis of the record developed in investigation No. 731-TA-273 (Final),[7] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Turkey of line pipes and tubes, which have been found by the Department of Commerce to be sold in the United States at LTFV.

Background

The Commission instituted these investigations following preliminary determinations by the Department of Commerce that imports of certain welded carbon steel pipes and tubes from India, Taiwan, and Turkey were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C 1673). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of January 24, 1986 (51 FR 3272). The hearing was held in Washington, DC, on March 13, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on April 29, 1986. The views of the Commission are contained in USITC Publication 1839 (April 1986), entitled "Certain Welded Carbon Steel Pipes and Tubes from India, Taiwan and Turkey: Determinations of the Commission in Investigations Nos. 731-TA-271 through 273 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations.

Issued: April 30, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-10244 Filed 5-6-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-246]

Certain Xenon Lamp Dissolver Slide Projectors and Components Thereof; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 3, 1986, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Bergen Expo Systems, Inc., 1088 Main Avenue, Box 2109, Clifton, New Jersey 07015. A supplement to the complaint was filed on April 18, 1986. The complaint, as supplemented, alleges unfair methods of competition and unfair acts in the importation of certain xenon lamp dissolver slide projectors and components thereof into the United States, and in their sale, by reason of alleged (1) direct, contributory, and induced infringement of claims 1, 2, 6-9, and 13 of U.S. Letters Patent 4,158,491; and (2) failure to mark the country of origin. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: Steven H. Schwartz, Esq., or Gary Rinkerman, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-523-4877 and 202-523-1273, respectively.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on April 29, 1986, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain xenon lamp dissolver slide projectors and components thereof into the United States, or in their sale, by reason of alleged (1) direct, contributory, and induced infringement of claims 1, 2, 6-9, and 13 of U.S. Letters Patent 4,158,491; and (2) failure to mark country of origin, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Bergen Expo Systems, Inc., 1088 Main Avenue, Box 2109, Clifton, New Jersey 07015.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

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[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Vice Chairman Susan W. Liebeler and Commissioner Anne E. Brunsdale make negative determinations.

[3] For purposes of these investigations, the term "standard pipes and tubes" covers welded carbon steel pipes and tubes of circular cross section, 0.375 inch or more but not over 16 inches in outside diameter, provided for in items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3258, 610.3259, and 610.4925 of the Tariff Schedules of the United States Annotated (TSUSA).

[4] Commissioners Alfred E. Eckes and David B. Rohr dissent, finding threat of material injury. They would not have found material injury but for any suspension of liquidation of entries of the subject merchandise.

[5] For purposes of these investigations, the term "line pipes and tubes" covers welded carbon steel pipes and tubes of circular cross section, with walls not thinner than 0.065 inch, 0.375 inch or more but not over 16 inches in outside diameter, conforming to API specifications for line pipe, provided for in items 610.3208 and 610.3209 of the TSUSA.

[6] Vice Chairman Susan W. Liebeler and Commissioner Anne E. Brunsdale make negative determinations.

[7] Commissioners Alfred E. Eckes and David B. Rohr dissent, finding threat of material injury. They would not have found material injury but for any suspension of liquidation of entries of the subject merchandise.

Hokushin Optical Co., 30–1, 3–chome, Shimomaruko, Ohta-ku, Tokyo, Japan
D.O. Industries, Inc., 317 East Chestnut Street, East Rochester, New York 14445.

(c) Steven H. Schwartz, Esq., and Gary Rinkerman, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 701 E Street NW., Room 124 and Room 128, respectively, Washington, DC 20436, shall be the Commission investigative attorneys, a party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules (19 CFR 201.16(d) and 210.21(a)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, DC 20436, telephone 202–523–0471. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Issued: May 1, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–10245 Filed 5–6–86; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–55 (Sub-176X)]

Seaboard System Railroad, Inc., Exemption; Abandonment in Anderson County, SC.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirements of prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment of 1.76 miles of railread by Seaboard System Railroad, Inc. at or near Anderson, SC, subject to standard labor protective conditions.

DATES: This exemption is effective on June 5, 1986. Petitions to stay must be filed by May 17, 1986, and petitions for reconsideration must be filed by May 27, 1986.

ADDRESS: Send pleadings referring to Finance Docket No. AB–55 (Sub-No. 176X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423 and

(2) Petitioner's represenative: Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5400.

Decided: April 29, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,

Secretary.

[FR Doc. 86–10185 Filed 5–6–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act: Semiannual Status Report for Titles II–A and III Programs, and Title II–B Summer Performance Report

AGENCY: Employment and Training Administration

ACTION: Notice of Revised Seniannual Status Report for Titles II–A and III, and Title II–B Summer Performance Report.

SUMMARY: The Department of Labor is issuing semiannual reporting requirements for programs under Titles II–A and III of the Job Training Partnership Act, revising the previous annually—submitted JQSR, and issuing a new Title II–B Summer Performance Report which conbines former JQSR data on Title II–B enrollment and spending with data on the characteristics of participants served.

The Title II–A and III report has also been revised to provide needed detail on the use of the 22% State setaside funds under Title II–A, and to present separate Statewide enrollment and spending information for Title III Displaced Worker formula programs, and Title III National Reserve programs.

EFFECTIVE DATE: July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo, Telephone (202) 376–6093.

SUPPLEMENTARY INFORMATION: On January 14, 1986, a document was published in the **Federal Register** at Volume 51, pages 1568–76, announcing proposed replacement of the Job Training Partnership Act quarterly status report (referred to as the JQSR) with a semiannual report (referred to as the JSSR). Since Program Year 1984, submission on the JQSR has been required only annually; in proposing revisions to the report content, the report was retiled to conform with scheduled submissions. Also, the document proposed the initiation of a once-per-year report on the statewide characteristics of participants served by the Title II–B Summer Program. Interested parties were invited to submit written comments through February 3, 1986. At the same time, the proposed revisions were forwarded to the Office of Management and Budget (OMB) for review pursuant to the Paperwork Reduction Act. The purpose of this notice is to advise the system of the nature of the comments received and the final action taken pursuant to the OMB review.

A. Authority and Purpose of the JTPA Semiannual Status Report and Title II–B Summer Performance Report Requirements.

Reporting instructions are necessary to comply with the Job Training Partnership Act's (JTPA's) provisions regarding the Secretary's responsibilities and authorities for program recordkeeping and reportng as indicated below:

• *Section 165—Reporting, Recordkeeping, and Investigations.* This section authorizes the Secretary to direct recipients to maintain records of expenditure that are sufficient to permit the preparation of required reports. Also, each recipient is to maintain records of program performance in such a way as to enable it to submit report as required by the Secretary. Section 165 requires that all recipients and subrecipients design and utilize Management Information System (MIS) to facilitate compilation of statewide programmatic and financial data necessary for reporting purposes.

• *Section 169—Administrative Provisions.* The Secretary is directed at (d)(1) to submit an annual report to the Congress summarizing the achievements of JTPA programs. Such a report will necessarily depend on and include data on performance of the entire JTPA block grant to each State.

• *Section 301—Employment and Training Assistance for Dislocated Workers.* The Secretary is authorized to reallot any amount of a State's Title III allotment to the extent that the Secretary determines that the State will not be able to obligate the funds within one year of allotment.

The basis for determining the first general revision and extension of current March 1983 program reporting requirements included:

• The Department's review of the experience and performance of the JTPA system after the completion of the first full program year (PY 1984), with attention to those areas where there were important gaps in the Department's knowledge about how the system faired in meeting certain statutory requirements.

• The necessity for more up-to-date and detailed information for the Department in the context of the revised Federal budget process. The current era of fiscal restraint makes this information, its accuracy and timeliness critical to all actors in the process. Due to the enactment of the Balanced Budget and Emergency Deficit Control Act, the schedule for the development of the FY 1988 Budget has been moved up by approximately one month at all stages.

• Requests made for information on JTPA program enrollment and expediture during congressional oversight, which identified areas where the existing reporting data base and sample tracking studies did not provide a sufficient foundation for responding to inquiries.

B. Reasons for the Revisions

These revisions are being made for several reasons:

• The Department's decision to place Title II–A and Title III programs on a semiannual expenditure reporting basis resulted from a review of the present system indicating that many of the budget pressures now faced were not anticipated when an annual JQSR submission was authorized starting with PY 1984 §629.36 of March 15, 1983 *Regulations).* Since each JTPA program year is forward-funded, the last available PY annual report data which can be used to respond to inquiries from Congress during its budget review is presently two years prior to the program year under consideration. Implementation of semiannual reporting will update the data base by six months, and provide a more adequate basis for the Department's budget recommendations, and for review by all parties to the Federal budget process. Semiannual reporting and the addition of the proposed expenditure detail will also give the Department information on expenditure rates among States and programs under the Act.

• Currently, the Department has incomplete information on how States utilize funds under the four setasides defined by section 202(b) of the Act. Information on expenditure of, and actual uses for section 202(b)(2)(A) performance incentive/TA funds has been a recurring issue. The Department has no information from the JQSR on expenditure of the 8% education and 3% older worker setasides. Information on 6% funds has been partial, only. The Department receives no information on levels of praticipation under Title II–A 8% and 3% setside programs. Current annual JQSR data aggregates these participants with those statewide SDA programs.

• The Department is responding to field reviews and to Congressional oversight revealing that some States have experienced difficulty in satisfying the 40% youth expenditure requirement of section 203(b) of the Act, by incorporating a separate line in the JSSR to track this program area.

• In the interest of minimizing the reporting burden on States of proposed semiannual reports, it was decided to require submission of JSSR Section III, "Participation and Termination Summary", only once per Program Year in the JSSR submitted after the fourth quarter. The report required after the second quarter will include semiannual expenditure detail, only (Sections I and II of the JSSR format).

• The Department has clarified Title III reporting issues by breaking out State Formula and National Reserve Title III programs on the JSSR format. This will allow for more informed analysis of Title III expenditure and performance by State, Federal, and Congressional decisionmakers, in considering budget and grant award options, and in improving performance where actual expenditures for displaced worker training and services have lagged despite plans and contract obligations.

• It was decided to remove from the new JSSR the once-pay-per-PY information on Title II–B Summer Youth Employment and Training Programs (SYETP), submitted currently on the JQSR form, and move this data on program enrollment and spending to the new Statewide Characteristics Summer Report (SCSR) format proposed in the January 14, 1986 Register Notice. Accordingly, the Title II-B cloumn has been removed from the JSSR, and incorporated with the proposed SCSR's data onto a new form, entitled "JTPA Summer Performance Report" (referred to as the JSPR). The JSPR consists of a total of 21 items divided into Section I "Program Expenditure Summary," Section II "Statewide Participation Summary", and Section III "Characteristics Summary". The program expenditures summary includes the same reporting items for total Title II–B expenditures, and separate breakouts of training, participant support and administrative expenses as found on the March 1983 JQSR.

This corrects an error made in the January 14, **Federal Register** Publication, in which lines for reporting Title II–B training and participant support had been inadvertantly deleted.

C. Discussion of Comments

There were 20 letters of comment received within the comment period. Several additional comments received after the deadline were reviewed and considered to the extent possible. The position of the Department following review with OMB is indicated below and reflected in the reporting instructions as appropriate:

General Issues Raised by Comments on Program Reporting Changes

A large majority of commenters were strongly supportive of the proposed semiannual and summer reports, indicating that the information requested and frequency of reporting seemed reasonable and would not require major changes in State/SDA fiscal and management information systems. Several commenters mentioned specifically their past concerns that the Department and Congress had in fact insufficient information at the national level to give an accurate assessment of how the JTPA system was performing.

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Four commenters urged the Department to standardize treatment of dual enrollments under separate JTPA titles in program reports. One suggestion offered has been adopted in a revised definition of participant. For enrollment reporting purposes, funds must be expended under both titles for services given an individual during the reporting period for that individual to be properly counted as a participant simultaneously under both titles. Instructions for reporting SDA enrollments under 78% funding, with separate reporting lines on the JSSR for 3% older worker and 8% state education setaside program enrollments, deal with the main possibility for double-counting under Title II-A.

Responding to requests for standardization, the definition of participant has been reworded to be identical for JSSR enrollment and JTPA Annual Status Report (JASR) purposes.

Two commenters recommended that the JSSR incorporate information on State obligation of funds, in addition to information on State expenditures. Since the Department does not require State plans for obligation of annual allocations, there is no way this information could be evaluated if collected. The Department recognizes that procurement and obligation cycles and procedures vary from State to State, and are often continuous during the Program Year for some types of training, (in on-the-job training, for example).

Due dates for the Title II-A and III JSSR and the once-per-Program Year Title II-B JSPR have been corrected in reporting instructions. The request of one State for extended reporting deadlines was considered carefully in light of the difficulties some States have experienced with collection of data from the substate level in order to make timely submissions. Although the Department will continue to review this issue, it does not at present see that there is sufficient latitude in the Department's own schedule in answering Congressional and budget information requests to change State report due dates. To clarify, the JSSR will be submitted twice per program year. The performance standard-related JASR will continue to be required after the close of each program year and does not substitute for an end-of-year JSSR enrollment and expenditure report.

Two commenters, including one that endorsed proposed reporting changes, did express about increased costs and complexity. Although a number of commenters indicated specifically that proposed reports would not require changes in management information systems currently used to administer their programs, the Department recognizes that in some cases systems revisions will be necessary. The Department believes that this Notice will provide adequate time for these changes to be designed using existing staff and resources prior to implementation in PY 1988.

Finally, one commenter cautioned against making projections from the mid-PY JSSR by a simple doubling method. The Department understands the impact of final SDA billings for fixed unit price contracts on second versus first half of year expenditure rates, and will take this and other expenditure trend data into account in making expenditure and budget projections from mid-year reports.

JSSR—Related Issues

One commenter termed the semiannual JSSR cycle "a step in the right direction", observing that "data which are not current do not enable us to make informed decisions". A number of commenters endorsed improvements in detail on the 22% setaside programs, particularly enrollment and expenditure on Title II-A 3% and 8% programs. Two commenters did, however, express concerns about 3% and 8% data and the use to which national compilations might be put. The Department is aware that these setaside programs operate under different goals and designs among the States and will not interpret the data using assumptions of a national prototype. This reporting is instituted to correct a situation where the Department had no measures of utilization, as it does for the rest of the States' Title II-A program. While within-state MIS requirements for setaside activities may vary as they do for SDA-78% activities, standard guidelines for national reporting purposes are provided by the JSSR instructions. One further clarification is that all funds expended under each setaside during the program year, including funds carried in from a prior year allocation, are reported as they would be on the 7% SDA reporting line.

Five commenters addressed 6% Title II-A performance incentives/technical assistance (TA) expenditure reporting. Again, to clarify treatment of prior-year carry-in, JSSR entries on line 7 (Offset Planning Figure Box) and line 8 (Accrued Expenditures of 6% Funds for Technical Assistance) will include 6% carry-in planned to be expended for TA during the Program Year, and actual expenditures for TA through the report period. As with the previous JQSR report, funds given to SDA's as incentive bonuses for meeting or exceeding performance standards are reported on SDA expenditure lines. Incentive funds spent in serving youth are also included in line 12 "Special Breakout of Total Program Expenditures for Youth". Reporting of 6% funds also raised questions regarding applicable JTPA requirements. Section 202(b)(3)(B) of the statute sets forth the purpose of, and basic methodology for making incentive grants to SDA's, indicating that if the full amount of this setaside is not needed for incentive grants, then the balance is to be expended for technical assistance. Administrative cost limitations for 6% funds are presented in 20 CFR 629.39(b), and (c), and (d) (March 15, 1983 *JTPA Regulations*). The new JSSR format will allow States and the Department for the first time to identify the uses to which 6% funds are put.

Two commenters raised points about reporting of Title II–A expenditures to serve youth, on line 12 of the JSSR. Instructions reference the "40%" requirement found in section 208(b) of the statute. While section 203 (c) defines youth as ages 16 through 21, section 205 (c)(1) authorizes youth ages 14 and 15 to be served by Exemplary Youth Programs. Expenditures to serve 14 and 15 year olds in these Special Title II–A programs should be include in the "Total Program Expenditures for Youth" breakout, line 12 on the JSSR form. This clarification conforms instructions for the JSSR 40% compliance measure with JASR instructions on reporting expenditures for performance standard purposes.

Several commenters welcomed the separation of State Title III Formula programs from Title III National Reserve Programs on the new JSSR format.

Summer Youth Reporting Issues

Nearly all commenters on proposed characteristics reporting for State Title II–B Summer Youth Employment and Training Programs believed that information on youth served will be of benefit to the program. Two commenters suggested the addition of characteristics categories for youth offender, and member of a household receiving welfare. Weighing the utility of the data elements proposed and the length of the characteristics list, the Department decided against increasing categories. State laws define juvenile offenders using varying criteria, and the category "Single Head of Household with Dependent Children Under 18" presently on the characteristics list measures many of the participants who come from households receiving welfare. Responding to commenters' notes, the reporting item "High School Graduate, or Equivalent" has been clarified.

Finally, several commenters inside the Department pointed out that the Title II–B column of the January 14 proposed JSSR showed expenditure reporting items for training and participant support blocked out. Since these reporting items had been deleted through an oversight and the Department has been requested to report this detail to Congress on each year's summer program under JTPA, the revised Title II–B JSPR format includes them under Section I. "Program Expenditures Summary".

D. Contingency Approval From OMB.

The authority for submission of the JTPA Semiannual Status Report (JSSR) for the initial six months of PY 1986 is contingent upon final approval and publication of the revision to 20 CFR 629.36 regarding frequency of reports. (The revision was published "proposed" in the Federal Register on February 7, 1986.)

Paperwork Reduction Act of 1980

The appendix to this notice has been reviewed in accordance with the Paperwork Reduction Act by the Office of Management and Budget and approved for the period through December 31, 1988 (OMB No. 1205–0200).

Signed at Washington, DC, this 23rd day of April, 1986.

Roger D. Semerad,

Assistant Secretary of Labor.

Appendix—JTPA Semiannual Status Report (JSSR)

1. *Purpose.* The JTPA JSSR displays summary cumulative data on participation and program costs. The information will be used to determine levels of program service and expenditures.

These reporting requirements have been approved by the Office of Management and Budget (OMB) according to the Paperwork Reduction Act of 1980 under OMB Approval No. 1205–0200.

2. *General Instructions.*

a. A single JSSR covering Title II–A and Title III programs will be submitted by the Governor on a statewide basis. Entries are to be *cumulative* for the specified program year to date. Each report period begins on the start date of each JTPA program year, as stated in Section 161 of the Act. Reports are due in the National Office no later than 45 days after the end of the second and fourth quarters (i.e., submitted no later than February 15 and August 15). On the end-of-second quarter report, only Sections I and II of the JSSR must be completed (please see Instructions which follow).

b. Two copies of *each* JSSR are to be provided to:

Employment and Training Administration, U.S. Department of Labor,
ATTENTION: TVSR—Room S–5306 200 Constitution Avenue, NW.
Washington, DC 20210

c. An additional copy of *each* JSSR is to be provided to the appropriate Regional Administrator for Employment and Training in the DOL Regional Office that includes the State in which the JTPA recipient is located.

3. *Facsimile of Form.* See the following page.

4. *Instructions for Completing the JTPA Semiannual Status Report.*

a. *Recipient's Name and Address.* Enter the name and address of the recipient.

b. *Recipient's Grant Number.* Enter the recipient's grant number, as assigned by ETA in a separate issuance.

BILLING CODE 4510-30-M

JTPA Semiannual Status Report

Approved for use through 12/31/88 OMB No. 1205-0230

a. RECIPIENT'S NAME AND ADDRESS	b. RECIPIENT'S GRANT NO.
	c. REPORT PERIOD FROM TO

Line No.	I. PROGRAM EXPENDITURES SUMMARY	TITLE II-A (A)	TITLE III FORMULA (B)	TITLE III National Reserve (C)
1.	A. TOTAL PROGRAM EXPENDITURES (FEDERAL FUNDS)			
2.	1. SDA TOTAL PROGRAM EXPENDITURES			
3.	(a) Training			
4.	(b) Participant Support			
5.	(c) Administration			
6.	2. Total Expenditures of 202(b) Setaside Funds (Total of Lines (b) + (c) + (d) + (e))			
7.	(a) Non-add Planning figure 202(b) 6% funds reserved by State for T.A. purposes, this Program Year			
8.	(b) 202(b)(3)(B) expenditures of 6% funds for technical assistance			
9.	(c) 202(b)(1) 8% for State educational programs			
10.	(d) 202(b)(2) 3% for training of older individuals			
11.	(e) 202(b)(4) 5% for auditing and State administration			
12.	II. TOTAL PROGRAM EXPENDITURES FOR YOUTH (special breakout)			
	III. PARTICIPATION AND TERMINATION SUMMARY			
13.	A. TOTAL PARTICIPANTS (cumulative)			
14.	1. SDA 78% Allotment Participants			
15.	2. 202(b)(1) 8% Setaside Participants			
16.	3. 202(b)(2) 3% Setaside Participants			
17.	B. TOTAL TERMINATIONS (Cumulative)			
18.	1. SDA 78% Allotment Terminations			
19.	2. 202(b)(1) 8% Setaside Terminations			
20.	3. 202(b)(2) 3% Setaside Terminations			

REMARKS:

SIGNATURE AND TITLE	d. DATE SIGNED	e. TELE. NO.

ETA 9009 (March 1986)

BILLING CODE 4510-30-C

c. *Report Period.* Enter in "From" the beginning date of the designated JTPA program year and enter in "To" the ending date of the report period, as specified above.

d. *Signature and Title* (at bottom of the page). The authorized official of the Governor signs here and enters his or her title.

e. *Dated Signed.* Enter the date the report was signed by the authorized official.

f. *Telephone Number.* Enter the area code and telephone number of the authorized official.

Column Heading

Column A

Record in this column information regarding specified expenditures of all *Title II–A* funds (Sec. 202(a) and Sec. 202(b)) and all participants in Title II–A and 202(b)(1) and (2) activities.

Column B

Record in this column information regarding specific expenditures all *Title III* Formula Allocation Federal funds (Sec. 301(b)) and all participants in Title III formula-funded activities.

Column C

Record in this column information regarding specified expenditures of Title III National Reserve Federal funds (Sec. 301(a)) and all participants in Title III National Reserve-funded projects.

Section I—Program Expenditures Summary

This information is to be completed on the State report for the end of the second quarter, and the report for the end of the fourth quarter.

The JSSR will be compiled on an accrual basis. If the recipient's accounting records are not normally maintained on an accrual basis, the accrual information should be developed through an analysis of the records on hand or on the basis of best estimates.

Item I.A. Total Program Expenditures (Federal Funds)

Enter total actual accrued expenditures for Title II–A (including setaside funds) and III of the State or recipient's program, through the end of the report period, in Columns A, B, and C, as appropriate, for *all* participants served under that title. Entries will be made to the nearest dollar.

Col. A., Items I.A.1., a., b., c.

Enter actual accrued expenditures of the 78% allotment funds allocated to service delivery areas (SDAs) under Sec. 202(a) of the Act, plus all funds distributed by the Governor to SDAs under Sec. 202(b) of the Act for *performance incentives*, and expended by SDAs in each of the following three categories (20 CFR 629.38, 629.39, 630.2):

Item I.A.1.a. Training
Item I.A.1.b. Participant Support
Item I.A.1.c. Administration

(Refer to Classification of Costs in the JTPA Regulations.)

Cols. B. and C., Items I.A.1.a., b., c.

Enter total statewide accrued expenditures of all Section 301, Formula (Col. B.), and Sec. 301 National Reserve (Col. C.) funds received by the Governor, under each of the following three categories (20 CFR 631.13):

Item I.A.1.a. Training
Item I.A.1.b. Participant Support
Item I.A.1.c. Administration

Col. A., Item I.A.2.

Enter total statewide accrued expenditures of all Sec. 202(b) setaside funds (lines (b), (c), (d) and (e)). Note: Include here setaside funds (other than Performance Incentive funds) distributed by the Governor to the SDAs and other service deliverers.

Col. A., Item I.A.2.a. Offset Planning Figure Box

Enter the State's Annual Planning target figure of funds reserved under the Sec. 202(b) 6% allocation that have been reserved for technical assistance during the current program year. (This is a non-add item, and therefore is offset from Col. A.)

Col. A., Item I.A.2.b. 6% Funds

Enter total accrued expenditures of all Sec. 202(b)(3)(B) 6% funds for *technical assistance* only.

Col. A., Item I.A.2.c. 8% Funds

Enter total accrued expenditures of all Sec. 202(b)(1) 8% funds for State educational programs.

Col. A., Item I.A.2.d. 3% Funds

Enter total accrued expenditures of all Sec. 202(b)(2) 3% funds for training of older individuals.

Col. A., Item I.A.2.e. 5% Funds

Enter total accrued expenditures of all Sec. 202(b)(4) 5% funds for auditing and State administration.

Section II—Expenditures for Youth (Special Breakout)

Col. A., Only (line 12)

This information is to be completed on the State report for the end of the second quarter, and the report for the end of the fourth quarter.

Enter total accrued expenditures of *all* Title II–A (Section 202(a)) funds for services to eligible youth, pursuant to Sec. 203(b) of the Act. Include any funds expended to serve youth ages 14 and 15 in exemplary youth programs authorized under Sec. 205(c)(1).

Section III—Participation Summary

This information is to be completed on the State report for the end of the fourth quarter, only [the report due to ETA no later than August 15).

Cols. A., B., C., Item III.A. Total Participants (cumulative)

Enter the total number of participants who are or were receiving employment, training, or services (except post-termination services) funded under that program title through the end of the fourth quarter, including both those on board at the beginning of the designated program year and those who have entered during the program year.

"Participant" means any individual who has: (1) Been determined eligible for participation upon intake; and (2) started receiving subsidized employment, training, or services (except post-termination services) funded under the Act, following intake. Individuals who receive *only* outreach and/or intake and assessment services or post-program follow-up are excluded.

Participants who have transferred from one Title to another, or between Title III Formula programs and National Reserve funded programs, should be recorded as terminations from the Title or program of initial participation and included as participants in the Title or program into which they have transferred.

Col. A., Item III.A.1.

Enter the total number of participants served by SDAs with 78% allotment funds under Sec. 202(a), plus funds distributed by the Governor to SDAs under Sec. 202(b) for performance incentives.

Col. A., Items III.A.2. and III.A.3. Setaside Participation Detail

Enter the total number of participants served by the Sec. 202(b)(1) 8% State education setaside, and the Sec. 202(b)(2) 3% older worker training setaside.

Cols. A., B., C., Item III.B. Total Terminations (Cumulative)

Enter by column the total number of participants terminated after receiving employment, training, or services (except post-termination services) funded under that program title, for any

reason, from the beginning of the program year through the end of the fourth quarter.

"Termination" means the separation of a participant from a given title of the Act who is no longer receiving employment, training, or services (except post-termination services) funded under that title.

Note.—Individuals may continue to be considered as participants for a single period of 90 days after last receipt of employment and training funded under a given title. During the 90-day period, individuals may or may not have received services.

Col. A., Item III.B.1.

Enter the total number of participants who have left SDA programs through the end of the fourth quarter which were funded by Sec. 202(a) 78% allotment funds plus Sec. 202(b) performance incentive funds.

Col. A., Items III.B.2. and III.B.3. Setaside Participant Detail

Enter the total number of participants who have left programs through the end of the fourth quarter which were funded by the Sec. 202(b)(1) 8% State education setside, and the Sec. 202(b)(2) 3% older worker training setaside.

JTPA Summer Performance Report (JSPR)

1. *Purpose.* The JTPA once-per-program year Summer Performance Report (JSPR) displays cumulative data on program costs, and on the characteristics of youth who participated in the Title II–B SYEP program throughout the State. This information will be used to determine levels of program service and expenditures, to give the Department information on who is served by the program and to respond to Congressional oversight.

2. *General Instructions.*

a. A single JSPR will be submitted by the Governor on a statewide basis, 45 days after the end of summer program report period on September 30, i.e., no later than November 15. Two copies of the JSPR are to be provided to:

Employment and Training Administration, U.S. Department of Labor
ATTENTION: TVSR—Room S–5306, 200 Constitution Avenue, NW., Washington, DC 20210

An additional copy of JSPR is to be provided to the appropriate Regional Administrator for Employment and Training in the DOL Regional Office that includes the State in which the JTPA recipient is located.

3. *Facsimile of Form.* See the following page.

4. *Instructions for Completing the JTPA Semiannual Status Report.*

a. *Recipient's Name and Address.* Enter the name and address of the recipient.

b. *Recipient's Grant Number.* Enter the recipient's grant number, as assigned by ETA in a separate issuance.

c. *Report Period.* Enter in "From" the beginning date of the designated JTPA Title II–B report year, i.e. October 1, and enter in "To" the ending date of the report period, as specified above.

BILLING CODE 4510-30-M

JTPA Summer Performance Report (JSPR)

Approved for use through 12/31/88 OMB No.1205-0200

a. Recipient's Name and Address	b. Recipient's Grant No.
	c. Report Period FROM TO

	Section I - Program Expenditures Summary	
1.	Total Title II-B Expenditures (Federal Funds)	
2.	(a) Training	
3.	(b) Participant Support	
4.	(c) Administration	
	Section II - Statewide Participation Summary	
5.	Total Participants (Cumulative)	
	Section III - Characteristics Summary	
6.	Male	
7.	Female	
8.	14 - 15	
9.	16 - 17	
10.	18 - 21	
11.	School Dropout	
12.	Student	
13.	High School Graduate, or Equivalent, & Above	
14.	Single Head of Household with Dependent Children Under 18	
15.	White (Not Hispanic)	
16.	Black (Not Hispanic)	
17.	Hispanic	
18.	American Indian or Alaskan Native	
19.	Asian or Pacific Islander	
20.	Limited English Language Proficiency	
21.	Handicapped	

d. Signature and Title	d. Date Signed	f. Tele No.

ETA 9010 (March 1986)

BILLING CODE 4510-30-C

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d. *Signature and Title* (at bottom of the page). The authorized official of the Governor signs here and enters his or her title.

3. *Date Signed.* Enter the date the report was signed by the authorized official.

f. *Telephone Number.* Enter the area code and telephone number of the authorized official.

LINE ITEM DEFINITIONS AND INSTRUCTIONS

Section I—Program Expenditures Summary

The JSPR will be compiled on an accrual basis. If the recipient's accounting records are not normally maintained on an accrual basis, the accrual information should be developed through an analysis of the records on hand or on the basis of best estimates.

Line 1. Total Title II–B Expenditures (Federal Funds)

Enter total actual accrued expenditures of all Title II–B funds (Sec. 251) by the SYETP program statewide through the closing date of the summer program for *all* participants served. Entries will be made to the nearest dollar.

Lines 2., 3., and 4

Enter the actual accrued expenditures statewide of all Title II–B SYETP funds expended in each of the following time categories (20 CFR 629.38, 629.39, 630.2):

Line 2. (a) Training
Line 3. (b) Participant Support
Line 4. (c) Administration

(Refer to classification of costs in the JTPA regulations.)

Section II—Statewide Participation Summary

Line 5. Total Participants

Enter the total number of participants who were receiving employment, training or services (except post-termination services) funded under Title II–B through the closing date of the summer program, i.e., those who have entered during the program's duration.

"Participant" means any individual who has: (1) been determined eligible for participation upon intake; and (2) started receiving subsidized employment, training, or services (except post-termination services) funded the Act, following intake. Individuals who receive *only* outreach and/or intake and assessment services or post-program follow-up are excluded.

Section III—Characteristics Summary

Sex

Line 6. Male
Line 7. Female

Distribute the participants by line according to sex. The sum of Lines 6. and 7. should equal Total Participants as shown on Line 5.

Age

Line 8. 14–15
Line 9. 16–17
Line 10. 18–21

Distribute the participants by line according to the proper age breaks. Lines 8., 9., and 10. should equal Total Participants (Line 5.).

Education Status

Line 11. School Dropout
Line 12. Student
Line 13. High School Graduate, or Equivalent, and above.

Distribute the participants by line according to education status. The sum of Lines 11., 12., and 13. should equal Total Participants (Line 5.).

Family Status

Line 14. Single Head of Household with Dependent Children under 18. Enter the number of participants for whom the above Family Status classification applies.

Race/Ethnic Group

Line 15. White (Not Hispanic)
Line 16. Black (Not Hispanic)
Line 17. Hispanic
Line 18. American Indian or Alaskan
Line 19. Asian or Pacific Islander

Distribute the participants by line according to the Race/Ethnic Groups listed above. For the purposes of this report, Hawaiian Natives are to be recorded as "Asian or Pacific Islander." The sum of Lines 15. through 19. should equal Total Participants (Line 5.).

Other Barriers to Employment

Line 20. Limited English Language Proficiency
Line 21. Handicapped

Enter the total number of participants in each line for whom the above-listed Barriers to Employment apply.

Appendix B—Definitions of Terms Necessary for Completion of Reports

Employment/Training Services

Assessment—services are designed to initially determine each participant's employability, aptitudes, abilities and interests, through interviews, testing and counseling to achieve the applicant's employment related goals.

Follow-Up—is the collection of information on a terminee's employment situation at a specified period after termination from the program.

Intake—includes the screening of an applicant for eligibility to determine: (1) Whether the program can benefit the individual; (2) the employment and training activities and services which would be appropriate for that individual; (3) availability of an appropriate employment and training activity; (4) a decision on selection for participation and (5) dissemination of information on the program.

Outreach—activity involves the collection, publication and dissemination of information on program services directed toward economically disadvantaged and other individuals eligible to receive JTPA training and support services.

Education status

School Dropout—An adult or youth (aged 14–21) who is not attending school full-time and has not received a high school diploma or a GED certificate.

Student—An adult or youth (aged 14–21) who has not received a high school diploma or GED certificate and is enrolled full-time in an elementary, secondary or post-secondary level vocational, technical or academic school or is between school terms and intends to return to school.

High School Graduate, or Equivalent and Above—A youth (aged 14–21) who has received a high school diploma, GED Certificate or has attended (or is attending) any post-secondary-level vocational, technical, or academic school.

Family Status

Single Head of Household—A single, abandoned, separated, divorced or widowed individual who has responsibility for one or more dependent children under age 18.

Race/Ethnic Group

White (not Hispanic)—A person having origins in any of the original peoples of Europe, North Africa, or the Midle East.

Black (not Hispanic)—A person having origins in any of the black racial groups of Africa.

Hispanic—A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin (including Spain), regardless of race.

Note.—Among persons from Central and South American countries, only those who are of Spanish origin, descent, or culture should be included in the Hispanic category. Persons from Brazil, Guiana, and Trinidad, for example, would be classifed according to their race, and would not necessarily be included in the Hispanic category. Also, the Portugese should be excluded from the Hispanic category and should be classified according to their race.

American Indian or Alaskan Native—A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

Asian or Pacific Islander—A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent (e.g., India, Pakistan, Bangladesh, Sri Lanka, Nepal, Sikkim, and Bhutan), or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa. Hawaiian natives are to be recorded as Asian or Pacific Islanders.

Other Barriers to Employment

Limited English Language Proficiency—Inability of an applicant, whose native language is not English, to communicate in English, resulting in a job handicap.

Handicapped Individual—Refer to Sec. 4(10) of the Act. Any individual who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment. NOTE: This definition will be used for performance standards purposes, but is not required to be used for program eligibility determination (Sec. 4(8)(E)).

[FR Doc. 86–10202 Filed 5–6–86; 8:45 am]
BILLING CODE 4510–30–M

NUCLEAR REGULATORY COMMISSION

Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations; Bi–Weekly Notice

I. Background

Pursuant to Public Law (Pub. L.) 97–415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. Pub. L. 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on April 23, 1986 (51 FR 15391) through April 28, 1986.

Notice of Consideration of Issuance of Amendment To Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comment should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice.

By June 6, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

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If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amedment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provide that its final determination is that the amendment involves no significant hazards consideration. The final determinaton will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide the opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call toWestern Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Project Director):* petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specifies in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment requests: October 25, 1985 and December 22, 1983 as supplemented by letters dated April 21, 1986.

Description of amendment request: The proposed amendment would change the Unit 1 and Unit 2 Technical Specification (TS) as follows: (1) a provision would be added to TS 3.6.5.1, "Combustible Gas Control-Hydrogen Analyzers," to allow the changing of operational Modes with inoperable hydrogen analyzers (3.0.4 not applicable), (2) the reporting requirements of TS 4.4.5.5, "Reports-Steam Generators" would be clarified, and (3) a new TS 3/4.4.13, "Reactor Coolant System Vents" would be incorpoated in the TS.

Issuance of the above proposed TS would complete NRC action on the applications dated October 25, 1985 and December 22, 1983.

Basis for proposed no significant hazards considerotion determination: BG&E has proposed a change to TS 3.6.5.1 to allow the changing of operational Modes with inoperable hydrogen analyzers. The purpose of the hydrogen analyzers is to sample the containment atmosphere, following a loss-of-coolant accident (LOCA), in order to determine the need for hydrogen reduction (via hydrogen recombiners or venting.) At the present time, TS 3.0.4 is applicable to TS 3.6.5.1 which means that the reactor cannot change operational Modes (for example, the reactor could not start up if already shutdown) should a hydrogen analyzer become inoperable. BG&E proposes that the statement "Specification 3.0.4 is not applicable to this requirement" be added to TS 3.6.5.1.

The proposed change to TS 3.6.5.1 would not involve a significant increase in the probability or consequences of an accident previously evaluated. In this case, the changing of operational Modes (for examle, a startup of the reactor) does not significantly increase the likelihood of a LOCA and no change in the consequence of a LOCA would be involved. The proposed change in TS 3.6.5.1 does not create the possibility of a new or different kind of accident from any accident previously evaluated. The remedial action requirements of TS 3.6.5.1 were selected to assure that a hydrogen analyzer capability would be available in the event of a LOCA. The proposed change to the TS 3.6.5.1 does not change any remedial action requirements. Finally, the proposed change to TS 3.6.5.1 does not reduce any safety margins since no decrease in the availability or capability of the hydrogen analyzers is involved.

Based upon the above, the Commission proposes to detrmine that the proposed change to TS 3.6.5.1 involves no significant hazards considerations.

BG&E has proposed changes to TS 4.4.5.5 to clarify reporting requirements associated with steam generator tube inspections. Sepcifically, the following clarifications have been proposed: (1) the 15 day reporting requirement of TS 4.4.5.5a would be cross-referenced to the special reporting requirements of TS 6.9.2; (2) the annual operating report requirements of TS 4.4.5.5b would be cross-referenced to the annual operating report requirements of TS 6.9.1.5b; (3) the 30 day reporting requirement of TS 4.4.5.5c would be cross-referenced to the special reporting requirements of TS 6.9.2: and (4) the telephone reporting requirement of TS 4.4.5.5c would be corrected by removing the cross-reference to 6.9.2, since these are written reporting requirements. The proposed change to TS 4.4.5.5c would also identify the recipient of the telephone report as the Regional Administrator since the Regional Administrator is the recipient of other, similar, reports. The proposed changes to TS 4.4.5.5 would clarify the associated reporting requirements and reduce the likelihood of errors in the preparation and submittal of reports.

On April 3, 1983, the NRC published guidance in the **Federal Register** (48 FR 14870) concerning examples of amendments that are not likely to involve a significant hazards considerations. One example provided in 48 FR 14870 of amendments not likely to involve significant hazards considerations is example (i) which provides for "A purely administrative change to technical specifications: For example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." The proposed change to TS 4.4.5.5 helps to assure consistency within the TS and

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thus the Commission proposes to determine that the proposed changes involve no significant hazards considerations.

BG&E has proposed adding a new TS for the reactor coolant system (RCS) high point vents to the existing TS. On November 1, 1983, the NRC issued Generic Letter No. 83–37 (GL 83–37) to all pressurized water reactor licensees. This letter contained guidance concerning TS which the NRC believed to be appropriate as addressed in NUREG–0737, "Clarification of TMI Action Plan Requirements". BG&E responded, in part, to GL 83–37 via their application for license amendment dated December 22, 1983 concerning the RCS High Point Vents. These vents, installed in the reactor vessel head and the pressurizer vapor space, would allow post-LOCA venting of non-condensible gases to enhance reactor core cooling via natural circulation. Following discussions with the NRC staff, BG&E supplemented their application by letter dated April 21, 1986.

BG&E's proposed TS for the RCS vents conform substantially to the model TS provided in GL 83–37. One area of difference is that BG&E's proposed TS allow use of the pressurizer power operated relief valves (PORCs) as a backup to the pressurizer high point vent. As indicated in BG&E's letter of April 21, 1986, the PORVs conform to most of the high point vent requirements in NUREG–0737 and thus represent an appropriate alternate pressurizer vent capability should the pressurizer high point vent become inoperable.

One example (ii) provided in 48 FR 14870 of a change not likely to involve significant hazards considerations involves a change ". . . that constitutes and additional limitation, restriction, or control not presently included in the technical specification. . . . " Since the proposed TS represent additional limitations not previously in the TS, these proposed changes are consistent with example (ii). Accordingly, the Commission proposes to determine that these proposed changes to the TS which provide new TS for the RCS high point vents involve no significant hazards considerations.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: Jay E. Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment request: January 20, 1986 (partial response) as supplemented by letter dated April 25, 1986.

Description of amendment request: The proposed amendments would change the Unit 1 and Unit 2 Technical Specification (TS) as follows: (1) TS 4.7.1.2c.2, "Auxiliary Feedwater System," would be changed to reflect a revised flow test requirement. In addition, a typographical error would be corrected (Unit 2 only); (2) TS 4.7.8.1, "Snubbers" would be changed to subdivide the snubber surveillance population based upon snubber type; and (3) TS 4.9.12d.2, "Spent Fuel Pool Ventilation System," would be changed regarding the demonstration of negative pressure during system operation. Consideration of the above changes to the Unit 1 and Unit 2 TS is in partial response to the application dated January 20, 1986; the remaining issues associated with this application will be addressed in future correspondence.

Basis for proposed no significant hazards consideration determination: BG&E has proposed a change to TS 4.7.1.1.2c.2 and the associated Bases that would increase the 18 month demonstrated auxiliary feedwater (AFW) flow from 200 gpm to 300 gpm. A footnote would also be added which would clarify the flow requirement to indicate that the ". . . surveillance may be performed on one flow leg at a time." A flow leg is a flow path leading from the discharge of an AFW pump to one of two steam generators. The existing TS 4.7.1.2c.2 requires demonstration of ". . . a minimum of 200 gpm nominal flow to each flow leg."

The proposed change to TS 4.7.1.2c.2 and the associated Bases was necessitated by modifications to the motor driven AFW pump recirculation. The pump recirculation provides a flow path to supply cooling water, from pump discharge to the pump intake, the prevent pump damage during the period from initial pump operation to onset of pump flow. The modification to the recirculation path for the motor driven AFW pump allows the automatic recirculation valve to be overriden. In this condition the valve will be in permanent recirculation. The valve was originally installed to decrease the loading on the diesels by eliminating the continuous recirculation from the pump. As the AFW system was tested it became apparent that, with automatic auxiliary feedwater actuation at low steam generator pressure, the recirculation valve and flow control valves were causing a flow instability problem.

Corrective actions for the AFW flow instability problem are relatively straightforward; however, their impact on emergency diesel generator loading has had to be closely studied. Placing the automatic recirculation valve in permanent recirculation without restricting delivered flow to the steam generators would cause the pump to require additional power. This increased load would exceed the maximum diesel generator load that has been dedicated to AFW. Therefore, calculations were performed to reanalyze the minimum required long term AFW flowrate. The result of these calculations showed that 300 gpm delivered to a single steam generator, or distributed between both steam generators, is sufficient to remove decay heat from the primary system from full-power post trip conditions to a primary system temperature of 300 °F, after which shutdown cooling can be used to continue the cool-down process. The above assumes that off-site power has been lost. Previous calculations had indicated that a minimum AFW flow of 400 gpm was required. The 300 gpm value was attained by crediting initiation of charging flow (one pump) at 60 minutes, reanalyzing the reactor coolant system (RCS) heat capacity, and applying ANS–5 1971 for decay heat loads (as permitted by 10 CFR Part 50, Appendix K). With this AFW delivered flow, all decay heat can be removed and the RCS cooled down to less than 300 °F from normal operating conditions in the event of a total loss of offsite power. This cooldown is accomplished within the 6 hour criteria of the Calvert Cliffs FSAR Section 10.3.2.

The output of the AFW system is not limited to the capacity of the motordriven AFW pump. In addition to the 300 gpm provided by the motor-driven AFW pump, two steam turbine driven AFW pumps are available, each with a design flow of 700 gpm at 2,490 feet total dynamic head (TDH). In addition, should a motor-driven AFW pump become inoperable, the motor-driven AFW pump from the unaffected unit can be cross-connected to provide additional flow capability. However, the demonstration that the motor-driven AFW pump, alone, is sufficient to cool down the RCS to 300 °F, maintains the motor-driven pump as a 100% capacity component and represents the principal motivation of the licensee for recalculation of the required AFW flow rate.

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With the automatic recirculation valve in permanent recirculation, adequate AFW flow is provided to meet the FSAR and TS heat removal bases. Additionally, by imposing maximum flow limit on the motor-driven AFW pump, the design emergency diesel generator loading is not exceeded. Accordingly, the proposed change would not involve a significant increase in the probability or consequence of any accident previously evaluated. Since the proposed TS change assures that no equipment design limits are exceeded and the AFW design flow requirements can be achieved, the proposed TS change would not create the possibility of a new or different type of accident from any accident previously evaluated.

Finally, the proposed TS change does not involve a significant reduction in a margin of safety. Calculations performed indicate that 300 gpm supplied from the motor-driven AFW pump is sufficient to ensure that adequate AFW flow is available to remove decay heat and reduce the RCS temperature to less than 300 °F from normal operating conditions in the event of a total loss of offsite power. The Calvert Cliffs FSAR references Loss of Feedwater (LOFW) and Feedline Break (FLB) as undercooling scenarios. (FLB is not a design bases event for Calvert Cliffs, but it was analyzed for peak RCS pressure and 10 CFR Part 100 boundary dose calculations in association with the addition of automatic initiation of AFW). Undercooling events are of interest since they may be sensitive to AFW flow. For the LOFW event, the FSAR assumes that the Operator initiates AFW flow at 600 seconds with no minimum flow specified. The Operator, as stated in the bases, is assumed to be able to increase or decrease AFW flow to that required by existing plant conditions. Feedline Break is analyzed for peak RCS pressure and credits no AFW flow until well after the peak pressure has occurred. Therefore, this event is not affected by the change in AFW flow. Incorporation of this Technical Specification change, therefore, would not result in a significant reduction in the margin of safety for either of these events. Based upon the above, the Commission proposes to determine that the proposed changes to the TS involve no significant hazards considerations.

BG&E has proposed a change to TS 4.7.1.2c (Unit 2, only) that corrects a typographical error. The TS section designated as 4.7.1.2.c.a should be 4.7.1.2.c.1.

On April 6, 1983, the NRC published guidance in the Federal Register (48 FR 14870) concerning examples of amendments that are not likely to involve a significant hazards consideration. One example provided in 48 FR 14870 of amendments not likely to involve significant hazards considerations is example (i) which provides for "A purely administrative change to technical specifications: For example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." The proposed change to TS 4.7.1.2c would correct an error and thus the Commission proposes to determine that the proposed change involves no significant hazards considerations.

BG&E has proposed a change to TS 4.7.8.1 and the associated Bases in order to differentiate between "types" of snubbers for the purpose of surveillance. At the present time, TS 4.7.8.1. requires a representative sample of 10% of the snubbers to undergo surveillance on a sliding scale, depending on snubber performance, ranging from 18 months (no failures) to 31 days (eight or more failures). Moreover, should a snubber fail the "functional" test, an additional 5% of the snubbers must be functionally tested. BG&E proposes to define snubber "type" as follows: "As used in this specification, type of snubber shall mean snubbers of the same design and manufacturer, irrespective of capacity." The definition of "type" would also be incorporated in the functional test requirements of TS 4.7.8.1c such that snubber failures would result in additional tests for only a particular "type" of snubber rather than the general snubber population.

BG&E currently utilizes two types of hydraulic snubbers, both produced by the same manufacturer (Grinnell). The two types operate similarly in principle, but have different design features (irrespective of capacity related dimension differences). Small bore snubbers installed on various piping systems at Calvert Cliffs have bore sizes that range from 1–½" to 6". All small bore snubbers have the same design valve block and have only one valve block per snubber. The large bore snubbers, installed on the steam generators at Calvert Cliffs, all have 10" bores. The valve blocks on these snubbers are different in design from those on the small bore snubbers. Additionally, there are two valve blocks per snubber.

The differences between these two types of snubbers is apparent upon a review of functional testing load and acceptance criteria. Small bore snubbers are designed for loads up to 72,000 pounds force. The Locking Velocity (LV) and Bleed Rate (BR) acceptance criteria are as follows:

Inches Per Minute (IPM)
LV: 1–40
BR: .25–25 (Adjusted for room temperature)

The large bore snubbers are designed for loads up to 300,000 pounds force.

Their acceptance criteria are much more restrictive:

Inches Per Minute (IPM)
LV: 1.25–1.75
BR: 0.0625–0.1875

Based upon the above, a functional failure in the small bore snubber population is not significant with regard to the large bore snubber population and vice versa.

Although all snubbers at Calvert Cliffs are currently produced by the same manufacturer, Surveillance Requirement 4.7.8.1 was expanded using standard industry phraseology to define "type" as "of the same design and manufacturer." Inclusion of the word "manufacturer" precludes the necessity of a future Technical Specification change should BG&E replace certain snubbers with a different make. The difference between small and large bore hydraulic snubbers is explicity referenced in the proposed TS Bases to prevent interpretive difficulties.

Differentiation by snubber "type" with regard to snubber surveillance has been an NRC position for some time and is reflected in the NRC's Combustion Engineering Standard Technical Specifications.

Based upon the above, we conclude that the proposed change to TS 4.7.8.1 does not involve a significant increase in the probability or consequences of accidents previously evaluated. No modification to plant equipment is made by this proposed change. Each snubber "type" will continue to be inspected in accordance with the existing acceptance criteria in the TS. The proposed change to TS 4.7.8.1 also does not create the possibility of a new or different type of accident from any accident previously evaluated in that it does not involve a change to any component, system alignment, or operating procedure. This proposed change clarifies the current TS wording by recognizing the two "types" of snubbers currently utilized at Calvert Cliffs. This change allows for functional and visual snubber inspection criteria to be applied to each snubber "type" separately. This change does not involve a significant reduction in the margin of safety in that the snubber performance criteria contained in the existing TS for each type are not being altered and thus seismic induced stress margins, associated with components supported by the snubbers, are not reduced.

Based upon the above, the Commission proposes to determine that the proposed change to the TS involves no signficant hazards considerations.

BG&E has proposed a change to TS 4.9.12.d.2, which requires verification that each exhaust fan in the Spent Fuel Pool Ventilation System maintains a negative pressure in the spent fuel storage pool area. Currently, TS 4.9.12.d.2 requires that a "negative pressure greater than or equal to ⅛ inches Water Gauge" be maintained by each exhaust fan. The proposed change would require that a "measureable negative" pressure be maintained by each exhaust fan.

A minimum allowable "measurable negative" pressure will be established for the surveillance and will be controlled administratively. The differential pressure established will be verified, by smoke test of area access doors and hatches, to be negative enough to assure that, where leakage occurs, the air flow path is into the spent fuel pool area.

The reactor containment under refueling conditions and the spent fuel pool area are similar in that, in both cases, the degree of containment is based upon a fuel handling accident (i.e. the dropping of a spent fuel assembly within the refueling/storage pool.) The Bases for TS 3/4.9.4, "Containment Penetrations", states that "The OPERABILITY and closure restrictions are sufficient to restrict radioactive material release from a fuel element rupture based upon the lack of containment pressurization potential while in the REFUELING MODE." Similarly, a fuel handling accident in the spent fuel pool area would not result in a pressurization potential. A "measurable negative pressure" maintained by the spent fuel pool ventilation system is therefore sufficient to assure that any material that is released will be treated by the filters in the ventilation system.

Based upon the above, we conclude that the proposed change to TS 4.9.12.d.2 would not involve a significant increase in the probability or consequences of an accident previously evaluated. The design basis for the Spent Fuel Pool Ventilation System is to ensure that all radioactive material released from an irradiated fuel assembly will be filtered through the HEPA filters and charcoal adsorbers prior to discharge to the atmosphere. The system is assumed to perform this function for a Fuel Handling Incident as mentioned in the FSAR, Section 14.18. A "measurable negative" pressure in the spent fuel storage pool area will continue to assure that air flow is into this area from outside. Therefore, the amount of radioactive material released during a Fuel Handling Incident would not be significantly increased. The proposed change also does not create the possibility of a new or different type of accident from any accident previously evaluated since the change would not modify equipment or permanently change system alignments. The procedural change involved in performing the leakage tests would not create the possibility of a new or different accident since any system alignment changes would be corrected prior to returning the system to operation. Finally, the proposed change would not involve a significant reduction in a margin of safety. This proposed TS would allow fuel movement in the spent fuel storage pool area when pressure is "measurably negative." However, as discussed above, the amount of radioactive material released during potential incidents would not be significantly increased nor would the filter efficiency be changed so no safety margin would be significantly reduced with regard to off-site releases of radioactive material. Based upon the above, the Commission proposes to determine that the proposed changes to TS 4.9.12.d.2 involve no significant hazards considerations.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: Jay E. Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request: February 25, 1986.

Description of amendment request: The amendment would change the Technical Specifications by deleting discontinued American Society of Testing and Materials (ASTM) standard references for diesel fuel oil and replacing them with the current ASTM standard references.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning application of the standards for determining whether license amendments involve significant hazards considerations by providing certain examples (48 FR 14870). An example of an amendment that is considered not likely to involve significant hazards is (i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or change in nomenclature.

Updating the references to ASTM diesel fuel oil standards will be simply a change in nomenclature since no change in those standard specifications was made. Thus, the proposed amendment is similar to example (i). The staff has, therefore, made an initial determination that no significant hazard consideration is involved with this amendment request.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: John A. Zwolinski.

Commonwealth Edison Company, Docket No. 50-249, Dresden Nuclear Power Station, Unit No. 3, Grundy County, Illinois

Date of amendment request: February 21, 1986 as supplemented April 16, 1986.

Description of amendment request: The proposed amendment would change the nuclear limits to reflect the Cycle 10 9x9 reload, incorporate an expanded power/flow operating map, delete the license condition for Single Loop Operation (SLO) and incorporate SLO provisions in the body of the Technical Specifications, incorporate Linear Heat Generating Rate (LHGR) limits for Exxon 8x8 and 9x9 fuel as a limiting condition for operation and incorporate reactor stability monitoring and restrictions on the allowable operating conditions during SLO.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c).

The licensee has presented its determination of no significant hazards consideration as follows:

Commonwealth Edison has evaluated the proposed Technical Specification amendment and determined that it does not represent a significant hazards consideration. Based on the criteria for defining a significant hazards consideration established in 10 CFR 50.92(c), operation of Dresden Unit 3 [in] Cycle 10 in accordance with the proposed amendments will not:

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1. Involve a significant increase in the probability or consequences of an accident previously evaluated because:

a. The Exxon 9x9 fuel was first introduced to Dresden 2 Cycle 9 as Lead Test Assemblies (LTA) and these assemblies are currently going through their second cycle of irradiation. The Dresden 3 XN–3 and XN–3A reload fuel is very similar in design to the Dresden 2 LTAs with the exception in the number of water rods and Gadolinia-bearing fuel rods. The XN–3 and XN–3A 9x9 fuel thermal-hydraulic performance falls between that of the ENC [Exxon Nuclear Company, Inc.] 8x8 fuel and the GE 8x8 fuel indicating adequate compatibility for corresidence in the Dresden 3 core. ENC evaluated the XN–3 and XN–3A reload fuel mechanical design using the methodology which has either received prior NRC approval or is currently under NRC review. The transient analyses were performed using plant transient analysis methodology which is similar to that which was used to establish thermal margin requirements for Cycles 8 and 9. Finally, the LOCA–ECCS analysis for the 9x9 fuel was performed with generically NRC-approved methods and the results comply with 10 CFR 50.46 criteria. Thus, the XN–3 and XN–3A reload 9x9 fuel design is not significantly different from those previously found acceptable to the NRC for previous reloads at Dresden 3 and 2 and therefore does not increase the probability or consequences of an accident.

b. The removal of the provisions regarding SLO from the license and the incorporation of them into the Technical Speciefications, with some minor revisions and, additionally, the allowing operation in SLO above 50% power will not increase the probability or consequences of an accident because GE has previously performed analyses supporting SLO above 50% power. Furthermore, recent SLO tests performed at another plant site have demonstrated that operation in Single Loop does not represent a less stable mode of operation. ENC has evaluated the results of the GE analyses and concludes the results are also applicable for ENC reload fuel; therefore, Dresden 3 may safely operate in SLO under the conditions of the proposed license amendment. Stability monitoring surveillances consistent with Generic Letter 86–09 have been included in the proposed amendment to provide further assurance of stable reactor operation.

c. ENC has performed an Extended Loan Line Limit Analysis (ELLLA) that supports operation in an expanded POWER/FLOW region; Analysis shows that transients initiated from the most limiting point of this expanded region (100/87) would be bounded by the POWER/FLOW condition at 100%/100% and thus ensure that no safety limits would be violated. For LOCA–ECCS concern, limiting LOCA break calculations were performed for the 100/87 and the 100/100 conditions. Both operating conditions were found to result in essentially identical LOCA results with the POWER/FLOW condition of 100/87 giving the slightly higher peak cladding temperature which was used to verify the adequacy of LOCA–ECCS MAPLHGR Limits. By observing the MAPLHGR limits, the consequences of accidents (LOCA) remain within the existing accident criteria established for Dresden.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because:

a. 9×9 fuel has been previously used in Dresden 2 and has exhibited operating characteristics similar to conventional 8×8 fuel. This operating experience plus analytical results demonstrating compatible hydraulic characteristics provides assurance that the cycle 10 core characteristics will not be significantly different from previous cycles.

b. Operation in Single Loop consistent with the proposed amendment has been previously evaluated by General Electric, Exxon Nuclear Inc and the NRC. SLO in the manner proposed is similar to that approved for previous cycles at Dresden and at other facilities and incorporates restrictions and surveillances consistent with NRC requirements (Generic Letter 86–09).

c. Operation in the ELLLA region does not allow any new modes of operation nor any new equipment which could initiate or change the nature of accident sequences.

3. Involve a significant reduction in the margin of safety for the same reason as 1. above. The proposed operation with 9×9 fuel, modified SLO provisions and utilizing the ELLLA region has been appropriately analyzed and necessary Technical Specification operating restrictions incorporated to assure that the margin to safety is maintained consistent with the NRC requirements and previous cycles.

The staff has reviewed the licensee's no significant hazards consideration determination and the technical content of the submittals and agrees with the licensee's analysis. Therefore, based on this review, the staff has made a proposed determination that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Attorney for licensee: Mr. Michael I. Miller; Isham, Lincoln and Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Project Director: John A. Zwolinski.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: April 21, 1986, superseding March 4, 1986 and September 30, 1985 submittals.

Description of amendment request: The amendment would add operability and surveillance requirements for the alternate shutdown system. The amendment request also includes proposed technical specifications (TS) for the active fire barriers and the fire detection instrumentation for new facility Auxiliary Shutdown Building. All of these TS apply to equipment required by Appendix R to 10 CFR Part 50.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c).

10 CFR 50.91 requires that at the time a license requests an amendment, it must provide to the Commission its analysis, using the standards in § 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

The operation of Big Rock Point in accordance with the proposed amendment not involve a significant increase in the probability or consequences of an accident previously evaluated.

This change adds operability and surveillance requirements for equipment required to operate to assure a safe method of cooling the primary system, in the event of a fire. This proposed change (and associated modifications as previously approved in NRC Safety Evaluations dated March 8, 1983 and March 20, 1985) decreases significantly the consequences of a design basis fire.

The alternate shutdown system battery replaces the station battery as the power source for the main steam isolation valve, and emergency condenser outlet valves. The design and operability requirements of this battery system are consistent with those of the station battery currently addressed by the Big Rock Point Technical Specifications, thus not increasing the probability or consequences of an accident previously evaluated.

The operation of Big Rock Point in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not change the existing requirements for operability or surveillance of the shutdown system equipment except to place additional restrictions and surveillance requirements on such equipment. The changes do not allow the equipment to be operated in any new or different way from what is currently allowed and therefore do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The operations of Big Rock Point in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

Existing Technical Specification operability and surveillance requirements have in no case been reduced by the proposed change. Only additional operability and surveillance requirements are added for safe shutdown equipment, thus no margins of safety will be reduced with issuance of this proposed change.

Consequently, this proposed change does not involve a significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposed to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: March 17, 1986.

Description of amendment request: The proposed amendment would change the existing Technical Specifications for heatup and cooldown, and hydrostatic test of the reactor vessel by raising the pressure/temperature limits to account for the effects of irradiation on the Palisades reactor vessel materials. The existing limits are good for 6.6 effective full power years (EFPY) which will be reached in late summer of this year. The proposed limits would extend the limits to approximately 9.0 EFPY.

Basis for proposed no significant hazards consideration detemination: The licensee has made the following analysis with regard to the significant hazards consideration:

The revised pressure-temperature limits are required to meet the reactor vessel fracture toughness requirements in 10 CFR 50 Appendix G. In order to operate safely, the reactor pressure vessel (RPV) must be kept in the ductile region. Therefore, pressure-temperature limits are defined to ensure the RPV will not be stressed under conditions which promote brittle failure. Higher temperature and corresponding higher pressure limits are required to compensate for the effects of neutron exposure on the RPV material. The higher operating limits account for the irradiation effects and maintain the RPV within its nil-ductility transition temperature. Therefore, the proposed change does not involve an increase in the probability or consequences of a previously evaluated accident and a new or different kind of accident is not created.

Operation of the RPV within the nil-ductility temperature, as determined by the methodology in Regulatory Guide 1.99, revision 2, will ensure the margin of safety is maintained.

The staff agrees with this analysis and therefore proposes to detemine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Ashok C. Thadani.

Dairyland Power Cooperative, Docket No. 50–409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of amendment request: September 29, 1982 as revised October 29, 1982, September 16, 1985 and April 1, 1986.

Description of amendment request: The proposed amendment involves the consolidation and clarification of operability and surveillance requirements for the Emergency Core Cooling System (ECCS). This amendment request was originally noticed in the Federal Register on October 28, 1983 (48 FR 49583).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

During the review, the staff determined that the September 29, 1982 application as revised by the letter dated October 29, 1982 did not have adequate surveillance requirements and required more stringent applicable conditions for the High Pressure Core Spray (HPCS) system. In addition the staff required the licensee to provide clarification of the bases for the Alternate Core Spray (ACS) system and requested the deletion of Section 2.4.7 of the Technical Specifications (TS), which is to be superseded by Section 4/5.2.23.

The licensee has presented its determinations of no significant hazards considerations as follows:

We have reviewed the hazards considerations referenced in 10 CFR Part 50, Sections 91 and 92, and have determined that with these criteria no significant hazards considerations result from these proposed changes.

1. *Operation of LACBWR, in accordance with the proposed changes, will not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The additional surveillance requirements are to be performed during reactor shutdown conditions and will add further assurance that HPCS and ACS systems will perform as designed if called upon. The existing design specification states that the HPCS system shall be capable of manual start only if a full scram signal exists, but no surveillance was required to demonstrate this feature. Addition of the surveillance requirement will both demonstrate that the pumps can be started manually and that the design criteria specifying that a full scram signal must exist for the pumps to run if started in manual is met. Therefore, addition of these surveillance requirements will not increase the probability or consequences of an accident previously analyzed.

Requiring the low pressure core spray mode of HPCS to be operable during Operational Condition 4, without the exceptions listed in the previous submittal, can only increase the probability it will be available to mitigate the consequences of an accident. This more stringent requirement cannot increase the probability of an accident.

Clarification of the bases for ACS and deletion of Section 2.4.7 are strictly administrative type changes. The former results in a clear statement of the design capability of the ACS system. The latter eliminates redundancy. Therefore, neither of these administrative changes affects the probability or consequences of any type of accident.

2. *Operation of LACBWR, in accordance with the proposed changes, will not create the possibility of a new different kind of accident from any accident previously analyzed.*

Performing the additional surveillance on this installed equipment during reactor shutdown cannot create a new or different kind of accident. The more stringent applicability requirement for the low pressure core spray mode of HPCS does not require operation in any new manner; just operability during additional conditions. Therefore, this additional requirement cannot cause a new type of accident. the administrative type changes do not affect operation in any way and so cannot cause any type of accident.

3. *Operation of LACBWR, in accordance with the proposed changes, will not involve a significant reduction in the margin of safety.*

The additional surveillances are to be performed during reactor shutdown and so, will not involve a significant reduction in the margin of safety. Performing the surveillances will help assure that the equipment will perform as designed if needed. Requiring the low pressure core spray mode to be operable during additional conditions can only improve, not reduce, the margin of safety. The administrative changes will have no affect on the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with licensee's analysis. Based upon this review, the staff has made a proposed determination that the application for

amendment involves no significant hazards consideration.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Attorney for licensee: Roy P. Lessy, Jr.; O.S. Heistand; Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

Dairyland Power Cooperative, Docket No. 50-409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of amendment request: February 21, 1986.

Description of amendment request: The licensee's proposed amendment contains six specific requests described below.:

(1) The current operating requirements for the La Cross Boiling Water Reactor (LACBWR) electrical power system is contained in Section 4.2.3 of the Technical Specifications, while the disign of the electrical power supply is described in Section 2.6. The licensee proposes a two-step modification of these sections: (a) To delete Section 2.6 entirely and add it as the new bases for Section 4.2.3; and (b) to clarify and correct the description of the electrical power system in the new proposed bases. One of the proposed corrections is deletion of mention of the rotary inverter as a power supply to the 120 volt AC Non-interruptiable Bus 1B.

(2) The licensee requests that the aforementioned proposed bases be effective upon completion of the planned 1C Non-interruptible Bus modification, including installation of the static transfer switch.

(3) Several wording changes are requested in the bases portion of Technical Specification Section 4/5.2.25 on safety values. Revisons include changing pressures expressed in psia to psig. Additionally, because new data indicate that the turbine trip without bypass transient results in a peck pressure greater than the design basis main steam isolation valve closure transient, the turbine trip is discussed as the most limiting pressure transient.

(4) The licensee requests a minor wording change regarding reactor coolant chemistry in Specification 4.2.2.2. to help ensure that plant personnel will uniformly interpret the necessary actions to be taken.

(5) A new testing and monitoring schedule for area radiation monitors is being proposed. The new schedule would change the testing frequency of the monitors from bi-weekly to quarterly, and the calibration frequency from each refueling outage to at least once per 18 months.

(6) The licensee also requests that updated LACBWR Facility Organization chart, figure 6.2.2-1 of Technical Specifications, replace the old chart.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists for a proposed license amendment as stated in 10 CFR 50.92(c). The licensee has analyzed the proposed changes using the standards in 10 CFR 50.92 and concludes that the proposed amendment contains no significant hazards considerations. This conclusion has been reached because:

Operation of LACBWR in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Transferring the updated electrical system description from the design section to the bases of the operability specifications, Item (1), is an editorial change. The operational requirements and surveillance of electrical systems will not be changed.

Revision the reactor coolant chemistry specification wording, Item, (4), is strictly an editorial change. The revision clarifies, without changing, the actions to be taken if the coolant conductivity and chloride concentration are above the normal limits.

Changes the functional test and calibration frequency for the installed area radiation monitors, Item (5), to coincide with the effluent monitors' test and calibration frequency does not cause a significant increase in the probability or consequences of an accident. The proposed change only affects the normal area radiation monitors, not the post-accident monitors, addressed by Specification 5.5.2. Because area radiation monitors have no automatic functions except for alarm capability, they cannot cause or change the consequences of an accident.

Insertion of the revised chart, Item (6), will update Technical Specifications but will have no affect on minimum shift staffing specifications, and thus cannot cause or change consequence of an accident.

Operation of LACBWR in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

Updating and relocating the description of the electrical system from the assign section to the basis of the electrical system, Item (1), does not change any mode of operation.

Clarifying the wording of the reactor coolant chemisty specification, Item (4), without changing the requirements cannot create the possibility of a new type of accident.

Changing the test and calibration frequency of area radiation monitors, Item (5) having no control function and no automatic function, except for alarm capability, cannot create the possibility of a new type of accident.

Insertion of the revised organizational chart, Item (6), is an administrative change. Because minimum shift staffing is not affected and the organizational changes do not affect any mode of plant operation, creating the possibility of a new kind of accident is not possible.

Operation of LACBWR in accordance with the proposed amendment will not involve a significant reduction in margin of safety.

Editorial changes, Items (1) and (4), do not affect the margin of safety.

Decreasing the testing and calibration frequency of the area radiation monitors, Item (5), does not decrease the margin of safety, since the monitors have no safety function.

Since minimum shift staffing is not being changed, updating the plant organization chart, Item (6), has no effect on the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that this action involves no significant hazards consideration.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Attorney for licensee: Roy P. Lessy, Jr.; O. S. Heistand; Morgan, Lewis & Bockius, 180 M Street, NW., Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

Dairyland Power Cooperative, Docket No. 50-409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of amendment request: April 7, 1986.

Description of amendment request: The proposed amendment would modify the existing specifications regarding primary coolant iodine spike reporting, and eliminate the 800 hour per 12-month period cap for exceeding activity limits.

Specifically, the licensee proposes to: (1) Eliminate discussion of requirements if Dose-Equivalent I-131 activity exceeds the normal limit for more than 800 hours per 12-month period or 500 hours per 6-month period; (2) eliminate discussion of requirements if offgas activity exceeds the normal limit for more than 800 hours per 12-month period or 500 hours per 6-month period; (3) remove paragraph on Reportable Occurrence reports from reactor coolant activity specification; (4) eliminate discussion of Special Report from reactor coolant activity specification; (5) add section to annual report requirements; (6) remove the unique limits for Cycles 6 and 7 from the reactor coolant activity specification, since they are no longer applicable; and, (7) correct a typographical error in the reactor coolant activity specification.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). The licensee has presented its determination of no significant hazards considerations as follows:

1. *Operation of LACBWR in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed change is in response to Generic Letter No. 85-19. The allowable primary coolant activity is not being changed, so the consequences of an accident will not be different. The requested revision to reporting requirements is a strictly administrative change and cannot affect the probability or consequences of an accident. Per the Generic Letter, the requirement for action if iodine activity limits are exceeded for 800 hours in a 12-month period is unnecessary, since proper fuel management and existing reporting requirements should preclude ever approaching the limit. The same is true for offgas activity limits. Therefore, the proposed amendment will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. *Operation of LACBWR in accordance with the proposed amendment will not create the possibility of a new different kind of accident from any accident previously evaluated.*

The proposed change is in response to Generic Letter 85-19. No mode of operation or primary coolant activity limits are being changed. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

3. *Operated of LACBWR in accordance with the proposed amendment will not involve a significant reduction in the margin of safety.*

The proposed change is in response to Generic Letter No. 85-19. The primary coolant activity limits are not being changed. The activity limits being removed applied only to Cycles 6 and 7. As discussed in the Generic Letter, proper fuel management and existing reporting requirements should preclude approaching 800 hours per 12-month period above normal activity limits, so the requirements for action if 800 hours is exceeded is unnecessary. The same is true for 500 hours per 6-month period. The type of repost used for reporting activity above the limits does not affect the margin of safety. Excessive fuel degradation is required to be reported by 10 CFR 50.72 and 10 CFR 50.73. Therefore, the proposed amendment will not involve a significant reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that this action involves no significant hazards consideration.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Attorney for licensee: Roy P. Lessy, Jr.; O.S. Heistand; Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

Dairyland Power Cooperative, Docket No 50-409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of amendment request: April 7, 1986.

Description of amendment request: The amendment would modify the Technical Specifications (TS) to reflect the reorganization of the management staff and to update the offsite organization chart.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c).

The licensee has presented its determination of no significant hazards considerations as follows:

We have reviewed the hazards considerations referenced in 10 CFR 50 Sections 91 and 92 and have determined that with these criteria, no significant hazards considerations result from this proposed amendment.

1. *Operation of LACBWR in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.*

No method of operation is being affected. This change moves responsibilities from one senior management position which has been eliminated, to another and changes a title. The responsibilities remain the same. Therefore, the proposed amendment will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. *Operation of LACBWR in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.*

No method or limits of operation are being changed, so a new kind of accident cannot be created by this change. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

3. *Operation of LACBWR in accordance with the proposed amendment will not involve a significant reduction in the margin of safety.*

No method or limits of operation are being changed, therefore, the margin of safety won't be reduced. A senior management official, the General Manager, is assigned the same responsibilities as was the Assistant General Manager-Power Group. The goal of having a senior management official involved in the nuclear plant activities will still be met. Therefore, the proposed amendment will not involve a significant reduction in the margin of safety.

As determined by the analysis above, this amendment has no significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Based upon this review, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Documents Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Attorney for licensee: Roy P. Lessy, Jr.; O. S. Heistand; Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036.

NCR Project Director: John A. Zolinski.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-321 and 50-366 Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2, Appling County, Georgia

Date of amendment request: January 27, 1986.

Description of amendment request: These amendments would modify the Technical Specifications tables and footnotes related to monitoring radioactive gas effluents (Table 4.15.2.1 for Unit 1 and Table 4.11.2-1 for Unit 2) to: (1) Reduce the required frequency of estimating the flowrates, when less than the required minimum number of effluent monitoring flowrate instrument channels are operable, from once per 4 hours to once per 24 hours; (2) delete the requirement that grab samples of releases from the main stack and reactor building vents be analyzed for tritium activity levels following shutdown.

startup or thermal power changes exceeding 15 percent of the rated thermal power; (3) change the requirement for additional monitoring of principal gamma emitters so that additional monitoring is not required unless the dose equivalent iodine concentration in the primary coolant increases by more than a factor of three and greater than 0.02 micro-curries per gram; and (4) add a time frame requirement for performance of the additional activity analyses of the principal gamma emitters.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operation license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The probability of occurrence or the consequences of an accident or malfunction of equipment important to safety are not increased above those analyzed in the FSAR fue to these changes because they do not affect the mode of operation for function of any safety system.

The possibility of an accident or malfunction of a different type than analyzed in the FSAR does not result from these changes because this proposal does not change the mode of operation of any safety system.

The principal gaseous radioactive releases are though the mainstack and the flow through the mainstack is relatively constant. The releases are controlled to stay within the 10 CFR Part 50 Apendix I limits. Changing the frequency of estimating the flows through the release points as noted above in change 1 is therefore not expected to significantly change the margin of safety.

The margin of safety is not significantly reduced due to change 2, as discussed above, because tritium levels in BWRs are fairly low and do not significantly change during power level changes. FSAR section 11.1.3 identifies the primary source of tritium in a BWR as the activation of deuterium. Although the rate of tritium production due to activation is dependent upon power, it will not significantly change during the conditions described. In addition, Regulatory Guide 1.21 only requires that the tritium concentration be determined monthly for continuous releases.

The margin of safety is not significantly reduced due to change 3, as discussed above. because the change will eliminate redundant testing. Revising the footnotes to require additional testing after power level changes if the dose equivalent iodine increases by more than a factor of three and greater than 0.02 micro-curries per gram is similar to the Standard Radiological Effluent Technical Specifications for BWRs. The dose equivalent iodine (DEI) level is chosen to indicate a statistically significant increase above background while still being 10 percent of the Technical Specification limit. If the level should increase to a factor of three beyond a starting point of 0.02 micro-curries per gram the resultant level would still only be 30 percent of the allowable DEI and give sufficient time for remedial action.

The margin of safety is not reduced due to change 4, as discussed above, because the addition of a time limit for performing surveillance is more restrictive. The change is made to prevent a possible misinterpretation that the sample should be taken at all points before the gaseous radioactive effluent in question could reasonably be expected to be available for sampling.

On the basis of the above, the Commission has determined that the requested amendments meet the three criteria and therefore has made a proposed determination that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: Bruce W. Churchill, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: Daniel Muller.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50321 and 50366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County, Georgia

Date of amendment request: February 17, 1986.

Description of amendment request: These amendments would modify Section 6.1 and Figure 6.2.1–1 of Appendix 'A' Technical Specifications and Figure 5.2–1 of Appendix 'B' Environmental Technical Specifications, as appropriate, as well as the applicable parts of Section 5 of Appendix 'B' to: (1) Add the title and position of Senior Vice President Nuclear Operations. The Senior Vice President Nuclear Operations has assumed all of the functions for Plant Hatch formerly assigned to the Senior Vice President Nuclear Power. (2) Change the title of the Manager of Nuclear Chemistry and Health Physics to Manager of Radiological Safety, and indicate his responsibility for the Radiological Environmental Monitoring Program and management oversite of the Health Physics Program. (3) Eliminate the Manager Nuclear Engineering and Chief Nuclear Engineer's responsibility for elements of the Environmental Monitoring Program. (4) Change the title of Manager Nuclear Engineering and Chief Nuclear Engineer to Manager Nuclear Safety and Licensing. The position reports to the Senior Vice President Nuclear Operations. (5) Change of title and responsibilities of the General Manager Quality Assurance and Radiological Health and Safety to General Manager Quality Assurance. Concurrent with the change in title for the General Manager Quality Assurance, the Manager of Radiological Safety has assumed responsibilities similar to the Radiological Health and Safety Representative. (6) Remove the position of Radiological Health and Safety Representative from the organizational chart. (7) Remove the position of Vice President and Chief Engineer Power Supply Engineering and Services from the Engineering and Construction Services Department organization. (8) Change the title of Hatch Project Manager to Manager Nuclear Projects and move the position from the Engineering Department to the Nuclear Operations Department. Concurrent with the move of the Manager Nuclear Projects, the title of Manager Engineering Services is being removed from the organizational charts. (9) Indicate that the position of Manager Nuclear Training now reports to the Senior Vice President Nuclear Operations. (10) Remove the position of Manager Nuclear Generation, which has been vacant, from the organizational charts. (11) Remove the designation of "corporate responsibility for fire protection" from the Technical Specifications organizational charts. This designation, while required by Appendix R of 10 CFR part 50 for the Fire Plan, is not required for Technical Specifications. (12) Add nine positions to the offsite organization chart. These are: Manager Nuclear Support, Manager Nuclear Performance, Manager Engineering Liaison, Manager Maintenance and Modification, Nuclear Safety Reviews Manager, Nuclear Safety Manager, Nuclear Licensing Manager—Hatch, Nuclear Licensing Manager—Vogtle, and General Manager Plant Vogtle. (13) Amend the responsibilities of the Plant Review Board to limit review of Technical Specification violations to those which have been determined to be reportable. (14) Change the PRB responsibility for review of events for written notifications to the Commission to those that are required by Technical Specifications and/or 10 CFR 50.73. (15) Change one of the members of the PRB from the Superintendent of Maintenance to the Superintendent of Instrument and Controls. (16) Change the referenced figure in Section 5 of Unit 2 Appendix 'A' Technical Specifications for the exclusion area, low population zone, and site boundary. (17) Clarify the record retention period for certain Quality Assurance documents. This is accomplished by inserting additional wording into Specification 6.10.2.i. (18) Eliminate reference to the Environmental Program Description Document (EPDD) from Appendix 'B' Technical Specifications. The Environmental Program as described by the EPDD is now complete. Therefore, any reference remaining to it in the Technical Specifications is obsolete and confusing. (19) Renumber the Environmental Technical Specifications to accommodate the changes made to the Administrative Section as a result of deletion of the EPDD.

Basis for proposed no significant hazards consideration determination: In accordance with the Commission's Regulations in 10 CFR 50.92, the Commission has made a determination that the proposed amendment involves no significant hazards considerations. To make this determination the staff must establish that operation in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The proposed amendments in this instance do not involve a physical modification of the plant, a change in operating procedures, or a change in any limiting conditions of operation. Rather, the change is administrative, concerning changes in management organization, position titles, position responsibilities, and other administrative corrections. In view of the administrative nature of the proposed amendments, none of the criteria enumerated above apply.

Based on the foregoing, the Commission has made a proposed determination that the application for amendments involves no sigificant hazards considerations.

Local Public Document Room Location: Applying County Public Library, 301 City Hall drive, Baxley, Georgia.

Attorney for licensee: Bruce W. Churchill, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: Daniel R. Muller.

Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment request: March 14, 1986.

Description of amendment request: The proposed amendment would revise the Technical Specifications to change the HVAC Charcoal Filter Fire Suppression Systems to a manual mode of operation. The current automatic mode allows water up to the automatic valve and undetected leakage at that point has led to charcoal damage and filter failure.

Basis for proposed no significant hazards consideration determination: The HVAC charcoal filter located at the control room is to provide protection for the reactor operators in the unlikely event of a significant radiation release. The fire suppression system on these filters is to control a filter fire. At the Donald C. Cook Nuclear Plant, the automatic actuation on the fire suppression system has experienced leaks which allows water to soak and damage the charcoal filter. The proposed amendment will allow an upstream manual valve on the fire suppression system to be closed and would require operator action to open in the event a charcoal filter fire were to occur. The downstream automatic control will remain for further protection, i.e., if the manual valve were to be opened and there was no filter fire, the automatic valves would prevent the water spray and damage to the filter.

The accident evaluated within the charcoal filter which would be affected by the proposed action is limited to a charcoal fire. The control room operators would be immediately aware of a fire either from alarms or smoke from the air system. There would be little difference in the time for activating the spray system and this additional time would not significantly change the consequences of the filter fire. The change would not significantly increase the probabilities or consequences of the accident nor would it create the probability of a new or different kind of accident from any previously evaluated. There may be an insignificant increase in the time to actuate fire suppression however, by reducing the likelihood of leaks and inadvertent damage to the charcoal filter, the full safety potential for the filter is returned. We, therefore, have determined that the proposed change does not significantly reduce a margin of safety.

Based on the above consideration, the Commission proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: B.J. Youngblood.

Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: March 31, 1986.

Description of amendment request: The amendment would change the facility Technical Specifications to allow power operation with a single recirculation loop in operation and would add a new specification for neutron flux monitoring instrumentation to be used to detect and suppress power oscillations during single loop operation.

The changes to the Technical Specifications for single loop operation would include an increased minimum critical power ratio limit, changes to the average power range monitor reactor trip and control rod block setpoints, changes to the power distribution limits, and changes to the recirculation loop specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from

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any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided an analysis of significant hazards considerations in its March 31, 1986, request for a license amendment. The licensee has concluded with appropriate bases, that the proposed amendment satisfies the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards considerations. The NRC staff has made a preliminary review of the licensee's submittal. The proposed changes would allow operation of the plant with only one recirculation loop in operation. The present Technical Specifications require plant shut down if one recirculation loop is inoperable. Implementation of the increased power oscillation surveillances will assure that oscillation is detected and suppressed and provides assurance that single loop operation can be performed safely. The licensee has analyzed accidents and transients considering single loop operation to determine reactor trip and control rod block setpoints and the minimum critical power ratio safety limit. The criterion used for these analyses is to maintain the same margin of safety during single loop operation as that which presently exists during two loop operation.

A discussion of the standards in 10 CFR 50.92 as they relate to this amendment follows.

Standard 1—Involve a significant increase in the probability or consequences of an accident previously evaluated.

The additional surveillance requirement to detect and suppress power oscillations offsets the larger probability for such oscillations with single loop operation. Therefore the proposed amendment would not involve a significant increase in the probability of an accident previously evaluated.

The results of the licensee's analyses for single loop operation show that:

(1) Loss of coolant accident (LOCA) analyses for single loop operation result in a more severe peak clad temperature (PCT). The maximum average power linear heat generation rate (MAPLHGR) limits have been reduced in order to maintain PCT below 10CFR50.46 limits. The decreased MAPLHGR limits are equivalent to a 300°F–500°F decrease in PCT for large pipe breaks. The small pipe break LOCA analyses resulted in an increase in PCT of about 50°F. The reduced MAPLHGR limits developed from the large break LOCA analysis more than offset the small increase in PCT due to the small break LOCA.

(2) The containment response for the design basis accident with single loop operation is bounded by the rated power, two-loop operation analysis presented in the Grand Gulf Nuclear Station Final Safety Analysis Report (FSAR) Section 6.2. For single loop operation, the differential peak drywell and wetwell pressures of 19.8 pounds per square inch gauge (psig) and 6.3 psig, respectively are less than the 22 psig and 9.9 psig results noted in the FSAR Section 6.2.

(3) All anticipated-transient-without-scram (ATWS) acceptance criteria are met during single loop operation. Because the initial power-flow condition is less during single loop operation that the rated power—flow condition for which the previous analysis was made, the transient response is less severe.

(4) The average power range monitor (APRM) reactor trip and control rod block setpoints are modified to account for reverse flow through the inactive loop jet pumps. The flow is in a reverse direction when the operating loop is producing high flow rates. Therefore, the APRM equations were conservatively modified considering reverse flow over the range of single loop flows. The modification maintains the same drive flow versus power relationship during single loop operation as is presently provided during two loop operation.

(5) Fuel thermal and mechanical performance for transient events occurring during single loop operation are within the fuel design bases. Reverse flow through the jet pumps in the inactive loop causes increased vibrations as evidenced by APRM flux noise and core plate differential pressure noise. Both of these indications of vibrations were analyzed and it was concluded that the vibrations are within the fuel mechanical limits. Based on these evaluations, the licensee concluded, and staff agrees, that single loop operation with the proposed Technical Specification changes does not involve a significant increase in the consequences of an accident previously evaluated.

Standard 2—Create the possibility of a new or different kind of accident from any accident previously evaluated.

The additional surveillance requirements do not require any change to plant design or operation. The remedial actions to suppress power oscillations involve normal plant operating practices. Therefore, the possibility of a new or different accident is not created by the addition of this Technical Specification. The idle recirculation pump start transient was previously analyzed in the FSAR. The licensee found that the MCPR remains above the safety limit for this transient. As summarized above, the other accidents and transients described in the FSAR were evaluated for single loop operation in the March 31, 1986 submittal. No new or different kind of accidents relative to the accidents previously evaluated were found.

Standard 3—Involve a significant reduction in a margin of safety.

The additional surveillance requirement provides a means for detecting and suppressing power oscillations to maintain the fuel within its safety limits when operating with a single recirculation loop. The changes in setpoints for reactor trips and control rod blocks and the MCPR safety limit during single loop operation are based on maintaining the same margin of safety which is presently available during two loop operation. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Accordingly, the Commission proposes to determine that the proposed changes do not involve significant hazards considerations.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036.

Project Director: Walter R. Butler.

Niagara Mohawk Power Corporation, Docket No. 50-220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: January 3, 1986.

Description of amendment request: The proposed amendment would modify the Technical Specifications (TS), Table 3.6.14–1 and Notes for Table 3.6.14–1, to include the addition of an explanatory phrase to clarify the intention of the phrase "at all times". The addition of footnote (i) states that the intention of this phrase is to continuously monitor the Service Water System effluent line by alternately sampling the reactor building and turbine building service water return lines for approximately 15 minute intervals.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c).

The licensee has presented its determination of no significant hazards consideration as follows:

10 CFR 50.91 requires that at the time a licensee requests an amendment, it must provide the Commission its analysis, using the standards in Section 50.92 about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the following analysis has been performed:

The proposed amendment in accordance with the operation of Nine Mile Point Unit 1 will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment incorporates an explanatory phrase clarifying the intent of the technical specification requirement. This phrase provides for the alternate sampling of the reactor building and turbine building service water return lines. The alternate sampling provides more information than continuously sampling both lines with one monitor because it can diagnose which system may be leaking. Therefore, the proposed amendment will invoke a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment in accordance with the operation of Nine Mile Point Unit 1 will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment merely clarifies the already existing phrase "at all times." Interpreting the phrase to include monitoring conducted with approximate fifteen minute time intervals on alternate return lines does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment in accordance with the operation of Nine Mile Point Unit 1 will not involve a significant reduction in margin of safety.

The method of alternately sampling the service water return lines of the turbine and reactor building will provide the necessary monitoring and additional diagnostic data. Therefore, the proposed amendment will not involve a significant reduction in a margin of safety.

As determined by the analysis above, this proposed amendment involves no significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050, 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: John A. Zwolinski.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: February 14, 1986.

Description of amendment request: The proposed amendment would change the expiration date for Operating License DPR-22 from June 19, 2007 to September 8, 2010.

The current licensed term for Monticello is 40 years commencing with issuance of the construction permit (June 16, 1967). Accounting for the time that was required for plant construction, fuel loading and startup testing, the effective period of the license is 36 years and 9 months. The licensee's application requests a 40-year operating license term for Monticello. The licensee believes that the useful life of the Monticello plant is significantly more than 40 years requested in this license amendment application and is currently involved in a Plant Extension Program (PLEX) pilot project at Monticello.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c).

10 CFR 50.91 requires that at the time a licensee requests an amendment it must provide to the Commission its analysis, using the standards in 10 CFR 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with the 10 CFR 50.91 and 10 CFR 50.92, the following analysis has been performed by the licensee:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The plant was designed and constructed primarily on the basis of 40 years of plant operation. For example, the reactor vessel was designed and fabricated for a 40-year life. Analyses performed as part of the Monticello PLEX pilot program indicate a realistic service life of the reactor vessel of approximately 70 years.

The analyses contained in the Monticello Final Safety Analysis Report were performed primarily on the basis of 40 years of plant operation.

Analyses and information presented in the Monticello Environmental Report, in general, were not dependent on any specific period of plant operation.

Procedures and programs are in place to detect abnormal deterioration and aging of critical plant components. Examples include:

a. Plant pressure retaining vessels, piping, and support systems are inspected in accordance with Section XI of the ASME Boiler and Pressure Vessel Code and 10 CFR Part 50, Section 50.55(g). Safety related pumps and valves are included in a test program meeting the requirements of Section XI of the Code and the plant Technical Specifications.

b. Safety related electrical equipment has been environmentally qualified in accordance with the requirements of 10 CFR Part 50, Section 50.49. Aging analyses establish required intervals for equipment replacement.

c. A number of special inspections and investigations have been performed by the Monticello technical staff providing additional assurance that abnormal or unanticipated degradation will not [be] occurring in components required for safe and reliable plant operation. These inspections have included such items as pipe, valve, and fitting wall thickness measurements in steam lines subject to erosion and inspection of buried cables and piping. Additional inspections of this nature will be identified as part of the Monticello PLEX pilot study.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The proposed amendment involves only a change in the expiration date of the Operating License. No safety analyses are affected. No new or different accident type is created. The accident analyses presented in the Updated Safety Analysis Report remain bounding.

3. The proposed amendment will not involve a significant reduction in the margin or safety.

The proposed amendment involves only a change in the expiration date of the Operating License. No safety margins are affected.

The licensing basis of the plant, as described in the Updated Safety Analysis Report and the Environmental report, was 40 years of plant operation.

For the reasons stated above, this license amendment does not involve a significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, based on this review, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

Omaha Public Power District, Docket No. 50-285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: April 9, 1986.

Description of amendment request: The proposed amendment would add operability and surveillance requirements for new fire suppression equipment in the Compressor Room. The proposed requirements are the same as currently approved requirements for similar fire suppression equipment located in other areas of the plant. Namely, the equipment should be operable and, if not, compensatory measures are called for. The proposed amendment would also correct a heading number on the top of page 3-83 of the technical specifications. The current heading number is 3.19. The correct heading number should be 3.15. The licensee considers this heading number change a clerical change to correct a typographical error.

Basis for proposed no significant hazards consideration determination: The licensee has made a significant hazards consideration determination pursuant to 10 CFR 50.92. The licensee has stated that the changes would not involve a significant increase in the probability or consequences of an accident previously evaluated because: (1) The changes are being made in order to provide operability and surveillance requirements for the new fire suppression system, (2) the changes will provide additional assurance that the probability and consequences of a fire in the compressor room will be reduced, and (3) the clerical change will correct a tyographical error. The licensee also stated that the possibility of a new or different kind of accident previously evaluated would not be created based upon the same arguments discussed above. Finally, the licensee stated that the changes would not involve a significant reduction in a margin of safety because the changes provide an increase in safety by providing assurance of the operability of the fire suppression capability in the compressor room.

The staff has performed a preliminary review of the licensee's no significant hazards consideration analysis and it does appear in our review that a no significant hazards consideration is involved. Based upon the above discussion, the staff proposes to determine that the proposed changes do not involve significant hazards considerations.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae 1333 New Hampshire Avenue, NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Pennsylvania Power & Light Company, Docket No. 50-387 and 50-388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: March 27, 1986.

Description of amendment request: The licensee in their March 27, 1986, submittal requested a Technical Specification change to support Drywell Cooling Sytem plant modifications in order to enhance the capability of the present Drywell Cooling System. This plant modification is being requested for Unit 2. Unit 1 has already implemented this modification which was previously approved by the staff via Amendment No. 46 to NPF-14. The licensee is also requesting a Technical Specification change for Unit 1. During the review of the Unit 2 changes, it was determined by the licensee that an error contained in Amendment No. 46 allowed as many as six fans to be inoperable for up to 30 days. The licensee is requesting that this error be corrected so that at least one fan from each pair of fans is required to be OPERABLE.

This modification which is being requested for Unit 2, and which has already been approved for Unit 1, entails revising the Limiting Condition for Operation (3/4.6.62) to reflect the replacement of one unit cooler subsystem (consisting of 2 unit cooler fans) with 2 recirculation fans. The subject unit cooler subsystem will now be serving the general drywell area and the new recirculation fans will be replacing the unit cooler subsystem with respect to the unit cooler subsystem's safety-related function of post-LOCA drywell atmosphere mixing. The Action and Surveillance Requirements have been altered to reflect these changes. Technical Specification Table 3.8.4.1-1 has been changed due to the addition of the drywell recirculation fans. Two pairs of Type HFB-TM circuit breakers have been added to Table 3.8.4.1-1 to support recirculation fans 2V418A and B.

Bais for no significant hazards consideration determination: The licensee has stated that:

1. The proposed changes do not involve a significant increase in the probability or consequence of an accident previously evaluated because:

A. Unit 2 Specification 3/4.6.6.2: These changes support design improvements to the Drywell Cooling System. The safety-related aspect of this change is that the post-LOCA hydrogen mixing will now be accomplished by the new recirculation fans, while the old unit cooler subsystem will now serve the general drywell area. The air flow capability of the new recirculation fans is the same as that of the unit cooler fans formerly used for the same purpose.

B. Unit 2 Table 3.8.4.1-1: The additional circuit breakers were added to meet design criteria specified for the additional recirculation fans, i.e., to provide overcurrent protection for primary containment penetration conductors. Therefore, no previous evaluations are affected.

C. Unit 1 Specification 3/4.6.6.3: As described, this change corrects an error which if left uncorrected, would have allowed a previous evaluation, that of post-LOCA hydrogen mixing, to be improperly supported. Therefore, this change ensures that the probability or consequences of an accident previously evaluated will not be degraded.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because:

A. Unit 2 Specification 3/4.6.6.2: This equipment change is in accordance with existing design criteria and will not adversely affect the function of any system; therefore, no new events should result.

B. Unit 2 Specification 3/4.6.6.2: The addition of these thermal magnetic breakers is in accordance with existing design criteria and will not adversely affect the function of any system; therefore, no new events should result.

C. Unit 1 Specification 3/4.6.6.3: This change corrects an error previously issued and ensures the validity of a related analysis. It does not create the possibility of a new event.

3. The proposed changes do not involve a significant reduction in a margin of safety because:

A. Unit 2 Specification 3/4.6.6.2: As described above, these changes maintain the safety margin currently provided.

B. Unit 2 Table 3.8.4.1-1: These changes ensure the safety margin currently provided for other primary containment penetration conductors.

C. Unit 1 Specification 3/4.6.6.3: As described above, this change will require the intended level of safety margin to be achieved.

The NRC staff agrees with the licensee's evaluation in these regards and proposes to find the proposed changes to not involve a significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: Elinor G. Adensam.

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: December 27, 1985.

Description of amendment request: The application for amendment requests modifications of the Technical Specifications contained in Appendix A to Operating License No. NPF-1. Specifically, the Trojan Technical Specification (TTS) 3.4.1.1 would be modified to require four reactor coolant loops in operation when the plant is operating below the P-7 setpoint. TTS 3.4.1.2 would be revised to require that with any control rod drive mechanism (CRDM) energized all four reactor coolant loops shall be in operation and that with no CRDM's energized, at least two reactor coolant loops shall be OPERABLE with one reactor coolant loop in operation. A new Surveillance Requirement would be added to TTS 4.4.1.2 to require verification that all CRDMs are de-energized every 12 hours if less than four loops are in operation. Additional editorial changes would be made to incorporate this revision into the TTS.

This application for amendment supersedes in its entirety the licensee's application dated November 29, 1984 which was published in the **Federal Register** February 27, 1985 (50 FR 8000).

Basis for proposed no significant hazards consideration determination: TTS 3.4.1.1 currently requires that two reactor coolant loops be in operation when the plant is operating below the P-7 setpoint (MODES 1 and 2). In addition, TTS 3.4.1.2 currently requires that two reactor coolant loops be OPERABLE, with one loop actually in operation in MODE 3. However, the bank withdrawal from subcritical and low power accident analyses assume four loops in operation. The proposed change would ensure consistency between the TTS and the accident analyses.

The Commission has provided guidance concerning the application of the standards for making a no significant hazards consideration determination by providing examples (48 FR 14870). The examples of actions involving no significant hazards consideration include: (ii) Changes that constitute an additional limitation or restriction or control not presently within the technical specification, e.g., a more stringent surveillance requirement. The changes to TTS 3.4.1.1, 3.4.1.2 and 4.4.1.2, described above, proposed in this application for amendment are encompassed by this example because of the additional limitation and restriction that would be added by this Technical Specification amendment.

Another example of actions involving no significant hazards consideration is: (i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The additional editorial changes which would be made to incorporate the revisions described above into the TTS are encompassed by this example.

Therefore, since the application for amendment involves proposed changes that are similar to examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon

Attorney for licensee: J.W. Durham, Senior Vice President, Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

NRC Project Director: Steven A. Varga.

Portland General Electric Company, et al., Docket No. 50-344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: April 11, 1986.

Description of amendment request: The proposed amendment request would delete from the Design Features Section 5.3.1 of the Trojan Technical Specifications (TTS) the maximum fuel rod weight limit of 1,760 grams of uranium. The purpose of the change would be to permit the use of assemblies found to be slightly over the weight limit.

Fuel weights have increased slightly due to recent changes to the fuel design, including chamfered pellets with a reduced dish and use of the integrated dry route process. The weight increases have caused the assembly's averaged fuel rod weight of uranium to exceed the 1,760 gram Technical Specification limit by as much as 13 grams.

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92, the licensee submitted the following significant hazards consideration determination:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of previously evaluated accidents. The change in fuel rod weight that could occur without a Technical Specification limit is small because other fuel design constraints such as rod diameter, gap size, UO_2 density, fuel active lengths, etc., limit the variation in rod weights. The current safety analyses are not based on fuel rod weights, but more on parameters such as power, thermal conductivity, fuel dimensions, etc. These parameters are either: (1) Not affected at all by fuel rod weight, or (2) are only slightly affected. However, a review of parameters which may be affected indicates that a change in fuel weight does not cause other parameters to exceed the values assumed in the safety analyses, or to cause acceptance criteria to be exceeded. The slight effects are such that the monitored nuclear parameters (power, power distribution, nuclear coefficients, etc) remain within their Technical Specification limits. Thus, it is concluded that the change does not involve a significant increase in the probability or consequences of previously evaluated accident.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: The possibility of a new or different kind of accident from any previously evaluated has been considered and is not affected by this change. All of the fuel is contained in the fuel rod which is of the same dimensions and designed to function the same as previous fuel. The existing new and spent fuel criticality analyses bound the changes observed. Therefore, this change does not create the possibility of a new or different kind of accident.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: The margin of safety is maintained by adherence to other Technical Specification limits and the FSAR Design Bases. The deletion of fuel rod weight limits in Technical Specifications Design Features Section 5.3.1 does not directly affect any safety system or safety limits. Because safety margins are maintained by other limiting

Technical Specification, Design Features Section 5.3.1 will not affect the margin of safety.

In the April 6, 1983 Federal Register, NCR published a list of examples of amendments that are not likely to involve significant hazards concern. Example No. 6 of that list applies to the deletion of the fuel rod weight limit Technical Specification, and states that: ". . . a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: For example, a change resulting from the application of a small refinement of a previously used calculational model or designed method."

Based on the above analysis, the licensee concluded that the proposed amendment does not involve significant hazards considerations. The staff has reviewed the licensee's significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards considerations.

Local Public Document Room location: Multnomah County Library, 801 SW. 10th Avenue, Portland, Oregon.

Attorney for licensee: J.W. Durham, Senior Vice President, Portland General Electric Company, 121 SW. Salmon Street, Portland, Oregon 97204.

NRC Project Director: Steven A. Varga.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, County, New York

Date of amendment request: January 21, 1986.

Description of amendment request: The proposed amendment would modify the Technical Specifications (TSs) to permit the appointment of an Alternate Vice-Chairman to the Safety Review Committee (SRC). The proposed change would facilitate the holding of SRC meetings in the event the Chairman and Vice-Chairman were unable to attend. The Alternate Vice-Chairman would be appointed in writing by the Executive Vice President-Nuclear Generation, would be a voting member, and have the identical duties and responsibilities of the Vice-Chairman. The current TS permit up to two alternate voting members of the SRC at any one time.

Basis for proposed no significant hazards consideration determination: In accordance with the Commission's Regulations in 10 CFR 50.92, the Commission has made a determination that the proposed amendment involves no significant hazards considerations. To make this determination the staff must establish that operation in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The proposed amendment in this instance does not involve a physical modification of the plant, a change in operating procedures, or a change in any limiting conditions of operation. Rather, the change is administrative, concerning changes in management organization, position titles, position responsibilities, and other administrative corrections. In view of the administrative nature of the proposed amendment, none of the criteria enumerated above apply.

Based on the foregoing, the Commission proposes to determine that the proposed license amendment does not involve a significant hazards consideration.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Attorney for licensee: Mr. Charles M. Pratt, Assistant General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Daniel R. Muller.

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50-395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: August 2, 1985.

Description of amendment request: The amendment would change the duration of the Operating License (NPF-12) from 31 years to 40 years. This will change the license expiration date from midnight on March 21, 2013 to midnight on August 6, 2022.

Basis for proposed no significant hazards consideration determination: Plant equipment, components and structures were designed considering a 40 year service life of the plant. Some equipment, such as Class 1E electrical components, was designed for 40 years of service life. The equipment required to function post accident was designed to operate an additional year assuming an accident occurred during the 40th year of operation. Other equipment is not expected to last for a full 40 years; however, in those cases surveillance and maintenance procedures were implemented into the plant operation to assure that degradation is promptly identified and corrective actions are taken. Those procedures were designed according to various industry codes and the plant Technical Specifications to ensure that plant structures, equipment and components would operate safely and as designed.

The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations and examples of actions likely to involve significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and determined that should this request be implemented, it will not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because plant equipment, components, and structures were designed considering a 40 year service life, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the physical plant design is not being changed. Also, it will not (3) involve a significant reduction in a margin of safety because surveillance and maintenance procedures are implemented into the plant operation to assure that degradation is promptly identified and corrective actions are taken. Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218.

NRC Project Director: Lester S. Rubenstein.

Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: December 11, 1985.

Description of amendment request: The proposed change would amend Licenses NPF-4 and NPF-7 for NA-1&2, respectively, by adding a paragraph to the licenses that requires the implementation of the Virginia Electric and Power Company's (VEPCO) Integrated Implementation Schedule Plan (the Plan). The Plan provides a summary description of the mechanisms for changing and updating the implementation schedules developed under VEPCO's Integrated Implementation Schedule, the responsibilities of the NRC and VEPCO's staff with respect to the Plan and the mechanisms for modifying the requirements of the Plan. The implementation schedules are not a part of the Plan. This change results in additional controls on project and commitment management that are not presently included in the license. In addition, the proposed change is consistent with the NRC guidance suggested in Generic Letter 83-20 dated May 9, 1983 and Generic Letter 85-07 dated May 2, 1985.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR Part 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The proposed amendments and the Plan are administrative in that they commit to and provide the ground rules for negotiating schedules for major projects or commitments of interest to both VEPCO and the NRC. The proposed amendments do not change in any way the design or operation of the station. Consequently, the changes do not: (1) Increase the probability of occurrence or the consequence of an accident or malfunction, (2) create the possibility of a different type of accident other than discussed in the NA-1&2 Final Safety Analysis Report; and (3) reduce the margin of safety as defined in the basis for any Technical Specifications.

Therefore, the NRC staff proposes to determine that the standards for determining that the proposed changes involve no significant hazards consideration are met, and that operation of the facility in accordance with the proposed changes would not involve a significant hazards consideration.

Local Public Document Room location: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Lester S. Rubenstein.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: April 15, 1986.

Description of amendment request: The proposed amendment would revise the Kewaunee Technical Specifications (TS) Section 4.6, "Periodic Testing of Emergency Power System," by correcting an error in the surveillance tests of emergency diesel generators. The current TS require monthly testing of the diesels at 112 percent of nominal power rating which is in error. The current TS incorrectly cite paragraphs 6.4.1 and 6.4.3 of IEEE 387-1977 for the diesel loading and test duration. This change would bring the load to nominal power, which is called for in Paragraph 6.6.1 of IEEE 387-1977 and endorsed by NRC Regulatory Guide 1.108.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include: (1) A purely administrative change to the Technical Specifications; for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature.

Therefore, since the application for amendment involves a proposed change that is similar to an example for which no significant hazards considerations exist, that is, an error correction, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: Steven E. Keane, Esquire, Foley and Lardner, 777 E. Wisconsin Avenue, Milwaukee, Wisconsin 53202.

NRC Project Director: George E. Lear.

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: September 30, 1985, as modified January 20, 1986.

Description of amendment request: The proposed change would modify the Technical Specifications to: (1) Delete the requirement for performing I-131 analyses on surface water samples; and (2) clarify the TS audit requirements and references for effluent and environmental monitoring.

Basis for proposed no significant hazards considering determination: Current Yankee TS require performing routine analyses for I-131 on surface water samples. The anlaysis is performed to confirm that ingestion of I-131 does not occur through surface water that is being used as a drinking water supply source. Since the surface waters that are sampled are not used for supplies of drinking water, deletion of the requirement to perform routine analysis for I-131 on surface water samples will not change the licensee's routine monitoring of radioactive effluents' effects on the public.

The Commission has provided guidance concerning the application of standards for making a no significant hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). Example (i) of actions involving a no significant hazards consideration involves a purely administrative change to technical specifications: for example a change to achieve consistency throughout the TS, correction of an error, or a change in nomenclature.

The wording of the licensee's current TS regarding audit and procedural requirements for Radioactive Effluent Technical Specifications (RETS) are potentially confusing. The current wording regarding audits implies that the audit is to determine whether or not the licensee's Quality Assurance Program includes the provisions of specific Regulatory Guides. The wording is being modified to require audits of the performance of activities affecting quality, making the audit consistent with the intent of the licensee's Quality Assurance Program. This administrative change is to provide consistency in the Administrative section of the TS, and is consistent with Example (i).

Based on this discussion, the staff proposes to determine that the

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requested action would not involve a significant hazards consideration.

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Project Director: George E. Lear.

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this bi-weekly notice. They are repeated here because the bi-weekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Indiana and Michigan Electric Company, Docket No. 316, Donald C. Cook Nuclear Plant, Unit 2, Berrien County, Michigan

Date of amendment request: March 14, 1986, and March 27, 1986.

Brief description of amendment: The proposed Technical Specification changes are related to the Unit 2 cycle 6 reload, additional provisions consistent with safety analyses, clarifications to make Unit 2 Technical Specifications consistent with Unit 1 and the Standard Technical Specifications, and editorial corrections.

Date of publication of individual notice in **Federal Register:** April 9, 1986 (51 FR 12249).

Expiration date of individual notice: May 9, 1986.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Notice of Issuance of Amendment to Facility Operating License

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see: (1) The applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Alabama Power Company, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, Houston County, Alabama.

Date of application for amendments: November 22, 1985.

Brief description of amendments: Technical Specification Table 4.3-1 Note 9 is modified to clarify that turbine trip surveillance can be done prior to latching the turbine. The change corrects an unintentional error when Table 4.3-1 notations were developed.

Date of issuance: April 15, 1986.

Effective date: April 15, 1986.

Amendment Nos.: 62 and 53.

Facilities Operating License Nos. NPF-2 and NPF-8. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 15, 1986 (51 FR 1869).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 15, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303

Alabama Power Company, Docket Nos. 50-348 and 50-364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, Houston County, Alabama.

Date of application for amendments: November 27, 1985.

Brief description of amendments: Technical Specification (TS) 3.4.9 Action Statement a. is deleted. The change eliminates a shutdown requirement when coolant activity limits are exceeded for a cumulative period of time. Reporting requirements are expanded from a 30-day report to an item in the annual report. The definition of Dose Equivalent Iodine in TS 1.9 is also revised to refer to Regulatory Guide (RG) 1.109. These changes are in accordance with Commission guidance of Generic Letter 85-19 and the cited RG.

Date of issuance: April 16, 1986.

Effective date: April 16, 1986.

Amendment Nos.: 63 and 54.

Facilities Operating License Nos. NPF-2 and NPF-8. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 15, 1986 (51 FR 1869).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 16, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Alabama Power Company, Docket No. 50-364, Joseph M. Farley Nuclear Plant, Unit No. 2, Houston County, Alabama.

Date of application for amendment: September 30, 1985, as supplemented March 27, 1986.

Brief description of amendment: Technical Specification Table 4.4-5 and Figures 3.4-2 and 3.4-3 are revised based on analysis of Capsule "U" Reactor Vessel Material Radiation Surveillance Program. Changes are in accordance with 10 CFR Part 50 Appendix G and H and are acceptable for eight Effective Full Power Years of Operation.

Date of issuance: April 21, 1986.

Effective date: April 21, 1986.

Amendment No. 55.

Facility Operating License No. NPF-8. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 4, 1985 (50 FR 49780).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 21, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Arkansas Power & Light Company, Docket No. 50-368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of Application for Amendment: November 20, 1985 as supplemented January 28, 1986.

Brief Description of Amendment: The amendment revised the Technical Specifications to allow storage of new fuel with a maximum enrichment of 4.1 weight percent U-235 in the new fuel storage racks.

Date of Issuance: April 16, 1986.

Effective Date: April 16, 1986.

Amendment No.: 71.

Facility Operating License No. NPF-6: Amendment revised the Technical Specifications.

Date of Initial Notice in **Federal Register:** March 12, 1986 (51 FR 8585).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 16, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Commonwealth Edison Company, Docket No. 50-237, Dresden Nuclear Power Station, Unit No. 2, Grundy County, Illinois

Date of application for amendment: March 10, 1986.

Brief description of amendment: The amendment extends the allowable outage period for the Dresden Unit 2/3 (Swing) Diesel Generator (DG) from 7 to 14 days on a one-time-only basis to allow installation of Appendix R modifications on the DG.

Date of issuance: April 28, 1986.

Effective date: April 28, 1986.

Amendment No.: 92.

Provisional Operating License No. DPR-19. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 26, 1986 (51 FR 10454).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 28, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Consolidated Edison Company of New York, Docket No. 50-247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: November 19, 1985.

Brief description of amendment: Revises the Technical Specifications to permit the use of higher enrichment reload fuel assemblies and storage of such assemblies both prior and subsequent to their loading in the reactor. The fuel enrichment is revised from 3.5 w/o U-235 to 4.3 w/o U-235.

Date of issuance: April 21, 1986.

Effective date: Immediately, to be implemented with 30 days.

Amendment No.: 111.

Facilities Operating License No. DPR-26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1986 (51 FR 6821).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 21, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Detroit Edison Company, Docket No. 50-341, Fermi-2, Monroe County, Michigan

Date of application for amendment: December 23, 1985, as supplemented on February 4, 1986, and April 23, 1986.

Brief description of amendment: This amendment revises the Fermi-2, Technical Specifications to reduce, for a limited amount of time for the first fuel load, the minimum permissible source range monitor (SRM) count rate from 0.7 counts per second (cps) to 0.3 cps. This change is reflected in modifications to footnotes relating to the surveillance requirements for minimum permissible SRM count rates and the control rod block trip setpoints. Only those fuel changes required to replace the depleted neutron sources will be permitted. The licensee withdrew its request for amendment that would have reduced the minimum permissible count rate in Technical Specification 3/4.3.7.6 and that amendment request has thus not been acted upon.

Date of issuance: April 25, 1986.

Effective date: April 25, 1986.

Amendment No.: 1

Facility Operating License No. NPF-43: Amendment revised the Technical Specifications.

Dates of initial notice in **Federal Register:** January 29, 1986 (51 FR 3714).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 25, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Duke Power Company, Docket Nos. 50-369 and 50-370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: April 1, 1985, as supplemented October 14, 1985.

Brief description of amendments: The amendments revise a limiting condition for operation and bases associated with Technical Specification 3.7.10.1, Fire Suppression Water System.

Date of issuance: April 17, 1986.

Effective date: April 17, 1986.

Amendment Nos.: 55 and 36.

Facility Operating License Nos. NPF-9 and NPF-17. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 17, 1985 (FR 29009).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 17, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Duke Power Company, Dockets Nos. 50-269, 50-270 and 50-287, Oconee Nuclear Station, Units Nos. 1, 2 and 3, Oconee County, South Carolina

Date of application for amendments: November 19, 1985, as revised on January 14, 1986 and February 14, 1986.

Brief description of amendments: These amendments revise the Station's common Technical Specifications (TSs) to support the operation of Oconee Unit 1 at full rated power during the upcoming Cycle 10. The amendments change the following areas: (1) Core Protection Safety Limits (TS 2.1); (2) Protective System Maximum Allowable Setpoints (TS 2.3); (3) Rod Position Limits (TS 3.5.2); and (4) Power Imbalance Limits (TS 3.5.2).

These amendments also make administrative changes to clarify the TSs.

Date of issuance: April 25, 1986.
Effective date: April 25, 1986.
Amendments Nos.: 147, 147 and 144.
Facility Operating Licenses Nos. DPR–36, DPR–47 and DPR–55. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 28, 1986 (51 FR 7161).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 25, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691.

Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: October 19, 1984 as supplemented by letters dated May 31, 1985, October 18, 1985, and February 7, 1986.
Brief description of amendments: The amendments: (1) Allow locked, sealed or secured valves, flanges and deactivated automatic valves, including some inside containment, to be verified as closed during cold shutdown on Unit 1; (2) delete a specific reference to a requirement for a cycling test every 92 days on containment isolation valves on Unit 1 and substitute a reference to measuring isolation times on containment isolation valves in accordance with applicable ASME Section XI requirements on Unit 1; (3) remove the column "Testable During Plant Operation" from Table 3.6–1 for Unit 1; (4) allow valves SM–8 and SM–10 (upper containment Grab Samples) to be opened intermittently under administrative controls during power operation on Unit 2: (5) correct valve designations in Table 3.6–1 inadvertently overlooked in Amendment 47 on Unit 2; and (6) remove a footnote on Table 3.6–1 which is no longer applicable for Units 1 and 2.
Date of issuance: April 23, 1986.
Effective date: April 23, 1986.
Amendments Nos.: 95 and 81.
Facility Operating Licenses Nos. DPR–58 and DPR–74. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 31, 1984 (49 FR 50805).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 23, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: January 21, 1986.
Brief description of amendments: The amendments revise the Technical Specifications as follows: In Tables 3.3–3 and 3.3–4, instrument numbers have been added for clarity, trip setpoints are now referenced to Table 3.3–6, and a statement added to indicate that the specification applies only during purge. In Tables 3.3–6 and 4.3–3, the instrument measurement ranges have been separated, the noble gas effluent monitors have been included by reference to the appropriate technical specification, the channel functional test and channel calibration have been better defined, and a statement added to indicate that the specifications apply only during purge. In Tables 3.3–12 and 3.3–13, instrument numbers have been added for clarity as has the statement that one monitor is required per train for the Service Water System effluent line, incorrect footnotes have been removed, and a note has been clarified that other requirements are for non-purging only. In Table 4.3–9, instrument numbers have been added. In Sections 6.12.1 and 6.12.2 for Unit 1, the wording is changed to be consistent with Unit 2 and the Standard Technical Specifications.
In Table 4.11–2, the term "charcoal filter" is being correctly identified and replaced with "iodine adsorbing media." In Table 3.12–1, the New Buffalo drinking water sample location is deleted. Editorial changes are made for Pages 3/4 12–3 and 6–21 and for several bases sections.
Date of issuance: April 22, 1986.
Effective date: April 22, 1986.
Amendments Nos.: 94 and 80
Facility Operating Licenses Nos. DPR–58 and DPR–74. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 26, 1986 (51 FR 6824).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 22, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: November 9, 1984, as supplemented January 18, 1985 and January 6, 1986.
Brief description of amendment: The amendment revises the Technical Specifications to add action statements and surveillance requirements for the fire protection features of the Duane Arnold Energy Center.
Date of issuance: April 24, 1986.
Effective date: 30 days from the date of issuance.
Amendment No.: 132.
Facility Operating License No. DPR–49. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12146).
The subsequent submittal dated January 6, 1986 provided clarifying language for fire watch rquirements.
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 24, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, Iowa 52401.

Kansas Gas and Electric Company, Kansas City Power and Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of application for amendment: January 20, 1986.
Brief description of amendment: The amendment modifies the Technical Specifications to implement the Relaxed Axial Offset Control mode of operation after fuel burnup of 800 megawatt days/metric ton of uranium is achieved.
Date of issuance: April 22, 1986.
Effective date: April 22, 1986.
Amendment No.: 1.
Facility Operating License No. NPF–42. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 20, 1986 (51 FR 9728).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 22, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: William Allen White Library, Emporia State University, Emporia, Kansas, and Washburn University School of Law, Topeka, Kansas.

Louisiana Power and Light Company, et al. Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of application for amendment: February 19 and 27, March 4 and 17, 1986.
Brief description of amendment: The amendment revises the Technical Specifications by delaying the performance of Type B and Type C local leak rate testing as rquired by Appendix J to 10 CFR Part 50 until the first refueling outage and by extending the first emergency diesel generator inspection interval until the first refueling outage and conducting subsequent inspections at intervals not to exceed 24 months.
Date of issuance: April 14, 1986.
Effective date: April 14, 1986.
Amendment No.: 4.
Facility Operating License No. NPF–38 Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 10, 1986 (51 FR 8281).
The Commission's related evaluation is contained in a Safety Evaluation dated April 14, 1986.
No significant hazards consideration comments were received: No.
Local Public Document Room location: University of New Orleans Library, Louisiana Collection, New Orleans, Louisiana 70122.

Mississippi Power & Light Company, Middle South Energy, Inc. South Mississippi Electric Power Association, Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: February 17, 1986.
Brief description of amendment: The amendment changes a Technical Specification to reduce the heat dissipation requirement for surveillance tests of the standby gas treatment system (SGTS) heaters. To demonstrate operability of the SGTS, the heaters would be required to dissipate 48 ±5.0 kilowatts instead of the presently required 50 ±5.0 kilowatts.
Date of issuance: April 23, 1986.
Effective date: April 23, 1986.
Amendment No.: 11.
Facility Operating License No. NPF–29. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 7, 1986 (51 FR 8054).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 23, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39145.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station Unit No. 2, Town of Waterford, Connecticut

Date of application for amendment: July 9, 1985.
Brief description of amendment: This amendment modifies the Technical Specifications by changing the definition of "Reportable Events" and by altering the reporting requirement as a result of changes to 10 CFR 50.72 and 10 CFR 50.73.
Date of issuance: April 9, 1986.
Effective date: April 9, 1986.
Amendment No.: 111.
Facility Operating License No. DPR–65. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** August 14, 1985 (51 FR 32787 at 32791).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 9, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of application for amendment: October 31, 1985.
Brief description of amendment: The amendment updated the snubber table listings to reflect the removal and addition of snubbers. The amendment also changed the surveillance requirements for the nuclear detector well cooling annulus exit air temperature detectors to make them consistent with the associated limiting condition for operation.
Date of issuance: April 24, 1986.
Effective date: Within 30 days of issuance.
Amendment No.: 96.
Facility Operating License No. DPR–40. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 4, 1985 (50 FR 49779 at 49788).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 24, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: August 27, 1985.
Brief description of amendments: Revise the Technical Specifications to change the Limiting Conditions for Operations and Bases related to battery sets and chargers.
Date of issuance: April 16, 1986.
Effective date: April 18, 1986.
Amendment Nos.: 6 and 4.
Facility Operating Licenses Nos. DPR–80 and DPR–82: Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** October 23, 1985 (50 FR 43031).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 16, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

Pennsylvania Power and Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: July 22, 1983, as supplemented on July 26, August 2, 1983, as further supplemented with additional information on November 22, 1983, June 21 and November 13, 1984.
Brief description of amendment: This amendment changes the Unit 1 Technical Specifications to revise the Main Stream Line Radiation-High Setpoint from three times normal background to seven times normal background. The purpose of the Technical Specification change increasing the setpoint for Main Stream Line Radiation-High was to prevent unwarranted reactor scrams caused by N–16 spikes in the main stream line. The change was initiated by PP&L to correct operating problems experienced at Susquehanna Unit 1 with the condensate polishing system, which sometimes resulted in the releases of resin fines (impurities) to the reactor vessel. These impurities produced a transient increase in N–16 activity in the stream, which caused radiation levels to exceed the setpoint. As a result the Pennsylvania Power and Light Company requested a setpoint change to provide

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additional margin against unnecessary main steam isolations. Subsequent to this request, the problem with the condensate polishing system was corrected by a design modification.

Date of issuance: April 15, 1986.
Effective date: April 15, 1986.
Amendment No.: 59.
Facility Operating License No. NPF-14: Amendment revised the Technical Specifications.
Dates of initial notice in Federal Register: August 21, 1985 (48 FR 39540).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 15, 1986.

No comments were received regarding the Commission's proposed no significant hazards consideration determination.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Power Authority of the State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: February 17, 1984, and October 4, 1984, as supplemented February 12, 1986.
Brief description of amendment: The amendment revises the Technical Specifications to incorporate requirements related to NUREG-0737 and Generic Letter 83-37 dated November 1, 1983.
Date of issuance: April 18, 1986.
Effective date: April 18, 1986.
Amendment No.: 65.
Facilities Operating License No. DPR-64: Amendment revised the Technical Specifications.
Date of initial notice in Federal Register: April 23, 1985, (50 FR 16010) and December 4, 1985 (50 FR 49791).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 18, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: April 15, 1985, as supplemented September 6, 1985.
Brief description of amendment: This amendment revises the periodic testing requirements of the diesel generators.
Date of issuance: April 17, 1986.
Effective date: April 17, 1986.
Amendment No.: 81.
Facility Operating License No. DPR-54: Amendment revised the Technical Specifications.
Date of initial notice in Federal Register: November 20, 1985 (50 FR 47870).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 17, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California 95814.

Southern California Edison Company, et al. Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendment: January 24, 1986.
Brief description of amendment: The amendments revise Technical Specifications 4/4.9.8.1 and 4/4.9.8.2 to reduce the Mode 6 shutdown cooling system flow requirement from 4000 gpm to 2200 gpm.
Date of issuance: April 18, 1986.
Effective date: April 18, 1986, to be fully implemented within 30 days.
Amendment Nos.: 45 and 34.
Facility Operating License No. NPF-10 and NPF-15: Amendment revised the Technical Specifications.
Dates of initial notice in Federal Register: March 12, 1986 (51 FR 8602).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 18, 1986.

No significant hazards consideration comments were received. No.

Local Public Document Room Location: General Library, University of California at Irvine, Irvine, California 92713.

Toledo Edison Company and the Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: September 1, 1983, as revised January 30, 1985.
Brief description of amendment: This amendment revises testing requirements for hydraulic snubbers and adds requirements for mechanical snubber operability and testing. The amendment also deletes a listing of safety-related snubbers.
Date of issuance: April 24, 1986.
Effective date: April 24, 1986.
Amendment No. 94.
Facility Operated License No. NPF-3. Amendment revised the Technical Specifications.
Date of initial notice in Federal Register: April 23, 1985 (50 FR 16018).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 24, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Virginia Electric and Power Company, Dockets Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of application for amendments: October 28, 1985, as supplemented April 1, 1986.
Brief description of amendments: These amendments increase the maximum allowable K-effective during refueling conditions from the current value of 0.90 to 0.95, and reduce the frequency of sampling for boron concentration from once every 8 hours, to once every 72 hours.
Date of issuance: April 22, 1986.
Effective date: April 22, 1986.
Amendment Nos. 106 and 105.
Facility Operated License Nos. DPR-32 and DPR-37: Amendment revised the Technical Specifications.
Date of initial notice in Federal Register: March 12, 1986 (51 FR 8603).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 24, 1986.

No significant hazards consideration comments received: No.

Local Public Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see: (1) The application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By June 6, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Project Director)*: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Alabama Power Company, Docket No. 50-364, Joseph M. Farley Nuclear Plant, Unit No. 2, Houston County, Alabama

Date of application for amendment: April 18, 1986.

Brief description of amendment: The amendment deletes the fuel rod weight limit in Technical Specification 5.3.1.

Date of issuance: April 22, 1986.

Effective date: April 22, 1986.

Amendment No. 56.

Facility Operating License No. NPF-8. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment and final determination of no significant hazards consideration are contained in a Safety Evaluation dated April 22, 1986.

Attorney for Licensee: Ernest L. Blake, Jr., Esquire, 1800 M Street, NW., Washington, DC 20036.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Dated at Bethesda, Maryland, this 30th day of April 1986.

For The Nuclear Regulatory Commission.

Thomas M. Novak,

Acting Director, Division of PWR Licensing-A, Office of Nuclear Reactor Regulation.

[FR Doc. 86-10031 Filed 5-6-86; 8:45 am]

BILLING CODE 7590-01-M

Florida Power Corp. et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-72, issued to Florida Power Corporation (the licensee), for operation of the Crystal River Unit No. 3 Nuclear Generating Plant (CR-3) located in Citrus County, Florida.

The proposed amendment would permit plant operation with the reactor coolant pump supports redesigned in accordance with the recently noticed amendment to General Design Criterion 4 (GDC-4), 10 CFR Part 50, Appendix A (51 FR 12502), which will be effective May 12, 1986.

The proposed amendment would be in response to the licensee's application for amendment dated April 24, 1986, which requested that the previous exemption request dated February 1, 1985, as supplemented by several additional submittals, be considered an amendment request as required by the supplementary information in the notice for the amended GDC-4. It was further requested that noticing of this amendment be treated as an emergency since insufficient time exists for the Commission's usual 30-day notice without extending the current shutdown.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The amended GDC-4 states that "the dynamic effects associated with postulated pipe ruptures of primary coolant loop piping in pressurized water reactors may be excluded from the design basis when analyses demonstrate the probability of rupturing such piping is extremely low under design basis conditions." Based on the licensee's submittals and the Commission's review to date of these submittals, the advanced fracture mechanics techniques employed provide assurance that flaws in primary system piping will be detected before they reach a size that could lead to unstable crack growth. Therefore, the probability of large pipe breaks in the primary coolant system is sufficiently low such that dynamic effects associated with postulated pipe breaks need not be a design basis. In addition, based on the review to date, the revised design for the reactor coolant pump supports adequately considers all remaining design basis loads. The accident mitigation features (e.g., emergency core cooling system, containment) of the plant are not affected by the proposed amendment. Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

Based on the Commission's review to date, the revised design for the reactor coolant pump supports adequately considers all remaining design basis loads. The proposed change introduces no new mode of plant operation. Therefore, operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

Based on the Commission's review to date of the licensee's submittals, Code design criteria for the reactor coolant piping will not be exceeded. The revised design of the reactor coolant pump supports will result in improved support system reliability and may therefore improve overall safety margins for the plant. Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

Therefore, based on these considerations and the three criteria given above, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission has determined that failure to act in a timely way would result in extending the present unplanned outage. Therefore, the Commission has insufficient time to issue its usual 30-day notice of the proposed action for public comment.

If the proposed determination becomes final, an opportunity for a hearing will be published to the Federal Register at a later date and any hearing request will not delay the effective date of the amendment.

If the the Commission decides in its final determination that the amendment does involve a significant hazards consideration, a notice of opportunity for a prior hearing will be published in the Federal Register and, if a hearing is granted, it will be held before any amendment is issued.

The Commission is seeking public comments on this proposed determination of no significant hazards consideration. Comments on the proposed determination may be telephoned to John F. Stolz, Director, PWR Project Directorate No. 6, by collect call to 301-492-7286 or submitted in writing to the Rules and Records Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory the Commission, Washington, DC 20555. All comments received by May 19, 1986, will be considered in reaching a final determination. A copy of the application may be examined at the the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Crystal River Public Library, 668 NW. First Avenue, Crystal River, Florida 32629.

Dated at Bethesda, Maryland, this 2nd day of May 1986.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, PWR Project Directorate No. 6, Division of PWR Licensing-B.

[FR Doc. 86-10387 Filed 5-6-86; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Mainstem Passage Advisory Committee; Meeting

AGENCY: The Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council)

ACTION: Notice of meeting.
Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Mainstem Passage Advisory Committee of the Mainstem Passage Advisory Committee to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1-4. Activities will include:

- Bypass system development and schedules at mainstem Corps dams
- Consultation on Section 404 amendment applications
- FISHPASS model future sensitivity analysis
- Other
- Public comment.

DATE: May 16, 1986. 9:00 a.m.

ADDRESS: The meeting will be held in the Council's Meeting Room, 850 SW. Broadway, Suite 1100, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Peter Paquet, 503-222-5161.

Edward Sheets,

Executive Director.

[FR Doc. 86-10149 Filed 5-6-86; 8:45 am]

BILLING CODE 0000-00-M

POSTAL RATE COMMISSION

[Order No. 660; Docket No. A86-17]

Wallpack Center, New Jersey 07881 (George W. Schaeffer, Jr., Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule

Issued: April 30, 1986.

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; Bonnie Guiton, Patti Birge Tyson.

Docket number: A86-17.

Name of affected post office: Wallpack Center, New Jersey 07881.

Name(s) of petitioner(s): George W. Schaeffer, Jr.

Type of determination: Closing.

Date of filing of initial appeal papers: April 25, 1986.

Categories of issues apparently raised

1. Effect on postal services. [39 U.S.C. 404(b)(2)(C)]

Other legal issues may be disclosed by the record when it is filed; or conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders

(A) The record in this appeal shall be filed on or before May 12, 1986.

(B) The Secretary shall publish this Notice and Order and Procedural Schedules in the Federal Register.

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

Wallpack Center, New Jersey 07881

April 25, 1986—Filing of Petition
April 30, 1986—Notice and Order of Filing of Appeal
May 20, 1986—Last day of filing of petitions to intervene [see 39 CFR 3001.111(b)].
May 30, 1986—Petitioner's Participant Statement or Initial Brief [see 39 CFR 3001.115 (a) and (b)].
June 19, 1986—Postal Service Answering Brief [see 39 CFR 3001.115(c)].
July 7, 1986—Petitioners' Reply Brief should petitioners choose to file one [see 39 CFR 3001.115(d)].
July 14, 1986—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR 3001.116].
August 22, 1986—Expiration of 120-day decisional schedule [see 39 U.S.C. 404(b)(5)].

[FR Doc. 86-10191 Filed 5-6-86; 8:45 am]

BILLING CODE 7715-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Pasco County, FL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Pasco County, Florida.

FOR FURTHER INFORMATION CONTACT: D.B. Luhrs, District Engineer, Federal Highway Administration, 227 N. Bronough Street, Room 2015, Tallahassee, Florida 32302, Telephone: (904) 681-7239.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation will prepare an Environmental Impact Statement (EIS) for a proposal to improve US 19 (SR 55) in Pasco County, Florida. The proposed improvement would involve the upgrading of US 19 (SR 55) from a six-lane divided arterial to a six-lane expressway with frontage roads from north of Alternate US 19 to north of Fivay Road, a distance of 13.2 miles. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand. Also included in this proposal is the reconstruction of the existing Pithlachascotee River bridge and new interchanges at Darlington Road, Moog Road, C-54, Sunset Boulevard/Marine Parkway, Main Street, Ridge Road, Embassy Boulevard, Jasmine Boulevard, SR 52, and Fivay Road.

Alternatives under consideration include (1) taking no action; and (2) widening the existing highway to provide a six-lane expressway with frontage roads, plus interchanges at major crossroads and grade separations at minor crossroads. Design variations of the widened portion of the roadway and the frontage road locations are being studied with the "build" alternative.

Federal, State and local agencies have contributed early coordination comments through the State advance notification process. Additionally, a project planning team developing this project has contacted State, Federal, County and local agencies for information relative to land use planning, water quality analysis, and local planning needs. A public information workshop was held February 5, 1986, and a project

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information center was opened to the public on February 19, 26, and March 5, 12, 19, 26, 1986. In addition, a public hearing will be held. Public notice will be given for the time and place of the public hearing. The draft EIS will be made available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning this proposed action and the EIS should be directed to FHWA at the address provided above.

Issued on: April 29, 1986.

P.E. Carpenter,

Division Administrator, Tallahassee, Florida.

[FR Doc. 86-10150 Filed 5-6-86; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Public Proceeding Regarding Noncompliance Investigation; 1984-85 Gazelle Passenger Cars

Pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (Pub. L. 93-492, 88 Stat. 1470), 15 U.S.C. 1412, the Associate Administrator for Enforcement of the National Highway Traffic Safety Administration has made an initial determination that all Gazelle passenger cars manufactured by Vintage Reproductions, Inc. from October 1, 1983, to November 1, 1985, fail to comply with 49 CFR 571.208 Federal Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection.* Specifically, the Associate Administrator has found that seat belt assemblies installed in the vehicles fail to incorporate emergency or automatic locking retractors.

A public proceeding will be held at 9:00 a.m. on Tuesday, June 3, 1986, in Room 2230 of the Department of Transportation Headquarters, 400 Seventh Street SW., Washington, DC, at which time Vintage Reproductions, Inc. will be afforded an opportunity to present data, views and arguments to establish that the alleged noncompliance in these vehicles does not exist or is not safety related.

Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral presentations are requested to notify Ms. Gail Willis, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, Room 6113, Nassif Building, 400 Seventh Street SW., Washington, DC 20590 (telephone 202-426-2832) before close of business on Tuesday, May 27, 1986.

The agency's investigative file in this matter is available for public inspection during working hours (7:45 a.m. to 4:15 p.m.) in the Technical Reference Library, Room 5109, 400 Seventh SW., Washington, DC 20590.

(Sec. 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1412); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on May 2, 1986.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 86-10227 Filed 5-6-86; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP 86-06; Notice 1]

Motor Vehicle Safety Standards; Marina Mobili, Inc.; Receipt of Petition for Determination of Inconsequential Noncompliance

Marina Mobili, Inc. of Moonachie, New Jersey, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.115, Motor Vehicle Safety Standard No. 115, *Vehicle Identification Number*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This Notice of receipt of a petition is published under Section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraphs S3 and S4.2 of Federal Motor Vehicle Standard No. 115, *Vehicle Identification Number*, give the definition of vehicle identification number and requirement of the standard, respectively. "A vehicle identification number is a series of Arabic numbers and Roman letters which is assigned to a motor vehicle for identification purposes." Standard No. 115 requires that the vehicle identification number consist of seventeen (17) characters.

The petitioner determined that 50 mopeds (motor driven cycles) manufactured in 1981 do not comply with Standard No. 115 requirements because of the use of an abbreviated vehicle identification number.

Marina Mobili stated that, due to the small number of Negrini mopeds involved, it believes the abbreviated vehicle identification number on these vehicles is an inconsequential noncompliance as it relates to motor vehicle safety.

Marina Mobili also argued that recalls would have detrimental effects because:

a. "The original certification label contains the month and year of manufacture as well as the vehicle identification number. The new labels would have to be sent out with the date of manufacture space blank, making it necessary for the customer to imprint this information onto the new certification label.

b. Most Department of Motor Vehicle Offices would become suspect of a moped having been stolen after the old certification plate had been removed and a new label installed.

c. Some of the Gazelle III mopeds affected by the noncompliance are being used in States that require moped registration. These units would already be registered under the original abbreviated vehicle identification number. Changing the vehicle identification number on these units would create a great deal of confusion at the various Department of Motor Vehicle Offices and in turn, create problems for the consumer."

Interested persons are invited to submit written data, views and arguments on the petition of Marina Mobili, Inc., described above. Comments should refer to the Docket Number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: June 6, 1986.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on May 2, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86-10190 Filed 5-6-86; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP85-15; Notice 2]

Vintage Reproductions, Inc. Denial of Inconsequential Noncompliance

This notice denies the petition by Vintage Reproductions, Inc., of North Miami, Florida, to be exempted from the notification and remedy requirments of the National Traffic and Motor vehicle Safety Act (15 U.S.C. 1361 *et seq.*) for an apparent noncompliance with 49 CFR 571.208, Motor Vehicle Safety Standard No. 208, *Occupant Restraint Systems.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on November 4, 1985, and an opportunity afforded for comment (50 FR 45848).

Vintage is the manufacturer of a replicar known as the Gazelle, which it also supplies in kit form. In 1982, it was granted NHTSA Exemption 81-1 from complaince with paragraph S7.1 of Motor Vehicle Safety Standard No. 208, which requires passenger restraint systems to be equipped with automatic seat belt retractors. The exemption was for a period of one year, and expired on October 1, 1983. Vintage did not petition for a renewal of the exemption. In February 1985, during a visit to Vintage's production facilities, NHTSA inspectors discovered that the company had continued to produce Gazelles without automatic seat belt retractors after the expiration of its exemption, in apparent violation of the National Traffic and Motor Vehicle Safety Act (Agency File CIR 2398). Alleging that in spite of its continued efforts it has been unable to find a retractor of a size suitable for the configuration of the Gazelle, Vintage petitioned for a 3-year exemption from paragraph S7.1 on grounds that complaince would cause it substantial economic hardship. Notice appeared in the **Federal Register** on October 21, 1985 (50 FR 42834), with a due date for comments of November 20, 1985. Subsequently, Vintage filed the petition for inconsequentiality under consideration in this notice.

In support of its claim that the noncompliance is inconsequential as it relates to motor vehicle safety, Vintage says that were automatic seat belt retractors required to be installed in the front seat, "the goal of increased safety would be defeated, since the passenger would, in that case, be required to pull the seat belt around him or her before closing the door." Given the current production level of 4 vehicles per month, Vintage argues that the noncompliance will have no significant effect of vehicle-related deaths and injuries. The petitioner also believes that its vehicles are driven, on an average, only 2,000 miles per year, and thus are less likely to be involved in accidents. It is not aware of any "report instance of factory-completed Gazelle causing injury or fatality." Further because the belt must lie upon the seat and cannot be tucked away, the passenger is encouraged to use it. The noncomplaince covers 265 vehicles.

No comments were received on the petitioner.

By companion notices published today, the agency is denying Vintage's petition for a new exemption from Standard No. 208. It is also announcing its initial determination that all Gazelles manufactured on and after October 1, 1983, fail to conform to Standard No. 208 and schaduling a public proceeding at which Vintage will be afforded an opportunity to present data, views, and arguments with respect to the agency's determination. Restraints with automatic-locking retractors have been required in passenger cars since January 1, 1972, long before the design and manufacture of the first Gazelle. NHTSA does not regard this as an insignificant requirement of its occupant protection standard. While NHTSA may have at one time been willing to accommodate Vintage as a small manufacturer, it did not intend that such accommodation result in a permanent exemption from the requirement. Vintage's obligation was to afford the full protection specified by Standard No. 208 to passengers in Gazelles manufactured after the termination of the one-year exemption period that petitioner itself requested. NHTSA now intends to insure that this obligation is met.

Petitioner has failed to meet its burden of persuasion that the noncomplaines herein described with Standard No. 208 is inconsequential as it relates to motor vehicle safety, and its petition is denied.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); (delegations of authority at 49 CFR 1.50).

Issued on: April 29, 1986.

Diane K. Steed,

Administrator.

[FR Doc. 86-10228 Filed 5-6-86; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. EX-81-1; Notice 5]

Vintage Reproductions, Inc.; Denial of Petition for Renewal of Temporary Exemption From Federal Motor Vehicle Safety Standards Nos. 201, 208, 214; Denial of Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 208

This notice denies the petition by Vintage Reproductions, Inc., of North Miami, Florida, in conjunction with Classic Motor Carriages, Inc., for the renewal of a temporary exemption of its Gazelle model from certain Federal motor safety standards on grounds of substantial economic hardship. A 3-year exemption from these standards was previously granted on October 14, 1982 (47 FR 46047).

Notice of receipt of the petition was published on October 21, 1985, and an opportunity was afforded for comment (50 FR 42834).

Vintage Reproductions has assembled less than 100 Gazelles in the 12-month period prior to the filing of its petition. The Gazelle is an open passenger car intended to resemble a 1929 Mercedes SSK. The company estimated that it had a net income of over $368,000 in its fiscal year ending March 31, 1985. To require it to comply with the four safety standards for which it seeks exemption would, in its view, create substantial economic hardship. A summary of its request and explanations follows:

Standard No. 201—Petitioner is unable to provide the sun visor required by paragraph S3.4, presumably because its open vehicle lacks structure above the windshield frame. The Gazelle has a padded roll along the entire perimeter of the compartment and dash board, and in a collision, a belted passenger "will not • • • be pitched forward in an arch beyond the padded dash".

Standard No. 208—The present door on the Gazelle is too thin to permit compliance with S4.1.3 which requires "a locking mechanism with an operating means in the interior of the vehicle". Compliance would require reengineering "a door of much greater depth". The petitioner argues that there is a reduced likelihood of a passenger being ejected in a crash because the seats are placed to the rear of the doors.

Standard No. 214—To require conformance with the side door strength standard would result in a cost increase far in excess of the $300 per vehicle petitioner estimated in original 1981 petition but, in the petitioner's view, passengers are protected from side impacts because of the rearward location of the seat, and its placement

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parallel with the all steel main frame which is 15 to 17 inches above ground level.

Standard No. 208—Petitioner was previously provided a 1-year exemption from three aspects of this standard, and its exemption expired on October 1, 1983. At that time, it had achieved compliance with two of the exempted requirements. However, it did not achieve compliance with S7.1 which requires installation of restraints incorporating emergency locking or automatic locking retractors, although it had stated that it would redesign the vehicle frame by October 1, 1983 so that such retractors could be used. From October 1, 1983 on, it manufactured Gazelles that do not meet S7.1 and it continued to certify, in the absence of an exemption, that the Gazelle is exempt from these requirements. These potential violations of 15 U.S.C. 1397(a)(1)(A) and (C) are under investigation by the agency (CIR 2399). Petitioner avers that the envelope size of current retractors makes installation difficult because of interference with the body and the proximity of the retractor to the side.

The exemptions would be for a period of 3 years. In support of its petition, Vintage argued that a grant would be in the public interest by providing continuing employment to its 300-person workforce, whose monthly payroll of $266,000 "provides a needed boost to the otherwise destitute local economy". Sales of the Gazelle in manufactured (as opposed to kit) form is represented as providing approximately 28% of the gross revenues of the company and a denial would have ramifications throughout the community. Petitioner argued that the exemptions would be consistent with the objectives of the National Traffic and Motor Vehicle Safety Act in that a limited number of exemptions for a small number of vehicles will have an inconsequential effect upon the traffic safety picture of the nation as a whole. Granting the exemption would be consistent with the intent of the hardship provision of 15 U.S.C. 1410.

Three comments were received on the petition, the Hialeah Miami Springs Northwest Dade Area Chamber of Commerce, and Jobs for Miami supported it. Ms. Patricia Hill opposed it, basically on the grounds that Vintage had not made a good faith effort to conform.

In response to a petition of this nature, the Administrator pursuant to 15 U.S.C. 1410 (a)(1)(A) may temporily exempt a manufacturer from one or more Federal motor vehicle safety standards upon a finding "that compliance would cause such manufacturer substantial economic hardship and that the manufacturer has, in good faith, attempted to comply with each standard from which it requests to be exempted". Pursuant to 1410(a)(2), a further finding must be made that the exemption "would be consistent with the public interest and the objectives of the [National Traffic and Motor Vehicle Safety] Act." In this instance, the agency has been unable to find either that to require compliance would cause Vintage substantial economic hardship or that the manufacturer has made a good faith effort to comply with the standards while its previous exemption was in effect. Lacking such findings, the agency cannot further find that exemptions would be in the public interest and consistent with objectives of the Act.

With the narrowed exception of Standard No. 208, petitioner's requests for an extension of its earlier exemptions are basically identical to its original request made in 1981. At the time of the earlier petition, Vintage had manufactured less than 100 Gazelles since commencing assembly of it in 1979, and the company had an unaudited net loss of $12,767 in the fiscal year prior to filing its petition. In its 1981 petition, the company said that to conform its product to Standard No. 214 would result in a coat increase of $300 per vehicle. Since the time of the 1981 petition, production of the Gazelle has increased to almost 100 units a year, and the company had an estimated net profit exceeding $388,000 in its latest fiscal year with a cumulative net profit of over $800,000 for the past four fiscal years. It now estimates that the cost to conform with Standard No. 214 is "far in excess" of $300. It appears to the agency that while the exemptions were in effect, funds became available that could have been devoted to compliance efforts, specifically that the Gazelle door and body could have been simultaneously reengineered to conform to Standards Nos. 206 and 214, and that petitioner's estimated cost increase of $300 or over per vehicle is relatively insignificant given the manufacturer's offering price of $25,000 for the Gazelle. But the company's petition was silent on its efforts, if any, to meet Standard No. 206 while the exemption was in effect, and with respect to No. 214, it merely said without elaboration that it had continued to examine the problem since 1982. There was no discussion of alternate means of compliance considered, and the reason for rejection of each. Thus, there was no basis upon which a finding could be made that Vintage had in good faith attempted to bring its vehicles into compliance during the pendency of the exemption, or that compliance would cause it substantial economic hardship.

Vintage was initially granted relief for one year from three requirements of Standard No. 208 upon its representation that it would bring its cars into compliance within one year by redesigning the frame. At the end of that year, Vintage had succeeded with respect to two of these requirements without apparent redesign in the frame, but it continued to produce Gazelles equipped with occupant restraints that did not meet the automatic-retractor requirement of Standard No. 208, and it did so until representatives of the agency visited its premises and discovered the continuing noncompliance. In mitigation, Vintage has argued that it has made a diligent search for appropriate retractors but has found none, but its petition contains nothing to substantiate the statement. During the pendency of the petition, NHTSA suggested to Vintage that retractors used in the Volkswagen Jetta and Datsun B-210 passenger cars might be appropriate. Vintage disagreed saying that installation of the Jetta retractor would result "in the automatic push button release facing inward, a situation which Vintage believes would be unsafe". To mount it with the button outward would require a modification "of the manner in which the bar that attaches the belt to the Gazelle frame is mounted," which Vintage avers, would "lessen the structural integrity of attachment". But Vintage did not explain why an inward facing button would be unsafe, or why the structural integrity would be be lessened. With respect to the Datsun B-210, NHTSA provided a picture showing a rear seat belt retractor located on the belt itself. Vintage found the Datsun belt unsuitable because among other things "the retractor used in the Datsun B-210 is a shoulder harness (three point), which cannot be installed in an open roadster like the Gazelle". This manifestly incorrect statement causes NHTSA to question whether Gazelle has ever made a good faith attempt to meet this standard. The Datsun system that NHTSA tried to call to Vintage's attention was a two-point system. Further, it is not true that a three point system cannot be installed in an open roadster though this system is not required by Standard No. 208. Therefore, NHTSA cannot find either that the company has made a good faith attempt to conform to Standard No. 208, or that compliance would cause it substantial economic hardship. In companion notices published today, the agency is denying Vintage's petition that its noncompliance with Standard No. 208 subsequent to October 1, 1983, be deemed inconsequential as it relates to motor vehicle safety. It is also announcing its initial determination that Gazelles manufactured since that date fail to conform to Standard No. 208 and scheduling a public proceeding on the matter.

In summary, petitioner has failed in its burden of persuasion that compliance with Standard No. 208, and 214 would cause it substantial economic hardship, or that it has made a good faith effort to meet these standards. Because the agency is unable to make the findings required by 15 U.S.C. 1410(a)(1)(A), it is further unable to find that an exemption would be in the public interest and consistent with the objective of the Act. In consideration of the foregoing, the agency hereby denies the petition by Vintage Reproductions for temporary exemption from the Federal Motor Vehicle Safety Standards Nos. 206, 208, and 214. The agency makes no finding with respect to the manufacturer's petition for exemption from Standard No. 201. Because the petition was timely filed, purusant to 49 CFR 555.8(e), this means that the previous exemption from Standard No. 201 does not terminate until the agency grants or denies Vintage's petition for renewal of it.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.50)

Issued on April 29, 1986.

Diane K. Steed,
Administrator.

[FR Doc. 86-10229 Filed 5-6-86; 8:45 am]
BILLING CODE 4910-59-M

Saint Lawrence Seaway Development Corporation

Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 3:00 p.m., June 18, 1986, at the Corporation's Administration Headquarters, Room 5424, 400 Seventh Street SW., Washington, DC. The agenda for this meeting will be as follows: Opening Remarks, Consideration of Minutes of Past Meeting; Review of Programs; Business; Closing Remarks.

Attendance at meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact not later then June 12, 1986, Joan C. Hall, Advisory Board Liaison, Saint Lawrence Seaway Development Corporation, 400 Seventh Street SW., Washington, DC 20590; 202/426-3574.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC, on May 5, 1986.

Joan C. Hall,
Advisory Board Liaison.

[FR Doc. 86-10147 Filed 5-6-86; 8:45 am]
BILLING CODE 4910-61-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 86-95]

Reimbursable Service—Excess Cost of Preclearance Operation

February 2, 1986.

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning April 27, 1986.

Installation	Biweekly excess cost
Montreal, Canada	$27,072
Toronto, Canada	35,400
Kindley Field, Bermuda	19,432
Nassau, Bahama Islands	32,999
Vancouver, Canada	16,999
Winnipeg, Canada	4,104
Freeport, Bahama Islands	15,607
Calgary, Canada	10,121
Edmonton, Canada	6,908

D. Lynn Gordon,
Acting Comptroller.

[FR Doc. 86-10194 Filed 5-6-86; 8:45 am]
BILLING CODE 4820-02-M

Internal Revenue Service

[Delegation Order No. 67 (Rev. 16)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The specific authorization to sign the name of, or on behalf of, James I. Owens, Acting Commissioner of Internal Revenue. The text of the Delegation Order appears below.

EFFECTIVE DATE: May 1, 1986.

FOR FURTHER INFORMATION CONTACT: Melva E. Scruggs, PM:S:FM:I., 1111 Constitution Avenue NW., Room 3526, Washington, DC 20224, (202) 566-4273 (Not a Toll-Free telephone number).

Martha M. Seeman,
Chief, Information and Productivity Improvement Branch.

Order No. 67 (Rev. 16)
Effective date: May 1, 1986
Signing the Commissioner's Name or on his Behalf

Effective 12:01 A.M. May 1, 1986, all outstanding authorizations to sign the name of, or on behalf of, Roscoe L. Egger, Jr., Commissioner of Internal Revenue, are hereby amended to authorize the signing of the name of, or on behalf of, James I. Owens, Acting Commissioner of Internal Revenue.

Delegation Order No. 67 (Rev. 15) effective March 14, 1981 is superseded.

Dated: May 1, 1986.

Approved:

James I. Owens,
Acting Commissioner.

[FR Doc. 86-10247 Filed 5-6-86; 8:45 am]
BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on Friday, May 23, 1986 at 2:00 p.m. the Salt Lake City Regional Office Station Committee on Educational Allowances shall at Room 5102, 125 South State Street, Salt Lake City, Utah 84147 conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in New Directions, Inc., P.O. Box 6643, Salt Lake City, Utah, 84105, should be discontinued as provided in 38 CFR 21.4134, because of a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: April 29, 1986.

Douglas Wadsworth,
Director, VA Regional Office.

[FR Doc. 86-10148 Filed 5-6-86; 8:45 am]
BILLING CODE 8320-01-M

VOL 51 ISS 88 MY 7 1986 UMI

Sunshine Act Meetings

Federal Register
Vol. 51, No. 88
Wednesday, May 7, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMISSION ON CIVIL RIGHTS

PLACE: 1121 Vermont Avenue, NW., Washington, DC, Room 512.

DATE AND TIME: Friday May 9, 1986, 9:00 a.m.–5:00 p.m.

STATUS OF MEETING: Open to the public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda
II. Approval of Minutes of Last Meeting
III. Staff Director's Report for April
  A. Status of Funds
  B. Personnel Report
  C. Office Directors' Reports
IV. Briefing on Activities of Lyadon LaRouche Organizations Affecting the Civil Rights of Racial and Religious Minorities
V. Discussion of Clearinghouse Report, "Recent Activity Against Citizens and Residents of Asian Descent"
VI. Civil Rights Developments in the Southern Region

FOR FURTHER INFORMATION PLEASE CONTACT: Barbara Brooks, Press and Communications Division (202) 376–8314.

Donald M. Stocks,
Assistant Soliciter.

[FR Doc. 86–10306 Filed 5–5–86; 12:36 pm]
BILLING CODE 6335–01–M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 2, 1986.

TIME AND DATE: 10:00 a.m., Thursday, May 1, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: In addition to the previously announced item, the Commissioners also discussed the following.

2. Westmoreland Coal Company, Docket No. WEVA 82–152–R, 82–366.

It was determined by unanimous vote of Commissioners that this item be included in the meeting and that no earlier announcement of the addition was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen, (202) 653–5629.

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 86–10301 Filed 5–5–86; 11:23 am]
BILLING CODE 6735–01–M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 2, 1986.

TIME AND DATE: 10:00 a.m., Thursday, May 8, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Jones & Laughlin Steel Co., Vesta Mining Company, Docket No. PENN 81–96–R. (Issues include consideration of the pre-shift examination requirements of 30 CFR 75.303 as applied to coal-carrying beltlines and the entries in which they are located.)

It was determined by a unanimous vote of Commissioners that a meeting be held on this item and that no earlier announcement of the meeting was possible.

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a) and § 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629.

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 86–10302 Filed 5–5–86; 11:24 am]
BILLING CODE 6735–01–M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 2, 1986.

TIME AND DATE: 10:00 a.m., Thursday, May 15, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Secretary of Labor on behalf of Donald R. Hale v. 4–A Coal Co., Inc., Docket No. VA 85–29–D. (Issues include whether the administrative law judge properly dismissed the Secretary's discrimination complaint.)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a)(3) and § 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629.

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 86–10303 Filed 5–5–86; 11:25 am]
BILLING CODE 6735–01–M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 2, 1986.

TIME AND DATE: 10:00 a.m., Thursday, May 22, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Consolidation Coal Co., Docket No. WEVA 82–209–R. (Issues include whether the administrative law judge properly concluded that a violation of 30 CFR 75.100(a), a mandatory health standard dealing with the control of respirable dust in underground coal mines, was "significant & substantial".)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a)(3) and § 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen. (202) 653–5629.

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 86–10304 Filed 5–5–86; 11:26 am]
BILLING CODE 6735–01–M

6

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 2, 1986.

TIME AND DATE: 10:00 a.m., Thursday, May 29, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Secretary of Labor and behalf of Michael Hogan and Robert Ventura v. Emerald Mines Corp., Docket No. PENN 83–141–D. (Issues include whether the administrative law judge properly dismissed the Secretary's discrimination complaint.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629.

Jean H. Ellen,
Agenda Clerk,

[FR Doc. 86–10305 Filed 5–5–86 11:27 am]
BILLING CODE 6735–01–M

7

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, May 12, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Street, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeing, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 2, 1986.

James McAfee,
Associate Secretary of the Board.

[FR Doc. 86–10224 Filed 5–2–86 8:45 am]
BILLING CODE 6210–01–M

8

INTERNATIONAL TRADE COMMISSION

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Tuesday, May 13, 1986.

CHANGES IN THE MEETING: Item 5 is corrected to read as follows:

5. Investigations 701–TA–273 [Preliminary] and 731–TA–320/325 [Preliminary]—(Certain unfinished mirrors from Turkey, Belgium, Federal Republic of Germany, Italy, Japan, Portugal, and the United Kingdom)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, 202/523–0161.

Kenneth R. Mason,
Secretary.

May 2, 1986.

[FR Doc. 86–10231 Filed 5–2–86; 4:15 pm]
BILLING CODE 7020–02–M

9

INTERNATIONAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 15719.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Tuesday, April 29, 1986.

CHANGES IN THE MEETING: Change of location for Commission meeting from Room 117 to Room 331, 701 E. Street, NW., Washington, DC.

In conformity with 19 CFR 201.37(b), Commissioners Stern, Liebeler, Eckes, Lodwick, Rohr and Brunsdale determined that Commission business required the change in location of the meeting, affirmed that no earlier announcement of the change to the agenda was possible, and directed the issuance of this notice at the earliest practicable time. There are no other changes to the agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, 202/523–0161.

Kenneth Mason,
Secretary.

April 29, 1986.

[FR Doc. 86–10232 Filed 5–2–86; 4:15 pm]
BILLING CODE 7020–02–M

10

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Tuesday, May 13, 1986 at 11:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and Complaints.
5. Investigations 701–TA–320/325 [Preliminary]—(Certain unfinished mirrors from Turkey, Belgium, Federal Republic of Germany, Italy, Japan, Portugal, and the United Kingdom)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

Kenneth R. Mason,
Secretary.

April 29, 1986.

[FR Doc. 86–10233 Filed 5–2–86; 4:15 pm]
BILLING CODE 7020–02–M

11

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Previously Held Emergency Meeting

TIME AND DATE: 4:25 p.m., Friday, May 2, 1986.

PLACE: 1776 G Street, NW., Washington, DC, 6th Floor

STATUS: Closed.

MATTER CONSIDERED:

1. Conservatorship.

The Board unanimously voted that the Agency business required that a meeting be held with less than the usual seven days advance notice.

The Board unanimously voted to close the meeting under exemptions (8) and (9)(A)(ii). The General Counsel certified that the meeting could be closed under those exemptions.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, Telephone (202) 357–1100.

Rosemary Brady,
Secretary of the Board.

[FR Doc. 86–10362 Filed 5–5–86; 3:39 pm]
BILLING CODE 7535–01–M

12

NATIONAL SCIENCE BOARD

DATE AND TIME: May 16, 1986.

8:30–8:45 a.m.—Closed Session
8:45–10:45 a.m.—Open Session

PLACE: National Science Foundation, Washington, DC.

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STATUS: Most of this meeting will be open to the public. Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED MAY 16:

Closed Session (8:30–8:45 a.m.)

1. Minutes—March 1986 Meeting
2. Election of Officers
3. NSB and NSF Staff Nominees
4. Grants, Contracts, and Programs—Action Items

Open Session (8:45–10:45 a.m.)

5. Chairman's Report
6. Minutes—March 1986 Meeting
7. Meeting Schedule for Calendar Year 1987
8. Director's Report
9. Annual Report of the Executive Committee
10. Report of the Research Excellence and Breadth of Research Participation Committee
11. NSB Issues
12. Status Report on Academic Scientific Instrumentation
13. Other Business

Thomas Ubois,
Executive Officer.

[FR Doc. 86-10306 Filed 5-5-86; 11:28 am]
BILLING CODE 7555-01-M

13

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of May 5, 12, 19, and 26, 1986.

PLACE: Commissioner's Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of May 5

Wednesday, May 7

9:30 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Thursday, May 8

2:00 p.m.
Meeting with Advisory Committee on Reactor Safeguards on Safety Goal Policy (Public Meeting)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of May 12—Tentative

Thursday, May 15

9:30 a.m.
Briefing by AIF on State of the Industry (Public Meeting)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Friday, May 16

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for Catawba-2 (Public Meeting)

Week of May 19—Tentative

Tuesday, May 20

2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Wednesday, May 21

10:00 a.m.
Briefing by Staff on Status of TVA (Open/Portion Closed—Ex. 5 & 7)
2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Thursday, May 22

10:00 a.m.
Briefing by Davis-Besse Ad Hoc Review Group (Open/Portion May be Closed)
2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of May 26—Tentative

Wednesday, May 28

2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Thursday, May 29

10:00 a.m.
Briefing on Pending Enforcement Action (Closed—Ex. 5 & 7)
2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker (202) 634–1410.

Robert B. McOsker,
Office of the Secretary.
May 1, 1986.

[FR Doc. 86-10230 Filed 5-7-86; 8:45 am]
BILLING CODE 7590-01-M

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federal register

Wednesday
May 7, 1986

Part II

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Research; Actions Under Guidelines

VOL 51 ISS 88 MY 7 1986 UMI

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Research; Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of Actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth four actions to be taken by the Director, National Institutes of Health (NIH), under the November 23, 1984, NIH Guidelines for Research Involving Recombinant DNA Molecules (49 FR 46266).

EFFECTIVE DATE: May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained from Dr. William J. Gartland, Office of Recombinant DNA Activities, Building 31, Room 3B10, National Institutes of Health, Bethesda, Maryland 20892, (301) 496-6051.

SUPPLEMENTARY INFORMATION: Today four actions are being promulgated under the NIH Guidelines for Research Involving Recombinant DNA Molecules. These four proposed actions were published for comment in the **Federal Register** of December 20, 1985 (50 FR 52176), and reviewed and recommended for approval by the NIH Recombinant DNA Advisory Committee (RAC) at its meeting on January 27, 1986.

In accordance with section IV–C–1–b of the NIH Guidelines, these actions have been found to comply with the NIH Guidelines and to present no significant risk to health or the environment.

Part I of this announcement provides background information on the actions. Part II provides a summary of the actions of the Director, NIH.

Following this announcement, there appears in a separate section of the **Federal Register** the revised NIH Guidelines for Research Involving Recombinant DNA Molecules. These revised Guidelines differ from the previous version of the Guidelines promulgated on November 23, 1984 (49 FR 46266), by incorporating within them: The changes in the Guidelines which were recommended at the RAC meeting of the October 29, 1984, and promulgated on March 11, 1985 (50 FR 9760); a change recommended at the RAC meeting of June 1, 1984, and promulgated on November 13, 1985 (50 FR 46834); the changes recommended at the RAC meeting of September 23, 1985, and promulgated on November 22, 1985, (50 FR 48344); and the changes in the Guidelines which are promulgated in this announcement. Minor editorial modifications have also been introduced into the document.

I. Decisions on Actions Under NIH Guidelines

A. Proposal to Modify the NIH Guidelines to Refer Specifically to RNA

The Recombinant DNA Advisory Committee (RAC) has discussed whether the NIH Guidelines should explicitly state that RNA is covered by the NIH Guidelines, particularly in the case of human gene therapy protocols. A RAC working group composed a proposal to modify section III–A–4, section III–B–3, and section III–B–4–a of the NIH Guidelines to refer specifically to RNA. That proposal would modify these sections in the following manner:

(1) Section III–A–4 of section III–A, *Experiments that Require RAC Review and NIH and IBC Approval Before Initiation*, currently reads as follows:

"III–A–4. Deliberate transfer of recombinant DNA or DNA derived from recombinant DNA into human subjects (21). The requirement for RAC review should not be considered to preempt any other required review of experiments with human subjects. Institutional Review Board (IRB) review of the proposal should be completed before submission to NIH."

Under the working group proposal, section III–A–4 would be modified to read as follows:

"III–A–4. Deliberate transfer of recombinant DNA or DNA or RNA derived from recombinant DNA into human subjects (21). The requirement for RAC review should not be considered to preempt any other required review of experiments with human subjects. Institutional Review Board (IRB) review of the proposal should be completed before submission to NIH."

(2) Section III–B–3 of section III–B, *Experiments that Require IBC Approval Before Initiation*, currently reads as follows:

"III–B–3. *Experiments Involving the Use of Infectious Animal or Plant Viruses or Defective Animal or Plant Viruses in the Presence of Helper Virus in Tissue Culture Systems.*

"Caution: Special care should be used in the evaluation of containment levels for experiments which are likely to either enhance the pathogencity (e.g., insertion of a host oncogence) or to extend the host range (e.g., introduction of novel control elements) of viral vectors under conditions which permit a productive infection. In such cases, serious consideration should be given to raising the physical containment by at least one level.

Note.—Recombinant DNA molecules which contain less than two-thirds of the genome of any eukaryotic virus (all virus from a single Family (17) being considered identifical (19)) may be considered defective and can be used in the absence of helper under the conditions specified in section III–C."

Under the working group proposal, section III–B–3 would be modified to read as follows:

"III–B–3. *Experiments Involving the Use of Infectious Animal or Plant DNA or RNA Viruses or Defective Animal or Plant DNA or RNA Viruses in the Presence of Helper Virus in Tissue Culture Systems.*

Caution: Special care should be used in the evaluation of containment levels for experiments which are likely to either enhance the pathogenicity (e.g., insertion of a host oncogence) or to extend the host range (e.g., introduction of novel control elements) of viral vectors under conditions which permit a productive infection. In such cases, serious consideration should be given to raising the physical containment by at least one level.

"Note.—Recombinant DNA molecules or RNA molecules derived there-from which contain less than two-thirds of the genome of any eukaryotic virus (all virus from a single Family (17) being considered identical (19)) may be considered defective and can be used in the absence of helper under the conditions specified in section III–C.

(3) Section III–B–4–a of section III–B, *Experiments that Require IBC Approval Before Initiation*, currently reads as follows:

"III–B–4–a. DNA from any source except for greater than two-thirds of a eukaryotic viral genome may be transferred to any non-human vertebrate organism and propagated under conditions of physical containment comparable to BLI and appropriate to the organism under study (2). It is important that the investigator demonstrate that the fraction of the viral genome being utilized does not lead to productive infection. A USDA permit is required for work with Class 5 agents (18, 20)."

Under the working group proposal, section III–B–4–a would be modifed to read as follows:

"III–B–4–a. Recombinant DNA-or RNA molecules derived therefrom—from any source except for greater than two-thirds of a eukaryotic viral genome may be tranferred to any non-human vertebrate organism and propagated under conditions of physical containment comparable to BL1 and appropriate to the organism under study (2). It is important that the investigator demonstrate that the fraction of the viral genome being utilized does not lead to productive infection. A USDA permit is required for work with Class 5 agents (18, 20)."

This proposal was published for comment in the **Federal Register** of December 20, 1985 (50 FR 52176). No comments on the proposal were received.

The RAC considered this proposal at the January 27, 1986, meeting. By a vote of fifteen in favor, none opposed, and one abstention, the RAC recommended approval of this proposal. I accept this recommendation and the appropriate sections of the Guidelines have been modified.

B. Proposal to Modify Appendix C of the NIH Guidelines

Section III–D–5 of the NIH Guidelines states that certain classes of recombinant DNA molecules are exempt ". . . if the Director, NIH, with advice of the RAC, after appropriate notice and opportunity for public comment, finds that they do not present a significant risk to health or the environment. . . ." These classes of experiments are listed in Appendix C.

A RAC Working Group on Gram Positive Bacteria suggested that a new section be added to Appendix C. That new section would be entitled Appendix C–V, *Extrachromosomal Elements of Gram Positive Organisms*. The current Appendix C–V, *Footnotes and References of Appendix C*, would be renumbered Appendix C–VI under the proposal. The Working Group on Gram Positive Bacteria suggested the proposed Appendix C–V read as follows:

"Recombinant DNA molecules derived entirely from extrachromosomal elements of the organisms listed below (including shuttle vectors constructed from vectors described in Appendix C), propagated and maintained in organisms listed below are exempt from these Guidelines.

Bacillus subtilis
Bacillus pumilus
Bacillus licheniformis
Bacillus thuringiensis
Bacillus cereus
Bacillus amyloliquefacions
Bacillus brevis
Bacillus natto
Bacillus niger
Bacillus sterrimus
Bacillus amylosaccharliticus
Bacillus anthracis
Bacillus globigii
Bacillus megaterium
Staphylococcus aureus
Staphylococcus epidermidis
Staphylococcus carnosus
Clostridium acetobutylicum
Pediococcus damnosus
Pediococcus pentosaceus
Pediococcus acidilactici
Listeria grayi
Listeria murrayi
Listeria monocytogenes
Streptococcus pyogenes
Streptococcus agalactiae
Streptococcus sanguis
Streptococcus salivarious
Streptococcus cremoris
Streptococcus pneumoniae
Streptococcus avium
Streptococcus faecalis
Streptococcus anginosus
Streptococcus sobrinus
Streptococcus lactis
Streptococcus mutans
Streptococcus equisimilis
Streptococcus thermophylus
Streptococcus milleri
Streptococcus durans
Streptococcus mitior
Streptococcus ferus

"Exceptions.

"Experiments described in section III–A which require specific RAC review and NIH approval before initiation of the experiment.

"Large-scale experiments (e.g., more than 10 liters of culture) require prior IBC review and approval (see section III–B–5).

"Experiments involving the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F)."

The Working Group on Gram Positive Bacteria also suggested the first paragraph of Appendix C–IV, *Experiements Involving Bacillus subtilis Host-Vector Systems*, be modified. That paragraph currently reads as follows:

"Any asporogenic *Bacillus subtilis* strain which does not revert to a sporeformer with a frequency greater than 10^{-7} can be used for cloning DNA with the exception of those experiments listed below. Indigenous *Bacillus* plasmids and phages whose host-range does not include *Bacillus cereus* or *Bacillus anthracis* may be used as vectors."

The second sentence of that paragraph would be deleted and the paragraph would read as follows:

"Any asporogenic *Bacillus subtilis* strain which does not revert to a sporeformer with a frequency greater than 10^{-7} can be used for cloning DNA with the exception of those experiments listed below."

This proposal was published for public comment in the December 20, 1985, **Federal Register** (50 FR 52176). No comments on the proposal were received.

The RAC considered this proposal at the January 27, 1986, meeting. During the discussion it was noted that *Lactobacillus casei* had inadvertently been left off the list. By a vote of seventeen in favor, none opposed, and no abstentions, RAC recommended approval of the proposal, including the addition of *L. casei* to the list.

I accept this recommendation and a new Appendix C–V has been added to Appendix C. Current Appendix C–V will become Appendix C–VI.

C. Proposed Revision of Appendix C–I

Dr. Robert Simpson, Chair of the NIH Institutional Biosafety Committee, requested a modification of Appendix C–I, *Exemptions Under Section III–D–5*. In proposing this modification, Dr. Simpson wrote:

"A great number of experiments are currently carried out which involve the use of 'shuttle' vectors containing small amounts of eukaryotic viral DNA together with bacterial plasmid sequences; such recombinant DNA constructions can replicate in either bacteria or tissue culture cells. These vectors are used for cloning and for expression studies. Examples of the types of viral sequences utilized are the SV40 origin of replication, splice junction, polyadenylation signal, herpes thymidylate kinase gene, etc. Such recombinant molecules are not capable of generating infectious virus.

"Currently the Guidelines require registration of any experiment in which any eukaryotic viral sequences are propagated in tissue culture cells. [The NIH IBC feels] this is not necessary and would like to propose . . . revision to Appendix C–I. . . ."

Appendix C–I currently reads:

"Appendix C–I. *Recombinant DNAs in Tissue Culture*. Recombinant DNA molecules derived entirely from non-viral components (that is, no component is derived from a eukaryotic virus) that are propagated and maintained in cells in tissue culture are exempt from these Guidelines with the exceptions listed below.

"*Exceptions.*

"Experiments described in Section III–A which require specific RAC review and NIH approval before initiation of the experiment.

"Experiments involving DNA from Class 3, 4 or 5 organism (1) or cells known to be infected with these agents.

"Experiments involving the deliberate introduction of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F)."

Dr. Simpson suggested Appendix C–I be modified to read as follows:

"Appendix C–I *Recombinant DNAs in Tissue Culture*. Recombinant DNA molecules that are propagated and maintained in cells in tissue culture are exempt from these Guidelines with the exceptions listed below.

"*Exceptions.*

"Experiments described in section III–A which require specific RAC review and NIH approval before initiation of the experiment.

"Experiments involving DNA from Class 3, 4, or 5 organisms (1) or cells known to be infected with these agents.

"Experiments involving the deliberate introduction of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F).

"Experiments involving DNA molecules which contain more than two-thirds of a primate retroviral genome."

This proposal was published for public comment in the **Federal Register** of December 20, 1985 (50 FR 52176). No comments were received on the proposal.

RAC reviewed this proposal at the January 27, 1986, meeting. Following discussion of the proposal, RAC recommended by a vote of seventeen in

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favor, none opposed, and no abstentions that Appendix C–I be modified to read as follows:

"Appendix C–I. *Recombinant DNAs in Tissue Culture.* Recombinant DNA molecules containing less than one-half of a eukaryotic viral genome (all viruses from a single Family (4) being considered identical (5)) that are propagated and maintained in cells in tissue culture are exempt from these Guidelines with the exceptions listed below.

"Exceptions.

"Experiments described in section III–A which require specific RAC review and NIH approval before initiation of the experiment.

"Experiments involving DNA from Class 3, 4 or 5 organisms (1) or cells known to be infected with these agents.

"Experiments involving the deliberate introduction of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F)."

In addition, two new footnotes would be added to new Appendix C–VI, *Footnotes and References of Appendix C,* as follows:

"4. As classified in the Third Report of the International Committee on Taxonomy of Viruses: Classification and Nomenclature of Viruses, R. E. F. Matthews, Ed. Intervirology 12 (129–296) 1979.

"5. I.e., the total of all genomes within a Family shall not exceed one-half of the genome."

Later in the RAC meeting, it was questioned whether Appendix C–I would read more clearly and be more precise if the word "any" were substituted for the article "a" in the clause "Recombinant DNA molecules containing less than one-half of *a* eukaryotic viral genome. . . ." A motion to reconsider was adopted, and a motion to substitute the word "any" for the article "a" was recommended by a vote of seventeen in favor, none opposed, and no abstentions.

I accept these recommendations and Appendix C–I has been modified accordingly.

D. Proposal to Modify Appendix J, Federal Interagency Advisory Committee on Recombinant DNA Research, of the NIH Guidelines

In a memorandum dated November 25, 1985, Dr. Bernard Talbot, Deputy Director of the National Institute of Allergy and Infectious Diseases, noted that the NIH Guidelines for Research Involving Recombinant DNA Molecules (49 FR 46266) devotes Appendix J to a description of the Federal Interagency Advisory Committee on Recombinant DNA Research. Appendix J lists those departments and agencies which had representation on this committee as of December 1980.

Dr. Talbot wrote that this committee met from 1976 to 1980 but has not met since 1980. Recently another interagency committee, the Biotechnology Science Coordinating Committee, was established to provide for interagency science policy coordination and guidance and for exchange of information as announced in a Federal Register notice on November 14, 1985 (50 FR 47174).

Dr. Talbot suggested Appendix J be modified to reflect the current situation. He proposed that current Appendix J be deleted from the NIH Guidelines and the following language be substituted:

"Appendix J. Biotechnology Science Coordinating Committee

"The following excerpts from its charter (signed October 30, 1985) describe the Biotechnology Science Coordinating Committee:

"Purpose

"The Domestic Policy Working Group on Biotechnology has determined that in the area of biotechnology with its rapid growth of scientific discovery, scientific issues of interagency concern will arise frequently and need to be communicated among the various agencies involved with reviews of biotechnology applications. The Federal Coordinating Council for Science, Engineering, and Technology (FCCSET) established by 42 U.S.C. 6651 is an interagency science committee chaired by the Director of the Office of Science and Technology Policy with the mission of coordinating science activities affecting more than one agency. Committees may be established under FCCSET for addressing particular science issues. Thus, the Biotechnology Science Coordinating Committee (BSCC) is established to provide formally an opportunity for interagency science policy coordination and guidance and for the exchange of information regarding the scientific aspects of biotechnology applications submitted to Federal research and regulatory agencies for approval.

"Functions

"The BSCC will coordinate interagency review of scientific issues related to the assessment and approval of biotechnology research applications and biotechnology product applications and postmarketing surveillance when they involve the use of recombinant RNA, recombinant DNA, cell fusion or similar techniques. The BSCC will:

"(a) Serve as a coordinating forum for addressing scientific problems, sharing information, and developing consensus;

"(b) Promote consistency in the development of Federal agencies' review procedures and assessments;

"(c) Facilitate continuing cooperation among Federal agencies on emerging scientific issues; and

"(d) Identify gaps in scientific knowledge.

"Authority

"To accomplish these functions the BSCC is authorized to:

"(a) Receive documentation from agencies necessary for the performance of its function;

"(b) Conduct analyses of broad scientific issues that extend beyond those of any one agency;

"(c) Develop generic scientific recommendations that can be applied to similar, recurring applications;

"(d) Convene workshops, symposia, and generic research projects related to scientific issues in biotechnology; and

"(e) Hold periodic public meetings.

"Members and Chairman

"The BSCC includes the following initial members:

"Department of Agriculture
Assistant Secretary for Marketing and Inspection Services
Assistant Secretary for Science and Education
"Department of Health and Human Services
Commissioner, Food and Drug Administration
Director, National Institutes of Health
"Environmental Protection Agency
Assistant Administrator for Pesticides and Toxic Substances
Assistant Administrator for Research and Development
"National Science Foundation
Assistant Director for Biological, Behavioral & Social Sciences

"The BSCC is chaired by the Assistant Director for Biological, Behavioral and Social Sciences of the National Science Foundation and the Director of the National Institutes of Health on a rotating basis.

"Administrative Provisions

"(a) The BSCC will report to the FCCSET through the Chair.

"(b) Meetings of the BSCC shall be held periodically. Some public meetings will be held.

"(c) Confidential business information and proprietary information shall be protected under the confidentiality requirements of each member agency.

"(d) Subcommittees and working groups, with participation not restricted to BSCC members or full-time Federal employees, may be formed to assist the BSCC in its work.

"(e) All BSCC members will be full-time Federal employees whose compensation, reimbursement for travel expenses and other costs shall be borne by their respective agencies.

"(f) Each member of the BSCC shall provide such agency support and resources as may be available and necessary for the operation of the BSCC including undertaking special studies as come within the functions assigned herein.

"(g) An Office of Science and Technology Policy staff member will serve as BSCC Executive Secretary."

This proposal was announced in the December 20, 1985, Federal Register (50 FR 52176) for public comment. No comments on the proposed were received.

The RAC considered this proposal at the January 27, 1986, meeting. By a vote of seventeen in favor, none opposed, and no abstentions, RAC recommended approval of the proposal. I accept this recommendation and Appendix J has been modified accordingly.

II. Summary of Actions

A. Modification of the NIH Guidelines to Refer Specifically to RNA

(1) Section III–A–4 of section III–A, *Experiments that Require RAC Review and NIH and IBC Approval Before Initiation,* is modified to read as follows:

"III–A–4. Deliberate transfer of recombinant DNA or DNA or RNA derived from recombinant DNA into human subjects (21). The requirement for RAC review should not be considered to preempt any other required review of experiments with human subjects. Institutional Review Board (IRB) review of the proposal should be completed before submission to NIH."

(2) Section III–B–3 of section III–B, *Experiments that Require IBC Approval Before Initiation,* is modified to read as follows:

"III–B–3. *Experiments Involving the Use of Infectious Animal or Plant DNA or RNA Viruses or Defective Animal or Plant DNA or RNA Viruses in the Presence of Helper Virus in Tissue Culture Systems.*

"Caution: Special care should be used in the evaluation of containment levels for experiments which are likely to either enhance the pathogenicity (e.g., insertion of a host oncogene) or to extend the host range (e.g., introduction of novel control elements) of viral vectors under conditions which permit a productive infection. In such cases, serious consideration should be given to raising the physical containment by at least one level.

"Note.—Recombinant DNA molecules or RNA molecules derived therefrom which contain less then two-thirds of the genome of any eukaryotic virus (all virius from a single family (17) being considered identical (19)) may be considered defective and can be used in the absence of helper under the conditions specified in section III–C."

(3) Section III-B-4-a of section III-B, *Experiments that Require IBC Approval Before Initiation,* is modified to read as follows:

"III-4-a. Recombinant DNA or RNA molecules derived therefrom from any source except for greater than two-thirds of a eukaryotic viral genome may be transferred to any non-human vertebrate organism and propagated under conditions of physical containment comparable to BL1 and appropriate to the organism under study (2). It is important that the investigator demonstrate that the fraction of the viral genome being utilized does not lead to productive infection. A USDA permit is required for work with Class 5 agents (18, 20)."

B. Modification of Appendix C of the NIH Guidelines

(1) A new section Appendix C–V, *Extrachromosomal Elements of Gram Positive Organisms,* is added to Appendix C as follows:

"Recombinant DNA molecules derived entirely from extrachromosomal elements of the organisms listed below (including shuttle vectors constructed from vectors described in Appendix C), propagated and maintained in organisms listed below are exempt from these Guidelines.

Bacillus subtilis
Bacillus pumilus
Bacillus licheniformis
Bacillus thuringiensis
Bacillus cereus
Bacillus amyloliquefaciens
Bacillus brevis
Bacillus natto
Bacillus niger
Bacillus aterrimus
Bacillus amylosaccharilicus
Bacillus anthracis
Bacillus globigii
Bacillus megaterium
Staphylococcus aureus
Staphylococcus epidermidis
Staphylococcus carnosus
Clostridium acetobutylicum
Pediococcus damnosus
Pediococcus pentosaceus
Pediococcus acidilactici
Lactobacillus casei
Listeria grayi
Listeria murrayi
Listeria monocytogenes
Streptococcus pyogenes
Streptococcus agalactiae
Streptococcus sanguis
Streptococcus salivarious
Streptococcus cremoris
Streptococcus pneumoniae
Streptococcus avium
Streptococcus faecalis
Streptococcus anginosus
Streptococcus sobrinus
Streptococcus lactis
Streptococcus mutans
Streptococcus equisimilis
Streptococcus thermophylus
Streptococcus milleri
Streptococcus durans
Streptococcus mitior
Streptococcus ferus

"Exceptions.

"Experiments described in section III–A which require specific RAC review and NIH approval before initiation of the experiment.

"Large-scale experiments (e.g., more than 10 liters of culture) require prior IBC review and approval (see section III-B-5).

"Experiments involving the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F)."

(2) Current Appendix C–V, *Footnotes and References of Appendix C,* is renumbered Appendix C–VI.

(3) The second sentence of the first paragraph of Appendix C–IV, *Experiments Involving Bacillus subtilis Host-Vector Systems,* is deleted. The first paragraph of Appendix C–IV now reads as follows:

"Any asporogenic *Bacillus subtilis* strain which does not revert to a sporeformer with a frequency greater than 10^{-7} can be used for cloning DNA with the exception of those experiments listed below."

C. Revision of Appendix C–I

Appendix C–I is modified to read as follows:

"Appendix C–I. *Recombinant DNAs in Tissue Culture.* Recombinant DNA molecules containing less than one-half of any eukaryotic genome (all viruses from a single Family (4) being considered identical (5)) that are propagated and maintained in cells in tissue culture are exempt from these Guidelines with the exceptions listed below.

"Exceptions.

"Experiments described in Section III–A which require specific RAC review and NIH approval before initiation of the experiment.

"Experiments involving DNA from Class 3, 4 or 5 organisms (1) or cells known to be infected with these agents.

"Experiments involving the deliberate introduction of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F)."

Two new footnotes are added to new Appendix C-VI, *Footnotes and References of Appendix C,* as follows:

"4. As classified in the Third Report of the International Committee on Taxonomy of Viruses: Classification and Nomenclature of Viruses, R. E. F. Matthews, Ed. Intervirology 12 (129–296) 1979.

"5. I.e., the total of all genomes within a Family shall not exceed one-half of the genome."

D. Modification of Appendix J of the NIH Guidelines

Appendix J is modified to read as follows:

"Appendix J. Biotechnology Science Coordinating Committee

"The following excerpts from its charter (signed October 30, 1985) describe the Biotechnology Science Coordinating Committee:

"Purpose

"The Domestic Policy Working Group on Biotechnology has determined that in the area of biotechnology with its rapid growth of scientific discovery, scientific issues of interagency concern will arise frequently and need to be communicated among the various agencies involved with reviews of biotechnology applications. The Federal Coordinating Council for Science, Engineering, and Technology (FCCSET) established by 42 U.S.C. 6651 is an interagency science committee chaired by the Director of the Office of Science and Technology Policy with the mission of coordinating science activities affecting more

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than one agency. Committees may be established under FCCSET for addressing particular science issues. Thus, the Biotechnology Science Coordinating Committee (BSCC) is established to provide formally an opportunity for interagency science policy coordination and guidance and for the exchange of information regarding the scientific aspects of biotechnology applications submitted to federal research and regulatory agencies for approval.

"Functions

"The BSCC will coordinate interagency review of scientific issues related to the assessment and approval of biotechnology research applications and biotechnology product applications and postmarketing surveillance when they involve the use of recombinant RNA, recombinant DNA, cell fusion or similar techniques. The BSCC will:

"(a) Serve as a coordinating forum for addressing scientific problems, sharing information, and developing consensus;

"(b) Promote consistency in the development of Federal agencies' review procedures and assessments;

"(c) Facilitate continuing cooperation among Federal agencies on emerging scientific issues; and

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"Authority

"To accomplish these functions the BSCC is authorized to:

"(a) Receive documentation from agencies necessary for the performance of its function;

"(b) Conduct analyses of broad scientific issues that extend beyond those of any one agency;

"(c) Develop generic scientific recommendations that can be applied to similar, recurring applications;

"(d) Convene workshops, symposia, and generic research projects related to scientific issues in biotechnology; and

"(e) Hold periodic public meetings.

"Members and Chairman

"The BSCC includes the following initial members:

"Department of Agriculture
- Assistant Secretary for Marketing and Inspection Services
- Assistant Secretary for Science and Education

"Department of Health and Human Services
- Commissioner, Food and Drug Administration
- Director, National Institutes of Health

"Environmental Protection Agency
- Assistant Administrator for Pesticides and Toxic Substances
- Assistant Administrator for Research and Development

"National Science Foundation
- Assistant Director for Biological, Behavioral & Social Sciences

"The BSCC is chaired by the Assistant Director for Biological, Behavioral and Social Sciences of the National Science Foundation and the Director of the National Institutes of Health on a rotating basis.

"Administrative Provisions

"(a) The BSCC will report to the FCCSET through the Chair.

"(b) Meetings of the BSCC shall be held periodically. Some public meetings will be held.

"(c) Confidential business information and proprietary information shall be protected under the confidentiality requirements of each member agency.

"(d) Subcommittees and working groups, with participation not restricted to BSCC members or full-time Federal employees, may be formed to assist the BSCC in its work.

"(e) All BSCC members will be full-time Federal employees whose compensation, reimbursement for travel expenses and other costs shall be borne by their respective agencies.

"(f) Each member of the BSCC shall provide such agency support and resources as may be available and necessary for the operation of the BSCC including undertaking special studies as come within the functions assigned herein.

"(g) An Office of Science and Technology Policy staff member will serve as BSCC Executive Secretary."

Dated: April 18, 1986.

Thomas E. Malone, Ph.D.,

Acting Director, National Institutes of Health.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

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Part III

Department of Health and Human Services

National Institutes of Health

Guidelines for Research Involving Recombinant DNA Molecules; Notice

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Guidelines for Research Involving Recombinant DNA Molecules

May 1986.

These NIH Guidelines supersede earlier versions and will be in effect until further notice.

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I. Scope of the Guidelines

I–A—Purpose

The purpose of these Guidelines is to specify practices for constructing and handling (i) recombinant DNA molecules and (ii) organisms and viruses containing recombinant DNA molecules.

I–B—Definition of Recombinant DNA Molecules

In the context of these Guidelines, recombinant DNA molecules are defined as either (i) molecules which are constructed outside living cells by joining natural or synthetic DNA segments to DNA molecules that can replicate in a living cell, or (ii) DNA molecules that result from the replication of those described in (i) above.

Synthetic DNA segments likely to yield a potentially harmful polynucleotide or polypeptide (e.g., a toxin or a pharmocologically active agent) shall be considered as equivalent to their natural DNA counterpart. If the synthetic DNA segment is not expressed *in vivo* as a biologically active polynucleotide or polypeptide product, it is exempt from the Guidelines.

I–C—General Applicability

The Guidelines are applicable to all recombinant DNA research within the United States or its territories which is conducted at or sponsored by an institution that receives any support for recombinant DNA research from the National Institutes of Health (NIH). This includes research performed by NIH directly.

An individual receiving support for research involving recombinant DNA must be associated with or sponsored by an institution that can and does assume the responsibilities assigned in these Guidelines.

The Guidelines are also applicable to projects done abroad if they are supported by NIH funds. If the host country, however, has established rules for the conduct of recombinant DNA projects, then a certificate of compliance with those rules may be submitted to NIH in lieu of compliance with the NIH Guidelines. The NIH reserves the right to withhold funding if the safety practices to be employed abroad are not reasonably consistent with the NIH Guidelines.

I–D—General Definitions

The following terms, which are used throughout the Guidelines, are defined as follows:

I–D–1. "Institution" means any public or private entity (including Federal, State, and local government agencies).

I–D–2. "Institutional Biosafety Committee" or "IBC" means a committee that (i) meets the requirements for membership specified in Section IV–B–2, and (ii) reviews, approves, and oversees projects in accordance with the responsibilities defined in Sections IV–B–2 and IV–B–3.

I–D–3. "NIH Office of Recombinant DNA Activities" or "ORDA" means the office within NIH with responsibility for (i) reviewing and coordinating all activities of NIH related to the Guidelines, and (ii) performing other duties as defined in Section IV–C–3.

I–D–4. "Recombinant DNA Advisory Committee" of "RAC" means the public advisory committee that advises the Secretary, the Assistant Secretary for Health, and the Director, NIH, concerning recombinant DNA research. The RAC shall be constituted as specified in Section IV–C–2.

I–D–5. "Director, NIH" or "Director" means the Director, NIH, or any other officer or employee of NIH to whom authority has been delegated.

II. Containment

Effective biological safety programs have been operative in a variety of laboratories for many years. Considerable information, therefore, already exists for the design of physical containment facilities and the selection of laboratory procedures applicable to organisms carrying recombinant DNAs [3–18]. The existing programs rely upon mechanisms that, for convenience, can be divided into two categories: (i) A set of standard practices that are generally used in microbiological laboratories; and (ii) special procedures, equipment, and laboratory installations that provide physical barriers which are applied in varying degrees according to the estimated biohazard. Four biosafety levels (BL) are described in Appendix G. These biosafety levels consist of combinations of laboratory practices and techniques, safety equipment, and laboratory facilities appropriate for the operations performed and the hazard posed by agents and for the laboratory function and activity. Biosafety level 4 (BL4) provides the most stringent containment conditions, BL1 the least stringent.

Experiments on recombinant DNAs by their very nature lend themselves to a third containment mechanism—namely, the application of highly specific biological barriers. In fact, natural barriers do exist which limit either (i) the infectivity of a *vector* or *vehicle* (plasmid or virus) for specific hosts, or (ii) its dissemination and survival in the environment. The vectors that provide the means for replication of the recombinant DNAs and/or the host cells in which they replicate can be genetically designed to decrease by many orders of magnitude the probability of dissemination of recombinant DNAs outside the laboratory. Further details on biological containment may be found in Appendix I.

As these three means of containment are complementary, different levels of containment appropriate for experiments with different recombinants can be established by applying various combinations of the physical and biological barriers along with a constant use of the standard practices. We consider these categories of containment separately in order that such combinations can be conveniently expressed in the Guidelines.

In constructing these Guidelines, it was necessary to define boundary conditions for the different levels of physical and biological containment and for the classes of experiments to which they apply. We recognize that these definitions do not take into account all existing and anticipated information on special procedures that will allow particular experiments to be carried out under different conditions than indicated here without affecting risk. Indeed, we urge that individual investigators devise simple and more effective containment procedures, and that investigators and IBCs recommend changes in the Guidelines to permit their use.

III. Guidelines for Covered Experiments

Part III discusses experiments involving recombinant DNA. These experiments have been divided into four classes:

III–A. Experiments which require specific RAC review and NIH and IBC approval before initiation of the experiment;

III–B. Experiments which require IBC approval before initiation of the experiment;

III–C. Experiments which require IBC notification at the time of initiation of the experiment;

III–D. Experiments which are exempt from the procedures of the Guidelines.

IF AN EXPERIMENT FALLS INTO BOTH CLASS III–A AND ONE OF THE OTHER CLASSES, THE RULES PERTAINING TO CLASS III–A MUST BE FOLLOWED. If an experiment falls into Class III–D and into either Class III–B or III–C as well, it can be considered

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exempt from the requirements of the Guidelines.

Changes in containment levels from those specified here may not be instituted without the express approval of the Director, NIH (see Sections IV–C–1–b–(1), IV–C–1–b–(2), and subsections).

III–A—Experiments That Require RAC Review and NIH and IBC Approval Before Initiation

Experiments in this category cannot be initiated without submission of relevant information on the proposed experiment to NIH, the publication of the proposal in the **Federal Register** for thirty days of comment, review by the RAC, and specific approval by NIH. The containment conditions for such experiments will be recommended by RAC and set by NIH at the time of approval. Such experiments also require the approval of the IBC before initiation. Specific experiments already approved in this section and the appropriate containment conditions are listed in Appendices D and F. If an experiment is similar to those listed in Appendices D and F, ORDA may determine appropriate containment conditions according to case precedents under Section IV–C–1–b–(3)–(g).

If the experiments in this category are submitted for review to another Federal agency, the submitter shall notify ORDA; ORDA may then determine that such review serves the same purpose, and based on that determination, notify the submitter that no RAC review will take place, no NIH approval is necessary, and the experiment may proceed upon approval from the other Federal agency.

III–A–1. Deliberate formation of recombinant DNAs containing genes for the biosynthesis of toxic molecules lethal for vertebrates at an LD_{50} of less than 100 nanograms per kilogram body weight (e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, *Shigella dysenteriae* neurotoxin). Specific approval has been given for the cloning in *E. coli* K–12 of DNAs containing genes coding for the biosynthesis of toxic molecules which are lethal to vertebrates at 100 nanograms to 100 micrograms per kilogram body weight. Containment levels for these experiments are specified in Appendix F.

III–A–2. Deliberate release into the environment of any organism containing recombinant DNA, except certain plants as described in Appendix L.

III–A–3. Deliberate transfer of a drug resistance trait to microorganisms that are not known to acquire it naturally [2], if such acquisition could compromise the use of the drug to control disease agents in human or veterinary medicine or agriculture.

III–A–4. Deliberate transfer of recombinant DNA or DNA or RNA derived from recombinant DNA into human subjects [21]. The requirement for RAC review should not be considered to preempt any other required review of experiments with human subjects. Institutional Review Board (IRB) review of the proposal should be completed before submissin to NIH.

III–B—Experiments That Require IBC Approval Before Initiation

Investigators performing experiments in this category must submit to their IBC, prior to initiation of the experiments, a registration document that contains a description of: (i) The source(s) of DNA; (ii) the nature of the inserted DNA sequences; (iii) the hosts and vectors to be used; (iv) whether a deliberate attempt will be made to obtain expression of a foreign gene, and, if so, what protein will be produced; and (v) the containment conditions specified in these Guidelines. This registration document must be dated and signed by the investigator and filed only with the local IBC. The IBC shall review all such proposals prior to initiation of the experiments. Requests for lowering of containment for experiments in this category will be considered by NIH (see Section IV–C–1–b–(3)).

III–B–1—Experiments Using Human or Animal Pathogens (Class 2, Class 3, Class 4, or Class 5 Agents [1]) as Host-Vector Systems

III–B–1–a. Experiments involving the introduction of recombinant DNA into Class 2 agents can be carried out at BL2 containment.

III–B–1–b. Experiments involving the introduction of recombinant DNA into Class 3 agents can be carried out at BL3 containment.

III–B–1–c. Experiments involving the introduction of recombinant DNA into Class 4 agents can be carried out at BL4 containment.

III–B–1–d. Containment conditions for experiments involving the introduction of recombinant DNA into Class 5 agents will be set on a case-by-case basis following ORDA review. A U.S. Department of Agriculture (USDA) permit is required for work with Class 5 agents [18, 20].

III–B–2—Experiments in Which DNA From Human or Animal Pathogens (Class 2, Class 3, Class 4, or Class 5 Agents [1]) is Cloned in Nonpathogenic Prokaryotic or Lower Eukaryotic Host-Vector Systems

III–B–2–a. Recombinant DNA experiments in which DNA from Class 2 or Class 3 agents [1] is transferred into nonpathogenic prokaryotes or lower eukaryotes may be performed under BL2 containment. Recombinant DNA experiments in which DNA from Class 4 agents is transferred into nonpathogenic prokaryotes or lower eukaryotes can be performed at BL2 containment after demonstration that only a totally and irreversibly defective fraction of the agent's genome is present in a given recombinant. In the absence of such a demonstration, BL4 containment should be used. Specific lowering of containment of BL1 for particular experiments can be approved by the IBC. Many experiments in this category will be exempt from the Guidelines (see Sections III–D–4 and III–D–5). Experiments involving the formation of recombinant DNAs for certain genes coding for molecules toxic for vertebrates require RAC review and NIH approval (see Section III–A–1) or must be carried out under NIH specified conditions as described in Appendix F.

III–B–2–b. Containment conditions for experiments in which DNA from Class 5 agents is transferred into nonpathogenic prokaryotes or lower eukaryotes will be determined by ORDA following a case-by-case review. A USDA permit is required for work with Class 5 agents [18, 20].

III–B–3—Experiments Involving the Use of Infectious Animal or Plant DNA or RNA Viruses or Defective Animal or Plant DNA or RNA Viruses in the Presence of Helper Virus in Tissue Culture Systems

Caution: Special care should be used in the evaluation of containment levels for experiments which are likely to either enhance the pathogenicity (e.g., insertion of a host oncogene) or to extend the host range (e.g., introduction of novel control elements) of viral vectors under conditions which permit a productive infection. In such cases, serious consideration should be given to raising the physical containment by at least one level.

Note.—Recombinant DNA molecules or RNA molecules derived therefrom, which contain less than two-thirds of the genome of any eukaryotic virus (all virus from a single Family [17] being considered identical [19]), may be considered defective and can be used in the absence of helper under the conditions specified in Section III–C.

III–B–3–a. Experiments involving the use of infectious Class 2 animal viruses [1] or defective Class 2 animal viruses in the presence of helper virus can be performed at BL2 containment.

III–B–3–b. Experiments involving the use of infectious Class 3 animal viruses [1] or defective Class 3 animal viruses in the presence of helper virus can be carried out at BL3 containment.

III–B–3–c. Experiments involving the use of infectious Class 4 viruses [1] or defective Class 4 viruses in the presence of helper virus may be carried out under BL4 containment.

III–B–3–d. Experiments involving the use of infectious Class 5 [1] viruses or defective Class 5 viruses in the presence of helper virus will be determined on a case-by-case basis following ORDA review. A USDA permit is required for work with Class 5 pathogens [18, 20].

III–B–3–e. Experiments involving the use of infectious animal or plant viruses or defective animal or plant viruses in the presence of helper virus not covered by Sections III–B–3–a, III–B–3–b, III–B–3–c, or III–B–3–d may be carried out under BL1 containment.

III–B–4—Recombinant DNA Experiments Involving Whole Animals or Plants

III–B–4–a. Recombinant DNA, or RNA molecules derived therefrom, from any source except for greater than two-thirds of a eukaryotic viral genome may be transferred to any non-human vertebrate organism and propagated under conditions of physical containment comparable to BL1 and appropriate to the organism under study [2]. It is important that the investigator demonstrate that the fraction of the viral genome being utilized does not lead to productive infection. A USDA permit is required for work with Class 5 agents [18, 20].

III–B–4–b. For all experiments involving whole animals and plants and not covered by Section III–B–4–a, the appropriate containment will be determined by the IBC [22].

III–B–5—Experiments Involving More Than 10 Liters of Culture

The appropriate containment will be decided by the IBC. Where appropriate, Appendix K, *Physical Containment for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules*, should be used.

III–C. Experiments That Require IBC Notice Simultaneously With Initiation of Experiments

Experiments not included in Sections III–A, III–B, III–D, and subsections of these sections are to be considered in Section III–C. All such experiments can be carried out at BL1 containment. For experiments in this category, a registration document as described in Section III–B must be dated and signed by the investigator and filed with the local IBC at the time of initiation of the experiment. The IBC shall review all such proposals, but IBC review prior to initiation of the experiment is not required. (The reader should refer to the policy statement in the first two paragraphs of Section IV–A.)

For example, experiments in which all components derive from non-pathogenic prokaryotes and non-pathogenic lower eukaryotes fall under Section III–C and can be carried out at BL1 containment.

CAUTION: Experiments Involving Formation of Recombinant DNA Molecules Containing no more than Two-Thirds of the Genome of any Eukaryotic Virus. Recombinant DNA molecules containing no more than two-thirds of the genome of any eukaryotic virus (all viruses from a single Family [17] being considered identical [19]) may be propagated and maintained in cells in tissue culture using BL1 containment. For such experiments, it must be shown that the cells lack helper virus for the specific Families of defective viruses being used. If helper virus is present, procedures specified under Section III–B–3 should be used. The DNA may contain fragments of the genome of viruses from more than one Family but each fragment must be less than two-thirds of a genome.

III–D—Exempt Experiments

The following recombinant DNA molecules are exempt from these Guidelines and no registration with the IBC is necessary:

III–D–1. Those that are not in organisms or viruses.

III–D–2. Those that consist entirely of DNA segments from a single nonchromosomal or viral DNA source though one or more of the segments may be a synthetic equivalent.

III–D–3. Those that consist entirely of DNA from a prokaryotic host including its indigenous plasmids or viruses when propagated only in that host (or a closely related strain of the same species) or when transferred to another host by well established physiological means; also, those that consist entirely of DNA from an eukaryotic host including its chloroplasts, mitochondria, or plasmids (but excluding viruses) when propagated only in that host (or a closely related strain of the same species).

III–D–4. Certain specified recombinant DNA molecules that consist entirely of DNA segments from different species that exchange DNA by known physiological processes though one or more of the segments may be a synthetic equivalent. A list of such exchangers will be prepared and periodically revised by the Director, NIH, with advice of the RAC after appropriate notice and opportunity for public comment (see Section IV–C–1–b–(1)–(c)). Certain classes are exempt as of publication of these revised Guidelines. This list is in Appendix A. An updated list may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 3B10, Bethesda, Maryland 20892.

III–D–5. Other classes of recombinant DNA molecules—if the Director, NIH, with advice of the RAC, after appropriate notice and opportunity for public comment, finds that they do not present a significant risk to health or the environment (see Section IV–C–1–b–(1)–(c)). Certain classes are exempt as of publication of these revised Guidelines. The list is in Appendix C. An updated list may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 3B10, Bethesda, Maryland 20892.

IV. Roles and Responsibilities

IV–A—Policy

Safety in activities involving recombinant DNA depends on the individual conducting them. The Guidelines cannot anticipate every possible situation. Motivation and good judgment are the key essentials to protection of health and the environment.

The Guidelines are intended to help the institution, Institutional Biosafety Committee (IBC), Biological Safety Officer (BSO), and Principal Investigator (PI) determine the safeguards that should be implemented. These Guidelines will never be complete or final, since all conceivable experiments involving recombinant DNA cannot be foreseen. Therefore, *it is the responsibility of the institution and those associated with it to adhere to the intent of the Guidelines as well as to their specifics.*

Each institution (and the IBC acting on its behalf) is responsible for ensuring that recombinant DNA activities comply with the Guidelines. General recognition of institutional authority and

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responsibility properly establishes accountability for safe conduct of the research at the local level.

The following roles and responsibilities constitute an administrative framework in which safety is an essential and integral part of research involving recombinant DNA molecules. Further clarifications and interpretations of roles and responsibilities will be issued by NIH as necessary.

IV–B—Responsibility of the Institution

IV–B–1. General Information. Each institution conducting or sponsoring recombinant DNA research covered by these Guidelines is responsible for ensuring that the research is carried out in full conformity with the provisions of the Guidelines. In order to fulfill this responsibility, the institution shall:

IV–B–1–a. Establish and implement policies that provide for the safe conduct of recombinant DNA research and that ensure compliance with the Guidelines. The institution as part of its general responsibilities for implementing the Guidelines may establish additional procedures as deemed necessary to govern the institution and its components in the discharge of its responsibilities under the Guidelines. This may include: (i) Statements formulated by the institution for general implementation of the Guidelines, and (ii) whatever additional precautionary steps the institution may deem appropriate.

IV–B–1–b. Establish an IBC that meets the requirements set forth in Section IV–B–2 and carries out the functions detailed in Section IV–B–3.

IV–B–1–c. If the institution is engaged in recombinant DNA research at the BL3 or BL4 containment level, appoint a BSO, who shall be a member of the IBC and carry out the duties specified in Section IV–B–4.

IV–B–1–d. Require that investigators responsible for research covered by these Guidelines comply with the provisions of Section IV–B–5 and assist investigators to do so.

IV–B–1–e. Ensure appropriate training for the IBC chairperson and members, the BSO, PIs, and laboratory staff regarding the Guidelines, their implementation, and laboratory safety. Responsibility for training IBC members may be carried out through the IBC chairperson. Responsibility for training laboratory staff may be carried out through the PI. The institution is responsible for seeing that the PI has sufficient training but may delegate this responsibility to the IBC.

IV–B–1–f. Determine the necessity in connection with each project for health surveillance of recombinant DNA research personnel, and conduct, if found appropriate, a health surveillance program for the project. [The "Laboratory Safety Monograph" (LSM) discusses various possible components of such a program—for example, records of agents handled, active investigation of relevant illnesses, and the maintenance of serial serum samples for monitoring serologic changes that may result from the employees' work experience. Certain medical conditions may place a laboratory worker at increased risk in any endeavor where infectious agents are handled. Examples given in the LSM include gastrointestinal disorders and treatment with steroids, immunosuppressive drugs, or antibiotics. Workers with such disorders or treatment should be evaluated to determine whether they should be engaged in research with potentially hazardous organisms during their treatment or illness. Copies of the LSM are available from ORDA.]

IV–B–1–g. Report within 30 days to ORDA any significant problems with and violations of the Guidelines and significant research-related accidents and illnesses, unless the institution determines that the PI or IBC has done so.

IV–B–2. Membership and Procedures of the IBC. The institution shall establish an IBC whose responsibilities need not be restricted to recombinant DNA. The committee shall meet the following requirements:

IV–B–2–a. The IBC shall comprise no fewer than five members so selected that they collectively have experience and expertise in recombinant DNA technology and the capability to assess the safety of recombinant DNA research experiments and any potential risk to public health or the environment. At least two members shall not be affiliated with the institution (apart from their membership on the IBC) and shall represent the interest of the surrounding community with respect to health and protection of the environment. Members meet this requirement if, for example, they are officials of State or local public health or environmental protection agencies, members of other local governmental bodies, or persons active in medical, occupational health, or environmental concerns in the community. The BSO, mandatory when research is being conducted at the BL3 and BL4 levels, shall be a member (see Section IV–B–4).

IV–B–2–b. In order to ensure the competence necessary to review recombinant DNA activities, it is recommended that: (i) The IBC include persons with expertise in recombinant DNA technology, biological safety, and physical containment; (ii) the IBC include, or have available as consultants, persons knowledgeable in institutional commitments and policies, applicable law, standards of professional conduct and practice, community attitudes, and the environment; and (iii) at least one member be from the laboratory technical staff.

IV–B–2–c. The institution shall identify the committee members by name in a report to ORDA and shall include relevant background information on each member in such form and at such times as ORDA may require.

IV–B–2–d. No member of an IBC may be involved (except to provide information requested by the IBC) in the review or approval of a project in which he or she has been or expects to be engaged or has a direct financial interest.

IV–B–2–e. The institution, who is ultimately responsible for the effectiveness of the IBC, may establish procedures that the IBC will follow in its initial and continuing review of applications, proposals, and activities. (IBC review procedures are specified in Section IV–B–3–a.)

IV–B–2–f. Institutions are encouraged to open IBC meetings to public whenever possible, consistent with protection of privacy and proprietary interests.

IV–B–2–g. Upon request, the institution shall make available to the public all minutes of IBC meetings and any documents submitted to or received from funding agencies which the latter are required to make available to the public. If comments are made by members of the public on IBC actions, the institution shall forward to NIH both the comments and the ICB's response.

IV–B–3. Functions of the IBC. On behalf of the institution, the IBC is responsible for:

IV–B–3–a. Reviewing for compliance with the NIH Guidelines recombinant DNA research as specified in Part III conducted at or sponsored by the institution, and approving those research projects that it finds are in conformity with the Guidelines. This review shall include:

IV–B–3–a–(1). An independent assessment of the containment levels required by these Guidelines for the proposed research, and

IV–B–3–a–(2). An assessment of the facilities, procedures, and practices, and of the training and expertise of recombinant DNA personnel.

IV–B–3–b. Notifying the PI of the results of their review.

IV–B–3–c. Lowering containment levels for certain experiments as specified in Sections III–B–2.

IV–B–3–d. Setting containment levels as specified in Section III–B–4–b and III–B–5.

IV–B–3–e. Reviewing periodically recombinant DNA research being conducted at the institution to ensure that the requirements of the Guidelines are being fulfilled.

IV–B–3–f. Adopting emergency plans covering accidental spills and personnel contamination resulting from such research.

Note.—Basic elements in developing specific procedures for dealing with major spills of potentially hazardous materials in the laboratory are detailed in the LSM. Included are information and references on decontamination and emergency plans. The NIH and the Centers for Disease Control are available to provide consultation and direct assistance, if necessary, as posted in the LSM. The institution shall cooperate with the State and local public health departments reporting any significant research-related illness or accident that appears to be a hazard to the public health.

IV–B–3–g. Reporting within 30 days to the appropriate institutional official and to ORDA any significant problems with or violations of the Guidelines and any significant research-related accidents or illnesses unless the IBC determines that the PI has done so.

IV–B–3–h. The IBC may not authorize initiation of experiments not explicitly covered by the Guidelines until NIH (with the advice of the RAC when required) establishes the containment requirement.

IV–B–3–i. Performing such other functions as may be delegated to the IBC under Section IV–B–1.

IV–B–4. Biological Safety Officer. The institution shall appoint a BSO if it engages in recombinant DNA research at the BL3 or BL4 containment level. The officer shall be a member of the IBC, and his or her duties shall include (but need not be limited to):

IV–B–4–a. Ensuring through periodic inspections that laboratory standards are rigorously followed;

IV–B–4–b. Reporting to the IBC and the institution all significant problems with and violations of the Guidelines and all significant research-related accidents and illnesses of which the BSO becomes aware unless the BSO determines that the PI has done so;

IV–B–4–c. Developing emergency plans for dealing with accidental spills and personnel contamination and investigating recombinant DNA research laboratory accidents;

IV–B–4–d. Providing advice on laboratory security;

IV–B–4–e. Providing technical advice to the PI and the IBC on research safety procedures.

Note.—See the LSM for additional information on the duties of the BSO.

IV–B–5. Principal Investigator (PI). On behalf of the institution, the PI is responsible for complying fully with the Guidelines in conducting any recombinant DNA research.

IV–B–5. PI—General. As part of this general responsibility, the PI shall:

IV–B–5–a–(1). Initiate or modify no recombinant DNA research requiring approval by the IBC prior to initiation (see Sections III–A and III–B) until that research or the proposed modification thereof has been approved by the IBC and has met all other requirements of the Guidelines;

IV–B–5–a–(2). Determine whether experiments are covered by Section III–C and follow the appropriate procedures;

IV–B–5–a–(3). Report within 30 days to the IBC and NIH (ORDA) all significant problems with and violations of the Guidelines and all significant research-related accidents and illnesses;

IV–B–5–a–(4). Report to the IBC and to NIH (ORDA) new information bearing on the Guidelines;

IV–B–5–a–(5). Be adequately trained in good microbiological techniques;

IV–B–5–a–(6). Adhere to IBC-approved emergency plans for dealing with accidental spills and personnel contamination; and

IV–B–5–a–(7). Comply with shipping requirements for recombinant DNA molecules. (See Appendix H for shipping requirements and the LSM for technical recommendations.)

IV–B–5–b. Submissions by the PI to NIH. The PI shall:

IV–B–5–b–(1). Submit information to NIH (ORDA) in order to have new host-vector systems certified;

IV–B–5–b–(2). Petition NIH with notice to the IBC for exemptions to these Guidelines;

IV–B–5–b–(3). Petition NIH with concurrence of the IBC for approval to conduct experiments specified in Section III–A of the Guidelines;

IV–B–5–b–(4). Petition NIH for determination of containment for experiments requiring case-by-case review;

IV–B–5–b–(5). Petition NIH for determination of containment for experiments not covered by the Guidelines.

IV–B–5–c. Submissions by the PI to the IBC. The PI shall:

IV–B–5–c–(1). Make the initial determination of the required levels of physical and biological containment in accordance with the Guidelines;

IV–B–5–c–(2). Select appropriate microbiological practices and laboratory techniques to be used in the research;

IV–B–5–c–(3). Submit the initial research protocol if covered under Guidelines Section III–A, III–B, or III–C (and also subsequent changes—e.g., changes in the source of DNA or host-vector system) to the IBC for review and approval or disapproval; and

IV–B–5–c–(4). Remain in communication with the IBC throughout the conduct of the project.

IV–B–5–d. PI Responsibilities Prior to Initiating Research. The PI is responsible for:

IV–B–5–d–(1). Making available to the laboratory staff copies of the protocols that describe the potential biohazards and the precautions to be taken;

IV–B–5–d–(2). Instructing and training staff in the practices and techniques required to ensure safety and in the procedures for dealing with accidents; and

IV–B–5–d–(3). Informing the staff of the reasons and provisions for any precautionary medical practices advised or requested, such as vaccinations or serum collection.

IV–B–5–e. PI Responsibilities During the Conduct of the Research. The PI is responsible for:

IV–B–5–e–(1). Supervising the safety performance of the staff to ensure that the required safety practices and techniques are employed;

IV–B–5–e–(2). Investigating and reporting in writing to ORDA, the BSO (where applicable), and the IBC any significant problems pertaining to the operation and implementation of containment practices and procedures;

IV–B–5–e–(3). Correcting work errors and conditions that may result in the release of recombinant DNA materials;

IV–B–5–e–(4). Ensuring the integrity of the physical containment (e.g., biological safety cabinets) and the biological containment (e.g., purity and genotypic and phenotypic characteristics).

IV–C—Responsibilities of NIH

IV–C–1. Director. The Director, NIH, is responsible for (i) establishing the NIH Guidelines for Research Involving Recombinant DNA Molecules, (ii) overseeing their implementation, and (iii) their final interpretation.

The Director has responsibilities under the Guidelines that involve ORDA and RAC. The ORDA's responsibilities under the Guidelines are administrative. Advice from the RAC is primarily

scientific and technical. In certain circumstances, there is specific opportunity for public comment with published response before final action.

IV–C–1–a. General Responsibilities of the Director, NIH. The responsibilities of the director shall include the following:

IV–C–1–a–(1). Promulgating requirements as necessary to implement the Guidelines;

IV–C–1–a–(2). Establishing and maintaining the RAC to carry out the responsibilities set forth in Section IV–C–2. The RAC's membership is specified in its charter and in Section IV–C–2;

IV–C–1–a–(3). Establishing and maintaining ORDA to carry out the responsibilities defined in Section IV–C–3.

IV–C–1–b. Specific Responsibilities of the Director, NIH. In carrying out the responsibilities set forth in this section, the director or a designee shall weigh each proposed action through appropriate analysis and consultation to determine that it complies with the Guidelines and presents no significant risk to health or the environment.

IV–C–1–b–(1). Major Actions. To execute major actions the director must seek the advice of the RAC and provide an opportunity for public and Federal agency comment. Specifically, the agenda of the RAC meeting citing the major actions will be published in the Federal Register at least 30 days before the meeting, and the director will also publish the proposed actions in the Federal Register for comment at least 30 days before the meeting. In addition, the director's proposed decision, at his discretion, may be published in the Federal Register for 30 days of comment before final action is taken. The director's final decision, along with response to the comments, will be published in the Federal Register and the *Recombinant DNA Technical Bulletin*. The RAC and IBC chairpersons will be notified of this decision:

IV–C–1–b–(1)–(a). Changing containment levels for types of experiments that are specified in the Guidelines when a major action is involved;

IV–C–1–b–(1)–(b). Assigning containment levels for types of experiments that are not explicitly considered in the Guidelines when a major action is involved;

IV–C–1–b–(1)–(c). Promulgating and amending a list of classes of recombinant DNA molecules to be exempt from these Guidelines because they consist entirely of DNA segments from species that exchange DNA by known physiological processes or otherwise do not present a significant risk to health or the environment;

IV–C–1–b–(1)–(d). Permitting experiments specified by Section III–A of the Guidelines;

IV–C–1–b–(1)–(e). Certifying new host-vector systems with the exception of minor modifications of already certified systems (the standards and procedures for certification are described in Appendix I–II–A. Minor modifications constitute, for example, those of minimal or no consequence to the properties relevant to containment); and

IV–C–1–b–(1)–(f). Adopting other changes in the Guidelines.

IV–C–1–b–(2). Lesser Actions. To execute lesser actions, the director must seek the advice of the RAC. The director's decision will be transmitted to the RAC and IBC chairpersons and published in the *Recombinant DNA Technical Bulletin:*

IV–C–1–b–(2)–(a). Interpreting and determining containment levels upon request by ORDA;

IV–C–1–b–(2)–(b). Changing containment levels for experiments that are specified in the Guidelines (see Section III);

IV–C–1–b–(2)–(c). Assigning containment levels for experiments not explicitly considered in the Guidelines;

IV–C–1–b–(2)–(d). Revising the "Classification of Etiologic Agents" for the purpose of these Guidelines [1].

IV–C–1–b–(3). Other Actions. The director's decision will be transmittede to the RAC and IBC chairpersons and published in the *Recombinant DNA Technical Bulletin:*

IV–C–1–b–(3)–(a). Interpreting the Guidelines for experiments to which the Guidelines specifically assign containment levels;

IV–C–1–b–(3)–(b). Setting containment under Section III–B–1–d and Section III–B–3–d;

IV–C–1–b–(3)–(c). Approving minor modifications of already certified host-vector systems (the standards and procedures for such modifications are described in Appendix I–II);

IV–C–1–b–(3)–(d). Decertifying already certified host-vector systems;

IV–C–1–b–(3)–(e). Adding new entries to the list of molecules toxic for vertebrates (see Appendix F);

IV–C–1–b–(3)–(f). Approving the cloning of toxin genes in host-vector systems other than *E. coli* K–12 (see Appendix F); and

IV–C–1–b–(3)–(g). Determining appropriate containment conditions for experiments according to case precedents developed under Section IV–C–1–b–(2)–(c).

IV–C–1–b–(4). The director shall conduct, support, and assist training programs in laboratory safety for IBC members, BSOs, PIs, and laboratory staff.

IV–C–2. Recombinant DNA Advisory Committee. The Recombinant DNA Advisory Committee [RAC] is responsible for carrying out specified functions cited below as well as others assigned under its charter or by the Secretary, HHS, the Assistant Secretary for Health, and the Director, NIH.

The committee shall consist of 25 members including the chair, appointed by the Secretary or his or her designee, at least fourteen of whom shall be selected from authorities knowledgeable in the fields of molecular biology or recombinant DNA research or in scientific fields other than molecular biology or recombinant DNA research, and at least six of whom shall be persons knowledgeable in applicable law, standards of professional conduct and practice, public attitudes, the environment, public health, occupational health, or related fields. Representatives from Federal agencies shall serve as non-voting members. Nominations for the RAC may be submitted to the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 3B10, Bethesda, MD 20892.

All meetings of the RAC will be announced in the Federal Register, including tentative agenda items, 30 days in advance of the meeting with final agendas (if modified) available at least 72 hours before the meeting. No item defined as a major action under Section IV–C–1–b–(1) may be added to an agenda after it appears in the Federal Register.

The RAC shall be responsible for advising the Director, NIH, on the actions listed in Section IV–C–1–b–(1) and IV–C–1–b–(2).

IV–C–3. The Office of Recombinant DNA Activities. The ORDA shall serve as a focal point for information on recombinant DNA activities and provide advice to all within and outside NIH including Institutions, BSOs, PIs, Federal agencies, State and local governments and institutions in the private sector. The ORDA shall carry out such other functions as may be delegated to it by the Director, NIH, including those authorities described in Section IV–C–1–b–(3). In addition, ORDA shall be responsible for the following:

IV–C–3–a. Reviewing and approving IBC membership;

IV–C–3–b. Publishing in the Federal Register:

IV–C–3–b–(1). Announcements of RAC meetings and agendas at least 30 days in advance;

Note.—If the agenda for an RAC meeting is modified, ORDA shall make the revised agenda available to anyone upon request at least 72 hours in advance of the meeting.

IV–C–3–b–(2). Proposed major actions of the type falling under Section IV–C–1–b–(1) at least 30 days prior to the RAC meeting at which they will be considered; and

IV–C–3–b–(3). The NIH director's final decision on recommendations made by the RAC.

IV–C–3–c. Publishing the *Recombinant DNA Technical Bulletin;* and

IV–C–3–d. Serving as executive secretary of the RAC.

IV–C–4. Other NIH Components. Other NIH components shall be responsible for certifying maximum containment (BL4) facilities, inspecting them periodically, and inspecting other recombinant DNA facilities as deemed necessary.

IV–D—Compliance

As a condition for NIH funding of recombinant DNA research, institutions must ensure that such research conducted at or sponsored by the institution, irrespective of the source of funding, shall comply with these Guidelines. The policies on noncompliance are as follows:

IV–D–1. All NIH-funded projects involving recombinant DNA techniques must comply with the NIH Guidelines. Noncompliance may result in (i) suspension, limitation, or termination of financial assistance for such projects and of NIH funds for other recombinant DNA research at the institution, or (ii) a requirement for prior NIH approval of any or all recombinant DNA projects at the Institution.

IV–D–2. All non-NIH funded projects involving recombinant DNA techniques conducted at or sponsored by an institution that receives NIH funds for projects involving such techniques must comply with the NIH Guidelines. Noncompliance may result in: (i) Suspension, limitation, or termination of NIH funds for recombinant DNA research at the institution, or (ii) a requirement for prior NIH approval of any or all recombinant DNA projects at the institution.

IV–D–3. Information concerning noncompliance with the Guidelines may be brought forward by any person. It should be delivered to both NIH (ORDA) and the relevant Institution. The institution, generally through the IBC, shall take appropriate action. The institution shall forward a complete report of the incident to ORDA, recommending any further action.

IV–D–4. In cases where NIH proposes to suspend, limit, or terminate financial assistance because of noncompliance with the Guidelines, applicable DHHS and Public Health Service procedures shall govern.

IV–D–5. Voluntary Compliance. Any individual, corporation, or institution that is not otherwise covered by the Guidelines is encouraged to conduct recombinant DNA research activities in accordance with the Guidelines through the procedures set forth in Part VI.

V. Footnotes and References of Sections I–IV

1. The original reference to organisms as Class 1, 2, 3, 4, or 5 refers to the classification in the publication *Classification of Etiologic Agents on the Basis of Hazard*, 4th Edition, July 1974; U.S. Department of Health, Education, and Welfare, Public Health Service, Centers for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.

The Director, NIH, with advice of the Recombinant DNA Advisory Committee, may revise the classification for the purposes of these Guidelines (see Section IV–C–1–b–(2)–(d)). The revised list of organisms in each class is reprinted in Appendix B to these Guidelines.

2. In Part III of the Guidelines, there are a number of places where judgments are to be made. In all these cases the principal investigator is to make the judgment on these matters as part of his responsibility to "make the initial determination of the required levels of physical and biological containment in accordance with the Guidelines" (Section IV–B–5–c–(1)). In the cases falling under Sections III–A, –B or –C, this judgment is to be reviewed and approved by the IBC as part of its responsibility to make "an independent assessment of the containment levels required by these Guidelines for the proposed research" (Section IV–B–3–c–(1)). If the IBC wishes, any specific cases may be referred to ORDA as part of ORDA's functions to "provide advice to all within and outside NIH" (Section IV–C–3), and ORDA may request advice from the RAC as part of the RAC's responsibility for "interpreting and determining containment levels upon request by ORDA" (Section IV–C–1–b–(2)–(a)).

3. *Laboratory Safety at the Center for Disease Control* (Sept. 1974). U.S. Department of Health, Education and Welfare Publication No. CDC 75–8118.

4. *Classification of Etiologic Agents on the Basis of Hazard* (4th Edition, July 1974). U.S. Department of Health, Education and Welfare. Public Health Service. Centers for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.

5. *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (Oct. 1974). U.S. Department of Health, Education and Welfare Publication No. (NIH) 75–790.

6. *National Institutes of Health Biohazards Safety Guide* (1974). U.S. Department of Health, Education and Welfare, Public Health Service, National Institutes of Health. U.S. Government Printing Office, Stock No. 1740–00383.

7. *Biohazards in Biological Research* (1973). A. Hellman, M.N. Oxman, and R. Pollack (ed.) Cold Spring Harbor Laboratory.

8. *Handbook of Laboratory Safety* (1971). 2nd Edition. N.V. Steere (ed.). The Chemical Rubber Co., Cleveland.

9. Bodily, J.L. (1970). *General Administration of the Laboratory*, H.L. Bodily, E.L. Updyke, and J.O. Mason (eds.). Diagnostic Procedures for Bacterial, Mycotic and Parasitic Infections. American Public Health Association, New York, pp. 11–28.

10. Darlow, H.M. (1969). *Safety in the Microbiological Laboratory*. In J.R. Norris and D.W. Robbins (ed.), Methods in Microbiology. Academic Press, Inc., New York, pp. 169–204.

11. *The Prevention of Laboratory Acquired Infection* (1974). C.H. Collins, E.G. Hartley, and R. Pilsworth. Public Health Laboratory Service, Monograph Series No. 6.

12. Chatigny, M.A. (1981). *Protection Against Infection in the Microbiological Laboratory: Devices and Procedures*. In W.W. Umbreit (ed.): Advances in Applied Microbiology. Academic Press, New York, N.Y. 3:131–192.

13. *Design Criteria for Viral Oncology Research Facilities* (1975). U.S. Department of Health, Education and Welfare, Public Health Service, National Institutes of Health, DHEW Publication No. (NIH) 75–891.

14. Kuehne, R.W. (1973). *Biological Containment Facility for Studying Infectious Disease*. Appl. Microbiol. 26–239–243.

15. Runkle, R.S., and G.B. Phillips (1969). *Microbial Containment Control Facilities*. Van Nostrand Reinhold, New York.

16. Chatigny, M.A., and D.I. Clinger (1969). *Contamination Control in Aerobiology*. In R.L. Dimmick and A.B. Akers (eds.). An Introduction to Experimental Aerobiology. John Wiley & Sons, New York, pp. 194–263.

17. As classified in the Third Report of the International Committee on Taxonomy of Viruses: Classification and Nomenclature of Viruses, R.E.F. Matthews, Ed. Intervirology 12 (129–296) 1979.

18. A USDA permit, required for import and interstate transport of pathogens, may be obtained from the Animal and Plant Health Inspection Service, USDA, Federal Building, Hyattsville, MD 20782.

19. i.e., the total of all genomes within a Family shall not exceed two-thirds of the genome.

20. All activities, including storage of variola and whitepox, are restricted to the single national facility (World Health Organization (WHO) Collaborating Center for Smallpox Research, Centers for Disease Control, in Atlanta).

21. Section III–A–4 covers only those experiments in which the intent is to modify stably the genome of cells of a human subject. Other experiments involving recombinant DNA in human subjects such as feeding of bacteria containing recombinant DNA or the administration of vaccines containing recombinant DNA are not covered in Section III–A–4 of the Guidelines.

22. For recombinant DNA experiments in which the intent is to modify stably the genome of cells of a human subject, see Section III–A–4.

VI. Voluntary Compliance

VI–A.—Basic Policy

Individuals, corporations, and institutions not otherwise covered by the Guidelines are encouraged to do so by following the standards and procedures set forth in Parts I–IV of the Guidelines. In order to simplify discussion, references hereafter to "institutions" are intended to encompass corporations, and individuals who have no organizational affiliation. For purposes of complying with the Guidelines, an individual intending to carry out research involving recombinant DNA is encouraged to affiliate with an institution that has an IBC approved under the Guidelines.

Since commercial organizations have special concerns, such as protection of proprietary data, some modifications and explanations of the procedures in Parts I–IV are provided below, in order to address these concerns.

VI–B—IBC Approval

The ORDA will review the membership of an institution's IBC, and where it finds the IBC meets the requirements set forth in Section IV–B–2 will give its approval to the IBC membership.

It should be emphasized that employment of an IBC member solely for purposes of membership on the IBC does not itself make the member an institutionally affiliated member for purposes of Section IV–B–2–a.

Except for the unaffiliated members, a member of an IBC for an institution not otherwise covered by the Guidelines may participate in the review and approval of a project in which the member has a direct financial interest so long as the member has not been, and does not expect to be, engaged in the project. Section IV–B–2–d is modified to that extent for purposes of these institutions.

VI–C—Certification of Host-Vector Systems

A host-vector system may be proposed for certification by the Director, NIH, in accordance with the procedures set forth in Appendix I–II–A.

In order to ensure protection for proprietary data, any public notice regarding a host-vector system which is designated by the institution as proprietary under Section VI–E–1 will be issued only after consultation with the institution as to the content of the notice.

VI–D—Requests for Exemptions and Approvals

Requests for exemptions or other approvals required by the Guidelines should be requested by following the procedures set forth in the appropriate sections in Parts I–IV of the Guidelines.

In order to ensure protection for proprietary data, any public notice regarding a request for an exemption or other approval which is designated by the institution as proprietary under Section VI–E–1 will be issued only after consultation with the institution as to the content of the notice.

VI–E—Protection of Proprietary Data

In general, the Freedom of Information Act requires Federal agencies to make their records available to the public upon request. However, this requirement does not apply to, among other things, "trade secrets and commercial and financial information obtained from a person and privileged or confidential." 18 U.S.C. 1905, in turn makes it a crime for an officer or employee of the United States or any Federal department or agency to publish, divulge, disclose, or make known "in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, [or] processes . . . of any person, firm, partnership, corporation, or association." This provision applies to all employees of the Federal Government, including special Government employees. Members of the Recombinant DNA Advisory Committee are "special Government employees."

VI–E–1. In submitting to NIH for purposes of complying voluntarily with the Guidelines, an institution may designate those items of information which the institution believes constitute trade secrets, privileged, confidential commercial, or financial information.

VI–E–2. If NIH receives a request under the Freedom of Information Act for information so designated, NIH will promptly contact the institution to secure its views as to whether the information (or some portion) should be released.

VI–E–3. If the NIH decides to release this information (or some portion) in response to a Freedom of Information request or otherwise, the institution will be advised; and the actual release will not be made until the expiration of 15 days after the institution is so advised except to the extent that earlier release in the judgment of the Director, NIH, is necessary to protect against an imminent hazard to the public or the environment.

VI–E–4. Presubmission Review.

VI–E–4–a. Any institution not otherwise covered by the Guidelines, which is considering submission of data or information voluntarily to NIH, may request presubmission review of the records involved to determine whether if the records are submitted NIH will or will not make part or all of the records available upon request under the Freedom of Information Act.

VI–E–4–b. A request for presubmission review should be submitted to ORDA along with the records involved. These records must be clearly marked as being the property of the institution on loan to NIH solely for the purpose of making a determination under the Freedom of Information Act. The ORDA will then seek a determination from the HHS Freedom of Information Officer, the responsible official under HHS regulations (45 CFR Part 5) as to whether the records involved (or some portion) are or are not available to members of the Public under the Freedom of Information Act. Pending such a determination the records will be kept separate from ORDA files, will be considered records of the institution and not ORDA, and will not be received as part of ORDA files. No copies will be made of the records.

VI–E–4–c. The ORDA will inform the institution of the HHS Freedom of Information Officer's determination and follow the institution's instructions as to whether some or all of the records involved are to be returned to the institution or to become a part of ORDA files. If the institution instructs ORDA to return the records, no copies or summaries of the records will be made or retained by HHS, NIH, or ORDA.

VI–E–4–d. The HHS Freedom of Information Officer's determination will represent that official's judgement at the time of the determination as to whether the records involved (or some portion) would be exempt from disclosure under the Freedom of Information Act if at the time of the determination the records were in ORDA files at a request were received for them under the Act.

Appendix A—Exemptions Under Section III–D–4

Section III–D–4 states that exempt from these Guidelines are "certain specified recombinant DNA molecules that consist entirely of DNA segments from different species that exchange

DNA by known physiological processes though one or more of the segments may be a synthetic equivalent. A list of such exchangers will be prepared and periodically revised by the Director, NIH, with advice of the RAC after appropriate notice and opportunity for public comment (see Section IV–C–1–b–(1)–(c)). Certain classes are exempt as of publication of these revised Guidelines. The list is in Appendix A."

Under Section III–D–4 of these Guidelines are recombinant DNA molecules that are: (1) Composed entirely of DNA segments from one or more of the organisms within a sublist and (2) to be propagated in any of the organisms within a sublist.
(Classification of *Bergey's Manual of Determinative Bacteriology*, 8th edition. R. E. Buchanan and N. E. Gibbons, editors. Williams and Wilkins Company: Baltimore, 1974.)

Although these experiments are exempt, it is recommended that they be performed at the appropriate biosafety level for the host or recombinant organism (for biosafety levels see *Biosafety in Microbiological and Biomedical Laboratories*, 1st Edition (March 1984), U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, Atlanta, Georgia 30333, and National Institutes of Health, Bethesda, Maryland 20892).

Sublist A

1. Genus *Escherichia*
2. Genus *Shigella*
3. Genus *Salmonella* (including *Arizona*)
4. Genus *Enterobacter*
5. Genus *Citrobacter* (including *Levinea*)
6. Genus *Klebsiella*
7. Genus *Erwinia*
8. *Pseudomonas aeruginosa, Pseudomonas Putida* and *Pseudomonas fluorescens*
9. *Serratia marcescens*
10. *Yersinia enterocolitica*

Sublist B

1. *Bacillus subtilis*
2. *Bacillus licheniformis*
3. *Bacillus pumilus*
4. *Bacillus globigii*
5. *Bacillus niger*
6. *Bacillus natto*
7. *Bacillus amyloliquefaciens*
8. *Bacillus aterrimus*

Sublist C

1. *Streptomyces aureofaciens*
2. *Streptomyces rimdosus*
3. *Streptomyces coelicolar*

Sublist D

1. *Streptomyces griseus*
2. *Streptomyces cyaneus*
3. *Streptomyces venezuelae*

Sublist E

1. One way transfer of *Streptococcus mutans* or *Streptococcus lactis* DNA into *Streptococcus sanguis.*

Sublist F

1. *Streptococcus sanguis*
2. *Streptococcus pneumoniae*
3. *Streptococcus faecalis*
4. *Streptococcus pyogenes*
5. *Streptococcus mutans*

APPENDIX B—CLASIFICATION OF MICROORGANISMS ON THE BASIS OF HAZARD

Appendix B–I—Classification of Etiologic Agents

The original reference for this classification was the publication *Classification of Etiological Agents on the Basis of Hazard*, 4th edition, July 1974, U.S. Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control, Office of Biosafety, Atlanta, Georgia 30333. For the purposes of these Guidelines, this list has been revised by the NIH [1].

Appendix B–I–A. Class 1 Agents. All bacterial, parasitic, fungal, viral, rickettsial, and chlamydial agents not included in higher classes.

Appendix B–I–B. Class 2 Agents.

Appendix B–I–B–1. Bacterial Agents.

Acinetobacter calcoaceticus
Actinobacillus-all species
Aeromonas hydrophila
Arizona hinshawii-all serotypes
Bacillus anthracis
Bordetella-all species
Borrelia recurrentis, B. vincenti
Campylobacter fetus
Campylobacter jejuni
Chlamydia psittaci
Chlamydia trachomatis
Clostridium botulinum,
Cl. chauvoei, Cl. haemolyticum,
Cl. histolyticum, Cl. novyi,
Cl. septicum, Cl. tetani
Corynebacterium diphtheriae,
C. equi, C. haemolyticum,
C. pseudotuberculosis,
C. pyogenes, C. renale
Edwardsiella tarda
Erysipelothrix insidiosa
Escherichia coli-all enteropathogenic, enterotoxigenic, enteroinvasive and strains bearing K1 antigen
Haemophilus ducreyi, H. influenzae
Klebsiella-all species and all serotypes
Legionella pneumophila
Leptospira interrogans-all serotypes
Listeria-all species
Moraxella-all species
Mycobacteria-all species except those listed in Class 3
Mycoplasma-all species except *Mycoplasma mycoides* and *Mycoplasma agalactiae*, which are in Class 5
Neisseria gonorrhoeae, N. meningitidis
Pasteurella-all species except those listed in Class 3
Salmonella-all species and all serotypes
Shigella-all species and all serotypes
Sphaerophorus necrophorus
Staphylococcus aureus
Streptobacillus moniliformis
Streptococcus pneumoniae
Streptococcus pyogenes
Treponema carateum, T. pallidum, and T. pertenue
Vibrio cholerae
Vibrio parahemolyticus
Yersinia enterocolitica

Appendix B–I–B–2. Fungal Agents.

Actinomycetes (including *Nocardia* species, *Actinomyces* species, and *Arachnia propionica*) [2]
Blastomyces dermatitidis
Cryptococcus neoformans
Paracoccidioides braziliensis

Appendix B–I–B–3. Parasitic Agents.

Endamoeba histolytica
Leishmania sp.
Naegleria gruberi
Schistosoma mansoni
Toxoplasma gondii
Toxocara canis
Trichinella spiralis
Trypanosoma cruzi

Appendix B–I–B–4. Viral, Rickettsial, and Chlamydial Agents.

Adenoviruses—human—all types
Cache Valley virus
Coxsackie A and B viruses
Cytomegaloviruses
Echoviruses—all types
Encephalomyocarditis virus (EMC)
Flanders virus
Hart Park virus
Hepatitus—associated antigen material
Herpes viruses-except *Herpesvirus simiae (Monkey B virus)* which is in Class 4
Corona viruses
Influenza viruses—all types except A/PR8/34, which is in Class 1
Langat virus
Lymphogranuloma venereum agent
Measles virus
Mumps virus
Parainfluenza virus—all types except Parainfluenza virus 3, SF4 strain, which is in Class 1
Polioviruses—all types, wild and attenuated
Poxviruses—all types except *Alastrim, Smallpox,* and *Whitepox* which are Class 5 and *Monkey pox* which depending on experiments is in Class 3 or Class 4
Rabies virus—all strains except *Rabies street virus* which should be classified in Class 3
Reoviruses—all types
Respiratory syncytial virus
Rhinoviruses—all types
Rubella virus
Simian viruses—all types except *Herpesvirus simiae (Monkey B virus)* and *Marburg virus* which are in Class 4
Sindbis virus
Tensaw virus
Turlock virus
Vaccinia virus
Varicella virus
Vesicular stomatitis virus [3]

Vole rickettsia
Yellow fever virus, 17D vaccine strain

Appendix B–I–C. Class 3 Agents.

Appendix B–I–C–1. Bacterial Agents.

Bartonella—all species
Brucella—all species
Francisella tularensis
Mycobacterium avium, M. bovis, M. tuberculosis
Pasteurella multocida type *B* ("buffalo" and other foreign virulent strains) [3]
Pseudomonas mallei [3]
Pseudomonas pseudomallei [3]
Yersinia pestis

Appendix B–I–C–2. Fungal Agents.

Coccidioides immitis
Histoplasma capsulatum
Histoplasma capsulatum var. *duboisii*

Appendix B–I–C–3. Parasitic Agents.

None.

Appendix B–I–C–4. Viral, Rickettsial, and Chlamydial Agents.

Monkey pox, when used *in vitro* [4]
Arboviruses-all strains except those in Class 2 and 4 (*Arboviruses* indigenous to the United States are in Class 3 except those listed in Class 2. *West Nile* and *Semliki Forest* viruses may be classified up or down depending on the conditions of use and geographical location of the laboratory.)
Dengue virus, when used for transmission or animal inoculation experiments
Lymphocytic choriomeningitis virus (LCM)
Rickettsia—all species except *Vole rickettsia* when used for transmission or animal inoculation experiments
Yellow fever virus—wild, when used *in vitro*

Appendix B–I–D. Class 4 Agents.

Appendix B–I–D–1. Bacterial Agents.

None.

Appendix B–I–D–2. Fungal Agents.

None.

Appendix B–I–D–3. Parasitic Agents.

None.

Appendix B–I–D–4. Viral, Rickettsial, and Chlamydial Agents.

Ebola fever virus
Monkey pox, when used for transmission or animal inoculation experiments [4]
Hemorrhagic fever agents, including *Crimean hemorrhagic fever, (Congo), Junin*, and *Machupo* viruses, and others as yet undefined
Herpesvirus simiae (Monkey B virus)
Lassa virus
Marburg virus
Tick-borne encephalitis virus complex, including *Russian spring-summer encephalitis, Kyasanur forest disease, Omsk hemorrhagic fever*, and *Central European encephalitis viruses*
Venezuelan equine encephalitis virus, epidemic strains, when used for transmission or animal inoculation experiments
Yellow fever virus—wild, when used for transmission or animal inoculation experiments

Appendix B–II—Classification of Oncogenic Viruses on the Basis of Potential Hazard [5]

Appendix B–II–A. Low-Risk Oncogenic Viruses.

Rous sarcoma
SV–40
CELO
Ad7–SV40
Polyoma
Bovine papilloma
Rat mammary tumor
Avian leukosis
Murine leukemia
Murine sarcoma
Mouse mammary tumor
Rat leukemia
Hamster leukemia
Bovine leukemia
Dog sarcoma
Mason-Pfizer monkey virus
Marek's
Guinea pig herpes
Lucke (Frog)
Adenovirus
Shope fibroma
Shope papilloma

Appendix B–II–B. Moderate-Risk Oncogenic Viruses.

Ad2–SV40
FeLV
HV Saimiri
EBV
SSV–1
GaLV
HV ateles
Yaba
FeSV

Appendix B–III—Class 5 Agents

Appendix B–III–A. Animal Disease Organisms Which are Forbidden Entry into the United States by Law.

Foot and mouth disease virus.

Appendix B–III–B. Animal Disease Organisms and Vectors Which are Forbidden Entry into the United States by USDA Policy.

African horse sickness virus
African swine fever virus
Besnoitia besnoiti
Borna disease virus
Bovine infectious petechial fever
Camel pox virus
Ephemeral fever virus
Fowl plague virus
Goat pox virus
Hog cholera virus
Louping ill virus
Lumpy skin disease virus
Nairobi sheep disease virus
Newcastle disease virus (Asiatic strains)
Mycoplasma mycoides (contagious bovine pleuropneumonia)
Mycoplasma agalactiae (contagious agalactia of sheep)
Rickettsia ruminatium (heart water)
Rift valley fever virus
Rhinderpest virus
Sheep pox virus
Swine vesicular disease virus
Teschen disease virus
Trypanosoma vivax (Nagana)
Trypanosoma evansi
Theileria parva (East Coast fever)
Theileria annulata
Theileria lawrencei
Theileria bovis
Theileria hirci
Vesicular exanthema virus
Wesselsbron disease virus
Zyonema

Appendix B–III–C. Organisms Which may not be Studied in the United States Except at Specified Facilities.

Small pox [4]
Alastrim [4]
White pox [4]

Appendix B–IV—Footnotes and References of Appendix B.

1. The original reference for this classification was the publication *Classification of Etiologic Agents on the Basis of Hazard*, 4th edition, July 1974, U.S. Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control, Office of Biosafety, Atlanta, Georgia 30333. For the purposes of these Guidelines, this list has been revised by the NIH.

2. Since the publication of the classification in 1974 [1], the *Actinomycetes* have been reclassified as bacterial rather than fungal agents.

3. A USDA permit, required for import and interstate transport of pathogens, may be obtained from the Animal and Plant Health Inspection Service, USDA, Federal Building, Hyattsville, MD 20782.

4. All activities, including storage of variola and whitepox, are restricted to the single national facility [World Health Organization (WHO) Collaborating Center for Smallpox Research, Centers for Disease Control, in Atlanta].

5. *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (October 1974). U.S. Department of Health, Education, and Welfare Publication No. (NIH) 75–790.

6. U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

Appendix C—Exemptions Under Section III–D–5

Section III–D–5 states that exempt from these Guidelines are "Other classes of recombinant DNA molecules if the Director, NIH, with advice of the RAC, after appropriate notice and opportunity for public comment finds that they do not present a significant risk to health or the environment (see Section IV–C–1–b–(1)–(c)). Certain classes are exempt as of publication of these revised Guidelines."

The following classes of experiments are exempt under Section III–D–5 of the Guidelines:

Appendix C–I—Recombinant DNAs in Tissue Culture.

Recombinant DNA molecules containing less than one-half of any eukaryotic genome (all viruses from a single Family (4) being considered identical (5)) that are propagated and maintained in cells in tissue culture are exempt from these Guidelines with the exceptions listed below.

Exceptions. Experiments described in Section III–A which require specific RAC review and NIH approval before initiation of the experiment.

Experiments involving DNA from Class 3, 4, or 5 organisms [1] or cells known to be infected with these agents.

Experiments involving the deliberate introduction of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F).

Appendix C–II—Experiments Involving E. coli K–12 Host-Vector Systems

Experiments which use *E. coli* K–12 host-vector systems, with the exception of those experiments listed below, are exempt from these Guidelines provided that: (i) the *E. coli* host shall not contain conjugation proficient plasmids or generalized transducing phages; and (ii) lambda or lambdoid or Ff bacteriophages or nonconjugative plasmids [2] shall be used as vectors. However, experiments involving the insertion into *E. coli* K–12 of DNA from prokaryotes that exchange genetic information [3] with *E. coli* may be performed with any *E. coli* K–12 vector (e.g., conjugative plasmid). When a nonconjugative vector is used, the *E. coli* K–12 host may contain conjugation-proficient plasmids either autonomous or integrated, or generalized transducing phages.

For these exempt laboratory experiments, BL1 physical containment conditions are recommended.

For large-scale (LS) fermentation experiments BL1–LS physical containment conditions are recommended. However, following review by the IBC of appropriate data for a particular host-vector system, some latitude in the application of BL1–LS requirements as outlined in Appendix K–II–A through K–II–F is permitted.

Exceptions. Experiments described in Section III–A which require specific RAC review and NIH approval before initiation of the experiment.

Experiments involving DNA from Class 3, 4, or 5 organisms [1] or from cells known to be infected with these agents may be conducted under containment conditions specified in Section III–B–2 with prior IBC review and approval.

Large-scale experiments (e.g., more than 10 liters of culture) require prior IBC review and approval (see Section III–B–5).

Experiments involving the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F).

Appendix C–III—Experiments Involving Saccharomyces Host-Vector Systems

Experiments which use *Saccharomyces cerevisiae* host-vector systems, with the exception of experiments listed below, are exempt from these Guidelines.

Experiments which use *Saccharomyces uvarum* host-vector systems, with the exception of experiments listed below, are exempt from these Guidelines.

For these exempt laboratory experiments, BL1 physical containment conditions are recommended.

For large-scale fermentation experiments BL1–LS physical containment conditions are recommended. However, following review by the IBC of appropriate data for a particular host-vector system some latitude in the application of BL1–LS requirements as outlined in Appendix K–II–A through K–II–F is permitted.

Exceptions. Experiments described in Section III–A which require specific RAC review and NIH approval before initiation of the experiment.

Experiments involving Class 3, 4, or 5 organisms [1] or cells knowns to be infected with these agents may be conducted under containment conditions specified in Section III–B–2 with prior IBC review and approval.

Large-scale experiments (e.g., more than 10 liters of culture) require prior IBC review and approval (see Section III–B–5).

Experiments involving the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F).

Appendix C–IV—Experiments Involving Bacillus subtilis Host-Vector Systems

Any asporogenic *Bacillus subtilis* strain which does not revert to a sporeformer with a frequency greater than 10^{-7} can be used for cloning DNA with the exception of those experiments listed below.

For these exempt laboratory experiments, BL1 physical containment conditions are recommended.

For large-scale fermentation experiments BL1–LS physical containment conditions are recommended. However, following review by the IBC of appropriate data for a particular host-vector system, some latitude in the application of BL1–LS requirements as outlined in Appendix K–II–A through K–II–F is permitted.

Exceptions. Experiments described in Section III–A which require specific RAC review and approval before initiation of the experiment.

Experiments involving Class 3, 4, or 5 organisms [1] or cells known to be infected with these agents may be conducted under containment conditions specified by Section III–B–2 with prior IBC review and approval.

Large-scale experiments (e.g., more than 10 liters of culture) require prior IBC review and approval (see Section III–B–5).

Experiments involving the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F).

Appendix C–V—Extrachromosomal Elements of Gram Positive Organisms

Recombinant DNA molecules derived entirely from extrachromosomal elements of the organisms listed below (including shuttle vectors constructed from vectors described in Appendix C), propagated and maintained in organisms listed below are exempt from these Guidelines.

Bacillus subtilis
Bacillus pumilus
Bacillus licheniformis
Bacillus thuringiensis
Bacillus cereus
Bacillus amyloliquefaciens
Bacillus brevis
Bacillus natto
Bacillus niger
Bacillus aterrimus
Bacillus amylosaccharliticus
Bacillus anthracis
Bacillus globigii
Bacillus megaterium
Staphylococcus aureus
Staphylococcus epidermidis
Staphylococcus carnosus
Cloetridium acetobutylicum
Pediococcus damnosus
Pediococcus pentosaceus
Pediococcus acidilactici
Lactobacillus casei
Listeria grayi
Listeria murrayi
Listeria monocytogenes
Streptococcus pyogenes
Streptococcus agalactiae
Streptococcus sanguis
Streptococcus salivarious
Streptococcus cremoris
Streptococcus pneumoniae
Streptococcus avium
Streptococcus faecalis
Streptococcus anginosus
Streptococcus sobrinus
Streptococcus lactis
Streptococcus mutans
Streptococcus equisimilis
Streptococcus thermophylus

Streptococcus milleri
Streptococcus durans
Streptococcus mitior
Streptococcus ferus

Exceptions. Experiments described in Section III–A which require specific RAC review and NIH approval before initiation of the experiment.

Large-scale experiments (e.g., more than 10 liters of culture) require prior IBC review and approval (see Section III–B–6).

Experiments involving the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F).

Appendix C–VI—Footnotes and References of Appendix C

1. The original reference to organisms as Class 1, 2, 3, 4, or 5 refers to the classification in the publication *Classification of Etiologic Agents on the Basis of Hazard*, 4th Edition, July 1974; U.S. Department of Health, Education and Welfare, Public Health Service, Centers for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.

The Director, NIH, with advice of the Recombinant DNA Advisory Committee, may revise the classification for the purposes of these Guidelines (see Section IV–C–1–b–(2)–(d)). The revised list of organisms in each class is reprinted in Appendix B to these Guidelines.

2. A subset of non-conjugative plasmid vectors are also poorly mobilizable (e.g., pBR322, pBR313). Where practical, these vectors should be employed.

3. Defined as observable under optimal laboratory conditions by transformation, transduction, phage infection, and/or conjugation with transfer of phage, plasmid, and/or chromosomal genetic information. Note that this definition of exchange may be less stringent than that applied to exempt organisms under Section III–D–4.

4. As classified in the Third Report of the International Committee on Taxonomy of Viruses: Classification and Nomenclature of Viruses. R.E.F. Matthews, Ed. Intervirology 12 (129–296) 1979.

5. i.e., the total of all genomes within a Family shall not exceed one-half of the genome.

Appendix D—Actions Taken Under the Guidelines

As noted in the subsections of Section IV–C–1–b–(1), the Director, NIH, may take certain actions with regard to the Guidelines after the issues have been considered by the RAC. Some of the actions taken to date include the following:

Appendix D–I

Permission is granted to clone foot and mouth disease virus in the EK1 host-vector system consisting of *E. coli* K–12 and the vector pBR322, all work to be done at the Plum Island Animal Disease Center.

Appendix D–II

Certain specified clones derived from segments of the foot and mouth disease virus may be transferred from Plum Island Animal Disease Center to the facilities of Genentech, Inc., of South San Francisco, California. Further development of the clones at Genentech has been approved under BL1+EK1 conditions.

Appendix D–III

The Rd strain of *Hemophilus influenzae* can be used as a host for the propagation of the cloned Tn 10 tet R gene derived from *E. coli* K–12 employing the non-conjugative *Hemophilus* plasmid, pRSF0885, under BL1 conditions.

Appendix D–IV

Permission is granted to clone certain subgenomic segments of foot and mouth disease virus in HV1 *Bacillus subtilis* and *Saccharomyces cerevisiae* host-vector systems under BL1 conditions at Genentech, Inc., South San Francisco, California.

Appendix D–V

Permission is granted to Dr. Ronald Davis of Stanford University to field test corn plants modified by recombinant DNA techniques under specified containment conditions.

Appendix D–VI

Permission is granted to clone in *E. coli* K–12 under BL1 physical containment conditions subgenomic segments of rift valley fever virus subject to conditions which have been set forth by the RAC.

Appendix D–VII

Attenuated laboratory strains of *Salmonella typhimurium* may be used under BL1 physical containment conditions to screen for the *Saccharomyces cerevisiae* pseudouridine synthetase gene. The plasmid YEp13 will be employed as the vector.

Appendix D–VIII

Permission is granted to transfer certain clones of subgenomic segments of foot and mouth disease virus from Plum Island Animal Disease Center to the laboratories of Molecular Genetics, Inc., Minnetonka, Minnesota, and to work with these clones under BL1 containment conditions. Approval is contingent upon review of data on infectivity testing of the clones by a working group of the RAC.

Appendix D–IX

Permission is granted to Dr. John Sanford of Cornell University to field test tomato and tobacco plants transformed with bacterial (*E. coli* K–12) and yeast DNA using pollen as a vector.

Appendix D–X

Permission is granted to Drs. Steven Lindow and Nickolas Panopoulos of the University of California, Berkeley, to release under specified conditions *Pseudomonas syringae* pv. *syringae* and *Erwinia herbicola* carrying *in vitro* generated deletions of all or part of the genes involved in ice nucleation.

Appendix D–XI

Agracetus of Middleton, Wisconsin, may field test under specified conditions disease resistant tobacco plants prepared by recombinant DNA techniques.

Appendix E—Certified Host-Vector Systems

(See also Appendix I)

While many experiments using *E. coli* K–12, *Saccharomyces cerevisiae* and *Bacillus subtilis* are currently exempt from the Guidelines under Section III–D–5, some derivatives of these host-vector systems were previously classified as HV1 or HV2. A listing of those systems follows:

Appendix E–I—Bacillus subtilis

HV1. The following plasmids are accepted as the vector components of certified *B. subtilis* HV1 systems: pUB110, pC194, pS194, pSA2100, pE194, pT127, pUB112, pC221, pC223, and pAB124. *B. subtilis* strains RUB 331 and BGSC 1S53 have been certified as the host component of HV1 systems based on these plasmids.

HV2. The asporogenic mutant derivative of *Bacillus subtilis*, ASB 298, with the following plasmids as the vector component: pUB110, pC194, pS194, pSA2100, pE194, pT127, pUB112, pC221, pC223, and pAB124.

Appendix E–II—Saccharomyces cerevisiae

HV2. The following sterile strains of *Saccharomyces cerevisiae*, all of which have the ste–VC9 mutation, SHY1, SHY2, SHY3, and SHY4. The following plasmids are certified for use: YIp1, YEp2, YEp4, YIp5, YEp6, YRp7, YEp20, YEp21, YEp24, YIp25, YIp26, YIp27, YIp28, YIp29, YIp30, YIp31, YIp32, and YIp33.

Appendix E–III—Escherichia coli

EK2 Plasmid Systems. The *E. coli* K–12 strain chi–1776. The following plasmids are certified for use: pSC101, pMB9, pBR313, pBR322, pDH24, pBR325, pBR327, pGL101, and pHB1. The following *E. coli/S. cerevisiae* hybrid plasmids are certified as EK2 vectors when used in *E. coli* chi–1776 or in the sterile yeast strains, SHY1, SHY2, SHY3, and SHY4: YIpl, YEp2, YEp4, YIp5, YEp6, YRp7, YEp20, YEp21, YEp24, YIp25, YIp26, YIp27, YIp28, YIp29, YIp30, YIp31, YIp32, and YIp33.

EK2 Bacteriophage Systems. The following are certified EK2 systems based on bacteriophage lambda:

Vector	*Host*
λgt*WES*·λB'	DP50*supF*
λgt *WES*λB★	DP50*supF*
λgt Zj *vir*·λB'	*E. coli* K–12
λgtALO·λB	DP50*supF*
Charon 3A	DP50 or DP50*supF*
Charon 4A	DP50 or DP50*supF*
Charon 16A	DP50 or DP50*supF*
Charon 21A	DP50*supF*
Charon 23A	DP50 or DP50*supF*
Charon 24A	DP50 or DP50*supF*

E. coli K–12 strains chi–2447 and chi–2281 are certified for use with lambda vectors that are certified for use with strain DP50 or DP50*supF* provided that the su⁻ strain not be used as a propagation host.

Appendix E–IV—Neurospora crassa

HV1. The following specified strains of *Neurospora crassa* which have been modified to prevent aerial dispersion:

Inl (inositolless) strains 37102, 37401, 46316, 64001, and 88601.

Csp–1 strain UCLA37 and csp–2 strains FS 590, UCLA101 (these are conidial separation mutants).

Eas strain UCLA191 (an "easily wettable" mutant).

Appendix E–V—Streptomyces

HV1. The following *Streptomyces* species: *Streptomyces coelicolor, S. lividans, S. parvulus,* and *S. griseus.* The following are accepted as vector components of certified *Streptomyces* HV1 systems: *Streptomyces* plasmids SCP2, SLP1.2, pIJ101, actinophage phi C31, and their derivatives.

Appendix E–VI—Pseudomonas putida

HV1. Pseudomonas putida strains KT2440 with plasmid vectors pKT282, pKT283, and pKT284.

Appendix F—Containment Conditions for Cloning of Genes Coding for the Biosynthesis of Molecules Toxic for Vertebrates

Appendix F–I—General Information.

Appendix F specifies the containment to be used for the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates. The cloning of genes coding for molecules toxic for vertebrates that have an LD_{50} of less than 100 nanograms per kilogram body weight (e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, *Shigella dysenteriae* neurotoxin) is covered under Section III–A–1 of the Guidelines and requires RAC review and NIH and IBC approval before initiation. No specific restrictions shall apply to the cloning of genes if the protein specified by the gene has an LD_{50} of 100 micrograms or more per kilogram of body weight. Experiments involving genes coding for toxic molecules with an LD_{50} of 100 micrograms or less per kilogram body weight shall be registered with ORDA prior to initiating the experiments. A list of toxic molecules classified as to LD_{50} is available from ORDA. Testing procedures for determining toxicity of toxic molecules not on the list are available from ORDA. The results of such tests shall be forwarded to ORDA which will consult with the RAC Working Group on Toxins prior to inclusion of the molecules on the list (see Section IV–C–1–b–(2)–(e)).

Appendix F–II—Containment Conditions for Cloning of Toxic Molecule Genes in E. coli K–12

Appendix F–II–A. Cloning of genes coding for molecules toxic for vertebrates that have an LD_{50} in the range of 100 nanograms to 1000 nanograms per kilogram body weight (e.g., abrin, *Clostridium perfringens* epsilon toxin) may proceed under BL2+EK2 or BL3+EK1 containment conditions.

Appendix F–II–B. Cloning of genes for the biosynthesis of molecules toxic for vertebrates with an LD_{50} in the range of 1 microgram to 100 micrograms per kilogram body weight may proceed under BL1+EK1 containment conditions (e.g., *Staphylococcus aureus* alpha toxin, *Staphylococcus aureus* beta toxin, ricin, *Pseudomonas aeruginosa* exotoxin A, *Bordatella pertussis* toxin, the lethal factor of *Bacillus anthracis*, the *Pasteurella pestis* murine toxins, the oxygen-labile hemolysins such as streptolysin O, and certain neurotoxins present in snake venoms and other venoms).

Appendix F–II–C. Some enterotoxins are substantially more toxic when administered enterally than parenterally. The following enterotoxins shall be subject to BL1+EK1 containment conditions: cholera toxin, the heat labile toxins of *E. coli, Klebsiella,* and other related proteins that may be identified by neutralization with an antiserum monospecific for cholera toxin, and the heat stable toxins of *E. coli* and of *Yersinia enterocolitica.*

Appendix F–III—Containment Conditions for Cloning of Toxic Molecule Genes in Organisms Other Than E. coli K–12

Requests involving the cloning of genes coding for molecules toxic for vertebrates in host-vector systems other than *E. coli* K–12 will be evaluated by ORDA which will consult with the Working Group on Toxins (see Section IV–C–1–b–(3)–(f)).

Appendix F–IV—Specific Approvals

Appendix F–IV–A. Permission is granted to clone the Exotoxin A gene of *Pseudomonas aeruginosa* under BL1 conditions in *Pseudomonas aeruginosa* and in *Pseudomonas putida.*

Appendix F–IV–B. The pyrogenic exotoxin type A (Tox A) gene of *Staphylococcus aureus* may be cloned in an HV2 *Bacillus subtilis* host-vector system under BL3 containment conditions.

Appendix F–IV–C. Restriction fragments of *Corynephage Beta* carrying the structural gene for diphtheria toxin may be safely cloned in *e. coli* K–12 in high containment Building 550 at the Frederick Cancer Research Facility. Laboratory practices and containment equipment are to be specified by the IBC. If the investigators wish to proceed with the experiments, a prior review will be conducted to advise NIH whether the proposal has sufficient scientific merit to justify the use of the NIH BL4 facility.

Appendix F–IV–D. The genes coding for the *Staphylococcus aureus* determinants, A, B, and F, which may be implicated in toxic shock syndrome may be cloned in *E. coli* K–12 under BL2+EK1 conditions. The *Staphylococcus aureus* strain used as the donor is to be alpha toxin minus. It is suggested that, if possible, the donor *Staphylococcus aureus* strain should lack other toxins with LD_{50}s in the range of one microgram per kilogram body weight such as the exfoliative toxin.

Appendix F–IV–E. Fragments F–1, F–2, and F–3 of the diphtheria toxin gene (tox) may be cloned in *E. coli* K–12 under BL1+EK1 containment conditions and may be cloned in *Bacillus subtilis* host-vector systems under BL1 containment conditions. Fragment F–1 and fragment F–2 both contain: (i) Some or all of the transcriptional control elements of *tox;* (ii) the signal peptide; and (iii) fragment A (the center responsible for ADP-ribosylation of elongation factor 2). Fragment F–3 codes for most of the non-toxic fragment B of the toxin and contains no sequences coding for any portion of the enzymatically active fragment A moiety.

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Appendix F–IV–F. The gene(s) coding for a toxin (designated LT-like) isolated from *E. coli* which is similar to the *E. coli* heat labile enterotoxin (LT) with respect to its activities and mode of action but is not neutralized by antibodies against cholera enterotoxin or against LT from human or porcine *E. coli* strains, and sequences homologous to the *E. coli* LT-like toxin gene may be cloned under BL1+EK1 conditions.

Appendix F–IV–G. Genes from *Vibrio fluvialis, Vibrio mimicus,* and non O–1 *Vibrio cholerae,* specifying virulence factors for animals, may be cloned under BL1+EK1 conditions. The virulence factors to be cloned will be selected by testing fluid induction in suckling mice and Y–1 mouse adrenal cells.

Appendix F–IV–H. The intact structural gene(s) of the Shiga-like toxin from bacterial species classified in the families *Enterobacteriaceae* or *Vibrionaceae* including *Campylobacter* species may be cloned in *E. coli* K-12 under BL3+EK1 containment conditions.

E. coli host-vector systems expressing the Shiga-like toxin gene product may be moved from BL3+EK1 to BL2+EK1 containment conditions provided that: (1) The amount of toxin produced by the modified host-vector systems be no greater than that produced by the positive control strain *Shigella dysenteriae* 60R, grown and measured under optimal conditions; and (2) the cloning vehicle is to be an EK1 vector preferably belonging to the class of poorly mobilizable plasmids such as pBR322, pBR328, and pBR325.

Nontoxinogenic fragments of the Shiga-like toxin structural gene(s) may be moved from BL3+EK1 to BL2+EK1 containment conditions or such nontoxic fragments may be directly cloned in *E. coli* K–12 under BL2+EK1 conditions provided that the *E. coli* host-vector systems containing the fragments do not contain overlapping fragments which together would encompass the Shigalike toxin structural gene(s).

Appendix F–IV–I. A hybrid gene in which the gene coding for the melanocyte stimulating hormone (MSH) is joined to a segment of the gene encoding diphtheria toxin may be safely propagated in *E. coli* K–12 under BL4 containment in high containment building 550 at the Frederick Cancer Research Facility. If the investigators wish to proceed with the experiment, a prior review will be conducted to advise NIH whether the proposal has sufficient scientific merit to justify the use of the NIH BL4 facility. Before any of the strains may be removed from the BL4 facility, data on their safety shall be evaluated by the Working Group in Toxins and the working group recommendation shall be acted upon by NIH.

Appendix F–IV–J. The gene segment encoding the A subunit of cholera toxin of *Vibrio cholerae* may be joined to the transposons Tn5 and Tn5–131 and the A-subunit::Tn5–131 hybrid gene cloned in *E. coli* K–12 and *V. cholerae* under BL1 containment conditions.

Appendix F–IV–K. A hybrid gene in which the gene coding for interleukin 2 (IL–2) is joined to a specific segment of the gene encoding diphtheria toxin may be propagated in *E. coli* K–12 host-vector systems under BL2 containment plus BL3 practices, with the use of poorly mobilizable plasmid vectors such as EK2 certified plasmids.

Appendix G—Physical Containment

Appendix G–I—Standard Practices and Training

The first principle of containment is a strict adherance to good microbiological practices [1–10]. Consequently, all personnel directly or indirectly involved in experiments on recombinant DNAs must receive adequate instruction (see Sections IV–B–1–e and IV–B–5–d). This shall, as a minimum, include instructions in aseptic techniques and in the biology of the organisms used in the experiments so that the potential biohazards can be understood and appreciated.

Any research group working with agents with a known or potential biohazard shall have an emergency plan which describes the procedures to be followed if an accident contaminates personnel or the environment. The PI must ensure that everyone in the laboratory is familiar with both the potential hazards of the work and the emergency plan (see Sections IV–B–3–d and IV–B–5–e). If a research group is working with a known pathogen for which there is an effective vaccine, the vaccine should be made available to all workers. Where serological monitoring is clearly appropriate, it shall be provided (see Section IV–B–1–f).

The "Laboratory Safety Monograph" and *Biosafety in Microbiological and Biomedical Laboratories* [2] booklets describe practices, equipment, and facilities in detail.

Appendix G–II—Physical Containment Levels

The objective of physical containment is to confine organisms containing recombinant DNA molecules and thus to reduce the potential for exposure of the laboratory worker, persons outside of the laboratory, and the environment to organisms containing recombinant DNA molecules. Physical containment is achieved through the use of laboratory practices, containment equipment, and special laboratory design. Emphasis is placed on primary means of physical containment which are provided by laboratory practices and containment equipment. Special laboratory design provides a secondary means of protection against the accidental release of organisms outside the laboratory or to the environment. Special laboratory design is used primarily in facilities in which experiments of moderate to high potential hazards are performed.

Combinations of laboratory practices, containment equipment, and special laboratory design can be made to achieve different levels of physical containment. Four levels of physical containment, which are designated as BL1, BL2, BL3, and BL4, are described. It should be emphasized that the descriptions and assignments of physical containment detailed below are based on existing approaches to containment of pathogenic organisms [2]. The National Cancer Institute describes three levels for research on oncogenic viruses which roughly correspond to our BL2, BL3, and BL4 level [3].

It is recognized that several different combinations of laboratory practices, containment equipment, and special laboratory design may be appropriate for containment of specific research activities. The Guidelines, therefore, allow alternative selections of primary containment equipment within facilities that have been designed to provide BL3 and BL4 levels of physical containment. The selection of alternative methods of primary containment is dependent, however, on the level of biological containment provided by the host-vector system used in the experiment. Consideration will also be given by the Director, NIH, with the advice of the RAC to other combinations which achieve an equivalent level of containment (see Section IV–C–1–b–(2)–(b)).

Appendix G–II–A—Biosafety Level 1 (BL1) [13]

Appendix G–II–A–1. Standard Microbiological Practices.

Appendix G–II–A–1–a. Access to the laboratory is limited or restricted at the discretion of the laboratory director when experiments are in progress.

Appendix G–II–A–1–b. Work surfaces are decontaminated once a day and after any spill of viable material.

Appendix G–II–A–1–c. All contaminated liquid or solid wastes are decontaminated before disposal.

Appendix G–II–A–1–d. Mechanical pipetting devices are used; mouth pipetting is prohibited.

Appendix G–II–A–1–e. Eating, drinking, smoking, and applying cosmetics are not permitted in the work area. Food may be stored in cabinets or refrigerators designated and used for this purpose only.

Appendix G–II–A–1–f. Persons wash their hands after they handle materials involving organisms containing recombinant DNA molecules, and animals, and before leaving the laboratory.

Appendix G–II–A–1–g. All procedures are performed carefully to minimize the creation of aerosols.

Appendix G–II–A–1–h. It is recommended that laboratory coats, gowns, or uniforms be worn to prevent contamination or soiling of street clothes.

Appendix G–II–A–2—Special Practices

Appendix G–II–A–2–a. Contaminated materials that are to be decontaminated at a site away from the laboratory are placed in a durable leakproof container which is closed before being removed from the laboratory.

Appendix G–II–A–2–b. An insect and rodent control program is in effect.

Appendix G–II–A–3—Containment Equipment

Appendix G–II–A–3–a. Special containment equipment is generally not required for manipulations of agents assigned to Biosafety Level 1.

Appendix G–II–A–4—Laboratory Facilities

Appendix G–II–A–4–a. The laboratory is designed so that it can be easily cleaned.

Appendix G–II–A–4–b. Bench tops are impervious to water and resistant to acids, alkalis, organic solvents, and moderate heat.

Appendix G–II–A–4–c. Laboratory furniture is sturdy. Spaces between benches, cabinets, and equipment are accessible for cleaning.

Appendix G–II–A–4–d. Each laboratory contains a sink for hand-washing.

Appendix G–II–A–4–e. If the laboratory has windows that open, they are fitted with fly screens.

Appendix G–II–B—Biosafety Level 2 (BL2) [14]

Appendix G–II–B–1. Standard Microbiological Practices.

Appendix G–II–B–1–a. Access to the laboratory is limited or restricted by the laboratory director when work with organisms containing recombinant DNA molecules is in progress.

Appendix G–II–B–1–b. Work surfaces are decontaminated at least once a day and after any spill of viable material.

Appendix G–II–B–1–c. All contaminated liquid or solid wastes are decontaminated before disposal.

Appendix G–II–B–1–d. Mechanical pipetting devices are used; mouth pipetting is prohibited.

Appendix G–II–B–1–e. Eating, drinking, smoking, and applying cosmetics are not permitted in the work area. Food may be stored in cabinets or refrigerators designated and used for this purpose only.

Appendix G–II–B–1–f. Persons wash their hands after handling materials involving organisms containing recombinant DNA molecules, and animals, and when they leave the laboratory.

Appendix G–II–B–1–g. All procedures are performed carefully to minimize the creation of aerosols.

Appendix G–II–B–1–h. Experiments of lesser biohazard potential can be carried out concurrently in carefully demarcated areas of the same laboratory.

Appendix G–II–B–2—Special Practices

Appendix G–II–B–2–a. Contaminated materials that are to be decontaminated at a site away from the laboratory are placed in a durable leakproof container which is closed before being removed from the laboratory.

Appendix G–II–B–2–b. The laboratory director limits access to the laboratory. The director has the final responsibility for assessing each circumstance and determining who may enter or work in the laboratory.

Appendix G–II–B–2–c. The laboratory director establishes policies and procedures whereby only persons who have been advised of the potential hazard and meet any specific entry requirements (e.g., immunization) enter the laboratory or animal rooms.

Appendix G–II–B–2–d. When the organisms containing recombinant DNA molecules in use in the laboratory require special provisions for entry (e.g., vaccination), a hazard warning sign incorporating the universal biohazard symbol is posted on the access door to the laboratory work area. The hazard warning sign identifies the agent, lists the name and telephone number of the laboratory director or other responsible person(s), and indicates the special requirement(s) for entering the laboratory.

Appendix G–II–B–2–e. An insect and rodent control program is in effect.

Appendix G–II–B–2–f. Laboratory coats, gowns, smocks, or uniforms are worn while in the laboratory. Before leaving the laboratory for nonlaboratory areas (e.g., cafeteria, library, administrative offices), this protective clothing is removed and left in the laboratory or covered with a clean coat not used in the laboratory.

Appendix G–II–B–2–g. Animals not involved in the work being performed are not permitted in the laboratory.

Appendix G–II–B–2–h. Special care is taken to avoid skin contamination with organisms containing recombinant DNA molecules; gloves should be worn when handling experimental animals and when skin contact with the agent is unavoidable.

Appendix G–II–B–2–i. All wastes from laboratories and animal rooms are appropriately decontaminated before disposal.

Appendix G–II–B–2–j. Hypodermic needles and syringes are used only for parenteral injection and aspiration of fluids from laboratory animals and diaphragm bottles. Only needle-locking syringes or disposable syringe-needle units (i.e., needle is integral to the syringe) are used for the injection or aspiration of fluids containing organisms that contain recombinant DNA molecules. Extreme caution should be used when handling needles and syringes to avoid autoinoculation and the generation of aerosols during use and disposal. Needles should not be bent, sheared, replaced in the needle sheath or guard, or removed from the syringe following use. The needle and syringe should be promptly placed in a puncture-resistant container and decontaminated, preferably by autoclaving, before discard or reuse.

Appendix G–II–B–2–k. Spills and accidents which result in overt exposures to organisms containing recombinant DNA molecules are immediately reported to the laboratory director. Medical evaluation, surveillance, and treatment are provided as appropriate and written records are maintained.

Appendix G–II–B–2–l. When appropriate, considering the agent(s) handled, baseline serum samples for laboratory and other at-risk personnel are collected and stored. Additional serum specimens may be collected periodically depending on the agents handled or the function of the facility.

Appendix G–II–B–2–m. A biosafety manual is prepared or adopted. Personnel are advised of special hazards and are required to read

instructions on practices and procedures and to follow them.

Appendix G–II–B–3—Containment Equipment

Appendix G–II–B–3–a. Biological safety cabinets (Class I or II) (see Appendix G–III–12) or other appropriate personal protective or physical containment devices are used whenever:

Appendix G–II–B–3–a–(1). Procedures with a high potential for creating aerosols are conducted [15]. These may include centrifuging, grinding, blending, vigorous shaking or mixing, sonic disruption, opening containers of materials whose internal pressures may be different from ambient pressures, inoculating animals intranasally, and harvesting infected tissues from animals or eggs.

Appendix G–II–B–3–a–(2). High concentrations or large volumes of organisms containing recombinant DNA molecules are used. Such materials may be centrifuged in the open laboratory if sealed heads or centrifuge safety cups are used and if they are opened only in a biological safety cabinet.

Appendix G–II–B–4—Laboratory Facilities

Appendix G–II–B–4–a. The laboratory is designed so that it can be easily cleaned.

Appendix G–II–B–4–b. Bench tops are impervious to water and resistant to acids, alkalis, organic solvents, and moderate heat.

Appendix G–II–B–4–c. Laboratory furniture is sturdy and spaces between benches, cabinets, and equipment are accessible for cleaning.

Appendix G–II–B–4–d. Each laboratory contains a sink for hand-washing.

Appendix G–II–B–4–e. If the laboratory has windows that open, they are fitted with fly screens.

Appendix G–II–B–4–f. An autoclave for decontaminating laboratory wastes is available.

Appendix G–II–C—Biosafety Level 3 (BL3) [16]

Appendix G–II–C–1. Standard Microbiological Practices.

Appendix G–II–C–1–a. Work surfaces are decontaminated at least once a day and after any spill of viable material.

Appendix G–II–C–1–b. All contaminated liquid or solid wastes are decontaminated before disposal.

Appendix G–II–C–1–c. Mechanical pipetting devices are used; mouth pipetting is prohibited.

Appendix G–II–C–1–d. Eating, drinking, smoking, storing food, and applying cosmetics are not permitted in the work area.

Appendix G–II–C–1–e. Persons wash their hands after handling materials involving organisms containing recombinant DNA molecules, and animals, and when they leave the laboratory.

Appendix G–II–C–1–f. All procedures are performed carefully to minimize the creation of aerosols.

Appendix G–II–C–1–g. Persons under 16 years of age shall not enter the laboratory.

Appendix G–II–C–1–h. If experiments involving other organisms which require lower levels of containment are to be conducted in the same laboratory concurrently with experiments requiring BL3 level physical containment, they shall be conducted in accordance with all BL3 level laboratory practices.

Appendix G–II–C–2—Special Practices

Appendix G–II–C–2–a. Laboratory doors are kept closed when experiments are in progress.

Appendix G–II–C–2–b. Contaminated materials that are to be decontaminated at a site away from the laboratory are placed in a durable leakproof container which is closed before being removed from the laboratory.

Appendix G–II–C–2–c. The laboratory director controls access to the laboratory and restricts access to persons whose presence is required for program or support purposes. The director has the final responsibility for assessing each circumstance and determining who may enter or work in the laboratory.

Appendix G–II–C–2–d. The laboratory director establishes policies and procedures whereby only persons who have been advised of the potential biohazard, who meet any specific entry requirements (e.g., immunization), and who comply with all entry and exit procedures enter the laboratory or animal rooms.

Appendix G–II–C–2–e. When organisms containing recombinant DNA molecules or experimental animals are present in the laboratory or containment module, a hazard warning sign incorporating the universal biohazard symbol is posted on all laboratory and animal room access doors. The hazard warning sign identifies the agent, lists the name and telephone number of the laboratory director or other responsible person(s), and indicates any special requirements for entering the laboratory, such as the need for immunizations, respirators, or other personal protective measures.

Appendix G–II–C–2–f. All activities involving organisms containing recombinant DNA molecules are conducted in biological safety cabinets or other physical containment devices within the containment module. No work in open vessels is conducted on the open bench.

Appendix G–II–C–2–g. The work surfaces of biological safety cabinets and other containment equipment are decontaminated when work with organisms containing recombinant DNA molecules is finished. Plastic-backed paper toweling used on nonperforated work surfaces within biological safety cabinets facilitates clean-up.

Appendix G–II–C–2–h. An insect and rodent program is in effect.

Appendix G–II–C–2–i. Laboratory clothing that protects street clothing (e.g., solid front or wrap-around gowns, scrub suits, coveralls) is worn in the laboratory. Laboratory clothing is not worn outside the laboratory, and it is decontaminated before being laundered.

Appendix G–II–C–2–j. Special care is taken to avoid skin contamination with contaminated materials; gloves should be worn when handling infected animals and when skin contact with infectious materials is unavoidable.

Appendix G–II–C–2–k. Molded surgical masks or respirators are worn in rooms containing experimental animals.

Appendix G–II–C–2–l. Animals and plants not related to the work being conducted are not permitted in the laboratory.

Appendix G–II–C–2–m. Laboratory animals held in a BL3 area shall be housed in partial-containment caging systems, such as Horsfall units [11], open cages placed in ventilated enclosures, solid-wall and -bottom cages covered by filter bonnets, or solid-wall and -bottom cages placed on holding racks equipped with ultraviolet in radiation lamps and reflectors.

Note.—Conventional caging systems may be used provided that all personnel wear appropriate personal protective devices. These shall include at a minimum wrap-around gowns, head covers, gloves, shoe covers, and respirators. All personnel shall shower on exit from areas where these devices are required.

Appendix G–II–C–2–n. All wastes from laboratories and animal rooms are appropriately decontaminated before disposal.

Appendix G–II–C–2–o. Vacuum lines are protected with high efficiency particulate air (HEPA) filters and liquid disinfectant traps.

Appendix G–II–C–2–p. Hypodermic needles and syringes are used only for parenteral injection and aspiration of fluids from laboratory animals and diaphragm bottles. Only needle-locking syringes or disposable syringe-needle units (i.e., needle is integral to the syringe) are used for the injection or aspiration of fluids containing organisms that contain recombinant DNA molecules. Extreme caution should be used when handling needles and syringes to avoid autoinoculation and the generation of aerosols during use and disposal. Needles should not be bent, sheared, replaced in the needle sheath or guard or removed from the syringe following use. The needle and syringe should be promptly placed in a puncture-resistant container and decontaminated, preferably by autoclaving, before discard or reuse.

Appendix G–II–C–2–q. Spills and accidents which result in overt or potential exposures to organisms containing recombinant DNA molecules are immediately reported to the laboratory director. Appropriate medical evaluation, surveillance, and treatment are provided and written records are maintained.

Appendix G–II–C–2–r. Baseline serum samples for all laboratory and other at-risk personnel should be collected and stored. Additional serum specimens may be collected periodically depending on the agents handled or the function of the laboratory.

Appendix G–II–C–2–s. A biosafety manual is prepared or adopted. Personnel are advised of special hazards and are required to read instructions on practices and procedures and to follow them.

Appendix G–II–C–2–t. Alternative Selection of Containment Equipment. Experimental procedures involving a host-vector system that provides a one-step higher level of biological containment than that specified can be conducted in the BL3 laboratory using containment equipment specified for the BL2 level of physical containment. Experimental procedures involving a host-vector system that provides a one-step lower level of biological containment than that specified can be conducted in the BL3 laboratory using containment equipment specified for the BL4 level of physical containment. Alternative combination of containment safeguards are shown in Table 1.

Appendix G–II–C–3—Containment Equipment

Appendix G–II–C–3–a. Biological safety cabinets (Class I, II, or III) (see Appendix G–III–12) or other appropriate combinations of personal protective or physical containment devices (e.g., special protective clothing, masks, gloves, respirators, centrifuge safety cups, sealed centrifuge rotors, and containment caging for animals) are used for all activities with organisms containing recombinant DNA molecules which pose a threat of aerosol exposure. These include: manipulation of cultures and of those clinical or environmental materials which may be a source of aerosols; the aerosol challenge of experimental animals; and harvesting infected tissues or fluids from experimental animals and embryonate eggs; and necropsy of experimental animals.

Appendix G–II–C–4—Laboratory Facilities

Appendix G–II–C–4–a. The laboratory is separated from areas which are open to unrestricted traffic flow within the building. Passage through two sets of doors is the basic requirement for entry into the laboratory from access corridors or other contiguous areas. Physical separation of the high containment laboratory from access corridors or other laboratories or activities may also be provided by a double-doored clothes change room (showers may be included), airlock, or other access facility which requires passage through two sets of doors before entering the laboratory.

Appendix G–II–C–4–b. The interior surfaces of walls, floors, and ceilings are water resistant so that they can be easily cleaned. Penetrations in these surfaces are sealed or capable of being sealed to facilitate decontaminating the area.

Appendix G–II–C–4–c. Bench tops are impervious to water and resistant to acids, alkalis, organic solvents, and moderate heat.

Appendix G–II–C–4–d. Laboratory furniture is sturdy and spaces between benches, cabinets, and equipment are accessible for cleaning.

Appendix G–II–C–4–e. Each laboratory contains a sink for hand-washing. The sink is foot, elbow, or automatically operated and is located near the laboratory exit door.

Appendix G–II–C–4–f. Windows in the laboratory are closed and sealed.

Appendix G–II–C–4–g. Access doors to the laboratory or containment module are self-closing.

Appendix G–II–C–4–h. An autoclave for decontaminating laboratory wastes is available preferably within the laboratory.

Appendix G–II–C–4–i. A ducted exhaust air ventilation system is provided. This system creates directional airflow that draws air into the laboratory through the entry area. The exhaust air is not recirculated to any other area of the building, is discharged to the outside, and is dispersed away from the occupied areas and air intakes. Personnel must verify that the direction of the airflow (into the laboratory) is proper. The exhaust air from the laboratory room can be discharged to the outside without being filtered or otherwise treated.

Appendix G–II–C–4–j. The HEPA-filtered exhaust air from Class I or Class II biological safety cabinets is discharged directly to the outside or through the building exhaust system. Exhaust air from Class I or II biological safety cabinets may be recirculated within the laboratory if the cabinet is tested and certified at least every twelve months. If the HEPA-filtered exhaust air from Class I or II biological safety cabinets is to be discharged to the outside through the building exhaust air system, it is connected to this system in a manner (e.g., thimble unit connection [12]) that avoids any interference with the air balance of the cabinets or building exhaust system.

Appendix G–II–D—Biosafety Level 4 (BL4).

Appendix G–II–D–1. Standard Microbiological Practices.

Appendix G–II–D–1–a. Work surfaces are decontaminated at least once a day and immediately after any spill of viable material.

Appendix G–II–D–1–b. Only mechanical pipetting devices are used.

Appendix G–II–D–1–c. Eating, drinking, smoking, storing food, and applying cosmetics are not permitted in the laboratory.

Appendix G–II–D–1–d. All procedures are performed carefully to minimize the creation of aerosols.

Appendix G–II–D–2—Special Practices

Appendix G–II–D–2–a. Biological materials to be removed from the Class III cabinets or from the maximum containment laboratory in a viable or intact state are transferred to a nonbreakable, sealed primary container and then enclosed in a nonbreakable, sealed secondary container which is removed from the facility through a disinfectant dunk tank, fumigation chamber, or an airlock designed for this purpose.

Appendix G–II–D–2–b. No materials, except for biological materials that are to remain in a viable or intact state, are removed from the maximum containment laboratory unless they have been autoclaved or decontaminated before they leave the facility. Equipment or material which might be damaged by high temperatures or steam is decontaminated by gaseous

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or vapor methods in an airlock or chamber designed for this purpose.

Appendix G–II–D–2–c. Only persons whose presence in the facility or individual laboratory rooms is required for program or support purposes are authorized to enter. The supervisor has the final responsibility for assessing each circumstance and determining who may enter or work in the laboratory. Access to the facility is limited by means of secure, locked doors; accessibility is managed by the laboratory director, biohazards control officer, or other person responsible for the physical security of the facility. Before entering, persons are advised of the potential biohazards and instructed as to appropriate safeguards for ensuring their safety. Authorized persons comply with the instructions and all other applicable entry and exit procedures. A logbook signed by all personnel indicates the date and time of each entry and exit. Practical and effective protocols for emergency situations are established.

Appendix G–II–D–2–d. Personnel enter and leave the facility only through the clothing change and shower rooms. Personnel shower each time they leave the facility. Personnel use the airlocks to enter or leave the laboratory only in an emergency.

Appendix G–II–D–2–e. Street clothing is removed in the outer clothing change room and kept there. Complete laboratory clothing, including undergarments, pants and shirts or jumpsuits, shoes, and gloves, is provided and used by all personnel entering the facility. Head covers are provided for personnel who do not wash their hair during the exit shower. When leaving the laboratory and before proceeding into the shower area, personnel remove their laboratory clothing and store it in a locker or hamper in the inner change room.

Appendix G–II–D–2–f. When materials that contain organisms containing recombinant DNA molecules or experimental animals are present in the laboratory or animal rooms, a hazard warning sign incorporating the universal biohazard symbol is posted on all access doors. The sign identifies the agent, lists the name of the laboratory director or other responsible person(s), and indicates any special requirements for entering the area (e.g., the need for immunizations or respirators).

Appendix G–II–D–2–g. Supplies and materials needed in the facility are brought in by way of the double-doored autoclave, fumigation chamber, or airlock which is appropriately decontaminated between each use. After securing the outer doors, personnel within the facility retrieve the materials by opening the interior doors or the autoclave, fumigation chamber, or airlock. These doors are secured after materials are brought into the facility.

Appendix G–II–D–2–h. An insect and rodent control program is in effect.

Appendix G–II–D–2–i. Materials (e.g., plants, animals, and clothing) not related to the experiment being conducted are not permitted in the facility.

Appendix G–II–D–2–j. Hypodermic needles and syringes are used only for parenteral injection and aspiration of fluids from laboratory animals and diaphragm bottles. Only needle-locking syringes or disposable syringe-needle units (i.e., needle is integral part of unit) are used for the injection or aspiration of fluids containing organisms that contain recombinant DNA molecules. Needles should not be bent, sheared, replaced in the needle sheath or guard, or removed from the syringe following use. The needle and syringe should be placed in a puncture-resistant container and decontaminated, preferably by autoclaving before discard or reuse. Whenever possible, cannulas are used instead of sharp needles (e.g., gavage).

Appendix G–II–D–2–k. A system is set up for reporting laboratory accidents and exposures and employee absenteeism and for the medical surveillance of potential laboratory-associated illnesses. Written records are prepared and maintained. An essential adjunct to such a reporting-surveillance system is the availability of a facility for quarantine, isolation, and medical care of personnel with potential or known laboratory associated illnesses.

Appendix G–II–D–2–l. Laboratory animals involved in experiments requiring BL4 level physical containment shall be housed either in cages contained in Class III cabinets or in partial containment caging systems (such as Horsfall units [11]), open cages placed in ventilated enclosures, or solid-wall and -bottom cages placed on holding racks equipped with ultraviolet irradiation lamps and reflectors that are located in a specially designed area in which all personnel are required to wear one-piece positive pressure suits.

Appendix G–II–D–2–m. Alternative Selection of Containment Equipment. Experimental procedures involving a host-vector system that provides a one-step higher level of biological containment than that specified can be conducted in the BL4 facility using containment equipment requirements specified for the BL3 level of physical containment. Alternative combinations of containment safeguards are shown in Table I.

Appendix G–II–D–3.—Containment Equipment

Appendix G–II–D–3–a. All procedures within the facility with agents assigned to Biosafety Level 4 are conducted in the Class III biological safety cabinet or in Class I or II biological safety cabinets used in conjunction with one-piece positive pressure personnel suits ventilated by a life-support system.

Appendix G–II–D–4.—Laboratory Facilities

Appendix G–II–D–4–a. The maximum containment facility consists of either a separate building or a clearly demarcated and isolated zone within a building. Outer and inner change rooms separated by a shower are provided for personnel entering and leaving the facility. A double-doored autoclave, fumigation chamber, or ventilated airlock is provided for passage of those materials, supplies, or equipment which are not brought into the facility through the change room.

Appendix G–II–D–4–b. Walls, floors, and ceilings of the facility are constructed to form a sealed internal shell which facilitates fumigation and is animal and insect proof. The internal surfaces of this shell are resistant to liquids and chemicals, thus facilitating cleaning and decontamination of the area. All penetrations in these structures and surfaces are sealed. Any drains in the floors contain traps filled with a chemical disinfectant of demonstrated efficacy against the target agent, and they are connected directly to the liquid waste decontamination system. Sewer and other ventilation lines contain HEPA filters.

Appendix G–II–D–4–c. Internal facility appurtenances, such as light fixtures, air ducts, and utility pipes, are arranged to minimize the horizontal surface area on which dust can settle.

Appendix G–II–D–4–d. Bench tops have seamless surfaces which are impervious to water and resistant to acids, alkalis, organic solvents, and moderate heat.

Appendix G–II–D–4–e. Laboratory furniture is of simple and sturdy construction, and spaces between benches, cabinets, and equipment are accessible for cleaning.

Appendix G–II–D–4–f. A foot, elbow, or automatically operated hand-washing sink is provided near the door of each laboratory room in the facility.

Appendix G–II–D–4–g. If there is a central vacuum system, it does not serve areas outside the facility. In-line HEPA filters are placed as near as practicable to each use point or service cock. Filters are installed to permit in-place decontamination and replacement. Other liquid and gas services to the facility are protected by devices that prevent backflow.

Appendix G–II–D–4–h. If water fountains are provided, they are foot operated and are located in the facility corridors outside the laboratory. The water service to the fountain is not connected to the backflow-protected distribution system supplying water to the laboratory areas.

Appendix G–II–D–4–i. Access doors to the laboratory are self-closing and lockable.

Appendix G–II–D–4–j. Any windows are breakage resistant.

Appendix G–II–D–4–k. A double-doored autoclave is provided for decontaminating materials passing out of the facility. The autoclave door which opens to the area external to the facility is sealed to the outer wall and automatically controlled so that the outside door can only be opened after the autoclave "sterilization" cycle has been completed.

Appendix G–II–D–4–l. A pass-through dunk tank, fumigation chamber, or an equivalent decontamination method is provided so that materials and equipment that cannot be decontaminated in the autoclave can be safely removed from the facility.

Appendix G–II–D–4–m. Liquid effluents from laboratory sinks, biological safety cabinets, floors, and autoclave chambers are decontaminated by heat treatment before being released from the maximum containment facility. Liquid wastes from shower rooms and toilets may be decontaminated with chemical disinfectants or by heat in the liquid waste decontamination system. The procedure used for heat decontamination of liquid wastes is evaluated mechanically and biologically by using a recording thermometer and an indicator microorganism with a defined heat susceptibility pattern. If liquid wastes from the shower room are decontaminated with chemical disinfectants, the chemical used is of demonstrated efficacy against the target or indicator microorganisms.

Appendix G–II–D–4–n. An individual supply and exhaust air ventilation system is provided. The system maintains pressure differentials and directional airflow as required to assure flows inward from areas outside of the facility toward areas of highest potential risk within the facility. Manometers are used to sense pressure differentials between adjacent areas maintained at different pressure levels. If a system malfunctions, the manometers sound an alarm. The supply and exhaust airflow is interlocked to assure inward (or zero) airflow at all times.

Appendix G–II–D–4–o. The exhaust air from the facility is filtered through HEPA filters and discharged to the outside so that it is dispersed away from occupied buildings and air intakes. Within the facility, the filters are located as near the laboratories as practicable in order to reduce the length of potentially contaminated air ducts. The filter chambers are designed to allow *in situ* decontamination before filters are removed and to facilitate certification testing after they are replaced. Coarse filters and HEPA filters are provided to treat air supplied to the facility in order to increase the lifetime of the exhaust HEPA filters and to protect the supply air system should air pressures become unbalanced in the laboratory.

Appendix G–II–D–4–p. The treated exhaust air from Class I and II biological safety cabinets can be discharged into the laboratory room environment or the outside through the facility air exhaust system. If exhaust air from Class I or II biological safety cabinets is discharged into the laboratory the cabinets are tested and certified at 6-month intervals. *The exhaust air from Class III biological safety cabinets is discharged, without recirculation through two sets of HEPA filters in series, via the facility exhaust air system.* If the treated exhaust air from any of these cabinets is discharged to the outside through the facility exhaust air system, it is connected to this system in a manner (e.g., thimble unit connection [12]) that avoids any interference with the air balance of the cabinets or the facility exhaust air system.

Appendix G–II–D–4–q. A specially designed suit area may be provided in the facility. Personnel who enter this area wear a one-piece positive pressure suit that is ventilated by a life-support system. The life-support system includes alarms and emergency backup breathing air tanks. Entry to this area is through an airlock fitted with airtight doors. A chemical shower is provided to decontaminate the surface of the suit before the worker leaves the area. The exhaust air from the suit area is filtered by two sets of HEPA filters installed in series. A duplicate filtration unit, exhaust fan, and an automatically starting emergency power source are provided. The air pressure within the suit area is lower than that of any adjacent area. Emergency lighting and communication systems are provided. All penetrations into the internal shell of the suit area are sealed. A double-doored autoclave is provided for decontaminating waste materials to be removed from the suit area.

TABLE 1.—POSSIBLE ALTERNATE COMBINATIONS OF PHYSICAL AND BIOLOGICAL CONTAINMENT SAFEGUARDS

Classification of physical and biological containment	Alternate physical containment			Alternate biological containment
	Laboratory facilities	Laboratory practices	Containment equipment	
BL3/HV2	BL3	BL3	BL3	HV2
	BL3	BL3	BL4	HV1
BL3/HV1	BL3	BL3	BL3	HV1
	BL3	BL3	BL2	HV2
BL4/HV1	BL4	BL4	BL4	HV1
	BL4	BL4	BL3	HV2

Appendix G–III—Footnotes and References of Appendix G

1. *Laboratory Safety at the Center for Disease Control* (Sept. 1974). U.S. Department of Health Education and Welfare Publication No. CDC 75–8116.

2. *Biosafety in Microbiological and Biomedical Laboratories*, 1st Edition (March 1984). U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, Atlanta, Georgia 30333, and National Institutes of Health, Bethesda, Maryland 20205.

3. *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (Oct. 1974). U.S. Department of Health, Education and Welfare Publication No. (NIH) 75–790.

4. *National Institutes of Health Biohazards Safety Guide* (1974). U.S. Department of Health, Education, and Welfare, Public Health Service, National Institutes of Health. U.S. Government Printing Office, Stock No. 1740–00383.

5. *Biohazards in Biological Research* (1973). A. Hellman, M.N. Oxman, and R. Pollack (ed.) Cold Spring Harbor Laboratory.

6. *Handbook of Laboratory Safety* (1971). 2nd Edition. N.V. Steere (ed.). The Chemical Rubber Co., Cleveland.

7. Bodily, J.L. (1970). *General Administration of the Laboratory*. H.L. Bodily, E.L. Updyke, and J.O. Mason (eds.). Diagnostic Procedures for Bacterial, Mycotic and Parasitic Infections. American Public Health Association, New York, pp. 11–28.

8. Darlow, H.M. (1969). *Safety in the Microbiological Laboratory*. In J.R. Norris and D.W. Robbins (ed.). Methods in Microbiology. Academic Press, Inc., New York, pp. 169–204.

9. *The Prevention of Laboratory Acquired Infection* (1974). C.H. Collins, E.G. Hartley, and R. Pilsworth. Public Health Laboratory Service, Monograph Series No. 6.

10. Chatigny, M.A. (1981). *Protection Against Infection in the Microbiological Laboratory: Devices and Procedures*. In W.W. Umbreit (ed.). Advances in Applied Microbiology. Academic Press, New York, N.Y. 3:131–192.

11. Horsfall, F.L., Jr., and J.H. Baner (1940). *Individual Isolation of Infected Animals in a Single Room*. J. Bact. 40, 569–580.

12. Biological safety cabinets referred to in this section are classified as *Class I, Class II,* or *Class III* cabinets. A *Class I* is a ventilated cabinet for personnel protection having an

inward flow of air away from the operator. The exhaust air from this cabinet is filtered through a high-efficiency particulate air (HEPA) filter. This cabinet is used in three operational modes: (1) with a full-width open front, (2) with an installed front closure panel (having four 8-inch diameter openings) without gloves, and (3) with an installed front closure panel equipped with arm-length rubber gloves. The face velocity of the inward flow of air through the full-width open front is 75 feet per minute or greater.

A *Class II* cabinet is a ventilated cabinet for personnel and product protection having an open front with inward air flow for personnel protection, and HEPA filtered mass recirculated air flow for product protection. The cabinet exhaust air is filtered through a HEPA filter. The face velocity of the inward flow of air through the full-width open front is 75 feet per minute or greater. Design and performance specifications for *Class II* cabinets have been adopted by the National Sanitation Foundation, Ann Arbor, Michigan.

A *Class III* cabinet is a closed-front ventilated cabinet of gas-tight construction which provides the highest level of personnel protection of all biohazard safety cabinets. The interior of the cabinet is protected from contaminants exterior to the cabinet. The cabinet is fitted with arm-length rubber gloves and is operated under a negative pressure of at least 0.5 inches water gauge. All supply air is filtered through HEPA filters. Exhaust air is filtered through two HEPA filters or one HEPA filter and incinerator before being discharged to the outside environment. National Sanitation Foundation Standard 49. 1976. Class II (Laminar Flow) Biohazard Cabinetry. Ann Arbor, Michigan.

13. Biosafety Level 1 is suitable for work involving agents of no known or minimal potential hazard to laboratory personnel and the environment. The laboratory is not separated from the general traffic patterns in the building. Work is generally conducted on open bench tops. Special containment equipment is not required or generally used. Laboratory personnel have specific training in the procedures conducted in the laboratory and are supervised by a scientist with general training in microbiology or a related science (see Appendix G–III–2).

14. Biosafety Level 2 is similar to Level 1 and is suitable for work involving agents of moderate potential hazard to personnel and the environment. It differs in that: (1) laboratory personnel have specific training in handling pathogenic agents and are directed by competent scientists; (2) access to the laboratory is limited when work is being conducted; and (3) certain procedures in which infectious aerosols are created are conducted in biological safety cabinets or other physical containment equipment (see Appendix G–III–2).

15. Office of Research Safety, National Cancer Institute, and the Special Committee of Safety and Health Experts. 1976. "Laboratory Safety Monograph: A Supplement to the NIH Guidelines for Recombinant DNA Research." Bethesda, Maryland, National Institutes of Health.

16. Biosafety Level 3 is applicable to clinical, diagnostic, teaching, research, or production facilities in which work is done with indigenous or exotic agents which may cause serious or potentially lethal disease as a result of exposure by the inhalation route. Laboratory personnel have specific training in handling pathogenic and potentially lethal agents and are supervised by competent scientists who are experienced in working with these agents. All procedures involving the manipulation of infectious material are conducted within biological safety cabinets or other physical containment devices or by personnel wearing appropriate personal protective clothing and devices. The laboratory has special engineering and design features. It is recognized, however, that many existing facilities may not have all the facility safeguards recommended for Biosafety Level 3 (e.g., access zone, sealed penetrations, and directional airflow, etc.). In these circumstances, acceptable safety may be achieved for routine or repetitive operations (e.g., diagnostic procedures involving the propagation of an agent for identification, typing, and susceptibility testing) in laboratories where facility features satisfy Biosafety Level 2 recommendations provided the recommended "Standard Microbiological Practices," "Special Practices," and "Containment Equipment" for Biosafety Level 3 are rigorously followed. The decision to implement this modification of Biosafety Level 3 recommendations should be made only by the laboratory director (see Appendix G–III–2).

Appendix H—Shipment

Recombinant DNA molecules contained in an organism or virus shall be shipped only as an etiologic agent under requirements of the U.S. Public Health Service, and the U.S. Department of Transportation (§ 72.3, Part 72, Title 42, and §§ 173.386–.388, Part 173, Title 49, U.S. Code of Federal Regulations (CFR)) as specified below:

Appendix H–I

Recombinant DNA molecules contained in an organism or virus requiring BL1, BL2, or BL3 physical containment, when offered for transportation or transported, are subject to all requirements of §§ 72.3(a)–(e), Part 72, Title 42 CFR, and §§ 173.386–.388, Part 173, Title 49 CFR.

Appendix H–II

Recombinant DNA molecules contained in an organism or virus requiring BL4 physical containment, when offered for transportation or transported, are subject to the requirements listed above under Appendix H–I and are also subject to § 72.3(f), Part 72, Title 42 CFR.

Appendix H–III

Information on packaging and labeling of etiologic agents is shown in Figures 1, 2, and 3. Additional information on packaging and shipment is given in the "Laboratory Safety Monograph—A Supplement to the NIH Guidelines for Recombinant DNA Research," available from the Office of Recombinant DNA Activities and in *Biosafety in Microbiological and Biomedical Laboratories* (see Appendix G–III–2).

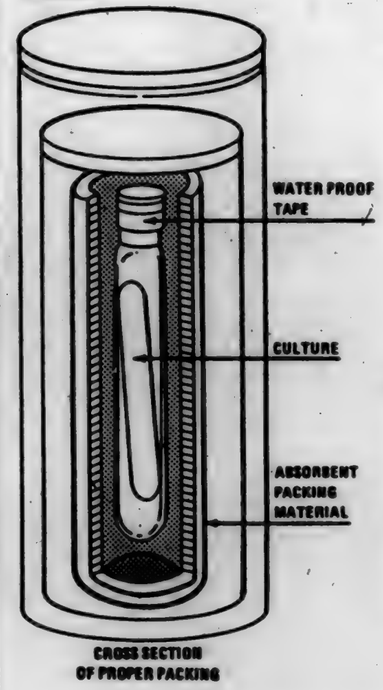
BILLING CODE 4160-01-M

FIGURE 1



PACKAGING AND LABELING OF ETIOLOGIC AGENTS

FIGURE 2



CROSS SECTION OF PROPER PACKING

The Interstate Shipment of Etiologic Agents (42 CFR, Part 72) was revised July 21, 1980 to provide for packaging and labeling requirements for etiologic agents and certain other materials shipped in interstate traffic.

Figures 1 and 2 diagram the packaging and labeling of etiologic agents in volumes of less than 50 ml. in accordance with the provisions of subparagraph 72.3 (a) of the cited regulation. Figure illustrates the color and size of the label, described in subparagraph 72.3 (d) (1 - 5) of the regulations, which shall be affixed to all shipments of etiologic agents.

For further information on any provision of this regulation contact:

Centers for Disease Control
Attn: Biohazards Control Office
1600 Clifton Road
Atlanta, Georgia 30333

Telephone: 404–329-3883
FTS–236-3883

FIGURE 3



BILLING CODE 4160-61-C

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Appendix I—Biological Containment

(See also Appendix E)

Appendix I–I—Levels of Biological Containment.

In consideration of biological containment, the vector (plasmid, organelle, or virus) for the recombinant DNA and the host (bacterial, plant, or animal cell) in which the vector is propagated in the laboratory will be considered together. Any combination of vector and host which is to provide biological containment must be chosen or constructed so that the following types of "escape" are minimized: (i) Survival of the vector in its host outside the laboratory, and (ii) transmission of the vector from the propagation host to other nonlaboratory hosts.

The following levels of biological containment (HV, or Host-Vector, systems) for prokaryotes will be established; specific criteria will depend on the organisms to be used.

Appendix I–I–A. HV1. A host-vector system which provides a moderate level of containment. *Specific systems* are:

Appendix I–I–A–1. EK1. The host is always *E. coli* K–12 or a derivative thereof, and the vectors include nonconjugative plasmids (e.g., pSC101, ColE1, or derivatives thereof [1–7] and variants of bacteriophage, such as lambda [8–15]. The *E. coli* K–12 hosts shall not contain conjugation-proficient plasmids, whether autonomous or integrated, or generalized transducing phages.

Appendix I–I–A–2. Other HV1. Hosts and vectors shall be, at a minimum, comparable in containment to *E. coli* K–12 with a non conjugative plasmid or bacteriophage vector. The data to be considered and a mechanism for approval of such HV1 systems are described below (Appendix I–II).

Appendix I–I–B. HV2. These are host-vector systems shown to provide a high level of biological containment as demonstrated by data from suitable tests performed in the laboratory. Escape of the recombinant DNA either via survival of the organisms or via transmission of recombinant DNA to other organisms should be less than $1/10^8$ under specified conditions. Specific systems are:

Appendix I–I–B–1. For EK2 host-vector systems in which the vector is a plasmid, no more than one in 10^8 host cells should be able to perpetuate a cloned DNA fragment under the specified nonpermissive laboratory conditions designed to represent the natural environment, either by survival of the original host or as a consequences of transmission of the cloned DNA fragment.

Appendix I–I–B–2. For EK2 host-vector systems in which the vector is a phage, no more than one in 10^8 phage particles should be able to perpetuate a cloned DNA fragment under the specified nonpermissive laboratory conditions designed to represent the natural environment either: (i) as a prophage (in the inserted or plasmid form) in the laboratory host used for phage propagation or (ii) by surviving in natural environments and transferring a cloned DNA fragment to other hosts (or their resident prophages).

Appendix I–II—Certification of Host-Vector Systems

Appendix I–II–A. Responsibility. HV1 systems other than *E. coli* K–12 and HV2 host-vector systems may not be designated as such until they have been certified by the Director, NIH. Application for certification of a host-vector system is made by written application to the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 3B10, Bethesda, Maryland 20892.

Host-vector systems that are proposed for certification will be reviewed by the RAC (see Section IV–C–1–b–(1)–(e)). This will first involve review of the data on construction, properties, and testing of the proposed host-vector system by a working group composed of one or more members of the RAC and other persons chosen because of their expertise in evaluating such data. The committee will then evaluate the report of the working group and any other available information at a regular review meeting. The Director, NIH, is responsible for certification after receiving the advice of the RAC. Minor modifications of existing certified host-vector systems where the modifications are of minimal or no consequence to the properties relevant to containment may be certified by the Director, NIH, without review by the RAC (see Section IV–C–1–b–(3)–(c)).

When new host-vector systems are certified, notice of the certification will be sent by ORDA to the applicant and to all IBCs and will be published in the *Recombinant DNA Technical Bulletin.* Copies of a list of all currently certified host-vector systems may be obtained from ORDA at any time.

The Director, NIH, may at any time rescind the certification of any host-vector system (see Section IV–C–1–b–(3)–(d)). If certification of a host-vector system is rescinded, NIH will instruct investigators to transfer cloned DNA into a different system or use the clones at a higher physical containment level unless NIH determines that the already constructed clones incorporate adequate biological containment.

Certification of a given system does not extend to modifications of either the host or vector component of that system. Such modified systems must be independently certified by the Director, NIH. If modifications are minor, it may only be necessary for the investigator to submit data showing that the modifications have either improved or not impaired the major phenotypic traits on which the containment of the system depends. Substantial modifications of a certified system require the submission of complete testing data.

Appendix I–II–B. Data to be Submitted for Certification.

Appendix I–II–B–1. HV1 Systems Other than E. coli K–12. The following types of data shall be submitted, modified as appropriate for the particular system under consideration: (i) A description of the organism and vector; the strain's natural habitat and growth requirements; its physiological properties, particularly those related to its reproduction and survival and the mechanisms by which it exchanges genetic information; the range of organisms with which this organism normally exchanges genetic information and what sort of information is exchanged; and any relevant information on its pathogenicity or toxicity; (ii) a description of the history of the particular strains and vectors to be used, including data on any mutations which render this organism less able to survive or transmit genetic information; and (iii) a general description of the range of experiments contemplated with emphasis on the need for developing such an HV1 system.

Appendix I–II–B–2. HV2 Systems. Investigators planning to request HV2 certification for host-vector systems can obtain instructions from ORDA concerning data to be submitted [14–15]. In general, the following types of data are required: (i) Description of construction steps with indication of source, properties, and manner of introduction of genetic traits; (ii) quantitative data on the stability of genetic traits that contribute to the containment of the system; (iii) data on the survival of the host-vector system under nonpermissive laboratory conditions designed to represent the relevant natural environment; (iv) Data on transmissibility of the vector and/or a cloned DNA fragment under both permissive and nonpermissive conditions; (v) data on all other properties of the system which affect containment and utility, including information on yields of phage or plasmid molecules, ease of DNA isolation, and ease of transfection or transformation; and (vi) in some cases, the investigator may be asked to submit data on survival and vector transmissibility from experiments in which the host-vector is fed to laboratory animals and human subjects. Such *in vivo* data may be required to confirm the validity of predicting *in vivo* survival on the basis of *in vitro* experiments.

Data must be submitted in writing to ORDA. Ten to twelve weeks are normally required for review and circulation of the data prior to the meeting at which such data can be considered by the RAC. Investigators are encouraged to publish their data on the construction, properties, and testing of proposed HV2 systems prior to consideration of the system by the RAC and its subcommittee. More specific instructions concerning the type of data to be submitted to NIH for proposed EK2 systems involving either plasmids or bacteriophage in *E. coli* K–12 are available from ORDA.

Appendix I–III—Footnotes and References of Appendix I

1. Hersfield, V., H.W. Boyer, C. Yanofsky, M.A. Lovett, and D.R. Helinski (1974). *Plasmid ColEI as a Molecular Vehicle for Cloning and Amplification of DNA.* Proc. Nat. Acad. Sci. USA *71*, 3455–3459.
2. Wensink, P.C., D.J. Finnegan, J.E. Donelson, and D.S. Hogness (1974). *A System for Mapping DNA Sequences in the Chromosomes of Drosophila Melanogaster.* Cell *3*, 315–335.
3. Tanaka, T., and B. Weisblum (1975). *Construction of a Colicin EI–R Factor Composite Plasmid In Vitro: Means for Amplification of Deoxyribonucleic Acid.* J. Bacteriol. *121*, 354–362.
4. Armstrong, K.A., V. Hershfield, and D.R. Helinski (1977). *Gene Cloning and Containment Properties of Plasmid Col EI and Its Derivatives*, Science *196*, 172–174.
5. Bolivar, F., R.L. Rodriguez, M.C. Betlach, and H.W. Boyer (1977). *Construction and Characterization of New Cloning Vehicles: I. Ampicillin-Resistant Derivativo of pMB9.* Gene *2*. 75–93.
6. Cohen, S.N., A.C.W. Cheng, H. Boyer, and R. Helling (1973). *Construction of Biologically Functional Bacterial Plasmids in Vitro.* Proc. Natl. Acad, Sci. USA *70*, 3240–3244.
7. Bolivar, F., R.L. Rodriguez, R.J. Greene, M.C. Betlach, H.L. Reynekes, H.W. Boyer, J.H. Cross, and S. Falkow (1977). *Construction and Characterization of New Cloning Vehicles: II. A Multi-Purpose Cloning System.* Gene *2*, 95–113.
8. Thomas, M., J.R. Cameron, and R.W. Davis (1974). *Viable Molecular Hybrids of Bacteriophage Lambda and Eukaryotic DNA.* Proc. Nat. Acad. Sci. USA *71*, 4579–4583.
9. Murray, N.E., and K. Murray (1974). *Manipulation of Restriction Targets in Phage Lambda to Form Receptor Chromosomes for DNA Fragments.* Nature *251*, 476–481.
10. Rambach, A., and P. Tiollais (1974). *Bacteriophage Having EcoRI Endonuclease Sites Only in the Non-Essential Region of the Genome.* Proce. Nat. Acad. Sci., USA *71*, 3927–3930.
11. Blattner, F.R., B.G. Williams, A.E. Bleche, K. Denniston-Thompson, H.E. Faber, L.A. Furlong, D.J. Gunwald, D.O. Kiefer, D.D. Moore, J.W. Shumm, E.L. Sheldon, and O. Smithies (1977). *Charon Phages: Safer Derivatives of Bacteriophage Lambda for DNA Cloning.* Science *196*, 163–169.
12. Donoghue, D.J., and P.A. Sharp (1977). *An Improved Lambda Vector: Construction of Model Recombinants Coding for Kanamycin Resistance*, Gene *1*, 209–227.
13. Leder, P., D. Tiemeier and L. Enquist (1977). *EK2 Derivatives of Bacteriophage Lambda Useful in the Cloning of DNA from Higher Organisms: The λgt WES System.* Science *196*, 175–177.
14. Skalka, A. (1976). *Current Status of Coliphage λ EK2 Vectors.* Gene *3*, 29–35.
15. Szybalski, W., A. Skalka, S. Gottesman, A. Campbell, and D. Botstein (1976). *Standardized Laboratory Tests for EK2 Certification.* Gene *3*, 36–38.

Appendix J—Biotechnology Science Coordinating Committee

The following excerpts from its charter (signed October 30, 1985) describe the Biotechnology Science Coordinating Committee:

Purpose

The Domestic Policy Working Group on Biotechnology has determined that in the area of biotechnology with its rapid growth of scientific discovery, scientific issues of interagency concern will arise frequently and need to be communicated among the various agencies involved with reviews of biotechnology applications. The Federal Coordinating Council for Science, Engineering, and Technology (FCCSET) established by 42 U.S.C. 6651 is an interagency science committee chaired by the Director of the Office of Science and Technology Policy with the mission of coordinating science activities affecting more than one agency. Committees may be established under FCCSET for addressing particular science issues. Thus, the Biotechnology Science Coordinating Committee (BSCC) is established to provide formally an opportunity for interagency science policy coordination and guidance and for the exchange of information regarding the scientific aspects of biotechnology applications submitted to federal research and regulatory agencies for approval.

Functions

The BSCC will coordinate interagency review of scientific issues related to the assessments and approval of biotechnology research applications and biotechnology product applications and postmarketing surveillance when they involve the use of recombinant RNA, recombinant DNA, cell fusion or similar techniques.

The BSCC will:

(a) Serve as a coordinating forum for addressing scientific problems, sharing information, and developing consensus;

(b) Promote consistency in the development of Federal agencies' review procedures and assessments;

(c) Facilitate continuing cooperation among Federal agencies on emerging scientific issues; and

(d) Identify gaps in scientific knowledge.

Authority

To accomplish these functions the BSCC is authorized to:

(a) Receive documentation from agencies necessary for the performance of its function;

(b) Conduct analyses of broad scientific issues that extend beyond those of any one agency;

(c) Develop generic scientific recommendations that can be applied to similar, recurring applications;

(d) Convene workshops, symposia, and generic research projects related to scientific issues in biotechnology; and

(e) Hold periodic public meetings.

Members and Chairman

The BSCC includes the following initial members:

Department of Agriculture
- Assistant Secretary for Marketing and Inspection Services
- Assistant Secretary for Science and Education

Department of Health and Human Services
- Commissioner, Food and Drug Administration
- Director, National Institutes of Health

Environmental Protection Agency
- Assistant Administrator for Pesticides and Toxic Substances
- Assistant Administrator for Research and Development

National Science Foundation
- Assistant Director of Biological, Behavorial & Social Sciences

The BSCC is chaired by the Assistant Director for Biological, Behavioral and Social Sciences of the National Science Foundation and the Director of the National Institutes of Health on a rotating basis.

Administrative Provisions

(a) The BSCC will report to the FCCSET through the Chair.

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(b) Meetings of the BSCC shall be held periodically. Some public meetings will be held.

(c) Confidential business information and proprietary information shall be protected under the confidentiality requirements of each member agency.

(d) Subcommittees and working groups, with participation not restricted to BSCC members or full-time Federal employees, may be formed to assist the BSCC in its work.

(e) All BSCC members will be full-time Federal employees whose compensation, reimbursement for travel expenses and other costs shall be borne by their respective agencies.

(f) Each member of the BSCC shall provide such agency support and resources as may be available and necessary for the operation of the BSCC including undertaking special studies as come within the functions assigned herein.

(g) An Office of Science and Technology Policy staff member will serve as BSCC Executive Secretary.

Appendix K—Physical Containment for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules

This part of the Guidelines specifices physical containment guidelines for large-scale (greater than 10 liters of culture) research or production involving viable organisms containing recombinant DNA molecules. It shall apply to large-scale research or production activities as specified in Section III–B–5 of the Guidelines.

All provisions of the Guidelines shall apply to large-scale research or production activities with the following modifications:

- Appendix K shall replace Appendix G when quantities in excess of 10 liters of culture are involved in research or production.
- The institutions shall appoint a Biological Safety Officer (BSO) if it engages in large-scale research or production activities involving viable organisms containing recombinant DNA molecules. The duties of the BSO shall include those specified in Section IV–B–4 of the Guidelines.
- The institution shall establish and maintain a health surveillance program for personnel engaged in large-scale research or production activities involving viable organisms containing recombinant DNA molecules which require BL3 containment at the laboratory scale. The program shall include: preassignment and periodic physical and medical examinations; collection, maintenance and analysis of serum specimens for monitoring serologic changes that may result from the employee's work experience; and provisions for the investigation of any serious, unusual or extended illnesses of employees to determine possible occupational origin.

Appendix K–I.—Selection of Physical Containment Levels.

The selection of the physical containment level required for recombinant DNA research or production involving more than 10 liters of culture is based on the containment guidelines established in Part III of the Guidelines. For purposes of large-scale research or production, three physical containment levels are established. These are referred to as BL1–LS, BL2–LS, and BL3–LS. The BL–LS level of physical containment is required for large-scale research or production of viable organisms containing recombinant DNA molecules which require BLI containment at the laboratory scale. (The BL1–LS level of physical containment is recommended for large-scale research or production of viable organisms for which BLI is recommended at the laboratory scale such as those described in Appendix C.) The BL2–LS level of physical containment is required for large-scale research or production of viable organisms containing recombinant DNA molecules which require BL2 containment at the laboratory scale. The BL3–LS level of physical containment is required for large-scale research or production of viable organisms containing recombinant DNA molecules which require BL3 containment at the laboratory scale. No provisions are made for large-scale research or production of viable organisms containing recombinant DNA molecules which require BL4 containment at the laboratory scale. If necessary, these requirements will be established by NIH on an individual basis.

Appendix K–II—BL1–LS Level

Appendix K–II–A. Cultures of viable organisms containing recombinant DNA molecules shall be handled in a closed system (e.g., closed vessel used for the propagation and growth of cultures) or other primary containment equipment (e.g., biological safety cabinet containing a centrifuge used to process culture fluids) which is designed to reduce the potential for escape of viable organisms. Volumes less than 10 liters may be handled outside of a closed system or other primary containment equipment provided all physical containment requirements specified in Appendix G–II–A of the Guidelines are met.

Appendix K–II–B. Culture fluids (except as allowed in Appendix K–II–C) shall not be removed from a closed system or other primary containment equipment unless the viable organisms containing recombinant DNA molecules have been inactivated by a validated inactivation procedure. A validated inactivation procedure is one which has been demonstrated to be effective using the organism that will serve as the host for propagating the recombinant DNA molecules.

Appendix K–II–C. Sample collection from a closed system, the addition of materials to a closed system, and the transfer of culture fluids from one closed system to another shall be done in a manner which minimizes the release of aerosols or contamination of exposed surfaces.

Appendix K–II–D. Exhaust gases removed from a closed system or other primary containment equipment shall be treated by filters which have efficiencies equivalent to HEPA filters or by other equivalent procedures (e.g., incineration) to minimize the release of viable organisms containing recombinant DNA molecules to the environment.

Appendix K–II–E. A closed system or other primary containment equipment that has contained viable organisms containing recombinant DNA molecules shall not be opened for maintenance or other purposes unless it has been sterilized by a validated sterilization procedure. A validated sterilization procedure is one which has been demonstrated to be effective using the organism that will serve as the host for propagating the recombinant DNA molecules.

Appendix K–II–F. Emergency plans required by Section IV–B–3–f shall include methods and procedures for handling large losses of culture on an emergency basis.

Appendix K–III—BL2–LS Level

Appendix K–III–A. Cultures of viable organisms containing recombinant DNA molecules shall be handled in a closed system (e.g., closed vessel used for the propagation and growth of cultures) or other primary containment equipment (e.g., Class III biological safety cabinet containing a centrifuge used to process culture fluids) which is designed to prevent the escape of viable organisms. Volumes less than 10 liters may be handled outside of a closed system or other primary containment equipment provided all physical containment requirements specified in Appendix G–II–B of the Guidelines are met.

Appendix K–III–B. Culture fluids (except as allowed in Appendix K–III–C) shall not be removed from a closed system or other primary containment equipment unless the viable organisms containing recombinant DNA molecules have been inactivated by a validated inactivation procedure. A validated inactivation procedure is one which has been demonstrated to be effective using the organism that will serve as the host for propagating the recombinant DNA molecules.

Appendix K–III–C. Sample collection from a closed system, the addition of materials to a closed system, and the transfer of cultures fluids from one closed system to another shall be done in a manner which prevents the release of aerosols or contamination of exposed surfaces.

Appendix K–III–D. Exhaust gases removed from a closed system or other primary containment equipment shall be treated by filters which have efficiencies equivalent to HEPA filters or by other equivalent procedures (e.g., incineration) to prevent the release of viable organisms containing recombinant DNA molecules to the environment.

Appendix K–III–E. A closed system or other primary containment equipment that has contained viable organisms containing recombinant DNA molecules shall not be opened for maintenance or other purposes unless it has been sterilized by a validated sterilization procedure. A validated sterilization procedure is one which has been demonstrated to be effective using the organisms that will serve as the host for propagating the recombinant DNA molecules.

Appendix K–III–F. Rotating seals and other mechanical devices directly associated with a closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules shall be designed to prevent leakage or shall be fully enclosed in ventilated housings that are exhausted through filters which have efficiencies equivalent to HEPA filters or through other equivalent treatment devices.

Appendix K–III–G. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules and other primary containment equipment used to contain operations involving viable organisms containing recombinant DNA molecules shall include monitoring or sensing devices that monitor the integrity of containment during operations.

Appendix K–III–H. A closed system used for the propagation and growth of viable organisms containing the recombinant DNA molecules shall be tested for integrity of the containment features using the organism that will serve as the host for propagating recombinant DNA molecules. Testing shall be accomplished prior to the introduction of viable organisms containing recombinant DNA molecules and following modification or replacement of essential containment features. Procedures and methods used in the testing shall be appropriate for the equipment design and for recovery and demonstration of the test organism. Records of tests and results shall be maintained on file.

Appendix K–III–I. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules shall be permanently identified. This identification shall be used in all records reflecting testing, operation, and maintenance and in all documentation relating to use of this equipment for research or production activities involving viable organisms containing recombinant DNA molecules.

Appendix K–III–J. The universal biohazard sign shall be posted on each closed system and primary containment equipment when used to contain viable organisms containing recombinant DNA molecules.

Appendix K–III–K. Emergency plans required by Section IV–B–3–f shall include methods and procedures for handling large losses of culture on an emergency basis.

Appendix K–IV—BL3–LS Level

Appendix K–IV–A. Cultures of viable organisms containing recombinant DNA molecules shall be handled in a closed system (e.g., closed vessels used for the propagation and growth of cultures) or other primary containment equipment (e.g., Class III biological safety cabinet containing a centrifuge used to process culture fluids) which is designed to prevent the escape of viable organisms. Volumes less than 10 liters may be handled outside of a closed system provided all physical containment requirements specified in Appendix G–II–C of the Guidelines are met.

Appendix K–IV–B. Culture fluids (except as allowed in Appendix K–IV–C) shall not be removed from a closed system or other primary containment equipment unless the viable organisms containing recombinant DNA molecules have been inactivated by a validated inactivation procedure. A validated inactivation procedure is one which has been demonstrated to be effective using the organisms that will serve as the host for propagating the recombinant DNA molecules.

Appendix K–IV–C. Sample collection from a closed system, the addition of materials to a closed system, and the transfer of culture fluids from one closed system to another shall be done in a manner which prevents the release of aerosols or contamination of exposed surfaces.

Appendix K–IV–D. Exhaust gases removed from a closed system or other primary containment equipment shall be treated by filters which have efficiencies equivalent to HEPA filters or by other equivalent procedures (e.g., incineration) to prevent the release of viable organisms containing recombinant DNA molecules to the environment.

Appendix K–IV–E. A closed system or other primary containment equipment that has contained viable organisms containing recombinant DNA molecules shall not be opened for maintenance or other purposes unless it has been sterilized by a validated sterilization procedure. A validated sterilization procedure is one which has been demonstrated to be effective using the organisms that will serve as the host for propagating the recombinant DNA molecules.

Appendix K–IV–F. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules shall be operated so that the space above the culture level will be maintained at a pressure as low as possible, consistent with equipment design, in order to maintain the integrity of containment features.

Appendix K–IV–G. Rotating seals and other mechanical devices directly associated with a closed system used to contain viable organisms containing recombinant DNA molecules shall be designed to prevent leakage or shall be fully enclosed in ventilated housings that are exhausted through filters which have efficiencies equivalent to HEPA filters or through other equivalent treatment devices.

Appendix K–IV–H. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules and other primary containment equipment used to contain operations involving viable organisms containing recombinant DNA molecules shall include monitoring or sensing devices that monitor the integrity of containment during operations.

Appendix K–IV–I. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules shall be tested for integrity of the containment features using the organisms that will serve as the host for propagating the recombinant DNA molecules. Testing shall be accomplished prior to the

introduction of viable organisms containing recombinant DNA molecules and following modification or replacement of essential containment features. Procedures and methods used in the testing shall be appropriate for the equipment design and for recovery and demonstration of the test organism. Records of tests and results shall be maintained on file.

Appendix K–IV–J. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules shall be permanently identified. This identification shall be used in all records reflecting testing, operation, and maintenance and in all documentation relating to the use of this equipment for research production activities involving viable organisms containing recombinant DNA molecules.

Appendix K–IV–K. The universal biohazard sign shall be posted on each closed system and primary containment equipment when used to contain viable organisms containing recombinant DNA molecules.

Appendix K–IV–L. Emergency plans required by Section IV–B–3–f shall include methods and procedures for handling large losses of culture on an emergency basis.

Appendix K–IV–M. Closed systems and other primary containment equipment used in handling cultures of viable organisms containing recombinant DNA molecules shall be located within a controlled area which meets the following requirments:

Appendix K–IV–M–1. The controlled area shall have a separate entry area. The entry area shall be a double-doored space such as an air lock, anteroom, or change room that separates the controlled area from the balance of the facility.

Appendix K–IV–M–2. The surfaces of walls, ceilings, and floors in the controlled area shall be such as to permit ready cleaning and decontamination.

Appendix K–IV–M–3. Penetrations into the controlled area shall be sealed to permit liquid or vapor phase space decontamination.

Appendix K–IV–M–4. All utilities and service or process piping and wiring entering the controlled area shall be protected against contamination.

Appendix K–IV–M–5. Hand-washing facilities equipped with foot, elbow, or automatically operated valves shall be located at each major work area and near each primary exit.

Appendix K–IV–M–6. A shower facility shall be provided. This facility shall be located in close proximity to the controlled area.

Appendix K–IV–M–7. The controlled area shall be designed to preclude release of culture fluids outside the controlled area in the event of an accidental spill or release from the closed systems or other primary containment equipment.

Appendix K–IV–M–8. The controlled area shall have a ventilation system that is capable of controlling air movement. The movement of air shall be from areas of lower contamination potential to areas of higher contamination potential. If the ventilation system provides positive pressure supply air, the system shall operate in a manner that prevents the reversal of the direction of air movement or shall be equipped with an alarm that would be actuated in the event that reversal in the direction of air movement were to occur. The exhaust air from the controlled area shall not be recirculated to other areas of the facility. The exhaust air from the controlled area may be discharged to the outdoors without filtration or other means for effectively reducing an accidental aerosol burden provided that it can be dispersed clear or occupied buildings and air intakes.

Appendix K–IV–N. The following personnel and operational practices shall be required:

Appendix K–IV–N–1. Personnel entry into the controlled area shall be through the entry area specifed in Appendix K–IV–M–1.

Appendix K–IV–N–2. Persons entering the controlled area shall exchange or cover their personal clothing with work garments such as jumpsuits, laboratory coats, pants and shirts, head cover, and shoes or shoe covers. On exit from the controlled area the work clothing may be stored in a locker separate from that used for personal clothing or discarded for laundering. Clothing shall be decontaminated before laundering.

Appendix K–IV–N–3. Entry into the controlled area during periods when work is in progress shall be restricted to those persons required to meet program or support needs. Prior to entry all persons shall be informed of the operating practices, emergency procedures, and the nature of the work conducted.

Appendix K–IV–N–4. Persons under 18 years of age shall not be permitted to enter the controlled area.

Appendix K–IV–N–5. The universal biohazard sign shall be posted on entry doors to the controlled area and all internal doors when any work involving the organism is in progress. This includes periods when decontamination procedures are in progress. The sign posted on the entry doors to the controlled area shall include a statement of agents in use and personnel authorized to enter the controlled area.

Appendix K–IV–N–6. The controlled area shall be kept neat and clean.

Appendix K–IV–N–7. Eating, drinking, smoking, and storage of food are prohibited in the controlled area.

Appendix K–IV–N–8. Animals and plants shall be excluded from the controlled area.

Appendix K–IV–N–9. An effective insect and rodent control program shall be maintained.

Appendix K–IV–N–10. Access doors to the controlled area shall be kept closed, except as necessary for access, while work is in progress. Serve doors leading directly outdoors shall be sealed and locked while work is in progress.

Appendix K–IV–N–11. Persons shall wash their hands when leaving the controlled area.

Appendix K–IV–N–12. Persons working in the controlled area shall be trained in emergency procedures.

Appendix K–IV–N–13. Equipment and materials required for the management of accidents involving viable organisms containing recombinant DNA molecules shall be available in the controlled area.

Appendix K–IV–N–14. The controlled area shall be decontaminated in accordance with established procedures following spills or other accidental release of viable organisms containing recombinant DNA molecules.

Appendix L—Release Into the Environment of Certain Plants

Appendix L–I—General Information

Appendix L specifies conditions under which certain plants as specified below, may be approved for release into the environment. Experiments in this category cannot be initiated without submission of relevant information on the proposed experiment to NIH, review by the RAC Plant Working Group, and specific approval by NIH. Such experiments also require the approval of the IBC before initiation. Information on specific experiments which have been approved will be available in ORDA and will be listed in Appendix L–III when the Guidelines are republished.

Experiments which do not meet the specifications of Appendix L–II fall under Section III–A and require RAC review and NIH and IBC approval before initiation.

Appendix L–II—Criteria Allowing Review by the RAC Plant Working Group Without the Requirement for Full RAC Review

Approval may be granted by ORDA in consultation with the Plant Working Group without the requirement for full RAC review (IBC review is also necessary) for growing plants containing recombinant DNA in the field under the following conditions:

Appendix L–II–A. The plant species is a cultivated crop of a genus that has no species known to be a noxious weed.

Appendix L–II–B. The introduced DNA consists of well-characterized genes containing no sequences harmful to humans, animals, or plants.

Appendix L–II–C. The vector consists of DNA: (i) From exempt host-vector systems (Appendix C); (ii) from plants of the same or closely related species; (iii) from nonpathogenic prokaryotes or nonpathogenic lower eukaryotic plants; (iv) from plant pathogens only if sequences resulting in production of disease symptoms have been deleted; or (v) chimeric vectors constructed from sequences defined in (i) to (iv) above. The DNA may be introduced by any suitable method. If sequences resulting in production of disease symptoms are retained for purposes of introducing the DNA into the plant, greenhouse-grown plants must be shown to be free of such sequences before such plants, derivatives, or seed from them can be used in field tests.

Appendix L–II–D. Plants are grown in controlled access fields under specified conditions appropriate for the plant under study and the geographical location. Such conditions should include provisions for using good cultural and pest control practices, for physical isolation from plants of the same species outside of the experimental plot in accordance with pollination characteristics of the species, and for further preventing plants containing recombinant DNA from becoming established in the environment. Review by the IBC should include an appraisal by scientists knowledgeable of the crop, its production practices, and the local geographical conditions. Procedures for assessing alterations in and the spread of organisms containing recombinant DNA must be developed. The results of the outlined tests must be submitted for review by the IBC. Copies must also be submitted to the Plant Working Group of the RAC.

Appendix L–III—Specific Approvals

As of publication of the revised Guidelines, no specific proposals have been approved. An updated list may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 3B10, Bethesda, Maryland 20892.

(OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.)

Dated: April 18, 1986.

Thomas E. Malone,

Acting Director, National Institutes of Health.

[FR Doc. 86–10120 Filed 5–6–86; 8:45 am]

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Part IV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 6, 8, 15, 41, and 52
Federal Acquisition Regulation (FAR); Proposed Revision of FAR 8.3, Acquisition of Utility Services

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 6, 8, 15, 41, and 52

Federal Acquisition Regulation (FAR); Proposed Revision of FAR 8.3, Acquisition of Utility Services

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council have approved a revision to FAR Subpart 8.3, Acquisition of Utility Services, and its redesignation as FAR Part 41, Utility Services.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before July 7, 1986, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 85–10 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

In response both to requirements of the Competition in Contracting Act of 1984 (CICA) and to changes in the utility service industry, the proposed rule would require a contracting officer to acquire utility services competitively by a contract which includes the applicable clauses prescribed by the FAR and would permit a contracting officer to contract without an imperative to solicit a source solely on the basis of a franchised service territory. In recognition of the special nature of contracting for utility services, the proposed rule would relocate the regulatory coverage to the FAR subchapter which addresses special categories of contracting.

B. Regulatory Flexibility Act

The proposed rule does not exert a significant economic impact on a substantial number of small entities, because the utility service industry consists of large business concerns regulated by Federal, State, or local regulatory bodies.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because this proposed rule does not impose any additional reporting or recordkeeping requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 6, 8, 15, 41, and 52.

Government procurement.

Dated: May 2, 1986.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Parts 6, 8, 15, 41, and 52 be amended as follows:

1. The authority citation for Parts 6, 8, 15, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

PART 6—COMPETITION REQUIREMENTS

6.302–1 [Amended]

2. Section 6.302–1 is amended by removing in paragraph (b)(3) the reference "(see 8.304–5(d))" and inserting in its place the reference "(see 41.104(b))".

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

8.002 [Amended]

3. Section 8.002 is amended by removing in paragraph (b) the reference "(see Subpart 8.3)" and inserting in its place the reference "(see Part 41)".

PART 15—CONTRACTING BY NEGOTIATION

15.812–2 [Amended]

4. Section 15.812–2 is amended by removing in the first sentence the reference "Subpart 8.3" and inserting in its place the reference "Part 41".

5. A new Part 41 is added to read as follows:

PART 41—UTILITY SERVICES

41.000 Scope of part.

Subpart 41.1—Acquisition of Utility Services

41.1001 Definitions.
41.102 Applicability.
41.1003 Statutory authority.
41.104 Acquisition policy.
41.1005 Acquiring utility services.
41.105–1 GSA assistance.
41.105–2 GSA areawide contracts.
41.105–3 Separate contracts.
41.10–5–4 Consolidated purchases, joint use, or cross-services.
41.106 Post-contract review.
41.107 Guidelines and data for GSA contract assistance and review.
41.108 Agency implementation.
41.109 Contract clauses.

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

41.000 Scope of part.

This part prescribes policies and procedures for the economic and efficient acquisition of utility services (excluding telecommunication services).

Subpart 41.1—Acquisition of Utility Services

41.101 Definitions.

"Areawide contract," as used in this subpart, means a basic ordering agreement (see 16.703) entered into between the General Services Administration (GSA), and a utility service supplier to cover the utility service acquisitions by Federal agencies.

"Authorization," as used in this subpart, means the ordering document under an areawide contract issued by an authorized contracting officer for the acquisition of the required utility services (see 16.703(d)).

"Connection charge," as used in this subpart, means a payment to the utility supplier by the Government for the installation of facilities which are required to make connections to the nearest point of supply (see Termination liability).

"Delegated agency," as used in this subpart, means an agency that has received a written delegation of authority from GSA to contract for utility services.

"Separate contract," as used in this subpart, means a utility services contract to cover the acquisition of utility services for a specific delivery point(s).

"Termination liability," as used in this subpart, means a contingent obligation to pay the unamortized costs of connecting facilities, which are installed and owned by the utility supplier. This obligation becomes operative in the event the Federal Government terminates the contract prior to the time required to satisfy the contingent obligation provisions of the contract (see Connection charge).

"Utility services," as used in this subpart, means the furnishing of services such as electricity, gas, water, sewage, and steam. These services shall include but are not limited to public utility services. The application of utility service contracts to other services may be appropriate when the contract is not subject to the Service Contract Act of 1965 (see 37.107).

41.102 Applicability.

(a) Except as provided in paragraph (b) of this section, this subpart applies to the acquisition of utility services, including connection charges.

(b) This subpart does not apply to—

(1) Utility services produced, distributed, or sold by a Federal agency;

(2) Utility services (other than those required for administrative purposes) obtained by purchase, exchange, or otherwise by a Federal power or water marketing agency incident to that agency's marketing or distribution program; or

(3) Cable television (CATV), nonfossil fuel energy development, telecommunications services, and contracts leading to beneficial construction for the Government.

41.103 Statutory authority.

(a) The Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481), authorizes the General Services Administration (GSA) to provide Federal agencies with an economic and efficient system for the management and acquisition of utility services. GSA has statutory authority to enter into long-term contracts for utility services for periods not to exceed a term of 10 years (40 U.S.C. 481).

(b) The Department of Defense (DOD) has authority to acquire utility services for military facilities (10 U.S.C. 2304 and 40 U.S.C. 474(3)) and to enter into long-term contracts for energy and fuel for periods of up to 30 years (10 U.S.C. 2394).

(c) The Department of Energy Organization Act (42 U.S.C. 7251) provides for the Department of Energy (DOE) to enter into contracts not to exceed 10 years for the acquisition of gas and electric utility services for Energy Research and Development Administration Programs and the Atomic Energy Act of 1954, as amended (42 U.S.C. 2204), provides for DOE to enter into new contracts or modify existing contracts for electric services for periods not exceeding 25 years for uranium enrichment installations.

41.104 Acquisition policy.

(a) Agencies shall perform acquisition planning in accordance with Part 7 to promote and provide for full and open competition (see Part 6).

(b) The existence of franchised service territories is not a justification for the acquisition of utility services on a "Sole Source" basis (see 6.302–1).

(c) The contracting officer should consider, as part of the market survey, the following sources:

(1) GSA areawide contracts.

(2) Separate contracts.

(3) Consolidated purchases.

(4) Joint use.

(5) Cross-service arrangements.

(d) The contracting officer shall acquire utility services by contract, including the clauses required by 41.109, whether or not rates or conditions of service are fixed or adjusted by a Federal, State, or other regulatory body.

(e) The contracting officer may not use the utility supplier's forms and clauses to avoid the provisions and clauses required by 41.109.

41.105 Acquiring utility services.

This section describes methods by which utility services may be acquired.

41.105–1 GSA assistance.

(a) GSA will, upon request, furnish the services provided for in this subpart to any Federal agency, mixed ownership Government corporation, the District of Columbia, the Senate, the House of Representatives, or the Architect of the Capitol.

(b) Except as otherwise specified, agencies shall submit all information required by GSA under this subpart to the Office of Procurement, Public Buildings Service, General Services Administration, Washington, DC 20405.

(c) The nondelegated agencies shall come to GSA for assistance when—

(1) The annual cost of the service to be acquired is estimated by the using agency, at the time of initiation of the service or annual review, to exceed $150,000 for separate contracts or $250,000 for "Authorizations" under effective areawide contracts; or

(2) A proposed connection charge, termination liability, or other facilities charge to be paid by the agency (whether or not refundable) is estimated to exceed $75,000 for separate contracts or $125,000 for "Authorizations" under effective areawide contracts.

(d) Nondelegated agencies shall forward such requests for review and technical assistance to GSA 120 days prior to the initiation of new services or expiration of any current contract.

41.105–2 GSA areawide contract.

(a) GSA enters into areawide contracts with utility suppliers for use by all Federal agencies in the acquisition of utility services within the supplier's service area. A Federal agency may request GSA to negotiate an areawide contract.

(b) An areawide contract requires the utility services supplier, upon execution of the "Authorization" under the areawide contract, to furnish the needed services without further negotiations at the supplier's current published or unpublished rates.

(c) The areawide contract may not be used to avoid competition (see 16.703).

(d) Following the "market survey," if the contracting officer determines that the utility supplier with an effective areawide contract is a "Sole Source," the agency should acquire utility services under the areawide contract (see 6.302–1(b)(3)). Rates and services of a special nature may be obtained under the areawide contract by executing an expanded "Authorization."

(e) Upon request, GSA will furnish agencies a list of the current areawide contracts showing the kinds of utility services, and the geographical areas served. GSA will also provide a copy of any areawide contract upon request. Each areawide contract includes an "Authorization" form for requesting service, connection, disconnection, or change in service.

(f) When utility services are acquired under an areawide contract, the ordering agency shall use the "Authorization" attached to the appropriate GSA areawide contract in lieu of the Optional Form (OF) 347 for requesting service, connection, disconnection, or change in service. The "Authorization" may be added to, in the form of an addendum, to satisfy the fiscal and administrative requirements of the agency.

(g) The contracting office acquiring utility services under an areawide contract shall perform the annual post contract review of each "Authorization," as required by 41.106.

(h) The contracting office acquiring utility services under an areawide contract shall furnish to GSA at the address shown in 41.105–1(b) a fully executed copy of the "Authorization" requesting service, connection, disconnection, or change in service within 30 days after execution by the utility supplier and the agency.

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41.105–3 Separate contracts.

(a) Contracts shall be entered into with the utility supplier to acquire utility services, within the scope of each Federal agency's acquisition authority. GSA has implemented a technical assistance and utility acquisition assistance program on behalf of the nondelegated agencies. A Federal agency may request GSA to negotiate a separate contract on its behalf.

(b) GSA has delegated its long-term authority for utility services contracts up to 10 years to DOD, and partially delegated its long-term authority to DOE and the Veterans Administration. Conditions for acquisition under long-term contracts shall be determined by the specific delegation of authority from GSA to the agency. Nondelegated agencies may request a direct delegation of authority to acquire utility services from GSA at the address shown in 41.105–1(b).

(c) When GSA initiates or is requested to negotiate a separate contract for a nondelegated agency, the requesting agency shall furnish the following information to GSA:

(1) The technical and acquisition data required in 41.107.

(2) Such other technical data as GSA may request to complete the contract.

(d) In determining whether to negotiate a separate contract, consideration should be given to the following:

(1) The utility supplier's rates in light of the magnitude of the services required.

(2) Any unusual characteristics of services required.

(3) Any special equipment or facility requirements.

(4) Any special technical contract terms required by the agency.

(e) A long-term contract may be justified and is usually required by any of the following circumstances:

(1) The Government will obtain lower rates, larger discounts, or more favorable conditions of service.

(2) A proposed connection charge, termination liability, or any other facilities charge to be paid by the Federal Government will be reduced or eliminated.

(3) The utility service supplier refuses to render the desired service except under a long-term contract.

41.105–4 Consolidated purchase, joint use, or cross-service.

Agencies shall use consolidated purchase, joint use, or cross-service to acquire utility services or facilities in accordance with the policies and procedures at Subpart 17.5, Interagency Acquisitions Under the Economy Act. Use of an interagency agreement to acquire utility services requires a Memorandum of Understanding or other appropriate document to specify the services or facilities to be supplied, the estimated costs, and other conditions under which they will be acquired.

41.106 Post-contract review.

Agencies are responsible to review bills for utility services on a monthly basis and each contract or "Authorization" on an annual basis to ensure that the utility supplier is providing services and is billing each facility for the services furnished under the utility's most economical and applicable rate. The review should be based upon the facility's usage, conditions, and characteristics of service, at each individual delivery point, for the most recent 12 months. If a change in rate is appropriate, the Federal agencies will request the supplier to make such rate change immediately.

41.107 Guidelines and data for GSA contract assistance and review.

(a) All contracting offices requiring GSA assistance in acquiring utility services shall assemble and furnish complete information relating to each proposed acquisition sufficiently in advance (see 41.105–1(d)) to permit a complete review by GSA.

(b) The information for review shall include—

(1) A technical description or specifications of the type, quantity, and quality of service required; and

(2) A copy of any service proposal or proposed contract.

(c) If not included in the foregoing, a copy of the following additional documents and data shall be furnished, if applicable:

(1) A complete copy or copies of the current published or unpublished rates of the utility supplier.

(2) The following data concerning quantity, quality, and delivery schedule of required services when new or initial services are to commence:

(i) The date initial service is required.

(ii) Data, for the first calendar year of full service, on estimated maximum demand, monthly consumption, and estimated annual cost of service and connection charges to be paid by the agency.

(iii) Known or estimated time schedule for growth to ultimate requirements.

(iv) Estimated ultimate maximum demand and ultimate monthly consumption.

(v) A simple schematic diagram or line drawing showing the meter locations and the location of the new utility facilities to be constructed by the Federal agency and the new connecting facilities to be constructed by the utility supplier to provide the new services.

(vi) Accounting and appropriation data to cover the required utility services and any connection charges required to be paid by the agency to receive such utility services.

(3) Identification of all available sources or methods of supply, the cost effectiveness of each, and a statement of the ability of each source to provide the required services, including the location and a description of each available supplier's facilities at the nearest point of service.

(4) Identification of any unusual factors affecting the acquisition.

(5) The following data concerning proposed facilities and related connection charges or costs:

(i) Proposed refundable or nonrefundable connection charge, termination liability, or other facilities charge to be paid by the Federal agency, together with a description of the supplier's proposed facilities and estimated construction costs entering into the determination of the proposed connection charge, termination liability, or facilities charge.

(ii) The basis for the connection charge by the utility supplier.

(iii) A statement by the supplier that any proposed connection charge is not in excess of the charge that other customers would be required to pay for like facilities under similar class and condition of service.

(iv) A copy of the acquiring agency's estimate to make its own connection to the supplier's facilities, in lieu of paying the connection charge proposed by the utility supplier. In the case of proposed water and sewage contracts, the acquiring agency shall provide its estimates to construct and operate its own utility facilities in lieu of participating in a cost-sharing construction program with the proposed utility supplier.

(d) For existing utility services, the agency shall furnish the data required above under 41.107(a), (b), (c)(1), and the following additional information:

(1) A copy of the monthly bills covering the most recent 12 months.

(2) A tabulation, by months, for the most recent 12 months, showing the utility demands, consumption and charges, fuel adjustment charges, and the average monthly cost per unit of consumption.

(3) A tabulation by months, for the next 12 months showing the same data as requested in (2) above.

(4) Accounting and appropriation data to cover the costs for the continuation of utility services.

(5) A simple schematic diagram or line drawing suitable to be included in the utility services contract showing the meter locations.

(6) For electric service contracts, state if the transformer(s) at the point of delivery is owned by the Federal agency or the utility supplier and if the metering is made on the primary or secondary side of such transformer(s).

41.108 Agency implementation.

Specific operating and management details such as procedures for contract assistance and review, contract format, delegations of authority, and approval thresholds are left to individual agency implementation pursuant to all appropriate statutes and regulations.

41.109 Contract clauses.

(a) The contracting officer shall insert the clause at 52.208–3, Conflicts, in solicitations and contracts for utility services.

(b) The contracting officer shall also insert in solicitations and contracts for utility services the provisions and clauses prescribed elsewhere in the FAR, as appropriate for each acquisition, depending on the conditions that are applicable.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.208–3 [Amended]

6. Section 52.208–3 is amended by removing in the introductory text the reference "8.309(a)" and inserting in its place the reference "41.109(a)", and by inserting a colon following the word "clause" and removing the remainder of the sentence.

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S. 1684/Pub. L. 99–283

To declare that the United States holds certain Chilocco Indian School lands in trust for the Kaw, Otoe-Missouria, Pawnee, Ponca, and Tonkawa Indian Tribes of Oklahoma. (May 1, 1986; 100 Stat. 404; 2 pages) Price: $1.00

S. 2319/Pub. L. 99–284

To provide for the continuation of the Martin Luther King, Jr. Federal Holiday Commission until 1989, and for other purposes. (May 1, 1986; 100 Stat. 406; 1 page) Price: $1.00

S.J. Res. 214/Pub. L. 99–285

Providing for reappointment of Carlisle H. Humelsine as a citizen regent of the Board of Regents of the Smithsonian Institution. (May 1, 1986; 100 Stat. 407; 1 page) Price: $1.00

S.J. Res. 215/Pub. L. 99–286

Providing for reappointment of William G. Bowen as a citizen regent of the Board of Regents of the Smithsonian Institution. (May 1, 1986; 100 Stat. 408; 1 page) Price: $1.00

S.J. Res. 275/Pub. L. 99–287

Designating May 11 through May 17, 1986, as "Jewish Heritage Week." (May 1, 1986; 100 Stat. 409; 1 page) Price: $1.00

S.J. Res. 296/Pub. L. 99–288

To designate October 16, 1986, as "World Food Day." (May 1, 1986; 100 Stat. 410; 2 pages) Price: $1.00

H.R. 4602/Pub. L. 99–289

To authorize the Federal Housing Administration and the Government National Mortgage Association to enter into additional commitments to insure loans and guarantee mortgage-backed securities during fiscal year 1986, and for other purposes. (May 2, 1986; 100 Stat. 412; 1 page) Price: $1.00

H.J. Res. 220/Pub. L. 99–290

To reaffirm Congress' recognition of the vital role played by members of the National Guard and Reserve in the national defense, and for other purposes. (May 2, 1986; 100 Stat. 413; 2 pages) Price: $1.00

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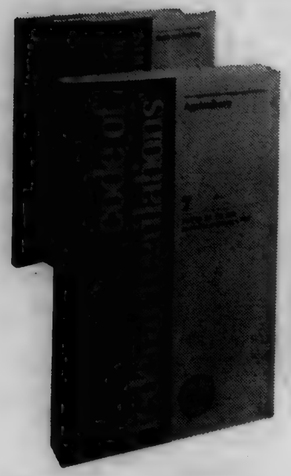
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DEPARTMENT OF AGRICULTURE

Animal and Plant Inspection Service

7 CFR Part 301

[Docket No. 85-343]

Gypsy Moth Regulated Areas

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the Gypsy Moth and Browntail Moth Quarantine and Regulations by making changes relating to the gypsy moth. The quarantine and regulations are amended (1) by adding Illinois, Indiana, Minnesota, Ohio, and Wisconsin to the list of States quarantined because of the gypsy moth; (2) by designating previously nonregulated areas in Illinois, Indiana, Maine, Minnesota, Ohio, Oregon, Virginia, and Wisconsin as gypsy moth low-risk areas; (3) by redesignating areas in Delaware, Maine, Maryland, Michigan, and Virginia from gypsy moth low-risk areas to gypsy moth high-risk areas; (4) by designating previously nonregulated areas in Oregon as gypsy moth high-risk areas; and (5) by removing portions of regulated areas in Michigan and Washington from the list of gypsy moth regulated areas. The quarantine and regulations impose restrictions on the interstate movement of certain articles from gypsy moth high-risk areas and gypsy moth low-risk areas. This amendment is necessary as an emergency measure in order to prevent the artificial spread interstate of gypsy moth and remove unnecessary restrictions of the interstate movement of certain articles.

DATES: The effective date of this document is May 8, 1986. Written comments concerning this interim rule must be received on or before July 7, 1986.

ADDRESSES: Written comments concerning this document should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, USDA, APHIS, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 85-343. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Gary E. Moorehead, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 663 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8295.

SUPPLEMENTARY INFORMATION:

Background

The gypsy moth, *Lymantria dispar* (Linnaeus), is a highly destructive pest of forest trees. The Gypsy Moth and Browntail Moth Quarantine and Regulations (contained in 7 CFR 301.45 *et seq.* and referred to below as the regulations), among other things quarantine certain States because of the gypsy moth, and restrict the interstate movement from regulated areas of certain articles because of the gypsy moth. Such restrictions are necessary for the purpose of preventing the artificial spread of the gypsy moth.

Areas designated as gypsy moth regulated areas are areas in which a gypsy moth infestation has been found by an inspector, or areas which are necessary to regulate because of proximity to gypsy moth infestation or inseparability for quarantine enforcement purposes from infested localities. Regulated areas are divided into high-risk areas and low-risk areas. Under the regulations there is a basis for designating an area as a high-risk area when an inspector determines that regulated articles exists within or adjacent to an area where defoliation has occurred or where an inspector has reason to believe that 50 or more egg masses per acre of the gypsy moth are present. Low-risk areas are those portions of regulated areas that are not designated as high-risk areas.

Section 301.45-11 of the regulations impose the following conditions on the interstate movement of outdoor household articles from gypsy moth high-risk areas:

(a) No outdoor household article shall be moved interstate from a gypsy moth high-risk area into or through any nonregulated area unless:

(1) Such outdoor household article is free from all life stages of the gypsy moth at the time of the interstate movement; or

(2) Such outdoor household article is accompanied by an OHA document issued by a qualified certified applicator in accordance with the provisions of §§ 301.45-12 and 301.45-13 within five calendar days of the interstate movement from a gypsy moth high-risk area; or

(3) Such outdoor household articles are brought in by vacationers to the gypsy moth high-risk areas.

These regulations are designed to restrict the interstate movement of outdoor household articles in those circumstances where there would be a significant risk of spread of the gypsy moth.

Section 301.45-3 of the regulations imposes the following conditions on the movement of regulated articles from gypsy moth regulated areas:

(a) A regulated article shall not be moved interstate from any high-risk area into or through any nonregulated area unless a certificate or permit has been issued and attached to such regulated articles in accordance with §§ 301.45-4 and 301.45-7.

(b) A regulated article shall not be moved interstate from any low-risk area into or through any nonregulated area when it is determined by an inspector that any life stage of the gypsy moth or browntail moth is on the regulated article, and the person in possession thereof has been so notified by an inspector, unless a certificate or permit has been issued and attached to such articles in accordance with §§ 301.45-4 and 301.45-7.

(c) A regulated article originating outside of any high-risk area, except any regulated article in any low-risk area determined by an inspector to present a hazard of spreading the gypsy moth or browntail moth pursuant to paragraph (b) of this section, may be moved interstate directly through any high-risk area without a certificate or permit, if the point of origin of the article is clearly indicated by shipping documents, their identity has been maintained, and they

have been safeguarded against infestation while in any high-risk area. These regulations are designed to restrict the interstate movement of regulated articles in those circumstances where there would be a significant risk of spread of gypsy moth. A certificate or limited permit is authorized to be issued based on treatment of a regulated article or based on a determination that movement of a regulated article without treatment would not result in the spread of the gypsy moth.

Quarantined States and Designation of Areas as Low-risk Areas

This document, as an emergency measure, quarantines the States of Illinois, Indiana, Minnesota, Ohio, and Wisconsin and designates the following portions of Illinois, Indiana, Minnesota, Ohio, and Wisconsin as low-risk areas because of gypsy moth:

Illinois

Kane County. SE¼ sec. 3 and NE¼ sec. 10, T. 39 N., R. 8 E.

Lake County. SE¼ sec. 28, T. 43 N., R. 10 E.

Peoria County. Sec. 28, T. 9 N., R. 8 E.

Indiana

Allen County. SE¼ sec. 32, T. 30 N., R. 13 E.

Marion County. SE¼ sec. 20, T. 17 N., R. 3 E.

Minnesota

Dakota County. NW¼ sec. 21, T. 115 N., R. 20 W.; NE¼ sec. 16, T. 115 N., R. 20 W.; and NE¼ sec. 18, T. 114 N., R. 20 W.

Ohio

Allen County. S½ sec. 9, T. 3 S., R. 5 E.

Ashtabula County. That portion of the county bounded by a line beginning at the intersection of State Route 45 and the north boundary line of the village of Rock Creek; then east along said line to its intersection with the east boundary line of the village of Rock Creek; then south along said line to its intersection with the south boundary line of the village of Rock Creek; then continuing south along an imaginary line to its intersection with Rome-Rock Creek Road; then south along said road to its intersection with Callender Road; then west along said road to its intersection with Windsor-Mechanicsville Road; then north along said road to its intersection with Cork-Cold Springs Road; then east along said road to its intersection with State Route 45; then south along State Route 45 to the point of beginning.

That portion of the county bounded by a line beginning at the intersection of U.S. Route 6 and Windsor-Mechanicsville Road; then south along said road to its intersection with Montgomery Road; then west along said road to its intersection with Nobel Road; then south along said road to its intersection with Stoneville Road; then west along said road to its intersection with State Route 534; then north along State Route 534 to its intersection with U.S. Route 6; then east along U.S. Route 6 to the point of beginning.

That portion of the county bonded by a line beginning at the intersection of State Route 7 and Ayers Road; then west along said road to its intersection with Hayes Road; then northwest along said road to its intersection with Marrian Road; then west along said road to its intersection with State Route 193; then north along State Route 193 to its intersection with Tower Road; then east along said road to its intersection with Stanhope-Kelloggsville Road; then south along said road to its intersection with Footville-Richmond Road; then east along said road to its intersection with U.S. Route 6, then south along U.S. Route 6 to the point of beginning.

That portion of the county bounded by a line beginning at the intersection of U.S. Route 6 and Stanhope-Kelloggsville Road; then south along said road to its intersection with Gibbs Road; then east along said road to its intersection with State Route 7; then south along State Route 7 to its intersection with Slater Road; then west along said road to its intersection with Creek Road; then north along said road to its intersection with U.S. Route 6; then east along U.S. Route 6 to the point of beginning.

Lucus County. That portion of the city of Sylvania bounded by a line beginning at the intersection of the Michigan-Ohio State line and Flanders Road; then south along said road to Janet Avenue; then west along Janet Avenue to its intersection with Artwell Drive; then north along Artwell Drive to its intersection with the Michigan-Ohio State line; then east along said State line to the point of beginning.

Darke County. That portion of Richland Township bounded by a line beginning at the intersection of Reed Road and Greenville-Celina Road; then south along Greenville-Celina Road to its intersection with Union City Road; then west along said road to its intersection with Kesler-Byard Road; then north along said road to its intersection with Reed Road; then east along said road to the point of beginning.

Wayne County. T½ sec. 23 and W½ sec. 24, T. 16 N., R. 13 W.

Wisconsin

Dane County. Sec. 17, T. 7 N., R. 10 E.

Washington County. Sec. 15, T. 9 N., R. 19 E.

Also, as an emergency measure, the following areas in Maine, Oregon, and Virginia which were previously nonregulated areas, are designated as gypsy moth low-risk areas:

Maine

Aroostook County. Townships of Bancroft, Benedicta, Macwahoc Plantation, North Yarmouth Academy Grant, Reed Plantation, Silver Ridge, Upper Molunkus, Weston, and 1 R5 WELS.

Penobscot County. The townships of Carroll Plantation, Drew Plantation, Grindstone, Hersey Town, Kingman, Lakeville, Prentiss Plantation, Seboeis Plantation, Soldiertown, Springfield, Webster Plantation, 1 R8 WELS, 2 R8 WELS, 2 R8 NWP, 2 R9 NWP, 3 R9 NWP, and 5 R1 NBPP.

Piscataquis County. The townships of Barnard, Blanchard Plantation, Bowerbank, Brownville, Lakeview Plantation, Monson, Williamsburg, Williamantic, 2 R9 WELS, 4 R9 NWP, and 5 R9 NWP.

Somerset County. The townships of Bald Mountain Carrying Place, Carrying Place, Carrying Place Town, and Dead River.

Washington County. The townships of Brookton, Codyville Plantation, Danforth, Dyer, Grand Lake Stream Plantation, Forest, Forest City, Fowler, Indian, Kassuth, Lambert Lake, Talmage, Topsfield, Vanceboro, Waite, 6 R1, NBPP, 6 ND BPP, 8 R3 NBPP, 6 R4 NBPP, and 11 R3 NBPP.

Oregon

Douglas County. S ½ of sec. 9 and 10; E ½ of sec. 7, 16, and 19; sec. 8, 15, 16, 17, 20, 21, and 22, T. 28 S., R. 4 W.

Multnomah County. That portion of the county bounded on the north by Glisan Street; on the west by 92nd Avenue; on the south by Holgate Boulevard; and on the east by 130th Avenue.

Virginia

Accomack County. That portion of the county south of a line beginning at the intersection of State Road 695 and the Chesapeake Bay on the west; then easterly along State Road 695 to its intersection with State Road 679; then north along State Road 679 to its intersection with State Road 695; then easterly along State Road 695 to its intersection with Powells Bay; then east from said intersection along an imaginary line to its intersection with the Atlantic Ocean.

Caroline County. The entire county.

Gloucester County. The entire county.

Greene County. The entire county.

Harrisonburg City. The entire city.

King George County. The entire county.

Lancaster County. The entire county.

Madison County. That portion of the county south of a line beginning at the intersection of State Route 615 and the Greene-Madison County line; then easterly along State Route 615 to its intersection with State Route 662; then northerly along State Route 662 to the boundary of the Shenandoah National Park; then northerly along the Shenandoah National Park boundary to its intersection with State Route 672; then east along State Route 672 to its intersection with State Route 649; then northeast along State Route 649 to its intersection with State Route 670; then southeasterly along State Route 670 to its intersection with State Route 231; then southeasterly along State Route 231 to its intersection with State Route 609; then easterly along State Route 609 to its intersection with the Madison-Culpeper County line.

Mathews County. The entire county.

Middlesex County. The entire county.

Northampton County. The entire County.

Northumberland County. The entire county.

Orange County. The entire county.

Richmond County. The entire county.

Rockingham County. The entire county.

Spotsylvania County. The entire county.

Westmoreland County. The entire county.

Based on recent surveys, inspectors have determined that infestations of gypsy moth occur in these areas designated as gypsy moth low-risk areas, but that the number of egg masses per acre is not high enough to meet the criteria referred to above for gypsy moth high-risk areas.

As noted above, restrictions concerning the gypsy moth are imposed on movements of regulated articles from gypsy moth low-risk areas only if it is determined by an inspector that any life stage of the gypsy moth is on the regulated article, and the person in possession thereof has been so notified by an inspector, unless a certificate or permit has been issued and attached to such regulated article in accordance with §§ 301.45 and 301.45–7 of the regulations. In this connection, it is necessary as an emergency measure to designate such areas as gypsy moth low-risk areas in order to advise persons of the likelihood that inspectors would conduct inspections in such areas and that based on their findings of life stages of gypsy moth, restrictions could apply to the movement of regulated articles from such areas.

Designations of Areas as High-Risk Areas

This document, as an emergency measure, redesignates the following areas in Delaware, Maine, Maryland, Michigan, and Virginia from gypsy moth low-risk areas to gypsy moth high-risk areas:

Delaware

Sussex County. The entire county.

Maine

Penobscot County. Township of Burlington.

Maryland

Caroline County. That portion of the county bounded by a line beginning at a point where State Highway 404 intersects the Caroline County-Queen Annes County line; then southerly along said line to its intersection with the Caroline County-Talbot County line; then southerly along the Caroline County-Talbot County line to its intersection with the Caroline County-Dorchester County line; then easterly along the Caroline County-Dorchester County line to the Maryland-Delaware State line; then north along the Maryland-Delaware State line to its intersection with State Highway 404; then northwesterly along said highway to the point of beginning.

Garrett County. That portion of the county bounded by a line beginning at a point where State Highway 669 intersects with the Maryland-Pennsylvania State line; then west along said line to its intersection with the Maryland-West Virginia State line; then south and northeasterly along said line to its intersection with the Garrett County-Allegany County line; then north along said line to its intersection with State Highway 135; then westerly along said highway to its intersection with State Highway 495; then northerly along said highway to its intersection with U.S. Highway 40; then west along said highway to its intersection with State Highway 669; then north on said highway to the point of beginning.

Montgomery County. The entire county.

Michigan

Clare County. Township of Lincoln.

Isabella County. Portions of Chippewa and Lincoln Townships and the entire townships of Denver and Gilmore.

Midland County. A portion of Greendale Township and the entire townships of Geneva, Homer, Ingersoll, Jasper, Jerome, Lee, Lincoln, Midland, Mount Haley, and Porter.

Oakland County. Portions of Bloomfield, Highland, and Troy Townships.

Virginia

Fauquier County. That portion of the county north of a line beginning at the junction of U.S. Highway 211 and the Culpeper-Fauquier County line; then easterly along U.S. Highway 211 to a point of junction with U.S. Highways 17, 15, and 29; then northerly along U.S. Highways 17, 15, and 29 to a point of junction with U.S. Highway 15 and 29; then northeast and east along U.S. Highways 15 and 29 to a point of junction with the Fauquier-Prince William County line.

Page County. That portion of the county north of a line beginning at the junction of U.S. Highway 211 and the Shenandoah-Page County line; then easterly along U.S. Highway 211 and 211 Bypass to a point of junction with the Page-Rappahannock County line.

Prince William County. The entire county.

Rappahannock County. That portion of the county north of a line beginning at the junction of U.S. Highway 211 and the Page-Rappahannock County line; then easterly along U.S. Highway 211 to a point of junction with the Rappahannock-Culpeper County line.

Shenandoah County. That portion of the county which lies north and east of State Route 675.

Warren County. The entire county.

This document, as an emergency measure, expands the previously designated gypsy moth high-risk area of Lane County in Oregon to also include a previously nonregulated area as set forth below.

Previously, the following portion of Lane County in Oregon, was included as a gypsy moth high-risk area: "Beginning at the point where Interstate 5 intersects with Interstate 105; then easterly on Interstate 105 to its intersection with Highway 128; then easterly on said highway to its intersection with Deerhorn Road; then easterly on said road to its intersection with Booth Kelly Road; then easterly on Booth Kelly Road to its intersection with the north boundary of sec. 27, T. 17 S., R. 1 E.; then due east along an imaginary line to the northeast corner of sec. 26, T. 17 S., R. 3 E.; then due south along an imaginary line to the north boundary of sec. 1, T. 20

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S., R. 4 E.; then due west along said boundary to the northwest corner of said section; then due south along an imaginary line to the southeast corner of sec. 28, T. 22 S., R. 3 E.; then due west along an imaginary line to the northwest corner of sec. 31, T. 22 S., R. 2 E.; then due south along the west boundary of said section to the northeast corner of sec. 36, T. 22 S., R. 1 E.; then due west along an imaginary line to the southwest corner of sec. 28, T. 22 S., R. 1 W.; then due north along an imaginary line to the northwest corner of said section; then due west along an imaginary line to the northwest corner of said section; then due west along an imaginary line to the northwest corner of sec. 30, T. 22 S., R. 1 W.; then due south along the west boundary of said section to the northeast corner of sec. 25, T. 22 S., R. 2 W.; then due west along an imaginary line to the northwest corner of sec. 29, T. 22 S., R. 2 W.; then due north along an imaginary line to the northwest corner of sec. 17, T. 22 S., R. 2 W.; then due west along the north boundary of said section to the east boundary of sec. 13, T. 22 S., R. 3 W.; then due north along said boundary to the northeast corner of said section; then due west along an imaginary line to the northwest corner of sec. 18, T. 22 S., R. 3 W.; then due north along an imaginary line to the northwest corner of sec. 30, T. 21 S., R. 3 W.; then due east along the north boundary of said section to the northeast corner of said section; then due north along an imaginary line to the northwest corner of sec. 29, T. 20 S., R. 3 W.; then due east along the north boundary of said section to the northeast corner of said section; then due north along an imaginary line to the northwest corner of sec. 9, T. 20 S., R. 3 W.; then due east along the north boundary of said section to the northeast corner of said section; then due north along an imaginary line to the intersection of said line and Camas Swale Road; then westerly along said road to its intersection with the west boundary of sec. 13, T. 19 S., R. 4 W.; then due north along an imaginary line to its intersection with Fox Hollow Road; then westerly along said road to its intersection with McBeth Road; then northerly along McBeth Road to its intersection with the west boundary of sec. 23, T. 18 S., R. 4 W.; then due north along the west boundary of said section to the northwest corner of said section; then due west along an imaginary line to the southwest corner of sec. 16, T. 18 S., R. 4 W.; then due north along an imaginary line to the intersection of said line with Highway 126; then westerly along said highway to its intersection with Territorial Highway; then due south along Territorial Highway to its intersection with the south boundary of sec. 36, T. 17 S., R. 6 W.; then due west along an imaginary line to the southwest corner of sec. 34, T. 17 S., R. 6 W.; then due east along the north boundary of said section to the northeast corner of said section; then due north along an imaginary line to the northwest corner of sec. 14, T. 16 S., R. 6 W.; then due east along an imaginary line to its intersection with Siegman-Smyth Road; then northerly along said road to its intersection with High Pass Road; then easterly along High Pass Road to the northwest corner of sec. 1, T. 16 S., R. 5 W.; then due south along an imaginary line to the southwest corner of sec. 12, T. 16 S., R. 5 W.; then due east along the south boundary of said section to Vogt Road; then southerly along said road to its intersection with Meadowview Road West; then due east along Meadowview Road West to its intersection with Highway 99; then southeasterly along said highway to its intersection with Belt Line Highway; then easterly along Belt Line Highway to its intersection with the west boundary of sec. 18, T. 17 S., R. 3 W.; then due north along said boundary to the northwest corner of said section; then due east along an imaginary line to the northeast corner of sec. 17, T. 17 S., R. 3 W.; then due south along the east boundary of said section to its intersection with Belt Line Highway; then easterly along said highway to its intersection with Interstate 5; then southerly along Interstate 5 to the point of beginning."

This document expands the previously designated gypsy moth high-risk area in Lane County in Oregon as follows: "That portion of the county beginning at a point in the northwest corner of sec. 11, T. 16 S., R. 3 E.; then south along an imaginary line to the northeast corner of sec. 26, T. 21 S., R. 3 E.; then west along an imaginary line to the northeast corner of sec. 25, T. 21 S., R. 1 W.; then south along the east boundary of said section to its intersection with Lower Brice Creek Road; then west along said road to its junction with Row River Road; then northwest along Row River Road to Dorena Dam; then south across the Dorena Dam Spillway to a point intersecting the north boundary of sec. 5, T. 21 S., R. 2 W.; then west along an imaginary line to the southwest corner of sec. 31, T. 20 S., R. 5 W.; then north along an imaginary line to the northeast corner of sec. 1, T. 18 S., R. 6 W.; then west along an imaginary line to the northeast corner of sec. 4, T. 18 S., R. 6 W.; then north along an imaginary line to the northeast corner of sec. 33, T. 16 S., R. 6 W.; then east along an imaginary line to the northwest corner of sec. 34, T. 16 S., R. 6 W.; then north along an imaginary line to the northeast corner of sec. 15, T. 16 S., R. 6 W.; then east along an imaginary line to its intersection with Siegman-Smyth Road; then northerly along said road to its intersection with High Pass Road; then easterly along High Pass Road to the northwest corner of sec. 1, T. 16 S., R. 5 W.; then due north along Washburn Lane to a point ¼ mile north of the intersection of Washburn Road and Cock Butte Road; then due easterly along an imaginary line to Love Lake Road; then south along an imaginary line to its intersection with U.S. Highway 99; then southerly along U.S. Highway 99 to its intersection with Belt Line Highway; then east along an imaginary line to its intersection with Interstate Highway 5, near the northeast corner of sec. 16, T. 17 S., R. 3 W.; then north along Interstate 5 to a point intersecting the north boundary of sec. 4, T. 17 S., R. 3 W.; then east along an imaginary line to the northeast corner of sec. 5, T. 17 S., R. 1 E.; then north along an imaginary line to the northeast corner of sec. 20, T. 16 S., R. 1 E.; then east along an imaginary line to the northeast corner of sec. 23, T. 16 S., R. 2 E.; then north along an imaginary line to the northeast corner of sec. 11, T. 16 S., R. 2 E.; then east along an imaginary line to the point of beginning."

Based on recent surveys, inspectors have determined with respect to all of the areas added to the list of gypsy moth high-risk areas, that defoliation has occurred in these areas because of the gypsy moth or that there is reason to believe that 50 or more egg masses per acre of the gypsy moth are present in these areas. Also, outdoor household articles and regulated articles exist within or adjacent to these areas. Accordingly, there is a substantial risk of artifically spreading the gypsy moth by unrestricted interstate movement of such articles. Therefore, as an emergency measure, it is necessary to designate such areas as gypsy moth high-risk areas and impose restrictions on the interstate movement of outdoor household articles and regulated articles from these areas in accordance with the regulations in order to prevent the artificial spread of the gypsy moth.

Removal of State From Quarantine and Deletion of Areas From List of Regulated Areas

Prior to the effective date of this document the following areas in North Carolina, Michigan, and Washington were designated as gypsy moth low-risk regulated areas. This document removes these areas from the list of gypsy moth low-risk regulated areas and removes North Carolina as a quarantined State.

North Carolina

Carteret County. "That area bounded by a line beginning at a point on the northern shoreline of Taylors Creek and running north on an imaginary course to the intersection of State Secondary Road 1310 and State Secondary Road 1311; then northerly along State Secondary Road 1311 to its ending; then northerly along an imaginary line to its intersection with North River; then southwesterly along North River shoreline to its junction with Taylors Creek; then westerly along Taylors Creek to the point of beginning."

Michigan

Monroe County. "The entire county."

Washington

Pierce County. "The entire county."

Based on treatments with insecticides and subsequent negative surveys in accordance with the quarantine and regulations, it has been determined that the gypsy moth no longer occurs in the above-described areas. Accordingly, there is no longer a basis for continuing to list such areas as regulated areas for the purpose of preventing the artificial spread interstate of gypsy moth. Therefore, as an emergency measure, it is necessary to delete those areas from the list of regulated areas in order to delete unnecessary restrictions on the movement of gypsy moth regulated articles.

Further, the effect of deleting the above-described area in North Carolina from the list of gypsy moth regulated areas is to remove all areas in North Carolina from the list of regulated areas. As a result, there is no longer a basis for quarantining North Carolina for gypsy moth. Therefore, this amendment also deletes North Carolina from the list of States quarantined because of gypsy moth in § 301.45(a).

In addition, this document amends the regulations by making several nonsubstantive editorial changes.

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim rule. Because of the possibility that the gypsy moth could be spread artificially to noninfested areas of the United States, a situation exists requiring immediate action to better control the spread of this pest. Also, where gypsy moth no longer occurs, or when there is reason to believe that the density of egg masses per acre has decreased sufficiently to remove the area from a gypsy moth high-risk area and gypsy moth low-risk area classification, immediate action is needed to delete unnecessary restrictions on the interstate movement of regulated articles.

Further, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document in the Federal Register. Comments are being solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the Federal Register.

Executive Order 12291 and Regulatory Flexibility Act

This interim rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this interim rule will have an estimated annual effect on the economy of approximately $135,500; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

This action affects the interstate movement of regulated articles from specified areas in the States of Delaware, Illinois, Indiana, Maine, Maryland, Michigan, Minnesota, Ohio, Oregon, Virginia, Washington, and Wisconsin. Based on information compiled by the U.S. Department of Agriculture it has been determined that there are many hundreds of small entities that move regulated articles interstate from such States and many thousands of small entities that move regulated articles interstate from other States. However, based on such information, it has been determined that only approximately 659 small entities move regulated articles interstate from the specified areas affected by this action. Further, the annual overall economic impact from this action is estimated to be less than $135,500.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V.)

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Gypsy moth.

PART 301—DOMESTIC QUARANTINE NOTICES

Under the circumstances referred to above, the "Gypsy Moth and Browntail Moth" quarantine and regulations (contained in 7 CFR 301.45 *et seq.*) are amended as follows:

1. The authority citation for Part 301 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 161, 162 and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§ 301.45 [Amended]

2. Section 301.45(a) is amended by removing the reference to "North Carolina".

3. Section 301.45–2a is revised to read as follows:

§ 301.45–2a Regulated areas; high-risk and low-risk areas.

(a) The areas described below are designated as gypsy moth regulated areas, and such regulated areas are divided into high-risk areas or low-risk areas as follows:

Connecticut

(1) *High-risk area.* The entire State.
(2) *Low-risk area.* None.

Delaware

(1) *High-risk area.* The entire State.
(2) *Low-risk area.* None.

District of Columbia

(1) *High-risk area.* The entire District.
(2) *Low-risk area.* None.

Illinois

(1) *High-risk area.* None.
(2) *Low-risk area.*
Kane County. SE¼ sec. 3 and NE¼ sec. 10, T. 39 N., R. 8 E.
Lake County. SE¼ sec. 28, T. 43 N., R. 10 E.
Peoria County. Sec. 26, T. 9 N., R. 8 E.

Indiana

(1) *High-risk area.* None.
(2) *Low-risk area.*
Allen County. SE¼ sec. 32, T. 30 N., R. 13 E.
Marion County. SE¼ sec. 20, T. 17 N., R. 3 E.

Maine

(1) *High-risk area.*
Androscoggin County. The entire county.
Cumberland County. The entire county.
Franklin County. The townships of Avon, Carthage, Chesterville, Farmington, Industry, Jay, New Sharon, New Vineyard, Perkins, Strong, Temple, Washington, Weld, and Wilton.
Hancock County. The entire county.
Kennebec County. The entire county.
Knox County. The entire county.
Lincoln County. The entire county.
Oxford County. The townships of Albany, Batchelders Grant, Bethel, Brownfield, Buckfield, Canton, Denmark, Dixfield, Fryeburg, Greenwood, Hanover, Hartford, Hebron, Hiram, Lovell, Mason Plantation, Mexico, Milton Plantation, Norway, Oxford, Paris, Peru, Porter, Rumford, Stoneham, Stow, Sumner, Sweden, Waterford, and Woodstock.
Penobscot County. The townships of Alton, Argyle, Bangor City, Bradford, Bradley, Brewer City, Burlington, Carmel, Charleston, Clifton, Corinna, Cornith, Dexter, Dixmont, Edinburg, Enfield, Etna, Exeter, Garland, Glenburn, Grand Falls Plantation, Greenbush, Greenfield, Hampden, Hermon, Holden, Howland, Hudson, Kenduskeag, La Grange, Levant, Lincoln, Lowell, Mattamiscontis, Maxfield, Milford, Newburg, Newport, Old Town City, Orono, Orrington, Passadumkeag, Plymouth, Stetson, Summit, Veazie-Eddington, and 1 ND.
Piscataquis County. The townships of Atkinson, Medford, Milo, and Orneville.
Sagadahoc County. The entire county.
Somerset County. The townships of Anson, Athens, Cambridge, Canaan, Cornville, Detroit, Embden, Fairfield, Harmony, Hartland, Madison, Mercer, New Portland, Norridgewock, Palmyra, Pittsfield, Ripley, Skowhegan, Smithfield, Solon, St. Albans, and Starks.
Waldo County. The entire county.
Washington County. The townships of Addison, Beals, Beddington, Centerville, Cherryfield, Columbia, Columbia Falls, Crawford, Deblois, East-Machias, Harrington, Jonesborro, Jonesport, Machias, Machiasport, Marshfield, Milbridge, Northfield, Rogue Bluffs, Steuben, Wesley, Whitneyville, 5 ND, 18 ED, 18 MD, 19 ED, 19 MD, 24 MD, 25 MD, 26 ED, 27 ED, 29 MD, 30 MD, 31 MD, 36 MD, 37 MD, 42 MD, and 43 MD.
York County. The entire county.
(2) *Low-risk area.*
Aroostook County. Townships of Bancroft, Benedicta, Macwahoc Plantation, Molunkus, North Yarmouth Academy Grant, Reed Plantation, Silver Ridge, Upper Molunkus, Weston, and 1 R5 WELS.
Franklin County. The townships of Crockertown, Dallas Plantation, Freeman, Jerusalem, Kingfield, Madrid, Mount Abraham, Phillips, Rangeley Plantation, Redington, Salem, Sandy River Plantation, 6, E, and D.
Oxford County. The townships of Andover, Andover North, Andover West, Byron, Gilead, Grafton, Magalloway Plantation, Newry, Richardsontown, Riley, Roxbury, Upton, C, and C Surplus.
Penobscot County. The townships of Carroll Plantation, Chester, Drew Plantation, E. Millinocket, Grindstone, Hersey Town, Hopkins Academy Grant, Indian Purchase, Kingman, Lakeville, Lee, Long A, Mattawamkeag, Medway, Millinocket, Prentiss Plantation, Seboeis Plantation, Soldiertown, Springfield, Webster Plantation, Winn, Woodville, Veazie Gore, AR 7, AR 8 & 9, 3 R1, 1 R8 WELS, 1 R8 WELS, 2 R8 WELS, 2 R8 NWP, 2 R9 NWP, 3 R9 NWP, and 5 R1 NBPP.
Piscataquis County. The townships of Abbott, Barnard, Blanchard Plantation, Bowerbank, Brownville, Dover-Foxcroft, Guilford, Kingsbury Plantation, Lakeview Plantation, Monson, Parkman, Sangerville, Sebec, Williamsburg, Willimantic, Wellington, 1 R9, 2 R9 WELS, 4 R9 NWP, and 5 R9 NWP.
Somerset County. The townships of Bald Mountain, Bingham, Brighton Plantation, Caratunk, Carrying Place, Carrying Place Town, Concord Plantation, Dead River, Highland Plantation, Lexington Plantation, Mayfield, Moscow, and Pleasant Ridge Plantation.
Washington County. The townships of Alexander, Baileyville, Baring, Brookton, Calais, Codyville Plantation, Cooper, Charlotte, Cutler, Danforth, Dennysville, Dyer, Eastport, Edmonds, Forest, Forest City, Fowler, Grand Lake Stream Plantation, Indian, Kossuth, Lambert Lake, Lubec, Marion, Meddybemps, Pembroke, Perry, Princeton, Robbinston, Talmage, Topsfield, Trescott, Vanceboro, Waite, Whiting, Plantation 14, Plantation 21, 6 R1 NBPP, 6 ND BPP, 8 R3 NBPP, 8 R4 NBPP, 11 R3 NBPP.

Maryland

(1) *High-risk area.*
Allegany County. The entire county.
Baltimore City. The entire city.
Baltimore County. The entire county.
Caroline County. The entire county.
Carroll County. The entire county.
Cecil County. The entire county.
Frederick County. The entire county.
Garrett County. The entire county.
Harford County. The entire county.
Howard County. The entire county.
Kent County. The entire county.
Montgomery County. The entire county.
Queen Annes County. The entire county.
Washington County. The entire county.
(2) *Low-risk area.*
Anne Arundel County. The entire county.
Dorchester County. The entire county.
Prince Georges County. The entire county.
Talbot County. The entire county.
Wicomico County. The entire county.
Worcester County. The entire county.

Massachusetts

(1) *High-risk area.* The entire State.
(2) *Low-risk area.* None.

Michigan

(1) *High-risk area.*
Clare County. The township of Lincoln.
Isabella County. The townships of Chippewa, Denver, Gilmore, and Lincoln.
Midland County. The townships of Geneva, Greendale, Homer, Ingersoll, Jasper, Jerome, Lee, Lincoln, Midland, Mount Haley, and Porter.
Oakland County. The townships of Bloomfield, Highland, and Troy.
(2) *Low-risk area.*
Arenac County. The entire county.
Bay County. The entire county.
Branch County. The entire county.
Calhoun County. The entire county.
Clare County. The entire county. *except* Lincoln township.
Clinton County. The entire county.
Eaton County. The entire county.
Genesee County. The entire county.
Gladwin County. The entire county.
Gratiot County. The entire county.
Huron County. The entire county.
Ingham County. The entire county.
Ionia County. The entire county.
Iosco County. The entire county.
Isabella County. The entire county *except* the townships of Chippewa, Denver, Gilmore, and Lincoln.
Jackson County. The entire county.
Lapeer County. The entire county.
Lenawee County. The entire county.
Livingston County. The entire county.
Macomb County. The entire county.
Mecosta County. The entire county.
Midland County. The townships of Edenville, Hope, Larkin, Mills, and Warren.
Missaukee County. The entire county.
Montcalm County. The entire county.
Newaygo County. The entire county.
Oakland County. The entire county *except* the townships of Bloomfield, Highland, and Troy.
Ogemaw County. The entire county.
Oscoda County. The entire county.
Roscommon County. The entire county.
Saginaw County. The entire county.
St. Clair County. The entire county.
Sanilac County. The entire county.
Shiawassee County. The entire county.
Tuscola County. The entire county.
Washtenaw County. The entire county.
Wayne County. The entire county.

Minnesota

(1) *High-risk area.* None.
(2) *Low-risk area.*
Dakota County. NW¼ sec. 21, T. 115 N., R. 20 W.; NE¼ sec. 16, T. 115 N., R. 20 W.; and NE¼ sec. 16, T. 114 N., R. 20 W.

New Hampshire

(1) *High-risk area.*
Belknap County. The entire county.
Carroll County. The entire county.
Cheshire County. The entire county.
Grafton County. The entire county.
Hillsboro County. The entire county.
Merrimack County. The entire county.
Rockingham County. The entire county.
Strafford County. The entire county.
Sullivan County. The entire county.
(2) *Low-risk area.*

Coos County. The entire county.

New Jersey

(1) *High-risk area.* The entire State.
(2) *Low-risk area.* None.

New York

(1) *High-risk area.*
Albany County. The entire county.
Allegany County. The entire county.
Bronx County. The entire county.
Broome County. The entire county.
Cattaraugus County. The entire county.
Cayuga County. The towns of Fleming, Genoa, Ledyard, Locke, Moravia, Niles, Owasco, Scipio, Sempronius, Springport, Sterling, Summer Hill, and Venice.
Chautauqua County. The entire county.
Chemung County. The entire county.
Chenango County. The towns of Afton, Bainbridge, Coventry, German, Greene, Guilford, McDonough, New Berlin, North Norwich, Norwich, Oxford, Pharsalia, Pitcher, Plymouth, Preston, Smithville, and the city of Norwich.
Clinton County. The entire county.
Columbia County. The entire county.
Cortland County. The towns of Cincinnatus, Cortlandville, Freetown, Hartford, Lapeer, Marathon, Solon, Taylor, Virgil, Willet, and the city of Cortland.
Delaware County. The entire county.
Dutchess County. The entire county.
Erie County. The towns of Aurora, Boston, Brant, Cattaraugus, Colden, Collins, Concord, Eden, Evans, Hamburg, Holland, North Collins, Orchard Park, Sardinia, and Wales.
Essex County. The entire county.
Franklin County. The entire county.
Fulton County. The entire county.
Greene County. The entire county.
Hamilton County. The entire county.
Herkimer County. The entire county.
Jefferson County. The towns of Alexandria, Antwerp, Brownville, Cape Vincent, Clayton, and Theresa.
Kings County. The entire county.
Livingston County. The towns of Conesus, Lima, North Dansville, Ossian, Sparta, Springwater, and West Sparta.
Madison County. The town of Sullivan.
Monroe County. The entire county.
Montgomery County. The entire county.
Nassau County. The entire county.
New York County. The entire county.
Oneida County. The towns of Annsville, Camden, Deerfield, Lee, Marcy, New Hartford, Rome City, Utica City Verona, Vienna, Western, Westmoreland, and Whitestown.
Onondaga County. The towns of Clay, Lafayette, and Otisco.
Ontario County. The towns of Naples and South Bristol.
Orange County. The entire county.
Otsego County. The entire county.
Oswego County. The towns of Constantia, Hastings, Palermo, Schroeppel, Volney, and West Monroe.
Putnam County. The entire county.
Queens County. The entire county.
Rensselaer County. The entire county.
Richmond County. The entire county.
Rockland County. The entire county.
Saratoga County. The entire county.
Schenectady County. The entire county.
Schoharie County. The entire county.
Schuyler County. The entire county.
Seneca County. The towns of Covert, Lodi, Ovid, Romulus, and Varick.
St. Lawrence County. The towns of Brasher, Hammond, Hopkinson, Lawrence, Louisville, Macomb, Massena, Norfolk, Rossie, and Stockholm.
Steuben County. The entire county.
Suffolk County. The entire county.
Sullivan County. The entire county.
Tioga County. The entire county.
Tompkins County. The entire county.
Ulster County. The entire county.
Warren County. The entire county.
Washington County. The entire county.
Westchester County. The entire county.
Yates County. The entire county.
(2) *Low-risk area.*
Cayuga County. The towns of Aurelius, Brutus, Cato, Conquest, Ira, Mentz, Montezuma, Sennett, Throop, and Victory.
Chenango County. The towns of Columbus, Linchklaen, Otselic, Smyrna, and Sherburne.
Cortland County. The towns of Cuyler, Homer, Preble, Scott, and Truxton.
Erie County. The towns of Amherst, Alden, Cheektowaga, Clarence, Elma, Grand Island, Lancaster, Marilla, New Stead, Tonawanda, West Seneca, and the cities of Buffalo, Lackawana, and Tonawanda.
Genesee County. The entire county.
Jefferson County. The towns of Adams, Champion, Ellisburg, Henderson, Hounsfield, LeRay, Lorraine, Lyme, Orleans, Pamelia, Philadelphia, Rodman, Rutland, Wilna, Worth, Watertown, and Watertown City.
Lewis County. The entire county.
Livingston County. The towns of Avon, Caledonia, Genesco, Groveland, Leicester, Livonia, Mount Morris, Nunda, Portage, and York.
Madison County. The entire county *except* the town of Sullivan.
Niagara County. The entire county.
Oneida County. The towns of Augusta, Ava, Boonville, Bridgewater, Florence, Floyd, Forestport, Kirkland, Marshall, Paris, Remsen, Sangerfield, Steuben, Trenton, and Vernon.
Onondaga County. The entire county *except* the towns of Clay, Lafayette, and Otisco.
Ontario County. The entire county *except* the towns of Naples and South Bristol.
Orleans County. The entire county.
Oswego County. The entire county *except* the towns of Constantia, Hastings, Palermo, Schroeppel, Volney, and West Monroe.
Seneca County. The towns of Fayette, Junus, Seneca Falls, Tyre, and Waterloo.
St. Lawrence County. The entire county *except* the towns of Brasher, Hammond, Hopkinson, Lawrence, Louisville, Macomb, Massena, Norfolk, Rossie, and Stockholm.
Wayne County. The entire county.
Wyoming County. The entire county.

Ohio

(1) *High-risk area.* None.
(2) *Low-risk area.*
Allen County. S½ sec. 9, T. 3 S., R. 5 E.
Ashtabula County. That portion of the county bounded by a line beginning at the intersection of State Route 45 and the north boundary line of the village of Rock Creek; then east along said line to its intersection with the east boundary line of the village of Rock Creek; then south along said line to its intersection with the south boundary line of the village of Rock Creek; then continuing south along an imaginary line to its intersection with Rome-Rock Creek Road; then south along said road to its intersection with Callender Road; then west along said road to its intersection with Windsor-Mechanicsville Road; then north along said road to its intersection with Cork-Cold Springs Road; then east along said road to its intersection with State Route 45; then south along State Route 45 to the point of beginning.
That portion of the county bounded by a line beginning at the intersection of U.S. Route 6 and Windsor-Mechanicsville Road; then south along said road to its intersection with Montgomery Road; then west along said road to its intersection with Noble Road; then south along said road to its intersection with Stoneville Road; then west along said road to its intersection with State Route 534; then north along State Route 534 to its intersection with U.S. Route 6; then east along U.S. Route 6 to the point of beginning.
That portion of the county bounded by a line beginning at the intersection of State Route 7 and Ayers Road; then west along said road to its intersection with Hayes Road; then northwest along said road to its intersection with Marrian Road; then west along said road to its intersection with State Route 193; then north along State Route 193 to its intersection with Tower Road; then east along said road to its intersection with Stanhope-Kelloggsville Road; then south along said road to its intersection with Footville-Richmond Road; then east along said road to its intersection with U.S. Route 6; then south along U.S. Route 6 to the point of beginning.
That portion of the county bounded by a line beginning at the intersection of U.S. Route 6 and Stanhope-Kelloggsville Road; then south along said road to its intersection with Gibbs Road; then east along said road to its intersection with State Route 7; then south along state Route 7 to its intersection with Slater Road; then west along said road to its intersection with Creek Road; then north along said road to its intersection with U.S. Route 6; then east along U.S. Route 6 to the point of beginning.
Lucas County. That portion of the city of Sylvania bounded by a line beginning at the intersection of the Michigan-Ohio State line and Flanders Road; then south along said road to Janet Avenue; then west along Janet Avenue to its intersection with Artwell Drive; then north along Artwell Drive to its intersection with the Michigan-Ohio State line; then east along said State line to the point of beginning.
Darke County. That portion of Richland Township bounded by a line beginning at the intersection of Reed Road and Greenville-Celina Road; then south along Greenville-Celina Road to its intersection with Union City Road; then west along said road to its intersection with Kesler-Byard Road; then north along said road to its intersection with Reed Road; then east along said road to the point of beginning.

Wayne County. E½ sec. 23 and W½ sec. 24, T. 16 N., R. 13 W.

Oregon

(1) *High-risk area.*

Lane County. That portion of the county beginning at a point in the southeast corner of sec. 11, T. 16 S., R. 3 E.; then south along an imaginary line to the northeast corner of sec. 26, T. 21 S., R. 3 E.; then west along an imaginary line to the northeast corner of sec. 25, T. 21 S., R. 1 W.; then south along the east boundary of said section to its intersection with Lower Brice Creek Road; then west along said road to its junction with Row River Road; then northwest along Row River Road to Dorena Dam; then south across the Dorena Dam Spillway to a point intersecting the north boundary of sec. 5, T. 21 S., R. 2 W.; then west along an imaginary line to the southwest corner of sec. 31, T. 20 S., R. 5 W.; then north along an imaginary line to the northeast corner of sec. 1, T. 16 S., R. 6 W.; then west along an imaginary line to the northeast corner of sec. 4, T. 16 S., R. 6 W.; then north along an imaginary line to the northeast corner of sec. 33, T. 16 S., R. 6 W.; then east along an imaginary line to the northeast corner of sec. 34, T. 16 S., R. 6 W.; then north along an imaginary line to the northeast corner of sec. 15, T. 16 S., R. 6 W.; then east along an imaginary line to its intersection with Siegman-Smyth Road; then northerly along said road to its intersection with High Pass Road; then easterly along High Pass Road to the northwest corner of sec. 1, T. 16 S., R. 5 W.; then due north along Washburn Lane to a point ¼ mile north of the intersection of Washburn Road and Cock Butte Road; then due easterly along an imaginary line to Love Lake Road; then south along an imaginary line to its intersection with U.S. Highway 99; then southerly along U.S. Highway 99 to its intersection with Belt Line Highway; then east along an imaginary line to its intersection with Interstate Highway 5, near the northeast corner of sec. 16, T. 17 S., R. 3 W.; then north along Interstate 5 to a point intersecting the north boundary of sec. 4, T. 17 S., R. 3 W.; then east along an imaginary line to the northeast corner of sec. 5, T. 17 S., R. 1 E.; then north along an imaginary line to the northeast corner of sec. 20, T. 16 S., R. 1 E.; then east along an imaginary line to the northeast corner of sec. 23, T. 16 S., R. 2 E.; then north along an imaginary line to the northeast corner of sec. 11, T. 16 S., R. 2 E.; then east along an imaginary line to the point of beginning.

(2) *Low-risk area.*

Douglas County. S½ of sec. 9 and 10; E½ of sec. 7, 16, and 19; sec. 8, 15, 16, 17, 20, 21, and 22, T. 26 S., R. 4 W.

Multnomah County. That portion of the county bounded on the north by Glisan Street; on the west by 92nd Avenue; on the south by Holgate Boulevard; and on the east by 130th Avenue.

Pennsylvania

(1) *High-risk area.*

Adams County. The entire county.
Bedford County. The entire county.
Berks County. The entire county.
Blair County. The entire county.
Bradford County. The entire county.
Bucks County. The entire county.
Cambria County. The entire county.
Cameron County. The entire county.
Carbon County. The entire county.
Centre County. The entire county.
Chester County. The entire county.
Clarion County. The entire county.
Clearfield County. The entire county.
Clinton County. The entire county.
Columbia County. The entire county.
Cumberland County. The entire county.
Dauphin County. The entire county.
Delaware County. The entire county.
Elk County. The entire county.
Forest County. The entire county.
Franklin County. The entire county.
Fulton County. The entire county.
Huntingdon County. The entire county.
Indiana County. The entire county.
Jefferson County. The entire county.
Juniata County. The entire county.
Lackawanna County. The entire county.
Lancaster County. The entire county.
Lebanon County. The entire county.
Lehigh County. The entire county.
Luzerne County. The entire county.
Lycoming County. The entire county.
McKean County. The entire county.
Mifflin County. The entire county.
Monroe County. The entire county.
Montgomery County. The entire county.
Montour County. The entire county.
Northampton County. The entire county.
Northumberland County. The entire county.
Perry County. The entire county.
Philadelphia County. The entire county.
Pike County. The entire county.
Potter County. The entire county.
Schuylkill County. The entire county.
Somerset County. The entire county.
Snyder County. The entire county.
Sullivan County. The entire county.
Susquehanna County. The entire county.
Tioga County. The entire county.
Union County. The entire county.
Venango County. The entire county.
Warren County. The entire county.
Wayne County. The entire county.
Westmoreland County. The entire county.
Wyoming County. The entire county.
York County. The entire county.

(2) *Low-risk area.* Counties not designated as high-risk area.

Rhode Island

(1) *High-risk area.* The entire State.
(2) *Low-risk area.* None.

Vermont

(1) *High-risk area.*

Addison County. The entire county.
Bennington County. The entire county.
Chittenden County. The entire county.
Franklin County. The entire county.
Grand Isle County. The entire county.
Rutland County. The entire county.
Windham County. The entire county.
Windsor County. The entire county.

(2) *Low-risk area.*

Caledonia County. The entire county.
Essex County. The entire county.
Lamoille County. The entire county.
Orange County. The entire county.
Orleans County. The entire county.
Washington County. The entire county.

Virginia

(1) *High-risk area.*

Arlington County. The entire county.
City of Alexandria. The entire city.
City of Fairfax. The entire city.
City of Falls Church. The entire city.
City of Manassas. The entire city.
City of Winchester. The entire city.
Clarke County. The entire county.
Fairfax County. The entire county.
Fauquier County. That portion of the county north of a line beginning at the junction of U.S. Highway 211 and the Culpeper-Fauquier County line; then easterly along U.S. Highway 211 to a point of junction with U.S. Highways 17, 15, and 29; then northerly along U.S. Highways 17, 15, and 29 to a point of junction with U.S. Highways 15 and 29; then northeast and east along U.S. Highways 15 and 29 to a point of junction with the Fauquier-Prince William County line.
Frederick County. The entire county.
Loudoun County. The entire county.
Page County. That portion of the county north of a line beginning at the junction of U.S. Highway 211 and the Shenandoah-Page County line; then easterly along U.S. Highway 211 and 211 Bypass to a point of junction with the Page-Rappahannock County line.
Prince William County. The entire county.
Rappahannock County. That portion of the county north of a line beginning at the junction of U.S. Highway 211 and the Page-Rappahannock County line; then easterly along U.S. Highway 211 to a point of junction with the Rappahannock-Culpeper County line.
Shenandoah County. The entire county.
Warren County. The entire county.

(2) *Low-risk area.*

Accomack County. The entire county.
Caroline County. The entire county.
Culpeper County. The entire county.
Fauquier County. That portion of the county south of a line beginning at the junction of U.S. Highway 211 and the Culpeper-Fauquier County line; then easterly along U.S Highway 211 to a point of junction with U.S. Highways 17, 15, and 29; then northerly along U.S. Highways 17, 15, and 29 to a point of junction with U.S. Highways 15 and 29; then northeast and east along U.S. Highways 15 and 29 to a point of junction with the Fauquier-Prince William County line.
Gloucester County. The entire county.
Greene County. The entire county.
Harrisonburg City. The entire city.
King George County. The entire county.
Lancaster County. The entire county.
Madison County. The entire county.
Mathews County. The entire county.
Middlesex County. The entire county.
Northampton County. The entire county.
Northumberland County. The entire county.
Orange County. The entire county.
Page County. That portion of the county south of a line beginning at the junction of U.S. Highway 211 and the Shenandoah-Page County line; then easterly along U.S. Highway 211 and 211 Bypass to a point of junction with the Page-Rappahannock County line.
Rappahannock County. That portion of the county south of a line beginning at the junction of U.S Highway 211 and the Page-Rappahannock County line; then easterly along U.S Highway 211 to a point of junction with the Rappahannock-Culpeper County line.
Richmond County. The entire county.
Rockingham County. The entire county.
Spotsylvania County. The entire county.
Stafford County. The entire county.
Westmoreland County. The entire county.

Washington

(1) *High-risk area.* None.
(2) *Low-risk area.*

Clark County. That portion of the county bounded by a line beginning at a point where NE 29th Avenue and 179th Street NE intersect; then easterly along 179th Street NE to its intersection with NE 72nd Avenue; then southerly on NE 72nd Avenue to its intersection with 160th Street NE; then westerly on 160th Street NE to its end; then westerly along an imaginary line projected from the end of 160th Street NE to its intersection with NE 29th Avenue; then northerly on NE 29th Avenue to the point of beginning.
Kitsap County. The entire county.
Whatcom County. That portion of the county bounded by a line beginning at a point where the Skagit-Whatcom County line intersects the Bellingham-Samish Bays; then easterly along said line to its intersection with State Highway 9; then northerly along said highway to its intersection with State Highway 542; then westerly from said intersection along an imaginary line to its intersection with the easterly most point of Gushen Road; then westerly along Gushen Road to its intersection with Axton Road; then westerly along Axton Road to its intersection with the Nooksack River; then southerly along the Nooksack River to Bellingham Bay; then southerly along Bellingham Bay to the point of beginning.

West Virginia

(1) *High Risk area.*

Berkeley County. The entire county.
Jefferson County. The entire county.
Morgan County. The entire county.

(2) *Low-risk area.*

Grant County. That portion of the county lying north of State Highway 93 and west of State Highway 42 and U.S. Highway 50.
Hampshire County. The entire county.
Mineral County. The entire county.

Wisconsin

(1) *High-risk area.* None.
(2) *Low-risk area.*

Dane County. Sec. 17, T. 7 N., R. 10 E.
Washington County. Sec. 15, T. 9 N., R. 19 E.

Done at Washington, DC, this 5th day of May, 1986.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 86-10385 Filed 5-7-86; 8:45 am]

BILLING CODE 3410-34-M

Animal and Plant Health Inspection Service

9 CFR Part 77

[Docket No. 86-047]

Tuberculosis in Cattle; State Designations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document amends the regulations governing the interstate movement of cattle because of tuberculosis by raising the designation of Iowa from a modified accredited area to an accredited-free State. It has been determined that Iowa meets the criteria for designation as an accredited-free State.

The regulations do not impose restrictions on the interstate movement of cattle not known to be affected with or exposed to tuberculosis from either accredited-free States or modified accredited areas. However, the designation for any given jurisdiction can affect the marketability of cattle from that jurisdiction, since some prospective cattle buyers prefer to buy cattle from accredited-free States.

DATES: Effective date of the interim rule is May 8, 1986. Written comments must be received on or before July 7, 1986.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Comments should state that they are in response to Docket Number 86-047. Written comments may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Ralph L. Hosker, Cattle Diseases Staff, VS, APHIS, USDA, Room 816, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8715.

SUPPLEMENTARY INFORMATION:

Background

The "Tuberculosis in Cattle" regulations (contained in 9 CFR Part 77 and referred to below as the regulations) regulate the interstate movement of cattle because of tuberculosis. The requirements of the regulations concerning the interstate movement of cattle not known to be affected with or exposed to tuberculosis are based on whether the cattle are moved from jurisdictions designated as accredited-free States, modified accredited areas, or nonmodified accredited areas. The criteria for determining the status of States (the term State is defined to mean any State, territory, the District of Columbia, or Puerto Rico) or portions of States is contained in the document captioned "Uniform Methods and Rules—Bovine Tuberculosis Eradication," which has been made part of the regulations by incorporation by reference. Generally the status of States or portions of States is determined based on the rate of tuberculosis infection present and the effectiveness of a tuberculosis control and eradication program.

Sections 77.7 and 77.8 of the regulations provide the following with respect to the interstate movement of cattle not known to be affected with or exposed to tuberculosis:

§ 77.7 Movement from accredited-free States and modified accredited areas.

Cattle not known to be affected with or exposed to tuberculosis, originating in an accredited free State or a modified accredited area, may be moved interstate without restriction.

§ 77.8 Movement from nonmodified accredited areas.

Cattle not known to be affected with or exposed to tuberculosis, originating in a nonmodified accredited area, shall only be moved interstate if:

(a) Such cattle are accompanied by a certificate stating that such cattle have been classified negative to an official tuberculin test, which was conducted within 30 days prior to the date of movement. All cattle not individually identified by a registration name and number shall be individually identified by a Veterinary Services approved metal eartag or tattoo; or

(b) Such cattle are from an accredited herd and they are accompanied by a certificate showing the cattle to be from such a herd; or

(c) Such cattle are moved interstate directly to slaughter to an establishment operating under the provisions of the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) or to a State inspection slaughtering establishment which has inspection by a State inspector at the time of slaughter.

Prior to the effective date of this document, Iowa, among other States, was designated under § 77.5 of the regulations as a modified accredited area. The Deputy Administrator has determined that Iowa meets the criteria

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for designation as an accredited-free State. Therefore, this document amends the regulations by adding Iowa to the list of accredited-free States in § 77.4.

As noted above, the regulations do not impose restrictions on the interstate movement of cattle not known to be affected with or exposed to tuberculosis from accredited-free States or modified accredited areas. However, the designation for any given jurisdiction can affect the marketability of cattle from that jurisdiction, since some prospective cattle buyers often prefer to buy cattle from accredited free States.

Executive Order and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a major rule. Based on information compiled by the Department, it has been determined that this rule will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not have any significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

Cattle moved interstate are moved for slaughter, for use as breeding stock, or for feeding. Changing the status of the State of Iowa will not cause a signtficant effect on marketing patterns and will not have a significant economic impact on those persons affected by this document.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V).

Emergency Action

Dr. John K. Atwell, Deputy Administrator of the Animal and Plant Health Inspection Service for Veterinary Services, has determined that an emergency situation exists which warrants publication of this interim rule without prior opportunity for public comment. It is necessary to change the regulations immediately so that they accurately reflect the current tuberculosis status of Iowa and thereby provide prospective cattle buyers with accurate and up-to-date information which may affect the marketability of cattle.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest, and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document. A document discussing comments received and any amendments required will be published in the **Federal Register**.

List of Subjects in 9 CFR Part 77

Animal diseases, Cattle, Transportation, Tuberculosis.

PART 77—TUBERCULOSIS IN CATTLE

Accordingly, 9 CFR 77 is amended as follows:

1. The authority citation for Part 77 continues to read as set forth below:

Authority: 21 U.S.C. 111, 114, 114a, 115–117, 120, 121, 134b, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 77.4, paragraph (b) is revised to read as follows:

§ 77.4 Accredited-free States.

* * * * *

(b) The following States are hereby designated accredited-free States: Alaska, Arizona, Colorado, Connecticut, Delaware, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Dakota, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Utah, Vermont, Wyoming, and the Virgin Islands of the United States.

Done At Washington, D.C., this 29th day of April 1986.

Gerald J. Fichtner,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 86–10384 Filed 5–7–86; 8:45 am]

BILLING CODE 3410-34-M

SMALL BUSINESS ADMINISTRATION

13 CFR Parts 120 and 123

Liquidation of Loans and Security

AGENCY: Small Business Administration.

ACTION: Interim Final Rule with requests for comments.

SUMMARY: When SBA is the foreclosing party or when SBA acquires a farm or ranch through any other means, the borrower may be eligible for the homestead protection which is set forth in Section 1321 of the Food Security Act of 1985, (Pub. L. 99–198). Therefore, the Small Business Administration (SBA) amends its regulations to provide that borrowers may occupy farm homestead property during and after liquidation of the collateral securing an SBA loan. The borrower may be allowed to lease the homestead property, with an option to purchase, from SBA following either a forced or voluntary liquidation of the farm property for a period which is not less than three nor more than five years. These new regulations are being implemented to comply with Section 1321 of the Food Security Act of 1985, (Pub. L. 99–198). The major effect will be to assist certain borrowers that have lost or are losing their farms and have an immediate need for housing during their transition from farming to other occupations.

DATES: Interim Final Rule effective May 8, 1986. Comments must be submitted by June 9, 1986.

ADDRESS: Submit written comments, in duplicate, to Mr. Fred Hanus, Financial Analyst, Office of Finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, DC, 20416. All timely written comments will be available for public inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Fred Hanus, Financial Analyst, Office of Portfolio Management, Small Business Administration, 1441 "L" Street, NW., Washington, DC, 20416, (202) 653–6900.

SUPPLEMENTARY INFORMATION:

Discussion of Interim Rule

SBA is implementing this interim rule immediately with a 30 day comment period. The "Food and Security Act of 1985," (Pub. L. 99–198) (Act) provided for homestead protection for farm loan borrowers. It is essential that this provision of the Act be implemented at once to provide immediate housing assistance for financially pressed farmers who have lost or will lose their residence through foreclosure, voluntary conveyance, or bankruptcy proceedings. This provision in the regulations will only provide assistance to those farmers that do not own other suitable housing. The SBA must provide immediate guidance to its field offices by revising the regulations in 13 CFR Part 120. It is urgent that these regulations become effective on publication so these farmers and their families can make plans for the transition to other occupations and have a place to live in the interim period and some of the emotional stress involved in such a drastic change in lifestyle is removed. Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim rule action are impractical, and therefore, this interim rule is effective immediately upon publication in the **Federal Register**.

Applications must be filed at the SBA Office which serviced the farm loan.

Regulatory Flexibility

SBA certifies pursuant to § 608 of the Regulatory Flexibility Act, (5 U.S.C. 608) that this interim final rule is being published pursuant to an emergency for the reasons stated in the preceding section. It is estimated that this regulation may have a significant impact on a number of small entities. SBA estimates that some 500 borrowers may be eligible to participate in the homestead protection program.

It is necessary that SBA promulgate these regulations in order to comply with and implement section 1321 of the Food Security Act of 1985 (Pub. L. 99–198). There is no alternative to these regulations which would have less economic impact or be less costly. These regulations do not duplicate, overlap, or conflict with any existing Federal Rules.

SBA has determined that this regulation is not a major rule for the purposes of Executive Order 12291. It will not result in an annual economic effect of $100,000,000 or more since SBA estimates that only approximately 500 borrowers may be eligible for the homestead protection program. There will not be a major increase in costs for consumers, individual industries, Federal, State or local government agencies, or geographic regions. There will also be no significant adverse affects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based business to compete with foreign-based business in domestic or export markets.

This regulation contains reporting requirements which are subject to approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act, (44 U.S.C. Ch. 35). These reporting requirements are noted in the text of the regulation and will be submitted to OMB for approval at the earliest possible date.

Highlights

The SBA amends its liquidation of loan and security regulations to implement the applicable provision of Section 1321 of the "Food Security Act of 1985" (Pub. L. 99–198) to provide homestead protection for farmers and ranchers. These amendments will apply to both SBA farm business and disaster loans. This homestead protection program shall apply to all farm loans made or guaranteed under the Small Business Act (15 U.S.C. 631 *et seq.*) where a farm has been or will be acquired by the SBA as a result of foreclosure, voluntary conveyance or conveyance from a Trustee in bankruptcy, with the borrower still in possession of the residence. A farm loan borrower meeting the eligibility requirements may apply to lease, with an option to purchase, the homestead property and a reasonable amount of adjoining land:

The applicant must have had gross annual farm sales of at least $40,000 in at least 2 calendar years during the 5 year period from January 1, 1981, through December 31, 1985.

The applicant and spouse, if the applicant is married, must have received at least 60 percent of his (their) gross annual income from the farming or ranching operation during at least 2 years of the 5 year period.

The applicant must have possessed and occupied the residence and engaged in farming or ranching operations during the 5 year period.

The applicant must personally occupy the residence as his/her principal residence and must not own other suitable housing. Other eligibility requirements are set out in the regulation.

List of Subjects in 13 CFR Parts 120 and 123

Loan programs—business, General provisions, Loan making policy, Loan administration, Loan participants, Preferred Lenders Program, Central registration for secondary markets, Pooling of SBA guaranteed portions, and individual SBA guaranteed portion sold in secondary market.

Accordingly, 13 CFR Part 120 is amended as follows:

PART 120—BUSINESS LOAN POLICY

1. The authority citation for Part 120 is revised to read as follows:

Authority: Secs 5(b)(6), 7(a) and 7(h) of the Small Business Act, as amended, 15 U.S.C. 634(b)(6), 636(a) and (h), and Pub. L. 99–198.

2. Section 120.204–2 is amended by redesignating paragraphs (b), (c), and (d), as (c), (d), and (e) respectively, and adding a new paragraph (b) to read as follows:

§ 120.204–2 Foreclosure of collateral.

* * * * *

(b) *Homestead Protection for Farmers*

Residences and a reasonable amount of adjoining real property that are presently collateral purchased by the SBA (COLPUR) and which were acquired by SBA as a result of a foreclosure, a voluntary conveyance, or a conveyance to the Government by a Trustee in bankruptcy and which are still occupied by the borrower of the farm loan (see § 120.204–2(b)(1) below), may be leased by SBA to the borrower under the terms of this section.

(1) Definitions:

"Farm loan" means any loan made or guaranteed by the Administrator under the Small Business Act (15 U.S.C. 631 *et seq.*) for any of the purposes authorized for loans under subtitles A or B of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 *et seq*) including emergency loans, farm/ranch operating loans, farm/ranch ownership loans and soil and water loans; or any disaster loan made to an agricultural enterprise as defined in 13 CFR 123.17.

"Homestead property" means the principal residence and a reasonable amount of adjoining property possessed and occupied by a farm loan borrower.

"Reasonable amount of adjoining property" means that amount of land which is necessary for family maintenance, but not more than 5 acres, unless local codes require a larger size lot, or additional land is needed for access to the property, to assure a source of water or to provide for sanitation facilities.

(2) Eligibility—In order to be an eligible applicant to occupy homestead property under a lease from SBA, a borrower of a farm loan made or guaranteed by the Administrator must meet all of the following eligibility requirements:

(i) apply for such occupancy during the three-year period beginning on December 22, 1985, and ending at the close of business on December 21, 1988, to the SBA branch or district office which services the farm loan.

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(ii) provide evidence of gross annual farm or ranch sales of at least $40,000 in at least 2 calendar years during the 5-year period beginning on January 1, 1981, and ending December 31, 1985, (or the equivalent crop or fiscal years).

(iii) the applicant and his/her spouse, if the applicant is married, must have received at least 60 percent of his (their) gross annual income from farming or ranching during at least 2 years of the 5-year period beginning on January 1, 1981, and ending December 31, 1985, (or the equivalent crop of fiscal years).

(iv) the applicant must have possessed and occupied the residence and engaged in farming or ranching operations on adjoining land, or other land controlled by the borrower during the 5-year period beginning on January 1, 1981, and ending December 31, 1985, (or the equivalent crop or fiscal years).

(v) the applicant must have sufficient income to make rental payments, maintain the property in good condition and agree to all terms and conditions as set forth in this section and in the lease agreement entered into between the successful applicant and the SBA.

(vi) the applicant must be an individual who was personally liable for the farm loan. The farm loan could have been made to an individual or an entity, so long as the applicant was personally liable for the debt.

(vii) The applicant must personally occupy the residence as his/her personal residence during the term of the lease and must not own other suitable housing.

(viii) The borrower of the farm loan must have exhausted all remedies, as determined by SBA, for the extension or restructuring of such loan(s).

(ix) When more than one member of an entity, such as a corporation or a partnership, each possessed and occupied a separate homestead property, each may apply for homestead protection for his individual residence.

(x) The applicant must have been released from liability or have compromised or settled the SBA debt(s) or the debt(s) must have been discharged in bankruptcy.

(3) *Appeal rights.* If the application for homestead protection is denied by the SBA branch or district office which serviced the loan, the borrower shall be notified in writing of the decision to deny homestead protection. The borrower may then appeal the decision to the Regional Administrator having jurisdiction over the SBA branch or district office which initially denied the application for homestead protection. The property will not be leased or sold until any such appeal is concluded.

(4) *Requirements of lease.* (i) The lease between SBA and the successful applicant may cover only the residence and a reasonable amount of land that is necessary for family maintenance. Not more than 5 acres of land will be leased with the residence unless local codes require a larger size lot, or additional land is needed for access to the residence, to assure a source of water or provide for sanitation facilities. Sources of water, power lines, utility lines, sanitation facilities and/or access to property may be located outside the land to be included with the residence provided appropriate rights or easements are obtained. Appropriate arrangements will be made for continued use of water sources, utilities, and sanitation facilities that will be jointly used. A right of entry and egress to a public way must exist or be provided to the homestead property.

(ii) No lease will be approved if upon exercise of the option to purchase (see (6) below), the remaining COLPUR is not provided with entry and egress to a public way.

(iii) A survey and legal description of the property to be leased and/or purchased will be obtained by SBA. The cost of the survey will be charged to the COLPUR account.

(5) *Appraisal.* The market value of the property, as improved, will be determined by an independent appraisal made within 6 months after the borrower makes a successful application for homestead protection. The cost of the appraisal will be charged to the COLPUR account.

(6) *Rates and terms.* The lease will be offered for a period of not less than 3 years nor more than 5 years and will contain an option to purchase. A lease of less than 5 years may be renewed, but not beyond 5 years from the date of the original lease. This requirement will be added as a stipulation to any homestead lease.

(i) The amount of the lease will be based upon equivalent rents charged for similar residential properties in the area in which the residence is located. The SBA will document in its COLPUR file a sufficient number of equivalent rents charged in the area for such properties to support the lease amount.

(ii) Lease payments will be retained by the Government and remitted according to SBA instructions contained within the lease.

(iii) Failure to make lease payments as scheduled or to maintain the property in good condition shall constitute cause for the termination of all rights of the lessee to possession and occupancy of the homestead property under this section.

(iv) Any interference by the lessee with the Government's efforts to lease or sell the remainder of the COLPUR shall constitute cause for the termination of all rights of the lessee to possession and occupancy of the residence and adjoining property under this section. This stipulation shall be a condition of all leases of homestead property made under this section.

(7) *Exercising the option to purchase.* (i) The lessee may exercise the option to purchase the homestead property in writing at any time prior to the expiration date of the lease. Failure to exercise the option within the lease period will terminate the lessee's rights to purchase the property.

(ii) The option price to the lessee will be the appraised market value of the residence as established by the independent appraisal set forth in paragraph (b)(5) of this section.

(iii) Any sale pursuant to the exercise of the option will be handled as a sale of collateral under the regulations set forth in § 120.204–2(c).

§ 120.204–2 [Amended]

3. Newly redesignated § 120.204–2(c) is amended to add the following phrase before the first sentence:

(c) *Disposal of Collateral.* Except as to property covered by paragraph (b) of this section * * *

PART 123—[AMENDED]

4. The authority citation for Part 123 continues to read as follows:

Authority: Sec. 7 (b), (c), (f) of Small Business Act, 15 U.S.C. 636 (b), (c), (f), sec. 5(b)(6), 15 U.S.C. 634(b)(6). Pub. L. 98–270, Title III, unless otherwise noted.

§ 123.13 [Amended]

4. Section 123.13(a) is amended to remove the phrase "§§ 122.20 through 122.25" in the last sentence and replace it with § 120.204".

Dated: April 24, 1986.

Charles L. Heatherly,

Acting Administrator.

[FR Doc. 86–9774 Filed 5–7–86; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86–FM–62–AD; Amdt. 39–5306]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) which requires inspection for cracking and corrosion in lower body longitudinal skin lap joints and cracking in lower lobe body frames on certain Boeing Model 747 series airplanes, and repair if necessary. This AD increases the areas to be inspected. This action is prompted by recent reports of cracking of lower lobe body frames adjacent to fuselage skin lap joints. This action is necessary since lower body frame cracking adjacent to fuselage skin lap joint corrosion, if not corrected, could result in separation of the lap joint and rapid decompression of the airplane.

EFFECTIVE DATE: May 27, 1986.

ADDRESSES: Information on the required inspection and copies of the appropriate service bulletins may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Owen E. Schrader, Airframe Branch, ANM–120S; telephone (206) 431–2923. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: AD 76–05–05, Amendment 39–2538 (41 CF 9296), as amended by Amendments 39–2698), (41 FR 36487, Amendment 39–2961 (42 FR 36242), and Amendment 39–3430 (44 FR 12635), requires inspection for cracking and corrosion of certain fuselage lap splices. There have been new reports of cracking of lower lobe body frames in areas adjacent to the lower body longitudinal skin lap joints.

Although lap joint corrosion and body frame fatigue cracking are not primarily related, they may occur in close proximity. Continued operation with the cracked or broken frames adjacent to an area of lap joint corrosion could result in separation of the lap joint and rapid decompression of the airplane.

Boeing has issued Alert Bulletin 747–53A2267, dated March 28, 1986, that provides a procedure for inspection of lap splice corrosion and body frame cracking, and repair, as necessary.

Since this condition is likely to exist or develop on other airplanes of this same type design, an airworthiness directive is being issued which requires inspection for cracking and corrosion in lower body longitudinal skin lap joints, cracking in lower lobe body frames, and repair, if necessary, in accordance with Boeing Alert Service Bulletin 747–53A2267.

Further, since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The FAA determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Model 747 series airplanes listed in Boeing Alert Service Bulletin 747–53A2267, dated March 28, 1986, certificated in any category.

To prevent a condition that could lead to depressurization of the airplane accomplish the following, unless already accomplished:

A. Perform an external visual inspection of lower longitudinal lap joint areas for corrosion in accordance with Boeing Alert Service Bulletin 747–53A2267, dated March 28, 1986, or later FAA-approved revision.

1. Inspections are to commence in accordance with the following schedule after the effective date of this AD:

a. For airplanes with 12,000 flight hours or more, within the next 100 landings after the effective date of this AD, or within 4,000 flight hours or 15 months from the last inspection of each lap joint area, provided no corrosion was found at that inspection, whichever is later.

b. For airplanes with less than 12,000 flight hours, within the next 1,000 flight hours after the effective date of this AD, or prior to the accumulation of 12,000 flight hours, whichever is later.

2. If corrosion is found and is associated with cracks, skin penetration, or missing fasteners; or if it exceeds a total length of 20 inches along any 40-inch distance; repair before further flight in accordance with paragraph C., below. Reinspect airplanes with less severe corrosion at intervals not to exceed 1,000 flight hours or 6 months, whichever is sooner.

3. If no corrosion is found, reinspect at intervals not to exceed 4,000 flight hours or 15 months, whichever is sooner.

B. If corrosion is found in the longitudinal lap joint area, perform an internal inspection of the body frames for cracking in the vicinity of each corroded lap joint area before further flight in accordance with Boeing Alert Service Bulletin 747–53A2267, dated March 28, 1986, or later FAA-approved revision, unless already accomplished within the last 1,000 landings. Repeat the frame inspections thereafter at intervals not to exceed 1,000 landings until terminating action is performed on the lap joints in accordance with paragraph C., below. Repair cracks before further flight in accordance with an FAA-approved method.

C. Terminating action for the repetitive inspections of paragraphs A. and B., above, is repair of the lap joints in accordance with Boeing Service Bulletin 747–53A2267, dated March 28, 1986, or later FAA-approved revision.

D. Apply organic corrosion inhibiting compound to each lap joint after each inspection.

E. For the purposes of complying with this AD, the number of landings may be determined to equal the number of pressurization cycles where the cabin pressure differential was greater than 2.0 psi.

F. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes unpressurized to a base for the accomplishment of inspections and/or modifications required by this AD.

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H. For Boeing Model 767SR airplanes only, based on continued mixed operation of cabin pressure differentials, the reinspection intervals specified in paragraph B. of this AD may be multiplied by a 1.2 adjustment factor.

All persons affected by this proposal who have not already received the appropriate service information from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This supersedes AD 76-05-05, Amendment 39-2538, as amended by Amendments 39-2698, 39-2961, and 39-3430.

This amendment becomes effective May 27, 1986.

Issued in Seattle, Washington, on April 30, 1986.

Wayne J. Barlow,

Acting Director Northwest Mountain Region.

[FR Doc. 86-10254 Filed 5-7-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-59-AD; Amdt. 39-5304]

Airworthiness Directives; Boeing Model 757-200 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment adds a new airworthiness directive (AD) applicable to certain Boeing Model 757-200 airplanes which requires modification of escape slide pack release cable assemblies to increase the effective length of the cable. The current cable length could cause premature release of the slide pack during aggressive or powered opening of certain doors. If released early, the slide pack could drop out of its container inside the airplane and prevent further door opening. This situation, if not corrected, could jeopardize successful evacuation of the airplane.

DATES: Effective May 30, 1986.

Comments must be received by May 30, 1986.

ADDRESSES: Send comments in duplicate to FAA, Northwest Mountain Region, Office of Regional Counsel, ANM-7, Attention: Airworthiness Rules Docket No. 85-NM-59-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. This service bulletin specified in this AD may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. It may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Jeff Gardlin, Airframe Branch, ANM-120S; telephone (206) 431-2932. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: During recent escape slide testing, the No. 2 left hand door became jammed during the initial attempt to open the exit. The door was returned to its original condition and a second attempt was made to open the exit; once again the door jammed. Investigation revealed that the slide had detached from the door while inside the airplane, causing the slide pack container to open and jam in the doorway, and preventing outward motion of the door. The cause of the premature slide detachment has been traced to the length of the slide pack release cable. This cable is designed to release the slide pack during outward motion of the door after the door has cleared its cutout. If the door is opened in the powered mode, or aggressively in the unpowered mode, the cable can release the slide pack early, causing potential jamming of the exit and rendering it unusable for evacuation. The design resulting in this situation exists on the left and right No. 1 and No. 2 doors on Model 757-200.

Boeing issued Service Bulletin 757-25A0058 on April 18, 1986, which describes a modification of the escape slide release cable/strap assembly to add extension links. The Boeing service bulletin incorporates by reference Air Cruisers Service Bulletin 105-25-17, which makes the link installation compatible with the escape slide pack by adding a guide ring for cable/strap routing.

Since this condition is likely to exist or develop on other airplanes of this model, the FAA has determined that an AD is necessary which requires modification of slide pack release cable/strap assemblies in accordance with Boeing Service Bulletin 757-25A0058, dated April 18, 1986.

Further, since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

Although this action is in the form of a final rule, which involves an emergency and, thus, was not preceded by notice and public procedure, interested persons are invited to submit such written data, views, or arguments as they may desire regarding this AD. Communications should identify the docket number and be submitted in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-NM-59-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. All communications received before the closing date will be considered by the Administrator, and the AD may be changed in light of the comments received.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to Boeing Model 757-200 airplanes, listed in Boeing Service Bulletin 757-25A0058, dated April 18, 1986, certificated in any category. Compliance required within 45 days after the effective date of this amendment, unless already accomplished.

To ensure proper door opening and escape slide deployment accomplish the following:

A. Modify slide pack release cable assemblies on Doors No. 1 and No. 2, left and right, in accordance with Boeing Service Bulletin 757-25A0058, dated April 18, 1986, or later FAA-approved revisions.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this AD who have not already received copies of the service bulletin cited herein may obtain copies upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective May 30, 1986.

Issued in Seattle, Washington, on April 30, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-10251 Filed 5-7-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-84-AD; Amdt. 39-5303]

Airworthiness Directives; British Aerospace Aircraft Group Model HS 748 Series Airplanes.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires modifications to the overwing escape hatches on all British Aerospace (BAe) Model HS 748 series airplanes. This action is prompted by reports of hatches opening and detaching in flight, and is necessary to prevent the inadvertent opening of these hatches.

EFFECTIVE DATE: June 16, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, D.C. 20041. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires modifications to the overwing escape hatches to prevent opening and detachment in flight was published in the **Federal Register** on September 5, 1985 (50 FR 36099).

Interested parties have been afforded an opportunity to participate in the making of this amendment. No comments were received.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 4 airplanes of U.S. registry will be affected by this AD, that it will take approximately 32 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Modification parts are estimated to be $1200 per airplane. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $9,920.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($2,480.). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

British Aerospace Aircraft Group: Applies to all BAe Model HS 748 airplanes, certificated in any category. Compliance is required within 60 days after the effective date of this AD. To prevent the overwing escape hatches from opening and becoming detached during flight, accomplish the following, unless already accomplished:

A. Modify the overwing escape hatches in accordance with BAe Service Bulletin 52/115, dated July 4, 1984.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate document from the manufacturer may obtain copies upon request to British Aerospace, Inc., Librarian, Box 17414, Dulles International Airport, Washington, DC 20041. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective June 16, 1986.

Issued in Seattle, Washington, on April 30, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-10252 Filed 5-7-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-65-AD; Amdt. 39-5305]

Airworthiness Directives; McDonnell Douglas Corporation Model DC-10 and KC-10A (Military) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires purging and grease packing of wing spar mounted and aft fuselage mounted fuel fire shutoff valves on McDonnell Douglas Model DC-10 and KC-10A (Military) airplanes. This AD is prompted by reports of restricted movement of emergency fire handles that are necessary to discharge the fire agent. This AD is necessary to reduce the potential unsafe condition resulting from the loss of fuel shutoff and fire extinguishing capabilities.

DATE: Effective May 27, 1986.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-L65 (54-60). This information may also be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California 90808.

FOR FURTHER INFORMATION CONTACT: Mr. Romy L. Santiago, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6327.

SUPPLEMENTARY INFORMATION: Eight incidents have been reported recently where the No. 2 engine aft fuselage mounted fuel fire shutoff valve could not be closed. Investigation revealed that water, which is usually present in the fuel, can accumulate and freeze in the valve mechanism cavity. In addition, four operators reported twenty-three instances where the wing spar mounted fuel fire shutoff could not be closed. Nineteen instances occurred on engine No. 2 and four on engine No. 1. Examination of these valves revealed that water in the fuel can accumulate and freeze in the actuating mechanism cavity and valve gate groove. Ice formation in either one of these locations can prevent the valve from closing completely. Partial closure of the valve can prevent full travel of the flight compartment emergency fire handle, which is necessary to engage the electrical switch used to discharge the fire agent. Inability to discharge the firex bottles due to malfunction of the fuel fire shutoff valve could result in an uncontrolled engine fire. This AD requires modifications which will minimize the possibility of ice forming in the valve actuating mechanism body. Further regulatory action will be considered at a later time to address ice accumulation in the valve gate groove.

McDonnell Douglas Alert Service Bulletin A28-168, dated March 14, 1986, and Alert Service Bulletin A28-55, dated April 3, 1986, have recently been issued to provide operators with instructions on how to purge and grease pack the fuel fire shutoff valves. McDonnell Douglas Service Bulletin 28-168 was issued April 16, 1986, and describes a modification of the aft fuselage mounted fuel fire shutoff valves. McDonnell Douglas Service Bulletin 28-55, dated April 23, 1976, describes procedure to rotate the engine No. 1 and No. 2 wing spar mounted fuel fire shutoff valves.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD requires repetitive modification of the fuel fire shutoff valves in accordance with the Alert Service Bulletins mentioned above, and provides for terminating action in accordance with McDonnell Douglas Service Bulletin 28-168, dated April 16, 1986, and McDonnell Douglas Service Bulletin 28-55, dated April 23, 1976, as appropriate.

Further, since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The Federal Aviation Administration has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulation as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-10 and KC-10A (Military) series airplanes, certificated in any category. To preclude a potential unsafe condition resulting from loss of fuel shutoff and fire extinguishing capabilities, accomplish the following within the next 300 flight hours after the effective date of this AD, unless already accomplished:

A. Modify engine No. 2 aft fuselage mounted fuel fire shutoff valve, ITT Part Number AV16A1323B or Whittaker Part Number 233805, in accordance with the accomplishment instructions of McDonnell Douglas DC-10/KC10A Alert Service Bulletin A28-168, dated March 14, 1986, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region. Repeat this modification at intervals not to exceed six (6) months. Modification of the aft fuselage mounted fuel fire shutoff valves in accordance with McDonnell Douglas Service Bulletin 28-168, dated April 16, 1986, by machining an elongated drain hole in the valve body constitutes terminating action for this item.

B. Modify engine No. 1 and engine No. 2 wing spar mounted fuel fire shutoff valves, ITT Part Number AV16A1323B, in accordance with the accomplishment instructions of McDonnell Douglas DC-10 Alert Service Bulletin A28-55, dated April 4, 1986, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region. Repeat this modification at intervals not to exceed six (6) months. Rotation of engine No. 1 and No. 2 wing spar mounted fuel fire shutoff valves in accordance with the Accomplishment Instructions of McDonnell Douglas Service Bulletin 28-55, dated April 23, 1976, or later revisions, constitutes terminating action for this item.

C. An alternate means of compliance with this AD which provides an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a base for accomplishment of the requirements of this AD.

All persons affected by this directive who have not already received the appropriate documents from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-L65 (54-60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington or the Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective May 27, 1986.

Issued in Seattle, Washington, on April 30, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-10259 Filed 5-7-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 85-NM-82-AD; Amdt. 39-5302]

Airworthiness Directives; Short Brothers, Ltd., Model SD3-60 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) that requires the inspection and repair, as necessary, of the main fitting of the nose landing gear on Short Brothers, Ltd., Model SD3-60 series airplanes. This action is required to detect forging defects which have been reported in the wall of the fitting. Defects could lead to failure of the nose landing gear.

EFFECTIVE DATE: June 16, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to Shorts Brothers Aircraft, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202-3702. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-2909. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires inspection and repair, as necessary, of the main fitting of the nose landing gear was published in the Federal Register on September 30, 1985 (50 FR 39712).

Interested parties have been afforded an opportunity to participate in the making of this amendment. No comments were received.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

It is estimated that 33 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Based on these figures, the total cost impact of this AD of U.S. operators is estimated to be $2,640.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because of the minimal cost of compliance per airplane ($80.). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Short Brothers, Ltd.: Applies to certain Model SD3-60 airplanes, as described in Short Brothers, Ltd., Service Bulletin SD360-32-19, dated March 1985, certificated in any category.

To prevent the failure of the nose landing gear main fitting, accomplish the following within 60 days after the effective date of this AD, unless previously accomplished:

1. Inspect using eddy current methods and rework, as necessary, the main fitting of the nose landing gear in accordance with Dowty Rotol Service Bulletin 32-28SD, dated December 19, 1984.

2. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

3. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to Shorts Brothers Aircraft, 2011 Crystall Drive, Arlington, Virginia 22202-3702. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective June 16, 1986.

Issued in Seattle, Washington, on April 30, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-10253 Filed 5-7-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-ASW-12, Amdt. 39-5298]

Airworthiness Directives; Sikorsky Model S-76A Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires a service life limit be placed on certain landing gear components on Sikorsky Model S-76A helicopters. The AD is needed to prevent fatigue failure of these components which could result in landing gear failure.

DATES: Effective date: May 14, 1986.

Comment Deadline Date: May 29, 1986.

Compliance: As prescribed in the body of the AD.

ADDRESSES: Comments on the amendment may be mailed in duplicate to: FAA, Southwest Region, Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, Texas 76106, or delivered in duplicate to the above address, Room 158, Building 3B.

Comments delivered must be marked: Docket No. 86-ASW-12.

Comments may be inspected at Room 158, Building 3B, between the hours of 8 a.m. and 4:30 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Cheryl McCabe, Airframe Branch, ANE-

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152, Boston Aircraft Certification Office, New England Region, FAA, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273–7112.

SUPPLEMENTARY INFORMATION: The FAA has determined that certain Sikorsky S–76A landing gear components are service life limited. Landing gear component fatigue failure could result in landing gear failure. Since this condition exists on all Model S–76A helicopters, an AD is being issued which requires service life limits be placed on certain landing gear components on Sikorsky Model S–76A rotorcraft.

The FAA landing gear component service life limit approval for the individual components described in the AD are based on safety considerations and landing gear fatigue analysis.

Since these components were not service life limited at the time of helicopter type certification, some of the components are not marked with a serial number; however, all the components are marked with part numbers. Therefore, the operator may elect to do a rotorcraft record search to determine the usage time for the components listed in the AD.

Sikorsky Alert Service Bulletin 76–32–20 covers the subject of serialization and current usage determination. The manufacturer has serialized the production components and listed the component retirement times in Chapter 4, Airworthiness Limitations Section of Sikorsky Maintenance Manual No. SA4047–76–2–1, Revision 16.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

Request for Comments on the Rule

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on the rule. When the comment period ends, the FAA will use the comments submitted, together with other available information, to review the regulation. After the review, if the FAA finds that changes are appropriate, it will initiate rulemaking proceedings to amend the regulation. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in evaluating the effects of the rule and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule.

The FAA has determined that this regulation is an emergency regulation that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations (FAR) as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

Sikorsky Aircraft: Applies to Model S–76A helicopters certificated in any category.

Compliance is required as indicated unless already accomplished.

To preclude possible fatigue failures of the main and nose landing gear components, accomplish the following:

(a) Within the next 100 hours' time in service after the effective date of this AD or before the accumulation of the component hours' time in service listed below, whichever occurs later, replace the following components with new or airworthy components that have not exceeded the component listed hours's time in service. Thereafter, replace the following components with new or airworthy components before the accumulation of the components hours' time in service listed below:

Component	Part No.	Replacement time/hours
Nose Landing Gear:		
Fork	1944E60	42,500
Cylinder	1944E2,1944C2	18,500
Retraction Actuator		
Cylinder Terminal	1944D201	28,800
Piston Rod	1944E204	25,000
Main Landing Gear:		
Cylinder	1945E2	30,300
Axle Support Fitting	1945C12	9,600
Pin, Universal to Cylinder	1945C29	23,800
Drag Brace Rod End	1945E35	36,200
Upper Torque Arm	1945E46	37,900
Lower Torque Arm	1945C47	16,200
Axle	1945E85	7,200
Rod End, Positioning Rod	1945E235	19,100
Retraction Actuator		
Outer Cylinder	1945E302	7,100
Piston	1945E314	33,300
Piston Rod End	01–747–061	9,000

(b) Operators who have not kept records of hours' time in service on individual component parts that were installed at time of issuance of the intital rotorcraft airworthiness certificate shall substitute rotrorcraft hours' time in service in lieu thereof.

(c) For purposes of complying with this AD, the hours' time in service for individual components that were not installed at the time of issuance of the initial rotorcraft airworthiness certificate must be determined from operator's rotorcraft records.

(d) Upon request, an alternate means of compliance which provides a level of safety equivalent to the requirements of this AD may be used when approved by the Manager, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 273–7110.

(e) Upon submission of substantiating data by an owner or operator through an FAA maintenance inspector, the Manager, Boston Aircraft Certification Office, 12 New England Executive Park, Burlington, Massachusetts 01803, telephone (617) 237–7110, may adjust the compliance time specified in this AD.

Note.—Sikorsky Alert Service Bulletin 76–32–20 applies to this subject.

This amendment becomes effective on May 14, 1986.

Issued in Fort Worth, Texas, on April 23, 1986.

Don P. Watson,

Acting Director, Southwest Region.

[FR Doc. 86–10258 Filed 5–7–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Citizen Petitions Concerning Chlorofluorocarbons

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority regarding citizen petitions submitted under Part 10. This amendment will delegate authority to the Director and Deputy Director, Center for Drugs and Biologics (CDB), and to the Director and Deputy Director, Center for Veterinary Medicine, to grant or deny certain citizen petitions concerning chlorofluorocarbons.

EFFECTIVE DATE: May 8, 1986.

FOR FURTHER INFORMATION CONTACT: Melissa M. Moncavage, Office of Management and Operations (HFA–340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4976.

SUPPLEMENTARY INFORMATION: FDA is revising § 5.31(f) (21 CFR 5.31(f)) to delegate authority to the Director and Deputy Director, CDB, and the Director and Deputy Director, CVM, respectively, to grant or deny citizen petitions submitted under § 2.125(j) (21 CFR 2.125(j)) from sponsors of investigational new drug applications (IND's) and sponsors of investigational new animal drug applications (INAD's) who want to ship in interstate commerce a drug product containing a chlorofluorocarbon. Currently, authority to act on these petitions is with the Commissioner's office. FDA is delegating additional authority because the decision to permit a study of a drug with chlorofluorocarbons does not reflect new policy issues and because the Director and Deputy Director, CDB, and the Director and Deputy Director, CVM, already have delegated to them similar authority concerning IND's and INAD's, respectively.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for 21 CFR Part 5 continues to read as follows:

Authority: Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)); 21 CFR 5.10.

2. Section 5.31 is amended by adding new paragraphs (f) (4) and (5) to read as follows:

§ 5.31 Petitions under Part 10.

* * * * *

(f) * * *

(4) The Director and Deputy Director, CDB, are authorized to issue responses to citizen petitions submitted under § 10.30 of this chapter from sponsors of an investigational new drug application who request approval to ship in interstate commerce, in accordance with § 2.125(j) of this chapter, an investigational new drug for human use containing a chlorofluorocarbon.

(5) The Director and Deputy Director, CVM, are authorized to issue responses to citizen petitions submitted under § 10.30 of this chapter from sponsors of an investigational new animal drug application who request approval to ship in interstate commerce, in accordance with § 2.125(j) of this chapter, an investigational new animal drug for animal use containing a chlorofluorocarbon.

Dated: May 1, 1986.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–10263 Filed 5–7–86; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Part 176

[Docket No. 85F–0261]

Indirect Food Additives; Paper and Paperboard Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of cationic soy protein (soy protein isolate modified by treatment with 3-chloro 2-hydroxypropyltrimethylammonium chloride) in the manufacture of paper and paperboard used in the packaging of dry food. This action responds to a petition filed by Ralston Purina Co.

DATES: Effective May 8, 1986; objections by June 9, 1986.

ADDRESS: Written objections to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Edward J. Machuga, Center for Food Safety and Applied Nutrition (HFF/335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In a notice published in the Federal Register of June 25, 1985 (50 FR 26270), FDA announced that a petition (FAP 5B3866) had been filed by Ralston Purina Co., Checkerboard Square, St. Louis, MO 63164, proposing that § 176.180 *Components of paper and paperboard in contact with dry food* (21 CFR 176.180) be amended to provide for the safe use of cationic soy protein (soy protein isolate modified by treatment with 3-chloro-2-hydroxypropyltrimethylammonium chloride) in the manufacture of paper and paperboard used in the packaging of dry food.

FDA has evaluated the data in the petition and other relevant material. The agency concludes that the proposed food additive use is safe, and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m. Monday through Friday. FDA's regulations implementing the National Environmental Policy Act (21 CFR Part 25) have been replaced by a rule published in the Federal Register of April 26, 1985 (50 FR 16636, effective July 25, 1985). Under the new rule, an action of this type would require an abbreviated environmental assessment under 21 CFR 25.31a(b)(1).

Any person who will be adversely affected by this regulation may at any time on or before June 9, 1986 file with the Dockets Management Branch (address above) written objections

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thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 176

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 176 is amended as follows:

PART 176—INDIRECT FOOD ADDITIVES: PAPER AND PAPERBOARD COMPONENTS

1. The authority citation for 21 CFR Part 176 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 176.180(b)(2) by alphabetically inserting a new item in the list of substances to read as follows:

§ 176.180 Components of paper and paperboard in contact with dry food.

* * * * *

(b) * * *

(2) * * *

List of substances	Limitations
* * *	* *
Cationic soy protein (soy protein isolate modified by treatment with 3-chloro-2-hydroxypropyl-trimethyl-ammonium chloride)	For use only as a coating adhesive, pigment structuring agent, and fiber retention aid.
* * *	* *

Dated: April 29, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-10285 Filed 5-7-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3 86-13]

Temporary Regatta Regulation; Harvard-Yale Regatta, Thames River, New London, CT

AGENCY: Coast Guard, DOT.

ACTION: Temporary regulation.

SUMMARY: This temporary rule provides notice that the 1986 Harvard-Yale Regatta will he held June 7, 1986 beginning at 4:30 p.m. and ending at 7:30 p.m. The permanent regulation for this regatta sets the effective period for this annual event as either the first or second Saturday in June as published in the Third District Local Notice to Mariners and in a Federal Register notice. This document notifies the affected public of the effective period for the 1986 regatta.

DATES: This temporary regulation becomes effective on June 7, 1986 at 4:30 p.m. and terminates the same day at 7:30 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas A. Dlhopolsky (212) 668–7974.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking has not been published for this regulation. Following normal rulemaking procedures is unnecessary. The permanent regulation for this regatta (33 CFR 100.304) specifies that the regatta will be held on either the first or second Saturday in June and that the effective date will be published in the Third District Local Notice to Mariners and in a Federal Register notice. This final rule simply provides notice of the specific date and times for the 1986 regatta which will be held on the first Saturday in June this year.

Drafting Information

The drafters of this notice are Mr. Lucas A. DLHOPOLSKY, Project Officer, Boating Safety Office, and Ms. MaryAnn ARISMAN, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Regulation

This year's Harvard-Yale crew race event will be held again on the Thames River in New London, Connecticut following the same procedures as in 1985. The Special Local Regulations for this regatta are set forth in 33 CFR 100.304. Only the effective period will be different from last year as provided in this temporary rule.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Temporary Regulation

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Section 100.304(b) is revised to read as follows for June 7, 1986. Because this is a temporary rule, this revision will not appear in the Code of Federal Regulations:

§ 100.304 Harvard-Yale Regatta, Thames River, New London, CT.

* * * * *

(b) *Effective Period:* This regulation will be effective from 4:30 p.m. to 7:30 p.m. on June 7, 1986. In case of postponement due to weather, this regulation will be in effect on June 8, 1986 beginning at 9:00 a.m.

* * * * *

Dated: April 21, 1986.

P.A. Yost,

Vice Admiral, U.S. Coast Guard Commander, Third Coast Guard District.

[FR Doc. 86-10374 Filed 5-7-86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 117

[CGD5-84-07]

Drawbridge Operation Regulations; Beaufort Channel, NC

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the North Carolina Department of Transportation, Division of Highways, the Coast Guard is amending the regulations that govern the operation of the drawbridge across Beaufort Channel, mile 0.1 at Beaufort, North Carolina. This change will provide an hourly opening schedule for pleasure craft during the boating season. This drawbridge currently is required to open on signal. This change is being made in order to alleviate highway traffic congestion in the vicinity of the drawbridge. This action will reduce the number of draw openings and still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on June 9, 1986.

FOR FURTHER INFORMATION CONTACT: Wayne J. Creed, Bridge Administrator, Aids to Navigation Branch, Fifth Coast Guard District, Federal Building, 431 Crawford Street, Portsmouth, Virginia 23704–5004, (804) 398–6227.

SUPPLEMENTARY INFORMATION: On April 18, 1985 the Coast Guard published a proposed rule (50 FR 15461) concerning this amendment. The Commander, Fifth Coast Guard District, also published this proposal in Public Notice (5–593) dated April 24, 1985. Interested persons were requested to submit comments by May 24, 1985.

Drafting Information:

The drafter of these regulations is W.J. Creed, project officer, and the project attorney is Lt W.A. Mitchell.

Discussion of Comments

The Carteret County Planning Director submitted the only comment. It was his opinion that the 6:00 a.m. opening should be delayed until 6:15 a.m. to further facilitate the clearing of highway traffic congestion. This was considered, but was not approved because the highway traffic data contained in the record does not support a delayed opening at this time.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary. This conclusion is based on the fact that these regulations will have no effect on commercial navigation or on any industries that depend on waterborne transportation. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. Section 117.822 is added to read as follows:

117.822 Beaufort Channel, North Carolina.

From May 1 to October 31, the draw shall open on the hour from 7 a.m. to 7 p.m. for the passage of pleasure craft. To accommodate approaching pleasure craft, the hourly opening may be delayed up to 10 minutes past the hour. Public vessels of the United States, commercial vessels, and any vessel in an emergency involving danger to life or property shall be passed at any time.

Dated: April 28, 1986.

P.A. Welling,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 86-10376 Filed 5-7-86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 162

[CGD 85-060]

Inland Waterways Navigation Regulation; Connecting Waters From Lake Huron to Lake Erie

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule amends the existing Inland Waterways Navigation Regulations for the connecting waters between Lake Huron and Lake Erie. This amendment results from the Coast Guard's commitment to industry to review the reporting point requirements after a period of experience of two seasons of operation under the current rules. The amendment will maintain the existing level of safety while reducing the burden of compliance on marines and ship owners.

EFFECTIVE DATE: May 28, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Michael J. Powers, (202) 426–4958.

SUPPLEMENTARY INFORMATION: The responsibility for regulations governing the movement of vessels over the connecting waters from Lake Huron to Lake Erie were transferred from the U.S. Army Corps of Engineers to the Coast Guard by a memorandum of understanding, signed on May 3, 1977, as a result of the enactment of the Ports and Waterways Safety Act of 1972. These regulations were added to Title 33, Code of Federal Regulations on September 29, 1977 (42 FR 51758) and were amended on April 30, 1984 (49 FR 19297).

Upon publication of the final rule, the Coast Guard stated that it would be willing to consider changes to the reporting points if operational experience showed a need for such changes. Since publication, comments have been received regarding the number of and location of reporting points and the excessive communications traffic from small recreational boaters. As a result of these comments and meetings between the U.S. and Canadian Coast Guards, changes to the regulations were proposed in a Notice of Proposed Rulemaking (NPRM) on January 6, 1986 (51 FR 402), with a 45 day comment period.

Drafting Information

The principal persons involved in drafting this final rule are Mr. Michael J. Powers, Project Manager, Office of Marine Environment and Systems, and Mr. Stanley Colby, Project Attorney, Office of Chief Counsel.

Discussion of Comments

In response to the NPRM a total of eleven comments were received, four of which supported the proposed changes to the regulations.

Four commenters objected to the existence and application of these regulations in their entirety. They state that the present regulations should be replaced with the regulations in existence prior to April 30, 1984. The Coast Guard believes the regulations in conjunction with the present vessel traffic system provide a level of safety that would not exist if the regulations were not in place. The regulations assist in maintaining an orderly flow of traffic through a constrained waterway and act as a coordinating point for the U.S. and Canadian Coast Guards during hazardous navigation conditions. For these reasons the Coast Guard does not intend to issue regulations which rescind the existing safety system.

One commenter stated opposition to these regulations in their entirety if the Canadian Government charged user fees to support the operation of Sarnia Traffic Center. The Coast Guard understands that there is no intention of imposing user fees to support any

Canadian Vessel Traffic Center. If it is decided at some future date to impose user fees it would not be done without full consultation with the system users and the U.S. government.

One commenter stated that future rulings should include input from the people doing the work. The Coast Guard believes individuals who work with or are affected by these regulations have had ample opportunity to participate in their development. This belief is based on the following: The original NPRM (June 6, 1983, 48 FR 25231) provided a 90 day comment period. A notice of public hearing was published in the Federal Register on October 7, 1983 (48 FR 45798). The hearing was held in Detroit, Michigan on November 15, 1983 and an extension of the comment period was provided by this notice until November 30, 1983. The present proposal provided a 45 day comment period after soliciting comments on the application of these regulations after one operating season through a notice in the Commander, Ninth Coast Guard District Local Notice to Mariners No. 34/84 (November 2, 1984). The Canadian Coast Guard also held public hearings and solicited comments from their industry.

One commenter requested that hearings on these regulations be reopened and include all interest Great Lakes personnel. When the Coast Guard holds a public hearing, it is open to the public, so the implication that the earlier public hearing somehow excluded Great Lakes personnel is in error. In addition, the NPRM indicated that a public hearing may be held if it is determined that oral presentations will aid in the rulemaking process. Since there was no indication by the commenter of what issues he intended to raise and why an oral presentation was the best way of doing so, the Coast Guard had no way of determining if the oral presentation would aid in the rulemaking process.

One commenter noted that the people who work at Sarnia Traffic Center do not have the expertise or local knowledge equivalent to that of the controllers of the St. Lawrence Seaway, Welland Canal, St. Mary's Falls Canal, and the St. Mary's River. The Coast Guard understands that personnel working at Sarnia Traffic Center receive the same type and amount of training as personnel at other Canadian Vessel Traffic Centers. The Canadian Coast Guard has informed the Coast Guard that their qualification training requires ship rides through applicable traffic systems, on-the-job watchstanding training, and formal classroom training on local and national VTS operations. Qualification takes five to eight months. Once qualified, personnel participate in annual refresher training as well as riding vessels through the traffic system. Of the twenty-two persons at Sarnia Traffic Center, approximately one-third have worked there since 1974, another third have worked there for at least five years, while the remaining third have worked there less than five years. Accordingly, the Coast Guard does not agree with the commenter.

One commenter stated that Sarnia Traffic Center does not have the manpower or radio equipment to monitor VHF Ch. 16. The monitoring is maintained in accordance with the Agreement between Canada and the United States of America for Promotion of Safety on the Great Lakes by means of Radio, 1973, and is independent of this rulemaking. The Coast Guard understands that the monitoring of Ch. 16 is performed by a shoreside radio station that is collocated with the operations center at Sarnia. Also, VHF Ch. 16 is monitored jointly by other U.S. and Canadian shore stations in the area. Information received over Ch. 16 regarding movements in the traffic system requiring action is passed to the VTS center. Accordingly, the Coast Guard does not agree with this comment.

Two commenters recommended that "Captain of the Port" (COTP) should not be omitted from proposed § 162.130(e) because that officer is the key to making local arrangements. The delegation to the District Commander is not limited. The District Commander may redelegate this authority to the COTP or other appropriate officer, or may utilize the COTP to negotiate with Canadian Officials while retaining final approval. This is properly left to the District Commander's discretion. The change was not intended to indicate that the COTP would be completely eliminated from the process.

One commenter recommended that two additional downbound reports be made at Lake Huron Cut Light Buoy "11" and Lake Huron Cut Light Buoy "1". A report at these buoys would not provide as sufficient notice of traffic to be encountered as would a report 30 minutes north of these buoys. Although downbound vessels reporting their position 30 minutes north of Buoy "11" may slow down or even depart area anchorages later than reported, the advance report would provide a better indication of traffic expected in the vicinity of the Blue Water Bridge prior to entering the traffic system at Buoy "11". Further, three pilotage associations note that a report at Buoy "11" would be a distraction because it is a pilot change point. Because of the report 30 minutes north of Buoy "11" and at Buoy "7" a call at Buoy "1" is not necessary considering a call had just previously been made at Buoy "7". For these reasons the Coast Guard does not agree with the recommended change.

One commenter recommended that Belle Isle remain an upbound reporting point. The Coast Guard believes that the visibility of ships moving upbound through Fleming Channel and past Peach Island Light to ships moving downbound is adequate and does not warrant an additional report. Furthermore, the channel in this area is more than adequate for safe two-way traffic. It is therefore believed that there is no need for a report under these circumstances. In situations of reduced visibility downbound ships will be aware of upbound ships having reported at Grassy Island Light. Vessels are encouraged to supplement their reports where necessary with security calls. Therefore, the Coast Guard will not act on this recommendation.

The same commenter recommended that an upbound report at Light "23" at Grande Pointe should be maintained since mariners are always asking each other when they will reach that point. This report would indicate clearing the sharp bend at Light "13". The Coast Guard believes that a report approaching the sharp bend at Light "13" is more critical than an additional one on departure. Downbound vessels announce their departure from the St. Clair Cutoff, Light "13", and South Channel area when they report at Lake St. Clair Light and upbound vessels announce of their departure from this area when they report at Marine City Salt Dock Light. Accordingly, the Coast Guard does not accept this recommendation.

One commenter recommended changing the proposed reporting points in Table 1. The upbound reporting points recommended include those proposed in Table 1, except the reports at Lake St. Clair Light and Marine City Salt Dock Light. An upbound report at Lake St. Clair Light is needed to announce the change of radiotelephone frequencies (from VHF Channel 12 to Channel 11 and vice versa). An upbound report at Marine City Salt Dock Light is needed to announce departure from the "no overtaking area" in the South Channel. This information also establishes a pattern for upbound vessels leaving the "no overtaking area" and proceeding to the one way area in Port Huron/Sarnia. Accordingly, the Coast Guard rejects this recommendation. The downbound reporting points recommended include

those proposed in Table 1 and reports at Lake Huron Cut Buoy "11", Willow Point Light, and the Ambassador Bridge. Downbound reporting points the commenter recommends deleting include Marine City Salt Dock Light, Lake St. Clair Light, Grassy Island Light, and the Detroit River Light.

The disadvantages of a downbound reporting point at Lake Huron Cut Buoy "11" have been previously discussed.

A downbound report at Marine City Salt Dock Light is needed because it gives notice a vessel will be entering the South Channel. It is located in an area where a vessel is not making a course change. The Coast Guard believes that this report offers a more useful indication of a downbound vessels position in the traffic system than at Willow Point Light, and the recommendation is rejected.

A downbound call at Willow Point Light is not needed, given the call at Marine City Salt Dock Light. Also, a call at Willow Point Light is at a location where a pilot, master, or ship operator may be preparing to make a course change.

A downbound report at Lake St. Clair Light is needed because it is notice that a vessel has departed the St. Clair Cutoff/Light "13" area and will be changing radio frequencies from VHF Ch. 12 to Ch. 11.

A downbound report at Grassy Island Light is needed to announce a vessel is about to enter the area of Fighting Island Channel, Ballards Reef, and Livingstone Channel.

A downbound report at the Detroit River Light is notice a vessel has departed the Detroit River and the traffic system. This information is more timely in notifying of a departure from the constraints of the waterway than a final report at the Ambassador Bridge. Therefore, for the preceding reasons, the recommended changes to the reporting points are not accepted.

Additional recommendations to the reports proposed in the NPRM include traffic reports 15 minutes before departing a berth in the River Rouge and as departing a berth in the River Rouge. The Coast Guard believes that both additional reports while in the River Rouge are unnecessary because a report 20 minutes before entering or departing the River Rouge is considered by the Coast Guard to be sufficient notice to vessels proceeding downbound or upbound in the Detroit River. In addition, various commenters to this NPRM and the earlier NPRM stated that they considered information of movements within the River Rouge unnecessary but information of movements into or out of the Detroit River was considered necessary. Consequently, the recommendation was not accepted.

Two comments recommended all vessels anchoring in the connecting waters should report upon mooring, docking, or anchoring. Although the Coast Guard believes such reports would be of some benefit to users of the traffic system, the recommendation is in addition to the reports proposed in the NPRM. Concern over excessive reporting was one of the factors considered when proposing these rules. Under § 162.132(d)(2) reports must include the name of the vessel, location, intended course of action, and estimated time of arrival at next reporting point. If a vessel is in the traffic system and its intended course of action changes, then it must report this change of operation to comply with this requirement. Thus, some advance knowledge of a vessel mooring, docking, or anchoring is obtained under the present reports. Therefore, this recommendation will not be implemented.

One comment recommended ships anchoring in the connecting waters monitor the appropriate VHF sector frequency. The Coast Guard believes such a requirement would be helpful but is part of a larger concern involving all navigable waters. This recommendation should be looked at initially for all waters where necessary for the safety of other vessels and not just the Detroit/St. Clair Rivers. Because of this the Coast Guard will not implement this change.

One commenter recommended that a dedicated bridge to bridge radiotelephone frequency over VHF Channel 13 be established. As stated in the preamble of the NPRM (51 FR 403) the U.S. and Canadian Coast Guards have embarked on a program to recognize Ch. 13 as the Great Lakes bridge to bridge radiotelephone frequency. When this occurs, the public will be notified by a notice in the Federal Register.

One commenter stated that mariners should continue to use the VHF radiotelephone as a one-to-one communication link and security calls should be made at appropriate times and places on Ch. 13 instead of to a third party traffic control center. The Coast Guard believes the operation of the traffic system supports the efforts of monitoring the one-way traffic area in Port Huron/Sarnia. It also acts as a coordination center for the U.S. and Canadian Coast Guards during hazardous navigation conditions. Such coordination will allow all ships in the waterway to be aware of any special situations that may effect them or other vessels. Pilots, masters, and vessel operators are responsible for listening and making security calls as necessary in addition to participating in the traffic system.

One commenter opposed Sarnia Traffic Center monitoring vessel movements except in the constricted waterway from Marysville Dock to Buoys "11" & "12" and near the fuel docks in Sarnia. The Coast Guard believes one of the major benefits of the existing traffic system is the promotion of the orderly flow of traffic throughout the connecting waters particularly the one-way area on Port Huron/Sarnia. The traffic center is able to monitor ship movements throughout the area and relay information when needed regarding emergencies.

Two commenters noted that Marine Salt Dock Light in proposed Table I should read Marine City Salt Dock Light or Salt Dock Light. The Coast Guard agrees and corrected the reference to "Marine City Salt Dock Light."

One commenter noted that Grand Point Light "23" in proposed Table I should read "Grande Point Light "23"." The Coast Guard also made this correction.

One commenter noted that Belle Island Light in proposed Table I should read "Belle Isle Light." The Coast Guard also made this correction.

One commenter noted that Lake Huron Cut Light Buoy "7" has been replaced by "Lake Huron Cut Light "7"." The Coast Guard also made this correction.

Additional Information

In order to bring this final rule into effect simultaneously with the Canadian regulations for the waterway, and in order to have them in effect before the height of the shipping season on the Great Lakes, this final rule is being made effective less than 30 days after publication. It has been determined that good cause exists, under 5 U.S.C. 553, for making this rule effective in less than 30 days after publication.

Regulatory Evaluation

These regulatory changes are considered to be non-major under Executive Order 12291 and non-significant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this amendment has been found to be so minimal that further evaluation is unnecessary. Although these changes realign and reduce existing operational reporting requirements they have no cost impact. Since the economic impact is expected to be minimal, the Coast Guard certifies that this rule, if

promulgated, will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 162

Navigation (water), Waterways.

Regulations

In consideration of the foregoing, Part 162 of Title 33 of the Code of Federal Regulations is amended as follows:

PART 162—INLAND WATERWAYS NAVIGATION REGULATIONS

1. The authority citation for Part 162 is revised to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46(n)(4).

2. By amending § 162.130(c) by removing the definitions of "Harbor Master", "Lake St. Clair", and "Regional Director General" and adding the following definition in alphabetical order:

§ 162.130 Connecting waters from Lake Huron to Lake Erie; general rules.

* * * * *

(c) * * *

* * * * *

"District Commander" means, Commander, Ninth Coast Guard District, Cleveland, Ohio.

* * * * *

3. By revising § 162.130(e) to read as follows:

§ 162.130 Connecting Waters from Lake Huron to Lake Erie; General Rules.

* * * * *

(e) *Delegations.* The District Commander, in coordination with appropriate Canadian officials, may make local arrangements that do not conflict with these regulations in the interest of safety of operations, to facilitate traffic movement and anchorage, to avoid disputes as to jurisdiction and to take necessary action to render assistance in emergencies. This authority may be redelegated.

4. By amending § 162.132 by revising paragraph (e), (f)(1) and (f)(3) to read as follows:

§ 162.132 Connecting Waters from Lake Huron to Lake Erie; communication rules.

* * * * *

(e) *Permanent Reporting Points.* The master of each vessel to which this section applies shall report as required by paragraph (d) of this section at the location indicated in Table I.

TABLE I

Downbound vessels	Reporting points	Upbound vessels
Report	30 Minutes North of Lake Huron Cut Lighted Horn Buoy "11".	
Report	Lake Huron Cut Light "7"	
	Lake Huron Cut Lighted Buoy "1".	Report.
Report	Black River Entrance Light	Report.
	Stag Island Upper Light	Report.
Report	Marine City Slip Light	Report.
Report	Grande Pointe Light "23"	
	St. Clair Flats Canal Light "2"	Report.
Report	Lake St. Clair Light	Report.
Report	Belle Isle Light	
Report	Grassy Island Light	Report.
Report	Detroit River Light	Report.

* * * * *

(f) *Additional Traffic Reports.*

(1) A report shall be made upon leaving any dock, mooring, or anchorage, in the Detroit River, Lake St. Clair, and the St. Clair River except for—

(i) Ferries on regular runs; and

(ii) Vessels in the River Rouge.

* * * * *

(3) A report shall be made—

(i) 20 minutes before entering or departing the River Rouge; and

(ii) Immediately before entering or departing the River Rouge.

* * * * *

5. By revising the note following § 162.136(a) to read as follows:

§ 162.136 Connecting Waters from Lake Huron to Lake Erie; anchorage grounds.

(a) * * *

Note.—There is an authorized anchorage in Canadian waters just above Fighting Island and an authorized anchorage in U.S. waters south of Belle Isle (33 CFR 110.206).

* * * * *

Peter J. Rots,

Rear Admiral, U.S. Coast Guard, Chief, Office of Marine Environment and Systems.

May 5, 1986.

[FR Doc. 86-10371 Filed 5-7-86; 8:45 am]

BILLING CODE 4910-14-M

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33 CFR Part 165

[Regulation 86-01]

COTP Detroit, MI, Regulation 86-01, Safety Zone Regulations; Detroit River, Detroit, MI

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone in the Detroit River, East Rockwood, Michigan. This zone is needed to protect watercraft from possible damage during blasting operations in the Detroit River. Entry into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 0700 A.M., Eastern Daylight Time, 28 April 1986. It terminates at 1900 P.M., Eastern Daylight Time, 31 July 1986.

FOR FURTHER INFORMATION CONTACT: Lieutenant M.J. Burrows, Port and Environmental Safety Officer, Coast Guard Marine Safety Office, Detroit, Michigan, 48207-4418, (313) 226-7777.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than thirty (30) days after Federal Register Publication.

Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to safeguard watercraft and their occupants from the associated dangers involved. Notice of the blasting operations was not received from the contractor until 24 April 1986, and therefore, there was insufficient time to publish a NPRM. Although the establishment of this safety zone is a final ruling, comments concerning the establishment or scope of this zone are welcome. Such comments can be forwarded to Commanding Officer, Coast Guard Marine Safety Office, 2660 E. Atwater, Detroit, Michigan, 48207-4418, (313) 226-7777.

Drafting Information

The drafters of this regulation are Lieutenant M.J. Burrows, project officer for the Captain of the Port, and Lieutenant Commander Leone, Project Attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The hazard requiring this regulation will begin on 28 April 1986 and terminate on 31 July 1986. No watercraft will be permitted to remain in, enter, moor in, anchor in, or transit this safety zone unless specifically authorized by the Captain of the Port, Detroit, Michigan.

Drilling and blasting operations by Murray D. Black Co., Inc., are necessary to remove limestone bedrock and overburden to accommodate the installation of a sewage outfall structure at Detroit River Mile 3.9. On one designated day per week during the above stated time period, 505 pounds of Class A explosives will be loaded from the end of Lee Road, East Rockwood, Michigan, Detroit River Mile 3.9 to a designated tug and then shipped to the SPUD Barge Minnesota in the Detroit River. The barge will store the weekly supply of explosives to be used during that week's blasting operations. United States Coast Guard personnel will be on scene during the weekly loading operations to ensure propar establishment and enforcement of the safety zone, and will conduct periodic safety checks during the blasting operations as a part of the Daily Harbor Patrol. This action is designed to prevent damage to watercraft and possible injury to their occupants should any mishap occur during these operations. This rule is intended to accomplish this purpose by preventing all unauthorized water traffic from entering the safety zone.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels and waterways.

PART 165—[AMENDED]

Regulation

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5.

2. A temporary § 165.T901 is added to read as follows:

§ 165.T901 Safety Zone: Detroit River, East Rockwood, MI.

(a) *Location.* The following area is a safety zone: All waters within 250 feet of loading area of Class A Explosives at the end of Lee Road, Rockwood, Michigan, Detroit River Mile 3.9; all waters within 250 feet of tug used to tranship the explosives to the SPUD Barge Minnesota; all waters within 250 feet of the SPUD Barge Minnesota at which times Class A explosives are stored on board and all waters within 250 feet of the daily blasting site. This safety zone affects the area from the end of Lee Road, Rockwood, Michigan, Detroit River Mile 3.9 to a point in the Detroit River at approximately 42°3'6.1" N. 83°8'48.8" W. Warning signs and buoys will be posted at all points of access to the blasting area. Only authorized personnel will be permitted within the immediate blasting area.

(b) *Effective Dates:* 28 April 1986 to 31 July 1986.

(c) *Regulations.* In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: April 25, 1986.

R.M. Larrabee,

Commander, U.S. Coast Guard, Captain of the Port.

[FR Doc. 86-10372 Filed 5-7-86; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 10

International Priority Airmail Service

AGENCY: Postal Service.

ACTION: Interim rule with request for comments.

SUMMARY: The Postal Service is introducing a new service called International Priority Airmail Service, which is available to bulk mailers of all categories of international mail other than parcel post items. In order to qualify for the service, mailers must meet specified minimum volume requirements and sort their mailings to the destination countries. The new service is intended to meet an increasing demand by business mailers for an international service that is faster than regular airmail. The rate for this new service is $6.80 per pound. Service is available to all foreign countries, except Canada.

Interim implementing regulations have been developed and are set forth below for comment and suggested revision prior to adoption in final form.

DATE: The interim regulations will take effect on May 18, 1986. Comments must be received on or before June 7, 1986.

ADDRESS: Written comments should be directed to the General Manager, Market Development Division, U.S. Postal Service, Room 5520, 475 L'Enfant Plaza, SW., Washington, DC 20260-6330. Copies of all written comments will be available for inspection and photocopying between 9:00 a.m. and 4:00 p.m., Monday through Friday, in Room 5520 at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Peter T. Zeranski, (202) 268-2275.

SUPPLEMENTARY INFORMATION: In the past few years, the Postal Service has become aware of a growing need by mailers for a service which is faster than the current international airmail service and which is more closely tailored to the needs of bulk business mailers. International Priority Airmail service is intended to meet this need. The service, which is operated from those areas where it is operationally feasible and cost effective, is available to all bulk mailers. Collection service will be available in specified areas. A listing of service origin areas will be available from the Postal Service. Except for Canada, which is excluded because of constraints under bilateral postal arrangements, the service is available to all foreign countries.

This service is available for all categories of international mail, other than parcel post. The mailing conditions for individual items sent in this service are the currently applicable conditions for those items. Each item must bear an imprint indicating that United States postage has been paid. Special services are not available for items sent in this service.

In order to qualify for the service, a mailer must have a minimum volume of either 200 items or 10 pounds of qualifying international mail, and must sort this mail to the destination countries. The mailer must package, label, and sack the mail to individual countries in accordance with the regulations set forth below. The Postal Service will provide the necessary sortation information, package labels, sacks, sack tags, and mailing statements. Postage will be paid on the total weight of the mailing and must be paid by affixing stamps or meter strips to the accompanying mailing statement or through an advance deposit account.

In establishing this new service, the Postal Service is taking into account the clearly expressed mailing needs of international bulk mailers along with the economic efficiencies which are associated with handling bulk quantities of mail and the cost savings arising from receiving the mail sorted to destination countries. As proposed, the service is cost effective and the rate is fair and compensatory.

Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rule making by 39 U.S.C. 410(a), the Postal Service ordinarily publishes in the Federal Register proposed additions or changes to its rules, as contemplated by the Act, when it is deemed necessary or appropriate to receive public comment on them. In this case, in order to make the new service available as soon as possible, the Postal Service is placing its proposed regulations in effect on an interim basis while public comments are received and evaluated. The Postal Service is taking this action to meet an urgent need expressed by certain international mailers for an improved international service. The Postal Service will carefully consider all comments received and make any changes that are necessary or appropriate before adopting final regulations.

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For the above reasons, the Postal Service invites comment on the following interim addition to the International Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 10.1.

List of Subjects in 39 CFR Part 10

Postal Service, International Mail.

PART 10—[AMENDED]

1. The authority citation for Part 10 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 401, 404, 407, 409.

Chapter 2—Conditions for Mailing

2. Chapter 2 of the International Mail Manual is revised by adding a new Part 280 to read as follows:

280 INTERNATIONAL PRIORITY AIRMAIL SERVICE

281 Description.

281.1 General.

International Priority Airmail Service is faster than regular international airmail service. It is available to bulk mailers of all LC and AO items sorted by the sender to the individual destination countries.

281.2 Qualifying Mail and Minimum Quantity Requirements.

Any item in the LC or AO classes, as defined in 141.2, which is prepared in compliance with the applicable mailing conditions set forth in this chapter, may be sent in this service. To qualify for the service, the sender must have a minimum volume of 200 items or 10 pounds of items in one or both of these two mail classes. The minimum number or weight criteria apply to the entire mailing and not to each destination country mailing. Items do not have to be of the same size and weight to qualify.

281.3 Dutiable Items.

Dutiable items may be sent in LC letter packages or AO small packets in accordance with the applicable rules set forth for those classes in this chapter. Parcel post items may not be sent in this service.

281.4 Origin and Destination Locations.

The service is available to all bulk mailers and is operated from specified service origin areas to all foreign countries, except Canada. Collection service is available in specified areas. A listing of these areas is available from the Postal Service.

281.5 Special Services Not Available.

The special services provided for in Chapter 3 are not available for items sent in this service.

282 Postage.

282.1 Rate.

The postage rate for this service is $6.80 per pound (or any fraction of a pound). The tare weight of the sack(s) is not included in determining the weight of the mailing for postage calculation purposes.

282.2 Payment of Postage.

Postage must be paid by postage stamps, by postage meter, or through an advance deposit account. Where stamps or a meter are used, the postage must be affixed directly to the statement of mailing.

283 Weight and Size Limits.

The weight and size limits for LC items sent in this service are set forth in 223 and 233. The weight and size limits for AO items sent in this service are set forth in 248, 253, and 263.

284 PREPARATION REQUIREMENTS

284.1 Addressing.

See 122.

284.2 Marking.

.21 Postage Paid Imprint.

Each item sent in this service must bear an imprint indicating that United States postage has been paid. Senders who have one of the permit imprints specified in Exhibit 152.3 may use that permit imprint for items sent in this service. Senders who pay by stamps or meter will be assigned a sequential permit number for International Priority Airmail purposes only. They must also imprint the words "U.S. INTERNATIONAL AIRMAIL POSTAGE PAID" on each item in accordance with one of the imprinting methods specified in DMM 145.3. The imprint may not be typewritten or written by hand.

.22 Airmail.

The sender must mark PAR AVION or affix Label 19, *Airmail* PAR AVION, on the front and back of each item. The red, white, and blue airmail border may also be used for items sent in this service.

.23 Printed Matter.

Each item containing printed matter must be marked with the words "PRINTED MATTER," "PRINTED MATTER—BOOKS," "PRINTED MATTER—SECOND CLASS," etc., as appropriate.

284.3 Sealing.

Any item sent in this service may be sealed at the option of the sender.

284.4 Makeup Requirements for International Priority Airmail.

.41 *Packaging Requirements.*

.411 *Country.* When there are six or more items for the same country (except Great Britain, Federal Republic of Germany and Mexico, see 284.412–.414), they must be made up into a country package of six or more items. Each package must be labeled and faced in accordance with 284.416 and .417.

.412 *Great Britain.* Items for Great Britain must be made up into area packages of six or more items and each package must be labeled as follows:

Package (by area)	Label
London City	Londontown.
Scotland	Glasgow FWD.
Northern Ireland	Belfast FWD.
All Other and Residue	Great Britain, Great Britain.

.413 *Federal Republic of Germany.* Items for the Federal Republic of Germany must be made up into area packages of six or more items and each package must be labeled as follows:

Package (by first digit of post code)	Label
1	Berlin 8.
2	Hamburg Flughafen.
3	Hannover Flughafen.
4, uncoded, and residue	Duesseldorf Flughafen.
5	Koeln-Bonn Flughafen.
6	Frankfurt am Main Flughafen.
7	Stuttgart Flughafen.
8	Munich Flughafen.

.414 *Mexico.* Items for Mexico must be made up into packages of six or more items in accordance with sortation instructions from the post office of mailing.

.415 *Residue.* Items remaining after packages have been made up as stated above must be made into mixed-country packages. A mixed-country facing slip must appear on the top copy of each package labeled to the appropriate receiving exchange office. The second line of the facing slip must state "International Priority Airmail—WKG".

.416 *Facing of Pieces Within Package.* All items in a package must be faced the same way with an address visible on the top copy, and facing up on each item.

.417 *Package Labels.* Except as provided in 284.412–415, a facing slip identifying the package as a country or mixed-country package must be placed on the address side of the top item. Pressure sensitive labels and the optional endorsement line used for domestic presort mailings, *must not* be used.

284.5 Physical Characteristics and Requirements for Packages.

.51 *Thickness.* Packages of letter-size pieces should be no thicker than approximately a handful of mail 4 to 6 inches thick.

.52 *Securing.* Each package must be securely tied. Rubber bands placed around the length and girth are the preferred method of securing packages of letter-size mail. Plastic strapping placed around the length and girth are the preferred method of securing packages of flat-size mail.

.53 *Type of Mail.* Letter-size and flat-size mail must be packaged separately. LC and AO mail classes may be commingled in a letter-size or flat-size mail package.

284.6 Sacking Requirements.

.61 *Country (Except Great Britain, Federal Republic of Germany and Mexico,* See 284.63). When there are 10 pounds or more addressed to the same country, the packages must be sacked and labeled, using PS Tag 116, to that country.

.62 *Great Britain, Federal Republic of Germany and Mexico.* When there are 10 pounds or more addressed to Great Britain, the Federal Republic of Germany, or Mexico, the packages must be sacked in blue international airmail pouches and labeled in accordance with the sortation requirements set forth in 284.412, .413 and .414.

.63 *Residue.* When, after all country sacks are prepared (including those for Great Britain, the Federal Republic of Germany and Mexico), there are packages remaining for different country destinations, they must be placed in an orange nylon Priority Mail pouch and labeled as follows:

Top line: Acceptance Post Office.
Middle line: International Priority Airmail.
Bottom line: Mailer.

.64 *Physical Characteristics and Requirements for Sacks.* The weight of the sack must not exceed 66 pounds.

Note: The weight of tying, wrapping, and packaging materials is included in determining the weight of the mail enclosed in a sack. The blue international airmail pouch must be used for direct country sacks; the domestic orange Priority Mail pouch must be used for residue (mixed-country) sacks.

284.7 Customs Forms Requirements.

.71 *Letters, and Letter Packages.* See 224.5.

.72 *Printed Matter.* See 244.6.

.73 *Small Packets.* See 284.5.

A transmittal letter making these changes in the pages of the International Mail Manual will be published in the Federal Register as provided in 39 CFR 10.3 and will be transmitted to subscribers automatically.

Fred Eggleston,
Assistant General Counsel, Legislative Division.

[FR Doc. 86-10362 Filed 5-7-86; 8:45 am]
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39 CFR Part 111

Domestic Mail Manual, Plant-Load Operations

AGENCY: Postal Service.

ACTION: Interim rule.

SUMMARY: This rule establishes interim regulations amending the Domestic Mail Manual (DMM) to implement uniform and comprehensive regulations governing plant-load operations, whereby the Postal Service transports mail from a mailer's plant to a postal processing facility in order to bypass postal handlings that otherwise would be required. These regulations provide procedures for the review of applications to authorize plant-load operations; they make it clear that plant-load applications will be authorized only when the plant load is beneficial to the Postal Service. To ensure more consistent service, and more efficient processing of plant-loaded mail, the regulations require plant-loaded vehicles to be prepared according to the destination of the mail and the class or type of mail plant-loaded. The regulations also require that the Postal Service be reimbursed for charges it incurs in providing nonpostal services to the mailer in connection with plant loading.

EFFECTIVE DATE: May 18, 1986.

FOR FURTHER INFORMATION CONTACT: James B. Orlando, Director, Office of Transportation & International Services, Mail Processing Department, 475 L'Enfant Plaza W., SW., Washington, DC 20260–7130, 202–268–4360.

SUPPLEMENTARY INFORMATION: A detailed explanation of the nature and background of the proposed rule, including the reasons for its proposed adoption and a detailed discussion of the provisions of the proposed rule, accompanied its publication in the Federal Register on December 24, 1985 (50 FR 52534).

Six letters were received with comments on the proposed regulations. While all of the commenters favored adoption of uniform and comprehensive regulations for plant-load operations, they questioned certain aspects of the proposed rule. Those comments and the Postal Service's responses are as follows:

1. One commenter questioned the sufficiency of the definition of collection of mail, as distinguished from plant-load operations. The commenter pointed out that an operation could meet the definition of collection and plant-loading at the same time.

Since the intent of the proposed regulations was to provide uniform and comprehensive regulations for plant-load operations and not to make these regulations applicable to the collection of mail, the Postal Service has revised section 154.10 of the DMM to define collection clearly and distinguish it from plant-load operations. Collection is defined as an operation whereby the Postal Service transports mail from a mailer's plant without bypassing any postal handlings and for which a mailing statement is not required, except as defined in DMM 372.2.

2. One commenter requested a definitive interpretation of intra- and inter-service-area movements. Because intra- and inter-service-area movements are defined in DMM 154.13, 154.14 and 154.15, a definitive interpretation is included in the regulation and no further definitions are needed.

3. Two commenters requested that the discretion of local postal officials be maintained to the extent possible. The regulations are designed to provide uniform and comprehensive regulations to administer plant-load operations. The Postal Service believes that the regulations provide sufficient local discretion without compromising the need for procedures governing plant-load operations which are available throughout the United States on a uniform basis. Thus, the proposed rules have not been revised.

4. One commenter requested that the makeup requirements for inter-service-area plant-load movements be made voluntary. In order for plant-load operations to be authorized, the Postal Service must realize a benefit from them. Inter-service-area plant-load vehicles must be made up as provided for in the regulations to maximize the benefit to the Postal Service of providing plant-load operations and to ensure the best and most consistent service. Mandatory make up requirements will allow the Postal Service to achieve these goals; voluntary ones probably would not. Accordingly, proposed section 154.5 has not been revised.

5. Two commenters questioned the procedures under which the Postal Service will calculate reimbursement for the detention of trailers. One commenter requested that "free time" be extended

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to 48 hours; the other commenter requested a relaxation of the detention regulations for a mailer which has multiple plant sites in the same area.

The detention regulations will make reimbursement to the Postal Service for detention of trailers uniform, regardless of the mode of transportation utilized. Extending free time to 48 hours would allow mailers to detain Postal Service vehicles beyond the free time the Postal Service is given by many of its transportation contractors. Since the Postal Service believes that it should be reimbursed for the detention of trailers on a uniform basis where trailers are detained due to the action or inaction of mailers, and that 24 hours free time is more than sufficient time to load a vehicle, proposed section 154.6 has not been revised.

Furthermore, the Postal Service believes that it is unnecessary to revise section 154.6 to relax the detention regulations for a mailer which has multiple plant sites in the same area. The Postal Service does not believe that, where a mailer has multiple plant sites in the same area, the mailer's action or inaction should result in a trailer being detained beyond the 24 hour free period since a trailer could either be completely loaded at one plant site or could be partially loaded at two or more plant sites within the 24-hour free period. If detention of trailers is caused by the action or inaction of the Postal Service, the Postal Service will not seek reimbursement under section 154.6. In addition, the Postal Service believes that 24 hours is more than sufficient time to load a trailer even if multiple plant sites are involved.

6. One commenter questioned how a mailer would determine if it qualified for the less stringent makeup requirements of inter-service-area movements set forth in section 154.522 or the more stringent requirements set forth in section 154.521, if it did not know how many mailings it was sending to each destination Bulk Mail Center (BMC). This commenter currently separates mailings by destination BMC. It claims that it cannot make up destination vehicles below the BMC level and does not know how many mailings it sends to each destination BMC. It requests that sections 154.521 and 154.522 be eliminated or modified to meet its concerns.

The intent of proposed sections 154.521 and 154.522 was not to require a mailer of multiple mailings (6 or more mailings) to make up destination vehicles below the BMC level. However, the proposed regulations do not define mailing for plant-load operations. In order to alleviate some of the problems raised by this commenter, section 154.12 is revised to define mailing as the mail of one mailer loaded in one or more vehicles accepted by the Postal Service at the mailer's plant on a calendar day, and (a) covered by a single mailing statement, if required, or (b) with postage affixed to each item, or (c) postage paid by an alternative method using a permit imprint and a single mailing statement and manifest covering the mail plant-loaded. Section 154.423 is revised to conform to section 154.122. In addition, section 154.123 is revised to allow a mailer to combine third- and fourth-class mail in a single vehicle, if the classes of mail are physically separated and a mailing statement is submitted for each class.

The Postal Service believes that these revisions will resolve most of the concerns of this commenter. Moreover, the Postal Service believes that good management of their address lists will enable mailers to make up inter-service-area plant loads in accordance with sections 154.521 and 154.522. If the Postal Service were to eliminate or modify these makeup requirements, the Postal Service could very well not be able to provide consistent and uniform service for inter-service area plant loads. Therefore, the Postal Service declines to eliminate or modify these makeup requirements.

7. One commenter requested that section 154.74 of the proposed regulations be revised so that trailers would be relocated at the convenience of the Postal Service. Proposed section 154.74 provides that the Postal Service will not relocate trailers at a mailer's plant. It is unnecessary to revise this section since the Postal Service believes that it should not provide a service whereby it moves or relocates vehicles for a mailer at a mailer's plant. However, under section 154.74, if a vehicle is at a loading dock when another vehicle arrives to be loaded, the Postal Service *may* decide to relocate the first vehicle in order to have the second vehicle loaded immediately.

In light of the comments received and other intervening changes since publication of the proposed rule, the Postal Service is making the following minor and editorial revisions to the proposed rule:

1. Revise sections 154.22, 154.24 and 154.251 to lengthen from two or three business days to five business days the time reviewing postal officials must act on applications for plant-load operations. This revision will avoid violations of these regulations whenever a reviewing official or designee is not in his or her office for two or three business days.

2. Revise section 154.231 to make it clear that if the mailer desires plant-load operations upon approval of its application, the mailer must enter into the standard Plant-Load Agreement.

3. Revise sections 154.312 and 154.322 by changing the word "vehicle" in the first sentence to the word "mail" so that it is clear the Postal Service will transport mail to the destination postal facility. In addition, revise sections 154.311, 154.312, 154.321 and 154.322 by inserting the word "transportation" to make it clear that the equipment that must be available is transportation equipment.

4. Revise section 154.423e to include Form 3602G, *Mailing Statement*, for Federal agency mailers.

5. Revise section 154.424 by changing the title of the section to "Requirements for Verification at Postal Facility". Revise section 154.424a to provide that the Postal Service will inform the driver of transportation equipment that a placard is required when verification is performed at a Postal facility and to state that the placard must be placed in the vehicle near the right rear door. These revisions will avoid any confusion about how a driver is to be informed that the placard must be attached, and how to standardize the placement in the trailer of the placard.

6. Revise 154.424b to add the word "certified" so that it reads: The TMO must report the certified empty weight of the vehicle to the BMC, ASF, MSC or SCF verification unit prior to the vehicle's arrival at the verification unit." This revision will avoid any disputes as to what is the empty weight of the vehicle.

7. Revise 154.41 to refer to the new Bulk Mail Acceptance Handbook DM–102 and the Penalty Mail Handbook, DM–103.

8. Revise section 154.44 to provide that Federal agency mailers do not have to prepay postage in accordance with 39 U.S.C. 3201 (1) and DMM 137.

9. Revise sections 154.521f and 154.522d by changing the term "residual mail" to "remaining mail" to avoid confusion between residual mail for bulk mail and plant-load operations, and to avoid problems of how to handle remaining mail that is destined to inter- and intra-service areas.

10. Revise section 154.625 by changing the word "vehicle" to the word "trailer" to make it clear that only trailers and not tractors and trailers may be detained.

11. Add section 154.9 to state the implementation deadlines in the regulations, which were stated as supplementary information in the proposed rule.

The Postal Service is in the process of restructuring its field organizations above the post office level. Such restructuring will not be finalized and effective until June 7, 1986. Until that time, the assignment of responsibilities for plant load operations to Management Sectional Centers (MSCs), Divisions and Regions will not be complete. Because there are no current uniform and comprehensive regulations covering plant-load operations, and because mailers have supported the proposed rules and their early adoption, delaying implementation of the proposed rules until after reorganization would be detrimental and would not serve any useful purpose. Therefore, the Postal Service has decided to adopt these regulations effective May 18, 1986, on an interim basis. These regulations will be revised as needed and made final when the new field structure of the Postal Service becomes effective and the responsibilities of MSCs, Divisions and regions become definite.

For the reasons given and after careful consideration, the Postal Service hereby adopts on an interim basis the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 is revised to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 404, 407, 408, 3001–3011, 3201–3219, 3403–3405, 3621, 5001; 42 U.S.C. 1973cc-13, 1973cc-14.

2. Revise Part 154 to read as follows:

PART 154 PLANT-LOAD OPERATIONS

154.1 Definitions.

.11 Plant Loading. Plant loading is an operation in which the Postal Service receives mail at a mailer's plant and transports it in order to bypass handling that otherwise would be required at one or more postal facilities. Plant loads are authorized when they result in a benefit to the Postal Service. (See 154.3).

.12 Mailer's Plant and Mailings.

.121 Mailer's Plant. The mailer's plant is the non-Postal Service location where the mail is plant loaded

.122 Plant Load Mailings. A plant load mailing is mail of one mailer consisting of mail loaded in one or more vehicles accepted by the Postal Service at the mailer's plant on a calendar day, when: (a) If required, a single Form 3541, 3541A, 3602, 3602PC, 3602G, or 3605, *Mailing Statement*, is prepared and submitted by the mailer; or (b) appropriate postage is affixed to each item; or (c) an alternative method of paying postage using a permit imprint (i.e. itemized postage) is utilized and a single Form 3605, *Mailing Statement*, and a manifest covering the mailing is prepared and submitted by the mailer.

.123 Mixed Classes of Mail. A mailer may combine in a single vehicle third-and-fourth-class mail, if the classes of mail are physically separated and a mailing statement is submitted for each class.

.13 Service Area.

.131 First- and Second-Class Mail. The service area for plant-loaded First-Class and second-class mail is the service area of the sectional center facility (SCF) in which the mailer's plant is located.

.132 Third- and Fourth-Class Mail. The service area for plant-loaded third- and fourth-class mail is the service area of the bulk mail center (BMC) or auxiliary service facility (ASF) in which the mailer's plant is located.

.14 Intra-Service-Area Plant Loads. Intra-service-area plant loads are movements of mail from the mailer's plant to a mail processing facility located within the service area of the appropriate mail processing facility in which the plant is located. Handling at the local origin post office or other local acceptance facility is bypassed.

.15 Inter-Service-Area Plant Loads. Inter-service-area plant loads are movements of mail from the mailer's plant to a mail processing facility located outside the service area of the appropriate mail processing facility in which the plant is located. Handling at the local origin post office or other local acceptance facility and one or more intermediate processing facilities is bypassed.

.16 Vehicle. A vehicle is a trailer, straight truck, or other container used to transport mail by highway, railroad, or water.

.17 Trailers.

.171 Highway Transportation Trailer. A highway transportation trailer is a trailer owned or leased for any term by the Postal Service or provided by a Postal Service highway transportation contractor for the transportation of mail exclusively over highways.

.172 Rail Transportation Trailer. A rail transportation trailer is a trailer provided by a Postal Service rail transportation contractor for the transportation of mail in whole or in part by rail.

.18 Other Operations.

.181 Bobtailing. Bobtailing is the movement of a tractor without a trailer to or from a mailer's plant.

.182 Deadheading. Deadheading is the movement of a tractor and trailer or other container or straight truck to or from a mailer's plant without transporting any mail.

.183 Waiting/Holding. Waiting/holding occurs when a vehicle waits or is held at a mailer's plant for mail to be loaded into the vehicle.

.19 Collection. Collection of mail is an operation in which the Postal Service transports mail from a mailer's plant or an authorized location other than a postal facility to the local post office or other designated local acceptance point. Collection of mail does not include any mail which both bypasses a handling and requires a mailing statement, except as set forth in DMM 372.2.

Note.—These regulations do not apply to the collection of mail.

154.2 Procedures for Authorization of Plant Loads

.21 Application. A mailer desiring to have mail plant loaded must complete Form 3815, *Application for Plant-Load Authorization*, and submit it to the postmaster of the post office serving the mailer's plant.

.22 Review. The local postmaster must review the application for completeness and forward it to his management sectional center (MSC) manager. The MSC manager must review the application and approve or deny it in accordance with 154.23 or 154.24. If approved, he will forward the application to the transportation management office (TMO) manager. The TMO manager will review the application and approve or deny it in accordance with 154.23 or 154.24. If approved, he will forward the application to the Regional Plant Load Committee. This committee consists of the following officials or their designees: the Regional General Manager, Logistics Division, (chairman), and the Regional General Managers of the Budget and Cost, Accounting and Revenue Protection, Customer Programs, and Delivery Divisions. The Regional Plant Load Committee must review the application and approve or deny it in accordance with 154.23 or 154.24. Each official or group of officials reviewing the application must act upon it within five business days of receipt.

.23 Approval.

.231 Conditions. The application will be approved if it meets all of the requirements set forth in 154.3 for either intra- or inter-service-area plant loads, as appropriate. If the application is

approved and the mailer desires plant-load operations, the mailer must enter into the standard Plant-Load Agreement with the Postal Service.

.232 Failure to Meet Requirements. The local postmaster of the post office which serves the mailer's plant is responsible for monitoring plant-load operations and must notify the Regional Plant Load Committee if, at any time, a mailer fails to meet the requirements set forth in these regulations for two consecutive postal accounting periods, or instead a period set forth in the mailer's plant-load agreement. The plant-load authorization must then be reevaluated by the Regional Committee.

.24 Denial. The application will be denied if it does not meet all of the requirements set forth in 154.3 for either intra- or inter-service-area plant loads, as appropriate. Any official or group of officials denying an application must notify the mailer in writing of the denial and the reasons for it within five business days of the receipt of the application.

.25 Appeal.

.251 Appeal to Regional Plant Load Committee. If the application is denied by the MSC manager or TMO manager, the mailer may appeal in writing to the Regional Plant Load Committee. Such an appeal must be filed with the Chairman of the Regional Plant Load Committee, Regional General Manager Logistics Division, within 10 calendar days of the date of the mailer's receipt of the notice of denial. The Regional Committee must notify the mailer in writing of the action taken on appeal within five business days of receipt of the appeal. If the application is denied, the Regional Committee must also inform the mailer of the reasons for the denial.

.252 Appeal to National Plant Load Policy Committee. If an application is denied by the Regional Plant Load Committee, the mailer may appeal to the National Plant Load Policy Committee at Postal Service Headquarters, which will issue a final ruling on the application. Such an appeal must be filed with the Chairman of the National Committee, the Director, Office of Transportation and International Services, Mail Processing Department, Washington, D.C. 20260-7130, within 10 calendar days of the date of the mailer's receipt of the Regional Plant Load Committee's notice of denial. The National Committee consists of the following officials or their designees: Director, Office of Transportation and International Services, Mail Processing Department, (chairman); Director, Office of In-Plant Systems, Mail Processing Department; Director, Office of Mail Classification, Rates and Classification Department; Director, Office of Fleet Management, Delivery Services Department; Director, Office of Commercial Marketing, Customer Services Department; and Associate General Counsel, Office of Rate and Classification Law, Law Department.

154.3 Requirements for Approval of Plant Load Applications.

.31 Intra-Service Area.

.311 General. An application for an intra-service-area plant load will be approved if transportation equipment is available (154.312) and cost savings to the Postal Service are demonstrated under *either* Alternative 1 (154.313a) *or* Alternative 2 (154.313b).

.312 Equipment Availability. Transportation equipment must be available to transport the mail to the BMC, ASF, MSC, or SCF, in the service area of the mailer's plant. If equipment is not available, sufficient additional transportation equipment must be obtained, if possible. The application will not be granted until additional transportation equipment is obtained.

.313 Cost Savings. The plant load must result in cost savings to the Postal Service. A cost savings can be demonstrated *either* under Alternative 1 (154.313a) *or* Alternative 2 (154.313b) below.

a. Alternative 1: Minimum Volume and Maximum Mileage. The current and future volume of mail to be plant loaded must be at least 50 percent of a vehicle by weight or cube, and the mileage from the mailer's plant to the destination postal facility must be 150 miles or less. For mail verified and accepted at a mailer's plant, the Postal Service may allow mailings verified at the plants of two or more mailers located in the same service area to be combined to meet the minimum volume requirement. For mail verified and accepted at the bulk mail acceptance unit of the origin BMC, ASF, MSC, or SCF, the minimum volume requirement must be met by the mailings of only one mailer. (See 154.423 for requirements for verification at postal facility.)

b. Alternative 2: Detailed Cost Savings Analysis. If the mailer does not meet the criteria in Alternative 1 (154.313a), cost savings to the Postal Service must be demonstrated using the detailed analysis on Form 3815.

.32 Inter-Service-Area.

.321 General. An application for an inter-service-area plant load will be approved if transportation equipment is available (154.322) and cost savings to the Postal Service are demonstrated under *either* Alternative 1 (154.323a) *or* Alternative 2 (154.323b) *or* Alternative 3 (154.323c).

.322 Equipment Availability. Transportation equipment must be available to transport the mail to the BMC, ASF, MSC, or SCF outside the postal facility's service area in which the mailer's plant is located. If equipment is not available, sufficient additional transportation equipment must be obtained, if possible. The application will not be granted until additional transportation equipment is obtained.

.323 Cost Savings. The plant load must result in cost savings to the Postal Service. A cost savings can be demonstrated under *either* Alternative 1 (154.323a) *or* Alternative 2 (154.323b) *or* Alternative 3 (154.323c) below.

a. Alternative 1: Minimum Volume and Maximum Mileage.

(1) Minimum Volume. The current and future volume of mail to be plant loaded must be at least 60 percent of a vehicle by weight or cube. Mailings of two or more mailers located in the same service area may be combined to make up the minimum volume.

(2) Maximum Mileage for Highway.

(a) If the plant-load transportation is via highway and bypasses the origin SCF and at least one BMC, ASF, or ADC, the mileage from the mailer's plant to the destination postal facility must be 275 miles or less.

(b) If the plant-load transportation is by highway and bypasses only the origin SCF, the mileage from the mailer's plant to the destination postal facility must be 150 miles or less.

(c) There is no mileage criterion for plant-load transportation by railroad or water.

b. Alternative 2: Detailed Cost Savings Analysis. If the mailer does not meet the applicable criteria in Alternative 1 (154.323a), cost savings to the Postal Service must be demonstrated by using the detailed analysis on Form 3815.

c. Alternative 3: Mail Processing Capacity. Even if the mailer does not satisfy either Alternative 1 (154.323a) or Alternative 2 (154.323b), the cost savings criteria may be deemed to be satisfied if the local origin postal facility is operating at or near its mail processing capacity for the type of mail plant-loaded. The Regional Plant Load Committee shall determine whether a facility is at or near its mail processing capacity and whether to authorize plant load in such cases. If the Regional Plant Load Committee subsequently determines that the local origin postal facility is operating below its mail processing capacity for the class or type of mail plant-loaded, the Regional Committee must reevaluate the plant-load authorization.

154.4 Verification and Collection of Postage.

.41 General. All plant-loaded mail must be verified and postage and fees collected in accordance with the Domestic Mail Manual (DMM), Bulk Mail Acceptance Handbook, DM-102, and Penalty Mail Handbook, DM-103, except as provided below.

.42 Verification of Intra-Service-Area Plant Loads.

.421 General. Intra-service-area plant-loaded mail must be verified at the mailer's plant, at the origin MSC or SCF if authorized by the MSC manager, or at the origin BMC or ASF, if authorized by the ASF or BMC manager.

.422 Verification at the Mailer's Plant. Intra-service-area plant-loaded mail must be verified at the plant by a clerk qualified to perform verification procedures unless authorization to verify mail at the origin BMC, ASF, MSC or SCF has been granted under 154.423 and .424.

.423 Verification at Postal Facility. Authorization to verify mail at the origin BMC, ASF, MSC, or SCF may be granted only if all of the following conditions are met:

a. There is no Detached Mail Unit (DMU) at the mailer's plant.

b. The mailer is located within the service area of the BMC, ASF, MSC or SCF where verification will take place.

c. Each vehicle contains the mail of only one mailer.

d. Each vehicle contains no more than five mailings and each mailing is physically separated.

e. If a Form 3541, 3541A, 3602, 3602PC, 3602G, or 3605, *Mailing Statement*, is required to be completed, the original mailing statement must accompany each vehicle if there is only one mailing on the vehicle, or each mailing in the vehicle. Where a single mailing is contained in more than one vehicle, a separate original mailing statement must accompany each vehicle for each mailing segment.

f. If an alternative method of paying postage using permit imprint (i.e. itemized postage) is utilized, an original Form 3605, *Mailing Statement*, and a manifest must accompany each vehicle if there is only one mailing on the vehicle, or each mailing in the vehicle. Where a single mailing is contained in more than one vehicle, a separate original mailing statement and manifest must accompany each vehicle for each mailing segment.

g. The mailer must maintain a plant load control log containing a copy of each mailing statement, numbered sequentially, the number of each vehicle used to transport the plant-loaded mail, and the name of the BMC, ASF, MSC, or SCF where verification will take place.

h. The mail can be physically verified at the BMC, ASF, MSC, or SCF, *i.e.*, the mailing is not shrink-wrapped or otherwise prepared so that an in-depth verification could not be performed.

.424 Requirements for Verification at Postal Facility. If mail is to be verified at the origin BMC, ASF, MSC, or SCF:

a. Before the vehicle leaves the mailer's plant, the mailer must place on the inside wall near the right rear door of the trailer a distinctive placard provided by the Postal Service which indicates that verification is required. The TMO or Logistics Officer must notify the driver not to pick up the vehicle unless this placard is in the vehicle. The mailer may place a second placard on the outside of the trailer door.

b. The TMO must report the certified empty weight of the vehicle to the BMC, ASF, MSC, or SCF verification unit prior to the vehicle's arrival at the verification unit.

.425 Corrective Action. If intra-service-area plant-loaded mail is verified at the BMC, ASF, MSC, or SCF verification unit and the verification shows an error rate of 10 percent or more, the mailer has the following two options:

a. The mailer pays the single-piece rate on that portion of the mailing estimated to be improperly prepared.

b. Within 24 hours, the mailer either transports the mailing or arranges for the Postal Service to transport the mailing to the mailer's plant, at the mailer's expense, for reworking the mailing to comply with the applicable make-up requirements for its class. If the mailer does not transport the mail or request transportation for it within 24 hours, the mailer will reimburse the Postal Service for detention in accordance with 154.6.

.43 Verification of Inter-Service-Area Plant Loads. Inter-service-area plant-loaded mail must be verified at the plant by a clerk qualified to perform verification procedures.

.44 Payment of Postage and Fees. Payment of postage and fees for plant-loaded mail must be made to the origin post office prior to the vehicle being transported from the mailer's plant, except as provided in DMM 137.

154.5 Preparation Requirements for Plant-Loaded Vehicles.

.51 Intra-Service-Area Plant Loads. Intra-service-area plant-loaded vehicles must fill 50 percent or more of a vehicle by weight or cube addressed to that service area.

.52 Inter-Service-Area Plant Loads.

.521 Vehicles Containing Five or Fewer Mailings. Inter-service-area plant-loaded vehicles containing five or fewer mailings must be prepared in accordance with the following preparation requirements for the appropriate class or type of mail.

a. First-Class Mail.

(1) 3-Digit ZIP Code Destination. When mail filling 60 percent or more of a vehicle by weight or by cube is addressed to the same 3-digit ZIP Code, the mailer must prepare a direct vehicle for that 3-digit ZIP Code.

(2) SCF Destination. When, after making up all possible 3-digit vehicles, there is mail filling 60 percent or more of a vehicle by weight or by cube addressed to the same SCF service area, the mailer must prepare a direct vehicle for that SCF.

(3) ADC Destination. When, after making up all possible 3-digit and SCF vehicles, there is mail filling 60 percent or more of a vehicle by weight or by cube addressed to the same area distribution center (ADC) service area, the mailer must prepare a direct vehicle for that ADC.

b. Second-Class Mail.

(1) 3-Digit ZIP Code Destination. When mail filling 60 percent or more of a vehicle by weight or by cube is addressed to the same 3-digit ZIP Code, the mailer must prepare a direct vehicle for that 3-digit ZIP Code.

(2) SCF Destination. When, after making up all possible 3-digit vehicles, there is mail filling 60 percent or more of a vehicle by weight or by cube addressed to the same SCF service area, the mailer must prepare a direct vehicle for that SCF.

(3) SDC Destination. When, after making up all possible 3-digit and SCF vehicles, there is mail filling 60 percent or more of a vehicle by weight or by cube addressed to the same state distribution center (SDC) service area, the mailer must prepare a direct vehicle for that SDC.

(4) Transfer Hubs. When, after making up all possible 3-digit, SCF, and SDC vehicles, there is mail filling 60 percent or more of a vehicle by weight or by cube addressed to the service area of the same transfer hub the mailer must prepare a direct vehicle for that transfer hub.

c. Third-Class and Non-Machinable Fourth-Class Mail.

(1) 3-Digit ZIP Code Destination. When mail filling 60 percent or more of a vehicle by weight or by cube is addressed to the same 3-digit ZIP Code,

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the mailer must prepare a direct vehicle for that 3-digit ZIP Code.

(2) SCF Destination. When, after making up all possible 3-digit vehicles, there is mail filling 60 percent or more of a vehicle by weight or by cube addressed to the same SCF service area, the mailer must prepare a direct vehicle for that SCF.

(3) BMC or ASF Destination. When, after making up all possible 3-digit and SCF vehicles, there is mail filling 60 percent or more of a vehicle by weight or by cube addressed to the same BMC or ASF service area, the mailer must prepare a direct vehicle for that BMC or ASF.

d. Machinable Fourth-Class Mail (Except Bound Printed Matter).

(1) 5-Digit ZIP Code Destination. When mail filling 60 percent or more of a vehicle by weight or by cube is addressed to the same 5-digit ZIP Code, the mailer must prepare a direct vehicle for that 5-digit ZIP Code.

(2) BMC or ASF Destination. When, after making up all possible 5-digit vehicles, there is mail filling 60 percent or more of a vehicle by weight or by cube addressed to the same BMC or ASF service area, the mailer must prepare a direct vehicle for that BMC or ASF.

e. Machinable Bound Printed Matter.

(1) SCF Destination. When mail filling 60 percent or more of a vehicle by weight or cube is addressed to the same SCF service area, the mailer must prepare a direct vehicle for that SCF service area.

(2) BMC or ASF Destination. When, after making up all possible SCF vehicles there is mail filling 60 percent or more of a vehicle by weight or by cube addressed to the same BMC or ASF service area, the mailer must prepare a direct vehicle for that BMC or ASF.

f. Remaining Mail. All mail remaining after all of the above preparation requirements for the appropriate class of mail have been met will be transported by the Postal Service, using appropriate transportation, to the postal facility selected by the TMO.

.522 Vehicles Containing Six or More Mailings. Inter-service-area plant-loaded vehicles containing six or more mailings must be prepared in accordance with the following preparation requirements for the appropriate class or type of mail.

a. First-Class Mail. When there is mail filling 60 percent or more of a vehicle by weight or by cube addressed to the same ADC service area, the mailer must prepare a direct vehicle for that ADC.

b. Second-Class Mail. When there is mail filling 60 percent or more of a vehicle by weight or by cube addressed to the service area of the same transfer hub, the mailer must prepare a direct vehicle for that transfer hub.

c. Third-and Fourth-Class Mail. When there is mail filling 60 percent or more of a vehicle by weight or by cube addressed to the same BMC or ASF service area, the mailer must prepare a direct vehicle for that BMC or ASF.

d. Remaining Mail. All mail remaining after all of the above preparation requirements for the appropriate class or type of mail have been met will be transported by the Postal Service, using appropriate transportation, to the postal facility selected by the TMO.

154.6 Reimbursement for Nonpostal Services.

.61 General. The Postal Service will obtain reimbursement from mailers for nonpostal services furnished by the Postal Service in providing plant-load service only as authorized below.

.62 Detention of Trailers.

.621 General. The Postal Service will obtain reimbursement in accordance with 154.622–.625 from plant-load mailers for detention of trailers where trailers furnished by the Postal Service to provide plant-load service are detained as a result of some action or inaction of the mailer.

.622 Request to Detain Trailers.

a. Plant-load mailers desiring to detain trailers longer than the time necessary to load them must make such a request to the Postal Service at least 24 hours in advance of the requested date and time of the trailer's arrival. The mailer must agree to reimburse the Postal Service for the cost of detaining the trailers. The Postal Service must approve the request to detain trailers before the trailers will be sent to the mailer's plant.

b. If the mailer did not submit a timely request to detain trailers, but nevertheless detains trailers longer than the time necessary to load them, the mailer must reimburse the Postal Service for the cost of detaining the trailers.

.623 Non-Reimbursable Detention Period. Plant-load mailers who submit timely requests to detain trailers may do so for 24 hours without reimbursing the Postal Service for detention. The non-reimbursable period begins at the date and time the trailer arrives at the mailer's plant or, at the date and time at which the mailer requested the trailer to arrive, whichever is later, and ends 24 hours later, excluding Saturdays, Sundays, and holidays. For example, if a trailer arrives at 5:00 p.m. Friday, the non-reimbursable period ends 5:00 p.m. Monday, or 5:00 p.m. Tuesday if Monday is a holiday.

.624 Determination of Reimbursable Detention Period.

a. If the plant-load mailer has submitted timely requests to detain trailers, the reimbursable detention period begins at the expiration of the non-reimbursable detention period.

b. If the mailer did not submit timely requests to detain trailers, the reimbursable detention period begins at the date and time the trailer arrives at the plant, or at the date and time at which the mailer requested the trailer to arrive, whichever is later.

c. The reimbursable period ends when the trailer is ready for dispatch and the mailer so notifies the Postal Service.

.625 Calculation of Reimbursement. Reimbursement will be made for each 24 hours, or fraction thereof, of the reimbursable detention period that a trailer is detained. After the non-reimbursable detention period ends, Saturdays, Sundays, and holidays will be included in the calculation of detention reimbursement.

a. Highway Transportation Trailers. Reimbursement for each highway transportation trailer will be equal to the average daily cost to the Postal Service of leasing a trailer in the origin TMO service area during the preceding postal quarter.

b. Rail Transportation Trailers. Reimbursement for each rail transportation trailer will be equal to the demurrage or detention charge payable by the Postal Service under the rail transportation contract under which the trailer is furnished to the Postal Service by the railroad.

.63 Bobtailing, Deadheading, Waiting/Holding Charges. The Postal Service will obtain reimbursement from plant-load mailers for bobtailing, deadheading, or waiting/holding, where such charges are incurred in order to provide plant-load service as a result of some action or inaction by the mailer. Reimbursement will be equal to the charge for such service payable by the Postal Service under the transportation contract.

.64 Non-Reimbursable Charges.

.641 Detention. The Postal Service will not obtain reimbursement from plant-load mailers for detention of trailers which results from some action or inaction of the Postal Service.

.642 Other Operations. The Postal Service will not obtain reimbursement from plant-load mailers where bobtailing, deadheading or waiting/holding charges are incurred as a result of some action or inaction of the Postal Service.

.643 User's Charges. The Postal Service will not obtain reimbursement from plant-load mailers for user's charges paid by the Postal Service to a railroad contractor for the movement of railroad trailers beyond the commercial zone of the railroad terminus.

154.7 Transportation.

.71 Selection of Mode of Transportation. The TMO will select the least costly mode of transportation that will meet the service objectives for the class of mail plant-loaded. The mode of transportation will *not* be changed at the request of the mailer.

.72 Mailer Transportation. Mailers may not transport their own plant-loaded mail unless there is a highway contract between the Postal Service and the mailer. The awarding of a highway contract to the mailer will not be considered in deciding whether to authorize the plant load.

.73 Holding, Storing, or Delaying Dispatch. The Postal Service will not hold, store, or otherwise delay the dispatch of plant-loaded mail released to the Postal Service, except as provided in the plant-load agreement with the mailer.

.74 Relocation of Trailers. The Postal Service will not relocate trailers at a mailer's plant.

154.8 Service Objectives.

The service objectives that apply to the class of mail being transported will apply to the plant-loaded mail. Plant-loaded mail may have deferred service objectives, if provided for in the plant-load agreement.

154.9 Implementation Deadline.

All mailers desiring the initiate plant-load operations on or after May 18, 1986, must comply with the requirements contained in this Part. Existing plant-load mailers must comply with the provisions of this Part by May 18, 1986, except for the authorization process in 154.2. Each existing plant-load operation will be reviewed in accordance with 154.2 for its compliance with this Part and a decision made whether such operation should continue to be authorized by June 1, 1987.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the Federal Register as provided in 39 CFR 111.3.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86-10328 Filed 5-7-86; 8:45 am]
BILLING CODE 7710-12-M

FEDERAL MARITIME COMMISSION

46 CFR Part 552

[Docket No. 86-8]

Financial Reports of Tug and Barge Operators in the Domestic Offshore Trades

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission amends its rules governing financial reports required of vessel operating common carriers in the domestic offshore waterborne commerce of the United States. Tug and barge operators have been completing the reporting form (Form FMC-377) based on the accounts prescribed by the Interstate Commerce Commission (ICC) for Carriers by Inland and Coastal Waterways. Since the ICC no longer requires reports from such carriers, it is necessary to define the terms used in the report form.

EFFECTIVE DATE: Effective June 9, 1986.

FOR FURTHER INFORMATION CONTACT: Robert G. Drew, Director, Bureau of Tariffs, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5796.

SUPPLEMENTARY INFORMATION: The Federal Maritime Commission is required to evaluate the reasonableness of rates filed by vessel operating common carriers in the domestic offshore trades. To provide for the orderly acquisition of data essential to this evaluation, the Commission promulgated what is now 46 CFR Part 552. Tug and barge operators report the required financial and operating data on Form FMC-377, "Statements of Financial and Operating Data." It had been the policy of the Commission to base these statements on the accounts prescribed by the Interstate Commerce Commission (ICC) for Carriers by Inland and Coastal Waterways. The ICC no longer requires reports from such carriers. Consequently, Form FMC-377 will now contain a glossary.

A proposed rule was published in the Federal Register on February 28, 1986 (51 FR 6760) with comments due on March 28, 1986. No comments were received. Therefore, the Commission intends to adopt the rule as final.

The Commission has determined that this rule is not a "major rule" as defined in Executive Order 12291, February 27, 1981, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions, or;

(3) Significant adverse effect on competition, employment, investment productivity, innovations, or on the ability of United States based enterprises to compete in domestic or export markets.

The Chairman of the Federal Maritime Commission certifies pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), that this rule will not have a significant economic impact on a substantial number of small entities, including small businesses, small organizational units or small governmental organizations. The primary economic impact of this rule would be on ocean common carriers which generally are not small entities. A secondary impact may fall on shippers, some of whom may be small entities, but that impact is not considered to be significant.

The collection of information requirements contained in original Part 552 were approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have been assigned control number 3072-0008. The amendments in this rulemaking are technical in nature and will not result in any substantive modification of the financial reporting requirements contained in the Commission's request for extension of clearance.

List of Subjects in 46 CFR Part 552

Cargo vessels, Freight, Maritime carriers, Rates and fares, Report and recordkeeping requirements, Uniform system of accounts.

PART 552—[AMENDED]

Therefore, for the reasons set forth above, Part 552 of Title 46, Code of Federal Regulations, is amended as follows:

1. The authority citation to Part 552 continues to read:

Authority: 5 U.S.C. 553; 46 U.S.C. app. 817(a), 820, 841a, 843, 844, 845, 845a, and 847.

2. Paragraph (o) of § 552.5 is revised to read as follows:

§ 552.5 Definitions.

* * * * *

(o) *"Voyage Expense"* means:

(1) For carriers required to file Form FMC-378: the total of Vessel Operating, Vessel Port Call and Cargo Handling Expenses less Other Shipping Operations Revenue.

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(2) For carriers required to file Form FMC–377: the total of Transportation, Terminal and Traffic Expenses.

* * * * *

3. Section 552.6 is amended by removing paragraph (b)(7) and redesignating (b)(8), (9), and (10) as (b)(7), (8), and (9); revising paragraphs (a)(2), (b)(6), newly redesignated (b)(8) heading and (iii) and (iv), and newly redesignated (b)(7), (b)(9), (c)(2) introductory text and (c)(2)(iii), (c)(3), (c)(9); and revising heading of paragrah (b) (4) as follows:

§ 552.6 Forms.

(a) *General.* * * *

(2) Statements containing the required exhibits and schedules, are described in paragraphs (b), (c), (d), (e) and (f) of this section and are available upon request from the Commission. The required General Information, schedules and exhibits are contained in Forms FMC–377 and FMC–378. For carriers required to file Form FMC–378, the statements are based on the *Uniform Financial Reporting Requirements* prescribed by the Maritime Administration, U.S. Department of Transportation. For carriers required to file Form FMC–377, the statements are based on definitions contained therein. The schedules contained in these statements are distinguished from those contained in the Form FMC–378 statements by the suffix "A" (e.g., Schedule A–IV(A)).

(b) *Rate Base (Exhibits A and A(A)).* * * *

(4) *Investment in Other Property and Equipment; Accumulated Depreciation Other Property and Equipment (Schedules A–IV and A–IV(A)).*

* * * * *

(6) *Working Capital (Schedule A–V(A)).*

Working capital for tug and barge operators shall be determined as the average monthly expense. Average monthly expense shall be equal to one-twelfth of the expense of the carrier during the relevant 12-month period, computed by adding Voyage Expense, Administrative and General Expense, Interest Expense, and Inactive Vessel Expense, each as allocated to the Trade, and dividing the total by 12.

(7) *Property and Equipment of Related Companies.*

Property and equipment of related companies used by the filing carrier in the Trade shall be reported in accordance with paragraphs (b)(1), (b)(2) and (b)(4) of this section. The cost of such assets shall be that which is recorded on the books of the related company. Where such assets are included in the rate base, the profits or losses from intercompany transactions related to such assets are to be eliminated in accordance with paragraph (c)(11) of this section.

(8) *Capitalization of Interest During Construction (Schedules A–VI and A–VI (A)).*

* * * * *

(iii) A detailed description of the interest calculations shall be submitted for each capital asset included in the rate base of the carrier in the first year of its inclusion. Such description shall be set forth on Schedule A–VI or A–VI(A), "Capitalization of Interest During Construction." Capitalized interest shall be included in the rate base when the asset is included in the rate base, in accordance with paragraph (b) of this section, and in the same allocable amounts as the asset. A schedule shall be provided each time a rate base statement is submitted, setting forth the year in which an interest calculation statement was submitted for each asset which included capitalized construction interest in the rate base.

(iv) The effects of the interest-during construction provisions shall be applicable to all work completed after December 31, 1977.

(9) *Capitalization of Leases (Schedules (A–VIII and A–VII (A)).*

Leased assets which are capitalized on the carrier's books and which meet the AICPA guidelines for capitalization may also be included in rate base. Schedule A–VII or A–VII(A), "Capitalization of Leases," shall be submitted setting forth pertinent information relating to the lease and the details of the capitalization schedule. Allocations to the Trade shall follow the requirements of paragraphs (b)(1) and (b)(4) of this section.

(c) *Income Account (Exhibits B and B (A)).* * * *

(2) *Voyage Expense (Schedule B–II).* This schedule shall be submitted by vessel operators for any period in which any cargo was carried in the Service. Allocations to the Trade shall be on the following basis:

* * * * *

(iii) Other Shipping Operations Revenue shall be deducted from Gross Voyage Expense. Other Shipping Operations Revenue should be assigned directly, to the extent possible, or otherwise allocated on the basis of cargo cube loaded and discharged at each port. Any direct assignments shall be fully set forth and explained.

(3) *Voyage Expense (Schedule B–II(A)).* This schedule shall be submitted by tug and barge operators:

(i) For all voyages in the Service, transportation expense shall be allocated to the Trade in the cargo-cube mile or cargo-cube relationship, as appropriate. Should any elements of transportation expense be directly allocable to specific cargo, such direct allocations shall be made and explained.

(ii) Terminal and traffic expenses shall be assigned directly, to the extent possible, by ports at which incurred, to the Trade and Other Cargo, or otherwise allocated on the basis of cargo cube loaded and discharged at each port.

(iii) Where multiple barge units are towed by a single tug, voyage expense shall be allocated on the basis of the cargo-cube relationship.

* * * * *

(9) *Other Revenue or Expense (Schedules B–VIII and B–VII(A)).*

(i) Any other elements of revenue or expense, wholly or partially applicable to the Trade, shall be fully explained by a schedule showing details of allocation.

(ii) Operating-differential subsidy refunds under section 605(a) of the Merchant Marine Act, 1936, shall not be allocated to the Trade.

* * * * *

By the Commission.

John Robert Ewers,

Secretary.

[FR Doc. 86–10211 Filed 5–7–86; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 69

[CC Docket No. 78–72; Phase I; FCC 86–177]

MTS and WATS Market Structure: Average Schedule Companies

AGENCY: Federal Communications Commission.

ACTION: Report and Order, Final rule.

SUMMARY: The Commission has approved revisions to the average schedules that were proposed by the National Exchange Carrier Association ("NECA") on September 17, 1985. The Commission ordered NECA to file, on not less than ninety (90) days notice, proposed formulae that are to have a scheduled effective date of January 1, 1987. The Commission also is amending two portions of § 69.605(c) of its rules. Section 69.605(c)(1) is amended to prohibit affiliated exchange carriers with combined annual operating revenues of $40,000,000 or more from receiving, after December 31, 1987, average schedule and cost study compensation. Section 69.605(c)(2) is amended to prohibit an exchange carrier from receiving, after December 31, 1987, compensation under the average schedules and compensation on the basis of cost studies.

EFFECTIVE DATES: The changes to the Commission's rules are effective on January 1, 1988. The revisions to the average schedules that were proposed by NECA are effective June 1, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kent R. Nilason, Common Carrier Bureau, (202) 632–6363.

SUPPLEMENTARY INFORMATION: MTS and WATS Market Structure; CC Docket No. 78–72. Average Schedule Companies; Phase I.

This is a summary of the commissions' report and order, CC Docket 78–72, Phase I, adopted April 1, 1986, and released April 18, 1986.

The full texts of commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's Copy Contractor, International Transcription Service, (202) 857–3800, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of Report and Order

1. On September 17, 1985, the National Exchange Carrier Association ("NECA") filed proposed revisions to the Schedule A and Schedule B portions of the average schedules. The "average schedules" determine the compensation that is received by exchange carriers that do not receive compensation on the basis of the actual costs of using their facilities in originating and terminating interstate telecommunications services. In this *Report and Order*, the Commission concluded that the revisions proposed by NECA are an improvement over the existing schedules and approved the proposed revisions with an effective date of June 1, 1986. The Commission also required that NECA file proposed revisions to update the average schedule formulas that apply to Schedule C and special access compensation arrangements. Those revisions are to have a scheduled effective date of January 1, 1987, and are to be filed on not less than ninety (90) days notice.

2. The Commission also reaffirmed its policy of prohibiting individuals and affiliated exchange carriers from receiving compensation on the basis of the average schedules while receiving compensation on the basis of cost studies. In reaffirming that policy, the Commission amended §§ 69.605(c) (1)–(2) of its rules: (1) To prohibit affiliated exchange carriers with combined annual operating revenues of $40,000,000 or more from receiving compensation that is determined on the basis of cost and studies while also receiving compensation under the average schedule; and (2) to prohibit individual exchange carriers from being compensated partially on the basis of cost studies and partially on the basis of the average schedules. Those rules are effective January 1, 1988. The amendments were made: (1) To prevent charges for interstate services from being artificially inflated; (2) to afford affected carriers sufficient time to determine whether compensation on a cost study or average schedule basis would be more appropriate; and (3) to reduce the burden upon small affiliated exchange carriers (*i.e.*, those affiliates that collectively have less than $40,000,000 in annual revenues) that would otherwise have occurred under § 69.605(c)(1) of the Commissions rules. *See* 47 CFR 64.605(c)(1) 1984). Pursuant to Section 605(b) of Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), certified that the final rule does not have a significant economic impact on a substantial number of small entities.

Ordering Clauses:

3. Accordingly, it is ordered, Pursuant to the authority that is contained in sections 1, 201–205, and 211 of the Communications Act of 1934, that the revisions to the average schedules that have been proposed by the National Exchange Carrier Association are approved.

4. It is further ordered, Pursuant to sections 1, and 201–205 of the Communications Act, that NECA shall file, on not less than ninety (90) days notice, proposed revisions to the schedule C and special access compensation formulae that are to have a scheduled effective date of January 1, 1987.

5. It is further ordered, Pursuant to sections 1, 201, 202, and 205 of the Communications Act, that § 69.605(c) is modified as set forth below, effective January 1, 1988.

6. It is further ordered That the Secretary shall cause a summary of this Report and order to be published in the **Federal Register.**

Federal Communications Commission.

William Tricarico,

Secretary.

PART 69—[AMENDED]

Part 69 of Title 47 of the Code of Federal Regulations is amended as follows:

The authority citation for 47 CFR Part 69 continues to read:

Authority: Sections 1, 201–202, 205, 218, 403 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 201–202, 205, 218, 403.

Section 69.605 is amended by revising (c)(1) and (c)(2) to read as follows:

§ 69.605 Distribution of Carrier Common Line revenues.

* * * * *

(c) * * *

(1) After December 31, 1987, any company that directly or indirectly controls, is directly or indirectly controlled by, is under direct or indirect control with, or merges with a telephone company that did not participate in average schedule settlements on December 1, 1982, shall not be deemed to be an average schedule company except that this provision shall not apply to affiliated exchange carrier that collectively have less than forty million dollars in annual operating revenues.

(2) Any company that does not join in association tariffs for all access elements shall not be deemed to be an average schedule company. That notwithstanding, average schedule companies may elect to settle on a cost basis for line haul and special access services through December 31, 1987, while retaining average schedule status for all other settlement purposes. However, such an election does not waive the requirement that each average schedule company receiving compensation under the average schedule join in all Association tariffs.

* * * * *

[FR Doc. 86–10105 Filed 5–7–86; 8:45 am]

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47 CFR Part 73

[MM Docket No. 85–326; FCC 86–211]

Radio Broadcasting; Review of Technical and Operational Regulations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action deletes from the Commission's Rules, certain FM technical rules which no longer serve their original purpose. It also modifies other FM technical rules which are obsolete or inappropriate in their present form. Specifically, this action:

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(1) Deletes FM stereophonic technical signal quality standards, (2) removes specifications inhibiting alternative methods of stereo transmission, (3) deletes FM minimum performance standards for FM subsidiary communications transmissions, (4) deletes safety and operational requirements for FM transmission systems, and (5) deletes noncommercial educational FM regulations which are duplicated elsewhere in the Commission's Rules. This action is needed to update these rules and thus make them more responsive to the current needs of the FM service.

EFFECTIVE DATE: June 9, 1986.

FOR FURTHER INFORMATION CONTACT: Michael A. Lewis, Mass Media Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION: This is a Summary of the Commission's Report and Order, MM Docket 85–325, adopted April 25, 1986, and released May 1, 1986.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of Report and Order

1. The *Report and Order (Report)* discussed in this summary deregulated the technical operating requirements for FM stations. Our purpose was to remove rules which were no longer needed to prevent interference or which restrict marketplace competition.

2. The *Report* removed minimum performance standards for the technical signal quality of FM stereophonic transmissions. This was done because the Commission believes that the marketplace contains incentives for broadcasters to transmit stereo signals of sufficient quality. The *Report* also removed specifications which inhibit alternative methods of stereophonic transmission. Thus, the introduction of alternative FM stereophonic transmission systems incompatible with the current standard is now permitted. To protect the many existing receivers designed for the current standard, the Commission adopted criteria to ensure that these receivers would not respond to incompatible formats.

3. The *Report* also deregulated the technical requirements for subsidiary communication transmission systems by removing rules which limit the amount of interference the subsidiary service can cause to the main channel broadcast. Marketplace forces which provide broadcasters with the necessary incentives to deliver signals of sufficient technical quality were again the reason for this rule change. Further, the *Order* removed several provisions of § 73.317 pertaining to the installation of FM broadcast transmission systems. These rules specified safety devices (bleeder resistors, proper grounding of transmission lines, etc.) to be installed in the transmission system. They were deleted because workplace safety is not the primary regulatory concern of the Commission. Other agencies more appropriately oversee this area. Also deleted were requirements concerning the electrical properties of the transmitter. The Commission deleted these rules because they are not needed to prevent interference. Finally, the *Order* removed several rule sections which were duplicated elsewhere to streamline and condense the Commission's Rules as much as possible.

4. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 604, a final regulatory flexibility analysis has been prepared. It is available for public inspection as part of the full text of this decision, which may be obtained from the Commission or its copy contractor.

5. The amendments adopted in this document have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours on the public.

6. Accordingly, it is ordered, pursuant to the authority contained in sections 4 and 303 of the Communications Act of 1934, as amended, that Part 73 of the Commission's Rules is amended, effective June 9, 1986, as set forth below.

7. It is further ordered that this proceeding is terminated.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

PART 73—[AMENDED]

Chapter I, Title 47, Part 73 of the Code of Federal Regulations is amended as follows:

8. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

9. 47 CFR 73.293, is revised to read as follows:

§ 73.293 Use of FM multiplex subcarriers.

Licensees of FM broadcast stations may transmit, without further authorization, subcarrier communication services in accordance with the provisions of §§ 73.319 and 73.322.

§ 73.316 [Amended]

10. 47 CFR 73.316, FM antenna systems, is amended by removing paragraph (b) and by redesignating paragraphs (c) through (j) as paragraphs (b) through (i) respectively.

11. 47 CFR 73.317, is revised to read as follows:

§ 73.317 FM transmission system requirements.

(a) FM broadcast stations employing transmitters authorized after January 1, 1960, must maintain the bandwidth occupied by their emissions in accordance with the specification detailed below. FM broadcast stations employing transmitters installed or type accepted before January 1, 1960, must achieve the highest degree of compliance with these specifications practicable with their existing equipment. In either case, should harmful interference to other authorized stations occur, the licensee shall correct the problem promptly or cease operation.

(b) Any emission appearing on a frequency removed from the carrier by between 120 kHz and 240 kHz inclusive must be attenuated at least 25 dB below the level of the unmodulated carrier. Compliance with this requirement will be deemed to show the occupied bandwidth to be 240 kHz or less.

(c) Any emission appearing on a frequency removed from the carrier by more than 240 kHz and up to and including 600 kHz must be attenuated at least 35 dB below the level of the unmodulated carrier.

(d) Any emission appearing on a frequency removed from the carrier by more than 600 kHz must be attenuated at least $43 + 10 \log_{10}$ (Power, in watts) dB below the level of the unmodulated carrier, or 80 dB, whichever is the lesser attenuation.

(e) Preemphasis shall not be greater than the impedance-frequency characteristics of a series inductance resistance network having a time constant of 75 microseconds. (See upper curve of Figure 2 of § 73.333.)

12. 47 CFR 73.319 is amended by revising paragraphs (b); by removing paragraphs (e), (f), and (i); by redesignating paragraphs (g) and (h) as new paragraphs (e) and (f) and by revising new (f) to read as follows:

§ 73.319 FM multiplex subcarrier transmission technical standards.

* * * * *

(b) *Modulation.* Any form of modulation may be used for subcarrier operation.

* * * * *

(f) Stations installing multiplex subcarrier transmitting equipment must ensure the proper suppression of spurious or harmonic radiations. See §§ 73.317, 73.1590 and 73.1690. If the subcarrier operation causes the station's transmissions not to comply with the technical provisions for FM broadcast stations or causes harmful interference to other communication services, the licensee or permittee must correct the problem promptly or cease operation. The licensee may be required to verify the corrective measures with supporting data. Such data must be retained at the station and be made available to the FCC upon request.

13. 47 CFR 73.322 is revised to read as follows:

§ 73.322 FM stereophonic sound transmission standards.

(a) An FM broadcast station shall not use 19 kHz ±20 Hz, except as the stereophonic pilot frequency in a transmission system meeting the following parameters:

(1) The modulating signal for the main channel consists of the sum of the right and left signals.

(2) The pilot subcarrier at 19 kHz ±2 Hz, must frequency modulate the main carrier between the limits of 8 and 10 percent.

(3) One stereophonic subcarrier must be the second harmonic of the pilot subcarrier (i.e. 38 kHz) and must cross the time axis with a positive slope simultaneously with each crossing of the time axis by the pilot subcarrier. Additional stereophonic subcarriers are not precluded.

(4) Double sideband, suppressed-carrier, amplitude modulation of the stereophonic subcarrier at 38 kHz must be used.

(5) The stereophonic subcarrier at 38 kHz must be suppressed to a level less than 1% modulation of the main carrier.

(6) The modulating signal for the required stereophonic subcarrier must be equal to the difference of the left and right signals.

(7) The following modulation levels apply:

(i) When a signal exists in only one channel of a two channel (biphonic) sound transmission, modulation of the carrier by audio components within the baseband range of 50 Hz to 15 kHz shall not exceed 45% and modulation of the carrier by the sum of the amplitude modulated subcarrier in the baseband range of 23 kHz to 53 kHz shall not exceed 45%.

(ii) When a signal exists in only one channel of a stereophonic sound transmission having more than one stereophonic subcarrier in the baseband, the modulation of the carrier by audio components within the audio baseband range of 23 kHz to 99 kHz shall not exceed 53% with total modulation not to exceed 90%.

(b) Stations not transmitting stereo with the method described in (a), must limit the main carrier deviation caused by any modulating signals occupying the band 19 kHz ±20 Hz to 125 Hz.

(c) All stations, regardless of the stereophonic transmission system used, must not exceed the maximum modulation limits specified in § 73.1570(b)(2). Stations not using the method described in (a), must limit the modulation of the carrier by audio components within the audio baseband range of 23 kHz to 99 kHz to not exceed 53%.

14. 47 CFR 73.558 is revised to read as follows:

§ 73.558 Indicating instruments.

The requirements for indicating instruments described in § 73.258 are applicable to all educational FM broadcast stations licensed with a transmitter power greater than 0.01 kw.

15. 47 CFR 73.597 is revised to read as follows:

§ 73.597 FM stereophonic sound broadcasting.

A noncommercial educational FM broadcast station may, without specific authority from the FCC, transmit stereophonic sound programs upon installation of stereophonic sound transmitting equipment under the provisions of §§ 2.977, 2.1001, 73.322, and 73.1590 of the FCC's Rules.

§ 73.1225 [Amended]

16. 47 CFR 73.1225, Station inspections by FCC, is amended by removing paragraph (c)(2)(iii).

William J. Tricarico,

Secretary.

[FR Doc. 86–10296 Filed 5–7–86; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 97

[BC Docket No. 79–47; RM–2830; FCC 86–159]

Amateur Radio Service; Definition of Emergency Communication

AGENCY: Federal Communications Commission.

ACTION: Final rule; Grant of Petitions for Reconsideration.

SUMMARY: This document amends § 97.3(w) of the amateur rules to rescind the definition of "emergency communication" adopted in the Report and Order. This action is being taken to eliminate apparent confusion regarding amateur emergency communications.

EFFECTIVE DATE: June 20, 1986.

ADDRESS: Federal Communications Commission; 1919 M Street, NW.; Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski; Private Radio Bureau; Washington, D.C. 20554; (202) 632–4964.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order, BC Docket 79–47, adopted April 2, 1986 and released April 11, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order 1.

In the Report and Order in this proceeding, 50 FR 25241, June 18, 1985, the FCC revised its rules concerning rebroadcast of non-broadcast radio transmissions to eliminate unnecessary restrictions and administrative procedures and to conform them to new provisions of the Communications Act of 1934, as amended. It also revised its amateur rules to emphasize the separation between the Amateur service and the broadcast services.

2. By this Memorandum Opinion and Order the FCC acted upon two petitions for reconsideration which addressed the revisions we made to the amateur rules. The American Radio Relay League, Incorporated (ARRL) filed a Petition for Partial Reconsideration which sought to reinstate the former definition of "emergency communication" in § 97.3(w) of the amateur rules. David B.

Popkin filed a Petition for Reconsideration which sought several modifications to the adopted amateur rules. Responses were filed by Frederick G. Roberts and jointly by the National Association of Broadcasters (NAB) and the Radio-Television News Directors Association (RTNDA).

3. Popkin claimed that failure to use the word "automatically" before "retransmit" in § 97.113(c) resulted in the prohibition of certain formerly permissible manual retransmissions. However, the FCC ruled that these retransmissions were prohibited under the old rules and continue to be prohibited under the new rules.

4. Popkin also alleged that there is a conflict between the amateur rules and the broadcast rules, because: "If an amateur station may *never* be used for any activity related to broadcast program production or news gathering, then there *never* can be any way that a broadcast station can rebroadcast a message originated by an amateur station." The FCC disagreed. Neither amateur operators nor broadcast stations may use amateur radio as a production or news gathering tool, but broadcast stations may retransmit normal amateur communications for whatever purpose they wish.

5. Popkin's other concerns, and those of the ARRL, NAB-RTNDA and Roberts, related to the use of amateur radio for emergency communications. In the *Report and Order, supra,* we redefined "emergency communication" in § 97.3(w) of the rules. The ARRL sought a return to the previous definition or to a definition like the previous definition.

6. The ARRL and Popkin were concerned that the new definition may have made an unintended change in the nature of permissible amateur emergency communications. In order to resolve any ambiguity on this point, the FCC rescinded the new definition of "emergency communication" adopted in the *Report and Order, supra,* and reverted to the previous definition.

7. Popkin also sought insertion of the phase "except for emergency communications" at the end of § 97.113(b) in order to codify paragraph 22 of the *Report and Order, supra.* However, the FCC noted that activities related to program production and news gathering may involve a wide variety of business-related activities, from live interviews to ordering equipment and even arranging accommodations. The FCC determined to maintain an absolute ban on communications of this sort from the Amateur service as inconsistent with its nature and purpose, and therefore declined to include the phrase "except for emergency communications" in § 97.113(b).

8. The NAB-RTNDA response to the Petitions for Reconsideration urged adoption of the position NAB and RTNDA took in their comments, i.e., to increase the scope of permitted broadcast use of amateur radio in broadly defined emergency situations, and to do so clearly in the rules rather than by *dicta* in the *Report and Order, supra.* The FCC held that NAB and RTNDA raised no new issues, and reaffirmed its decision on those issues.

9. The rule change adopted in this Memorandum Opinion and Order has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

10. In accordance with section 605 of the Regulatory Flexibility Act of 1980 (5 U.S.C. 605), the FCC certified that this rule change does not have a significant impact on a substantial number of small entities, because it merely reverts to the former definition of "emergency communication" and because these entities may not use the Amateur Radio Service for commercial radio communication. (See 47 CFR 97.3(b).)

Ordering Clauses

11. Accordingly, it is ordered that the Petition for Partial Reconsideration filed by the American Radio Relay League is granted in part consistent with this *Memorandum Opinion and Order.*

12. It is further ordered that the Petition for Reconsideration filed by David P. Popkin is granted in part consistent with this *Memorandum Opinion and Order.*

13. It is further ordered that paragraph (w) of § 97.3 of the Commission's rules is amended as set forth at the end of this document, effective June 20, 1986.

14. These actions are taken pursuant to § 1.429 of the Commission's rules (47 CFR 1.429) and sections 4(i) and 303(r) of the Communications Act of 1934, as amended (47 U.S.C. 154(i) and 303(r)).

15. It is further ordered that this proceeding is terminated.

List of Subjects in 47 CFR Part 97

Amateur radio, Emergency communications, Radio.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 97—AMATEUR RADIO SERVICE

1. The authority citation for Part 97 continues to read:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply 48 Stat. 1064–1068, 1081–1105, as amended; 47 U.S.C. 151–155, 301–609, unless otherwise noted.

2. Paragraph (w) of § 97.3 is revised to read:

§ 97.3 Definitions.

* * * * *

(w) *Emergency communication.* Any amateur radio communication directly relating to the immediate safety of life of individuals or the immediate protection of property.

* * * * *

[FR Doc. 86-10290 Filed 5-7-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 60582-6082]

Pacific Coast Groundfish Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule; technical amendment.

SUMMARY: NMFS announces modifications to regulations which govern foreign and joint venture fishing for groundfish off Washington, Oregon, and California (WA, OR, and CA). These changes provide continuity with other recently revised regulations which govern foreign fishing in all U.S. waters. These changes all are technical or clarifying in nature, maintain historical management practices for the fishery off WA, OR, and CA, and establish consistency with foreign fishing regulations wherever practicable.

DATE: This action will be effective on May 5, 1986. Comments will be accepted through May 20, 1986.

ADDRESSES: Send comments to Rolland A. Schmitten, Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115; or E.C. Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: R.A. Schmitten, 206-526-6150; or E.C. Fullerton, 213-548-2575.

SUPPLEMENTARY INFORMATION: Foreign fishing operations in the Pacific coast groundfish fishery are governed by regulations at 50 CFR Part 611, Subparts A and B, § 611.1 through § 611.22, which apply to foreign fishing vessels anywhere in the U.S. fishery conservation zone (FCZ) and at 50 CFR Part 611, Subpart E, § 611.70, which implement applicable provisions to foreign fishing in the Pacific Coast Groundfish Fishery Management Plan (FMP) for ocean waters off WA, OR, and CA. Revisions to Subparts A and B (50 FR 34964, August 28, 1985) substantially clarified and standardized these foreign fishing regulations throughout the FCZ. Subpart E may modify or be more or less restrictive than the general foreign fishing regulations in order to reflect the needs of the particular fishery, as acknowledged in the preamble to the revised Subparts A and B. Many, but not all, of the provisions which had been included in the Pacific coast groundfish regulations at § 611.70 were incorporated into the revised Subparts A and B, and some parts of § 611.70 were deleted. As a result, § 611.70 itself needs revision to assure clarity, continuity with established management practices off WA, OR, and CA, and consistency with the current Subparts A and B wherever practicable.

Even though large portions of § 611.70 are revised by this amendment, all the changes are technical; no changes in fishing operations will result. Definitions, terminology, and citations to regulations are updated to match Subparts A and B. The many provisions dealing with reports and vessel logs currently in Subparts A and B are now redundant and are deleted from § 611.70. A few provisions which are necessary for continuity with past data collection practices in the Pacific coast groundfish fishery are not required in other fisheries, notably that incidental species be reported to the nearest hundredth rather than tenth of a metric ton; that salmonids, Pacific halibut, and Dungeness crab be reported in numbers of individuals rather than by weight; that joint venture discards be recorded; and that duplicate log pages be submitted to NMFS. These provisions are maintained but are reorganized and rewritten. The revisions to § 611.70, the reasons for maintaining those provisions that are not required in other fisheries and/or which deviate from Subparts A and B, and the current and superseding regulatory citations (where applicable) are summarized below.

The definitions at § 611.70(b) are revised as follows:

"Directed fishing" is changed to be the same as the definition in § 611.2 so that it refers only to fishing in which foreign vessels both catch and process fish, and not to target fishing.

"Target fishing" is clarified so that it is not confused with directed fishing.

"Foregin fishing vessel" is added and is the same as in § 611.2.

"Incidental catch" is changed to "incidental species" and is clarified to refer to species in both joint venture and directed fisheries.

"Joint venture processing" was split into separate definitions for "joint venture" and for "processing," the same as in § 611.2.

"Prohibited species" is revised to include species whose quotas have been reached, as stated in § 611.2.

"Regional Director" is revised to read the same as in § 611.2.

The various weights used in reporting catch, "round weight", "product weight", and "factory weight" are defined.

Section 611.70(i) is clarified so that "target fishing" and "directed fishing" are not confused, and is based on the revisions to these two definitions in § 611.70(b).

Section 611.70(j) on reports and recordkeeping is substantially revised and reorganized, and the reasons for maintaining those few provisions *not* incorporated into Subpart A are given in the following paragraphs.

The requirement to record in the daily logs the weight of incidental species to the nearest hundredth of a metric ton rather than to the nearest tenth of a metric ton as specified in Subpart A is redesignated. Past experience has shown that rounding to the nearest tenth of a metric ton (220 pounds) often results in catches of incidental species not being reported if less than this amount. If 220 pounds of a species were not recorded in each haul (or even on a daily basis), the unreported catch of that species could be significant, expecially when incidental limits in the groundfish fishery are very small (e.g., 33 metric tons of Pacific ocean perch in the directed fishery in 1985). Requiring recordkeeping to the nearest hundredth of a metric ton (22 pounds) has resolved this problem since 1982. This requirement, currently stated at § 611.70(j)(5)(xi), becomes § 611.70(j)(4)(v). It is permissible to submit weights of incidental species to the nearest tenth of a metric ton in the weekly Telex reports, however, because these reports are based on data which were maintained to the nearest hundredth of a metric ton.

The requirement to record numbers of individuals (rather than weights) for salmonids, Pacific halibut, and Dungeness crab in the logs and weekly reports was partly deleted when Subpart A was revised, and is respecified in § 611.70. This requirement, currently stated, for the logs, at § 611.70(j)(5)(xii), becomes § 611.70(j)(4)(v); for the weekly reports, at § 611.9(e) until August 28, 1985, and in the conditions and restrictions of the vessels' permits, becomes § 611.70(j)(1)(i).

The requirement that discards (and retained species) be reported in the weekly receipt reports from the joint venture vessels is restated for this fishery. These data, required in the daily logs, provide valuable information about incidental species caught by U.S. vessels in the whiting fishery that otherwise is not available. As a result, species received by joint venture processors must be reported either as discarded, retained, or returned to a U.S. vessel. This provision will augment Subpart A. This requirement, currently stated at Appendix G to Subpart A, paragraph A.5., is restated at § 611.70(j)(1)(ii), which modifies § 611.4(f)(3) and the disposition codes in Appendix G to Subpart A.

For clarity and accuracy in filling out logs, the explanation is maintained of the types of weights (round, factory, and product weights) to be used in each log. Confusion has resulted in the past if types of weights are not specified. This explanation, currently stated at § 611.70(j)(4)(v), (j)(5)(viii), and (j)(7), becomes § 611.70(j)(4)(v).

The provision that logs must be recorded in duplicate, that the duplicate pages may be removed by an authorized officer, and that pages not so removed must be submitted to the Regional Director within three weeks after the end of the fishery is being restated. Logbooks have been submitted to the Northwest Region, NMFS, since 1981, providing an opportunity for close comparison with observer data and thus providing a strong incentive for maintaining accurate logs. This provision, currently stated at § 611.70(j)(4)(v), is restated throughout § 611.70(j)(4).

This is a technical amendment to a final rule and as such is not a rulemaking requiring review under Executive Order 12291.

There are no additional Federal requests for information resulting from this amendment. The reporting requirements now in § 611.70(j) were approved by the Office of Management and Budget under control number 0648-0075.

List of Subjects in 50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

Dated: May 2, 1986.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR 611.70 is amended as follows.

PART 611—[AMENDED]

1. The authority citation for Part 611 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 611.70, paragraph (b), (i), and (j) are revised and paragraph (k) is removed, to read as follows:

§ 611.70 Pacific coast groundfish fishery.

* * * * *

(b) *Definitions.* For purposes of this section, the following terms are defined:

(1) *Directed fishing* means any fishing by the vessels of a foreign nation for allocations of fish granted that nation under § 611.21.

(2) *Factory weight* means the product weight converted to round weight.

(3) *Foreign fishing vessel (FFV)* means any fishing vessel other than a vessel of the United States, except those foreign vessels engaged in recreational fishing, as defined in § 611.2.

(4) *Incidental species* means groundfish species which are unavoidably caught while fishing for allocated or authorized species.

(5) *Joint venture* means any operation by a foreign vessel assisting fishing by U.S. fishing vessels, including catching, scouting, processing and/or support. (A joint venture generally entails a foreign vessel processing fish received from U.S. fishing vessels and conducting associated support activities.)

(6) *Processing* means any operation by an FFV to receive fish from foreign or U.S. fishing vessels and/or the preparation of fish, including but not limited to cleaning, cooking, canning, smoking, salting, drying or freezing, either on the FFV's behalf or to assist other foreign or U.S. fishing vessels.

(7) *Product weight* means the weight of the fish after processing and is explained further at § 611.9(j)(2).

(8) *Prohibited species,* with respect to any vessel, means salmonids, Pacific halibut, Dungeness crab, and any species of fish which that vessel is not specifically allocated or authorized to retain, including fish caught or received in excess of any allocation or authorization.

(9) *Regional Director* means the Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way NE., BIN C15700, Seattle, Washington 98115 or a designee.

(10) *Round weight* means the weight of the whole fish before processing.

(11) *Secretary* means the Secretary of Commerce or a designee.

(12) *Target fishing* means fishing for the primary purpose of catching a particular species (the target species). The only legal target species are those specifically allocated under § 611.21 for the directed fishery or authorized for joint venture receipt under a foreign fishing permit.

* * * * *

(i) *Target fishing—directed fisheries.*

(1) It is unlawful for any operator or owner of a foreign fishing vessel to conduct target fishing for any species or species complex for which that nation does not have an allocation of TALFF.

(2) It is a rebuttable presumption that any trawl that contains more than 50 percent by weight of any species or species complex (such as "other species") was conducted for the purpose of catching that species or species complex and therefore constitutes target fishing for that species or species complex.

(j) *Reports and recordkeeping.*

(1) *Weekly reports.* The requirements at § 611.4(f) are modified as follows:

(i) Catch estimates. In the weekly catch report (CATREP) and weekly receipts report (RECREP), catches of salmonids, Pacific halibut, and Dungeness crab must be recorded in numbers of individuals.

(ii) Weekly receipts report.

(A) In addition to the requirements at §§ 611.4(f)(3) and 611.70(j)(1)(i), the weekly receipts reports (RECREP) must contain amounts of fish that are discarded or retained by an FFV operating in a joint venture off Washington, Oregon, and California, for each species and fishing area, to the nearest tenth of a metric ton (0.1 mt) round weight (except for salmonids, Pacific halibut and Dungeness crab which are recorded in numbers of individuals), and must be followed either by the letter "D" (for discarded) and the confirmation code, or by the letter "K" (for retained or kept) and the confirmation code.

(B) For the purposes of this § 611.70, the product disposition code "P" (referenced in Appendix G to Subpart A) must *not* be used in the RECREP. The only disposition codes required in this report are "D" (for discarded), "K" (for retained), if specifically authorized in the vessel permit conditions and restrictions, and "R" (for fish that are returned to a U.S. vessel).

(iii) Any weekly catch report (CATREP) submitted under § 611.4(f)(2) or weekly receipts report (RECREP) submitted under § 611.4(f)(3) must state if it pertains to target species other than Pacific whiting by following the word "CATREP" or "RECREP" with the name of the target species. If more than one target fishery is conducted in the same week, a separate CATREP or RECREP must be submitted for each fishery.

(2) *Daily reports.* From the time the Secretary estimates that 90 percent of JVP, an incidental retention allowance, a nation's fishing allocation, or incidental catch allowance of any species or species complex has been reached, and so notifies the designated representative of the nation(s) involved, the weekly catch report (CATREP) and the weekly receipts report (RECREP) must be submitted on a daily basis and must reach the Regional Director no later than three days after the reported fishing day.

(3) *Annual report.* Each nation with fishing vessels conducting directed fishery operations must report annual catch and effort statistics by May 31 of the following year in tabular form as follows:

(i) Effort in hours trawled, by vessel class, by gear type, by months, by ½° latitude by 1° longitude statistical areas.

(ii) Catch by vessel class, by gear type, by month, by ½° latitude by 1° longitude statistical areas:

(A) To the nearest tenth of a metric ton (0.1 mt round weight), any species for which that nation has a fishing allocation or incidental catch allowance; and

(B) The numbers of salmonids, Pacific halibut, and Dungeness crab.

(4) *Logs.*

(i) The owner and operator of each foreign fishing vessel must maintain logs in accordance with the requirements of § 611.9 as modified by the regulations in this § 11.70 and the conditions and restrictions of that vessel's foreign fishing permit.

(ii) These logs are the basis for all reports required under §§ 611.4, 611.9, and 611.70.

(iii) Required data must be recorded clearly and concisely, in duplicate, and in English.

(iv) An authorized officer may remove the duplicate pages at any time. All duplicate pages of the logs not removed by an authorized officer must be submitted to the Regional Director within three weeks (21 days) after termination of a fishery due either to closure of the fishery, departure of a vessel from the grounds for the remainder of the season, or expiration of the fishing permit. The original logs must be retained on the foreign fishing vessel whenever it is in the FCZ for three years after the end of the permit period, as stated at § 611.9(a)(2).

(v) Measurements.

(A) Estimates of discards in Section 2—Catch of the daily fishing and joint venture logs are on-deck estimates of round weight to at least the nearest tenth of a metric ton (0.1 mt) for Pacific whiting and to the nearest hundredth of a metric ton (0.01 mt) for incidental species.

(B) Transfer logs and Section 3—Production of the daily fishing and joint venture logs must be in product weights to the nearest 0.01 mt.

(C) Section 2—Catch of the daily fishing and joint venture logs (for processed fish) must be in factory weights to at least the nearest 0.1 mt for Pacific whiting, and to the nearest 0.01 mt for incidental species.

(D) *Numbers of individuals.* Salmonids, Pacific halibut, and Dungeness crab must be recorded in numbers of whole individuals.

(vi) If more than one target fishery is conducted, information for each fishery must be maintained in a separate log. If the target species is not Pacific whiting, the name of the target species must be entered after the title Section Two—Catch in the daily fishing or daily joint venture logs.

[FR Doc. 86-10393 Filed 5-5-86; 4:35 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 89
Thursday, May 8, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Rural Electrification Administration

7 CFR Part 1747

Lien Accommodation and Subordination Policy (Telephone Program)

AGENCY: Rural Electrification Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Rural Electrification Administration (REA) hereby proposes to add Part 1747, Lien Accommodations, to 7 CFR Chapter XVII. This new part contains the lien accomodation and subordination policy of the REA telephone program and the Rural Telephone Bank (RTB). The primary objective of the proposal is to enable telephone borrowers to attract the outside capital necessary to finance projects related to expansion and modernization of basic telephone services and other telecommunications facilities. Certain standards and limitations will apply. The proposal will impact all present and future REA telephone borrowers.

DATE: Comments concerning this proposed rule must be received on or before June 9, 1986.

ADDRESS: Comments may be mailed to Bill E. Musgrave II, Assistant to the Administrator, Rural Electrification Administration, Room 4037, South Building, U.S. Department of Agriculture, Washington, DC 20250. Comments received may be inspected at Room 4037 between 8:15 a.m. and 4:45 p.m.

FOR FURTHER INFORMATION CONTACT: Bill E. Musgrave II, Assistant to the Administrator, Rural Electrification Administration, Room 4037, South Building, U.S. Department of Agriculture, Washington, DC 20250, telephone number (202) 382–1007. The Draft Regulatory Impact Analysis describing the options considered in developing this rule is available on request from the above-named individual.

SUPPLEMENTARY INFORMATION: This rule will be issued in conformance with Executive Order 12291, Federal Regulation. The action will not (1) have an annual effect on the economy of $100 million or more; (2) result in a major increase in costs or prices for customers, individual industries, Federal, State or local government agencies; or (3) result in significant adverse effects on competition, employment, investment or productivity, and therefore has been determined to be "not major."

This program is listed in the Catalog of Federal Domestic Assistance as 10.851—Rural Telephone Loans and Loan Guarantees, and 10.852—Rural Telephone Bank Loans. For the reasons set forth in the final rule related Notice to 7 CFR Part 3015 Subpart V in 50 FR 47034, November 14, 1985, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with state and local officials.

This action does not fall within the scope of the Regulatory Flexibility Act. REA has concluded that promulgation of this rule would not represent a major Federal action significantly affecting the quality of the human environment under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq. 1976) and, therefore, does not require an environmental impact statement or an environmental assessment.

Background

Currently REA encourages borrowers to submit requests for accommodations or subordinations of the Govenment's liens or mortgages for purposes provided in the RE Act. REA has considered such requests on a case by case basis. REA has not encouraged borrowers to submit requests that REA accommodate the Government's liens on the borrowers' system for projects not eligible for financing under the RE Act. This proposed rule establishes criteria under which REA will consider accommodating or subordinating the Government's lien in order that borrowers may more easily obtain financing elsewhere for expansion and modernization of basic telephone services and other telecommunication projects.

List of Subjects in 8 CFR Part 1747

Loan programs—communications, telephone.

Therefore, REA proposes to amend 7 CFR Chapter XVII by adding the following New Part 1747:

PART 1747—LIEN ACCOMMODATIONS AND SUBORDINATION POLICY

Sec.
1747.1 General.
1747.2 Definitions.
1747.3–1747.9 [Reserved]
1747.10 Act purposes.
1747.11–1747.19 [Reserved]
1747.20 Non-act purposes.
1747.21–1747.29 [Reserved]
1747.30 Application procedures.

Authority: 7 U.S.C. 901 et seq., 1921 et seq.

§ 1747.1 General.

Recent changes in the telephone industry, including deregulation and technological developments, have caused REA borrowers and other organizations providing telephone services to consider undertaking expansion and modernization of basic telephone service and other telecommunications projects. Although expansion and modernization of basic telephone service and other telecommunications projects may not be eligible for financing under the Act, the projects may nevertheless advance Act objectives where the borrower finances the project through other lending organizations. To facilitate such financing, REA is willing to consider accommodating the Government's lien on telephone borrowers' systems or subordinating the Government's lien on after acquired property of telephone borrowers. This part sets forth REA policy with respect to such lien accommodations and subordinations.

§ 1747.2 Definitions.

(a) "Act" means the Rural Electrification Act of 1936, as amended (7 U.S.C. 901 et seq.)

(b) "Accommodation" means sharing the Government's lien on a pari passu or pro rata basis with another leader.

(c) "Subordination" means granting the lien which another lender has on specific property priority over the Government's lien on such property.

(d) "After-acquired property" means property which was not financed by REA or the RTB, is to be acquired by the borrower and which would be sut ject to the lien of the Government's mortgage when acquired.

(e) "Telecommunication project" means any project which has, as its purpose, (1) provisions or maintenance of facilities for the transmisson, emission, or reception of signals, sounds, images, or intelligence of any nature by optical waveguide, wire, radio, or other electromagnetic systems, (2) the sales, distribution, development, or manufacture of such facilities, or (3) the provision of any other services directly related to such facilities.

§§ 1747.3—1747.9 [Reserved]

§ 1747.10 Act purposes.

(a) Borrowers are encouraged to submit requests for accommodation of the Government's lien on the borrower's system in order to facilitate obtaining private financing for purposes provided in the Act.

(b) The Administrator will consider requests for the subordination of the Government's lien on after-acquired property in order to enable borrowers to obtain private financing for purposes provided in the Act provided, however, that property integral to the operation of projects financed with loans made or guaranteed by REA shall be financed with funds obtained through lien accommodations instead of lien subordinations, unless the Administrator determines that it is in the Government's interest to do otherwise.

§§ 1747.11—1747.19 [Reserved]

§ 1747.20 Non-act purposes.

(a) The Administrator will consider requests for the accommodation of the Government's lien on the borrower's system or the subordination of the Government's lien on after-acquired property in order to enable the borrowers to obtain private financing for telecommunication projects which may not be eligible for financing under the Act if the Administrator is satisfied that:

(1) The borrower will have the ability to repay its existing and proposed indebtedness;

(2) The security for outstanding Government loans and guarantees is reasonably adequate and will not be adversely affected by the accommodation or subordination; and

(3) Approval of the request is in the interests of the Government.

(b) In determining that the security for outstanding Government loans and guarantees is reasonably adequate and will not be adversely affected by the accommodation or subordination, the Administrator shall consider, among other matters, the following:

(1) Market forecasts for the project;

(2) Projected revenues, expenses and net income of the borrower's existing system and the project;

(3) Maximum debt service or indebtedness of both the system and the project;

(4) Projected rate of return on the borrower's investment in the project;

(5) Fair market value of property acquired by the borrower as part of the project;

(6) Impact of the project on the ratio of the borrower's secured debt to assets;

(7) Projected growth in system and project equity; and

(8) Amount of funds available for plant additions, replacements and other similar costs of the system and the project.

(c) In determining whether the accommodation or subordination is in the interests of the Government, the Administrator may consider, among other matters, whether the project will improve the borrower's financial strength.

§§ 1747.21—1747.29 [Reserved]

§ 1747.30 Application procedures.

(a) Requests for information regarding applications for lien accommodations or subordination under this Part should be addressed to the Assistant Administrator-Telephone, Rural Electrification Administration, Washington, DC 20250.

(b) An application for a lien accommodation or subordination shall include the following supporting information:

(1) A board Resolution from the applicant requesting the lien accommodation or subordination and stating the general purpose for which the funds from the other lender will be used, the proposed amount of the loan, and the proposed terms and conditions of the loan;

(2) An opinion from counsel representing the borrower that the borrower has the authority under its articles of incorporation, bylaws, and under applicable state law to undertake the project;

(3) Engineering and pertinent studies related to the projects or purposes to be financed;

(4) Feasibility studies with pro forma financial statements showing the ability to repay the loan and provide an appropriate margin or net income;

(5) Such information regarding the environmental impacts of the project as may be required pursuant to 7 CFR Part 1794; and

(6) Any other information or documentation deemed pertinent by the borrower or the Administrator in support of the application.

(c) When the Administrator makes a determination that an application for an accommodation or subordination will not be approved, the Administrator shall set forth the reasons therefore in writing and furnish such determination and reasons to the borrower within 30 days of the determination.

Dated: April 11, 1986.

Jack Van Mark,
Acting Administrator.

[FR Doc. 86–10330 Filed 5–7–86; 8:45 am]
BILLING CODE 3410–15–M

FARM CREDIT ADMINISTRATION

12 CFR Parts 611, 614, 615, and 618

Farm Credit System: Provisions

Miscellaneous

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), by the Acting Chairman of the Farm Credit Administration Board (Board), publishes for comment proposed regulations implementing recently enacted provisions of its enabling statute relating to matters involving stockholder/borrower rights; mergers, consolidations, and territory transfers; and conservatorships and receiverships. The Farm Credit Amendments Act of 1985 (1985 Amendments) amended a number of sections of the Farm Credit Act of 1971 (Act) relating to the topics of stockholder/borrower rights; mergers, consolidations, and territory transfers; and conservatorships and receiverships.

DATE: Written comments must be received on or before June 6, 1986.

ADDRESSES: Submit any comments in writing to Chairman, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090. Copies of all communications received will be available for examination by interested parties in the Office of Director, Congressional and Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT: Gary L. Norton, Senior Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, (703) 883–4020.

SUPPLEMENTARY INFORMATION: The Farm Credit Amendments Act of 1985

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(1985 Amendments) amended a number of sections of the Farm Credit Act of 1971 (Act) relating to the topics of stockholder/borrower rights; mergers, consolidations, and territory transfers; and conservatorships and receiverships.

I. Stockholder/Borrower Rights

The 1985 Amendments amended several sections of the Act to require the FCA to issue regulations to require Farm Credit System (System) institutions to provide their borrowers and stockholders with certain information in connection with their dealings with System institutions and to follow specific procedures in conducting certain aspects of their operations. These proposed regulations cover the areas of forbearance policies; disclosure of loan documents; access to stockholder lists; practices related to loan applications and review of denials; disclosure of loan terms; and notice of stock retirement.

Section 4.13(b) of the Act, as added by the 1985 Amendments, requires each System institution, in accordance with FCA regulations, to develop a policy governing forbearance. Proposed regulation 12 CFR 614.4513 provides guidance to System institutions regarding the content of their forbearance policies and clarifies the limits of their legal obligation to compromise indebtedness. Section 614.4513, and the proposed regulation concerning denials of loan applications (§ 614.4440), clarify that the loan application regulations apply only to new borrowers or borrowers seeking additional funds for a new purpose. The loan application regulations do not apply to borrowers who are seeking to renew or refinance loans on which the borrower is or will soon be in default. Such borrowers must look to the institution's policies developed in accordance with the forbearance regulation for any special consideration.

The 1985 Amendments added a new section 4.13A to the Act which directs the FCA to issue regulations that require System institutions to provide copies of loan documents and other related documents to their borrower/stockholders. Section 4.13A does not specify whether such documents should only be provided upon the initial application for a loan or whether they should also be provided upon subsequent amendments or renewals of an existing loan. In the case of both the initial application and the subsequent modifications to the loan contract, the signing of new documents typically entails a change in that person's legal rights and responsibilities. In light of the underlying intent of Congress, the agency concluded that the regulations should require System institutions to provide borrowers with copies of any documents they sign at the time the loan is made, as well as documents related to subsequent modifications of the contract and that borrowers should be able, at any time, to request and obtain copies of such documents.

Consistent with the intent of Congress, the term "borrower" is defined broadly to include any person who signs the loan contract and any person who assumes either primary or secondary liability on the loan, including guarantors, endorsers, and cosigners. If a person is subject to legal liability on the contract, that person is entitled under the regulation to a copy of the document creating such obligation.

Proposed regulation § 618.8310 addresses the circumstances under which institutions must provide stockholders with stockholder lists. There has been considerable controversy over this issue in the past arising from various interpretations of FCA regulations governing the release of information by System institutions (12 CFR Part 618, Subpart G). The FCA has taken the position that existing FCA regulations do not prohibit release of stockholder lists to stockholders, and that such matters are governed by general principles of corporate law. In light of the numerous provisions in the 1985 Amendments that emphasize borrower access to certain types of documents and information, the FCA determined that the regulations should be amended to set forth the specific circumstances and conditions under which stockholders must be afforded access to stockholder lists.

Proposed regulation § 618.8310 is divided into two subsections. The first restates and clarifies the current regulation authorizing borrower lists to be released to parties who deal in commodities or goods where such transactions could involve collateral pledged to an institution. The second subsection provides for the disclosure of stockholder lists to a stockholder seeking to communicate with other stockholders regarding the business operations of the bank or association. This provision incorporates the basic rule of corporate law, that stockholders must be given access to stockholder lists in order to communicate with other stockholders on matters related to the business of the corporation.

In light of the unique operating characteristics of System institutions, it was determined that some restrictions should be placed on the distribution of stockholder lists. The FCA recognizes that a list of stockholders of a System institution is also a list of its borrower/customers and, as such, is an important corporate asset. The unrestricted disclosure of such lists could have negative effects on the financial health of the institution. Additionally, FCA regulations have implicitly recognized a privacy interest of individual borrowers against unrestricted disclosure of their names to third parties. The proposed regulation balances the interests of stockholders in acess to this information with the need to protect the institution and its stockholders from the unauthorized disclosure of its stockholder list.

The proposed regulation prohibits the disclosure of stockholder lists except in connection with "matters relating to the business operations of the institution." This is defined to include discussions of the effectiveness of management, waste of corporate assets, performance of directors, and other related matters. Lists need not be disclosed to persons who will use the list for the purpose of giving another institution a competitive advantage or in furtherance of a social or political cause.

Proposed regulation § 618.8310 provides that as an alternative to disclosure of the list, the institution may, with the agreement of the requesting stockholder, mail a communication to its stockholders on behalf of a requesting stockholder. The stockholder must, however, agree to defray the institution's reasonable costs in providing such communication and the communication must be related to the business operations of the institution. This regulation does not apply to Federal land banks, Federal intermediate credit banks, and the Capital Corporation, whose stockholders are other System institutions.

The 1985 Amendments amended existing provisions of the Act regarding the internal procedures of System institutions concerning review of denials on loan applications. As amended, section 4.14 requires System institutions to establish credit review committees, which must include at least one member of its institution's board of directors. Proposed regulations §§ 614.4440–614.4444 implement these statutory provisions. The activities of the credit review committees relate solely to the denial of credit applications by persons who are not current borrowers and by current borrowers applying for a new loan. They do not include credit to persons seeking forbearance through requests for renewals, deferrals, reamortizations, etc., of existing loans that have matured or will soon mature. Reviews of such requests are governed by the proposed forbearance regulation at § 614.4513.

This distinction is consistent with prior FCA regulations and congressional intent. The language in sections 4.13B and 4.14 of the Act refers to a "loan application," a term that implies a request for a new loan. The FCA has previously interpreted the term "loan application" under old sections 4.13 and 4.14 to exclude amendments or modifications of preexisting loans. The provisions of the 1985 Amendments which amended section 4.13 to require institutions to develop forebearance policies for use with existing loans reinforce this interpretation since most forbearance actions involve requests for deferrals, reamortizations, etc., of existing loans.

The statutory requirement for board representation on review committees presents special operating difficulties for System districts that have only one or very few production credit associations (PCAs) or Federal land bank associations (FLBAs). Such districts have a small number of directors in relation to the potential number of decisions to be reviewed by the credit review committees. Required board attendance at every review session could present a serious burden to the board members and interfere with the efficient functioning of the board. Generally, a System institution's board of directors, like any other corporate board, has the authority to delegate many functions to other officials of the institution. However, in light of the special concerns of Congress regarding board input into review decisions, the FCA determined that a unanimous vote of the association board is required in order for the board member on the committee to delegate his or her duties to another person.

Section 4.14 of the Act requires each institution to establish credit review committees. Since only PCAs and Federal land banks (FLBs) are primary lenders to individual (noncooperative) borrowers, the proposed regulations do not apply to banks for cooperatives, which do not make loans to individuals; or to the Capital Corporation, which does not take applications from borrowers. Additionally, to accommodate the unique relationship between FLBs and FLBAs, the proposed regulations provide that the FLB shall establish guidelines under which the FLBA boards establish their committees and provide further that the FLB can, at its discretion, have representation on such boards.

Section 4.13 of the Act, as added by the 1985 Amendments, requires the FCA to issue regulations governing access to certain loan information by borrowers. Proposed regulations §§ 614.4366–614.4367 implementing this section apply to all System institutions, including the Capital Corporation. The proposed regulations require System institutions to disclose the interest rates charged borrowers, explain whether the rates are subject to change, and describe the standard factors affecting the rate, in accordance with the specific requirements for such disclosures contained in the Act. In addition, the proposed regulations require that, not later than 10 days prior to an adjustment on a variable rate loan, the institution must disclose the effective date of the new rate and a statement of the factors, other than standard factors, used in computing the rate. The proposed regulations also require System institutions to send interest rate notices to current borrowers within 90 days after the effective date of the regulations. The appendix to § 614.4367 contains model forms that System institutions may use to satisfy the disclosure requirements contained in the regulation.

Section 615.5255 is the proposed regulation implementing the provision of the 1985 Amendments that requires PCAs and FLBAs to provide notice to borrowers whose loans are in default prior to retiring their stock. The proposed regulation sets forth the procedure FLBAs and PCAs must follow prior to retiring a borrower's stock.

II. Mergers, Consolidations, and Territorial Transfers

The proposed regulations contain numerous amendments to §§ 611.1090–611.1125 regarding mergers, consolidations, and territory transfers of banks and associations. Section 5.17(a)(2) of the Act, as amended by the 1985 Amendments, requires that territorial adjustments initiated by institutions receive stockholder approval. That section also contains new prohibitions against unequal treatment of associations that decline to participate in mergers or consolidations.

The 1985 Amendments did not affect the authority of the FCA under sections 1.3, 1.13, 2.0, 2.10, 3.0, and 5.17(a)(2) of the Act and § 611.1120(c) to amend charters and transfer territories on its own initiative.

The proposed amendments to § 611.1124 address the requirement for stockholder approval of territory transfers involving associations. The regulation establishes disclosure requirements for territorial transfers that are based on existing disclosure requirements relating to mergers, but without the same requirements for detailed financial information. The purpose of the disclosure is to appraise borrowers of how the transfer will affect them personally and the future operations of their institution.

In accordance with the 1985 Amendments, the proposed regulations do not require the approval of the district bank as a precondition to FCA approval. However, the proposed regulation provides that the FCA will consider the bank's position on the transfer prior to granting or denying approval. The FCA will communicate directly with the associations involved in territorial transfers and provide the bank with copies of such communications. Similar changes to the merger regulations are proposed that also will provide for direct communication between the FCA and the institutions proposing to merge. Consistent with the amendment to section 5.17(a)(2) of the Act, an amendment has been proposed to § 611.1090 that requires stockholder approval in connection with transfers of territories between banks or districts.

The 1985 Amendments contain several provisions (such as section 5.17(a)(2)) that emphasize a strong congressional intent that decisions regarding mergers of System institutions are to be decided by the stockholders of the affected institutions. Existing regulation § 611.1123(7) requires that a merger or consolidation agreement must contain a statement of the rights of the constituent associations to terminate the agreement before the effective date of the merger. As written, this provision is subject to abuse and could result in the board of an association or bank arbitrarily overriding the vote of the stockholders of an institution. In order to prevent such abuse, the regulation is amended to limit the circumstances in which a merger or consolidation can be terminated after a favorable stockholder vote.

The proposed regulation limits the authority of association directors to terminate a merger or consolidation that has been approved by stockholders to circumstances where: (1) The information disclosed to stocholders contained material errors, (2) misrepresentations were made to stockholders regarding the impact of the merger or consolidation, (3) fraudulent activities were used to obtain stockholder approval, or (4) any other intervening event of a significant nature occurred subsequent to a stockholder vote that could have had an impact on

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that stockholder vote. To ensure compliance with these limitations, the proposed regulation requires that any decision by an association board to withdraw from a merger that was agreed to by the stockholders shall not be effective until approved by the FCA.

Existing § 611.1122(2)(3) contains procedures applicable to the merger or consolidation of associations. Consistent with principles of general corporate law, the regulation provides that any proposed merger or consolidation request must be approved by the boards of directors of each association involved. The requirement for board approval does not present problems for mergers or consolidations involing only a few associations, since such mergers or consolidations are generally initiated by the association boards. However, the requirement for director approval could cause some operational problems when associations are involved in districtwide or statewide reorganizations. Under the present regulations, even if stockholders have indicated a willingness to participate in a districtwide merger, they would not have an opportunity to vote on the merger unless their board passed a resolution supporting the merger.

This provision has created the potential for problems in connection with two districtwide mergers. In addition, several provisions in the 1985 Amendments emphasize the need for stockholders to have a greater say in the operations of their associations. In view of this, the proposed amendment to § 611.1122(a) eliminates the requirement for association directors to approve mergers or consolidations that are initiated by the district bank and endorsed by a district board resolution. In such cases, the association board would include a statement either endorsing or opposing the merger in the stockholder disclosure statement.

Proposed amendments to §§ 611.1121–611.1123 provide for direct communications between the FCA and associations that have proposed mergers or other types of charter amendments. These amendments are consistent with similar provisions contained in § 611.1124 regarding territorial adjustments.

III. Receiverships and Conservatorships

The 1985 Amendments completely revised section 4.12(b) relating to conservators and receivers for System institutions. In accordance with the statutory changes, the existing regulations governing liquidation and receivership have been reorganized and amended. The reorganization provides for a new Subpart K—Appointment of Conservators and Receivers, and a New Subpart N—Conservator of Banks and Associations.

New Subpart K contains provisions common to both conservators and receivers, such as grounds for their appointment and actions for their removal. New Subpart N contains those provisions applicable to conservators of both banks and associations.

Proposed regulation § 611.1156, which concerns the grounds for the appointment of a conservator or receiver, adopts the terminology used in the Act, with additional language explaining the definition of the term "insolvency." The regulation establishes that insolvency may only be determined pursuant to an examination conducted or adopted by the FCA. In addition, the provision clarifies that even though member stock is "capital," for purposes of this regulation it is considered an "obligation" of the institution. Thus, under the statutory standard, an institution is insolvent when its stock is impaired. The definition of obligation includes all stock and participation certificates, but does not include other member "equities" such as retained earnings.

Section 611.1157 describes the purpose, responsibilities, and powers of conservators and receivers. This section clarifies that a conservator is directed to operate an institution as a continuing business whereas a receiver is appointed to wind up the affairs of an institution, sell assets, and distribute proceeds to creditors and stockholders. Section 611.1158 set forth the procedure that must be followed by an institution in seeking the removal of a conservator or receiver.

Section 611.1160 of Subpart L is amended to delete the provision establishing a preference for the appointment of a district bank as the receiver of an association. A conforming change was made to § 611.1161 to delete the reference to a district bank's authority to adopt procedures governing its operations as a receiver.

Section 611.1165 is amended to provide that a receiver may sell loans to the Capital Corporation.

The provisions of §§ 611.1167 and 611.1175 relating to the FCA's examination of an association or bank in receivership were amended to conform with amended section 5.19 of the Act, which deleted the authority of the FCA to delegate the examination function to an independent auditor. The proposed regulation retains the authority of the FCA to either conduct audits of associations and banks in receivership or, at its discretion, delegate such audits.

New § 611.1160 of Subpart N parallels §§ 611.1160 and 611.1170. This section provides for: the grounds and procedures for the appointment of a conservator for a System bank, association, or service organization; notice to the institution and its borrowers of the conservatorship; the vesting of the institution's powers exclusively in the conservator; and subjecting the conservator to the direction and supervision of the FCA. Section 611.1161 grants conservators most of the power granted to receivers, but provides that certain of those powers are subject to the prior approval of the FCA. The action subject to approval are those that involve economic decisions that can have a significant financial impact on the institution. These powers are divided into three categories. First, are the conservator's powers, which are identical to those possessed by a receiver, that may be exercised at his or her sole discretion. These include the power to: borrow funds for the conservatorship; execute any instrument necessary for the conservatorship; pay the costs and expenses of the conservatorship from the institution's assets; exercise any power necessary and incident to a specific power; and possess any additional powers, privileges, rights, and responsibilities as FCA may direct.

Second, are the powers identical to the receiver's except that such powers may not be exercised without the prior approval of the FCA. These include the power to: hire employees necessary for the proper administration of the conservatorship; sell any real or personal, tangible or intangible property of the institution; release any assets or property of the institution or repudiate, for cause, any lease or executory contract of the institution; settle or release any claims or demands by or against the institution or the conservator; and pay all approved claims of indebtedness from the assets of the institution.

Third, are the powers comparable to the powers of a receiver except that certain specific actions require the prior approval of the FCA or are carried out under the supervision of the FCA General Counsel. These include the power to: exercise all powers of the institution's board of directors, officers, and employees, except that dividends may not be declared or paid without the prior approval of the FCA; pay any sums necessary to protect the institution's property, except that improvements to property may not be made without the prior approval of the FCA; extend credit to existing borrowers and, unlike in a receivership, to new borrowers; investigate any matter relating to the business affairs of the institution and, under the supervision of the General Cousel of the FCA, institute and defend legal actions affecting the interests of the institution; purchase property and services and lease property for less than a year necessary to the conservatorship and, with the prior approval of the FCA, enter into leases for longer than 1 year; and take such other action as the conservator deems necessary to the conservatorship.

Section 611.1162 provides for the conservator to make an inventory of the assets and liabilities of the institution in accordance with this regulation. The provision also provides for the FCA to conduct examinations and audits of institutions in conservatorship.

Section 611.1163 specifies the conditions for the final discharge of a conservator. The provision is similar to §§ 611.1168 and 611.1176, which provide for the final discharge of a receiver.

List of Subjects in 12 CFR Parts 611, 614, 615 and 618

Accounting, Agriculture, Archives and records, Banks, Banking, Credit, Government securities, Investments, Organization and functions (Government agencies), Rural areas.

As stated in the preamble, it is proposed that Parts 611, 614, 615 and 618 of Chapter VI, Title 12, of the Code of Federal Regulations, be amended as follows:

PART 611—ORGANIZATION

1. The authority citation for Part 611 is revised to read as follows, and any other authority citations in the part are removed.

Authority: Secs. 1.13, 2.10, 4.11, 4.12, 4.28A–4.28L, 5.9, 5.10, 5.15, and 5.17, Pub. L. 99–205, 99 Stat. 1678.

Subpart F—General Rules for Districts

2. Section 611.1090 is revised to read as follows:

§ 611.1090 Request for district changes—general.

District boards may recommend the merger of two or more districts, the transfer of territories between districts, or a change in the name of a district. The recommendation and justification for the recommendation shall be submitted by the district boards to the Farm Credit Administration for preliminary approval by the Farm Credit Administration Board before they are submitted for stockholder approval. Following approval by the stockholders, the proposed change shall again be submitted to the Farm Credit Administration for final approval by the Farm Credit Administration Board. District name changes do not require stockholder approval.

Subpart G—Mergers, Consolidations, and Charter Amendments of Associations

3. Section 611.1121 is amended by revising paragraphs (b), (c), and (d) to read as follows:

§ 611.1121 Charter amendment procedures.

This section shall apply to any request by an association to amend its charter.

* * * * *

(b) Upon receipt of a proposed amendment from an association, the district bank shall review the materials submitted and provide the association with its analysis of the proposal within a reasonable period of time. Concurrently, the bank shall communicate its recommendation on the proposal to the Farm Credit Administration, including the reasons for the recommendation, and any analysis the bank believes appropriate. Following review by the bank, the association shall transmit the proposed amendment with attachments to the Farm Credit Administration.

(c) Upon receipt of an association's request for a charter amendment, the Farm Credit Administration shall review the materials submitted and either approve or disapprove the request. The Farm Credit Administration may require submission of any supplemental materials it deems appropriate.

(d) The Farm Credit Administration shall notify the association of its approval or disapproval of the amendment request, and provide a copy of such communication to the bank. A notification of approval shall be accompanied by a copy of the charter, as amended.

4. Section 611.1122 is amended by revising paragraphs (a), introductory text, (a)(3), (b), (c), (e), introductory text, (e)(4), (g), and (i) to read as follows:

§ 611.1122 Requirements for mergers or consolidations.

* * * * *

(a) Where two or more associations plan to merger or consolidate, or where the district board has adopted a reorganization plan for the associations in the district, the associations involved shall jointly submit a request to the district bank containing the following:

* * * * *

(3)(i) A certified copy of the resolution of the board of directors of each association recommending approval of the merger or consolidation; or

(ii) Where the board of an association disapproves the merger or consolidation and the merger or consolidation is part of a district reorganization plan, a certified copy of the resolution of the district board recommending approval of the proposal.

* * * * *

(b) Upon receipt of a request for approval of an association merger or consolidation, the district bank shall review the materials submitted to determine whether they comply with the requirements of these regulations and shall communicate with the associations concerning any deficiency. When the bank approves the request to merge or consolidate it shall notify the associations and the Farm Credit Administration of its approval together with the reasons for its approval and any supporting analysis the bank deems appropriate. The associations shall jointly submit the proposal together with required documentation to the Farm Credit Administration for preliminary approval.

(c) Upon receipt of an association merger or consolidation request, the Farm Credit Administration shall review the request and either deny or give its preliminary approval to the request. When a request is denied, written notice stating the reasons for the denial shall be transmitted to the associations and a copy provided to the bank. When a request is preliminarily approved, written notice of the preliminary approval shall be given to the associations and a copy provided to the bank. Preliminary approval by the Farm Credit Administration shall not constitute approval of the merger or consolidation. Approval of a merger or consolidation shall be only pursuant to paragraph (g) of this section

* * * * *

(e) Notice of the meeting to consider and act upon a proposed merger or consolidation of associations shall be accompanied by the following information covering each constituent association.

* * * * *

(4) A brief statement by the boards of directors of the constituent associations setting forth the basis for the board's recommendation on the merger or consolidation.

* * * * *

(g) Upon approval of a proposed merger or consolidation by the stockholders of the constituent

associations, a certified copy of the stockholders' resolution shall be forwarded to the Farm Credit Administration. The merger or consolidation shall be effective when thereafter finally approved and on the date as specified by the Farm Credit Administration. Notice of final approval shall be transmitted to the associations and a copy provided to the bank.

* * * * *

(i) The notice and accompanying information required under paragraphs (e) of this section shall not be sent to stockholders until preliminary approval of the merger or consolidation has been given by the Farm Credit Administration.

* * * * *

5. Section 611.1123 is amended by revising paragraphs (a) introductory text and (a)(7) to read as follows:

§ 611.1123 Merger or consolidation agreements.

(a) Associations operating under the same title of the Act may merge or consolidate voluntarily only pursuant to a written agreement. The agreement shall set forth all of the terms of the transaction, including, but not limited to, the following:

* * * * *

(7) A statement that the board of directors of each constituent association can terminate the agreement before the effective date upon a determination by an association, with the concurrence of the Farm Credit Administration, that:

(i) The information disclosed to stockholders contained material errors or omissions;

(ii) Material misrepresentations were made to stockholders regarding the impact of the merger or consolidation;

(iii) Fraudulent activities were used to obtain stockholder's approval; or

(iv) An event occurred between the time of the vote and the merger that would have a significant adverse impact on the future viability of the continuing institution.

* * * * *

6. Section 611.1124 is revised to read as follows:

§ 611.1124 Territorial adjustments.

This section shall apply to any request submitted to the Farm Credit Administration to modify association charters for the purpose of transferring territory from one association to another.

(a) Territorial adjustments, except as specified in paragraph (m) of this section, require approval of a majority of the voting stockholders of each association present and voting or voting by written proxy at a duly authorized meeting at which a quorum is present.

(b) When two or more associations agree to transfer territory, each association shall submit a proposal to its district bank containing the following:

(1) A statement of the reasons for the proposed transfer and the impact the transfer will have on its stockholders and holders of participation certificates;

(2) A certified copy of the resolution of the board of directors or each association approving the proposed territory transfer;

(3) A copy of the agreement to transfer territory that contains the following information:

(i) A description of the territory to be transferred.

(ii) Transferor association's plan to transfer loans and the types of loans to be transferred.

(iii) Transferor association's plan to retire and transferee association's plan to issue equities held by holders of stock, participation certificates, and allocated equities, if any, and a statement that the book value of the equities is at least equal to par.

(iv) An inventory of the assets to be sold by the transferor association and purchased by the transferee association.

(v) An inventory of the liabilities to be assumed from the transferor association by the transferee association.

(vi) A statement that the holders of stock and participation certificates whose loans are subject to transfer have 60 days from the effective date of the territory transfer to inform the transferor association of their decision to remain with the transferor association for normal servicing until the current loan is paid.

(vii) A statement that the transfer is conditioned upon the approval of the stockholders of each constituent association.

(viii) The effective date of the proposed territory transfer.

(4) A copy of the stockholder disclosure statement provided for in paragraph (f) of this section; and

(5) Any additional relevant information or documents that the association wishes to submit in support of its request or that may be required by the Farm Credit Administration.

(c) Upon receipt of documents supporting a proposed territory transfer, the district bank shall review the materials submitted and provide the associations with its analysis of the proposal within a reasonable period of time. The bank shall concurrently advise the Farm Credit Administration of its recommendation regarding the proposed territory transfer. Following review by the bank, the associations shall transmit the proposal to the Farm Credit Administration together with all required documents.

(d) Upon receipt of an association's request to transfer territory, the Farm Credit Administration shall review the request and either deny or give preliminary approval to the request. When a request is denied, written notice stating the reasons for the denial shall be transmitted to the associations, and a copy provided to the bank. When a request is preliminarily approved, written notice of the preliminary approval shall be transmitted to the associations, and a copy provided to the bank. Preliminary approval by the Farm Credit Administration shall not constitute approval of the territory transfer. Final approval shall be granted only in accordance with paragraph (h) of this section.

(e) Upon recept of preliminary approval by the Farm Credit Administration, each constituent association shall, by written notice, and in accordance with its bylaws, call a meeting of its voting stockholders. The affirmative vote of a majority of the voting stockholders of each association present and voting or voting by written proxy at a meeting at which a quorum is present shall be required for stockholder approval of a territory transfer.

(f) Notice of the meeting to consider and act upon a proposed territory transfer shall be accompanied by the following information covering each constituent association:

(1) A statement either on the first page of the materials or on the notice of the stockholders' meeting, in capital letters and bold face type, that:

THE FARM CREDIT ADMINISTRATION HAS NEITHER APPROVED NOR PASSED UPON THE ACCURACY OR ADEQUACY OF THE INFORMATION ACCOMPANYING THE NOTICE OF MEETING OR PRESENTED AT THE MEETING AND NO REPRESENTATION TO THE CONTRARY SHALL BE MADE OR RELIED UPON.

(2) A copy of the Agreement to Transfer Territory and a summary of the major provisions of the Agreement.

(3) The reason the territory transfer is proposed.

(4) A map of the association's territory as it would look after the transfer.

(5) A summary of the differences, if any, between the transfer and transferee associations' interest rates, interest rate policies, collection policies, service fees, bylaws, and any other items of interest that would impact a borrower's lending relationship with the institution.

(6) A statement that all loans of the transferor association that finance operations located in the transferred territory shall be transferred to the transferee association except as otherwise provided for in this section or in accordance with agreements between the associations as provided for in § 614.4070 of this chapter.

(7) Where proxies are to be solicited, a form of written proxy, together with instructions on the purpose and authority for its use, and the proper method for signature by the stockholders.

(8) A statement that the financial statements and related information and bylaws of the association are available on request.

(g) No bank or association, or director, officer, or employee thereof, shall make any untrue or misleading statement of a material fact, or fail to disclose any material fact necessary under the circumstances to make statements made not misleading, to a stockholder of any association in connection with a territory transfer.

(h) Upon approval of a proposed territory transfer by the stockholders of the constituent associations, a certified copy of the stockholders' resolution and one executed Agreement to Transfer Territory for each constituent association shall be forwarded to the Farm Credit Administration. The territory transfer shall be effective when thereafter finally approved and on the date as specified by the Farm Credit Administration. Notice of final approval shall be transmitted to the associations and a copy provided to the bank.

(i) No director, officer, or employee of a bank or an association shall make an oral or written representation to any person that a preliminary or final approval by the Farm Credit Administration of territory transfer constitutes, directly or indirectly, either a recommendation on the merits of the transaction or an assurance concerning the adequacy or accuracy of any information provided to any association's stockholders in connection therewith.

(j) The notice and accompanying information required under paragraph (f) of this section shall not be sent to stockholders until preliminary approval of the territory transfer has been granted by the Farm Credit Administration.

(k) Where a territory transfer is proposed simultaneously with a merger or consolidation, both transactions may be voted on by stockholders at the same meeting. Only stockholders of a transferee or transferor association shall vote on a territory transfer.

(l) All borrowers whose real estate or operations are located in adjusted territories shall be informed in writing of the territory adjustment and the transfer of their loans to and exchange of related equities for equities of like kinds and amounts in the transferee association. If a like kind of equity is not available in the transferee association, similar equities shall be offered that will not adversely affect the interest of the owner. This Notice of Territory Transfer shall give borrowers 60 days from the effective date of the territory transfer to notify the transferor association in writing if the borrower decides to stay with the transferor association for normal servicing until the current loan is paid. Any application by the borrower for renewal or for additional credit shall be made to the transferee association, except as otherwise provided for any an agreement between associations in accordance with § 614.4070 of this chapter. This notice shall be made immediately after the Farm Credit Administration has given final approval of the territory transfer.

(m) This section shall not apply to territory transfers initiated by order of the Chairman of the Farm Credit Administration or to territory transfer due to the liquidation of the transferor association.

7. Section 611.1125 is revised to read as follows:

§ 611.1125 Treatment of associations not approving districtwide mergers.

(a) *Issuance of charters.* When issuing charters or certificates of territory for districtwide mergers or consolidations of associations, the Farm Credit Administration will not issue any charters or certificates of territory that include the territory of one or more associations whose stockholders voted to disapprove the merger or consolidation.

(b) District banks shall not take any of the following actions with respect to an association that has determined to not participate in a districtwide merger:

(1) Discriminate in the provision of any financial service and assistance, including, but not limited to, access to loan funds and rates of interest on loans and discounts offered by a district bank to the association and their member/borrowers;

(2) Discriminate in the provision of any financially related services that are offered by a district bank to the associations and their member/borrowers;

(3) Discriminate in the provision of any professional assistance that may be normally provided by the bank to its associations; or

(4) Discriminate in the provision of any technical assistance that may be normally provided by the bank to its associations.

(c) This regulation does not prohibit a district bank from charging differential rates of interest or differential costs for other services to an association and its members if such costs are warranted based on additional risks and servicing costs incurred by the district bank in dealing with the association. Such differential costs charged shall be based on a fully documented analysis which supports the additional costs.

8. Part 611 is amended by adding Subpart K, Appointment of Conservators and Receivers, to read as follows:

Subpart K—Appointment of Conservators and Receivers

Sec.
611.1155 General.
611.1156 Grounds for appointment of conservators and receivers.
611.1157 Conservators and receivers.
611.1158 Actions for removal of conservator or receiver.

Subpart K—Appointment of Conservators and Receivers

§ 611.1155 General.

The Farm Credit Administration has exclusive authority to appoint conservators or receivers for System institutions and to establish the procedures under which conservatorships and receiverships are operated. This subpart sets forth the basis for the appointment of conservators and receivers and establishes general guidance for the operations of conservatorships and receiverships. Subparts L and M of this part set forth the specific powers and procedures for receivers of associations and banks, respectively. Subpart N of this part sets forth the powers and procedures applicable to conservatorships of banks and associations.

§ 611.1156 Grounds for appointment of conservators and receivers.

(a) Upon a determination by the Farm Credit Administration of the existence of one or more of the factors set forth in paragraph (b) of this section, with respect to any bank, association, or other institution of the System, the Farm Credit Administration may, at its discretion, appoint a conservator or receiver for such institution.

(b) The grounds for the appointment of a conservator or receiver for a System institution are:

(1) The institution is insolvent. For purposes of this paragraph, "insolvent" means that the assets of the institution are less than its obligations to its creditors and others, including its

members. A determination of insolvency is made when a examination conducted or adopted by the Farm, Credit Administration reveals that the capital stock or participation certificates of an institution are worth less than their par or stated value;

(2) There has been a substantial dissipation of the assets or earnings of the institution due to the violation of any law, rule, or regulation, or the conduct of an unsafe or unsound practice;

(3) The institution is in an unsafe or unsound condition to transact business;

(4) The institution has commited a willful violation of a final cease-and-desist order issued by the Farm Credit Administration; or

(5) The institution is concealing its books, papers, records, or assets, or is refusing to submit its books, papers, records, assets, or other material relating to the affairs of the institution for inspection to any examiner or to any lawful agent of the Farm Credit Administration.

§ 611.1157 Conservators and receivers.

(a) A Farm Credit Administration conservator is a person appointed by the Chairman of the Farm Credit Administration pursuant to section 4.12(b) of the Act and § 611.1156 of the regulations to take possession of an institution in accordance with the terms of the appointment. Upon appointment, a conservator shall direct the institution's further operation until the Farm Credit Administration decides either to liquidate the institution, or, on the correction or resolution of the problem or condition that provided the basis for the appointment and upon a determination by the Farm Credit Administration that the institution can be returned to normal operations, the institution may be turned over to such management as the Farm Credit Administration may direct. A conservator shall exercise all powers necessary to continue the ongoing operations of the institution, to conserve and preserve the institution's assets and property, and otherwise protect the interests of the institution, its stockholders, and creditors as provided in Subpart N of this part.

(b) A Farm Credit Administration receiver is a person appointed by the Chairman of the Farm Credit Administration pursuant to section 4.12(b) of the Act and § 611.1156 of the regulations to take possession of a System institution in order to wind up the business operations of such institution, collect the debts owed to the institution, liquidate its property and assets, pay its creditors, and distribute the remaining proceeds to its stockholders. A receiver shall exercise all powers necessary to the efficient termination of an institution's operation, as provided for a Subparts L and M of this Part.

§ 611.1158 Action for removal of conservator or receiver.

Upon the appointment of a conservator or receiver to a System institution by the Farm Credit Administration, the institution may, within 30 days of such appointment, bring an action in the United States District Court for the judicial district in which the home office of the institution is located, or in the United States District Court for the District of Columbia, for an order requiring the Farm Credit Administration to remove such conservator or receiver. Notwithstanding any other provisions of Subparts L, M, or N of this part, the institution's board of directors is empowered to meet subsequent to such appointment and authorize the filing of a action for removal. An action for removal may only be authorized by such institution's board of directors.

9. Subpart L of Part 611 is revised to read as follows:

Subpart L—Liquidation of Associations

Sec.

611.1160 Appointment of receiver.
611.1161 Powers and duties of the receiver.
611.1165 Sale and transfer of loans.
611.1167 Inventory, examination, audit, and report to stockholders.

Subpart L—Liquidation of Associations

§ 611.1160 Appointment of receiver.

(a) The board of directors of an association, by the adoption of an appropriate resolution, may vote to liquidate the association, and upon approval of the resolution by the Farm Credit Administration after consultation with the supervisory bank, the Chairman by order may place the association in receivership and appoint a receiver.

(b) The Farm Credit Administration may, at its discretion, appoint a receiver for any System association in accordance with the grounds for appointment set forth in § 611.1156.

(c) Upon the appointment of a receiver and acceptance by the receiver of the appointment, the Chairman shall immediately notify the institution and its supervsiory bank and notice of the appointment shall be published in the **Federal Register.**

(d) Upon the issuance of the order placing an association in liquidation, all rights, privileges, and powers of the board of directors, officers, and employees of the association are vested exclusively in the receiver, and said individuals are suspended except as provided for in paragraph (g) of this section.

(e) The voluntary or involuntary liquidation of an association shall be conducted by the receiver as agent of the Farm Credit Administration. The receiver shall be responsible for collecting the assets, paying the creditors, and paying any liquidating dividend to stockholders of the association. Upon completion of the liquidation and discharge of the receiver by the Farm Administration, the Chairman will cancel the charter of the association.

(f) The Chairman may at any time remove or replace the receiver or may terminate the receivership and direct the receiver to turn over the association to its previous management or such other management as the Chairman may order, in which event the provisions of this subpart shall no longer apply.

(g) In the case of the voluntary liquidation of an association where grounds for the appointment of a receiver pursuant to § 611.1156 do not exist, the Chairman may appoint a receiver, taking into consideration the recommendations of the board of directors of the liquidating association. The board of directors of the association may, at the discretion of the Chairman, remain in office to provide advice and recommendations to the receiver during the pendency of the liquidation.

§ 611.1161 Powers and duties of the receiver.

The receiver of an association serves as the trustee of the receivership estate and conducts its operations for the benefit of the creditors and stockholders of the association. In this capacity, as trustee of the estate, the receiver is an agent of and is subject to the specific procedures and approval requirements established by the Farm Credit Administration and enjoys the same immunities against personal liability that exist for all employees and agents of the Farm Credit Administration. As the agency of the Farm Credit Administration and acting on behalf of the association in receivership, the receiver is authorized and empowered to:

(a) Exercise all powers as are conferred upon the officers and directors of the association under law and the charter, articles, and bylaws of the association.

(b) Take any action the receiver considers appropriate or expedient to carry on the business of the association during the process of liquidating its assets and winding up its affairs..

(c) Extend credit to existing borrowers as necessary to honor existing commitments and to effectuate the purposes of the receivership.

(d) Borrow such sums as necessary to effectuate the purposes of the receivership.

(e) Pay any sum the receiver deems necessary or advisable to preserve, conserve, or protect the association's assets or property, or rehabilitate or improve such property and assets.

(f) Pay any sum the receiver deems necessary or advisable to preserve, conserve, or protect any asset or property on which the association has a lien or in which the association has a financial or property interest, and pay off and discharge any liens, claims, or charges of any nature against such property.

(g) Investigate any matter related to the conduct of the business of the association, including, but not limited to, any claim of the association against any individual or entity, and institute appropriate legal or other proceedings in the name of the association to prosecute such claims.

(h) Institute, prosecute, maintain, defend, intervene, and otherwise participate in the name of the association in any legal proceeding by or against the association or in which the association or its creditors or members have any interest, and represent in every way the association, its members, and creditors.

(i) Employ attorneys, accountants, appraisers, and other professionals to give advice and assistance to the receivership generally or on particular matters, and pay their retainers, compensation, and expenses, including litigation costs.

(j) Hire any employees necessary for proper administration of the receivership, which employees shall be covered by a bond satisfactory to the receiver and the Farm Credit Administration;

(k) Execute, acknowledge, and deliver, in person or through a general of specific delegation, any instrument necessary for any authorized purpose, and any instrument executed under this paragraph shall be valid and effectual as if it had been executed by the association's officers by authority of its board of directors.

(l) Sell for cash or otherwise, any mortgage, deed of trust, chose in action, note, contract, judgment or decree, stock, or debt owed to the association, or any property (real or personal, tangible or intangible).

(m) Purchase or lease office space, automobiles, furniture, equipment, and supplies, and purchase insurance, professional, and technical services necessary for the conduct of the receivership.

(n) Release any assets or property of any nature, regardless of whether the subject of pending litigation, and repudiate, with cause, any lease or executory contract the receiver considers burdensome.

(o) Settle, release, or obtain release of, for cash or other consideration, claims and demands against or in favor of the association or the receiver.

(p) Pay out of the assets of the association, all expenses of the receivership and all costs of carrying out or exercising the rights, powers, privileges, and duties as receiver.

(q) Pay out of the assets of the association, all approved claims of indebtedness in accordance with priorities established in this subpart.

(r) Take all actions in the name of the association in receivership, and have such rights, powers, and privileges as are necessary and incident to the exercise of any specific power.

(s) Take such actions, and have such additional rights, powers, privileges, immunities, and duties as the Farm Credit Administration authorizes, directs, confers, or imposes by order or by amendment of any order or by regulation.

§ 611.1165 Sale and transfer of loans.

(a) The receiver is authorized to sell loans to the Capital Corporation or to any commercial lending institution at fair market value (including any amount borrowed to purchase stock in the association). All loans not purchased by other Farm Credit System institutions are eligibie for purchase by the Capital Corporation.

(b) The receiver is authorized to sell loans to an association (hereafter referred to as "purchasing association") that has been authorized, by charter amendment, agreement, or otherwise, to make loans in the territory heretofore served by the association in liquidation only on the following basis:

(1) A loan may be sold at not less than its fair market value (including the amount borrowed to purchase stock or participation certificates in the liquidating association) and the borrower will immediately make the required capital investment in the purchasing association by providing cash sufficient therefor or by increasing the loan by an amount necessary to make such capital investment.

(2) The loan may be sold at not less than its fair market value (including the amount borrowed to purchase stock or participation certificates in the liquidating association) in conjunction with an agreement between the borrower, the receiver, the supervising bank, and the purchasing association, which provides for a loan from the supervising bank to the borrower or the purchasing association in the amount of the required capital investment in the purchasing association, to be repaid on or before the completion of the liquidation of the association, or terms set forth in the agreement.

(c) An association to which the receiver proposes to sell a loan shall have not less than 90 days to purchase the loan. The association may purchase any such loan at its discretion provided that the borrower agrees to buy stock and become a member of the association.

§ 611.1167 Inventory, examination, audit, and report to stockholders.

(a) As soon as practicable after taking possession of an association, the receiver shall make an inventory of the assets and liabilities as of the date possession was taken. Such inventory shall include the book value and the fair market value of the association's assets. The method of listing assets must provide such information to the satisfaction of the Farm Credit Administration. One copy of the inventory shall be filed with the Farm Credit Administration.

(b) The association in receivership shall be examined on an annual basis by the Farm Credit Administration. The association shall be audited by the Farm Credit Administration or, at the discretion of the Farm Credit Administration, by an independent certified public accountant at such times as the Farm Credit Administration determines. The cost of such examination and audit, as determined by the Farm Credit Administration, shall be paid from the assets of the association in receivership.

(c) The Farm Credit Administration may from time to time prescribe accounting practices to be followed and require such audit or other reports covering any matters related to the operations of the association or the receivership as it deems appropriate on such forms as it may prescribe. One copy of the reports required by this section shall be filed with the Office of Examination and Supervision, Farm Credit Administration, and one copy shall be retained in the receiver's principal office.

(d) The receiver shall cause to be sent to each stockholder of record of the

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association, not later than 90 days following the end of each fiscal year, a report on the financial condition of the association in receivership. Upon the final liquidation of the association, the receiver shall cause to be sent to each stockholder of record, a report summarizing the activities of the receiver and describing the disposition of the assets of the receivership and claims against the receivership.

10. Subpart M of Part 611 is revised to read as follows:

Subpart M—Liquidation of Banks

Sec.
611.1170 Appointment of receiver.
611.1175 Inventory, examination, and audit.

Subpart M—Liquidation of Banks

§ 611.1170 Appointment of receiver.

(a) The board of directors of a bank, by the adoption of appropriate resolution, may vote to liquidate the bank, and upon approval of the resolution by the Farm Credit Administration, the Chairman may, by order, place the bank in receivership and appoint a receiver.

(b) The Farm Credit Administration may, at its discretion, appoint a receiver for any System bank in accordance with the grounds for appointment set forth in § 611.1156.

(c) Upon the issuance of an order placing a bank in liquidation, all rights, privileges, and powers of the board of directors, officers, and employees of the bank are vested exclusively in the receiver, and such individuals are suspended, except as provided for in paragraph (g) of this section.

(d) Upon the appointment of a receiver, and acceptance by the receiver of the appointment, the Chairman shall immediately notify the institution, and notice of the appointment shall be published in the **Federal Register**.

(e) A voluntary or involuntary liquidation of a bank shall be conducted by the receiver, as agent of the Farm Credit Administration. The receiver shall be responsible for collecting the assets, paying the creditors, paying any liquidating dividend to stockholders, and winding up the affairs of the bank. Upon completion of the liquidation, the Chairman will revoke the charter of the bank.

(f) The Chairman may at any time remove and replace the receiver or may direct the receiver to return the bank to the previous management or such other management as the Chairman may order, in which event the provisions of this subpart shall no longer apply.

(g) In the case of the voluntary liquidation of a bank, where the grounds for the appointment of a receiver pursuant to § 611.1156 do not exist, the Chairman may appoint a receiver, taking into consideration the recommendations of the board of directors of the liquidating bank. The board of directors may at the discretion of the Chairman, remain in office to provide advice and recommendations to the receiver during the pendency of the liquidation.

(h) For purposes of this subpart, the term "bank" includes each bank, the Farm Credit System Capital Corporation, and any service organization chartered pursuant to Part D of Title IV of the Act.

§ 611.1175 Inventory, examination, and audit.

(a) As soon as practicable after taking possession of a bank, the receiver shall make an inventory of the assets and liabilities of the bank as of the date possession was taken. Such inventory shall include the book value and fair market value of the bank's assets and the book value of the bank's liabilities and any security therefor. The method of listing assets and liabilities must provide such information to the satisfaction of the Farm Credit Administration. One copy of the inventory shall be filed with the Farm Credit Administration.

(b) The Bank in receivership shall be examined on an annual basis by the Farm Credit Administration. The bank shall be audited by the Farm Credit Administration or, at the discretion of the Farm Credit Administration, by an independent certified public accountant at such times as the Farm Credit Administration determines. The cost of such examination and audit, as determined by the Farm Credit Administration, shall be paid from the assets of the bank in receivership.

(c) The Farm Credit Administration may from time to time prescribe accounting practices to be followed and require such audit or other reports covering any matters related to the operations of the bank or the receivership as it deems appropriate on such forms as it may prescribe. One ocpy of the reports required by this section shall be filed with the Office of Examination and Supervision, Farm Credit Administration, and one copy shall be retained in the receiver's principal office.

11. Part 611 is amended by adding a new Subpart N, Conservators and Conservatorships of Banks and Associations, to read as follows:

Subpart N—Conservators and Conservatorships of Banks and Associations.

Sec.
611.1180 Appointment of a conservator.
611.1181 Powers and duties of conservators.
611.1182 Inventory, examination and audits, accounting practices.
611.1183 Final discharge and release of conservator.

Subpart N—Conservators and Conservatorships of Banks and Associations

§ 611.1180 Appointment of a conservator.

(a) The Farm Credit Administration may appoint ex parte and without notice a conservator for any Farm Credit System institution provided the grounds for appointment as set forth in § 611.1156 exist.

(b) Upon the appointment of a conservator and acceptance by the conservator of the appointment, the Chairman of the Farm Credit Administration shall immediately notify the institution and, in the case of an association, the district bank, and notice of the appointment shall be published in the **Federal Register**. As soon as practicable after the conservator takes possession of the institution, the conservator shall notify, by first class mail, each holder of stock and participation certificates in the institution of the establishment of the conservatorship and shall describe the effect of the conservatorship on the institution's operations and on the borrower's loan and equity holdings.

(c) Upon the issuance of the order placing a Farm Credit System institution in conservatorship, all rights, privileges, and powers of the members, board of directors, officers, and employees of the institution are vested exclusively in the conservator.

(d) The conservatorship of a Farm Credit System institution shall be conducted by the conservator as agent of the Farm Credit Administration. The conservator, under the direction and supervision of the Farm Credit Administration, shall be responsibile for conserving and preserving the assets of the institution and continuing the ongoing operations of the institution until the conservationship is terminated by order of the Chairman.

(e) The Chairman may, at any time, remove or replace the conservator or may terminate the conservatorship and direct the conservator to turn over the institution's operations to such management as the Chairman may designate, in which event the provisions of this subpart shall no longer apply.

(f) For purposes of this subpart, "System institutions" includes each bank, association, the Farm Credit System Capital Corporation, and the service organizations chartered under Part D of Title IV of the Act.

§ 611.1181 Powers and duties of conservators.

(a) The conservator may, with respect to System institutions, exercise the powers that a receiver of an association may exercise under § 611.1161 (d), (k), (p), (r), and (s). The conservator may, with the prior approval of the Farm Credit Administration, exercise the powers that a receiver of a System bank or association may exercise under §§ 611.1161 (i), (j), (l), (n), (o), and (q) and 611.1171. In interpreting those paragraphs for purposes of this section, the term "conservator" and "conservatorship" shall be read for "receiver" and "receivership," and "institution" shall be read for "association."

(b) The conservator may also, subject to the restrictions contained in this section:

(1) Exercise all powers as are conferred upon the officers and directors of the institution under law and the charter, articles, and by-laws of the institution, except that the conservator may not declare, credit, pay, or otherwise distribute dividends on stock or other equities of a System institution without the prior approval of the Farm Credit Administration;

(2) Pay any sum the receiver deems necessary or advisable to preserve, conserve, or protect the institution's assets or property, or with prior approval of the Farm Credit Administration, rehabilitate or improve such property and assets;

(3) Extend credit to new and existing borrowers as is necessary to the continuing operating of the institution and to effectuate the purposes of the conservatorship;

(4) Investigate any matter related to the conduct of the business of the institution including, but not limited to, any claim of the institution against any individual or entity and, under the supervision of the General Counsel of the Farm Credit Administration, institute, prosecute, maintain, defend, intervene, and otherwise participate in legal or other proceedings in the name of the institution in which the institution, its creditors, or stockholders have any interest, and otherwise represent in every way the institution, its creditors, or stockholders;

(5) Purchase or lease, for 1 year or less, property and supplies, and purchase insurance, professional, and technical services necessary for the conduct of the conservatorship, or with the prior approval of the Farm Credit Administration, lease property for greater than 1 year; or

(6) Take any action the conservator considers appropriate or expedient to the continuing operation of the institution subject to the restrictions contained in this section.

§ 611.1182 Inventory, examination and audits, accounting practices.

(a) As soon as practicable after taking possession of a Farm Credit System institution the conservator shall, as may be directed by the Farm Credit Administration, make an inventory of the assets and liabilities of the institution as of the date possession was taken. Such inventory shall include the scheduling of the book value and fair market value of the institution's assets and the book value of the institution's liabilities and any security therefrom. The inventory must be in a form acceptable to the Farm Credit Administration and contain such other information as the Farm Credit Administration may require. One copy of the inventory shall be filed with the Farm Credit Administration.

(b) The institution in conservatorship shall be examined by the Farm Credit Administration on an annual basis. The institution shall also be audited by the Farm Credit Administration or at the discretion of the Farm Credit Administration by an independent certified public accountant at such times as the Farm Credit Administration may determine. The cost of such examination and audit, as determined by the Farm Credit Administration, shall be paid from the assets of the institution in conservatorship unless otherwise ordered by the Farm Credit Administration.

(c) The Farm Credit Administration may from time to time prescribe accounting practices to be followed and require such audit or other reports covering any matters related to the operations of the institution or the conservatorship as it deems appropriate on such forms as it may prescribe. One copy of the reports required by this section shall be filed with the Farm Credit Administration and one copy shall be retained in the conservator's principal office.

§ 611.1183 Final discharge and release of conservator.

(a) *Final report.* At such time as the conservator shall be relieved of the conservatorship duties, the conservator shall file with the Farm Credit Administration a detailed report in a form satisfactory to the Farm Credit Administration.

(b) *Discharge.* At such time as the conservator shall be relieved of the conservatorship duties, the Chairman may direct an examination of the institution and/or an audit of the books and records of the institution in connection with the final report of the conservator. The accounts of the conservator shall be approved or disapproved by the Farm Credit Administration and, if approved, the conservator shall thereupon be completely and finally released.

12. The authority citation for Part 614 is revised to read as follows; and any other authority citations in the part are removed.

Authority: Secs. 4.12, 4.13, 4.13A, 4.13B, 4.14, 5.9, 5.10, and 5.17, Pub. L. 99–205, 99 Stat. 1678.

13. Part 614 is amended by adding a new Subpart K, Disclosure of Loan Information, to read as follows:

Subpart K—Disclosure of Loan Information

Sec.
614.4365 Applicability.
614.4366 Definitions.
614.4367 Required disclosures.

Subpart K—Disclosure of Loan Information

§ 614.4365 Applicability.

This subpart applies only to System institution loans that are not subject to the Truth in Lending Act.

§ 614.4366 Definitions.

For purposes of this subpart, the following definitions shall apply:

(a) "Adjustable rate loan" means a loan on which the interest rate payable over the term of the loan may be changed by a System institution. The term includes loans which are titled "adjustable rate" or "variable rate" or any other similar designation.

(b) "Effective interest rate" means the interest rate applicable to the loan at a point in time adjusted to take into consideration the amount of any stock or participation certificates as a percentage of the initial net proceeds of the loan which the borrower is required to hold in order to obtain the loan.

(c) "Fixed rate loan" means any loan on which the interest rate on the loan is not subject to adjustment or variation over the term of the loan, even though the effective interest rate on the loan may be so subject.

(d) "Interest rate" means the stated rate of interest applicable to the loan at a point in time, excluding any fees

payable by the borrower in obtaining the loan.

(e) The term "standard adjustment factors" are those financial elements, including, but not limited to, an institution's costs of funds, operating expenses, and provision for loan losses, which are typically taken into consideration by an institution in adjusting the interest rate on loans.

§ 614.4367 Required disclosures.

(a) Each association shall furnish the following information in writing to a prospective borrower at or before the time the person executes the loan agreement:

(1) The current interest rate on the loan; and

(2) In the case of an adjustable rate loan:

(i) The amount and frequency by which the interest rate can be adjusted during the term of the loan or, if there are no limitations on the amount or frequency of such adjustments, a statement to that effect; and

(ii) An identification of the specific standard adjustment factors that are taken into account in making adjustments to the interest rate on the loan; and

(3) The current effective interest rate on the loan with one or more representative examples of the impact of stock or participation certificate ownership requirements on the current interest rate computed on an annualized basis.

(b) Not later than 90 days after the effective date of these regulations, each association shall furnish in writing to each of its borrowers the information specified in paragraph (a) of this section with respect to each loan outstanding to that borrower as of the date the information is furnished.

(c) Each association that adjusts the interest rate on an outstanding loan shall furnish the following information in writing to the borrower not later than 10 days before the effective date of such adjustment:

(1) The new interest rate on the loan;

(2) The date on which the new rate is effective; and

(3) A statement of any factors other than standard factors which were taken into account in establishing the new interest rate.

(d) Each association that takes any action that changes the amount of stock or participation certificates that borrowers are required to own and that modifies the effective interest rate on a loan shall furnish the following information in writing to the borrower at least 10 days before the date on which such action takes effect:

(1) The new effective interest rate;

(2) The date on which the new rate is effective; and

(3) A statement of the action(s) taken by the institution that have resulted in the new effective interest rate.

(e) Each bank for cooperatives shall provide to each loan applicant, who is not a borrower, on or before the date of the loan closing, the following information:

(1) The current interest rate; or

(2) In the case of an adjustable rate loan:

(i) The amount and frequency by which the interest rate can be adjusted during the terms of the loan, or if there are no limitations on the amount or frequency of such adjustments, a statement to that effect; and

(ii) An identification of the specific standard adjustment factors that are taken into account in making adjustments to the interest rate on the loan; and

(3) The projected average effective interest rate on the loan for the next 12-month period, taking into consideration:

(i) The current interest rate;

(ii) Current stock requirements;

(iii) Projected allocated patronage distributions; and

(iv) Projected distributions of annual patronage.

(f) Each bank for cooperatives shall provide each borrower, within 90 days after the effective date of this regulation, and thereafter 30 days after the end of each fiscal year, a statement of such borrower's average effective interest rate for such fiscal year, taking into consideration the criteria specified in paragraph (e)(3) of this section.

Appendix to 12 CFR 614.4367—Required Disclosures

Model Disclosure Forms

General

The following are model disclosure forms which System institutions may use to satisfy the notification requirements of section 4.13(a) of the Act and of 12 CFR 614.4307. The forms have been developed in order to give System institutions an idea of the type and extent of information that should be contained therein. It should be understood that System institutions are not required to follow the format of the sample forms. System institutions may develop and use other forms provided the statements contain comparable disclosures in clear, understandable English and otherwise meet the requirements of the Act and regulations.

This loan is *NOT* subject to the Truth in Lending Act, 15 U.S.C. 1601, *et seq.* The following disclosure is made in accordance with section 4.13(a) of the Farm Credit Act of 1971, as amended, 12 U.S.C. _____.

Form 1.—Interest Rate Disclosure

DATE: .....

LENDER: *(Name)*	BORROWER: *(Name)*
STATED INTEREST RATE The rate of interest currently applicable to your loan (Percentage)	EFFECTIVE INTEREST RATE* The stated rate of interest adjusted to take into account the purchase of stock (Percentage)

Check Applicable Box

☐ This is a FIXED RATE LOAN—the stated rate of interest is not subject to change during the life of the loan.

☐ This is an ADJUSTABLE RATE LOAN—the stated rate of interest is subject to change during the life of the loan.

If an Adjustable Rate Loan—

The interest rate on the loan may be changed *(Period)*.

The interest rate may be changed a maximum ± *(Percentage)*.

*This if a projection subject to change should particular loan provisions be modified during the term of the loan, such as the amount of stock or participation certifies held or the timing of repayment. You will be notified prior to any change in the effective rate.

The Standard Adjustment Factor(s) which the institution takes into account in making adjustments to the interest rate is (are) *(list the factors)*.

The Standard Adjustment Factors may ☐ or may not ☐ be changed during the life of the loan.

See your contract documents for further information on loan terms and conditions.

Should you have any questions concerning the information contained in this form contact us at *(Telephone Number)*.

This loan is not subject to the Truth-in-Lending Act, 15 U.S.C. 1601, *et seq.* The following disclosure is made in accordance with section 4.13(a) of the Farm Credit Act of 1971, as amended, 12 U.S.C. _____.

Form 2.—Disclosure of a Change in the Effective Interest Rate

DATE: _____

LENDER: *(Name)* Borrower: *(Name)*

This is to inform you that on *(loan and loan number)*,

☐ The effective rate of interest will be adjusted effective *(Date)*.

The effective rate of interest on your loan is changed to *(Percentage)* from *(Percentage)*.

This change resulted from a:

☐ 1. Change in the amount of stock borrowers are required to hold in the lender to *(Percentage)* from *(Percentage)*.

☐ 2. Change in the stated rate of interest on your loan effective *(Date)*.

The stated rate of interest on your loan changed to *(Percentage)* from *(Percentage)*.

The change was computed based on the:

☐ Standard Adjustment Factors—factors mentioned on the initial interest rate disclosure.

☐ Other—describe.

☐ 3. Change for other reasons—describe.

Should you have any questions concerning the information contained herein, please contact us at *(Telephone Number)*.

This loan is not subject to the Truth-in-Lending Act, 15 U.S.C. 1601, *et seq.* The following disclosure is made in accordance with section 4.13(a) of the Farm Credit Act of 1971, as amended, 12 U.S.C _____.

Form 3.—Interest Rate Disclosures—Cooperatives

DATE: .....

LENDER: *(Name)*	BORROWER: *(Name)*
CURRENT INTEREST RATE (Percentage)	EFFECTIVE INTEREST RATE* (Percentage)

Check applicable box

☐ This is a FIXED RATE LOAN

☐ This an ADJUSTABLE RATE LOAN

If an ADJUSTABLE RATE LOAN—

The interest rate on the loan may be changed *(state frequency of changes)*.

The interest rate on the loan may be adjusted a maximum of *(limitation)*.

The Standard Adjustment Factor(s) which the institution takes into account in making adjustments to the interest rate on the loan is (are) *(list the factors)*.

The Standard Adjustment Factors may ☐ may not ☐ be changed during the life of the loan.

*This is a projection of the average effective interest rate for the 12-month period following the execution of the loan.

Should you have any questions concerning the information contained in this form please contact us at *(Telephone Number)*.

This loan is not subject to the Truth-in-Lending Act, 15 U.S.C. 1601, *et seq.* The following disclosure is made in accordance with section 4.13(a) of the Farm Credit Act of 1971, as amended, 12 U.S.C _____.

Form 4.—Annual Effective Interest Rate Disclosure—Cooperatives

DATE: _____

LENDER: *(Name)* BORROWER: *(Name)*

This is to inform you that the effective rate of interest for your outstanding loans for the year ended *(Date)* is as follows:

Loan Type	Loan Number	Effective Interest Rate

Should you have any questions concerning the information contained in this form please contact us at *(Telephone Number)*.

14. Subpart L of Part 614 is revised to read as follows:

Subpart L—Notice of Action and Review

Sec.
614.4440 Definitions.
614.4441 Notice of action on loan application.
614.4442 Credit review committees.
614.4443 Review process.
614.4444 Records.

Subpart L—Notice of Action and Review

§ 614.4440 Definitions.

For purposes of this subpart, the following definitions shall apply:

(a) "Adverse credit decision" means a decision on a formal loan application to deny the credit applied for, or approve an extension of credit in an amount less than the amount applied for.

(b) "Applicant" means any person who completes and executes a formal application for an extension of credit from a System bank or association. "Applicant" does not include persons seeking forbearance on an existing loan through a request for deferral or rescheduling of the payment of principal or interest or for renewing or extending the terms of an existing loan. Requests for forbearance are governed by § 614.4513.

(c) "System institution" means the following institutions chartered under the Farm Credit Act of 1971, as amended:

(1) Federal land bank associations; and

(2) Production credit associations.

§ 614.4441 Notice of action on loan application.

Each System institution shall render its decision on an applicant's loan application in as expeditious a manner as is practicable. Upon reaching a decision on a loan application, the institution shall provide prompt written notice of its decision to the applicant. When the institution makes an adverse credit decision, the notice shall include:

(a) The reasons for the institution's action;

(b) Notification that the applicant can request a review of the decision;

(c) Notification that any request for review must be made in writing within 30 days after the applicant's receipt of the institution's notice; and

(d) A brief explanation of the process for seeking review of the decision, including the right to appear before the credit review committee.

§ 614.4442 Credit review committees.

(a) Each Federal land bank is the primary lender for loans that originate in the Federal land bank associations in its district. As primary lenders, each Federal land bank shall establish guidelines under which the boards of directors of each Federal land bank association establish one or more credit review committees. Such guidelines shall include, among other things, the required level of Federal land bank representation on each credit review committee. The membership of each committee shall include at least one member of the association board, and a majority of each committee shall be composed or persons who were not involved in making the adverse credit decision under review. The duties of the members of the review committees may not be delegated to any other person, except the duties of the association board member on the committees may be delegated upon the unanimous vote of the association board.

(b) The board of directors of each production credit association shall establish one or more credit review committees. The membership of each committee shall include at least one member of the association board, and a majority of each committee shall be composed of persons who were not involved in making the adverse credit decision under review. The duties of the members of the review committees may not be delegated to any other person, except that the duties of the association board member on the committees may be delegated upon the unanimous vote of the association board.

§ 614.4443 Review process.

Each applicant who has received an adverse credit decision can request that such decision be reviewed by the institution's credit review committee. The applicant may submit any documents or other evidence which the applicant believes will demonstrate that the loan applied for is an eligible loan that statisfies the credit standards of the institution. The applicant may also appear in person before the committee. The credit review committee shall reach a decision on the application in its sole discretion. The credit review committee shall make every reasonable effort to conduct reviews and render decisions in as expeditious a manner as possible. Upon reaching a decision, the committee shall notify the applicant in writing of its decision and the reasons therefor.

§ 614.4444 Records.

System institutions shall maintain a complete file of all requests for reviews,

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including the disposition of the review by the credit review committee, and other written inquiries concerning adverse credit actions. Such file shall not include confidential documents prepared by the institution for the purpose of evaluating the quality of loans.

15. Subpart N of part 614 is amended by revising the table of contents and § 614.4510 (d), and by adding a new § 614.4513 to read as follows:

Subpart N—Loan Servicing Requirements

Sec.
614.4510 General.
614.4511 Federal land bank association compensation.
614.4512 Compromise of indebtedness.
614.4513 Forbearance.

Subpart N—Loan Servicing Requirements

§ 614.4510 General.

* * * * *

(d) In the development of bank and association loan servicing policies and procedures, the following criteria shall be included:

(1) *Term loans.* The objective shall be to provide borrowers with prompt and efficient service with respect to actions in such areas as personal liability, partial release of security, insurance requirements or adjustments, loan division or transfers, or conditional payments. Procedures shall provide for adequate inspections, reanalysis, reappraisal, controls on payment of insurance and taxes (and for payment when necessary), and prompt exercise of legal options to preserve the lender's collateral position or guard against loss. Loan servicing policies for rural home loans shall recognize the inherent differences between agricultural and rural home lending.

(2) *Operating loans.* The objective shall be to service such loans to assure disbursement in accordance with the basis of approval, repayment from the sources obligated or pledged, and to minimize risk exposure to the lender. Procedures shall require:

(i) The procurement of priodic operating data essential for maintaining control, for the proper analysis of such data, and prompt action as needed;

(ii) Inspections, reappraisals; and borrower visits appropriate to the nature and quality of the loan; and

(iii) Controls on insurance, margin requirements, warehousing, and the prompt exercise of legal options to reserve the lender's collateral position and guard against loss.

§ 614.4513 Forbearance.

(a) Each System institution has an obligation to its borrowers, stockholders, and investors in System debt obligations to collect all debts owed to the institution. In pursuit of that obligation, when a borrower is encountering financial difficulties the institution should consider alternative actions that will increase the likelihood of the borrower being able to repay the debt in an orderly fashion or that will improve the ability of the institution to collect the indebtedness.

(b) For purposes of this section, the term "forbearenace" means a voluntary refraining by a System institution from the enforcement of the terms of any loan document relating to a borrower's obligation to make any payment of principal or interest or comply with any other provision of such document, or the exercise by the institution of its rights under those documents or applicable law with respect to the loan. The types of forbearance actions available to an institution include, but are not limited to, the deferral or rescheduling of the payment of principal or interest, or the renewal or extension of the terms of a loan. The term "forbearance" does not include a reduction in the amount or rate of principal or interest due on a loan. Such actions constitute compromises of indebtedness and may only be entered into in accordance with the criteria contained in § 614.4512.

(c) Each district board and the Farm Credit System Capital Corporation board shall develop a written policy regarding the exercise of forbearance. The policy shall address, at a minimum, the following areas:

(1) The general circumstances under which the institutions will consider forbearance;

(2) The general criteria which the institutions will use in deciding whether to engage in forbearance;

(3) The person(s) responsible for making forebearance decision; and

(4) The nature and timing of communications which the institution will provide to a borrower concerning its consideration of a request for forebearance, its decision on whether to forebear, the nature and duration of any forebearance action which it proposes to take, and any change in its decision as to whether to forbear.

(d) Each institution shall provide a copy of the applicable policy to the borrower at least 10 days prior to the commencement of any collection action and shall make a copy of the policy available at its offices to any party upon request.

(e) All Federal land bank association and production credit association procedures concerning forbearance shall be approved by the bank for which the association serves as agent or which is the principal creditor of that association.

(f) Each System institution shall conduct its operations in a manner which is consistent with the applicable forbearance policy. No institution is authorized to take any forbearance action unless it determines, taking into consideration all relevant facts and legal options, including the effect of such action on the liability of cosigners or guarantors, that such action will result in the greatest net return to the institution for the ultimate benefit of its borrowers, stockholders, and investors.

16. The authority citation for Part 615 is revised to read as follows; and any other authority citations in the part are removed.

Authority: Secs. 5.9, 5.10, and 5.17, Pub. L. 99-205, 99 Stat. 1678.

17. Subpart J of Part 615 is amended by revising the table of contents and by adding a new § 615.5255 with the table of contents to read as follows:

Subpart J—Prescription, Subscription, and Retirement of Stock

Sec.
615.5250 Responsibility.
615.5255 Notice of retirement of capital stock.
615.5260 Early retirement of capital stock and allocated equities of banks for cooperatives.
615.5270 Purchase of class B stock of the Federal intermediate credit bank by production credit associations.
615.5280 Equalization of Federal intermediate credit bank class B stock and allocated reserve owned be production credit associations.
615.5290 Purchase of Federal intermediate credit bank participation certificates by other financing institutions.
615.5320 Retirement of Federal intermediate credit bank class B stock, participation certificates, and allocated legal reserve.

* * * * *

Subpart J—Prescription, Subscription, and Retirement of Stock

§ 615.5255 Notice of retirement of capital stock.

(a) Where the debt of a borrower of a production credit association or Federal land bank association is in default, the association may, but shall not be required to, retire at book value, not exceeding par or face value, all or part of the capital stock or any other equity owned by a borrower on which the association has a lien as collateral for the debt, in total or partial liquidation of the debt.

(b) Any retirements made by a production credit association or Federal land bank association under this section shall be made only upon the specific approval procedures issued by the district Federal intermediate credit bank or Federal land bank, respectively.

(c) Prior to making any retirement pursuant to this section, the association shall, at least 10 days prior to the retirement, provide the stockholder with written notice of the following matters:

(1) A statement that the association has declared the borrower's loan to be in default;

(2) A statement that the association will retire the stock of the borrower in total or partial liquidation of his or her loan;

(3) A description of the effect of the retirement on the relationship of the borrower to the association;

(4) A listing of the amount that will still be owed the association after the retirement of the stock; and

(5) The date on which the association will retire the stock of the borrower.

18. Authority citation for Part 618 is revised to read as follows:

Authority: Secs. 4.12A, 5.9, 5.10, and 5.17, Pub. L. 99-205, 99 Stat. 1678.

19. Subpart G is amended by revising the table of contents and § 618.8310, and by adding a new § 618.8325 to read as follows:

Subpart G—Releasing Information

Sec.
618.8300 General regulation.
618.8310 Lists of borrowers and stockholders.
618.8320 Data regarding borrowers and loan applicants.
618.8325 Disclosure of loan documents.
618.8330 Director, officer, or employee summoned as a witness.
618.8340 Information regarding personnel.
618.8350 Authority reserved to release information.

Subpart G—Releasing Information

* * * * *

§ 618.8310 Lists of borrowers and stockholders.

(a) Any System institution, for the purpose of protecting the security position of the institution, may provide lists of borrowers to buyers, warehousemen, and others who deal in produce or livestock of the kind that secures such loans. Lists of borrowers or stockholders shall not otherwise be released by any bank or association except in accordance with paragraph (b) of this section.

(b) (1) Each bank for cooperatives, Federal land bank association, and production credit association shall provide a copy of a current list of its stockholders within 10 days of the receipt of a written request by a stockholder. As a condition to providing the list, the bank or association may require that the stockholder agree and certify in writing that he or she will:

(i) Utilize the list exclusively for communicating with stockholders for permissible purposes; and

(ii) Not make the list available to any person, other than the stockholder's attorney or accountant, without first obtaining the written consent of the institution.

(2) A bank or association may, as an alternative to providing a list of its stockholders, mail or otherwise furnish to each stockholder a communication for a permissible purpose on behalf of the requesting stockholder. This alternative may be used only with the consent of the requesting stockholder and the agreement of the requestor to defray the reasonable costs of the communication. The bank or association shall provide the requesting stockholder a written estimate of the costs of handling and mailing the communication as soon as practicable after receipt of the stockholder's request to furnish a communication.

(3) For purposes of paragraph (b) of this section "permissible purpose" is defined to mean matters relating to the business operations of the bank or association. This shall include matters relating to the effectiveness of management, the use of corporate assets, and the performance of directors and officers. This shall not include communications involving commercial, social, political, or charitable causes, communications relating to the enforcement of a personal claim or the redress of a personal grievance, or proposals advocating that the bank or association violate any Federal, State, or local law or regulation.

§ 618.8325 Disclosure of loan documents.

(a) For purposes of this section, the following definitions shall apply:

(1) "Borrower" means any signatory to a loan contract who is either primarily or secondarily liable on such contract, including guarantors, endorsers, cosigners or the like.

(2) "Execution of the loan" means the time at which the borrower and the System bank or association have entered into a legal, binding, and enforceable loan contract and any subsequent amendment or modification of such contract.

(3) "Loan contract" means any written agreement under which a System bank or association loans or agrees to loan funds to a borrower in consideration for, among other things, the borrower's promise to repay the loaned funds at an agreed upon rate of interest.

(4) "Loan document" means any form, application, agreement, contract, instrument, or other writing to which a borrower affixes his or her signature or seal and which the lending bank or association intends to retain in its files as evidence relating to the loan contract entered into between it and the borrower, but shall not include any document related to a loan which the borrower has not signed.

(b) Each System bank and association shall provide copies of all loan documents to the borrower or the borrower's legal representative at the execution of the loan. Subsequently, upon written request of a borrower or a borrower's legal representative, a bank or association shall provide, as soon as practicable, copies of any loan documents signed by the borrower or other documents delivered by such borrower to that bank or association.

(c) Each System bank and association shall have available in its offices, copies of the institution's articles of incorporation or charter, and bylaws for inspection, and shall furnish a copy of such documents to any owner of stock or participation certificates upon request.

(d) The Farm Credit System Capital Corporation (Capital Corporation) shall, upon written request of a borrower or a borrower's legal representative, provide copies of any loan document signed by the borrower or other documents delivered by such borrower to the Capital Corporation.

Kenneth J. Auberger,
Acting Chairman.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-149-AD]

Airworthiness Directives: Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspections and modifications of the Boeing Model 747 emergency escape system including the escape slides. There have been

numerous reports of failures of the Model 747 evacuation system due to installation errors and equipment malfunctions. The proposed inspections and modifications will provide satisfactory overall reliability of the passenger evacuation system and provide corrective action for the malfunctions indentified in the listed service bulletins. Failure of the evacuation system could result in unusable escape slides and jeopardize successful emergency evacuation of an airplane.

DATE: Comments must be received on or before July 29, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-149-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124; BF Goodrich Company, Dept. 1809, 500 South Main Street, Akron, Ohio 44318; and Air Cruisers Company, P.O. Box 180, Belmar, New Jersey 07719. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Young, Airframe Branch, ANM-120S; telephone (206) 431-2929. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-149-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion: Recent reports of malfunctions of the Boeing Model 747 emergency escape system have resulted in a review of the past service history and all service bulletins related to the reliability of the Model 747 doors, escape slides, and related hardware. Based on this review, the FAA considers it necessary to propose requirements for inspections and modifications to achieve satisfactory reliability of the escape system. This will decrease the likelihood of malfunctions which could jeopardize successful evacuation of the airplane.

Inspection procedures and service bulletins were developed by the manufacturer as a result of problems discovered in service. These prescribe inspections and corrective actions, as necessary, to address the following problems:

A. There have been numerous reports of escape slide failures due to slide installation errors, door rigging problems, and problems with girt bar engagement. These conditions have resulted in slide failures. The proposed inspections would check the escape system for certain conditions, including installation errors and rigging problems, which may prevent successful operation of the Model 747 main deck escape slides. Boeing Model 747 Maintenance Manual Temporary Revision 52-607 describes these inspections and repairs, if necessary. Incorporation of these inspections into the operators' FAA-approved maintenance inspection program is proposed to detect and correct problems and, thus, achieve satisfactory reliability of the escape system.

B. There have been reports of failure of the off-wing escape slide compartment door to open due to loose control rod jam nuts, excessive movement of control rods, and corrosion of latch components. Failure of the door opening mechanism will prevent deployment of the escape slide. Boeing Model 747 Service Bulletin 25-2083, dated August 12, 1970, describes modifications to the off-wing compartment that will correct these problems.

C. There have been escape slide failures due to a trapped release cable. The release cable was trapped between the cover and the packboard release mechanism during installation, which prevented slide inflation. Boeing Model 747 Service Bulletin 25-2141, Revision 1, dated July 19, 1971, describes modifications to the packboard release mechanism to prevent entrapment of the release cable.

D. Tests of the off-wing escape slides have shown that they may not perform adequately at low temperatures. The slide may not inflate to the minimum operating pressure at low temperatures, which could result in delays in evacuating an aircraft in an emergency. Boeing Service Bulletin 747-25-2332, Revision 2, dated September 2, 1977, describes modifications to the off-wing escape slide inflation system to correct this condition.

E. There have been reports of escape slide failures due to corrosion of the pressure vessel actuator. Corrosion of the actuator will prevent the slide from inflating. Boeing Service Bulletin 747-25-2423, dated August 25, 1978, describes replacement of the actuator assemblies with an actuator made of material less susceptible to corrosion.

F. There have been reports of escape slide failures due to corrosion of the firing cable. This corrosion prevented movement of the firing cable when the slide compartment opens, thus preventing slide inflation. Boeing Service Bulletin 747-25-2501, Revision 1, dated January 11, 1985, describes inspections and replacement, if necessary, to remove corroded cables from service. Repetitive inspections would be required until the cables are replaced with cables less susceptible to corrosion.

G. During testing it was found that upper deck sldies could fail due to the stabilizing strap catching on the packboard. If the strap remains caught during deployment, the slide could tear and would not inflate. Boeing Service Bulletin 747-25-2485, Revision 1, dated May 25, 1982, describes modification of the packboard to prevent the strap from catching.

H. There have been reports of loose slide pack lacing due to the expansion of air trapped in the slide. If the lacing becomes disengaged, it may prevent proper slide deployment. Boeing Service Bulletin 747-25-2525, Revision 1, dated May 22, 1981, describes modification of the slide compartment to prevent air from being trapped in the slide.

I. Upper deck escape slide release cable slider connectors have been found incorrectly installed. Incorrect installation of slide release cable slider connectors would prevent proper slide deployment. Boeing Service Bulletin 747-25-2529, dated July 10, 1981, describes modification of the slide packboard to preclude incorrect installation.

J. There have been cases of off-wing escape slide latch release and door opening thrusters that did not fire during slide deployment. These failures were due to corrosion and moisture inside the thruster, which prevented the firing pin from striking the primer properly. Failure of the thruster will prevent slide deployment and result in an unusuable slide. Boeing Service Bulletin 747-25-2592, dated June 15, 1982, describes modification of the thrusters to correct the corrosion and moisture problem.

K. There have been reports of contaminated percussion primer in the off-wing slide door deployment thrusters. If the primer is contaminated, the thruster will not fire and the escape slide compartment may not open. Boeing Service Bulletin 747-25-2641, dated October 26, 1984, describes inspection and replacement, if necessary, of the thrusters to remove the suspect primers from service.

L. There have been reports of escape slide failures due to the girt bar at door number 5 detaching from the airplane when the door mode select lever indicated the door was in the automatic mode. This was caused by girt bar misalignment. If the girt bar detaches, the slide is unusable. Boeing Service Bulletin 747-52-2171, Revision 1, dated December 3, 1982, describes adjustment of the floor fittings and installation of new girt bar lifters to prevent the automatic indication if the girt bar is not properly engaged.

The following table lists the approximate number of U.S. registered airplanes that would be affected by this AD and gives an estimate of the manhours and cost of repair parts per airplane that it would take to accomplish each of the proposed inspections.

Item	No. of airplanes	Man-hours/ Airplanes	Parts
A	165	14	0
B	40	10	$133
C	78	30	2,370
D	0	28	18,380
E	7	8	2,636
F	165	48	1,086
G	12	16	0
H	9	12	243
I	6	7	651
J	165	10	2,040
K	165	4	1,020
L	165	16	2,273

Based on an average labor cost of $40 per manhour, and the table above, the total cost impact of this AD to U.S. operators is estimated to be $2,006,580.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 747 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

§ 39.13 [AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 747 series airplanes, certificated in any category. The applicability of each requirement is listed in the following paragraphs. Compliance required as indicated in the body of the AD. To detect installation errors and provide satisfactory reliability of the evacuation system, accomplish the following, unless already accomplished:

A. Inspect the Model 747 evacuation system in accordance with the following pages of the Boeing Maintenance Manual Temporary Revision 52-607, dated October 31, 1985, or later FAA-approved revisions, except as noted in 1. and 2. below, within nine months after the effective date of this AD, for airplanes, line number 2 through 630:

Chapter—Section—Subject	Page No.	Date	Code
52-11-07	601	Dec. 25, 1985	01.1
52-11-07	602-603	Dec. 25, 1985	701

1. For airplanes equipped with Air Cruisers slide rafts installed in accordance with STC SA1215EA, the following changes must be made to the inspections:

a. Page 602, Step C: The strap does not require disconnecting.

b. Page 604, Step P(3): The girt lanyard cables must be installed on both forward and aft pulleys in accordance with a Air Cruisers Installation Instructions P-11751.

c. Page 603, Step Q(13): This step may be deleted.

2. For airplanes equipped with BFGoodrich slide/rafts installed in accordance with STC SA574CL or SA575GL, replace page 602, Step C, and page 605, Step Q(13), with the survival kit instructions of BFGoodrich Service Bulletin 25-063.

Airplane evacuation systems that do not meet the inspection criteria must be repaired prior to further flight in accordance with the corrective action procedure listed in the Boeing Maintenance Manual Temporary Revision, or as amended by the Air Cruisers installation instructions.

B. Within the next nine months after the effective date of this AD, incorporate the inspections described in paragraph A., above, or later FAA-approved revisions or FAA-approved equivalent into the FAA-approved maintenance inspection program. These inspections apply to all Model 747 airplanes and must be accomplished at intervals not to exceed 30 months.

Note: Equivalent inspections may be approved by an FAA Principal Maintenance Inspector.

C. Within 18 months after the effective date of this AD, inspect and/or modify the evacuation system in accordance with the following service bulletins, or later FAA-approved revisions.

1. For airplanes listed in Boeing Model 747 Service Bulletin 25-2083, dated August 12, 1970, modify the off-wing escape slide compartment latch system in accordance with that Boeing Service Bulletin.

2. For all Model 747 airplanes equipped with evacuation slide assemblies (Boeing Part Number 60B00006-83 thru-102) and evacuation ramp assemblies (Boeing Part Numbers 60B50070-57 thru-60) modify the slide/ramp packboard release mechanism in accordance with Boeing Model 747 Service Bulletin 25-2141, Revision 1, dated July 19, 1971.

Note: These units may have been installed on airplanes other than those listed in the service bulletin.

3. For airplanes listed in Boeing Service Bulletin 747-25-2332, Revision 2, dated September 2, 1977, modify the off-wing escape slide inflation system in accordance with that Boeing Service Bulletin.

4. For Model 747 airplanes with reservoir assemblies (BFGoodrich Part Numbers 4A3037-12 and -13, 4A3038, and 4A3036-10 and -11) installed at the off-wing location, replace the actuator assembly portion of the reservoir assembly in accordance with Boeing Service Bulletin 747-25-2423, dated August 25, 1978.

Note: These reservoir assemblies may have been installed on airplanes other than those listed in the service bulletin.

5. For model 747 airplanes listed in Boeing Service Bulletin 747–25–2501, Revision 4, dated January 11, 1985, test and inspect the off-wing slide firing cable in accordance with that Boeing Service Bulletin.

a. Cables not meeting the test and inspection criteria must be replaced prior to further flight.

b. Repeat the inspection at intervals not to exceed two years until the cables are replaced in accordance with Paragraph III. J. of Boeing Service Bulletin 747–25–2501, Revision 4, dated January 11, 1985.

6. For Model 747 airplanes equipped with upper deck evacuation slide assemblies (Boeing Part Numbers 66B50072–31, –32, –39, –41 thru –46, –50 thru –52, –59 thru –61, and –63 thru –65), modify the slide assemblies in accordance with Boeing Service Bulletin 747–25–2465, Revision 1, dated May 25, 1982.

Note: These slide assemblies may have been installed on airplanes other than those listed in the service bulletin.

7. For Model 747 airplanes listed in Boeing Service Bulletin 747–25–2525, Revision 1, dated May 22, 1981, modify the off-wing escape slide compartment in accordance with that Boeing Service Bulletin.

8. For Model 747 airplanes equipped with upper deck escape slide packboard assemblies (Boeing Part Number 65B57019–41 and –42), modify the packboard in accordance with Boeing Service Bulletin 747–25–2529, dated July 10, 1981.

Note: These packboards may have been installed on airplanes other than those listed in the service bulletin.

9. For airplanes listed in Boeing Service Bulletin 747–25–2502, dated June 15, 1982, modify the off-wing latch release and door opening thrusters in accordance with that Boeing Service Bulletin.

10. For airplanes listed in Boeing Service Bulletin 747–25–2841, dated October 20, 1984, inspect and replace, if necessary, the off-wing door deployment thruster in accordance with that Boeing Service Bulletin.

D. For all Model 747 airplanes equipped with a combination slide/raft, within two years after the effective date of this AD, replace the Door No. 5 grit bar lifters and adjust the door floor fittings in accordance with Boeing Service Bulletin 747–52–2171, Revision 1, dated December 3, 1982, or later FAA-approved revisions.

E. Except as provided in paragraph B., above, an alternate method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

F. Upon request of an operator, an FAA Principal Maintenance Inspector, subject to approval by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the inspection times specified in this AD to permit compliance at an established inspection period of that operator if the request contains substantiating data to justify the change for that operator.

G. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124–2207; BF Goodrich Company, Dept 1809, 500 South Main Street, Akron, Ohio 44318; and Air Cruisers Company, P.O. Box 160, Belmar, New Jersey 07719. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on April 30, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–10250 Filed 5–7–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–NM–60–AD]

Airworthiness Directives: Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The notice proposes to adopt an airworthiness directive (AD) that would require replacement of the trolley roller and side track roller assemblies and the cable pulleys in the counterbalance system on certain Boeing Model 767 entry/service doors. This action is prompted by reports of component failures, which could prevent the door from opening when required for emergency evacuation.

DATE: Comments must be received on or before June 30, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, ANM–7, Attention: Airworthiness Rules Docket No. 86–NM–60–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Pliny Brestel, Aerospace Engineer, Airframe Branch, ANM–120S; telephone (206) 431–2931. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86–NM–60–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

Discussion: Operators have reported a number of instances in which an entry/service door was difficult to operate or could not be fully opened. Investigation revealed fifteen specific instances of entry/service door trolley roller and/or side track roller assemblies that were either worn, cracked, loose, and/or broken. Three of these reports indicated that the entry/service door jammed to the extent that excessive force was required to open the door, and one report indicated that the door could not be opened. Investigation also revealed two instances in which the spokes of a pulley in the door counterbalance system had broken. The failure allowed the cables to drag against the broken pulley and adjacent structure which resulted in frictional forces that exceeded the design capability of the counterbalance system to open the door.

Boeing issued Service Bulletin No. 767–52–0032 on September 13, 1985, which describes a modification of Model 767 entry/service doors by replacing the existing sintered metal roller assemblies with aluminum-nickel-bronze roller assemblies. Part kits (one kit per airplane) became available beginning October 4, 1985, and production of these kits for domestic and foreign operators will be completed by September 26, 1986.

Boeing issued Service Bulletin No. 767–52–0037 on March 21, 1986, which describes modification of the counterbalance system by replacing the existing cast aluminum pulleys with stronger aluminum alloy pulleys. Part Kits (one kit per airplane) will become available beginning May 9, 1986, and production of these kits for domestic and foreign operators will be completed by November 12, 1986.

Since a situation exists where the failure of door components could result in the entry/service door becoming inoperative during an emergency evacuation, an AD is proposed that would require replacement of certain roller assemblies, and modification of the counterbalance system by replacing the existing cast aluminum pulleys with stronger aluminum alloy pulleys, in accordance with the service bulletins referenced above.

It is estimated that 56 airplanes of U.S. registry would require replacement of the roller assemblies, which would require 56 manhours per airplane to accomplish; 61 airplanes of U.S. registry would require modification of the counterbalance system and would require 10 manhours per airplane to accomplish. At an estimated cost of $40 per manhour, the cost impact of this AD on U.S. operators is estimated to be $154,320.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 767 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

Boeing: Applies to the Model 767 series airplanes specified in the Boeing service bulletins listed below, certificated in any category.

To ensure proper entry/service door operation during emergency evacuation, accomplish the following within 9 months after the effective date of this AD, unless previously accomplished:

A. For airplanes listed in Boeing Service Bulletin 767–0032, dated September 13, 1985, remove and replace the entry/service door trolley roller and side track roller assemblies in accordance with Boeing Service Bulletin 767–52–0032, dated September 13, 1985, or later FAA-approved revisions.

B. For airplanes listed in Boeing Service Bulletin 767–52–0037, dated March 21, 1986, replace the counterbalance cable pulleys in accordance with Boeing Service Bulletin 767–52–0037, dated March 21, 1986, or later FAA-approved revisions.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposal who have not already received copies of the manufacturer's service bulletins may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124–2207. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on April 30, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–10260 Filed 5–7–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 86–NM–27–AD]

Airworthiness Directives: McDonnell Douglas Model DC–6, –6A, –6B, R6D, and C–118 (Military) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to amend an existing airworthiness directive (AD), applicable to McDonnell Douglas DC–6, –6A, –6B, R6D, and C–118 (Military) airplanes which requires inspection and repairs, if necessary, of wing lower fittings, stringers, and skin. This amendment defines a more accurate X-ray technique to assure proper coverage and sensitivity. This amendment also revises the inspection intervals as a result of recent service experience.

DATE: Comments must be received no later than June 30, 1986.

ADDRESS: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, ANM–7, Attention: Airworthiness Rules Docket No. 86–NM–27–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1–L65 (54–60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. William Roberts, Aerospace Engineer, Airframe Branch, ANM–121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514–6319.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified

above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-NM-27-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

AD 80-12-02, Amendment 39-3785 (45 FR 37811), requires X-ray, internal visual, and partial external dye penetrant inspections of the left and right wing lower fittings, stringers, and skin to detect cracks on McDonnell Douglas DC-6 series airplanes. Subsequent to issuance of AD 80-12-02, the FAA has determined that the inspections specified by the AD are not effective in detecting cracks in certain of these locations. Such cracks, if not detected, could lead to loss of strength capability of the wing.

McDonnell Douglas issued Report No. MDC-J1946, Revision "A", dated July 28, 1985, which describes an inspection method which will detect such cracking. When using this method of inspection, the FAA has determined that the interval between inspections may be extended and still provide an acceptable level of safety.

Since this situation is likely to exist or develop on other airplanes of the same type design, the FAA proposes to amend AD 80-12-02 to specify a more effective X-ray procedure and extend the time interval between X-ray inspections. In addition, the proposal revises references in the existing AD to FAA officials to conform with current delegations of authority.

It is estimated that 187 airplanes of U.S. registry would be affected by this AD, that it would take approximately 3 manhours per airplane to accomplish the required action, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $22,440. Because the inspection interval has been extended from 500 to 1,000 hours, this incremental cost is absorbed, and the AD provides a net savings to the operator.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because of the number of airplanes and the small size of the inspections added. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By amending AD 80-12-02, Amendment 39-3785 (45 FR 37811), as follows:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-6, -6A, -6B, R6D and C-118 series aircraft, certificated in any category. Compliance required as indicated, unless previously accomplished.

A. Revise paragraph (b)(2) to read as follows:

"(2) Repair cracks in accordance with Douglas Structural Repair Manual or other repair data approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region."

B. Revise paragraph (c)(1) to read as follows:

"(1) Inspect by X-ray the left and right wing lower skin, stringers, and fittings between wing station 60 to 130 and 167 to 185, from the front spar to the center spar; and inspect by X-ray the wing skin that lies beneath the skate angle at wing station 130 at the inboard edge of the inboard nacelle, both left and right wing, in accordance with Douglas Aircraft Company Report MDC-J1946, "NDI Inspection Techniques for DC-6 Lower Wing Skin at Station 130," Revision "A," dated July 28, 1985, or later revision approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region."

C. Reidentify paragraph (c)(4) as (c)(5), and revise to read as follows:

"(5) Repair cracks prior to further flight in accordance with Douglas Structural Repair Manual or other repair data approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region."

D. Add a new paragraph (c)(4) to read as follows:

"(4) The interval for conducting the X-ray inspection in paragraph (c)(1), above, may be extended from 500 to 1,000 hours time-in-service from the last X-ray inspection, provided that the visual inspection specified in paragraph (c)(2), above, is extended to cover wing stations 60 to 185 from the front spar to the center spar, when the X-ray inspection is not accomplished."

E. Delete paragraphs (d) and (e) and add a new paragraph (d) to read as follows:

"(d) Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region."

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Douglas Aircraft Company, P.O. Box 1771, Long Beach, California 90801, Attention: Publications Department, C1-L65 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on April 30, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-10257 Filed 5-7-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 86-NM-31-AD]

Airworthiness Directives: McDonnell Douglas Model DC-9-81 (MD-81) and DC-9-82 (MD-82) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require inspection and replacement, as necessary, of Main Landing Gear Retainer assemblies on McDonnell Douglas DC-9-81 (MD-81) and DC-9-82 (MD-82) series airplanes. This proposal is prompted by a report of a main landing gear (MLG) wheel which became separated from the aircraft during landing. This proposed AD is needed to minimize the possibility of a wheel assembly separation during the wheel rotation.

DATE: Comments must be received no later than June 30, 1986.

ADDRESS: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, ANM-7, Attention: Airworthiness Rules Docket No. 86-NM-31-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-L65 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Jerald R. Berube, Aviation Safety Inspector, Manufacturing Inspection Branch, ANM-160L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6341.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-NM-31-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

One operator has reported one incident where the inboard right main landing gear (MLG) wheel assembly separated from the aircraft during landing. Investigation has revealed that the cause of the separation was a missing axle nut retainer lockpin which serves as an anti-rotation device for the axle nut. Further investigation revealed that the missing lockpin resulted from a non-conforming interference fit between the pin and retainer.

McDonnell Douglas issued Alert Service Bulletin A32-208, dated July 3, 1985, which describes inspection and replacement, if necessary, of axle nut retainer assembly P/N 3037043-1 (four per airplane). Inspecting the retainer assembly will assure that the lockpin is properly installed and aligned with the axle nut and wheel assembly to prevent separation during wheel rotation.

Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive (AD) is being proposed which would require inspection and replacement, if necessary, of retainer assemblies on the main landing gear on McDonnell Douglas DC-9-81 (MD-81) and DC-9-82 (MD-82) series airplanes in accordance with the service bulletin mentioned above.

It is estimated that 140 airplanes of U.S. registry would be affected by proposed AD, that it would take approximately 4 manhours per airplane to accomplish the required action, and that the average labor cost would be $40 per manhour. Parts required for the modification would be provided by the aircraft manufacturer upon request. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $23,360.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model DC-9-81 (MD-81) and DC-9-82 (MD-82) series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulation as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a); 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [AMENDED]

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9-81 (MD-81) and DC-9-82 (MD-82) series airplanes, certificated in any category. Compliance requires as indicated, unless previously accomplished.

To preclude the potential of main landing gear wheel assembly separation from the airplane, accomplish the following:

A. Within 6 months after the effective date of this airworthiness directive (AD), inspect and replace, as necessary, the main landing gear axle nut retainer in accordance with the accomplishment instructions of McDonnell Douglas Corporation Alert Service Bulletin A32-208, dated July 3, 1985, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-L65 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on April 30, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-10255 Filed 5-7-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-NM-28-AD]

Airworthiness Directives: McDonnell Douglas Model DC-10-10, -10F, -15, -30, -30F, and KC-10A (Military) Airplanes, Fuselage Numbers 1 through 412

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require installation of a secondary retention system for the engine core cowl doors on certain McDonnell Douglas DC-10 airplanes. This action is prompted by incidents in which failure occurred to the engine core cowl door latches. This AD is necessary because improper engagement of the engine core cowl door latches, without the secondary retention system, may result in separation of the door, which in turn may cause structural damage to the airplane during flight.

DATE: Comments must be received no later than June 30, 1986.

ADDRESS: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, ANM-7, Attention, Airworthiness Rules Docket No. 86-NM-28-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT:

Mr. Augusto U. Coo, Aerospace Engineer, Airframe Branch, ANM-121L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 514-6319.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, ANM-7, Attention, Airworthiness Rules Docket No. 86-NM-28-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

Nine operators have reported sixteen incidents where McDonnell Douglas Model DC-10 core cowl doors were lost or damaged in flight. Some losses reaulted in structural damage to the aircraft. In one recent incident, an airplane lost the forward portion of the right-hand core cowl door of the #3 engine after it had climbed to 17,000 feet altitude. The peeled-off portion of the the cowl door made holes in the wing leading edge, made a four square foot hole in the fuselage, and damaged the vertical stabilizer between the #2 engine and the fuselage. The core cowl door separation was caused by failure of the door forward latch to secure and fair the door's leading edge against the force of the engine fan exhaust. This has also been the cause of failure in a majority of previous similar incidents.

Since this situation is likely to exist or develop on other airplanes of the same type design, this AD would require installation of a secondary retention system for the engine core cowl doors on certain McDonnell Douglas DC-10 airplanes.

It is estimated that 150 airplanes of U.S. registry would be affected by this AD, that it would take approximately 100 manhours per airplane to accomplish the required action, and that the average labor cost would be $40 per manhour. The kit cost per airplane is approximately $2,000. Based on these figures, the total cost impact of the AD is estimated to be $900,000.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model DC-10 and KC-10A (Military) series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-10-10, -10F, -15, -30, -30F, and KC-10A (Military) airplanes, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent structural damage to the airplane due to engine core cowl door separation, accomplish the following:

A. Within twelve months after the effective date of this AD, modify the core cowl doors by installing a secondary retention system for the engine core cowl doors in accordance with data approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Range.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a base for accomplishment of modifications required by this AD.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

Issued in Seattle, Washington, on April 30, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-10256 Filed 5-7-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Suspensions, Terminations, and Advance Notice of Unfavorable Determination

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Social Security Administration (SSA) is revising its regulations in Subpart M of Part 416 to include new policies, legislative changes, and to make the regulations clearer and more understandable to the public. These Subpart M rules describe events and circumstances that require SSA to stop the payment of supplemental security income (SSI) benefits to beneficiaries and the procedures followed before reducing or stopping payment of SSI benefits. A beneficiary who is found ineligible for SSI benefits may lose Medicaid coverage depending on the provisions of each State's Medicaid plan. We are also amending Subpart G rules because of the Subpart M policy changes on stopping benefits for not providing SSA with necessary information. Additionally, we are deleting a Subpart P rule that is already contained in Subpart M.

DATE: Comments must be received on or before July 7, 1986.

ADDRESS: Comments should be submitted to the Acting Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3-A-3 Operations Bldg., 6401 Security Boulevard, Baltimore, MD 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during those same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT:

C.H. Campbell, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 597-3408.

SUPPLEMENTARY INFORMATION: The Subpart M rules are being reorganized and rewritten to: (1) Simplify and clarify their content, (2) delete those provisions which are located in other subparts of this Part in order to better organize the entire Part, and (3) add to and revise those rules which need to be changed. Our revision of a Subpart M rule required us to make a similar amendment to two Subpart G rules. Additionally, we are deleting a Subpart P rule that duplicates a Subpart M rule.

I. Organization of Subpart M

We have added subtitles to Subpart M so that the reader can find specific provisions more easily. The subtitles and subject matter under each subtitle are:

1. "General"—This section introduces the reader to the subpart's subject matter, defines the major terms used in the subpart, explains when we stop presumptive eligibility payments, when we withhold benefits for reasons other than ineligibility and generally discusses reduction, suspension, and termination of benefits under the SSI program.

2. "Suspensions"—This section states which events require SSA to suspend the paying of benefits because of the beneficiary's loss of eligibility for SSI benefits, explains how SSA determines when suspension begins, and explains how and when payment of benefits can be reestablished.

3. "Terminations"—This section states which events will terminate a beneficiary's eligibility for SSI benefits and when a beneficiary's eligibility will end following such events.

4. "Advance Notice and Continuation of Benefits"—This section contains the rules we follow for informing a beneficiary that SSA has made an adverse finding concerning (1) continuing eligibility for benefits (suspension or termination) or (2) the benefit amount (reduction of benefits), and informing him or her of the right to appeal and continue to receive payment at the pre-determination (or prior) level of payment pending a decision at the initial level of appeal.

II. General

We are adding several new sections to Subpart M to be included under the subtitle "General." Also we are deleting two provisions from the current Subpart M because they are included in other subparts.

1. *Introduction*—This section (§§ 416.1300) generally describes the subpart matter covered in Subpart M.

2. *Definitions*—This section (§ 416.1305) defines certain terms used throughout the subpart. We are including in this section a definition of "redetermination." This definition (the same definition contained in Subpart B of this Part) makes clear that a redetermination's scope is limited to deciding a beneficiary's continuing eligibility under the SSI eligibility requirements (other than disability or blindness) and the beneficiary's correct benefit amount.

3. *Stopping Presumptive Eligibility Payments*—This section (§ 416.1310) describes when we will stop a person's presumptive eligibility payments. The term "presumptive eligibility payments" refers to those payments a person may receive based on probable but not established eligibility for SSI benefits. We added to this section a statement that we stop payment of a person's presumptive eligibility benefits based on presumptive blindness if we find that the person is not blind as defined in § 416.931.

4. *Stop-Payment Actions*—This section (§ 416.1315) contains the rules for stop-payment actions. What we call a stop-payment action is referred to in the current rules as a "suspension of payments for administrtive reasons." Under present regulations, a beneficiary's benefits are withheld when the beneficiary cannot be found or there is no one to receive payments on a beneficiary's behalf (i.e., representative payee). Our revised rules are as follows:

(a) A stop-payment only applies if we have to withhold payment of benefits because a beneficiary needs but does not have a representative payee.

(b) A redetermination of eligibility is required before we resume paying benefits after a stop-payment action if there is any indication that a requirement for eligibility is no longer met.

(c) Unless the beneficiary is a medically determined drug addict or alcoholic, legally incompetent, or a child under age 15, we will not withhold benefits after a stop-payment for more than 90 days and, even though a payee is not determined, we will make direct payment to the beneficiary after the 90 days expires.

5. *Reduction of Benefits*—This section (§ 416.1320) identifies those situations requiring the reduction of the benefit amount. The rules for computing the amount of benefit reduction are provided in the other subparts of this Part (mostly in Subpart D).

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6. *Suspensions and Terminations*—This section (§ 416.1324) describes suspensions and terminations of SSI benefits. Either a suspension or a termination will occur whenever a beneficiary no longer meets a requirement for SSI benefits. We explain that the major difference between these two actions concerns whether the beneficiary is required to file a new application before benefits can be started again. After suspension, we do not require a new application to reestablish eligibility, and we will reinstate benefits effective either the first day of the month or, if proration applies, the first day within the month the beneficiary is again eligible to receive benefits. After termiantion, we require a new application to reestablish eligibility except where a beneficiary appeals the termination action and eligibility is reestablished during the period the appeal is pending. If a new application is required, we start benefit payments again no earlier than the day in the month in which the new application is filed if the SSI eligibility requirements are again met at that time.

7. *Deletions From the Current Rules*—The reorganized Subpart M does not include the statement, contained in § 416.1321(c) of the current Subpart M, concerning denial of eligibility following a person's receipt of financial emergency payments. Since these payments are paid on a one-time-only basis and suspension and termination rules do not apply, this rule does not belong in Subpart M. Therefore, a statement concerning these payments will be found only in Subpart E of this Part.

We do not include in Subpart M the statement contained in § 416.1324 of the current Subpart M, regarding the countable resource limits for SSI eligibility. We refer the reader to Subpart L of this part which contains the rules on resources and describes the specific limits.

We are deleting § 416.1605 from Subpart P. This section describes the period of time a beneficiary must be present in the United States (U.S.) to receive benefits after having been suspended for being outside the U.S. (see section 1611(f) of the Social Security Act (the Act)). However, this section does not belong in Subpart P since Subpart P concerns the SSI eligibility requirements of U.S. residence and U.S. citizenship or alien status based on either lawful admittance or color of U.S. law (see section 1614(a)(1)(B) of the Act). We are incorporating the current § 416.1605 provisions into § 416.1344 of the attached proposed rules and, consequently, § 416.1605 is superfluous.

III. Suspension of Benefits

We are making changes in the Subpart M rules and in two Subpart G rules on suspension of benefits to reflect statutory enactments and current policies.

1. *Suspension—Beneficiary's Whereabouts are Unknown*—The proposed rule (§ 416.1334) provides that withholding a beneficiary's benefits solely because his or her whereabouts are unknown is a suspension and thus an "initial determination" as defined in § 416.1402. As is the case with other initial determinations, this means that we will now provide appeal rights with respect to the suspension and send a notice to the beneficiary at his or her last known address about the suspension and his or her right to appeal. Also, a beneficiary's eligibility will terminate where benefits have been suspended for 12 continuous months because his or her whereabouts are unknown.

2. *Suspension—The Beneficiary Did Not Provide Information We Needed to Determine Whether Eligibility Continues*—Currently benefits are suspended if the beneficiary fails to provide requested information needed to determine whether eligibility continues. We are revising the Subpart M rule (which is § 416.1332 of the attached recodification) to state that suspension is also required if the requested information is not provided by the beneficiary's—

(a) Representative payee if he or she is the—

(i) Legal guardian; or

(ii) Parent with custody of a minor child beneficiary; or

(b) Sponsor (or his or her living-with spouse) where the beneficiary is an alien.

We make it more explicit that, if we have information that requires suspension of benefits, we require the beneficiary (or in certain cases his or her representative payee or sponsor) to show that it is incorrect. If this information is not shown to be incorrect, we will assume that it is correct and suspend benefits accordingly.

The revisions to the Subpart M rule also require us to revise §§ 416.704 and 416.714(b) of Subpart G. The amended § 416.704 provides that all representative payees have the responsibility for making required reports on their beneficiaries. Paragraph (b) of § 416.714 and § 416.1332 states, however, that a benefit suspension will occur only when the party failing to submit the required evidence is the beneficiary or a payee who has the legal power and duty to care for the beneficiary and manage his or her property and rights such as a payee who is a legal guardian or parent. We will not suspend SSI benefits on the basis of failing to submit the required evidence if the representative payee failing to submit the evidence does not have the legal power and duty to act on the beneficiary's behalf. In this situation, we will obtain the needed evidence from other sources and we will develop for another payee.

3. *Suspension Due to Excess Income*—The current rules state that we usually determine benefit eligibility on a calendar quarter basis and benefit suspension, if required, is usually made beginning in the first month and for all months of the calendar quarter. However, as a result of the retrospective monthly accounting (RMA) provisions (section 1611(c) of the Act as amended by section 2341 of Pub. L. 97–35) we will now make—

(a) The beneficiary's benefit eligibility determination on a monthly basis and suspend benefits each month countable income in that month is found to equal or exceed the benefit rate applicable to the current month; and

(b) The calculation of the beneficiary's current month's benefit amount on the countable income of a retrospective month and suspend benefits if that prior month's countable income equals or exceeds the benefit rate applicable in the current month.

4. *Suspension Due to Excess Resources*—Section 1611(c) of the Act as amended by section 2341 of Pub. L. 97–35, also requires a monthly determination of eligibility based on the resources in a month (rather than a calendar quarter). These proposed regulations reflect this statutory provision by requiring that benefits be suspended for each month that a beneficiary's resources exceed the limits as of the first moment of the month. This has been the policy since April 1, 1982, and is discussed in the proposed rule recodifying the regulations on resources (see 47 FR 50511 of November 8, 1982) and the proposed rule on proration of benefits (see 50 FR 36108 of September 5, 1985). Prior to April 1, 1982, a beneficiary could, under the prior policy, spend down to the limit within a month and be paid for that month.

IV. Resumption of Benefit Payments Following Suspension

These proposed rules contain provisions on benefit resumption following suspension or termination and include the "proration" provision in

section 181 of Pub. L. 97–248 (section 1611(c)(2) of the Act) which generally provides that a beneficiary's reeligibility for benefits in certain cases begins on the day within the month of reeligibility when all the eligibility requirements are again met. In these cases, a "prorated" benefit is payable for that month based on the actual number of days of benefit eligibility within that month. In other cases, reeligibility will begin effective with the first day of the month and the benefit amount in the month of reeligibility will not be prorated.

1. *Resumption after suspension for not providing us with necessary information*—We resume payment of benefits effective with the first day of the month in which we have the necessary information and determine that benefits are again payable. We will pay retroactive benefits for all months that benefits are found payable as established by a redetermination of eligibility.

2. *Resumption after suspension for whereabouts unknown*—We resume paying benefits to a beneficiary after we find him or her. If we find the beneficiary within 31 days after the date his or her whereabouts became unknown, we generally resume benefits effective with the first day of the month in which benefits were suspended and without first redetermining the beneficiary's continuing eligibility for benefits. If we find the beneficiary more than 31 days after the date his or her whereabouts became unknown, we generally resume benefits for all months that benefits are again payable as established by a redetermination of eligibility.

A beneficiary's whereabouts are usually determined to be unknown when a check or letter/notice from the Social Security Administration is returned by the U.S. Postal Service indicating the individual cannot be found or a bank refuses an electronic-funds transfer. Where we cannot locate a beneficiary's whereabouts after a check is returned, we presume that the check's delivery date is the date that the beneficiary's whereabouts are unknown (unless a later date is proven). (Note: Checks are post dated with the expected delivery date and are usually delivered by the date on the check.)

3. *Resumption after suspension for excess countable income*—We resume payment of benefits if benefits are othewise payable to the beneficiary, effective with the first day of the month in which the beneficiary's monthly countable income becomes less than the benefit rate for such month. The income rules are in Subpart K of this Part.

4. *Resumption after suspension for excess countable resources*—We resume payment of benefits if benefits are otherwise payable to the beneficiary, effective with the first day of the *month after the month* during which a beneficiary's countable resources are brought within the prescribed limit. The resources rules are in Subpart L of this Part.

Previously, if a beneficiary's countable resources exceeded the applicable limit as of the first moment of a calendar quarter but he or she spent them down to within the limit during the quarter, we resumed benefits effective with the month during which resources came within the limit. We changed the rule in connection with implementation of section 2341 of Pub. L. 97–35 so that we determine a beneficiary's countable resources as of the first moment of each month and at no other time. That is, we do not take into account changes in resources that take place during a month; rather, we look at such changes as of the first moment of the following month.

5. *Resumption after suspension of payment to a person who is a resident of a public institution*—We resume payment of benefits, if benefits are otherwise payable to the beneficiary, effective on the day on which a beneficiary is no longer a resident of a public institution. We make it clear, however, that the beneficiary's temporary absence from the institution lasting 14 days or less will not change his or her status as an institutional resident and thus suspension applies.

6. *Resumption after suspension for not accepting treatment for drug addiction or alcoholism*—We resume benefits if benefits if benefits are otherwise payable to the beneficiary, effective on the day on which the beneficiary again accepts the required treatment or the beneficiary is found eligible is found eligible for SSI benefits on some other basis independent of drug addiction or acoholism.

7. *Resumption after suspension for leaving the United States (U.S.)*—We resume benefits if benefits are otherwise payable to the beneficiary, effective on—

(a) The day on which the beneficiary returned to the U.S. if he or she was away a full calendar month but less than 30 consecutive days; or

(b) The day after the 30th consecutive day of the beneficiary's continous presence in the U.S. since his or her return to the U.S., if he or she was outside the U.S. for a period of 30 consecutive days or more.

8. *Resumption after suspension for refusing vocational rehabilitation (VR) services*—We resume payment of benefits, if benefits are otherwise payable to the beneficiary, effective on the day on which he or she no longer refuses VR services (if suspension was on this basis), or where "good cause" for refusing VR services is established, or where the beneficiary makes himself or herself available for an examination to evaluate his or her rehabilitation potential (if the suspension was based on refusal to undergo the examination).

9. *Resumption after suspension for not being a U.S. resident, U.S. citizen, lawfully admitted alien or alien permanently residing under color of law*—We resume payment of benefits, if benefits are otherwise payable to the beneficiary, effective on the day on which U.S. residence and either U.S. citizenship or lawful alien status (or alien status based on permanent U.S. residence under color of law) is again established.

10. *Resumption after suspension for failure to file for other benefits*—We resume payment, if benefits are otherwise payable to the beneficiary, effective on the day on which the beneficiary shows that he or she is taking the necessary steps to apply for and obtain other benefits for which he or she may be eligible.

V. Terminations

We made the following revisions and additions to the current Subpart M rules on terminations and resumption of benefits after terminations.

1. *Administrative Termination—12 Months of Continuous Suspension*—We are adding the following provisions to the present rules governing administrative termination of the beneficiary's payment record after 12 months of continuous suspension:

(a) The 12-month suspension period starts with the month in which we should have suspended payment of benefits rather than the month in which we did suspend.

(b) If the beneficiary received advance notice (see § 416.1336) at the time benefits were suspended, we will not give advance notice for the administrative termination of the beneficiary's payment record after 12 months of continuous suspension since we satisfied the advance notice requirement at the time benefits were suspended. In addition, no notice will be sent at the time of termination. However, if the beneficiary had not received advance notice when benefits were suspended, we will send an

advance notice of this administrative termination action.

(c) An administrative termination following 12 months of continuous suspension is rescinded if the preceding suspension determination is revised as the result of a decision on appeal. This statement makes clear that an administrative termination for 12 continuous nonpayment months can be overturned.

2. *Resumption of Benefit Payments After Termination*—We are including rules to state that we will resume benefits effective on the day on which the beneficiary again meets all the requirements for SSI eligibility including the filing of an application.

3. *Reeligibility For Benefits After Voluntary Termination of Eligibility*—We are providing that refiling for benefits after a voluntary termination (see § 416.1300), retroactively cancels the prior termination request if the refiling is within a 60-day period after the date the beneficiary received the termination notice. We made this change because a beneficiary, who expects a decrease in countable income in the future, may request termination and subsequently reapply to obtain a higher benefit amount based on the decreased countable income that is payable effective the month of decreased income. Otherwise, under the retrospective monthly accounting provisions contained in section 1611(c) of the Social Security Act, the higher benefit amount based on the decreased income is generally payable effective in the second month after the month of decreased income. By this rule we will prevent a beneficiary from seeking voluntary termination and subsequently reapplyng to obtain increased monthly benefits beginning the month income decreases.

VI. Advance Notice, Appeal, and Benefit Continuation Pending a Decision on Appeal

We are clarifying and changing our rules on continuing benefits pending the outcome at the initial appeal level of a beneficiary's appeal of an SSA determination that would reduce or stop his or her benefit payments. We make it clear that beneficiaries, pending the outcome at the initial appeal level, are entitled to a benefit increase to their predetermination level of payment whenever such an increase is given under the SSI program. This rule reflects the settlement made in the case of *Morrell* v. *Schweiker* that we will make any required increase in the beneficiary's payments pending the appeal decision. We will also continue our current policy of processing any adverse changes to the benefit amount paid pending an appeal of a determination, with advance notice and the opportunity for payment continuation.

We are eliminating from Subpart M the rules on advance notice, appeal, and benefit continuation for medical cessation cases. We will publish a separate rulemaking document implementing section 7 of Pub. L. 98–460 (The Social Security Disability benefit Reform Act of 1984), that provides for title XVI benefit continuation in medical cessation cases. These rules will be contained in Subpart I of Part 416.

We increased the maximum dollar limit on the benefit amount that we can continue to pay a beneficiary pending a decision being made on the appeal. We are making this change because increased benefit amounts are being paid to beneficiaries as a result of the benefit increases in the SSI program over the years.

Regulatory Procedures

Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be prepared for major rules. A major rule is defined in the Order as any rule that has an annual effect on the national economy of $100 million or more—or certain other effects. We conclude that these proposed regulations are not major rules within the meaning of the Executive Order because they do not have an effect on the economy of $100 million or more, or otherwise meet the criteria.

Paperwork Reduction Act

These regulations impose no recordkeeping or reporting burden on the public.

Regulatory Flexibility Act

We certify that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entities because these rules will affect only individuals.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

List of Subjects in 20 CFR Part 416

Administrative practice and procedures, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI).

Dated: January 9, 1986.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: February 28, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

PART 416—[AMENDED]

Part 416 of Chapter III, title 20 of the Code of Federal Regulations is revised or amended as follows:

1. The authority citation for Subpart G continues to read as follows:

Authority: Secs. 1102, 1611, 1612, 1613, 1614, and 1631 of the Social Security Act, as amended; Sec. 211 of Pub. L. 93–66; 49 Stat. 647, as amended; 86 Stat. 1466, 1468, 1470, 1471, and 1475; 87 Stat. 154; 42 U.S.C. 1302, 1382, 1382a, 1382b, 1382c, and 1383.

2. Section 416.704 is revised as follows:

§ 416.704 Who must make reports.

(a) You are responsible for making required reports to us if you are—

(1) An eligible individual (§ 416.120(c)(13));

(2) An eligible spouse (§ 416.120(c)(14));

(3) An eligible child (§ 416.1856); or

(4) An applicant awaiting a final determination.

(b) You or your representative payee are responsible for making the required reports to us if you have a representative payee but have not been adjudged legally incompetent.

(c) Your sponsor (or his or her living-with spouse) is responsible for making the required report to us if you are an alien claimant.

(d) Your parent having custody of you is responsible for making the required reports to us if you are a minor child.

(e) Your representative payee is responsible for making the required reports to us if you are legally incompetent.

§ 416.714 [Amended]

3. In § 416.714, paragraph (b) is revised as follows:

* * * * * *

(b) *We request a report.* We may request a report from you or the person specified in § 416.1332 if we need information to determine your continuing eligibility or the correct amount of your SSI benefits. If you or the person specified in § 416.1332(a)(1) does not report the needed information within 30 days after the date specified in our written request, we may determine that you are ineligible to receive SSI benefits. We will suspend your benefits effective with the month following the month in which we determined that you

are ineligible to receive SSI benefits because of your failure to give us necessary information.

4. 20 CFR Part 416, Subpart M is revised to read as follows:

Subpart M—Suspensions, Terminations and Advance Notice of Unfavorable Determination

General

Sec.
416.1300 Introduction.
416.1305 Definitions.
416.1310 When presumptive eligibility payments will stop.
416.1315 Stop-payment actions.
416.1320 Benefit reduction explained.
416.1324 Suspension and termination explained.

Suspensions

416.1332 Suspension: you do not provide necessary information.
416.1334 Suspension: your whereabouts are unknown.
416.1336 Suspension: you have too much countable income.
416.1338 Suspension: the value of your countable resources exceeds the limit.
416.1340 Suspension: you are a resident of a public institution.
416.1342 Suspension: you do not accept treatment for drug addiction or alcoholism.
416.1344 Suspension: you leave the United States.
416.1346 Suspension: you are no longer a resident of the United States, a United States citizen, an alien lawfully admitted for permanent residence, or an alien permanently residing in the United States under color of law.
416.1348 Suspension: you refuse vocational rehabilitation services.
416.1350 Suspension: you fail to apply for other benefits.
416.1352 Suspension of State supplementary payments: you no longer meet the State residence requirement.

Terminations

416.1360 Termination at your request.
416.1368 Temrination because of your death.
416.1372 Administrative termination because of continuous suspension.
416.1374 Termination of your benefits based on cessation of disability or blindness.
416.1376 Cessation of your disability; you participate in a vocational rehabilitation program.

Notice of Unfavorable Determination and Continued Payments

416.1380 If you appeal a determination to withhold, reduce, suspend, or terminate benefits; determination other than loss of eligibility because of medical improvement.
416.1390 Exception to continued payment at the previous level; you received two or more checks for one month.
416.1392 Exception to continued payment at the previous level; your check amount exceeds the maximum payment level.

Authority: Secs. 1102, 1601, 1611–1616, 1631 and 1633 of the Social Security Act, as amended, and secs. 211 and 212 of Pub. L. 93–66; 49 Stat. 647, as amended, 86 Stat. 1465–1478; 87 Stat. 154 and 155, 90 stat. 268, 94 stat. 453 (42 U.S.C. 1302, 1381–1382e, 1383, and 1383b).

Subpart M—Suspensions, Terminations and Advance Notice of Unfavorable Determination

General

§ 416.1300 Introduction.

(a) This Subpart contains rules for stopping and reinstating supplemental security income (SST) benefits. These rules describe—

(1) When we will stop presumptive eligibility payments (see § 416.1310);

(2) When we will withhold benefits under the stop-payment provisions (See 416.1315);

(3) The events that require us to suspend or terminate benefits;

(4) When we will suspend or terminate benefits after these events occur; and

(5) When we will resume the payment of benefits;

(b) The Subpart also provides the rules concerning—

(1) When we will provide advance notice of our intention to reduce, suspend, or terminate benefits; and

(2) When we will continue paying benefits after making a determination to reduce, suspend, or terminate benefits.

(c) For purposes of this Subpart, the month that benefits are suspended or eligibility is terminated refers to the first month in which a beneficiary is no longer eligible for benefits. Thus, the "month of suspension" or "month of termination" does not refer to the month in which we actually stop payment if the stoppage of payment occurs after the first month of ineligibility.

§ 416.1305 Definitions.

For purposes of this Subpart—

"Advance notice" is written notice given to a beneficiary to inform him or her of a proposed reduction, suspension, or termination of SSI benefits.

"Benefits" are the supplemental security income (SSI) payments that are payable to an eligible couple. The Federal benefit is determined by subtracting countable income (as determined by Subpart K) from the eligible individual's or eligible couple's Federal benefit rate. (Note: Rules for the paying of State supplementary payments to SSI beneficiaries may be found in Subpart T of this Part.)

"Federal benefit rate" is the monthly rate for an eligible individual or couple.

"Redetermination" is the determination that is made after an eligibility review to be sure that the beneficiary is still eligible and receiving the right amount of SSI benefits. This review, however, deals with the requirements for eligibility other than whether the beneficiary is still disabled or blind. Reviews concerning continuing eligibility under the disablity or blindness requirements are discussed in §§ 416.989 and 416.990.

"Reduction" means that a beneficiary's benefit amount is determined to be less than the amount that he or she had been receiving.

"SSI" refers to the Supplemental Security Income Program under title XVI of the Social Security Act which pays Federal benefits to the aged, blind, or disabled individuals with limited income and resources.

"Stop-payment" means that we are withholding a beneficiary's SSI benefits for a month because the beneficiary needs but does not have a representative payee.

"Suspension" means that we stop paying SSI benefits because a beneficiary no longer meets an SSI eligibility requirement as the result of the occurrence of one of the events described in §§ 416.1332–416.1352 of this subpart. (See § 416.1324 which explains the difference between "suspensions" and "terminations.")

"Termination" means that SSI benefits have ended because the beneficiary no longer meets the SSI eligibility requirement following the occurrence of one of the events described in §§ 416.1360, 416.1368 and 416.1374. An "administrative termination of a beneficiary's payment record" means that after 12 continuous months of suspension the prior application will be terminated and the individual must reapply to receive any future benefit—see § 416.1372. (See also § 416.1324 which explains the differences between "suspensions" and "terminations.")

"We" or "Us" refers to the Social Security Administration.

"You" or "your" as used in this subpart may refer to: (1) An eligible individual, eligible spouse, or eligible child, who receives SSI benefits; (2) An eligible individual, eligible spouse, or eligible child, for whom someone else receives the benefits on that person's behalf; or (3) An eligible individual with an eligible spouse who receives benefits as a couple or for whom someone else receives benefits on their behalf.

§ 416.1310 When presumptive eligibility payments will stop.

(a) "Presumptive eligibility payments" are, for the purpose of this subpart, payments you are receiving based on your probable, but unestablished, eligibility for benefits. If we stop your benefits, it is not a suspension but rather a denial of an initial claim.

(b) We will stop your presumptive eligibility payments without advance notice if—

(1) We deny your application because you failed, without a good reason, to apply for and follow up on a claim for other benefits after receiving a notice from us that you may be eligible for other benefits (see § 416.210(e));

(2) We deny your application because you failed to dispose of your excess resources according to your signed agreement (see Subpart L);

(3) We deny your application after you received payments based on presumptive disability or presumptive blindness (see § 416.931 for the eligibility requirements for presumptive disability or presumptive blindness payments) because we find you are not disabled or blind; or

(4) You have received presumptive disability or presumptive blindness payments for 3 months (the maximum time period for which we are authorized to make these payments), and we have not decided that you are disabled or blind (see § 416.932 for a more detailed discussion of these payments).

§ 416.1315 Stop-payment actions.

(a) *Basis for stop payment.* We will withhold payment of your benefits for a month without finding you ineligible under the SSI program, if—

(1) You have been judged legally incompetent, we have a certified copy of the court decision, and we are looking for a representative payee to receive benefits on your behalf; or

(2) We find you incapable of managing benefits, and we are looking for a representative payee or substitute for your present representative payee to receive benefits on your behalf.

(b) *Resumption of payments.* We will resume payment of your benefits, retroactive for any past month in which you are eligible to receive benefits, if—

(1) You are not capable of being your own payee;

(2) You have a new payee; or

(3) You are to be paid as your own payee because benefits have been withheld for 90 days for the reason that a payee has not been found, and you are not—

(i) Legally incompetent;

(ii) A child beneficiary under age 15; or

(iii) A medically determined drug addict or alcoholic (see §§ 416.610(a)(3) and 416.935).

Note.—We will redetermine your eligibility before we resume your benefit if we have any doubt whether you have met or continue to meet the SSI eligibility requirements.

§ 416.1320 Benefit reduction explained.

(a) *In general.* "Benefit reduction" means that we have decided that your correct benefit should be less than the amount you have been receiving. The rules on reduction of benefits and for figuring the amount of the reduction are contained in the other Subparts of this Part (mostly in Subpart D). This subpart does, however, state the rules for providing you with advance notice of our intention to reduce your benefits after we find that benefit reduction is required and, also, when we will continue your benefits at an unreduced level pending a decision on an initial appeal (see § 416.1385).

(b) *Situations requiring benefit reduction.* Situations where we will be required to reduce your benefits include the following:

(1) You have countable income or additional countable income;

(2) You are throughout a month a resident of a public or private care facility receiving more than 50% support from Medicaid for your care (see § 416.414(a));

(3) Information in our files requires reduction of your benefits and you confirm that information or you fail to show that this information is incorrect; or

(4) You are no longer entitled to receive an additional benefit amount as a "qualified individual" as defined in § 416.221 because either—

(i) An "essential person" as defined in § 416.222 no longer lives with you; or

(ii) An "essential person" as defined in § 416.222 who is living with you loses his or her status as an essential person.

§ 416.1324 Suspension and termination explained.

(a) *In general.* If we find that you no longer meet an SSI eligibility requirement, we may either suspend or terminate your benefits, depending on which requirement is no longer being met. Paragraphs (b) and (c) of this section explain how suspension and termination differ and when each would apply to you.

(b) *Suspension.* (1) We will suspend payment of your benefits if—

(i) Your income exceeds the limits for eligibility or a benefit payment for the current month (see Subpart K);

(ii) Your resources in the current month exceed the limit (see Subpart L);

(iii) You are a resident of a public institution throughout a month;

(iv) You are outside the United States for a full calendar month;

(v) You or the party specified in § 416.1332 does not provide us with the necessary information that we request to decide whether your eligibility for benefits continues;

(vi) We cannot find you to send you your benefit check or your financial institution refuses to accept an electronic funds transfer to your account;

(vii) You do not accept appropriate treatment for your drug or alcohol addiction from an approved facility;

(viii) You no longer reside in the United States (U.S.), or you lose your U.S. citizenship or your status as either an alien lawfully admitted to the U.S. for permanent residence or otherwise residing in the U.S. under color of law;

(ix) You refuse, without a good reason, the vocational rehabilitation services offered you; or

(x) You fail to apply for other benefits.

(2) We will start payment of your benefits after suspending them if, within the 12 month period (starting with the first month of the suspension as defined by § 416.1300(c)), you are again eligible for benefits (usually, as determined by a redetermination) and you request reinstatement. (For example, if the suspension began on February 1, 1984, we would resume payment of your benefits if you requested reinstatement on or before January 31, 1985 and were again eligible for benefits on or before January 31, 1985.) A request for reinstatement that is made within the 12 month period does not require the filing of an application for benefits to resume. However, we will require you to give us the evidence we need to prove that you are again eligible for benefits. After requesting reinstatement, we start benefits effective with either the first day of the month (see §§ 416.1332(c), 416.1334(c), 416.1336(c) and 416.1338(c)) or, if proration applies, the first day within the month that you are again determined to be eligible for benefits (see §§ 416.1340(c); 416.1342(c); 416.1344(c); 416.1346(c); 416.1348(c); and 416.1350(c)).

(c) *Termination.* (1) We will terminate your benefits if—

(i) You die;

(ii) Your benefits have been suspended for a period of 12 consecutive months and, as a result, an administrative termination of your payment record is required;

(iii) You request that we terminate your benefits and we approve;

(iv) You no longer meet the requirements for benefits based on disability (see Subpart I); or

(v) You no longer meet the requirements for benefits based on blindness (see Subpart I).

(2) If your eligibility for benefits terminates, generally we will not start payment of benefits again until you file a new application (see § 416.305(b)(5) for the exception to the rule) and again meet all eligibility requirements. We will start your benefits effective no earlier than the day on which you file the new application if you meet all the other eligibility requirements for SSI benefits on that date.

Suspensions

§ 416.1332 Suspension: you do not provide necessary information.

(a) *Basis for suspension.* (1) We will suspend payment of your benefits if you, your sponsor (or his or her living-with spouse) if you are an alien, or your representative payee if your representative payee is your legal guardian, or your parent having custody of you if you are a minor child—

(i) Fails to give us the information we request that we need to decide whether you are still eligible for benefits or whether the benefit that you are receiving is correct. (See Subpart G of this Part for a discussion of reporting responsibilities.); or

(ii) Fails to comply with our request to confirm information we have that an event occurred requiring suspension or to show that this information is incorrect.

(2) We will not suspend your benefits on the basis of failure to provide us with needed information about your continuing eligibility for benefits if you have a representative payee other than your legal guardian or your parent (if you are a minor child), and he or she fails to submit or confirm this information. In this situation, we will obtain the needed information or confirmation from other sources and we will develop for another payee.

(b) *Date of Suspension.* We will suspend payment of your benefits effective with the start of the month following the month in which we determined that you or an individual described in paragraph (a) of this section did not submit the needed evidence within 30 days of our written request (see § 416.714(b)) and the evidence in our possession is no longer sufficient to determine whether your eligibility continues or your benefit payment is correct.

(c) *Resumption of payments.* We will start paying benefits to you or to an individual described in paragraph (a) of this section on your behalf when we have information to establish that benefits are again payable. Upon reinstatement, we will pay benefits effective for any previous month in which you are found eligible and benefits are otherwise payable for that month. However, if despite our willingness to help you obtain any needed evidence, you are unable or unwilling to provide eligibility for benefits for a month, we will not pay you benefits for that month.

§ 416.1334 Suspension: your whereabouts are unknown.

(a) *Basis for suspension.* We will suspend payment of your benefits, if—

(1) Your benefit check or a letter/notice from the Social Security Administration is returned to us as undeliverable by the U.S. Postal Service because you no longer reside at that address (or your financial institution refuses to accept an electronic fund transfer to your account), and we do not have your new address and cannot find you; or

(2) We cannot complete a redetermination of your eligibility for benefits because we cannot find you.

(b) *Suspension date.* We will suspend payment of your benefits effective with the start of the month in which your first benefit check or letter/notice from the Social Security Administration was returned as undeliverable because you no longer reside at that address (or your financial institution refused to accept an electronic fund transfer to your account). If we learn that you no longer live at the address shown in our records when we attempt to complete a redetermination, we will suspend your benefits starting the month after the month we learn you no longer reside at that address.

(c) *Resumption of payments.* (1) *We locate you within 31 days.* If, after your check or letter/notice is returned to us (or after your financial institution has refused an electronic transfer of funds to your account), we find your new address within 31 days after the check's delivery date, (or the delivery date of the letter/notice or the date of attempted electronic funds transfer) and benefits are otherwise payable, we will start paying you your benefits effective with the first month in which benefits were suspended. (We presume a check's delivery date is the date on the check unless a later date is proven.) We will not conduct a redetermination before reinstating benefits unless such a redetermination had previously been scheduled or we have information which indicates a redetermination should be made. If you cannot be located even though we did not receive a returned check (e.g. we cannot locate you for an eligibility redetermination), we will start counting the 31-day period effective with the date that we learned that you were no longer living at the address shown in our records.

(2) *If we do not locate you within 31 days.* If we find your new address after the 31-day period has expired (and before 12 continuous months of suspension have passed), we will not start payment of your benefits until we first make a redetermination of your eligibility. We will pay you benefits effective for any month in which you are found eligible and benefits are otherwise payable.

§ 416.1336 Suspension: you have too much countable income.

(a) *Basis of suspension.* We will suspend payment of your benefits if—

(1) When we determine your benefit eligibility for a current month you have too much countable income in such month; or

(2) When we determine your benefit amount for a current month based on countable income in a prior month you have too much countable income in the prior month.

Note.—See Subpart K for how we determine your countable income and Subpart D on how we compute your benefit amount.

(d) *Date of suspension.* We will suspend payment of your benefits—

(1) Effective with the start of the month in which you received countable income that equaled or exceeded that month's benefit rate; or

(2) Effective with the start of a current month if countable income from the month we used to calculate the current month's benefit amount equal or exceeded the current month's benefit rate.

(c) *Resumption of Payments.* If benefits are otherwise payable, we will start payment of your benefits effective on the first day of the month in which your monthly countable income is less than your benefit rate for that month.

§ 416.1338 Suspension: the value of your countable resources exceeds the limit.

(a) *Basis for suspension.*

We will suspend payment of your benefits if—

(1) The value of your resources (which would be counted under the rules of Subpart L of this Part) exceeds the appropriate resources limit that is specified in § 416.1205 (or § 416.1260 if it applies to you); or

(2) You have not disposed of your excess resources (see §§ 416.1240–416.1244 for discussion of disposition of resources) according to your signed agreement.

(b) *Date of suspension.* We will suspend payment of your benefits effective with the start of the month in which your countable resources as of the first moment of that month exceed the limit that applies to you.

(c) *Resumption of payments.* If benefits are otherwise payable, we will start payment of your benefits effective on the first day of the month after the month in which your resources no longer exceed the limit that applies to you.

§ 416.1340 Suspension: you are a resident of a public institution.

(a) *Basis for suspension.* We will suspend payment of your benefits if you become a resident of a public institution for one month or more and you do not fall under the rules in § 416.414. A transfer from one public institution to another or a temporary absence from the institution lasting 14 days or less, however, will not change your status as a resident, and your suspension will continue.

Note.—If throughout a month you are under the continuous jurisdiction of a correctional institution, you are ineligible for benefits for that month notwithstanding that you might otherwise be eligible for some benefits under the § 416.414 provisions.

(b) *Date of suspension.* We will suspend payment of your benefits effective with the start of the first month throughout which you are a resident of a public institution.

(c) *Resumption of payments.* If benefits are otherwise payable, we start payment of your benefits effective on the day on which you are no longer a resident of a public institution.

§ 416.1342 Suspension: you do not accept treatment for drug addiction or alcoholism.

(a) *Basis for suspension.* If you are disabled, and medically determined a drug addict or alcoholic, we will refer you to an approved facility for appropriate treatment. (See § 416.935, which explains who is a medically determined drug addict or alcoholic.) We will suspend payment of your benefits if you refuse treatment or do not follow the treatment requirements prescribed by the facility.

(b) *Date of suspension.* We will suspend payment of your benefits effective with the start of the first month in which you fails to accept treatment or fails to follow the treatment requirements.

(c) *Resumption of payments.* If benefits are otherwise payable, we will start payment of your benefits effective on the day on which—

(1) You accept and follow the treatment made available to you, and that fact is confirmed by the treating facility; or

(2) You are found to be eligible for SSI benefits on a basis independent of your drug addiction or alcoholism.

§ 416.1344 Suspension: you leave the United States.

(a) *Basis for suspension.* We will suspend payment of your benefits if you are outside the United States (U.S.) (as defined in § 416.120(c)(10)) for a full calendar month or longer. For this purpose, if you are outside the U.S. for 30 consecutive days or more (starting with the first day after the day you leave), we will treat you as remaining outside the U.S. until you have returned to, and remained in, the U.S. for a period of 30 consecutive days (starting with the day you return).

(b) *Date of suspension.* We will suspend payment of your benefits effective with the start of the first full calendar month in which you are outside, or treated as remaining outside the U.S.

(c) *Resumption of payments.* If benefits are otherwise payable, we will start payment of your benefits—

(1) Effective on the day after the 30th consecutive day of continuous presence in the U.S. since your return if you were outside the U.S. for 30 consecutive days or more; or

(2) Effective on the day you return to the U.S., if you were absent from the U.S. for one full calendar month but less than 30 consecutive days (that is, absent during February).

Example 1: Joe left the U.S. on March 1 and returned to the U.S. on April 1. Counting March 2 through March 31, he was outside the U.S. for 30 consecutive days; thus he is also considered outside the U.S. for 30 additional calendar days. Counting April 1 through April 30 he is deemed outside the U.S. and not eligible for the calendar month of April. Payments start, if benefits are otherwise payable, on May 1.

Example 2: Martha left the U.S. on April 15 and returned July 1. Counting April 16 through June 30, she was absent and not eligible for the calendar months of May or June. Since she was absent more than 30 consecutive days, she is deemed outside the U.S. an additional 30 consecutive days, i.e., from July 1 through July 30. Thus, we will pay Martha benefits effective July 31 (if she is otherwise eligible for benefits).

§ 416.1346 Suspension: you are no longer a resident of the United States, a United States citizen, an alien lawfully admitted for permanent residence, or an alien permanently residing in the United States under color of law.

(a) *Basis for suspension.* We will suspend payment of your benefits if you are—

(1) No longer a U.S. resident (this means no longer living in the 50 States, the District of Columbia, or the Northern Mariana Islands); or

(2) No longer a U.S. citizen or an alien lawfully admitted for permanent residence or otherwise permanently residing in the U.S. under color of law.

(b) *Date of suspension.* We will suspend payment of your benefits effective with the first full calendar month in which you are—

(1) No longer a U.S. resident, or

(2) No longer a U.S. citizen or an alien lawfuly admitted for permanent residence or otherwise permanently residing in the U.S. under color of law.

Note.—The rule for suspension of benefits because of absence from the U.S. is found in § 416.1344.

(c) *Resumption of payments.* If benefits are otherwise payable, we will start payment of your benefits effective on the day on which you again meet the requirements for residence and for citizenship, status as an alien lawfully admitted for permanent residence as an alien, or status as an alien otherwise permanently residing in the U.S. under color of law.

§ 416.1348 Suspension: you refuse vocational rehabilitation services.

(a) *Basis for suspension.* We will suspend payment of your benefits if your eligibility is based on disability or blindness and you refuse, without a good reason, vocational rehabilitation services that are offered to you or to make yourself available for an evaluation of your rehabilitation potential. (See § 416.1715 for an explanation of what is a good reason for refusing rehabilitation services.)

(b) *Date of suspension.* We will suspend payment of your benefits effective with the start of the month in which you fail without a good reason to—

(1) Accept vocational rehabilitation services; or

(2) Make yourself available for evaluation of your rehabilitation potential.

(c) *Resumption of payments.* If benefits are otherwise payable, we will start payment of your benefits effective on the day on which—

(1) You accept the vocational rehabilitation services offered to your (if you had refused them);

(2) You make yourself available for evaluation of your rehabilitation potential (if you had refused to be available); or

(3) We find that you have a good reason for refusing vocational rehabilitation services.

§ 416.1350 Suspension: you fail to apply for other benefits.

(a) *Basis for suspension.* We will suspend payment of your benefits if, without a good reason, you do not apply for and take all appropriate steps to obtain other benefits or payments for which you may be eligible. We will allow you 30 days after notifying you of your potential eligibility for particular benefits or payments to file for (or request) those benefits or payments. See § 416.210(b) for a statement of the types of benefits or payments for which you must apply if you are potentially eligible.

(b) *Date of suspension.* If you fail to comply within the given time we will suspend payment of your benefits effective with the start of the month in which we notified you in writing that you must file for or request and take steps to obtain certain other benefits or payments.

(c) *Resumption of payments.* If benefits are otherwise payable, we will start payment of your benefits effective on the day on which you take steps to obtain other benefits.

§ 416.1352 Suspension of State supplementary payments: you no longer meet the State residence requirement.

(a) *Basis for suspension.* We will suspend payment of your Federally administered State supplementation payments if you are no longer a resident of the State from which you are receiving State supplementary payments.

(b) *Date of suspension.* We will suspend payment of your Federally administered State supplementation payments effective with the start of the first full month in which you are no longer a resident of the State in question.

(c) *Resumption of payments.* If State supplementation payments are otherwise payable, we will start payment of your Federally administered State supplementary payments from the State from which you had previously received them if you resume residence in the State and you meet any residence duration requirement that the State imposes, effective with the start of the month in which you meet these requirements.

Terminations

§ 416.1360 Termination at your request.

(a) *General.* A situation could arise where you no longer wish to receive benefits. This could occur, for example, when the receipt of SSI benefits prevents you from receiving other, more advantageous benefits. You, your legal guardian, or representative payee acting on your behalf, can request termination of your eligibilty for benefits by giving us a signed written request that clearly shows you understand that termination of eligibility may extend to other benefits that are related to SSI, such as Federally administered State supplementary payments. If must also show you understand that if you file a new application for benefits on or before the date the 60-day appeal period for the voluntary termination determination expired (see § 416.1385(b)), the new application will have the effect of cancelling the prior request for termination. If you have a representative payee, that person must also show us that no hardship would result from termination of your benefit payments.

(b) *When benefit payments stop.* We will terminate your benefits effective with either the month after you made your request or with any month stated in your request. However, if you want your eligibility to terminate effective for a month for which you have already received benefits, you must make immediate repayment or convince us that you will repay us in the future.

(c) *Resumption of payments.* (1) If you file a new application for benefits more than 60 days after the date you received the notice of termination, we can start paying benefits effective on the day on which you again meet the SSI eligibility requirements and benefits are otherwise payable.

(2) If you file a new application for benefits within 60 days after the date you received the notice of termination, the new application will have the effect of cancelling the prior request for termination. That is, the termination will be treated as if it had not occurred, and we will start paying benefits effective the first month of benefit eligibility after the last month for which you were paid benefits.

§ 416.1368 Termination because of your death.

We will terminate your benefits if you die. There will be no benefits payable for months after your death. (See §§ 416.542 and 416.543 for rules on payment of any benefits due for months prior to your death.)

§ 416.1372 Administrative termination because of continuous suspension.

(a) *When benefit payments stop.* Except for a stop-payment situation (which is discussed in § 416.1315), we will administratively terminate your payment record if your benefits have been suspended for 12 continous months. We count the 12-month suspension period from the start of the first month in which we suspended payment of your benefits (see § 416.1300(c)) rather than from the start of the month in which we actually stop payment. This administrative termination is effective with the start of the 13th month after benefit suspension began. However, this administrative termination is rescinded if the preceding suspension determination is reversed as a result of a decision on appeal.

(b) *Resumption of payments.* We start paying benefits again effective on the day on which you meet the SSI eligibility requirements, including filing an application.

§ 416.1374 Termination of your benefits based on cessation of disability or blindness.

(a) *When benefit payments stop.* If you do not meet the requirements for benefits based on disability or blindness (see Subpart I of this Part) and you are not aged 65 or older, the last month for which we will pay you benefits is the second month after the month disability or blindness ceases, provided you are otherwise eligible for benefits in this 2-month period. The last month for which we can pay you benefits based on disability is the earlier of the second month after the first month in which you are able to do substantial gainful activity following a trial work period (described in § 416.992), or the second month after the first month in which you are determined to no longer have a disabling impairment (described in § 416.911). (See § 416.1376 for an exception to this rule if you are participating in an appropriate vocational rehabilitation program, and § 416.261 for an explanation of special benefits to which you may be entitled.) However, benefits may be resumed during the reentitlement period (described in § 416.992a) under certain circumstances. If you have a disabling impairment, you will receive benefits based on disability for any month in which you do not do substantial gainful activity in the reentitlement period and if we determine that you are not able to do substantial gainful activity in the first

month following the reentitlement period, we will pay you benefits after the reentitlement period until you are able to do substantial gainful activity. The last month you are eligible for this payment is the month before the first month in which you do substantial gainful activity or the month before the month in which you are determind to no longer have a disabling impairment, whichever is earlier. The last month for which we can pay you benefits based on blindness is the second month after the month in which your blindness ends (see § 416.986 for when blindness ends). We will also stop payment of your benefits if you have not cooperated with us in getting information about your disability or blindness.

(b) *Resumption of payments.* We will start payment of benefits effective on the day on which you again meet the SSI eligibility requirements including filing an application.

§ 416.1379 Cessation of your disability—you participate in a vocational rehabilitation program.

(a) *When your benefits may be continued.* Your benefits may be continued after your impairment is no longer disabling if—

(1) Your disability did not end before December 1980, the effective date of this provision of the law;

(2) You are participating in a program of vocational rehabilitation that has been approved under a State plan approved under Title I of the Rehabilitation Act of 1973 and which meets the requirements of 34 CFR part 361 for a rehabilitation program;

(3) You began the program before your disability ended;

(4) At the time you began participating in the program you were not expected to recover medically before the scheduled completion date of the program;

(5) You still have some residual functional limitations; and

(6) We have determined that your completion of the program, or your continuation in the program for a specified period of time, will significantly increase the likelihood that you will not have to return to the SSI benefit rolls.

Example: While disabled from a severe orthopedic impairment, Ellen is receiving State vocational rehabilitation services which include training as a bookkeeper. Ellen is 45 years old, has a high school education and worked for 5 years as a clerk for a large retail auto parts business. When she began training, Ellen had not been expected to recover, and no medical examination had been scheduled by the Social Security Administration. Before Ellen completes the training, her disability status is reviewed by the Social Security Administration and a determination made that she is able to do light work. Considering her age, education, and work experience, Ellen is no longer disabled. However, if Ellen is able to work as a bookkeeper, she will be considered able to engage in substantial gainful activity even if she can do only sedentary work. Therefore, it is determined that Ellen's completion of the vocational rehabilitation program will significantly increase the likelihood that she will be permanently removed from the disability rolls. Ellen will continue to receive payments until she completes or stops her participation in the rehabilitation program.

(b) *When your benefits will be stopped.* We will stop your benefits with the month—

(1) You complete the program;

(2) You stop participating in the program for any reason; or

(3) We determine that your continuing participation in the program will not significantly increase the likelihood that you may be permanently removed from the disability benefit rolls.

Exception: In no case will your benefits be stopped with a month earlier than the second month after the month your disability ends, provided that you are otherwise eligible for benefits through such month.

(c) *Resumption of payments.* We will start payment of your benefits effective on the day on which you are again found disabled or blind or attain age 65 provided you also meet all the other SSI eligibility requirements including the filing of an application.

Notice of Unfavorable Determination and Continued Payments

§ 416.1380 If you appeal a determination to withhold, reduce, suspend, or terminate benefits; determination other than loss of eligibility because of medical improvement.

(a) This section describes our notification procedures and your right to continued payment if we should—

(1) Reduce or suspend your benefits; or

(2) Terminate your benefits except that the provisions of this section will not apply and provisions in Subpart I will apply if we terminate your benefits based on a determination that your physical or mental impairment is found to have ceased, not to have existed, or is no longer disabling.

(b) *Advance notice of our intention to withhold, reduce, suspend, or terminate benefits.*

(1) *When advance notice will be sent.* Except where paragraph (b)(2) of this section applies, we will not take action to reduce, suspend, or terminate your benefits until we have—

(i) Notified you in writing of the unfavorable finding (this written advance notice is called a "Notice of Planned Action"); and

(ii) Given you an opportunity to appeal the finding before we take the intended action.

(2) *When advance notice will not be sent.* We will not give advance notice when—

(i) We process an administrative termination of your payment record after 12 or more months of continuous benefit suspension if you had received notice at the time we suspended your benefits (see § 416.1372);

(ii) We stop your presumptive eligibility payments after 3 months of payment or after your application for benefits has been denied (see § 416.1310), whichever is earlier;

(iii) We withhold your benefits while we are looking for a representative payee to receive them on your behalf (see § 416.1315); or

(iv) You die.

Note.—If we notify you of an unfavorable finding that does not require advance notice, we send this notice to you when or after we take the payment action. However, if your eligibility is terminated after 12 months continuous benefit suspension, no notice is sent.

(c) *Appeal right.* The advance notice that we send you following an unfavorable finding on eligibility or benefit amount, which results in our reducing, suspending, or terminating your benefits, designates the first level of appeal. (See § 416.1415 which describes the first level of appeal under the SSI program.) When we make a finding to reduce, suspend, or terminate your benefits, the advance notice will inform you that your appeal entitles you to have your benefits continue until we make a decision at the first level of appeal. However, if the appeal decision is also unfavorable, these payments will become overpayments which have to be repaid unless they are waived (see Subpart E of this Part about overpayment of benefits).

(d) *Time for appealing in order to receive continued payments.* You have 60 days after receiving the advance notice to appeal. However, if you want your benefits to continue pending the outcome of the appeal, you must file your appeal within 10 days after the date you receive the advance notice. We will presume that you received the advance notice within 5 days after the date shown on the notice unless you present evidence that you actually received it at a later date. We will not extend the 60-day and 10-day time periods unless there is a good reason for your delay (see § 416.1411(b)).

(e) *Continued payment pending a decision on appeal.* (1) If we continue your payments because you filed an appeal within 10 days after you received the advance notice (or you had a good reason for not filing within the 10 day period), the amount of the continued payment we will pay to you pending a decision on appeal is the same monthly benefit amount that you had been receiving prior to our unfavorable finding except when—

(i) You appeal a determination that we had mistakenly paid you two or more benefit checks in a month;

(ii) You appeal a determination that we paid you more than the maximum allowed for an SSI payment category; or

(iii) An increase in benefits becomes effective during the period extending from when you filed your appeal until the appeal decision was made at the first level of appeal (in which case an increase in benefit amount will be added to the previously established benefit amount).

(2) Our continued payment to you or the amount of the continued payment payable to you, pending a decision being made on a request for appeal, could also be affected by the occurrence of another event that requires us to make a new unfavorable determination concerning either your eligibility for continued benefits or the amount of your benefits. We will send you an advance notice about this new unfavorable determination which, if not appealed, will result in benefit reduction, suspension, or termination, as required. We will not send an advance notice, however, for any new determination requiring an increase in your benefits. In that situation, we send you written notice at the time we take the action to increase your payments.

(f) *Waiver of right to continued payment.* You may give up you right to continued or reinstated payment of benefits pending the decision on your appeal request, with any withheld benefits subsequently paid to you if the appeal decision is favorable. You may want to do so to avoid a possible overpayment of benefits (which generally must be repaid in the event of an unfavorable decision on your appeal unless such an overpayment is waived). If you voluntarily decide to give up this right, we will explain your rights to you and ask you to sign a written request. The written request will state that—

(1) You understand that you are giving up your right to continued payment; and

(2) You want to give up this right.

§ 416.1390 Exception to continued payment at the previous level; you receive two or more checks for one month.

(a) *Introduction.* If we mistakenly send you two or more checks for a particular month, we will send you an advance notice stating our intention to make future payments in the correct amount. This notice will state the month(s) in which you received two or more checks, the correct amount of your monthly benefit, and your right to appeal our determination.

(b) *Identifying persons who have received two or more checks.* We will decide that you have received two or more benefit checks for one month if our records show that—

(1) Two or more monthly checks were sent out under your name or a common spelling variation of your name;

(2) The checks have the same social security number, or a pseudo-number (that is a number we would assign for SSI purposes to a person without a social security number) appears on one or more of the checks;

(3) The checks were sent to the same address;

(4) The sex code is the same; and

(5) The date of birth is the same.

(c) *Appeal.* (1) *If you do not appeal within 10 days.* If you do not appeal within 10 days after the date you receive the advance notice (and you do not have a good reason for not filing your appeal within this period), you will begin receiving the correct benefit amount generally at the start of the month after the month in which the notice was sent.

(2) *If you do appeal within 10 days—payment continuance rate.* If you do appeal within 10 days (or if we find you had a good reason for your delay in filing an appeal), we will continue to pay you, pending a decision on appeal, either—

(i) The highest amount of the two or more benefit checks; or

(ii) The correct amount if it is higher than the amount of any one of the checks you received.

§ 416.1392 Exception to continued payment at the previous level; your check amount exceeds the maximum payment level.

(a) *Introduction.* We may mistakenly pay you a monthly benefit amount that exceeds the maximum amount for your payment category specified in paragraph (b) below. When we find this kind of mistake, we will give you advance notice stating our finding and intention to reduce your future benefits to the correct amount. The notice will explain—

(1) That you received more money than you should have received in the month(s) identified in the notice,

(2) What your correct monthly benefit amount is, and

(3) What your appeal rights are.

(b) *Chart showing the dollar limit for Federal SSI and State supplementation payments.* The monthly benefit dollar limit for each benefit payment category is:

(1) *Federal SSI benefits only, $350.00.*

(2) *Federal SSI benefits plus optional State supplementation or optional State supplementation only, $1,000.00.*

(3) *Federal SSI benefits plus mandatory State supplementation or mandatory State supplementation only, $2,500.00.*

(c) *Appeal.* (1) *If you do not appeal within 10 days.* If you do not appeal this determination within 10 days after the date you receive the advance notice (and you do not have a good reason for not filing your appeal in this period), generally we will start paying you the correct monthly benefit amount beginning with the month after we sent you the advance notice.

(2) *If you do appeal within 10 days—payment continuance rate.* If you do appeal this determination within 10 days (or if we find that you had a good reason for your delay in filing an appeal), we will pay you, pending a decision on appeal—

(i) The same benefit amount that we paid you for the month before the dollar limit was exceeded (subject to subsequent intervening events requiring an increase in that benefit amount, in which case we will pay you the higher amount); or

(ii) The benefit amount that we should have paid you for the month in which the dollar limit was exceeded if your benefits were suspended for the month before the month in which the dollar limit was exceeded and that suspension has ended; or

(iii) No benefits if your benefits were suspended for the month before the month in which the dollar limit was exceeded and the suspension also applies to the month in which the dollar limit was exceeded. (Note: In this case, the Notice of Planned Action will not contain any provision regarding continuation of payment pending appeal.)

5. The authority citation for Subpart P continues to read as follows:

Authority: Secs. 1102, 1614, and 1631 of the Social Security Act as amended, 49 Stat. 647 as amended, 86 Stat. 1471, and 86 Stat. 1475, 42 U.S.C. 1302, 1382c, 1383.

§ 416.1605 [Removed]

6. Part 416, Subpart P is amended by removing § 416.1605.

[FR Doc. 86-10129 Filed 5-7-86; 8:45 am]
BILLING CODE 4190-11-M

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INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

22 CFR Part 213

Collection of Claims

AGENCY: Agency for International Development, IDCA.

ACTION: Proposed rule.

SUMMARY: The Agency for International Development proposes to amend Part 213 to implement salary offset provisions of the 5 U.S.C. 5514. The proposed rule would enable AID to recover delinquent debts owed the United States Government by Federal employees. The proposed rule sets forth the procedures to be followed by AID in using salary offset, including certain rights provided to the employees (e.g. notice, inspection of records, and hearings).

DATES: Comments must be submitted on or before June 9, 1986.

ADDRESSES: Comments may be mailed to Mr. Jan Miller, Office of the General Counsel, Room 6951 N.S., Agency for International Development, Washington, DC 20523.

FOR FURTHER INFORMATION CONTACT: Jan W. Miller, (202) 647-0434.

SUPPLEMENTARY INFORMATION: The proposed rule implements the salary offset provisions of 5 U.S.C. 5514 in accordance with the regulations issued by the Office of Personnel Management (5 CFR Part 550 Subpart K). The proposed rule coavers both employees of AID and employees of other agencies who owe debts to the United States Government.

Regulatory Flexibility and Impact Analysis

This action will not have a significant economic impact on a substantial number of small entities including small businesses, small organizational units and small governmental jurisdictions.

This action does not constitute a "major rule" under Executive Order No. 12291.

Environmental Impact

This action does not constitute a major Federal action significantly affecting the quality of the human environment.

List of Subjects in 22 CFR Part 213

Claims, Salary offset.

Accordingly, it is proposed to amend 22 CFR Part 213 as follows:

1. The table of contents for Part 213 and the authority citation are revised to read as follows:

PART 213—COLLECTION OF CLAIMS

Subpart A—General Provisions

Sec.
213.1 Purpose.
213.2 Scope.
213.3 Subdivision of Claims.
213.4 Late Payment, Penalty and Administrative Charges.
213.5 Demand for Payment.
213.6 Collection by Offset.
213.7 Disclosure to Consumer Reporting Agencies and Contracts with Collection Agencies.

Subpart B—Salary Offset Provisions

213.8 Scope.
213.9 Coordinating offset with another federal agency.
213.10 Determination of indebtedness.
213.11 Notice requirements before offset.
213.12 Request for a hearing.
213.13 Results if employee fails to meet deadlines.
213.14 Hearings.
213.15 Written decision following a hearing.
213.16 Review of agency records related to the debt.
213.17 Written agreement to repay debt as alternative to salary offset.
213.18 Procedures for salary offset.
213.19 Non-waiver of rights.
213.20 Refunds.

Authority: Section 621 of the Foreign Assistance Act of 1961, as amended, 22 U.S.C. 2381; Subpart B also issued under 5 U.S.C. 5514; 5 CFR 550, Subpart K.

§§ 213.1—213.7 [Redesignated]

2. Sections 213.1 through 213.7 are redesignated as Subpart A–General Provisions.

§ 213.6 [Amended]

3. In § 213.6, paragraph (b) is amended by removing "part" and substituting "section".

* * * * *

4. A new Subpart B is added as follows:

Subpart B—Salary Offset Provisions

§ 213.8 Scope.

(a) This subpart sets forth AID's procedures for the collection of a Federal employee's pay by salary offset to satisfy certain valid and past due debts owed the United States Government.

(b) This subpart applies to:

(1) Current employees of AID and other agencies who owe debts to AID.

(2) Current employees of AID who owe debts to other agencies.

(c) This subpart does not apply to debts or claims arising under the Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.); the Social Security Act (42 U.S.C. 301 et seq.); the tariff laws of the United States; or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute (e.g. travel advances in 5 U.S.C. 5705 and employee training expenses 5 U.S.C. 4108).

(d) This subpart does not apply to any adjustment to pay arising out of an employee's election of coverage or a change in coverage under a Federal benefits program requiring periodic deductions from pay or ministerial adjustments in pay, if the amount to be recovered was accumulated over four the pay periods or less.

(e) These regulations do not preclude an employee from:

(1) Requesting waiver of erroneous payment of salary, travel, transportation and relocation expenses and allowances;

(2) Requesting waiver of any other type of debt, if waiver is available by statute; or

(3) Questioning the amount of validity of a dept by submitting a subsequent claim to the General Accounting Office.

(f) Nothing in these regulations precludes the compromise, suspension or termination of collection actions where appropriate under subpart A or other regulations.

§ 213.9 Coordinating offset with another federal agency.

(a) When AID is owed the debt. When AID is owed a debt by an employee of another agency, the other agency shall not initiate the requested offset until AID provides the agency with a written certification that the debtor owes AID a debt (including the amount and basis of the debt and the due date of the payment) and that AID has complied with these regulations.

(b) When another agency is owed the debt. AID may use salary offset against one of its employees who is indebted to another agency, if requested to do so by that agency. Such a request must be accompanied by a certification by the requesting agency that the person owes the debt (including the amount and basis of the debt and the due date of the payment) and that the agency has complied with its regulations required by 5 U.S.C. 5514 and 5 CFR Part 550, Subpart K.

§ 213.10 Determination of indebtedness.

(a) In determining that an employee is indebted to AID and that 4 CFR Parts 101 through 105 have been satisfied and that salary offset is appropriate, AID will review the debt to make sure that it is valid and past due.

(b) If AID determines that any of the requirements of paragraph (a) of this section have not been met, no determination of indebtedness shall be made and salary offset will not proceed until AID is assured that the requirements have been met.

§ 213.11 Notice requirements before offset.

Except as provided in § 213.8, salary offset will not be made unless AID first provides the employee with a minimum of 30 calendar days written notice. This Notice of Intent to Offset Salary ("Notice of Intent") will state:

(a) That AID has reviewed the records relating to the debt and has determined that a debt is owed, the amount of the debt, and the facts giving rise to the debt;

(b) AID's intention to collect the debt by salary offset, i.e. by means of deduction from the employee's current disposable pay until the debt and all accumulated interest are paid in full;

(c) The amount, frequency, approximate beginning date, and duration of the salary intent;

(d) An explanation of that late payment, penalties and administrative costs will be charged in accordance with § 213.4, unless excused in accordance with § 213.4(c);

(e) The employee's right to inspect and copy agency records relating to the debt;

(f) The employee's right to enter into a written agreement with AID for a repayment schedule differing from that proposed by AID, so long as the terms of the repayment schedule proposed by the employee are agreeable to AID;

(g) The right to a hearing conducted by a hearing official on AID's determination of the debt, the amount of the debt, or percentage of disposable pay to be deducted each pay period, so long as a request for a hearing filed by the employee as prescribed by § 213.12;

(h) That the timely filing of a request for hearing will stay the collection proceedings;

(i) That a final decision on the hearing will be issued at the earliest practical date, but not later than 60 calendar days after the filing of the request for a hearing, unless the employee requests, and the hearing officer grants, a delay in the proceedings;

(j) That any knowingly false or frivolous statements, representations, or evidence may subject the employee to:

(1) Disciplinary procedures appropriate under 5 U.S.C. Chapter 75, 5 CFR Part 752, or any other applicable statutes or regulations;

(2) Penalties under the False Claims Act, 31 U.S.C. 3729–3731, or any other applicable statutory authority; or

(3) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002 or any other applicable statutory authority;

(k) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

(l) That amounts paid on or deducted for the debt which are later waived or found not owed to the United States will be promptly refunded to the employee, unless there are applicable contractual or statutory provisions to the contrary;

(m) The method and time period for requesting a hearing; and

(n) The name and address of an AID official to whom communications should be directed.

§ 213.12 Request for a hearing.

(a) Except as provided in paragraph (c) of this section, an employee must file a request for a hearing, that is received by AID not later than 30 calendar days from the date of AID's notice described in § 213.11 if an employee wants a hearing concerning:

(1) The existence or amount of the debt; or

(2) AID's proposed offset schedule (including percentage).

(b) The request must be signed by the employee and should identify and explain with reasonable specificity and brevity the facts, evidence and witnesses which the employee believes support his or her position. If the employee objects to the percentage of disposable pay to be deducted from each check, the request should state the objection and the reasons for it.

(c) If the employee files a request for hearing later than the 30 calendar days as described in paragraph (a) of this section, the hearing officer may accept the request if the employee can show that the delay was because of circumstances beyond his or her control or because of failure to receive notice of the filing deadline (unless the employee has actual notice of the filing deadline).

§ 213.13 Results if employee fails to meet deadlines.

An employee waives the right to a hearing and will have his or her disposable pay offset in accordance with offset schedule set forth in the Notice of Intent if the employee:

(a) Fails to file a petition for a hearing as prescribed in § 213.12; or

(b) Is scheduled to appear and fails to appear at the hearing.

§ 213.14 Hearings.

(a) If an employee timely files a request for a hearing under § 213.12 AID shall select the time, date, and location for the hearing.

(b) (1) Hearings shall be conducted by an appropriately designated hearing official; and

(2) Rules of evidence shall not be adhered to, but the hearings official shall consider all evidence that he or she determines to be relevant to the debt that is the subject of the hearing and weigh it accordingly, given all of the facts and circumstances surrounding the debt.

(c) AID will have the burden of going forward to prove the existence of the debt.

(d) The employee requesting the hearing shall bear the ultimate burden of proof.

(e) The evidence presented by the employee must prove that no debt exists or cast sufficient doubt such that reasonable minds could differ as to the existence of the debt.

§ 213.15 Written decision following a hearing.

Written decisions provided after a hearing will include:

(a) A statement of the facts presented to support the nature and origin of the alleged debt and those presented to refute the debt;

(b) The hearing officer's analysis, findings and conclusions, considering all of the evidence presented and the respective burdens of the parties, in light of the hearing;

(c) The amount and validity of the alleged debt determined as a result of the hearing; and

(d) The amount, frequency, beginning date and duration of the salary offset, if applicable.

§ 213.16 Review of agency records related to the debt.

(a) *Notification by employee.* An employee who intends to inspect or copy agency records related to the debt must send a letter to the official designated in § 213.11(n) stating his or her intention. The letter must be received by AID within 30 calendar days of the date of the Notice of Intent.

(b) *AID's response.* In response to the timely notice submitted by the debtor as described in paragraph (a) of this section, AID will notify the employee of the location and time when the employee may inspect and copy AID records related to the debt.

§ 213.17 Written agreement to repay debt as alternative to salary offset.

(a) *Notification by employee.* The employee may propose, in response to a Notice of Intent, a written agreement to repay the debt as an alternative to salary offset. Any employee who wishes to do this must submit a proposed written agreement to repay the debt which is received by AID with 30

calendar days of the date of the Notice of Intent.

(b) *AID's response.* AID will notify the employee whether the employee's proposed written agreement for repayment is acceptable. AID may accept a repayment agreement instead of proceeding by offset. In making this determination, AID will balance AID's interest in collecting the debt against hardship to the employee. If the debt is delinquent and the employee has not disputed its existence or amount, AID will accept a repayment agreement, instead of offset, for good cause such as, if the employee is able to establish that offset would result in undue financial hardship or would be against equity and good conscience.

(c) *Procedures.* If the employee and AID enter into a written agreement to repay instead of salary offset, the debt will be repaid in accordance with the provisions of the agreement and the procedures of § 213.18 will not apply.

§ 213.18 Procedures for salary offset.

Unless AID agrees otherwise, the procedures for salary offset are as follows:

(a) *Method.* Salary offset will be made by deduction at one or more officially established pay intervals from the current pay account of the employee without his or her consent.

(b) *Source.* The source of salary offset is current disposable pay which is that part of current basic pay, special pay, retainer pay, or in the case of an employee not entitled to pay, other authorized pay remaining after the deduction of any amount required by law to be withheld.

(c) *Types.* Ordinarily debts will be collected by salary offset in one lump sum if possible. However, if the employee is financially unable to pay in one lump sum or the amount of the debt exceeds 15 percent of disposal pay for an officially established pay interval, the collection by salary offset must be made in installment deductions.

(d) *Amount and duration of installment deductions.* (1) The size of installment deductions must bear a reasonable relation to the size of the debt and the employee's ability to pay. If possible the size of the deduction will be that necessary to liquidate the debt in no more than 1 year. However, the amount deducted for any period must not exceed 15 percent of the disposal pay from which the deduction is made, unless the employee has agreed to a greater amount.

(2) Installment payments of less than $25 per pay period will be accepted only in the most unusual circumstances.

(3) Installment deductions will be made over a period of not greater than the anticipated period of employment.

(e) *When deductions may begin.* (1) Salary offset will begin as of the date stated in the Notice of Intent, unless a hearing has been requested.

(2) If there has been a timely request for a hearing, salary offset will begin as of the date stated in the written decision provided after the hearing.

(f) *Additional offset provisions.*—(1) *Liquidation from final check.* If employment ends before salary offset is completed, the remaining debt will be liquidated by offset from subsequent payments of any nature due the employee from AID as of the date of separation (e.g. final salary payment, lump-sum leave, etc.).

(2) *Offset from other payments.* If the debt cannot be liquidated by offset from any final check, the remaining debt will be liquidated by offset from later payments of any kind due the former employee from the United States.

§ 213.19 Non-waiver of rights.

So long as there are no statutory or contractual provisions to the contrary, no employee payment (of all or portion of a debt) collected under this subpart will be interpreted as a waiver of any rights that the employee may have under 5 U.S.C. 5514.

§ 213.20 Refunds.

(a) AID will refund promptly to the appropriate individual amounts offset under these regulations when:

(1) A debt is waived or otherwise found not owing the United States (unless expressly prohibited by statute or regulation); or

(2) AID is directed by an administrative or judicial order to make a refund.

(b) Refunds do not bear interest unless required or permitted by law or contract.

Dated: March 18, 1986.

R.T. Rollis, Jr.,

Assistant to the Administrator for Management.

[FR Doc. 86-10365 Filed 5-7-86; 8:45 am]

BILLING CODE 6116-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-86-02]

Drawbridge Operation Regulations; Severn River, MD.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Maryland State Highway Administration, the Coast Guard is considering amending the regulations that govern the operation of the drawbridge on SR 450 across the Severn River, mile 3.0, at Annapolis, Maryland, to improve the flow of highway traffic across the bridge by permitting the number of openings to be limited during the boating season. This proposal is being made to ease congestion on SR 450 resulting from increases in both vehicular traffic and bridge openings. This action should help alleviate highway traffic congestion and still provide for the reasonable needs of navigation.

DATE: Comments must be received on or before June 23, 1986.

ADDRESS: Comments should be mailed to Commander (oan), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia, 23704-5004. Comments, if any, will be available for review from 8 a.m. to 4:30 p.m., Monday through Friday, at Room 609, Federal Building, 431 Crawford Street, Portsmouth, Virginia. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: W.J. Creed, Bridge Administrator, (804) 398-6227.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify this proposed rule by Docket Number or bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Fifth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information

The drafter of this notice is W.J. Creed, Project Officer, and the Project Attorney is LT W.A. Mitchell.

Discussion of the Proposed Rule

The matter of regulating the openings of this bridge has been under consideration by the Coast Guard for the past several years. Requests for various opening schedules have been received, orally and in writing, from highway users, from the City of Annapolis and from the Maryland State Highway Administration. The latest request from the Maryland State Highway Administration sought scheduled openings of the bridge throughout the year. They asked for a split opening schedule that is primarily designed for weekday commuter traffic, but does not take into account those motorists who use the bridge every day during the boating season. As a result, the Coast Guard is proposing a modification to their requested opening schedule. Approval of the modified schedule as outlined below would limit the number of draw openings during daylight hours during the boating season only. At night and during the off-season, the bridge would be required to open on demand. This opening schedule appears to be more acceptable to users of both the highway and the river, and thus is in the overall public interest.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The proposed regulation will have no effect on commercial navigation on the Severn River, and no commercial, water-dependent activities are expected to be affected. Since the economic impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulation

PART 117—[AMENDED]

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.572 is added to read as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

§ 117.572 Severn River.

From May 1 through October 31, the draw of the SR 450 bridge, mile 3.0, at Annapolis, shall open on the hour from 7 a.m. to 7 p.m. for the passage of pleasure craft. To accommodate approaching pleasure craft, the hourly opening may be delayed up to 10 minutes past the hour. In addition, one opening at 6:30 p.m. on Wednesdays will be allowed for sailboats that wish to participate in the weekly races. At all other times the draw shall open on demand. Public vessels of the United States, commercial vessels, and vessels in an emergency involving danger to life or property shall be passed at any time.

Dated: April 28, 1986.

P. A. Welling,

Captain, U.S. Coast Guard, Acting Commander, Fifth Coast Guard District.

[FR Doc. 86-10375 Filed 5-7-86; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 166 and 167

[CGD 84-087]

Port Access Routes, Entrance to San Francisco Bay

AGENCY: Coast Guard, DOT.

ACTION: Notice of study results.

SUMMARY: This notice publishes the results of the Port Access Route Study as opened by announcement in the **Federal Register** on December 17, 1984 (49 FR 48946). The study considered the potential traffic density, traffic patterns, and the need for safe access routes in the area off the entrance to San Francisco Bay. Study results for adjacent areas have been previously published and are noted in the background section.

In order to improve navigation safety in the approaches to San Francisco by separating opposing lanes of vessel traffic, a new traffic separation scheme (TSS) is recommended in the main ship channel. It is further recommended that the existing precautionary area in the Off San Francisco TSS be reconfigured to indicate that certain shoal areas are not suitable for safe navigation. Also, it is recommended that the area at the center of the precautionary area currently designated as a separation zone be redesignated as an area to be avoided to be consistent with its purpose and with the charting symbols adopted by the International Maritime Organization.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Young, Office of Navigation, (G-NSR-3), Room 1408, U.S. Coast Guard Headquarters, 2100 2nd Street SW., Washington, DC 20593, telephone (202) 245-0108, between 8 a.m. and 3:30 p.m., Monday through Friday. Information is also available from Lieutenant Steve Danscuk, Twelfth Coast Guard District (mepps), Government Island, Building 54-B, Room 250, Alameda, CA 94501, telephone (415) 437-3465.

SUPPLEMENTARY INFORMATION

Background

Port Access routing needs in the area of the approaches to San Francisco Bay were originally studied between 1979 and 1982 (April 16, 1979, 44 FR 22543; modified on January 31, 1980, 45 FR 7026). The results of the study were published on October 14, 1982 (47 FR 46043). Recommendations developed during that study included significant modifications to the traffic separation scheme (TSS) in the approach to San Francisco and a new shipping safety fairway to overlay the TSS and continue along the coast of central California to 35° north latitude. The recommended adjustments to the TSS, including a shift of the northern approach away from the coast, and a lengthening of the southern approach TSS lanes to 37° north latitude, were adopted by the International Maritime Organization (IMO) in April, 1984 at the 49th session of the Maritime Safety Committee. As a condition of the adoption by IMO, these adjustments cannot be made effective until a new aid to navigation is established at Ano Nuevo. Also, in accordance with the Ports and Waterways Safety Act (33 U.S.C. 1223) (PWSA), the new portions of the TSS will be incorporated into the Code of Federal Regulations.

Subsequent to completion of the 1979-1982 study, the Coast Guard was informed by representatives of the International Hydrographic Organization that the charting symbol for a separation zone used to circumscribe the large navigation buoy (LNB) in the precautionary area off San Francisco was not consistent with the purpose of the charted area. The purpose of the area is to keep vessels away from the LNB and would be correctly indicated by the symbol for an "area to be avoided." The separation zone charting symbol would only be applicable if opposing lanes of traffic were being separated. This is considered a minor, administrative amendment to the TSS; nevertheless, IMO adoption is required.

Hydrographers also noted that the present charts for the San Francisco Bay approach indicate a pair of traffic lanes in the main ship channel and Golden Gate area. These lanes, although established by common practice among navigators, have never been adopted by the IMO as formal parts of the Off San Francisco TSS. IMO adoption and

implementation would formalize these traditional routes and make them subject to the application of International Rule 10 (Rules governing TSS's) of the Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS).

The Coast Guard opened a study by a notice in the Federal Register on December 17, 1984 (49 FR 48946) to examine both of these modifications to the San Francisco TSS. Comments were invited until February 1, 1985. Currently, the preferred modifications, as described in the study notice, were submitted to the IMO Subcommittee on Safety of Navigation for technical analysis at its thirtieth session in December, 1984. These modifications were adopted by the Maritime Safety Committee at its fifty-first session in May, 1985.

Study Method

The Port Access Route Study for the area off of San Francisco was conducted by the Twelfth Coast Guard District. The study encompassed the following geographical area:

Latitude	Longitude
37°49'12" N	122°29'36" W
37°41'30" N	122°34'30" W
37°44'00" N	122°44'00" W
37°46'36" N	122°39'00" W

During the study the Coast Guard consulted with federal and state agencies and considered the views of representatives of the maritime community, port and harbor authorities and associations, environmental groups and other parties who may be affected by the study results.

Findings and Conclusions

Based on statistics collected by the Coast Guard Marine Safety Office, Vessel Traffic Service (VTS) San Francisco, and the San Francisco Marine Exchange, approximately 30 vessels pass through the study area and the Golden Gate area (15 inbound and 15 outbound) each day.

Most vessel operators voluntarily follow a traffic pattern which divides traffic into inbound and outbound lanes in the main ship channel approach. Vessel Traffic Service (VTS) San Francisco monitors traffic transiting the main ship channel entrance and has noted the customary traffic pattern of separated traffic lanes. The VTS managers endorse the modification of the IMO approved Off San Francisco TSS to include the main ship channel. Upon implementation of the IMO-adopted modifications, International Rule 10 of the 72 COLREGS would automatically apply in all portions of the IMO approved San Francisco scheme, including the main ship channel.

Participation and compliance by vessels with the customary TSS is estimated by the VTS at over 99 percent. Vessels which have been observed to transit in the Golden Gate area outside of the customary TSS and charted traffic lanes do so for two reasons: size of vessel and weather/sea condition.

At the narrowest part of the waterway, within the main ship channel in the Golden Gate area, some vessels (such as aircraft carriers) occasionally must navigate in the center of the channel to take advantage of the available navigable width and depth of waterway, and thereby cross the charted separation line and deviate away from strict compliance with traffic lane directions. Some vessels also cross the charted separation line or navigate in the center of the channel when rough sea/weather conditions require increased vessel maneuverability in the narrow ship channel and when no other traffic exists in the channel which would be impeded by a vessel transiting the centerline of the scheme.

The water depth, geology constraints, and the effect on other users of the study area do not permit major modifications to the customary traffic lanes in the main ship channel. The proximity of shoals in the immediate area prohibits widening of the channel to any great degree. While providing additional maneuvering room for vessels in the traffic lanes, widening the main ship channel would reduce the remaining areas used by recreational vessel traffic and other vessels not using the TSS. Although the narrowness of the main ship channel is of concern and poses a potential hazard, the existing traffic lanes are sufficient for the volume of traffic flow as it presently exists and for the foreseeable future.

The IMO approved modification of the Off San Francisco TSS to include the main ship channel lanes would terminate at the 72 COLREGS demarcation line (which defines the boundary between the International Navigation Rules and Inland Navigation Rules). The line is drawn from Point Bonita Light through Mile Rocks Light to the shore, to allow more flexible maneuverability through the Golden Gate area. At the point where the extension of the San Francisco TSS through the main ship channel ends, vessels would be subject to Inland Navigation Rule 9, the narrow channel rule, which requires a vessel to keep as near to the outer limit of the channel which lies on her righthand or starboard side as is safe and practicable. The possibility of confusion over the application of Inland Rule 9 (the narrow channel rule) in the main ship channel would be substantially reduced by the designation of a TSS.

According to the Minerals Management Service (Department of the Interior) there is no potential at this time for placement of oil exploration or production platforms in or near the study area. The study area lies within the boundaries of the Point Reyes-Farallon Islands National Marine Sanctuary and the Point Reyes Wilderness area where oil and gas platforms are not permitted. Also, these structures are not permitted within fifteen statute miles of the Wilderness Area unless California allows oil and gas drilling activities in state waters.

The precautionary area off of San Francisco is six miles in radius from the center at the LNB. This may imply to inexperienced mariners that the entire precautionary area is available for navigation. However, the eastern hemisphere of this area contains several extremely hazardous shoal areas (Four Fathom Bank and Potatopatch Shoal, in particular). The prudent mariner is not recommended to use this area although it lies within the precautionary area. The IMO has already approved a reconfiguration of the precautionary area to exclude these shoal areas, coupled with a designation of traffic lanes in the entrance channel. This will contribute to safe navigation by leaving less doubt as to the safe waters along which to transit when proceeding into San Francisco Bay.

The recommended redescription of this circular precautionary area includes changes to areas which are not within the limits of the current study area. However, the need for the modification, which is in addition to the recommended changes to the traffic separation scheme, was identified during this study and will be included in the rulemaking to incorporate the San Francisco approach port access routing system in the Code of Federal Regulations.

The use of a circular separation zone of one-half-mile radius centered on the LNB in the IMO approved precautionary area has been effective in persuading mariners to keep away from the buoy. However, a separation zone is intended only to separate opposing lanes of traffic, a function which does not apply in this situation. The appropriate designation under IMO guidelines is an "area to be avoided." This modification would not alter the purpose of the area or reduce navigation safety. It would serve only to bring the scheme into alignment with IMO definitions and principles.

Recommendations

As a result of the present study, it is recommended that the Traffic Separation Scheme Off San Francisco be modified as follows:

(a) Modify the configuration of the circular precautionary area to delete approximately one-tenth of the circle on the eastern side. The precautionary area would be described as follows:

(1) A precautionary area bounded to the west by an arc of a circle with a radius of 6 miles centered upon geographical position 37°45.0' N, 122°41.5' W and connecting the following geographical positions:

Latitude	Longitude
37°42.7' N	122°34.6' W
37°50.3' N	122°36.0' W

(2) The precautionary area is bounded to the east by a line connecting the following geographical positions:

Latitude	Longitude
37°42.7' N	122°34.6' W
37°45.9' N	122°38.0' W
37°50.3' N	122°36.0' W

(b) Change the designation of the separation zone at the center of the precautionary area around the aid to navigation (LNB) to an "area to be avoided" with the same one-half mile radius.

(c) Establish a main ship channel segment of the traffic separation scheme to be described as follows:

(1) A separation line dividing eastbound (incoming) traffic from westbound (outgoing) traffic by the lines between the following geographic positions:

Latitude	Longitude
37°45.9' N	122°38.0' W
37°47.0' N	122°34.3' W
37°48.1' N	122°31.0' W

(2) A traffic lane for eastbound traffic between the separation line and a line connecting the following geographical positions:

Latitude	Longitude
37°45.8' N	122°37.7' W
37°47.8' N	122°30.8' W

(3) A traffic lane for westbound traffic between the separation line and a line connecting the following geographical positions:

Latitude	Longitude
37°46.2' N	122°37.9' W
37°46.9' N	122°35.3' W
37°46.5' N	122°31.3' W

(d) Label the new TSS segment as the "Main Ship Channel Approach" and name the present "Main Approach" as the "Western Approach" to distinguish more clearly the four segments of the TSS. The other two segments are the "Northern" and the "Southern" approaches.

Implementation

A notice of proposed rulemaking (NPRM) is planned for publication later this year to propose an offshore vessel routing system off California, including modifications to the Off San Francisco TSS recommended in this study and adopted by the International Maritime Organization. The NPRM will also include recommendations made in the recently completed study for the area to the northwest of the Santa Barbara Channel as published on December 5, 1985 (50 FR 49861, as corrected at 50 FR 52534). The NPRM will propose that the TSS's be incorporated in the Code of Federal Regulations (CFR) at Title 33, Part 167, and the safety fairways be incorporated in Part 166.

Dated: May 2, 1986.

W.J. Bregdon, Jr.,

Captain, U.S. Coast Guard Acting Chief, Office of Navigation.

[FR Doc. 86-10370 Filed 5-7-86; 8:45 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 10

Proposed Express Mail International Service to Guyana, Nigeria and Oman

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: Pursuant to agreements with the postal administrations of Guyana, Nigeria and Oman, the Postal Service intends to begin Express Mail International Service with these countries at postage rates indicated in the tables below. The proposed service is scheduled to begin on July 12, 1986.

DATE: Comments must be received on or before June 7, 1986.

ADDRESS: Written comments should be directed to the General Manager, Rate Development Division, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260-5350. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 8620, 475 L'Enfant Plaza West, SW., Washington, D.C. 20260-5350.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, (202) 268-2673.

SUPPLEMENTARY INFORMATION: The International Mail Manual is incorporated by reference in the Code of Federal Regulations, 39 CFR 10.1. Additions to the manual concerning the proposed new services, including the rate tables reproduced below, will be made in due course. Accordingly, although 39 U.S.C. 407 does not require advance notice and the opportunity for submission of comments on international service, and the provisions of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553) do not apply (39 U.S.C. 410[a]), the Postal Service invites interested persons to submit written data, views or arguments concerning the proposed Express Mail International Service to Guyana, Nigeria and Oman at the rates indicated in the table below.

List of Subjects in 39 CFR Part 10

Postal Service, Foreign relations.

PART 10—[AMENDED]

The authority citation for Part 10 continues to read as follows:

Authority: 5 U.S.C. 552(a), 39 U.S.C. 401, 404, 407, 408.

GUYANA—EXPRESS MAIL INTERNATIONAL SERVICE

Custom designed service [1] [2]		On demand service [2]	
Up to and including—		Up to and including—	
Pounds	Rate	Pounds	Rate
1	$31.00	1	$23.00
2	34.00	2	26.60
3	36.00	3	30.60
4	42.40	4	34.40
5	46.20	5	38.20
6	50.00	6	42.00
7	53.80	7	45.80
8	57.60	8	49.60
9	61.40	9	53.40
10	65.20	10	57.20
11	69.00	11	61.00
12	72.80	12	64.80
13	76.60	13	68.60
14	80.40	14	72.40
15	84.20	15	76.20
16	88.00	16	80.00
17	91.80	17	83.80
18	95.60	18	87.60
19	99.40	19	91.40
20	103.20	20	95.20
21	107.00	21	99.00
22	110.80	22	102.80
23	114.60	23	106.60
24	118.40	24	110.40
25	122.20	25	114.20
26	126.00	26	118.00
27	129.80	27	121.80
28	133.60	28	125.60
29	137.40	29	129.40
30	141.20	30	133.20
31	145.00	31	137.00
32	148.80	32	140.80
33	152.60	33	144.60
34	156.40	34	148.40
35	160.20	35	152.20
36	164.00	36	156.00
37	167.80	37	159.80
38	171.60	38	163.60
39	175.40	39	167.40
40	179.20	40	171.20
41	183.00	41	175.00
42	186.80	42	178.80
43	190.60	43	182.60
44	194.40	44	186.40

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

NIGERIA—EXPRESS MAIL INTERNATIONAL SERVICE

Custom designed service [1] [2]		On demand service [2]	
Up to and including—		Up to and including—	
Pounds	Rate	Pounds	Rate
1	$31.00	1	$23.00
2	35.90	2	27.90
3	40.80	3	32.80
4	45.70	4	37.70
5	50.60	5	42.60
6	55.50	6	47.50
7	60.40	7	52.40
8	65.30	8	57.30
9	70.20	9	62.20
10	75.10	10	67.10
11	80.00	11	72.00
12	84.90	12	76.90
13	89.80	13	81.80
14	94.70	14	86.70
15	99.60	15	91.60
16	104.50	16	96.50
17	109.40	17	101.40
18	114.30	18	106.30
19	119.20	19	111.20
20	124.10	20	116.10
21	129.00	21	121.00
22	133.90	22	125.90
23	138.80	23	130.80
24	143.70	24	135.70
25	148.60	25	140.60
26	153.50	26	145.50
27	158.40	27	150.40
28	163.30	28	155.30
29	168.20	29	160.20
30	173.10	30	165.10
31	178.00	31	170.00
32	182.90	32	174.90
33	187.80	33	179.80
34	192.70	34	184.70
35	197.60	35	189.60
36	202.50	36	194.50
37	207.40	37	199.40
38	212.30	38	204.30
39	217.20	39	209.20
40	222.10	40	214.10
41	227.00	41	219.00
42	231.90	42	223.90
43	236.80	43	228.80
44	241.70	44	233.70

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.
[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

OMAN—EXPRESS MAIL INTERNATIONAL SERVICE

Custom designed service [1] [2]		On demand service [2]	
Up to and including—		Up to and including—	
Pounds	Rate	Pounds	Rate
1	$31.00	1	$23.00
2	35.90	2	27.90
3	40.80	3	32.80
4	45.70	4	37.70
5	50.60	5	42.60
6	55.50	6	47.50
7	60.40	7	52.40
8	65.30	8	57.30
9	70.20	9	62.20
10	75.10	10	67.10
11	80.00	11	72.00
12	84.90	12	76.90
13	89.80	13	81.80
14	94.70	14	86.70
15	99.60	15	91.60
16	104.50	16	96.50
17	109.40	17	101.40
18	114.30	18	106.30
19	119.20	19	111.20
20	124.10	20	116.10
21	129.00	21	121.00
22	133.90	22	125.90
23	138.80	23	130.80
24	143.70	24	135.70
25	148.60	25	140.60

OMAN—EXPRESS MAIL INTERNATIONAL SERVICE—Continued

Custom designed service [1] [2]		On demand service [2]	
Up to and including—		Up to and including—	
Pounds	Rate	Pounds	Rate
26	153.50	26	145.50
27	158.40	27	150.40
28	163.30	28	155.30
29	168.20	29	160.20
30	173.10	30	165.10
31	178.00	31	170.00
32	182.90	32	174.90
33	187.80	33	179.80
34	192.70	34	184.70
35	197.60	35	189.60
36	202.50	36	194.50
37	207.40	37	199.40
38	212.30	38	204.30
39	217.20	39	209.20
40	222.10	40	214.10
41	227.00	41	219.00
42	231.90	42	223.90
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[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.
[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

An appropriate amendment to 39 CFR 10.3 to reflect these changes will be published when the final rule is adopted.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86-10329 Filed 5-7-86; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 97

[PR Docket No. 86-161; FCC 86-192, RM-5022, etc.]

Amendment of the Amateur Radio Service Rules To Expand the Privileges Available to Novice Operators

AGENCY: Federal Communications Commission.

ACTION: Proposed rules.

SUMMARY: The attached proposal would enhance Amateur Novice class operating privileges by allowing Novice operators to use amateur frequency bands and emissions not currently available to them. The proposal is necessary in order to preclude a continuing downward trend in the number of Novice operators. The effect of the proposal is to offer an opportunity for greater participation in amateur radio and to enhance Novice operating privileges by authorizing frequencies that are less subject to harmful interference.

DATES: Comments must be filed on or before July 16, 1986, and reply comments on or before August 20, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, DC 20554, (202) 632-4964.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, Adopted April 16, 1986, and released April 30, 1986. (Rm-5022, rm-5023 rm-5024, rm-5025, rm-5038, rm-5251, rm-5281, rm-52B2.)

1. The full text of this Commission decision including the proposed rule changes is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision and proposed rule changes may also be purchased from the Commission's copy contractor, international Transcription Services, Inc. (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rule Making

2. In response to several petitions, the FCC proposes to enhance Amateur Novice class operating privileges by allowing Novice operators to use frequencies in portions of the 28, 220 and 1200 MHz amateur bands, with emission modes not presently authorized to them. The proposal addresses a current concern in the Amateur service centered around a decline in both the number of new Novice operators and of total Novice operators. There are 10,000 fewer Novices now than there were two years ago. The proposal seeks to reverse the downward trends in the number of new Novice operators and total Novice operators by allowing enhanced opportunities to beginners in amateur radio so that they will desire greater operating privileges.

Only four amateur bands are now authorized for operation. Of these four bands, two often are subject to poor propagation conditions. The other two bands are subject to interference that occurs as a result of international broadcast or telephony operations.

3. This is a non-restricted notice and comment rule making proceeding. See § 1.1231 of the Commission's Rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

4. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before July 16, 1986, and reply comments on or before August 20, 1986. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

5. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, we submit that this proceeding is expected to increase interest among all persons in becoming amateur radio operators. It is estimated that at least 20,000 persons each year will become Novices. It is possible that some of these new applicants will purchase single sideband radiotelephony equipment. Thus, there is expected to be some effect on the sale of amateur radio equipment, including antennas, towers, transmission lines, transceivers, microphones, connectors and filters. Public comment is requested on the initial regulatory flexibility analysis set out in full in the Commission's complete decision.

6. The Notice of Proposed Rule Making is issued under the authority of 47 U.S.C. 154(i) and 303 (c) and (r).

7. A copy of the Notice of Proposed Rule Making will be served on the Chief Counsel for Advocacy of the Small Business Administration.

Ordering Clause

8. Insofar as they are consistent with the proposed rules adopted herein, rule making petitions RM-5022, 5023, 5024, 5038, 5251, 5281 and 5282 are granted, and in all other respects are denied.

List of Subjects in 47 CFR Part 97

Amateur radio, Emission, Frequencies, Radio.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-10288 Filed 5-7-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 654

Stone Crab Fishery of the Gulf of Mexico

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of availability of an amendment to a fishery management plan and request for comments.

SUMMARY: NOAA issues this notice that the Gulf of Mexico Fishery Management Council (Council) has submitted an amendment to the Fishery Management Plan for the Stone Crab Fishery (FMP) for Secretarial review and is requesting comments from the public. Copies of the revisions to the FMP may be obtained from the address below.

DATE: Comments on the FMP revisions should be submitted on or before July 22, 1986.

ADDRESS: All comments should be sent to Donald W. Geagan, Southeast Region, NMFS, 9450 Koger Boulevard, St. Petersburg, Florida 33702. Clearly mark, "Comments on Stone Crab Plan Amendment", on the envelope.

Copies of the FMP amendment are available upon request from the Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 33609.

FOR FURTHER INFORMATION CONTACT: Donald W. Geagan (Regional Plan Coordinator), 813-893-3722.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act, as amended (16 U.S.C. 1801 *et seq.*), requires that each regional fishery management council submit any fishery management plan it prepares to the Secretary of Commerce (Secretary) for review and approval or disapproval. The act also requires that the Secretary, upon receiving the plan, must immediately publish a notice that the plan is available for public review and comment. The Secretary will consider the public comments in determining whether to approve the plan amendment.

This plan amendment proposed changes in the measures for managing the stone crab fishery in the Gulf of Mexico. The Council prepared an environmental assessment and concluded there will be no significant impact on the environment as result of this action. Copies of the environmental assessment may be obtained at the above address.

Regulations proposed by the Council and based on this plan are scheduled to be published within 30 days.

(16 U.S.C. 1801 *et seq.*)

Dated: May 5, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-10304 Filed 5-5-86; 4:35 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 51, No. 89
Thursday, May 8, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Inyo National Forest, Mono Basin National Scenic Area Advisory Board; Meeting

The Mono Basin National Forest Scenic Area Advisory Board will meet at 9:30 a.m. on May 28, 1986, at the June Lake Community Center in June Lake, Calif. The agenda of the meeting will include:

1. Service/Facilities Plan—'86 Summer Season;
2. Visitor Center Update;
3. Private Land Guidelines and Boundary Adjustments Update;
4. National Academy of Science Update;
5. Comprehensive Management Plan Update.

The meeting will be open to the public. Persons who wish to attend and make oral presentation should notify Dennis W. Martin, Forest Supervisor, Inyo National Forest, 873 N. Main Street, Bishop, California, 93514, Telephone: (619) 873–5841. Written statements may be filed with the Committee before or after the meeting.

The Committee has established the following rules for public participation: After the Board has completed discussion of each topic, the public will be allowed time for questions or comment.

Dated: May 2, 1986.

Leon R. Silberberger,

Acting Forest Supervisor and Interim Chairman.

[FR Doc. 86–10368 Filed 5–7–86; 8:45 am]

BILLING CODE 4310–11–M

Soil Conservation Service

Fish Bayou Watershed, Arkansas; Desauthorization of Federal Funding

AGENCY: Soil Conservation Service; USDA.

ACTION: Notice of deauthorization of Federal funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of Federal funding for the Fish Bayou Watershed project, St. Francis and Crittenden Counties, Arkansas, effective on April 14, 1986.

FOR FURTHER INFORMATION CONTACT: Jack C. Davis, State Conservationist, Soil Conservation Service, Room 2405, Federal Office Building, 700 West Capitol Avenue, Little Rock, Arkansas 72201 (501–378–5445).

"(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)"

Jack C. Davis,

State Conservationist.

Dated: May 1, 1986.

[FR Doc. 86–10361 Filed 5–7–86; 8:45 am]

BILLING CODE 3410–16–M

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of ATBCB meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (ATBCB) has scheduled a meeting to be held from 2:00 PM to 4:30 PM, on Wednesday, May 14, 1986, to take place in Department of Transportation Conference Room 2230, 400 Seventh Street, SW, Washington, DC.

Items on the agenda: election of the Chairperson, Vice-Chairperson, and members of the Executive Committee; publication of section 504 rule; evaluation of aircraft boarding chairs technical manual contract; report on computer search of non-Board research; draft FY 1988 budget request; consideration of proposals for substantive changes to the Board's authorizing legislation.

DATE: Wednesday, May 14, 1986—2:00 pm–4:30 pm.

ADDRESS: Department of Transportation Conference Room 2230, 400 Seventh Street SW, Washington, DC.

There will be a special closed session of the Board on Monday, May 12, for Board members only.

All comittees of the ATBCB will meet on Tuesday and Wednesday morning, May 13 and 14, 1986, in the Department of Transportation Conference Room 2230, 400 Seventh Street SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Larry Allison, Special Assistant for External Affairs (202) 245–1591 (voice or TDD).

Margaret Milner,

Executive Director.

[FR Doc. 86–10267 Filed 5–7–86; 8:45 am]

BILLING CODE 6820–SP–M

DEPARTMENT OF COMMERCE

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: Advance Monthly Retail Trade Report.

Form number: Agency—B–104(SR), B–104E(SR), B–105(SR); OMB—0607–0104.

Type of request: Extension of a currently approved collection.

Burden: 2,850 respondents; 2,850 reporting hours.

Needs and uses: This report is for the purpose of collecting and tabulating early monthly estimates of retail sales. These published estimates are used widely by government and private agencies as the earliest indicator of changes in retail sales at the U.S. level.

Affected public: Business or other for-profit institutions; small businesses or organizations.

Frequency: Monthly.

Respondent's obligation: Voluntary.

OMB desk officer: Timothy Sprehe, 395–4814.

Agency: Bureau of the Census.

Title: Report of Building or Zoning Permits Issued and Local Public Construction.

Form number: Agency—C404; OMB–0607–0094.

Type of request: Revision of a currently approved collection.

Burden: 24,080 respondents; 24,080 reporting hours.

Needs and uses: The collected data is used to prepare monthly estimates and annual totals of the number and value of residential buildings and housing units, nonhousekeeping residential (hotels and motels), and nonresidential construction authorized by building permits.

Affected public: State and local governments.

Frequency: Annually.

Respondent's obligation: Voluntary.

OMB desk officer: Timothy Sprehe, 395–4814.

Agency: Bureau of the Census.

Title: 1985 Annual Survey of Communication Services.

Form number: Agency—B–516, B–517, B–518, B–519, B–520, B–521; OMB—NA.

Burden: 750 respondents; 750 reporting hours.

Needs and uses: This survey is the only annual source of data for the universe of employer firms providing communication services. These data will be used by the Federal Government for computation of the national accounts and for monitoring the course of continued deregulation, and by private industry for marketing analysis.

Affected public: Businesses or other for-profit institutions.

Frequency: Annually.

Respondent's obligation: Mandatory.

OMB desk officer: Timothy Sprehe, 395–4814.

Copies of the above information collection proposals can be obtained by calling or writing DOD Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6822, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: May 2, 1986.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 86–10353 Filed 5–7–86; 8:45 am]

BILLING CODE 3510–07–M

COMMODITY FUTURES TRADING COMMISSION

Coffee, Sugar, and Cocoa Exchange, Inc.; Coffee "C"

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of a proposed commodity futures option contract.

SUMMARY: The Coffee, Sugar, and Cocoa Exchange, Inc. ("CSCE") has applied for designation as a contract market in options on coffee "C" futures. The Director of the Division of Economic Analysis of the Commodity Futures Trading Commission ("Commission"), acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposal for comment is in the public interest, will assist the Commission is considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATE: Comments must be received on or before June 9, 1986.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581. Reference should be made to the CSCE coffee "C" futures option contract.

FOR FURTHER INFORMATION CONTACT: Fred Linse, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street NW., Washington, DC 20581, (202) 254–7303.

Copies of the terms and conditions of the proposed CSCE coffee "C" futures option contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CSCE in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1984)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures option contract, or with respect to other materials submitted by the CSCE in support of its application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street NW., Washington DC 20581, by June 9, 1986.

Issued in Washington, DC, on May 2, 1986.

Paula A. Tosini,

Director, Division of Economic Analysis.

[FR Doc. 86–10264 Filed 5–7–86; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

April 30, 1986.

The USAF Scientific Advisory Board Ad Hoc Committee to Review the Air Force Science and Technology Programs for Reliability, Maintainability and Logistics will conduct a closed meeting at Wright Patterson AFB, OH on 27–28 May 1986, from 8:00 am to 5:00 pm.

The purpose of the meeting will be to examine possible solutions to the problem of positive target identification beyond visual range.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202–697–8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–10272 Filed 5–7–86; 8:45 am]

BILLING CODE 3910–01–M

USAF Scientific Advisory Board; Meeting

April 30, 1986.

The USAF Scientific Advisory Board Tactical Cross-Matrix Panel will meet at Headquarters, Tactical Air Command, Langley AFB VA, on May 30, 1986 from 8:00 A.M. to 5:00 P.M.

The purpose of the meeting is to review and discuss selected programs relating to the mission of Tactical Air Command and the Tactical Air Forces.

This meeting will involve discussions of classified defense matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1)

thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-10273 Filed 5-7-86; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

May 1, 1986.

The USAF Scientific Advisory Board Ad Hoc Committee on Current and Potential Future Technology to Protect Air Force Space Missions from Current and Future Space Debris will meet at Los Angeles AFS on June 9, 1986, from 8:00 am to 5:00 pm and on June 10, 1986, from 8:00 am to 3:30 pm.

The purpose of the meeting will be to evaluate the space debris question and determine if technology exists to support Air Force policy in space in a space debris environment.

The meeting concerns matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-4648.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86-10274 Filed 5-7-86; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Supplemental Environmental Impact Statement for the proposed Lake Darling Flood Control Project, Lake Darling, Souris River, ND

AGENCY: U.S. Army Corps of Engineers, St. Paul District, Defense.

ACTION: Notice of intent to prepare a draft supplemental environmental impact statement (EIS).

SUMMARY: The 1962 Energy and Water Development Act authorized the Corps of Engineers to raise Lake Darling by approximately 4 feet and to implement work on upstream and downstream flood control measures. The Corps has completed a final programmatic EIS and a final feature EIS for this flood control project. Since that time, the Corps of Engineers and the State of North Dakota have investigated the feasibility of purchasing flood storage in the Province of Saskatchewan, Canada, to provide up to 100-year flood protection at Minot, North Dakota. This protection would be provided by operating two proposed reservoirs (Rafferty and Alameda) in Saskatchewan, in conjunction with the operation of the existing Boundary Dam in Saskatchewan and the existing Lake Darling Dam in North Dakota. Saskatchewan has indicated it will construct the new dams during the period from July 1987 to fall 1990.

A draft supplemental EIS on the proposed project will address the impacts in the United States from the operation of the Canadian reservoirs for flood control. For the areas downstream of the Lake Darling Dam, this operation will be the same as that discussed in the Lake Darling site-specific EIS. The primary differences between this project and the previous Lake Darling project are that the 4-foot raise of Lake Darling will be eliminated and that the flood storage will be provided by the Canadian reservoirs. The supplemental EIS will address impacts resulting from this project that have not been addressed in the previous EIS's. These include social, cultural, and fish and wildlife impacts resulting from the flood control operation of the Canadian reservoirs on the reach of the Souris River from the Canadian border to Lake Darling Dam.

Features that are part of this project as well as the 4-foot raise project include levee improvements at Velva, Sawyer, and six subdivision areas between Burlington and Minot; flood proofing, relocation, or acquisition of rural residences; modification of U.S. Fish and Wildlife Service structures in the Upper Souris and J. Clark Salyer National Wildlife Refuges; mitigation measures; compensation to Manitoba, Canada, for altered return flows; and a flood warning system for the Gassman Coulee near Minot.

Significant issues identified to date include the effects on fish and wildlife, migratory waterfowl, vegetation, water quality, erosion, and sedimentation; mitigation; cost sharing; and compliance with existing Federal and State laws and regulations. The supplemental EIS will discuss these issues in depth as they apply to the modifications being made in the existing project.

The scoping process for the draft supplemental EIS will be initiated by letter to all concerned Federal, State, and local agencies; to Canadian interests; and to other interested private organizations and individuals. Anyone who has an interest in participating in the scoping process and the development of the EIS is invited to contact the St. Paul District, Corps of Engineers, as soon as possible. We hope to accomplish the scoping task by letter. Because of the geographical distance, between interested parties, we believe that this is the most practical and efficient method. However, if interest is sufficient at the end of the scoping process, we will hold a meeting, after contacting all parties who have expressed an interest in the project. Our review of the project will comply with the requirements of the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations (40 CFR Parts 1500-1508), and applicable Corps of Engineers and other regulations.

The estimated date for public availability of the draft supplement to the Lake Darling EIS is July 1988.

Questions concerning the proposed action and draft EIS can be directed to: Mr. Gary Palesh, Chief, Environmental Analysis Section, Environmental Resources Branch, Planning Division, 1135 U.S. Post Office and Customs House, St. Paul, Minnesota 55101-1479.

Dated: April 25, 1986.

Joseph Briggs,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 86-10271 Filed 5-7-86; 8:45 am]

BILLING CODE 3710-CY-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP85-294-000]

Transcontinental Gas Pipe Line Corp., Revised Environmental Status for Facilities Proposed by Transcontinental Gas Pipe Line Corporation Under Docket No. CP85-294-000 and of a Routing Modification

May 2, 1986.

On July 16, 1985, the Secretary of the Federal Energy Regulatory Commission (FERC) issued a Notice of Availability for the DCQ Pipeline Project Environmental Assessment. This environmental assessment (EA) analyzed facilities proposed by Texas Eastern Transmission Corporation (Texas Eastern), Algonquin Gas Transmission Company (Algonquin), and Transcontinental Gas Pipe Line Corporation (Transco) under Docket Nos. CP84-429-001, CP84-654-001, and CP85-294-000, respectively. (See 50 FR 10099, 10535, and 28475.) Transco had proposed to construct 5.44 miles of 42-inch-diameter pipeline loop in Elbert and Hart Counties, Georgia; 4.13 miles of 36-inch-diameter pipeline loop in Morris and Essex Counties, New Jersey; and 3.44 miles of 24-inch-diameter pipeline loop in Mercer County, New Jersey. Transco's facilities were described and analyzed as a potential alternative to part of the facilities proposed by Texas Eastern. On August 15, 1985, the FERC issued certificates to Algonquin and Texas Eastern authorizing their proposed facilities. On August 15, 1985, the FERC also issued another order that consolidated three Transco applications, Docket Nos. CP85-190-000, CP85-284-000, and CP85-294-000, and set them for hearing. New facilities are only proposed in Docket No. CP85-294-000 and Transco is proceeding with these proposals independent of Texas Eastern's and Algonquin's proposals.

Consequently, Transco's proposal is no longer an alternative that is not preferred by the FERC staff. Transco is seeking to construct the same facilities that were analyzed in the EA. The environmental analysis of this proposal is contained within the body of the DCQ Pipline Project Environmental Assessment. The staff believes that Transco's proposed project would be environmentally acceptable and does not constitute a major Federal action significantly affecting the quality of the human environment.

Further, on April 9, 1986, Transco filed additional information with the FERC concerning an alternate route for part of its proposed Trenton Woodbury Loop in Mercer County, New Jersey. (See map A-7 in the EA for Transco's original route.) This routing change resulted from discussions with officials of Hamilton Township, Mercer County, and would only affect the route of the proposed loop between the intersection of East State Street Extension and Kentucky Avenue south for about 3,250 feet to the intersection of Transco's existing pipeline right-of-way and Public Service Gas and Electric Company's (PSG&E) existing powerline right-of-way.

Transco's original route would have been constructed from East State Steet Extension south under the street right-of-way of Kentucky Avenue affecting 22 residences, and then south across a wooded area parallel to Transco's existing pipeline right-of-way. The "new route" preferred by the local officials, and now by Transco, would not follow Kentucky Avenue. Instead, it would continue to head southeast for approximately 1,750 feet on the north side of East State Street Extension until it meets PSG&E's powerline right-of-way. The new route would then cross the street and follow the powerline right-of-way south-southwest for about 2,200 feet to the existing intersection of the powerline and pipeline rights-of-way. The new route is approximately 700 feet longer than the original route, but it would not disturb the 22 residences. Both routes would require the clearing of trees for about 2,000 feet of their length, but an inspection of aerial photographs shows the new route would impact less dense-wooded areas, particularly along East State Street Extension. Three commercial buildings and one medical office building, with paved parking lots, located off East State Street Extension, would be affected by the construction of the new route.

Although the new route is longer, it would have significantly less short-term impact on a residential area. Both the original route and the new route are acceptable to the staff. However, since the local officials prefer the new route, and it will probably be more acceptable to the general public in this area, the staff also believes the new route is preferable and should be authorized instead of the original route.

The above material is hereby incorporated into the FERC staff's DCQ Pipeline Project Environmental Assessment. The EA will be used in the regulatory decisionmaking process at the FERC. A formal hearing on this consolidated proceeding is scheuled to commence on May 27, 1986. Motions to intervene in the proceeding out-of-time can be filed with the Commission for transmission to the presiding administrative law judge.

Copies of the EA, a map showing the route modification, and this notice have been sent to Federal, state, and local officials, all parties to the proceeding, and the public, and are available in limited quantities, from the FERC Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

Anyone wishing to do so may file comments on the routing modification or any aspect of Transco's proposed facilities as soon as possible, but no later than May 23, 1986. Comments should be sent to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, and reference Docket No. CP85-294-000.

Additional information about the project is available from Mr. Kenneth D. Frye, Project Manager, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, telephone (202) 357-9039.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10306 Filed 5-7-86; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 8724-001, et al.]

Hydroelectric Applications (Cook Electric, Inc., et al.); Application Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: Major License.

b. Project No.: 8724-001.

c. Date Filed: June 7, 1985.

d. Applicant: Cook Electric, Incorporated.

e. Name of Project: North Fork Battle Creek Hydroelectric Project.

f. Location: On North Fork Battle Creek, near town of Manton, in Shasta County, California (In sections 19, 20, 21, 30 of T30N, R1E, MDB&M; in sections 25 of T30N, R1W, MDB&M).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Mr. Richard C. Hunn, Ott Water Engineer, Inc., 2334 Washington Avenue, Redding, CA 96001.

i. Comment Date: May 30, 1986.

j. Competing Application: Project No. 8725-001, Date Filed May 28, 1985.

k. Description of Project: The proposed project would consist of: (1) An 11-foot-high, 110-foot-long diversion dam at elevation 1,869 feet; (2) a 66-inch-diameter, 13,100-foot-long pipeline/penstock; (3) a powerhouse containing two generating units with a total installed capacity of 4.98 MW operating under a head of 366 feet; and (4) a 1.3-mile-long, 12.3-kV transmission line from the powerhouse to connect to an existing Pacific Gas and Electric Company (PG&E) transmission line. The estimated annual generation of 15.70 million kWh will be sold to PG&E. The project cost is estimated at $7.4 million. The Applicant does not propose any recreational facilities within the project area.

l. This notice also consists of the following standard paragraphs: A4, B, C, and D1.

2a. Type of Application: Transfer of License (Minor).

b. Project No.: 3156-003.

c. Date Filed: February 28, 1985.

d. Applicants: John M. Jordan and Miller & Miller.

e. Name of Project: Worthville Dam.

f. Location: Deep River, Randolph County, North Carolina.

g. Filed Pursuant to: Section 9 of the Federal Power Act.

h. Contact Person: Mr. John M. Jordan, P.O. Box 128, Saxapahaw, NC 27340 (919) 376–3132.

i. Comment Date: June 2, 1986.

j. Description of Project: On October 28, 1982, a minor license was issued to John M. Jordan to construct, operate and maintain the Worthville Dam Project No. 3150. The licensed project capacity is 280 kW. John M. Jordan intends to convey all of the project properties to Miller & Miller, a partnership qualified to business in the State of North Carolina. John M. Jordan has therefore filed a request that the project license be transferred to Miller & Miller.

k. This notice also consists of the following standard paragraphs: B and C.

3a. Type of Application: 5 MW Exemption.

b. Project No: 3755–000.

c. Date Filed: December 30, 1985.

d. Applicant: American Electric and Power, I, Ltd.

e. Name of Project: Piggy Back Water Power Generators.

f. Location: On the Susquehanna River, in Lancaster County, Pennsylvania.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 as amended.

h. Contact Person: Mr. B. Ryland Wiggs, Suite 207, 2285 Schoenersville Road, Bethlehem, PA 18017, (518) 866–1700.

i. Comment Date: June 4, 1986.

j. Description of Project: The proposed project would not utilize any dam, proposed dam or impoundment. The plan for development is to utilize a floating vessel outfitted with experimental paddle-wheel generating devices. The devices would generate electricity through the utilization of the river current. The generating vessels would be anchored to the river bottom in a fashion that would allow for a 40-foot fluctuation in river levels. The paddle wheel should not exceed eight feet in depth and eight feet in length. A submarine cable would connect the paddle wheel generating units to the on-shore local utility pole. The proposed installed generating capacity is 720 kW. The Applicant proposes to install an approximately 2-mile-long, 12 kV transmission line. The project would generate up to 6.3 GWh annually.

k. Purpose of Project: Energy produced at the project would be sold to Pennsylvania Power and Light Company.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D3a.

m. Purpose of Project: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

4a. Type of Application: Transfer of License.

b. Project No.: 4026–009.

c. Date Filed: March 26, 1986.

d. Applicants: Androscoggin Reservoir Company and Central Maine Power Company (licensee) and Androscoggin Reservoir Company and Aziscohos Hydro Company, Inc. (transferee).

e. Name of Project: Aziscohos.

f. Location: Magalloway River in Oxford County, Maine.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Thomas R. Doyle, Pierce, Atwood, Scribner, Allen, Smith & Lancaster, One Monument Square, Portland, ME 04101, (207) 773–6411.

i. Comment Date: June 6, 1986.

j. Description of Transfer: On March 26, 1986, Androscoggin Reservoir Company (ARCo) and Central Maine Power Company (CMPCo) (licensee), and ARCo and Aziscohos Hydro Company, Inc. (transferee), filed a joint application for transfer of a major license for the Aziscohos Project No. 4026.

The purpose of the proposed transfer of the license is to facilitate the financing of the licensed project. The transferee proposes to sell power, at the PURPA rate for the State of Maine, to CMPCo. The transferee and CMPCo have a power purchase agreement pending the transfer of the license.

No equipment has been contracted for or required to date. All engineering, design, and feasibility studies performed would be transferred to the transferee.

The transferee states that it would comply with all the terms and the conditions of the license.

k. This notice also consists of the following standard paragraphs: B and C.

Standard Paragraphs

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS", "NOTICE OF INTENT TO FILE COMPETING APPLICATION", "COMPETING APPLICATION", "PROTEST" or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB, at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. No. 88–29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly idenitified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, state , and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: May 2, 1986, Washington, DC.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–10315 Filed 5–7–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. CP86–433–000, et al.]

Natural Gas Certificate Filings; Southern Natural Gas Co., et al.

Take notice that the following filings have been made with the Commission:

1. Southern Natural Gas Company

[Docket Nos. CP86–433–000]

April 30, 1986.

Take notice that on April 10, 1986, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202–2563, filed in Docket No. CP86–433–000 an application pursuant to section 7 of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas for Atlanta Gas Light Company (Atlanta) acting as agent for Georgia Kaolin Company, Inc. (Georgia Kaolin), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport up to 9 billion Btu of natural gas per day for Atlanta, as agent for Georgia Kaolin, on an interruptible basis, for a one-year term. It is indicated that Georgia Kaolin would purchase the gas from Sonat Exploration Company. Applicant states that it would receive the gas for the account of Georgia Kaolin at various existing points on Applicant's system in Marion County, Mississippi, and St. Mary Parish, Louisiana. Applicant proposes to redeliver equivalent volumes of gas, less 3.25 percent for fuel and company-use gas, at existing delivery points to Atlanta in Georgia.

Applicant proposes to charge Atlanta a transportation rate of 46.2 cents per million Btu where the aggregate of the volumes transported by Applicant for Atlanta under any and all transportation agreements between Applicant and Atlanta, when added to the volumes of gas delivered under Applicant's Rate Schedule OCD, does not exceed Atlanta's daily contract demand from Applicant. For those volumes that exceed Atlanta's daily contract demand, Applicant proposes to charge 77.6 cents per million Btu. In addition Applicant proposes to collect the GRI surcharge of 1.35 cents per Mcf.

Applicant states that the proposed transportation service would displace sales by Applicant on a one-for-one basis which would in turn increase Applicant's take-or-pay liability with its producers on the same basis unless take-or-pay relief is obtained with respect to the volumes transported. Applicant proposes that in order to mitigate the impact of sales displacement transportation upon Applicant's take-or-pay exposure and to reduce the resulting costs to Applicant's sales customers, in addition to the foregoing transportation charges, for any volumes transported for which Applicant does not receive a credit against its take-or-pay obligations for a volume of gas equivalent to the volume of gas transported for Atlanta under the transportation agreement, Atlanta would pay Applicant a 34-cent take-or-pay payment surcharge per million Btu of gas redelivered under the transportation agreement.

Applicant also requests flexible authority to add delivery points in the event that Georgia Kaolin obtains alternative sources of supply. It is stated that the redelivery point, the recipient and the maximum daily transportation volume would remain unchanged. It is further stated that Applicant would file a report providing certain information with regard to the addition of any delivery points.

Comment date: May 19, 1986, in accordance with Standard Paragraph I at the end of this notice.

2. Great Lakes Gas Transmission Company

[Docket No. CP86–423–000]

May 2, 1986.

Take notice that on April 8, 1986, Great Lakes Transmission Company (Applicant), 2100 Buhl Building, Detroit, Michigan 48226, filed in Docket No. CP86–423–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of natural gas pipeline facilities and transportation services for Transco Gas Services Company (Gas Services), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to construct and operate seven loops of its existing pipeline in Minnesota, Wisconsin, and Michigan, totalling 60.1 miles, an aftercooler at its Crystal Falls, Michigan, compressor station, and other appurtenant facilities in Minnesota, Wisconsin, and Michigan. The total cost of the facilities is estimated to be $72,290,800. Applicant proposes to

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finance the cost initially by short-term rates and internally generated funds.

Applicant states that these facilities would be used to transport 250,000 Mcf of natural gas per day for Gas Services from Emerson, Manitoba, at existing interconnections with ANR Pipeline Company (ANR) to Fortune Lake, Michigan (160,000 Mcf per day), and Farwell, Michigan (90,000 Mcf per day). It is explained that ANR would then transport the gas to a proposed point of interconnection between ANR and Erie Pipeline System (Erie) near Defiance, Ohio. It is explained that Erie would transport the gas to a point of interconnection with Transylvania Gas Pipeline Company, Inc. (Transylvania), in Clinton County, Pennsylvania. Transylvania would then deliver the gas to Gas Services at unspecified locations.

It is explained that by an agreement dated April 3, 1986, Gas Services and Applicant agreed that Applicant would provide transportation service for Gas Services in two phases. Applicant states that in the first phase it would transport up to 75,000 Mcf of natural gas per day on an interruptible basis commencing when Erie phase I is completed. When Erie completes phase II, Applicant would provide 250,000 Mcf per day of transportation service on a firm basis. Applicant further states that the construction of Applicant's facilities would be coordinated with phase II of Erie's construction.

Applicant states that it would charge Gas Services the transportation element of resale rates proposed to become effective on July 1, 1986, under Applicant's Rate Schedules CQ–1 and CQ–2 filed in Docket No. RP86–35–002. Applicant states that for phase I the rates would be $0.26955 per Mcf for gas delivered to Fortune Lake and $0.44815 per Mcf of natural gas delivered to Farwell. It is further stated that for phase II the rates would be ($2.092 per Mcf × 160,000 Mcf) + ($0.20077 × gas volume received at Emerson) for gas delivered to Fortune Lake and ($3.927 per Mcf × 90,000 Mcf) + ($0.31904 × gas volume received at Emerson) for gas delivered to Farwell.

Applicant states that it filed a related application on April 8, 1986, in Docket No. CP86–422–000 which requests authorization to provide an additional 62,500 Mcf of natural gas per day of firm transportation services pursuant to an existing contract for TransCanada PipeLines Limited (TransCanada) under its current Rate Schedule T–4. Applicant further states that the proceeding in Docket No. CP86–422–000 is related to this application in that the requests for service by TransCanada and Gas Services were received at the same time and, therefore, the revenues to be generated relative to the increase in transportation service under Rate Schedule T–4 for TransCanada as well as the Gas Services' transportation revenues would be utilized to recover the cost of service related solely to the proposed facilities in this application.

Comment date: May 23, 1986, in accordance with Standard Paragraph F at the end of this notice.

3. Northern Natural Gas Company, Division of InterNorth, Inc.

[Docket No. CP86–421–000]

May 2, 1986.

Take notice that on April 8, 1986, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP86–421–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Northern to sell natural gas to its customers in accordance with the provisions of a summer service rate schedule, Rate Schedule IS–1, to be incorporated in Northern's FERC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2 Tariff, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northern states that on December 14, 1984, it filed an application for a certificate of public convenience and necessity for authorization to provide service under Rate Schedule IS–1 for a five-month period extending from April 27, 1985, through September 26, 1985. It is asserted that such rate schedule was designed to provide Northern's customers an opportunity and incentive to increase their purchases of natural gas at a discount through existing facilities during the summer months when Northern annually experiences reduced market requirements and associated excess gas deliverability. The Commission granted Northern's request by the order issued April 4, 1985, in Docket No. CP85–181–000, 31 FERC ¶ 61,033. Due to the success of this five-month summer sales program, Northern is requesting authority to establish Rate Schedule IS–1 as a permanent part of Northern's Volume 1 Tariff and Volume 2 Tariff and to sell natural gas under the rate schedule in accordance with the same terms and conditions that were previously authorized.

Northern states that the rate schedule would be effective during the billing months of May through September of each year and that service under the rate schedule would be available to those qualifying customers who purchase amounts of natural gas in excess of specified monthly base quantities of gas. Rate Schedule IS–1 would then apply to incremental sales in excess of the specified monthly base quantities of gas, it is explained.

Northern claims that this rate schedule would materially benefit Northern's customers both directly and indirectly. Northern maintains that Rate Schedule IS–1 would provide the salutary effects of contributing to overall cost recovery on Northern's system underlying Northern's currently effective sales rate, assisting in reducing Northern's current deliverability surplus and providing Northern's customers with an opportunity to purchase natural gas at a lower cost for their system supply.

Northern states that all gas sold under Rate Schedule IS–1 to eligible customers under Volume 1 of Northern's FERC Gas Tariff would be sold at a rate reflecting the appropriate discount to Northern's currently effective CD–1, CDO–1, or PL–1 commodity rate, whichever is applicable. Further, Northern states that gas sold under Rate Schedule IS–1 to customers identified in Volume 2 of Northern's FERC Gas Tariff would also be sold at a rate reflecting the appropriate reduction in Northern's applicable rate as set forth in Sheet No. Ic of the Gas Tariff. These rate discounts would be no greater than the return on common equity and related tax components underlying Northern's then currently effective rates, it is said.

Northern states that it has established the following four methodolgies for determining the monthly base quantities. First, for customers purchasing natural gas under Northern's CD–1 or GS–1 Rate Schedule, the monthly base quantity of gas would be the higher of the corresponding month's purchases by billing group during the previous two years. Second, for customers purchasing natural gas under Northern's CDO–1 Rate Schedule during 1986, the monthly base quantity of gas would be the corresponding month's purchases during 1985 by billing group after which time the monthly base quantity of gas would be the higher of the corresponding month's purchases by billing group during the previous two years. Third, for customers purchasing natural gas under Northern's PL–1 Rate Schedule, the monthly base quantity of gas would be equivalent to the respective customer's minimum monthly purchase amounts of gas as set forth in Volume 1 of Northern's FERC Tariff. Fourth, for all customers purchasing natural gas under Northern's Volume 2 Tariff, the monthly base quantity of gas would be either equal to the higher of the corresponding month's purchase of gas during the previous two years, the minimum bill amount of gas contained in the respective rate schedules, or the 100 percent load factor amount of gas based on the daily contract quantities of gas in each respective rate schedule, whichever is applicable.

Northern proposes to file annually revised tariff sheets detailing the applicable discount rate and monthly base quantities of gas that would be in effect during the upcoming summer period.

Northern submits that this proposed Rate Schedule IS–1 is in the public interest for the following reasons:

(1) The proposed incentive summer rate schedule would provide all of Northern's customers the opportunity to purchase natural gas at a lower cost for their system supply of gas, thereby reducing the cost of gas to their residential and industrial end-user customers.

(2) Rate Schedule IS–1 sales may add to incremental sales that Northern otherwise would not make under its regular firm sales rate schedule. Northern's customers, in turn, may also have made additional sales and would increase their recovery of costs.

(3) The proposed rate schedule would provide Northern with an opportunity to establish a more stable annual load profile which in turn will assist the producer in more stable annual gas production of the producer's wells. Further, such signals would assist Northern in its efforts to negotiate for lower cost supplies of natural gas for its customers.

(4) The proposed rate schedule would assist in maintaining the economic viability of Northern's pipeline, promote further stability by preventing erosion of Northern's sales base, improve the characteristics of operation of Northern's pipeline and assist in the recovery of costs on Northern's system underlying Northern's currently effective sales rates.

Comment date: May 23, 1986, in accordance with Standard Paragraph F at the end of this notice.

Trunkline Gas Company

[Docket No. CP86–451–000]

May 1, 1986.

Take notice that on April 18, 1986, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Texas 77001, filed in Docket No. CP86–451–000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on an interruptible basis for Panhandle Eastern Pipe Line Company (Panhandle), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that pursuant to a transportation agreement between Applicant and Panhandle dated April 14, 1986, Applicant has agreed to transport up to 20,000 Mcf of natural gas per day on an interruptible basis on behalf of Panhandle. Applicant would receive volumes of gas for Panhandle's account from Columbia Gulf Transmission Company (Columbia Gulf) at an existing point of receipt between Applicant and Columbia Gulf at Centerville, St. May Parish, Louisiana. Applicant states it would redeliver the gas at an existing point of interconnection with Panhandle in Douglas County, Illinois. For this transportation service, Panhandle would pay 31.60 cents per million Btu of gas.

Comment date: May 15, 1986, in accordance with Standard Paragraph F at the end of this notice.

5. Washtenaw Pipeline Company

[Docket No. CP86–445–000]

May 2, 1986.

Take notice that on April 15, 1986, Washtenaw Pipeline Company (Applicant), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP86–445–000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of others, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it intends to transport natural gas on behalf of all shippers and elects to become a transporter under the terms and conditions of the Commission's Order No. 436, issued October 9, 1985, in Docket No. Rm85–1–000. Applicant states that it accepts and would comply with the conditions in paragraph (c) of § 284.221 of the Commission's Regulations. Applicant further states that it has filed in Docket No. CP86–444–000 its proposed transportation rates pursuant to Rate Schedules F and I of its Original Volume No. 1 of its FERC Gas Tariff.

Comment date: May 23, 1986, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs:

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon that Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–10314 Filed 5–7–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. EF85–2011–003 and EF85–2021–003]

United States Department of Energy—Bonneville Power Administration; Order Conditionally Granting Interim Approval, Requiring Additional Submissions, Granting Waivers, Noting Interventions, Denying Motions, and Establishing Procedures

Issued: May 1, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

On April 2, 1986, the Bonneville Power Administration (BPA) filed a request for interim or final approval of a

modification to its Nonfirm Energy Rate Schedule NF–85 pursuant to sections 7(a)(2) and 7(i)(b) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act) and §§ 300.20 and 300.21 of the Commission's regulations. Nonfirm Rate Schedule NF–85, which BPA proposes to modify, is currently in effect on an interim basis as approved by the Commission on June 28, 1985, 31 FERC ¶ 61,380. BPA contends that the proposed modification is designed to keep BPA's nonfirm rates competitive in the face of rapidly declining gas and oil prices. It proposes to modify the Standard and High Cost Displacement rates in Rate Schedule NF–85 to permit sales at any rate level from 7 mills per kWh to 22.2 mills per kWh rather than applying the existing fixed rates. In the alternative, BPA proposes to permit sales that would be made under standard rates to be made instead under the contract rates in Rate Schedule NF–85. The contract rate is 18.1 mills per kWh which is lower than the standard rate of 22.2 mills per kWh. BPA asserts that its proposal is necessary to prevent a revenue underrecovery that could prevent BPA from satisfying its statutory obligation to repay the U.S. Treasury.

BPA has requested that approval be granted by April 16, 1986, or the earliest practicable date thereafter. Delayed implementation of a modified NF–85 rate, according to BPA, will impair BPA's ability to compete during the most critical months of BPA's spring run-off. BPA also requests waiver of the 60 day advance filing requirement due to what it characterizes as emergency circumstances precipitated by oil and gas price declines. BPA did not submit Statements A–F, required by § 300.11 of our regulations, but seeks to incorporate by reference Statements A–F from its original NF–85 filing. In the alternative, if the Commission does not find that such incorporation satisfies the filing requirements, BPA requests waiver of the requirements.

Notice of the filing was published in the **Federal Register**,[1] with comments due on or before April 11, 1986. The comment date was later extended to April 18, 1986. The Association of Northwest Gas Utilities (ANGU) and a group collectively referring to themselves as the Northwest Parties filed motions to intervene.[2] ANGU is an association of natural gas distribution companies serving retail natural gas markets in the Pacific Northwest. ANGU contends that to the extent that BPA's below-cost nonfirm energy rates and the marketing thereof are designed to capture customers that would not be attracted at higher, cost-based rates, including customers with dual-fuel capability, the competitive interests of ANGU's members are affected. ANGU urges that the Commission ensure that BPA's rates be consistent with national policies condemning anticompetitive practices.

The California Parties[3] filed a joint motion to intervene, a notice of intervention, and a protest. They request that BPA's filing be summarily rejected and that interim approval of the rates be denied. They argue that there is no evidence supporting the filing and that BPA has violated the procedural requirements of the Northwest Power Act in proposing these rates. They also argue that the filing is patently deficient. They further oppose BPA's request for waiver of the filing requirements and the 60 day advance filing requirement.

In support of their position, the California Parties allege that no evidence supports BPA's conclusion that the proposed rates are necessary to enable BPA to compete in the economy energy market. They argue that nothing in the record indicates the expected natural gas and oil prices through the remainder of the NF–85 period, the expected rates at which PBA's nonfirm energy will be marketable, the expected BPA revenues from nonfirm sales, the total BPA revenues expected for the NF–85 period, or the expected repayment to the Treasury for FY 1986 or FY 1987. They contend that interim approval of these rates is inappropriate in the absence of such data. They also contend that BPA's current rates are sufficiently flexible to compete in the California market despite declining oil and gas prices and that, in any event, there is no threat to repayment to the U.S. Treasury. These parties also criticize the lack of any information on how BPA intends to implement the proposed rates or the reason for a 7 mill floor to the rates.

Finally, the California Parties also argue that BPA has violated the procedural requirements of section 7(i) for adoption of new rates by failing to hold an adequate hearing. They contend that these procedural flaws are inconsistent with the statutory scheme in the Northwest Power Act for interim approval of BPA's rates, citing *U.S.* v. *Fulton*, 54 U.S.L.W. 4343 (April 8, 1986).

Puget Sound Power & Light Company (Puget) filed a separate motion to intervene in these dockets. In its motion to intervene Puget alleges an interest in the outcome of the proceeding and contends that the BPA Administrator's Record of Decision contains substantive and procedural errors in violation of the Northwest Power Act.

Pacific Power & Light Company (Pacific) and BPA's Direct Service Industrial customers (DSIs)[4] filed motions to intervene and supported the proposed interim rates. However, the DSIs voice concern about the design of the rates and the procedures by which they were adopted. Pacific conditions its endorsement of the rates on its understanding that the Intertie Adder for transmission and delivery of nonfirm energy will be retained. If the Commission adopts BPA's proposed flexible rate, Pacific requests that the Commission state in its order that the flexible base rate excludes the 1.2 mill Intertie Adder and that BPA must add the Intertie Adder to the base rate for Federal nonfirm sales to the Pacific Southwest. Pacific also opposes BPA's alternative rate proposal, which would expand the coverage of contract rates, unless the proposal is modified to retain the Intertie Adder charge.

BPA filed an answer in opposition to ANGU's motion to intervene. BPA contends that the issue raised by ANGU as to whether BPA's proposed rates affect the competitive interests of ANGU's members relates exclusively to sales of nonfirm energy within the Pacific Northwest, since ANGU's members serve retail markets solely within the region. BPA contends that, since section 7(k) of the Northwest Power Act limits Commission review to rates for sales of nonfirm energy outside the region, the issue raised by ANGU is beyond the scope of the Commission's review under section 7(k). Therefore, BPA requests that ANGU's motion to intervene be denied.

[1] 51 FR 11607 (1986).

[2] The Northwest Parties are a group of Pacific Northwest utilities and industrial customers of those utilities. The group includes the Public Generating Pool, which is an organization of publicly-owned utilities in the Pacific Northwest, the Public Power Council, the Association of Public Agency Customers, and Portland General Electric Company. The Northwest Parties allege that they have an interest in the proceeding but do not take a position on BPA's proposed rates.

[3] Public Utilities Commission of the State of California, California Energy Resources Conservation and Development Commission, Southern California Edison Company, Pacific Gas and Electric Company, San Diego Gas and Electric Company, Los Angeles Department of Water and Power, the Public Service Department of the City of Glendale, and the Water and Power Department of the City of Pasadena.

[4] The DSIs include the Aluminum Company of America, Columbia Falls Aluminum Company, Commonwealth Aluminum Corporation, Georgia Pacific Corporation, Intalco Aluminum Corporation, Kaiser Aluminum and Chemical Corporation, Oregon Metallurgical Corporation, Pacific Carbide and Alloys Company, Pennwalt Corporation, and Reynolds Metal Company.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely and unopposed motions to intervene serve to make the movants parties to this proceeding. One motion to intervene, filed by ANGU, is opposed by BPA. Notwithstanding BPA's opposition, we are not prepared to conclude that ANGU has failed to allege an adequate interest in the outcome of the proceeding; thus, we shall grant ANGU's motion to intervene. BPA may raise its concern with respect tothe proper scope of the proceeding during the course of our final review of its rates.

As noted, BPA has incorporated Statements A–F from its NF–85 filing and requested, in the alternative, if the Commission does not find that such incorporation satisfies its filing requirements, that the Commission waive such requirements. We do not find that such incorporation satisifies the filing requirements. These statements are required to be filed by our regulations in order to provide information on whether BPA is submitting a package of rates that meets the requirements of the Northwest Power Act. Incorporation of earlier statements implies that the information contained in those statements is still accurate. Revenues, however, have obviously declined. Although it has provided no supporting estimates, BPA acknowledges that revenues from nonfirm energy are depressed and that it is attempting to mitigate a declining revenue trend by making downward adjustments in nonfirm energy rate levels. Therefore, we believe that the supporting materials need to be updated to ensure that the revenue statements submitted are still accurate. However, while we find that the filing is deficient, the California Parties' arguments do not persuade us that the filing should be summarily rejected.

In the alternative, BPA requests waiver of the filing requirements. Because such a waiver would preclude us from undertaking an adequate review, we decline to grant it. Under the regulations, however, upon receipt of a deficient BPA rate filing, the Commission may approve the rate schedule on an interim basis on the condition that any deficiencies in the filing are corrected within a specified period. 18 CFR 300.20(b)(1)(i). That is the course we shall take here. We find that the filing is deficient, but shall approve the rates proposed by BPA on an interim basis, for the reasons stated below, on the condition that BPA updates Statements A–F, pursuant to § 300.11(b) of our regulations, within 45 days of the date of this order.[5]

Due to the complexities of the filing, we are unable to make a determination at this time with respect to BPA's request for final approval. Therefore, our current review will be limited to consideration on an interim basis which, necessarily, is a more limited review process than the review of rates for confirmation and approval on a final basis. Given the abbreviated review period in this case, such review must be even further truncated.

The circumstances of this filing are unusual. It is undisputed that oil and gas prices are declining in the California market. It is further undisputed that BPA competes with oil- and gas-fired generation to supply portions of the bulk energy requirements of California utilities. BPA alleges that it can no longer market nonfirm energy competitively to California under existing NF–85 rates. The situation is aggravated, according to BPA, by the fact that BPA's nonfirm energy availability is at its greatest in the months of May and June, because of spring run-off and water release to aid the passage of anadromous fish downstream to the Pacific. BPA contends that, if it cannot market this energy at this time, it will be forced to spill the water. It further contends that the result of spilled water and an inability to compete is a significant loss of revenue that impairs BPA's ability to recover costs and repay the Federal Treasury. Finally, it argues that increased flexibility in its nonfirm rate schedule is necessary to capture a portion of the revenues that would otherwise be lost. These assertions, on their face, suggest that, unless BPA has the flexibility to reduce its rates, its ability to recover its costs and repay the Federal Treasury may be seriously impaired. Therefore, on its face, BPA's filing appears to comply with the revenue recovery objectives of the Northwest Power Act. Again, this conclusion is based upon limited analysis in view of BPA's request for emergency action. We also realize that many of these allegations are contested by the California Parties. But we are unpersuaded that the arguments of the California Parties justify summary rejection of the filing or refusal to approve these rates on an interim basis. We believe, rather, that these issues should be addressed in the course of our final review of these rates. At that time, intervenors may challenge the assumptions underlying BPA's filing. Moreover, intervenors will be protected by an express condition that the interim rates will be collected subject to refund with interest.[6]

Nor do we find the California Parties' argument that BPA violated the procedural requirements of section 7(i) of the Northwest Power Act in proposing these rates to be grounds for denial of interim approval of these rates. We have previously held that we do not propose to review purported technical deficiencies in the Administrator's compliance with the procedural requirements of the Act. *Bonneville Power Administration*, 28 FERC ¶ 61,146 (1984); *Bonneville Power Administration*, 20 FERC ¶ 61,389 (1982).[7] The California Parties also argue that interim approval is unlawful where section 7(i) has not been complied with, citing a recent decision of the Supreme Court in *United States v. City of Fulton*, 54 U.S.L.W. 4343 (April 8, 1986). In that case, the Supreme Court held that neither the power purchase contracts at issue nor the Flood Control Act precluded the Secretary of Energy from making power rates charged by the Southwestern Power Administration effective on an interim basis, even though further review was still pending. In our view, the *Fulton* case, dealing with a different statutory scheme, does not require us to review alleged procedural violations of the Northwest Power Act prior to approving implementation or rates on an interim basis.

The Northwest Power Act provides very explicit procedures for the Administrator to follow in establishing rates under section 7(i); it also provides specific procedures for this Commission to follow in confirming and approving such rates under sections 7(a) and 9(k);

[5] The regulations provide that the Director of the Office of Electric Power Regulation will specify the deadline for filing additional materials. However, in the interest of efficiency and since there is no need to be more precise as to the materials to be submitted, we have decided to set the filing deadline at this time.

[6] The California Parties contend that refund calculations may be "difficult" to make or that BPA may ultimately assert that given the relationship between the rates, refunds are not appropriate. We are not persuaded by these contentions that the refund mechanism ultimately will be ineffective. In any event, however, we are satisfied with Bonneville's justification for placing the flexible rate proposal in effect on an interim basis.

[7] We have recognized in analogous circumstances that there is no provision in the Act which requires the Commission to police BPA's ratemaking procedures and that such review would be inconsistent with the goals of the Northwest Power Act to provide this Commission with limited review powers in order to avoid delay and to streamline the ratemaking review process. *Bonneville Power Administration*, 28 FERC at 61,140.

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moreover, it places judicial review of final rate determinations in the U.S. Court of Appeals under section 9(c)(5). We have previously held that the Court of Appeals is the proper forum under this statutory scheme for review of questions involving whether the Administrator has properly followed the statutory procedures assigned to him by the Northwest Power Act. *Bonneville Power Administration*, 28 FERC at 61,147. While we do not purport to judge the merits of these procedural arguments, we believe that it is appropriate to grant interim approval of the rates where BPA has met the requirements of our regulations (or in this case, is given a reasonable opportunity to bring its filing into compliance). Therefore, we shall approve on an interim basis BPA's proposal to modify the Standard and High Cost Displacement rates in Rate Schedule NF-85 to permit sales at any rate level from 7 mills per kWh to 22.2 mills per kWh.[8]

BPA has requested waiver of the Commission's requirement that the rates be filed at least 60 days before they are proposed to become effective. 18 CFR 300.10(a)(3). The California Parties oppose this request. They argue that the extremely short period between the filing date and the effective date makes the Commission's preliminary substantive review impossible. We shall grant BPA's request for waiver. It was apparently not feasible for BPA to make the filing earlier given the rapid changes in oil and gas prices in California in recent months. Moreover, we believe that the difficult circumstances here involving sudden and volatile changes in the California energy market which are allegedly threatening BPA's ability to market its power justify waiver of the 60 day requirement.

As noted above, BPA revenues may be less than were anticipated in its NF-85 filing. Therefore, we strongly urge BPA to review the adequacy of its existing rates with a view towards developing and filing new rates if warranted, at an earlier date than originally scheduled.

In light of the limited time in which parties were permitted to file comments on BPA's filing, we shall allow additional time during which parties may comment and respond to initial comments on any and all issues related to final confirmation and approval of BPA's rates. In particular, the parties are invited to comment on the need for a section 7(k) hearing before this Commission.

The Commission orders:

(A) ANGU's motion to intervene is hereby granted subject to the Commission's Rules of Practice and Procedure.

(B) BPA's request for waiver of the 60 days filing requirement is hereby granted.

(C) BPA's request for waiver of the filing requirements set forth in § 300.11(b)(1)—(8) is hereby denied.

(D) The California Parties' motion for summary rejection of the filing is hereby denied.

(E) The California Parties' request to reject BPA's request for interim approval of these rates is hereby denied.

(F) BPA's modified nonfirm energy rate schedule NF-85 is hereby permitted to be placed into effect on an interim basis, effective upon issuance of this order, subject to refund with interest as set forth in § 300.20(c) of the Commission's regulations, pending final confirmation and approval or disapproval of BPA's nonfirm energy rate; provided that BPA files Statements A–F, as required by § 300.11(b) of our regulations, within forty-five (45) days of the date of this order.

(G) Within thirty (30) days of the date on which PBA files Statements A–F, all parties who wish to do so shall file additional comments regarding final confirmation and approval of BPA's rates. The parties should specifically delineate in their comments any and all issues that they believe should properly be set for hearing under section 7(k) of the Act in light of the Commission's interpretation of the Act set forth in its September 1, 1982 order resolving the scope of the Commission's jurisdiction (20 FERC ¶ 61,282). All parties, at their optional, may file cross-comments within twenty (20) days thereafter. All timely comments will be considered by the Commission in determining the ultimate disposition of BPA's rate proposal.

(H) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10309 Filed 5-7-86; 8:45 am]

BILLING CODE 6717-01-M

[8] In response to Pacific's concerns, we note that it is our understanding that BPA proposes no change in the application of the Intertie Adder and that the existing Rate Schedule NF-85 includes a 1.2 mill adjustment to the base rates for all nonfirm energy delivered over the Pacific Northwest-Pacific Southwest intertie.

[Project No. 7001-002]

James Sungar; Surrender of Exemption

May 2, 1986.

Take notice that James Sungar, Exemptee for the proposed Shasta Hydroelectric Facility Project No. 7001, has requested that his exemption be terminated. The exemption was issued on March 3, 1983. The project would have been located on an existing drainage tunnel in the South Fork Cordinices Creek basin, in Alameda County, California. No construction has commenced at this project.

The Exemptee filed the request on April 9, 1986, and the exemption for Project No. 7001 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10312 Filed 5-7-86; 8:45 am]

BILLING CODE 6717-01

[Docket Nos. CI86-370-000 and CI86-373-000]

Texas Gas Transmission Corp.; Applications on Behalf of Producer-Suppliers of Texas Gas Transmission Corp. For Limited-Term Abandonment and For A Limited-Term Certificate of Public Convenience and Necessity With Pregranted Abandonment

May 2, 1986.

Take notice that on April 18, 1986, as supplemented on April 24, 1986, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in this proceeding applications pursuant to sections 7(b) and 7(c) of the Natural Gas Act and §§ 2.77 and 157.30 of the Commission's Regulations. Applicant states that it meets the standard of § 2.77 with substantially reduced takes without payment. Applicant requests on behalf of its producer-suppliers listed on the attached Appendix, an order (1) authorizing in Docket No. CI86-373-000 abandonment of certain sales to Applicant on a limited-term basis until November 1, 1988, (2) authorizing in Docket No. CI86-370-000 for such producer-suppliers, as well as parties owning an interest in the same production, a blanket limited-term certificate to make sales for resale of gas from sources listed on the Appendix until November 1, 1988, to the extent such gas is released by Applicant, and (3) authorizing pre-granted abandonment of any sale for resale made under the requested certificate. Applicant states that if granted, the authority requested herein will enable its eligible producer-suppliers, as well as parties owning an interest in the same production, to abandon, upon release by Applicant, for a limited-term, sales of gas to Applicant under contracts which have a weighted average contract price in excess of Applicant's currently effective market-out price of $1.85/MMBtu, and enable such gas to be sold on the spot market at competitive prices. Applicant suggests that the certificate issued herein be conditioned so that it will retain its contractual right to purchase gas from the various sources when required to meet its requirements as determined by Applicant from time to time in its sole discretion. Such proposed authorization, according to Applicant, will provide much needed relief to Applicant and its customers from take-or-pay obligations and provide needed cash flow to its producer-suppliers to facilitate and maintain production from currently existing supplies and to stimulate additional exploration and production activities.

Applicant states that it has begun to incur substantial take-or-pay liability due to, among other things, the effect of the impact of Commission Order Nos. 380 and 380-A, which determined that minimum commodity bill provisions which provided for the recovery of variable costs not incurred by the pipeline were unjust and unreasonable. Thus, according to Applicant, contractual provisions which required Applicant's pipeline customers effectively to take or pay for a percentage of the gas costs incurred by Applicant were thereby eliminated. Applicant states that a second effect has been the intense competitive pressures in all of its markets caused by a precipitous fall in the spot market price of gas, the inability of Applicant, as a regulated interstate pipeline, to respond to such pressures under current Commission rules and regulations, combined with Applicant's willingness to provide open and non-discriminatory transportation services under both section 7 of the Natural Gas Act (NGA) and the interim regulations promulgated pursuant to Order Nos. 436 and 436-A. Applicant states that the impact of these factors upon the relationship between its sales markets and its obligations to its producer-suppliers has necessitated the filing of these applications. Applicant further states that it is currently providing open and non-discriminatory transportation services under the interim regulations of Order Nos. 436 and 436-A, as well as providing transportation services in Docket No. CP86-143-000 under section 7 of the NGA on behalf of 52 specific customers, and has committed to perform additional transportation services under section 7 in Docket No. CP86-349-000, to the extent requested by its customers. This open transportation policy, according to Applicant, provides its customs with additional purchasing options which they might not otherwise have, but also results in the displacement of sales of gas which would otherwise have been made by Applicant from its system supply.

Applicant states that its current minimum purchase obligations from field sources total more than 1.1 Bcf/d while markets have declined to a current level requiring takes from field sources of less than 425 MMcf/d.[1] This disparity between sales levels and minimum purchase obligations has, according to Applicant, created substantial problems that may ultimately affect its willingness and ability to seek a blanket certificate pursuant to Order Nos. 436 and 436-A. Further, Applicant states that the authority requested herein will allow it to release eligible production from time to time during the term of such authorization to the respective producer-suppliers for sale on the spot market. Applicant states that it will be absolved of all take-or-pay obligations for the volumes released and that approval of the applications would increase Applicant's ability to respond to the intense competitive pressures in its markets.

The circumstances presented in the applications meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order Nos. 436 and 436-A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85-1-000, all as more fully described in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should, on or before 15 days from the date of publication of this notice in the Federal Register, file with the Federal Energy Regulatory Commission, Washington, DC, 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceedings. Any person wishing to become a party to the proceedings herein must file petitions to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

APPENDIX.—ALL VOLUMES—MCF/D @ 14.73 PSIA

[Contracts above $1.85]

R.S.	Contract No.—contract name—field, state	Min	Chg	Docket No.
826	56 Amoco Production Co. 90%, High Island SA Blk A573, TX	249	2,411	CI80-494
779	62 Amoco Production Co. 90%, High Island EA SX Blk A334, TX	9,537	348	CI78-676
780	63 Amoco Production Co. 90%, High Island EA SX Blk A302, TX	24,818	0	CI78-801
815	65 Amoco Production Co. 90%, High Island SA Blk A573, TX	2,645	229	CI80-12
816	66 Amoco Production Co. 90%, High Island SA Blk A573, TX	7,258	110	CI80-13
55	74 Arco Oil and Gas Co. 90%, Tepetate North, LA	122	0	G-3894
35	90 Union Exploration Partners 90%, Lake Pelourde East, LA	81	0	G-8809
21	123 Chevron U.S.A. Inc. 50%, Mallard Bay, LA	81	0	CI80-381
6	128 Chevron U.S.A. Inc. 90%, Simon Pass, LA	1,577	0	G-13078
41	131 Chevron U.S.A. Inc. 70%, South Timbalier Block 8, LA	4,166	0	CI67-1616
3	139 Clover Bobo Cote, et al. 90%, Lewisburg, LA	490	0	G-5144
411	158 Chevron U.S.A., Inc. 70%, Church Point, LA	333	0	CI69-1175
88	164 Chevron U.S.A., Inc. 70%, Bosco South, LA	1,543	0	CI71-593
173	201 Chevron U.S.A., Inc. 90% Ship Shoal SA Blk 298, LA	173	0	CI80-16
	223 Robert J. Hewitt 80%, Hall Hole Bayou, LA	12	0	
7	235 CNG Producing Co. 90%, Hall hole Bayou, LA	3,982	0	CI74-276
56	242 CNG Producing Co. 90% Ship Shoal SA Blk 248, LA	426	10	CI81-129
	254 Houston Oil & Minerals 60%, Vermilion Block 50, LA	466	192	CI71-453
167	257 Exxon Co. 75%, Bayou Pigeon, LA	162	0	G-17391
143	259 Exxon Co. 70%, Chalkley, LA	795	35	G-3101
112	260 Mobil Oil Exploration & Producing Southeast, Inc 65%, Maxie, LA	185	0	R77-55
	262 Mer-Low Corp. 80% Maurice, LA	0	0	CS72-1070
	347 Edward I. Eagle 80%, Garden City, LA	12	0	CS73-296

[1] Applicant states that under the 103 producer-supplier contracts listed in the Appendix, there is a minimum purchase obligation of gas-well gas and casinghead gas equal to approximately 576 Mcf/d.

BEST COPY AVAILABLE

APPENDIX.—ALL VOLUMES—MCF/D @ 14.73 PSIA—Continued

[Contracts above $1.25]

R.S.	Contract No.—contract name—field, state	Min	Chg	Docket No.
695	389 Phillips Oil Co. 70%, Maurice, LA	329	0	C66-90
540	390 Amoco Production Co. 80%, Eugene Island SA Blk 273, LA	6,468	0	C70-311
	394 Pelto Oil Co. 90%, Ship Shoal SA Block 248, LA	745	15	CS76-0461
343	397 Texaco Inc. 70%, Henry, LA	110,279	0	C64-475
19	403 Union Exploration Partners 88%, Lake Pelto Area East, LA	3,048	0	G-13846
	408 Samedan Oil Corp. 90% Ship Shoal SA Block 298, LA	120	0	CS71-0430
	411 Taylor Energy Co. 70%, Bayou Pigeon, LA	308	0	CS83-72
370	419 Texaco Inc. 100%, Cote Blanche, LA	25,987	0	C68-995
69	423 Texas Gas Explor. Corp. 90%, Ship Shoal SA Blk 246, LA	23,178	26	C81-92
62	424 Texas Gas Explor. Corp. 90%, Ship Shoal SA Blk 246, LA	4,983	25	C81-91
114	445 Shapiro 70%, West Cameron Block 33, LA	299	0	G-17337
58	448 Texas Gas Explor. Corp. 90%, High Island SA Blk A573, TX	7,612	147	C78-840
580	447 Texaco Inc. 70%, Henry, LA	32,407	0	C78-445
56	449 Texas Gas Explor. Corp. 90%, Ship Shoal SA Block 298, LA	259	0	C78-354
56	449 Texas Gas Explor. Corp. 90%, Eugene Island Blk 100 (99), LA	1,440	0	C78-336
582	452 Texaco Inc. 90%, Vermilion Block 50, LA	119,088	250	C78-208
563	453 Texaco Inc. 90%, Eugene Island SA Block 348, LA	3,570	0	C78-218
54	454 Texas Gas Explor. Corp. 90%, Ship Shoal SA Blk 271, LA	791	0	C78-91
53	455 Texas Gas Explor. Corp. 90%, West Cameron Blk 237, LA	2,586	0	C78-86
48	457 Texas Gas Explor. Corp. 90%, Vermilion SA Blk 256, LA	5,074	0	C78-489
49	461 Texas Gas Explor. Corp. 90%, Ship Shoal SA Blk 248, LA	624	354	C78-760
43	465 Texas Gas Explor. Corp. 90%, Eugene Island SA Blk 292, LA	2,565	0	C78-176
46	465 Texas Gas Explor. Corp. 90%, Eugene Island SA Blk 292, LA	63	197	C77-287
46	467 Texas Gas Explor. Corp. 90%, High Island EA SX Blk A334, TX	3,679	0	C78-395
47	469 Texas Gas Explor. Corp. 90%, High Island EA Sx Blk A334, TX	5,285	199	C78-396
519	472 Texaco Inc. 90%, Eugene Island SA Block 348, TX	8,169	0	C75-880
478	476 Texaco Inc. 90%, Ship Shoal Block 204, LA	562	224	C72-824
440	477 Texaco Inc. 90%, Eugene Island Block 373, LA	8,294	0	C78-963
351	482 Texaco Inc. 70%, Maurice, LA	570	0	C66-440
362	484 Texaco Inc. 90%, Henry, LA	42,669	0	C65-1305
28	488 Texas Gas Explor. Corp. 90%, Eugene Island SA Blk 292, LA	2,595	0	C72-419
67	501 Texas Gas Explor. Corp. 90%, Eugene Island SA Blk 292, LA	55	0	C82-402
188	525 Union Exploration Partners 67%, Welsh, LA	51	0	C66-1016
299	528 Union Exploration Partners 90%, Eugene Island SA Blk 276, LA	9,499	0	C69-783
237	535 Union Exploration Partners 90%, High Island EA Sx Blk A382, TX	84,818	0	C77-828
237	535 Union Exploration Partners 90%, High Island EA Sx Blk A334, TX	4,814	266	C77-828
237	535 Union Exploration Partners 90%, High Island SA Blk A573, TX	9,665	3,100	C77-828
245	536 Union Exploration Partners 90%, West Cameron Block 237, LA	540	0	C78-859
250	537 Union Exploration Partners 90%, West Cameron Block 237, LA	2,046	0	C78-86
251	538 Union Exploration Partners 90%, High Island SA Blk A537, TX	5,054	900	C79-540
61	544 Texas Gas Explor. Corp. 90%, High Island SA Blk A573, TX	124	1,224	C81-89
63	549 Union Tit Petroleum Co. 90%, Lake Arthur, LA	22,391	0	R79-29
63	438 Union Texas Petr. Corp. 90%, Lewisburg, LA	91	0	R79-29
	567 Commonwealth Expl Corp. 66%, Slaughters South, KY	24	0	CS76-1140
	575 Devon Energy Corp 65%, Monroe, LA	794	0	CS76-842
	582 Ergon Inc. 65%, Monroe, LA	113	0	CS77-282
	586 Devon Energy Corp. 65%, Monroe, LA	2,925	0	CS76-842
1	587 Ergon, Inc. 88%, Maurice, LA	13	0	CS77-282
311	588 Texaco Inc. 50%, Sugar Creek, LA	5	0	C80-850
109	679 American Petrofina 90%, Hico, LA	47	0	C77-178
2	700 MLB, Chastain 65%, Carthage, TX	150	0	G-4681
5	705 Smith Op. and Mgmt. 80%, Carthage, TX	33	0	G-11489
	712 Alfred C. Glassell, Jr. 80%, Carthage, TX	103	0	CS71-0708
238	720 East Carthage Group 65%, Carthage, TX	986	0	CS73-0089, et al.
	745 HLH Petroleum Co. 70%, Carthage, TX	789	0	
	765 Samson Resources Co. 80%, Carthage, TX	253	0	CS83-78 CS74-0096
47	775 Texaco Inc. 65%, Carthage, TX	5	0	G-4822
134	834 Union Exploration Partners 80%, Ruston, LA	9	0	C161-245
1	853 Barnwell, Inc., et al 50%, Minden, LA	49	0	C161-874
58	854 Hargraves and Sons Drlg. 50%, Minden, LA	17	0	C162-104
	855 Hargraves and Sons Drlg. 50%, Minden, LA	44	0	C373-551
386	856 Exxon Co. 50%, Minden, LA	68	0	C162-1236
516	886 Amoco Production Co. 80%, Shongaloo North-Red Rock, LA	92	0	C169-114
11	888 Crystal Oil Co., et al 50%, Shongaloo North-Red Rock, LA	61	90	C161-209
	891 Samson Resources Co. 66%, Welcome, AR	709	0	CS74-0096
10	940 Mar-Ken Oil Co. 90%, Elk Creek, KY	19	0	C168-864
9	949 Mar-Ken Oil Co. Midland, West, KY	23	0	C167-1601
12	953 Mar-Ken Oil Co. 90%, St. Charles, KY	35	0	C162-247
205	971 Ashland Exploration 58%, Midland, West, KY	39	0	G-3812 et al.
	972 Mar-Ken Oil co., et al 50%, ST. Charles, KY	30	0	CSR-371
	Total contracts = 169	566,104	10,343	

[FR Doc. 86-10307 Filed 5-7-86; 8:45 am]

BILLING CODE 6717-01

Hydroelectric Project No. 5004, has requested that its exemption be terminated. The exemption was issued on April 13, 1984. The project would have been located at Bridgeport Reservoir on East Walker River, in Mono County, California. No construction has commenced at this project.

The Exemptee filed the request on October 15, 1985, and the exemption for Project No. 5004 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007, in which case the exemption shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR Part 4, may be filed on the next business day.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10313 Filed 5-7-86; 8:45 am]

BILLING CODE 6717-01

[Docket No. TA86-2-57-000, 001]

Western Transmission Corp., Proposed Changes, May 2, 1986

Take notice that Western Transmission Corporation (Western), on April 28, 1986, tendered for filing as part of its FPC Gas Tariff, Original Volume No. 1, the following sheet:

Twenty Sixth Revised Sheet No. 3–A, superseding Twenty Fifth Revised Sheet No. 3–A.

The proposed changes would decrease the monthly charges for purchased gas to Colorado Interstate Gas Company, Western's sole jurisdictional customer, pursuant to the provisions of section 18 of Western's FPC Gas Tariff, Original Volume No. 1.

The proposed effective date of the above tariff sheet is June 1, 1986.

Copies of this filing have been served upon Colorado Interstate Gas Company.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protest should be filed on or before May 12 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies

[Project No. 5004-003]

Walker River Irrigation District; Surrender of Exemption

May 2, 1986.

Take notice that Walker River Irrigation District, Exemptee for the proposed Bridgeport Reservoir

of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10310 Filed 5-7-86; 8:45 am]

BILLING CODE 6717-01

[Docket No. RP86-10-007]

Williston Basin Interstate Pipeline Co.; Tariff Change

May 2, 1986.

Take notice that on April 30, 1986, Williston Basin Interstate Pipeline Company (Williston Basin), Suite 200, 304 East Rosser Avenue, Bismarck, North Dakota 58501, submitted the following tariff sheets for filing as part of its FERC Gas Tariff, Original Volume No. 1, First Revised Volume No. 1, Original Volume No. 1–A, and Original Volume No. 2:

Original Volume No. 1

Cancellation of Original Volume No. 1

First Revised Volume No. 1

Face Sheet
Substitute Original Sheet Nos. 1–4, 6–8, 12–90, 101–265
Third Substitute Original Sheet No. 10

Orignal Volume No. 1–A

Face Sheet
Substitute Original Sheet Nos. 1–4, 6–9
Third Substitute Original Sheet Nos. 10 and 11
Substitute Original Sheet Nos. 12–274

Original Volume No. 2

Substitute First Revised Sheet No. 1
Substitute Original Sheet No. 1A
Substitute Original Sheet No. 1B
Substitute Original Sheet No. 1C
Fourth Substitute Third Revised Sheet No. 10
Substitute Original Sheet No. 10A
Fourth Substitute Third Revised Sheet No. 11
Third Substitute Original Sheet No. 11A

Williston Basin further identifies the sheets with substantive changes (other than modifications to the effective dates) as follows:

Original Volume No. 1

Cancellation of Original Volume No. 1

First Revised Volume No. 1

Substitute Original Sheet No. 3
Substitute Original Sheet No. 4
Third Substitute Original Sheet No. 10
Substitute Original Sheet No. 55
Substitute Original Sheet No. 109
Substitute Original Sheet No. 110
Substitute Original Sheet No. 113
Substitute Original Sheet No. 128
Substitute Original Sheet No. 129
Substitute Original Sheet No. 130
Substitute Original Sheet No. 132
Substitute Original Sheet No. 265

Original Volume No. 1–A

Substitute Original Sheet No. 3
Substitute Original Sheet No. 4
Third Substitute Original Sheet No. 10
Third Substitute Original Sheet No. 11
Substitute Original Sheet Nos. 25–29
Substitute Original Sheet Nos. 35–38
Substitute Original Sheet Nos. 45–48

Original Volume No. 1–A (cont'd.)

Substitute Original Sheet Nos. 55–58
Substitute Original Sheet No. 67
Substitute Original Sheet No. 77
Substitute Original Sheet No. 86
Substitute Original Sheet No. 95
Substitute Original Sheet No. 127
Substitute Original Sheet Nos. 150–155
Substitute Original Sheet Nos. 165–169
Substitute Original Sheet No. 216
Substitute Original Sheet No. 221

Original Volume No. 2

Substitute Original Sheet No. 1B
Substitute Original Sheet No. 1C
Fourth Substitute Third Revised Sheet No. 10
Fourth Substitute Third Revised Sheet No. 11

The revised sheets reflect the continuation of service under Rate Schedule X–1, originally proposed to be cancelled. The tariff sheets also reflect revisions necessary to delete reference to uncertificated services and to eliminate all costs associated with the facilities not in service by the end of the test period, as required by the Suspension Order issued on November 29, 1985, as amended January 26, 1986, in Docket No. RP86–10–002.

The tariff sheets also correct omissions in the original filing of Original Sheet No. 221, Original Volume No. 1–A, which is a signature page to Exhibit "A" of the Form of Service Agreement under Rate Schedule S–3, and references to Item Nos. 27.5.1, 27.5.2, and 27.5.3 on Substitute Original Sheet No. 113, First Revised Volume No. 1. Williston Basin also submitted Substitute Original Sheet No. 265, First Revised Volume No. 1, to show the date of execution of a new service agreement with Frannie-Deaver Utilities.

Subsequent to the filing of its proposed rate changes in Docket No. RP86–10–000, *et al.*, on October 31, 1985, Williston Basin was conditionally granted an exemption from the Index of Requirements filing requirement under Section 281.204(b) of the Commission's Regulations in Docket Nos. SA85–33–000, *et al.*, and in Docket Nos. TC85–17–000, *et al.*, Williston Basin was allowed to eliminate the restrictions on growth, as reflected in Section 18 of Williston Basin's Gas Tariff, Original Volume No. 1. The Company states that these changes have been incorporated into First Revised Volume No. 1.

The substitute tariff sheets reflect the changes in cost of gas filed on March 31, 1986, pursuant to Williston Basin's Purchased Gas Cost Adjustment Provision, Docket No. TA86–2–49–000, proposed to be effective May 2, 1986.

Pursuant to § 375.307(j) of the Commission's Regulations, Williston Basin respectfully requests waiver of section 4(d) of the Natural Gas Act and Commission's Regulations there-under, so that the attached tariff sheets may become effective on May 2, 1986, as proposed herein.

Any person desiring to be heard or to make any protest with reference to said filing should, on or before May 12, 1986, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of Rule 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10311 Filed 5-7-86; 8:45 am]

BILLING CODE 6717-01

[Docket Nos. ER86-436-000, et al.]

Electric Rate and Corporate Regulation Filings; Arizona Public Service Co., et al., May 5, 1986.

Take notice that the following filings have been made with the Commission:

1. Arizona Public Service Company

[Docket No. ER86-436-000]

Take notice that Arizona Public Service Company (APS) on April 25, 1986, tendered for filing a Wholesale Power Agreement and a Wheeling and Administrative Service Agreement between Arizona Public Service Company (APS) and Electrical District No. 6 (ED–6).

It is intended that these new Agreements supercede the terms and conditions for service presently being rendered under a Letter Agreement (FERC Rate Schedule No. 122) scheduled to terminate on June 30, 1986. The rates for services to be rendered remain unchanged from those presently in effect.

APS, with ED–6's concurrence, requests an effective date of February 14, 1986.

Copies of this filing have been served upon ED–6 and the Arizona Corporation Commission.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Central Hudson Gas & Electric Corporation

[Docket No. ER–86–440–000]

Take notice that on April 28, 1986, Central Hudson Gas and Electric Corporation (Central Hudson) tendered for filing its development of actual costs for 1985 related to substation service provided to Consolidated Edison Company of New York, Inc. (Con Edison) in accordance with the provisions of its Rate Schedule FERC No. 43.

Central Hudson indicates that the actual cost for 1985 amounted to $317,919 and will be the basis on which estimated charges for 1986 will be billed.

Central Hudson requests waiver on the notice requirements set forth in 18 CFR 35.11 of the Regulations to permit charges to become effective January 1, 1986 as agreed by the parties.

Central Hudson states that a copy of its filing was served on Con Edison and the State of New York Public Service Commission.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Central Hudson Gas & Electric Corporation

[Docket No. ER86–441–000]

Take notice that Central Hudson Gas & Electric Corporation (Central Hudson), on April 25, 1986, tendered for filing, as a rate schedule an executed Agreement dated March 10, 1986 between Central Hudson and Orange and Rockland Utilities, Inc. (O&R). The proposed rate schedule provides for a transmission agreement between Central Hudson and O&R.

Central Hudson states that the service to be provided by Central Hudson is the transmission of power and energy between (a) Central Hudson's transmission connection with the 345 Kv. Leeds Substation of Niagara Mohawk Power Corporation and (b) Central Hudson's transmission connection with O&R at the 115 Kv. Sugarloaf Substation.

Central Hudson states that transmission capacity to be made available to O&R will be that scheduled as unsupported firm power for O&R by the New York Power Authority (NYPA) in accordance with contracts in effect between NYPA and O&R.

Central Hudson states that copies of the subject filing were served upon: Orange and Rockland Utilities, Inc., 75 West Route 59, Spring Valley, New York 10977.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Central Hudson Gas & Electric Corporation

[Docket No. ER86–442–000]

Take notice that on April 28, 1986, Central Hudson Gas and Electric Corporation (Central Hudson) tendered for filing its development of actual costs for 1985 related to transmission service provided from the Roseton Generating Plant to Consolidated Edison Company of New York, Inc. (Con Edison) and Niagara Mohawk Power Corporation (Niagara Mohawk) in accordance with the provisions of its Rate Schedule FERC No. 42.

The actual costs for 1985 amounted to $1.4345 per Mw.-day to Con Edison and $4.7277 per Mw.-day to Niagara Mohawk and are the basis on which charges for 1986 have been estimated.

Central Hudson requests waiver on the notice requirements set forth in 18 CFR 35.11 of the Regulations to permit charges to become effective January 1, 1986 as agreed by the parties.

Central Hudson states that a copy of its filing was served on Con Edison, Niagara Mohawk and the State of New York Public Service Commission.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Central Illinois Light Company

[Docket No. EC86–19–000]

Take notice that on April 25, 1986, Central Illinois Light Company (CILCO) tendered for filing an application seeking approval of their Real Estate Sales Contract between CILCO and the Village of Chatham (Chatham). Said contract provides for the sale of specified substation equipment and land located in the Village of Chatham, IL.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this document.

6. Idaho Power Company

[Docket No. ER86–443–000]

Take notice that on April 28, 1986, the Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1976, a summary of sales made under the Company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during February 1986, along with cost justification for the rate charged. This filing includes the following supplements:

	Supplement No.
Utah Power & Light Company	51
Montana Power Company	39
Washington Water Power Company	37
Pacific Power & Light Company	16
Sierra Pacific Power Company	48
Portland General Electric Company	44
Puget Sound Power & Light Company	20
Southern California Edison Company	38
Pacific Gas & Electric Company	19
Western Area Power Administration	12
City of Glendale	30
City of Burbank	29
City of Pasadena	28
Los Angels Water & Power Company	33

Comment date: May 15, 1986, in accordance with Standard Paragraph H at the end of this notice.

7. Otter Tail Power Company

[Docket No. ER86–417–000]

Take notice that Otter Tail Power Company (Otter Tail) on April 25, 1986, tendered for filing an initial Service Schedule J, which is proposed to become effective May 1, 1986.

The filing provided for Otter Tail to sell and Northern States Power Company to purchase 20 MW of Schedule J MAPP Participation Power for the summer season of 1985, commencing May 1 and continuing through October 31, 1986. Both parties also request an option of an additional 25 MW if agreeable under the same terms.

Copies of the filing have been mailed to Northern States Power Company, 414 Nicollet Mall, Minneapolis, Minnestoa 55401 and to Mid-Continent Area Power Pool, 1250 Soo Line Building, 507 Marquette Avenue, Minneapolis, Minnesota 55042.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

8. Tampa Electric Company

[Docket No. ER86–455–000]

Take notice that on April 30, 1986, Tampa Electric Company (Tampa Electric) tendered for filing revised cost support schedules showing a change in the daily capacity charge for its scheduled interchange service provided under interchange agreements with Florida Power Corporation, Florida Power & Light Company Florida Municipal Power Agency, Fort Pierce Utilities Authority, Jacksonville Electric Authority, Orlando Utilities Commission, Sebring Utilities Commission, Seminole Electric Cooperative, and the Cities of Gainesville, Kissimmee, Lake Worth, Lakeland, St. Cloud, Starke, Tallahassee, and Vero Beach, Florida. Tampa Electric states that the revised daily capacity charge is based on 1985 Form No. 1 data, and is derived by the same method that was utilized in the cost support schedules submitted with the interchange agreements and in all previous annual revisions.

Tampa Electric requests that the revised daily capacity charge be made effective as of May 1, 1986, and therefore requests waiver of the Commission's notice requirements.

Tampa Electric states that a copy of the filing has been served upon each of the above-named parties to interchange agreements with Tampa Electric, as well as the Florida Public Service Commission.

Comment date: May 19, 1986, in accordance with Standard Paragraph E at the end of third notice.

9. Union Electric Company

[Docket No. ER86–450–000]

Take notice that on April 23, 1986, Union Electric Company (Union) tendered for filing proposed changes in its transmission service rate in Transmission Service Transaction 2 of the Transmission Service Agreement between Union Electric Company and the City of Malden, Missouri. The proposed changes would increase revenues from jurisdictional sales and service by $124,208, based on the 12 month period ending December 31, 1985.

Union states that the increase in this rate is necessitated by the completion of several construction projects, particularly the completion of the Callaway Nuclear plant, as well as increases in operating and maintenance expenses and other expenses including wages and benefits, property and payroll taxes, depreciation of plant and related items.

Copies of the filing were served upon the public utility's customer, the City of Malden, as well as the Missouri Public Service Commission.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–10380 Filed 5–7–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. ER86–426–000, et al.]

Electric Rate and Corporate Regulation Filings, Southern California Edison Co., et al.

May 2, 1986.

Take notice that the following filings have been made with the Commission:

1. Southern California Edison Company

[Docket No. ER86–426–000]

Take notice that, on April 25, 1986, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following Agreement, which has been executed by Edison and the City of Riverside, California: Edison-Riverside, Palo Verde Nuclear Generating Station, Firm Transmission Service Agreement.

Under the terms and conditions of the Agreement, Edison will make available to Riverside firm transmission service for its entitlements in the capacity and energy from Palo Verde Nuclear Generating Station to the Point of Delivery at Riverside, California.

The Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission; and as such, Edison requests, to the extent necessary, waiver of notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Riverside, California.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Southern California Edison Company

[Docket No. ER86–427–000]

Take notice that, on April 25, 1986, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following Agreement, which has been executed by Edison and the City of Colton, California: Edison-Colton, Palo Verde Nuclear Generating Station, Firm Transmission Service Agreement.

Under the terms and conditions of the Agreement, Edison will make available to Colton firm transmission service for its entitlements in the capacity and energy from Palo Verde Nuclear Generating Station to the Point of Delivery at Riverside, California.

The Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission; and as such, Edison requests, to the extent necessary, waiver of notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Colton, California.

Comment date: May 15, 1986, in accordance with Standard Paragarph E at the end of this notice.

3. Southern California Edison Company

[Docket No. ER86–428–000]

Take notice that, on April 25, 1986, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following Agreement, which has been executed by Edison and the City of Banning, California: Edison-Banning, Palo Verde Nuclear Generating Station, Firm Transmission Service Agreement.

Under the terms and conditions of the Agreement, Edison will made available to Banning firm transmission service for its entitlements in the capacity and energy from Palo Verde Nuclear Generating Station to the Point of Delivery at Banning, California.

The Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission; and as such, Edison requests, to the extent necessary, waiver of notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Banning, California.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Southern California Edison Company

[Docket No. ER86-429-000]

Take notice that, on April 25, 1986, Southern California Edison Company ("Edison") tendered for filing, as a supplement to the Integrated Operations Agreement ("IOA"), designated Rate Schedule FERC No 146, the following agreement, which has been executed by Edison and the City of Colton, California ("Colton"): Supplemental Agreement for the Integration of Colton's Entitlement in the Palo Verde Nuclear Generating Station.

The Supplemental Agreement provides for certain specific details relating to the integration of Colton's entitlement to power from the Palo Verde Nuclear Generating Station as required by the IOA.

The Supplemental Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission; and as such, Edison requests, to the extent necessary, waiver of notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Colton, California.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Southern California Edison Company

[Docket No. ER86-430-000]

Take notice that, on April 25, 1986, Southern California Edison Company ("Edison") tendered for filing, as an initial rate schedule, the following Agreement, which has been executed by Edison and the City of Azusa, California: Edison-Azusa, Palo Verde Nuclear Generating Station, Firm Transmission Service Agreement.

Under the terms and conditions of the Agreement, Edison will make available to Azusa firm transmission service for its entitlements in the capacity and energy from Palo Verde Nuclear Generating Station to the Point of Delivery at Azusa, California.

The Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission; and as such, Edison requests, to the extent necessary, waiver of notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Azusa, California.

Comment date: May 15, 1986, in accordance with Standard Paragarph E at the end of this notice.

6. Southern California Edison Company

[Docket No. ER86-431-000]

Take notice that, on April 25, 1986, Southern California Edison Company ("Edison") tendered for filing, as a supplement to the Integrated Operations Agreement ("IOA"), designated Rate Schedule FERC No 144, the following agreement, which has been executed by Edison and the City of Azusa, California ("Azusa"): Supplemental Agreement for the Integration of Azusa's Entitlement in the Palo Verde Nuclear Generating Station.

The Supplemental Agreement provides for certain specific details relating to the integration of Azusa's entitlement to power from the Palo Verde Nuclear Generating Station as required by the IOA.

The Supplemental Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission; and as such, Edison requests, to the extent necessary, waiver of notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Azusa, California.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Southern California Edison Company

[Docket No. ER86-432-000]

Take notice that, on April 25, 1986, Southern California Edison Company ("Edison") tendered for filing a notice of change of rate for the purchase of Replacement Capacity by the City of Colton, California ("Colton") from Edison under the provision of the following rate schedule:

	Rate schedule FERC No.
City of Colton	146

This filing contemplates implementation of Sectioin 16.1.4 of the Integrated Operations Agreement. Inasmuch as Edison will be under a contractual obligation to sell Replacement Capacity of the City at such time as the Supplemental Agreement for the Integration of Colton's Entitlement in the Palo Verde Nuclear Generating Station ("Supplemental Agreement"), currently pending Commission consideration, becomes effective, Edison requests, to the extent necessary, waiver of prior notice requiremnents and an effective date for this rate change concurrent with the effective date of the Supplemental Agreement.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Colton, California.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

8. Southern California Edison Company

[Docket No. ER86-433-000]

Take notice that, on April 25, 1986, Southern California Edison Company ("Edison") tendered for filing a notice of change of rate for the purchase of Replacement Capacity by the City of Banning, California ("Banning") from Edison under the provision of the following rate schedule:

	Rate schedule FERC No.
City of Banning	145

This filing contemplates implementation of Section 16.1.4 of the Integrated Operations Agreement. Inasmuch as Edison will be under a contractual obligation to sell Replacement Capacity to the City as such time as the Supplemental Agreement for the Integration of Banning's Entitlement in the Palo Verde Nuclear Generating Station ("Supplemental Agreement"), currently pending Commission consideration, becomes effective, Edison requests, to the extent necessary, waiver of prior notice requirements and an effective date for this rate change concurrent with the effective date of the Supplemental Agreement.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Banning, California.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

9. Southern California Edison Company

[Docket No. ER86-434-000]

Take notice that, on April 25, 1986, Southern California Edison Company ("Edison") tendered for filing a notice of change of rate for the purchase of Replacement Capacity by the City of Azusa, California ("Azusa") from Edison under the provision of the following rate schedule:

	Rate schedule FERC No.
City of Azusa	144

This filing contemplates implementation of Section 16.1.4 of the Integrated Operations Agreement. Inasmuch as Edison will be under a contractual obligation to sell Replacement Capacity to the City as such time as the Supplemental Agreement for the Integration of Azusa's Entitlement in the Palo Verde Nuclear Generating Station ("Supplemental Agreement"), currently pending Commission consideration, becomes effective, Edison requests, to the extent necessary, waiver of prior notice requirements and an effective date for this rate change concurrent with the effective date of the Supplemental Agreement.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Azusa, California.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

10. Southern California Edison Company

[Docket No. ER86-435-000]

Take notice that, on April 25, 1986, Southern California Edison Company ("Edison") tendered for filing, as a supplement to the Integrated Operations Agreement ("IOA"), designated Rate Schedule FERC No 145, the following agreement, which has been executed by Edison and the City of Banning, Califorina ("Banning"): Supplemental Agreement for the Integration of Banning's Entitlement in the Palo Verde Nuclear Generating Station.

The Supplemental Agreement provides for certain specific details relating to the integration of Banning's entitlement to power from the Palo Verde Nuclear Generating Station as required by the IOA.

The Supplemental Agreement is proposed to become effective when executed by the Parties and accepted for filing by the Commission; and as such, Edison requests, to the extent necessary, waiver of notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Banning, California.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

11. Southern California Edison Company

[Docket No. ER86-445-000]

Take notice that, on April 28, 1986, Southern California Edison Company ("Edison") tendered for filing a notice of change of rate for the purchase of Replacement Capacity by the City of Vernon, California ("Vernon"), from Edison under the provision of the following rate schedule:

	Rate schedule FERC No.
City of Vernon	154

This filing contemplates implementation of Section 16.1.4 of the Integrated Operations Agreement ("IOA"). Inasmuch as Edison will be under a contractural obligation to sell Replacement Capacity to the City as such time as the Supplemental Agreement to the IOA between Vernon and Edison dated August 25, 1982, for the Integration of Vernon's Entitlement in the Palo Verde Nuclear Generating Station ("Supplemental Agreement"), currently pending Commission consideration, becomes effective, Edison requests, to the extent necessary, waiver of prior notice requirements and an effective date for this rate change concurrent with the effective date of the Supplemental Agreement.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Vernon, California.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10361 Filed 5-7-86; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

[FCC 86-145]

Common Carrier Services, Access Charges, Waiver of Commission Rules

AGENCY: Federal Communications Commission.

ACTION: Adoption of guidelines (Memorandum Opinion and Order).

SUMMARY: The Federal Communications Commission has denied petitions for waiver of various sections of Part 69 of its rules filed on behalf of Bell Operating Companies (BOCs) from five Regional Bell Operating Companies. The petitioners sought permission to recover non-traffic-sensitive (NTS) costs currently recovered by the Carrier Common Line Charge (CCLC) by various mechanisms not authorized by the Commission's rules. By this Memorandum Opinion and Order, the Commission has adopted guidelines for approval of interim NTS cost recovery proposals in the future. The Commission has found that the petitioner's proposals, as filed, contain certain flaws that compel denial of these waiver requests. The Commission also has found, however, that a sufficient showing has been made to justify some limited waivers of these rules and therefore erstablishes both general and specific guidelines for future interim NTS proposals.

EFFECTIVE DATE: April 3, 1986.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jim Schlichting, Policy and Program Planning Division, Common Carrier Bureau, (202) 632-9342 or Kelly Cameron, Tariff Division, Common Carrier Bureau, (202) 632-6917.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's memorandum opinion and order inthe matter of Petitions for Waiver of Various Sections of Part 69 of the Commission's Rules, filed by the Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company, Pacific Northwest Bell Telephone Company, the Bell Atlantic Telephone Companies, Pacific Bell, New England Telephone and

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Telegraph Company, and BellSouth Corporation, adopted April 3, 1986, and released April 28, 1986 (Commissioner Patrick concurring in a separate statement).

The full text of the Commission's decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, NW., Suite 140, Washington, D.C. 20037.

Summary of Memorandum Opinion and Order

1. During the last three months of 1985, petitions for waiver of various sections of Part 69 of the Commission's rules were filed on behalf of Bell Operating Companies (BOCs) from five of the seven Regional Bell Operating Companies. These petitions sought primarily to collect the Carrier Common Line (CCL) revenue requirement through some mechanism other than the Carrier Common Line Charge (CCLC) established by the Commission's rules. The Commission released Public Notices inviting comments. In response, 103 comments and 44 reply comments were filed.

2. The petitioners all asserted that waiver of the rule was necessary because the current usage-sensitive method of recovering non-traffic-sensitive (NTS) costs of providing switched access service is economically irrational and therefore encourages bypass of the switched network. Four of the petitioners proposed to recover the CCL revenue requirement, at least in large part, through various flat charges to interexchange carriers (IXCs) based on some indicator of the IXCs' market share, most often some measure of the IXCs' relative access capacity. The fifth petitioner, New England Telephone, proposed to recover the CCL revenue requirement by billing end users directly for most originating switched access charges. This usage-sensitive end user charge would be levied pursuant to a volume discount and would include not only NTS costs, but also those traffic-sensitive (TS) and Billing and Collection costs allegedly involved in delivering long-distance calls to the points-of-presence of the IXCs.

3. The Commission concluded, contrary to the claims of some of the commenters, that neither a rulemaking proceeding nor referral of the petitions to the Federal/State Joint Board was necessary to consider the issues raised by the petitions. The Commission also concluded that a sufficient showing had been made by the petitioners to justify granting some limited waivers of its rules. Nevertheless, the Commission found that the cost recovery plans, as proposed, contained certain flaws that compelled denial of the waiver requests. The Commission therefore rejected the proposals before it and established both general and specific guidelines for future interim NTS plans.

4. The Commission established three general guidelines. First, any tariff implementing an interim NTS plan must expire no later than one year after its effective date. Second, any interim NTS plan must collect the nationally uniform, usage-sensitive CCLC on terminating switched access, which was recently frozen at 4.33 cents/minute. Finally, the Commission indicated that it would not approve any interim NTS plan that proposes to alter the fundamental operation of the NECA NTS pool.

5. The Commission also established more specific guidelines for two acceptable models of interim NTS plan—the IXC capacity charge model and the direct end user charge model. The first model would permit interim recovery of NTS costs through either flat-rate charges of IXCs based on their access capacity or surcharges on special access lines (including WATS closed ends) used for certain designated services that are close substitutes for MTS, or both. To prevent such plans from shifting the risk of underrecovery of NTS costs to the IXCs, the Commission will require that plans incorporating a capacity charge plan measure and bill IXC capacity monthly.

6. The Commission also established guidelines for the IXC capacity charge model that addressed other problems raised by the petitions. First, the Commission stated that it would not approve any plan that based the capacity charge on the number of an IXCs presubscribed access lines. The Commission also stated that the LECs would not be permitted to impose charges on purely private access facilities used to bypass the public switched network. The Commission will not allow interim NTS plans to impair interexchange competition. Therefore, any LEC filing an interim NTS plan employing an IXC capacity charge must submit data indicating how its proposal would have affected IXCs if it had been in effect during the previous two years. Finally, the Commission stated that it would determine on a case-by-case basis exactly how the LEC would settle with the NECA pool.

7. The direct end user charge model would allow a LEC to levy a usage-sensitive NTS charge on the end user according to a tapered rate schedule. In order to prevent such plans from discriminating against low- and medium-volume end users, the Commission will require that the discount be targeted toward reducing uneconomic bypass and inefficiencies in the use of the interstate network, that every end user contribute toward common NTS costs, and that the maximum increase for any end user be reasonable in light of that user's overall interstate telephone bill. In addition, the Commission required that any additional revenue stimulated by such a plan be flowed through in the form of rate reducitons for usage bands with per-minute rates higher than the average. Also, the Commission mandated that LECs proposing a direct end user billing proposal incorporate some form of peak/off-peak pricing or show that the benefits of such a rate structure to low-volume users making interstate calls principally at nights and on weekends would be outweighed by the costs. To mitigate possible consumer confusion, the Commission required that LECs proposing direct end user billing provide detailed billing of its access charges and allow end users to designate willing third parties (such as IXCs) for ordering and billing access so that end users may receive only one long-distance bill. The Commission also required that plans filed pursuant to this model settle with the NECA pool on the basis of forecasted minutes of use.

8. Finally, the Commission concluded that waiver of its rules concerning TS and Billing and Collection costs would not be appropriate absent development of a more extensive record on those issues. The Commission stated that an interim NTS proposal incorporating such changes in the direct end user charge model would require further justification of its treatment of those costs. The Commission would then solicit further comments before addressing the merits of a waiver of the relevant rules.

9. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

Ordering Clauses

10. Accordingly, it is hereby ordered That the Petitions for Waiver filed by Mountain States Telephone and Telegraph Company, Northwestern Bell Telephone Company, Pacific Northwest Bell Telephone Company, the Bell Atlantic Telephone Companies, New England Telephone and Telegraph Company, and BellSouth Corporation are denied.

11. It is further ordered that the Vermont Public Service Board's Motion to Accept Late-Filed Comments on the waiver petition filed by the New England Telephone and Telegraph Company is granted.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-10297 Filed 5-7-86; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 78–97, Phase II; CC Docket No. 82–122; FCC 86–189]

International and Domestic Record Service; Investigation of Rates Charged by Western Union to Various Interconnected Carriers

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order on Reconsideration.

SUMMARY: The Federal Communications Commission has rejected petitions of a number of interconnected record carriers for reconsideration of an Order released on May 20, 1985, which terminated a docketed investigation of Western Union's rates and rate structure for telex/TWX service. In that Order, the Commission found that Western Union did not realize any significant cost savings in providing service to various interconnected carriers as opposed to the general public, and that Western Union appropriately charged both categories of customers the same rates. In reaching this conclusion, the Commission found that the interconnected carriers failed to meet their burden of demonstrating significant cost differences or other factors that would justify discounted rates.

FOR FURTHER INFORMATION CONTACT: Jonathan E. Canis, Attorney, Common Carrier Bureau, (202) 632–6917.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order in CC Docket No. 78–97 (Phase II), adopted April 17, 1986 and released May 1, 1986.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M St., NW., Suite 140, Washington, D.C. 20037.

Summary of Memorandum Opinion and Order

1. On May 20, 1985, the Commission released an Order terminating CC Docket No. 78–97 (Phase II), an investigation of Western Union's rates and rate structure for telex/TWX service. Phase II of the investigation focused on two issues: (1) Did WU realize significant cost savings in providing service to a number of interconnected carriers, as opposed to the general public? (2) Did non-cost considerations justify lower rates for the interconnected carriers? The Order terminating the Phase II investigation answered both questions in the negative, and found that Western Union's rate structure, which charged the interconnected carriers and the public the same rates, was not unreasonable.

2. The interconnected carriers affected by this decision filed petitions for reconsideration, which raised a number of arguments based on interpretation of the Record Carrier Competition Act of 1981, court precedent, prior Commission decisions, procedure and equity. In denying the petitions for reconsideration, the Commission found that most of these arguments merely restated arguments made and rejected earlier in the proceeding. The Commission also addressed issues concerning the standards for determining whether two services are "like services," and various obligations imposed on the Commission by the Record Carrier Competition Act.

Ordering Clauses

3. Therefore, it is ordered that the Joint Petition for Reconsideration filed by the Interconnected Carrier Parties is denied.

4. It is further ordered that the Protective Petition for Reconsideration filed by Western Union is dismissed.

William J. Tricarico,

Secretary.

[FR Doc. 86-10293 Filed 5-7-86; 8:45 am]

BILLING CODE 6712-01-M

[CC Docket No. 82–122; CC Docket No. 78–97, Phase II; FCC 86–190]

International and Domestic Record Service; Prescription of Rates Charged by Western Union to Various Interconnected Carriers

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order.

SUMMARY: The Federal Communications Commission has issued an Order terminating the proceeding in CC Docket No. 82–122, which implemented the Record Carrier Competition Act of 1981 by establishing terms and conditions for interconnection of facilities used by Western Union and various interconnected record carriers. In 1982, the Commission prescribed an interim rate for interconnection between carriers, requiring Western Union to provide service to the interconnected carriers at rates discounted 15 percent from the rates charged the public. Because the actual costs of interconnection were under investigation, the discount was imposed as a temporary measure, subject to adjustment upon completion of the investigation. This Order finalizes the interim rate prescription established in 1982, eliminates the 15 percent discount and requires the interconnected carriers to reimburse Western Union for part of the discounts taken between June 1982 and August 1984.

FOR FURTHER INFORMATION CONTACT: Jonathan E. Canis, Attorney, Common Carrier Bureau, (202) 632–6917.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order terminating CC Docket No. 82–122, adopted April 17, 1986 and released May 2, 1986. The full text of this decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M St., NW., Washington, D.C. The complete text of this this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 2100 M St., NW., Suite 140, Washington, D.C. 20037.

Summary of Memorandum Opinion and Order

1. Docket 82–122 was initiated to implement the Record Carrier Competition Act of 1981, which required that the Commission establish terms and conditions for interconnection of Western Union's and other interconnected record carriers' facilities. At that time, Docket 78–97, an investigation into Western Union's interconnection rates, was pending. The only findings available in that investigation were the initial findings of an administrative law judge, who found that Western Union realized significant cost savings in serving the interconnected carriers as opposed to the general public, and that the rates charged the carriers should be

discounted from the public rates. To comply with the Record Carrier Competition Act, the Commission prescribed rates which, in deference to the administrative law judge's initial findings, included a 15 percent discount for the interconnected carriers. Because the Docket 78–97 investigation was not completed, the Commission expressly made the Docket 82–122 prescription an interim measure, subject to retroactive adjustment when the investigation was terminated.

2. The Docket 78–97 investigation was concluded in 1983 when the Commission overturned the conclusions of the administrative law judge, finding that Western Union did not realize cost savings in serving the interconnected carriers. Subsequently, Western Union petitioned for an Order eliminating the discount, stating that the Docket 78–97 investigation found that no discount was warranted. The Commission has granted that petition in part, eliminating the discount and requiring the interconnected carriers to reimburse Western Union for part of the discounts taken between June 1982 and August 1984. Western Union is ordered to recompute its claim for reimbursement according to the Commission's directions.

Ordering Clauses

3. Therefore, it is ordered that the motion for final order filed by The Western Union Telegraph Company is granted to the extent specified in this Order and is otherwise denied.

4. It is further ordered that The Western Union Telegraph Company shall submit the information required in paragraph 51, *supra*, not later than 30 days after release of this Order.

5. It is further ordered that, based on the above findings, CC Docket No. 82–122 is terminated.

William J. Tricarico,

Secretary.

[FR Doc. 86–10292 Filed 5–7–86; 8:45 am]

BILLING CODE 6712–01–M

New FM Stations; Applications for Consolidated Hearing; Linda Crook, et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.	MM Docket No.
A. Linda Crook, Quincy, IL	BPH–850226MD	86–143
B. Cynthia Escapeda Carl, Quincy, IL	BPH–850528MC	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant(s)

1. Air Hazard A
2. Comparative, A, B
3. Ultimate, A, B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 86–10296 Filed 5–7–86; 8:45 am]

BILLING CODE 6712–01–M

New FM Stations; Applications for Consolidated Hearing; FM 105, Inc. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant and city/state	File No.	MM Docket No.
A. FM 105, Inc.; Moberly, MO.	BPH–850312MA	86–122
B. Linda Womack, Margaret Schmodt, Katherine Womack, Mark Hibbs & Robert & Susie Cason d/b/a Randolph Broadcasters; Moberly, MO.	BPH–850712XG	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Comparative, A,B
2. Ultimate, A,B

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 86–10298 Filed 5–7–86; 8:45 am]

BILLING CODE 6712–01–M

New FM Stations; Applications for Consolidated Hearing; Fort Bragg Broadcasting Co. et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant and city/state	File No.	MM Docket No.
A. Charles & Josephine Stone, d/b/a Fort Bragg Broadcasting Company; Fort Bragg, CA.	BPH–850618MG	86–119
B. Luann Axel & Wade Axell d/b/a Axel Broadcasting; Fort Bragg, CA.	BPH–850712MH	
C. Shara Whitney, d/b/a Small Market Minority Radio; Fort Bragg, CA.	BPH–850712MO	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard, A
2. Comparative, A,B,C
3. Ultimate, A,B,C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street NW., Washington, D.C. 20554. Telephone (202) 632–6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 86–10300 Filed 5–7–86; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Iowa State Bank Holding Co.; Formation of, Acquisition by, or Merger of Bank Holding Companies; and Acquisition of Nonbanking Company

The company listed in this notice has applied under § 225.14 of the Board's Regulation Y (12 CFR 225.14) for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) to become a bank holding company or to acquire voting securities of a bank or bank holding company. The listed company has also applied under § 225.23(a)(2) of Regulation Y (12 CFR 225.23(a)(2)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies, or to engage in such an activity. Unless otherwise noted, these activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 28, 1986.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Iowa State Bank Holding Company*, Des Moines, Iowa; to become a bank holding company by acquiring 90 percent of the voting shares of Iowa State Bank, Des Moines, Iowa.

Iowa State Bank Holding Company, Des Moines, Iowa; has also applied to engage through its subsidiary Bankers Leasing Company, Des Moines, Iowa, in leasing personal or real property pursuant to § 225.25(b)(5) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 2, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–10280 Filed 5–7–86; 8:45 am]

BILLING CODE 6210–01–M

Putnam Bancshares, Inc.; Formation of, Acquisition by, or Merger of Bank Holding Companies

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and §225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than May 30, 1986.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Putnam Bancshares, Inc.*, Hurricane, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of Putnam County Bank, Hurricane, West Virginia.

Board of Governors of the Federal Reserve System, May 2, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–10281 Filed 5–7–86; 8:45 am]

BILLING CODE 6210–01–M

Texas Valley Bancshares, Inc. and San Diego Financial Corp.; Notice of Applications to Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de nono*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any

questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 29, 1986.

A. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Texas Valley Bancshares, Inc.*, Weslaco, Texas; to engage *de novo* through its subsidiary Texas Valley Information Systems, Inc., in the activity of providing to others financially related data processing and data transmission services, facilities, and data bases; or access to them pursuant to § 225.25(b)(7) of the Board's Regulation Y.

B. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *San Diego Financial Corporation*, San Diego, California; to engage *de novo* through its subsidiary SDT Discount Brokerage, Inc., San Diego, California, in discount brokerage activities and underwriting and dealing in government obligations and money market instruments pursuant to § 225.25(b) (15 and (16) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, May 2, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-10282 Filed 5-7-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control

National Institute for Occupational Safety and Health, Meeting on Evaluation of Brake Drum Service Controls

The following meeting will be convened by the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control (CDC) and will be open to the public for observation and participation, limited only by the space available:

Date: May 28, 1986.

Time: 9 a.m.–3 p.m.

Place: Conference Room C, 5555 Ridge Avenue, Cincinnati, Ohio 45213.

Purpose: To review a project entitled "Evaluation of Brake Drum Service Controls." The project will evaluate control methods for protecting workers against asbestos exposure. Viewpoints and suggestions from industry, organized labor, academia, other government agencies, and the public are invited.

Additional information may be obtained from: John Sheehy or Frank W. Godbey, Division of Physical Sciences and Engineering, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45220. Telephones: FTS: 684–4221, Commercial: (513) 841–4221.

Dated: May 2, 1986.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 86-10335 Filed 5-7-86; 8:45 am]

BILLING CODE 4160-19-M

Mine Health Research Advisory Committee; Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control (CDC) announces the following National Institute for Occupational Safety and Health (NIOSH) committee meeting:

Name: Mine Health Research Advisory Committee (MHRAC).

Date: May 29–30, 1986.

Place: Oracle Ridge Room, Sheraton Tucson El Conquistador, 10000 North Oracle Road, Tucson, Arizona 85704.

Time and Type of Meeting: Open—8:30 a.m. to 4:30 p.m.—May 29; Open—8:30 a.m. to 12 noon—May 30.

Contact Person: Robert E. Glenn, Executive Secretary, MHRAC, NIOSH, CDC, 944 Chestnut Ridge Road, Morgantown, West Virginia 26505, Telephone: Commercial: (304) 291–4474; FTS: 923–4474.

Purpose: The Committee is charged with advising the Secretary of Health and Human Services on matters involving or relating to mine health research, including grants and contracts for such research.

Agenda: Agenda items for the meeting will include announcements, consideration of minutes of the previous meeting and future meeting dates, discussion of the MHRAC subgroup's report of the X-ray surveillance program for underground coal miners, and discussion of the definition of asbestos minerals for research and regulatory purposes.

Agenda items are subject to change as priorities dictate.

The portion of the meeting so indicated is open to the public for observation and participation. Anyone wishing to make an oral presentation should notify the contact person listed above as soon as possible before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the presentation. Oral presentations will be scheduled at the discretion of the Chairperson and as time permits. Anyone wishing to have a question answered by a scheduled speaker during the meeting should submit the question in writing, along with his or her name and affiliation, through the Executive Secretary to the Chairperson. At the discretion of the Chairperson and as time permits, appropriate questions will be asked of the speakers.

A roster of members and other relevant information regarding the meeting may be obtained from the contact person listed above.

Dated: May 2, 1986.

Elvin Hilyer,

Associate Director for Policy Coordination, Centers for Disease Control.

[FR Doc. 86-10336 Filed 5-7-86; 8:45 am]

BILLING CODE 4160-19-M

Food and Drug Administration

[Docket No. 83F-0064]

Monsanto Co.; Amended Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the filing notice for a food additive petition filed by Monsanto Co. to consolidate and amend the current listings for polyamine-epichlorohydrin wet-strength resins. The previous filing notice is being amended to indicate specifically the three current listings that will be replaced, and to specify the new single revised listing.

FOR FURTHER INFORMATION CONTACT: Mary W. Lipien, Center for Food Safety and Applied Nutrition (HFE-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTAL INFORMATION: In the **Federal Register** of March 29, 1983 (48 FR 13099), FDA published a notice that a petition (FAP2B3606) had been filed by Monsanto Co., 800 North Lindbergh Blvd., St. Louis, MO 63166, proposing that § 176.170 *Components of paper and paperboard in contact with aqueous and fatty foods* (21 CFR 176.170) be amended to consolidate the 1current listings for polyamine-epichlorohydrin wet-strength resins.

The previous filing notice, which did not specify the three listings for polyamine-epichlorohydrin wet-strength resins that would be consolidated, is now being amended to indicate the three current listings that will be replaced, and to make clear that the new single revised listing requests the additional use of self-condensation products of 95 percent by weight C_6 to C_8 aliphatic diamines, and the direct reaction of these diamines and/or their self-condensation products with epichlorohydrin, in the process.

1. The current listings under § 176.170(a)(5) to be removed read as follows:

List of substances	Limitations
Polyamine-epichlorohydrin resin produced by the reaction of bis(hexamethylene)triamine and higher homologues with epichlorohydrin such that the finished resin has a nitrogen content of 6.3–8.9 percent and chlorine content of 18.0–26.3 percent on a dry basis, and a minimum viscosity in 20 percent by weight aqueous solution of 20 centipoises at 25°C, as determined by Brookfield HAT model viscometer using a No. 1H spindle at 50 r.p.m. (or equivalent method).	For use only as a wet-strength agent and/or retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard, and used at a level not to exceed 1 percent by weight of dry paper and paperboard fibers.
Polyamine-epichlorohydrin water soluble thermosetting resin produced by reacting an aliphatic diamine mixture containing not less than 95 percent of C_6 to C_8 diamines with 1,2-dichloroethane to form a prepolymer and further reacting this prepolymer with epichlorohydrin such that the finished resin has a nitrogen content of 6.6–7.9 percent and a chlorine content of 23.0–35.6 percent, on a dry basis, and a minimum viscosity, in 25 percent by weight aqueous solution, of 50 centipoises at 20 °C, as determined on a Brookfield HAT Model viscometer using a No. 1H spindle at 50 r.p.m. (or equivalent method).	For use only as a wet-strength agent and/or retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard, and used at a level not to exceed 1 percent by weight of dry paper and paperboard fibers.
Polyamine-epichlorohydrin water soluble thermosetting resin prepared by reacting hexamethylene-diamine with 1,2-dichloroethane to form a prepolymer and further reacting this prepolymer with epichlorohydrin such that the finished resin has a nitrogen content of 5.2–6.5 percent and a chlorine content of 32.7–34.4 percent, on a dry basis, and a minimum viscosity, in 25 percent by weight aqueous solution, of 50 centipoises at 25 °C, as determined on a Brookfield HAT Model viscometer using a No. 1H spindle at 50 r.p.m. (or equivalent method).	For use only as a wet-strength agent and/or retention aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard, and used at a level not to exceed 1 percent by weight of dry paper and paperboard fibers.

2. Tentatively, the revised listing under § 176.170(a)(5) to be alphabetically inserted would read as follows:

List of substances	Limitations
Polyamine-epichlorohydrin water-soluble thermosetting resin produced by reacting epichlorohydrin with: (a) Polyamines comprising at least 95 percent by weight C_6 to C_8 aliphatic diamines and/or their self-condensation products, and/or (b) Prepolymers produced by reacting 1,2-dichloroethane with the polyamines in (a). The finished resin has a nitrogen content of 5.0 to 9.0 percent and a chlorine content of 18.0 to 35.0 percent on a dry basis, and a minimum viscosity, in a 25-percent by weight aqueous solution, of 20 centipoises at 20 °C (68 °F), as determined by Brookfield HAT model viscometer using a No. 1H spindle at 50 r.p.m. (or equivalent method).	For use only as a wet-strength agent and/or retention aid employed prior to the sheetforming operation in the manufacture of paper and paperboard, and used at a level not to exceed 1 percent by weight of dry paper and paperboard fibers.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Land, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 29, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-10338 Filed 5-7-86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86M-0168]

Sharplan Lasers, Inc.; Premarket Approval of Sharplan Model 702 Nd: YAG Laser

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Sharplan Lasers, Inc., for permarket approval, under the Medical Device Amendments of 1976, of the Sharplan Model 702 ND:YAG Laser. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notivied the applicant ot the approval of the application.

DATE: Petitions for administrative review by June 9, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Philip J. Phillips, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-8221.

SUPPLEMENTARY INFORMATION: On August 21, 1985, Sharplan Lasers, Inc., Allendale, NJ 07401, submitted to CDRH an application for premarket approval of the Sharplan Model 702 Nd: YAG Laser. The Sharplan Model 702 Nd: YAG Laser is a neodymium:yttrium-aluminum-garnet (Nd: YAG) ophthalmic laser that is intended for discission of the posterior capsule of the eye (posterior capsulotomy).

On October 17, 1985, the Ophthalmic Devices Panel, and FDA advisory committee, reviewed and recommended approval of the application. ON March 28, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRM.

A summary of the safety and effectiveness data on which CDRH based its approval is on file nthe Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Philip J. Phillips (HFZ-460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CHRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations of a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution thorugh administrative review. After reviewing the petition , FDA grants the petition the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before June 9, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 29, 1986.

John C. Villforth,

Director Center for Devices and Radiological Health.

[FR Doc. 86–10284 Filed 5–7–86; 8:45 am]

BILLING CODE 4160–01–M

Ophthalmic Devices Panel; Amendment of Notice

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is amending the notice of an advisory committee meeting of the Ophthalmic Devices Panel to reflect additions to the agenda. Notice of the meeting was published in the **Federal Register** of April 17, 1986 (51 FR 13097). The open committee discussion for May 23, is revised to read as follows:

Ophthalmic Devices Panel

Open committee discussion. * * *. On May 23, the committee will discuss PMA's for contact lenses and other ophthalmic devices and requirements for PMA approval; effective use of multi-dose nonpreserved saline with soft (hydrophilic) contact lenses; update on FDA requirements for heat disinfection units for use in disinfecting soft (hydrophilic) contact lenses; update on labeling requirements for hydrogen peroxide solutions for use with soft (hydrophilic) contact lenses; and update on corneal ulcers in extended wear contact lens users.

Dated: May 2, 1986.

John M. Taylor,

Acting Associate Comissioner for Regulatory Affairs.

[FR Doc. 86–10287 Filed 5–7–86; 8:45 am]

BILLING CODE 4160–01–M

National Institutes of Health

Biomedical Research Support Subcommittee of the General Research Support Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Biomedical Research Support Subcommittee of the General Research Support Review Committee, Division of Research Resources, National Institutes of Health, June 23, 1986, Building 31A, Conference Room 4, Bethesda, Maryland 20892, from 9:00 a.m. to adjournment.

The entire meeting will be open to the public from 9:00 a.m. to adjournment on June 23 to discuss program policies and issues related to the Biomedical Research Support (BRS) Program, the BRS-Shared Instrumentation Grant (SIG) Program, and the Minority High School Student Research Apprentice (MHSSRA) Program. Attendance by the public will be limited to space available.

Dr. Marjorie A. Tingle, Executive Secretary of the subcommittee, Building 31, Room 5B–23, National Institutes of Health, Bethesda, Maryland 20892, phone (301) 496–6743, will provide substantive program information upon request.

(Catalogue of Federal Domestic Assistance Program No. 13.377, Biomedical Research Support, National Institutes of Health)

Dated: May 2, 1986.

Betty J. Beveridge,

Committee Management Officer, National Institutes of Health.

[FR Doc. 86–10326 Filed 5–7–86; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Board of Scientific Counselors, Division of Cancer Treatment; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, DCT, National Cancer Institute, May 29–30, 1986, Building 31, 6th Floor, "C" Wing, Conference Room 6, Bethesda, Maryland 20892. This meeting will be open to the public on May 29, 1986, from 8:30 a.m. until 5:00 p.m., and again on May 30, 1986, from 9:30 a.m. until adjournment, to review program plans, contract recompetitions and budget for the DCT program. In addition, there will be scientific reviews by several programs in the Division. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on May 30, 1986, from 8:30 a.m. to 9:30 a.m., for the review, discussion and evaluation of individual programs and projects conducted by the National Institutes of Health, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A–06, National Institutes of Health, Bethesda, Maryland 20892 (301–496–5708) will provide summaries of the meeting and rosters of committee members upon request.

Dr. Bruce A. Chabner, Director, Division of Cancer Treatment, National Cancer Institute, Building 31, Room 3A–52, National Institutes of Health, Bethesda, Maryland 20892 (301–496–4291) will furnish substantive program information.

Dated: May 5, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–10327 Filed 5–7–86; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Cancer Clinical Investigation Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Clinical Investigation Review Committee, National Cancer Institute, National Institutes of Health, June 23–24, 1986, Building 31C, Conference Room 6, Bethesda, Maryland 20892. This meeting will be open to the public on June 23, from 8:30 a.m. to 9:00 a.m., to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 23, from approximately 9:00 a.m. until recess, and on June 24, from 8:30 a.m. until adjournment for the review, discussion and evaluation of cooperative agreement applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. John Abrell, Acting Executive Secretary, Cancer Clinical Investigation Review Committee, National Cancer Institute, Westwood Building, Room 819, National Institutes of Health, Bethesda, Maryland 20892 (301/496–7481) will furnish substantive program information.

Dated: April 30, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–10323 Filed 5–7–86; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute, Cancer Research Manpower Review Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Cancer Research Manpower Review Committee, National Cancer Institute, June 19–20, 1986, Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814. This meeting will be open to the public on June 19 from 1:00 p.m. to 1:30 p.m. to review administrative details. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 19, from 1:30 p.m. to recess, and on June 20, from 8:30 a.m. to adjournment, for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Winifred Lumsden, the Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Ms. Cynthia Sewell, Acting Executive Secretary, Cancer Research Manpower Review Committee, National Cancer Institute, Westwood Building, Room 836, National Institutes of Health, Bethesda, Maryland 20892 (301/496–7721) will furnish substantive program information.

Dated: April 30, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–10321 Filed 5–7–86; 8:45 am]

BILLING CODE 4140–01–M

National Eye Institute, Board of Scientific Counselors, NEI; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Eye Institute, June 5–6, 1986, Building 31, NEI Conference Room 6A33, National Institutes of Health, Bethesda, Maryland.

This meeting will be open to the public on June 5 from 8:30 a.m. until approximately 3:00 p.m. for general remarks by the Institute's Scientific Director on matters concerning the intramural programs of the National Eye Institute. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 5 from approximately 3:00 p.m. until recess and on June 6 from 8:30 a.m. until adjournment for the review, discussion, and evaluation of individual projects conducted by the Laboratory of Retinal Cell and Molecular Biology. These evaluations and discussions could reveal personal information concerning individuals associated with the projects, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Consequently, this meeting is concerned with matters exempt from mandatory disclosure.

Ms. Kay Valeda, Committee Management Officer, National Eye Institute, Building 31, Room 6A03, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4903, will provide summaries of the meeting and rosters of committee members.

Substantive program information may be obtained from Dr. Jim Kinoshita, Scientific Director, National Eye Institute, Building 31, Room 6A04, National Institutes of Health, Bethesda, Maryland, 20892 (301/496–7483).

Dated: April 24, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–10324 Filed 5–7–86; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Allergy and Infectious Diseases, Microbiology and Infectious Diseases Research Committee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Microbiology and Infectious Diseases Research Committee, National Institute of Allergy and Infectious Diseases, on June 12 and 13, 1986, at Wilson Hall, Building 1, at the National Institutes of Health, Bethesda, Maryland 20892.

The meeting will be open to the public from 8:30 a.m. to 9:30 a.m. on June 12, to discuss administrative details relating to committee business and for program review. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Section 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and Section 10(d) of Pub. L. 92–463, the meeting of the Microbiology and Infectious Diseases Research Committee will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9:30 a.m. until adjournment on June 12, and from 8:30 a.m. until adjournment on June 13. These applications, proposals and the discussions could reveal confidential trade secrets or

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commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Lynn Trible, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A–32, National Institute of Health, Bethesda, Maryland 20892, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the committee members.

Dr. M. Sayeed Quraishi, Executive Secretary, Microbiology and Infectious Diseases Research Committee, NIAID, NIH, Westwood Building, Room 706, Bethesda, Maryland 20892, telephone (301) 496–7465, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: April 30, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86–10319 Filed 5–7–86; 8:45 am]

BILLING CODE 4140–01–M

National Arthritis, Diabetes and Digestive and Kidney Diseases Advisory Council and its Subcommittees; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of a meeting of the National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council and its subcommittees, to provide advice to the National Institute of Arthritis and Musculoskeletal and Skin Diseases and the National Institute of Diabetes and Digestive and Kidney Diseases, on May 28, 1986, in Conference Room 10, and on May 29, 1986, in Conference Room 4, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public May 28 from 8:30 a.m. to 12:00 p.m. to discuss administration, management, and special reports. Attendance by the public will be limited to space available.

The meeting of the full Council and its subcommittees will be closed to the public as indicated below in accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications. These deliberations could reveal confidential trade secrets or commercial property, such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The following subcommittees will be closed to the public on May 28, 1986, from 1:00 p.m. to adjournment: Arthritis, Musculoskeletal and Skin Diseases; Diabetes, Endocrine, and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney, Urology and Hematology. The full Council meeting will be closed to the public on May 29 from 8:30 a.m. to approximately 12:00 p.m.

The full Council meeting will then be open for the reports of the Division Directors on May 29 from approximately 1:00 p.m. to adjournment at 3:30 p.m.

Further information concerning the Council meetig may be obtained from Dr. Walter Stolz, Executive Secretary, National Arthritis, Diabetes, and Digestive and Kidney Diseases Advisory Council, NIDDK, Westwood Building, Room 637, Bethesda, Maryland 20892, (301) 496–7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIDDK, Building 31, Room 9A19, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–6917.

(Catalog of Federal Domestic Assistance Program No. 13.846–849, Arthritis, Bone and Skin Diseases; Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: April 30, 1986.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 86–10318 Filed 5–7–86; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Child Health and Human Development; Board of Scientific Counselors, NICHD; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Child Health and Human Development, June 6, 1986, in Building 31, Room 2A52. This meeting will be open to the public from 9:00 a.m. to 12 noon on June 6 for the review of the Intramural Research Program and scientific presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 6 from 1:00 p.m. to 4:30 p.m. for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, NICHD, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Board members. Dr. Arthur Levine, Scientific Director, NICHD, Building 31, Room 2A50, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–2133, will furnish substantive program information.

Dated: April 24, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–10325 Filed 5–7–86; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Child Health and Human Development; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of meetings of the review committees of the National Institute of Child Health and Human Development for June 1986.

These meetings will be open to the public to discuss items relative to committee activities including announcements by the Director, Scientific Review Program, and executive secretaries, for approximately one hour at the beginning of the first session of the first day of the meeting. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, these meetings will be closed to the public for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland, Area Code 301–496–1485, will provide a summary of the meeting and a roster of committee members.

Substantive program information may be obtained from each executive secretary whose name, room number, and telephone number are listed below each committee.

Name of Committee: Population Research Committee
Executive Secretary: Dr. Dinesh Sharma, Room 6C03, Landow Building, Telephone: 301–496–1696
Date of Meeting: June 19, 1986
Place of Meeting: Landow Building, Conference Room A
Open: June 19, 1986, 9:00 a.m.–10:00 a.m.
Closed: June 19, 1986, 10 a.m.—adjournment

Name of Committee: Maternal and Child Health Research Committee
Acting Executive Secretary: Dr. Stanley Slater, Room 6C03, Landow Building, Telephone: 301–496–1696
Date of Meeting: June 24–25, 1986
Place of Meeting: Landow Building, Conference Room A
Open: June 24, 1986, 9:00 a.m.–10:00 a.m.
Closed: June 24, 1986, 10:00 a.m.–5:00 p.m.; June 25, 1986, 9:00 a.m.–adjournment

Name of Committee: Mental Retardation Research Committee
Executive Secretary: Dr. Stanley Slater, Room 6C03, Landow Building, Telephone: 301–496–1696
Date of Meeting: June 26, 1986
Place of Meeting: Landow Building, Conference Room A
Open: June 26, 1986, 9:00 a.m.–10:00 a.m.
Closed: June 26, 1986, 10:00 a.m.–adjournment.

(Catalog of Federal Domestic Assistance Program No. 13.864, Population Research and No. 13.865, Research for Mothers and Children, National Institutes of Health)

Dated: April 30, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–10322 Filed 5–7–86; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Diabetes and Digestive and Kidney Diseases; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of meetings of the following subcommittees of the Arthritis, Diabetes, and Digestive and Kidney Diseases Special Grants Review Committee (ADDK) of the National Institute of Diabetes and Digestive and Kidney Diseases.

These meetings will open to the public to discuss administrative details or other issues relating to committee activities as indicated in the notices. Attendance by the public will be limited to space available. Notice of the meeting rooms will be posted in the hotel lobby.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individual research grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Carole Frank, Committee Management Officer, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Building 31, Room 9A19, Bethesda, Maryland 20892, 301–496–6917, will provide summaries of the meetings and rosters of the committee members upon request. Other information pertaining to the meetings can be obtained from the Executive Secretary indicated.

Name of Subcommittee: ADDK–A
Executive Secretary: Dr. Tommy Broadwater, Westwood Building, Room 404, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301/496–7531
Date of Meeting: June 17, 1986
Place of Meeting: Building 31, Conference Room 9, National Institutes of Health, Bethesda, Maryland 20892
Open: June 17, 10 a.m.–10:15 a.m.
Agenda: Review of administrative details
Closed: June 17, 10:15 a.m. to adjournment
Closure Reason: To review grant applications

(Catalog of Federal Domestic Assistance Program No. 13.848, project grants in arthritis, musculoskeletal and skin diseases research, National Institutes of Health)

Name of Subcommittee: ADDK–B
Executive Secretary: Dr. Michael K. May, Westwood Building, Room 419, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301/496–7697
Date of Meeting: June 3, 1986
Place of Meeting: Building 31, Conference Room 8, National Institutes of Health, Bethesda, Maryland 20892
Open: June 3, 9 a.m.–9:15 a.m.
Agenda: Review of administrative details
Closed: June 3, 9:15 a.m. to adjournment
Closure Reason: To review grant applications.

(Catalog of Federal Domestic Assistance Program No. 13.847, project grants in diabetes, endocrinology and metabolic research, National Institutes of Health)

Name of Subcommittee: ADDK–C
Executive Secretary: Ms. Tommie Sue Tralka, Westwood Building, Room 406, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301/496–8830
Date of Meeting: June 5, 1986
Place of Meeting: Linden Hill Hotel, 5400 Pooks Hill, Bethesda, Maryland 20814
Open: June 5, 8:30 a.m.–8:45 a.m.
Agenda: Review of administrative details
Closed: June 5, 8:45 a.m. to adjournment
Closure Reason: To review grant applications.

(Catalog of Federal Domestic Assistance Program No. 13.848, project grants in diabetes, diseases and nutrition research, National Institutes of Health)

Subcommittee Name: ADDK–D
Executive Secretary: Dr. William Elzinga, Westwood Building, Room 421, National Institutes of Health, Bethesda, Maryland 20892, Phone: 301/496–7546
Date of Meeting: June 4–5, 1986
Place of Meeting: Linden Hill Hotel, 5400 Pooks Hill, Bethesda, Maryland 20814
Open: June 4, 7:30 a.m.–7:45 a.m.
Agenda: Review of administrative details
Closed: June 4, 7:45 p.m. to adjournment; June 5, 8:30 a.m. to adjournment
Closure Reason: To review grant applications.

(Catalog of Federal Domestic Assistance Program No. 13.849, project grants in kidney diseases, urology and hematology research, National Institutes of Health)

Dated: April 30, 1986.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 86–10317 Filed 5–7–86; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine, Board of Regents and the Extramural Programs Subcommittee; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on June 17–18, 1986, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, and the meeting of the Extramural Programs Subcommittee of the Board of Regents on the preceding day June 16, from 2:00 to 3:30 p.m. in the 5th-floor Conference Room of the Lister

Hill Center Building. The meeting of the Board will be open to the public from 9:00 a.m. to 5:00 p.m. on June 17 and from 8:30 a.m. to approximately 11:45 a.m. on June 18 for administrative reports and program discussions. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4), 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the entire meeting of the Extramural Programs Subcommittee on June 16 will be closed to the public, and the regular Board meeting on June 18 will be closed from approximately 11:45 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20894, Telephone Number: 301-496-6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

Dated: April 30, 1986.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 86-10320 Filed 5-7-86; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[F-14831-A]

Alaska Native Claims Selection; Kuskokwim Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to The Kuskokwim Corporation, successor in interest to Aniak Limited, for approximately 31.90 acres. The lands involved are in the vicinity of Aniak, Alaska and located within U.S. Survey No. 2636, Alaska.

A notice of the decision will be published once a week for four (4) consecutive weeks in THE TUNDRA DRUMS. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5080).

Any party claiming a property interest which is adversely affected by the decision shall have until June 2, 1986, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Ann Adams,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86-10283 Filed 5-7-86; 8:45 am]

BILLING CODE 4310-JA-M

[A 21081]

Realty Action, Mineral Estate Exchange, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Exchange of Federal and State Minerals in Cochise, Graham, Greenlee, Pima and Pinal Counties.

SUMMARY: The Federal mineral estate underlying State land contained in the following townships has been determined to be available for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 5 S., R. 16 E.	T. 16 S., R. 20 E.
T. 6 S., R. 16 E.	T. 13 S., R. 26 E.
T. 7 S., R. 16 E.	T. 13 S., R. 27 E.
T. 11 S., R. 16 E.	T. 12 S., R. 28 E.
T. 6 S., R. 17 E.	T. 13 S., R. 28 E.
T. 9 S., R. 17 E.	T. 3 S., R. 29 E.
T. 10 S., R. 17 E.	T. 9 S., R. 29 E.
T. 11 S., R. 17 E.	T. 10 S., R. 29 E.
T. 12 S., R. 17 E.	T. 11 S., R. 29 E.
T. 10 S., R. 18 E.	T. 13 S., R. 29 E.
T. 11 S., R. 18 E.	T. 3 S., R. 30 E.
T. 12 S., R. 18 E.	T. 8 S., R. 30 E.
T. 13 S., R. 18 E.	T. 9 S., R. 30 E.
T. 10 S., R. 19 E.	T. 12 S., R. 30 E.
T. 11 S., R. 19 E.	T. 9 S., R. 31 E.
T. 12 S., R. 19 E.	T. 9 S., R. 32 E.
T. 13 S., R. 19 E.	T. 10 S., R. 32 E.

Comprising 13,320.06 acres in Cochise County; 14,254.13 acres in Graham County; 6,670.14 acres in Greenlee County; 11,467.22 acres in Pima County; and 19,296.40 acres in Pinal County.

In exchange for the above 65,027.96 acres of Federal mineral estate, the State of Arizona offers the State minerals underlying Federal land contained in the following townships:

Gila and Salt River Meridian, Arizona

T. 4 S., R. 23 E.	T. 19 S., R. 26 E.
T. 5 S., R. 24 E.	T. 15 S., R. 28 E.
T. 4 S., R. 25 E.	T. 7 S., R. 29 E.
T. 5 S., R. 25 E.	T. 6 S., R. 29 E.
T. 6 S., R. 25 E.	T. 10 S., R. 29 E.
T. 6 S., R. 26 E.	T. 11 S., R. 29 E.
T. 5 S., R. 27 E.	T. 12 S., R. 29 E.
T. 8 S., R. 27 E.	T. 13 S., R. 29 E.
T. 9 S., R. 27 E.	T. 10 S., R. 30 E.
T. 10 S., R. 27 E.	T. 11 S., R. 30 E.
T. 11 S., R. 27 E.	T. 12 S., R. 30 E.
T. 7 S., E. 28 E.	T. 13 S., R. 30 E.
T. 8 S., R. 28 E.	T. 11 S., R. 31 E.
T. 9 S., R. 28 E.	T. 12 S., R. 31 E.
T. 10 S., R. 26 E.	T. 12 S., R. 32 E.
T. 11 S., R. 26 E.	

Comprising 20,360.69 acres in Cochise County; 36,280.59 acres in Graham County; and 608.69 acres in Greenlee County.

The purpose of the exchange is to improve land management by consolidating surface and mineral ownership.

This action as provided in 43 CFR 2201.1(b) shall segregate the federal minerals described above, effective on the date of publication in the Federal Register, to the extent that they will not be subject to appropriation under the mining laws but excepting the mineral leasing laws, subject to any valid existing rights.

The segregative effect created by this Notice shall terminate upon patent of the mineral estate to the State of Arizona or two years from its effective date, whichever comes first; or it may be terminated by an order of the Authorized Officer prior to that time, published in the Federal Register.

Upon completion of the environmental assessment, a final Notice of Realty Action will be published. The Notice will provide a final description of the Federal and State mineral estates to be exchanged, including any reservations to be made by either party to the exchange.

DATE: For a period of forth-five (45) days from date of this publication, interested parties may submit comments to the District Manager or the Arizona State Land Commissioner at the addresses given in the Supplemental Information.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange proposal may be obtained from the District Manager, Safford District Office, 425 E. 4th Street, Safford, Arizona 85546 or the Arizona State Land Commissioner, Arizona State Land Department, 1624 W. Adams, Phoenix, Arizona 85007.

Dated: April 29, 1986.

Lyle K. Ralston,

Acting District Manager

[FR Doc. 86-10268 Filed 5-7-86; 8:45 am]

BILLING CODE 4310-32-M

[M 62094]

Realty Action; Conveyance of Public Land, Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of conveyance of public land in Beaverhead, Jefferson, Park, and Madison Counties, Montana.

SUMMARY: This notice informs the public and interested state and local governmental officials of the transfer of certain public lands to private ownership pursuant to the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701.

FOR FURTHER INFORMATION CONTACT: Edward H. Croteau, Chief, Lands Adjudication Section, BLM, Montana State Office, P.O. Box 36800, Billings, Montana 59107, Phone (406) 657-6082.

SUPPLEMENTARY INFORMATION:

1. Notice is hereby given that pursuant to Section 206 of FLPMA, the following described surface estate was conveyed to the parties shown:

Principal Meridian, Montana

Richard Lower:
T. 4 S., R. 7 W.,
Sec. 22, W½SW¼, SE¼SW¼;
Sec. 28, E½E½;
Sec. 32, SE¼SW¼, SE¼.
490 Acres.

Tom Larson, Inc.:
T. 5 S., R. 14 W.,
Sec. 29, NW¼SE¼;
Sec. 32, NE¼NE¼.
80 Acres.

Weldon Buehler:
T. 15 S., R. 6 W.,
Sec. 4, SW¼NW¼, NW¼SW¼.
80 Acres.

Carroll Wainwright:
T. 14 S., R. 1 E.,
Sec. 22, SE¼NW¼.
40 Acres.

Phil Oswald:
T. 9 N., R. 3 W.,
Sec. 9, lots 9 and 11.
0.19 Acres.

Laura J. Mills:
T. 2 N., R. 5 W.,
Sec. 26, NW¼NW¼.
40 Acres.

Danny Emerson:
T. 8 N., R. 4 W.,
Sec. 23, lot 1.
23.65 Acres

R. Bruce Malcolm:
T. 8 S., R. 6 E.,
Sec. 10, SW¼SE¼.
40 Acres.
Total acreage transferred: 783.84 acres.

2. In exchange for the above selected land, the United States acquired the surface estate of the following described land in Deer Lodge, Beaverhead, and Silver Bow Counties, Montana:

Principal Meridian, Montana

T. 1 N., R. 12 W.,
Sec. 3, W½SW¼.
Containing 80 Acres.

3. The values of federal public land were appraised at $142,275 and the values of the nonfederal land were appraised at $140,000. A cash equalization payment of $2,275 was made to the United States.

Dated: May 1, 1986.

Edward H. Croteau,

Chief, Lands Adjudication Section, Montana State Office.

[FR Doc. 86-10269 Filed 5-7-86; 8:45 am]

BILLING CODE 4310-DN-M

[W-84472]

Realty Action; Direct Sale of Public Land in Wyoming

AGENCY: Bureau of Land Management; Interior.

ACTION: Notice of realty action—FLPMA sale; Public Lands, Weston County, Wyoming.

SUMMARY: The following public lands have been examined and found suitable for direct sale under Section 203 of the Federal Land Policy and Management Act of 1976, at not less than fair market value of $3,000.00. The lands will not be offered for sale until sixty (60) days after the date of this notice:

6th Principal Meridian

T. 44 N., R. 61 W.,
Sec. 15: NW¼NE¼.

The lands are proposed to be offered for direct sale to the City of Newcastle, to be used as a sanitary landfill.

The sale conforms to the Bureau's planning system. At this time, the lands are not suitable for management by the Bureau or another federal agency. It has been determined through the Newcastle Resource Area Management Framework Plan that the public interest would be best served by the disposal of this parcel of land.

The City of Newcastle originally sought to lease the subject lands through the Recreation and Public Purposes Act of 1926, but in keeping with current Bureau policy, the City withdrew its application and asked the Bureau to sell the land.

The patent, when issued, will contain certain reservations to the United States and will be subject to all valid existing rights and reservations of record. Detailed information concerning these reservations, as well as conditions of the sale, are available for review at the Newcastle Resource Area Office, Bureau of Land Management, 1501 Highway 16 Bypass, Newcastle, Wyoming 82701.

Publication of this notice in the Federal Register segregates the public lands from the operation of the public land laws and the mining laws. The segregative effect will end upon issuance of the patent or 270 days from the date of the publication, whichever comes first.

For a period of forty five (45) days from the date of publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, Bureau of Land Management, Casper District Office, 951 North Poplar Street, Casper, Wyoming 82601. Any adverse comments will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become final.

Dated: April 30, 1986.

James W. Monroe,

Casper District Manager.

[FR Doc. 86-10270 Filed 5-7-86; 8:45 am]

BILLING CODE 4310-22-M

[CA 16983]

Sale of Public Land in Kern County, CA; Correction

AGENCY: Bureau of Land Management, Interior.

ACTION: Correction notice.

SUMMARY: The Notice of Realty Action involving noncompetitive sale #CA 16983 to the Tejon Ranch Company which appeared in Vol. 50 No. 120 of the Federal Register on June 21, 1985 is hereby corrected from the original "800 acres" to "560 acres, more or less".

April 30, 1986.

Rory E. Raschen,

Bakersfield Associate District Manager.

[FR Doc. 86-10279 Filed 5-7-86; 8:45 am]

BILLING CODE 4310-40-M

Emergency Closure of Public Lands; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency Closure of Public Lands.

SUMMARY: Notice is hereby given that effective immediately, all public lands two miles either side of the Green River from its confluence with the New Fork River westerly, and southerly to the north end of Fontenelle Reservoir, is closed to all overnight uses except those specifically authorized. Specific legal descriptions and maps are available in the Pinedale Resource Area Office, Pinedale, Wyoming.

The purpose of this closure is to protect the fragile riparian habitat, and to eliminate health hazards caused by unauthorized use, specifically: Camping in excess of the established time limit, setting or attempting to set up a primary residence on public lands, and violations of public health laws.

The authority for this closure is 43 CFR Part 8364. The closure will remain in effect until January 1, 1987.

DATE: May 15, 1986.

FOR FURTHER INFORMATION CONTACT: Donald H. Sweep, District Manager, Rock Springs District, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82902–1869, (307) 382–5350.

Gene C. Herrin,

Associate District Manager.

[FR Doc. 86–10278 Filed 5–7–86; 8:45 am]

BILLING CODE 4310–22–M

Proposal to Construct a Range Improvement Project in Mud Springs Canyon Wilderness Study Area

The Bureau of Land Management, Cedar City District, is proposing to construct four segments of conventional steel post and barbed wire fence for a total distance of 1.27 miles. Three of the segments are entirely within the Mud Springs Canyon Wilderness Study Area (WSA) while fourth segment is partially in the WSA. A total of 4,618 feet of fence will be constructed within the WSA, which is located east and southeast of Henrieville, Utah. The location of the proposed fences are in T. 38 S., R. 1 W., Section 12 SLB&M and T. 38 S., R. 1 E., Section 19 SLB&M. Access to install those fence segments within the WSA will be by horseback and will not involve surface disturbing activities. This project is one of several needed to implement the Round Valley Allotment Management Plan which will improve range and watershed conditions in the area.

A final environmental assessment (EA) has been prepared on this proposal. In response to public comment, the final EA was modified to delete two fences which are entirely outside the WSA. Installation of this fence will not begin any sooner than 15 days after the date this notice appears in the **Federal Register**.

To obtain a copy of this document or to obtain additional information on the proposal, contact Rex Rowley, Area Manager at the Bureau of Land Management, Kanab Resource Area, P.O. Box 459, Kanab, Utah 84741 or telephone at 801–644–2672.

Dated: May 1, 1986.

Dennis Curtis,

Acting District Manager.

[FR Doc. 86–10275 Filed 5–7–86; 8:45 am]

BILLING CODE 4310–DQ–M

Battle Mountain District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94–579 and 43 CFR Part 1780 that a meeting of the Battle Mountain District Advisory Council will be held on Tuesday, June 3, 1986. The meeting will convene at 9:00 a.m. in the BLM office in Battle Mountain, Nevada.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include:

1. Election of officers.
2. Orientation for New Council members.
3. Overview of District Programs.

The meeting is open to the public. Interested persons may make oral statements between 3:00 and 3:30 p.m. If you wish to make an oral statement, please contact Terry L. Plummer by 4:30 p.m., May 27, 1986.

FOR FURTHER INFORMATION CONTACT: Terry L. Plummer, District Manager, P.O. Box 1420, Battle Mountain, Nevada 89820 or phone (702) 635–5181.

Dated: April 29, 1986.

Terry L. Plummer,

District Manager, Battle Mountain, Nevada.

[FR Doc. 86–10275 Filed 5–7–86; 8:45 am]

BILLING CODE 4310–HC–M

Cedar City District Advisory Council Meeting

Notice is hereby given in accordance with Pub. L. 92–463, that a meeting of the Cedar City District Advisory council will be held June 13, 1986.

The meeting will begin at 9:30 a.m. at the BLM's Cedar City District Office, 1579 North Main Cedar City, Utah. The agenda will include: election of officers; Statewide Wilderness DEIS; Escalante Recreation Area Management Plan; Dixie Resource Management Plan; and Southern Utah Recreation and Tourism Study.

All Advisory Council meetings are open to the public. Interested persons may make oral statements at 11:30 a.m. at the BLM District Office or may submit written statements for the council's consideration. Anyone wishing to make an oral statement must notify the District Manager, P.O. Box 724, Cedar City, Utah 84720 by June 11, 1986. Depending on the number of persons wishing to make a statement, a per person time limit may be established by the District Manager or Council Chairman.

Dated: May 1, 1986.

Dennis Curtis,

Acting District Manager.

[FR Doc. 86–10266 Filed 5–7–86; 8:45 am]

BILLING CODE 4310–DQ–M

[AA–6688–A]

Alaska Native Claims Selection; Ouzinkie Native Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613, will be issued to Ouzinkie Native Corporation for 13.002 acres. The lands involved are within U.S. Survey No. 5692, lots 1 and 2, in the vicinity of Ouzinkie, Alaska.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Kodiak Daily Mirror. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision shall have until June 9, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Ann Adams,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86–10276 Filed 5–7–86; 8:45 am]

BILLING CODE 4310–JA–M

[AA–12850, AA–16481, AA–6647–B]

Alaska Native Claims Selection; Akutan Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that decisions to issue conveyance under the provisions of sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Akutan Corporation for approximately 5 acres. The lands involved are within T. 70 S., R. 111 W., Seward Meridian, Alaska.

A notice of the decisions will be published once in the Aleutian Eagle and once a week for four (4) consecutive weeks, in The Anchorage Daily News. Copies of the decisions may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960.)

Any party claiming a property interest which is adversely affected by the decisions shall have until June 9, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86–10363 Filed 5–7–86; 8:45 am]

BILLING CODE 4310–JA–M

[AA–6710–A, AA–6710–B]

Alaska Native Claims Selection; Unga Corp.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Unga Corporation for approximately 641 acres. The lands involved are in the vicinity of Unga, Alaska.

Seward Meridian, Alaska

T. 57 S., R. 74 W.
T. 58 S., R. 74 W.
T. 58 S., R. 75 W.

A notice of the decision will be published once in the Aleutian Eagle and once a week for four (4) consecutive weeks in the Anchorage Times. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until June 9, 1986 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 86–10366 Filed 5–7–86; 8:45 am]

BILLING CODE 4310–JA–M

New Mexico; Proposed Withdrawal and Opportunity for Public Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw 264.39 acres of public land to protect public land sites critical to recreational use of the Rio Grande River. This notice closes the land for up to 2 years from surface entry and mining. The land will remain open to mineral leasing.

DATE: Comments and requests for a public meeting should be received by August 6, 1986.

ADDRESS: Comments and meeting requests should be sent to: New Mexico State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87504.

FOR FURTHER INFORMATION CONTACT: Phil Beck, BLM, New Mexico State Office, 505–988–6227.

On April 29, 1986, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general public land laws, including the mining laws, subject to valid existing rights:

New Mexico Principal Meridian

T. 23 N., R. 10 E.,
Sec. 14, lot 4;
Sec. 15, lot 4.
T. 24 N., R. 11 E.,
Sec. 32, lots 5 to 8, inclusive, and SW¼ SE¼.

The area described aggregates 264.39 acres in Taos County.

The purpose of the proposed withdrawal is to protect the land for major recreational uses of the Rio Grande River which include white-water rafting, fishing and picnicking.

For a period of 90 days from the date of the publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the New Mexico State Director of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the New Mexico State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

For a period of 2 years from the date of the publication of this notice in the **Federal Register**, the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which will be permitted during this segregative period are grazing, recreation or other discretionary surface uses, provided they will not significantly impact the values to be protected by the withdrawal.

Dated: May 2, 1986.

Monte G. Jordan,

Associate State Director.

[FR Doc. 86–10307 Filed 5–7–86; 8:45 am]

BILLING CODE 4310–FB–M

BEST COPY AVAILABLE

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Intent To Amend a Land Use Plan and Prepare an Environmental Impact Statement; Idaho

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of intent to prepare a plan amendment and an Environmental Impact Statement (EIS) and invitation for public participation. The BLM intends to prepare an EIS and consider whether to amend the Medicine Lodge Resource Management Plan (RMP). The purpose of this planning activity is to evaluate a proposal to issue a right-of-way for a road.

Background Information

The Medicine Lodge RMP for public lands in the BLM's Idaho Falls District in eastern Idaho designated the Nine Mile Knoll area as an Area of Critical Environmental Concern (ACEC). Constraints of this designation include a prohibition on new roads or major rights-of-way and a closure on vehicle use in the winter. These constraints are to protect the critical winter range of the Sand Creek elk herd.

Fremont and Jefferson Counties, Idaho, have applied for a right-of-way through the Nine Mile Knoll ACEC for a gravel road. The road would cross approximately 10 miles of BLM-administered public land, would be 24 feet wide (in a 60-foot wide right-of-way), and would be maintained for use through the winter. The proposed road is to serve as a farm-to-market road between the Egin, idaho, and Camas, Idaho, areas.

In January 1986, BLM made public distribution of an environmental assessment of the proposed road. This assessment predicted that the proposed road would have significant adverse environmental impacts, especially upon the elk herd. The proposal has generated considerable interest and comment statewide from members of the public, state and local government officials, and interest groups. The significance of environmental impacts and the intensity of public interest have demonstrated the need to prepare an EIS. Preparing an EIS will provide the opportunity for broader public involvement in the planning process as well as an opportunity to ensure that we have examined an adequate range of reasonable alternatives.

The anticipated issues to be explored in the EIS include the effects of the road upon the elk habitat and elk herd, upon the economic well-being of farmers in the affected area as well as the public at large, and upon livestock management in the area.

This notice is an invitation to participate in the planning process. Now is the time to identify concerns or issues to be addressed. The draft EIS is scheduled to be distributed in June 1986, and a 90-day review and comment period will be provided at that time.

For more information or to identify issues, contact: Gary L. Wyke, Project Manager, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706. Telephone (208) 334–1952.

Dated: May 1, 1986.

Delmar D. Vail,

State Director, Idaho Bureau of Land Management.

[FR Doc. 86–10355 Filed 5–7–86; 8:45 am]

BILLING CODE 4310-84-M

[W–100441]

Proposed Emergency Coal Lease Sale; Rock Springs District, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Hearing on Environmental Assessment for Proposed Emergency Coal Lease Sale in the Green River Resource Area, Rock Springs, District, Wyoming.

SUMMARY: This notice sets a public hearing to provide the public with an opportunity to testify and comment on the environmental assessment and the Fair Market Value (FMV) and Maximum Economic Recovery (MER) for the proposed emergency coal lease sale in the Green River Resource Area.

DATE: May 30, 1986, at 10:00 a.m.

ADDRESS: The public hearing will be held in the Green River Resource Area office, located at 79 Winston Drive, Gateway Building, Rock Springs, Wyoming.

FOR FURTHER INFORMATION CONTACT: Name: Sally Haverly; Address: Bureau of Land Management, P.O. Box 1170, Rock Springs, Wyoming 82901, Telephone: (307) 362–6422.

SUPPLEMENTARY INFORMATION: An application for an emergency bypass coal lease was filed in accordance with 43 CFR Part 3425 with the Bureau of Land Management by the Black Butte Coal Company to facilitate anticipated expansion of their existing mine. The hearing will officially record testimony and public comments on the environmental assessment, concerning the proposed emergency bypass coal lease sale on the following land:

T. 19 N., R. 100 W.,

6th Principal Meridian, Wyoming

Sec. 12: All;
Sec. 24: W½E½, W½;
Sec. 26: Lots 4 and 5.

Encompassing 1217.96 acres of public surface and minerals.

In addition, testimony and public comments will be accepted on the proposed sale and on factors to be considered in making the fair market value and maximum economic recovery determinations on the proposed lease tract. Any person that will or may be adversely affected by the proposed coal development should express their concerns at the public hearing. Any testimony and written comments received will be made a part of the official record and will be considered in preparing the final decisions on the coal lease sale.

At the public hearing BLM will accept oral and written testimony. Advance registration of those persons wishing to testify is required. Speakers will be heard in the order of registration. After registered witnesses have been heard, the presiding officer will consider the requests of any other persons present who wish to testify. Oral testimony will be limited to ten minutes and may be supplemented by filing a written text of any prepared comments offered at the hearing. Any single organization's viewpoint must be presented by a single representative. Other members of that organization may present their views or opinions as private citizens.

Persons who wish to testify should notify the Green River Resource Area Office in writing prior to the close of business on May 29, 1986. Please send the notification to: Sally Haverly, Bureau of Land Management, Green River Resource Area, P.O. Box 1170, Rock Springs, Wyoming 82901, Telephone: (307) 362–6422.

Gene C. Herrin,

Associate District Manager.

[FR Doc. 86–10304 Filed 5–7–86; 8:45 am]

BILLING CODE 4310-22-M

Minerals Management Service

Royalty Management Advisory Committee; Meeting

AGENCY: Minerals Management Service, (MMS), Interior.

ACTION: Notice of meeting.

SUMMARY: The Minerals Management Service (MMS) hereby gives notice that the Royalty Management Advisory Committee will hold a meeting in Denver, Colorado at the location and on the dates indicated below to receive reports from six technical working panels. These working panels are identified below:

—Coal Valuation Regulations Review Panel
—Gas Valuation Regulations Review Panel
—Oil Valuation Regulations Review Panel
—FOGRMA 202/205 Funding Guidelines Panel
—Data Base Validation Panel
—PAAS Onshore Conversion Panel.

If a working panel has completed its review, a final report will be submitted to the Advisory Commitee that includes findings, conclusions, and recommendations. If a panel has not completed its review, an interim status report will be made. The Advisory Committee will review the report and the associated issues and determine the advice and recommendations to make to the Secretary of the Interior, as appropriate.

Notice of this meeting is required under the Federal Advisory Committee Act.

DATES: The "Working Panel Reporting Session" of the Royalty Management Advisory Committee will meet at the Clarion Hotel, 3203 Quebec, Denver, Colorado on June 3, 1986, and June 4, 1986, from 8:00 a.m. to 5:00 p.m.

June 3 Agenda: Opening remarks, panel reports, and public comments.

June 4 Agenda: Panel reports, public comments, and closing remarks.

This meeting will be open to the public. Public attendance may be limited by the space available. Questions and answers from the public will be addressed at a designated time during each day's meeting. Written statements should be submitted by May 23, 1986, to the address listed below. Minutes of this meeting will be available for public inspection and copying by August 31, 1986, at the same address.

FOR FURTHER INFORMATION CONTACT: Vernon B. Ingraham, Minerals Management Service, Royalty Management Program, Office of External Affairs, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 660, Denver, Colorado 80225, telephone number (303) 231–3360, (FTS) 326–3360.

SUPPLEMENTARY INFORMATION: Six technical working panels were established by the Royalty Management Advisory Committee. The panels are composed of both Advisory Committee members and non-Committee members and were established to provide the Advisory Committee with analyses of specific issues and proposed recommendations. Panel recommendations will be reviewed by the Advisory Committee which will then decide what advice and recommendations to give to the Department of the Interior (DOI) and MMS. Although the panels may meet with DOI or MMS staff members to obtain information they require in conducting their analyses, advice and recommendations of the panels will be made to the Advisory Committee and not to the DOI or the MMS.

Dated: May 2, 1986.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 86–10351 Filed 5–7–86; 8:45 am]

BILLING CODE 4310-MR-M

Royalty Management Advisory Committee, Oil and Coal Valuation Regulations Review Working Panels; Meetings

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of meetings.

SUMMARY: The Minerals Management Service (MMS), Royalty Management Program, hereby gives notice that two Working Panels, established by the Royalty Management Advisory Committee, will meet in Denver, Colorado, at the location and on the dates indicated below. These panels, which will meet separately, are the Oil Valuation Regulations Review Working Panel and the Coal Valuation Regulations Review Working Panel.

On Februay 5, 1986, MMS published an advance notice of proposed rulemaking in the **Federal Register** making available for public comment draft regulations pertaining to the valuation of oil, coal, and gas and associated products, as well as gas processing allowances and transportation allowances. All public comments will be made available to the Royalty Management Advisory Committee and the Valuation Panels. The panels will review the draft regulations and make recommendations to the Advisory Committee as to clarifications and revisions.

DATES: Both panels will meet separately at the Clarion Hotel, 3203 Quebec, Denver, Colorado. The Coal Valuation Regulations Review Panel will meet from 8 a.m. to 9 p.m. on May 13, 1986. The Oil Valuation Regulations Review Working Panel will meet from 8 a.m. to 5 p.m. daily on May 13, 14, and 15, 1986.

The public is invited to attend these meetings and make oral or written comments. A time will be set aside by each panel chairperson during which the public will be invited to make oral comments. Neither the meeting discussions nor the oral comments are being recorded by a stenographer at the working sessions. If the person making oral comments desires that the panel have written comments, such comments should be submitted by May 23, 1986, to the address listed below.

FOR FURTHER INFORMATION CONTACT: Vernon B. Ingraham, Minerals Management Service, Royalty Management Program, Office of External Affairs, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 660, Denver, Colorado 80225, telephone number (303) 231–3360, (FTS) 326–3360.

SUPPLEMENTARY INFORMATION: The Oil and Coal Valuation Regulations Review Working Panels are two of the six working panels established by the Royalty Management Advisory Committee. The panels are composed of both Advisory Committee members and non-Committee members and are established to provide the Advisory Committee with analyses of specific issues and proposed recommendations. Panel recommendations will be reviewed by the Advisory Committee which will then decide what advice and recommendations to give to the Department of the Interior (DOI) and Minerals Management Service (MMS). Although the panels may meet with DOI or MMS staff members to obtain information they require in conducting their analyses, advice and recommendations of the panels will be made to the Advisory Committee and not to the DOI or the MMS.

Dated: May 2, 1986.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 86–10352 Filed 5–7–86; 8:45 am]

BILLING CODE 4310-MR-M

Royalty Management Advisory Committee, Gas Valuation Regulations Review Working Panel; Meeting

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of meeting.

SUMMARY: The Mineral Management Service (MMS), Royalty Management Program, hereby gives notice that the Gas Valuation Regulations Review Working Panel, established by the Royalty Management Advisory Committee, will meet in Denver, Colorado, at the location and on the dates indicated below.

On February 5, 1986, MMS published an advance notice of proposed rulemaking in the **Federal Register** making available for public comment draft regulations pertaining to the valuation of gas and associated

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products as well as gas processing allowances and transportation allowances. All public comments will be made available to the Royalty Management Advisory Committee and the Gas Valuation Regulations Review Working Panel. The Panel will review the draft regulations and make recommendations as to necessary clarifications and revisions.

This Notice is published in accordance with the Federal Advisory Committee Act (Pub. L. No. 92-463).

DATES: Location and dates. The Gas Valuation Regulations Review Working Panel will meet at the Stapleton Plaza Hotel, 3333 Quebec Street, Denver, Colorado, May 12, 13, and 14, 1986.

The Panel will meet from 8 a.m. to 5 p.m. daily. If the meeting is completed in less than the three days scheduled, the Panel will adjourn upon such completion.

The public is invited to attend these meetings and make oral or written comments. A time will be set aside by the Panel chairperson during which the public will be invited to make oral comments. Written comments should be submitted by May 28, 1986, to the address listed below.

FOR FURTHER INFORMATION CONTACT: Vernon B. Ingraham, Minerals Management Service, Royalty Management Program, Office of External Affairs, Denver Federal Center, Building 85, P.O. Box 25165, Mail Stop 660, Denver, Colorado 80225, telephone number (303) 231-3360, (FTS) 326-3360.

SUPPLEMENTARY INFORMATION: The Gas Valuation Regulations Review Working Panel is one of the six working panels established by the Royalty Management Advisory Committee. The panels are composed of both Advisory Committee members and non-Committee members, and were established to provide the Advisory Committee with analyses of specific issues and proposed recommendations. Panel recommendations will be reviewed by the Advisory Committee, which will then decide what advice and recommendations to give to the Department of the Interior (DOI) and the MMS. Although the panels may meet with DOI or MSS staff members to obtain information they require in conducting their analyses, advice and recommendations of the panels will be made to the Advisory Committee and not to the DOI or the MMS.

Dated: May 2, 1986.

William D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 86-10350 Filed 5-7-86; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Ray Houser, (202) 275-6723. Comments regarding this information collection should be addressed to Ray Houser, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395-7340.

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Quarterly Report of Freight Commodity Statistics, Class I Railroad
OMB Form No.: 3120-0031
Agency Form No.: QCS
Frequency: Quarterly/Annually
Respondents: Class I Railroads
No. of Respondents: 25
Total Burden Hrs.: 27,125

James H. Bayne,

Secretary.

[FR Doc. 86-10339 Filed 5-7-86; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30816]

The Chesapeake & Ohio Railway Co.; Trackage Rights; the Baltimore & Ohio Railroad Co; Exemption

The Baltimore and Ohio Railroad Company (B&O) has agreed to grant overhead trackage rights to The Chesapeake and Ohio Railway Company (C&O) between Cottage Grove and Indianapolis, IN. The trackage rights will be effective on April 27, 1986.

As a condition to use of this exemption any employee affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry, Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

Dated: April 29, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86-10340 Filed 5-7-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-43 (Sub-136)]

Illinois Central Gulf Railroad Co.; Abandonment in Christian, Macon, and Shelby Counties, IL; Findings

The Commission has found that the public convenience and necessity permit the Illinois Central Gulf Railroad Company to abandon its 17.54-mile rail line between milepost A 728.00 at Assumption and milepost A 745.54 near Elwin in Christian, Macon, and Shelby Counties, IL.

A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27(b).

James H. Bayne,

Secretary.

[FR Doc. 86-10337 Filed 5-7-86; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-167)]

Seaboard System Railroad, Inc.; Abandonment in Davidson, Wilson, Smith, and Putnam Counties, TN; Findings

The Commission has found that the public convenience and necessity permit Seaboard System Railroad, Inc., to abandon its 108.21-mile line of railroad between Stone River (milepost NT-9.85) and Monterey (milepost NT-110.50), including the Carthage Branch from Carthage Junction (milepost NX-0.00) to Carthage (milepost NX-7.56), in Davidson, Wilson, Smith, and Putnam Counties, TN.

A certificate will be issued authorizing this abandonment unless within 15 days after this publication the Commission also finds that: (1) A financially responsible person has offered assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation must be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152-27.

James H. Bayne,

Secretary.

[FR Doc. 86-10338 Filed 5-7-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Clean Air Act; Lamotte

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on April 18, 1986, a proposed consent decree in *United States* v. *Lamotte*, Civil Action No. 85-141-L was lodged with the United States District Court for the District of New Hampshire. The proposed decree concerns violations of the National Emissions Standards for Hazardous Air Pollutants ("NESHAP") for asbestos during demolition activities. The proposed decree requires the defendant to pay a civil penalty and to comply with the NESHAP in future demolitions and renovations.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Lamotte*, D.J. Ref. 90-11-3-6-1.

The proposed consent decree may be examined at the office of the United States Attorney, 55 Pleasant Street, Concord, New Hampshire 03301, and at the Region I Office of the Environmental Protection Agency, John F. Kennedy Federal Building, Boston, Massachusetts. Copies of the decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Divison of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86-10285 Filed 5-7-86; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON ARTS AND HUMANITIES

Museum Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Overview Section) to the National Council on the Arts will be held on May 22, 1986 from 9:00 a.m. to 6:00 p.m., Room M-14 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public, on May 22, 1986, from 10:30 a.m. to 6:00 p.m. to discuss Guidelines, Policy issues and Five Year Planning Document.

The remaining session of this meeting on May 22, 1986 from 9:30 a.m. to 10:30 a.m., are for the purpose of Panel review, discuss, evaluation, and recommendation on applications for financial assistance and Five Year Planning Document under the National Foundation on the Arts and Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6), and 9(B) of section 552b of Title 5, United States Code.

If you need accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue NW., Washington DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506 or call 202/682-5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

April 30, 1986.

[FR Doc. 86-10262 Filed 5-7-86; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Earth Sciences; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Earth Sciences.
Dates: May 29 and 30, 1986.
Time: 8:30 a.m. to 5:00 p.m. each day.
Place: The National Science Foundation, Room 543, 1800 G Street, NW., Washington, D.C. 20550.
Type of meeting:
Open—May 29 (8:30 a.m.-10:00 a.m.);
May 30 (2:00 p.m.-5:00 p.m.);
Closed—May 29 (10:00 a.m.- 5:00 p.m.);
May 30 (8:30 a.m. to 2:00 p.m.)
Contact Person: Dr. James Fred Hays, Division Director, Earth Sciences, Room 602, National Science Foundation, Washington, D.C. 20550; Telephone: (202) 357-7958.
Purpose of committee: To provide advice, recommendations, and oversight concerning support for research and research-related activities in the Earth Sciences.
Reasons for closing: The Committee will review grant and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. The meeting will also include a review of the peer review documentation pertaining to the applicants. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

Agenda:

May 29

Open session—8:30-10:00 a.m.
8:30—Introduction and Welcome
9:00—Review of Budget and Budget Planning
Closed session—10:00 a.m.-5:00 p.m.
10:00—Conduct of Oversight Review

May 30

Closed session—8:30 a.m.–2:00 p.m.
8:30—Conduct of Oversight Review and Writing of Oversight Report
Open session—2:00–5:00 p.m.
2:00—Report of Oversight Review
2:30—Discussion of Earth Sciences Issues
4:00—Planning for Next Meeting
5:00—Adjourn.

M. Rebecca Winkler,

Committee Management Officer.

May 5, 1986.

[FR Doc. 86–10377 Filed 5–7–86; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Developmental Biology; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting.

Name: Advisory Panel for Developmental Biology.

Date and time: May 29, 30, 31, 1986, starting at 8:30 a.m. to 5:30 p.m.

Place: Room 523, National Science Foundation, 1600 G Street NW., Washington D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Joseph Masarenhas, Program Director, Developmental Biology Program, Room 332–H, National Science Foundation, Washington, D.C., 20550, Telephone 202/357–7989.

Purpose of advisory panel: To provide advice and recommendations concerning support of research in developmental biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

May 5, 1986.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 10379 Filed 5–7–86; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Eukaryotic Genetics Program; Meeting

In accordance with the Federal Advisory Panel Act, as amended, Pub. L. 92–463, the National Science Foundation announces the following meeting.

Name: Advisory Panel for Eukaryotic Genetics.

Date and time: Wednesday, Thursday, & Friday, May 28, 29, & 30, 1986 from 8:30 a.m. to 5:00 p.m.

Place: Conference Room of the Jackson Laboratory, Bar Harbor, Maine, 04609.

Type of meeting: Closed.

Contact person: DeLill Nasser, Program Director, Eukaryotic Genetics, Room 329G Telephone: 202/357–0112.

Purpose of advisory panel: To provide advice and recommendations concerning support for research.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of proposals U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close Meeting: This determination was made by the committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92–463. Panel Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

Rebecca Winkler,

Committee Management Officer.

May 5, 1986

[FR Doc. 86–10378 Filed 5–7–86; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–01644; License No. 13–10408–02; EA 86–39]

Bloomington Hospital; Order To Show Cause Why License Should Not Be Suspended and Modified (Immediately Effective)

I

Bloomington Hospital, 605–625 W. Second Street, Bloomington, Indiana (the licensee) is the holder of specific Byproduct Material License No. 13–10408–02 issued by the Nuclear Regulatory Commission (the Commission/NRC) pursuant to 10 CFR Parts 30 and 35. The license authorizes the use of byproduct material for the conduct of medical diagnosis and therapy and is due to expire on May 31, 1990.

II

From October 23 through November 26, 1984, an NRC inspection was conducted at Bloomington Hospital, Bloomington, Indiana. During the inspection, several violations of NRC requirements were identified. On December 18, 1984, an Enforcement Conference was conducted with the licensee to discuss the violations. Subsequent to that conference and as a result of a recent OI investigation, the NRC has established that four diagnostic misadministrations occurred during October 14, 1983 through August 3, 1984 that were not reported to the NRC as required. Further, actions were taken by the Radiation Safety Officer (RSO), Dr. Glen Mather, which impeded the NRC inspection into whether misadministrations had occurred during this time frame.

Although the Office of Investigations' report has not yet been issued, it appears from OI interviews conducted between October 1985 and January 1986 that the events transpired as follows:

A. On October 12, 1984, NRC Region III received an allegation that five diagnostic misadministrations had occurred at Bloomington Hospital from October 14, 1983 through September 5, 1984 and were not reported to the NRC as required pursuant to 10 CFR 35.43. When questioned by NRC inspectors, Dr. Mather admitted only that a September 5, 1984 misadministration had occurred and stated that no other misadministrations had occurred. After further interviews and presentation of additional information by NRC representatives, Dr. Mather admitted that the other four diagnostic misadministrations did occur.

B. Although Dr. Mather was aware of the reporting requirements for diagnostic misadministrations, he failed to make reports to the NRC for the four misadministrations in question.

C. Dr. Mather obstructed an NRC inspection contrary to 10 CFR 30.52 and misled NRC inspectors concerning the occurrence of diagnostic misadministrations as described below:

1. Two Bloomington Hospital employees stated to NRC representatives that Dr. Mather instructed them to inform the NRC inspectors that diagnostic misadministrations for two patients had not occurred. One of the employees made false statements to NRC inspectors regarding these misadministrations. It was later acknowledged by Bloomington Hospital management that misadministrations for these patients had occurred.

2. On October 23, 1984 Dr. Mather was requested by NRC inspectors to provide the nuclear medicine films for a patient alleged to have received a diagnostic misadministration. A licensee employee stated that on that date he provided the file to Dr. Mather, observed Dr. Mather pull the film out, look at it, and then replace it. Then, Dr. Mather told the NRC inspector that the film was not available. The film was later provided to NRC inspectors by another hospital employee. It therefore appears that Dr. Mather willfully withheld the film from NRC inspectors and impeded their inspection.

3. A Bloomington Hospital employee stated to NRC inspectors that another patient's file was given to Dr. Mather on October 23, 1984 pursuant to an NRC request. The alleger stated that before giving the file to NRC inspectors, Dr. Mather removed the film dated October 14, 1983 (the misadministration film) from the nuclear folder and placed it in the X-ray folder. The nuclear folder, which originally contained two films, was then provided to the inspectors by Dr. Mather with only one film dated October 17, 1983. When the NRC inspectors questioned Dr. Mather as to why the date on the nuclear folder was October 14, the inspectors observed Dr. Mather change the date to October 17, 1983. Dr. Mather later denied having done this. The NRC inspectors later reviewed a copy of a film dated October 14, 1983 provided by the allegers, and an NRC medical consultant determined from a review of this film that a misadministration did occur. The patient's October 14, 1983 nuclear film (misadministration) was subsequently found in the X-ray folder by hospital officials several months later—at which time licensee officials admitted to the misadministration. It therefore appears that Dr. Mather willfully concealed the film from NRC inspectors and impeded their inspection.

III

Licensees must adhere strictly to radiation safety requirements so that the medical use of NRC-licensed material does not create a radiation hazard to workers and members of the public. The proper and competent performance of a licensee's Radiation Safety Officer is essential to ensuring the safe conduct of licensed activities. 10 CFR Parts 30 and 35 of the Commission's regulations establishes requirements applicable to human use of byproduct materials including the reporting of diagnostic misadministrations pursuant to 10 CFR 35.43. Dr. Mather was aware that diagnostic misadministrations had occurred on four occasions, yet failed to make the required report to the NRC. Since he previously had made such reports for earlier misadministrations, Dr. Mather was apparently aware of the requirement to report misadministrations. These actions, as well as Dr. Mather's subsequent actions to obstruct an NRC inspection and to provide false and misleading information to NRC inspectors, demonstrate that there is no longer reasonable assurance that Dr. Mather can be relied upon to comply with Commission requirements in the performance or supervision of licensed activities and that the licensee will comply with Commission requirements while Dr. Mather is conducting or supervising licensed activities as an authorized user or as the Radiation Safety Officer at Bloomington Hospital.

Therefore, I am ordering, effective in seven days from the date of this Order, (1) the removal of Dr. Mather from the position of Radiation Safety Officer at Bloomington Hospital and from all involvement in the performance or supervision of NRC licensed activities, and (2) the suspension of all licensed activities at Bloomington Hospital unless the licensee has demonstrated that a qualified individual has been appointed as the Radiation Safety Officer and authorized by the NRC to oversee licensed activities at Bloomington Hospital. In view of Dr. Mather's willful failure to report diagnostic misadministrations in accordance with NRC regulations and his subsequent actions to impede the NRC's inspection effort, which have recently come to light during the NRC investigation, I have determined pursuant to 10 CFR 2.201(c) that no prior notice is required and pursuant to 10 CFR 2.202(f) that the public health, safety and interest require that this Order should be immediately effective.

IV

Accordingly, pursuant to sections 81, 161(b), 161(i), 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Parts 30 and 35, it is hereby ordered that effective immediately:

A. License No. 13–10408–02 is amended by adding the following condition:

No later than seven days of the date of this Order, Dr. Glen Mather shall be removed as Radiation Safety Officer and shall not thereafter serve in this or in any other position involving the performance or supervision of any licensed activities (e.g., as an authorized user) including the supervision of any Radiation Safety Officer.

B. All licensed activities pursuant to this license, except those activities necessary to safely store and protect licensed material, at Bloomington Hospital shall cease within seven days of the date of this Order unless:

1. A qualified Radiation Safety Officer (RSO) has been selected and assigned to replace Dr. Glen Mather.

2. A description of the qualifications of that replacement RSO has been submitted to, and the individual approved by, the NRC Region III Regional Administrator or his designee. If the individual to replace Dr. Mather is selected from the list of authorized users contained in Condition 12 of the Bloomington Hospital license, then notification of the selection may be made by telephone to the NRC Region III Regional Administrator, followed by a written confirmation of the selection.

3. The Bloomington Hospital license has been amended by NRC Region III to authorize the individual to perform the functions of the Radiation Safety Officer for Bloomington Hospital.

C. The licensee shall notify in writing within seven days of the date of this Order all personnel involved in the performance and supervision of licensed activities at Bloomington Hospital of this Order of the importance of strict adherence to NRC requirements and complete candor with NRC personnel. The licensee shall certify to the NRC that each Authorized User and RSO has read the notification and Order and understands its contents.

D. The NRC Region III Regional Administrator may relax or rescind any of the above provisions for good cause shown by the licensee. Nothing in this Order is intended to interfere with Bloomington Hospital's provision of medical services. If meeting the deadline specified in IV.C. could interfere with providing nuclear medicine services, the hospital may contact the Regional Administrator, Region III who will make arrangements for assuring the continuity of services.

V

The licensee may show cause why this Order should not have been issued and should be vacated by filing a written answer under oath or affirmation within 20 days of the date of this Order which sets forth the matters of fact and law on which the licensee relies. The licensee may answer as provided in 10 CFR 2.202(b) by consenting to this Order. If the licensee fails to answer within the specified time, this Order shall be final without further proceedings.

The licensee or any other person who has an interest adversely affected by this Order may request a hearing on this Order within 20 days of the date of its issuance. Any answer to this Order or request for hearing shall be submitted to the Director, Office of Inspection and

Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies also shall be sent to the Executive Legal Director at the same address and to the Regional Administrator, NRC Region III, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. If a person other than the licensee requests a hearing, that person shall describe specifically, in accordance with 10 CFR 2.714(a)(2), the nature of the person's interest and the manner in which that interest is affected by this Order. An answer to this order or a request for hearing shall not stay the immediate effectiveness of section IV of this order.

If a hearing is requested, the Commission will issue an Order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such a hearing shall be whether this Order should be sustained.

Dated at Bethesda, Maryland, this 22d day of April 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 86-10395 Filed 5-7-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-454; License No. NPF-37; EA 85-99]

Commonwealth Edison Co.; Byron Nuclear Station, Unit 1; Order Imposing Civil Monetary Penalty

I

Commonwealth Edison Company, Chicago, Illinois 60690 (licensee) is the holder of License No. NPF-37 issued by the Nuclear Regulatory Commission (Commission or NRC) which authorizes the licensee to operate the Byron Nuclear Station, Unit 1, Byron, Illinois in accordance with the conditions specified therein.

II

An inspection of the licensee's activities was conducted May 6 through July 22, 1985. The inspection identified that the licensee had not conducted its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of a Civil Penalty was served upon the licensee by letter dated October 2, 1985. The Notice states the nature of the violations, the provisions of the Nuclear Regulatory Commission requirements that the licensee had violated, the aggregate severity level of the violations, and the amount of civil penalty proposed for the violations. An answer dated November 21, 1985 to the Notice of Violation and Proposed Imposition of Civil Penalty was received requesting that the severity level of the violations be reduced or alternatively that the civil penalty be totally mitigated.

III

After consideration of the licensee's reply to the Notice of Violation and arguments for mitigation of the proposed civil penalty, the Director of the Office of inspection and Enforcement, for the reasons set forth in the Appendix to this Order, has determined that the violations identified in the Notice of Violation and Proposed Imposition of Civil Penalty were properly classified at Severity Level III but that the $50,000 civil penalty should be mitigated by 50 percent based on the licensee's extensive corrective action.

IV

In view of the foregoing and pursuant to section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96-295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of Twenty-Five Thousand Dollars ($25,000) within thirty days of the date of this Order, by check, draft, or money order, payable to the Treasurer of the United States and mailed to the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

V

The licensee may, within thirty days of the date of this Order, request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request also shall be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If the licensee fails to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee violated NRC requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty, and

(b) Whether, on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland, this 2nd day of May 1986.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

Appendix—Evaluation and Conclusion

In its November 21, 1985 response to the Notice of Violation and Proposed Imposition of Civil Penalty for Byron Station Unit 1 dated October 2, 1985, the licensee admits the violations occurred as stated in the Notice but requests that the NRC consider reclassifying the violations in the aggregate from Severity Level III to Severity Level IV or, alternatively, if the severity level is not changed, the proposed penalty should be reduced by 100 percent because the licensee meets the criteria for mitigation as described in section V.B. of 10 CFR Part 2, Appendix C. During a management meeting in the NRC Region III office on December 23, 1985, the Commonwealth Edison Company staff stated they believed the violations should be classified under Supplement IV rather than Supplement I. Provided below are a summary of the licensee's response in support of its request and the NRC's evaluation of the licensee's response.

Licensee's Assertion That the Incorrect Supplement Was Cited

The licensee stated the violations described in the Notice were incorrectly classified under Supplement I of the Enforcement Policy and should have been classified under Supplement IV since all the violations related to radiological safety problems.

NRC Response

The NRC staff has reviewed this matter and agrees with the licensee that the violations described in the Notice are more properly classified under Supplement IV of the Enforcement Policy.

Licensee's Arguments for Reduction of Severity Level

The licensee admits the violations did occur as stated in the Notice; however, it does not believe the violations were properly categorized as a Severity Level III problem collectively or in any other manner. The licensee contends that when the incidents occurred the radiation protection program performed its function of protecting many other workers from overexposures and contamination. Thus, the licensee argues that these incidents do not support a finding that its radiation protection program was unable to perform its intended function. At worst, the licensee insists that its program failed under very limited circumstances.

In support of this contention, the licensee describes the actions taken by its personnel during the three radiological events. In the first two events, which involved containment entries on April 17 and May, 1, 1985, (1) a radiation work permit was issued to cover the job, (2) preplanning of containment entry took place and helped to minimize exposure, and (3) personnel entered containment with proper dosimetry that was functional and

conservatively set to alarm below administrative levels. In the July 1, 1985 event, which involved removing contaminated insultaion from a leaking valve, (1) the plant area was properly posted as being contaminated and the source of contamination was known, (2) contaminated personnel followed policy for exiting a radiation area by surveying themselves, and (3) a radiation occurrence report was generated, which prompted management involvement and resolution of the issue.

The licensee concludes that the three events did not result in a system designed to prevent or mitigate a serous safety event not being able to perform its intended function under certain conditions. Further, the licensee argues that none of the exposures which led to the proposed civil penalty, whether taken individually or cumulatively, constituted serious safety events as that term is used for the purpose of a Severity Level III violation. In addition, the licensee insists that none of the exposures were significant, none exceeded regulatory limits, and none presented a substantial potential for exposure in excess of regulatory limits.

NRC Response

The NRC acknowledges that the licensee took certain actions, as described in the licensee's response, before personnel engaged in activities that resulted in three separate violations of regulatory requirements. However, the NRC staff does not believe that the licensee realized the extent of the problem or took adequate steps to prevent the other events. The NRC staff's evaluation of these events considered a number of points that were absent from the licensee's response but which significantly affected the NRC staff's conclusion.

In the April 17, 1985 event, a shift foreman (SF), an equipment attendant (EA), and a radiation-chemistry technician (RCT) entered containment to locate a reactor coolant system leak. A Type II radiation work permit (RWP) was issued; each individual was assigned an administrative dose limit of 200 mrem and each was provided with an alarming dosimeter set to alarm at 150 mrem. The three individuals made inspections inside containment and exited with the RCT's and SF's dosimeters in an alarm status. Although the SF's dosimeter had alarmed, he and the EA again entered containment to look for a misplaced flashlight without being accompanied by an RCT. None of the three individuals took adequate steps to limit their total radiation doses to no more than 200 mrem. As a result, all three exceeded the administrative dose limit. The final doses were 260 mrem (SF), 295 mrem (EA), and 254 mrem (RCT). The NRC staff believes this sequence of events demonstrated a failure of Byron plant personnel to follow established radiological safety procedures.

In the May 1, 1985 event, after a detector became stuck during the Unit 1 flux map standup test, the Shift Engineer (SE) initiated a work request to have electrical maintenance (EM) workers enter containment and repair the problem. The health physics (HP) foreman completed an emergency RWP without being aware that additional detectors had been removed and that radiation levels in the area where the repairs were to be performed had increased from 5mR/hr to 5-7R/hr. The technical staff and the control room personnel were aware of the new detector positions but they did not convey this information to the SE or HP foreman. The HP foreman was confused about emergency entry requirements and did not request that radiation-chemistry technicians (RCT) provide continuous suveillance of the EMs. Although the HP foreman requested that the RCTs survey containment, the results of the survey were not available to the HP foreman before the EMs entered containment. The HP foreman issued alarming dosimeters to the EMs but did not instruct them to leave the work area if the dosimeters alarmed. The EM foreman was told the dose rate in containment was approximately 5mR/hr and he was not aware that additional in-core detectors had been withdrawn. The EMs entered containment without RCT coverage and approximately 1 minute later their dosimeters alarmed. However, instead of leaving the area, the EMs remained an additional 2-to-3 minutes until their work was completed.

This sequence of events also demonstrates a failure of Byron plant personnel to properly communicate and follow established radiological safety procedures. The technical staff who repositioned the detectors and significantly increased the hazards did not communicate this to the SE. Neither the SE nor the HP foreman were aware of these changes when EMs were directed to enter containment without continuous RCT coverage, without understanding actual dose rates and stay time, and without understanding what to do if a dosimeter should alarm.

In the July 1, 1985, event, a mechanical maintenance crew, consisting of a foreman, an "A" mechanic, and a "B" mechanic, removed insulation from a valve which the work request clearly indicated was leaking radioactive liquid and was causing the surrounding area to become contaminated. Although the foreman knew that the insulation surrounding the leaking valve was probably contaminated and although he had observed a sign that stated "Contact Rad/Chem Before Entry" on the entrance door to the piping penetration area where the repairs were to be performed, the foreman did not request Rad/Chem to evaluate the hazard and did not obtain protective clothing. As a result the "B" mechanic's hands and the "A" mechanic's shoes were contaminated.

The foreman's failure to contact the Rad/Chem Department when the work request clearly stated the valve was leaking radioactive liquid, the failure to determine dose rates, the failure to obtain protective clothing, and the failure to learn of special radiological precautions to be taken before entering a controlled area also demonstrates a failure to follow established radiological safety procedures. This matter becomes more significant when one considers that after the foreman became aware that personnel had been contaminated, he did not contact Rad/Chem for assistance but instead elected to have mechanics "A" and "B" decontaminate themselves. It was fortuitous that a passing RCT observed the decontamination efforts and took charge.

Each of these three events demonstrates (1) a failure of supervisory and other personnel to know and follow established radiological safety procedures, (2) a failure to adequately train personnel, and (3) a failure to ensure that personnel make effective use of the Radiation Safety Department. In addition, in all three events plant personnel worked in areas with significant radiological hazards and there was the potential for these personnel to receive radiation doses in excess of NRC limits. Although each violation could be classified separately, in accordance with the Enforcement Policy, the violations were categorized in the aggregate as a Severity Level III problem to focus on the underlying cause; namely, a lack of adquate control of the radiation safety program.

The licensee contends that an adequate basis exists for 100 percent mitigation of the proposed civil penalty. In support of the contention it addresses the five factors contained in section V.B. of 10 CFR Part 2, Appendix C. The licensee states that it (1) promptly identified and reported the three events described above, (2) took prompt and comprehensive corrective action in response to these incidents, (3) had no previous violations involving the general area of radiation protection, and (4) did not have prior notice of similar events because, although two of the administrative overexposures occurred quite close in time, there was not adequate time to disseminate information before the second incident occurred.

NRC Response

After reviewing the licensee's response, the NRC staff has concluded that sufficient justification has been provided to allow partial mitigation of the proposed civil penalty. In reaching this decision the following factors were considered.

The licensee reported the May 1 and July 1, 1985 events although not required to do so. However, the NRC does not agree that the licensee took immediate action to correct the problems upon discovery since several weeks passed before corrective action was initiated. Subsequently however, the licensee did take extensive corrective action at the Byron Station and at corporate levels. The corrective action at the Byron Station included radiation protection awareness sessions that involved retraining approximately 1250 persons. The training sessions stressed individual responsibility, use of radiation work permits, use of protective clothing, computing stay times in radiation fields, use of Radiation Occurrence Reports, and use of Personnel Contamination Reports. Radiation Chemistry Management conducted meetings that addressed the May 1 and July 1, 1985 events with station departments and the Radiation Chemistry staff. At the corporate level, Nuclear Health Physics conducted an intensive review of Byron Station's radiation protection program during the period July 15-19, 1985. The team was comprised of individuals from Byron as well as other operating plants. The team made 40 broad-scope recommendations for improving the radiation protection program.

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The licensee has already completed 39 of these recommendations.

Based on these considerations, the NRC staff has concluded that a 50 percent reduction of the base civil penalty is appropriate. The licensee's prior good performance in the general area of concern when balanced against the occurrence of three radiological events in a period of less than 3 months leads the NRC staff to conclude that no further adjustment of the base civil penalty is appropriate.

NRC Conclusion

The licensee has provided a sufficient basis for partial mitigation of the proposed civil penalty. The NRC has determined that a 50 percent reduction in the proposed civil penalty is appropiate in this case. Accordingly, civil penalties in the amount of Twenty-Five Thousand Dollars are imposed.

[FR Doc. 86-10397 Filed 5-7-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-321]

Georgia Power Company, et al.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Prior Hearing

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-57 issued to Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia (the licensees), for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, located in Appling County, Georgia.

In accordance with the licensees' application for amendment dated March 3, 1986, the amendment would modify the Technical Specifications for Hatch Unit 1 to: (1) Delete identification of the specific automatically initiated containment isolation valves that are required to be operable and required to be tested; (2) delete the required closure time for all of these containment isolation valves except the main steam isolation valves; (3) change the definition of "Primary Containment Integrity" to be consistent with the current containment isolation valve operability requirements of Technical Specification section 3.7.D.2; (4) clarify the wording concerning plant operation with an inoperable containment isolation valve; and (5) extend the time allowed to reach cold shutdown if containment isolation valve operability requirements cannot be met.

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By June 9, 1986, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Daniel R. Muller: (petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Bruce W. Churchill, Shaw, Pittman, Potts & Trowbridge, 1800 M Street NW., Washington, DC 20036, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 3, 1986 which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC, and at the Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Dated at Bethesda, Maryland this 30th day of April, 1986.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, BWR Project Directorate #2, Division of BWR Licensing.

[FR Doc. 86-10396 Filed 5-7-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-424A]

Georgia Power Co. et al.; Receipt of Antitrust Information

Georgia Power Company, acting as agent for Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, and the City of Dalton, Georgia, has submitted additional antitrust information in conjunction with the application for an operating license for a pressurized water reactor known as Vogtle Electric Generating Plant, Unit 1, located on the Savannah River in Burke County, Georgia. The data submitted contain antitrust information for review pursuant to NRC Regulatory Guide 9.3 necessary to determine whether there have been any significant changes since the completion of the antitrust review at the construction permit stage. (These data represent an updated response from the applicants' original 9.3 data submission that was noticed in the **Federal Register** on October 17, 1983, pg. 47077).

On completion of a staff antitrust review, the Director of the Office of Nuclear Reactor Regulation will issue an initial finding as to whether there have been "significant changes" under section 105c(2) of the Atomic Energy Act. A copy of this finding will be published in the **Federal Register** and will be sent to the Washington, DC and local public document rooms and to those persons providing comments or information in response to this notice. If the initial finding concludes that there have not been any signifiant changes, requests for reevaluation may be submitted for a period of 30 days after the date of the **Federal Register** notice. The results of any reevaluation that are requested will be published in the **Federal Register** and copies sent to the Washington, DC and local public document rooms.

A copy of the general information portion of the application for an operating license and the antitrust information submitted is available for public examination and copying for a fee at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the local public document room at the Burke County Library, Fourth Street, Waynesboro, Georgia 30830.

Any person who desires additional information regarding the matter covered in this notice or who wishes to have views considered with respect to significant changes related to antitrust matters which have occurred in the applicants' activities since the construction permit antitrust review should submit such requests for information or views to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Planning and Program Analysis Staff, Office of Nuclear Reactor Regulation, on or before June 9, 1986.

Dated at Bethesda, Maryland, this 1st day of May 1986.

For the Nuclear Regulatory Commission.

Jesse L. Funches,

Director, Planning and Program Analysis Staff, Office of Nuclear Reactor Regulation.

[FR Doc. 86-10388 Filed 5-7-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-410]

Niagara Mohawk Power Corp., Nine Mile Point Nuclear Station, Unit 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of 10 CFR Part 50, Appendix A, General Design Criterion (GDC) 2, "Design basis for protection against natural phenomena" to the Niagara Mohawk Power Corporation (the applicant) for the Nine Mile Point Nuclear Station, Unit 2 (NMP-2), located at the applicant's site in Scriba, New York.

Environmental Assessment

Identification of Proposed Action: The action would provide an exemption from Commission regulations. The exemption would allow the applicant to operate NMP-2 while additional analysis regarding the design of its downcomers is being performed and allow any required hardware modifications to be completed prior to operation following the first refueling outage.

Pursuant to GDC 2 of 10 CFR Part 50, Appendix A, structures, systems and components important to safety shall be designed to withstand the effects of natural phenomena, such as earthquakes, without loss of capability to perform their safety functions. Further, GDC 2 specifically states that the design basis for these structures, systems and components shall reflect appropriate combinations of the effects of normal and accident conditions with the effects of the natural phenomena.

The NMP-2 downcomer design is unique in that it does not provide lateral supports at the free ends of the downcomers; i.e. at the bottom, the downcomers are free to move in a plane perpendicular to the downcomers. All other domestic Mark II plants have employed a bracing system to tie the downcomers together at the bottom to prevent free movement of an individual downcomer pipe.

On the basis of the information provided by the applicant in letters dated January 23 and 24, 1986, the staff has concluded that the downcomer design meets the licensing criteria for the upset and emergency conditions, but that the applicant has not adequately demonstrated the design adequacy for the faulted condition. It is this particular load combination for which the applicant has requested a schedular exemption to allow additional time to perform further analysis.

The applicant's request for this exemption and the basis therefor, are contained in their letter dated February 18, 1986.

The Need for the Proposed Action: This exemption to GDC 2 would allow the applicant to load fuel, test, and operate NMP-2 until the first refueling outage while performing additional analysis on the downcomers and designing and procuring any hardware needed for modifications to the downcomer design. If hardware modifications are needed, they could be performed during the first refueling outage. Without this exemption, fuel load and operation of NMP-2 would be delayed for a significant period (estimated by the applicant to be 6 to 10 months).

Environmental Impacts of the Proposed Action: This exemption would allow operation of NMP-2 until the first refueling outage while the applicant performs an additional analysis on the downcomers. If additional modifications are required to the downcomers, they could be performed during the first refueling outage.

The Commission has evaluated the analysis of the NMP-2 downcomers submitted January 23, 1986, and determined that the design is adequate for the emergency and upset conditions but that the adequacy of the design has not been demonstrated for the faulted condition.

The loads to be considered in the faulted condition include loads resulting from a loss of coolant accident (LOCA) and loads resulting from a safe shutdown earthquake (SSE). Both of these events (LOCA and SSE) would have to occur simultaneously for the

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downcomer design to be unacceptable. The downcomer design would be acceptable for the loads resulting from either the LOCA or the SSE occurring separately.

In assessing the potential for an environmental impact resulting from this exemption the following items were considered.

(1) The probability of a LOCA and an SSE occurring simultaneously and independently is very small.

(2) In a study by Lawrence Livermore National Laboratory[1] the probability of a seismically—induced, double-ended-guillotine break (DEGB) is estimated to be between 2.5×10^{-10} and 5.0×10^{-7} events per plant year at the 90% confidence limit.

(3) The material used for the NMP–2 recirculation piping system is Type 316 NG stainless steel which is considered much less susceptible to intergranular stress corrosion cracking (IGSCC); therefore, the probability of having a DEGB is smaller than for piping susceptible to IGSCC.

(4) The likelihood of the simultaneous occurrence of a LOCA and an SSE is even smaller during the first fuel cycle.

Because of the extremely low probability of a simultaneous occurrence of a LOCA and an SEE during the first fuel cycle, the Commission has determined that there is no significant increase in the probability of a failure of the downcomers, resulting in higher radiological releases, associated with this exemption. Likewise, the relief does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant radiological or non-radiological environmental impacts associated with the proposed exemption.

Alternate to the Proposed Action: Because the Commission has concluded that there is no measurable environmental impact associated with the proposed exemption, any alternatives to the exemption will have either no enviromental impact or greater environmental impact.

The principal alternative to granting this exemption would be to deny this exemption. The applicant would then be required to perform a confirmatory analysis and any needed plant modifications before loading fuel. This would delay plant operation, but it would not reduce the environmental impacts as assessed in the Final Environmental Statement Related to the Operation of Nine Mile Point Nuclear Station, Unit No. 2 dated May 1985 (FES) for the operating plant.

Alternative Use of Resources: The action in the granting of the exemption discussed above does not involve the use of resources not previously considered in connection with the FES.

Agencies and Persons Consulted: The Commission reviewed the applicant's request that supports the requested exempted discussed above. The Commission did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the requested exemption.

Based on the foregoing environmental assessment, we conclude that the requested actions will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the applicant's request for this exemption dated February 18, 1986, which is available for public inspection at the Commission's Public Document Room 1717 H Street NW., Washington DC 20555 and at the Penfield Library, State University College, Oswego, New York 13126.

Dated at Bethesda, Maryland, this 1st day of May 1986.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, BWR Project Directorate No. 3, Division of BWR Licensing.

[FR Doc. 86–10369 Filed 5–7–86; 8:45 am]

BILLING CODE 7590–01–M

[1] Holman, G., T. Lo, C. K. Chou, "Pipe Ruptures in BWR Plants", Lawrence Livermore National Laboratory, University of California, presented during the 13th NRC Water Reactor Safety Research meeting, October 1985.

Advisory Committee on Reactor Safeguards; Revised Meeting Agenda

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on May 8–10, 1986, in Room 1046, 1717 H Street, NW, Washington, DC. Notice of this meeting was published in the **Federal Register** on April 22, 1986.

Thursday, May 8, 1986

8:30 A.M.–8:45 A.M.: Report of ACRS Chairman (Open)—The ACRS Chairman will report briefly regarding items of current interest to the Committee.

8:45 A.M.–12:00 Noon: Systems Interactions (Open)—The members of the Committee will hear and discuss the report of its subcommittee regarding the NRC Staff's proposed resolution of USI A–17, Systems Interactions in Nuclear Power Plants. Members of the NRC Staff will participate in the presentations and discussion of this matter.

12:00 Noon–12:30 P.M.: ACRS Subcommittee Activities (Open)—The members will hear and discuss the report of the ACRS subcommittee on Thermal Hydraulic Phenomena regarding proposed revisions to 10 CFR Part 50.46, Acceptance criteria for emergency core cooling systems for light water nuclear power reactors and Appendix K, ECCS evaluation models.

1:30 P.M.–1:50 P.M.: Preparation for Meeting with NRC Commissioners (Open)—The members will discuss proposed comments to the Commissioners regarding the ACRS report dated April 15, 1986, Additional ACRS Comments on Proposed NRC Safety Goal Policy Statement.

2:00 P.M.–3:30 P.M.: Meeting with NRC Commissioners (Open)—The ACRS meeting will adjourn so ACRS members can participate in a meeting of the Nuclear Regulatory Commission to discuss ACRS recommendations and comments regarding the proposed NRC Safety Goal Policy Statement, as noted above.

3:45 P.M.–5:00 P.M.: Activities of ACRS Subcommittees (Open)—The members of the Committee will hear and discuss the activities of designated ACRS subcommittees regarding:

- Severe (Class 9) Accidents regarding rebaselining studies for reference nuclear power plants.
- Management of ACRS activities—report of Management Group meetings on April 9, 1986 and May 7, 1986.

5:00 P.M.–6:00 P.M.: Emergency Operating Procedures (Open)—The members will discuss a proposed report to the NRC regarding the status of emergency operating procedures and safety parameter display systems at nuclear power plants.

Friday, May 9, 1986

8:30 A.M.–10:30 A.M.: Management and Disposal of Radioactive Waste (Open)—The members will hear and discuss the report of its Waste Management Subcommittee regarding matters related to the handling and disposal of high- and low-level radioactive wastes including modeling strategy for high-level waste performance assessment; quality assurance for high-level waste geologic repositories; related research efforts; the NRC low-level waste program mandated by the Low-Level Radioactive Waste Policy Amendments Act of 1985; and the salvaging of contaminated smelted alloys. Members of the NRC Staff will participate in the presentations and discussion.

10:45 A.M.–11:00 A.M.: Future ACRS Activities Open)—The members will discuss anticipated ACRS subcommittee activity and proposed items for consideration by the full Committee.

11:00 A.M.–12:00 Noon: Decay Heat Removal (Open/Closed)—An ACRS member will brief the Committee regarding the type of bleed and feed system proposed for the Westinghouse advanced Pressurized Water Reactor.

Portions of this session will be closed as necessary to discuss Proprietary Informatin related to this matter.

1.00 P.M.–2:45 P.M.: Meeting with Representatives of the Fedeal Republic of Germany (Closed)—The members will meet with representatives of the Federal Republic of Germany to discuss both high- and low-level radioactive waste standards for radionuclide release limits (dose limits), plans for environmental monitoring, and for modeling in connection with performance assessment in order to assure compliance with the standards and thus to ensure the public health and safety.

This sessin will be closed to discuss information provided in confidence by a foreign source.

3:00 P.M.–4:00 P.M.: Operating Experience at a Foreign Nuclear Power Plant (Open/Closed)—The members will hear and discuss a report regarding a recent operating accident at a foreign nuclear power plant to consider its applicability to similar nuclear plants in the United States.

Portions of this session will be closed as necessary to discuss classified restricted data applicable to this type of nuclear facility and to consider information provided in confidence by a foreign source.

4:00 P.M.–4:30 P.M.: NRC Safety Research Program (Open)—The members of the Committee will discuss the scope, format, and schedule for the preparation of the ACRS report to the NRC regarding the proposed NRC safety research program and budget for FY 1988–89.

4:30 P.M.–6:00 P.M.: Preparation of ACRS Reports to NRC (Open/Closed)—The members will discuss proposed reports to the NRC regarding matters considered during this meeting.

Portions of this session will be closed as necessary to discuss Proprietary Information applicable to the matter being discussed.

Saturday, May 10, 1986

8:30 A.M.–8:45 A.M.: Relocation of ACRS (Open)—The Committee will hear and discuss the report of its delegation of ACRS members to discuss the proposed ACRS move to the Bethesda area.

8:45 A.M.–9:00 A.M.: Activities of ACRS Members (Open/Closed)—The Committee will discuss outside activities of ACRS members and their impact on their assignments as ACRS members.

Portions of this session will be closed as necessary to discuss information the release of which would represent an unwarranted invasion of personal privacy.

(9:00 A.M.–9:45 A.M.: Appointment of ACRS Member (Closed)—The members will discuss the qualifications of candidates proposed for appointment to the ACRS.

This portion of the meeting will be closed to discuss information the release of which would represent an unwarranted invasion of personal privacy.

9:45 A.M.–12:00 Noon and 1:00 P.M.–3:00 P.M.: Preparation of ACRS Reports to NRC (Open/Closed)—The members will discuss proposed reports to the NRC regarding matters considered during this meeting.

Portions of this session will be closed as required to discuss Proprietary Information applicable to the matter being discussed.

Procedures for the conduct of and participation in ACRS meetings were published in the Federal Register on October 2, 1985 (50 FR 191). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS Executive Director as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the ACRS Executive Director, R.F. Fraley, prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

I have determined in accordance with Subsection 10(d) Pub. L. 92–463 that it is necessary to close portions of this meeting as noted above to discuss Proprietary Information (5 U.S.C. 552b(c)(4)), information provided in confidence by a foreign source (5 U.S.C. 552b(c)(4)), information the release of which would represent a clearly unwarranted invasion of personal privacy (5 U.S.C. 552b(c)(6)), and classified restricted data applicable to the facilities being discussed (5 U.S.C. 552b(c)(3)).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted can be obtained by a prepaid telephone call to the ACRS Executive Director, Mr. Raymond F. Fraley (telephone 202/634–3265), between 8:15 A.M. and 5:00 P.M.

Dated: May 5, 1986.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 86–10390 Filed 5–7–86; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, South Texas Units 1 and 2, Meeting

The ACRS Subcommittee on South Texas Units 1 and 2 will hold a meeting on May 29 and 30, at the Best Western Bay City Inn, Highway 35 West, Bay City, TX.

The entire meeting will be open to public attendance. The agenda for the subject meetign shall be as follows:

Thursday, May 29, 1986—2:00 P.M. until 6:00 P.M.

Friday, May 30, 1986—8:30 A.M. until 1:00 P.M.

The Subcommittee will review Houston Lighting and Power Company's application for an operating license.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff members named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Houston Lighting and Power Company, the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. M. El-Zeftawy (telephone 202/634-3267) between 8:15 A.M. and 5: P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: May 5, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86-10391 Filed 5-7-86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Thermal Hydraulic Phenomena; Meeting

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on May 21, 1986, Room 1046, 1717 H Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, May 21, 1986—8:30 A.M. Until the Conclusion of Business

The Subcommittee will review NRC research programs in the thermal hydraulic phenomena area for the ACRS report to the Commission for FY 1988.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 202/634-3267), between 8:15 A.M. and 5:00 P.M. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: May 5, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86-10392 Filed 5-7-86; 8:45 am]

BILLING CODE 7590-01-M

Appointments to Performance Review Board for Senior Executive Service

AGENCY: Nuclear Regulatory Commission.

ACTION: Appointment to Performance Review Board for Senior Executive Service.

SUMMARY: The Nuclear Regulatory Commission (NRC) has announced the following new appointment to the NRC Performance Review Board (PRB):

Guy A. Arlotto, Director, Division of Engineering Technology, Office of Nuclear Regulatory Research
James A. Fitzgerald, Assistant General Counsel, Administration and Adjudication, Office of the General Counsel
Roberts D. Martin, Regional Administrator, Region IV
Donald B. Mausshardt, Deputy Director, Office of Nuclear Material Safety and Safeguards
James H. Sniezek, Acting Deputy Executive Director for Regional Operations and Generic Requirements
Michael L. Springer, Deputy Director, Office of Administration
Richard H. Vollmer, Deputy Director, Office of Inspection and Enforcement

In addition to the above appointments, the following members are continuing on the PRB:

Robert M. Bernero, Director, Division of Boiling Water Reactor Licensing, Office of Nuclear Reactor Regulation
Richard E. Cunningham, Director, Division of Fuel Cycle & Material Safety, Office of Nuclear Material Safety and Safeguards
Harold R. Denton, Director, Office of Nuclear Reactor Regulation
James P. Murray, Deputy Executive Legal Director

William B. Kerr, Director, Office of Small and Disadvantaged Business Utilization and Civil Rights, continues as an ex officio nonvoting member.

The NRC Performance Review Board Panel has one new appointee, Clemens J. Heltemes, Jr., Director, Office for Analysis and Evaluation of Operational Data, serving with continuing members Thomas E. Murley, Regional Administrator, Region I, and Jack W. Roe, Deputy Executive Director for Operations.

All appointments are made pursuant to section 4314 of Chapter 43 of Title 5 of the United States Code.

EFFECTIVE DATE: May 8, 1986.

FOR FURTHER INFORMATION CONTACT: Harold R. Denton, Chair, Performance Review Board, U.S. Nuclear Regulatory Commission, Washington, DC 20555, 301-492-7691.

Dated at Bethesda, Maryland, this 23 day of April 1986.

For the Nuclear Regulatory Commission.

Jack W. Roe,

Chairman, Executive Resources Board.

[FR Doc. 86-10393 Filed 5-7-86; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-23189; File Nos. SR-Amex-85-40; SR-Phlx-85-32; and SR-CBOE-86-01]

Self-Regulatory Organizations; Filings and Order Granting Accelerated Approval to Proposed Rule Changes by the American and Philadelphia Stock Exchanges, Inc. and the Chicago Board Options Exchange, Inc. Relating to the Options Disclosure Document

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 20, 1985, December 30, 1985, and January 3, 1986, the American ("Amex") and Philadelphia ("Phlx") Stock Exchanges, and the Chicago Board Options Exchange ("CBOE"), respectively, filed with the Securities and Exchange Commission ("Commission") the proposed rule changes described below.

The Amex, Phlx and CBOE proposals would delete from each of the exchanges' respective rules [1] the requirement that their members and member organizations deliver to each options customer separate options disclosure documents relating to equity, index, debt and foreign currency options at or prior to the time a customer's account is approved for any category of options trading. Currently, the exchanges' rules require member firms to deliver to the customer the appropriate disclosure document(s) relating to the type(s) of options product(s) the investor intends to trade. Delivery of a separate disclosure document specifically geared to the type of option product the investor intends to trade is no longer necessary in view of the consolidation into a single disclosure document of information formerly found in each of the separate documents.[2] Accordingly, the exchanges are amending their rules to provide for delivery of a consolidated disclosure document instead of separate disclosure documents relating to options on specific categories of underlying securities.

Because the proposed rule changes will bring the exchanges' rules into conformity with recent changes in the structure of the disclosure document, the Commission finds that they are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of sections 6 [3] and 9 [4] and the rules and regulations thereunder. The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication of the proposals in the **Federal Register** in that the consolidation of the options disclosure document was effected in September 1985 and no adverse comments concerning this restructuring have been received.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[5] that the proposed rule changes are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Dated: April 30, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-10341 Filed 5-7-86; 8:45 am]

BILLING CODE 8010-01-M

[1] *See* Amex Rule 926; Phlx Rule 1029 and CBOE Rules 9.15(a), 30.18B and 21.19A.

[2] In September 1985, the Options Clearing Corporation ("OCC"), in conjunction with the American, New York, Pacific, and Philadelphia Stock Exchanges, the CBOE, and the National Association of Securities Dealers, Inc., published a revised and consolidated options disclosure document. This document, entitled "Characteristics and Risks of Standardized Options," replaces four separate documents which contained information regarding equity, index, debt and foreign currency options. In connection with the publication of the revised disclosure document, the OCC and the options exchanges requested that Rule 9b-1 under the Act be amended to delete the requirement that documents prepared under the Rule contain information regarding the uses of the options classes covered by the document. The Commission recently adopted this proposed amendment. *See* Securities Exchange Act Release No. 23115 (April 10, 1986), 51 FR 14982.

[3] 15 U.S.C. 78f (1982).

[4] 15 U.S.C. 78w (1982).

[5] 15 U.S.C. 78s(b)(2) (1982).

[6] 17 CFR 200.30-3(a)(12) (1985).

[Release No. 34-23190; File No. SR-MSTC-86-3]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Securities Trust Co. Relating to Proposed Fees for MSTC's Commercial Paper Division

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 23, 1986 the Midwest Securities Trust Company filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The following fees have been established for participation in MSTC's Commercial Paper Division:

Participation Fee—$100.00/month
Account Fee—$50.00/symbol/month
Transaction Fee—$2.00/transaction

These fees are effective May 1, 1986.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

MSTC intends to impose the fees listed above, effective May 1, 1986, for participation in its Commercial Paper Division (Division).

The fees will consist of: (1) A monthly Participation fee charged per Division Participant; (2) a monthly acount fee, charged for each system symbol utilized by a Division Participant; and (3) a transaction fee, charged for each transaction entered into the system. The fees reflect MSTC's costs initiating the Division and operating the system.

The proposed fee schedule is consistent with Section 17A of the Securities Exchange Act of 1934 in that it provides for the equitable allocation of reasonable dues, fees and other charges among MSTC's Participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Securities Trust Company does not believe that any burdens will be placed on competition as a result of the proposed fees.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and

arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by [insert date 21 days from the date of publication].

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 1, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-10345 Filed 5-7-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23191; File No. SR-PHLX-86-4]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to Access to Foreign Currency Options Markets by Non-Participants

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on February 20, 1986, the Philadelphia Stock Exchange, Inc. ("PHLX") filed with the Securities and Exchange Commission the proposed rule change as described in Items, I, II and III below, which Items have been prepared by the PHLX. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to Rules 631 and 1000, the Options Committee and Board of Governors of the PHLX have approved telephone access, including dedicated lines, to the PHLX Foreign Currency Options Room by a non-holder of a PHLX foreign currency options participation. This policy, which PHLX has indicated has been applied since January 30, 1986, does not apply to PHLX products other than foreign currency options.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statements of the Purpose of, and Statutory Basis for the Proposed Rule Change

When the Philadelphia Board of Trade ("PBOT") was formed, its Board of Directors determined that, consistent with the policy of other commodity exchanges, it would be appropriate to permit non-member access to the marketplace. Since then, PBOT members have installed dedicated lines to non-PBOT members which is a permissible practice under the policy of the PBOT Board. Given the unique nature of foreign exchange markets, foreign currency options participation holders have urged the PHLX to establish a policy respecting access to the foreign currency options market which is consistent with that of the PBOT.

Pursuant to PHLX Rule 631 and 1000, the Options Committee has authority to approve applications regarding, among other things, dedicated or direct line access to the options floor. In response to the requests of participation holders, the Options Committee determined to permit dedicated or direct line access to the foreign currency floor by non-participant holders. The Board of Governors has affirmed the determination of the Options Committee.

The PHLX believes that the proposed rule change, which will facilitate transactions in foreign currency options, is consistent with Section 6(b)(5) of the Act.

B. Self-Regulatory Organizations Statement on Burden on Competition

The PHLX believes that the proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or others

No comments were solicited or received by the PHLX.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve such proposed rule changes, or

(B) institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 29, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 1, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-10344 Filed 5-7-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24082]

Filings Under the Public Utility Holding Company Act of 1935 ("Act"); AEP Generating Co., et al.

May 1, 1986.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by May 27, 1986 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit, or in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

AEP Generating Company (70-6860)

AEP Generating Company ("AEGCo"), 1 Riverside Plaza, Columbus, Ohio 43215, a subsidiary of American Electric Power Company, Inc., a registered holding company, has filed a post-effective amendment to its declaration in this proceeding pursuant to Section 6(a) and 7 of the Act and Rules 42(b)(2), and 50(a)(2) thereunder.

AEGCo proposes to issue up to $150 million principal amount of unsecured, fixed rate notes to banks from time to time through December 31, 1986, pursuant to one or more fixed rate term loan agreements; to enter into one or more "interest rate swap" agreements with respect to up to $150 million principal amount of unsecured notes issued or to be issued to a group of commercial banks under AEGCo's Revolving Credit Agreement ("Agreement"), dated as of March 31, 1982, as amended, between AEGCo and such banks (*See* File No. 70-6868); or to combine such borrowings which, in the aggregate, would not exceed $150 million.

The fixed rate notes will mature on a date not less than two nor more than 10 years from the date of issuance. The proceeds would be applied to refinance $150 million of borrowings under existing term loan agreements which mature during the second half of 1986.

New England Power Company (70-7208)

New England Power Company ("NEP"), 25 Research Drive, Westborough, Massachusetts 01582, a subsidiary of New England Electric System, a registered holding company, has filed with this Commission an application-declaration pursuant to Sections 6(a), 7, 9, 10, and 12(c) of the Act and Rules 42, 45, 50(a)(4), and 50(a)(5) thereunder.

NEP has requested authorization to implement a general refinancing plan which calls for the issuance of not exceeding $550 million aggregate amount securities from time to time through December 31, 1987, as market conditions warrant.

The securities comprising NEP's refinancing plan include:

(i) One or more issues of additional preferred stock with an aggregate par value not exceeding $45 million;

(ii) One or more issues of General and Refunding Mortgage Bonds ("G&R Bonds") in an aggregate principal amount not exceeding $550 million (such amount to be reduced by the aggregate par value of any additional preferred stock issued); and

(iii) One or more issues of First Mortgage Bonds in an aggregate principal amount equal to any G&R Bonds issued.

The outstanding securities which may be refinanced, in whole or in part, include: (i) Preferred Stock, 13.48% Series ($100 par), and 11.04% Series (25 par), (ii) G&R Bonds, Series E, 16%, due 2011; Series F, 16⅝%, due 2012; Series B, 9½%, due 2008; Series A, 8⅝/8%, due 2007; Series J, 10⅝%, due 2013; Series D, 9⅞8%, due 2013; and (iii) First Mortgage Bonds, Series U, 10⅛%, due 2005; Series S, 8½%, due 2003; Series T, 8⅜%, due 2003; and Series P, 8¾% due 1999.

NEP also seeks authorization to make a tender offer for its Series J and D G&R Bonds which are not subject to redemption, except for certain extraordinary events, until 1993. NEP also requests that it be authorized to redeem the 11.04% and 13.48% preferred stock in accordance with the redemption provisions contained in those securities.

General Public Utilities Corporation (70-7239)

General Public Utilities Corporation ("GPU"), 100 Interpace Parkway, Parsippany, New Jersey 07054, a registered holding company, has filed a declaration, pursuant to Section 12(b) of the Act and Rule 45 thereunder.

GPU Nuclear Corporation ("Nuclear"), a subsidiary of GPU, has entered into an office lease agreement commencing on August 1, 1986, for an initial period of 10 years, with two five-year renewal options. The rental and related costs are expected to aggregate approximately $45 million for the initial period. GPU proposes to guarantee Nuclear's performance of its obligations under the agreement.

Allegheny Generating Company (70-7246)

Allegheny Generating Company ("AGC"), 320 Park Avenue, New York, N.Y. 10022, an indirect, wholly-owned subsidiary of Allegheny Power System, Inc., a registered holding company, has filed a declaration pursuant to Sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

AGC proposes, as the initial step in its permanent financing, to issue and sell one or more series of its debentures in an aggregate principal amount not exceeding $200,000,000 under an open-end indenture. The debentures will have a maturity of between 5 and 30 years and will be sold in a public offering through underwriters. AGC proposes to negotiate the terms of the issuance and sale. It may do so.

Ohio Power Company et al. (70-7247)

Ohio Power Company ("Ohio Power"), an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, and Ohio Power's coal-mining subsidiaries, Central Ohio Coal Company ("COCCo"), Southern Ohio Coal Company ("SOCCo"), and Windsor Power House Coal Company ("Windsor") (collectively, the "Applicants"), 1 Riverside Plaza, Columbus, Ohio 43215, have filed an application-declaration pursuant to Sections 9(a), 10, and 12(b) of the Act and Rule 45 thereunder.

Each Applicant, except for Ohio Power, proposes to enter into a Master Leasing Agreement ("Leasing Agreement") with a nonassociate company ("Lessor"), pursuant to which the Lessor will commit to lease to such

companies mining equipment with a total aggregate acquisition cost not exceeding $16.5 million. The Lessors will borrow a portion of the funds required to purchase such equipment from The Prudential Insurance Company of America on a nonrecourse basis. The debt interest rate is presently assumed to be 11.25% but is subject to adjustment. Each quarterly payment of basic rent with respect to a unit of equipment covered by the Leasing Agreement will be in an amount equal to the product of (i) the basic lease rate factor applicable to that unit and (ii) the Lessor's acquisition cost. The lease rate factors will be fixed at the time of closing of the lease. Ohio Power proposes unconditionally and irrevocably to guarantee payment of all amounts payable by COCCo to any participant (other than the Applicants) under the Leasing Agreement and under certain sections of the accompanying Participation Agreement.

Consolidated Natural Gas Company (70-7252)

Consolidated Natural Gas Company ("Consolidated"), a registered holding company, Four Gateway Center, Pittsburgh, Pennsylvania 15222, has filed a declaration with this Commission pursuant to Sections 9(a) and 10 of the Act.

In order to qualify for the purchase of excess liability coverage up to a limit of $100,000,000 per year and directors and officers liability coverage ("D&O insurance") up to a limit of $50,000,000 per year in excess of all applicable D&O insurance in force from ACE Insurance Company, Ltd. ("ACE"), Consolidated proposes to purchase not more than 13,333 shares of ACE Limited ("Limited"), ACE's parent, at a price of $150 per share, for a total investment not exceeding $2,000,000. Both ACE and Limited are Cayman Islands corporations.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-10342 Filed 5-7-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15080; (812-6221)]

MONY Series Fund, Inc.; Application and Opportunity for Hearing

May 1, 1986.

Notice is hereby given that MONY Series Fund, Inc. ("Applicant"), 1740 Broadway, New York, New York 10019, filed an application on October 11, 1985, and amendments thereto on February 10, 1986, and March 5, 1986, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from the provisions of section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 under the Act to the extent necessary to permit Applicant to use the amortized cost method of valuation for short-term debt obligations held in certain of its portfolios. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable statutory provisions.

The application states that Applicant is a corporation organized under the laws of Maryland and is registered under the Act as an open-end, diversified management company. MONY Life Insurance Company of America ("MONY America"), a wholly-owned subsidiary of The Mutual Life Insurance Company of New York ("MONY") is Applicant's investment adviser. Applicant states that it has six portfolios, interests in each of which are represented by a separate class of capital stock. Additional portfolios may be created in the future. Applicant represents that all securities issued by it (other than those sold to MONY for purposes of initial capitalization) will be sold only to separate accounts of MONY America or MONY Legacy Life Insurance Company ("MONY Legacy"), a wholly-owned subsidiary of MONY, in connection with certain flexible premium variable life insurance policies issued by MONY America and to be issued by MONY Legacy. Such separate accounts are registered under the Act as unit investment trusts. In the future, securities issued by Applicant may also be sold to other separate accounts of MONY or its subsidiaries in connection with the issuance of other variable life insurance policies or variable annuity contracts.

The application further states that Applicant, at present, relies on Rule 2a-7 under the Act, and values all short-term debt obligations held in its Money Market Portfolio on an amortized cost basis. Applicant proposes to use the amortized cost method of valuing debt obligations of one year's maturity or less held in each of its other existing portfolios and in any additional portfolios which may be created in the future. (All such portfolios that are the subject of the application are referred to as the "Subject Portfolios"). The provisions of the Act from which Applicant seeks exemption require that investment companies calculate their net asset value for the purpose of pricing their shares for sale, repurchase and redemption, by valuing at market value, and not on a amortized-cost basis, those securities in their portfolios for which market quotations are readily available.

According to Applicant, the primary concern that the Commission has expressed about use of the amortized cost method of valuation has been that this method of valuation may, in times of sharp increases or decreases in interest rates, result in dilution of the interests of shareholders in investment companies. Applicant states that in order to protect against such dilution, prior exemptions granted by the Commission and Rule 2a-7 under the Act to permit money maket funds to use amortized cost valuation contain a series of conditions designed to assure that use of the amortized cost method of valuation will not result in dilution or other unfair effects to shareholders. Applicant further states that, in connection with the valuation of short-term debt securities held in the Subject Portfolios, Applicant is willing to consent to the imposition of what are in substance the same conditions as those generally imposed by the Commission in prior exemptive orders and Rule 2a-7 under the Act, except that a stable net asset value per share will not be maintained and the deviation currently described in paragraph (a)(2) of Rule 2a-7 will be the deviation, if any, of the aggregate value of the money market portion of each Subject Portfolio calculated using available market quotations (or an appropriate substitute which reflects current market conditions) from such portion's aggregate value calculated using the amortized method of valuation.

According to Applicant, the Subject Portfolios cannot maintain a stable price per share, one of the conditions contained in the prior exemptive orders and Rule 2a-7, since they invest in common stock and intermediate and long-term bonds, as well as short-term debt obligations. Applicant submits that the use of the amortized cost method of valuation is not dependent on the maintenance of a constant net asset value per share of an investment company. Applicant submits there is no necessary relationship between use of the amortized cost valuation method and the maintenance of a stable price for each share of an investment company. Applicant asserts that previous applicants were conventional "money market" funds that wished to ensure that their shares would always be valued and redeemed at a fixed price per share. Applicant states that the

Subject Portfolios are not structured as money market funds, and Applicant does not seek to use amortized cost valuation for the short-term debt obligations held in those Portfolios in order to maintain a constant net asset value per share, but rather to achieve significant savings in its administrative costs.

Applicant submits that use of amortized valuation in connection with high-quality short-term debt securities held in the Subject Portfolios is especially unlikely to result in any dilution or other unfair effects to shareholders in the Subject Portfolios because they are investment media for flexible premium variable life insurance policies and, perhaps in the future, other variable life insurance policies and variable annuity contracts. Applicant states that the policy holders who participate in any of the Portfolios of Applicant will tend to have a longer-range investment and insurance perpective than is typical of shareholders in money market funds.

Applicant therefore requests exemptions from the provisions of Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 promulgated thereunder to the extent necessary to permit it to use the amortized cost method for valuing the money market portion of the Subject Portfolios. Applicant states it is willing to consent, with respect to the money market portion of each Subject Portfolio, abide by the conditions and definitions of Rule 2a-7 as in effect from time to time applicable to money market funds using the amortized cost method of valuation, except for the condition requiring a stable net asset value per share and the conditions requiring calculation of the extent of deviation, if any, of the current net asset value per share. At present, under Rule 2a-7 as currently in effect, the conditions that would be applicable to the money market portions of the Subject Portfolios would be as follows:

(1) With respect to the money market portion of Applicant's Subject Portfolios, in supervising the Applicant's operation and delegating special responsibilities involving portfolio management to its investment manager, Applicant's Board of Directors undertakes (as a particular responsibility within the overall duty of care owed to shareholders of Applicant) to establish procedures reasonably designed, taking into account current market conditions and such Portfolios' investment objectives, to minimize the deviation between the aggregate value of the money market portion of each such Portfolio, as computed through use of the amortized cost method of valuation, and that portion's aggregate value as determined through use of available market quotations.

(2) Included within the procedures to be adopted by the Board of Directors will be the following:

(a) The Board will adopt procedures for determining, at such intervals as it deems appropriate and as are reasonable in light of current market conditions, the extent of deviation, if any, of the aggregate value of the money market portion of each Subject Portfolio calculated using available market quotations (or an appropriate substitute which reflects current market conditions) from such portion's aggregate value calculated using the amortized cost method of valuation. To fulfill this condition, the Board will establish methods for determining appropriate indications of value reflecting current market conditions, which may include (without limitation) quotations or estimates of market value for individual portfolio instruments or values obtained from yield data relating to classes of money market instruments published by reputable sources. The Board will periodically review the amount of the deviation as well as the methods for calculating the deviation. The Fund will maintain records of the determination of such deviations and of the Board's review.

(b) In the event such deviation from the aggregate value of the money market portion of a Subject Portfolio calculated using the amortized cost method exceeds one-half of one percent (0.5%) the Board of Directors will promptly consider that action, if any, should be initiated.

(c) If the Board of Directors believes the extent of any deviation from the amortized cost value of the short-term debt portion of any Subject Portfolio may result in material dilution or other unfair results to actual or prospective contract holders (or others who may have an interest in the Portfolio), the Board will take such action as it deems appropriate to eliminate or reduce to the extent reasonably practicable such dilution or unfair results. Such action may include (without limitation): Selling short-term debt instruments prior to maturity to realize capital gains or losses or to shorten such Portfolio's average short-term debt portfolio maturity; withholding the crediting of additional shares in kind; or calculating the aggregate value of the money market protion of such Portfolio by using available market quotations (or an appropriate substitute which reflects current market conditions).

(3) (a) Subject Portfolios will use the amortized cost method of valuation only for debt securities which constitute the money market portion of the Portfolio and which meet the requirements set out below. Those securities will have a remaining maturity of one year or less. Repurchase agreements having a term of one year or less from the date of delivery of the repurchase agreement may be valued through use of the amortized cost method of valuation regardless of the maturity of the underlying securities held pursuant to the repurchase agreement. (b) Each Subject Portfolio will maintain a dollar-weighted average portfolio maturity for the money market portion of its investments (as to which it is using the amortized cost method) appropriate to its objective of minimizing the deviation from its net asset value. None of the Subject Portfolios will maintain a dollar-weighted average portfolio maturity for the money market portion of its investments which exceeds 120 days. If the disposition of a short-term debt instrument should result in a dollar-weighted average portfolio maturity for the money market portion of any Subject Portfolio which exceeds 120 days, such Portfolio's available cash will be invested in such a manner as to reduce such average maturity to 120 days or less as soon as reasonably practicable.

(c) The maturity of short-term debt securities representing the money market portion and held by Subject Portfolios shall be calculated as set forth in Rule 2a-7 under the 1940 Act in effect from time to time.

(4) The investments held in the money market portion of the Subject Portfolios as to which the amortized cost method will be used, including repurchase agreements, will be limited to those United States dollar-denominated instruments which the Board of Directors determines present minimal credit risks, and which are of high quality. For this purpose, "high quality" instruments shall mean those instruments that are rated by any major rating agency within its two highest rating categories or, in the case of any instrument that is not rated, of comparable quality as determined by the Board of Directors.

(5) The Applicant will record, maintain, and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in subparagraph (1) above, and the Applicant will record, maintain and preserve for a period of not less than six years (the first two years in an easily accessible place) a written record of the

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Board of Directors' considerations and actions taken in connection with the discharge of its responsibilities, as set forth above, to be included in the minutes of the Board of Directors' meetings. The documents preserved pursuant to this condition will be subject to inspection by the Commission in accordance with Section 31(b) of the Act, as if such documents were records required to be maintained pursuant to rules adopted under Section 31(a) of the Act.

(6) If any action was taken pursuant to paragraph 2(c) above, Applicant will report such action on Form N–SAR covering the period in which the action was taken and will attach a statement to the form describing with specificity the nature and circumstances of such action.

Notice if further given that any interested party wishing to request a hearing on the application may, not later than May 27, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86–10343 Filed 5–7–86; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–14975]

Application and Opportunity for Hearing; ACF Industries, Inc.

May 5, 1986.

Notice is hereby given that ACF Industries, Inc. ("Company") has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 ("Act") for a finding by the Securities and Exchange Commission ("Commission") that the truesteeship of Fleet National Bank ("Bank") under an indenture dated as of December 15, 1984 ("1984 Indenture") between Company and Bank which was heretofore qualified under the Act and under an indenture dated February 28, 1986 ("1986 Indenture") between Company and Bank which has not been qualified under the Act (for which, on April 29, 1986, a registration statement on Form S–2 was filed, File No. 33–5253), is not so likely to involve material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Bank from acting as trustee under the aforementioned indenture.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest (as defined in the section), it shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of that section provides, with certain exceptions stated therein, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture of the same obligor.

The Company alleges:

(1) Company, a New Jersey corporation, on February 28, 1986, in a private placement, sold $204,000,000 aggregate principal amount of Sinking Fund Notes (the "Notes"), under an Indenture dated February 28, 1986, between the Company and Bank as trustee ("Note Indenture"). Under related Registration Rights Agreements dated February 28, 1986, Applicant agreed with the purchasers of the Notes to file on or prior to June 2, 1986 a registration statement to register the Notes pursuant to Rule 415 under the 1933 Act (for which, on April 29, 1986, a registration statement on Form S–2 was filed, File No. 33–5253).

(2) As of April 24, 1986, the Company has outstanding $406,000,000 principal amount of its Sinking Fund Debentures due 1996 ("Debentures"), issued under an Indenture dated as of December 15, 1984, between the Applicant and Fleet as trustee ("Debenture Indenture"), qualified under the Act.

(3) The Notes and the Debenture are both wholly unsecured, rank *pari passu* with each other and are issued under substantially identical Indentures. The trustee is in substantially the same position as if the Notes has been merely an increase in the amount issued under the Debenture Indenture. The rights of the Investors are substantially the same for the Notes and the Debentures. A default under one Indenture is a default under the other, and there is no question of any priority of either the Notes or the Debentures over the other. Accordingly, the existence of the two trusteeships should in no way inhibit or discourage the action of Bank as trustee under either Indenture.

(4) The Company is not in default under any of its outstanding debt instruments including the Note Indenture and the Debenture Indenture.

(5) Such differences as exist between the two Indentures are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Fleet from acting as trustee under either of said Indentures.

The Company has waived notice of hearing, and any and all rights to specify procedures under the Rules of Practice of the Commission in connection with this matter.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application which is on file in the Offices of the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549.

Notice is further given that any interested persons may, not later than May 30, 1986, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request and the issues of fact or law raised by said application which he desires to controvert. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and in the interest of investors.

For the Commission, by the Division of Corporation Finance pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86–10386 Filed 5–7–86; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Region IX Advisory Council; Change of Meeting Date

The U.S. Small Business Administration, Region IX, located in the geographical area of Fresno, California, has changed its meeting date from Thursday, May 8, 1986, to May 22, 1986, 9:00 a.m. and will hold a public meeting at the Fresno District Office, 2202 Monterey Street, Suite 108, Fresno, California, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Peter Bergin, District Director, U.S. Small Business Administration, 2202 Monterey Street, Suite 108, Fresno, California 93721, (209) 487–5791.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 30, 1986.

[FR Doc. 86–10356 Filed 5–7–86; 8:45 am]

BILLING CODE 8025–01–M

Region IX Advisory Council Meeting

The U.S. Small Business Administration, Region IX Advisory Council, located in the geographical area of Los Angeles, will hold a public meeting at 9:00 a.m. Friday, May 23, 1986, at the Bank of America, 13th Floor, Room F, 555 South Flower Street, Los Angeles, California 90071, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or other present.

For further information, write or call M. Hawley Smith, District Director, U.S. Small Business Administration, 350 South Figueroa Street, Suite #600, Los Angeles, California 90071. Telephone No. (213) 894–2977.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 30, 1986

[FR Doc. 86–10357 Filed 5–7–86; 8:45 am]

BILLING CODE 8025–01–M

Region IX Advisory Council; Public Meeting

The U.S. Small Business Administration, Region IX, located in the geographical area of Honolulu, Hawaii, will hold a public meeting at 9:00 a.m. on Thursday, June 5, 1986, at the Prince Kuhio Federal Building, 300 Ala Moana Boulevard, Conference Room 5311 (5th Floor), Honolulu, Hawaii, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Charles T.C. Lum, District Director, U.S. Small Business Administration, 300 Ala Moana Boulevard, Room 2213, Honolulu, Hawaii 96850, (808) 546–8950.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 30, 1986.

[FR Doc. 86–10358 Filed 5–7–86; 8:45 am]

BILLING CODE 8025–01–M

Region I Advisory Council; Public Meeting

The Small Business Administration Region I Advisory Council, located in the geographical area of Montpelier, Vermont, will hold a public meeting at 10:00 A.M., Wednesday, May 28, 1986, at the Vermont State Chamber of Commerce, Berlin, Vermont, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write of call David C. Emery, District Director, U.S. Small Business Administration, Federal Building, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602. (802) 229–0538.

Jean M. Nowak,

Director, Office of Advisory Councils.

April 30, 1986.

[FR Doc. 86–10359 Filed 5–7–86; 8:45 am]

BILLING CODE 8025–01–M

Region X Advisory Council; Public Meeting

The U.S. Small Business Administration, Region X, located in the geographical area of Spokane, Washington, will hold a public meeting at 9:30 a.m. Friday, May 30, 1986, in Room 485, U.S. Courthouse Building, West 920 Riverside Avenue, Spokane, Washington, to discuss such matters as may be presented by members, staff of the Small Business Administration and others attending.

For further information, write or call Valmer W. Cameron, District Director, U.S. Small Business Administration, Room 651, U.S. Courthouse Building, Post Office Box 2167, Spokane, Washington 99210, telephone (509) 456–3781.

April 30, 1986.

Jean M. Nowak,

Director, Office of Advisory Councils.

FR Doc. 86–10360 Filed 5–7–86; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 86–5–16]

Fitness Determination of Chicago Airlines, Inc.; Order to Show Cause

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 86–5–16, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find that Chicago Airlines, Inc. is fit, willing, and able to provide commuter air service under section 419(c)(2) of the Federal Aviation Act.

Responses: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Special Authorities Division, P–47, Department of Transportation, 400 7th Street SW., Room 6420, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than May 20, 1986.

FOR FURTHER INFORMATION CONTACT: Kathy A. Lusby, Special Authorities Division, Department of Transportation, 400 7th Street SW., Washington, DC 20590 (202) 755–3812.

Dated: May 2, 1986

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86–10348 Filed 5–7–86; 8:45 am]

BILLING CODE 4910–62–M

[Order 86–5–17]

Fitness Determination of LA Helicopter, Inc.; Order To Show Cause

AGENCY: Department of Transportation.

ACTION: Notice of Commuter Air Carrier Fitness Determination—Order 86–5–17, Order to Show Cause.

SUMMARY: The Department of Transportation is proposing to find that LA Helicopter is fit, willing, and able to provide commuter air service under section 419(c)(2) of the Federal Aviation Act, as amended, and that the aircraft used in this service will conform to applicable safety standards.

Responses: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Special Authorities Division, P–47, Department of Transportation, 400 7th Street SW., Room 6420, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than May 27, 1986.

FOR FURTHER INFORMATION CONTACT: Linda L. Lundell, Special Authorities Division, Department of Transportation, 400 7th Street SW., Washington, DC 20590 (202) 755–3812.

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VOL 51 ISS 89 MY 8 1986 UMI

Dated: May 2, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-10349 Filed 5-7-86; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

Special Airport Traffic Area Rule at Navy Willow Grove, PA; Review of Petition

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of determination of review.

SUMMARY: The purpose of this notice is to announce that on April 17, 1986, the Federal Aviation Administration, Eastern Region, issued a final determination that stated the following: "the initial disposition of petition to amend Part 93 of the Federal Aviation Regulations to prescribe a Special Airport Traffic Area Rule at Navy Willow Grove, Pennsylvania, issued in Washington, by the Administrator, on November 14, 1980,[1] is upheld." The determination was issued because on April 28, 1983, the Department of the Navy requested a review of civil traffic operations within the Willow Grove Airport Traffic Area to determine if the recommendations stated in the FAA denial of Special Rule Part 93 were still valid.

Accordingly, a review of air traffic procedures and an analysis of near mid-air collision data from 1982 through 1986 at Navy Willow Grove were conducted.

DATE: The determination was issued April 17, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Howard McGlauflin, Manager, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Fitzgerald Federal Building, John F. Kennedy International Airport, Jamaica, New York, 11430; Telephone: Commercial (718) 917-1228, FTS 667-1228.

SUPPLEMENTARY INFORMATION:

History

On September 11, 1985, a notice of Informal Airspace Meeting was published in the Federal Register to discuss the proposed establishment of special rules and communication requirements (50 FR 37105). An informal public airspace meeting was held at the Hatboro-Horsham Senior High School, 227 Meetinghouse Road, Horsham, Pennsylvania, on Monday, October 7, 1985. There were approximately 120 persons in attendance. The civil aviation community was representated by individual aircraft owners and representatives from Warrington and Turner Airports. The meeting was chaired by Lawrence A. Ostrowski of the Federal Aviation Administration (FAA), Airspace and Procedures Branch, Eastern Region.

Primary Aeronautical Issue

Proposed establishment of a 14 CFR Part 93 Special Air Traffic Rule and Communication requirement for persons operating aircraft to and from the Warrington and Turner Airports located within the Airport Traffic Area of the Willow Grove Naval Air Station, Pennsylvania. Establishment of a special rule would require each person operating an aircraft to or from the Warrington or Turner Airports to establish and maintain two-way radio communications with the Willow Grove Airport Traffic Control Tower; exclusion of these airports from the boundary of the ATA from the surface to 1500 feet MSL and modification of arrival/departure procedures restricting operation within the exclusion. A copy of the proposed modification was provided to attendees to assist in the evaluation of the proposal.

Discussion of Comments

Prior to opening the meeting, FAA stressed that the meeting was of an informal nature and that the purpose was to gather data relating to use of airspace by aircraft for aeronautical purposes and that no formal record would be kept. All persons present were given the opportunity to speak and present their views. Position papers and aeronautical comments relating to the proposal were submitted to the presiding officer by members of the aviation community and NAS Willow Grove Command.

Comments received from representatives of Warrington and Turner Airports, and members of the general aviation community claimed that notification of the informal airspace meeting was inadequate. The schedule of the meeting was publishd in the Federal Register on September 11, 1985 (50 FR 37105). Additionally, the FAA sent announcements to individuals, fixed-base operators, aviation organizations and to the news media organizations in each airport's area. Futhermore, a 45-day comment period was provided for Eastern Region Airspace Docket No. 85-AEA-5 in which the public could make comment to on the proposal. For the above reasons the FAA believes the opportunity was sufficient to permit full public comment on the proposal.

Turner Field, Incorporated, claimed that they would be unable to provide regular communication with arriving or departing aircraft. Transient aircraft unaware of special air traffic rules would normally make left traffic patterns around an uncontrolled airport. Since the proposal would require right traffic under specific conditions, a potentially dangerous condition would exist. The FAA does not view this situation as different from that existing at many other locations today. Through pilot education programs and experience with nonregulatory agreements, non-standard traffic patterns are an acceptable means to accomplish traffic separation within an airport traffic area.

It was generally agreed that greater emphasis should be placed on communication with the Willow Grove Control Tower. However, there was strong opposition to mandatory communication requirements; in part, commenters stated that some aircraft based at Turner and Warrington do not have radios. The Commanding Officer, NAS Willow Grove indicated in part that general aviation pilots have made contact with the Willow Grove Tower with virtually no problems. An effort of increased interest and awareness was promoted through other than regulatory channels with favorable results. Operators from both Warrington and Turner Airports agreed to meet with representatives from NAS Willow Grove to enter into an agreement to continue the program of radio contacts with the tower each time aircraft departed or arrived at these airports. In 1985 NAS Willow Grove acquired and commissioned improved radar and communications facilities and totally re-educated air traffic control facility personnel. This action favorably responds to both comments.

Other Comments

A number of other comments were received addressing matters beyond the scope of the informal airspace meeting such as control tower equipment and personnel, take-off and landing procedures at other than NAS Willow Grove, Naval authority and control tower operation at NAS Willow Grove, implied or otherwise stated violations of Federal Aviation Regulations, etc. The FAA has given consideration to all of the points raised in these comments but will not address them as a part of this notice.

Conclusion

Airspace is a publicly owned resource with ever increasing demands being placed upon it. The present situation is such that efficient airspace management is incumbent upon all airspace managers to gain maximum use of the resource without placing an undue burden upon the public. This responsibility requires that all airspace users be given fair and equitable access commensurate with their operational requirements.

The FAA Eastern Region, after completing a comprehensive analysis of a proposed exclusion of Warrington and Turner Airports concluded that civil aviation pilots such as those operating from Warrington and Turner Airports do not constitute a major problem from a safety standpoint.

The FAA reviewed the incident reports submitted by Navy Willow Grove, but was unable to determine whether the unknown aircraft were operating to or from other airports in the Willow Grove ATA. If the aircraft were enroute through the ATA and were not taking off or landing at a non-tower airport in the ATA, the pilots should have obtained ATC authorization from the tower. Under those circumstances, a Special Rule would not have avoided ATC conflict because FAR Section 91.85 already requires pilots of aircraft traversing the ATA to obtain ATC authorization.

With respect to the possible effect a Part 93 rule would have on unauthorized penetration of the ATA, the FAA considers it unlikely that a special communications rule would reduce the incidents of unscheduled, mistaken, emergency or unauthorized operations within the Navy Willow Grove ATA or increase the level of flight safety in that area. The request for review of rulemaking and the nonrulemaking actions taken thus far appear to have had a positive effect in reducing alleged air traffic incidents of the type cited by the Department of the Navy. The type of cooperation and team spirit exhibited at pilot educational clinics in and around the Willow Grove area illustrates that potential traffic conflicts can be significantly reduced and an adequate level of flight safety maintained through nonregulatory means.

The FAA also concludes that adoption of a regulation largely directed toward specific users is inappropriate if adequate nonregulatory alternatives exist. In consideration of the foregoing, the initial disposition of petition to amend Part 93 of the Federal Aviation Regulations to prescribe a Special Airport Traffic Area Rule at Navy Willow Grove, Pennsylvania, issued in Washington, by the Administrator, on November 14, 1980, is upheld by the FAA Eastern Region.

Issued in Jamaica, New York, on April 28, 1986.

Edmund Spring,

Manager, Air Traffic Division.

[FR Doc. 86-10261 Filed 5-7-86; 8:45 am]

BILLING CODE 4910-13-M

[1] Not published in the Federal Register.

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DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 16-86]

Treasury Notes of May 15, 1989, Series R-1989

Washington, May 1, 1986.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,000,000,000 of United States securities, designated Treasury Notes of May 15, 1989, Series R-1989 (CUSIP No. 912827 TP 7), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated May 15, 1986, and will accrue interest from that date, payable on a semiannual basis on November 15, 1986, and each subsequent 6 months on May 15, and November 15 through the date that the principal becomes payable. They will mature May 15, 1989, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other non-business day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2. The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Notes in registered definitive form will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000. Notes in book-entry form will be issued in multiples of those amounts. Notes will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Notes, exchanges of Notes between registered definitive and book-entry forms, and transfers will be permitted.

2.6. The Department of the Treasury's general regulations governing United States securities apply to the Notes offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, DC 20239, prior to 1:00 p.m., Eastern Daylight Saving Time, Tuesday, May 6, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Monday, May 5, 1986, and received no later than Thursday, May 15, 1986.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tender totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the

list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.250. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Thursday, May 15, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Tuesday, May 13, 1986. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Thursday, May 15, 1986. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted are not required to be assigned if the new Notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Notes are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Notes, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4. Registered definitive Notes will not be issued if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employer identification number) is not furnished. Delivery of the Notes in registered definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Notes have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the Notes on full-paid allotments, and to maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86-10415 Filed 5-6-86; 11:37 am]

BILLING CODE 4810-40-M

[Department Circular—Public Debt Series—No. 17-86]

Treasury Notes of May 15, 1996, Series C-1996

Washington, May 1, 1986.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,000,000,000 of United States securities, designated Treasury Notes of May 15, 1996, Series C-1996 (CUSIP No. 912827 TQ 5), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may also be issued to Government accounts and Federal Reserve Banks of their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated May 15, 1986, and will accrue interest from that date, payable on a semiannual basis on November 15, 1986, and each subsequent 6 months on May 15 and November 15 through the date that the principal becomes payable. They will mature May 15, 1996, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2 The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Notes in registered definitive form will be issued in denominations of $1,000 $5,000, $10,000, $100,000, and $1,000,000. Notes in book-entry form will be issued in multiples of those amounts. Notes will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Notes, exchanges of Notes between registered definitive and book-entry forms, and transfers will be permitted.

2.6. A book-entry Note may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, and transfer of Principal and Interest Components are set forth in Section 6 of this circular. Subsections 2.1. through 2.5. of this section are descriptive of Notes in their fully constituted form; the description of the separate Principal and Interest Components is set forth in Section 6 of this circular.

2.7. The Department of the Treasury's general regulations governing United States securities apply to the Notes offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, May 7, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, May 6, 1986, and received no later than Thursday, May 15, 1986.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 97.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks

will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the averge yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it is in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Thursday, May 15, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Tuesday, May 13, 1986. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Thursday, May 15, 1986. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted are not required to be assigned if the new Notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Notes are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Notes, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4. Registered definitive Notes will not be issued if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., and individual's social security number or an employer identification number) is not furnished. Delivery of the Notes in registered definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Notes have been inscribed.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS program (Separate Trading of Registered Interest and Principal of Securities), a book-entry Note may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The components of a Note are: each future semiannual interest payment (hereafter referred to as an Interest Component); and the principal payment (hereafter referred to as the Principal Component). Each Interest Component and Principal Component shall have its own CUSIP number and designation, which are set forth in Attachment A hereto.

6.2. In order for a book-entry Note to be separated into the components described in Section 6.1., the par amount of the Note must be in an amount which, based on the stated interested rate of the Note, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum and multiple par amount required to obtain the separate components for this offering will be provided in the public announcement of the amount and yield range of accepted bids for the Notes. The chart in Attachment B hereto provides the minimum and multiple par amounts required to separate a security into components at various stated interest rates.

6.3. Only Notes in book-entry form may be separated into their components. Such separation may be effected at any time from the issue date until maturity. A request to obtain the separate components must be made to the Federal Reserve Bank maintaining the account for the book-entry Notes. Normally, any such request shall be executed by the Federal Reserve Bank within 3 business days after it is received.

6.4. The Principal Component will be payable on May 15, 1996.

6.5. Each Interest Component will be payable on its particular due date designated in Attachment A hereto.

6.6. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

6.7. Once a book-entry Note has been separated into its components, each Interest Component and the Principal Component may be maintained and transferred in multiples of $1,000, regardless of the par amount initially required for separation or the resulting amount of each Interest Component.

6.8. Interest Components and Principal Components may be held only in book-entry form.

6.9. Once there is a disposition of any amount of an Interest Component or of a Principal Component, the holder of the Note will be considered for tax purposes to have stripped the amount of principal allocable to the amount of the components disposed of as of the date such first disposition occure. Both the retained amount allocable to the stripped principal and the amount disposed of are thereafter treated as discount obligations, and the holders of such are subject to periodic income inclusion and other provisions of the Internal Revneue Code of 1954.

6.10. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies at such time and such value as will be determined by the Secretary of the Treasury. They will not be acceptable in payment of Federal taxes.

6.11. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Notes separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the Note of full-paid allotments, and to maintain, service, and make payment on the Notes.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

7.3. The Notes issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

7.4. Attachments A and B are incorporated as part of this circular.

Gerald Murphy,
Fiscal Assistant Secretary.

CUSIP NUMBERS AND DESIGNATIONS FOR THE PRINCIPAL COMPONENT AND INTEREST COMPONENTS OF TREASURY NOTES OF MAY 15, 1996, SERIES C-1996, CUSIP NO. 912827 TQ 5

The Principal Component is designated (Interest Rate) Treasury Principal (TPRN) Series C-1996 due May 15, 1996, CUSIP No. 912820 AG 2.

INTEREST COMPONENTS

DESIGNATION	CUSIP NUMBER 912833	DESIGNATION	CUSIP NUMBER 912833
Treasury Interest (TINT) due		Treasury Interest (TINT) due	
November 15, 1986	EH 9	November 15, 1991	ET 3
May 15, 1987	EJ 5	May 15, 1992	EU 0
November 15, 1987	EK 2	November 15, 1992	EV 8
May 15, 1988	EL 0	May 15, 1993	EW 6
November 15, 1988	EM 8	November 15, 1993	EX 4
May 15, 1989	EN 6	May 15, 1994	EY 2
November 15, 1989	EP 1	November 15, 1994	EZ 9
May 15, 1990	EQ 9	May 15, 1995	FA 3
November 15, 1990	ER 7	November 15, 1995	FB 1
May 15, 1991	ES 5	May 15, 1996	FC 9

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ATTACHMENT B

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1000.

COUPON ($)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON ($)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON ($)	MINIMUM FACE ($)	INTEREST PAYMENT ($)
5.000	40000.00	1000.00	10.125	1600000.00	81000.00	15.250	800000.00	61000.00
5.125	1600000.00	41000.00	10.250	800000.00	41000.00	15.375	1600000.00	123000.00
5.250	800000.00	21000.00	10.375	1600000.00	83000.00	15.500	400000.00	31000.00
5.375	1600000.00	43000.00	10.500	400000.00	21000.00	15.625	64000.00	5000.00
5.500	400000.00	11000.00	10.625	320000.00	17000.00	15.750	800000.00	63000.00
5.625	320000.00	9000.00	10.750	800000.00	43000.00	15.875	1600000.00	127000.00
5.750	800000.00	23000.00	10.875	1600000.00	87000.00	16.000	25000.00	2000.00
5.875	1600000.00	47000.00	11.000	200000.00	11000.00	16.125	1600000.00	129000.00
6.000	100000.00	3000.00	11.125	1600000.00	89000.00	16.250	160000.00	13000.00
6.125	1600000.00	49000.00	11.250	160000.00	9000.00	16.375	1600000.00	131000.00
6.250	32000.00	1000.00	11.375	1600000.00	91000.00	16.500	400000.00	33000.00
6.375	1600000.00	51000.00	11.500	400000.00	23000.00	16.625	1600000.00	133000.00
6.500	400000.00	13000.00	11.625	1600000.00	93000.00	16.750	800000.00	67000.00
6.625	1600000.00	53000.00	11.750	800000.00	47000.00	16.875	320000.00	27000.00
6.750	800000.00	27000.00	11.875	320000.00	19000.00	17.000	200000.00	17000.00
6.875	320000.00	11000.00	12.000	50000.00	3000.00	17.125	1600000.00	137000.00
7.000	200000.00	7000.00	12.125	1600000.00	97000.00	17.250	800000.00	69000.00
7.125	1600000.00	57000.00	12.250	800000.00	49000.00	17.375	1600000.00	139000.00
7.250	800000.00	29000.00	12.375	1600000.00	99000.00	17.500	80000.00	7000.00
7.375	1600000.00	59000.00	12.500	16000.00	1000.00	17.625	1600000.00	141000.00
7.500	80000.00	3000.00	12.625	1600000.00	101000.00	17.750	800000.00	71000.00
7.625	1600000.00	61000.00	12.750	800000.00	51000.00	17.875	1600000.00	143000.00
7.750	800000.00	31000.00	12.875	1600000.00	103000.00	18.000	100000.00	9000.00
7.875	1600000.00	63000.00	13.000	200000.00	13000.00	18.125	320000.00	29000.00
8.000	25000.00	1000.00	13.125	320000.00	21000.00	18.250	800000.00	73000.00
8.125	320000.00	13000.00	13.250	800000.00	53000.00	18.375	1600000.00	147000.00
8.250	800000.00	33000.00	13.375	1600000.00	107000.00	18.500	400000.00	37000.00
8.375	1600000.00	67000.00	13.500	400000.00	27000.00	18.625	1600000.00	149000.00
8.500	400000.00	17000.00	13.625	1600000.00	109000.00	18.750	32000.00	3000.00
8.625	1600000.00	69000.00	13.750	160000.00	11000.00	18.875	1600000.00	151000.00
8.750	160000.00	7000.00	13.875	1600000.00	111000.00	19.000	200000.00	19000.00
8.875	1600000.00	71000.00	14.000	100000.00	7000.00	19.125	1600000.00	153000.00
9.000	200000.00	9000.00	14.125	1600000.00	113000.00	19.250	800000.00	77000.00
9.125	1600000.00	73000.00	14.250	800000.00	57000.00	19.375	320000.00	31000.00
9.250	800000.00	37000.00	14.375	320000.00	23000.00	19.500	400000.00	39000.00
9.375	64000.00	3000.00	14.500	400000.00	29000.00	19.625	1600000.00	157000.00
9.500	400000.00	19000.00	14.625	1600000.00	117000.00	19.750	800000.00	79000.00
9.625	1600000.00	77000.00	14.750	800000.00	59000.00	19.875	1600000.00	159000.00
9.750	800000.00	39000.00	14.875	1600000.00	119000.00	20.000	10000.00	1000.00
9.875	1600000.00	79000.00	15.000	40000.00	3000.00	20.125	1600000.00	161000.00
10.000	20000.00	1000.00	15.125	1600000.00	121000.00	20.250	800000.00	81000.00

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[Department Circular—Public Debt Series—No. 18–86]

Treasury Bonds of 2016

Washington, May 1, 1986.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,000,000,000 of United States securities, designated Treasury Bonds of 2016 (CUSIP No. 912810 DW 5), hereafter referred to as Bonds. The Bonds will be sold at auction,with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Bonds and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Bonds may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Bonds may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities

2. Description of Securities

2.1. The Bonds will be dated May 15, 1986, and will accrue interest from that date, payable on a seminannual basis on November 15, 1986, and each subsequent 6 months on May 15 and November 15 through the date that the principal becomes payable. They will mature May 15, 2016, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other non-business day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2 The Bonds are subject to all taxes imposed under the Internal Revenue Code of 1954. The Bonds are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Bonds will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Bonds in registered definitive form will be issued in denominations of $1,00, $5,000, $10,000, $100,000, and $1,000,000. Bonds in book-entry form will be issued in multiples of those amounts. Bonds will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Bonds, exchanges of Bonds between registered definitive and book-entry forms, and transfers will be permitted.

2.6. A book-entry Bond may be held in its fully constituted form or it may be divided into its separate Principal and Interest Components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as fiscal agents of the United States. The provisions specifically applicable to the separation, maintenance, and transfer of Principal and Interest Components are set forth in Section 6 of this circular. subsections 2.1. through 2.5. of this section are descriptive of Bonds in their fully constituted form; the description of the separate Principal and Interest Components is set forth in Section 6 of this circular.

2.7. The Department of the Treasury's general regulations governing United States securities apply to the Bonds offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Thursday, May 8, 1986. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Wednesday, May 7, 1986, and received no later than Thursday, May 15, 1986.

3.2. The par amount of Bonds bid for must be stated on each tender. The minimum bid is $1,000, and larger bids must be in multiples of that amount. competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt of tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Bonds applied for, or by a guarantee from a commercial bank or a primary dealer for 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, an interest rate will be established, at a ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 92.500. That stated rate of interest will be paid on all of the Bonds. Based on such interest rate, the price of each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent

to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Bonds specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. Payment and Delivery

5.1. Settlement for the Bonds allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Bonds allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in Section 3.5. must be made or completed on or before Thursday, May 15, 1986. Payment in full must accompany tenders submitted by all other investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender are submitted, which must be received from institutional investors no later than Tuesday, May 13, 1986. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Bonds allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Thursday, May 15, 1986. When payment has been submitted with the tender and the purchase price of the Bonds allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Bonds allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Bonds allotted are not required to be assigned if the new Bonds are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new Bonds are to be registered in names and forms different from those in the inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Bonds offered by this circular) in the names of (names and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Bonds, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4. Registered definitive Bonds will not be issued if the appropriate idenfiying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., and indidvidual's social security number or an employer identification number) is not furnished. Delivery of the Bonds in registered definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Bonds have been inscribed.

6. Separability of Principal and Interest

6.1. Under the Treasury's STRIPS program (Separate Trading of Registered Interest and Principal of Securities), a book-entry Bond may be divided into its separate components and maintained as such on the book-entry records of the Federal Reserve Banks, acting as Fiscal Agents of the United States. The components of a Bond are: each future semiannual interest payment (hereaftrer referred to as an Interest Component); and the principal payment (hereafter referred to as the Principal Component). Each interest Component and Principal Component shall have its own CUSIP number and designation, which are set forth in Attachment A hereto.

6.2. In order for a book-entry Bond to be separated into the components described in Section 6.1., the par amount of the Bond must be in an amount which, based on the stated interest rate of the Bond, will produce a semiannual interest payment of $1,000 or a multiple of $1,000. The minimum and multiple par amount required to obtain the separate components for this offering will be provided in the public announcement of the amount and yield range of accepted bids for the Bonds. The chart in attachment B hereto provides the minimum and multiple par amounts required to separate a security into components at various stated interest rates.

6.3. Only Bonds in book-entry form may be separated into their components. Such separation may be effected at any time from the issue date until maturity. A request to obtain the separate componenet must be made to the Federal Reserve Bank maintaining the account for the book-entry Bonds. Normally, any such request shall be executed by the Federal Reserve Bank within 3 business days after it is received.

6.4. The Principal Component will be payable on May 15, 2016.

6.5. Each Interest Component will be payable on its particular due date designated in Attachment A hereto.

6.6. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

6.7. Once a book-entry Bond has been separated into its components, each Interest Component and the Principal Component may be maintained and transferred in multiples of $1,000, regardless of the par amount initially required for separation or the resulting amount of each Interest Component.

6.8. Interest Components and Principal Components may be held only in book-entry form.

6.9. Once there is a disposition of any amount of an Interest Component or of a Principal Component, the holder of the Bond will be considered for tax purposes to have stripped the amount of principal allocable to the amount of the components disposed of as the date such first disposition occure. Both the retained amount allocable to the stripped principal and the amount disposed of are thereafter treated as discount obligations, and the holders of such are subject to periodic income inclusion and other provisions of the Internal Revenue Code of 1954.

6.10. Interest Components and Principal Components in multiples of $1,000 will be acceptable to secure deposits of Federal public monies at such time and such value as will be determined by the Secretary of the Treasury. They will not be acceptable in payment of Federal taxes.

6.11. Unless otherwise provided in this offering circular, the Department of the Treasury's general regulations governing United States securities apply to the Bonds separated into their components.

7. General Provisions

7.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the Bonds on full-paid allotments, and to maintain, service, and make payment on the Bonds.

7.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely effect existing rights of holders of the Bonds. Public announcement of such changes will be promptly provided.

7.3. The Bonds issued under this circular shall be obligations of the United States, whether held in the fully constituted form or as separate Interest and Principal Components, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Bonds.

7.4. Attachments A and B are incorporated as part of this offering circular.

Gerald Murphy,

Fiscal Assistant Secretary.

BILLING CODE 4810-40-M

ATTACHMENT A

CUSIP NUMBERS AND DESIGNATIONS FOR THE
PRINCIPAL COMPONENT AND INTEREST COMPONENTS OF
TREASURY BONDS OF MAY 15, 2016, CUSIP NO. 912810 DW 5

The Principal Component is designated
(Interest Rate) Treasury Principal (TPRN) 2016
due May 15, 2016, CUSIP No. 912803 AH 6.

INTEREST COMPONENTS

DESIGNATION	CUSIP NUMBER 912833	DESIGNATION	CUSIP NUMBER 912833
Treasury Interest (TINT) due		Treasury Interest (TINT) due	
November 15, 1986	EH 9	November 15, 2001	FP 0
May 15, 1987	EJ 5	May 15, 2002	FQ 8
November 15, 1987	EK 2	November 15, 2002	FR 6
May 15, 1988	EL 0	May 15, 2003	FS 4
November 15, 1988	EM 8	November 15, 2003	FT 2
May 15, 1989	EN 6	May 15, 2004	FU 9
November 15, 1989	EP 1	November 15, 2004	FV 7
May 15, 1990	EQ 9	May 15, 2005	FW 5
November 15, 1990	ER 7	November 15, 2005	FX 3
May 15, 1991	ES 5	May 15, 2006	FY 1
November 15, 1991	ET 3	November 15, 2006	FZ 8
May 15, 1992	EU 0	May 15, 2007	GA 2
November 15, 1992	EV 8	November 15, 2007	GB 0
May 15, 1993	EW 6	May 15, 2008	GC 8
November 15, 1993	EX 4	November 15, 2008	GD 6
May 15, 1994	EY 2	May 15, 2009	GE 4
November 15, 1994	EZ 9	November 15, 2009	GF 1
May 15, 1995	FA 3	May 15, 2010	JU 5
November 15, 1995	FB 1	November 15, 2010	JV 3
May 15, 1996	FC 9	May 15, 2011	JW 1
November 15, 1996	FD 7	November 15, 2011	JX 9
May 15, 1997	FE 5	May 15, 2012	JY 7
November 15, 1997	FF 2	November 15, 2012	JZ 4
May 15, 1998	FG 0	May 15, 2013	KA 7
November 15, 1998	FH 8	November 15, 2013	KB 5
May 15, 1999	FJ 4	May 15, 2014	KC 3
November 15, 1999	FK 1	November 15, 2014	KD 1
May 15, 2000	FL 9	May 15, 2015	KE 9
November 15, 2000	FM 7	November 15, 2015	KF 6
May 15, 2001	FN 5	May 15, 2016	KH 2

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ATTACHMENT B

MINIMUM FACE AMOUNTS WHICH ARE MULTIPLES OF $1000 REQUIRED IN ORDER TO PRODUCE INTEREST PAYMENTS THAT ARE MULTIPLES OF $1000.

COUPON ($)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON ($)	MINIMUM FACE ($)	INTEREST PAYMENT ($)	COUPON ($)	MINIMUM FACE ($)	INTEREST PAYMENT ($)
5.000	40000.00	1000.00	10.125	1600000.00	81000.00	15.250	800000.00	61000.00
5.125	1600000.00	41000.00	10.250	800000.00	41000.00	15.375	1600000.00	123000.00
5.250	800000.00	21000.00	10.375	1600000.00	83000.00	15.500	400000.00	31000.00
5.375	1600000.00	43000.00	10.500	400000.00	21000.00	15.625	64000.00	5000.00
5.500	400000.00	11000.00	10.625	320000.00	17000.00	15.750	800000.00	63000.00
5.625	320000.00	9000.00	10.750	800000.00	43000.00	15.875	1600000.00	127000.00
5.750	800000.00	23000.00	10.875	1600000.00	87000.00	16.000	25000.00	2000.00
5.875	1600000.00	47000.00	11.000	200000.00	11000.00	16.125	1600000.00	129000.00
6.000	100000.00	3000.00	11.125	1600000.00	89000.00	16.250	160000.00	13000.00
6.125	1600000.00	49000.00	11.250	160000.00	9000.00	16.375	1600000.00	131000.00
6.250	32000.00	1000.00	11.375	1600000.00	91000.00	16.500	400000.00	33000.00
6.375	1600000.00	51000.00	11.500	400000.00	23000.00	16.625	1600000.00	133000.00
6.500	400000.00	13000.00	11.625	1600000.00	93000.00	16.750	800000.00	67000.00
6.625	1600000.00	53000.00	11.750	800000.00	47000.00	16.875	320000.00	27000.00
6.750	800000.00	27000.00	11.875	320000.00	19000.00	17.000	200000.00	17000.00
6.875	320000.00	11000.00	12.000	50000.00	3000.00	17.125	1600000.00	137000.00
7.000	200000.00	7000.00	12.125	1600000.00	97000.00	17.250	800000.00	69000.00
7.125	1600000.00	57000.00	12.250	800000.00	49000.00	17.375	1600000.00	139000.00
7.250	800000.00	29000.00	12.375	1600000.00	99000.00	17.500	80000.00	7000.00
7.375	1600000.00	59000.00	12.500	16000.00	1000.00	17.625	1600000.00	141000.00
7.500	80000.00	3000.00	12.625	1600000.00	101000.00	17.750	800000.00	71000.00
7.625	1600000.00	61000.00	12.750	800000.00	51000.00	17.875	1600000.00	143000.00
7.750	800000.00	31000.00	12.875	1600000.00	103000.00	18.000	100000.00	9000.00
7.875	1600000.00	63000.00	13.000	200000.00	13000.00	18.125	320000.00	29000.00
8.000	25000.00	1000.00	13.125	320000.00	21000.00	18.250	800000.00	73000.00
8.125	320000.00	13000.00	13.250	800000.00	53000.00	18.375	1600000.00	147000.00
8.250	800000.00	33000.00	13.375	1600000.00	107000.00	18.500	400000.00	37000.00
8.375	1600000.00	67000.00	13.500	400000.00	27000.00	18.625	1600000.00	149000.00
8.500	400000.00	17000.00	13.625	1600000.00	109000.00	18.750	32000.00	3000.00
8.625	1600000.00	69000.00	13.750	160000.00	11000.00	18.875	1600000.00	151000.00
8.750	160000.00	7000.00	13.875	1600000.00	111000.00	19.000	200000.00	19000.00
8.875	1600000.00	71000.00	14.000	100000.00	7000.00	19.125	1600000.00	153000.00
9.000	200000.00	9000.00	14.125	1600000.00	113000.00	19.250	800000.00	77000.00
9.125	1600000.00	73000.00	14.250	800000.00	57000.00	19.375	320000.00	31000.00
9.250	800000.00	37000.00	14.375	320000.00	23000.00	19.500	400000.00	39000.00
9.375	64000.00	3000.00	14.500	400000.00	29000.00	19.625	1600000.00	157000.00
9.500	400000.00	19000.00	14.625	1600000.00	117000.00	19.750	800000.00	79000.00
9.625	1600000.00	77000.00	14.750	800000.00	59000.00	19.875	1600000.00	159000.00
9.750	800000.00	39000.00	14.875	1600000.00	119000.00	20.000	10000.00	1000.00
9.875	1600000.00	79000.00	15.000	40000.00	3000.00	20.125	1600000.00	161000.00
10.000	20000.00	1000.00	15.125	1600000.00	121000.00	20.250	800000.00	81000.00

[FR Doc. 86-10417 Filed 5-6-86; 11:37 am]
BILLING CODE 4810-40-M

VOL 51 ISS 89 MY 8 1986 UMI

Sunshine Act Meetings

Federal Register
Vol. 51, No. 89
Thursday, May 8, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:05 p.m. on Thursday, May 1, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Bank of Nortonville, Nortonville, Kansas, which was closed by the Kansas State Bank Commissioner on Thursday, May 1, 1986; (2) accept the bid for the transaction submitted by Kendall State Bank, Valley Falls, Kansas, an insured State nonmember bank; (3) approve the application of Kendall State Bank, Valley Falls, Kansas, for consent to purchase certain assets of and assume the liability to pay deposits made in Bank of Nortonville, Nortonville, Kansas; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Mr. Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the 'Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was recessed at 2:07 p.m., and at 5:06 p.m. that same day the meeting was reconvened, by telephone conference call, at which time the Board of Directors:

(A)(1) received bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Bedford National Bank, Bedford, Iowa, which was closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency, on Thursday, May 1, 1986; (2) accepted the bid for the transaction submitted by American National Bank, Bedford, Iowa, a newly-chartered national bank; and (3) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(B) adopted a resolution making funds available (1) for the payment of insured deposits made in The First National Bank of Carter, Carter, Oklahoma, which was closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency, on Thursday, May 1, 1986, and (2) for an advance payment to uninsured depositors and other general creditors of the closed bank equal to 60 percent of their uninsured claims.

In reconvening the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Mr. Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: May 5, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86-9714 Filed 5-6-86; 8:45 am]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2:00 p.m. on Monday, May 5, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration in open session and the addition to the agenda for consideration at the Board's closed meeting held at 2:30 p.m. the same day, of the following matters:

Application of Basin Loans, Inc., an operating noninsured industrial bank located at 74 East Main Street, Vernal, Utah, for Federal deposit insurance.

Application of Harris Trust Company of California, San Francisco, California, for consent to exercise full trust powers.

In voting to move these matters from open session to closed session, the Board further determined, by the same majority vote, that the public interest did not require consideration of the matters in a meeting open to public observation; that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)); and that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: May 6, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 86-10472 Filed 5-6-86; 3:08 pm]

BILLING CODE 6714-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, May 5, 1986, the Corporation's Board of Directors determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Mr. Dean S. Marriott, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a recommendation regarding the Corporation's assistance agreement with an insured bank pursuant to section 13 of the Federal Deposit Insurance Act.

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: May 6, 1986.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

FR Doc. 86-10473 Filed 5-6-86; 3:08 pm]

BILLING CODE 6714-01-M

4

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, May 13, 1986, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration
Internal personnel rules and procedures or matters affecting a particular employee

* * * * *

DATE AND TIME: Thursday, May 15, 1986, 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of Dates of future meetings
Correction and Approval of Minutes
John Glenn Presidential Committee, Inc.
Proposed Final Repayment Determination and Statement of Reasons
Draft Notice of Proposed Rulemaking:
Contribution Limitationis and Prohibitions (11 CFR 110.3, 110.4, 110.5 and 110.6)
Routine Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–376–3155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 86-10476 Filed 5-6-86; 3:50 pm]

BILLING CODE 6715-01-M

5

POSTAL RATE COMMISSION

TIME AND DATE: Periodic meetings scheduled on short notice during the business day in the period May 13–23, 1986.

PLACE: Conference Room, Suite 300, 1333 H Street, NW., Washington, DC.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Discussion of matters pertaining to Docket No. MC86–1, Destination-BMC Parcel Post Classification and Rate Changes (Experiment), 1985.

CONTACT PERSON FOR MORE INFORMATION: Charles L. Clapp, Secretary, Postal Rate Commission, Room 300, 1333 H Street, NW., Washington, DC 20268–0001, Telephone (202) 789–6840.

[FR Doc. 86-10454 Filed 5-6-86; 1:37 pm]

BILLING CODE 7715-01-M

6

TENNESSEE VALLEY AUTHORITY

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 16608 (May 5, 1986).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m. (c.d.t.), Wednesday, May 7, 1986.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: Hopkinsville Community College Auditorium, Academic Building, North Drive, Hopkinsville, Kentucky.

STATUS: Open.

ADDITIONAL MATTERS:

The following items are added to the previously announced agenda:

C. POWER ITEM

2. A proposed Letter Agreement with Mississippi Power & Light Company providing for TVA to purchase 2.976 million MWh of energy during the period May 15 through September 15.

D. PERSONNEL ITEMS

2. Employee Loan Agreement with Westinghouse Electric Corporation
3. Employee Loan Agreement with Ebasco Services Incorporated
4. Employee Loan Agreement with Institute of Nuclear Power Operations

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615–632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202–245–0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting be changed to include the additional items shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below:

Dated: May 5, 1986.

Approved.

C.H. Dean, Jr.,

Director and Chairman.

Disapproved.

John B. Waters,

Director.

[FR Doc. 86-10401 Filed 5-6-86; 9:50 am]

BILLING CODE 8120-01-M

VOL
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federal register

Thursday
May 8, 1986

Part II

Department of Transportation

Urban Mass Transportation Administration

49 CFR Part 630

Uniform System of Accounts and Records and Reporting System; and Clarification of Procedures for Addressing Noncompliance With Reporting Requirements; Proposed Rules

DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation Administration

49 CFR Part 630

[Docket 86-F]

Proposed Changes to the Uniform System of Accounts and Records and Reporting System

AGENCY: Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice of Proposed Rulemaking lists several proposed changes to UMTA's section 15 reporting requirements. The intent of these proposed changes is to streamline reporting requirements.

DATE: Comments must be received on or before July 7, 1986.

ADDRESS: Comments may be mailed to Docket No. 86-F, Department of Transportation, Urban Mass Transportation Administration, Room 9228, 400 Seventh Street SW., Washington, DC. All comments and suggestions received will be available for examination at the above address between 8:30 a.m. and 5:00 p.m., Monday through Friday. Receipt of comments will be acknowledged by UMTA if a self-addressed, stamped postcard is included with each comment.

FOR FURTHER INFORMATION CONTACT: Ronald Fisher, Director Information Services Staff, Room 6419, (202) 426-9157, or Katherine Cowen Power, Attorney-Advisor for Legislation and Regulation, Room 9228, (202) 426-4011, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: This Notice of Proposed Rulemaking (NPRM) proposes several changes to the Section 15 Uniform System of Accounts and Records and Reporting System and invites comment on these proposed changes. Both systems implement section 15 of the Urban Mass Transportation Act of 1964, as amended (UMT Act), which requires transit agencies to report financial and operating information.

These proposed changes are set forth in conjunction with today's publication by UMTA of another NPRM that proposes a complete revision of 49 CFR Part 630. The changes proposed in the other NPRM are for the most part procedural; they streamline and restructure Part 630. The changes proposed in this NPRM are more substantive; they call for the elimination of certain data items contained, for the most part, in the Reference Volumes. "Reference Volume(s)" means the current edition of the Urban Mass Transportation Industry Uniform System of Accounts and Records, which is composed of Volume I—General Description; Volume II—Uniform System of Accounts and Records; and Reporting Manual and Sample Forms (all Reporting Levels). These Volumes describe transit agencies' section 15 recordkeeping and reporting requirements and are subject to periodic revision.

Additionally, the changes proposed here *will* have a slight effect on the current Part 630. While it may appear unusual to propose a total rule revision in one NPRM and propose changes to the current rule in a second NPRM, this approach will allow UMTA to reduce reporting burdens even as the overall regulation is being revised. Both NPRMs are part of an ongoing process to streamline reporting requirements, which UMTA believes would improve the Uniform Accounts and Records and Reporting Systems by reducing reporters' burdens while improving data reliability.

As stated in Docket 86-E, the companion NPRM published today, UMTA and the Office of Management and Budget (OMB) are reviewing whether UMTA's separate certification requirement is consistent with the Single Audit Act (Pub. L. 98-502, Oct. 14, 1984), which limits the Federal audit burden at the State and local level. By including references to the certification in this NPRM, UMTA does not intend to prejudge that issue.

After the comments to this NPRM have been reviewed, a Final Rule will implement changes to the current Part 630. The changes in data requirements listed in the Final Rule will be found in the next edition of the Reference Volumes.

The Proposed changes are the following:

1. UMTA proposes to eliminate the requirement that Metropolitan Planning Organizations (MPO) submit user surveys, measures of walking accessibility, and demographic data. Although this requirement is currently included at § 630.12(a)(7)(i), there are no procedures or forms to implement it. Therefore, § 630.12(a)(7)(i) would be eliminated.

In place of this requirement, UMTA proposes to require that each transit agency submit, along with its annual Section 15 Report, a statement from the local MPO stating the square miles of the transit agency's service area and its population. Rational planning procedures would be used to determine the service area and these procedures would be described in the statement. This proposed change would become effective in the next reporting year and be reflected in the next update of the Reference Volumes.

2. UMTA proposes to eliminate the reporting requirement for service consumed (unlinked passenger trip and passenger mile) data for transit agencies with 25 or fewer revenue vehicles operated in maximum service, and for all purchased transportation services (i.e., private or public carriers providing transit service under contract to a public agency). This change would become effective in the next report year and be reflected in the latest update of the reporting instructions. These agencies may still volunteer the data, especially if they are in urbanized areas of 200,000 population or more, since passenger mile data for these areas are included in the incentive tier of the section 9 formula.

UMTA has found that service consumed data obtained from these two groups are generally unreliable and that collection of the data unreasonably burdens the operators in these two groups.

3. UMTA would eliminate the section 5 apportionment factors reporting requirements now set out in Subpart D of Part 630. The section 5 formula grants program has been phased out and replaced with the section 9 program as a result of the 1982 Surface Transportation Assistance Act (STAA). UMTA already has effectively eliminated the reporting requirements of Subpart D through issuance of superseding Circulars; the deletion of Subpart D would simply conform the rule to current UMTA practice.

4. UMTA proposes to eliminate the requirement that section 15 Reports contain capacity mile data because UMTA has tentatively concluded that the reliability and usefulness of such data is outweighted by the cost and burden of amassing it. The information is currently reported on Forms 406 and 407, entitled "Transit System Service Supplied, Service Consumed, Service Personnel, and Service Operated Schedule (Rail and Non-Rail Modes)," which would be changed accordingly.

5. UMTA proposes to eliminate the requirement that "Unlinked Passenger Trips" and "Passenger Miles" data (also collected on Forms 406 and 407) be reported separately by the following average weekday time periods: average weekday a.m. peak, average weekday midday, average weekday p.m. peak, and average weekday other. Instead, UMTA proposes to require only that the reports reflect the average weekday total, and will continue to include the average Saturday total, average Sunday total, and annual total. These changes would be reflected on Forms 406 and 407 beginning in the next report year.

UMTA has found that the disaggregated average weekday data currently being reported are relatively unreliable because the required precision and confidence levels of the statistical sampling methods decreases when the data are broken down into so many categories. The aggregated averages have a higher percent precision and confidence, and thus would be more useful to UMTA and other users of the data.

(6) UMTA proposes that the Chief Executive Officer (CEO) of each reporting agency be required to submit a certification with each annual section 15 Report. The certification would attest to:

(i) The accuracy of all data contained in the Section 15 Report;

(ii) The fact that all data submitted in the section 15 Report are in accord with section 15 definitions; and

(iii) If applicable, the fact that the transit reporting agency's accounting system used to derive all data submitted in the section 15 Report is the section 15 Uniform System of Accounts and Records.

A suggested form for the certification follows:

I hereby certify to the following concerning the financial and non-financial/operating data submitted in the (name of agency)'s section 15 report for its fiscal year ending _____:

1. The financial and non-financial/operating data (a) are accurate and truthful records of the financial transactions and operations of the (name of agency) and (b) conform, in all material respects, with the accounting and definitional requirements of the Urban Mass Transportation Administration's (UMTA) Uniform System of Accounts and Records and Reporting System.

2. The attestations below pertain to directional route mile, vehicle revenue mile, passenger mile and operating cost data used in the formula to apportion section 9 funds: [1]

a. There is a system in place and maintained for recording data in accordance with section 15 definitions;

b. There are available source documents to support the reported data. These documents will be kept for UMTA review and audit at any time up to three years following UMTA's receipt of the section 15 report.

c. There is a system in place to record these data on a continuing basis.

d. There is a system of internal controls to assure the accuracy of the data collection process and recording system.

e. The data collection methods are those suggested by UMTA or are at least equivalent in assuring quality and precision.

f. The data are accurate.

3. The accounting system from which this section 15 report is derived follows the accounting system prescribed by the Section 15 Uniform System of Accounts and Records. The (name of agency) has adopted the Uniform System of Accounts and Records and has previously submitted a section 15 report for its fiscal year ending _____ which was compiled using the Uniform System of Accounts and Records and which contained a section 15 financial data certification signed by an independent auditor.[2]

Signed: _____

Date: _____

UMTA proposes this change to assure that CEOs have seen the report and to have CEOs committed to developing accurate reports. This certification is a new requirement which would be found in the Reference Volumes.

(7) Current regulations at § 630.22 require all transit agencies subject to the section 15 reporting system to file with their annual section 15 Report a letter or report signed by an independent public accountant or other responsible independent entity such as a State audit agency attesting that the financial data reporting forms in the report conform, in all material respects, to the prescribed Uniform Systems of Accounts and Records and Reporting System. UMTA proposes to eliminate the annual financial data certification requirement for those transit agencies that (1) have adopted the Uniform System of Accounts and Records, and (2) have previously submitted a section 15 Report compiled using the Uniform System of Accounts and Records and certified by an independent auditor. Instead, the CEO would annually certify that the accounting system from which the section 15 Report is derived follows the accounting system prescribed by the section 15 Uniform System of Accounts and Records. This certification would be reflected in the latest update of the Reference Volumes.

UMTA believes that the CEO certification that the reporting agency's Chart of Accounts is the same as the Uniform System of Accounts and Records is adequate to ensure that the reporting agency will properly complete a section 15 Report. Only transit agencies using an accounting system that differs from the Uniform System may have difficulties deriving an accurate report and hence should be required to seek independent audit review in making the translation.

[1] Paragraph No. 2 is applicable only for reporting agencies that are in or serve urbanized areas with populations of 200,000 or more.

[2] Paragraph No. 3 may be included for reporting agencies which meet the applicable criteria and in lieu of an independent auditor's financial data certification.

Executive Order 12291, Regulatory Flexibility Act, and Paperwork Reduction Act of 1980

This action has been reviewed under Executive Order 12291, and it has been determined that it is not a major rule. It will not result in annual effect on the economy of $100 million or more. This regulation is not significant under the Department's Regulatory Policies and Procedures. We find that the economic impact of this regulation is so minimal that a full regulatory evaluation is not required.

In accordance with 5 U.S.C. 605(B), as added by the Regulatory Flexibility Act, Pub. L. 96-354, the Department certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Act. It is anticipated that transit agencies will be able to save money and time as a result of the changes proposed here.

The collection of information requirements in this rule are subject to the Paperwork Reduction Act, Pub. L. 95-511, 44 U.S.C. Chapter 35. These requirements were submitted to the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) for review. The OMB approval number is 2132-0008.

List of Subjects in 49 CFR Part 630

Mass transportation, reporting and recordkeeping requirements, Uniform System of Accounts.

Issued on: May 2, 1986.

Ralph L. Stanley,

Administrator.

[FR Doc. 86-10249 Filed 5-7-86; 8:45 am]

BILLING CODE 4910-57-M

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49 CFR Part 630

[Docket No. 86-E]

Clarification of Procedures for Addressing Noncompliance With Reporting Requirements

AGENCY: Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This NPRM proposes a number of changes that would simplify the language and requirements of 49 CFR Part 630 (Uniform System of Accounts and Records and Reporting System) and revise Part 630 to conform

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to the Urban Mass Transportation Act of 1964 as amended (the UMT Act) by deleting superseded instructions of the rule. It proposes to restructure Part 630 in order to separate the regulatory requirements of the rule from the descriptive text. This NPRM also proposes to clarify UMTA's procedures for Section 15 Reports that are late, incomplete, uncertified, or inaccurate. The rule would continue to require the use of the Uniform System of Accounts and Records and reporting instructions currently embodied in the Reference Volumes of the Urban Mass Transportation Industry Uniform System of Accounts and Records and Reporting System.

Because the current edition of the Refeence Volumes already governs the section 15 Reports submitted by transit agencies, and this NPRM essentially would update and streamline the existing regulation to reflect current practice, this NPRM would not greatly affect submissions. Overall, the proposed corrections and changes to Part 630 would have little substantive effective on the rights and responsibilities of most UMTA grantees or beneficiaries. The proposed regulation would, however, more precisely set out how UMTA proposes to enforce the statutory mandate that transit agencies comply with section 15 as a preconditions of eligibility to receive section 9 or section 5 funds.

DATE: Comments must be received on or before July 7, 1986.

ADDRESS: Comments may be mailed to Docket No. 86–E, Department of Transportation, Urban Mass Transportation Administration, Room 9228, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Ronald Fisher, Director, Information Services Staff, Room 6419, (202) 426–9157, or Daniel Duff, Assistant Chief Counsel for Legislation and Regulation, Room 9228, (202) 426–4011, Department of Transportation, Urban Mass Transportation Administration, 400 Seventh Street SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Origin of the Section 15 Uniform System of Accounts and Records and Reporting System Requirements

In 1974, Congress enacted section 15 of the UMT Act. Pub. L. 93–503 specified that the Secretary of Transportation "shall, by January 10, 1977, develop, test, and prescribe a reporting system to accumulate public mass transportation financial and operating information by unifrom categories and a uniform system of accounts and records." Section 15 further provided that "[a]fter July 1, 1978, the Secretary shall not make any grants under [the then-operative section 5 formula grant program of the UMT Act] unless the applicant for such grant and any person or organization to receive benefits directly from the grant are each subject to" the uniform reporting and accounts and records systems.

To implement the requirements of Pub. L. 93–503, UMTA promulgated a rule setting out the structure and definitions of the Uniform System of Accounts and Records and the substance, procedures, and timetable for transit agencies' submissions of section 15 Reports. 41 FR 51536 (Nov. 22, 1976) (NPRM); 42 FR 3772 (Jan. 19, 1977) (Final Rule); 49 CFR Part 630.

B. Section 15 and the Revised formula Grant Programs

The 1978 amendments to the UMT Act, embodied in the Federal Public Transportation Act of 1978 (Pub. L. 95–599) (the 1978 FPTA), altered the formula for the section 5 program that had been in place since fiscal year 1975. Prior to the 1978 amendments,the formula for apportioning funds used only population and population density factors. Under the new formula, UMTA was directed to apportion funds to large urbanized areas in part on the basis of their fixed guideway and commuter rail route miles and on commuter rail train miles.

These new apportionment factors required the collection of different reporting data under section 15. UMTA accordingly promulgated an emergency regulation requiring submission of the new data. 43 FR 58935 (December 18, 1978); 49 CFR Part 630, Subpart D. With the 1978 UMT Act amendments, the section 15 requirement was no longer primarily only a source of information for policy analysis in the transit industry, but thereafter UMTA also used the data to apportion section 5 funds.

In January of 1983, the UMT Act was further amended by the Surface Transportation Assistance Act of 1982 (Pub. L. 97–424) (the 1982 STAA). The 1982 STAA created a new formula grant program under amended Section 9 of the UMT Act to succeed the section 5 program. This new formula uses transit operating data gathered in the section 15 Reporting System from transit agencies in urbanized areas of 200,000 or more inhabitants.

Recognizing the need for continued cooperation by section 9 formula grant recipients in the submission of section 15 Reports, Congress amended section 15 to specify that "[a]fter July 1, 1978, the Secretary shall not make any grants under section 5 *or* section *9* unless the applicant for such grant and any person or organization to receive benefits directly from that grant are each subject to both the reporting system and the uniform system of accounts and records. . . ." (Emphasis added.)

As was the case under the section 5 formula grant programs UMTA cannot properly allocate formula grant funds for section 9 grantees in urbanized areas of 200,000 inhabitants or more unless it receives timely and accurate section 15 Reports from transit agencies. Moreover, the current and proposed rules require all applicants and beneficiaries to report in a timely, accurate manner even if the information in their section 15 Reports is not used to calculate their formula grant allocations.

II. Overview of the Proposed Rule

Because of the significant statutory changes that have taken place since UMTA promulgated 49 CFR Part 630 in 1977 and 1978 and the technical revisions of the uniform accounts and records and reporting elements that UMTA has implemented over the years, the current rule has become outdated in many respects.

This NPRM proposes a comprehensive revision of Part 630 that would accomplish the following goals:

(A) Simplify the rule's structure by separating the procedural requirements from the description of the Uniform System of Accounts and Records and Reporting System;

(B) Clarify the procedures UMTA will follow in keeping transit agencies informed of changes and updates to the section 15 requirements; and

(C) Clarify the procedures UMTA will follow for late, incomplete, uncertified, or inaccurate section 15 Reports.

A. Simplification of the Rule's Structure

The current structure of 49 CFR Part 630 provides two information gathering systems. One system, the Uniform System of Accounts and Records, is the basic accounting system recommended for keeping financial and operating data. The other system is the section 15 Reporting System that uses summary data from the basic records for national purposes. This rule combines section 15 procedural requirements with a general overview of the Uniform System of Accounts and Records (which establishes the method of recordkeeping for mass transit financial and operating data) and the Reporting System (which sets out the requirements regarding data that must be included in the section 15 Reports filed with UMTA). Because part of the current rule is prescriptive and part is descriptive, transit agencies may find it difficult to determine which elements of Part 630 set out procedural requirements and which elements merely describe the required section 15 Reporting and Uniform Accounts and Records Systems.

To address this difficulty, UMTA proposes to replace the current Part 630 with a simpler regulation. The new regulation would prescribe section 15 procedural requirements and would continue to require the use of the current Uniform System of Accounts and Records and the Reporting System instructions and explanatory documents. UMTA proposes that information on the overall structure of the section 15 Reporting and Accounts and Records Systems be included as Appendix A to Part 630. This restructuring would create a shorter, simpler regulation setting out the procedural requirements for compliance with the Uniform System of Accounts and Records and Reporting System, and a separate, explanatory Appendix that outlines the basic elements and structure of these Systems. As with the present rule, transit agencies actually responsible for submitting section 15 Reports would need to refer directly to the current Reference Volumes of the Urban Mass Transportation Industry Uniform System of Accounts and Records and Reporting System; the general overview in the Appendix would provide sufficient detail to allow a reader to understand the purposes and methodology of the Uniform Accounts and Records and Reporting Systems, but would not provide enough detail for actual completion of a section 15 Report. These volumes are maintained by UMTA and are made available to all transit agencies, as further described below.

B. Keeping the Uniform Accounts and Records System and the Reporting Instructions and Forms Up-to-Date

For two reasons, the section 15 Reporting System and Uniform System of Accounts and Records are subject to frequent changes and refinements. First, they must remain responsive to legislative changes in grant formulas and any attendant changes in the data that transit agencies must collect, record, and report. Second, the Accounts and Records System and Reporting System are relatively new; they periodically change as experts continue to seek ways to refine them, minimize recordkeeping and paperwork burdens, and improve the quality of both the reported data and the resulting analyses.

Because of the continuing need to change and refine the Reporting System, UMTA uses several approaches to keep transit agencies current. First, UMTA periodically updates and reissues the Reporting Manual. Second, UMTA occasionally makes minor technical changes and corrections in the reporting scheme which it mails to reporters to use in completing the next reporting cycle. Third, occasionally when a mode of transportation begins reporting for the first time (as was the case for commuter rail and vanpools in fiscal year 1983), UMTA sends transitional guidance materials by letter to the affected reporters. The letters set out temporary, transitional standards that will be replaced by final requirements when the transition phase is completed. Minor changes that affect all reporting agencies are then incorporated into subsequent, revised Manuals.

UMTA proposes to continue to follow this procedure, but the proposed rule would spell out in more detail the responsibilities of the reporters and UMTA. Transit agencies would therefore be able to determine with precision their rights and responsibilities under section 15.

This NPRM refers to the "current edition" of the Urban Mass Transportation Industry Uniform System of Accounts and Records and Reporting System; UMTA proposes to define "current edition" to mean the most recently issued edition of the Uniform System of Accounts and Records and Reporting System instructions about which the reporting agency has been placed on reasonable notice, as modified by any superseding Circulars or other written modifications for which reasonable notice has been given. UMTA considers "reasonable notice," for the purposes described above, to mean the following. Reporting agencies would be responsible for the information and instructions appearing in the most recent edition of the reporting instructions if the most recent edition had been mailed to them no later than 120 days before their reporting deadline. Similarly, UMTA proposes that reporters be responsible for incorporating all minor reporting modifications about which they have received notice in writing no later than 30 days before a reporting deadline. Circulars, Manuals, and Reference Volumes will be clearly marked to indicate the documents they supersede and to explain reporting agencies' obligations.

UMTA proposes to continue to mail copies of each new edition of the Reference Volumes, Circulars, and other reporting revisions to each "Section 15 contact person" as identified in the reporting agency's most recent Section 15 Report or New Reporter Letter. Further, UMTA proposes to publish in the **Federal Register** a Notice of Availability of additional copies of (a) any new editions of the Reference Volumes, and (b) any significant corrections to the system of accounts and records and reporting instructions.

C. Procedures for Late, Incomplete, Uncertified, and Inaccurate Reports

The current rule provides that "[f]ailure to report . . . data in the manner required . . . will make the designated recipient ineligible to receive . . . " grants. 49 CFR 630.34. Clarification is needed regarding what constitutes "failure to report" and how UMTA will make or review the "ineligibility" determination. This NPRM proposes to clarify the ineligibility determination procedures to ensure that affected parties have adequate notice regarding their reporting responsibilities and the consequences of failure to comply. Specifically, UMTA proposes to address the problems of submission of late, incomplete, uncertified, and inaccurate Section 15 reports through the following amendments:

Late Reports

Current § 630.22(e) provides that "[a] 11 reports are due 120 days after the close of the fiscal year" of the reporting agency. UMTA proposes the following procedures for handling late reports:

- Proposed § 630.6(a) would retain the 120 day deadline.
- Proposed § 630.6(b) would treat failure to submit a report on time as failure to submit a report, unless the reporting entity has requested and been granted an extension.
- Proposed § 630.6(c) would grant one request for a 30-day extension for good cause (i.e., for reasons other than the transit agency's negligence) if UMTA receives the request for extension at least 30 days before the report is due.
- Proposed § 630.6(d) states that a second 30-day extension would be granted at the Administrator's discretion only upon a showing of extraordinary and unforeseeable circumstances that warrant exceptional treatment. This time extension would not be considered if it would delay apportionment of Section 9 funds.

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Incomplete Reports

UMTA proposes in § 630.6(e) that, like submission of a late report, submission of an incomplete report be treated as failure to submit a report. Current regulations do not specify what constitutes submission of an incomplete section 15 report. UMTA therefore proposes to define a complete report as a report containing all required forms listed in the current edition of the Reporting Manual. All forms submitted would have to be completed in such a way that UMTA can carry out its data gathering and analytic functions. While UMTA does not intend to classify a report as incomplete if one question is inadvertently omitted or an arithmetic error is uncovered, UMTA would expect reports to reflect a good faith effort on the part of the reporting agency to answer every required question accurately and completely.

Failure to Report

Current § 630.34 provides for differing treatment of failures to report fixed guideway/commuter rail data (Section 630.32) and bus data (Section 630.33). Section 630.34 provides that "[f]ailure to report bus data in the manner required . . . will make the recipient ineligible to receive section 5 grants after March 1, 1979."

UMTA proposes to unify the treatment of failure to report for all transit data by using the current § 630.34 bus data approach for all Section 15 Report data: failure to submit any report at all, or failure to submit a complete and timely section 15 report, would render the reporting agency ineligible to receive any section 5 and/or section 9 funds during the entire Federal fiscal year for which the section 15 report year data in question are used to apportion section 9 funds. This would apply to all transit reporting agencies regardless of the size of the urbanized areas served by them. A reporting agency would be eligible to receive the apportioned funds for the applicable Federal fiscal year in some future year if a complete report is received by UMTA within 120 days of the original report due date. If a report is received within that time, an adjustment may be made using the late section 9 data in the succeeding year's apportionment to the urbanized area when applicable, i.e., population of 200,000 or more. If changes in the authorizing statute occurred in the intervening year, grantees' allocations would be subject to any additional restrictions that Congress imposed.

Uncertified Reports

Each section 15 reporter in or serving (an) urbanized area(s) of 200,000 or more inhabitants was required to submit with its Fiscal Year 1981/1982 Supplemental Reports and its Fiscal Year 1983 section 15 Report a certification of the validity of the operating data to be used in the section 9 apportionment formula. This certification was to be signed by the Senior Operating Official or other individual of comparable position in the public or private organization operating the service. For Fiscal Year 1984 and subsequent section 15 reporting years, each reporting agency in or serving (an) urbanized area(s) of 200,000 or more inhabitants must submit with its Section 15 Report a certification that a recordkeeping system and internal controls exist to collect data to be used for the section 9 apportionment formula in accordance with UMTA's definitions. The certification must be signed by an independent auditor rather than the Senior Operating Official. In past years, some reporters have failed to comply with these requirements, thereby calling into question the validity of the data submitted.

All transit agencies must also submit a letter or report signed by an independent public accountant or other responsible independent entity such as a State audit agency. It should certify that the financial data reporting forms conform in all material respects to the prescribed Uniform System of Accounts and Records. UMTA is also proposing to eliminate the annual financial data certification requirement for those transit agencies that have adopted the Uniform System of Accounts and Records and have previously compiled and submitted a report using the Uniform System of Accounts and Records System that was certified by an independent auditor. The Chief Executive Officer (CEO) would then annually certify that the accounting system in use is the section 15 Uniform System of Accounts and Records. This proposed change is described in a second notice published by UMTA today, "Notice of Proposed Changes in the Uniform System of Accounts and Records and Reporting System."

Failure to provide the necessary section 9 and financial certification statements at the time a section 15 Report is filed does not directly impede UMTA's ability to calculate the formula grant allocation. UMTA proposes to include the data in the calculation of the urbanized area's section 9 formula apportionment if the reporting agency submits an otherwise complete report that has the certification by the CEO. The CEO should also commit to obtain the necessary certification(s) from the independent auditor in a timely manner. However, until the validity of the data submitted has been assured through the receipt of the required certification(s) from the independent auditor, UMTA proposes to withhold release of the section 9 apportionment attributable to the reporting agency's data. UMTA also proposes to make necessary adjustments in a future fiscal year apportionment if as a result of the auditor's certification(s) the data are changed or disputed.

Inaccurate Data-Vehicle Revenue Miles

UMTA has identified vehicle revenue miles as one data reporting element for which questions about the accuracy of an agency's submission have frequently arisen. Vehicle revenue miles are the miles a vehicle travels when in revenue service. A transit vehicle is in revenue service only when the vehicle is available to the public and there is a reasonable expectation of carrying passengers that either directly pay fares, are subsidized by public policy, or provide payment through some contract arrangement. The miles a vehicle travels when out of service, i.e., returning to the garage, changing routes, etc., and when there is no reasonable expectation of carrying revenue passengers, are considered deadhead miles. The total vehicle miles traveled by revenue vehicles consist of miles traveled when in revenue service and these deadhead miles.

Until now, UMTA has not had formalized written procedures for resolving disputes over the accuracy of the vehicle revenue mile portion of the total vehicle mile data submitted by reporting agencies. If a reporting agency's figures for total vehicle miles and the portion considered vehicle revenue miles seemed outside the normal range, i.e., showed no or virtually no deadhead miles, UMTA staff have tried to reach an agreement regarding the disputed data with the responsible local official(s). At times, this approach has led to delay and to a virtual standoff requiring UMTA to exercise its unilateral authority to withhold the disputed portion of the grantee's funding allocation.

This NPRM proposes the adoption of a formula and procedures for resolution of possible future disagreements over vehicle revenue mile data. Comments are invited on the specific proposal for resolving questions on the portion of total vehicle miles considered to be vehicle revenue miles.

Dispute Resolution Mechanism for Vehicle Revenue Miles

Following the close of each reporting year, UMTA would calculate the statistical range for vehicle miles that are vehicle revenue miles for each mode of transportation. UMTA would use these figures to screen the net vehicle revenue miles being reported by each transit agency for the subsequent reporting year. The figures would not be made public except as described below, and in the ordinary course of compiling mass transportation information.

On receipt of a reporting agency's section 15 Report, UMTA would compare the percentage of total vehicle miles that are vehicle revenue miles for each mode reported to UMTA with the previous year's statistical ranges. If a reporting agency's vehicle revenue mile data are on the high side of the statistical range, UMTA would automatically initiate verification and calculation procedures as follows:

The Administrator would write directly to the CEO of the reporting agency, informing the CEO that the reporting agency's figure for vehicle revenue miles is too high based on statistical analyses.

The CEO would be invited to provide UMTA with additional documentation to justify its data. Such documentation might include, among other things, route maps, locations of garages and layover points, maintenance facilities, or ridership data from the garage to the end of the line. The CEO would have ten working days to respond and would be advised that a re-certification of the accuracy of the vehicle revenue miles must accompany the transit agency's ultimate submission of documentation.

The Administrator would render a decision on whether the documentation supports the vehicle revenue miles reported. In the event the documentation does not justify the reported figure, the Administrator would propose a new figure. The CEO would have ten working days to reach agreement with the Administrator on a figure.

If the transit agency's data do not support the reported vehicle revenue miles and the CEO rejects the Administrator's determination or fails to reach agreement on a new figure within ten working days, UMTA proposes to impute to the reporting agency the vehicle revenue miles figure originally proposed by the Administrator. The Administrator would render the decision in writing, which would constitute a final (i.e., appealable) UMTA action.

Negative Certification Findings

UMTA has determined that if an independent auditor's certification(s) of the section 9 data items indicates that any of the data do not appear accurate or have not been collected and reported in accordance with UMTA's definitions and/or confidence and precision levels, or expresses any other negative finding, such as the lack of documentation or reliable recordkeeping system, then UMTA will enter a zero for the questionable data item(s) for use in computing the section 9 apportionment.

D. Waiver of Reporting Requirements

Proposed § 630.9 provides procedures and grounds for waivers of reporting requirements. Current § 630.34 provides for waiver "when such a waiver would be in the public interest," but does not spell out in further detail the basis on which UMTA will consider granting such waivers. The proposed section clarifies that waivers would be granted at the discretion of the Administrator only upon a showing that the party seeking waiver cannot furnish the data required without unreasonable expense and inconvenience.

III. The Appendix: Overview and Explanation of the Transportation Industry Uniform System of Accounts and Records and Reporting System

Appendix A, attached to the revised Part 630, would explain the overall structure and operation of the section 15 Reporting and Accounts Records System. UMTA intends this Appendix to provide a general overview of the Systems. It is important to emphasize that in the actual preparation of a Report, reporters must use Part 630, the Reporting Manual, and any other materials provided by UMTA. Appendix A would describe the required and voluntary levels of reporting and recordkeeping used in both the Reporting and the Accounts and Records Syatems. It also would describe the use and structure of both the Uniform System of Accounts and Records and the Reporting System. Finally, Appendix A would provide a list of required reporting forms in Table 9.

One of these forms, found at Table 9(3)(b), provides for certification by an independent auditor of the section 15 data used to apportion section 9 funds in urbanized areas with a population greater than 200,000. UMTA and the Office of Management and Budget (OMB) are reviewing this matter to determine whether this separate certification is consistent with the Single Audit Act (Pub. L. 98-502, Oct. 14, 1984), which limits the Federal audit burden at the State and local level. By including the certification in Table 9 in this NPRM, UMTA does not intend to prejudge that issue.

IV. Notice of Proposed Changes in the Uniform System of Accounts and Records and Reporting System

UMTA is publishing today in a separate notice, as an NPRM also, several proposed changes in its reporting requirements, and requests comments on them. These proposed changes are the following:

- Proposed elimination of requirements for capacity mile data;
- Proposed elimination of requirements for user surveys, walking accessibility data, and demographic data (to be replaced with a requirement for service area and population data);
- Proposed elimination of the reporting requirement for service consumed (unlinked passenger trip and passenger mile) data for transit agencies with 25 or fewer revenue vehicles operated in maximum service and for all purchased transportation services (i.e., private or public carriers providing transit service under contract to a public agency);
- Proposed elimination of the section 5 apportionment factors;
- Proposed elimination of several time period categories of "Unlinked Passenger Trips" and "Passenger Miles" data;
- Proposed requirement that the Chief Executive Officer of each reporting agency be required to submit a certification with each annual section 15 Report;
- Proposed elimination of annual financial data certification requirement by an independent auditor for transit agencies that have adopted the Uniform System of Accounts and Records and have been certified by an independent auditor for at least one reporting cycle.
- These proposed changes are discussed in greater detail in the accompanying NPRM, "Notice of Proposed Changes in the Uniform System of Accounts and Records and Reporting System."

V. Regulatory Impacts

A. Executive Order 12291

This action has been reviewed under Executive Order 12291, and it has been determined that it is not a major rule. It will not result in an annual effect on the economy of $100 million or more. This regulation is not significant under the Department's Regulatory Policies and Procedures. UMTA finds that the

economic impact of this regulation is so minimal that a full regulatory evaluation is not required.

B. Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), as added by the Regulatory Flexibility Act, Pub. L. 96-354, UMTA certifies that this rule will not have a significant economic impact on a substantial number of small entities within the meaning of the Act. To the extent the new regulation would be more easily understood and more clearly states the basic reporting procedures, it may save small entities time in determining their rights and responsibilities.

C. Environmental Impacts

This proposed regulation would not adversely affect the environment.

D. Paperwork Reduction Act

The collection of information requirements in the present rule are subject to the Paperwork Reduction Act, Pub. L. 96-511, 44 U.S.C. Chapter 35. These requirements were submitted to and approved by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB). The OMB approval number is 2132-0006. As this proposed rule does not affect the approved reporting requirements now required by existing Part 630, UMTA has determined that there are no new information collection requirements.

List of Subjects in 49 CFR Part 630

Mass transportation, reporting and record keeping requirements, Uniform system of Accounts.

Pursuant to the foregoing, 49 CFR Chapter VI would be amended by revising Part 630 to read as follows:

PART 630—UNIFORM SYSTEM OF ACCOUNTS AND RECORDS AND REPORTING SYSTEM

Sec.

630.1 Purpose.
630.2 Scope.
630.3 Definitions.
630.4 Requirements.
630.5 Failure to report data.
630.6 Late and incomplete reports.
630.7 Inaccurate data—vehicle revenue miles.
630.8 Negative certification findings.
630.9 Waiver of reporting requirements.
630.10 Data adjustments.
Appendix A—Overview and Explanation of the Urban Mass Transportation Industry Uniform System of Accounts and Records and Reporting System.

Authority: Sec. 111 Pub. L. 93-503, 88 Stat. 1573 (49 U.S.C. 1611); Secs. 303(a) and 304(c), Pub. L. 97-424, 96 Stat. 2141 (49 U.S.C. 1607); and 49 CFR 1.51.

§ 630.1 Purpose.

The purposes of this part are to prescribe the requirements and procedures necessary for compliance with the Uniform System of Accounts and Records and the Reporting System which are mandated by section 15 of the Urban Mass Transportation Act of 1964, as amended, 49 U.S.C. 1611, and to set forth the procedures for addressing a recipient's failure to comply with these requirements.

§ 630.2 Scope.

These regulations apply to all applicants and beneficiaries of Federal financial assistance under section 5 or section 9 of the UMT Act (49 U.S.C. 1607).

§ 630.3 Definitions.

(a) Except as otherwise provided, terms defined in the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.) are used in this part as so defined.

(b) Terms defined in the current edition of the Urban Mass Transportation Industry Uniform System of Accounts and Records and Reporting System are used in this part as so defined.

(c) For purposes of this part:

"Administrator" means the Urban Mass Transportation Administrator or the Administrator's designee.

"Applicant" means applicant for assistance under section 5 or section 9 of the UMT Act.

"Assistance" means Federal financial assistance for the acquisition, construction, or operation of public mass transportation services.

"Beneficiary means any organization operating and delivering urban transit services that receives benefits directly from assistance under section 5 or section 9 of the UMT Act.

"Chief Executive Officer" means the top full-time executive responsible for the transit system.

"Current Edition" of the Urban Mass Transportation Industry Uniform System of Accounts and Records and Reporting System means the most recently issued edition of the Reference Volumes, as modified by any Circulars or other written modifications, about which the reporting agency has received reasonable notice. For the Reference Volumes, "reasonable notice" is given for the applicable report if the most recent edition is mailed to the reporting agency at least 120 days before the agency's reporting deadline. For Circulars and other written modifications, "reasonable notice" is given if the reporting agency is mailed the modifications at least 30 days before a reporting deadline.

"Mass Transportation Agency" or "transit agency" means an agency authorized to transport people by bus, rail, or other conveyance, either publicly or privately owned, and which provides to the public general or special service (but not including school, charter, or sightseeing service) on a regular and continuing, scheduled or unscheduled, basis. Transit agencies are classified according to the mode of transit service operated. A multi-mode transit agency is one operating two or more modes, as such modes are defined in the current edition of the Urban Mass Transportation Industry Uniform System of Accounts and Records and Reporting System.

"Metropolitan Planning Organization" menas the organization designated by the Governor as being responsible, together with the State, for carrying out the provisions of 23 U.S.C. 134 (Federal-Aid Highway Planning Requirements) and capable of meeting the requirements of 49 U.S.C. 1607(a) (Urban Mass Transportation Planning Requirements). This organization is the forum for cooperative decisionmaking by principal elected officials of general purpose local government.

"Reference Volume(s)" means the current edition of the Urban Mass Transportation Industry Uniform System of Accounts and Records, which is composed of Volume I—General Description; Volume II—Uniform System of accounts and Records; and Reporting Manual and Sample Forms (All Reporting Levels). These Volumes are subject to periodic revision. Beneficiaries and applicants are responsible for ensuring that they are using the current edition of the Reference Volumes.

"The UMT Act" means the Urban Mass Transportation Act of 1964, as amended. (49 U.S.C. 1601 et seq.)

"Vehicle revenue miles" means the miles a vehicle travels when in revenue service. A transit vehicle is in revenue service only when the vehicle is available to the public and there is reasonable expectation of carrying passengers that either directly pay fares, are subsidized by public policy, or provide payment through some contract arrangement. The miles a vehicle travels when out of service, i.e., returning to the garage, changing routes, etc., and when there is no reasonable expectation of carrying revenue passengers are considered deadhead miles. The total miles traveled by revenue vehicles consist of miles traveled when in revenue service and these deadhead miles.

§ 630.4 Requirements.

(a) *Uniform System of Accounts and Records.* All applicants for and direct beneficiaries of Federal financial assistance under the UMT Act must comply with the applicable requirements of the Section 15 Uniform System of Accounts and Records, as set forth in the current edition of the "Urban Mass Transportation Industry Uniform System of Accounts and Records and Reporting System," and Circulars. Copies of the referenced document are available from the Urban Mass Transportation Administration, Office of Technical Assistance, Information Services Staff (URT-7), 400 7th Street SW., Room 6419, Washington, DC 20590. These materials are subject to periodic revision. Revisions of these documents will be mailed to all persons required to comply, and a Notice of any significant change in these materials will be published in the **Federal Register.**

(b) *Reporting system.* All applicants for and direct beneficiaries of Federal financial assistance under the UMT Act must comply with the applicable requirements of the section 15 Reporting System, as set forth in the current edition of the "Urban Mass Transportation Industry Uniform System of Accounts and Records and Reporting System," and Circulars. Copies of the referenced document are available for the Urban Mass Transportation Administration, Office of Technical Assistance, Information Services Staff (URT-7), 400 7th Street SW., Room 6419, Washington, DC 20590. These materials are subject to periodic revision. Revisions of these documents will be mailed to all persons required to comply, and a Notice of any significant change in these materials will be published in the **Federal Register.**

§ 630.5 Failure to report data.

(a) *Declaration of ineligibility.* Failure to report date in accordance with the applicable requirements and timetable set out in the current edition of the Urban Mass Transportation Industry Uniform System of Accounts and Records and Reporting System will result in the Administrator declaring the reporting agency ineligible to receive any section 5 or section 9 grants during an entire Federal fiscal year. This fiscal year shall be the year of the section 9 apportionment based, in part, on section 15 data from the section 15 reporting year in which the agency failed to submit a timely and complete report. This would apply to all transit agencies regardless of whether the reporting agency's data could have been used for this apportionment (i.e., without regard to the size of the urbanized area served by the reporting agency). The reporting agency will not be eligible to receive any of the apportioned section 9 funds for this Federal fiscal year in some future year unless a complete report for the year in question is received by UMTA within 120 days of the original (i.e., unextended) report due date. If a reporting agency that serves an urbanized area of 200,000 or more inhabitants submits its complete, late report within the 120 days of its original report due date, the apportionment to the urbanized area in the succeeding year may be adjusted to reflect the applicable data items submitted, subject to the availability of funds and statutory authority.

(b) *Notification of ineligibility.* A reporting agency which has been declared ineligible to receive a section 5 or section 9 grant because of failure to report data will receive written notification of its ineligibility from the Administrator.

(c) *Status of ineligibility declaration.* Notification to an agency of its ineligibility for section 5 or section 9 grant funds will constitute a final UMTA action.

§ 630.6 Late and incomplete Reports.

(a) Reports must be submitted not later than the 120th calendar day following the last day of the reporting agency's fiscal year.

(b) Failure to submit the required reports by the date due will be treated under § 630.5 as failure to report data.

(c) One extension of 30 days may be requested by each reporting agency. UMTA will consider such requests only if they are received at least 30 days in advance of the due date. UMTA will grant one 30-day extension upon a showing of good cause. Administrative convenience of the reporting agency does not constitute good cause.

(d) A second 30-day extension will be granted at the Administrator's discretion only where unforeseeable circumstances beyond the reporting agency's control have made it impossible to meet the due date. No second extensions will be granted if they would delay the apportionment of formula grants to other grantees.

(e) *Incomplete Reports—Omissions other than missing auditors' section 9 data certifications and financial certifications.*

(1) Submission of a report which does not contain all required reporting forms, data, and Chief Executive Officer certification in substantial conformance with the definitions, procedures, and format requirements set out in the section 15 Uniform System of Accounts and Records and Reporting System will be treated under §630.5 as a failure to report data.

(2) The Administrator may, at the Administrator's discretion, treat an incomplete report as a request for one thirty-day extension. The thirty-day extension will be effective on the date of UMTA's written notification letter to the reporting agency that the report is incomplete.

(f) *Incomplete Reports— Auditor Certifications.* Submission of an otherwise complete report that does not contain the independent auditor's certification of the data used to compute section 9 apportionments and of the financial data, if required, but that contains the required certification by the Chief Executive Officer and commitment to obtain the required auditor's certification(s) in a timely manner, will result in the Administrator's including the data in the calculation of the urbanized area's section 9 apportionment and withholding release of the urbanized area's Section 9 apportionment attributable to the reporting agency's data until after proper certification(s) has been received and accepted by the Administrator. UMTA will also make necessary adjustments in a future fiscal year apportionment if as a result of the auditor's certification(s) the data are changed or disputed.

§ 630.7 Inaccurate data—vehicle revenue miles.

(a) A transit agency's vehicle revenue mile data are rebuttably presumed to be erroneous if statistical checks in the validation of these data for each mode varies by a significant amount on the high side from the previous year's national data set for that mode. The previous year's statistical ranges will be determined by the Administrator for each transit mode for which a section 15 Report is required to be filed.

(b) In the event the portion of a reporting agency's total vehicle miles that are considered in revenue service varies significantly on the high side from an analysis of the previous year's data, the Administrator will send written notice to the agency's Chief Executive Officer, notifying the Officer of that fact, and that:

(1) The transit agency's submission has triggered a rebuttable presumption of error and has prompted a request for additional documentation to rebut the presumption;

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(2) The Chief Executive Officer is invited to submit, within ten working days of receipt of the notice, further documentation in support of the vehicle revenue mile data initially submitted. Such documentation—

(i) Must include a re-certification or attestation of accuracy, signed by the Chief Executive Officer, in order to receive consideration; and

(ii) May include, for example: route maps; locations of garages and/or layover points; locations of maintenance facilities; and ridership data covering distances from the garage to the end of the line.

(c) If the Administrator receives additional documentation and re-certification from the Chief Executive Officer within the ten day time limit, he or she will review the documentation and make a determination as to whether it has adequately justified the data.

(1) If the Administrator is satisfied that the documentation supports the vehicle revenue mile data, the Administrator will accept the report as submitted and so notify the agency in writing.

(2) If the Administrator determines that the documenntion supports a vehicle revenue mile figure different from that submitted by the reporter, the Administrator will notify the reporter's Chief Executive Officer in a certified letter (return receipt) of the figure he or she determines appropriate and will invite the reporting agency to accept the determination.

(d) The Chief Executive Officer will have ten working days from the date of receiving the Administrator's letter to resolve with the Administrator a final figure for vehicle revenue miles. Lacking agreement on a new figure, UMTA will use the figure in the Administrator's letter for Section 9 formula purposes.

(1) The figures used for section 9 purposes will also be used in the processing and publishing of the section 15 Annual Report.

(2) The reporting transit agency may request that this item be given special attention in the next triennial review of the agency. Should an adjustment be warranted based on that review, this will be accommodated in a future year section 9 apportionment to the extent feasible.

(3) The use of the vehicle revenue mile figure in the Administrator's letter will constitute a final UMTA action.

§ 630.8 Negative certification findings.

UMTA will enter a zero for use in computing the section 9 apportionment for any questionable data item(s) in a reporting agency's section 15 Report if the independent auditor's section 9 data certification for that Report indicates that any of the data do not appear accurate or have not been collected and reported in accordance with UMTA's definitions and/or confidence and precision levels, or expresses any other negative finding, such as the lack of adequate documentation or reliable recordkeeping system.

§ 630.9 Waiver of reporting requirements.

(a) Requests for waivers of reporting requirements must be received 60 days before the date due in order to receive consideration.

(b) The Administrator may, at the Administrator's discretion, consider a waiver request or grant a waiver on the Administrator's own initiative not received 60 days in advance if good cause is shown by the requesting party.

(c) Waivers of one or more sections of the reporting requirements may be granted at the discretion of the Administrator on a showing that the party seeking waiver cannot without unreasonable expense and inconvenience furnish the data required.

§ 630.10 Data adjustments.

Errors in the data used in making the apportionment may be discovered after any particular year's apportionment is completed. Adjustments to correct for these errors may be made in a subsequent year's apportionment to the extent it is feasible.

Appendix A—Overview and Explanation of the Urban Mass Transportation Industry Uniform System of Accounts and Records and Reporting System

A. Introduction

Section 15 of the UMT Act provides for establishment of two information-gathering and analytic systems: a Uniform System of Accounts and Records, and a Reporting System for the collection and dissemination of public mass transportation financial and operating data by uniform categories. The purpose of these two systems is to provide information on which to base public transportation planning and public sector investment decisions.

The Uniform System of Accounts and Records consists of:

(i) Various categories of accounts and records for classifying financial and operating data;

(ii) Precise definitions as to what data elements are to be included in these categories; and

(iii) Definitions of practices for systematic collection and recording of such information.

While a specific accounting system is recommended for this recordkeeping, it is possible to make a translation from most existing accounting systems to comply with the section 15 Reporting System, which consists of forms and procedures:

(i) For transmitting data from transit agencies to UMTA;

(ii) For editing and storing the data; and

(iii) For UMTA to report information to various groups.

Under the terms of UMT Act section 15, all applicants for and beneficiaries of Federal assistance under section 5 or section 9 of the Act (i.e., under the formula grant programs) must comply with the Reporting System and the Uniform System of Accounts and Records in order to be eligible for Federal monies. It should be noted that separate and complete section 15 Reports must be submitted by or for each purchased transportation service provider that operates 50 or more revenue vehicles for the purchased service during the maximum service period.

B. Purpose of this Appendix

This Appendix presents a general introduction to the structure and operation of the two systems. It is not a detailed set of instructions for completion of a section 15 Report or establishment of a System of Accounts and Records. Persons in need of more information should refer to the current edition of the Urban Mass Transportation Industry Uniform System of Accounts and Records and Reporting System, available from: Urban Mass Transportation Administration, Office of Technical Assistance, Information Services Staff (URT-7), 400 Seventh Street, SW., Room 6419, Washington, DC 20590, (202) 426-0157.

The current edition of the Urban Mass Transportation Industry Uniform System of Accounts and Records and Reporting System is composed of:

Volume I—General Description (Jan. 10, 1977)
Volume II—Uniform System of Accounts and Records (Jan. 10, 1977)
Reporting Manual and Sample Forms (All Reporting Levels) (June 1985)

UMTA periodically updates these reference documents or supplements them to revise or clarify section 15 definitions and reporting forms and instructions. Section 630.4 makes clear that reporting agencies must use the most recent edition of the reference documents and reporting forms to comply with the section 15 requirements. UMTA therefore urges local officials to check with UMTA before completing a section 15 Report to avoid unnecessary errors and delays.

C. Special (Reduced) Reporting Requirements

The unique characteristics of certain transportation modes require UMTA to tailor certain information collection and recording requirements and reporting forms to such modes. At the present time, there are specific reduced reporting requirements for commuter rail systems and vanpool services.

Thus, transit agencies that operate commuter rail systems or vanpool services must comply with the applicable requirements of the "Special (Reduced) Reporting Requirements for Commuter Rail Services" or the "Special (Reduced) Reporting Requirements for Vanpool Services," respectively. Copies of these reduced requirements are available from UMTA.

D. Required and Voluntary Levels of Reporting and Recordkeeping

UMTA, in close cooperation with the transit industry, developed both systems to be adaptable to the varying sizes of transit agencies. The systems also provide for the varying levels of recordkeeping specificity and complexity that are necessary to accommodate variations in size, local laws, and modes of transport. All transit agencies covered by the section 15 reporting and recordkeeping requirements must maintain at least a minimum level of detail in their section 15 Reports and Accounts and Records Systems. This minimal level is designated R (or Required).

The Uniform Systems set out three additional, and progressively more detailed, levels of reporting and keeping records on revenue and expense data. The most detailed of these levels indicates the subcategories of data that should be aggregated to record each object class or expense function at the other levels and thus serves to define the more aggregated data. The definitions for the required data are consistent with and summarized from those for the more extensive voluntary data. Transit agencies voluntarily may adopt these levels (or modify them to suit local needs). The three voluntary reporting and recordkeeping levels are designated Level C (least detailed), Level B (next most detailed) and Level A (most detailed).

E. The Uniform System of Accounts and Records

The Uniform System of Accounts and Records consists of a financial accounting and operational recordkeeping system designed for mass transportation managers and planners. Its uniformity permits more thorough and accurate comparisons and analyses of different transit agencies' operating costs and efficiencies than if each had a unique recordkeeping and accounting system. The System establishes various categories of accounts and records for classifying mass transportation operating and financial data, and includes precise definitions of transportation terminology to ensure that all users share a common understanding of how to use and interpret the data collected.

(1) Use of the Accounts and Records System

Beneficiaries of and applicants for Federal assistance are not required to use the Uniform System of Accounts and Records in keeping their own records. If an applicant or beneficiary chooses *not* to use the System, however, it must nevertheless be able to translate its accounts and records system to the accounts prescribed in the System. The accounting system that the reporter uses must permit preparation of financial and operating data that conforms to the Uniform System directly from its records at the end of the fiscal year, and must be consistent with the following:

(i) The data must have been developed using the accrual basis of accounting. Those transit systems that use cash-basis accounting, in whole or in part, in their books of account will have to make work sheet adjustments to record the data on the accrual basis.

(ii) Transit agencies must follow or be able to directly translate their system to the accounting treatment specified in the publication "Urban Mass Transportation Industry Uniform System of Accounts and Records and Reporting System."

(iii) The transit agency's accounting categories (chart of accounts) must be correctly related, via a clear audit trail, to the accounting categories prescribed in the Uniform System.

(2) General Structure of Uniform Accounts and Records System In the Section 15 System, operating expenses incurred by the transit system are classified by mode. The expenses of each mode are recorded in two dimensions:

(i) The type of expenditure (expense object class); and

(ii) The function or activity performed.

The expense object classes are typical of those of most transit accounting systems. Table 1 presents the expense object classes required under section 15. Table 2 is a more detailed list which includes recommended expense object classes that have been developed to assist transit agencies in implementing the section 15 requirements. Discussion about the remaining tables appears before each table.

Table 1.—Required Expense Object Classes

Expense Object Classes

501. Labor.
  01 Operators' Salaries and Wages.
  02 Other Salaries and Wages.
502. Fringe Benefits.
503. Services.
504. Materials and Supplies.
  01 Fuel and Lubricants.
  02 Tires and Tubes.
  99 Other Materials and Supplies.
505. Utilities.
506. Casualty and Liability Costs.
507. Taxes.
508. Purchased Transportation.
  01 Less Than 50 Vehicles.
  02 50 or More Vehicles.
509. Miscellaneous Expense.
510. Expense Transfers.
511. Expense Transfers.
512. Leases and Rentals.
513. Depreciation.
  13 Amortization of Intangibles.
514. Purchase Lease Payments.
515. Related Parties Lease Agreement.
516. Other Reconciling Items.

Table 2.—Recommended Expense Object Classes

Recommended Expense Object Classes

501. Labor.*
  01 Operators' Salaries and Wages.*
  02 Other Salaries and Wages.*
502. Fringe Benefits.*
  01 FICA or Railroad Retirement.
  02 Pension Plans (including long-term disability insurance).
  03 Hospital, Medical and Surgical Plans.
  04 Dental Plans.
  05 Life Insurance Plans.
  06 Short-Term Disability Insurance Plans.
  07 Unemployment Insurance.
  08 Workmen's Compensation Insurance or Federal Employees Liability Act Contributions.
  09 Sick Leave.
  10 Holiday (including all premiums paid for working on holidays).
  11 Vacation.
  12 Other Paid Absence (bereavement pay, military pay, jury duty pay, etc.).
  13 Uniform and Work Clothing Allowances.
  14 Other Fringe Benefits.
  15 Distribution of Fringe Benefits.
503. Services*.
  01 Management Service Fees.
  02 Advertising Fees.
  03 Professional and Technical Services.
  04 Temporary Help.
  05 Contract Maintenance Services.
  06 Custodial Services.
  07 Security Services.
  99 Other Services.
504. Materials and Supplies.*
  01 Fuel and Lubricants.*
  02 Tires and Tubes.*
  99 Other Materials and Supplies.*
505. Utilities.*
  01 Propulsion Power.
  02 Utilities Other Than Propulsion Power.
506. Casualty and Liability Costs.*
  01 Premiums for Physical Damage Insurance.
  02 Recoveries of Physical Damage Losses.
  03 Premiums for Public Liability and Property Damage Insurance.
  04 Payouts for Uninsured Public Liability and Property Damage Settlements.
  05 Provision for Uninsured Public Liability and Property Damage Settlements.
  06 Payouts for Insured Public Liability and Property Damage Settlements.
  07 Recoveries of Public Liability and Property Damage Settlements.
  08 Premiums for Other Corporate Insurances.
  09 Other Corporate Losses.
  10 Recoveries of Other Corporate Losses.
507. Taxes.*
  01 Federal Income Tax.
  02 State Income Tax.
  03 Property Tax.
  04 Vehicle Licensing and Registration Fees.
  05 Fuel and Lubricant Taxes.
  06 Electric Power Taxes.
  99 Other Taxes.
508. Purchased Transportation.*
  01 Less Than 50 Vehicles.*
  02 50 or More Vehicles.*
509. Miscellaneous Expenses.*
  01 Dues and Subscriptions.
  02 Travel and Meetings.

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03 Bridge, Tunnel and Highway Tolls.
04 Entertainment Expense.
05 Charitable Donations.
06 Fines and Penalties.
07 Bad Debt Expense.
08 Advertising/Promotion Media.
99 Other Miscellaneous Expense.
510. Expense Transfers.*
01 Function Reclassifications.
02 Expense Reclassifications.
03 Capitalization of Nonoperating Costs.
511. Interest Expenses.*
01 Interest on Long-Term Debt Obligations (net of interest capitalized).
02 Interest on Short-Term Debt Obligations.
512. Leases and Rentals.*
01 Transit Way and Transit Way Structures and Equipment.
02 Passenger Stations.
03 Passenger Parking Facilities.
04 Passenger Revenue Vehicles.
05 Service Vehicles.
06 Operating Yards or Stations.
07 Engine Houses, Car Shops and Garages.
08 Power Generation and Distribution Facilities.
09 Revenue Vehicles Movement Control Facilities.
10 Data Processing Facilities.
11 Revenue Collection and Processing Facilities.
12 Other General Administration Facilities.
513. Depreciation.*
01 Transit Way and Transit Way Structures and Equipment.
02 Passenger Stations.
03 Passenger Parking Facilities.
04 Passenger Revenue Vehicles.
05 Service Vehicles.
06 Operating Yards or Stations.
07 Engine Houses, Car Shops and Garages.
08 Power Generation and Distribution Facilities.
09 Revenue Vehicle Movement Control Facilities.
10 Data Processing Facilities.
11 Revenue Collection and Processing Facilities.
12 Other General Administration Facilities.
13 Amortization of Intangibles.
514. Purchase Lease Payments.*
515. Related Parties Lease Agreement.*
516. Other Reconciling Items.*

*Denotes required object classes.

Within each object class, the Uniform System categorizes expenditures by four basic functions: vehicle operations, vehicle maintenance, non-vehicle maintenance, and general administration. UMTA has developed the four standard functional classifications for uniformity and to enhance the usefulness of the data collected under Section 15. They may differ significantly from the classifications formerly used by transit operators (indeed, they have changed since the inception of the Section 15 System), but it is hoped that use of these classifications will, over time, yield useful results.

The four functional classifications are used for recordkeeping and reporting of R- and C-level data. Levels B and A use progressively more detailed breakdowns of each function. Table 3 shows the three levels of functional classifications and how they relate to each other.

TABLE 3.—AGGREGATION OF FUNCTIONS FOR EXPENSE CLASSIFICATION

Level A	Level B	Level C and R
011 Transportation Administration	010 Administration of Transportation	
012 Revenue Movement Control		010 Vehicle Operations.
021 Scheduling of Transportation Operations	020 Scheduling of Transportation Operations	
031 Revenue Vehicle Operation	030 Revenue Vehicle Operation	
041 Maint. Administration-Vehicles	041 Maint. Administration-Vehicles	
051 Servicing Revenue Vehicles	050 Servicing Revenue Vehicles	
061 Insp. & Maint. of Revenue Vehicles	060 Insp. & Maint. of Revenue Vehicles	
062 Accident Repairs of Revenue Vehicles	062 Accident Repairs of Revenue Vehicles	041 Vehicles Maintenance.
071 Vandalism Repairs of Revenue Vehicles	070 Vandalism Repairs of Revenue Vehicles	
081 Servicing & Fuel of Service Vehicles	080 Servicing & Fuel of Service Vehicles	
091 Insp. & Maint. of Service Vehicles	090 Insp. & Maint. of Service Vehicles	
042 Maint. Administration-Non-Vehicles	042 Maint. Administration-Non-Vehicles	
101 Maint. of Vehicle Movement Control Systems	100 Maint. of Vehicle Movement Control Systems	
111 Maint. of Fare Collection of Counting Equip	110 Maint. of Fare Collection of Counting Equip	
121 Maint. of Roadway & Track		
122 Maint. of Structure Tunnels & Subways		
123 Maint. of Passenger Stations		
124 Maint. of Operating Station Bldgs. Grounds & Equip		
125 Maint. of Garage & Shop Bldgs. Grounds & Equip	120 Maint. of Other Bldgs. Grounds & Equip	042 Non-Vehicle Maint.
126 Maint. of Communication System		
127 Maint. of Gen. Admin. Bldgs. Grounds & Equip		
128 Accident Repairs of Bldgs. Grounds & Equip		
131 Vandalism Repairs of Bldgs. Grounds & Equip	130 Vandalism Repairs of Bldgs. Grounds & Equip	
141 Operation & Maint. of Electric Power Facilities	140 Operation & Maint. of Electric Power Facilities	
145 Preliminary Transit System Development	145 Preliminary Transit System Development	
151 Ticketing & Fare Collection	150 Ticketing & Fare Collection	
161 System Security		
165 Injuries & Damages		
166 Safety		
167 Personnel Administration		
168 General Legal Services		
169 General Insurance		
170 Data Processing	160 General Administration	160 Gen. Administration.
171 Finance & Accounting		
172 Purchasing & Stores		
173 General Engineering		
174 Real Estate Management		
175 Office Management & Services		
176 General Management		
162 Customer Services		
163 Promotion		
164 Market Research	170 Marketing	
177 Planning		

TABLE 3.—AGGREGATION OF FUNCTIONS FOR EXPENSE CLASSIFICATION—Continued

Level A	Level B	Level C and R
181 General Function	180 General Function	

Table 4 presents the revenue object classes required under section 15. Table 5 is a more detailed list which includes recommended revenue object classes that have been developed to assist transit agencies in implementing the section 15 requirements.

Table 4.—Required Revenue Object Classes

Required Revenue Object Classes

401. Passenger Fares for Transit Service.
402. Special Transit Fares.
403. School Bus Service Revenues.
404. Freight Tariffs.
405. Charter Service Revenues.
406. Auxiliary Transportation Revenues.
407. Nontransportation Revenues.
408. Taxes Levied Directly by Transit System.
409. Local Cash Grants and Reimbursements.
410. Local Special Fare Assistance.
411. State Cash Grants and Reimbursements.
412. State Special Fare Assistance.
413. Federal Cash Grants and Reimbursements.
430. Contributed Services.
440. Subsidy From Other Sectors of Operations.

Table 5.—Recommended Revenue Object Classes

Recommended Revenue Object Classes

401. Passenger Fares for Transit Service.*
01 Full Adult Fares.
02 Senior Citizen Fares.
03 Student Fares.
04 Child Fares.
05 Handicapped Rider Fares.
06 Park and Ride—Parking Revenues Only.
99 Other Primary Ride Fares.
402. Special Transit Fares.*
01 Contract Fares for Postmen.
02 Contract Fares for Policemen.
03 Special Route Guarantees.
04 Other Special Contract Transit Fares—State and Local Government.
05 Other Special Contract Transit Fares—Other Sources.
07 Non-Contract Special Service Fares.
403. School Bus Service Revenues.*
01 Passenger Fares from School Bus Service.
404. Freight Tariffs.*
01 Hauling Freight.
405. Charter Service Revenues.*
01 Passenger Fares from Charter Service.
406. Auxiliary Transportation Revenues.*
01 Station Concessions.
02 Vehicle Concessions.
03 Advertising Services.
04 Automotive Vehicle Ferriage.
99 Other Auxiliary Transportation Revenues.
407. Nontransportation Revenues.*
01 Sales of Maintenance Services.
02 Rental of Revenue Vehicles.
03 Rental of Buildings and Other Property.
04 Investment Income.
05 Parking Lot Revenue.
99 Other Nontransportation Revenues.
408. Taxes Levied Directly by Transit System.*
01 Property Tax Revenue.
02 Sales Tax Revenue.
03 Income Tax Revenue.
04 Payroll Tax Revenue.
05 Utility Tax Revenue.
99 Other Tax Revenue.
409. Local Cash Grants and Reimbursements.*
01 General Operating Assistance.
02 Special Demonstration Project Assistance—Local Projects.
03 Special Demonstration Project Assistance—Local Share for State Projects.
04 Special Demonstration Project Assistance—Local Share for UMTA Projects.
05 Reimbursement of Taxes Paid.
06 Reimbursement of Interest Paid.
07 Reimbursement of Transit System Maintenance Costs.
08 Reimbursement for Snow Removal Costs.
09 Reimbursement of Security Costs.
99 Other Financial Assistance.
410. Local Special Fare Assistance.*
01 Handicapped Citizen Fare Assistance.
02 Senior Citizen Fare Assistance.
03 Student Fare Assistance.
99 Other Special Fare Assistance.
411. State Cash Grants and Reimbursements.*
01 General Operating Assistance.
03 Special Demonstration Projects Assistance—State Projects.
04 Special Demonstration Project Assistance—State Share for UMTA Projects.
05 Reimbursement of Taxes Paid.
06 Reimbursement of Interest Paid.
07 Reimbursement of Transit System Maintenance Costs.
09 Reimbursement of Security Costs.
99 Other Financial Assistance.
412. State Special Fare Assistance.*
01 Handicapped Citizen Fare Assistance.
02 Senior Citizen Fare Assistance.
03 Student Fare Assistance.
99 Other Special Fare Assistance.
413. Federal Cash Grants and Reimbursements.*
01 General Operating Assistance.
04 Special Demonstration Project Assistance.
99 Other Financial Assistance.
430. Contributed Services.*
01 State and Local Government.
02 Contra Account for Expense.
440. Subsidy From Other Sectors of Operations.*
01 Subsidy from Utility Rates.
02 Subsidy from Bridge and Tunnel Tolls.
99 Other Subsidies.

*Denotes required object classes.

Table 6 presents the classification for assets, liabilities and capital accounts required under section 15. Table 7 is a more detailed list which includes recommended balance sheet accounts that have been developed to assist transit agencies in implementing the section 15 requirements.

Table 6.—Required Balance Sheet Object Classes

Required Balance Sheet Object Classes

Assets

101. Cash and Cash Items.
102. Receivables.
103. Materials and Supplies Inventory.
104. Other Current Assets.
105. Work in Progress.
111. Tangible Transit Operating Property.
03 Accumulated Depreciation.
112. Tangible Property Other Than for Transit Operations.
02 Accumulated Depreciation.
121. Intangible Assets.
06 Accumulated Amortization.
131. Investments.
141. Special Funds.
151. Other Assets.

Liabilities

201. Trade Payables.
202. Accrued Payroll Liabilities.
203. Accrued Tax Liabilities.
204. Short-Term Debt.
205. Other Current Liabilities.
211. Advances Payable.
221. Long-Term Debt.
231. Estimated Liabilities.
241. Deferred Credits.

Capital

301. Public (Governmental) Entity Ownership.
302. Private Corporation Ownership.
303. Private Noncorporate Ownership.
304. Grants, Donations and Other Paid-In Capital.
305. Accumulated Earnings (Losses).

Table 7.—Recommended Balance Sheet Object Classes

Recommended Balance Sheet Object Classes

Assets

101. Cash and Cash Items.*
- 01 Cash.
- 02 Working (Imprest) Funds.
- 03 Special Deposits, Interest.
- 04 Special Deposits, Dividends.
- 09 Special Deposits, Other.
- 06 Temporary Cash Investments.

102. Receivables.*
- 01 Accounts Receivable.
- 02 Notes Receivable.
- 03 Interest and Dividends Receivable.
- 04 Receivables from Associated Companies.
- 05 Receivable Subscriptions to Capital Stock.
- 06 Receivables for Capital Grants.
- 07 Receivables for Operating Assistance.
- 08 Other Receivables.
- 09 Reserve for Uncollectible Accounts.

103. Materials and Supplies Inventory.*

104. Other Current Assets.*

105. Work in Progress.*
- 01 Unbilled Work for Others.
- 02 Capital Projects.

111. Tangible Transit Operating Property.*
- 01 Property Cost.
- 02 Leased-Out Property Cost.
- 03 Accumulated Depreciation.*

112. Tangible Property Other Than for Transit Operations.*
- 01 Property Cost.
- 02 Accumulated Depreciation.*

121. Intangible Assets.*
- 01 Organization Costs.
- 02 Franchises.
- 03 Patents.
- 04 Goodwill.
- 05 Other Intangible Assets.
- 06 Accumulated Amortization.*

131. Investments.*
- 01 Investments and Advances, Associated Companies.
- 02 Other Investments and Advances.
- 03 Reserve for Revaluation of Investments.

141. Special Funds.*
- 01 Sinking Funds.
- 02 Capital Asset Funds.
- 03 Insurance Reserve Funds.
- 04 Pension Funds.
- 05 Other Special Funds.

151. Other Assets.*
- 01 Prepayments.
- 02 Miscellaneous Other Assets.

Liabilities

201. Trade Payables.*
- 01 Accounts Payable.
- 02 Payables to Associated Companies.

202. Accrued Payroll Liabilities.*

203. Accrued Tax Liabilities.*

204. Short-Term Debt.*
- 01 Notes Payable.
- 02 Matured Equipment and Long-Term Obligations.
- 03 Unmatured Equipment and Long-Term Obligations, Current Portion.
- 04 Matured Interest Payable.
- 08 Accrued Interest Payable.
- 06 Current Pension Liabilities.

205. Other Current Liabilities.*
- 01 Unredeemed Fares.
- 02 C.O.D.s Unremitted.
- 03 Dividends Declared and Payable.
- 04 Short-Term Construction Liabilities.
- 05 Miscellaneous Other Current Liabilities.

211. Advances Payable.*
- 01 Advances Payable to Associated Companies.
- 02 Other Advances Payable.

221. Long-Term Debt.*
- 01 Equipment Obligations.
- 02 Bonds.
- 03 Receivers' and Trustees' Securities.
- 04 Long-Term Construction Liabilities.
- 05 Other Long-Term Obligations.
- 06 Unamortized Debt Discount and Expense.
- 07 Unamortized Premium on Debt.
- 08 Reacquired and Nominally Issued Long-Term Obligations.

231. Estimated Liabilities.*
- 01 Long-Term Pension Liabilities.
- 02 Uninsured Public Liability and Property Damage Losses.
- 03 Other Estimated Liabilities.

241. Deferred Credits.*

Capital

301. Public (Governmental) Entity Ownership.*

302. Private Corporation Ownership.*
- 01 Preferred Capital Stock.
- 02 Common Capital Stock.
- 03 Premiums and Assessments on Capital Stock.
- 04 Discount on Capital Stock.
- 05 Commission and Expense on Capital Stock.
- 06 Capital Stock Subscribed.
- 07 Reacquired Securities.
- 08 Nominally Issued Securities.

303. Private Noncorporate Ownership.*
- 01 Sole Proprietorship Capital.
- 02 Partnership Capital.

304. Grants, Donations and Other Paid-In Capital.*
- 01 Federal Government Capital Grants.
- 02 State Government Capital Grants.
- 03 Local Government Capital Grants.
- 04 Nongovernmental Donations and Other Paid-In Capital.

305. Accumulated Earnings (Losses).*
- 01 Accumulated Earnings (Losses).
- 02 Dividend Appropriations.
- 03 Restricted Accumulated Earnings.

* Denotes required object classes.

The Uniform System of Accounts and Records also includes collecting and recording of certain operating data elements. The required operating data elements are listed in Table 8.

Table 8.—Required Operating Data Elements

Basic Information

Transit System Identification
Contractual Relationship Identification
Vehicles (for Directly Operated and Purchased Transportation Services) Operated in and Available for Maximum Service by Mode, Vehicle Type, and Ownership Identification
Supplementary Information
Summary of Statistics Used for the Section 9 Apportionment by Mode, Fixed Guideway and Nonfixed Guideway Operations, Type of Service, and Urbanized Area

Service Periods

Revenue Vehicles Maintenance Performance and Energy Consumption
Roadcalls for Mechanical Failure
Roadcalls for Other Reasons
Labor Hours for Inspection and Maintenance
Number of Light Maintenance Facilities
Energy Consumption

Transit Way Mileage

Fixed Guideway Classifications for Rail and Nonrail Modes
Directional Route Miles
Miles of Track
Number of Crossings
Number of Stations

Employee Equivalents

Operating and Capital Employee Equivalents for Labor Classifications

Service Supplied

Number of Vehicles, Trains, and Passenger Cars in Operation
Total Actual Vehicle, Train, and Passenger Car Revenue Miles
Total Scheduled Vehicle and Passenger Car Revenue Miles
Total Actual Vehicle, Train, and Passenger Car Miles
Miles of Charter and School Bus Service
Total Actual Vehicle, Train, and Passenger Car Revenue Hours
Total Actual Vehicle, Train, and Passenger Car Hours
Hours of Charter and School Bus Service
Service Consumed (Not required of transit agencies with 25 or fewer revenue vehicles operated in maximum service and for all purchased transportation services, i.e., private or public carriers providing transit service under contract to a public agency)
Unlinked Passenger Trips
Passenger Miles
Service Personnel Classifications
Service Operated and Nonoperated (Days) Classifications
Revenue Vehicle Inventory

The definitions for the above expense object classes, functions, revenue object classes, balance sheet object classes, and operating data elements are contained in the Reference Volumes.

F. The Reporting System

The section 15 Reporting System consists of forms and procedures for transmitting data from transit agencies to UMTA. All beneficiaries of Federal financial assistance must submit the required forms and information in order to allow UMTA to: (1) store and generate data and information on the Nation's mass transportation systems; and (2) (for urbanized areas of 200,000 or more inhabitants) calculate the apportionment allocations for the Section 9 formula grant program. The reporting requirements include the following major segments, which are based on information assembled through the Uniform System of Accounts and Records:

(1) Balance sheet.
(2) Revenue report.
(3) Expense report.
(4) Nonfinancial operating data reports.
(5) Miscellaneous auxiliary questionnaires and subsidiary schedules.
(6) Data certifications.
(7) Metropolitan Planning Organization statement.

The following Table 9 lists all reporting forms required to be filed (R-Level) by all reporters:

Table 9.—Required-level Reporting Forms

Basic Information Forms

Transit System Identification Schedule
Contractual Relationship Identification Schedule
Maximum Service Vehicles Summary Schedule—Directly Operated Service
Maximum Service Vehicles Summary Schedule—Purchased Transportation
Supplemental Information Schedule
Section 9 Statistics Summary

Capital Report Forms

Balance Sheet Summary Schedule
Capital Subsidiary Schedule—Sources of Public Capital Assistance

Revenue Report Forms

Revenue Summary Schedule
Revenue Subsidiary Schedule—Sources of Public Assistance

Expense Report Forms

Expenses Classified by Function
Operators Wages Subsidiary Schedule[1]
Fringe Benefits Subsidiary Schedule[1]
Pension Plan Questionnaire[1]

Non-Financial Operating Data Report Forms

Transit System Service Period Schedule
Revenue Vehicle Maintenance Performance and Energy Consumption Schedule
Transit Way Mileage Schedule
Transit System Employee Equivalent Schedule
Transit System Accidents Schedule
Transit System Service Supplied, Service Consumed, Service Personnel, and Service Operated Schedule[2]
Revenue Vehicle Inventory Schedule

The section 15 Reporting System includes several data certification requirements.

(a) Transit reporting agencies must submit with their section 15 Report a letter or report signed by an independent public accountant or other responsible independent entity such as a State audit agency. This statement must attest to the conformity, in all material respects, of the financial data reporting forms in the section 15 Report with the Uniform System of Accounts and Records and Reporting System. The letter or report shall also state whether any of the reporting forms do not conform to the section 15 requirements, and describe the discrepancies.

A transit reporting agency need not submit the above financial data certification if it (1) has adopted the Uniform System of Accounts and Records, (2) has previously submitted a section 15 Report compiled using the Uniform System of Accounts and Records with certification by an independent auditor, and (3) it submits with its Report a certification signed by the agency's Chief Executive Officer attesting that the accounting system from which the section 15 Report is derived follows the accounting system prescribed by the section 15 Uniform System of Accounts and Records.

A suggested form of a financial data certification letter or report follows:

"In connection with our regular examination of the financial statements of _____ for the year ended _____ on which we have reported separately under date of _____, we have also reviewed the reporting forms listed below and included in the _____ report for the year ended _____, required under section 15 of the Urban Mass Transportation Act, for conformity in all material respects with the requirements of the Urban Mass Transportation Administration as set forth in its applicable Uniform System of Accounts and Records and Reporting System. Our review for this purpose included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances. We did not make a detailed examination such as would be required to determine that each transaction has been recorded in accordance with the Uniform System of Accounts and Records.

List of Reporting Forms Being Reported Upon

Based on our review, in our opinion, the accompanying reporting forms identified above (except as noted below) conform in all material respects with the accounting requirements of the Urban Mass Transportation Administration as set forth in its applicable Uniform System of Accounts and Records and Reporting System.

(b) Certification of the data used to apportion section 9 funds is required for all reporting agencies that are in or serve urbanized areas with populations of 200,000 or more. The section 9 data certification must be signed by an independent auditor. The data used to apportion section 9 funds are: directional route miles, vehicle revenue miles, passenger miles, and operating cost. The certification should attest to the following items.

—A system is in place and maintained for recording data in accordance with section 15 definitions;
—To the accuracy of all data contained in the section 15 Report; that all data submitted in the section 15 Report accord with section 15 definitions; and
—If applicable, that the transit reporting agency's accounting system used to derive all data submitted in the section 15 Report is the section 15 Uniform System of Accounts and Records.

A suggested form of a CEO section 15 certification statement follows:

"I hereby certify to the following concerning the financial and non-financial/operating data submitted in the (name of agency's) section 15 report for its fiscal year ending _____:

1. The financial and non-financial/operating data (a) are accurate and truthful records of the financial transactions and operations of the (name of agency) and (b) conform, in all material respects, with the accounting and definition requirements of the Urban Mass Transportation Administration's (UMTA) Uniform System of Accounts and Records and Reporting system.

2. The attestations below pertain to directional route mile, vehicle revenue mile, passenger mile and operating cost data used in the formula to apportion section 9 funds:[3]

a. There is a system in place and maintained for recording data in accordance with section 15 definitions;

b. There are available source documents to support the reported data. These documents will be kept for UMTA review and audit at any time up to three years following UMTA's receipt of the section 15 report.

c. There is a system in place to record these data on a continuing basis.

d. There is a system of internal controls to assure the accuracy of the data collection process and recording system.

e. That data collection methods are those suggested by UMTA or are at least equivalent in assuring quality and precision.

f. The data are accurate.

3. The accounting system from which this section 15 report is derived follows the accounting system prescribed by the section 15 Uniform System of Accounts and Records. The (name of agency) has adopted the Uniform System of Accounts and Records and has previously submitted a section 15 report for its fiscal year ending _____ which was compiled using the Uniform System of Accounts and Records and which contained a section 15 financial data certification signed by an independent auditor."[4]

_____
Signed

_____
Date

(4) All transit agencies must submit with their annual section 15 Report a statement from their local Metropolitan Planning Organizations providing the agencies' service area square miles and service area populations.

Issued on: May 2, 1986.

Ralph L. Stanley,
Administrator.

[FR Doc. 86-10248 Filed 5-7-86; 8:45 am]
BILLING CODE 4910-57-M

[1] Transit agencies with 25 or fewer revenue vehicles operated in maximum service are not required to submit this Form.

[2] Transit agencies with 25 or fewer revenue vehicles operated in maximum service and all purchased transportation services (i.e., private or public carriers providing transit service under contract to a public agency) are not required to report Service Consumed data.

[3] Paragraph No. 2 is applicable only for reporting agencies that are in or serve urbanized areas with populations of 200,000 or more.

[4] Paragraph No. 3 may be included for reporting agencies which meet the applicable criteria and in lieu of an independent auditor's financial data certification.

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Part III

Department of Education

Handicapped Children's Early Education Program; Annual Funding Priorities; Notice

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DEPARTMENT OF EDUCATION

Handicapped Children's Early Education Program; Annual Funding Priorities

AGENCY: Department of Education.

ACTION: Notice of Final Annual Funding Priorities.

SUMMARY: The Secretary announces annual funding priorities for the Handicapped Children's Early Education Program. These priorities would support applications which: (a) stress community involvement and cooperation of agencies at State and local levels for handicapped children age birth through five; (b) address the needs of unserved and underserved populations age birth through two, especially those children with severe or multiple handicaps; or (c) demonstrate provision of comprehensive services in the least restrictive environment for handicapped children age three through five.

EFFECTIVE DATE: These priorities take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of these priorities, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas E. Finch, Early Childhood Branch, Division of Innovation and Development, Special Education Programs, Department of Education, 330 C Street SW., (Switzer Building, Room 3511—M/S 2313), Washington, DC 20202. Telephone: (202) 732–1084.

SUPPLEMENTARY INFORMATION: The Handicapped Children's Early Education Program (HCEEP) was established under Pub. L. 91–230 on April 13, 1970, and is currently authorized by section 623 of Part C of the Education of the Handicapped Act, as amended by Pub. L. 98–199. The purpose of the program is to support experimental preschool and early childhood education projects and early childhood State Plan projects. These projects are intended to demonstrate improved program models for handicapped children from birth through eight years of age. The focus of this competition is on the development of model demonstration projects to assist in developing and implementing innovative and experimental practices that establish specific strategies and products worthy of dissemination and replication. Awards will be made in all priority areas described below. The Secretary may award grants or cooperative agreements.

A notice of proposed annual funding priorities was published in the **Federal Register** on October 3, 1985 at 50 FR 40472. The public was given thirty days in which to comment. No comments were received.

Priorities

In accordance with the Education Department General Administrative Regulations at 34 CFR 75.105(b)(2) and 75.105(c)(3)(i), and subject to available funds, the Secretary gives an absolute preference to each application which provides satisfactory assurance that the recipient will use funds made available to conduct the following activities:

(a) *Community Involvement Demonstrations.* This priority supports projects which stress community involvement and cooperation of agencies at State and local levels which serve handicapped children from birth through age five (0–5). Five grants are anticipated to be awarded for a total of $500,000.

(b) *Severely Handicapped Infants Demonstrations.* This priority supports projects which address the needs of unserved and underserved handicapped infants from birth through two years (0–2), especially those who are severely and multiply handicapped. Nine grants are anticipated to be awarded for a total of $935,000.

(c) *Least Restrictive Environment.* This priority supports projects which provide comprehensive services for handicapped children aged three through five (3–5) in the least restrictive environment which facilitate entry into the regular classroom. Projects would focus on the development of an integrated service delivery model to support innovative practices and methods which reflect consideration of child development, involvement of medical, social, education and other related services, and which include parent participation. Six grants are anticipated to be awarded for a total of $600,000.

(20 U.S.C. 1423)

(Catalog of Federal Domestic Assistance Number 84.024; Handicapped Children's Early Education Program)

Dated: May 5, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86–10354 Filed 5–7–86; 8:45 am]

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Part IV

Department of Agriculture

Cooperative State Research Service

Rangeland Research Grants Program for Fiscal Year 1986; Solicitation of Applications; Notice

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DEPARTMENT OF AGRICULTURE

Cooperative State Research Service

Rangeland Research Grants Program for Fiscal Year 1986; Solicitation of Applications

Notice is hereby given that under the authority contained in Section 1480 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3333), the Cooperative State Research Service (CSRS) of the United States Department of Agriculture (USDA) anticipates awarding standard project grants for basic studies in certain areas of rangeland research. The total amount expected to be available for this program during fiscal year 1986 is approximately $454,991. No more than $80,000 will be awarded for the support of any one project, regardless of the amount requested. The award of any grant is contingent upon the availability of funds.

Under this program, the Secretary may award grants to land-grant colleges and universities, State agricultural experiment stations, and to colleges, universities, and Federal laboratories having a demonstrable capacity in rangeland research. Except in the case of Federal laboratories, each grant recipient must match the Federal funds expended on a research project based on a formula of 50 percent Federal and 50 percent non-Federal funding. Proposals received from scientists at non-United States organizations or institutions will not be considered for support.

Applicable Regulations

This program is subject to the provisions found at 7 CFR Part 3401 (51 FR 16152, April 30, 1986). These provisions set forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals, the awarding of grants, and regulations relating to the post-award administration of grant projects. Pursuant to Section 1473 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3319), funds made available under this program to recipients other than Federal laboratories shall not be subject to reduction for indirect costs or for tuition remission costs; therefore, funds should not be requested for these costs except in the case of Federal laboratories. In addition, USDA Uniform Federal Assistance Regulations, 7 CFR Part 3015, as amended will apply to this program.

How to Obtain Application Materials

Copies of this solicitation, the Research Grant Application Kit, and the Administrative Provisions for this program (7 CFR Part 3401) may be obtained by writing to the address or calling the telephone number which follows: Proposal Services Unit, Grants Administrative Management, Office of Grants and Program Systems, U.S. Department of Agriculture, Room 007, Justin Smith Morrill Building, 15th and Independence Avenue SW., Washington, DC 20251, Telephone Number (202) 475–5049.

What to Submit

An original and nine copies of each proposal submitted under this program are requested. This number of copies is necessary to permit thorough, objective peer evaluation of all proposals received before funding decisions are made. In addition to other required forms and certifications included in the Research Grant Application Kit, an original and nine copies of Form S&E–661, "Grant Application," are requested. Proposers should submit the original copy of this form which must contain pen-and-ink signatures of the principal investigator(s) and the authorized organizational representative.

All copies of each proposal must be mailed in one package. Please see that each copy of each proposal is *stapled securely* in the upper left-hand corner. DO NOT BIND. Information should be typed on one side of the page only.

Every effort should be made to ensure that the proposal contains all pertinent information when submitted. Prior to mailing, compare your proposal with the Application Requirements checklist contained in the Research Grant Application Kit and instructions found in 7 CFR Part 3401. If applicable, the research grant proposal must state that the 50 percent non-Federal funding requirement will be met.

Where and When to Submit Grant Applications

Each research grant application must be submitted to: Grants Administrative Management; Attention: Proposal Services Unit; Office of Grants and Program Systems; U.S. Department of Agriculture; Room 007, Justin Smith Morrill Building; 15th and Independence Avenue SW.; Washington, DC 20251.

To be considered for funding during Fiscal Year 1986, proposals must be received in the Grants Administrative Management office by the close of business on *June 9, 1986.* One copy of each proposal not selected for funding will be retained for a period of one year. The remaining copies will be destroyed.

Specific Areas of Research to be Supported in Fiscal Year 1986

Standard project grants will be awarded to support basic research in certain areas of rangeland research. Proposals will be considered in the following specific areas: (1) Management of rangelands and agricultural land as integrated systems for more efficient utilization of crops and waste products in the production of food and fiber; (2) methods of managing rangeland watersheds to maximize efficient use of water and improve water yield, water quality, and water conservation, to protect against onsite and offsite damage to rangeland resources from floods, erosion and other detrimental influences, and to remedy unsatisfactory and unstable rangeland conditions; and (3) revegetation and rehabilitation of rangelands including the control of undesirable species of plants.

If necessary, further information may be obtained by calling Dr. Wayne K. Murphey, CSRS–USDA; telephone: (202) 447–2044.

Supplementary Information

For reasons set forth in the Final rule-related Notice to 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983), this program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the collection of information requirements contained in this Notice has been approved under OMB Document No. 0525–0001.

Done at Washington, DC, this 5th day of May 1986.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 86–10383 Filed 5–7–86; 8:45 am]

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Rules and Regulations

Federal Register
Vol. 51, No. 90
Friday, May 9, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 2

Revision of Delegation of Authority; Agricultural Statistics

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This document revises the delegations of authority from the Secretary of Agriculture and general officers of the Department to reflect the renaming of the Statistical Reporting Service as the National Agricultural Statistics Service and the renaming of the Crop Reporting Board as the Agricultural Statistics Board.

EFFECTIVE DATE: May 9, 1986.

FOR FURTHER INFORMATION CONTACT: Raymond R. Hancock, Deputy Administrator, National Agricultural Statistics Service, USDA, Room 4117, South Building, 12th and Independence Avenue SW., Washington, DC 20250. Telephone (202) 447–4415.

SUPPLEMENTARY INFORMATION: The Statistical Reporting Service collects and publishes agricultural statistics vital to farmers, processors, handlers, and government policymakers. Each year, through its Crop Reporting Board, the agency issues about 300 national and 7,000 State reports providing broad statistics about agriculture. These reports cover about 120 crops and 45 livestock items. Concurrent with an internal reorganization, the Statistical Reporting Service is being renamed the National Agricultural Statistics Service and the Crop Reporting Board is being renamed the Agricultural Statistics Board to better reflect assigned responsibilities.

This rule relates to internal agency management. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity for comment are not required and this rule may be made effective in less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management, it is exempt from the provisions of Executive Order 12291. Also, this action is not a rule as defined by Public Law 96–354, the Regulatory Flexibility Act, and thus is exempt from the provisions of that Act.

List of Subjects in 7 CFR Part 2

Authority delegations (Government agencies).

PART 2—DELEGATIONS OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Accordingly, 7 CFR Part 2 is amended as follows:

1. The authority citation for Part 2 continues to read as follows:

Authority: 5 U.S.C. 301 and Reorganization Plan No. 2 of 1953, except as otherwise stated.

Subpart C—Delegations of Authority to the Deputy Secretary, the Under Secretary for International Affairs and Commodity Programs, the Under Secretary for Small Community and Rural Development, and Assistant Secretaries

2. Section 2.27 is amended by revising the text of paragraph (a)(6) to read as follows:

§ 2.27 Delegations of authority of the Assistant Secretary for Economics.

* * * * * *

(a) * * *

(6) Prepare crop and livestock estimates and administer reporting programs including estimates of production, supply, price and other aspects of the U.S. agricultural economy, collection of statistics, conduct of enumerative and objective measurement surveys, construction and maintenance of sampling frames, and related activities. Prepare reports of the Agricultural Statistics Board of the Department of Agriculture covering official state and national estimates (7 U.S.C. 411(a), 475, 476, and 951).

* * * * *

3. Section 2.28 is amended by revising the text of paragraph (a)(2) to read as follows:

§ 2.28 Reservations of authority.

* * * * * *

(a) * * *

(2) Final action on rules and regulations for the Agricultural Statistics Board.

Subpart K—Delegations of Authority by the Assistant Secretary for Economics

4. Section 2.65 is amended by revising the heading, introductory paragraph (a), and paragraph (a)(1) to read as follows:

§ 2.65 Administrator, National Agricultural Statistics Service.

(a) *Delegations.* Pursuant to § 2.27 (a) and (c), subject to reservations in § 2.28(a), the following delegations of authority are made by the Assistant Secretary for Economics to the Administrator, National Agricultural Statistics Service:

(1) Prepare crop and livestock estimates and administer reporting programs including estimates of production, supply, price and other aspects of the U.S. agricultural economy, collection of statistics, conduct of enumerative and objective measurement surveys, construction and maintenance of sampling frames, and related activities. Prepare reports of the Agricultural Statistics Board of the Department of Agriculture covering the official state and national estimates (7 U.S.C. 411(a), 475, 476, and 951).

* * * * *

For Subpart C:
Richard E. Lyng,
Secretary.
Dated: April 30, 1986.
For Subpart K:
Robert L. Thompson,
Dated April 30, 1986.

[FR Doc. 86–10477 Filed 5–8–86; 8:45 am]
BILLING CODE 3410–90–M

Commodity Credit Corporation

7 CFR Part 704

Conservation Reserve Program (CRP) Amendments

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim rule.

SUMMARY: The purpose of this interim rule is to amend the regulations governing the Conservation Reserve Program (CRP) which were published as

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an interim rule on March 13, 1986, to: (1) Correct a typographical error in 7 CFR § 704.10, and (2) provide that the Commodity Credit Corporation (CCC) may reject any or all contract offers to place land in the CRP including offers submitted by persons who have revoked a prior offer to place such land into the CRP in violation of the provisions of 7 CFR 704.10(c) and by persons who have violated the terms and conditions of an earlier CRP contract covering such land.

Since this interim rule amends provisions of Title 7 of the Code of Federal Regulations which were added by an interim rule published on March 13, 1986, (51 FR 8780), the comment period for the previously published interim rule has been extended to coincide with the comment period applicable to this interim rule.

EFFECTIVE DATE: May 5, 1986. Comments must be received on or before June 9, 1986, in order to be assured of consideration.

ADDRESS: Comments may be mailed to the Director, Conservation and Environmental Protection Division, ASCS, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Mr. Gordell A. Brown, Director, Conservation and Environmental Protection Division, ASCS, P.O. Box 2415, Washington, DC 20013, (202) 447–6221.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and provisions of Departmental Regulation 1512–1 and has been classified as "nonmajor." It has been determined that these provisions will not result in: (1) An annual effect on the national economy of $100 million or more; (2) major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 533 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental assessment that this action will have no significant adverse impacts on the quality of the human environment. Therefore, an environmental impact statement is not needed. Copies of the environmental assessment are available upon written request.

The titles and numbers of the Federal Assistance Program to which this rule applies are: Title: Conservation Reserve Program; Number 10.080, as found in the catalog of Federal Domestic Assistance.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See Notice related to 7 CFR Part 3015 Subpart V, published at 48 FR 29115 (June 24, 1983).

Subtitle D of Title XII of the Food Security Act of 1985 (the "Act"), approved December 23, 1985, provides that the Secretary of Agriculture shall establish the Conservation Reserve Program for the 1986 through 1990 crop years. The Act authorizes the Secretary to enter into long-term contracts with owners and operators of highly erodible cropland to assist such owners and operators in converting such land to permanent vegetative cover in order to conserve and improve the Nation's soil and water resources.

On March 13, 1986, an interim rule was published (51 FR 8780) which set forth the terms and conditions of the CRP authorized by Subtitle D of Title XII of the Act. It has been determined that the interim rule should be amended in order to make corrections and to make certain changes which are necessary for the administration of the CRP as follows:

Section 1234(C) of the Act provides that the Secretary may determine annual rental payments which are to be made to participants in the CRP through the submission of bids or by such other means as the Secretary deems appropriate and cost effective. The legislative history of the Act indicates that Congress considered the competitive bid system to be the most cost-effective means of identifying the least productive and most erosion prone acreage. However, the efficacy of the bidding process is undermined if persons are able to withdraw offered bids or are able to unilaterally terminate CRP Contracts which have already been executed in order to submit a higher bid with respect to the same land at a later time. Therefore, it has been determined that § 704.10 of the interim rule should be amended to provide that CCC may reject any and all offers received to place land into the CRP, including offers received from: (1) Applicants who have submitted a previous offer to place such land into the CRP at a lower annual rental rate and revoked such earlier offer in violation of the provisions of § 704.10(c); and (2) applicants who have violated any other terms and conditions of an earlier CRP Contract covering such land.

It is the intention of CCC to waive the assessment of liquidated damages against persons who have revoked offers to participate in the CRP in violation of the provisions of § 704.10(c) if such persons resubmit their offers to CCC at the same bid level as the original offer.

In addition, § 704.10(b)(2) of the interim rule is being revised in order to correct a typographical error.

Since a second period during which persons may submit offers to participate in the CRP is scheduled to begin on May 5, 1986, it has been determined that this interim rule shall be effective May 5, 1986. However, comments are requested with respect to this interim rule and such comments, in addition to the comments received in response to the interim rule published on March 13, 1986 (51 FR 8780), shall be considered in developing the final rule.

Since this interim rule amends provisions added to Title 7 of the Code of Federal Regulations by the interim rule published on March 13, 1986 (51 FR 8780), the comment period for the interim rule published at 51 FR 8780 is extended to June 9, 1986.

Lists of Subjects in 7 CFR Part 704

Administrative practices and procedures, Conservation plan, Contracts, Technical assistance, Natural resources, Wildlife.

Interim Rule

PART 704—[AMENDED]

Accordingly, the regulations at 7 CFR Part 704 Subpart—Conservation Reserve Program, are amended as follows:

1. The authority citation for 7 CFR Part 704, Subpart—Conservation Reserve Program, continues to read as follows:

Authority: Secs. 1201, 1231–1244, Pub. L. 99–198, 99 Stat. 1354.

2. Section 704.10 is amended by correctly adding paragraph (b)(2) and by adding a new paragraph (f) to read as follows:

§ 704.10 CRP Contract.

* * * * *

(b) * * *

(2) The offer of the applicant, and

* * * * *

(f) CCC may reject any and all offers to place land into the CRP, including offers received from:

(1) applicants who have submitted a previous offer to place such land into the CRP at a lower annual rental rate and revoked such earlier offer in violation of the provisions of § 704.10(c); and

(2) applicants who have violated any other terms and conditions of an earlier CRP Contract covering such land.

Signed at Washington, DC on May 2, 1986.

Richard E. Lyng,

Secretary of Agriculture.

[FR Doc. 86–10453 Filed 5–6–86; 2:01 pm]

BILLING CODE 3410–05–M

Office of the Secretary

7 CFR Part 3015

Uniform Federal Assistance Regulations; Competition in the Awarding of Discretionary Grants and Cooperative Agreements

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This final rule amends 7 CFR Part 3015, Subpart Q, by adding a new section to implement Secretary's Memorandum (SM) 5000–2, "Competition in the Awarding of Contracts, Grants, and Cooperative Agreements to Further Research, Extension, and Teaching Programs", dated August 13, 1984. SM 5000–2 established USDA policy regarding competition in the awarding of grants and cooperative agreements to further research, extension, or teaching programs in the food and agricultural sciences. This final rule establishes Departmentwide standards and procedures for carrying out the objective of USDA to support competiton in its awarding of discretionary grants and cooperative agreements reflecting assistance relationships.

EFFECTIVE DATE: May 9, 1986.

FOR FURTHER INFORMATION CONTACT: Ms. Lyn Zimmerman, Office of Finance and Management, USDA, Room 2117–B, Auditors Building, 201 14th Street, SW., Washington, DC 20250 (Telephone (202) 382–1553).

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291

This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been classified "not major." The rule will not have an annual effect on the economy of $100 million or more, nor is it likely to result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. Because this rule will not affect the business community, it will not result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

Although this final rule may directly affect recipients of Federal assistance awards administered by the Department, it has been determined that this rule will not involve a substantial or major impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increase in costs or prices for consumers, individuals, industries, Federal, State or local government agencies, or geographical regions. Additionally, John E. Carson, Director, Office of Finance and Management, has certified that it will not have a significant impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601).

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), any reporting and recordkeeping provisions that may be required by this rule will be submitted to the Office of Management and Budget (OMB) and will not be effective until OMB has approved them.

Environmental Impact Statement

This regulation does not significantly affect the environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969.

Background

Section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3318), confers general authority upon the Secretary of Agriculture to enter into contracts, grants, and cooperative agreements to further research, extension, or teaching programs in the food and agricultural sciences. Unless otherwise provided in the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended, it further authorizes the Secretary to enter into these contracts, grants, and cooperative agreements without competition.

Section 1472, therefore, authorizes an exception, in part, to the provisions of 31 U.S.C. 6301–6308, formerly the Federal Grant and Cooperative Agreement Act of 1977, which requires Federal agencies to distinguish between acquisition and assistance relationships and encourages competition in awarding grants and cooperative agreements reflecting assistance relationships. Since the Department believes in open and free competition for discretionary assistance awards, the Secretary issued policy (SM 5000–2), which restricts an individual USDA agency's authority to award grants and cooperative agreements without competition. The Secretary's policy provides that competition, to the maximum extent practicable, shall be sought in the award of USDA discretionary grants and cooperative agreements.

The benefits of competition are many. Competition gives all qualified potential recipients an opportunity to know what awards are available, provides adequate opportunity to submit proposals, and discourages favoritism. Competition also encourages improved ideas and technology and often increases the effectiveness of programs.

To ensure the benefits of competition, it is the Secretary's policy that USDA discretionary assistance awards may only be made without regard to competition in those instances where it can be determined that they are in the best interest of the Government and necessary to the accomplishment of the program or project as defined in this rule. Otherwise, all USDA discretionary grants and cooperative agreements reflecting assistance relationships shall be entered into only after competition unless the awarding official makes a determination, in writing, that competition is not deemed appropriate for the particular transaction.

On April 18, 1985, the Department published a proposed rule entitled "Competition in the Awarding of Grants and Cooperative Agreements to Further Research, Extension, and Teaching Programs" (50 FR 15433, April 18, 1985). This rule proposed to establish Departmentwide standards for carrying out the objective of USDA to support competition in the awarding of its grants and cooperative agreement activities. Comments on the proposed rule were requested by June 17, 1985.

During the comment period, the Department received 35 letters in response to the proposed rule on competition. Letters were received from

22 universities, 3 public interest groups, and 10 Federal agencies.

In light of the comments received, the Department has made various changes, primarily expanding the applicability of the competition requirement to all discretionary assistance awards, and clarifying policies and procedures.

Discussion of Comments

Preamble

Three commenters supported the rule and indicated that it was expressed in an acceptable manner, was sufficiently flexible, and was essential for research programs.

One commenter supported the process of competition for research, extension, and teaching programs but did not feel that the rule was necessary. Secretary's Memorandum (SM) 5000–2, "Competition in the Awarding of Contracts, Grants, and Cooperative Agreements to Further Research, Extension, and Teaching Programs," sets forth the Department's policy regarding competition in awarding grants and cooperative agreements and requires that the Assistant Secretary for Administration implement the policy by amending the Department's Uniform Federal Assistance Regulations.

Six commenters stated that the rule conflicts with legislative provisions, such as Sections 1402, 1405, 1409, and 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (The Act), and the proposed Agricultural Adjustment Act of 1985, commonly known as the "Farm Bill." Sections 1402, 1405, and 1409 of the Act do not address competition. Thus, there is no conflict with the policy on competition. On the other hand, Section 1472 provides that the Secretary *may* (emphasis added) enter into grants and cooperative agreements without regard to any requirements for competition. This provision gives the Secretary discretion as to whether or not USDA discretionary grants or cooperative agreements will be awarded without competition. The Secretary has indicated a preference to compete discretionary grants and cooperative agreements through issuance of SM 5000–2. We note, however, that the "Farm Bill" (since enacted as the Food Security Act of 1985, Pub. L. 99–198) contains provisions authorizing the use of cooperative agreements to document relationships other than assistance relationships. These include section 1424, which amended section 1472(b) of the Act, to authorize the use of cooperative agreements to document partnership arrangements or joint ventures in the pursuit of common research, extension or teaching objectives. In addition section 1427 of Pub. L. 99–198 added a new section 1473C to the Act to authorize the use of cooperative agreements ". . . to share the cost of a research project or to allow the use of a Federal facility or service on a cost sharing or cost reimbursable basis to develop new agricultural technology to further a research program of the Secretary." Because such uses of cooperative agreements do not reflect assistance relationships, they are not subject to the requirements of the Department's Uniform Federal Assistance Regulations. Accordingly, language has been inserted in § 3015.150, *Scope and applicability*, to clarify that the competition requirements made applicable to discretionary assistance transactions do not apply to cooperative agreements entered into pursuant to the provisions of sections 1472(b) or 1473C of the Act.

Eight commenters indicated that the rule does not recognize the difference between grants and cooperative agreements. According to 31 U.S.C. 6304 and 6305, the only difference between grants and cooperative agreements reflecting assistance relationships is that, in using the latter, substantial involvement is expected between the executive agency and the recipient when carrying out the activity contemplated in the agreement. The principal purpose of both relationships is to transfer something of value to the recipient to carry out a public purpose of support or stimulation authorized by Federal law. There is no need to distinguish between the two in the competition policy. As indicated above, however, there is a need to distinguish between cooperative agreements documenting assistance relationships and cooperative agreements documenting the relationships authorized by sections 1472(b) and 1473C of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended.

Six commenters stated that the rule would weaken the land grant university system and lessen the ties between the USDA and land grant institutions. One commenter proposed that all discretionary grants and cooperative agreements administered by the Cooperative State Research and Extension Service be excluded from the rule because they have the special responsibility to work with the State-related partners of USDA. Another commenter recommended that cooperative agreements be excluded from the rule in order to allow for the continued partnership relationship between USDA and State agricultural experiment stations.

This rule only applies to discretionary grants and cooperative agreements reflecting assistance relationships. Such discretionary grants and cooperative agreements are authorized by Federal statute, but are not required to be awarded. Further, the Federal agency makes a choice as to whom the potential recipient will be. On the other hand, if a Federal agency is required by legislation to provide assistance to a particular institution or other recipient, such awards are nondiscretionary and are thus exempt from the competition requirements. This rule does not intend to replace procedures now in place for nondiscretionary awards.

Additionally, the fact that a land grant institution provides certain nonmonetary considerations to a USDA agency or that a USDA agency has had a longstanding relationship with a particular institution are not reasons, in and of themselves, to make grant or cooperative agreement awards noncompetitively to that institution. The merits of the proposals based on the solicitations must be taken into account. Competition is viewed as a way to give land grant institutions, as well as other potential recipients, a chance to effectively and efficiently apply for Federal assistance programs.

Nine commenters stated that the rule would increase administrative costs, while ten commenters said it would increase the administrative burden and impede the award process. The Department considered this and has included an exception to competition for awards of less than $75,000. On the other hand, if a USDA agency must compete awards, but currently has no competitive awards process for grants and cooperative agreements, this rule may increase administrative costs and burden in terms of preparing solicitations and reviewing proposals in a more formal setting. If a competitive awards process is already in place, increases in the administrative costs because of this rule would be minimal. In both cases, requests for proposals should be viewed as an added efficiency in the awards process. Proposals from a number of potential applicants give the USDA agency a chance to evaluate each proposal in order to select the applicant with the best ideas. Consequently, in view of the dollar threshold, the benefits of competition should outweigh the administrative costs and efforts of a competitive awards process.

One commenter indicated that USDA policy exceptions for restricting competition in grants and cooperative agreements should be patterned after the exceptions permitted under Pub. L. 98–369 (Competition in Contracting Act of 1984) so that there will be a uniform practice established for all award instruments. Contracts are procurement instruments, while grants and the cooperative agreements that are the subject of this regulation are assistance instruments. 31 U.S.C. 6303–6305 clearly distinguishes between the two types of relationships. Therefore, we do not think it would be beneficial to try to parallel procurement with assistance in competition.

One commenter said that all USDA agencies should have the option to enter into cooperative agreements without competition. The rule provides that the awarding official may make a determination in writing that competition is not appropriate for a particular transaction. Reasons for noncompetitive awards are listed in § 3015.158(d) but are not all inclusive. As long as the awarding official can show that competition is not in the best interest of the Government for a specific project, competition can be waived.

One commenter stated that the rule relates to a program's appropriation language for the requirement for competition. As mentioned earlier, Federal legislation is a basis for deciding recipient eligibility to receive assistance under particular programs. If the language indicates that only one recipient is eligible, then competition would not be appropriate. However, if it indicates that one type of recipient is eligible, but there are several recipients of that type who can apply, then competition would be appropriate.

Only one commenter addressed our question on whether this policy should apply only to discretionary grants and cooperative agreements made to further research, extension, or teaching programs or whether the policy should be extended to all discretionary awards. The commenter thought competition should be restricted as set forth in the proposed rule. However, the Department sees no logical reason to distinguish between awards made to further research, extension, and teaching programs and other discretionary assistance awards. Since competition is deemed beneficial in either instance, the Department is applying the competition policy to all discretionary awards.

Section 3015.156(a)(1)

Two commenters stated that the delay in publishing announcements in the Federal Register, professional trade journals, agency or program handbooks, the Catalog of Federal Domestic Assistance or other appropriate means of solicitation is justification to eliminate that requirement. The Department's view is that, when the process is in place, USDA agencies will be able to plan for, and assign priorities to, program needs so that time will not become a critical factor in publishing announcements. The results of competition should prove beneficial to the Federal programs involved.

One commenter recommended that a provision be included in the rule to allow for use of an informal system that canvasses appropriate institutions to determine their capacity to conduct a particular project. Again, awards of less than $75,000 will not have to be competed. For those over $75,000, the Department does not believe that an informal canvass of certain institutions will reach the highest number of potential applicants. The canvass would cover known potential applicants, not the unknown. All potential recipients will not have an opportunity to submit applications or proposals. The Department believes that a formal solicitation will produce a higher number of quality proposals.

One commenter indicated that solicitation for proposals can be efficiently made via regular communication channels between Extension Service/USDA and all the States without the time consuming delays of publishing solicitation documents. The commenter did not indicate what the regular communication channels are. The point is that the request for proposals should reach the universe of potentially eligible applicants and not just those who are dealt with on a regular basis. This helps to eliminate the appearance of favoritism in making awards and gives new potential program participants an opportunity to apply.

Section 3015.158(a)(2)

Three commenters stated that the peer review process would be more expensive. The rule calls for independent reviewers who may be from the private sector, another agency, or within the awarding agency. Even though the reviewers would lose time from their regularly assigned duties, it is hoped that their time would be voluntary. At any rate, the Department believes that any costs, which may be incurred because of an independent review, would be surpassed by the benefits of competition and the quality results of the award.

One commenter stated that it is not necessary to use the Federal procurement competitive proposal procedures for the peer review system to work effectively for grants and cooperative agreements. The Department is not using procurement procedures which, in many cases, are more complex than the standards in this rule. In competition, a request for proposals is a logical way to give qualified applicants a chance to submit applications for funding. An independent review is a method to receive unbiased evaluations of those applications. Peer review may still be considered independent as long as the reviewers do not have approval authority for the applications being reviewed or do not appear to have conflicts of interest in that role. A conflict of interest is a factor for the reviewer because the whole process should be fair and impartial. If conflict of interest is not considered, a fair and objective selection process cannot be assured.

Section 3015.158(a)(3)

One commenter recommended that a clarification of procedures for treating unsolicited applications be made. The Department agrees and has revised the rule accordingly.

Section 3015.158(b)

No comments were received on this section.

Section 3015.158(c)

One commenter suggested that it would be more cost effective and consistent if the Department developed procedures for a Departmentwide uniform appeals process. The Department is examining this suggestion and other alternatives for due process procedures in handling appeals relating to all aspects of the administration of assistance transactions including the award process. If, as a result of that examination, a decision is made to adopt a Departmentwide procedure applicable to the award process, this section will be changed accordingly. Until such time, this section shall remain as proposed.

Section 3015.158(d)

One commenter recommended that the Administrators of the Agricultural Research Service and of the Cooperative State Research Service have an opportunity to exercise their own judgment in deciding when contracts and grants can and should be competitive in order to permit flexibility in addressing high priority research areas. Another commenter recommended that the decision for competitive awards should be left to the discretion of the appropriate Agency Administrators. We believe that

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flexibility in setting high priority research areas already rests with Agency Administrators. Competition should not hinder that flexibility. Agency Administrators have the opportunity to demonstrate or justify that a noncompetitive award is in the best interest of the Government and necessary to the accomplishment of their programs.

Two commenters stated that the additional time and cost to develop justifications for noncompetitive awards would reduce responsiveness and generate paperwork. This may be true to some extent. However, the Department believes that full and free competition will promote greater economy, efficiency, and effectiveness in the use of USDA funds. Exceptions should be justified to establish the necessity to restrict potential applicants from applying for USDA awards. The justification for a noncompetitive award would further support the documentation if an applicant appealed non-receipt of an award.

One commenter questioned the term "demonstrated" to mean to attempt competition and fail. The phrase "adequate justification" was suggested. The Department has made this change.

Another commenter requested that eradication and control of plant and animal diseases be exempt from the competitive process because it would hinder collaborative and beneficial relationships established with Federal/State entities. The Department does not believe that it is necessary to address this in the rule. The awarding/approving official has authority to justify that a noncompetitive award is in the best interest of the Government and the particular program concerned. Further, it is likely that many of these activities will be the subject of cooperative agreements under the provisions of sections 1472(b) and 1473C of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended. Such cooperative agreements are not subject to this regulation.

Four commenters suggested that the dollar limit for noncompetitive awards set forth in § 3015.158(d)(2) be raised. The Department has considered the proposals and has raised the dollar limitation for noncompetitive awards to $75,000.

One commenter suggested that the conditions in § 3015.158(d) (1), (2) and (3) permitting noncompetitive awards be eliminated. The Department believes that these exceptions are necessary. Nonmonetary awards of property and services are frequently provided by awarding agencies to assist recipients in keeping costs at a minimum, especially in those cases where a previous recipient no longer has a need for the specialized property. Because of the number of small awards made by USDA, the Department believes it would neither be cost beneficial nor increase the number of applicants to publicize awards of less than $75,000. Additionally, the Department believes that awards to fund work already in progress under a previous award are in the best interest of the Government and promote high quality and cost effective results.

One commenter agreed with § 3015.158(d)(3).

Two commenters recommended adding peer review availability and geographic proximity as exceptions for a noncompetitive award. The Department believes that, for these factors to be used as a general exception, would be too restrictive. In some cases, e.g., research on reindeer in Alaska, these factors could possibly be used to justify a noncompetitive award.

However, the Department would expect that this would be a rare justification for a noncompetitive award.

List of Subjects in 7 CFR Part 3015

Grant programs (Agriculture), Intergovernmental relations.

Issued at Washington, DC on May 2, 1986.

John J. Franke, Jr.,
Assistant Secretary for Administration.

Approved: April 21, 1986.

Richard E. Lyng,
Secretary of Agriculture.

PART 3015—UNIFORM FEDERAL ASSISTANCE REGULATIONS

Accordingly, USDA amends Subpart Q of 7 CFR Part 3015 as follows:

1. The authority citation for Part 3015 continues to read as follows:

Authority: 5 U.S.C. 301.

2. The Table of Contents is amended to add § 3015.158 as follows:

Subpart Q—Application for Federal Assistance

* * * * *

§ 3015.158 Competition in the Awarding of Discretionary Grants and Cooperative Agreements.

3. A new paragraph (d) is added to § 3015.150 as follows:

* * * * *

Subpart Q—Application for Federal Assistance

§ 3015.150 Scope and applicability.

* * * * *

(d) This subpart also prescribes standards for competition to be used by USDA agencies in awarding discretionary cooperative agreements and grants. (This subpart is not applicable to cooperative agreements awarded pursuant to the provisions of sections 1472(b) and 1473C of the National Agricultural Research, Extension and Teaching Policy Act of 1977, as amended.)

4. A new § 3015 is added as follows:

§ 3015.158 Competition in the Awarding of Discretionary Grants and Cooperative Agreements.

(a) *Standards for competition.* Except as provided in paragraph (d) of this section, awarding agencies shall enter into discretionary grants and cooperative agreements only after competition. An awarding agency's competitive award process shall adhere to the following standards:

(1) Potential applicants must be invited to submit proposals through publications such as the Federal Register, professional trade journals, agency or program handbooks, the Catalog of Federal Domestic Assistance, or any other appropriate means of solicitation. In so doing, awarding agencies should consider the broadest dissemination of project solicitations in order to reach the highest number of potential applicants.

(2) Proposals are to be evaluated objectively by independent reviewers in accordance with written criteria set forth by the awarding agency. Reviewers should make written comments, as appropriate, on each application. Independent reviewers may be from the private sector, another agency, or within the awarding agency, as long as they do not include anyone who has approval authority for the applications being reviewed or anyone who might appear to have a conflict of interest in the role of reviewer of applications. A conflict of interest might arise when the reviewer or the reviewer's immediate family members have been associated with the applicant or applicant organization within the past two years as an owner, partner, officer, director, employee, or consultant; has any financial interest in the applicant or applicant organization; or is negotiating for, or has any arrangement, concerning prospective employment.

(3) An unsolicited application, which is not unique and innovative, shall be competed under the project solicitation it comes closest to fitting. Awarding agency officials will determine the solicitation under which the application is to be evaluated. When the awarding agency official decides that the unsolicited application does not fall under a recent, current, or planned solicitation, a noncompetitive award may be made, if appropriate to do so under the criteria of this section. Otherwise, the application should be returned to the applicant.

(b) *Project solicitations.* A project solicitation by the awarding agency shall include or reference the following, as appropriate:

(1) A description of the eligible activities which the awarding agency proposes to support and the program priorities;

(2) Eligible applicants;

(3) The dates and amounts of funds expected to be available for awards;

(4) Evaluation criteria and weights, if appropriate, assigned to each;

(5) Methods for evaluating and ranking applications;

(6) Name and address where proposals should be mailed and submission deadline(s);

(7) Any required forms and how to obtain them;

(8) Applicable cost principles and administrative requirements;

(9) Type of funding instrument intended to be used (grant or cooperative agreement); and

(10) The *Catalog of Federal Domestic Assistance* number and title.

(c) *Approval of applications.* The final decision to award is at the discretion of the awarding/approving official in each agency. The awarding/approving official shall consider the ranking, comments, and recommendations from the independent review group, and any other pertinent information before deciding which applications to approve and their order of approval. Any appeals by applicants regarding the award decision shall be handled by the awarding agency using existing agency appeal procedures or good administrative practice and sound business judgment.

(d) *Exceptions.* The awarding/approving official may make a determination in writing that competition is not deemed appropriate for a particular transaction. Such determination shall be limited to transactions where it can be adequately justified that a noncompetitive award is in the best interest of the Government and necessary to the accomplishment of the goals of the program. Reasons for considering noncompetitive awards may include, but are not necessarily limited to, the following:

(1) Nonmonetary awards of property or services;

(2) Awards of less than $75,000;

(3) Awards to fund continuing work already started under a previous award;

(4) Awards which cannot be delayed due to an emergency or a substantial danger to health or safety;

(5) Awards when it is impracticable to secure competition; or

(6) Awards to fund unique and innovative unsolicited applications.

[FR Doc. 86-10331 Filed 5-8-86; 8:45 am]
BILLING CODE 3410-KS-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Coverage of Employees of State and Local Governments

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: In these regulations, we are revising our rules on agreeing to extensions of the periods during which we may assess a State for amounts due and in which a State may file its claim for refund of, or credit for, overpayments under its coverage agreement with the Secretary of Health and Human Services. (Coverage of services performed by State and local governmental employees is by agreement under section 218 of the Social Security Act (the Act)). We will agree to extend or reextend the time limit for no more than 6 months at a time and, further, will enter into reextension agreements only if certain conditions are met. With these revisions of the rules, we believe we will be more closely complying with the intent of sections 218 (q) and (r) of the Act.

EFFECTIVE DATE: May 9, 1986.

FOR FURTHER INFORMATION CONTACT: Jack Schanberger, Room 3-B-4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-6785.

SUPPLEMENTARY INFORMATION: Section 218(q)(4)(A) of the Act provides that a State and the Secretary of Health and Human Services (the Secretary) may agree in writing to extend or reextend the period specified in section 218(q)(2) in which we may assess a State for amounts due to the Secretary of the Treasury for the Social Security coverage of services performed by certain State and local governmental employees. Section 218(r)(2)(A) of the Act similarly provides for a State and the Secretary to agree in writing to extend the specified period in which a State may file a claim for a credit or refund of its overpayments. The purpose of the time limits, which became effective January 1, 1982 is to eliminate the need for the Secretary and the States to investigate the accuracy of contributions paid many years in the past and to eliminate the need for the States to keep records of employment and wages for many years.

We believe that our current policy on extensions has not had the effect intended by the law because of the increased administrative burden on the States and Social Security Administration (SSA) as a result of easily available extensions and reextensions. Therefore, we are changing our policy to achieve more efficient and effective administration. Accordingly, we are revising §§ 404.1281 and 404.1286 to provide that we will agree to extensions and reextensions for no more than 6 months at a time. In addition, the proposed extension or reextension agreement must involve and identify a known issue or reporting error, and must also identify the periods involved, the time limitation which is being extended and the date to which it is being extended, and the coverage group(s) and position(s) or individual(s) to which is applies. Further, we will enter into a reextension agreement only if at least one of five specified conditions is met.

Comments

These rules were published as a Notice of Proposed Rulemaking at 50 FR 49397 on December 2, 1985. We received no comments. We are therefore adopting these rules as proposed, except to add Office of Management and Budget approval.

Regulatory Procedures

Executive Order 12291

These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation because they affect only the States' administration of their coverage agreements with SAA. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These regulations contain reporting requirements in 20 CFR 404.1281 and 404.1286. As required by section 3504(h) of the Paperwork Reduction Act of 1980, we submitted a copy of the proposed rule to the Office of Management and Budget (OMB) for review of the reporting requirements. OMB approved the reporting requirements on January 3, 1986 under Approval No. 0960-0425

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Regulatory Flexibility Act

We certify that these regulations will not have a significant economic impact on a substantial number of small entities because they involve only exceptions to the time limitations on assessments of and claims for credit for, or refund of, amounts due or overpaid, respectively, by States. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Programs No. 13802 Social Security—Disability Insurance, 13.805 Social Security—Retirement Insurance, 13.806 Social Security—Survivors Insurance)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-age, survivors, and disability insurance.

Dated: March 21, 1986.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: April 23, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

PART 404—[AMENDED]

Subpart M of Part 404 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart M is revised to read as follows:

Authority: Secs. 205, 216, and 1102, of the Social Security Act, 53 Stat. 1368, 64 Stat. 524, 49 Stat. 647; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 631; 42 U.S.C. 405, 416, and 1302.

2. Section 404.1281 is amended by revising paragraph (a) and by removing the authority citation, to read as follows:

§ 404.1281 Exceptions to the periods of limitation.

(a)(1) *Extension by agreement.* The applicable time period described in § 404.1286 for assessment of an amount due may, before the expiration of such period, be extended for no more than 6 months by written agreement between the State and the Secretary. The agreement must involve and identify a known issue or reporting error. It must also identify the periods involved, the time limitation which is being extended and the date to which it is being extended, and the coverage group(s) and position(s) or individual(s) to which the agreement applies. The extension of the period of limitation shall not become effective until the agreement is signed by the appropriate State official and the Secretary. (See § 404.3(c) for the applicable rule where periods of limitation expire on nonwork days.) An assessment made by the Secretary before the extended time limit ends shall be considered to have been made within the time period limitation specified in section 216(q)(2) of the Act. (See § 404.1286(b)).

(2) *Reextension.* An extension agreement provided for in paragraph (a)(1) of this section may be reextended by written agreement between the State and the Secretary for no more than 6 months at a time beyond the expiration of the prior extension or reextension agreement, and only if one of the following conditions is met:

(i) Litigation (including intraState litigation) or a review under §§ 404.1270 or 404.1275 involving wage reports or corrections on the same issue is pending; or

(ii) The State is actively pursuing corrections of a known error which require additional time to complete; or

(iii) The Social Security Administration is developing a coverage or wage issue which was being considered before the statute of limitations expired and additional time is needed to make a determination; or

(iv) The Social Security Administration has not issued to the State a final audit statement on the State's wage or correction reports; or

(v) There is pending Federal legislation which may substantially affect the issue in question, or the issue has national implications.

(The reporting requirements in this section have been cleared with the Office of Management and Budget (OMB No. 0960-0428).)

* * * * *

3. Section 404.1286 is amended by revising paragraph (a) and by deleting the authority citation, to read as follows:

§ 404.1286 Exceptions to the periods of limitation.

(a)(1) *Extension by agreement.* The applicable time period described in § 404.1285 for filing a claim for credit for, or refund of, an overpayment may, before the expiration of such period, be extended for no more than 6 months by written agreement between the State and the Secretary. The agreement must involve and identify a known issue or reporting error. It must also identify the periods involved, the time limitation which is being extended and the date to which it is being extended, and the coverage group(s) and position(s) or individual(s) to which the agreement applies. The extension of the period of limitation shall not become effective until the agreement is signed by the appropriate State official and the Secretary. (See § 404.3(c) for the applicable rule where periods of limitation expire on nonwork days.) A claim for credit or refund filed by the State before the extended time limit ends shall be considered to have been filed within the time period limitation specified in section 216(r)(1) of the Act. (See § 404.1285).

(2) *Reextension.* An extension agreement provided for in paragraph (a)(1) of this section may be reextended by written agreement between the State and the Secretary for no more than 6 months at a time beyond the expiration of the prior extension or reextension agreement, and only if one of the following conditions is met:

(i) Litigation (including intraState litigation) or a review under §§ 404.1270 or 404.1275 involving wage reports or corrections on the same issue is pending; or

(ii) The State is actively pursuing corrections of a known error which require additional time to complete; or

(iii) The Social Security Administration is developing a coverage or wage issue which was being considered before the statute of limitations expired and additional time is needed to make a determination; or

(iv) The Social Security Administration has not issued to the State a final audit statement on the State's wage or correction reports; or

(v) There is pending Federal legislation which may substantially affect the issue in question, or the issue has national implications.

(The reporting requirements in this section have been cleared with the Office of Management and Budget (OMB No. 0960-0425).)

* * * * *

[FR Doc. 86-10503 Filed 5-8-86; 8:45 am]

BILLING CODE 4190-11-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Part 561

[FAP 2H5412/R812; FRL-2994-8]

Pesticide Tolerance for 3,6-Bis(2-Chlorophenyl)-1,2,4,5-Tetrazine

Correction

In FR Doc. 86-5750 beginning on page 9439 in the issue of Wednesday, March 19, 1986, make the following correction: On page 9440, in the first column, in the second line, the date should read "March 18, 1987".

BILLING CODE 1505-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 254 and 255

[Docket No. R-86-1275; FR 2194]

Technical Amendment to Provisions Relating to Section 223(f) Full Insurance and Multifamily Coinsurance; Correction

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Final rule; Correction.

SUMMARY: This document corrects a final rule that appeared in the Federal Register on Thursday, April 17, 1986 (51 FR 13140) which adopted as final certain provisions in 24 CFR Parts 207, 251 and 255 relating to section 223(f) full insurance and the coinsurance of multifamily housing projects. All revisions made in the final rule were technical in nature. This document corrects certain typographical errors and erroneous sectional cross references found in the published final rule.

FOR FURTHER INFORMATION CONTACT: Grady J. Norris, Assistant General Counsel for Regulations, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC, 20410. Telephone (202) 755-7055. (This is not a toll free telephone number.)

Accordingly, the Department is correcting FR Document 86-8532, published on April 17, 1986 (51 FR 13140) as follows:

§ 251.822 [Corrected]

1. In item 5, § 251.822, on page 13159, column one, in the introductory language to the section the reference "§251.818(a)(1)" is corrected to read "§ 251.820(a)(1)".

§ 251.826 [Corrected]

2. In item 6, § 251.826(b), on page 13160, column one, in paragraph (b) the reference to "§ 251.823(b)" is corrected to read "§ 251.824(b)".

3. In item 21, § 225.404, on page 13162, column two, the entire item is corrected to read:

§ 255.404 [Redesignated as § 255.406]

21. Section 255.404 is redesignated as § 255.406.

4. In item 22, § 225.405, on page 13162, column two, the entire item is corrected to read:

§ 255.405 [Redesignated as § 255.407]

22. Section 255.405 is redesignated as section 255.407.

§ 225.503 [Corrected]

5. In item 23, § 225.503, on page 13162, column two, each of the two references to "§ 225.503" are corrected to read "§ 255.503".

6. In item 23, § 225.503, on page 13162, the top of column two, line 9, the phrase "partial of" is corrected to read "partial or".

Dated: May 6, 1986.

Grady J. Norris,

Assistant General Counsel for Regulations.

[FR Doc. 86-10681 Filed 5-8-86; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 251 and 252

Geological and Geophysical Explorations (G&G); Oil and Gas Information Program; Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule.

SUMMARY: This document amends the regulations concerning reimbursement by the Minerals Management Service (MMS) for certain costs of data it acquires from businesses authorized to explore the OCS under permits issued by MMS. The amendments remove existing regulatory requirements for the reimbursement of permittees for costs of processing and reprocessing data and information in a form and manner utilized by the permittee in the normal conduct of business. This action is necessary to conform the regulations to the legislation appropriating funds for the Department of the Interior (DOI) in Pub. L. 99-190 for Fiscal Year (FY) 1986.

EFFECTIVE DATE: June 9, 1986.

FOR FURTHER INFORMATION CONTACT: David A. Sohneske; Chief, Rules, Orders, and Standards Branch; Offshore Rules and Operations Division; Minerals Management Service; 12203 Sunrise Valley Drive; Mail Stop 646; Reston, Virginia 22091; Telephone: (703) 648-7818, (FTS) 959-7818.

SUPPLEMENTARY INFORMATION: Exploration of the OCS for the purpose of acquiring G&G data and information is conducted by the oil and gas industry under permits and leases issued by DOI's MMS. These data and information are used to identify and evaluate areas and tracts having potential for oil, gas, and strategic mineral resources. Under section 26 of the OCS Lands Act (OCSLA) (43 U.S.C. 1352), lessees and permittees are required to provide access to and copies of such data and information obtained from their activities in the OCS as may be requested by the Secretary of the Interior (Secretary). This section also authorizes the Secretary to prescribe regulations concerning Government acquisition of these data and information and to authorize reimbursement of permittees and lessees for some of the costs associated with providing data and information to the Government.

The MMS acts for the Secretary and selectively acquires G&G data and information to augment its existing data base and to support the analyses required throughout the leasing process. The data and information are required, among other things, for the economic evaluation of offshore resources and lease sale bids to assure that the Government receives fair market value for leased lands. The types of data and information provided to MMS include processed and reprocessed, analyzed, and interpreted information.

With respect to processed and reprocessed information, section 26 of the OCSLA and the implementing regulations distinguish between data and information which are processed or reprocessed in the manner and form utilized in the normal conduct of business and those which are processed or reprocessed "in such other form and manner as the Secretary may request." For this latter category of special processing and reprocessing, both permittees and lessees are reimbursed for the reasonable costs of the processing or reprocessing and the reproduction costs.

However, with respect to reimbursement for costs of processing and reprocessing in a form and manner utilized in the normal conduct of business, lessees and permittees have been treated differently. Under the OCSLA and the regulations, lessees are not reimbursed for costs of processing and reprocessing data requested by MMS when the processing or reprocessing is in a form and manner utilized in the normal conduct of business. In contrast, the OCSLA and the regulations provide for permittees to be reimbursed for this same type of processing or reprocessing at the lowest rate available to any purchaser. Both permittees and lessees are reimbursed for the costs of reproduction of data provided to MMS.

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Public Law 99-190 making continuing appropriations for FY 1986 eliminates the authorization in the OCSLA for the reimbursement of permittees for costs of processing and reprocessing data requested by MMS in a form and manner utilized in the normal conduct of the permittee's business. This amendment implements that legislation. This change results in the same reimbursement provisions for lessees and permittees for data and information provided to MMS.

Publication of this rule as a proposed rule is unnecessary because amendment of regulations is mandatory to conform with the provisions of Pub. L. 99-190. This can be accomplished only by the elimination of the provisions for reimbursement as set forth in these amendments. For these reasons, DOI has determined that notice and opportunity to comment are unnecessary, and good cause exists to issue a final rule.

The DOI has also determined that this action does not constitute a major Federal action affecting the quality of the human environment; therefore, an environmental impact statement is not required.

The DOI certifies that this document is not a major rule within the meaning of Executive Order 12291 because the annual economic effect is less than $100 million. The savings to the Federal Government are expected to be approximately $5.4 million annually from reductions in reimbursement costs for processed geophysical data. While these costs will be paid by the oil and gas industry, they are costs which are likely to be incurred in any event in the normal course of permittees' activities in the OCS.

The DOI also certifies that the rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The capital requirements and technical complexity of hydrocarbon and other mineral or material activities in the OCS are so great that small entities generally do not have these capabilities and do not conduct business in the OCS.

The information collection requirement in § 251.13(b) has been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned clearance number 1010-0031. As permittees will no longer be reimbursed for costs of processing or reprocessing in a form and manner utilized in the normal conduct of business, a reduction in requests for reimbursement and thus of information collection is expected to result from this rule change.

Author: The document was prepared by Mary B. McDonald, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects

30 CFR Part 251

Continental shelf, Freedom of information Oil and gas exploration, Public lands/mineral resources, Reporting and recordkeeping requirements, Research.

30 CFR Part 252

Continental shelf, Freedom of information, Intergovernmental relations, Oil and gas exploration, Public lands/mineral resources, Reporting and recordkeeping requirements.

Dated: March 7, 1986.

Wm. D. Bettenberg,

Director, Minerals Management Service.

For the reasons set forth above, 30 CFR Parts 251 and 252 are amended as follows:

PART 251—[AMENDED]

1. The authority citation for Part 251 is revised to read as follows:

Authority: OCS Lands Act, 43 U.S.C. 1331 et seq., as amended, 92 Stat. 629; National Environmental Policy Act of 1969, 42 U.S.C. 4332 et seq.(1970); Coastal Zone Management Act of 1972, as amended, 16 U.S.C. 1451 et seq.; § 251.13 also issued under Pub. L. 99-190 making continuing appropriations for Fiscal Year 1986, and for other purposes.

2. Section 251.13(b) is revised to read as follows:

§ 251.13 Reimbursement to permittees.

* * * * *

(b) After the delivery to the Director of processed or reprocessed geophysical information selected and retained by the Director in accordance with § 251.12(b) and upon receipt of a request for reimbursement and a determination that the requested reimbursement is proper, the permittee or third party shall be reimbursed for the reasonable costs attributable to processing and reprocessing such information (as distinguished from the cost of data acquisition) if the processing or reprocessing was in the form and manner of processing other than that used in the normal conduct of business at the Director's request.

* * * * *

3. The authority citation for Part 252 is revised to read as follows:

Authority: OCS Lands Act, 43 U.S.C. 1331 et seq., as amended, 92 Stat. 629; Freedom of Information Act, 5 U.S.C. 552; § 252.3 also issued under Pub. L. 99-190 making continuing appropriations for Fiscal Year 1986, and for other purposes.

4. Section 252.3 is amended by revising paragraph (b)(1), removing paragraph (b)(2), revising paragraph (e)(1), and removing paragraph (e)(3). The revised paragraph read as follows:

§ 252.3 Oil and gas data and information to be provided for use in the OCS Oil and Gas Information Program.

* * * * *

(b)(1) Whenever a lessee or permittee provides any data or information, at the request of the Director and specifically for use in the OCS Oil and Gas Information Program in a form and manner of processing which is utilized by the lessee or permittee in the normal conduct of business, the Director shall pay the reasonable cost of reproducing the data and information if the lessee or permittee requests reimbursement. The cost shall be computed and paid in accordance with the applicable provisions of paragraph (e)(1) of this section.

* * * * *

(e)(1) After delivery of data or information in accordance with paragraph (b)(1) of this section and upon receipt of a request for reimbursement and a determination by the Director that the requested reimbursement is proper, the lessee or permittee shall be reimbursed for the cost of reproducing the data or information at the lessee's or permittee's lowest rate or at the lowest commercial rate established in the area, whichever is less. Requests for reimbursement must be made within 60 days of the delivery date of the data or information requested under paragraph (b)(1) of this section.

5. Other paragraphs in § 252.3 are redesignated by renumbering as follows:

(b)(3) is renumbered (b)(2).

(e)(4) is renumbered (e)(3).

[FR Doc. 86-10418 Filed 5-8-86; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Approval of Permanent Program Amendments for the State of Iowa Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of certain amendments to the Iowa permanent regulatory program (hereinafter referred to as the Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

By letters dated July 25 and 26, 1985, Iowa submitted proposed program amendments to IAC Chapter 4 including requirements for aerial inspections, clarification of incidental boundary revisions, and requirements to pay all reclamation fees. The Iowa submission also included an amendment establishing IAC Chapter 26 Blaster Training, Examination and Certification for Coal Mines. Another rule, IR 780-4.6(83)—Penalty Schedule was also included. OSMRE published a notice in the Federal Register on October 25, 1985, inviting public comment on the adequacy of the proposed amendments (50 FR 43411). The public comment period closed on November 25, 1985.

OSMRE's review of Iowa's proposed amendments identified concerns relating to the handling of follow-up inspections to aerial inspections, reducing the liability on phase II reclamation sites prior to considering them to be inactive operations, and length of time a blaster's certificate is valid. OSMRE notified the Iowa Department of Soil Conservation (DSC) about its concerns on January 13, 1986. Iowa responded by supplying OSMRE with two policy statements dated February 13, and March 4, 1986, that set forth how Iowa will implement the proposed amendments. Accordingly, on March 18, 1986, OSMRE reopened the public comment period on Iowa's July 25, and 26, 1985 proposed amendments as clarified by the policy statements dated February 13, and March 4, 1986 (51 FR 9219).

After providing opportunities for public comment and conducting a thorough review of the program amendments, the Director of OSMRE has determined that the amendments meet the requirements of SMCRA and the Federal regulations. Accordingly, the Director is approving the program amendments. The Federal rules at 30 CFR Part 915, which codify decisions on the Iowa program, are being amended to implement these sections.

The final rule is being made effective immediately in order to expedite the State program amendment process and encourage States to conform their programs to the Federal standards without undue delay; consistency of State and Federal standards is required by SMCRA.

EFFECTIVE DATE: May 9, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Kovacic, Director, Kansas City Field Office, Professional Building, 1103 Grand Avenue, Room 502, Kansas City, Missouri 64106; Telephone: (816) 374-5527.

SUPPLEMENTARY INFORMATION:

I. Background

The Iowa program was conditionally approved by the Secretary of the Interior on January 21, 1981. The approval was made effective April 10, 1981. Information pertinent to the general background, revisions, modifications, and amendments to the Iowa program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Iowa program can be found in the January 21, 1981 Federal Register (46 FR 5885). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 915.11 and 915.15.

II. Discussion of Amendments

By letters dated July 25, and 26, 1985, Iowa submitted proposed program amendments consisting of:

1. Amendments to IAC Chapter 4 rules for Iowa's Coal Regulatory Program requiring payment of all reclamation fees from previous and existing operations as required by section 402 of SMCRA; modifying the provision for a presiding officer at contested case hearings; correcting the requirement for local filing of permit applications—permit applications will be available for public inspection in the county recorder's office; clarifying the provision for incidental boundary changes over the life of the permit; modifying requirement for frequency and type of inspections including inactive operations and aerial inspections, and establishing the standards for extension of abatement periods for notices of violation beyond 90 days.

2. An amendment establishing IAC Chapter 26 "Blasting Training, Examination and Certification for Coal Mines". This chapter establishes the requirements and the procedures applicable to the development of regulatory programs for training, examination, and certification of persons engaging in or directly responsible for the use of explosives in surface or underground coal mining operations.

3. The Iowa submission included a final rule, IR 780-4.6(83) "Penalty Schedule". This rule was approved by the Office of Surface Mining Reclamation and Enforcement on May 24, 1985 (50 FR 21442), in adopting this as a final rule, Iowa made some minor editorial changes. The changes do not affect the regulatory language. Therefore, it was not reproposed in the October 25, 1985 Federal Register (50 FR 43411). The State's final rule was placed in the Administrative Record.

On October 25, 1985, OSMRE published an announcement of the receipt of the amendments as inviting public comment on the adequacy of the proposals (50 FR 43411). The notice stated that a public hearing would be held only if requested. Since there were no requests for a hearing, a hearing was not held. The comment period closed November 25, 1985. In response to OSMRE's concerns, Iowa submitted policy statements clarifying the amendments on February 13, 1986 and March 4, 1986. The public comments period was reopened and extended in the March 18, 1986 Federal Register (51 FR 9219). The comment period closed April 2, 1986. No comments were received.

III. Director's findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendments submitted by Iowa on July 25 and 26, 1985, as modified on February 13, and March 4, 1986, meet the requirements of SMCRA and 30 CFR Chapter VII, as discussed in the Findings below.

Iowa Administrative Code (780) Chapter 4 "Surface Coal Mining and Reclamation Operations"

Item 1. Subrule 4.35 (8) c. is amended to require the applicant to pay all reclamation fees as required by section 402 of SMCRA. This regulation is no less effective than the Federal regulations at 30 CFR 773.15(c)(7).

Item 2. Subrule 4.361 (8) e. 1. is amended to delete the provision that evidentiary hearings be conducted in the presence of the committee. This is no less effective than the Federal regulations at 43 CFR Part 4.

Item 3. Subrule 4.321(8) is amended to specify that the county recorder's office is where a permit application is to be placed for public inspection. This provision is no less effective than the Federal provision at 30 CFR 773.13.

Item 4. Subrule 4.25(1) is amended to clarify that permit applications must be placed with the county recorder and other minor editorial changes that clarify what information is required in permit applications. This regulation is no less effective than the Federal regulations at 30 CFR 773.13.

Item 5. Subrule 4.37(2) d. is amended so that a total of twenty acres of

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incidental boundary changes will be allowed over the life of a permit. Any changes over the twenty acres must be treated as a new permit application. This regulation is no less effective than the regulation at 30 CFR 774.13 which provides that any extensions to the area covered by the permit, except incidental boundary revisions, shall be made by application for a new permit.

Item 6. Subrule 4.6(1) is amended to allow the use of aerial inspections for a partial inspection. The subrule also establishes the inspection frequency for inactive surface coal mining and reclamation operations, and defines an inactive operation. The Iowa rule mirrors the Federal regulatory language. The Iowa Department of Soil Conservation in its February 13, 1986 policy statement stated that any follow-up of a potential violation observed during an aerial inspection will not be considered an additional inspection for the purposes of meeting inspection frequency requirements. This policy statement meets the requirement in 30 CFR 840.11(d)(2). OSMRE finds that this is consistent with the Federal program. This rule is no less effective than the Federal rule at 30 CFR 840.11.

Item 7. Subrule 4.6(4) is amended to set forth the circumstances under which an extension to a 90 day abatement notice may be granted. The Iowa regulation is no less effective than the Federal regulation at 30 CFR 843.12.

Item 8. *Iowa Administrative Code (780) Chapter 26 "Blaster Training, Examination and Certification for Coal Mines"* establishes the training and certification requirements for persons engaging in or directly responsible for the use of explosives in surface or underground coal mining operations. The regulations also set forth the procedures applicable for training, examination and certification of blasters. The Director finds that Iowa Chapter 26 is in accordance with SMCRA and no less effective than the Federal regulations at 30 CFR Part 850.

IV. Public Comments

No public comments were received on the proposed amendments.

V. Director's Decision

The Director, based on the above findings, is approving the July 25 and 26, 1985 amendments as modified on February 13, and March 4, 1986. The Director is amending Part 915 of 30 CFR Chapter VII to reflect approval of the State program amendments.

VI. Procedural Matters

(1) *Compliance with the National Environmental Policy Act:* The Secretary has determined that pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

(2) *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from Sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

(3) *Paperwork Reduction Act:* This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 915

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: May 5, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

PART 915—IOWA

30 CFR Part 915 is amended as follows:

1. The authority citation for Part 915 continues to read as follows:

Authority: Pub. L. 95-87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*)

2. 30 CFR 915.15 is amended by adding a new paragraph (d) as follows:

§ 915.15 Approval of Regulatory Program Amendments.

* * * * *

(d) The following amendments submitted to OSMRE on July 25 and 26, 1985, and modified on February 13, and March 4, 1986, are approved effective May 9, 1986: Iowa Administrative Code 780-4.35(6), 780-4.361(9), 780-4.321(8), 780-4.35(1), 780-4.37(2), 780-4.6(1), 780-4.6(4), and 780-Chapter 26.

[FR Doc. 86-10478 Filed 5-8-86; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

32 CFR Part 145

[DoD Directive 5500.19]

Cooperation with the Office of Special Counsel of the Merit Systems Protection Board; Policy Procedures and Delegations of Authority

AGENCY: Office of the Secretary, DOD.

ACTION: Final rule.

SUMMARY: This rule establishes DoD policy, assigns responsibilities, and provides procedures for cooperation with the Office of Special Counsel (OSC) of the Merit Systems Protection Board in carrying out the OSC's responsibilities under Pub. L. 95-454 and 5 CFR 1201 and 1250. These responsibilities are to conduct investigations of alleged prohibited personnel practices and to ensure the investigation of other allegations of improper or illegal conduct that the OSC refers to DoD.

EFFECTIVE DATE: December 6, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Gilliat, Assistant General Counsel (Personnel & Health Policy), Department of Defense, The Pentagon, Washington, DC 20301-1600, telephone 202-697-9341.

SUPPLEMENTARY INFORMATION: This rule provides internal guidance to DoD officials, and does not establish an independent basis for any person or organization to assert a right, benefit, or privilege.

List of Subjects in 32 CFR Part 145

Conduct Standards, Litigation.

Accordingly, 32 CFR is amended to add Part 145 as follows:

PART 145—COOPERATION WITH THE OFFICE OF SPECIAL COUNSEL OF THE MERIT SYSTEMS PROTECTION BOARD

Sec.

145.1 Purpose.
145.2 Applicability and scope.
145.3 Definitions.
145.4 Policy.
145.5 Responsibilities.
145.6 Procedures.
Appendix—Legal Representation.

Authority: 5 U.S.C. 301; 10 U.S.C. 133.

§ 145.1 Purpose.

This part establishes policy, assigns responsibilities, and prescribes procedures for cooperation with the Office of Special Counsel (OSC) of the Merit Systems Protection Board (MSPB) in fulfilling the responsibilities of the Special Counsel under Pub. L. 95-454 and 5 CFR 1201 and 1250 to conduct investigations of alleged prohibited personnel practices and to ensure the investigation of other allegations of improper or illegal conduct referred to the Department of Defense by the OSC. This part provides internal guidance to DoD officials, and does not establish an independent basis for any person or organization to assert a right, benefit, or privilege.

§ 145.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Office of the Joint Chiefs of Staff (OJCS), the Inspector General, Department of Defense (IG, DoD) and the Defense Agencies (hereafter referred to collectively "as DoD Components").

(b) The provisions of this part that relate to prohibited personnel practices do not apply to the Defense Intelligence Agency (DIA) or the National Security Agency (NSA), as prescribed by 5 U.S.C. 2302(a)(2)(C)(ii.).

(c) This part does not restrict the IG, DoD, in coordinating investigative efforts on individual cases with the OSC where concurrent jurisdiction exists.

§ 145.3 Definitions.

Improper or Illegal Conduct

(a) A violation of any law, rule, or regulation in connection with Government misconduct; or

(b) Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Office of the Secretary of Defense (OSD)

(a) The immediate offices of the Secretary, the Deputy Secretary, the Assistant Secretaries, Assistants to the Secretary, and other officials serving the Secretary of Defense directly.

(b) The field activities of the Secretary of Defense.

(c) The Organization of the Joint Chiefs of Staff.

(d) The Unified and Specified Commands.

Personnel Action

(a) An appointment.

(b) A promotion.

(c) An adverse action under 5 U.S.C. 7501 *et seq.* or other disciplinary or corrective action.

(d) A detail, transfer, or reassignment.

(e) A reinstatement.

(f) A restoration.

(g) A reemployment.

(h) A performance evaluation under 5 U.S.C. 4301 *et seq.*

(i) A decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation, or other personnel action.

(j) Any other significant change in duties or responsibilities that is inconsistent with the employee's salary or grade level.

Prohibited Personnel Practice

Action taken by an employee who has authority to take, direct others to take, recommend, or approve any personnel action:

(a) That discriminates for or against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation, as prohibited by certain specified laws (see 5 U.S.C. 2302(b)(1).

(b) To solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests, or is under consideration for, any personnel action, unless the recommendation or statement is based on the personal knowledge or records of the person furnishing it, and consists of an evaluation of the work performance, ability, aptitude, or general qualifications of the individual, or an evaluation of the character, loyalty, or suitability of such individual.

(c) To coerce the political activity of any person (including the providing of any political contribution or service), or take any action against any employee or applicant for employment as a reprisal for the refusal of any person to engage in such political activity.

(d) To deceive or willfully obstruct any person with respect to such person's right to compete for employment.

(e) To influence any person to withdraw from competition for any position for the purpose of improving or injuring the prospects of any other person for employment.

(f) To grant any preference or advantage not authorized by law, rule, or regulation to any employee or applicant for employment (including defining the scope or manner of competition or the requirements for any position) for the purpose of improving or injuring the prospects of any particular person for employment.

(g) To appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position any individual who is a relative (as defined in 5 U.S.C. 3110) of the employee if the position is in the agency in which the employee is serving as a public official (as defined in 5 U.S.C. 3110) or over which the employee exercises jurisdiction or control as an official.

(h) To take or fail to take a personnel action with respect to any employee or applicant for employment as a reprisal for being a whistleblower. (See whistleblower)

(i) To take or fail to take a personnel action against an employee or applicant for employment as a reprisal for the exercise of any appeal right granted by law, rule, or regulation.

(j) To discriminate for or against any employee or applicant for employment on the basis of conduct that does not adversely affect the performance of the employee or applicant or the performance of others.

(k) To take or fail to take any other personnel action if the taking of, or failure to take, such action violates any law, rule, or regulation implementing, or directly concerning, the merit system principles contained in 5 U.S.C. 2301.

Whistleblower

A present or former Federal employee or applicant for Federal employment who discloses information he or she reasonably believes evidences:

(a) A violation of any law, rule, or regulation.

(b) Mismanagement, a gross waste of funds, or an abuse of authority.

(c) A substantial or specific danger to public health or safety.

(d) Such disclosure qualifies if it is not specifically prohibited by statute and if such information is not specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.

(e) Where the information disclosed affects only the personal situation of the complaintant, it is generally to be regarded as an allegation of a prohibited personnel practice or violation of other civil service law, rule, or regulation, and the complainant will not be considered a whistleblower.

§ 145.4 Policy.

It is DoD policy that:

(a) Civilian personnel actions taken by DoD management officials, civilian and military, shall conform to laws and regulations implementing established

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merit system principles and must be free of any prohibited personnel practices, as described in 5 U.S.C. 2302 and 145.3 of this part.

(b) It is the responsibility of each DoD management official to take vigorous corrective action and, when appropriate, to initiate disciplinary measures when prohibited personnel practices occur.

(c) DoD Components shall cooperate with the Office of Special Counsel by:

(1) Promoting merit system principles in civilian employment programs within the Department of Defense.

(2) Investigating and reporting on allegations of improper or illegal conduct forwarded to the Component by the OSC pursuant to 5 U.S.C. 1206(b) (2) or (3).

(3) Facilitating orderly investigation by the OSC of alleged prohibited personnel practices and other matters assigned for investigation to the OSC by law, such as the Freedom of Information Act and the Hatch Act.

(d) DoD Components shall cooperate with the OSC by providing appropriate assistance and information to its representatives during their investigations and by furnishing to the OSC investigators copies of releasable documents requested under the authority of the Civil Service Reform Act of 1978, 5 CFR 1250, the Privacy Act, and Civil Service Rule V.

(e) Close coordination between DoD and OSC personnel during an OSC investigation is encouraged to eliminate duplication of effort, and to avoid unnecessary delay in initiating, when appropriate, corrective or disciplinary action. This coordination shall be conducted in full recognition of the independent statutory basis for the OSC, as provided in Pub. L. 95-454 and of the responsibilities of the Department of Defense.

(f) OSC investigative requests involving classified information shall be accorded special attention and prompt consideration under existing administrative procedures.

(g) When OSC and a DoD Component or an employee assigned DoD counsel are engaged in litigation, release of information shall be accomplished pursuant to MSPB rules of discovery (5 CFR 1201, Subpart B.).

§ 145.5 Responsibilities.

(a) The *Secretaries of the Military Departments* and the *Director, Defense Logistics Agency (DLA)*, shall prescribe implementing documents to ensure that:

(1) The policies, standards, and procedures set forth in this part are administered in a manner that encourages consistency in responding to investigations of alleged prohibited personnel practices.

(2) Alleged illegal or improper conduct referred to a Military Department or the DLA by the OSC or by OSD is carefully investigated.

(3) There is full cooperation with the IG, DoD, and the General Counsel, Department of Defense (GC, DoD), including assignment of military and civilian attorneys to represent employees suspected or accused by the OSC of committing a prohibited personnel practice or an otherwise illegal or improper act.

(b) The *General Counsel, Department of Defense* (GC, DoD) shall provide overall legal guidance, whether by the issuance of regulations or otherwise, on all issues concerning cooperation with the OSC. This authority extends to:

(1) Ensuring that DoD legal counsel is assigned upon request to represent a DoD employee suspected or accused by the OSC of committing a prohibited personnel practice or an illegal or improper act when the act complained of was within the scope of the employee's official responsibilities and such representation is in the interest of the Department of Defense; or, in unusual situations, that outside legal counsel is engaged where the use of DoD counsel would be inappropriate, and the same conditions are satisfied.

(2) Providing DoD legal counsel to seek intervention for the purpose of representing the interests of OSD or a Defense agency (other than the DLA) in an MSPB hearing resulting from charges of misconduct against an employee of OSD or a Defense agency, under the authority of the Civil Service Reform Act of 1978.

(3) Seeking the assistance of the Department of Justice in responding to requests by employees for legal representation in obtaining judicial review of an order by the MSPB, under 5 U.S.C. 1207.

(4) Modifying § 145.3 and Appendix to this part and issuing supplementary instructions concerning all aspects of DoD cooperation with the OSC, including instructions on OSC investigations of allegedly arbitrary and capricious withholding of information under the Freedom of Information Act or violations of the Hatch Act.

(5) Reviewing for adequacy and legal sufficiency with the IG, DoD, each report of an investigation that must be personally reviewed by the Secretary or Deputy Secretary of Defense on action taken or to be taken in response to an OSC finding of reasonable cause to believe there has been a violation of law, rule, or regulation, not including a prohibited personnel practice or allegation referred to the Attorney General of the United States for appropriate action.

(c) The *Inspector General, Department of Defense* (IG, DoD) shall:

(1) Investigate, or cause to be investigated, as appropriate, any complaint referred to the Department of Defense by OSC.

(2) Coordinate, where feasible, investigative efforts by DoD Components and the OSC, with particular emphasis on those conducted or initiated by action of the OSC.

(3) Submit the results of any investigation conducted under this part to the appropriate General Counsel.

(d) The *Deputy Assistant Secretary of Defense (Administration)* (DASD(A)) shall serve as the SENIOR MANAGEMENT OFFICIAL, as described in § 145.6(b) concerning allegations by the OSC of prohibited personnel practices or other illegal or improper acts in the OSD.

(e) The *General Counsels of the Military Departments* and the *General Counsel of the Defense Logistics Agency* shall have the same authority for their respective Components as given to the General Counsel, DoD, under paragraphs (b) (1) and (2) of this section.

§ 145.6 Procedures.

(a) *Allegations of Improper or Illegal Conduct Received from the OSC under 5 U.S.C. 1206(b)(2), (3), or (c)(3).* (1) Allegations of improper or illegal conduct referred by the OSC to the Secretary of Defense or to a Defense agency (other than the DLA) shall be forwarded to the IG, DoD.

(2) Allegations of improper or illegal conduct referred to a Military Department or to the DLA by the OSC shall be forwarded to the General Counsel of that Component.

(3) Upon receipt of a referral under paragraph (a) (1) or (2) of this section IG, DoD, or the GC of the Component concerned, as appropriate, shall ensure compliance with the Civil Service Reform Act of 1978 by obtaining a suitable investigation of an allegation, including compliance with time limits for reporting results of the investigation and personal review of the report by the head of the Component when required.

(4) Copies of each allegation referred under paragraph (a)(2) shall be forwarded by the General Counsel concerned to the IG, DoD.

(b) *OSC Investigations of Prohibited Personnel Practices.* (1) The head of each DoD Component shall designate a SENIOR MANAGEMENT OFFICIAL to:

(i) Serve as a point of contact in providing assistance to the OSC in conducting investigations of alleged prohibited activities before any designation of an attorney of record for the Component or individual respondent for matters in litigation.

(ii) Monitor those investigations.

(iii) Ensure that appropriate Component personnel are fully apprised of the nature and basis for an OSC investigation, as well as the rights and duties of Component personnel in regard to such investigations.

(iv) Ensure that any corrective or disciplinary action considered appropriate because of facts disclosed by such an investigation is accomplished under paragraph (b)(2), in a timely manner.

(2) The designated SENIOR MANAGEMENT OFFICIAL shall have authority to:

(i) Refer to responsible officials recommendations by the OSC for corrective action.

(ii) Seek OSC approval of proposed disciplinary action against an employee for an alleged prohibited personnel practice or illegal or improper act under investigation by the OSC when it is determined that such discipline is warranted.

(iii) Ensure that disciplinary action against an employee adjudged at fault following completion of an OSC investigation has been considered to avoid the need for a proceeding before the MSPB.

(iv) Ensure that information concerning members of the Armed Forces who are found by the Component to have committed a prohibited personnel practice or other violation of this Directive in the exercise of authority over civilian personnel is referred to appropriate military authority.

(3) The SENIOR MANAGEMENT OFFICIAL shall:

(i) Establish a system under which an employee is identified to serve as the LIAISON OFFICER for any OSC investigator who may initiate an investigation at a facility, base, or installation for which the employee is assigned liaison duties. It shall be the responsibility of the LIAISON OFFICER to:

(A) Assist the OSC investigator.

(B) Ensure that all OSC requests for documents are in writing.

(C) Process such requests, as well as all requests for interviews.

(ii) Determine, to the extent practicable, whether an investigation is being, or has been, conducted that replicates in whole or in part the proposed or incomplete investigation by the OSC, and convey that information to the OSC whenever this might avoid redundant investigative effort.

(iii) Inform the General Counsel of the Component concerned of any OSC investigation and consult with the General Counsel on any legal issue related to an OSC investigation.

(iv) Ensure that Component personnel involved are given timely legal and policy advice, through arrangements effected by the LIAISON OFFICER, on the nature and basis for an OSC investigation, the authority of the OSC, and the rights and duties of Component personnel, including those set forth in Appendix.

(v) Inform the IG, DoD, of any OSC investigation of an alleged prohibited personnel practice that is identified as having resulted from a whistleblower complaint or involves an allegation of otherwise illegal or improper conduct.

Appendix—Legal Representation

1. An employee or member of the Armed Forces asked to provide information (testimonial or documentary) to the OSC in the course of an investigation by that office may obtain legal advice from DoD attorneys, both civilian and military, on that employee's or members's rights and obligations. This includes assistance at any interviews with OSC investigators. However, the attorney-client relationship shall not be established unless the employee is suspected or accused by the OSC of committing a prohibited personnel practice or other illegal or improper act and has been assigned DoD counsel.

2. An employee who believes that he or she is suspected or has been accused by the OSC of committing a prohibited personnel practice or other illegal or improper act may obtain legal representation from the Department of Defense under the conditions prescribed in § 145(b)(1) of this part, except as provided in section 7, below. The attorney assigned shall be a military member or employee from another Component whenever an attorney from the same Component is likely to face a conflict between his or her ethical obligation to the employee client and to the Component employer, and in any case where the suspected or accused employee has requested representation from another Component. Outside legal counsel may be retained by the Component on behalf of the employee only under unusual circumstances and only with the personal approval of the General Counsel of the Department of Defense.

3. The General Counsel responsible for authorizing representation shall determine whether a conflict is liable to occur if an attorney from the same Component is assigned to represent the employee and, in that case or in a case in which the suspected or accused employee has requested representation from another Component, shall seek the assistance of another General Counsel in obtaining representation from outside the Component. The General Counsels of the Military Departments and the DLA shall ensure the availability of appropriately trained counsel for assignment to such cases.

4. To obtain legal representation the employee:

a. Must request legal representation, in writing, together with all process and pleadings served, and explain the circumstances that justify DoD legal assistance.

b. Indicate whether he or she has retained legal counsel from outside the Department of Defense.

c. Obtain a written certification from his or her supervisor that the employee was acting within the scope of his of her official duties, and that no adverse or disciplinary personnel action against the employee for the conduct being investigated by the OSC has been initiated by the Component.

5. Employee requests for legal representation must be approved by the General Counsel, DoD, for employees of OSD or a Defense Agency (other than the DLA), or by the General Counsel of a Military Department or the General Counsel of the DLA for employees of those Components.

6. The conditions of legal representation must be explained to the accused employee in writing and accepted in writing by that employee.

7. DoD resources may not be used to provide legal representation for an employee with respect to a DoD disciplinary action against the employee for committing or participating in a prohibited personnel practice or for engaging in illegal or improper conduct, regardless of whether that participation or conduct is also the basis for disciplinary action proposed by the OSC.

8. After approval of an employee's request, under section 4, above, a DoD attorney shall be assigned (or, in unusual circumstances, outside counsel retained) as the employee's representative in matters pending before the OSC or MSPB. This approval may be limited to representing the employee only with respect to some of the pending matters if other specific matters of concern to the OSC or MSPB do not satisfy the requirements of his Directive.

9. An attorney-client relationship shall be established and continued between the suspected or accused employee and assigned DoD counsel.

10. In representing a DoD employee under this part, a DoD attorney designated counsel for the employee shall act as a vigorous advocate of the employee's individual legal interests before the OSC or MSPB; the attorney's professional responsibility to the Department of Defense and his or her employing Component will be satisfied by fulfilling this responsibility to the employee. Legal representation may be terminated only with the approval of the General Counsel who authorized representation, and normally only on the basis of information not available at the time the attorney was assigned.

11. The attorney-client relationship may be terminated if the assigned DoD counsel for the employee determines, with the approval of the General Counsel who authorized representation, that:

a. The employee was acting outside the scope of his or her official duties when

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engaging in the conduct that is the basis for the OSC investigation or charge.

b. Termination of the professional representation is not in violation of the rules of professional conduct applicable to the assigned counsel.

12. The DoD attorney designated counsel may request relief from the duties of representation or counseling without being required to furnish explanatory information that might compromise the assurance to the client of confidentiality.

13. This part authorizes cognizant DoD officials to approve a represented employee's request for travel, per diem, witness appearances, or other departmental support necessary to ensure effective legal representation of the employee by the designated counsel.

14. An employee's participation in OSC investigations, MSPB hearings, and other related proceedings shall be considered official departmental business for time and attendance requirements and similar purposes.

15. The following advice to employees questioned during the course of an OSC investigation may be appropriate in response to the most frequent inquiries:

a. An employee may decline to provide a "yes" or "no" answer in favor of a more qualified answer when this is necessary to ensure accuracy in responding to an OSC interviewer's questions.

b. Requests for clarification of both questions and answers are appropriate to avoid misinterpretation.

c. Means to ensure verification of an interview by OSC investigators are appropriate, whether the employee is or is not accompanied by a legal representative. Tape recorders may only be used for this purpose when:

(1) The recorder is used in full view.

(2) All attendees are informed.

(3) The OSC interrogator agrees to the tape recording of the proceeding.

d. Any errors that appear in a written summary of an interview prepared by the interviewer should be corrected before the employee signs the statement. The employee is not required to sign any written summary that is not completely accurate. An employee may make a copy of the summary for his or her own use as a condition of signing.

Linda M. Lawson,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

May 5, 1986.

[FR Doc. 86-10422 Filed 5-8-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS Mount Whitney

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS MOUNT WHITNEY (LCC 20) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a amphibious command vessel. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: April 23, 1986.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400 Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS MOUNT WHITNEY (LCC 20) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex I, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a amphibious command vessel. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (Water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. § 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 3(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(i)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 3(a)(ii)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS MOUNT WHITNEY	(LCC 20)							X	66.7

Dated: April 23, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-10437 Filed 5-8-86; 8:45 am]

BILLING CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; USS Richmond K. Turner

AGENCY: Department of the Navy, DOD.

ACTION: Final Rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS RICHMOND K. TURNER (CG 20) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: April 23, 1986.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS RICHMOND K. TURNER (CG 20) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a), regarding the arc of visibility of the forward masthead light, and Annex I, section 3(a), regarding the location of the forward masthead light in the forward quarter of the ship and the horizontal distance between the forward and after masthead lights. Full compliance with the above-mentioned 72 COLREGS provisions would interfere with the special functions and purposes of the vessel. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Four of § 706.2 is amended by adding to the existing paragraph 22 the following vessel:

22. On the following ships, the arc of visibility of the forward masthead light, required by Rule 21(a), may be obstructed through 1.4° at the following angles relative to the ship's heading:

Vessel	Number	Obscured angles relative to ship's heading
USS RICHMOND K. TURNER	(CG 20)	017 and 343.

2. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a) (i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I sec. 2(a)(i)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 3(a)(ii)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3) (a)	Percentage horizontal separation attained
USS RICHMOND K. TURNER	CG20						X	X	33

Dated: April 23, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-10436 Filed 5-8-86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11 86-01]

Special Local Regulations; Southern California Annual Marine Events

AGENCY: Coast Guard, DOT.

ACTION: Final Rule.

SUMMARY: This rule will establish special local regulations during all the current the annual marine events in Southern California. Through this action the Coast Guard intends to ensure the safety of spectators and participants on navigable waters during each event. Also, this rule will consolidate all previously published permanent rulemakings concerning Southern California marine events into one section.

EFFECTIVE DATE: These regulations become effective on 20 April 1986.

FOR FURTHER INFORMATION CONTACT: LTJG Jorge Arroyo, Eleventh Coast Guard District Boating Affairs Office, Union Bank Bldg., Suite 901, 400 Oceangate Boulevard, Long Beach, California 90822-5399, Tel: (213) 590-2331.

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SUPPLEMENTARY INFORMATION: On 10 February 1986, the Coast Guard published a notice of proposed rulemaking in the **Federal Register** (51 FR 4931) for these regulations. Interested persons were requested to submit comments and three comments were received.

Drafting Information

The drafters of this regulation are LT]G Jorge Arroyo, Eleventh Coast Guard District Boating Affairs Office and LCDR Arthur E. Brooks, Project Attorney, Eleventh Coast Guard District Legal Office.

Discussion of Comments

Comments were received by the Director of Operations of the Port of Long Beach, and from two non-profit maritime organizations the Marine Exchange of Los Angeles-Long Beach Harbor, Inc. and the Propeller Club of the United States, Los Angeles-Long Beach chapter. All three commented on the possible restriction of commercial traffic during each event. The Coast Guard does not intend to restrict or interfere with commerical traffic. The Coast Guard is fully aware of the economic consequences incurred on shipping entities which do not meet their schedule. By publishing these regulations, we expect to enhance both the recreational and commercial interest with the opportunity to give more adequate notification to all concerned. These regulations will give ample time to plan and prepare for any inconvenience caused by a regulated marine event.

Wording changes that would essentially exempt commercial vessels from the regulation and exclude waterways regularly used by commercial traffic from use for marine events were considered, but not deemed to be in the public interest. Also it is not the intention of the Coast Guard to interfere with commercial interest. Numerous commercial vessels, such as charter vessels and passenger vessels, attend these events as spectator platforms their transit through the area must be controlled to protect life and property. Commercial traffic density is not considered sufficient to warrant exclusion of non-commercial use of these waterways.

Through this action we expect and desire commercial interests to become more aware and involved with the recreational interests. Therefore, any commercial operator who may be significantly affected by these regulations is advised to contact the Eleventh Coast Guard District Boating Affairs Office well in advance of the event, to make arrangements for his transit of the area.

In turn, the Coast Guard intends to become more aggressive with marine event sponsors who fail to notify the Coast Guard of events that interfere with free navigation.

Discussion of Regulations

Each year various Yacht Clubs, Harbor Departments and Chambers of Commerce sponsor various marine events in Southern California waters. These events vary from slow moving Christmas boat parades to high speed hydroplane races to long distance offshore sailboat races involving up to 600 participants. Because of the annual nature of these events, the Coast Guard has decided to promulgate a permanent amendment to Part 100 of Title 33, Code of Federal Regulations to facilitate in the planning and organization of these events in the future. Each year, prior to each event, the Coast Guard will publish detailed descriptions of the event in the Eleventh Coast Guard District Local Notice to Mariners.

Certain events due to their nature present extra or unusual hazards to navigation while others do not. However, the number of participants or spectators at any event may require control of vessel traffic to avoid any potential mishap. Therefore, special local regulations may be established, and vessels desiring to transit these areas way do so only with clearance from an official patrolling vessel.

Two editorial changes have been made to the proposed regulations; one eliminates a corporate sponsors name from an event title and the other clarifies a section of the regulations by defining "Patrol Commander".

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary, because the regulated areas will be in effect for a short period of time.

Because the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Final Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations is amended, as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. By adding § 100.1101 to read as follows:

§ 100.1101 Southern California Annual Marine Events.

(a) Special local regulations will be established for the events listed in Table 1. Further information on exact dates, times, details concerning number and type of participants and an exact geographical description of the areas are published by the Eleventh Coast Guard District in the Local Notice to Mariners at least 20 days prior to each event. To be placed on the mailing list contact: Commander (oan), Eleventh Coast Guard District, 400 Oceangate Blvd., Long Beach, CA 90822–5399.

(b) *Special Local Regulations:* All persons and/or vessels not registered with the sponsor as participants or official patrol vessels are considered spectators. The "official patrol" consists of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessels assigned and/or approved, by Commander, Eleventh Coast Guard District to patrol each event.

(1) No spectators shall anchor, block, loiter in, or impede the through transit of participants or official patrol vessels in the regulated area during the effective dates and times, unless cleared for such entry by or through an official patrol vessel.

(2) When hailed and/or signaled by an official patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions given, failure to do so may result in a citation.

(3) The Patrol Commander is empowered to forbid and control the movement of all vessels in the regulated area. The Patrol Commander shall be designated by the Commander, Eleventh Coast Guard District, and as his representative may terminate the event at any time it is deemed necessary for the protection of life and property. He may be reached on VHF Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

Table 1

Del Rey to Puerto Vallarta Race

Sponsor: Del Rey Yacht Club
Date: February
Location: Santa Monica Bay, that portion bounded by the following coordinates: Lat 33 degrees 56'23" N, Long 118 degrees 26'30" W, Lat 33 degrees 56'23" N, Long 118 degrees 28'55" W, Lat 33 degrees 56'56" N, Long 118 degrees 28'55" W, Lat 33 degrees 56'55" N, Long 118 degrees 25'20" W. This area is for the start of the race only.

San Diego Crew Classic

Sponsor: San Diego Crew Classic
Date: April
Location: Mission Bay, that portion bounded by Eschanted Cove, Fiesta Island, Pacific Passage and DeAnza Point.

Newport to Ensenada Race

Sponsor: Newport Ocean Sailing Association
Date: Late April
Location: That portion of the Pacific Ocean off Newport, bounded by the following coordinates: Lat 33 degrees 35.5' N, Long 117 degrees 53.3' W; Lat 33 degrees 34.8' N, Long 117 degrees 53.3' W; Lat 33 degrees 34.9' N, Long 117 degrees 54.5' W; Lat 33 degrees 35.5' N, Long 117 degrees 54.5' W. This area is for the start of the race only.

California Cup

Sponsor: California Yacht Club
Date: Late May (4 day event)
Location: Santa Monica Bay, that portion bounded by the following coordinates: Lat 34 degrees 01.4' N, Long 118 degrees 31.8' W; Lat 33 degrees 59.7' N, Long 118 degrees 37.9' W; Lat 33 degrees 59.2' N, Long 118 degrees 37.7' W; Lat 33 degrees 58.5' N, Long 118 degrees 33.4' W; Lat 33 degrees 57.6' N, Long 118 degrees 30.6' W; Lat 33 degrees 57.2' N, Long 118 degrees 28.1' W.

Coronado 4th of July Demonstration, Fireworks and Rehearsals

Sponsor: Citizens Committee Coronado 4th of July
Date: 4 July (& 3 days of rehearsals prior to)
Location: Glorietta Bay, Coronado, the following portions: (1) Demonstration Area—from the tip of the marina, Lat 32 degrees 40'43.5" N, Long 117 degrees 10'20.5" W; northeast to Lat 32 degrees 40'48.5" N, Long 117 degrees 10'10.5" W; east along the shoreline to Lat 32 degrees 40'43.5" N, Long 117 degrees 10'00" W; east to Lat 32 degrees 40'46" N, Long 117 degrees 09'38" W; south to Lat 32 degrees 40'41" N, Long 117 degrees 09'38.5" W; east to Lat 32 degrees 40'41" N, Long 117 degrees 09'26" W; northeast to Lat 32 degrees 40'54" N, Long 117 degrees 09'30" W (Navy Restricted Area); thence southwest along shoreline to the initial point. (2) Fireworks Display Area—from Lat 32 degrees 40'41" N, Long 117 degrees 09'38.5" W; south to Lat 32 degrees 40'33" N, Long 117 degrees 09'38.5" W; northeast to Lat 32 degrees 40'41" N, Long 117 degrees 09'26" W; thence west to the initial point.

Los Angeles to Honolulu Yacht Race (Transpac)

Sponsor: Transpacific Yacht Club
Date: 4 July (biennially)
Location: San Pedro Channel, that portion between Point Fermin and Portugese Bend bounded between the following coordinates: Lat 33 degrees, 42.8' N; Long 118 degrees, 19.8' W; Lat 33 degrees, 41.7' N; Long 118 degrees, 19.5' W; Lat 33 degrees, 41.7' N; Long 118 degrees, 21.2' W; Lat 33 degrees, 43.3' N; Long 118 degrees, 21.2' W. This area is for the start of the race only.

Thunderboat Regatta

Sponsor: Thunderboats Unlimited of San Diego
Date: Late September (4 day event)
Location: Fiesta Bay, Mission Bay, that portion bounded by the following coordinates: starting at Lat 32 degrees 47'32" N, Long 117 degrees 13'00" W, thence due west to Long 117 degrees 13.25" W, thence along the eastern shoreline of Crown Point to the Vacation Isle Bridge, thence south along the bridge to Vacation Isle, thence along the eastern shoreline of Vacation Isle to Lat 32 degrees 46'28" N, Long 117 degrees 14'01" W, thence southeasterly to Lat 32 degrees 46'14" N, Long 117 degrees 13'43" W, thence along the western shoreline of Fiesta Island to Lat 32 degrees 47'20" N, Long 117 degrees 13'00" W, thence due north to the starting point.

Head of Harbor Regatta

Sponsor: University of Southern California, Department of Intercollegiate Athletics
Date: November
Location: Los Angeles Harbor, that portion between Berth 191 and the Ford/Heim Bridges.

Symphony of Lights Boat Parade

Sponsor: Huntington Harbor Philharmonic Society
Date: Early weekend in December
Location: Entire Huntington Harbor Area

Long Beach Festival of 1000 Lights

Sponsor: Shoreline Village Administration
Date: Early December
Location: Long Beach Harbor, that portion bounded by Shoreline Downtown Marina, the Queens Way Bridge and the Queen Mary.

Marina Del Rey Christmas Boat Parade

Sponsor: Pioneer Skippers Boat Owners Association
Date: Early December
Location: Marina del Rey Harbor, Main and entrance channels

Los Angeles Christmas Afloat Parade

Sponsor: Los Angles Harbor Department
Date: Early December
Location: Los Angeles Harbor, that portion between the Vincent Thomas Bridge and Reservation Point.

Newport Harbor Christmas Boat Parade of Lights

Sponsor: Newport Harbor Area Chamber of Commerce
Date: Week prior to Christmas (7 day event)
Location: Entire Newport Harbor Area

Mission Bay Parade of Lights

Sponsor: Mission Bay Yacht Club
Date: Late December
Location: Mission Bay, the Main Entrance Channel, Sail Bay and Fiesta Bay.

San Diego Christmas Boat Parade of Lights

Sponsor: Greater Shelter Island Association
Date: Late December
Location: San Diego Harbor, the northern portion of the main channel from Seaport Village to the Shelter Island Yacht Basin.

Dated: April 20, 1986.

John I. Maloney,

Captain, U.S. Coast Guard, Acting Commander, Eleventh Coast Guard District.

[FR Doc. 86–10369 Filed 5–8–86; 8:45 am]

BILLING CODE 4910-14-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1254 and 1258

Use of NARA Research Rooms

AGENCY: National Archives and Records Administration.

ACTION: Final rule.

SUMMARY: This rule establishes National Archives and Records Administration (NARA) regulations relating to research rooms in the National Archives and the Washington National Records Center buildings. It prohibits the use of personal paper-to-paper copiers and limits other types of personal items that may be brought into the research rooms. The rule also adds procedures for use of self-service paper-to-paper copiers for copying large quantities of records in the National Archives and the Washington National Records Center buildings, and establishes a lower fee for copies made on NARA self-service paper-to-paper copiers. These changes are being made to enhance the security of records being used by the public and to ensure proper handling of records while they are being reproduced.

EFFECTIVE DATE: June 1, 1986.

FOR FURTHER INFORMATION CONTACT: Adrienne C. Thomas or Nancy Allard at 202–523–3214 (FTS 523–3214).

SUPPLEMENTARY INFORMATION: NARA published a notice of proposed rulemaking on this subject on December 17, 1985 (50 FR 51414). Nine comments were received during the 60-day comment period; four additional comments which were received during the following week have also been considered in drafting this final rule.

The majority of the commenters expressed concern with the proposed ban on the use of personal paper-to-paper copiers. Several persons pointed out that use of a personal copier can

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facilitate rapid and economical research and that the proposed 20-cent per copy fee for self-service copies on NARA equipment would work a hardship on researchers.

NARA's change in copying policy is based on three concerns: the handling of archival materials, the security problems associated with several researchers using their own copiers, and the proliferation of this type of equipment and its use in the National Archives. NARA must supervise the copying of records by researchers to ensure that records are handled safely and that they are not disarranged. Records which are not returned to their proper file location are lost records. Moreover, because the physical form or condition of many documents in the National Archives precludes electrostatic copying and because some records may not be reproduced for legal reasons, NARA must review the records before they are copied. With personal copiers scattered throughout a research room, our limited staff cannot provide the needed supervision.

At one time, it was rare for researchers to bring personal copiers to the National Archives. However, as the technology advanced, copiers became smaller and less expensive and more researchers began to bring them into NARA research rooms. If one researcher is permitted to use privately owned or leased copying equipment, then all who want to use personal copiers must be permitted to do so. We have reached the point where we cannot accommodate them. We have problems with providing space for researchers with personal copiers, and, as we noted above, we do not have sufficient staff to effectively monitor the handling and copying of records on personal copiers.

The prohibition on personal copiers in NARA research rooms is not out of line with practices in other archival and manuscript institutions. Use of personal copiers by researchers is restricted or banned in many state archives, historical societies, and research libraries with manuscript collections. NARA informally contacted 9 large state archives, 7 state historical societies, 7 major research libraries, the Library of Congress Manuscript Division, and the Smithsonian Archives about their personal copier and research room policies. Those institutions which do allow personal copiers—only 6 of the 25 surveyed institutions—receive only infrequent requests to bring in personal copiers.

We recognize that the 20-cent fee for self-service copies may cause a financial strain to some researchers who have been using personal copiers. The final rule, therefore, reduces the fee to 10 cents per copy in § 1258.12(c)(1). NARA is absorbing part of the overhead costs that had been included in the higher proposed fee. We will review the fee after the debit-card self-service copier has been in operation for six months. Any change in the fee will be preceded by a notice of proposed rulemaking in the Federal Register.

Several persons commented on the procedures for inspecting and tagging or stamping materials brought into NARA research rooms. These procedures are necessary to help prevent the theft of original documents from NARA research rooms. Most of the archival and research institutions surveyed by NARA also restrict the materials that may be brought into research rooms and/or require inspection of materials.

We do not anticipate that the inspection process will delay researchers more than a few minutes. In response to one comment, we have added a provision in § 1254.26(d)(3) that the chief of the research room or the senior archivist on duty in the research room will review the attendant's or guard's decision on admittance of any materials if the researcher so requests. Researchers' notes and other reference materials that must be brought into the research room will be stamped in such a way as to avoid defacement of the materials, yet identify them for inspection by the guard when the materials are removed from the research room.

Two commenters requested that NARA provide notecards and notepaper in other sizes. We will provide the requested additional sizes, and have modified §1254.26(e) accordingly.

Two persons also questioned why the procedures in § 1254.26 would apply only to research rooms in the Washington, DC area. The proposed rule applied only to the National Archives and the Washington National Records Center buildings since these research rooms have the largest number of researchers handling original records. In addition, space constraints in research areas of some of our field facilities create difficulties in fully implementing the procedures there. In a separate notice of proposed rulemaking appearing in this issue of the Federal Register, NARA proposes to apply a modified form of these procedures to our other archival research rooms in the Presidential libraries and in those National Archives field branches where it is possible to physically separate researchers using original archival records from those using only microfilm copies of records.

Some comments reflected a misunderstanding of the term "high-volume copier" used in § 1254.71. "High-volume" was intended to describe the size of the copying order that could be made on the copier in room 7W1 of the National Archives Building, and not the type of copier. To aviod confusion, the description of the copier has been changed to "self-service card-operated copier."

In response to one comment, we have added general guidelines on the types of documents that are not suitable for self-service copying. We have also added a procedure for the chief of the research room or the senior archivist on duty in the research room to review the determination of the suitability of documents for self-service copying.

Four commenters raised the question of how NARA plans to schedule use of the self-service card-operated copier when more than one researcher wishes to use it. We plan to use an appointment system for scheduling use of the copier. If the demand for appointments routinely exceeds the available appointment time, an additional copier will be placed in room 7W1. A coin-operated copier is already located in the Central Research Room for use by researchers wishing to copy fewer than 100 pages; this machine may also be used by researchers waiting to use the card-operated copier in room 7W1. The coin-operated copier is available on a first come first served basis and copying time is limited to ten (10) minutes per session if others are waiting to use the copier.

One person suggested that a card-operated copier also be installed in the archival research room at the Washington National Records Center. A coin-operated copier is in place there; if the volume of copying warrants it, a card-operated copier will also be installed.

To correct an error in the printing of the proposed rule, the self-service card-operated copier may be used between the hours of 9 a.m. and 12 noon, and again between the hours of 1 p.m. and 5 p.m., Monday through Friday. In response to one comment, the hours of operation for the card-operated copier are not the same as the Central Research Room's extended evening and Saturday hours because of staffing limitations. However, the coin-operated self-service copier located in the Central Research Room is available for use during evenings and on Saturdays.

Two persons commented that NARA should make its rules for personal paper-to-paper copiers comparable to its rules for use of personal microfilm equipment. NARA is developing a proposal to restrict severely the use of personal microfilm equipment. The proposal will be the subject of a separate notice of proposed rulemaking.

This rule also makes a minor change to 1254.20(a) to clarify that drinking is prohibited in a research room.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects in 36 CFR Parts 1254 and 1258

Archives and records.

For the reasons set forth in the preamble, Chapter XII of Title 36 of the Code of Federal Regulations is amended as follows:

PART 1254—AVAILABILITY OF RECORDS AND DONATED HISTORICAL MATERIALS

1. The authority citation for Part 1254 continues to read as follows:

Authority: 44 U.S.C. 2101–2118.

2. Section 1254.20 is amended by revising paragraph (a) to read as follows:

§ 1254.20 Conduct.

(a) *Regulations.* Researchers are subject to the provisions of 41 CFR Subpart 101–20.3, Conduct on Federal Property, and to all rules and regulations issued and posted or distributed by a facility director supplementing Subpart B. Eating and drinking in a research room are prohibited. Smoking is prohibited except in designated smoking areas. Loud talking and other activities likely to disturb other researchers are also prohibited. Persons desiring to use typewriters, sound recording devices, or similar equipment shall work in areas designated by the research room attendant.

* * * * *

3. Section 1254.26 is added to read as follows:

§ 1254.26 Additional rules for use of certain research rooms in the National Archives and the Washington National Records Center buildings.

(a) The following procedures shall apply to all research rooms in the National Archives and the Washington National Records Center buildings, except the Microfilm Research Room and the Motion Pictures Research Room in the National Archives Building. These procedures are in addition to the procedures specified elsewhere in this Part.

(b) All researchers bringing personal typewriters, tape recorders, cameras, personal computers, and other equipment, into the National Archives Building shall complete the Equipment Log at the guard's desk in the lobby. The log will evidence personal ownership and will be checked by the guard when such equipment is removed from the building.

(c) Researchers shall present a valid researcher identification card to the guard or research room attendant on entering the room. All researchers are required to sign each day the Daily Registration Book at the entrance to the research room. Researchers will also record the time they leave the research room at the end of the visit for that day. Researchers are not required to sign in or out when leaving the area temporarily.

(d) Researchers may not bring into the research rooms overcoats, raincoats, hats, or similar apparel; personal copying equipment including personal paper-to-paper copiers; briefcases, suitcases, daypacks, purses, or similar containers of personal property; notebooks, notepaper, notecards, folders or other containers for papers. These items may be stored at no cost in lockers available in the hallway adjacent to the various research rooms. The following exceptions may be granted:

(1) Hand-held wallets and coin purses for the carrying of currency, coins, credit cards, keys, drivers licenses and other identification cards may be brought into research rooms, but are subject to inspection when the researcher enters or leaves the room. The guard or research room attendant shall judge whether the wallet or purse may be considered small for purposes of this section;

(2) Notes, references, lists of records to be consulted, and other materials may be admitted it the chief of the branch administering the research room or the senior archivist on duty in the research room determines they are essential to a researcher's work requirements. Materials will be presented to the research room attendant when the researcher enters the research room. Materials approved for admission will be stamped to indicate that they are the personal property of the researcher;

(3) Typewriters, personal computers, tape recorders, and hand-held cameras may be admitted by the research room attendant provided that they are inspected, approved, and tagged prior to admittance. The chief of the branch administering the research room or the senior archivist on duty in the research room will review the determination made by the research room attendant if requested to do so by the researcher; and

(4) Notepaper and notecards provided by the National Archives and electrostatic copies made on copying machines in NARA research rooms which are marked with the statement "Reproduced at the National Archives" may be brought back into the research room on subsequent visits but must be presented on entry to the research room attendant for inspection.

(e) NARA will furnish, without charge, to researchers specially marked lined and unlined notepaper and notecards, for use in the research rooms. Unused notepaper and notecards should be returned to the research room attendant at the end of the day.

(f) The personal property of all researchers, including notes, electrostatic copies, typerwriter cases, tape recorders, cameras, personal computers, and other property, will be inspected before removal from the research room. Guards and research room attendants may request that a member of the research room staff examine such personal items prior to their removal from the research room.

4. Section 1254.71 is added to read as follows:

§ 1254.71 Use of the self-service card-operated copier in the National Archives Building.

(a) Researchers who wish to make copies of approximately 100 or more pages of records in the National Archives Building may use the self-service copies in Room 7W1. To make use of this copier, researchers should follow the procedures outlined in paragraphs (b) through (f) of this section.

(b) Use of the self-service card-operated copier is by reservation. Researchers should inform a research room attendant of their desire to use the copier and should identify the boxes containing the documents to be copied.

Individual documents to be copied should be tabbed in accordance with the procedures governing the tabbing of documents and returned to their container.

(c) The attendant will examine the records to determine whether they can be copied on the 7W1 self-service copier. The chief of the branch administering the research room or the senior archivist on duty in the research room will review the determination of suitability, if requested by the researcher. If the records are suitable for copying on the card-operated copier, the

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attendant will ensure that the containers are brought to Room 7W1 and will inform researchers when they will be available there. The following types of records may not be copied on a self-service copier:

(1) Bound archival volumes;

(2) Records fastened together by staples, clips, acco fasteners, rivets, or similar fasteners, where folding or bending the record may cause damage;

(3) Records larger than 11 inches by 14 inches;

(4) Records with uncancelled security classification markings;

(5) Records with legal restrictions on copying; and

(6) Records in poor physical condition, in the judgment of the research room attendant.

(d) The card-operated copier in Room 7W1 may be used between 9 a.m. and 12 noon and between 1 p.m. and 5 p.m., Monday through Friday, except holidays. The continuous use by one researcher of this copier may be limited to 1 hour if other researchers wish to use the machine.

(e) Researchers must purchase a prepaid debit card from the Cashiers' Office (Room G–1) between 9 a.m. and 4 p.m., Monday through Friday, to cover the cost of the copies they wish to make. The cards may be purchased with cash, check, money orders, or with funds from an active deposit account. These cards, which are available in denominations of $10 and $50, will, when inserted into the copier, enable the user to make a pre-assigned number of copies; as each copy is made, the value on the card is reduced until it reaches zero. The fee for self-service copies is found in § 1258.12 of this Chapter.

(f) On completing their copying, researchers shall give their debit card to the copy room attendant, who will verify any remaining value. If the value of the card has not been reduced to zero, the attendant will issue a credit slip for the unused portion. Researchers may obtain a refund or, for cards purchased with funds from a deposit account, a credit to the deposit account for the unused value of the debit card from the Cashiers' Office between 9 a.m. and 4 p.m., Monday through Friday, except holidays. All debit cards will be retained by the copy room attendant.

PART 1258—FEES

5. The authority citation for Part 1258 continues to read as follows:

Authority: 44 U.S.C. 2116(c).

6. Section 1258.12 is amended by revising paragraph (c)(1) to read as follows:

§ 1258.12 Fee schedule.

* * * * *

(c) * * *

(1) Paper to paper (up to 11 in. by 17 in.):

Customer performs the work at NARA self-service copier	$0.10
Customer take documents for NARA copying	.30
NARA identifies documents for NARA copying	.35

* * * * *

Dated: April 23, 1986.

Claudine J. Weiher,

Acting Archivist of the United States.

[FR Doc. 86–10432 Filed 5–8–86; 8:45 am]

BILLING CODE 7515–01–M

VETERANS ADMINISTRATION

38 CFR Part 21

Implementation of the Balanced Budget and Emergency Deficit Control Act of 1985

AGENCY: Veterans Administration.

ACTION: Notice of VA actions regarding education loans.

SUMMARY: The Veterans Administration (VA) is giving notice of the effect the Balanced Budget and Emergency Deficit Control Act will have on education loans.

EFFECTIVE DATES: May 1, 1986.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 389–2092.

SUPPLEMENTARY INFORMATION: When certain Federal budget deficit targets are not met for a fiscal year, section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 requires the President to issue an order sequestering a portion of the monies appropriated for payment of various benefits to eligible persons, and limiting new Federal loan obligations. This order was issued on February 1, 1986, with an effective date of March 1, 1986.

The order has resulted in a limit being placed on the amount of money available from which the VA may make education loans to veterans and eligible persons under 38 U.S.C. 1796. The VA is hereby giving notice that it will continue making education loans until the monetary limitation established by the Act is reached. Based on the agency's current experience and loan volume projections for current fiscal year, it is likely that the limit will be reached before the end of the fiscal year.

The Catalog of Federal Domestic Assistance numbers for the programs affected by this notice are 64.111 and 64.117.

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 1, 1986.

Thomas K. Turnage,

Administrator.

[FR Doc. 86–10475 Filed 5–8–86; 8:45 am]

BILLING CODE 8320–01–M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR Part 51–2

Procurement List; Annual Republication

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Final rule.

SUMMARY: This change provides corrected information on the Committee's current practices regarding the publication of the Procurement List.

SUPPLEMENTARY INFORMATION: The provisions of the Committee's current regulations do not contain the Committee's policy regarding republication of the Procurement List annually nor do they accurately describe the information contained in the Procurement List.

The revised wording of Section 51–2.4 reflects the fact that the Committee publishes an up-to-date listing of commodities and services in the Federal Register once each fiscal year and describes the information which the Committee is now including in the publication of the Procurement List.

EFFECTIVE DATE: May 9, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

List of Subjects in 41 CFR Part 51–2

Blind, Handicapped, Government procurement.

I certify that this rule will not have a significant economic impact on a substantial number of small entities and that it is not a major rule under Executive Order 12291. Therefore, a regulatory impact analysis is not required. The rule contained herein concerns interpretative rules relating to agency procedure or practice and is exempted from the notice of proposed rule-making requirements of 5 U.S.C. 553.

PART 51–2—[AMENDED]

Accordingly, 41 CFR Part 51–2 is amended as follows:

1. The authority citation for Part 51–2 continues to read as follows:

Authority: Pub. L. 92–28, 85 Stat. 77 [41 U.S.C. 46–48c].

2. Section 51–2.4 is revised to read as follows:

§ 51–2.4 Procurement list.

(a) Once each fiscal year the Committee shall publish in the Federal Register a procurement list which includes the commodities and services which shall be procured by Government departments and agencies under the Act from the workshop(s) designated by the Committee. Copies of the Procurement List, together with information on procurement requirements and procedures, are available to ordering offices upon request.

(b) For commodities, including military resale commodities, the procurement list identifies the name and national stock number or item designation for each commodity and, where appropriate, any limitation on the portion of the commodity which must be procured under the Act.

(c) For services, the procurement list identifies the type of service to be provided, the Government department or agency responsible for procuring the service, and, where appropriate, the activity or item to be serviced.

(d) Additions to and deletions from the current procurement list are published in the Federal Register as they are approved by the Committee.

C.W. Fletcher,

Executive Director.

[FR Doc. 86–10483 Filed 5–8–86; 8:45 am]

BILLING CODE 6820–33–M

41 CFR Part 51–5

Procurement Requirements; Clarification

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Final rule.

SUMMARY: This is to clarify the mandatory coverage of Javits-Wagner-O'Day Act to commodities and services on the Procurement List when the Procurement List limits the scope of coverage for a particular commodity or service.

EFFECTIVE DATE: May 9, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: The Committee has been requested to explain the coverage of commodities and services included on the Procurement List.

For most commodities on the Procurement List, the mandatory procurement requirements apply to the total Government requirement for that commodity. When a limit is placed on the scope of the mandatory requirement for a commodity, that fact is usually indicated in the Procurement List by designating a certain percentage of the Government's requirement, the requirements for certain General Services Administration regions or Defense Logistics Agency depots, or a specific quantity. Where a limit has been placed on the scope of the mandatory provision, only that portion as described in the Procurement List is covered by that mandatory requirement.

On the other hand, the procurements of most services are limited to a specific building or buildings or to an activity. However, certain services such as the assembly of food packets are not limited and the total Government requirement is covered for that service.

List of Subjects in 41 CFR 51–5

Government procurement, Blind, Handicapped.

I certify that this rule will not have a significant economic impact on a substantial number of small entities and that it is not a major rule under Executive Order 12291. Therefore, a regulatory impact analysis is not required. The rule contained herein concerns interpretative rules relating to agency procedure or practice and is exempted from the notice of proposed rule-making requirements of 5 U.S.C. 553.

PART 51–5—[AMENDED]

Accordingly, § 51–5.1 is amended as follows:

1. The authority citation for Part 51–5 continues to read as follows:

Authority: Pub. L. 92–28, 85 Stat. 77 [41 U.S.C. 46–48c].

2. Section 51–5.1 is amended by adding 51–5.1–3 Mandatory Requirements as follows:

§ 51–5.1–3 Mandatory Requirements.

(a) Where a commodity is included on the Procurement List, only the national stock number or item designation listed is covered by the mandatory provisions of the Act. In some instances, only a portion of the Government requirement for a national stock number or item designation is specified in the Procurement List. Where geographic areas, quantities, percentages or specific supply locations for a commodity are listed, the mandatory provisions of the Act apply only to the portion or portions of the commodity indicated in the Procurement List.

(b) For services, where an agency and a location or a geographic area are listed, the mandatory provisions of the Act apply to the provision of the service for that agency only at the location or for the geographic area indicated in the Procurement List. Where no location or geographic area is indicated in the Procurement List, the mandatory provisions of the Act apply to the total Government requirement for that service.

C.W. Fletcher,

Executive Director.

[FR Doc. 86–10484 Filed 5–8–86; 8:45 am]

BILLING CODE 6820–33–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 655

[Docket No. 60219–6078]

Atlantic Mackerel, Squid, and Butterfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final 1986–1987 initial annual specifications for squid.

SUMMARY: NOAA issues this notice to provide final initial annual specifications for the Atlantic squid fisheries for the 1986–1987 fishing year. Regulations governing this fishery require that the Secretary of Commerce (Secretary) publish his determination of the specifications for the upcoming fishing year. This action is intended to notify users of the final initial specifications and to promote an orderly development of the fisheries.

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EFFECTIVE DATE: These specifications are effective April 1, 1986.

ADDRESS: Copies of the regulatory flexibility analysis and the Mid-Atlantic Council's 1986–1987 Annual Specifications Recommendations (December 23, 1985) are available from John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South New Street, Dover, Delaware 19901.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617–281–3600, ext. 273.

SUPPLEMENTARY INFORMATION: Regulations implementing Amendment 1 to the FMP were published January 4, 1984 (49 FR 402). Preliminary initial specifications for the 1986–1987 fishing year, and request for comments, were published February 7, 1986 (51 FR 4777). Comments were received by NOAA through March 10, 1986. Final initial specifications for the butterfish and Atlantic mackerel fisheries were effective on April 1, 1986, (51 FR 11742, April 4, 1986).

Specifications in this notice are based on Amendment 1 to the FMP and meet the requirement for the fishing year beginning on April 1, 1986. Recently approved portions of Amendment 2 to the FMP became effective on April 20 and 23, 1986, and proposed revisions to these specifications will be soon published to reflect the change in the fishing year which will then end on December 31, 1986, and put into effect other changes required by Amendment 2. These revisions will not affect the initial conduct of the fishing year, which commenced on April 1, 1986.

This year's initial final squid specifications have been subject to numerous setbacks which caused significant delays during the final rule publication process. During the final days of the comment period, the Government of Italy requested, and was granted, more time to submit supplementary comments to their original comments resulting in a one week delay. Resolution of opposing recommendations, not only between the Mid-Atlantic and the New England Fishery Management Councils, but also between squid harvesters and processors concerning the establishment of the initial joint venture processing (JVP) amount, consumed a large block of time. Finally, time and effort was required for regional staff members to assemble and analyze information to resolve this major issue.

Comments Received

Comments on the squid specifications were submitted by the Mid-Atlantic Fishery Management Council (MAFMC), the National Fisheries Institute (NFI), a major shoreside squid processor (Processor), the Japan Deep Sea Trawlers Association (JDSTA), and the Government of Italy on behalf of the Union of Italian Oceangoing Trawler Owners (Unionpesca). The respective comments are addressed below in the sections dealing with the specifications to which objections were raised.

Specifications

The following table lists the final initial annual specifications for squid in metric tons of the maximum optimum yield (Max OY), allowable biological catch (ABC), initial optimum yield (IOY), domestic annual harvest (DAH), domestic annual processing (DAP), JVP, and TALFF for squid (*Loligo* and *Illex*). These annual specifications are amounts that the Regional Director recommended, and the Secretary determined to be appropriate for the start of the 1986–1987 fishing year. These levels are subject to modification as the fishing year progresses as provided by §§ 655.21 and 655.22.

FINAL INITIAL SQUID SPECIFICATIONS FOR FISHING YEAR, APR. 1, 1986 TO MAR. 31, 1987

(In metric tons)

Specifications	Loligo	Illex
Max OY[1]	44,660	30,000
ABC	37,000	22,500
IOY	31,161	15,116
DAH	30,985	14,250
DAP	29,500	12,000
JVP	[2] 825	[3] 2,250
TALFF[4]	660	966

[1] Maximum OYs (as stated in the FMP).
[2] This initial amount represents 25 percent of the JVP amounts requested by joint venture applicants to date.
[3] This initial amount represents 50 percent of the JVP amounts requested by joint venture applicants to date.
[4] Bycatch TALFFs required by regulations.

In summary, the amounts in the above table reflect the following changes to the preliminary specifications:

Initial Optimum Yields (IOY)

The squid IOYs have been modified from the amounts proposed. Changes in the bycatch TALFF amounts require an increase of 188 mt in the IOY for each squid species. The increase in the *Loligo* IOY for the bycatch TALFF is offset by a reduction in the DAH amount for *Loligo*. This reduction results from a reduction of the *Loligo* squid JVP from the 1650 mt proposed to 825 mt.

Total Allowable Level of Foreign Fishing (TALFF)

An amount of 188 mt is added to each of the published preliminary initial TALFF specifications for *Loligo* and *Illex*. The 188 mt addition represents one percent of the silver hake (13,400 mt), and red hake (5,400 mt) TALFFs, published on January 30, 1986 (51 FR 3788). The percentage TALFF amounts are required by § 655.21(b)(1)(iv)(A), and (B), and (b)(3)(iii), and were unintentionally omitted from the preliminary initial TALFF calculation.

Joint Venture Processing (JVP)

The *Loligo* preliminary JVP amount is reduced by one-half, from 1,650 mt to 825 mt. The agency has considered the concern expressed by U.S. domestic industry representatives relative to the low abundance of *Loligo* that is projected as available for the export market. This change brings an accompanying decrease to the DAH for *Loligo*.

Explanation of Specifications and Response to Comments

The ABC figures are based on the best evidence available at this point in the fishing year relative to the availability of the resources, but they are not predictors of what fishing success will be in a given fishing year. This is shown by the total landing numbers for *Loligo* squid for the years 1985–1985 in Table 1 of the MAFMC 1986–1987 Annual Specifications Recommendations. In over 20 years, the total harvest reached 37,000 mt only once. Setting ABC at 37,000 mt is not any assurance of a 37,000 mt harvest and should not be treated as such by being divided up in precise figures in initial allocations.

Only as the fishing year progresses and data from actual landings are accumulated, can the MAFMC and NMFS be in a position to determine what the fishery is doing and what the respective positions should be among user groups, consistent with the objectives of the FMP. The concept of whether a "surplus" exists in the fishery is not a precise mathematical calculation. To treat ABC as such at the outset may affect the U.S. competitive position for development in the fishery over the ensuing fishing year.

Another point of concern in setting initial specifications is the appropriate treatment of foreign proposals which, although offering to bring short-term gains to U.S. interests, may potentially undermine efforts to achieve U.S. long-term development goals in the fishery. Of concern are impacts of such foreign proposals on domestic investments in vessels and shoreside facilities and U.S. marketing initiatives made through trade missions.

Given the above, NMFS has reduced the JVP specification for *Loligo* by 50 percent. Any incremental increase in a joint venture will be made consistent with the review procedures in the FMP and implementing regulations.

Incremental allocations may be made as warranted by stock and market conditions, performance of joint ventures, and U.S. development objectives as provided by §§ 655.21 and 655.22.

Initial Optimum Yields (IOY)

The squid IOYs, which represent the total of initial DAH and TALFF, have been adjusted because of (1) changes in the bycatch TALFF amounts for each squid species, and (2) because of a change to the JVP component of DAH for *Loligo*. These changes are explained below.

Comment. JDSTA described as arbitrary the difference between the *Loligo* Max OY (44,660 mt) and ABC (37,000 mt), and between the *Illex* Max OY (30,000 mt) and ABC (22,500 mt).

Response: The specifications are not arbitrary. The ABC specifications are lower than the Max OY, based on the best scientific judgment that the catch from the fishery should not rise to the Max OY levels based on current assessment data. Therefore, total annual catch is limited to the ABC level. Next, the IOYs for the two squid species are lower than the ABCs because the IOYs consist of the sums of DAH and TALFF initially projected by NMFS for use by participants in the two fisheries.

Under the design of the management regime adopted for the squids in Amendment 1 to the FMP, when the IOYs are lower than the ABCs the difference between them may be allocated in subsequent revisions to the specifications to the user group(s), whose use would best support the development goals of the U.S. industry under this FMP. Such revisions have frequently been made to IOY over the past three years since the adoption of Amendment 1. The mechanism is an impetus to development of these fisheries.

DAH—Domestic Annual Processing (DAP) Component

Comment: Unionpesca objected to the DAPs proposed for *Loligo* and *Illex* as being unjustified.

Response: The DAPs remain unchanged from the levels proposed. Unionpesca's comparison of this year's projected DAP figures with last year's final DAP figures is not appropriate. A prior year's total should be compared only with previous total DAPs in the fishery and not with this year's projected DAP. This comparison gives a better view proportionally of how the U.S. fishery is performing in more realistic terms. What is significant about the projected DAPs is the projections for the U.S. industry, particularly as to *Loligo* to substantially utilize the resource harvested in the fishery conservation zone (FCZ).

With regard to domestic performance, NMFS believes that analysis of a single year's landings is too narrow a base on which to evaluate projected DAPs. More significant than the catch totals, which can vary with the unpredictable abundance of the stocks, is the long-term manifestation of interest and intent of the domestic users to invest capital and to take steps to develop these fisheries. Market production and landing figures since 1981, after adoption of management strategies giving priority to U.S. development of its squid fisheries, show a marked improvement from previous years. Added to this are substantial capital investments made in vessels and shoreside facilities in recent years. Finally, responses submitted to a processor survey circulated by the MAFMC as part of its preparation for making recommendations for this year indicated the domestic intent to use 57,000 mt of *Loligo*, well in excess of the maximum amount estimated to be available for harvest this year (ABC). The 29,500 mt DAP specification is actually a substantial reduction from this projected figure. Therefore, the final DAPs remain unchanged from those proposed.

DAH—Joint Venture Processing (JVP) Component

After consideration of all comments and NMFS analysis of fishery conditions, the *Loligo* JVP amount is reduced from 1650 mt, as originally proposed, to 825 mt. This partial allocation of JVP is consistent with past agency practice and is sufficient for the conduct of the initial segments of currently approved joint ventures. Comments from the MAFMC, NFI, and a Processor all recommended that the *Loligo* JVP be set at zero.

Comment: The MAFMC commented that a projected limited U.S. export market of 3,000–5,000 mt of *Loligo* squid would occur this year because of availability of substitute product and disadvantageous currency rates. The MAFMC argued that, if that is the case, then the domestic industry should have access to the limited market.

Response: NMFS market analysts offer no numerical estimates, but have confirmed that the limited market conditions described by the MAFMC could occur. NMFS will closely monitor these conditions, and will ensure that incremental adjustments to JVPs will not adversely impact the U.S. fishery.

Comment: NFI and a Processor commented that JVP for *Loligo* should be 0 because joint ventures undermine the substantial capital investment made in vessel and shoreside facilities for squid processing and marketing initiatives for U.S. squid.

Response: NMFS is aware of substantial capital investment made in the past few years and has therefore decided to reduce by half the originally proposed JVP for *Loligo*. Incremental allocations may be made as warranted by stock and market conditions, performance of joint ventures, and U.S. development objectives as provided by § 655.21.

Comment: The Mid-Atlantic and New England Fishery Management Councils and NFI commented that there should be no automatic linkage between joint venture performance and recommendations for TALFF. Conversely, both Italy and Japan, in their comments, seek a sign of the NMFS position regarding the maintenance or adoption of ratios of squid TALFF related to joint ventures.

Response: NMFS has accepted the Councils' recommendation that joint venture performance not be automatically linked to TALFF. The agency also declines to accept the ratios proposed in the Italian foreign fishing/joint venture application and in the Japanese comments. Reasons for this decision are found in the TALFF comment-response section.

Comment: The Mid-Atlantic Council objected to the JVP for *Illex* since it was 1,000 mt less than that recommended by the Mid-Atlantic Council.

Response: NMFS leaves this specification unchanged since the figure represents NMFS' estimate of need in this category and the Mid-Atlantic Council has provided no compelling rationale for its revision.

Comment: JDTSA objected to the initial JVPs for both squids at the 50 percent level.

Response: The initial amounts are set at levels adequate to conduct initial segments of approved joint ventures. As noted above, review of requests for incremental amounts will provide an opportunity to determine whether further support of the joint ventures will be consistent with FMP goals.

In summary, because of the debate surrounding JVPs, NMFS believes the obligation rests with both proponents and opponents of joint ventures to describe in as much detail as possible what the relative merits or drawbacks are of joint ventures under discussion, so that the Councils and the agency can make an informed judgment that is

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equitable to all parties and consistent with the objectives of the FMP.

Total Allowable Level of Foreign Fishing (TALFF)

An amount of 188 mt is added to TALFF specifications for the initial bycatch for *Loligo* and *Illex*. The 188 mt additions represent one percent of the silver hake (13,400 mt) and red hake (5,400 mt) TALFFs, published on January 30, 1986 (51 FR 3788). These percentage TALFF amounts are required by § 655.21(b)(1)(iv)(A), and (B), and (b)(3)(iii) and were unintentionally omitted from the preliminary initial TALFF calculations.

Comment: Unionpesca commented that foreign participation in the U.S. fishery is required to deal with "surpluses" in the squid fisheries.

Response: As regards *Loligo*, the projection of surplus is premature at this time.

Comment: Unionpesca and JDTSA both commented that their requests for TALFF above bycatch levels are consistent with the "Fish and Chips" policy.

Response: The "Fish and Chips" policy is not rescinded by the NMFS decision to retain TALFF at bycatch level only. The TALFF specifications reflect the agency's reassessment of the U.S. fishery at the beginning of the fishing year. These initial specifications do not rule out discussion of exchanges of "Fish and Chips" as the fishing year develops. As with joint ventures, TALFF amounts may be considered depending upon (1) new information which indicates that such allocations will not undermine U.S. opportunities and initiatives in the squid fisheries, particularly as to *Loligo* squid; (2) performance of commitments and other actions beneficial to the United States including purchases of the U.S. product; and (3) consistency with U.S. long-term goals for the squid fisheries.

Comment: Representatives of Unionpesca cite potential losses of benefits to the United States from not specifying TALFF above bycatch levels at this point in the specifications process. Harmful effects cited include (1) loss of sales through loss of Unionpesca's assistance; (2) loss of sales through substitution of *Loligo patagonica* for *Loligo pealei*; and (3) loss of foreign fishing revenues from fees on direct fishing allocations.

Response: The objectives of the FMP are to help the squid fisheries assume a position of independence in harvesting, processing, and marketing. Substantial efforts have been made in this regard over the past few years. NMFS believes that the conservative determinations as to initial TALFF specifications are consistent with the achievement of the long-term objectives of the FMP. NMFS is not convinced that the scenarios of loss described by Unionpesca are certain to occur.

Classification

This action is authorized by 50 CFR Part 655, and complies with Executive Order 12291.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: May 6, 1986.

James E. Douglas, Jr.,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86-10508 Filed 5-6-86; 4:44 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 90
Friday, May 9, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Grade Standards for American Upland Cotton

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to revise the leaf component of all Upland cotton grade standards to reflect the leaf characteristics produced by current harvesting and ginning practices.

AMS is also proposing to reduce the number of grade standards for American Upland cotton. One physical grade standard, twelve descriptive grade standards and two of the descriptive grade standards making up the Below Grade classification would be eliminated. In recent years cotton classed in all of the grades represented by these standards has been less than two-tenths of one percent of the crop. In addition, three physical standards would be changed to descriptive standards.

It is also proposed to adopt the tentative Strict Good Ordinary Spotted physical standard and the tentative Strict Good Ordinary Light Spotted descriptive standard as permanent grade standards.

These actions are proposed to enable AMS to continue providing accurate and commercially significant distinctions in the range of quality found in the cotton crop. The proposals would enhance the Agency's ability to provide useful and cost-effective classification, standardization and market news services.

DATES: Comments must be received on or before June 9, 1986. The proposed physical standards will be available for inspection and review during the Universal Cotton Standards Conference which will be held on May 15–16, 1986, in Memphis, Tennessee.

ADDRESS: Written comments may be sent to H. H. Ramey, Jr., Chief, Standards and Testing Branch, Cotton Division, AMS, USDA, Washington, DC 20250, (202) 447–2167. The opening session of the Universal Standards Conference will be held during the morning of May 15, 1986, at the Crowne Plaza Hotel, 100 North Main Street, Memphis, Tennessee 38103. All further sessions will be held at the AMS Cotton Division office, 4841 Summer Avenue, Memphis, Tennessee 38122. The proposed physical standards will be available for inspection and review only at the AMS Cotton Division office.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed in accordance with Executive order 12291 and Departmental Regulation 1512–1 and has been determined not to be a "major rule" since it does meet the criteria for a major regulatory action as stated in the Order.

The Administrator of AMS has determined that this action would not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because the standards would be revised to reflect current industry practices and the proposed elimination of grades would directly affect less than 1 percent of the annual U.S. cotton crop, the proposals would not have the requisite economic impact. The proposed changes do not impose any additional costs or duties upon users of the service or any other segment of the cotton industry. Further, the standards are applied equally to all size entities by employees of the Department.

Pursuant to the United States Cotton Standards Act (U.S.C. 51 *et seq.*), any standard or change or replacement to the standards shall become effective not less than one year after the date promulgated. It is anticipated that if adopted these proposed changes would be implemented on July 1, 1987, to coincide with the beginning of the crop year.

Background

Pursuant to the authority contained in the United States Cotton Standards Act, the Secretary of Agriculture has established the official cotton standards of the United States for the grades of American Upland cotton. These standards are used for the classification of American Upland cotton and provide a basis for the determination of value for commercial purposes.

The existing official cotton standards for the grades of American Upland cotton are listed and described in the regulations at 7 CFR 28.402–28.475. There are 15 physical standards represented by practical forms, and 29 descriptive standards for which practical forms are not made. Six of the descriptive standards describe the poorest quality cotton which make up the Below Grade classification (7 CFR 28.475).

The first grade standards for American Upland cotton were formally promulgated by USDA in 1914. They have been revised several times since, mainly because of changing varietal characteristics and harvesting and ginning practices. The last complete revision of the standards became effective in 1963 (27 FR 5535).

Need for Revising Standards

Studies and surveys of recent crops conducted by Cotton Division, AMS, have shown that the current physical standards for grades of White, Spotted and Tinged cotton do not adequately represent Upland cotton as now being produced in the United States. Twenty-three years have passed since the Upland cotton grade standards were last revised. During this period there have been changes in varieties, cultural practices and the way cotton is harvested and ginned. Many of these changes have had an influence on cotton quality. One noticable change is in the size of leaf particles remaining in the lint after ginning. The size range of leaf particles contained in grade standards is no longer reflective of the range currently found in a typical bale of cotton.

Industry representatives at the May 14, 1985 Standards Matching Conference commented that the leaf component of the currently produced cotton differed from that of the standards. On August 29, 1985 representatives of cotton producers, ginners, merchants and textile manufacturers met with Cotton Division officials and discussed whether

the leaf component of Upland cotton grade standards should be revised.

On the basis of the information available, a reduction of the size of leaf particles would make the grade standards more nearly representative of currently produced cotton.

If such a proposal is adopted, a new set of physical grade standards would be selected to be retained in the custody of USDA as the original official U.S. Cotton Standards. The containers would be marked accordingly with an effective date of July 1, 1987. The descriptions of the physical standards in §§ 28.403, 28.405, 28.407, 28.409, 28.411, 28.413, 28.431, 28.432, 28.433, 28.434, 28.442, 28.443, and 28.444 would be amended to include the new effective date.

Reducing the Number of Standards

On September 13, 1985, the Board of Directors of the National Cotton Council of America adopted a recommendation to eliminate five rarely used grades of Upland Cotton: Strict Middling Yellow Stained, Middling Yellow Stained, Good Middling Light Spotted, Good Middling Spotted and Strict Middling Tinged. All of these descriptive grade standards, with the exception of Strict Middling Tinged, can be eliminated without adversely affecting USDA's ability to classify the cotton crop.

Analysis of classing and production records reveals that there are eight other grades which could similarly be removed because they are also rarely used: Good Middling Light Gray, Strict Middling Light Gray, Middling Light Gray, Strict Low Middling Light Gray, Good Middling Gray, Strict Middling Gray, Middling Gray, and Strict Low Middling Gray.

The very small amount of cotton represented by these grade standards would be classified into one of the remaining grades. For instance, cotton now classified as Middling Yellow Stained would be classified as Middling Tinged instead. The suggested elimination of the Strict Middling Tinged grade by the National Cotton Council is not proposed here because it would be needed to represent cotton now classified as Strict Middling Yellow Stained, a descriptive grade standard which would be eliminated by this proposal.

The following table shows the actual number of bales classified during the period 1975–1984 in each of the descriptive grades proposed for elimination. It also shows the lowest and highest level of production over the same 10-year period.

Grades	Bales classed		
	10-year average	Low year	High year
Good Middling Light Spotted	23	0	178
Good Middling Spotted	34	0	103
Strict Middling Yellow Stained	10	0	34
Middling Yellow Stained	514	42	1,969
Good Middling Light Gray	9	0	33
Strict Middling Light Gray	1,462	907	3,002
Middling Light Gray	6,583	3,084	16,833
Strict Low Middling Light Gray	3,811	933	6,407
Good Middling Gray	0	0	2
Strict Middling Gray	38	0	184
Middling Gray	290	57	690
Strict Low Middling Gray	667	101	1,149

The average annual American Upland cotton production from 1975–1984 was 11,467,000 bales. During that time, the average yearly amount of the crop classified into all of the grades proposed for elimination was only 15,906 bales, an average of a little more than one-tenth of one percent of the yearly total. The quality distinctions supplied by these grades do not appear to be necessary when cotton classified into the grades is produced in such yearly total. The quality distinctions supplied by these grades do not appear to be necessary when cotton classified into the grades is produced in such insignificant amounts.

The present standards provide for either descriptive standards or physical standards. The descriptive standards are based on the physical standards in that they describe cotton quality in reference to actual sets of cotton samples in the custody of USDA. Given this interrelationship, the elimination of 12 descriptive standards under this proposal would enable AMS to convert three physical standards to descriptive standards. Accordingly, production of physical standards for these grades would no longer be necessary. They are: Middling Tinged, Strict Low Middling Tinged, and Low Middling Tinged. If these standards were changed to descriptive, they would remain in effect as standards; only their physical representation would be discontinued.

In addition, the Good Middling physical grade standard is little used and it would be eliminated by this proposal. During the period 1975–1984, there was an average of only 490 bales classified as Good Middling.

Eliminating all of these Upland cotton grade standards would produce cost savings for standards preparation and would contribute to the efficiency and utility of the AMS cotton classification, standardization, and market news services. It would also have no appreciable effect on the marketing of cotton and would contribute to the efficiency of the cotton marketing system.

Proposed Affirmation of New Standards

Two grade standards, Strict Good Ordinary Spotted and Strict Good Ordinary Light Spotted, were promulgated on a trial basis August 16, 1983 (48 FR 37001). They became effective as tentative standards on August 16, 1984. Since then, the production and trading of cotton in these two grades have yielded quantity and price data that indicate that they should be continued on a permanent basis.

Cotton classified as Strict Good Ordinary Spotted and Strict Good Ordinary Light Spotted together made up 2.7 percent of the total cotton crop in each of the 1984 and 1985 seasons. Certain areas have had more significant percentages of the local crop falling into these grades, as in the 1985 season when the Altus, Oklahoma territory classed 8.9 percent Strict Good Ordinary Light Spotted cotton and the Winnsboro, Louisiana territory classed 2.3 percent of their classings as Strict Good Ordinary Spotted.

This was cotton that would otherwise have been classified as Below Grade if the tentative standards were not in use. With the tentative standards in effect, the cotton was distinguished from other Below Grade cotton with inferior fiber qualities and spinning potential. Over the last two crop seasons, the prices paid for cotton within the tentative grades have been higher than prices paid for Below Grade cotton, demonstrating the commercial value of such cotton in the market.

Below Grade Cotton

The proposed standards changes in this document would also require that the definition of Below Grade in 7 CFR 28.475 be revised to conform to the proposed removal of certain grade standards. To remove the Middling Yellow Stained and Strict Low Middling Gray grade standards would require the removal of the Below Middling Yellow Stained and the Below Strict Low Middling Gray standards from the definition of Below Grade Cotton. The designation of "tentative" would also be removed from the heading of § 28.475.

Public Meetings

Proposed revised physical grade standards for upland cotton were shown at a meeting of industry representatives in Memphis, Tennessee on January 29, 1986. They have also been shown at several regional meetings of cotton growers, ginners, manufacturers and merchants, and were exhibited at the International Cotton Meeting in Bremen, West Germany this year. Representatives of the European

signatory associations to the Universal Cotton Standards Agreement responded favorably to the revisions.

The proposed revised standards will be considered at the 1986 Universal Cotton Standards Conference to be held in Memphis, Tennessee on May 15–16, 1986. All overseas signatories to the universal Cotton Standards Agreement and all segments of the domestic cotton industry interested in standards have been invited to send representatives to this conference. Participants will be afforded the opportunity to inspect the proposed standards and offer comments and suggestions.

Proposed Revisions

In consideration of the foregoing, AMS proposes to alter the leaf component of the Upland cotton physical grade standards to reflect characteristics found in current crops. In addition, AMS proposes to remove the following twelve descriptive standards for the grade of American Upland cotton: Good Middling Light Spotted; Good Middling Spotted; Strict Middling Yellow Stained; Middling Yellow Stained; Good Middling Light Gray; Strict Middling Light Gray; Middling Light Gray; Strict Low Middling Light Gray; Good Middling Gray; Strict Middling Gray; Middling Gray; and Strict Low Middling Gray. AMS also proposes to remove the Good Middling physical standard. Middling Tinged, Strict Low Middling Tinged, and Low Middling Tinged would be changed from physical standards to descriptive standards. References to the grades of Middling Yellow Stained, Below Middliing Yellow Stained, Strict Low Middling Gray, and Below Strict Low Middling Gray would be removed from the definition of Below Grade cotton. The Strict Good Ordinary Spotted and Strict Good Ordinary Light Spotted grade standards would be made permanent standards. In § 28.525, the table of symbols and code numbers used in lieu of cotton grade names would be revised to reflect the proposed changes.

List of Subjects in 7 CFR Part 28

Cotton, Samples, Standards, Cotton linters, Grades, Staples, Market news, Testing.

PART 28—(AMENDED)

Accordingly, it is proposed to amend Subpart C, Part 28, Chapter I, Title 7 of the Code of Federal Regulations as shown. The Table of Contents would be amended accordingly.

1. (a) The authority citation for Part 28, Subpart C, §§ 28.401 to 28.481 is revised to read as follows:

Authority: Sections 28.401 to 28.481 issued under Sec. 10, 42 Stat. 1519; 7 U.S.C. 61. Interpret or apply Sec. 6, 42 Stat. 1518, as amended; 7 U.S.C. 56.

(b) The authority citation for Part 28, Part 28, Subpart C, § 28.525 reads as follows:

Authority: Section 28.525 issued under Sec. 10, 42 Stat. 1519; 7 U.S.C. 61. Intepret or apply Sec. 6, 42 Stat. 1518, as amended; 7 U.S.C. 56.

§§ 28.403, 28.405, 28.407, 28.409, 28.411, 28.413, 28.431, 28.432, 28.433, 28.434 [Amended]

2. In §§ 28.403, 28.405, 28.407, 28.409, 28.411, 28.413, 28.431, 28.432, 28.433, 28.434, the date June 15, 1963 would be changed to July 1, 1987.

§§ 28.402, 28.420, 28.430, 28.451, 28.452, 28.460, 28.461, 28.462, 28.463, 28.470, 28.471, 28.472, 28.473 [Removed]

3. Sections 28.402, 28.420, 28.430, 28.451, 28.452, 28.460, 28.461, 28.462, 28.463, 28.470, 28.471, 28.472, and 28.473 and the center headings "Yellow Stained cotton," "Light Gray cotton," and "Gray cotton," would be removed.

4. Section 28.441 would be revised to read as follows:

§ 28.441 Strict Middling Tinged.

Strict Middling Tinged in American Upland cotton which in leaf and preparation is Strict Middling Spotted but which in color is deeper than Strict Middling Spotted.

5. Section 28.442 would be revised to read as follows:

§ 28.442 Middling Tinged.

Middling Tinged is American Upland cotton which in leaf and preparation is Middling Spotted but which in color is deeper than Middling Spotted.

6. Section 28.443 would be revised to read as follows:

§ 28.443 Strict Low Middling Tinged.

Strict Low Middling Tinged is American Upland cotton which in leaf and preparation is Strict Low Middling Spotted but which in color is deeper than Strict Low Middling Spotted.

7. Section 28.444 would be revised to read as follows:

§ 28.444 Low Middling Tinged.

Low Middling Tinged is American Upland cotton which in leaf and preparation is Low Middling Spotted but which color is deeper than Low Middling Spotted.

8. The heading of Section 28.425 would be revised to read as follows:

§ 28.425 Strict Good Ordinary Light Spotted.

* * * * *

9. Section 28.435 would be revised to read as follows:

§ 28.435 Strict Good Ordinary Spotted.

Strict Good Ordinary Spotted is American Upland cotton which in color, leaf, and preparation is within the range represented by a set of samples in the custody of the United States Department of Agriculture in a container marked "Original Official Cotton Standards of the United States, American Upland, Strict Good Ordinary Spotted, effective July 1, 1987."

10. Section 28.475 would be revised to read as follows:

§ 28.475 Below Grade Cotton.

Below Grade cotton is American Upland cotton which is lower in grade than Good Ordinary, or Strict Good Ordinary Light Spotted, or Strict Good Ordinary Spotted, or low Middling Tinged. In cotton classification, the official designation for such cotton is Below Grade. The term Below Good Ordinary, or Below Strict Good Ordinary Light Spotted, or Below Strict Good Ordinary Spotted, or Below Low Middling Tinged and other additional explanatory terms considered necessary to describe adequately the condition of the cotton may be entered on classification memorandums or certificates.

11. Paragraph (a) of § 28.525 would be revised to read as follows:

§ 28.525 Symbols and Code Numbers.

* * * * *

(a) Symbols and Code Numbers for Grades of American Upland Cotton.

Full grade name	Symbol	Code No.
Strict Middling	SM	21
Middling Plus	Mid Plus	30
Middling	Mid	31
Strict Low Middling Plus	SLM Plus	40
Strict Low Middling	SLM	41
Low Middling Plus	LM Plus	50
Low Middling	LM	51
Strict Good Ordinary Plus	SGO Plus	60
Strict Good Ordinary	SGO	61
Good Ordinary Plus	GO Plus	70
Good Ordinary	GO	71
Strict Middling Light Spotted.	SM Lt Sp	22
Middling Light Spotted	Mid Lt Sp	32
Strict Low Middling Light Spotted.	SLM Lt Sp	42
Low Middling Light Spotted.	LM Lt Sp	52
Strict Good Ordinary Light Spotted.	SGO Lt Sp	62
Strict Middling Spotted	SM Sp	23
Middling Spotted	Mid Sp	33
Strict Low Middling Spotted.	SLM Sp	43
Low Middling Spotted	LM Sp	53
Strict Good Ordinary Spotted.	SGO Sp	63
Strict Middling Tinged	SM Tg	24
Middling Tinged	Mid Tg	34
Strict Low Middling Tinged.	SLM Tg	44
Low Middling Tinged	LM Tg	54

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Full grade name	Symbol	Code No.
Below Grade—(Below Good Ordinary).	BG	81
Below Grade—(Below Select Good Ordinary Lt Spotted).	BG	82
Below Grade—(Below Select Good Ordinary Spotted).	BG	83
Below Grade—(Below Low Middling Tinged).	BG	84

* * * * *

Dated: May 2, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86-10332 Filed 5-8-86; 8:45 am]

BILLING CODE 3410-02-M

Food Safety and Inspection Service

9 CFR Part 327

[Docket No. 85-027P]

Imported Product; Withdrawal of Nicaragua From the List of Countries Eligible for Importation of Meat Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to withdraw the country of Nicaragua from the list of countries eligible for importation of their products of cattle, sheep, swine, and goats into the United States under the Federal Meat Inspection Act (FMIA). The FMIA requires that, in order for a country to be eligible to export meat products to the United States, the meat inspection system of the country must assure compliance with requirements that are "at least equal to" the requirements of the FMIA and regulations as applied to official establishments in the United States and their products. The FSIS has been unable to obtain current information concerning the meat inspection system of Nicaragua, and consequently the Administrator of FSIS cannot, at this time, make the determinations required for maintenance of eligibility. Because of this, the Administrator is proposing to withdraw the country of Nicaragua from the list of countries eligible for importation of their meat products into the United States.

DATES: Comments must be received on or before July 8, 1986.

ADDRESS: Written comments to: Policy Office, Attn: Annie Johnson, FSIS Hearing Clerk, Room 3803, South Agriculture Building, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Dr. William Havlik, Director, Foreign Programs Division, International Programs, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-2644.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Effect on Small Entities

The Administrator of the Food Safety and Inspection Service has determined that this proposed rule is not a major rule under Executive Order 12291, because imports of products of Nicaraguan origin are currently prohibited by Executive Order 12513, issued May 1, 1985, and of indefinite duration. As a result, there are currently no domestic importers of Nicaraguan meat products. The Administrator has also determined that this proposed rule will have no impact on small entities for the reason stated above.

Comments

Interested persons are invited to submit written comments concerning this proposal. Written comments should be sent in duplicate to the Policy Office and should refer to the docket number located in the heading of this document. All comments submitted in response to this proposal will be made available for public inspection in the Policy Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

Pursuant to the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*), the Secretary of Agriculture is responsible for administering the programs which are designed to ensure that meat and meat food products distributed to consumers are wholesome, not adulterated, and properly marked, labeled and packaged. The Administrator of FSIS has been delegated the authority to issue regulations and implement appropriate procedures to ensure compliance with the requirements of the FMIA. The regulations addressing imported meat products are contained in 9 CFR Part 327. In these regulations, the Administrator has established procedures by which foreign countries desiring to establish eligibility for importation of their products into the United States may do so (9 CFR 327.2(a)(2)(iii)).

Maintenance of eligibility depends on the results of periodic reviews of the foreign meat inspection system in operation by a USDA representative and the timely submission of relevant documentation and other information so that the Administrator can make the required determinations as to eligibility status (9 CFR 327.2(a)(2)(iii)).

The Administrator has authority to withdraw the listing of a foreign country from those eligible for importation of their products into the United States under section 327.2 of the Federal meat inspection regulations (9 CFR 327.2(a)(4)):

> * * * Whenever it shall be determined by the Administrator . . . that, for lack of current information concerning the system of meat inspection being maintained by such foreign country, such foreign country should be required to reestablish its eligibility for listing.

Recently FSIS was informed that there are personal security risks for FSIS personnel traveling to Nicaragua for the purpose of reviewing Nicaragua's meat inspection system to obtain current information. At this time, the best available information indicates that the safety of FSIS personnel cannot be assured. The Department will not require employees to travel to Nicaragua to conduct USDA business until such time as conditions improve. Because of this, FSIS is unable to obtain current information concerning the meat inspection system of Nicaragua and cannot make a determination as to whether Nicaragua's inspection system is assuring that at least "equal to" requirements are being met. Therefore, pursuant to section 327.2 of the Federal meat inspection regulations (9 CFR 327.2), FSIS is proposing to withdraw Nicaragua from the list of countries from which cattle, sheep, swine, and goat products of the countries may be imported into the United States.

Proposed Rule

Accordingly paragraph (b) of section 327.2 of the Federal meat inspection regulations would be amended as set forth below:

List of Subjects in 9 CFR Part 327

Imported products, Meat inspection.

PART 327—[AMENDED]

1. The authority citation for Part 327 continues to read as follows:

> **Authority:** 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438; 21 U.S.C. 71 *et seq.*, 33 U.S.C. 1254.

§ 327.2 [Amended]

2. Paragraph (b) of section 327.2 (9 CFR 327.2) would be amended by removing the following country from the list of countries eligible for importation of products of cattle, sheep, swine, and goats into the United States:

Nicaragua

Done at Washington, DC, on May 6, 1986.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 86-10429 Filed 5-8-86; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[File No. 851 0014]

American Academy of Optometry, Inc.; Proposed Consent Agreement With Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed Consent Agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final commission approval, would, among other things, prohibit a Washington, D.C. based professional association from restricting or declaring unethical any truthful advertising, solicitation of patients or choice of a location to practice.

DATE: Comments will be received until July 8, 1986.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: FTC/B-823, M. Elizabeth Gee, Washington, D.C. 20580. (202) 724-1341.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's Rules of Practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Advertising, Optometrists, Trade practices.

Before the Federal Trade Commission

[File No. 851-0014]

Agreement Containing Consent Order To Cease and Desist

In the matter of American Academy of Optometry, Inc., a corporation.

The Federal Trade Commission having initiated an investigation of certain acts and practices of the American Academy of Optometry, Inc. (AAO), a corporation, and it now appearing that AAO is willing to enter into an agreement containing an order to cease and desist from the use of the acts and practices being investigated.

It is hereby agreed by and between AAO, and its duly authorized officer and/or its attorney, and counsel for the Federal Trade Commission that:

1. AAO is a corporation organized, existing, and doing business under and by virtue of the laws of the District of Columbia, with its mailing address at 5530 Wisconsin Avenue, N.W., Suite 950, Washington, D.C. 20815.

2. AAO admits all of the jurisdictional allegations set forth in the draft of complaint here attached.

3. AAO waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft of complaint contemplated thereby, will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify AAO, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision, in disposition of the proceeding.

5. This agreement is for settlement purposes only and does not constitute an admission by AAO that the law has been violated as alleged in the draft of complaint here attached.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 2.34 of the Commission's Rules of Practice, the Commission may, without further notice to AAO, (1) issue its complaint corresponding in form and substance with the draft of complaint here attached and its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the complaint and decision containing the agreed-to order to AAO's address stated in this agreement shall constitute service. AAO waives any right it may have to any other manner of service. The complaint attached hereto may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

7. AAO has read the proposed complaint and order contemplated hereby. It understands that once that order has been issued, it will be required to file one or more compliance reports showing that it has fully complied with the order. AAO further understands that it may be liable for civil penalties in the amount provided by law for each violation of the order after the order becomes final.

Order

I

For purposes of this order, the following definitions shall apply:

A. "AAO" means respondent American Academy of Optometry, Inc., its officers, councils, committees, representatives, agents, employees, successors, and assigns.

B. "Adverse action" means the revocation or suspension of, or refusal to grant, membership in AAO, or the disciplining or penalizing of any optometrist.

II

It is ordered, that AAO, directly or indirectly, or through any corporate or other device, in or affecting commerce, as "commerce" is defind in the Federal Trade Commission Act, shall forthwith cease and desist from:

A. Restricting, regulation, impending, declaring unethical, interfering with, or advising against the truthful, non-

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deceptive advertising or publishing by any person of the prices, terms or conditions of sale of optometric sevices or optical products, or of information about optometrists' services that are offered for sale or made available by optometrists or by any organization with which optometrists are affiliated;

B. Restricting, regulating, impeding, declaring unethical, interfering with, or advising against the solicitation, through truthful, non-deceptive advertising or by any other means, of patients, patronage, or contracts to supply optometric services or optical products, by any optometrist or by any organization with which optometrists are affiliated;

C. Restricting, regulating, or interfering with any optometrist's choice of a location at which the optometrist will practice; and

D. Inducing, urging, encouraging, or assisting any optometrist, group of optometrists, or any other non-governmental organization to take any of the actions prohibited by Part II of this Order.

Nothing contained in Part II of this Order shall prohibit AAO from formulating, adopting, disseminating to its members, and enforcing reasonable ethical guidelines governing the conduct of its members with respect to representations, including unsubstantiated representations, that AAO reasonably believes would be false or deceptive within the meaning of Section 5 of the Federal Trade Commission Act, or with respect to univited, in-person solicitation of actual or potential patients, who, because of their particular circumstances, are vulnerable to undue influence.

III

It is further ordered, that AAO shall cease and desist from:

A. Taking any adverse action against a person alleged to have violated any rule, policy, guideline, or ethical standard without first providing such person with written notice of any such allegation, and without providing such person a reasonable opportunity to respond. The notice required by this part shall, at a minimum clearly specify the rule, policy, guideline, or ethical standard alleged to have been violated, the specific conduct that is alleged to have violated the rule, policy, guideline, or ethical standard, and the reasons the conduct is alleged to have violated the rule, policy, guideline, or ethical standard; and

B. Failing to maintain for five (5) years following the taking of any action referred to in this part, in a separate file segregated by the name of any person against whom such action was taken, any document that embodies, discusses, mentions, refers, or relates to the action taken and any allegation relating to it.

IV

It is further ordered, that AAO shall:

A. For a period of three (3) years, commencing on the date this Order becomes final, provide each applicant for membership in AAO with a copy of the synopsis, attached hereto as Attachment A, of the complaint and this Order at the time the applicant files his or her application for membership in AAO;

B. Within sixty (60) days after this Order becomes final, send by first-class mail the letter attached hereto as Attachment B, together with a copy of the synopsis, attached hereto as Attachment A, of the complaint and this Order to every optometrist who applied for membership in AAO within the last five (5) years but was not accepted for membership, and during whose application review process AAO or any committee or member of AAO raised an issue regarding any practices that are the subject of this Order;

C. Within sixty (60) days after this Order becomes final, publish the synopsis, attached hereto as Attachment A, of the complaint and this Order in the *American Journal of Optometry and Physiological Optics*, or in any successor publication with the same prominence as regularly published feature articles, and distribute a copy of that issue to each optometrist who is a member of AAO at the time this Order becomes final;

D. Within ninety (90) days after this Order becomes final, remove from its constitution, bylaws, and any other existing policy statements of guidelines of AAO, any provision, interpretation, or policy statement that is inconsistent with Part II of this Order, and within one hundred and twenty (120) days after this Order becomes final, publish and distribute, in the manner described in Part IV.C. of this Order, a copy of the revised versions of such documents, statements, or guidelines to each of its members;

E. Within one hundred and twenty (120) days after this Order becomes final, file a written report with the Federal Trade Commission setting forth in detail the manner and form in which it has complied and is complying with this Order;

F. For a period of five(5) years after this Order becomes final, maintain and make available to the Commission staff for inspection and copying upon reasonable notice, records adequate to describe in detail any action taken in connection with the activities covered by Parts II and III of this Order, including but not limited to any advice or interpretations rendered with respect to advertising or solicitation involving any optometrist or any entity with which optometrists are affiliated; and

G. Annually for a period of five (5) years after this Order becomes final, and commencing twelve (12) months after this Order becomes final, file a written report with the Federal Trade Commission setting forth in detail any action taken in connection with the activities covered by Parts II, III, and IV of this Order, including but not limited to any advice or interpretations rendered with respect to advertising or solicitation involving any optometrist or any entity with which optometrists are affiliated.

V

It is further ordered, that AAO shall notify the Commission at least thirty (30) days prior to any proposed change in the respondent, such as dissolution or reorganization resulting in the emergence of a successor corporation or association, or any other change in the corporation or association which may affect compliance obligations arising out of this Order.

Attachment A—Synopsis of Consent Agreement Between American Academy of Optometry and Federal Trade Commission

The American Academy of Optometry ("Academy") has agreed to comply with the terms of a Consent Order issued by the Federal Trade Commission. A Complaint, setting forth the Commission's allegations against the Academy, has also been issued by the Commission. The Academy's agreement to the Consent Order is for settlement purposes only, and does not constitute an admission by the Academy of a law violation. In December 1981, the Academy adopted a set of guidelines that allow advertising by its members, but such guidelines require further amendment.

The Complaint alleges that the Academy maintained and enforced ethical standards and guidelines and interpreted and implemented standards and guidelines which restricted truthful advertising and solicitation by members or prospective members, and prevented members or prospective members from practicing in commercial locations.

The Consent Order requires that the Academy not restrain advertising or prices, products and services, and other forms of solicitation by any optometrist, or any optometrist's choice of practice location. However, the Consent Order does not prohibit the Academy from adopting reasonable ethical guidelines to prevent false or deceptive advertising or uninvited, in-person solicitations of patients whose particular circumstances make them vulnerable to undue influence. The Consent Order also does not restrict the Academy from maintaining standards on the competency of its members.

The Consent Order requires that the Academy not revoke, suspend, or refuse to grant Academy membership, or discipline or penalize any optometrist, without first providing him or her with written notice of any allegations, and a reasonable opportunity to respond to them.

The Consent Order also requires the Academy to remove from its constitution, bylaws, policy statements, and guidelines any provision that is inconsistent with the Consent Order.

This synopsis is not intended to constitute an official interpretation of the Consent Order or Complaint, or to modify in any way their terms.

Attachment B

Dear Dr. _____: This letter is to inform you of a Consent Order entered by the Federal Trade Commission. (A synopsis of the Order and the Complaint issued by the Commission is enclosed.) Under the terms of this Order, the American Academy of Optometry has agreed, without admitting to the non-jurisdictional factual or legal allegations in the Complaint, that we will not prevent or impede any optometrist from engaging in any form of truthful, non-deceptive advertising or solication, or interfere with any optometrist's choice of practice location. The Order does not prohibit the Academy from adopting and enforcing reasonable guidelines to prevent advertising that the Academy reasonably believes is false or deceptive, or uninvited, in-person solicitation of patients whose particular circumstances make them vulnerable to undue influence.

Under the Consent Order, we must ensure that our Constitution, Bylaws, policy statements and other ethical guidelines comply with the terms of the Order. In addition, if we take adverse action against a person alleged to have violated any of our ethical standards, we must provide that person with written notice of the allegations and a reasonable opportunity to respond to them.

We are sending copies of the enclosed synopsis of the Consent Order and Complaint, as it is published in the American Journal of Optometry and Physiological Optics, to you as an optometrist who applied for membership in the Academy within the last five years, but were not accepted for membership. Transmittal of this notice to you does not reflect an admission by the Academy that your non-acceptance for membership in the Academy was the result of any activity of the Academy now prohibited by the Consent Order. However, you are free, if you desire, to contact the Academy regarding either the submission of a new application for membership, or reconsideration of a previous application.

A copy of the Complaint and Consent Order are freely available upon request.

Sincerely,

_____

(Name and Title)
American Academy of Optometry
Enclosure.

American Academy of Optometry, Inc.; Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from the American Academy of Optometry (AAO), a national organization of optometrists. The agreement would settle charges by the Commission that the proposed respondent violated Section 5 of the Federal Trade Commission Act by enacting and enforcing ethical standards of conduct against solicitation and some forms of advertising and commercial practice by AAO members and prospective members.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw the agreement or make final the agreement's proposed order.

The Complaint

A complaint has been prepared for issuance by the Commission along with the proposed order. It alleges that AAO combined or agreed with at least some of its members to restrain or lessen competition by: restricting truthful advertising by AAO members or prospective members; inducing or attempting to induce members or prospective members to cease some forms of truthful advertising or solicitation; and withholding membership from prospective members who engaged in some forms of truthful advertising. The complaint also alleges that AAO restricted the types of practice locations members or prospective members may use.

The complaint alleges that AAO engaged in various acts or practices in furtherance of the combination or agreement. These acts or practices included AAO's enactment and adoption of ethical restrictions, standards of conduct, policy statements and guidelines that, among other things: (1) require members' public statements announcements of services and promotional activities to "emphasize professional services;" (2) prohibit all "direct solicitations" of patients; and (3) require members to "practice in locations consistent with the majority of other health professionals in the area." AAO also interpreted and implemented the above ethical restrictions, standards of conduct, policy statements and guidelines to restrict truthful advertising by members or prospective members of prices, services, products, and other information where advertisements were judged by AAO not to emphasize professional services. AAO also interpreted and implemented these restrictions, standards, statements and guidelines to prevent members or prospective members from practicing in commercial locations.

The complaint alleges that most optometrists have traditionally provided optometric services and optical products from a single private office location, and that most of these have engaged in little or no advertising regarding their products or service. However, the complaint alleges, some optometrists conduct their business in a manner different from the traditional office setting by locating their practices in locations customarily considered "commercial" in nature, such as retail optical or other retail stores. Such practices, the complaint alleges, can increase consumer access to optometric care and achieve operating efficiencies that may lower costs of many optometric services and optical products. The complaint alleges that such optometrists or firms with which they affiliate engage in more advertising than traditional practitioners, and that advertising enables optometrists to inform consumers about factors important to their choice of an optometrist, and can benefit consumers by increasing the information available to them and promoting competition among optometrists. The complaint alleges that the purposes and effects of AAO's combination or agreement and acts or practices were and are to unreasonably restrain competition and affect consumers in one or more of the following ways, among others:

(1) Consumers are deprived of the benefits of vigorous price and service competition among optometrists;

(2) Consumers are deprived of truthful information about optometrists' prices, products, services and qualifications;

(3) Optometrists are prevented from disseminating truthful information about their prices, products, services and qualifications; and

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(4) Consumers may be deprived of the potential cost savings, convenience and effeciency benefits of optometric practices located in commercial settings.

The Proposed Consent Order

Part I of the proposed consent order contains definitions of terms used in the order. Part II prohibits AAO from restraining advertising, solicitation or practice location by an optometrist or any organization with which the optometrist may be affiliated. However, Part II also contains a proviso that makes it clear that the order does not prohibit AAO from formulating or enforcing reasonable ethical guidelines with respect to advertising by AAO members that is false or deceptive under Section 5 of the Federal Trade Commission Act, or uninvited, inperson solicitation of patients who are vulnerable to undue influence.

Part III.A of the proposed consent order requires AAO, before taking any adverse action against any person alleged to have violated any AAO standard of conduct, to provide that person with written notice of the allegation and a reasonable opportunity to respond. Part III.B requires AAO to maintain a file relating to any such adverse action for five (5) years.

Part IV.A requires AAO, for a period of three (3) years, to give each applicant for membership in AAO a copy of a synopsis (appended as Attachment A to the proposed order) which describes the allegations of the complaint and the requirements of the consent order. Part IV.B requires AAO, within sixty (60) days after the order becomes final, to send a letter (appended as Attachment B to the proposed order) and a copy of the above synopsis to each optometrist who applied for AAO membership in the last five years but was not accepted for membership, where it appears that an issue was raised during the application review process concerning the applicant's advertising, solicitation or style of practice. Part IV.C requires AAO, within sixty (60) days after the order becomes final, to publish the above synopsis of the complaint and order in the AAO journal, the *American Journal of Optometry and Psysiological Optics*, and distribute a copy to every member of AAO.

Part IV.D of the proposed consent order requires AAO, within ninety (90) days after the order becomes final, to remove from its constitution, by-laws, policy statements or guidelines any provisions that are inconsistent with Part II of the order.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 86-10422 Filed 5-8-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulations No. 16]

Medicaid Eligibility Determinations

AGENCY: Social Security Administration, HHS.

ACTION: Proposed rule.

SUMMARY: We propose to revise our rules on the agreements under which we make Medicaid eligibility determinations on behalf of States for individuals who receive Supplemental Security Income (SSI) benefits. The revision would provide that we will enter into an agreement with a State that requires in its title XIX plan, as a condition of Medicaid eligibility, that a person assign to the State any rights he or she has to payments from someone else for medical care. This assignment is required by sections 1902(a)(45) and 1912(a)(1) of the Social Security Act (the Act) as added and amended, respectively, by section 2367 of Pub. L. 98-369, the Deficit Reduction Act of 1984. We also propose to rewrite and reorganize our existing rules for making Medicaid eligibility determinations.

DATE: Your comments will be considered if we receive them no later than July 8, 1986.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3-A-3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Cliff Terry, Legal Assistant, Room 3-B-4, Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-7519.

SUPPLEMENTARY INFORMATION: Section 1634 of the Social Security Act authorizes us to enter into an agreement, with a State that wishes to do so, to make Medicaid eligibility determinations on behalf of the State for aged, blind, or disabled individuals. Our regulations for these agreements are in 20 CFR Part 416, Subpart U.

Assignment of Third-Party Payment Rights

Our existing regulations provide that we will not enter into a section 1634 agreement with a State unless the Medicaid eligibility requirements the State asks us to apply are the same as either SSI requirements or State supplementary payment requirements, except that the State need not have us make Medicaid determinations for every category (aged people, blind people, and disabled people) of SSI beneficiary.

Section 2367 of Pub. L. 98-369, the Deficit Reduction Act of 1984, enacted July 18, 1984, amended sections 1902 and 1912 of the Act. Section 1920(a)(45), as added, requires that the State plan under title XIX include as a Medicaid eligibility requirement the assignment of rights to third-party medical payments. Section 1912(a)(1), as amended, mandates that States require, as a condition of Medicaid eligibility, that a person assign to the State his or her rights to any medical care support available under an order of a court or an administrative agency and any third-party payments for medical care (except Medicare). Section 1912(a)(1)(A) and (B) further require as a condition of eligibility that the individual assign the rights of any other individual eligible under the State's Medicaid plan for whom he or she can legally make an assignment cooperate in establishing paternity and obtaining medical care support and payments. Section 2367 of Pub. L. 98-369 was effective October 1, 1984, except that it grants additional time for compliance to State whose compliance requires State legislation.

Sections 1902(a)(45) and 1912(a)(1) are intended to give the States an efficient means of preventing or recovering Medicaid overpayments that result from payment by Medicaid of medical expenses for which someone else, such as an insurance company or an absent parent, is legally responsible. Section 1634 is intended to give States the advantage of having us make Medicaid determinations on their behalf to prevent duplication of effort since we already considered many factors in making the SSI determinations that the State would consider in making the Medicaid determinations.

It had been our policy, under our existing regulations prior to enactment of section 2367, to make determinations only for States whose eligibility requirements for Medicaid are the same as those for the SSI program. We made this decision mainly to simplify the making of Medicaid eligibility determinations and keep down the cost to the States and to us. However, since all States are now required to include the assignment of rights to third-party medical payments under sections 1902(a)(45) and 1912(a)(1) as a condition of Medicaid eligibility, we now propose to amend our regulations to provide that we will apply the assignment of rights provision when we make Medicaid eligibility determinations for a State which has a section 1634 agreement.

To determine whether the assignment requirement is met, we will explain the assignment of rights requirements to claimants and that it is a condition of eligiblity for Medicaid. We also plan to have each claimant sign a form in States where such rights are not automatically assigned by operation of State law, to provide for assignment of rights to payments by third party payors and assignment of such rights for any other individual(s) eligible under the State Medicaid plan for whom the claimant can legally assign such rights. We also plan to provide the Medicaid agency with information on each claimant as to whether the assignment of rights requirement is met.

General Rewriting of Subpart U

We are also rewriting and reorganizing all of Subpart U to make it clearer and easier to understand. We summarize below the rewritten Subpart U and the additions and main clarifications we have made:

Basic Provisions

Section 416.2101 cross-refers to the basic regulations of the Health Care Financing Administration on the Medicaid program. This section also defines terms used in Subpart U. Section 416.2111 states the conditions for our agreeing to make Medicaid eligibility determinations for a State. Section 416.2116 states when we make the determinations. Section 416.2130 gives examples of Medicaid functions we will not agree to carry out for a State.

Liability

Section 416.2140 states the limits of our liability if we tell a State erroneously that a person is eligible for Medicaid. This provision is not in the existing regulations but is in existing agreements with States.

Other Services

Section 416.2145 describes services, other than eligibility determinations, which we provide under authority of 31 U.S.C. 6505 to help a State administer its Medicaid program. The main other service is to give the State information relevant to Medicaid eligibility that we get from individuals applying for SSI benefits. We have added to this section a description of the two items of information currently requested by our SSI application forms solely for States' use for Medicaid purposes.

Charges to States

Section 416.2161 provides, more specifically than the existing regulations, under what circumstances and how much a State has to pay for each service we provide under this subpart. The States pay half of our additional costs directly related to making Medicaid eligibility determinations. The States pay our full additional costs for other services.

Duration of Agreement

Section 416.2171 identifies the duration of a Medicaid determination agreement and the ways it can be ended. Paragraphs (b) and (c) include ways of ending it that are not in the existing regulations but that are in existing agreements with States. These are: (1) Either the State or we can end the agreement by giving written nofice at least 90 days before the end of a term; or (2) if the State fails to pay our costs as agreed, we can notify the State in writing, at least 30 days before the ending date we select, why we intend to end the agreement. If the State gives a good reason for keeping the agreement in force beyond the ending date we selected, the termination will be postponed or the agreement will remain in force through the end of the term.

Disagreements Between a State and Us

Section 416.2176 describes the appeals procedure for resolving disagreements that may arise under a Medicaid determination agreement. Any disagreement related to performance under the agreement may be appealed. An appeal to the HHS Grant Appeals Board is the final level of administrative appeal. Again, this procedure is not in the existing regulations but reflects the existing agreements with States, with minor modifications.

State Employees Working in Our Offices

We have deleted specific mention of letting State Medicaid employees work in our offices to take applications for Medicaid (existing § 416.2115(c)), because very few State employees have been assigned to our offices and specific reference in the regulations to this service no longer seems necessary. In spite of the deletion, we will still permit these assignments where appropriate.

Regulatory Procedures

Executive Order 12291

These proposed regulations have been reviewed under E.O. 12291. They will not have an annual effect on the economy of $100 million and do not meet any of the other criteria for a major regulation. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These proposed regulations impose no reporting/recordkeeping requirements requiring OMB clearance.

Regulatory Flexibility Act

We certify that these proposed regulations will not, if promulgated, have a significant economic impact on a substantial number of small entites because these rules will apply only to States and individuals. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96-354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income; 13.714, Medical Assistance Program.)

List of Subjects in 20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disabled, Public assistance program, Supplemental Security Income (SSI).

Dated: August 26, 1985.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: February 7, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

PART 416—[AMENDED]

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as follows:

1. Subpart U is revised to read as follows:

Subpart U—Medicaid Eligibility Determinations

Sec.

416.2101 Introduction.
416.2111 Conditions for our agreeing to make Medicaid eligibility determinations.
416.2116 Medicaid eligibility determinations.

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Sec.
416.2130 Effect of the agreement and responsibilities of States.
416.2140 Liability for erroneous Medicaid eligibility determinations.
416.2145 Services other than Medicaid determinations.
416.2161 Charges to States.
416.2166 Changing the agreement.
416.2171 Duration of agreement.
416.2176 Disagreements between a State and us.

Authority: Secs. 1102, 1631, 1634, 1902(a)(45), and 1912 of the Social Security Act, as amended; sec. 1 of Pub. L. 97–258; 49 Stat. 647, as amended; 86 Stat. 1475 and 1478; 91 Stat. 1199; 98 Stat. 1007; 42 U.S.C. 1302, 1383, 1383c, 1396a(a)(45), and 1396k; 31 U.S.C. 6505.

Subpart U—Medicaid Eligibility Determinations

§ 416.2101 Introduction.

(a) *What is in this subpart.* This subpart describes the agreements we make with States for us to determine the Medicaid eligibility of individuals who receive Supplemental Security Income (SSI) benefits. It includes a general description of the services we will provide under these agreements and the costs to the States for the services.

(b) *Related regulations.* The comprehensive regulations on eligibility for the Medicaid program, administered by the Health Care Financing Administration, are in Part 435 of Title 42 of the Code of Federal Regulations.

(c) *Definitions.* In this subpart—

"SSI benefits" means Federal SSI benefits, including special SSI cash benefits under § 416.261. In addition, we consider a person who has special SSI eligibility status under § 416.264 to be receiving SSI benefits.

"State Medicaid plan" means a State's medical assistance plan which the Secretary has approved under title XIX of the Act for Federal payment of a share of the State's medical assistance expenses.

"State supplementary payments" means supplementary payments we administer for a State under Subpart T of this part.

"We", "us", or "our" refers to the Social Security Administration.

§ 416.2111 Conditions for our agreeing to make Medicaid eligibility determinations.

We will agree to make Medicaid eligibility determinations for a State only if the State's Medicaid eligibility requirements for recipients of SSI benefits and for recipients of State supplementary payments are the same as the requirements for receiving SSI benefits and the requirements for receiving State supplementary payments, respectively. Exceptions: We will agree to make Medicaid eligibility determinations—

(a) For one, two, or all of the three categories of people (i.e., aged, blind, and disabled) who receive SSI benefits or State supplementary payments; or

(b) Even though the State's Medicaid eligibility requirements for recipients of SSI benefits or of State supplementary payments, or both, include the requirement for the assignment of rights to third-party medical care payments under sections 1902(a)(45) and 1912(a)(1) of the Act.

§416.2116 Medicaid eligibility determinations.

If a State requests, we will agree, under the conditions in this subpart, to make Medicaid eligibility determinations on behalf of the State. Unnder these agreements, we make the Medicaid determinations when determinations or redeterminations are necessary for SSI purposes. When we determine that a person is or is not eligible for Medicaid in accordance with §416.2111, we notify the State of that fact.

§416.2130 Effect of the agreement and responsibilities of States.

(a) An agreement under this subpart does not change—

(1) The provisions of a State's Medicaid plan;

(2) The conditions under which the Secretary will approve a State's Medicaid plan; or

(3) A State's responsibilities under the State Medicaid plan.

(b) Following are examples of functions we will not agree to carry out for the State:

(1) Stationing of our employees at hospitals or nursing homes to take Medicaid applications;

(2) Determining whether a person is eligible for Medicaid for any period before he or she applied for SSI benefits;

(3) Giving approval for emergency medical care under Medicaid before a determination has been made on whether a person is eligible for SSI benefits;

(4) Setting up or running a State's system for requiring a person to pay part of the cost of services he or she receives under Medicaid; or

(5) Giving identification cards to people to show that they are eligible for Medicaid.

§416.2140 Liability for erroneous Medicaid eligibility determinations.

If we erroneously tell a State that a person is eligible for Medicaid and the State therefore makes erroneous Medicaid payments, the State will be paid the Federal share of those payments under the Medicaid program as if they were correct. If the State suffers any financial loss, directly or indirectly, through using any information we provide under an agreement described in this subpart, we will not be responsible for that loss.

§416.2145 Services other than Medicaid determinations.

We will agree under authority of 31 U.S.C. 6505 to provide services other than Medicaid determinations to help the State administer its Medicaid program. We will do this only if we determine it is the most efficient and economical way to accomplish the State's purpose and does not interfere with administration of the SSI program. The services can be part of a Medicaid eligibility determination agreement or a separate agreement. Under either agreement we will—

(a) Give the State basic information relevant to Medicaid eligibility from individuals' applications for SSI benefits;

(b) Give the State answers to purely Medicaid-related questions that we have agreed to ask SSI applicants, such as—

(1) Whether the SSI applicant or any children in his or her households have any health insurance or other medical coverage; and

(2) Whether the SSI applicant has any unpaid medical expenses for the current month or the previous 3 calendar months;

(c) Conduct statistical or other studies for the State; and

(d) Provided other services the State and we agree on.

§416.2161 Charges to States.

(a) *States with Medicaid eligibility determination agreement.* A State with which we have an agreement to make Medicaid eligibility determinations is charged in the following manner:

(1) If making Medicaid determinations and providing basic SSI application information for a State causes us additional cost, the State must pay half of that additional cost. "Additional cost" in this section means cost in addition to costs we would have had anyway in administering the SSI program.

(2) The State must pay half our additional cost caused by providing answers to any questions that we ask only for Medicaid purposes and by any other services directly related to making Medicaid eligibility determinations.

(3) The State must pay our full additional cost for statistical or other studies and any other services that are not directly related to making Medicaid eligibility determinations.

(b) *States without Medicaid eligibility determination agreement.* A State with which we do not have an agreement to make Medicaid eligibility determinations is charged in the following manner:

(1) If providing basic SSI application information causes us additional cost, the State must pay our full additional cost.

(2) The State must pay our full additional cost caused by providing answers to purely Medicaid-related questions and for statistical or other studies and any other services.

§ 416.2166 Changing the agreement.

The State and we can agree in writing to change the agreement at any time.

§ 416.2171 Duration of agreement.

An agreement under this subpart is automatically renewed for 1 year at the end of the term stated in the agreement and again at the end of each 1-year renewal term, unless—

(a) The State and we agree in writing to end it at any time;

(b) Either the State or we end it at any time without the other's consent by giving written notice at least 90 days before the end of a term, or 120 days before any other ending date selected by whoever wants to end the agreement; or

(c)(1) The State fails to pay our costs as agreed;

(2) We notify the State in writing, at least 30 days before the ending date we select, why we intend to end the agreement; and

(3) The State does not give a good reason for keeping the agreement in force beyond the ending date we selected. If the State does provide a good reason, the termination will be postponed or the agreement will be kept in force until the end of the term.

§ 416.2176 Disagreements between a State and us.

(a) If a State with which we have an agreement under this subpart and we are unable to agree about any question of performance under the agreement, the State may appeal the question to the Commissioner of Social Security. The Commissioner or his or her designee will, within 90 days after receiving the State's appeal, give the State either a written decision or a written explanation of why a decision cannot be made within 90 days, what is needed before a decision can be made, and when a decision is expected to be made.

(b) The Commissioner's decision will be the final decision of the Department of Health and Human Services, unless the State appeals the decision within 30 days after receiving it to the Department's Grant Appeals Board under procedures in 45 CFR Part 16.

2. The authority citation for Subpart A is revised to read as follows:

Authority: Secs. 1102, 1611, 1616, 1618, 1619, 1631 and 1634, Social Security Act as amended, sec. 212 of Pub. L. 93–66, as amended; 49 Stat. 647 as amended, 86 Stat. 1466, 1474, 1475, and 1478, 90 Stat. 2901, 94 Stat. 445, and 87 Stat. 155 (42 U.S.C. 1302, 1382, 1382e, 1382g, 1382h, 1383c, and 1382 note), unless otherwise noted.

§ 416.110 [Amended]

3. Section 416.110(f)(2) is amended by inserting "(except as permitted by § 416.2111)" after the word "identical."

[FR Doc. 86–10504 Filed 5–8–86; 8:45 am]

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DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S–301A]

Concrete and Masonry Construction Safety Standards

AGENCY: Occupational Safety and Health Administration (OSHA), U.S. Department of Labor.

ACTION: Proposed rules: changes in hearing schedules, location, and dates for submission of documents.

SUMMARY: This notice announces changes in the starting date of public hearing, the location of the hearing, the dates for submission of comments, notices of intention to appear, and other documentary evidence on the proposed revision of the safety standards for Concrete and Masonry Construction (51 FR 11945, April 8, 1986). It has been brought to the Agency's attention that the hearing, which was originally scheduled to begin on June 3, 1986, would conflict with the schedules of several witnesses. The hearing has been rescheduled to begin on June 17, 1986, to avoid this conflict. The rescheduling of the starting date of the hearing allows the Agency to extend the dates by which the public must submit comments and other documents related to participation at the rulemaking hearing on Concrete and Masonry Construction Safety Standards.

DATES: Notices of intention to appear to give oral testimony at the informal public hearing must be postmarked by May 20, 1986. Comments, testimony and all evidence which will be offered into the hearing record must be postmarked by June 3, 1986. The hearing will be held in Washington, DC, on June 17, 1986, and will begin at 9:30 a.m. If it is necessary, the hearing will continue on June 18, 1986.

ADDRESSES: Four copies of the notice of intention to appear and testimony and documentary evidence which will be introduced into the hearing record must be sent to Mr. Tom Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N3637, 200 Constitution Avenue NW., Washington, DC 20210.

Written comments may be submitted on all hearing issues raised by the hearing notice, as well as other relevant issues raised by the proposal (50 FR 37543, September 16, 1985). Four copies must be sent to the Docket Office, Docket No. S–301A, Room N3670, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523–7894.

The informal public hearing will be held in Room N5437 A&B of the Frances Perkins Building, Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Hearing: Mr. Tom Hall, U.S. Department of Labor, Occupational Safety and Health Administration, Division of Consumer Affairs, Room N3637, 200 Constitution Avenue NW., Washington, DC 20210, (202) 523–8615 or 523–8024.

Hearing Issues: Mr. James Foster, Occupational Safety and Health Administration, Room N3637, U.S. Department of Labor, Washington, DC 20210, (202) 523–8148.

Authority

This document was prepared under the direction of Patrick R. Tyson, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

It is issued pursuant to Sec. 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593, 29 U.S.C. 655); Sec. 107 of the Construction Safety Act (83 Stat. 96, 40 U.S.C. 333); Secretary of Labor's Order No. 9–83 (48 FR 35736); and 29 CFR Part 1911.

Signed at Washington, DC, this 6th day of May 1986.

Patrick R. Tyson,

Acting Assistant Secretary of Labor.

[FR Doc. 86–10483 Filed 5–8–86; 8:45 am]

BILLING CODE 4510–26–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 913

Public Comment Procedures and Opportunity for Public Hearing on Proposed Modifications to the Illinois Permanent Regulatory Program Under the Surface Mining Control and Reclamation Act of 1977

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSMRE), Interior.

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for a public comment period and for requesting a public hearing on the substantive adequacy of program amendments submitted by Illinois as amendments to the State's permanent regulatory program (hereinafter referred to as the Illinois program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

The amendments submitted consist of proposed amendments to Illinois' regulations to implement and administer the Illinois program. The proposed amendments are also intended to make Illinois' rules consistent with the revised Federal regulations contained in 30 CFR Chapter VII.

This notice sets forth the times and locations that the Illinois program and proposed amendments will be available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendments, and the procedures that will be followed for the public hearing.

DATES: Written comments from the public not received by 4:30 p.m. June 23, 1986 will not necessarily be considered in the decision on whether the proposed amendments should be approved and incorporated into the Illinois regulatory program. A public hearing on the proposed amendments has been scheduled for June 18, 1986. Any person interested in speaking at the hearing should contact Mr. James F. Fulton, at the address or telephone number listed below by May 27, 1986. If no person has contacted Mr. Fulton by that date to express an interest in the hearing, the hearing will be cancelled. If only one person requests an opportunity to speak at the public hearing, a public meeting, rather than a hearing, may be held and the results of the meeting included in the Administrative Record.

ADDRESSES: The public hearing is scheduled for 1:00 p.m. in the Springfield Field Office, 600 E. Monro Street, Springfield, Illinois 62701.

Written comments and requests for an opportunity to speak at the hearing should be directed to Mr. James F. Fulton, Field Office Director, Springfield Field Office, Office of Surface Mining Reclamation and Enforcement, 600 E. Monroe Street, Springfield, Illinois 62701; Telephone: (217) 492-4495.

Copies of the Illinois program, the proposed modifications to the program, a listing of any scheduled public meetings, and all written comments received in response to this notice will be available for public review at the Springfield Field Office listed above, OSMRE Headquarters Office, and the Office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one single copy of the proposed amendments by contacting OSMRE's Springfield Field Office.

Office of Surface Mining Reclamation and Enforcement, Room 5315, 1100 "L" Street, N.W., Washington, D.C. 20240

Department of Mines and Minerals, Land Reclamation Division, 227 South 7th Street, Springfield, Illinois 62706.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Fulton, Director, Springfield Field Office, Office of Surface Mining Reclamation and Enforcement, 600 E. Monroe Street, Springfield, Illinois 62701; **Telephone:** (217) 492-4495.

SUPPLEMENTARY INFORMATION:

I. Background

The Illinois program was conditionally approved by the Secretary of the Interior on June 1, 1982. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Illinois program, can be found in the June 1, 1982 **Federal Register** (47 FR 23858). Subsequent actions taken with regard to Illinois' conditions of approval, approved program amendments and required amendments can be found at 30 CFR 913.11, 913.15 and 913.16.

II. Submission of Revisions

By letter dated March 28, 1986, Illinois submitted program amendments to State regulations contained in the Illinois program. The proposed regulations would amend the following Parts of Title 62: Mining Chapter I: regulations of the Illinois Department of Mines and Minerals.

Part 1700—General
Part 1701—General Definitions
Part 1705—Restriction on Financial Interests of State Employees
Part 1760—General Areas Unsuitable for Mining
Part 1761—Area Designated by Act of Congress
Part 1762—Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations
Part 1764—State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations.
Part 1770—For Permit and Exploration Procedures Systems Under Regulatory Programs
Part 1771—General Requirements for Permits and Permit Applications
Part 1772—Requirements for Coal Exploration
Part 1773—Requirements for Permits and Permit Processing
Part 1774—Revision; Renewal; and Transfer, Assignment, or Sale of Permit Rights
Part 1775—Administrative and Judicial Review of Decisions
Part 1776—General Requirements for Coal Exploration
Part 1777—General Requirements for Permit Applications
Part 1778—Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information
Part 1779—Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources
Part 1780—Surface Mining Permit Application—Minimum Requirements for Reclamation and Operation Plan
Part 1782—Underground Mining Permit Applications—Minimum Requirements for Legal, Financial, Compliance and Related Information
Part 1783—Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources
Part 1784—Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan
Part 1785—Requirements for Permits for Special Categories
Part 1786—Review, Public Participation and Approval and Disapproval of Permit Applications and Permit Terms and Conditions
Part 1787—Administrative and Judicial Review of Decision by Regulatory Authority on Permit Applications
Part 1788—Permit Reviews, Revisions and Renewals and Transfer, Sale and Assignment of Rights Granted Under Permits
Part 1795—Small Operator Assistance
Part 1800—Bonding and Insurance Requirements for Surface Coal Mining and Reclamation Operations
Part 1801—Bonding Requirements for Underground Coal Mines, Coal-Processing Plants Associated Structures, and Other Coal-Related Long-Term Facilities and Structures
Part 1805—Amount and Duration of Performance Bond
Part 1806—Form, Conditions and Terms of Performance Bonds and Liability Insurance
Part 1807—Procedures, Criteria and Schedule for Release of Performance Bond
Part 1808—Performance Bond Forfeiture Criteria and Procedures
Part 1815—Permanent Program Performance Standards Coal Exploration
Part 1816—Permanent Program Performance Standards—Surface Mining Activities
Part 1817—Permanent Program Performance Standards—Underground Mining Operations
Part 1818—Special Permanent Performance Standards—Concurrent Surface and Underground Mining
Part 1819—Special Permanent Program Performance Standards—Auger Mining
Part 1823—Special Program Performance Standards—Operations on Prime Farmland
Part 1824—Special Permanent Program Performance Standards—Mountaintop Removal
Part 1825—Special Permanent Program Performance Standard—Operations on High Capability Lands
Part 1826—Special Permanent Program Performance Standard—Operations on Steep Slopes
Part 1827—Special Permanent Program Performance Standards—Coal Preparation Plants Not Located Within the Permit Area for a Mine
Part 1828—Special Permanent Program Performance Standard—In SITU Processing
Part 1840—Department Inspections
Part 1843—State Enforcement
Part 1845—Civil Penalties

These revisions are proposed by the State of Illinois in response to revisions made to Federal regulations contained in 30 CFR Chapter VII under SMCRA. By letter dated May 21, 1985, pursuant to 30 CFR 732.17 OSMRE informed Illinois of State regulations that must be amended in order to be consistent with the revised Federal regulations. By letter dated July 22, 1985, Illinois agreed to provide OSMRE a draft of proposed amendments to the Illinois regulations addressing concerns set forth in OSMRE's letter. The proposed amendments described above are the State's effort to address OSMRE's concerns. The proposed amendments also include extensive revisions to make the State body of regulations follow the Federal regulations to eliminate problems of cross-referencing from one regulation to another within State regulations and between a specific State regulation and the Federal counterpart regulation. The amendments are proposed to make Illinois' regulations consistent with the Federal standards.

III. Procedural Matters

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepard on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSMRE an exemption from Sections 3, 4, 7 and 8 of executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSMRE is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

This rule would not impose any new requirements; rather, it would ensure the existing requirements established by SMCRA and the Federal rules would be met by the State.

3. Paperwork Reduction Act: This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 913

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: April 30, 1986.

Brent Wahlquist,

Deputy Director, Operations and Technical Services, Office of Surface Mining Reclamation and Enforcement.

[FR Doc. 86-10439 Filed 5-8-86; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 357

[Department of the Treasury Circular, Public Debt Series, No. 2-86]

Regulations Governing Book-Entry Treasury Bonds, Notes, and Bills

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Notice of extension of time for submission of comments.

SUMMARY: This document extends until June 6, 1986, the deadline for the submission of comments on the proposed new rules governing Treasury securities maintained in the commercial book-entry system known as the Treasury/Reserve Automated Debt Entry System ("TRADES"). The notice of the proposed rulemaking was published in the **Federal Register** on March 14, 1986 (51 FR 8846), and comments were to be received on or before May 13, 1986.

DATE: Comments must be received or postmarked on or before June 6, 1986.

ADDRESS: Send comments to the Office of the Chief Counsel, Bureau of the Public Debt, E Street Building, Washington, DC 20239-0001.

FOR FURTHER INFORMATION CONTACT: Virginia Rutledge, Attorney-Advisor, (202/535-4890) or Cynthia Reese, Attorney-Advisor, (202/376-4320).

SUPPLEMENTARY INFORMATION: The proposed rules generally would replace the existing book-entry regulations found in Subpart O of 31 CFR Part 306. The Department's primary goal in proposing new book-entry regulations is to provide investors with clearer guidelines on how to structure transactions in Treasury book-entry securities.

The Department has received several inquiries concerning an extension of the comment period. Due to the complexity of certain of the issues raised by the proposed book-entry regulations, the Department believes it is important to receive comprehensive, carefully considered comments from as wide a group of participants in the government securities market as is possible. At the same time, the Department's objective is to publish the rules in final form as soon after July 1, 1986, as possible. To balance this objective with the desire to obtain comprehensive comments, the Department has decided to extend the comment period to June 6, 1986.

Dated: May 7, 1986.

W.M. Gregg,

Commissioner of the Public Debt.

[FR Doc. 86-10588 Filed 5-8-86; 8:45 am]

BILLING CODE 4810-40-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09-86-10]

Special Local Regulations; 1986 Grand Prix, Niagara River

April 25, 1986

AGENCY: Coast Guard, DOT.

ACTION: Notice of Proposed Rule Making.

SUMMARY: The Coast Guard is considering a proposal to establish Special Local Regulations for the 1986

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Grand Prix which is to be conducted on the Niagara River, Tonawanda Channel, off of Buffalo, NY, on the 10th of August, 1986. The regulations are needed to provide for the safety of life on navigable waters during the event.

DATE: Comments must be received on or before June 9, 1986.

ADDRESSES: Comments should be mailed to Commander (oar), Ninth Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199. The comments will be available for inspection and copying at the Ice Navigation Center, Room 2007D, 1240 East 9th Street, Cleveland, OH. Normal office hours are between 7:30 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered.

FOR FURTHER INFORMATION CONTACT: CWO Gerald M. Trackim, Office of Search and Rescue, Ninth Coast Guard District, 1240 E 9th St., Cleveland, OH 44199, (216) 522-4420.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data or arguments. Persons submitting comments should include their names and addresses, identify this Notice (CGD 09-86-19) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this regulation are CWO Gerald M. Trackim, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The 1986 Grand Prix will be conducted on the Niagara River, Tonawanda Channel, off of Buffalo, NY, on 2 and 3 August, 1986. It is sponsored by the Niagara Inboard Boat Club and is well known to boaters and residents of this area. This event will have an estimated 50 plus power boats with an expected 7,000 spectator craft which could pose hazards to navigation in the area. In order to provide for the safety of life and property, the Coast Guard will restrict movement prior to and during this event within this section of the Niagara River, Tonawanda Channel. A Coast Guard patrol vessel will be located at strategic locations around the regulated area to stop vessel traffic.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 CFR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large number of spectator craft into the area for the duration of the event. This should have a favorable impact on commercial facilities providing services to the spectators. Any impact on commercial traffic in the area will be negligible. Since the impact of this regulation is expected to be minimal, the Coast Guard certified that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—[AMENDED]

Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, as follows:

1. The authority for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46(c)(5) and 33 CFR 100.35.

2. Part 100 is amended to add a temporary § 100.35-0910 to read as follows:

§ 100.35-0910 1986 Grand Prix, Niagara River

The following area will be closed to vessel navigation or anchorage, except for spectator areas to be designated by the Coast Guard Patrol Commander, from 11:00 A.M. (local time) until 7:00 P.M. (local time) on 2 and 3 August, 1986.

(a) *Restricted Area:* That portion of the east branch of the Niagara River, Tonawanda Channel, from the overhead cable, 1300 yards northwest of the South Grand Island Bridge, to an east-west line through Tonawanda Channel Buoy 35 (LLP 29).

(b) *Special Local Regulations:* (1) Vessels desiring to transit the restricted area may do so only with the approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants, or vessels of the patrol in the performance of their assigned duties.

(2) No vessel shall anchor or drift in the area restricted to navigation.

(3) A succession of sharp, short, signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels signalled shall stop and shall comply with the orders of the Patrol Vessel; failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) All persons in charge of, or operating vessels in the area covered by the above Special Local Regulations are required to promptly obey the directions of the Patrol Commander and the men acting under his instructions in connection with the enforcement of these Special Local Regulations.

(5) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel

(ii) $500 for the owner of a vessel actually on board

(iii) $250 for any other person

(iv) Suspension or revocation of a license for a licensed officer.

Dated: April 30, 1986.

R. K. Scheaffer,

Chief of Staff.

[FR Doc. 86-10373 Filed 5-8-86; 8:45 am]

BILLING CODE 4910-14-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1250

Freedom of Information Act Procedures

AGENCY: National Archives and Records Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule establishes procedures for appealing denials of fee waiver requests for National Archives and Records Administration (NARA) administrative records. The proposed rule also modifies procedures for payment of fees charged under FOIA and for determining the time limit for appealing a denial of a FOIA request. The proposed rule is intended to clarify NARA procedures for handling FOIA requests.

DATE: Comments must be received by June 9, 1986.

ADDRESS: Comments should be sent to Director, Program Policy and Evaluation Division, National Archives and Records Administration (NAA), Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Adrienne C. Thomas or Nancy Allard at 202-523-3214 (FTS 523-3214).

SUPPLEMENTARY INFORMATION: NARA regulations implementing the Freedom of Information Act (FOIA) with respect to NARA administrative records are found in 36 CFR Part 1250. The present NARA regulations, which were adopted on July 1, 1985 (50 FR 27202), provide for the waiver or reduction of FOIA fees (section 1250.38), but they do not indicate how to appeal the denial of such fee waiver requests. In practice, NARA has been handling appeals of fee waiver denials by following the procedures in § 1250.58 for appealing denials of access. This proposed rule would modify § 1250.38 to specify that the procedures in § 1250.58 are to be used for appealing fee waiver denials. Section 1250.38 would also be changed to clarify the criteria used by NARA in evaluating fee waiver requests. These criteria are taken from the Department of Justice fee waiver policy guidance memorandum of January 7, 1983.

The current NARA denial of access appeal procedures provide that appeals must be received by NARA no later than 30 calendar days after the requester receives the initial denial of access. If the appeal letter does not specify the date the requester received the initial denial of access, NARA has no way of knowing whether an appeal which is received more than 30 days after the date of the initial denial letter is timely. Section 1250.58(b) would be revised to provide that NARA will consider timely any appeal received within 35 calendar days after the date of the initial denial letter. The proposed rule would also modify § 1250.44 to require that checks or money orders in payment of FOIA fees be payable to the National Archives and Records Administration.

This proposed rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small business entities.

List of Subjects in 36 CFR Part 1250

Freedom of information.

For the reasons set forth in the preamble, NARA proposes to amend Chapter XII of Title 36 as follows:

PART 1250—PUBLIC AVAILABILITY OF NARA ADMINISTRATIVE RECORDS AND INFORMATIONAL MATERIALS

1. The authority citation for Part 1250 contiues to read as follows:

Authority: 44 U.S.C. 2104(a); 5 U.S.C. 552.

2. Section 1250.38 is revised to read as follows:

§ 1250.38 Waiver or reduction of fees.

(a) Any request for waiver or reduction of a fee shall be included in the initial letter requesting access to NARA records under § 1250.54. The waiver or reduction request should explain how the information requested primarily benefits the public and why it is in the public interest for NARA to waive ro reduce the fee. The explanation of the public benefit should address the points outlined in paragraph (b).

(b) NARA will consider the following points in evaluating the request:

(1) The public interest in the subject matter of the request;

(2) Whether the disclosable contents of the records are in fact informative on the issue found to be of public interest;

(3) Whether the requested information is already available in the public domain;

(4) The intention and ability of the requester to disseminate the information; and

(5) Whether any disclosure benefit to the requester is outweighed by benefit to the general public.

(c) If NARA denies a request for a waiver or reduction of a fee, the requester may appeal this denial, following the procedures in § 1250.58.

3. Section 1250.44 is revised to read as follows:

§ 1250.44 Form of payment.

Requesters shall pay fees by check or money order payable to: "National Archives and Records Administration", and addressed to the official named by NARA in its correspondence.

4. Section 1250.58 is amended by revising paragraph (b) to read as follows:

§ 1250.58 Appeal within NARA.

* * * * *

(b) The Deputy Archivist must receive an appeal no later than 35 calendar days after the date of the NARA letter of denial.

* * * * *

Dated: April 22, 1986.

Claudine J. Weiher,

Acting Archivist of the United States.

[FR Doc. 86-10430 Filed 5-8-86; 8:45 am]

BILLING CODE 7515-01-M

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36 CFR Part 1254

Use of Archival Research Rooms in NARA Field Facilities

AGENCY: National Archives and Records Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Archives and Records Administration (NARA) proposes to establish regulations relating to archival research rooms in Presidential libraries and National Archives field branches. The proposed regulation would prohibit the use of personal copiers and would limit other personal property that may be brought into research rooms where original records are used. These changes are being made to enhance the security of records being used by the public and to ensure proper handling or records while they are being reproduced.

DATE: Comments must be received by June 9, 1986.

ADDRESS: Comments should be sent to Director, Program Policy and Evaluation Division, National Archives and Records Administration (NAA), Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Adrienne C. Thomas or Nancy Allard at 202-523-3214 (FTS 523-3214).

SUPPLEMENTARY INFORMATION: This proposed rule would extend to the National Archives field branches and Presidential libraries certain research room procedures which are being implemented at the National Archives Building and the Washington National Records Center. The proposed rule would also affect researchers using agency records stored in Federal Records Centers where the records center and the National Archives Field Branch share a common research room.

The new procedures will prohibit the use of personal paper-to-paper copiers; require researchers to store most of their personal belongings in lockers or other storage facilities provided by NARA; and require inspection of items brought into and removed from the research room. In some facilities, NARA will also provide researchers with specially marked lined and unlined notepaper and notecards. These procedures will apply in research rooms where original records are used; they will not apply in microfilm research rooms which are physically separated from textual research rooms. The proposed procedures differ slightly from the procedures followed at the National Archives Building to reflect the different circumstances at the field facilities.

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Implementation of this proposal will enhance the security of permanently valuable records being used by the public. These proposed procedures are in line with practices in other archival and manuscript institutions in the United States.

We intend to implement these procedures in the Presidential libraries and National Archives field branches at Chicago, IL, Fort Worth, TX, and Laguna Niguel, CA, as soon as the rulemaking process is completed. Implementation of the procedures in other NARA field branches will take place over the next several years when resources permit modifications in those facilities to allow installation of lockers and separation of the textual records research room from the microfilm research room in each branch.

This proposed rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this proposed rule will not have a significant impact on small business entities.

List of Subjects in 36 CFR Part 1254

Archives and records.

For the reasons set forth in the preamble, NARA proposes to amend Part 1254 as follows:

PART 1254—AVAILABILITY OF RECORDS AND DONATED HISTORICAL MATERIALS

1. The authority citation for Part 1254 continues to read as follows:

Authority: 44 U.S.C. 2101—2118.

2. Section 1254.27 is added to read as follows:

§ 1254.27 Additional rules for use of certain research rooms in National Archives field branches and Presidential libraries.

(a) When directed by the appropriate director, the following procedures shall be observed in Federal Records Center, National Archives field branch and Presidential library archival research rooms where original documents are used. These procedures are in addition to the procedures specified elsewhere in this Part.

(b) Researchers shall present a valid researcher identification card to the guard or research room attendant on entering the room. All researchers are required to sign each day the Daily Registration Book at the entrance to the research room. Researchers will also record the time they leave the research room at the end of the visit for that day. Researchers are not required to sign in or out when leaving the area temporarily.

(c) Researchers may not bring into the research room overcoats, raincoats, hats, and similar apparel; personal copying equipment including personal paper-to-paper copiers; and briefcases, suitcases, day packs, purses, or similar containers of personal property. In facilities where NARA provides notepaper and notecards, researchers also may not bring into the research room notebooks, notepaper, notecards, folders or other containers for papers. These items may be stored at no cost in lockers or other storage facilities in the NARA facility. The following exceptions may be granted:

(1) Hand-held wallets and coin purses for carrying currency, coins, credit cards, keys, drivers licenses and other identification cards may be brought into research rooms, but are subject to inspection when the researcher enters or leaves the room. The guard or research room attendant shall judge whether the wallet or purse may be considered small for purposes of this section:

(2) Notes references, lists of records to be consulted, and other materials may be admitted if the chief of the branch administering the research room or the senior attendant on duty in the research room determines they are essential to a researcher's work requirements. Materials will be presented to the attendant when the researcher enters the research room. If the materials are approved for admission, they may be stamped to indicate that they are the researcher's property;

(3) Typewriters, personal computers, tape recorders, and hand-held cameras may be admitted by the guard or research room attendant provided that they are inspected, approved, and tagged prior to admittance. The chief of the branch administering the research room or the senior attendant on duty in the research room will review the determination made by the guard or research room attendant if requested to do so by the researcher; and

(4) Notepaper and notecards provided by the National Archives and electrostatic copies made on copying machines in NARA research rooms which are marked with the statement "Reproduced at the National Archives" may be brought back into the research room on subsequent visits but must be presented on entry to the guard or research room attendant for inspection.

(d) NARA may furnish specially marked lined and unlined notepaper and notecards, without charge, to researchers for use in the research rooms. Unused notepaper and notecards should be returned to the research room attendant at the end of the day.

(f) The personal property of all researchers, including notes, electrostatic copies, typewriter cases, tape recorders, cameras, personal computers, and other personal property, will be inspected before removal from the research room. Guards and research room attendants may request that a member of the research room staff examine such personal items prior to their removal from the research room.

Dated: April 23, 1986.

Claudine J. Weiher,

Acting Archivist of the United States.

[FR Doc. 86-10431 Filed 5-8-86; 8:45 am]

BILLING CODE 7515-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-10-FRC-3013-3]

Approval and Promulgation of State Implementation Plan; Washington

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: By this Notice EPA invites public comment on its proposal to approve the Washington State Visibility Protection Program, except for new source review, submitted on April 27, 1979, September 6, 1983, and January 5, 1984, as revisions to the Washington State Implementation Plan (SIP). However, EPA is proposing to disapprove the new source review provisions relating to visibility, submitted on September 6, 1983, January 5, 1984, and April 15, 1985. The EPA will complete the promulgation of the federal visibility new source review provisions which EPA proposed for Washington on October 23, 1984 in a separate notice. The submitted revisions and EPA promulgation will satisfy the requirements of Section 110 (Implementation Plans) and Section 169A (Visibility Protection) of the Clean Air Act (hereinafter the Act).

DATE: Comments must be postmarked on or before June 9, 1986.

ADDRESSES: Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101

Copies of the materials submitted to EPA may be examined during normal business hours at:

Air Programs Branch, (10A-83-9), Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101

State of Washington, Department of Ecology, 4224-6th Avenue S.E., Rowe Six, Building No. 4, Lacey, Washington 98504

FOR FURTHER INFORMATION CONTACT: David C. Bray, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (206) 442-4253, FTS: 399-4253.

SUPPLEMENTARY INFORMATION: The document titled "WASHINGTON STATE'S VISIBILITY PROTECTION PROGRAM," submitted to EPA on January 5, 1984, describes the State of Washington Department of Ecology's program for implementing the visibility requirements of Section 169A of the Act and EPA's regulations for visibility protection in 40 CFR Part 51, Subpart P. This program, in conjunction with the visibility provisions of the Department of Ecology regulations for new major sources and major modifications (WAC 173-403-050(9)), and for existing sources (WAC 173-403-090 RETROFIT REQUIREMENTS FOR VISIBILITY PROTECTION), and the Department of Natural Resources (DNR) Smoke Management Plan, are intended to meet the requirements of 40 CFR Part 51, Subpart P for sources under the Department of Ecology's and DNR's jurisdictions.

However, the regulations for visibility new source review in 173-403 WAC "IMPLEMENTATION OF REGULATIONS FOR AIR CONTAMINANT SOURCES," submitted on April 1, 1985, do not satisfy the requirements of 40 CFR 51.307. Specifically:

The definitions of certain terms in WAC 173-403-030 "DEFINITIONS" are not consistent with the requirements of 40 CFR 51.301. For example, the definition of "major modification" (-030(28)) applies only to sources in designated nonattainment areas and nonattainment pollutants, and therefore does not cover all major modifications as required by 40 CFR 51.301(p).

The new subsection -050(9) of WAC 173-403-050 "NEW SOURCE REVIEW (NSR)" establishes requirements for visibility review of new major sources and major modifications located in attainment, unclassifiable, and nonattainment areas. However, this subsection fails to include all of the requirements of 40 CFR 51.307(a) regarding coordination with the federal land managers. For example, provisions requiring notification of the federal land managers when the State consults with a source prior to submission of an application (40 CFR 51.307(a)(2)) and explanation in a notice of public hearing when the State disagrees with the federal land managers' visibility impact analysis (40 CFR 51.307(a)(3)), are lacking.

EPA is therefore proposing to disapprove the regulations and provisions related to visibility new source review. Specifically, EPA is proposing to disapprove WAC 173-403-050(9), submitted on April 1, 1985, and SECTION V.B. *New Source Review* and APPENDIX B—PROPOSED NEW SOURCE REVIEW REGULATIONS OF "WASHINGTON STATE'S VISIBILITY PROTECTION PROGRAM," submitted on January 5, 1984. EPA is proposing to take no action at this time on the definitions in WAC 173-403-030 which relate to new source review. EPA will be taking action on this section in the near future as part of an action on the remainder of that regulation (WAC 173-403).

Under the terms of a settlement agreement, EPA has already proposed promulgation of a federal visibility new source review program for the State of Washington which satisfies the requirements of 40 CFR 51.307 (see 49 FR 42670, October 23, 1985 and 50 FR 28544, July 12, 1985). The EPA intends to complete action on that proposal in a separate notice in the near future. In this way, EPA will satisfy the terms of the settlement agreement to approve, and/or disapprove and promulgate, state visibility plans within a specified time period after submittal.

The provisions for existing sources, however, do satisfy the EPA requirements. Therefore, EPA is proposing to approve the following provisions:

"WASHINGTON STATE'S VISIBILITY PROTECTION PROGRAM," (except for SECTION V.B. *New Source Review* and APPENDIX B—PROPOSED NEW SOURCE REVIEW REGULATIONS as discussed above) and APPENDIX A—PROPOSED BEST AVAILABLE RETROFIT TECHNOLOGY REGULATIONS, submitted on January 5, 1984. This program is consistent with the requirements of 40 CFR 51.301 through 306. EPA is proposing to take no action on APPENDIX A as it contains only the proposed regulation and not the actual adopted regulation (WAC 173-403-090) which was submitted on September 6, 1983 (see below).

The State's long-term strategy does not explicitly discuss the enforceability of emission limitations and control measures as required by 40 CFR 51.306(f). However, the only new control measure is the revised smoke management plan (see below). Since the statutory requirement for a smoke management plan, the regulations requiring permit approval for prescribed burning, and the plan itself are all part of the EPA-approved SIP, and the revised plan is proposed for approval herein, EPA considers it to be enforceable. EPA is, therefore, proposing to approve the long-term strategy even though an explicit discussion of the enforceability of the smoke management plan was not included in the State's submittal.

Definitions of the terms "adverse impact on visibility" (-030(2)), "best available retrofit technology (BART)" (-030(9)), "class I area" (-030(11)), "integral visit" (-030(24)), "land manager" (-030(25)), "natural conditions" (-030(31)), "reasonably attributable" (-030(42)), "significant visibility impairment" (-030(46)), "visibility impairment" (-030(51)), and "visibility impairment of a Class I area" (-030(52)) in WAC 173-403-030 "DEFINITIONS", submitted on April 1, 1985. These definitions are consistent with those in 40 CFR 51.301.

WAC 173-403-090 "RETROFIT REQUIREMENTS FOR VISIBILITY PROTECTION," submitted on September 6, 1983. This regulation requires the application of best available retrofit technology (BART) for sources which may reasonably be anticipated to cause or contribute to impairment of visibility in any mandatory Class I area, satisfying the requirements of 40 CFR 51.303.

The "SMOKE MANAGEMENT PLAN" (Appendix K of the Washington SIP), submitted on April 27, 1979, and amended by Section V.C. of Washington State's Visibility Protection Program, submitted on January 5, 1984. This is the State's program for managing the smoke generated from the prescribed burning of silvicultural residues. This smoke management plan fulfills one of the requirements of 40 CFR 51.306

It is important to note that the submitted revisions do not contain visibility provisions for sources under the jurisdiction of the State of Washington Energy Facility Site Evaluation Council (EFSEC) or Indian governing bodies. (EFSEC has sole permitting authority for new or modified energy facilities.) EPA is, therefore, proposing to approve Washington State's current visibility protection program only to the extent that it applies to sources under the Department of Ecology's and DNR's jurisdictions. However, there are no sources under EFSEC's jurisdiction or located on Indian Reservations which are known to cause or contribute to existing visibility impairment in a mandatory federal Class I area. EPA will complete the promulgation of the federal new source review provisions for sources under EFSEC's jurisdiction and sources which would locate on Indian reservations in order to prevent future visibility impairment from such sources.

Finally, 40 CFR 51.306(a)(2) requires a long-term strategy for each mandatory Class I federal area located outside the State which may be affected by sources

within the State. However, the current Department of Ecology program does not yet contain specific control strategies for existing sources affecting Class I areas in adjacent states. The Department of Ecology has indicated that it will add such provisions as part of the periodic review and update of the visibility SIP, provided the adjacent states have identified sources of visibility impairment and have defined the visibility objectives for affected Class I areas. EPA is proposing to approve this approach as an acceptable component of the long-term strategy.

In summary, EPA is today proposing to approve the following submittals as revisions to the Washington SIP:

(1) Washington State's Visibility Protection Program, except SECTION V. B. *New Source Review*, APPENDIX A—PROPOSED BEST AVAILABLE RETROFIT TECHNOLOGY REGULATION and APPENDIX B—PROPOSED NEW SOURCE REVIEW REGULATIONS, submitted on 1/5/84;

(2) certain provisions of 173-403 WAC Implementation of Regulations for Air Contaminant Sources, specifically, WAC 173-403-030(2), (9), (11), (24), (25), (31), (42),(46), (51) and (52), submitted on 4/1/85, and WAC 173-403-090, submitted on 9/6/83; and

(3) the Smoke Management Program, submitted on 4/27/79 and amended on 1/5/84.

EPA is proposing to disapprove the visibility new source review provisions of WAC 173-403, specifically, WAC 172-403-050(9), submitted on 4/1/85, and Section V. B. and APPENDIX B of Washington State's Visibility Protection Program, submitted on 1/5/84. EPA will complete the promuigtation of the federal visibility new source review provisions which were proposed for Washington on October 23, 1984.

Again, EPA is proposing to approve the Washington visibility protection program only for sources under the jurisdictions of the Department of Ecology and DNR, and is not proposing to approve it for sources on Indian reservations or under EFSEC's jurisdiction. Rather, EPA will complete the promulgation of the federal visibility new source review provisions for such sources.

Interested parties are invited to comment on all aspects of this proposed approval and disapproval of revisions to the Washington SIP and EPA's proposed promulgation of federal visibility new source review provisions for Washington. Comments should be submitted in triplicate to the address listed in the front of this Notice. Public comments postmarked by June 9, 1986, will be considered in any final action EPA takes on this proposal.

Under 5 U.S.C. Section 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities (see 46 FR 8709). The portion of the State regulations which EPA is proposing to disapprove and the proposed federal visibility new source review provisions will not have a significant economic impact on a substantial number of small entities. Only a few large sources will be required to evaluate the potential impact on visibility that are not already required to do so under the existing prevention of significant deterioration program.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

Authority: 42 U.S.C. 7401-7642.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Reporting and Recordkeeping requirements.

Dated: February 11, 1986.

Ernesta B. Barnes,

Regional Administrator.

[FR Doc. 86-10451 Filed 5-8-86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-9-FRL-3013-4]

Approval and Promulgation of Implementation Plans

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Pima County Health Department (PCHD), Pima County, Arizona, adopted on July 16, 1985, rules intended to meet EPA's requirements on New Source Review (NSR) in nonattainment areas and Prevention of Significant Deterioration (PSD) in other areas. In this notice, EPA is proposing to approve the Pima rules if the PCHD and the State of Arizona submit additional revisions to their rules to remedy certain deficiencies. EPA is also proposing to find that the State has met the prior requirement for an adequate NSR program for Pima County if the County and the State submit these additional revisions.

DATES: Comments should be submitted to EPA on or before June 23, 1986.

ADDRESSES: Send any comments to: Regional Administrator, Attn.: Air Management Division, Air Operations Branch, New Source Section (A-3-1), Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

Copies of the rules and EPA's Evaluation Report are available for public inspection during normal business hours at the EPA Region 9 office at the above address and at the following locations:

Arizona State Department of Health Services, 1005 Central Avenue, Phoenix, AZ 85007

Pima County Health Department, 151 West Congress Street, Tucson, AZ 85701.

FOR FURTHER INFORMATION CONTACT: David Jesson, New Source Section, Air Management Division, Environmental Protection Agency, Region 9, (415) 974-8220.

SUPPLEMENTARY INFORMATION: The Pima County Health Department (PCHD) adopted rules on July 16, 1985, that are intended to meet EPA's requirements on New Source Review (NSR) and Prevention of Significant Deterioration (PSD) under the Clean Air Act (the "Act"), as those requirements apply to most types of sources locating in Pima County. The PCHD rules adopt by reference the State's own rules on both NSR and PSD with certain modifications and seek to secure full authority from EPA for issuing PSD permits for most types of new sources subject to EPA's PSD requirements. As described below, EPA has compared the rules to its own requirements.

NSR: Part D (§§ 171-178) of the Act and 40 CFR 51.18(j) define the requirements for NSR programs, which apply to sources seeking to locate in an area that is designated by EPA as nonattainment for the relevant pollutant. The most important requirements are that local NSR rules and programs require applicants for new major sources or major modifications to: (1) Meet an emissions limit reflecting the Lowest Achievable Emissions Rate (LAER); (2) provide reductions consistent with attainment of the standards in the area; and (3) certify that all major sources they own in the State comply with all applicable air pollution limitations.

In 1978, EPA designated portions of Pima County as nonattainment for carbon monoxide (CO) and total suspended particulates (TSP), respectively. On July 7, 1982, EPA conditionally approved the State Implementation Plan (SIP) for CO and TSP in Pima County that the State of Arizona had submitted to meet the requirements of Part D (47 FR 29532).

The condition EPA established in that rulemaking required the State to submit adequate revised New Source Review (NSR) rules to meet EPA's NSR requirements.

Under Arizona's regulations, the State has reserved authority for permitting certain classes of new sources locating in Pima County. The status of Arizona's rules is discussed below. The PCHD has permitting authority for the remaining sources locating in the County. The PHCD rules, which govern the County's permitting, satisfy most of EPA's NSR requirements. The rules will: (1) Require preconstruction review of the sources that would be subject to the federal requirements; and (2) require a certification of statewide compliance, application of LAER, and offsets in a manner generally consistent with EPA's requirements. The rules also contain adequate guidelines and procedures for the administration and enforcement of the NSR program. EPA's review of the rules did, however, reveal the following deficiencies:

(1) The rules apply only to areas that Pima County, as a matter of local law, has designated nonattainment, even when EPA may have designated other areas as nonattainment. Currently some subareas of the areas EPA has designated nonattainment for CO and TSP, respectively, are designated attainment by Pima County. Since the Pima NSR rules do not apply to such areas, EPA has published a separate Federal Register notice announcing the Agency's finding that the State has not met the 1982 NSR condition as to those subareas. See 51 FR 3335 (Jan. 27, 1986). Moreover, even though the Pima NSR rules apply now to portions of the EPA-designated nonattainment areas that Pima County has also designated nonattainment, the rules, as written, would no longer apply to those subareas if the County chose in the future to redesignate them to attainment without EPA approval. For that reason, EPA is proposing to approve the Pima rules as applicable to all subareas designated nonattainment in both the Pima County and EPA regulations as of May 9, 1986. In the event Pima County redesignates additional subareas to attainment, the Pima NSR rules would remain federally enforceable in those areas until EPA approved a request from the State that EPA approve those redesignations. Based on discussions with the Arizona Department of Health Services (ADHS) and PCHD, EPA believes that this limited approval of the Pima NSR rules is consistent with the intent of the State and the County, and, absent comment to the contrary, EPA will assume that this continues to be the case when it is ready to take final action on the PCHD rules.

(2) The PCHD rules incorporate by reference State NSR provisions that in turn require the permitting authority to meet the version of EPA's section 123 stack height regulations that were remanded by the U.S. Court of Appeals for the D.C. Circuit, rather than the version that EPA promulgated on July 8, 1985 (50 FR 27892). Under those new rules, the states were given until April 8, 1986 to correct their SIPs to meet the new stack height requirements. For that reason, Pima County will need to address the incorrect stack height reference in its NSR rules before EPA will take final action to approve the NSR rules.

(3) The PCHD rules allow exemptions from offsetting requirements for (1) temporary sources and (2) sources using a portion of the emissions growth allowance. EPA regulations allow such exemptions only if, respectively, (1) temporary sources are limited to 12 months duration and have previously received an NSR permit for a prior location, and (2) a growth allowance has first been approved by EPA as consistent with sections 172 and 173 of the Act. Pima County must revise its regulations to limit the exceptions in these ways before EPA can take final action to approve the NSR rules.

(4) The PCHD rules do not require that emissions decreases used in netting calculations be decreases that have not previously been relied upon in demonstrating attainment or reasonable further progress toward attainment, as required by EPA regulations. Pima County must revise its regulations to include this requirement before EPA can take final action to approve the NSR rules.

(5) The PCHD rules define reasonable further progress as determined by the Director of the PCHD, rather than as determined by EPA, as is required by EPA regulations. The PCHD must revise its regulations to provide for EPA determination of reasonable further progress before EPA can take final action to approve the NSR rules.

(6) The PCHD rules contain a definition of Volatile Organic Compound (VOC) which is not consistent with EPA requirements. Pima County must revise its definition of VOC to meet EPA's requirements before EPA can take final action to approve the NSR rules.

(7) The PCHD rules contain certain permitting exemptions designed for use by minor sources. Pima County must clarify its rules to specifically provide that the exemptions do not apply to major stationary sources or major modifications before EPA can take final action to approve the NSR rules.

As indicated above, the State has retained authority for permitting certain types of sources in Pima County. Thus, for EPA to conclude that the NSR program for all sources locating in the County adequately meets the 1982 NSR condition described above, EPA must determine that the State's NSR rules meet EPA's NSR requirements. EPA proposed to approve the State's NSR rules on November 12, 1981 (46 FR 55714). Before EPA can unconditionally approve the State's rules, however, the State needs to change the stack height provisions in those rules, and make other changes to fully conform to EPA requirements. EPA has not yet received revisions to the State's rules to remedy all of these deficiencies. Because the outstanding deficiencies are significant, EPA will not find that the State has met EPA's 1982 NSR condition as to the Pima County nonattainment subareas described above until the State corrects the tall stack provisions and makes the other conforming changes.

PSD: Part C, Subpart 1 (§§ 160-169) of the Act contains requirements for PSD in areas designated either attainment or unclassified for the pollutants identified under Section 109. EPA's PSD regulations, at 40 CFR 51.24, elaborate on these statutory requirements. Except as to those sources over which the State has retained permitting authority for NSR and PSD, EPA is currently administering the PSD program in Pima County under its own regulations, at 40 CFR 52.21. Approval of the PCHD PSD rules would transfer permitting authority for most sources to Pima County. EPA would continue to have exclusive permitting authority over projects locating in Indian reservations.

The main requirements for a PSD program are for provisions requiring (1) the application of "Best Available Control Technology" (BACT) to new or modified major stationary sources; (2) a demonstration that the increased emissions in the area affected by the new or modified sources will not violate any National Ambient Air Quality Standard or the applicable air quality increments; and (3) protection of areas designated as Class I areas.

The PCHD rules meet most of EPA's PSD requirements. They provide for preconstruction review of most of the sources that would be subject to EPA's requirements; require BACT and air quality protection consistent with the standards and the increments; and contain adequate guidelines and procedures for the administration and enforcement of the PSD program, as it

applies to the sources over which Pima County has permitting authority.

The PCHD rules do, however, contain certain deficiencies, as follows:

(1) The PSD rules also contain the stack height deficiency described in the NSR discussion above. Since this deficiency is significant, the State and Pima County will need to address it before EPA gives final approval to the PCHD PSD rules.

(2) The PCHD rules appear to allow Pima County to reclassify Indian lands without the prior approval of the Indian governing body. EPA proposes to approve the PCHD rules only in so far as they give Pima County the power to redesignate non-Indian lands. This approval will not give Pima County any power to redesignate Indian lands.

(3) The PCHD rules fail to require 60 day advance notice to Federal Land Managers (FLM) or consultation with local leadership prior to area reclassification. EPA proposes to approve the PCHD rules as far as they go, but concludes that they do fully describe the process for area reclassification. Reclassifications require SIP revisions, which must meet all statutory requirements including FLM notice and local consultation. These requirements must be met as a statutory matter prior to EPA approval of any reclassification despite the fact that the requirements are not outlined in the PCHD rules. Consequently, Pima County need not make any changes in its rules on reclassification.

(4) The PCHD rules allow a permitting exemption for portable sources. EPA regulations allow such an exemption only if the sources are temporary, have previously obtained a PSD permit at a prior location, and give advance notice of relocation. Pima County must revise its regulations to include these limitations on the exemption before EPA can take final action to approve the PSD rules.

(5) The PCHD rules do not include a provision requiring a source which avoided PSD review through imposition of a limitation on emissions to go through PSD review if it receives a relaxation of any such limitation, as required by EPA regulations. Pima County must revise its regulations to include this requirement before EPA can take final action to approve the PSD rules.

(6) The PCHD rules contain the same exemptions for minor sources discussed above for the NSR program. Pima County must make a similar rule clarification concerning inapplicability of the exemptions to major sources and modifications.

A more detailed description of EPA's review of the PCHD NSR and PSD rules is contained in EPA's evaluation report, which is available at the EPA addresses listed above. The evaluation report lists certain commitments Pima County must make to EPA concerning implementation of the NSR and PSD rules prior to final EPA approval of the rules. These commitments relate to permitting exemptions, permittee responsibilities, PSD permit processing procedures and authorities, innovative control technology, and location of offsets.

Proposed Action: EPA proposes to approve the PCHD NSR and PSD rules as they apply to the "core" subareas for which the County's and EPA's TSP and CO nonattainment designations currently coincide. For the reasons discussed above, the Agency will not finally approve the PCHD NSR and PSD rules as to those "core" subareas until the deficiencies addressed above are corrected. If EPA finally approves the rules as to those subareas, the rules will continue to be federally enforceable in them until the subareas are redesignated by EPA.

EPA also proposes to find that the State has cured the deficiency noted in the NSR condition for Pima County set forth at 40 CFR 52.128(a)(2) as to the nonattainment subareas just described. EPA will not take final action to find that the State has met the NSR condition as it relates to those subareas until both the PCHD and the State NSR rules are revised to correct the deficiencies noted above and the revisions are approved by EPA.

Interested parties are invited to comment on all aspects of these proposed actions.

Under Executive Order 12291, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. It proposes to approve locally adopted regulations that the state of Arizona has requested EPA approve.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particular matter, Carbon monoxide, Hydrocarbons.

Authority: 42 U.S.C. 7401–7642.

Dated: October 30, 1985.

Judith E. Ayres,

Regional Administrator.

[FR Doc. 86-10452 Filed 5-8-86; 8:45 am]

BILLING CODE 6560-50-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

41 CFR Parts 51–1 and 51–6

Application of Priorities in Assignment of Commodities

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed rule.

SUMMARY: The Committee proposes to amend its regulations with respect to the application of the priorities accorded by law to the Federal Prison Industries, Inc. and to the blind for commodities proposed for addition to the Procurement List.

DATE: Comments must be received on or before July 11, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202–3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION:

Background

On April 8, 1983 the National Association of Rehabilitation Facilities (NARF) filed a "Petition for Rulemaking" with the Committee which, among other things, requested the Committee in its regulations to limit the exercise of the blind priority to those commodities which at the time of such exercise, workshops for the blind currently had the capability to produce. Since under the NARF proposal one or more of the blind workshops would already be producing the commodity or would currently have the capability to produce it, NARF requested that the time for the exercise or waiver of the blind priority be reduced from 60 days to 30 days and the time for the blind workshops to complete the essential steps to add the commodity to the Procurement List be reduced from 9 months to 60 days.

The Committee notified NARF on January 23, 1984, that it denied the NARF petition but that the Committee staff had been directed to review the Committee's regulations and procedures on the application of the blind priority. That review was to address in particular the time permitted for the National Industries for the Blind (NIB) to exercise or waive the blind priority and the time a commodity could be held by the blind after exercising the blind priority.

On March 21, 1984, NARF filed suit in the United States District Court for the District of Columbia against the Committee requesting an injunction to require the Committee to limit the blind priority to only those commodities which were being produced and offered for sale by blind workshops at the time the blind priority was asserted (National Association of Rehabilitation Facilities, Inc. v. Committee for Purchase from the Blind and Other Severely Handicapped, Civil Action No. 84–0887).

In discussing the Committee's present regulations in its Memorandum and Order dated August 30, 1985, the Court commented: "But while the legislative history is by no means conclusive, it does contain certain expressions of the nature of the priority to be given the blind workshops which suggest that the Committee's interpretation is the one intended by Congress. The history mentions, for example, that so long as workshops for the blind could show 'an ability to perform,' they were to be granted 'first refusal rights' . . . And, as one oversight committee recently put it, 'What this means is that blind sheltered workshops get the first option of choosing to produce a commodity or provide a service that is added to the list by the Committee.'"

It went on to quote from the decision of the Court of Appeals in the case of Barrier Industries v. Eckard: "the Court said: [n]either the Act nor the regulations require that a workshop for the blind actually produce a commodity prior to its inclusion on the procurement list. Indeed, as held by the district court, 'all that is required is that a workshop demonstrate a potential to produce the particular commodity'".

The Court ruled that, with respect to the Committee's procedures for applying the blind priority, "The Committee's construction of the Act, as expressed in its regulations, can be considered neither unreasonable nor contrary to law within the meaning of 5 U.S.C. 706." However, in an Amended Order dated October 2, 1985 the Court directed "that defendant Committee for Purchase from the Blind and Other Severely Handicapped possesses the discretionary authority to grant the petition for rulemaking filed by plaintiff on April 8, 1983, insofar as it proposes a reduction of the relevant time periods for consideration of any exercise of priority by the National Industries for the Blind and the Committee is directed to review and consider that petition in order to best serve both the interests of the blind and other handicapped persons the Act was intended to benefit."

In carrying out the Order of the Court, the Committee invited representatives of NARF, NIB, and the National Industries for the Severely Handicapped (NISH) to submit written comments and views and to present oral arguments at a Committee meeting. A representative of the General Council of Workshops for the Blind requested and was permitted to submit views both orally and in writing.

The Committee reviewed not only the changes in those portions of its regulations which apply to the administration of the blind priority but also the extent of its involvement in coordinating the application of the priority granted to the Federal Prison Industries, Inc. by the Act and in maintaining the record of the assignment of services and non-prioritized commodities which workshops are evaluating for possible future addition to the Procurement List.

The Committee also considered the fact that NIB and NISH have signed an agreement on the administration of the blind priority which establishes somewhat different procedures and times with respect to NIB's exercise or waiver of the blind priority on commodities nominated by NISH. It also took into consideration the times which NIB and NISH are experiencing between the date a commodity is assigned for evaluation and possible development and the date when the developmental steps were completed, as well as the fact that many new commodities being considered for addition to the Procurement List are more complex to produce and thus require a greater time to complete all of the necessary actions required before they can be proposed for addition to the Procurement List.

The final factor in the Committee's consideration was to ensure that whatever changes it proposed would give the blind reasonable periods of time in which to exercise or waive the priority and to develop for addition to the Procurement List those commodities for which they had exercised the blind priority. To do otherwise, would have the practical result of negating the intent of Congress in authorizing that priority.

Discussion of Changes

The general policy on the blind priority is contained in paragraph (b) of 41 CFR 51–1.3. It is proposed to revise the wording of that paragraph to be consistent with the rulings in *Barrier Industries* v. *Eckard and NARF* v. *Committee* by relating the blind priority to commodities which will be produced by blind workshops.

It is proposed to completely revise section 51–3.3 Assignment of Commodity or Service. Paragraph (a) would limit the Committee's involvement in coordinating the assignment of commodities and services, which workshops are evaluating for possible future addition to the Procurement List, to only those commodities proposed by NISH for which NIB has exercised the blind priority. With regard to the other commodities and the services which their workshops are evaluating, it will be up to the central nonprofit agencies to coordinate the assignment of those items between their two agencies and with the Federal Prison Industries, Inc., referring to the Committee only those specific disagreements which they are unable to resolve.

In paragraph (b) it is proposed to apply standards similar to those contained in the NIB/NISH agreement on the application of the blind priority with respect to the time permitted NIB to waive or exercise the blind priority on commodities nominated by NISH. NIB would normally provide its decision within 30 days after receipt of the essential procurement information required for it to reach a decision, but not later than 60 days after receipt of that information. If NIB requests additional time beyond the 60 days and agreement on such extension cannot be reached with NISH, the matter will be referred to the Committee for resolution.

Paragraph (c) would provide that, for commodities nominated by NISH for which NIB had exercised the blind priority, NIB would be required to complete the development process within 9 months. The Committee considers that the current 9-month period for the development of a commodity is reasonable, and will become increasingly more difficult to achieve for the more complex items being considered for addition to the Procurement List, even if the blind workshops make a special effort to expedite the development of those commodities for which NIB has exercised the blind priority. As in the present regulations, that period could be extended by the Committee when NIB has been delayed by conditions beyond its control.

The proposed changes in paragraph (d) establish similar time frames (normally 30 days but not longer than 60 days) for the Federal Prison Industries, Inc. to waive or exercise that agency's priority over commodities nominated by both NIB and NISH.

A procedure has been included in paragraph (e) for NIB and NISH to inform the Committee, at the time they request the Committee to publish a

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notice of the proposed addition of a commodity to the Procurement List, of the decision of the Federal Prison Industries, Inc., and, in the case of NISH, the decision of NIB on the waiver or exercise of the respective priorities.

List of Subjects in 41 CFR Parts 51-1 and 51-3

Blind, Handicapped, Government procurement.

I certify that this is not a major rule under Executive Order 12291 and would not have a significant impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

PARTS 51-1 AND 51-3—[AMENDED]

Accordingly, it is proposed to amend 41 CFR Parts 51-1 and 51-3 as follows:

1. The authority citations for Parts 51-1 and 51-3 continue to read as follows:

Authority: Pub. L. 92-28, 85 Stat. 77 (41 U.S.C. 46-48c).

2. Revise paragraph (b) of § 51-1.3 to read as follows:

§ 51-1.3 [Amended]

* * * * *

(b) The Committee, in approving the addition of commodities to the Procurement List, shall accord priority to commodities, including military resale commodities, which will be produced by workshops for the blind.

3. Revise § 51-3.3 to read as follows:

§ 51-3.3 Assignment of commodity or service.

(a) The assignment to a central nonprofit agency of a commodity or service for the purpose of evaluating its potential for possible future addition to the Procurement List for production or provision by one or more workshops shall be as agreed between the two central nonprofit agencies, except for commodities proposed by the National Industries for the Severely Handicapped for which the National Industries for the Blind has exercised the blind priority. The Committee shall control the initial assignment of commodities proposed by the National Industries for the Severely Handicapped for which the National Industries for the Blind has exercised the blind priority.

(b) For commodities for which its workshops have an interest in evaluating for possible addition to the Procurement List, the National Industries for the Severely Handicapped shall obtain in writing from the National Industries for the Blind its decision on the waiver or exercise of the blind priority. At the time the National Industries for the Severely Handicapped requests the National Industries for the Blind for a decision on the waiver or exercise of the blind priority on a commodity, it shall provide to the National Industries for the Blind the essential procurement information, as agreed to by the two central nonprofit agencies, which is required by the National Industries for the Blind to make a determination on the waiver or exercise of the blind priority. The National Industries for the Blind shall normally provide its decision waiving or exercising the blind priority within 30 days, but not later than 60 days, after receipt of the essential procurement information indicated above. The time for the decision on the blind priority may be extended beyond 60 days by mutual agreement between the two central nonprofit agencies. If agreement cannot be reached on the extension of time, the matter shall be referred to the Committee for resolution.

(c) When the National Industries for the Blind exercises the blind priority on a commodity proposed by the National Industries for the Severely Handicapped, it shall notify the National Industries for the Severely Handicapped and the Committee of that decision. The Committee shall assign such commodity to the National Industries for the Blind and the National Industries for the Blind shall complete the essential steps to place the commodity on the Procurement List within nine months after assignment. If the National Industries for the Blind has not completed these steps within that time period, the Committee shall reassign the commodity to the National Industries for the Severely Handicapped. Moreover, the nine-month period may be extended for a reasonable period of time when the National Industries for the Blind has been delayed by conditions beyond its control.

(d) For commodities for which its workshops have an interest in evaluating for possible addition to the Procurement List, the central nonprofit agency concerned shall obtain in writing from Federal Prison Industries, Inc. (hereafter FPI) its decison on the waiver or exercise of the FPI priority. At the time the central nonprofit agency requests the FPI decision on the waiver or exercise of the FPI priority, it shall provide to FPI the essential procurement information which is required by FPI to make a determination on the waiver or exercise of the FPI priority. The FPI shall normally provide its decision waiving or exercising the FPI priority within 30 days but not later than 60 days, after receipt of the essential procurement information. The time for the decision on the FPI priority may be extended beyond 60 days by mutual agreement between FPI and the central nonprofit agency concerned. If agreement cannot be reached on the extension of time, the matter shall be referred to the Committee. Each central nonprofit agency shall keep the other central nonprofit agency informed of the FPI decison on commodities for which FPI has waived or exercised the FPI priority.

(e) When a central nonprofit agency requests the Committee to publish a notice in the Federal Register of the proposed addition to the Procurement List of a community, the request shall be accompanied by a written statement from FPI indicating its decision regarding the exercise or waiver of its priority, and, in the case of commodities requested by the National Industries for the Severely Handicapped, a written statement from the National Industries for the Blind indicating that it waives the blind priority.

C.W. Fletcher,
Executive Director.

[FR Doc. 86-10462 Filed 5-8-86; 8:45 am]
BILLING CODE 6820-33-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 34

Medical Examination of Aliens (AIDS)

Correction

In FR Doc. 86-9041, beginning on page 15354 in the issue of Wednesday, April 23, 1986, make the following correction: In the document heading (page 15354, column three) and in the List of Subjects heading (page 15355, column two), the CFR title number, which was incorrectly cited as "14", should have read "42".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 395

[BMCS Docket No. MC-118; Notice No. 86-2]

Hours of Service of Drivers; Request for Comments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA is requesting comments on proposed revisions to the Federal Motor Carrier Safety Regulations (FMCSR) to eliminate certain items presently required on the Driver's Record of Duty Status; to clarify the present exemption pertaining to the preparation of a Driver's Record of Duty Status within a 100-mile radius of the driver's work-reporting location; to redefine the retail store delivery exemption (December 10 to December 25); to incorporate the current interpretation of both the 60-hour and 70-hour on-duty weekly limitation into the hours of service regulations; and to revise the definition of on-duty time. This notice of proposed rulemaking is one of several actions being taken in response to the requirements of Section 206 of the Motor Carrier Safety Act of 1984. Section 206 of the Act directs the Secretary to issue regulations, not later than 18 months from date of enactment, pertaining to commercial motor vehicle safety.

DATE: Written comments must be received on or before June 9, 1986.

ADDRESS: All comments should refer to the docket number that appears at the top of this document and must be submitted (preferably in triplicate) to Room 3404, Bureau of Motor Carrier Safety (BMCS), 400 Seventh Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Bureau of Motor Carrier Safety, (202) 755-1011; or Mrs. Kathleen S. Markman, Office of the Chief Counsel (202) 426-0824, Federal Highway Administration, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: On October 11, 1984, Congress passed the Motor Carrier Safety Act of 1984 (Pub. L. 98-554, 98 Stat. 2829)(the Act.) The Act was signed into law by the President on October 30, 1984.

These proposed revisions to certain sections of 49 CFR Part 395, Hours of Service of Drivers, as well as those sections not being revised, will be applicable to operators of commercial motor vehicles that (1) have a gross vehicle weight rating of 10,001 or more pounds; (2) are designed to transport more than 15 passengers, including the driver; or (3) are used in the transportation of materials found by the Secretary to be hazardous for the purposes of the Hazardous Materials Transportation Act and are transported in a quantity requiring marking or placarding under regulations issued by the Secretary.

Violations of the hours of service requirements, including the recordkeeping requirements may subject the motor carrier and/or the driver to civil or criminal penalties. Violations may be discovered during audits of the motor carrier's records and driver/vehicle roadside inspections. Comments are requested as to whether there are any other ways to enforce the hours of service requirements.

Background

As the first step in implementing section 206 of the Act, on January 23, 1985, the FHWA had published in the Federal Register an advanced notice of proposed rulemaking (ANPRM), BMCS Docket No. 114, Notice No. 85-1 (50 FR 2998) seeking public comment on revisions being considered. Due to the complexity of reissuing the FMCSR, a separate rulemaking action is being established for each Part that is being addressed. The purpose of this rulemaking is to propose revisions to certain sections of Part 395 that were included in the ANPRM and on which comments were received. In addition, comments to BMCS Docket No. MC 99-1, Amendment No. 83-13 (49 FR 46145, November 23, 1984), pertaining to the court order requiring the FHWA to amend the FMCSR to (1) reinstate the 12 hour in lieu of the present 15 consecutive hour limitation in the 100-mile radius exemption provision from the requirement to prepare driver's records of duty status, and (2) reinstate the seven data items previously deleted from the recordkeeping requirement of the driver's record of duty status. Comments submitted in response to that docket are also being considered herein.

Comments received concerning sections not addressed here will be considered in future rulemaking involving Part 395. Also, previous requests for special exemptions and waivers will be considered in future rulemaking actions.

Driver's Record of Duty Status

Section 395.8(d) of the FMCSR currently requires the following information in addition to the grid, to be included on the Driver's Record of Duty Status:

(1) Date;
(2) Total miles driving today;
(3) Truck or tractor and trailer number;
(4) Name of carrier;
(5) Driver's signature/certification;
(6) 24/hour period starting time (e.g., midnight, 9:00 a.m., noon, 3:00 p.m.);
(7) Main office address;
(8) Remarks;
(9) Total mileage today;
(10) Name of co-driver;
(11) Home terminal address;
(12) Total hours (far right edge of grid);
(13) Shipping document number(s) or name of shipper and commodity;
(14) Origin; and
(15) Destination or turnaround point.

The purpose of this requirement is to promote highway safety by enabling both BMCS field staff and State and local enforcement personnel to monitor individual driver's compliance with the hours of service regulations with minimal effort and maximum accuracy.

It is also FHWA's intention to reduce the paperwork burden of motor carriers and drivers where feasible without compromising safety of operation. For example, the FHWA recently authorized a motor carrier to utilize an on-board computer system to automatically record data for their Driver's Record of Duty Status.

The FHWA has determined that 4 of the fifteen items currently required on the Driver's Record of Duty Status are duplicative of other motor carrier records and/or information sources. Therefore, the FHWA proposes to eliminate the following items:

Item 9, Total Mileage Today—Many motor carriers have ceased operations involving 2-person sleeper-cab teams and thus most of the drivers operate singly. For such drivers, the entries under "Total Miles Driving Today" and "Total Mileage Today" are the same. In the event that it is necessary to determine the mileage of the other sleeper-cab team driver, that person is readily identifiable from "Name of co-driver" (item 10) and the mileage can be obtained from that person's record of duty status.

Item 11, Home Terminal Address—The vast majority of the motor carrier population operate fleets of 10 or fewer vehicles and operate out of their headquarters location. Therefore, all drivers (again the majority) employed by such motor carriers would be making identical entries under the headings of "Main Office Address" (item 7) and "Home Terminal Address" (item 11). The home terminal address was used by enforcement personnel during roadside inspections to determine the time base under which the driver's record of duty status was being prepared. However, in the event that drivers are domiciled at places other than the "Main Office Address" the time period can be

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determined by reviewing the remarks section of the graph grid, see CFR 395.8(h)(5). There have been no complaints received from BMCS enforcement personnel that elimination of this item created a problem when it was eliminated by the November 26, 1982, rule and during the subsequent period this item was not required.

Item 14, Origin and Item 15, Destination or turnaround points—These 2 items, when first required by the FMCSR, were useful for monitoring compliance. With the advent of modern high speed highways, trips formerly requiring a week or longer have been reduced to days. It is now possible to reroute drivers as often as desired, subsequent to dispatch, with modern communications systems. This information (items 14 & 15) is readily ascertainable directly from the information entered under the "Remarks" (item 8) section, which is intended to include the information on each stop or change of duty status a driver makes. Removal of the 2 items will eliminate unnecessary duplication as well as driver confusion as to what to enter as ultimate destination when changes are made enroute. Therefore, it is proposed to eliminate these 2 items from the Driver's Record of Duty Status.

The comments submitted to Dockets MC–99–1 and MC–114, as discussed above, were overwhelming in favor of dropping these 4 items from the Driver's Record of Duty Status. Those few commenters in favor of retaining the 4 items failed to supply any supporting data to justify their retention.

After a careful analysis of these 4 data elements, the FHWA has concluded that there will be no cumulative degradation of the FMCSR or enforcement practices, and therefore should be eliminated. It is estimated that the elimination of these 4 items will reduce the motor carrier industry record preparation burden by approximately 4-million person hours annually.

100-Air Mile Radius Exemption

Section 395.8(1) of the FMCSR exempts a driver from the preparation of the Driver's Record of Duty Status if certain conditions are met by the employing motor carrier and the driver. Section 395.8(1)(ii) currently sets forth one condition that a driver (except driver salespersons) return to the work reporting location and be released from work within 12 hours. The agency, as has most other entities, always considered the 12-hour limitation to be 12 "consecutive" hours. However, the agency's intent has been questioned from time to time. It is therefore being proposed to clarify the limitation by adding the word "consecutive" to the term "12 hours".

After a thorough review of all comments to Dockets No. MC–99–1 and MC–114, the FHWA concluded that safety would not be adequately served by extending the current 12-hour limitation to 15 hours. Within a 15 consecutive hour period, the FMCSR prohibits a driver from driving more than 10 hours (49 CFR 395.3(a)). Although the respondents were generally in favor of adding these 3 extra hours to the exemption, they were unable to supply information showing that the records of motor carriers were such that an enforcement officer would be able to determine that within the 15-hour period a driver had not driven more than 10 hours. Indeed, there appears to be no way that enforcement officials could adequately control and/or monitor driver compliance with the 10-hour maximum driving rule if the exemption time was extended. The extension to 15 hours would increase the likelihood that drivers would exceed the 10-hour driving limitation without detection. However, under the current limitation of 12 hours there is little time left for a driver to exceed the 10-hour driving rule.

An analysis of a typical local pick-up and delivery driver's work shift shows that such driver's nondriving duties (i.e. loading/unloading, meal stops, and coffee breaks) would consume approximately 2 hours and 10 minutes per work shift, thus leaving slightly less than 10 hours available for actual driving time. Therefore, the FHWA does not propose to change the 12-hour limitation to 15 hours.

Retail Store Delivery

Section 395.3(c) of the FMCSR currently provides that the maximum driving and on duty time limitations shall not apply with respect to drivers of motor vehicles engaged solely in making deliveries from retail stores to consumers, during the period from December 10 to December 25, both inclusive, of each year.

The original purpose of this exception was to allow the delivery of large volumes of Christmas merchandise from retail stores to the ultimate consumer, by regular delivery drivers. However, since this exemption was instituted, the nature of Christmas purchases has changed. Many such consumer purchases are now made from catalog type retailers. The local delivery of catalog merchandise to consumers is the same as it is for a local retail store. The key word here is "local" (See 89 MCC 30). It is not intended to exempt the line haul transport of pool type shipments to a local distribution warehouse or to a motor carrier's local terminal. Further, the exception does not include the delivery of merchandise from a warehouse to a local retail outlet.

The FHWA proposes to include in the exception, the local deliveries of merchandise from catalog type retailers in order to adjust to the current nature of retail Christmas business. The FHWA simultaneously proposes to limit this exemption to a 100-air mile radius of the local driver's work reporting location.

60 Hour and 70 Hour On-Duty Limitation

Section 395.3(b) of the FMCSR currently states that no driver shall be on-duty in excess of 60 hours in any period of 7 consecutive days or 70 hours in any period of 8 consecutive days (except driver salespersons). Generally, the FHWA has jurisdiction over the hours of service of drivers who have driven in an interstate operation during the preceding 4 months. This interpretation of jurisdiction was published in the **Federal Register** on July 23, 1981 (46 FR 37902). This statement limited the FHWA's jurisdiction under 48 U.S.C. 304 (Recodified as 49 U.S.C. 3102) because section 13(b)(1) of the Fair Labor Standards Act provides an exemption from the maximum hours and overtime requirements of section 7 of the Fair Labor Standards Act essentially for those employees subject to the jurisdiction of the U.S. DOT with regard to maximum hours of service. Following the July 23, 1981 interpretation, several inquiries were received regarding the applicability of the on-duty time limitations contained in section 395.3 of the FMCSR. The general concern expressed focused on a driver who made an interstate trip on an occasional or intermittent basis who the current rule would prohibit from performing nondriving duties for the motor carrier in excess of 60 and 70 hour limits for the next 4 months.

The FHWA has the responsibility of protecting the public from unsafe commercial motor vehicle operation and ensuring that commercial motor vehicles are safety maintained, equipped, loaded and operated. Existing research data do not support the premise that there is an unsafe effect on commercial motor vehicle operation by permitting a driver to work beyond the current hours of service limits in a nondriving status. In response to a request by a motor carrier, an informal interpretation was issued by the BMCS, on March 16, 1981, stating that a driver could perform nondriving duties beyond the current limits and not be in violation of the hours of service regulations. In view of this, the FHWA

is proposing to revise § 395.13, maximum on-duty and driving time, to reflect this policy. At the same time, FHWA is proposing a similar revision for operators who drive a motor vehicle in the State of Alaska.

Respondents to Dockets No. MC–99–1 and MC–114 who did comment on this subject were evenly divided between motor carrier and labor organizations. The former was in favor of allowing drivers to continue to perform nondriving duties. The latter were opposed because this could cause cumulative fatique and drivers might injure themselves or incorrectly perform work on or about vehicles that might contribute to an unsafe vehicle or vehicle load condition for other drivers. Neither group provided substantive evidence to support their viewpoints, nor did those who opposed it provide any known accident cases whose causal factors had been directly linked to a driver having worked beyond the 60 or 70-hour limit.

The FHWA has made a decision that the type of work assignments given to a driver, when working under management's direction, in excess of either the 60- or 70-hour on-duty rule, is undue interference in what is generally management's prerogative in the conduct of their business. It is, however, recognized as a possible safety sensitive issue and as such, the FHWA is hereby requesting public comment on the issue.

After due consideration, the FHWA has determined that incorporation into the FMCSR of the present interpretation that a driver may continue to perform non-driving duties for that motor carrier after being on duty for 60 or 70 hours, will not compromise the safety of operation of a commercial motor vehicle. The reason being that the driver is not permitted to drive again until such time as the total on duty time falls within the 60 or 70 hour limit following a minimum of 8 consecutive hours off duty.

On-Duty Time

Section 395.2(a)(8) states that the term "On-duty time" shall include "Performing any other work in the capacity of, or in the employ or service of, a common, contract or private motor carrier".

The National Transportation Safety Board (NTSB) recommends that § 395.2 of Title 49, Code of Federal Regulations, be revised. The NTSB specifically suggests that the term "on-duty time" be revised to include all time worked by a commercial vehicle driver for all full-time and part-time employers.

In support of its recommendations, the NTSB said that the "on-duty time" defined in section 395.2 of the FMCSR and recorded on the driver's record of duty status does not include the time a commercial driver is employed on a job other than with another motor carrier, e.g. the part-time bus driver in a Cheyenne, Wyoming accident (NTSB/HAR–85/04) was not required to record the time he spent on his full-time job as a firefighter, but he was required to record the time he worked for a moving and storage company 8 hours before the accident.

The NTSB stated that the bus driver worked for three employers in the Denver, Colorado, area. He obtained a maximum of about 3½ hours sleep during the 27 hours and 35 minutes before the accident. Therefore, the NTSB recommends that the definition of "on-duty time" be revised to include all time worked by a commercial vehicle driver for all other full-time and part-time employers. This proposed revision would prohibit any individual that was fatigued due to working for another employer from operating a commercial motor vehicle in interstate or foreign commerce.

The NTSB recommendation reflects FHWA's concern that drivers employed in full-time or part-time jobs, other than with a motor carrier, also may become fatigued and their ability to operate a commercial motor vehicle safely may be seriously imparied. Therefore, the FHWA is proposing that § 395.2(a)(8) be revised to include as "on-duty time" all time a driver performs any compensated work, or any person.

In accordance with the Act (specifically section 204 and its definition of "commercial motor vehicle"), the regulations promulgated under sections 206 and 210 do not apply to vehicles having a gross vehicle weight rating of 10,000 pounds or less. Consequently, FHWA is proposing that the lightweight mail truck exception currently found at § 395.1(b) be rescinded.

The FHWA has determined that this document does not contain a major rule under Executive order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. The principal impact anticipated as a result of this rulemaking action will be a reduction in the paperwork burden placed on industry. It is further anticipated that any impact will be a cost savings to the motor carrier industry. Accordingly, a full regulatory evaluation is not required. For this reason and under the criteria of the Regulatory Flexibility Act, it is hereby certified that this action does not have a significant economic impact on a substantial number of small entities.

The revised information collection requirements contained in this regulation are being submitted to the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511). The OMB has approved the information collection requirement by FHWA; by FHWA's current rule and has assigned them control number 2125–0016.

List of Subjects in 49 CFR Part 395

Highways and roads, Highway Safety, Motor carriers, Driver's hours of service, Reporting and recordkeeping requirements.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

Issued on: May 1, 1986.

Kenneth L. Pierson,

Director, Bureau of Motor Carrier Safety.

In consideration of the foregoing, the FHWA proposes to amend Title 49, Code of Federal Regulations, Subtitle B, Chapter III, Part 395 as follows:

PART 395—HOURS OF SERVICE OF DRIVERS—[AMENDED]

1. The authority citation for Part 395 is revised to read as follows:

Authority: Section 206, Pub. L. 98–554, 98 Stat. 2834 (October 30, 1984) (49 U.S.C. App. 2505); 49 U.S.C. 104 and 3102; 49 CFR 1.48 and 301.60.

2. Section 395.1 is revised to read as follows:

§ 395.1 Compliance with, and knowledge of, the rules in this part.

Every employer and its employees shall comply with the rules in this part, and every employer shall require that its officers, employees, and representatives be conversant with the rules in this part.

3. Section 395.2(a)(8) is revised to read as follows:

§ 395.2 Definitions.

As used in this part, the following words and terms are construed to mean:

(a) *On-duty time.* * * *

(8) Performing any compensated work for any person.

* * * * *

4. Section 395.3(b), (c) and (e) are revised to read as follows:

§ 395.3 Maximum driving and on-duty time.

* * * * *

(b) No motor carrier shall permit or require an operator of a commercial motor vehicle, regardless of the number

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of motor carriers using the operator's services, to drive for any period after—

(1) Having been on duty 60 hours in any 7 consecutive days if the employing motor carrier does not operate every day in the week; or

(2) Having been on duty 70 hours in any period of 8 consecutive days if the employing motor carrier (who operates every day of the week) chooses to use this option;

(3) *Exception:* This paragraph shall not apply to any driver driving a motor vehicle in the State of Alaska, as provided in paragraph (e) of this section, or to any driver-salesperson whose total driving time does not exceed 40 hours in any period of 7 consecutive days.

(c) The provisions of paragraph (a) of this section shall not apply with respect to—

(1) Drivers used wholly in driving motor vehicles having not more than 2 axles and whose gross weight, as defined in § 390.10, does not exceed 10,000 pounds, unless such vehicle is used to transport more than 15 passengers, or hazardous materials of such type and in such quantity as to require the vehicle to be specifically marked or placarded under the Hazardous Materials Regulations, § 177.823 of this title, or when operated without cargo under conditions which require the vehicle to be so marked or placarded under the cited regulations, and

(2) Drivers of motor vehicles engaged solely in making local deliveries from retail stores and/or retail catalog businesses to the ultimate consumer, when driving solely within a 100-air mile radius of the driver's work-reporting location, during the period from December 10 to December 25, both inclusive, of each year.

* * * * *

(e) An operator who is driving a motor vehicle in the State of Alaska must not drive or be permitted to drive—

(1) More than 15 hours following 8 consecutive hours off duty;

(2) After being on duty for 20 hours or more following 8 consecutive hours off duty;

(3) After being on duty for 70 hours in any period of 7 consecutive days, if the employing motor carrier does not operate every day of the week; or

(4) After being on duty for 80 hours in any period of 8 consecutive days, if the employing motor carrier operates every day in the week.

* * * * *

5. Section 395.8(d) and (l)(1)(ii) are revised to read as follows:

§ 395.8 Driver's record of duty status.

* * * * *

(d) The following information must be included on the form in addition to the grid:

(1) Date;

(2) Total miles driving today;

(3) Truck or tractor and trailer number;

(4) Name of carrier;

(5) Driver's signature/certification;

(6) 24-hour period starting time (e.g. midnight, 9:00 a.m., noon, 3:00 p.m.);

(7) Main office address;

(8) Remarks;

(9) Name of co-driver;

(10) Total hours (far right edge of grid); and

(11) Shipping document number(s), or name of shipper and commodity.

* * * * *

(l) *Exceptions—(1) 100 air-mile radius driver.* A driver is exempt from the requirements of this section if:

(i) * * *

(ii) The driver, except a driver salesperson, returns to the work reporting location and is released from work within 12 consecutive hours;

* * * * *

[FR Doc. 86-10402 Filed 5-8-86; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

49 CFR Part 571

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Denial of petition for rulemaking.

SUMMARY: This notice denies a petition for rulemaking filed by Mr. John Diehl, asking this agency to delete the requirements for tire strength and tubeless tire resistance to bead unseating from its standard for new passenger car tires. Mr. Diehl stated in his petition that these requirements are no longer necessary because of improvements that have been made to tires and wheels since 1967, when the standard was initially established.

The petition is denied for the following reasons. Some tires and wheels of older design may still be produced, which designs would not necessarily incorporate the improvements noted in the petition. For such older tire and wheel designs, the performance requirements still serve to ensure that the driving public is afforded adequate safety protection. In the case of newer tire designs that incorporate the improvements referenced in the petition, the agency does not believe that the continuing existence of these performance requirements imposes a burden. If a tire manufacturer is certain that these newer tire designs will comply with the two performance requirements, it is a simple matter for the manufacturer to certify compliance without conducting any further testing or analyses. Thus, even if these two performance requirements were outdated for some newer tire designs, they would not impose a burden on tire manufacturers. Since these requirements may still be necessary for some tires and do not cause a burden with respect to tires for which they may not be necessary, the petition for rulemaking is denied.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Cook, Office of Vehicle Safety Standards, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 (202-426-2715).

SUPPLEMENTARY INFORMATION: Mr. John Diehl filed a petition with this agency asking for amendments to Standard No. 109, *New Pneumatic Tires—Passenger Cars* (49 CFR 571.109). Standard No. 109 specifies dimensional and labeling requirements for these tires, as well as performance requirements for tubeless tire resistance to bead unseating, strength, endurance, and high speed performance. The petition asked NHTSA to delete the performance requirements for tire strength (S4.2.2.4) and tubeless tire resistance to bead unseating (S4.2.2.3).

According to the petition, both performance requirements were necessary when Standard No. 109 was established in 1967. However, the petition alleges that improvements in tire and wheel design and manufacturing have made these tests no longer necessary. In light of these improvements, the petition stated that "there is no reason to require [tire] companies and testing laboratories to continue these two items of testing." Therefore, the petition asked that Standard No. 109 be amended to delete these two performance requirements.

NHTSA agrees with the statement that very noteworthy improvements in tire and wheel design and manufacturing have been made since 1967. However, tires that do not incorporate these improvements may still be manufactured for use on older vehicles, as the manufacturer's least expensive tires, and so forth. The current performance requirements for strength and tubeless tire resistance to bead unseating are not outdated or irrelevant for such tire designs. In these instances, granting the petition and deleting these two performance requirements could lessen the safety of tires in use on the public roads.

For the newer tire designs that incorporate the improvements referenced in the petition, NHTSA does not believe that these performance requirements impose an unnecessary burden. Contrary to the assertion in the petition, NHTSA does *not* require tire companies or any other regulated parties to conduct testing. Instead, the agency requires those parties to certify that each of their products complies with all applicable safety standards. In the case of new passenger car tires, tire manufacturers are required to certify that those tires comply with all requirements of Standard No. 109. The certification need not be based on actual testing of the tires; the requirement is that the certification be made with due care on the part of the manufacturer (15 U.S.C. 1397(a)(1)(C)). It is up to the individual manufacturer to determine in the first instance what data, test results, or other information it needs to enable it to certify that its tires comply with Standard No. 109. If a tire manufacturer is certain that its tires will comply with the strength and resistance to bead unseating requirements, because of the tire's similarity to other complying tires or because the tires incorporate the design and manufacturing improvements referenced in the petition, for example, the manufacturer need not test its tires to establish that it exercised due care when certifying compliance with these performance requirements. Accordingly, the agency does not believe that the continuing existence of these performance requirements imposes an unreasonable burden for newer design tires. Based on these considerations, the petition for rulemaking is hereby denied.

(15 U.S.C. 1392, 1407; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on: May 5, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86-10459 Filed 5-8-86; 8:45 am]

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VOL 51 ISS 90 MY 9 1986 UMI

Notices

Federal Register
Vol. 51, No. 90
Friday, May 9, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

International Trade Administration

[S-507-502]

Certain In-Shell Pistachios From Iran; Notice of Clarification of Scope in the Antidumping Duty Investigation

AGENCY: International Trade Administration/Import Administration/ Department of Commerce.

ACTION: Notice.

SUMMARY: We have determined that roasted in-shell pistachios are properly within the scope of the antidumping duty investigation of in-shell pistachios from Iran. This is based upon our finding that roasted in-shell pistachios are of the same class or kind as raw in-shell pistachios. We will instruct the Customs Service to suspend liquidation, on all shipments of roasted in-shell pistachios from Iran, as of the date of the publication of the preliminary determination.

EFFECTIVE DATE: May 9, 1986.

FOR FURTHER INFORMATION CONTACT: Kenneth G. Shimabukuro (202–377–5332), or Mary S. Clapp (202–377–1769), Office of Investigations, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Background

On September 26, 1985 petitioners filed a petition requesting that the ITA investigate shipments of in-shell pistachios from Iran, item 145.26 of the Tariff Schedules of United States (TSUS), to determine whether they are being sold in the United States at less than fair value. We initiated this investigation on October 16, 1985. On November 20, 1985, the ITC issued its preliminary affirmative determination of injury to a U.S. industry covering raw in-shell pistachios from Iran. The ITA published its preliminary affirmative determination of sales at less than fair value of in-shell pistachios from Iran on March 11, 1986. We instructed the Customs Service to suspend liquidation of imports of in-shell pistachios from Iran which were imported under TSUS item 145.26.

The ITA has received inquiries as to whether roasted in-shell pistachios were covered by the preliminary determination. In response, we are issuing this clarification of the scope of the investigation.

Products Under Investigation

Roasted in-shell pistachios are covered by TSUS classification number 145.53. The Department has determined that the scope of this investigation includes both raw and roasted in-shell pistachios from Iran. Raw and roasted are within the same class or kind. The Department has not differentiated between the two in its investigation and has consistently sought information from the Iranian producers/sellers regarding sales of all in-shell pistachios from Iran. Accordingly, the Department has not limited its investigation to the product in its raw form. The Department notes that in-shell pistachios are sold either raw or roasted. Therefore, the Department, by specifying in previous notices that its investigation, covered in-shell pistachios, intended to include all forms of that prouduct. The Department's use of TSUS classification number 145.26 does not limit its investigation cases where it discovers that an additional classification number would be appropriate to cover products already under investigation. *Royal Business Machines* v. *United States*, 1 CIT 80, 507 F. Supp. 1007 (1980), *aff'd* 69 CCPA 61, 669 f. 2d 692 (1982).

Suspension of Liquidation

Since we have determined that roasted in-shell pistachios are properly included in the class of in-shell pistachios being investigated, we are directing the United States Customs Service to suspend liquidation on all shipments of roasted in-shell pistachios from Iran as of the date of publication of the preliminary determination on March 11, 1986 (51 Fed. Reg. 8342). There is no allegation of "critical circumstances" with respect to roasted in-shell pistachios from Iran, therefore, the determination of critical circumstances included in our preliminary determination does not apply to roasted in-shell pistachios.

This notice is published pursuant to section 733(f) of the Tariff Act of 1930, as amended (19 U.S.C. 1673b(f)).

John L. Evans,
Acting Deputy Assistant Secretary for Import Administration.

May 7, 1986.

[FR Doc. 86–10804 Filed 5–8–86; 8:45 am]
BILLING CODE 3510-DS-M

[A-351-503]

Antidumping Duty Order; Iron Construction Castings From Brazil

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: In an investigation concerning iron construction castings from Brazil (castings), the United States Department of Commerce (the Department) and the United States International Trade Commission (the ITC) have determined that castings from Brazil are being sold at less than fair value and that sales of light castings from Brazil threaten material injury to a United States industry and that sales of heavy castings from Brazil are materially injuring a United States industry. Therefore, based on these findings, in accordance with the "Special Rule" provision of section 736(b)(2) of the Tariff Act of 1930, as amended (the Act), 19 U.S.C. 1673e(b)(2), all unliquidated entries, or warehouse withdrawals, for consumption of light castings from Brazil made on or after May 7, 1986, the date of publication in the **Federal Register** of an affirmative determination of threat of material injury by the International Trade Commission (ITC), will be liable for the assessment of antidumping duties. Furthermore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption of heavy castings from Brazil made on or after October 28, 1985, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register**, will be liable for the assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the **Federal Register**.

EFFECTIVE DATE: May 9, 1986.

FOR FURTHER INFORMATION CONTACT: James Riggs or Charles Wilson, Office of Investigations, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–4929 or 377–5288.

SUPPLEMENTARY INFORMATION: The products covered by this order are certain iron construction castings, limited to manhole covers, rings and frames, catch basins, grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems, classifiable as heavy castings under item number 657.0950 of the *Tariff Schedules of the United States, Annotated* (TSUSA), and to valve, service and meter boxes which are placed below ground to encase water, gas, or other valves, or water or gas meters, classifiable as light castings under item number 657.0990 of the TSUSA. These articles must be of cast iron, not alloyed, and not malleable.

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on October 28, 1985, the Department published its preliminary determination that there was reason to believe or suspect that castings from Brazil were being sold at less than fair value (50 FR 43591). On March 19, 1986, the Department published its final determination that these imports were being sold at less than fair value (51 FR 9477).

On April 25, 1986, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the ITC notified the Department that importations of light castings threaten material injury to a United States industry and that importations of heavy castings materially injure a United States industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of castings from Brazil. These antidumping duties will be assessed on all unliquidated entries of light castings entered, or withdrawn from warehouse, for consumption on or after May 7, 1986, the date of publication in the **Federal Register** of an affirmative determination of threat of material injury by the International Trade Commission (ITC), in accordance with the "Special Rule" provision of section 736(b)(2) of the Act, 19 U.S.C. 1673e(b)(2). These antidumping duties will be assessed on all unliquidated entries of heavy castings entered, or withdrawn from warehouse, for consumption on or after October 28, 1985, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register** (50 FR 43591).

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below:

Manufacturers/producers/exporters	Weighted-average (percent)
Fundicao Aldebara Ltda	58.74
Sociedade de Metalurgia E Processos Ltda	16.61
Usina Siderurgica Paraense S.A	5.95
All other Manufacturers Producers Exporters	26.16

Article VI.5 of the General Agreement on Tariff and Trade provides that "(n)o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act, which prohibits assessing dumping duties on the portion of the margin attributable to export subsidies. In the final countervailing duty determination on iron construction castings from Brazil, we found export subsidies (51 FR 9401). Since dumping duties cannot be assessed on the portion of the margin attributable to export subsidies, there is no reason to require a cash deposit or bond for that amount. Thus, the amount of the export subsidies will be subtracted for deposit or bonding purposes from the dumping margins.

This determination constitutes an antidumping order with respect to iron construction castings from Brazil, pursuant to section 736 of the Act (19 U.S.C. 1673e) and section 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations, Annex I of 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulation (19 CFR 353.48).

Gilbert B. Kaplan,
Deputy Assistant Secretary for Import Administration.

May 5, 1986.

[FR Doc. 86–10487 Filed 5–8–86; 8:45 am]
BILLING CODE 3510-DS-M

[A-533-501]

Antidumping Duty Order; Iron Construction Castings From India

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: In an investigation concerning iron construction castings from India (castings), the United States Department of Commerce (the Department) and the United States International Trade Commission (the ITC) have determined that castings from India are being sold at less than fair value and that sales of light castings from India threaten material injury to a United States industry and that sales of heavy castings from India are materially injuring a United States industry. Additionally, the Department found that "critical circumstances" did not exist with respect to castings from India. Therefore, based on these findings, in accordance with the "Special Rule" provision of section 736(b)(2) of the Tariff Act of 1930, as amended (the Act), 19 U.S.C. 1673e(b)(2), all unliquidated entries, or warehouse withdrawals, for consumption of light castings from India made on or after May 7, 1986, the date of publication in the **Federal Register** of an affirmative determination of threat of material injury by the International Trade Commission (ITC), will be liable for the assessment of antidumping duties. Furthermore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption of heavy castings from India made on or after October 28, 1985, the date on which the Department published its "Preliminary Determination" notice in the **Federal Register**, will be liable for the assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the **Federal Register**.

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EFFECTIVE DATE: May 9, 1986.

FOR FURTHER INFORMATION CONTACT: Terri A. Feldman, Office of Investigations, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–0180.

SUPPLEMENTARY INFORMATION: The products covered by this order are certain iron construction castings, limited to manhole covers, rings and frames, catch basin, grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems, classifiable as heavy castings under item number 657.0950 of the *Tariff Schedules of the United States, Annotated* (TSUSA), and to valve, service and meter boxes which are placed below ground to encase water, gas, or other valves, or water or gas meters, classifiable as light castings under item number 657.0960 of the TSUSA. These articles must be of cast iron, not alloyed, and not malleable.

In accordance with section 733 of the Act (19 U.S.C. 1673b), on October 28, 1985, the Department published its preliminary determination that there was reason to believe or suspect that castings from India were being sold at less than fair value (50 FR 43395). We preliminarily determined that "critical circumstances" did not exist within the meaning of section 733(e) of the Act (19 U.S.C. 1673b(e)). On March 19, 1986, the Department published its final determination that these imports were being sold at less than fair value and that "critical circumstances" did not exist with respect to castings from India (51 FR 9483).

On April 25, 1986, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the ITC notified the Department that importations of light castings threaten material injury to a United States industry and that importations of heavy castings materially injure a United States industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of castings from India. These antidumping duties will be assessed on all unliquidated entries of light castings entered, or withdrawn from warehouse, for consumption on or after May 7, 1986, the date of publication in the Federal Register of an affirmative determination of threat of material injury by the International Trade Commission (ITC), pursuant to section 736(b)(2) of the Act (19 U.S.C. 1673e(b)(2)). These antidumping duties will be assessed on all unliquidated entries of heavy castings entered, or withdrawn from warehouse, for consumption on or after October 28, 1985, the date on which the Department published its "Preliminary Determination" notice in the Federal Register (50 FR 43395).

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted/average antidumping duty margins as noted below:

Manufacturers/producers/exporters	Weighted-average (percent)
RSI (excluded)	0
Kejriwal (de minimis, excluded)	0.30
Sarasapore	0.00
Kejaria (de minimis, excluded)	0.30
All others	0.90

This determination constitutes an antidumping duty order with respect to light and heavy castings from India, pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations, Annex I of 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

May 2, 1986.

[FR Doc. 86–10488 Filed 5–8–86; 8:45 am]

BILLING CODE 3510-DS-M

[A–570–502]

Antidumping Duty Order; Iron Construction Castings From the People's Republic of China (the PRC)

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: In an investigation concerning iron construction castings from the PRC (castings), the United States Department of Commerce (the Department) and the United States International Trade Commission (the ITC) have determined that castings from the PRC are being sold at less than fair value and that sales of light castings from the PRC threaten material injury to a United States industry and that sales of heavy castings from the PRC are materially injuring a United States industry. Therefore, based on these findings, in accordance with the "Special Rule" provision of section 736(b)(2) of the Tariff Act of 1930, as amended (the Act), 19 U.S.C. 1673e(b)(2), all unliquidated entries, or warehouse withdrawals, for consumption of light castings from the PRC made on or after May 7, 1986, the date of publication in the Federal Register of an affirmative determination of threat of material injury by the International Trade Commission (ITC), will be liable for the assessment of antidumping duties. Furthermore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption of heavy castings from the PRC made on or after October 28, 1985, the date on which the Department published its "Preliminary Determination" notice in the Federal Register, will be liable for the assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order in the Federal Register.

EFFECTIVE DATE: May 9, 1986.

FOR FURTHER INFORMATION CONTACT: Charles Wilson, Office of Investigations, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–5288.

SUPPLEMENTARY INFORMATION: The products covered by this order are certain iron construction castings, limited to manhole covers, rings and frames, catch basins, grates and frames, cleanout covers and frames used for drainage or access purposes for public utility, water and sanitary systems, classifiable as heavy castings under item number 657.0950 of the *Tariff Schedules of the United States, Annotated* (TSUSA), and to valve, service and meter boxes which are placed below ground to encase water, gas, or other valves, or water or gas meters, classifiable as light castings under item number 657.0960 of the TSUSA. These articles must be of cast iron, not alloyed, and not malleable.

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on October 28, 1985, the Department published its preliminary determination that there was reason to believe or suspect that casting from the PRC were being sold at less than fair value (50 FR 43594). On March 19, 1986, the Department published its final determination that these imports were being sold at less than fair value (51 FR 9483).

On April 25, 1986, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the ITC notified the Department that importations of light castings threaten material injury to a United States industry and that importations of heavy castings materially injure a United States industry.

Therefore, in accordance with section 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673e(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of castings from the PRC. These antidumping duties will be assessed on all unliquidated entries of light castings entered, or withdrawn from warehouse, for consumption on or after May 7, 1986, the date of publication in the Federal Register of an affirmative determination of threat of material injury by the International Trade Commission (ITC), in accordance with the "Special Rule" provision of section 736(b)(2) of the Act, 19 U.S.C. 1673e(b)(2). These antidumping duties will be assessed on all unliquidated entries of heavy castings entered, or withdrawn from warehouse, for consumption on or after October 28, 1985, the date on which the Department published its "Preliminary Determination" notice in the Federal Register (50 FR. 43594).

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below:

Manufacturers/producers/exporters	Weighted-average (percent)
All other Manufacturers Producers Exporters	11.86

This determination constitutes an antidumping order with respect to iron construction castings from the PRC, pursuant to section 736 of the Act (19 U.S.C. 1673e) and §353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations, Annex I of 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and §353.48 of the Commerce Regulations (19 CFR 353.48).

May 5, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86–10489 Filed 5–8–86; 8:45 am]

BILLING CODE 3510-DS-M

Short Supply Review of Certain Tin-Free Steel; Request for Comments

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce herby announces its review of a request for a short supply determination under Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products with respect to certain tin-free steel.

EFFECTIVE DATE: Comments must be submitted no later than ten days after publication of this notice.

ADDRESS: Please send all comments to: Nicholas C. Tolerico, Acting Director, Office of Agreements Compliance, 14th and Constitution Ave., NW., Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Room 3099, 202/377–3833, Office of Agreements Compliance, Import Administration, 14th and Constitution Ave., NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products provides that if the U.S. ". . . determines that because of abnormal supply or demand factors, the United States steel industry will be unable to meet demand in the United States of America for a particular category or sub-category (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such category or sub-category . . ."

We have received a short supply request for certain tin-free steel. The material is made to the following specifications:

(a) Chromium coating:

Weight: aim for metallic chromium 100 mg/m²; chromium in oxide 10mg/m².

(b) Width: 28 through 36 inches (−0.0, +0.25 inch).

(c) Thickness: 0.0068 and 0.0094 gauge (+,− 0.0005 inch.]

(d) Appearance: scratch-free, hole-free, rust-free.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than ten days after publication of this notice. Comments should focus on the economic factors involved in granting or denying this request. The Department will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly label the business proprietary portion of the submission and also include a submission without proprietary information which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B–099 at the above address.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

May 2, 1986.

[FR Doc. 86–10491 Filed 5–8–86; 8:45 am]

BILLING CODE 3510-DS-M

Minority Business Development Agency

Financial Assistance Application Announcements; New York

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate a MBDC for

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a 3 year period, subject to available funds. The cost of performance for the first twelve months is estimated at $347,909 for the project performance of October 1, 1986 to September 30, 1987. The MBDC will operate in the Brooklyn, NY Metropolitan Statistical Area (MSA). The first year cost for the MBDC will consist of $347,909 in Federal funds and a minimum of $61,396 in non-Federal funds (which can be a combination of cash, in-kind contribution and fees for services).

The funding instrument for the MBDC will be a cooperative agreement and competition is open to individuals, nonprofit and for-profit organization, local and state governments, American Indian tribes and educational institutions.

The MBDC will provide management and technical assistance to eligible clients for the establishment and operation of business. The MBDC program is designed to assist those minority businesses that have the highest potential for success. In order to accomplish this, MBDA supports MBDC programs that can: Coordinate and broker public and private sector resources on behalf of minority individuals and firms; offer them a full range of management and technical assistance; and serve as a conduit of information and assistance regarding minority business.

Applications will be judged on the experience and capability of the firm and its staff in addressing the needs of minority business individuals and organizations; the resources available to the firm in providing management and technical assistance; the firm's proposed approach to performing the work requirements included in the application; and the firm's estimated cost for providing such assistance. It is advisable that applicants have an existing office in the geographic region for which they are applying.

The MBDC will operate for a 3 year period with periodic reviews culminating in annual evaluations to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds, and Agency priorities.

DATES: Closing date: The closing date for applications is June 16, 1986. Applications must be postmarked on or before June 16, 1986.

ADDRESS: New York Regional Office, Minority Business Development Agency, 26 Federal Plaza, Room 3720, New York, NY 10278, Area Code/Telephone Number, (212) 264-3262.

FOR FURTHER INFORMATION CONTACT: Gina A. Sanchez, Regional Director, New York Regional Office.

SUPPLEMENTARY INFORMATION: Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address.

Dated: May 5, 1986.

Gina A. Sanchez,

Regional Director.

[FR Doc. 86-10424 Filed 5-8-86; 8:45 am]

BILLING CODE 3510-21-M

National Oceanic and Atmospheric Administration

New England and Mid-Atlantic Fishery Management Councils; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The New England and Mid-Atlantic Fishery Management Councils will convene a joint public meeting to discuss fishery management plan development and review; enforcement; criteria for lead Council designation; limited entry; foreign fishing/joint ventures; reports of the enforcement, surf clam/ocean quahog, and large pelagic oversight committees, as well as discuss other fishery management and administrative matters. The joint public meeting will convene May 28, 1986 at 9 a.m., adjourn May 30, at approximately noon, and will take place at the Sheraton Regal, Route 132 and Bearses Way, Hyannis, MA. For further information contact Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, (Route One), Saugus, MA 01906; telephone: (617) 231-0422.

Dated: May 5, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-10434 Filed 5-8-86; 8:45 am]

BILLING CODE 3510-22-M

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council's Americanization Committee will reconvene a public meeting, May 12, 1986, at 9 a.m. at the National Marine Fisheries Service, Northwest and Alaska Fisheries Center Auditorium, 2725 Montlake Boulevard East, Seattle, WA, to continue deliberations begun at its first meeting on April 18-19, regarding Council-established phaseout dates for foreign fishing and foreign processing.

Though the meeting will be open to the public, no public testimony will be taken. Opportunity for submission of written and oral testimony was provided at the April 18-19 meeting. Questions regarding the May 12 meeting may be directed to Ron Miller, Special Advisor, North Pacific Fishery Management Council, 411 West Fourth Avenue, Suite 2D, Anchorage, AK 99501; telephone: (907) 274-4563.

Dated: May 6, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-10433 Filed 5-8-86; 8:45 am]

BILLING CODE 3510-22-M

Travel and Tourism Administration

Travel and Tourism Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976) notice is hereby given that the Travel and Tourism Advisory Board of the U.S. Department of Commerce will meet on June 1, 1986 at 9:00 a.m. at Loew's Ventana Canyon Resort, 7000 North Resort Drive, Tucson, Arizona 85715. Meeting Room information will be posted on the hotel directory.

Established March 19, 1982, the Travel and Tourism Advisory Board consists of 15 members, representing the major segments of the travel and tourism industry and state tourism interests, and includes one member of a travel labor organization, a consumer advocate, an academician and a financial expert.

Members advise the Secretary of Commerce on matters pertinent to the Department's responsibilities to accomplish the purpose of the National Tourism Policy Act (Pub. L. 97-63), and provide guidance to the Assistant Secretary for Tourism Marketing in the preparation of annual marketing plans.

Agenda items are as follows:

I. Call to Order
II. Approval of the Minutes
III. Old Business
  A. Terrorism and Tourism
    - Task Force Report
    - Recognizing the effects
    - Developing a strategy
IV. New Business
  A. Bicentennial of the Constitution
  B. Tourism and the Caribbean Basin Initiative
  D. U.S. Tourism Investments Abroad
    - China
    - Yugoslavia
    - Caribbean
    - Other
  E. Update on SIC Code Revisions
V. Miscellaneous
  A. Establish next meeting date
VI. Adjournment

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available, the presentation of oral statements is allowed.

Karen M. Cardran, Committee Control Officer, United States Travel and Tourism, Administration, Room 1865, U.S. Department of Commerce, Washington, DC 20230 (telephone: 202-377-0140) will respond to public requests for information about the meeting.

Donna Tuttle,

Under Secretary for Travel and Tourism, U.S. Department of Commerce.

[FR Doc. 86-10489 Filed 5-8-86; 8:45 am]

BILLING CODE 3510-11-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Forms Under Review of Office by Management and Budget

The Committee for Purchase from the Blind and Other Severely Handicapped has submitted requests to extend the authorization for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S. Chapter 35).

On September 30, 1983, OMB approved the following Committee forms:

Initial Certification—Blind, Form 401
Initial Certification—Severely Handicapped, Form 402
Annual Certification—Blind, Form 403
Annual Certification—Severely Handicapped, Form 404

It is proposed to extend the authorization for the collection of information on the above forms. The information included on the forms is required to ensure that new workshops entering the Committee's program meet the requirements of Pub. L. 92-28, June 23, 1971, (44 U.S.C. 46-48c) and that participating workshop continue to meet the requirements of the Act.

Minor changes were made in format to allow a more precise determination as to the location of where records are maintained and where direct labor is performed. Other than these minor changes, the forms are identical and the information reported is not changed.

The expiration date has been requested to be extended to December 31st rather than September 30 since a 90 day period is required after the end of the Government Fiscal Year to allow the workshops to tabulate data and transmit the reports to the Committee through the respective Central Nonprofit Agencies.

Requests for information including copies of the proposed information requests and supporting documentation should be directed to: C. W. Fletcher, Committee for Purchase from the Blind and Other Severely Handicapped, 1755 Jefferson Davis Highway, Crystal Square 5, Suite 1107, Arlington, VA, 22202, (703) 557-1145.

Comments on the requests to extend the authorization for the reports should be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, ATTN: Joseph Lackey.

C.W. Fletcher,

Executive Director.

[FR Doc. 86-10465 Filed 5-8-86; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1986, Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to and Deletions from Procurement List.

SUMMARY: This action adds to and deletes from Procurement List 1986 commodities to be produced by and services to be provided by workshops for the blind or other severely handicapped.

EFFECTIVE DATE: May 9, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On December 13, 1985 and February 7 February 21 and March 14, 1986, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (50 FR 50936, 51 FR 4758, 51 FR 6295, 51 FR 8868) of proposed additions to Procurement List 1986, October 5, 1985 (50 FR 41809).

One comment was received in response to the notice proposing the addition to the Procurement List of the Curtain, Shower. The commentor was notified of the estimate of the firm's annual sales and given an opportunity to refute that estimate. The commentor did not reply to the notification. The value of the firm's contract represents less than 5% of its annual sales. The Committee considered the comments received as well as other pertinent information and determined that the addition of these commodities to the Procurement List would not cause severe impact on the current contractor.

Additions

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77 and 41 CFR 51-2.6.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the commodities listed.

c. The actions will result in authorizing small entities to produce the commodities procured by the Government.

Accordingly, the following commodities are hereby added to Procurement List 1986:

Cushion, Seat Back, Vehicular: 2540-01-085-6289
Curtain, Shower: 7230-00-0840-9838, 7230-00-849-9839
Briefcase: 8460-01-183-6709

Deletions

After consideration of the relevant matter presented, the Committee has determined that the services listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77 and 41 CFR 51-2.6.

Accordingly, the following services are hereby deleted from Procurement List 1986:

Commissary Shelf Stocking and Custodial
Fort Sheridan, Illinois
Commissary Shelf Stocking and Custodial
Fort Monmouth (Ocean Port), New Jersey
Janitorial Service, GSA Depot Building,
Hingham Industrial Park, 349 Lincoln
Street, Hingham, Massachusetts

C.W Fletcher,

Executive Director.

[FR Doc. 86-10460 Filed 5-8-86; 8:45 am]

BILLING CODE 6820-33-M

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Procurement List 1986; Proposed Additions and Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to and deletions from procurement list.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1986 commodities to be produced by and services to be provided by workshops for the blind or other severely handicapped.

DATE: Comments must be received on or before: June 11, 1986.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202-3509.

FOR FURTHER INFORMATION CONTACT: C.W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77 and 41 CFR 51-2.6. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following services to Procurement List 1986, October 15, 1985 (50 FR 41809):

Grounds Maintenance, NASA—Goddard Space Flight Center, Greenbelt, Maryland
Janitorial/Custodial, Garmatz Courthouse and Federal Building, 101 W. Lombard Street, Baltimore, Maryland
Janitorial/Custodial, USAR Facilities, Mann Hall, North 415 Market Street, Spokane, Washington and 3600 North Sullivan Road, Trentwood, Washington Laundry Service, Fort McClellan, Alabama

Deletions

It is proposed to delete the following commodities and services from Procurement List 1986, October 15, 1985 (50 FR 41809):

Commodities

Screwdriver, Cross Tip:
5120-00-529-3101,
5120-00-596-0880
Screwdriver, Flat Tip:
5120-00-278-1280,
5120-00-541-3004,
5120-00-278-1268,
5120-00-337-2465,
5120-00-540-0563,
5120-00-180-0780,
5120-00-293-3309
Cashbox: 7520-00-281-5931
Folder, Chapel Program:
7690-00-NSN-0001
Illustrative Sheet:
7690-00-NSN-0002. (Requirements for Wright-Patterson Air Force Base, Ohio only)

Services

Commissary Shelf Stocking, Naval Air Station, Moffett Field, California
Commissary Shelf Stocking, Naval Air Station, Point Mugu, California
Commissary Shelf Stocking and Custodial, Reese Air Force Base, Texas
Grounds Maintenance, Bergstrom Air Force Base, Texas
Janitorial/Custodial, McCord Air Force Base, Washington

C.W. Fletcher,
Executive Director.

[FR Doc. 86-10461 Filed 5-8-86; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name of the Committee: Army Science Board (ASB).

Dates of meeting: Tuesday and Wednesday, 27-28 May 1986.

Times of meeting: 0800-1700 hours.

Places: TRADOC Analysis Center, Ft. Leavenworth, KS.

Agenda:

The Army Science Board AHSG on Army Combat Models will meet for briefings by analytic agencies. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,
Administrative Officer, Army Science Board.

[FR Doc. 86-10413 Filed 5-8-86; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Dates of meeting: 26-30 May 1986.

Times of meeting: 0800-1600 hours.

Place: Europe.

Agenda:

The Army Science Board 1986 Summer Study Panel on C3I Requirements for AirLand Battle will meet to discuss joint service, requirements, and performance. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,
Administrative Officer, Army Science Board.

[FR Doc. 86-10414 Filed 5-8-86; 8:45 am]

BILLING CODE 3710-08-M

Department of the Navy

Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Naval Research Advisory Committee Panel on Soviet Submarine Threat will meet on May 28, 1986 at the Pentagon, Washington, DC. The meeting will commence at 8:30 A.M. and terminate at 5:30 P.M. On My 29, 1986 the panel will meet at Presearch, Inc. at 8500 Prospect Avenue, Merrifield, Virginia commencing at 9:00 A.M. and terminating at 3:00 P.M. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to assess the potential of U.S. defensive systems now in the pipeline to meet the Soviet submarine threat, as well as from an overall system approach, determine the major elements required to match the threat and recommend modifications, if required, to current Navy programs in order to maintain technological superiority. The agenda for the meeting will consist of technical briefings addressing the Soviet submarine threat. These briefings will contain information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned

with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander T. C. Fritz, U.S. Navy, Office of the Chief of Naval Research (Code OONR), 800 North Quincy Street, Arlington, VA 22217-5000, Telephone number (202) 696-4870.

Dated: May 5, 1986.

William F. Roos, Jr.,
Lieutenant, JAGC, U.S. Naval Reserve Federal Register Liaison Officer.

[FR Doc. 86-10435 Filed 5-8-86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Auxiliary Activities; In-Service Training—Handicapped Children's Early Education Program

AGENCY: Department of Education.

ACTION: Notice of Final Annual Funding Priority.

SUMMARY: The Secretary announces an annual funding priority for the Auxiliary Activities: In-Service Training—Handicapped Children's Early Education Program. The priority is for applications which establish in-service training programs which focus on meeting the needs of qualified personnel to provide services to handicapped children from birth through age two.

EFFECTIVE DATE: This priority takes effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of this priority, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas E. Finch, Early Childhood Branch, Division of Innovation and Development, Special Education Programs, Department of Education, 330 C Street, SW. (Switzer Building, Room 3511- M/S 2313), Washington, DC 20202. Telephone: (202) 732-1084.

SUPPLEMENTARY INFORMATION: The Auxiliary Activities program, 20 U.S.C. 1424, supports research, development or demonstration activities, training, and dissemination activities, which, consistent with the purposes of Part C of the Education of the Handicapped Act, meet the unique educational needs of handicapped children and youth, including those who are severely handicapped.

The Handicapped Children's Early Education Program (HCEEP), authorized by section 623 of Part C of the Education of the Handicapped Act, supports the establishment and operation of innovative and effective preschool and early education projects and early childhood State Plan projects. Projects funded under the program are age specific, reflect considerations of child development, involve medical, social, special education, and related services, and include parent and family intervention techniques.

The purpose of the HCEEP is to support a variety of experimental models which provide effective services and which can be replicated, and early childhood State Plan projects. The program supports presenting innovative ideas with the potential to advance the status of preschool and early childhood education. It is not the intent of the program to support on-going services.

It has become clear that in order for programs to satisfy the goals of demonstration projects to enhance the provision of services for handicapped infants and those at risk, current training programs need to address in-service training as a priority. Presently, the training of personnel to work in programs serving the infant through age two population is quite diverse in approach, while quite limited relative to the number of training programs available. The need for an in-service priority evolved because of the following principles: (1) training personnel to work with handicapped infants through age two is different from training personnel for preschool programs; (2) the nature of the infant through age two child as a learner is unique and distinct from that of other learners; (3) a coordinated multi-agency approach to service delivery is imperative; and (4) a family system approach must be the focus of programming for this age group (0-2).

A notice of proposed annual funding priority was published in the **Federal Register** on October 9, 1985 at 50 FR 41322. The public was given thirty days in which to comment. No comments were received.

Priority

Auxiliary Activities: In-service Training—Handicapped Children's Early Education Program. In accordance with the Education Department General Administrative Regulations at 34 CFR 75.105(b)(2) and 75.105(c)(3)(i), and subject to available funds, the Secretary gives an absolute preference to each application which provides satisfactory assurance that the recipient will use funds made available for the following activities.

This priority supports projects that demonstrate effective in-service training programs that focus on meeting the needs of qualified personnel to provide services to handicapped and at-risk children age birth through two. Personnel under this priority would include, but are not limited to: pediatricians, neo-natal caregivers (nurses, social workers, physical therapists, occupational therapists, speech pathologists), public health personnel, and parents. Within the priority projects must focus on one or more of the following: (a) establishing an in-service training program which focuses on training personnel to work with handicapped children from birth through age two (0-2); (b) stressing a curriculum which demonstrates a multiagency approach to service delivery for handicapped children from birth through age two; (c) focusing on the development of a family systems approach (approaching the family as a system to address the needs of all members affected by the handicapping condition) as a focus of programming for handicapped children from birth through age two; or (d) ensuring individual program priorities within States for handicapped children from birth through age two.

(20 U.S.C. 1424)

(Catalog of Federal Domestic Assistance Number 84.086; Auxiliary Activities: In-Service Training—Handicapped Children's Early Education Program)

Dated: May 6, 1986.

William J. Bennett,
Secretary of Education.

[FR Doc. 86-10455 Filed 5-8-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP86-344-000]

Consolidated Gas Transmission Corp.; Intent To Prepare an Environmental Assessment on the Proposed Line No. TL-460 and Biddlecum Road Measuring Station, Request for Comments, and Notice of Public Meeting

May 8, 1986.

On February 25, 1986, Consolidated Gas Transmission Corporation (Consolidated) applied to the Federal Energy Regulatory Commission for a certificate to construct 33.5 miles of 24-inch natural gas pipeline, called Line No. TL-460, in Onondaga and Oswego

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Counties, New York. A measuring station in Oswego County called the Biddlecum Road Measuring Station is also proposed. The pipeline and measuring station would be used to deliver gas to Niagara Mohawk Corporation, a gas distribution company, to accommodate anticipated increases in annual and peak day demand. Construction is proposed to begin on May 1, 1986, and to be completed by October 31, 1986; however, construction can begin only if the Commission has issued the certificate. The estimated cost is $25,685,000.

Location and Land Requirements

Figure 1 shows the location of the project.* About 245 acres of land would be disturbed during construction, 58 percent of which would occupy or overlap existing electric power and gas pipeline rights-of-way. As shown in table 1, where the pipeline would parallel existing utilities, the additional permanent right-of-way width required would range from none to 29 feet. In these locations an additional 20 feet of temporary right-of-way would be needed during construction, which would revert back to its former use once construction is completed. A new 60-foot wide permanent right-of-way would be acquired where the pipeline would not parallel existing utilities. Table 1 shows the right-of-way requirements by location.

The Biddelcum Road Measuring Station would be located in an agricultural field just south of Biddlecum Road in the Town of Schroeppel. Consolidated plans to purchase a 5-acre site and to use 1.4 acres for the facility. The remaining 3.6 acres could continue to be used for agricultural purposes. The facility would be designed to produce noise levels less than an L_{dn} of 55 dB(A) at the nearest residence.

* TABLE 1.—RIGHT-OF-WAY REQUIREMENTS

Section	Approximate distance (miles)	Existing utility corridor utilized	Permanent easement required (feet)	Width of permanent easement that is not on an existing ROW (feet)	Width of temporary construction easement (feet)
Therm City to Williams Road	6.4	Consolidated Gas Transmission Corp. pipeline ROW.	40 (11' on Consolidated's existing ROW).	29	20
Williams Road to Bishop Hill Road	.9	New York State Electric and Gas 34.5 KV ROW	40 (40' on NYSE&G's existing ROW).	0	20
Bishop Hill Road to the vicinity of Lee Mulroy Road	.8	Tennessee Gas Company ROW	40 (20' on Tenneco's existing ROW).	20	20
Vicinity of Lee Mulroy Road to the vicinity north of State Rt. 321	4.7	New utility corridor required	60 (New ROW)	60	0
Vicinity north of State Rt. 321 to a point just north of the Seneca River.	11.3	Niagara Mohawk Power Corp. Oswego-Lafayette 345 KV ROW.	40 (Entirely on NMPC's existing ROW).	0	[1] 20
From a point just north of the Seneca River to Biddlecum Road	9.6	New utility corridor required	60 (New ROW)	60	0

[1] On NMPC's ROW.

Consolidated states that about 50 acres of woodland would be cleared during pipeline construction. Five acres would be cleared for construction purposes only and would be allowed to return to forestland. The remaining 45 acres would be kept clear of trees for the life of the project. About 111 acres of cropland and 21 acres of pasture would be disturbed for one growing season. Other lands affected include open fields (34 acres), wetland (18 acres), and residential land (7 acres).[1] The 13 wetland crossings range from 100 to 1900 feet in length, and would require permits from the New York Department of Environmental Conservation. Other than a 1,200-foot crossing of the Three Rivers State Game Management Area, the staff is not aware of any public parks, forests, or other public lands along the route.

Over the entire length of the pipeline, the right-of-way would be maintained as either low-growing vegetation or cropland. Permanent structures would not be allowed on the right-of-way for the life of the project.

Construction and Restoration

Construction is proposed to take place in the spring, summer, and fall of 1986. According to Consolidated, the construction teams would consist of a total of approximately 185 to 200 people, 60 percent of whom would be local workers. The contractor's personnel would comprise the remainder of these teams. In general, the first month would involve clearing and preparing the site. Actual construction would begin in the second month and would be done at an approximate rate of one mile per day. This part of the work includes trenching, stringing the pipe, welding, and lowering it in place. The third month would involve backfilling, seeding, and rebuilding fences. Construction of Line No. TL-460 would start at Therm City, Town of Onondaga, Onondaga County, and proceed westward/northward, using a staggered start with right-of-way crews first, dozers second, and ditching third, etc. Each crew would be staggered about one week.

The pipeline would cross the Seneca and Oswego rivers and 34 streams. Various measures are proposed to protect these waterbodies and the wetlands crossed, such as using onshore sediment control structures, keeping petroleum storage and refueling areas at least 50 feet away, and restoring streambanks, etc. Forty-five highways would be crossed by the pipeline. Most paved road crossings would be bored to prevent disruption of pavement or traffic. Unpaved road crossings may be open-cut.

Consolidated's cleanup and restoration plans include grading, liming, fertilizing, seeding, and mulching for areas where the soil has been disturbed and exposed as a result of construction activity. A general seed mix that is compatible with the various soil conditions would be used, and all disturbed areas would be mulched to promote germination and prevent the washing of soil and seed. Consolidated has proposed that temporary erosion control and restoration measures would be carried out while construction is in progress, with special attention given to highly erodible areas.

[1] The combined acreage does not equal the total because of mapping errors and rounding.

* Not printed in the Federal Register; available from the Commission's Division of Public Information.

Operation and Maintenance

Maintenance functions for the right-of-way would include periodically removing woody vegetation by mowing, replacing backfill and repairing drain tiles and terraces, periodically inspecting water crossings, and maintaining an emergency supply of pipe, leak repair clamps, etc., for repairs.

Aerial inspections of the right-of-way would be done periodically to monitor encroachment and to provide information on possible leaks, construction activities within the right-of-way, erosion, exposed pipe, and any other potential problem that could affect the safety and operation of the pipeline. Should maintenance problems occur, Consolidated would dispatch personnel and equipment to alleviate them.

Alternatives

The FERC staff is presently studying two alternatives. The first alternative would follow the proposed route from Therm City to its intersection with a powerline just south of Hencle Boulevard, which is located about one mile northwest of Baldwinsville. From there it would head 6.3 miles east along the powerline until intersecting a waterline right-of-way near Route 481, where it would then turn north and follow the water line 2.3 miles to its intersection with the Niagara Mohawk pipeline 5 miles southeast of the proposed interconnection location. The measuring station would be located at that intersection.

The second alternative would involve constructing none of the proposed facilities. Instead, the proposed volumes would be delivered to Niagara Mohawk through an existing connection near Oneida, New York. The FERC staff does not yet know what, if any, additional facilities would be required for this alternative. The FERC staff seeks comments on these alternatives and welcomes suggestions on other alternatives that should be studied.

Public Meeting and Comment Procedure

The FERC staff will hold a public meeting at 7:00 p.m. on June 2, 1986, at the Town of Van Buren Town Hall, 7575 Van Buren Road, Baldwinsville, New York. All members of the public and state and local government officials are invited to attend. Representatives of Consolidated Gas Transmission Corporation will also be present. The purpose of the meeting will be to identify the environmental issues that should be studied in the environmental assessment. Disputes involving individual right-of-way negotiations will not be discussed or resolved in this forum. The environmental assessment will be used to determine whether or not the proposal is a major Federal action significantly affecting the quality of the human environment.

A copy of this notice has been distributed to a number of Federal, state, and local agencies, and parties to the proceeding. The deadline for filing written comments is June 16, 1986. All written comments must reference Docket No. CP86-344-000, and be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Any recommendations that the FERC address specific issues should be supported with a detailed explanation of the need to consider such issues. Comments previously filed with the Commission need not be refiled in response to this notice.

Additional information about the proposal, including detailed route maps for sepcific locations, is available from Mr. Cary Secrest, Project Manager, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, telephone (202) 357-9036.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-10608 Filed 5-8-86; 3:56 pm]
BILLING CODE 6717-01-M

Southwestern Power Administration

Request for Data and Comments Regarding Allocation of Additional Power

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of Request for Data and Comments Regarding Allocation of Additional Power.

SUMMARY: The Southwestern Power Administration (SWPA), Department of Energy, markets Federal hydroelectric power and energy from projects constructed and operated by the Corps of Engineers and located in the States of Arkansas, Missouri, Oklahoma and Texas, under the provisions of Section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as amended. In 1980, SWPA adopted final power allocations which allocated then-existing Federal hydroelectric power (capacity) to preference customers in SWPA's marketing area which includes the above-mentioned states plus Kansas and Louisiana. The 1988 Final Power Allocations (1980-1988) (FPA) were published March 24, 1980 (45 FR 19032).

A Notice of Intent to Allocate Additional Power was published in the Federal Register January 28, 1986 (51 FR 3505). The Notice announced SWPA's intent to allocate an additional 7.5 MW of power (capacity) which has become available subsequent to the 1980 FPA. The allocation was to be made in accordance with the FPA; consequently, preference entities (customers) in Kansas and Louisiana would have received proportionate quantities of the additional power since no apparent changes in operating conditions had occurred in Texas subsequent to the FPA, that would allow additional allocations in Texas. Customers and interested parties were invited to comment on the Notice of Intent before February 27, 1986.

Comments were received from three parties; two customers and one group of prospective customers. One customer (Cajun Electric Power Cooperative, Inc., of Baton Rouge, Louisiana) expressed support for the allocation procedure and encouraged its implementation. The group of prospective customers, all U.S. Air Force Bases located in Kansas and Louisiana, requested the allocation of power to such bases. The other customer, Brazos Electric Power Cooperative, Inc., of Waco, Texas (Brazos), proposed a method by which Brazos and the non-interconnected part of Texas, could receive the benefits of the additional power allocation in spite of the continuing operating conditions in Texas which effectively limit the direct transfer of power to or from the Electric Reliability Council of Texas (ERCOT) area. Brazos has noted that approximately 5 percent of its load is located in the interconnected part of Texas (outside ERCOT) and arrangements can be developed such that the allocation can be delivered to the Brazos load outside ERCOT with 95% of the resulting benefits flowing to the non-interconnected area (ERCOT) by virtue of a "rolled-in" (postage stamp) rate which is the same for Brazos customers both inside and outside ERCOT.

As a result of this new information, SWPA is requesting data and comments from Brazos and others which will enable SWPA to evaluate the feasibility of Brazos' suggestion and its applicability to any other entities operating under similar circumstances. Customers and interested parties desiring to receive an allocation should submit comments, including detailed information on their power loads and rate structures in both the ERCOT and non-ERCOT areas, citing any available methods to distribute financial benefits into the ERCOT area through such rates, on or before June 9, 1986.

ADDRESS: Written comments should be submitted to the Director, Power Marketing, Southwestern Power Administration, P.O. Box 1619, Tulsa, Oklahoma 74101.

FOR FURTHER INFORMATION CONTACT: Francis R. Gajan, Director, Power Marketing, Southwestern Power Administration, Department of Energy, P.O. Box 1619, Tulsa, Oklahoma 74101, (918) 581–7529.

Issued this 16th day of April, 1986.

Ronald H. Wilkerson,

Administrator, Southwestern Power Administration.

[FR Doc. 86–10508 Filed 5–8–86; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPPE–FRL–3013–5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the Federal Register a notice of proposed information collection requests (ICRS) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICRs are available for review and comment.

FOR FURTHER INFORMATION CONTACT: Nanette Liepman, (202) 382–2740 or FIS 382–2740.

SUPPLEMENTARY INFORMATION:

Office of Water

Title: State Conducted Inventory of Injection Wells (EPA ICR #0257). (This request is for reinstatement of a previously approved collection for which approval has expired.)

Abstract: In order to facilitate approving/denying grants to States and to inventory wells in the program, States must collect and submit to EPA information on injection wells.

Respondents: State governments.

Title: Underground Injection Control (UIC) Federal Reporting (EPA ICR #0368). (This request is for reinstatement of a previously approved collection for which approval has expired.)

Abstract: The Safe Drinking Water Act requires States to submit certain reports under the Underground Injection Control program. EPA will use this information to evaluate the State- and EPA-administered programs and to prepare Congressional reports.

Respondents: State agencies with approved UIC programs.

Title: Underground Injection Control Permit Applications and Permittee Reporting (EPA ICR #0370). (Extension of the expiration date of a currently approved collection without change.)

Abstract: To prevent contamination of underground sources of drinking water, well owners/operators who inject certain substances underground must keep records as well as report operating data to the EPA Regional Administrator.

Respondents: Certain well owners/operators.

* * * * *

Agency PRA Clearance Requests Completed by OMB

EPA ICR #0860, NSPS for Metal Coil Surface Coating (Subpart TT) Information Requirements, was approved 4/24/86 (OMB #2060–0107; expires 3/31/89).

EPA ICR #0650, NSPS for Industrial Surface Coating Large Appliances (Subpart SS)—Information Requirements, was approved 4/25/86 (OMB #2060–0106; expires 10/31/86).

* * * * *

Comments on all parts of this notice may be sent to:

Nanette Liepman, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM–223) Information and Regulatory Systems Division, 401 M Street, SW., Washington, DC 20460

and

Richard Otis, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, DC 20503.

Dated: May 6, 1986.

Daniel J. Fiorino,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 86–10448 Filed 5–8–86; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3013–1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared April 21, 1986 through April 25, 1986 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 382–5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated February 7, 1986 (51 FR 4804).

Draft EISs

ERP No. D–BLM–J36039–UT, Rating LO, West Desert Pumping Project, Great Salt Lake Flood Control Construction, Right-of-Way Permit, Grant, 404 Permit, UT. **SUMMARY:** EPA's review did not identify potential environmental impacts which would require changes to the proposal.

ERP No. DS–BLM–L65082–OR, Rating EC2, Western Oregon Competing Vegetation Mgmt. Program, Impacts of Herbicides on Human Health, OR. **SUMMARY:** EPA's review finds that the supplemental EIS fails to evaluate the full range of effects of herbicide application such as environmental risks to stream quality, fisheries, wildlife, groundwater, and eutrophication. Although the risk assessment and worst case analyses of potential impacts on human health are well done, EPA believes the document should be expanded to describe the broader ecological consequences of herbicide use, and more fully identify the chemicals being used.

ERP No. D–COE–C28000–NJ, Rating EO2, Manasquan Reservoir System Oak Glen Reservoir Construction, Sect. 10 and 404 Permits, Timber Swamp Lake and Manasquan R., NJ. **SUMMARY:** EPA stated its environmental reservations regarding the projected loss and degradation of wetland and aquatic habitats, and the ability to mitigate these impacts. Additional information is requested on potential mitigation and the evaluation of aquifer recharge alternatives.

ERP No. DS–FHW–E40150–FL, Rating EC2, Port Everglades Expressway/I–595 Construction, I–95/FL–736/ Davie Blvd. Improvements, South Fork New River to Broward Blvd., FL. **SUMMARY:** EPA was concerned about the adequacy of the air quality, groundwater and noise analysis. Additional clarification information was requested to be included in the final supplemental EIS.

Final EISs

ERP No. F–AFS–J65140–WY, Shoshone Nat'l Forest, Land and Resource Mgmt. Plan, WY. **SUMMARY:** EPA has continuing concerns regarding methods and requirements for protection of water quality standards, including antidegradation requirements. Other unresolved concerns involve sediment-aquatic ecosystem relationships; road construction; ground water protection measures; watershed planning; cumulative impacts assessment; management of wetlands; mineral development; vegetation; monitoring; and coordination. EPA has recommended inter-agency consultation and requests a written response to help resolve the concerns.

ERP No. FS–COE–L36070–00, Bonneville Lock and Dam, Navigation Lock Construction, Project Changes, Columbia—Snake River Navigation System, WA and OR. **SUMMARY:** EPA expressed concern that the interagency task force, as agreed to by the Army Corps of Engineers and committed to in the Record of Decision, be organized immediately as project construction was slated to begin very soon. EPA reiterated that task force approval of specific mitigation measures would be required prior to activities taking place.

ERP No. F–FHW–J40009–CO, US 285 Upgrading, Tinytown Junction to Foxton Rd., 404 Permit, CO. **SUMMARY:** EPA believes the project can be completed as planned with minimum impacts to the environment.

ERP No. FS–NOA–B90001–RI, Rhode Island Coastal Resources Mgmt. Program, 1983 and 1984 Amendments, Adopted Portions of State Guide Plan Overview, Salt Pond Region Special Area Mgmt. Plan, RI. **SUMMARY:** We believe the amendments to the Program will not cause significant adverse impacts to the environment.

Regulations

ERP No. R–DOT–A12036–00, 14 CFR Ch. III Commercial Space Transportation: Licensing Regulations: Interim Final Rue (Docket No. 43810) (51 FR 6870). **SUMMARY:** EPA was pleased to note that the interim rule now contains an environmental impact section. EPA no longer has any objection to the proposed regulation.

Dated: May 6, 1986.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 86–10510 Filed 5–8–86; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–3012–9]

Environmental Impact Statements; Notice of Availability

Responsible Agency

Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075. Availability of Environmental Impact Statements filed April 28, 1986 Through May 2, 1986 Pursuant to 40 CFR 1506.9.

EIS No. 860169, Draft, AFS, MT, Kootenai National Forest, Noxious Weed Treatment Program, Lincoln County, Due: June 23, 1986, Contact: Michael O'Farrell (406) 296–2536.

EIS No. 860170, Final, SCS, PA, Upper Tioga River Watershed, Protection and Flood Prevention Plan, Tioga and Bradford Cos., Due: June 9, 1986 Contact: James Olson (717) 782–2202.

EIS No. 860171, Final, AFS, PA, Allegheny National Forest, Land and Resource Management Plan, Due: June 9, 1986, Contact: Forrest Carpenter (814) 723–5150.

EIS No. 860172, Draft, IBR, CA, Kesterson Reservoir and San Luis Drain, Cleanup, Disposition and Wetland Mitigation Program, Merced and Fresno Cos., Due: June 30, 1986, Contact: Susan Hoffman (916) 978–5046.

EIS No. 860173, Draft, AFS, NH, ME, White Mountain National Forest, Land and Resource Management Plan, Due: June 23, 1986, Contact: Carl Gebhardt (603) 524–6450.

EIS No. 860174, Draft, FERC, CA, Owens River Basin, Seven Hydroelectric Projects, Construction, Operation and Maintenance, Licensee, Inyo and Mono Cos., Due: June 23, 1986, Contact: Ronald McKitrich (202) 376–9065.

EIS No. 860175, Final, COE, DC, MD, VA, Hydrilla Management and Control in the Potomac River and Tributaries, Chain Bridge in Washington, DC to the US 301 Bridge near Morgantown, Maryland, Due: June 9, 1986, Contact: Robert Blama (301) 962–4710.

EIS No. 860176, Draft, MMS, TX, AL, MS, LA, 1987 Central and Western Gulfs of Mexico Outer Continental Shelf (OCS) Oil and Gas Sale Nos. 110 and 112, Leasing, Due: July 3, 1986, Contact: Archie Melancon (202) 343–6264.

EIS No. 860177, Draft, AFS, CA, Lassen National Forest, Land and Resource Management Plan, Due: August 7, 1986, Contact: Richard Henry (916) 257–2151.

EIS No. 860178, DSuppl, USN, GA, Kings Bay Fleet Ballistic Missile Submarine Support Base, North River Access Restriction, Camden County, Due: June 27, 1986, Contact: Bruce Dutton (202) 697–3055.

Amended Notices:

EIS No. 860150, Final, SCS, WV, Middle Grave Creek Watershed Protection and Flood Prevention Plan, Marshall County, Due: June 9, 1986, Published FR 4–25–86—Review period reestablished.

EIS No. 860168, DSuppl, BLM, WY, Grass Creek and Cody Resource Areas, Wilderness Suitability, Owl Creek Wilderness Study Area, Hot Springs County, Due: July 30, 1986, Published FR 5–2–86—Incorrect due date.

Dated: May 6, 1986.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 86–10511 Filed 5–8–86; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59216A; FRL–3013–7]

Certain Chemicals; Approval of Test Marketing Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of two applications for testing marketing exemptions (TME's) under section 5(h)(1) of the Toxic Substances Control Act (TSCA), TME–86–33 and TME–86–34. The test marketing conditions are described below:

EFFECTIVE DATE: May 5, 1986.

FOR FURTHER INFORMATION CONTACT: Vinay Kumar, Premanufacture Notice Management Branch, Chemical Control Division (TS–794), Environmental Protection Agency, Room E–609E, 401 M Street SW., Washington, DC 20460 (202–475–8982).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present any unreasonable risk of injury.

EPA hereby approves TME–86–33 and TME–86–34. EPA has determined that test marketing of the new chemical substances described below, under the conditions set out in the TME applications, and for the time periods and restrictions (if any) specified below,

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will not present any unreasonable risk of injury to health or the environment. Production volumes must not exceed those specified in the applications. All other conditions and restrictions described in the applications and in this notice must be met.

The following additional restrictions apply to TME-86-33 and TME-86-34. A bill of lading accompanying each shipment must state that the use of the substances are restricted to those approved in the TME's. In addition, the Company shall maintain the following records until five years after the dates they are created, and shall make them available to EPA for inspection or copying in accordance with section 11 of TSCA.

1. The applicant must maintain records of the quantity of the TME substances produced and must make these records available to EPA upon request.

2. The applicant must maintain records of the dates of shipment to each customer and the quantities supplied in each shipment, and must make these records available to EPA upon request.

3. The applicant must maintain copies of the bill of lading that accompanies each shipment of the TME substances.

T-86-33

Date of Receipt: March 26, 1986.

Notice of Receipt: April 11, 1986, (51 FR 12556).

Applicant: Confidential.

Chemical: (G) Substituted benzenesulfonyl chloride.

Use: (G) Site-limited intermediate.

Production Volume: 1,750 kg.

Number of Customers: Confidential.

Worker Exposure: A total of 2 workers for a total of 24 hours over 4 days.

Testing Marketing Period: Nine months.

Commencing on: May 5, 1986.

Risk Assessment: Based on analogy to structurally related substances, the Agency identified concerns for potential damage to liver and other organs. However, under the test marketing conditions, the estimated worker exposure to the test market substance will not be significant. Therefore, the test market substance will not pose any unreasonable risk of injury to human health.

EPA has also identified potential environmental concerns. However, estimated releases of the test market substance will not be significant. Therefore, the test market substance will not pose any unreasonable risk of injury to the environment.

Public Comments: None.

T-86-34

Date of Receipt: March 26, 1986.

Notice of Receipt: April 11, 1986 (51 FR 12556).

Applicant: Confidential.

Chemical: (G) Substituted benzenesulfonamide.

Use: (G) A component of a vehicle used in a printing ink.

Production Volume: 1,360 kg.

Number of Customers: Confidential.

Worker Exposure: Two workers for a total of 64 hours over 8 days.

Test Marketing Period: Nine months.

Commencing on: May 5, 1986.

Risk Assessment: Based on analogy to structurally related substances, the Agency identified teratogenicity concerns. However, under the test marketing conditions, the estimated worker exposure to the test market substance will not be significant. Therefore, the test market substance will not pose any unreasonable risk of injury to human health.

EPA has also identified potential environmental concerns. However, estimated releases of the test market substance will not be significant. Therefore, the test market substance will not pose any unreasonable risk of injury to the environment.

Public Comments: None.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its findings that the test marketing activities will not present any unreasonable risk of injury to health or the environment.

Dated: May 5, 1986.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 86-10446 Filed 5-8-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51622; FRL-3014-3]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty-one PMNs and provides a summary of each.

DATES:

Close of Review Period:

P 86-949, 86-950, 86-951, 86-952, 86-953, 86-954, 86-955 and 86-956—July 23, 1986

P 86-957 and 86-958—July 26, 1986

P 86-959, 86-960, 86-961, 86-962, 86-963, 86-964, 86-965 and 86-966—July 27, 1986

P 86-967, 86-968 and 86-969—July 28, 1986

P 86-970, 86-971, 86-972, 86-973, 86-974, 86-975, 86-976, 86-977, 86-978 and 86-979—July 29, 1986.

Written comments by:

P 86-949, 86-950, 86-951, 86-952, 86-953, 86-954, 86-955 and 86-956—June 23, 1986

P 86-957 and 86-958—June 26, 1986

P 86-959, 86-960, 86-961, 86-962, 86-963, 86-964, 86-965 and 86-966—June 27, 1986

P 86-967, 86-968 and 86-969—June 28, 1986

P 86-970, 86-971, 86-972, 86-973, 86-974, 86-975, 86-976, 86-977, 86-978 and 86-979—June 29, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS-51622]" and the specific PMN number should be sent to:

Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT:

Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW, Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 86-949

Manufacturer. Confidential.

Chemical. (G) Chromium complex.

Use/Production. (G) Gross-linking agent. Prod. range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Ames test: Non-mutagenic; In vitro chromosomal aberration test (Chinese hamster): Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-950

Importer. Aceto Corporation.

Chemical. (G) Aliphatic urethane acrylate oligomer.

Use/Import. (S) Industrial, commercial and consumer oligomer for UV/EB curable systems. Import range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Irritation: Skin-Mild; Ames test: Non-mutagenic.

Exposure. Processing and use: inhalation, a total of 200 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. 100 kg released to air and water.

P 86-951

Importer. Aceto Corporation.

Chemical. (G) Aliphatic urethane acrylate oligomer.

Use/Import. (S) Industrial, commercial and consumer oligomer for UV/EB curable systems. Import range: Confidential.

Toxicity Data. Acute oral: > 5.0 g/kg; Irritation: Skin-Mild; Ames test: Non-mutagenic.

Exposure. Processing and use: inhalation, a total of 200 workers, up to 8 hrs/da, up to 250 da/yr.

Environmental Release/Disposal. 100 kg released to air and water.

P 86-952

Manufacturer. NL Industries, Inc.

Chemical. (G) High solids oxirane/anhydride polyester intermediate.

Use/Production. (G) Reactive intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-953

Manufacturer. Confidential.

Chemical. (G) Salt of alkanethiol.

Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: 5,178 mg/kg; Acute dermal: 2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Irritant; Inhalation: 20 mg/l.

Exposure. Confidential.

Environmental Release/Disposal. No release.

P 86-954

Manufacturer. Confidential.

Chemical. (G) Vegetable oil, polymer with aromatic dicarboxylic acid, and aliphatic triol.

Use/Production. (G) Open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 2 workers, up to 2 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Less than 1 kg/batch released to air. Disposal by publicly owned treatment works (POTW) and scrubber.

P 86-955

Importer. Confidential.

Chemical. (S) 4-hydroxy-3-[[2-methoxy-5-[[2-[potassium salt (sulfooxy)]ethyl]sulfonyl]phenyl]azo] naphthalene.

Use/Import. (S) Reactive dye for textile. Import range: 15,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No release.

P 86-956

Importer. Biddle Sawyer Corporation.

Chemical. (S) 3,5-diamino-2, 4, 6-trimethyl benzene sulfonic acid.

Use/Import. (S) Industrial to produce dyes. Import range: 12,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No release.

P 86-957

Importer. Rohm Tech Inc.

Chemical. (S) Polymer of acrylic acid, methacrylic acid, acrylonitrile, methacrylamide, ammonium, persulfate, sodium hydroxide.

Use/Import. (S) Industrial retanning of leather. Import range: 20,000-40,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86-958

Manufacturer. The Minnesota Minning and Manfacturing Company.

Chemical. (G) Polyperflusroalkyl acrylate.

Use/Production. (G) Soil and stain repellant. Prod. range: Confidential.

Toxicity Data. Acute oral: > 5 kg; Irritation: Skin—Nonirritant, Eye—Minimal; Skin sensitization: Non-sensitizer; LC_{50} 96 hr (Fathead minnow): > 1,000 mg/1; EC_{50} 48 hr (Daphnia magna): > 1,000 mg/1; OECD inhibition test: 1,000 mg/1; Microtox test: Non-toxic; COD: 0.750 g/g; BOD_{20} emulsion: < 0.0009, solid— < 0.008; BOD: < 0.009 g/g.

Exposure. Manufacture: dermal.

Environmental Release/Disposal. 30 to 300 kg incinerated. Disposal by navigable waterway.

P 86-959

Manufacturer. Confindential.

Chemical. (G) Amine alkylphosphoric salt.

Use/Production. (G) Gear oil additive. Prod. range: Confindential.

Toxicity Data. Acute oral: 0.5-5 g/kg; Acute dermal: 2 g/kg; Irritation: Skin—Severe, Eye—Severe; Ames test: Negative.

Exposure. Confindental.

Environmental Release/Disposal. Confidential.

P 86-960

Manfacturer. Confidential.

Chemical. (G) Chlorendic acid modified alkyd resin.

Use/Production. (S) Commercial and consumer fire retardant paints. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 5 workers.

Environmental Release/Disposal. Confidential.

P 86-961

Manufacturer. Condidential.

Chemical. (G) Crosslinked MDI-aromatic polyether polyurethane.

Use/Production. (S) General purpose coating and modifier for coatings, inks and adhesive for industrial, commercial and consumer use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confifdential.

Environemental Release/Disposal. Confidential.

P 86-962

Manfacturer. Condidential.

Chemical. (G) Polyether ester amine.

Use/Production. (G) Resin used in an industrial coating. Prod. range: 1,500-7,500 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal, a total of 44 workers, up to 8 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. 0.4 to 23 kg/batch releeased to land. Disposal by incineration, approved landfill and commercial disposer.

P 86-963

Manfacturer. Confidential

Chemical. (G) Polyether polyamine.

Use/Production. (G) Coating polymer having an industrial use. Prod. range: 10,000-103,000 kg/yr.

Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 29 workers, up to 8 hrs/da, up to 20 da/yr.
Environmental Release/Disposal. 10 to 25 kg/batch released to land. Disposal by incineration, approved landfill and commercial disposer.

P 86-864

Manufacturer. Confidential.
Chemical. (G) Alkali metal salt of acid modified polyfunctional alkylene oxide polymer.
Use/Production. (G) Component of cellular and elastomeric plastic compositions. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-865

Manufacturer. E. I. du Pont de Nemours and Company, Inc.
Chemical. (G) Ethylene interpolymer.
Use/Production. (G) Fast cure polymer. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-866

Manufacturer. Wilmington Chemical Corporation.
Chemical. (S) Carboxyl terminated butadiene/acrylonitrile copolymer, 1,4-((2,3 epoxypropoxy)methyl) cyclohexane.
Use/Production. (S) Industrial sealant adhesive. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal.
Environmental Release/Disposal. Release to air and land. Disposal by Resource Conservation and Recovery Act (RCRA) and conservation venting.

P 86-867

Manufacturer. The Dow Chemical Company.
Chemical. (G) Ketoxime blocked aromatic isocyanate.
Use/Production. (G) Automotive coating. Prod. range: Confidential.
Toxicity Data. Acute oral: >2,000 mg/kg; Irritation Skin—Non-irritant, Eye—Slight.
Exposure. Manufacture: dermal and inhalation.
Environmental Release/Disposal. Less than 1 kg/batch released to air.

P 86-868

Manufacturer. The Dow Chemical Company.
Chemical. (G) Styrene, polymer with alkanedioic acid, butadiene and substituted alkane.
Use/Production. (G) Industrial and commercial polymer component of industrial adhesive formulation. Prod. range: Confidential.
Toxicity Data. Acute oral: >2,000 mg/kg; Irritation Skin—Non-irritant, Eye—Slight.
Exposure. Manufacture: dermal and inhalation.
Environmental Release/Disposal. Less than 1 kg/batch released to land. Disposal by approved landfill, navigable waterway and onsite waste treatment facility.

P 86-869

Manufacturer. Lilly Industrial Coatings, Inc.
Chemical. (G) Polymer of benzenedicarboxylic acid, alkane triol, vegetable oil and fatty acids, resinous polyol and phenolic resin.
Use/Production. (G) Industrial liquid paints. Prod. range: 49,000–73,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 19 workers, up to 10 hrs/da, up to 208 da/yr.
Environmental Release/Disposal. Less than 1 to 15 kg/batch released to air. Disposal by POTW and incineration.

P 86-870

Manufacturer. Confidential.
Chemical. (G) Unsaturated ether urethane containing cationic salt of a defunctionalized epon resin.
Use/Production. (G) Industrial coating resin. Prod. range: 80,200–802,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 41 workers, up to 8 hrs/da, up to 260 da/yr.
Environmental Release/Disposal. 2 to 114 kg/batch released to land. Disposal by incineration, approved landfill and commercial disposer.

P 86-871

Manufacturer. Confidential.
Chemical. (G) Unsaturated ether urethane containing cationic salt of a defunctionalized epon resin.
Use/Production. (G) Industrial coating resin. Prod. range: 80,200–802,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: dermal, a total of 41 workers, up to 8 hrs/da, up to 260 da/yr.
Environmental Release/Disposal. 2 to 114 kg/batch released to land. Disposal by incineration, approved landfill and commercial disposer.

P 86-872

Manufacturer. Confidential.
Chemical. (G) Unsaturated either urethane containing cationic salt of a defunctionalized epon resin.
Use/Production. (G) Industrial coating resin. Prod. range: 80,200–802,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacturer and processing: dermal, a total of 41 workers, up to 8 hrs/da, up to 260 da/yr.
Environmental Release/Disposal. 2 to 114 kg/batch released to land. Disposal by incineration, approved landfill and commercial disposer.

P 86-873

Manufacturer. Confidential.
Chemical. (G) Allyl ether ester of an unsaturated fatty acid.
Use/Production. (S) Site limited and industrial chemical intermediate. Prod. range: 25,000–256,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacturer and processing: dermal, a total of 31 workers, up to 8 hrs/da, up to 21 da/yr.
Environmental Release/Disposal. Trace to 161 kg/batch released to land. Disposal by incineration and approved landfill.

P 86-874

Manufacturer. Confidential.
Chemical. (G) Isophorone diisocyanate urethane formed from a beta hydroxy ester of an unsaturated fatty acid.
Use/Production. (S) Site limited and industrial chemical intermediate. Prod. range: 37,700–377,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacturer and processing: dermal, a total of 42 workers, up to 8 hrs/da, up to 98 da/yr.
Environmental Release/Disposal. Trace to 417 kg/batch released to land. Disposal by incineration and approved landfill.

P 86-875

Manufacturer. Rexnord Chemcial Products.
Chemical. (G) Diisocyanate polymer with polyether polyols.
Use/Production. (S) Industrial, commercial and consumer moisture curable polymer for sealant formulations. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacturer: dermal.
Environmental Release/Disposal. 0.5 to 1 kg/batch released to land. Disposal by a licensed burial.

P 86-876

Manufacturer. Rexnord Chemcial Products.
Chemical. (G) Diisocyanate.
Use/Production. (S) Industrial, commercial and consumer moisture curable polymer for sealant formulations. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacturer: dermal.
Environmental Release/Disposal. 0.5 to 1 kg/batch released to land. Disposal by a licensed burial.

P 86-877

Manufacturer. Rexnord Chemcial Products.
Chemical. (G) Polymer with polyether polyols.
Use/Production. (S) Industrial, commercial and consumer moisture curable polymer for sealant formulations. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacturer: dermal.
Environmental Release/Disposal. 0.5 to 1 kg/batch released to land. Disposal by a licensed burial.

P 86-878

Manufacturer. Ethyl Corporation.
Chemical. (G) Oxygenated alkyl benzene, metalloid ester.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

P 86-879

Manufacturer. Ethyl Corporation.
Chemical. (G) Reaction product of aromatic aldehyde with oxygenated aromatic alkyl benzene, metalloid ester.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.
Toxicity Data. No data on the PMN substance submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential.

Date: May 2, 1986.

Denise Devoe

Acting Director, Information Management Division.

[FR Doc. 86-10441 Filed 5-8-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59220; FRL-3014-2]

Polymer of Acrylic Acid, Methacrylic Acid, Acrylonitrile, Methacrylamide, Ammonium, Persulfate and Sodium Hydroxide Test Marketing Exemption Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemcial for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for an exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by: May 28, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS-59220]" and the specific TME number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Room E-201, 401 M Street SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemcial Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, room E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

T 86-41

Close of Review Period. June 12, 1986.
Import. Rohm Tech, Inc.
Chemical. (S) Polymer of acrylic acid, methacrylic acid, acrylionitrile, methacrylamide, ammonium, persulfate and sodium hydroxide.
Use/Import. (S) Industrial retanning of leather. Import range: 20,000–40,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Dated: May 2, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 86-10442 Filed 5-8-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59764; FRL-3014-1]

Certain Chemicals Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Secton 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture of import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 48066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of three such PMNs and provides a summary of each.

DATE: Close of Review Period:

Y 86-128, 86-129 and 86-130—May 19, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Room E-611, 401 M Street SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemptions received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 86-128

Importer. Dynamit Nobels Chemical, Inc.
Chemical. (G) Linear saturated polyester resin containing hydroxyl groups.

Use/Import. (S) Industrial protective/decorative coatings for appliances, office furniture and decorative coating for exterior of cans, caps and closures. Import range: 180,000–450,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Importer. Dynamit Nobels Chemical, Inc.

Chemical. (G) Linear saturated polyester resin containing hydroxyl groups.

Use/Import. (S) Industrial coatings for building products, protective/decorative coating for appliances and office furniture and decorative coating for exterior of cans, caps and closures. Import range: 180,000–450,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Y 86–139

Importer. Dynamit Nobels Chemical, Inc.

Chemical. (G) Branched saturated polyester resin containing hydroxyl groups.

Use/Import. (S) Industrial metal primers and topcoats in the building and automobile industries. Import range: 180,000–450,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Dated: May 2, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 86–10443 Filed 5–8–86; 8:45 am]

BILLING CODE 6560–50–M

[OW–FRL–3013–2]

Proposed General NPDES Permit for Concentrated Animal Feeding Operations in the State of Idaho

AGENCY: Environmental Protection Agency, Region 10.

ACTION: Notice of the Proposed General NPDES Permit No. 1D–G–01–0000 for Concentrated Animal Feeding Operations in Idaho.

SUMMARY: EPA is today providing notice of the proposed general National Pollutant Discharge Elimination System (NPDES) permit for Concentrated Animal Feeding Operations (CAFOs) in Idaho and of the Finding of No Significant Impact. The proposed general NPDES permit presents effluent limitations, monitoring requirements, and reporting requirements for discharges from these CAFO's. The intended effect will be to control pollutant discharges to waters of the United States. This permit will cover new sources and existing facilities discharging to waters within the State of Idaho.

DATE: Interested persons may submit written comments on the proposed general permit to the Director, Region 10, at the Seattle address given below, within 60 days of the date of this public notice. Comments must be received within this period to be considered in the formulation of final determinations regarding the application. All comments should include the name, address, and telephone number of the commenter and a concise statement of the exact basis of any comment and the relevant facts upon which it is based.

Public hearings on the proposed general permit are scheduled to be held at 1:00 p.m. on Wednesday, June 11, 1986, at the Holiday Inn, 1850 Blue Lakes Blvd N., Twin Falls, Idaho and at 1:00 p.m., on Thursday, June 12, 1986, at the Red Lion Inn—Downtowner, 1800 Fairview Avenue, Boise, Idaho. The meetings will continue until all persons have been heard. Written statements concerning the proposed general permit may also be submitted at these meetings.

ADDRESS: Send comments to Karen Harder, U.S. Environmental Protection Agency, Water Permits and Compliance Branch, M/S 521, 1200 Sixth Avenue, Seattle, Washington 98101. The administrative record is available for public review between the hours of 8:30 and 4:00, Monday through Friday at the above address and at the U.S. Environmental Protection Agency, Idaho Operations Office, 422 W. Washington St., Boise, Idaho 83702.

FOR FURTHER INFORMATION CONTACT: Karen Harder, Region 10, at the Seattle address above or by telephone at (206) 442–1069 or FTS 399–1069.

SUPPLEMENTARY INFORMATION:

Proposed General Permit

I. Effluent Limitations, Reporting Requirments, and General Permit Conditions

A. Applicability

Concentrated animal feeding operations (CAFOs) in the State of Idaho covered by this permit include the following:

1. New and existing operations which discharge wastewaters to navigable waters and which stable or confine and feed or maintain for a total of 45 days or more in any 12-month period, more than the number of specified animals in any of the following categories:

a. 300 slaughter and/or feeder cattle,

b. 200 mature dairy cattle (whether milked or dry cows),

c. 750 swine, each weighing over 55 pounds,

d. 150 horses,

e. 3,000 sheep or lambs,

f. 16,500 turkeys,

g. 30,000 laying hens or broilers (if the facility has continuous overflow watering),

h. 9,000 laying hens or broilers (if the facility has a liquid manure handling system), or

i. 300 animal units (see definition, Part I.F.2.).

2. The Director may designate any animal feeding operation as a concentrated animal feeding operation upon determining that it is a significant contributor of pollution to the waters of the United States. This designation may include any operation that confines fewer animals than the numbers specified in Part I.A.1.a.–i. above. In making this designation, the Director shall consider factors listed under 40 CFR 122.23(c).

B. Effluent Limitations

During the term of this permit, there shall be no discharge of process wastewater pollutants from a CAFO to navigable waters, unless rainfall events, either chronic or catastrophic, cause an overflow of process wastewater from a facility designed, constructed, and operated to contain:

1. All process generated wastewaters;

2. The runoff from a 25-year 24-hour rainfall event for the location of the point source; and

3. Three inches of runoff from winter precipitation accumulations.

C. Best Management Practices

The following best management practices (BMPs) are required for the control and abatement of pollutant discharges.

1. No flowing surface waters (e.g. rivers, streams, canals) shall come into direct contact with the animals confined on the CAFO.

2. Waste disposal using land application:

a. Shall not create a public health hazard;

b. Shall not result in groundwater contamination;

c. Shall comply with State land application regulations.

3. Solids, sludges, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in a manner such as to prevent any pollutant from such materials from entering waters of the United States.

4. All wastes from dipping vats, pest and parasite control units, and other facilities utilized for the application of potentially hazardous or toxic chemicals shall be handled and disposed of in a manner such as to prevent any pollutant from entering the waters of the United States.

D. Reporting Requirements

Permittees will be required to submit to the Director and the State the following:

1. Notice of Intent.

a. Individuals who intend to obtain coverage under this general permit shall notify the Director of their intent within 30 days of the effective date of this general permit or at least 60 days prior to the commencement of construction.

b. Owners (or operators when owners do not operate the facility) who fail to notify the Director of their intent to be covered and discharge pollutants to waters of the United States are in violation of this general permit.

c. The Notice of Intent shall include:

i. Previous NPDES permit number if applicable;

ii. Facility owner's name and address;

iii. Facility operator's name and address;

iv. Facility name, address, and location;

v. Types of treatment currently used for processing wastes;

vi. Name of receiving water(s);

vii. The design basis for the runoff diversion, if one exists, and control system, including the number of acres of contributing drainage, the storage capacity, and the design safety factor;

viii. The type and number of animals in open confinement and housed under roof;

ix. The number of acres used for confined feeding;

x. If flowing surface waters (e.g. rivers, streams, canals) come into direct contact with the animals confined on the CAFO, measures to be utilized to avoid direct animal contact; and

xi. A sketch of the operation, including control facilities, structures, lots, slope, direction of overland and surface water flow, and proximity to surface waters.

2. Monitoring Requirements.

a. If, for any reason, there is a discharge from the CAFO, the permittee shall monitor the discharge and provide the Director and the State with the following information, in writing, within five days fo becoming aware of such discharge. (If the discharge is determined to be a potential danger to health or the environment, procedures outlined in Part II.C shall be followed.)

i. A description and cause of the discharge, including an estimate of the discharge volume;

ii. The period of discharge, including exact dates and times, and, if not corrected, the anticipated time the discharge is expected to continue, and steps being taken to reduce, eliminate and prevent recurrence of the discharge; and

iii. If caused by a precipitation event, information from the nearest National Weather Service Station concerning the size of the precipitation event.

b. To assure compliance with permit limitations, an Annual Compliance Report must be submitted each year, by January 31st. The Report shall contain the following:

i. The facility name, address, location, receiving water, NPDES permit number, and the name and address of the owner and operator;

ii. A summary of the past years's system upsets or failures;

iii. A summary of the past year's discharges, including durations, descriptions, and causes of the discharges; and

iv. A certification signed by the permittee stating that the control facility is being operated to allow containment of the volumes described in Part I.B.

c. Measurements taken for the purpose of monitoring shall be representative of the monitored activity.

3. Operating Plan.

An operating plan (the plan) shall be developed for each CAFO covered by this permit. The plan shall identify and describe practices which are to be used to assure compliance with the terms and conditions of this permit.

a. The plan shall be signed and certified as required in Part IV.F and be retained on site. It shall be completed within 60 days of the effective date of this permit and be made available upon request.

b. EPA may notify the permittee that the plan does not meet one or more of the minimum requirements of Part I.D.3.d. below. The permittee shall have 30 days after such notification to make the changes necessary.

c. The permittee shall amend the plan whenever there is a change in facility design, construction, operation, or maintenance, which affects the potential for the discharge of pollutants to the waters of the United States. Amendments to the plan may be reviewed by EPA in the same manner as Part I.D.3.b. above.

d. The plan shall include, as a minimum, the following items:

i. A description of the pollution control equipment and structures used;

ii. Operating schedules for dewatering the pollution control facilities and disposing of the accumulated solids; and

iii. A description of where the removed liquid and solid wastes are to be disposed to prevent entry to any waters of the United States.

4. The permittee shall notify EPA within 30 days of a change in facility ownership or operational control.

E. General Permit Conditions

1. The Director may require any person authorized by this general permit to apply for and obtain an individual NPDES permit as provided in 40 CFR 122.28 (b)(2)(i). The Director will notify the owner or operator in writing that a permit application is required.

2. Any owner or operator authorized by this general permit may request to be excluded from the coverage of this general permit by applying for an individual permit. The owner or operator shall submit an application together with the reasons supporting the request to the Director no later than 90 days after the publication by EPA of the general permit in the **Federal Register**.

3. When an individual NPDES permit is issued to an owner or operator otherwise subject to this general permit, the applicability of the general permit to the individual NPDES permittee is automatically terminated on the effective date of the individual permit.

F. Definitions

1. "Animal feeding operation" means a lot or facility (other than an aquatic animal production facility) where the following conditions are met:

a. Animals have been, are, or will be stabled or confined and fed or maintained for a total of 45 days or more in any 12-month period, and

b. Crops, vegetation forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility.

Two or more animal feeding operations under common ownership are a single animal feeding operation if they adjoin each other, or if they use a common area or system for the disposal of wastes.

2. "Animal unit" means a unit of measurement for any animal feeding operation calculated by adding the following numbers: The number of slaughter and feeder cattle multiplied by 1.0, plus the number of mature dairy cattle multiplied by 1.4 plus the number of swine weighing over 55 pounds multiplied by 0.4, plus the number of

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sheep multiplied by 0.1, plus the number of horses multiplied by 2.0.

3. "Best Management Practices" (BMP) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the United States". BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.

4. "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

5. "Concentrated animal feeding operation" means an "animal feeding operation" which meets the criteria in Part 122, Appendix B, or which the Director designates as a significant contributor of pollution pursuant to 40 CFR 122.23.

6. "Control facility" means any system used for the retention of all wastes on the premises until their ultimate disposal. This includes the retention of manure, liquid waste, and runoff from the feedlot area.

7. "Feedlot" means a concentrated, confined animal or poultry growing operation for meat, milk, or egg production, or stabling, in pens or houses wherein the animals or poultry are fed at the place of confinement and crop or forage growth or production is not sustained in the area of confinement.

8. "Manmade" means constructed by man and used for the purpose of transporting wastes.

9. "Process generated wastewater" means water directly or indirectly used in the operation of a feedlot for any or all of the following: Spillage or overflow from animal or poultry watering systems; washing, cleaning, or flushing pens, barns, manure pits, or other feedlot facilities; direct contact swimming, washing, or spray cooling of animals; and dust control.

10. "Process wastewater" means any process generated wastewater and any precipitation (rain or snow) which comes into contact with any manure or litter, bedding, or any other raw material or intermediate or final material or product used in or resulting from the production of animals or poultry of direct products (e.g., milk, eggs).

11. "Severe Property Damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

12. "Toxic Pollutants" mean any pollutant listed as toxic under section 307(a)(1) of CWA.

13. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

14. "25-year 24-hour rainfall event" shall mean a rainfall event with a probable recurrence interval of once in 25 years, as defined by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States", May 1961, and subsequent amendments, or equivalent regional or state rainfall probability information developed therefrom.

G. Reopener Clause

1. If there is evidence indicating potential or realized impacts on water quality due to discharges from any confined animal feeding operation, the permit may be modified to include different limitations and/or requirements.

2. Permit modification or revocation will be conducted according to 40 CFR 122.62, 122.63, 122.64, and 124.5.

II. Recording and Reporting Requirements

A. Written Notification

Duplicate signed copies of the Notice of Intent and monitoring reports shall be submitted to the Director and the State at the following addresses:

United States Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101. Attention: Permits Branch M/S 521

Idaho Department of Health and Welfare, Administrator, Division of Environment, Statehouse, Boise, Idaho 83720

B. Retention of Records

The permittee shall retain records of all monitoring information, copies of all reports required by this permit, and records of all data used to complete the Notice of Intent to be covered by this permit, for a period of at least three years from the date of the measurement, report, or application. This period may be extended by request of the Director at any time.

C. Twenty-Four Hour Reporting

1. The permittee shall report any noncompliance which may endanger health or the environment. Any information shall be provided orally within 24 hours from the time the permittee becomes aware of the circumstances. A written submission shall also be provided within five days of the time the permittee becomes aware of the circumstances. The written submission shall contain:

a. A description of the noncompliance and its cause;

b. The period of noncompliance, including exact dates and times;

c. If the noncompliance has not been corrected, the anticipated time it is expected to continue; and

d. Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

2. The following shall be included as information which must be reported within 24 hours under this paragraph:

a. Any unanticipated bypass which exceeds any effluent limitation in the permit; or

b. Any upset which exceeds any effluent limitation in the permit.

3. The Director may waive the written report on a case-by-case basis for reports under Part II.C.2. if an oral report has been received within 24 hours by either the Water Compliance Section in Seattle, Washington [(206) 442–1213], or the EPA Operations Office in Boise, Idaho [(208) 334–1450].

4. Reports shall be submitted to the addresses in *Part II.A. Written Notification.*

D. Anticipated Noncompliance

The permittee shall give advance notice to the Director of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements.

E. Other Noncompliance Reporting

The permittee shall report any instances of noncompliance not reported under Parts I.D.2.b. and IV.B. of this permit. The reports shall contain the information listed in Part II.C.

F. Penalties for Falsification of Reports

CWA provides that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this permit, including reports of compliance or noncompliance shall, upon conviction be punished by a fine of not more than $10,000 per violation, or by imprisonment for not more than six months per violation, or by both.

G. Availability of Reports

Except for data determined to be confidential under 40 CFR Part 2, all of this permit shall be available for public inspection at the offices of the State and the Director. As required by CWA, Notices of Intent, permits, and effluent data shall not be considered confidential.

III. Compliance Responsibilities

A. Duty to Comply

The permittee must comply with all conditions of this permit. Any permit noncompliance constitutes a violation of CWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application.

B. Toxic Pollutants

The permittee shall comply with effluent standards or prohibitions established under section 307(a) of CWA for toxic pollutants within the time provided in the regulations that establish these standards or prohibitions, even if the permit has not yet been modified to incorporate the requirement.

C. Penalties for Violations of Permit Conditions

The Act provides that any person who violates a permit condition implementing sections 301, 302, 306, 307, 308, 319, or 405 of CWA is subject to a civil penalty not to exceed $10,000 per day of such violation. Any person who willfully or negligently violates permit conditions implementing sections 301, 302, 306, 307, or 308 of CWA is subject to a fine of not less than $2,500, nor more than $25,000 per day of violation, or by imprisonment for not more than one year, or both.

D. Continuation of the Expired General Permit

An expired general permit continues in force and effect until a new general permit is issued. Only those facilities authorized to discharge under the expiring general permit are covered by the continued permit.

E. Need to Halt or Reduce Activity not a Defense

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

F. Duty to Mitigate

The permittee shall take all reasonable steps to minimize or prevent any discharge in violation of this permit which has a reasonable likelihood of adversely affecting human health or the environment.

G. Proper Operation and Maintenance

The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of this permit. Proper operation and maintenance includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of backup or auxiliary facilities or similar systems *only* when necessary to achieve compliance with the conditions of the permit.

H. Bypass of Treatment Facilities

1. Bypass not exceeding limitations. The permittee may allow any bypass to occur which does not cause effluent limitations to be exceeded, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs 2 and 3 of this section.

2. Notice:

a. Anticipated bypass. If the permittee knows in advance of the need for a bypass, he shall submit prior notice, if possible at least ten days before the date of the bypass.

b. Unanticipated bypass. The permittee shall submit notice of an unanticipated bypass as required under Part II.D.

3. Prohibition of bypass.

a. Bypass is prohibited and the Director may take enforcement action against a permittee for a bypass, unless:

i. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if the permittee could have installed adquate backup equipment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

iii. The permittee submitted notices as required under paragraph ii of this section.

b. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed above in Part 3.a. of this section.

I. Upset Conditions

1. An upset constitutes an affirmative defense to an action brought for noncompliance with technology-based permit limitations, if the requirements of paragraph 2 below are met. No determination made during administrative review of claims that noncompliance was caused by upset, and before an action for noncompliance, is final administrative action subject to judicial review.

2. A permittee who wishes to establish the affirmative defense of an upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, that:

a. An upset occurred and that the permittee can identify the specific cause(s) of the upset;

b. The permitted facility was at the time being properly operated;

c. The permittee submitted notice of the upset as required under Part II.D.; and

d. The permittee complied with any remedial measures required under Part III.F.

3. In any enforcement proceeding the permittee seeking to establish the occurrence of an upset has the burden of proof.

J. Inspection and Entry

The permittee shall allow the Director, or an authorized representative of EPA or the State, upon the presentation of credentials and other documents as may be required by law, to:

1. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of this permit;

2. Have access to and copy, at reasonable times, any records that must be kept under the conditions of this permit;

3. Inspect at reasonable times any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under this permit, and

4. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by CWA, any substances or parameters at any location.

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IV. General Requirements

A. Changes in Discharge of Toxic Substances

Notification shall be provided to the Director as soon as the permittee knows of, or has reason to believe:

1. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

a. One hundred micrograms per liter (100 ug/l);

b. Two hundred micrograms per liter (200 ug/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 ug/l) for 2,4-dinitrophenol and for 2-methyl-4, 6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony;

c. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7); and

d. The level established by the Director in accordance with 40 CFR 122.44(f).

2. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit, if that discharge will exceed the highest of the following "notification levels":

a. Five hundred micrograms per liter (500 ug/l);

b. One milligram per liter (1 mg/l) for antimony; or

c. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).

B. Planned Changes

The permittee shall give notice to the Director, as soon as possible, of any planned physical alterations or additions to the permitted facility. Notice is required only when the alteration or addition could significantly change the nature or increase the quantity of pollutants discharged.

C. Permit Actions

This permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance, does not stay any permit condition.

D. Duty to Provide Information

The permittee shall furnish to the Director, within a reasonable time, any information which the Director may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit, or to determine compliance with this permit. The permitee shall also furnish to the Director, upon request, copies of records required to be kept by this permit.

E. Other Information

When the permittee becomes aware that he failed to submit any relevant facts in the Notice of Intent or submitted incorrect information in the Notice of Intent, or any report to the Director, he shall promptly submit such facts or information.

F. Signatory Requirements

All Notices of Intent, reports, or information submitted to the Director shall be signed and certified.

1. All Notices of Intent shall be signed as follows:

a. For a corporation: by a responsible corporate officer. For the purpose of this section, a responsible corporate officer means (i) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy-or decision-making functions for the corporation, or (ii) the manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having gross annual sales expenditures exceeding $25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

b. For a partnership of sole proprietorship: by a general partner or the proprietor, respectively.

c. For a municipality, State, Federal, or other public agency: by either a principal executive officer or ranking elected official. For purposes of this section, a principal executive officer of a Federal agency includes (i) the chief executive officer of the agency, or (ii) a senior executive officer having responsibility for the overall operations of a principal geographic unit of the agency (e.g., Director of EPA).

2. All reports required by the permit and other information requested by the Director shall be signed by a person described above or by a duly authorized representative of that person. A person is duly authorized representative only if:

a. The authorization is made in writing by a person described above and submitted to the Director.

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of manager, operator, superintendent, or position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company. (A duly authorized representative may thus be either a named individual or any individual occupying a named position).

3. Changes to authorization. If an authorization under paragraph IV.F.2. is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a nw authorization satisfying the requirements of paragraph IV.F.2. must be submitted to the Director prior to or together with any reports, information, or applications to be signed by an authorized representative.

4. Certification. Any person signing a document under this section shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

G. Penalties for Falsification of Monitoring Systems

CWA provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by fines and imprisonment described in Part II.F. of this permit.

H. Oil and Hazardous Substance Liability

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties to which the permittee is or may be subject under section 311 of CWA.

I. Property Rights

The issuance of this permit does not convey any property rights of any sort, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State or local laws or regulations.

Severability

The provisions of this permit are severable, and if any provision of this permit, or the application of any provision of this permit to any circumstance, is held invalid, the application of such provision to other circumstances, and the remainder of this permit, shall be affected thereby.

Transfers

This permit is not transferable to any person except after notice to the Director. The Director may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under CWA.

L. State Laws

Nothing in this permit shall be construed to preclude the institution of any legal action or relieve the permittee from any responsibilities, liabilities, or penalties established pursuant to any applicable State law or regulation under authority preserved by section 510 of CWA.

Fact Sheet

I. Applicants

A. Concentrated animal feeding operations (CAFOs) in Idaho

B. National Pollutant Discharge Elimination System (NPDES) permit number ID–G–01–0000

II. Activity

The confinement of animals, including poultry but excluding ducks, for meat, milk, or egg production, or stabling, in pens or houses, wherein the animals are fed at the place of confinement (40 CFR 412.11(b)).

III. Receiving Water

Surface waters of Idaho

IV. Proposed Discharges

The most commonly recognized contaminants of the proposed discharges include suspended solids, organics, bacteria, and nutrients (nitrogen and phosphorus compounds).

V. Background

A Permits

1. General Permits

a. Section 301(a) of the Clean Water Act (CWA) provides that the discharge of pollutants is unlawful except in accordance with an NPDES permit. As provided by 40 CFR 122.28(a)(2), a general NPDES permit may be written to regulate a category of point sources within an area described in paragraph below, if the sources all:

i. Involve the same or substantially similar types of operations;

ii. Discharge the same types of wastes;

iii. Require the same effluent limitations or operating conditions;

iv. Require the same or similar monitoring; and

v. In the opinion of the Director, are more appropriately controled under a general permit than under individual permits.

b. A general permit is written to cover a category of discharges described in the permit, except those covered by individual permits, within a geographic area. The area must correspond to existing geographic or political boundaries, such as those described under 40 CFR 122.28(a)(1).

c. As with individual permits, a violation of a condition contained in a general permit constitutes a violation of CWA and subjects the owner or operator of the permitted facility to the penalties specified in section 309 of CWA.

d. General permits eliminate the time-consuming and resource-intensive process of reviewing and evaluating individual permit applications, and significantly reduce the burden imposed on the industry for applying for and obtaining individual permits. Additional advantages are described in the Idaho Concentrated Animal Feeding Operations Water Quality Assessment (July 1985).

2. Individual Permits

Any owner or operator authorized by a general permit may request to be excluded from the coverage of the general permit by applying for an individual permit. The owner or operator shall submit an application under 40 CFR 122.21, with reasons supporting the request, to the Director no later than 90 days after the publication by EPA of the general permit in the Federal Register (40 CFR 122.28(b)(2)(iii)). The individual permit may then be issued at the discretion of the Director. The Director may require any person authorized by a general permit to apply for an individual NPDES permit, as provided in 40 CFR 122.28(b)(2)(i), only if the owner or operator has been notified in writing that a permit application is required (40 CFR 122.28(b)(2)(ii)).

3. Appropriateness of the General Permit for Idaho CAFOs

This permit complies with the applicability requirements for a general permit, as described in Parts IV.A.1.a. and b. of this Fact Sheet.

a. The operations covered by this permit are all CAFOs as defined by 40 CFR 122.23 and Part 122, Appendix B.

b. Waste characteristics from different CAFOs are substantially similar (Development Document for Proposed Effluent Limitations Guidelines and New Source Performance Standards for the Feedlots Point Source Category, EPA 440/1–73/004, August 1973; Environmental Assessment of Regulatory Strategies for Confined Animal Feeding Operations in Idaho, September 1985).

c. Effluent limitations and requirements for all CAFOs covered by this general permit are identical. They are supported by the promulgated guidelines (40 CFR 412.13), best management practices (BMPs), the water quality assessment, and other requirements (40 CFR 122.44(k)).

d. Monitoring requirements are the same for all CAFOs covered by this general permit (see Part I.D.2. of the permit).

e. It is the opinion of the Director, that the wastewater discharges from these sources are more appropriately controlled under a general permit than under individual permits.

f. This general permit limits coverage to CAFOs located in Idaho that discharge to surface waters located in the State of Idaho.

B. Feedlot Operations in Idaho

Between 1974 and 1977, EPA issued more than 65 individual NPDES permits to CAFOs in Idaho. All have since expired. In order to estimate the number of CAFOs that currently exist in Idaho, an aerial survey of the Snake River area was recently conducted. (EPA Environmental Monitoring Systems Laboratory (Vol. 1–4. TS–AMD–84076/84501–4, April 1985)). Approximately 300 potential applicants were identified. It is estimated that the permit will eventually cover 350 operations throughout Idaho, including other smaller CAFOs that are determined to be significant contributors of pollution.

VI. Basis for Limitations

A. Water Quality Considerations

Receiving waters within the scope of this permit are classified by the Idaho State Water Quality Standards for use in agricultural water supply, domestic water supply, protection and

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maintenance of cold and warm water biota. Salmonid spawning, and primary and secondary contact recreation.

The State Water Quality parameters which could be affected by these discharges are floating, suspended, or submerged matter, excess nutrients, oxygen-demanding materials, and suspended sediment. These parameters are discussed in more detail in the water quality assessment.

B. CWA requires that best conventional pollutant control technology (BCT) must be in effect no later than July 1, 1984, (section 301(b)(2)(E) of CWA). Best available technology economically achievable (BAT) must be achieved by July 1, 1984, (section 301(b)(2)(A) of CWA). Most of the parameters listed under Water Quality Considerations above, are conventional pollutants (section 304(a)(4) of CWA and 40 CFR 401.16), and are subject to BCT limitations. Temperature and ammonia, however, are nonconventional pollutants (section 301(b)(2)(F) of CWA), and are subject to BAT limitations (section 301(b)(2)(A) of CWA). BCT, BAT, and new source performance standards guidelines for the Feedlots Point Source Subcategory have been promulgated and contain the same limitations.

VII. Permit Limitations and Requirements

A. Applicability

CAFOs are defined in accordance with 40 CFR 412.10

B. Effluent Limitations

1. Effluent limitations are based on BAT, BCT, NSPS guidelines for the Feedlot Point Source Category (40 CFR 412.13, 412.17, 412.15). New sources are defined in 40 CFR 122.2 and 122.29.

2. This permit will be covering both existing and new source operations. EPA is therefore required to conduct an environmental review under the National Enviromental Policy Act. An environmental assessment was completed, evaluating impacts associated with the operation of these facilities. It concluded that further study (an environmental impact statement) was unnecessary. A finding of no significant impact has therefore been prepared and is published below.

3. In Part I.B.3. of the permit, three inches of runoff are included in the design criteria for facilities controlling wastewater discharges. This provision was deemed appropriate as a result of data and analyses presented in the water quality assessment. Supporting information from the assessment follows:

a. The retention of runoff from winter precipitation will significantly benefit water quality. Snowmelt, especially when combined with a rainfall event, could wash manure-laden water directly into the streams without this allowance.

b. Soil remains frozen for four months in many areas of Idaho. During this time, control facilities cannot be pumped out onto fields for land application. Retention of winter precipitation would accommodate this constraint.

c. The results of an analysis performed for the environmental assessment indicate that the retention of three inches of net spring runoff is adequate to protect water quality. Three inches is the amount of snowmelt that has an 80% probability of occurring from snow falling during the winter. Also an allowance for evaporation is included since this amount will not actually be discharging from the CAFO.

d. According to 40 CFR 412.13, overflow may be discharged to navigable waters whenever rainfall events, either chronic or catastrophic, cause an overflow of process wastewater. The allowance of three inches in Part I.B.3. of the permit is for runoff from winter snowfall accumulations. This volume represents the amount of runoff reasonably expected to be contained in the pollution control facility prior to the occurrence of a 25-year 24-hour rainfall event.

4. Values representing the 25-year 24-hour rainfall event vary throughout Idaho. The range of values encompasses 1.6 to 4.2 inches. The average for the Snake River Valley area, the location of many feedlots and dairies in Idaho, is about 2.2 inches. Maps identifying these values throughout the state are to be used as guidance and are available upon request from EPA. A copy is also included in the administrative record as part of the enviromental assessment. The map was published May 1961 by the National Weather Service in Technical Paper Number 40, "Rainfall Frequency Atlas of the United States." Rainfall data of greater accuracy and specificity should be used for the actual design of the control facilities. This information is available from the National Weather Service station nearest to the location of the CAFO.

C. Best Management Practices

Each NPDES permit shall include, when applicable, best management practices to control or abate the discharge of pollutants when the practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of CWA (40 CFR 122.44(k)).

1. Restricting direct animal access to flowing surface waters such as rivers, streams, or canals, will reduce contamination of surface waters. The provisions of the permit cannot be met without this restriction because discharges would enter navigable waters directly from the animals during subchronic and subcatastrophic rainfall events. In addition, such discharges would be in direct violation of section 301(a) of CWA.

2. The provisions contained in Part I.C.2. of the permit concern waste disposal using land application and are consistent with the intent of CWA and State authority (section 510 of CWA).

3. Part I.C.4. of the permit concerns the handling and disposal of waters from dipping vats, pest and parasite control units, and other facilities utilized for the application of potentially hazardous or toxic chemicals. Support for related best management practices is provided by 40 CFR 125.102.

D. Reporting Requirements

In Part I.D. of the permit, permittees are required to submit to the Director and the State, a Notice of Intent and monitoring records.

1. The Notice of Intent fulfills the application requirements for new source and existing CAFOs (40 CFR 122.21(h)). The time allowance for the Notice of Intent submission set forth in Part I.D.1.a. was determined to be appropirate for this general permit.

2. Monitoring requirements stated in Part I.D.2. of the permit comply with 40 CFR 122.48, 122.41(j)(3), 122.44(i), and 122.44(i)(2). The five-day reporting requirement is consistent with 40 CFR 122.41(1)(6)(i). Monitoring results are to be reported at times specified in the permit (40 CFR 122.41(1)(4). Required monitoring reports differ from those described in 40 CFR 122.41(1)(4) as follows:

a. The Discharge Monitoring Report (DMR) forms have been determined to be inappropriate for the type of monitoring information required from the permitted facilities, and will not be used.

b. No calculations are required to meet permit effluent limitations.

3. The frequency for reporting monitoring results is dependent on the nature and effect of the discharge, but in no case may it be less than once a year (40 CFR 122.44(i)(2)). The determination has been made that an Annual Compliance Report is sufficient for the discharges from the facilities covered by this permit.

4. The operating plan described in Part I.D.3. is required pursuant to 40 CFR 122.44(k)(3). The practices described in the plan are reasonably necessary to achieve effluent limitations and standards, or to carry out the purposes and intent of CMA. Since hundreds of facilities will potentially be covered by this general permit, time constraints may prevent a complete review of each operating plan. Submission of the plan is therefore not required; however, retention of the plan onsite is an enforceable requirement of the permit. The plan will be reviewed when inspections are made of the facilities.

E. General Permit Conditions

Part I.E. of the permit concerns requirements of owners of operators authorized by this general permit to apply for individual permits. Requests for individual permits by such persons are also discussed. Support for these provisions is provided by to 40 CFR 122.28(b)(2) (ii), (iii), and (iv).

F. Definitions

1. "Animal feeding operation" is defined pursuant to 40 CFR 122.23(b)(l);
2. "Animal unit": 40 CFR 122.23, Appendix B;
3. "Best management practices": 40 CFR 122.2;
4. "Bypass" : 40 CFR 122.41(m)(i);
5. "Concentrated Animal Feeding Operation": 40 CFR 122.23(b)(3);
6. "Control facility" is defined for the purposes of this permit only;
7. "Feedlot": 40 CFR 412.11(b);
8. "Manmade": 40 CFR 122.23, Appendix B;
9. "Outfall site" is defined for the purposes of this permit only;
10. "Process generated wastewater": 40 CFR 412.11(d);
11. "Process Wastewater": 40 CFR 412.11(c);
12. "Severe Property Damage": 40 CFR 122.41(m)(ii);
13. "Toxic Pollutants": 40 CFR 122.2;
14. "Upset": 40 CFR 122.41(n)(l); and
15. "25-year 24-hour rainfall event": 40 CFR 412.11(e).

VIII. Recording and Reporting Requirements

A. The Notice of Intent and monitoring reports shall be submitted to the Director and the State. The addresses are given in the permit.

B. Representative Measurements required in Part II.B. of the permit are included pursuant to 40 CFR 122.41(j)(l).

C. Retention of Records (Part II.C.) complies with 40 CFR 122.41(j)(2), with the exception that the description of information to be retained is abbreviated. This change was made based on the appropriateness of such information to the CAFO industry.

D. Twenty-Four Hour Reporting is included in Part II.D. of the permit in accordance with 40 CFR 122.41(1)(b).

E. Parts II. E, F, and G. concern Other Noncompliance Reporting, Penalties for Falsification of Reports, and Availability of Reports, and are consistent with 40 CFR 122.41(1)(2), (7), and (k)(2), respectively.

IX. Compliance Responsibilities

A. The following sections of the permit are based on the indicated references:

Part III.A.—40 CFR 122.41(a)
Part III.B.—40 CFR 122.41(a)(1)
Part III.C.—40 CFR 122.41(a)(2)
Part III.E.—40 CFR 122.41(c)
Part III.F.—40 CFR 122.41(d)
Part III.G.—40 CFR 122.41(e)
Part III.H.—40 CFR 122.41(m)
Part III.I.—40 CFR 122.41(n)
Part III.J.—40 CFR 122.41(i)

X. General Requirements

A. The following sections of the permit are based on the indicated references:

Part IV.A.—40 CFR 122.42(a)
Part IV.B.—40 CFR 122.41(1)(1)
Part IV.C.—40 CFR 122.41(f)
Part IV.D.—40 CFR 122.41(h)
Part IV.F.—40 CFR 122.41(k)(1) and 40 CFR 122.22
Part IV.G.—40 CFR 122.41(j)(5)
Part IV.I.—40 CFR 122.41(g)
Part IV.K.—40 CFR 122.41(1)(3)

B. Parts IV.E (Other Information), H (Oil and Hazardous Substance Liability), J (Severability), and L (State Laws), of the permit were deemed necessary for compliance with the provisions of the permit and CWA.

XI. Legal Requirements

A. State Certification

Section 301(b)(1)(c) of the Act requires that NPDES permits contain conditions which ensure compliance with applicable State Water Quality Standards. Section 401 requires that States certify federally issued permits to ensure they are in compliance with State law. Therefore, EPA is requesting the State of Idaho Department of Health and Welfare to provide appropriate certification for the draft general permit pursuant to 40 CFR § 124.53.

B. Executive Order

The Office of Management and Budget has exempted this action from the review requirements of Executive Order 12291 pursuant to Section 8[b] of that order.

C. Paperwork Reduction Act

EPA has reviewed the requirements imposed on regulated facilities in this draft general permit under the Paperwork Reduction Act of 1980, 44 U.S.C 3501 *et seq.* The information collection requirements of this permit have already been approved by the Office of Management and Budget in submissions made for the NPDES permit program under the provisions of CWA.

D. The Regulatory Flexibility Act

After the review of the facts presented in the notice printed above, I hereby certify pursuant to the provisions of 5 U.S.C. 605(b) that this general NPDES permit will not have a significant impact on a substantial number of small entities. Moreover, the permit reduces a significant administrative burden on regulated sources.

Dated: April 29, 1986.

Robert S. Bord,

Acting Regional Administrator, Region 10.

Finding of no Significant Impact

To all interested government agencies and public groups:

In accordance with the Environmental Protection Agency's procedures for complying with the National Environmental Policy Act, 40 CFR Part 6, EPA has completed an environmental review of the following proposed action:

Issuance of a General National Pollutant Discharge Elimination System Permit No. ID–G–01–0000 for concentrated animal feeding operations in Idaho.

The proposed permit would regulate new sources as well as existing concentrated animal feeding operations (CAFOs) in Idaho. It would prohibit the discharge of process wastewater pollutants (principally animal wastes) from CAFOs to navigable waters unless rainfall events, either chronic or catastrophic, caused an overflow of these wastes from a properly designed waste holding (treatment) facility. A properly designed holding facility would need to be designed, constructed, and operated to contain:

1. All process generated wastewaters (and animal wastes);
2. The runoff from a 25-year, 24-hour rainfall event for the location of the CAFO; and
3. Three inches of runoff from winter precipitation accumulations.

EPA's assessment of the proposed action indicates that no significant adverse environmental effects should result from its implementation. The effects of the regulatory action on land, air quality, and socio-economic conditions are expected to be short-term, negligible, or of minor significance. The proposed permit is expected to produce significant improvements in water quality in Idaho's streams.

An environmental assessment has been completed, is on file at the above office, and

is available for public review. Single copies of the appraisal will be mailed upon request to the above office.

Comments supporting or disagreeing with EPA's findings may be submitted in writing to: Daniel Steinborn, Chief, EIS & Energy Review Section, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, M/S 443, Seattle, Washington 98101.

EPA's final decision will be made after any comments received are evaluated. No administrative action will be taken for at least 30 days after the release of this Finding of No Significant Impact.

Sincerely,

Robert S. Burd, Director,

Water Division.

[FR Doc. 86-10450 Filed 5-8-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public, Indemnification of Passengers for Nonperformance of Transportation; Application for Certificate (Performance)

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Partrederiet Norske Cruise (d/b/a Sea Goddess Cruise Limited), 5805 Blue Lagoon Dr., Ste. 360, Miami, FL 33126

Dated: May 6, 1986.

John Robert Ewers,

Secretary.

[FR Doc. 86-10469 Filed 5-8-86; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public, Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Aegean Cruises, S.A. (d/b/a Epirotiki Lines, Inc.), c/o Epirotiki Lines, Inc., 551 Fifth Ave., New York, NY 10017

Dated: May 5, 1986.

John Robert Ewers,

Secretary.

[FR Doc. 86-10470 Filed 5-8-86; 8:45 am]

BILLING CODE 6730-01-M

Security for the Protection of the Public, Financial Responsibility To Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages; Application for Certificate (Casualty)

Notice is hereby given that the following persons have applied to the Federal Maritime Commission for a Certificate of Financial Responsibility to Meet Liability Incurred for Death or Injury to Passengers or Other Persons on Voyages pursuant to the provisions of section 2, Pub. L. 89-777 (80 Stat. 1356, 1357) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Partrederiet Norske Cruise (d/b/a Sea Goddess Cruise Limited), 5805 Blue Lagoon Dr., Ste. 360, Miami, FL 33126

Dated: May 6, 1986.

John Robert Ewers,

Secretary.

[FR Doc. 86-10468 Filed 5-8-86; 8:45 am]

BILLING CODE 6730-01-M

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 207-009882-007.

Title: Pacific Australia Direct Line Joint Service Agreement.

Parties:

Associated Container Transportation (Australia), Ltd.

Rederiaktiebolaget Transatlantic.

Synopsis: The proposed amendment would modify the agreement to extend the date upon which a party may give notice of termination of the agreement from May 1, 1986 to July 1, 1986.

Agreement No.: 213-010879-001.

Title: Evergreen-Japan Line Space Charter Agreement.

Parties:

Japan Line, Ltd.

Evergreen Marine Corporation (Taiwan), Ltd.

Synopsis: The proposed amendment would clarify the authority of the parties to share expenses related to terminal and other shoreside facilities as they may agree, even though only one party is a signatory to the terminal agreement at issue.

Agreement No.: 224-010918-001.

Title: Port of Fernandina Terminal Agreement.

Parties:

Nassau Shipping Company

Ocean Highway and Port Authority of Nassau County.

Synopsis: The proposed amendments would remove a provision for retroactive effectiveness contained in the original agreement filing, specifying that the agreement will become effective in accordance with the provisions of the Shipping Act of 1984.

Agreement No.: 224-010923.

Title:

Long Beach Container Terminal, Inc. Terminal and Stevedoring Agreement.

Parties:

Long Beach Container Terminal, Inc. (Contractor)

Orient Overseas Container Line (Carrier)

Neptune Orient Line (Carrier)

Korea Shipping Corporation (Carrier).

Synopsis: The proposed agreement would permit the Contractor to provide all terminal and stevedoring services at the premises. Contractor will guarantee one (1) safe berth, and two (2) cranes for carrier's operation. The term of the agreement shall be for five (5) years.

Agreement No.: 224-010924.

Title: Long Beach Container Terminal, Inc./South Seas Steamship Co. Terminal Agreement.

Parties:

Long Beach Container Terminal, Inc. (LBC)

South Seas Steamship Company (SSS).

Synopsis: The proposed agreement would permit LBC to provide terminal and stevedoring services for containers to be loaded to or discharged from container vessels owned, operated, chartered or controlled by SSS at LBC's marine terminal facility located in the Port of Long Beach. The agreement shall remain in effect for a period of three years.

Agreement No.: 224-010925.

Title: Port of Charleston Terminal Agreement.

Parties:

South Carolina State Ports Authority (Authority)

China Ocean Shipping Company (COSCO)

Synopsis: The proposed agreement would permit the Authority to grant a license to COSCO to use container yard slots to support its containership operations at the Port of Charleston. The term of the agreement is three years, with the option to renew for an additional two-year term. The parties have requested a shortened review period.

Dated: May 6, 1986.

By Order of the Federal Maritime Commission.

John Robert Ewers,

Secretary.

[FR Doc. 86-10471 Filed 5-8-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Banc One Corp. et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 2, 1986.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Banc One Corporation*, Columbus, Ohio; to merge with Marion Bancorp, Marion, Indiana, and thereby indirectly acquire First National Bank in Marion, Marion, Indiana.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Capital Reserves Group, Inc.*, College Station, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of United Bank-College Station, N.A., College Station, Texas.

Board of Governors of the Federal Reserve System, May 5, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-10411 Filed 5-8-86; 8:45 am]

BILLING CODE 6210-01-M

Norstar Bancorp, Inc., Albany, NY; Proposed Acquisition of Smith, Everett, & Associates, Inc.

Norstar Bancorp, Inc., Albany, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and §§ 225.23(a)(2) and (3) of the Board's Regulation Y (12 CFR 225.23(a)(2) and (3)), for permission to acquire Smith, Everett & Associates, Inc., Rochester, New York, and thereby engage in a variety of activities with respect to executive compensation, defined benefit, defined contribution, insured and uninsured retirement, health care, disability income, life insurance, and cafeteria plans.

Norstar proposes to engage in the following activities:

(a) Designing employee benefit plans, including determining actuarial funding levels and cost estimates;

(b) Providing assistance in implementing plans, including assistance in the preparation of plan documents and the implementation of employee benefit administration systems;

(c) Developing employee communication programs with respect to plans;

(d) Providing administrative services with respect to plans, including record-keeping services, calculating and certifying employee benefits, preparing periodic actuarial and other reports and government filings pursuant to ERISA, and assisting legal counsel in labor relations and negotiations;

(e) Subaccounting for individual funds in pooled escrow accounts maintained at banks and other financial institutions; and

(f) Performing certain activities incidental to employee benefit planning and servicing, consisting of:

(i) Assisting companies in determining appropriate salary structures and roviding clients with industry-wide salary surveys;

(ii) Informing clients of developments in the field of employee benefit programs, participating in seminars, public programs and other forms relating to such developments; and

(iii) Engaging in professional actuarial activities and other activities incidental to the actuarial profession.

Norstar will not act as agent, broker, or underwriter, with regard to the insurance plans. These services would be provided from offices in Rochester, Syracuse and Buffalo, New York, serving customers nationwide.

Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." The Board has determined that Norstar's activities, in so far as they relate to defined benefit and contribution plans, are closely related to banking. *Norstar Bancor, Inc.*, 71 Federal Reserve Bulletin 656 (1985); *Bank Vermont Corp.*, 72 Federal Reserve Bulletin 337 (1986). By this application Norstar proposes to expand the list of plans for which it provides consulting services. Norstar asserts that the activities it has applied for are so closely related to banking or managing or controlling banks as to be a proper incident thereto, because the activities are, in Norstar's opinion, either provided by banks or functinally similar to services provided by banks.

Interested persons may express their views on whether the proposed activities are "so closely related to banking or managing or controlling banks as to be proper incident thereto," and whether consummation of the acquisition as a whole can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on these questions must be accompanied by a statement of the reasons why a written presentation

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would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Comments or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 27, 1986.

Board of Governors of the Federal Reserve System, May 5, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-10412 Filed 5-8-86; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers of acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 86-0730—American Express Co.'s proposed acquisition of assets of Ryder Financial and Commercial Services, Inc. and Cashcheck International, Inc., (Ryder System, Inc. UPE).	Mar. 25, 1986.
(2) 86-0810—American Medical International, Inc.'s proposed acquisition of assets of Compucare Health Care Services, Inc., (Gateway Health Group, Inc., UPE).	Do.
(3) 86-0823—National Education Corp.'s proposed acquisition of assets of Delex, Inc. and Resources Systems International (Gulf & Western Industries, Inc., UPE).	Do.
(4) 86-0762—K N Energy, Inc.'s proposed acquisition of voting securities of Rocky Mountain Natural Gas Co., Inc.	Mar. 27, 1986.
(5) 86-0815—Lomas & Nettleton Financial Corp.'s proposed acquisition of assets relating to Mortgage Servicing, (First Security Corporation, UPE).	Do.
(6) 86-0736—Dover Corp.'s proposed acquisition of assets of Randall Manufacturing, Inc. and Randall Warehouse, (Paul DeLorenzo, UPE).	Mar. 28, 1986.
(7) 86-0769—W.R. Berkley Corp.'s proposed acquisition of voting securities of Continental Western Insurance Co., (Armco, Inc. UPE).	Do.
(8) 86-0805—Roy E. and Patricia A. Disney's proposed acquisition of voting securities of Foote, Cone & Belding Communications, Inc.	Do.
(9) 86-0811—International City Holdings, PLC's proposed acquisition of voting securities of MGI Investment, Inc.	Do.
(10) 86-0819—Exxter International Corp.'s proposed acquisition of assets of Marriott Family Restaurants, Inc., (Marriott Corp., UPE).	Do.
(11) 86-0829—Gulf & Western Industries, Inc.'s proposed acquisition of assets of Silver Burdett Co., (Marburg, Pincus & Co., UPE).	Do.
(12) 86-0839—W Acquisition Corp.'s proposed acquisition of voting securities of Warnaco, Inc.	Do.
(13) 86-0844—Antelope Co.'s proposed acquisition of assets of The Anschutz Corp., (Philip F. Anschutz, UPE).	Do.
(14) 86-0861—The HongKong and Shanghai Banking Corp.'s proposed acquisition of assets of Security Pacific Credit Corp., (Security Pacific Corp., UPE).	Do.
(15) 86-0867—Alfred M. Rankin and Clare Taplin Rankin's proposed acquisition of voting securities of NAACO Industries, Inc.	Do.
(16) 86-0868—Thomas E. Taplin and Beatrice B. Taplin's proposed acquisition of voting securities of NACCO Industries, Inc.	Do.
(17) 86-0869—Frank E. Taplin and Margaret Eaton Taplin's proposed acquisition of voting securities of NACCO Industries, Inc.	Do.
(18) 86-0876—Sonara Southwest Partnership's proposed acquisition of assets of Saturn Energy Co., (The Western Co. of North American, UPE).	Do.
(19) 86-0714—CSI Management, Inc.'s proposed acquisition of assets of Rogers Cableosystems, Inc., (Edward S. Rogers, UPE).	Mar. 31, 1986.
(20) 86-0795—Adams-Mills Corp.'s proposed acquisition of voting securities of Mero Hosiery Corp., (Norman Weiss, UPE).	Do.
(21) 86-0814—Arvin Industries, Inc.'s proposed acquisition of voting securities of Schrader Automotive, Inc., (Roxboro Investments (1976) Ltd., UPE).	Do.
(22) 86-0784—Vereniging AEGON's proposed acquisition of voting securities of General Services Life Insurance Co., (USLICO Corp., UPE).	Apr. 1, 1986.
(23) 86-0833—Kaufman and Broad, Inc.'s proposed acquisition of voting securities of Anchor National Life Insurance Co. and Anchor National Financial Services, Inc., (Washington National Corp., UPE).	Do.
(24) 86-0845—Hanak, Inc.'s proposed acquisition of voting securities of Bend Millwork Co., Arthur A. Pozzi Co., (Arthur Pozzi, UPE).	Do.
(25) 86-0865—The Dee Corp. PLC's proposed acquisition of voting securities of Herman's Sporting Goods, Inc., (W.R. Grace & Co., UPE).	Do.
(26) 86-0870—Financial Security Assurance Holdings, Ltd.'s proposed acquisition of voting securities of Equitable Casualty Insurance Co. (The Equitable Life Assurance Society of the United States, UPE).	Do.
(27) 86-0871—The Dee Corp. PLC's proposed acquisition of voting securities of Herman's Sporting Goods, Inc., (W.R. Grace & Co., UPE).	Do.
(28) 86-0951—Danaher Corp.'s proposed acquisition of voting securities of Chicago Pneumatic Tool Co.	Apr. 2, 1986.
(29) 86-0952—DanWest Partners' proposed acquisition of voting securities of Chicago Pneumatic Tool Co.	Do.
(30) 86-0874—Edward S. Finkelstein's proposed acquisition of voting securities of R.H. Macy & Co., Inc.	Do.
(31) 86-0875—Morse Shoe, Inc.'s proposed acquisition of assets of the footwear departments in stores operated by SCOA Industries, Inc., (THL Holdings, Inc., UPE).	Do.
(32) 86-0776—Great Western Financial Corp.'s proposed acquisition of voting securities of Valley Thrift & Loan, (Valley Utah Bancorp., UPE).	Apr. 4, 1986.
(33) 86-0786—Irving Bank Corp.'s proposed acquisition of assets of Commercial Credit Financial Services, Inc., (Control Data Corp., UPE).	Do.
(34) 86-0860—HHC Holdings, Inc.'s proposed acquisition of assets of Garden State Newspaper, Inc.	Do.
(35) 86-0801—Garden State Newspapers, Inc.'s proposed acquisition of assets of HHC Holdings, Inc. and voting securities of three subsidiaries of HHC Holdings, Inc.	Do.
(36) 86-0841—Great Western Financial Corp.'s proposed acquisition of voting securities of of three insurance subsidiaries, (Wickes Companies, Inc., UPE).	Do.
(37) 86-0846—Connecticut Health System, Inc.'s proposed acquisition of voting securities of Hartford Health Care Corp.	Do.
(38) 86-0847—Connecticut Health System, Inc.'s proposed acquisition of voting securities of Meriden-Wallingford Community Corp.	Do.
(39) 86-0848—Homestake Mining Co.'s proposed acquisition of assets of Amax's ½ interest in the Buick Mo. Lead Mine and Smelter, (Amax, Inc., UPE).	Do.
(40) 86-0872—Sunshine Corp.'s proposed acquisition of assets of California Federal Savings and Loan Association, (CalFed, Inc., UPE).	Do.
(41) 86-0884—The E.F. Hutton Group, Inc.'s proposed acquisition of assets of Bridgeport Machines Division and voting securities of Bridgeport Machines Singapore, (Textron, Inc., UPE).	Do.
(42) 86-0885—MLX Corp.'s, (Voting Trust, UPE) proposed acquisition of assets of Brush Wellman, Inc.	Apr. 8, 1986.

FOR FURTHER INFORMATION CONTACT:
Sandra M. Peay, Legal Technician, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580 (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 86-10419 Filed 5-8-86; 8:45 am]

BILLING CODE 6750-01-M

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplated certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 86-0502—Xidex Corp.'s proposed aquisition of voting securities of Chesterton Associates.	Apr. 9, 1986.
(2) 86-0803—Continental Telecom, Inc.'s proposed acquisition of assets of The Government Systems Division of Western Union Telegraph Co. (Western Union Corp., UPE).	Do.
(3) 86-0817—Allied Products Corp.'s proposed acquisition of assets of Vorsen Allsteel Press Co.	Do.
(4) 86-0818—Vorsen Allsteel Press Co.'s proposed acquisition of voting securities of Allied Products Corp.	Do.
(5) 86-0858—Reichmann Holdings Limited's proposed acquisition of voting securities of Hiram Walker Resources Ltd.	Do.
(6) 86-0879—James W. Hart's proposed acquisition of voting securities of Neworeco, Inc.	Do.
(7) 86-0802—Olin Corp.'s proposed acquisition of voting securities of Trak Inc. (Claude Barbey, UPE).	Do.
(8) 86-0877—Beverly Enterprises' proposed acquisition of voting securities of Great Lakes Convalescent Center, Inc., Northwest Care Center, Inc., St. Benedict Nursing Home, Inc., and Abbey Convalescent and Nursing Home, Inc., and proposed acquisition of voting assets of Alexander Convalescent Home, Inc., Fraser Villa, Inc., Fraser Associates (a Bethel Michigan partnership), and Abbey Associates (a Michigan copartnership), (Bernard Mintz and Belle Karson, UPE'S).	Apr. 10, 1986.
(9) 86-0880—American Barrack, Inc.'s (Gabriel Barron, UPE) proposed acquisition of voting assets of Bethlehem Steel Corp.	Do.
(10) 86-0881—Paine Webber Group, Inc.'s proposed acquisition of voting securities of Work Wear Corp., Inc.	Do.
(11) 86-0860—Adventist Health System/West's proposed acquisition of voting securities of Lomas Financial Security Insurance Co. (Lomas & Nettleton Financial Corp., UPE).	Do.
(12) 86-0868—Adventist Health System/Sunbelt Health Care Corp.'s proposed acquisition of voting securities of Lomast Financial Security Insurance Co. (Lomas & Nettleton Financial Corp. UPE).	Do.
(13) 86-0906—Ryder System, Inc.'s proposed acquisition of assets of KAL Leasing, Inc.	Do.
(14) 86-0917—Donald J. Trump's proposed acquisition of assets of Harrah's Associates and Seashore Four Associates, partnerships.	Do.
(15) 86-0922—Ashland Oil, Inc.'s proposed acquisition of voting securities of Ashland Oil, Inc.	Do.
(16) 86-0890—Cardinal Distribution, Inc.'s proposed acquisition of voting securities of James W. Daly, Inc.	Do.
(17) 86-0827—Magna International of America, Inc.'s proposed acquisition of voting securities of Newco.	Apr. 11, 1986.
(18) 86-0838—Ford Motor Co's proposed acquisition of voting securities of Newco.	Do.
(19) 86-0859—Pilkington Brothers' p.l.c. proposed acquisition of voting securities of LOF Glass, Inc. (Libbey-Owens-Ford Co., UPE).	Do.
(20) 86-0855—Cumberland Farms, Inc.'s proposed acquisition of assets of Chevron Corp and voting securities of Northeast Stations & Services, Inc.	Apr. 15, 1986.
(21) 86-0867—Mesa Limited Partnership and Mesa Operating Limited Partnership's proposed acquisition of assets of Pioneer Corp.	Do.
(22) 86-0897—TBG Holdings NV's (Thyssen-Bornemisza Continuity Trust, UPE) proposed acquisition of voting securities of Continental Healthcare Systems, Inc.	Do.
(23) 86-0901—British Telecommunications PLC's proposed acquisition of voting securities of ITT Distcons, Inc., (ITT Corp. UPE).	Do.
(24) 86-0909—Swire Pacific Limited's proposed acquisition of assets and voting securities of Shoshone Coca-Cola Bottling Co. (Edmund M. Hoffman, a natural person, Coca-Cola Bottling Group (Southwest), Inc..	Do.
(25) 86-0905—Bethlehem Steel Corp.'s proposed acquisition of voting securities of Iron Ore Co. of Canada.	Do.
(26) 86-0908—The LTV Corp.'s proposed acquisition of voting securities of Bethlehem Erie (Bethlehem Steel Corp., UPE).	Do.
(27) 86-0907—Parker-Hannifin Corp.'s proposed acquisition of voting securities of Compumotor Corp.	Do.
(28) 86-0912—The LTV Corp's proposed acquisition of voting securities of Erie Mining Co.	Do.
(29) 86-0916—Pan Am Corp.'s proposed acquisition of voting securities of Ransome Airlines, Inc.	Do.
(30) 86-3555—Investments L.P.'s proposed acquisition of voting securities of Union Acquisition Corp. (fdba Wild Foods, Inc., UPE).	Apr. 16, 1986.
(31) 86-0915—Investments L.P.'s proposed acquisition of voting securities of Union Acquisition Corp. (fdba Wild Foods, Inc., UPE).	Do.
(32) 86-0889—Hanley Group Limited's proposed acquisition of voting securities of Cope Allman International, P.L.C.	Do.
(33) 86-0930—Hanley Group Limited's proposed acquisition of voting securities of Cope Allman International (Hanley Group Limited, UPE).	Do.
(34) 86-0896—Norburg, Piness Capital Partners, L.P.'s proposed acquisition of voting securities of Comcast Development Corp. (CIGNA Corp., UPE).	Apr. 17, 1986
(35) 86-0939—Harcourt Brace Jovanovich, Inc.'s proposed acquisition of voting securities of Polk Holding Co., Circus World, Inc. (James G. Monaghan, UPE).	Do.

FOR FURTHER INFORMATION CONTACT:
Sandra M. Peay, Legal Technician, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 86-10420 Filed 5-8-86; 8:45 am]

BILLING CODE 6750-01-M

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 86-0866—Smithkline Beckman Corp.'s proposed acquisition of assets of American Medical Optics Division of American Hospital Supply Corp. (Baxter Travenol Laboratories, Inc., UPE).	Apr. 18, 1986.
(2) 86-0813—Litton Industries, Inc.'s proposed acquisition of voting securities of Parke-Jaggers Aerospace Co.	Do.
(3) 86-0920—McGraw-Hill, Inc.,'s proposed acquisition of voting securities of Nuwaves, Inc.	Apr. 21, 1986.
(4) 86-0921—Reichmann Holdings Limited's proposed acquisition of voting securities of Secord Corp.	Do.
(5) 86-0937—Shape, Inc.'s proposed acquisition of assets of Wabash Data Tech, Inc. (Kearney-National, Inc., UPE).	Do.

Transaction	Waiting period terminated effective
(6) 86-0906—The Cambridge Instrument Co. PLC's proposed acquisition of assets of Reichert Scientific Instruments Division (Warner-Lambert Co., UPE).	Apr. 22, 1986.
(7) 86-0932—Dart & Kraft, Inc.'s proposed acquisition of assets of S.S. Pierce Co., Inc.	Do.
(8) 86-0946—Outokumpu Oy's proposed acquisition of voting securities of Granges MetalAverken AB—Wirsbo Bruks AB (A B Electrolux, UPE).	Apr. 23, 1986.
(9) 86-0910—Tyson Foods, Inc.'s (Don Tyson, UPE) proposed acquisition of voting securities of four subsidiaries of the Lane Trust (Lane Processing Trust, UPE).	Apr. 24, 1986.
(10) 86-0940—Ralston Purina Co.'s proposed acquisition of assets of Union Carbide Corp.	Do.
(11) 86-0949—Vendex International N.V.'s proposed acquisition of voting securities of Barnes & Noble Bookstores, Inc. (Leonard Riggio, UPE).	Do.
(12) 86-0971—CNW Corp.'s proposed acquisition of voting securities of Douglas Dynamics, Inc. (Douglas Seaman Trust No. 5, UPE).	Do.
(13) 86-0984—Anderson Clayton & Co.'s proposed acquisition of voting securities of Anderson Clayton & Co.	Do.
(14) 86-0862—Temple-Inland Inc.'s proposed acquisition of voting securities of National Variable Annuity Insurance Co., (New Voyager), (American Can Co., UPE).	Apr. 27, 1986.
(15) 86-0976—Diversified Energies, Inc.'s proposed acquisition of assets of Bracken Exploration Co.	Apr. 28, 1986.
(16) 86-0924—Pitco Associates, a partnership's proposed acquisition of voting securities of Bi-Rite Foods, Inc.	Apr. 29, 1986.
(17) 86-0925—The Coca-Cola Co.'s proposed acquisition of voting securities of January Enterprises, Inc. (Merv Griffin, UPE).	Do.
(18) 86-0947—D. Dean Rhoades' proposed acquisition of assets of Hastings Aluminum Products Division (National Intergroup, Inc., UPE).	Do.
(19) 86-0948—Proctor-Silex, Inc.'s proposed acquisition of voting securities of Wear-Ever Aluminum, Inc.	Do.
(20) 86-0957—Ing. C. Olivetti's proposed acquisition of assets of Bunker Ramo Corp. (Automatic Data Processing, Inc., UPE).	Do.
(21) 86-0966—Fireman's Fund Corp.'s proposed acquisition of voting securities of Manufacturers Hanover Mortgage Corp. (Manufacturers Hanover Corp., UPE).	Do.
(22) 86-0974—John A. Catsimatidis' proposed acquisition of assets of The Southland Corp.	Do.
(23) 86-0944—The E.F. Hutton Group's proposed acquisition of assets of Gilbert Engineering Co., Inc. (Transitron Electronic Corp., UPE).	Apr. 30, 1986.
(24) 86-0950—Keystone International, Inc.'s proposed acquisition of voting securities of Yarway Corp.	Do.
(25) 86-0951—Keystone International, Inc.'s proposed acquisition of voting securities of Anderson, Greenwood & Co.	Do.
(26) 86-0969—Keystone International, Inc.'s proposed acquisition of voting securities of Anderson, Greenwood & Co.	Do.

FOR FURTHER INFORMATION CONTACT:
Sandra M. Peay, Legal Technican, Premerger Notification Ofice, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580, (202) 523-3894.

By direction of the Commission.
Emily H. Rock,
Secretary.
[FR Doc. 86-10421 Filed 5-8-86; 8:45 am]
BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on May 2, 1986.

Social Security Administration

(Call Reports Clearance Officer on 301-594-5706 for copies of packages.)

Subject: Summary of Evidence—SSA-887—Revision (0960-0430).

Respondents: State or local governments.

OMB Desk Officer: Judy A. McIntosh.

Public Health Service

(Call Reports Clearance Officer on 202-245-2100 for copies of packages.)

Centers for Disease Control

Subject: Inventory of Union Records Systems—NEW.

Respondents: Businesses.

Health Resources and Services Administration

Subject: Bureau Common Reporting Requirements (BCRR) Forms—Extension—(0915-0004).

Respondents: Non-profit institutions.

National Institutes of Health

Subject: Fellowship Health Insurance Plan Private Company—Extension—(0925-0172).

Respondents: Individuals or households.

OMB Desk Officer: Bruce Artim.

Health Care Financing Administration

(Call Reports Clearance Officer on 301-594-8650 for copies of packages)

Subject: End Space Renal Disease Facility Survey Report—Extension—HCFA-3427 (0938-0360).

Respondents: State or local governments.

Subject: Request for Approval as a Supplier of ESRD Services in the Medicare Program—Extension—HCFA-3402—(0938-0055).

Respondents: Businesses or other for-profit institutions.

Subject: Hospital Providers of Long Term Care Services (Swing-Bed Provision)—Extension—HCFA-345—(0938-0253).

Respondents: State or local governments; Businesses or other for-profit; Small businesses or organizations.

OMB Desk Officer: Fay S. Iudicello.

Office of Human Development Services

(Call Reports Clearance Officer on 202-472-4415 for copies of package.)

Subject: Child Abuse and Neglect Prevention Activities—NEW.

Respondents: States.

MB Desk Officer: Fay Iudicello.

Copies of the above information collection clearance packages can be obtained by calling the Reports Clearance Officer on the number shown above.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503.

ATTN: (name of OMB Desk Officer)

Dated: May 6, 1986.
K. Jacqueline Holz,
Deputy Assistant Secretary for Management Anayhis and Systems.
[FR Doc. 86-10428 Filed 5-8-86; 8:45 am]
BILLING CODE 4150-04-M

Food and Drug Administration

Veterinary Medicine Advisory Committee; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the renewal of the Veterinary Medicine Advisory Committee by the Secretary of Health and Human Services. This notice is issued under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)).

DATE: Authority for this committee will expire on April 24, 1988, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT:
Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: May 5, 1986.
John M. Taylor,
Acting Associate Commissioner for Regulatory Affairs.
[FR Doc. 86-10406 Filed 5-8-86; 8:45 am]
BILLING CODE 4160-01-M

Public Health Service

Delegation of Authority

Notice is hereby given that in furtherance of the authority which was delegated by the Assistant Secretary for Health to the Acting Administrator, Health Resources Administration on January 19, 1982, and vested in the Administrator, Health Resources and Services Administration (HRSA), by the Reorganization Order of September 1, 1982, the Acting Administrator, HRSA, has delegated the following authorities under Title XVI of the Public Health Service (PHS) Act, as amended.

I. To the Regional Health Administrators (RHAs)

A. The authority under Section 1628 to provide technical assistance to entities developing applications under Section 1621 and Section 1642.

B. The authority under Section 1627 pertaining to the enforcement of assurances. Decisions made by the RHAs, other than dismissals of complaints without findings or closures of complaints based on resolution or withdrawals, may be appealed to the Director, Bureau of Resources Development (BRD).

C. The authority under Section 1640(a) to make developmental grants under the Area Health Services Development Fund Program.

These authorities may be redelgated to officials within the PHS Regional Offices without authority for further redelegation.

II. To the Director, BRD

All authorities under Title XVI of the PHS Act, as amended, and issuance of decisions resulting from appeals brought about by regional or State agency compliant and assessment decisions except for those authorities to the RHAs.

These authorities may be redelegated without authority for further redelegation except the authority under Section 1602(f) concerning loan default prevention and protection of the interest of the United States in the event of default with respect to loans made or guaranteed under Titles VI and XVI which is to be retained by the Director, BRD.

III. The Authority to provide Technical Assistance, Technical Materials and the Methodologies, Policies, and Standards Necessary to Carry Out Section 1627 Is To Be Coordinated Between the RHAs and the Director, BRD

This delegation supersedes the November 18, 1985 delegation made by the Acting Administrator, HRSA, to the RHAs and the Director, BRD.

Provision was made for all redelegations to continue in effect, provided they were consistent with the delegation.

This delegation was effective upon signature.

Dated: April 29, 1986.
John H. Kelso,
Acting Administrator, Health Resources and Services Administration.
[FR Doc. 86-10409 Filed 5-8-86; 8:45 am]
BILLING CODE 4160-15-M

Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HB (Health Resources and Services Administration) of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (47 FR 38409-24, August 31, 1982, as amended most recently at 51 FR 15698-99, April 25, 1986) is amended to reflect a realignment of the Headquarters components of the Indian Health Service (IHS).

Under HB-10, Organization and Functions, amend the statement for the *Indian Health Service (HBN)* as follows:

(1) Add the following after the functional statement for the *Office of the Director (HBN1).*

Policy Review Staff (HBN1-3). (1) Advises the Director and, upon his direction, other top IHS officials, in the identification, and where appropriate, resolution of program policy issues, initiatives and problems; (2) performs the secretariat function for the Director in the Director's role as Chairman of the IHS Executive Staff; and (3) plans, organizes, and directs the Executive Secretariat of the IHS, with primary responsibility for the management of written communications to and from the Director.

(2) Add the following after the functional statement for the *Office of Administration and Management (HBN13).*

Division of Management Policy (HBN131). Provides Service-wide leadership and direction in the areas of management policies and procedures and their analysis. Specifically: (1) Provides advice and guidance for the establishment or modification of organizational structures, functions, and delegations of authority; (2) conducts and coordinates the Service's internal control review, issuances, reports and agreements management programs; (3) negotiates solutions to intra-agency and interagency management problems affecting the IHS program; (4) provides consultation and assistance to IHS officials in the development of directives, and agreements; (5) provides a focal point for liaison with the Office of the General Counsel on management policy related matters; (6) serves as the IHS principal advisor on all IHS organization and management policy activities; and (7) serves as the IHS focal point for liaison with HRSA, PHS, and HHS on management policy matters.

Division of Administrative Services (HBN132). (1) Plans, develops, coordinates, and provides office services, records, supply, personal property, and other administrative services in support of the IHS Headquarters program; and (2) provides guidance and assistance to IHS Headquarters in the overall development, planning and implementation of administrative functions related to office services, records, supply, personal property, and other management support services.

Division of Resources Management (HBN133). (1) Collaborates with IHS Associate Directors on the development and preparation of the Service's budget, OMB submission and President's budget for the Indian Health Service and Facilities Appropriation; (2) participates before OMB and Congress in justification of budget; (3) coordinates funds allocation and personnel ceilings with other IHS offices; (4) distributes appropriated funds and monitors personnel ceilings; (5) develops and implements budget, fiscal, and accounting procedures; and (6) conducts reviews and analyses to ensure compliance.

Division of Grants and Contracts (HBN139). (1) Develops and coordinates the execution of administrative systems, methods, and techniques for planning, organizing, maintaining, monitoring, evaluating and reporting on the IHS contract and grant procurement activities (excluding office services procurement activities for Headquarters) within the framework of policies, requirements, and authorities of echelons higher than the Service; (2) provides guidance to the Service and

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serves as principal IHS authority on administrative aspects of Federal contracting, procurement, and grants requirements based on regulations, policies, procedures, practices, and related administrative matters; (3) participates, at tribal request, in assisting Indian Tribes/tribal organizations to develop administrative structures, procedures, and skills related to contract, procurement, and grants management; and (4) serves as the principal IHS focus for liaison activities regarding the administrative aspects of contract, and grants procurement.

(3) Add the following after the functional statement for the *Office of Planning, Evaluation and Legislation (HBN15).*

Division of Program Evaluation and Policy Analysis (HBN152). (1) Serves as the primary staff unit and principal source of advice on program evaluation and policy analysis; (2) oversees communications between the Division, IHS and higher levels of the Department on all matters that involve evaluation and analysis of program performance; (3) maintains liaison with other Federal and non-Federal health agencies on matters within the area of program evaluation and policy analysis; (4) provides technical assistance in support of statistical, economic, operations research and other scientific analyses of policy questions undertaken in the IHS; (5) directs all activities which compare the costs of the IHS programs with their benefits/effectiveness; (6) identifies for the Associate Director any program performance data required for use in the management and direction of IHS programs; (7) provides technical assistance to the other components of OPEL and the IHS and evaluates and analyzes trends and makes forecasts about national health services delivery systems for use in the program management and decisionmaking process; (8) monitors ongoing information systems which produce evaluation and analytical data about the Service's programs; and (9) performs analyses of the impact of IHS programs and develops appropriate solutions to problems of need, demand, access, illness and disease.

Division of Legislation and Regulations (HBN153). (1) Determines the need for changes in legislation and regulations and develops projects to effectuate those changes; (2) identifies and tracks major legislative proposals in the Congress which impact on the Service's programs and activities and, working with the Service Director and Senior program professionals, develops a Service position; (3) keeps program professionals informed as to legislative and regulatory activities of other agencies of the Government; (4) coordinates legislative and regulations activities with agencies within HHS which impact on the delivery of health services to Indians; (5) coordinates the resolution of legal issues of the Service with the Office of the General Counsel, IHS senior staff, other HHS components and other Federal agencies; (6) provides liaison with the Office of the General Counsel in matters of litigation, regulations and legislation; and (7) assures the development and implementation of appeals processes within the Service.

Division of Program Statistics (HBN154). (1) Plans, develops, directs, coordinates and monitors statistical reporting systems providing data for measuring health status and appraising program activities; (2) maintains, analyzes and publishes statistical data on morbidity, mortality and related demographic data concerning Indian and Alaska Native population; (3) develops methodologies to identify health and related program accomplishments and deficiencies; (4) provides statistical advice and information to all organizational entities of the IHS for projects dealing with policy formulation, budget preparation and justification, program planning and evaluation, health status assessment, health system description, resource requirements and allocation, health research, etc.; (5) consults and advises other government and non-government organizations regarding statistical data, methodology, and techniques related to Indian and Alaska Native health data; and (6) administers the implementation of the Privacy Act and the Freedom of Information Act within IHS.

Division of Health Services Planning and Operations Research (HBN155). (1) Provides overall direction of the IHS program planning and operations research programs; (2) develops and oversees the implementation of planning methodologies, techniques and procedures for the IHS Area/Program Offices, service units and the Tribes; (3) develops the 5-year program strategy and oversees the implementation of the plan; (4) develops policies and procedures for operational plans and other requirements as related by DHHS, PHS and HRSA priorities; (5) directs all activities related to the design, development, implementation and evaluation of resource requirements and allocation methodologies and models; (6) maintains liaison with other Federal and non-Federal health agencies on matters within the areas of resource allocation, health services planning and operations research, such as the Veterans Administration, Department of Defense, the Congressional Office of Technology and Health Affairs, Bureau of Indian Affairs, National Indian Health Board, National Congress of American Indians, and other public and private agencies; (7) formulates and guides analytical studies in the area of operations research that examine the multitude of factors impinging upon management's decisions regarding the mode of health service delivery; (8) coordinates and develops material to support budget presentations to HRSA, PHS, DHHS, the OMB and the Congress; (9) directs and carries out all IHS activities related to the health services priority system; (10) provides technical assistance on design issues and the optimum use of operations research technology and its expected contributions and limitations in solving key operational and managerial problems; and (11) provides technical assistance to other components of OPEL and the IHS on matters related to health services planning, resource allocation, and operation research initiatives.

Division of Data Systems Policy and Management (HBN157). directs and coordinates all data systems and information management activities within the IHS. Specifically: (1) Plans, designs, develops, and operates IHS-wide automated data processing (ADP), word processing (WP), and telecommunications (TP) systems and equipment; (2) develops, promulgates, and administers policy, procedures, and guidelines for IHS Data and Information Systems; (3) provides technical consultation and support to Indian tribes and other Indian community groups; (4) provides technical supervision to all IHS ADP/computer personnel involved in the design, development, adaption, and application of automated data systems to service programs and projects; (5) coordinates the development of short, mid and long-range ADP plans for IHS; (6) coordinates Data and Information System requirements and serves as liaison with HRSA, in matters involving ADP, WP and TP systems and equipment; (7) analyzes, evaluates and directs the utilization of information systems developed by other governmental agencies and proprietary organizations; (8) coordinates the role and functions of the Information Systems Coordinators (ISC's) in support of information systems activities within IHS; (9) convenes and coordinates ad hoc administrative and patient care systems advisory committees to provide input on information systems needs; (10) implements quality assurance program for Data Systems Policy and Management; and (11) serves as liaison with governmental, professional, voluntary, and other public and private organizations, institutions, and groups for the purpose of providing information exchange and information on the implementation and operation of all data systems related to IHS needs and activities.

(4) Add the following after the functional statement for the *Office of Tribal Activities (HBNG).*

Division of Community Development and Tribal Support (HBNG2). (1) Identifies the best means for increasing Indian Community participation in IHS programs; (2) implements methods and techniques to enable Indian communities that want to participate more fully in the management of their health programs to do so; and (3) assists Tribes that do not wish to manage their own health programs to develop their ability to influence the health programs in their communities by providing the Tribes with technical assistance, training and consultation.

Division of Indian Resources Liaison (HBNG3). (1) Implements special Indian legislation and authorities; (2) formulates policies to ensure effective implementation of tribally/urban operated administrative management systems, including contracts, grants, personnel, leasing, and human resource development activities; (3) develops, plans, and implements a policy information system for dissemination to and use by Tribes, tribal/urban Indian organizations, and IHS staff; and (4) coordinates the development of various policy guidance material to transmit standards and criteria, methodology, and general understanding across IHS concerning the elements of administrative systems.

Division of Tribal Affairs (HBNG4). (1) Participates in policy formulation and execution as they relate to tribal activities; (2) coordinates the development of optional, supportive relationships with tribal governments, inter-tribal governing bodies, national Indian interest groups, and other individuals and groups interested and active in Indian affairs; and (3) provides advice on the effect and impact of IHS policies, plans, programs and operations on tribal operations and relationships.

(5) Add the following after the functional statement for the *Office of Health Programs (HBNH).*

Division of Clinical and Preventive Services (HBNH2). (1) Provides direction for the operation of the health delivery activities of the IHS; (2) handles all logistics associated with the conduct of program reviews of Service Units, Area Offices, and Headquarters units; (3) advises on assessment findings for potential implications for IHS policy, plans, programs and operations; (4) develops quality of care evaluation criteria, standards of care, and guidance for the maintenance of the quality assurance program of the IHS; and (5) conducts monitoring activities to assess the quality of care provided by the IHS.

Division of Health Care Administration and Contract Health Services (HBNH3). (1) Develops, coordinates and evaluates program standards, guides, plans, and requirements for health care administration; (2) develops, coordinates, and evaluates medical, preventive, and hospital services provided through contractual arrangements; (3) establishes and evaluates the implementation of standards and guidelines for quality assurance of direct hospital and health services and contract health services; (4) coordinates hospital care administation recruitment, assignment, and career development; (5) establishes national standards of performance for contract health services and accesses performance against established standards; (6) develops allocations of CHS funds; (7) coordinates appeals and reconsideration of denials of services to IHS beneficiaries; (8) plans and develops methods for identifying and obtaining health resources available through Federal, State, local and non-Federal sources and coordinates the use of these resources; (9) serves as principal liaison with HCFA for Medicare and Medicaid activities and establishes liaison and coordinates Medicaid activities with States; (10) serves as principal liaison with the Joint Commission on Accreditation of Hospitals and American Hospital Association regarding hospital accreditation and other activities applicable to IHS health care administration; (11) plans, coordinates and directs the third-party activities of IHS facilities, develops policy pertaining to third-party activities, and coordinates and develops overall policy and plans for implementation of Title IV, Pub. L. 94-437, Indian Health Care Improvement Act; and (12) coordinates development of the budget for health care administration and contract health services activities.

Division of Health Manpower and Training (HBNH4). (1) Develops the IHS program to recruit, select, assign, and retain health care professionals; (2) assesses IHS professional staffing needs; (3) provides liaison for Commissioned Corps activities with higher echelons and the Commissioned Personnel Operations Division; (3) provides research and analysis functions for Chief Medical Officers/Clinical Directors and senior clinicians; (4) manages the continuing medical education programs for physicians and selected health professionals; (5) coordinates activities and provides support for the various IHS clinical programs; (6) coordinates the development of training and manpower programs with IHS staff and Indian tribes; (7) manages the scholarship and continuing education programs; and (8) assesses manpower development and training needs.

(6) Add the following after the functional statement for the *Office of Environmental Health and Enginering (HBNJ).*

Division of Facilities Planning and Construction (HBNJ2). (1) Administers nationwide IHS facilities engineering and construction programs for IHS health care facilities in consultation with the Office of Engineering Services in PHS Regions; (2) develops and coordinates program requirements for planning, design, and evaluation of health care facilities; (3) develops, coordinates, and evaluates technical standards, guides, plans, and requirements for health care facilities construction requirements within IHS, HRSA and PHS; (4) develops and coordinates facility construction programs; (5) provides technical assistance and monitors Area and tribal facilities planning and construction programs; (6) coordinates interagency requirements for shared or cooperative projects with agencies such as DOE, DOD, VA, HUD, State and regional planning bodies, etc.; (7) provides consultation to professional standards organizations such as the AIA Committee of Architects for Health, Joint Commissions on Accreditation of Hospitals, Colleges of Medical Specialties, etc.; and (8) provides technical assistance and consultation to tribal governments and Alaska Native corporations to assist and brief those governments and organizations on the progress of planning, design and construction projects.

Division of Facilities Management (HBNJ3). (1) Administers a nationwide IHS facilities management program; (2) provides engineering leadership, guidance and coordination and serves as the principle advisor to the IHS on facilities activities such as preventive maintenance; biomedical engineering systems and operations; operation, maintenance, repair and alterations of physical plants; energy conservation;

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resource allocations; etc.; (3) develops and coordinates program requirements to implement facilities management programs that meet established IHS objectives and the accreditation standards of the Joint Commission on Accreditation of Hospitals (JCAH), as well as medicare/medicaid requirements; (4) develops, coordinates and evaluates technical standards, guides, plans and requirements for the operations, maintenance, repair, alteration and improvement of IHS health care and supporting facilities; (5) coordinates IHS energy conservation program in accordance with IHS and higher echelon imposed requirements; (6) provides technical engineering assistance to and implements an evaluation of Area and tribal facilities management programs; (7) plans, directs, and coordinates IHS activities in real property management and accountability; and (8) represents the IHS in facilities management related concerns with other federal agencies, professional societies and other groups.

Division of Environmental Health (HBNJ4). (1) Provides leadership, guidance and coordination to the overall IHS environmental health program; (2) serves as principal advisor to the IHS on environmental health matters and participates in policy formulation and resource distribution; (3) administers the Indian Sanitation Facilities Act (Pub. L. 86–121); (4) plans, develops, coordinates, appraises and evaluates Service-wide sanitation facilities construction activities conducted in cooperation with tribal groups and other agencies; (5) assesses American Indian and Alaska Native environmental health needs and develops appropriate action programs in cooperation with IHS staff; (6) appraises and evaluates environmental health programs and progress; (7) coordinates staff assignments and, in-Service training and career development for Headquarters and field staff; and (8) represents the IHS in environmental health relationships with other Federal agencies, professional societies and other groups.

(7) Add the following after the functional statement for the *Office of Health Program Development (HBNK).*

Division of Administrative Services (HBNK2). (1) Provides all required Area-level administrative services for the research, development and service delivery functions of the Office of Health Program Development, including finance, contracting and procurement, property and supply, personnel, facilities management and transportation.

Division of Health Services Systems Development (HBNK3). (1) Develops improved methods for health services delivery for IHS; (2) provides specialized services to IHS, including operations and systems anaysis, evaluation methods and designs, planning methodology development and consultation and technical assistance for all levels of IHS and tribal programs; and (3) provides assistance to IHS in the areas of alternative policy and operational concept impact analysis and assessment.

Division of Human Resource Systems Development (HBNK4). (1) Provides services to all levels of IHS, Tribal and Indian Urban organizations through management systems analysis, professional consultation, technical assistance, education and training program and methodology development, and (2) provides technical assistance, training, and related management developmental activities, involving all aspects of human resource systems development.

Division of Medical Systems Research and Development (HBNK5). (1) Develops long-range medical services delivery research requirements for IHS, (2) conducts research leading to innovative program and operating concepts to improve delivery of medical services to American Indians and Alaska Natives; (3) provides medical systems design, development and technical assistance throughout IHS; and (4) provides investigations, orientations, workshops and briefings on the uses of traditional Indian medicine to appropriate IHS staff and supporting groups.

Division of ADP Systems Support (HBNK6). (1) Provides data processing services, including computer operations, medical coding, data entry, and information retrieval and analysis, for operational data systems within the jurisdiction of the Office; (2) performs systems analysis, computer programming, system implementation and user training for the Office's data systems; (3) serves as a developmental testing site for IHS data systems; (4) provides electronic data processing (EDP) technical assistance and operational support to IHS Headquarters and IHS Area/Program offices; and (5) is responsible for EDP planning and coordination for the Office.

Division of Health Services Delivery (HBNK7). (1) Provides management and direction for the direct and indirect health service delivery activities of the Office of Health Program Development, Tucson, Arizona, including the Sells Service Unit, the Pascua Yaqui contract health services delivery area, environmental health and sanitation facilities construction program, and the Tucson Urban Project; (2) assures comprehensive quality health services as appropriate, through direct, contract and tribal contract health services; (3) implements, pilots, critiques and conducts trials of health information systems, health services delivery methods, and health services delivery protocols; and (4) provides demonstration sites for observation and training in health care delivery and health information systems.

This realignment is effective upon date of signature.

Dated: April 14, 1986.

John H. Kelso,

Acting Administrator, Health Resources and Services Administration.

[FR Doc. 86–10410 Filed 5–8–86; 8:45 am]

BILLING CODE 4160–15–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Wind River Irrigation Project, Wyoming; Information Related to Collections of Operation and Maintenance Assessments

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Public notice.

SUMMARY: This notice sets forth changes in the delinquency date and penalty rate to be applied to delinquent operation and maintenance assessments made by Wind River Irrigation Project, Fort Washakie, Wyoming.

The annual operation and maintenance assessment bills will be sent out on or about March 15 of each year with the amount due and payable on April 1 of each calendar year. To all charges assessed against lands in non-Indian ownership and Indian lands under lease to non-Indians lessees, which are not paid on or before the date of delinquency of May 1 of each year, following the due date, there shall be added a penalty of 10% per annum or fraction thereof, from the due date of April 1, so long as the delinquency continues. The proposed changes to current policy are (1) the revision of the date of delinquency from July 1 to May 1 and (2) the revision of the penalty rate of 6% per annum or fraction thereof to 10% per annum or fraction thereof.

EFFECTIVE DATE: This notice shall become effective May 1, 1986 and remain in effect until subsequently revised.

FOR FURTHER INFORMATION CONTACT: J. Donovan Crook, Bureau of Indian Affairs, Wind River Agency, Fort Washakie, Wyoming 82514, telephone number: 307/332–3719.

SUPPLEMENTARY INFORMATION: This notice issued pursuant to 25 CFR 171.1 under authority delegated to the Assistant Secretary for Indian Affairs and the Deputy Assistant Secretary of the Interior in 209 DM 8. This authority is vested in the Secretary of the Interior by 5 U.S.C. 301 and 25 U.S.C. 2 and 385. The current regulations were established by public notice in the **Federal Register** (50 FR 7661, February 25, 1985). A public notice declaring the intent to change the delinquency date from July 1 to May 1, and changing the penalty rate from 6% per annum to 10% per annum for all non-Indian owners and operators, was placed in all Federal Post Offices and other public buildings throughout the Reservation. This notice was also published in the Riverton Ranger and Wyoming State Journal newspapers of Riverton and Lander respectively. The Joint Business Council was notified by letter on March 31, 1986 of the proposed change in interest charges. The 30 day comment period ended on April 13, 1986, and no written comments were received. The penalty rate does not apply to Indian operators, whether owners or lessees of the land.

This notice does not change the assessment rates of the Wind River Irrigation Project.

David L. Allison,

Superintendent, Wind River Agency.

[FR Doc. 86–10406 Filed 5–8–86; 8:45 am]

BILLING CODE 4310–02–M

Bureau of Land Management

[Nev–051745]

Proposed Continuation of Withdrawal, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation proposes that 102,634.85 acres of withdrawn land for the Boulder Canyon Project, Nevada be continued for an additional 30 years. The land will remain closed to surface entry and mining but has been and will remain open to mineral leasing.

DATE: Comments should be received by August 7, 1986.

ADDRESS: Comments should be sent to: Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, Nevada State Office, (702) 784–5481.

SUPPLEMENTARY INFORMATION: The Bureau of Reclamation proposes that a portion of the existing land withdrawals made by Secretarial Orders of January 31, 1903, September 8, 1903, May 8, 1918, April 19, 1920, August 7, 1920, March 30, 1921, May 19, 1921, April 21, 1923, January 3, 1929, June 4, 1930, October 16, 1931, March 3, 1933, December 6, 1937, December 11, 1941, and June 11, 1943, be continued for a period of 30 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is described as follows:

Mount Diablo Meridian, Nevada

T. 21 S., R. 63 E.,
Secs. 1, 2, 11, 12, and 13, All;
Sec. 14, N½NE¼, NE¼NE¼SW¼NE¼, E½SE¼NE¼, N½NW¼SE¼NE¼, SE¼NW¼SE¼NE¼, E½SW¼ SE¼NE¼, E½NE¼SE¼, E½W½NE¼SE¼, SE¼SE¼;
Sec. 23, E½E½;
Sec. 24, All.
T. 21 S., R. 63½ E.,
Sec. 13.[1]
T. 21 S., R. 64 E.,
Secs. 13 to 21;[1]
Secs. 23, 24, and 25;[1]
Secs. 27, 28, and 29;[1]
Secs. 33, 34, and 35.[1]
T. 22 S., R. 64 E.,
Secs. 1 and 2, All;
Sec. 3;[1]
Sec. 10;[1]
Secs. 11, 12, and 13, All;
Secs. 14 and 15;[1]
Secs. 23, 24, and 25;[1]
Sec. 36, All.
T. 23 S., R. 64 E.,
Secs. 1, 12, and 13, All;
Secs. 4, 5, 8, and 9, all that land excepted and reserved for use by the Bureau of Reclamation in quitclaim deed to the City of Boulder City, Nevada, dated January 4, 1960 (Nev 058313).
T. 20 S., R. 65 E.,
Sec. 34.[1]
T. 21 S., R. 65 E.,
Secs. 3 and 4;[1]
Secs. 9 to 16, Inclusive;[1]
Sec. 20, All;
Sec. 21;[1]
Secs. 22 to 24, Inclusive, All;
Secs. 27 to 32, Inclusive, All.
T. 22 S., R. 65 E.,
Secs. 6, 7, and 8, All;
Secs. 16 to 21, Inclusive, All;
Secs. 28 to 32, Inclusive, All.
T. 23 S., R. 65 E.,
Secs. 5, 6, 7, 8, and 9;
Sec. 16;[1]
Secs. 18 and 19;
Secs. 21, 27, and 28;[1]
Sec. 34.[1]
T. 23½ S., R. 65 E.,
Secs. 35.
T. 24 S., R. 65 E.,
Secs. 1, 2, 12, 13, 14, 15, 22, 23, 26, 34, and 35.[1]
T. 25 S., R. 65 E.,
Secs. 2, 11, 14, 23, 26, and 35.[1]
T. 26 S., R. 65 E.,
Secs. 2, 3, 10, 11, 12, 13, 14, 23, 24, 25, 26, 35, and 36.[1]
T. 27 S., R. 65 E.,
Secs. 1, 13, 23, 24, 25, 26, and 36.[1]
T. 28 S., R. 65 E.,
Secs. 1, 12, 13, 23, 24, 25, and 36.[1]
T. 29 S., R. 65 E.,
Secs. 1, 12, and 13.[1]
T. 27 S., R. 66 E.,
Secs. 6, 7, 18, 19, and 31.[1]
T. 29 S., R. 66 E.,
Secs. 6, 7, 8, 17, 18, 19, 20, 21, 28, 29, 30, 32, 33, and 34.[1]
T. 30 S., R. 66 E.,
Secs. 3, 4, 10, 15, 22, 27, and 34.[1]
T. 31 S., R. 66 E.,
Secs. 2, 3, 10, 11, 14, 23, 26, 35, and 36.[1]
T. 32 S., R. 66 E.,
Secs. 29, S½SE¼NE¼, N½NE¼SE¼, SE¼NE¼SE¼, E½SE¼SE¼.[2]
T. 33 S., R. 66 E.,
Sec. 9, Lots 1, 2, 3, 4, NW¼SE¼;[2]
Sec. 10, Lots 2 and 3;[2]
Sec. 15, Lots 3, 4, 5, 6, and 7;[2]
Sec. 22, Lots 1, 2, 3, 4, and 5.[2]
T. 20 S., R. 66½ E.,
Secs. 30 and 31.[1]
T. 19 S., R. 67 E.,
Sec. 1.[1]
T. 20 S., R. 67 E.,
Secs. 12, 13, 24, 25, 26, 27, 28, 29, 30, 31, and 36.[1]
T. 15 S., R. 68 E.,
Sec. 1, Lots 1 and 2, S½NE¼, S½;
Sec. 12, N½, SW¼, W½SE¼;
Sec. 13, W½NE¼, NW¼;
Sec. 23, SW¼;
Secs. 26 and 35, W½;
Sec. 36.[1]
T. 16 S., R. 68 E.,
Secs. 1, 12, 13, 24, and 25;[1]
Sec. 26, E½;[1]
Sec. 28, E½;[1]
Sec. 32, S½SW¼;[1]
Sec. 34;[1]
Sec. 35;[1]
Sec. 36, S½NW¼, SW¼, S½SE¼.
T. 17 S., R. 68 E.,
Secs. 1, 2, 3, and 4;[1]
Secs. 9 to 16, Inclusive;[1]
Sec. 23;[1]
Secs. 24 and 25, All;
Secs. 26 and 27;[1]
Secs. 34 and 35;[1]
Sec. 36, All.
T. 18 S., R. 68 E.,
Sec. 1, All;
Sec. 2, Lots 1, 2, 3, and 4, S½N½, SE¼SW¼, SE¼;
Secs. 3, 4, 8, and 9;[1]
Sec. 10, N½, N½S½, S½SE¼;
Sec. 11, NE¼, NE¼NW¼, S½NW¼, S½;
Secs. 12, 13, and 14;[1]
Sec. 15, E½NE¼, S½SW¼, SE¼;
Secs. 18 and 17;[1]
Secs. 19 and 20;[1]
Sec. 21, N½, SW¼, W½SE¼;
Sec. 22, E½, E½W½;
Secs. 23 and 24;[1]

Sec. 28; [1]
Sec. 27, NE¼, NE¼NW¼, S½NW¼, S½;
Sec. 28, W½, SE¼;
Sec. 29, All;
Secs. 30 and 31; [1]
Sec. 32, N½, SE¼;
Sec. 33, All;
Secs. 34 and 35.[1]
T 19 S., R. 68 E.,
Secs. 2 and 3; [1]
Sec. 4, All;
Secs. 5, 6, 7, and 8.[1]
Sec. 9, All;
Secs. 10 and 11:[1]
Secs. 14 and 15;[1]
Sec. 16, Lot 2, N½, SW¼, N½SE¼, N½SE¼SE¼;
Secs. 17 and 20; [1]
Sec. 21, Lot 2, S½NE¼, W½, SE¼;
Secs. 22 and 27; [1]
Sec. 28, All;
Secs. 29, 31, and 32;[1]
Sec. 33, All;
Sec. 34.[1]
T 20 S., R. 68 E.,
Sec. 3;[1]
Sec. 4, all excluding patent 17378;
Sec. 5, All;
Sec. 6 and 7;[1]
Sec. 8, All;
Secs. 9, 10, 15, and 16;[1]
Sec. 17, All;
Secs. 18 and 19;[1]
Sec. 20 N½, SW¼, N½SE¼, SW¼SE¼;
Sec. 21, All;
Secs. 22, 26, and 27;[1]
Sec. 29, NE¼NE¼, S½NE¼, W½, SE¼;
Sec. 30; [1]
Sec. 31, All;
Sec. 32, N½, NE¼SW¼, N½SE¼, SE¼SE¼;
Secs. 33 and 34, All;
Sec. 35 and 36.[1]
T 21 S., R. 68 E.,
Sec. 1, Lot 1 [1], Lots 2, 3, and 4, S½N½, S½;
Secs. 2, 3, and 4, inclusive, All;
Sec. 5, Lots 1, 2, 3, 5, and 6;
Sec. 6, Lots 2, 3, 4, 5, 6, and 8, SE¼NE¼, SE¼NW¼, E½SW¼, NW¼SE¼;
Sec. 7, Lots 1, 2, and 3;
Secs. 11 and 12, All.
T 15 S., R. 69 E.,
Sec. 6, Lots 3, 4, and 5, SE¼NW¼;
Sec. 8, E½, SW¼;
Sec. 31, Lots 3 and 4, E½SW¼.[1]
T 16 S., R. 69 E.,
Secs. 6, 7, 18, 30, and 31.[1]
T. 17 S., R. 69 E.,
Secs. 6, 7, 18, 19, 29, 30, 31, and 32.[1]
T. 18 S., R. 69 E.,
Secs. 5, 6, and 7.[1]
T. 21 S., R. 69 E.,
Secs. 6, 7, 8, 16, 17, 20, 21, 28, 29, 33, 34, and 35.[1]
T. 22, S., R. 69 E.,
Secs. 1, 2, 3, 10, 11, 12, 13, and 14.[1]
T. 21 S., R. 70 E.,
Secs. 12, 13, 14, 23, 26, and 35.[1]
T. 22, S., R. 70 E.,
Secs. 2, 9, 10, 11, 14, 15, 16, 17, and 18.[1]
T. 20 S., R. 71 E.,
Secs. 10, 15, 16, 21, 28, 29, 30, 31, and 32.[1]
T. 21 S., R. 71 E.,
Secs. 6 and 7.[1]

[1] All submerged land and that exposed land lying inside a line 300 feet landward from the high water mark measured from a line horizontal to a perpendicular rising from the 655-foot elevation of Lake Mohave and the 1,229-foot elevation of Lake Mead.

[2] Only that strip of land 300 feet in width landward from the existing bankline of the Colorado River.

[3] Excluding all land lying between the section line and contract and grant of easement to Colorado Environments, Inc., Contract No. 3–07–30–L0161, dated December 9, 1983.

The areas described contain approximately 102,634.85 acres in Clark County, Nevada.

The purpose of the withdrawal is to protect the construction, operation and maintenance of the Boulder Canyon Project. The withdrawal segregates the land from operation of the public land laws generally, including the mining laws, but not the mineral leasing laws. No change is proposed in the purpose or segregative effect of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Chief, Branch of Lands and Minerals Operations, in the Nevada State Office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and, if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

Dated: May 2, 1986.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 86–10482 Filed 5–8–86; 8:45 am]

BILLING CODE 4310–HC–M

Idaho Falls District Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the Idaho Falls District Advisory Council.

SUMMARY: The Idaho Falls District Advisory Council will meet Wednesday, June 18, 1986. Notice of this meeting is in accordance with Pub. L. 92–463. The meeting will begin at 8:30 a.m. at the Bureau of Land Management District Office, 940 Lincoln Road, Idaho Falls, Idaho. The meeting is open to the public; participants will need to provide transportation and lunch. Public comments on agency items will be accepted from 8:30 to 9:00 a.m. at the Bureau of Land Management Office.

Agenda items are: A tour of riparian areas along Trail Creek, Wet Creek and Sawmill Creek, and a discussion of the management problems of those areas; Howe Flood Control Project tour and briefing; a review of the Pocatello Resource Management Plan; and the Election of Advisory Council Officers.

Summary minutes of the meeting will be kept in the District Office and will be available for public inspection and reproduction during business hours (7:45 a.m. to 4:30 p.m.) within 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: O'dell A. Frandsen, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401; Telephone: (208) 529–1020.

O'dell A. Frandsen,

District Manager.

May 2, 1986.

[FR Doc. 86–10407 Filed 5–8–86; 8:45 am]

BILLING CODE 4310–GG–M

Salmon District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: The Salmon District of the Bureau of Land Management (BLM) announces a forthcoming meeting of the Salmon District Advisory Council.

DATE: The meeting will be held Thursday, June 26, 1986 at 9:00 a.m.

ADDRESS: The meeting will be held at the Salmon District Office, Bureau of Land Management, Conference Room, South Highway 93, Salmon, Idaho 83467.

SUPPLEMENTARY INFORMATION: This meeting is held in accordance with Public Law 92–463 and 94–579. The agenda will include the following topics: (1) Update on Bruno Creek Road; (2) Spring Gulch-Challis School District Exchange; (3) Riparian Management; (4) Chief Tendoy Historic Cemetery; (5) Agricultural trespass; and (6) Exchange Program. A field trip is scheduled to begin at 10:30 a.m.

The meeting is open to the public. Interested persons may make oral statements to the Council between 9:30 a.m. and 10:00 a.m. or file written statements for the Council's consideration. Anyone wishing to make an oral statement must notify the District Manager at the Salmon District Office by June 24, 1986.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting. Notification of oral statements and requests for summary minutes should be sent to Jerry Goodman, District Manager, Salmon District BLM, P.O. Box 430, Salmon, Idaho 83467.

Dated: April 30, 1986.

Jerry Goodman,

District Manager.

[FR Doc. 86–10485 Filed 5–8–86; 8:45 am]

BILLING CODE 4310–GG–M

Fish and Wildlife Service

Acceptance of Bids for Duck Stamp Sheets

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Acceptance of Bids for Duck Stamp Sheets.

SUMMARY: Notice is given that the U.S. Fish and Wildlife Service will accept sealed bids for each of ten (10) sheets of 1984–85 Duck Stamps consisting of 120 stamps per sheet. This is the second and final bid offer for these stamps.

DATE: Bids will be accepted starting Monday, September 1, 1986, and must be received no later than 4:00 p.m., Friday, October 31, 1986. Bids sent by the U.S. Postal Service must be addressed as follows:

ADDRESS: U.S. Fish and Wildlife Service (OPUM), Matomic Building, Room 554, 18th and C Streets NW., Washington, D.C. 20240, Attn: Duck Stamp Sheets.

Bids handcarried or sent by other than the U.S. Postal Service, i.e. Federal Express, must be addressed as follows: U.S. Fish and Wildlife Service (OPUM), Matomic Building, Room 554, 1717 H Street NW., Washington, D.C. 20240, Attn: Duck Stamp Sheets.

FOR FURTHER INFORMATION CONTACT: Conley L. Moffett, Chief, Office of Public Use Management, U.S. Fish and Wildlife Service, 18th and C Streets, NW., Washington, D.C. 20240, (202) 653–2220, or Peter A. Anastasi, Office of Public Use Management, 18th and C Streets NW., Washington, D.C. 20240, (202) 343–5506.

SUPPLEMENTARY INFORMATION: The U.S. Fish and Wildlife Service gives notice of its intention to accept sealed bids for each of ten (10) sheets of the 1984–85 50th Anniversary Migratory Bird Hunting and Conservation Stamp ("Duck Stamp"). Each sheet is numbered from 1 to 15 and contains four panels. Each panel is numbered and consists of thirty (30) stamps for a total of one hundred twenty (120) uncut stamps per sheet. In addition, the words "1934–84 50th Anniversary" are printed in gold on the salvage of each panel. Sheet numbers 1–4 were awarded through a previous offer in 1985. Sheet number 15 will be given to the Smithsonian Institution as part of the Nation's philatelic collection; thus, this offering is for sheet numbers 5–14.

Commencing Monday, September 1, 1986, and until 4:00 p.m., Friday, October 31, 1986, the U.S. Fish and Wildlife Service will accept sealed bids for the Duck Stamp sheets under the following conditions:

1. Minimum bid per sheet $2,000.00
2. Bidders may bid on more than (1) sheet but each sheet must be bid separately. Each bid must be accompanied by the bidder's full name, address, and telephone number.
3. Bids must be accompanied by a stamped, self-addressed business envelope by which bidders will be notified of the results of the bidding. Successful bidders will have ten (10) calendar days in which to submit a certified or cashier's check or money order in the full amount of the bid payable to "Migratory Bird Conservation Fund." Failure to do so will void the bid, and result in awarding the sheet of stamps to the next highest bidder.
4. Bids must be mailed or delivered to the above addresses and be received by 4:00 p.m., Friday, October 31, 1986.
5. Successful bidders must pay for delivery of sheets.
6. Employees of the U.S. Fish and Wildlife Service and members of their immediate families are not eligible to bid.

Bids will remain sealed until Tuesday, November 4, 1986, at 9:00 a.m., at which time, they will be opened in the Office of the Director, U.S. Fish and Wildlife Service. The highest bidder will be awarded sheet number 5, the second highest bidder will be awarded sheet number 6 and so forth until the tenth (10th) highest bidder is awarded sheet number 14. If there are identical bids *that exceed* the number of sheets available, rebidding will be requested of those bidders for the remaining sheets. If there are identical bids that *do not exceed* the number of sheets available, sheet numbers will be awarded by drawing of random numbers.

These stamps were valid during the period July 1, 1984, through June 30, 1985, and each sheet had a face value of $900.00. Currently, they have no face value. Their value rests only in the fact that they are collector's items and that there are only fifteen (15) of these commemorative, uncut sheets in existence.

Results of the bidding will be announced at the 1986 Duck Stamp Contest on Wednesday, November 5, 1986, at 1:00 p.m., in the Department of the Interior Auditorium at 18th and C Streets NW., Washington, D.C.

Dated: May 1, 1986.

Ronald E. Lambertson,

Acting Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 86–10403 Filed 5–8–86; 8:45 am]

BILLING CODE 4310–55–M

National Park Service

Fredericksburg and Spotsylvania County; Battlefields Memorial National Military Park

AGENCY: National Park Service; Fredericksburg and Spotsylvania County Battlefields Memorial National Military Park.

ACTION: Notice of 45 day general public comment period and public meetings on draft general management plan and land protection plan.

SUMMARY: The National Park Service has been developing a General Management Plan and Land Protection Plan which will guide the future of Fredericksburg and Spotsylvania Battlefields. The public is being asked to participate again. The first public involvement occurred during preplanning phase, where the various management, land acquisition, and development issues were identified. To assist in the current phase, the National Park Service has printed a draft general management plan, containing a mail-in public response form, and a draft land protection plan with accompanying maps, both of which will be available to the public in mid-May. In addition, two public meetings have been scheduled to solicit the public's thoughts on the documents.

DATE: June 2, 1986, 7:30 p.m. (Monday).

ADDRESS: City of Fredericksburg, Council Chambers, City Hall, Princess Anne Street, Fredericksburg, VA.

DATE: June 4, 1986, 7:30 p.m. (Wednesday).

ADDRESS: Spotsylvania Senior High School, Route 208, Spotsylvania, VA. Public comment during this phase of the planning process will be accepted until June 27, 1986. Comments should be

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addressed to: Superintendent, Fredericksburg and Spotsylvania National Military Park, P.O. Box 679, Fredericksburg, VA 22404.

Dated: May 2, 1986.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 86-10502 Filed 5-8-86; 8:45 am]

BILLING CODE 4310-70-M

New River Gorge National River; Public Review and Comment Period for Final Park Boundary

AGENCY: National Park Service; New River Gorge National River.

ACTION: Public review and comment period for final park boundary.

SUMMARY: The New River Gorge National River, a unit of the National Park System located in the State of West Virginia, has completed the final park boundary delineation required by section 1109 (4) of Title XI of Pub. L. 95-625, November 20, 1978. A General Management Plan, approved in November 1982, identified potential modifications to the external boundaries of the park. These modifications include both additions and deletions. Together they result in an overall reduction of approximately 5,572 acres from the 62,000 originally included in the National River boundaries. Additions are based primarily on the need to protect scenic resources within the river's visual corridor. Deletions exclude certain incompatible uses, some significant coal reserves, and a number of properties outside the visual corridor (including portions of two communities) that are not important to the purpose of the National River and are suitable for private development, agricultural and timber harvesting activities. Minor boundary adjustments were drawn in most cases, to coincide with individual tract property lines and topographical features. Copies of the proposed final boundary map of the park are available and the public is invited to review them at the times and place listed below.

DATE: The 30 day public comment period will begin on May 1, 1986 and will be completed on May 30, 1986. During this period park staff will respond to any questions or comments individuals wish to make regarding the park boundary.

ADDRESS: The public may present comments in writing or orally to park headquarters. Correspondence should be addressed to Superintendent, New River Gorge National River, Box 1189, 137½ Main Street, Oak Hill, West Virginia 25901. Appointments should be made by telephone to meet with the Superintendent or Assistant Superintendent.

FOR FURTHER INFORMATION CONTACT: Superintendent Jim Carrico or Assistant Superintendent Bob Whitman at the park headquarters address or call (304) 465-0508.

SUPPLEMENTARY INFORMATION: The National Park Service will be available to indicate property line relationship to the proposed boundary. Citizens may call to ascertain whether their property is included or excluded in the final boundary without visiting park headquarters if they so desire. A confirmation letter will be provided if requested. Park headquarters is located at 137½ Main Street, Oak Hill, West Virginia. Office hours are 8:00 a.m. to 4:30 p.m., Monday through Friday.

Dated: April 29, 1986.

James W. Coleman, Jr.,

Regional Director, Mid-Atlantic Region.

[FR Doc. 86-10501 Filed 5-8-86; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION

[I.C.C. Order No. 6]

Rerouting Traffic; Decision

Decided: May 2, 1986.

On April 4, 1986, the Commission issued the above-titled order which authorizes the rerouting of traffic normally routed over the Boston and Maine Corporation (BM) or Maine Central Railroad Company (MEC). The rerouting was occasioned by a work stoppage and embargo on certain BM and MEC lines.

In an effort to assess the continued need for rerouting authority, and in consideration of a petition by Guilford Transportation Industries, Inc. (Guilford) to vacate the Order the Commission requested information and public comment in five specific areas which relates to the Order's continuation and scope.[1] Those areas are:

(a) How the order is presently being used;

(b) The number of shipments rerouted under this authority since its issuance;

(c) Whether the order in its present form should be vacated and why;

(d) Whether the order should be broadened to include DH, and,

(e) Whether the presently permissive order should be made mandatory on all Guilford connections.

Discussion and Conclusions

The comments received from parties of interest reflected a broad range of views on the extent to which further regulatory intervention by the Commission may be warranted. On the one hand, of the nineteen comments received by the Commission, eighteen indicated that the present Order has not been used. On the other hand, a majority of the comments received favored expansion of the Order to include DH, and making the Order mandatory on all Guilford connections. However, ConRail and certain shippers [2] consider such action to be unwarranted.

In addition, we have independently observed Guilford operations, and find yard operation to be improving. There has been a lessening of congestion, and some improved train service to shippers. In fact, two major Guilford shippers, Georgia-Pacific Corporation and International Paper Company, considered service on Guilford to be sufficiently improved to warrant the cancellation of company ordered diversions of traffic.

In light of the foregoing, it is the opinion of the Commission that continuation of the Order, at this time, is unwarranted. However, we are directing the Office of Compliance and Consumer Assistance (OCCA) to continue to monitor the situation. Should there be a material change in the circumstances, Commission will take appropriate action.

It is ordered:

(1) The petition of Guilford to vacate the order is granted.

(2) Requests by the parties to extend and broaden the Order are denied.

(3) This Order shall be effective upon its service.

(4) I.C.C. Order No. 6 shall be vacated at 11:59 p.m., May 2, 1986.

Energy and Environmental Statement:

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre and Lamboley.

James H. Bayne,

Secretary.

[FR Doc. 86-10426 Filed 5-8-86; 8:45 am]

BILLING CODE 7035-01-M

[1] I.C.C. Order No. 6, *Rerouting Traffic*, served April 25, 1986.

[2] Georgia-Pacific Corporation and International Paper.

[Docket No. AB-55 (Sub-175X)]

Seaboard System Railroad, Inc.; Abandonment Exemption; in Richmond, VA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903, et seq., the abandonment by Seaboard System Railroad, Inc. of approximately 2.08 miles of its Old James River Branch between Valuation Station 254+91 at "Meadow" and Valuation Station 365+02, in Richmond, VA.

DATES: This exemption will be effective on June 9, 1986. Petitions to stay must be filed by May 19, 1986, and petitions for reconsideration must be filed by May 29, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB-55 (Sub-No. 175X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's Representative: Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer (202) 275-7245

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: April 28, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,

Secretary.

[FR Doc. 86-10427 Filed 5-8-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Information Collection(s) Under Review

May 6, 1986.

The Office of Management and Budget (OMB) has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) since the last list was published. Entries are grouped into new forms, revisions, or extensions. Each entry contains the following information: the name and telephone number of the Agency Clearance Officer (from whom a copy of the form and supporting documents is available); the office of the agency issuing the form; the title of the form; the agency form number, if applicable; how often the form must be filled out; who will be required or asked to report; an estimate of the number of responses; an estimate of the total number of hours needed to fill out the form; an indication of whether Section 3504(h) of Pub. L. 96-511 applies; and, the name and telephone number of the person or office responsible for the OMB review. Copies of the proposed form(s) and the supporting documentation may be obtained from the Agency Clearance Officer whose name and telephone number appear under the agency name. Comments and questions regarding the item(s) contained in this list should be directed to the reviewer listed at the end of each entry *AND* to the Agency Clearance Officer. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the reviewer and the Agency Clearance Officer of your intent as early as possible.

Department of Justice

Agency Clearance Officer: Larry E. Miesse, 202/633-4312.

Extension of the Expiration Date of a Currently Approved Collection Without any Change in the Substance or in the Method of Collection

(1) Larry E. Miesse, 202/633-4312.
(2) National Institute of Justice, Office of Justice Programs, Department of Justice.
(3) NATIONAL NEEDES ASSESSMENT SURVEY.
(4) NIJ Series 2300.
(5) Biennially.
(6) State or local governments. This survey is the vehicle by which the NIJ meets its Congressional mandate to conduct research on current and future problems encountered by state and local criminal justice agencies.
(7) 2,052 respondents.
(8) 855 burden hours.
(9) Not applicable under 3504(h).
(10) Robert Veeder—395-4814.

(1) Larry E. Miesse, 202/633-4312.
(2) Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Department of Justice.
(3) COMPLIANCE MONITORING REPORT.
(4) None.
(5) Annually.
(6) State or local governments. Section 223(a) of the JJDP Act requires states receiving formula awards to develop systems of monitoring facilities to ensure legislative requirements are met and to report annual monitoring results which are used to determine eligibility for funding.
(7) 52 respondents.
(8) 150 burden hours.
(9) Not applicable under 3504(h).
(10) Robert Veeder—395-4814.

(1) Larry E. Miesse, 202/633-4312.
(2) Immigration and Naturalization Service, Department of Justice.
(3) APPLICATION BY NON-IMMIGRANT ALIEN FOR REPLACEMENT OF ARRIVAL DOCUMENT.
(4) I-102.
(5) On occasion.
(6) Individuals or households. Used by an alien for replacement of nonimmigrant arrival document that has been lost, mutilated or destroyed.
(7) 50,000 respondents.
(8) 12,500 burden hours.
(9) Not applicable under 3504(h).
(10) Robert Veeder—395-4814.

(1) Larry E. Miesse, 202/633-4312.
(2) Immigration and Naturalization Service, Department of Justice.
(3) APPLICATION FOR ISSUANCE OF PERMIT TO REENTER THE UNITED STATES.
(4) I-131.
(5) On occasion.
(6) Individuals or households. Section 223 of the I&N Act provides for issuance of a permit to aliens lawfully admitted, who intend to depart immediately.
(7) 125,000 respondents.
(8) 62,500 burden hours.
(9) Not applicable under 3504(h).
(10) Robert Veeder—395-4814.

(1) Larry E. Miesse, 202/633-4312.
(2) Immigration and Naturalization Service, Department of Justice.
(3) SPECIAL CARE AND ATTENTION FOR ALIEN.
(4) I-287AB.
(5) On occasion.
(6) Individuals or households. Required to ensure that transportation line responsible for expenses of alien's deportation is providing necessary care and reports disposition of alien at final destination, as provided by Section 243, I&N Act.
(7) 100 respondents.
(8) 8 burden hours.
(9) Not applicable under 3504(h).
(10) Robert Veeder—395-4814.

(1) Larry E. Miesse, 202/633-4312.
(2) Immigration and Naturalization Service, Department of Justice.

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(3) APPLICATION BY NONIMMIGRANT STUDENT FOR EXTENSION OF STAY, SCHOOL TRANSFER, AND PERMISSION TO ACCEPT OR CONTINUE EMPLOYMENT OR PRACTICAL TRAINING.
(4) I–538.
(5) On occasion.
(6) Individuals or households. Used to apply for extension of stay, school transfer, etc., by affected nonimmigrant students.
(7) 100,000 respondents.
(8) 33,300 burden hours.
(9) Not applicable under 3504(h).
(10) Robert Veeder—395–4814.

(1) Larry E. Miesse, 202/633–4312.
(2) Immigration and Naturalization Service, Department of Justice.
(3) ALIEN CHANGE OF ADDRESS CARD.
(4) AR–11.
(5) On occasion.
(6) Individuals or households. Section 265 of the I&N Act provides that aliens in the U.S. inform INS of any change of address.
(7) 210,000 respondents.
(8) 21,000 burden hours.
(9) Not applicable under 3504(h).
(10) Robert Veeder—395–4814.

(1) Larry E. Miesse, 202/633–4312.
(2) Immigration and Naturalization Service, Department of Justice.
(3) QUESTIONAIRE SUBMITTED BY PETITIONER AT FINAL NATURALIZATION HEARING.
(4) N–445.
(5) On occasion.
(6) Individuals or households. Required to determine petitioner's eligibility for naturalization in order to make appropriate recommendation by INS to Naturalization Court.
(7) 240,000 respondents.
(8) 20,000 burden hours.
(9) Not applicable under 3504(h).
(10) Robert Veeder—395–4814.

(1) Larry E. Miesse, 202/633–4312.
(2) Immigration and Naturalization Service, Department of Justice.
(3) ALIEN REGISTRATION FINGERPRINT CHART.
(4) AR–4.
(5) On occasion.
(6) Individuals or households. Used to fingerprint aliens seeking admission into the United States, and for fingerprinting aliens who attain the age of 14 within the United States.
(7) 190,000 respondents.
(8) 47,500 burden hours.
(9) Not applicable under 3504(h).
(10) Robert Veeder—395–4814.

(1) Larry E. Miesse, 202/633–4312.
(2) Immigration and Naturalization Service, Department of Justice.
(3) CANADIAN BORDER BOAT LANDING CARD.
(4) I–68.
(5) On occasion.
(6) Individuals or households. Used by certain persons who enter the U.S. from Canada by small craft allowing for just one inspection during the navigational season.
(7) 5,000 respondents.
(8) 630 burden hours.
(9) Not applicable under 3504(h).
(10) Robert Veeder—395–4814.

(1) Larry E. Miesse, 202/633–4312.
(2) Immigration and Naturalization Service, Department of Justice.
(3) ARRIVAL INFORMATION.
(4) N–14A.
(5) On occasion.
(6) Individuals or households. Used to identify arrival records of aliens applying for benefits, primarily to identify arrival information for arrivals prior to 1924.
(7) 1,000 respondents.
(8) 250 burden hours.
(9) Not applicable under 3504(h).
(10) Robert Veeder—395–4814.

(1) Larry E. Miesse, 202/633–4312.
(2) Immigration and Naturalization Service, Department of Justice.
(3) APPLICATION FOR CERTIFICATE OF CITIZENSHIP.
(4) N–600.
(5) On occasion.
(6) Individuals or households. Used to determine eligibility for issuance of a Certificate of Citizenship to person claiming to have dervied citizenship under § 341, I&N Act (8 USC 1452).
(7) 32,000 respondents.
(8) 32,500 burden hours.
(9) Not applicable under 3504(h).
(10) Robert Veeder—395–4814.

(1) Larry E. Miesse, 202/633–4312.
(2) Immigration and Naturalization Service, Department of Justice.
(3) APPLICATION FOR SUSPENSION OF DEPORTATION.
(4) I–256A.
(5) On occasion.
(6) Individuals or households. Used to determine eligibility for suspension of deportation under § 244, I&N Act.
(7) 500 respondents.
(8) 500 burden hours.
(9) Not applicable under 3504(h).
(10) Robert Veeder—395–4814.

Larry E. Miesse,
Agency Clearance Officer, Department of Justice.

[FR Doc. 86–10440 Filed 5–8–86; 8:45 am]
BILLING CODE 4410–10–M

Office of Justice Programs

Presidents Child Safety Partnership; Hearing

AGENCY: Office for Victims of Crime.

ACTION: Notice of Hearings.

SUMMARY: The Office for Victims of Crime announces the third in a series of hearings to be held by the President's Child Safety Partnership.

SUPPLEMENTARY INFORMATION: The President's Child Safety Partnership (hereafter referred to as the Partnership) will hold a series of five public hearings on the issue of child safety. The Partnership, which was announced by the President on April 29, 1985, and which held its initial meeting on January 16, 1986, consists of 26 members from the public, private (both corporate and nonprofit), state and local, and Federal sectors, and includes a wide range of expertise in fields related to child safety. It's first and second public hearings were held on April 15–16, in New York City, and May 1, in Chicago, Illinois, respectively. The Partnership functions solely as an advisory committee in full compliance with the provisions of the Federal Advisory Committee Act.

The Partnership members recognize the magnitude and complexity of the child safety problem, and realize that the only way to effectively address it is through the help and support of a wide group of organizations, agencies, and individuals. Consequently, the Partnership will seek the imput of these groups on a broad range of issues. The imput received through both written and oral testimony will be used by the partnership to make recommendations to the President on ways in which we can both prevent the victimization of our country's children and more fully involve the private sector in responding to the problem.

The scope of the Partnership inquiry and the recommendations the Partnership will make will cover a broad range of offenses against children, specifically: child physical abuse and neglect; child sexual abuse and molestation; theft, assault, robbery, and murder of children; parental and stranger abduction of children; exploitation of children (prostitution, pornography), runaway children (recognizing the extreme vulnerability of runaways to victimization); and drug abuse.

The hearing will seek to examine child safety initiatives involving or supported by the private sector and to identify specific issues of child safety requiring priority attention. The hearing will also examine model program approaches to prevent and respond to child victimization as well as legislative and Federal coordination issues.

Oral and written testimony will be solicited from the public. The testimony will be used as a basis for making recommendations to the President.

Location/Dates

The third public hearing of the Partnership will be held:

Date: Tuesday, May 20, 1986.
Place: Settlement Home, 1600 Peyton Gin Road, Austin, Texas 78758.
Time: 9:00 a.m.—9:00 p.m.
Seats available to the public: 100.
The hearing will be held from 9:00 a.m. to approximately 9:00 p.m.

Additional regional hearings will be held in Denver, Colorado (mid-June), and Seattle, Washington (mid-July). Specific hearing locations and dates for these hearings will be announced in a subsequent **Federal Register** Notice.

Procedure

The Partnership invites all interested parties to submit written testimony or program information regarding any of the aforementioned aspect of child safety. Persons interested in providing written testimony should submmit it to: Lois Haight Herrington, Assistant Attorney General, Office of Justice Programs, 633 Indiana Avenue, N.W., Washington, D.C. 20531. If possible, all written testimony should be typed and submitted in duplicate. All written testimony is due not later than September 30, 1986, but should be submitted as soon as possible for maximum consideration.

Persons interested in providing oral testimony at the hearing in Austin should notify Assistant Attorney General Herrington in writing (same address as above), as soon as possible, and in no event later than May 15, 1986. The Partnership will make the final determinations as to what persons/organizations will be invited to provide oral testimony.

Conduct of Hearings

The hearings, which will be open to the public, will begin at 9:00 a.m. The Chairman of the Partnership, or his designee, will preside at the hearings. Other members of the Partnership will join the Chairman. These will not be judical or evidentiary-type hearings and there will not be any cross-examination. However, clarifying question and discussion by Partnership members may follow each presentation. There will be timeset aside at the conclusion of the hearings for brief comments by members of the public.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding official.

A transcript of the hearings will be made. The entire record of the hearings, including transcript, will be retained by the Partnership, and will be available to the public. Any person may purchase a copy of the transcript from the transcribing organiztion.

For further general information on the Partnership hearings contact: Mr. William Modzeleski, President's Child Safety Partnership, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Phone: (202) 272–6500.

Dated: May 7, 1986.

Lois Haight Herrington,
Assistant Attorney General Office of Justice Programs.

[FR Doc. 86–10643 Filed 5–8–86; 9:25 am]
BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review.

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise numbers of the public of the nature of the particular submission they are interested in. Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.
The title of the recordkeeping/reporting requirement.
The OMB and Agency identification numbers, if applicable
How often the recordkeeping/reporting requirmeent is needed.
Who will be required to or asked to report to keep records.
Whether small businesses or organizations are affected.
An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.
The number of forms in the request for approval, if applicable.
An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtined by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202 523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–1301, Washington, DC 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, Telephone 202 395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, DC 20503.

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Employment and Training Administration
Unemployment Insurance Quality Control Program
ETA Handbook No. 395
Weekly
State or local governments
52 respondents; 75,259 burden hours; no forms

The State Unemployment Insurance Quality Control program audits a sample of individual unemployment insurance claims to assure they were handled properly and to assess operating effectiveness of the State agencies. The Quality Control program will assist State Employment Security Agencies to identify errors, reduce errors, save money and assure benefit payment integrity. As specified in OMB instructions, the justifications contained in the request for OMB review is limited to a presentation of Federal needs for limited QC data from State agencies; however, the primary use of this data and specific State data, will be at the State level where it will be used for analysis and corrective action. State use

BEST COPY AVAILABLE

VOL 51 ISS 90 MY 9 1986 UMI

of QC data is not addressed in the request for review.

Extension

Employment and Training Administration
Unemployment Insurance Quality Appraisal
1205-0161; ETA Handbook 365
Annually
State or local governments
53 respondents; 24,645

SESA's use the UI Quality Appraisal annually to assess the accuracy and timeliness of UI operations. Results are used to determine which areas need to be addressed via correction action plans in the State's annual Program Budget Plan (PBP).

Signed at Washington, DC, this 6th day of May, 1986.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 86-10497 Filed 5-8-86; 8:45 am]

BILLING CODE 4510-30-M

Employment and Training Administration

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance; Anamax Mining Co. et al.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period April 21, 1986–April 25, 1986.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or apropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribution importantly to worker separations at the firm.

TA-W-16,612; Anamax Mining Co., Twin Buttes Mine, Sahuarita, AZ

TA-W-16,487; Classic Trim, Inc., New York, NY

TA-W-16,648; Hyatt Clark Industries, Inc., Clark, NJ

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-16,663; Cooper Tire and Rubber Co., Texarkana, AR

The investigation revealed that criterion (1) has not been met, Employment did not decline during the relevant period as required for certification.

TA-W-16,659; Rotelcom, Inc., Refurbishment Div., Cortland, NY

The workers' firm does not produce an article as required under Section 222 of the Trade Act of 1974.

Affirmative Determinations

TA-W-16,539; Boris Smoler & Sons, Chicago, IL

A certification was issued covering all workers of the firm separated on or after October 9, 1984 and before January 13, 1986.

TA-W-16,539A; Joan Curtis Mfg, Inc., Petersburg, WV

A certification was issued covering all workers of the firm separated on or after October 9, 1984 and before January 13, 1986.

TA-W-16,684; Allegro Shoe Corp., Little Falls, NY

A certification was issued covering all workers of the firm separated on or after November 12, 1984.

TA-W-16,664; Cosmos Footwear Corp., New York, NY

A certification was issued covering all workers of the firm separated on or after November 6, 1984.

TA-W-16,664A; Charter Footwear Corp., New York, NY

A certification was issued covering all workers of the firm separated on or after November 6, 1984.

TA-W-16,523; Gateway Sportswear, Masontown, PA

A certification was issued covering all workers of the firm separated on or after August 9, 1985 and before October 9, 1985.

TA-W-16,660; Trans/Circuits, Inc., Falls Church, VA

A certification was issued covering all workers of the firm separated on or after November 13, 1984 and before August 1, 1986.

TA-W-16,654; Ekco Housewares, Inc., Canton, OH

A certification was issued covering all workers of the firm separated on or after November 15, 1984 and before October October 1, 1986.

TA-W-16,528; Orcomatic, Inc., Stratford, CT

A certification was issued covering all workers of the firm separated on or after January 1, 1985.

TA-W-16,613; Ingersoll Steel Co., Div. of Avesta, Inc., New Castle, IN

A certification was issued covering all workers of the firm separated on or after July 1, 1985.

TA-W-16,541; Eagle Mfg Co., Inc., Hialeah, FL

A certification was issued covering all workers of the firm separated on or after September 20, 1984.

TA-W-16,584; Penick Corp., Lyndhurst, NJ

A certification was issued covering all workers producing acetaminophen or botanicals separated on or after September 1, 1985 and before March 15, 1986.

TA-W-16,636; Industrial Castings Co., Myerstown, PA

A certification was issued covering all workers of the firm separated on or after November 8, 1985.

TA-W-16,636A; York Barbell Co., York, PA

A certification was issued covering all workers of the firm separated on or after November 8, 1985.

I hereby certify that the aforementioned determinations were issued during the period April 21, 1986–April 25, 1986. Copies of these determinations are available for inspection Room 6434, U.S. Department of Labor, 601 D Street, NW. Washington, DC during normal business hours or will be mailed to persons who write to the above address.

Dated: April 29, 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-10496 Filed 5-8-86; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-17,353]

Termination of Investigation; Atlas Chain Co.

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on April 21, 1986 in response to a worker petition which was filed by the United Auto Workers, Local 271, on behalf of workers at Atlas Chain Company, West Pittson, Pennsylvania.

An active certification covering the petitioning group of workers remains in effect until July 23, 1986 (TA-W-15,261). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 25th day of April 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-10495 Filed 5-8-86; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-16,730]

Termination of Investigation; Simpson Timber Co., Shelton, WA

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated in response to a worker petition received on October 30, 1985 which was filed by the International Woodworkers of America on behalf of workers performing boom and rafter operations at the Northwest Operations of Simpson Timber Company, Shelton, Washington.

An active certification covering the petitioning group of workers remains in effect (TA-W-15,606). Consequently, further investigation in this case would serve no purpose; and the investigation has been terminated.

Signed at Washington, DC, this 25th day of April 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-10494 Filed 5-8-86; 8:45 am]

BILLING CODE 4510-30-M

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Carmel Energy, Inc., et al.

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other person showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 19, 1986.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than May 19, 1986.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, DC 20213.

Signed at Washington, DC, this 28th day of April 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers of former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Carmel Energy, Inc. (workers)	Deerfield, MO	4/21/86	4/15/86	TA-W-17,373	Oil drilling.
Carmel Energy, Inc. (workers)	Iola, KS	4/21/86	4/15/86	TA-W-17,374	Oil drilling.
Corning Glass Works (Aluminum Brick & Glass)	Charleroi, PA	4/21/86	4/16/86	TA-W-17,375	Pyrex—cooking and table ware, corning ware covers.
D & R Sportswear Co. (ILGWU)	Rosslo, PA	4/14/86	4/11/86	TA-W-17,376	Ladies' blouses.
M & M Garment (ILGWU)	Martinsburg, WV	4/21/86	4/16/86	TA-W-17,377	Contractor ladies blouses.
Myrna Shoe Company (ACTWU)	Manchester, NH	4/24/86	4/21/86	TA-W-17,378	Women's shoes dress.
National Standard Co. Strandflex Plt (wkrs)	Oriskany, NY	4/24/86	4/17/86	TA-W-17,379	Galvanized and stainless steel strand and cable.
Noranda Aluminum, Inc. (USWA)	New Madrid, MO	4/24/86	4/16/86	TA-W-17,380	Aluminum ingot, billit, sow, pig and stranded conductor.
Preformed Metal Products Co., Inc. (workers)	Shreveport, LA	4/21/86	4/14/86	TA-W-17,381	Aluminum insulation coverings, aluminum coil sheet.
Rose Marie Reid (workers)	North Bergen, NJ	4/16/86	4/14/86	TA-W-17,382	Swimwear samples.
Woodstock Manufacturing (ILGWU)	Woodstock, VA	4/21/86	4/11/86	TA-W-17,383	Contractor of ladies' blouses.
Sendix Safety Restraint Systems Div. (ACTWU)	Knoxville, TN	4/16/86	4/14/86	TA-W-17,384	Seat belts.
Etonic, Inc. (workers)	Richmond, ME	4/21/86	4/16/86	TA-W-17,385	Running shoes.
Hughes Drilling Fluids (workers)	Oklahoma City, OK	4/22/86	4/14/86	TA-W-17,386	Sales engineering, warehouse, distribution.
Hughes Drilling Fluids, Sheldon Plants (workers)	Houston, TX	4/22/86	4/14/86	TA-W-17,387	Headquarters office and grinding, drilling fluids (barite and Bentonite).
Hughes Drilling Fluids (workers)	Candian, TX	4/22/86	4/14/86	TA-W-17,388	Sales, engineering, warehouse distribution.
Midland Ross Nat Unit (workers)	Burington, WI	4/21/86	4/15/86	TA-W-17,389	Clock oscillators, crystals, high and low.
Nicor Drilling, Rig 57 (workers)	Campbell County, WY	4/24/86	4/21/86	TA-W-17,390	Producing and selling crude oil.
Mitchell Energy Corp (workers)	Midland, TX	4/24/86	4/16/86	TA-W-17,391	Producing and selling crude oil.

[FR Doc. 86-10493 Filed 5-8-86; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-16,527]

Nitrochem Energy Corp., Biwabik, Mi; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Nitrochem Energy Corporation, Biwabik, Minnesota. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-16,527; Nitrochem Energy Corporation, Biwabik, Minnesota (April 28, 1986)

Signed at Washington, DC, this 29th day of April 1986.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-10492 Filed 5-8-86; 8:45 am]

BILLING CODE 4510-30-M

VOL 51 ISS 90 MAY 9 1986 UMI

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the Federal Register, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

Correction

In FR Doc. 86-7278 appearing on pages 11656 through 11658 in the issue of Friday April, 4, 1986, make the following corrections:

In the third column (page 11657) in lines nine through eleven the state and decisions should read "Minnesota . . . MN86-5," "Minnesota . . . MN86-7," and "Minnesota . . . MN86-8."

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determination Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the Federal Register are in parentheses following the decisions being modified.

Volume I:

Massachusetts:
MA86-3 (Jan. 3, 1986) ..... p. 375.
Maryland:
MD86-1 (Jan. 3, 1986) ..... pp. 384-386.
MD86-2 (Jan. 3, 1986) ..... p. 390.
MD86-15 (Jan. 3, 1986) ..... p. 420.
New Jersey:
NJ86-3 (Jan. 3, 1986) ..... p. 600.
New York:
NY86-3 (Jan. 3, 1986) ..... pp. 661-662.
NY86-4 (Jan. 3, 1986) ..... p. 670.
NY86-7 (Jan. 3, 1986) ..... p. 695.
NY86-13 (Jan. 3, 1986) ..... p. 756.
NY86-16 (Jan. 3, 1986) ..... p. 784.
Rhode Island:
RI86-1 (Jan. 3, 1986) ..... pp. 965, 967.
Tennessee:
TN86-2 (Jan. 3, 1986) ..... p. 1020.
Virginia:
VA86-14 (Jan. 3, 1986) ..... p. 1066.

Volume II:

Iowa:
IA86-6 (Jan. 3, 1986) ..... p. 60.
Kansas:
KS86-6 (Jan. 3, 1986) ..... pp. 327-328.
KS86-8 (Jan. 3, 1986) ..... p. 335.
KS86-9 (Jan. 3, 1986) ..... p. 342.
Louisiana:
LA86-1 (Jan. 3, 1986) ..... p. 347.
LA86-2 (Jan. 3, 1986) ..... p. 351.
Michigan:
MI86-1 (Jan. 3, 1986) ..... pp. 386-398.
MI86-2 (Jan. 3, 1986) ..... pp. 400-406.
MI86-12 (Jan. 3, 1986) ..... pp. 471-476.
Nebraska
NE86-1 (Jan. 3, 1986) ..... p. 618.
NE86-3 (Jan. 3, 1986) ..... p. 624.
New Mexico:
NM86-1 (Jan. 3, 1986) ..... p. 644.
Ohio:
OH86-1 (Jan. 3, 1986) ..... pp. 665-666 p. 672.
OH86-2 (Jan. 3, 1986) ..... p. 678.
OH86-29 (Jan. 3, 1986) ..... pp. 760, 765 PP. 771, 794.
Texas:
TX86-3 (Jan. 3, 1986) ..... p. 849.
TX86-6 (Jan. 3, 1986) ..... p. 866.
TX86-9 (Jan. 3, 1986) ..... p. 868.
TX86-11 (Jan. 3, 1986) ..... p. 874.
TX86-15 (Jan. 3, 1986) ..... p. 884.
TX86-16 (Jan. 3, 1986) ..... p. 887.
Listing by Location (index) ..... pp. xv-xvi p. xvii.
Listing by Location (index) ..... p. xxii.

Volume III:

Hawaii:
HI86-1 (Jan. 3, 1986) ..... pp. 120-122.
Washington:
WA86-9 (Jan. 3, 1986) ..... p. 365m.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 80 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The subscription cost is $277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC, this 2nd Day of May 1986.

James L. Valin,
Assistant Administrator.

[FR Doc. 86-10176 Filed 5-8-86; 8:45 am]
BILLING CODE 4510-27-M

Occupational Safety and Health Administration

New Mexico State Standard; Approval

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Approval of the New Mexico State Standard, Hearing Conservation Amendment.

SUMMARY: This notice approves New Mexico's adoption of the 1981 version of OSHA's Occupational Noise Exposure; Hearing Conservation Amendment (46 FR 4078) in lieu of OSHA's 1983 revised amendment (48 FR 9738). In response to a Federal program change under 29 CFR 1953.21, the amendment was submitted for OSHA approval on February 2, 1984. The New Mexico amendment is substantially different from the Federal standard found at 29 CFR 1910.95 (amended). Where a State standard adopted pursuant to an OSHA-approved State plan differs significantly from a comparable Federal standard, the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) requires that the State standard must be "at least as effective" in providing safe and healthful employment and places of employment. In addition, if the standard is applicable to a product distributed or used in interstate commerce, it must be required by compelling local conditions and not pose any undue burden on interstate commerce. On November 8, 1985, OSHA sought public comment on the above requirements in the Federal Register (50 FR 46460). No comments were received. Therefore, OSHA has made the decision to approve this amendment.

EFFECTIVE DATE: May 9, 1986.

FOR FURTHER INFORMATION CONTACT: James Foster, Director Office of Information and Consumer Affairs, Occupational Safety and Health Administration, Room N3637, 200 Constitution Avenue, NW. Washington, DC 20210, Telephone (202) 532-8148.

SUPPLEMENTARY INFORMATION:

A. Background

The requirements for adoption and enforcement of safety and health standards by a State with a State plan approved under section 18(b) of the Act are set forth in section 18(c)(2) of the Act and in 29 CFR Part 1902, 29 CFR 1952.7, 1952.8, 1952.9 and 29 CFR 1953.21, 1953.22, 1953.23. OSHA regulations (29 CFR 1953.22(a)(1) and 29 CFR 1953.23(a)) require that States respond to the adoption of new or revised permanent Federal standards by State promulgation of comparable standards within six months of OSHA publication in the Federal Register. A 30-day response time is required for State adoption of a standard comparable to a Federal emergency temporary standard. Newly adopted State standards or revisions to standards must be submitted for OSHA review and approval under procedures set forth in 29 CFR Part 1953, but are enforceable by the State prior to Federal review and approval. Section 18(c)(2) of the Act provides that State standards must be at least as effective as their Federal counterpart, and that if State standards which are not identical to Federal standards are applicable to products which are distributed or used in interstate commerce, such standards must be required by compelling local conditions and must not unduly burden interstate commerce. (This latter requirement is commonly referred to as the "product clause.")

On December 10, 1975, notice was published in the Federal Register (40 FR 57455) of the approval of the New Mexico plan and the adoption of Subpart DD to Part 1952 containing the decision.

The New Mexico plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act after:

1. The technical Advisory Committee's recommendation to the Environmental Improvement Division;

2. The notice of public hearing's published in a newpaper of general circulation in the State at least thirty (30) days prior to the date of such hearing;

3. The public hearing conducted by the Environmental Improvement Board; and

4. The filing of adopted regulations, amendments, or revocations under the State Rules Act.

In January 1981 OSHA promulgated (46 FR 4078) a hearing conservation amendment to its occupational noise exposure standard (29 CFR 1910.95 (a) and (b)). Responding to legal challenges and concerns about the requirements of the January 1981 amendment, on March 8, 1983, OSHA issued a revised amendment (48 FR 9738), which adopted a performance approach toward hearing conservation programs, generally allowing employers to choose their own methods of complying with the obligations of the standard.

The Environmental Improvement Board held a hearing on the proposed amendment (1981 version) on July 29, 1982. There was no opposition or public comment on the proposal and the amendment was adopted and filed on February 8, 1983 and became effective on March 10, 1983. Subsequently, as indicated in the November 8, 1985 Federal Register notice (50 FR 46460), the State submitted a plan change which incorporated the hearing conservation amendment as part of its occupational safety and health plan. (New Mexico has elected not to adopt the 1983 Federal amendment.) The subject standard sets forth more detailed requirements for initial determination of employee exposure and monitoring of exposure than does the Federal 1983 amendment.

B. Public Participation

A Federal Register notice requesting public comment on both the "at least as effective" criterion as well as the product clause test of section 18(c)(2) of the Act was published on November 8, 1985 (50 FR 46460). This notice invited interested persons to submit by December 9, 1985, written comments and views regarding the New Mexico hearing conservation amendment which reflected OSHA's 1981 requirements in lieu of adopting OSHA's 1983 amendment and whether it should be approved by the Assistant Secretary. In addition, comments were specifically sought on whether the standard is applicable to products which are distributed or used in interstate commerce; required by compelling local conditions; and unduly burdens interstate commerce. No comments were received.

C. Decision

Having reviewed the State submission and having not received any objections to the approval of the amendment, OSHA has determined that:

(1) The New Mexico hearing conservation amendment, although

different, is identical to OSHA's 1981 requirements.

(2) The record on this standard amendment includes no evidence, developed by or submitted to OSHA, that the amendment is not in compliance with the product clause test of section 18(c)(2) of the Act. Therefore the standard amendment is presumed to be in compliance with section 18(c)(2) of the Act.

OSHA therefore approves New Mexico's adoption of the 1981 hearing conservation amendment.

D. Location of Supplement for Inspection and Copying

A copy of the standards supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, U.S. Department of Labor (OSHA), Room 602, Griffin and Young Streets, Dallas, Texas 75202; Director, Environmental Improvement Division, 1190 St. Francis Drive, Santa Fe, New Mexico 87503; and, the Office of the Director, Federal-State Operations, Occupational Safety and Health Administration, Room N-3476, 200 Constitution Avenue, NW., Washington, DC 20210.

This decision is effective May 9, 1986.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667) (Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)

Signed this 6th day of May, 1986.

Patrick R. Tyson,

Acting Assistant Secretary.

[FR Doc. 86-10484 Filed 5-8-86; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (86-35)]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Agency Report Forms Under OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's, supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATE: Comments must be received in writing by May 19, 1986. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comment promptly, you should advise the OMB Reviewer and the Agency Clearance Officer of your intent as early as possible.

ADDRESS: Carl Steinmetz, NASA Agency Clearance Officer, Code NIM, NASA Headquarters, Washington, DC 20546; Michael Weinstein, Office of Information and Regulatory Affairs, OMB, Room 3235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Carl Steinmetz, NASA Agency Clearance Officer, (202) 453-1090.

Reports

Title: NASA FAR Supplement, Part 18-12, Contract Delivery or Performance
Type of Request: Extension
Frequency of Report: On Occasion
Type of Respondent: State and local governments, businesses or other for-profit, non-profit institutions, small businesses or organizations
Annual Responses: 66
Annual Burden Hours: 66

Abstract/Need/Uses: The contractor is required to notify the NASA contracting officer if it is unable to complete the contract work at the time specified. Absent the information NASA would be unaware of an unable to accommodate to unforeseen events with potential impact on mission requirements.

Richard L. Daniels,

Acting Director, Logistics Management and Information Programs Division.

May 1, 1986.

[FR Doc. 86-10400 Filed 5-8-86; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Agency Information Collection Activities Under OMB Review

AGENCY: National Endowment for the Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

DATE: Comments on this information collection must be submitted by June 9, 1986.

ADDRESSES: Send comments to Ms. Ingrid Foreman, Management Assistant, National Endowment for the Humanities, Administrative Services Office, Room 202, 1100 Pennsylvania Avenue NW., Washington, DC 20506 (202-786-0233), or Ms. Judy McIntosh, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3208, Washington, DC 20503 (202-395-6880).

FOR FURTHER INFORMATION CONTACT: Ms. Ingrid Foreman, National Endowment for the Humanities, Administrative Sevices Office, Room 202, 1100 Pennsylvania Avenue, NW., Washington, DC, 20506 (202-786-0233), from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entries are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filed out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category: Extention.

Title: Office of Preservation Guidelines and Application Instructions.

Form Number: 3136-0111.

Frequency of Collection: Collections occur twice yearly, according to application deadlines. (Once per application).

Respondents: Humanities institutions and individuals applying for funding for projects involving the preservation of research resources in the humanities.

Use: To describe and to justify the preservation objectives and methodologies used in a project so that competing applications for funding can be evaluated in the peer review process.

Estimated Number of Respondents: 80.

Estimated Hours for Respondents to Provide Information: 40.

Susan Metts,

Director of Administration.

[FR Doc. 86-10436 Filed 5-8-86; 8:45 am]

BILLING CODE 7536-01-M

Museum Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Museum Advisory Panel (Professional Development Section) to the National Council on the Arts will be held on May 28, 1986 from 9:00 a.m. to 5:30 p.m., Room 714 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: May 5, 1986.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 86-10404 Filed 5-8-86; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Challenge/Special Projects Section) to the National Council on the Arts will be held on May 28-29, 1986 from 9:00 a.m. to 6:00 p.m., Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Dated: April 30, 1986.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 86-10405 Filed 5-8-86; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities Under OMB Review

AGENCY: Nuclear Regulatory Commission (NRC).

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information, collection: NRC Form 4, Occupational External Radiation Exposure History.

3. The form number if applicable: NRC Form 4.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: NRC licensees.

6. An estimate of the number of responses: 7,500.

7. An estimate of the total number of hours needed to complete the requirement or request: 7,500.

8. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: NRC Form 4 is used to record to keep records of the occupational exposures of individuals to ensure that the accumulated exposure does not exceed regulatory limits.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer Jefferson H. Hill, (202) 395-7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 8th day of May 1986.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 86-10499 Filed 5-8-86; 8:45 am]

BILLING CODE 7590-01-M

Agency Information Collection Activities Under OMB Review

AGENCY: Nuclear Regulatory Commission (NRC).

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information, collection: NRC Form 5, Current Occupational External Radiation Exposure.

3. The form number if applicable: NRC Form 5.

4. How often the collection is required: Monthly.

5. Who will be required or asked to report: NRC licensees.

6. An estimate of the number of responses: 3,600,000.

7. An estimate of the total number of hours needed to complete the requirement or request: 124,740.

8. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: NRC Form 5 is used to record the current occupational exposure of individuals to ensure that regulatory limits are not exceeded.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 1717 H Street NW., Washington, DC 20555.

Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 395-7340.

The NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 5th day of May 1986.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 86-10500 Filed 5-8-86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Ad Hoc Subcommittee on TVA; Meeting

The ARCS Ad Hoc Subcommittee on TVA will hold a meeting on May 22, 1986, Room 1046, 1717 Street, NW, Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, May 22, 1986—8:30 a.m. until the conclusion of business

The Subcommittee will discuss TVA reorganization and related technical and management issues.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; writtten statements will be accepted and made available to the Committee. Recording will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ARCS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Dr. Richard Savio (telephone 202/634–3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc. which may have occurred.

Dated: May 6, 1986.

Morton W. Libarkin,

Assistant Director for Project Review.

[FR Doc. 86–10507 Filed 5–8–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–280 and 50–281]

Virginia Electric and Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. DPR–32 and DPR–37, issued to Virginia Electric and Power Company (the licensee), for operation of the Surry Power Station, Unit Nos. 1 and 2 located in Surry County, Virginia.

The proposed amendments would permit plant operation with the reactor coolant pump and steam generator supports redesigned in accordance with the recently noticed amendment to General Design Criterion 4 (GDC–4), 10 CFR Part 50, Appendix A (51 FR 12502), which will be effective May 12, 1986.

The proposed amendments would be in response to the licensee's application for amendment dated April 30, 1986, which requested that the previous exemption request dated November 5, 1985, as supplemented by two additional submittals, be considered an amendment request as required by the supplementary information in the notice for the amended GDC–4.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the request for amendments involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The amended GDC–4 states that "the dynamic effects associated with postulated pipe ruptures of primary coolant loop piping in pressurized water reactors may be excluded from the design basis when analyses demonstrate the probability of rupturing such piping is extremely low under design basis conditions." Based on the licensee's submittals and the Commission's review to date of these submittals, the advanced fracture mechanics techniques employed provide assurance that flaws in primary system piping will be detected before they reach a size that could lead to unstable crack growth. Therefore, the probability of large pipe breaks in the primary coolant system is sufficiently low such that dynamic effects associated with postulated pipe breaks need not be a design basis. In addition, based on the review to date, the revised design for the reactor coolant pump and steam generator supports adequately considers all remaining design basis loads. With this modification, the reactor coolant system equipment, piping and supports continue to have acceptable margins of safety under all licensed conditions except for the approved eliminated rector coolant system (RCS) rupture. The accident mitigation features (e.g., emergency core cooling system, containment) of the plant are not affected by the proposed amendments. Therefore, operation of the facility in accordance with the proposed amendments would not involve a significant increase in the probability or consequences of an accident previously evaluated.

Based on the Commission's review to date, the revised design for the reactor coolant pump and steam generator supports adequately considers all remaining design basis loads. The proposed change introduces no new mode of plant operation. Therefore, operation of the facility in accordance with the proposed amendments would not create the possibility of a new or different kind of accident from any accident previously evaluated.

Based on the Commission's review to date of the licensee's submittals, Code design criteria for the reactor coolant piping will not be exceeded. The revised design of the reactor coolant pump and steam generator supports will continue to have acceptable margins of safety under all licensed conditions except for the approved eliminated reactor coolant system rupture. The modification may result in net benefit due to increased access to other components for inspection and maintenance purposes and reduction in radiological exposure due to avoidance of further work on snubbers. Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

Therefore, based on these considerations and the three criteria given above, the Commission has made a proposed determination that the request for amendments involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Rules and Records Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

By June 9, 1986, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the request for amendments involves no significant hazards consideration, the Commission may issue the amendments and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If a final determination is that the amendments involve a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendments until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Lester S. Rubenstein: (petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael W. Mauphin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendments dated April 30, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Dated at Bethesda, Maryland, this 6th day of May, 1986.

For the Nuclear Regulatory Commission.

Daniel G. McDonald,

Acting Director, PWR Project Directorate No. 2, Division of PWR Licensing-A.

[FR Doc. 86–10498 Filed 5–8–86; 8:45 am]

BILLING CODE 7590–01–M

VOL 51 ISS 90 MY 9 1986 UMI

SECURITIES AND EXCHANGE COMMISSION

[File No. 22-15112]

Application and Opportunity for Hearing; Storage Equities, Inc.

Notice is hereby given that Storage Equities, Inc., a California corporation ("Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding that the trusteeship of Trust Services of America, Inc., a California corporation ("TSA") (as successor trustee to First Interstate Bank of California, a California banking corporation), under a thirteenth and fourteenth supplement of an existing indenture qualified under the Act is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify TSA from acting as trustee under such thirteenth and fourteenth supplement.

Section 310(b) of the Act provides in part that, if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall within ninety (90) days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issue are outstanding.

However, under clause (ii) of subsection (1), there may be excluded from the operation this provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

1. TSA, as successor trustee, currently is acting as trustee under an indenture (the "Indenture") and several prior supplements thereto under which the Applicant is an obligor. The Indenture, dated as of August 9, 1983, is between Applicant and TSA and provides for the periodic issuance of secured notes in partial consideration for the purchase of property by Applicant. This indenture was filed as Exhibit 4.3 to Applicant's registration statement no. 2-80850 filed under the Securities Act of 1933, and has been qualified under the Trust Indenture Act in connection with a Form T-1 filing, File No. 22-12633.

Applicant has also entered into, and filed by way of post-effective amendments to the registration statement stated above, prior supplements under which TSA is a trustee. Applicant has issued several series of its secured notes under the prior supplements.

2. Applicant wishes TSA to continue as Trustee under the thirteenth supplemental indenture executed February 28, 1986 and the fourteenth supplemental indenture executed March 12, 1986.

3. The Applicant is not in default in any respect under the Indenture or prior supplements thereto.

4. Each series of secured notes issued under the prior supplements is secured by separate and distinct assets of Applicant so that should TSA have occasion to proceed against the security under any series of notes, such action would not affect the security, or the use of any security, under any other series. Thus, the existence of the other trusteeships should not inhibit or discourage TSA's actions under any one series.

The Applicant has waived notice of hearing, hearing on the issues raised by its Application and all rights to specify procedures under Rule 8(b) of the Rules of Practice of the Securities and Exchange Commission in connection with this matter.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said Application File No. 22-15112, which is a public document on file in the office of the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549.

Notice is further given that any interested person may, not later than May 28, 1986, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said Application which he desires to controvert, or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. At any time after said date, the Commission may issue an order granting the Application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest or for the protection of investors, unless a hearing is ordered by the Commission.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-10460 Filed 5-8-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/868]

Study Group B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group B of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on June 11, 1986 at 10:00 a.m. in Room 850, Federal Communications Commission, 1919 M Street NW., Washington, DC. This Study Group deals with CCITT preparations for the 1988 World Administrative Telegraph and Telephone Conference (PC/WATTC).

The purpose fo the meeting is to prepare for the upcoming preparatory Study Group meeting for PC/WATTC, tentatively scheduled for December 1986, in Geneva.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the co-Chairmen. Admittance of public members will be limited to the seating available.

For further information, please contact Mr. Wendell Harris, Federal Communications Commission; telephone (202) 632-3214 or Mr. Phil Onstad, Control Data Corporation; telephone (202) 789-6784.

Dated: April 28, 1986.

Earl S. Barbely,

Acting Director, Office of Technical Standards and Development.

[FR Doc. 86-10466 Filed 5-8-86; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/867]

Secretary of State's Advisory Committee on Private International Law, Study Group on Negotiable Instruments; Meeting

There will be a meeting of the Study Group on Negotiable Instruments, a study group of the subject Advisory Committee, at 10:00 a.m. on Friday, May 23, 1986, at the United States Mission to the United Nations in New York City. Members of the general public may attend up to the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman.

The primary purpose of the meeting is to review the current draft convention on international bills of exchange and international promissory notes prepared by a specialized working group of the U.N. Commission on International Trade Law (UNCITRAL). The Study Group will particularly focus on the revisions of the draft convention proposed by the UNCITRAL working group at its December, 1985 meeting in relation to the interests of the United States business and banking communities. The draft convention, which would establish the legal regime for a specialized instrument for international payments available to payors on an opt-in basis, is to receive thorough and final substantive review by UNCITRAL during three weeks of its plenary session in June-July, 1986.

The Untied States Mission is located at the corner of 45th Street and First Avenue. Participants in the meeting should use the auditorium entrance on 45th Street. As entry is controlled and will be facilitated by advance arrangements, members of the general public planning to attend are requested no later than close of business May 21, 1986 to notify Mrs. Rochelle Mendoza, Office of the Assistant Legal Adviser for Private International Law, Department of State, Washington, DC (telephone (202) 653-9851), of their name, affiliation, address, and phone number.

Peter H. Pfund,

Assistant Legal Adviser for Private International Law.

[FR Doc. 86-10467 Filed 5-8-86; 8:45 am]

BILLING CODE 4710-08-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 86-5-22; Docket 43709 and 43710]

Application of Skystar International, Inc., for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 86-5-22), Dockets 43709 and 43710.

SUMMARY: The Department is directing all interested persons to show cause why it should not issue an order granting Skystar International, Inc., certificates to engage in scheduled foreign and domestic air transportion of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than May 23, 1986.

ADDRESSES: Responses should be filed in Dockets 43709 and 43710 and addressed to the Documentary Services Division, Department of Transportation, 400 Seventh Street, SW., Room 4107, Washington, DC 20590 and should be served on the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Barbara P. Dunnigan, Special Authorities Division, Office of Aviation Operations, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590 (202) 755-3812.

Dated: May 5, 1986.

Philip W. Haseltine,

Deputy Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-10458 Filed 5-8-86; 8:45 am]

BILLING CODE 4910-62-M

Maritime Administration

[Docket S-788]

United States Lines, Inc.; Application for Waiver Pursuant to Section 804 of the Merchant Marine Act, 1936, as Amended

By order served December 3, 1984 (approved November 30, 1984—Docket S-760), the Maritime Administrator waived the provisions of section 804(a) of the Merchant Marine Act, 1936, as amended (Act), to allow United States Lines, Inc. (USL) to enter into certain foreign-flag vessel charters and space charters. The foreign-flag vessels serve as feeders in support of USL's unsubsidized Jumbo Econoship container vessels which operate in Round-the-World service eastbound. The waiver specified the ports to be served, the number of vessels to be operated in each port range, and the maximum FEU capacity per vessel.

The December 3, 1984 Order allowed USL to, among other things, charter two foreign-flag vessels of up to 225 FEU capacity each to relay cargo at Colombo, Singapore, or a single port in the U.A.E. to and from Masqat and Matrah, Oman, Cochin and Bombay, India, and Karachi, Pakistan.

USL has been operating two vessels in such a feeder service between the U.A.E. port of Khor al Fakkan on the Gulf of Oman and Masqat, Bombay, and Karachi.

USL, by letter of April 15, 1986, requests an amendment to the December 3 Order to permit USL to add the port of Kandla, India to the permitted feeder service described above.

The required addition if granted would result in the waiver of section 804 of the Act for the particular vessel charter arrangement to read, as amended:

Line haul port	Feeder ports	Number of vessels	Maximum FEU capacity per vessel
A single port in the U.A.E., Colombo or Singapore.	Masqat, Matrah (Oman), Cochin, Bombay, Kandla (India), Karachi (Pakistan).	2	225

USL has served the demand for Kandla cargo movements by utilizing overland truck movement through Bombay or a commercial water carrier. USL desires to call its chartered feeder vessels direct at Kandla, thus serving the port more efficiently, as well as saving the expense of transshipment charges. Kandla is between Karachi and Bombay, relatively close to the normal track of the feeder vessels on their transit between those two ports.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such application within the meaning of section 804 of the Act and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh SW., Washington, DC 20590. Comments must be received no later than 5:00 P.M. on May 23, 1986. This notice is published as a matter of discretion. The Maritime Administrator will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies)

By Order of the Maritime Administrator.

Dated: May 5, 1986.

Murray A. Bloom,

Assistant Secretary.

[FR Doc. 86-10425 Filed 5-8-86; 8:45 am]

BILLING CODE 4910-81-M

VETERANS ADMINISTRATION

Scientific Review and Evaluation Board for Rehabilitation Research and Development; Availability of Annual Report

Under section 10(d) of Pub. L. 92-463 (Federal Advisory Committee Act)

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notice is hereby given that the Annual report of the Veterans Administration Scientific Review and Evaluation Board for Rehabilitation Research Development for calendar year 1985 has been issued.

The report summarizes activities of the Board on matters related to the review, discussion and evaluation of individual investigator initiated research projects. It is available for public inspection at two locations:

Library of Congress, Serial and Government Publications Reading Room LM 133, Madison Building, Washington, DC 20540

and

Veterans Administration, Rehabilitation Research and Development Service; Chief, Merit Review Board Staff Division, Room 942, 810 Vermont Avenue, NW., Washington, DC 20420.

Dated: April 22, 1986.

By direction of the Administrator.

Rose Marie Fontenos,

Committee Management Officer.

FR Doc. 86-10474 Filed 5-8-86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 90
Friday, May 9, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL MARITIME COMMISSION

TIME AND DATE: 10:00 a.m., May 14, 1986.

PLACE: Hearing Room One, 1100 L Street, NW., Washington, DC 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Docket No. 86-3: Modifications to the Trans-Pacific Freight Conference of Japan Agreement, the Japan-Atlantic and Gulf Freight Conference Agreement, and the Japan-Puerto Rico and Virgin Islands Freight Conference Agreement.
2. Informal Docket Nos. 1526(I) through 1531(I) — A & E International v. Kawasaki Kisen Kaisha, Ltd.
3. Consideration of Commission Intervention in American Association of Cruise Passengers v. Cunard Line, Ltd., et al., Civil Action No. 86-0571, United States District Court for the District of Columbia.

CONTACT PERSON FOR MORE INFORMATION: John Robert Ewers (202) 523-5725.

John Robert Ewers,

Secretary.

[FR Doc. 86-10586 Filed 5-7-86; 2:58 pm]

BILLING CODE 6730-01-M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 6, 1986.

TIME AND DATE: 10:00 a.m., Thursday, May 22, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Closed (Pursuant to 5 USC § 552b(c) (10)). This was originally scheduled as open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Consolidation Coal Co., Docket No. WEVA 82-209-R. (Issues including whether the administrative law judge properly concluded that a violation of 30 CFR § 70.100(a), a mandatory health standard dealing with the control of respirable dust in underground coal mines, was "significant & substantial".)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653-5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86-10593 Filed 5-7-86; 2:52 pm]

BILLING CODE 6735-01-M

3

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Previously Held Emergency Meeting

TIME AND DATE: 10:30 a.m., Wednesday, May 7, 1986.

PLACE: 1776 G Street, NW., Washington, DC., 6th Floor.

STATUS: Closed

MATTER CONSIDERED:

1. Conservatorship.

The Board unanimously voted that the Agency business required that a meeting be held with less than the usual seven days advance notice.

The Board unanimously voted to close the meeting under exemptions (8) and (9)(A)(ii). The General Counsel certified that the meeting could be closed under those exemptions.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, Telephone (202) 357-1100.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 86-10606 Filed 5-7-86; 3:48 pm]

BILLING CODE 7535-01-M

4

NATIONAL TRANSPORTATION SAFETY BOARD

Revised Agenda

TIME AND DATE: 9:00 a.m., Tuesday, May 13, 1986.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Avenue, SW., Washington, DC 20594.

STATUS: The first three items will be open to the public; the last item will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Special Investigation:* Failure of Cargo Tank Transporting Hazardous Waste on the Washington, DC Beltway, I-95, in Fairfax, Virginia, August 12, 1985.
2. *Railroad Accident Report:* Head-On Collision of Two Burlington Northern Railroad Company Trains Extra 6311 West and Extra 6575 East near Westminster, Colorado, August 2, 1985.
3. *Recommendations* to FAA Concerning Development and Use of Calibrated Fuel Quantity Measuring Devices for Part 135 Operations.
4. *Opinion and Order:* Administrator v. Vance, Docket SE-6548; disposition of respondent's appeal.

FOR MORE INFORMATION CONTACT: Catherine T. Kaputa, (202) 382-6525.

Catherine T. Kaputa,

Federal Register Liaison Officer.

May 6, 1986.

[FR Doc. 86-10509 Filed 5-7-86; 9:41 pm]

BILLING CODE 7533-01-M

5

TENNESSEE VALLEY AUTHORITY

"FEDERAL REGISTER" DATE OF PREVIOUS ANNOUNCEMENT: (May 8, 1986.)

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m. (CDT), Wednesday, May 7, 1986.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: Hopkinsville Community College Auditorium, Academic Building, North Drive, Hopkinsville, Kentucky.

STATUS: Open.

ADDITIONAL MATTERS: the following item is added to the previously announced agenda:

D. Personnel Items

5. Personal Services Contract with BCP Technical Services, Incorporated.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-245-0101.

SUPPLEMENTARY INFORMATION:

TVA BOARD ACTION

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting be changed to include the additional item shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below:

Dated: May 6, 1986.

Approved.

C.H. Dean, Jr.

Director and Chairman.

John B. Waters,

Director.

[FR Doc. 86-10529 Filed 5-7-86; 9:40 pm]

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federal register

Friday,
May 9, 1986

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Parts 121, 125, 127, 129, and 135
Special Federal Aviation Regulation No. 38; Certification and Operating Requirements; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121, 125, 127, 129, and 135

[Docket No. 18510; SFAR No. 38-3]

Special Federal Aviation Regulation No. 38; Certification and Operating Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment extends the effectiveness of Special Federal Aviation Regulation (SFAR) No. 38–2 (50 FR 23941; June 7, 1985). SFAR 38–2 revised SFAR 38 primarily by specifying and clarifying FAA requirements for operating certificates and operations specifications for persons who operate under Federal Aviation Regulations (FAR) Parts 121 and 135. The amendment brought SFAR 38 up to date in view of changes in the regulations and the aviation industry that had occurred since it was issued in 1978 and also as part of the FAA's response to the sunset of the Civil Aeronautics Board (CAB). Having generally reviewed the FAA regulations to determine the most appropriate response to the Airline Deregulation Act of 1978 (ADA) and the termination of CAB functions attendant on the CAB sunset, the FAA now concludes that it is necessary to extend the termination date of SFAR 38–2 to allow time for the FAA, in a separate rulemaking action, to propose and receive comments on the incorporation of SFAR 38–2 into the FAR. The termination date for SFAR 38–2 is extended to June 1, 1987. The FAA intends to publish a notice rescinding SFAR 38–2 and a final rule incorporating SFAR 38–2 into the FAR concurrently in the Federal Register.

DATES: Effective date May 6, 1986. Comments must be received on or before June 9, 1986.

ADDRESSES: Send comments on the rule in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–204), Docket No. 18518, 800 Independence Avenue, SW., Washington, DC 20591, or deliver comments in duplicate to: Federal Aviation Administration, Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, DC Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Coffey, Project Development Branch, AFS–240, Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 426–8090.

SUPPLEMENTARY INFORMATION:

Background

On December 12, 1978, the FAA promulgated SFAR 38 in consequence of the ADA (Pub. L. 95–504, 92 Stat. 1705). That Act embodies the Congressional intent that the Federal Government diminish its involvement in regulating the economic aspects of the airline industry. To accomplish this, Congress directed that the CAB be abolished on December 31, 1984. Anticipating its sunset, the CAB curtailed or suspended much of its regulatory activity during the period 1979–1984. On October 4, 1984, additional legislation was enacted further defining the process of CAB sunset. On January 1, 1985, those remaining CAB functions were transferred to the Department of Transportation (DOT).

Because some aspects of FAA safety regulation relied upon CAB definitions and authority, the FAA found it necessary in 1978 to adopt an interim measure to provide for an orderly transition from CAB and FAA interlocking authority to a regulatory regime with no CAB in existence. This action was consistent with the Congressional directive contained in Section 107(a) of the Act that the deregulation of airline economics result in no diminution of the high standard of safety in air transportation which existed when the ADA was enacted. SFAR 38 set forth FAA certification and operating requirements applicable to all "air commerce" and "air transportation" operations for "compensation or hire" (SFAR 38 did not address Part 133 External Load Operations, Part 137 Agriculture Aircraft Operations, or Part 91 training and other special purpose operations.)

On December 27, 1984, the FAA adopted SFAR 38–1 which merely extended the termination date of the regulation, and allowed the FAA time to propose and receive comments on revising SFAR 38.

On May 28, 1985, the FAA adopted SFAR 38–2, which updated SFAR 38 in light of changes since 1978 and clarified provisions that state which FAA regulations apply to each air carrier and each type of operation. This action was necessary because of the changes in the air transportation industry brought about by economic deregulation. Before deregulation, economic certificates were fairly rigidly compartmentalized and each air carrier typically was authorized to conduct only one type of operation (domestic, flag, or charter (supplemental)). The safety certificate issued to the air carrier by the FAA paralleled the authorization granted in the air carrier's economic certificate. Economic deregulation broke down the barriers between the various types of operations. The economic authority granted an air carrier by the DOT is no longer indicative of the safety regulations applicable to the type of operation authorized by the FAA. Thus, it was necessary for the FAA to establish guidelines to determine what safety standards were applicable to an air carrier's particular operation.

Good Cause Justification for Immediate Adoption

The termination date for SFAR 38–2 and the operating certificates issued under SFAR 38, as amended, is May 1, 1986. The reasons which justified the adoption, and the subsequent revision, of SFAR 38 still exist. The FAA is currently preparing a Notice of Proposed Rulemaking (NPRM) which will consolidate the certification rules now in Parts 121 and 135 into a new Part of the FAR. This NPRM will also propose incorporating the necessary portions of SFAR 38–2 into the FAR. Therefore, it is in the public interest to extend the termination date of SFAR 38–2 from May 1, 1986 to June 1, 1987, although the FAA anticipates that a final rule incorporating SFAR 38–2 in the FAR will be published before then. If it is, a notice rescinding SFAR 38–2 will be published concurrently. This action is necessary to permit continued operations under operating certificates issued under SFAR 38, as amended, and to avoid confusion in the administration of FAA regulations regarding operating certificates and operating requirements.

In addition, since this amendment continues in effect the provisions of a currently effective SFAR and imposes no additional burden on any person, I find that notice and public procedures are unnecessary, impracticable, and contrary to the public interest, and that the amendment should be made effective in less than 30 days after publication. However, interested persons are invited to submit such comments as they may desire regarding this amendment. Communications should identify the docket number and be submitted in duplicate to the address above. All communications received on or before the close of the comment period will be considered by the Administrator, and this amendment may be changed in light of the comments received. All comments will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested parties.

Trade Impact Statement

The FAA finds that this amendment will have no impact on international trade.

Conclusion

The FAA has determined that this document involves a rule change which imposes no additional burden on any person. Accordingly, it has been determined that: The rule change does not involve a major rule under Executive Order 12291; it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and its anticipated impact is so minimal that a full regulatory evaluation is not required.

List of Subjects

14 CFR Part 121

Aviation safety, Safety, Air carrier, Air transportation, Aircraft, Airmen.

14 CFR Part 125

Aircraft, Airports, Air traffic control, Flammable materials, Airmen, Drugs, Smoking, Air transportation, Airspace, Hazardous materials, Handicapped, Chemicals, Infants and children.

14 CFR Part 127

Aircraft, Air carriers, Airworthiness, Airmen.

14 CFR Part 129

Air carriers, Air transportation, Aircraft, Aviation safety, Safety.

14 CFR Part 135

Air carriers, Aviation safety, Safety, Air transportation, Air taxis, Airworthiness, Airmen, Aircraft.

Adoption of the Amendment

In consideration of the foregoing, SFAR 38–2 (14 CFR Parts 121, 125, 127, 129, and 135) of the Federal Aviation Regulations is revised as follows:

1. The authority citation for SFAR 38–2 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, 1423, 1424, and 1502; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983).

2. In Special Federal Aviation Regulation No. 38–2 in 14 CFR Parts 121, 125, 127, 129, and 135, the last paragraph is amended by removing the words "May 1, 1986, unless sooner superseded of revoked", and adding in place thereof the words, "June 1, 1987, or the effective date of the codification of SFAR 38–2 into the Federal Aviation Regulations, whichever occurs first."

Issued in Washington, D.C., on April 30, 1986.

Donald D. Engen,

Administrator.

[FR Doc. 86–10399 Filed 5–86; 11:40 am]

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Friday
May 9, 1986

Part III

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 70

Voluntary Standards and Grades for Poultry; Final Rule

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 70

Voluntary Standards and Grades for Poultry

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This revises the regulations for the voluntary grading of poultry products and rabbit products and the voluntary U.S. standards and grades for poultry products. In conformity with requirements for periodic review of regulations, a review of 7 CFR Part 70 was made. As a result of this and the analysis of comments received, it has been determined that the following changes will make the regulations more useful and effective. The major revisions will:

1. Clarify the tolerances for exposed flesh and discoloration in the standards for ready-to-cook poultry carcasses and parts (§§ 70.220 and 70.221), and increase the "1 lb. 8 oz." lower end of the weight range for carcasses to "2 lb." to more accurately reflect the ready-to-cook weight range for Rock Cornish game hens and Cornish game hens.

2. Eliminate the requirements that boneless poultry breasts and thighs (§ 70.231) be examined before and after deboning. Instead, require that they be graded only in the deboned state.

3. Remove the U.S. Grade A—For Further Processing for ready to-cook turkey carcasses (§ 70.260) because this grade is no longer used.

4. Make editorial changes for consistency within the standards for poultry products and with applicable definitions in the Poultry Products Inspection Regulations (9 CFR Part 381).

5. Provide an additional option for printing the USDA grademark for poultry and rabbit products (§ 70.51). This option permits flexibility in displaying the grademark on packaging materials of various colors as long as the grademark is visible and compatible with the colors used.

6. Eliminate the requirement that poultry meat used in the preparation of poultry roasts (§ 70.230) be examined twice. The meat will only be examined after deboning.

7. Make various miscellaneous editorial changes to clarify and update the regulations.

This rule will simplify the interpretation of the poultry grade standards, improve the uniformity of their application, and strengthen their effectiveness.

Two proposals published in the Federal Register of October 24, 1985 (50 FR 43204), will not be adopted. They are: (1) The revised standard for Boneless Poultry—A Quality and (2) a new standard for Boneless-Skinless Poultry Products—A Quality. From the comments received on the proposed rule, it appears that specifications between buyers and sellers are working well in the marketplace. Since private standards are presently adequate, the Agency finds that the revised standard for boneless poultry and the new standard for boneless-skinless poultry products are not needed.

EFFECTIVE DATE: June 9, 1986.

FOR FURTHER INFORMATION CONTACT: Merlin L. Nichols, Jr., Assistant Chief, Standardization Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-3507.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

The Agency has determined that this final rule is not a major rule under Executive Order 12291. It will not result in an annual effect on the economy of $100 million or more; result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Also, pursuant to this Executive Order, it has been determined there will be no effect on trade sensitive activities.

This final rule has been reviewed for cost effectiveness under USDA Secretary's Memorandum 1512-1 implementing Executive Order 12291. It will simplify the interpretation of the poultry grade standards, improve their uniformity of application, strengthen their effectiveness, and provide revised grade standards which reflect current poultry production and marketing practices. As such, it is anticipated that the revisions would result in no monetary costs or other impacts offsetting the expected benefits. Alternatively, the Agency could retain the existing grade standards, but adherence to these standards would result in no offsetting benefits such as simplification of their interpretation and improving their effectiveness.

Effect on Small Entities

The Administrator of the Agricultural Marketing Service (AMS) has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), because the revisions would reflect current production and marketing practices, and the use of the grading service is voluntary.

Paperwork Reduction Act

This final rule does not change or require any additional collection of information from the public under the Paperwork Reduction Act of 1980, 44 U.S.C. Chapter 35. Existing information collection requirements in 7 CFR Part 70 have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and assigned OMB control number 0581-0127.

Background

The grading of poultry and rabbits by the AMS is a voluntary program, provided under the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*), and is offered on a fee-for-service basis. The grading program is designed to assist orderly marketing of poultry products and rabbit products. In order to continue equity among all persons affected by grade standards, from the producer to the consumer, the standards must keep abreast of changes in industry production and marketing practices. In 1985, the standards for poultry carcasses were revised and a standard for raw poultry roast established. Standards were established for poultry parts and boneless breasts and thighs in 1969, so they could be graded on an individual basis after being separated from the carcass. Since then, constant innovations and accomplishments have occurred within the poultry industry: (1) Improved quality and uniformity (conformation and fleshing through technological advances and efficient production practices); (2) new processing techniques; (3) effective automation; (4) new products; and (5) new marketing trends.

Periodically, AMS reviews its regulations to determine their adequacy, clarity, and currentness. In conjunction with this, a review of 7 CFR Part 70 was conducted in accordance with requirements of Executive Order 12291 to determine their need, ways to maximize benefits, and to assure benefits outweigh costs.

As a result of the foregoing and in order for grading to be conducted as accurately and uniformly as possible and to be more useful to both industry and consumers, the Agency proposed revisions to keep pace with advancements and trends and to maximize the cost effectiveness of the poultry grade standards and the regulations.

Proposal

Proposed revisions were published in the Federal Register (50 FR 43204) on October 24, 1985. The major revisions proposed for 7 CFR Part 70 are summarized below:

For the poultry and rabbit regulations in 7 CFR Part 70, they were: (a) Provide an additional option for printing the grademark (§ 70.51) to permit flexibility in displaying it on packaging materials of various colors so the grademark will be visible and compatible with the colors used, (b) remove obsolete material, (c) correct erroneous wording, and (d) update and simplify provisions.

For the U.S. standards and grades applicable to poultry products, they were: (a) Establish a new standard for boneless-skinless poultry products (poultry meat), (b) revise the existing standard for boneless poultry breasts and thighs to permit the grading of other boneless poultry, (c) clarify the tolerances for exposed flesh and discoloration in the standards for ready-to-cook carcasses and parts (§§ 70.220 and 70.221), and increase the "1 lb. 8 oz." lower end of the weight range for carcasses to "2 lb." to more accurately reflect the ready-to-cook weight range for Rock Cornish game hens and Cornish game hens, (d) require that poultry meat used in poultry roasts (§ 70.230) be examined only after the meat has been deboned rather than examined on the carcasses or parts before deboning and examined again after deboning, (e) make editorial changes for consistency within the standards and with applicable definitions in the Poultry Products Inspection Regulations (9 CFR Part 381), and (f) remove the U.S. Grade A—For Further Processing for ready-to-cook turkey carcasses (§ 70.260) because this grade is no longer used.

Discussion of Comments

A notice of proposed rulemaking was published in the Federal Register (50 FR 43204) on October 24, 1985. The proposed rule comment period was to close on December 23, 1985, but was extended to February 28, 1986. The extension notice published in the Federal Register (50 FR 50310) on December 10, 1985, was based on a request by two industry organizations for additional time to evaluate the proposed rule. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the AMS.

AMS received eight comments on the proposal within the allotted time period. Two of these were sets of comments from or on behalf of two firms. The following is a discussion of the substantive issues raised by those commenters and the Agency's response to each:

Comment: The revised standard for boneless poultry and the new standard for boneless-skinless poultry products should be adopted, because they will be meaningful and will help promote higher quality and better acceptance by customers.

Response: Traditionally, grade standards are developed to facilitate marketing and to provide customers with a uniform quality product. The Agency proposed the revised and new standards to determine their usefulness in accomplishing those objectives. Several letters were received which share the view stated in the comment.

Comment: The revised standard of quality for boneless poultry and the new standard for boneless-skinless poultry products are objectionable because they constrain innovation and development of new products.

Response: The Agency does not agree with the comment that the proposed standards constrain innovation and development of new products, because the use of the Grading Service is voluntary. Additionally, the standards were developed to permit the grading of products which were not permitted under the current voluntary program. Moreover, the proposed standards were designed to permit maximum flexibility for the grading of a wide range of products including products not yet developed or introduced into the marketplace.

Comment: Certain cities and States require that all product sold be Grade "A." In such instances, the proposed voluntary standards would, in effect, be mandatory.

Response: It is unclear whether the commenter is referring to Grade "A" or U.S. Grade A or both. The Agency is unaware of any State that requires all product sold to be U.S. Grade A. However, the Agency cannot control requirements imposed by State and local authorities.

Comment: The revised standard of quality for boneless poultry and the new standard for boneless-skinless poultry products are not needed because existing specifications between buyers and sellers are working well in the marketplace today, and Government intervention is costly and does not provide an additional benefit.

Response: The Agency agrees that it should not adopt, even voluntary, product standards whenever private, informal standards provide products meeting buyers' expectations. The majority of commenters stated that private informal standards are presently adequate. For this reason, the Agency finds that the proposed revised and new standards are not needed at this time. Therefore, the Agency is withdrawing the revised standard for boneless poultry and the new standard for boneless-skinless poultry products.

However, the Agency will continue to keep abreast of the possible need for product standards in this area. Of particular concern is whether private incentives for adopting these informal standards remain strong and whether inferior product damage the demand for such products in the marketplace.

Comment: The proposed weight range changes for large Cornish hens in the 25- to 32-ounce range do not allow for exposed flesh and discolorations proportionate to the weight ranges currently in the regulations.

Response: The Agency has proposed to increase the maximum carcass weight for the upper end of the lowest weight range from "1 lb. 8 oz." to "2 lb." This change was proposed to more accurately reflect the present ready-to-cook weight range for Cornish game hens and Rock Cornish game hens. The comment addresses the fact that the tolerances for exposed flesh and discolorations of the skin and flesh were not increased to reflect the "½ lb." carcass weight increase of the proposed weight range. The Agency agrees with this comment and did not intend to make the tolerances more restrictive. From field experience, the Agency finds that applicable tolerances in the lowest weight range should be increased by "¼ in." in area. Therefore, the final rule provides A Quality tolerances, for the lowest weight range of "1 in." exposed flesh on the carcass except for the breast and legs, and "¾ in." discolorations of the skin and flesh on the breast and legs, and "1 ¼ in." elsewhere on the carcass. Also B Quality tolerances, for the lowest weight range, of "1¼ in." discolorations of the skin and flesh on the breast and legs, and "2¼ in." elsewhere on the carcass are provided.

Comment: Regarding the existing A Quality standard for boneless poultry breast and thigh (§ 70.231), the

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duplicative practice requiring examination of breast and thighs prior to deboning and again after deboning should be eliminated. Examination after deboning using defect criteria similar to those in sections 70.230(b) and 70.231(c) of the existing regulations would prove expeditious to both the Department and the industry.

Response: The Agency agrees with this comment and will eliminate the duplicative requirement in the existing standard, since it merely eliminates an unnecessary practice.

Comment: The standards for A Quality whole turkeys should not be changed to allow additional cuts or tears that do no expand or significantly expose flesh, because this lowers quality and is reflective of a defect in processing or product.

Response: The proposed tolerances for cuts and tears that do not expand are based on the location, size of the defect, and weight of the carcass. The proposed standard for A Quality does not permit any types of cuts or tears on the breast or legs. The existing and proposed standards provide for exposed flesh tolerances, according to the weight of the carcass, elsewhere on the bird. Except for the breast or legs, the proposed standard would additionally permit cuts or tears that do not expand or significantly expose flesh elsewhere on the carcass (e.g., the back and wings). These cuts or tears would only be permitted within certain aggregate length tolerances. For example, in the "6 lb." to "16 lb." weight range, the proposed tolerance would permit such cuts up to an aggregate length of "2 in." Within the tolerances proposed, the Agency does not agree that such cuts or tears are objectionable, because they do note expand or expose flesh and are located elsewhere on the carcass other than on the breast and legs. While these types of nonexpanding cuts and tears are occasionally due to processing or product problems, they are more often reflective of what is possible under normal processing and manufacturing practices. Therefore, this provision will be retained in the final rule.

Comment: The proposed miscellaneous changes are supported because they: (1) Provide helpful clarifications which will promote better interpretation and uniformity of application, (2) make the regulations more effective without increasing the cost of compliance, and (3) provide editorial changes which improve consistency within the standards.

Response: The Agency agrees with this comment. Aside from the deletions or changes adopted because of comments received, the miscellaneous changes are contained in the final rule. In addition, minor editorial changes are made in §§ 70.15(c) and 70.230(e) to improve clarity.

List of Subjects in 7 CFR Part 70

Poultry, Poultry products, Rabbit products, Voluntary grading service.

PART 70—VOLUNTARY GRADING OF POULTRY PRODUCTS AND RABBIT PRODUCTS AND U.S. CLASSES, STANDARDS, AND GRADES

For reasons explained in the preamble, Part 70 of Title 7 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Part 70 continues to read as follows:

Authority: Secs. 202–208 of the Agricultural Marketing Act of 1946, as amended. (60 Stat. 1087–1091; 7 U.S.C. 1621–1627).

2. In § 70.1, the definition for "Ready-to-Cook Poultry" is revised to read as follows:

§ 70.1 Definitions.

* * * * *

"Ready-to-Cook Poultry" means any slaughtered poultry free from protruding pinfeathers, vestigial feathers (hair or down as the case may be) and from which the head, feet, crop, oil gland, trachea, esophagus, entrails, mature reproductive organs, and lungs have been removed, and the kidneys have been removed from certain mature poultry as defined in 9 CFR Part 381, and with or without the giblets, and which is suitable for cooking without need of further processing. Ready-to-cook poultry also means any cut-up or disjointed portion of poultry or other parts of poultry as defined in 9 CFR Part 381 that are suitable for cooking without need of further processing.

* * * * *

3. Section 70.15 is amended by revising paragraphs (c) and (d) to read as follows:

§ 70.15 Equipment and facilities to be furnished for use of graders in performing services on a resident basis.

* * * * *

(c) Scales graduated in ounces, tenths of a pound, or less for weighing individual birds and in one-quarter pound or less for containers of product up to 100 pounds and test weights for such scales.

(d) Scales graduated in one-pound graduation or less for weighing bulk containers of poultry and test weights for such scales.

* * * * *

4. Section 70.51 is amended by revising paragraph (a) and Figure 3 and by removing paragraph (d) and Figure 4 as follows:

§ 70.51 Marking graded products.

(a) *Information required on grademark.* Except as otherwise authorized by the Administrator, each grademark, which is to be used, shall include the letters "USDA" and the U.S. Grade of the product it identifies, such as "U.S. A Grade," and such information shall be printed with the shield in a dark color and the wording within the shield in a light color or the shield in a light color and the wording within the shield in a dark color, provided that such design is legible and conspicuous on the material upon which it is printed. In addition, a term, such as "Federal-State Graded," or "Government Graded," may be used adjacent to but not within the grademark.

* * * * *



Figure 3

* * * * *

5. Section 70.80 is amended by revising the text, leaving the table unchanged, and removing the footnote, as follows:

§ 70.80 General.

Whenever grading service is provided for examination of quality, condition, or for test weighing on a representative sample basis, such sample shall be drawn and consist of not less than the minimum number of containers indicated in the following table. The number of representative samples for large bulk containers (combo bins, tanks, etc.) may be reduced by one-half. For quality or condition, all of the poultry and rabbits in each representative sample shall be examined except for individual ready-to-cook carcasses weighing under 6 pounds in large bulk containers. For individual carcasses weighing under 6 pounds in large bulk containers, 100 carcasses shall be examined for quality or condition. Procedures for test

weighing shall be in accordance with those prescribed by the Administrator.

* * * * *

6. Section 70.81 is amended by revising paragraph (b) to read as follows:

§ 70.81 Ready-to-cook poultry and rabbits and specified poultry food products.

* * * * *

(b) Only when ready-to-cook poultry carcasses, parts, poultry food products, including those used in preparing raw poultry food products, have been graded on an individual basis by a grader or by an authorized person pursuant to § 70.20(c) and thereafter checkgraded by a grader, and when poultry food products have been prepared under the supervision of a grader, may the individual container, carcass, part, or poultry food product be identified with the appropriate official letter grademark. Checkgrading will be accomplished in accordance with a statistical sampling plan prescribed by the Administrator. Grading with respect to quality factors for freezing defects and appearance of the finished products may be done on a sample basis in accordance with a plan prescribed by the Administrator.

* * * * *

7. Section 70.91 is amended by revising paragraph (b) to read as follows:

§ 70.91 Issuance and disposition.

* * * * *

(b) *Other than resident grading.* Each grader shall, in person or by his authorized agent, issue a grading certificate covering each product graded by him. A grader's name may be signed on a grading certificate by a person other than the grader if such person has been designated as the authorized agent of such grader by the national supervisor: *Provided,* That the certificate is prepared from an official memorandum of grading signed by the grader.

* * * * *

8. Section 70.110 is amended by revising the section heading and paragraph (a) to read as follows:

§ 70.110 Requirements for sanitation, facilities, and operating procedures in official plants.

(a) The requirements for sanitation, facilities, and operating procedures in official plants shall be the applicable provisions stated in 9 CFR Part 381 for poultry, and for rabbits the requirements shall be the applicable provisions stated in 9 CFR Part 354.

* * * * *

9. Section 70.210 is amended by revising paragraph (e)(2) to read as follows:

§ 70.210 General.

* * * * *

(e) * * *

(2) "Breasts with ribs" shall be separated from the back at the junction of the vertebral ribs and back. Breasts with ribs may be cut along the breastbone to make two approximately equal halves; or the wishbone portion, as described in paragraph (e)(3) of this section, may be removed before cutting the remainder along the breastbone to make three parts. Pieces cut in this manner may be substituted for lighter or heavier pieces for exact weightmaking purposes, and the package may contain two or more of such parts without affecting the appropriateness of the labeling as "breast with ribs." Neck skin shall not be included, except that "turkey breasts with ribs" may include neck skin up to the whisker.

* * * * *

10. Section 70.220 is amended by revising paragraphs (e) and (g) to read as follows:

§ 70.220 A Quality.

* * * * *

(e) *Exposed flesh.* Parts are free of exposed flesh, resulting from cuts, tears, and missing skin (other than slight trimming on the edge). The carcass is free of these defects on the breast and legs. Elsewhere, the carcass may have cuts or tears that do not expand or significantly expose flesh, provided the aggregate length of all such cuts and tears does not exceed three-quarter inch for poultry weighing up to 2 pounds; 1½ inches for poultry weighing over 2 pounds, but not more than 6 pounds; 2 inches for poultry weighing over 6 pounds, but not more than 16 pounds; and 3 inches for poultry weighing over 16 pounds. The carcass may have exposed flesh elsewhere other than on the breast and legs due to slight cuts, tears, and areas of missing skin, provided the aggregate area of all exposed flesh does not exceed an area equivalent to the area of a circle of the diameter specified in the following table:

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Breast and legs	Elsewhere
None	2 lb	None	1 in.
Over 2 lb	6 lb	do	1½ in.
Over 6 lb	16 lb	do	2 in.
Over 16 lb	None	do	3 in.

* * * * *

(g) *Discolorations of the skin and flesh.* The carcass or part is practically free of such defects. Discolorations due to bruising shall be free of clots (discernible clumps of red or dark cells). Evidence of incomplete bleeding, such as more than an occasional slightly reddened feather follicle, is not permitted. Flesh bruises and discolorations of the skin such as "blue back," are not permitted on the breast or legs of the carcass, or on these individual parts, and only lightly shaded discolorations are permitted elsewhere. The total areas affected by flesh bruises, skin bruises, and discolorations, such as "blue back," singly, or in any combination, shall not exceed one-half of the total aggregate area of permitted discoloration. The aggregate area of all discolorations for a part shall not exceed an area equivalent to the area of a circle one-fourth inch in diameter for poultry weighing up to 6 pounds and one-half inch in diameter for poultry weight over 6 pounds. The aggregate area of all discolorations for a carcass shall not exceed an area equivalent to the area of a circle of the diameter specified in the following table:

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Breast and legs	Elsewhere
None	2 lb	¾ in.	1¼ in.
Over 2 lb	6 lb	1 in.	2 in.
Over 6 lb	16 lb	1¼ in.	2½ in.
Over 16 lb	None	2 in.	3 in.

* * * * *

11. Section 70.221 is amended by removing the table in paragraph (e), and revising paragraphs (d), (e), and (g) to read as follows:

§ 70.221 B Quality.

* * * * *

(d) *Defeathering.* The carcass or part may have a few nonprotruding pinfeathers or vestigial feathers which are scattered sufficiently so as not to appear numerous. Not more than an occasional protruding pinfeather or diminutive feather shall be in evidence.

(e) *Exposed flesh.* A carcass may have exposed flesh, provided that no part of the carcass has more than one-third of the flesh exposed, and the meat yield of any such part on the carcass is not appreciably affected. A part may have no more than one-third of the flesh normally covered by skin exposed. A moderate amount of meat may be trimmed around the edges of a part to remove defects.

* * * * *

(g) *Discoloration of skin and flesh.* The carcass or part is free of serious defects. Discoloration due to bruising

shall be free of clots (discernible clumps of red or dark cells). Evidence of incomplete bleeding shall be no more than very slight. Moderate areas of discoloration due to bruises in the skin or flesh and moderately shaded discoloration of the skin, such as "blue back," are permitted, but the total areas affected by such discolorations, singly or in any combination, may not exceed one-half of the total aggregate area of permitted discoloration. The aggregate area of all discolorations for a part shall not exceed an area equivalent to the area of a circle having a diameter of one-half inch for poultry weighing up to 2 pounds; 1 inch for poultry weighting over 2 pounds, but not more than 6 pounds; and 1½ inches for poultry weighing over 6 pounds. The aggregate area of all discolorations for a carcass shall not exceed an area equivalent to the area of a circle of the diameter specified in the following table:

Carcass weight		Maximum aggregate area permitted	
Minimum	Maximum	Breast and legs	Elsewhere
None	2 lb	1¼ in	2¼ in.
Over 2 lb	6 lb	2 in	3 in.
Over 6 lb	16 lb	2¾ in	4 in.
Over 16 lb	None	3 in	5 in.

* * * * *

12. Section 70.222 is amended by revising paragraph (c) to read as follows:

§ 70.222 C Quality.

* * * * *

(c) C quality backs shall include all the meat and skin from the pelvic bones, except that the meat contained in the ilium (oyster) may be removed. The vertebral ribs and scapula with meat and skin and the backbone located anterior (forward) of the ilia bones may also be removed (front half of back).

13. Section 70.230 is amended by revising the introductory text and paragraphs (a), (b), and (e) to read as follows:

§ 70.230 Poultry roast—A Quality.

The standard of quality contained in this section is applicable to raw poultry products labeled in accordance with 9 CFR Part 381 as ready-to-cook "Roasts" or similar descriptive terminology.

(a) The deboned poultry meat used in the preparation of the product shall be from young poultry.

(b) Bones, tendons, cartilage, blood clots, and discolorations shall be removed from the meat.

* * * * *

(e) The product shall be fabricated in such a manner that it can be sliced after cooking and each slice can be served with minimal separation.

* * * * *

14. In § 70.231, paragraphs (b) and (c) are revised and new paragraphs (d) and (e) are added to read as follows:

§ 70.231 Boneless poultry breast and thigh—A Quality.

* * * * *

(b) The bone or bones shall be removed in a neat maner without undue mutilation of adjacent muscle.

(c) With skin, the breast or thigh shall met A quality requirements for ready-to-cook poultry parts in § 70.220 (d), (e), and (g), and shall be free of tendons and cartilage.

(d) Skinless breast or thighs shall be free of tendons, cartilage, blood clots, and discolorations. Minor abrasions due to preparation techniques are permitted.

(e) Slight trimming is permitted around the edges and inner muscle surface of the part.

15. Section 70.240 is revised to read as follows:

§ 70.240 General.

(a) All terms in the United States standards for quality set forth in §§ 70.210 through 70.231 shall, when used in §§ 70.240 through 70.271, have the same meaning as when used in said standards.

(b) The United States Grades for ready-to-cook poultry and specified poultry food products are applicable to poultry of the kinds and classes set forth in §§ 70.200 through 70.206 when used as described in paragraphs (c) and (d) of this section.

(c) United States Consumer Grades for ready-to-cook poultry and specified poultry food products may be assigned only when (1) each carcass, part, or poultry food product, including those used in preparing a poultry food product, has been graded in an unfrozen state on an individual basis by a grader or by an authorized person pursuant to § 70.20(c) and thereafter checkgraded by a grader; (2) applicable poultry food product has been prepared under the supervision of a grader; and (3) identified in an unfrozen state.

(d) United States Procurement Grades may be assigned to a lot of ready-to-cook poultry when (1) graded as a lot on the basis of an examination of each carcass or part in the lot by a grader or by an authorized person pursuant to § 70.20(c) and thereafter checkgraded by a grader, or (2) graded on the basis of an examination of each carcass or part in a representative sample from the lot by a grader. Such ready-to-cook poultry carcasses or parts may be graded in a frozen or unfrozen state.

United States Ready-to-Cook Grade for Further Processing [Removed]

16. Section 70.260 and the preceding undesignated center heading are removed.

§ 70.260 [Removed]

17. Section 70.270 is revised to read as follows:

§ 70.270 U.S. Procurement Grade I.

Any lot of ready-to-cook poultry composed of one or more carcasses or parts of the same kind and class may be designated and identified as U.S. Procurement Grade I when:

(a) ninety percent or more of the carcasses or parts in such lot meet the requirements of A quality, with the following exceptions: (1) Fat covering and conformation may be as described in this subpart for B quality; (2) trimming of the skin and flesh to remove defects is permitted to the extent that not more than one-third of the flesh is exposed on a separated part or on any part on a carcass, and the meat yield of a separated part or any part on a carcass is not appreciably affected; (3) discoloration of the skin and flesh may be as described in this subpart for B quality; (4) one or both drumsticks on a carcass may be removed if the part is severed at the joint; (5) the back on a carcass may be trimmed in an area not wider than the base of the tail and extending to the area between the hip joints; (6) the wings or parts of wings on a carcass may be removed if severed at a joint; and

(b) The balance of the carcasses or parts meet the same requirements except they may have only a moderate covering of flesh.

18. Section 70.271 is revised to read as follows:

§ 70.271 U.S. Procurement Grade II.

Any lot of ready-to-cook poultry composed of one or more carcasses or parts of the same kind and class which fails to meet the requirements of U.S. Procurement Grade I may be designated and identified as U.S. Procurement Grade II: *Provided*, That (a) trimming of flesh from a separated part or from any part on the carcass does not exceed 10 percent of the meat; and (b) portions of a carcass weighing not less than one-half of the whole carcass may be included, if the portion approximates in percentage the meat to bone yield of the whole carcass.

Done at Washington, DC, on: May 5, 1986.

William T. Manley,

Deputy Administrator Marketing Programs.

[FR Doc. 86-10334 Filed 5-8-86; 8:45 am]

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May 9, 1986

Part IV

Department of Labor

Mine Safety and Health Administration

30 CFR Part 75

Safety Standards for Explosives and Blasting; Proposed Rule

DEPARTMENT OF LABOR

Mine Safety and Health Administration

30 CFR Part 75

Safety Standards for Explosives and Blasting

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Proposed rule.

SUMMARY: This proposed rule would revise the Mine Safety and Health Administration's existing safety standards for explosives and blasting in underground coal mines. The proposed revisions would upgrade existing provisions consistent with current technology, eliminate duplicative and unnecessary standards, reorganize the existing standards and provide alternative methods of compliance where possible.

DATE: Written comments must be submitted on or before July 8, 1986.

ADDRESS: Send written comments to the Mine Safety and Health Administration, Office of Standards, Regulations and Variances, Room 631, Ballston Tower No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Director, Office of Standards, Regulations and Variances, MSHA, phone (703) 235-1910.

SUPPLEMENTARY INFORMATION:

I. Background

The Mine Safety and Health Administration (MSHA) is proposing to revise its existing safety standards for explosives and blasting in underground coal mines. These revisions are proposed pursuant to section 101 of the Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811).

On July 9, 1982, MSHA published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** (47 FR 30025) which announced a comprehensive review of the underground coal safety standards and solicited public comments. After reviewing the comments, the Agency developed a preproposal draft of revisions to the existing standards for explosives and blasting. On May 8, 1984, MSHA published a notice in the **Federal Register** which announced the availability of its preproposal draft and scheduled public conferences (49 FR 19601). Public conferences were held June 12, 1984 in Lexington, Kentucky, and June 14, 1984 in Pittsburgh, Pennsylvania. These conferences were well attended by representatives of the mining community. MSHA has received written comments regarding its preproposal draft from all segments of the coal mining community.

The Agency's proposed rule addresses the comments received and is consistent with Executive Order 12291, the Regulatory Flexibility Act and the Paperwork Reduction Act.

II. Discussion of Proposed Rule

A. General Discussion

The use of explosives in underground coal mines continues to present a potentially serious risk of injury and death to miners. Between 1978 and 1984, there were 31 fatalities resulting from improper use of explosives. In addition, there were 240 non-fatal injuries during this period that involved the use of explosives. Prevention of accidents involving explosives depends to a large extent on the knowledge and experience of persons in the mine responsible for using explosives and standards to guide mine operators and miners in the safe conduct of blasting operations.

The proposed rule would address the need for knowledgeable and experienced personnel by establishing requirements for qualified persons. It would also update existing explosive standards to reflect modern blasting practices. The proposed rule would supplement existing standards where they currently do not address important aspects of blasting, and delete obsolete provisions.

The proposed rule would consolidate standards for the use of explosives, some of which are currently addressed in MSHA's approval requirements for explosives and related equipment. Proposed regulations that would update these existing approval-regulations are currently under development and will conform to the changes made in this proposal.

Many of the proposed standards are derived from existing requirements, while others are new. The proposed rule would address the various steps in the use of explosives, including transportation, storage, borehole drilling, loading and firing of explosives.

The proposal includes a new standard which would establish qualification requirements for persons performing certain tasks in blasting, such as priming and loading explosives in boreholes, wiring and firing shots and handling misfires.

The proposed rule also contains new requirements for multiple-shot blasting, which is the primary method used in the production of coal in conventional mining. The proposal would specify basic rules for the arrangement of short-delay detonators when blasting solid coal.

Another new provision would establish the conditions under which sheathed explosive units could be used underground. The sheathed unit, which reflects advances in technology, would permit blasting without explosives being confined in a borehole. It is designed so that it will not ignite a flammable mixture of methane or coal dust and air when fired. It has been developed for use in dislodging loose roof slabs and overhangs, rock-fall leveling, slab or boulder breaking, and other situations where the unconfined application of explosives would be appropriate to improve mine conditions.

The standards for anthracite mines and bituminous and lignite mines were addressed in separate sections of the preproposal draft. However, this approach resulted in unnecessary redundancy because the majority of the standards for bituminous and lignite mines were also applicable to anthracite mines. Therefore, to eliminate this duplication and streamline the requirements, the proposal would address all underground coal mines with one set of standards. under the proposal, if a standard is not applicable to all mines, the specific type of mine to which the standard applies would be specified.

B. Section-by-Section Discussion

Qualified Person § 75.1300

This proposal is derived from an existing provision in 30 CFR Part 15, which requires shots to be fired by "certified shotfirers" where State law so requires and would set forth requirements for persons who must be qualified under this Subpart.

MSHA experience indicated that the failure of persons to follow safe blasting practices has contributed to explosives accidents. In addition, the person most frequently injured in these accidents is the person firing the explosives. Therefore, MSHA believes that persons using explosives should be knowledgeable in safe blasting practices and procedures.

The term "qualified person" is substituted for the preproposal draft term "qualified shot firer" in response to several commenters who opposed the use of terms which suggest job titles or classifications in safety standards.

In response to public comments, the proposal includes two alternatives for meeting the qualification requirements. A person could be certified to use explosives by the State in which the mine is located, or have at least one year of underground coal mining

experience and demonstrate to an authorized representative of the Secretary an ability to properly use explosives. The State-certification alternative was included in response to commenters who indicated that the existing State systems for certification are adequate. MSHA solicits comment on the adequacy of State certification for this purpose.

Explosives and Blasting Equipment § 75.1310

This proposal, which is derived from existing §§ 75.1300, 75.1303 and 30 CFR Part 15, would provide that only approved explosives be taken underground, that explosives be fired with an approved blasting unit of sufficient capacity, and that certain types of detonators and other non-electric detonating devices not be used underground. One commenter suggested that the specific prohibition of these detonating devices be deleted in the proposal since a preproposal draft provision would require that only approved detonators be taken underground. This commenter indicated that this approach would allow technological advances in non-electric detonating devices to be used in underground coal mines if they are approved by MSHA. As discussed below, the preproposal draft provision which specified that only approved detonators be taken underground has been deleted in the proposal. Therefore, the specific prohibition of non-electric detonators has been retained in the proposal. The specific prohibition on the use of certain detonators and other devices would prevent the use of devices which are generally recognized by the mining community as presenting fire and explosion hazards when used in underground mines. However, MSHA solicits any information or data concerning the development of non-electric detonating systems that could be safely used in underground coal mines. In response to commenters, the preproposal draft provision that would have required blasting units to be repaired by the manufacturer has been deleted in the proposal. These commenters indicated that the draft provision was unnecessarily restrictive and not consistent with current practice concerning repair of blasting units in service.

The term "permissible" used in the existing standards and the preproposal draft has been replaced with the term "approved" in the proposal. This change is intended to standardize the terminology used in MSHA regulations and standards and eliminate confusion resulting from the use of different terms, such as "permissible," "accepted" and "certified" to refer to equipment and material covered by an MSHA approval or similar action. The change in terminology would in no way restrict the use of explosives or blasting units previously approved as permissible.

The language in the proposal which specifies that a blasting unit used to fire explosives have "sufficient capacity and be appropriate for the blasting operation" would replace the preproposal draft provisions that specifically stated when an approved multiple-shot blasting unit and an approved large-capacity blasting unit must be used. This would eliminate product-specific provisions, while retaining the requirement that the appropriate blasting unit be used for each blasting operation. For example, a blasting unit that has been approved by MSHA for firing 20 or fewer shots could not be used for firing more than 20 shots at one time.

Several commenters suggested that the use of approved blasting units be required only for shots fired inby the last open crosscut. These commenters indicated that this would conform with accepted safe practice. The primary purpose for using an approved blasting unit is to minimize the possibility of igniting coal dust placed into suspension or methane released by the blasting operations. While the possibility of an ignition occurring during blasting operations is greater inby the last open crosscut, the potential for coal dust being placed into suspension or methane being released is present anywhere explosives are fired underground. In 1970 a coal dust explosion, initiated by the use of explosives, occurred in an area outby the last open crosscut, and claimed the lives of 38 miners. While this accident may not have been caused by failure to use an approved blasting unit, it does point out that the potential for ignitions of coal dust and methane exists outby the last open crosscut. Therefore, MSHA believes that approved blasting units should be used to fire explosives in underground coal mines.

The preproposal draft provisions specifying that only approved water stemming bags, detonators and blasting units be taken underground are not included because they are redundant of other provisions in the proposal that would regulate the use of these devices. In addition, the proposal does not require water stemming devices and detonators to be approved by MSHA. These devices are not currently required to be approved and the Agency does not have accident and injury data to indicate that such regulation is necessary to ensure safety in blasting operations.

Methods of Transporting Explosives and Detonators § 75.1331

This proposal is derived from existing § 75.1305 and would specify requirements for transporting explosives and detonators underground. Primarily, the hazards addressed by these provisions are damage to and accidental detonation of explosives and detonators.

The specific types of transportation methods specified in the preproposal draft have been deleted. In addition, the separate sections of the preproposal draft containing requirements for different methods of transportation have been consolidated into one section in order to streamline the rules and eliminate duplication. Several commenters suggested that a provision be added to allow other means of transportation if approved by the District Manager. The commenters indicated that this would allow approval of methods not contemplated by the draft proposal. MSHA believes that deletion of the specific transportation methods from the proposal would adequately address the concerns of these commenters.

Paragraph (a) sets forth proposed requirements for transporting explosives and detonators, regardless of the method of transportation. Explosives and detonators would be required to be separated from each other and enclosed in substantial nonconductive containers; the containers and the cars transporting explosives and detonators would be required to be marked with a readily visible warning identifying the contents as explosive; and persons transported with the explosives and detonators would be restricted to those necessary to operate the equipment or accompany the explosives and detonators. The latter provision was added in response to comments suggesting clarification that the prohibition on transporting persons with explosives and detonators would not exclude the equipment operator.

In response to several comments, the preproposal draft requirement for "reflective warnings" has been revised in the proposal to "readily visible warnings." These commenters indicated that non-reflective warnings are currently being used to identify explosives and that no problems have been encountered with this practice in the past. One commenter suggested that the warning signs be required to be permanently attached because they may be lost or removed and not replaced.

While these warnings are frequently permanently attached to vehicles transporting explosives, MSHA believes that the proposal need only specify the requirement for a warning. In response to another commenter, the draft requirement that explosives and detonators be transported in their "original containers" has been revised in the proposal to require "substantial containers." The purpose of the proposal is to ensure that explosives and detonators are not damaged and minimize the possibility of scattering loose explosive cartridges and detonators during transportation. This could be achieved through the use of substantial containers as well as the original container.

Paragraph (b) would provide several alternative methods of separating explosives and detonators from each other during transportation in track-mounted cars. These precautions would be required to be taken in addition to those specified in paragraph (a).

In response to several comments, the definition of "laminated partition" has been revised to specify minimum nominal dimensions for laminated material rather than exact dimensions. The definition is derived from the Institute of Makers of Explosives Pamphlet Number 22, January 1, 1985. The commenters indicated that this change would permit the use of laminated partitions of greater thickness. The preproposal draft provision specifying on which side of the partition explosives and detonators would be required to be stored has been deleted. The principal purpose of this partition is to minimize the potential detonation of explosives in the event that detonators are accidentially initiated. This change recognizes that protection would be provided regardless of which side the explosives and detonators are placed.

The preproposal draft provision that would require trips transporting explosives and detonators to be separated from other trips by at least 5 minutes travel time is deleted from the proposed rule. At this stage in the rulemaking process, MSHA believes that because of the precautions set forth in the proposal, and accepted industry practices which have been effective, this provision is unnecessary.

Paragraph (c) addresses the specific hazards of transporting explosives and detonators on belt-conveyors. These precautions would be required in addition to those specified in paragraph (a). Explosives and detonators transported on the same belt conveyor would be required to be separated by a distance of at least 50 feet. This would minimize the risk of accidental detonation of the explosives in the event the detonators are prematurely initiated. The proposal also would require at least 6 inches of clearance between the top of any container of explosives and detonators and the mine roof or other overhead obstruction to prevent damage to the explosives and detonators that can be caused by striking the roof or an obstruction. Except when persons are riding the belt to accompany explosives, the proposal would require a person to be at each transfer point between belts and at the unloading locations. The exception for persons riding the belt has been added to the proposal recognizing that they would be in a position to stop the belt at these points. In addition, the preproposal draft requirements for stop controls are not included in the proposed rule, since they are addressed by other MSHA standards.

Storage of Explosives and Detonators in Underground Magazines § 75.1312

This proposal is derived from existing 30 CFR Part 15 and §§ 75.1306 and 75.1307, except paragraphs (c), (f) and (g) which are new. The proposal would establish basic storage requirements and limits on the quantity of explosives permitted to be stored underground. Separate sections in the preproposal draft for magazine construction and location, posting and maintenance have been consolidated into this section, consistent with commenters suggestions.

Paragraph (a) would limit the quantity of explosives stored underground to what is needed for 48 hours of use. The proposal would revise the existing requirement that explosives be used within 48 hours of being taken underground. The proposal addresses the hazard of excessive quantities of explosives being stored underground while recognizing that delays may prevent explosives from being used within 48 hours.

One commenter suggested that the proposed rule prohibit the undergound storage of explosives in any mine that does not use explosives in the regular mining cycle to produce coal. The commenter indicated that explosives stored in these mines, because of their relatively infrequent use, would be more likely to deteriorate. At this stage in the rulemaking process, however, MSHA believes that proposed requirements for storage and handling of explosives address the hazards associated with the storage of explosives and the use of deteriorated explosives.

Paragraph (b) would require explosives and detonators stored underground to be in separate, closed magazines, or if stored in the same magazine, to be separated by a hardwood or laminated partition.

The preproposal draft requirement that explosives and detonators be stored in magazines in the original container has been deleted in response to comments. These commenters believe that deleting this requirement would allow storage of explosives not used during a shift. It would also provide the flexibility to use other containers.

Paragraph (c) specifies that no materials other than explosives and detonators shall be stored in underground magazines. This provision would prohibit the accumulation of empty packaging material, combustible materials or other articles not related to blasting which could contribute to a fire or other hazard.

Paragraph (d) would require that magazines be substantially constructed and all interior surfaces be made of wood or other nonconductive material. This proposal is changed from the preproposal draft requirement in response to several commenters who suggested that the provision be clarified to permit the exterior of magazines to be made of metal. MSHA believes that metal exteriors have been effectively used to protect stored explosives and detonators from damage and accidental detonation. As noted above, the preproposal draft provision specifying on which side of a partition explosives are to be stored has been deleted.

Several commenters suggested that a provision be added to specifically permit the use of mobile magazines. The proposed rule would permit the use of mobile magazines that meet the requirements of the proposal.

Paragraph (e) would clarify and supplement existing requirements for the location of magazines. The proposal would retain the existing requirement that magazines be located at least 25 feet from roadways and sources of electric current and in a dry location. In response to several comments, the latter requirement has been revised to provide that magazines be kept as dry "as practicable," recognizing the frequently wet conditions in many mines. The proposal would also include a requirement from existing § 75.1307 that stored explosives be located out of the direct line of forces from blasting. This proposed requirement would protect against accidental detonation of the explosives.

The preproposal draft provision which would have required that magazines be located no closer to the face than the last open crosscut in which a permanent stopping has been installed and kept at least 150 feet from the pillar line, has been deleted in the proposal. MSHA believes that the provisions in paragraphs (e) and (f) of this section would adequately address the location of magazines.

Paragraph (f) would require posting of magazine locations to warn persons of the presence of explosives and detonators. The preproposal draft requirement that the magazine itself be posted has been deleted from the proposal in response to comments pointing out that these would be unnecessarily duplicative. In addition, the requirement in the preproposal draft for "reflective" warnings has been revised to permit the continued use of readily visible warnings.

One commenter suggested that the warning signs should be required to be permanent. MSHA believes, however, that a requirement for conspicuous warnings is sufficient without further specifications of the type of warning.

Paragraph (g) specifies that only materials and equipment to be used in blasting would be permitted to be stored at magazine locations. Empty packaging and other combustible material would be required to be removed from the area surrounding the magazine in order to minimize the risk of fire.

Explosives and Detonators Outside of Magazines § 75.1313

This proposal is new, except for paragraph (a), which is derived from existing §§ 75.1301, 75.1304 and 75.1307. The proposal addresses the handling of explosives and detonators when they are removed from magazines for use.

Paragraph (a) specifies the manner in which explosives and detonators would be required to be handled while outside of magazines until they are loaded in boreholes. The proposal retains the existing requirement that explosives and detonators be kept in separate containers. Under the proposal, these containers could be either the original or made of wood or other nonconductive material. Rubberized bags, commonly used in the industry, would also meet this proposed requirement. Also retained in the proposal are the existing requirements that explosives be stored out of the line of forces from blasting and at least 15 feet from electrical conductors. These proposed requirements would protect against accidental detonation of explosives. In addition, the proposal would require that containers of explosives and detonators be protected from damage by mobile equipment and kept as dry as practicable.

Several commenters suggested that a requirement for explosives and detonators to be separated by at least 15 feet from electrical conductors apply only to energized trailing cables or trolley wires. MSHA agrees that energized trailing cables or trolley wires present major risks of accidental detonation. However, to minimize hazards associated with electricity, MSHA believes that explosives and detonators should be kept away from all sources of electrical current.

Not included in the proposed rule are provisions from the preproposal draft which would have limited the quantity of explosives permitted outside of a magazine at one time. Instead of a specific quantity limitation, the provisions of this proposal would prevent the accumulation of explosives on a working section or other area. Another preproposal draft provision which specified that old stock explosives in magazines be removed first has also been deleted in the proposal. MSHA believes that the provisions in the proposal which limit the quantity of explosives underground to a 48-hour supply and prohibit the use of deteriorated explosives would make this requirement unnecessary.

Paragraph (b) would require explosives and detonators not used during a shift to be returned to the magazine by the end of the shift. MSHA experience indicates that explosives and detonators not returned to the magazine at the end of the shift have been inadvertently left along active haulageways which could result in accidental detonation. Often times these explosives and detonators are not readily visible because they are covered with loose coal or other material.

One commenter suggested that explosives and detonators be returned to the magazine by a qualified person. However, for the reasons discussed below regarding the supervision of explosives and detonator handling, this suggestion is not adopted in the proposal, and persons designated by the operator could perform this task. Consistent with this approach, the proposed rule would also exclude the preproposal draft provisions that explosives and detonators outside a magazine be within sight of a qualified person at all times.

The preproposal draft provided that explosives and detonators be removed from magazines only by a qualified person or another person designated by the operator. One commenter suggested further that removal of explosives and detonators from magazines be restricted solely to qualified persons because designation of inexperienced persons to do this work could subject miners to hazards. Neither provision is included in the proposal, however, because while the handling of explosives and detonators should be supervised by mine operators, proper performance of this task does not indicate that such persons need to be familiar with the use of explosives. Other tasks in blasting operations, however, would be required to be performed only by qualified persons.

Sheathed Explosive Units § 75.1314

This proposal is new and would prescribe the conditions under which sheathed explosive units could be used in underground coal mines. Other generally applicable requirements in the proposal for transportation, storage and handling of explosives would also apply to sheathed explosive units. Because of the hazards associated with flammable methane gas and coal dust, the firing of unconfined explosive charges is currently prohibited in underground bituminous coal mines. Therefore, all explosives must be fired in stemmed boreholes. However, there are situations where it would be advantageous from a safety standpoint to fire unconfined shots, such as in dislodging loose roof slabs or coal or rock overhangs, roof fall leveling, and slab or boulder breaking. The Bureau of Mines has developed a prototype sheathed explosive unit that can be fired unconfined without igniting any flammable atmosphere that might be present. MSHA is currently developing proposed approval requirements for sheathed explosive units. With the development of this proposal and new approval requirements, MSHA anticipates that sheathed explosive units will become available for use in underground coal mines.

Paragraph (a) provides that only instantaneous detonators be used to fire sheathed explosive units. Instantaneous detonators are defined in the proposal as electric detonators that fire within six milliseconds after application of the firing current. The maximum elapsed time of six milliseconds is derived from the maximum elapsed time of No. 6 test detonators, which were used to initiate the sheathed explosive units during testing and evaluation conducted by the Bureau of Mines on prototypes sheathed explosive units. The firing time of other types of instantaneous detonators ranges up to 14 milliseconds. The Bureau of Mines will conduct further research on sheathed explosive units with the other types of instantaneous detonators to determine what effect, if any, the increased elapsed time would have on the safe use of sheathed explosive units. MSHA solicits comment on this issue. The use of instantaneous detonators

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would protect against the hazard associated with sheathed explosive units being damaged by the earlier firing of an adjacent unit. MSHA specifically solicits comment on the timing requirement for instantaneous detonators.

Paragraph (b) would require that sheathed explosive units be primed and placed for use only by a qualified person or under direct supervision of such a person. Correct priming and placement of sheathed explosive units, like any explosive, is crucial to safe performance and should be done only by or in the presence of a qualified person. In response to several comments, the term "primed" has been substituted for "prepared" in the preproposal draft to reflect the terminology most commonly used and understood in the mining industry.

Paragraph (b)(1) provides that sheathed explosive units not be primed until immediately before the units are to be fired. An explosive primed with a detonator is extremely sensitive and subject to accidental detonation. Therefore, the time an explosive remains primed prior to firing should be minimized.

Paragraph (c) would prohibit firing more than three sheathed explosive units at one time. Based on tests conducted with prototype units, proper simultaneous firing of three units does not present an ignition hazard, while providing sufficient blasting capacity for most applications in underground mines.

Paragraph (d) would prohibit the use of damaged or deteriorated sheathed explosive units. Using sheathed explosives units that are not in their original approved condition increases the risk of misfires and inadequate performance which can create other safety hazards.

Paragraph (e) would prohibit the firing of a sheathed explosive unit if it is in contact with another unit. This provision would minimize the possibility that concussion created by the firing of a unit would damage the flame-inhibiting sheath of an adjacent unit and adversely affect its performance. The preproposal draft requirement for 2 feet of space between sheathed explosive units has been deleted in the proposal because additional tests conducted by the Bureau of Mines indicates that this distance requirement would be unnecessarily restrictive.

The preproposal draft requirement for rock dusting within 40 feet of the location where the sheathed explosive units are to be fired also has been deleted from the proposal. Existing §§ 75.401 and 75.402 address the situations where coal dust must be suppressed and rendered inert to minimize the possibility of an ignition. Inclusion of a separate requirement applicable to sheathed explosive units is therefore unnecessary.

Several other preproposal draft provisions concerning the preparation of sheathed explosive units for firing and their placement have also been deleted. Under the proposal, these tasks would be required to be performed by a qualified person or a person under the direct supervision of a qualified person. At this stage in the rulemaking process, MSHA does not believe that it is necessary to specify these basic procedures for such trained persons.

Boreholes of Explosives § 75.1315

This proposal is derived from existing §§ 75.1300 and 75.1302 and 30 CFR Part 15, except for paragraphs (c) and (d) which are new. The proposed provisions address the size, placement and drilling procedure for boreholes.

Paragraph (a) would require all explosives fired underground, except sheathed explosive units and certain types of shots fired in anthracite mines, to be confined in boreholes to protect against gas and dust ignitions. This proposal would replace the existing provision that prohibits "mudcaps (adobes) or other unconfined shots."

Paragraph (b) would require a distance of at least 24 inches between boreholes and between each borehole and any free face, unless prohibited by the thickness of the coal seam. The proposal is a revision of the existing standard, which requires a burden of 18 inches in all directions. The results of research recently conducted by the Bureau of Mines, in conjunction with MSHA, indicates that misfires occur approximately 50 percent of the time when only 18 inches of separation is between each borehole or free face. The occurrence of misfires was significantly reduced when the spacing between the boreholes was increased to 24 inches. However, a few misfires did occur at the 24-inch spacing. MSHA solicits data and information on this issue, particularly on industry practice for the spacing of boreholes. The phrase "burden . . . in all directions" as used in existing Part 15 and the preproposal draft would be deleted. MSHA's experience as well as that of several commenters has shown that this language is subject to a variety of interpretations and leads to confusion. As addressed in the proposal, the requirement for spacing would clarify that it is the quantity of material to be dislodged by the explosive charge in each borehole that is crucial, and not solely the distance between the collars of the boreholes. For this reason, this proposal would require careful attention to the depth and direction of boreholes.

Paragraph (c) would prohibit a borehole that has at any time contained explosives from being used to start any other hole. This proposal addresses the hazard of accidentally drilling into undetonated explosives or detonators remaining in a previously loaded borehole. During the period 1948 to 1984 four miners were injured while drilling into holes that contained misfired explosives.

Paragraph (d) would require that when blasting slab rounds off the solid, the opener hole not be drilled beyond the rib line. Boreholes drilled beyond the rib line can result in overburdened shots which contribute to the occurrence of blown-out shots and an increased risk of methane and dust ignitions.

The proposed rule does not retain the preproposal draft provision that would have required support of coal that is cut for blasting in order to maintain the stability of boreholes. After further review and in response to comments, MSHA believes that this provision is unnecessary because explosives could not be placed in boreholes as specified in this proposed rule if the stability of the boreholes is not maintained. Also deleted are preproposal draft provisions specifying the angles for opener holes and providing for borehole alignment checks with a tamping pole or other device. MSHA believes that these provisions would be redundant of the proposed requirement that the depth and direction of boreholes be determined before explosives are loaded.

In response to comments the preproposal draft provision which specified ⅜ of an inch difference between the diameter of explosive cartridges and the diameter of the borehole has also been deleted in the proposal. These commenters stated that current technology has eliminated the problem of desensitization of the explosives. MSHA agrees. The results of tests recently conducted by the Bureau of Mines and MSHA indicate the relationship of the borehole diameter and the explosive cartridge does not contribute to the occurrence of misfires.

Preparation of Boreholes § 75.1316

This proposal is derived from existing 30 CFR Part 15, except for paragraph (d), which is new.

Paragraph (a)(1) would require that before boreholes are loaded, they be cleared and their depth and direction determined. The provision in the preproposal draft for the use of a tamping pole or metal scraper has been deleted as unnecessary specification of a particular device. In most cases, MSHA would expect a tamping pole to be the most convenient and readily available device for this purpose.

Paragraph (a)(2) would require the removal from the working place or other blasting areas of all mobile electric equipment. Paragraph (a)(3) would also require stationary electric equipment to be deenergized. These sources of electric current increase the risk of accidental initiation of detonators and explosives.

In response to commenters, the preproposal draft provision that would have required water or rock dust to be applied to the roof, ribs, and floor within 40 feet of the face to suppress or make inert the coal dust during blasting, has been deleted in the proposal. The commenters maintained that this provision was duplicative of existing § 75.401, which requires water or other no less effective methods approved by the Secretary, to be applied to coal dust on the ribs, roof, and floor to reduce dispersibility and to minimize the explosion hazard. MSHA agrees that existing § 75.401 would be applicable to blasting operations and restatement of the requirement in the proposal is therefore unnecessary.

Paragraph (b) would require boreholes that have been drilled beyond the depth of cut coal in bituminous and lignite mines to be tamped with incombustible material before they are loaded so that explosives are not loaded in the portion of the borehole that is beyond cut coal. Firing explosives in boreholes beyond the depth of cut coal can increase the risk of blown-out shots and methane or dust ignitions.

Paragraph (c) would prohibit any work in the working place or other blasting area while boreholes are being loaded, except that necessary to protect persons. Work permitted to be performed would include the installation of posts or timbers and application of rock dust by hand. This practice would reduce the risk of accidental detonation and the number of persons exposed to this hazard in the blasting area.

Paragraph (d) would require that cutting, drilling, and blasting be done at only one working face at a time when two working faces are being developed within 25 feet of each other. For example, if a developing crosscut is being mined from both sides, mining operations would be conducted on only one side at a time when the distance between the two working faces is 25 feet or less. This proposed requirement would protect against accidental initiation of explosives being used in an adjacent face or the face blasting through to another area where persons are working.

Primer Cartridge § 75.1317

This proposal is new and would set forth requirements for primer cartridges. Improper makeup of the primer cartridge can adversely affect the reliability of explosive charges and contribute to the occurrence of misfires.

Paragraph (a) would require primer cartridges to be primed only by a qualified person or a person under his or her supervision. The proposed requirement for supervision would require the qualified person to be in the immediate presence of the person priming explosive cartridges at all times that this work is being performed. In response to several comments, the term "primed" has been substituted for "prepared" in the preproposal draft to reflect the term commonly used and understood in the mining industry.

Paragraph (b) would require that primer cartridges not be primed until immediately before they are loaded into boreholes. An explosive cartridge primed with a detonator is extremely sensitive and subject to accidental detonation. Therefore, the time in which an explosive is allowed to remain primed prior to firing should be minimized.

The preproposal draft requirements for priming explosive charges have been deleted from the proposal, since the primer cartridges would be prepared by a qualified person, or a person directly supervised by a qualified person. To be qualified under the proposal, a person would need to be proficient in proper techniques for the performance of this task. Therefore, MSHA does not believe that specifying a particular method of priming cartridges is necessary.

Loading Boreholes § 75.1318

This proposal is derived from existing provisions in 30 CFR Part 15, except paragraphs (a) and (b), which are new. The proposed provisions address the procedure for loading boreholes, which directly affects the performance of the explosive charge. Improper loading can contribute to misfired and blown-out shots.

Paragraph (a) provides that explosives are to be loaded in boreholes only by a qualified person or a person under his or her direct supervision. This proposal addresses the risk of explosives being handled at this important phase by untrained persons. Further, the immediate presence of a qualified person would be required at all times that loading explosives is done by another person.

Paragraph (b) would require that the primer cartridge be the first cartridge loaded in the borehole, that the end of the cartridge containing the detonator face the back of the borehole and that the primer cartridge and other explosives be pushed to the back of the borehole in a continuous column without crushing any cartridge. This procedure would locate initiation of the explosives at the point of greatest burden. It would also facilitate detonation of the entire column of explosives by minimizing gaps and voids between cartridges and damage to them, which can interrupt detonation of the column of explosives and result in a misfire.

Paragraph (c) would prohibit the use of damaged, deteriorated or partially filled explosives, or explosives that are below the approved minimum firing temperature. Using explosives that are not in their approved condition increases the risk of misfires and inadequate performance of the explosives. The temperature at which an explosive is used also directly affects its safe performance. Under revised MSHA regulations for the approval of explosives, which are currently under development, the approval issued for each type of explosive would specify the minimum firing temperature.

Paragraph (d) would prohibit the use of different brands, types or cartridge sizes of explosives in the same borehold. Because of the sensitivity variations of various explosives, the use of different types or sizes of explosives in the same borehole can contribute to the occurrence of misfires.

One commenter suggested that a prohibition on combining explosives from different manufacturers in the same borehold be added to the proposal. The phrase "different brands" would include explosives that are made by different manufacturers.

Weight of Explosives Permitted in Boreholes in Bituminous and Lignite Mines § 75.1319

This proposal is derived from existing 30 CFR Part 15 and addresses the amount of explosives that would be permitted when blasting coal, coal with rock partings, solid rock or fallen rock in bituminous or lignite mines. The use of explosives in excess of these limitations could result in excessive heat being released into the mine atmosphere, creating the hazard of methane or coal dust ignitions. Excessive use of explosives could also contribute to the occurrence of cut-off shots in adjacent holes.

Paragraph (a) would retain the existing 3-pound limit on explosives used in boreholes to blast coal, including coal with rock partings and fallen rock. As in the existing standard, the proposal would not apply when blasting solid rock in its natural deposit. Paragraph (a)(1) would require reduction in the weight of explosives in ⅛ pound increments for boreholes less than 6 feet deep. This would allow sufficient room for the stemming materials.

Blasting solid rock in its natural deposit can require explosive charges in excess of 3 pounds per borehole to properly blast the rock. Blasting solid rock with an insufficient amount of explosives can result in rock overhangs and loose roof which would increase the hazards associated with cleaning up and supporting the area that has been blasted. In addition, the potential for an ignition of coal dust or methane is significantly less than when blasting coal. Since the proper amount of explosives per borehole would depend on the specific circumstances involved, a commenter's suggestion that a 4-pound limit be applied when blasting solid rock inby the last open crosscut has not been adopted.

Multiple-Shot Blasting § 75.1320

This proposal is new, except for paragraph (b), which is derived from existing § 75.1303. It would address requirements for detonator use and placement in multiple-shot blasting. Improperly fired multiple-shot blasts can result in blown-out and cut-off shots, both of which can result in the ignition of coal dust or methane.

Paragrah (a) addresses multiple-shot blasting in anthracite mines. The proposed requirement differs from those for bituminous and lignite mines, reflecting the different character of the coal seams, mining methods and blasting techniques used. Normally, long-delay and instantaneous electric detonators are used for multiple-shot blasting in anthracite mines. This proposal would require that short-delay detonators be used when specified by the District Manager. This provision would provide the necessary flexibility to address situations where methane is present and the use of long delay detonators could increase the likelihood of a methane ignition.

Paragraph (b), applicable to bituminous and lignite mines, specifies that only instantaneous and short-delay detonators of proper strength be used. This proposal would retain the existing provision for short-delay detonators in order to control the elapsed blasting time of a round to minimize the possibility of a methane or coal dust ignition. The proposal also would permit the use of instantaneous detonators, in recognition of the history of safe use of these detonators in under ground blasting of coal. This represents a change from MSHA policy in effect over the last several years and the preproposal draft, which required the use of short-delay detonators.

Currently, short-delay electric detonators used in underground coal mines are limited to 500 milliseconds. However, research conducted by the Bureau of Mines, in conjuction with MSHA, has provided evidence that this time period could be extended to 1000 milliseconds without increasing the risk of a methane or dust ignition. Accordingly, this proposed rule defines "short-delay detonator" as a detonator with a designated delay period of 25 to 1000 milliseconds.

Paragraph (c) specifies that only short-delay detonators be used when blasting solid coal in bituminous and lignite mines. Short-delay detonators would provide sequential firing of each borehole which would better create the relief necessary to allow disbursement of the coal burden before the adjacent shot is fired. Instantaneous detonators which are fired simultaneously would not accomplish this goal. This proposal also specifies that the shots in the round be fired in sequence from the opener hole and that an interval of at least 50 milliseconds be maintained between designated delay periods of adjacent shots. These requirements are intended to provide for an orderly, controlled blast and prevent blown-out shots, cut-off shots and structural damage to the rib, roof or ventilation system.

The detailed provisions in the preproposal draft describing requirements for detonator arrangement for blasting cut coal and solid coal were premised on the fact that only short-delay detonators would be permitted in multiple-shot blasting of coal. Since the proposal would permit the use of instantaneous as well as short-delay detonators, most of the detailed provisions specifying detonator arrangement according to delay period are no longer necessary. In addition, MSHA believes that improved safety standards in combination with the requirement that a qualified person conduct blasting operations would adequately address the hazards of multiple-shot blasting.

For the same reason, a provision in the preproposal draft that would have required the mine operator to obtain a permit from the District Manager before blasting solid coal has not been retained in the proposed rule. MSHA believes that the proposed standards also adequately address the hazards associated with this type of blasting.

Also deleted from the proposed rule is the preproposal draft provision concerning District Manager approval of alternative methods of detonator use and placement. MSHA believes that the proposals addressing the use and placement of detonators would be appropriate for the vast majority of blasting operations, and if alternative methods are necessary, they would be evaluated through the petition for modification process provided for by the Federal Mine Safety and Health Act of 1977. The Agency solicits specific comment on whether there are alternatives to the methods of detonator use and placement set forth in the proposal.

Stemming Boreholes § 75.1321

This proposal is derived from existing § 75.1309 and 30 CFR Parts 15 and 16, except paragraph (d), which is new. It sets forth procedures and requirements for stemming boreholes. Stemming in boreholes acts to suppress the flames from blasting. Failure to properly stem boreholes can result in blown-out shots.

Paragraph (a) would require noncombustible material to be used as stemming material. The use of combustible materials as stemming would be ineffective in controlling the heat and flames generated by the initiation of explosives. This proposal, which essentially restates the existing requirements, has been substituted for the preproposal draft requirement which specified particular types of stemming material. The proposal would, however, permit the continued use of clay dummies, water stemming bags and similar material provided that it is noncombustiable.

Paragraph (b) would require that the stemming materials in each borehole contact the explosive cartridge nearest the collar of the borehole. Space or gaps between the stemming material and the explosives can significantly reduce the effectiveness of stemming in confining the heat and flames generated by the initiation of explosives.

Paragraph (c) would require that the diameter of a water stemming bag and the diameter of the drill bit be within ¼ of an inch. The primary purpose of a water stemming bag is to provide a wall of water within the borehole to confine heat and flames generated by the initiation of the explosives. The Bureau of Mines and MSHA have determined through numerous tests that a spacing of not more than ¼ of an inch between the water stemming bag and the walls of a borehole will allow the water to form a complete wall within the borehole and prohibit the heat and flames from escaping into the mine atmosphere. However, tests have not been conducted on spacings greater than ¼ of an inch. MSHA solicits data and information or whether this spacing is appropriate or whether it should be increased. In response to several comments, the proposal specifies that the measurement is the difference between the diameter of the water stemming bag and the drill bit, rather than between the water stemming bag and the borehole.

Paragraphs (d) and (e) address the minimum amounts of stemming material to be used based on the depth of the borehole. Experience has shown these minimum amounts to be adequate for confining the heat and flame generated by the initiation of explosives. When clay dummies, moist sand and loose clay are used for stemming material, the specified amount of stemming in the borehole would be measured after tamping.

The preproposal draft requirement that clay dummies be tamped to fill the cross-sectional area of the borehole has been deleted in the proposal because this concern is addressed by the proposed requirement that boreholes be stemmed. A borehole in which clay dummies are used for stemming would not be considered properly stemmed unless they were tamped to fill the corss-sectional area of the borehole. The preproposal draft provision that would have prohibited the use of water stemming bags when blasting solid coal has also been deleted in the proposal. While water bags historically have not been used for stemming in blasting solid coal, MSHA has no data to indicate that this practice is unsafe.

Blasting Circuits § 75.1322

This proposal is derived from existing 30 CFR Part 15, except for paragraphs (b), (f), (h), (i) and (j), which are new. The proposal would set out the requirements for the use and protection of blasting circuits, including the blasting cable. The use of devices in the blasting circuit that are appropriate for their intended purpose and properly maintained is necessary for reliable detonation of explosives and to reduce the risk of misfires and premature or unplanned detonation.

Paragraph (a) would require blasting circuits to be protected from sources of stray and static electricity. Blasting circuits can become energized by any source of electricity and such protection is necessary to prevent premature initiation of the explosives.

Paragraph (b) would prohibit in the same blasting circuit the use of detonators made by different manufacturers. Due to sensitivity variations and firing characteristics among detonators, combining detonators made by different manufacturers can result in misfires.

Paragraph (c) would require detonator leg wires to be kept shunted (short-circuited) until connected to the blasting circuit. When leg wires are not shunted, the detonator is subject to initiation by extraneous electricity. Detonator leg wires are shunted when received from the manufacturer.

Paragraph (d) would require blasting cables to be well-insulated copper wire of at least 18-gauge and long enough to permit the round to be fired from a safe location. The proposal would set a minimum standard for blasting cables that would be compatible with the capacity of permissible blasting units. The proposed requirements for cable length would enable the qualified person to fire the blast from the location specified in § 75.1324, which is out of the line of forces from the blast. The preproposal draft requirement for cables of a different color has been deleted as unnecessary.

The proposal adopts the suggestion of several commenters that blasting cables be at least 18-gauge insulated copper wire. The preproposal draft specified 14- or 16-gauge copper wire. This change would permit the continued use of existing blasting cables in view of their record or safe performance. Eighteen-gauge copper wire is the minimum size cable compatible with permissible blasting units. This proposal would also apply to all coal mines. Accordingly, the preproposal draft provision permitting 20-guage wire to be used in anthracite mines has been deleted.

Paragraph (e) would require each blasting cable to be shunted until immediately before the blast is fired, except when testing for circuit continuity. The connection of blasting cables to the blasting circuit before the round is ready to be fired significantly increases the risk of accidental initiation.

Paragraph (f) would require that wire used between the blasting cable and the detonator circuitry be well-insulated and have a resistance no greater than 20-gauge copper wire. These requirements would prohibit the use of previously used detonator leg wire, or other wire that is damaged or has a resistance that may be inconsistent with the capabilities of the blasting unit.

Several commenters suggested that connecting wire not be permitted to have a resistance greater than 18-gauge. In MSHA's experience, however, wire with a resistance of up to 20-gauge may safely be used.

In response to several commenters, the 30-foot limitation on the length of wire used between the blasting cable and the detonator circuitry in the preproposal draft has been deleted. MSHA believes that the proposed provision that limits the size of such wire to at least 20 gauge and requires the blasting cable to be long enough to permit the round to be fired from a safe location would adequately address the problem of excessively long connecting wire, which could affect total circuit resistance.

Some commenters suggested that the limitation on blasting cable length be deleted and that the standard be based on total circuit resistance. These commenters suggested that the resistance of connecting wire or lead line be limited to 3 ohms. Adopting this suggestion would, however, require the use of instruments to reliably determine the resistance and would not address the concerns associated with connecting wire.

Paragraph (g) would require that all connections in the blasting circuit be properly spliced and sufficiently separated from other connections to prevent accidental contact or arcing. Poor connections increase the resistance of the blasting circuit. Connections that are too close together or contact each other can result in arcing and increase the potential for a misfire. In response to several comments, and to clarify the proposal, the commonly used term "properly spliced" has been substituted for the preproposal draft term "securely connected."

Paragraph (h) would require that bare (uninsulated), connections be kept out of water and away from the coal, roof, ribs and floor. Failure to protect bare connections can result in loss of electrical current through grounding, increasing the potential for misfires. A commenter suggested that bare connections also be required to be kept "clean and shiny." Such a subjective requirement, MSHA believes, is not necessary in light of the proposed requirements to protect bare connections.

Paragraph (i) would require blasting circuits to be wired in a single series when 20 or fewer shots are to be fired in a round. This would ensure that the resistance of the blasting circuit is compatible with permissible blasting units.

Paragraph (j) would require that if blasting circuits are checked for circuit continuity, only a blasting galvanometer or other instrument specifically designed

for testing blasting circuits be used. The proposal does not require that blasting circuits be checked, only that the specified instruments be used if a check is performed. Only instruments that produce insufficient electrical energy to initiate detonators are appropriate for testing circuit continuity. The use of other devices can result in the accidental initiation of explosives. By using the term "blasting galvanometer," the proposal clarifies the preproposal draft language which permitted the use of a galvanometer with a silver chloride cell or other device approved by MSHA.

Several commenters suggested that there be a requirement to check circuit continuity. Another commenter suggested that a check of circuit resistance also be required. At this stage in the rulemaking process, MSHA believes that these checks are not necessary since the complete failure of a round to detonate indicates a problem in continuity. A device to check continuity would not provide any additional information. A qualified person still must locate and repair the break in continuity. In addition, proper circuit resistance can be ensured by following the proposed requirements applicable to blasting circuits.

Methane Concentration and Tests § 75.1323

This proposal is derived from existing § 75.320 and § 75.1302 and addresses methane concentrations and tests in areas where explosives are to be fired. Blasting in areas which contain explosive concentrations of methane can cause mine explosions.

Paragraph (a) would prohibit blasting in any area that contains 1.0 volume percent or more methane. While a one percent concentration of methane in air is not explosive, it is recognized throughout the coal mining community as the level at which steps should be taken to remove the methane.

Paragraph (b) would require that tests for methane be made immediately before shots are fired and that these tests be made by a person qualified to conduct such tests. Methane tests made immediately before the shots are fired would warn of methane concentrations at or above 1.0 volume percent.

The provision in the preproposal draft requiring methane tests to be made with a means approved by the Secretary is not included in the proposal, since this is already addressed by the existing ventilation requirements that are applicable to underground coal mining.

Several commenters suggested that methane tests before blasting be conducted "prior to leaving the face or other area to connect the shot," rather than "immediately before shots are fired." These commenters indicated that the use of the phrase "immediately before" could result in improper application of the requirement. However, since the proposal reflects the existing requirement for methane testing and MSHA is not aware of any confusion concerning application of this requirement, this suggestion has not been adopted.

The preproposal draft requirement for a methane test after blasting has been moved to proposed § 75.1325, which addresses examinations after blasting.

Firing Procedure § 75.1324

This proposal, which is derived from existing § 75.1303 and 30 CFR Part 15, sets forth the procedures to be followed when firing explosives.

Paragraph (a) would require that shots be fired only by a qualified person or a person under his or her direct supervision.

Paragraph (b) would limit blasting in a working place to one face at a time, except that up to three faces in a single working place could be blasted in cut coal if each face has a separate kerf and no more than 20 shots are fired in the round. This exception was added in response to a suggestion by commenters who stated that this method is currently practiced safely and should continue to be permitted.

Paragraph (c) would require certain steps to be taken before a blast is fired, including the removal of persons from areas where a hazard would be created by the blast, issuance of warnings that a blast is to be fired and a determination by the qualified person that all persons are a safe distance from the blasting area. These precautions would minimize the exposure of miners to the hazards created by the force of the blast. Between 1978 and 1984, 8 fatalities and 173 nonfatal injuries occurred to miners who were not in a safe location during blasting operations.

Several commenters suggested that the draft provisions specifying the removal of persons when blasting be revised to require their removal from the working place and other areas where a hazard would be created. Commenters also suggested a clarification that only those persons required to be removed need to be around one corner from the blast. In response, the proposal has been clarified to specify that the requirement to remove persons applies to the blasting area and, where a working place is being blasted, to the adjacent working place. In addition, the proposal has been revised to clarify that only those persons required to be removed must be around one corner. Also, the draft requirement that these persons be on the intake air side of the blasting area has been deleted in the proposal as unnecessarily specific. Generally, miners would not be on the return side of an area being blasted because of the dust and smoke generated by the blast.

Other commenters suggested that the requirement to be around at least one corner from the blasting area be deleted because they considered it vague, unsafe and misleading. MSHA believes that the proposal is necessary for protection against flyrock that may be generated by the blast.

Paragraph (d) would require all shots to be fired promptly after they are ready to be fired. This practice minimizes the time persons are exposed to the hazard of unplanned detonation. In response to several comments, the proposal has been revised to substitute "promptly" for "without delay" to avoid any confusion with the term as it is used when referring to detonators.

Paragraph (e) provides that when a round partially detonates, no person shall enter the affected area for at least 15 minutes. This time period would allow time for the slow burning of any explosive material that may produce a delayed detonation. The 15-minute waiting period has been included in response to several commenters who suggested that this period is standard industry practice. Existing standards require a 5-minute waiting period in bituminous and lignite mines and 30 minutes in anthracite mines. The Agency solicits additional comment on the appropriateness of this waiting period. Also in response to comments, the proposal would distinguish partial detonation of a round from a complete failure of the round to detonate. A complete failure usually indicates an electrical problem with the blasting circuit which should be addressed promptly. A misfire, on the other hand, presents the hazard of undetonated explosives and detonators, the location and condition of which often are unknown.

The preproposal draft provision that required approval of the District Manager before firing more than 20 shots in a round is not included in the proposed rule. MSHA believes that the availability of permissible large-capacity blasting units and improved safety standards makes this requirement unnecessary.

Examination After Blasting § 75.1325

The proposal is derived from existing § 75.1308 and 75.320 and would specify steps to be taken after blasting.

The proposal would prohibit entry into the blast area before it is clear of smoke and dust. The concentrations of smoke and dust immediately after the blast is fired can impair the recognition of hazards such as unstable roof and rib conditions. Except when a misfire is known to have occurred, the proposal would require that the area be examined for misfires, methane and other hazardous conditions as soon as it has cleared. An immediate examination after blasting would enable prompt action to be taken to correct any hazards resulting from the blast.

Misfires § 75.1326

This proposal, which is new, specifies general procedures to be followed in the handling of misfires. The proposal retains the substance of the preproposal draft provisions on misfires. Misfires that are not found and disposed of promptly and safely can be accidentally detonated during loading or other operations, creating the potential for serious injury. Because of varying product performance characteristics, the proposal would not specify a particular procedure for handling misfires, but rather would allow a qualified person and mine management to address these situations on a case-by-case basis.

Paragraph (a) would limit the work in the area affected by a misfire to that done by a qualified person to dispose of the misfire and other work to protect persons, such as necessary roof control measures. This proposal would limit the exposure of persons to the hazard of accidental detonation.

A commenter suggested that the area in which a qualified person is working to dispose of misfires should be "dangered off" until the misfire is disposed of. The proposed rule addresses the substance of this commenter's concern by restricting the work permitted in the affected area. Under the proposal, the qualified person, who is responsible for safely disposing of misfires, could take all necessary precautions, including "dangering off" or posting the affected area. MSHA does not believe, however, that "dangering off" would be necessary in all cases.

Paragraph (b) would require all misfires disposed of during the shift to be reported to mine management by the end of the shift. This practice would provide information necessary to establish a history or pattern of misfires and assist in identification of the cause or causes.

One commenter suggested that misfired explosives be placed in a separate magazine and removed from the mine as soon as possible. MSHA believes that proposed § 75.1327 concerning the disposal of damaged or deteriorated explosives adequately addresses the removal of misfired explosives. The same commenter suggested that the information concerning misfires that would be required to be reported to mine management under this proposal should also be recorded and maintained as a record, to be signed by the mine foreman. The purpose of the proposal, however, is to provide information for mine management that will assist in identifying and eliminating the cause of the misfires. MSHA believes that the manner in which this information is kept is an appropriate matter for mine management and need not be regulated.

Paragraph (c) describes the steps to be followed when a misfire cannot be disposed of by a qualified person. The proposal would require each accessible entrance to the affected area to be posted with a warning to alert persons of the existence of the hazard and prevent anyone from being inadvertently exposed to the hazard. The proposal would also require immediate reporting of the misfire to mine management so that technical assistance can be arranged to safely dispose of the misfire.

Damaged or Deteriorated Explosives and Detonators § 75.1327

This proposal is new and sets forth requirements for handling and disposing of damaged or deteriorated explosives or detonators. Such explosives and detonators would be required by paragraph (a) to be placed in separate containers with absorbent material and removed from the mine or returned to the magazine for later removal. Absorbent material would prevent fluids from the explosives leaking outside the container and would cushion the explosives or detonators from impact. Damaged or deteriorated explosives or detonators are more sensitive to initiation.

Paragraph (b) would require damaged or deteriorated detonators with shunts that have been separated to be reshunted before being removed from the mine or placed in a magazine. This provision, which was added to the proposed rule in response to several comments, would conform the proposal to currently accepted safe blasting practices.

Paragraph (c) would require damaged or deteriorated explosives or detonators to be disposed of only on the surface and in safe manner. The preproposal draft provision which specified that damaged or deteriorated explosives and detonators be disposed of in accordance with the manufacturers' instruction has been deleted. Because of the variety of explosive and detonator formulations and characteristics, the instructions provided by the manufacturers are relied upon by the mining industry as an authoritative source of information when disposing of damaged or deteriorated explosives. MSHA anticipates that the industry will continue in the future to follow the manufacturers' instructions. Accordingly, MSHA does not believe it is appropriate to include the manufacturers' instructions in the proposal. The hazardous and complex nature of disposal operations requires that disposal be done only on the surface.

Blasting Near an Adjacent Mine or an Abandoned Portion of an Active Mine

Sections 75.1338 and 75.1375 of the preproposal draft specified conditions under which blasting would be permitted near an adjacent mine or an abandoned portion of an active mine. The draft provisions addressed the hazards of blasting into areas which could contain accumulations of water or explosives or harmful gases. Upon further consideration, MSHA believes that these hazards are adequately addressed by existing § 75.1701, which specifies the use of boreholes to detect and evaluate hazards when approaching abandoned areas or adjacent mines.

Compressed Air Blasting

Sections 75.1360 through 75.1365 of the preproposal draft, which addressed the use of compressed air blasting, have been deleted from the proposal. The technique of blasting coal with compressed air has been discontinued in underground coal mines. This method of blasting has been replaced by the use of explosives or continuous-mining machines. Therefore, MSHA believes that such requirements are not necessary.

Derivation Table

The following derivation table lists: (1) each section number of the proposed rule; and (2) the number of the existing standard from which the proposal is derived.

DERIVATION TABLE

Proposal	Existing standard
§ 75.1300	Part 15.
§ 75.1310	Part 15; § 75.1300, § 75.1303.
§ 75.1311	§ 75.1305.
§ 75.1312	Part 15; §§ 75.1306, 75.1307; New.
§ 75.1313	§§ 75.1301, 75.1304, 75.1307; New.
§ 75.1314	New.
§ 75.1315	Part 15; §§ 75.1306, 75.1302
§ 75.1316	Part 15; New

DERIVATION TABLE—Continued

Proposal	Existing standard
§ 75.1317	New.
§ 75.1318	Part 15; New.
§ 75.1319	Part 15.
§ 75.1320	New.
§ 75.1321	Part 15; § 75.1309 & § 18.16(a); New.
§ 75.1322	Part 15.
§ 75.1323	§§ 75.309, 75.1302
§ 75.1324	Part 15
§ 75.1325	§§ 75.309, 75.1308
§ 75.1326	New.
§ 75.1327	New.

Distribution Table

The following distribution table lists: (1) each section number of the existing standards in Subpart N and Part 15; and (2) the section number of the proposed rule which contains provisions derived from the corresponding existing section.

DISTRIBUTION TABLE

Existing standard	Proposal
§ 75.1300	§§ 75.1310, 75.1315.
§ 75.1301	§ 75.1313.
§ 75.1302	§ 75.1315.
§ 75.1303	§§ 75.1310, 75.1321, 75.1324.
§ 75.1303-1	Deleted.
§ 75.1304	§ 75.1311.
§ 75.1305	§ 75.1311.
§ 75.1306	§ 75.1312.
§ 75.1307	§§ 75.1312, 75.1313.
§ 75.1308	§ 75.1325.
Part 15	§ 75.1300 § 75.1310. § 75.1312. § 75.1315. § 75.1316. § 75.1318. § 75.1319. § 75.1321. § 75.1322. § 75.1324. § 75.1326.

III. Drafting Information

The persons principally responsible for preparing this proposed rule are: Bill W. Clemons, Edward C. Connor and A. Keith Watson, Coal Mine Safety and Health, MSHA; Harry C. Verakis, Technical Support, MSHA; Earnest C. Teaster, Jr., and Helen B. Caraway, Office of Standards, Regulations and Variances, MSHA; and David M. Melnick, Office of the Solicitor, Department of Labor.

IV. Executive Order 12291 and Regulatory Flexibility Act

In accordance with Executive Order 12291, MSHA has prepared an initial analysis to identify potential costs and benefits associated with the proposed changes to its explosives and blasting standards for underground coal mines. The Agency has incorporated this analysis into the Initial Regulatory Flexibility Analysis required by the Regulatory Flexibility Act. In this analysis, summarized below, MSHA has determined that the proposed rule would not result in major cost increases nor have an effect of $100,000,000 or more on the economy. Therefore, the rule is not within the criteria for a major rule and a Regulatory Impact Analysis is not required.

The Regulatory Flexibility Act requires that agencies evaluate and include, wherever possible, compliance alternatives that minimize and adverse impact on small business when developing regulatory proposals. This proposed rule would introduce alternative compliance methods to the existing regulations which would directly benefit small mining operations. In addition, the proposals would clarify compliance responsibilities and adopt performance-oriented standards when possible.

In the following summary of the Initial Regulatory Flexibility Analysis, MSHA has compared the costs and benefits associated with the proposed requirements with the costs of the existing requirements. A copy of the full analysis is available upon request.

MSHA estimates the initial cost for compliance with the existing requirements to be $3,393,433 compared to $3,297,549 for the proposal. The annual recurring costs for compliance with the existing requirements are estimated to be $2,693,723 as opposed to $2,598,655 for the proposal. The proposed rule represents an initial cost decrease of $95,884 and an annually recurring cost savings of $97,068 when compared to the existing rule. The proposed regulations would affect approximately 1920 underground mining operations. MSHA estimates about 960 of these mines are small businesses. For purposes of the Regulatory Flexibility Act, MSHA has defined small business entities as mines with fewer than 20 employees.

In developing cost estimates, MSHA has taken into consideration industry-wide practices. Current compliance costs are related to labor, supply and equipment purchase and maintenance. In calculating the costs of the proposed rule, the Agency projected capital expenditures and recurring costs.

In the proposed rule, MSHA has reorganized, updated, and clarified existing provisions, proposed the deletion of duplicative provisions and eliminated one recordkeeping requirement. MSHA believes that the clarification would foster a better understanding of safe blasting practices and the new proposed requirements, especially those that address the use of sheathed explosive units, would afford greater protection for the miners.

The primary benefit of the proposed rule is the enhanced protection that the standards would provide to miners who are exposed to hazards related to the use of explosives.

The Agency specifically solicits comments and data on how the proposed regulations would impact the mining industry.

V. Paperwork Reduction Act of 1980

The proposed rule contains no collection of information provisions subject to the Paperwork Reduction Act of 1980 (Pub. L. 96-511). The information collection requirement in existing § 75.1303-1 concerning permits for the use of nonpermissible shot-firing units to fire more than 20 shots would be deleted.

List of Subjects in 30 CFR Part 75

Mine safety and health, Mandatory safety standards, Underground coal mines, Explosives and blasting.

Dated: May 2, 1986.

David A. Zegeer,

Assistant Secretary Mine Safety and Health.

PART 75—MANDATORY SAFETY STANDARDS—UNDERGROUND COAL MINES

1. The authority citation for Part 75 continues to read as follows:

Authority: Section 101, Federal Mine Safety and Health Act of 1977, Pub. L. 91-173 as amended by Pub. L. 95-164, 91 Stat. 1291 (30 U.S.C. 811).

Subpart A—General

2. It is proposed to add new paragraphs (r), (s), (t), (u), (v), (w), (x), (y) and (z) to § 75.2 to read as follows:

§ 75.2 Definitions

* * * * *

(r) "Approved blasting unit" is a device that has been approved under Part 7 or Part 25 of this chapter or Bureau of Mines Schedule 16 E, May 26, 1960, that is used for firing electric detonators.

(s) "Battery starting" is the use of unconfined explosives to start the flow of coal down a breast or chute in an anthracite mine.

(t) "Blasting off the solid" is blasting coal at the working face without providing a second free face by cutting, shearing or other method before blasting.

(u) "Instantaneous detonator" is an electric detonator that fires within 6 milliseconds after application of the firing current.

(v) "Laminated partition" is a partition composed of the following material and minimum nominal dimensions: ½ inch thick plywood, ½ inch thick gypsum wallboard, ⅛ inch thick low carbon steel and ¼ inch thick plywood, bonded together in that order.

(w) "Opener hole" is the first shot or shots fired in a round blasted off the solid to create an additional free face.

(x) "Sheathed explosive unit" is a device approved under Part 15 of this chapter consisting of a permissible explosive covered by a sheath of flame-inhibiting material encased in a sealed covering.

(y) "Round" is a group of shots fired or intended to be fired in a continuous sequence with one application of the firing current.

(z) "Short-delay detonator" is an electric detonator with a designated delay period of 25 to 1000 milliseconds.

3. It is proposed to remove from § 75.2 "and" following the semi-colon at the end of paragraph (b)(1), add "and" following the semi-colon at the end of paragraph (b)(2) and add new paragraph (b)(3) to read as follows:

§ 75.2 Definitions.

* * * * *

(b) * * *

(3) An individual qualified in accordance with § 75.1300 to perform blasting and related activities under Subpart N of this Part.

* * * * *

4. It is proposed to remove § 75.2(c)(2) and redesignate § 75.2(c)(3) as (c)(2).

5. It is proposed to revise newly redesignated § 75.2(c)(2) to read as follows:

§ 75.2 Definitions.

* * * * *

(c) * * *

(2) The manner of use of equipment means the manner of use prescribed by the Secretary.

* * * * *

Subpart D—Ventilation

§ 75.320 [Removed]

6. Subpart D is proposed to be amended by removing § 75.320.

7. Subpart N is proposed to be revised to read as follows:

Subpart N—Explosives and Blasting

Sec.
75.1300 Qualified person.
75.1310 Explosives and blasting equipment.
75.1311 Transporting explosives and detonators.
75.1312 Storage of explosives and detonators in underground magazines.
75.1313 Explosives and detonators outside of magazines.
75.1314 Sheathed explosive units.
75.1315 Boreholes for explosives.
75.1316 Preparation of boreholes.
75.1317 Primer cartridges.
75.1318 Loading boreholes.
75.1319 Weight of explosives permitted in boreholes in bituminous and lignite mines.
75.1320 Multiple-shot blasting.
75.1321 Stemming boreholes.
75.1322 Blasting circuits.
75.1323 Methane concentration and tests.
75.1324 Firing procedure.
75.1325 Examination after blasting.
75.1326 Misfires.
75.1327 Damaged or deteriorated explosives and detonators.

Subpart N—Explosives and Blasting

§ 75.1300 Qualified person.

(a) A person is a qualified person under this subpart if:

(1) The person is certified or qualified to use explosives by the State in which the mine is located; or

(2) The person has at least one year of underground coal mining experience and has demonstrated to an authorized representative of the Secretary the ability to use explosives in accordance with this Subpart N.

§ 75.1310 Explosives and blasting equipment.

(a) Explosives taken underground shall be approved in accordance with Part 15 of this chapter.

(b) Explosives shall be fired only with an approved blasting unit that has sufficient capacity and is appropriate for the blasting operation.

(c) Non-electric detonators, aluminum-cased detonators, aluminum-alloy-cased detonators, detonators with alumimum leg wires, detonating cord and safety fuses shall not be used underground.

§ 75.1311 Transporting explosives and detonators.

(a) When explosives and detonators are transported underground:

(1) Cars used to transport the explosives and detonators shall be marked on all sides with a warning identifying the contents as explosive.

(2) The Explosives and detonators shall be enclosed in separate substantial containers made of nonconductive material with no metal or other conductive material exposed inside;

(3) The containers shall be marked with a readily visible warning identifying the contents as explosive; and

(4) No persons, other than those necessary to operate the equipment or to accompany the explosives and detonators, shall be transported with the explosives and detonators.

(b) When explosives and detonators are transported in track-mounted cars they shall be:

(1) In separate cars; or

(2) In the same car:

(i) Separated by a hardwood partition at least 4 inches thick; or

(ii) Separated by a laminated partition.

(c) When explosives and detonators are transported on belt conveyors:

(1) The explosives shall be separated from the detonators by at least 50 feet;

(2) At least 6 inches of clearance shall be maintained between the top of any container of explosives or detonators and the mine roof or other obstruction; and

(3) Except when persons are riding the belt to accompany the explosives and detonators, a person shall be at each transfer point between belts and at the unloading location.

§ 75.1312 Storage of explosives and detonators in underground magazines.

(a) The quantity of explosives stored in underground magazines shall not be more than is needed for 48 hours of use.

(b) Except as provided in § 75.1313, explosives and detonators stored underground shall be:

(1) In separate closed magazines at least 5 feet apart; or

(2) In the same closed magazine:

(i) Separated by a hardwood partition at least 4 inches thick; or

(ii) Separated by a laminated partition.

(c) Only explosives and detonators shall be stored in underground magazines.

(d) Magazines shall be substantially constructed and all interior surfaces shall be made of nonconductive material, with no metal or other conductive material exposed inside.

(e) All magazines shall be:

(1) Located at least 25 feet from roadways and any source of electric current;

(2) Located out of the direct line of the forces from blasting; and

(3) Kept as dry as practicable.

(f) Magazine locations shall be posted with readily visible warnings indicating the presence of explosives.

(g) Only materials and equipment to be used in blasting shall be stored at magazine locations.

§ 75.1313 Explosives and detonators outside of magazines.

(a) Explosives and detonators outside a magazine that are not being transported or prepared for loading in boreholes shall be in closed separate containers made of nonconductive material with no metal or other conductive material exposed inside and the containers shall be:

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(1) At least 15 feet from any source of electric current;
(2) Out of the direct line of the forces from blasting;
(3) In a location to prevent damage by mobile equipment; and
(4) Kept as dry as practicable.
(b) Explosives and detonators not used during a shift shall be returned to a magazine by the end of the shift.

§ 75.1314 Sheathed explosive units.

(a) Only instantaneous detonators shall be used to fire sheathed explosive units.
(b)(1) Sheathed explosive units shall be primed and placed for use only by a qualified person or a person under the immediate supervision of a qualified person.
(2) Sheathed explosive units shall not be primed until immediately before the units are placed where they are to be fired.
(c) No more than three sheathed explosive units shall be fired at one time.
(d) A sheathed explosive unit shall not be fired if it is damaged or deteriorated.
(e) No sheathed explosive unit shall be fired if it is in contact with another sheathed explosive unit.

§ 75.1315 Boreholes for explosives.

(a) All explosives fired underground shall be confined in boreholes, except:
(1) Sheathed explosives units; and
(2) Shots fired in anthracite mines for battery starting or for blasting coal overhangs.
(b) Each borehole for explosives shall be at least 24 inches from any other borehole and from any free face, unless prohibited by the thickness of the coal seam.
(c) No borehole that has contained explosives shall be used for starting any other hole.
(d) When blasting slab rounds off the solid, the opener hole shall not be drilled beyond the rib line.

§ 75.1316 Preparation of boreholes.

(a) Before loading boreholes with explosives:
(1) Each borehole shall be cleared and its depth and direction determined;
(2) All mobile electric equipment shall be removed from the working place or other area where blasting is to be performed; and
(3) All stationary electric equipment in the working place or other area where blasting is to be performed shall be deenergized.
(b) No borehole drilled beyond the depth of cut coal shall be loaded with explosives, unless that portion of the borehole deeper than the cut is tamped with noncombustible material.
(c) When boreholes are being loaded, no other work except that necessary to protect persons shall be done in the working place or other area where blasting is to be performed.
(d) When two working faces that are approaching each other are within 25 feet, cutting, drilling and blasting shall be done only at one working face at a time.

§ 75.1317 Primer cartridges.

(a) Primer cartridges shall be primed and loaded only by a qualified person or a person under the direct supervision of a qualified person.
(b) Primer cartridges shall not be primed until immediately before loading boreholes.

§ 75.1318 Loading boreholes.

(a) Explosives shall be loaded only by a qualified person or a person under the direct supervision of a qualified person.
(b)(1) The primer cartridge shall be the first cartridge loaded in the borehole;
(2) The end of the cartridge in which the detonator is inserted shall face the back of the borehole; and
(3) The primer cartridge and other explosives shall be pushed to the back of the borehole in a continuous column.
(c) An explosive shall not be loaded into a borehole if it is damaged, deteriorated, incompletely filled, or below the approved minimum firing temperature.
(d) Explosives of different brands, types or cartridge size shall not be loaded in the same borehole.

§ 75.1319 Weight of explosives permitted in boreholes in bituminous and lignite mines.

(a) Except when blasting solid rock in its natural deposit, the total weight of explosives loaded in any borehole shall not exceed 3 pounds.
(1) The total weight of explosives loaded in a borehole less than 6 feet deep shall be reduced by ⅓ pound for each foot of borehole less than 6 feet.

§ 75.1320 Multiple-shot blasting.

(a) In anthracite mines, only detonators of proper stength shall be used and short-delay detonators shall be used for multiple-shot blasting when required by the District Manager.
(b) In bituminous and lignite mines, only instantaneous and short-delay detonators of proper strength shall be used to initiate explosives.
(c) When blasting off the solid in bituminous and lignite mines:
(1) Only short-delay detonators shall be used for multiple-shot blasting;
(2) Each shot in the round shall be initiated in sequence from the shots in the opener holes; and
(3) The interval between designated delay periods of adjacent detonators shall be at least 50 milliseconds.

§ 75.1321 Stemming boreholes.

(a) Only noncombustible material shall be used for stemming boreholes.
(b) Stemming material shall contact the explosive cartridge nearest the collar of the borehole.
(c) The diameter of a water stemming bag shall be within ¼ of an inch of the diameter of the drill bit.
(d) Each borehold 4 of more feet deep shall be stemmed for at least 24 inches.
(e) Each borehole less than 4 feet deep shall be stemmed for at least half the depth of the borehole.

§ 75.1322 Blasting circuits.

(a) Blasting circuits shall be protected from sources of stray elecric current.
(b) Detonators made by different manufacturers shall not be combined in the same blasting circuit.
(c) Detonator leg wires shall be shunted until connected to the blasting circuit.
(d) Blasting cables shall be:
(1) Well insulated, copper wire of at least 18-gauge; and
(2) Long enough to permit the round to be fired from a safe location.
(e) Each blasting cable shall be shunted until immediately before firing, except when testing for circuit continuity.
(f) Wire used between the blasting cable and detonator circuitry shall:
(1) Be undamaged;
(2) Be well insulated; and
(3) Have a resistance per-unit-length no greater than 20-gauge copper wire.
(g) Each wire connection in a blasting circuit shall be:
(1) Properly spliced; and
(2) Separated from other connections in the circuit to prevent accidential contact and arcing.
(h) Bare connections in each blasting circuit shall be kept out of water and shall not contact the coal, roof, ribs, or floor.
(i) When 20 or fewer shots are fired in a round the blasting circuits shall be wired in a single series.
(j) When a blasting circuit is tested for continuity, a blasting galvonometer or other instrument specifically designed for testing blasting circuits shall be used.

§ 75.1323 Methane concentration and tests.

(a) No shot shall be fired in an area that contains 1.0 volume percent or more of methane.
(b) Immediately before shots are fired the methane concentration in a working place, or any other area where blasting is to be performed, shall be determined by a person qualified to test for methane.

§ 75.1324 Firing procedure.

(a) Shots shall be fired by a qualified person or a person under the direct supervision of a qualified person.
(b) Only one face in a working place shall be blasted at a time, except that up to three faces in a working place may be blasted at a time if each face has a separate kerf and no more than 20 shots are fired in the round.
(c) Before a shot is fired:
(1) All persons shall be removed from the blasting area and, when blasting is to be performed in a working place, from each adjacent working place to an area that is around at least one corner from the blasting area;
(2) A warning shall be given and adequate time allowed for persons to respond; and
(3) The qualified person shall ascertain that all persons are a safe distance from the blasting area.
(d) All shots shall be fired promptly, after all persons have been removed to a safe location.
(e) When a round partially detonates, no person shall enter the affected area for at least 15 minutes.

§ 75.1325 Examination after blasting.

(a) After blasting operations are performed, the blasting area shall not be reentered until it is clear of smoke and dust.
(b) Except as provided in § 75.1324(e), immediately after the blasting area has cleared, a qualified person shall examine the area for misfires, methane and other hazardous conditions.

§ 75.1326 Misfires.

(a) When misfires occur, only work by a qualified person to dispose of misfires and other work necessary to protect persons shall be done in the affected area.
(b) All misfires disposed of during a shift shall be reported to mine management not later than the end of the shift.
(c) When a misfire cannot be disposed of by a qualified person:
(1) Each accessible entrance to the area affected by the hazard of the misfire shall be posted with a warning at a conspicuous location; and
(2) The misfire shall be immediately reported to mine management.

§ 75.1327 Damaged or deteriorated explosives and detonators.

(a) Damaged or deteriorated explosives or electric detonators shall be:
(1) Placed in separate containers with absorbent material; and
(2) Removed from the mine or placed in a magazine and removed when the magazine is resupplied.
(b) Damaged or deteriorated detonators with shunts that have been separated shall be reshunted before being removed from the mine or placed in a magazine.
(c) Damaged or deteriorated explosives and electric detonators shall be disposed of only on the surface and in a safe manner.

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Part V

Department of Transportation

Federal Railroad Administration

49 CFR Part 232

Railroad Power Brakes and Drawbars; Final Rule

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 232

[Docket No. PB-7, Notice No. 3]

Railroad Power Brakes and Drawbars

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This notice amends FRA's power brake rules to permit use of a telemetry device that provides, in the cab of the controlling locomotive, a continuous readout of the brake pipe pressure at the rear car of a train, as an alternative to reliance on a gauge at the end of the train and visual observation of the application and release of the brakes on the rear car during intermediate terminal air brake tests. This action is in response to a petition for rulemaking submitted by the Association of American Railroads (AAR).

EFFECTIVE DATE: June 15, 1986.

FOR FURTHER INFORMATION CONTACT:
Principal Program Person: Philip Olekszyk, Office of Safety, Federal Railroad Administration, Washington, DC 20590. Telephone 202-426-0897.

Principal Attorney: Michael E. Chase, Office of Chief Counsel, Federal Railroad Administration, Washington, DC 20590. Telephone 202-426-8285.

SUPPLEMENTARY INFORMATION:

Background

On June 5, 1984, FRA conducted a Safety Inquiry hearing to explore the safety implications inherent in sanctioning the use of radio telemetry devices, in lieu of a gauge and visual observation, to convey information about the functioning of a train's air brake system. The Safety Inquiry was prompted by FRA's interest in determining whether the devices could enhance the safety of train operations by providing the crew with continuing information on the status of the train's air brake system. It was also responsive to an AAR petition for rulemaking to address the use of radio telemetry devices (also known as end-of-train devices). As a result of the information obtained at that inquiry and operational data obtained from an extensive field test program of radio telemetry devices, FRA issued a notice of proposed rulemaking on September 3, 1985 (50 FR 35640) to amend FRA's power brake regulations at 49 CFR Part 232.

In summary, the changes proposed in the NPRM were designed to permit the optional use of a device at the rear of a train in lieu of visual inspection of the rear of the train for compliance with certain test procedures in § 232.13. The device would monitor the brake pipe pressure at the rear of the train and convey that information to the cab of the locomotive controlling the train. Thus, where the current rule required the manual use of a gauge at the rear of the train to ascertain brake pipe pressure, the device could be used instead. Similarly, where the current rule required a visual determination of the application and release of the brakes on the rear car, the device could be used instead to read the decrease and increase in brake pipe pressure resulting from a train crew member's applying and releasing the brakes by operating the valve on the locomotive. This decrease and increase could be used to determine the application and release of the brakes on the rear car.

A public hearing on the proposed rule was held on October 25, 1985. The hearing was well attended. Commenters at the hearing included three manufacturers of end-of-train devices, six major railroads, the AAR, several national rail labor organizations, and six individual railroad employees. Additional written comments to the docket were received from individuals, railroads, state level rail labor groups, and the State Corporation Commission of New Mexico. General comments about the proposed rule are discussed in this portion of the preamble, while comments addressing the specific provisions of the rule language are addressed in the section-by-section analysis.

The proposed rule was supported by most commenters. Manufacturers of end-of-train devices, the AAR, and the railroad commenters strongly supported the use of end-of-train devices. The extensive test program of various devices by several railroads under waiver from FRA was cited. Over 90,000 conductor trips have demonstrated the high reliability of these devices, in excess of 98 percent. The maturity of the technology and engineering of the devices was stressed by the manufacturers. The AAR, in particular, stressed that the enroute failure of a device does not pose any safety problem since a visual observation of the set and release of the brakes on the rear car is an acceptable method of assuring brake pipe continuity.

FRA agrees with these commenters that the waiver program involving end-of-train devices proved the high level of reliability of the pressure transducer and the telemetry system. FRA also agrees that train line continuity, the critical safety issue addressed in the rear car set and release requirement, is fully demonstrated by use of an end-of-train device. However, FRA has also concluded that these devices offer safety benefits during train operations that go beyond simple compliance with air brake test requirements. A device provides the engineer with a brake pipe "image" at the initial terminal test, including leakage and gradient, which can be used for comparison purposes to assess the train's air brake system throughout the trip. It also aids the engineer when utilizing the brakes for train handling since the engineer will know with certainty when a brake application (pressure reduction) or brake release (pressure increase) signal has reached the rear of the train.

One railroad, the Long Island Railroad, requested that the final rule include its sophisticated brake indicator system used on certain newer passenger equipment, even though the system is not a radio telemetry system. FRA has not included that system in the final rule because it is used on only a very small fleet. FRA believes that the effectiveness of the "brake indicator system" can be more fully and efficiently explored through the waiver process.

Rail labor organizations and individual railroad employees generally opposed the rule. The thrust of their objections, however, dealt with the presence or absence of a caboose at the end of a train, not the device itself or whether the device can effectively ascertain brake pipe continuity. Most of these commenters recognized, explicitly or implicitly, that radio telemetry or end-of-train devices have a future in railroading.

The major objection raised by commenters opposed to the proposed rule was the opinion that elimination of a caboose from the end of a train adversely affects safety. For example, the comments of the Railway Labor Executives' Association and the United Transportation Union called for new requirements, e.g., overheated bearing/wheel detectors, train length restrictions, and dragging equipment detectors, to counteract the perceived safety detriment of cabooseless trains. FRA does not agree with this line of analysis. First, nothing in any current FRA regulation requires a caboose on any train, nor does anything in the final rule issued in this docket authorize the removal of a caboose. The determination on whether a railroad uses a caboose on any given line is

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made through the collective bargaining process. Moreover, the FRA does not consider the lack of a caboose to be a safety issue per se. While this final rule may facilitate railroads' obtaining economic benefits from cabooseless operations, it does not in any way determine whether a caboose will or will not be used.

Several commenters suggested that FRA require that end-of-train devices be capable of initiating an emergency brake application. After careful consideration, FRA has concluded that such a requirement is unwarranted. First, cabooseless trains operated currently without an end-of-train device lack any ability to initiate an emergency brake application from the rear of the train. Those operations have not demonstrated a need to be able to do so. Second, FRA notes that currently available devices generally do not incorporate this feature and that development work remains to be done before a reliable system is available. Third, this feature would require two-way signal transmission, sharply escalating the cost of the device. However, FRA intends to monitor the development and impact of end-of-train devices as time goes on.

Several commenters addressed the problems of rear markers on trains, e.g., light color. Most of these comments are unrelated to this rulemaking, and undoubtedly were submitted because many end-of-train devices are combined rear marker and rear car brake pipe pressure telemetry systems. For example, several labor organizations commented that the telemetry system should be capable of providing information regarding the status of the rear marker light, including the level of battery reserve. FRA views these types of comments as reflective of the tremendous potential of end-of-train devices to provide the engineer with information about the train. FRA expects significant developments in the capabilities and features of these devices. However, FRA has concluded that it is both premature and unwarranted from a safety standpoint to mandate these optional features.

Section-by-Section Analysis

Section 232.13(b). In the NPRM, FRA proposed to permit use of a "device" in addition to a "gauge" to ascertain that brake pipe pressure is being restored at the rear of the train. The final rule adopts the proposed change with minor language revision. The performance specifications of the device are included in new § 232.19.

Section 232.13(c). In the NPRM, FRA proposed to permit use of a "device" to determine that brake pipe pressure has been charged to the prescribed level. FRA also proposed to permit the device to be used to ascertain that the rear car brake pipe pressure is being reduced, as an alternative to a visual determination that the rear car brakes have applied. Finally, the NPRM proposed to permit the device to be used to ascertain that the rear car brake pipe pressure is being restored, as an alternative to a visual determination that the rear car brakes have released. The final rule adopts these changes, although certain editorial revisions are made for the sake of clarity. FRA believes that reliance on changes in rear car brake pipe pressure to determine the application and release of the brakes on the rear car is reasonable since the valve on each individual car is designed to respond to such changes in pressure. One editorial revision to this paragraph and to paragraphs (d)(1) and (d)(2) is deleting the proposed language requiring a rear car set and release test if the device becomes inoperative enroute. Since the final rule permits use of a device as an alternative to the rear car set and release test, an inoperative device would preclude using that alternative. Hence, a rear car set and release test is automatically required.

Section 232.13(d)(1). As in § 232.13(c), FRA proposed to permit use of a device to determine that the brake pipe at the rear of train is charged to the specified level, and to ascertain that the rear car pressure is being reduced and restored in lieu of determining visually that rear car brakes have applied and released. In addition, FRA proposed in the NPRM to incorporate the procedure authorized in a recent FRA technical bulletin that permits a single 20-pound brake pipe reduction in lieu of a 15-pound reduction followed by increasing the reduction to full service. These changes have been adopted in the final rule, although minor editorial revisions are made for the sake of clarity.

Thus, the final rule permits use of a rear car gauge or device to observe a rear car pressure reduction and then a pressure increase in lieu of observing the application and release of the rear car's brakes. This portion of the test procedure in § 232.13(d)(1) may be made in conjunction with the portion requiring observation of the application and release of the brakes on the cars added to the train.

Section 232.13(d)(2). FRA adopts the proposed change, with minor drafting revision, to permit use of a gauge or device to determine that the rear car brake pipe pressure is being reduced and restored, as an alternative to a visual determination that the brakes on the rear car apply and release.

The final rule does not include a requirement to charge the train before the brake pipe pressure is reduced as was proposed. Several railroad commenters objected to the proposed language suggesting that the requirement to charge the train is a new and unnecessary requirement. These commenters noted that the test in (d)(2) is only to determine brake pipe continuity, whereas the test in (d)(1) involves both a leakage test and a car-by-car inspection of cars added to the train. FRA agrees and, hence, has deleted the proposed language from the final rule.

Section 232.13(g). In the NPRM FRA proposed to add a new paragraph (g) describing the performance standards for a device that may be used to comply with the test procedures in § 232.13. Paragraph (g) in the final rule merely defines a "device" as a system of components designed and inspected in accordance with § 232.19. The performance standards are now embodied in new § 232.19.

Section 232.13(h). FRA had added a new paragraph (h) to the final rule to clarify what constitutes pressure "being reduced" and "being restored" at the rear of the train when an end-of-train device is used. It provides that the rear car brake pipe pressure must be at least 5 psig different than the pressure before action is taken to decrease or increase brake pipe pressure.

Section 232.19. The final rule includes a new section, "§ 232.19 *End of train device.*" This section addresses the performance standards that were included in proposed § 232.13(g), the predeparture inspection requirements in proposed § 232.13(h), and new performance related requirements responsive to issues raised by the comments to the proposed rule.

Paragraph (a) provides that an end-of-train device includes both the rear-of-train unit (rear unit) and the front-of-train unit (front unit). These two units may or may not be permanently mated to one another. However, when a device is in use, the front unit and rear unit must work together in the manner prescribed in paragraphs (e) and (h).

Paragraph (b) describes the characteristics of the rear unit. The rear unit must be capable of determining the rear car brake pipe pressure and transmitting that information to the front unit. As proposed, the rear unit shall have an accuracy of ±3 psig of the actual brake pipe pressure (§ 232.19(b)(1)). Paragraph (b) also includes four other requirements not

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explicitly contained in the proposed rule, but which are included in the current AAR guidelines on end-of-train devices. These four requirements are directly safety related.

First, the rear unit must be equipped with a "bleeder valve" to release air under pressure from the rear unit or associated air hoses prior to detaching the rear unit from the brake pipe (§ 232.19(b)(2)). Absence of such a valve can create a personal injury hazard.

Second, the rear unit must be designed so that an internal failure of the device will not cause an undesired emergency brake application (§ 232.19(b)(3)).

Third, the rear unit must be equipped with either an air gauge or a means of visually displaying the rear unit's brake pipe pressure measurement (§ 232.19(b)(4)). This capability is necessary to comply with the requirement in § 232.19(h)(2) to compare the brake pipe pressure reading on the rear unit with the reading displayed on the front unit. This comparison, made at the point of installation of the device, demonstrates the proper internal functioning of the device. Moreover, this feature permits the rear unit to be used as gauge by a person at the rear of the train. Thus, a person at the rear of the train could use the rear unit as a gauge for purposes of complying with the requirements of § 232.12(d)(1).

Fourth, the rear unit must be equipped with a pressure relief safety valve (§ 232.19(b)(5)). This valve is to prevent an explosion from a high pressure air leak inside the rear unit, an event that would otherwise present a risk of personal injury.

Paragraph (c) prescribes the reporting rate of messages from the rear unit. Many commenters objected to the proposed rule language that the device determine "the brake pipe pressure on the rear car on a continuous basis." The manufacturers of end-of-train devices and railroads indicated that while the front unit provides a continuous display of the rear car brake pipe pressure, that display is only updated in the event of pressure changes greater than two pounds or after a time interval of approximately one minute. The final rule responds to these comments and provides for a continuous display with periodic updates. FRA has adopted a pressure change criterion of ±2 psig and a time interval of not more than 70 seconds.

Paragraph (d) defines the operating environment in which the rear unit must be designed to operate. It sets forth temperature, humidity, pressure (altitude), shock, and vibration criteria. These criteria are from the current industry standards for end-of-train devices.

Paragraph (e) establishes a requirement that each rear unit have a unique and permanent identification code that is transmitted with each message transmitted. This unique code is also set, though not necessarily permanently, in the front unit when the device is being used so that only the mated units will communicate with each other. This unique code system is currently used and has obvious critical safety implications. The codes are currently provided by AAR and the rule provides that an AAR provided code is deemed to be a unique code for purposes of compliance with the rule. A unique code may also be obtained from FRA.

Paragraph (f) describes the characteristics of the front unit. The front unit must be capable of receiving messages from a rear unit and displaying the rear car brake pipe pressure in not more than one-pound increments (§ 232.19(f)(1)).

The display must be clearly visible and legible in daylight and darkness from the engineer's normal operating position (§ 232.19(f)(e)). Several commenters noted that many locomotives have multiple locations from which an engineer can operate the train. In such situations, the normal operating position is the position occupied by the engineer for the particular train movement. However, FRA will not require relocating the front unit when an engineer changes location for a brief time, for example, when making a switching move.

The front unit must have a means of entering the unique identification code of the rear unit being used and display messages only from that rear unit (§ 232.19(f)(3)).

Finally, the front unit must be designed to function properly in the operating environment normally encountered in the cab of a locomotive (232.19(f)(4)).

Paragraph (g) provides that the radio equipment used in the front and rear units must comply with all Federal Communications Commission requirements (§ 232.19(g)(1)). It further provides a minimum battery life of 36 hours at 0°C for any battery-powered radio equipment (§ 232.19(f)(2)).

Paragraph (h) of the final rule prescribes requirements for the inspection of end-of-train devices. Subparagraph (h)(1) requires that the unique identification code of the rear unit shall be entered into the front unit upon installation of an end-of-train device. The functional capability of the device also must be checked at the point of installation (§ 232.19(h)(2)). This is accomplished by comparing the quantitative value display on the front unit with the value displayed on the rear unit or an air gauge. The rule prohibits use of the end-of-train device if the difference between the two values exceeds three pounds. Finally, the rule requires that the rear unit be calibrated for accuracy at least every 92 days and a tag applied to the rear unit concerning the last inspection (§ 232.19(h)(3)).

The requirement to periodically calibrate the rear unit is essentially identical to the requirement in the proposed rule. However, the proposed rule envisioned the inspection being made as part of the periodic inspection of a locomotive under 49 CFR Part 229. Railroad commenters supported the periodic inspection requirement, but noted that the rear units are not attached to locomotives and, therefore, should not be connected to the periodic inspection of locomotives. FRA agrees and the final rule simply requires an inspection at least every 92 days. Thus, the entire use, operation, and inspection of end-of-train devices is regulated under the Safety Appliance Acts (49 U.S.C. 1 *et seq.*). The requirement to have a tag, sticker, or other method of information storage regarding the last calibration affixed to the rear unit is designed for ease of compliance. It provides a simple method for a railroad employee or an FRA inspector to determine that the rear unit has been calibrated within the last 92 days. It is also an easy and virtually cost-free system for a railroad to follow. FRA envisions a small sticker affixed on the inside portion of the door or section of the rear unit covering the battery, a sticker not unlike ones found on automobiles providing information about the date and mileage at the last oil change.

Regulatory Impact

This final rule has been evaluated in accordance with existing regulatory policies. It is neither a "major" rule as defined under Executive Order 12291 nor a "significant" rule under DOT's policies and procedures.

The rule will not increase the economic burden of the existing regulation since it does not propose any new mandatory requirements. The alternative method of compliance with the requirements of 49 CFR 232.13 permitted in the final rule will have a positive economic impact by permitting carriers to reduce delays associated with manual power inspections at intermediate points. Although FRA is constrained in its analysis by the absence of well defined industry-wide economic data, FRA has prepared and placed in the docket an economic analysis addressing the impact of the final rule. It can be inspected or copied at Room 8201, 400 Seventh Street, SW., Washington, DC. Copies can also be obtained from the Docket Clerk at the same address. FRA's draft economic evaluation prepared for the NPRM in this docket identified total estimated benefits from avoidance of train delays to be $11,135,000 per year. The total first year costs, attributable to the purchase and installation of telemetry devices, were estimated at $1,370,000. These amounts were annual averages from a twenty-year forecast that uses a 10 percent discount rate. The benefit-to-cost ratio for the entire forecast period would be 8 to 1.

The cost-benefit ratio in the draft economic evaluation was conservative for a number of reasons, and FRA specifically requested that commenters provide information on the economic impact of the NPRM. The commenters who addressed the economic impacts in their comments to the NPRM confirmed that the cost-benefit ratio is conservative. Accordingly, it is certified that the rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). It does not constitute a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required.

Paperwork Reduction Act

This final rule contains information collection requirements in § 232.19. They have been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). FRA anticipates that OMB will undertake prompt action on the request for approval. FRA will publish a notice in the **Federal Register** announcing that action. Any comments on the information collection requirements should be submitted to: Office of Regulatory Policy, Office of Management and Budget, 726 Jackson Place, NW., Washington, DC 20503.

List of Subjects in 49 CFR Part 232

Railroad safety.

The Final Rule

PART 232—[AMENDED]

In consideration of the foregoing, Part 232 of 49 Code of Federal Regulations is amended as follows:

1. The authority citation for 49 CFR Part 232 continues to read as follows:

Authority: Secs. 1, 3, 5, and 6, 27 Stat. 523, as amended, secs. 1–3, 32 Stat. 943, as amended, secs. 1, 2, 3, and 6, 36 Stat. 298–299, sec. 6 (e) and (f), 80 Stat. 939 (45 U.S.C. 1, 3, 5, 6, 8–10, 11, 12, 15, 16, 49 U.S.C. 1655)

2. Section 232.13 is amended by revising paragraphs (b), (c)(1), (d)(1), (d)(2)(i), and by adding paragraphs (g) and (h) to read as follows:

§ 232.13 Road train and intermediate terminal train air brake tests.

* * * * *

(b) *Freight trains:* Before motive power is detached or angle cocks are closed on a freight train, brakes must be applied with not less than a 20-pound brake pipe reduction. After recoupling, and after angle cocks are opened, it must be known that brake pipe air pressure is being restored as indicated by a rear car gauge or device. In the absence of a rear car gauge or device, an air brake test must be made to determine that the brakes on the rear car apply and release.

(c)(1) At a point other than an initial terminal where a locomotive or caboose is changed, or where one or more consecutive cars are cut off from the rear end or head end of a train with the consist otherwise remaining intact, after the train brake system is charged to within 15 pounds of the feed valve setting on the locomotive, but not less than 60 pounds as indicated at the rear of a freight train and 70 pounds on a passenger train, a 20-pound brake pipe reduction must be made and it must be determined that the brakes on the rear car apply and release. As an alternative to the rear car brake application and release test, it shall be determined that brake pipe pressure of the train is being reduced as indicated by a rear car gauge or device and then that brake pipe pressure of the train is being restored as indicated by a rear car gauge or device.

* * * * *

(d)(1) At a point other than a terminal where one or more cars are added to a train, after the train brake system is charged to not less than 60 pounds as indicated by a gauge or device at the rear of a freight train and 70 pounds on a passenger train, a brake test must be made to determine that brake pipe leakage does not exceed five (5) pounds per minute as indicated by the brake pipe gauge after a 20-pound brake pipe reduction. After this test is completed, it must be determined that the brakes on each of these cars and on the rear car of the train apply and release. As an alternative to the rear car brake application and release portion of the test, it shall be determined that brake pipe pressure of the train is being reduced as indicated by a rear car gauge or device and then that brake pipe pressure of the train is being restored as indicated by a rear car gauge or device. Cars added to a train that have not been inspected in accordance with § 232.12(c)–(j) must be so inspected and tested at the next terminal where facilities are available for such attention.

(2)(i) At a terminal where a solid block of cars, which has been previously charged and tested as prescribed by § 232.13(c)–(j), is added to a train, it must be determined that the brakes on the rear car of the train apply and release. As an alternative to the rear car application and release test, it shall be determined that brake pipe pressure of the train is being reduced as indicated by a rear car gauge or device and then that brake pipe pressure of the train is being restored as indicated by a rear car gauge or device.

* * * * *

(g) As used in this section, "device" means a system of components designed and inspected in accordance with § 232.19.

(h) When a device is used to comply with any test requirement in this section, the phrase "brake pipe pressure of the train is being reduced" means a pressure reduction of at least five pounds and the phrase "brake pipe pressure of the train is being restored" means a pressure increase of at least five pounds.

3. Adding new § 232.19 to read as follows:

§ 232.19 End of train device.

(a) An end of train device shall be comprised of a rear-of-train unit (rear unit) located on the last car of a train and a front-of-train (front unit) unit located in the cab of the locomotive controlling the train.

(b) *Rear unit.* The rear unit shall be capable of determining the rear car brake pipe pressure and transmitting that information to the front unit for display to the locomotive engineer. The rear unit shall be—

(1) capable of measuring the rear car brake pipe pressure with an accuracy of ±3 psig and brake pipe pressure variations of ±1 psig;

(2) equipped with a "bleeder valve" that permits the release of any air under pressure from the rear of train unit or the associated air hoses prior to detaching the rear unit from the brake pipe;

(3) designed so that an internal failure will not cause an undesired emergency brake application;

(4) equipped with either an air gauge or a means of visually displaying the rear unit's brake pipe pressure measurement; and

(5) equipped with a pressure relief safety valve to prevent explosion from a high pressure air leak inside the rear unit.

(c) *Reporting rate.* Multiple data transmissions from the rear unit shall occur immediately after a variation in the rear car brake pipe pressure of ±2 psig and at intervals of not greater than 70 seconds when the rear car brake pipe pressure variation over the 70-second interval is less than ±2 psig.

(d) *Operating environment.* The rear unit shall be designed to meet the performance requirements of paragraphs (b) and (c) of this section under the following environmental conditions:

(1) At temperatures from −40 °C to 60 °C;

(2) At a relative humidity of 95% noncondensing at 50 °C;

(3) At altitudes of zero to 12,000 feet mean sea level;

(4) During vertical and lateral vibrations of 1 to 15 Hz., with 0.5 g. peak to peak, and 15 to 500 Hz., with 5 g. peak to peak;

(5) During the longitudinal vibrations of 1 to 15 Hz., with 3 g. peak to peak, and 15 to 500 Hz., with 5 g. peak to peak; and

(6) During a shock of 10 g. peak for 0.1 second in any axis.

(e) *Unique code.* Each rear unit shall have a unique and permanent identification code that is transmitted along with the pressure message to the front-of-train unit. A code obtained from the Association of American Railroads, 50 F Street, NW., Washington, DC 20036 shall be deemed to be a unique code for purposes of this section. A unique code also may be obtained from the Office of Safety Enforcement (RRS–10), Federal Railroad Administration, Washington, DC 20590.

(f) *Front unit.* (1) The front unit shall be designed to receive data messages from the rear unit and shall be capable of displaying the rear car brake pipe pressure in not more than one-pound increments.

(2) The display shall be clearly visible and legible in daylight and darkness from the engineer's normal operating position.

(3) The front device shall have a means for entry of the unique identification code of the rear unit being used. The front unit shall be designed so that it will display a message only from the rear unit with the same code as entered into the front unit.

(4) The front unit shall be designed to meet the requirements of 232.19(d) (2), (3), (4), and (5). It shall also be designed to meet the performance requirements in this paragraph—

(i) At temperatures from 0°C to 60°C;

(ii) During a vertical or lateral shock of 2 g. peak for 0.1 second; and

(iii) During a longitudinal shock of 5 g. peak for 0.1 second.

(g) *Radio equipment.* (1) The radio transmitter in the rear unit and the radio receiver in the front unit shall comply with the applicable regulatory requirements of the FCC and use of a transmission format acceptable to the FCC.

(2) If power is supplied by one or more batteries, the operating life shall be a minimum of 36 hours at 0°C.

(h) *Inspection.* (1) Upon installation of an end-of-train device, it shall be determined that the identification code entered into the front unit is identical to the unique identification code on the rear-of-train unit.

(2) The functional capability of the device shall be determined at the point of installation, after charging the train, by comparing the quantitative value displayed on the front unit with the quantitative value displayed on the rear unit or on an air gauge. The end device may not be used if the difference between the two readings exceeds three pounds.

(3) The rear unit shall be calibrated for accuracy at least every 92 days. A tag, sticker, or other method of information storage that provides the date of the last calibration, the location where the calibration was made, and the name of the person doing the calibration shall be affixed to the rear unit.

Issued in Washington, D.C. on May 5, 1986.

John H. Riley,

Administrator.

[FR Doc. 86–10456 Filed 5–8–86; 8:45 am]

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federal register

Friday
May 9, 1986

Part VI

Department of Agriculture

Agriculture Stabilization and Conservation Service

7 CFR Part 736

Grain Warehouses; Transfer of Stored Grain; Interim Final Rule

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DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 736

[Amdt. No. 2]

Grain Warehouses; Transfer of Stored Grain

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Interim final rule.

SUMMARY: This rule amends 7 CFR Part 736 relating to grain warehouses licensed under the United States Warehouse Act (Act) to allow a warehouseman to transfer receipted stored agricultural products from one licensed warehouse to another licensed warehouse. The Act was amended on March 20, 1986, to allow such transfers which are advantageous to warehousemen and producers in handling unusually large crops. The authority for this action is found in the United States Warehouse Act 7 U.S.C. 241 *et seq.*

EFFECTIVE DATE: May 9, 1986.

Comment date: Written comments, data, and opinions on this Interim Rule must be submitted by July 8, 1986 to be assured of consideration.

ADDRESS: Written comments should be sent to Paul W. King, Director, Warehouse Division, Room 5968–South Agriculture Building, Agricultural Stabilization and Conservation Service, P.O. Box 2415, U.S. Department of Agriculture, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Harry J. Wishmire, 202–475–4028.

SUPPLEMENTARY INFORMATION:

This rule has been reviewed under the provisions of Executive Order 12291 and Departmental Regulation 1512–1 and has been classified as "non major." This action does not constitute a review as to the need, currency, and effectiveness of these regulations under those procedures. A complete review of these regulations is in process.

Milton J. Hertz, Acting Administrator, ASCS, has determined that this action is "non major" since implementation of the proposed rule will not result in (a) an annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, Federal, State, or local government, or a geographic region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or export markets.

Reporting and recordkeeping requirements have received OMB clearance under OMB No. 0560–0120 and no additional requirements are proposed by this rule.

Milton J. Hertz, Acting Administrator, ASCS, has certified that this action will not have a significant economic impact on a substantial number of small entities because (i) this action imposes no additional economic costs on small entities; and (ii) the use of the service is voluntary; therefore no regulatory flexibility analysis was prepared.

This rule is not expected to have any significant impact on the quality of the human environment. In addition, this action will not adversely affect environmental factors such as wildlife habitat, water quality, or land use and appearance. Accordingly, neither an environmental assessment nor an environmental impact statement is required and none was prepared.

This action will not have a significant impact specifically upon area and community development, therefore review as established by Executive Order 12291 (February 17, 1981) was not used to assure that units of local government are informed of this action.

The U.S. Warehouse Act (7 U.S.C. 241 *et seq.*) [the "Act"] provides for the licensing of warehousemen who apply to the Secretary of Agriculture and meet certain statutory and regulatory standards. The primary objectives of the Act are to: (1) Protect producers and others who store their property in public warehouses; (2) assure the integrity of warehouse receipts as documents of title, thereby facilitating trading of agricultural commodities in interstate commerce; and (3) set and maintain a standard for sound warehouse operations.

Issuance of a warehouse receipt (preparation by the warehouseman and delivering to the depositor) is the best legal evidence of the bailment contract (the storage obligation). A warehouse receipt is generally acceptable in commerce only when the original depositor or a subsequent holder of a receipt has reasonable assurance that the product covered by the warehouse receipt will be returned upon surrender of the receipt and a valid request for delivery.

The amendment to the Act which mandated this change in the regulations became effective March 20, 1986. The amendment allows a federally licensed warehouseman to transfer receipted stored agricultural products from one licensed warehouse to another licensed warehouse in accordance with regulations to be issued by the Secretary and subject to such terms and conditions as the Secretary may prescribe. This transfer was prohibited under previous provisions of the Act.

The amendment grants discretionary authority to the Secretary to assist federally licensed warehousemen in coping with a storage situation that is beyond their control.

A tight storage situation exists and is expected to continue for the 1986 crops. This change will help facilitate storage operations of primary receiving warehouses by enabling them to forward grain to other licensed facilities. Receiving warehouses will continue to be responsible for the safekeeping of grain.

The Act was amended to help federally licensed warehousemen more readily handle bumper crops of grain. Harvest of a large winter wheat crop will begin in late May. A tight storage situation already exists in that production area. Emergency action on this rule is necessary if the amendment to the Act is to assist in freeing storage space at local warehouses for this crop. Therefore, good cause is shown for making this rule effective immediately without provisions for prior notice and comment. Comments will be received for 60 days after the effective date of this Interim Rule and will be considered before the rule is confirmed.

List of Subjects in 7 CFR Part 736

Grains, Warehouse licenses, Duties of warehouseman, Warehouses.

Interim Final Rule

PART 736—GRAIN WAREHOUSES

Accordingly it is proposed to amend 7 CFR Part 736 as follows:

1. The authority citation for 7 CFR Part 736 continues to read as follows:

Authority: Sec. 28, 39 Stat. 490 (7 U.S.C. 268)

2. Section 736.42 is revised to read as follows:

§ 736.42 Excess Storage.

(a) If at any time a warehouseman shall store grain in his warehouse in excess of the capacity for which it is licensed, such warehouseman shall immediately notify the Secretary of such excess storage, the reason therefor, and the location thereof.

(b) A warehouseman wishing to transfer stored grain for which receipts have been issued to another licensed warehouse in accordance with section 17 of the Act may do so subject to the following terms and conditions.

(1) The transferring (shipping) warehouseman's accepted rules or schedule of charges must contain notice that the warehouseman may forward grain deposited on a commingled basis such terms and conditions as the Secretary may prescribe.

(2) For purposes of this section of the regulations a licensed warehouse means a warehouse operated by a warehouseman who holds an unsuspended, unrevoked license under the U.S. Warehouse Act for grain, or a warehouse operated by a warehouseman who holds an effective warehouse license for the public storage of grain and/or rice issued by a State that has financial, bonding and examination requirements for the benefit of all depositors.

(3) Non-negotiable warehouse receipts shall be obtained promptly by the shipping warehouseman from the receiving warehouseman for all transferred grain. Such receipts shall have printed or stamped in large bold or outline letters diagonally across the face and covering the face from corner to corner the words "NOT NEGOTIABLE". Receipts are not valid for collateral purposes. They shall be retained by the shipping warehouseman to be presented to and used by the Department examiners in lieu of an on-site inventory. The grain covered by such receipts is not the property of either the receiving or shipping warehouseman but held in trust by both solely for the benefit of the depositors whose bailed grain was transferred individually or collectively and the depositor or the depositor's transferee retains title thereto.

(4) The shipping warehouseman's bond shall be increased to consider the addition of the transferred grain to the licensed capacity of the warehouse with the net asset requirements based on the total of the licensed capacity and the forwarded grain. The bond amount need not be more than $500,000 unless necessary to cover a deficiency in net assets to meet requirements. The receiving warehouseman shall not incur storage obligations that exceed the licensed capacity of his warehouse.

(5) The shipping warehouseman continues to retain a storage obligation to the owners of all grain deposited in the warehouse for storage whether forwarded or retained and is, except as otherwise agreed upon under paragraph (b)(6) of this section, required to redeliver the grain upon demand to the depositor or the depositor's transferee at the warehouse where the grain was first deposited for storage.

(6) The owner of grain deposited for storage at the warehouse must make settlement and take delivery at the warehouse where the grain was first deposited for storage, unless the owner of the commodity, with the consent of both the shipping warehouseman and the receiving warehouseman, elects to take delivery at the warehouse to which grain was transferred under this section.

(7) Nothing in this section shall in any way diminish the right of the owner of the grain to receive on delivery, or the obligation of the warehouseman of a licensed warehouse from which the product is transferred, to deliver to the owner, grain in the amount, and of the kind, quality, and grade, called for by the warehouse receipts or other evidence of storage.

(8) Recording and retention of non-negotiable warehouse receipts received as a result of forwarding a commodity under this section shall be subject to the requirements for warehouse receipts specified elsewhere in these regulations.

(9) If it is the shipping warehouseman's obligation by terms of the warehouse receipt or otherwise to insure the grain subject to the transfer, he must in accordance with regulation 736.33 keep such grain insured in his own name or transfer the grain only to a warehouse where the grain is fully insured.

(c) A warehouseman may transfer stored grain for which receipts have not and are not to be issued to another licensed warehouse for continued storage by complying with the provisions of paragraphs (b) (1) (2) (5) (6) (7) and (9) of this section. However, in no event shall the warehouseman's total storage obligations to others (not including stored receipted grain shipped under provisions of paragraph (b) of this section exceed the shipping warehouseman's licensed capacity.

Signed at Washington, DC, on May 7, 1986.

Milton J. Hertz,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 10842 Filed 5–8–86; 9:20 am]

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By the President of the United States of America

A Proclamation

Today some 36 million Americans suffer from some form of handicap. Eighty percent of Americans will experience some disability in their lifetime. That makes it necessary for all of us to understand and appreciate both the barriers they must surmount and the contributions that they can make to our society.

Many disabled people face financial, cultural, and physical barriers because of a lack of public understanding of their needs. We must become more aware of the barriers that prevent or inhibit so many of our fellow Americans from participating fully in the life of our society, and how much more they could contribute if those obstacles were removed.

This can begin with recognizing the outstanding achievements of many disabled citizens. These heroes, often unsung, have done much to enrich their lives and ours. Let us all resolve to act positively toward those who must cope with the challenge of physical handicaps. We all have much to gain if they are able to live up to their full potential.

The Congress, by House Joint Resolution 544, has designated May 7, 1986, as "National Barrier Awareness Day" and has authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim May 7, 1986, as National Barrier Awareness Day. I call upon my fellow citizens to observe this day with appropriate programs and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this seventh day of May, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-10793
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Proclamation 5473 of May 8, 1986

Naval Aviation Day, 1986

By the President of the United States of America

A Proclamation

May 8 marks the seventy-fifth anniversary of naval aviation in the United States. On that day in 1911, Captain Washington Irving Chambers prepared the requisition for the first aircraft for the United States Navy, thereby initiating a long and glorious tradition. Since that date, naval aviation has played an essential role in our national defense, both in peace and war. Naval aviation also has played a vital role in the development of space exploration and aviation technology.

Naval aviators performed superbly in World Wars I and II, the Korean and Vietnam conflicts, and other operations in support of our national security. Today, naval aviators are deployed in all parts of the world aboard our aircraft carriers, other ships, and shore-based naval aviation squadrons. The courage and professionalism of these dedicated men and women were again demonstrated vividly during the anti-terrorist strikes conducted in Libya a few weeks ago. All Americans owe a great debt of gratitude to the people who fly and maintain naval aircraft.

It is appropriate, therefore, that on the day marking the seventy-fifth anniversary of the founding of naval aviation, the people of the United States, along with our friends and allies throughout the world, should celebrate the remarkable achievements and proud heritage of naval aviation.

The Congress, by House Joint Resolution 569, has designated May 8, 1986, as "Naval Aviation Day" and authorized and requested the President to issue a proclamation in observance of this occasion.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim May 8, 1986, as Naval Aviation Day, and I call upon the people of the United States to observe this day with appropriate ceremonies and activities to honor the brave men and women who have served their country in naval aviation.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of May, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-10784
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Presidential Documents

Proclamation 5474 of May 8, 1986

National Fishing Week, 1986

By the President of the United States of America

A Proclamation

Throughout our history, the Nation's waters have provided a bounty of fish for recreation and food. Every year more than 60 million Americans participate in sport fishing, one of the most wholesome and healthful of outdoor pursuits.

Recreational fishing provides enjoyment and relaxation for citizens of all ages. It brings them into close touch with the beauty, wonders, and abundance of our inland and coastal waters. Sport fishing promotes respect for nature and encourages sound conservation.

In this great land we are particularly blessed. Not only does sport fishing represent an important commitment to conservation and recreation, it sustains a billion-dollar industry. Through the special taxes, licenses, and fees that sport fishermen pay, tens of millions of dollars are made available each year to fund fishery restoration projects throughout the 50 States and the Territories.

Fishing, of course, is also a major industry that provides employment for more than 300,000 Americans each year and lands some six billion pounds of seafood worth about two and a half billion dollars in direct sales.

In recognition of the valuable financial contributions sport fishing makes to fish conservation programs in every State, and in light of the time-honored recreation it means for so many of our citizens, it is fitting that we observe a National Fishing Week. It is proper that we encourage our Nation's sport fishermen to take pride in their sport and in what it does to preserve and enhance America's fishery resources.

The Congress, by Senate Joint Resolution 262, has requested and authorized the President to issue a proclamation designating the week beginning June 2, 1986, through June 8, 1986, as "National Fishing Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of June 2 through 8, 1986, as National Fishing Week. I urge all Americans to join with anglers in appreciating and working to conserve our priceless freshwater, estuarine, and marine resources.

IN WITNESS WHEREOF, I have hereunto set my hand this eighth day of May, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-10795
Filed 5-9-86; 10:44 am]
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Rules and Regulations

Federal Register
Vol. 51, No. 91
Monday, May 12, 1986

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR 400

[Doc. No. 3269S]

General Administrative Regulations; Crop Insurance; Debt Management; Delinquent Debts; Credit Reporting Procedures; Collection Procedures

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Final rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby amends 7 CFR Part 400, General Administrative Regulations, by adding a new subpart, Subpart K, Debt Management. This final rule sets forth the procedures under which FCIC will refer information with respect to delinquent debts owed to FCIC to credit reporting agencies and to contract collection agencies. These actions, which are usual and customary in commerce, are being taken as an incentive for delinquent debtors to repay debts owed to FCIC. This action is being taken under the authority contained in the Federal Crop Insurance Act, as amended.

EFFECTIVE DATE: May 12, 1986.

FOR FURTHER INFORMATION CONTACT: Robert Brammer, Comptroller, Federal Crop Insurance Corporation, Room 4652, South Building, U.S. Department of Agriculture, Washington, DC, 20250, telephone (202) 447-5183.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is December 1, 1990.

Merritt W. Sprague, Manager, FCIC, (1) has determined that this action is not a major rule as defined by Executive Order 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) certifies that this action will not increase the federal paperwork burden for individuals, small business, and other persons.

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This program is listed in the catalog of Federal Domestic Assistance under No. 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Background

FCIC offers crop insurance to eligible producers in the return for the payment of a premium. The premium is due and payable when insurance attaches at the time of seeding or planting. Premium billing is generally made at the time of harvest and the insured is allowed 30 days in which to pay the premium before interest attaches. While FCIC collects a high percentage of premium, some accounts remain unpaid. Those insureds who do not pay their premium within 30 days after the due date specified in the billing statement incur interest charges. As an aid in effective debt management, FCIC will submit information with respect to delinquent debts owed to FCIC to credit reporting agencies and collection agencies. This policy is consistent with customary business practices in the private sector, the Federal Claims Collection Standards (FCCS), 4 CFR 102.5, and Office of Management and Budget (OMB) Circular A-129.

The Debt Collection Act of 1982 (Pub. L. 97-365) (Act), amended Section 3 of the Federal Claims Collection Act (FCCA) (now codified at 31 U.S.C. 3711(f)) authorizes the head of the agency, in attempts to collect delinquent debts owed by an individual, to disclose information relating to such debts to a consumer reporting agency. The Act also amended the Privacy Act of 1974 (5 U.S.C. 552a(b)) to permit such disclosure of information under certain conditions.

This final rule sets forth procedures under which FCIC will refer information with respect to delinquent debts to credit reporting agencies.

In disclosing information with respect to delinquent individual debts, FCIC will follow the requirements set forth in the FCCS. In disclosing information with respect to other delinquent debts to credit reporting agencies, FCIC will afford such debtors notice and due process similar to that provided to indivduals.

Only that information directly related to the identity of the debtor and the history of the claims will be released. Debtor information will consist of the following: the debtor's name, address, taxpayer identification number, and other information necessary to establish the identity of the debtor; the amount, status and history of the claim, and the crop insurance program under which the claim arose.

Any delinquent debt owed to FCIC after the termination date for indebtedness contained in the crop insurance policy, may be referred to a collection agency under contract with the General Services Administration (GSA) in accordance with accepted collection contract procedures.

On March 5, 1986, FCIC published a notice of proposed rulemaking in the Federal Register at 51 FR 7576, amending 7 CFR Part 400 by adding a new Subpart K, Debt Management, setting forth procedures under which FCIC will refer information with respect to delinquent debts to credit reporting and contract collection agencies. The public was invited to submit written comments with respect to this rule for a period of 30 days. One comment was received from the Office of Finance and

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Management. In general, the comment centered on the proposed rule providing that only delinquent debts be referred when the Department of Agriculture's debt collection initiative requires that all commercial accounts and delinquent accounts be referred to credit agencies.

Although the suggestion has merit, that change would require additional notice and comment. FCIC will prepare an amendment to this subpart after the effective date. The comment also suggested that the reference to a $100 threshold in § 400.116 be deleted since both OMB and the Treasury Department are in the process of revising the GSA collection contracts to collect debts of less than $100. FCIC agrees with this comment and has made the necessary change in this section.

With the exception of the minor language correction outlined above, the proposed rule published at 51 FR 7570, is hereby adopted as a final rule.

Given the Administration's initiative with respect to collection of debts owed to the U.S. Government and FCIC's commitment to that initiative, good cause exists for making this rule effective in less than 30 days.

List of subjects in 7 CFR Part 400

General administrative regulations; Crop insurance; Debt management; Delinquent debts; Credit reporting procedures; Collection procedures.

Final Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby amends 7 CFR Part 400, General Administrative Regulations, by adding a new subpart, Subpart K, Debt Management, to read as follows:

PART 400—GENERAL ADMINISTRATIVE REGULATIONS

* * * * *

Subpart K—Debt Management Regulations for the 1986 and Succeeding Crop Years

Sec.
400.115 Purpose.
400.116 Definitions.
400.117 Determination of delinquency.
400.118 Demand for payment.
400.119 Notice to debtor, credit reporting agency.
400.120 Subsequent disclosure and verification.
400.121 Information disclosure limitations.
400.122 Attempts to locate debtor.
400.123 Request for review of indebtedness.
400.124 Disclosure to credit reporting agencies.
400.125 Notice to debtor, collection agency.
400.126 Referral of delinquent debts to contract collection agencies.
400.127 OMB control numbers.

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Subpart K—Debt Management

§ 400.115 Purpose.

This subpart sets forth procedures that will be followed, and the rights afforded to debtors, in connection with the reporting by the Federal Crop Insurance Corporation (FCIC) to credit reporting agencies of information with respect to current and delinquent debts owed to FCIC, and in connection with referral of delinquent debts to contract collection agencies.

§ 400.116 Definitions.

(a) *"Credit reporting agency"* means (1) a reporting agency as defined at 4 CFR 102.5(a), or (2) any entity which has entered into an agreement with USDA concerning the referral of credit information.

(b) *"Collection agency"* means a private debt collection contractor under Federal Supply Schedule contract with the General Services Administration (GSA) for professional debt collection services.

(c) *"Comptroller"* means the employee of FCIC filling that position or the person designated by the Comptroller to perform that function.

(d) *"Debt and claim"* are deemed synonymous and are used interchangeably hersin. The debt or claim is an amount of money which has been determined by an appropriate agency official to be owed to FCIC by any individual, organization or entity, except another Federal agency; State, local or foreign government or agencies thereof; Indian tribal governments; or other public institutions.

The debt or claim may have arisen from overpayment, premium non-payment, interest, penalties, reclamations resulting from payments under good faith reliance provisions, or other causes.

(e) *"Delinquent debt"* means (1) any debt owed to FCIC that has not been paid by the termination date specified in the applicable contract of insurance, or other due date for payment contained in any other agreement, or notification of indebtedness, and (2) any overdue amount owed to FCIC by a debtor which is the subject of an installment payment agreement which the debtor has failed to satisfy under the terms of such agreement.

(f) *"System of records"* means a group of any records under the control of FCIC from which information is retrieved by the name of the individual by some identifying number, symbol, or other identification assigned to the individual.

(g) *"Request for review"* means that request submitted to FCIC by a debtor for a review of the facts resulting in the determination of indebtedness to FCIC. FCIC allows 45 days for such request and any request submitted within that period is considered a timely request.

§ 400.117 Determination of delinquency.

Prior to disclosing information about a debt to a credit reporting agency in accordance with this subpart, the FCIC claims official, designated as the Comptroller, FCIC, or the designee of the Comptroller who has jurisdiction over the claim, shall review the claim and determine that the claim is valid and overdue.

§ 400.118 Demand for payment.

The Comptroller who is responsible for carrying out the provisions of this subpart with respect to the debt shall send to the debtor appropriate written demands for payment in terms which inform the debtor of the consequences of failure to make payment, in accordance with guidelines established by the Manager, FCIC, the Federal Claims Collection Standards at 4 CFR 102.2, or the contract between the General Services Administration (GSA) and the collection agency.

§ 400.119 Notice to debtor; credit reporting agency.

(a) In accordance with guidelines established by the Manager, FCIC, the Comptroller who is responsible for disclosure of information with respect to delinquent debts to a credit reporting agency shall send written notice to the delinquent debtors that FCIC intends to disclose credit information to a credit reporting agency on a regular basis. In addition, delinquent debtors are to be informed:

(1) Of the basis for the indebtedness;

(2) That the payment is overdue;

(3) That FCIC intends to disclose to a credit reporting agency that the debtor is responsible for the debt and with respect to an individual, that such disclosure shall be made not less than 60 days after notification to such debtor;

(4) Of the specific information intended to be disclosed to the credit reporting agency;

(5) Of the rights of such debtor to a full explanation of the claim and to dispute any information in the system of records of FCIC concerning the claim;

(6) Of the debtor's right to administrative appeal or review with respect to the claim and how such review shall be obtained; and

(7) Of the date after which the information will be reported to the credit reporting agency.

(b) The content and standards for demand letters and notices sent under this section shall be consistent with the Federal Claims Collection Standards at 4 CFR 102.2.

§ 400.120 Subsequent disclosure and verification.

(a) FCIC shall promptly notify each credit reporting agency to which the original disclosure of debt information was made of any substantial change in the condition or amount of the claim. A substantial change in condition may include, but is not limited to, notice of death, cessation of business, or relocation of the debtor. A substantial change in the amount may include, but is not limited to, payments received, additional amounts due, or offsets made with respect to the debt.

(b) FCIC shall promptly verify or correct, as appropriate, information about the claim or request of such credit reporting agency for verification of any or all information so disclosed. The records of the debtor shall reflect any correction resulting from such request.

(c) FCIC shall obtain satisfactory assurances from each reporting agency to which information will be provided that the agency is in compliance with the provisions of all laws and regulations of the United States relating to providing credit information.

§ 400.121 Information disclosure limitations.

FCIC shall limit delinquent debt information disclosed to credit reporting agencies to:

(a) The name, address, taxpayer identification number, and other information necessary to establish the identity of the debtor;

(b) The amount, status, and history of the claim; and

(c) The FCIC program under which the claim arose.

§ 400.122 Attempts to locate debtor.

Before disclosing delinquent debt information to a credit reporting agency, FCIC shall take reasonable action to locate a debtor for whom FCIC does not have a current address in order to send the notification in accordance with § 400.119 of this subpart.

§ 400.123 Request for review of the indebtedness.

(a) Before disclosing delinquent debt information to a credit reporting agency, FCIC shall, upon request of the debtor, provide for a review of the claim, including an opportunity for reconsideration of the initial decision concerning the existence or amount of the claim, in accordance with applicable administrative appeal procedures.

(b) Upon receipt of a timely request for review, FCIC shall suspend its schedule for disclosure of delinquent debt information to a credit reporting agency until such time as a final decision is made on the request.

(c) Upon completion of the review, the reviewing office shall transmit to the debtor a written notification of the decision. If appropriate, notification shall inform the debtor of the scheduled date on or after which information concerning the debt will be provided to the credit reporting agency. The notification shall, if appropriate, also indicate any changes in the information to be disclosed to the extent such information differs from that provided in the initial notification.

§ 400.124 Disclosure to credit reporting agencies.

(a) In accordance with guidelines established by the Manager, FCIC, the Comptroller or designated manager of the systems of records shall disclose to credit reporting agencies the information specified in § 400.121.

(b) Disclosure of information to credit reporting agencies shall be made on or after the date specified in §§ 400.119(a)(3) and 400.125 and shall be comprised of the information set forth in the initial determination or any modification thereof.

(c) This section shall not apply to disclosure of delinquent debts when:

(1) The debtor has agreed to a repayment agreement for such debt and such agreement is still valid; or

(2) The debtor has filed for review of the debt and the reviewing official or designee has not issued a decision on the review.

§ 400.125 Notice to debtor, collection agency.

FCIC shall provide 30 days written notice to the debtor, mailed to the debtor's last known address, of FCIC's intent to forward the debt to a collection agency for further collection action.

§ 400.126 Referral of delinquent debts to contract collection agencies.

(a) FCIC shall use the services of a contract collection agency which has entered into a contract with the General Services Administration to recover debts owed to FCIC.

(b) If FCIC's collection efforts have been unsuccessful on a delinquent debt, and the delinquent debt remains unpaid, FCIC may refer the debt to a contract collection agency for collection.

(c) FCIC shall retain the authority to resolve disputes, compromise claims, suspend or terminate collection action, and refer the matter for litigation.

§ 400.127 OMB control numbers.

OMB control numbers are contained in Subpart H of Part 400, Title 7 CFR.

Done in Washington, DC, on April 25, 1986.

Edward D. Hews,

Acting Manager, Federal Crop Insurance Corporation.

[FR Doc. 86-10807 Filed 5-9-86; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 982

Filberts/Hazelnuts Grown in Oregon and Washington; Revision of Final Free and Restricted Percentages and Inshell Trade Demand for Domestic Filberts/Hazelnuts for the 1985–86 Marketing Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action revises final marketing percentages and the inshell trade demand for domestic filberts/hazelnuts received by handlers during the 1985–86 marketing year, which began July 1, 1985. The free percentage will be increased from 20 percent to 22 percent, and the restricted percentage will be correspondingly decreased from 80 percent to 78 percent. The inshell trade demand will be increased by 884 tons to 5,684 tons in order to make more filberts available to handlers for 1986–87 early season sales. This action was recommended by the Filbert/Hazelnut Marketing Board which works with the USDA in administering the filbert/hazelnut marketing order program.

EFFECTIVE DATE: June 1, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447–5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified as a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

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The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act and rules issued thereunder, are unique in that they are brought about through the group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that approximately 14 handlers of filberts/hazelnuts will be subject to regulation under the marketing order for filberts/hazelnuts grown in Oregon and Washington during the course of the current season and that the great majority of this group may be classified as small entities. While regulations issued during the season may impose some costs on affected handlers, and the number of firms may be substantial, the added burden on small entities, if present at all, is not significant.

It has been determined that a situation exists which warrants publication of this final rule without prior opportunity for public comment because: (1) The percentages and trade demand revised herein for the 1985–86 marketing year apply to all merchantable filberts/hazelnuts handled during that year; (2) handlers are aware of this action and have been conducting their operations in anticipation of its adoption; and (3) this action relieves restrictions on handlers.

On November 25, 1985, a final rule was published in the **Federal Register** (50 FR 48371) establishing the inshell trade demand of 5,000 tons, and on January 31, 1986, a final rule was published in the **Federal Register** (51 FR 3937) establishing the free and restricted percentages of 20 percent and 80 percent, respectively, for the 1985–86 marketing year. This action revises final marketing percentages and the inshell filbert/hazelnut trade demand for the 1985–86 marketing year.

Section 982.40(e) of the marketing order for filberts/hazelnuts grown in Oregon and Washington currently provides that any time prior to February 15 of the marketing year the Board may recommend to the Secretary revisions in the marketing policy for that year.

On February 13, 1986, the Board met to review the free and restricted percentages established for the 1985–86 marketing year and the supply and demand estimates from which those percentages were derived. Pursuant to § 982.40(e) of the order, the Board recommended an increase in the free percentage to 22 percent and a corresponding decrease in the restricted percentage to 78 percent. In arriving at this recommendation, the Board noted that the current estimate of 1985 production has increased 230 tons from its September 12, 1985, estimate of 24,000 tons. The Board has also increased the trade demand 684 tons from the established 5,000 tons. The increase in the trade demand will be used by handlers for carryover requirements into the 1986–87 marketing year for early season sales.

In recommending the current percentages, the Board did not provide for a desirable carryout because it felt that the 5,000 ton trade demand was adequate for the 1985 holiday shipping season. That period is the peak demand period for inshell filberts. Normally, over 80 percent of inshell shipments are made in only two months—October and November. However, the Board agreed to modify its marketing policy later in the season if necessary to make a substantial carryout available. Handlers have been conducting their operations on the basis that this additional amount of trade demand would be released. The release of this additional tonnage is not expected to affect the inshell market since excellent kernel marketing conditions currently exist and are expected to continue through July.

In revising the percentages, the Board considered the following supply and demand information for the 1985–86 marketing year:

	Previous estimate, Sept. 12, 1985 (tons)	Revised estimate, Feb. 13, 1986 (tons)
Inshell supply:		
(1) Total production	24,000	24,230
(2) Less substandard, farm use, etc.	2,402	2,068
(3) Merchantable production	21,598	22,162
(4) Plus carryover July 1, 1985, subject to regulation	0	0
(5) Supply, subject to regulation (item 3 plus item 4)	21,598	22,162
Inshell requirements:		
(6) Trade Demand	5,000	5,684
(7) Less carryover July 1, 1985, not subject to regulation	736	736
(8) Adjusted trade demand	4,264	4,948
Percentages:		
(9) Free percentage (item 8 divided by item 5)	[1] 20	[1] 22
(10) Restricted percentage (100 percent minus item 9)	[1] 80	[1] 78

[1] Percent.

The free percentage prescribes that portion of the total merchantable supply subject to regulation which may be handled as inshell filberts. The restricted percentage prescribes that portion which must be withheld from such handling. Restricted filberts may be shelled (for domestic or foreign consumption), exported, or disposed of in outlets determined by the Board to be noncompetitive with normal market outlets for inshell filberts.

After consideration of all relevant matter presented, the information and recommendations submitted by the Board, and other available information, it is found that the revision of the free and restricted percentages and inshell trade demand for the 1985–86 marketing year will tend to effectuate the declared policy of the act.

PART 982—[AMENDED]

List of Subjects in 7 CFR Part 982

Marketing agreement and order, Filberts, Hazelnuts, Oregon, and Washington.

1. The authority citation for 7 CFR Part 982 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Paragraphs (a) and (b) are revised in § 982.235 to read as follows: (The following section will not be published in the Code of Federal Regulations).

§ 982.235 Trade demand and free and restricted percentages for the 1985–86 marketing year.

(a) The trade demand for merchantable inshell filberts/hazelnuts for the 1985–86 marketing year shall be 5,684 tons.

(b) The final free and restricted percentages for merchantable filberts/hazelnuts for the 1985–86 marketing year shall be 22 percent and 78 percent, respectively.

Dated: May 5, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division.

[FR Doc. 86–10571 Filed 5–9–86 8:45 am]

BILLING CODE 3410–02–M

Animal and Plant Health Inspection Service

9 CFR Parts 91, 161 and 162

[Docket No. 85–100]

Accreditation of Veterinarians and Origin Health Certificates

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document amends the regulations in 9 CFR Parts 161 and 162 relating to the accreditation of veterinarians by: (1) Requiring that a revocation remain in effect for at least two years; (2) requiring that a veterinarian whose accreditation has been suspended for six months or more or revoked must pass an examination administered by APHIS as a condition of reaccreditation; and (3) clarifying the regulations to provide that the Veterinarian in Charge shall designate the time and place for the holding of an informal conference, in accordance with certain criteria. This document also amends the regulations in 9 CFR Parts 91 and 161 relating to origin health certificates by allowing an accredited veterinarian to sign an origin health certificate without including test results from a laboratory and by allowing an authorized Veterinary Services veterinarian to include such test results on the origin health certificate, under certain circumstances. It has been determined that these actions are necessary to help ensure that only veterinarians who are qualified and act in compliance with applicable requirements are accredited, and to provide a mechanism to help ensure that completed origin health certificates are available when they are needed by exporters.

EFFECTIVE DATE: June 11, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. Robert E. Wagner, Interstate Inspection and Compliance Staff, VS, APHIS, USDA, Room 806, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8684.

SUPPLEMENTARY INFORMATION:

A document published in the **Federal Register** on June 28, 1985 (50 FR 26780–26782) proposed various amendments to 9 CFR Parts 91, 161, and 162. These Parts concern accreditation of veterinarians and issuance of origin health certificates. Based on the rationale set forth in the proposal and in this document, the provisions of the proposal have been adopted as a final rule without change.

The document of June 28, 1985, invited the submission of written comments on or before July 29, 1985. A document published in the **Federal Register** on August 8, 1985 (50 FR 32065–32066), reopened the comment period until September 9, 1985.

Sixty-two comments were received in response to the proposed rule. The comments were from accredited veterinarians, representatives of veterinary associations, State departments of agriculture, and other interested persons. All of the comments have been carefully considered and the issues raised by the commenters are discussed below.

Accreditation

Requirements and standards for accredited veterinarians, and provisions concerning the suspension or revocation of such accreditation are set forth in 9 CFR Part 161.

Prior to the effective date of this document, § 161.3 contained provisions authorizing the accreditation of a veterinarian to be suspended for a given period of time or to be revoked based on a finding that the veterinarian had not complied with the standards for accredited veterinarians set forth in § 161.2. The regulations also authorize the issuance of a written notice of warning in lieu of a suspension or revocation under certain circumstances. A suspension or revocation could be imposed only after opportunity for an adjudicatory hearing, with respect to any factual issues, and other procedures under the rules of practice, except that a summary suspension found necessary on an emergency basis in order to adequately protect the public health, interest, or safety might be imposed pending a final determination in an adjudicatory proceeding. With respect to suspensions, except for summary suspensions that were changed to revocations as the result of adjudicatory proceedings, it had been the practice of Veterinary Services to automatically reinstate a veterinarian as an accredited veterinarian after the time period of the suspension had ended. However, a veterinarian whose accreditation had been revoked had to meet the following provisions in § 161.1(b) in order to become reaccredited:

(b) The Deputy Administrator is hereby authorized to reaccredit a veterinarian whose accreditation has been revoked when he determines, after the order of revocation has been in effect for not less than one year, that such veterinarian: (1) is licensed to practice veterinary medicine in the State in which he wishes to be accredited; (2) has made formal application for accreditation on Form 1–36A, "Application for Veterinary Accreditation"; (3) has been jointly recommended by the State Animal Health Official and the Veterinarian-in-Charge for the State in which the veterinarian is licensed and wishes to be accredited; and (4) such veterinarian has furnished adequate assurance that he will faithfully fulfill the duties of an accredited veterinarian in the future.

It was proposed to make changes in § 161.1(b) to require that a revocation remain in effect for at least two years, and to add a requirement to provide that a veterinarian whose accreditation has been revoked must pass an examination administered by Veterinary Services as a condition of reaccreditation. It was also proposed to amend § 161.1 to set forth the current practice of Veterinary Services with respect to reaccreditation of veterinarians after suspensions, with one change. In this connection, it was proposed to add a new paragraph (c) to § 161.1 to read as follows:

(c) A veterinarian whose accreditation has been suspended (other than a summary suspension that is changed to a revocation as the result of an adjudicatory proceeding) will be automatically reinstated as an accredited veterinarian upon the completion of the suspension, except that such veterinarian shall be required to pass an examination administered by the Service as a condition of reaccreditation if the suspension was for six months or more.

Seventeen commenters addressed the proposed amendments concerning accreditation. Three of these commenters, without explanation, expressed opposition.

Two commenters stated that they opposed the proposal to provide that revocations of accreditation remain in effect for at least two years, based on the assertion that each case should be evaluated individually and the degree of penalty should always be tailored to the severity of the violation involved. No changes are made based on these comments. The regulations already provide a mechanism for evaluating each case individually and tailoring the penalty to the severity of the violation. Veterinarians who violate the Standards for Accredited Veterinarians would not necessarily have their accreditation revoked. The regulations also allow for suspensions and written notices of warning. Within this framework each case is evaluated individually and penalties are tailored to the severity of the violations.

One commenter opposed the proposed requirement that a veterinarian whose accreditation has been suspended for six months or more must pass an examination administered by APHIS as a condition of reaccreditation. This commenter asserted that "such a requirement is too burdensome in addition to the penalty of suspension." Another commenter favored the proposed amendment.

APHIS agrees that reexamination can be burdensome. However, it has been determined that the proposed amendment should be adopted as proposed. The basis for the proposed amendment, set forth at 50 FR 26780, is as follows:

[i]t appears reasonable that a veterinarian whose accreditation has been removed for six months or more, and who therefore may have lost familiarity with Veterinary Services programs, should be required to establish competency as a condition of becoming reaccredited by passing an examination. . . .

APHIS affirms this rationale.

Ten commenters opposed the proposed amendments concerning accreditation based on the assertion that the proposed amendments are

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incompatible with Federal/State cooperative programs. Another commenter specifically asserted that any two year revocation should be imposed only with the concurrence of State animal health officials and that examinations for reaccreditation should be jointly administered by Federal and State officials.

APHIS cooperates with the States in many programs that involve the use of accredited veterinarians. It is necessary to have cooperation to have successful programs, and it is the practice of APHIS to consult with State officials, insofar as possible, prior to taking federal actions concerning accreditation of veterinarians. However, the final responsibility for such actions is vested in Veterinary Services. Further, if the final responsibility for such actions were to be shared by Federal and State officials, unresolvable conflicts could arise.

Informal Conferences

Supplemental rules of practice governing the revocation or suspension of veterinarians' accreditation are set forth in 9 CFR Part 162. The supplemental rules of practice provide that before formal action can be taken to remove the accreditation of a veterinarian, the veterinarian shall have an opportunity to have an informal conference with the Veterinarian in Charge to discuss the matter. In this connection, prior to the effective date of this document, § 162.12(a) of the rules of practice provided that:

> (a) The Veterinarian in Charge, with the concurrence of the State Animal Health Official and the accredited veterinarian, shall designate the time and place for the holding of an informal conference to review the matter.

It was proposed to amend § 162.12(a) to read as follows:

> The Veterinarian in Charge, after careful consideration of the convenience of the State Animal Health Official and the accredited veterinarian, shall designate the time and place for the holding of an informal conference to review the matter.

Thirty-eight commenters addressed this proposed change. Two commenters were in favor, and the remaining commenters were opposed. All of the negative comments indicated that the proposed change would be contradictory to a cooperative State/Federal program. Some of the commenters specifically indicated that the proposed change could allow Federal Veterinarians in Charge to exclude State animal health officials from attending informal conferences. One commenter stated that this could be done by intentionally setting the informal conference at a time and place which would ensure that the State animal health official could not attend. No changes are made based on these comments.

The final rule does not allow Federal Veterinarians in Charge to schedule informal conferences so as to exclude State animal health officials. In fact, the final rule requires that the Federal Veterinarian in Charge "carefully consider the convenience of the State Animal Health Official" when scheduling an informal conference.

Further, the final rule is necessary to remedy a problem that has arisen. As stated at page 26781 of the proposal:

> In the past, some State animal health officials have attempted to thwart the efforts of Veterinary Services to take action against accredited veterinarians under the supplemental rules of practice by refusing to concur in the designation of the time and place for the holding of informal conferences. Lack of concurrence on the part of State animal health officials has caused confusion as to whether such conferences with veterinarians could be held and whether necessary disciplinary measures could be initiated.

One commenter suggested that the regulations be changed to require specifically that the location of the informal conference be convenient to the State animal health official and that the Veterinarian in Charge "be required to set an option [for the holding of the informal conference] of at least three dates extending over a period of not less than twenty nor more than thirty calendar days." No changes are made based on this comment. Informal conferences are usually held in the office of the Veterinarian in Charge. In most States this location is convenient for the State animal health official, since, in most States, the offices of the Veterinarian in Charge and the State Animal Health Official are in the same city. In those States where these two offices are not in the same city, choosing a convenient location has not presented a problem in the past. Therefore, it does not appear that there is a need to change the regulations in this regard. Further, it does not appear to be necessary to prescribe procedures for scheduling informal conferences. The suggested procedures would limit the flexibility that is needed in scheduling such informal conferences.

Origin Health Certificate

Regulations concerning inspection and handling of animals for exportation are set forth in 9 CFR Part 91. Pursuant to the provisions of § 91.3(a), all animals intended for exportation to a foreign country must be accompanied from the State of origin of the export movement to the port of embarkation or to the border of the United States by an origin health certificate.

The origin health certificate is required, among other things, to individually identify the animals in the shipment; to certify that the animals were inspected within 30 days prior to the movement of the animals for export; and to certify that the animals were found to be sound, healthy, and free from evidence of communicable disease and exposure thereto. In addition, Part 91 provides that for certain animals the origin health certificate is required to specify the types of tests conducted, the date of the tests, and the results of the tests.

Prior to the effective date of this document, origin health certificates were allowed to be issued only if the following occurred:

1. The issuing accredited veterinarian took the test sample from the animal;
2. The issuing accredited veterinarian submitted the test sample to a laboratory;
3. The laboratory performed the test and sent the results of the test to the issuing accredited veterinarian and to the authorized Veterinary Services veterinarian in the State of origin of the export movement;
4. The issuing accredited veterinarian included the results of the test on the certificate, signed the certificate, and forwarded the certificate to the authorized Veterinary Services veterinarian;
5. The authorized Veterinary Services veterinarian endorsed the certificate after taking whatever action was necessary to verify the accuracy of the information on the certificate; and
6. The authorized Veterinary Services veterinarian distributed the certificate.

These procedures were consistent with the provisions in § 161.2(b), which required that an accredited veterinarian not sign such an origin health certificate unless the certificate showed the results of tests that were conducted. Also, the procedures were consistent with the provisions in § 91.3, which provided that the origin health certificate shall be endorsed by an authorized Veterinary Services veterinarian in the State of origin of the export movement.

However, there were instances when there was not enough time for an accredited veterinarian to hold an origin health certification until he or she received the laboratory test results and still have sufficient time for the accredited veterinarian to send the certificate to the authorized Veterinary Services veterinarian to be verified, endorsed, and distributed before a scheduled shipment.

Accordingly, it was proposed to amend § 161.2 to provide that an accredited veterinarian may sign an origin health certificate without including test results from a laboratory if an authorized Veterinary Services veterinarian has agreed, based on a finding that such action is necessary to save time in order to meet an exportation schedule, to include the test results on the certificate, and if the accredited veterinarian states on the certificate that such test results are to be added by the authorized Veterinary Services veterinarian. It was also proposed to amend § 91.3 to allow an authorized Veterinary Services veterinarian to include such test results on the origin health certificate and to provide that such authorized Veterinary Services veterinarian initial any added test results.

Five comments were received concerning these proposed changes. One of the comments was favorable. The other commenters all stated that adoption of such proposed amendments would generate excessive work for Veterinary Services veterinarians authorized to endorse such certificates. No changes were made based on these comments.

Pursuant to the provisions of the final rule, the alternate procedure for completing the origin health certificate will only be used when the authorized Veterinary Services veterinarian has agreed, based on a finding that such action is necessary to save time in order to meet an exportation schedule. The adoption of the proposed amendments will create additional work for authorized Veterinary Services veterinarians. However, it has been determined that the additional work is slight, and that Veterinary Services veterinarians can absorb it. In addition, the adoption of these amendments will facilitate international trade in United States livestock, and the additional work is justified by the anticipated benefits.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this rule will not have an effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It is anticipated that an insignificant number of accredited veterinarians will be affected by the provisions concerning accreditation, and that an insignificant number of shipments of animals will be affected by the provisions concerning origin health certificates. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V).

Paperwork Reduction Act

In accordance with section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the information collection provisions that are included in this rule have been approved by the Office of Management and Budget (OMB) and have been given the OMB control number 0579–0032 and 0579–0070.

List of Subjects

9 CFR Part 91

Animal diseases, Animal welfare, Exports, Humane animal handling, Livestock and livestock products, Transportation.

9 CFR Part 161

Veterinarians.

9 CFR Part 162

Administrative practice and procedure, Veterinarians.

Accordingly, the regulations in 9 CFR Parts 91, 161, and 162 are amended as follows:

PART 91—INSPECTION AND HANDLING OF LIVESTOCK FOR EXPORTATION

1. The authority citation for Part 91 continues to read as follows:

> **Authority:** 21 U.S.C. 105, 112, 113, 114a, 120, 121, 134b, 134f, 612, 613, 614, 618; 46 U.S.C. 466a, 466b; 49 U.S.C. 1509(d); 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 91.3, paragraph (a) is revised to read as follows:

§ 91.3 General export requirements.

(a) All animals intended for exportation to a foreign country, except animals intended for exportation to Mexico or Canada, shall be accompanied from the State of origin of the export movement to the port of embarkation by an origin health certificate. All animals intended for exportation to Mexico or Canada shall be accompanied from the State of origin of the export movement to the border of the United States by an origin health certificate. The origin health certificate shall certify that the animals were inspected within the 30 days prior to the date of the movement of the animals for export, and were found to be sound, healthy, and free from evidence of communicable disease and exposure thereto. The origin health certificate shall be endorsed by an authorized Veterinary Services veterinarian in the State of origin, and shall include any test results added by such authorized Veterinary Services veterinarian pursuant to § 161.2 (any added test results shall be initialed by such authorized Veterinary Services veterinarian). The origin health certificate shall individually identify the animals in the shipment as to species, breed, sex, and age, and, if applicable, shall also show registration name and number, tattoo markings, or other natural or acquired markings.

* * * * *

PART 161—REQUIREMENTS AND STANDARDS FOR ACCREDITED VETERINARIANS AND SUSPENSION OR REVOCATION OR SUCH ACCREDITATION

3. The authority citation for Part 161 is revised to read as follows:

> **Authority:** 15 U.S.C. 1828; 21 U.S.C. 105, 111–114, 114a, 114a–1, 116, 120, 121, 125, 134b, and 134f; 7 CFR 2.17, 2.51, and 371.2(d).

4. In § 161.1, paragraph (b) is revised and a new paragraph (c) is added to read as follows:

§ 161.1 Requirements for accreditation.

* * * * * *

(b) The Deputy Administrator is hereby authorized reaccredit a veterinarian whose accreditation has been revoked when the revocation has been in affect for not less than two years and he or she determines that such veterinarian (1) is licensed to practice veterinary medicine in the State in which he or she wishes to be accredited; (2) has made formal application for accrediation of Form I–

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36A, "Application for Veterinary Accreditation"; (3) has been jointly recommended by the State Animal Health Official and the Veterinarian-in-Charge for the State in which the veterinarian is licensed and wished to be accredited; (4) has furnished adequate assurance that he or she will faithfully fulfill the duties of an accredited veterinarians in the future; and (5) has passed an examination administered by the Service.

(c) A veterinarian who accreditation has been suspended (other than a summary suspension that is changed to revocation as the result of an adjudicatory proceeding) will be automatically reinstated as an accredited veterinarian upon the completion of the suspension, except that such veterinarian shall be required to pass an examination administered by the Service as a condition of reaccreditation if the suspension was for six months or more.

5. In the first sentence in § 161.2(b), "paragraph (c) of this section" is changed to "paragraph (c) or (l) of this section".

6. A new paragraph (l) is added to § 161.2 to read as follows:

§ 161.2 Standards for accredited veterinarians.

* * * * *

(l) An accredited veterinarian may sign an origin health certificate for us persuant to Part 91 of this Chapter without including test results from a laboratory if an authorized Veterinary Services veterinarian has agreed, based on a finding that such action is necessary to save time in order to meet an exportation schedule, to include the test results o the certificate and if the accredited veterinarian states on the certificate that such test results are to be added by the authorized Veterinary Services veterinarian.

PART 162—RULES OF PRACTICE GOVERNING REVOCATION OR SUSPENSION OF VETERINARIANS' ACCREDITATION

7. The authority citation for Part 162 is revised to read as follows:

Authority: 15 U.S.C. 1828; 21 U.S.C. 105, 111, 114a–1, 115, 116, 120, 121, 125, and 134f; 7 CFR 2.17, 2.51, and 371.2(d).

8. In § 162.12, paragraph (a) is revised to read as follows:

§ 162.12 Informal conference.

(a) The Veterinarian in Charge, after careful consideration of the convenience of the State Animal Health Official and the accredited veterinarian, shall designate the time and place for the holding of an informal conference to review the matter.

* * * * *

Done at Washington, DC, this 6th day of May 1986.

J. K. Atwell,

Deputy Administrator, Veterinary Services.

[FR Doc. 86-10603 Filed 5-9-86; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-CE-12-AD; Amendment 39-5308]

Airworthiness Directives; Cessna Models 208 and 208A Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to all Cessna Models 208 and 208A airplanes. It requires installation of warning placards and temporary revision of the emergency procedures in the Pilot's Operating Handbook and Airplane Flight Manual (POH/AFM). Reports have been received of forced landings believed to have been caused by fuel starvation due to attempting to takeoff with both wing fuel tank selectors in the "off" position. The actions required by this AD are interim measures to help preclude fuel starvation during takeoff due to improper positioning of the wing fuel tank selectors.

DATES: *Effective Date:* May 19, 1986.

Compliance: Required within the next 25 hours time-in-service after the effective date of this AD, unless already accomplished.

ADDRESSES: Cessna Caravan Service Bulletin CAB85-15 plus Attachment, and Cessna Owner Advisory CAB85-15A (both dated November 27, 1985) applicable to this AD may be obtained from the Cessna Aircraft Company, Customer Services, Post Office Box 1521, Wichita, Kansas 67201. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Paul O. Pendleton, Aerospace Engineer, Aircraft Certification Office, ACE-140W, FAA, 1601 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; Telephone (316) 946-4427.

SUPPLEMENTARY INFORMATION: Reports have been received of engine power loss from fuel starvation with subsequent forced landings involving Cessna Models 208 and 208A airplanes. The fuel starvation is believed to have occurred because takeoff was attempted with both wing fuel tank selectors in the "off" position. With the fuel selectors in this position, the only fuel supply available for use is that contained in the fuel reservoir. Cessna is currently developing a fuel system modification which will preclude this potential fuel mismanagement situation. Cessna has also developed warning placards and revised operational emergency procedures for inadvertent fuel flow interruption. The FAA has determined that these placards and revised procedures are needed as an interim measure until the fuel system modification is available.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring installation of warning placards and temporary revision of the POH/AFM on all Cessna Models 208 and 208A airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

List of Subjects in 14 CFR 39

Air transportation, Aviation safety, Aircraft, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

PART 39—(AMENDED)

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new AD:

Cessna: Applies to Models 208 and 208A (all Serial Numbers) airplanes certificated in any category.

Compliance: Required within the next 25 hours time-in-service after the effective date of this AD, unless already accomplished.

To prevent fuel starvation during takeoff due to improper positioning of the wing fuel tank selectors, accomplish the following:

(a) Install Cessna Part Number 2805030-1 placards and revise the Pilot's Operating Handbook and Airplane Flight Manual fuel system emergency procedures in accordance with the instructions in Cessna Caravan Service Bulletin CAB85-15 plus Attachment, and Cessna Owner Advisory CAB85-15A, both dated November 27, 1985, and operate the airplane in accordance with the instructions and warnings in these revised procedures.

(b) An equivalent means of compliance with this AD may be used if approved by the Manager, Aircraft Certification Office, ACE-115W, FAA, 1601 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209.

This amendment becomes effective on May 19, 1986.

Issued in Kansas City, Missouri, on May 2, 1986.

Edwin S. Harris,

Director, Central Region.

[FR Doc. 86-10517 Filed 5-9-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-NM-111-AD; Amdt. 39-5309]

Airworthiness Directives: Boeing Model 757 and Model 767 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD), applicable to Boeing Model 757 and Model 767 airplanes, which requires inspection of cargo compartment smoke detectors to determine whether the wrong lamp has been installed, installation of new lamps, if necessary, and installation of a caution placard to prevent future installation of improper lamps, which would render the detectors ineffective in detecting cargo compartment fires. After the AD was issued, it was reported that the lamps required to be used in the detectors were individually tested by the manufacturer and that other lamps of the same part number may not be satisfactory. This amendment requires installation of correct lamps, which have been reidentified, and installation of placards. This amendment also extends the compliance time.

EFFECTIVE DATE: May 20, 1986.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Robert McCracken, Aerospace Engineer, Systems and Equipment Branch, ANM-130S, Seattle Aircraft Certification Office; telephone (206) 431-2947. Mailing address: FAA, Seattle Aircraft Certification Office, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: On March 28, 1986, the FAA issued an AD, Amendment 39-5280 (51 FR 11078; April 7, 1986), which requires operators of Boeing Model 757 and Model 767 airplanes to inspect the cargo compartment smoke detectors to determine whether lamps with the wrong voltage rating had been installed, installation of new lamps, if necessary, and installation of a caution placard to prevent future installation of the wrong lamp. Use of the incorrect lamp may prevent detection of smoke in the cargo compartment.

After issuance of the AD, it was determined that the lamp identified in the Autronics (the smoke detector manufacturer) service letter was improperly identified as a "CM 382 14" volt lamp. In actuality, these lamps are individually tested to assure proper operating characteristics, and are, therefore, assigned to a new part number: "CM 382 AS10" or "CM 382 AS15."

Autronics has issued Service Bulletin 2156204-26-01, dated April 14, 1986, which describes replacement of incorrect lamps, installation of a replacement cover gasket, and installation of appropriate placards.

Since this condition may exist on other airplanes of these models, the FAA is amending the existing AD to require replacement of lamps presently installed in the smoke detectors in the cargo compartments of Boeing Model 757 and Model 767 airplanes, with reidentified lamps, and installation of placards in accordance with the Autronics service bulletin previously mentioned. The compliance time is extended to within 30 days after the effective date of this amendment.

Further, since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation is an emergency regulation that is not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required).

List of Subjects in 14 CFR 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—(AMENDED)

1. The authority citation of Part continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By amending AD 86-07-09, Amendment 39-5280 (51 FR 11706; April 7, 1986), by revising paragraph A. to read as follows:

"A. Replace the lamps in the four Autronics Corporation Model 2156-204 cargo compartment smoke detectors and install placards in accordance with Autronics

BEST COPY AVAILABLE

Service Bulletin 2136204-38-01, dated April 14, 1986, or later FAA-approved revision."

All persons affected by this AD who have not already received the above specified service bulletin from the manufacturer may obtain copies upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The service bulletin may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective May 20, 1986.

Issued in Seattle, Washington, on May 2, 1986.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 86-10528 Filed 5-9-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR PART 39

[Docket No. 85-NM-123-AD; Amdt. 39-5307]

Airworthiness Directives: Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires structural inspections and repair, as necessary, of the forward lower cargo doorway frames. The AD is prompted by numerous reports of cracking in both vertical frame members at the lower cargo doorway. Continued operation with undetected cracked frames could result in skin cracks and eventual rapid decompression.

EFFECTIVE DATE: Effective June 16, 1986.

ADDRESSES: The applicable service documents may be obtained upon request from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Carlton Holmes, Airframe Branch, ANM-120S; telephone (206) 431-2926. Mailing address: Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring inspection and repair, as necessary, of the forward lower cargo doorway frames on certain Boeing Model 737 series airplanes was published in the Federal Register on December 30, 1985 (50 FR 53157). The comment period for the proposal closed on February 17, 1986.

Interested persons have been afforded an opportunity to participate in the making of this AD and due consideration has been given to all comments received.

The Air Transport Association of America (ATA) responded to the proposed rule in behalf of two affiliate operators.

One operator requested that the initial inspection compliance time be extended from the proposed 90 days to 180 days. The operator indicated that although cracks had been found, all of its affected airplanes have been repaired in accordance with Service Bulletin 737-53-1051, Revision 3. Furthermore, the operator stated that its three repaired airplanes have exceeded the 6,000 flight cycle threshold, and no cracks have been detected in the repaired areas. The FAA finds that service experience of repaired cracks cannot be used to support such an extension, and therefore, the FAA does not concur with the request to extend the compliance time to 180 days.

Another operator recommend that paragraph D. of the proposed rule be revised to recognize alternate repairs accomplished in accordance with the Structural Repair Manual (SRM), Section 51-40-3. The FAA acknowledges that proper repair in accordance with the SRM is an acceptable alternate repair and, therefore, concurs with the recommendation. The final rule has been revised accordingly.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the proposed rule with the change noted above.

It is estimated that 186 airplanes of U.S. registry will be affected by this AD, that approximately one manhour per airplane will be required to perform the necessary inspections, and that the average labor costs will be $40 per manhour. Based on these figures, the total cost impact of this AD on U.S. operators will be $7,440 per inspection cycle.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 737 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 737 series airplanes listed in Boeing Service Bulletin 737-53-1051, Revision 3, dated July 12, 1985, certificated in any category. To prevent rapid loss of cabin pressure resulting from undetected frame cracking, accomplish the following upon the accumulation of 6,000 landings or within 90 days after the effective date of this AD, whichever occurs later, unless previously accomplished:

A. Visually inspect the forward and aft body frames adjacent to the forward lower cargo door for cracks, in accordance with the Flight Safety Inspection Program in Boeing Service Bulletin 737-53-1051, Revision 3, or later FAA-approved revisions. Repeat the inspection at intervals not to exceed 4,000 landings.

B. If cracks are found, prior to further flight, repair in accordance with Part III.A. or Part III.B., as applicable, of Boeing Service Bulletin 737-53-1051, Revision 3, or later FAA-approved revisions.

C. For airplanes that have had cracks repaired in accordance with Part III.A. of Boeing Service Bulletin 737-53-1051, initial release, or later FAA-approved revisions, visually inspect the frames for cracks in the area of the repair upon the accumulation of 25,000 landings after the repair, and repeat at intervals not to exceed 17,000 landings thereafter. Parts found cracked must be repaired prior to further flight in accordance with an FAA-approved repair method.

D. For airplanes that have had cracks repaired in accordance with the Boeing Model 737 Structural Repair Manual, Section 51-40-3, or with Part III.B. of Boeing Service Bulletin 737-53-1051, Revision 3, or later FAA-approved revisions, visually inspect the frames for cracks in the area of the repair upon the accumulation of 6,000 landings after the repair and repeat at intervals not to exceed 4,000 landings thereafter. Parts found cracked must be repaired prior to further flight in accordance with an FAA-approved repair method.

E. Modification of uncracked frames in accordance with the Preventative Modification of Boeing Service Bulletin 737-53-1051, Revision 3, or later FAA-approved revisions, constitutes terminating action for the requirements of this AD.

F. Airplanes with cracked frames may be flown in accordance with FAR 21.197 and 21.199 to a maintenance base for repairs or replacement required by this AD.

G. An alternate method of compliance or adjustment of the compliance time which provides an acceptable level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this directive who have not already received the appropriate service document from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The document may be examined at FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective June 16, 1986.

Issued in Seattle, Washington, on May 1, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-10527 Filed 5-9-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-ASW-2]

Alteration of Transition Area: Ada, OK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will revise the 700-foot transition area at Ada, OK. The intended effect of the amendment is to provide additional controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to Ada Municipal Airport utilizing the new Ada VOR (ADH) and the new Adoke NDB (DKU) as navigational aids. This amendment is necessary since there will be new SIAP's using the new Ada VOR and the Adoke NDB. Coincident with this action, the existing Ada NDB (AMR) will be decommissioned.

EFFECTIVE DATE: 0901 UTC, August 28, 1986.

FOR FURTHER INFORMATION CONTACT: David J. Souder, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877-2622.

SUPPLEMENTARY INFORMATION:

History

On January 23, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise the Ada, OK, transition area (51 FR 4610).

Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation regulations revises the 700-foot transition area to provide additional controlled airspace thereby ensuring the segregation of aircraft utilizing the new SIAP's under instrument flight rules (IFR) and other aircraft operating under visual flight rules (VFR) while arriving to or departing from the Ada Municipal Airport.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Control zones, Transition areas, etc.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended as follows:

PART 71—(AMENDED)

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. § 71.181 is amended as follows:

Ada, OK [Revised]

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Ada Municipal Airport (latitude 34°48'20" N., longitude 96°40'15" W.).

Issued in Fort Worth, TX, on April 25, 1986.

Donald R. Guempel,

Acting Manager, Air Traffic Division Southwest Region.

[FR Doc. 86-10522 Filed 5-9-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-AWA-6]

Establishment of Airport Radar Service Areas

Correction

In FR Doc. 86-7686 beginning on page 11666 in the issue of Monday, April 7, 1986, make the following corrections:

1. On page 11691, first column, under "Memphis International Airport, TN", first line, "SAA" should read "SSA".

2. Also, under the same heading, second paragraph, first line, "SAA" should read "SSA".

BILLING CODE 1505-01-M

14 CFR Part 71

[Airspace Docket No. 86-AWA-11]

Alteration of VOR Federal Airway V-441—FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Federal Airway V-441 so that it is more directly aligned between Lakeland and Melbourne, FL.

BEST COPY AVAILABLE

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EFFECTIVE DATE: 0901 GMT, July 3, 1986.

FOR FURTHER INFORMATION CONTACT: William Davis, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

On July 1, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter several airways in the state of Florida because of a planned action to relocate the Fort Myers, FL, navigational aid upon which these airways are based (50 FR 27014). Also included with that proposal was a proposed alteration to VOR Federal Airway V–441 so that it would be more directly aligned between certain navigational aids. Those actions were proposed in Airspace Docket No. 85–ASO–6. The relocation of the Fort Myers navigational aid has been postponed until July 1987; however, there remains a need to alter VOR Federal Airway V–441. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations amends VOR Federal Airway V–441 so that it is more directly aligned between the Lakeland and Melbourne, FL, navigational aids.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. section 71.123 is amended as follows:

V–441 [Amended]

By removing the words "Lakeland, FL, 080° radials" and by substituting the words "Lakeland, FL, 081° radials"

Issued in Washington, DC, on May 2, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–10524 Filed 5–9–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 85–AGL–18]

Realignment of Federal Airway V–78

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action realigns Federal Airway V–78 to the north between the Eau Claire, WI, and Gopher, MN, very high frequency omni-directional radio range and tactical air navigational aid (VORTAC) facilities. This action provides the necessary increased separation between established routes to ensure the safe and expeditious flow of air traffic in the area.

EFFECTIVE DATE: 0901 UTC, July 3, 1986.

FOR FURTHER INFORMATION CONTACT: Peter DiVenere, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

On February 24, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign Federal Airway V–78 to the north between the Eau Claire, WI, and Gopher, MN, VORTAC facilities (51 FR 6417). This action provides the necessary increased separation between established routes to ensure the safe and expeditious flow of air traffic in the area. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations amends VOR Federal Airway V–78 by realigning the airway to the north between the Eau Claire, WI, and Gopher, MN, VORTAC facilities. This action will provide the necessary increased separation between established routes to ensure the safe and expeditious flow of air traffic in the area.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

PART 71—[AMENDED]

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); 14 CFR 11.69.

2. Section 71.123 is amended as follows:

V–78 [Amended]

By removing the words "Eau Claire, WI;" and substituting the words "INT Gopher 091° and Eau Claire, WI, 290° radials; Eau Claire;"

Issued in Washington, DC, on May 2, 1986.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–10523 Filed 5–9–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 97

[Docket No. 24978; Amdt. No. 1320]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–430), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFS–230), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426–8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number. This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC, on May 2, 1986.

John S. Kern,

Director of Flight Standards.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.M.T. on the dates specified, as follows:

1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 1348, 1354(a), 1421, and 1510; 49 U.S.C. 106(g) (revised, Pub. L. 97–449, January 12, 1983; and 14 CFR 11.49(b)(2)).

PART 97—[AMENDED]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs;

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§ 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

. . . Effective August 28, 1986

Mountain View, AR—Harry E. Wilcox Memorial Field, NDB–A, Orig.

. . . Effective July 3, 1986

Mena, AR—Intermountain Regional, VOR/DME–A, Amdt. 7

Mena, AR—Intermountain Regional, NDB–B, Amdt. 5

Bakersfield, CA—Meadows Field, VOR RWY 12L, Amdt. 3

Bakersfield, CA—Meadows Field, VOR RWY 30R, Amdt. 4

Bakersfield, CA—Meadows Field, LOC BC RWY 12L, Amdt. 7

Bakersfield, CA—Meadows Field, NDB RWY 30R, Amdt. 3

Bakersfield, CA—Meadows Field, ILS RWY 30R, Amdt. 23

Delano, CA—Delano Muni, VOR RWY 32L, Amdt. 4

Porterville, CA—Porterville Muni, VOR RWY 30, Amdt. 4

Akron, CO—Akron-Washington Co., VOR RWY 27, Amdt. 6

Denver, CO—Centennial, ILS RWY 35R, Amdt. 4

Boyne Falls, MI—Boyne Mountain, NDB–A, Amdt. 4

Boyne Falls, MI—Boyne Mountain, RNAV–B, Amdt. 1

Gaylord, MI—Otsego County, VOR RWY 9, Amdt. 6

Gaylord, MI—Otsego County, VOR RWY 27, Amdt. 6

Gaylord, MI—Otsego County, NDB RWY 9, Amdt. 7

New Ulm, MN—New Ulm Muni, NDB RWY 13, Amdt. 3, Cancelled

New Ulm, MN—New Ulm Muni, NDB RWY 15, Orig.

New Ulm, MN—New Ulm Muni, NDB RWY 33, Orig.

Butte, MT—Bert Mooney, LOC/DME RWY 15, Amdt. 5

Butte, MT—Bert Mooney, ILS RWY 15, Amdt. 3

Dillon, MT—Dillon, VOR–A, Amdt. 7

Dillon, MT—Dillon, VOR/DME–B, Amdt. 1

Cozad, NE—Cozad Muni, NDB RWY 13, Amdt. 2, Cancelled

Gothenburg, NE—Quinn Fld, NDB RWY 32, Amdt. 1, Cancelled

Lexington, NE—Lexington Muni, NDB RWY 14, Amdt. 3, Cancelled

Afton, OK—Shangri-La, NDB RWY 35, Amdt. 3

Medford, OR—Medford-Jackson County LOC/DME BC–B, Amdt. 4

Medford, OR—Medford-Jackson County ILS/DME RWY 14, Amdt. 12

Rapid City, SD—Rapid City Regional, VOR/DME or TACAN RWY 14, Amdt. 15

Rapid City, SD—Rapid City Regional, VOR or TACAN RWY 32, Admt. 23

Rapid City, SD—Rapid City Regional, NDB RWY 32, Amdt. 2

Rapid City, SD—Rapid City Regional, ILS RWY 32, Amdt. 16

Hartford, WI—Hartford Muni, VOR–A, Amdt. 4

Hartford, WI—Hartford Muni, NDB RWY 11, Amdt. 3

Kenosha, WI—Kenosha Muni, VOR RWY 14, Amdt. 6

Kenosha, WI—Kenosha Muni, NDB RWY 14, Amdt. 9

Milwaukee, WI—General Mitchell Field, NDB RWY 1L/R, Amdt. 2

Milwaukee, WI—General Mitchell Field, ILS RWY 1L, Amdt. 5

Oshkosh, WI—Wittman Field, VOR RWY 9, Amdt. 7

Oshkosh, WI—Wittman Field, VOR RWY 18, Amdt. 5

Oshkosh, WI—Wittman Field, VOR RWY 27, Amdt. 3

Oshkosh, WI—Wittman Field, VOR RWY 36, Amdt. 15

Oshkosh, WI—Wittman Field, LOC/DME BC RWY 18, Amdt. 4

Oshkosh, WI—Wittman Field, NDB RWY 36, Amdt. 4

Oshkosh, WI—Wittman Field, ILS RWY 36, Amdt. 5

Gillette, WY—Gillette-Campbell County, ILS RWY 34, Amdt. 1

. . . Effective June 5, 1986

Muscle Shoals, AL—Muscle Shoals, VOR RWY 29, Amdt. 25

Muscle Shoals, AL—Muscle Shoals, VOR/DME RWY 11, Amdt. 4

Muscle Shoals, AL—Muscle Shoals, ILS RWY 29, Amdt. 2

Brooksville, FL—Hernando County, NDB RWY 9, Amdt. 4

Key West, FL—Key West INTL, VOR/DME RWY 27, Orig.

Bedford, MA—Laurence G. Hanscom Fld, ILS RWY 29, Amdt. 1

Frederick, MD—Frederick Muni, ILS RWY 23, Amdt. 2

Columbus-West Point-Starkville, MS—Golden Triangle Regional, VOR–D, Amdt. 4

Columbus-West Point-Starkville, MS—Golden Triangle Regional, VOR/DME–E, Amdt. 4

Columbus-West Point-Starkville, MS—Golden Triangle Regional, LOC/DME BC RWY 36, Amdt. 4

Columbus-West Point-Starkville, MS—Golden Triangle Regional, ILS RWY 18, Amdt. 4

Gastonia, NC—Gastonia Muni, NDB RWY 3, Amdt. 5

Lumberton, NC—Lumberton Muni, VOR RWY 5, Amdt. 6

Lumberton, NC—Lumberton Muni, VOR RWY 13, Amdt. 8

Lumberton, NC—Lumberton Muni, NDB RWY 13, Amdt. 7

Maxton, NC—Laurinburg-Maxton, SDF RWY 5, Amdt. 4

Maxton, NC—Laurinburg-Maxton, NDB RWY 5, Amdt. 6

Monroe, NC—Monroe, NDB RWY 23, Amdt. 4

Salisbury, NC—Rowan County, VOR–A, Amdt. 5

Wadesboro, NC—Anson County, NDB RWY 10, Amdt. 1

Anderson, SC—Anderson County, VOR RWY 5, Amdt. 9

Anderson, SC—Anderson County, LOC RWY 5, Amdt. 1

Anderson, SC—Anderson County, NDB RWY 35, Amdt. 1

Anderson, SC—Anderson County, RNAV RWY 23, Amdt. 5

Lancaster, SC—Lancaster County, NDB RWY 24, Amdt. 3

Marion, SC—Marion County, NDB RWY 4, Amdt. 3

Newberry, SC—Newberry Muni, NDB RWY 22, Amdt. 2

Fort Worth, TX—Bourland Field, VOR RWY 35, Orig.

Marble Falls, TX—Horseshoe Bay, NDB RWY 17, Amdt. 2, CANCELLED

San Antonio, TX—San Antonio Intl, VOR RWY 21, Amdt. 1

Blacksburg, VA—Virginia Tech, NDB RWY 8, Amdt. 5, CANCELLED

Blacksburg, VA—Virginia Tech, NDB–A, Orig.

Tangier, VA—Tangier Island, VOR/DME RWY 2, Amdt. 5

. . . Effective April 29, 1986

Los Angeles, CA—Los Angeles Int'l, ILS RWY 25L, Amdt. 1

Los Angeles, CA—Los Angeles Int'l, ILS RWY 25R, Amdt. 4

. . . Effective April 26, 1986

Pocatello, ID—Pocatello Muni, ILS RWY 21, Amdt. 24

Jasper, TX—Jasper County Airport-Bell Field, NDB–A, Amdt. 3

. . . Effective April 23, 1986

Jasper, TX—Jasper County Airport-Bell Field, NDB RWY 18, Amdt. 5

. . . Effective April 17, 1986

Winston Salem, NC—Smith Reynolds, ILS RWY 33, Amdt. 24

[FR Doc. 86–10516 Filed 5–9–86; 8:45 am]

BILLING CODE 4910–13–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 210

[Release Nos. 33–6641; 34–22204; 35–24085; IC–15067; FR–35; File No. S7–18–85]

Technical Amendment to Rule; Registrant and its Subsidiaries and Affiliates; Consolidated and Combined Financial Statements

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission is revising Rule 3A–02 of Regulation S–X (17 CFR 210.3A–02) under the Securities Act of 1933 and the Securities Exchange Act of 1934. The amendment clarifies that the rule is subject to the overriding consideration of accounting for the substance of the particular relationship.

EFFECTIVE DATE: June 11, 1986.

FOR FURTHER INFORMATION CONTACT: Robert J. Kueppers, Office of the Chief Accountant (202–272–2130), or Howard P. Hodges, Division of Corporation Finance, (202–272–2553), Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Commission is amending Rule 3A–02 of Regulation S–X, its regulation relating to the form and content of and requirements for financial statements, under the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a et seq.] and the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq.]. Rule 3A–02 provides guidance on the consolidation of financial statements of a registrant and its subsidiaries. It covers all registration statements and periodic reports filed under the Securities Act and the Exchange Act which contain financial statements prepared in accordance with generally accepted accounting principles ("GAAP") and Regulation S–X. The Commission considers this an amendment that will not have a significant impact on present financial statement consolidation practices. The net effect of the amendment is to eliminate from the present rule the words that suggest an absolute prohibition from consolidating "any subsidiary which is not majority owned." This will eliminate any confusion about the overriding requirement of the rule which is that the registrant must adopt a consolidation policy which clearly exhibits the financial position and results of operations of the registrant and its subsidiaries.

I. Background and Introduction

Accounting Research Bulletin ("ARB") No. 51, paragraph 1, provides that "there is a presumption that consolidated statements are more meaningful than separate statements and that they are necessary for a fair presentation when one of the enterprises in the group directly or indirectly has a controlling financial interest in the other enterprises." While the usual condition for a controlling financial interest is ownership of a majority voting interest, the existence of such an interest may be evidenced in other ways, depending on particular facts and circumstances.

The present Rule 3A–02 of Regulation S–X, while stating that the registrant shall follow a consolidation policy which "will clearly exhibit the financial position and results of operations of the registrant and its subsidiaries," also states that a registrant "shall not consolidate any subsidiary which is not majority owned." That rule was written at a time when the Commission was attempting to prevent registrants which did not, in substance, have a controlling financial interest in a "subsidiary" from consolidating that entity and thereby filing financial statements which did not clearly exhibit the financial position and results of operations of the registrant and its subsidiaries.

Notwithstanding releases[1] which have indicated the Commission's view that the requirement to "clearly exhibit the financial position and results of operations of the registrants and its subsidiaries" is the overriding requirement in this rule, some registrants have cited this rule as prohibiting the consolidation of an entity that is, in substance, a subsidiary of the registrant.

Therefore, the Commission proposed to amend the rule in Securities Act Release No. 33–6577, on April 23, 1985 (50 FR 19035), and to reemphasize that, as in all accounting determinations, the substance of the transaction, as opposed to its form, must be considered in preparing financial statements.

II. Consideration of Comments Received

The Commission received 23 comment letters, the majority of which supported the proposed technical amendment. Some commentators believed that the Commission should delay the amendment of Rule 3A–02 until the Financial Accounting Standards Board ("FASB") completes its major project on Consolidations and the Equity Method. Others believed that the amendment would interfere with the FASB project. Several respondents expressed concern that the proposed rule did not specifically provide for an exception to consolidation treatment for finance and other "non-homogeneous" subsidiaries. Still other commentators requested that the Commission provide more definitive guidance in the rule itself or in the form of a staff accounting bulletin.

With respect to the comments referred to above, the Commission wishes to emphasize the following:

A. FASB Consolidations Projects.

The FASB presently has a major project on its agenda on Consolidations and the Equity Method which is dealing with a host of issues in the consolidations area. The amendment of Rule 3A–02 is consistent with present GAAP and does not impact the FASB's major project. The Commission is supportive of the FASB's efforts to address these important issues.

B. Finance and Other "Non-homogeneous" Subsidiaries

The amendment is not intended to alter present practice under GAAP which is embodied in ARB No. 51. Paragraph 3 of ARB No. 51, specifically provides that: "even though a group of companies is heterogeneous in character, it may be better to make a full consolidation than to present a large number of separate statements. On the other hand, separate statements . . . would be preferable for a subsidiary . . . if the presentation of financial information concerning the particular activities of such subsidiaries would be more informative . . . than would inclusion of such subsidiaries in the consolidation." Since ARB No. 51 was issued in 1959, practice pursuant to this paragraph has evolved to the point where many registrants do not consolidate finance and other non-homogeneous subsidiaries. Other registrants do consolidate such subsidiaries. The amendment to Rule 3A–02 is not intended to alter these practices. Indeed, the amended Rule 3A–02 is consistent with paragraph 3 of ARB No. 51 in that both call for the most meaningful financial presentation in the circumstances. In making this determination with respect to nonhomogeneous subsidiaries, ARB No. 51 puts the onus on companies to weigh the trade-off between unnecessary detail and more informative disclosure. Until the FASB promulgates new standards in this area, ARB No. 51 will continue as the applicable authoritative literature.

C. Definitive Guidance

Several commentators stated the belief that registrants should be given additional guidance to aid in determination of when an entity should be consolidated with a registrant. They believed this could be done by setting forth criteria that may be indicative of the need to consolidate or alternatively, by including examples from recent enforcement actions in the adopting release. Some commentators also suggested a companion staff accounting bulletin to provide implementation guidance.

Rule 3A–02, as amended, does not list specific criteria that need to be considered in determining whether an

[1] *In the matter of Atlantic Research*, Securities Act Release No. 4857 (December 6, 1966); *In the Matter of Laventhol & Horwath*, Securities Exchange Act Release No. 13670 (September 21, 1977); *SEC v. Digilog, Inc. and Ronald Meyer*, Litigation Release No. 10666 (July 5, 1984); and, *In the Matter of Coopers & Lybrand and M. Bruce Cohen, CPA*, Securities Exchange Act Release No. 21530 (November 27, 1984).

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entity should be consolidated. Rather, it emphasizes the need to consider substance over form to determine appropriate consolidation policy. Such determination requires the use of judgment by registrants and their independent accountants.

The Commission believes it would be difficult to develop an all-inclusive list of criteria because of the variety of possible facts and circumstances encountered in practice. Additionally, development by the Commission of definitive factors would represent a major rulemaking initiative that could directly compete with the FASB's efforts in this area.

The amendment of Rule 3A–02 is being made to bring the language of the rule in line with the way it has been applied by the Commission and by registrants generally. Notwithstanding releases [1] which have indicated the Commission's view that the overriding requirement of the rule is to clearly exhibit the financial position and operating results of a company and its subsidiaries, the wording of the rule prior to amendment was an impediment to an understanding of the Commission's position on consolidations. The intent and scope of this amendment is to remove this impediment and to capture the Commission's position in Regulation S–X. Any further guidance is not deemed necessary at this time.

D. Rescission of Rule 3A–02

Several commentators suggested rescission of Rule 3A–02 on the theory that the Rule, as amended, is duplicative of GAAP. The Commission, however, believes it is preferable to amend the rule. The language of the Rule, while consistent with ARB No. 51, is more explicit than GAAP because it specifically addresses the possible need to consolidate a less than majority owned subsidiary, and it states the possible need to employ the equity method or a valuation allowance to achieve a fair presentation.

III. Synopsis

The amendments indicate that generally, registrants shall not consolidate any subsidiary that is not majority owned and shall consolidate subsidiaries that are majority owned, and that the registrant's accounting policies should be clearly explained in the statement as to principles of consolidation or combination followed as required by Rule 3A–03. The rest of the rule has been reordered and renumbered, but the substance of the Commission's position remains unchanged.

IV. Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act [15 U.S.C. 605(b)] the Chairman of the Commission previously certified that adoption of these amendments will not have a significant impact on a substantial number of small entities. No comments were received on that certification.

V. Certain Findings

Section 23(a) of the Securities Exchange Act of 1934 (the "Exchange Act"), 15 U.S.C. 78w(a)(2), requires the Commission, in adopting rules under the Exchange Act, to consider the anti-competitive effect of such rules, if any, and to balance any impact against the regulatory benefits gained in terms of furthering the purposes of the Exchange Act. The Commission has considered the amendments to Rule 3A–02 of Regulation S–X in light of the standard cited in Section 23(a)(2) and believes that adoption of these changes will not impose any burden on competition not necessary or appropriate in furtherance of the Exchange Act.

VI. Codification Update

The "Codification of Financial Reporting Policies" announced in Financial Reporting Release No. 1 (April 15, 1982) [47 FR 21028] is updated to:

1. Add a new Section 105, entitled "Consolidated Financial Statements of the Registrant and its Subsidiaries."

2. To include in Section 105 the subparagraphs A, B, C and D of the second paragraph of the section of this release entitled "Consideration of Comments Received".

This Codification is a separate publication issued by the Commission. It will not be published in the Federal Register/Code of Federal Regulations.

List of Subjects in 17 CFR Part 210

Accounting, Reporting and recordkeeping requirement, Securities.

VII. Text of Amendments

The Commission hereby amends Title 17, Chapter II, of the Code of Federal Regulations as follows:

PART 210—FORM AND CONTENT OF AND REQUIREMENTS FOR FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, INVESTMENT COMPANY ACT OF 1940, AND ENERGY POLICY AND CONSERVATION ACT OF 1975

Article 3A—Consolidated and Combined Financial Statements (17 CFR Part 210)

1. The authority citation for Part 210 continues to read as follows:

Authority: Sections 6, 7, 8, 10, 19 and Schedule A of the Securities Act of 1933, 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77aa(25) (26); sections 12, 13, 14, 15(d) and 23(a) of the Securities Exchange Act of 1934, 15 U.S.C. 78 *l*, 78m, 78n, 78o(d), 78*w*(a); sections 5(b), 10(a), 14 and 30(a) of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79e(b), 79j(a), 79n, 79t(a); and sections 8, 20, 30, 31, and 38(a) of the Investment Company Act of 1940, 15 U.S.C. 80a–8, 80a–20, 80a–29, 80a–30, 80a–37a, unless otherwise noted.

2. By revising § 210.3A–02 to read as follows:

§ 210.3A–02 Consolidated financial statements of the registrant and its subsidiaries.

In deciding upon consolidation policy, the registrant must consider what financial presentation is most meaningful in the circumstances and should follow in the consolidated financial statements principles of inclusion or exclusion which will clearly exhibit the financial position and results of operations of the registrant. There is a presumption that consolidated statements are more meaningful than separate statements and that they are usually necessary for a fair presentation when one entity directly or indirectly has a controlling financial interest in another entity. Other particular facts and circumstances may require combined financial statements, an equity method of accounting, or valuation allowances in order to achieve a fair presentation. In any case, the disclosures required by § 210.3A–03 should clearly explain the accounting policies followed by the registrant in this area, including the circumstances involved in any departure from the normal practice of consolidating majority owned subsidiaries and not consolidating entities that are less than majority owned. Among the factors that the registrant should consider in determining the most meaningful presentation are the following:

(a) *Majority ownership:* Generally, registrants shall consolidate entities that are majority owned and shall not consolidate entities that are not majority owned. The determination of "majority ownership" requires a careful analysis of the facts and circumstances of a particular relationship among entities. In rare situations, consolidation of a majority owned subsidiary may not result in a fair presentation, because the registrant, in substance, does not have a controlling financial interest (for example, when the subsidiary is in legal reorganization or in bankruptcy, or when control is likely to be temporary). In other situations, consolidation of an entity, notwithstanding the lack of technical majority ownership, is necessary to present fairly the financial position and results of operations of the registrant, because of the existence of a parent-subsidiary relationship by means other than record ownership of voting stock.

(b) *Different fiscal periods:* Generally, registrants shall not consolidate any entity whose financial statements are as of a date or for periods substantially different from those of the registrant. Rather, the earnings or losses of such entities should be reflected in the registrant's financial statements on the equity method of accounting. However:

(1) A difference in fiscal periods does not of itself justify the exclusion of an entity from consolidation. It ordinarily is feasible for such entity to prepare, for consolidation purposes, statements for a period which corresponds with or closely approaches the fiscal year of the registrant. Where the difference is not more than 93 days, it is usually acceptable to use, for consolidation purposes, such entity's statements for its fiscal period. Such difference, when it exists, should be disclosed as follows: the closing date of the entity should be expressly indicated, and the necessity for the use of different closing dates should be briefly explained. Furthermore, recognition should be given by disclosure or otherwise to the effect of intervening events which materially affect the financial position or results of operations.

(2) Notwithstanding the 93-day provision specified in (b)(1) above, in connection with the retroactive combination of financial statements of entities following a "pooling of interests," the financial statements of the constituents may be combined even if their respective fiscal periods do not end within 93 days, except that the financial statements for the latest fiscal year shall be recast to dates which do not differ by more than 93 days, if practicable. Disclosure shall be made of the periods combined and of the sales or revenues, net income before extraordinary items and net income of any interim periods excluded from or included more than once in results of operations as a result of such recasting.

(c) *Bank Holding Company Act:* Registrants shall not consolidate any subsidiary or group of subsidiaries of a registrant subject to the Bank Holding Company Act of 1956 as amended as to which (1) a decision requiring divestiture has been made, or (2) there is substantial likelihood that divestiture will be necessary in order to comply with provisions of the Bank Holding Company Act.

(d) *Foreign subsidiaries:* Due consideration shall be given to the propriety of consolidating with domestic corporations foreign subsidiaries which are operated under political, economic or currency restrictions. If consolidated, disclosure should be made as to the effect, insofar as this can reasonably be determined, of foreign exchange restrictions upon the consolidated financial position and operating results of the registrant and its subsidiaries.

By the Commission.

Dated: May 6, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–10635 Filed 5–8–86; 8:45 am]

BILLING CODE 8010–01–M

[1] *In the matter of Atlantic Research*, Securities Act Release No. 4987 (December 6, 1968); *In the Matter of Laventhol & Horwath*, Securities Exchange Act Release No. 13976 (September 21, 1977); *SEC v. Digilog, Inc. and Ronald Moyar*, Litigation Release No. 10448 (July 3, 1984); and, *In the Matter of Coopers & Lybrand and M. Bruce Cohen, CPA*, Securities Exchange Act Release No. 21520 (November 27, 1984).

17 CFR Part 211

[Release No. SAB–61]

Staff Accounting Bulletin No. 61; Allowance Adjustments

AGENCY: Securities and Exchange Commission.

ACTION: Publication of Staff Accounting Bulletin.

SUMMARY: This Staff Accounting Bulletin expresses the staff's views regarding adjustments of allowances for loan losses in connection with business combinations accounted for by the purchase method.

DATE: May 6, 1986.

FOR FURTHER INFORMATION CONTACT: Wayne G. Pentrack, Office of the Chief Accountant (202–272–2130) or Howard P. Hodges, Jr., Division of Corporation Finance (202–272–2553), Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The statements in Staff Accounting Bulletins are not rules or interpretations of the Commission nor are they published as bearing the Commission's official approval. They represent interpretations and practices followed by the Division of Corporation Finance and the Office of the Chief Accountant in administering the disclosure requirements of the Federal securities laws.

List of Subjects in 17 CFR Part 211

Accounting, Securities, Reporting and recordkeeping requirements.

John Wheeler,

Secretary.

May 6, 1986.

PART 211—[AMENDED]

Accordingly, Part 211 of Title 17 of the Code of Federal Regulations is amended by adding Staff Accounting Bulletin No. 61 to the Table found in Subpart B.

Staff Accounting Bulletin No. 61

The staff hereby adds Section A–5 to Topic 2 expressing the staff's views regarding adjustments of allowances for loan losses in connection with business combinations accounted for by the purchase method.

Topic 2: Business Combinations

* * * * *

A. Purchase Method

* * * * *

5. Adjustments to allowances for loan losses in connection with business combinations.

Facts: Bank A acquires Bank B in a transaction to be accounted for by the purchase method in accordance with Accounting Principles Board Opinion No. 16.

Question: Are there circumstances in which it is appropriate for Bank A, in assigning acquisition cost to the loan receivables acquired from Bank B, to adjust Bank B's carrying value for those loans not only to reflect appropriate current interest rates, but also to reflect a different estimate of uncollectibility? [1]

Interpretive response: Needed changes in allowances for loan loses are ordinarily to be made through provisions for loan losses rather than through purchase accounting adjustments.

[1] Under APB Opinion No. 16, the guideline for allocating acquisition cost to receivables is ". . . at present values of amounts to be received determined at appropriate current interest rates, less allowances for uncollectibility and collection costs, if necessary."

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Except in the limited circumstances discussed below, where Bank A has plans for ultimate recovery of loans acquired from Bank B that are demonstrably different from plans that had served as the basis for Bank B's estimate of loan losses, purchase accounting adjustments reflecting different estimates of uncollectibility may raise questions from the staff as to: (a) the reasonableness of the preacquisition allowance for loan losses recorded by Bank B, or (b) whether the adjustments will have a distortive effect on current or future period financial statements of Bank A. Similar questions may be raised by the staff regarding significant changes in allowances for loan losses that are recorded by a bank shortly before it is acquired.

Estimation of probable loan losses involves judgment, and Banks A and B may differ in their systematic approaches to such estimation. Nevertheless, assuming that appropriate methodology (i.e., giving due consideration to all relevant facts and circumstances affecting collectibility) is followed by each bank, the staff believes that each bank's estimate of the uncollectible portion of Bank B's loan portfolio should fall within a range of acceptability. That is, the staff believes that the uncollectible portion of Bank B's loans as estimated separately by the two banks ordinarily should not be different by an amount that is material to the financial statements of Bank B and, therefore, an adjustment to the net carrying value of Bank B's loan portfolio at the acquisition date to reflect a different estimate of uncollectibility ordinarily would be unnecessary and inappropriate.

However, a purchase accounting adjustment to reflect a different estimate of uncollectibility may be appropriate where Bank A has plans regarding ultimate recovery of certain acquired loans demonstrably different from the plans that had served as the basis for Bank B's estimation of losses on those loans. [2] In such circumstances, Bank B's estimate of uncollectibility for those certain loans may be largely or entirely irrelevant for purposes of determining the net carrying value at which those loans should be recorded by Bank A. For example, if Bank B had intended to hold certain loans to maturity but Bank A plans to sell them, the acquisition cost allocated to those loans should equal the value that currently could be obtained for them in a sale. [3] In that case, Bank A would report those loans as assets held for sale rather than as part of its loan portfolio, and would report them in postacquisition periods at the lower of cost or market value until sold.

The staff does not intend to suggest that an acquiring bank should record acquired loans at an amount that reflects an unreasonable estimate of uncollectibility. If Bank B's financial statements as of the acquisition date are not fairly stated in accordance with generally accepted accounting principles because of an unreasonable allowance for loan losses, that allowance for loan losses should not serve as a basis for recording the acquired loans. Rather, Bank B's preacquisition financial statements should be restated to reflect an appropriate allowance, with the resultant adjustment being applied to the restated preacquisition income statement of Bank B for the period(s) in which the events or changes in conditions that gave rise to the needed change in the allowance occurred.

[FR Doc. 86-10291 Filed 5-9-86; 8:45 am]

BILLING CODE 6810-01-M

[2] A bank's plans for recovering the net carrying value of certain individual loans or groups of loans may differ from its plans regarding other loans. The plan for recovering the net carrying value of a loan might be, for example, (a) holding the loan to maturity, (b) selling it, or (c) foreclosing on the collateral underlying the loan. The net carrying value of loans should be based on the plan for recovery.

[3] It is not acceptable to recognize losses on loans that are due to concerns as to ultimate collectibility through a purchase accounting adjustment, nor is it acceptable to report such losses as "loss on sale". An excess of carrying value of Bank B's loans over their market value at the acquisition date that is due to concerns as to ultimate collectibility should have been recognized by Bank B through its provision for loan losses.

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 12

[T.D. 86-52]

Customs Regulations Amendments Concerning Convention on Cultural Property Implementation Act

Correction

In FR Doc. 86-4025, beginning on page 6905 in the issue of Thursday, February 27, 1986, make the following correction:

On page 6908, in the first column, in the first line of § 12.104(c)(7)(ii), "statutory" should read "statuary".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Regulation No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Eligibility; Filing of Applications; Amounts of Benefits; Suspensions and Terminations; Relationship; Prorating SSI Monthly Benefit Payments

Correction

In FR Doc. 86-8826, beginning on page 13488, in the issue of Monday, April 21, 1986, make the following corrections:

1. On page 13492, in the third column, in the tenth line of § 416.211(a)(1), "SST" should read "SSI".

2. On page 13495, in the first column, in § 416.1327(a)(3), the eighth line is corrected to read: "the United States until he or she has returned to and remained in the United States for a period of 30". Also in the ninth line, the word "had" should read "has".

3. On the same page and column, in § 416.1327(b) Example 2, in the sixth line, "absence" should read "absent".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD2 86-13]

Regulated Navigation Area; Lower Cumberland River, KY

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a regulated navigation area between Mile 0.0. and Mile 30.6 on the waters of the Cumberland River. The regulated navigation area is intended to reduce river congestion and ensure the safety of vessels operating in this area during the scheduled closure of Kentucky Lock at Mile 22.4, Tennessee River. This lock closure will divert all vessel traffic that normally uses the lower Tennessee River to use the lower Cumberland River via Barkley Lock.

DATES: This regulation becomes effective on June 3, 1986. Comments must be received on or before June 30, 1986.

ADDRESSES: Comments should be mailed to Commander(m), Second Coast Guard District, 1430 Olive Street, St. Louis, MO 63103-2398. The comments will be available for inspection and copying at the same address. Normal office hours are between 8:00 a.m. and 4:00 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Commander R. E. Luchun, Second Coast Guard District (m), 1430 Olive Street, St Louis, MO 63103—2398, Phone: (314) 425-4655.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a Notice of Proposed Rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impracticable. Recommendations from the river industry committee were not received by the Coast Guard until February 20, 1986, and there was not sufficient time remaining to publish a proposal in advance of the event for which the regulation is needed. Likewise, there was not sufficient time to provide for a delayed effective date.

Although this regulation is published as a final rule without prior notice, an opportunity for public comment is nevertheless desirable to ensure that the regulation is both reasonable and workable. Accordingly, persons wishing to comment may do so by submitting written comments to the office listed under "ADDRESS" in this preamble. Commenters should include their names and addresses, identify the docket number for the regulations (CGD2 86-13), and give reasons for their comments. Based upon comments received, the regulation may be changed.

Drafting Information

The drafters of this notice are CDR R.E. LUCHUN, USCG, Commander (meps), Second Coast Guard District, project officer, and LT R.E. KILROY, USCG, project attorney, Second Coast Guard District Legal Office.

Discussion of Proposed Regulations

During June, July, and August of 1986, Kentucky Lock on the Tennessee River will be closed for repairs. This will close the Tennessee River to navigation traffic, and divert all such traffic to the use of the Cumberland River. The Cumberland River is a narrower, winding course which is seldom used by commercial river traffic when the Tennessee River is available. Consequently, the closure of the Tennessee River will increase the level of traffic on the Cumberland River, and render navigation thereon more hazardous than usual.

In December of 1985, a committee was appointed by the Tennessee-Cumberland Waterways Council and Waterways Industries of Paducah to formulate recommendations from the river industry on methods of dealing with the increased navigational hazard which will result from the increased number of vessels transiting this area of the Cumberland River. The report of that committee was presented to the Corps of Engineers and the Coast Guard on February 20, 1986, at a public meeting near Barkley Dam. That meeting was sponsored by the Corps of Engineers, Nashville District, and was attended by 150 to 200 persons including the press and TV media.

Many of the recommendations of that committee are incorporated in these regulations, most notably a limitation on the size of commercial vessels transiting the area and the designation of two particularly hazardous stretches of the river as one-way traffic areas.

In order to implement the one-way traffic scheme, commercial vessel operators are required to maintain radio contact with other commercial vessels in or approaching the area and the Lockmaster at Barkley Lock, who will direct traffic in the one-way area between Mile 24.0 and Mile 30.6 of the Cumberland River. Commercial vessel operators transiting the one-way area from Mile 0.0 to Mile 10.0 are required to coordinate the timing of such passage among themselves.

These regulations will enhance the safe and efficient movement of vessels on the Cumberland River during this temporary period. The effective period of the proposed regulations will coincide with the programmed closure of Kentucky Lock and Dam, from 0001 on Tuesday, June 3, 1986, through 2400 on Tuesday, September 30, 1986, or until completion of the repairs to Kentucky Lock at Mile 22.4, Tennessee River.

Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulations and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The purpose of these temporary regulations is to coordinate detoured traffic, resulting from the closure of Kentucky Lock and Dam for repairs, through the alternate route on the Cumberland River. This regulatory package is aimed at ensuring maximum lock efficiency at Barkley Lock and Dam and ensuring the safety of vessels operating on the Cumberland River. It is anticipated that these regulations will reduce the economic impact of the closure of Kentucky Lock, by enhancing traffic flow on the Cumberland River, and by helping to avoid the possibility of collision on that river, which could result in a complete closure of the river for some period of time, as well as extensive damage to vessels and shore structures.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Final Regulation

PART 165—[AMENDED]

In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5.

2. Section 165.T209, Regulated Navigation Area, Lower Cumberland River, Mile 0.0 through Mile 30.6, is added, to read as follows:

§ 165.T209 Regulated navigation area, Lower Cumberland River, Mile 0.0 through 30.6.

(a) *Location.* The following area is a regulated navigation area: The waters of the Lower Cumberland River between Mile 0.0 and Mile 30.6.

(b) *Applicability.* The regulations in this section apply to all commercial vessels operating within the area described above.

(c) *Regulations.* (1) *Vessel Restrictions.* Vessels with tows shall be limited to a maximum overall length (including the tow) of 1175 feet, and a maximum overall width of 105 feet.

(2) *Traffic Restrictions.* (i) Commercial vessels intending to enter the regulated navigation area shall advise the Lockmaster or his designee at Barkley Lock of their intention to enter the regulated area upon arrival at the following location:

(A) Upbound on the Ohio River at Mile 932.5.

(B) Downbound on the Ohio River at Mile 918.7.

(C) Downbound on the Cumberland River at Mile 41.0.

(D) Downbound on the Tennessee River at Mile 29.1.

(ii) For the duration of these regulations, the arrival points for Barkley Lock will be Mile 24.0, Cumberland River, for upbound commercial vessels, and Mile 32.5, Cumberland River, and Mile 25.4, Tennessee River, for downbound commercial vessels. Lock queue for commercial vessels will be established at these points by the Lockmaster or his designee at Barkley Lock.

(iii) Two-way (opposing) traffic is prohibited in the following areas (hereinafter referred to as the one-way traffic areas):

(A) Between Mile 0.0 and Mile 10.0, Cumberland River.

(B) Between Mile 24.0 and Mile 30.6, Cumberland River.

(iv) Prior to entering the one-way traffic area between Mile 0.0 and Mile 10.0, each commercial vessel operator shall determine, by use of the radio, that there is no opposing commercial vessel traffic already within or preparing to enter the one-way area. Once the operator has so determined that no such traffic exists, the vessel may proceed into the area. If there is opposing traffic preparing to enter the area, the vessel operators shall determine, between or among themselves, which direction of traffic shall be allowed to proceed first.

(v) Prior to entering the one-way traffic area between Mile 24.0 and 30.6, Cumberland River, each commercial vessel operator shall contact the Lockmaster or his designee at Barkley Lock. The instructions of the Lockmaster or his designee at Barkley Lock shall be adhered to.

(vi) Operators of commercial vessels within or approaching either of the one-way traffic areas shall maintain an alert radio watch on both Channel 13 and 16, VHF–FM, for calls related to the one-way traffic scheme. The Lockmaster or his designee at Barkley Lock will monitor these channels. Specific vessel traffic routing instructions will be provided on Channels 12 and 14 VHF–FM for vessels intending to navigate or navigating in the one-way traffic area between Mile 24.0 and Mile 30.6, Cumberland River.

(vii) No commercial vessel shall stop, tie off, or remain in either of the one-way traffic areas unless for the purpose of delivery or receipt of vessels related to its tow or unless there is an emergency. Commercial vessel operators engaging in such activity between Mile 24.0 and Mile 30.6, Cumberland River, shall so inform the Lockmaster or his designee at Barkley Lock and adhere to his instructions. Commercial vessel operators engaging in such activity within either one-way traffic area shall advise other commercial vessels within or approaching that one-way traffic area of their actions. Vessels involved in tow work are not considered opposing traffic to other vessels waiting to enter a one-way traffic area.

(viii) Commercial vessels within the one-way traffic areas shall proceed within those areas so as to prevent any delays to other traffic. Commercial vessel operators shall follow the instructions from Barkley Lock while navigating between Mile 24.0 and Mile 30.6, Cumberland River.

(ix) Commercial vessel operators intending to get underway between Mile 0.0 and Mile 10.0 shall first determine, by use of the radio, that there is no opposing commercial vessel traffic already within or preparing to enter the one-way area. Once the operator has determined that no such traffic exists, the vessel may proceed. Commercial vessel operators intending to get underway between Mile 24.0 and Mile 30.6 shall first obtain the permission of the Lockmaster or his designee at Barkley Lock.

(x) Two-way traffic is authorized between Mile 10.0 and Mile 24.0, Cumberland River; however, vessel operators are reminded to exercise extreme caution when meeting or overtaking other vessels within this area.

(xi) The mariner is cautioned that any information received from the Lockmaster or his designee at Barkley Lock or from other vessels in or approaching the regulated navigation area can be no more accurate than the knowledge of the individuals contacted at that time. These operators may not have full knowledge of all other vessels and hazardous conditions existing in the regulated navigation area. Unreported vessels and hazards may confront the mariner at any time; therefore, the mariner is urged to navigate with due caution, and to use all the aids at his disposal, including repeated use of bridge-to-bridge radiotelephone communications, on Channel 13, VHF–FM, with other vessels within and approaching the regulated navigation area and Channels 12 and 14, VHF–FM with the Lockmaster or his designee at Barkley Lock.

(3) *Emergencies.* In an emergency, any person may deviate from any regulation in this section to the extent necessary to avoid endangering persons, property, or the environment. The operator of a commercial vessel involved in an emergency within the regulated navigation, area, shall contact the Captain of the Port at the earliest opportunity. The operator is to report the nature of the emergency and actions taken that caused him to deviate from these regulations. This report may be made via Coast Guard Group Tennessee River, Paris, TN or Barkley Lock if the Marine Safety Office, Paducah, KY cannot be contacted by radio.

(4) *Waiver.* (i) The District Commander may, upon request, waive any requirement of this regulation, if it is found that the operations proposed in the request of waiver can be done safely. An application for a waiver must be made in writing and must state the need for the waiver and describe the proposed operations.

(ii) Compliance with this regulation is not required to the extent necessary to carry out the following operations:

(A) Law enforcement.

(B) The servicing of aids to navigation or the surveying, maintenance or improvement of waterways in the regulated navigation area.

(5) *Laws and Regulations Not Affected.* Nothing in this regulation is intended to relieve any person from complying with:

(i) The navigation rules for harbors, rivers, and inland waters generally (33 USC 84–90).

(ii) Vessel Bridge-to Bridge Radiotelephone Regulations (33 CFR Part 26).

(iii) Inland Navigation Rules Act of 1980 (33 U.S.C. 2001 et seq.).

Dated: April 17, 1986.

B.F. Hollingsworth,

Rear Admiral, U.S. Coast Guard Commander, Second Coast Guard District.

[FR Doc. 86-10592 Filed 5-9-86; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-6-FRL-3014-7]

Approval and Promulgation of State Implementation Plans; Wyoming; Visibility

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: In this action EPA is (1) approving that portion of the Wyoming Air Quality Standards and Regulations (WAQSR) for New Source Review (NSR) for visibility protection and (2) disapproving a revision to the Wyoming

is a result of the rulemaking on October 23, 1984 (49 FR 42670), in which EPA proposed to disapprove SIPs of states which failed to comply with provisions of 40 CFR 51.305 (visibility monitoring) and 51.307 (visibility NSR). With the approval of the Governor of Wyoming, the SIP revision and NSR Regulation for Visibility Protection were submitted on April 12, 1985, by the Wyoming Air Quality Division Administrator.

DATE: This action will be effective June 11, 1986.

ADDRESSES: Copies of the State submittal are available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday at the following offices:

Environmental Protection Agency, Region VIII, Air Programs Branch, One Denver Place, Suite 1300, 999 18th Street, Denver, Colorado 80202;
Environmental Protection Agency, Public Information Reference Unit, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460;
The Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Lee Hanley, Air Programs Branch, Environmental Protection Agency, One Denver Place, Suite 1300, 999 18th Street, Denver, Colorado 80202, (303) 293–1757.

SUPPLEMENTARY INFORMATION: Section 169A of the Clean Air Act (Act), 42 U.S.C. 7491, requires visibility protection for mandatory Class I Federal areas where EPA has determined that visibility is an important value. ("Mandatory Class I Federal areas" are certain national parks, wilderness areas, and international parks, as described in section 162(a) of the Act, 42 U.S.C. 7472(a), 40 CFR 81.400–81.437.) Section 169A specifically requires EPA to promulgate regulations requiring certain states to amend their State Implementation Plans (SIPs) to provide for visibility protection.

On December 2, 1980, EPA promulgated the required visibility regulations in 45 FR 80084, codified at 40 CFR 51.300 *et seq.* It required the states to submit their revised SIPs to satisfy those provisions by September 2, 1981. (See 45 FR 80081, codified in 40 CFR 51.302(a)(1).) That rulemaking resulted in numerous parties seeking judicial review of the visibility regulations. In March 1981, the Court stayed the litigation pending EPA action on related administrative petitions for reconsideration of the visibility regulations filed with the Agency.

In December 1982, the Environmental Defense Fund (EDF) filed suit in the U.S. District Court for the Northern District of California alleging that EPA failed to perform a nondiscretionary duty under section 110 of the Act to promulgate visibility SIPs. A negotiated settlement agreement between EPA and EDF required EPA to promulgate visibility SIPs on a specific schedule. It required EPA to propose to incorporate Federal regulations in states where SIPs are deficient with respect to the 1980 visibility NSR and monitoring regulations, 40 CFR 51.307 and 51.305, respectively. However, the settlement allows the State an opportunity to avoid Federal promulgation if it submits a SIP by May 6, 1985. Wyoming is one of the states listed in 49 FR 42670 as having an inadequate NSR and monitoring plan for visibility protection.

On April 12, 1985, the Wyoming Air Quality Division Administrator submitted a Visibility SIP which constituted the State's strategy for evaluating visibility in mandatory Class I areas. The submittal also included revisions to the existing Wyoming NSR requirements and regulations for visibility protection. (The NSR requirements are in WAQSR Section 24—"Prevention of Significant Deterioration and in WAQSR Section 21—"Permit Requirements." Both sections 21 and 24 are applicable to any new or modified source locating in the State of Wyoming. The regulations contained in sections 21 and 24 were previously approved in parts in 44 FR 38475, 44 FR 51979, and 46 FR 16682.)

On November 14, 1985, 50 FR 47089, EPA proposed to approve the Wyoming NSR regulations for visibility and disapprove the State's visibility monitoring strategy.

Summary of Action

The April 12, 1985 submittal by the Administrator of the Wyoming Air Quality Division included a Visibility SIP describing the State's monitoring strategy and the revised NSR Regulations for visibility protection. The NSR regulations adequately addressed the requirements of 40 CFR 51.307 and is being approved with this notice. (Reference is made to the October 23, 1984 notice, 49 FR 42670, for additional information on the criteria for visibility NSR.)

The monitoring strategy defined in the Visibility SIP is adequate to comply with the requirements of 40 CFR 51.305. 40 CFR 51.305 specifically requires a State to have a plan to evaluate visibility in any mandatory Class I area, to consider available data and to provide a mechanism for its use in decisions to comply with the remainder of Subpart P, "Protection of Visibility". The Wyoming Visibility SIP appears to have transferred the responsibility of 40 CFR 51.305 to the FLM without a commitment or co-operative agreement with the FLM. Thus, EPA is incorporating § 52.28 into the Wyoming SIP for visibility monitoring. (Section 52.28 was established in the July 12, 1985 notice (50 FR 28544.)

The SIP remains deficient for all the other requirements of Subpart P (except § 51.307) which should be addressed within the proper timeframe after EPA promulgation or rulemaking.

EPA finds good cause exists for making the action taken in this notice immediately effective for the following reasons:

(1) Implementation plan revisions are already in effect under State regulation and EPA approval poses no additional regulatory burden;

(2) EPA has a responsibility under the Act to take final action on the portion of the SIP which addresses Part D requirements by July 1, 1979, or as soon thereafter as possible; and

(3) EPA gave prior notice of its intention to disapprove the plan if the State failed to comply with a condition of approval.

Under 5 U.S.C. section 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. Only a few sources will be required to evaluate the potential impact on visibility that are not already required to do so under the existing PSD program.

Under section 307(b)(1) of the Clean Air Act (CAA), petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 11, 1986, not be challenged later in proceedings to enforce its requirements (See section 307(b)(2) of the CAA).

Under Executive Order 12991, today's action is not "Major". It has been submitted to the Office of Management and Budget (OMB) for review.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, and Hydrocarbons, Incorporation by reference.

Note. Incorporation by reference of the State Implementation Plan for the State of Wyoming was approved by the Director of the Federal Register on July 1, 1982.

Dated: May 5, 1986.

Lee M. Thomas,

Administrator.

Part 52 Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

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State Implementation Plan (SIP) for visibility monitoring. This action was previously proposed in 50 FR 47009 and

Subpart ZZ—Wyoming

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. Section 52.2620 is amended by adding paragraph (c)(16) as follows:

§ 52.2620 Identification of Plan.

* * * * *

(c) * * *

(16) Revisions to the new source permit requirements in sections 21 and 24 of the Wyoming regulation for visibility protection were submitted on April 12, 1985.

(i) Incorporation by reference:

(A) Letter from Randolph Wood, Administrator, Wyoming Air Quality Division, dated April 12, 1985, submitting the Wyoming Visibility SIP and Regulations.

(B)(*1*) Wyoming Air Quality Standards and Regulations (WAQSR), Section 21.n. (1) and (2) adopted on January 22, 1985.

(*2*) WAQSR, Section 24.b.(1)(f) adopted on January 22, 1985.

(*3*) WAQSR, Section 24.b.(6) (a) and (b) revised and adopted on January 22, 1985.

3. Section 52.2632 is added to Subpart ZZ to read as follows:

§ 52.2632 Visibility protection.

(a) The requirements of section 169(A) of the Clean Air Act are not met because the plan does not include approvable procedures for protection of visibility in mandatory Class I Federal areas.

(b) *Regulations for visibility monitoring.* The provisions of § 52.26 are hereby incorporated and made part of the applicable plan for the State of Wyoming.

[FR Doc. 86–10591 Filed 5–9–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Parts 704 and 716

[OPTS–82021A; FRL–3014–6]

P-Tert-Butylbenzoic Acid, P-Tert-Butyltoluene, P-Tert-Butylbenzaldehyde; Final Reporting and Recordkeeping Requirements, and Health and Safety Data Reporting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes reporting and recordkeeping requirements for the following three chemical substances: p-tert-butylbenzoic acid (P–TBBA, CAS No. 98–73–7), p-tert-butyltoluene (P–TBT, CAS No. 98–51–1), and p-tert-butylbenzaldehyde (P–TBB, CAS No. 939–97–9). Based on the data currently available to EPA, the Agency is primarily concerned with the possible human reproductive effects resulting from exposure to these substances. The purpose of these regulatory requirements is to monitor current and future uses of P–TBBA, P–TBT, and P–TBB, and to obtain data necessary to support a more detailed assessment of the potential health and environmental risks posed by these substances.

DATES: In accordance with 40 CFR 23.5 (50 FR 7271), this regulation shall be promulgated for purposes of judicial review at 1 p.m. eastern daylight time on May 26, 1986. This regulation becomes effective on June 25, 1986.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Room E–543, 401 M Street SW., Washington, DC 20460. Toll free: (800–424–9065). In Washington, DC: (554–1404), Outside the USA: (Operator–202–554–1404).

SUPPLEMENTARY INFORMATION:

I. Applicable Statutory and Regulatory Provisions

EPA is promulgating this rule pursuant to sections 8(a) and 8(d) of TSCA (15 U.S.C. 2601 et seq.).

A. Section 8(A) Reporting Rules

TSCA section 8(a) authorizes EPA to require persons who manufacture, import, or process a chemical substance to submit such reports on that substance as the Agency may reasonably require. The Agency is authorized to obtain a broad range of data under section 8(a), including information on chemical identity and structure, production, use, exposure, disposal, and health and environmental effects. Small manufacturers, importers, and processors, as defined by EPA, are exempt from section 8(a) reporting and recordkeeping requirements, with certain statutory exceptions.

EPA has codified general reporting provisions for chemical-specific section 8(a) rules at 40 CFR Part 704, Subpart A. These general provisions include a small manufacturer definition and exemption. The reporting provisions in Part 704 apply to the section 8(a) reporting requirements of this rule, except as discussed in this preamble and provided in the rule.

B. Section 8(d) Health and Safety Data Reporting

Under the authority of TSCA section 8(d), EPA promulgated the model Health and Safety Data Reporting Rule. This model rule contains standardized requirements for persons to submit copies and lists of health and safety studies for certain designated chemical substances or mixtures. These requirements are codified at 40 CFR Part 716, Subpart A.

Generally, the section 8(d) model rule is applicable to persons who manufacture, import, or process (or propose to manufacture, import, or process) any chemical substance or mixture that is listed in the rule. The reporting requirements of the model rule are applicable as of the date a substance or mixture is listed in the rule, and remain in effect after the listing date. The model rule also is applicable to persons who manufactured, imported, or processed a listed substance or mixture (or proposed to do so) during the 10 years prior to the listing date. Most persons subject to the rule are required to submit two types of data to EPA:

1. Copies of unpublished health and safety studies (for the substances and mixtures listed in the rule) which are in the possession of the manufacturer, importer, or processor.

2. Lists of unpublished health and safety studies which are being conducted by (or for) the manufacturer, importer, or processor, or which are known to but not in the possession of the manufacturer, importer, or processor.

The section 8(d) model rule authorizes EPA to amend the list of substances and mixtures subject to the rule; the Agency may later add substances or mixtures to the rule in order to gather data for chemical risk assessment, as it is doing in this rule.

II. Summary of This Final Rule

1. *Background.* This rule establishes reporting and recordkeeping requirements for the following chemical substances: p-tert-butylbenzoic acid (P-TBBA), also identified as 4-(1,1-dimethylethyl)benzoic acid (CAS No. 98–73–7); p-tert-butyltoluene (P-TBT), also identified as 1-(1,1-dimethylethyl)-4-methylbenzene (CAS No. 98–51–1); and p-tert-butylbenzaldehyde (P–TBB), also identified as 4-(1,1-dimethylethyl)benzaldehyde (CAS No. 939–97–9).

The rule was proposed for public comment in the **Federal Register** of November 7, 1985 (50 FR 46309). The

section 8(a) part of the rule was proposed to be codified as § 704.75, and is being finalized as § 704.33.

EPA received information from two companies in response to the proposed rule. One company voluntarily provided a draft laboratory report with acute toxicity data on P-TBBA; EPA will add the report to the section 8(d) data base that will be established after this rule is promulgated. The other company provided information on an "Ad Hoc [Industry] Committee for the Resolution of the Use of P–TBBA in Vinyl Stabilizers." EPA has determined that the materials submitted by these two companies does not change the Agency's objectives and rationale for this rule. Moreover, EPA did not receive any public comments on the substantive content of the proposed rule; the requirements of the final rule therefore are unchanged from those which were proposed.

The section 8(a) and section 8(d) reporting requirements are the same for all three substances, and are summarized below.

2. *Section 8(a) reporting requirements.* This rule requires all persons who manufactured, imported, or processed any of the three subject chemical substances during their latest complete corporate fiscal year prior to the effective date of this rule to notify EPA of their activities and provide the Agency with general exposure-related data (which are specified in the rule). In addition, all persons who begin manufacturing or importing any of these substances after the effective date of this rule must notify EPA and submit specified exposure-related data. The rule also requires all persons who process P–TBBA, P–TBT, or P–TBB in any way other than as a non-isolated intermediate (as that term is defined in the rule) to provide EPA with data on such processing; this latter requirement applies to persons who are engaging in such processing as of the effective date of this rule and to persons who commence such processing after that date.

The rule describes the specific type, amount, and format of the section 8(a) data to be reported by manufacturers, importers, and processors of P–TBBA, P–TBT, or P–TBB. In addition, the general section 8(a) reporting provisions at 40 CFR Part 704, Subpart A, including the small manufacturer exemption standards, apply to this rule. The rule also exempts small processors from the section 8(a) reporting requirements noted above, as required by TSCA; for purposes of this rule, the standards for defining small processors are the same as for small manufacturers, except that small processors are held to an annual processing volume criterion rather than annual production volume.

Persons subject to the section 8(a) reporting requirements for P-TBBA, P-TBT, and P-TBB are required to submit their data to EPA within 60 days of becoming subject to the rule (i.e., the effective date of the rule).

Any firm submitting section 8(a) data under this rule can, at its discretion, claim such data to be Confidential Business Information (CBI). (EPA's treatment of section 6(d) data as CBI is subject to the restrictions of TSCA section 14(b).) The procedures for submitting a notice with confidential section 8(a) data are set forth at 40 CFR 704.7. Persons submitting claims of confidentiality must attest, among other things, that they have taken measures to protect the confidentiality of the information, that they intend to continue to take such measures, and that the CBI is not and has not been reasonably obtainable by other persons (other than government entities) without the consent of the CBI claimant.

To the extent that the reporting requirements of this rule duplicate requirements of the section 8(a) rule for Partial Updating of the Inventory Data Base, the Inventory reporting requirements will not apply; the Agency will avoid duplicative reporting requirements by means of a special provision in the Update Rule.

This rule also amends the general section 8(a) reporting provisions of 40 CFR Part 704, Subpart A in two ways: (1) By adding definitions of the terms "intermediate," "known to or reasonably ascertainable by," "non-isolated intermediate," and "process for commercial purposes" to the list of generic definitions in 40 CFR 704.3, and (2) By amending two of the generic exemptions in 40 CFR 704.5 (for substances used solely for research and development and for substances produced as byproducts or impurities) to make them applicable to processors. In making these changes to the generic provisions of Part 704, the Agency wishes to ensure that all terms and exemptions that may be applicable to this rule are codified in the CFR. The definitions in this rule are similar or identical to definitions which have been codified elsewhere by EPA (e.g., in 40 CFR Parts 712, 716, 720, and 721).

3. *Section 8(d) reporting requirements.* This rule adds P–TBBA, P–TBT, and P–TBB to the list of chemical substances subject to the section 8(d) model rule. Section 8(d) health and safety data reporting is summarized in Unit I.B of this preamble, and is codified at 40 CFR Part 716.

III. Objectives and Rationale for the Final Rule

In view of the lack of substantive comment on the proposed rule for P–TBBA, P–TBT, and P–TBB, EPA's objectives and rationale for this rule have not changed since the rule was proposed.

EPA wishes to obtain section 8(a) and 8(d) data on these substances primarily because (1) they may cause adverse reproductive effects and other adverse health effects, and (2) the Agency lacks data on the other possible health effects. Section 8(a) data on exposure would enable EPA to better assess the potential risk these substances may pose to human health or the environment, and thereby decide whether further regulatory action is required with regard to any of the three substances. The Agency also seeks to ensure that it has all existing section 8(d) health and safety data before undertaking any in-depth risk assessment and/or further regulatory action, if any. If the data submitted in response to this rule indicate that further regulatory action is necessary with regard to these substances, EPA may take follow-up action under section 4, 5, 6, 7, or 9, as necessary, to gather more information, limit or control the activities in question, or refer the substances to other federal agencies for review.

Persons interested in reading a more detailed discussion of the Agency's objectives and rationale for this rule should refer to the preamble of the proposed rule.

IV. Submission of Additional Data

EPA recognizes that this final rule does not require persons to develop any particular test data before submitting a section 8(d) report to the Agency. Rather, persons subject to the rule are required only to submit test data in their possession or control and to describe any other data known to or reasonably ascertainable by them.

However, in view of the potential health and environmental risks that may be posed by P–TBBA, P–TBT, and P–TBB (and the uncertainty of those potential risks), EPA encourages respondents to this rule to provide the Agency with any relevant test data they may wish to develop. Generally, test data would improve EPA's ability to conduct a reasoned evaluation of the health and environmental effects of a particular chemical substance or use of that substance. Persons who develop test data voluntarily should provide data that conform with the standards of

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TSCA good laboratory practices, which are codified at 40 CFR Part 792. EPA encourages persons who intend to conduct testing of P–TBBA, P–TBT, or P–TBB to consult with the Agency before selecting a testing protocol.

V. Economic Impact

EPA's analysis of the economic impact of this rule is contained in a document entitled "Economic Analysis for Final section 8(a) and 8(d) Rules for P–TBBA, P–TBT, and P–TBB," prepared by the Economics and Technology Division of the EPA Office of Pesticides and Toxic Substances (OPTS). That document is contained in the administrative record for this rule (OPTS–82021). The results of the analysis are minimal; they are the same as for the proposed rule: the cost per section 8(a) report would be between $1,614 and $3,704, and the cost per section 8(d) submission would be approximately $1,667. The preamble of the proposed rule contains a more detailed summary of the economic analysis.

VI. Rulemaking Record

EPA has established an administrative record for this rulemaking (docket control number OPTS–82021) which is available for public inspection in the OTS Public Information Office, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays. The Public Information Office is located in Rm. E–107, 401 M Street SW., Washington, D.C. The record includes basic information considered by the Agency in developing this final rule. The record includes the following items:

1. Chemical Hazard Information Profiles for P–TBBA (May 24, 1982), P–TBT (May 27, 1982), and P–TBB (April 1982), prepared for EPA by the Chemical Effects Information Center, Oak Ridge National Laboratory, Oak Ridge, Tennessee.

2. Economic Analysis for Proposed Section 8(a) and 8(d) Rules for P–TBBA, P–TBT, and P–TBB, prepared by the Economics and Technology Division, OPTS, U.S.E.P.A., 1985.

3. The EPA Chemical Advisory for P–TBBA, P–TBT, and P–TBB, issued in March 1985.

4. The proposed rule (50 FR 46309, November 7, 1985).

5. Information submitted in response to the proposed rule.

6. Other relevant factual information and support documents.

VII. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this rule is not a "major" rule because it would not have an impact on the economy of $100 million or more; the rule therefore would not have a significant effect on competition, costs, or prices. While the expense of submitting data to EPA and the uncertainty of possible Agency regulation may discourage some innovation, that impact would be limited because such factors are unlikely to discourage an innovation that has high potential value. Moreover, the rule may encourage respondents to develop new methods for controlling release of and exposure to P–TBBA, P–TBT, and P–TBB.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), EPA certifies that this final rule will not have a significant impact on a substantial number of small businesses. The Agency cannot determine whether parties affected by this rule are likely to be small businesses. However, "small" manufacturers and importers (as defined in 40 CFR 712.25) and "small" processors (as defined in this rule) are exempt from reporting section 8(a) data on these substances. In addition, EPA believes that the number of respondents to this rule will be small; therefore, the number of respondent firms that approach but do not meet the small business exemption standards will be minimal.

C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this final rule, under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Chemical-specific section 8(a) reporting requirements have been reviewed and approved by OMB and assigned OMB control number 2070–0067. The information collection requirements of the section 8(d) model rule have been reviewed and approved by OMB and assigned OMB control number 2070–0004.

List of Subjects in 40 CFR Parts 704 and 716

Chemicals, Environmental protection, Hazardous substances, Health and safety data, Recordkeeping and reporting requirements.

Dated: May 5, 1986.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR Chapter I is amended as follows:

PART 704—[AMENDED]

1. In Part 704:

a. The authority citation for Part 704 continues to read as follows:

Authority: 15 U.S.C. 2607(a).

b. In § 704.3, by alphabetically adding the following paragraphs:

§ 704.3 Definitions.

* * * * *

"Intermediate" means any chemical substance that is consumed, in whole or in part, in chemical reactions used for the intentional manufacture of other chemical substances or mixtures, or that is intentionally present for the purpose of altering the rates of such chemical reactions.

* * * * *

"Known to or reasonably ascertainable by" means all information in a person's possession or control, plus all information that a reasonable person similarly situated might be expected to possess, control, or know.

* * * * *

"Non-isolated intermediate" means any intermediate that is not intentionally removed from the equipment in which it was manufactured, including the reaction vessel in which it is manufactured, equipment which is ancillary to the reaction vessel, and any equipment through which the substance passes during a continuous flow process, but not including tanks or other vessels in which the substance is stored after its manufacture.

* * * * *

"Process for commercial purposes" means the preparation of a chemical substance or mixture containing the chemical substance, after manufacture of the substance, for distribution in commerce with the purpose of obtaining an immediate or eventual commercial advantage for the processor. Processing of any amount of a chemical substance or mixture is included in this definition. If a chemical substance or mixture containing impurities is processed for commercial purpose, then the impurities also are processed for commercial purposes.

* * * * *

c. By revising paragraphs (a) and (b) of § 704.5 to read as follows:

§ 704.5 Exemptions.

* * * * *

(a) *Research and development.* Persons who manufacture, import, or process and persons who propose to manufacture, import, or process the specified chemical substance solely for research and development.

(b) *Byproducts and impurities.* Persons who manufacture, import, or process and persons who propose to manufacture, import, or process the specified chemical substance as a byproduct or impurity.

* * * * *

d. By adding § 704.33 and OMB control number 2070–0067 to read as follows:

§ 704.33 P-tert-butylbenzoic acid (P-TBBA), p-tert-butyltoluene (P-TBT) and p-tert-butylbenzaldehyde (P-TBB).

(a) *Definitions.* (1) "P-TBBA" means the substance p-tert-butylbenzoic acid, also identified as 4-(1,1-dimethylethyl)benzoic acid, CAS No. 98–73–7.

(2) "P-TBT" means the substance p-tert-butyltoluene, also identified as 1-(1,1-dimethylethyl)-4-methylbenzene, CAS No. 98–51–1.

(3) "P-TBT" means the substance p-tert-butylbezaldenhyde, also identified as 4-(1,1-dimethylethyl)benzaldehyde, CAS No. 939–97–9.

(4) "Small processor" means a processor that meets either the standard in paragraph (a)(4)(i) of this section or the standard in paragraph (a)(4)(ii) of this section.

(i) *First standard.* A processor of a chemical substance is small if its total annual sales, when combined with those of its parent company, if any, are less than $40 million. However, if the annual processing volume of a particular chemical substance at any individual site owned or controlled by the processor is greater than 45,400 kilograms (100,000 pounds), the processor shall not qualify as small for purposes of reporting on the processing of that chemical substance at that site, unless the processor qualifies as small under paragraph (a)(1)(ii) of this section.

(ii) *Second standard.* A processor of a chemical substance is small if its total annual sales, when combined with those of its parent company (if any), are less than $4 million, regardless of the quantity of the particular chemical substance processed by that company.

(iii) *Inflation index.* EPA shall use the Inflation Index described in the definition of "small manufacturer" that is set forth in § 704.3, for purposes of adjusting the total annual sales values of this small processor definition. EPA shall provide Federal Register notification when changing the total annual sales values of this definition.

(b) *Persons who must report.* Except as provided in paragraph (c) of this section, the following persons are subject to the reporting requirements of this rule; a person may become subject to this rule more than once, for more than one substance or under more than one of the criteria listed in this paragraph (b).

(1) Persons who manufactured, imported, or processed P-TBBA, P-TBT, and/or P-TBB for commercial purposes during the person's latest complete corporate fiscal year prior to June 25, 1986. For purposes of this provision, processors of P-TBBA, P-TBT, and/or P-TBB shall include only those persons who processed the substances other than as non-isolated intermediates.

(2) Persons who commence manufacture or importation of P-TBBA, P-TBT, and/or P-TBB for commercial purposes after June 25, 1986. This provision is applicable to persons who cease manufacture or importation of P-TBBA, P-TBT, and/or P-TBB after June 25, 1986 and then subsequently resume manufacture or importation of the substance(s).

(3) Persons who process P-TBBA, P-TBT, and/or P-TBB for commercial purposes in any way other than as a non-isolated intermediate after June 25, 1986.

(c) *Persons not subject to this rule.* In addition to the persons described in § 704.5, small processors, as defined in paragraph (a)(4) of this section, are not subject to this rule.

(d) *Information to report.* Persons subject to this rule as described in paragraph (b) of this section shall report information to EPA as specified in this paragraph (d). Respondents to this rule shall report all information that is known to or reasonably ascertainable by the person reporting. For purposes of importer reporting under this paragraph, a site is the operating unit within the person's organization which is directly responsible for importing the substance and which controls the import transaction. The import site may in some cases be the organization's headquarters office in the United States.

(1) All manufacturers, importers, and processors specified in paragraph (b) of this section shall report their name and headquarters address.

(2) All manufacturers, importers, and processors specified in paragraph (b) of this section shall report the name, address, and office telephone number (including area code) of their principal technical contact.

(3) All manufacturers, importers, and processors specified in paragraph (b) of this section shall report the name and address of each site where P–TBBA, P–TBT, and/or P–TBB is manufactured, imported, or processed.

(4) All manufacturers, importers, and processors specified in paragraph (b)(1) of this section only shall report the information described in this paragraph (d)(4). Respondents to this paragraph (d)(4) shall report separately for each substance that they manufacture, import, or process, and for each site at which they do so. However, if the information to be reported in response to this paragraph (d)(4) is the same for different sites, the respondent need not report separately for each site but need only notify EPA that the information is the same for each site. The information to be reported under this paragraph (d)(4) shall cover the respondent's latest complete corporate fiscal year prior to June 25, 1986. Respondents to this paragraph (d)(4) shall report the following information:

(i) The total quantity (by weight) of P–TBBA, P–TBT, or P–TBB manufactured, imported, or processed for commercial purposes per site.

(ii) A narrative description of the manufacturing, importing, or processing operation(s) involving P–TBBA, P–TBT, or P–TBB at each site.

(iii) A narrative description of worker activities involving P–TBBA, P–TBT, or P–TBB at each site, including the number of workers potentially exposed to each substance and, if applicable, the number of workers potentially exposed to more than one substance.

(iv) The potential routes of worker exposure to P–TBBA, P–TBT, or P–TBB at each site (e.g., inhalation, ingestion, dermal absorption).

(v) Available monitoring data from employee breathing zones with potential exposure to P–TBBA, P–TBT, or P–TBB at each site, including a description of the method of monitoring, the number of samples taken, and the potential number of workers similarly exposed for each worker job category. Respondents to this paragraph (d)(4)(v) shall submit data showing a range of 8-hour time weighted averages (TWAs), provided that the data are available in that form. Respondents also shall submit a calculated geometric mean of these data, with an explanation of the method by which the mean was derived.

However, if the monitoring data are not available in the form of 8-hour TWAs, respondents shall submit raw sample data results and the duration time of sampling for each job category.

(vi) A narrative description of any personal protective equipment and/or engineering controls used to prevent exposure to P–TBBA, P–TBT, or P–TBB at each site.

(vii) A listing of the estimated quantities of P–TBBA, P–TBT, or P–TBB released directly into air, water, or land from each site.

(viii) A narrative description of the times during the manufacturing, importing, or processing operations involving P–TBBA, P–TBT, or P–TBB when environmental release occurs at each site.

(ix) A narrative description of any engineering controls used to prevent environmental release of P–TBBA, P–TBT, or P–TBB at each site.

(x) A narrative description of all known end uses of any P–TBBA, P–TBT, or P–TBB that is manufactured, imported, or processed by the respondent. The narrative need not include customer identity.

(xi) A narrative description of the methods used at each site for disposing of wastes generated during the manufacture, importation, or processing of P–TBBA, P–TBT, or P–TBB, including the quantity and content of such wastes (per site), the method of disposal, and an identification of the disposal site(s).

(5) All manufactureres, importers, and processors specified in paragraph (b) of this section shall report the information described in this paragraph (d)(5). Respondents to this paragraph (d)(5) shall report separately for each substance that they intend to manufacture, import, or process during the first 2 years following the date on which they become subject to this rule. The data reported under this paragraph (d)(5) shall cover that 2-year period. Respondents to this paragraph (d)(5) shall report separately for each site at which they intend to manufacture, import, or process each substance. Respondents need not comply with this paragraph (d)(5) if the information to be reported is identical to that reported by the respondent under paragraph (d)(4) of this section, provided that the respondent makes note of that fact to EPA. Respondents to this paragraph (d)(5) shall report the following information:

(i) An estimate of the total quantity (by weight) of P–TBBA, P–TBT, or P–TBB that the respondent intends to manufacture, import, or process for commercial purposes per site during each of the first 2 years following the date on which the respondent becomes subject to this rule.

(ii) A narrative description of the intended manufacturing, importing, or processing activities involving P–TBBA, P–TBT, or P–TBB at each site during the first 2 years following the date on which the respondent becomes subject to this rule. The description shall include a summary of the intended manufacturing, importing, or processing operation(s); a summary of intended worker activities involving the substances, including an estimate of the number of persons anticipated to be exposed annually to P–TBBA, P–TBT, or P–TBB (per site) during the 2-year period, the anticipated routes of worker exposure to the substances (e.g., inhalation, ingestion, dermal absorption); and a summary of any personal protective equipment and/or engineering controls that the respondent intends to use to prevent exposure to the substances.

(iii) A narrative description of anticipated environmental releases of P–TBBA, P–TBT, or P–TBB at each site from the manufacture, importation, or processing of these substances during the first 2 years following the date on which the respondent becomes subject to this rule. The narrative shall include the anticipated quantities of each substance released directly into air, water, or land, the anticipated routes of environmental release, and any intended engineering controls to be used to prevent environmental release of the substances.

(iv) A narrative description of all anticipated end uses of P–TBBA, P–TBT, or P–TBB resulting from the respondent's manufacture, importation, or processing of the substances during the first 2 years following the date on which the respondent becomes subject to this rule. The summary need not include customer identity.

(v) A narrative summary of the anticipated disposal of wastes generated from the manufacture, importation, or processing of P–TBBA, P–TBT, or P–TBB during the first 2 years following the date on which the respondent becomes subject to this rule. The summary shall include the anticipated quantity and content of such wastes (per site), the intended method of disposal, and an identification of intended disposal site(s).

(e) *When to report.* Persons subject to this rule must submit the requisite information to EPA within 60 days of becoming subject to the rule under the standard set forth in paragraph (b) of this section.

(f) *Certification.* Persons subject to this rule must attach the following statement to any information submitted to EPA in response to this rule: "I hereby certify that, to the best of my knowledge and belief, all of the attached information is complete and accurate." This statement shall be signed and dated by the company's principal technical contact.

(g) *Recordkeeping.* Persons subject to the reporting requirements of this section must retain documentation of information contained in their reports for a period of 5 years from the date of the submission of the report.

(h) *Where to send reports.* Reports must be submitted by certified mail to the United States Environmental Protection Agency, Document Processing Center, P.O. Box 2070, Rockville, MD 20852. ATTN: P–TBBA Notification, P–TBT Notification, and/or P–TBB Notification (as appropriate).

(Approved by the Office of Management and Budget under control number 2070–0067.)

PART 716—[AMENDED]

2. In part 716:

a. The authority citation for Part 716 continues to read as follows:

Authority: 15 U.S.C. 2607(d).

b. By adding paragraph (a)(14) to § 716.17 to read as follows:

§ 716.17 Substances and designated mixtures to which this subpart applies.

(a) * * *

(14) As of June 25, 1986, the following chemical substances are added to this subpart.

Substances	CAS Nos.
p-tert-butylbenzoic acid; also identified as 4-(1,1-dimethylethyl)benzoic acid	98-73-7
p-tert-butyltoluene; also identified as 1-(1,1-dimethylethyl)-4-methylbenzene	98-51-1
p-tert-butylbenzaldehyde; also identified as 4-(1,1-dimethylethyl)benzaldehyde	939-97-9

* * * * *

[FR Doc. 86–10590 Filed 5–9–86; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 442

[BERC–353–F]

Medicaid Program; Fire Safety Standards for ICF's/MR

Correction

In FR Doc. 86–8647, beginning on page 13224, in the issue of Friday, April 18, 1986, make the following correction:

§ 442.508 [Corrected]

On page 13227, in the third column in § 442.508(b)(1)(iii), "[publication date of final rules]" is corrected to read "April 18, 1986".

BILLING CODE 1505-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 87

[FCC 86–193]

Amendment of Part 87 of the Rules To Provide a Summary Procedure for Processing Mutually Exclusive Applications in the Aviation Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document amends the rules to provide a simple voluntary procedure for selecting a licensee from among mutually exclusive applications in the aviation radio services. This action was initiated as part of the FCC effort to simplify its rules and procedures. The intended effect is to allow mutually exclusive applicants to elect an expedited and inexpensive alternative to comparative hearings.

EFFECTIVE DATE: April 2, 1986.

FOR FURTHER INFORMATION CONTACT: Robert DeYoung, Special Services Division, Private Radio Bureau, (202) 632–7175.

SUPPLEMENTARY INFORMATION:

Order

In the matter of Amendment of Part 87 of the rules to provide a summary procedure for processing mutually exclusive applications in the Aviation Services.

Adopted: April 18, 1986.
Released: May 2, 1986.

By the Commission:

1. An aeronautical advisory station (also called a unicom) at a landing area which does not have an airdrome control station (control tower) or FAA flight service station is licensed to provide communications relating to the safe and expeditious operation of private aircraft. Such communications include conditions of runways, types of fuel available, wind conditions, weather information, dispatching or other information.[1]

2. For safety reasons, only one unicom station is licensed at such uncontrolled landing areas.[2] At present, in cases involving mutually exclusive applications a license is granted after a comparative hearing to determine which applicant would provide the public with the better advisory service.[3] Applications for initial licenses may also be granted by a random selection procedure.[4] Comparative hearings tend to be lengthy and expensive for both the applicants and the Commission. While random selection procedures are not, they can only be used in licensing new station applicants and most unicom cases involve a renewal applicant.

3. Applicants for unicom stations are typically owners or operators of airports or general aviation service organizations. They are not professional communicators and frequently proceed without the assistance of counsel. No direct revenues are derived from the operation of a unicom nor is this a common carrier service. Based on our experience we believe that a simple summary procedure would avoid the time and/or expense of a hearing or random selection proceeding. Such a procedure is currently available in the Domestic Public Fixed Services and Public Mobile Service.[5]

4. Consequently, we are adopting a similar procedure in the Aviation Services. This procedure will permit mutually exclusive applicants to waive their rights to a hearing and elect to submit a written case to the Commission. Under this simplified method of proceeding, each applicant will make its best showing on a written record. The licensee will be selected on the basis of that record. This summary procedure is purely voluntary.

5. For the reasons described above, we are amending the rules to provide a voluntary summary procedure for processing mutually exclusive applications in the Aviation Services. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r). Because these rule amendments involve Commission procedures, the public notice, comment and effective date provisions of the Administrative Procedure Act, 5 U.S.C. 553, and of § 1.412 of the Commission's rules do not apply.[6]

6. Accordingly, It is ordered, That Part 87 of the Commission's rules is amended as set forth below.

7. For further information regarding matters covered in this document, contact Robert DeYoung at (202) 632–7175.

William J. Tricarico,
Secretary.

Part 87 of Chapter 1 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 87—AVIATION SERVICES

1. The authority citation for Part 87 continues to read as follows:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303, unless otherwise noted.

2. In Subpart A the existing § 87.49 is redesignated as 87.51 and a new § 87.49 is added to read as follows:

§ 87.49 Comparative evaluation of mutually exclusive applications.

(a) In order to expedite action on mutually exclusive applications in the Aviation Services, applicants may request that their applications be considered without a formal hearing of random selection process in accordance with the summary procedure outlined in paragraph (b) of this section if:

(1) The applications are entitled to comparative consideration pursuant to § 87.251(a);

(2) The applications have not been designated for formal evidentiary hearing or random selection; and

(3) The Commission determines that such procedure is appropriate and that there are no substantial and material questions of fact presented (other than those relating to the comparative merits of the applications) which would preclude a grant under this part of the rules.

(b) Applicants may request the Commission to act upon their mutually exclusive applications without a formal hearing or random selection pursuant to the summary procedure outlined below:

(1) To initiate the procedure, each applicant must submit to the Commission a written statement containing:

(i) A waiver of his right to a formal hearing;

(ii) A request that the Commission select from among the mutually exclusive applications the proposal(s) which would best serve the public interest in lieu of a formal hearing; and

[1] See 47 CFR 87.257(d)(1).

[2] See 47 CFR 87.251(e).

[3] See 47 CFR 1.973.

[4] See 47 CFR 1.972.

[5] See 47 CFR 21.35, 22.35.

[6] See 47 CFR 1.412(b)(5).

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(iii) The signature of a principal or attorney if so represented.

(2) After receipt of the requests from the applicants, the Commission, if this summary procedure is considered appropriate, will issue a notice designating the comparative criteria upon which the applications are to be evaluated. Each applicant will be requested to submit, within a specified period of time, additional information concerning its proposal relative to the comparative criteria.

(3) Within thirty (30) days following the due date for filing this information, competing applicants, potential customers, and other persons with relevant knowledge may submit concise, factual comments on the proposals to the Commission.

(4) Within fifteen (15) days following the due date for the filing of comments the competing applicants may submit concise, factual replies to these comments to the Commission.

[FR Doc. 86-10540 Filed 5-9-86; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 97

[PR Docket No. 85-22, FCC 86-201]

Amateur Radio Service; Frequency Coordination of Repeaters

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document adopts rules to make amateur stations in repeater or auxiliary operation mutually responsible to resolve any interference between them, unless the operation of one is coordinated and the other is not. In the latter case, the non-coordinated repeater has primary responsibility to resolve the interference. These rules are being adopted in order to significantly reduce the number of repeater interference disputes by encouraging their resolution through voluntary prior coordination.

EFFECTIVE DATE: 0001 UTC July 12, 1986.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Private Radio Bureau (202) 632-4964.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, PR Docket No. 85-22, adopted April 21, 1986 and released May 2, 1986.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service (202) 857-3800, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of Report and Order

1. In a notice of proposed rule making, PR Docket No. 85-22, 50 FR 6219, February 14, 1985, the FCC proposed to amend the rules in the Part 97 Amateur Radio Service to provide that amateur stations in repeater operation would be mutually responsible to resolve interference between them unless one's operation was coordinated and the other's was not. In that case, the non-coordinated repeater would have primary responsibility to resolve the interference. These rules were proposed in order to significantly reduce the number of repeater interference disputes.

2. The Notice also sought comment on a wide variety of issues related to amateur repeater coordination. Most of the commenters supported the proposed rules in some form. Some commenters favored a national coordinator to promote uniformity and to minimize favoritism; more than twice as many opposed a national coordinator and instead supported local coordination with a national umbrella entity as most responsive to local needs.

3. The comments were divided on other related subjects, such as whether to require frequency coordination, use of spectrum-efficient technologies, a national database, FCC recognition of coordination, repeater licensing, open and closed repeaters, and uniform band plans.

4. The Commission decided to adopt the proposed rules with the addition of auxiliary stations, as recommended by several commenters. The Commission decided not to require a national coordinator, but to encourage evolution of a voluntary national coordination umbrella entity and a national repeater data base. No other requirements, such as mandatory coordination, mandatory use of particular technologies, FCC recognition of coordinators, repeater licensing, or uniform band plans were imposed. The Commission indicated that such requirements were premature, and should not be considered unless adoption of the proposed rules does not accomplish the desired objective: to significantly reduce the number of repeater interference disputes.

5. The new rules require that a frequency coordinator be recognized as such by all amateur operators eligible to engage in repeater operation in the coordinated area. This is because a local coordinator's authority is derived from the entire local amateur community. Also, by making non-coordinated repeaters primarily, rather than solely, responsible to resolve interference associated with a coordinated repeater, the Commission continued to make coordinated repeaters secondarily responsible. This permits local coordinators and the FCC to consider technical alternatives, questions of equity, and spectrum efficiency in reaching the most reasonable solution.

6. In accordance with Section 605 of the Regulatory Flexibility Act of 1980 (5 U.S.C. 605) we certified in the Notice of Proposed Rule Making, supra, in this proceeding that these rules would not, if promulgated, have a significant economic impact on a substantial number of small entities.

7. The new rules adopted herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

Ordering Clauses

8. Accordingly, it is ordered, that effective 0001 UTC July 12, 1986, Part 97 of the Commission's rules (47 CFR Part 97) is amended as shown in the Appendix attached hereto. The authority for this action is found in sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303.

9. It is further ordered, that this proceeding is terminated.

List of Subjects in 47 CFR Part 97

Amateur radio; Repeaters.

William J. Tricarico,
Secretary.

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 97—AMATEUR RADIO SERVICE

1. The authority citation for Part 97 continues to read:

Authority: 48 Stat. 1066, 1082, as amended; 47 U.S.C. 154, 303.

2. Paragraphs (k), (r) and (aa) of § 97.3 are revised to read as follows:

§ 97.3 Definitions.

* * * * *

(k) *Coordinated station operation.* The repeater or auxiliary operation of an amateur station for which the transmitting and receiving frequencies have been implemented by the licensee in accordance with the recommendation of a frequency coordinator.

* * * * *

(r) *Harmful interference.* Interference which seriously degrades, obstructs or repeatedly interrupts the operation of a radiocommunication service.

* * * * *

(aa) *Frequency coordinator.* An individual or organization recognized in a local or regional area by amateur operators whose stations are eligible to engage in repeater or auxiliary operation which recommends frequencies and, where necessary, associated operating and technical parameters for amateur repeater and auxiliary operation in order to avoid or minimize potential interference.

* * * * *

§ 97.67 [Amended]

3. Paragraph (c) of § 97.67, including the table contained therein, is removed and reserved.

4. Paragraph (g) of § 97.85 is revised to read as follows:

§ 97.85 Repeater operation.

* * * * *

(g) Where an amateur radio station in repeater or auxiliary operation causes harmful interference to the repeater or auxiliary operation of another amateur radio station, the two stations are equally and fully responsible for resolving the interference unless one station's operation is coordinated (see § 97.3(k)) and the other's is not. In that case, the station engaged in the non-coordinated operation has primary responsibility to resolve the interference.

* * * * *

APPENDIX 5 TO PART 97—[REMOVED AND RESERVED]

5. Appendix 5 to Part 97 is removed and reserved.

[FR Doc. 86-10551 Filed 5-9-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Iliamna corei (Peter's Mountain mallow) To Be an Endangered Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Iliamna corei* (Peter's Mountain mallow) to be an endangered species. This plant, which occurs as a single population in western Virginia, will now be provided the protection of the Endangered Species Act of 1973, as amended. Its continued existence is threatened by the encroachment of competing vegetation, browsing by white-tailed deer, habitat degradation, and low reproductive potential. The population, which occurs on land now partially owned by The Nature Conservancy, was reduced in total area and number of plants by construction of a hiking trail in the early 1970's. Although the trail has now been abandoned, hikers occasionally follow the old path through the colony. Critical habitat is not being determined.

DATE: The effective date of this rule is June 11, 1986.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Service's Regional Office, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

FOR FURTHER INFORMATION CONTACT: Richard W. Dyer at the above address (617/965-5100 or FTS 829-9316).

SUPPLEMENTARY INFORMATION:

Background

Peter's Mountain mallow is a member of the family Malvaceae (mallow family) presently known to exist in only one small population in western Virginia. The population occurs on private land, partially owned by The Nature Conservancy, near the summit of Peter's Mountain in Giles County. The perennial plants are 20 to 36 inches (0.5 to 0.9 meters) tall and resemble small hollyhocks with large rose or light pink flowers 1 to 2 inches (2.5 to 5.0 centimeters) across. The short-stalked, odorless, flowers occur in terminal clusters or in the axils of the upper leaves in late July and August.

When the population was first discovered by Dr. Earl Core in 1927 (Strausbaugh and Core 1932), approximately 50 plants were growing vigorously in the soil-filled pockets and crevices of an exposed sandstone outcrop. The plants were in full sunlight and produced an "abundant supply of seeds." The Peter's Mountain site was visited periodically in ensuing years and "40 clumps, with 1 to 15 plants in each clump" were counted in 1962 (Keener and Hardin 1962). The plants were noted as being scattered through a 30-by-150-foot (9-by-45-meter) area following the ridge contour. Although the interpretation and counting of clumps, stems, or plants has not been uniformly applied over the years, there is little doubt that the population has declined considerably, as only 5 plants and 32 stems were observed in September 1985.

Considerable debate has existed among botanists as to the taxonomic distinction between *Iliamna corei* and a closely related species, *Iliamna remota*, which is also a candidate for Federal listing. Because of the confusion, significant points in the taxonomic history of these two taxa will be summarized. The first collections of *Iliamna remota* were made in 1872, by E.J. Hill, on a gravelly island in the Kankakee River near Altorf, Illinois. The distinct nature of the species was not recognized at that time and the plants were identified as a western species of mallow, *Sphaeralcea acerifolia*, which occurs in the Rocky Mountains from Colorado to British Columbia. In 1899, Dr. Edward L. Greene examined the Illinois plants, recognized differences between them and the widespread western species, and described the Kankakee River plants as *Iliamna remota*. Meritt L. Fernald transferred the Kankakee plants to the related genus *Sphaeralcea* under the name *Sphaeralcea remota* in the seventh edition of *Gray's Manual of Botany* (Fernald 1908). Seeking to clarify the situation for the second edition of *An Illustrated Flora of the United States, Canada and the British Possessions from Newfoundland to the Parallel of the Southern Boundary of Virginia and from the Atlantic Ocean Westward to the 102nd Meridian*, Nathaniel Lord Britton called upon Earl E. Sherff for assistance in obtaining specimens from the Kankakee Island site. Sherff visited the site with the original discoverer, Mr. Hill, in 1912. They found a vigorous colony and obtained several plants for analysis. Dr. Britton then named the species as *Phymosia remota*.

Twenty years then passed before P.D. Strausbaugh and Dr. Earl Core published an account (Strausbaugh and Core 1932) of Dr. Core's discovery of *Phymosia remota* on Peter's Mountain in August of 1927. Dr. Sherff was particularly interested in reading of the discovery because of the remarkable distance between the two populations and the differences in habitat types, i.e., mountain outcrop versus river island. Of equal interest to Sherff was a statement in the article that the Kankakee River population had been destroyed.

Sherff returned to the Kankakee River site in 1945, discovered "hundreds of plants flourishing" on the now abandoned island, and began a detailed study comparing the Illinois and Virginia populations. Dr. Sherff concluded that the Peter's Mountain and the Kankakee River plants appropriately

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belonged to the same species, but that the Virginia plants were a different variety, which he named *Iliamna remota* var. *corei* (Sherff 1940). Later he concluded in fact that they were two separate species and in 1949 named the Peter's Mountain plants *Iliamna corei* (Sherff 1949). Sherff's work has been the most comprehensive analysis published to date of the two populations. Although Kartesz (Kartesz and Kartesz 1980) synonomized *Iliamna corei* under *Iliamna remota*, there appears to be no definitive and specific work on which to base that conclusion. The most recent work on the two species was conducted by William A. Pusateri, while a graduate student at Miami University. Although he has not yet completed his investigations, he is of the opinion that Sherff's conclusion on the distinctiveness of the two species is correct (Pusateri, personal communication).

Although *Iliamna remota* is also a candidate for Federal listing, sufficient information is not on hand to justify a proposal at this time. At least three wild or perhaps introduced populations of *Iliamna remota* are known to exist, and the literature refers to additional populations being established in home gardens and other "secure places." The original Kankakee River island site is also now protected as a State ecological preserve.

Iliamna corei was designated as a category-1 candidate for Federal listing in the Service's **Federal Register** Notice of Review of plant taxa for listing as endangered or threatened on December 15, 1980 (45 FR 82480). Category-1 taxa are defined as species for which sufficient information is on hand to support the biological appropriateness of proposing to list. The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. The species listed in the December 15, 1980, Notice of Review were treated as if they had been petitioned, and the deadline for making a finding on such species, including *Iliamna corei*, was October 13, 1983. On October 13, 1983, and again on October 12, 1984, the petition finding was made that listing of *Iliamna corei* was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act. Such findings require a recycling of the petition pursuant to section 4(b)(3)(C)(i) of the Act. The proposed rule of September 3, 1985 (50 FR 35584), constituted the Service's final positive petition finding on this species.

Summary of Comments and Recommendations

In the September 3, 1985, proposed rule (50 CFR 35584) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. The Virginia Department of Agriculture and Consumer Services, the Giles county government, conservation organizations, and other interested parties were contacted and requested to comment. A notice invitiig general public comments was also published in a local newspaper. Three comments were received, all of which supported the proposed rule. The comments are discussed below.

The Virginia Department of Agriculture and Consumer Services is responsible for plant conservation and protection in the state. The Department supported the proposed rule and stated it was also initiating action to list the species as endangered under the Virginia Endangered Plant and Insect Species Act. A "Notice of Intent" has been published in the *Virginia Register* and the Department plans to initiate public hearings on the listing early in 1986.

The Virginia Chapter of The Nature Conservancy also commented in favor of the proposed rule and provided up-to-date information on the status of the species and threats to its continued existence. The Conservancy recently acquired one-quarter interest in the property where the plants occur. This will greatly expedite the implementation of needed management actions including the removal of competing vegetation and control of browsing by white-tailed deer.

A private citizen also commented on the proposed rule expressing his interest in assisting in the development of the species' recovery plan.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Iliamna corei* should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Iliamna corei* (Sherff) Sherff (Peter's Mountain mallow) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Habitat degradation is the primary threat to the continued existence of *Iliamna corei*. The encroachment of competing vegetation and the subsequent reduction of direct sunlight reaching the plants appear to be major factors in the reduced size and reproductive vigor of the population. Historical references indicate that the population on the sandstone outcrop was previously open to a great deal more direct sunlight than is the case today. The growth of the forest canopy has been a factor, but the major threat is competition from an introduced herbaceous species, *Polymnia canadensis* (Canadian leafcup). Previous publications that list the woody and herbaceous plants growing in association with *Iliamna corei* (e.g., Keener and Hardin 1982) make no reference to the leafcup, which now dominates the site. How the leafcup became established is open to speculation, but establishment could have been expedited by the completion of a nearby power transmission line or the construction of a hiking trail. Although the trail has now been abandoned, a number of *Iliamna* plants were destroyed when the trail was built through the colony.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Scientific collecting has been a problem, as many botanists have visited the site since the original discovery in 1927 to collect herbarium specimens. Local professors and students have visited the site for educational purposes.

The population was once more vigorous and larger in numbers and in size, and some collecting might have been tolerated. Any further collecting, however, could be extremely detrimental. There is no known record of commercial collection for horticultural purposes; however, whole plants, fruits, and seeds have been taken for private purposes, particular for home gardens.

C. *Disease or predation.* White-tailed deer have been known to heavily browse the plants and appear to be a significant factor in reducing or suppressing the population.

D. *The inadequacy of existing regulatory mechanisms.* The Commonwealth of Virginia does not presently protect *Iliamna corei* under State law but has initiated action to list the plant. Under the State's Endangered Plant and Insect Species Act it is

unlawful to dig, cut, process or collect, remove, transport, possess, sell, offer for sale, or give away listed plants other than from one's own land. Because the Federal Endangered Species Act does not prohibit the collecting of endangered or threatened plants on non-Federal lands, the listing of *Iliamna corei* under State law could provide an important degree of protection. The authority to list plants under the State law is vested in the Commissioner of the Department of Argiculture with concurrence by an Advisory Board.

E. *Other natural or man made factors affecting its continued existence.* Because of the small size of the only known population, its lack of vigor, and its presently low reproductive potential, a number of chance events such as fire, insect infestation or intensive browsing could become significant factors in the species' continued existence.

The Service has carefully assessed the best scientific information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Iliamna corei* as endangered. Due to the continuing decline of the only known population and the rapid encroachment of competing vegetation, the plants are particularly vulnerable and in need of protection.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. Due to the extremely small size of the existing population and the documented history of collecting the plant for private cultivation and/or scientific purposes, the publication of detailed habitat description and maps could expose the speices to intensified horticultural collecting, vandalism, or trampling by curiosity seekers. The Service finds that designation of critical habitat is therefore not prudent at this time.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal and State agencies, private conservation organizations, and individuals. The Nature Conservancy recently acquired partial interest in the property on which this species occurs. This acquisition will help protect the site and allow for management activities. Other conservation measures, including required protection efforts by Federal agencies and prohibitions against collecting are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990, June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are no likely to jeopardize the continued existence of such a species or destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Currently, however, there is no known Federal action likely to affect the site where Peter's Mountain mallow occurs, and no critical habitat is being designated.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. These prohibitions in part make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course of a commerical activity, sell or offer it for sale in interstate or foreign commerce, or remove it from an area under Federal jurisdiction and reduce it to possession. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. There is no known commercial trade in *Iliamna corei*, and it is not known to occur on Federal land; thus the Service anticipates few, if any, requests for such permits. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1903).

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Literature Cited

Fernald, M.L. 1908. Gray's Manual of Botany, 7th Edition. American Book Company, New York.

Kartesz, J.T., and R. Kartesz. 1980 A Synonymized Checklist of the Vascular Flora of the United States, Canada, and Greenland. University of North Caroline Press. Chapel Hill, North Carolina.

Keener, C.S. and J.W. Hardin. 1982. *Iliamna corei* Revisited. Castanea 27:176–178.

Sherff, E.E. 1946. Notes on Certain Plants in the Gray's Manual Range. Rhodora 48:89–98.

Sheff, E.E. 1949. Miscellaneous Notes on Dicotyledonous Plants. American Journal of Botany 36:499–511.

Strausbaugh, P.D. and E.L. Core. 1932. *Phymosia remota.* Rhodora 34:142–148.

Author

The author of this rule is Richard W. Dyer, Endangered Species Staff. U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158 (617/965-5100 or FTS 829-0316).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17-12(h) by adding the following, in alphabetical order under family Malvaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Malvaceae—Mallow family:						
Iliamna corei	Peter's Mountain mallow	U.S.A. (VA)	E	230	NA	NA

Dated: April 18, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-10530 Filed 5-9-86; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 652

[Docket No. 60229-6072]

Atlantic Surf Clam and Ocean Quahog Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule.

SUMMARY: NOAA issues this rule to implement revised Amendment 6 to the Fishery Management Plan for Atlantic Surf Clam and Ocean Quahog Fisheries (FMP). The rule establishes quarterly quotas and effort control measures for the Nantucket Shoals Area surf clam fishery, provides for adjustment of New England surf clam quotas between quarterly periods and years, and prohibits more than one surf clam trip during an authorized surf clam fishing period in the Mid-Atlantic Area. The intended effect of the rule is to augment the management program for surf clams on Nantucket Shoals and Georges Bank, and to foreclose opportunities for fishing outside of authorized Mid-Atlantic surf clam fishing periods.

EFFECTIVE DATE: June 6, 1986.

ADDRESSES: Copies of the revised amendment, environmental assessment, and the final regulatory impact review/regulatory flexibility analysis are available from Mr. John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 South New Street, Dover, Delaware 19901.

FOR FURTHER INFORMATION CONTACT: Bruce Nicholls, 617-281-3600 ext. 283.

SUPPLEMENTARY INFORMATION: Amendment 6 to the FMP was prepared by the Mid-Atlantic Fishery Management Council (Council) in consultation with the New England Fishery Management Council. A notice of availability for Amendment 6 was published in the **Federal Register** on April 25, 1985 (50 FR 16328). A proposed rule with request for comments was published in the **Federal Register** on May 29, 1985 (50 FR 21910). A final rule implementing approved portions of Amendment 6 was published in the **Federal Register** on August 14, 1985 (50 FR 32707). The Council reviewed the reasons for partial disapproval and submitted a revised amendment. The proposed rule was published February 25, 1986 (51 FR 6571). The revised amendment has been approved and this rule implements the revised amendment.

Comments on the revised amendment were received from the Coast Guard, the New England Fishery Management Council, and from one New England surf clam processing venture.

Comment 1: The Georges Bank surf clam quota should be increased and the quarterly allocations altered to provide equal amounts of surf clams in each quarter.

Response: The portions of Amendment 6 dealing with the Georges Bank Area were approved during 1985. The revised amendment does not affect the Georges Bank Area management program. Revisions to that management program can be considered as part of Amendment 7 to the FMP, now in early planning stages.

Comment 2: The 5,000-bushel threshold for adjusting quarterly and annual New England area quota harvest shortfalls is inconsistent with the automatic adjustment of overages. The commenter cannot understand the rationale for the 10 percent of annual quota limit on adjustments.

Response: The criteria established in the revised amendment for quarterly quota adjustments in New England management areas makes those adjustment provisions consistent with those successfully employed in the Mid-Atlantic for the past 6 years. Because harvest volumes vary so greatly in New England, the limiting factor of 10 percent provided for in the revised FMP amendment is necessary to avoid exceeding OY (optimum yield).

Comment 3: The one trip per mid-Atlantic surf clam fishing period limit may encourage vessel overloading and can be easily circumvented unless all landings are monitored by enforcement personnel.

Response: NOAA disagrees. The Council included this measure to foreclose opportunities to fish outside of authorized surf clam fishing periods. The prohibition on more than one trip per authorized fishing period will make enforcement of the fishing time restrictions more direct by limiting the number of contacts required between enforcement agents and vessels. This landing limit does not force fishermen to overload their vessels. Any such action by a vessel captain will be a personal decision not condoned by NMFS nor required by regulations.

This rule divides the annual quota for the Nantucket Shoals Area into quarterly quotas, and allows the Regional Director to impose trip landing limits, after 50 percent of a quarterly harvest quota has been caught, to minimize the possibility of fishery closures. The first and fourth quarters (January–March and October–December) are each allocated 20 percent of the annual quota; the second and third quarters (April–June and July–September) are each allocated 30 percent of the annual quota. The unused portion of any quarterly quota is transferred into the next quarter, except no more than 10 percent of the annual quota may be carried over from one year to the next if it has not been harvested.

This rule continues management of the Mid-Atlantic Area surf clam fishery unchanged, with the exception that §652.7(n) and § 652.22(a)(2)(iii) are revised to add a provision prohibiting vessels from making more than one surf clam trip during an authorized surf clam fishing period in the Mid-Atlantic Area, as discussed above.

The regulatory changes included in the revised amendment required reorganization and subdivision of existing regulatory text in §§ 652.7, 652.21 (b) and (c), and 652.22(b)(2). This reorganization has not resulted in any substantive changes beyond those discussed in this preamble and the revised amendment. Section 652.22(a)(2) is reorganized to make it consistent with other paragraphs without changing its substance.

Classification

The Secretary of Commerce has determined that revised Amendment 6 is necessary for the conservation and management of the Atlantic surf clam and ocean quahog fisheries and that it is consistent with the Magnuson Act and other applicable law.

The Council prepared an environmental assessment for this revised amendment which analyzes the consequences of its action. The NOAA Assistant Administrator for Fisheries concluded that these will be no significant impact on the human environment. A copy of the assessment is available from the Council at the address listed above.

The Administrator of NOAA determined that this rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. The Council prepared a regulatory impact review which may be obtained from the Council at the address listed above.

The Council prepared a final regulatory flexibility analysis which describes the effects this rule will have on small entities. A copy of this analysis may be obtained from the Council at the address listed above.

This rule does not contain a collection of information requirement subject to the Paperwork Reduction Act.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Delaware, and Maryland. This determination was submitted for review to the responsible State agencies under section 307 of the Coastal Zone Management Act. The State agencies agreed with this determination.

List of Subjects in 50 CFR Part 652

Fisheries, Recordkeeping and reporting requirements.

Dated: May 7, 1986.

William G. Gordon,

Assistant Administrator For Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, NOAA amends 50 CFR Part 652 as set forth below:

PART 652—[AMENDED]

1. The authority citation for 50 CFR Part 652 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 652.7 is amended by revising paragraphs (a)(3) and (a)(4), adding a new paragraph (a)(5), and adding a new paragraph (n), to read as follows:

§ 652.7 Prohibitions.

(a) * * *

(3) On days of the week in which fishing for these species is not authorized;

(4) Without having provided the notice required by § 652.5(b)(7); or

(5) In excess of applicable trip landing limits.

* * * * *

(n) No person or vessel may harvest or land surf clams in the Mid-Atlantic Area during or after an authorized surf clam fishing period if they have landed surf clams during that authorized period.

* * * * *

3. In § 652.21, paragraphs (b) and (c) are revised to read as follows:

§ 652.21 Catch quotas.

* * * * *

(b) *Surf Clams: Nantucket Shoals Area.* (1) *Annual quota.* The amount of surf clams which may be harvested in the Nantucket Shoals Area by fishing vessels subject to these regulations will be specified annually within the range of 25,000 to 200,000 bushels, using the procedures and criteria set forth in § 652.21(a) (1), (2), and (4).

(2) *Quarterly quotas.* This annual quota will be divided into quarterly quotas in the following proportions: January 1—March 31, 20 percent; April 1—June 30, 30 percent; July 1—September 30, 30 percent; and October 1—December 31, 20 percent. Each fishing quarter will begin on the first Sunday of the new calendar quarter.

(3) *Adjustments.* If the actual catch of surf clams falls more than 5,000 bushels short of a quarterly quota, the Secretary will add the amount of the shortfall to the succeeding quarterly quota. If the actual catch of surf clams exceeds a quarterly quota, the Secretary will subtract the amount of the excess from the succeeding quarterly quota. Differences from the quota for the last quarterly period would be carried over to the first quarterly period of the next year except that no more than 10 percent of the annual quota may be carried over into the next year.

(c) *Surf Clams: Georges Bank Area.* (1) *Annual quota.* The amount of surf clams which may be harvested in the Georges Bank Area by fishing vessels subject to these regulations will be specified annually within the range of 25,000 to 300,000 bushels, using the procedures and criteria set forth in § 652.21(a) (1), (2), and (4).

(2) *Quarterly quotas.* This annual quota will be divided into quarterly quotas, the quarters and proportion of the quota being January 1—March 31, 10 percent; April 1—June 30, 40 percent; July 1—September 30, 40 percent; and October 1—December 31, 10 percent. Each fishing quarter will begin on the first Sunday of the new calendar quarter.

(3) *Adjustments.* If the actual catch of surf clams falls more than 5,000 bushels short of a quarterly quota, the Secretary will add the amount of the shortfall to the succeeding quarterly quota. If the actual catch of surf clams exceeds a quarterly quota, the Secretary will subtract the amount of the excess from the succeeding quarterly quota. Differences from the quota for the last quarterly period will be carried over to the first quarterly period of the next year, except that no more than 10 percent of the annual quota may be carried over into the next year.

* * * * *

4. In § 652.22, paragraphs (a)(2) and (b)(2) are revised to read as follows:

§ 652.22 Effort restrictions.

(a) * * *

(2) *Hours.* (i) *Selection.* The Regional Director will notify each owner or operator of a fishing vessel engaged in the Mid-Atlantic Area surf clam fishery concerning the allowable combinations of fishing periods for varying levels of allowable fishing time. The vessel owner or operator must send the Regional Director written notice of the owner or operator's selection or cancellation of allowable surf clam fishing periods for that vessel. All selections or cancellations must be provided to the Regional Director no less than 15 days prior to the intended effective date.

(ii) *Letter of authorization.* The Regional Director will send a letter of authorization to each owner or operator, stating the periods during which the vessel is authorized to fish for surf clams. The letter of authorization must be kept aboard the vessel at all times. Fishing may be conducted only during the times and under those conditions authorized by the Regional Director in the letter of authorization.

(iii) *Authorized periods.* Fishing for any part of an authorized period will be counted as one day of fishing. Only one surf clam fishing trip is allowed per authorized fishing period. Fishermen who land surf clams during an authorized period may not continue to harvest or land surf clams during or after that authorized period.

(iv) *Fishing activity.* In this paragraph, "fishing" means the actual or attempted catching of fish, but not activities in preparation for fishing, such as traveling

to or from the fishing grounds. The presence of a vessel's fishing gear in the water at a time which is more than one-half hour before the beginning, or one-half hour after the end, of the vessel's authorized fishing period will be *prima facie* evidence that the vessel is fishing in violation of these regulations.

* * * * *

(b) * * *

(2) *Management measure adjustments.* The Regional Director will monitor the rate of harvest using logbook and other information.

(i) If the Regional Director determines that harvests will remain within the quarterly quotas, no action will be taken.

(ii) When the harvest reaches, or is likely to reach, 50 percent of any quarterly quota, the Regional Director will consult with the Councils to determine the range of trip landing limits to control catch adequately to keep the fishery open for the balance of the quarter. The Secretary may impose trip landing limits, provided those limits are not less than the following:

(A) For vessels between 0 and 50 gross registered tons (Class I), 224 bushels/trip.

(B) For vessels between 51 and 100 gross registered tons (Class II), 416 bushels/trip.

(C) For vessels greater than 101 gross registered tons (Class III), 768 bushels/trip.

(iii) The closure provisions specified in paragraph (d) of this section may be invoked by the Secretary, as required, without consulting the Council.

(iv) Once initial trip limits have been established in consultation with the Councils, the Regional Director will notify the Councils in advance of any proposed action to further specify trip limits or close the fishery.

(v) The Regional Director will consider any comments received from the Councils or the public before implementing any adjustments in the management program.

* * * * *

[FR Doc. 86-10641 Filed 5-8-86; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 51, No. 91
Monday, May 12, 1986

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 52

United States Standards for Grades of Canned White Potatoes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The purpose of this proposed rule is to revise the voluntary U.S. grade standards for canned white potatoes. This proposed rule was developed by the United States Department of Agriculture (USDA) at the request of a major processor of canned white potatoes. The proposal would: (1) Change the procedure for determining uniformity of size and shape in whole style canned white potatoes; (2) make the acceptance numbers allowed in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products (7 CFR 52.1–52.83) applicable to size designation for whole style canned white potatoes; and (3) change the format to include definitions of terms and easy-to-read tables. Its effect would be to improve the grade standards and encourage uniformity in commercial practices which would facilitate the trading of canned white potatoes.

DATES: Comments must be received on or before July 11, 1986.

ADDRESS: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent in duplicate to the Office of the Docket Clerk, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 2069, South Building, Washington, DC 20250. Comments should reference the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Leon R. Cary, Processed Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6247.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated as a "nonmajor" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because it reflects current marketing practices.

A member of the canned white potato industry has requested the USDA to revise the voluntary U.S. Standards for Grades of Canned White Potatoes so that uniformity of size interpretation is consistent with requirements contained in the U.S. grade standards for canned sweetpotatoes. The U.S. grade standards for canned sweetpotatoes base uniformity of size on the ninety-five percent most uniform sweetpotatoes in the sample unit. The currently effective grade standards for canned white potatoes base uniformity of size and shape determination on the weight of the largest whole potato compared to the weight of the second smallest whole potato present in the sample unit.

This proposal would base uniformity of size and shape on the weight of the largest compared to the weight of the smallest of the ninety percent most uniform whole potatoes in the sample unit. This would allow the ten percent least uniform potatoes, whether large, small or a combination of large and small, to be removed from the sample unit before uniformity of size and shape is determined. This procedure is currently used in determining uniformity of size and shape in canned sweetpotatoes.

The Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products (7 CFR 52.1–52.83) include sample sizes and acceptance numbers that may be applied to scorable factors in the U.S. grade standards. This acceptance number allows an occasional sample unit to fail the intended grade—it is based on an Acceptable Quality Level (AQL) of 6.5—one in six, two in thirteen, etc. The currently effective U.S. grade standards for canned white potatoes do not allow acceptance numbers to be applied to the non-scorable factor of size designation. This proposal would allow acceptance numbers to be applied when determining size designation of the product.

The proposed rule would provide a uniform format consistent with recent revisions of U.S. grade standards. The format has been designed with easy-to-read tables and definitions of terms to provide clarification for the benefit of the users of these standards.

List of Subjects in 7 CFR Part 52

Processed fruits and vegetables, Food grades and standards.

Accordingly, the United States Standards for Grades of Canned White Potatoes (7 CFR 52.1811–52.1826) are proposed to be amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: Agricultural Marketing Act of 1946, Secs. 203, 205; 60 Stat. 1087, 1090 as amended (7 U.S.C. 1622, 1624).

2. Subpart—United States Standards for Grades of Canned White Potatoes (7 CFR 52.1811–52.1826) would be revised to read as follows:

Subpart—United States Standards for Grades of Canned White Potatoes

Sec.

52.1811 Product description.
52.1812 Styles.
52.1813 Definitions of terms.
52.1814 Recommended fill of container.
52.1815 Recommended minimum drained weights.
52.1816 Recommended sample unit sizes.
52.1817 Size requirements for whole potatoes.
52.1818 Grades.
52.1819 Factors of quality.
52.1820 Requirements for grades.
52.1821 Determining the grade of a lot.

Subpart—United States Standards for Grades of Canned White Potatoes

§ 52.1811 Product description.

Canned white potatoes is the product as defined in the Standards of Identity for Certain Other Canned Vegetables (21 CFR 155.200) issued under the Federal Food, Drug, and Cosmetic Act.

§ 52.1812 Style.

(a) *Whole* consists of peeled white potatoes that retain the approximate original conformation of the whole potato.

(b) *Slices or sliced* consist of peeled whole white potatoes cut into slices of substantially uniform thickness.

(c) *Dice or diced* consists of peeled whole white potatoes cut into cube-like units of substantially uniform size.

(d) *Shoestring, french style, or julienne* consists of peeled whole white potatoes cut into rectangular units having length measurements which are three (3) or more times the width measurements.

(e) *Pieces* consist of peeled white potatoes of random size and/or shape, or potatoes that have been cut into approximate quarters or wedge-shaped units.

(f) Any combination of two (2) of more of the foregoing styles constitutes a style and shall be considered as a mixture of the individual styles that comprise the combination.

§ 52.1813 Definitions of terms.

As used in these U.S. standards, unless otherwise required by the context, the following terms shall be construed, respectively, to mean:

(a) *Blemished* means units affected by brown or black internal or external discoloration, discolored or unpeeled eyes, hollow heart, scab, or units blemished by other means to such an extent that the appearance or eating quality of the unit is materially affected.

(b) *Seriously blemished* means units affected by brown or black internal or external discoloration, pathological or insect injury or units blemished by other means to such an extent that the appearance or eating quality of the unit is seriously affected.

(c) *Color:*

(1) *Good color* means that the units, exclusive of blemished areas, are practically free from oxidation or light greenish coloration, and have a bright, practically uniform, light color, typical of canned white potatoes processed from potatoes of similar varietal characteristics.

(2) *Reasonably good color* means that the units possess a reasonably good color, and the units individually or collectively may be variable in color, dull, slightly oxidized, or otherwise discolored but not to the extent that the appearance of the product is seriously affected.

(3) *Poor color* means the units fail to meet the requirements for reasonably good color.

(d) *Defects:*

(1) *Practically free from defects* means the defects present do not materially affect the appearance or edibility of the product.

(2) *Reasonably free from defects* means the defects present do not seriously affect the appearance or edibility of the product.

(e) *Diameter:*

(1) Of elongated whole potatoes means the greatest measurement at right angles to the longitudinal axis of the units.

(2) Of round or nearly round whole potatoes means the greatest measurement across the center of the unit.

(3) Of sliced style potatoes means the shortest measurement of the larger cut surface of the slice.

(f) *Extraneous vegetable material (EVM)* means harmless plant material such as leaves, stems, or roots.

(g) *Flavor and odor:*

(1) *Good flavor and odor* means a good, distinctive flavor and odor which is characteristic of properly prepared and properly processed canned white potatoes (including any permitted safe and suitable optional ingredient(s)), that are free from objectionable flavors or odors.

(2) *Reasonably good flavor and odor* means that the canned white potatoes (including any permitted safe and suitable optional ingredient(s)), may be lacking in good flavor and odor but are free from objectionable flavors or odors.

(h) *Mechanical damage* means damage incurred during harvesting or processing such as broken, crushed or cracked units, and units that are excessively trimmed.

(i) *Pathological or insect injury* means damage caused by disease or insects.

(j) *Peel* means the outer layer of the potato that is normally removed during processing.

(k) *Potato unit* means one whole, slice, dice, shoestring, or piece of potato as applicable for the style.

(l) *Sample unit size* means the amount of product to be used for grading. It may be:

(1) The entire contents of a container;

(2) A portion of the contents of a container;

(3) A combination of the contents of two (2) or more containers;

(4) A portion of unpacked product.

(m) *Texture.* The factor of texture refers to the tenderness of the canned white potatoes and to the degree of freedom from sloughing and from hard or objectionably coarse units.

(1) *Good texture* means the texture of the potatoes is practically uniform and is typical of properly prepared and properly processed potatoes and that the potatoes are firm and have a fine and even grain. There may be sloughing to a degree that does not more than slightly affect the appearance of the product.

(2) *Reasonably good texture* means the potatoes are reasonably tender, and may be variable in texture, ranging from somewhat soft to firm, but are not tough, hard or mushy. There may be a moderate amount of sloughing that does not seriously affect the appearance of the product.

(3) *Poor texture* means the potato units fail to meet the requirements for reasonably good texture.

§ 52.1814 Recommended fill of container.

(a) The fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purposes of these grades. Each container shall be filled with white potatoes as full as practicable without impairment of quality and the product and packing medium shall occupy not less than 90 percent of the total capacity of the container.

(b) Total capacity of the container means the maximum weight of distilled water, at 68 degrees Fahrenheit (20 degrees Celsius), which the sealed container will hold.

§ 52.1815 Recommended minimum drained weights.

(a) *General:*

(1) The minimum drained weight values are given in Table I. They are not incorporated in the grades of the finished product since drained weight, as such, is not a factor of quality for the purposes of these grades.

(2) The minimum drained weights are based on the weight of the white potatoes after the canned product has been allowed to equalize for 15 or more days after the product has been canned.

(b) *Method of determining drained weight:*

(1) The drained weight of canned white potatoes is determined by emptying the contents of the container upon a U.S. Standard No. 8 circular sieve (or equivalent) of the proper diameter containing 8 meshes to the inch (0.0937-inch (2.4 mm), ±3 percent, square openings) so as to distribute the product evenly. Without shifting the product, incline the sieve to a 17 to 20 degree angle to facilitate drainage and allow to drain for two (2) minutes.

(2) The drained weight is the weight of the sieve and white potatoes less the weight of the dry sieve. The diameter of the sieve shall be 8 inches (20.3cm), or equivalent, if the water capacity of the container is less than 3 pounds (1.36 kg), or 12 inches (30.5 cm), or equivalent, if such capacity is 3 pounds (1.36 kg) or more.

(c) *Compliance with minimum drained weight values.* Compliance with the minimum drained weight values in Table I is determined by averaging the drained weights from all the containers in the sample which represent a specific lot. Such lot is considered as meeting the minimum drained weight values if the following criteria are met:

(1) The sample average (average of all the containers in the sample) meets the minimum average drained weight value (designated as "X_d" in Table I); and

(2) The number of sample units which fail to meet the minimum drained weight value for individual containers (designated as "LL" in Table I) does not exceed the acceptance number specified in the applicable sample plan for Lot Inspection and Certification of Processed Fruits and Vegetables and Related Products.

TABLE I.—MINIMUM DRAINED WEIGHTS FOR CANNED WHITE POTATOES ENGLISH (AVOIRDUPOIS) SYSTEM

Container designation	Container Dimensions		Styles (weight in ounces)									
	Diameter (inches)	Height (inches)	Whole		Sliced		Diced		Julienne		Pieces	
			X_d[1]	LL[2]	X_d	LL	X_d	LL	X_d	LL	X_d	LL
8Z Tall	2 1/16	3 1/16	5.5	4.8	5.5	5.0	5.6	5.1	5.3	4.8	5.5	4.8
No. 300	3	4 1/16	9.5	8.7	9.7	9.0	10.0	9.5	8.8	8.3	9.5	8.7
No. 303	3 1/16	4 4/16	10.2	9.3	10.2	9.4	10.5	9.8	9.3	8.6	10.2	9.3
No. 2	3 13/16	4 1/16	13.0	11.9	13.3	12.4	13.5	12.7	12.3	11.5	13.0	11.9
No. 2½	4 1/16	4 11/16	19.0	17.7	19.5	18.4	20.0	19.0	18.3	17.3	19.0	17.7
No. 10	6 9/16	7	74.0	71.5	75.0	73.0	76.0	74.2	72.0	70.2	74.0	71.5

[1] "X_d" means the minimum average drained weight from all the containers in the sample.
[2] "LL" means the minimum drained weigth for individual containers.

TABLE IA.—MINIMUM DRAINED WEIGHTS FOR CANNED WHITE POTATOES METRIC SYSTEM (SYSTEME INTERNATIONAL)

Container designation	Container Dimensions		Styles (weight in grams)									
	Diameter (millimeters)	Height (millimeters)	Whole		Sliced		Diced		Julienne		Pieces	
			X_d[1]	LL[2]	X_d	LL	X_d	LL	X_d	LL	X_d	LL
8Z Tall	68.9	82.6	155.9	136.1	155.9	141.7	158.8	144.8	150.3	136.1	155.9	1,36.1
No. 300	76.2	112.7	269.3	246.6	275.0	255.1	283.5	269.3	249.5	235.2	269.3	246.6
No. 303	81.0	111.1	289.2	263.7	289.2	266.5	297.7	277.8	263.7	243.8	289.2	263.7
No. 2	97.3	115.9	368.5	337.4	377.0	351.5	382.7	360.0	348.7	326.0	368.5	337.4
No. 2½	103.2	119.1	538.6	501.8	552.9	521.8	567.0	538.6	518.8	490.4	538.6	501.8
No. 10	157.2	177.8	2097.9	2027.0	2128.2	2069.5	2154.8	2103.5	2041.2	1990.1	2097.9	2027.0

[1] "X_d" means the minimum average drained weight from all the containers in the sample.
[2] "LL" means the minimum drained weight for individual containers.

§ 52.1816 Recommended sample unit sizes.

The requirements for size determination and for quality factors other than the defect defined as extraneous vegetable material are based on a recommended sample unit size of 567 g (20.0 oz) of drained product, or the entire drained contents of a container.

The recommended sample unit size for extraneous vegetable material is the entire contents of the container.

§ 52.1817 Size requirements for whole potatoes.

(a) A lot of canned whole potatoes shall be assigned a single size designation if the applicable requirements of Table II are met.

(b) A lot of canned whole potatoes that fails the requirements of Table II for a single size designation shall be declared in terms of individual sample unit size designations.

TABLE II.—SIZE DESIGNATION OF WHOLE POTATOES

Word designation	Number designation	In a 567 g (20.0 oz) sample unit—	One or more sample unit(s) may fall in—
Tiny	Size 1	At least 453.6 g (16.0 oz)—90% are not more than 25 mm (0.98 in) in diameter. 113.4 g (4.0 oz)—10% may have a diameter of more than 25 mm (0.98 in) but not more than 38 mm (1.49 in).	The next larger designation—small (size 2), provided these sample units do not exceed the acceptance number.[1]
Small	Size 2	At least 453.6 g (16.0 oz)—90% have a diameter of more than 25 mm (0.98 in) but not more than 38 mm (1.49 in). 56.7 g (2.0 oz)—10% may have a diameter of 25 mm (0.98 in) or less. 56.7 g (2.0 oz)—10% may have a diameter more than 38 mm (1.49 in) but not more than 51 mm (2.0 in).	The next smaller designation—tiny (size 1), the next larger designation—medium (size 3) or a combination thereof, provided these sample units do not exceed the acceptance number.[1]
Medium	Size 3	At least 453.6 g (16.0 oz)—90% have a diameter of more than 38 mm (1.49 in) but not more than 51 mm (2.0 in). 56.7 g (2.0 oz)—10% may have a diameter of more than 51 mm (2.0 in).	The next smaller designation—small (size 2), the next larger designation—large (size 4) or a combination thereof, provided these sample units do not exceed the acceptance number.[1]

TABLE II.—SIZE DESIGNATION OF WHOLE POTATOES—Continued

Word designation	Number designation	In a 567 g (20.0 oz) sample unit—	One or more sample unit(s) may fail in—
Large	Size 4	At least 510.3 g (18.0 oz)—90% have a diameter of more than 51 mm (2.0 in) 56.7 g (2.0 oz)—10% may have a diameter of more than 36 mm (1.40 in) but not more than 51 mm (2.0 in).	The next smaller designation—medium (size 3), provided these sample units do not exceed the acceptance number.[1]

FOOTNOTE 1

Number of Sample Units	3	6	13	21	29
Acceptance Number	0	1	2	3	4

§ 52.1818 Grades.

(a) *U.S. Grade A* is the quality of canned white potatoes that meets the applicable requirements of Tables III through VII and scores not less than 90 points.

(b) *U.S. Grade B* is the quality of canned white potatoes that meets the applicable requirements of Tables III through VII and scores not less than 80 points.

(c) *Substandard* is the quality of canned white potatoes that fails to meet the requirements for U.S. Grade B.

§ 52.1819 Factors of quality.

The grade of a lot of canned white potatoes is based on the following quality factors:

(a) Color;
(b) Uniformity of size and shape;
(c) Defects;
(d) Texture;
(e) Flavor and odor.

§ 52.1820 Requirements for grades.

TABLE III.—WHOLE STYLE

Quality factors [1]	Grade A [2]	Grade B [3]
Color	Good	Reasonably good.
Score	18–20 points	16–17 points.
Uniformity of size and shape	Practically uniform	Reasonably uniform.
In the 90 percent (by count) most uniform units, the weight of the largest unit is not more than.	3.0 times the weight of the smallest unit	4.0 times the weight of the smallest unit.
Score	18–20 points	16–17 points.
Defects	Practically free	Reasonably free.
Mechanical damage, seriously blemished and blemished. Maximum	113.4 g (4.0 oz)[4]	170.1 g (6.0 oz).[4]
Seriously blemished and blemished. Maximum	56.7 g (2.0 oz)[4]	113.4 g (4.0 oz).[4]
Seriously blemished. Maximum	28.4 g (1.0 oz)[4]	56.7 g (2.0 oz).[4]
Extraneous vegetable material (EVM)	1 piece/1.7 kg (60.0 oz) net wt. (sample average)	3 pieces/1.7 kg (60.0 oz) net wt. (sample average).
Sand, grit or silt	None	Trace.
Score	27–30 points	24–26 points.
Texture	Good	Reasonably good.
Score	27–30 points	24–26 points.
Total score	90–100 points	80–89 points.
Flavor and odor	Good	Reasonably good.

[1] All quality factors except EVM are based on a sample unit size of 567 g (20 oz).
[2] Can be reasonably uniform in size and shape if total score is 90 points or more.
[3] Can fail requirements for reasonably uniform size and shape if total score is 80 points or more.
[4] Or 1 unit provided the lot average does not exceed the prescribed requirements.

TABLE IV.—SLICED STYLE

Quality factors [1]	Grade A [2]	Grade B [3]
Color	Good	Reasonably good.
Score	18–20 points	16–17 points.
Uniformity of size and shape	Practically uniform	Reasonably uniform.
Maximum thickness	19 mm (0.74 in)	25 mm (0.98 in).
The diameter of the largest slice is not more than	1.5 times the diameter of the second smallest slice.	2.0 times the diameter of the second smallest slice.
Score	18–20 points	16–17 points.
Defects	Practically free	Reasonably free.
Mechanical damage, seriously blemished and blemished. Maximum	85g (3.0 oz)	127.6 g (4.5 oz)
Seriously blemished and blemished. Maximum	56.7 g (2.0 oz)	85 g (3.0 oz)
Seriously blemished. Maximum	14.2 g (0.5 oz)	28.4 g (1.0 oz)

TABLE IV.—SLICED STYLE—Continued

Quality factors [1]	Grade A [2]	Grade B [3]
Extraneous vegetable material (EVM)	1 piece/1.7 kg (60.0 oz) net wt. (sample average)	3 pieces/1.7 kg (60.0 oz) net wt. (sample average).
Sand, grit or silt	None	Trace.
Score	27–30 points	24–26 points.
Texture	Good	Reasonably good.
Score	27–30 points	24–26 points.
Total score	90–100 points	80–89 points.
Flavor and odor	Good	Reasonably good.

[1] All quality factor except EVM are based on a sample unit size of 567 g (20 oz).
[2] Can be reasonably uniform in size and shape if total score is 90 points or more.
[3] Can fail requirements for reasonably uniform size and shape if total score is 80 points or more.

TABLE V.—DICED STYLE

Quality factors [1]	Grade A [2]	Grade B [3]
Color	Good	Reasonably good.
Score	18–20 points	16–17 points.
Uniformity of size and shape	Practically uniform	Reasonably uniform.
Maximum allowance for irregular shaped units and units that are noticeably larger or smaller than the prevalent cube size.	56.7 g (2.0 oz)	141.8 g (5.0 oz).
Score	18–20 points	16–17 points.
Defects	Practically free	Reasonably free.
Mechanical damage, seriously blemished and blemished. Maximum	56.7 g (2.0 oz)	85 g (3.0 oz).
Seriously blemished and blemished. Maximum	22.7 g (0.8 oz)	34 g (1.2 oz).
Seriously blemished. Maximum	5.7 g (0.2 oz)	11.3 g (0.4 oz).
Extraneous vegetable material (EVM)	1 piece/1.7 kg (60.0 oz) net wt. (sample average)	3 pieces/1.7 kg (60.0 oz) net wt. (sample average).
Sand, grit or silt	None	Trace.
Score	27–30 points	24–26 points.
Texture	Good	Reasonably good.
Score	27–30 points	24–26 points.
Total score	90–100 points	80–89 points.
Flavor and odor	Good	Reasonably good.

[1] All quality factors except EVM are based on a sample unit size of 567 g (20 oz).
[2] Can be reasonably uniform in size and shape if total score is 90 points or more.
[3] Can fail requirements for reasonably uniform size and shape if total score is 80 points or more.

TABLE VI.—FRENCH STYLE

Quality factors [1]	Grade A [2]	Grade B [3]
Color	Good	Reasonably good.
Score	18–20 points	16–17 points.
Uniformity of size and shape	Practically uniform	Reasonably uniform.
Allowance for units less than 13 mm (0.51 in) in length	56.7 g (2.0 oz)	141.8 g (5.0 oz).
Score	18–20 points	16–17 points.
Defects	Practically free	Reasonably free.
Mechanical damage, seriously blemished. Maximum	56.7 g (2.0 oz)	85 g (3.0 oz).
Seriously blemished and blemished. Maximum	22.7 g (0.8 oz)	34 g (1.2 oz).
Seriously blemished. Maximum	5.7 g (0.2 oz)	11.3 g (0.4 oz).
Extraneous vegetable material (EVM)	1 piece/1.7 kg (60.0 oz) net wt. (sample average)	3 pieces/1.7 kg (60.0 oz) net wt. (sample average).
Sand, grit, or silt	None	Trace.
Score	27–30 points	24–26 points.
Texture	Good	Reasonably good.
Score	27–30 points	24–26 points.
Total score	90–10 points	80–89 points.
Flavor and odor	Good	Reasonably good.

[1] All quality factors except EVM are based on a sample unit size of 567 g (20 oz).
[2] Can be reasonably uniform in size and shape if total score is 90 points or more.
[3] Can fail requirements for reasonably uniform size and shape if total score is 80 points or more.

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TABLE VII.—PIECES

Quality factors [1]	Grade A [2]	Grade B [3]
Color	Good	Reasonably good.
Score	18–20 points	16–17 points.
Uniformity of size and shape	Practically uniform	Reasonably uniform.
Maximum allowance for units weighing less than 7.1 g (0.25 oz)	28.4 g (1.0 oz)	56.7 g (2.0 oz).
Of those units weighing 7.1 g (0.25 oz) or more, the weight of the largest unit is not more than.	2.0 times the weight of the second smallest unit	4.0 times the weight of the second smallest unit.
Score	18–20 points	16–17 points.
Defects	Practically free	Reasonably free.
Mechanical damage, seriously blemished and blemished. Maximum	85 g (3.0 oz)	127.6 g (4.5 oz).
Seriously blemished and blemished. Maximum	56.7 g (2.0 oz)	85 g (3.0 oz).
Seriously blemished. Maximum	14.2 g (0.5 oz)	28.4 g (1.0 oz).
Extraneous vegetable material (EVM)	1 piece/1.7 kg (60.0 oz) net wt. (sample average)	3 pieces/1.7 kg (60.0 oz) net wt. (sample average).
Sand, grit, or silt	None	Trace.
Score	27–30 points	24–26 points.
Texture	Good	Reasonably good.
Score	27–30 points	24–26 points
Total score	90–110 points	80–89 points.
Flavor and odor	Good	Reasonably good.

[1] All quality factors except EVM are based on a sample unit size of 567 g (20 oz).
[2] Can be reasonably uniform in size and shape if total score is 90 points or more.
[3] Can fail requirements for reasonably uniform size and shape if total score is 80 points or more.

§ 52.1821 Determining the grade of a lot.

The grade of a lot of canned white potatoes coverd by these standards is determined by the procedures found in the "Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, and Related Products" (7 CFR 52.1 through 52.83).

Done at Washington, DC, on: May 5, 1986.

William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 86-10333 Filed 5-9-86; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 980

Irish Potatoes; Import Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Withdrawal of proposal.

SUMMARY: This document withdraws a proposal to require that all Irish potatoes imported from Canada into the United States through Maine be made only through the ports of Madawaska, Fort Fairfield, and Houlton. Import provisions of section 8e of the Agricultural Marketing Agreement Act require potatoes to meet minimum quality and size standards. Existing inspection procedures are adequate to insure compliance with these requirements.

DATE: This withdrawal is effective May 12, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone (202) 447–5697.

SUPPLEMENTARY INFORMATION: This document withdraws a proposal published in the **Federal Register** on December 11, 1985 (50 FR 50621) to amend the Potato Import Regulation (§ 980.1).

The proposed amendment to limit the number of points of entry in Maine through which potatoes can pass from Canada was published in the **Federal Register** of December 11 with comments allowed until December 31, 1985. A total of 28 comments were received.

The purpose of the proposed rule was to help ensure that potatoes imported from Canada meet the potato import requirements. By eliminating all but three points of entry along the Maine-Canadian border, the Department would be able to provide better inspection coverage with the limited resources available for the purpose.

However, because of low potato prices, Canadian shippers have tended to export only the better quality potatoes this season. Inspectors currently performing mandatory spot checks report that better quality Canadian potatoes are being imported into the United States through Maine ports; and, therefore, the inspection difficultues of previous years have been alleviated.

In view of the foregoing, restricting the number of border crossing points is not necessary at this time and could have an adverse impact on Canadian potato shippers and on other trade. If problems arise in the future, the need for such a restriction will be reevaluated.

Therefore, it is hereby found that the current potato import regulation, § 980.1, tends to effectuate the declared policy of the act and shall remain in effect. The proposed amendment published in the **Federal Register** on December 11, 1985 (50 FR 50621) is hereby withdrawn.

Dated: May 5, 1986.

Joseph A. Gribbin,

Director, Fruit and Vegetable Division Agricultural Marketing Service.

[FR Doc. 86-10670 Filed 5-9-86; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 982

[Docket No. F&V AO-205-A-6]

Filberts/Hazelnuts Grown in Oregon and Washington; Decision and Referendum Order on Further Amendment of the Marketing Agreement and Order, Both as Amended

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision proposes an amendment of the filbert/hazelnut marketing agreement and order program (M.O. 982) and provides filbert producers with the opportunity to vote in a referendum on the proposed amendment. The proposed amendment would: (1) Change representation on the Filbert/Hazelnut Marketing Board to eliminate any reference to either cooperative or independent handlers

and to recognize industry composition; (2) provide authority for advertising and promotion programs; (3) provide authority for crediting a handler's assessment for certain kinds of advertisting and promotion; and (4) change the method of establishing the Board's annual marketing policy and volume regulations to allow more flexibility to react to market conditions and provide for market growth. The intent of the proposed changes is to improve the effectiveness of the program.

DATE: The representative period for purposes of the referendum herein ordered is July 1, 1985 to April 1, 1986.

FOR FURTHER INFORMATION CONTACT: James B. Wendland, Acting Chief, Marketing Oder Administration Branch, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, DC 20250. Telephone: (202) 447–5053.

SUPPLEMENTARY INFORMATION: Prior documents in the proceeding: Notice of Hearing issued February 11, 1985, and published February 13, 1985 (50 FR 5995); Notice of Recommended Decision issued October 15, 1985, and published October 21, 1985 (50 FR 42537).

This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and therefore is not subject to the requirements of Executive Order 12291.

Preliminary Statement

This proposed amendment was formulated on the record of a public hearing held in Portland, Oregon, on February 20–21, 1985. The hearing notice was published in the February 13, 1985, issue of the **Federal Register** (50 FR 5995). That notice contained the proposals submitted by the Filbert/Hazelnut Marketing Board (Board). The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure for formulating marketing agreements and orders (CFR Part 900).

On the basis of evidence introduced at the hearing and the record thereof, the Deputy Administrator of the Agricultural Marketing Service, on October 15, 1985, filed with the Hearing Clerk, U.S. Department of Agriculture, a recommended decision which contained notice of the opportunity to file by November 20, 1985, written exception thereto. One exception was filed by the President of Sun-Diamond Growers of California, which markets filberts for Hazelnut Growers of Oregon, a cooperative handler under the agreement and order.

Small Business

As stated in the notice of hearing, interested persons were invited to present evidence at the hearing on the probable regulatory and informational impacts of the proposed changes on small business. Based on the record evidence, a sizeable majority of the filbert growers and handlers could be considered small businesses for the purposes of the Regulatory Flexibility Act (RFA) (Pub. L. 96–354). In that regard, testimony was presented that the production, harvesting, and preparation of filberts for market were relatively similar for all filber producers, and no clear relationship could be drawn between the size of producers and the corresponding costs.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. The Agricultural Marketing Agreement Act of 1937 (AMAA) requires the application of uniform rules to regulated handlers. Marketing orders, and rules issued thereunder, are unique in that they are normally brought about through group action of essentially small entities for their own benefit. Thus, both statutes have small entity orientation and compatibility. Since the handlers covered under M.O. 982 are predominately small businesses, and the order reflects the views and consensus of such small businesses, the changes proposed in this proceeding would impose no disproportionate regulatory burdens on any group of small entities within the industry.

While the order and the changes proposed herein impose certain regulations on affected businesses and the number of businesses may be substantial, and added burden resulting from these changes should not be significant when compared to the benefits which should accrue to such businesses. All entities, small and large, would be treated equitably as a result of these changes in the order. Furthermore, the record evidence is that there is no practical means of exempting small businesses from the order and the regulations applicable thereto.

Findings and conclusions

The material issues, findings and conclusions, rulings, general findings, and regulatory provisions of the recommended decision published in the October 21, 1985, issue of the **Federal Register** (50 FR 42537) are hereby incorporated herein and made a part thereof subject to the following modifications and corrections and discussion:

Page	Column	Paragraph	Line	Correction
42540	1	6	2	Change "of" to "or".
42541	3	2	29	Change "understanding" to "underestimating".
42542	1	1	10	Change "indusery" to "industry"
42546	3	4	2	Change "paloe" to "place".
42546	3	4	5	Change "resignations" to "resignation".
45247	1	1	13 and 14	Delete "average by no more than 25 percent if market conditions justify such".
452477	1	2	24	Change "ff" to "in".

The findings and conclusions in material issue (1)(b) of the recommended decision, dealing with the establishment and membership of the Board, are amended by adding a new paragraph after the second paragraph to as follows:

"Section 982.30(e) as contained in the recommended decision should be changed to provide that the Secretary, or the Board with the approval of the Secretary, may revise the handler representation on the Board if it ceases to be representative following substantial changes in the industry. This change is intended to clarify that the Secretary may revise the representation in the absence of a Board recommendation. In such an event, however, the Secretary would implement any necessary changes through the same informal rulemaking procedures the Secretary would follow in establishing changes recommended by the Board."

Material Issue (2), dealing with change in the method of establishing maketing policy and volume regulation, should be amended by the addition of the following three paragraphs to read as follows:

The exception stated that the Board, through its trade demand recommendations, has restricted the supply of inshell filberts to the domestic market resulting in decreased consumption and artifically inflated prices to consumers. It further states that such restriction is not consistent with the Department"s guidelines (i.e., "Guidelines for Fruit, Vegetable, and Specialty Crop Marketing Orders" issued by the U.S. Department of Agriculture on January 25, 1982).

"The exceptor contended that the proposed marketing policy changes do not correct this problem because the changes do not require the Board to increase the trade demand by the authorized 25 percent and the

calculation of inshell trade demand does not include inshell filbert imports. In the alternative, the exceptor would require the Board to expand trade demand each year by 10 percent (unless market conditions require a reduction), and to make further increases of up to 25 percent (if necessary to meet market needs).

"In response to the exception, the Guidelines require that primary markets have available a quantity equal to 110 percent of recent years' sales in those outlets. The Board has been in compliance with the Guidelines since their implementation. Information for the past 15 years shows that the Board's recommended trade demand has exceeded actual filbert shipments in all of those years. Hence, it appears that the Board has been more liberal than restrictive in allocating inshell filberts to the domestic market.

"The proposed amendment also is quite liberal. It would require the Board to release 100 percent of the computed inshell trade demand plus an additional 15 percent of the average of the preceding three years' trade acquisitions of inshell filberts for desirable carryout for use late in the season. These required releases would make more quantities of inshell filberts available than could be made available under the exceptor's 110 percent proposal. In addition, the recommendation further allows the Board to increase the inshell trade demand by an additional 25 percent, or a maximum of 140 percent of the average of the preceding three year's trade acquisitions. This would provide the Board ample opportunity to meet current market needs and to provide for inshell market growth and still give the Board the flexibility necessary to avoid excessive carryouts and the ensuing depressing effects on grower prices the following season.

"The inclusion of inshell filbert imports in the calculation of inshell trade demand, as suggested by the exceptor, could inflate the quantity available for inshell marketing by all handlers to such a degree as to cause weak marketing conditions. This could result in an excessive carryout at the end of a season and a repeat of the disorderly marketing conditions experienced by the industry in the past when trade demand estimates were overly optimistic. Further, estimates of imports are not reliable, and the annual volume of inshell filbert imports is subject to extreme fluctuations from year to year. For example, imports over the past ten years (1974 through 1984) were: 0; 194; 1,176; 139; 53; 15; 1; 1; 517; and 298 tons. Hence, the inclusion of inshell filbert imports in trade demand calculations would not serve to improve their accuracy or usefulness in balancing supplies with needs. The evidence of record is that the industry's goal is to establish a marketing policy mechanism which balances supplies with needs, for the purpose of expanding markets and stabilizing prices. In view of the foregoing, this exception is denied and the proposed amendments discussed in the recommended decision are adopted herein."

Rulings on exceptions. In arriving at the findings and conclusions, and the regulatory provisions of this decision, the exception to the recommended decision was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions and the regulatory provisions of this decision are at variance with the exception, such exception is hereby denied for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereto are two documents entitled, respectively, "Marketing Agreement, as Further Amended, Regulating the Handling of Filberts/Hazelnuts Grown in Oregon and Washington", and "Order Amending the Order, as Amended, Regulating the Handling of Filberts/Hazelnuts Grown in Oregon and Washington," which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the annexed marketing agreement, be published in the **Federal Register**. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the annexed order which is published with the decision.

Referendum Order. Is is hereby directed that a referendum be conducted in accordance with the procedure for the conduct of referenda (7 CFR 900.400 *et seq.*) to determine whether the issuance of the annexed order, as amended and as hereby proposed to be further amended regulating the handling of filberts/hazelnuts grown in Oregon and Washington, is approved or favored by producers, as defined under the terms of the order, who during the representative period were engaged in the production of the regulated commodity for market.

The representative period for the conduct of such referendum is hereby determined to be July 1, 1985 through April 1, 1986.

The agents of the Secretary to conduct such referendum are hereby designated to be Joseph C. Perrin and Gary D. Olson, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Northwest Marketing Field Office, Green/Wyatt Federal Building, Room 369, 1220 SW. Third, Avenue, Portland, Oregon 97204.

List of Subjects in 7 CFR Part 982

Marketing agreement and orders, Filberts/Hazelnuts, Oregon and Washington.

Signed at Washington, DC, on: May 5, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Service.

Order Amending the Order, as Amended, Regulating the Handling of Filberts/Hazelnuts Grown in Oregon and Washington [1]

Findings and determinations. The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings may be in conflict with the findings and determinations set forth herein.

(a) *Findings upon the basis of the hearing record.* Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and orders (7 CFR Part 900), a public hearing was held upon a proposed amendment of the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington.

Upon the basis of the record it is found that:

(1) The order, as amended, and as hereby further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The order, as amended, and as hereby further amended, regulates the handling of filberts grown in the production area in the same manner as, and is applicable only to persons in the

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(3) The order, as amended, and as hereby further amended, is limited in its application to the smallest regional production area which is practicable, consistent, with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(4) There are no differences in the production and marketing of filberts grown in the production area which makes necessary different terms and provisions applicable to different parts of such area; and

(5) All handling of filberts grown in the production area is in the current of interstate of foreing commerce of directly burdens, obstructs, or effects such commerce.

Order Relative to Handling

It is therefore ordered, That, on and after the effective date hereof, the handling of filberts grown in Oregon and Washington shall be in conformity to and in compliance with the following terms and conditions of the order, as hereby amended.

Except for the previously noted corrections and modifications, the provisions of the proposed marketing agreement and order amending the order contained in the recommended decision, issued by the Deputy Administrator on October 15, 1985, and published in the **Federal Register** on October 21, 1985 (50 FR 42357), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

PART 982—[AMENDED]

1. The authority citation for Part 982 continues to read as follows:

Authority: Agricultural Marketing Agreement Act of 1937, Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. Section 982.9 is removed.

§ 982.9 Cooperative handler. [Removed]

3. Section 982.10 is removed.

§ 982.10 Independent handler. [Removed]

4. Section 982.16 is revised to read as follows:

§ 982.16 Inshell trade acquisitions.

"Inshell trade acquisitions" means the quantity of inshell filberts acquired by the trade from all handlers during a marketing year for distribution in the continental United States.

5. Section 982.17 is revised to read as follows:

§ 982.17 Marketing year.

"Marketing year" means the 12 months from July 1 to the following June 30, both inclusive, or such other period of time as may be recommended by the Board and established by the Secretary.

6. Section 982.30 is revised to read as follows:

§ 982.30 Establishment and membership.

(a) There is hereby established a Filbert/Hazelnut Marketing Board consisting of 10 members, each of whom shall have an alternate member, to administer the terms and provisions of this part. Each member and alternate shall meet the same eligibility qualifications. The 10 member positions shall be allocated as follows:

(b) Four of the members shall represent handlers, as follows:

(1) One member shall be nominated by the handler who handled the largest volume of filberts during the marketing year preceding the marketing year in which nominations are made;

(2) One member shall be nominated by the handler who handled the second largest volume of filberts during the marketing year preceding the marketing year in which nominations are made.

(3) One member shall be nominated by the handler who handled the third largest volume of filberts during the marketing year preceding the marketing year in which nominations are made;

(4) The fourth handler member shall be nominated by and represent all other handlers.

(c) Five members shall represent growers and shall be nominated for the districts designated in or established pursuant to § 982.31. One grower member shall represent each of the five grower districts unless changes are made pursuant to § 982.31(b).

(d) One member shall be a public member who is neither a grower nor a handler.

(e) The Secretary, or the Board with the approval of the Secretary, may revise the handler representation on the Board if the Board ceases to be representative of the industry.

7. Section 982.31 is revised to read as follows:

§ 982.31 Grower districts.

(a) For the purpose of nominating grower members and alternate members, the following districts within the production area are hereby established:

(1) District 1—The State of Washington, and Clackamas and Multnomah Counties in Oregon.

(2) District 2—Marion and Polk Counties in Oregon.

(3) District 3—Linn, Lane, and Benton Counties in Oregon.

(4) District 4—Yamhill County in Oregon.

(5) District 5—All other Oregon counties within the production area.

(b) The Secretary, upon the recommendation of the Board, may reestablish districts within the production area and may reapportion grower membership among the various districts: *Provided,* That in recommending any such changes, the Board shall give consideration to—

(1) The relative importance of production is each district and the number of growers in each district;

(2) The geographic location of districts as they would affect the efficiency of administering this part; and

(3) Other relevant factors.

8. Section 982.32 is revised to read as follows:

§ 982.32 Initial members and nomination of successor members.

(a) Members and alternate members of the Board serving immediately prior to the effective date of this amended subpart, shall serve on the Board as initial members of the Board until their respective successors have been selected.

(b) Nominations for successor handler members and alternate members specified in § 982.30(b) (1) through (3) shall be made by the largest, second largest, and third largest handler determined according to the tonnage of certified merchantable filberts and, when shelled filbert grade and size regulations are in effect, the inshell equivalent of certified shelled filberts (computed to the nearest whole ton) recorded by the Board as handled by each such handler during the marketing year preceding the marketing year in which nominations are made.

(c) Nominations for successor handler member and alternate member positions specified in § 982.30(b)(4) shall be made by the handlers in that category by mail ballot. All votes cast shall be weighted according to the tonnage of certified merchantable filberts and, when shelled filbert grade and size regulations are in effect, the inshell equivalent of certified shelled filberts (computed to the nearest whole ton) recorded by the Board as handled by each handler during the marketing year preceding the marketing year in which nominations are made. If less than one percent is recorded for any such handler, the vote shall be weighted as one ton. The person receiving the highest number of weighted votes shall be the member nominee, and the person

receiving the second highest shall be the alternate member nominee.

(d) For the purposes of nominating and voting for handler members and alternates, the tonnage of filberts shall be credited to the handler responsible under the order for the payment of assessments on those filberts.

(e) Nominees to successor grower member and alternate member positions shall be submitted to the Secretary after the Board conducts balloting of growers, or officers or employees of growers, in the grower districts according to the following procedure: Names of the candidates to be shown on the ballot for a particular district may be submitted to the Board on petitions signed by not less than 10 growers on record with the Board as growers being in that district; each grower may sign only as many petitions as there are persons to be nominated within that district. If such petitions fail to result in submission of at least two names for a district, the Board shall request County Agricultural Extension Agents in that district to recommend one or more eligible growers to be included on the ballot. Ballots, accompanied by the names of all such candidates, with spaces to indicate voters' choices and spaces for write-in candidates, together with voting instructions, shall be mailed to all growers who are on record with the Board. The person receiving the highest number of votes shall be the member nominee for that district, and the person receiving the second highest number of votes shall be the alternate member. The Board shall recommend one candidate in case of a tie vote.

(f) Nominations received in the foregoing manner by the Board for all handler and grower member and alternate member positions shall be certified and sent to the Secretary at least 60 days prior to the beginning of each marketing year, together with all necessary data and other information deemed by the Board to be pertinent or requested by the Secretary. If nominations are not made within the time and manner specified in this subpart, the Secretary may, without regard to nominations, select the Board members and alternates on the basis of the representation provided for in this subpart.

(g) The members of the Board shall nominate the public member and alternate public member at the first meeting following the selection of members for a new term of office.

(h) The Board with the approval of the Secretary shall issue rules and regulations necessary to carry out the provisions of this section or to change the procedures in this section in the event they are no longer practical.

9. Section 982.33 is revised to read as follows:

§ 982.33 Selection and term of office.

(a) *Selection.* Members and their respective alternates shall be selected by the Secretary from nominees submitted by the Board or from among other qualified persons.

(b) *Term of office.* Beginning July 1, 1986, the term of office of Board members and their alternates shall be for a period of one marketing year, but they shall serve until their respective successors are selected and have qualified: *Provided,* That beginning with the 1986–87 marketing year, no member shall serve more than six consecutive terms as member and no alternate member shall serve more than six consecutive terms as alternate.

(c) The members on the Board shall continue to serve until the new members and alternates have been selected and have qualified.

10. Section 982.34 is revised to read as follows:

§ 982.34 Qualification.

(a) Any person prior to selection as a member or an alternate member of the Board shall qualify by filing with the Secretary a written acceptance of willingness to serve on the Board.

(b) Each grower member and alternate shall be, at the time of selection and during the term of office, a grower or an officer, employee, or agent of a grower in the district for which nominated.

(c) Each handler member and alternate shall be, at the time of selection and during the term of office, a handler or an officer, employee, or agent of a handler.

(d) Any member or alternate member who at the time of selection was a member (or employed by or an agent of a member) of the group which nominated that person shall, upon ceasing to be such, become disqualified to serve further and that position shall be deemed vacant. In the event any grower member or alternate member of the Board handles filberts produced by other growers or becomes an employee or agent of a handler, that person shall be disqualified to continue to serve on the Board in that capacity.

(e) No person nominated to serve as a public member or alternate member shall have a financial interest in any filbert growing or handling operation.

(f) The Board, with the approval of the Secretary, may issue rules and regulations covering matters of qualifications for members or alternate members.

11. Section 982.36 is revised to read as follows:

§ 982.36 Alternates.

An alternate for a member of the Board shall act in the place of the member during such member's absence or, upon the member's death, removal, resignation, or disqualification, until a successor for that member's term has been selected and has qualified.

12. Paragraphs (a) and (b) of § 982.37 are revised to read as follows:

§ 982.37 Procedure.

(a) Seven members of the Board shall constitute a quorum at an assembled meeting of the Board, and any action of the Board shall require the concurring vote of at least six members. At any assembled meeting, all votes shall be cast in person.

(b) The Board may vote by mail, telephone, telegraph, or other means of communication: *Provided,* That any votes (except mail votes) so cast shall be confirmed in writing. When any proposition is submitted for voting by any such method, its adoption shall require 10 concurring votes.

* * * * *

13. Section 982.40 is revised to read as follows:

§ 982.40 Marketing policy and volume regulation.

(a) *General.* As provided in this section, prior to September 20 of each marketing year, the Board may hold meetings for the purpose of computing its marketing policy for that year and shall do so for the purpose of submitting any recommendations on its policy to the Secretary. The Board may designate one of its employees to compute and announce the preliminary computed free and restricted percentages.

(b) *Inshell trade demand.* If the Board determines that volume regulation would tend to effectuate the declared policy of the act, it shall compute and announce an inshell trade demand for that year prior to September 20. The inshell trade demand shall equal the average of the preceding three years' trade acquisitions of inshell filberts: *Provided,* That the Board may increase such average by no more than 25 percent if market conditions justify such an increase. If the trade acquisitions during any or all of these years were abnormal because of crop or marketing conditions, the Board may use a prior year or years in determining the three-year average.

(c) *Inshell allocation*—(1) *Preliminary computed percentages.* Prior to September 20 of a marketing year, the Board shall compute and announce preliminary computed free and restricted percentages for that year, to release 80 percent of the inshell trade demand for that year. The preliminary computed free percentage shall be computed by multiplying that trade demand, adjusted by the declared carryin, by 80 percent, and by dividing that amount by the Board's estimate of orchard-run production less the average disappearance during the preceding three years, plus the undeclared carryin. The difference between 100 percent and the preliminary free percentage shall be the preliminary computed restricted percentage. At the same time, the Board may announce the portion of the restricted supply that may be shelled or exported, and the remainder of that supply to be disposed of in outlets approved by the Board pursuant to § 982.52.

(2) *Interim final and final percentages.* On or before November 15, the Board shall meet to recommend to the Secretary the interim final and final free and restricted percentages, including the portion of the restricted supply that may be shelled or exported. The interim final percentages shall release 100 percent of the inshell trade demand previously computed by the Board for the marketing year. The final free and restricted percentages shall release an additional 15 percent of the average of the preceding three years' trade acquisitions of inshell filberts for desirable carryout. If the trade acquisitions during any or all of these years were abnormal, the Board may use a prior year or years in determining this three-year average. The final free and restricted percentages shall become effective 30 days prior to the end of the marketing year, or earlier as may be recommended by the Board and approved by the Secretary. The recommendations to the Secretary shall include the following:

(i) The estimated tonnage of merchantable filberts expected to be produced during the marketing year.

(ii) The estimated tonnage of inshell filberts held by handlers on the first day of the marketing year which may be available for handling as inshell filberts thereafter.

(iii) Any other pertinent factors bearing on the marketing of filberts during the marketing year.

Whenever the Secretary finds, on the basis of the recommendation of the Board or other available information that, to establish the interim final and final free and restricted percentages would tend to effectuate the declared policy of the act, the Secretary shall establish such percentages.

(d) *Grade and size regulations.* Prior to September 20, the Board may consider grade and size regulations in effect and may recommend modifications thereof to the Secretary.

(e) *Revision of marketing policy.* At any time prior to February 15 of the marketing year, the Board may recommend to the Secretary revisions in the marketing policy for that year: *Provided,* That in no event shall any such recommendation provide for free and restricted percentages based on an inshell trade demand which is more than 125 percent of the average of the preceding three years' trade acquisitions computed pursuant to paragraph (b) of this section for that marketing year. At any time during the period December 1 through February 10 at the request of two or more handlers, who during the preceding marketing year handled at least 10 percent of all filberts handled, the Board shall meet to determine whether the marketing policy should be revised.

14. Section 982.41 is revised to read as follows:

§ 982.41 Free and restricted percentages.

The free and restricted percentages computed by the Board or established by the Secretary pursuant to § 982.40 shall apply to all merchantable filberts handled during the current marketing year. Until the preliminary computed free and restricted percentages are computed by the Board for the current marketing year, the percentages in effect at the end of the previous marketing year shall be applicable.

15. Section 982.51 is revised to read as follows:

§ 982.51 Restricted credit for ungraded inshell filberts and for shelled filberts.

(a) A handler may withhold ungraded inshell filberts in lieu of certified merchantable filberts in satisfaction of that handler's restricted obligations, and the weight on which credit may be received shall be the shelled filbert equivalent weight as inspected by the Federal-State Inspection Service multiplied by 2.5 percent. Any lot of ungraded filberts not meeting the moisture requirements for certified merchantable filberts shall not be eligible for credit. All determinations as to the shelled filbert equivalent weight shall be made by the Federal-State Inspection Service at the handler's expense. Filberts so withheld shall be subject to the applicable requirements of § 982.50. The weight of all such lots for which a handler has received credit shall be adjusted by the Board when the lots are handled or disposed of so that the creditable weight is equal to the amount of certified merchantable inshell filberts or certified shelled filberts that are subsequently handled or disposed of from those lots. If this adjustment causes the handler to no longer be in satisfaction of that handler's restricted obligation as required by § 982.50, the deficiency shall be satisfied in the subsequent marketing year. If this adjustment results in a handler disposing of, in restricted outlets, a quantity in excess of that handler's restricted obligation, such excess shall not be credited to such handler's restricted obligation during the subsequent marketing year.

(b) A handler may withhold, in accordance with § 982.50(a), certified shelled filberts in lieu of merchantable filberts in satisfaction of such handler's restricted obligation, subject to such terms and conditions as are recommended by the Board and established by the Secretary. The inshell equivalent of such filberts shall be determined by multiplying the weight of the shelled filberts by 2.5.

(c) The Secretary upon recommendations of the Board and other available data may modify these procedures, change the conversion factors, and specify factors for conversion for different varieties of filberts.

16. Paragraphs (b) and (d) of § 982.52 are revised to read as follows:

§ 982.52 Disposition of restricted filberts.

* * * * *

(b) *Export.* Sales of certified merchantable restricted filberts for shipment to destinations outside the continental United States shall be made only by the Board. Any handler desiring to export any part or all of that handler's certified merchantable restricted filberts shall deliver to the Board the certified merchantable restricted filberts to be exported, but the Board shall be obligated to sell in export only such quantities for which it may be able to find satisfactory export outlets. Any filberts so delivered for export which the Board is unable to export shall be returned to the handler delivering them. Sales for export shall be made by the Board only on execution of an agreement to prevent reimportation into the continental United States. A handler may be permitted to act as agent of the Board, upon such terms and conditions as the Board may specify, in negotiating export sales, and when so acting shall be entitled to receive a selling commission as authorized by the Board. The proceeds of all export sales, after

deducting all expenses actually and necessarily incurred, shall be paid to the handler whose certified merchantable restricted filberts are so sold by the Board.

* * * * *

(d) *Restricted credits.* During any marketing year, handlers who dispose of a quantity of eligible filberts in restricted outlets in excess of their restricted obligations, may transfer such excess credits to another handler or handlers. Upon a handler's written request to the Board during a marketing year, the Board shall transfer any or all of such excess restricted credits to such other handler or handlers that the handler may designate. The Board, with the approval of the Secretary, shall establish rules and regulations for the transfer of excess restricted credits.

17. Paragraphs (a) and (c) of § 982.54 are revised to read as follows:

§ 982.54 Deferment of restricted obligation.

(a) *Bonding.* Compliance by any handler with the requirements of § 982.50 when restricted filberts may be withheld shall be temporarily deferred to any date requested by the handler, but not later than 60 days prior to the end of the marketing year. Such deferment shall be conditioned upon the voluntary execution and delivery by the handler to the Board of a written undertaking before beginning to handle merchantable filberts during the marketing year. Such written undertaking shall be secured by a bond or bonds with a surety or sureties acceptable to the Board that on or prior to such date the handler will have fully satisfied the restricted obligation required by § 982.50, subject to any adjustment pursuant to § 982.51.

* * * * *

(c) *Bonding rate.* Said bonding rate for each pack shall be an amount per pound as established by the Board. Until bonding rates for a marketing year are fixed, the rates in effect for the preceding marketing year shall continue in effect. The Board should make any necessary adjustments once such new rates are fixed.

18. Section 982.57 is revised to read as follows:

§ 982.57 Exemptions.

(a) *General.* The Board, with the approval of the Secretary, may establish such rules, regulations, and safeguards that exempt from any or all requirements pursuant to this part such quantities of filberts or types of shipments as do not interfere with the volume and quality control objectives of this part, and shall require such reports, certifications, or other conditions as are necessary to ensure that such filberts are handled or used only as authorized.

(b) *Sales by growers direct to consumers.* Any filbert grower may sell filberts of such grower's own production free of the regulatory and assessment provisions of this part if such grower sells such filberts in the area of production directly to end users at such grower's ranch or orchard or at roadside stands and farmers' markets. The Board, with the approval of the Secretary, may establish such rules, regulations, and safeguards and require such reports, certifications, and other conditions as are necessary to ensure that such filberts are disposed of only as authorized.

19. Section 982.58 Market development.

A new center heading entitled "MARKET DEVELOPMENT" and a new § 982.58 following that heading are added to read as follows:

Market Development

§ 982.58 Research, promotion, and market development.

(a) *General.* The Board, with the approval of the Secretary, may establish or provide for the establishment of projects involving production research, marketing research and development, and marketing promotion, including paid advertising, designed to assist, improve, or promote the marketing, distribution, consumption, or efficient production of filberts (hazelnuts). The Board may also provide for crediting the pro rata expense assessment obligations of a handler with such portion of such handler's direct expenditures for such marketing promotion including paid advertising as may be authorized. The expenses of such projects shall be paid from funds collected pursuant to § 982.61 or credited pursuant to paragraph (b) of this section.

(b) *Creditable expenditures.* The Board, with the approval of the Secretary, may provide for crediting all or any portion of a handler's direct expenditures for marketing promotion including paid advertising, that promotes the sale of filberts, filbert products, or their uses. No handler shall receive credit for any allowable direct expenditures that would exceed the total of the handler's assessment obligation which is attributable to that portion of the handler's assessment designated for marketing promotion including paid advertising.

Rules and regulations. Before any projects involving marketing promotion, including paid advertising and the crediting of the pro rata expense assessment obligation of handlers is undertaken pursuant to this section, the Secretary, after recommendation by the Board, shall prescribe appropriate rules and regulations as are necessary to effectively administer such projects.

20. Section 982.61 is amended by revising the third sentence to read as follows:

§ 982.61 Assessments.

* * * Each handler shall pay to the Board on demand, assessments on all such assessable filberts at the rate fixed by the Secretary, less any amounts credited pursuant to § 982.58. * * *

21. A new § 982.64 entitled "Creditable promotion and advertising reports" to be published under the center heading "Records and Reports" is added to read as follows:

§ 982.64 Creditable promotion and advertising reports.

Each handler shall file such reports of creditable promotion including paid advertising conducted pursuant to § 982.58 as recommended by the Board and approved by the Secretary.

22. Section 982.69 is amended by revising the first sentence to read as follows:

§ 982.69 Verification of reports.

For the purpose of checking and verifying reports submitted by handlers, the Secretary and the Board, through its duly authorized agents, shall have access to each handler's premises at any time during reasonable business hours and shall be permitted to inspect any filberts held by such handler and all records of the handler with respect to filberts held or disposed of by such handler and all records of the handler with respect to promotion and advertising activities conducted pursuant to § 982.58. * * *

23. Section 982.71 is amended by revising the first sentence to read as follows:

§ 982.71 Records.

Each handler shall maintain such records of filberts received, held, and disposed of by the handler, and such records detailing such handler's promotion and advertising activities, as may be prescribed by the Board in order to perform its function under this part. * * *

24. Section 982.86 is amended by adding a new paragraph (b)(3) to read as set forth below and redesignating current paragraphs (b) (3) and (4) as (b) (4) and (5), respectively.

§ 982.86 Effective time, termination, or suspension.

* * * * *

(b) * * *

(3) *Referendum.* The Board shall recommend to the Secretary during the first half of every 10-year period starting January 1, 1990, that a referendum be conducted to ascertain whether continuance of this subpart is favored by the producers.

* * * * *

[FR Doc. 86-10572 Filed 5-9-86; 8:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM-50-41]

Public Citizen; Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Receipt of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) requests public comments on this notice of receipt of a petition for rulemaking dated April 15, 1986, that was filed on behalf of Public Citizen by Eric Glitzenstein, Attorney for Public Citizen, and Ken Bossong, Director, Critical Mass Energy Project. The petition was docketed by the Commission on April 17, 1986, and assigned Docket No. PRM-50-41. The petitioner requests that the NRC adopt specific regulations or other Commission guidance setting forth detailed requirements for training and fitness for duty. The petitioner contends that this action is needed to comply with the Nuclear Waste Policy Act of 1982.

DATE: Submit comments by July 11, 1986. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Send comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

Obtain a copy of the petition by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

A copy of the petition and of comments on the petition are available for inspection or copying for a fee at the Public Document Room at 1717 H Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301-492-7086 or, Toll Free, 800-368-5642.

SUPPLEMENTARY INFORMATION:

Petitioner's Proposal

The petitioner requests that the NRC immediately undertake rulemaking to comply with the statutory mandate of the NRC Training Authorization statute, Section 306 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. § 10226. Further, the petitioner urges the NRC to take appropriate steps to adopt specific regulations, or other Commission guidance setting forth detailed requirements for training and fitness for duty for nuclear power plant licensee personnel.

Basis of the Proposal

The petitioner bases the proposal on the statutory mandate of Section 306 of the NWPA. This section directs the NRC "... to promulgate regulations, or other appropriate Commission regulatory guidance, for the training and qualifications of civilian nuclear powerplant operators, supervisors, technicians and other appropriate operating personnel." Section 306 directs that these regulations or guidance, among other things, establish instructional requirements for civilian nuclear power plant licensee personnel training programs. Section 306 mandated that regulations or guidance be promulgated by NRC by January 7, 1984.

The petitioner contends that the NRC has failed to comply with the statutory mandate of this section and that the statutory deadline for compliance has long since passed.

Reasons for the Proposal

The petitioner contends that the Commission Policy Statement on Training and Qualification of Nuclear Power Plant Personnel (50 FR 11147) that was published March 20, 1985, and the proposal of a Policy Statement on Fitness for Duty of Power Plant Personnel are legally insufficient to fulfill the NWPA Section 306 statutory mandate.

The Training and Qualification Policy Statement, according to the petitioner, does not comply with the statute in three ways.

First, the Policy Statement gives five elements of an acceptable training program that are vague and general and fail to set forth any specific standards against which compliance can be measured or enforced. further, the petitioner thinks that because these five elements do not outline requirements for a training program they do not comport with Congress' intent in enacting section 306.

Second, NRC's simply endorsing the Institute for Nuclear Power Operation (INPO) accreditation programs rather than promulgating NRC training requirements does not comply with the statute. Again, the petitioner thinks, NRC action does not meet the intent of the legislative history of Section 306 in which Senator Weicker specifically noted ". . . the shortcomings of relying only upon INPO or other existing institutions."

In addition, the petitioner thinks that the NRC's endorsement of the INPO accreditation program sacrifices public input into the development of regulations or guidance and public access to documents reflecting the utilities implementation of the regulations or guidance.

Third, the petitioner thinks the policy statement does not provide for adequate evaluation of the effectiveness of a training program in three ways: (1) As mentioned regarding the vagueness of the elements, the five elements provide no standard to measure against; (2) by providing that the NRC monitor only the facilities that achieve INPO accreditation, the NRC is not monitoring plants where the most severe training problems exist; and (3) the NRC has retained no power to ensure, prospectively, that adequate training programs exist at individual facilities or that plants achieve accreditation within a set timeframe.

Since no policy statement has been published with regard to Fitness for Duty of Plant Personnel, the petitioner contends ". . . that the NRC has totally abandoned its responsibilities under section 306."

Conclusion

The petitioner concludes that the NRC has failed to fulfill its statutory obligations under the section 306 Training Authorization of the NWPA. This failure results, according to the petitioner, in increased danger to the health and safety of the public from inadequately trained power plant operators. Therefore, Public Citizen urges the NRC to adopt specific regulations or guidance that set forth detailed requirements for training and fitness for duty.

Dated at Washington, D.C., this 7th day of May 1986.

For the Nuclear Regulatory Commission.
Samuel J. Chilk,
Secretary of the Commission.
[FR Doc. 86-10601 Filed 5-9-86; 8:45 am]
BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 23

[Docket No. 012CE, Notice No. 23-ACE-11A]

Special Conditions; Beech Model 2000 Series Airplanes; Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Extension of comment period.

SUMMARY: This notice extends the period for the submission of public comments relating to Notice 23-ACE-11 (51 FR 11933, April 8, 1986) which was to close on May 8, 1986. That notice proposed special conditions necessary for type certification of the Beech Model 2000 series airplanes. The extension is in response to a petition from the Air Line Pilots Association (ALPA), who contend that the proposed special conditions are too complex to evaluate within the specified comment period. The FAA has determined that it would be in the public interest to extend the comment period.

DATE: Comments must be received on or before May 23, 1986.

ADDRESSES: Comments on Notice 23-ACE-11 may be mailed in duplicate to: Federal Aviation Administration, Office of the Regional Counsel, ACE-7, Attention: Rules Docket Clerk, Docket No. 012CE, Room No. 1558, 601 East 12th Street, Kansas City, Missouri 64106. All comments must be marked: Docket No. 012CE. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Bobby W. Sexton, Aerospace Engineer, Regulations and Policy Office (ACE-110), Aircraft Certification Division, Central Region, Federal Aviation Administration, Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 374-5688.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking further rulemaking action on this proposal. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 012CE." The postcard will be date stamped and returned to the commenter. The proposals contained in this notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested parties. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice and Notice 23-ACE-11 (previously published in the Federal Register on April 8, 1986) by submitting a request to the Federal Aviation Administration, Office of Regulations and Policy, ACE-110, Attn: ACE-112, Room 1656, Federal Office Building, 601 East 12th Street, Kansas City, MO 64106, or by calling (816) 374-5688. Communications must identify the notice number of this NPRM.

Background

On February 1, 1984, Beech Aircraft Corporation, Post Office Box 85, Wichita, Kansas 67201, made application to the FAA for a type certificate for the Beech Model 2000 airplane. The Beech Model 2000 is a small, normal category airplane that has a passenger seating configuration, excluding pilot seats, of nine seats or less. The Beech Model 2000 will have a composite-structure airframe, a forward-wing and main wing (tandem wing configuration) with directional control surfaces in wing-mounted vertical surfaces, and twin turboprop engines aft-mounted on the main wing trailing edge, driving pusher propellers.

The proposed type design of the Beech Model 2000 airplane contains a number of novel or unusual design features not envisaged by the applicable Part 23 airworthiness standards. Special conditions are considered necessary because the airworthiness standards of Part 23 do not contain adequate or appropriate safety standards for the novel or unusual design features of the Beech Model 2000 airplane.

On April 23, 1986, ALPA petitioned for a 15-day extension of the comment period for Notice 23-ACE-11. In its petition, ALPA contended that the Beech Model 2000 airplane introduces a number of innovative and possibly complex designs that require a realistic amount of time to evaluate and that the 30-day comment period is insufficient.

The FAA has reviewed this petition and determined that extending the comment period would afford the petitioner, as well as other interested persons, the opportunity to participate in the development of these final rules.

List of Subjects in 14 CFR Parts 21 and 23

Aviation safety, Aircraft, Air transport, Safety.

Extension of Comment Period

In consideration of the ALPA petition, the FAA concludes that extending the comment period for an additional 15 days would serve the public interest. Accordingly, the comment period for Notice 23-ACE-11 is extended. The comment period will close May 23, 1986.

The authority citation for these Special Conditions is as follows:

Authority: Secs. 313(a), 601, and 603 of the Federal Aviation Act of 1958; as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 21.16 and 21.17; and 14 CFR 11.28 and 11.49.

Issued in Kansas City, Missouri, on May 1, 1986.

Edwin S. Harris,
Director, Central Region.
[FR Doc. 86-10520 Filed 5-9-86; 8:45 am]
BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-NM-29-AD]

Airworthiness Directives; McDonnell Douglas Model DC-9-80 Series Airplanes, Fuselage Numbers 1218 Through 1249

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed rulemaking (NPRM).

SUMMARY: This notice proposes a new airwithiness directive (AD) that would require the removal and replacement of four horizontal stabilizer actuator mounting bolts on McDonnell Douglas Model DC-9-80 series airplanes. This proposal is prompted by reports of over-torqued horizontal stabilizer actuator mounting bolts. The failure of these bolts could result in the loss of horizontal stabilizer trim effectiveness and control.

DATE: Comments must be received no later than June 30, 1986.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, ANM-7, Attention: Airworthiness Rules Docket No. 86-NM-29-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3588 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Michael N. Asahara, Sr., Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548-2824.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rule Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-NM-29-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

It has been reported that four horizontal stabilizer actuator mounting bolts, P/N NAS 628-22 (as identified on McDonnell Douglas DC-9 Drawing 5910962), have been over-torqued during installation of the horizontal stabilizer actuator, resulting in stress corrosion and subsequent failure of the bolts. Subsequent inspection of the horizontal actuator mounting bolts at McDonnell Douglas revealed that 18 airplanes currently in production were affected by over-torqued bolts. Further review of production records also revealed that 32 fuselages (128 mounting bolts) currently in service, are suspected of having this condition. This condition has been attributed to the improper setting on the torque wrench. This condition, if not corrected, could cause stress corrosion and possible failure of bolts and loss of horizontal stabilizer trim control. Replacing the bolts, retainers, washers, and nuts with new like parts, and applying the correct torque, will minimize the potential for stress corrosion to bolts and loss of horizontal stabilizer trim control.

McDonnell Douglas issued Service Bulletin 27-278, dated April 3, 1986, which describes the removal of four existing NAS 628-22 actuator mounting bolts, and the replacement with new NAS 628-22 actuator mounting bolts, torqued to the proper value.

Since this condition is likely to exist or develop on other airplanes of this type design, an airworthiness directive (AD) is proposed to require compliance with the procedures contained in the McDonnell Douglas service bulletin previously mentioned.

It is estimated that 32 airplanes (4 units per airplane) of U.S. registry would be affected by this AD, that it would take approximately 11 manhours per airplane to accomplish the required action, and the aveage labor cost would be $40 per manhour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $14,080.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model DC-9 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. by adding the following new airworthiness directive:

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9-81 and -82 series airplanes, Fuselage Numbers 1218 through 1249, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent potential stress corrosion failure of the horizontal stabilizer actuator mounting bolts and subsequent damage to adjacent structure, within 1,400 hours time in service, or within 6 months, whichever occurs earlier, after the effective date of this AD, accomplish the following, unless already accomplished:

A. Remove and replace horizontal stabilizer actuator mounting bolts, left and right sides, in accordance with Paragraph 2, Accomplishment Instructions of McDonnell Douglas DC-9 Service Bulletin 27-278, dated April 3, 1986.

B. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to a base to comply with the requirements of this AD.

All persons affected by this proposal who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the McDonnel Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

BEST COPY AVAILABLE

Issued in Seattle, Washington, on May 1, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-10526 Filed 5-9-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 86-NM-58-AD]

Airworthiness Directives; Boeing Model 747 Series Airplanes With the Escape Slide Cool Gas Generator Inflation System Installed

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Propose rulemaking (NPRM).

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require inspection and replacement, if necessary, of the self-locking nuts used to secure the escape slide inflation and the manual inflation cable to the cool gas generator trigger mechanism on certain Boeing Model 747 airplanes. This action is prompted by several reports of defective (insufficient locking torque) self-locking nuts. This condition, if not corrected could prevent automatic inflation or manual inflation, depending on which nut is loose. If both nuts are sufficiently loose, the slide will not inflate. Failure of the slide to automatically inflate may cause a delay in inflation or the assumption that the slide is not usable, thus delaying and jeopardizing successful emergency evacuation of the airplane.

DATE: Comments must be received on or before June 30, 1986.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel, ANM-7, Attention: Airworthiness Rules Docket No. 86-NM-58-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. The information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Roger S. Young, Airframe Branch, ANM-120S; telephone (206) 431-2929. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submiting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 86-NM-58-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The manufacturer has reported to the FAA that a number of self-locking nuts were found with insufficient locking torque. It has been determined that these nuts were used to connect the escape slide automatic inflation and manual inflation cables to the cool gas generator trigger mechanism. If the nut securing the manual cable is loose, the escape slide will inflate automatically, but the manual back-up feature may not be available. If the nut securing the automatic cable is loose, the slide may not inflate automatically, but the manual back-up will be available to inflate this slide. Only if both nuts are sufficiently loose will the slide be inoperative.

Failure of the slide to inflate automatically would result in a delay in inflation or a mistaken conclusion that the slide is unusable, thus delaying and possibly jeopardizing an emergency evacuation.

Boeing released Service Bulletin 747-25A2696, Revision 1, dated January 31, 1986, which describes inspection and replacement, if necessary, of the self-locking nuts to ensure the integrity of the inflation system.

Since this condition may exist or develop on other airplanes of the same type design, the proposed AD would require inspection and replacement of defective self-locking nuts in accordance with the procedures in Boeing Service Bulletin 747-25A2696.

It is estimated that 10 airplanes of U.S. operators atill have the cool gas generator inflation system installed and would be affected by this AD, that it would take approximately 16 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be $6,400.

For the reasons discussed above, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because a few, if any, Boeing Model 747 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised) Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

2. By adding the following new airworthiness directive:

Boeing: Applies to all Model 747 airplanes, certificated in any category, listed in Boeing Alert Service Bulletin 747-25A2696, Revision 1, dated January 31, 1986, that are equipped with the cool gas generator inflation systems. To ensure that the escape slide inflation system operates properly, accomplish the following, unless already accomplished:

A. Within three months after the effective date of this AD, inspect the escape slide inflation system to verify the installation of acceptable self-locking nuts and replace defective nuts, if necessary, in accordance with Boeing Alert Service Bulletin 747-25A2696, Revision 1, dated January 31, 1986, or later FAA-approved revisions.

B. An alternate method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

All persons affected by this proposal who have not already received the appropriate service document from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. This document may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on May 1, 1986.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 86-10525 Filed 5-9-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-ANE-18]

Establishment of the Rangeley, Maine, 700 Foot Transition Area

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to establish the Rangeley, Maine, 700 Foot Transition Area so as to provide protected airspace for aircraft executing a new Nondirectional Radio Beacon Airport (NDB-A) Standard Instrument Approach Procedure (SIAP) to the Rangeley Municipal Airport, Rangeley, Maine.

DATES: Comments must be received on or before July 6, 1986.

ADDRESSES: Send comments to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 86-ANE-18.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New England Executive Park, Burlington, Massachusetts.

An informal docket may also be examined during normal business hours in the: Air Traffic Division, ANE-500 Room 304, 12 New England Executive Park, Burlington, MA 01803.

FOR FURTHER INFORMATION CONTACT: Stanley E. Matthews, Operations, Procedures and Airspace, ANE-530, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Massachusetts; telephone (617) 273-7139.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, ecomonic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenter wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-ANE-18." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All coments submitted will be available for examination in the Office of the Regional Counsel, ANE-7, 12 New England Executive Park, Burlington, Massachusetts 01803, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of the Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8065.

Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to section 181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish the Rangeley, Maine, 700 Foot Transition Area so as to provide protected airspace for instrument flight rules aircraft executing a new Nondirectional Radio Beacon-Airport (NDB-A) standard instrument approach procedure to the Rangeley Municipal Airport, Rangeley, Maine.

Section 181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, it (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in CFR Part 71

Aviation safety, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration (FAA) proposes to amend Part 71 of the FAR (14 CFR Part 71) as follows:

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

2. By amending § 71.181 as follows:

Rangeley, Maine Transition Area

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the center, of the Rangeley Municipal Airport, latitude 44°59'00" N., longitude 70°36'45" W., Rangeley, Maine, and within 3.5 miles each side of the Rangeley NDB, latitude 44°56'02" N., longitude

70°45'05" W., 244 Magnetic (226 True) bearing from the Rangeley NDB, extending from the 6.5 mile radius to 10 miles southwest of the Rangeley NDB.

Issued in Burlington, Massachusetts on April 28, 1986.

James I. Lucas,

Manager, Air Traffic Division, ANE-500.

[FR Doc. 86-10521 Filed 5-9-86; 8:45 am]

BILLING CODE 4910-13-M

POSTAL SERVICE

39 CFR Parts 310 and 320

Restrictions on Private Carriage of Letters; Meeting

AGENCY: Postal Service.

ACTION: Notice of public meeting.

SUMMARY: This document provides notice of a public meeting relating to the initiation of a new rulemaking proceeding concerning the Private Express Statutes and the practice of international remailing. All persons desiring to attend the meeting should notify the Postal Service by May 15, 1986.

DATES: 10:00 A.M., Thursday, May 22, 1986. (If necessary, continued on Friday, May 23, 1986.)

ADDRESS: Conference Room, Room No. 5183, 955 L'Enfant Plaza SW., Washington, DC (The location is subject to change if the number of persons desiring to attend exceeds the capacity of this conference room.)

FOR FURTHER INFORMATION CONTACT: Charles D. Hawley, (202) 268-2970.

SUPPLEMENTARY INFORMATION: The Postal Service intends to hold a public meeting in connection with its undertaking to gather information and develop a factual record in preparation for the initiation of a new rulemaking proceeding concerning the practice of international remailing, as previously announced on March 21, 1986, in the **Federal Register** (51 FR 9852). Discussion will focus on comments submitted by interested persons in response to the March 21, 1986 **Federal Register** notice, the need of the public for international services not met by the Postal Service, and the scope of a proposed suspension of the Private Express Statutes to permit international remailing. However, no decision on the nature or scope of a proposed suspension will be made or announced at this meeting. The meeting is scheduled for May 22, 1986, at 10:00 a.m., and, if necessary, will reconvene on May 23, 1986. All persons desiring to attend the meeting are asked to notify the Postal Service, at the telephone number listed above, by the close of business on May 15, 1986. If the anticipated seating requirements exceed the capacity of the announced meeting room, a change in the room location will be announced on or before May 19, 1986.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 86-10558 Filed 5-9-86; 8:45 am]

BILLING CODE 7710-12-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 86-168; FCC 86-207]

Simplify the Separate Subsidiary Reporting Requirement in the Domestic Public Cellular Radio Telecommunications Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The FCC proposes to amend Part 22 of its rules (which apply to the Public Mobile Services) to simplify the Cellular Separate Subsidiary Reporting Requirement in the Domestic Public Cellular Radio Telecommunications Service (DPCRTS). This rule change is proposed to ease the Administrative burden on the public and to promote more efficient use of Commission resources.

DATES: Comments must be submitted on or before June 24, 1986, and reply comments on or before July 9, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Richard C. Owens, Jr., Common Carrier Bureau, (202) 632-6450.

SUPPLEMENTARY INFORMATION: The collection of information requirement contained in this proposed rule change has been submitted to OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons wishing to comment on this collection of information requirement should direct their comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for Federal Communications Commission.

This is a summary of the Commission's notice of proposed rulemaking, adopted April 18, 1986, released April 30, 1986.

The full text of this Commission decision is available for inspection during normal business hours in the FCC dockets branch (room 2300, 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Proposed Rule

1. Section 22.901(c)(3) of the rules requires that a copy of any agreement entered into between Bell separate cellular subsidiaries and the parent Bell company or affiliate be filed with the Commission.

2. Known as the cellular separate subsidiary reporting requirement, the rule was instituted to prevent AT&T and its affiliates (the Bell companies) from inhibiting non-wireline cellular market entry through predatory pricing, cross-subsidization, and denial of equal access to the landline network. The requirement that all agreements between the separate subsidiary and related Bell companies be filed with the Commission was instituted to make detection of anticompetitive conduct easier for the Commission staff.

3. Current experience shows that the reporting requirement is overboard and burdensome. With the exception of landline interconnection agreements, little scrutiny is given to the voluminous filings by the staff or the public. Fears concerning cross-subsidization and predatory pricing have diminished in light of the emergency of competition between non-wireline and wireline cellular operations. Further, the filing requirement consumes staff resource which could be devoted to matters requiring closer attention.

4. Consequently, we propose to amend § 22.901(c)(3) to require filing of only those agreements between the separate subsidiary and the parent Bell company or affiliate which specifically relate to interconnection with the landline network. The separate subsidiary would be required to keep all other agreements available for Commission inspection upon reasonable request. The proposed amendment would not affect the requirement that all transactions between the separate subsidiary and the related Bell company be reduced to writing.

5. This is a non-restricted notice and comment rulemaking proceeding. *See* § 1.1231 of the Commission's rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

6. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

7. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before June 24, 1986, and reply comments on or before July 9, 1986. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

8. Accordingly, it is proposed, that 47 CFR 22.901(c)(3) be amended as set forth below.

List of Subjects in 47 CFR Part 22

Reporting and recordkeeping requirements.

Federal Communications Commission.

William J. Tricarico,

Secretary.

47 CFR Chapter I is amended as follows:

PART 22—PUBLIC MOBILE RADIO SERVICES

9. The authority citation for Part 22 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended (47 U.S.C. 154, 303).

10. Section 22.901 is amended by revising paragraph (c)(3) to read as follows:

§ 22.901 Eligibility

* * * * *

(c) * * *

(3) All transactions between the separate corporation and the carrier or its affiliates which involve the transfer, either direct or by accounting or other record entries, of money, personnel, resources, other assets or any thing of value, shall be reduced to writing. A copy of any contract, agreement or other arrangement entered into between such entities with regard to interconnection with landline network exchange and transmission facilities shall be filed with the Commission within thirty days after the contract, agreement or other arrangement is made. A copy of all other contracts, agreements or arrangements between such entities shall be kept available by the separate corporation for inspection upon reasonable request by the Commission. The provision shall not apply to any transaction governed by the provision of an effective state or federal tariff.

* * * * *

[FR Doc. 86-10553 Filed 5-9-86; 8:45 am]

BILLING CODE 6712-01-M

economic impact on a substantial number of small entities.

7. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before June 24, 1986, and reply comments on or before July 9, 1986. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

8. Accordingly, it is proposed, that 47 CFR 22.901(c)(3) be amended as set forth below.

List of Subjects in 47 CFR Part 22

Reporting and recordkeeping requirements.

Federal Communications Commission.

William J. Tricarico,

Secretary.

47 CFR Chapter I is amended as follows:

PART 22—PUBLIC MOBILE RADIO SERVICES

9. The authority citation for Part 22 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as amended (47 U.S.C. 154, 303).

10. Section 22.901 is amended by revising paragraph (c)(3) to read as follows:

§ 22.901 Eligibility

* * * * *

(c) * * *

(3) All transactions between the separate corporation and the carrier or its affiliates which involve the transfer, either direct or by accounting or other record entries, of money, personnel, resources, other assets or any thing of value, shall be reduced to writing. A copy of any contract, agreement or other arrangement entered into between such entities with regard to interconnection with landline network exchange and transmission facilities shall be filed with the Commission within thirty days after the contract, agreement or other arrangement is made. A copy of all other contracts, agreements or arrangements between such entities shall be kept available by the separate corporation for inspection upon reasonable request by the Commission. The provision shall not apply to any transaction governed by the provision of an effective state or federal tariff.

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[FR Doc. 86-10553 Filed 5-9-86; 8:45 am]

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47 CFR Part 90

[PR Docket No. 86-169; RM-5203; FCC 86-216]

Amendment of Part 90 of the Commission's Rules and Regulations to Permit Expanded Use of the 450 MHz 12.5 kHz Offset Channels in the Special Industrial Radio Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to eliminate the secondary restriction and increase the power and antenna height permitted on the 450-470 MHz band 12.5 kHz offset frequencies available exclusively in the Special Industrial Radio Service to 20 watts (ERP) and 100 feet, respectively in order to facilitate more effective use of these channels.

DATES: Comments must be filed on or before June 23, 1986, and reply comments on or before July 8, 1986.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Herb Zeiler, Private Radio Bureau (202) 634-2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, P.R. Docket 86-169, adopted April 28, 1986, and released May 2, 1986. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW. Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Notice of Proposed Rule Making

1. On September 27, 1985, the Special Industrial Radio Service Association (SIRSA) petitioned the Commission to amend Part 90 of the rules to allow Special Industrial Radio Service eligibles to use ten 12.5 kHz offset channel pairs in the 450 MHz band on a primary basis. Under SIRSA's proposal, operations on these offset channels would be limited to a maximum output power of 20 watts and an antenna height above ground of 100 feet. Applications for special industrial frequencies in this band, both for offsets and the primary channels, would have to be at least 20 miles from existing stations operating on a frequency 12.5 kHz removed.

2. In response to the SIRSA petition the Commission proposed to increase the maximum permissible power and antenna height permitted on the 12.5 kHz offsets available exclusively within in the Special Industrial Radio Service to 20 watts ERP and 100 feet, respectively and to eliminate the secondary restriction. The Commission did not propose a minimum mileage separation requirement between stations. It was the Commission's belief that with proper frequency coordination relaxing these restrictions would facilitate more effective use of these channels without significantly increasing the potential for adjacent channel interference.

3. This is a non-restricted notice and comment rule making proceeding. *See* § 1.1231 of the Commission's rules 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

4. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, it is certified that the proposed rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.

5. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

6. Accordingly, notice is hereby given of rule making to amend Part 90 of the Commission's rules and regulations, in accordance with the proposal set forth below. The proposed amendment to the rules is issued pursuant to authority contained in sections 4(i), 303(b), 303(f), 303(g), and 303(i) of the Communications Act, as amended.

7. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before June 23, 1986, and reply comments on or before July 8, 1986. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

List of Subjects in 47 CFR Part 90

Radio, Private land mobile radio services.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Part 90 of the Commission's rules is proposed to be amended as follows:

1. The authority citation for Part 90 continues to read as follows:

Authority: Sections 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303 unless otherwise noted.

2. Section 90.267 is amended by revising paragraphs (a)(1) and (a)(2) and adding a new paragraph (a)(6)(iii) to read as follows:

§ 90.267 Assignment and use of 12.5 kHz frequency offsets.

(a) * * *

(1) All stations shall be licensed as mobiles but they may serve the functions of base, fixed, or mobile relay stations. Except in the Special Industrial Radio Service, stations are limited to 2 watts output power. Stations operating on offsets available exclusively in the Special Industrial Radio Service may be authorized up to 20 watts output power.

(2) Except for stations authorized on offsets available exclusively in the Special Industrial Radio Service, all operations shall be on a secondary basis to the primary operations and shall be entitled to no protection from such stations. Stations operating on offsets available exclusively in the Special Industrial Radio Service may be licensed on a primary basis.

* * * * *

(6) * * *

(iii) Stations operating on offsets available exclusively in the Special Industrial Radio Service may be authorized an antenna height up to 35m. (100 ft) above ground.

* * * * *

[FR Doc. 86-10552 Filed 5-9-86; 8:46 am]
BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1312

[Ex Parte No. 387]

Railroad Transportation Contracts

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments.

SUMMARY: A notice of proposed rulemaking was published April 3, 1986 (51 FR 11536), and established May 5, 1986 for filing initial comments and May 23, 1986 for filing replies. In a joint petition, the National Grain and Feed Association (NGF) and the Association of American Railroads (AAR) seek an 18-day extension to file comments. Because of the complex issues and the need for NGF and AAR to consult with their members, an extension is warranted. The due date for replies is extended from 18 days to 25 days.

DATES: Initial comments are due May 23, 1986; reply comments are due June 17, 1986.

FOR FURTHER INFORMATION CONTACT: Donald J. Shaw, Jr., (202) 275-7245.

Decided: May 2, 1986.

By the Commission, Heather J. Gradison, Chairman.

James H. Bayne,
Secretary.

[FR Doc. 86-10573 Filed 5-9-86; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 23

List of Species Included in Higher Taxon Listings in Appendix III of the Convention on International Trade in Endangered Species of Wild Fauna and Flora

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) regulates trade in certain animal and plant species. Appendices I, II, and III to CITES list those species for which trade is controlled. Appendix III includes species that any Party nation identifies as being subject to regulation within its jurisdiction for the purpose of preventing or restricting exploitation, and as needing the cooperation of other Parties in the control of trade.

Presently both species and higher taxa are listed in 50 CFR Part 23 as being in Appendix III. The CITES Secretariat, in carrying out Resolution Conf. 5.22 passed at the Fifth Meeting of the Conference of the Parties (COP5) in 1985, has provided an updated list of Appendix III species. In accordance with the resolution, the list includes only those species that are native to the country having proposed their inclusion in Appendix III and that are not listed in Appendix I or II.

Consequently, the notice identifies the species listed on Appendix III in place of higher taxa previously listed. Species of the families Estrildidae and Ploceidae understood to be previously covered by the single listing of Ploceidae are listed under their appropriate families. The Fish and Wildlife Service (Service) will review any comments on these species listings. However, the CITES Secretariat does not consider these to be additional listings, and the Service has reviewed supporting information. Therefore, the Service doubts that the United States could enter reservations even if there were reason to do so.

The purpose of this notice is to alert the public of action taken by the CITES Secretariat and to allow the public the opportunity to comment on the need, and the legal basis, for any decision to enter a reservation to the Secretariat's amendments to Appendix III. The Service plans to incorporate these revised listings into the Code of Federal Regulations (50 CFR 23.23) along with other changes presently being considered prior to the next revision of CFR. Such changes would be the subject of a proposed rule to amend the list of species in 50 CFR 23.23.

DATES: The CITES Secretariat declared in the March 5, 1986, notification that inasmuch as these listings "do not reflect new inclusions in Appendix III, but [rather] a new presentation of existing listings, its entry into force may be considered as immediate." All information and comments received by May 28, 1986 will be considered in making these changes.

ADDRESSES: Please send correspondance concerning this notice to the Office of Scientific Authority, Mail stop: Room 527, Matomic Building, U.S. Fish and Wildlife Service, Washington, DC 20240. The full text of the updated Appendix III and notification from the CITES Secretartiat, as well as materials received, will be available for public inspection from 8:00 a.m. to 4:00 p.m. Monday through Friday in Room 537, 1717 H Street, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Charles W. Dane at address given above, or telephone (202) 653-5948.

SUPPLEMENTARY INFORMATION:

Background

At the Fifth Meeting of the Conference of the Parties (COP5) held on April 22-May 3, 1985, in Buenos Aires, Argentina, the Parties passed Resolution Conf. 5.22. This resolution clarified Resolution Conf. 1.5., and recommended that only those species that are native to the country proposing such inclusion be included in Appendix III, and requested the CITES Secretariat to compile an updated list of Appendix III species including only those that are native to the country having proposed their inclusion in Appendix III and that are not listed in Appendix I or II. In accordance with this resolution, the CITES Secretariat has provided an updated Appendix III. In updating this Appendix, the Secretariat has queried Parties who had higher taxon listings included at their request to identify the species native to those countries. Consequently, the species native to Ghana have been individually listed in Appendix III in lieu of the higher taxa, *Anomalurus* spp., *Idiurus* spp., *Hystrix* spp., Anatidae, Columbidae, Musophagidae, Fringillidae, *Pelusios* and Ploceidae.

The Service understands that prior to Ghana's request to add Ploceidae to Appendix III (added in 1975), as well as prior to the Service listing Ploceidae in 50 CFR Part 23 in 1977, Ghanian legislation included estrildid finches in the family Ploceidae. At the time that Ghana requested these taxa to be added to Appendix III, no standard nomenclature for birds had been adopted by the Parties to CITES. The CITES Secretariat has informed the Service that Ghana intended to include estrildid finches, which were also included by some authors in Ploceidae, in the listing of Ploceidae. This intention is substantiated by the specific mention in Ghana's Wildlife Conservation Regulations of 1971 of common names of groups of species, e.g., waxbills, cordonbleus, and mannikins, under the family Ploceidae. These groups of species represent a major segment of estrildid finches, and are now nomenclaturally included in the family Estrildidae.

A standard nomenclature for birds was adopted by the Parties in 1983. This taxonomy used separate family names for Ploceidae and Estrildidae, but the CITES Secretariat has not previously revised its Appendix III accordingly (even as recently as August 1, 1985) nor has the United States previously revised its list in 50 CFR Part 23. Nevertheless, as the above changes and species listed later in this notice are not intended to reflect new inclusions in Appendix III, but rather a new presentation of existing listings, the Service finds it reasonable to treat their entry into force as immediate. But, if these changes were construed to represent additional listings, the United States would be able to enter reservations within 90 days after the date of the Secretariat's communication providing the updated Appendix III and list of species specifically included in the higher taxon listings originally requested by Ghana. The Secretariat's communication was dated March 5, 1986.

Other changes included synonymy changes which will be addressed as a separate topic in a subsequent Federal Register notice for species in all Appendices, and the omission of the species *Quelea quelea* which is native to Ghana and which would have been covered under the higher taxon listing but which was omitted from the species list by the Secretariat in agreement with the Management Authority of Ghana. The Secretariat has also replaced, in the updated Appendix III, the listing of *Tetracentron* spp. with *Tetracentron sinense* at the request of Nepal; this is the only species in the genus.

This notice identifies the species listed in Appendix III in place of higher taxa previously listed. Inasmuch as the Service has previously interpreted Resolution Conf. 1.5 to restrict Appendix III to species native to the country proposing the inclusion of a species in Appendix III, this updated listing does not result in any change on the part of the United States in the number of species covered by CITES except for the removal of *Quelea quelea* from Appendix III provisions.

If the factual basis presented in this notice is in error, the Service will consider public comments on the listings and on possible reservations. The Department of State, as a matter of general policy, does not favor the United States taking reservations under any treaty except in those cases where, absent a reservation, the treaty would conflict with U.S. law or be impossible to implement. The Service has stated in previous Federal Register notices relating to amending the Appendices that it would consider recommending the entering of reservations if it could be shown that implementation of the amenedments to the Appendices was contrary to the interests or laws of the United States.

The trade in specimens of species included in Appendix III requires export permits from the nation that has requested the inclusion of the species in Appendix III. The import of specimens of thes species from nations other than the nation that included that species in Appendix III requires prior presentation of a certificate of origin or, in the case of re-export, a certificate from the nation of re-export. For the export or re-export of any Appendix III species from the United States to CITES Party nations, these certificates must be obtained from the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, 1000 North Glebe Road, Room 611, Arlington, Virginia 22201.

List of Species

The following species replace the higher taxon listings shown in parentheses in Appendix III of CITES. These species, whether live or dead, and any readily recognizable part or derivative thereof, accept plant seeds, spores, and tissue cultures (Resolution Conf. 4.24), are covered by the provisions of CITES. In addition, those species that would have been included under the higher taxon listing and are native to the proposing country but that are included separately in either Appendix I or Appendix II are not included in Appendix III. Finally, the species *Quelea quelea*, which would have been included in the revised listing, has been omitted in agreement with the Management Authority of Ghana (as per the CITES Secretariat's notification).

Animal Kingdom

MAMMALIA

RODENTIA

Anomaluridae

(*Anomalurus* spp.) [1]
Anomalurus beecrofti
Anomalurus derbianus
Anomalurus peli
(*Idiurus* spp.)
Idiurus macrotis

Hystricidae

(*Hystrix* spp.)
Hystrix cristata

AVES

ANSERIFORMES

(Anatidae)
Alopochen aegyptiacus
Anas acuta
Anas capensis
Anas clypeata
Anas crecca
Anas penelope
Anas querquedula
Aythya nyroca
Dendrocygna bicolor
Dendrocygna viduata
Nettapus auritus
Plectropterus gambensis
Pteronetta hartlaubii

COLUMBIFORMES

(Columbidae)
Columba guinea
Columba iriditorques
Columba livia
Columba unicincta
Oena capensis
Streptopelia decipiens
Streptopelia roseogrisea
Streptopelia semitorquata
Streptopelia senegalensis
Streptopelia turtur
Streptopelia vinacea

[1] The higher taxon listing that is being replaced is shown in parentheses.

Treron calva
Treron waalia
Turtur abyssinicus
Turtur afer
Turtur brehmeri
Turtur tympanistria

CUCULIFORMES

(Musophagidae)
Corythaeola cristata
Crinifer piscator
Musophaga violacea
Tauraco macrorhynchus

PASSERIFORMES

(*Fringillidae*)
Serinus gularis
Serinus leucopygius
Serinus mozambicus
(*Ploceidae*)
Amblyospiza albifrons
Anomalospiza imberbis
Bubalornis albirostris
Euplectes afer
Euplectes ardens
Euplectes hordeaceus
Euplectes macrourus
Euplectes orix
Malimbus cassini
Malimbus malimbicus
Malimbus nitens
Malimbus rubriceps
Malimbus rubricollis
Malimbus scrutatus
Passer griseus
Petronia dentata
Plocepasser superviliosus
Ploceus albinucha
Ploceus aurantius
Ploceus cucullatus
Ploceus heuglini
Ploceus luteolus
Ploceus melanocephalus
Ploceus nigerrimus
Ploceus nigricollis
Ploceus pelzelni
Ploceus preussi
Ploceus superciliosus
Ploceus tricolor
Ploceus velatus
Quelea erythrops
Sporopipes frontalis
Vidua chalybeata
Vidua interjecta
Vidua larvaticolis
Vidua macroura
Vidua paradisaea
Vidua raricola
Vidua togoensis
Vidua wilsoni
(*Estrildidae*) [2]
Amadina fasciata
Amandava subflava
Estrilda astrild
Estrilda caerulescens
Estrilda melpoda
Estrilda troglodytes
Lagonosticta larvata
Lagonosticta rara
Lagonosticta rubricata
Lagonosticta rufopicta
Lagonosticta senegala
Lonchura bicolor
Lonchura cucullata
Lonchura fringilloides
Lonchura malabarica
Mandingoa nitidula
Nesocharis capistrata
Nigrita bicolor
Nigrita canicapilla
Nigrita fusconota
Nigrita luteifrons
Ortygospiza atricollis
Parmoptila woodhousei
Pholidornis rushiae
Pyrenestes ostrinus
Pytilia hypogrammica
Pytilia phoenicoptera
Spermophaga haematina
Uraeginthus bengalus

TESTUDINATA

Pelomedusidae

(*Pelusious* spp.)
Pelusios adansonii
Pelusios castaneus
Pelusios gabonensis
Pelusios niger

Plant Kingdom

Tetracentraceae

(*Tetracentron* spp.)
Tetracentron sinense

This notice was prepared by Dr. Charles W. Dane, Chief, Office of Scientific Authority, under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 et seq.).

List of Subjects in 50 CFR Part 23

Endangered and threatened plants, Endangered and threatened wildlife, Exports, Fish, Imports, Marine mammals, Plants (agriculture), Treaties.

Dated: May 7, 1986.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86-10676 Filed 5-9-86; 8:45 am]

BILLING CODE 4310-55-M

[2] Original listing of Ploceidae considered to include those species now listed under Estrildidae.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 683

[Docket No. 60583-6083]

Western Pacific Bottomfish and Seamount Groundfish Fisheries

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: The Western Pacific Fishery Management Council (Council) has submitted a Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMP) to the Secretary of Commerce (Secretary) for review and implementation.

This rule would (1) establish a regulatory framework for future management actions in the fishery conservation zone (FCZ), (2) prohibit the use of bottom trawls and bottom set gill nets to harvest bottomfish and seamount groundfish in the FCZ, (3) prohibit the use of poisons and explosives, (4) establish a moratorium on fishing for seamount groundfish at the Hancock Seamounts, and (5) establish a permit requirement for vessels fishing for bottomfish and seamount groundfish in the FCZ of the Northwestern Hawaiian Islands.

DATE: Written comments on the proposed rules and supporting documents must be received on or before June 20, 1986.

ADDRESSES: Comments on the FMP, the proposed rule or the supporting documents should be sent to E. C. Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731. Copies of the FMP, the environmental assessment (EA) and the regulatory impact review (RIR) are available from Kitty B. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813, (808-523-1368).

FOR FURTHER INFORMATION CONTACT: Doyle E. Gates, (Administrator, Western Pacific Program Office, Southwest Region, NMFS, Honolulu, Hawaii), 808-955-8831; or Svein Fougner (Chief, Fisheries Management and Analysis Branch, Southwest Region, NMFS, Terminal Island, California), 213-548-2516.

SUPPLEMENTARY INFORMATION:

Background

The FMP was prepared by the Council under the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq. (Magnuson Act). The FMP proposes a series of management measures for the bottomfish and seamount groundfish fisheries in the FCZ off the coasts of Hawaii, American Samoa, and Guam.

The FMP does not propose any management measures for the FCZ around the Commonwealth of the Northern Mariana Islands nor the FCZ around the U.S. island possessions in the western Pacific. This is because of the non-participation of the Commonwealth in the deliberations of the Council and the relatively undeveloped status of the deep-sea bottomfish fishery around the U.S. island possessions.

The FMP was prepared by a team of State and Federal fishery scientists with substantial guidance from the Council's Bottomfish Advisory Subpanel, Scientific and Statistical Committee, and the concerned public. The FMP was combined with an EA and RIR. Public hearings on the FMP were held in Hawaii, American Samoa, and Guam. The FMP was submitted for Secretarial review on April 7, 1986.

Need for the FMP

The Western Pacific bottomfish complex includes 19 commercially or recreationally important species of snappers, groupers, jacks, and emperorfishes. The fishery for these species is important because of growing commercial activity, high fresh fish market prices, strong consumer demand, extensive recreational involvement, and subsistence use in Pacific Island communities. Bottomfish in the FCZ are harvested primarily with vertical hook-and-line gear and to a lesser extent with bottom longlines and traps.

Commercial bottomfish landings and fishing effort are at record high levels in the FCZ off the main Hawaiian Islands and the Northwestern Hawaiian Islands (NWHI). Evidence suggests that some species of the bottomfish complex in the Hawaiian FCZ may be on the verge of overfishing. In American Samoa and Guam fisheries for bottomfish are a more recent development and, though smaller in scale as compared to the Hawaiian bottomfish fishery, have become the mainstay of local fishing industries.

The central problem confronting the bottomfish fisheries of Hawaii, American Samoa, and Guam is that fishing pressure in terms of vessels and fishing power has increased substantially in the past 10 years. Although the scientific evidence of potential overfishing is not complete, the low rate of production and relatively high unexploited standing stock characteristic of many bottomfish species may well preclude their rapid recovery from overfishing. Hawaiian fishermen in particular have clearly voiced their fear that smaller-sized fish and lower catch rates are reaching a danger point where effective fishery management is essential.

In addition to the deep-sea bottomfish complex, the Hancock Seamounts, 1,500 miles northwest of the main Hawaiian Islands, serve as habitat for another deepwater demersal fish fauna, the seamount groundfish complex, which includes the pelagic armorhead, alfonsin, and raftfishes. No U.S. fishermen have commercially harvested the seamount groundfish resource, but foreign trawl harvest of armorhead and alfonsin in the FCZ has occurred since the late 1960s. The drastic reduction in catch rates of armorhead at the Hancock Seamounts and the present inability of foreign vessels to harvest the total allowable level of foreign fishing (TALFF) which had been available under a preliminary fishery management plan since 1977 indicate the need for immediate management of the FCZ seamount groundfish fishery.

Goals and Objectives of theFMP

Bottomfish

In response to the growing threat of overfishing to the bottomfish resources in the FCZ, the FMP was prepared by the Council in an attempt to stay ahead of and resolve the problems which are foreseen for the bottomfish fishery. This preventive strategy is preferable to managing the fishery in reaction to emergency situations. Accordingly, the goal of the FMP is to achieve and maintain bottomfish production at a level that will support a stable and profitable commercial fishery, as well as a rewarding recreational and subsistence fishery, and to provide a consistently available supply of high-quality fishery products.

In order to achieve this overall goal, the FMP identifies the key problems which threaten the fishery and establishes a series of management objectives to address these problems. A brief description of these objectives follows:

1. Protection against overfishing and maintenance of the long-term productivity of bottomfish stocks is clearly the primary objective.

2. The lack of sufficient data required for definitive and timely monitoring of the fishery moved the Council to set a second objective of improving the data base for future management decisionmaking.

3. Recognizing the transboundary nature of the resource and the importance of State and Territorial governments in managing the bottomfish fisheries, the Council also expressed a strong preference for a coordinated State/Federal approach to fishery management rather than unilateral Federal action.

4. Concern for the limited amount of bottomfish habitat available in the western Pacific led to an objective of protecting bottomfish stocks and habitat from environmentally destructive fishing activities.

5. Recognizing the diversity of bottomfish user groups and reflecting a desire for equitable distribution of benefits from the fishery, the FMP established an objective to maintain existing opportunities for rewarding fishing experiences by small-scale commercial, recreational, and subsistence fishermen, including native Pacific islanders.

6. In order to avoid disruption in the supply of fresh bottomfish to the market, the FMP intends to maintain consistent availability of high-quality products to consumers.

7. The FMP addresses the concern of possible over-capitalization in the NWHI bottomfish fishery with an objective to maintain a balance between harvest capacity and harvestible fishery stocks.

8. Finally, the Council recognized that increased bottomfishing activity in the NWHI carries with it a potential for adverse impacts on protected marine species and their habitat. The FMP, therefore, has an objective of avoiding the take of protected species and minimizing adverse modification to their habitat.

Seamount Groundfish

Available evidence indicates that the seamount groundfish stocks on the Hancock Seamounts are severely depressed. According, the goal of the FMP in managing the seamount groundfish fishery is to help replenish the armorhead and alfonsin stocks as a contribution to a profitable domestic commercial fishery that will furnish high-quality products. The intent of the FMP is to displace traditional foreign fishing on the seamounts by providing an opportunity for U.S. fishermen to enter the fishery. Achievement of such a goal, however, will require a concerted effort to rebuild the stocks and a commitment to pursue a cooperative

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international strategy for conserving seamount groundfish stocks within and outside the FCZ.

Management Strategy

The FMP proposes a package of management measures for bottomfish and seamount groundfish fisheries intended to address immediate management needs and to provide a framework process by which future regulations could be promptly enacted as problems in the fishery warrant. Specific regulatory actions proposed for immediate implementation consist of four basis items, and two additional concepts as follows:

Permit Requirement. The FMP will establish a Federal permit requirement for bottomfishing in the FCZ of the NWHI. The permit will allow more accurate monitoring of effort in the fishery, and will enable enforcement agencies to carry out more effective surveillance of the NWHI. In addition, a permit system will enable NMFS and the U.S. Fish and Wildlife Service to advise bottomfish fishermen directly of the sensitivity of the area's wildlife and the laws governing protection of threatened and endangered species.

Gear Restrictions. The FMP will prohibit the use of bottom trawls, bottom set nets, poisons, and explosives to harvest bottomfish in the FCZ. These restrictions are designed to prevent the non-selective harvest of species, protect fishery habitat, and reduce the possibility of incidental mortality to monk seals and sea turtles.

Experimental Fishing Permits. The FMP will authorize the NMFS to issue experimental fishing permits (EFPs) to allow fishing which might otherwise be prohibited by regulations implemented under the FMP. Such fishing would be permitted under a limited and controlled basis for purposes of improving the data base for fishery management.

Fishing moratorium on Hancock Seamounts. The FMP will establish a moratorium on fishing for seamount groundfish at the Hancock Seamounts for an initial period of 6 years. This will allow depleted stocks to recover and will provide fishery scientists with an opportunity to monitor stock recovery through several cycles of recruitment unmolested by commercial fishery activities.

Data collection. The FMP contains reporting requirements that will (1) require participants in the experimental fishery to provide a summary of trip catch and effort data by species to enable NMFS to monitor the impact of the fishery on the resource and (2) require permit holders in the NWHI fishery to report any incidental take or fishing interaction with protected species. Federal requirements for reporting other catch and effort data will be considered only in the event State and Territorial systems prove inadequate. The FMP encourages continued scientific research to generate the basic information on the fishery required for effective monitoring and management action.

Framework process. In addition to these immediate measures the FMP will establish an administrative framework process by which annual or inseason adjustments to regulatory measures can be made without recourse to the lengthy plan amendment process. Such an approach will allow timely management response to changes in the bottomfish fishery and better enable the Council to meet the objectives of the FMP. A framework process is desirable because of the limited information currently available about the management unit species and the uncertainty of future fishery activities under the FMP.

Continued monitoring of the fishery with special attention to heavily fished species will be carried out by a Council-appointed Bottomfish Monitoring Team. The Team will monitor the fishery according to set criteria which will provide an indication of potential problems and serve as a basis for further investigation. If investigations result in recommendations for adjustments in the regulatory program, the FMP establishes a process by which the (Council) and NMFS will be able to take prompt regulatory action. Among the adjustments that could occur are catch limits, size limits, area/season closures, effort limitations, access limitations, permit requirements or data reporting requirements. At a minimum, the Team will be required to prepare an annual report on the status of the fishery with recommendations for possible action by the Council.

The FMP also establishes a process by which State and Territorial management measures established for the territorial sea may be adopted as Federal regulation in the FCZ. This is intended to ensure consistency in managing bottomfish fisheries throughout their range.

The flexibility inherent in the framework process is considered essential to managing a fishery as dynamic and complex as the bottomfish fishery. In the event of an emergency which does not allow for timely management response under the framework procedure, the Council would still have the option of recommending that the Secretary of Commerce take emergency action to manage the fishery while framework measures were being adopted and implemented.

Optimum Yield

The Council has determined that management of the bottomfish fishery according to the measures outlined in the FMP will achieve optimum yield (OY) from the fishery. Notwithstanding the non-numeric definition of OY, the Council has estimated a quantitative optimum yield of bottomfish which is expected to be taken under the FMP based on current stock and economic conditions. Estimated harvests by island area are as follows:

Area	Pounds/year
American Samoa	50,000–70,000
Guam	30,000–70,000
Main Hawaiian Islands	300,000–600,000
Northwestern Hawaiian Islands	300,000–575,000

The OY for seamount groundfish in the FCZ of the Hancock Seamounts initially is set at zero (0) metric tons (mt) per year through 1990. With a moratorium on fishing for seamount groundfish necessary to rebuild the stocks, the Council will consider annually the results of research and experimental fisheries to determine whether the OY should be revised and whether the moratorium on fishing should be continued or abandoned.

The domestic annual harvest (DAH) of bottomfish is estimated to be equivalent to OY, since domestic vessels currently engaged in the fishery have the capacity will take the entire maximum sustainable yield. The total allowable level of foreign fishing (TALFF) is therefore zero. Similarly, a moratorium on the seamount groundfish fishery on the Hancock Seamounts premised on an OY of zero leaves a TALFF of zero.

Classification

Section 304(a)(1)(c)(ii) of the Magnuson Act, as amended, requires the Secretary to publish regulations proposed by a Council within 30 days of receipt of the FMP and regulations. At this time the Secretary has not determined that the FMP is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

The Council prepared an EA for this FMP and concluded that there will be no significant impact on the environment as a result of this rule. A copy of the EA is available from the Council at the address above.

The Administrator, NOAA, determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291. Initially, there will be no major impact from the proposed rule on commercial fishery activities currently underway. The present action will not have a cumulative effect on the economy of $100 million or more nor will it result in a major increase in costs to consumers, industries, government agencies, or geographical regions. However, since the FMP will establish a framework process for promulgating future regulations, the need for a regulatory impact analysis will be assessed each time a new regulation is recommended for implementation. A copy of any such analysis will be available from the Council at the address above.

The Office of General Counsel, Department of Commerce, has determined that the proposed rule, if adopted, will not have a significant impact on a substantial number of small businesses. Specific regulations implemented under the framework procedure established by the FMP, however, could have a significant impact. Accordingly, the analytical requirements of the Regulatory Flexibility Act will be met before each regulation is implemented by NMFS under the framework procedure.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act (PRA). Responses to requests for information will be necessary in applying for fishing permits and EFPs as required by the FMP. A request to collect this information has been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the PRA. Comments should be directed to the desk officer for NOAA, Office of Information and Regulatory Affairs, OMB, Washington, DC 20503. Reporting requirements regarding incidental take and interaction with protected species are approved under OMB control number 0048–0089.

The Council has determined, and the appropriate government offices have found, that the measures and framework process established in the FMP are consistent to the maximum extent practicable with the approved coastal zone management programs of Hawaii and the territories of American Samoa and Guam.

The Council requested a consultation and biologics' opinion on the FMP under section 7 of the Endangered Species Act (ESA). NMFS issued a biological opinion on February 10, 1986, which concluded that the FMP is not likely to jeopardize any threatened or endangered species within the FMP's geographic scope. The biological opinion makes two conservation recommendations: first, that bottomfish fishermen report to NMFS any incidental take or fishery interaction with protected species; and second, that the Council and NMFS develop an information and education program to ensure that bottomfish fishermen in the NWHI are aware of the latest regulations and information necessary to protect endangered and threatened species.

List of Subjects in 50 CFR Part 683

Fish, fisheries, Reporting requirements.

Dated: May 7, 1986.

William G. Gordon,

Assistant Administration for Fisheries, National Marine Fisheries Service.

50 CFR is proposed to be amended by adding a new Part 683 to read as follows.

PART 683—WESTERN PACIFIC BOTTOMFISH AND SEAMOUNT GROUNDFISH FISHERIES

Subpart A—General Provisions

Sec.
683.1 Purpose and scope.
683.2 Definitions.
683.3 Relation to State laws.
683.4 Reporting.
683.5 Management subareas.
683.6 General prohibitions.
683.7 Enforcement.
683.8 Penalties.
683.9 Experimental Fishing Permit (EFP).

Subpart B—Management Measures

683.21 Permit requirement for the Northwestern Hawaiian Islands (NWHI).
683.32 Gear restrictions.
683.23 Fishing moratorium on Hancock Seamounts.
683.24 Framework for regulatory adjustments.
683.25 Scientific research.

Authority: 16 U.S.C. 1801 *et seq.*

Subpart A—General Provisions

§ 683.1 Purpose and scope.

(a) These regulations implement the Fishery Management Plan for the Bottomfish and Seamount Groundfish Fisheries of the Western Pacific Region (FMK) prepared by the Western Pacific Regional Fishery Management Council under the Magnuson Fishery Conservation and Management Act (Magnuson Act).

(b) Regulations governing fishing for bottomfish and seamount groundfish by fishing vessels other than vessels of the United States are published at 50 CFR Part 611.

§ 683.2 Definitions.

In addition to the definitions in the Magnuson Act, the terms used in this part have the following meanings (some definitions in the Magnuson Act have been repeated here to aid understanding of the regulations):

Administrator means the Administrator of the National Oceanic and Atmospheric Administration (NOAA), or a designee.

Authorized officer means:

(a) Any commissioned, warrant, or petty officer of the U.S. Coast Guard;

(b) Any special agent of the National Marine Fisheries Service;

(c) Any officer designated by the head of any Federal or State agency which has entered into an agreement with the Secretary and the Commandant of the U.S. Coast Guard to enforce the provisions of the Magnuson Act; or

(d) Any U.S. Coast Guard personnel, accompanying and acting under the direction of any person described in paragraph (a) of this definition.

Bottomfish means the following species managed under the FMP:

Common name	Local name	Scientific name
SNAPPERS:		
Silver jaw jobfish	Lehi (H)	*Aphareus rutilans.*
	Palu-gutu-silva (S)	
Gray jobfish	Uku (H)	*Aprion virescens.*
	ASoama (S)	
Squirrelfish snapper	Ehu (H)	*Etelis carbunculus.*
	Palu-malau (S)	
Longtail snapper	Onaga, ula'ula (H)	*Etelis coruscans.*
	Palu-ioa (S)	
Blue stripe snapper	Ta'ape (H)	*Lutjanus kasmira.*
	Savane (S)	
	Funai (G)	
Yellowtail snapper	Palu-f uasina (S)	*Pristipomoides auricilla.*
	Yellowtail lolekale (G)	
Pink snapper	Opakapaka (H)	*Pristipomoides filamentosus.*
	Palu-'ena'ena (S)	
	Gadao (G)	
Yelloweye snapper	Palusina (S)	*Pristipomoides flavipinnis.*
	Yelloweye opakapaka (G)	
Snapper	Kalekale (H)	*Pristipomoides sieboldii.*
Snapper	Gindai (H,G)	*Pristipomoides zonatus.*
	Palu-sega (S)	

Common name	Local name	Scientific name
JACKS:		
Giant trevally	White ulua (H) Tarakito (G) Sapo-anao (S)	*Caranx ignobilis.*
Black jack	Black ulua (H) Tarakito (G)	*Caranx lugubris.*
Thick lipped trevally	Talitali (S) Pig ulua (H)	*Pseudocaranx dentex.*
Amberjack	Butaguchi (H) Kahala (H)	*Seriola dumerili.*
GROUPERS:		
Blacktip grouper	Fasai (S)	*Epinephelus fasciatus.*
Sea bass	Gadao (G) Hapu' upu'u (H)	*Epinephelus quernus.*
Lunartail grouper	Fapa (S)	*Variola louti.*
EMPEROR FISHES:		
Ambon emperor	Filo-gafanunu (S)	*Lethrinus amboinensis.*
Redgill emperor	Filo-pa'o'omumu (S)	*Lethrinus rubrioperculatus.*
	Mafuti (G)	

NOTES.—G—Guam, H—Hawaii, S—American Samoa.

Fishery conservation zone (FCZ) means that area adjacent to the United States which, except where modified to accommodate international boundaries, encompasses all waters from the seaward boundary of each of the coastal states to a line each point of which is 200 nautical miles from the baseline from which the territorial sea of the United States is measured.

Fishery management area means the FCZ off the coasts of Hawaii, American Samoa, and Guam.

Fishing means:

(a) The catching, taking, or harvesting of fish;

(b) The attempted catching, taking, or harvesting of fish;

(c) Any other activity which can reasonably be expected to result in the catching, taking, or harvesting of fish; or

(d) Any operations at sea in support of, or in preparation for, any activity described above.

This term does not include any scientific research activity which is conducted by a scientific research vessel.

Fishing gear:

(a) *Bottom trawl* means a trawl in which the otter boards or the footrope of the net are in contact with the sea bed.

(b) *Gill net* means a rectangular net with one or more layers of mesh which is set upright in the water.

(c) *Hook-and-line* means one or more hooks attached to one or more lines.

(d) *Set net* means a stationary, buoyed, and anchored gill net.

(e) *Trawl net* means a cone of funnel-shaped net which is towed through the water by one or more vessels.

Fishing trip means a period of time during which fishing is conducted, beginning when the vessel leaves port and ending when the vessel land fish.

Fishing vessel means any vessel, boat, ship, or other craft which is used for, equipped to be used for, or of a type which is normally used for (a) fishing; or (b) aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing.

Fishing year means the year beginning at 0001 local time on January 1 and ending at 2400 local time on December 31.

Incidental catch or *incidental species* means species caught while fishing for the primary purpose of catching a different species.

Land or *landing* means to begin offloading any fish, to arrive in port with the intention of offloading any fish, or to cause any fish to be offloaded.

Magnuson Act means the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*, as amended.

Maximum sustainable yield (MSY) means an average over a reasonable length of time of the largest catch which can be taken continuously from a stock.

Official number means the documentation number issued by the U.S. Coast Guard or the certificate number issued by a State or by the U.S. Coast Guard for undocumented vessels.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

Owner, with respect to any vessel, means:

(a) Any person who owns that vessel in whole or in part;

(b) Any charterer of the vessel, whether bareboat, time, or voyage;

(c) Any person who acts in the capacity of a charterer including but not limited to parties to a management agreement, operating agreement, or any similar agreement that bestows control over the destination, function, or operation of the vessel; or

(d) Any agent designated as such by a person described in paragraph (a), (b), or (c) of this definition.

Person means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local or foreign government or any entity of any such government.

Regional Director means the Director, Southwest Region National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731, or a designee.

Seamount groundfish means the following species managed by the FMP:

Common name	Scientific name
Armorhead	*Pentaceros richardsoni.*
Alfonsino	*Beryx splendens.*
Ratfishes	*Hyperoglyphe japonica.*

Secretary means the Secretary of Commerce, or a designee.

State means the State of Hawaii, the Territory of American Samoa, and the Territory of Guam.

U.S.-harvested fish means fish caught, taken, or harvested by vessels of the United States within any fishery regulated under the Magnuson Act.

Vessel of the United States means (a) a vessel documented or numbered by the U.S. Coast Guard under U.S. law; or (b) a vessel, under five net tons, which is registered under the laws of any State.

§ 683.3 Relation to State laws.

This part recognizes that any State law which pertains to vessels registered under the laws of that State while in the fishery management area, and which is consistent with the FMP including any State landing law, continues in effect with respect to fishing activities regulated under this part.

§ 683.4 Reporting.

This part recognizes that catch and effort data necessary for implementing the FMP are collected by the State of Hawaii, American Samoa, and Guam under existing State data collection programs. No additional Federal reports are required to fishermen or processors as long as the data collection and reporting systems operated by the State agencies continue to provide the Secretary with statistical information adequate for management.

§ 683.5 Management subareas.

(a) The fishery management area is divided into five subareas for the regulation of bottomfish and seamount groundfish fishing with the following designations and boundaries:

(1) *Main Hawaiian Islands* means the FCZ of the Hawaiian Islands Archipelago lying to the east of 161°20' W. longitude.

(2) *Northwestern Hawaiian Islands* means the FCZ of the Hawaiian Islands Archipelago lying to the west of 161°20' W. longitude.

(3) *Hancock Seamounts* means that portion of the FCZ in the Northwestern Hawaiian Islands west of 180°00' W. longitude and north of 28°00' N. latitude.

(4) *Guam* means the FCZ of the Territory of Guam.

(5) *American Samoa* means the FCZ of the Territory of American Samoa.

(b) The inner boundary of the fishery management area is a line coterminous with the seaward boundaries of the State of Hawaii, the Territory of American Samoa, and the Territory of Guam (the "3 mile-limit"). Midway Island is a possession of the United States. However, for the purpose of regulations issued under this part and the regulations which apply to the Northwestern Hawaiian Islands, Midway Island will be treated as if it is a part of the State of Hawaii.

(c) The outer boundary of the fishery management area is a line drawn in such a manner that each point on it is 200 nautical miles from the baseline from which the territorial sea is measured, or is coterminous with adjacent international maritime boundaries. The outer boundary of the fishery management area north of Guam will extend to those points which are equidistant between Guam and the island of Rota in the Commonwealth of the Northern Mariana Islands.

§ 683.6 General Prohibitions.

It is unlawful for any person to do the following:

(a) Possess, have custody or control of, ship or transport, offer for sale, sell, purchase, import or export any bottomfish or seamount groundfish taken, retained, or landed in violation of the Magnuson Act, this part, or any other regulation promulgated under the Magnuson Act;

(b) Refuse to allow an authorized officer to board a fishing vessel subject to such person's control for purposes of conducting any search or inspection in connection with the enforcement of the Magnuson Act, this part, or any other regulation promulgated under the Magnuson Act;

(c) Forcibly assault, resist , oppose, impede, intimidate, or interfere with any authorized officer in the conduct of any inspection or search described in paragraph (d) of this section;

(d) Resist a lawful arrest for any act prohibited by this part;

(e) Interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, with the knowledge that such other person has committed any act prohibited by this part;

(f) Interfere with, obstruct, delay, or prevent by any means a lawful investigation or search conducted in the process of forcing the Magnuson Act;

(g) Transfer, or attempt to transfer, directly or indirectly, any U.S.-harvested bottomfish or seamount groundfish to any foreign fishing vessel within the FCZ, unless the foreign vessel has been issued a permit which authorizes the receipt of U.S.-harvested fish of the species being transferred;

(h) Fail to comply immediately with enforcement and boarding procedures specific in § 683.7;

(i) Fish for bottomfish or seamount groundfish in violation of any terms of conditions attached to an experimental fishing permit (EFP) issued under § 683.9;

(j) Fish for bottomfish or seamount groundfish using gear prohibited under § 683.22.

(k) Violate any other provision of this part, the Magnuson Act, any notice issued under subpart B of this part, or any other regulation or permit promulgated under the Magnuson Act.

§ 683.7 Enforcement.

(a) *General.* The operator of, or any other person aboard, any fishing vessel subject to this part must immediately comply with instructions and signals issued by an authorized officer to stop the vessel and with instructions to facilitate safe boarding and inspection of the vessel, its gear, equipment, fishing record (where applicable), and catch for purposes of enforcing the Magnuson Act and this part.

(b) *Communications.*

(1) Upon being approached by a U.S. Coast Guard vessel or aircraft, or other vessel or aircraft with an authorized officer aboard, the operator of a fishing vessel must be alert for communications conveying enforcement instructions.

(2) If the size of the vessel and the wind, sea, and visibility conditions allow, loudhailer is the preferred method for communicating between vessels. If use of a loudhailer is not practicable, and for communications with an aircraft, VHF-FM or high frequency radio-telephone will be employed. Hand signals, placards, or voice may be employed by an authorized officer and message blocks may be dropped from an aircraft.

(3) If other communications are not practicable, visual signals may be transmitted by flashing light directed at the vessel signaled. Coast Guard units will normally use the flashing light signal "L" as the signal to stop.

(4) Failure of a vessel's operator to stop his vessel when directed to do so by an authorized officer using loudhailer, radiotelephone, flashing light signal, or other means constitutes *prima facie* evidence of the offense of refusal to permit an authorized officer to board.

(5) The operator of a vessel who does not understand a signal from an enforcement unit and who is unable to obtain clarification by loudhailer or radiotelephone must consider the signal to be a command to stop the vessel instantly.

(c) *Boarding.* The operator of a vessel directed to stop must—

(1) Guard Channel 16, VHF-FM, if so equipped;

(2) Stop immediately and lay to or maneuver in such a way as to allow the authorized officer and his party to come aboard;

(3) Except for those vessels with a freeboard of four feet or less, provide a safe ladder, if needed, for the authorized officer and his party to come aboard;

(4) When necessary to facilitate the boarding or when requested by an authorized officer, provide a manrope or safety line, and illumination for the ladder; and

(5) Take such other actions as necessary to facilitate boarding and to ensure the safety of the authorized officer and the boarding party.

(d) *Signals.* The following signals, extracted from the International Code of Signals, may be sent by flashing light by an enforcement unit when conditions do not allow communications by loudhailer or radiotelephone. Knowledge of these signals by vessel operators is not required. However, knowledge of these signals and appropriate action by a vessel operator may preclude the necessity of sending the signal "L" and the necessity for the vessel to stop instantly.

(1) "AA" repeated (.-.-)[1] is the call to an unknown station. The operator of the signaled vessel should respond by identifying the vessel by radiotelephone or by illuminating the vessel's identification.

(2) "RY-CY" (-.- .-— -.- -.—) means "you should proceed at slow speed, a boat is coming to you." This signal is normally employed when conditions allow an enforcement boarding without the necessity of the vessel being boarded coming to a complete stop, or, in some cases, without retrieval of fishing gear which may be in water.

[1] Period (.) means a short flash of light. Dash (-) means a long flash of light.

(3) "SQ3" (..-.-.—) means "you should stop or heave to; I am going to board you."

(4) "L" (.-..) means "you should stop your vessel instantly."

§ 683.8 Penalties.

Any person or fishing vessel found to be in violation of this part will be subject to the civil and criminal penalty provisions and forfeiture provisions prescribed in the Magnuson Act, 15 CFR Part 904 (Civil Procedures), and other applicable law.

§ 683.9 Experimental Fishing Permit (EFP).

(a) *General.* The Secretary may authorize, for limited experimental purposes, the direct or incidental harvest of bottomfish or seamount groundfish managed by the FMP which would otherwise be prohibited by this part. No experimental fishing may be conducted unless authorized by an EFP issued by the Secretary in accordance with the criteria and procedures specified in this section. EFPs will be issued without charge.

(b) *Application.* An applicant for an EFP must submit to the Regional Director at least 60 days before the desired effective date of the EFP a written application including, but not limited to, the following information:

(1) The date of the application;

(2) The applicant's name, mailing address, and telephone number;

(3) A statement of the purposes and goals of the experiment for which an EFP is needed, including a general description of the arrangements for disposition of all species harvested under the EFP;

(4) A statement of whether the proposed experimental fishing has broader significance than the applicant's individual goals;

(5) For each vessel to be covered by the EFP—

(i) Vessel name;

(ii) Name, address, and telephone number of owner and master;

(iii) U.S. Coast Guard documentation, State license, or registration number;

(iv) Home port;

(v) Length of vessel;

(vi) Net tonnage; and

(vii) Gross tonnage.

(6) A description of the species (directed and incidental) to be harvested under the EFP and the amount(s) of such harvest necessary to conduct the experiment;

(7) For each vessel covered by the EFP, the approximate time(s) and place(s) fishing will take place, and the type, size, and amount of gear to be used; and

(8) The signature of the applicant.

(c) The Secretary may request from an applicant additional information necessary to make the determinations required under this section. An applicant will be notified of an incomplete application within 10 working days of receipt of the application. An incomplete application will not be considered until completed by the applicant.

(d) *Issuance.* (1) If an application contains all of the required information, the Secretary will publish a notice of receipt of the application in the **Federal Register** with a brief description of the proposal, and will give interested persons an opportunity to comment. The Secretary will also forward copies of the application to the Western Pacific Fishery Management Council, the U.S. Coast Guard, and the fishery management agency of the affected State, accompanied by the following information:

(i) The current utilization of domestic annual harvesting and processing capacity (including existing experimental harvesting, if any) of the directed and incidental species for which an EFP is being requested;

(ii) A citation of the regulation or regulations which, without the EFP, would prohibit the proposed activity; and

(iii) Biological information relevant to the proposal.

(2) At a Western Pacific Fishery Management Council meeting following receipt of a complete application, the Secretary will consult with the Council and the Director of the affected State fishery management agency concerning the permit application. The applicant will be notified in advance of the meeting at which the application will be considered and invited to appear in support of the application if the applicant desires.

(3) Within 5 working days after the consultation in paragraph (c)(2) of this section, or as soon as practicable thereafter, the Secretary will notify the applicant in writing of the decision to grant or deny the EFP, and, if denied, the reasons for the denial. Grounds for denial of an EFP include, but are not limited to, the following:

(i) The applicant has failed to disclose material information required, or has made false statements as to any material fact, in connection with his or her application; or

(ii) According to the best scientific information available, the harvest to be conducted under the permit would detrimentally affect any species of fish in a significant way; or

(iii) Issuance of the EFP would inequitably allocate fishing privileges among domestic fishermen or would have economic allocation as its sole purpose; or

(iv) Activities to be conducted under the EFP would be inconsistent with the intent of this section or the management objectives of the FMP; or

(v) The applicant has failed to demonstrate a valid justification for the permit; or

(vi) The activity proposed under the EFP would create a significant enforcement problem.

(4) The decision of the Secretary to grant or deny an EFP is final and unappealable. If the permit is granted, the Secretary will publish a notice in the **Federal Register** describing the experimental fishing to be conducted under the EFP. The Secretary may attach terms and conditions to the EFP consistent with the purpose of the experiment including, but not limited to, the following:

(i) The maximum amount of each species which can be harvested and landed during the term of the EFP, including trip limits, where appropriate;

(ii) The number, sizes, names, and identification numbers of the vessels authorized to conduct fishing activities under the EFP;

(iii) The times and places where experimental fishing may be conducted;

(iv) The type, size, and amount of gear which may be used by each vessel operated under the EFP;

(v) The condition that observers be carried aboard vessels operated under an EFP;

(vi) Data reporting requirements; and

(vii) Such other conditions as may be necessary to assure compliance with the purposes of the EFP consistent with the objectives of the FMP.

(e) *Duration.* Unless otherwise specifed in the EFP or a superseding notice or regulation, an EFP is effective for no longer than one year unless revoked, suspended, or modified. EFP's may be renewed following the application procedures in this section.

(f) *Alteration.* Any permit that has been altered, erased, or mutilated is invalid.

(g) *Transfer.* EFPs issued under this part are not transferable or assignable. EFPs are valid only for the vessels for which they are issued.

(h) *Inspection.* EFPs issued under this part must be carried aboard the vessels for which they are issued. EFPs must be presented for inspection upon request of any authorized officer.

(i) *Sanctions.* Failure of the holder of an EFP to comply with the terms and conditions of an EFP, a notice issued under Subpart B of this part, any other applicable provision of this part, the Magnuson Act, or any other regulation promulgated thereunder, will be grounds for revocation, suspension, or modification of the EFP with respect to all persons and vessels conducting activities under the EFP. Any action taken to revoke, suspend, or modify an EFP will be governed by 15 CFR Part 904, Subpart D.

Subpart B—Management Measures

§ 683.21 Permit requirement for the Northwestern Hawaiian Islands (NWHI).

(a) *General.* Any vessel of the United States engaged in fishing for bottomfish or seamount groundfish in the NWHI must have a permit issued under this section.

(b) *Applications.* (1) An application for a permit under this section must be submitted to the Regional Director by the vessel owner or operator at least 15 days before the date on which the applicant desires to have the permit made effective.

(2) Each application must be submitted on an appropriate form which may be obtained from the Regional Director. Each application must be signed by the vessel owner or operator and contain the following information:

(i) The applicant's name;

(ii) The owner's name, mailing address, and telephone number;

(iii) The operator's name, mailing address, and telephone number;

(iv) The name of the vessel;

(v) The vessel's official number;

(vi) The radio call sign of the vessel;

(vii) The home port of the vessel;

(viii) Gross registered tons of the vessel;

(ix) Registered length of the vessel;

(x) Beam of the vessel;

(xi) Fuel capacity of the vessel;

(xii) Average cruising speed of the vessel;

(xiii) Maximum range of the vessel;

(xiv) Horsepower of the vessel;

(xv) Purchase price of the vessel;

(xvi) Purchase date of the vessel;

(xvii) Age of the vessel;

(xviii) The vessel's fish hold capacity;

(xix) Type of refrigeration capacity;

(xx) Type and number of fishing gear;

(xxi) Whether the application is for a new permit or a renewal;

(xxii) Number and expiration date of any prior permit for the vessel issued under this part.

(c) *Fees.* No fee is required for a permit issued under this section.

(d) *Change is application information.* Any change in the information specified in paragraph (b) of this section must be reported to the Regional Director ten days before the effective date of the change

(e) *Issuance.* (1) Within 15 days after receipt of a properly completed application, the Regional Director will determine whether to issue a permit.

(2) If an incomplete or improperly completed permit application is filed, the Regional Director will notify the applicant in writing of the deficiency in the application. If the applicant fails to correct the deficiency within 30 days following the date of notification, the application will be considered abandoned.

(3) Permits issued under this section will be accompanied by an informational package advising the permit holder of the applicable laws and regulations regarding threatened and endangered species in the NWHI. Permit holders are required to report any incidental take or fisheries interaction with protected species on a form provided for that purpose.

(f) *Expiration.* Permits issued under this section expire on June 30 following issuance of the permit.

(g) *Renewal.* An application for renewal of a permit must be submitted to the Regional Director in the same manner as described in paragraph (b) of this section.

(h) *Alteration.* Any permit that has been substantially altered, erased, or mutilated is invalid.

(i) *Replacement.* Permits may be issued to replace lost or mutilated permits. An application for a replacement permit is not considered a new application.

(j) *Transfer.* Permits issued under this section are not transferable or assignable to other persons. A permit is valid only for the vessel for which it is issued.

(k) *Display.* Any permit issued under this section must be on board the vessel at all times while the vessel is still fishing for bottomfish or seamount groundfish in the NWHI. Any permit issued under this section must be displayed for inspection upon request of any Authorized Officer.

(l) *Sanctions.* Procedures governing permit sanctions and denials are found at 15 CFR Part 904, Subpart D.

§ 683.22 Gear restrictions.

(a) *Bottom trawls and bottom set gill nets.* Fishing for bottomfish and seamount groundfish with bottom trawls and bottom set gill nets is prohibited.

(b) *Possession of gear.* Possession of a bottom trawl and bottom set gill net by any vessel fishing for bottomfish and seamount groundfish in the management area is prohibited.

(c) *Poisons and explosives.* The possession or use of any poisons, explosives, or intoxicating substances for the purpose of harvesting bottomfish and seamount groundfish is prohibited.

§ 683.23 Fishing moratorium on Hancock Seamounts.

Fishing for bottomfish and seamount groundfish on the Hancock Seamounts is prohibited until six years after the effective date of these regulations.

§ 683.24 Framework for regulatory adjustments.

(a) *Annual reports.* By March 31 of each year a bottomfish monitoring team appointed by the Council will prepare an annual report on the fishery by area covering the following topics:

(1) Fishery performance data;

(2) Summary of recent research and survey results;

(3) Habitat conditions and recent alterations;

(4) Enforcement activities and problems;

(5) Administrative action (e.g., data collection and reporting, permits);

(6) State and Territorial management actions;

(7) Assessment of need for Council action (including biological, economic, social, enforcement, administrative, and State/Federal needs,problems, and trends). Indications of potential problems warranting further investigation may be signaled by the following indicator criteria:

(i) Mean size of the catch of any species in any area is a pre-reproductive size;

(ii) Ratio of fishing mortality to natural mortality for any species;

(iii) Harvest capacity of the existing fleet and/or annual landings exceed best estimate of MSY in any area;

(iv) Significant decline (50 percent or more) in bottomfish catch per unit of effort from baseline levels;

(v) Substantial decline in ex-vessel revenue relative to baseline levels;

(vi) Significant shift in the relative proportions of gear in any one area;

(vii) Significant change in the frozen/fresh components of the bottomfish catch;

(viii) Entry/exit of fishermen in any area;

(ix) Per-trip costs for bottomfishing exceed per-trip revenues for a significant percentage of trips;

(x) Significant decline or increase in total bottomfish landings in any area;

(xi) Change in species composition of the bottomfish catch in any area;

(xii) Research results;

(xiii) Habitat degradation or environmental problems;

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(xiv) Reported interactions between bottomfishing operations and protected species in the NWHI.

(8) Recommendations for Council action; and

(9) Estimated impacts of recommended action.

(b) *Recommendation of management action.* (1) The team may present management recommendations to the Council at any time. Recommendations may cover actions suggested for Federal regulations, State/territorial action, enforcement or administrative elements, and research and data collection. Recommendations will include an assessment of urgency and the effects of not taking action.

(2) The Council will evaluate the team's reports and recommendations, and the indicators of concern. The Council will assess the need for one or more of the following types of management action:

(i) Catch limits;

(ii) Size limits;

(iii) Closures;

(iv) Effort limitations;

(v) Access limitations (for NWHI only); or

(vi) Other measures.

(3) The Council may recommend management action by either the State-territorial governments or by Federal regulation.

(c) *Federal management action.* (1) If the Council believes that management action should be considered, it will make specific recommendations to the Regional Director after taking the following steps:

(i) Request and consider the views of its Scientific and Statistical Committee and bottomfish advisory panel; and

(ii) Obtain public comments at a public hearing.

(2) The Regional Director will consider the Council's recommendation and accompanying data, and if he concurs with the Council's recommendation will propose regulations to carry out the action. If the Regional Director rejects the Council's proposed action, a written explanation for the denial will be provided to the Council within two weeks of the decision.

(3) The Council may appeal denial by writing to the Assistant Administrator for Fisheries, who must respond in writing within 30 days.

(4) The Regional Director and the Assistant Administrator for Fisheries will make their decisions in accord with the Magnuson Act, other applicable law, and the FMP.

(5) To minimize conflicts between the Federal and State management systems, the Council will use the procedures in this subsection to respond to State/territorial management actions. Council consideration of action would normally begin with a representative of the State or territorial government bringing a potential or actual management conflict or need to the Council's attention.

(d) *Access limitation procedures (limited to NWHI only).* (1) If access limitation is proposed for adoption or subsequent modification through the process described in this subsection, the following requirements must be met:

(i) The bottomfish monitoring team must consider and report to the Council on present participation in the fishery; historical fishing practices in, and dependence on, the fishery; economics of the fishery; capability of fishing vessels used the fishery to engage in other fisheries; cultural and social framework relevant to the fishery; and any other relevant considerations;

(ii) Public hearings held specifically addressing the limited access proposals;

(iii) Creation in the access limitation system of a specific advisory subpanel of persons experienced in the Hawaii fishing industry to advise the Council and the Regional Director on administrative decisions; and

(iv) Council's recommendation to the Regional Director must be approved by a two-thirds majority of the voting members.

(2) If prior participation in the fishery is used as a factor in any access limitation system recommended by the Council, August 7, 1985, is the date selected by the Council as the date to be used.

§ 683.25 Scientific research.

Nothing in this part is intended to inhibit or prevent any scientific research which is conducted in the fishery management area by a scientific research vessel. The Secretary will acknowledge notification of scientific research involving bottomfish and seamount groundfish and conducted by a scientific research vessel by issuing to the operator or master of that vessel a letter of acknowledgement, containing information on the purpose and scope (locations and schedules) of the activities. The Secretary will transmit copies of such letters to the Council and to State and Federal administrative and enforcement agencies to ensure that all concerned parties are aware of the research activities.

[FR Doc. 86-10586 Filed 5-7-86; 2:11 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 51, No. 91
Monday, May 12, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Whiskey Timber Sale; Stikine Area, Tongass National Forest, Petersburg, AK; Intent To Prepare and Environmental Impact Statement

The Department of Agriculture, Forest Service, Will prepare an Environmental Impact Statement for the proposed Whiskey Timber Sale on Woewodski Island on the Petersburg Ranger District.

A range of alternatives, including a "No Action" alternative, for this sale have been considered through an environmental analysis and documented in an Environmental Assessment. The action alternatives considered harvest levels ranging from 23 to 29 MMBF of timber with associated road construction. Alternative locations for a Terminal Transportation Facility (TTF) were considered. This facility will allow equipment to be landed on the island and logs to be transferred from land to saltwater and subsequently towed to a mill.

Extensive scoping and public review has occured over the the past 14 months during IDT analysis of sale alternatives and preparation of an Environmental Assessment.

Federal, State, and local agencies; potential purchasers; and other individuals or organizations who have been, or who may be, interested in, or affected by, the decision will be invited to participate further in the scoping process.

The original analysis indicates that the proposed project will not have a significant effect on the human environment. The decision to prepare and Environmental Impact Statement for the Whiskey Timber Sale is made after considering public comments received through the scoping process.

Additional analysis of the timber sale is expected to take about 3 months. The Draft Environmental Impact Statement should be available for public review by June, 1986. The Final Environmental Impact Statement is scheduled to be completed by September, 1987.

Robert E. Lynn, Forest Supervisor, Stikine Area, Tongass National Forest, Petersburg, Alaska, is the responsible official.

Written comments and suggestions concerning the analysis should be sent to Joseph A. Chiarella, Petersburg District Ranger, Stikine Area, Tongass National Forest, P.O. Box 1328, Petersburg, Alaska 99833, by September 30, 1986.

Questions about the proposed action and Environmental Impact Statement should be directed to Eugene Skrine, Timber Management Assistant, Petersburg Ranger District, Stikine Area, Tongass National Forest, phone 907-772-3871.

Dated: April 30, 1986.

Robert B. Lynn,
Forest Supervisor.

[FR Doc. 86-10532 Filed 5-9-86; 8:45 am]

BILLING CODE 3240-19-M

Soil Conservation Service

Loxahatchee Watershed, FL; Intent to Deauthorize Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Intent to Deauthorize Federal Funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83-566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the intent to deauthorize Federal funding for the Loxahatchee Watershed project, Palm Beach County, Florida.

FOR FURTHER INFORMATION CONTACT: James W. Mitchell, State Conservationist, Soil Conservation Service, 401 SE First Avenue, Room 248, Gainesville, Florida 32601, telephone (904) 377-0946.

SUPPLEMENTARY INFORMATION: A determination has been made by James W. Mitchell that the proposed works of improvement for the Loxahatchee project will not be installed. The sponsoring local organizations have concurred in this determination and agree that Federal funding should be deauthorized for the project. Information regarding this determination may be obtained from James W. Mitchell, State Conservationist, at the above address and telephone number.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register**.

James W. Mitchell,
State Conservationist.

April 23, 1986.

[FR Doc. 86-10531 Filed 5-9-86; 8:45 am]

BILLING CODE 3410-16-M

Animal and Plant Health Inspection Service

[Docket No. 86-320]

Rangeland Grasshopper Cooperat've Management Program Final Environmental Impace Statement, as Supplemented—1986, Decision

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This gives notice that, based on the environmental analysis documented in the Final Environmental Impact Statement (FEIS), as Supplemented—1986, the Animal and Plant Health Inspection Service (APHIS) has decided to implement the Integrated Pest Management (IPM) alternative as identified in the FEIS, as Supplemented—1986. The IPM alternative provides for the control of grasshoppers and Mormon crickets and is environmentally preferable to the other alternatives identified in the FEIS as Supplemented.

FOR FURTHER INFORMATION CONTACT: Charles H. Bare, Staff Officer, Field Operations Support Staff, Plant Protection and Quarantine, APHIS, USDA, Room 663, Federal Building, 6505 Belcrest Road, Hyattsville, Md 20782, (301) 436-8295.

SUPPLEMENTARY INFORMATION: A notice was published in the **Federal Register** on January 9, 1986, (51 FR 1000-1001) announcing the availability of and requesting comments on a draft supplement to the Final Environmental Impact Statement (FEIS) on the Rangeland Grasshopper Cooperative Management Program. The official

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comment period ended March 3, 1986. However, all comments on the draft supplement received through March 18, 1986, were responded to in the final supplement. The final supplement discusses the environmental impacts of several management alternatives and the rationale for the preferred alternative, Integrated Pest Management (IPM), which includes the use of *Nosema locustae*. A notice was published in the **Federal Register** on April 4, 1986, (51 FR 11603) announcing the availability of the final supplement to the FEIS. The FEIS, as Supplemented, was filed with the U.S. Environmental Protection Agency and made available to the public on April 11, 1986.

In implementing the IPM alternative for the grasshopper and Mormon cricket control program, APHIS will incorporate mitigation measures to minimize environmental impacts of the techniques utilized. The biological and chemical insecticides approved for use in the grasshopper and Mormon cricket control program are registered for that purpose pursuant to the Federal Insecticide Fungicide and Rodenticide Act, and will be applied according to label directions. Public involvement, public notification, and utilization of mitigating measures for insecticide treatments will be included in the program. They will be identified and addressed in site-specific environmental analyses.

APHIS will carry out the IPM alternative through technical and financial assistance to cooperating State and Federal agencies. Decisions on granting such assistance will be based on site-specific environmental analyses conducted in accordance with regulations implementing the National Environmental Policy Act (NEPA), APHIS guidelines implementing NEPA, the Endangered Species Act of 1973, and other applicable laws.

The Organic Act of September 21, 1944 (7 U.S.C. 147a), the Act of April 6, 1937, as amended (7 U.S.C. 148–148e), 7 U.S.C. 450, and the Food Security Act of 1985, Section 1773 (7 U.S.C. 148f), authorize APHIS to cooperate with State authorities to control infestations of grasshoppers and Mormon crickets.

Done at Washington, DC, this 8th day of May, 1986.

William F. Helms,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 86–10741 Filed 5–9–86; 9:19 am]

BILLING CODE 3410-34-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Economic Development Administration.

Title: Evaluation of Revolving Loan Funds Administered by State and Local Governments.

Form No.: Agency—NA; OMB—NA.

Type of request: New collection.

Burden: 763 respondents; 763 reporting hours.

Needs and uses: The collected data will provide operators of revolving loan funds with reliable, generalizable data on what organizational designs, policies, and practices among revolving loan funds are most effective in stimulating job creation.

Affected public: State or local governments, businesses or other for-profit institutions, non-profit institutions, small businesses or organizations.

Frequency: One time.

Respondent's obligation: Voluntary.

OMB desk officer: Timothy Sprehe 395–4814.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: May 5, 1986.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 86–10617 Filed 5–9–86; 8:45 am]

BILLING CODE 3510-CW-M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration.

Title: Marine Fisheries Initiative (MARFIN).

Form number: Agency—N/A; OMB—N/A.

Type of request: New collection.

Burden: 100 respondents; 700 reporting hours.

Needs and uses: Congress has authorized a program for fisheries research and development grants. Funding in fiscal year 1986 will be for projects which optimize the use of the U.S. Gulf of Mexico fishery. Information will be used to evaluate technical aspects of proposals and determine appropriateness for funding.

Affected public: Individuals, state or local governments, businesses or other for-profit institutions, federal agencies or employees, non-profit institutions, and small businesses or organizations.

Frequency: Annually, quarterly.

Respondent's obligation: Required to obtain or retain a benefit.

OMB desk officer: Sheri Fox 395–3785.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: May 7, 1986.

Edward Michals,

Departmental Clearance Officer, Information Management Division, Office of Information Resources Management.

[FR Doc. 86–10616 Filed 5–9–86; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

Department of Agriculture; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 85–160R. Applicant: U.S. Department of Agriculture, Urbana, IL 61801. Instrument: Oxygen Electrode Unit, Model DWI. Manufacturer: Hansatech Ltd., United Kingdom. Intended use: See notice at 51 FR 6576.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides (1) a small-volume reaction cell (0.5 t 2.5 milliliters), 2 a temperature regulating water jacket, and (3) a self-contained stirring mechanism. The National Institutes of Health advises in its memorandum dated March 20, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Inportation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Imprt Programs Staff.

[FR Doc. 86–10622 Filed 5–9–86; 8:45 am]

BILLING CODE 3510-DS-M

Environmental Protection Agency; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 85–079R. Applicant: U.S. Environmental Protection Agency, Duluth, MN 55804. Instrument: Gas Chromatograph/Mass Spectrometer/Data System, Model 8230. Orignial notice of this resubmitted application was published in the **Federal Register** of February 27, 1985.

Comments: None received.

Decision: Approved. No of instrument equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides (1) a mass resolution up to 50,000, (2) a scanning speed of 0.1 seconds per decade and (3) liquid chromatography interfacing. These capablities are pertient to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–10623 filed 5–9–86; 8:45 am]

BILLING CODE 3510-DS-M

National Aeronautics and Space Administration, Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No.: 85–284. Applicant: National Aeronautics and Space Administration, Moffett Field, CA 94035. Instrument: Microcomputer Controlled Field Reflective Spectrometer System with Accessories. Manufacturer: Barringer Resources, Inc., Canada. Intended use: See notice at 50 FR 41380.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides the capability of in situ infrared reflectance ratioing with a spectral range of 0.45 to 2.45 micrometers. The National Bureau of Standards advises in its memorandum dated March 27, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–10624 Filed 5–9–86; 8:45 am]

BILLING CODE 3510-DS-M

Purdue University; Decision on Application for Duty—Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

DOCKET No. 86–129. Applicant: Purdue University, Lafayette, IN 47906. Instrument: Kinetics Sample Handling Unit, Model SF–3L/SFL–48. Manufacturer: Hi-tech Scientific Ltd., United Kingdon. Intended use: See notice at 51 FR 8691.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides rapid multimixing of up to four substances and a wide temperature range (-100 to +100 degress centigrade). This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Program Staff.

[FR Doc.86–10625 Filed 5–9–86; 8:45 am]

BILLING CODE 3510-DS-M

Sam Houston State University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 86–111. Applicant: Sam Houston State University, Huntsville, TX 77341. Instrument: Spectrophotometer, Model DA3.25 with Accessories. Manufacturer: Bomem, Inc., Canada. Intended Use: See notice at 51 FR 7844.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides an unapodized resolution of 0.01 cm^{-1}. The capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-10626 Filed 5-9-86; 8:45 am]

BILLING CODE 3510-DS-M

University of California, San Diego; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 85-266. Applicant: University of California, San Diego, La Jolla, CA 92093. Instrument: Stopped Flow Apparatus. Manufacturer: Hi-Tech Scientific, United Kingdom. Intended use: See notice at 50 FR 34537.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides rapid multimixing of three substances and a wide temperature range (−100 to +100 degrees centigrade). The National Institutes of Health advises in its memorandum dated March 20, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-10628 Filed 5-9-86; 8:45 am]

BILLING CODE 3510-DS-M

University of Oklahoma; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 85-145R. Applicant: University of Oklahoma, Norman, OK 73019. Instrument: Gas Chromatograph/Mass Spectrometer with Data System, Model ZAB-HS (11/250). Manufacturer: VG Analytical Instruments, Ltd., United Kingdom. Original notice of this resubmitted application was published in the **Federal Register** of May 8, 1985.

Comments: None received:

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides an FAB ion source capability with high resolution (to 100 000; 10 percent valley), and a high mass range (m/z to 5000). The National Institutes of Health advises in its memorandum dated March 20, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-10627 Filed 5-9-86; 8:45 am]

BILLING CODE 3510-DS-M

Yale University Medical School et al.; Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86-132. Applicant: Yale University Medical School, Department of Physiology, 333 Cedar Street, New Haven, CT 06510. Instrument: Metricell Volumetric System and Data Evaluation Cytonic 12 Microprocessor. Manufacturer: HEKA Electronics, West Germany. Intended use: The instruments are intended to be used for the study of the molecular mechanism of cell volume regulation in human red blood cells. The Metricell Volumetric System will be used to monitor red cell volume and the results should provide fundamental insight into how red cells and cells in other tissues of the human body control their cell volume in health and disease. The educational aspects of this research are directed toward the training of postdoctoral fellows to carry out productive biomedical research in this field. Application received by Commissioner of Customs: February 14, 1986.

Docket No. 86-167. Applicant: Juniata College, 1700 Moore Street, Huntingdon, PA 16652. Instrument: Electron Microscope, Model H-300. Manufacturer: Hitachi, Japan. Intended use: The instrument will be used for educational purposes in the courses Biology 495—Electron Microscopy I and Biology 496—Electron Microscopy II. Application received by Commissioner of Customs: April 16, 1986.

Docket No. 86-168. Applicant: University of Chicago, Operator of Argonne National Laboratory, 9700 South Cass Avenue, Argonne, IL 60439. Instrument: FTIR Vacuum Spectrometer Accessories. Manufacturer: Bruker Analytische Messtechnik GmbH, West Germany. Intended use: The instruments are accessories to an existing spectrometer that is used for studies of disordered solids and fast ion conducting glasses. These studies involve solid state absorption and reflectance spectrophotometry from 4000 to 8 cm^{-1}. The method is a probe for a local structural unit when used in the fundamental infrared region. In the far infrared, hopping frequencies and attempt frequencies associated with fast ion transport in solids need to be measured. In addition, these accessories will be used for the study of phase transitions in ABO_4 compounds and for monitoring of the formation of corrosion layers. Other studies will involve reflectivity measurements from metals which provide information on their electronic structure. Application received by Commissioner of Customs: April 17, 1986.

Docket No. 86-169. Applicant: The New York Medical College, Department of Microbiology, Basic Science Building, Room 318, Valhalla, NY 10595. Instrument: Peptide Synthesizer. Manufacturer: Labortec AG, Switzerland. Intended use: The peptide synthesizer will be used to synthesize peptides based on the sequence of complement component C9.

The synthetic peptides will be used to:

1. Generate specific antibodies,
2. Test for inhibitory or enhancing activity in complement mediated cell lysis,
3. Map the three dimensional structure of C9 in poly C9 and
4. Test for effects of peptides in cell mediated cytolysis of tumor cells.

The objective of this study is to understand the mechanism of immune cytolysis on a molecular basis. Application received by Commissioner of Customs: April 17, 1986.

Docket No. 86-191. Applicant: Oregon State University, College of Oceanography, Corvallis, OR 97331. Instrument: Gas Isotope Mass Spectrometer, Model 251 with Accessories. Manufacturer: Finnigan MAT, West Germany. Intended use: The instrument is intended to be used to analyze isotopic ratios of carbon, oxygen, nitrogen, hydrogen and sulfur in natural samples of oceanic and continental waters, atmospheric gases, rocks, sediments and organic matter. A broad range of experiments will be conducted on the isotopic properties of these materials and the cause of natural variations, such as past variations of the carbon cycle in the ocean/atmosphere system. The objective of these experiments is to better understand partitioning of isotopic species within the earth's system, and to establish spatial and temporal variability in the present and geologic past of isotopic values in natural samples as a proxy for environmental parameters such as temperature, oxygen content, productivity and ice volume. Application received by Commissioner of Customs: April 21, 1986.

Docket No. 86-192. Applicant: Mercy Catholic Medical Center of Southeastern Pennsylvania, Lansdowne Avenue & Baily Road, Darby, PA 19023. Instrument: Kidney Lithotripter. Manufacturer: Dornier System GmbH, West Germany. Intended use: The instrument is intended to be used for studies of renal calculous disease. Kidney stones as found in the kidneys and urinary tracts of human subjects will be investigated while conducting experiments in electro shock wave destruction of the stones. In addition, the instrument will be used to provide training in the principles of and "hands-on" application experience with extracorporeal lithotripsy. Application received by Commissioner of Customs: April 22, 1986.

Docket No. 86-193. Applicant: U.S. Army Institute of Dental Research, Walter Reed Army Medical Center, Washington, DC 20307-5300. Instrument: Electron Microscope, Model EM 10 CRSTSE with Accessories. Manufacturer: Carl Zeiss Inc., West Germany. Intended use: The instrument will be used for biomedical research, primarily related to the treatment and management of combat related injuries of the oro-facial tissues. Of primary importance are studies involving the development of implantable biodegradable polymers which may be used as carriers for such substances as antibiotics, anti-inflammatory agents and substances being developed which may stimulate and enhance the new growth of both hard and soft tissues in the wound healing process. Another area of importance involves development of a disinfection test for the hepatitis virus which may eventually also be applicable to AIDS virus. Application received by Commissioner of Customs: April 22, 1986.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-10629 Filed 5-9-86; 8:45 am]

BILLING CODE 3510-DS-M

University of California; Decision on Application For Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 85-093.

Applicant: University of California, Livermore, CA 94550.

Instrument: ICP Mass Spectrometer, Model Plasma Quad with Accessories.

Manufacturer: VG Isotopes Limited, United Kingdom.

Intended Use: See notice at 50 FR 11232.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides an inductively coupled plasma source interfaced with a quadrupole mass spectrometer system capable of both positive and negative ion detection in aqueous samples.

This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-10630 Filed 5-9-86; 8:45 am]

BILLING CODE 3510-DS-M

Centers for Disease Control; Decision of Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

BEST COPY AVAILABLE

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Docket Number: 85-052R. Applicant: Centers for Disease Control, Atlanta GA 30333. Instrument: Mass Spectrometer and Data System Models MM7070E and 11/250. Original notice of this resubmitted application was published in the Federal Register of January 8, 1985.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (April 23, 1984).

Reasons: The foreign instrument can quantitate tissue levels of dioxin (1, 2, 3, 6, 7, 8-HCDD) from small samples (5 to 50 picograms) with a resolution of 10 000 using selected ion recording mode with lock mass correction. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-10619 Filed 5-9-86; 8:45 am]

BILLING CODE 3510-DS-M

NOAA; Decision of Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 am and 5:00 pm in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC.

Docket Number: 86-124. Applicant: NOAA, Pascagoula, MS 39567. Instrument: Towed Underwater Submersible System. Manufacturer: Sea-I Research Ltd., Canada. Intended use: See notice at 51 FR 7845.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides for precise depth and lateral control at depths to 100 fathoms (600 feet). This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-10621 Filed 5-9-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-533-502]

Antidumping Duty Order; Certain Welded Carbon Steel Standard Pipes and Tubes from India

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: In an investigation concerning certain welded carbon steel standard pipes and tubes (standard pipes and tubes) from India, the United States Department of Commerce (the Department) and the United States International Trade Commission (the ITC) have determined that standard pipes and tubes from India are being sold at less than fair value and that sales of standard pipes and tubes from India are materially injuring a United States industry. Additionally, the Department found that "critical circumstances" did not exist with respect to standard pipes and tubes from India. Therefore, based on these findings, all unliquidated entries, or warehouse withdrawals, for consumption of standard pipes and tubes from India made on or after December 31, 1985, the date on which the Department published its "Preliminary Determination" notice in the Federal Register, will be liable for the possible assessment of antidumping duties. Further, a cash deposit of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on are after the date of publication of this antidumping duty order in the Federal Register.

EFFECTIVE DATE: May 12, 1986.

FOR FURTHER INFORMATION CONTACT: Jess M. Bratton or John Brinkmann, Office of Investigation, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue NW., Washington, D.C. 20230; telephone: (202) 377-1778 or (202) 377-3965.

SUPPLEMENTARY INFORMATION: The merchandise covered by this order is certain welded carbon steel standard pipes and tubes with an outside diameter of 0.375 inch or more but not over 16 inches, or any wall thickness, currently classifiable in the *Tariff Schedules of the United States Annotated* (TSUSA), under items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258 and 610.4925. These products are commonly referred to in the industry as standard pipes or tubes produced to various ASTM specifications, most notably A-120, A-53 or A-135.

In accordance with section 733 of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673b), on December 31, 1985, the Department published its preliminary determination that there was reason to believe or suspect that standard pipes and tubes from India were being sold at less than fair value (50 Fed. Reg. 53356). We preliminarily determined that "critical circumstances" existed within the meaning of section 733(e) of the Act (19 U.S.C. 1673(e)) with respect to Tata Iron and Steel Company, Ltd. (TISCO) and did not exist with respect to Gujarat Steel Tubes, Ltd. (Gujarat) or Zenith Steel Pipes and Industries, Ltd. (Zenith). On March 17, 1986, the Department published its final determination that these imports were being sold at less than fair value and that "critical circumstances" did not exist with respect to standard pipes and tubes from India (51 Fed. Reg. 9089).

On April 29, 1986, in accordance with section 735(d) of the Act (19 U.S.C. 1673d(d)), the ITC notified the Department that such importations materially injure a United States industry.

Therefore, in accordance with sections 736 and 751 of the Act (19 U.S.C. 1673e and 1675), the Department directs United States Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act (19 U.S.C. 1673(a)(1)), antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of standard pipes and tubes from India. These antidumping duties will be assessed on all unliquidated entries of standard pipes and tubes entered, or withdrawn from warehouse, for consumption on or after December 31, 1985, the date on which the Department published its "Preliminary Depermination" notice in the Federal Register (50 Fed. Reg. 53356).

On and after date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated duties on this merchandise, a cash deposit equal to the estimated weighted-average antidumping duty margins as noted below. Gujarat and Zenith are excluded from this antidumping duty order.

Manufacturers/producers/exporters	Weighted-average (percent)
TISCO	7.06.
Zenith	0 (Excluded).
Gujarat	0 (Excluded).
All others	7.06.

This determination constitutes an antidumping duty order with respect to standard pipes and tubes from India, pursuant to section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48). We have deleted from the Commerce Regulations Annex I of 19 CFR Part 353, which listed antidumping findings and orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of the updated list of orders currently in effect.

This notice is published in accordance with section 736 of the Act (19 U.S.C. 1673e) and § 353.48 of the Commerce Regulations (19 CFR 353.48).

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

May 5, 1986.

[FR Doc. 86-10618 Filed 5-9-86; 8:45 am]

BILLING CODE 3510-DS-M

National Bureau of Standards

[Docket No. 50703-6025]

Approval of Federal Information Processing Standard 104-1, American National Standard Codes for the Representation of Names of Countries, Dependencies, and Areas of Special Sovereignty for Information Interchange

AGENCY: National Bureau of Standards, Commerce.

ACTION: The purpose of this notice is to announce that the Secretary of Commerce (Secretary) has approved a new standard, which will be published as FIPS Publication 104-1 (a revision to FIPS 104).

SUMMARY: On August 13, 1985, notice was published in the Federal Register (50 FR 32609) that a Federal Information Processing Standard (FIPS) 104-1 entitled "American National Standard Codes for the Representation of Names of Countries, Dependencies, and Areas of Special Sovereignty for Information Interchange" was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS. On the basis of this review, NBS recommended that the Secretary approve the standard as a Federal Information Processing Standard (FIPS) and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC 20230.

This approved standard contains two basic sections: (1) An announcement section which provides information concerning the applicability, implementation, and maintenance of the standard, and (2) a specifications section which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice.

ADDRESS: Interested parties may purchase copies of this new standard, including the technical specifications section, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement section of the standard.

FOR FURTHER INFORMATION CONTACT: Mr. Roy G. Saltman, Center for Programming Science and Technology, Institute for Computer Sciences and Technology, National Bureau of Standards, Gaitherburg, MD 20899, (301) 921-3491.

Dated: May 6, 1986.

Ernest Ambler,

Director.

Federal Information Processing Standards Publication 104-1

1986 Month Day

Announcing the Standard for American National Standard Codes for the Representation of Names of Countries, Dependencies, and Areas of Special Sovereignty for Information Interchange

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Bureau of Standards in accordance with section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Public Law 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15, Code of Federal Regulations.

1. *Name of Standard:* American National Standard Codes for the Representation of Names of Countries, Dependencies, and Areas of Special Sovereignty for Information Interchange.

2. *Category of Standard:* Federal Program Data Standard, Representations and Codes.

A Federal Program Standard is intended for use in a particular program or mission where more than one executive branch department or independent agency is involved with its use. By contrast, a Federal General Standard is intended for use in all Federal-wide programs.

This standard is intended for reporting contract placement to the General Services Administration's Federal Procurement Data Center (FPDC), for use in activities concerned with international trade that do not involve the U.S. Department of State or national defense programs, and for data interchange with international organizations that have adopted ISO 3166, the standard of the International Organization for Standardization (ISO) that specifies codes for representing names of countries.

3. *Explanation:* This Standard implements American National Standard, ANSI Z39.27-1984, Structure for the Representation of Names of Countries, Dependencies, and Areas of Special Sovereignty for Information Interchange. ANSI Z39.27-1984 adopts, with qualifications, the entities, names, and codes prescribed by ISO 3166.

4. *Approving Authority:* The Secretary of Commerce.

5. *Maintenance Agency:* The National Bureau of Standards serves at the maintenance agency for ANSI Z239.27-1984, in coordination with the U.S. Department of State, the U.S. Board on Geographic Names, and the maintenance agency for ISO 3166. Inquiries concerning the technical content of this publication should be addressed to:

Data Standard Program
Institute for Computer Sciences and Technology
National Bureau of Standards
Gaithersburg, MD 20899

Change notices to this FIPS PUB will be issued by the National Bureau of Standards. Users who wish to receive such notices should complete the Change Request Form included in the FIPS PUB and return it to the address indicated.

6. *Cross Index.*

a. International Standard ISO 3166: Codes for the Representation of Names of Countries, Second edition—1981-05-15.

b. American National Standard ANSI Z39.27-1984: Structure for the Representation of Names and Countries, Dependencies, and Areas of Special Sovereignty for Information Interchange.

c. Names of Political Entities of the World (Names Approved by the U.S. Board on Geographic Names as of August 1, 1983), Defense Mapping Agency, Washington, DC 20305; Stock No. GAZGNFORNMPEW1.

d. Federal Information Processing Standards Publication (FIPS PUB) 10-3: Countries, Dependencies, and Areas of Special Sovereignty, and Their Principal Administrative Divisions.

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7. *Objectives.* The objectives of this standard are to improve the utilization of data resources of the Federal government and avoid unnecessary duplications and incompatibilities in the collection, processing and dissemination of data.

8. *Applicability.* This implementation of ANSI Z39.27–1984 supersedes National Bureau of Standards FIPS PUB 104 of September, 1983. It is made available for general use, except that it does not supersede or replace FIPS PUB 10–3. That FIPS PUB provides an alternate set of codes maintained by the U.S. Department of State, Office of the Geographer, for in that department and in national defense programs.

9. *Implementation Schedule.* The specifications herein may be used upon publication. Use by Federal agencis is encouraged in applications requiring data interchange with international organizations that have adopted the ISO 3166 codes, and in applications involved with international trade. All agencies will use the two-character code set for reporting contract placement to FPDC. Agencies not involved with international trade, the Department of State, contract placement reporting, or national defense programs should adopt either FIPS 10–3 or this FIPS PUB, whichever is most efficient for data interchange and use of data resources.

10. *Specifications.* Federal Information Processing Standards Publication 104–1 (FIPS PUB 104–1), American National Standard Codes for the Representation of Names of Countries, Dependencies, and Areas of Special Sovereignty for Information Interchange (affixed).

The specifications include a set of two-character alphabetic codes and a set of three-character alphabetic codes. Both sets of codes are included in ISO 3166.

The two-character alphabetic codes are adopted as the Federal Program Standard, and they are recommended by ISO for international interchange.

The three-character alphabetic codes are provided for completeness by the National Bureau of Standards in its capacity as national maintenance agency for ANSI Z39.27–0184.

11. *Where to Obtain Copies.* Copies of this publication are available for sale by the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, Virginia 22161; order desk telephone: (703) 487–4650. When ordering, refer to Federal Information Processing Standards Publication 104–1 (FIPS PUB 104–1) and title. When microfiche is desired, this should be specified. The entity names and corresponding codes are available also on magnetic tape.

Copies of other FIPS PUBS are also available from the National Technical Information Service.

Copies of ANSI Z39.27–1984 and ISO 3166 may be obtained from:

American National Standards Institute, Inc.
1430 Broadway
New York, NY 10018

[FR Doc. 86–10535 Filed 5–9–86; 8:45 am]
BILLING CODE 3510-CH-M

DEPARTMENT OF DEFENSE

Department of the Army

Rocky Mountain Arsenal Containment Cleanup

ACTION: Rocky Mountain Arsenal Contamination Cleanup to conform to National Contingency Plan, decision on remedy to be based on the record; creation and availability of administrative record, projected completion of decisionmaking process.

SUMMARY: The Office of Program Manager, Rocky Mountain Arsenal Contamination Cleanup ("PMO") gives notice that it is following Subpart F of the National Contingency Plan ("NCP") for purposes of developing a remedial action program to respond to hazardous substances at the Rocky Mountain Arsenal ("Arsenal") pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"). The PMO will assemble a record of remedial action decisionmaking which will reflect the decisions leading to the ultimate remedial action determination for the Arsenal. This record is to be publicly available at the Arsenal. The PMO also provides a general timetable for the projected completion of the remedial action decisionmaking process. Comments are welcome.

FOR FURTHER INFORMATION CONTACT: Colonel Wallace N. Quintrell, Deputy Program Manager for the Rocky Mountain Arsenal Contamination Cleanup, ATTN: AMXRM–PM, Aberdeen Proving Ground, Maryland 21010–5401.

SUPPLEMENTARY INFORMATION: The PMO currently coordinating a number of projects which will culminate in the selection of the final response action to be taken at the Arsenal. This remedial action has been conducted in conformity with the NCP and the PMO intends to continue to conform fully with the NCP as most recently revised, 50 FR 47912 (Nov. 20, 1985) (which became effective on February 18, 1986). PMO intends to take action which is consistent with the NCP's requirements for the remedial investigation/feasibility study ("RI/FS"), scoping of response actions, development of alternatives, initial screening of alternatives, detailed and analysis of alternatives, selection of the final remedy and public participation.

Assuming a continuation of the current work schedule, the PMO projects that by the Summer of 1987 the RI/FS process will be completed. Thereafter, the PMO will report on its findings (including the alternative remedies developed during the FS) and will provide an opportunity for public comment which will include one or more public meetings in the vicinity of the Arsenal. Following thorough review of these comments and any appropriate modification of the proposed response action to address these concerns, the Army anticipates announcing in 1988 the selection of the final response action.

Throughout the process of remedial action decisionmaking, the PMO will continue to promote the active involvement of the Environmental Protection Agency, Colorado Department of Health, Shell Oil Company and the general public.

By the Summer of 1986, the PMO will begin to assemble an administrative record. This record will incorporate all the significant facts and decisions developed during the course of the remedial action process, as well as all public comments received and the PMO's response to these comments. The PMO contemplates that it will use this record as the basis for its selection of the final remedial action.

A public release copy of the then existing portions of the record is expected to be available in the Summer of 1986 for public inspection, during normal business hours, at a facility to be located at the Arsenal. This publicly available copy of the record will be updated thereafter on a regular basis.

Linda M. Lawson,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
May 6, 1986.
[FR Doc. 86–10579 Filed 5–9–86; 8:45 am]
BILLING CODE 3810-01-M

Office of the Secretary

Defense Intelligence Agency Defense Intelligence College; Closed Meeting

AGENCY: Defense Intelligence Agency Defense Intelligence College, DOD.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the provisions of subsection (d) of section 10 of Pub. L. 92–463, as amended by section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of the DIA Defense Intelligence College has been scheduled as follows.

DATES: Monday— Wednesday, 19–21 May 1986, 9:00 a.m. to 4:00 p.m. 19–20 May; 9:00 to 11:30 a.m., 21 May.

ADDRESS: The DIAC, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dr. Robert L. De Gross, Provost, DIA Defense Intelligence College, Washington, DC 20301–6111 (202/373–3344).

SUPPLEMENTARY INFORMATION: The entire meeting is devoted to the discussion of classified informtion as defined in section 552b (c) (1), Title 5 of the U.S. Code and therefore will be closed to the public. The Committee will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, as to the successful accomplishment of the mission assigned to the Defense Intelligence College.

Patricia H. Means,
OSD Federal Register Liaison Officer, Department of Defense.
May 6, 1986.
[FR Doc. 86–10576 Filed 5–9–86; 8:45 am]
BILLING CODE 3810-01-M

Defense Science Board Task Force on Pacific Command Air Defense; Meeting

ACTION: Notice of Advisory Committee Meetings.

SUMMARY: The Defense Science Board Task Force on Pacific Command Air Defense will meet in closed session on 5–6 June 1986 in the Pentagon, Arlington, VA.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At the meeting, the Task Force will examine defense capabilities for shore installations in the Pacific Command and assess relevant technology, equipment, and modernization plans.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c)(1)(1982), and that accordingly this meeting will be closed to the public.

Linda M. Lawson,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
[FR Doc. 86–10577 Filed 5–9–86; 8:45 am]
BILLING CODE 3810-01-M

Establishment of the Defense Information School (DINFOS) Board of Visitors

Under the provisions of Pub. L. 92–463, "Federal Advisory Committee Act," notice is hereby given that the Defense Information School (DINFOS) Board of Visitors has been found to be in the public interest in connection with the performance of duties imposed on the Department by law.

DINFOS is the only Defense level school that trains all armed forces public affairs personnel in the theory and methodology of informing the public about Defense component matters. The DoD wishes to provide for the continued accreditation of DINFOS and to ensure that the training remains consistent with the state-of-the-art, that instructor professionalism is enhanced, and that college credits can be awarded to graduates. Establishing and using this Board will provide for accreditation.

Obtaining advice from a broad range of professionals outside of DoD is also essential to ensure that each of the school's courses reflect the most modern journalism, broadcasting, and public affairs educational content and methods. Membership will be balanced to provide an appropriate pool of professional expertise in these fields

Linda M. Lawson,
Alternate OSD Federal Register Liaison Officer, Department of Defense.
May 6, 1986.
[FR Doc. 86–10578 Filed 5–9–86; 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection Requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before June 11, 1986.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster, (202) 426–7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal Agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Management Service publishes this notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: May 7, 1986.

George P. Sotos,
Director, Information Resources Management Service.

Office of Postsecondary Education

Type of Review: Revision
Title: Performance Reports for the Foreign Language and Area Studies Fellowship Programs
Agency Form Number: ED 7614, 7606, and 7632
Frequency: Annually
Affected Public: Individuals or households; non-profit institutions
Reporting Burden:
Responses: 972
Burden Hours: 1822
Recordkeeping Burden:
Recordkeepers: 122
Burden Hours: 61

Abstract: These data will enable the Education Department to analyze and determine the need for specified fields of instruction and to identify areas of professional study in response to the Secretary's announced program priorities.

Office of Postsecondary Education

Type of Review: Extension
Title: Application for Foreign Language and Area Studies Projects
Agency Form Number: ED 324
Frequency: Annually
Affected Public: State or local governments; non-profit institutions

Reporting Burden:
Responses: 690
Burden Hours: 25,800
Recordkeeping Burden:
Recordkeeping: 0
Burden Hours: 0

Abstract: The application for Foreign Language and Area Studies projects is reviewed by the Department of Education to evaluate the relative merits of the proposals submitted and to determine the amount of grant funds.

Office of Postsecondary Education

Type of Review: New
Title: Grant Application for the Construction, Reconstruction, and Renovation of Academic Facilities Program
Agency Form Number: E40–14P
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden:
Responses: 1000
Burden Hours: 8000
Recordkeeping Burden:
Recordkeeping: 0
Burden Hours: 0

Abstract: The application is needed by eligible applicants to apply for grant funds authorized under Title VII of the Higher Education Act of 1965, as amended. The application information is used to evaluate proposals and obligate grant funds.

[FR Doc. 86–10597 Filed 5–9–86; 8:45 am]
BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of Assistant Secretary for International Affairs and Energy Emergencies

Proposed Subsequent Arrangements; European Atomic Energy Community and Sweden

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of proposed "subsequent arrangements" under the Agreement for Cooperation between the Government of the United States of America and the Government of Sweden concerning Peaceful Uses of Nuclear Energy, and the Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended.

The subsequent arrangements to be carried out under the above-mentioned agreements involve two contractually related transactions which require U.S. consent, neither of which can proceed unless both are approved. These are (1) RTD/SW(EU)-138, for the retransfer of irradiated mixed-oxide fuel elements involving 6,500 kilograms of uranium containing 52 kilograms of U–235 and 280 kilograms of plutonium from the Federal Republic of Germany to Sweden, for intermediate storage in the CLAB facility, and then ultimate disposal within Sweden, and (2) the contractual transfer of title to approximately 428 kilograms of plutonium and 57,000 kilograms of low enriched uranium contained in irradiated power reactor fuel which was sent from Sweden to COGEMA, France, for the purpose of reprocessing. The recovered plutonium is to be fabricated into uranium-plutonium mixed-oxide fuels at the Alkem facility located in Hanau, the Federal Republic of Germany. The mixed-oxide fuels are to be used in light water power reactors in the Federal Republic of Germany. The low enriched uranium is to be re-enriched for use in power reactors in the European Community.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that these subsequent arrangements will not be inimical to the common defense and security.

These subsequent arrangements will take effect no sooner than fifteen days after the date of publication of this notice and after 15 days of continuous session of the Congress, beginning the day after the date on which the reports required by section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) are submitted to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The two time periods referred to above shall run concurrently.

For the Department of Energy.

Dated: May 6, 1986.

George J. Bradley, Jr.,

Acting Assistant Secretary for International Affairs and Energy Emergencies.

[FR Doc. 86–10581 Filed 5–9–86; 8:45 am]
BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket Nos. ID–2036–001 et al.]

William J. Alley et al.; Interlocking Directorate Applications

May 6, 1986.

Take notice that the following filings have been made with the Commission:

1. William J. Alley

[Docket No. ID–2036–001]

Take notice that on April 28, 1986, William J. Alley tendered for filing an application to hold the following position:

Position	Name of corporation	Classification
Chairman of the board and director.	SLIC	Authorized by law to underwrite.

Comment date: May 19, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Peter F. O'Malley

[Docket No. ID–2219–000]

Take notice that on April 28, 1986, Peter F. O'Malley filed an application pursuant to section 305 of the Federal Power Act to hold the following positions:

Director, Potomac Electric Power Company
Director, Sovran Financial Corporation.

Comment date: May 19, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–10538 Filed 5–9–86; 8:45 am]
BILLING CODE 6717–01–M

[Docket Nos. CP85–756–001 et al.]

Natural Gas Certificate Filings; Consolidated Gas Transmission Corp. et al.

Take notice that the followings filings have been made with the Commission:

1. Consolidated Gas Transmission Corporation and Columbia Gas Transmission Corporation

[Docket No. CP85–756–001 and Docket No. CP86–454–000]

May 5, 1986.

Take notice that on April 17, 1986, Consolidated Gas Transmission Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, and Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket Nos. CP85–756–001 and CP86–454–000, respectively, pursuant to Section 7(c) of the Natural Gas Act an amendment of the pending application in Docket No. CP85–756–000 wherein Consolidated seeks authorization to render certain sales and transportation services for Washington Gas Light Company (WGL) and Baltimore Gas and Electric Company (BG&E), and for a certificate of public convenience and necessity authorizing Columbia to render related transportation services for WGL and BG&E, all as more fully set forth in the amendment and application which are on file with the Commission and open to public inspection.

Consolidated stated that it filed an application in Docket No. CP85–756–000 seeking certificate authorization covering the sale by it to WGL and BG&E of certain quantities of natural gas, the firm transportation of natural gas for WGL and BG&E, and the construction and operation of certain minor interconnecting, measurement and regulating facilities. It is indicated that Columbia protested Consolidated's application in Docket No. CP85–756–000. Applicants state that in recent weeks, WGL and BG&E have secured the assent of Consolidated and Columbia to an agreement which resolved Columbia's concerns and that the purpose of the joint filing is to revise Consolidated's original proposal to conform with the agreement and to secure certificate authorization for Columbia's participation in the proposals.

Consoldiated amends its application in Docket No. CP85–756–000; so as to reflect the delivery of gas to Columbia, for further transportation to WGL and BG&E, at an existing interconnection between Consolidated and Columbia at Loudoun measuring station, located in Loudoun County, Virginia, instead of delivering the gas to WGL and BG&E off Line No. PL–1 near Dickerson, Maryland, as originally proposed. Consolidated states that, under this revised proposal, it would not be necessary for it to construct or operate the tap, metering, and regulating facilities off Line No. PL–1 at Dickerson, as originally proposed, nor would it be necessary for WGL and BG&E to construct pipeline facilities of their own between Dickerson and their existing distribution systems. In addition, Consolidated states that it has agreed to waive the minimum annual commodity bill provisions of the contracts between it and WGL and BG&E. It is indicated that Consolidated still seeks authorization to render sales and transportation services to WGL and BG&E at the levels originally proposed in Docket No. CP85–756–000.

Applicants state that the Loudoun measuring station is jointly owned by affiliates of Consolidated and Columbia, Consolidated System LNG Company (Consolidated LNG) and Columbia LNG Corporation (Columbia LNG), respectively, with each owning undivided one-half interests in the facilities. Applicants further state that Consolidated and Cosolidated LNG filed a joint amendment in Docket No. CP86–208–001 on April 18, 1986, for authorization to transfer Consolidated LNG's interest in the facilities to Consolidated. It is indicated that Columbia LNG would retain its undivided one-half interest in the facilities.

Columbia seeks authorization in Docket No. CP86–454–000 to render firm transportation service of up to 60,000 dt equivalent of natural gas per day and interruptible transportation service for WGL and BG&E each, commencing April 1, 1987, and continuing for a primary term of twenty years. Columbia states that it would receive the gas from Consolidated, for the account of WGL and BG&E each at an existing pipeline interconnection at Loudoun measuring station, in Loudoun County, Virginia, and would redeliver equivalent quantities, in accordance with mutually agreeable dispatching arrangements at existing points of delivery. Columbia proposes to charge WGL and BG&E rate of 8.5 cents per dt equivalent of gas for the subject service. It is stated that no additional jurisdictional facilities need to be constructed by Consolidated or Columbia in order to provide the proposed service.

Comment date: May 19, 1986, in accordance with Standard Paragraph F at the end of this notice.

2. Consolidated System LNG Company and Consolidated Gas Transmission Corporation

[Docket No. CP86–208–001]

May 5, 1986.

Take notice that on April 18, 1986, Consolidated System LNG Company (Consolidated LNG), Four Gateway Center, Pittsburgh, Pennsylvania 15222, and Consolidated Gas Transmission Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No. CP86–208–001 an amendment to their pending application filed in Docket No. CP86–208–000 pursuant to section 7 of the Natural Gas Act so as to include among the facilities proposed to be transferred, Consolidated LNG's undivided one-half interest in the facilities known as Loudoun measuring station, located in Loudoun County, Virginia, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

It is stated that in the application Consolidated LNG sought authorization to transfer its wholly-owned Line No. PL–1 and related facilities to Consolidated and Consolidated sought authorization to acquire such facilities and operate them in its interstate natural gas business. Consolidated proposed to utilize the facilities to render firm, long-term sale and transportation services for Baltimore Gas and Electric Company (BG&E) and Washington Gas Light Company (WGL), as proposed in its application in Docket No. CP85–756–000.

Applicants now amend their joint application to seek authorization to transfer Consolidated LNG's undivided one-half interest in the measuring, regulating and related and appurtenant facilities at Loudoun measuring station, in Loudoun County, Virginia, in addition to the facilities previously proposed to be transferred. It is explained that Consolidated now plans to make deliveries of natural gas to Columbia Gas Transmission Corporation (Columbia), for the accounts of BG&E and WGL at Loudoun measuring station, and that Columbia would transport and redeliver such gas to BG&E and WGL through existing delivery facilities. Applicants state that utilization of Loudoun measuring station to effect deliveries would eliminate the need to construct additional facilities and would return these facilities to productive use by allowing Consolidated to intergrate them into its interstate natural gas transmission business.

Comment date: May 19, 1986, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

3. Transco Gas Services Company, Inc.

[Docket No. CP86–452–000]

May 6, 1986.

Take notice that on April 17, 1986, Transco Gas Services Company, Inc.

(Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP86-452-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations (18 CFR 284.221) for a blanket certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of others, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it accepts and would comply with the conditions in paragraph (c) of § 284.221 of the Commission's Regulations. Applicant further states that it has tendered for filing its proposed transportation rates pursuant to Rate Schedules F and I of its Original Volume No. 1 of its FERC Gas Tariff in Docket No. CP86-455-000.

Comment date: May 23, 1986, in accordance with Standard Paragraph F at the end of this notice.

4. Transco Gas Services Company, Inc.

[Docket No. CP86-455-000]

May 6, 1986.

Take notice that on April 17, 1986, Transco Gas Services, Inc. (Applicant), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP86-455-000 an application pursuant to section 7(c) of the Natural Gas Act and Subpart E of Part 157 of the Commission's Regulations, optional certificate and abandonment procedures, for a certificate of public convenience and necessity authorizing transportation services, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states tht it would provide transportation services using firm capacity that it has contracted for from its suppliers, Great Lakes Gas Transmission Company (Great Lakes), ANR Pipeline Company (ANR), Erie Pipeline System (Erie), and Transylvania Gas Pipeline Company, Inc. (Transylvania). It is stated that this capacity would enable Applicant to transport up to 420,000 Mcf of natural gas per day on a firm basis from Eunice, Louisiana, and Emerson, Manitoba in Canada, to delivery points on the systems of Transylvania and the Transcontinental Gas Pipe Line Corporation.

Applicant states that it would provide firm and interruptible transportation on a first-come, first-served basis pursuant to its Rate Schedules F and I as shown below:

Rate Schedule F		
Reservation Rate per Mcf of Maximum Daily Quantity per Month:		
Gulf Coast	$16.87	0
Canada	19.19	0
Commodity Rate per Mcf Transported:		
Gulf Coast	91.72	15.33
Canada	91.16	34.88
Rate Schedule I		
Commodity Rate per Mcf Transported:		
Gulf Coast	87.19	15.30
Canada	110.86	34.83
Fuel Retention		
Gulf Coast	[1] 4.5	
Canada	[1] 3.7	

[1] Percent.

Applicant states these rates are a flow-through of its suppliers maximum charges and as such the rates under these rate schedules would be subject to adjustments on a current basis to reflect any changes in the underlying charges of suppliers. Applicant also states that Rates Schedule F provides for a 15-year term and also proposes that shippers be permitted to transfer their capacity to third parties for a period of one month or longer. In addition, Applicant requests abandonment authority at the termination of sales contracts or if shippers fail to pay for services.

Comment date: May 23, 1986, in accordance with Standard Paragraph F at the end of this notice.

5. Transcontinental Gas Pipe Line Corporation and Transco Gas Services Company, Inc.

[Docket No. CP86-453-000]

May 6, 1986.

Take notice that on April 17, 1986, Transcontinental Gas Pipe Line Corporation (Transco) and Transco Gas Services Company, Inc. (Gas Services), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP86-453-000 a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of up to 540,000 Mcf of natural gas per day, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants have entered into an exchange agreement so that gas from the proposed Erie-Transylvania system can be delivered to east coast customers. Applicants state that pursuant to an exchange agreement dated April 15, 1986, Transco would deliver gas for Gas Services' account to customers of Gas Services upstream of Transco's Station 200 (Transco's existing customers). It is explained that Gas Services would, via its suppliers, deliver equivalent volumes of gas for Transco's account to customers downstream of Station 200 or to the Leidy storage field in Clinton County, Pennsylvania, to fulfill Transco's customers' nominations for storage.

Applicants further state that if an imbalance of gas deliveries occurs, the owing party would deliver such quantities to the other at the Leidy storage field or at Transco's compressor station No. 505 located in Somerset County, New Jersey. In addition, Applicants state that neither would charge a rate for the exchange service or delivery of any imbalance quantities because both Applicants would benefit from the exchange agreement.

Comment date: May 23, 1986, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-10539 Filed 5-9-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP86-69-000]

Mid Louisiana Gas Co.; Proposed Change in FERC Gas Tariff

May 5, 1986.

Take notice that Mid Louisiana Gas Company (Mid Louisiana) on April 30, 1986, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

Seventh Revised Sheet No. 1
Original Sheet No. 1a
Fifty-Fifth Revised Sheet No. 3a
First Revised Sheet No. 12c
First Revised Sheet No. 12d
Original Sheet No. 12e
Original Sheet No. 12f
Original Sheet No. 12g
Original Sheet No. 12h
Original Sheet No. 12i
Original Sheet No. 12j
Original Sheet No. 12k
Original Sheet No. 12l
Original Sheet No. 12m
Original Sheet No. 12n
First Revised Sheet No. 26e
First Revised Sheet No. 26f

Mid Louisiana states that the purpose of this filing is (1) to reflect an increase in rate schedules G-1, SG-1, and I-1 from 329.31¢ per Mcf to 341.11¢ per Mcf based on operations for the twelve months ended December 31, 1985, as adjusted; (2) to establish a minimum rate of 30.50¢ per Mcf and a maximum rate of 51.28¢ per Mcf for firm transportation service; (3) to establish a minimum rate of 23.13¢ per Mcf and a maximum rate of 34.24¢ per Mcf for interruptible transportation service; (4) to establish a rate methodology to be utilized in providing transportation service for special projects; and (5) to establish a rate schedule to provide gathering service. Mid Louisiana requests that the proposed tariff sheets become effective June 1, 1986.

Mid Louisiana states that the principal reason for the proposed increase in rate schedules G-1, SG-1, and I-1 is a decline in total throughput volumes on its system.

Mid Louisiana further states that the purpose of this filing is to establish transportation rate schedules in compliance with the Commission's Order No. 436 and the requirements set forth by the Commission in Mid Louisiana Gas Company, Docket No. CP86-214, whereby the Commission granted Mid Louisiana a blanket certificate authorizing certain transportation of natural gas.

Copies of the filing have been served on Mid Louisiana's jurisdictional customers and state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before May 12, 1986. Protests will be considered by the Commission in determing the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-10555 Filed 5-9-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP86-72-000]

Pacific Interstate Transmission Co.; Change in Rate

May 5, 1986.

Take notice that on April 30, 1986, Pacific Interstate Transmission Company ("Pacific Interstate") tendered for filing a Notice of a Change in Rates for natural gas service rendered to its sole jurisdictional customer, Southern California Gas Company, pursuant to Rate Schedule CQS-1, FERC Gas Tariff Original Volume No. 1. To implement this notice of change, Pacific Interstate tendered for filing and acceptance Second Revised Tariff Sheet No. 9 superseding Substitute First Revised Tariff Sheet No. 9.

Pacific Interstate states that based upon the test period cost of service, Pacific Interstate projects a decrease in annual revenues requirements and therefore files a rate decrease of approximately $34 million per annum. Pacific Interstate states that the reduction is due to a decline in rate base and a requested decrease in rate of return on equity. Pacific Interstate further notes that the decrease calculation includes costs associated with a court judgment concerning the costs of the portions of the Northwest Pipeline Corporation system in which Pacific Interstate owns a 30% interest. Pacific Interstate states that inclusion of judgment costs, however, will not significantly affect the proposed decrease. Pacific Interstate does not propose any other change in its rates.

Pacific Interstate has requested that waiver be granted of all applicable rules and regulations of the Commission as may be necessary to implement the notice of change effective June 1, 1986.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC, 20426, in accordance with §§ 385.214 and 385.211 of this Chapter. All such motions or protests should be filed on or before May 12, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-10541 Filed 5-9-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. GP86-16-000]

Phillips Petroleum Co.; Petition To Reopen and Vacate Final Well Category Determination and Request to Withdraw

Issued: May 5, 1986.

State of West Virginia, Department of Mines and Gas, NGPA Section 108 Determination, Phillips Petroleum Company, Marquette A No. 1 Well, FERC No. JD 85-21844

Take notice that on January 29, 1986, Phillips Petroleum Company (Phillips) filed pursuant to § 275.205 of the Commission's regulations a petition to reopen and vacate a continuing qualification stripper well category determination made pursuant to section 108 of the Natural Gas Policy Act of 1978 (NGPA) for the Marquette A No. 1 well, located in Monongalia County, West Virginia and to withdraw the application for the determination. The State of West Virgina made the said stripper well determination because of the well's over production due to temporary pressure build up. The determination became final on April 27, 1985.

Phillips states that while its application for an initial stripper well determination was being processed, it inadvertently filed the continuing qualification application. Phillips states

that during the applicable qualifying period, the well never qualified as a stripper well because the well, producing at its maximum efficient rate, averaged more than 60 Mcf per production day. Phillips states that since the well never initially qualified as a stripper well, it cannot qualify as a continuing qualification stripper well. Phillips states that it never collected the section 108 price for the subject well's gas production.

Any person desiring to be heard or to protest this petition should file a motion to intervene or protest in accordance with Rules 214 or 211 of the Commission's rules of practice and procedure. All motions to intervene or protests should be submitted to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, not later than 30 days following publication of this notice in the Federal Register. All protest will be considered by the Commission but wil not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene in accordance with Rule 214. Copies of this petition are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-10544 Filed 5-9-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ST86-1038-000, et al.]

Texas Gas Transmission Corp. et al.; Self-Implementing Transactions

May 5, 1986.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Subpart F of Part 157 and Part 284 of the Commission's regulations, and sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA).[1]

The "Recipeint" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's regulations and section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's regulations.

An "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's regulations and section 312 of the NGPA.

An "F(157)" indicates transportation by an interstate pipeline for an end-user pursuant to § 157.209 of the Commission's regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's regulations.

A "G(EU)" indicates transportation by an interstate pipeline company on behalf of an end-user pursuant to a blanket certificate issued under § 284.223 of the Commission's regulations.

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company pursuant to a blanket certificate issued under § 284.222 of the Commission's regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's regulations.

A "C/F(157)" indicates intrastate pipeline transportation which is incidental to a transportation by an interstate pipeline to an end-user pursuant to a blanket certificate under 18 CFR 157.209. Similarly, a "G/F(157)" indicates such transportation performed by a Hinshaw Pipeline or distributor.

Any person desiring to be heard or to make any protests with reference to a transaction reflected in this notice should on or before May 23, 1986, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC, 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[1] Notice of transactions does not constitute a determination that service will continue in accordance with Order No. 436, Final Rule and Notice Requesting Supplemental Comments, 50 FR 42372 (Oct. 18, 1985).

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST86-1038	Texas Gas Transmission Corp	Columbia Gas Transmission Corp	03-03-86	G		
ST86-1039	Texas Gas Transmission Corp	Louisville Gas & Electric Co	03-03-86	B		
ST86-1040	Texas Gas Transmission Corp	Cincinnati Gas and Electric Co	03-03-86	B		
ST86-1041	Arkla Energy Resources	Liberty Natural Gas Co	03-03-86	B		
ST86-1042	Arkla Energy Resources	Arkansas Louisiana Gas Co	03-03-86	B		
ST86-1043	Arkla Energy Resources	J-W Operating Co	03-03-86	B		
ST86-1044	Arkla Energy Resources	Arkla Energy Resources, (La Intra. Seg.)	03-03-86	B		
ST86-1045	Arkla Energy Resources	Arkansas Louisiana Gas Co	03-03-86	B		
ST86-1046	Arkla Energy Resources	J-W Operating Co	03-03-86	B		
ST86-1047	Arkla Energy Resources	Arkla Energy Resources, (La Intra. Seg.)	03-03-86	B		
ST86-1048	Valero Transmission Co	El Paso Natural Gas Co	03-03-86	C		
ST86-1049	Valero Transmission Co	Southern California Gas Co	03-03-86	C		
ST86-1050	Arkla Energy Resources, (La Intra. Seg.)	Dayton Power and Light Co	03-05-86	D	08-03-86	101.42
ST86-1051	Llano, Inc	Pacific Gas and Electric Co	02-28-86	D	07-29-86	10.20/31.50
ST86-1052	Michigan Gas Storage Co	Consumers Power Co	03-07-86	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date [2]	Transportation rate (¢/MMBTU)
ST86-1053	Oasis Pipe Line Co	El Paso Natural Gas Co	03-07-86	C		
ST86-1054	Texas Gas Transmission Corp	Lga Intrastate, Inc	03-07-86	B		
ST86-1056	Texas Gas Transmission Corp	Louisville Gas & Electric Co	03-07-86	B		
ST86-1056	Trunkline Gas Co	Consumers Power Co	03-07-86	B		
ST86-1057	Trunkline Gas Co	Columbia Gas of Ohio, Inc	03-07-86	B		
ST86-1058	Algonquin Gas Transmission Co	Colonial Natural Gas Co	03-10-86	B		
ST86-1059	Algonquin Gas Transmission Co	Boston Gas Co	03-10-86	B		
ST86-1060	El Paso Natural Gas Co	Intermountain Gas Co	03-10-86	B		
ST86-1061	El Paso Natural Gas Co	Intermountain Gas Co	03-10-86	B		
ST86-1062	Texas Eastern Transmission Corp	Columbia Gas of Ohio, Inc., et al	03-10-86	B		
ST86-1063	Northwest Pipeline Corp	City of Ellensburg, WA	03-11-86	B		
ST86-1064	Acadian Gas Pipeline System	Columbia Gulf Transmission Co	03-11-86	C		
ST86-1065	Panhandle Eastern Pipe Line Co	Alpha Corp	03-12-86	F(157)		
ST86-1066	Freeport Pipeline Co	Freeport Interstate Pipeline Co	03-12-86	C		
ST86-1067	Arkla Energy Resources	Lga Intrastate, Inc	03-12-86	B		
ST86-1068	Arkla Energy Resources	Arkansas Louisiana Gas Co	03-12-86	B		
ST86-1069	Texas Gas Transmission Corp	Peoples Gas Light & Coke Co	03-12-86	B		
ST86-1070	Texas Gas Transmission Corp	City of Hamilton, OH	03-12-86	B		
ST86-1071	Texas Gas Transmission Corp	Louisville Gas & Electric Co	03-12-86	B		
ST86-1072	Texas Gas Transmission Corp	Niagara Mohawk Power Corp	03-12-86	B		
ST86-1073	Texas Eastern Transmission Corp	Niagara Mohawk Power Corp	03-12-86	B		
ST86-1075	Trunkline Gas Co	Alpha Corp	03-12-86	F(157)		
ST86-1077	Columbia Gulf Transmission Co	Bishop Pipeline Corp	03-17-86	B		
ST86-1078	Arkla Energy Resources	Arkla Energy Resources, (La Intra. Seg.)	03-17-86	B		
ST86-1079	Houston Pipe Line Co	Peoples Gas Light & Coke Co	03-17-86	C		
ST86-1080	Delhi Gas Pipeline Corp	Texas Eastern Transmission Corp	03-17-86	C		
ST86-1081	Panhandle Gas Co	Illinois Power Co	03-17-86	D		
ST86-1082	Panhandle Gas Co	Baltimore Gas and Electric Co	03-17-86	D		
ST86-1083	ONG Transmission Co	Northern Natural Gas Co	03-19-86	C	08-15-86	10.00/12.00
ST86-1084	ONG Transmission Co	Michigan Consolidated Gas Co	03-19-86	C	08-16-86	24.32
ST86-1085	Texas Gas Transmission Corp	Western Kentucky Gas Co	03-19-86	B		
ST86-1086	Texas Gas Transmission Corp	Mississippi Valley Gas Co	03-19-86	B		
ST86-1087	Texas Gas Transmission Corp	Western Kentucky Gas Co	03-19-86	B		
ST86-1088	Texas Gas Transmission Corp	Boonville Natural Gas Corp	03-19-86	B		
ST86-1089	Texas Eastern Transmission Corp	Columbia Gas of Ohio, Inc	03-20-86	B		
ST86-1090	Valero Transmission Co	Transwestern Pipeline Co	03-21-86	C		
ST86-1091	Valero Transmission Co	Trunkline Gas Co	03-21-86	C		
ST86-1092	Valero Transmission Co	Texas Eastern Transmission Corp	03-21-86	C		
ST86-1093	Columbia Gulf Transmission Co	IMC Pipeline Co	03-21-86	B		
ST86-1094	Columbia Gulf Transmission Co	Brandywine Industrial Gas, Inc	03-21-86	B		
ST86-1095	Columbia Gulf Transmission Co	Michigan Consolidated Gas Co., et al	03-21-86	B		
ST86-1096	Panhandle Eastern Pipe Line Co	Rock-Tenn Co	03-21-86	F(157)		
ST86-1097	Panhandle Eastern Pipe Line Co	Teepak, Inc	03-21-86	F(157)		
ST86-1098	Delhi Gas Pipeline Corp	Northern Natural Gas Co	03-24-86	C		
ST86-1099	Delhi Gas Pipeline Corp	Transwestern Pipeline Co	03-24-86	C		
ST86-1100	Delhi Gas Pipeline Corp	Memphis Light, Gas and Water Division	03-24-86	C		
ST86-1101	Oasis Pipe Line Co	Southern California Gas Co	03-24-86	C		
ST86-1102	Houston Pipe Line Co	Columbia Gas of Kentucky, Inc	03-24-86	C		
ST86-1103	Houston Pipe Line Co	Illinois Power Co	03-24-86	C		
ST86-1104	Houston Pipe Line Co	Columbia Gas of Ohio, Inc	03-24-86	C		
ST86-1105	Houston Pipe Line Co	Orange and Rockland Utilities, Inc	03-24-86	C		
ST86-1106	Arkla Energy Resources, (La Intra. Seg.)	Arkla Energy Resources	03-24-86	C		
ST86-1107	Arkla Energy Resources	Arkla Energy Resources, (La Intra. Seg.)	03-24-86	B		
ST86-1108	Delhi Gas Pipeline Corp	United Gas Pipe Line Co	03-25-86	C		
ST86-1109	Delhi Gas Pipeline Corp	United Gas Pipe Line Co	03-25-86	C		
ST86-1110	Delhi Gas Pipeline Corp	United Gas Pipe Line Co	03-25-86	C		
ST86-1111	Texas Gas Transmission Corp	Orange and Rockland Utils., Inc., et al	03-25-86	B		
ST86-1112	Texas Gas Transmission Corp	Indiana Gas Co	03-25-86	B		
ST86-1113	Texas Gas Transmission Corp	Mississippi Valley Gas Co	03-25-86	B		
ST86-1114	Texas Gas Transmission Corp	Indiana Gas Co	03-25-86	B		
ST86-1115	Texas Gas Transmission Corp	Memphis Light, Gas and Water Division	03-25-86	B		
ST86-1116	Texas Gas Transmission Corp	Western Kentucky Gas Co	03-25-86	B		
ST86-1117	Texas Gas Transmission Corp	Western Kentucky Gas Co	03-25-86	B		
ST86-1118	Trunkline Gas Co	Consumers Power Co	03-25-86	B		
ST86-1119	Trunkline Gas Co	Consumers Power Co	03-25-86	B		
ST86-1120	Gas Gathering Corp	Anchor Gasoline Corp	03-25-86	G (EU)		
ST86-1121	Columbia Gas Transmission Corp	Constitution Gas Transport, Inc	03-25-86	B		
ST86-1122	Columbia Gas Transmission Corp	Kans Gas Light and Heating Co	03-25-86	B		
ST86-1123	United Gas Pipe Line Co	Atlanta Gas Light Co	03-27-86	B		
ST86-1124	United Gas Pipe Line Co	Atlanta Gas Light Co	03-27-86	B		
ST86-1125	United Gas Pipe Line Co	Mississippi Valley Gas Co	03-27-86	B		
ST86-1126	United Gas Pipe Line Co	Mississippi Valley Gas Co	03-27-86	B		
ST86-1127	United Gas Pipe Line Co	Southeast Alabama Gas District	03-27-86	B		
ST86-1128	United Gas Pipe Line Co	Mississippi Valley Gas Co	03-27-86	B		
ST86-1129	United Gas Pipe Line Co	Southeast Alabama Gas District	03-27-86	B		
ST86-1130	United Gas Pipe Line Co	Southeast Alabama Gas District	03-27-86	B		
ST86-1131	United Gas Pipe Line Co	Chattanooga Gas Co	03-27-86	B		
ST86-1132	United Gas Pipe Line Co	Chattanooga Gas Co	03-27-86	B		
ST86-1133	United Gas Pipe Line Co	Chattanooga Gas Co	03-27-86	B		
ST86-1134	United Gas Pipe Line Co	Alabama Gas Corp	03-27-86	B		
ST86-1135	United Gas Pipe Line Co	Alabama Gas Corp	03-27-86	B		
ST86-1136	United Gas Pipe Line Co	Alabama Gas Corp	03-27-86	B		
ST86-1137	United Gas Pipe Line Co	Victoria Gas Corp	03-27-86	B		
ST86-1138	United Gas Pipe Line Co	Victoria Gas Corp	03-27-86	B		
ST86-1139	United Gas Pipe Line Co	Reliance Pipeline Co	03-27-86	B		
ST86-1140	United Gas Pipe Line Co	Atlanta Gas Light Co	03-27-86	B		
ST86-1141	United Gas Pipe Line Co	South Carolina Pipeline Corp	03-27-86	B		
ST86-1142	United Gas Pipe Line Co	South Carolina Pipeline Corp	03-27-86	B		
ST86-1143	United Gas Pipe Line Co	South Carolina Pipeline Corp	03-27-86	B		
ST86-1144	MGTC, Inc	Cheyenne Light, Fuel & Power Co	03-28-86	C		
ST86-1145	MGTC, Inc	Cheyenne Light, Fuel & Power Co	03-28-86	B		

Docket No.[1]	Transporter/seller	Recipient	Date filed	Subpart	Expiration date[2]	Transportation rate (¢/MMBTU)
ST86-1146	United Texas Transmission Co	Southern Indiana Gas & Electric Co	03-27-86	C		
ST86-1147	Houston Pipe Line Co	Northern Natural Gas Co	03-28-86	C		
ST86-1148	El Paso Natural Gas Co	City of Denver City, TX	03-27-86	B		
ST86-1149	Arkla Energy Resources	Arkansas Louisiana Gas Co	03-31-86	B	*	
ST86-1150	Mississippi Fuel Co	Tennessee Gas Pipeline Co	03-31-86	C	09-28-86	14.63
ST86-1151	Columbia Gulf Transmission Co	Cincinnati Gas and Electric Co., et al	03-31-86	B		

[1] Notice of Transactions does not constitute a determination that filings comply with Commission regulations in accordance with order No. 436 (final rule and notice requesting supplemental comments, 50 FR 42,372, 10/18/85).

[2] The Interstate Pipeline has sought Commission approval of its transportation rate pursuant to section 284.123(B)(2) of the Commission's regulations (18 CFR 284.123(B)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.

[FR Doc. 86-10543 Filed 5-9-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA86-3-11-000, 001]

United Gas Pipe Line Co.; Change in Rates

May 5, 1986.

Take notice that on April 29, 1986, United Gas Pipe Line Company ("United") tendered for filing as part of its Federal Energy Regulatory Commission (FERC or Commission) Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

(1) Seventy-Third Revised Sheet No. 4;
(2) substitute Fifth Revised Sheet No. 74-B; and
(3) Substitute Sixth Revised Sheet No. 74-F.

The proposed effective date of Seventy-Third Revised Sheet No. 4 is May 1, 1986. The remaining two tariff sheets are in compliance with a Commission order and will be effective on January 1, 1986.

United States that Seventy-Third Revised Sheet No. 4 reflects an out-of-cycle Purchased Gas Adjustment ("PGA") unit rate adjustment to provide to customers the benefit of lower gas costs attributable to a reduction in the price United will pay to Public Service of Oklahoma, *i.e.*, $2.075 per MMBtu and to Lower Forty-eight States producers, *i.e.*, $1.90 per MMBtu, effective for deliveries beginning May 1, 1986. Also, Sheet No. 4 reflects changes in Canadian contract cost. Exhibit C shows the details of these changes which result in a net rate reduction of 48.87¢ per Mcf.

This PGA filing changes only the current adjustment portion of the rate and is proposed to remain in effect only until July 1, 1986, the effective date of United's next regular PGA filing. The surcharge adjustment as filed on February 6, 1986 and accepted by the Letter Order issued March 26, 1986 in Docket Nos. TA85-2-11-003, *et al.*, remains in effect.

Under the normal operation of United's PGA, the May 1, 1986 price reductions would not effect rates charged to United's customers until July 1, 1986, and cost savings achieved during May and June 1986 would not flow through to United's customers until January 1, 1987. Hence, United files this out-of-cycle PGA to accelerate the flow-through of the rate reductions in order to provide an immediate benefit United's customers and the ultimate consumer.

United requests such waivers of the requirements of section 19 and 23 of its Tariff, § 154.38 of the regulations, 18 CFR 154.38, and FERC Form 542-PGA as may be required to permit it to make this out-of-cycle PGA filing. United further requests waiver of the thirty (30) day notice requirements so that this filing can become effective May 1, 1986. Such action will permit United to reflect the May 1, 1986 gas cost reductions as they occur. United, therefore, submits that good cause has been shown for the requested waiver.

United also submitted for filing Substitute Fifth Revised Sheet No. 74-B and Substitute Sixth Revised Sheet No. 74-F in compliance with the Commission's March 28th Letter Order. The compliance filing revised section 19 of United's PGA tariff to delete the reference to concurrent exchange transactions and section 19.8(1) of the tariff to be consistent with the Commission's adjusted exchange methodology.

A copy of the filing is being mailed to United's jurisdictional customers and to interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of this chapter. All such motions or protests should be filed on or before May 12, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-10542 Filed 5-9-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA86-2-56-000,001]

Valero Interstate Transmission Co.; Change in Rates Pursuant To Purchased Gas Cost Adjustment Provisions

May 5, 1986.

Take notice that on May 1, 1986, Valero Interstate Transmission Company ("Vitco") tendered the following tariff sheets for filing containing changes in rates pursuant to purchased gas cost adjustment provisions:

6th Revised Sheet No. 6, Superseding Substitute 5th Revised Sheet No. 6, To FERC Gas Tariff, Original Volume No. 2
1st Revised Sheet No. 14.2, Superseding Substitute Original Sheet No. 14.2, To FERC Gas Tariff, Original Volume No. 1

Vitco states that the rates stated on 6th Revised Sheet No. 6 and 1st Revised Sheet No. 14.2 reflects the change in purchased gas costs based on the six months ended February 28, 1986.

The change in rate to Rate Schedule S-1, FERC Gas Tariff, Original Volume No. 2 includes an increase in purchased gas cost of 18.99¢ per Mcf and a negative surcharge of 20.74¢ per MMBtu. The rate for Rate Schedule S-2 is $1.8044 per MMBtu and does not include an increase or decrease from the prior period because the gas was being sold under other rate schedules on a temporary basis. The rate for Rate Schedule S-3 includes a increase in purchased gas cost of 42.41¢ per MMBtu and a negative surcharge of 54.61¢ per MMBtu. The surcharge in each Rate Schedule is designed to eliminate the balance in the deferred purchased gas cost account.

The proposed effective date for the above filings is June 1, 1986. Vitco requests a waiver of any Commission regulations or orders which would prohibit implementation by June 1, 1986.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 384.211 and 385.214). All such motions or protests should be filed on or before May 12, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-10546 Filed 5-9-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP86-71-000]

Valley Gas Transmission, Inc.; Proposed Changes in FERC Gas Tariff

May 5, 1986.

Take notice that on April 30, 1986, Valley Gas Transmission, Inc. ("Valley") tendered for filing proposed changes in its FERC Gas Tariff, Original Volume Nos. 1 and 2. The proposed changes would increase Valley's non-gas cost jurisdictional revenues by $171,729 on an annual basis. Valley has proposed that the increased rates and tariff sheets become effective June 1, 1986.

Valley states that the requested change in rates is to recover its jurisdictional cost of service for the twelve months ended December 31, 1985, as adjusted for changes through September 30, 1986. Valley notes that the principal reasons for the requested change are (1) a significant decrease in sales volumes, and (2) increased cost of capital. Valley further notes that it is submitting tariff sheets to implement its previously approved blanket transportation certificate.

Valley states that copies of this filing were served on all of the company's jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before May 12, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-10597 Filed 5-9-86; 8:45 am]
BILLING CODE 6717-01-M

Oil Pipeline; Tentative Valuation

May 9, 1986.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to section 19a of the Interstate Commerce Act.

Notice is hereby given that a tentative valuation is under consideration for the common carrier by pipeline listed below:

1983 Annual Report

Valuation Docket No. PV-1452-000—Chase Transportation Company, P.O. Box 2256, Wichita, Kansas 67201.

On or before June 16, 1986, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in this valuation may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in this proceeding.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,
Administrative Officer, Oil Pipeline Board.

[FR Doc. 86-10636 Filed 5-9-86; 8:45 am]
BILLING CODE 6717-01-M

Oil Pipeline; Tentative Valuation

May 9, 1986.

The Federal Energy Regulatory Commission by order issued February 10, 1978, established an Oil Pipeline Board and delegated to the Board its functions with respect to the issuance of valuation reports pursuant to section 19a of the Interstate Commerce Act.

Notice is hereby given that tentative valuations are under consideration for the common carriers by pipeline listed below:

1981, 1982, 1983 Consolidated Reports

Valuation Docket No. PV-1468-000—Enterprise Petrochemical Company, P.O. Box 4324, Houston, Texas 77210.

1982 and 1983 Consolidated Report

No. PV-1469-000—Enterprise Pipeline Company, P.O. Box 4324, Houston, Texas 77210.

No. PV-1470-000—Enterprise Products Company of Mississippi, P.O. Box 4324, Houston, Texas 77210.

On or before June 16, 1986, persons other than those specifically designated in section 19a(h) of the Interstate Commerce Act having an interest in these valuations may file, pursuant to rule 214 of the Federal Energy Regulatory Commission's "Rules of Practice and Procedure" (18 CFR 385.214), an original and three copies of a petition for leave to intervene in these proceedings.

If the petition for leave to intervene is granted the party may thus come within the category of "additional parties as the FERC may prescribe" under section 19a(h) of the Act, thereby enabling it to file a protest. The petition to intervene must be served on the individual company at its address shown above and an appropriate certificate of service must be attached to the petition. Persons specifically designated in section 19a(h) of the Act need not file a petition; they are entitled to file a protest as a matter of right under the statute.

Francis J. Connor,
Administrative Officer, Oil Pipeline Board.

[FR Doc. 86-10527 Filed 5-9-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA86-2-55-000, and -001]

Mountain Fuel Resources, Inc.; Tariff Filing

May 5, 1986.

Take notice that Mountain Fuel Resources, Inc. (MFR) on May 1, 1986, tendered for filing and acceptance Third Revised Sheet No. 12 and Fourth Revised Sheet No. 14 to its FERC Gas

Tariff, First Revised Volume No. 1, for rates applicable to service rendered under its Rate Schedule CD–1 which is subject to MFR's Purchased Gas Cost Adjustment (PGA) provision. MFR states that it has submitted Second Revised Sheet No. 61 and Third Revised Sheet No. 62 to its FERC Gas Tariff, First Revised Volume No. 1, to reflect new methodology adopted by the Commission with respect to the handling of concurrent exchange imbalances.

MFR states that Third Revised Sheet No. 12 and Fourth Revised Sheet No. 14 are filed pursuant to its PGA provisions and Part 154 of this Commission's Regulations. Third Revised Sheet No. 12 reflects a $0.21969/Dth decrease in MFR's Commodity Base Cost of Purchased Gas as Adjusted and an increase of $0.01237/Dth in its Unrecovered Purchased Gas Cost Adjustment to reflect a new decrease of $0.20752/Dth in the sale-for-resale rates charged under Rate Schedule CD–1. MFR states that there has been no change in the demand charge MFR incurs from its major pipeline suppliers. Fourth Revised Sheet No. 14 reflects $0.00 projected incremental pricing for the June 1, 1986, through November 30, 1986, PGCA period.

Further, MFR has proposed a new section 12.7 (Interim Commodity Gas Cost Adjustment) to its current PGA provision to permit adjustments to its jurisdictional rates to reflect a revised average cost of gas between its regularly scheduled PGA adjustment dates. In order to effect this revision, MFR tendered for filing and acceptance First Revised Sheet No. 65 and Original Sheet Nos. 65–A and 65–B to its FERC Gas Tariff, First Revised Volume No. 1.

MFR seeks to effect changes under its out-of-cycle PGA proposal on one day's notice to the Commission, affected customers and state commissions and has asked for waiver of the Commission's 30-day notice requirements under 18 CFR 154.22. MFR states that its out-of-cycle PGA proposal will allow it to pass on known and measurable gas-cost reductions on a timely basis and would limit such changes to a rate no higher than the rate established in MFR's previously effective regular PGA filing.

MFR has requested an effective date of June 1, 1986, for all tendered tariff sheets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 12, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86–10545 Filed 5–9–86; 8:45 am]
BILLING CODE 6717–01–M

[Docket No. RM85–1–000]

Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, Transcontinental Gas Pipe Line Corp.; Order Dismissing Request for Clarification

Issued: May 5, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt, and C. M. Naeve.

On November 27, 1985, Transcontinental Gas Pipe Line Corporation (Transco) filed a request for clarification as to whether an interstate pipeline transporting natural gas in response to an emergency under either Subpart B of Part 284 or § 157.45 of the Commission's emergency transaction regulations would become subject to the non-discriminatory access provisions of §§ 284.8(b) and 284.9(b) of Order No. 436.[1]

On March 12, 1986, the Commission issued Order No. 449[2] to revise its regulations relating to emergency natural gas transactions. Order No. 449 clarifies when emergency transportation under either Order No. 436 or the emergency regulations, as previously in effect and as revised, will cause a transporter to become subject to the non-discriminatory access conditions of Order No. 436. Therefore, we find that Transco's request for clarification is now moot and dismiss the request. By the Commission.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86–10546 Filed 5–9–86; 8:45 am]
BILLING CODE 6717–01–M

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[1] 33 FERC ¶61,007 (1985), FERC Statutes and Regulations ¶30,665 (1985).

[2] 34 FERC ¶61,334 (1986).

[Docket Nos. ER86–444–000 et al.]

Electric Rate and Corporate Regulation Filings; Citizens Energy Corp. et al.

May 5, 1986.

Take notice that the following filings have been made with the Commission:

1. Citizens Energy Corporation

[Docket No. ER86–444–000]

Take notice that Citizens Energy Corporation ("Citizens") on April 28, 1986, tendered for filing the following agreements:

(1) Electric Power Purchase Agreement for Creation of Special Financial Assistance Fund between Citizens and Utah Municipal Power Agency ("UMPA"), dated as of November 21, 1985;

(2) Citizens-Los Angeles Special Assistance Energy Agreement between Citizens and Department of Water and Power of the City of Los Angeles ("Los Angeles"), dated as of March 27, 1986;

Under the Agreement with UMPA, Citizens shall purchase from UMPA electric energy associated with up to 15 MW of capacity per hour from the Bonanza Unit 1 Generating Station and other electric generating resources available to UMPA for resale at wholesale to Citizens' third party buyer. The rate for power and energy delivered under the UMPA Agreement is to be the actual incremental cost of fuel (expressed in terms of dollars per megawatt-hour) incurred by UMPA at its Bonanza Unit 1 to produce the power and energy delivered thereunder plus $4.00 per megawatt-hour, the sum of which will be increased by 3% for transmission losses from the Bonanza Unit 1 to the point of delivery to Citizens. The Agreement shall continue in effect for three years, commencing on November 21, 1985, and then for additional one year periods unless terminated by either party on at least 90 days prior written notice.

Under its Agreement with Los Angeles, Citizens will sell Los Angeles interruptible economy energy in amounts and at times to be mutually determined. The charges for economy energy transactions under this Agreement will be at a rate to be mutually agreed upon by Citizens and Los Angeles. The Los Angeles Agreement is to continue in effect until terminated by Citizens or Los Angeles on 30 days' prior written notice.

Under the two agreements, all monies in an amount equal to the difference between the amounts paid to Citizens by Los Angeles and Citizens' cost of

acquiring power and energy under its agreement with UMPA, less Citizens' expenses in the amount of $0.001 per kWh, shall be segregated, held and applied to a Special Financial Assistance Fund (the "Fund"). Monies in the Fund shall be used to make or help make payments for electric bills or deposits, if required, or residential electric customers of Los Angeles and Members of UMPA who are unable to pay, in whole or in part, their respective residential electric bills owing to Los Angeles and Members of UMPA because such residential customers either are ineligible for financial assistance under other existing energy assistance programs for the payment of such electric bills or deposits or whose available assistance for such purposes has been exhausted or is otherwise inadequate, all as further described in the agreements which are the subject of this notice.

Copies of the filing were served upon Los Angeles and UMPA.

Citizens requests a waiver of the notice requirements of 18 CFR 35.3 and to make the contracts effective as of May 15, 1986.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Florida Power & Light Company

[Docket No. ER86–446–000]

Take notice that Florida Power & Light Company (FPL) on April 28, 1986, tendered for filing revised Cost Support Schedules C, F and G (together with Cost Support Schedule F Supplement) that support the revised daily capacity charge for sales under Service Schedule B (Short-Term Firm Interchange Service) of FPL's Contracts for Interchange Service with Florida Power Corporation, For Piece Utilities Authority, City of Gainesville, Jacksonville Electric Authority, City of Kissimmee, City of Lakeland, Orlando Utilities Commission, City of St. Cloud, Sebring Utilities Commission, Seminole Electric Cooperative, Inc., City of Starke, Tampa Electric Company, and City of Vero Beach; and revised Cost Support Schedules C–S, F–S, and G–S (together with Cost Support Schedule F–S Supplements) that support the revised daily capacity charge for sales under Service Schedule B–S (Short-Term Firm Interchange Service) of FPL's Supplementary Agreement Number One to the Contract for Interchange Service with Seminole Electric Cooperative, Inc. FPL states that the revised capacity charges have been calculated in accordance with the provisions of Service Schedule B and Service Schedule B–S and represent an updating of the currently effective capacity charges to reflect more current costs.

FPL requests an effective date of May 1, 1986, and therefore requests waiver of the Commission's notice requirements.

According to FPL, a copy of this filing was served upon all of the above named parties and the Florida Public Service Commission.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this document.

3. Florida Power & Light Company

[Docket No. ER86–447–000]

Take notice that on April 28, 1986, Florida Power & Light Company (FPL) tendered for filing a document entitled Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and The Florida Municipal Power Agency.

FPL states that under the Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and Florida Municipal Power Agency, FPL will transmit power and energy for Florida Municipal Power Agency as is required in the implementation of its interchange agreements with Fort Pierce Utilities Authority; City of Gainesville; City of Homestead; Jacksonville Electric Authority; City of Lake Worth; Utilities Commission, City of New Smyrna Beach; Orlando Utilities Commission; Seminole Electric Cooperative, Inc.; City of Starke, Tampa Electric Company and the City of Vero Beach.

FPL requests that waiver of § 35.3 of the Commission's Regulations be granted and that the proposed Agreement be made effective May 1, 1986. FPL states that copies of the filing were served on Florida Municipal Power Agency.

Comment date: May 19, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Florida Power & Light Company

[Docket No. ER86–451–000]

Take notice that Florida Power & Light Company (FPL) on April 29, 1986, tendered for filing nine (9) revised Exhibits A which provide for the contract demands for Florida Keys Electric Cooperative Association, Inc.; Fort Pierce Utilities Authority; City of Homestead; Lake Worth Utilities Authority; Utilities Commission, City of New Smyrna Beach; City of Starke; City of Vero Beach; City of Jacksonville Beach; and City of Green Cove Springs. The proposed effective date for the contract demands for Florida Keys Electric Cooperative Association, Inc.; Fort Pierce Utilities Authority; City of Homestead; Lake Worth Utilities Authority; Utilities Commission, City of New Smyrna Beach; City of Starke; and City of Vero Beach is May 29, 1986. The proposed effective date for the contract demands for the City of Jacksonville Beach, and the City of Green Cove Springs is May 1, 1986.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. The Montana Power Company

[Docket No. ER86–454–000]

Take notice that on April 29, 1986, The Montana Power Company (MPC) tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Regulations under the Federal Power Act its proposed Rate Schedule REC–86, applicable for sales of electricity by MPC for resale to Bighorn County Electric Cooperative, Inc. (MPC Rate Schedule FERC No. 40), and Central Montana Generation and Transmission Cooperative, Inc. (MPC Rate Schedule FERC No. 39).

MPC states that Rate Schedule REC–86 will provide it with an increase in revenues from sales to these customers of $1,566,467 (12.6%) during the year ending June 30, 1987, and is intended to implement the first annual rate increase pursuant to a Settlement Agreement approved in Docket No. ER84–359–000, 31 FERC ¶61,080 (1985).

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. Middle South Energy, Inc.

[Docket No. ER86–434–000]

Take notice that on April 25, 1986, Middle South Energy, Inc. ("MSE") tendered for filing a revised Schedule A of the Billing Format (Supplement No. 1 to MSE Rate Schedule FERC No. 2) appended to the Unit Power Sales Agreement between MSE and Arkansas Power & Light Company, Louisiana Power & Light Company, Mississippi Power & Light Company and New Orleans Public Service Inc. (MSE Rate Schedule FERC No. 2). The revision extends until December 31, 1986 the period in which MSE may use the units-of-production depreciation method for calculation of depreciation expense of Unit 1 of its Grand Gulf Nuclear Electric Station.

MSE states that pursuant to FERC Opinion No. 234, its permission to use the units-of-production depreciation method is scheduled to expire on June 30, 1986. However, MSE expects to shut down Grand Gulf Unit 1 in September 1986 for its initial fuel re-loading and

certain maintenance work. MSE states that the revision to Schedule A of the Billing Format will permit deferral of payment by its customers for certain depreciation expense until after the refueling and maintenance outage, when the unit will be ready for operation at full capacity.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Southern Indiana Gas and Electric Company

[Docket No. ER86-437-000]

Take notice that Southern Indiana Gas and Electric Company (Southern Indiana) on April 29, 1986, tendered for filing, proposed changes in its FPC Electric Service Tariff by Modification No. 5 to its November 27, 1972 Interconnection Agreement with the City of Jasper, Indiana, which Modification No. 5 is proposed to take effect immediately upon acceptance by this Commission; and by Modification No. 6 to its said November 27, 1972 Interconnection Agreement with the City of Jasper, Indiana, which Modification No. 6 is proposed to take effect twelve (12) months subsequent to the effective date of Modification No. 5.

Southern Indiana indicates that the purpose of this filing is to revise Service Schedule A—Contract Power—and Schedule B—Emergency Power—and Schedule C—Maintenance Power. Under Modification No. 5 the Capacity Charge for Contract Power is proposed to be increased from $4.50 to $6.25 per Kw per month of Scheduled and Unscheduled Demand and the Capacity Charge for Emergency Service and Maintenance Power in Service Schedules B and C, is proposed to be increased from $1.05 to $1.45 per Kw per week and/or $0.24 per Kw per day for each day of less than a calendar week. Under Modification No. 6 the Capacity Charge for Contract Power is proposed to be increased from $6.25 to $8.00 per Kw per month of Scheduled and Unscheduled Demand and the Capacity Charge for Emergency Service and Maintenance Power in Service Schedules B and C, is proposed to be increased from $1.45 to $1.85 per Kw per week and/or $0.31 per Kw per day for each day of less than a calendar week. The contract term is extended to ten (10) years from the date of Modification No. 5.

The proposed revisions reflect a desire on the part of both parties to provide for present and anticipated future increases in costs and to attain the maximum benefit from the interconnection of their systems.

Southern Indiana requests waiver of the notice requirements of § 35.3 of the Commission's regulations to permit an effective date for its Modification No. 5 immediately upon filing with the Commission.

Southern Indiana states that copies of the filing were served upon City of Jasper, Indiana who has filed its separate Certificates of Concurrence to Modification No. 5 and Modification No. 6.

Comment date: May 15, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-10554 Filed 5-9-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA86-2-54-000,001]

Louisiana-Nevada Transit Co.; Proposed Changes in FERC Gas Tariff

May 5, 1986.

Take notice that on April 30, 1986, Louisiana-Nevada Transit Company (Louisiana-Nevada) tendered for filing the following tariff sheet to its FERC Gas Tariff, First Revised Volume No. 1:

Eleventh Revised Sheet No. 4
superseding
Tenth Revised Sheet No. 4

The proposed changes reflect a purchased gas cost adjustment under Louisiana-Nevada's Rate Schedules G-1 and X-2. The changes provide for a total adjustment of 60.41 cents per MCF including a deferred gas cost adjustment of 42.60 cents per MCF, to amortize a deferred balance, and a cumulative cost of gas adjustment of 17.81 cents per MCF. An effective date of June 1, 1986 is requested.

Louisiana-Nevada states that copies of this filing were served on its jurisdictional customers and the Arkansas and Louisiana Public Service Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 12, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-10554 Filed 5-9-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. ER86-461-000 et al.]

Arizona Public Service Co. et al.; Electric Rate and Corporate Regulation Filings

May 6, 1986.

Take notice that the following filings have been made with the Commission:

1. Arizona Public Service Company

[Docket No. ER86-461-000]

Take notice that Arizona Public Service Company (APS) on May 1, 1986, tendered for filing the Power Coordination Agreement between Arizona Public Service Company (APS) and San Diego Electric and Gas Compnay (SDG&E), executed December 23, 1985.

The Agreement provides for Economy Energy transactions, Emergency Assistance Service, and Short Term Firm Capacity Service.

It is requested that this Agreement become effective 60 days from the date fof filing with FERC.

Copies of this filing are being served upon SDG&E and the Arizona Corporation Commission.

Comment date: May 19, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Florida Power & Light Company

[Docket No. ER86-460-000]

Take notice that on May 1, 1986, Flordia Power & Light Company (FPL), tendered for filing a document entitled Amendment Number Eleven to Agreement to Provide Specified Transmission Service Between Florida Power & Light Company and Lake Worth Utilities Authority (Lake Worth) (Rate Schedule FERC No. 56).

FPL states that under Amendment Number Eleven, FPL will transmit power and energy for Lake Worth as is required in the implementation of its interchange agreements with Tampa Electric Company.

FPL request that waiver of § 35.3 of the Commission's Regulations be granted and that the proposed Amendment be made effective immediately. FPL states that copies of the filing were served on Lake Worth.

Comment date: May 19, 1986, in accordance with Standard Paragraph E at the end of this document.

3. Central Power and Light Company, Public Service Company of Oklahoma, Southwestern Electric Power Company; West Texas Utilities Company

[Docket No. EL79-6-002]

Take notice that on May 1, 1986, Central Power and Light Company ("CPL"), Public Service Company of Oklahoma ("PSO"), Southwestern Electric Power Company ("SWEPCO") and West Texas Utilities Company ("WTU") (collectively, the "CSW Operating Companies") and Houston Lighting & Power Company ("HL&P") petitioned the Commission to modify its earlier orders accepting the offer of settlement filed in this proceeding. In its earlier orders approving the offer of settlement, the Commission, *inter alia*, ordered the CSW Operating Companies and HLP to construct an asynchronous direct current interconnection between Walker County, Texas and the South Texas Nuclear Project (the "South Interconnection"). Petitioners ask the Commission to modify its earlier orders to (a) require establishment of an asynchronous direct current interconnection (the "East Interconnection") between SWEPCO's Welch generating station and Texas Utilities Electric Company's ("TUEC") Monticello generating station, both in Titus County, Texas, and the immediate undertaking of actions required therefor, (b) require the CSW Operating Companies, HL&P and TUEC to interconnect their facilities with each other at the East Interconnection, (c) require such ownership of the East Interconnection by the CSW Operating Companies, HL&P and others, and such wheeling, coordination, commingling, sale and exchange of electric power to, from and over the East Interconnection and within the State of Texas as may facilitate its use, and (d) relieve the CSW Operating Companies and HL&P from their obligation to construct and operate the South Interconnection upon construction of the East Interconnection. The filing Companies expressely reserve the right to withdraw their petition in the event that opposition arises which is not resolved.

Comment date: May 19, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Duke Power Company

[Docket No. ER86-458-000]

Take notice that Duke Power Company (Duke) on May 1, 1986 tendered for filing a revision in Service Schedule C *Sales of Power and Energy* to its Interconnection Agreement dated October 17, 1983 with Yadkin, Inc., which Agreement was accepted for filing by the Commission on February 24, 1984. Service Schedule C provides for interruptible rates with no demand charge for off-peak sales. Based on the 12-month period ending March 31, 1986, Duke estimates that the proposed change in rates will increase annual revenues to Duke from Yadkin by approximately $170,979.

Duke requests an effective date of July 1, 1986.

Copies of this filing were served on the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: May 19, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Florida Power Corporation

[Docket No. ER 86-459-000]

Take notice that on May 1, 1986, Florida Power Corporation (Florida Power) tendered for filing a revised agreement with Seminole Electric Cooperative, Inc. providing for supplemental resale service, transmission/distribution service and load following service. The revisions (1) eliminate a surcharge for spent nuclear fuel disposal costs, (2) reduce a billing lag prepayment, (3) identify current delivery points, and (4) designate the pages of the contract with sheet numbers. The revised agreement is submitted for filing as a separate rate schedule which cancels and supersedes Florida Power's Rate Schedule FERC No. 99.

Florida Power requests that the revised agreement be made effective as a rate schedule on May 1, 1986, and therefore, requests waiver of the sixty day notice requirement. Copies of the filing have been served on Seminole Electric Cooperative, Inc. and the Florida Public Service Commission.

Comment date: May 19, 1986, in accordance with Standard Paragraph E at the end of third notice.

6. Pacific Gas Electric Company

[Docket No. ER86-456-000]

Take notice that on May 1, 1986, Pacific Gas and Electric Company (PGandE) tendered for filing changes to the rate schedules under the "Interconnection Agreement between Pacific Gas and Electric Company and the City of Santa Clara" (Interconnection Agreement).

The Interconnection Agreement provides the City of Santa Clara (Santa Clara) with, among other services, firm transmission service between Points of receipt and Points of Delivery. Santa Clara wishes to include additional Points of Receipt at the NCPA tap line from the NCPA geothermal projects and at PGandE's Lakeville Substation. The new Points of Receipt will allow Santa Clara to take delivery of power and energy from the NCPA #2 and #3 geothermal projects. Since NCPA #3 began operation on November 20, 1985, PGandE has requested a waiver of the Commission's notice requirements to permit the new Points of Receipt to be effective on November 20, 1985.

Comment date: May 19, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Public Service Company of New Mexico

[Docket No. ER86-438-000]

Take notice that on April 28, 1986, Public Service Company New Mexico (PNM) tendered for filing Notice of Termination of the Precommercial Energy Sale and Purchase letter Agreement between Southern California Edison Company and PNM. PNM is seeking to terminate this Agreement, which expires on its own terms on the date Palo Verde Nuclear Generating Station (PVNGS) Unit 1 of declared in firm operation by the Engineering and Operating Committee of the Arizona Nuclear Power Project declared PVNGS Unit 1 in firm operation on January 27, 1986.

Comment date: May 19, 1986, in accordance with Standard Paragraph E at the end of this notice.

8. Public Service Company of New Mexico

[Docket No. ER86-439-000]

Take notice that on April 28, 1986, San Diego Gas and Electric tendered for filing a notice of Termination of the

Precommercial Energy Sale and Purchase the latter Agreement Between San Diego Gas and Electric Company and Public Service Company of New Mexico (PNM)—FERC Rate Schedule No. 64. PNM said that it seeks to terminate this agreement, which expires on its own terms on the date Palo Verde Nuclear Generation Station Unit 1 is declared in firm operation by the Engineering and Operating Committee of the Arizona Nuclear Power Project. The Engineering and Operating Committee of the Arizona Nuclear Power Project declared PVNGS Unit 1 in firm operation of January 27, 1986.

Comment date: May 19, 1986, in accordance with standard Paragraph E at the end of this notice.

9. Sierra Pacific Power Company

[Docket No. ER86-307-000]

Take notice that on April 28, 1986, Sierra Pacific Power Company (Sierra) tendered for filing a notice of Cancellation effective December 18, 1985. This results from the fourth addendum to the agreement between Mt. Wheeler Power, Inc. (Mt. Wheeler) and Sierra Pacific Power Company (Sierra) dated February 24, 1971 (copy enclosed). The addendum terminates the obligations of Mt. Wheeler to buy and of Sierra to sell power and energy sufficient to meet "all of the electric power requirements of Mt. Wheeler".

Comment date: May 19, 1986, in accordance with Standard Paragraph E at the end of this notice.

10. Southern California Edison

[Docket No. ER86-332-000]

Take notice that on May 1, 1986 Southern California Edison Company tendered for filing additional support data for the rates contained in its March 3, 1986 filing in the above-referenced docket number. This filing contains a breakdown of all components used in developing the levelized fixed charges for each facility.

The listing below indicates the appropriate City, FERC No. and exhibit which additional support data is being provided:

Contract Rate TN	Rate Schedule FERC No. FPC Electric Tariff Original Volume No. 1
City of Riverside	195
City of Anaheim	194

Comment date: May 19, 1986, in accordance with Standard Paragraph E at the end of this notice.

11. Southern California Edison

[Docket No. ER86-334-000]

Take notice that on May 1, 1986, Southern California Edison Company tendered for filing additional support data for the rates contained in its March 3, 1986 filing in the above-referenced docket number. This filing contains a breakdown of all components used in developing the levelized fixed charges for each facility.

The listing below indicates the appropriate City, FERC No. and exhibit which additional support data is being provided:

	Rate Schedule FERC No.	Exhibit
City of Anaheim	136	1
City of Riverside	139	2
City of Vernon	140,172	3
City of Azusa	160	4
City of Banning	159	5
City of Colton	162	6

Comment date: May 19, 1986, in accordance with Standard Paragraph E at the end of this notice.

12. Southern Indiana Gas and Electric Company

[Docket No. ER86-457-000]

Take notice that Southern Indiana Gas and Electric Company ("the Company") on May 1, 1986, tendered for filing proposed changes in its wholesale power service Rate RS which is the basis for FERC Rate Schedule Nos. 34, 35, 36, and 37 under which it sells power for resale to its four wholesale customers. The proposed changes would increase base rate revenues from jurisdictional sales and service by $981,842 based upon the twelve-month period ending June 30, 1985. The increase is requested to become effective on August 1, 1986. The affected customers are the City of Boonville, City of Tell City, City of Huntingburg, and the Town of Ferdinand, Indiana.

Copies of the filing have been served upon the affected wholesale customers named above, and upon the Public Service Commission of Indiana.

Comment date: May 19, 1986, in accordance with Standard Paragraph E at the end of this document.

13. Tampa Electric Company

[Docket No. ER86-343-001]

Take notice that on January 13, 1986, Tampa Electric Company (Tampa Electric) tendered for filing an Agreement to Provide Qualifying Facility Transmission Service between Tampa Electric and Royster Company. The agreement provides for the transmission of power by Tampa Electric from a cogeneration facility owned by Royster to Florida Power & Light Company. On April 30, 1986, Tampa Electric submitted supplemental information with respect to the agreement.

Tampa Electric proposes an effective date of January 1, 1986, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing, as amended, have been served on Royster and the Florida Public Service Commission.

Comment date: May 19, 1986, in accordance with Standard Paragraph E at the end of this notice.

14. Tampa Electric Company

[Docket No. ER86-462-000]

Take notice that on May 1, 1986, Tampa Electric Company (Tampa Electric) tendered for filing cost support schedules showing changes in the Committee Capacity and Short-Term Power Transmission Service rates under Tampa Electric's agreement to provide qualifying facility transmission service for Royster Company (Royster). Tampa Electric states that the revised transmission service rates are based on 1985 Form No. 1 data, and are developed by the same method that was utilized in the cost support schedules accompanying the initial filing of the transmission service agreement.

Tampa Electric proposes that the revised transmission service rates be made effective as of May 1, 1986, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing have been served upon Royster and the Florida Public Service Commission.

Comment date: May 19, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-10609 Filed 5-9-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RI 82-6-000]

ARCO Oil & Gas Co.; Petition for Waiver of Notice Requirements

Issued: May 7, 1986.

On January 21, 1982 ARCO Oil and Gas Company (ARCO) filed with the Commission under § 154.98 [1] of the Commission's regulations a Petition for Waiver of Notice Requirements under section 4(d) of the Natural Gas Act [2] and § 154.94 of the Commission's regulations,[3] and also included four Independent Rate Change filings under § 154.94 of the Commission's regulations.

The petition alleged that ARCO was entitled to charge Northern Natural Gas Company, division of HNG/InterNorth, Inc. (Northern) on a retroactive basis the rates set out in the filings pursuant to a favored nations clause included in an April 26, 1955 gas purchase contract entered into between Houston Oil Company of Texas, predecessor in interest to ARCO, as Seller, and Permian Basin Pipeline Company, predecessor in interest to Northern, as Purchaser. ARCO alleges that on September 16, 1973, Northern began paying a higher price to another producer which under the 1955 contract entitled ARCO to receive that higher price, but that ARCO was precluded from filing for the higher rate because Northern failed to notify it that Northern was paying the higher price. ARCO asserts that it is not petitioning the Commission to establish a retroactive rate but merely to waive the notice requirements to allow collection of the pre-existing rate provided in the contract, a rate not exceeding the area rate prescribed as just and reasonable by Commission Opinion No. 662.[4]

When ARCO filed the petition, ARCO stated that it and Northern were also engaged in court litigation over the same issue and that ARCO was preserving its legal position before all jurisdictional bodies. On January 20, 1983, Northern filed a Motion to Intervene in this proceeding.

On March 24, 1986, ARCO advised that the court litigation had been concluded but that the issue involved in the petition had not been resolved, and that settlement between the parties was not likely. It requested that the Commission proceed with the petition, and that the matter be set for hearing pursuant to Commission Rule 502.[5]

Any person desiring to be heard or to protest ARCO's filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure.[6] All such motions or protests should be filed on or before May 28, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-10612 Filed 5-9-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP85-179-001]

Consolidated Gas Transmission Corp.; Semi-Annual Report of Consolidated Gas Transmission Corporation; Direct Billings and Payments of Production-Related Cost Allowances

May 6, 1986.

Take notice that on April 18, 1986, Consolidated Gas Transmission Corporation (Consolidated), 445 West Main Street, Clarksburg, West Virginia 26301, filed in Docket No RP85-179-001 a semi-annual report describing its payments of retroactive production-related cost allowances and the direct billings of these amounts to its customers.

This report is being filed in compliance with the order issued September 30, 1985 in Docket No. RP85-179-000, in which Consolidated was authorized to bill customers directly for retroactive production-related cost allowances it has paid to its natural gas suppliers. Consolidated's report consists of two schedules. Consolidated states that the first schedule details its payments of retroactive production-related cost allowances that were paid to its natural gas suppliers. Consolidated states that none of these amounts were in dispute and that workpapers describing the basis for charges paid to producers were previously filed with the Commission in Docket Nos. TA85-2-22-002 and TA84-2-22-008. Consolidated further states that its second schedule summarizes the direct billings made by Consolidated to its jurisdictional customers each month from October 1985 through March, 1986

Consolidated states that it has served a copy of the report on its customers, and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 13, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-10613 Filed 5-9-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA86-2-59-000, 000]

Northern Natural Gas Co.; Alaskan Gas Transportation System (ANGTS) Semi-Annual Rate Adjustment

May 6, 1986.

Take notice that on April 25, 1986, Northern Natural Gas Company (Northern) tendered for filing with the Federal Energy Regulatory Commission (Commission) its regularly scheduled semi-annual ANGTS rate adjustment to be effective June 27, 1986 pursuant to Northern's F.E.R.C. Gas Tariff.

Since preparation of the last ANGTS transportation rate adjustment, Northern Border Pipeline's estimated transportation costs for 1986 have changed by such an insignificant amount that the impact of Northern's rates would be less than one mill per MCF. Therefore, Northern is not required to change its rates pursuant to Paragraph 21.4 of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 and Paragraph 4.4 of Northern's F.E.R.C. Gas Tariff, Original Volume No. 2. Accordingly, Northern is proposing to continue to bill and collect, effective June 27, 1986, the currently effective

[1] 18 CFR 154.98 (1986).
[2] 15 U.S.C. 717(d) (1982).
[3] 18 CFR 154.94 (1986).
[4] 30 FPC 390 (1973).
[5] 18 CFR 385.502 (1986).
[6] 18 CFR 385.214 and 385.211 (1986).

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ANGTS rate component as authorized by the Commission in Docket No. TA86-1-29.

The Company states that copies of the filing have been mailed to each of its Gas Utility customers and to interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 19, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 86-10664 Filed 5-9-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP74-65-010 et al.]

Western Gas Interstate Co. et al.; Filing of Pipeline Refund Reports and Refund Plans May 7, 1986.

May 7, 1986.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before May 23, 1986. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,
Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
5/1/86	Western Gas Interstate Co.	RP74-65-010	Report.
3/25/86	Sea Robin Pipeline Co.	RP85-99-009	Rev Refunds.[1]
4/25/86	Southern Natural Gas Co.	RP85-153-004	Rev Refunds.[1]
4/30/86	Western Gas Interstate Co.	RP74-65-011	Report

[1] Refunds resulting from Btu Measurement Adjustments. Each company will retain its basic docket number and future related filings will receive new sub-docket numbers.

[FR. 86-10615 Filed 5-9-86; 8:45 am]
BILLING CODE 6713-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53679; FRL-3003-1]

Premanufacture Notices; Monthly Status Report for October 1985

AGENCY: Environmental Protection Agency (EPA).
ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the Federal Register each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for October 1985.

Nonconfidential portions of the PMNs may be seen in Rm. E-107 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS-53679]" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW., Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-613, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the Federal Register as required under section 5(d)(3) of TSCA (90 stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during October; (b) PMNs received previously and still under review at the end of October (c) PMNs for which the notice review period has ended during October; (d) chemical substances for which EPA has received a notice of commencement to manufacture during October and (e) PMNs for which the review period has been suspended. Therefore, the October 1985 PMN Status Report is being published.

Dated: April 4, 1986.

Denise Bowa,
Acting Director, Information Management Division.

Premanufacture Notices Monthly Status Report, October 1985

I. 136 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH

PMN No.	Identity/Generic name	FR citation	Expiration date
P 86-1	Generic name: Polyester of unsaturated dicarboxylic acid, diglycol, bisbenzoic acid	50 FR 41580 (41581) (10-11-85)	Dec. 29, 1985.
P 86-2	Generic name: Perfluoroalkyl methacrylate copolymer latex	50 FR 41580 (41581) (10-11-85)	Do.
P 86-3	Generic name: Perfluoroalkyl ethyl acrylate copolymer latex	50 FR 41580 (41581) (10-11-85)	Do.
P 86-4	Generic name: N-PMI styrenic terpolymer	50 FR 41580 (41581) (10-11-85)	Do.
P 86-5	Polymer of terephthalic acid, isophthalic acid, adipic acid, trimellitic anhydride, 2,2-dimethyl-1,3-propanediol, ethylene glycol and trimethylolpropane.	50 FR 41580 (41581) (10-11-85)	Do.
P 86-6	Polymer of terephthalic acid, isophthalic acid, adipic acid, trimellitic anhydride, 2,2-dimethyl-1,3-propanediol and ethylene glycol.	50 FR 41580 (41581) (10-11-85)	Do.
P 86-7	Polymer of terephthalic acid, isophthalic acid, adipic acid, trimellitic anhydride, 2,2-dimethyl-1,3-propanediol and ethylene glycol and trimethylolpropane.	50 FR 41580 (41581) (10-11-85)	Do.
P 86-8	Polymer of terephthalic acid, isophthalic acid, adipic acid, 2,2-dimethyl-1,3-propanediol, ethylene glycol and trimethylolpropane.	50 FR 41580 (41581) (10-11-85)	Do.
P 86-9	Copper complex of 1-hydroxy-8-(4'-ethylsulfonyl sulfonic acid ester, potassium salt phenylaminophthalone-4-sulfonic acid potassium salt.	50 FR 41580 (41582) (10-11-85)	Do.
P 86-10	Bis(-ethylsulfonyl sulfonic acid ester, sodium salt phenyl sulfonamide) 1,4-pthalic acid, sodium salt 1,8-sulfonamide) of copper phthalocyanine.	50 FR 41580 (41582) (10-11-85)	Do.

I. 136 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity/Generic name	FR citation	Expiration date
P 86-11	Generic name: Reaction product of bismaleimide with amino aryl hydrazide	50 FR 41580 (41582) (10-11-85)	Dec. 30, 1985.
P 86-12	Generic name: Reaction product of bismaleimide with amino aryl hydrazide	50 FR 41580 (41582) (10-11-85)	Do.
P 86-13	Generic name: Polyarylether ketone	50 FR 41580 (41582) (10-11-85)	Do.
P 86-14	Generic name: Polyarylether ketone	50 FR 41580 (41582) (10-11-85)	Do.
P 86-15	Generic name: (Dialkylcarbomonocyclic) aminophenol	50 FR 41580 (41582) (10-11-85)	Dec. 31, 1985.
P 86-16	Generic name: [(Dialkylcarbomonocyclic) amino]xanthylium salt	50 FR 41580 (41582) (10-11-85)	Do.
P 86-17	Generic name: [(Dialkylcarbomonocyclic) amino]xanthylium salt, methyheteromonocyclic phenyl-heteromonocyclic, formal polymer.	50 FR 41580 (41582) (10-11-85)	Do.
P 86-18	Generic name: [(Dialkylcarbomonocyclic) amino]xanthylium salt, methyheteromonocyclic formal polymer, alkanolsulfamic acid salt.	50 FR 41580 (41582) (10-11-85)	Do.
P 86-19	Generic name: Unsaturated polyester polymer	50 FR 42773 (10-22-85)	Jan. 1, 1986.
P 86-20	Generic name: Magnesium borate	50 FR 42773 (10-22-85)	Do.
P 86-23	1,2-Dichloroethanol, acetate	50 FR 42773 (10-22-85)	Do.
P 86-24	Generic name: Triazinyl piperidine derivative	50 FR 42773 (10-22-85)	Do.
P 86-25	Generic name: Polysilsesamide	50 FR 42773 (10-22-85)	Jan. 4, 1986.
P 86-26	Generic name: Aromatic quaternary ammonium salts of phosphoric acid esters	50 FR 42773 (10-22-85)	Do.
P 86-27	Generic name: Polymeric diphenylmethane diisocyanate prepolymer	50 FR 42773 (42774) (10-22-85)	Do.
P 86-28	Generic name: Aliphatic, aromatic copolyester	50 FR 42773 (42774) (10-22-85)	Do.
P 86-29	Generic name: Methyl methacrylate, styrene, ethyl acrylate, polyfunctional monomer polymer	50 FR 42773 (42774) (10-22-85)	Do.
P 86-30	Generic name: Unsaturated polyester	50 FR 42773 (42774) (10-22-85)	Jan. 5, 1986.
P 86-31	Generic name: Polymethylene polyphenylisocyanate prepolymer	50 FR 42773 (42774) (10-22-85)	Do.
P 86-32	Generic name: Trierylphosphite	50 FR 42773 (42774) (10-22-85)	Do.
P 86-33	Generic name: Polyester resin	50 FR 42773 (42774) (10-22-85)	Do.
P 86-34	Generic name: Phosphonate silylated silicate	50 FR 42773 (42774) (10-22-85)	Do.
P 86-35	Generic name: Phosphonate silylated silicate	50 FR 42773 (42774) (10-22-85)	Do.
P 86-36	Generic name: Substituted epoxy resin	50 FR 42773 (42774) (10-22-85)	Jan. 6, 1986.
P 86-37	Cobalt-aluminum organometallic compound	50 FR 42773 (42774) (10-22-85)	Do.
P 86-38	Generic name: Organosiloxane	50 FR 42773 (42774) (10-22-85)	Do.
P 86-39	Generic name: Organosiloxane	50 FR 42773 (42774) (10-22-85)	Do.
P 86-40	Generic name: Formaldehyde, reaction products with aliphatic carboxylic acid, aromatic amines oxygen	50 FR 42773 (42774) (10-22-85)	Jan. 7, 1986.
P 86-41	Generic name: Polyethylene oxide, aliphatic diisocyanate prepolymer	50 FR 43488 (43457) (10-25-85)	Jan. 9, 1986.
P 86-42	Generic name: Acrylic polymer	50 FR 43488 (43457) (10-25-85)	Do.
P 86-43	Generic name: Rubber modified epoxy	50 FR 43488 (43457) (10-25-85)	Do.
P 86-44	Generic name: Polyester urethane polymer	50 FR 43488 (43457) (10-25-85)	Do.
P 86-45	Generic name: Adipic acid, polymer with disubstituted alkanol	50 FR 43488 (43457) (10-25-85)	Do.
P 86-46	Generic name: C_{11}-C_{40} alkyl ammonium sulfate quaternary	50 FR 43488 (43457) (10-25-85)	Do.
P 86-47	Generic name: Imide amide resin	50 FR 43488 (43457) (10-25-85)	Do.
P 86-48	Generic name: Imide amide resin	50 FR 43488 (43457) (10-25-85)	Jan. 12, 1986.
P 86-49	Carboxymethylammonium 4-methylbenzenesulfonate	50 FR 43488 (43457) (10-25-85)	Do.
P 86-50	3-Carboxypyridinium 4-methylbenzenesulfonate	50 FR 43488 (43457) (10-25-85)	Do.
P 86-51	Generic name: Blocked isocyanate homopolymer	50 FR 43488 (43457) (10-25-85)	Do.
P 86-52	Generic name: Epoxy amine resin	50 FR 43488 (43458) (10-25-85)	Do.
P 86-53	Polymer of poly(oxy-1,4-butanediyl), alpha-hydro-omega-hydroxy-,1,2-benzene-dicarboxylic acid, polymer with 1,6-hexanediol and nonanedioic acid, carbon black MTFF, 1,1'-biphenyl, 4,4'-diisocyanato-3,3'-dimethyl-, Phenol, 4,4'-(methanetetrayldinitrilo)tris(3,5-bis(1-methylethyl)-, 1,4-butanediol, Ethanol, 2,2'-(1,4-phenylenebis(oxy)) bis-1,4-diazabicyclo[2.2.2]octane.	50 FR 43488 (43458) (10-25-85)	Do.
P 86-54	Generic name: Heterocyclic amine salt of an alkyldithiocarbamate	50 FR 43488 (43458) (10-25-85)	Do.
P 86-55	Generic name: Perfluoroalkyl polyether	50 FR 43488 (43458) (10-25-85)	Do.
P 86-56	Generic name: Hydrocarbon resin, hydrogenated	50 FR 43488 (43458) (10-25-85)	Do.
P 86-57	Generic name: Hydrocarbon resin, hydrogenated	50 FR 43488 (43458) (10-25-85)	Do.
P 86-58	Generic name: Melamine formaldehyde, alkylated resin	50 FR 43488 (43458) (10-25-85)	Do.
P 86-59	Generic name: Alkyd resin	50 FR 43488 (43458) (10-25-85)	Jan. 13, 1986.
P 86-60	Generic name: Mixed ferric salt	50 FR 43488 (43458) (10-25-85)	Do.
P 86-61	Generic name: Hydrocarbon resin	50 FR 43488 (43458) (10-25-85)	Do.
P 86-62	Generic name: Polyester urethane polymer	50 FR 43488 (43458) (10-25-85)	Do.
P 86-63	Generic name: Polyester polyurethane polymer	50 FR 43488 (43458) (10-25-85)	Do.
P 86-64	Generic name: Polyester resin	50 FR 43488 (43458) (10-25-85)	Do.
P 86-65	4-methyl-2-phenyl-1H-imidazole-5-methanol	50 FR 43488 (43459) (10-25-85)	Do.
P 86-66	Generic name: Substituted triazine isocyanurate	50 FR 43488 (43459) (10-25-85)	Do.
P 86-67	2-Methyl-1H-imidazole, adduct with 1,3,5-triazine-2,4,6-(1H,3H,5H)-trione hydrate	50 FR 43488 (43459) (10-25-85)	Do.
P 86-68	2-Phenyl-1H-imidazole, adduct with 1,3,5-triazine-2,4,6-(1H,3H,5H) trione	50 FR 43488 (43459) (10-25-85)	Do.
P 86-69	2,4-Diamino-6-[2-ethyl-4-methyl-1H-imidazol-1-yl]ethyl]-1,3,5-triazine	50 FR 43488 (43459) (10-25-85)	Jan. 14, 1986.
P 86-70	Generic name: Phenolic acrylic	50 FR 46801 (11-8-85)	Jan. 15, 1986.
P 86-71	Generic name: Etherified phenolformaldehyde resole	50 FR 46801 (11-8-85)	Do.
P 86-72	Generic name: Etherified phenolformaldehyde resole	50 FR 46801 (11-8-85)	Do.
P 86-73	Methyl glucoside, C_{18+} fatty ester	50 FR 46801 (11-8-85)	Do.
P 86-74	Generic name: Urea compound	50 FR 46801 (11-8-85)	Jan. 16, 1986.
P 86-75	Generic Name: Cationic polymer	50 FR 46801 (46802) (11-8-85)	Do.
P 86-76	Generic name: Poly(alkylmethacrylate-A,N-dialkylaminoalkyl-methacrylamide)	50 FR 46801 (46802) (11-8-85)	Do.
P 86-77	Generic Name: C_{12} linear primary alcohol ethoxysulfate, ammonium salt	50 FR 46801 (46802) (11-8-85)	Do.
P 86-78	Nonylbenzene(methylnonylbenzene)	50 FR 46801 (46802) (11-8-85)	Do.
P 86-79	Generic name: Silane, organo-, reaction product with silica	50 FR 46801 (46802) (11-8-85)	Jan. 19, 1986.
P 86-80	Generic name: Polyester resin	50 FR 46801 (46803) (11-8-85)	Do.
P 86-81	Generic name: Disubstituted sulfamoyl-carbomonocycle azo substituted naphthalene-sulfonic acid, substituted alkylamine salt.	50 FR 46801 (46803) (11-8-85)	Do.
P 86-82	Generic name: Disubstituted sulfamoyl-carbomonocycle azo substituted naphthalene-sulfonic acid salt	50 FR 46801 (46803) (11-8-85)	Do.
P 86-83	3-chloro-2,6-dinitro-N,N-dipropyl-4-(trifluoromethyl)benzenamine	50 FR 46801 (46803) (11-8-85)	Jan. 20, 1986.
P 86-84	Generic name: Quaternary ammonium salt	50 FR 46801 (46803) (11-8-85)	Do.
P 86-85	Polymer of 3,3,3-trifluoro-2-trifluoromethyl-1-propene, hexafluoroisobutylene (HFIB), 1,1-difluoroethylene, and vinylidene fluoride (VF_2).	50 FR 46801 (46802) (11-8-85)	Jan. 21, 1986.
P 86-86	[29H,31H-phthalocyaninetetrasulfonylato(6-)-N29, N30,N31,N32]-copper	50 FR 46801 (46802) (11-8-85)	Do.
P 86-87	Generic name: Arylalkyl substituted phosphonium salt	50 FR 46801 (46802) (11-8-85)	Do.
P 86-88	Phosphonium, butyltriphenyl-, bromide	50 FR 46808 (11-8-85)	Jan. 22, 1986.
P 86-89	Amidoamine epoxy resin adduct	50 FR 46808 (11-8-85)	Jan. 21, 1986.
P 86-90	Generic name: Poly(vinyl ester co-unsaturated dicarboxylic acid ester co-olefin)	50 FR 46808 (11-8-85)	Jan. 22, 1986.
P 86-91	Generic name: Phenolic acrylic	50 FR 46808 (11-8-85)	Do.
P 86-92	Generic name: Modified acrylate polymer	50 FR 46808 (11-8-85)	Jan. 26, 1986.
P 86-93	Generic name: Polyamide resin	50 FR 46808 (11-8-85)	Do.
P 86-94	Generic name: Polyamide resin	50 FR 46808 (11-8-85)	Do.
P 86-95	Generic name: Polyamide resin	50 FR 46808 (11-8-85)	Do.
P 86-96	Generic name: Polyamide resin	50 FR 46808 (11-8-85)	Do.
P 86-97	Generic name: Polyamide resin	50 FR 46808 (46809) (11-8-85)	Do.

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I. 136 PREMANUFACTURE NOTICES RECEIVED DURING THE MONTH—Continued

PMN No.	Identity/Generic name	FR citation	Expiration date
P 86-98	Generic name: Polyamide resin	50 FR 46508 (46509) (11-8-86)	Do.
P 86-99	Generic name: Polyamide resin	50 FR 46508 (46509) (11-8-86)	Do.
P 86-100	Generic name: Polyamide resin	50 FR 46508 (46509) (11-8-86)	Do.
P 86-101	Generic name: Polyamide resin	50 FR 46508 (46509) (11-8-86)	Do.
P 86-102	Generic name: Polyester of aromatic dibasic acids	50 FR 46508 (46509) (11-8-86)	Do.
P 86-103	Generic name: Polyester of aliphatic polyols and aliphatic polyols and aliphatic and aromatic dibasic and monobasic acids.	50 FR 46508 (46509) (11-8-86)	Do.
P 86-104	1-[3"-Chloro-5"-(P-ethylsulfonyl sulfuric ester, sodium salt-phenylamino)-S-triazinylamino]-8-[2"-naphthylazo-1", 5"-disulfonic acid-disodium salt]-6-hydroxy-4-naphthalenesulfonic acid sodium salt.	50 FR 46508 (46509) (11-8-86)	Jan. 26, 1986.
P 86-105	Generic name: Dimer acids, dicarboxylic acid, ethylenediamine, diaminopolyamide resin	50 FR 46508 (46509) (11-8-86)	Do.
P 86-106	Generic name: Aliphatic dibasic acid polymer with aliphatic diols and aliphatic alcohols	50 FR 46508 (46509) (11-8-86)	Do.
P 86-107	Generic name: Alkylaminoaryl ketone	50 FR 46508 (46509) (11-8-86)	Do.
P 86-108	Generic name: Substituted benzothiazole	50 FR 46508 (46509) (11-8-86)	Do.
P 86-109	Generic name: Mixed alkyl phosphonates	50 FR 46508 (46509) (11-8-86)	Do.
P 86-110	Generic name: Alkylamino chelcone	50 FR 46508 (46509) (11-8-86)	Do.
P 86-111	Generic name: Siloxane resin	50 FR 46508 (46509) (11-8-86)	Jan. 28, 1986.
P 86-112	Generic name: Arylalkenylaryl nitrile	50 FR 46508 (46509) (11-8-86)	Do.
P 86-113	Generic name: Polymer of alkyl alcohol; alkyl diol; monocyclic dicarboxylic acid; dimethyl ester; and cyclic ether	50 FR 46508 (46509) (11-8-86)	Do.
Y 86-1	Generic name: Polymer partial ester	50 FR 41583 (41584) (10-11-85)	Oct. 22, 1985.
Y 86-2	Generic name: Polymer partial ester	50 FR 41583 (41584) (10-11-85)	Do.
Y 86-3	Generic name: Epoxy ester	50 FR 41583 (41584) (10-11-85)	Do.
Y 86-4	Generic name: Neutralized reaction product of alkylphenoxypolyethylene oxide and alkenylacetate, alkyl acrylate and unsaturated anhydride terpolymer.	50 FR 41583 (41584) (10-11-85)	Oct. 23, 1985.
Y 86-5	Generic name: Silicone modified alkyd polymer	50 FR 42775 (10-22-85)	Oct. 29, 1985.
Y 86-6	Generic name: Starch grafted sodium polyacrylate	50 FR 42775 (10-22-85)	Oct. 30, 1985.
Y 86-7	Generic name: Phenolic modified rosin ester	50 FR 43459 (10-25-85)	Oct. 31, 1985.
Y 86-8	Generic name: Polyether amide)	50 FR 43459 (10-25-85)	Nov. 6, 1985.
Y 86-9	Generic name: Polyether ester amide)	50 FR 43459 (10-25-85)	Do.
Y 86-10	Generic name: Polyether silicone amide)	50 FR 43459 (10-25-85)	Do.
Y 86-11	Generic name: 2-Butenedioic acid, fatty acid	50 FR 46509 (11-8-85)	Nov. 10, 1985.
Y 86-12	Generic name: Acrylonitrile-acrylic styrene polymer B	50 FR 46503 (11-8-85)	Do.
Y 86-13	Generic name: Acrylonitrile-acrylic styrene polymer A	50 FR 46503 (11-8-85)	Do.
Y 86-14	Generic name: Acrylonitrile-acrylic styrene polymer C	50 FR 46503 (11-8-85)	Do.
Y 86-15	Generic name: Polyethene wax, ester	50 FR 46503 (11-8-85)	Nov. 11, 1985.
Y 86-16	Generic name: Polyethene wax, ester	50 FR 46503 (11-8-85)	Do.
Y 86-17	Generic name: Blocked polyurethane polyether	50 FR 46503 (11-8-85)	Nov. 12, 1985.
Y 86-18	Generic name: Polyester	50 FR 46503 (11-8-85)	Do.
Y 86-19	Generic name: Silicone modified alkyd	50 FR 46512 (11-8-85)	Nov. 19, 1985.
Y 86-20	Generic name: Ethylene oxide-propylene copolymer triol ether	50 FR 46512 (46513) (11-8-85)	Nov. 20, 1985.
Y 86-21	Generic name: Propylene oxide-propylene copolymer triol ether	50 FR 46512 (46513) (11-8-85)	Do.
Y 86-22	Generic name: Polyethylene-propylene glycol	50 FR 46512 (46513) (11-8-85)	Do.
Y 86-23	Generic name: Polypropylene glycol with pentaerythritol	50 FR 46512 (46513) (11-8-85)	Do.
Y 86-24	Generic name: Polypropylene oxide triol ether	50 FR 46512 (46513) (11-8-85)	Do.
Y 86-25	Generic name: Amine containing polyether polyol	50 FR 46512 (46513) (11-8-85)	Do.

II. 112 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH

PMN No.

P 85-1413, P 85-1414, P 85-1415, P 85-1416, P 85-1417, P 85-1418, P 85-1419, P 85-1420, P 85-1421, P 85-1422, P 85-1423, P 85-1424, P 85-1425, P 85-1426, P 85-1427, P 85-1428, P 85-1429, P 85-1430, P 85-1431, P 85-1432, P 85-1433, P 85-1434, P 85-1435, P 85-1436, P 85-1437, P 85-1438, P 85-1439, P 85-1440, P 85-1441, P 85-1442, P 85-1443, P 85-1444, P 85-1445, P 85-1446, P 85-1447, P 85-1448, P 85-1449, P 85-1450, P 85-1451, P 85-1452, P 85-1453, P 85-1454, P 85-1455, P 85-1456, P 85-1457, P 85-1458, P 85-1459, P 85-1460, P 85-1461, P 85-1462, P 85-1463, P 85-1464, P 85-1465, P 85-1466, P 85-1467, P 85-1468, P 85-1469, P 85-1470, P 85-1471, P 85-1472, P 85-1473, P 85-1474, P 85-1475, P 85-1476, P 85-1477, P 85-1478, P 85-1479, P 85-1480, P 85-1481, P 85-1482, P 85-1483, P 85-1484, P 85-1485, P 85-1486, P 85-1487, P 85-1488, P 85-1489, P 85-1490, P 85-1491, P 85-1492, P 85-1493, P 85-1494, P 85-1495, P 85-1496, P 85-1497, P 85-1498, P 85-1499, P 85-1500, P 85-1501, P 85-1502, P 85-1503, P 85-1504, P 85-1505, P 85-1506, P 85-1507, P 85-1508, P 85-1509, P 85-1510, P 85-1511, P 85-1512, P 85-1513, P 85-1514, P 85-1515, P 85-1516, P 85-1517, P 85-1518, P 85-1519, P 85-1520, P 85-1521, P 85-1522, P 85-1523, P 85-1524, P 85-458, P 85-613, P 85-648, P 85-660, P 85-680, P 85-693, P 85-703, P 85-957, P 85-968, P 85-973, P 85-1141, P 85-1142, P 85-1143, P 85-1144, P 85-1145, P 85-1146, P 85-1147, P 85-1148, P 85-1149, P 85-1150, P 85-1151, P 85-1152, P 85-1153, P 85-1154, P 85-1155, P 85-1156, P 85-1157, P 85-1158, P 85-1159, P 85-1160, P 85-1161, P 85-1162, P 85-1163, P 85-1164, P 85-1165, P 85-1166, P 85-1167, P 85-1168, P 85-1169, P 85-1170, P 85-1171, P 85-1172, P 85-1173, P 85-1174, P 85-1175, P 85-1176, P 85-1177, P 85-1178, P 85-1179, P 85-1180, P 85-1181, P 85-1182, P 85-1183, P 85-1184, P 85-1185, P 85-1186, P 85-1187, P 85-1188, P 85-1189, P 85-1190, P 85-1191, P 85-1192, P 85-1193, P 85-1194, P 85-1195, P 85-1196, P 85-1197, P 85-1198, P 85-1199, P 85-1200, P 85-1201, P 85-1202, P 85-1203, P 85-1204, P 85-1205, P 85-1206, P 85-1207, P 85-1208

III. 193 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAS BEEN ADDED TO THE INVENTORY.)

PMN No.

P 83-634, P 83-1018, P 84-465, P 84-737, P 84-738, P 84-1139, P 84-1144, P 84-1228, P 84-1229, P 85-190

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P 85-1209, P 85-1210, P 85-1211, P 85-1212, P 85-1213, P 85-1214, P 85-1215, P 85-1216, P 85-1217, P 85-1218, P 85-1219, P 85-1220, P 85-1221, P 85-1222, P 85-1223, P 85-1224, P 85-1225, P 85-1226, P 85-1227, P 85-1228, P 85-1229, P 85-1230, P 85-1231, P 85-1232, P 85-1233, P 85-1234, P 85-1235, P 85-1241, P 85-1242, P 85-1244, P 85-1245, P 85-1247, P 85-1248, P 85-1249, P 85-1250, P 85-1251, P 85-1252, P 85-1253, P 85-1254, P 85-1255, P 85-1256, P 85-1257, P 85-1258, P 85-1259, P 85-1260, P 85-1261, P 85-1262, P 85-1263, P 85-1267, P 85-1268, P 85-1269, P 85-1271, P 85-1275, P 85-1276, P 85-1277, P 85-1278, P 85-1279, P 85-1280, P 85-1281, P 85-1282, P 85-1284, P 85-1285, P 85-1286, P 85-1287, P 85-1288, P 85-1289, P 85-1290, P 85-1291, P 85-1292, P 85-1294, P 85-1295, P 85-1297, Y 85-147, Y 85-148, Y 85-149, Y 85-150, Y 85-151, Y 85-152, Y 85-153, Y 85-154, Y 85-155, Y 85-156, Y 85-157, Y 85-158, Y 85-159, Y 85-160, Y 85-161, Y 85-162, Y 85-163, Y 85-164, Y 85-165, Y 85-166, Y 85-167, Y 85-168, Y 85-169, Y 85-170, Y 85-171, Y 85-172, Y 86-1, Y 86-2, Y 86-3, Y 86-4, Y 86-5, Y 86-6, Y 86-7

IV. 86 CHEMICAL SUBSTANCES FOR WHICH EPA HAS RECEIVED NOTICES OF COMMENCEMENT TO MANUFACTURE

PMN No.	Identity/Generic name	Date of commencement
P 80-286	N(4-Diazo phenyl) morpholine hexafluorophosphate	Oct. 17, 1981.
P 83-279	A polymer of ethene with oleate and vinyl chloride	Nov. 10, 1983.
P 83-445	Generic name: Modified sodium polyacrylate	Oct. 29, 1985.
P 83-1008	2,7-Naphthalenedisulfonic acid, 4-amino-6-[[5-[(5-chloro-2-fluoro-6-methyl-4-pyrimidinyl)amino]-2-sulfophenyl]azo]-3-[(2,5-disulfophenyl)azo]-5-hydroxy-, sodium salt (8), potassium salt (III) and sodium potassium salt (IV).	Sept. 27, 1985.
P 84-18	1(1,1 dimethylethoxy)-propan-2-ol	Sept. 16, 1985.
P 84-63	Generic name: Substituted-phenyl-N-substituteamino monochlorotriazinyl-amino substituted-sulfophenylazo-benzylidehydrazino sulfobenzoate-copper sulfate, potassium salt.	Oct. 8, 1984.
P 84-115	Generic name: Substituted aromatic polymer	Oct. 3, 1985.
P 84-186	Generic name: Fluorine substituted polydioxolane	Sept. 25, 1985.
P 84-294	1-Cyclopentylidene-4-ethoxycarbonylpiperazine tetrafluoroborate	Sept. 28, 1985.
P 84-295	Generic name: Disubstituted piperazine salt	Oct. 1, 1985.
P 84-296	2-Methyl-3-(3-sulfopropyl)naphtho (2,3-d) thiazolium hydroxide, inner salt	Sept. 28, 1985.
P 84-542	Benzenesulfonic acid, 2,4,6-trimethyl, sodium salt	Aug. 17, 1984.
P 84-935	Generic name: Polyamide	Oct. 7, 1985.
P 84-984	Generic name: Disubstituted hexanamide	Sept. 30, 1985.
P 84-1093	Generic name: Fatty acid, carbomonocyclic ester	June 3, 1985.
P 84-1120	1,2,3-propanetricarboxylic acid, 2-(butoxy)-tri-n-hexyl ester	Oct. 8, 1985.
P 85-22	Polymer of isooctyl acrylate and N-t-octylacrylamide	Sept. 3, 1985.
P 85-175	Generic name: Branched mono-carboxylic fatty acid	Nov. 1, 1985.
P 85-176	Generic name: Branched mono-carboxylic fatty acid	do.
P 85-177	Generic name: Branched mono-carboxylic fatty acid	do.
P 85-178	Generic name: Branched mono-carboxylic fatty acid	do.
P 85-179	Generic name: Branched mono-carboxylic fatty acid	do.
P 85-180	Generic name: Branched mono-carboxylic fatty acid	do.
P 85-251	Generic name: Reaction product of polyethylene oxide polyol, isocyanate and diol	Oct. 1, 1985.
P 85-304	Generic name: Alkyl diol, toluene diisocyanate, alkene ester, adipic acid resin	Oct. 16, 1985.
P 85-331	Generic name: Acrylic polymer imine reaction product	Sept. 10, 1985.

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IV. 98 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture—Continued

PMN No.	Identity/Generic name	Date of commencement
P 85-405	Generic name: Phosphated acrylate	Nov. 25, 1985.
P 85-408	Generic name: Acrylate polymer	Sept. 17, 1985.
P 85-431	Generic name: Copolymer of a substituted alkyl amine and an acrylic diol ester	Sept. 11, 1985.
P 85-488	Generic name: Vinyl acetate copolymer	Oct. 8, 1985.
P 85-489	Generic name: Polyvinyl alcohol	do.
P 85-552	2-propenoic acid, 2-methyl-, 4-hydroxy phenly ester	Sept. 3, 1985.
P 85-554	Benzoic acid, 4-hydroxy-, 2-hydroxy-3-[2-methyl-1-oxo-2-propenyl) oxy]propyl ester	do.
P 85-555	Addition product of 2-propenoic acid, 2-ethyl-2,2[(1-oxo-2-propenyl) oxy-methyl]-1,3-propane diylester and hydrogen sulfide	do.
P 85-557	3H-Indolium, 2,2'2"-(1,3,5-triazine-2,4,6-triyltetramino-4,1-phenylene-2,1-ethenediyl)tris(1,3,3-trimethyl-, salt with 2-hydroxy propanoic acid (1:3)	Sept. 12, 1985.
P 85-649	Generic name: Sulfurized alkly phenol	Oct. 7, 1985.
P 85-718	Generic name: Polycarbodiimide	Aug. 19, 1985.
P 85-731	Generic name: Neutralized acrylic polymer	Dec. 1, 1985.
P 85-784	Generic name: Carboxyphenylcarbonylindole	Sept. 20, 1985.
P 85-785	Generic name: Isobenzofuranone	do.
P 85-851	Generic name: Co-polymer of vinly acetate and olefins	July 23, 1985.
P 85-869	Generic name: Copolymer of acrylic acid esters, vinyl acetate, acrylic acid amide, crotonic acid, and fumaric acid ester	Aug. 23, 1985.
P 85-938	Polymer of acetic acid, 2,2'-azobis (2-methylpropanenitrile), styrene, ethyl chloroacetate, acrylonitrile, butyl acrylate, 2-(dimethylamino) ethyl methacrylate	Oct. 16, 1985.
P 85-939	Polymer of stearic acid, ethylene oxide, propylene oxide, soybean oil, potassium hydroxide	do.
P 85-964	Formaldehyde, polymer with dimethylbenzene, p-tert-butylphenol, p-toluene sulfonic acid	Sept. 28, 1985.
P 85-965	Formaldehyde, polymer with dimethylbenzene, para-nydroxyl phenol, p-toluene sulfonic acid	do.
P 85-966	3,9-Diethyl tridecan-6-one	Oct. 7, 1985.
P 85-967	3,9-Diethyl 7-tridecen-6-one	do.
P 85-968	5-ethyl heptan-2-one	Sept. 30, 1985.
P 85-969	5-ethyl 3-heptan-2-one	do.
P 85-982	Benzenesulfonic acid, 2-amino-4-acetylamino-5-[4-[[2-sulfo-oxy]ethyl]sulfonyl]phenyl]azo-, sodium salt	Oct. 7, 1985.
P 85-987	Generic name: Poly[(azo, oxo, partially hydrogenated aryl sulfonyloxy)] substituted aromatic compound	Oct. 1, 1985.
P 85-1002	Generic name: Aliphatic ester	Sept. 24, 1985.
P 85-1031	Generic name: Alkenoic diamineamide substituted propene	Oct. 2, 1985.
P 85-1039	Generic name: Modified tall oil fatty acids amidoamine	Sept. 10, 1985.
P 85-1052	Generic name: Perfluoroalkyl, alkyl, carboxylfene	Oct. 28, 1985.
P 85-1058	Generic name: Alkyl ketone dimer	Sept. 10, 1985.
P 85-1061	Generic name: DPD-(2-naphthalene sulfonate)	Oct. 28, 1985.
P 85-1073	Generic name: Substituted xanthene	Sept. 15, 1985.
P 85-1074	Generic name: Substituted xanthene	do.
P 85-1076	Generic name: Substituted phenylcarbonylboranoic acid	Sept. 27, 1985.
P 85-1078	Generic name: Substituted phenylboranobenzofuranone	do.
P 85-1081	Generic name: (Trialoyl) stylethyl ester of a fenolic acid	Oct. 23, 1985.
P 85-1082	Unsaturate of polymethylene polyphenyl isocyanate and isooctyl alcohol	Sept. 23, 1985.
P 85-1084	[1,1'-biphenyl]-2,2'-disulfonic acid, 4,4'-bis[(1-[[(2,4-dimethylphenyl)amino]carbonyl]-3-oxopropyl]azo]	Sept. 26, 1985.
P 85-1085	Butanoate, 2-[(3,3'-dichloro-4'-[[(1-[[(2,4-dimethylphenyl)amino]carbonyl]-3-oxopropyl)azo][(1,1'-biphenyl]-4-yl]azo-N-(2-methylphenyl)-3-oxo	Sept. 26, 1985.
P 85-1086	Copper phthalocyanine polysulfonic acid salt with alkylated amine	Oct. 11, 1985.
P 85-1087	1-Naphthalenesulfonic acid, 2-[2-hydroxy-6-sulfo-1-naphthalenyl)azo]-1, calcium salt (1:1)	Sept. 25, 1985.
P 85-1202	Generic name: Polyester resin	Oct. 21, 1985.
P 85-1205	Generic name: Polyester resin	do.
P 85-1206	Generic name: Blocked isocyanate homopolymer	do.
P 85-1221	Generic name: Styrene, acrylic polymer	Oct. 18, 1985.
Y 85-82	Generic name: Ethylene oxide, polymer with propylene oxide, alkyl phenol, formaldehyde and polycarboxylic acid	Sept. 26, 1985.
Y 85-83	Generic name: Ethylene oxide, polymer with propylene oxide, mixed alkyl phenols, formaldehyde and alkyl polycarboxylic acid	Oct. 4, 1985.
Y 85-85	Generic name: Ethylene oxide, polymer with propylene oxide, mixed alkyl phenols, formaldehyde and alkyl polycarboxylic acid	Oct. 1, 1985.
Y 85-86	Generic name: Ethylene oxide, polymer with propylene oxide, mixed alkyl phenols, formaldehyde and alkyl polycarboxylic acid	Sept. 30, 1985.
Y 85-112	Generic name: Ethylene oxide terpolymer	do.
Y 85-132	Generic name: Copolyether esteramide	Oct. 18, 1985.
Y 85-139	Generic name: Polyurethane dispersion	Sept. 17, 1985.
Y 85-142	Generic name: Polyurethane polyester	Oct. 8, 1985.
Y 85-160	Generic name: Acrylate ester ammonium salt of acrylate polymer	Oct. 8, 1985.
Y 85-161	Generic name: Styrene-acrylate random emulsion copolymer	do.
Y 85-162	Generic name: Alkali soluble styrene acrylic polymer	do.
Y 85-163	Generic name: Acrylate terpolymer	do.
Y 85-167	Generic name: Alkyd resin	Oct. 28, 1985.
Y 85-169	Generic name: Polyester of carbomonocyclic ester, ethylene glycol, and alkanedioate	Oct. 23, 1985.

V. 35 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No.	Identity/Generic name	FR citation	Date suspended
P 84-1219	Generic name: Substituted pyridine	49 FR 39379 (39390) (10-5-84)	Oct. 25, 1985.
P 85-36	Generic name: Substituted pyridine	49 FR 43105 (43106) (10-26-84)	Oct. 18, 1985.
P 85-236	Generic name: Substituted pyridine	49 FR 46801 (46802) (12-14-84)	Do.
P 85-238	Generic name: Amino acrylate monomer	49 FR 46995 (46996) (12-24-84)	Oct. 15, 1985.
P 85-725	Generic name: Polymer of alkyl methacrylates, substituted alkyl methacrylates and styrene	50 FR 14439 (4-12-85)	Oct. 27, 1985.
P 85-1014	Polymer of methacrylic acid; succinic anhydride; phenol, 4,4'-(1-methylethylidene) bis-polymer with (chloromethyl); 2-methyloxirane	50 FR 24838 (24839) (6-14-85)	Oct. 15, 1985.
P 85-1034	Generic name: Nickel acrylate complex	50 FR 24838 (24839) (6-14-85)	Oct. 1, 1985.
P 85-1087	Generic name: Alkyl amine, compound with (chloromethyl) oxirane, alkenyl ether	50 FR 28837 (28838) (6-26-85)	Oct. 24, 1985.
P 85-1148	Generic name: Phenolic modified epoxy	50 FR 29464 (29465) (7-13-85)	Oct. 2, 1985.
P 85-1176	Polymer of trimethlol propane triacrylate, Jeffamine M600, (polyoxypropylene mono primary amine), maleic anhydride	50 FR 29476 (29477) (7-19-85)	Oct. 4, 1985.
P 85-1180	Generic name: Tert-amyl peroxy alkylene ester	50 FR 29476 (29477) (7-19-85)	Oct. 21, 1985.
P 85-1181	Dinitroethylbenzene	50 FR 29476 (29477) (7-19-85)	Do.
P 85-1182	Diaminoethylbenzene	50 FR 29476 (29477) (7-19-85)	Do.
P 85-1184	Generic name: Substituted pyridine	50 FR 29476 (29477) (7-19-85)	Oct. 28, 1985.
P 85-1210	Benzoic acid, 2-[(3a,4,5,6,7,7a-hexahydro-5 (or 6) methoxy-4,7-methanoindan)-methylidene] amino, methyl ester	50 FR 30513 (30516) (7-26-85)	Oct. 9, 1985.
P 85-1211	Benzoic acid, 2-[(3-phenyl, butylidene) amino, methyl ester	50 FR 30513 (30516) (7-16-85)	Do.
P 85-1212	Benzoic acid, 2-[(3-(4-methyl, cyclohex-3-enyl) butylidene) amino, methyl ester	50 FR 30513 (30516) (7-26-85)	Do.
P 85-1220	Generic name: Chlorinated fatty acids, polycarbosylylene esters	50 FR 32290 (32291) (8-8-85)	Oct. 30, 1985.
P 85-1237	Copper complex of [Naphthalene-[1-hydroxy 2-(5'-ethylsulfonyl sulfuric acid ester potassium salt 2'-methoxy benzeneazo)6-(1"-hydroxy 8"-acetylamino-3", 6"-disulfonic acid dipotassium salt-2"-naphthylazo) 3-sulfonic acid potassium salt)].	50 FR 32289 (32292) (8-8-85)	Oct. 16, 1985.
P 85-1239	Generic name: Polyamine adduct	50 FR 32289 (32293) (8-8-85)	Oct. 18, 1985.
P 85-1240	Generic name: Polyamine adduct	50 FR 32289 (32293) (8-8-85)	Do.

V. 35 Premanufacture Notices for Which the Review Period Has Been Suspended—Continued

PMN No.	Identity/Generic name	FR citation	Date suspended
P 85-1243	1-propenaminium, 2-hydroxy-N,N-dimethyl-N-octyl-3-sulfo-, hydroxide, inner salt	50 FR 32290 (32293) (8-8-85)	Oct. 20, 1985.
P 85-1246	Generic name: Methacrylated liquid rubber	50 FR 32290 (32293) (8-8-85)	Oct. 7, 1985.
P 85-1264	1-(4'-sulfophenyl sodium salt)-3-methyl-4-(2"-methoxy-5"-methyl-4"-ethylsulfonyl sulfonic acid ester sodium salt phenylazo)-5-pyrazolone.	50 FR 32302 (32306) (8-8-85)	Oct. 24, 1985.
P 85-1265	2-Acetylamino-7-(4'-ethyl sulfonyl sulfuric acid ester potassium salt phenylazo)-8-hydroxy naphthalene-6-sulfonic acid potassium salt.	50 FR 32303 (32306) (8-8-85)	Do.
P 85-1266	1-Acetylamino-8-hydroxy-7-(3'ethyl sulfonyl sulfuric acid ester potassium salt-6'-methoxy phenylazo) naphthalene 3,6-disulfonic acid dipotassium salt.	50 FR 32302 (32306) (8-8-85)	Do.
P 85-1270	1-(4'-sulfophenyl potassium salt)-3-methyl-4-(2",5'-dimethoxy-4"-ethyl sulfonyl sulfuric acid ester potassium salt phenylazo)-5-pyrazolone.	50 FR 32302 (32306) (8-8-85)	Do.
P 85-1272	Copper complex of naphthalene 1-hydroxy 2-(5'-ethyl sulfonyl sulfuric acid ester potassium salt 2'-methoxy benzeneazo) 6-(1"-hydroxy 8"-acetylamino 3",6"-disulfonic acid dipotassium salt 2"-naphthylazo)-3-sulfonic acid potassium salt.	50 FR 32302 (32306) 8-8-85)	Do.
P 85-1273	Copper complex of 1-acetylamino-8-hydroxy 7-(2',5'-dimethoxy-4'-ethyl sulfo phenyl sulfuric acid ester potassium salt phenylazo)-3,6-disulfonic acid dipotassium salt.	50 FR 32302 (32306) 8-8-85)	Do.
P 85-1274	Copper complex of 2-(2'-methoxy-5'-ethyl sulfonyl sulfuric acid ester potassium salt phenylazo)-8-(4",8"-disulfonic acid potassium salt naphthylazo) 1,3-dihydroxy benzene.	50 FR 32302 (32306) (8-8-85)	Oct. 27, 1985.
P 85-1283	Generic name: Polymer of an acrylate ester and mixed methacrylate esters	50 FR 32302 (32306) (8-8-85)	Oct. 18, 1985.
P 85-1293	1,2-Dibromooctadecane	50 FR 32302 (32306) (8-8-85)	Do.
P 85-1296	Generic name: Saturated and unsaturated alkylcarboxylic acid diethanolamine/triethanolamine salt	50 FR 41580 (41582) (10-11-85)	Oct. 11, 1985.
P 86-21	Generic name: Polymer of methacrylic acid and mixed alkyl methacrylate esters and amidoamines	50 FR 41580 (41582) (10-11-85)	Do.
P 86-22	Generic name: Polymer of methacrylic acid and mixed alkyl methacrylate esters and amidoamines		

[FR Doc. 86-8507 Filed 5-9-86; 8:45 am]

BILLING CODE 6560-50-M

[SAB FRL-3014-5]

Science Advisory Board; Environmental Effects, Transport and Fate Committee; Municipal Waste Combustion Subcommittee, Open Meeting—May 29, 1986

Under Pub. L. 92-463, notice is hereby given of a meeting of the Municipal Waste Combustion Subcommittee of the Environmental Effects, Transport and Fate Committee of the Science Advisory Board on May 29, 1986. The meeting will be held at the College of William and Mary Alumni House, Main Room, 500 Richmond Road, Williamsburg, Virginia. The meeting will begin at 9:00 a.m. and will adjourn at approximately 4:30 p.m.

This is the second meeting of the Subcommittee. The purpose of the meeting is to enable the Subcommittee to receive additional briefings on the range of municipal combustion technologies currently in use, and their performance and operation characteristics. The Subcommittee will also receive briefings on pollution control technologies retrofitted on municipal combustors.

The meeting is open to the public. Any member of the public wishing to attend, obtain informtion, or submit written comments should contact Dr. Terry F. Yosie, Director, Science Advisory Board or Mrs. Joanna Foellmer located at 401 M Street, SW, Washington, DC 20460 or call (202) 382-4126 by close of business May 22, 1986.

Dated: May 6, 1986.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 86-10589 Filed 5-9-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL HOME LOAN BANK BOARD

[No. 86-468]

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and Opportunity for Hearing

Dated: May 5, 1986.

The Philadelphia Stock Exchange has filed on February 19, 1986, pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1, an application with the Federal Home Loan Bank Board ("Board") for unlisted trading privileges in the following securities:

MeraBank, a Federal Savings Bank
(FHLBB No. 6877)
Common Stock, $.01 Par Value
Western Savings and Loan Association
(FHLBB No. 1920)
Permanent Reserve Guarantee Stock

These securities are listed and registered on one or more other national securities exchanges and are reported in the consolidated transaction reporting system.

Any interested person may inspect the application at the Board and, on or before May 27, 1986, submit to the Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, DC 20552, written data, views and arguments bearing upon whether the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors. Following this opportunity for hearing, the Board will issue an order granting the application after the date mentioned above if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application are consistent with the maintenance of fair and orderly markets and the protection of investors.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-10558 Filed 5-9-86; 8:45 am]

BILLING CODE 6720-01-M

Sun Belt Federal Bank, F.S.B.; Lake Providance, LA; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole receiver for Sun Belt Federal Bank, F.S.B., Lake Providence, Louisiana, on May 2, 1986.

Dated: May 7, 1986.

Jeff Sconyers,

Secretary.

[FR Doc. 86-10557 Filed 5-9-86; 8:45 am]

BILLING CODE 6720-01-M

UMI

[No. AC-476]

Mid-Hudson Savings Bank, FSB, Fishkill, NY; Final Action Approval of Conversion Application

Dated: May 1, 1986.

Notice is hereby given that on April 28, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Mid-Hudson Savings Bank, FSB, Fishkill, New York, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of New York, One World Trade Center, Floor 103, New York, New York 10048.

By the Federal Home Loan Bank Board.
Jeff Sconyers,
Secretary.

[FR Doc. 86-10560 Filed 5-9-86; 8:45 am]
BILLING CODE 6720-01-M

[No. AC-477]

Railroad Savings and Loan Association Newton, KS; Final Action Approval of Conversion Application

Dated: May 1, 1986.

Notice is hereby given that on April 25, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Railroad Savings and Loan Association, Newton, Kansas for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Topeka, Post Office Box 176, Topeka, Kansas 66601.

By the Federal Home Loan Bank Board.
Jeff Sconyers,
Secretary.

[FR Doc. 86-10559 Filed 5-9-86; 8:45 am]
BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Security for the Protection of the Public Indemnification of Passengers for Nonperformance of Transportation; Issuance of Certificate (Performance)

Notice is hereby given that the following have been issued a Certificate of Financial Responsibility for Indemnification of Passengers for Nonperformance of Transportation pursuant to the provisions of section 3, Pub. L. 89-777 (80 Stat. 1357, 1358) and Federal Maritime Commission General Order 20, as amended (46 CFR Part 540):

Partrederiet Norske Cruise
A/S Norske Cruise
Helge Naarstad A/S
(d/b/a Sea Goddess Cruises Limited)
5805 Blue Lagoon Dr., Suite 360
Miami, FL 33126

Dated: May 7, 1986.
John Robert Ewers,
Secretary.

[FR Doc. 86-10582 Filed 5-9-86; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

May 6, 1986.

Background

Notice is hereby given of final approval of proposed information collection(s) by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.9 (OMB Regulations on Controlling Paperwork Burdens on the Public).

FOR FURTHER INFORMATION CONTACT:

Federal Reserve Board Clearance Officer—Martha Bethea—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202-452-3822)

OMB Desk Officer—Robert Neal—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202-395-6880)

Proposal to approve under OMB delegated authority the extension, without revision, of the following reports

1. Report title: Government Securities Dealers Reports
Agency form number: FR 2004 a, b, c, and d
OMB Docket number: 7100-0003
Frequency: Weekly, Daily, Semi-monthly
Reporters: Primary dealers in U.S. government securities
Small businesses are not affected.

General description of report: This information collection is voluntary [12 U.S.C. 248(a) and 248(i)] and is given confidential treatment [5 U.S.C. 552(b)(4)].

This group of reports submitted by Government Securities Dealers are used to collect daily positions, daily transactions, weekly financings and semi-monthly futures, forwards, and options data from the primary dealers in U.S. Treasury Securities.

2. Report title: Notification of Foreign Branch Status
Agency from number: FR 2058
OMB Docket number: 7100-0069
Frequency: event-generated
Reporters: State member banks, Edge and Agreement corporations and bank holding companies
Small businesses are affected.

General description of report: This information collection is mandatory [12 U.S.C. 321, 601, 602, 615 and 1844] and is not given confidential treatment.

This report notifies the Federal Reserve Board of the opening, closing, or relocation of a foreign branch of state member banks, Edge and Agreement corporations, or bank holding companies. This information enables the Board to ensure the safety and soundness of the U.S. banking system.

3. Report title: Report of Broker Carrying Margin Accounts
Agency from number: FR 2240
OMB Docket number: 7100-0001
Frequency: Annually
Reporters: Brokers and Dealers
Small businesses are affected.

General description of report: This information collection is mandatory [15 U.S.C. 78q] and is given confidential treatment [5 U.S.C. 552(b)(4)].

This report is used to insure compliance of brokers and dealers with Federal Reserve Margin Regulations on Security Credit as authorized by Section 17 of the Securities Exchange Act of 1934.

Board of Governors of the Federal Reserve System, May 6, 1986
William W. Wiles,
Secretary of the Board.

[FR Doc. 86-10514 Filed 5-9-86; 8:45 am]
BILLING CODE 6210-01-M

The Chase Manhattan Corp., et al.; Applications to Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 2, 1986.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Chase Manhattan Corporation*, New York, New York, Chase Manhattan National Corporation, New York, New York, and Chase Manhattan National Holding Corporation, Newark, Delaware, to engage *de novo* through their subsidiary Western Hemisphere Life Insurance Company, Newark, Delaware, in underwriting credit life insurance and credit accident and health insurance that is directly related to extensions of credit by the applicants and their subsidiaries purusant to § 225.25(b)(8) of the Board's Regulation Y. These activities will be conducted in Arizona, California, Colorado, Connecticut, Georgia, Maryland, Minnesota, Oklahoma, Texas, Utah, Massachusetts, Illinois, New Jersey, Pennsylvania, Indiana, Louisiana, Missouri, North Carolina, Oregon, Tennessee, Virginia, and Washington.

B. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *First Bank System, Inc.*, Minneapolis, Minnesota; to engage *de novo* through its subsidiary FBS Credit Services, Inc., Minneapolis, Minnesota, in acquiring classified and low quality assets in connection with the sale of some of Applicant's subsidiary banks, and will include administration, management, collection, and liquidation of transferred assets pursuant to § 225.25(b)(1) of the Board's Regulation Y. These activities will be conducted in Minnesota, Montana, North Dakota, and South Dakota.

Board of Governors of the Federal Reserve System, May 6, 1986.
James McAfee,
Associate Secretary of the Board.

[FR Doc. 86-10513 Filed 5-9-86; 8:45 am]
BILLING CODE 6210-01-M

Penn Rock Financial Services, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 2, 1986.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19106:

1. *Penn Rock Financial Services, Inc.*, Blue Bell, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Blue Bell National Bank, Blue Bell, Pennsylvania, a *de novo* bank. Comments on this application must be received not later than June 4, 1986.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *American Fletcher Corporation*, Indianapolis, Indiana; to acquire 96.8 percent of the voting shares of Carmel Bank and Trust Company, Carmel, Indiana.

2. *Rock River Bancorporation, Inc.*, Oregon, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of United Bank of Ogle County, National Association, Oregon, Illinois. Comments on this application must be received not later than June 4, 1986.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Liberty County Bancshares, Inc.*, Houston, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of First State Bank, Liberty, Texas.

2. *Western Bancshares of Clovis, Inc.*, Clovis, New Mexico; to become a bank holding company by acquiring 80 percent of the voting shares of Western Bank of Clovis, Clovis, New Mexico.

Board of Governors of the Federal Reserve System, May 6, 1986.
James McAfee,
Associate Secretary of the Board.

[FR Doc. 86-10512 Filed 5-9-86; 8:45 am]
BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

Statement of Organization, Functions, and Delegations of Authority

Summary

This notice amends Part D of the statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (OHDS) published in the Federal Register April 24, 1984 (49 FR 17585) to: (1) Combine the functions of the Office of Program Development (OPD) and the Office of Policy and Legislation (OPL), into a new Office of Policy, Planning, and Legislation, (2)

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abolish the Administrative and Planning Staff, OPL, and move the functions to the Office of the Director, Office of Policy, Planning and Legislation, (3) change the name of the Office of Private Sector Initiatives to the Private Sector Initiatives Staff, and move the functions to the Office of the Director, as a staff office, (4) combine the functions of the Division of Policy and the Legislative Support Staff, and change the name to the Division of Policy and Legislation, and (5) move the functions of the Emergency Preparedness Staff to the Division of Planning, and change the name to Emergency Preparedness Planning Branch.

The changes are as follows:

1. Part D, Chapter DE "The Office of Policy and Legislation" and Chapter DU "The Office of Program Development" as published in the **Federal Register** on April 24, 1984 (49 FR 17585), is to be deleted in its entirety and replaced by the following:

Chapter DE

DE.00 *Mission. The Office of Policy, Planning, and Legislation (OPPL)* is a staff office for the Assistant Secretary for Human Development Services (ASHDS), responsible for managing the policy, planning, legislation, research, evaluation, program systems, statistical analysis and reporting activities, and special programs within the Office of Human Development Services (HDS).

Plans, develops and monitors strategies for promoting HDS program and management directions; manages agency-wide planning systems for determining organizational goals and objectives and for setting priorities.

Recommends to and advises the ASHDS on all matters of policy in HDS. Proposes and manages private sector and other policy initiatives on behalf of ASHDS. Ensures consistency with overall Administration, Departmental, and HDS policies for all HDS programs, including discretionary activities. Identifies, analyzes and recommends solutions to policy issues affecting HDS programs. Reviews and clears all policy relevant material. Develops and implements policies to administer the Social Services Block Grant.

Serves as the principal manager for Congressional and legislative activities affecting HDS.

Manages all activities necessary to carry out HDS responsibilities for emergency preparedness programs.

Recommends HDS programmatic activities and formulates crosscutting HDS initiatives; establishes and implements a management review and decision-making system for monitoring progress on priority activities; and establishes strategies for HDS planning system needs; coordinates HDS plans with other Federal agencies; analyzes information produced by State agencies and other sources and provides information to assist program offices in better planning.

Oversees the planning and management of all HDS program discretionary resources; manages all phases of the Coordinated Discretionary Program (for research, demonstration, evaluation, training and technical assistance funds); advises the ASHDS on research and demonstration issues; coordinates the development of priority areas for funding; reviews all unsolicited proposals; oversees the awards process; disseminates project results; develops and monitors compliance with the annual HDS procurement plan; reviews all 8-15 consultant services contracts for procurement policy compliance; coordinates international interests with HDS programs.

Provides broad HDS statistical, economic, operations research and system analyses; promotes grantee management systems improvements; develops discretionary funds program priorities for management systems improvements; assists State and local providers to improve their human services management information and evaluation systems, forecasting models, data bases, statistical activities, and approves State and local systems efforts using Federal funds.

In coordination with program units, plans, develops, and submits the HDS Information Collection Budget (ICB) to the Department and OMB and controls the ICB passback and burden hour ceiling allocations; develops the HDS evaluation plan based on ASPE guidance; coordinates HDS evaluation activities with HHS and other Federal agencies; monitors program systems and evaluation activities; with the HDS Senior Staff, develops the scope of analysis activities and manages such activities after implementation decisions.

DE.10 *Organization. The Office of Policy, Planning, and Legislation* is headed by a Director, who reports directly to the Assistant Secretary for Human Development Services (ASHDS), and consists of:

Office of the Director
Private Sector Initiatives Staff
Division of Policy and Legislation
Division of Planning
Division of Research and Demonstrations
Division of Program Analysis and Evaluation

DE.20 *Functions.* A. *Office of the Director* provides direction and executive leadership to OPPL in the administration of its responsibilities.

Is the principal advisor to the ASHDS on all policy-related matters in HDS. Serves as the focal point for legislative activities affecting HDS, develops and coordinates program policies, policy analysis and control, private sector initiatives and emergency preparedness planning.

Provides advice to the ASHDS and HDS Senior Staff on all matters related to agency-wide planning, research, evaluations, demonstration systems, and statistics; performs special projects and analysis in support of the ASHDS.

Reviews the policy implications of all discretionary grant priority statements, grant announcements, preapplications and applications, and makes recommendations on funding decisions.

Serves as representative of ASHDS to outside groups on all matters related to the OPPL mission.

Responsible for the preparation of proposed organizational structures, functional statements, delegations of authority, position descriptions and various reporting and planning documents for OPPL.

Prepares S&E budget estimates and justifications for submission to the Office of Management Services (OMS). Certifies availability of funds, approves travel vouchers and expenditures for supplies, etc., and manages S&E budget accounts.

Develops and monitors implementation of procedures and instructions designed to improve responsiveness and efficiency within OPPL. Provides liaison with the HDS Executive Secretariat in receiving, assigning and controlling OPPL correspondence and assignments. Provides liaison with OMS in meeting training plan and reporting requirements.

Manages activities related to planning and developing the OPPL operating plan; identifies and assists in identifying appropriate objectives and initiatives and measureable indicators for each; monitors progress in the implementation of the plan; analyses progress reports from OPPL components; spearheads planning for quarterly management reviews within OPPL and with the ASHDS and prepares quarterly reports on plan implementation for the ASHDS.

Prepares and processes personnel actions assuring compliance with ceiling, funding, staffing plan and regulatory/policy limitations; makes manpower utilization recommendations; manages the merit pay and the employee performance management systems and the systems of wards for OPPL.

Provides liaison with the HDS Office of Equal Opportunity and Civil Rights in meeting EEO reporting requirements and implementing affirmative action initiatives; and provides counseling on staff problems to resolve EEO concerns prior to formal complaints.

Insures the provision of a variety of administrative services related to travel, space allocation, communications, equipment, procurement, supplies and other staff requirements.

b. *Private Sector Initiatives Staff* serves as the principal HDS resource for information and expertise on the private sector initiative within HDS. Increases the participation of private sector organizations and individual volunteers or volunteer agencies in meeting human service needs within their communities by working to strengthen communications and successful partnerships between private sector leaders to identify and prioritize community needs. Stimulates new and expanded private sector and volunteer resources and projects by publicizing and promoting models and examples of successful public/private partnerships.

Provides technical assistance, training, guidance, and leadership in the administration and management of the private sector initiative. In cooperation with HDS central and regional office units, develops strategies and plans to mobilize private sector staff and resources to support human service programs which encourage and foster individual self-reliance and economic independence.

When HDS target populations and programs are affected, maintains liaison and participates with the Office of the Secretary, other Federal agencies, State and community agencies, service providers, private sector organizations, and volunteers in the implementation of public/private sector initiative activities.

Reviews HDS discretionary fund applications for private sector implications. Recommends candidates for employee volunteer awards and recommends profit, non-profit, individual, and group awards for community private sector projects within the HDS program areas.

Represents within HDS such concerns as volunteer development, consumer affairs, and other areas of special emphasis related to the private sector initiative; provides leadership and direction to HDS regional offices in the implementation of State and local activities designed to address these concerns; responds to inquiries on the goals, objectives, and activities of the HDS private sector initiative; prepares or provides input to reports or reporting requirements.

C. *Division of Policy and Legislation* serves as the focal point for developing HDS policy and for reviewing and ensuring consistency of policies among program administrations and staff offices; implements HDS policy responsibilities for the Social Services Block Grant (SSBG); proposes and manages major policy initiatives; and acts as representative of ASHDS in conducting liaison duties relating to the functions of this office.

Serves as the principal manager of Congressional liaison and legislative development activities in HDS; counsels and advises ASHDS and Program Commissioners on various aspects of Congressional relations and legislative policy, and provides technical assistance and support to HDS program and staff offices; represents HDS in Departmental legislative development activities; manages legislative planning cycle for HDS, including the development of HDS legislative options; manages the preparation of testimony and backup material on HDS programs, policies, and legislative proposals for presentation before the Congress; monitors hearings and other Congressional activities which affect HDS, and initiates legislative policy development. Manages requests for information generated in Congressional hearings.

D. *Division of Planning* develops and oversees HDS-wide planning systems and priorities aimed at improving coordinated use of Federal resources; conducts special investigations and analyses on cross-cutting planning and programmatic issues of special concern to the ASHDS; identifies and proposes new or revised planning options or priorities; identifies and proposes new or revised long-term objectives and crosscutting initiatives for HDS; develops alternative strategies for achieving these objectives; represents HDS in identifying, developing, or recommending program development and/or planning strategies for inter- and intra-departmental initiatives. As requested, represents HDS in negotiations with the Department or other Federal agencies regarding these issues.

Develops, recommends and implements an HDS-wide comprehensive and coordinated planning system for use by HDS, including strategic and operational planning for HDS program and management activities and accommodating key milestones related to programmatic, budgetary, and legislative planning, discretionary funding and other operational planning requirements; develops draft annual planning guidance for the ASHDS.

Provides guidance and technical assistance to HDS in developing operational plans, particularly in developing measurable objectives and indicators reflecting program and organizational performance.

Develops, recommends and implements a management review system for the purpose of assessing organizational progress in implementing priorities and encouraging appropriate action by managers at all levels; provides analysis of individual organizations and HDS-wide progress; identifies problems and issues for action by the ASHDS and Senior Staff; suggests alternatives for resolving issues where progress is unsatisfactory and provides the ASHDS with recommendations to facilitate decision-making.

Identifies and recommends strategies aimed at promoting improved practices in State and local government planning and priority setting systems; initiates transfer of exemplary State/local planning strategies, system and models; interacts with national planning organizations and other relevant bodies to promote the development of innovative and effective planning systems and creative use of resources; manages discretionary funds projects with significant planning implications, analyzes results and disseminates findings within HDS and to outside planning networks; coordinates activities among HDS programs and other Federal agencies to promote and strengthen cooperative planning for the improved use of Federal human services resources in priority areas of interest to HDS; represents HDS interest and negotiates with planning staff and program managers of other Federal agencies on behalf of HDS and its agenda.

In cooperation with related Federal Departments, manages and directs activities relating to the internal planning, coordination and implementation of the Emergency Preparedness program. Serves as the focal point to the ASHDS for staff work to the Principal Working Group on Social Services, a component of the Emergency Mobilization Preparedness Board, and manages the ongoing responsibilities of that Principal Working Group. In coordination with related Departments, raises issues and develops and recommends plans of action that provide the President options

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for meeting Federal requirements during natural disasters and other national emergencies. Develops policies and procedures for use in responding to the emergency welfare needs of persons that are currently considered dependent and those that are temporarily dependent due to the emergency. In cooperation with HDS program offices, designs and coordinates the Emergency Preparedness response to Executive Order 11490 for National Emergencies through HHS Emergency Coordinators Offices. Develops plans for approval and manages emergency teams required to support the Department's response procedures.

E. *Division of Research and Demonstrations* manages the HDS Coordinated Discretionary Program and provides guidance and oversight to other HDS programs in the conduct of categorical discretionary programs; provides advice to the ASHDS, Program Administrations and grantees on R&D issues and methodologies; identifies major human services issues which may require R&D intervention. In cooperation with program offices, develops the R&D and discretionary funds planning guidance to be used by those offices in developing their discretionary plans; reviews and recommends approval of R&D and discretionary plans prepared by the Program Administrations; prepares the annual HDS discretionary funds plan; with OMS, reviews and clears all HDS discretionary program announcements for compliance with the discretionary funds plan; develops for publication in the Federal Register, the annual program announcement for the HDS Coordinated Discretionary Program; reviews, approves and tracks all contracts requiring 9-15 clearance; reviews and recommends action on all unsolicited proposals received within HDS; manages the process for receipt, review, and selection of applications for funding under the HDS Coordinated Discretionary Program; insures the compliance of all grant awards with the Discretionary Plan; track overall progress of projects funded under the HDS Coordinated Discretionary Program.

Provides Government Project Offices for R&D projects of special interest to the ASHDS; insures that products of R&D projects are disseminated to human service providers.

Develops management systems to improve the efficiency and quality of HDS Discretionary programs. Directs the HDS International Affairs Programs to: transfer knowledge through research and demonstration; promote the exchange of experts (U.S. and International); and coordinate HHS involvement in international organizations and meetings. Insures that all international activities supported by HDS addresse the ASHDS' goals and objectives.

F. *Division of Program Analysis and Evalution* provides national leadership and expertise for the human services field through the development, formulation and application of advanced analytical techniques to complex statistical and programmatic data bases incorporating analysis of these data against national HDS policies and related U.S. economic variables; directs and manages the HDS national program systems and evaluation activities. Formulates national decision analyses, applying quantitative and evaluative methods to a wide range of policy success indicators, including socio-demographic characteristics, social service allocations, client population targeting and program cost-effectiveness; conducts research to discover the economic impact of HDS programs on localities and to study HDS policy in relation to economic trends.

Develops and manages major economic studies which generate statistical socio-economic population data for all HDS programs and interprets the results of these studies in terms of economic theory; creates an integrated data base management system, provides national statisitcal expertise in the analyses of crosscutting HDS programs, furnishes technical support to HDS staff, regions and States, and advises HDS personnel on the economic implications of their particular programs; considers both the economic well-being of HDS services recipients and the related aspects of the development of the U.S. economy; evaluates HDS programs and provides input for budget recommendations; conducts research on the relationship of HDS programs and socio-economic dependency within the context of national economic policy in those program areas.

Develops broad HDS program systems strategy/policy; manages national systems conferences/workshops and evaluation guidelines; reviews and manages the State and local program systems development requests for Federal financial participation and coordinates efforts with OS, HCFA, SSA, PHS, and program bureaus; manages award process for selected areas including systems and evaluation grants and consults on grants managed by others.

Chairs the HDS Statistical Coordination Group and participates in inter and intra-agency statistical conferences and committees involving national and State levels as well as the Federal agencies of OMB and Census Bureau; directs and manages the HDS Statistical Budget process including justifications and coordination of all requirements for HDS programs.

Serves as the primary HDS control point with the Department and OMB for all matters pertaining to OMB reports clearance functions and Pub. L. 96-511, the Paperwork Reduction Act; maintains national leadership with outside groups for human services statistical reporting matters and economic analyses; insures HDS representation at Departmental/Agency meetings including ASPE and ASMB regarding statistical, microsimulation, evaluation and information systems matters.

Dated: May 1, 1986.

Otis R. Bowen, MD,

Secretary.

[FR Doc. 86-10580 Filed 5-6-86; 8:45 am]

BILLING CODE 4150-01-M

Centers for Disease Control

Acquired Immunodeficiency Syndrome (AIDS) Surveillance and Associated Epidemiologic Investigations; Program Announcement and Notice of Availability of Funds for Fiscal Year 1986

The Centers for Disease Control (CDC) announces that competitive Cooperative Agreement applications are being accepted for acquired immunodeficiency syndrome (AIDS) active surveillance and associated epidemiologic investigations. The Catalog of Federal Domestic Assistance number is 13.118.

Program Objective

The objective of these cooperative agreements is to assist State and local health departments in designing and implementing active surveillance for AIDS and associated epidemiologic investigations to determine incidence trends of AIDS, identify risk groups and risk factors, and provide opportunities for epidemiologic and laboratory studies of AIDS and related disorders.

Authority

This program is authorized under section 301(a) of the Public Health Service Act, as amended.

Eligibility Requirements

Eligible applicants are the official health departments of any State or local government, including the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, which have either:

A. Reported at least 50 AIDS cases that meet the CDC surveillance case definition for national reporting:

1. Presence of reliably diagnosed disease at least moderately indicative of underlying cellular immunodeficiency; and

2. Absence of all known underlying causes of cellular immunodeficiency (other than HTLV-III/LAV infection) and absence of all other causes of reduced resistance reported to be associated with the disease; or

B. Documented at least 50 patients with well-characterized symptoms of the AIDS-related complex (ARC), which may represent mild or early AIDS (i.e., prolonged and unexplained generalized lymphadenopathy, thrombocytopenia, thrush, etc.).

Eligible State and local health agencies are strongly encouraged to coordinate their request for assistance, ideally in a single application, to ensure the most efficient use of federal, State, and local resources. Applicants must demonstrate that AIDS surveillance and associated epidemiologic investigations cooperative agreement funds will be used for activities to improve the identification and reporting of AIDS cases, conduct epidemiologic investigations of selected cases, and establish a central registry of cases in the official public health department.

Availability of Funds

Approximately $3,859,235 is available in Fiscal Year 1986 for this program. Of this amount, approximately $300,000 remains available to fund up to three (3) new surveillance project awards ranging from $75,000-$125,000 each. Seventeen awards totaling $2,867,235 have already been made and an additional $692,000 has been set aside for 7 non-competing continuation applications. The new projects will be funded with 12-month annual budget periods with a 3-year project period. Continuation awards within the project period will be made on the basis of satisfactory progress in meeting project objectives and on the availability of funds. The funding estimate outlined above may vary and is subject to change, depending upon the availability of funds.

Type of Assistance

Awards resulting from this announcement will be Cooperative Agreements. The collaborative and programmatic involvement of CDC and recipients of funds is as follows:

1. Recipient Agency Activities

a. Design and conduct surveillance activities directed to improving the reporting of all AIDS cases (including pediatric and suspected cases) diagnosed in the public health agency's geographic jurisdiction.

b. Establish systems with physicians, hospitals or clinics, cancer registries, laboratories, and other public health agencies for identifying and reporting cases.

c. Develop and maintain a central registry of all reported cases which includes epidemiologic and clinical information for individual cases, and which allows for rapid, uniform updates and retrieval of case information for regular and special tabulations of data for analysis.

d. Evaluate the effectiveness of surveillance approaches.

e. Conduct epidemiologic investigations of cases that have no identifiable risk factors including possible blood transfusion-related cases and their donors.

f. In consultation with CDC, analyze, present, and publish the results of surveillance activities and epidemiologic investigations.

2. Centers for Disease Control Activities

a. Collaborate in the design, development, and implementation of surveillance and associated epidemiologic investigations including specific approaches to AIDS surveillance and epidemiologic investigations, methods for establishing and maintaining a central registry of cases, and publication of findings.

b. Provide criteria for the surveillance definition of AIDS cases and case report forms.

c. Assist State and local public health agencies in analyzing data from reported cases including incidence trends and groups at risk.

d. Provide on-site technical assistance in planning, operating, and evaluating surveillance activities.

e. Assist State and local public health agencies in conducting epidemiologic investigations of selected AIDS cases including those with no indentifiable risk factors.

Applications

1. Copies—Place of Submission

The original and two copies of the application should be submitted on Form PHS 5161-1 (revised 3-79) on or before July 18, 1986: Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, Room 321, 255 East Paces Ferry Road, Atlanta, Georgia 30305. Application forms should be available in the institution's business office or from the above address.

2. Deadlines

Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date, or

b. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly-dated U.S. Postal Service postmark or obtain a legibly-dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

3. Late Applications

Applications which do not meet the criteria in either paragraph 2a or b immediately above are considered late applications and will not be considered in the current competiton and will be returned to the applicant.

4. Reviews

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs, but are subject to review under regulations (42 CFR Part 122, as amended, and Part 123) implementing the National Health Planning and Resources Development Act of 1974.

5. Content

Applications must include a narrative which details the following:

a. The background and need for project support including information that relates to factors by which the applications will be evaluated.

b. The objectives of the proposed project which are consistent with the purpose of the cooperative agreement and which are measurable and time-phased.

c. The methods that will be used to accomplish the objectives of active surveillance and epidemiologic investigations of selected cases including those with no identifiable risk factors.

d. The methods that will be used to evaluate the success of active surveillance and epidemiologic investigations.

e. Fiscal information pursuant to utilization of awarded funds in a manner consistent with the purpose and objectives of the project.

f. Any other information that will support the request for assistance. Cooperative agreement funds may be used to support personnel and to purchase supplies, services, and

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computer equipment directly related to AIDS surveillance and epidemiologic investigation activities. Funds may be used to supplant funds supporting existing AIDS activities provided by the health department or to support construction costs.

Review Criteria

1. Initial and competing continuation applications will be reviewed and evaluated based on the evidence submitted which specifically describes the applicant's ability to meet the following criteria:

a. The total number of AIDS cases reported since June 1981 that meet the CDC surveillance case definition.

b. The total number of patients with well-characterized symptoms which may represent mild or early AIDS.

c. The applicant's understanding of the AIDS problem and the purpose of the cooperative agreement.

d. The qualifications and time allocation of the proposed staff and a description of how the project will be administered.

e. A proposed schedule for accomplishing the activities of the cooperative agreement, including time frames.

f. The applicant's activities in AIDS surveillance and research including relationships to other AIDS investigators in the area.

g. How the applicant will develop and implement a surveillance system for AIDS in hospitals and among physicians, including establishing and maintaining a central registry of cases, and how epidemiologic investigations of selected cases (e.g., cases associated with blood transfusions) will be conducted.

h. Demonstration of close collaboration and working relationships between the public health department and those medical institutions diagnosing and treating patients with AIDS and related illnesses.

2. Continuation awards within the project period will be made on the basis of the following criteria:

a. The accomplishments of the current budget period show that the applicant is meeting its objectives;

b. The objectives for the new budget period are realistic, specific, and measurable;

c. The methods described will clearly lead to achievement of these objectives;

d. The evaluation plan will allow management to monitor whether the methods are effective; and

e. The budget requested is clearly explained, adequately justified, reasonable, and consistent with the intended use of cooperative agreement funds.

Information

Information on application procedures, copies of application forms, and other material may be obtained from Nancy Bridger, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE, Room 321, Atlanta, Georgia 30305, or by calling (404) 262-6575 or FTS 236-6575.

Technical assistance may be obtained from Lawrence D. Zyla, AIDS Program, CID, Centers for Disease Control, Atlanta, Georgia 30333, telephone (404) 329-3851, FTS: 236-3851.

Dated: May 5, 1986.

William E. Muldoon,

Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 86-10569 Filed 5-9-86; 8:45 am]

BILLING CODE 4160-18-M

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration; Statement of Organization, Functions, and Delegations of Authority

Part H, Chapter HM, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (39 FR 1954, January 11, 1974, as amended to reflect the reorganization of the Office of the Administrator, ADAMHA. The reorganization accomplishes the following: (1) Clarifies the mission and functional statement of ADAMHA; (2) revises the functional statement of the Office of the Administrator, transferring international affairs to the Office of Prevention and communications and public affairs to the Office of Policy Coordination; (3) changes the name of the Office of Planning, Policy Analysis, and Legislation to the Office of Policy Coordination, and revises the functions of the Office; (4) abolishes the Office of Extramural Programs and transfers it functions to the Office of Science; (5) establishes 2 new offices, the Office of Science and the Office of Prevention; and (6) makes a minor change in the functional statement of the Office of Management, transferring the executive secretariat from this Office to the Office of Policy Coordination.

ADAMHA is publishing in the Federal Register all functional statements through the third echelon organization components. Fourth level echelons in ADAMHA are deleted.

Section HM-A, MISSION, is amended as follows:

Add the following at the end of the last paragraph in the mission statement:

"ADAMHA also administers the Alcohol and Drug Abuse and Mental Health Services Block Grant program."

Section HM-B, Organization and Functions, is amended as follows:

(1) In the functional statement for the *Alcohol, Drug Abuse and Mental Health Administration (HM),* revise item (5) by inserting the following at the beginning of the item: "(5) administers the Alcohol and Drug Abuse and Mental Health Services Block Grant program and"

. . . .

(2) Under *Office of the Administrator (HMA),* (3), place a semicolon after "equal employment opportunity activities;" and delete the following: "international activities and communications and public affairs."

(3) Delete the functional statements for the *Office of Planning, Policy Analysis, and Legislation (HMA2),* the *Division of Planning and Policy Analysis (HMA 25), the Division of Legislation (HMA26),* and the *Office of Extramural Programs (HMA8)* and substitute the following:

Office of Policy Coordination (HMA2) (1) Provides leadership and guidance for the coordination and review of policy development, planning, and evaluation activities of the agency; (2) provides executive coordination and support services to the Administrator, overseeing and operating an executive secretariat to manage a system of correspondence review, clearance, and quality control; (3) directs the agencywide annual short- and long-term program planning processes, and conducts analyses and supports nonresearch planning activities; (4) identifies, coordinates, and performs analyses, program assessments or special studies of key issues relative to policy direction and having agencywide implications; (5) coordinates the development, review, and execution of the agency's 1% evaluation plan; (6) analyzes legislative issues, developing policy and position papers and recommendations; (7) maintains liaison with Congressional committees; (8) coordinates public affairs aspects of agency programs and communications projects and activities, reviewing and clearing publications and press releases, and coordinating agencywide Freedom of Information Act activities; and (9) provides staff support for the Alcohol and Drug Abuse and Mental Health Advisory Board.

Office of Prevention (HMA3) (1) Develops, implements, and reviews disease prevention and health promotion policy related to alcohol and drug abuse and mental illness, analyzing impact of Federal activities on State, local Government and private program activities; (2) provides coordination, guidance, and leadership for disease prevention and health promotion programs across the three Insitutes; (3) coordinates the agency's international activities; (4) provides consultation and liaison with other Federal agencies and programs, international and national organizations, State, local, public and private organizations which are involved in all aspects of disease prevention and health promotion activities related to alcohol and drug abuse and mental illness; (5) administers the ADM Services Block Grant Program, including consultant and technical assistance to States, and compliance reviews; (6) establishes, implements, and analyzes data policy decisions and activities as they relate to the accumulation, management, evaluation, and dissemination of data pertinent to the functions of the agency, obtaining necessary clearances for agency statistical data activities.

Office of Science (HMA5) (1) Provides leadership, advice, and coordination for the development of science policy for extramural and intramural research and research training programs; (2) coordinates planning of crosscutting research intiatives; (3) maintains liaison with other Government science agencies and the scientific community; (4) coordinates and conducts studies and analyses relating to science policy, planning, and evaluation of research and research training programs, extramural program policys, and alcohol, drug abuse and mental health care reimbursement and financing issues; (5) develops and coordinates implementation of policies concerning the operation of extramural programs, peer review, and ethical issues in research; (6) performs centralized grant application receipt and referral; and (7) develops policies and provides coordination for committee management.

(4) Under the *Office of Management (HMA7),* delete item (2); renumber item (3) as item (2) and item (4) as item (3).

Dated: April 28, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86-10505 Filed 5-9-86; 8:45 am]

BILLING CODE 4160-20-M

Health Resources and Services Administration; Delegation of Authority Under Title III of the Public Health Service Act

Notice is hereby given that in furtherance of the authorities vested in the Administrator, Health Resources and Services Administration (HRSA), by the Secretary of Health and Human Services' Reorganization Order of September 1, 1982, the Administrator, HRSA, has delegated the following authorities under Title III of the Public Health Service Act, as amended:

Authority	To whom delegated	Area of responsibility
Authority under section 301 (42 U.S.C. 241) relative to research, investigation, and functions	HRSA Bureau Directors	Their respective bureaus.
Authority under section 311 (42 U.S.C. 243) concerning Federal-State cooperation	HRSA Bureau Directors	Their respective bureaus.
Authority under section 320 (42 U.S.C. 250) relative to the Hansen's Disease Program	Director, BHCDA	BHCDA
Authority under section 321 (42 U.S.C. 248) relative to hospitals	Directors, BHCDA & IHS	Their respective bureaus.
Authority under section 322 (42 U.S.C. 249) relative to the care and treatment of persons under quarantine and other persons, except the authority to provide mental health care for the Haitian/Cuban initiative which is the functional responsibility of the Alcohol, Drug Abuse, and Mental Health Administration.	Directors, BHCDA & IHS	Their respective bureaus.
Authority under section 323 (42 U.S.C. 250) concerning the care and treatment of Federal prisoners	Director, BHCDA	BHCDA
Authority under section 324 (42 U.S.C. 251) concerning the examination and treatment of Federal employees, excluding those authorities delegated to PHS Regional Health Administrators (RHAs).	Director, BHCDA	BHCDA
Authority under section 324 (42 U.S.C. 251) and the authorities of the Secretary under 5 U.S.C. 7901 pertaining to the FEOH program, including the authority to enter into interagency or intra-agency agreements, but excluding agreements that are national or multiregional in scope. Also included is the authority for the day-to-day operation of FEOH units in accordance with the terms of the interagency agreements.	Director, BHCDA	BHCDA.
Authority under section 324(b) (42 U.S.C. 251b) concerning medical care for Federal employees and their dependents at remote facilities of IHS.	Director, IHS	IHS.
Authority under section 325 (42 U.S.C. 252) concerning the examination of aliens	Directors, BHCDA & IHS	Their respective bureaus.
Authority under section 326 (42 U.S.C. 253) concerning services to Coast Guard, Coast and Geodetic Survey, and Public Health Service.	Director, BHCDA	BHCDA.
Authority under section 327 (42 U.S.C. 254) concerning interdepartmental work	HRSA Bureau Directors	Their respective bureaus.
Authority under section 327A (42 U.S.C. 254a) as it pertains to the sharing of medical care facilities and resources under the jurisdiction of the Administrator, Health Resources and Services Administration.	HRSA Bureau Directors	Their respective bureaus.
Authority under section 328 (42 U.S.C. 254e-1) relative to hospital affiliated primary care centers, excluding those authorities delegated to RHAs.	Director, BHCDA	BHCDA.
Authority under section 328 (42 U.S.C. 254e-1) to award grants to community hospitals to support demonstration projects in the planning, development, and operation of hospital-affiliated primary care centers other than grants that are national or multiregional in scope.	RHAs	Their respective regions.
Authority under section 329 (42 U.S.C. 247d) relative to Migrant Health Centers, excluding those authorities delegated to RHAs.	Director, BHCDA	BHCDA.
Authority under section 329 (42 U.S.C. 247d) to award grants for migrant health centers, excluding grants that are national or multiregional in scope.	RHAs	Their respective regions.
Authority under section 330 (42 U.S.C. 254c) relative to Community Health Centers, excluding those authorities delegated to RHAs.	Director, BHCDA	BHCDA.
Authority under section 330 (42 U.S.C. 254c) to award grants for community health centers, excluding grants that are national or multiregional in scope.	RHAs	Their respective regions.
Authority under section 331 (42 U.S.C. 254d) relative to the National Health Service Corps, excluding the authority delegated to RHAs.	Director, BHCDA	BHCDA.
Authority under section 331(c) (42 U.S.C. 254d) relative to reimbursement for travel of a National Health Service Corps member to site.	RHAs	Their respective regions.
Authority under section 332 (42 U.S.C. 254e) relative to the designation of health manpower shortage areas, excluding section 332(h)(1) (42 U.S.C. 254e(h)).	Director, BHPr	BHPr.
Authority under section 332(h) (42 U.S.C. 254e(h)) relative to information programs pertinent to the designation of health manpower shortage areas.	Director, BHCDA	BHCDA.
Authority under section 333 (42 U.S.C. 254f) relative to the assignment of Corps personnel to provide health services in or to a health manpower shortage area.	Director, BHCDA	BHCDA.
Authority under section 334 (42 U.S.C. 254g) relative to cost sharing factors regarding the National Health Service Corps Program, excluding the authority delegated to RHAs.	Director, BHCDA	BHCDA.
Authority under section 334b (42 U.S.C. 254g(b)) relative to the waiver authority for entities, excluding the waiver of loans approved under section 338(a).	RHAs	Their respective regions.
Authority under section 335 (42 U.S.C. 254h) as it pertains to the provision of health services by Corps members, excluding those authorities delegated to RHAs.	Director, BHCDA	BHCDA.
Authority under section 338(a) (42 U.S.C. 254k(a)) to negotiate and award loans to entities	RHAs	Their respective regions.

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Authority	To whom delegated	Area of responsibility
Authority under section 338 (42 U.S.C. 254q(k)) relative to the preparation for practice under the NHSC Scholarship Program.	Director, BHCDA	BHCDA.
Authority under section 338A (42 U.S.C. 254l(1)) relative to the National Health Service Corps Scholarship Program	Director, BHCDA	BHCDA.
Authority under section 338B (42 U.S.C. 254m) concerning obligated service of an individual as a member of the National Health Service Corps.	Director, BHCDA	BHCDA.
Authority under section 338C (42 U.S.C. 254n) concerning release from Corps service obligation to enter into private practice, excluding the authorities delegated to RHAs.	Director, BHCDA	BHCDA.
Authority under section 338C(e) (42 U.S.C. 254n) to release an individual to enter into private practice	RHAs	Their respective regions.
Authority under section 338C(d) (42 U.S.C. 254n) to pay travel expenses for an individual, family, and possessions to site of private practice.	RHAs	Their respective regions.
Authority under section 338C(e)(1) (42 U.S.C. 254n) to negotiate and award loans to NHSC scholarship recipients for establishing private practices.	RHAs	Their respective regions.
Authority under section 338(g) (42 U.S.C. 254n) to provide technical assistance to an individual for assisting in fulfilling the written agreement.	RHAs	Their respective regions.
Authority under section 338D (42 U.S.C. 254o) to take action relative to an individual's breach of Corps scholarship contract, including the waiver authority pertaining to the Indian Health Scholarship Program.	Director, BHCDA	BHCDA.
Authority under section 338E (42 U.S.C. 254p) concerning special loans for former Corps members to enter private practice, excluding the authorities delegated to RHAs.	Director, BHCDA	BHCDA.
Authority under section 338E (42 U.S.C. 254p) to negotiate and award loans to assist NHSC scholarship recipients in meeting the costs of establishing their private practices.	RHAs	Their respective regions.
Authority under section 338G (42 U.S.C. 254r) concerning the Indian Health Scholarship Program, excluding the waiver authority under section 338D as it pertains to the Indian Health Scholarship Program.	Director, IHS	IHS.
Authority under section 339 (42 U.S.C. 255) relative to the Home Health Services, excluding the authorities delegated to RHAs.	Director, BHCDA	BHCDA.
Authority under section 339(e) (42 U.S.C. 255) to make grants to public and nonprofit private entities and loans to proprietary entities to meet the initial costs of establishing and operating home health programs, excluding grants that are national or multiregional in scope.	RHAs	Their respective regions.
Authority under section 339(h) (42 U.S.C. 255) to make grants to public and private entities to assist them in developing appropriate training programs for paraprofessionals (including homemaker home health aides) to provide home health services, other than grants that are national or multiregional in scope.	RHAs	Their respective regions.
Authority under section 340 (42 U.S.C. 256) relative to Primary Care Research and Demonstration Projects subject to the limitations set forth in section 340(c)(1) and section 340(g)(4) of the Public Health Service Act, excluding the authorities delegated to RHAs.	Director, BHCDA	BHCDA.
Authority under section 340 (42 U.S.C. 256) to administer grants for primary care research and demonstration projects, subject to the limitations set forth in section 340(c)(1) and section 340(g)(4), excluding grants that are national or multiregional in scope.	RHAs	Their respective regions.
Authority under section 340A (42 U.S.C. 256a) concerning Technical Assistance Demonstration Grants and Contracts, excluding the authorities delegated to RHAs.	Director, BHCDA	BHCDA.
Authority under section 340A (42 U.S.C. 256a) to administer technical assistance demonstration grants to public and private entities to assist such entities in meeting their costs of providing technical assistance to entities engaged in the planning, development, or operation (or any combination of such activities) of migrant health centers under section 329, community health centers under section 330, or any other centers for the delivery of primary health care.	RHAs	Their respective regions.
Authority under Part H (Sections 371–376) (42 U.S.C. 273 et seq.) relative to organ transplants	Director, Office of Organ Transplantation.	Office of Organ Transplantation.

These authorities may be redelegated.

All previous delegations have been superseded. Provision was made for all previous redelegations to continue in effect pending further redelegation.

This delegation was effective upon date of signature.

Dated: May 1, 1986.

John H. Kelso,

Acting Administrator, Health Resources and Services Administration.

[FR Doc. 86-10534 Filed 5-9-86; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Realty Action; Exchange of Public and Private Lands in Riverside County, CA

Correction

In FR Doc. 86-4434 appearing on page 7340, in the issue of Monday, March 3, 1986, make the following corrections: In the first column, in the SUMMARY, the line now reading "T. 36, R. 5 E.," should read "T. 3 S, R. 5 E.,"; and in the second line under Sec. 30, "NW¼ (42.93" should read "NW¼SW¼ (42. 93".

BILLING CODE 1505-01-M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT-706069

Applicant: New York Zoological Society, Bronx, New York.

The applicant requests a permit to export up to 2 eggs, up to 2 chicks and up to 2 adult hooded cranes (*Grus monacha*) to Dr. Svetislov Priklonski, Oka State Nature Reserve, Lakash, Ryazan District, U.S.S.R. for the purpose of enhancement of propagation of the species.

PRT-706673

Applicant: Gary R. Ingersoll, Houston, TX.

The applicant requests a permit to import the personal sport-hunted trophy of a bontebok (*Damaliscus dorcas dorcas*), culled from the captive herd of Mr. Francis Bowker in Grahamstown, Republic of South Africa, for the purpose of enhancement of propagation.

PRT-706717

Applicant: Albert B. McMillian Wabash, IN.

The applicant requests a permit to purchase one pair of captive born Hawaiian (=nene) geese (*Nesochen (=Branta) sandvicensis*) from Mr. Charles Nugent of Kimbolton, Ohio, for the purpose of enhancement of propagation.

PRT-706721

Applicant: John M. Nugent, Jr., McLean, VA.

The applicant requests a permit to import one male captive born Nile crocodile (*Crocodylus niloticus*) skeleton from JOF Products (PTY) Ltd., Republic of Bophuthatswana, Southern Africa, for the purpose of enhancement of propagation.

PRT-706206

Applicant: George Carden Circus Int'l., Inc., Willard, MO.

The applicant requests a permit to export and reimport four female Asian elephants (*Elephas maximus*) for the purpose of enhancement of propagation.

PRT-706652

Applicant: Tracy Aviary, Salt Lake City, UT.

The applicant requests a permit to import a pair of Cabot's tragopan pheasants (*Tragopan caboti*) from Mr. K. & G. Howe, Aylmer, Ontario, Canada for the purpose of enhancement of propagation.

PRT-703699

Applicant: V.H. Wanamaker, Burbank, CA.

The applicant requests a permit to import the personal sport-hunted trophy of a bontebok (*Damaliscus dorcas dorcas*) culled from the captive herd of V. Pringle, Bedford, Cape Province, Republic of South Africa for the purpose of enhancement of propagation.

PRT-704949

Applicant: Michael Worley, DVM, San Diego, CA.

The applicant requests a permit to import blood and/or tissue from wild-caught cheetahs (*Acinonyx jubatus*) for purposes of determining disease prevalence and exposure to infectious organisms. This replaces the notice published May 1986 for the Zoological Society of San Diego, PRT 704949, to import blood and/or tissue from wild-caught endangered felids.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 22201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 86-10630 Filed 5-9-86; 8:45 am]

BILLING CODE 4310-55-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30819]

Ossipee Aggregates, Inc. and New Hampshire Northcoast Corp., Acquisition and Operation Exemption, Boston and Main Corp.

Ossipee Aggregates, Inc. (AO) and New Hampshire Northcoast Corporation (NHN) have filed a notice of exemption for OA to acquire and for NHN to operate a line of the Boston and Maine Corporation (B&M) between milepost B 80.3 at Rochester and milepost B 111 at Ossipee, NH. In conjunction with the sale, B&M has granted incidental trackage rights to OA and NHN, the intended operator, over approximately 11.67 miles of B&M's line extending (1) from milepost 80.3 at Rochester to milepost 73.37 at Somersworth, NH; (2) from milepost 2.72 at Somersworth to milepost 0.00 at Rollinsford, NH; and (3) from milepost 69.59 at Rollinsford to milepost 67.37 at Dover, NH. Comments must be filed with the Commission and served on: R. Lawrence McCaffrey, Jr., Weiner, McCaffrey, Brodsky & Kaplan, P.C., Suite 800, 1350 New York Avenue NW, Washington, D.C. 20005-4797, (202) 628-2000.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: May 1, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86-10574 Filed 5-9-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Office of Juvenile Justice and Delinquency Prevention; Meeting

The second quarterly meeting of the Coordinating Council on Juvenile Justice and Delinquency Prevention will be held in Washington, DC, on Wednesday, June 18, 1986. The meeting will take place in the Thirteen Floor Conference Room, the Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., from 9:30 a.m. to 12 noon. The public is welcome to attend.

The agenda will include matters related to the coordination of the Federal effort in the area of juvenile justice and delinquency prevention.

For further information, please contact Roberta Dorn, Office of Juvenile Justice and Delinquency Prevention, 633 Indiana Avenue, NW., Washington, D.C. 20531, (202) 724-7655.

Dated: May 7, 1986.

Approved:

Alfred S. Regnery,

Administrator, Office of Juvenile Justice and Delinquency Prevention.

[FR Doc. 86-10585 Filed 5-9-86; 8:45 am]

BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-289(CH) (ASLBP No. 85-514-02-OT)]

General Public Utilities Nuclear Corp.

In the Matter of General Public Utilities Nuclear (Three Mile Island Nuclear Station, Unit No. 1).

Before Administrative Law Judge Morton B Margulies.

Order

(Final Prehearing Conference)

The date of the final prehearing conference, at the request of the parties, is changed from May 12 to May 20, 1986. The conference will commence at 9:30 a.m., local time, in the Commonwealth Court, Courtroom No. 2, 5th floor, South Office Building, Commonwealth Avenue, Harrisburg, Pennsylvania.

Parties to the proceeding or their counsel are directed to appear at the final prehearing conference. The conference will be reported verbatim.

Matters to be considered are those that are customarily discussed at a final prehearing conference. A listing is contained in 10 CFR 2.752, consisting of:

(1) Simplification, clarification, and specification of the issues;

(2) The necessity or desirability of amending the pleadings;

(3) The obtaining of stipulations and admissions of fact and of the contents and authenticity of documents to avoid unnecessary proof;

(4) Identification of witnesses and the limitation of the number of expert witnesses, and other steps to expedite the presentation of evidence;

(5) The setting of a hearing schedule; and

(6) Such other matters as may aid in the orderly disposition of the proceeding.

Other matters to be considered are those procedural issues that were not resolved at the initial prehearing conference held on February 19, 1986. They involve the order in which the parties will present their cases, the manner in which they will participate and the use to be made in this proceeding of the prior record.

It is so *Ordered*.

Dated at Bethesda, Maryland this 6th day of May 1986.

Morton B. Margulies,

Administrative Law Judge.

[FR Doc. 86-10602 Filed 5-9-86; 8:45 am]

BILLING CODE 7590-01-M

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[License No. STA-563]

Environmental Statements; Kerr-McGee Chemical Corp., West Chicago, IL; Finding of No Significant Impact

[Docket No.40-2061]

The U.S. Nuclear Regulatory Commission (the Commission) is considering the amendment of Source Material License No. STA-563 to authorize the receipt and storage at the Kerr-McGee (KM) Facility in West Chicago, Illinois, of thorium-bearing materials which are being removed from the Sewage Treatment Plant.

Summary of Environmental Assessment

Identification of the Proposed Action

The proposed action would allow Kerr-McGee to receive and store at the West Chicago Facility those thorium-bearing soils which are being removed from the Sewage Treatment Plant located in West Chicago, Illinois.

The Need for the Proposed Action

Ongoing construction to expand and modernize the Sewage Treatment Plant has necessitated the removal of the thorium-bearing material. Some of the contaminated soils are in areas where construction is either currently ongoing or planned. The material will have to be moved regardless of where it is stored.

Environmental Impacts of the Proposed Action

Currently, the contaminated soils are located in several areas of the Sewage Treatment Plant grounds, removal of the soils would result in the consolidation of material, thereby improving control.

KM will excavate the materials in accordance with approved procedures. Waters sprays and/or dust control measure will be used as needed to control airborne particulate emissions during excavation, transportation, loading/unloading, and storage activities. Air samples will be collected during all work activities to determine the airborne particulate concentrations in work areas.

The diposal site at the KM Facility is a restricted area so that unauthorized people will not be able to gain access to the contaminated material. The material will be stored separately from the byproduct material currently onsite.

Transportation accidents could result in the spillage of the contaminated soils. However, spilled soils can be readily cleaned up, and the short-term effect of dust dispersion at an accident site would be insignificant.

A residential thorium removal program resulted in the receipt and storage of approximately 35,000 cubic yards of thorium-bearing soil. The storage of this material has not caused any adverse environmental impact. The perimeter air samples do not show any significant change in activity. The amount of material from the Sewage Treatment Plant that is to be stored at the site is approximately 12,000 cubic yards, this is about one third of that from the residential program.

The storage of this amount of material should not cause any offsite environmental impact. KM is required to use water sprays or other dust control measures to ensure that material does not disperse offsite. KM's existing environmental monitoring program will be continued to confirm that the material is not dispersing offsite.

Conclusion

The staff believes that receipt and storage of the material can be accomplished in an environmentally safe manner and that the operation is expected to have an insignificant environmental impact. Therefore, the staff concludes there will be no significant impacts associated with the proposed action.

Alternatives to the Proposed Action

One alternative to the proposal is to leave the material where it is now. This alternative is not feasible because of the construction.

Another alternative would be to move the material to another location on the Sewage Treatment Plant grounds. Because future expansion plans might require removal of the material to yet another location, offsite removal is perferred to limit the number of times this material must be handled.

Any location to which the material is ultimately moved will have to be restricted to control access to the material. Measures would also have to be taken to prevent the spread of contaminated material. Any location chosen would have to be dedicated to that purpose and would become unavailable for other activities.

Because the material originated from the Rare Earths Facility and the disposal site is already restricted, storage at the KM West Chicago Facility would appear to be the best solution.

Agencies and Persons Consulted

The Commission's staff reviewed the applicant's request of January 28, 1986, and did not consult other agencies or persons.

Findings of No Significant Impact

The Commission's Division of Fuel Cycle and Material Safety has prepared an Environmental Assessment related to the amendment of Source Material License No STA-563. On the basis of this assessment, the Commission has concluded that the environmental impact created by the proposed licensing action would not be significant and does not warrant the preparation of an Environmental Impact Statement. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate. The Environmental Assessment and the above document are available for public inspection and copying at the Commission's Public Document Room, 1717 H Street, NW, Washington, DC, and at the Local Public Document Room located at the West Chicago Public Library, 332 E. Washington Street, West Chicago, Illinois. Copies of the Environmental Assessment may be obtained by calling (303) 427-4510 or by writing to the Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Silver Spring, Maryland, this 5th day of May 1986.

W.T. Crow,

Acting Chief, Uranium Fuel Licensing Branch, Division of Fuel Cycle and Material Safety, NMSS.

[FR Doc. 86-10639 Filed 5-9-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-333]

Power Authority to the State of New York; (James A. FitzPatrick Nuclear Power Plant); Exemption

I

The Power Authority of the State of New York (PASNY/the licensee) is the holder of Facility Operating License No. DPR-59 which authorities licensee to operate the James A. FitzPatrick Nuclear Power Plant (the facility) at power levels not in excess of 2436 megawatts thermal. The facility is a boiling water reactor (BWR) located at the licensee's site in Oswego County, New York. The license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

Section III.G. of Appendix R to 10 CFR 50 requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of the following means:

a. Separation of cables and equipment and associated non-safety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide a fire resistance equivalent to that required of the barrier;

b. Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area, and;

c. Enclosure of cables and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

If these conditions are not met, Section III.G.3 requires an alternative shutdown capability independent of the fire area of concern. It also requires that a fixed suppression system be installed in the fire area of concern if it contains a large concentration of cables or other combustibles. These alternative requirements are not deemed to be equivalent. Howver, they provide equivalent protection for those configurations in which they are accepted.

Because it is not possible to predict the specific conditions under which fires may occur and propagate, the design basis protective features are specified in the rule rather than the design basis fire. Plant spectific features may require protection different than the measures specified in Section III.G. In such a case, the licensee must demonstrate, by means of a detailed fire hazards analysis, that existing protection or existing protection in conjunction with proposed modifications will provide a level of safety equivalent to the technical requirements of Section III.G of Appendix R.

In summary, Section III.G is related to fire protection features for ensuring that systems and associated circuits used to achieve and maintain safe shutdown are free of fire damage. Fire protection configurations must either meet the specific requirements of Section III.G, or an alternative fire protection configuration must be justified by a fire hazard analysis.

Our general criteria for accepting an alternative fire protection configuration are the following:

- The alternative assures that one train of equipment necessary to achieve hot shutdown from either the control room or emergency control stations is free of fire damage.
- The alternative assures that fire damage to at least one train of equipment necessary to achieve cold shutdown is limited such that it can be repaired within a reasonable time (minor repairs with components stored on-site).
- Modifications required to meet Section III.G would not enhance fire protection safety above that provided by either existing or proposed alternatives.
- Modifications required to meet Section III.G would be detrimental to overall facility safety.

By letter dated April 12, 1985. the licensee requested approval for an exemption from the technical requirement of Section III.G.2 of Apendix R to 10 CFR 50 that ventilation penetrations in fire barriers separating redundant shutdown-related systems be provided with fire dampers. Specifically, the dampers to which this Exemption applies are three dampers (73FD-1, 73FD-2, 73FD-3) located in the floor/ceiling assembly between the screenwell house and safety-related pump houses. The licensee's basis for concluding that these dampers are not required is that the fire-related barriers in which they would be installed have been derated because of low combustible fire loading and resulting low fire severity.

We have evaluated the licensee's requested exemption. Since the fire hazard in the screenwell house and both pump houses is minimal because of low combustible loadings, we find that the installation of a damper in each ventilation opening in the associated fire barriers is not necessary to satisfy our fire protection guidelines. A potential concern we considered in our evaluation was the propagation of smoke and hot gases, beyond the room where the fire originates, to redundant shutdown-related systems in the adjoining rooms. For a fire originating in the screenwell house, it would be necessary, under this scenario, for the fire to propagate vertically downward. Because smoke and heat from a fire tend to rise and spread laterally, we would not expect this to occur. Also, if a fire were to occur in the screenwell house, shutdown could be achieved using systems in either pump house. In addition, due to the absence of fire dampers in the floor/ceiling assembly between each of the pump houses and the screenwell house, products of combustion from a fire originating in either pump house might spread upward into the screenwell house. However, in this case safe shutdown could be achieved using undamaged systems in the redundant pump house which shares no unprotected common boundaries. On these bases, we conclude that fire dampers are not necessary in the floor/ceiling assemblies and that the licensee's alternate fire protection configuration achieves an acceptable level of safety, equivalent to that attained by compliance with Section III.G. Therefore, we find the exemption from the requirement for installing three fire dampers in the floor/ceiling assembly between the screenwell house and safety-related pump rooms to be justified and acceptable.

III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption, namely that application of the regulation in the particular circumstances would not serve the underlying purpose of the rule and is not necessary to achieve the underlying purpose of the rule—to ensure the ability to effect safe shutdown of the plant. Safe shutdown could be effected if a fire occurred in the screenwell house or either pump house because a single fire in any one of these areas would not render redundant shutdown systems located in the remaining areas inoperable.

Accordingly, the Commission hereby grants an exemption as described in Section II above from Section III.G.2 of Appendix R to 10 CFR 50 to the extent that the installation of three fire dampers (73FD-1, 73FD-2, 73FD-3) in vntilation penetrations in the floor/ceiling assembly between the screenwell house and safety-related pump houses are not required.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Exemption will have no significant impact on the environment. (April 29, 1986, 51 FR 15962)

This Exemption is effective upon issuance.

For the Nuclear Regulatory Commission.

Dated at Bethesda, Maryland this 30th day of April 1986.

Robert M. Bernero,

Director, Division of BWR Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 86-10638 Filed 5-9-86; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Resident Fish Substitutions Advisory Committee; Meeting

AGENCY: The Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

STATUS: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Resident Fish Substitutions Advisory Committee to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Resident fish substitutions amendment applications consultation.
- Resident fish substitution issue presentation.
- Other.
- Public comment.

DATE: May 20, 1986; 9:30 a.m.

ADDRESS: The meeting will be held at the Airport Ramada Inn, Spokane, Washington.

FOR FURTHER INFORMATION CONTACT: John Marsh, 503–222–5161.

Edward Sheets,
Executive Director.

[FR Doc. 86–10533 Filed 5–9–86; 8:45 am]

BILLING CODE 6560-60-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-23196; File No. SR-AMEX-86-12]

Self-Regulatory Organization's; Proposed Rule Change by the American Stock Exchange, Inc., Relating to the AUTO–EX Pilot Program

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 25, 1986, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("Amex" or "Exchange") proposes to amend the requirements for marketmakers participating in the AUTO–EX pilot program.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summarizes, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In October 1985, the Exchange filed a proposed rule change with the Commission, which set forth certain requirements and obligations for marketmakers participating in the AUTO–EX pilot program (see SR–AMEX–85–29, Amendment No. 1). The Exchange has reviewed those requirements in light of the last four highly successful months of the pilot program, and has determined that the requirements may be eased.

Specifically, it is proposed that the minimum net capital requirement be reduced from $100,000 to $50,000. Secondly, the Exchange has found that the trading volume requirement is unnecessary and proposes to delete it. (Pursuant to that requirement, AUTO–EX participants were required to have traded at leat 3,000 XMI contracts in the calendar month prior to their participation.) Instead of the trading volume requirement, to demonstrate a commitment to XMI options, marketmakers signing on the AUTO–EX system would be required to be in the XMI trading crowd during the majority of the business day any day they have signed on the system. Finally, it is proposed that the current, minimum one-week participation requirement be substantially reduced. Instead of a weekly commitment, marketmakers would be permitted to participate on a daily basis. However, any marketmaker participating any day during the expiration week would be required to sign on the system on expiration Friday. Failure to fulfill this requirement would result ina prohibition from participation in the pilot for the entire next expiration month.

The proposed change is consistent with the requirements of the Securities Exchange Act of 1934 ("1934 Act") and the rules and regulations thereunder applicable to the Exchange by broadening the opportunity for marketmakers to participate in the AUTO–EX pilot program, while continuing to protect the adequacy of the program. Therefore, the proposed rule change is consistent with section 6(b)(5) of the 1934 Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden of Competition

The Amex believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The proposed rule change was approved by the AUTO–EX Committee composed of Floor Governors, marketmakers and the XMI specialist.

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the

submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 2, 1986.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 2, 1986.

John Wheeler,
Secretary

[FR Doc. 86–10562 Filed 5–9–86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23193; File No. SR-CBOE-86-06]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc. Order Approving Proposed Rule Change

On March 10, 1986, the Chicago Board Options Exchange, Inc. ("CBOE"), submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b–4 thereunder,[2] a proposed rule change that would permit the CBOE to issue 50 one-year trading rights that will provide access to CBOE's foreign currency options market.[3]

The proposed rule change was noticed in Securities Exchange Act Release No. 23052 (March 24, 1986), 51 FR 11123. No comments were received on the proposed rule change.

Under CBOE's currency options trading rights ("FCO Rights") proposal, members and non-members would be able to purchase rights for a $500 registration fee. Rights holders will be able to effect transactions only in currency options as principal or ageny on the CBOE's trading floor for one-year period. The rights will not convey any other benefit to the holders.[4] In addition, all rights holders would be subject to all CBOE rules, policies and procedures that regular members are subject to including customer protection rules, business conduct standards and, unless waived, to dues, fees and other charges. Non-member applicants for currency options rights must go through the CBOE's usual application process. If there are more than 50 applicants, the CBOE's Membership Committee will select the most qualified applicants.

Under CBOE's existing foreign currency options access plan, instituted at the start-up of its foreign currency options market, 22 one-year permits, renewable for a total of 3 years, have been issued. CBOE has stated that, if the rights proposal is approved, the 22 existing permits will become free permits and the $10,000 first year fee will be refunded.

In its filing, the CBOE has stated that the purpose of the currency options trading rights program is to attract additional market makers to the currency options trading crowd through inexpensive access. CBOE believes that the additon of market makers available to trade currency options will increase competition among market makers and will provide increased capacity for trading currency options with public customers and firm proprietary accounts.

As an initial matter, the Commission believes that the $500 registration fee for the FCO Rights and the imposition of other fees are consistent with section 6(b)(4) of the Act, which requires that exchange rules provide for equitable allocation of reasonable dues, fees, and other charges among its members and persons using its facilities.

In addition, the Commission believes that the CBOE has attempted through its plan to facilitate increased participation in its recently launched foreign currency options market by permitting non-member, in addition to member, access to its market and by providing relatively inexpensive access that might encourage greater participation in a product that has, to now, not attracted substantial market maker or other floor participation. The Commission believes that, consistent with sections 6(b)(2), 6(b)(5), and 6(b)(8) of the Act, CBOE is seeking to implement a start-up program for a new product designed to allow access to qualified persons, to remove impediments to a free and open market and to foster competition among a wide variety of market participants.

For these reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 [5] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Dated: May 2, 1986.

John Wheeler,
Secretary.

[FR Doc. 86–10631 Filed 5–9–86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Cincinnati Stock Exchange, Incorporated

May 5, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f–1 thereunder, for unlisted trading privileges in the following securities:

Allied Supermarkets, Inc.
Common Stock, $0.10 Par Value (File No. 7–8944)
American General Corporation
Common Stock, $0.50 Par Value (File No. 7–8945)
Gleason Corporation
Common Stock, $1.00 Par Value (File No. 7–8946)
Mercantile Stores Company, Inc.
Common Stock, $0.36⅔ Par Value (File No. 7–8947)
Metropolitan Financial Corporation
Common Stock, $0.01 Par Value (File No. 7–8948)
Morgan Stanley Group, Inc.

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1985).

[3] The CBOE's Board of Directors approved the currency options trading rights proposal on March 12, 1986. The proposal was also approved by a membership vote. *See* letter from Anne Taylor, Associate General Counsel, CBOE, to Sharon Lawson, Attorney, Division of Market Regulation, SEC, dated March 21, 1986.

[4] For example, rights holders would have no right to vote, petition or serve on any committee except as a non-member of the CBOE. In addition unlike regular members, rights holders would not acquire any equity interest in exchange property or assets. Of course, a rights holder who does not give up his regular membership seat would retain these rights pursuant to his position as a regular member. CBOE has indicated, however, that it is likely that such a rights holder would probably, at the least, lease out his regular membership seat because of the fees involved.

[5] 15 U.S.C. 78f (1982).

[6] 15 U.S.C. 78 s(b)(2) (1982).

[7] 17 U.S.C. 200.30–3(a)(12) (1985).

Common Stock, $1.00 Par Value (File No. 7–8948)
Navistar International Corporation
Common Stock, No Par Value (File No. 7–8950)
Triton Energy Corporation
Common Stock, $1.00 Par Value (File No. 7–8951)
Zenith Laboratories, Inc.
Common Stock, $0.09 Par Value (File No. 7–8952)

These securities are listed and registered on one or more other national securties exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 20, 1986, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,
Secretary.

[FR Doc. 86–10564 Filed 5–9–86; 8:45 am]
BILLING CODE 8010–01–M

[Release No. IC–15086 (File No. 812–6369)]

First Boston Asset Management Corp. and The First Boston Corp. Filing of Application for a Permanent Order and Issuance of a Temporary Order

May 5, 1986.

Notice is Hereby given that First Boston Asset Management Corporation, Tower Forty-Nine, 12 East 49th Street, New York, New York 10017 ("Asset Management") and The first Boston Corporation, Park Avenue Plaza, New York, New York 10055 ("First Boston"), filed an application on May 5, 1986 pursuant to section 9(c) of the Investment Company act of 1940 (the "Act") for an order exempting Asset Management and First Boston permanently from the provisions of section 9(a) of the Act in respect of the facts and circumstances described therein and for an order of temporary exemption from section 9(a) for Asset Management and First Boston pending the determination of the Commission on its application for permanent exemption. Asset Management and First Boston are some times collectively referred to herein as the "Applicants."

Asset Management states that it is a New York corporation and is registered as an investment adviser under the Investment Advisers Act of 1940 (the "Advisers Act"). Asset Management states that pursuant to a Portfolio Manager Agreement dated February 21, 1986, Asset Management serves as investment adviser of the U.S. Government Series of First Trust Fund. At present, the U.S. Government Series is the sole series of such Fund. Asset Management states that it makes this Application in order that it may continue to act as investment adviser for First Trust Fund. According to the Application, Asset Management is not currently an investment adviser to any other investment company registered under the Act but it proposes to act as investment adviser to additional such investment companies in the future. In particular, asset Management states that it has been involved in the preparation for registration of, and expects to be investment adviser for, two investment companies, subject to the granting of the relief requested by this application. In addition, subject to the granting of the relief requested by this application, Asset Management states that its long-range plans include the possibility of advising additional registered investment companies.

First Boston states that it is a Massachusetts corporation, and that it is registered as a broker-dealer under section 15 of the Securities Exchange Act of 1934 (the "1934 Act") and as an investment adviser under the Advisers Act. According to the Application, First Boston engages in the investment banking business and buys and sells securities for its own account and the accounts of others.

Each of Asset Management and First Boston states that it is a wholly-owned subsidiary of First Boston, Inc., a Delaware corporation and a publicly held holding company. Accordingly, each of Asset Managment, First Boston and First Boston, Inc. are "affiliated persons" as defined in the act.

According to the Application, on May 5, 1986, the Commission filed a Complaint in the United States District Court for the Southern District of New York in a civil action entitled *Securities and Exchange Commission* v. *The First Boston Corporation* (the "SEC Action"). the Applicants state that on the same day, First Boston entered into, and the parties filed in the SEC Action, a related Consent and Undertaking, in which First Boston neither admitted nor denied any of the allegations in the Commission's Complaint except as to jurisdiction, and pursuant to which Consent and Undertaking the District Court entered a Final Judgment of Permanent Injunction and Other Relief against First Boston (the "Final Judgment"). According to the Application, among other provisions, the Final Judgment enjoins First Boston from engaging in transactions, acts, practices or courses of business which constitute or would constitute violations of section 10(b) of the Exchange Act and Rule 10b–5 thereunder. The Final Judgment also requires that First Boston conduct a review of its "Restricted List" and Chinese Wall" procedures and submit a written report of such review to the Commission.

According to the Application, the SEC Action involved certain transactions by First Boston, acting for its own account, in the common stock and options thereon of CIGNA Corporation ("CIGNA") on January 30, 1986. The Applicants state that the Complaint alleged that such transactions had been effected in violation of Section 10(b) of the Exchange Act and of Rule 10b–5 thereunder, in that they were allegedly effected on the basis of material nonpublic information which First Boston's Corporate Finance Department had received from CIGAN's management in connection with certain investment banking advice and services CIGNA had sought from First Boston.

Sections 9(a)(2) and 9(a)(3) of the Act provide, in pertinent part, that it is unlawful for any person to serve or act in the capacity of investment adviser or depositor of any registered investment company, or principal underwriter for any registered open-end investment company, if such person, or any company affiliated with such person, by reason of any misconduct, is permanently or temporarily enjoined by order, judgment, or decree of any court of competent jurisdiction from engaging in or continuing any conduct or practice in connection with the purchase of sale of any security.

Section 9(c) provides that upon application, the Commission shall by order grant an exemption from the provisions of section 9(a), either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of section 9(a), as applied to the applicant, are unduly or disproportionately severe, or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

The Applicants now submit pursuant to section 9(c) that the prohibitions of

section 9(a) of the Act, to the extent applicable by virtue of the Final Judgment entered on consent in the SEC Action, would be unduly and disproportionately severe as applied to the Applicants and that the conduct of First Boston has been such as not to make it against the public interest or protection of investors to grant this Application.

The Applicants state that they base their Application on the following grounds:

1. The facts and circumstances to which the Final Judgment relate do not in any way involve any activities of Asset Management, whether relating to First Trust Fund or otherwise, or of either of the Applicants acting as investment adviser or distributor for any registered investment company.

2. The transactions alleged in the Complaint, which involved a single set of transactions occurring on a single day, were effected by officers and employees of First Boston in violation of First Boston's internal policies, and were not condoned by First Boston's senior management. Moreover, as part of the ancillary relief consented to, First Boston will review, evaluate and, if appropriate, modify, its "Restricted List" and "Chinese Wall" procedures and submit a report of such review to the Commission within 60 days of the date of entry of the Final Judgment. In its review, First Boston will consider possible procedures to be used should it act as investment adviser to a registered investment company which invests in equity securities.

3. The equity traders, analysts and investment banker referred to in the Complaint have had no involvement with Asset Management and such persons, because of their current fields of specialization, are not expected to be involved in the future management of any registered investment company or the future distribution of any registered open-end investment company by either of the Applicants.

4. Denial of the requested order could result in detriment to investors in First Trust Fund since those investors would no longer have the services of their investment adviser.

5. Denial of the requested order could result in further harm to investors in First Trust Fund because of the uncertainty caused by Asset Management being prohibited from serving the Fund, which might bring about multiple redemptions of the shares of such Fund.

6. The prohibition of section 9(a) would be unduly and disproportionately severe as applied to the Applicants, given the circumstances underlying the SEC Action and First Boston's record of 50 years without any prior Commission enforcement proceeding.

7. The Applicants believe that Asset Management's ability to serve as portfolio manager to First Trust Fund and the ability of each of the Applicants to act as an investment adviser or distributor for any other registered investment company and to comply with the requirements of the Act should not be impaired by the existence of the Final Judgment.

8. Neither of the Applicants has previously filed an application for relief pursuant to section 9(c) of the Act, except that in 1982, First Boston applied for, and was granted, a permanent exemption pursuant to section 9(c) of the Act (Release No. 12928; December 27, 1982) in connection with a consent judgment entered against Swiss Credit Bank in 1975, prior to the time that First Boston and Swiss Credit Bank became "affiliated persons" as defined in the Act. First Boston was not a party to, and did not participate in any of the conduct alleged to have constituted such violations in, the proceeding which resulted in such consent judgment being entered against Swiss Credit Bank.

9. In making its Application, each of the Applicants acknowledges, understands and agrees that its Application and any temporary exemption issued by the Commission to the Applicants shall be without prejudice to the Commission's consideration of any application for exemptions from statutory requirements, including the consideration of the Application of the Applicants for a permanent exemption pursuant to section 9(c) from the provisions of section 9(a) of the Act or the revocation or removal of any temporary exemption granted in connection with this Application.

The Commission has considerd the matter and finds that:

1. The prohibitions of section 9(a) may be unduly or disproportionately severe as applied to the Applicants and that the conduct of First Boston has been such as not to make it against the public interest or protection of investors to grant the application of the Applicants for a temporary exemption for section 9(a) pending determination of the application; and

2. In order not to interrupt the investment advisory services being rendered to First Trust Fund and to be rendered to the funds Asset Management proposes to advise, it is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act that the temporary order be issued forthwith.

Accordingly, It Is Ordered, pursuant to section 9(c) of the Act, that the Applicants are hereby temporarily exempted from any of the provisions of section 9(a) of the Act operative as a result of the entry of the Final Judgment against First Boston in *Securities and Exchange Commission.* v. *The First Boston Corporation*, pending final determination by the Commission of the application of the Applicants for an order exempting the Appliants from any of the provisions of section 9(a) operative as a result of the entry of such Final Judgment.

Notice Is Further Given than any interested person may, not later than July 21, 1986, at 5:30 p.m., submit to the Commission, in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request shall be served personally or by mail upon each of the Applicants at the addresses stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

John Wheeler,
Secretary.

[FR Doc. 86–10580 Filed 5–9–86; 8:45 am]
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[Release No. 34-23132; File No. SR-NSCC-86-05]

Self-Regulatory Organizations; Filing of Proposed Rule Change by the National Securities Clearing Corporation

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on April 3, 1986, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission a proposed rule change concerning NSCC's Mutual Fund Settlement, Entry and Registration Verification Service (the "Fund/Serv Service"). NSCC's proposal, among other things, would establish the Fund/Serv Service on a permanent basis.[1] The Commission is publishing this notice to solicit public comment on the proposal.

NSCC's proposal, among other things, would: (1) Establish the Fund/Serv Service as a permanent program; (2) revise the entrance and continuance standards for mutual fund agents participating in the Fund/Serv Service ("Fund Agents"); (3) establish the format for a Fund Agent questionnaire and quarterly report; (4) amend NSCC rules to clarify, among other things, use of the Fund/Serv Service shall have no effect on underlying rights or obligations, for example, under the Investment Company Act of 1940, in respect to transactions submitted to NSCC for processing; and (5) revise NSCC's fees for use of Fund/Serv Services.

The proposal would amend NSCC Rules 15 and 51 to specify Fund/Serv Members' entrance and continuance standards and NSCC Rule 52 to establish, on a permanent basis, the Fund/Serv Service and enable settling members to submit mutual fund purchases and redemption orders to NSCC.[2] The proposal also would amend many of NSCC's existing rules to accomodate the new service and to set forth Fund/Serv Members' rights and obligations.

NSCC's proposal would modify the entrance and continuance standards for Fund Agent Members as initially established during the pilot program. The proposal would reduce required assets under management from $500 million to $100 million. NSCC, however, would impose a new net worth requirement of at lease one million dollars and require the Fund Agent and its Investment Advisor to have an established business history of three years, or personnel with equivalent experience.[3] In addition, NSCC would impose new surveillance standards and require each Fund/Serv Member to fill out an initial questionnaire and to submit periodic reports.

The proposal would allow NSCC to place a Fund/Serv Member on surveillance status for any of the following: (1) a 50% increase in average daily net settlement debits (calculated weekly) over the average daily net settlement debits for the previous week; (2) a decrease in net assets under management by 15% over the previous month, 25% over the previous two months, or 30% over the previous three months; or (3) any condition which could materially affect the operational and financial viability of the Fund/Serv Member which would increase or potentially increase NSCC's financial exposure. A Fund/Serv Member placed on surveillance would be required to submit to NSCC weekly reports regarding the member's total average weekly net redemptions (including redemption orders placed outside the Fund/Serv Service). The proposal would allow NSCC to require from a Fund/Serv Member placed on surveillance any other assurances concerning the member's financial responsibility NCSS deemed necessary.

The proposal also would amend Rule 52 to grant NSCC the authority to permit broker/dealers and Fund Agents to pass money only charges through the Fund/Serv Service. While the operational aspects of passing money only charges through the system has not been completed at this time, NSCC plans to introduce this enhancement in the near future.

NSCC's proposal also would modify the Fund/Serv fee structure. Currently, NSCC charges $.35 per side per transaction, based on confirmed orders. NSCC proposes to impose this charge on settled, as opposed to confirmed, transactions.

NSCC believes that the proposal is consistent with the Act in general and with Section 17A of the Act in particular, because it facilitates the prompt and accurate clearance and settlement of mutual fund transactions. In addition, NSCC believes the expansion of the Fund/Serv Service, to all eligible participants would enable these participants to process orders on a more efficient basis and, therefore, permit them to more easily accomodate the unprecedented growth in mutual fund transactions.

Copies of all documents relating to the proposal, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. Section 552, may be inspected and copied at the Commission's Public Reference Room, 450 fifth Street NW., Washington, DC and at NSCC's principal office.

To assist the Commission in determining whether to approve the proposal or to institute disapproval proceedings, the Commission invites public comment on the proposal. Comments should refer to File No. SR-NSCC-86-05. Please file six copies of comments with the Secretary of the Commission, 450 Fifth Street NW., Washington, DC 20549, by June 2, 1986.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-10632 Filed 5-9-86; 8:45 am]

BILLING CODE 8010-01-M

[1] On February 20, 1986, the Commission approved NSCC's proposal to establish the Fund/Serv Service on a pilot basis. Securities Exchange Act Release No. 22923 (February 20, 1986), 51 FR 6654 (February 27, 1986).

[2] For more detailed discussion of NSCC's Fund/Serv Service, *see* Securities Exchange Act Release No. 22923 (February 20, 1986), 51 FR 6654 (February 27, 1986).

[3] The proposal would authorize NSCC to admit Fund/Serv applicants with less business experience if they have been examined by the SEC or a designated examining authority.

[Release No. 34-23202; File No. SR-NYSE-77-6]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval to Proposed Rule Change Relating to Procedures for Competing Specialists

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended, notice is hereby given that on February 24, 1977, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission a proposed rule change relating to competing NYSE specialists.[1] On October 27, 1977, the NYSE filed Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, is as follows:

[1] Notice of proposed rule change was provided in Securities Exchange Act Release No. 13319 (March 1, 1977), 42 FR 13176 (March 8, 1977). In view of the length of time that the proposed rule change has been pending before the Commission without action, the Commission is considering the proposed rule change as though prior notice of the proposal had not been given; however, as discussed below, the Commission has determined that there is good cause for approving the proposal on an accelerated basis. The Commission notes that the NYSE has requested that the proposed rule change, as amended, be approved without delays, and that the procedures under the proposed will be effective for 6 months. *See* letters from Santo Premularo, Assistant Vice President, NYSE, to Richard Ketchum, Director, Division of Market Regulation, dated May 2, 1986.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange's Board of Directors has endorsed a system of competing specialists on the Floor of the Exchange, and the proposed Procedures for Competing Specialists summarize the qualifications required to become an Exchange specialist and the procedures which will apply regarding applications to compete. The text of the proposed procedures is attached as Exhibit I to the amended proposed rule change filed with the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

On May 13, 1976, the Exchange's Board of Directors endorsed a system of competition between Exchange specialists by reaffirming the ability of Exchange members to register and act as specialists in stocks which are also assigned to other specialists. The proposed "Procedures for Competing Specialists" are designed to provide Exchange members with a clear statement of the qualifications required to become a specialist and the procedures to be followed. They are also designed to guide the Exchange's Market Performance Committee in its consideration and approval of applications to compete.

Procedures numbered 1, 2, 8, and 9 are "housekeeping" in nature and merely establish the manner in which applications to compete will be received and processed. They do not constitute any subtantive statement of rule or policy. Similarly, procedure number 10 is designed to clarify the Exchange's surveillance efforts with regard to any competitive situation and to advise members of reporting requirements which will normally be imposed.

Procedures numbered 3 and 5 serve to summarize exiting Exchange requirements for registration as a specialist. Procedure number 3 clarifies the uniform application of the specialist capital requirement currently contained in Exchange Rule 104.20 to all existing or newly created specialist organizations. Procedure number 5 states that no member may act as a specialist unless registered as a specialist with the Exchange; and that before registration as a specialist, a member is required to pass to Specialist's Examination prescribed by the Exchange. These requirements are set forth in Exchange Rules 103 and 103.10 respectively. Procedures 3 and 5 as described above do not constitute any change in the established interpretations and applications of Exchange Rules 103, 103.10 and 104.20. They are designed merely to summarize and clarify, for the benefit of members, the requirements for registration as a specialist.

Procedure number 4 serves to remind members that competing specialists are required to fulfill the responsibilities of a specialist that are set forth in Exchange Rule 104.10 regarding the maintenance of fair and orderly markets. In this regard, procedure 4 provides that any specialist organization which applies to compete with another organization must have manpower which will enable it to fulfill its specialist responsibilities in all registered stocks. Absence, on the part of an applicant, of manpower which would enable the applicant under normally expected circumstances to maintain continous fair and orderly markets in all registered stocks would be viewed as a failure to qualify to act as competing specialist. This procedure is designed to insure the quality and continuity of Exchange markets by requiring that commitment of capital by a competing specialist as required by Exchange rule is accompanied by a corresponding commitment of manpower.

Procedure number 11 provides an appropriate method for specialist organizations to withdraw from competitive situations. The procedure is designed to allow members to withdraw from competition with relative ease without unduly prejudicing their future ability to compete; and, at the same time, to enable the Exchange to insure the efficiency, stability and continuity of its marketplace. Members may freely withdraw from competition so long as they provide the Exchange's Market Performance Committee with notice prior to the desired effective date of withdrawal. The Market Performance Committee will approve withdrawals as soon as necessary arrangements are made to avoid any interruptions in the quality and continuity in the markets of the stocks involved. In addition, specialist organizations which withdraw from a competitive situation may apply to compete in other stocks without restriction but they will normally be barred from applying to re-enter into competition in the same stocks for a period of three months following withdrawal. In the case of extenuating circumstances, the Market Performance Committee may waive this three month restriction at the time of withdrawal where imposition of the restriction would be inappropriate and would work to weaken rather than strengthen Exchange markets. Upon approval of an application to compete, the Exchange is committed to providing adequate Floor facilities for the new competitor. This commitment is reflected in item number 9 of the proposed procedures. In many cases this may require significant alterations to the physical and electronic facilities on the trading Floor. In addition, the Exchange must establish appropriate procedures for the routing of Designated Order Turnaround (DOT) System orders and odd-lot orders to the competing specialists, and member organizations must be advised of those procedures. The Exchange endorses the concept of competing specialists and wishes to impose as few restrictions as possible upon the free entry and withdrawal of competitors. However, the Exchange also recognizes the need to make some provision for the efficient and orderly operation of its marketplace. In view of the significant effort required to "setup" a competing specialist facility, the Exchange does not think it unreasonable, and feels it will contribute to the orderly handling of competing situations, to require of a competing specialist wishing to withdraw from competition that his request not be based upon the transient events of the day but rather that it be based upon his knowledge that he will be restricted from re-entry for a three-month period. Thus, the Exchange feels that the three-month re-entry restriction does not unduly restrict competition but rather provides for a more efficient and orderly competitive environment.

Procedures numbered 6, 7 and 12 provide for fair proceedings. Procedure 6 allows an applicant to request an appearance before the Market Performance Committee if desired. Procedure 7 reaffirms the Market Performance Committee's obligation to approve applications to compete unless it can show lack of qualifications. Procedure 12 reminds members that decisions of the Market Performance Committee are reviewed by the Exchange's Quality of Markets Committee, and that Article III, Section 1 of the Exchange Constitution provides for a member to appeal to the Board of Directors any decision of the Market Performance Committee.

(2) Basis Under the Act for Proposed Rule Change

The proposed "Procedures for Competing Specialists" are designed to facilitate and enable the implementation of a system of competing specialists; and they are, therefore, based on section 11(b) of the Securities Exchange Act of 1934 which provides for exchange rules to permit members to be registered as specialists; and section 11A(a)(1)(C) which states the Congress finds that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure fair competition among brokers and dealers among exchange markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed "Procedures for Competing Specialists" were developed to facilitate the implementation of a system of competing specialists on the Exchange Floor; thus, they do not impose any burden on competition but rather provide for increased competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

The Exchange has not solicited comments on the proposed "Procedures for Competing Specialists."

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Section. Copies of the filing will also be available for inspection and copying at the NYSE. All submissions should refer to the file number referenced in the caption above and should be submitted on or before June 2, 1986.

IV. Findings and Order Granting Accelerated Approval

The proposed procedures for competing specialists provide, among other things, that NYSE members who wish to compete as specialists in stocks assigned to other NYSE specialists (1) must satisfy capital requirements as set forth in NYSE Rule 104.20; (2) must have sufficient manpower to permit them to fulfill the specialist function set forth in Rule 104.10 in all stocks in which the competing specialist will be registered; and (3) must be registered with the NYSE as specialists. The procedures provide further that the NYSE's Market Performance Committee ("MPC") will grant approval of applications to compete unless lack of qualifications are shown. The MPC recently granted, effective May 2, 1986, the application of a specialist unit to be registered as specialist in stocks already assigned to and traded by another NYSE specialist unit.

While the Commission views as appropriate the procedures set forth in the proposed rule change for approving competing specialist posts, the Commission believes that the NYSE, during the 6 month effectiveness of the proposed rule change, should assess the adequacy of current NYSE rules as applied to competing specialists, and, during that period, should develop and file with the Commission pursuant to Rule 19b–4 under the Act, appropriate amendments to its rules to accommodate competing specialist activity. Specifically, the Commission believes the Exchange's review should include procedures relating to the following: (1) The proper location on the floor of competing specialist units (*e.g.*, whether they should be adjacent); (2) the routing of orders through the DOT system to the competing specialists; (3) opening prices and order imbalances at the opening; (4) method for determining order imbalance trading halts; (5) trade and quote reporting and the display of quotes through the Intermarket Trading System; (6) the execution of limit orders in the same stocks held on each competing specialist's book, and application of the rules of priority, parity, and precedence under NYSE Rule 72 to the execution of such orders; (7) the participation of each competing specialist in block order executions under NYSE Rule 127; (8) the execution of various types of orders such as percentage orders and stop orders; and (9) application of the specialist functions under NYSE Rule 104 to each competing specialist, including with respect to each specialist's affirmative and negative obligations. The Commission anticipates that other rules and procedures than those enumerated above may require amendments as the Exchange monitors the activities of competing specialists during the next 6 months.[3]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that exigent circumstances have caused the NYSE to approve the registration of a specialist unit to compete with another unit beginning May 2, 1986 and it is necessary for the NYSE to have Commission-approved procedures in place to accommodate such registration. In addition, the NYSE has indicated to the Commission staff that it has applied the procedures enumerated in the proposed rule change to the applicant competing specialist, and, further, that it has developed procedures for handling a number of regulatory issues arising from the execution of orders by competing specialists. The Commission notes that the NYSE also has implemented specific surveillance procedures with respect to the competing specialists currently trading. The Commission, therefore, believes that accelerated approval of the proposed rule change for 6 months is necessary and appropriate in furtherance of the purposes of the Act.

The Commission, therefore, finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6 and 11A and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved, effective *nunc pro tunc* at the opening of business on May 2, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 5, 1986.

John Wheeler,

Secretary.

[FR Doc. 86–10633 Filed 5–9–86; 8:45 am]

BILLING CODE 8010–01–M

[3] The Commission notes that the NYSE, in its filing and in its letter of May 2, 1986, from Santo Famularo to Richard Ketchum, note 1 *supra*, has stated that the proposed rule changes do not directly or indirectly affect the application of other Exchange rules. In addition, in its letter of May 2, the Exchange states that no other rule changes are necessary to accommodate competing specialist situations. For the reasons noted above, the Commission disagrees with these statements.

[Release No. 34–23192; File No. S7–11–86]

Program for Allocation of Regulatory Responsibility Pursuant to Rule 17d–2; New York Stock Exchange, Inc.

AGENCY: Securities and Exchange Commission.

ACTION: Notice of filing of amended NYSE/Amex, NYSE/BSE, NYSE/CSE, NYSE/MSE, NYSE/PSE and NYSE/Phlx plans.

SUMMARY: The New York Stock Exchange, Inc. ("NYSE"), in conjunction with six other exchanges, has filed with the Securities and Exchange Commission amended plans which would allocate certain regulatory responsibilites to the NYSE with respect to a broker-dealer which is a member of the NYSE and one or more of the other exchanges. The amended plans would reduce regulatory duplication for such firms and would represent a more effective and efficient utilization of the available resources of each self-regulatory organization.

DATE: Comments must be received on or before June 30, 1986.

ADDRESS: Persons wishing to submit written views, data and comments should file six (6) copies thereof with John Wheeler, Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. All comments should refer to File No. S7–11–86. Copies of the submissions and of all written data, views and comments will be available for public inspection at the Commission's Public Reference Room, 450 5th Street NW., Washington, DC

FOR FURTHER INFORMATION CONTACT: France Maca at (202) 272–2807, Division of Market Regulation, Securities and Exchange Commission, 450 5th Street NW., Washington, DC. 20549.

SUPPLEMENTARY INFORMATION: Pursuant to Rule 17d–2(c) of the Securities Exchange Act of 1934 (the "Act"), 17 CFR 240.17d–2(c), the Securities and Exchange Commission ("the Commission") is publishing notice that the NYSE, in conjuction with six other exchanges, has filed with the Commission amended plans for the allocation of regulatory responsibilities pursuant to Rule 17d–2.

I. Introduction

Section 19(g)(1) of the Act, among other things, requires every national securites exchange and registered securities association ("SRO") to examine for and enforce compliance by its members and persons associated with its members with the Act, the rules and regulations thereunder and the SRO's own rules unless the SRO is relieved of this responsibility pursuant to section 17(d) or 19(g)(2) of the Act. For a broker or dealer that maintains membership in more than one SRO ("common member"), the statutory obligation of the individual SROs, without this relief, could result in a patterrn of multiple examinations of a common member. This would create unnecessary regulatory duplication and added expenses for a firm and the SROs.

Section 17(d)(1) of the Act was intended, in part, to eliminate overlaps and gaps in the regulatory pattern.[1] With respect to a common member, section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules and regulations, or to perform other specified regulatory functions.

Rule 17d-1 under the Act, 17 CFR 240.17d–1, was adopted by the Commission on April 20, 1976.[2] The rule authorizes the Commission to name a single SRO as the designated examining authority ("DEA") to examine common members that are members of the securities Investor Protection Corporation for compliance with the Act and Commission and SRO rules and regulations relating to financial responsibility. When an SRO has been named as a common members's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with applicable financial responsibility rules.

On its face, Rule 17d–1 deals with financial responsibility compliance and no other aspect of an SRO's responsibilities. Thus, every SRO continues to be obligated, Whether or not it is the DEA for the common member, to examine a common member for compliance with its own rules and provisions of the Act and rules and regulations thereunder governing matters other than financial responsibility. Such matters include sales practices and trading activities and practices.

On October 28, 1976, the Commission adopted Rule 17d–2 under the Act.[3] The rule permits SROs to join in proposing plans for allocating the regulatory responsibilities imposed by the act with respect to common members. Under Rule 17d–2(c), the Commission may declare such plan effective if, after providing for notice and comment, it determines that the plan is neccessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to and foster the development of a national market system and a national clearance and settlement system and informity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d-2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. The Plan

The NYSE, in conjunction with six other exchanges, filed with the Commission amended plans for the allocation of regulatory responsibilities pursuant to Rule 17d-2. The following exchanges have joined with the NYSE in submitting amended plans: The American Stock Exchange, Inc. ("Amex"); the Boston Stock Exchange, Inc. ("BSE"); the Cincinnati Stock Exchange, Inc. ("CSE"); the Midwest Stock Exchange, Inc. ("MSE"); the Pacific Stock Exchange, Inc. ("PSE"); and the Philadelphia Stock Exchange, Inc., ("Phlx").[4] The plans which are presently under consideration are amended versions of the plans which were previously submitted to the Commission.[5] On September 20, 1978, the Commission announced the Temporary approval of additional plans reflecting agreements reached between the National Association of Securities Dealers, Inc. ("NASD") and the BSE, CSE, MSE and PSE.[6] In the Order, the Commission noted several areas to be corrected prior to final approval of the plans. Among other things, the Order required the parties to the plan to submit an attachment listing all the rules of each exchange and designating which party or parties would be responsible for enforcing compliance with the rules. Because portions of the Order were applicable to every self-regulatory organization which executed an allocation plan, the NYSE and each of the six other exchanges submitted an amendment to their original plans.[7] The

[1] Securities Acts Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session. 32 (1975).

[2] Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18809 (1976).

[3] Securities Exchange Act Release No. 12935 (October 28, 1976), FR 48056 (November 8, 1976).

[4] The exchanges which are parties to these arrangements, other than the NYSE, will hereinafter be referred to as the "other exchange(s)".

[5] The Commission published notice of the terms of the original plans in the following Securities Exchange Act Releases: No. 13338 (March 3, 1977), 42 FR 12676 (March 14, 1977) (NYSE/Amex); No. 13536 (May 12, 1977), 42 FR 26384 (May 23, 1977) (NYSE/BSE); No. 14182 (November 8, 1977), 42 FR 59330 (November 16, 1977) (NYSE/CSE); No. 13535 (May 12, 1977, 42 FR 26380 (May 23, 1977) NYSE/MSE); No. 13531 (May 12, 1977), 42 FR 26373 (May 23, 1977) NYE/PSE); and No. 14020 (October 25, 1977), 42 FR 57190 (November 1, 1977) (NYSE/Phlx).

[6] Securities Exchange Act Release No. 15191 (September 20, 1978), 43 FR 49080 (October 5, 1978).

[7] The amended plans were filed with the Commission on the following dates: NYSE/Amex—

Continued

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amendments clarify the exchanges' respective responsibilities and eliminate gaps in regulatory oversight. Included in each amended plan is an attachment which fully and clearly delineates regulatory responsibilities with respect to the rules of the other exchanges. The attachments to the amendment plans list every rule of the other exchange and indicate which exchange shall be responsible for oversight and enforcement of that rule, or whether the two exchanges will share that responsibility.

The proposed amended plans are intended to reduce regulatory duplication for firms that are members of the NYSE and one of the other exchanges ("dual members"). The plans shall be applicable to those dual members for which the NYSE has been appointed the designated examining authority (the "DEA") pursuant to Rule 17d–1. A brief description of the general operation of the plans follows.[8]

A. Examination and Disciplinary Proceeding

The NYSE will be responsible for examining for,[9] and enforcing compliance with the provisions of the Act, the rules and regulations thereunder, its own rules and comparable rules of the other exchanges ("comparable rules").[10] Each exchange will retain responsibility for marketplace surveillance. The NYSE, however, will examine for compliance with, but not enforce, certain designated rules of other exchanges which are not comparable to its own rules ("unique rules") and certain designated marketplace surveillance rules of the other exchanges.[11]

Disciplinary investigations and proceedings involving dual members' and/or their associated persons' compliance with the provisions of the Act, the rules and regulations thereunder, the rules of the NYSE and comparable rules of the other exchanges will be the responsibility of the NYSE. The other exchanges will retain responsibility for conducting disciplinary investigations and proceedings relating to unique rules and to situations related solely or primarily to circumstances involving a security listed on the other exchanges or to any trades executed or other activities on the other exchanges.[12] The NYSE shall report to the other exchanges any apparent violation by a dual member and/or its associate persons of other exchanges' unique rules or any situation related solely or primarily to circumstances involving a security listed on the other exchanges or to any trades executed or other activities on the other exchanges.

B. Membership Services

The NYSE will be responsible for processing and approving or disapproving applications submitted by dual members on behalf of persons requiring approval by the rules of the NYSE and other exchanges. The NYSE will be responsible for conducting appropriate examinations of a person subject to a statutory disqualification and for taking any action required. The NYSE will be responsible for processing and, if required, acting upon all requests for the opening, address changes, and termination of branch offices of dual members and any other applications required of dual members under the rules of the exchanges. However, applications to become a member of the other exchange will continue to be the responsibility of, filed with and processed by, the other exchange.

The NYSE will be responsible for conducting appropriate investigations, and taking appropriate action, regarding the termination of associated persons for cause unless the termination relates to activities involving a security listed on the other exchange or to any trades executed or other activities on the other exchange in which case the other exchange will be responsible for handling the matter.

The NYSE will be responsible for reviewing advertisements, market letters, research reports, sales literature and other instances of public communication by dual members. The NYSE will also be responsible for taking appropriate action with respect to all inquiries and complaints involving dual members, except for those inquiries or complaints related solely or primarily to circumstances involving a security listed on the other exchanges or to trades executed and other activities on such other exchange.

C. Exchanges Based Examinations

The NYSE will be responsible for reviewing and subsequent action on dual members' Financial Operations Combined Uniform Single (FOCUS) Reports and any other [illegible] applicable financial [illegible] requirements imposed by the Commission, the NYSE or the other exchanges. The NYSE will be responsible for the review, approval and retention of partnership agreements, corporate certificates and by-laws, subordinated loan agreements and clearance arrangements.

D. Administration of the Plan

Each exchange agrees to provide to the other party to the plan access to its files regarding dual members. Each exchange will give prompt notice to the other party to the plan when an adoption or amendment to the Constitution, rules or policies of that exchange or interpretation thereof becomes effective which will affect the plan. No reimbursement of costs shall be required in the ordinary course of discharging allocated responsibilities under the plan.

Neither exchange assumes any liability to the other party to the plan or to any third party for any loss or damage resulting from any delays, inaccuracies, errors or omissions with respect to the provision of regulatory functions provided in the plan, except in instances where the loss or damage is the result of willful misconduct.[13] The parties disclaim all warranties regarding performance of their respective responsibilities under the plans.

Disputes under the plan between the parties will be settled through binding arbitration. Termination of the plan will occur only after prior written notification to the other party to the plan and upon the Commission relieving the parties of the responsibilities allocated to them under the plan.

III. Request for Comment

In order to assist the Commission in determining whether to approve these plans and to relieve the other exchanges of responsibilities designated to the NYSE, interested persons are invited to submit written data, views and comments concerning the submissions by June 30, 1986. Persons wishing to comment should file six (6) copies thereof with the Secretary of the Commission, 450 5th Street NW., Washington, DC 20549. Reference should be made to File No. S7–11–86.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

John Wheeler,
Secretary.

May 1, 1986.

[FR Doc. 86-10561 Filed 5-9-86; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-23196; File No. SR-Phlx-86-7]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc., Order Approving Proposed Rule Change

On February 25, 1986, the Philadelphia Stock Exchange, Inc. ("Phlx") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to eliminate closing rotations in expiring foreign currency options.

The proposed rule change was noticed in Securities Exchange Act Release No. 22980 (March 7, 1986), 51 FR 9566. No comments were received on the proposed rule change.

Phlx is proposing to eliminate the use of closing rotations in expiring series of foreign currency options because their experience has shown that there is no interest in a closing rotation in such options at expiration. In this regard, Phlx states that closing rotations in expiring foreign currency options are not necessary because positions are routinely closed out during free trading. In addition, Phlx notes that because currencies, unlike stocks, are traded continuously, there is no need to adjust a position to the closing price of the underlying vehicle.

In reviewing the proposal, we note that the Chicago Board Options Exchange, Inc. ("CBOE") currently employs a closing rotation for its European-style foreign currency options. Nevertheless, the Commission does not believe there is any regulatory reason to impose similar rules on the two exchanges concerning closing rotations for expiring foreign currency options. Because of the differences between the underlying foreign currency market and the stock market, the Commission believes the elimination of closing rotations is justified and does not present any regulatory concerns. We also note that the Commission previously took similar action in eliminating closing rotations for index options traded on the American Stock Exchange, Inc. ("Amex") and the CBOE.[3]

For these reasons, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 [4] and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[5] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Dated: May 2, 1986.

John Wheeler,
Secretary.

[FR Doc. 86–10534 Filed 5–9–86; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-23194; File No. SR-PHLX-86-13]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Accelerated Approval of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 18, 1986, the Philadelphia Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule changes as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") proposes to amend Exchange Rules 101 and 1101A to extend trading hours in National Over-the-Counter ("XOC") Index options until 4:15 P.M., and to amend Rule 1042A to similarly extend the cut-off time for exercising XOC options.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for the proposed rule change, and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

Purpose

Under current Exchange rules, Value Line ("XVL") Index options trade until 4:15 P.M. because the XVL futures contract, which is traded on the Kansas City Board of Trade ("KCBT"), trades until 4:15 P.M.

With respect to National Over-the-Counter ("XOC") Index options, such options trade until 4:10 P.M. every day. In comparison, the XOC futures contract is traded on the Philadelphia Board of

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[8] The full texts of the plans are available for inspection at the Commission's Public Reference Room.

[9] The NYSE is responsible for conducting routine and special on-site examinations, but the other exchanges reserve the right to participate in special examinations.

[10] The plans between the NYSE and the Amex, MSE, PSE and Phlx generally provide that allocation of regulatory responsibilities concerning options-related sales practice matters for dual members will be subject to the provisions of any plan regarding options matters in which the Amex, MSE, PSE or Phlx participate and which is declared effective under Rule 17d–2. On September 8, 1983, the Commission issued an order approving a plan for the allocation of regulatory responsibilities pertaining to options-related sales practice matters filed by the Amex, Chicago Board Options Exchange, Inc., MSE, NASD, NYSE, PSE and Phlx pursuant to Rule 17d–2. *See* Securities Exchange Act Release No. 20168 (September 8, 1983), 48 FR 41186 (September 14, 1983).

[11] Because the attachments which delineate the regulatory responsibilities with respect to the other exchanges require updating, the NYSE and the other exchanges have agreed to expeditiously update them. Until the attachments are updated, the NYSE will only examine and enforce compliance with the provisions of the Act, the rules and regulations thereunder, its own rules and those rules of the other exchanges that are comparable to its rules. After that updating is completed, the parties will specifically indicate responsibility for unique rules of other exchanges.

[12] The provision that the other exchanges retain responsibility for conducting disciplinary investigations and proceedings for situations related solely or primarily to circumstances involving a security listed on the other exchanges appears in some of the plans. This provision apparently does not diatinguish cases where a security is dually listed on a regional exchange and the NYSE. Comment is requested as to whether, in the case of a dually listed security, the other exchanges should be responsible only for investigations and proceedings regarding trades effected or other activities on their floors or through their trading system.

[13] Comment is requested on the appropriateness of any exculpatory provision which may impact on the rights of third parties under the federal securities laws.

[1] 15 U.S.C. 78s(b)(1)(1982).

[2] 17 CFR 240.19b–4 (1985).

[3] *See* Securities Exchange Act Release No. 20168, (September 8, 1983), 48 FR 41545, and Securities Exchange Act Release No. 21479 (November 13, 1984) 49 FR 45667.

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78 s(b)(2)(1982).

[6] 17 CFR 200.30–3(a)(12)(1986).

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Trade ("PBOT") until 4:15 P.M. every day. Market participants may assume positions in the XOC futures contracts to hedge their positions in XOC options and conversely, hedge their options contracts with futures contracts.

To coordinate the daily close of trading in the PHLX's XOC options with the close of trading in the PBOT's XOC futures contract, the Exchange proposes that Exchange Rules 101 and 1101A be amended to extend trading hours in XOC options until 4:15 P.M. At present, market participants who assume positions in both XOC futures and options contracts are unable to adjust their positions in the XOC options in response to price movement in the XOC futures during the last five minutes of futures trading.

The Exchange also proposes to amend the corresponding exercise requirements for XOC options. Exchange Rule 1042A currently requires member and members organizations to prepare and time-stamp XOC options exercise instructions by 4:10 P.M. The Rule also requires that "exercise advices" be delivered to the Exchange trading floor by 4:10 P.M. when 25 or more XOC option contracts in the same series are to be exercised for an account. The 4:10 P.M. cut-off time was established to prevent option holders from having an unfair advantage of deciding whether to exercise their options based on news disseminated after the close of trading. Since it is proposed that XOC options trade until 4:15 P.M., a similar cut-off time needs to be established for persons who wish to exercise such options.

Statutory Basis

The proposed changes are consistent with the requirements of the Securities Exchange Act of 1934 ("1934 Act") and the rules and regulations thereunder applicable to the Exchange by providing investors with additional trading opportunities in XOC options. Therefore, the proposed rule changes are consistent with section 6(b)(5) of the 1934 Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date for Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange requests that the proposed rule change be given accelerated effectiveness pursuant to section 19(b)(2) of the Act. The Exchange states that its proposed extension of the close in XOC options is consistent with proposed rule changes filed previously by the Phlx (regarding Value Line Index ("XVL") options), the Chicago Board Options Exchange, Incorporated ("CBOE"), the American ("Amex") and the New York Stock Exchanges, Inc. ("NYSE") which similarly sought to extend the closing and expiration cut-off times for indexes traded on those exchanges. These proposals were recently approved by the Commission.

The Commission finds that the proposed rule change is consistent with the requirements of the 1934 Act and the rules and regulations thereunder applicable to a national securities exchange, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof because the proposed rule change is substantially identical to the CBOE, Amex, NYSE and Phlx proposals which were noticed and approved by the Commission.[1] No comments were received with respect to those proposals. The Commission believes that extending the trading hours of XOC index options to coordinate with the hours of trading of the similar XOC futures index will provide participants in XOC index options trading an additional opportunity to adjust their options positions to reflect price changes in the corresponding XOC futures index.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by June 2, 1986.

It is therefore ordered, pursuant to section 19(b)(2) of the Act that the proposed rule change referenced above be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 2, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-10563 Filed 5-9-86; 8:45 am]

BILLING CODE 8010-01-M

[1] See Securities Exchange Act Release Nos. 22857 and 22962, February 27, and March 7, 1986, respectively.

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Incorporated

May 5, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stock:

Lorimar-Telepictures Corporation

Common Stock, $0.01 Par Value (File No. 7-8943)

This security is listed and registered on one or more other national securities exchange and is reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 28, 1986 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the

maintenance of fair and orderly markets and the protection of investors.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-10565 Filed 5-9-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15063; (File No. 812-6297)]

Rand Capital Corporation, et al.; Application for an Order to Permit an Affiliated Transaction

May 2, 1986.

Notice is hereby given that Rand Capital Corporation ("Rand"), Rand SBIC, Inc. ("SBIC"), each at 1300 Rand Building, Buffalo, N.Y. 14203, and Morris Himmel ("Himmel"), 1500 Hertzel Avenue, Buffalo, NY. 14216 (Himmel, Rand and SBIC, "Applicants"), filed an application on February 3, 1986, and an amendment thereto on April 18, 1986, for an order pursuant to sections 17(b) and 17(d) of the Investment Company Act of 1940 ("Act"), and Rule 17d-1 thereunder, permitting Applicants to effect the affiliated transaction described below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable provisions.

Applicants state that Rand is a closed-end, non-diversified, internally managed investment company, and that it operates as a venture capital company investing in securities of newly-organized companies principally engaged in the development or exploitation of inventions, technological improvements and new products and services. Applicants further state that SBIC, also a closed-end, non-diversified, internally managed investment company, was organized as wholly-owned subsidiary of Rand to operate as a small business investment company licensed as such under the Small Business Investment Company Act of 1958. Under a prior order of the Commission (Investment Company Act Release No. 9017, November 5, 1975) Rand was permitted to own all the outstanding capital stock of SBIC, and Rand and SBIC, were permitted to participate in certain joint transactions involving Rand, SBIC and other participants unaffiliated with either of them.

Applicants now seek an order to permit Himmel, a director of Rand and SBIC and thus, an affiliated person of each, to engage in a transaction with Rand and SBIC whereby Applicants would effect a venture capital investment in Datarex Systems Inc. ("Datarex"), a previously unaffiliated New York corporation that commenced operations in May, 1983, as a wholesaler of computer and word processing supplies. According to the application, Himmel acted as a consultant to another company (unaffiliated with Rand, SBIC or Datarex) that proposed to merge with Datarex as a means of providing Datarex with additional financing. The merger discussions were discontinued because Datarex and the other company could not reach an agreement. Applicant state that Himmel, who has made a number of venture capital investments, considered Datarex an attractive company in which to invest on his own, but was not prepared to provide Datarex with the full amount of financing it required. Thus, he approached Donald A. Ross ("Ross"), President and Chief Executive Officer of Rand and SBIC, and asked Ross to consider whether Rand or SBIC would be willing to participate with Himmel in making a venture capital investment in Datarex. Ross agreed to meet with Himmel and representatives of Datarex in order to determine whether an investment in Datarex would be desirable for Rand and SBIC.

Applicants state that Ross and Himmel agreed, subject to the concurrence of Datarex and the Executive Committee of Rand and SBIC ("Executive Committee"), that Himmel would participate to the extent of 20% of the total financing package in exchange for 20% of the total cost to Rand and SBIC. However, because Himmel is a director of Rand and SBIC and, hence, an affiliate of each, his participation with Rand and SBIC in the proposed financing might be deemed to constitute a "joint enterprise, joint arrangement or profit sharing plan" among affiliates in contravention of section 17(d) of the Act, unless approved by the Commission under Rule 17d-1. In light of Datarex's need to have a very prompt closing of the transaction, Ross and Himmel agreed that any transaction to be presented for the approval of the Executive Committee would provide for an initial investment by Rand and SBIC in Datarex to the full extent of the financing, and the resale by Rand and SBIC of 20% of their total investment to Himmel for 20% of their cost. Such resale transaction, however, would constitute a purchase of securities by Himmel from Rand and SBIC in violation of section 17(a)(2) of the Act unless exempted by an order pursuant to section 17(b) of the Act.

According to the application, the negotiations concluded on October 31, 1985, with a proposed financing package ("Financing Agreement"), subject to the approval of the Executive Committee (and the understanding that Himmel would participate to the extent of 20%), pursuant to which (i) SBIC loaned Datarex $300,000 evidenced by an 8-year promissory note bearing interest at the rate of 12% per annum; (ii) Rand purchased 2,500 shares of Datarex's common stock for $200,000; and (iii) Datarex issued to Rand a warrant to acquire 550 shares of Datarex at the exercise price of $136.36 per share, subject to adjustment to prevent dilution. In addition, Datarex has agreed that it will not issue any additional shares of capital stock (or any rights, options or securities convertible into capital stock) without granting to Rand the right to acquire sufficient shares to maintain its percentage ownership of Datarex, with certain exceptions. Applicants represent that Himmel did not participate in the direct negotiations of the terms of the proposed transaction. Applicants further represent that the Executive Committee approved the proposed investment in Datarex, including Himmel's participation on November 27, 1985, and the full Board of Directors of Rand and SBIC ratified the Executive Committee's approval on January 15, 1986.

Applicants state that as a result of Rand's acquisition of Datarex shares Rand now owns 27.2% of Datarex shares outstanding (if Rand exercises its warrant, its ownership would increase to 33.3%). The remaining shareholders of Datarex are its President, who owns 24.8% of the outstanding shares, and two Vice Presidents, who each own 24.0%.

Applicants assert that because the members of the Executive Committee, other than Himmel, beneficially own, together with members of their families, an aggregate of 63.8% of Rand's stock and have each served as directors of Rand for 17 years (Himmel owns 3.2% of Rand's stock and has served for three years as a director of Rand), Himmel has no undue economic or other influence over the Executive Committee. Applicants state that Himmel is not and has not been a co-participant or co-venturer with any other members of the Executive Committee or Rand or SBIC's Board of Directors in any business transactions. Applicants represent that prior to the transaction with Datarex, none of Rand or SBIC's affiliated persons, including Himmel, were

affiliated persons or interested persons of Datarex or its affiliated persons.

Applicants note that Himmel's proposed 20% participation in the financing package is at a cost to Himmel ($100,000) that is 20% of the aggregate cost to Rand and SBIC ($500,000). According to the application, Himmel's interest in the Financing Agreement would be evidenced by a participation certificate granting him a 20% interest in the Datarex promissory note, 20% of Rand's shareholdings in Datarex (500 shares) and 20% of Rand's warrant. Rand, however, would have exclusive authority to enforce the provisions of the Financing Agreement, including the selection and exercise of remedies. Further, Rand would have the Himmel's participation in the financing would not be on a basis more advantageous than that of Rand or SBIC. According to the application, Rand and SBIC have participated with other investors in a number of venture capital investments in order to reduce their risk while permitting them to participate in investment opportunities that might otherwise be unavailable to them due to the size of the total financing required. Applicants state that Himmel's participation allows Rand and SBIC to reduce their risk by $100,000 without reducing any of the prerogatives that they could demand by providing the full investment needed by Datarex.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 27, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of the interest, the reasons for the request, and the specific issues, if any, of fact or law thatare disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant(s) at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-10567 Filed 5-9-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15082; 812-6253]

Trust Southwest Tax Exempt Income Trust and Rotan Mosle Inc.; Application To Permit Certain Exchange Offers

May 2, 1986.

Notice is hereby given that Trust Southwest Tax Exempt Income Trust ("Trust") and Rotan Mosle Inc. ("Sponsor") (collectively, "Applicants"), each at 4100 Republic Bank Center, P.O. Box 3226, Houston, TX 77253-3226, filed an application on August 15, 1985, and amendments thereto on March 4 and April 21, 1986, for an order of the Commission, pursuant to section 11 of the Investment Company Act of 1940 ("Act"), approving certain offers of exchange ("Exchange Option") for the Trusts and any future trusts that will be sponsored by the Sponsor ("Future Trusts") and approving an offer of exchange that will be offered to holders of units in any registered unit investment trust with a minimum sales charge of 3%, exclusive of available sales charge discounts, such as volume discounts, employee discounts and exchange option discounts ("Conversion Option"). All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and to the Act and the rules thereunder for the applicable provisions thereof.

Applicants state that each Trust is a separate unit investment trust and that each Trust will have an investment objective of obtaining interest income which is exempt from Federal income taxation and conservation of capital through investment in a fixed portfolio of interest-bearing municipal bonds. Applicants also state that purchasers of units of any of the Trusts ("Certificateholders") will receive interest and principal distributions on a monthly or semi-annual basis, such distributions representing their proportionate share of interest and principal received in the respective Trust net of expenses and amounts required for redemptions of units.

Applicants represent that the Future Trusts will also be registered unit investment trusts under the Act, and that the Future Trusts will be structured and will function in substantially the same manner as the Trusts, however, the investment objectives of Future Trusts may differ from one another. With respect to the prospective relief sought on behalf of the Future Trusts, Applicants undertake to limit their activities, as they relate the Exchange Option and Conversion Option, to the terms and conditions represented in the application.

According to the application, although the composition of a particular Trust and a particular series thereof differ in various respects depending on the nature of the underlying portfolios, their structures are substantially the same. The Sponsor acquires a portfolio of securities that it believes satisfies the standards applicable to the investment objectives of the particular series. These securities are then deposited in trust with the Trustee in exchange for certificates representing units of undivided interest in the deposited portfolio ("Units"). The Units are then offered to the public at a public offering price that is based upon the offering prices of the underlying securities plus a sales load of up to 4.50% of the public offering price. The sales load applicable to the Trusts and Future Trusts may be varied by the Sponsor.

Applicants represent that under the Exchange Option, Certificateholders may exchange Units held in any one of the Trusts for Units of other series of the same Trusts or of any of the other Trusts that the Sponsor has repurchased and has not tendered for redemption. Applicants state that the proposed Exchange Option will have the effect of providing Certificateholders a means of effecting a change in investment goals as their investment requirements change.

Although the Sponsor is not legally obligated to do so, the Sponsor intends to maintain a market for Units of the Trusts and to continuously offer to purchase Units at prices based upon the market value determined in the manner set forth in the prospectus. Applicants state that the Exchange Option would apply only to Units of Trust series for which a primary or secondary market is being maintained by the Sponsor. Upon notifying the Sponsor of a desire to exercise the Exchange Option, a Certificateholder will be delivered a current prospectus for one or more Trust series for which the Certificateholder has indicated an interest and for which the Sponsor has Units available to offer in exchange for the Units being tendered.

Applicants state that the Exchange Option will operate in a manner essentially identical to any secondary market transaction, except that the Sponsor intends to impose a reduced sales charge on certain exchanges. Pursuant to the Exchange Option, the Sponsor will sell Units of the Trusts at the net asset value per Unit (the "Unit Offering Price"), plus a fixed sales charge of $15 per Unit received or per 1,000 Units received for a series whose Units cost approximately $1.00 (the "Reduced Sales Charge"). Applicants represent that the Reduced Sales Charge can be expected to approximate 1.5% of the Unit Offering Price. In cases where Units of a series cost significantly less than $1.00 (i.e. discount or zero-coupon trusts), the sales charge pursuant to the Exchange Option will be 1.5% of the Unit Offering Price, rather than a fixed charge of $15 per 1,000 Units, which would result in a sales Charge greater than 1.5% of the Unit Offering Price.

Applicants represent that a Certificateholder who purchased Units of a series and paid a per Unit or per 1,000 Unit sales charge that was less than the per Unit or per 1,000 Unit sales charge of the series of the Trusts for which such Certificate desires to exchange into, will be allowed to exercise the Exchange Option at the Unit Offering Price plus a fixes sales charge of $15 per unit, provided that the Certificateholder held the Units for at least five months. Any such Certificateholder who has not held the Units to be exchanged for the five-month period will be required to exchange them at the Unit Offering Price plus a sales charge based on the greater of $15 per unit or per 1,000 units for a series the Units of which cost approximately $1.00, or an amount which, together with the initial sales charge paid in connection with the acquisition of the Units being exchanged, equals the sales charge of the series of the Trusts for which the Certificateholder desires to exchange into, determined as of the date of the exchange.

Under the Exchange Option, Certificateholders will be further permitted to tender cash to make up any difference between the value of the Units being submitted for exchange and the value of the Units being acquired up to the next highest number of whole Units. Applicants assert that permitting Certificateholders to round up to the next highest number of Units does not create any significant potential for abuse or unfairness in pricing.

In addition to the Exchange Option, Applicants request an order to permit the Trusts to offer, on terms substantially the same as those applicable to the Exchange Option (including the ability to round up to the next highest number of whole Units), Units in exchange for beneficial interests in any and all registered unit investment trusts initially offered to the public at a minimum sales charge of 3%, exclusive of sales charge discounts, such as volume discounts, employee discounts or exchange option discounts (the "Conversion Trust"). Applicants submit that the minimum sales load condition applied to Conversion Option as well as the five-month period, diminishes the potential for unfairness or price discrimination and discourages Certificateholders from converting Units merely to pay a lower aggregate sales charge.

Applicants represent that unit investment trusts promoted by the Sponsor, but not included among the Trusts, may nonetheless be Conversion Trusts. All holders of Conversion Trusts will be eligible to participate in the Conversion Option regardless of whether they are or were the Sponsor's retail customers, and regardless of whether the Sponsor participated as an underwriter or dealer in the initial public offering of any of the Conversion Trusts. While holders of Conversion Trusts interest will, in general, be eligible to acquire Units of a series of the Exchange Trusts based on the Reduced Sales Charge, Applicants represent that in the future, and as a condition to the granting of the order requested, the Sponsor will not charge more than five dollars per Unit more for exercise of the Conversion Option than the corresponding fee being charged for exercise of the Exchange Option. The Sponsor intends to hold the Exchange and Conversion Options open under most circumstances, but reserves the right to modify, suspend or terminate them subject to the terms and conditions of Rule 22d-1 under the Act.

Applicants submit that the Reduced Sales Charge is a reasonable and justifiable expense to be allocated to the professional assistance and operational expenses contemplated in connection with the Exchange and Conversion Options. Applicants also submit that the Reduced Sales Charge will be beneficial to all Certificateholders. The Sponsor represents that it will not solicit Certificateholders with respect to the Exchange or Conversion Options with a view to churning Certificateholders' accounts and that the proposed transactions will be done for the benefit of Certificateholders and in accordance with their investment objectives.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 27, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of the intertes, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant(s) at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-10568 Filed 5-9-86; 8:45 am]

BILLING CODE 8010-01-M

[File No. 500-1]

Hy-Poll Technology, Inc.; Order of Suspension of Trading

May 7, 1986.

It appears to the Securities and Exchange Commission that there is a lack of adequate current information concerning the affairs of Hy-Poll Technology, Inc.

Therefore, it is Ordered, pursuant to section 12(k) of the Exchange Act of 1934, that trading in Hy-Poll Technology, Inc., over-the-counter or otherwise, is suspended for the period from 11:00 AM (EDT) May 7, 1986 through midnight (EDT) on May 16, 1986.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 86-10638 Filed 5-9-86; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Agreements Filed During the Week Ending May 2, 1986

Answers may be filed within 21 days from the date of filing.

Date filed	Docket No.	Parties	Subject	Proposed Effective date
May 2, 1986	44002 R-1—R-14	Members of International Air Transport Association	South Atlantic-Europe/Middle East Resolutions	June 15, 1986/ Nov. 1, 1986.

Date filed	Docket No.	Parties	Subject	Proposed Effective date
May 2, 1986	44008	Members of International Air Transport Association	Specific Commodity rate between Funchal and New York City as proposed by Tap Air Portugal.	Apr. 30, 1986.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 86-10599 Filed 5-9-86; 8:45 am]
BILLING CODE 4910-62-M

Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits; Filed Week Ending May 2, 1986

Supert Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings. (See 14 CFR 302.1710 et seq.)

Date filed	Docket No.	Description
Apr. 28, 1986	43992	Aerolineas Mundo, S.A./TA, c/o Virginia L. Deerdorff, 16824 Flickerwood Road, Parkton, Maryland 21120. Application of Aerolineas Mundo, D.A./TA pursuant to Section 402 of the Act and Subpart Q of the Regulations requests a Foreign Air Carrier Permit authorizing scheduled and nonscheduled service between the Dominican Republic, West Indies, and the three co-terminal points of St. Thomas, U.S.V.I., San Juan, Puerto Rico, and Miami, Florida; and for authority to conduct chartered services to and from the United States under Part 212 of the Act and/or the charter regulations of the Department of Transportation. Answers may be filed by May 27, 1986.
Apr. 29 1986	43996	Toronto Airways Limited d/b/a Torontair, c/o Thomas W. McLaughlin, Pierson Semmes and Finley, Canal Square, 1054—31st Street, NW., Washington, DC 20007. Application of Totonto Airways Limited d/b/a/ Torontair pursuant to section 402 of the Act and Subpart Q of the Regulations requests a foreign air carrier permit authorizing it to provide charter foreign air transportation of persons and property with large aircraft between points in Canada and points in the United States. Answers may be filed by May 27, 1986.
Apr. 30, 1986	43997	Air North Charter & Training Ltd., c/o Joseph T. Sparling, P.O. Box 4666, Whitehorse, Yukon, Canada Y1A 4S2. Application of Air North Charter & Training Ltd. pursuant to section 402 of the Act and Subpart Q of the Regulations, requests authority to provide scheduled air service between Canada and the United States as follows: Whitehorse, Yukon, Canada and Juneau, Alaska, and between Whitehorse, Yukon, Canada, and Fairbanks, Alaska. Answers may be filed by May 28, 1986.
May 1, 1986	44000	People Express Airlines, Inc., c/o Robert E. Cohn, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, DC 20036. Application of People Express Airlines, Inc., pursuant to section 401 of the Act and Subpart Q of the Regulations for an amendment to its certification of public convenience and necessity so as to authorize it to transport mail in interstate and overseas transportation. Conforming Applications, Motions to Modify Scope and Answers may be filed by May 29, 1986.
May 2, 1986	43998	Aerolineas Dominicanas, D.A., c/o Peter R. Lopez, 39 West Flagler Street, Suite 202, Miami, Florida 33130. Second Amendment to the Application of Aerolineas Dominicanas, S.A. requests that the use of the name "Dominair" be granted to identify aircrafts as may be operated by the company on regular schedules or charter flights. Answers may be filed by May 30, 1986.

Phyllis T. Kaylor,
Chief, Documentary Services Division.
[FR Doc. 86-10600 Filed 5-9-86; 8:45 am]
BILLING CODE 4910-62-M

Federal Aviation Administration

Proposed Advisory Circular; Transport Category Airplane Electronic Display Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed advisory circular and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed advisory circular (AC) which provides guidance for acceptance of cathode ray tube (CRT) based electronic display systems for transport category airplanes.

DATE: Comments must be received on or before September 10, 1986.

ADDRESS: Send all comments on the proposed AC to: Federal Aviation Administration, Northwest Mountain Region, Attention: Transport Standards Staff, ANM-110, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. Comments may be inspected at the above address between 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Patricia Siegrist, Transport Standards Staff, at the above address, telephone (206) 431-2126.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the proposed AC may be obtained by contacting the person named above under **"FOR FURTHER INFORMATION CONTACT."** Interested persons are invited to comment on the proposed AC by submitting such written data, view, or arguments as they may desire. Commenters must identify the title of the AC and submit comments in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Transport Standards Staff before issuing the final AC.

Discussion

When electronic display systems were initially introduced into transport category airplanes, a Special Certification Review Team was formed by the FAA in an attempt to insure uniform certification standards for these systems. Experience gained by the participation of this team in various

Electronic Flight Instrument System (EFIS) certification programs, and information gathered during an FAA/industry workshop were used to generate a draft advisory circular on electronic displays. The purpose of this advisory circular is to provide guidance to flight test pilots and certification engineers for acceptance of cathode ray tube display systems used in transport category airplanes. It addresses the functions, characteristics, location, and criticality of flight, navigation, engine, alerting, and systems information presentations. The information contained in this AC reflects the policy used and the experience gained in previous certification programs.

Issued in Seattle, Washington, on April 29, 1986.

Leroy A. Keith,
Manager, Aircraft Certification Division, Northwest Mountain Region.
[FR Doc. 86-10515 Filed 5-9-86; 8:45 am]
BILLING CODE 4910-13-M

Proposed Advisory Circular 25.1523, Minimum Flightcrew

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Availability of Proposed Advisory Circular (AC) 25.1523 and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed advisory circular (AC) which provides a method of compliance with the requirements of § 25.1523 of the Federal Aviation Regulations (FAR) which contain the certification requirements for minimum flightcrew on transport category airplanes. This notice is necessary to give all interested persons an opportunity to present their views on the proposed AC.

DATE: Comments must be received on or before August 11, 1986.

ADDRESS: Send all comments on the proposed AC to: Federal Aviation Administration, Attention: Transport Standard Staff, ANM-110, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments may be inspected at the above address between 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jan Thor, Transport Standards Staff, at the address above, telephone (206) 431-2127.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the draft AC may be obtained by contacting the person named above under **"FOR FURTHER INFORMATION CONTACT."** Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Commenters should identify AC 25.1523 and submit comments, in duplicate, to the address specified above. All communications received on or before the closing date for comments will be considered by the Transport Standards Staff before issuing the final AC.

Background

Early in 1981, the President established a task force on airplane crew complement which was directed to make "its recommendation whether operation of the new generation of commercial jet transport airplanes by two-person crews is safe and certification of such airplanes is consistent with the Secretary's duty under the certification provisions of the Federal Aviation Act of 1958 to promote flight safety." As a result, several recommendations were made in the Report of the President's Task Force on Aircraft Crew Complement, dated July 2, 1981, including one that suggested that the agency complete and keep current Section 187 (Minimum Flightcrew) of FAA Order 8110.8, Engineering Flight Test Guide for Transport Category Airplanes. The agency decided to upgrade the entire contents of the Order into advisory circulars to make such material officially available to the general public. Advisory Circular 25.1523 is one of the AC's developed as a result of this decision.

Issued in Seattle, Washington, on April 30, 1986.

Leroy A. Keith
Manager, Aircraft Certification Division, ANM-100.
[FR Doc. 86-10518 Filed 5-9-86; 8:45 am]
BILLING CODE 4910-13-M

Proposed Advisory Circular; Flammability Requirements for Aircraft Seat Cushions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed advisory circular and request for comments.

SUMMARY: This notice announces the availability of the requests comments on a proposed advisory circular (AC) which provides guidance material for demonstrating compliance with the Federal Aviation Regulations (FAR) pertaining to flammability of aircraft seat cushions. This proposed AC also defines certain terms used in the FAR, in the context of these requirements.

DATE: Comments must be received on or before June 11, 1986.

ADDRESS: Send all comments on the proposed AC to: Federal Aviation Administration, Attention Transport Standards Staff, ANM-110, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168. Comments may be inspected at the above address between 7:30 a.m. and 4:00 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Patricia Siegrist, Transport Standards Staff, at the above address, telephone (206) 431-2126.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the proposed AC may be obtained by contacting the person named above under **"FOR FURTHER INFORMATION CONTACT."** Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they may desire. Commenters must identify the subject of the AC and submit comments to the address specified above. All communications received on or before the closing date for comments will be considered by the Transport Standards Staff before issuing the final AC.

Discussion

Following public rulemaking, the FAA issued Amendments 25-59, 29-23, and 121-184 (49 FR 43168; October 26, 1984) which established new flammability requirements for aircraft seat cushions. The standards include the use of a 2-gallon/hour kerosene burner operating at temperature and heat flux levels representative of a cabin fire. Compliance is required by November 26, 1987, for Part 121 and Part 135 operators. Due to the relative complexity of the test method and the amount of public inquiry regarding acceptable means of compliance, the FAA is publishing an advisory circular. The advisory circular provides guidance for conducting tests, fabricating test specimens, and gaining approval of parts. The advisory circular also defines certain terms used in the regulation.

Issued in Seattle, Washington, on April 30, 1986.

Leroy A. Keith,

Manager, Aircraft Certification Division, Northwest Mountain Region.

[FR Doc. 86-10619 Filed 5-9-86; 8:45 am]

BILLING CODE 4910-13-M

Research and Special Programs Administration

Hazardous Materials; Applications for Renewal or Modification of Exemption or Applications to Become a Party to an Exemption

AGENCY: Research and Special Program Administration, DOT.

ACTION: List of applicants for renewal or modification of exemptions or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are not repeated here. Except as otherwise noted, renewal applications are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application number with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comment period closed May 29, 1986.

ADDRESSES: Dockets Branch, Research and Special Programs, Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
970-X	U.S. Department of Defense, Falls Church, VA.	970
970-X	Callery Chemical Co., Pittsburgh, PA	970
1478-X	U.S. Department of the Army, Falls Church, VA (See Footnote 1).	1478
3462-X	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	3462
3004-X	Union Carbide Corporation, Danbury, CT.	3004
3004-X	Airco Industrial Gases, Murray Hill, NJ.	3004
3004-X	Big Three Industries, Inc., Houston, TX.	3004
3216-X	E.I. du Pont de Nemours & Co., Inc., Wilmington, DE.	3216
3216-X	Pennwalt Corporation, Philadelphia, PA.	3216
3330-X	Teledyne Wah Chang Albany, Albany, OR.	3330
3841-X	Pacific Engineering & Production Company of Nevada, Henderson, NV.	3841
5232-X	E.I du Pont de Nemours & Co., Inc., Wilmington, DE.	5232
5460-X	Transportation Supervisor, Billings, MT.	5460
5704-X	Trojan Corporation, Spanish Fork, UT	5704
5704-X	Hercules, Incorporated, Wilmington, DE.	5704
5704-X	IRECO Incorporated, Salt Lake City, UT.	5704
5704-X	U.S. Department of Defense, Falls Church, VA.	5704
5704-X	Atlas Powder Company, Dallas, TX	5704
6121-X	E.I du Pont de Nemours & Co., Inc., Wilmington, DE.	6121
6269-X	Austrol, Incorporated, West Warwick, RI.	6269
6459-X	General Motors Corp., Warren, MI	6459
6530-X	Big Three Industries, Inc., Houston, TX.	6530
6538-X	Pan Products Inc., Macedonia, OH	6538
6611-X	Air Products and Chemicals, Inc., Allentown, PA.	6611
6670-X	E.I du Pont de Nemours & Co., Inc., Wilmington, DE.	6670
6670-X	Airco, The BOC Group, Inc., Murray Hill, NJ.	6670
6772-X	Thomas Gray & Associates, Inc., Orange, CA.	6772
6828-X	American Home Products Corporation, New York, NY.	6828
6860-X	U.S. Department of Defense, Falls Church, VA.	6860
6927-X	Bromine Compounds, Limited, Beer Sheva, Israel.	6927
6927-X	Great Lakes Chemical Corp., El Dorado, AR.	6927
6960-X	Pepsi-Cola Company, Purchase, NY	6960
7052-X	Eaton Corporation, Westlake Village, CA.	7052
7052-X	Leigh Instruments Limited, Carleton Place, Ontario, VA.	7052
7052-X	Allen-Bradley Company, Milwaukee, WI.	7052
7052-X	EG&G Environmental Equipment, Catamet, MA.	7052
7060-X	Central Skyport Inc., Columbus, OH	7060
7076-X	LaMotte Chemical Products Company, Chestertown, MD.	7076
7096-X	Fike Metal Products Corporation, Blue Springs, MO.	7096
7216-X	Structural Composites Industries, Inc., Pomona, CA (See Footnote 2).	7216
7227-X	Richmond Lee Equipment Company, Livermore, CA (See Footnote 3).	7227
7259-X	FMC Corporation, Philadelphia, PA	7259
7275-X	Express Airways, Inc., Sanford, FL	7275
7277-X	Structural Composites Industries, Inc., Pomona, CA (See Footnote 4).	7277
7544-X	Eastman Kodak Company, Rochester, NY.	7544
7573-X	U.S. Department of Defense, Falls Church, VA.	7573
7640-X	Mauser Packaging, Ltd., New York, NY.	7640
7770-X	Parisier S.A.R.L., Paris, France	7770
7777-X	Lang Engineering Co., Inc., Rochester, WA.	7777
7802-X	Bennett Industries, Peotone, IL	7802
7867-X	Vulcan Systems Inc., Colorado Springs, CO.	7867
7891-X	Reliance Electric Company, Cleveland, OH.	7891
7971-X	Walter Kidde, Wilson, NC	7971
7991-X	Union Pacific Railroad Company, Omaha, NE.	7991
8018-X	Union Carbide Corporation, Danbury, CT.	8018
8037-X	Mauser Packaging Ltd., New York, NY.	8037
8125-X	Arbel-Fauvet-Giret, Paris, France	8125
8127-X	Societe Nationale Des Poudres et Explosifs, Bergerac, France.	8127
8127-X	Hercules, Incorporated, Wilmington, DE.	8127
8162-X	Structural Composites Industries, Inc., Pomona, CA (See Footnote 5).	8162
8296-X	HTL Industries, Inc., Duarte, CA (See Footnote 6).	8296
8367-X	FMC Corporation, Philadelphia, PA	8367
8391-X	EFI Corporation, San Jose, CA	8391
8387-X	Mauser Packaging, Ltd., New York, NY.	8387
8445-X	Thomas Gray & Associates, Inc., Orange, CA.	8445
8445-X	SET Liquid Waste Systems, Inc., Wheeling, IL.	8445
8445-X	Owens-Corning Fiberglass Corporation, Granville, OH.	8445
8609-X	American Hoechst Corporation, Somerville, NJ.	8609
8682-X	Louisiana & Arkansas Railway Company, Kansas City, MO.	8682
8682-X	The Kansas City Southern Railway Company, Kansas City, MO.	8682
8844-X	Richmond Lox Equipment Company, Livermore, CA.	8844
8856-X	Texas Nuclear Corporation, Austin, TX.	8856
8718-X	Structural Composite Industries, Inc., Pomona, CA (See Footnote 7).	8718
8814-X	Structural Composite Industries, Inc., Pomona, CA (See Footnote 8).	8814
8816-X	Beatrice Grocery Group, Inc., Fullerton, CA.	8816
8820-X	SLEMI, Paris, France	8820
8830-X	Arbel-Fauvet-Giret, St Laurent Blangy, France.	8830
8840-X	Walter Kidde, Mebane, NC	8840
8850-X	Hoover Group, Inc., Beatrice, NE	8850
8854-X	Compagnie des Containers Reservoirs (CCR), Paris, France.	8854
8854-X	Arbel-Fauvet-Giret, Neuilly-Sur-Seine, France.	8854
8873-X	Stauffer Chemical Company, Westport, CT (See Footnote 9).	8873
8880-X	Trojan Corporation, Salt Lake City, UT	8880
8957-X	Saber Aviation, Inc., Charlotte, NC	8957
8976-X	Diamond Shamrock Corporation, Irving, TX.	8976
9002-X	PepsiCo, Inc., Purchase, NY	9002
9024-X	Logemaster S.A., Paris, France	9024
9176-X	Minnesota Valley Engineering, New Prague, MN (See Footnote 10).	9176
9201-X	Cryenvirol Canada, Inc., East Willowdale, Canada (See Footnote 11).	9201
9213-X	Bulk-Pack, Inc., West Monroe, LA	9213
9221-X	Applied Companies, San Francisco, CA.	9221
9262-X	GOEX, Inc., Cleburne, TX	9262
9279-X	Keystone Steel & Wire Co., Peoria, IL	9279
9287-X	Shell Pipe Line Corporation, Houston, TX (See Footnote 12).	9287
9316-X	Fluoroware, Inc., Chaska, MN (See Footnote 13).	9316
9401-X	Arbel-Fauvet-Giret, St. Laurent-Blangy, France (See Footnote 14).	9401
9418-X	FIBA Compressed Gas Equipment, Westboro, MA (See Footnote 15).	9418
9430-X	Bondico, Inc., Jacksonville, FL (See Footnote 16).	9430
9440-X	Hoover Group, Inc., Beatrice, NE (See Footnote 17).	9440
9448-X	Union Carbide Corporation, Danbury, CT (See Footnote 18).	9448

[1] To change proper shipping name to Fluorine, refrigerated liquid.

[2] To authorize use of an aluminum foil label as an alternate marking method of retest dates on cylinders.

[3] To authorize an additional model portable tank of 3,128 gallon capacity for shipment of nonogen refrigerated liquid.

[4] To authorize use of an aluminum foil label as an alternate marking method of retest dates on cylinders.

[5] To authorize use of an aluminum foil label as an alternate marking method of retest dates on cylinders.

[6] Request reduction in size of cylinder, to increase service pressure and to modify provisions on test, marking, reporting and service life of cylinders.

[7] To authorize use of an aluminum foil label as an alternate marking method of retest dates on cylinders.

[8] To authorize use of an aluminum foil labels as an alternate marking method of retest date on cylinders.

[9] To authorize shipment of waste carbon disulfice solution.

[10] To authorize construction with all stainless steel exterior plumbing and add a new design pressure control valve.

[11] To authorize an alternate wirebound, pressed wood box as an overpack.

[12] To renew and authorize pipes on meter prover to range in size from 2.375 inches to 14 inches outside diameter with an internal volume varying from 10 to 420 gallons.

[13] To authorize concentrations of nitric acid up to 71%.

[14] To authorize 23 additional portable tanks of a smaller capacity with modified safety relief devices.

[15] Request modification authorizing retesting by acoustic emission on cylinders owned by others in quantities not to exceed 100 per month and to revise the criteria for the "Qualified tester."

[16] To authorize use of polyethylene gaskets and to use a optional inverted lid configuration on salvage drums.

[17] To authorize cargo vessel as additional mode of transportation.

[18] To decrease commodity weight of portable tanks from 51,097 to 50,197 and to increase tare weight from 16,100 to 17,000 for shipment of a pesticide.

Application No.	Applicant	Parties to exemption
6325-P	Empire Energy, Inc., dba MSI Service Company, Jasper, AL.	6325
6626-P	Brown Industries, Inc., Salina, KS.	6626
7981-P	Spectrum Chemical Manufacturing Corporation, Gardena, CA.	7981
7909-P	Standard Oil Engineered Materials Company, Niagara Falls, NY.	7909
7991-P	Missouri Pacific Railroad Company, Omaha, NE.	7991
7991-P	The Western Pacific Railroad Company, Omaha, NE.	7991
8006-P	Bethany Sales Co., Inc., Bethany, IL.	8006
8451-P	ICI Americas Inc., Valley Forge, PA.	8451
8453-P	Energy Ventures Corp. dba Columbus Powder Company, Columbus, IN.	8453
8691-P	Welland Chemical Ltd., Sarnia, Ontario, Canada.	8691
9130-P	Chem-Tab Chemical Corp., Carson, CA.	9130
9181-P	U.S. Department of Energy, Washington, DC.	9181
9275-P	Avon Products, Inc., New York, NY.	9275
9275-P	Universal Fragrance Corporation, So. Plainfield, NJ.	9275
9348-P	Witco Corporation, Bredford, PA.	9348
9467-P	ServiceMaster Manufacturing Company, Downers Grove, IL.	9467
9481-P	Atlas Powder Company, Dallas, TX.	9481
9552-P	Atlas Powder Company, Dallas, TX.	9552
9571-P	The Central Intelligifnce Agency, Washington, DC.	9571

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on May 6, 1986.

Suzanne Hedgepeth,

Acting Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 86-10610 Filed 5-9-86; 8:45 am]

BILLING CODE 4910-60-M

Hazardous Materials; Applications for Exemptions

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo only aircraft, 5—Passenger-carrying aircraft.

DATES: Comment period closes June 13, 1986.

ADDRESSES: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400 7th Street SW., Washington, DC.

New Exemptions

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
9608-N	Suburban Propane Gas Corporation, Morristown, NJ.	49 CFR 178.337-11(c)(6)	To authorize use of DOT Specification MC-331 cargo tanks equipped with remote shut off valve located in rear of truck, until retrofitted, for shipment of propane, liquefied petroleum gas, classed a flammable gas. (Mode 1.)
9609-N	Applied Companies, San Fernando, CA	49 CFR 173.302(a), 175.3, 178.65	To manufacture, mark and sell non-DOT specification cylinders similar to DOT Specification 3B for shipment of certain non-flammable compressed gases. (Modes 1, 2, 4.)
9610-N	Hercules Incorporated, Wilmington, DE	49 CFR Part 107, Appendix B, Parts 171-189	To authorize transportation of empty drums which last contained explosive powder to be shipped as a nonregulated item in truckload quantities. (Modes 1, 2.)
9611-N	Buco Budenbender GMBH & Co., Niederndorf, West Germany.	49 CFR 178.116	To manufacture, mark and sell non-DOT specification metal drums of all 19 gauge construction for shipment of all hazardous materials authorized in a DOT Specification 17E drum. (Modes 1, 2, 3.)
9612-N	FPG Industries, Inc., Pittsburgh, PA	49 CFR 173.256(f)	To authorize shipment of ethyl and methyl chloroformates in DOT Specification 105A500W tank cars. (Mode 2.)
9613-N	Pressed Steel Tank Co., Inc., Milwaukee, WI	49 CFR 173.302, 178.51	To manufacture, mark and sell non-DOT specification welded steel cylinder, built to DOT specification 4BA with certain exceptions for shipment of certain nonflammable compressed gases. (Modes 1, 2.)
9614-N	Snelson's Welding Service, Norman, OK	49 CFR 173.119, 173.245, 178.253	To manufacture, mark and sell 60 gallon capacity DOT Specification 57 portable tanks with up to 6 tanks mounted on the chassis of a motor vehicle for shipment of certain flammable and corrosive liquids. (Mode 1.)
9615-N	National Aeronautics and Space Administration, Washington, DC.	49 CFR 172.101, 173.21	To authorize shipment of tetrafluorohydrazine, which is a nonflammable compressed gas, in DOT Specification 3AA carbon-steel cylinders. (Modes 1, 2.)
9616-N	James Russell Engineering Works, Inc., Boston (Dorchester), MA.	49 CFR 173.315(a), 175.3	To manufacture, mark and sell non-DOT specification portable tanks of 11,000 gallon capacity for shipment of helium refrigerated liquid, classed as nonflammable gas. (Modes 1, 2, 3, 4.)
9617-N	E.I. du Pont de Nemour & Co., Inc., Wilmington, DE.	49 CFR 177.848(f)	To authorize shipment of detonating cord Class C explosive by highway with Class A and C explosive detonators. (Mode 1.)
9618-N	Bondico, Inc., Jacksonville, FL	49 CFR 173.3(c)	To manufacture, mark and sell non-DOT specification polyethylene containers of 80-gallon capacity for overpacking various damaged or leaking packages of hazardous materials for repacking or disposal. (Modes 1, 2.)

This notice of receipt of applications for new exemptions is published in accordance with section 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53 (e)).

Issued in Washington, DC on May 6, 1986.

J. Suzanne Hedgepeth,

Acting Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 86-10611 Filed 5-9-86; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: May 6, 1986.

The Department of Treasury has submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding these information collections should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512-0042
Form Number: ATFF 7 (5310.12)
Type of Review: Extension
Title: Application for License Under 18 USC, Ch. 44, Firearms

OMB Number: 1512-0063
Form Number: ATF F 5130.6 (1582.B)
Type of Review: Extension
Title: Drawback on Beer Exported

OMB Number: 1512-0100
Form Number: ATF F 1740.1 and ATF F 1740.2
Type of Review: Extension
Title: Environmental Information

OMB Number: 1512-0141
Form Number: ATF F 2635 (5620.8)
Type of Review: Extension
Title: Claim—Alcohol and Tobacco Taxes

OMB Number: 1512-0337
Form Number: ATF REC 5150/1
Type of Review: Extension
Title: Usual and Customary Business Records Relating to Denatured Spirits

Clearance Officer: Robert G. Masarsky (202) 566-70777, Bureau of Alcohol, Tobacco and Firearms, Room 7202, Federal Building, 1200 Pennsylvania Avenue, N.W., Washington, DC 20226

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

U.S. Customs Service

OMB Number: 1515-0147
Form Number: None
Type of Review: Extension
Title: Convention on Cultural Property Implementation Act

Clearance Officer: Vince Olive (202) 566-9181, U.S. Custom Service, Room 6321, 1301 Constitution Avenue, NW., Washington, DC 20229

OMB Reviewer: Milo Sunderhauf (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Internal Revenue Service

OMB Number: 1545-0144
Form Number: IRS Form 2438
Type of Review: Extension
Title: Regulated Investment Company Undistributed Capital Gains Tax Return

OMB Number: 1545-0751
Form Number: LR-243-81 Final Regulations
Type of Review: Extension
Title: Income Tax; Designation of Principal Campaign Committee

OMB Number: 1545-0754
Form Number: IRS Forms 1040, 1040-A, 1040-EZ, and 1120
Type of Review: Extension
Title: Substantiation of Charitable Contributions—LR-255-81, Final Regulations

Clearance Officer: Garrick Shear (202) 566-6150, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224,

OMB Reviewer: Robert Neal (202) 395-6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503

Joseph F. Maty,

Departmental Reports Management Office.

[FR Doc. 86-10640 Filed 5-9-86; 8:45 am]

BILLING CODE 4810-25-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition

Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the Chicago International Philatelic Exhibition (included in the list [1] filed as a part of this determination) imported from Israel for the temporary exhibition without profit within the United States are of cultural significance. I also determine that the temporary exhibition or display of the listed exhibit objects at the O'Hare Exhibition Center in Rosemont, Illinois, beginning on or about May 22, 1986, to on or about June 2, 1986, is in the national interest. The grant of immunity resulting from these determinations and this notice does not imply any view of the United States concerning the ownership of the exhibit objects. Further, it is not based upon and does not represent any change in the position of the United States regarding the status of Jerusalem or the territories occupied by Israel since 1967. *See* Letter of September 22, 1978, of President Jimmy Carter, attached to the Camp David Accords, *reprinted in* 78 *Dept. of State Bulletin* 11 (October 1978); Statement of September 1, 1982, of President Ronald Regan, *reprinted in* 82 *Dept. of State Bulletin* 23 (September 1982).

Public notice of this determination is ordered to be published in the **Federal Register**.

Dated: May 6, 1986

Thomas E. Harvey,

General Counsel and Congressional Liaison.

[FR Doc. 86-10567 Filed 5-9-86; 8:45 am]

BILLING CODE 8230-01-M

United States Advisory Commission on Public Diplomacy; Meeting

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held May 13, 1986, in Room 600, 301 4th Street, SW., Washington, DC at 10:00 a.m.

[1] An itemized list of Israeli objects included in the exhibit is filed as part of the original document. A copy of this list may be obtained by contacting Mr. John Lindburg of the Office of the General Counsel of USIA. The telephone number is 202-485-7976, and the address is Room 700, 301 4th Street, SW., Washington, D.C. 20547.

The commission will meet with Mr. Henry Hockeimer, Deputy Director of USIA's Television and Film Service, to discuss trends in world telecommunications.

Please call Gloria Kalamets, (202) 485-2468, if you are interested in attending the meeting since space is limited and entrance to the building is controlled.

Dated: May 6, 1986.

Charles N. Canestro,

Management Analyst, Federal Register Liaison.

[FR Doc. 86-10573 Filed 5-9-86; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 91
Monday, May 12, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Item
Commodity Futures Trading Commission	1
Consumer Product Safety Commission	2,3
Federal Energy Regulatory Commission	4
Federal Home Loan Mortgage Corporation	5

1

COMMODITY FUTURES TRADING COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 16607.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., May 14, 1986.

CHANGES IN THE MEETING: The meeting is cancelled.

Lynn K. Gilbert,
Deputy Secretary of the Commission.
[FR Doc. 86-10737 Filed 5-8-86; 3:55am]
BILLING CODE 6351-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, May 14, 1986.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, DC

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Election of Vice Chairman

The Commission will elect a vice chairman for the term beginning June 1, 1986 and ending May 31, 1987.

2. Asbestos in Consumer Products: Options

The staff will brief the Commission on Options to reduce consumer exposure to asbestos in selected products.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301-492-6800.

Dated: May 8, 1986.
Sheldon D. Butts,
Deputy Secretary.
[FR Doc. 86-10709 Filed 5-8-86; 1:17 pm]
BILLING CODE 6355-01-M

3

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: 10:00 a.m., Thursday, May 15, 1986.

LOCATION: Room 456, Westwood Towers, 5401 Westbard Avenue, Bethesda, Md.

STATUS: Closed to the Public.

MATTERS TO BE CONSIDERED:

1. Enforcement Matter OS# 2132

The staff will brief the Commission on issues related to OS# 2132.

2. Compliance Status Report

The staff will brief the Commission on the status of various compliance matters.

FOR A RECORDED MESSAGE CONTAINING THE LASTEST AGENDA INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301-492-6800.

Dated: May 8, 1986.
Sheldon D. Butts,
Deputy Secretary.
[FR Doc. 86-10710 Filed 5-8-86; 1:16 pm]
BILLING CODE 6355-01-M

4

FEDERAL ENERGY REGULATORY COMMISSION

May 7, 1986.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552B:

TIME AND DATE: 10:00 a.m., May 14, 1986.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357-8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda, 835th Meeting—May 14, 1986, Regular Meeting (10:00 a.m.)

CAP-1.
Project No. 6902-004, city of New Martinsville, West Virginia
CAP-2.
Project No. 9572-001, Skookumchuck Creek Associates
CAP-3.
Project No. 3074-003, city of Spokane, Washington
CAP-4.
Project No. 7810-001, city of Rome, New York
Project No. 8303-000, Power Authority of the State of New York
CAP-5.
Project No. 9231-001, Scott Paper Company
CAP-6.
Project No. 8042-001, Rubi Hydro Partners
CAP-7.
Project No. 9610-001, Puget Sound Power and Light Company
CAP-8.
Project No. 9273-001, Upstate Hydro Associates
CAP-9.
Project No. 7041-002, Potter Township, Pennsylvania
CAP-10.
Project No. 9248-001, Town of Telluride, Colorado
CAP-11.
Project No. 9074-001, Adirondack Hydro Development Corporation
CAP-12.
Project No. 7305-002, W.M. Lewis & Associates, Inc.
CAP-13.
Project No. 7129-002, Wilfred and Rory Poulin
CAP-14.
Project No. 5090-004, city of Idaho Falls, Idaho
CAP-15.
Omitted
CAP-16.
Project No. 3161-001, John M. Jordan
CAP-17.
Project No. 8201-001, F and T Energy Corporation
Project No. 8139-000, Schneider Hydropower Company
CAP-18.
Docket No. ER86-360-000, Florida Power Corporation
CAP-19.
Docket No. ER86-366-000, El Paso Electric Company
CAP-20.
Docket No. ER86-354-000, Niagara Mohawk Power Corporation

CAP-21.
Docket No. ER86-361-000, Upper Peninsula Power Company
CAP-22.
Docket Nos. ER86-258-002 ER85-461-007 and ER85-521-003, Kansas Gas & Electric Company
CAP-23.
Docket No. ER86-262-003, New York State Electric and Gas Corporation
CAP-24.
Docket Nos. ER85-728-001, 002 and 003, Arizona Public Service Company
CAP-25.
Docket No. ER86-103-001, Southern Company Services, Inc.
CAP-26.
Docket No. QF86-115-000, Third Imperial Geothermal Company
CAP-27.
Docket No. EC82-4-000, Illinois Power Company
CAP-28.
Docket No. EL86-11-000, cities of Newark, New Castle and Milford, Delaware and town of Smyrna, Delaware v. Delmarva Power and Light Company
CAP-29.
Docket No. RE80-29-001, Power Authority of the State of New York
CAP-30.
Docket No. RE80-43-001, Portland General Electric Company
CAP-31.
Omitted

Consent Miscellaneous Agenda

CAM-1.
Docket No. FA84-13-001, Canal Electric Company
CAM-2.
Docket No. RM86-8-000, Reconsideration of certain initial decision—Continuation of Rule 717
CAM-3.
Docket No. RM85-1-000, (Parts A-D), regulation of natural gas pipelines after partial wellhead decontrol (Endevco, Inc., Vessels Oil and Gas Company, Santo Resources, Inc. and Petro-Energy Exploration, Inc., Standard Gas Marketing Company, Kaiser-Francis Oil Company, Essex Exploration, Company, Quintana Petroleum Company, Panda Resources, Inc., Trinity Pipeline Company, Moody Gas Gathering System, Tejas Power Corporation, TXO Production Corp., Creole Gas Pipeline Corporation and Texas Gas Exploration Corporation
CAM-4.
Docket No. RM85-1-000 (Parts A-D), regulation of natural gas pipelines after partial wellhead decontrol (North Central Public Service Company)
CAM-5.
Docket No. RM85-1-000 (Parts A-D), regulation of natural gas pipelines after partial wellhead decontrol (Freeport Sulphur Company)
CAM-6.
Docket No. RM85-1-000 (Parts A-D), Regulation of natural gas pipelines after partial wellhead decontrol (Archer-Daniels-Midland Company)
CAM-7.
Docket No. RM85-1-000 (Parts A-D), regulation of natural gas pipelines after partial wellhead decontrol (French Petroleum Corporation)
CAM-8.
Docket No. RM85-1-000 (Parts A-D), regulation of natural gas pipeline after partial wellhead decontrol (Osborn Heirs Company)
CAM-9.
Omitted
CAM-10.
Docket No. RM85-1-000 (Parts A-D), regulation of natural gas pipeline after partial wellhead decontrol (Transok, Inc.)
CAM-11.
Docket No. RM79-76-000 (Texas-I Addition 11), high-cost gas produced from tight formations
CAM-12.
Docket No. GP84-39-000, State of Kansas, Section 108 determination, Northern Pump Company, Danner No. A1 well, Kansas Docket No. NGPA K-79-0515, FERC No. JD80-55203
CAM-13.
Docket Nos. GP80-43-018 through 023 (Phase I), Northern Natural Gas Company
CAM-14.
Omitted
CAM-15.
Docket Nos. RM85-1-172 and 173 (Parts A-D), regulation of natural gas pipelines after partial wellhead decontrol (Clarco Gas Company, Inc.)
CAM-16.
Docket No. RM85-1-000 (Parts A-D), regulation of natural gas pipelines after Partial wellhead decontrol (Texas Eastern Transmission Corporation)

Consent Gas Agenda

CAG-1.
Docket Nos. TA86-7-51-000 and 001, Great Lakes Gas Transmission Company
CAG-2.
Docket No. RP86-68-000, Northwest Central Pipeline Corporation
CAG-3.
Docket No. TA86-3-32-002, Colorado Interstate Gas Company
CAG-4.
Docket Nos. TA86-3-33-000, 002, 003, 004, TA85-2-33-003 and 004, El Paso Natural Gas Company
CAG-5.
Docket Nos. RP86-53-002 and 003, Transwestern Pipeline Company
CAG-6.
Docket Nos. RP86-54-002 and 003, Florida Gas Transmission Company
CAG-7.
Docket No. RP86-30-005, Wyoming Interstate Company, Ltd.
CAG-8.
Docket No. CP85-711-001, Tennessee Gas Pipeline Company, A division of Tenneco Inc. v. Columbia Gas Transmission Corporation
CAG-9.
Docket No. TA86-1-50-002, Locust Ridge Gas Company
CAG-10.
Docket No. RP86-94-001, Western Transmission Corporation
CAG-11.
Docket No. TA86-1-7-000, Southern Natural Gas Company
CAG-12.
Docket Nos. RP85-208-000 and CP80-274-011, Mountain Fuel Resources, Inc.
CAG-13.
Docket No. RP86-3-000, West Texas Gas, Inc.
CAG-14.
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Kenneth F. Plumb,
Secretary.

[FR Doc. 86-10736 Filed 5-8-86; 3:57 pm]
BILLING CODE 6717-01-M

5

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: Monday, May 12, 1986, 2:00 p.m.

PLACE: 1776 G Street, NW., Washington, DC Conference Room 8C.

STATUS: Closed.

CONTACT PERSON FOR MORE INFORMATION: Alan B. Hausman, 1776 G Street, NW., P.O. Box 37248, Washington, DC 20013 (202) 789-5097.

MATTERS TO BE CONSIDERED:

Closed—Minutes of March 10, 1986, Board of Directors' Meeting
Closed—President's Report
Closed—Financial Report

Date sent to Federal Register: May 7, 1986.

Maud Mater,
Secretary.

[FR Doc. 86-10718 Filed 5-8-86; 3:56 pm]
BILLING CODE 6710-01-M

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[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[6] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

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